

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SUMTER	)	C/A NO.: 2022-CP-43-01389
	)	
Sumter County,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
LA Express Logistics, LLC and Willie S.	)	
Spann III,	)	
	)	
Defendants.	)	
	)	

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**ORDER**  
**RECEIVED**  
MAY 21 2025  
SC Court of Appeals

This matter comes before the Court on Plaintiff Sumter County’s September 3, 2024 Motion for Summary Judgment. Argument was heard on Monday, March 24, 2025. Following careful consideration of the filings, affidavits, and argument of counsel, the Court GRANTS the County’s Motion for Summary Judgment. There is no genuine issue of material fact with respect to the causes of action set forth in the County’s Complaint, and the Court finds that the County is entitled to judgment as a matter of law.

**BACKGROUND AND PROCEDURAL HISTORY**

This is a zoning dispute between the County and Defendants LA Express Logistics, LLC and Willie S. Spann III, by which the County is seeking to enforce certain provisions of its duly enacted Zoning and Development Standards Ordinance (“Ordinance”). The County’s position is that Defendants’ use of the property in question is in violation of the Ordinance.

Defendant Spann owns real property located at 5160 Hwy 15 North, Sumter, South Carolina 29153 (“Property”). The Property is located in Sumter County and is further identified as Sumter County TMS # 240-00-03-017. Defendant Spann purchased the Property on September 23, 2020. A copy of the deed was recorded with the Sumter County Register of Deeds on October

9, 2020. The Property is located in the Agricultural Conservation (“AC”) Zoning District, which has certain limitations and restrictions concerning the use of property located therein.

Defendant Spann is also the managing member of Defendant LA Express Logistics. Defendant Spann, by and through Defendant LA Express Logistics, purportedly runs a trucking operation on the Property. Defendant LA Express Logistics is an active South Carolina Transportation Company operating under USDOT Number 3809487. The Property is listed as the physical address for the business operations of Defendant LA Express Logistics, LLC.

The County began its investigation into Defendants’ use of the Property after receiving an inquiry from an adjacent property owner. The adjacent property owner asked whether trucking businesses could operate on the Property. Following this inquiry, on several occasions prior to the initiation of this litigation, multiple semi-trucks and trailers, indicative of trucking operations, were observed by the County and others to be situated on the Property.

On April 11, 2022, the County sent Defendant Spann a Notice of Violation (“NOV”) by certified mail. The NOV stated that “[u]pon review by the Sumter City-County Planning Department, it appears the [P]roperty is being used to carry out transportation business related land use activities.” The County explained the parking/storing of multiple semi-trucks and trailers on the Property is a violation of the Ordinance and is not permitted within the AC District. Defendant Spann was provided with a copy of the applicable portions of the Ordinance highlighting the violation. The County set forth the following required corrective actions:

- (1) Remove all trailers and fleet vehicles associated with this business to a compliant off-site location. Only one semi-truck cab and trailer is permitted to be parked/stored on this property.
- (2) Contact the Zoning Inspector prior to April 25, 2022 to discuss plans and timeframe for compliance.

The County communicated its desire to reach an agreeable resolution with Defendant Spann but

noted that if an agreed upon compliance plan was not reached, the County would have to pursue further enforcement—to include this Court’s involvement.

On April 14, 2022, Defendant Spann contacted the County to inform that he would not be complying with the required corrective actions. Following this communication, the County observed other evidence to support its belief that Defendants were operating a trucking business on the Property in violation of the Ordinance.

The County initiated this zoning action on September 1, 2022. The County’s Complaint set forth causes of action for declaratory judgment and injunctive relief. That same day, the County moved for a temporary injunction to prohibit Defendants from violating the Ordinance during the pendency of the litigation. On November 15, 2022, the Honorable Judge Cothran issued an order granting the County’s motion and required Defendants to bring the Property into compliance with the Ordinance. The Court found at this early juncture sufficient evidence to support the County’s position that (1) the Ordinance’s plain language addresses this factual situation and (2) Defendants were in violation of the Ordinance. As previously offered by the County, the Court allowed Defendants to keep a single semi-truck and trailer on the Property during the pendency of the litigation.

Since the issuance of the temporary injunction, the parties have engaged in discovery. The County’s motion for summary judgment is ripe for this Court’s consideration and ruling.

#### **SUMMARY JUDGMENT STANDARD**

The purpose of summary judgment is to dispose of matters which do not require the services of a fact finder. *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). Summary judgment must be granted in favor of a moving party “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that

there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRPC. “In determining whether summary judgment is appropriate, the evidence and its reasonable inferences, must be viewed in the light most favorable to the nonmoving party.” *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003).

Although the moving party carries the burden of proof, “[o]nce the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent’s case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial.” *Miller v. Blumenthal Mills, Inc.*, 365 S.C. 204, 220, 616 S.E.2d 722, 730 (Ct. App. 2005) (internal citations omitted). “[S]ummary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner.” *David v. McLeod Reg’l Med. Ctr.*, 367 S.C. 242, 250, 626 S.E.2d 1, 5 (2006).

#### **ANALYSIS**

The County asks this Court to issue declaratory and permanent injunctive relief to lend support to the County’s duty to enforce its Ordinance. The Court is charged with determining: (1) whether there is an Ordinance that addresses this factual situation and (2) whether Defendants have violated the Ordinance. After careful consideration, the Court finds that summary judgment in favor of the County is appropriate.

#### **The County has an Ordinance Covering this Factual Situation**

Pursuant to the authority granted by the General Assembly to cities and counties, the County has enacted legislation to address zoning and development within Sumter County. *See* S.C. Code Ann. § 6-29-710. To this end, the County enacted the Ordinance “to protect the health, safety, and general welfare, while allowing for the cost saving efficiencies, through the proper

subdivision of land and the creation of zoning districts.” Ordinance § 1.a.2. In order to implement the above-described purpose, the County has established various zoning and development districts, including the AC District. The stated purpose behind the AC District is as follows:

The intent of this district is to protect and preserve areas of the county which are presently rural or agricultural in character and use, and are uniquely suited to agricultural use. Where urban development is permitted within the district, strict quality standards should be required.

Ordinance § 3.n.1. One of the purposes of the Ordinance is to regulate the various uses of land.

Ordinance § 1.a.3.a.

Article 3 of the Ordinance provides, “No building, structure, parking lot, or land shall hereafter be used . . . unless in compliance with applicable district regulations set forth in this Ordinance.” Ordinance § 3.a.1. Article 3, Exhibit 5 of the Ordinance in effect in 2020 sets forth the Permitted, Conditional and Special Exception Uses in the Commercial, Industrial, Agricultural, and Conservations Districts of Sumter County. This “use” chart, applying the SIC Codes, was applicable at the initiation of this litigation. “Transportation Communications,” which included SIC Major Group Code 42, was not a Permitted or Conditional Use within the AC District. *Id.* The specific use “Trucking, Except Local” was defined by the SIC as Code 4213 which is the Individual Industry subpart of Industry Group Code 421, which is, in turn, a subpart of Major Group 42 which is the SIC Code set forth in Article 3, Exhibit 5 as a non-permitted use in the AC District. Again, SIC Code 4213 states in pertinent part:

Establishments primarily engaged in furnishing “over-the-road” trucking services or trucking services and storage services, including household goods either as common carriers or under special or individual contracts or agreements, for freight generally weighing more than 100 pounds. Such operations are principally outside a single municipality, outside one group of contiguous municipalities, or outside a single municipality and its suburban areas.

During the pendency of this litigation, the County transitioned from the SIC Code to the North American Industry Classification System (“NAICS”) for identifying and defining real property uses. Like the SIC Code, the NAICS sets forth whether real property “uses” are permitted outright, as a conditional use, or as a special exception. The correlating NAICS Code for Defendants’ use of the Property is NAICS Code 484 Truck Transportation. It states in pertinent part, “Industries in the Truck Transportation subsector provide over-the-road transportation of cargo using motor vehicles, such as trucks and tractor trailers.” NAICS Code 484 uses are not permitted uses of real property in the AC District.

Thus, it is apparent that the County has an Ordinance that specifically covers this situation, and the Ordinance came into effect prior to Defendant Spann’s purchase and current use of the Property.

**Defendants are in Violation of the County’s Ordinance**

The Court finds that Defendants are in violation of the County’s Ordinance that prohibits SIC Code 4213/NAICS Code 484 uses in the AC District. Trucking operations—governed by SIC Code 4213/NAICS Code 484—are not permitted (outright or as a conditional use) within the AC District.

The following evidence was submitted by the County in support of its Motion for Summary Judgment and makes certain that Defendants are operating a trucking business at the Property in violation of the Ordinance:

- (1) Defendant Spann testified that Defendant LA Express Logistics is a “trucking” business that offers “trucking services” to its clients.
- (2) Defendant Spann testified that he owns four semi-trucks and trailers and that the trucks are all stored and dispatched from the Property to pick up various loads from

Charleston to be delivered throughout the Southeast.

- (3) Defendant Spann testified that he “works” on his trucks at the Property to include changing tires, changing oil, washing etc.
- (4) Defendant Spann testified that at some point in time, he had other drivers that worked for him and would drive the trucks.
- (5) The filings with the South Carolina Secretary of State set forth the Property as the address for Defendant LA Express Logistics’ registered agent Defendant Spann.
- (6) Defendant LA Express Logistics USDOT registration notes the Property as its physical address.
- (7) Site photographs dated March 31, 2022, are indicative of a trucking business taking place at the Property.
- (8) Site photographs dated May 19, 2022, are indicative of a trucking business taking place at the Property.
- (9) Site photographs dated May 6, 2023, are indicative of a trucking business taking place at the Property.
- (10) Site photographs dated July 21, 2024, are indicative of a trucking business taking place at the Property.
- (11) Site photographs dated July 28, 2024, are indicative of a trucking business taking place at the Property.
- (12) The Affidavit of Zoning Inspector McLellan indicates trucking operations have been observed on multiple occasions and that Defendants’ use of the Property does not conform to the permitted uses set forth in the Ordinance.
- (13) The Affidavit of Zoning Administrator Derwort demonstrates that Defendants’ use

of the Property is not permitted in the AC District.

**Defendants' Arguments Against Summary Judgment Are Insufficient**

Defendants raised several arguments in an effort to contest the County's Motion for Summary Judgment; however, the Court disagrees with Defendants' position with respect to each argument.

First, although Defendants mention briefly the existence of a genuine issue of material fact sufficient to warrant the Court's denial of the County's Motion, Defendants have not set forth any specific or genuine factual issues that are material to this case.

Second, although Defendants assert the Ordinance is vague and/or ambiguous, the Court disagrees. Defendants' use of the Property fits neatly into the plain language of the trucking operations use as defined by the SIC/NAICS Codes. Furthermore, the plain language of the Ordinance prohibits such use in the AC District. Despite Defendants presentation during the hearing of other SIC/NAICS Codes that Defendants' use of the Property *could possibly* fit into, this is simply too much of a stretch—even through the most generous of lens. Moreover, each of these alterative uses as described by Defendants are "conditional uses," and it is undisputed that Defendants have not sought and have not received permission from the County to use the Property in such a manner.

Finally, Defendants make the argument that their use of the Property is not akin to a trucking operation. Defendants assert that because they do not pick up, load, or unload on the Property, they are not using the Property for a trucking operation. However, the Court finds the Defendants' view to be much too narrow and restrictive. In the context of a trucking operation, trucks are kept in a central location; trucks are dispatched from the central location; trucks pick up and deliver items; and trucks return to the central location. Here, that central location is the

Property. Defendants make the argument that the storage of semi-trucks and trailers is not the same as a trucking operation. But the Court agrees with the case law cited by the County that plainly defeats Defendants' argument. *See, e.g., Town of Wethersfield v. PR Arrow, LLC*, 187 Conn. App. 604, 637-38, 203 A.3d 645, 670-71 (2019) (explaining the storage of trucks is a significant facet of a trucking business and that the term "trucking operations" pertains "to all phases of the business of transporting goods on trucks"); *Smart v. Carpenter*, 139 N.M. 524, 527, 134 P.3d 811 (App. 2006) (recognizing that "[p]art of the business of running a trucking enterprise involves the storage of the vehicles when they are not in use").

**CONCLUSION**

Accordingly, the Court GRANTS the County's Motion for Summary Judgment, issuing declaratory and permanent injunctive relief in the County's favor. As set forth in the November 15, 2022 Temporary Injunction Order, Defendants are entitled to have a single semi-truck and trailer on the Property. At no time shall Defendants have more than a single semi-truck and trailer on the Property. Should the County discover Defendants' non-compliance with this Court's Order, the County may bring such a fact to the Court's attention, and the Court will issue the appropriate sanctions if necessary.

[JUDICIAL E-SIGNATURE TO FOLLOW]



Sumter Common Pleas

**Case Caption:** Sumter County VS La Express Logistics Llc , defendant, et al  
**Case Number:** 2022CP4301389  
**Type:** Order/Summary Judgment

So Ordered

s/ R. Kirk Griffin 2768