

CLEMENT RIVERS, LLP  
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April 28, 2025

**FILED VIA EMAIL**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**RECEIVED**  
**Apr 28 2025**  
**SC Court of Appeals**

Re: CKC Properties, LLC v. The Town of Mount Pleasant  
Appellate Case No.: 2023-001615  
CR File No.: 17096-20210812

Dear Ms. Kitchings:

Our firm represents Appellants The Town of Mount Pleasant, South Carolina, and The Town of Mount Pleasant Board of Zoning Appeals (collectively, the "Town") in the above-referenced matter. We are in receipt of the Court's letter of April 16, 2025, advising that Appellants must provide a status update regarding this matter or the appeal will be dismissed.

The settlement of this matter reached between the Town and Respondent, CKC Properties, LLC ("CKC"), was approved by the circuit court by order filed February 26, 2025, a copy of which is attached hereto. As stated in the order, the settlement was approved on motion of the Town and CKC that was unopposed by the other Appellants in this matter, i.e., Appellants Justin O'Toole Lucey, 415 Mill St., Inc., and 69 Scott Street, LLC. (Order p. 3 n.2.)

Accordingly, provided that no costs are awarded to or assessed against any party, the Town agrees that the appeal should be dismissed.

With best wishes and kindest regards, I am,

Sincerely,

CLEMENT RIVERS, LLP



Russell G. Hines

**FILED VIA EMAIL**

The Honorable Jenny Abbott Kitchings

Clerk of Court

South Carolina Court of Appeals

April 28, 2025

Page 2 of 2

cc: **Served Via Email**

All counsel of record (see attached Proof of Service)

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON ) FOR THE NINTH JUDICIAL CIRCUIT

CKC Properties, LLC, ) CASE NO.: 2021-CP-10-05211

Appellant, )

vs. )

The Town of Mount Pleasant, South Carolina; The Town of Mount Pleasant Board of Zoning Appeals; Justin O’Toole Lucey; 415 Mill St., Inc.; and 69 Scott Street, LLC,

Respondents. )

**ORDER GRANTING SETTLEMENT AGREEMENT**

**(BOZA Appeal)**

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON ) FOR THE NINTH JUDICIAL CIRCUIT

CKC Properties, LLC, ) CASE NO.: 2021-CP-10-04416

Appellant, )

vs. )

The Town of Mount Pleasant, South Carolina; and The Town of Mount Pleasant Commercial Design Review Board,

Respondents. )

**ORDER GRANTING SETTLEMENT AGREEMENT**

**(DRB Appeal)**

On February 6, 2025, this Court held an in-person hearing on Appellant CKC Properties, LLC’s<sup>1</sup> and the Town of Mount Pleasant’s Consent Motion to Approve Settlement Agreement filed on December 12, 2024. Ross Appel appeared on behalf of CKC Properties, LLC (“CKC”). Brian Quisenberry and James Ward appeared on behalf of the Town of Mount Pleasant, the Town

<sup>1</sup> CKC is the developer of the “Shem Creek Boutique Hotel” (the “Project”) to be located along Mill Street at TMS Nos. 517-16-00-058, -057, -034, and -035 (the “Properties”). The Properties are owned by Shem Creek Boutique, LLC (“SCB”), an affiliate of CKC.

of Mount Pleasant Board of Zoning Appeals, and the Town of Mount Pleasant Design Review Board (collectively, the “Town”). Gaillard T. Dotterer, III appeared on behalf of Justin O’Toole Lucey; 415 Mill St., Inc.; and 69 Scott Street, LLC (collectively, “Lucey”).

The Final Settlement Agreement and Release attached hereto as **Exhibit A** (the “Settlement Agreement”) resolves the following pending lawsuits with finality:

1. *CKC Properties, LLC v. The Town of Mount Pleasant, South Carolina; and The Town of Mount Pleasant Commercial Design Review Board*, Case No. 2021-CP-10-4416, Charleston County Court of Common Pleas (the “DRB Appeal”);
2. *CKC Properties, LLC v. The Town of Mount Pleasant, South Carolina; The Town of Mount Pleasant Board of Zoning Appeals; Michael Robertson, in his official capacity as Zoning Administrator; Justin O’Toole Lucey; 415 Mill St., Inc.; and 69 Scott Street, LLC*, Case No. 2021-CP-10-5211, Charleston County Court of Common Pleas, Appellate Case No. 2023-001615 (the “BOZA Appeal”); and
3. *CKC Properties, LLC and Shem Creek Boutique, LLC v. The Town of Mount Pleasant, South Carolina, and John/Jane Does 1-20*, No. 2:23-cv-04489-DCN, United States District Court for the District of South Carolina, (the “Federal Damages Case”).

Both the BOZA Appeal and the DRB Appeal have been referred to this Court pursuant to the consent orders of reference on file. CKC demanded statutory pre-litigation mediation in both the DRB Appeal, pursuant to S.C. Code Ann. §§ 6-29-900, -915, and the BOZA Appeal, pursuant to S.C. Code Ann. §§ 6-29-820, -825.

On January 27, 2022, the BOZA Appeal was mediated with the participation of all parties in that case, including Lucey. The mediation resulted in an impasse as reflected by the ADR Report filed in the BOZA Appeal on June 24, 2022.

On May 26, 2023, this Court heard the BOZA Appeal, which challenged BOZA’s Order holding the Town Zoning Administrator erred in approving the site-specific development plan for the Project due to insufficient parking. On July 14, 2023, this Court issued an order reversing the BOZA order on appeal, in part, and affirming, in part (the “BOZA Appeal Order”). This Court’s



BOZA Appeal Order found that BOZA erred in its finding that the Zoning Administrator misinterpreted and misapplied the phrase “Guest Room” as it pertains to the number of off-street parking spots required for the Project. The BOZA Appeal Order and the Court’s order denying the Town’s motion to reconsider are currently on appeal before the South Carolina Court of Appeals. . . The DRB Appeal has not been heard on the merits by this Court and it remains pending before this Court.

On or about January 2024, CKC and the Town resumed settlement negotiations. On May 1, 2024, CKC and the Town participated in a mediation. This session was conducted pursuant to CKC’s pre-litigation mediation demanded in the DRB Appeal as well as an effort to resolve the BOZA Appeal and the Federal Damages Case. CKC and the Town agreed to certain settlement terms at the mediation, subject to Town Council Approval.

On May 14, 2024, the Town Council approved the mediation settlement pursuant to, among other authorities, S.C. Code Ann. §§ 6-29-825(D)(1), -915(D)(1). By virtue of this vote, Town Council authorized the Mayor to execute the Settlement Agreement, memorializing the mediation settlement and establishing a procedure by which a final building permit and certificate of occupancy for the Project on the Properties will be issued by the Town.

This Court must review and approve the Settlement Agreement for it to be effective pursuant to S.C. Code Ann. §§ 6-29-825(G), -915(G). The Court “must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter.” *Id.*

Based on the Consent Motion to Approve Settlement Agreement along with the statements of counsel for the parties at the February 6, 2025 hearing,<sup>2</sup> the Court concludes that the Settlement

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<sup>2</sup> Counsel for Lucey stated at the February 6, 2025 hearing that Lucey does not oppose the Settlement Agreement.



Agreement has a rational basis in accordance with the standards of the South Carolina Comprehensive Planning Enabling Act of 1994 for the following reasons:

1. The Settlement Agreement sets forth the process for the Town to approve final design plans and to permit the construction of the Project. In exchange for the Town's agreement to this process, CKC agrees to a mutual release of claims, and agrees to dismiss the BOZA Appeal, the DRB Appeal, and the Federal Damages Case pursuant to the terms of the Settlement Agreement.
2. The principal use of the Project, a boutique hotel, was authorized on the Properties under the Town's Zoning Code at the time of the BOZA Order at issue in the BOZA Appeal. The Final Settlement Plans for the Project as set forth in the Settlement Agreement reduce the overall size of the Project from the original proposal, and add additional off-street and on-street parking options to address the Town's and neighbors' concerns, including Lucey's stated concerns, with the impacts of the Project.
3. **Original Plan (Room Count).** The original site-specific development plan for the Project, which was approved by the Zoning Administrator in 2021, included a total of 27 individually keyed guest rooms. Building A included 19 guest rooms (consisting of a mix of 1, 2, and 3 bedroom units) and Building B included 8 guest rooms (consisting of a mix of 3 and 4 bedroom family units). The total number of bedrooms in this approved plan was 64.
4. **Revised Plan in the Settlement Agreement (Room Count).** The total number of bedrooms has been reduced from 64 to 56. The 4 bedroom units have been reduced to 3 bedroom units. Thus, under the Plan, Building B will consist of 8 units with 3 bedrooms in each unit.



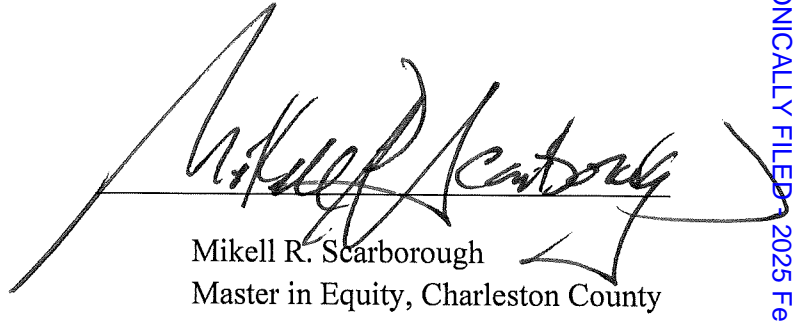
5. **Original Plan (Off-Street Parking Count).** The original, approved plans depicted 35 off-street parking spaces.
6. **Revised Plan per the Settlement Agreement (Off-Street Parking Count).** The total number of off-street parking spaces has been increased to 47 plus 2 spaces for staff use. This is accomplished by increased surface parking spots and tandem parking, which will be assigned to guests staying within the same suite to ensure that no vehicles are restricted from movement, and up to a maximum of 5 compact spaces. Subject to SCDOT approval, the Project will increase the number of on-street parking spaces from 7 to 9. The increased off-street parking counts provided by the Settlement Agreement are consistent in number with Ordinance No. 21071 that was adopted after the BOZA hearing at issue in this litigation and amended the Town's off-street parking table for accommodations uses.
7. **Revised Plan per the Agreement (Green Space).** The new plan adds additional green space by removing the originally approved double sidewalk.
8. **Hotel Operations.** The Settlement Agreement contains specific use conditions aimed at ensuring smooth operations of the Project and minimizing impacts to neighbors in the surrounding area.

Given the foregoing, this Court approves the Settlement Agreement pursuant to S.C. Code Ann. §§ 6-29-825(G), -915(G) because it has a rational basis in accordance with the standards of the South Carolina Comprehensive Planning Enabling Act of 1994 and it is in the best interest of all parties.

**IT IS SO ORDERED!**



2/20, 2025



Mikell R. Scarborough  
Master in Equity, Charleston County

**RECEIVED**

**Apr 28 2025**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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Appeal from Charleston County  
Mikell R. Scarborough, Master-in-Equity

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Case No. 2021-CP-10-05211  
Appellate Case No. 2023-001615

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CKC Properties, LLC,

Respondent,

v.

The Town of Mount Pleasant, South Carolina;  
The Town of Mount Pleasant Board of Zoning Appeals;  
Michael Robertson, in his official capacity as Zoning Administrator;  
Justin O'Toole Lucey; 415 Mill St., Inc; and 69 Scott Street, LLC,

Respondents Below,

Of which The Town of Mount Pleasant, South Carolina;  
The Town of Mount Pleasant Board of Zoning Appeals;  
Justin O'Toole Lucey; 415 Mill St., Inc.; and 69 Scott Street, LLC, are

Appellants.

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**PROOF OF SERVICE**

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CLEMENT RIVERS, LLP

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*Attorneys for Appellants The Town of Mount  
Pleasant, South Carolina, and The Town of  
Mount Pleasant Board of Zoning Appeals*

I, Russell G. Hines, of Clement Rivers, LLP, hereby certify that **THE FOREGOING LETTER TO THE COURT DATED APRIL 28, 2025**, was served on all other parties to this matter on April 28, 2025, by emailing (see attached email) a copy of the same to their counsel of record:

Jeffrey S. Tibbals, Esquire  
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*Attorneys for Appellants Justin O'Toole Lucey;  
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Respectfully submitted,  
CLEMENT RIVERS, LLP

By: s/Russell G. Hines  
Russell G. Hines (SC Bar No. 72100)  
*Attorneys for Appellants The Town of Mount Pleasant, South Carolina, and The Town of Mount Pleasant Board of Zoning Appeals*

Charleston, South Carolina

April 28, 2025

## Bell, Pollyana (Polly)

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**From:** Bell, Pollyana (Polly)  
**Sent:** Monday, April 28, 2025 1:39 PM  
**To:** jst@bybeetibbals.com; ewilliams@bybeetibbals.com; ross@mklawsc.com; Liz Lademan  
**Cc:** Quisenberry, Brian; Justman, Barbara; Hines, Russell; Justman, Aimee; Brown, Stephen L.  
**Subject:** CKC Properties, LLC v. The Town of Mount Pleasant (2023-001615) - CR 210812  
**Attachments:** CKC Properties v. Town of Mount Pleasant (2023-001615) -- Letter to Ct. App. dated 4-28-25.pdf; CKC Properties v. Town of Mount Pleasant (2023-001615) -- Order Granting Settlement Agreement.pdf

Enclosed please find correspondence in the above-referenced matter.

Thank you,

Pollyana Bell

Legal Secretary to Stephen L. Brown,  
Russell G. Hines, Stephen A. Griffith, Jr.

**Commercial Litigation Practice Group**

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