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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Charles B. Simmons, Jr.

APPELLATE CASE NO. 2025-000416

McDaniel Jones, LLC Respondent,

v.

City of Greenville Planning Commission Appellant.

RECORD ON APPEAL
VOL. I of II

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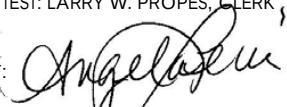
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District of South Carolina

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Case Number: [6:22-cv-04575-DCC](#)

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Docket Text:

TEXT ORDER granting [11] Consent Motion to Remand to State Court. The parties agree that Defendant's attempt to remove the case to this Court pursuant to 28 U.S.C. § 1446(b)(3) was untimely and has been waived. Accordingly, the case is hereby remanded to the Greenville County Court of Common Pleas. Signed by Honorable Donald C Coggins, Jr on 1/18/23.(alew,)

6:22-cv-04575-DCC Notice has been electronically mailed to:

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

McDaniel Jones, LLC,
Plaintiff,
v.
City of Greenville Planning Commission,
Defendant.

C.A. No. 2020-CP-23-05094

ORDER

INTRODUCTION

This matter was heard by me pursuant to an Order of Reference on January 24, 2025. Plaintiff was represented by Bruce W. Bannister and Ryan W. Pasquini of Bannister, Wyatt & Stalvey, LLC. The Defendant was represented by V. Clark Price of Cassidy Coates Price, P.A. All attorneys were well-prepared and presented zealous and compelling arguments on behalf of their clients

The parties have filed motions for summary judgment and have asked that I issue a final order based on the stipulation of facts, briefs and related exhibits, and arguments of counsel. As will be explained herein, I conclude that Defendant City of Greenville Planning Commission is entitled to judgment as a matter of law.

PROCEDURAL HISTORY

On November 5, 2020, Plaintiff filed a complaint alleging that the denial by Planning Commission of Plaintiff's application for a preliminary plat to develop property owned by Plaintiff constituted a regulatory taking. On December 12, 2022, Plaintiff filed an amended

complaint adding a cause of action alleging that the denial of the application violated Plaintiff's rights to equal protection under the Fourteenth Amendment to the United States Constitution.

The Planning Commission answered the Complaints, denying liability. Planning Commission contends that its decision was lawful, was not an unconstitutional taking, and did not violate Plaintiff's equal protection rights.

FINDINGS OF FACT

The action arises out of the purchase by Plaintiff of a piece of residential real estate located at 808 McDaniel Avenue on July 26, 2018. Plaintiff is a single purpose limited liability company organized for the purpose of purchasing, subdividing, and selling the property, which comprises 1.86 acres. Plaintiff paid \$1,430,000 for the property. 808 McDaniel Avenue fronts McDaniel Avenue but also borders Jones Avenue, which runs roughly parallel to McDaniel Avenue. The property is located in an established and high dollar residential area. At the time of the purchase, a single home was situated on the property. The property was zoned R-9, Single-Family Residential District.

Plaintiff's owner Mark Cothran desired to raze the existing home and subdivide the property into seven residential lots, with five lots fronting on McDaniel Avenue and two on Jones Avenue. Plaintiff applied to the Planning Commission for permission to subdivide the property. The initial application was submitted on September 14, 2018. A large magnolia tree on the property would have been removed under the proposal, but City planning staff determined that the tree was a historical tree and would have to be protected.

There was public opposition to the proposal. Written comments against the proposal were submitted by a number of neighborhood residents. Plaintiff revised its plan for the

property. A second application was filed with the Planning Commission on December 12, 2018. The revised application left the magnolia tree in place that would be protected by a conservation easement. The number of lots set aside for development was reduced to six, with lots again fronting on both McDaniel and Jones Avenues.

Public notice of the proposed subdivision was published. Again, there was public opposition to Plaintiff's proposal for a six lot subdivision. The Planning Commission received multiple written statements from individual opponents to the subdivision. A petition opposing the subdivision was submitted to the Planning Commission on January 2, 2019, which was signed by residents from the community. A neighborhood meeting was conducted by Plaintiff's representatives on January 9, 2019. Numerous opponents attended and expressed their opposition to the proposal. Prior to the Planning Commission meeting to consider the application, Mr. Cothran met with several representatives of the neighborhood during which their concerns about the plan were raised. Mr. Cothran told the representatives that he intended to proceed with the six lot subdivision and that he would not reduce the number of lots.

The Planning Commission considered the application at a public hearing on January 17, 2019. Many opponents attended the hearing. Jay Marting, a representative for Plaintiff, presented the application. No one else spoke in favor of the proposal. Eleven neighborhood residents spoke against the application. At the end of the public comments segment, Planning Commission members suggested to Mr. Cothran that a five lot subdivision would be approved. However, Plaintiff refused to reduce the proposal by one lot.

The Planning Commission voted unanimously to deny the application. Written notice of the denial dated February 13, 2019 was mailed to representatives of Plaintiff. The notice advised Plaintiff that "reducing the number of residential lots could potentially address [the Planning

Commission's] compatibility concerns...." Plaintiff did not submit a revised application. Instead, Plaintiff appealed the Planning Commission's decision to the Court of Common Pleas. The matter was heard and on September 1, 2020, Judge Edward W. Miller entered an order denying the appeal.

Plaintiff did not appeal Judge Miller's order or consider reducing the number of lots in the proposed subdivision from six to five. Instead, Plaintiff sold 808 McDaniel Avenue on October 2, 2020 for \$1,400,000. The purchaser is constructing a single family residence on the property.

CONCLUSIONS OF LAW

The Regulatory Takings Cause of Action:

In the regulatory takings context, the question of whether a taking has occurred is a question of law for the court. Dunes West Golf Club, LLC v. Town of Mount Pleasant, 401 S.C. 280, 314, 737 S.E.2d 601, 619 (2013); . Columbia Venture, LLC v. Richland County, 413 S.C. 423, 776 S.E.2d 900 (2015). South Carolina recognizes that an inverse condemnation claim is a regulatory taking challenge that is governed by the standards set forth in Penn Central v. City of New York, 438 U.S. 104, 124, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978). See Sea Cabins on the Ocean IV Homeowners Association, Inc. v. City of North Myrtle Beach, 345 S.C. 418, 430, 548 S.E.2d 595, 601 (2001); Columbia Venture, LLC v. Richland County, 413 S.C. at 447, 776 S.E.2d at 913.

The Takings Clause of the Fifth Amendment to the United States Constitution provides that private property shall not be taken for public use without just compensation. The typical taking that will require just compensation is a direct government appropriation or physical invasion of private property. Dunes West Golf Club, LLC, 401 S.C. 280, 313, 737 S.E.2d 601,

618 (2013). Absent a direct physical invasion, government regulation of private property may, in some instances, be so onerous that its effect is tantamount to a direct appropriation or ouster. Such regulatory actions may be compensable under the Fifth Amendment. Clayland Farm Enterprises, LLC v. Talbot County, Maryland, 987 F.3d 346 (4th Cir. 2021). (Citations omitted.) However, federal and state case law indicate that nearly all the value of property must be taken before a regulatory taking has occurred.

To determine whether a governmental action such as the Planning Commission's decision in this case was an unconstitutional regulatory taking, this Court must balance "a complex of factors, including (1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct, reasonable, investment-backed expectations; and (3) the character of the governmental action." Clayland Farm Enterprises, LLC, 987 F.3d 346, 353. (Citations omitted.) The first two factors—economic effects and investment-backed expectations—are primary among those factors. Id. South Carolina law follows the federal law on the subject. See generally Dunes West Golf Club, LLC, supra. The genesis of the regulatory takings analysis is found in Penn Central Transportation Co. v. City of New York, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978).

I find that the Planning Commission's denial of Plaintiff's application did not constitute a regulatory taking. Plaintiff argues that being forced to reduce the proposed subdivision by a single lot is an unconstitutional taking of that lot. However, under the facts herein, mere diminution in value does not rise to the level of a taking in the constitutional sense. Plaintiff did not lose the ability to make money off the property. The Planning Commission did not prohibit Plaintiff from developing the property into multiple lots, or from building a new home on the site. The property retained market value. These factors show that the impact on Plaintiff's

ability to exercise its ownership (its “bundle of property rights”) was insufficient to establish a taking. The denial of one traditional property right by a governmental act does not necessarily amount to a taking. Where an owner possesses a full bundle of property rights, the destruction of one strand of the bundle is not a taking, because the aggregate has to be viewed in its entirety. See Braden’s Folly, LLC, 439 S.C. 171, 201, 886 S.E.2d 674, 690 (2023); Andrus v. Allard, 444 U.S. 51, 64-67, 100 S.Ct. 318, 62 L.Ed.2d 201 (1979).

An action by the government that restricts a developer’s plan to develop property is not a taking merely because it prohibits the most economically beneficial use of the developer’s property. United States Supreme Court decisions have uniformly rejected the proposition that diminution in value, standing alone, can establish a taking, and the taking issue in the context of land use regulations is resolved by focusing on the uses the regulations permit. Dunes West Golf Club, LLC , 401 S.C. 280, 317, 737 S.E.2d 601, 621.

The Takings Clause does not create an affirmative obligation for local governments to make good on speculative private investments or to increase property owners’ property values. Pulte Home Corporation v. Montgomery County, Maryland, 909 F.3d 685, 696 (4th Cir. 2018). Neither diminution in property value nor even a substantial reduction of the attractiveness of the property to potential purchasers establishes a taking. Esposito v. South Carolina Coastal Council, 939 F.3d 165 (4th Cir. 1991). A reduction in the number of houses that an owner may build may end up being a diminution in value but is not a taking. FIC Homes of Blackstone, Inc. v. Conservation Commission, 41 Mass.App.Ct. 681, 673 N.E.2d 61 (1996), citing Moskow v. Commissioner of Dept. of Environmental Management, 427 N.E.2d 750 at 753, which in turn cites Penn Central at 438 U.S. at 130-131, 98 S.Ct. at 2662, in which the United States Supreme Court said: “‘Taking’ jurisprudence does not divide a single parcel into discrete segments and

attempt to determine whether rights in a particular segment have been entirely abrogated. In deciding whether a particular governmental action has effected a taking, this Court focuses rather both on the character of the action and on the nature and extent of the interference with rights in the parcel as a whole....”

Plaintiff bought the property for \$1,430,000; it sold the property for \$1,400,000. Assuming Plaintiff acted reasonably in selling the property at a \$30,000 loss, Plaintiff sustained a two percent diminution in value. Such a diminution in value, even if it could be linked to the Planning Commission’s decision, establishes that the property retained 98 percent of its value. Plaintiff contends that the diminution in value is much greater. Plaintiff retained an appraiser who has opined that the fair market value of the entire property, had the Planning Commission voted to approve the six lot subdivision, would have been \$2,510,000. Plaintiff argued at the hearing that the denial of the preliminary plat resulted in the property losing all its value. However, Plaintiff’s sale of the property for \$1,400,000 demonstrates the property retained significant value. The diminution in value, if any, is not significant enough to show a taking. See Dunes West Golf Club, LLC v. Town of Mount Pleasant, 401 S.C. 280, 317, 737 S.E. 2d 601, 621 (2013). I conclude that the economic impact of the Planning Commission’s decision weighs in favor of the Defendant.

The Penn Central factor of the reasonableness of Plaintiff’s investment-backed expectations also favors the Defendant. A valid regulatory taking claim must be premised on a property right that was in existence at the time the owner purchased the property. Clayland Farms, LLC 987 F.3rd at 354. Continuation of the existing use of the property is the property owner's primary expectation when considering an owner's investment-backed expectations for the property; a reasonable investment-backed expectation must be more than a unilateral

expectation or an abstract need. Dunes West Golf Club, LLC. In this case, from the time of purchase, Plaintiff sought to expand the existing use of 808 McDaniel Avenue from a single family residential lot to a six lot subdivision. The necessary premise to establish a regulatory taking is, therefore, lacking.

Case law instructs that the court should evaluate Plaintiff's investment-backed expectations through an objective lens. The subjective expectations of Plaintiff are irrelevant. The critical question is what a reasonable owner in Plaintiff's position should have anticipated. Courts are to look at (1) whether the challenged regulation interferes with the existing use of the property; (2) the degree to which the property's general locale is subject to regulation; and (3) whether the property owner acquired the land after the regulation went into effect. Braden's Folly, LLC v. City of Folly Beach, 439 S.C. 171, 886 S.E.2d 674 (2023). It is undisputed that 808 McDaniel Avenue was within the city limits, and that the city's zoning laws applied to the property. Plaintiff acquired the property knowing it was in the City and was on notice that the City's zoning procedures would apply. The Planning Commission's denial of Plaintiff's application did not interfere with the property's existing use; it was Plaintiff that sought to change the existing use.

Mark Cothran, an experienced real estate investor, is the sole and managing member of Plaintiff. Plaintiff, through Mr. Cothran, was aware at the time it purchased the property that in order to develop the property into a subdivision an application for a preliminary plat would have to be made to the Planning Commission, and that the Planning Commission would decide whether to approve or deny such application after receiving input from planning staff and interested members of the public. Plaintiff was aware prior to the Planning Commission

considering the application that Plaintiff would have to participate in a public meeting to discuss and take questions about the proposed subdivision.

Plaintiff, through Mr. Cothran, was aware of public opposition early on. Plaintiff knew the opponents had multiple concerns about the impact a six lot subdivision would have on what had historically been a single family residence. Opponents expressed concerns about increased traffic congestion; safety issues; stormwater increase; risks to the existing historic magnolia tree on the property; the potential negative impact on the tree canopy on surrounding properties; and proposed lot sizes and homes inconsistent with that of the neighborhood.

The January 2, 2019 petition was presented to the Planning Commission by residents opposed to the subdivision. The petition quoted from City Code Section 19-6.9.1: *General purpose and intent. This section is intended to achieve neighborhood compatibility, maintain the harmony and character of established single-family areas, and guide residential infill development to occur in an orderly and desirable manner.*

The petition identified major areas of concern to the petitioners: neighborhood compatibility; construction issues; traffic; and tree canopy. At least 96 residents signed the petition.

Prior to the Planning Commission hearing, Mr. Cothran met with several members of the neighborhood. Sam Outten, whose home is across the street from Plaintiff's property, testified to the Planning Commission that Mr. Cothran refused to agree to any change in the proposal, including the neighbors' request that the number of proposed lots be reduced.

A neighborhood meeting was conducted by Plaintiff's representatives on January 9, 2019. Numerous opponents of the proposed subdivision attended and expressed their opposition.

Austin Allen, a representative of Plaintiff who attended the meeting, prepared a summary of the comments made by the opponents. Mr. Allen noted that one of the attendees said that “A 4 lot subdivision would make a lot more sense and be much more reasonable and comparable to what is on McDaniel and Jones.”

The public opposition did not sway Plaintiff, and on January 17, 2019, Plaintiff presented its six lot proposal to the Planning Commission. As noted above, public opposition was again intense. Plaintiff was offered the opportunity to revise its plan. The Planning Commission made it clear both at the hearing and in the notice of denial that a five lot subdivision would be a more acceptable proposal. Plaintiff declined to adjust the proposed subdivision and instead appealed the Planning Commission’s denial to the Court of Common Pleas. When the appeal was denied, Plaintiff sold the property one month later for slightly less than it had paid for it.

The neighborhood’s concerns about changing the use of the property from its historic use as a single residence and about the proposed subdivision’s impact on traffic, safety, and the land management ordinance’s purposes, including the admonition to “encourage quality development to blend with existing development” and to “facilitate the creation of a convenient, attractive, and harmonious community” could well have caused a reasonable investor to reduce the number of proposed lots.

I also find that the third Penn Central factor, the character of the challenged governmental action, favors the Defendant. The regulatory takings doctrine seeks to “identify regulatory actions that are functionally equivalent to the classic taking, in which government directly appropriates private property or ousts the owner from his domain”. Dunes West Golf Club, LLC, 401 S.C. 280, 314, 737 S.E.2d 601, 619. The Planning Commission’s decision did not rise to this level. A regulation that is merely a public program adjusting the benefits and burdens of

economic life to promote the common good will pass constitutional muster. Braden's Folly, LLC, 439 S.C. 171, 210, 886 S.E.2d 674, 696 (2023).

The character of the governmental action in this case is a denial of a preliminary plat for the subdividing of an existing 1.86 acre lot into six lots, coupled with the invitation to submit a plan with one fewer lot. The Planning Commission's decision did not deprive Plaintiff of its right to own, use, develop, and involved sell 808 McDaniel Avenue. While Plaintiff argues that the denial diminished the value of the property, the diminution in value involved herein does not establish an unconstitutional taking. To amount to a taking, the impact of the denial must be so profound as to be confiscatory. The Planning Commission's denial was not confiscatory; it was a preliminary zoning decision that affected only the density of the proposed use of the property, not the right of the developer to develop it.

The Equal Protection Cause of Action:

I find that the Planning Commission did not violate Plaintiff's equal protection rights when it denied the application for a six lot subdivision. There were multiple rational reasons why the Planning Commission denied the proposal, not the least of which was the indisputable public opposition to the plan. The decision was "fairly debatable". There is no proof that the decision was the result of intentional, invidious discrimination against Plaintiff. Even if the decision was not technically perfect, it did not rise to the level of a constitutional deprivation of rights. The legislative body's decision in zoning matters is presumptively valid, and the property owner has the burden of proving to the contrary. See Harbit v. City of Charleston, 382 S.C. 383, 675 S.E.2d 776 (Ct. App. 2009).

The Planning Commission determined "that the size and configuration of the proposed lots were not compatible with the existing development patterns along McDaniel and Jones

Avenues...these discrepancies informed the Commission’s determination that the proposed subdivision was incompatible with the existing character and development pattern of the established surrounding neighborhood.” (See February 13, 2019 letter to Jay Martin from Michael Frixen, Development Planner.) In this regard, it is significant that in his order denying Plaintiff’s appeal of the Planning Commission’s decision, Judge Miller found that the Planning Commission’s decision was sustainable and permitted by the purpose and intent sections of the City of Greenville Code of Ordinances Sections 19.1.3 and 19.6.9.1 and that it did not abuse its discretion when it acted to deny Plaintiff’s preliminary plat. See Order Denying Appeal, p. 3.

The decision was supported by neighborhood testimony presented to the Planning Commission. For example, Tom Snider, a resident of the neighborhood, testified that the proposed subdivision contained lots narrower than those of surrounding homes, and that if permitted, they would “create an incompatibility that destroys the harmony and character of the street”. Mr. Snider described the proposed lots as “like a set of piano keys against the rest of McDaniel”. Concerns about safety, increased traffic, the potential harm to the magnolia tree and the overall tree canopy of the neighborhood all supported the decision of the Planning Commission.

There were other reasons presented to the Planning Commission that made the propriety of its decision “fairly debatable”. Concerns about safety, increased traffic, the potential harm to the magnolia tree, and the overall tree canopy of the neighborhood, all supported the decision of the Planning Commission. The Harbit court explained that “[w]hile all of the residents’ concerns might not be well-founded, City Council’s response to public opposition does not rise to the level of a constitutional violation”. 382 S.C. at 391; 675 S.E.2d at 780. Quoting the court in Sunrise Corp. of Myrtle Beach v. City of Myrtle Beach, 420 F.3d 322,329 (4th Cir.2005), the Harbit court

said, “[T]he Fourth Circuit Court of Appeals determined the city council’s improper denial of the zoning application in response to public opposition did not rise to the level of a constitutional violation because ‘matters of zoning are inherently political, and it is a zoning official’s responsibility to mediate disputes between developers and local residents’”.

The record in this case reflects that the Planning Commission tried to offer a compromise, suggesting it would accept a five lot subdivision; however, the compromise attempt was rejected by Plaintiff. Under the facts herein, Planning Commission’s decision was not an *unconstitutional* exercise of its authority. There is no evidence before me that indicates the Planning Commission intended to discriminate against Plaintiff by denying its application. The Planning Commission had a rational basis to deny the application for a six lot subdivision. Intense public opposition was a factor that caused the Planning Commission to suggest a five lot subdivision to which Plaintiff, fully aware of the public opposition, said no. Whether or not Plaintiff was treated differently than similarly situated owners might have been treated, such disparate treatment, if any, did not rise to the magnitude of an unconstitutional deprivation of equal protection.

To prevail on an equal protection claim, the Plaintiff must demonstrate that it has been treated differently from others with whom it is similarly situated, and that the unequal treatment was the result of intentional or purposeful discrimination. Morrison v. Garraghty, 239 F.3d 648, 654 (4th Cir. 2001); Whaley v. Dorchester County Zoning Board of Appeals, 337 S.C. 568, 524 S.E.2d 404 (1999.) If this showing is made, the court should proceed to the second step and “determine whether the disparity in treatment can be justified under the requisite level of scrutiny”. Morrison, 239 F.3d 648, 654. When a party has not alleged that it was deprived of a fundamental right or that it was subjected to discrimination based on a suspect classification, a

court “will uphold the distinctions drawn by [the defendant] if they were ‘rationally related to a legitimate state interest.’” Pulte Home Corp. v. Montgomery County, 909 F.3d 685, 693 (4th Cir. 2018). To rebut a defendant’s rational reasons for treating a plaintiff differently, the plaintiff carries the “heavy burden of negating every conceivable basis which might reasonably support the challenged classification.” Van der Linde Housing, Inc. v. Rivanna Solid Waste Authority, 507 F.3d 290, 293 (4th Cir. 2007).

Here, there is no evidence that the denial of its application was motivated by discriminatory goals, such as revenge, illegitimate animus, or ill will on the part of the Planning Commission. Dunes West, 401 S.C. at 295, 737 S.E.2d at 609). One seeking to show discriminatory enforcement in violation of the Equal Protection clause must demonstrate arbitrary and purposeful discrimination in the administration of the law being enforced. Even assuming a governmental entity is not enforcing an ordinance equally, the fact that there is some unequal treatment does not necessarily rise to the level of a constitutional equal protection violation. Harbit, 382 S.C. at 396, 675 S.E.2d at 783. The City’s written notice of denial shows the Planning Commission was letting Plaintiff know that a reasonable alternative to the six lot proposal was available. The letter of denial advised Plaintiff that “The Commission’s discussion further indicated that reducing the number of residential lots could potentially address their compatibility concerns and bring the development into closer compliance with the City’s Infill Standards”. The Planning Commission’s denial of the application was not based on purposeful discrimination and did not “rise to the level of a constitutional equal protection violation”.

Plaintiff’s equal protection argument also fails because there is no evidence of similarly situated property owners who applied for a subdivision plat and were granted the application.

“Similarly situated” means the other entities “are in all relevant respects alike” to Plaintiff.

Nordlinger v. Hahn, 505 U.S.1,10, 112 S.Ct. 2326, 120 L.Ed.2d 1 (1992).

Plaintiff’s proposal for 808 McDaniel Avenue was not similarly situated to other permit applications in the area. The property’s location, bordering both McDaniel and Jones Avenues, and its close proximity to Augusta Street, were unique features. It was also unique in that a single lot containing one house was proposed to be divided into six much smaller lots requiring six new curb cuts. The magnolia tree requiring preservation was another unique feature of the application.

Plaintiff cannot negate every rational or conceivable basis that might reasonably support the denial. The public opposition to the application standing alone establishes a rational basis for the Planning Commission’s denying the application. See Dunes West Golf Club, LLC, 401 S.C. 280, 295, 737 S.E.2d 601, 608-609 (citing with approval Sowers v. Powhatan County, 347 Fed. Appx. 898, 903-904 (4th Cir. 2009), “holding public opposition furnishes a rational basis for differential treatment in zoning decisions”. Any of the concerns communicated to the Planning Commission by opponents to the application, e.g., increased traffic flow, proximity to existing busy intersection, potential stormwater runoff, risks to tree canopy, safety concerns from increased traffic flow and retention of stormwater, and incompatibility with the neighborhood, are rational reasons that would support the denial of the application.

The Court therefore concludes that Plaintiff has not proven that it was denied equal protection by the Planning Commission.

It is, therefore,

ORDERED that Defendant City of Greenville Planning Commission is entitled to judgment as to both the Regulatory Takings and Equal Protection causes of action.

AND IT IS SO ORDERED.

Greenville, South Carolina

The Hon. Charles B. Simmons, Jr.
Master in Equity for Greenville, South Carolina



Greenville Common Pleas

Case Caption: McDaniel Jones LLC vs. Planning Commission City Of Greenville
Case Number: 2020CP2305094
Type: Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2025-02-05 15:05:28 page 17 of 17

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

McDaniel Jones, LLC,

C.A. No. 2020-CP-23-

Plaintiff,

SUMMONS

v.

City of Greenville Planning Commission,

Defendant.

TO: THE DEFENDANT ABOVE-NAMED:

You are hereby summoned and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer upon the subscriber at 24 Cleveland Street, Suite 100, Greenville, SC 29601, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer within that time, a judgment by default will be entered against you for the relief demanded in the Complaint.

BANNISTER, WYATT & STALVEY, LLC

s/Luke A. Burke

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Attorneys for the Plaintiff

November 5, 2020

Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-

**COMPLAINT
(Jury Trial Demanded)**

The Plaintiff, by and through his undersigned counsel, alleges the following:

JURISDICTION AND PARTIES

1. Plaintiff McDaniel Jones, LLC (“Plaintiff”) is a limited liability company organized and existing under the laws of the State of South Carolina.

2. Plaintiff was the owner of real property located at 800 McDaniel Avenue (Tax Map No.: 0217000500700).

3. Plaintiff was the developer of the McDaniel subdivision, the development at issue in this action.

4. City of Greenville (“City”) is a municipal corporation organized and existing under the laws of the State of South Carolina.

5. Defendant City of Greenville Planning Commission (“Planning Commission”) is an appointed local planning commission as defined in South Carolina Code Section 6-29-310, also known as the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, and was created pursuant to that legislation and pursuant to Greenville City Code Section 2-331.

6. This action alleges a regulatory taking by Defendant without payment of just compensation in violation of U.S. CONST. amend. V and S.C. CONST. art. I, § 13(a).

7. This Court has jurisdiction over the parties and the subject matter of this action.

FACTUAL BACKGROUND

8. A landowner has a vested right to use property in compliance with State laws and regulations and City ordinances.

9. On or about July 26, 2018, Plaintiff purchased the subject property at 800 McDaniel Avenue for \$1,430,000.

10. Plaintiff invested additional funds into the subject property for development costs, engineering, interest, and other costs.

11. The value of Plaintiff's planned subdivision was approximately \$4,000,000.

12. Based on all applicable statutes, regulations, and ordinances, the zoning and acreage of the subject property allowed for development of 9 lots on the property.

13. Based on all applicable statutes, regulations, and ordinances, the road frontage of the subject property allowed for development of 8 lots on the property.

14. After extensive negotiation with City staff, Plaintiff agreed to develop 6 lots and City agreed to accept a conservation easement encumbering the other 2 lots.

15. On or about December 12, 2018, Plaintiff submitted an application for a major subdivision containing six residential lots and one conservation/stormwater lot located at 800 McDaniel Avenue to City of Greenville Planning & Development (Application #SD 18-027).

16. The application complied with all State laws and regulation and City ordinances.

17. Based on the application's compliance with all statutes, regulations, and ordinances and based on the actions and decisions of City and Planning Commission prior to submission of the application, Plaintiff had a reasonable expectation that its application would be approved.

18. On January 17, 2019, Planning Commission held a Public Hearing in which it heard public comments regarding Plaintiff's application.

19. At the hearing, Planning Commission defined neighborhood compatibility to require that newly-created subdivision lots be compatible in size and configuration to existing lots in the neighborhood.

20. Based on this new definition of neighborhood compatibility, Planning Commission decided that Plaintiff's proposed subdivision was incompatible with the existing neighborhood and denied Plaintiff's application for its development of the McDaniel subdivision.

21. On February 8, 2019, Plaintiff filed a notice of appeal of the denial in Case No. 2019-CP-23-00749.

22. In an Order filed September 1, 2020, Plaintiff's appeal was denied.

23. On October 2, 2020, Plaintiff sold the subject property for \$1,400,000.

FOR A FIRST CAUSE OF ACTION
(Inverse Condemnation)

24. Planning Commission took an affirmative act by creating a new definition of neighborhood compatibility and applying this definition to Plaintiff's application.

25. Plaintiff could not have reasonably expected Planning Commission to change the statutory and regulatory scheme after Plaintiff purchased the property and invested substantial funds into developing the property.

26. Planning Commission's actions destroyed the value of Plaintiff's reasonable, investment-backed expectations to the extent that the property is now worth less than that the amount for which it was originally purchased.

27. Planning Commission's actions in redefining the statutory scheme and denying Plaintiff's application amount to a compensable regulatory taking of Plaintiff's property interest.

28. Plaintiff is entitled to just compensation in an amount necessary to compensate Plaintiff for Defendants' taking of Plaintiff's property.

29. Plaintiff is entitled to pre-judgment interest pursuant to S.C. Code § 28-2-420(A).

30. Plaintiff requests an award of the costs, fees, and expenses associated with the defense of its civil rights, including attorney's fees, pursuant to S.C. Code § 15-77-300, *et seq.*

WHEREFORE, Plaintiff prays for the following relief:

- 1) A jury trial on all issues so triable;
- 2) Judgment against Defendants in an amount necessary to compensate Plaintiff for Defendants' taking of Plaintiff's property as determine by a jury;
- 3) Judgement against Defendants for attorneys' fees and costs related to this action;
- 4) Judgment against Defendants for pre-judgment interest; and
- 5) For such other and further relief as the Court deems just and proper.

BANNISTER, WYATT & STALVEY, LLC

s/ Luke A. Burke
Bruce W. Bannister (SC Bar # 15679)
Luke A. Burke (SC Bar # 100033)
24 Cleveland Street, Suite 100 (29601)
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Greenville, South Carolina
Phone: (864) 298-0084
Fax: (864) 331-0245
Attorneys for the Plaintiff

November 5, 2020
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-05094

ANSWER

The Defendant City of Greenville Planning Commission, hereafter “Planning Commission”, answering the Complaint of the Plaintiff herein, respectfully alleges as follows:

FOR A FIRST DEFENSE

1. Any allegation not hereafter admitted, denied or explained is denied.
2. Paragraphs 1 through 5 are admitted.
3. Paragraph 6 is admitted only to the extent that the Plaintiff is alleging a regulatory taking by the Planning Commission without payment of just compensation; the Planning Commission denies that a regulatory taking entitling the Plaintiff to compensation has occurred.
4. Paragraph 7 is admitted.
5. Paragraph 8 states a conclusion of law for which no answer is required. To the extent an answer is deemed required, the Planning Commission denies a regulatory taking occurred or that the Plaintiff is entitled to any compensation.
6. Paragraphs 9 and 10 are admitted on information and belief.
7. The Planning Commission lacks sufficient information to admit or deny Paragraph 11 and therefore denies same.

8. Paragraphs 12 through 14 are denied as stated because the Planning Commission, taking into account all the evidence before it, determined that the Plaintiff's planned subdivision was not compatible with the existing development patterns along McDaniel and Jones Avenues and declined to approve it when Plaintiff indicated it would not amend the proposal to reflect the Planning Commission's suggestions.
9. Paragraph 15 is admitted.
10. Paragraphs 16 and 17 are denied.
11. Paragraph 18 is admitted.
12. Paragraphs 19 and 20 are denied.
13. Paragraphs 21 through 23 are admitted.
14. Paragraphs 24 through 30 are denied.

FOR A SECOND DEFENSE

15. The Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
16. The decision of the Planning Commission was a reasonable and valid exercise of the City of Greenville's police powers.

FOR A THIRD DEFENSE

17. The Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
18. The Plaintiff appealed the decision of the Planning Commission to the Court of Common Pleas. The Plaintiff argued that the Planning Commission does not have the discretion to deny a preliminary plat that complies with the applicable zoning and ordinances. The

Plaintiff also argued that its preliminary plat complied with applicable zoning and ordinances. The Court found that the Planning Commission did not abuse its discretion when it acted to deny the Plaintiff's preliminary plat, holding that the purpose and intent sections of the applicable city ordinances allowed the Planning Commission to define neighborhood compatibility to require that newly-created subdivision lots be compatible in size and configuration to existing lots in the neighborhood.

19. The Plaintiff did not appeal the decision of the Circuit Court, and is bound by the Circuit Court's determination that the Planning Commission's actions were proper.

FOR A FOURTH DEFENSE

20. The Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
21. The Planning Commission, based on the evidence before it, including that submitted by the Plaintiff, planning staff, and the public, duly and properly denied the Plaintiff's request as presented. During the hearing referred to in the Plaintiff's Complaint, Plaintiff was or should have been aware that reduction of the subdivision plan by one residential lot would satisfy the Planning Commission and that Plaintiff's subdivision would be approved by the Planning Commission. The Plaintiff refused to agree to the reduction whereupon the Planning Commission denied the Plaintiff's application as it was written.
22. The Plaintiff made the decision not to submit an amended subdivision plan, and further chose not to re-petition the Planning Commission with a subdivision plan more compatible with the existing development patterns in the neighborhood. Instead, the Plaintiff appealed the Planning Commission's decision to the Circuit Court which affirmed the Planning Commission's decision. Thereafter, the Plaintiff chose not to submit an amended

subdivision plan to the Planning Commission, but instead the Plaintiff chose to sell the subject property rather than developing the property as a subdivision.

23. Any damages claimed by the Plaintiff were not caused by any action by the Planning Commission, but were the result of the Plaintiff's decision to sell rather than subdivide the subject property.

FOR A FIFTH DEFENSE

24. The Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
25. The decision by the Planning Commission did not amount to a regulatory taking of the Plaintiff's property. The Plaintiff chose not to pursue reasonable investment backed options following the Planning Commission's decision and voluntarily waived the opportunity to develop the subject property in a manner consistent with its potential highest and best use.

FOR A SIXTH DEFENSE

26. The Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
27. By refusing to pursue a subdivision plan that would have been approved by the Planning Commission, the Plaintiff chose not to develop the property but to sell it. By doing so, the Plaintiff failed to mitigate and avoid any loss it claims was due to a regulatory taking of its property.

WHEREFORE, the Planning Commission prays that the Complaint be dismissed with costs and for such other and further relief as the Court deems proper.

ROE CASSIDY COATES & PRICE, P.A.

s/V. Clark Price

V. Clark Price – S.C. Bar # 4567

Christian H. Thorndike – S.C. Bar # 103697

Roe Cassidy Coates & Price, PA

P.O. Box 10529

Greenville, SC 29603

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Attorneys for the Defendant

Greenville, South Carolina
December 21, 2020

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

McDaniel Jones, LLC,

C.A. No. 2020-CP-23-05094

Plaintiff,

SUMMONS

v.

City of Greenville Planning Commission,

Defendant.

TO: THE DEFENDANT ABOVE-NAMED:

You are hereby summoned and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer upon the subscriber at 24 Cleveland Street, Suite 100, Greenville, SC 29601, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer within that time, a judgment by default will be entered against you for the relief demanded in the Complaint.

BANNISTER, WYATT & STALVEY, LLC

s/Luke A. Burke
Bruce W. Bannister (SC Bar # 15679)
Luke A. Burke (SC Bar # 100033)
24 Cleveland Street, Suite 100 (29601)
P. O. Box 10007 (29603)
Greenville, South Carolina
Phone: (864) 298-0084
Fax: (864) 331-0245
Attorneys for the Plaintiff

December 12, 2022
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-05094

**AMENDED COMPLAINT
(Jury Trial Demanded)**

The Plaintiff, by and through his undersigned counsel, alleges the following:

JURISDICTION AND PARTIES

1. Plaintiff McDaniel Jones, LLC (“Plaintiff”) is a limited liability company organized and existing under the laws of the State of South Carolina.

2. Plaintiff was the owner of real property located at 800 McDaniel Avenue (Tax Map No.: 0217000500700).

3. Plaintiff was the developer of the McDaniel subdivision, the development at issue in this action.

4. City of Greenville (“City”) is a municipal corporation organized and existing under the laws of the State of South Carolina.

5. Defendant City of Greenville Planning Commission (“Planning Commission”) is an appointed local planning commission as defined in South Carolina Code Section 6-29-310, also known as the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, and was created pursuant to that legislation and pursuant to Greenville City Code Section 2-331.

6. This action alleges a regulatory taking by Defendant without payment of just compensation in violation of U.S. CONST. amend. V and S.C. CONST. art. I, § 13(a).

7. This Court has jurisdiction over the parties and the subject matter of this action.

FACTUAL BACKGROUND

8. A landowner has a vested right to use property in compliance with State laws and regulations and City ordinances.

9. Prior to July 26, 2018, Plaintiff identified the subject property at 800 McDaniel Avenue as being significantly undervalued.

10. Based on all applicable statutes, regulations, ordinances and planning commission requirements, the zoning and acreage of the subject property allowed for development of 8 lots on the property.

11. Plaintiff purchased the property and invested additional funds into the subject property for development costs, engineering, interest, and other costs.

12. The value of Plaintiff's planned subdivision was approximately \$4,000,000. The purchase price for the property was \$1,430,000.

13. After requests were made by City staff to alter the Plaintiff's plans, Plaintiff agreed to develop 6 of the 8 lots and City agreed to accept a conservation easement encumbering the other 2 lots to preserve an historic tree.

14. Plaintiff's finalized development plans met each and every applicable statute, regulation, acreage restriction, ordinance, planning commission requirement and zoning. In addition, Plaintiff's finalized development plan met all Defendant's published criteria for "neighborhood compatibility."

15. On or about December 12, 2018, Plaintiff submitted an application to City of Greenville Planning & Development (Application #SD 18-027) for a major subdivision containing six residential lots and one conservation/stormwater area comprised of the two

remaining lots with the historic tree. All of which was located on the property at 800 McDaniel Avenue. All of which was in conformity with the requests made by City staff.

16. The application complied with all State laws and regulation and City ordinances.

17. Based on the application's compliance with all statutes, regulations, and ordinances and based on the actions and decisions of City and Planning Commission prior to submission of the application, Plaintiff had a reasonable expectation that its application would be approved because it was in compliance and required no variance.

18. On January 17, 2019, Planning Commission held a Public Hearing in which it heard public comments regarding Plaintiff's application.

19. At the hearing, Planning Commission asserted it had authority to define neighborhood compatibility beyond the published requirements.

20. Based on the new definition of neighborhood compatibility announced at the January 17, 2019, Planning Commission Public Hearing, the Planning Commission denied approval of Plaintiff's application for its development of the McDaniel subdivision.

21. On February 8, 2019, Plaintiff filed a notice of appeal from the denial in Case No. 2019-CP-23-00749.

22. In an Order filed September 1, 2020, Plaintiff's appeal was denied.

23. On October 2, 2020, Plaintiff sold the subject property for \$3 million dollars less than what it was worth prior to the Planning Commission's creation of a new definition of neighborhood compatibility.

FOR A FIRST CAUSE OF ACTION
(Inverse Condemnation)

24. Plaintiff reasserts the foregoing allegations to the extent consistent with this cause of action.

25. Planning Commission took an affirmative act by creating a new definition of neighborhood compatibility and applying this definition to Plaintiff's application.

26. Plaintiff could not have reasonably expected Planning Commission to change the statutory and regulatory scheme after Plaintiff identified the undervalued property, purchased the property and invested substantial funds into develop plans that met all published requirements for "neighborhood compatibility".

27. Planning Commission's actions destroyed the value of Plaintiff's property and his reasonable, investment-backed expectations to the extent that the property is now worth less than that the amount for which it was originally purchased.

28. Planning Commission's actions in arbitrarily redefining "neighborhood compatibility", altering the statutory scheme for the Planning Commission, or denying Plaintiff's application amounts to a compensable regulatory taking of Plaintiff's property interest.

29. Plaintiff is entitled to just compensation in an amount necessary to compensate Plaintiff for Defendants' taking the value from Plaintiff's property.

30. Plaintiff is entitled to pre-judgment interest pursuant to S.C. Code § 28-2-420(A).

31. Plaintiff requests an award of the costs, fees, and expenses associated with the defense of its civil rights, including attorney's fees, pursuant to S.C. Code § 15-77-300, *et seq.*

FOR A SECOND CAUSE OF ACTION
(Violation of Equal Protection)

32. Plaintiff reasserts the foregoing allegations to the extent consistent with this cause of action.

33. At all relevant times, Planning Commission was acting under the color of state law.

34. Planning Commission acted under color of state law when it denied Plaintiff's application.

35. Planning Commission's action violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

36. Planning Commission intentionally treated Plaintiff differently from others similarly situated under state and local law. No rational basis existed for the difference in treatment.

37. To date, Planning Commission's denial of Plaintiff's application, which met all published requirements and received City staff approval, is unique

38. Planning Commission's unconstitutional conduct in that regard has caused Plaintiff to sustain damages and will continue to cause Plaintiff to sustain damages. Accordingly, Plaintiff is entitled to recover damages from City pursuant to 42 U.S.C. § 1983.

39. As a result of Planning Commission's unconstitutional conduct as set out above, Plaintiff is entitled to an award of all manner of damages, including actual, direct, compensatory, incidental, and consequential damages, arising from or related to the deprivation of their civil rights.

FOR A THIRD CAUSE OF ACTION
(Recovery of Attorney's Fees)

40. Plaintiff reasserts the foregoing allegations to the extent consistent with this cause of action.

41. Plaintiff brought this action to ensure the vindication of its civil rights, which are established under federal and state law.

42. The lawful exercise of Plaintiff's civil rights has been specifically compromised by affirmative action taken by Planning Commission, as more fully described above.

43. At all relevant times, Planning Commission has acted under the authority which has been vested in them by the State of South Carolina, as a political subdivision of the state; and, therefore, under the color of state law.

44. Planning Commission has acted without substantial justification in violating Plaintiff's constitutional rights.

45. There are no special circumstances that would make the award of attorney's fees in Plaintiff's favor unjust.

46. Therefore, Plaintiff requests an award of the costs, fees, and expenses associated with the defense of its civil rights, including attorney's fees and expert costs, pursuant to 42 U.S.C. § 1988.

47. Further, Plaintiff requests an award of the costs, fees, and expenses associated with the defense of its civil rights, including attorney's fees, pursuant to S.C. Code § 15-77-300, *et seq.*

WHEREFORE, Plaintiff prays for the following relief:

- 1) A jury trial on all issues so triable;

- 2) Judgment against Defendants in an amount necessary to compensate Plaintiff for Defendants' taking of Plaintiff's property as determine by a jury;
- 3) Judgement against Defendants for attorneys' fees and costs related to this action;
- 4) Judgment against Defendants for pre-judgment interest; and
- 5) For such other and further relief as the Court deems just and proper.

BANNISTER, WYATT & STALVEY, LLC

s/ Luke A. Burke

Bruce W. Bannister (SC Bar # 15679)

Luke A. Burke (SC Bar # 100033)

24 Cleveland Street, Suite 100 (29601)

P. O. Box 10007 (29603)

Greenville, South Carolina

Phone: (864) 298-0084

Fax: (864) 331-0245

Attorneys for the Plaintiff

December 12, 2022
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-05094

DEFENDANTS NOTICE OF REMOVAL

TO: PAUL B. WICKENSIMER, CLERK, COURT OF COMMON PLEAS FOR GREENVILLE
COUNTY

PLEASE TAKE NOTICE THAT on December 19, 2022, Defendants filed a Notice of Removal of this action from the Court of Common Pleas of Greenville County, South Carolina to the United States District Court for the District of South Carolina, Greenville Division. A true and correct copy of said Notice of Removal is attached hereto as Exhibit A.

Pursuant to 28.U.S.C. §1446, the filing of the aforesaid Notice of Removal in the District Court, together with the filing of this Notice with the Court, effects the removal of this action, and this Court may proceed no further unless and until the case is remanded.

Respectfully submitted,

ROE CASSIDY COATES & PRICE, P.A.

s/V. Clark Price

V. Clark Price – S.C. Bar # 4567

P.O. Box 10529

Greenville, SC 29603

Phone: (864) 349-2604

E-mail: cprice@roecassidy.com

Attorneys for the Defendant

Greenville, South Carolina
December 20, 2022

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

McDaniel Jones, LLC,)
)
Plaintiffs,)
v.)
)
City of Greenville, Planning Commission,)
)
Defendant.)
_____)

NOTICE OF REMOVAL

TO: LUKE A. BURKE AND BRUCE W. BANNISTER, ATTORNEYS FOR THE PLAINTIFFS:

IN ACCORDANCE with 28 U.S.C. § 1446(d), you are hereby notified that the Defendant has removed this action from the Court of Common Pleas for Greenville County, South Carolina, to the United States District Court for the District of South Carolina, Greenville Division.

1. This action is one of a civil nature wherein the United States District Court for the District of South Carolina, Greenville Division, now has jurisdiction pursuant to 28 U.S.C. § 1331, and the action is, therefore, properly removable under 28 U.S.C. §1441(a), 1443 and 1446.

2. On December 12, 2022, Plaintiff filed an Amended Complaint which included a cause of action allegedly arising under 42 U.S.C. §1983 against the Defendant in the Court of Common Pleas for Greenville County, Civil Action No. 2020-CP-23-05094. A copy of Plaintiffs' Amended Complaint, and all other matters filed in this case in the Court of Common Pleas for Greenville County are attached as **Exhibit A**.

3. The Plaintiff served the Complaint upon Defendant on December 19, 2019.

4. Pursuant to 28 U.S.C. § 1331, this Court has jurisdiction over this matter as Plaintiffs have sued the Defendant in violation of federal laws. This Court likewise has

supplemental jurisdiction over all other claims which Plaintiffs have brought against the Defendant pursuant to 28 U.S.C. § 1367(a).

5. Pursuant to 28 U.S.C. §1446(d), written notice of the filing of this Notice of Removal will be served on Plaintiff and a copy of the Notice of Removal is being filed with the Clerk of Court for the Court of Common Pleas for Greenville County, South Carolina contemporaneously with this filing.

WHEREFORE, Defendant City of Greenville, South Carolina prays that the above referenced action now pending in the Court of Common Pleas for Greenville County, South Carolina, Civil Action Number 2020-CP-23-05094, be removed in its entirety to this Court, as provided by law, and pursuant to 28 U.S.C. §1446(d), that the Court of Common Pleas for Greenville County, South Carolina proceed no further unless and until the case is remanded.

Respectfully submitted,

ROE CASSIDY COATES & PRICE, P.A.

s/ V. Clark Price, Fed ID No. 3155
Ross B. Plyler, Fed. ID No. 09409
(1052 North Church Street, 29601)
Post Office Box 10529
Greenville, SC 29603
864.349.2600 – Telephone
864.349.0303 – Facsimile
cprice@roecassidy.com – E-mail
rplyler@roecassidy.com – E-mail
Attorneys for the Defendant

Greenville, South Carolina

December 19, 2022

EXHIBIT A

ELECTRONICALLY FILED - 2022 Dec 20 3:07 PM - GREENVILLE - COMMON PLEAS - CASE#2020CP2305094

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-05094

SUMMONS

TO: THE DEFENDANT ABOVE-NAMED:

You are hereby summoned and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer upon the subscriber at 24 Cleveland Street, Suite 100, Greenville, SC 29601, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer within that time, a judgment by default will be entered against you for the relief demanded in the Complaint.

BANNISTER, WYATT & STALVEY, LLC

s/Luke A. Burke

Bruce W. Bannister (SC Bar # 15679)

Luke A. Burke (SC Bar # 100033)

24 Cleveland Street, Suite 100 (29601)

P. O. Box 10007 (29603)

Greenville, South Carolina

Phone: (864) 298-0084

Fax: (864) 331-0245

Attorneys for the Plaintiff

December 12, 2022

Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-05094

**AMENDED COMPLAINT
(Jury Trial Demanded)**

The Plaintiff, by and through his undersigned counsel, alleges the following:

JURISDICTION AND PARTIES

1. Plaintiff McDaniel Jones, LLC (“Plaintiff”) is a limited liability company organized and existing under the laws of the State of South Carolina.

2. Plaintiff was the owner of real property located at 800 McDaniel Avenue (Tax Map No.: 0217000500700).

3. Plaintiff was the developer of the McDaniel subdivision, the development at issue in this action.

4. City of Greenville (“City”) is a municipal corporation organized and existing under the laws of the State of South Carolina.

5. Defendant City of Greenville Planning Commission (“Planning Commission”) is an appointed local planning commission as defined in South Carolina Code Section 6-29-310, also known as the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, and was created pursuant to that legislation and pursuant to Greenville City Code Section 2-331.

6. This action alleges a regulatory taking by Defendant without payment of just compensation in violation of U.S. CONST. amend. V and S.C. CONST. art. I, § 13(a).

7. This Court has jurisdiction over the parties and the subject matter of this action.

ELECTRONICALLY FILED - 2022 DEC 12 11:05 AM - GREENVILLE - COMMON PLEAS - CASE#2020CP2305094

FACTUAL BACKGROUND

8. A landowner has a vested right to use property in compliance with State laws and regulations and City ordinances.

9. Prior to July 26, 2018, Plaintiff identified the subject property at 800 McDaniel Avenue as being significantly undervalued.

10. Based on all applicable statutes, regulations, ordinances and planning commission requirements, the zoning and acreage of the subject property allowed for development of 8 lots on the property.

11. Plaintiff purchased the property and invested additional funds into the subject property for development costs, engineering, interest, and other costs.

12. The value of Plaintiff's planned subdivision was approximately \$4,000,000. The purchase price for the property was \$1,430,000.

13. After requests were made by City staff to alter the Plaintiff's plans, Plaintiff agreed to develop 6 of the 8 lots and City agreed to accept a conservation easement encumbering the other 2 lots to preserve an historic tree.

14. Plaintiff's finalized development plans met each and every applicable statute, regulation, acreage restriction, ordinance, planning commission requirement and zoning. In addition, Plaintiff's finalized development plan met all Defendant's published criteria for "neighborhood compatibility."

15. On or about December 12, 2018, Plaintiff submitted an application to City of Greenville Planning & Development (Application #SD 18-027) for a major subdivision containing six residential lots and one conservation/stormwater area comprised of the two

remaining lots with the historic tree. All of which was located on the property at 800 McDaniel Avenue. All of which was in conformity with the requests made by City staff.

16. The application complied with all State laws and regulation and City ordinances.

17. Based on the application's compliance with all statutes, regulations, and ordinances and based on the actions and decisions of City and Planning Commission prior to submission of the application, Plaintiff had a reasonable expectation that its application would be approved because it was in compliance and required no variance.

18. On January 17, 2019, Planning Commission held a Public Hearing in which it heard public comments regarding Plaintiff's application.

19. At the hearing, Planning Commission asserted it had authority to define neighborhood compatibility beyond the published requirements.

20. Based on the new definition of neighborhood compatibility announced at the January 17, 2019, Planning Commission Public Hearing, the Planning Commission denied approval of Plaintiff's application for its development of the McDaniel subdivision.

21. On February 8, 2019, Plaintiff filed a notice of appeal from the denial in Case No. 2019-CP-23-00749.

22. In an Order filed September 1, 2020, Plaintiff's appeal was denied.

23. On October 2, 2020, Plaintiff sold the subject property for \$3 million dollars less than what it was worth prior to the Planning Commission's creation of a new definition of neighborhood compatibility.

FOR A FIRST CAUSE OF ACTION
(Inverse Condemnation)

24. Plaintiff reasserts the foregoing allegations to the extent consistent with this cause of action.

25. Planning Commission took an affirmative act by creating a new definition of neighborhood compatibility and applying this definition to Plaintiff's application.

26. Plaintiff could not have reasonably expected Planning Commission to change the statutory and regulatory scheme after Plaintiff identified the undervalued property, purchased the property and invested substantial funds into develop plans that met all published requirements for "neighborhood compatibility".

27. Planning Commission's actions destroyed the value of Plaintiff's property and his reasonable, investment-backed expectations to the extent that the property is now worth less than that the amount for which it was originally purchased.

28. Planning Commission's actions in arbitrarily redefining "neighborhood compatibility", altering the statutory scheme for the Planning Commission, or denying Plaintiff's application amounts to a compensable regulatory taking of Plaintiff's property interest.

29. Plaintiff is entitled to just compensation in an amount necessary to compensate Plaintiff for Defendants' taking the value from Plaintiff's property.

30. Plaintiff is entitled to pre-judgment interest pursuant to S.C. Code § 28-2-420(A).

31. Plaintiff requests an award of the costs, fees, and expenses associated with the defense of its civil rights, including attorney's fees, pursuant to S.C. Code § 15-77-300, *et seq.*

ELECTRONICALLY FILED - 2022 DEC 12 11:05 AM - GREENWALL - COMMON PLEAS - CASE#2020CP2301594

FOR A SECOND CAUSE OF ACTION

(Violation of Equal Protection)

32. Plaintiff reasserts the foregoing allegations to the extent consistent with this cause of action.

33. At all relevant times, Planning Commission was acting under the color of state law.

34. Planning Commission acted under color of state law when it denied Plaintiff's application.

35. Planning Commission's action violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

36. Planning Commission intentionally treated Plaintiff differently from others similarly situated under state and local law. No rational basis existed for the difference in treatment.

37. To date, Planning Commission's denial of Plaintiff's application, which met all published requirements and received City staff approval, is unique

38. Planning Commission's unconstitutional conduct in that regard has caused Plaintiff to sustain damages and will continue to cause Plaintiff to sustain damages. Accordingly, Plaintiff is entitled to recover damages from City pursuant to 42 U.S.C. § 1983.

39. As a result of Planning Commission's unconstitutional conduct as set out above, Plaintiff is entitled to an award of all manner of damages, including actual, direct, compensatory, incidental, and consequential damages, arising from or related to the deprivation of their civil rights.

ELECTRONICALLY FILED - 2022 DEC 12 11:05 AM - GREENMAN/LLIE - COMMON PLEAS - CASE#2020CP2301994

FOR A THIRD CAUSE OF ACTION
(Recovery of Attorney's Fees)

40. Plaintiff reasserts the foregoing allegations to the extent consistent with this cause of action.

41. Plaintiff brought this action to ensure the vindication of its civil rights, which are established under federal and state law.

42. The lawful exercise of Plaintiff's civil rights has been specifically compromised by affirmative action taken by Planning Commission, as more fully described above.

43. At all relevant times, Planning Commission has acted under the authority which has been vested in them by the State of South Carolina, as a political subdivision of the state; and, therefore, under the color of state law.

44. Planning Commission has acted without substantial justification in violating Plaintiff's constitutional rights.

45. There are no special circumstances that would make the award of attorney's fees in Plaintiff's favor unjust.

46. Therefore, Plaintiff requests an award of the costs, fees, and expenses associated with the defense of its civil rights, including attorney's fees and expert costs, pursuant to 42 U.S.C. § 1988.

47. Further, Plaintiff requests an award of the costs, fees, and expenses associated with the defense of its civil rights, including attorney's fees, pursuant to S.C. Code § 15-77-300, *et seq.*

WHEREFORE, Plaintiff prays for the following relief:

- 1) A jury trial on all issues so triable;

- 2) Judgment against Defendants in an amount necessary to compensate Plaintiff for Defendants' taking of Plaintiff's property as determine by a jury;
- 3) Judgement against Defendants for attorneys' fees and costs related to this action;
- 4) Judgment against Defendants for pre-judgment interest; and
- 5) For such other and further relief as the Court deems just and proper.

BANNISTER, WYATT & STALVEY, LLC

s/ Luke A. Burke

Bruce W. Bannister (SC Bar # 15679)

Luke A. Burke (SC Bar # 100033)

24 Cleveland Street, Suite 100 (29601)

P. O. Box 10007 (29603)

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Attorneys for the Plaintiff

December 12, 2022

Greenville, South Carolina

ELECTRONICALLY FILED - 2022 DEC 12 11:05 AM - GREENVILLE - COMMON PLEAS - CASE#2020CH2308094

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-05094

ACCEPTANCE OF SERVICE

Due and legal service of a copy of the **AMENDED SUMMONS** and **AMENDED COMPLAINT** in the above matter is admitted by Vincent Clark Price, Esquire, attorney for City of Greenville Planning Commission, in Greenville, South Carolina, on this the 19th day of December, 2022.



Vincent Clark Price – S.C. Bar # 4567
Roe Cassidy Coates & Price, PA
P.O. Box 10529
Greenville, SC 29603
Phone: (864) 349-2604
E-mail: cprice@roecassidy.com
Attorney for the Defendant

Certificate of Electronic Notification

Recipients

Luke Burke - Notification transmitted on 12-19-2022 12:12:36 PM.

Vincent Price - Notification transmitted on 12-19-2022 12:12:36 PM.

Bruce Bannister - Notification transmitted on 12-19-2022 12:12:37 PM.

ELECTRONICALLY FILED - 2022 Dec 20 3:07 PM - GREENVILLE - COMMON PLEAS - CASE#2020CP2305094

***** IMPORTANT NOTICE - READ THIS INFORMATION *****

NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2020CP2305094

Official File Stamp: 12-19-2022 12:12:29 PM

Court: CIRCUIT COURT
Common Pleas
Greenville

Case Caption: McDaniel Jones LLC vs. Planning Commission
City Of Greenville

Document(s) Submitted: Service/Acceptance Of Service

Filed by or on behalf of: Vincent Clark Price

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Vincent Clark Price for Planning Commission City
Of Greenville

Bruce Wyche Bannister for McDaniel Jones LLC

Luke Anthony Burke for McDaniel Jones LLC

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

ELECTRONICALLY FILED - 2022 Dec 29 3:07 PM - GREENVILLE - COMMON PLEAS - CASE#2020CP2305094

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

McDaniel Jones, LLC,	)	C.A. 6:22-cv-04575-DCC
	)	
Plaintiffs,	)	
v.	)	ANSWER TO
	)	AMENDED COMPLAINT
City of Greenville Planning Commission,	)	
	)	
Defendant.	)	
_____	)	

The Defendant City of Greenville Planning Commission, hereafter “Planning Commission”, answering the Amended Complaint of the Plaintiff herein, respectfully alleges as follows:

FOR A FIRST DEFENSE

1. Any allegation not hereafter admitted, denied or explained is denied.
2. Paragraphs 1 through 5 are admitted.
3. Paragraph 6 is admitted only to the extent that the Plaintiff is alleging what is set forth therein; Defendant denies the allegations stated in Paragraph 6.
4. Paragraph 7 is admitted as to all causes of action.
5. Paragraph 8 states a conclusion of law for which no answer is required. To the extent an answer is deemed required, the Defendant denies a regulatory taking occurred, that the Defendant violated any rights of the Plaintiff, or that the Plaintiff is entitled to any compensation.
6. Paragraphs 9 and 10 are denied.
7. The Planning Commission lacks sufficient information to admit or deny Paragraph 11 and

therefore denies same.

8. Paragraphs 12 through 14 are denied as stated because the Defendant Planning Commission, taking into account all the evidence before it, including but not limited to objections from numerous residents in the area where the Plaintiff's property was located, determined that the Plaintiff's planned subdivision was not compatible with the existing development patterns along McDaniel and Jones Avenues and declined to approve it when Plaintiff indicated it would not amend the proposal to reflect the Planning Commission's suggestions.
9. Paragraph 15 is admitted.
10. Paragraphs 16 and 17 are denied.
11. Paragraph 18 is admitted.
12. Paragraphs 19 and 20 are denied; it is admitted that Defendant Planning Commission denied the Plaintiff's preliminary plat for the proposed subdivision.
13. Paragraphs 21 and 22 are admitted.
14. Paragraph 23 is denied.
15. Answering Paragraph 24, Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
16. Paragraphs 25 through 31 are denied.
17. Answering Paragraph 32, Defendant Planning Commission realleges its previous allegations as if fully set forth herein.
18. Paragraphs 33 and 34 are admitted.
19. Paragraphs 35 through 39 are denied.
20. Answering Paragraph 40, Defendant Planning Commission realleges its previous

allegations as if fully set forth herein.

21. Paragraph 43 is admitted.

22. Paragraphs 41, 42, and 44 through 47 are denied.

23. Defendant Planning Commission denies Plaintiff's requests for relief.

FOR A SECOND DEFENSE

24. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.

25. The Plaintiff appealed the decision of the Planning Commission to the Court of Common Pleas. The Plaintiff argued that the Planning Commission does not have the discretion to deny a preliminary plat that complies with the applicable zoning and ordinances. The Plaintiff also argued that its preliminary plat complied with applicable zoning and ordinances. The Court found that the Planning Commission did not abuse its discretion when it acted to deny the Plaintiff's preliminary plat, holding that the purpose and intent sections of the applicable city ordinances allowed the Planning Commission to define neighborhood compatibility to require that newly created subdivision lots be compatible in size and configuration to existing lots in the neighborhood.

26. The Plaintiff did not appeal the decision of the Circuit Court and is bound by the Circuit Court's determination that the Planning Commission's actions were proper.

FOR A THIRD DEFENSE

27. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.

28. The Planning Commission, based on the evidence before it, including that submitted by

the Plaintiff, Planning Staff, and the testimony and exhibits provided by numerous members of the public who objected to the Plaintiff's preliminary plat, rationally and reasonably denied the Plaintiff's request as presented. Before and during the hearing referred to in the Plaintiff's Amended Complaint, Plaintiff was or should have been aware of intense community opposition to the preliminary plat, that reduction of the subdivision plan by one residential lot would satisfy the Planning Commission, and that Plaintiff's subdivision would be approved by the Planning Commission. The Plaintiff refused to agree to the reduction whereupon the Planning Commission denied the Plaintiff's application as it was written.

29. The Plaintiff made the decision not to submit an amended subdivision plan, and further chose not to re-petition the Planning Commission with a subdivision plan more compatible with the existing development patterns in the neighborhood. Instead, the Plaintiff appealed the Planning Commission's decision to the Circuit Court which affirmed the Planning Commission's decision. Thereafter, the Plaintiff chose not to submit an amended subdivision plan to the Planning Commission but elected to sell the subject property for less than it paid for the property rather than developing the property as a subdivision.
30. Any damages claimed by the Plaintiff were not caused by any action by the Planning Commission but were the result of the Plaintiff's own actions.

FOR A FOURTH DEFENSE
(No Regulatory Taking)

31. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
32. The decision by the Planning Commission did not amount to a regulatory taking of the

Plaintiff's property. The Plaintiff chose not to pursue reasonable investment backed options following the Planning Commission's decision and voluntarily waived the opportunity to develop the subject property in a manner consistent with its potential highest and best use. The diminution in value of the subject property, if any did not constitute a taking of the Plaintiff's property.

FOR A FIFTH DEFENSE
(Failure to Mitigate)

33. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
34. By not presenting a subdivision plan that would have been approved by the Planning Commission, the Plaintiff chose not to develop the property but to sell it. By doing so, the Plaintiff failed to mitigate and avoid any loss it claims were sustained as a result of the Planning Commission's denial of the preliminary plat.

FOR A SIXTH DEFENSE
(No Constitutional Violation)

35. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
36. The Plaintiff's allegations do not rise to the level of a Constitutional violation or deprivation and, as such, the Plaintiff's Amended Complaint should be dismissed.

FOR A SEVENTH DEFENSE
(Failure to Mitigate)

37. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
38. The Amended Complaint is barred in whole or in part because the Plaintiff has failed to mitigate or reasonably attempt to mitigate its damages, if any.

FOR AN EIGHTH DEFENSE
(Damages not Established)

39. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
40. Failure of the Plaintiff to be able to recover the highest monetary value for its property is not a deprivation of a constitutional right and does not constitute recoverable damages.

FOR A NINTH DEFENSE
(Rational Basis for Decision)

41. The Defendant Planning Commission realleges its previous allegations where not inconsistent herewith as if fully set forth herein.
42. To the extent the Plaintiff was treated differently from others who appeared before the Planning Commission, which is denied, the Plaintiff was not intentionally treated differently from others similarly situated, and there was a rational basis for the Planning Commission's decision to deny the preliminary plat.

WHEREFORE, the Planning Commission prays that the Complaint be dismissed with costs and for such other and further relief as the Court deems proper.

SIGNATURE PAGE TO FOLLOW

Respectfully submitted,

ROE CASSIDY COATES & PRICE, P.A.

s/ V. Clark Price

V. Clark Price, Fed ID No. 3155

Ross B. Plyler, Fed. ID No. 09409

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Attorneys for the Defendant

Greenville, South Carolina

December 22, 2022

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Plaintiff,

v.

City of Greenville Planning Commission,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-05094

**PLAINTIFF’S MOTION FOR
PARTIAL SUMMARY JUDGMENT AND
MEMORANDUM OF LAW IN SUPPORT**

The undersigned, as attorney for Plaintiff, moves before a presiding Judge of the Greenville County Court of Common Pleas of the Thirteenth Judicial Circuit, for an Order granting the Plaintiff partial summary judgment as follows:

1. A finding that Defendant’s act of defining neighborhood compatibility and immediate use of that definition to deny Plaintiff’s subdivision application constitutes a regulatory taking without payment of just compensation in violation of U.S. CONST. amend. V and/or S.C. CONST. art. I, § 13(a); and
2. A finding that Plaintiff is entitled to receive just compensation for Defendant’s taking in an amount to be determined by a jury.

This motion is based on the following Memorandum in Support of Plaintiff’s Motion for Partial Summary Judgment.

I. LEGAL STANDARD

There is no right to a jury trial in an inverse condemnation case. *Cobb v. SCDOT*, 365 S.C. 360, 364-65, 618 S.E.2d 299, 301 (2005). “Accordingly, in an inverse condemnation case, the trial judge will determine whether a claim has been established; the issue of compensation may then be submitted to a jury at either party’s request.” *Id.* at 365, 618 S.E.2d at 301.

A party is entitled to summary judgment when there is no genuine issue as to any material fact and the party is entitled to judgment as a matter of law. Rule 56(c) SCRPC; *McCune v. Myrtle Beach Shooting Indoor Shooting Range, Inc.*, 364 S.C. 242, 246, 612 S.E.2d 462, 464 (Ct. App. 2005). “In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party.” *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998).

II. FACTUAL & PROCEDURAL BACKGROUND

On July 26, 2018, Plaintiff purchased approximately 1.86 acres of real property located at 800 McDaniel Avenue in Greenville (“Property”) for \$1,430,000. (Exhibit 1: Deed to McDaniel Jones, LLC). Plaintiff is a single-asset LLC created by Cothran Properties, LLC to own this property. (Exhibit 2: Dep. Cothran p. 26, lines 1-15). Cothran Properties, LLC is a company in the business of purchasing real property and developing commercial and residential projects on those properties. *Id.*

Plaintiff’s initial plan for development of Property was a project subdividing Property into eight lots. (Exhibit 3: Proposed Subdivision – 8 Lots). An appraisal of the property as of January 2, 2019 shows that after subdivision into eight lots, Property would be valued at \$4,060,000. (Exhibit 4: Appraisal Report).

Plaintiff’s initial plan for development of Property was similar to a plan submitted in early 2018 on behalf of Cothran Properties. (Ex. 2: Dep. Cothran pp. 17-25). The application (Application #SD 18-011) was to subdivide a 2.16-acre property at 733 Bennett Street from two lots into eight lots. (Exhibit 5: Aug. 2018 PC Minutes 2). At Defendant’s August 16, 2018 meeting, public comment on the application included “number of lots to be created” and “concern over lot

widths.” *Id.* However, Defendant only discussed stormwater, whether the application conformed with city regulations and requirements, and proposed setbacks. *Id.* Cothran Properties’ Bennett Street subdivision application was approved by a vote of 6-0. *Id.*

On December 12, 2018, Plaintiff submitted an application to City of Greenville Planning & Development (Application #SD 18-027) for a major subdivision containing six residential lots and one conservation/stormwater area comprised of the two remaining lots. (Exhibit 6: Proposed Subdivision – 6 Lots). At its January 17, 2019 meeting, Defendant admitted that Plaintiff’s application complied with the language of all applicable zoning and ordinances except certain purpose and intent sections stated in City of Greenville Code of Ordinances §§ 19.1.3 and 19.6.9.1 which states:

General purpose and intent. This section is intended to achieve neighborhood compatibility, maintain the harmony and character of established single-family residential areas, and guide residential infill development to occur in an orderly and desirable manner.

(Exhibit 7: Order Denying Appeal 2-3). At the meeting, Defendant utilized the purpose and intent language to define “neighborhood compatibility” with regards to Plaintiff’s property “to require that newly-created subdivision lots be compatible in size and configuration to existing lots in the neighborhood.” (Ex. 7: Order 3). Based on its new definition of neighborhood compatibility, Defendant denied Plaintiff’s application by a vote of 0-7. (Exhibit 8: Jan. 2019 PC Minutes 3).

Between July 1, 2018 and January 1, 2019, Plaintiff incurred significant expenses acquiring the property and preparing it for development totaling \$1,509,399.95, including the purchase price of Property. (Exhibit 9: Project Spreadsheet). On October 2, 2020, Plaintiff sold Property for \$1,400,000. (Exhibit 10: Deed from McDaniel Jones).

III. ARGUMENT

“Inverse Condemnation is a cause of action against a governmental defendant to recover the value of property which has been taken in fact by the governmental defendant, even though no formal exercise of the power of eminent domain has been attempted by the taking agency.” *Graham v. Town of Latta*, 417 S.C. 164, 191, 789 S.E.2d 71, 85 (Ct. App. 2016). Inverse condemnation actions are viewed as the equivalent of eminent domain actions, and therefore the same laws apply. *Cobb*, 365 S.C. 360, 364-65, 618 S.E.2d 299, 301 (2005).

a. Affirmative Conduct

To prove inverse condemnation, the movant must first prove that there was “affirmative conduct of a government entity.” *Carolina Chloride, Inc. SCDOT*, 391 S.C. 429, 435, 706 S.E.2d 501, 504 (2011). Such action must be “an affirmative, positive, aggressive act.” *Ray v. City of Rock Hill*, 434 S.C. 39, 47, 862 S.E.2d 259, 263 (2021). “[E]ven absent a direct physical invasion, ‘government regulation of private property may, in some instances, be so onerous that its effect is tantamount to a direct appropriation or ouster— . . . such 'regulatory takings' may be compensable under the Fifth Amendment.’” *Dunes W. Golf Club, LLC v. Town of Mt. Pleasant*, 401 S.C. 280, 313, 737 S.E.2d 601, 618 (2013) (quoting *Lingle v. Chevron U.S.A., Inc.*, 544 U.S. 528, 538). “An inverse condemnation may result from . . . government-imposed limitations on the use of private property.” *Byrd v. City of Hartsville*, 365 S.C. 650, 656, 620 S.E.2d 76, 79 (2005).

When considering Plaintiff’s preliminary subdivision application, Defendant defined neighborhood compatibility “to require that newly-created subdivision lots be compatible in size and configuration to existing lots in the neighborhood.” (Ex. 7: Order 3). This was a new definition of “neighborhood compatibility,” which was never previously used by Defendant to deny a subdivision application. (Exhibit 12: Index and PC Minutes). As such, Defendant’s new

definition of neighborhood compatibility at its January 17, 2019 meeting created new restrictions on Plaintiff's property that did not exist prior to the meeting. Therefore, Defendant's creation of a new definition of neighborhood compatibility constitutes affirmative conduct of a government entity imposing limitations on private property.

b. Taking

The second requirement of an inverse condemnation action is that the governmental entity's actions result in a taking. *Carolina Chloride*, 391 S.C. at 435, 706 S.E.2d at 504. "South Carolina courts have embraced federal takings jurisprudence as providing the rubric under which we analyze whether an interference with someone's property interests amounts to a constitutional taking." *Hardin v. SCDOT*, 371 S.C. 598, 604, 641 S.E.2d 437, 441 (2007) (citing *Byrd*, 365 S.C. at 656 n.6, 620 S.E.2d at 79 n.6). "[W]hile property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922).

There are three tests for when a regulation "goes to far" and becomes equivalent to a direct appropriation of property:

- (1) Requiring submission to a permanent physical invasion of property, *Loretto v. Teleprompter Manhattan Catv Corp.*, 458 U.S. 419 (1982);
- (2) Permanently denying all economically beneficial or productive use of the property, *Lucas v. S.C. Coastal Council*, 505 U.S. 1003 (1992); and
- (3) Going too far in interfering with investment-backed expectations, *Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104 (1978).

Here, the analysis falls under the third test – the *Penn Central* balancing test. "In engaging in these essentially ad hoc, factual inquiries, the Court's decisions have identified several factors

that have particular significance.” *Id.* at 124. Under the balancing test, there are three factors to consider in determining if a taking has occurred: “The character of the government action, the economic impact of the regulation on the claimant, and the extent to which the regulation has interfered with distinct investment-backed expectations.” *Dunes West*, 401 S.C. at 315, 737 S.E.2d at 620 (citing *id.*).

i. Character of Government Action

The “character of the Government action” prong of the *Penn Central* analysis examines “the magnitude or character of the burden a particular regulation imposes upon private property rights” and “how any regulatory burden is distributed among property owners.” *Lingle*, 544 U.S. at 542. In evaluating the benefits and burdens of a government regulation, “a taking does not take place if the prohibition applies over a broad cross section of land and thereby ‘secure[s] an average reciprocity of advantage.’” *Penn Central*, 438 U.S. at 147 (quoting *Mahon*, 260 U.S. at 415) (noting that the concept of “reciprocity of advantage” is the reason zoning does not constitute a taking and stating “[w]hile zoning at times reduces individual property values, the burden is shared relatively evenly and it is reasonable to conclude that on the whole an individual who is harmed by one aspect of the zoning will be benefitted by another”). Indeed, the Fifth Amendment “prevents the public from loading upon one individual more than his just share of the burdens of government” and provides that only when an individual “surrenders to the public something more and different from that which is exacted from other members of the public, [shall] a full and just equivalent [] be returned to him.” *Id.* at 147-48 (quoting *Monongahela Navigation Co. v. United States*, 148 U.S. 312, 325, 13 S. Ct. 622, 37 L. Ed. 463 (1893)).

Columbia Venture, LLC v. Richland Cnty., 413 S.C. 423, 451-52, 776 S.E.2d 900, 915 (2015).

The burden of the regulation imposed by Defendant applies only to Plaintiff. It does not apply to a broad section of land and Plaintiff receives no reciprocity of advantage. The very reason regulations on property are not constitutional takings is because of the concept of “reciprocity of advantage.” Where property owners share the burdens and benefits of land regulations, it is not in the realm of courts to decide how to allocate those burdens and benefits to specific property

owners. However, with this regulation, Plaintiff receives all of the burdens and none of the benefits. Neighboring property owners of Property are not subject to the same regulation Defendant created to restrain Plaintiff's use of Property. They can apply to subdivide their land and, at the whim of Defendant, be approved or denied.

"[T]he Fifth Amendment prevents the public from loading upon one individual more than his just share of the burdens of government and provides that only when an individual surrenders to the public something more and different from that which is exacted from other members of the public, shall a full and just equivalent be returned to him." *Id.* (internal quotes omitted). Plaintiff has received more than his just share of the burdens of Defendant's regulation in that it applies only to Plaintiff. It in no way benefits Property because it does not apply to any other property. As such, the Fifth Amendment prevents Defendant applying this new regulation to Plaintiff's Property without just compensation.

ii. Economic Impact

"For government regulation to constitute a taking, the property owner must objectively demonstrate the existence [of] tangible investment-backed expectations." *Dunes West*, 401 S.C. at 320, 737 S.E.2d at 622. It is not enough to have development prospects; the property owner must show "concrete steps taken in furtherance of prospective residential development." *Id.*

Here, it is clear that Plaintiff invested funds into the project. Prior to Defendant's January 17, 2019 meeting, Plaintiff incurred significant expenses acquiring the property and preparing it for development totaling \$1,509,399.95. (Ex. 9: Project Spreadsheet)

As shown below, these funds were invested with a reasonable expectation of return based on the regulatory regime that was in effect at the time Plaintiff purchased property. This was not a "paper-only" project, but one where Plaintiff invested real money in concrete steps taken in

furtherance of developing the property with a reasonable expectation that the investment would bear fruit. Further, the economic impact of Defendant's actions was to damage Plaintiff's expected investment return from selling the subdivided lots in addition to consequential damages from that loss. (Exhibit 11: Profit Calculation).

iii. Interference with Investment-Backed Expectations

"The purpose of consideration of plaintiffs' investment-backed expectations is to limit recoveries to property owners who can demonstrate that they bought their property in reliance on a state of affairs that did not include the challenged regulatory regime." *Cienega Gardens v. United States*, 331 F.3d 1319, 1345-46 (Fed. Cir. 2003) (quotations and citations omitted). "A property owner's reasonable investment-backed expectations are defined at the time the property is purchased." *Norman v. United States*, 63 Fed. Cl. 231, 267 (2004) (citation omitted).

"[T]he regulatory regime in place at the time the claimant acquires the property at issue helps to shape the reasonableness of those expectations." *Appolo Fuels, Inc. v. United States*, 381 F.3d 1338, 1348 (Fed. Cir. 2004) (quoting *Palazzolo v. Rhode Island*, 533 U.S. 606, 633 (2001) (O'Connor, J., concurring)). In examining the reasonable expectations prong, the level of industry regulation is a "pertinent but not determinative factor." *Chancellor Manor v. United States*, 331 F.3d 891, 906 (Fed. Cir. 2003). "The subjective expectations of the [claimant] are irrelevant." *Id.* at 904 (citation omitted). "The critical question is what a reasonable owner in the [claimant's] position should have anticipated." *Id.*

What should a reasonable owner in Plaintiff's position have anticipated?

At the time Plaintiff purchased Property, there was no regulation or ordinance in place that would give Plaintiff notice that it was not able to develop Property or that its subdivision plan was not in accordance with the regulatory regime in existence. Defendant had never denied another

subdivision application based on neighborhood compatibility. (Ex. 12: Index and PC Minutes). There was no way Plaintiff could have anticipated a change in the regulatory regime at the very meeting in which Defendant would decide whether to approve or deny Plaintiff's application.

On August 16, 2018, only four months previously, Plaintiff had been approved for a similar subdivision application on Bennett Street. Plaintiff's owner specifically testified in his deposition that Defendant's approval of the Bennett Street application was a consideration when he was deciding on a purchase price for Property. (Ex. 2: Dep. Cothran p. 40, lines 17-25):

17 Q Tell me what you can about the negotiations that got
 18 y'all to that purchase price.
 19 A Well, it was a while ago. So, you know, the ones you
 20 remember are probably the ones you don't buy; right?
 21 So, became aware of the property. We were aware of
 22 what we had just done at Bennett Street, and we were
 23 like looking at this going, well, this is even better
 24 because, you know, probably less development and more
 25 potential profit. So it was owned by a trust, I

In approving the Bennett Street application, Defendant did not consider or define neighborhood compatibility. Instead, Defendant only concerned itself with whether the application conformed with the existing city regulations and requirements and approved the application.

Therefore, there is no circumstance where a reasonable owner in Plaintiff's position could have anticipated Defendant's sudden change in regulations at its January 17, 2019 meeting.

IV. CONCLUSION

Based on the foregoing, Plaintiff respectfully requests that the Court grant Plaintiff's Motion for Partial Summary Judgment.

BANNISTER, WYATT & STALVEY, LLC

s/ Luke A. Burke

Bruce W. Bannister (SC Bar # 15679)

Luke A. Burke (SC Bar # 100033)

Ryan W. Pasquini (SC Bar # 104493)

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Attorneys for the Plaintiff

October 31, 2023

Greenville, South Carolina

2018056048
 DEED Book: DE 2543 Page: 5317 - 5319 3 Pgs
 July 26, 2018 01:22:06 PM Cons: \$1,430,000.00
 Rec: \$10.00 Cnty Tax: \$1,573.00 State Tax: \$3,718.00
 FILED IN GREENVILLE COUNTY, SC *Timothy J. Hannon*

Grantee Address: P.O. Box 27049
 Greenville, SC 29616

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that

TNB Financial Services, Successor Trustee U/W of C. E. Hatch

in consideration of **One Million Four Hundred Thirty Thousand and No/100 (\$1,430,000.00) Dollars**, to the Grantor in hand paid at and before the sealing of these presents by the Grantees, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto **McDANIEL JONES, LLC**, its successors and assigns, forever, the following described property:

SEE ATTACHED EXHIBIT "A"

This conveyance is made subject to all restrictions, setback lines, zoning ordinances, easements and rights of way, if any, as may appear of record or on the subject property.

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the Grantee, as joint tenants with rights of survivorship and not as tenants in common, and the Grantee's heirs or successors and assigns, forever. And, the Grantor does hereby bind the Grantor and the Grantor's heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee and Grantee's heirs or successors against the Grantor and Grantor's heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Grantor's hand and seal this 26th day of July, 2018.

Signed, sealed and delivered
 In the presence of:

TNB Financial Services, Successor Trustee
 U/W of C.E. HATCH

[Signature]
 Witness

By: *Cynthia J. Kelly* (SEAL)
 Name: Cynthia J. Kelly
 Title: Market President, Spartanburg

[Signature]
 Witness

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGEMENT
COUNTY OF GREENVILLE)

The foregoing instrument was acknowledged before me this 26th day of July, 2018 by the Grantor.

Dawn S. Demaux
Notary Public for South Carolina
My Commission Expires: 1-7-2023

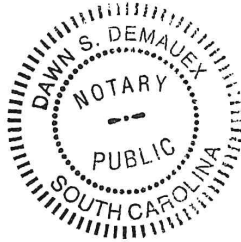


EXHIBIT "A"

All that certain piece, parcel or lot of land, together with any and all improvements thereon, situate, lying and being in the County of Greenville, State of South Carolina, being shown and designated as 1.86 acres (81,118 SF), as shown on plat prepared by C.O. Riddle Surveying Co., Inc., dated July 19, 2018 and recorded in the ROD Office for Greenville County, SC in Plat Book 1311 at Page 58 on July 26, 2018, and having according to said plat, such metes and bounds as are shown thereon.

This being the same property conveyed unto TNB Financial Services, Successor Trustee U/W of C.E. Hatch by deed of Bank Of America, N.A. Trustee under will of C.E. Hatch dated August 15, 2017 filed for record in the ROD Office for Greenville County, SC on August 38, 2017 in Deed Book 2520 at Page 350 – SEE ALSO CORRECTIVE DEED from Bank of American, N.A., Trustee under Will of C.E. Hatch dated July 18, 2018 and filed for record in the ROD Office for Greenville County in Deed Book 2543 at Page 4081 on July 24, 2018. This is a portion of the property conveyed to C. E. Hatch by deed of J. A. McDaniel dated April 4, 1916, and recorded in the ROD Office for Greenville County, SC, on April 11, 1916, in Book 34, at page 26. Estate of C. E. Hatch (died testate 10/29/71) Greenville County Probate File 1202-22; Deed from Hugh B. Hamilton, Jr., dated February 25, 1987 and filed for record in the ROD Office for Greenville County, SC, March 26, 1987 in Deed Book 1291 at Page 282

Greenville County Tax Map # 0217.00-05-007.00

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) IN THE COURT OF COMMON PLEAS
) C.A. NO. 2020-CP-23-05094

MCDANIEL JONES, LLC,)
)
 PLAINTIFF, DEPOSITION
)
 VS. OF
)
CITY OF GREENVILLE PLANNING) MARK ALBERT COTHAN
COMMISSION,)
)
 DEFENDANT.)

THE DEPOSITION OF MARK ALBERT COTHAN, TAKEN BEFORE
LISA P. KOPCHO, PROFESSIONAL VERBATIM REPORTER AND NOTARY
PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT
THE HOUR OF 10:09 A.M., TUESDAY, THE 7TH DAY OF MARCH, 2023,
AT THE LAW OFFICES OF BANNISTER, WYATT AND STALVEY, LLC, 24
CLEVELAND STREET, SUITE 100, GREENVILLE, SOUTH CAROLINA.

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APPEARANCES

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TITLE TO REAL ESTATE, ATTACHED.....

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EXHIBIT NUMBER 15,
PROPOSAL, ATTACHED.....

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REVISED PROPOSAL, ATTACHED.....
[THE ABOVE-REFERENCED EXHIBITS WERE MARKED PRIOR TO THE
COMMENCEMENT OF THE DEPOSITION.]

DEFENDANT'S EXHIBIT NUMBER 17, MARKED,
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*DIGITALLY RECORDED AUDIO RETAINED FOR TWELVE (12) MONTHS
FROM DATE OF CERTIFICATION.

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STIPULATIONS

IT IS STIPULATED BY AND BETWEEN COUNSEL
FOR THE RESPECTIVE PARTIES THAT ALL OBJECTIONS
ARE RESERVED UNTIL THE TIME OF TRIAL, EXCEPT
AS TO THE FORM OF THE QUESTION.

THIS DEPOSITION IS BEING TAKEN PURSUANT
TO THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE.

- - - -

THE READING AND SIGNING OF THIS DEPOSITION IS
RESERVED BY THE DEPONENT AND COUNSEL FOR THE RESPECTIVE
PARTIES.

WHEREUPON, MARK ALBERT COTHAN, BEING DULY
SWORN AND CAUTIONED TO SPEAK THE TRUTH, THE WHOLE
TRUTH, AND NOTHING BUT THE TRUTH, TESTIFIED AND DEPOSED
AS FOLLOWS:

EXAMINATION

BY MR. PRICE:

Q Good morning, Mr. Cothran. We met off the record. My
name is Clark Price. I represent the City of
Greenville in the lawsuit that McDaniel Jones, LLC, has
brought, and I'm going to be taking your deposition
over the next little while. I don't think it will take
very long, but if, at any time during the deposition,
you want to take a break --

A Right.

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1 Q -- just let me know. We'll take a timeout. The only
2 cautionary comment I would make is that, during any
3 break, if you talk about this case, or your testimony,
4 the deposition with anybody else, I might have the
5 right to talk to you about those conversations when we
6 go back on the record. Do you understand that?

7 A (Nods head.)

8 Q The court reporter is taking down everything that we
9 say. It is perfectly okay to gesture, to nod or shake
10 your head, things like that, but in order for her to
11 make a good record, we're going to have to verbalize
12 what we say. So it's human nature to forget about that
13 during a conversation like this. So, if you forget,
14 I'll just gently remind you to speak your answer. I'm
15 not trying to be rude. Just making the record clear.

16 Have you given a deposition before?

17 A I think I have at some point in time, but it's been a
18 while.

19 Q Okay. We've got kind of a funny rule in South Carolina
20 that basically says, now that we're on the record, if I
21 ask you a question that needs clarification or you
22 don't understand, you don't know whether you should
23 answer or not, you need to direct your comments to me,
24 as opposed to Mr. Burke.

25 A Okay.

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1 Q Now, there could be an exception, hypothetically, where
2 he's going to say to you, "Don't you answer that
3 question," and then he's going to take over that. I
4 don't think that's going to happen, but for the most
5 part, if you don't understand the question, just let me
6 know, and I'll rephrase it.

7 A Okay.

8 Q All right. So, let's get some background stuff just
9 for my record, my purposes. Tell me your full name.

10 A Mark Cothran. You need the middle name, or no?

11 Q Yeah.

12 A Albert.

13 Q Okay. Your residential address?

14 A It's 306 Stonebrook Farm Way, Greenville, South
15 Carolina 29615.

16 Q How long have you lived there?

17 A Twenty -- since '99, so what's that? It's going to be
18 24 years, three years, four years.

19 Q All right. What is your date of birth?

20 A 10-20-57.

21 Q Okay. Are you married?

22 A I am.

23 Q Tell me what your wife's name is.

24 A Julie Ann.

25 Q And what is her maiden name?

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1 A Kutina.

2 Q Spell that.

3 A K-u-t-i-n-a.

4 Q Okay. Let me start with her first. Does your wife
5 have any relatives, by blood or marriage, apart from
6 Crawfords and their families, who live in Greenville
7 either the city or the county?

8 A I didn't understand the Crawford part of it.

9 Q Off the record just a minute.

10 (OFF THE RECORD)

11 THE WITNESS: She has a nephew, Kade Ensley, who
12 works for me and is living in Greenville.

13 BY MR. PRICE:

14 Q Kate is over the age of 18?

15 A Kade is a guy, and he is over -- yeah, he's 26,
16 something, 27.

17 Q Okay.

18 A So, other than that, the rest of them -- so she doesn't
19 have any other relatives in town.

20 Q All right. Did you grow up in this area?

21 A I did.

22 Q And I think we were talking off the record, you went to
23 high school at Wade Hampton?

24 A Right.

25 Q So I recognize that sometimes this can take a long

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1 time, and we're going to --

2 A Right.

3 Q -- kind of cut to the chase. Can you tell me the last
4 names of relatives that you have who live in either the
5 City or the County of Greenville. So --

6 A That aren't named Cothran?

7 Q Or Crawford.

8 A Or Crawford. I've got probably zero knowledge of any
9 Crawfords, unless there's something you need to tell
10 me. Let's see. I have Dixie Lock, who is in Belton,
11 so she's in Anderson County.

12 Q Okay.

13 A She wouldn't show up on Greenville. Just Greenville
14 County?

15 Q Yes, sir.

16 A Kathy Dority is my first cousin.

17 Q How do you spell that?

18 A D-o-r-i-t-y, Dority. And let's see. Have we got any
19 other first cousins not named Cothran? Are we just
20 doing first cousins, or is this -- or does it have -- I
21 mean, you know, there's a ton of Cothrans and, you
22 know, the relatives down in the southern part of the
23 county. Like, there's probably 4,000 cousins down
24 there.

25 Q But they're all Cothrans?

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1 A No, they'd be Holidays, Cooleys -- not that I have a
2 lot of contact with them. Davenport. Culbertsons are
3 actually related distantly, so. But none that I'm
4 really -- you know, I know of them. You know, know of
5 them more so than knowing them.

6 Q Okay.

7 A That's the best I can come up with right now.

8 Q All right.

9 A The only distant ones I know are Danny Holiday and
10 Myron Culbertson, and then there's Sims and Manning, I
11 guess, are distant relatives somewhere down the road.

12 Q Okay. I know them both well.

13 A They used to live down the street from me growing up,
14 so hopefully I'll get good references.

15 Q Well, this isn't technically relevant, but where did
16 you grow up?

17 A On Lisa Drive. It's where my mother -- so my dad died
18 when I was young. We moved back to Greenville when I
19 was six, and she was a teacher at Greenville Tech. So,
20 we bought a house and moved over there in 1970. And
21 then the Culbertsons were just right there on Richburg
22 Road, the dad, and then the kids were obviously right
23 there too; so...

24 Q Are you a member of any clubs, organizations, churches,
25 anything that you go to, attend, pay dues to?

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1 A You know, we're members of Christ Church. I like old
2 cars, so I'm in some car clubs. You know, various
3 ones, BMW Club, Ferrari Club. I think that's the only
4 two I'm in right now. I was in some others, Triumph
5 and Alfa Romeo, but they don't really have a -- I just
6 dropped out of those.

7 Q How about gyms, fitness centers, things like that?

8 A 4Balance is the gym I go to. And it's over in Merovan
9 Center. It's kind of a small gym, kind of a personal
10 training thing.

11 Q Professionally, you're in commercial real estate.

12 A Right.

13 Q I know that's --

14 A So I would be a member of NAIOP, which is not -- N-A-I-
15 O-P, NAIOP, which is office and industrial but doesn't
16 have a big state presence. It's more of a national
17 thing. I'm in Home Builders Association. I'm not,
18 personally, super active. People in my office are.
19 I'm on the board -- I'm a realtor, so I have a real
20 estate license. So I don't really do -- in my company,
21 I'm, you know, like basically the CEO. I have a
22 president of the home building part. I do the
23 commercial part, and, you know. So a lot more of those
24 guys are more active than I am in those organizations.
25 Other than NAIOP. I'm pretty active in NAIOP.

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1 Q You went to the University of South Carolina.

2 A Right.

3 Q And graduated in, I think, 1976?

4 A Eighty.

5 Q In 1980, excuse me.

6 A High school was '76.

7 Q Did you serve in the military?

8 A I did not.

9 Q Okay. What is the name of your real estate business?

10 A Now, you opened a can of worms. So Cothran Properties
11 is a developer and a fee company. It gets fees for
12 real estate development, brokerage, so on and so forth.
13 It owns no assets, and it has not ever owned any
14 property.

15 Cothran Homes is exactly the same thing. So, all
16 the employees, commercially, are in Cothran Properties,
17 and all the employees, residentially, are in Cothran
18 Homes.

19 Q Okay.

20 A And it doesn't own anything either. So I probably have
21 28 or more LLCs.

22 Q And just summarize for me why you have that many.

23 A Well, it's a leftover from my commercial days. So, if
24 you finance a property, an industrial building, office
25 building, whatever, and you do it with, say, a life

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1 insurance company or conduit, you know, something other
2 than a bank. And banks like it, too. They like a
3 single asset entity. So they don't want extraneous
4 negative events to affect their LLC. So the LLCs we
5 set up are all stand-alone LLCs. They have their own
6 books, you know, charters, so on and so forth. And
7 they hire -- depending on whether they're residential
8 or commercial, they hire through a contract with
9 Cothran Properties or Cothran Homes to do activities on
10 their property. So, the LLC owns the hard assets, all
11 the people, and you know, liabilities to go with
12 people, you know, are all at companies that don't own
13 anything.

14 Q I know we're talking about a pretty big number, but of
15 those 28 LLCs, how many of them are not single member
16 LLCs?

17 A I don't know. Maybe five.

18 Q As to those, tell me who the other members are.

19 A Let's do the one offs first. So I've got the McCalls,
20 Mark McCall and his brother. I'm not remembering. I
21 bought a piece of property from them, and I knew --
22 Mark actually played eighth grade football with me back
23 in the day. But they own a piece of property, and they
24 agreed to put some of the purchase price in as equity.
25 So, I have -- you know, I sent them K-1s, but I don't

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1 really see them.

2 Q Okay.

3 A Then I've got Ken Hughes who lives in Asheville. And
4 then I've got Kent Satterfield who lives in Greer.
5 Mike Keeshen, who's here in town. Jimmy Boland, who's
6 here in town. Tee Hooper, here in town. I'm thinking
7 if I'm leaving anybody -- Anthony Kent, who works for
8 me. Marty Harrison, who used to work for me. His son,
9 Colin, and gosh, I'm drawing a blank here. Who's the
10 Harrison on the county council? He's a real estate
11 guy.

12 Q You drawing a blank?

13 A Not Colin, but --

14 Q That's okay. I'll track it down if I need to.

15 A He's got a very small part ownership in an LLC. He
16 works for NAI Earle Furman. Colin is Marty's son.
17 Anyway, kind of the same thing. He was tangentially
18 involved in a transaction and wanted to know if he
19 could invest in it, and you know, he's in it, but he's
20 not like my group. My uncle, John Cothran, is in some
21 of those things with me.

22 Q Okay. McDaniel Jones, LLC, is that a single member?

23 A That's a single member.

24 Q And it's you?

25 A Me.

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1 Q All right.

2 A Yeah, so I'm either in it with other people or I own it
3 myself.

4 Q Okay.

5 A That's the way those go. I don't have any that
6 somebody else owns that I do something for.

7 Q I went online and saw your web page --

8 A Right.

9 Q -- so, you know, we could spend --

10 A Right.

11 Q -- forty-five minutes talking about what you do, and I
12 think I can read it --

13 A Okay.

14 Q -- and understand it. But generally speaking, you're
15 involved in commercial, as well as residential, real
16 estate purchases, developments, and sales?

17 A Yeah, we have a sales just of **our own --** on the home
18 building side, we sell our own houses. We don't have
19 any general brokerage. You know, we do other -- you
20 know, sell somebody else's house.

21 And then, in commercial, it's just mainly there
22 because, you know, we might use our license.

23 Technically, we have, you know, separate LLCs we're
24 managing for. You need a license to do third-party
25 management, but that's basically what we do. We don't

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1 do any -- really any leasing or anything like that.

2 Q Okay. Have you -- when I say you, I guess I would
3 include as an umbrella your companies -- been involved
4 in any other litigation than this case that involves
5 real estate matters?

6 A Yeah, not too frequently, but we have. You know, we've
7 had -- you know, when you got hot houses, right, you've
8 got one person sued us to get their deposit back when
9 they didn't close on a house because of a transformer
10 being on the property line. We won.

11 And before that, it was probably a long time ago
12 at the -- we did some -- we had an operation, so --
13 real quick, I moved back in '86, and went to -- my
14 uncle and I developed a subdivision called River Walk
15 with John Cothran, and then we started building houses
16 in there because he had sold his home building
17 business. And so kind of in that '90s, I guess '80s,
18 we did some building at The Cliffs. And so we had been
19 involved in a couple of, I guess, arbitrations or
20 mediations with some people that didn't want to pay for
21 what we did.

22 Q Okay.

23 A We won those, so you know. And then there's some odds
24 and ends maybe back in the day with -- and again, I
25 don't think they were ever -- is there a difference

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1 between -- I mean, I know there's a difference, but,
2 you know, it wasn't like in a court.

3 Q Right.

4 A It was -- you know, there were mediations or
5 arbitrations. So we had a couple of houses --
6 fortunately, we didn't build too many with stucco on
7 them back in the '90s, so obviously, you have to get
8 sued for the insurance to pay, so. You know, we got
9 sued there. You know, we paid on those.

10 Q Okay. A lot of other people did, too.

11 A Yeah. So not very -- not much, really, when you
12 consider -- I don't think it's too much. I mean, it's
13 not anything. We're generally reasonable, I think;
14 so...

15 Q Of course, this case involves decision making by the
16 Greenville City Planning Commission. Have you ever
17 served on that commission?

18 A No.

19 Q What is your experience with the planning commission?
20 I know it's a wide-open question, but just -- I need to
21 know, generally, your familiarity with the commission
22 and how it works, how many deals or potential deals
23 you've brought before them, that sort of thing. Can
24 you help me?

25 A Well, as a general rule -- I haven't done a ton. The

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1 bulk of my development -- the bulk of development in
2 Greenville County is outside the City. So, you know,
3 only recently, from a dollar standpoint, do I think
4 that's changed a whole lot. But, you know, back when I
5 did -- and I still own the little shopping center there
6 on Augusta Road. It was Board of Zoning Appeals, I
7 think, is what they called it. There was a -- maybe
8 they had planning commission, but anyway, we were asked
9 -- we had a piece of property under contract. We were
10 asked by the City not to come up with a new overlay
11 district. You know, so he wanted the buildings on the
12 street and the parking behind. These were some old
13 buildings we tore down, and we put Southern First on
14 the corner. That's where Cava is, Starbucks, and now
15 we're just finishing up the fire station. Which we did
16 a land swap with the City so they could put the new
17 fire station at the bottom of our property, and they
18 bought one other property. So, you know, we've done
19 stuff like that where we've had to kind of be involved.
20 But really -- I did one on Mohawk, you know, from about
21 six years ago, and then we took a piece of property
22 through rezoning -- well, it wasn't really rezoning.
23 Same kind of deal as McDaniel. So Bennett Street is
24 two acres. We put it under contract. We subdivided it
25 into -- I think it would allow for eight lots. It

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1 might have been six lots. I'm not sure which. And so
2 we ended up, from a feasibility standpoint, because
3 there was some grading and things that had to be done.
4 We ended up not wanting to buy the property, but I
5 asked the people selling the house if they wanted us to
6 keep going and get it rezoned so it could be cut up
7 into lots. And they said they did, so we did, and so
8 the City planning commission, they -- and the City
9 itself ultimately agreed to subdivide that property.
10 So we went ahead and did that. We didn't buy it. We
11 just gave it back to the -- you know, let the owner
12 have it, and I think, subsequently, he may have sold it
13 with -- but I don't know what he did with it, really.
14 We quit paying any attention to it. So that happened
15 right before this McDaniel piece.
16 Q In that one --
17 A Right.
18 Q -- that we're talking about right now -- so what was
19 the name of the street again where that lot was?
20 A Bennett.
21 Q Oh, Bennett Street.
22 A Yeah.
23 Q Okay.
24 A Just right there in North Main area.
25 Q So I guess the question I would ask about that one is

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1 did you have to go through the process where a
2 preliminary plat for the subdivision was submitted to
3 the planning commission for consideration?

4 A Right. We also -- now that you just asked me that, we
5 did one on Stone Avenue.

6 Q All right.

7 A So Stone Avenue, you know, is another one where the
8 planning commission was involved.

9 Q On either of those two projects, was there any
10 significant, I guess you'd call it, pushback from the
11 community about the plans?

12 A Well, let me just first say, yes, there was some
13 pushback on both of them, Stone Avenue and Bennett
14 Street. And I would never -- unfortunately, this is
15 where it's gotten. It used to be if something's zoned
16 something, you went down there and you did whatever is
17 zoned. That was a no -- you know, if there's anything
18 that's a no brainer, it was a no brainer. The
19 landscape and development world has been, if it's zoned
20 something for whatever reason, you know, the entire
21 community/neighborhood gets to feel like they have
22 input into your -- whatever you want to do. So, if you
23 were going to build a house that's -- I feel like if
24 you read the state law on what the planning
25 commission's supposed to do, it's hard to figure out

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1 why they're doing what they're doing with half the
2 stuff they do. I mean, they're supposed to make sure
3 -- it seems to me like -- I'm not a lawyer, there's no
4 shenanigans with the planning staff; right? That
5 they're not under -- you know, being unduly influenced.
6 But they want to override sometimes the planning staff
7 recommendations, which seems outside their purview, in
8 my opinion. Now, that's just my opinion, but -- so
9 when you go deal with Stone Avenue, you end up with a
10 situation where they have approved one thing; right?
11 And the guy offered to sell me lots with a pre-approved
12 structure on there that was sort of **Georgian**, okay, in
13 architecture. And I was like, well, I don't believe
14 that goes there. You know, and so we did something --
15 because there's kind of a modern shopping center next
16 to it, so we kind of just played off of that and did
17 the Stone Avenue thing, which they approved, and then
18 -- I think with one comment would probably sum it up.
19 The planning commission said we like your idea way
20 better than the one we approved, and I said then why
21 are you still talking about it? And they said because
22 we want to make it even better. So they are designing
23 my building for me. I had -- you know, Mike Keeshen is
24 the architect. He does stuff at Clemson and been, I
25 think, the president of the AIA in South Carolina. And

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1 they're over there telling him how to design a
2 building, and I don't think that's their purview. And
3 I think once you make the comment that I like your
4 thing better than the one I already approved, then
5 we're done. That's the end of the conversation. That
6 should be the end of it. It shouldn't be this door
7 needs to be painted blue. I just don't think that's --
8 I don't think that's within the purview.

9 Now, on Bennett Street, you know, we have
10 opposition -- so, we had people over there. We had
11 meetings with people on Stone Avenue, and you know,
12 you've got people coming to the meetings saying they
13 don't like the project, and they would never like
14 anything we would build there. And so you're just
15 like, well, why did you come to the meeting then? I
16 mean, you know, just to -- I used their neighbors;
17 right? And so you go down to Bennett Street, and you
18 have some people who were opposed to it and you've got
19 some people that are actually in favor. One guy across
20 the street was in favor of it. But it's -- it got
21 approved. I mean, it was zoned for what we were doing.
22 We were not changing the zoning. We were simply taking
23 something and cutting it into the number of lots the
24 zoning would allow, along with whatever restrictions
25 would be on there with need for storm water retainage

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1 and just physical attributes of the site. So, you
2 know, minimum lot sizes.

3 If you stop and think about it, we don't live in
4 -- you know, my wife's from Kansas. We don't live in
5 Kansas. Everything's on a grid; right? Everything can
6 be rectangular. But in South Carolina, you know, we've
7 got metes and bounds, and so irregular-shaped
8 properties.

9 So, to get a minimum lot size would almost be an
10 anomaly because you just have to cut as many lots as go
11 into the amoeba-shaped piece of property you have. And
12 they're always going to be bigger, for the most part.
13 The majority are going to be bigger than the minimum.
14 It's just the way the land is around here.

15 Q Uh-huh.

16 A So, if you need a 150-foot-deep lot by 100 feet wide
17 like we had to have for River Walk for R15, and your
18 property's 160 feet deep, well, then it's 100 by 160.
19 I mean, it's -- you know, what I'm saying? I guess you
20 could go 90 by 160 or something, but you know what I'm
21 saying. It's just like you're -- the lot sizes are
22 determined by the piece of property you start with and
23 then, therefore, it would be a miracle to have a piece
24 of property where the minimum lot size is the same as
25 the piece of property.

Page 24

1 Q Yeah.

2 A It just isn't going to happen.

3 Okay. So Bennett Street is -- you know, it was
4 governed by those two factors, how -- what's the shape
5 of the property, what do you have to do from a storm
6 water standpoint, and then how many lots can you get in
7 there. And we got what we could get in there, which is
8 all you kind of would expect to get in there; right?
9 So, like, if you go to McDaniel, from a density
10 standpoint, it's zoned -- it's zoned for nine lots if
11 you just take square --

12 Q R9?

13 A Yeah, just take the -- no, just take the minimum lot
14 size divided by the acreage, you could say I could get
15 nine lots.

16 Q Okay.

17 A But the shape of it dictated that you only could get
18 eight, and that was before the magnolia trees, but
19 that's a different part. So, you know, those are
20 things that make everything -- it would be difficult or
21 just lucky to have a piece of property that would --
22 you'd actually be paying for the land that you needed
23 for the lots and not paying for any surplus land. You
24 follow what I'm saying?

25 Q Uh-huh.

Page 25

1 A So that's just an -- that's just an -- it just doesn't
2 happen. I mean, River Walk was 150 by -- 15,000 square
3 foot lots, and we had 100-foot widths. And so, you
4 know, there's just not a ton of lots once you get on
5 the -- especially on the peripheral that would have
6 lots that would be that size. They would be something
7 bigger because of the square footages.

8 Q So, Bennett Street and Stone Avenue, those plans were
9 --

10 A Approved.

11 Q Were approved.

12 A Uh-huh.

13 Q Okay.

14 A You know, you can kind of cut to the chase and just say
15 I have never had something zoned for the use I'm using
16 it, have approved by the planning staff, and turned
17 down by the planning commission.

18 Q Except for this one?

19 A Except for that one. Ever. I expect, you know,
20 sometimes some degree of circus-like atmosphere. You
21 expect that these days. You can't get away from that.
22 It used not to be that way. I mean, but that's just
23 the way it is now. So, to have people show up and not
24 want something done that it's zoned to be done is not
25 uncommon.

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1 Q Well, let's talk about then McDaniel Jones, LLC. Start
2 with a question I'm just curious about. When did you
3 form the LLC in relation to when you bought -- when I
4 say you, I mean the LLC bought --

5 A We formed the LLC -- so generally our contracts will
6 say whoever -- usually, Cothran Properties or somebody.
7 Usually, Cothran Properties will say we're buying
8 and/or our assigneds. And then when we know we're
9 going to buy it, then we form the LLC and then deed it
10 into that LLC.

11 Q And that's what you did in this case?

12 A Yeah, that's what I do all the time. I assign my --
13 because I don't have -- I'm not going to form LLCs on
14 a, you know, maybe. So, if we know we're closing, we
15 form the LLC and deed it in.

16 Q I'll ask you a few more questions about that in just a
17 minute.

18 A Okay.

19 Q I want to quickly run through the witnesses you've
20 identified in your Answers to Interrogatories. I think
21 you've done a good job, by the way, of telling me who
22 these people are.

23 A Right.

24 Q I just want to make sure. Weston Blackwood still works
25 for y'all?

Page 27

1 A Right.

2 Q Tell me what his role is, as you see it, in the
3 McDaniel Jones story.

4 A Well, Weston's job is -- you know, his title is asset
5 manager. You know, people approach him with property,
6 you know, that we might be interested in. You know, he
7 sort of ferrets through things that are listed, just as
8 they become available. His job's not to look for a
9 bunch of stuff, but his job is to -- if something has
10 been presented to me or I think is interesting, and
11 I'll show it to him, and then he does a lot of the leg
12 work, just tries to find -- I'll ask him -- you know,
13 if he shows me something, I'll ask a few questions
14 about it, and then he'll go find out what those answers
15 are, and then we'd just determine our interest at that
16 point.

17 Q So what did he do in connection with McDaniel Jones?

18 A Probably somebody approached him about it being
19 available, or he found out it was available, and asked
20 me if I thought that we'd be interested in it. And
21 information gathering, I would say, probably describes
22 it best.

23 Q Jay Martin. That's not the same as J.D. Martin, is it?

24 A It's his son.

25 Q Son, okay. All right. So Jay Martin is with Arbor

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1 Engineering. Tell me what Arbor Engineering and Jay
2 Martin's role was in the project.

3 A Well, so, you know, we get it under contract. We
4 probably had discussions with them about what can be
5 done there, and then their task would be to generally
6 do a layout and get approvals and sort of run it
7 through the planning staff. So they were sort of my
8 point contact with the City, in terms of the staff and
9 what we can or can't do with it, and the whole
10 negotiation of -- I mean, I was there for some of the
11 negotiation -- for the non-technical negotiations, but
12 generally, to ascertain here's what we think we can do,
13 y'all have a different opinion. You know, what is it
14 we can do, given street frontage on both sides, and we
15 just want, you know, the lot. So, generally, that is
16 what they do, is do the plans and layout and so on and
17 so forth.

18 Q Okay. And, so, he would have been involved with
19 negotiations with the planning commission's staff --

20 A Right.

21 Q -- as we move through different configurations?

22 A Right, the different configurations would be the --
23 negotiation, J.D. was alive at the time, and he was
24 helping me with how to handle the magnolia grove over
25 there, which was considered a heritage tree, even

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1 though it'd be really stretching, in my opinion. It's
2 like a a hundred -- I don't know if you go in there.
3 You know, I grew -- my grandparents -- when my dad
4 died, we moved back from Texas. We lived with my
5 grandparents on Augusta Street. And right next to the
6 Caper house was their house. You know, 2241. So, I
7 mean, I grew up -- I mean, in elementary school, you
8 know, right down the street from this thing. And so,
9 when I was a kid and we'd go trick-or-treating, there
10 was a tree there. And it had a trunk, and it was a big
11 magnolia, but now it is literally like 115 or 20
12 magnolias that aren't any bigger than my leg. It looks
13 like a tree, but the tree part that we would call a
14 tree is dead. But that was the main focus of the
15 negotiations with the City, was how to preserve the
16 heritage tree.

17 Q Okay.

18 A And how that would affect the lots.

19 Q Okay.

20 A And that was -- you know, that's what started out. So,
21 when we got to the point where we had negotiated it
22 with the City, and the City had agreed -- and I don't
23 know what you call it. Maybe Luke can tell me. The --
24 what is a conservation easement? Who holds the
25 maintenance of it or is the custodian?

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1 MR. BURKE: I -- you want me to answer?

2 MR. PRICE: Go ahead.

3 MR. BURKE: I think it's a trustee.

4 THE WITNESS: Trustee. Yeah. So the City -- you
5 could have Upstate Forever or there's another one in
6 the lower part of the state, be the holder or
7 maintainer of the conservation easement.

8 BY MR. PRICE:

9 Q Gotcha. So they'd hold the easement. They protect the
10 tree?

11 A So my part -- yes. So part of our deal was the City
12 would, if we couldn't get anybody, would be the trustee
13 of the tree. We'd give them a conservation easement;
14 we'd get a tax write-off for preserving the tree.

15 Q Uh-huh.

16 A And then everybody can say the tree's there, and we
17 reduced the number of lots, and that was our
18 compromise, and that's what went to the planning
19 commission and got shot down.

20 Q Now, was the conserv- -- because the planning
21 commission ultimately did not approve the preliminary
22 plat --

23 A Right.

24 Q -- was the conservation easement ever actually
25 obtained?

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1 A No.

2 Q Okay.

3 A No. It was just -- that was a way through the weeds,
4 so to speak. In other words, I could say that it's two
5 lots I gave up and, you know, a million bucks or
6 something, whatever this appraisal says, and I could
7 write that off. And so it was a way to just get a
8 little something back, and you know.

9 Q Sure.

10 A So that was -- so, basically, going to the planning
11 commission, I had not thought that it would get turned
12 down.

13 Q You've got Michael Frixen, development planner, as a
14 witness, and I think he worked for the City of
15 Greenville?

16 A Must have, yeah.

17 Q Any firsthand knowledge about why he's listed?

18 A I do not.

19 Q Okay.

20 A Probably because he was just at the meeting. I don't
21 -- Frixen, or it wasn't -- Kirsy wasn't there, was he?
22 He was gone.

23 Q I don't see his name.

24 A No, he wasn't there because -- what's his name, Jay --

25 Q Graham?

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1 A Graham had taken his job.
2 Q Okay.
3 A That's right.
4 Q You've got him -- yeah, you've got him listed.
5 A I don't know who Michael Frixen is. I don't have any
6 idea.
7 Q Okay.
8 A Does it say what he is?
9 Q Development planner. I believe what we'll see -- I'll
10 show you a couple of documents --
11 A Right.
12 Q -- in a few minutes. He may have communicated the
13 formal decision of the planning commission.
14 A Okay.
15 Q I think that's it. So what about Jay Graham? Did you
16 have any personal contact with Mr. Graham during this
17 process?
18 A Yeah.
19 Q Okay. Tell me about that.
20 A I just -- all the stuff we just talked about.
21 Q Okay. The --
22 A I was sitting in the meetings with J.D., and J.D. --
23 you know, it'd kind of go like this. We don't like
24 this, do this. J.D. would change it or his people
25 would. We'd go have another meeting, we'd sit down,

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1 we'd talk about how to navigate, because there's
2 already some, you know, phones ringing and that kind of
3 thing. Like, I don't know when the zoning was put on
4 this piece of property, but I won't say it was whenever
5 they -- I would be willing to bet that, whenever they
6 had zoning, it's been zoned this the entire time. And
7 I can remember when that house was built that's torn
8 down now. My grandmother, you know, had lived in -- so
9 my dad -- grandfather was a retired minister, and they
10 went to Augusta Road Baptist Church right down there.
11 And I can remember there was a -- she was -- they were
12 talking one time, and I was probably six or seven, and
13 I said what's the matter. She says they built a modern
14 house on that lot. I go, what's wrong with that? I
15 thought it looked good. She goes, oh, that's just not
16 what you did over there on McDaniel. So I even
17 actually had to -- when we had mediation, I told the
18 guys, I said, you know, as far as I know, since the
19 '60s, that house has not been officially approved by,
20 you know. So you ought to be happy we're tearing it
21 down and building something that might fit in more.
22 And they're like -- that didn't go over very well, but
23 I can remember. You know, I can remember when that was
24 built in the '60s.
25 Q Tree was already there when it was built?

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1 A Tree was there, not that big, but it was a much more
2 manageable tree back in whatever that was, '64 or '65.

3 Q All right. You've named Edward A. Kinney, Senior,
4 landscape architect for the City of Greenville, I
5 believe.

6 A Yeah. You'd have to ask --

7 Q Nothing substantive --

8 A I defer to Luke on a lot of the names of all these
9 people.

10 Q Okay.

11 (OFF THE RECORD)

12 BY MR. PRICE:

13 Q Okay. You've identified the members of the planning
14 commission.

15 A Right.

16 Q Have you had any conversations with any of those
17 members --

18 A Since then?

19 Q -- since then, about this project?

20 A I wouldn't know whether -- I really couldn't tell you
21 what those people look like. I mean, I know I've
22 obviously -- somebody met with them. Whether they were
23 in a meeting I was in or not, I don't really remember,
24 and there's so much turnover down there that I don't
25 know that any of those people are still working there.

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1 Q Fair enough.

2 A I don't know if Jay Graham's still working there. Is
3 he?

4 Q I don't think so.

5 A I don't think so, either.

6 Q So you've also listed a number of the planning
7 commission's staff members at the time.

8 A Uh-huh.

9 Q So I'll just ask you, generally. Have you had any
10 conversations with any of the staff about this since
11 the planning commission made its decision?

12 A Me, personally?

13 Q Yeah.

14 A Not to my recollection.

15 Q Okay.

16 A I don't remember. Unless, you know, it would be -- and
17 I don't guess they'd be there. I'm trying to remember
18 -- we did -- what did we do to start with, mediate?
19 What did we have to do, mediate?

20 Q Technically, you probably need to talk with me about
21 that.

22 A Oh, I'm sorry.

23 Q But you can ask me.

24 A Would that be what you --

25 Q Yes, there was a mediation.

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1 A We were required to do something.
2 Q Yes, that was a mediation.
3 A And we did it, and it's possible somebody from the --
4 well, Michael Pitts was there.
5 Q Right.
6 A But any of the other people, I don't recall. I do
7 recall Michael Pitts being there.
8 Q Okay. All right.
9 A So, if I have, I have forgotten about it, you know. I
10 don't know what it'd be for.
11 Q Okay.
12 A And you're talking about just this project?
13 Q Yes.
14 A Right. Because obviously, on the other things I'm
15 doing, I still talk to --
16 Q Right.
17 A -- people down there, but maybe not so many of those
18 people that you named, since I don't know who they are.
19 Q Have you had to take -- well, have you taken other
20 projects to the planning commission stage since this
21 one?
22 A Not to the planning commission.
23 Q Okay. Who have you taken it to?
24 A The whole approval process at the City is a little bit
25 like a box of chocolates, you know, like Forrest Gump.

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1 I mean, so we have a development agreement on Augusta
2 Road. They got the fire station. There's things that
3 I was going to do, and you know, the City got this
4 piece down there, and they did some stuff to the
5 parking lot to make it a little bigger. And like I got
6 a call the other day, several engines moving in to the
7 fire station, and you know, I get a call that you need
8 to do the screening requirement. And I said I'm in a
9 PD. I wrote the PD. You, as part of the development
10 agreement, joined the PD with the two fire stations. I
11 bought the building as is. The air conditioning units
12 and all the other stuff that's hanging all over the
13 outside of the building, I said -- and they're wanting
14 to know why I didn't have a screen up. I said, well,
15 it's the first -- I don't know. Why do y'all have a
16 screen up? Well, they did have little screens up on
17 the HVAC equipment, but the stuff -- new stuff's
18 bigger. So I'm like I never thought about screening it
19 because -- and you know, they get like, well, you've
20 got to comply with the ordinance. So I said, look, I'm
21 not going to even go there. I said just what kind of
22 screen do you want because the ordinance is the PD, and
23 I don't know -- show me how you can have another
24 ordinance that's not part of the PD, like somehow
25 attach itself to my PD. And I didn't go there with

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1 that. But that's what you get. And you go because you
2 **brought it in.** Did you have a screening requirement
3 when you brought it in, because you brought it in. And
4 they're like, well, it's just very -- what's the word I
5 want to use? It's just pretty dysfunctional.

6 Q Okay.

7 A I mean, it's just a -- you get stuff out of the blue.
8 You can't get anybody to call you. I mean, you know.
9 And then when you do get them, it's just super easy.
10 It takes 10 minutes. Tell me what kind of screen you
11 want so I can build it, and we did, and we're building
12 it. But it's just not a very --

13 Q Now, would Covid have had anything to do with this,
14 from your perspective? Because I can remember that
15 even for me, it was a lot harder to get in touch with
16 people with the City during the Covid times.

17 A Well, it wouldn't have anything to do with this
18 particular thing --

19 Q Okay.

20 A -- because it happened before Covid.

21 Q All right.

22 A But Covid, does it hurt? Yes, because they basically
23 -- they went online with all their approvals, which has
24 nothing to do with this case, but for your benefit.

25 Q Uh-huh.

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1 A Nobody went to the office. So it used to be DEFCON 5
2 was send your engineer to City Hall with the stuff you
3 want approved and go, physically, track down people.
4 But now the approval process is online, and the people
5 don't go into the office during Covid. So it was just
6 like people would mean to check things off online and
7 just forget. And so your whole permit's held up, and
8 you can't go talk to anybody. That kind of stuff. So,
9 yeah, did Covid have anything -- it made it worse, but
10 it doesn't have anything to do with this case.

11 Q All right.

12 A Because it all happened after this case.

13 Q All right. Well, let's go through some documents as I
14 warned you.

15 A All right. Well, before we do that --

16 Q Yeah.

17 A -- I'm going to go to the restroom, if that's
18 permissible.

19 Q That is absolutely permissible.

20 A I won't ask Luke if it's okay.

21 Q That's right. You've got to ask me.

22 (OFF THE RECORD)

23 BY MR. PRICE:

24 Q We're back on the record now. I want to go through a
25 few documents and kind of work with you --

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1 A Okay.

2 Q -- through the chronology about this case.

3 A Okay.

4 Q So I'm going -- we pre-marked these exhibits. I'm

5 going to hand you Exhibit 1, which is a deed.

6 A Okay.

7 Q Won't spend too much time on it, but --

8 A I'm sure I would not --

9 Q This is the deed from --

10 A Do I give that back to somebody?

11 Q This is the deed into McDaniel Jones for the property

12 at 808 --

13 A Yeah.

14 Q -- McDaniel Avenue. Okay. Purchase price was \$1.43

15 million dollars; correct?

16 A Right.

17 Q Tell me what you can about the negotiations that got

18 y'all to that purchase price.

19 A Well, it was a while ago. So, you know, the ones you

20 remember are probably the ones you don't buy; right?

21 So, became aware of the property. We were aware of

22 what we had just done at Bennett Street, and we were

23 like looking at this going, well, this is even better

24 because, you know, probably less development and more

25 potential profit. So it was owned by a trust, I

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1 believe, for the family, and they were selling it. And
2 that was the appraised price, I think.

3 Q During the negotiations, did they have any input or
4 make any comments as to what you intended to do with
5 the property?

6 A No.

7 Q Okay.

8 A Not that I can recall.

9 Q All right.

10 A I will tell you this.

11 Q Yeah.

12 A Just as an aside, one of the interesting things in the
13 house itself laying around in there was a survey with
14 lots subdivided on it.

15 Q Is that right?

16 A Yeah.

17 Q Did you keep that?

18 A I don't think so.

19 Q Had it been recorded?

20 A No, no, no, no. If it had been recorded, we wouldn't
21 all be sitting here enjoying each other's company.

22 Q You remember how many lots it had been divided into?

23 A That was -- no, I don't remember. I don't remember,
24 but I thought it was interesting that somebody had
25 already contemplated subdividing it and getting rid of

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1 the house. I don't know who that somebody was. I just
2 thought it was kind of interesting.

3 Q Yeah. Any idea what the date of the survey was?

4 A No, I mean, the drawings were old, old-ish, because,
5 you know, I mean, just the -- they looked like old
6 blueprints, you know, you would have had, you know, in
7 the '90s or something. You know, the machinery's
8 changed. You used to have these old -- if you've ever
9 been in a surveyor's office, you used to have these
10 ammonia-based ones that stunk to high heavens --

11 Q The blue --

12 A Yeah. So it was --

13 Q The blue tint.

14 A -- in that genre of thing. Whereas now, they're just a
15 giant copier, and it just prints just like a copier
16 does. We have one in our offices, and it's just big.
17 You know, it prints, but it's not the same look to the
18 paper when you get done with it.

19 Q So walk me through the initial conceptual planning that
20 you had for --

21 A Well, what you do is you --

22 Q -- 808 McDaniel.

23 A -- you look at the zoning. You come up with the lot
24 size, you know. And then you go and you figure out
25 what's the -- just like I kind of said earlier. So

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1 what's the most that's allowed? Nine. What's the most
2 that physically fits there? Eight. You know, to meet
3 the criteria, that's kind of what you do. And then you
4 run down to the planning commission. You say, here's
5 what we're thinking. And then at that point in time,
6 you know, the tree came up, because I went out and
7 looked at the tree to see if it would be a heritage
8 tree, and I saw a bunch of trees that weren't any
9 bigger than my leg that looked like one giant tree.
10 But it was literally -- it looked like a mangrove swamp
11 in there. That's what it looked like under the canopy.
12 And so, you know, then you start adjusting your layout
13 to meet whatever other requirements the City or the,
14 you know, statues might have in terms of storm water.
15 You know, just different things that might further
16 alter either the shape or the number of lots that you
17 have. So, you just kind of -- it's almost like a, you
18 know, people say you carve up -- it's like you start
19 off with a rough sketch and then you refine, based on
20 inputs, and that's pretty much the process. And there
21 may be multiple meetings in there with different people
22 to come up with that.

23 Q Now, at that initial stage, I'm going to assume that
24 there was no input from the neighborhood residents?

25 A Oh, I think the neighborhoods pretty much started

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1 calling the minute I bought the property.

2 Q You think?

3 A Oh, I'm pretty dang sure.

4 Q And what leads you to that?

5 A I'm pretty sure, and I'm going straight off of memory
6 here. I'm pretty sure we were required to have a -- so
7 do you know -- well, do you know much about permeable
8 versus impermeable surfaces, storm water runoff?

9 Q Enough to know it when I see it.

10 A Right. So you have what's on site, and so you've got
11 the house, barns, driveways. Those are your
12 impermeable surfaces. So there's a ratio that's
13 established. So, if I put no more -- if I scraped it,
14 and I put no more impermeable surfaces, then I could
15 just -- that's what you could do. So, for example, you
16 could say in your restrictions that I've got six lots,
17 and, you know, whatever was approved, and you could've
18 said as long as you've got so many square feet of
19 impermeable surface you could have on your lot, and
20 after that, you need to have -- do something yourself.

21 Q Drainage-wise?

22 A Yeah, some kind of underground storage or some kind of
23 way to hold the storm water, whatever. Or you could do
24 a permeable driveway, you know, where you may have
25 pavers or something with gaps in them that lets the

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1 water run down into the soil and so on and so forth.
2 So there's all kind of things you can do. But what was
3 a little unusual on this was, if my recollection serves
4 correct, was that they required us to turn in a full
5 storm water plan in the planning stage, which normally
6 you would just say I've got six lots, and we'll comply
7 with all storm water ordinances. Let's see if we get
8 through planning commission. But no, we had to draw it
9 upfront.

10 Q Do you think -- do you think that had something to do
11 with --

12 A Neighborhood feedback?

13 Q Yeah.

14 A Yeah, I do.

15 Q Okay.

16 A I think the whole tree thing had something to do with
17 neighborhood feedback, because a heritage tree is a
18 heritage tree. And all I heard when we bought the
19 property was that's the largest magnolia in South
20 Carolina. And I'm like y'all need to go walk under
21 that thing because it is like 120 trees. And that's a
22 grove of magnolias. It's not a magnolia. And so we
23 had that little discussion for a while, and that's
24 where we ended up with ultimately what we turned in.
25 But, oh, yeah, there was -- it was from the get go

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1 neighborhood feedback. There's no question about that.

2 Q And I'll ask you a few more specific questions about
3 feedback and commentary from the neighbors in a few
4 minutes.

5 So let me show you Exhibit 2. We're not going to
6 spend a lot of time with it.

7 A Yeah.

8 Q Those are the two applications that were submitted to
9 the planning commission.

10 A Right.

11 Q The first one looks like it was dated September 17th.
12 That's when it was received by --

13 A Right.

14 Q -- the City. Okay. And in that one, initially, you
15 were applying for a seven-lot --

16 A Right.

17 Q -- plan. Okay.

18 A Well, I wasn't, but that's what we had applied for.

19 Q Your people were?

20 A Well, let me just say what I mean by that.

21 Q Yeah, please.

22 A I sat in a meeting with Jay Graham. Go back to my fire
23 station companies for reference. I said why is it not
24 eight lots, and Jay goes because you have to have sixty
25 feet of frontage. And I said that doesn't make any

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1 sense, Jay, because how would you never have a cul-de-
2 sac lot. I said it's 60 feet at the building line, and
3 he says, no, I'm pretty sure it's 60 feet at the
4 property -- at the street line. This is another -- it
5 was all less dense, less dense, less dense, and I'm
6 like I don't think that's right. So, in between this
7 drawing and probably the next one you're going to show
8 me, he goes you're right. It's 60 feet at the building
9 line. I said, yes, I know.

10 Q Okay.

11 A So does that take care of build- -- takes care of
12 number two?

13 Q I think so.

14 A And then when we got into the tree thing; right?
15 That's when we went and said, all right, well, we'll do
16 the tree thing, which takes up two lots, and we will
17 pick up one on --

18 Q Jones?

19 A -- Jones.

20 Q So that led to your application in or around December
21 --

22 A Right.

23 Q -- where you're proposing six lots --

24 A Yeah.

25 Q -- to develop?

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1 A Right.
2 Q And then --
3 A Two to give away.
4 Q -- two to give away for the --
5 A For conservation.
6 Q Yeah.
7 A We didn't give them away.
8 Q Two for the tree?
9 A We retained the ownership of the conservation easement.
10 Q Okay. All right. And I think you've told me this, but
11 is there anything else that is significant in your mind
12 that led to the submission of the second application?
13 We've got --
14 A Which is the --
15 Q Well, there was a debate with you and Jay Graham.
16 A Right.
17 Q Anything else that -- as you can recall --
18 A We're talking about this one still?
19 Q Yeah, it's the second part of that.
20 A Okay. So the first part was --
21 Q Seven.
22 A And then the second part --
23 Q I'm sorry. I misstated. First --
24 A First one was -- yeah, so this one is eight, with two
25 being the tree.

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1 Q Okay.
2 A This second part here.
3 Q Okay. First one was seven.
4 A Right.
5 Q And then the second one was six to develop residential
6 --
7 A Right.
8 Q -- lots.
9 A And two left is the tree.
10 Q Okay. And I kind of highlighted on my copy, so we're
11 looking at the same thing.
12 A No, I think -- so, I think, probably -- and again, I
13 ought to be keeping notes on this; right? I think the
14 first meeting was, he said -- so our -- if my
15 recollection is right, Arbor and Jay had had a
16 conversation.
17 Q Arbor, meaning?
18 A Arbor Engineering.
19 Q Now, I'm sorry, because I know that Mr. Martin, the
20 elder, has passed away.
21 A Right. So it'd be Jay.
22 Q Was it Jay who was working on this at the time?
23 A Yeah, both of them together.
24 Q Okay.
25 A J.D. was really kind of technically retired.

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1 Q Okay.

2 A Coming in so many days a week, you know.

3 Q All right.

4 A He was -- Jay was there, and so then I get in the
5 meeting after they've drawn this up, and I go why is
6 that -- I asked the question why does that lot look
7 like that. And they said, well -- and this is while
8 we're talking about the tree. Okay. So this is what
9 we turned in. And the -- the first part here. And so,
10 I said, you know, what I said about the cul-de-sacs.

11 Q Uh-huh.

12 A Well, then, I guess in that meeting we might have had
13 this conversation -- J.D. was in the one about the
14 tree. And so I think at this one -- there might be
15 some dates on here. They're not always the best.

16 Q Move your right hand and let me see what you're looking
17 at. I might be able to help you with that.

18 A The one with the circle --

19 Q Yeah.

20 A -- with the tree. It says the 18 --

21 Q November 19th.

22 A 19th?

23 Q Yeah, November 19, 2018. I'll point that out to you.

24 It's down here.

25 A Yeah, September 17th.

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1 Q Okay. So that's the first one?
2 A So this is the one when we got in there --
3 Q Yeah.
4 A -- probably had some conversations about the tree.
5 Okay? And then we end up with this.
6 Q Okay. We ended up with the one that had the six lots
7 with two of the original lots now --
8 A Right.
9 Q -- the proposed conservation easement for the magnolia
10 --
11 A Right.
12 Q -- tree.
13 A And you can see the storm pipe on here. So we had a
14 conversation about having to design for that. So I
15 think, at this point in time, they had designed for
16 that.
17 Q Okay.
18 A And then this pipe here is there was just a little
19 shallow. This is not much water, so it's like a little
20 14- or 18-inch hump when this water got caught in here
21 and got in these pipes and went out to the street.
22 Q Now, tell me, as best you can recall, whether there was
23 neighborhood commentary coming again during this
24 process.
25 A I feel fairly confident, without any, like,

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1 documentation, other than what I've heard from people
2 telling me what the neighbors were saying, is that
3 there was probably neighborhood commentary about this
4 piece of property from the day it went on the market.

5 Q And I don't want to put words in your mouth, but --

6 A Right.

7 Q Are you --

8 A Continuous comments from the day it went on the market.
9 Who's going to buy it? What are they going to do with
10 it? What's it going to look like? You know, the
11 conversations I had with the neighbors involved like
12 what are the houses going to look like, and I'm going
13 -- and even the planning commission asked me that. And
14 I said -- because the presumption -- there's a lot of
15 presumptions, you know, when you get in these things.
16 And I'm not the best PR person, in terms of trying to
17 keep up and addressing them; right? But the
18 presumptions are like what are the houses going to look
19 like. And I'm like I'm doing lots. I'm going to take
20 however many stakes are required, drive them in the
21 ground out there, put some numbers on it and sell them.
22 I mean, the houses are going to look like whatever the
23 City of Greenville allows to be built there under the
24 current zoning. That's what the houses are going to
25 look like. And so it was all this getting off the

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1 subject of what we were doing and onto what's going to
2 be built there. And I'm like I don't really need to
3 talk about that right now, because I'm not doing that.
4 Well, you'll build the houses. I do build houses, but
5 they're production houses, and we're not building
6 production houses there. And so, you know, there's --
7 you know, I was at the fire station, getting back to
8 that, and Mary Douglas was there, and she's like, well,
9 I know a lot of people think you want to tear it down.
10 I said I have never wanted to tear it down. I have
11 never said I'm going to tear it down. I said I have
12 said that, if y'all don't bend some of your rules for
13 this thing that is sitting almost in Faris Road, then
14 it might have to be torn down. I don't want to get it
15 -- actually the other way around. I don't want to get
16 it, and then find out I can't do anything with it. You
17 have to agree that, if I'm going to take it, that
18 you're going to let me renovate it and leave it where
19 it is, but the only conversation in there about tearing
20 it down was if we couldn't do anything with it. If
21 you, meaning the City, were going to be so hidebound as
22 to not allow me to work with what's there, then it is a
23 lot and just tear it down. But we spent a lot of money
24 on the building. We have no intention of tearing it
25 down, and Sherwin-Williams has got a -- I don't know

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1 what they've got -- a 10-year lease with 20 years'
2 worth of options or something. I don't know. It's --
3 you know, they've been there since the '50s, Sherwin-
4 Williams.

5 So, anyway, the point is a lot of things gets said
6 that aren't -- that I never said or, you know, the
7 conversations about a lot of things that have nothing
8 to do with what I'm doing. All I'm doing is
9 subdividing it into lots.

10 Q So we're speaking generally, but any conversations that
11 you had during this time frame with neighbors --

12 A And I didn't have any.

13 Q Okay. Okay.

14 A Jay might have had some.

15 Q All right.

16 A Or J.D.

17 Q You, personally, did not?

18 A No.

19 Q Now, forgive me, because I might repeat that question
20 as we go forward.

21 A Right.

22 Q I need to make sure about that. So Jay was the point
23 person --

24 A Right.

25 Q -- not only with planning commission, but with the

Page 55

1 neighbors?

2 A Well, let me just -- let me back up on that a little
3 bit. I had some conversations with two or three
4 neighbors.

5 Q Were they all together?

6 A No.

7 Q Okay.

8 A No. Just they'd call me. And I will tell you what
9 they said because they probably would deny every word
10 of it, but it's not a good optic for them. And so I,
11 generally, as a matter of course, do not talk to
12 neighbors. I have Jay or my folks talk to neighbors
13 because they're just, generally -- they've got a pet
14 peeve, axe to grind, you know, want to insert
15 themselves into your affairs in a way that I think is
16 inappropriate, and so there's not much point in having
17 a conversation about that. But you have to have
18 neighborhood meetings and my guys at Arbor go.

19 Q Okay. And we'll talk about that.

20 A So, short of somebody calling me and talking to me
21 about something to do with purchasing a lot or lots
22 over there, I don't recall any other conversations with
23 the neighbors.

24 Q Okay. All right. So I'm going to jump back to these
25 Answers to Interrogatories. One of the questions we

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1 asked was about the negotiations between your people
2 and city planning people.

3 A Uh-huh.

4 Q In this answer, they talk about -- you talk about --
5 let me strike that.

6 The answer talks about a July 2018, so summer of
7 2018, planning commission meeting about the Bennett
8 Street project, I'll be you.

9 A Uh-huh.

10 Q And what this says is -- and, look, I recognize that we
11 lawyers have to put this stuff together, and so I'm not
12 trying to suggest or intimate --

13 A No, it's all right.

14 Q -- anything to come from your mouth. I just want to
15 see if it does.

16 A Uh-huh.

17 Q All right. It says the planning commission approved
18 the project, and Mark Cothran had a conversation with
19 members of the planning commission regarding the
20 McDaniel Jones project. Is that what you've talked to
21 me about already? Well, we've talked about --

22 A Probably getting to the comment where I said something
23 like, well, they approved it, and I said good. And
24 then they said something to me, I heard you bought
25 McDaniel, and I said I did. And I said I'm looking for

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1 y'all to do the same thing on McDaniel that you did on
2 Bennett Street, which is, in my -- what I mean by that,
3 to be really clear, is there is an ordinance. It is
4 the law. Uphold the law. Allow me my legal rights.
5 And they said something to the effect like, well, it
6 won't be so easy over there. And to me, it's like,
7 well, it better be because it's the law. It's the same
8 law that was on Bennett Street, and it's the same law
9 and the same city that's on McDaniel. There's not a
10 different law. It's the same law.

11 Q Okay. And you made your position clear to the
12 commission?

13 A I think -- well, you'd have to ask them if I was clear
14 or not, but that's exactly what -- when they -- I don't
15 think -- what else would you say by it's not going to
16 be that easy? I mean, I think they understood exactly
17 what I was saying. Because I don't think there's a
18 different law at one end of the street from the other,
19 in my personal opinion. Now, y'all are both lawyers.
20 Y'all know more about it than I do.

21 Q I'm looking back at this chronology in your Answers to
22 Interrogatory, and I think we covered this. It talks
23 about an October 2018 meeting with you, Jay Graham, and
24 Jay Martin, and that's when Jay presented a seven-lot
25 proposal. It says that the conversation included an

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1 eight-lot proposal, and that's when Mr. Graham was
2 talking about the 60-foot road frontage. So we've
3 covered that, but it was in the October 2018 --

4 A Yeah, yeah.

5 Q -- meeting?

6 A I don't remember the chronology there. Probably they
7 got all that from, you know, notes that Arbor had on
8 their calendar.

9 Q Okay.

10 A As opposed to so much -- I don't recall going back
11 looking for all these dates.

12 Q All right.

13 A But I would say that I left the meeting, when we
14 presented -- not the meeting to present, but when we
15 left the planning staff with all these previous
16 conversations that were basically making sausage, and
17 that's what it looked like. You know, they had the
18 input from everybody that was calling them constantly.
19 They told me they were getting all kinds of calls, and
20 you know, the tree, you know, the whole -- I thought,
21 well, this is, you know, a com- -- this is it. This is
22 a compromise, you know --

23 Q Uh-huh.

24 A -- that we can live with. And I was expecting the
25 planning commission, in spite of opposition from people

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1 in the neighborhood, which certainly wasn't all the
2 people in the neighborhood, because, you know, I had a
3 lot of people come up to me and go, you know, I can't
4 believe this is such a big deal. You should be able to
5 do that deal, and, you know, everybody loves Augusta
6 Road Shopping Center. They should cut you a little
7 slack. It's going to look good, you know, instead of
8 thinking it's going to be terrible. So I thought that
9 was it. I thought, yes, there's going to be some
10 opposition. There's always opposition, unfortunately.
11 But this was -- I mean, it's the planning staff. I
12 mean, they're telling you whether you're complying with
13 the ordinance or not.

14 Q Okay.

15 A And that's what that is. That's saying, yeah, you
16 comply. So I would expect the planning commission to
17 uphold the ordinance.

18 Q Let's pause right there.

19 (OFF THE RECORD)

20 BY MR. PRICE:

21 Q So, that's Exhibit 12. Excuse me, this is where we're
22 about to go. We're getting closer to the time when it
23 actually went before the planning commission.

24 A Okay.

25 Q And I will tell you that I know, and it's probably no

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1 surprise, that we're beginning to see an influx of
2 commentary --

3 A Right.

4 Q -- from the neighbors.

5 A Right.

6 Q Kind of everybody knows that this is going on.

7 A Right.

8 Q Just kind of like what you've just been saying. So let
9 me show you Exhibit 12, which you may or may not have
10 seen. Just want to -- I guess where I'm going is was
11 it you or was it someone else for you, like Jay Martin
12 --

13 A Somebody somewhere in this thing said we need to meet
14 with these people.

15 Q Okay. So let me stop right there because I was unfair
16 to Luke, because I didn't have a copy of this. But
17 this is an email dated December 10, 2018.

18 A Right.

19 Q And Jay Martin had gotten this list of names. I guess
20 we can assume that this came from either the planning
21 commission or somebody from the City, that included
22 these people. And without going through the motions of
23 reading them into the record, I guess I want to know if
24 you, personally, ever either met with or spoke with any
25 of those individuals.

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1 A We did have a -- and I have no idea, you know, in my
2 recollection whether this was before or after the
3 planning commission meeting. We did meet with -- so,
4 two of these people are adjacent property owners, who I
5 said, previously, I did speak with. And then Sam
6 Outten lives across the street. I did speak with him
7 at some point in time. Ben Leaphart. Dorothy, I don't
8 think or know if she was there. So J.D. did talk to
9 some of these people, but at some point in time, either
10 before or after that, we had a meeting over at J.D.'s
11 office. And I know that two guys, neighbors, Outten
12 and that other guy on there may have been another
13 neighbor, and there was a lot about the tree, and there
14 was a lot about minimum lot size, which we are meeting
15 the minimum lot size. And so the neighbors' whole
16 argument is, well, the other lots on the street aren't
17 -- they're bigger than the minimum, and so it doesn't
18 conform, but I've already stated my position on why the
19 lots are bigger than the minimum. You can't have lots
20 smaller than the minimum. It's not a minimum. I mean,
21 unless you change the zoning. So some lots on that
22 road are the minimum. And you know, people -- I don't
23 remember the nature of the conversation. I think it
24 was probably taking all comments that I can recall,
25 right, and may have blended them -- I'm not going to be

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1 good on the time chronology, but I do know that these
2 guys wanted less lots, and they wanted the tree
3 preserved, which we were already doing. Then they
4 wanted to know what kind of houses we were going to put
5 there. And I said I'm not going to build the houses.
6 I have no intention of building the houses. That's a
7 big, huge thing. I am not -- I'm like 50 I might build
8 them or I might not build them. Bennett Street, given
9 the size of the house, there was some discussion about
10 us building those houses, because they were similar to
11 some floorplans we already had, so we might have
12 considered it there, but not -- you know, it's more of
13 a custom home neighborhood. We don't do anything like
14 that.

15 So, I told them that. I just told them I'm
16 selling lots, and then they wanted to know if there
17 were some restrictions. I said, well, I'd be amenable
18 to some restrictions, and, you know, maybe a height
19 limit or the number of stories, or something. But as
20 you might imagine, anytime you get these things,
21 there's nobody who's willing to do the same thing to
22 their property, including agreeing not to subdivide it
23 into the minimum lot sizes, for those that had that
24 available to them. So I think it's interesting when
25 people are proposing things to you that they don't want

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1 to do themselves. I do find that, you know -- and
2 that's -- I remember that meeting that they were like
3 -- you know, they had their interests, which they told
4 me what those were, and it just seemed like no matter
5 what I was going to propose, they were always wanting
6 one less lot or always have a little bit bigger -- you
7 know, just wasn't -- whatever we can do to get you to
8 not be economically feasible is what our ultimate goal
9 was, is the way it came across to me.

10 Q Was this a meeting that was held at J.D.'s office?

11 A The one, yeah.

12 Q Okay.

13 A There was a meeting held at J.D.'s office, and I think,
14 actually, one of the city councilmen was there, too.

15 Q Okay.

16 A But I can't remember who that was, right off the top of
17 my head.

18 Q All right.

19 A But maybe that's putting the -- somewhere else where
20 we've had a discussion. Yeah, so they just told me
21 what they were concerned about, and if I could consider
22 some restrictions and that kind of thing.

23 Q At the meeting that you recall, when they expressed
24 their opinions and their questions --

25 A Right.

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1 Q -- would you consider this, would you consider that, do
2 you remember if you responded definitively, or neutral,
3 or didn't answer the question?

4 A I said I would be amenable to something on the
5 restrictions, as to coming up with some. So I think
6 the example would be, and this would be, again, I think
7 -- I never can remember the name of that property.
8 What is that one down there on -- by the park? Where
9 they've got those zero lot line houses? You know what
10 I'm talking about? You come up --

11 Q Down by Cleveland Park?

12 A Yeah, you go down by Cleveland Park. You go off
13 Woodland, and then there's -- you could go up to the Y
14 --

15 Q Yeah.

16 A -- and then right there in that little nook, there was
17 a -- the old house was there.

18 Q The old Haynsworth house.

19 A Right, yeah. Well, Haynsworth was right on the corner.

20 Q No, that's right. That was on the corner.

21 A That was a Tudor. Yeah.

22 Q I'm sorry.

23 A Around the corner.

24 Q But no, I know, generally, where you're talking about.

25 A I think it was the Jones house or something like that,

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1 maybe.

2 Q Okay.

3 A You know, it was a ranch house. They tore it down and
4 put some -- put all those houses on there. Well, he
5 said, well, we know what they're going to do. And I
6 go, well, you know that, you know, it's almost zero lot
7 line with an alley, you know. And I don't know if
8 there's restrictions, but I don't believe they had an
9 architectural plan. I'm pretty sure they didn't for
10 each one of those houses. I think they had
11 restrictions. They also had a mechanism for managing
12 your storm water, I think, on your property, but there
13 were some storm water facilities in the street buried,
14 you know.

15 So I think, you know, you had, basically, the same
16 kind of idea. You had a subdivision, and yeah, they
17 may have had the restrictions as to what could be built
18 there, you know, architecturally or whatever, but
19 again, I'm just subdividing the lots. You know, if you
20 want some general restrictions, I can do that. They\
21 may have had more restrictions, too, because they had
22 alleys, you know, where you kind of enter from -- so
23 you have a lot more easements and stuff. And it's a
24 bigger subdivision. And they put in new roads. So,
25 all I was doing was using the same roads that were

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1 there. And, you know, on McDaniel, it's kind of
2 interesting. There was a circular drive, and there's
3 three lots; right? So there's exactly one more curb
4 cut on McDaniel that's been there forever. There are
5 two more curb cuts on Jones that's been there forever
6 because they had a back driveway out onto Jones to get
7 to the garage. So, it was mainly focused more on --
8 well, the two adjacent property owners, I would just
9 say their comments would be restricted to how close
10 somebody was going to build next to them.

11 Q Who were they?

12 A That was Charles Warren and --

13 Q Charles.

14 A -- John Lind.

15 Q John Lind. Okay, okay.

16 A And you know, would I sell them a piece of property. I
17 didn't really talk about that in the meeting, but
18 that's -- and I said I'll sell you a lot, but if I sell
19 you a piece of property, I don't have a lot. I mean,
20 you know, so. You know, it was a cordial meeting, at
21 least in terms of --

22 Q Nobody was throwing rocks at each other?

23 A Right. They weren't animated, super animated. They
24 said things, and I said, well, look, it's just some
25 lots. I'm not doing anything. They can do the same

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1 thing on their property you can do on your property.

2 Q Okay.

3 A Which was probably met with silence, but it's all
4 right.

5 Q So I've got an advantage over you, because I've looked
6 at all this stuff. On January the 3rd, 2019 --

7 A Okay.

8 Q -- there was a neighborhood meeting. I don't think
9 that you were there. I also don't think that any of
10 your people were there.

11 A Right.

12 Q But it's just a date, and I want to make sure I'm right
13 about that. This was a neighborhood association
14 meeting.

15 A I can tell you I've never been to one of those.

16 Q Okay. All right. All right. So you don't have any
17 knowledge about what was going on at that meeting on
18 that day?

19 A Uh-uh.

20 Q Okay. That's a no?

21 A Was that before or after our mediation?

22 Q That was -- well, the mediation in the lawsuit?

23 A Yeah.

24 Q It was before.

25 A I was not there for sure.

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1 Q Okay. All right.
2 A I haven't been to any of them, but I was just trying to
3 think when it might have been, chronologically.
4 Q Okay. So, on January the 9th, this is when one of the
5 -- well, the neighborhood meeting that's --
6 A Right.
7 Q -- required by the process --
8 A Right.
9 Q -- took place.
10 A Right.
11 Q Did you go to that meeting?
12 A Uh-uh.
13 Q No?
14 A Uh-uh. No. I'm sorry.
15 Q No, that's all right.
16 A That was a no.
17 Q And again, I'm going to show you something that'll
18 refresh your memory. But do you remember who, for you,
19 went?
20 A It would have been J.D. or Jay or somebody like that.
21 Q Okay.
22 A Somebody from that office.
23 Q All right. Did they report back to you?
24 A I don't have any real recollection of much of anything
25 there.

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1 Q All right. Again, I'm not going to sneak up on you.
2 Someone gave you the report.

3 A My comments would be kind of, as far as my recollection
4 goes, would be like blended, so it's sort of a this is
5 what I remember happening. What happened on that day
6 versus the next day, I can only really talk about the
7 end result.

8 Q Okay. All right. Well, I'm just going to put a couple
9 of things in the record.

10 A Okay.

11 Q And I've taken into account that you probably weren't
12 there.

13 A Right.

14 Q But as I show you a couple of these things --

15 A Right.

16 Q -- if you do remember something significant --

17 A I will. I'll tell you.

18 Q All right. So let's see where I'm going to go. First
19 -- why don't I do this? Why don't I hand you that
20 first, because that'll keep you -- I'll show you what's
21 been marked as Exhibit 4. And what that is appears to
22 be the sign-in sheet for the January 9, 2019, meeting.

23 A Right.

24 Q And --

25 A At the planning commission?

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1 Q This was a public meeting at the Augusta Road Library.

2 A Well, that would have probably been Jay.

3 Q Yeah. In fact, it's on there. Representative holding
4 the meeting, Jay Martin.

5 A Right.

6 Q Okay. And you weren't there, so I'm not going to spend
7 any more time --

8 A Is this before or after the planning commission?

9 Q This is before.

10 A Yeah, you have to have a certain number of meetings,
11 and he went to the meetings, and so --

12 Q That's right. That's one of those meetings.

13 A Yeah, so he would have had some -- you know, and I
14 think -- you remember the old show Get Smart?

15 Q I do.

16 A Would you believe, Chief? Would you believe we want
17 that to be a tree, heritage tree. All right. Would
18 you believe we really want it to be four lots instead
19 of five lots. Okay. Would you believe we really want
20 it to be two lots, not five lots. I mean, I think what
21 happened here is we went to the meeting, heard about
22 the tree, made every effort to compromise with what was
23 being said, and thought we had done -- taking our licks
24 that we needed to take to get, you know -- because, you
25 know, here's the other thing. I know that some people

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1 think I'm terrible, but, you know, I had every right to
2 go onto that property and cut every single tree down as
3 the house. Okay? I didn't figure that would win me
4 any friends. The only one I wanted to cut down was the
5 magnolia, by the way. But I just said, look, if it's
6 so important to the neighborhood, you know, it's clear
7 -- you know, this tree, then we'll figure out a way to
8 keep it. And that was kind of, probably, these early
9 on meetings before the final final. That was probably
10 the gist of what we came away with.

11 Q Ultimately -- let me venture this guess.

12 A Yeah.

13 Q Correct me if you disagree. Ultimately, what it
14 appears to come down to is the number of lots that were
15 going to be developed. You and your folks had your
16 concept; various neighbors in the neighborhood felt the
17 number of lots that should be developed wasn't going to
18 work.

19 A Well, I think anytime you have a situation like that,
20 there's lots of opinions. There is, fortunately, the
21 law, and the law is the ordinance, and the ordinance is
22 what we were addressing, not people's opinion.

23 Q Okay. But --

24 A So, yes, were there people that thought nothing should
25 be done there? Yes. Were there people that thought

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1 these number of lots would be good, or that number of
2 lots? Yes. The ordinance -- as we negotiated with the
3 City to comply with, and then we presented it, was met.

4 Q Okay.

5 A You know...

6 Q I'm going to show you Exhibit 3. And I'm taking into
7 account what you've said.

8 A Right.

9 Q But I want to put these into the record.

10 A That's fine.

11 Q Exhibit 3 is a petition, I think is what they describe
12 it, of a number of neighbors. They dated it January
13 the 2nd, so this would have been submitted before the
14 neighborhood meeting on January the 9th.

15 A Right.

16 Q And I will agree with you that most, if not all, of the
17 things that you have raised during your testimony --

18 A Right.

19 Q -- are laid out --

20 A You want me to hold on to this?

21 Q -- in this petition. I don't think you need to. It
22 just -- I just want to put that in the record. That's
23 something that is in the -- it's in the record on
24 appeal of the -- your appeal of the planning commission
25 decision.

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1 A Uh-huh.
2 Q So that's where I get all this stuff from. But the
3 petition, which is signed by a number of neighbors --
4 A Right
5 Q -- I'll represent to you, basically, followed the same
6 track that you told me --
7 A Right.
8 Q -- that you were getting from them.
9 A Right.
10 Q Okay. And then I'll be showing you now Exhibit 5,
11 which I want to make sure I'm right about this. This
12 is a summary of a meeting that was prepared by Austin
13 Allen. Do you know Austin Allen?
14 A Yeah.
15 Q Okay. All right. Is he associated with Jay Martin?
16 A Uh-huh.
17 Q Okay. Yes?
18 A He is. Yeah, sorry.
19 Q No, that's okay.
20 A Yeah, he is. I don't know if he's still there or not.
21 I'm trying to remember.
22 Q And that's okay.
23 A I want to say that he is, but I may be wrong about
24 that. He's sort of like you've got your point guys,
25 right, like Jay or some of these guys, and then they've

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1 got the young guys that do a lot of the drafting and
2 whatever.

3 Q I'll just tell you that I think that he was kind of the
4 recorder --

5 A Right.

6 Q -- for Jay during the community meeting in January 9,
7 2019. Because this tracks what he was picking up about
8 various questions and concerns that were posed by
9 neighbors at that meeting. And he summarizes the
10 concerns on the last page of that. I think it's the
11 last -- next to the last page. And I'm just showing
12 that to you to kind of follow up with the question I
13 posed or the statement I made about lot numbers. On
14 the page that says concerns stated, I'm kind of
15 pointing it at you. I want to make sure you're looking
16 at it.

17 A Which one is it?

18 Q Is that the one? That's the -- that's it. That's it.
19 Again, I think most, if not all, of the things that
20 you've brought up about what you remember the concerns
21 being seem to be on here, and there are a few more.
22 But it's that last one that kind of is consistent with
23 what I was asking a few minutes ago. Number of lots --

24 A Right.

25 Q Number of lots was becoming a big deal, if it wasn't

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1 already a big deal, in the eyes of some of these
2 neighbors.

3 A I understand.

4 Q Okay.

5 A I stand by my previous statements.

6 Q Oh, I understand. Oh, believe me, I'm not trying to
7 change your mind during this deposition.

8 A Including the Get Smart reference. Eight, you know,
9 then it was seven, then it was six, then it was five.
10 You know, they actually asked me in the middle of the
11 meeting at the planning commission if I would consider
12 five lots instead of six, and they might vote a
13 different way, which, you know, you're not supposed to
14 do. You're not supposed to negotiate the zoning in the
15 middle of the planning commission meeting.

16 Q I see. But they --

17 A In an effort to be helpful, I might add. I'm not
18 saying it was malicious. I'm just saying -- but it's
19 the whole thing. It was always whatever -- since I --
20 my takeaway, it was whatever I was willing to agree to,
21 they weren't going to have any of it. I call that
22 Groucho Marx technique of negotiating, you know. I
23 would never belong to a club that would have me as a
24 member.

25 Q Off the record for a minute.

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1 (OFF THE RECORD)

2 BY MR. PRICE:

3 Q So --

4 A So I would just say, going back to that --

5 Q Yeah.

6 A I mean, you know, that's why you have an ordinance. I
7 mean, to me. You have a minimum. You do what we've
8 done. Not everybody's going to like it. Everybody's
9 got an opinion. Let me just ask you. Everybody always
10 -- it's the same stuff every time you go. It's not
11 anything new. This is not like a great bunch of ideas
12 just for McDaniel. This is everywhere; right? My
13 property values are going to go down. In Greenville,
14 South Carolina, when is the last time something went
15 backwards besides '08? You know, everything has just
16 gone up. These values of these lots are worth -- if
17 they had been developed, is worth way more than that
18 appraisal, and would have sold way quicker. It's just
19 everything went up. Nothing's -- the perception of the
20 public of what creates value or doesn't create value in
21 real estate is generally -- they overlap a little bit,
22 but it's not too much. The idea of what to do is not
23 really what creates value, you know. And I don't
24 create demand. Demand is created by the public, the
25 location, so on and so forth. All I do is accommodate

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1 demand. And there's plenty of houses on that street
2 whose lot sizes are comparable to these. Yes, some of
3 these are the minimum and some are bigger, but they all
4 comply with the ordinance. And it was negotiated to
5 there, so, I mean, where do you ever quit negotiating?
6 There's a point in the negotiation you just have to
7 stop; right? I mean, it's not that I'm insensitive to
8 people's demands, but it's like you search for middle
9 ground, and I think that's what we did when we worked
10 with the planning staff. And all these comments to
11 come up with that plat represents --
12 Q When do you believe that your position became final?
13 A Final?
14 Q Yeah.
15 A What do you mean, position?
16 Q Well, I'm kind of following up on what you just said.
17 I didn't say it exactly the way that you did, but --
18 well, let me strike that question. We'll move on
19 because I think it's going to come out again in a
20 different way.
21 A Right. That's fine.
22 Q Because we're -- we've had our neighborhood meeting,
23 and the planning commission's meeting was on January
24 the 17th.
25 A Uh-huh.

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1 Q Right?

2 A I guess.

3 Q Yeah. Jay Martin was there at the commission meeting;

4 correct?

5 A Yeah, I was there, too.

6 Q Right.

7 A So was Jay.

8 Q Yeah.

9 A I mean, J.D.

10 Q Who was the presenter for y'all?

11 A J.D.

12 Q All right. J.D. was the presenter, and there must have

13 been a lot of neighbors who were actually there at the

14 meeting. Am I right?

15 A Yeah.

16 Q Okay. And I mean, there's a transcript of the hearing,

17 so we don't need to go through the A to Z about that.

18 A Right.

19 Q But I do want to put a couple of things into the record

20 that come from that meeting, and then get you to talk

21 with me about what happened there.

22 A Okay.

23 Q And I do want to revisit this five-lot issue. So there

24 were several neighbors came and spoke.

25 A Right.

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1 Q And a number of neighbors had submitted written things,
2 and I'm not going to put them all in the record, but
3 I've just gotten some representative ones.

4 A Right.

5 Q So we'll start with Exhibit 6, which came from John
6 Lind.

7 A Right.

8 Q So that's one of the guys that was clearly, clearly
9 stating his position, both at the neighborhood meeting
10 and here in advance of and at the planning commission
11 meeting.

12 A Uh-huh.

13 Q So John is one of those people.

14 A So John is a person that wanted me to sell him a strip
15 of land. Did not want to buy a lot and thought the
16 strip of land was overpriced. And, so, John's idea is
17 to write a letter saying that I should do all the
18 things he wanted, and he not pay any money.

19 Q He --

20 A So it could be 14 pages long with diagrams. It's the
21 same thing. I want to buy a piece of land to protect
22 me for this much money, and I don't want to pay any
23 more than that, even though it reduces the number of
24 lots you have and the potential money you might make.

25 Q All right. I'm going to show you Exhibit 7. This is,

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1 again, just a representative --

2 A Right.

3 Q -- example. This one came from a Bill Taylor. I don't
4 know that Mr. Taylor actually spoke at the hearing, but
5 he had submitted a letter in opposition to your plan
6 prior to. And that's a copy of that, and I'm seeing a
7 theme here where people are expressing a desire that
8 your project be confined to two to three lots.

9 A Right, because it's the next thing down the list from,
10 you know, starting at eight, nine, and going on down
11 the list. It's just -- you know, if you'd asked me, I
12 would almost say that I think the tree thing was a
13 diversion. You know, would you go away if we make you
14 keep the tree. Would you -- you know, it just went on
15 and on and on, and what the City does, by the way,
16 which is not the first time -- so when we did Augusta
17 Road, I had opposition, and Nancy worked with us, was
18 great, you know. Nancy -- so we were going to do this
19 PD and this Augusta Road coalition was against me
20 redeveloping that property. Okay. Well, they came to
21 the meeting. There was some lady, who I'm not sure --
22 didn't live anywhere near there, and she got in there,
23 and I will say she's -- I don't want to pick on her,
24 but, you know, she had the **coalition**. Well, the
25 coalition came to one of my meetings. It was her and

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1 Ms. Cheris who lived next door. And Ms. Cheris wasn't
2 necessarily opposed to it. Just wanted some screening
3 on her property that would screen from a shopping
4 center. So I put some magnolia -- agreed to put some
5 magnolias over there, and the Augusta Road coalition
6 now consisted of one lady who called herself the
7 Augusta Road -- and you know, they made me keep talking
8 to her because she would not go away. And I'm like she
9 doesn't live near here. She's bold-face lied about the
10 house I'm getting ready to tear down and having
11 handicapped people in it, where it was a drug halfway
12 house, and the neighbors were begging me to tear it
13 down. All the people around there were saying, yeah,
14 get rid of it. We don't want that right there because
15 they were stealing. They were stealing. You could
16 probably find crime reports on that. And so I had to
17 deal with this one lady. Well, you know, what if you
18 take the same logic there to McDaniel. I would be
19 dealing with the last person that had an objection to
20 what I'm doing. We're not sitting here talking about
21 eight lots because I already agreed to do six. We're
22 not talking about five because I wanted to do six.
23 We're not talking about four because I hadn't agreed to
24 do five. But it just was going to keep going down the
25 list of people, and at some point in time, there's a -

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1 you ought to have some ability, within reason, you
2 know, and I've shown the ability to make
3 accommodations. If I wanted to have no accommodation,
4 I would just go in there and cut everything down before
5 it went to planning commission, and then I would go to
6 the planning commission with no trees and Mr. Lind
7 wouldn't have to worry about the trees on the property
8 line because, if they were on my property, they'd be
9 down. And so on and so forth. But I was trying not to
10 do that, and I was trying to leave as many trees as
11 possible. Now, clearly, when somebody builds a house,
12 trees are going to come down, but I understand that,
13 but they have to plant trees back, you know. So, I
14 mean, I understand what you're saying, and I understand
15 their concerns, but at the same time, there's a point
16 where there is a law, there's an ordinance, and it
17 ought to be able to do what you want to do on your
18 property within the law without having to appease
19 everybody that lives out there, because otherwise, we'd
20 never get anywhere. You're just never going to appeal
21 to everybody, you know; so...

22 Q I understand.

23 A That is, basically, I guess you can say I got to a
24 point where I felt like, numerically -- financially,
25 that I had given everything that I could give. And at

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1 this point in time, we needed to fish or cut bait.

2 Q Okay. I appreciate that.

3 All right. So I'm getting close to the end.

4 A All right. Super. Are we done with this one?

5 Q Yeah, we're done with that one.

6 A Okay.

7 Q Here's Exhibit 8, which is just another example of
8 comments that were sent in advance. This by a resident
9 named Tom Snider. And he's talking about lot widths on
10 the street and his assessment of --

11 A Right.

12 Q -- the difference between your proposal and what he had
13 observed. And then I'm going to -- I'll just give you
14 9, 10, and 11 at the same time.

15 Q What these three exhibits are, are portions of the
16 transcript of the hearing and comments made, less than
17 a page each, I think, of three of the neighbors. One
18 was, again, Mr. Lind. That was number 9, and then
19 Exhibit 10 was Mr. Snider, and Exhibit 11 is Mr.
20 Outten.

21 A Right.

22 Q Who stated their position and their point of view
23 before the board.

24 A Right.

25 Q Of course, you -- now I realize that you were actually

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1 there.

2 A Right.

3 Q I couldn't tell by looking at the transcript.

4 A No, I was there.

5 Q Okay.

6 A Yeah, I didn't speak.

7 Q Okay. But your team spoke and were addressing the
8 comments made by council members --

9 A Right.

10 Q -- as you've been talking to us about.

11 A Right.

12 Q So I didn't see where your voice is actually recorded
13 in the hearing. It doesn't matter --

14 A Yeah.

15 Q -- because I did see in the hearing transcript -- I
16 can't remember who the commissioner was, but they threw
17 out this idea, and I wanted to talk to you about it
18 before I knew you were actually there to make sure I
19 was understanding it correctly.

20 A Uh-huh.

21 Q But one of the commissioners, after taking in all this
22 stuff, your presentation through Mr. Martin, the
23 neighborhood comments in opposition, and generally
24 saying, hey, give us two to three lots, here comes from
25 the table, so to speak, one of the commissioners says,

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1 in essence, what about five lots.

2 A Right.

3 Q And I believe it was Mr. Martin on your behalf, and I
4 can't -- you can't tell from the transcript, so I'll
5 just -- it appears that he just said, no, we've gone as
6 far as we can go.

7 A Right.

8 Q And that was your position there; correct?

9 A Right. It's just -- first of all, again, my position
10 is there's an ordinance, and that's the law. Some
11 people don't like the law, and that doesn't make it any
12 less the law. And the planning commission, they need
13 to make decisions based on the law, the ordinance, and
14 not based on who may or may not be on the Christmas
15 card list come next December. I mean, that's what
16 they're there for. Unfortunately, in my -- you know, I
17 believe they've gotten out of the purview of managing
18 the planning staff to make sure that it's not being
19 unduly swayed to becoming the unduly swayed.

20 Q You're talking about the commission itself?

21 A Yeah, the planning commission. So they're supposed to
22 be seeing that they're not unduly swayed, which I think
23 is what this -- our proposal, our submission was unduly
24 swayed. In other words, we took all the comments, we
25 worked with the planning staff, and we said, all right,

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1 nobody's going to be totally happy with this, but what
2 could we do to hit the major comments. And that's what
3 we did, and then they should, in my opinion, have
4 approved it.

5 Q Okay.

6 A And the fact that they may be appeasing some people in
7 the crowd by suggesting a lower lot number or not
8 approving it shouldn't have anything to do with their
9 charge to see if we were abiding by the ordinance. To
10 me, that's what we're there to talk about.

11 Q I understand your position.

12 A And that's, you know --

13 Q So the planning commission took a vote.

14 A Right.

15 Q You were there. A motion to approve the preliminary
16 plat. It was voted down, unanimously --

17 A Right.

18 Q -- verbally, by the commission.

19 A Right.

20 Q Then, after that, a written confirmation of the
21 decision was issued and received by y'all.

22 A Right.

23 Q Then y'all filed -- and it's legal stuff, but you filed
24 a Notice of Appeal --

25 A Uh-huh.

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1 Q -- to the circuit court.

2 A Is that what we did?

3 MR. BURKE: Yeah.

4 BY MR. PRICE:

5 Q Yeah. I sort of thought that's where you were with
6 this, and I'm not going to talk to you about the
7 position you took in that.

8 A Right.

9 Q But I'm just trying to fill in the gaps with the
10 chronology. The circuit court eventually issued an
11 order affirming the decision of the planning
12 commission.

13 A Uh-huh.

14 Q And after that, this suit is filed.

15 A When did we mediate? After that? After all that?

16 Q Oh, good question. I think you mediated between the
17 time that the Notice of Appeal was filed and the
18 decision of the court --

19 A Right.

20 Q -- came down.

21 A And they elected to include the most adamant against it
22 people in the mediation.

23 Q Oh, at the mediation.

24 A And they were never going to agree to anything. The
25 City, in fairness, was trying to figure out something.

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1 I even offered the City, I said, look, y'all just do
2 this. I'll -- and I don't think I had sold the
3 property at that point in time when we were mediating.
4 I know I had -- I had just swapped.

5 MR. BURKE: Hold on one second. I'm just going to
6 reserve an objection to anything -- he can tell you
7 about it.

8 MR. PRICE: Oh, wait. That went right over my
9 head. So let me -- I'll do it for you.

10 MR. BURKE: Okay.

11 THE WITNESS: Well, if you're going to object to
12 it, I won't talk about it.

13 BY MR. PRICE:

14 Q Wait, wait, wait. You don't need to be telling me
15 about any communications you had with your lawyers.
16 I'm not entitled to know that.

17 MR. BURKE: Sorry, I'm going into -- and I don't
18 mind him testifying about it, but he's about to testify
19 about settlement offers that were made at mediation,
20 and so I just want to make sure it's on the record that
21 I'm going to object to any of that being used at trial.

22 THE WITNESS: Well, I won't talk about it.

23 MR. BURKE: If it, you know --

24 MR. PRICE: No, I understand.

25 MR. BURKE: Okay.

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1 MR. PRICE: I understand.

2 THE WITNESS: All right. Well, I won't talk about
3 mediation on the advice of counsel.

4 BY MR. PRICE:

5 Q Yeah, let's --

6 A Let's just stop.

7 Q Let's stay away from that.

8 A Let's stay away from anything so we don't get in
9 trouble. See, I haven't got his blood pressure up the
10 entire time, I don't think.

11 Q No, he's looked pretty calm and collected.

12 A So, but before you ask me that -- I'm going to go get
13 rid of some water.

14 Q All right. And we are about done.

15 A Are we?

16 Q Yeah.

17 A I'll be right back.

18 Q No, I'll wait.

19 (OFF THE RECORD)

20 BY MR. PRICE:

21 Q All right. Let's see. And I'm not going to go through
22 all the paperwork, but it appears that y'all were
23 offered an opportunity to sell this property on several
24 occasions. I'll refresh your memory. Don't worry.
25 And I'm using Answers to the Interrogatories. So I'll

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1 give you dates and numbers. One was made in August of
2 2018 by Ron Rallis.

3 A That's it.

4 Q Yeah. So he -- but he offered to buy it for \$1.73
5 million.

6 A Yeah.

7 Q Now, this is August of 2018, so --

8 A Right.

9 Q -- if I understand my chronology, this is fairly early
10 on.

11 A Right.

12 Q This was right after y'all bought it?

13 A Before we bought it.

14 Q Okay. Before you bought it. Okay. And of course, I
15 mean, you had a plan, and you weren't interested in
16 dealing with that at that time?

17 A Well, there's offers and there's offers.

18 Q Okay.

19 A So, if you think that the person will actually do the
20 offer, it carries more credibility than those that you
21 think might not be able to actually do the offer.

22 Q Enough said. But one of the other offers was from a
23 group called Terranova.

24 A What's the word you want to use? Bonafide.

25 Q Yeah. And then this was into July of 2019.

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1 A Yeah.

2 Q So this is in the summer after the planning commission
3 had issued its ruling.

4 A Right.

5 Q Now, they're approaching you for a lower amount than
6 Rallis did, but they apparently were offering to
7 purchase the property for 1.65 million.

8 A They may have, yeah.

9 Q Were there any serious negotiations back and forth
10 between you and Terranova?

11 A No.

12 Q Okay.

13 A Not really. It all looks like this. So you've had
14 kids or watched anything, you know, you always lead
15 with your best thing; right? We'll buy it for
16 whatever; right? Then it's the other stuff that's, you
17 know, usually less appealing. So I think they all
18 wanted to have their plan approved prior to closing.

19 Q Okay.

20 A So they weren't any different than me buying it. If I
21 had the plan approved, well, I would in no way take
22 that offer. In other words, if you could get my plan
23 approved, you know, which it pre-dates the plan; right?
24 But if you can get my plan approved, well, why in the
25 heck would I sell it? I mean, so what about -- you

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1 going to give me an option? You give me an option on
2 it? Essentially, that's what it is. It's an option.
3 And it says when you've got all of the hard stuff done,
4 we'll buy it for a cheap price. I mean, that's what it
5 might as well say. I mean, you know, we offered to
6 sell it to them for more than those offers, and then
7 they could just get it done themselves, but none of
8 them were in that kind of -- when you got down to the
9 nuts and bolts of the thing, nobody was offering to buy
10 it as is.

11 Q What price were you communicating, understanding this
12 would be a negotiation --

13 A Right.

14 Q -- but what price were you communicating to potential
15 purchasers after the planning commission decision?

16 A I don't know. I don't remember. It was above \$2
17 million.

18 Q Okay.

19 A But it was a non -- I never agreed to sell it to
20 anybody for any amount of money contingent upon
21 approval. It was all like if you want to give me
22 enough money right now without me doing anything at
23 all, including going and getting my plat approved,
24 then, yeah, there's a number I'll sell it at. But it's
25 not -- that number never coincided to the number that

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1 they would offer, you know, with no approval.

2 Q Okay.

3 A It was always like people trying to get control of the
4 property to try to get it approved. In other words, it
5 was never I'm going to buy it, and here's a check, and
6 we'll close Thursday. It was always contingent on
7 having some kind of plan approved. So, in other words,
8 they're just -- like I used to buy apartment complexes
9 for U.S. Shelter. And so my youth, 25 or '6 years old,
10 I was the acquisitions director for the Midwest, so I
11 used to call that technique leg whipping. I'd see
12 something I wanted, and I'd make them an offer just to
13 get them -- on an LOI, just because I thought it would
14 probably work, but I didn't know if it would work. And
15 it would basically get you to start talking to me so I
16 can see if it works, and then, you know, whether we get
17 the contract or not. But that's what those are. Those
18 are just fired out there, get control, and try to get
19 it approved, and that's a leg whip, in my opinion.
20 It's not a -- so, you know, sometimes I don't really
21 think, you know, they always had the ability to close,
22 and number two, I don't think some of those other guys
23 are actually able to buy it without getting it
24 approved. So it's just -- you're just giving people
25 options. You're just exchanging my place and saying

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1 heads you win and tails I lose; right? I mean, it's
2 just -- if it works, you pay me less than I could have
3 gotten, and if it doesn't work, you don't buy it.

4 That's what those offers are.

5 Q Well, third offer that are in your answers is from
6 Stillwater in October of 2019.

7 A Is that a builder?

8 Q I'm not sure. They're offering to buy it for \$1.85
9 million.

10 A Yeah.

11 Q Which I assume you did not --

12 A We didn't take that deal. None of those were, I don't
13 think, our asking price.

14 Q Okay.

15 A I don't remember. But as we all know, sitting here,
16 there's a gigantic difference between it being approved
17 and platted and what it's worth sitting there like it
18 is. I mean, that's the very nature of land
19 development, is to do something or subdivide something.
20 And now, granted, there's very little that needs to
21 actually happen to these spots; right. I mean, you
22 know, because it's already got street frontage. But
23 there were some sewer lines that needed to put in, some
24 sewer taps, and you had to do the whole storm water
25 thing, and there was some boring, you know, under the

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1 tree roots with some of these pipes and things like
2 that. So there's some money to be spent. I think
3 that's probably in our budget that we have attached
4 there somewhere.

5 Q Yeah, I'll show you that in just a minute.

6 A Right. So, yeah, there was something to be done. Was
7 it profitable? Yeah, it was profitable. We try to
8 generally focus on profitable developments. And, you
9 know, it's just what you do. That's what you do when
10 you do things like that.

11 Q Let me go back just for a moment to the planning
12 commission decision and then your appeal of the
13 decision.

14 A Right.

15 Q Did you ever consider reworking the plan and
16 resubmitting it --

17 A I'll tell you --

18 Q -- taking into account what you saw at the hearing?

19 A I'll tell you exactly why I didn't do that. Jay Martin
20 came to me, and he said the City -- and I'm
21 paraphrasing. You might have to ask Jay this, and he
22 might say, Mark, you totally misunderstood what I was
23 saying. But my recollection of what he told me was I
24 don't think you could get four lots right now with the
25 way they've rewritten the ordinance over this whole

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1 thing. You're not going back in under the same
2 ordinance. They've got into overdrive to -- you know,
3 unfortunately, a lot of laws, there's a situation that
4 comes up. Right? People get upset, and we go there
5 ought to be a law. And then they write it into an
6 ordinance. And then you are so handcuffed that you
7 can't do anything without this appeasing all these
8 disparate entities. In other words, there ceases to be
9 a defined ordinance. It becomes a series of
10 overlapping laws and things that just get interpreted,
11 and unfortunately, they get interpreted by people at
12 the staff level. And they've got a lot of turnover on
13 staff. Like this thing I mentioned to you on Augusta
14 Road. I don't think there's two people at the City --
15 and I don't know when I signed that development
16 agreement. Probably right before the City -- new fire
17 station started down there on Faris. But I don't think
18 there's anybody but Mary Douglas Hirsch and Tracy
19 Ramseur that even are still at the City from when that
20 was written. And so, I'm dealing with people that
21 don't even know there's a development agreement, you
22 know, maybe don't know it's in a PD, maybe they don't
23 know what a PD is. You know, maybe they -- you know, I
24 don't know how you have PD, which is the ordinance, and
25 then you have all these other ordinances, and you can

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1 just say, oh, well, we're going to attach ordinances to
2 -- in other words, to me, you've either got the
3 ordinance or you've got a PD. You don't have both, and
4 you certainly don't get to pick and choose. I mean,
5 what if it went the other way? What if I got to say I
6 know this is the ordinance, but because I'm in a PD,
7 I'm going to do this other thing that doesn't conform
8 with anything just because it's a PD. Well, they'd go,
9 well, you can't do that, and I'd go, no, I shouldn't be
10 able to, but you shouldn't be able to have a PD and
11 then start pulling out ordinances that you're supposed
12 to be superseding and then deciding some of them need
13 to go be attached to it just because somebody called up
14 and complained. And so I just think it's -- so anyway,
15 what I think they went on is an ordinance-writing fury.
16 I have not tried to see if they did this or not, but
17 Jay said you couldn't even get -- what they offered you
18 at the planning commission, you couldn't be assured of
19 doing, should you go back through, because they have
20 rewritten the ordinances to make it even more whatever
21 you want to call it. More hoops, more approval rating.
22 You know, it's just -- you know. So he just said you
23 can't even think about doing that because you aren't
24 going to get it. That's what Jay told me.
25 Q Okay. So Exhibit 13 is --

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1 A Well, let me rephrase that last part just because I
2 like to be complete.
3 Q No, this is your -- sure. This is your --
4 A That's what I understood him to tell me.
5 Q Okay. Fair enough.
6 A I believe that's what he was trying to communicate to
7 me. He may have a different opinion --
8 Q Okay.
9 A -- but I believe that's what he said.
10 Q So Exhibit 13 is the deed --
11 A Right.
12 Q -- from McDaniel Jones to the McBrides.
13 A Right.
14 Q So you sold it to the McBrides for \$1.4 million.
15 A Right.
16 Q Tell me how you arrived and decided to sell the
17 property to them for, if I'm remembering right, \$30,000
18 less than you bought it for.
19 A Well, I think that was in the middle of Covid, number
20 one. When did I sell it to them? I don't remember.
21 Q It was --
22 A Do I remember that right?
23 Q It was October 1, 2020.
24 A Yeah, Covid, so...
25 Q Explain.

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1 A Well, probably, that was the very beginning of the
2 rebound. So, you know, flashback 2020, you know, you
3 only remember what's happened; right? So you tend to
4 put out of your head things that were negative; right?
5 You know, it ultimately didn't happen.

6 So 2020, we had the shutdown, April; right? And
7 then we -- you know, you had PPP money. You had people
8 staying home. You had the whole shutdown thing; right?
9 And so you're out here with all this stuff going on,
10 projects or whatever. And we just -- you know,
11 everybody was staying home. So the preparation was for
12 who knows what; right? And so, probably, when I sold
13 that to him, it probably was right at the beginning of
14 the market starting to pick back up. And like,
15 probably, if I had known that the market was going to
16 go like it went, I would have gotten a lot more money
17 for it, you know, four months later, probably. So it
18 was like I had a deal. It wasn't working. We were
19 going to appeal, and so it was probably after that, I
20 had the information from Jay that you can send that
21 thing back through and expect to get, you know, who
22 knows how many lots you could get. But it wasn't going
23 to be five to six. It was going to be, like, maybe
24 worse than that. And so, you know, there's a guy who
25 will buy it, you know, and it costs you something to

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1 carry it, which is just adding up, you know. And so
2 it's just sort of like, well, let's just sell it to him
3 and move on.

4 Q Okay. Did you know the McBrides?

5 A I had never met him until then.

6 Q Okay.

7 A So he had called -- yeah, we had people. You talk
8 about offers -- you know, we had -- I thought you --
9 you know, I kind of had forgotten about those -- and
10 those were LOIs, by the way. I never got a contract
11 from anybody. But I'd get people on McDaniel, they'd
12 call me and ask me if I'd take \$2 million for it or,
13 you know, something like that, and I said no, or I
14 said, you know, you're free to make me an offer. Or
15 they want to pay me what I bought it for, something
16 like that. You know, it's just sort of conversations.

17 Q Right.

18 A So I don't remember exactly. I think he was
19 represented by Joan Herlong, and I think she probably
20 called, and he looked at it. He had a realtor, so
21 that's how I got him.

22 Q I see. Who, in the neighborhood, offered you \$2
23 million for it?

24 A I don't remember the guy's name. Weston might
25 remember.

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1 Q Did you do any -- what's the phrase, due diligence.
2 Did you do anything to --

3 A No, I mean, you know, when you do this for a living,
4 you know, you're kind of -- you have certain -- like
5 people go, and they go, well, I'll give you this much
6 for this house if you're selling a house. I don't care
7 what you say. You need to write it down on a contract.
8 Then we can talk about if you did this, would I do
9 that. I mean, generally, you say -- you know, you've
10 got to have a little bit of conversation, but it's sort
11 of like we're just having a conversation about stuff;
12 right. Would you add this? Would you do that? I
13 mean, it's not written down. It's not a real offer. I
14 mean, even an LOI, which those others were, letter of
15 intent, they at least have outlined the terms of the
16 deal; right? But I didn't have any written offers
17 other than those LOIs, and of course the McBride offer;
18 right? I mean, ultimately.

19 Q Right.

20 A Yeah.

21 Q Okay. What's your understanding of what are the
22 McBrides going to do with that property?

23 A He's building his personal house there. So he sold a
24 -- man, he had a house he had -- Joan Herlong had on
25 the market. It's since sold. I think it was on the

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1 market for \$14 million off of Scuffletown Road.

2 Q Did he sell it?

3 A He sold it, but he didn't sell it for 14 million. And
4 then he wanted to move in closer to town. And so he
5 wanted a piece of land, and so there's very few
6 acreage, you know, sites, and that's what he wanted,
7 so. I don't know, is the house finished? I don't even
8 know.

9 Q Last time I drove by there, it was not.

10 A Okay. So I don't know.

11 Q Okay. Last thing I want to talk about is what you're
12 asking for, financially, in the lawsuit.

13 A Uh-huh.

14 Q Now, in the course of discovery, we've received some
15 documents, proformas --

16 A Right.

17 Q -- and explanations, and before I hear an objection, I
18 will acknowledge that at least one of the exhibits I'm
19 about to give you talks about settlement negotiations,
20 so I recognize that. And the reason I'm saying that is
21 settlement negotiations, in a case like this, aren't
22 something that the jury finds out about.

23 A Uh-huh.

24 Q It's just, you know, y'all --

25 A Right.

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1 Q -- were talking with the City.

2 A Right.

3 Q But what I want to know, I guess, is the basis for your
4 proformas.

5 A Okay.

6 Q And then, also, if your position about what you believe
7 your losses are is different, significantly different,
8 from what these things say, tell me, as best you can,
9 how they are different.

10 A Well --

11 Q Well, let me show it to you first.

12 A Okay. You can show it to me.

13 Q Well, go ahead. I'm sorry. You tell me,
14 preliminarily, and then I'll --

15 A I don't even know that the -- what the final dollar
16 amount was, but I can tell you how we got there.

17 Q Okay.

18 A So I'm a finance guy. So, you know, I just had this
19 conversation this morning with somebody that works for
20 me. I said, you know, finance and budgets, you know,
21 are roadmaps; right? So, if it costs this much to
22 develop it, and you think you can get this income
23 stream, once you pull the trigger, you know, you are
24 trying to keep your costs down and make sure you get at
25 least your income; right? And that gets into

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1 underwriting. And so what you have is a profit
2 potential that you hope to realize during the course of
3 your proforma, and your underwriting is, you know, what
4 you kind of hang your hat on from experience; right?
5 You just say it's likely that I will sell these lots at
6 this price, based on some scenarios. Primarily, we're
7 pulling comps off that aforementioned project down
8 there by Cleveland Park, whatever it's called,
9 Sutherland, Suther- -- I don't remember what it's
10 called. But anyway, those comps are in the appraisal.
11 So anyway, what we do is we have your best case. So
12 you should always know how much money you're going to
13 make on your base best, you know, your normal scenario;
14 right? So you put in so many sales a month. You've
15 got the carrying cost. You've got to pay taxes,
16 insurances, and interest, and you run that out and
17 there's what you can make; right? And there's a time
18 frame with that, and so, that's costs associated with
19 it. So what I do feel like is that, given what
20 happened after the pandemic, that our values for those
21 lots are probably low. You know, as I said to McBride,
22 if I'd known what was going to happen, I would have
23 waited, and I probably would have made more -- you
24 know, had more buyers and made more money for that
25 property. But so what we did is we had a couple of

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1 things. Number one, we sold the property at a loss, so
2 we had X amount of dollars in it, and we had -- didn't
3 even break even, and we sold it at a loss. So what we
4 do with all our different LLCs is we keep a list of
5 internal rates returned to the equity in a deal. Okay.
6 So, if I've got outside equity, it's just what they
7 made. So, if you were like in a warehouse deal with me
8 or something like that, I would keep track of what that
9 investor made. If it's just me in it, then I keep
10 track of what I made on my equity; right? And so a
11 fairly conservative IRR, internal rate of return, for
12 us is like 22 percent. Okay? Historically, over 15 or
13 18 projects that we keep all this information, because
14 we like to see how well did we do, based on what we
15 thought we were going to do. And what are we doing
16 with our money and what's our opportunity cost? So
17 what you really get into in this thing is the first
18 thing is what could we have made, and then what did we
19 lose? So we lost 300 and something thousand dollars,
20 so if I'd just gotten that back, I could be making 22
21 percent on it. I could have just stuck it in a
22 project. Now, I think what she did was used 14 and a
23 half, and I think that was because of -- oh, she took
24 taxes out.

25 Q Who prepared these?

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1 MR. BURKE: I'm not sure which one you're talking
2 about. Can you show it to me?

3 MR. PRICE: Okay.

4 MR. BURKE: Because there are multiple ones;
5 right?

6 MR. PRICE: Right.

7 THE WITNESS: Yeah, the one with the tax return on
8 there was done by Forest, the accounting firm.

9 BY MR. PRICE:

10 Q I don't know if I included that one.

11 A Well, it would be the one that would be in there, I
12 would think.

13 Q Well, let me show you what we've got.

14 A Let's see what we've got --

15 Q Yeah.

16 A -- because there's a couple of different ones.

17 Q All right.

18 A So what happens is you stick all that in there, and you
19 go, all right, you didn't get -- you lost 384,000 or
20 whatever it was dollars, and you're never going to get
21 it back; right? So you're not making -- that money
22 could have gone straight into something and be making
23 money. And then not only that, we were denied the
24 opportunity to try to get all or some portion or more
25 that was on the proforma for the project. You know,

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1 selling the six lots; right? Six, yeah. Selling six
2 lots. So you would have your money back and profit;
3 right? And so we're not reinvesting that profit,
4 either. So we lost money. We don't -- we get a
5 negative return on that; right? Because we don't have
6 it anymore. And we don't have the positive return. We
7 could have put the money, retained earnings back into
8 other projects and had a reasonable chance, as
9 demonstrated over our, you know, history of IRRs of
10 projects of making 22 and a half percent internal rate
11 of return on that money. And so the longer I don't
12 have the money, the more the interest compounds and the
13 damages go up. So that the effective -- I think our
14 argument is I have the loss of the opportunity to make
15 money that was denied; right? To make money, and then
16 I actually have actual loses, and that those -- all of
17 the money I could have made, whether it's more or less
18 of that amount money, and the money I lost all could
19 have been thrown into the machinery of all this Cothran
20 Properties, Cothran Homes, and generated a return that
21 would have been in that ballpark.

22 Q Okay.

23 A And we do have the ability to invest our money fairly
24 quickly, because we have an internal company. It's an
25 LLC called Cothran Capital, and it actually invests in

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1 these LLCs as well, so it's not like if you were to
2 sell a building, you know, you say, oh, I've got to go
3 do an exchange or something like that, and there's a
4 period of time when the money sits idle waiting for the
5 new development; right?

6 In our situation, we have them going all the time.
7 We can just take odds and end pieces of money and put
8 it back into the different projects, you know, as
9 equity to -- and you know, with houses, the turnover's
10 pretty fast. So, you know, cycle time might be -- you
11 know, pre-Covid, it was 150 days. So you could turn
12 your money a couple times in a year, you know, doing
13 houses.

14 Q Okay.

15 A So that's how we came up with the financial
16 calculations.

17 Q Well, let's see if we're talking about the same thing
18 or not.

19 A Okay. It's part of the damage part.

20 Q Yeah, this is Exhibit 15.

21 A Oh, good. You've got it at a good readable size.

22 Q Yeah, I sure couldn't read it. That's why I did that.

23 A We may have it printed out. I know we keep those.

24 Q But I think -- the first thing I want -- let me go
25 ahead and mark or give you 16 as well. Because the

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1 first thing I want to ask is whether I am looking at
2 what you have just described.

3 A Well, this page right here is not. This page right
4 here -- these are just the scenarios, and then this
5 last page -- let me see what this is. No, this is
6 other scenarios. Okay. I think I know what this is.
7 Do you want me to opine?

8 MR. BURKE: Clark, can we go off the record for a
9 second and let me talk to you?

10 MR. PRICE: Yes.

11 (OFF THE RECORD)

12 BY MR. PRICE:

13 Q Okay. We're back on the record. And right now, you
14 are looking at Exhibit 15.

15 A Right.

16 Q So explain to me what Exhibit 15 is.

17 A Well, I think the front page is probably a pretty good
18 idea of that. It's just simply taking an eight-lot
19 scenario, a six-lot scenario, five-lot scenario and a
20 four-lot scenario, and it's showing you what the
21 profitability of each one is.

22 Q Uh-huh.

23 A I mean, it's sort of what all these little tabs are.
24 So, you know, the original scenario, Exhibit A, is
25 eight lots.

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1 Q Okay.

2 A Then you go to the planning staff recommendation, and
3 you see it says two magnolia trees.

4 Q Uh-huh.

5 A Right. So now that's where we went to planning
6 commission.

7 Q Uh-huh.

8 A So you see that the money is -- you know, the gross
9 profit's a million one. The five-lot scenario, it went
10 down to -- I can't read that number. It's lower --

11 Q Let's see. Five-lot scenario.

12 A Have you got those things? Or is that just Kathy's --
13 MR. BURKE: I can try to read it for you. Which
14 one are you looking at?

15 THE WITNESS: That amount right there, C.

16 MR. BURKE: 181692857.

17 THE WITNESS: The yellow number down there looks
18 like 702; right?

19 BY MR. PRICE:

20 Q Yeah, 702,271.

21 A Yeah, so it went from a million one to go to five lots
22 700,000, and then you go down to the four lot, and
23 you've got \$297,000.

24 So, basically, your costs stay the same. There's
25 no savings for having less lots.

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1 Q And why is that?

2 A Because all you're -- you really aren't -- well, let's
3 just say you save a sewer tap. So, if you have a
4 length of sewer line running out of the street, and you
5 want to add additional taps to two or three or whatever
6 it is, three or four lots; right? You've got to run
7 the sewer line. You've got to tear up the street for
8 the whole length of the property. How many taps,
9 laterals, that run out of each lot, you're only saving
10 the lateral. You're not saving the expense in the
11 street. You follow what I'm saying?

12 Q I think so.

13 A So you dig up the street and run the line from one end
14 to the other, well, you have, you know, one tap at this
15 far end and one tap at the lower end, the main expense
16 is the street.

17 Q Okay.

18 A Same thing with the water lines. You're digging up the
19 street. Whether you add one meter or three meters,
20 it's really kind of inconsequential to the overall
21 tearing the street up, and then the City wanted me to
22 pave it back and had to put a new surface coat on the
23 whole street. They wouldn't let you patch it, in other
24 words. So the more lots you have, the more you're
25 **advertising** that over -- you know, a bigger number, so

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1 the profitability goes up. So each one of these
2 scenarios, the profitability gets smaller and smaller,
3 and then it's a small project; right? So you know, you
4 sit there and say, oh, well you can manage. You know,
5 well, five percent of a million dollars is way
6 different than five percent of a hundred million
7 dollars; right? I mean, you could -- you know, it's
8 hard to miss five percent on a big number because you
9 got -- it'd take a massively relevant number to miss
10 it; right? So, if you have smaller projects, what you
11 have to watch out for, what a lot of people get into,
12 oh, I can do this and make a half a million dollars.
13 Well, then your grading guy runs over or, you know,
14 hits rock or does something and next thing you know,
15 you've spent \$250,000. Well, if that was a hundred-lot
16 subdivision, you could amortize that over a lot of lots
17 and not hardly move the price.

18 Q Uh-huh.

19 A When you've only got eight lots, or four lots, or six
20 lots or, you know, then it gets to be your risk is
21 greater. You could end up -- you could end up
22 destroying your profit pretty quickly. Because these
23 are just what ifs; right? Now, some of these costs
24 were actual quotes from people, but that doesn't mean
25 that they -- that's the final number if they hit some

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1 unforeseen circumstance. So I think this sheet right
2 here is just trying to show the impact of each in
3 money. Remember what I talked about earlier about
4 having a pathway; right? So this is what this is.
5 These are scenarios that we went through to say, if you
6 did this, it means this. If you do that, it means
7 that, and, you know, so it just gets down to a point
8 where you can see that, without much effort, I could
9 make no money, and that would -- you know, as we
10 further get towards the appeasement scale. The more I
11 appease, the less money I make, and my expenses don't
12 change.
13 Q All right. So let's kind of go through the assumptions
14 and make sure I understand those.
15 A Okay.
16 Q And what I'm doing, to help me, I'm going to the larger
17 -- yeah. Well, yeah, that one. You're right. We blew
18 those up a little bit.
19 A Five lot, four lot. I think these are the same
20 scenarios, just blown up a little bit.
21 Q Yeah, they are.
22 A Yeah, there's 702 on that one. Yeah.
23 Q All right. So the -- let me make sure I understand the
24 assumptions. I'm looking at original scenario.
25 A That would be the --

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1 Q This is --
2 A You've got two acres.
3 Q Yeah.
4 A You can get eights lots that meet or exceed the minimum
5 criteria, and then what you've got is the values of
6 those lots.
7 Q As determined by your appraiser?
8 A By me. Well, yeah, but the appraisal was -- I think
9 that is the appraisal price.
10 Q Okay. All right.
11 A I mean, I'm not disagreeing with what he came up with.
12 I thought, in some instances, we might have gotten more
13 money than that, but considering the document, you
14 know, it's something you could say here's what I think;
15 right?
16 Q All right.
17 A Sales fees, just what we might have paid outside
18 people. Closing costs, just a plugged number.
19 Q And that gets you to something that we've got here --
20 A Three million eight sixteen.
21 Q And that's net sale proceeds?
22 A Right.
23 Q So what does that mean? You're talking to a political
24 science major. That's why you've got to go slow.
25 A That just means that those top numbers, minus those two

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1 negative numbers, equal that. So that's your retail
2 price of the lot after selling costs with no marketing
3 or anything else in there. It's just a commission paid
4 to an outside broker.

5 Q Okay. Now -- all right.

6 A All right. And then below there, you have purchase
7 price of the lot; right?

8 Q Yeah.

9 A You've got development overhead, which would be kind of
10 a plug number for everybody's time and energy, in terms
11 of staff; right? People in my office.

12 Q Uh-huh.

13 A And then you've got some of these are just actual
14 expenditures; right? So you've got stuff like
15 appraisals, points on loan, legal fees, demolition of
16 the house. That's an estimate. Engineering is
17 probably a -- it must be -- I don't know. I don't see
18 that number changing, so I guess that was what we had
19 in the budget for engineering. Surveying, sewer and
20 water taps is 106 and contingencies. So we had a --
21 for other things. So we were estimating our gross
22 profit down there at the bottom, before taxes, to be a
23 million eight fifty-six.

24 Q Well, let me make sure I understand that. The total --
25 it says total costs, a million eight fifty-six; right?

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1 A Oh, yeah, sorry. I'm sorry.
2 Q No, that's all right.
3 A I looked at the wrong number. The yellow number is the
4 profit --
5 Q Yeah.
6 A -- at 959.
7 Q And gross profit -- tell me again, gross profit means
8 the profit that McDaniel Jones, assuming all the
9 assumptions are accurate --
10 A Right.
11 Q -- would have received from the sale of all those lots,
12 and that number, the gross profit, means it's before
13 the taxes that you'd have to pay?
14 A Right, right.
15 Q Okay. All right.
16 A So you go back to the previous conversation, I'm saying
17 so what is the idea to get your attention? Okay.
18 Well, there's a number I can get, and I can pay a
19 million four for the land. So there's plenty of room
20 to make some mistakes or to give up something; right?
21 Q Uh-huh.
22 A And still say it would be a reasonable thing to try to
23 go do.
24 Q All right.
25 A So then fast forward, we go to the planning commission

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1 with the next scenario. And you can see, I think --
2 some reason this number's a little bit higher. Maybe
3 something went up that we didn't expect to go up. I
4 don't know what's different. It looks like sewer and
5 water taps was lower.
6 Q The only number that I see -- there's the conservation
7 easement --
8 A Oh, yeah.
9 Q -- tax deduction is here.
10 A Yeah, right, right.
11 Q Wouldn't have been with the first scenario.
12 A Yeah, at the bottom, there's a cost to go get that
13 easement set up.
14 Q Okay.
15 A So, that's why that's higher.
16 Q So, under Exhibit B, which was the planning staff
17 recommended plan under this --
18 A So we're still down. Now, we're down to a million one.
19 Q Okay. And that's the gross profit?
20 A Right.
21 Q Okay. All right. So let's turn to the -- let's just
22 complete that thought. The next page --
23 A Now you just start going through scenarios. What if
24 it's five lots? What if it's four lots?
25 Q I see.

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1 A That's all that's doing, is how does that affect your
2 profitability.

3 Q I gotcha. So, a finalized --

4 A You can see four is 287. Well, not much has to go
5 wrong just to make this a gigantic waste of time.

6 Q That's the four. Five lot, the gross profit's 702,271.

7 A Right. But I would consider that because of the size
8 of the numbers, meaning they're small numbers. There's
9 not a big development; right? Small developments have
10 more sensitivity to unforeseen negative circumstances
11 than large developments because large developments, you
12 could amortize the cost out over the whole project.

13 Q Spread them out over the whole project.

14 A Nobody knows there's much difference.

15 Q Okay.

16 A But on small lots, small projects, it does matter, and
17 things can get out of whack. Something relatively
18 innocuous to a larger development could be like a
19 pretty significant blow to something small. And so we
20 do this sort of, for lack of a better word, sensitivity
21 analysis to see, you know, what we can agree to and not
22 agree to. So I do feel like, you know, six was kind of
23 our point in time where we said, you know what, we're
24 just getting in -- you know, appeasement goes to a
25 certain -- you know, to appease people, it goes a

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1 certain amount to where it just becomes not reasonable.
2 Now, whether that's financial or just something else;
3 right? So there is still, in my belief, an ordinance
4 that says I can do blank, and I have appeased, and I
5 don't want to appease any more.
6 Q I just want to make sure I understand one thing.
7 A Yeah.
8 Q And I'm looking at what I -- handwritten, Exhibit B.
9 A Right.
10 Q Do I interpret this correctly in that, if the planning
11 commission had accepted the recommendation of the
12 planning commission's staff and approved the plat that
13 had been submitted by y'all, which called for six lots
14 to be developed and then the other two devoted to the
15 conservation easement --
16 A Uh-huh.
17 Q -- the gross profit that McDaniel Jones would have
18 earned, based on all these assumptions --
19 A Right.
20 Q -- is one point one three five million seven sixty-two
21 fifty.
22 A Right.
23 Q Okay.
24 A Now, you're getting into -- what did you say your major
25 was?

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1 Q Political science.

2 A Political science. Now, you're getting into the
3 mysticism of finance. Okay. So you have two budgets.

4 Q Okay.

5 A You have the static budget; right?

6 Q Uh-huh.

7 A Which is sum of everything I'm going to get with the
8 sum of everything that I'm going to spend; right?
9 That's what we're looking at. What I call the fluid
10 budget, and I don't think you're going to find these
11 names in textbooks, is you take these same numbers,
12 which I think we have on another sheet, and you spread
13 them out over time, because there's a concept **to** time
14 value of money, and it has to do when it was expended
15 and when it was received. So what happens a lot of
16 times is, when you spread these numbers out, you
17 generally can make a little bit more money, and then
18 add into the thing about the reinvestment rate, which
19 then adds to that as well. So, yes, the static budget
20 adds up to that, but what happens is, you know, as you
21 sell the first lot, there's retained earnings in that,
22 and that immediately, you have receipt of that money
23 while you still own some of the lots; right? You don't
24 get all the money at one time, nor do you spend all of
25 this money at one time; right. So like commissions and

Page 121

1 closing costs would only occur if the lots sell. They
2 wouldn't occur prior to selling a lot; right?

3 Q Yeah.

4 A So, when you spread it out, it can make that number be
5 a little different. That's all I'm saying.

6 Q All right. So --

7 A But if you just add it up, ignore time, that is a
8 correct statement.

9 Q So what I was provided during our last break was --

10 A Now, we're going to do the --

11 Q This is the fluid --

12 A More fluid, and you've got more money involved there
13 because if that -- you have a copy?

14 Q Now, I do. Yeah, and we'll mark this as Exhibit 17.

15 A So this goes on this pile? Are we done with that?

16 Q Yeah, we're done with that.

17 A All right. So you're going to look at this one; right?

18 Q Yes.

19 A Okay. So, this is a summary of some recent projects
20 probably started --

21 MR. BURKE: Here, hold on one second, Mark.

22 BY MR. PRICE:

23 Q She just needs to --

24 A Oh.

25 (MARKED FOR IDENTIFICATION, PLAINTIFF'S EXHIBIT

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1 NUMBER 17, SPREADSHEET, ATTACHED.)

2 BY MR. PRICE:

3 Q All right. So we're looking at the first page of this
4 exhibit.

5 A Right. And these would be various projects, probably
6 started tracking IRRs somewhere around '08 or '09,
7 because we had before not really raised money from
8 other people, but it came out of the downturn. We
9 started putting partnerships together to buy and
10 develop various things, and so this is a history of the
11 equity return of these projects, which is most of the
12 projects that I did since then. So the IRRs ranged
13 from, you know, 51.26 percent for Victoria Park to five
14 percent for Ashton Lakes. The only good thing about
15 Ashton Lakes is I was the only one in there, so I
16 didn't have to explain it to anybody.

17 Q So are these all your projects?

18 A Yeah, they're the projects that we use for tracking
19 IRR, yeah.

20 Q All right.

21 A It's not all the projects I've ever done.

22 Q No. Okay.

23 A Just since somewhere around 2010 or so. Something like
24 that.

25 Q All right. So give me an overview about how this fluid

Page 123

1 model works.

2 A Okay. Well, this is just giving you information here.

3 So what I've tried to say is here's my parameters.

4 Okay. So I have an average -- weighted average IRR

5 that's 22.15 percent. So an IRR, you're familiar with

6 what that is?

7 Q You need to tell me directly.

8 A Okay. So, an IRR is a -- if you had \$10,000 to invest,

9 and you wanted to say, well, I know it's a series of

10 unequal cash flows. So what am I making? Well, this

11 -- and IRR gives you an interest rate equivalent. So

12 it would be the equivalent of taking your \$10,000 and

13 making 22.15 percent every year that you had it out.

14 Q Okay.

15 A Every year. It's an annual interest rate. It's an

16 equivalency. So you might get all the money at the

17 end, and it might be -- and you know, the closer -- so

18 it's a time value of money calculation. So the shorter

19 the time, the more money at the front, you know, the

20 higher the return might be; right? Or you could have a

21 deal where you can say, well, I only made 11 percent

22 IRR, but I had my money out there for, you know,

23 whatever, eight years, and you might have made more

24 than twice your money back. You see what I'm saying?

25 Because the rule of 72 is you -- at 10 percent, you've

Page 124

1 doubled your money every 7.2 years.

2 Q Okay.

3 A Okay. And so what our accountant did is she came up
4 with the IRR -- well, we showed her the IRR. She took
5 off -- she just did 65 percent of it, used 14.4. She's
6 saying, well, you've got to pay taxes on this money
7 every year, so you can't put 22 percent back in.
8 You've got to put 14 percent back into the model.

9 Q Okay.

10 A You follow me?

11 Q Yep.

12 A Okay. So this is just how we figured out a starting
13 point. Then, what I believe she did -- even though
14 this is bigger. Is this two of the same thing? What
15 do we have going on here?

16 MR. BURKE: These are different tabs on that Excel
17 spreadsheet.

18 THE WITNESS: They are?

19 MR. BURKE: Yeah. Each paperclip is a different
20 tab.

21 THE WITNESS: Okay. Well, let's see what happened
22 here.

23 BY MR. PRICE:

24 Q And as you look, let me pose this question.

25 A Uh-huh.

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1 Q What is the relationship, if any, between what we're
2 now looking at on the spreadsheet, and what we looked
3 at a few minutes ago with the gross profit
4 calculations?

5 A All right. Well, that's what I'm going to ascertain
6 here after due inspection.

7 Q Okay, okay.

8 A But I think it's going to take a scenario and spread it
9 over time, is what I believe is getting ready to
10 happen. So McDaniel costs lot sales. Okey dokey. I
11 think these go out like this. That's what's happening.
12 I'm pretty sure. Okay. Oh, I think it's going to be
13 what could've happened and what did happen. I think
14 that's what we're getting ready to do. All right. So,
15 which one are you looking at?

16 Q Well, I've just turned to the second page; so...

17 A All right. This is what did happen, I think. I think.
18 Yeah, I'm pretty sure this is what did happen. So
19 let's make sure we're on the same page. So the bottom
20 of your first page --

21 Q Uh-huh.

22 A -- bolded number should say five twenty-seven one one
23 one.

24 Q Okay.

25 A And then the next page the bottom should say three

Page 126

1 seventy-nine.

2 Q Correct.

3 A All right. So now we're into the fluid model. So what
4 we did here is we started over here at the top --

5 Q Uh-huh.

6 A -- with buying the property.

7 Q Okay.

8 A And then all these numbers up to the sale would be
9 straight out of our books, our GL Ledger for this
10 company.

11 Q All right.

12 A So what we did is we had these items up here at the
13 top, which would be your cost code; right?

14 Q Uh-huh.

15 A And that would be your capital expenses. And then down
16 here at the bottom would be things that would be
17 operating expenses in the middle. The middle would be
18 operating expenses, where it says P and I activity.

19 Q P and L activity.

20 A Yeah, P and L. P and I. Yeah, P and L activity, yeah.
21 So that would be expenses. Okay. From the get go. So
22 what this does is it just takes by month out of our GL,
23 what we spend, which you would get down here at the
24 bottom. The net net net of that number adds up to --
25 net cumulative outflows. So there's the amount of

Page 127

1 money we spent, cumulatively, in bold at the bottom of
2 the paper. So these are monthly numbers in the
3 slightly less dark than normal font ink; right? And at
4 the bottom, that's the cumulative of all the expenses.

5 Q So how do those numbers change from how they appear in
6 --

7 A Well, one is probably the budget, and this is actually
8 just taking the actual books, and I don't know if there
9 is much difference, but I know that this is, from the
10 looks of it, is actual.

11 Q Okay.

12 A The actual job costs, and it shows over time, so. It
13 just shows you, cumulatively, how much money we had in
14 it and, you know, now it's added up. You know, we've
15 got 600,000, six something in it; right? And then, on
16 10-1, we sell to -- which is the middle of the second
17 page, we sell to McBride; right?

18 Q Uh-huh.

19 A There's a million four up there at the top. And so all
20 these other things would be some incidental expenses
21 and maybe a bill or two that showed up after closing,
22 and then they cease -- it ceases out here in 6-1;
23 right?

24 Q Yeah.

25 A So what we have out there is the hundred and whatever

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1 I've got down here. Maybe we didn't pay the loan off
2 yet. I don't know why it would go up, but -- oh,
3 there's something underneath here. What is it saying?
4 Return -- oh, okay. So now what she's doing is saying
5 -- okay. So everything I said is right. Right? Right
6 below the cumulative lot amount is probably going over
7 to this other sheet and saying what would've happened
8 had we gotten some money back, because she's showing
9 the return, net return of taxes. Oh, no, no. She's
10 just taking out -- oh, I see what's she's doing. She's
11 putting our taxes in there. Maybe that was property
12 taxes. I'm not sure what that was. But I can ask her.
13 But that's a fairly small number. Return net of taxes.
14 I think she's showing that as a tax credit,
15 cumulatively. You know what I'm saying? Because I had
16 a loss.
17 Q All right. So, on the third page of this, and this
18 ties in with what's there in the --
19 A The little pink part.
20 Q -- in the Coppertone.
21 A Right.
22 Q So she's saying cumulative return from proforma is
23 \$1,171,759.49.
24 A Uh-huh.
25 Q You see that?

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1 A Yeah.

2 Q So what does that mean?

3 A So that was probably, if I go look at this other sheet,
4 I think that's going to mean -- that's going to mean
5 that's what we could have made. One million one
6 seventy-one, and these are, again, kind of more exact
7 numbers, and got a little different tax treatment than
8 what I was doing.

9 Q Uh-huh.

10 A Mine didn't have any taxes in there. So what we were
11 saying is a six-lot scenario -- where is that on here?
12 So I'm showing one million three ninety-nine, and she's
13 saying one million one seventy-one cumulative return
14 from proformas. Let me just -- okay. So just hold on
15 one second. Let me make sure I don't -- I've got a
16 suspicion, but I don't always -- you know. Oh, you
17 know, it may have the magnolia thing in there. I don't
18 know where I put that. So the next page, what I'm
19 suspecting happens is these next two pages --

20 Q Uh-huh.

21 A This is the proforma had we sold it.

22 Q Had --

23 A Had we had the lots and sold it.

24 Q So do these calculations include anything or any
25 assumption, other than an eight-lot sale?

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1 A I think this is the -- well, let's just count them.
2 Let's see. There's one, two, three, four, five, six.
3 No, there's six lots. So, if you go to the next one,
4 not the one we were -- not this one, not the one with
5 the pink.
6 Q Uh-huh.
7 A Pull out the next two. They're going to look more like
8 this.
9 Q Okay. Yeah, yeah.
10 A So that one is now probably a more precise estimate of
11 what would happen in a six-lot scenario, because this
12 would be more that fluid -- what I call a fluid example
13 of the six-lot scenario.
14 Q Yeah.
15 A And so that makes things change a little bit.
16 Q So --
17 A So, we --
18 Q Help me with the bottom line, then. If this is a fluid
19 calculation --
20 A Yeah, so what we have is money out. Starting down
21 there at the bottom, \$372,000 out of pocket.
22 Q Yep.
23 A That's equity; right? Money out. Because we've got
24 debt; right? So the debt, that's not money out of my
25 pocket. I pay for that money later; right?

Page 131

1 Q Okay.

2 A You see what I'm saying? So, instead of that bottom
3 line being a million four or four plus, I would have
4 had to pay cash. This is saying I had a loan of a
5 1,072,000, and so, I had to write a check for \$372,000
6 at closing in that month. You following me?

7 Q Is that an actual expenditure you had?

8 A Yeah, these are all actuals until we get out to --
9 well, it would be actuals to some point on this chart,
10 and then after that, it's obviously when we start
11 selling things. So, in other words, what we're trying
12 to do here is say, all right, here are our actual
13 expenses up to a certain point in time. And had the
14 planning commission approved the plat, and it had been
15 recorded, we could have -- think we could have
16 reasonably be selling lots in this time frame, and then
17 we sold one a month. Does that make sense? So, some
18 point is actual, and then once somewhere around the
19 point in time when we got denied, those ceased being
20 actual. Those are just like what-if numbers.

21 Q Okay.

22 A Because, obviously, we didn't develop it, so we don't
23 know whether we ran over budget, under budget, or any
24 of the other stuff, but it just is -- had we more or
25 less done what we thought we'd do, how much money would

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1 we have had. And so you're starting off with out of my
2 pocket, I'm -- so I'm forgoing -- by doing this
3 transaction and borrowing money for part of it, I am
4 forgoing the use of \$372,973. I'm just saying that's
5 what I had to put down on the buying the house. And
6 then the bold numbers at the bottom are simply adding
7 up the expenditures from each month above; right? So,
8 it's cumulative in bold.

9 Q Okay.

10 A Cumulative total.

11 Q All right.

12 A And then we get out over here. We said had we started
13 selling lots after the planning commission approval of
14 117. We said we sold our first lot in May of that
15 year. And so now what starts to happen is you start
16 having sales, and you had development expenses, I
17 guess, prior to that, somewhere up at the top, maybe.
18 You would have been developing up until May, and you
19 paid off a loan. You know, you get the proceeds. You
20 follow me? You want me to point? So, you've got the
21 proceeds here. These are your sales.

22 Q Yeah.

23 A These are sort of your net proceeds, and then you go
24 down here and you've got to pay the bank back, and then
25 you get some money left over, and then that drops down

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1 here, and that's the cumulative. You see you're
2 aggregating all your money down here.

3 Q Okay.

4 A All right. So, we do that. Then you reinvest that
5 money. I think that's what she's doing. You reinvest
6 that money, net of taxes. So you've got 14 percent to
7 compound and it just assumes you don't get as much
8 money as you think, because you've got to pay taxes;
9 right? But it's a model, because you don't pay taxes
10 when you close a lot. You pay the taxes in your tax
11 return of the next year, but this is just a take it out
12 of that. I'm saying it couldn't be invested long term;
13 right?

14 So that amount grows until you peak out at the
15 end. So now what she's doing here is she's saying, as
16 of 8-1-21, that's where she stops the spreadsheet, this
17 thing obviously grows every month. You follow me?

18 Q Uh-huh.

19 A Because it's all being reinvested, so that 171,759
20 number is an after-tax number of this much compounding
21 through that date, but obviously, more days have gone
22 by since then.

23 So the loss continues to grow, even though we had
24 to come up with something for the lawsuit. You follow
25 what I'm saying? Because I still don't have any money,

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1 and my potential for the reinvestment, it just keeps
2 going. But this model only goes through that date.
3 Q I see. So theoretically, you could run this model out
4 --
5 A Until we settle. And what this one's doing -- this
6 just helps me a little bit. So what she's saying back
7 here is down in the pink, the 171, that's that number;
8 right? So you go over here to this sheet --
9 Q I'm making sure. Okay.
10 A And you come over here. So those all go together like
11 this. It's really just one big old long thing; right?
12 Q Uh-huh.
13 A There's another piece here. So the other titles for
14 those numbers are on the other page.
15 Q Yeah.
16 A But the first one, the cumulative term for proforma,
17 the 171, that would go right here on this number.
18 That's where that's coming from.
19 Q Okay.
20 A Okay. So she's saying you could have made that as of
21 this date in '21. And so she adds that on there. The
22 difference between the actual and proforma, so this is
23 a million five fifty-five, and then she's got this
24 compounding. So what this is really trying to sum up
25 is saying the impact to me is I not only didn't get my

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1 money back at the beginning. I didn't get to retain
2 the earnings. I was not able to -- I should have a
3 reasonable expectation to be able to develop the
4 property and to get these prices. And that that money,
5 had I had it, could have reasonably been expected to be
6 reinvested at the historical average IRR. Not the
7 high, not the low, and then I could only reinvest after
8 taxes. So this will be my -- it's just a math problem.
9 It's just my -- if you just take those scenarios and
10 run them out, these are the numbers you come up with.

11 Q Okay. Whereas the numbers that we looked at in Exhibit
12 15 --

13 A Right. Now, what I don't have on here is a cumulative,
14 I don't think. No. So what I would have expected to
15 be reasonably close, okay, would be -- because what I
16 don't see is -- what did she do with my conservation
17 easement. Cost if sold, conversation easement, two
18 lots to donate. Okay. So I donated those. I got a
19 benefit of 690 -- well, \$692,000 in taxes I'm not
20 paying. So, first of all -- I know I'm trying -- I
21 feel like I'm going too fast for you, but look at this
22 model. Is that the six-lot? This is the six-lot.

23 Q Yeah, this is the six-lot.

24 A Okay. So there's no taxes in there; right?

25 Q Okay.

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1 A There's no tax consideration. So I may or may not have
2 had a value of a conservation easement in there.
3 Q Yes, you --
4 A I think I did.
5 Q I think you do, yeah.
6 A But I think what that's trying to show is the tax
7 savings. Okay? In other words, I could've gotten a
8 million dollars, I gave it away, and therefore, the tax
9 savings was 35 percent of whatever the value of the
10 lots were.
11 Q Well, would this number -- and I'm looking at Exhibit B
12 --
13 A Yeah. And what she's doing --
14 Q -- on Exhibit 15. Well, let me --
15 A Okay.
16 Q -- just point this out first, or see if I'm looking at
17 this right. Under --
18 A I don't have that anymore. What happened to it?
19 Q Yeah, Exhibit 15, I think it might -- here it is. All
20 right. So look at that.
21 A Right.
22 Q And where I've blown it up a little bit, and we put
23 Exhibit B.
24 A Right.
25 Q Okay. So, if I understand what this says --

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1 A Uh-huh.
2 Q -- if we assume that all your assumptions about these
3 numbers are correct --
4 A Right.
5 Q -- then with the six-lot scenario, your gross profit
6 before taxes would have been \$1,135,760.50; correct?
7 A One million one hundred seventy -- yeah.
8 Q Okay. And under this -- I guess, this scenario, you
9 would have paid some taxes. We don't know what those
10 are --
11 A Right.
12 Q -- on this sheet.
13 A But this doesn't take into account timing, or taxes, or
14 compounding. This is just straight up, you know,
15 budget.
16 Q Right.
17 A You know, what our best guess was at that time we did
18 this.
19 Q But if you got that number --
20 A Right.
21 Q If you got that -- if that was the number that you got
22 --
23 A Right.
24 Q -- you wouldn't just go spend it. You would reinvest
25 it, wouldn't you?

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1 A Right. Yeah. I would. Some people would spend it.

2 Q Right. That's true, that's true.

3 A Yeah, we had, definitely, you know, all kinds of
4 projects that we had going on that we could have put
5 this money in.

6 Q Put that money in.

7 A I sold a warehouse to Pattillo. It's a big group out
8 of Atlanta, and you know, I'm sitting there with the
9 president of the company. It's huge. He said, man,
10 we're making you a lot of money, and I said, well, you
11 know, I might be the only guy that -- you are making me
12 a lot of money. I said, but I may be the only guy that
13 you're talking to that would say when you're going to
14 give me a whole lot of one thing, I might wonder if I'm
15 making the right trade by getting rid of the building.
16 And, you know, within six months, the rent on that
17 building had gone up a dollar a foot.

18 Q Uh-huh.

19 A And so, they're happy, I was happy, but one of the
20 reasons I did it is because I knew if I got the
21 liquidity, I could immediately reinvest it at these
22 rates, which was higher. If I didn't have a place to
23 put it -- if I had to say to myself, I sold this guy
24 this building on a 4.7 percent return, and I've got to
25 go out and buy an existing building, well, my return

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1 would have been 4.7 or 5 or something like that; right?
2 Because I would have had to go and buy into the same
3 market. But I don't have to buy into the same market.
4 I buy into this market. Now, when I don't have any
5 more money to reinvest at that rate -- in other words,
6 I don't have any more deals, well, then, I'm out there
7 trying to invest at five percent or whatever, too. I'm
8 back in it. But because I can take my money and have a
9 reasonable chance of meeting that as a median return, I
10 can always throw it back in there until, eventually,
11 you just don't have anything to do that with; right?
12 So, at some point in time, you get big enough where you
13 get into the large numbers, and I'm not into the large
14 numbers yet, but -- so I can still get those returns.
15 Q So what was the purpose of going to the accountant and
16 putting the fluid model together?
17 A Well, in spite of what you heard today, my attorneys
18 didn't think I was a financial expert, as defined under
19 the law. And so we had to go hire one to basically
20 tell us what I've already told you to be the fact.
21 Q Okay.
22 A That's why we went to the accountant.
23 Q And ultimately, for the purposes of the lawsuit, the
24 purpose of the mythical -- not mythical, but the fluid
25 model is to raise the amount of damages that you can

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1 claim?

2 A Well, no, it's to illustrate what I would have done
3 with the money had I been able to get it as I feel like
4 I should have been able to get it under the ordinance.

5 Q Okay.

6 A It's not to raise -- no, I think it's a real --
7 compounding is just -- you know, like I said, the rule
8 of 72 is a great little thing, you know. At ten
9 percent, you double your money every 7.2 years. So, 22
10 percent, I mean, what is it? Three years? I don't
11 know what it is. Something like that. But it's like
12 -- and we're talking about equity, you know, not total
13 cost to process. That'd be something different.
14 That'd be return on costs; right? This is return on
15 equity. And so these returns, 22 percent, is return on
16 equity, because each one of these projects has debt for
17 the most part. I believe every one of them does. Some
18 have more than others, you know. And some may have
19 less than others, but that's the average return on
20 equity. So this equity could -- and I had a means and
21 the ability to redeploy this equity immediately into
22 projects I was doing and earn that return.

23 Q And that would have been -- if I'm understanding what
24 you're saying about all these calculations, ultimately,
25 are we talking about all these numbers flow from the

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1 assumed development --

2 A Owner.

3 Q -- as a six-lot --

4 A Right.

5 Q -- subdivision?

6 A And it goes to -- the proceeds would go to me, and then
7 I would put them in this other company I said we have
8 called Cothran Capital, and Cothran Capital owns or
9 provides equity into projects that I'm doing, you know,
10 and then it also lends money to projects I'm doing.
11 But the returns we're talking about here are equity
12 returns. So this would be money I could put as equity
13 in something. And that equity could be in the form of
14 a warehouse project where I needed equity. It could be
15 into an LLC that builds houses and hires Cothran Homes;
16 right? And so, it needs a certain amount of equity to
17 get a loan; right? You might have -- it might say
18 they're giving you 80 percent of appraised value. That
19 appraised value is going to end up being 85 percent of
20 the real value, and then, you know, you really have
21 about a 50 percent loan to value deal if you borrow
22 money. So, you know, we can immediately put equity to
23 work in a home building company.

24 Q Okay.

25 A And in a home building company, its IRRs are higher

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1 than this.

2 Q So --

3 A These are mostly land, longer-term projects.

4 Q So who is the accountant that you selected to prepare
5 Exhibit 17?

6 A The firm or the person?

7 Q The person and then the firm she works for.

8 A I can't remember the -- what was the lady's name?

9 Well, it was Dixon Hughes maybe when we did it, but
10 it's called Forvis now. F-o-r-v-i-s is what they've
11 changed the name to.

12 Q Forvis?

13 A Yeah. And her name --

14 MR. BURKE: It's Catherine Stoddard.

15 MR. PRICE: Catherine Stoddard?

16 MR. BURKE: Yes. S-t-o-d-d-a-r-d.

17 BY MR. PRICE:

18 Q Okay. All right.

19 A So she basically took our information, and I think we,
20 essentially, gave her this information from our books,
21 to the extent we had, you know, actual information, and
22 then she interjected the taxable element to it, and
23 kind of looked over it to see if it looked right.

24 So, again, some of this stuff is historic, you
25 know, just exactly what month it happened in, and then

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1 once you get out of we didn't get it at the planning
2 commission, it gets into projections.

3 Q Okay.

4 A And then this would have been -- some of these things
5 would have been our best guesses at, probably, during
6 planning commission meetings or some discussion as to
7 what can I do or not do, based on the number of lots,
8 and when is it worth doing, when is it not worth doing.
9 And, you know, you have to -- and I know you know this,
10 but, I mean, there's people in the audience that are
11 the most adamant against it that you probably would
12 never appease. Right? And so you have to just say at
13 what point in time do I think it's just not worth
14 doing? And I think that's where you have asymmetrical
15 goals. Their goal's not to reach a compromise. Their
16 goal is to keep me from doing it, period.

17 Q Uh-huh.

18 A That would be some people's desired outcome.

19 Q Did --

20 A It's not to reach an agreement, so we can all move
21 forward. It's like to stop it however they need to
22 stop it. One of the best ways to do it is, you know,
23 you start off with the tree, and then you go to, you
24 know, five lots, four lots, so on and so forth because,
25 eventually, it doesn't cost me any less to develop it.

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1 Q Okay.

2 A And it just squashes the profit. You're just giving
3 away the profit. I mean, it was just -- now, if it was
4 two years later, you know, you'd probably look at it
5 and go, well, you know, the lots -- the money people
6 were paying for houses just got to be historically
7 high; right? So we could have possibly gotten a lot
8 more money for four lots or five lots, but the costs
9 still wouldn't have been any different -- well, the
10 costs might have gone up, too. But it just -- you
11 know...

12 Q Did your accountant run similar scenarios for a four-
13 lot --

14 A No, because this was after it already had trans- -- I
15 think we had already sold -- well, there was no
16 thinking. We sold -- had already sold the lot to
17 McBride.

18 Q So she didn't run them for either a four- or five-lot
19 scenario?

20 A No, no, we did those.

21 Q Okay.

22 A So I think her numbers are basically the B scenario.
23 The big difference is --

24 Q Uh-huh.

25 A -- the way she did it, because I think if I remember

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1 correctly, it kind of confused me. The way she's doing
2 the taxes, she's saying -- whereas I got a value of the
3 tax credit. In other words, like if you had a million-
4 dollar deduction, and you're in the \$350,000 -- I mean,
5 a 35 percent tax bracket, that deduction, million
6 dollars, is worth \$350,000 of real money, because
7 that's 350 you're not paying. What I think she did is
8 said you gave it away, and therefore, you reduced your
9 income or something, instead of just saying it's worth
10 35 percent of whatever it was. I think she took it
11 like you've got a negative payment amount of something
12 when she stuck that on here. But -- because I would
13 have shown it as a -- whatever the value of it was, and
14 she's got it on here as a bigger number. See, she's
15 got \$692,000, plus -- maybe she's doing that plus the
16 cost of goods sold and creating a negative tax
17 liability. That's what she did. See where she goes
18 down there. You see where she's giving the lot away?
19 Q I kind of lost it.
20 A Okay. Go to -- we start selling in the red, the red
21 letters.
22 Q Yeah.
23 A All right. Go down to almost the bottom there, and
24 she's got a \$692,000 conservation easement.
25 Q Six ninety-two five?

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1 A Yeah, but then she also has cost of goods sold above
2 that. I mean, she runs it all down through there, and
3 she's showing my tax liability as 164 positive --
4 Q Uh-huh.
5 A -- instead of all the other numbers are negative.
6 Q Yeah.
7 A So she's just showing that as a benefit, whatever you
8 want to say. That's how she's showing it.
9 Q Okay.
10 A And so --
11 Q Did you speak with her yourself?
12 A Yeah, I did.
13 Q And what did you ask her --
14 A It's been a while.
15 Q -- to do?
16 A Well, I think what I asked her to do was say, here's
17 what we think -- same thing I just told you. This is
18 what we can do with it. Here's our cash flows, here's
19 our loss, here's our money we're not using that we
20 didn't get back, which was that 300 and something
21 thousand dollars, and then here's all the money we
22 could've made that we never got to reinvest. And as it
23 goes on through time, this is what it's compounded at.
24 Q Did she give you any feedback --
25 A Yeah.

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1 Q -- as to what --
2 A She asked some questions.
3 Q Wait a minute, wait a minute.
4 A I'm sorry.
5 Q That's all right. But did she --
6 A You want to start over?
7 Q No. When you discussed this concept with her, did she
8 give you any pushback, I would say, as to whether this
9 would be --
10 A No.
11 Q -- something a court would permit?
12 A Oh, well, I think she was picked because she knew how
13 to do that; right?
14 Q Don't -- don't talk to him.
15 A I don't know. Oh, I'm sorry.
16 Q All right. If you don't know, you don't know.
17 A Would you ask Luke if we picked her because --
18 Q We're going to stay away from that right now.
19 A I think that that -- my recollection is the reason she
20 was employed was because she was a -- had been a
21 financial expert and slash witness -- what do you call
22 it?
23 Q Expert witness.
24 A Expert witness. Yeah, yeah. I think that was what
25 they were -- and you know, it's a pretty big firm. I

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1 don't know if you --

2 Q Uh-huh. I'm familiar with it.

3 A -- know who they are.

4 Q Yeah.

5 A I mean, know the guys? Yeah. So, well, Kent
6 Satterfield and Kim Hughes, who are both retired now,
7 but when it was Dixon Hughes, that was the Hughes guy,
8 so. And then Kent worked with him.

9 Q Okay. Last thing. In your complaint, McDaniel Jones
10 takes the position, if I'm remembering correctly, that
11 what the City did amounted to a regulatory taking of
12 your property --

13 A Uh-huh.

14 Q -- and in addition, the decision of the planning
15 commission violated McDaniel Jones' rights to equal
16 protection under the law. Do you --

17 A Is that --

18 Q Do you understand those concepts?

19 A Well, I mean, I think I understand what you're saying.
20 I'm not a lawyer, but -- can I ask Luke a question?

21 Q No, no.

22 A I can't. Okay.

23 Q Yeah, I just need to know what you think about those
24 things. Do you know anything about the specifics of
25 those types of claims, from the standpoint of the law,

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1 what you need to do?

2 A I think probably. I feel confident that it's been
3 explained to me, at some point. Have I -- can I say it
4 back to you right now?

5 Q If you can.

6 A No, no, I can't. I don't think so.

7 Q Okay.

8 A I don't think I can. I think that, as I've maybe said
9 in a different way, I feel like that, basically, I went
10 there asking the planning commission to uphold what I
11 perceived to be my legal rights on that lot. They did
12 not do that. They voted it down because of, in my
13 opinion -- let me ask you -- let me just say it this
14 way. If there was nobody in the room and it was just
15 the planning commission and me, and nobody was
16 protesting, which way would it have gone? I think it's
17 pretty obvious it would have gone -- they would have
18 just approved the planning staff's recommendation.
19 They're the professionals. They're the hired
20 professionals. The other people are not voted in.
21 They're appointed. And so they took it on themselves
22 to turn it down because of the people in the room, and
23 from what I understand, and I'm not a lawyer, that the
24 court is kind of saying, well, they do have the power
25 to actually deny you that, even though you should have

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1 those rights, and so, therefore, they've condemned it.
2 And so I'm just sitting here trying to figure out
3 what's that combination worth. And this -- what we're
4 saying is what I think we had a reasonable expectation
5 to have made had we been able to do a six-lot
6 subdivision, and we would have had a reasonable
7 expectation to reinvest those proceeds at our historic
8 rate of return, from the day we received that money.
9 And you know, we were denied the opportunity to use the
10 property, and I just think the court sort of said,
11 well, they have the ability to actually do, for lack of
12 a better word, the taking. And so now you just -- but
13 it's clearly zoned a different way. So they just need
14 to -- you know, I don't know. It's like -- I think too
15 many people in the City -- you know, people get on
16 these boards thinking it's like prestigious, and you
17 know, it's -- you have to make some hard decisions
18 that's going to make some people mad sometimes. And I
19 just think if it's the law, then that's what they
20 should do. Otherwise, we'd give in to every lynch mob
21 that showed up at the courthouse to get some guy in
22 there for whatever crime he's supposedly committed, but
23 --
24 Q All right. I've got maybe --
25 A -- that's my understanding.

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1 Q I've got maybe three more questions.
2 A All right.
3 Q On Exhibit 15 that we were looking at, original
4 scenario --
5 A Right.
6 Q -- planning staff approved recommendation --
7 A Right.
8 Q -- did you prepare these?
9 A I did do those. This is really our budgets. You asked
10 me did we ever consider at one point five lots or four
11 lots. Well, this is me considering it right here.
12 This is my spreadsheet that existed prior to the case
13 of us trying to see what we could or couldn't do.
14 Q Okay. So is the word proforma your word?
15 A That's my word.
16 Q And what does that mean to you?
17 A Budget, it's budget.
18 Q Okay.
19 A Not actuals. Estimated income and expenses.
20 Q Okay. All right.
21 A The plan. I don't know what proforma means in Latin,
22 but the plan.
23 Q The plan.
24 A If everybody goes according to plan, that's what we
25 think we'd make.

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1 Q Okay. And then, I think the last thing is I just have
2 not talked with you about or shown you Exhibit 14. I'd
3 like to put it into the deposition. This is just your
4 appeal of the planning commission decision.

5 A Okay.

6 Q The notice of appeal.

7 A Okay.

8 Q And I'm just going to put that in as exhibit as well,
9 if that's okay. And with that, those are all the
10 questions I have.

11 MR. BURKE: I don't have any questions.

12 (WHEREUPON, THE DEPOSITION CONCLUDED AT 1:53 P.M.)

13

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CERTIFICATE

This is to certify that the foregoing deposition of MARK ALBERT COTHAN, consisting of 152 pages, is a true and correct transcript of the testimony given by said deponent after first being duly sworn; said deposition was reported by method of Stenomask with digital backup. This transcript may contain quoted material; said material is transcribed as read or quoted by the speaker.

I further certify that I am neither employed by nor related to any of the parties in this matter nor their counsel; nor do I have any interest, financial or otherwise, in the outcome of the same.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 13th day of April, 2023.

Lisa P. Kopcho

Lisa P. Kopcho
Professional Verbatim
Reporter

Notary in and for the State of South Carolina
My Commission Expires: November 2, 2030

SIGNATURE PAGE

McDaniel Jones, LLC v. City of Greenville Planning Commission
C.A. No. 2020-CP-23-05094
Deposition of Mark Cothran
Taken Tuesday, March 7, 2023

I do hereby certify that I have read the foregoing deposition given by me before Lisa P. Kopcho, Notary Public for South Carolina, Greenville County, South Carolina.

PLEASE CIRCLE EITHER "A" OR "B".

(A) Said deposition is correct as is and requires no changes.

(B) I desire that the changes attached hereto, described on the "Errata Sheet" be incorporated into said deposition.


MARK COTHAN

SWORN BEFORE ME THIS 17th DAY OF April, 2023


NOTARY PUBLIC FOR S.C.
MY COMMISSION EXPIRES:



BISHOP
REPORTING SERVICES, LLC
WWW.BISHOPREPORTING.COM 864-640-1634

**ERRATA SHEET
FOR THE DEPOSITION
OF MARK COTHRAN
(TAKEN TUESDAY, THE 7TH DAY OF MARCH, 2023)**

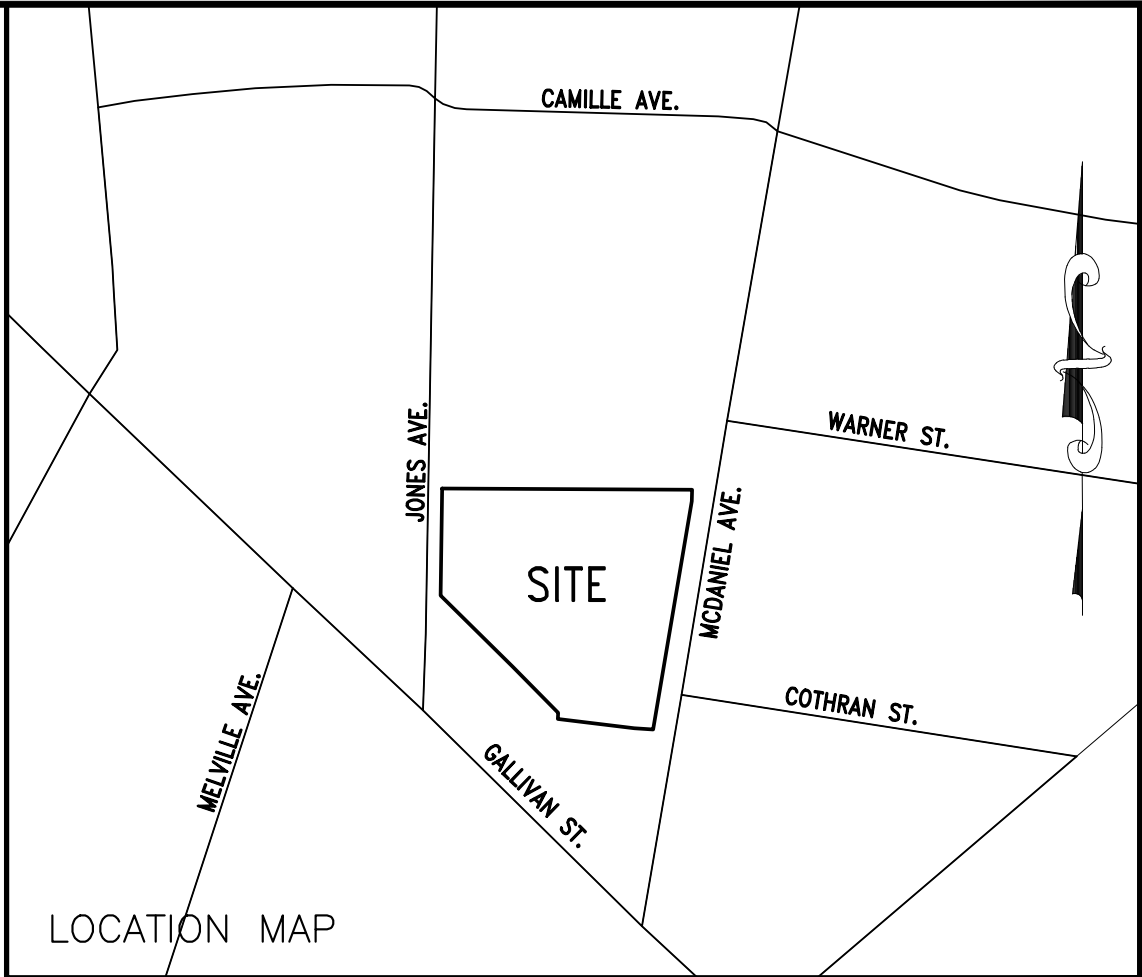
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>10</u>	<u>10</u>	<u>Bryon Culbertson (Spelling not "Myron")</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>11</u>	<u>19</u>	<u>I'm on the board of Southern First Bank</u>
		<u>(Missing information)</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>14</u>	<u>4</u>	<u>Kent Satterfield lives in Travelers Rest</u>
		<u>(Incorrect information - not "Greer")</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>15</u>	<u>17</u>	<u>Our own account</u>
		<u>(Missing information)</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>16</u>	<u>7</u>	<u>"lot" of houses (instead of "hot")</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>21</u>	<u>12</u>	<u>Georgian (Clarification - style</u>
		<u>architecture)</u>

ELECTRONICALLY FILED - 2023 Oct 31 2:07 PM - GREENVILLE - COMMON PLEAS - CASE#2020CP2305094

u

**ERRATA SHEET
FOR THE DEPOSITION
OF MARK COTHRAN
(TAKEN TUESDAY, THE 7TH DAY OF MARCH, 2023)**

PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>65</u>	<u>22</u>	<u>enter the garage from the rear of the house</u> <u>(Missing information)</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>80</u>	<u>24</u>	<u>the collation contained 2 people</u> <u>(Clarification)</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>81</u>	<u>11</u>	<u>"when" it was a drug halfway...</u> <u>(instead of "where")</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>85</u>	<u>10-19</u>	<u>I was making the point that Planning</u> <u>commission is to oversee the city planning</u> <u>staff to make sure they are upholding the</u> <u>ordinance (Clarification)</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>106</u>	<u>8</u>	<u>"Forvis" (instead of "Forest")</u>
PAGE	LINE	CHANGE AND REASON FOR CHANGE:
<u>111</u>	<u>25</u>	<u>"amortizing" (instead of "advertising")</u>



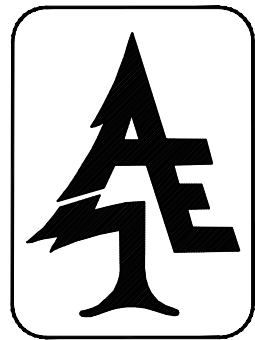
8 LOT VALUE EXHIBIT

MCDANIEL
SUBDIVISION

COTHRAN PROPERTIES
420 THE PARKWAY SUITE E
GREER, SC 29650
(864) 250-0828
DEVELOPER

ARBOR ENGINEERING, INC.
P.O. BOX 263
GREENVILLE, SC 29602
(864) 235-3589
ENGINEER

NO. OF ACRES 1.86 MILES NEW ROAD 0.0 NO OF LOTS 6



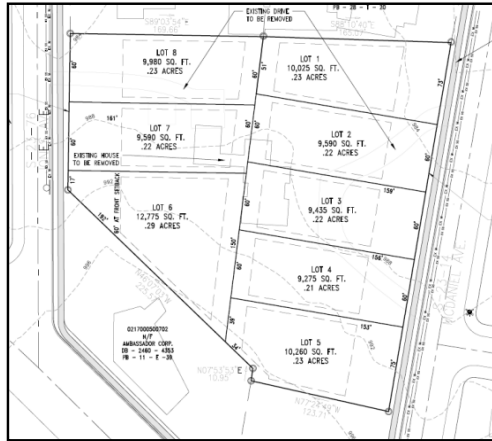
Arbor Engineering, Inc.
Box 263 • Greenville, S.C. 29602
Land Surveyors • Civil Engineers • Recreational Planners
Landscape Architects • Land Planners

DRAWN: AMA DESIGN: JMJ CHECK: JMJ DATE: NOVEMBER 14, 2018

FILE: 18020 8 LOT VALUE EXHIBIT JOB NUMBER: 18020

- PRELIMINARY PLAN NOTES:
1. TAX MAP NUMBER 0217000500700. THE PROPERTY IS ZONED R9.
 2. AS A MINIMUM, 5 FOOT DRAINAGE AND UTILITY EASEMENTS ESTABLISHED ALONG ALL SIDE PROPERTY LINES. 10 FOOT EASEMENTS ESTABLISHED ALONG EXTERIOR BOUNDARY OF SUBDIVISION UNLESS ADJOINING OWNERS HAVE ESTABLISHED EASEMENTS.
 3. IRON PINS AT ALL PROPERTY CORNERS, UNLESS OTHERWISE NOTED.
 4. REFERENCE PLAT BY J. A. MCCULLOUGH, IV TITLED "SURVEY FOR MCDANIEL JONES, LLC." DATED JULY 19, 2018.
 5. POTABLE WATER BY GREENVILLE WATER SYSTEM. (AS SHOWN)
 6. ELECTRICAL POWER BY DUKE ENERGY. (OVERHEAD LINES ALONG MCDANIEL AVE. AND JONES AVE.)
 7. NATURAL GAS BY PIEDMONT NATURAL GAS.
 8. SANITARY SEWER COLLECTION BY CITY OF GREENVILLE.
 9. FIRE PROTECTION BY THE CITY OF GREENVILLE FIRE DEPARTMENT.
 10. SANITATION SERVICES BY GREENVILLE PUBLIC WORKS.
 11. ALL STORM WATER SYSTEMS ON-SITE WILL BE LOCATED ON A COMMON AREA CONSERVATION EASEMENT.
 12. THE MAXIMUM IMPERVIOUS AREA ALLOWED FOR EACH INDIVIDUAL LOT IS 4,050 SQUARE FEET.
 13. PROPOSED DRIVEWAYS ON INDIVIDUAL LOTS ARE TO BE MADE OF A POROUS MATERIAL.
 14. TOPOGRAPHY INTERVALS ARE FOUR FOOT CONTOURS INTERPOLATED FROM GREENVILLE COUNTY GIS DATA.
 15. A STORMWATER AND EROSION CONTROL PLAN WILL BE SUBMITTED AND APPROVED BY THE CITY OF GREENVILLE PRIOR TO CONSTRUCTION.
 16. SETBACKS FOR THE PROPERTY IS 40' ON MCDANIEL AVE. AND 46.5' JONES AVE. FRONT; 5' SIDE; AND 15' REAR.
 17. CURRENT PROPERTY OWNER IS LISTED AS MCDANIEL JONES, LLC.
 18. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
 19. ACCORDING TO THE FEMA MAP, NO FLOOD ZONE EXISTS ON SITE.

**APPRAISAL
OF**



PROPOSED MCDANIEL SUBDIVISION

Lots 1-8

**808 McDaniel Avenue
Greenville, South Carolina 29605**

APPRAISAL REPORT

PREPARED FOR

**Mr. Weston Blackwood
Asset Manager
Cothran Properties
P.O. Box 27049
Greenville, South Carolina 29616**

DATE OF INSPECTION

January 2, 2019

DATES OF VALUATION ESTIMATE

January 2, 2019 – “As Is”

PREPARED BY

**Melissa Deyoung
Allen D. McCravy, MAI
Stone & Associates
1100A Rutherford Road
Greenville, South Carolina 29609**



STONE & ASSOCIATES

1100A RUTHERFORD ROAD • GREENVILLE, SC 29609
TEL. (864) 232-3051 • FAX (864) 232-3053 • E-MAIL amccravy@stoneandassoc.com

January 8, 2019

Mr. Weston Blackwood
Asset Manager
Cothran Properties
P.O. Box 27049
Greenville, South Carolina 29616

RE: Proposed MCDANIEL Subdivision
Lots 1-8
808 McDaniel Avenue
Greenville, SC 29605

Dear Mr. Blackwood:

In accordance with your request, we have personally inspected the above referenced property and have made an Appraisal. We are submitting herewith an Appraisal Report and addenda with applicable exhibits, which explain and demonstrate the processes used in completing this assignment.

The subject property is identified herein as 1.86 acres slated to be subdivided and developed with 8 proposed lots within the proposed single-family residential development to be known as MCDANIEL SUBDIVISION. The subject lots will be located off the western side of McDaniel Avenue and the eastern side of Jones Avenue, in the city limits of Greenville in Greenville County, South Carolina. The subject property is further identified as all of Greenville County Tax Parcel 0217.00-05-007.00. ***The subject property is currently improved with a single-family residence, but it is our understanding that this structure will be demolished or moved for subdivision of the 1.86-acre subject tract into 8 residential subdivision lots. Therefore, no value was given to the existing residential structure nor have demolition/moving costs been deducted from the values stated herein.***

The purpose of this appraisal is to estimate the retail Market Value of the 8 proposed subdivision lots estimated as of January 2, 2019. **This valuation is based on the hypothetical condition that the lots are in place as of the date of inspection.**

January 8, 2019
Page Two

After analyzing the subject property and its market, and the various factors entering into the appraisal analysis, including the Assumptions and Limiting Conditions contained in the complete report, it is our opinion that the Market Value of the 8 proposed subdivision lots estimated as of January 2, 2019, is.

TAX PARCEL #	LOT#	ADDRESS	VALUE
p/o 0217.00-05-007.00	1	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	2	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	3	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	4	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	5	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	6	Jones Avenue	\$485,000
p/o 0217.00-05-007.00	7	Jones Avenue	\$475,000
p/o 0217.00-05-007.00	8	Jones Avenue	\$475,000

We have provided the retail value of the lots only, with no consideration of a discounted sell out.

In this assignment, the existence of hazardous waste material, which may or may not be present on or in the property, was not observed by these Appraisers. These Appraisers have no knowledge of the existence of such materials on or near the property. These Appraisers, however, are not qualified to detect such substances. The presence of such material may have an effect on the value or use of the property. It is assumed that there are no hazardous materials spills, etcetera resulting from underground storage tanks or other causes associated with the subject property. Full compliance with all environmental laws is assumed. The client is urged to retain an expert in this field, if desired. We wish to clearly emphasize that the detection of any such hazardous materials are beyond the scope of this valuation analysis. Furthermore, it is assumed that the presence of any hazardous materials, gases or toxic substances that would cause a loss in value is assumed not to exist on the property. These Appraisers do not report to be qualified engineers trained to detect such substances and no responsibility is assumed by these appraisers relating to the presence of, or impact from, any detected substances.

The value estimate assumes no impact on value because of "Section 404 - Wetlands" as defined by the US Army Corp. of Engineers. These Appraisers have found no evidence of wetlands, but is not an expert in this field and urges the client to seek advice of an expert to determine any potential impact of wetlands on the above referenced property.

We certify that we have the experience and knowledge to competently complete an appraisal of this type, and have made other appraisals of similar properties in the past. We certify that the property, which is the subject of this report, was inspected by Melissa Deyoung and Allen D. McCravy, MAI.

January 8, 2019
Page Three

The appraisal analysis, opinions and conclusions were developed and this appraisal report has been prepared in conformance with (and the use of this report is subject to) all regulations issued under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice and Advisory Opinions (USPAP) 2018 - 2019 Edition as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

The employment of the Appraiser was not conditional upon the appraiser producing a specified value, or a value within a given range. Future employment prospects are not dependent upon the appraiser producing a specified value. Employment of the Appraiser and the payment of the fee are not based on whether a loan application is approved or disapproved.

This appraisal employs the extraordinary assumption that the construction of the proposed subdivision infrastructure be carried out in a workman like manner as depicted in the 8-Lot Proposed Site Plan provided to these Appraisers by the Client/Developer. If there are significant changes in construction, it could affect our opinion of value.

This appraisal employs the hypothetical condition that the subject property is vacant and improved with 8 residential subdivision lots as of our date of inspection or January 2, 2019, as depicted in the 8-Lot Proposed Site Plan provided to these Appraisers by the Client/Developer.

We appreciate the opportunity to be of service. If you have any questions, or require any additional information, please feel free to contact us at (864) 232-3051.

Respectfully submitted,

STONE & ASSOCIATES



Melissa Deyoung
State Certified General Real Estate Appraiser
SC Certificate No. CG 3103



Allen D. McCravy, MAI
State Certified General Real Estate Appraiser
SC Certificate No. CG 3617



VIEW OF SUBJECT PROPERTY



VIEW OF SUBJECT PROPERTY

0400 400

JONES AVE

161.8

164.9

144.4

14.3

0217000500700

CITY OF GREENVILLE

0217000500702

234.6

128.9

73.8

33.4

33.4

308.9

253.2

170

0203001000200

0203001000100

809

100.5

0203001000200

902

39.6

0203001000100

1922 100

200

154.5

221.4

0216000200201

206.1

1927

0217000500701

308.3

0217000500700

240

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SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

PROPERTY	Proposed MCDANIEL Subdivision (8 Lots & Infrastructure)
LOCATION: Street City/Town County State	808 McDaniel Avenue Greenville Greenville South Carolina
TAX PARCEL NUMBER(S)	Tax Parcel 0217.00-05-007.00
OWNER(S) OF RECORD	McDaniel Jones LLC
DATE OF INSPECTION	January 2, 2019
DATE OF APPRAISAL/VALUATION	January 2, 2019
PROPERTY RIGHTS	Fee Simple (Retail Value Only)
LAND AREA	8 Proposed Lots 1.86 Total Acres* (See Exhibit A) (*Inclusive of 8 Proposed Lots)
ZONING	R-9, Single Family Residential District – City of Greenville
FLOOD ZONE - PANEL # - DATE	X - 45045C 0384E – August 18, 2014
PROPERTY TAXES - 2018	\$18,622.36 (Unpaid) (Tax District 500)
DESCRIPTION OF IMPROVEMENTS: Property Type No. of Lots	Single-Family Residential Development 8 Proposed Lots (9,275 SF-12,775 SF-Avg. 10,116 SF)
HIGHEST AND BEST USE - VACANT	Single-Family Residential Development
HIGHEST AND BEST USE – “AS IMPROVED”	Single-Family Residential Development
SALES COMPARISON APPROACH	LOT 1 - \$525,000 LOT 2 - \$525,000 LOT 3 - \$525,000 LOT 4 - \$525,000 LOT 5 - \$525,000 LOT 6 - \$485,000 LOT 7 - \$475,000 LOT 8 - \$475,000
ESTIMATED EXPOSURE TIME	0-3 Months
INSPECTING APPRAISER	Melissa Deyoung
INSPECTING/REVIEWING APPRAISER	Allen D. McCravy, MAI

ASSUMPTIONS AND LIMITING CONDITIONS

The following report is prepared subject to these Limiting Conditions. Do not rely on report unless you accept the following conditions:

CONDITION NO. 1

Unless otherwise stated, the value appearing in this appraisal represents our opinion of the Market Value or the Value Defined AS OF THE DATE SPECIFIED. Market Value of Real Estate is affected by national and local economic conditions and consequently will vary with future changes in such conditions. If the value reported herein is as of a future date, no liability can be assumed for changes that may occur in any conditions or factors that would impact the value conclusions reported.

CONDITION NO. 2

Title to the subject property is assumed to be good and marketable and is free and clear of all liens and encumbrances, unless otherwise stated herein. No responsibility is assumed for matters legal in nature, nor any opinion of title rendered herewith. Good and marketable title is assumed.

CONDITION NO. 3

The information contained herein has been gathered from sources thought to be reliable; however, no responsibility is assumed for their accuracy.

CONDITION NO. 4

Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report.

CONDITION NO. 5

This appraisal report covers only the property described, and the values and rates used do not apply to any other property, however similar it may be.

ASSUMPTIONS AND LIMITING CONDITIONS - Continued**CONDITION NO. 6**

It is assumed that the description of the property is correct, that the improvements are entirely and correctly located on the described property and that there are no encroachments on this property; however no investigation or survey has been made.

CONDITION NO. 7

This appraisal was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.

CONDITION NO. 8

No responsibility is assumed for matters legal in nature, nor is any opinion of title rendered.

CONDITION NO. 9

Neither all nor any part of the contents of this report shall be conveyed to any person or entity, other than the appraiser's or firm's client, through advertising, solicitation materials, public relations, news, sale, or other media without the written consent and approval of the authors, particularly as to valuation conclusions, the identity of the appraiser or firm with which the appraiser is connected, or any reference to (The Appraisal Institute or any of its designations.) Further, the appraiser or firm assumes no obligation, liability, or accountability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all the assumptions and limiting conditions of the assignment.

CONDITION NO. 10

It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures which would make it more or less valuable. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. The appraisers have no knowledge of the existence of such materials on or in the property. The appraisers, however, are not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

ASSUMPTIONS AND LIMITING CONDITIONS - Continued**CONDITION NO. 11**

This appraisal assumes competent management and marketing.

CONDITION NO. 12

The Americans with Disabilities Act (ADA) became effective January 26, 1992. The appraisers have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since the appraisers have no direct evidence relating to this issue, possible noncompliance with the requirements of ADA in estimating the value of the property has not been considered.

CONDITION NO. 13

The distribution, if any, of the total valuation of this report between land and improvement applies only under the stated program of utilization. Separate valuations of land and improvements must not be used for any other purposes and are invalid if done so.

CONDITION NO. 14

The projections of income and expenses including the reversionary value are based on economic trends as of the date of the appraisal. The real estate market is constantly fluctuating and we cannot accept responsibility for economic variables that may occur in the future which was not known as of the date of the appraisal.

CONDITION NO. 15

It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in this appraisal report.

ASSUMPTIONS AND LIMITING CONDITIONS - Continued**CONDITION NO. 16**

It is assumed that all required licenses, certificates of occupancy or other legislative or administrative authority from any local, state, or national governmental, or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.

CONDITION NO. 17

Possession of this report, or a copy thereof, does not carry with it the rights of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraisers, and in any event, only with properly written qualification and only in its entirety.

CONDITION NO. 18

The exact location and the determination of specific availability of any particular utility are beyond the scope of this appraisal. The client and prospective user of the property must make such additional investigations and inquiries with professional engineers or directly with utility providers concerning specific utility services(s) as a part of the client's due diligence studies required for the client's intended use(s) of the property, all as the client, in the client's judgment, may deem appropriate. Any comments as to utilities contained herein are strictly limited to our physical observations, and we expressly do not warrant such comments or service(s) in any fashion. Any lack of particular utility service(s) will have a direct impact upon the valuation contained in this appraisal.

CONDITION NO. 19

The appraisal analysis, opinions and conclusions were developed and this appraisal report has been prepared in conformance with (and the use of this report is subject to) all regulations issued under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and the Uniform Standards of Professional Appraisal Practice and Advisory Opinions (USPAP) 2018 - 2019 Edition as promulgated by the Appraisal Standards Board of the Appraisal Foundation.

CONDITION NO. 20

An extraordinary assumption is defined as an assumption, directly related to a specific assignment, as of the effective date of the assignment results, which, if found to be false, could alter the appraiser's opinions or conclusions (USPAP 2018 - 2019 Edition, ASB of

ASSUMPTIONS AND LIMITING CONDITIONS - Continued

The Appraisal Foundation). “Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis” (USPAP 2018 - 2019 Edition, ASB of The Appraisal Foundation, Comment).

This appraisal employs the extraordinary assumption that the construction of the proposed subdivision infrastructure be carried out in a workman like manner as depicted in the 8-Lot Proposed Site Plan provided to these Appraisers by the Client/Developer. If there are significant changes in construction, it could affect our opinion of value.

CONDITION NO. 21

A hypothetical condition is defined as a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis (USPAP 2018 - 2019 Edition, ASB of The Appraisal Foundation). “Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis” (USPAP 2018 - 2019 Edition, ASB of The Appraisal Foundation, Comment).

This appraisal employs the hypothetical condition that the subject property is vacant and improved with 8 residential subdivision lots as of our date of inspection or January 2, 2019, as depicted in the 8-Lot Proposed Site Plan provided to these Appraisers by the Client/Developer.

CONDITION NO. 22

This Appraisal Report is intended to comply with the reporting requirements set forth under STANDARD 2 of the Uniform Standards of Professional Appraisal Practice and Advisory Opinions (2018 - 2019 Edition) for an Appraisal Report. The content of this report is specific to the needs of the client and intended user(s), and for the intended use stated herein. These appraisers are not responsible for unauthorized use of this report.

SCOPE OF WORK

INTENDED USERS

This appraisal report has been prepared for the exclusive benefit of our client and intended user, Cothran Properties. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the preparer's written consent, does so at his own risk. It is our understanding that the function of this appraisal is to assist the client with loan underwriting analysis.

INTENDED USE / EFFECTIVE DATE

The purpose of this appraisal is to estimate the retail Market Value of the 8 proposed subdivision lots estimated as of our date of inspection or January 2, 2019.

VALUE TYPE & DEFINITION

"As Is" Market Value, Market Value, and Fee Simple Estate are defined as follows:

"As Is" Market Value is defined as: *"the estimate of the market value of real property in its current physical condition, use, and zoning as of the appraisal date".¹*

Market Value is defined as: *"the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby;*

- 1) buyer and seller typically are motivated;*
- 2) both parties are well informed or well advised, and acting in what they consider their own best interest;*
- 3) a reasonable time is allowed for exposure in the open market;*
- 4) payment is made in terms of cash in US Dollars or in terms of financial arrangements comparable thereto; and*
- 5) the price represents the normal consideration for the property*

¹ The Dictionary of Real Estate Appraisal, 5th Edition, Chicago: The Appraisal Institute, 2010

SCOPE OF WORK - Continued

*sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."*²

Fee Simple Estate is defined as: *"absolute ownership unencumbered by any other interest or estate; subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat."*³

SUBJECT

The subject property is identified herein as 1.86 acres slated to be subdivided and developed with 8 proposed lots within the proposed single-family residential development to be known as MCDANIEL SUBDIVISION. The subject lots will be located off the western side of McDaniel Avenue and the eastern side of Jones Avenue, in the city limits of Greenville in Greenville County, South Carolina. The subject property is further identified as all of Greenville County Tax Parcel 0217.00-05-007.00. ***The subject property is currently improved with a single-family residence, but it is our understanding that this structure will be demolished or moved for subdivision of the 1.86-acre subject tract into 8 residential subdivision lots. Therefore, no value was given to the existing residential structure nor have demolition/moving costs been deducted from the values stated herein.***

² Office of the Comptroller of the Currency under 12 CFR, Part 34, Subpart C-Appraisals, 34.42 Definitions [f].

³ The Dictionary of Real Estate Appraisal, 5th Edition. (Chicago: Appraisal Institute, 2010), p. 78.

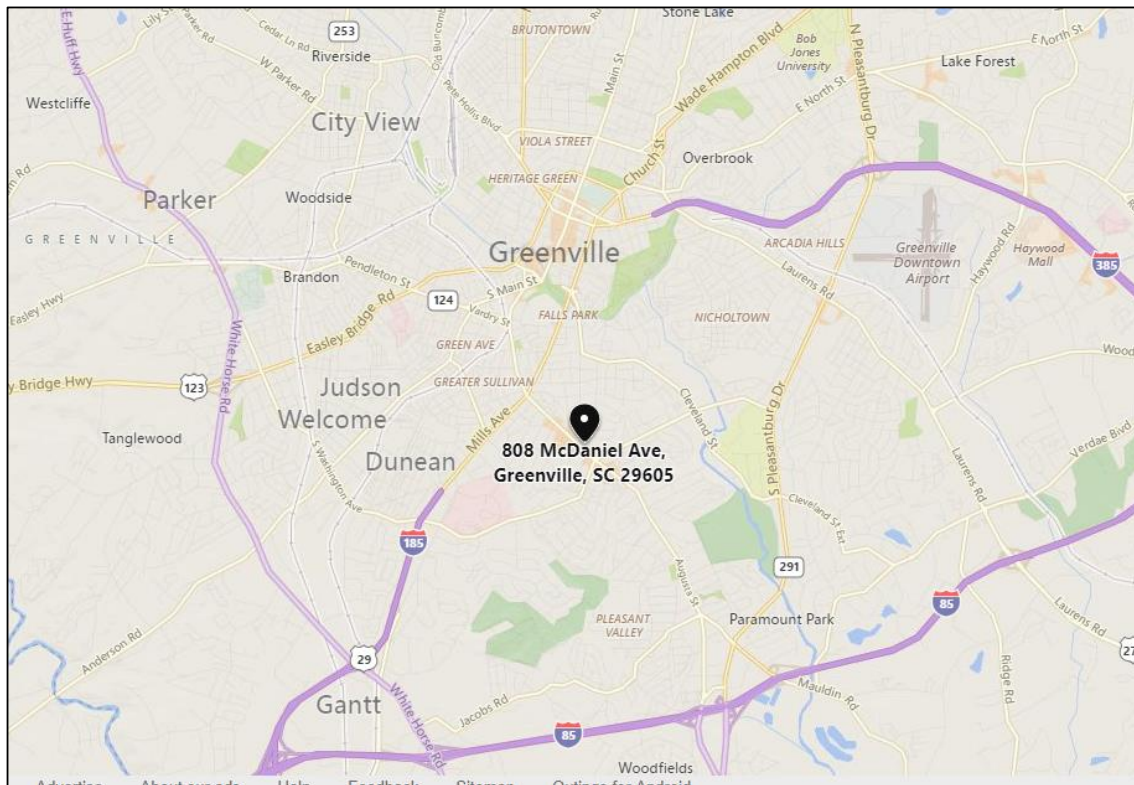
SCOPE OF WORK - Continued



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SCOPE OF WORK - Continued

LOCATION MAP



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SCOPE OF WORK - Continued

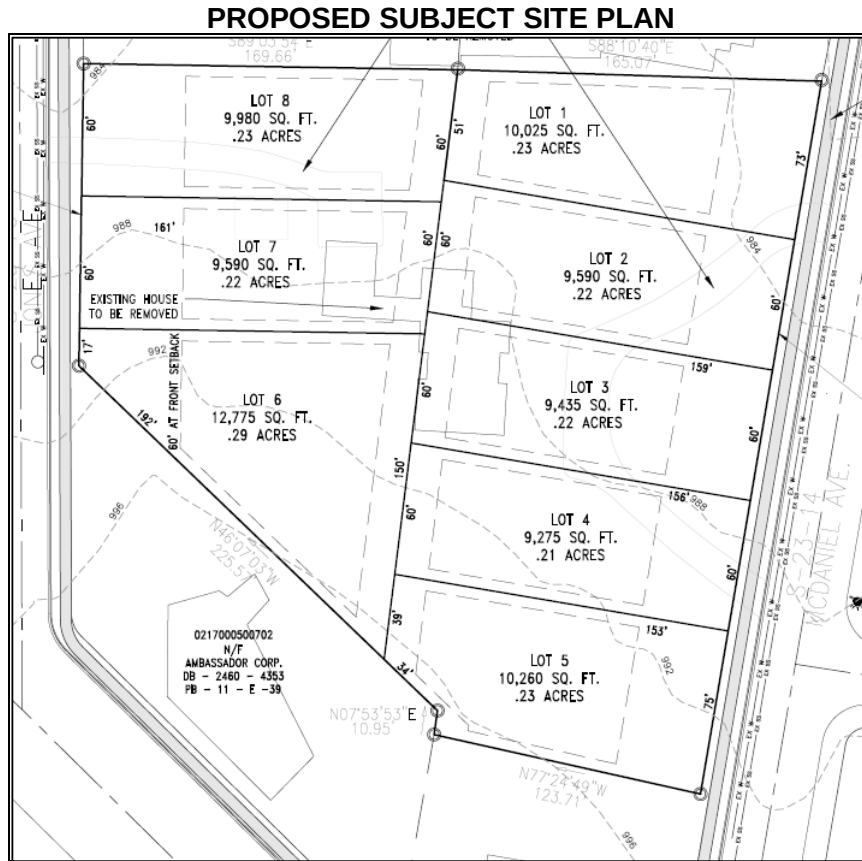


EXHIBIT A

TAX PARCEL #	LOT#	ADDRESS	ACRES	SQ FT
p/o 0217.00-05-007.00	1	McDaniel Avenue	0.230	10,025
p/o 0217.00-05-007.00	2	McDaniel Avenue	0.220	9,590
p/o 0217.00-05-007.00	3	McDaniel Avenue	0.217	9,435
p/o 0217.00-05-007.00	4	McDaniel Avenue	0.213	9,275
p/o 0217.00-05-007.00	5	McDaniel Avenue	0.236	10,260
p/o 0217.00-05-007.00	6	Jones Avenue	0.293	12,775
p/o 0217.00-05-007.00	7	Jones Avenue	0.220	9,590
p/o 0217.00-05-007.00	8	Jones Avenue	0.229	9,980

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SCOPE OF WORK - Continued**SUBJECT SALES/LISTING HISTORY**

Again, the subject property is identified herein as 1.86 acres. This tract is all of Greenville County Tax Parcel 0217.00-05-007.00. According to current Greenville County public records, the current owners of record for the subject property is as McDaniel Jones LLC, having been acquired from the Estate of C. E. Hatch(deceased) by Deed for a recorded consideration of \$1,430,000. This Deed was recorded on July 26, 2018 in the Greenville County Register of Deeds Office in Deed Book 2543 beginning on Page 5317.

This being the same property conveyed unto TNB Financial Services, Successor Trustee U/W of C.E. Hatch by deed of Bank Of America, N.A. Trustee under will of C.E. Hatch dated August 15, 2017 filed for record in the ROD Office for Greenville County, SC on August 38, 2017 in Deed Book 2520 at Page 350 – SEE ALSO CORRECTIVE DEED from Bank of American, N.A., Trustee under Will of C.E. Hatch dated July 18, 2018 and filed for record in the ROD Office for Greenville County in Deed Book 2543 at Page 4081 on July 24, 2018. This is a portion of the property conveyed to C. E. Hatch by deed of J. A. McDaniel dated April 4, 1916, and recorded in the ROD Office for Greenville County, SC, on April 11, 1916, in Book 34, at page 26. Estate of C. E. Hatch (died testate 10/29/71) Greenville County Probate File 1202-22; Deed from Hugh B. Hamilton, Jr., dated February 25, 1987 and filed for record in the ROD Office for Greenville County, SC, March 26, 1987 in Deed Book 1291 at Page 282

We are unsure as to whether the subject property had been actively marketed for sale by the previous owners within the 3 years prior to this appraisal. However, it is our understanding that the subject property's 1.86 acres is currently being actively marketed for sale as improved with a 4,300-square foot residence built in 1966 through the Greater Greenville MLS (MLS# 1380127) for \$1,997,700. We understand that this listing has been in MLS for approximately 61 days.

It is our understanding from the Client/Developer that projected lot list prices for proposed Lots 1-8 within the proposed MCDANIEL SUBDIVISION have not yet been established, nor have any restrictive covenants or conditions been recorded.

ASSIGNMENT CONDITIONS

In preparing this appraisal, the appraisers inspected the subject property, gathered information on comparable lot/home sales within the general market area, analyzed the data and applied the sales comparison approach to value.

The scope of this appraisal encompasses the necessary research and analysis to prepare a report in accordance with the intended use, the Code of Professional Ethics and

SCOPE OF WORK - Continued

Standards of Professional Practice of the Appraisal Institute, and the Uniform Standards of Professional Appraisal Practices of the Appraisal Foundation. The scope of the assignment included inspecting the subject property, gathering regional, county and neighborhood data from various public information sources and determining the Highest and Best Use of the subject property. A final estimate of value is determined after assembling and analyzing the data defined in this category. It is our opinion that this analysis leads to a credible estimation of value for the subject property.

We have identified the subject property by information received from the Client/Developer and were assisted by public information found in the Greenville County ROD, Treasurer's and Tax Assessor's Offices.

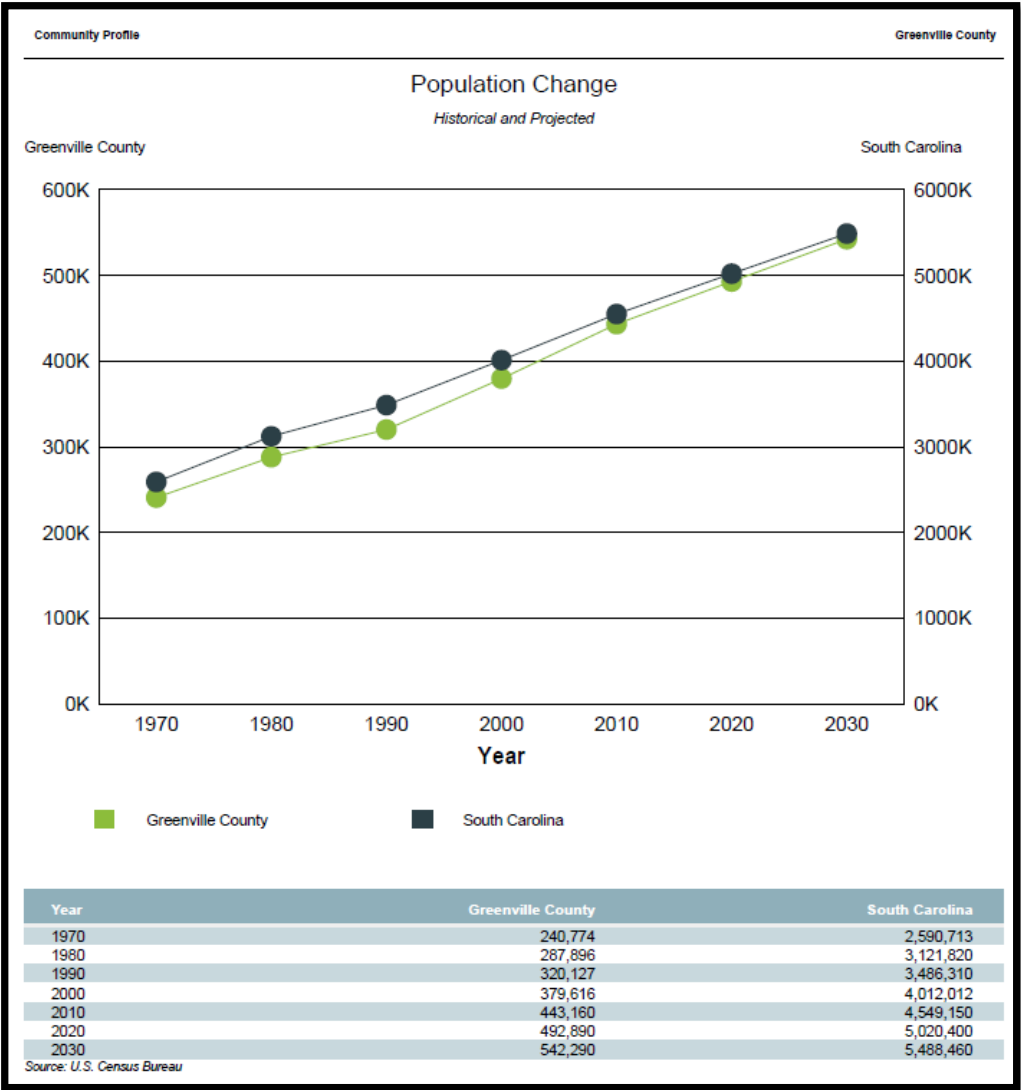
This appraisal employs the extraordinary assumption that the construction of the proposed subdivision infrastructure be carried out in a workman like manner as depicted in the 8-Lot Proposed Site Plan provided to these Appraisers by the Client/Developer. If there are significant changes in construction, it could affect our opinion of value.

This appraisal employs the hypothetical condition that the subject property is vacant and improved with 8 residential subdivision lots as of our date of inspection or January 2, 2019, as depicted in the 8-Lot Proposed Site Plan provided to these Appraisers by the Client/Developer.

REGIONAL AND CITY ANALYSIS - Continued

Population and Growth

Greenville County is South Carolina's most populous county with more than 440,000 residents. Approximately 59,000 live within Greenville city limits. According to the 2010 Census, Greenville County had a population of 443,160. The City of Greenville's population according to 2010 census was 58,409.



REGIONAL AND CITY ANALYSIS - Continued

2017 Announced Capital Investment and Job Creation Greenville County, South Carolina					
Date	Company	Product	Investment	Jobs	Type
1-26	Response Packaging	Mfg – Returnable packaging	\$5,000,000	100	E
2-14	Sencorables, LLC	R&D - IoT (Internet of Things) digital sensing products	\$3,500,000	25	N
2-16	BB&T	Office – Mortgage servicing center	\$30,000,000	0	E
2-16	Verizon	Office – Customer service and telesales center	\$3,500,000	260	E
3-8	AVX	Mfg – Electronic passive components	\$35,000,000	102	E
3-15	Gower / MP Husky	Mfg - Cable tray and cable bus systems	INR	50	E
4-12	Stren-Flex	Mfg - Synthetic lifting products	\$1,000,000	25	N
4-27	Caristrap	HQ / Mfg – Strapping, buckles, tensioners, etc.	\$5,500,000	100	N
4-28	JSI Store Fixtures, Inc	Mfg – High-quality merchandising displays	\$2,100,000	97	N
5-2	Moore's Food Resources	Mfg – Flavor ingredient and food services	\$15,000,000	182	N
6-16	Softbox Systems	HQ / Mfg- Temperature controlled packaging	\$10,200,000	70	E
7-11	Honeywell Aerospace	Mfg- Turbine engines in aerospace industry	\$32,000,000	30	E
7-19	Kloeckner Metals Corp	Mfg- Metal processor and distributor	\$11,300,000	19	E
8-9	Bona Fide Kayaks	Mfg- Fishing Kayaks	\$2,000,000	76	N
8-23	bo parts GmbH	Mfg- Tier 1 and Tier 2 automotive parts supplier	\$4,100,000	100	N
9-20	Roy Metals	Mfg- Industrial coatings	\$30,000,000	40	E
10-18	Metromont Corporation	Mfg- Precast concrete materials	\$8,800,000	100	E
10-25	Blue Eye Soft Corporation	Office – IT solutions, service and staffing	\$500,000	120	E
11-7	Mapal, Inc	Mfg – Custom tooling	\$4,000,000	16	E
11-8	Vetroresina	Mfg – Fiber-reinforced polyester laminates (sheets)	\$7,500,000	17	E
12-8	Lockheed Martin	Mfg – F-16 Jets	\$13,500,000	200	E
Announced Investment and Jobs			224,500,000	1,729	
Confidential Investment and Jobs			\$111,468,251	60	
Total Investment and Jobs			\$335,968,251	1,789	
Source: Greenville Area Development Corporation, revised January 3, 2017					
N= New company to Greenville; E= Expansion of existing Greenville County Company; INR= Information not released					

REGIONAL AND CITY ANALYSIS - Continued

Local Economic Base

Home to internationally recognized industries, Greenville is considered to be the economic center of the Upstate. Greenville's ability to attract both small local companies and major international corporations is the result of cooperation between city government and the private sector. Recognized as a leader in developing public/private partnerships, Greenville's entrepreneurial spirit and strong workforce creates a magnet for business. In addition, Greenville is located in the heart of a right-to-work state and a foreign trade zone.

Greenville also serves as the retail hub of the Upstate. Haywood Mall and the surrounding shopping districts, draw shoppers from the entire Upstate region. In addition, Greenville is the financial hub with virtually every major bank in the Southeast maintaining a presence in downtown, with a number of banks maintaining their South Carolina headquarters.⁴

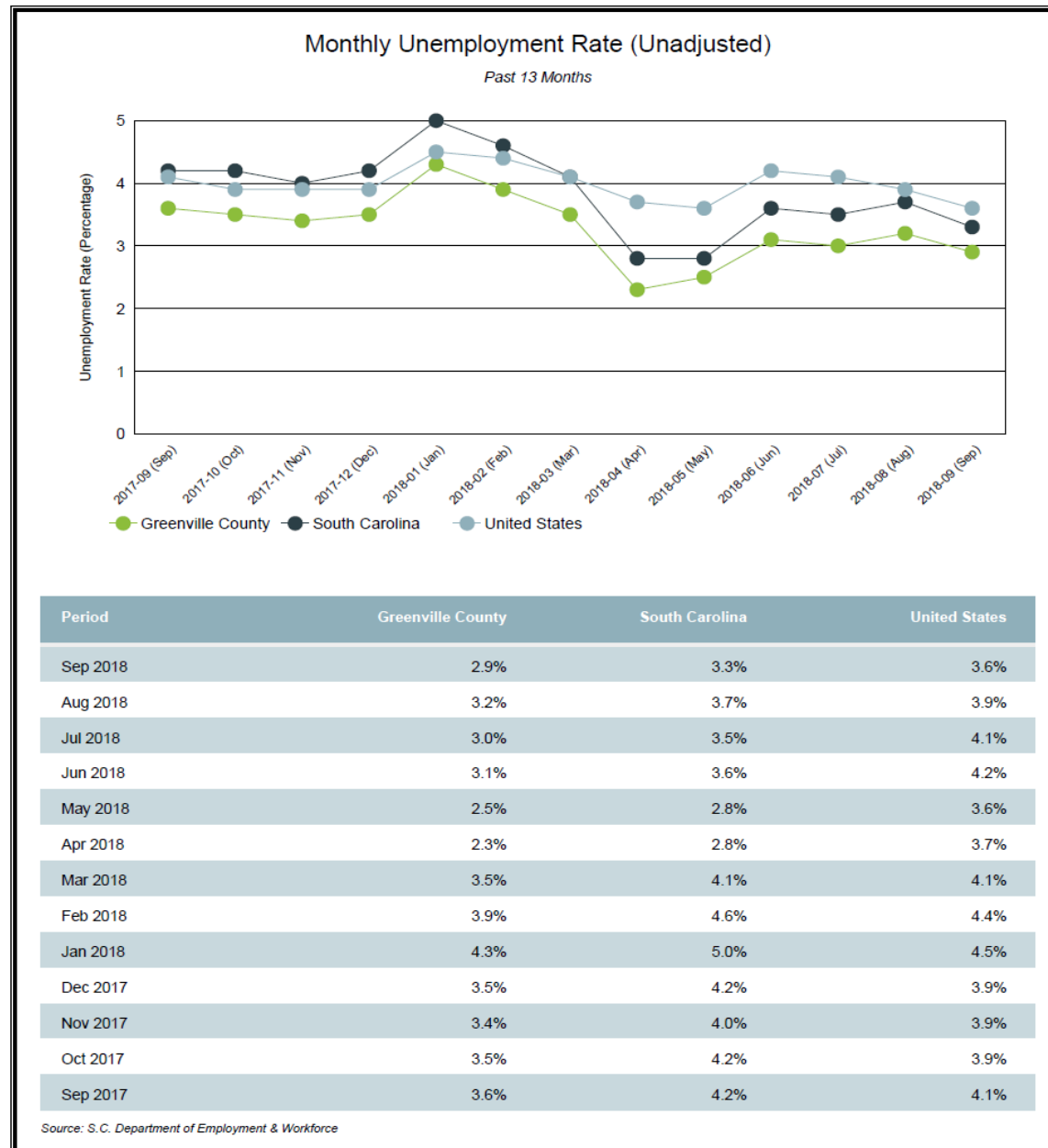
2018 Announced Capital Investment and Jobs Greenville County, SC					
DATE	COMPANY	PRODUCT	NEW INVESTMENT*	NEW JOBS	TYPE**
1-11	Zylo Therapeutics	R&D - Therapeutics	INR	30	N
3-15	Grace Hill, Inc.	Office/HQ/R&D - Property management software	\$495,000	53	E
4-17	EAS Systems	Office - Business services / sales	\$150,000	20	N
5-30	Koops, Inc.	Mfg - Machinery	\$2,200,000	20	E
6-18	International Vitamin Corp	Mfg - Nutraceutical	\$8,350,000	0	E
6-20	ACL Airshop	Mfg - Aircraft logistics parts	\$7,200,000	32	E
7-30	Master Gage & Tool Co.	Distr. - Specialty tooling	\$0	7	N
Total Announced Investment and Jobs			\$18,395,000	162	
Total Confidential Investment and Jobs*			\$103,960,150	601	
Total Investment and Jobs			\$122,355,160	763	

⁴ http://www.greatergreenville.com/development/eco_dev.asp

REGIONAL AND CITY ANALYSIS - Continued

Employment and Labor Force

According to the September 2018 unemployment statistics, the unemployment rate for Greenville County is 2.9%. This is below the state and national levels of 3.3%, and 3.6%, respectively. Unemployment rates hit all-time highs in early 2010 but have since been steadily declining.



REGIONAL AND CITY ANALYSIS - Continued

Transportation Infrastructure

Strategically situated along the mega-growth I-85 corridor, between Atlanta, GA and Charlotte, NC, Greenville is easily accessible through a multi-modal network. Greenville is located 100 miles from the capitol city of Columbia and only 200 miles from the Port City of Charleston.

Interstate and Highways

The upstate of South Carolina has over 14,000 miles of state and county-maintained highways. Among these are several major interstate systems. Interstate I-85 is the backbone of the manufacturing region. Passing thru the upstate, I-85 stretches from Richmond, VA to Atlanta, GA and southern Alabama and connects the southeast with the northeast. Interstate 385 connects with I-26 to the southeast, allowing access to the South Carolina ports. The Southern Connector (part of I-185), a privately developed 17-mile toll road, has opened up portions of the county that has heretofore been inaccessible for industrial development.

Airports

The Greenville-Spartanburg International Airport (GSP) is located in Upstate South Carolina, midway between the cities of Greenville and Spartanburg on I-85 (Exit 57). GSP has grown into one of the finest airports in the country, steadily meeting the Upstate's ever-increasing needs. Expansion in recent years to the terminal and airfield has exceeded \$100 million. The terminal contains over 226,000 square feet of usable space, has second level jet bridge boarding and thirteen departure gates. Two Federal Inspection Stations (FIS) consisting of Customs, Immigrations and Agriculture are located at GSP. The first FIS facility is located under the south concourse. The facility is 8,800 square feet of usable space and is designed to handle 250 international passengers per hour. A second FIS is located on the north cargo ramp. This facility is designed to handle cargo and corporate aircraft that require international clearance.

In 1995, the runway was extended to 9,000 feet and another 2,001-foot extension was completed in June 1999. At 11,001 feet, long, GSP has the 19th longest runway in the nation. The airport handles over 1.5 million passengers annually and is served by fifteen airlines. They offer over eighty daily departures to 18 non-stop destinations.

REGIONAL AND CITY ANALYSIS - Continued

Rail Service

Rail freight service is provided in Greenville County by CSX Transportation and the Norfolk Southern Railway. Amtrak passenger service is also available in the City of Greenville. Travel time from Greenville to Washington, DC is approximately eleven hours. Travel time from Greenville to New York is approximately fifteen hours.

Utilities

Water collected from mountain streams in the Table Rock and North Saluda reservoirs supplies the needs of the Greenville area. The two lakes store 34.5 billion gallons of water covering 1,580 acres. Duke Energy, an investor-owned electrical utility, provides electrical service. ReWa providing sewer service for Greenville County operates thirty waste treatment plants. Piedmont Natural Gas Company supplies natural gas to most parts of the county.

In addition to the above-mentioned utilities available, there is also garbage collection, mail service, and police and fire protection provided to residents within the city.

Future Outlook

The labor statistics indicate a decreasing unemployment rate; and near the lowest point in several years. Greenville County is lower than the state and national levels. The future outlook for Greenville County remains positive considering the overall location and stability of the local economy. We expect moderate growth in the market in the near future.

NEIGHBORHOOD ANALYSIS

Location

The neighborhood is considered to be that area along both sides of Augusta Street bound by US Highway 29/Church Street/Mills Avenue to the north and west Mauldin Road to the south.

Access

Augusta Street, or US Highway 25 Business, is a very well-traveled four-lane corridor with a two-way traffic flow that connects the downtown Central Business District of Greenville with I-85 and the southern portions of Greenville County. This thoroughfare converts to Augusta Street, or US Highway 25, as it crosses I-85 and connects with the City of Greenwood some 25 miles south of Greenville.

Land Uses

Both commercial and residential land uses are found along Augusta Street. This area is considered to be approximately 90% to 95% developed; hence, there is very little vacant land available. New development normally requires the demolition of older structures. Heavy commercial activity is found around the subject property, with land uses consisting of, but not limited to: office development, financial institutions, strip shopping centers, freestanding retail establishments, churches, restaurants, and numerous other secondary commercial uses. The immediate area at the subject's location is a mixture of second generation commercial uses and residential. South of the subject neighborhood and east of Augusta Street is a Home Depot store located at the intersection of Frontage Road and South Pleasantburg Drive.

The trend of development toward office-oriented and commercial use on the northwest end of Augusta Street appears to be sustained and should continue well into the future. Land uses along the southern end of Augusta Street before Interstate 85 are predominately mature single-family residential uses with scattered service or multi-family uses. All public utilities and public transportation are available to meet the needs of the neighborhood and its anticipated growth. Recent developments along the Augusta corridor include the construction of a CVS at Faris Road, a new bank branch, and the development of a Harris Teeter. One of the largest additions to the neighborhood is the

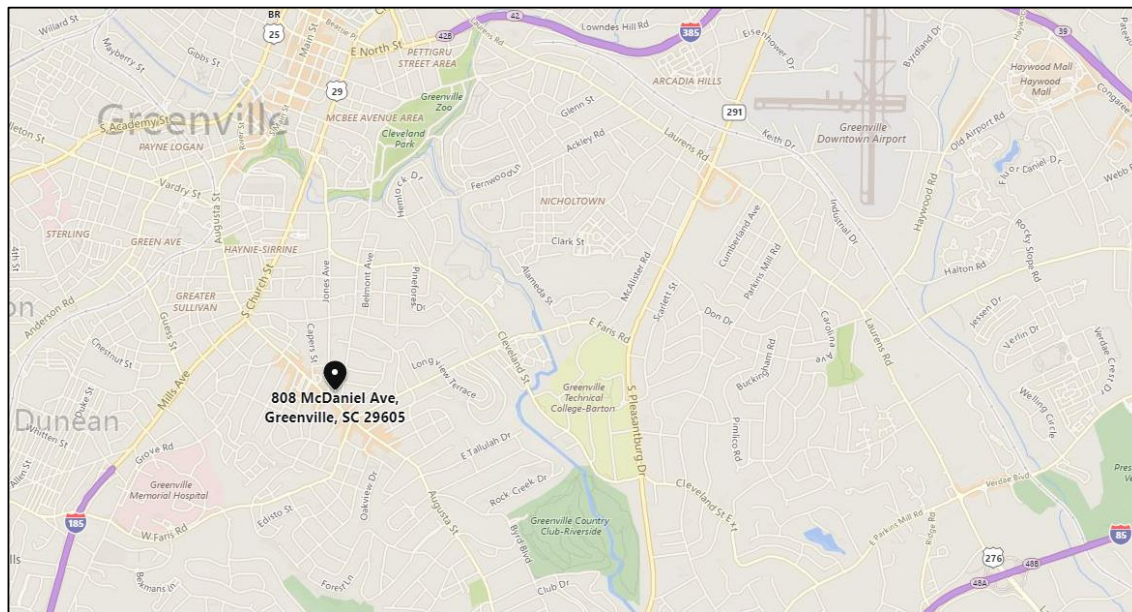
NEIGHBORHOOD ANALYSIS - Continued

\$6 million renovation of an iconic bakery, Claussen Bakery. Other sites — Scott Tower and Lewis Plaza — are in transition.

Conclusion

The immediate neighborhood is experiencing continued growth, as evident by recent development along this corridor. Mature commercial uses along this corridor have received updated exteriors. The subject neighborhood is well positioned to continue attracting commercial and residential growth due to it being an established commercial corridor of Greenville. Other positive attributes include recent developments and redevelopments announced for this corridor, the neighborhood's proximity to the Central Business District of Greenville and the surrounding residential developments. The redevelopment of Lewis Plaza illustrates the ongoing growth of this sector and will serve as a driver for additional commercial growth along the Augusta Road corridor. Growth in the neighborhood will continue at a rate paralleling the changes in regional and local economic conditions.

NEIGHBORHOOD MAP

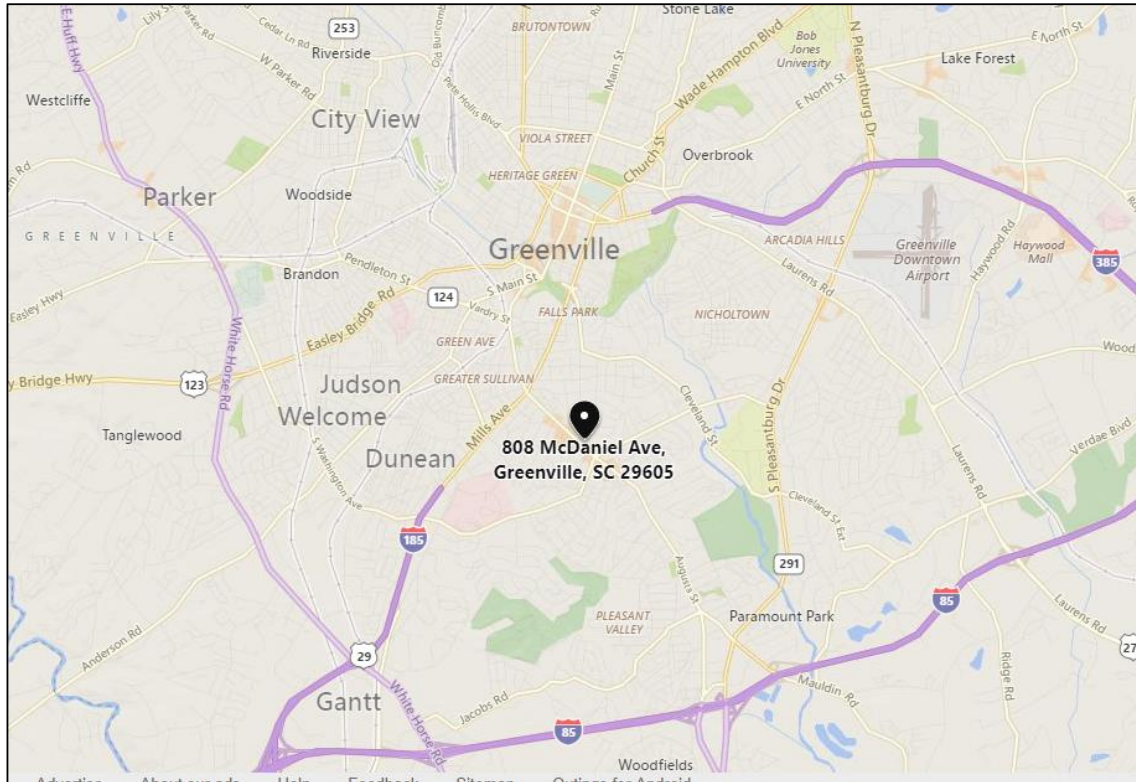


SITE ANALYSIS - Continued

ACCESS

Interstate access to Interstate 85 from the subject tract is considered to be good and is gained via Jones Avenue/McDaniel Avenue south to Augusta Road, then south to Interstate 85 (Exit 46B). Direct access to the subject tract is from McDaniel Avenue and Jones Avenue. The subject tract enjoys excellent visibility from both directions along McDaniel Avenue and Jones Avenue.

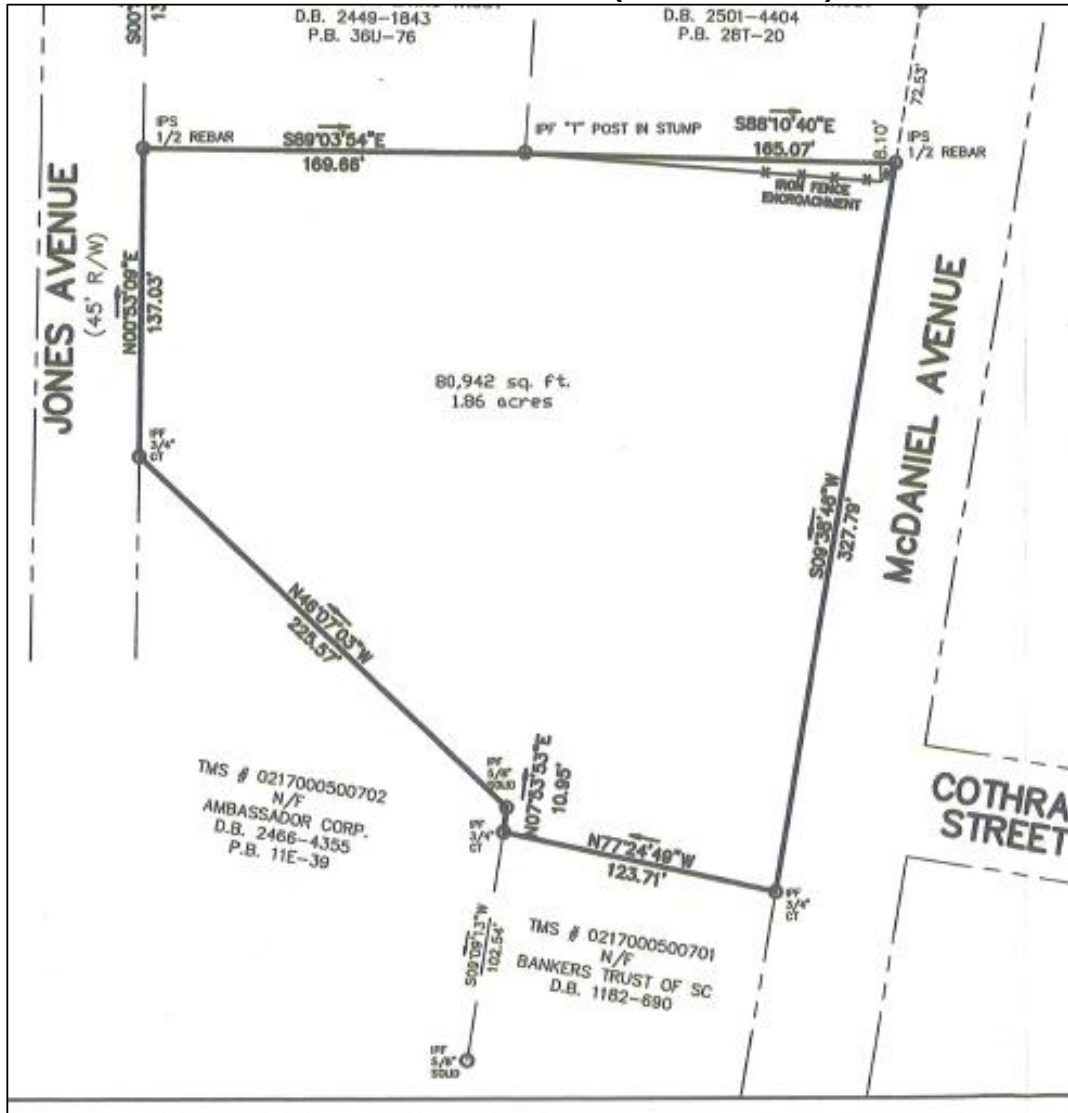
LOCATION MAP



SIZE/ DIMENSIONS

According to documents provided by the Client, the subject tract contains approximately 1.86 acres of land more or less, and is irregular in shape. According to measurements taken from the existing subject plat, the subject tract has good frontage along McDaniel Avenue of approximately 327.79 linear feet and along Jones Avenue of approximately 137.03 linear feet, and appears to have adequate depth to be developed with the proposed 8-lot residential development to be known as MCDANIEL SUBDIVISION.

EXISTING SUBJECT PLAT (PB 1311 PG 58)



LOT 8
9,980 SQ. FT.
.23 ACRES

LOT 1
10,025 SQ. FT.
.23 ACRES

LOT 7
9,590 SQ. FT.
.22 ACRES
EXISTING HOUSE TO BE REMOVED

LOT 2
9,590 SQ. FT.
.22 ACRES

LOT 3
9,435 SQ. FT.
.22 ACRES

LOT 6
12,775 SQ. FT.
.29 ACRES
60' AT FRONT SETBACK

LOT 4
9,275 SQ. FT.
.21 ACRES

LOT 5
10,260 SQ. FT.
.23 ACRES

0217000500702
N/F
AMBASSADOR CORP.
DB - 2460 - 4353
PB - 11 - E - 39

N46°07'03"W
225.5'

N07°53'53"E
10.95'

N77°22'49"W
123.71'

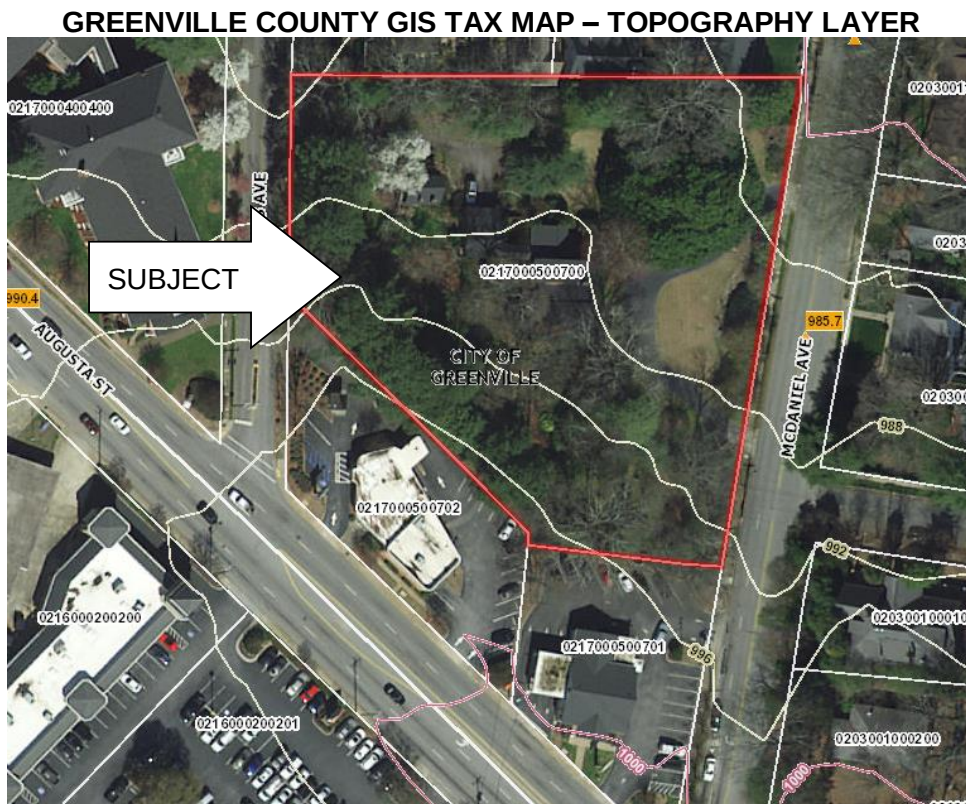
DANIEL AVE.

JONES AVE.

SITE ANALYSIS - Continued

TOPOGRAPHY

The overall contour of the subject tract is considered to be at grade with the road grades of McDaniel Avenue and Jones Avenue. The subject tract is predominantly grassed and landscaped throughout; more densely so, around the existing residential structures.



EASEMENTS

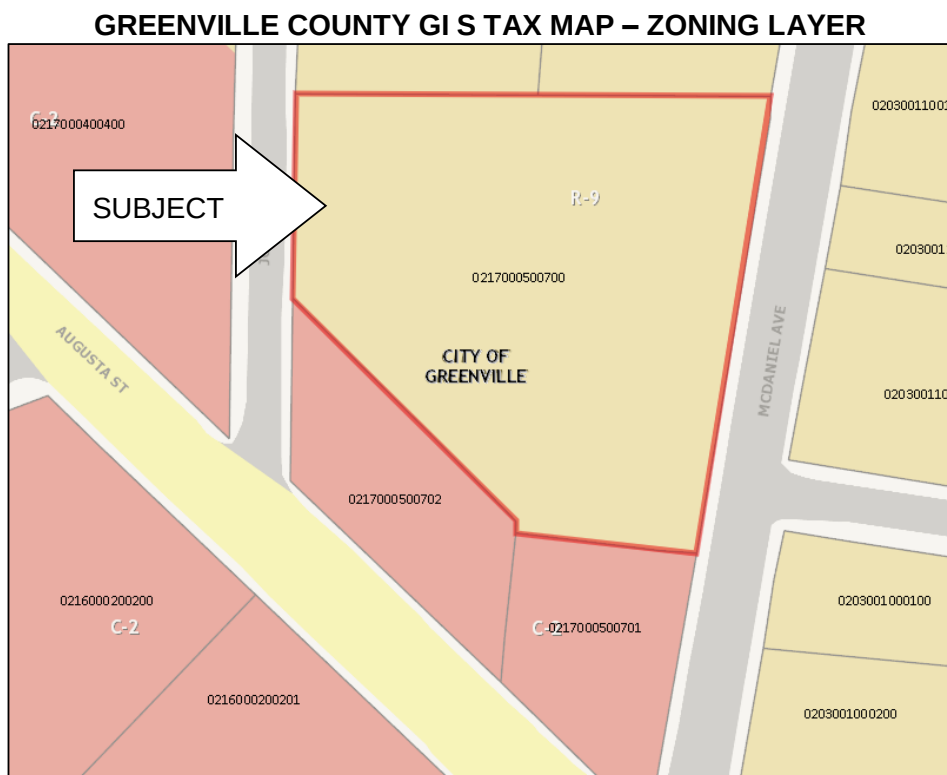
A review of County records was conducted by these Appraisers to ascertain the existence of any recorded easements on the subject tract. No other easements or encroachments were found other than existing utilities, which are necessary for the development of the site.

SITE ANALYSIS - Continued**UTILITIES**

Utilities available to the subject tract include public water and sewer, electricity, natural gas and telephone/cable service. All utilities appear to be available in adequate quantities and at reasonable prices.

ZONING

Again, the subject tract is located off the western side of McDaniel Avenue and the eastern side of Jones Avenue, in the city limits of Greenville in Greenville County, South Carolina, and is currently zoned R-9, Single-Family Residential District by the City of Greenville and Greenville County.



TAX AND ASSESSMENT ANALYSIS

The subject property is identified herein as all of Greenville County 0217.00-05-007.00, located off the western side of McDaniel Avenue, and off the eastern side of Jones Avenue, in the city limits of Greenville, in Greenville County, South Carolina.

In South Carolina, all properties with the exception of agricultural uses, industrial and owner-occupied residences are assessed at a rate of 6% of the market value established by the Greenville County Tax Assessor's Office. Industrial and utility companies are assessed by the South Carolina State Tax Commission. Agricultural property and owner-occupied residential dwellings are assessed at a rate of 4%.

According to current property data, Tax Parcel 0217.00-05-007.00 is located within Greenville County Tax District 500 and has been assessed and taxed as improved. In 2018, this parcel had a market value of \$883,570 and an assessed value of \$53,010. The 2018 real property taxes were \$18,622.36 and remain unpaid as of the writing of this report.

DESCRIPTION OF EXISTING/PROPOSED IMPROVEMENTS

Again, the subject property is identified as 1.86 acres that comprise all of Greenville County Tax Parcel 0217.00-05-007.00, and is located off the western side of McDaniel Avenue and the eastern side of Jones Avenue, in the city limits of Greenville, in Greenville County, South Carolina.

Existing

As stated earlier, the subject property's 1.86 acres are currently improved with an existing single-family residence. The physical street address is 808 McDaniel Avenue. The structure appears to have been well maintained but is slated to be demolished or moved in order to subdivide the subject tract into 8 residential lots.

Proposed

The subject tract is slated to be improved with 8 proposed lots within the proposed single-family residential development to be known as MCDANIEL SUBDIVISION. Direct access to SUBJECT LOTS 1-5 will be from the western side of McDaniel Avenue, and direct access to SUBJECT LOTS 6-8 will be from the eastern side of Jones Avenue. There will be no interior roads within this proposed development. The 8 proposed subject lots will average 10,116 square feet, with a minimum lot size of 9,275 square feet and a maximum lot size of 12,775 square feet. Their front feet along their respective roads appear adequate and similar to the comparables utilized in our valuation. The proposed subject lots' acreage is identified on a table found on the following page.

DESCRIPTION OF EXISTING/PROPOSED IMPROVEMENTS - Continued

TAX PARCEL #	LOT#	ADDRESS	ACRES	SQ FT	VALUE
p/o 0217.00-05-007.00	1	McDaniel Avenue	0.230	10,025	\$525,000
p/o 0217.00-05-007.00	2	McDaniel Avenue	0.220	9,590	\$525,000
p/o 0217.00-05-007.00	3	McDaniel Avenue	0.217	9,435	\$525,000
p/o 0217.00-05-007.00	4	McDaniel Avenue	0.213	9,275	\$525,000
p/o 0217.00-05-007.00	5	McDaniel Avenue	0.236	10,260	\$525,000
p/o 0217.00-05-007.00	6	Jones Avenue	0.293	12,775	\$485,000
p/o 0217.00-05-007.00	7	Jones Avenue	0.220	9,590	\$475,000
p/o 0217.00-05-007.00	8	Jones Avenue	0.229	9,980	\$475,000
8 # LOTS min max avg median ACRES SQ FT 0.213 0.293 0.232 0.225 9,275 12,775 10,116 9,785					

As stated earlier, the subject property is currently zoned by R-9, Single-Family Residential District by the City of Greenville and Greenville County. It is our understanding that this proposed residential development has not received approval by the City of Greenville. We assume that these 8 proposed subject lots, when subdivided, will be given separate tax map numbers by the Greenville County Tax Assessor's Office, and assessed and taxed by both the City of Greenville and Greenville County.

These Appraisers have not yet been provided a copy of the proposed DECLARATIONS OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR MCDANIEL SUBDIVISION, as we understand that they have not yet been prepared or recorded in the Greenville County Register of Deeds Office. However, these proposed covenants when prepared and recorded are assumed to be commensurate with those of the subdivision comparables used in our subdivision development analysis.

As of the writing of this report, Home Owner's Association (HOA) annual dues for MCDANIEL SUBDIVISION have not yet been established. ***However, we have assumed that these proposed annual dues will be commensurate with the subdivision comparables used in our Subdivision Development Analysis.*** We assume that the developer/purchaser will not be liable for HOA dues on unsold lots.

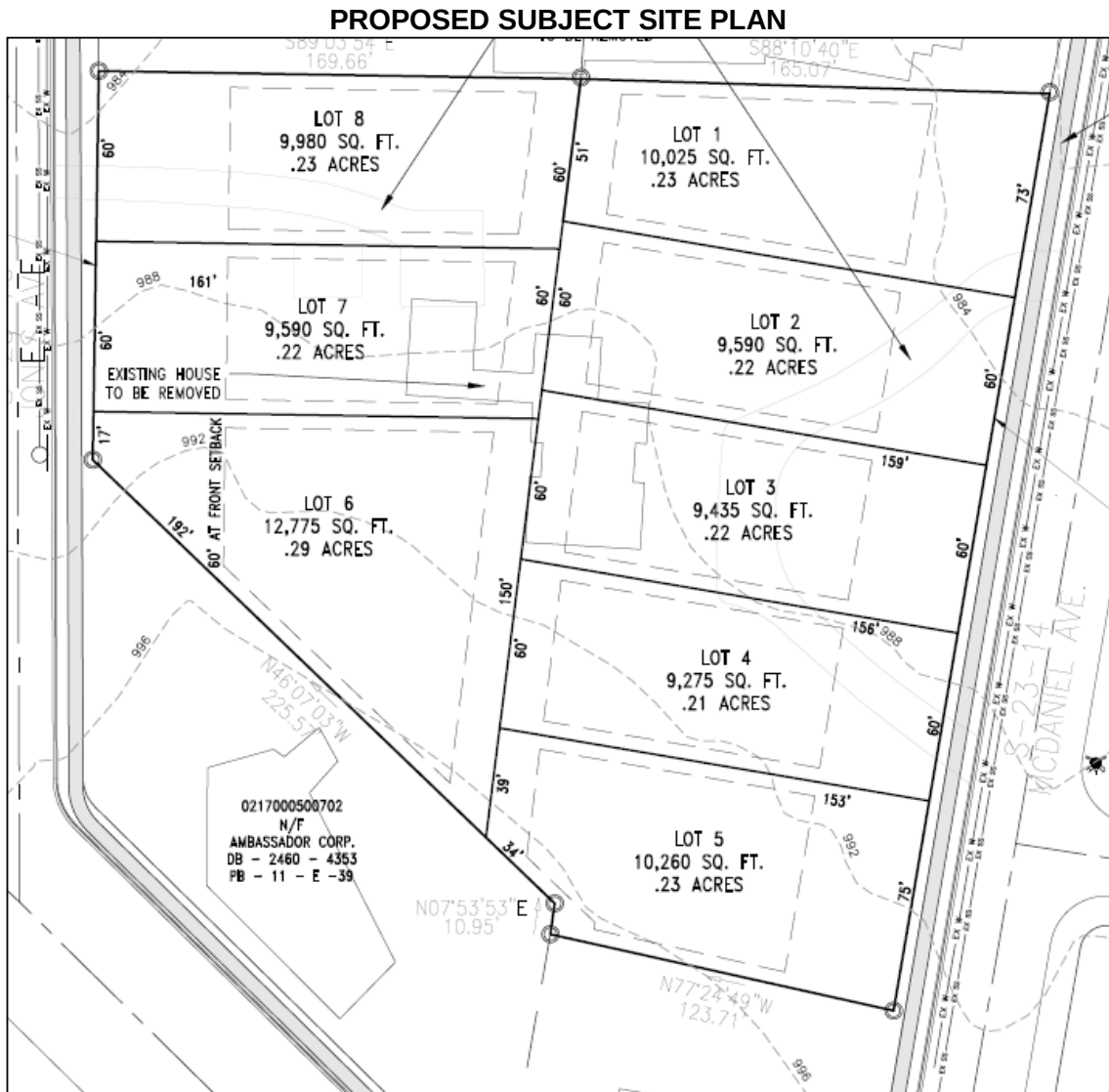
DESCRIPTION OF EXISTING/PROPOSED IMPROVEMENTS - Continued

According to data provided to these Appraisers, this proposed subdivision will be developed in one phase. We assume that each proposed lot will have underground utilities (electricity, public water and sewer, natural gas, telephone/cable services).

It is our understanding from the Client/Developer that projected lot list prices for proposed Lots 1-8 have not yet been established.

The reader should note that we are describing the proposed site improvements and subdivision infrastructure based on the PROPOSED SUBJECT SITE PLAN supplied by the Client/Developer. If the subsequent improvements are substantially different, it could affect our opinion of value. After reviewing the PROPOSED SUBJECT SITE PLAN, it is our opinion that it appears to represent a functional overall design.

DESCRIPTION OF EXISTING/PROPOSED IMPROVEMENTS - Continued



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DESCRIPTION OF EXISTING/PROPOSED IMPROVEMENTS - Continued

PRELIMINARY PLAN NOTES:

1. TAX MAP NUMBER 0217000500700. THE PROPERTY IS ZONED R9.
2. AS A MINIMUM, 5 FOOT DRAINAGE AND UTILITY EASEMENTS ESTABLISHED ALONG ALL SIDE PROPERTY LINES. 10 FOOT EASEMENTS ESTABLISHED ALONG EXTERIOR BOUNDARY OF SUBDIVISION UNLESS ADJOINING OWNERS HAVE ESTABLISHED EASEMENTS.
3. IRON PINS AT ALL PROPERTY CORNERS, UNLESS OTHERWISE NOTED.
4. REFERENCE PLAT BY J. A. MCCULLOUGH, IV TITLED "SURVEY FOR MCDANIEL JONES, LLC." DATED JULY 19, 2018.
5. POTABLE WATER BY GREENVILLE WATER SYSTEM. (AS SHOWN)
6. ELECTRICAL POWER BY DUKE ENERGY. (OVERHEAD LINES ALONG MCDANIEL AVE. AND JONES AVE.)
7. NATURAL GAS BY PIEDMONT NATURAL GAS.
8. SANITARY SEWER COLLECTION BY CITY OF GREENVILLE.
9. FIRE PROTECTION BY THE CITY OF GREENVILLE FIRE DEPARTMENT.
10. SANITATION SERVICES BY GREENVILLE PUBLIC WORKS.
11. ALL STORM WATER SYSTEMS ON-SITE WILL BE LOCATED ON A COMMON AREA CONSERVATION EASEMENT.
12. THE MAXIMUM IMPERVIOUS AREA ALLOWED FOR EACH INDIVIDUAL LOT IS 4,050 SQUARE FEET.
13. PROPOSED DRIVEWAYS ON INDIVIDUAL LOTS ARE TO BE MADE OF A POROUS MATERIAL.
14. TOPOGRAPHY INTERVALS ARE FOUR FOOT CONTOURS INTERPOLATED FROM GREENVILLE COUNTY GIS DATA.
15. A STORMWATER AND EROSION CONTROL PLAN WILL BE SUBMITTED AND APPROVED BY THE CITY OF GREENVILLE PRIOR TO CONSTRUCTION.
16. SETBACKS FOR THE PROPERTY IS 40' ON MCDANIEL AVE. AND 46.5' JONES AVE. FRONT; 5' SIDE; AND 15' REAR.
17. CURRENT PROPERTY OWNER IS LISTED AS MCDANIEL JONES, LLC.
18. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
19. ACCORDING TO THE FEMA MAP, NO FLOOD ZONE EXISTS ON SITE.

HIGHEST AND BEST USE ANALYSIS

Highest and Best Use may be defined as follows:

*"the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, and financially feasible, and that results in the highest value."*⁵

The Highest and Best Use of a specific site is typically estimated based on market actions, which reflect prices paid for similar sites under certain uses and in certain locations. The more intense or profitable the use to which the land is put, the higher the price. These actions establish growth or expansion patterns within a geographic location. Surrounding land uses typically determine the most profitable use and the highest price expected for a site.

In performing the Highest and Best Use analysis of vacant land and improved properties, consideration must be given essential criteria:

CRITERIA FOR HIGHEST AND BEST USE
LEGALLY PERMISSIBLE
PHYSICALLY POSSIBLE
FINANCIALLY FEASIBLE
MAXIMALLY PROFITABLE

Presumed in these definitions is that determination of Highest and Best Use takes into account the contribution of a specific use to the community as well as benefits to individual property owners. Also, the motivation of a particular purchaser or investor contributes to this determination. The concept of Highest and Best Use represents the premise upon which value is based. If Market Value is defined as "most probable selling price", then Highest and Best Use may be considered "most probable selling price". The Highest and

⁵The Appraisal of Real Estate, 12th ed. (Chicago: Appraisal Institute, 2001), p. 305.

HIGHEST AND BEST USE ANALYSIS - Continued

Best Use may be considered most probable use, or in the context of investment value, the "most profitable use".

When determining the Highest and Best Use of a property, one must address the Highest and Best Use of the site as vacant and the highest and best use of the site as improved. The existing use of the property may or may not be different from the Highest and Best Use of the site. If a site is improved, the existing use will continue unless and until land value as if vacant exceeds the sum of the value of the entire property in its existing use and the cost to remove the improvements.

LAND AS THOUGH VACANT

The subject tract consists of approximately 1.86 acres with a gently rolling topography, and has good frontage along McDaniel Avenue and Jones Avenue, in the city limits of Greenville, in Greenville County, South Carolina. As stated earlier, the subject property is currently zoned R-9, Single-Family Residential District by the City of Greenville and Greenville County. Therefore, a variety of high-density residential uses would be permissible. Land uses found in the subject's immediate area consist primarily of single-family residential developments, with service-related and commercial uses located along or just off Augusta Road. Utilities available to the subject property appear to include public water and sewer, natural gas, electricity, and telephone/cable service.

Conclusion

Based upon the above analysis and with consideration given to the subject's physical capabilities and the contiguous land uses in the immediate sector, it is our opinion that the Highest and Best Use of the subject tract "as vacant" is for high density single-family residential development.

LAND AS THOUGH IMPROVED (PROPOSED)

Again, the subject property is currently zoned R-9, Single-Family Residential District by the City of Greenville and Greenville County. Therefore, it is also our opinion that the Highest and Best Use of the land "as improved" (proposed) is for high density single-family residential development.

APPRAISAL PROCESS

Typically, there are two approaches used to estimate the value of residential subdivisions: the development cost approach, and the subdivision development analysis using yield capitalization. The values concluded by each approach are reconciled into a final estimate of value.

Development Cost Approach

The development cost approach includes an estimate of land value and the cost to develop the proposed improvements. Land value is estimated by the sales comparison approach, which uses recent comparable land sales.

Development costs include direct and indirect items. Direct expenditures include both on-site and off-site costs to develop the subdivision. These cost estimates are obtained from recently constructed residential developments in the market area. Indirect costs include various professional fees, interest and entrepreneurial incentive.

The land value estimate is added to the development costs to complete the development cost approach. The assumption is that an informed investor will pay no more for the subject property than the cost of developing a similar property with the same utility.

The typical Development Cost Approach has not been performed in this appraisal. However, its exclusion does not impact these Appraisers' ability to provide a credible value.

Subdivision Development Analysis

The Subdivision Development Analysis, also referred to as the Income Capitalization Approach, estimates value by the yield capitalization method. Yield capitalization considers the individual sales price of each lot, the pace of lot sales and the related expenses involved. The projected net sales proceeds are discounted over the absorption period to present value at a yield rate that would attract the necessary equity capital. The resulting amount is an indication of value by yield capitalization.

APPRAISAL PROCESS - Continued

Reconciliation

The two indications of value are then typically compared, based on their strengths, weakness and appropriateness. After considering these characteristics, a final estimate of value is then concluded.

However, because only the Subdivision Development Analysis was provided in our analysis, reconciliation was not necessary nor performed.

SUBDIVISION DEVELOPMENT ANALYSIS

Retail Lot Value

This analysis typically considers techniques used in both the Sales Comparison and Income Capitalization approaches. **However, in this approach to value, only the retail value of each individual lot is estimated.**

RESIDENTIAL MARKET OVERVIEW

The proposed residential development, which is the subject of our analysis, will be located off the western side of McDaniel Avenue and the eastern side of Jones Avenue, in the city limits of Greenville, in Greenville County, South Carolina.

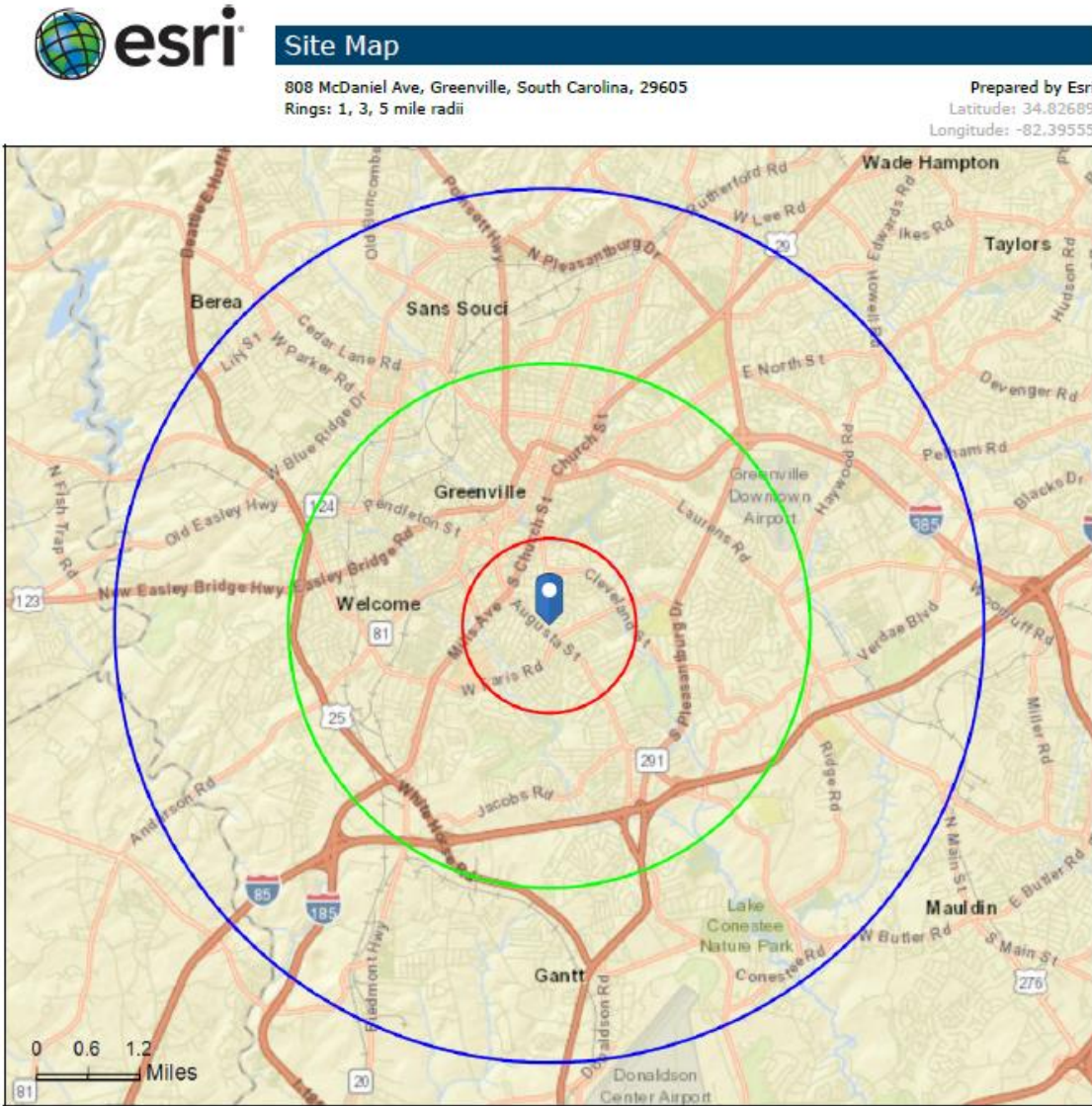
This proposed subdivision is to be a high density single-family development; therefore, we have reported the detached, high density residential market in and around this Downtown Greenville sector of Greenville County.

DEMOGRAPHIC TRENDS

Current statistics from CCIM's Site To Business shows that the subject's immediate area has historically had an increasing population. These statistics also show an increasing population forecasted between 2019 and 2023.

The continuing, historical trend in residential development has been to phase the construction of subdivisions to decrease developer's risk and allow developers more latitude with their funds. Growth has expanded beyond the core area of the County and into the unzoned regions.

SUBDIVISION DEVELOPMENT ANALYSIS - Continued



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SUBDIVISION DEVELOPMENT ANALYSIS - Continued



Executive Summary

808 McDaniel Ave, Greenville, South Carolina, 29605
Rings: 1, 3, 5 mile radii

Prepared by Esri
Latitude: 34.82689
Longitude: -82.39555

	1 mile	3 miles	5 miles
Population			
2000 Population	9,717	60,611	127,508
2010 Population	9,797	59,144	130,243
2018 Population	11,208	66,748	148,929
2023 Population	12,103	72,446	160,806
2000-2010 Annual Rate	0.08%	-0.24%	0.21%
2010-2018 Annual Rate	1.64%	1.48%	1.64%
2018-2023 Annual Rate	1.55%	1.65%	1.55%
2018 Male Population	48.2%	48.7%	48.6%
2018 Female Population	51.9%	51.3%	51.4%
2018 Median Age	41.9	39.4	36.7

In the identified area, the current year population is 148,929. In 2010, the Census count in the area was 130,243. The rate of change since 2010 was 1.64% annually. The five-year projection for the population in the area is 160,806 representing a change of 1.55% annually from 2018 to 2023. Currently, the population is 48.6% male and 51.4% female.

Median Age

The median age in this area is 41.9, compared to U.S. median age of 38.3.

Households			
2000 Households	5,017	25,898	53,390
2010 Households	4,796	24,953	53,787
2018 Total Households	5,493	28,433	61,895
2023 Total Households	5,944	30,995	67,024
2000-2010 Annual Rate	-0.45%	-0.37%	0.07%
2010-2018 Annual Rate	1.66%	1.60%	1.72%
2018-2023 Annual Rate	1.59%	1.74%	1.60%
2018 Average Household Size	2.02	2.26	2.32

The household count in this area has changed from 53,787 in 2010 to 61,895 in the current year, a change of 1.72% annually. The five-year projection of households is 67,024, a change of 1.60% annually from the current year total. Average household size is currently 2.32, compared to 2.32 in the year 2010. The number of families in the current year is 34,845 in the specified area.

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SUBDIVISION DEVELOPMENT ANALYSIS - Continued



Executive Summary

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Median Age

The median age in this area is 41.9, compared to U.S. median age of 38.3.

Race and Ethnicity

2018 White Alone	79.8%	54.3%	57.2%
2018 Black Alone	17.4%	38.3%	31.3%
2018 American Indian/Alaska Native Alone	0.2%	0.3%	0.4%
2018 Asian Alone	0.5%	0.7%	1.3%
2018 Pacific Islander Alone	0.0%	0.1%	0.1%
2018 Other Race	0.5%	4.2%	7.3%
2018 Two or More Races	1.7%	2.2%	2.4%
2018 Hispanic Origin (Any Race)	1.9%	7.6%	12.6%

Persons of Hispanic origin represent 12.6% of the population in the identified area compared to 18.3% of the U.S. population. Persons of Hispanic Origin may be of any race. The Diversity Index, which measures the probability that two people from the same area will be from different race/ethnic groups, is 66.8 in the identified area, compared to 64.3 for the U.S. as a whole.

Households

2000 Households	5,017	25,898	53,390
2010 Households	4,796	24,953	53,787
2018 Total Households	5,493	28,433	61,895
2023 Total Households	5,944	30,995	67,024
2000-2010 Annual Rate	-0.45%	-0.37%	0.07%
2010-2018 Annual Rate	1.66%	1.60%	1.72%
2018-2023 Annual Rate	1.59%	1.74%	1.60%
2018 Average Household Size	2.02	2.26	2.32

The household count in this area has changed from 53,787 in 2010 to 61,895 in the current year, a change of 1.72% annually. The five-year projection of households is 67,024, a change of 1.60% annually from the current year total. Average household size is currently 2.32, compared to 2.32 in the year 2010. The number of families in the current year is 34,845 in the specified area.

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SUBDIVISION DEVELOPMENT ANALYSIS - Continued**MARKET ACTIVITY**

Again, the proposed single-family residential development, which is the subject of our analysis, is to be located off the western side of McDaniel Avenue and the eastern side of Jones Avenue, in the city limits of Greenville, in Greenville County, South Carolina.

It is our understanding from the purchaser/developer that projected lot list prices for the subject's 8 proposed lots have not yet been established.

MARKET DATA

In order to estimate the retail lot values of the subject property's 8 proposed lots (Lots 1-8), we have utilized recent sales from competing and/or similar properties. These comparable properties are also located within the general Greenville market area and are detached developments with home sale prices assumed to be commensurate with the subject lots.

The verified lot sales data of the 7 comparable lots from the Woodland Park at Cleveland Forest development, before adjustments, range from \$390,000 up to \$500,000, with an average lot sales price of \$430,000 and a median lot sales price of \$410,000. It appeared that as the size of the comparable lots increased, the sale prices also increased. Proximity to Woodland Way also appeared to have played a part in the sales prices achieved for this development. After making location adjustments, the comparables range from \$429,000 up to \$525,000, with an average lot sales price of \$466,036 and a median lot sales price of \$451,000.

Based on the lot sales data obtained from the above-referenced lots/developments, and with equal consideration given to all of the comparables, it is our opinion that the subject's retail lot values are as follows:

TAX PARCEL #	LOT#	ADDRESS	VALUE
p/o 0217.00-05-007.00	1	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	2	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	3	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	4	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	5	McDaniel Avenue	\$525,000
p/o 0217.00-05-007.00	6	Jones Avenue	\$485,000
p/o 0217.00-05-007.00	7	Jones Avenue	\$475,000
p/o 0217.00-05-007.00	8	Jones Avenue	\$475,000

SUBDIVISION DEVELOPMENT ANALYSIS - Continued

The Lot Sales Adjustment Grid may be viewed below as **Exhibit I**.

Exhibit I LOT SALES GRID 8 LOTS - PROPOSED MCDANIEL SUBDIVISION (LOTS 1-8)							
COMPARABLE SUBDIVISION LOTS	SALE 1	SALE 2	SALE 3	SALE 4	SALE 5	SALE 6	SALE 7
LOT#	WOODLAND PARK @ CLEVELAND FOREST 20	WOODLAND PARK @ CLEVELAND FOREST 1	WOODLAND PARK @ CLEVELAND FOREST 5	WOODLAND PARK @ CLEVELAND FOREST 4	WOODLAND PARK @ CLEVELAND FOREST 7	WOODLAND PARK @ CLEVELAND FOREST 2	WOODLAND PARK @ CLEVELAND FOREST 8
LOCATION	Southland Avenue @ Woodland Way Greenville Greenville County	Southland Avenue Greenville Greenville County	Southland Avenue Greenville Greenville County	Southland Avenue Greenville Greenville County	Gardenia Avenue Greenville Greenville County	Southland Avenue Greenville Greenville County	Southland Avenue Greenville Greenville County
TMS#	0067.05-01-004.*	0067.05-01-004.*	0067.05-01-004.*	0067.05-01-004.*	0067.05-01-004.*	0067.05-01-004.*	0067.05-01-004.*
ZONING	R-9	R-9	R-9	R-9	R-9	R-9	R-9
LOT SIZE (ACRES)	0.438	0.351	0.320	0.317	0.279	0.263	0.218
LOT SIZE (SF)	19,079	15,290	13,939	13,809	12,153	11,456	9,496
LOT SALES PRICE	\$500,000	\$410,000	\$475,000	\$425,000	\$400,000	\$410,000	\$390,000
LOT PRICE/PER ACRE	\$1,141,553	\$1,168,091	\$1,484,375	\$1,340,694	\$1,433,692	\$1,558,935	\$1,788,991
LOT PRICE/PER SF	\$26.21	\$26.82	\$34.08	\$30.78	\$32.91	\$35.79	\$41.07
SALES DATE	1/5/2018	6/15/2017	7/6/2017	7/13/2017	1/3/2018	11/9/2018	4/24/2018
ORIGINAL LIST PRICE	\$500,000	\$410,000	\$475,000	\$425,000	\$400,000	\$410,000	\$390,000
PRICE \$/LOT	\$500,000	\$410,000	\$475,000	\$425,000	\$400,000	\$410,000	\$390,000
PROPERTY RIGHTS	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Adjustment	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
FINANCING TERMS	Cash	Cash	Cash	Cash	Cash	Cash	Cash
Adjustment	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
CONDITION OF SALE	Arm's Length	Arm's Length	Arm's Length	Arm's Length	Arm's Length	Arm's Length	Arm's Length
Adjustment	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MARKET CONDITIONS	1/5/2018	6/15/2017	7/6/2017	7/13/2017	1/3/2018	11/9/2018	4/24/2018
Adjustment	0%	0%	0%	0%	0%	0%	0%
ADJUSTMENT %	0%	0%	0%	0%	0%	0%	0%
ADJUSTED PRICE \$/LOT	\$500,000	\$410,000	\$475,000	\$425,000	\$400,000	\$410,000	\$390,000
LOCATION							
Adjust: LOCATION	5%	10%	5%	10%	10%	10%	10%
Adjust: OTHER							
PHYSICAL							
Adjust: SIZE							
Adjust: AGE/CONDITION							
Adjust: QUALITY							
ADJUSTMENT %	5%	10%	5%	10%	10%	10%	10%
ADJUSTED PRICE \$/LOT	\$525,000	\$451,000	\$498,750	\$467,500	\$440,000	\$451,000	\$429,000
min max average median	BEFORE ADJUSTMENTS		AFTER ADJUSTMENTS				
	LOT PRICE	LOT PRICE/SF	LOT PRICE	LOT PRICE	SUBJECT LOT#	ADDRESS	VALUE
	RANGE	RANGE	RANGE	RANGE	1	McDaniel Avenue	\$525,000
	\$390,000	\$26.21	\$429,000	\$429,000	2	McDaniel Avenue	\$525,000
	\$500,000	\$41.07	\$525,000	\$525,000	3	McDaniel Avenue	\$525,000
	\$430,000	\$32.52	\$466,036	\$466,036	4	McDaniel Avenue	\$525,000
	\$410,000	\$32.91	\$451,000	\$451,000	5	McDaniel Avenue	\$525,000
					6	Jones Avenue	\$485,000
					7	Jones Avenue	\$475,000
					8	Jones Avenue	\$475,000

EXPOSURE TIME

Exposure Time is defined as:

"Reasonable exposure time is one of a series of conditions in most market value definitions. Exposure time is always presumed to precede the effective date of the appraisal.

Exposure Time may be defined as: the estimated length of time that a property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.

Exposure time is different for various types of real estate and under various market conditions. It is noted that the overall concept of reasonable exposure encompasses not only adequate, sufficient and reasonable time but also adequate, sufficient and reasonable effort. This statement focuses on the time component.

The fact that exposure time is always presumed to occur prior to the effective date of the appraisal is substantiated by related facts in the appraisal process: supply/demand conditions as of the effective date of the appraisal; the use of current cost information; the analysis of historical sales information (sold after exposure and after completion of negotiations between the seller and buyer); and the analysis of future income expectancy projected from the effective date of the appraisal."⁶

Discussions with local appraisers, bankers, and real estate brokers combined with sales of comparable properties, lead us to believe that the estimated exposure time for a property such as the subject, would be approximately 0-3 months.

⁶Statement on Appraisal Standards No. 6 (SMT-6), "Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions, (USPAP 2018 - 2019 Edition) Appraisal Standards Board of The Appraisal Foundation.

CERTIFICATION

We certify that, to the best of our knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- We have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- We have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- We have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- Our engagement in this assignment was not contingent upon developing or reporting predetermined results.
- Our compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- Our analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.

CERTIFICATION - Continued

- Melissa Deyoung and Allen D. McCravy have made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the persons signing this certification.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report, Allen D. McCravy, MAI has completed the continuing education program of the Appraisal Institute.



Melissa Deyoung
State Certified General Real Estate Appraiser
SC Certificate No. CG 3103



Allen D. McCravy, MAI
State Certified General Real Estate Appraiser
SC Certificate No. CG 3617

January 8, 2019

Date

**APPRAISER'S QUALIFICATIONS
ALLEN D. MCCRAVY**

EDUCATION:

- Graduated Presbyterian College, B.S. in Business Administration, 1997.
- Appraisal Procedures, Charlotte, North Carolina, 1999.
- Appraisal Principles, Charlotte, North Carolina, 1999.
- Standards of Professional Practice – Part A, Greensboro, North Carolina, 1999.
- Standards of Professional Practice – Part B, Greensboro, North Carolina, 1999.
- Highest and Best Use Applications, 2000.
- Valuation of Detrimental Conditions, 2000.
- Basic Income Capitalization, 2000.
- General Applications, 2001.
- Advance Income Capitalization, 2001.
- Income Valuation of Small, Mixed-Use Properties, 2001.
- Appraisal of Eminent Domain Acquisitions, 2002.
- Highest and Best Use and Market Analysis, 2003.
- Advanced Sales Comparison & Cost Approach, 2003.
- Business Practices & Ethics, 2004.
- National USPAP Update, 2004.
- Report Writing, 2004.
- Advanced Applications, 2005.
- Standards of Professional Practice Update, Greenville, South Carolina, 2006.
- Inverse Condemnation, 2007.
- Analyzing Effects of Contamination on Real Property, 2011.
- Appraising the Appraisal, 2012.
- Fundamentals of Separating Real, Personal Property, and Intangible Business Assets, Columbia, SC, 2012.
- Appraisal of Self Storage Facilities, 2014.
- Multiple other continuing education classes, sponsored by the Appraisal Institute.

PROFESSIONAL AFFILIATIONS:

Member of Appraisal Institute with the MAI Designation
 Board of Directors – Greer Chamber of Commerce (2006 – 2009)
 President of Associate Council for the Appraisal Institute (2009)
 Chairman of Education Committee SC Appraisal Institute (2012-2013)
 Secretary of SC Chapter Appraisal Institute (2014)
 Treasurer of SC Chapter Appraisal Institute (2015)
 Vice President of SC Chapter Appraisal Institute (2016)
 President of SC Chapter Appraisal Institute (2017)

COURT EXPERIENCE

Qualified as an expert witness in Circuit Court, Family Court, Master in Equity Court

LICENSED:

South Carolina, State Certified General - License No. CG 3617
 North Carolina, State Certified General – License No. A7985
 Georgia, State Certified General – License No. 364211
 Texas, State Certified General – License No. 1380801

EMPLOYMENT:

September 2015-Current: Stone & Associates, Greenville, SC, Principal/Owner, Real Estate Appraiser/Consultant
 February 1999-September 2015: Stone & Associates, Inc., Greenville, SC, Real Estate Appraiser/Consultant

APPRAISAL EXPERIENCE:

Appraisal experience consists of various types of income-producing properties, including office buildings, mixed-use properties, industrial properties, apartments, shopping centers and motel/hotel operations. Also appraised retail establishments, highway condemnation and unimproved land. Other specific properties include church structures, convenience stores, restaurant buildings, medical office buildings, converted residences, and manufacturing facilities.

APPRAISER'S QUALIFICATIONS
JANET MELISSA DEYOUNG

EDUCATION:

- The Basics of Expert Witness for Commercial Appraisers Course (7 hours), Online 2018.**
 - Appraisal of Fast Food Facilities Course (7 hours), Online 2018.**
 - Appraisal of Owner-Occupied Commercial Properties Course (7 hours), Online 2018.**
 - National USPAP Update Course (7 hours), Columbia, SC 2018.**
 - Appraisal of Self-Storage Facilities Course (7 hours), Online 2016.**
 - Appraisal of Land Subject to Ground Leases Course (7 hours), Online 2016.**
 - Appraisal of Assisted Living Facilities Course (8 hours), Online 2016.**
 - Small Hotel/Motel Valuation Course (7 hours), Online 2014.**
 - Forecasting Revenue Course (7 hours), Online 2014.**
 - Subdivision Valuation Course (7 hours), Online 2014.**
 - National USPAP Update Course (7 hours), Columbia, SC 2014.**
 - Developing, Understanding and Defending Adjustments (7 hours), Greenville, SC 2012.**
 - Defending Your Appraisal: A Survival Guide (7 hours), Greenville, SC 2012.**
 - Appraisal Crimes & Foolishness (7 hours), Greenville, SC 2012.**
 - National USPAP Update Course (7 hours), Greenville, SC 2012.**
 - What Commercial Clients Would Like Appraisers to Know (7 hours), On-Line Seminar, Chicago IL 2010.**
 - National USPAP Update Course (7 hours), S.C. Chapter Appraisal Institute, Greenville, SC 2010.**
 - Appraising Distressed Commercial Real Estate, S.C. Chapter Appraisal Institute, Columbia, SC, January 2010.**
 - Business Practices and Ethics, S.C. Chapter Appraisal Institute, Columbia, SC, June 809.**
 - Maintaining Control: Dealing w/Client Pressure (7 hours), S.C. Chapter Appraisal Institute, Columbia, SC 2008.**
 - National USPAP Update Course (7 hours), S.C. Chapter Appraisal Institute, Columbia, SC 2008.**
 - Analytics with THE SITE TO DO BUSINESS, Columbia, SC, 2007.**
 - Cool Tools, Columbia, SC, 2007.**
 - Subdivision Valuation (001-CE-1069), Columbia, SC, 2006.**
 - Business Practices & Ethics (001-CE-1045), Columbia, SC, 2006.**
 - Loss Prevention (023-CE-319), Columbia, SC, 2006.**
 - General Applications (320), Atlanta Chapter Appraisal Institute, Atlanta, GA, 2001.**
 - Basic Income Capitalization (310), Ohio State University, Columbus, OH, 2000.**
- (**Courses sponsored by the American Institute of Real Estate Appraisers and the Appraisal Institute.)*
- Environmental Pollution & Mold (2 hours), On-Line Seminar, McKissock, LP, 2010.
 - Introduction to Real Estate Appraisal (L-1), Greenville Technical College, Greenville, SC, 2005.
 - Valuation Procedures (L-2), Greenville Technical College, Greenville, SC, 2004.
 - Standards of Professional Practice (L-3), Greenville Technical College, Greenville, SC, 2004.
 - National USPAP Update Course (15 hours), Greenville Technical College, Greenville, SC 2004.
 - Two-Four Unit Case Study (76-CR-100), Charles F. Crider School of Real Estate Appraising, Greenville, SC 2003.
 - Advanced Income Capitalization Procedures (03-C2-103), JT&T Seminars, Columbia, SC 2003.
 - Market Analysis Workshop, Greenville, SC, 1999.
 - Introduction to Real Estate Appraisal (L-1), Columbia, SC, 1998.
 - Valuation Procedures (L-2), Columbia, SC, 1997.
 - Standards of Professional Practice (L-3), Columbia, SC, 1997.
- (Courses approved by the South Carolina Real Estate Appraisers Board.)*

LICENSED:

State certified by the State of South Carolina as a General Real Estate Appraiser - Certificate No. CG 3103.

EMPLOYMENT:

2015-Current: Stone & Associates, Greenville, South Carolina, Real Estate Appraiser/Consultant.
 1996-2015: Stone & Associates, Inc., Greenville, South Carolina, Real Estate Appraiser/Consultant.
 1986-1996: Eason, Earl & Associates (Architects/Consultants/Planners), Greenville, South Carolina.
 1981-1986: CRS Sirrine, Inc. (Architects/Engineers/Consultants), Greenville, South Carolina.

APPRAISAL EXPERIENCE:

Appraisal experience consists of various types of income-producing properties, including office buildings, industrial properties, retail establishments, multi-family complexes, and restaurants. Also appraised contaminated properties, churches, day care centers, single-family residences, condominiums/townhomes, residential, office and industrial subdivisions, and unimproved land. Specializes in residential subdivision valuation.

PARTIAL LISTING OF COMPANY CLIENTS

Lending Institutions

- Ameris Bank
- Arthur State Bank
- Bank of America
- Bank of Travelers Rest
- Bank One
- Bank Greenville
- Barclay's Business Credit, Inc.
- Bank of North Carolina
- Branch Banking and Trust Co.
- Capital Bank
- Capital Corporation
- Chemical Bank of New York
- Columbus Bank and Trust
- CertusBank
- County Bank
- First Citizens
- First National Bank of the South
- First Trust Mortgage Corporation
- First Savers Bank
- Fleet Funding
- Great Western Bank
- Woodruff State Bank
- Harris Bank
- Independence Bank
- LJ Melody
- Laureate Capital
- Magna Bank
- National Bank of South Carolina
- Palmetto Bank
- Park Sterling Bank
- Pinnacle Bank
- Professional Mortgage
- Regions Bank
- South Carolina Bank and Trust
- Southern First
- SunTrust Bank
- TD Bank, N.A.
- Wachovia/Wells Fargo
- WesBanco

Commercial and Other

- Alice Manufacturing
- American United Life Insurance Co.
- Belk Simpson Co.
- City of Anderson, SC
- City of Easley, SC
- City of Greenville, SC
- Town of Reidville, SC
- City of Simpsonville, SC
- City of Travelers Rest, SC
- Clemson University
- Coopers & Lybrand
- County of Greenville, SC
- Cryovac/Sealed Air
- Duke Power Company
- Elliott Davis
- Fidelity Mutual Life Insurance Co.
- Flagstar
- Greenville Hospital System
- Haynsworth, Marion, McKay & Guerard
- Jefferson Pilot Life Insurance Co.
- J. P. Stevens and Company, Inc.
- Love, Thornton, Arnold and Thomason
- Mays Department Stores
- McNair Law Firm
- Merrill Lynch
- Metropolitan Sewer District
- Mission Hospital
- National Housing Corporation
- Nature Conservancy
- Nelson, Mullins, Riley & Scarborough
- North Greenville College
- Saluda River Electric Cooperative, Inc.
- Santee Cooper Electric
- Smith, Moore, Leatherwood, LLP
- S.C. Dept. of Highways and Public
- S. C. Dept. of Natural Resources
- S. C. Master and Equity Court
- University of South Carolina
- USC Upstate
- U. S. Internal Revenue Service
- U. S. Postal Service
- Womble Carlyle Sandridge & Rice

ADDENDA

2018056048
 DEED Book: DE 2543 Page: 5317 - 5318 3 Pgs
 July 25, 2018 11:22:06 PM Cons: \$1,430,000.00
 Recd: \$10.00 Only Tax: \$1,573.00 State Tax: \$3,719.00
 FILED IN GREENVILLE COUNTY, SC *City of Horry*

Grantee Address: P.O. Box 27049
 Greenville, SC 29616

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
 COUNTY OF GREENVILLE)

KNOW ALL MEN BY THESE PRESENTS, that

TNB Financial Services, Successor Trustee U/W of C. E. Hatch

in consideration of **One Million Four Hundred Thirty Thousand and No/100 (\$1,430,000.00) Dollars**, to the Grantor in hand paid at and before the sealing of these presents by the Grantee, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto **McDANIEL JONES, LLC**, its successors and assigns, forever, the following described property:

SEE ATTACHED EXHIBIT "A"

This conveyance is made subject to all restrictions, setback lines, zoning ordinances, easements and rights of way, if any, as may appear of record or on the subject property.

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the Grantee, as joint tenants with rights of survivorship and not as tenants in common, and the Grantee's heirs or successors and assigns, forever. And, the Grantor does hereby bind the Grantor and the Grantor's heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee and Grantee's heirs or successors against the Grantor and Grantor's heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Grantor's hand and seal this 20th day of July, 2018.

Signed, sealed and delivered
 in the presence of:

TNB Financial Services, Successor Trustee
 U/W of C.E. HATCH

[Signature]
 Witness

By: *[Signature]* *Market President, Spartanburg*
 Name: Cynthia J. Kelly
 Title: Market President, Spartanburg

[Signature]
 Witness

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGEMENT
COUNTY OF GREENVILLE)

The foregoing instrument was acknowledged before me this 26th day of July, 2018 by
the Grantor.

Dawn S. Demarex
Notary Public for South Carolina
My Commission Expires: 1-7-2023



20230904810- BK 26-44 PG 1-274

EXHIBIT "A"

All that certain piece, parcel or lot of land, together with any and all improvements thereon, situate, lying and being in the County of Greenville, State of South Carolina, being shown and designated as 1.86 acres (81,118 SF), as shown on plat prepared by C.O. Riddle Surveying Co., Inc., dated July 19, 2018 and recorded in the ROD Office for Greenville County, SC in Plat Book 1311 at Page 58 on July 26, 2018, and having according to said plat, such metes and bounds as are shown thereon.

This being the same property conveyed unto FNB Financial Services, Successor Trustee U/W of C.E. Hatch by deed of Bank Of America, N.A. Trustee under will of C.E. Hatch dated August 15, 2017 filed for record in the ROD Office for Greenville County, SC on August 38, 2017 in Deed Book 2520 at Page 350 - SEE ALSO CORRECTIVE DEED from Bank of America, N.A., Trustee under Will of C.E. Hatch dated July 18, 2018 and filed for record in the ROD Office for Greenville County in Deed Book 2543 at Page 4081 on July 24, 2018. This is a portion of the property conveyed to C. E. Hatch by deed of J. A. McDaniel dated April 4, 1916, and recorded in the ROD Office for Greenville County, SC, on April 11, 1916, in Book 34, at page 26. Estate of C. E. Hatch (died testate 10/29/71) Greenville County Probate File 1202-22; Deed from Hugh B. Hamilton, Jr., dated February 25, 1987 and filed for record in the ROD Office for Greenville County, SC, March 26, 1987 in Deed Book 1291 at Page 282

Greenville County Tax Map # 0217.00-05-007.00

20240304810 - BK 2543 PG 4081 (LAST PAGE) - A.D.M. C.C.B. FRIDRICH-MERKLE



EXHIBIT A				
TAX PARCEL #	LOT#	ADDRESS	ACRES	SQ FT
p/o 0217.00-05-007.00	1	McDaniel Avenue	0.230	10,025
p/o 0217.00-05-007.00	2	McDaniel Avenue	0.220	9,590
p/o 0217.00-05-007.00	3	McDaniel Avenue	0.217	9,435
p/o 0217.00-05-007.00	4	McDaniel Avenue	0.213	9,275
p/o 0217.00-05-007.00	5	McDaniel Avenue	0.236	10,260
p/o 0217.00-05-007.00	6	Jones Avenue	0.293	12,775
p/o 0217.00-05-007.00	7	Jones Avenue	0.220	9,590
p/o 0217.00-05-007.00	8	Jones Avenue	0.229	9,980



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
August 16, 2018
3:00 PM
Meeting Notice Posted August 1, 2018

Minutes prepared by Courtney DeVoe

Members Present: Jason Tankersley, Meg Terry, Trey Gardner, Diane Eldridge, Jonathan Pait, David Keller
Members Absent: Catherine Smith
Staff Present: Courtney DeVoe, Senior Development Planner; Brennan Williams, Development Planner; Shannon Lavrin, Assistant Planning & Development Manager; Jonathan Graham, Planning & Development Manager; Michael Pitts, City Attorney; Dwayne Cooper, Engineering Services Manager; Clint Link, Assistant City Engineer – Civil; Ginny Stroud, Community Development Administrator; Michael Williamson, Community Development Project Manager; Monique Mattison, Community Planner

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 3:05 PM.

APPROVAL OF MINUTES: The June 21, 2018 minutes were approved.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved to amend the agenda with unanimous to table AX-6-2018; AX-8-2018; SD 18-016.

RECESS: Chairman Jason Tankersley called the meeting to recess at 3:14 PM.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 3:20 PM.

Commissioner Keller made a motion to suspend rules in order to allow public comment on item SD 18-016. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

Applicant objected to the Commission's motion to suspend rules on item SD 18-016. Applicant requested that no public comment be received on item SD 18-016 as no presentation of the item was to be given at this meeting.

Board discussion included that intent to suspend rules was to provide an opportunity for the public in attendance to offer comments on item SD 18-016. The applicant, one person in favor, and one person in opposition may have five (5) minutes to speak. After that, no further public comments to be received on the item. Further discussion

included that receiving public comment on a tabled item creates an unfair forum.

Public discussion included that comments may wait until item SD 18-016 is formally presented to the Commission.

Commissioner Terry made a motion to reverse the motion to suspend rules in order to allow public comment on item SD 18-016. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

CONFLICT OF INTEREST: Commissioner Terry on item Z-20-2018.

OLD BUSINESS:

A. AX-6-2018

Application by RENAISSANCE CUSTOM HOMES LLC for **ANNEXATION** of 0.54 acre located at **PROSPERITY AV** from R-10 (Greenville County) to R-6, Single Family Residential District including 138 LF of public road frontage (TM# 0367000100214) *Applicant requested to TABLE application.*

B. SD 18-010

Application by JAY MARTIN for a **SUBDIVISION** of 2.16 acres located at **733 BENNETT ST** from 2 LOTS to 8 LOTS (TM#s 0187001100100; 0187001100101)

DeVoe presented the staff report for this application noting that public comments were received for this application. The applicant originally presented the proposed subdivision of two (2) lots into eight (8) lots located along Bennett Street for single-family detached homes at the June 21, 2018 Planning Commission meeting. At that meeting, concerns were raised by the neighborhood in regards to the number of lots, size of lots, a shared front access drive, stormwater management and the existing tree canopy. Additionally, the Planning Commission echoed similar concerns with the addition of parking on shared access drive, maintenance of the common area and homes disengaged from the street. Due to these concerns, the application was tabled at the June 21, 2018 Planning Commission meeting to the subsequent regularly scheduled meeting in order to allow a subcommittee, composed of three Planning Commission members, the applicant and City staff, informal review of the application..

After review, the applicant proposes a revised application that retains eight (8) lots with widths ranging from 50 feet to 91 feet. The new proposal removes the shared front access drive, which allows for individual access drives from Bennett Street. The removal of the shared access drive also enables the proposed single family detached homes to move towards Bennett Street to better address the street frontage and pedestrian realm. The original proposed plan indicated the front building line to be 50 feet or greater from the front property line. The new proposed plan indicates a front building line to be 30 feet from the front property line.

Staff concludes the revised proposed major subdivision meets minimum dimensional requirements and intent as set forth in the Land Management Ordinance. Previous staff comments and conditions, noted for June 21, 2018 Planning Commission meeting, apply.

Staff has attached the previous staff report from the June 21, 2018 Planning Commission meeting for review reference.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: stormwater concerns; rainfall; number of lots to be created; worried about people to be displaced; driveway arrangement improved from initial proposal; concern over lot widths; memorialize green space; construction noise

Board discussion included: stormwater; city regulations and requirements; proposed setbacks

Commissioner Terry made a motion to approve with staff comments and conditions. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

C. SD 18-011

Application by Shouse Development for a **SUBDIVISION** of 1.25 acres located at **KEAT AV and PETE HOLLIS BLVD** from 5 LOTS to 15 LOTS (TM#s 0028000102000; 0028000101700; 0028000101800; 0028000101900; 0028000102101)

DeVoe presented the staff report for this application noting that no additional public comments were received for this application. At the June 21, 2018 Planning Commission meeting, the applicant proposed a subdivision of five (5) lots into fifteen (15) single-family attached homes lots located at the corner of Keat Avenue and Pete Hollis Boulevard. At that meeting, concerns were raised, by the adjacent neighborhood residents, about the lack of access to Pete Hollis Boulevard, widening Keat Avenue, on-street parking, safety considerations at Frank Street and Keat Avenue, stormwater retention and density. The Planning Commission echoed similar concerns with the addition of difficult site constraints, stormwater detention location, access, and traffic. Due to these concerns, the application was tabled at the June 21, 2018 Planning Commission meeting to the subsequent regular scheduled meeting in order to allow a subcommittee informal review of the application with three Planning Commission members, the applicant and City staff.

After collaboration efforts, the applicant proposes a revised Major Subdivision of sixteen (16) single-family attached lots with rear access from a new private road. The new proposal extends the existing Frank Street through the development to increase site circulation and site. This extension of Frank Street eliminates two (2) proposed hammer head turn-arounds and offers an additional access point. In addition, the proposed stormwater detention area is further buffered from Pete Hollis Boulevard.

Staff concludes the revised proposed major subdivision meets minimum dimensional requirements and intent as set forth in the Land Management Ordinance. In addition to previous staff comments and conditions, provided for June 21, 2018 Planning Commission meeting (see attached staff report for Planning Commission reference and review), staff provides the following conditions in response to the new Frank Street connection running alongside Pete Hollis Boulevard:

1. Site shall include adequate and appropriate buffering, of sufficient density to visually separate the close juxtaposition, between Pete Hollis Boulevard and the new proposed extension of Frank Street; and
2. Site shall include green space/pocket park areas between end units to further enhance the pedestrian realm and pedestrian connectivity of the proposed development.

Staff has attached the previous staff report from the June 21, 2018 Planning Commission meeting for review reference.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: increased housing; guest parking concerns; traffic; widening of Keat Avenue; converting a two-way stop to a four-way stop; stormwater; drainage; questions regarding use of existing curb cut along Pete Hollis Blvd; emergency vehicle access; project density at this location.

Board discussion included: Pete Hollis Blvd intersection; cross access; increased traffic

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 5-1 (Commissioner Terry against).

NEW BUSINESS:**A. AX-7-2018**

Application by Legacy Greenville, LLC for **ANNEXATION** of 3.63 acres located at **WOODRUFF RD and 385** (TM# 0545010101703)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The subject property is currently being developed as a hotel within County limits. The subject property is contiguous on its North and East boundaries to the existing City of Greenville municipal corporate limits. The C-3 zoning designation is an appropriate zoning designation for the area, and the existing hotel use is permitted within the C-3 zoning designation.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

1. Consistent with the Comprehensive Plan: The Future Land Use designation for the surrounding property within the City of Greenville calls for this area to be Mixed Use Regional (located on the subject property's east, south and west boundaries) and Parks, Open Space and Schools (located on the subject property's north boundary). Staff believes that the proposed C-3 zoning designation permits numerous use types that are consistent and compatible with the surrounding Future Land Use designations of Mixed Use Regional, shared by the closest surrounding City properties.
2. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
3. Addresses a demonstrated community need: The proposed C-3 zoning designation would permit commercial and residential type uses in this area, which is a current development trend in the area.
4. Compatible with surrounding uses: The predominating zoning designation surrounding this property is C-3. Most of the land adjacent to the subject site is commercial in nature.
5. Promotes logical development pattern: It is anticipated that the proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
6. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development.
7. Will not create an isolated zoning district: The subject property is 3.63 acres, which is a fairly large piece of property. The property is currently zoned commercial within the County and is surrounded by other commercial district zoned properties, and therefore, the amount of property being rezoned to C-3 does not create an isolation or spot zoning district.
8. Surrounding property values: It does not appear that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands. The C-3 designation request is the comparable City zoning designation to that of the existing County designation.
9. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
10. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval for Rezone to City Council

No public comment.

Board discussion included: city process to address projects being built to county standards then annexed to avoid city requirements

Commissioner Terry made a motion to recommend approval for rezone to City Council. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

B. AX-8-2018

Application by Raymond Levy for **ANNEXATION** of 1.3 acres located at **WILKINS ST** (TM#s 0095000800500; 0106000200300) *Applicant requested to TABLE application.*

C. A 18-636

Application by Bubba Watts for an **APPEAL** located at **606 WEMBLEY RD** from Sec. 19-6.9 Single-family residential infill standards (TM# 0268030802100)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant intends to construct a new single-family residence and is requesting to install a circular drive at 606 Wembley Road. The applicant met and discussed with staff to inquire whether a circular drive request would be permitted, and if it is consistent with the standards of Section 19-6.9, Single-family residential infill standards.

After reviewing the request, staff concluded that the circular drive request would not be permitted based on the standards of Section 19-6.9, Single-family residential infill standards. Part of the intent of this section of the Land Management Ordinance is to maintain the harmony and character of established single-family residential areas by guiding residential infill development to occur in an orderly and desirable manner. Furthermore, it intends to minimize the impact of driveways on the character of established single-family residential areas, by addressing the location of driveways.

Specifically, the single-family residential infill standards state that driveways/parking shall not be allowed in the front yard, except for access to permitted front-loaded garages. The applicant is proposing a front-loaded garage that is permitted to have access via an apron the width of the garage opening and 20 feet deep tapering to a ten-foot wide driveway. Backup space in a front yard may be allowed when access to an adjacent street may be difficult due to traffic patterns on the street; however, Wembley Road is classified as a Local Residential road, with traffic volumes that do not support a need for a circular drive.

Garages, carports, and driveways shall be constructed in a way that is consistent with the predominant development pattern and rhythm of the block. A wider driveway and/or parking pad in the front yard may be permitted based on the administrator; however, it shall maintain consistency with existing character of the block and in compliance with the stated purpose and intent of the single-family residential infill standards. Per **Exhibit A**, there are two (2) existing circular drives located within the block. One is located adjacent to the subject property, while the other is located across the street. There are no permit approval records on file for either drive.

Staff concludes that the request for a circular drive is not consistent with the predominant development pattern and rhythm of the block. In addition, the circular drive request does not appear to meet the backup space in a front yard allowance due to difficult traffic patterns on Wembley Street. Therefore, staff recommends denial of the applicant's request.

Staff Recommendation: Deny

No public comment.

Board discussion included: front parking turn-around pad; single-family residential infill standards as written to date; variance eligibility.

Commissioner Keller made a motion to deny appeal request. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 5-1. (Commissioner Tankersley in favor).

D. SD 18-013

Application by Zuendt Engineering for a **SUBDIVISION** of 0.57 acre located at **200 OLD AUGUSTA RD** and **202 OLD AUGUSTA RD** from 2 LOTS to 4 LOTS (TMs# 0212000600100; 0212000600200)

Williams presented the staff report for this application noting that no additional public comments were received for this application. The applicant proposes to subdivide two (2) lots into four (4) lots located at the corner of Old Augusta Road and Gatling Avenue in the Pleasant Valley Special Emphasis Neighborhood. The proposed lots are zoned R-6, Single-Family Residential District, and meet the minimum dimensional requirements for lots zoned R-6. Additionally, the general purpose and intent of the Single-family infill standards aim to “maintain the harmony and character of established single-family residential areas” (Sec. 19-6.9.1). Although the proposed lot configurations are smaller than the original Augusta Road Ranches subdivision plat for April 1941, staff believes the proposed lots are in keeping with the existing lot orientations and configurations within the area. Therefore, staff recommends approval.

Staff Recommendation: Approve

Public comment included: concern over three of the four proposed homes; privacy; water issues; property tax values; purchase price of homes; water runoff; public notice signs; lack of diversity on Commission; low-income areas to be ignored; landscape requirements.

Board discussion included: stormwater; setbacks; building codes; building permit review; permit process.

Commissioner Pait made a motion to approve. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

E. SD 18-014

Application by Farm Products, LLC for a **SUBDIVISION** of 2.94 acres located at **141 TRACTION ST** from 1 LOT to 4 LOTS (TM# 0113000100100)

Williams presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into four (4) lots located at the former Plush Mill site at the corner of Traction Street and U.S. Highway 123 / Easley Bridge Road. The property is zoned FRD, Flexible Review District and does not have minimum dimensional requirements. Although properties zoned FRD do not have minimum dimensional requirements, each Flexible Review District is bound by the recorded Flexible Review District Agreement.

According to the proposed subdivision plat, the four lots are labeled Tract 1 through 4. Tract 1 consists of the renovated Plush Mill. Tract 2 will bound a proposed future building. Finally, Tract 3 and 4 will be donated to the City to develop Point Park and additional parking for the site. Because the proposed subdivision conforms to the drawings associated with the Flexible Review District Agreement for Plush Mill, staff recommends approval.

Staff Recommendation: Approve

No public comment.

No Board discussion.

Commissioner Terry made a motion to approve. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

F. SD 18-016

Application by Robert Jenkins, Sr. for a **SUBDIVISION** of 0.813 acre located at **214 N LEACH ST** from 3 LOTS to 9 LOTS (TM# 0075000300206) *Applicant requested to TABLE application.*

G. SD 18-019

Application by Charles Gouch for a **SUBDIVISION** of 0.731 acre located at **RICE ST** from 1 LOT to 4 LOTS (TM# 0222020303204)

Williams presented the staff report for this application noting that public comments were received for this application. The applicant proposes to subdivide one (1) lot into four (4) lots located next to 327 Rice Street off Augusta Street. The property is zoned R-6, Single-Family Residential District. According to the table of dimensional standards, lots zoned R-6 require a minimum area of 6,000 square feet and a minimum width of 40 feet. All four lots meet the minimum area requirements. However, "LOT 4" does not meet the minimum width requirement by less than one (1) foot. Although lot width is measured from the front setback line rather than from the road front, it does not appear the lot has adequate width to meet minimum dimensional standards. Additionally, the general purpose and intent of the Single-family infill standards aim to "maintain the harmony and character of established single-family residential areas" (Sec. 19-6.9.1). Staff recommends approval if the applicant can acquire the requisite amount of lot width, but felt it important to mention that the lots will be much narrower than many of the surrounding properties.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: access issues; traffic concerns; Greenville County School nearby traffic stacking lane.

Board discussion included: minimum lot width; conservation area to remain as open space

Commissioner Keller made a motion to approve with staff comments and conditions for applicant to acquire the requisite amount of lot width to meet minimum standards. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

H. MFD 16-877M

Application by COTHRAN PROPERTIES for a **MULTI-FAMILY TOWNHOME DEVELOPMENT MODIFICATION** on 1.8 acres located at **121 W STONE AV** (TM# 000900-04-01900) (TM# 0009000402100)

Lavrin presented the staff report for this application noting that no additional public comments were received for this application. This project received multifamily development approval with comments and conditions at the January 2017 Planning Commission meeting (MFD 16-877). The previous approval consisted of three-story townhome buildings in a Georgian-style design. Exterior materials consisted mostly of a red/brown brick with other earth tones. Units faced interior to the proposed courtyard. The end units fronting West Stone Avenue addressed the street by providing windows and a porch.

The applicant is requesting a Major Modification to the prior approval for changes to the architectural design and

an increase to building height. The modification proposes the townhome building design in a modern style, with red brick and off-white cementitious siding. The unit ends that front W Stone Avenue are proposed to have an entrance with windows and a stoop overhang as a means to activate the street frontage. The applicant also proposes to increase the height of all three buildings from three (3) stories to four (4) stories. The fourth story is proposed to be a rooftop terrace which includes a small finished space. There are no changes to building layout and overall site plan, and therefore, the site design is not part of this modification request.

The subject site is surrounded by office and commercial uses along West Stone Avenue. Directly behind the site is the Heritage Preservation Overlay District residential neighborhood. In June 2018, the applicants proposed a design that was decidedly more modern than that now being presented. Originally, the design proposed a black brick, lighter cementitious siding, a "saw tooth roofline" for the terraces, and less pedestrian activation along W Stone Avenue. Staff reviewed the modifications presented in the application and based on the information presented, staff recommended denial of this request. Staff felt the design did not address the rear neighbors and projected a cold, stark, overall feel of the project. The applicant withdrew their application from the June Planning Commission meeting and decided to rework the design. Working with the City staff, the applicant proposed material changes and redesigned some of the building elements. The applicant also conducted another neighborhood meeting with the residents to present the revised architecture. Staff concludes the design change has made an effort to address the surrounding properties, while retaining the desire to provide a more modern design.

No public comment.

Board discussion included: architecture; elements missing, such as a top/cap

Commissioner Terry made a motion to table application to review with 2-3 Commission members, staff and applicant. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 6:01 PM after a brief recess.

I. MFD 14-84M

Application by Edward Rose Associates for a **MULTI-FAMILY DEVELOPMENT MODIFICATION** on 23.4 acres located at **301 FAIRFOREST WY** (TM# M012030100102)

DeVoe presented the staff report for this application noting that no public comments were received for this application. This project, known as Emerald Creek Apartments, received multifamily development approval with comments and conditions at the April 2014 Planning Commission meeting (MFD 14-84). The 23-acre property has frontage along Fairforest Way that connects Laurens Road to Mauldin Road. The project was approved for 330 multifamily apartment units contained in nine, 3-story buildings. Main access to the development is from the existing curb-cut at the intersection of Fairforest Way and Wenwood Road, with a secondary entrance farther south on Fairforest Way.

The applicant is requesting a Major Modification to the prior approval for architectural design and material changes. Details of the specific changes are outlined in the statement provided by the applicant on July 16, 2018. Some of the changes include:

- Ground mounted A/C condensers have been removed from all sides of all building.
- Through wall combination A/C-Heat units have been added to the rear elevations with ventilation grills that are to be painted to match the adjacent exterior finish materials.
- The proposed enhanced rear elevations will include:
 - More square footage of brick will all major sections of brick now extending up the soffit/frieze board.
 - Larger and more visually interesting roof gable structures.

- Roof structures over the decks/patios that were not present in the approved plans and now will create a ceiling over the rear patios and decks.
- Sliding patio doors have been replaced with full lite swing doors, adjacent and fully functional side lite windows and a transom over the swing doors.
- Ground mounted A/C condensers have been removed for clear visual benefit to all first floor residents.
- The enhanced rear elevations for Buildings 1 & 2, which will be facing Fairforest Way, will include the following which the other buildings will not.
 - Inclusion of window shutters
 - Inclusion of decorative Fypon type window cross heads.

The changes enumerated above that reference architectural changes to Buildings 1 & 2 is a response to a condition of approval that was part of the initial approval:

“Enhance the design of the street-facing facades of Buildings 1 & 2, using materials and details that remain consistent with the overall development, in order to distinguish the “front” street-facing presence of the development within the public realm.”

The proposed changes appear to address conditions of the prior approval while improving the site layout by removing all ground A/C units. Staff has reviewed the modifications presented in the application and based on the information presented, staff recommends approval, of this request, with the following conditions:

- Exterior façade should provide visual interest through the use of color variation and material changes

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: colors; architecture grill to be used

Commissioner Keller made a motion to approve with staff comments and conditions to use architectural grill. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 6-0.

J. FDP 18-638

Application by Chris Watson for a **FINAL DEVELOPMENT PLAN** of 5.0 acres located at **WHITNER ST, 15 DUNCAN ST, HAMPTON AV and 202 HAMPTON AV** (TM#s 0014000300103; 0014000400400; 0014000401200; and 0014000300800)

DeVoe presented the staff report for this application noting that no public comments were received for this application. Buncombe Street PD is an integrated mixed-use commercial/retail and residential development, which was approved as a Planned Development in May 2018. The residential uses are comprised of 54 multifamily units and 31 single-family attached units.

The proposed single-family attached units were originally approved as 35 multifamily townhouse-style units. The applicant submitted a minor modification for staff review and approval to modify the approved Planned Development to reflect the change of developing single-family attached units (Z-24-2018 Minor Modification). In addition, Docket Number SD 18-018 is the related subdivision for the proposed single-family attached units.

The applicant did not conduct a neighborhood meeting as the neighborhood residents of Hampton-Pinckney sought to waive the requirement as a consensus that this request is consistent with the neighborhood views

previously expressed during the rezone process.

As the development project still retains 54 multifamily residential units, this Final Development Plan application also includes the review and approval of a Multifamily application, for the mixed-use building only. Therefore, this project is subject to section 19-6.8, *Design Principles and Standards for Multifamily Residential Development*. In addition, the development proposal is subject to the design principles and Statement of Intent for the Buncombe Street PD. Staff reviewed the application for compliance with the design standards as follows:

19-6.8.9 Multifamily design standards.

(A) Orientation

Response: The proposed project orients the buildings toward the public-right-of-way. Pedestrian sidewalks are incorporated along each roadway providing connectivity.

(B) Setbacks

Response: The proposed development appears to meet zoning and Buncombe Street PD setback requirements.

(C) Entrances

Response: Proposed entrances appear pedestrian in scale and offer architectural details such as lighting, projections and coordinating materials. Windows and balconies surround the main sides of the building and are oriented towards the pedestrian realm.

(D) Building Façades

Response: Proposed materials and colors appear to reflect consistent design, textures, colors, and features to the area. A distinctive base, middle and top are apparent in the elevations. In addition, the design appears to be consistent with the Buncombe Street PD approval.

(E) Service Areas

Response: It appears the service area is located internal within the south portion of the mixed-use building.

(F) Roof Form

Response: The proposed buildings incorporate varied building heights by incorporating parapet walls and cornices. The roof form is consistent with the Buncombe Street PD approval.

(G) Transparency

Response: The proposed units appear to meet the minimum glazed area for all street-facing facades. Additionally, the overall design provides transparency throughout the mixed-use building and is consistent with the Buncombe Street PD approval.

(H) Materials

Response: Proposed exteriors include a coordinated color scheme and consistent colors and finishes throughout the development. Additionally, materials and design character provide a transition from the nearby historic residential district and that of the urban center. Building materials include fiber cement panels, cast stone, aluminum windows, painted steel, and brick. Materials appear to be consistent with the Buncombe Street PD approval.

(I) Open Space

Response: It appears per the open space requirement, the project complies with minimum open space requirements (minimum 200 square feet per unit). The proposed project includes 28, 200 square feet of open space, which exceeds the required minimum and meets the Buncombe Street PD approval.

(J) Parking Lot Location

Response: The parking for the mixed-use/multifamily component of the project is located internal to the

site.

(K) Access and Circulation

Response: The project site has direct access to Buncombe Street from Whitner Street. Additional street network access is provided to the site by way of Duncan Street to Buncombe Street, and Hampton Avenue to Butler Avenue and Academy Street. The applicant is also proposing a private street that will transect through the main portion of the site, creating cross connectivity from Whitner to Duncan Street.

(L) Landscaping and Screening

Response: It appears the proposed project meets the intent and code requirements for foundation plantings. Additionally, the commercial/retail landscape and outdoor finishes consist of an urban plaza at the entrance of the site, with street trees, site furnishings, pavers or other decorative paving. Residential landscape consists of street trees, outdoor lighting and foundation plantings at the units.

(M) Exterior Lighting

Response: Exterior lighting shall comply with the City of Greenville code requirements at the time of permitting and appears to be consistent with the Buncombe Street PD approval.

(N) Pedestrian Walkways

Response: The proposed project incorporates a sidewalk/pedestrian system that fronts all street frontages.

(O) Fences and Walls

Response: It appears a fence or wall is not proposed to be utilized in buffer screening or for another reason.

Staff concludes that the proposed Final Development Plan for the Buncombe Street PD is consistent with the applicable sections of the Land Management Ordinance as well as the regulating plans and Statement of Intent for the Buncombe Street PD (Z-24-2017); and therefore, recommends approve with staff comments and conditions of this application.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: whether there were any significant changes to the proposed development

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

K. SD 18-018

Application by Chris Watson for a **SUBDIVISION** of 5.0 acres located at **WHITNER ST, 15 DUNCAN ST, HAMPTON AV and 202 HAMPTON AV** from 4 LOTS to 33 LOTS (TM#s 0014000300103; 0014000400400; 0014000401200; and 0014000300800)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide four (4) lots into 33 lots located along Whitner Street and Hampton Avenue for single-family attached homes. The subject property is located near the Hampton-Pinckney Historic District and is zoned PD, Planned Development.

The approved Planned Development (Z-24-2017), known as Buncombe Street PD, was approved for up to 20,000 SF retail/commercial; 48 multifamily apartment units; and 35 multifamily townhouse-style units. During the rezone approval process for the Planned Development, discussions occurred on constructing the 35 multifamily townhouse-style units as owner-occupied dwelling units; however, all dwelling units within the PD were approved as a multifamily development project. Since the original PD approval, the owner, The Beach Company, would like

to make the multifamily townhouse-style units owner-occupied, fee-simple ownership. This major subdivision request is in response to this development change.

Please note, item FDP 18-638 is the Final Development Plan for this project that indicates the revision of 35 multifamily townhouse-style units to 31 single-family attached units. In order to develop single-family attached units, the land must be subdivided off of roadway frontage in order to provide fee-simple ownership.

Staff concludes that the proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance and Statement of Intent for the Buncombe Street PD.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district and specific Planned Development requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant did not conduct a neighborhood meeting as the neighborhood residents of Hampton-Pinckney sought to waive the requirement as a consensus that this request is consistent with the neighborhood views previously expressed during the rezone process.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

No Board discussion.

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

L. Z-15-2018

Application by Jessica Chapman-Site Design Inc. for a **STORMWATER VARIANCE** located at **101 W BROAD ST and 20 JAPANESE DOGWOOD LA** to reduce compensatory storage requirement from 1.5 times volume to 1.0 times volume (TM#s 0058000500100; 0060000200200; 0060000300100)

DeVoe presented the staff report for this application noting that no public comments were received for this application. Staff concludes that this does not allow for variances and the filing of a map amendment does not preclude having to meet the requirements in Section 6. In addition, the applicant did not provide the amount of compensatory volume needed.

The floodplain ordinance in 19-7.1.B.6 and 7 states:

- (6) Compensatory storage is required for all storage lost or displaced in a regulatory floodplain. Hydraulically equivalent compensatory storage requirements for fill or structures in a riverine regulatory floodplain shall be at least equal to 1.5 times the volume of regulatory floodplain storage lost or displaced. Such compensation areas shall be designed to drain freely and openly to the channel and shall be located opposite or adjacent to fill areas. A deed or plat restriction is required to prohibit any modification to the compensation area. The regulatory floodplain storage volume lost below the existing ten-year frequency flood elevation must be replaced below the proposed ten-year frequency flood elevation. The regulatory floodplain storage volume lost above the ten-year existing frequency flood elevation must be replaced above the proposed ten-year frequency flood elevation.
- (7) If the proposed development would result in a change in the mapped regulatory floodplain, regulatory floodway, or the BFE on a site, the applicant shall submit sufficient data to the city and FEMA to obtain the appropriate letter of map change (LOMC). All adjacent property owners, communities, and the state department of natural resources shall be notified prior to any alteration or relocation of a floodplain, and submit copies of such notifications to the city. A LOMC due to fill does not preclude a development from

meeting the compensatory storage requirements.

Staff Recommendation: Recommend Denial to City Council

No public comment.

Board discussion included: question regarding ability to change compensatory storage; other possible locations; aesthetic issues of proposed six (6) foot wall behind stage; impact on modeling/

Commissioner Pait made a motion to recommend approval to City Council. Commissioner Keller seconded the motion. The motion was denied by a vote of 3-3. (Commissioner Terry, Keller and Eldridge against).

M. Z-16-2018

Application by KEVIN FEENY for a **REZONE** of 0.190 acre located at **17 and 19 RIDGEWAY AV** from R-6, Single-Family Residential District to C-3, Regional Commercial District (TM#s 0257000802100; 0257000805700)

Lavrin presented the staff report for this application noting that no additional public comments were received for this application. The subject properties are located on Ridgeway Avenue. Both parcels lie due north of Laurens Road. In addition, both parcels are zoned Residential R-6, which requires each lot in the subdivision to maintain a minimum 6,000 square foot lot. A portion of each property is being requested to be rezoned from R-6 to C-3, Regional Commercial District.

The applicant, Kevin Feeny, is the owner of the Kitchen Sync Restaurant, which sits directly south of the two rear yards of these properties at 1609 Laurens Road. Mr. Feeny's restaurant continues to grow in popularity, and he is experiencing parking issues at his current site. While the current site meets the base minimum parking required for an eat-in restaurant, he finds that the parking is not adequate on this existing site to serve both his customers and provide enough parking for his staff. Therefore, he has been looking to try and expand his parking lot to accommodate his staff and customer parking needs. Staff's understanding from meeting with Mr. Feeny several times on his parking needs is that he explored other options prior to seeking this rezoning for a portion of these properties.

As evidenced on the attached zoning map, this property is surrounded by C-3 Regional Commercial District zoned land directly to the south and west. The city's comprehensive plan recommends a 'Central Business District' designation for this section of Augusta St and Bradshaw St. as the area is ideally situated for urban redevelopment and is located on a major urban corridor close to the downtown core. Staff is of the opinion that the requested C-3 designation for just the rear portion of the properties is consistent with the surrounding zoning and appropriate for these properties. Staff would not be in favor of this request if the entire parcels were being requested for the rezoning, as the front part of the parcels contain single-family residential homes that are integral to the surrounding residential neighborhood. However, the C-3 zoning designation already abuts several of the adjacent residential properties directly north of the subject property.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

11. Consistent with the Comprehensive Plan: The proposed C-3 zoning is not consistent with the Future Land Use Map, as the entire parcel of both 17 and 19 Ridgeway Avenue was shown on the Future Land Use Map as General Residential. However, these properties serves as a logical breaking point between residential and commercial, as it followed the property lines. If the rezoning were to be approved, these parcels would become part of the Mr. Feeny's existing parcel to the south, and staff does not believe this concept is in conflict with the future land use plan or City's Comprehensive Plan.

In addition, the City has tried to find avenues through civic investment to revitalize the Laurens Road Corridor commercial node. Successful commercial businesses along this corridor support both the adjoining residential

neighborhoods and the City Of Greenville's efforts for vitality and livability on all of our major corridors. The intent of the district is to preserve and encourage pedestrian-oriented uses.

12. Changed conditions since the original designation: This section of Laurens Road is a commercial corridor that is experiencing re-investment in some of the commercial properties along the corridor. Laurens Road is surrounded by residential neighborhoods that have long been an important part of the community fabric within the City. The reason for the proposed rezoning is to add property to a neighborhood commercial restaurant use. Staff does not support any change to the zoning map that would alter or affect the overall residential character of the surrounding residential properties.
13. Addresses a demonstrated community need: The zoning is needed in order to add land to a neighborhood commercial restaurant. The business supports the surrounding neighborhood.
14. Compatible with surrounding uses: C-3 zoning is located directly south and west of the subject properties and is compatible with surrounding uses. There are no anticipated adverse impacts from zoning a portion of these properties to C-3.
15. Promotes logical development pattern: The proposed C-3 district is consistent with the zoning and emerging development pattern along this section of the Laurens Road corridor.
16. Will not result in "strip" or ribbon commercial development: This property being requested for rezoning will be required to be combined with Mr. Feeny's property along Laurens Road. Rezoning of these properties will not result in strip commercial development.
17. Will not create an isolated zoning district: The proposed C-3 zoning is consistent with the surrounding zoning as C-3 abuts the subject properties to the south and west of the subject properties.
18. Surrounding property values: C-3 Zoning will not have an adverse impact on surrounding property values.
19. Effect on natural environment: Staff anticipates that future redevelopment of the pieces of property being considered for rezoning will not significantly impact the natural environment around the area.
20. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval to City Council

No public comment.

Board Discussion included: whether property is to be subdivided after rezone approval; rezone based on metes and bounds.

Commissioner Gardner made a motion to recommend approval to City Council. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

N. Z-17-2018

Application by Patrick Victory for a **REZONE** of 0.162 acre located at **714 Pettigru St** from C-3, Regional Commercial District to OD, Office & Institutional District (TM# 0047000100200)

Lavrin presented the staff report for this application noting that no additional public comments were received for this application. The subject property is located at 714 Pettigru St. The parcel lies at the terminus of Pettigru St, directly south of E North St and west of Laurens Rd. As shown on the attached zoning map exhibit, all surrounding property along this portion of Pettigru St is zoned OD, Office & Institutional District. The property owner, who also owns 710 Pettigru St, desired to do a recombination plat moving the property lines between the two parcels.

However, during review of the recombination plat, staff noted, that under the Land Management Ordinance, the property could not be recombined with split-zone designations. The applicant thought that perhaps it was an error on the zoning map, because everything around this property is zoned OD. However, staff found an application for this property, as far back as 2008, that showed the property was zoned C-3, Regional Commercial District. The applicant is requesting to down zone the property to OD and remove the C-3 zoning designation in order to proceed with the recombination plat. Both this property and the adjacent property at 710 Pettigru St are developed, and there are no plans at this time to change anything on the properties. This is only a housekeeping measure in order to allow for the new subdivision to occur. Both the owner and staff felt it would be appropriate, and in keeping with the future land use plan, to ask to rezone 714 Pettigru St to OD rather than request a rezone of 710 Pettigru St to C-3.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

21. Consistent with the Comprehensive Plan: The proposed OD zoning is consistent with the Future Land Use Map, which shows this property, along with all others along this section of Pettigru St, as Mixed Use Neighborhood. OD is an appropriate zoning classification for A Mixed Use Neighborhood land use classification.
22. Changed conditions since the original designation: Nothing has changed on this property since the 1990s. At some point, when C-3 was applied to properties along Laurens Road, directly east, this property was somehow or another a part of that. However, the breaking point between C-3 and OD is appropriate at the boundary of E North St and Laurens Rd. Staff believe this zoning is an anomaly that needs to be addressed.
23. Addresses a demonstrated community need: The zoning designation would match what this property is being used for, which is an office use.
24. Compatible with surrounding uses: The entire area along Pettigru St is zoned OD. OD zoning is located directly south and west of the subject property and is compatible with the existing and surrounding uses. There are no anticipated adverse impacts from downzoning this property to OD.
25. Promotes logical development pattern: The proposed OD zoning is consistent with the zoning and existing development pattern along this section of Pettigru St, and in staff's opinion, OD is more appropriate for this neighborhood than a broader, more intense commercial zoning designation.
26. Will not result in "strip" or ribbon commercial development: This property being requested for rezoning will retain the existing use and character and will not result in strip commercial development.
27. Will not create an isolated zoning district: The proposed OD zoning is consistent with the surrounding zoning and leaving the C-3 zoning in place is actually more inappropriate, as it currently is an isolated zoning district that abuts the subject properties to the south and west of the subject properties.
28. Surrounding property values: OD zoning will not have an adverse impact on surrounding property values.
29. Effect on natural environment: OD actually lowers any potential impacts on the natural environment by limiting the uses permitted on the property.
30. Public facilities and services: Public facilities and services are already available to the site.

Staff Recommendation: **Recommend Approval to City Council**

No public comment.

No Board discussion.

Commissioner Keller made a motion to recommend approval to City Council. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

Commissioner Terry recused from Council Chambers for item Z-20-2018.

O. Z-20-2018

Application by City of Greenville for a **REZONE** approximately 103 acres located along a portion of PENDLETON ST, N MEMMINGER ST, S CALHOUN ST, and S ACADMEY ST to RDV, Redevelopment District; OD, Office & Institutional District ; RM-2, Single- & Multi-Family Residential District; RM-1, Single- & Multi-Family Residential District and C-4, Central Business District (see project documents)

Graham presented the staff report for this application noting that public comments were received for this application. As the West End neighborhood continues to grow and change, the neighborhood association requested staff to review the current zoning districts and consider changes to promote more neighborhood friendly development. A similar recommendation was made in the Sterling Neighborhood Master Plan, adopted in 2010. The current zoning designation of C-3 (Regional Commercial) is one the most intense commercial districts in our code. Previously, city staff had studied the West End area and set an area, loosely bounded by Pendleton St, Academy St, N. Markley St and S. Main St. (see attached map of existing zoning). As staff conducted research into this request, we also considered this previous study and the zoning of the areas associated with it. From this study, staff suggests zoning changes that will promote redevelopment of properties along the Pendleton St., Academy St, N. Markley and S. Main St. corridor segments, as well as properties within a bounded area adjacent (see attached map of proposed zoning) which are consistent with and support the development that is occurring in the adjacent residential areas and nearby pedestrian focused business districts. Staff met with the West End Neighborhood Association on April 3 and received overwhelming support for the proposed changes. A public open house was held for property owners in this area on April 30 and May 1 from 4:00-6:00 at the St. Andrews Episcopal Church, [1002 S. Main Street](#). Property owners had the opportunity to meet one-on-one with staff and discuss proposed changes. Staff also met with Sterling Neighborhood Association on May 10 at 6:00 at the Sterling Community Center and with the Sterling Land Trust Board of Directors on May 17 at 6:30 at the Sterling Hope Center. Based on feedback received from those meetings, staff has incorporated adjustments, based on comments and feedback, and brings forward the attached proposal for your consideration.

Staff Recommendation: Recommend Approval to City Council

Public comment included: proposed RDV would allow more uses on property; concern over state building property being rezoned to RDV as adjacent to residential; RDV allows less intense commercial uses; retaining neighborhoods within area; properties to remain C-3; area designated as commercial shall remain commercial; blanket rezoning; public notice and community meetings; corner of Academy and Pendleton shall remain commercial, C-3; downzoning versus upzoning in certain areas

Board Discussion included: blanket zoning; downzoning; commercial areas; workshop to further study proposed request

Commissioner Keller made a motion to table application. Commissioner Gardner seconded the motion. The motion was approved by a vote of 5-0. (Commissioner Terry recused).

Commissioner Terry returned to Council Chambers for remaining agenda.

P. Z-18-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Sections 19-6.6.2(Q), Prohibited Signs; 19-6.6.4, Permanent Signs and 19-1.11 Definitions to clarify panel signs

Lavrin presented the staff report for this application noting that public comments were received for this application. The proposed text amendment to the Land Management Ordinance addresses, defines, and clarifies the differences between a cabinet (box) and flat panel sign. The reason staff proposes this amendment is to eliminate confusion concerning the two and to also provide definitions for these type signs that are currently not found within the ordinance.

Staff Recommendation: Recommend Approval to City Council

No public comment.

No Board discussion.

Commissioner Keller made a motion to recommend approval to City Council. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

Q. Z-19-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Table 19-4.1.2, Table of Uses to distinguish between funeral homes with crematory and funeral homes without crematory

Lavrin presented the staff report for this application noting that public comments were received for this application. The proposed amendment to the Land Management Ordinance addresses section 19-4.1.2 – Table of Uses. The first proposed amendment is to differentiate between funeral homes, mortuary with crematory; and, funeral homes, mortuary without crematory. The reason staff proposes this amendment is that by distinguishing between the uses, it allows for consideration of allowing funeral homes without on-site crematories in a transitional zone district. This amendment does not currently remove funeral homes from any of the three districts they are permitted in: OD (Office & Institutional District), C-1 (Neighborhood Commercial District), and C-2 (Local Commercial District). However, it would allow for funeral homes and mortuaries without on-site cremation services as a permitted use in the RDV (Redevelopment District). The purpose of the RDV district is to provide convenient access to necessary goods and services for the neighborhood. It is a mixed-use zoning district intended to provide uses for those who live and work in the area. Funeral homes are needed services within our community. Other commercial uses permitted in the RDV include neighborhood service uses such as barbershops, personal services, vet clinics, restaurants, hotels, and retail sales and services under 25,000 sf.

Staff Recommendation: Recommend Approval to City Council

No public comment.

No Board discussion.

Commissioner Keller made a motion to recommend approval to City Council. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

Other Business:**A. Monthly 2019 City Comprehensive Plan Update**

DeVoe presented the Comprehensive Plan update including plan to finalize contact with consultant and steering committee selection.

ADJOURNMENT: The meeting was adjourned at 7:23 P.M.

808 McDaniel Avenue Proposals

Proforma Net Profit Scenarios (attached spreadsheet) for the 1.86 acres on 808 McDaniel Avenue ("McDaniel") are listed below:

- 8 Lots- \$1,959,614.00 - 8 Lot layout shown on **Exhibit A**, attached (this scenario would have a storm water retention facility).
- 6 lots and conservation easement (city staff's recommendation) - \$1,135,460.00.00
6 Lot layout shown on **Exhibit B**, attached (This scenario would have a storm water retention facility) also note that this is the original proposal which includes the value of the conservation easement (\$175,000.00) which we now believe is not obtainable.
- 5 lots no conservation easement- \$702,272.00 - 5 Lot layout shown on **Exhibit C**, attached (in this scenario each lot would be given an allowance for impervious surfaces and additional impervious surfaces would require the lot owner to provide addition storm water facilities on that lot).
- 4 lots no conservation easement- \$287,857.00 - 4 Lot layout shown on **Exhibit D**, attached (in this scenario each lot would be given an allowance for impervious surfaces and additional impervious surfaces would require the lot owner to provide addition storm water facilities on that lot).

We would be willing to trade for developable property within the City or have some or all of our foregone profits reimbursed to us and/or applied to the purchase price of a suitable substitute property.

We propose the following:

Option 1 Swap McDaniel Ave for Park Ave parcels ("Park Ave") which are:

All of 0039050200300 (0.588 Acres) Fire Station
 All of 0039050200200 (0.309 Acres) Recycling Area
 Portion of 0039020101700 (1.25 Acres)
Portion of 0039020100100 (0.84 Acres)
 Total Estimated Acreage 2.987 Acres

And further described on **Exhibit E** attached.

Option 2 Sell McDaniel "as is" and purchase Park Ave for the same price as the sales price of McDaniel.

Option 3 Develop McDaniel at either the 4 or 5 lot scenario and purchase some or all of Park Ave for its appraised value and apply applicable foregone profit against the purchase price at Park Ave.

Option 4 Develop McDaniel at either the 4 or 5 lot scenario and the City reimburse us for the applicable foregone profit.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

McDaniel Jones, LLC,

Appellant,

v.

City of Greenville Planning Commission,

Respondent,

and

Jennifer T. Outten, Susan Lind, John Lind,
Kelly Warren, Charles Warren,

Intervenors.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

CASE NO. 2019-CP-23-00749

ORDER DENYING APPEAL

This matter comes before the Court for hearing of the appeal of McDaniel Jones, LLC (“Landowner”) of a decision of the City of Greenville Planning Commission (“Planning Commission”). Present before the Court were Bruce W. Bannister and Luke A. Burke on behalf of Appellant and Michael S. Pitts and Leigh Paoletti on behalf of the City of Greenville Planning Commission. Also present was Samuel W. Outten on behalf of Intervenors.

This is an appeal of the Planning Commission’s decision at a public hearing on January 17, 2019. The Planning Commission denied the application for subdivision at the public hearing where the Landowner’s principal was present. Written notice of the Planning Commission’s decision was sent to Landowner on February 8, 2019. Landowner filed its Notice of Appeal, Petition, Request for Pre-Litigation Mediation on February 13, 2019. The Planning Commission filed Appellee’s Response to Appeal on March 18, 2019. Intervenors filed a Consent Motion to Intervene on April 9, 2019. Although no order has been issued on Intervenors’ motion, the parties have treated Intervenors as a party to this appeal since the motion was filed. The parties attempted

pre-litigation mediation pursuant to S.C. Code §§ 6-29-1150 and 6-29-1155 and reached an impasse. This hearing followed.

The Court reviewed and considered the pleadings, the Certified Copy of Proceedings filed by the City of Greenville on March 18, 2019, the briefs filed by Landowner and the Planning Commission, and the arguments of counsel.

Landowner argues that the Planning Commission failed to act when its members unanimously voted to deny a motion to approve Landowner's preliminary plat. The Planning Commission argues that it did act when it denied the motion to approve Landowner's preliminary plat.

Landowner further argues that, although the Planning Commission has discretion to approve a preliminary plat that does not fully comply with the applicable zoning and ordinances through granting a variance, the Planning Commission does not have discretion to deny a preliminary plat that complies with the applicable zoning and ordinances. Further, Landowner argues that its preliminary plat complies with the applicable zoning and ordinances and that the Planning Commission admitted the preliminary plat complies with the applicable zoning and ordinances at the January 17, 2019 meeting.

The Planning Commission argues that, as an appointed commission of the City of Greenville, it has discretion to deny approval of a preliminary plat that does not comply with the purpose and intent of the City's Land Management Ordinance, City of Greenville Code of Ordinances § 19-1.3, or City of Greenville Code of Ordinances § 19-6.9.1, the latter of which is found in the City's Infill Ordinance and states:

General purpose and intent. This section is intended to achieve neighborhood compatibility, maintain the harmony and character of established single-family residential areas, and guide residential infill development to occur in an orderly and desirable manner.

Specifically, the Planning Commission submits that these two City Code sections evidence an intent that newly-created subdivision lots within established neighborhoods be compatible in size and configuration to existing lots in the immediate vicinity. The Planning Commission further submits the Landowner was well aware of this requirement prior to the public hearing and in fact advocated that the proposed subdivision lots met the aforementioned requirement.

Intervenors support the Planning Commission's position and request that they be officially added as parties to this case. Both the Planning Commission and Landowner consented to Intervenors request to be added.

The Court finds that the Planning Commission admitted at the January 17, 2019 meeting that the preliminary plat complies with the language of the applicable zoning and ordinances except the purpose and intent sections above, City of Greenville Code of Ordinances §§ 19.1.3 and 19.6.9.1. The Court finds that these purpose and intent sections allow the Planning Commission to define neighborhood compatibility to require that newly-created subdivision lots be compatible in size and configuration to existing lots in the neighborhood and the Planning Commission defined neighborhood compatibility as such in this case. Therefore, the Planning Commission did not abuse its discretion when it acted to deny Landowner's preliminary plat. Further, the Court finds that the Planning Commission did affirmatively and timely act upon this discretion when it voted to deny the motion to approve Landowner's preliminary plat at the January 17, 2019 meeting.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. Jennifer T. Outten, Susan Lind, John Lind, Kelly Warren, and Charles Warren are added as parties to this case as intervenors as reflected in the caption of this Order; and

2. Appellant's appeal is DENIED and the decision of the Planning Commission is AFFIRMED.

IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: McDaniel Jones Llc VS City Of Greenville Planning Commission

Case Number: 2019CP2300749

Type: Order/Other

So Ordered

s/ Edward W. Miller

Electronically signed on 2020-09-01 10:06:41 page 5 of 5

ELECTRONICALLY FILED - 2020 Sep 01 10:29 AM - GREENVILLE - COMMON PLEAS - CASE#2019CP2300749
ELECTRONICALLY FILED - 2023 Oct 31 2:07 PM - GREENVILLE - COMMON PLEAS - CASE#2020CP2305094



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
January 17, 2019
4:00 PM

Meeting Notice Posted January 2, 2019

Minutes prepared by Michael Frixen

Members Present: Jason Tankersley, Catherine Smith, Jonathan Pait, David Keller,
Diane Eldridge, Meg Terry, Trey Gardner

Members Absent: None

Staff Present: Jonathan Graham, Planning & Development Manager
Shannon Lavrin, Assistant Planning & Development Manager
Brennan Williams, Development Planner
Courtney Powell, Senior Planner
Michael Frixen, Development Planner
Chad Hall, Development Planner
Calin Owens, Development Planner
Michael Pitts, City Attorney
Dwayne Cooper, Engineering Services Manager
Clint Link, Civil Engineer
Tracy Ramseur, Sr. Economic Development Project Manager
Edward Kinney, Parks & Recreation
Drew Smith, Parks & Recreation

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:01 PM. He explained the purpose of the planning commission, outlined the rules for procedure, and invited the Commissioners to introduce themselves.

APPROVAL OF MINUTES: The December 20, 2018, minutes were approved as presented.

ACCEPTANCE OF AGENDA: Agenda approved as posted on January 16, 2019, with the following items deferred to the February 21, 2019, meeting: Z-26-2018, SD 18-033, SD 18-035, MD 18-005, Z-28-2018.

CONFLICTS OF INTEREST: Jason Tankersly on agenda item SD 18-036.

OLD BUSINESS**A. SD 18-027**

Application by Jay Martin for a **SUBDIVISION** of 1.86 acres located at **808 MCDANIEL AV** from 1 LOT to 6 LOTS (TM# 0217000500700)

Staff Report presented by Jay Graham

- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Approve with staff comments and conditions**

Applicant presentation by Jay Martin, 401 N Main St.

- Discussed difference between original and revised proposal
- Answered board questions about the stormwater plan and whether the development will increase or decrease the amount of impervious surface.

Public comments in support of application:

- None

Public comments opposed to application:

- Sam Outten, 809 McDaniel Ave – developer seeking to maximize profit; proposal does not fit intent of infill standards; developer refuses to reduce number of lots
- Bob Sowinski, 640 McDaniel Ave – angry about traffic calming “death bumpers” on McDaniel Ave; traffic concerns; increased impervious surface
- Tom Snyder, 7 Camille Ave – concerns about lot width and compatibility with neighborhood; wants 2 lots on McDaniel and 2 lots on Jones
- Albert Fitzgerald, 516 Cleveland St – issues with removing canopy trees; concern about air quality; proposed drainage system will cause root rot and damage magnolia tree
- Charles Warren, 802 McDaniel Ave – concern about stormwater pond aesthetics and impacts on magnolia tree; potential increase in mosquitoes from standing water; arrogance and greed of developer; developer getting a tax write-off from the conservation lot; says 4 lots is more acceptable
- David Einstein, 223 Camille Ave – traffic and safety concerns from increased curb cuts; showed picture of backed up traffic at August St
- Susan Lind, 417 Jones Ave – concerned about stormwater flowing onto property; wants developer to put a berm to separate their properties; make developer add storm drains on first block of Jones Ave; concern about impacts to root systems of trees on adjacent properties
- John Lind, 417 Jones Ave – PC should weigh concerns of neighbors who have to live in the neighborhood; protect character of neighborhood from developer profits
- Connie McDowell, 7 Camille Ave – protect identity of the Alta Vista neighborhood; concern about precedent for other infill subdivisions in community; don’t approve just because it meets the ordinance
- John Mills, 411 Belmont Ave – says tour buses visit Alta Vista neighborhood; PC has made Alta Vista a jewel of Greenville
- Kelly Warren, 802 McDaniel Ave – concern about HOA maintenance of stormwater system

Applicant rebuttal by Jay Martin

- Responded to comments stated during public hearing. Assured they would work with city staff to ensure tree is protected and ordinances are followed.

Board discussion

- Clarification of stormwater detention facilities
- Received assurance that developer would work with arborists to minimize impacts to trees on other properties
- Question about whether staff had searched for an original plat of the neighborhood
 - Staff did not research historical plats of the neighborhood
- Question of whether this is in a historic district
 - It is not
- Question of whether the ordinance allows the PC any latitude regarding neighborhood compatibility
 - There are some specific requirements for measuring compatibility. Staff does take into account the surrounding neighborhood.
- Staff showed slides with surrounding lot widths and stated calculated averages. Board members also calculated average lot widths. Commissioner Gardner calculated the proposed lot width to be 30% less than the average existing lots along McDaniel. There was discussion about the different calculation methodologies used by the public speakers, board members, and staff. Director Graham stated he included the proposed conservation lot when calculating the average.
- Difficult because proposal appears to meet ordinance requirements, but there are concerns about compatibility.
- DOT would have to approve the curb cuts

***Motion: Commissioner Pait moved to approve with staff comments and conditions. Commissioner Keller seconded the motion. The motion failed by a vote of 0-7, with all members voting against the motion.**

B. Z-26-2018

Application by Dan Bruce for a **REZONE** of 19.4 acres located at **HAYWOOD RD and PELHAM RD** from R-6, Single-Family Residential District to PD, Planned Development District (TM#s 0278000200300, 0278000200301)
Deferred to February 21, 2019, meeting as requested by applicant.

C. MD 18-004 (MFD 18-978)

Application by W. Norman Hamilton for a **MULTI-FAMILY DEVELOPMENT** on 3.7 acres located at **254 S PLEASANTBURG DR** (TM#s 0266000130100, 0266000130101)

Staff Report presented by Chad Hall

- Michael Frixen provided additional information about an easement along the adjoining property line, which required changes to site plan including removal of the sidewalk along the rear of the building, modification of the proposed landscape plan and buffer, and removal of the proposed garden planters in the rear of the building. The modified site plan also included a marked pedestrian path through the parking lot to the sidewalk and bus station along Frederick Street. Michael further explained that the developer was to send these changes to the adjacent owner for their consideration and approval.
- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Approve with staff comments and conditions**

Applicant presentation by Charlie Irick, Flatiron Partners

- Discussed tax credit requirements and how that impacts the architecture
- Believed they had reached an agreement with the adjacent property owner regarding the landscape island, lights, and joint easement.
- The low-income tax credit puts the project on a strict timeline where they have to meet certain milestones to keep their funding.

Public comments in support of application:

- Cecil Nelson, Attorney representing adjacent property owner, Gunn Murphy, at 260 S Pleasantburg Dr – said they had resolved the outstanding easement issues and they would be providing a signed agreement to the City Of Greenville
- Sylvia Palmer, Nicholtown Neighborhood Assn president – verified they met with developer and they support affordable senior housing in the Nicholtown community; wishes the neighborhood meeting location had been conducted within the community instead of the Augusta Road public library

Public comments opposed to application:

- None

Board discussion

- Commissioner Smith stated that the architecture does not fit in with the surrounding area

***Motion: Commissioner Keller moved to approve with staff comments and conditions. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 6-1, with Commissioner Smith voting “no” over architectural concerns.**

NEW BUSINESS**A. SD 18-032**

Application by Arbor Engineering for a **SUBDIVISION** of 1.38 acres located at **607, 611, and 617 N MAIN ST** from 3 LOTS to 25 LOTS (TM#s 0004000102100, 0004000101800, 0004000101900)

Staff Report presented by Calin Owens

- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Approve with staff comments and conditions**

Applicant presentation by Michael Redmon and Jay Martin, Arbor Engineering

- Clarified which properties are included in the development; there is a scrivener's error showing the developer owns parcel 0004000102200 (619 N Main St); this parcel is not included in the project.
- Addressed concerns about density and parking
- The proposal includes new on-street spaces for public parking.

Public comments in support of application:

- None

Public comments opposed to application:

- Robert Gasperik, 623 N Main St #8 – says he is speaking on behalf of other owners in his subdivision; concerned about loss of green space; concern about bump-outs on Main St; believes density should be reduced
- Eileen Coco, 623 N Main St #4 – believes the development would disrupt the harmony and character of the block
- Van Matthews, 623 N Main St – objects to the proposed density; concerns about parking; believes a study should be done on the alleyway
- Tim Coco, 623 N Main St – believes 3-foot buffer is unsatisfactory; says Main & Stone complex “fits beautifully in downtown Moscow” but not Greenville; concerned about Greenville turning into Atlanta
- Ben Wakely, 129 Ridgecrest Dr – concerns about density, parking, and landscaping; issues with buffer and landscaping exemptions for townhouse developments vs. other commercial developments; remove on-street parking spaces

Board discussion

- Received clarification from Engineering on alley ownership
- Discussed removing bump-outs on Main St; developer agreed to alter parking configuration along N Main St
- Staff received clarification on the revised parking and bump-outs. The one near the driveway would be removed while the other would be saved or expanded.

***Motion: Commissioner Smith moved to approve with staff comments and conditions, and with the adjustments of the parking as agreed to during the meeting with the objective of preserving tree coverage along the street as possible. Commissioner Terry seconded the motion. The motion was approved by a vote of 7-0.**

B. SD 18-033

Application by John Lattimore for a **SUBDIVISION** 0.705 acre located at **ZORA DR and WEBSTER RD** from 1 LOT to 4 LOTS (TM# 0199030100104)
Deferred to February 21, 2019, meeting as requested by applicant.

C. SD 18-034

Application by Blue Bridge Properties LLC for a **SUBDIVISION** 0.15 acre located at **W PARK AV** from 1 LOT to 3 LOTS (TM# 0004000101500)

Staff Report presented by Courtney Powell

- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Approve with staff comments and conditions**

Applicant presentation by Michael RedmonPublic comments in support of application:

- None

Public comments opposed to application:

- None

Board discussion

- Received clarification from Engineering on alley ownership. All issues with the alley must be resolved before the permitting phase.

***Motion: Commissioner Smith moved to approve with staff comments and conditions. Commissioner Keller seconded the motion. The motion was approved by a vote of 7-0.**

D. SD 18-035

Application by Integras - Dallas Rd, LLC for a **SUBDIVISION** of 81.12 acres located at **DALLAS RD** from 1 LOT to 65 LOTS (TM# M010020101500)
Deferred to February 21, 2019, meeting as requested by applicant.

E. SD 18-036

Application by CAP Camperdown LLC for a **SUBDIVISION** of 1.022 acres located at **S MAIN ST, FALLS ST, E BROAD ST, and JAPANESE DOGWOOD LN** from 1 LOT to 4 LOTS (TM# 0061000304101)

Chairman Tankersly left the meeting chambers due to a conflict of interest on this item. Vice-Chairman Keller took over the meeting.

Staff Report presented by Michael Frixen

- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Approve with staff comments and conditions**

Applicant presentation

- None

Public comments in support of application:

- None

Public comments opposed to application:

- None

Board discussion

- Received clarification from city attorney that final approval is subject to passage of an ordinance by city council approving the property exchange.

***Motion: Commissioner Terry moved to approve with staff comments and conditions. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0, with Chairman Tankersley recusing himself.**

Chairman Tankersly returned to the meeting at the conclusion of this item.

F. MD 18-005 (MFD 18-979)

Application by Arbor Engineering for a **MULTI-FAMILY DEVELOPMENT** on 1.32 acres located at **317 WILKINS ST** (TM#s 0095000800500; 0106000200300)
Deferred to February 21, 2019, meeting as requested by applicant.

G. SN 18-992

Application by Reid Hipp for a **STREET NAME CHANGE** to change BLISS WAY to JOSEPH MATHIS WAY in subdivision SD 18-021 located at **SUMLAR DR** (TM# 0201000101803)

Staff Report presented by Michael Frixen

- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Approve**

Applicant presentation

- None

Public comments in support of application:

- Sylvia Palmer, Nicholtown Neighborhood Association president – clarified some statements from the staff report; said NNA supports the change to Joseph Mathis Way

Public comments opposed to application:

- Karla Elrod, 210 Nichol St – said the street should be named after Adam Walker, a former slave and mansion house porter who bought 12 acres of land in 1870, including the property on which subdivision SD 18-021. She explained the importance of his actions to the historic Nicholtown community.

Board discussion

- Commissioner Eldridge said she thought it was a great idea to name a street after someone important in their community. They have the application for Joseph Mathis Way before them tonight, but she should get with the Nicholtown community and consider renaming a street after him.
- If they deny the application tonight, that simply prevents the current application from

coming back for a year.

- The applicant was not present.
- Sylvia Palmer suggested renaming Layman Drive after Adam Walker.
- Karla Elrod stated she wants the primary road named after Adam Walker.
- Chairman Tankersly said the commission will table the application and requested the speakers to work with the applicant on revising the proposal to address both road names.

***Motion: Commissioner Keller moved to table this item until the February 21, 2019, meeting. Commissioner Smith seconded the motion. The motion was approved by a vote of 7-0.**

H. A 18-1035

Application by John Batson Jr. for an **APPEAL** located at **103 MORNINGDALE DR** from Sec. 19-6.9 Single-family residential infill standards (TM# 0180000200400)

Staff Report presented by Courtney Powell

- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Uphold Administrator's Decision**

The city attorney clarified that the question before the planning commission is to determine whether the administrator interpreted the ordinance correctly.

There was discussion about the meaning of "predominant."

Hearing from Appellant, Chip Batson, and his engineer, John Darrohn

- Discussed difficulties and problems with current driveway; explained why they are requesting the circular drive.
- Stated that permit was issued previously but expired.
- Explained significant engineering challenges of this site.

Public testimony -- Chairman Tankersly asked if the commission takes public comments for an Appeal. City Attorney Pitts stated that if the speaker has evidence relevant to the appeal, they could be heard.

- Mike Keish, neighbor, expressed support for the applicant receiving a circular driveway. It is needed to help with parking on this site. The house has a large setback. Asked for certain conditions be attached to any approval, including use of brick or stone for any retaining walls.

Board Discussion

- Whether the hardship was created due to a renovation or change in landscaping.
- Comments that the site is challenging and has unique physical constraints.
- Commissioner Smith asked why they let the permit lapse. Mr. Batson said they did not know the approval would expire.
- Discussion about the predominant development pattern along the block and the fact that both adjacent properties have circular driveways. Included additional discussion about the meaning of "predominant."
- Concerns about materials of any retaining walls that may be required, if approved.

***Motion: Commissioner Keller moved to grant the appeal with the condition that, before issuing the permit, the engineer work with planning staff to resolve issues of grade, materials, and landscaping. Commissioner Pait seconded the motion. After some additional discussion, the motion was approved by a vote of 6-1, with Chairman Tankersly voting "no."**

Commissioner Eldridge asked Chairman Tankersly for clarification on his vote. Chairman Tankersly stated he thought staff interpreted the ordinance correctly. Commissioner Smith said she thinks they interpreted it correctly, but there are extenuating circumstances.

City Attorney Pitts stated that they might need to revisit the vote because the sole question before the board is whether the administrator interpreted the ordinance correctly. This is not a variance request.

Commissioner Smith said then the board needs to revisit the vote. Additional discussion followed.

***Motion to reconsider: Commissioner Eldridge moved to reconsider the vote. Commissioner Keller seconded the motion. The motion was approved 7-0.**

Staff read the definition for a "block" from the Land Management Ordinance. The question is regarding the predominant pattern of the block.

Staff rebuttal

- Director Graham stated that the difficulty that staff has is the question before the commission. It's not that staff does not have compassion or sympathy; staff understands the difficulties that people face. However, it is staff's responsibility to enforce the laws of the city. Staff has to interpret the zoning ordinance. If the board thinks staff did not enforce the ordinance correctly, staff would seek guidance from the commission as to the proper interpretation. He stated that what the commission is saying, staff can't enforce. Cities must deal with the public at large, not individuals. It's a legal issue. Staff has to make hard decisions in the trenches every day. If the board approves the appeal, the commission's direction to staff would be that circular drives can be approved even when they are not the predominant pattern on the block. He stated that he feels sorry for the applicant in this particular instance, but staff cannot enforce the ordinance based on the issues they've raised.

The board asked for additional clarification. Can they rule whether staff interpreted the ordinance correctly, but make an exception for this applicant? Staff explained that was not permitted; they are only reviewing staff's interpretation of the ordinance.

Commissioner Pait stated that the definition of "block" was helpful, and therefore believes that the development pattern is not predominant for that block.

***Motion: Commissioner Smith moved to uphold the administrator's decision. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 4-3, with Commissioners Terry, Gardner, and Keller voting "no."**

I. Z-25-2018

Application by City of Greenville for a **STRATEGIC PLAN** to adopt the **WADE HAMPTON BOULEVARD STRATEGIC PLAN** for properties on BEVERLY LA, BROOKSIDE CIR, BUENA VISTA AV, CHICK SPRINGS RD, DUPONT DR, E STONE AV, GAY ST, ITASCA DR, MT ZION AV, MOHAWK DR, N CHURCH ST, N PLEASANTBURG

DR, SPARTANBURG ST, STAG ST, TYTAN CT, WADE HAMPTON BLVD, and WELLINGTON AV (see project documents for TM#s)

Staff Report presented by Michael Frixen

- Note: Full staff report is on file at the Planning Office
- **Staff Recommendation: Approve**

Applicant presentation by Tripp Muldrow

- Presented an overview of the strategic plan

Public comments in support of application:

- Steve Hall, 61 Lotus Court, member of steering committee for project
- Ben Wakely, 129 Ridgecrest Dr – with added comment that the neighborhood is “Vista Hills” but the development in the plan is titled “Vista View;” some concern about townhomes being considered lower-density housing, which is inconsistent with surrounding single-family neighborhoods; says his neighborhood association was not consulted about plan; however, supports project
- Courtney Tolley, 529 Barns Hollow Dr, Simpsonville, representing Wade Hampton Square Shopping Center – in support of beautification and planning; have concern about back of their shopping center where Bob Jones abuts their property; showed pictures of trash and storage containers behind their property which is visible from WH Blvd; affects their ability to recruit new tenants; says they were not consulted about the plan; concerns about their nonconforming pylon sign; says they’ve put a lot of effort into beautifying their property
- Rick Altizer, 307 Bradley Blvd – supports recommendations and improvements in strategic plan
- Michael Wood, 74 Lake Forest Dr – in favor of plan; great potential; made some suggestions for implementations; wants to ensure that not only the corridor going into town is beautiful, but that the neighborhoods and areas along Wade Hampton are improved and made safe
- Kathy Dodson, 108 Lakecrest Dr – in favor of plan; want to see more greenspace and trees; consider safety of children

Public comments opposed to application:

- Larry Thompson, 106 Alpine Way – concern about impacts to White Oak Baptist Church if parking spaces are removed; these are the only place they can conduct funerals at their church
- Ashley Sutter, 45 Primrose Ln – request approval but with comments from the commission; excited about many proposals in plan, but concerned about proposed trail and gateway into Timmons Park. Current trail going to Timmons Park crosses directly through their property. Concerns about traffic and safety along their street if a trail is put in.
- George Clemmons, 44 Primrose Ln – in favor of plan, but concerned about “aging motel” on other side of Timmons Park; wants plan to address Regal Inn as part of the Timmons Park redevelopment
- Debbie Allen, White Oak Drive – opposed to bikeway proposal on White Oak Drive and Campbell Drive due to concerns about danger to elementary children; should utilize other existing bikeways

Board discussion

- Existing property owners should be considered when implementing plan
- Safety of pedestrians and cyclists should be considered
- This is a strategic plan, a framework for what could happen – no property will be taken
- Plan is a “toolbox” – future development proposals must come back through city and, for some projects, the planning commission

***Motion: Commissioner Smith moved recommend approval of the Strategic Plan to the city council with the additional commentary provided during the planning commission public hearing. The motion was approved by a vote of 7-0.**

J. Z-28-2018

Application by NAI Earle Furman, LLC for a **REZONE** of 63.69 acres located at **200 FAIRFOREST WAY** from I-1, Industrial District and S-1, Service District to S-1, Service District (TM# M011010100307)
Deferred to February 21, 2019, meeting.

***Motion: Due to the extreme length of the meeting, Commissioner Keller moved to table the remaining agenda items and make them the first items at the next month's meeting. Commissioner Terry seconded the motion. The motion was approved by a vote of 7-0.**

K. Z-30-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Section(s) 19-3.2.2(O) RDV: Redevelopment district deleting part (3) buffer and parking exemptions for mixed-use developments
Tabled to February 21, 2019, meeting.

OTHER BUSINESS:

- A. Monthly Comp Plan Update** *Tabled to February 21, 2019, meeting.*
- B. Election of Planning Commission Officers** *Tabled to February 21, 2019, meeting.*
 - a. Chairperson: _____
 - b. Vice-Chairperson: _____

ADJOURNMENT: The meeting was adjourned at 7:54 P.M.

McDaniel Costs

Cost Code	Description	7/1/2018	8/1/2018	9/1/2018	10/1/2018	11/1/2018	12/1/2018	1/1/2019	2/1/2019	3/1/2019	4/1/2019	5/1/2019	6/1/2019	7/1/2019	8/1/2019	9/1/2019	10/1/2019	11/1/2019
2-01-01-1000	Appraisal Fees	(150.00)	-	-	-	-	-	(2,000.00)	-	-	-	-	-	-	-	-	-	-
2-01-01-1012	Origination Fees	(2,805.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2-01-01-1014	Title Insurance	(3,194.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2-01-01-1050	Land Costs	(1,430,000.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2-01-01-1060	Attorney Fees closing	(8,500.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2-01-01-1100	Land Planning and Design	(93.75)	(988.75)	(2,156.84)	(1,976.30)	-	(4,437.09)	(1,703.88)	(9,037.04)	(745.00)	-	-	(987.50)	(2,230.00)	-	-1,020.00	-1,181.25	-485.00
2-01-01-1110	Attorney Fees	(1,132.25)	-	-	-	-	-	-	(5,022.60)	(531.25)	(800.00)	(1,037.50)	-	(2,368.75)	-	-	-	-
2-01-01-1140	Planning review fees	-	-	(300.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2-01-01-1160	Boundary survey	(1,000.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2-02-01-1210	Engineering - Site Design	(375.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
4-20-10-8100	Title and Recording Fees	(424.00)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
5-07-01-5880	Security	-	(38.76)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		(1,447,674.00)	(1,027.51)	(2,456.84)	(1,976.30)	-	(4,437.09)	(3,703.88)	(14,059.64)	(1,276.25)	(800.00)	(1,037.50)	(987.50)	(4,598.75)	-	(1,020.00)	(1,181.25)	(485.00)
P&L Activity																		
MCD-100-50000.000	Lot Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-70000.000	Cost of Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-70055.000	Commissions - Outside	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-70060.000	Closing Costs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-70065.000	Prorated Taxes - Closing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-70080.000	Marketing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-71800.000	CAM Landscape Expense	-	-	(300.00)	(400.00)	-	(500.00)	(630.00)	(100.00)	(100.00)	(200.00)	(500.00)	(400.00)	(400.00)	(500.00)	(525.00)	(400.00)	(500.00)
MCD-100-71950.000	Miscellaneous Utilities	-	(117.50)	(252.18)	(155.27)	(105.64)	(353.93)	(370.30)	(356.11)	(240.70)	(174.63)	(119.19)	(101.95)	(150.17)	(71.79)	(132.07)	(97.17)	(64.20)
MCD-100-72000.000	County Taxes	4,154.79	-	-	-	-	(18,622.36)	-	-	-	-	-	-	-	-	-	-	(30,079.85)
MCD-100-82080.000	Landscape Expense	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-83000.000	Insurance	-	(350.00)	-	-	-	-	-	-	-	-	-	-	(350.00)	-	-	-	-
MCD-100-84100.000	Office Supplies	-	(38.76)	-	(70.84)	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-85000.000	Interest Expense	-	(4,846.33)	(4,846.33)	(4,913.33)	(5,077.12)	(4,913.33)	(5,360.00)	(5,307.89)	(4,794.22)	(5,307.89)	(5,136.67)	(5,307.88)	(5,136.67)	(5,121.78)	(5,077.11)	-	(9,290.66)
MCD-100-86150.000	Expensed Fixed Assets <\$2500	-	-	-	-	-	-	-	-	(500.00)	-	-	-	-	-	-	-	(400.00)
MCD-100-86500.000	Accounting/Professional Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-86501.000	Legal fee	-	-	(25.00)	-	-	-	-	-	-	-	-	-	-	(406.25)	-	(31.25)	(1,950.00)
MCD-100-86700.000	Banking Fees & Expenses	-	(15.00)	-	15.00	-	-	-	-	-	-	-	-	-	-	-	-	-
MCD-100-86800.000	Licenses/Permits	-	(30.90)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Monthly Profit (Loss) w/o COGS	4,154.79	(5,398.49)	(5,423.51)	(5,524.44)	(5,182.76)	(24,389.62)	(6,360.30)	(5,764.00)	(5,634.92)	(5,682.52)	(5,755.86)	(5,809.83)	(6,036.84)	(6,099.82)	(5,734.18)	(528.42)	(42,284.71)
	Loan	1,072,000.00																
	Cash Inflows (Outflows)	(371,519.21)	(6,426.00)	(7,880.35)	(7,500.74)	(5,182.76)	(28,826.71)	(10,064.18)	(19,823.64)	(6,911.17)	(6,482.52)	(6,793.36)	(6,797.33)	(10,635.59)	(6,099.82)	(6,754.18)	(1,709.67)	(42,769.71)
	Cost of good sold																	
	Monthly Profit (Loss)	4,154.79	(5,398.49)	(5,423.51)	(5,524.44)	(5,182.76)	(24,389.62)	(6,360.30)	(5,764.00)	(5,634.92)	(5,682.52)	(5,755.86)	(5,809.83)	(6,036.84)	(6,099.82)	(5,734.18)	(528.42)	(42,284.71)
	Tax impact (35%)	(1,454.18)	1,889.47	1,898.23	1,933.55	1,813.97	8,536.37	2,226.11	2,017.40	1,972.22	1,988.88	2,014.55	2,033.44	2,112.89	2,134.94	2,006.96	184.95	14,799.65
	Net Monthly Profit (Loss)	2,700.61	(3,509.02)	(3,525.28)	(3,590.89)	(3,368.79)	(15,853.25)	(4,134.20)	(3,746.60)	(3,662.70)	(3,693.64)	(3,741.31)	(3,776.39)	(3,923.95)	(3,964.88)	(3,727.22)	(343.47)	(27,485.06)
	Net Cumulative inflows (outflows)	(372,973.39)	(377,509.92)	(383,492.04)	(389,059.22)	(392,428.02)	(412,718.36)	(420,556.43)	(438,362.67)	(443,301.62)	(447,795.26)	(452,574.07)	(457,337.96)	(465,860.66)	(469,825.54)	(480,163.08)	(487,392.80)	(521,193.27)
	Return net of taxes (14.3%)														(5,590.33)	(5,704.99)	(5,830.42)	(5,918.68)
	After tax cumulative return if reinvested													(465,860.66)	(475,415.87)	(485,868.07)	(493,223.21)	(527,111.95)

12/1/2019	1/1/2020	2/1/2020	3/1/2020	4/1/2020	5/1/2020	6/1/2020	7/1/2020	8/1/2020	9/1/2020	10/1/2020	11/1/2020	12/1/2020	1/1/2021	2/1/2021	3/1/2021	4/1/2021	5/1/2021	6/1/2021	7/1/2021	8/1/2021
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(2,618.75)	-	-	(410.40)	(450.00)	(1,887.50)	-	(919.24)	-	-	-1,000.00	(2,412.50)	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(2,618.75)	-	-	(935.40)	(981.25)	(1,887.50)	-	(919.24)	-	-	(1,000.00)	(2,412.50)	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	1,400,000.00	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	(42,000.00)	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	(5,750.00)	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(400.00)	(300.00)	-	-	-	(750.00)	(400.00)	(400.00)	(400.00)	(500.00)	(300.00)	-	-	-	-	-	-	-	-	-	-
(170.56)	(175.56)	(177.24)	(170.96)	(98.76)	(74.73)	(76.43)	(88.44)	(101.38)	(85.91)	(76.04)	(87.73)	19.28	62.98	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	(22,600.98)	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	(350.00)	-	-	-	273.00	-	-	-	-	-	-	-	-	-
(4,466.67)	(4,615.56)	(4,615.55)	(3,990.23)	-	-	-	(4,020.00)	(4,154.00)	-	(17,286.00)	-	-	-	-	-	-	-	-	-	-
(1,000.00)	-	-	-	-	(200.00)	-	-	-	-	(200.00)	-	-	-	-	-	-	-	-	-	-
-	(812.50)	-	-	-	-	-	-	-	(2,000.00)	-	-	(2,412.50)	-	2,412.50	(4,399.07)	-	(3,921.25)	-	-	-
-	-	-	-	-	-	-	-	-	-	(15.00)	-	-	-	-	-	-	-	-	-	-
(6,037.23)	(5,903.62)	(4,792.79)	(4,161.19)	(98.76)	(1,024.73)	(476.43)	(4,858.44)	(4,655.38)	(2,585.91)	1,311,771.98	185.27	(2,393.22)	62.98	2,412.50	(4,399.07)	-	(3,921.25)	-	-	-
										(1,072,000.00)										
(8,655.98)	(5,903.62)	(4,792.79)	(5,096.59)	(1,080.01)	(2,912.23)	(476.43)	(5,777.68)	(4,655.38)	(2,585.91)	238,771.98	(2,227.23)	(2,393.22)	62.98	2,412.50	(4,399.07)	-	(3,921.25)	-	-	-
										(1,497,476.15)										
(6,037.23)	(5,903.62)	(4,792.79)	(4,161.19)	(98.76)	(1,024.73)	(476.43)	(4,858.44)	(4,655.38)	(2,585.91)	(185,704.17)	185.27	(2,393.22)	62.98	2,412.50	(4,399.07)	-	(3,921.25)	-	-	-
2,113.03	2,066.27	1,677.48	1,456.42	34.57	358.66	166.75	1,700.45	1,629.38	905.07	64,996.46	(64.84)	837.63	(22.04)	(844.38)	1,539.67	-	1,372.44	-	-	-
(3,924.20)	(3,837.35)	(3,115.31)	(2,704.77)	(64.19)	(666.07)	(309.68)	(3,157.99)	(3,026.00)	(1,680.84)	(120,707.71)	120.43	(1,555.59)	40.94	1,568.13	(2,859.40)	-	(2,548.81)	-	-	-
(533,654.90)	(543,817.60)	(553,412.68)	(563,656.42)	(571,422.06)	(580,820.15)	(588,069.03)	(599,199.37)	(609,366.83)	(618,323.76)	(321,955.04)	(331,755.79)	(337,264.95)	(341,252.53)	(343,779.92)	(350,783.49)	(354,958.58)	(361,766.90)	(366,077.52)	(370,470.45)	(374,916.09)
(6,325.34)	(6,479.76)	(6,603.57)	(6,720.19)	(6,844.52)	(6,939.20)	(7,053.11)	(7,141.47)	(7,276.09)	(7,399.72)	(7,508.68)	(3,953.56)	(4,028.51)	(4,095.52)	(4,144.18)	(4,175.09)	(4,259.50)	(4,310.62)	(4,392.93)	(4,445.65)	(4,498.99)
(539,980.25)	(550,297.36)	(560,016.24)	(570,376.61)	(578,266.58)	(587,759.35)	(595,122.14)	(606,340.83)	(616,642.92)	(625,723.48)	(329,463.72)	(335,709.36)	(341,293.46)	(345,348.05)	(347,924.10)	(354,958.58)	(359,218.09)	(366,077.52)	(370,470.45)	(374,916.09)	(379,415.08)

Cumulative return from Proforma
Difference between Actual and Proforma
Before tax compensation needed to make whole today

9/1/2021

[illegible]

2020080878
 DEED Book: DE 2605 Page: 1512 - 1513 2 Pgs
 October 2, 2020 09:20:24 AM Cons: \$1,400,000.00
 Rec: \$15.00 Cnty Tax: \$1,540.00 State Tax: \$3,640.00
 FILED IN GREENVILLE COUNTY, SC *Timothy J. Hanney*

STATE OF SOUTH CAROLINA)
) TITLE TO REAL ESTATE
 COUNTY OF GREENVILLE)

KNOW ALL MEN BY THESE PRESENTS, that

MCDANIEL JONES, LLC

in consideration of **One Million Four Hundred Thousand and No/100 (\$1,400,000.00) Dollars**, to the Grantor in hand paid at and before the sealing of these presents by the Grantees, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto **MICHAEL H. MCBRIDE and LYNN W. MCBRIDE, as joint tenants with rights of survivorship and not as tenants in common**, their heirs and assigns, forever, the following described property:

All that certain piece, parcel or lot of land, together with any and all improvements thereon, situate, lying and being in the County of Greenville, State of South Carolina, being shown and designated as 1.86 acres (81,118 SF), as shown on plat entitled "Survey for McDaniel Jones, LLC" prepared by C.O. Riddle Surveying Co., Inc., dated July 19, 2018 and recorded in the ROD Office for Greenville County, SC in Plat Book 1311 at Page 58 on July 26, 2018, and having according to said plat, such metes and bounds as are shown thereon.

This being the same property conveyed unto McDaniel Jones, LLC by deed of TNB Financial Services, Successor Trustee U/W of C.E. Hatch dated July 26, 2018 and filed for record in the ROD Office for Greenville County, SC in Deed Book 2543 at Page 5317 on July 26, 2018,

Greenville County Tax Map # 0217.00-05-007.00

Grantee Address: 101 Falls Park Dr., Suite 601, Greenville, SC 29601

This conveyance is made subject to all restrictions, setback lines, zoning ordinances, easements and rights of way, if any, as may appear of record or on the subject property.

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the Grantee, as joint tenants with rights of survivorship and not as tenants in common, and the Grantee's heirs or successors and assigns, forever. And, the Grantor does hereby bind the Grantor and the Grantor's heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee and Grantee's heirs or successors against the Grantor and Grantor's heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the Grantor's hand and seal this 1 day of October, 2020.

Signed, sealed and delivered
In the presence of:

MCDANIEL JONES, LLC

Walter Blumhord
Witness

BY: Mark A. Cothran (SEAL)
Mark A. Cothran, Manager

Walter Blumhord
Witness

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this 1 day of October, 2020 by Mark A. Cothran as Manager of McDaniel Jones, LLC
David DeMouy
Notary Public for South Carolina
My Commission Expires: 1-7-2023

Original Scenario

the R9 zoning has
9,000SF minimum lot
sizes with 60' of width at
the building line
therefore 8 lots are
permitted

values for the 8 lot scenario
are based on the appraised
values as set forth in the
Stone & Associates appraisal
dated January 8, 2019

	lots		
McDaniel Ave	1	\$ 525,000.00	
McDaniel Ave	2	\$ 525,000.00	
McDaniel Ave	3	\$ 525,000.00	
McDaniel Ave	4	\$ 525,000.00	
McDaniel Ave	5	\$ 525,000.00	
Jones Ave	6	\$ 485,000.00	
Jones Ave	7	\$ 475,000.00	
Jones Ave	8	\$ 475,000.00	
Total value		\$ 4,060,000.00	
sales fees	5.00%	\$ (203,000.00)	
closing costs	1.00%	\$ (40,600.00)	
net sale proceeds		\$ 3,816,400.00	
conservation easement tax deduction		\$ -	
total proceeds		\$ 3,816,400.00	\$ 3,816,400.00
purchase price		\$ 1,430,000.00	
development OH		\$ 140,000.00	
appraisal		\$ 2,500.00	
points		\$ 4,000.00	
legal		\$ 25,000.00	
demo		\$ 17,000.00	
engineering		\$ 30,000.00	
survey		\$ 2,000.00	
sewer and water taps		\$ 106,285.71	
cost to obtain conservation easement		\$ -	
contingencies		\$ 100,000.00	
Total costs		\$ 1,856,785.71	\$ 1,856,785.71
Gross profit			\$ 1,959,614.29

Planning Staff approved recommendation

staff conditioned its approval on
preserving the magnolias, the city
accepting a conservation easement and
reducing the number of lots to 6 from 8

values for the 8 lot scenario
are based on the appraised
values as set forth in the
Stone & Associates appraisal
dated January 8, 2019

	lots		
McDaniel Ave	1	magnolia trees	
McDaniel Ave	2	magnolia trees	
McDaniel Ave	3	\$ 525,000.00	
McDaniel Ave	4	\$ 525,000.00	
McDaniel Ave	5	\$ 525,000.00	
Jones Ave	6	\$ 485,000.00	
Jones Ave	7	\$ 475,000.00	
Jones Ave	8	\$ 475,000.00	
Total value		\$ 3,010,000.00	
sales fees	5.00%	\$ (150,500.00)	
closing costs	1.00%	\$ (30,100.00)	
net sale proceeds		\$ 2,829,400.00	
conservation easement tax deduction		\$ 174,862.50	
total proceeds		\$ 3,004,262.50	\$ 3,004,262.50
purchase price		\$ 1,430,000.00	
development OH		\$ 140,000.00	
appraisal		\$ 2,500.00	
points		\$ 4,000.00	
legal		\$ 25,000.00	
demo		\$ 17,000.00	
engineering		\$ 30,000.00	
survey		\$ 2,000.00	
sewer and water taps		\$ 93,000.00	
cost to obtain conservation easement		\$ 25,000.00	
contingencies		\$ 100,000.00	
Total costs	\$ 233,562.50	\$ 1,868,500.00	\$ 1,868,500.00
Gross profit			\$ 1,135,762.50

City of Greenville Planning Commission Application Approval/Denial

Date	Project	Approved	Denied
2018			
1/18/2018	Annexation of 2900 E North ST	X	
1/18/2018	Subdivision on Claussen Ave 24 to 28 lots on same piece of land	X	
1/18/2018	207 Shaw St, Multi family development	X	
1/18/2018	Woodruff Road, Multifamily Development	X	
2/15/2018	Annexation- Carmax on Laurens	X	
2/15/2018	Rezone on Augusta St and Bradshaw St	X	
3/15/2018	Annexation of 11 Ketron Ct	X	
3/15/2018	Annexation of 1401 Laurens View Rd	X	
3/15/2018	Rezone of 38 Southland Av	X	
3/15/2018	Multi family development at 40 Market Point DR	X	
4/19/2018	Multi family development at 930 Old Airport Rd	X	
5/17/2018	Annex at Haywood Rd and Transit Dr	X	
5/17/2018	Subdivision at 55 E Camperdown WY	X	
5/17/2018	Subdivision at Market Point Dr	X	
6/1/2018	Subdivision of 320 Falls St	X	
6/21/2018	Annexation of 100 Questlover Dr	X	
6/21/2018	Annexation at Prosperity Av	X	
6/21/2018	Subdivision at 34 Algonquin Trail	X	
6/21/2018	Subdivison at 12 Calhoun St	X	
6/21/2018	Subdivision at 3590 Laurens Road	X	
6/21/2018	Subdivision at 733 Bennett St	X	
6/21/2018	Subdivision at Keat Av and Pete Hollis Blvd	X	
6/21/2018	Subdivison at 406 Long Hill St	X	
6/21/2018	Rezone of 109 W Stone Av	X	
6/21/2018	Rezone of 121 W Stone Av	X	
6/21/2018	Flexible Review District at 600 E Washington St	X	
6/21/2018	Rezone at Butler Ave and Buncombe St	X	
8/16/2018	Annexation at Woodruff Rd and 385	X	
8/16/2018	Appeal at 606 Wembley Road		X
8/16/2018	Subdivision at 200 Old Augusta Road	X	
8/16/2018	Subdivision at 141 Traction Street	X	
8/16/2018	Subdivision at around 327 Rice Street	X	
8/16/2018	Townhone Development Modification at 121 W Stone Av	X	
8/16/2018	Multi-family development at 301 Fairforest WY	X	
8/16/2018	Final Development Plan at Hampton Av	X	
8/16/2018	Stormwater Variance at 101 W Broad St		X
8/16/2018	Rezone at 17 and 19 Ridgeway Av	X	
8/16/2018	Rezone at 714 Pettigru St	X	
8/16/2022	Rezone at Pendleton Street	X	
9/20/2018	Rezone at Butler Ave and Buncomve St	X	
9/20/2018	Annexation at S Calhoun St	X	
9/20/2018	Annexation at Lowndes Hill Road and Woods Lake Road	X	
9/20/2018	Subdivision at 102 Potomac Av	X	

9/20/2018	Subdivision at 200 Woodruff Road	X	
10/18/2018	Subdivision at 15 Edisto St	X	
10/18/2018	Subdivision at 102 Oneal St	X	
10/18/2018	Rezone at 61 Villa Road	X	
11/15/2018	Subdivision at 411 Perry Av	X	
11/15/2018	Subdivision at Sumlar Hall Drive	X	
11/15/2018	Subdivision at Guess ST and Mills Mill	X	
11/15/2018	Rezone of 230 Buist Av		X
11/15/2018	Subdivision at 109 Wardlaw St and 4 Logan St	X	
11/15/2018	Rezone 1041 Verdae Blvd	X	
11/15/2018	Annexation at Conestee Road and Spanco Drive	X	
11/15/2018	Subdivision Modification at 3590 Laurens Rd	X	
2019			
1/17/2019	Subdivision of 808 McDaniel Av		X
1/17/2019	Multi-Family Development at 254 Pleasantburg Drive	X	
1/17/2019	Subdivision at 607, 611 and 617 N Main Street	X	
1/17/2019	Subdivision at W Park Av	X	
1/17/2019	Subdivision at S Main St, Falls St, E Broad St and Japanese Dogwood	X	
1/17/2019	Appeal 103 Morningdale Drive	X	
1/17/2019	Strategic Plan Wade Hampton Blvd	X	
2/28/2019	Rezone at 28, 68, 78 Global Dr and 700 Ridge Road	X	
2/28/2019	Multifamily Development on 317 Wilkins St	X	
2/28/2019	Major rezone on N Pleasantburg Dr	X	
2/28/2019	Rezone at 801 Green Av	X	
2/28/2019	Rezone at 2101 Augusta St and 18 & 20 E Faris Rd	X	
2/28/2019	Subdivision at Rockly Slope Road	X	
2/28/2019	Subdivision at 312 Echols Street and Winn Street	X	
2/28/2019	Multifamily Development at Haywood Road and Transit Dr	X	
2/28/2019	Annexation at 83 & 89 Rocky Slope Road	X	
2/28/2019	Annexation at 5 Ridge Street	X	
3/21/2019	Rezone at Haywood Road and Pelham Road	X	
3/21/2019	Subdivision at Legacy Park Road	X	
3/21/2019	Rezone at 1909 Laurens Road	X	
4/18/2019	Subdivision at S Main St and Japanese Dogwood Lane	X	
4/18/2019	Annexation at 1 Ridge Street	X	
5/16/2019	Subdivision at 2930 Laurens Road, 40 Vantross Ln, Thurgood Dr, and	X	
5/16/2019	Subdivision at Green Heron Rd, PNG Connector Rd and Woodruff I	X	
5/16/2019	Subdivision at 204 Gower St	X	
5/16/2019	Multi-family development at E Broad St and Doctor David C France	X	
5/16/2019	Annexation at 102 Mason St		X (tie)
5/16/2019	Rezone at 11 Easley Bridge Rd		X
6/20/2019	Multifamily development on 401 and 429 Roper Mountain Rd	X	
6/20/2019	Subdivision at Haywood Rd, Pelham Rd, Highbourne Dr and Darien	X	
6/20/2019	Rezone at Haywood Road and Pelham Road	X	
6/20/2019	Annexation & Rezone at 13 Ridge St	X	
6/20/2019	Rezone at Solomon Circle and Chick Springs Road	X	
6/20/2019	Multifamily Development Major Modification Haywood Rd and Tr	X	

6/20/2019	Subdivision at Cemetery St and E Stone Av	X	
7/18/2019	Subdivision at 400 Jenkins St	X	
7/18/2019	Subdivision at 205 Anderson St	X	
7/18/2019	Variance at 47 Pete Hollis Blvd	X	
8/15/2019	Annexation and rezone 33 Guess ST	X	
8/15/2019	Rezone at 20 and 22 Ridgeway Av and 4,6,8 Ridge Knoll Cir	X	
8/15/2019	Annexation and Rezone at 1305 Pendleton St	X	
8/15/2019	Annexation and Rezone 720 Mauldin Road	X	
9/19/2019	Annexation and rezome at 411 E Bramlett Road	X	
9/19/2019	Subdivision at 401 Houston St	X	
9/19/2019	Final Development Plan at Butler Ave and Buncombe St	X	
9/19/2019	Rezone at 7 Landwood Av	X	
10/17/2019	Major Modification Rezone at University Ridge, Thurston St, Howe	X	
10/29/2019	Annexation and Rezone at Minus Street	X	
10/29/2019	Multi-family development at W Washington ST, Antley St and Capi	X	
10/29/2019	Subdivision at Chadworth Dr + Verdae Crest Dr	X	
10/29/2019	Subdivision at N Pleasantburg Dr	X	
10/29/2019	Final Development Plan at N Pleasantburg Dr	X	
11/21/2019	Rezone at 500 Congaree Rd	X	
11/21/2019	Rezone of Unity Park Neighborhood District		X
11/21/2019	Annexation and Rezone along E Bramlett Rd, E Morgan St, E Parker	X	
11/21/2019	Subdivision at Haywood Road and Pelham Road	X	
11/21/2019	Final Development Plan at Buncombe St, Whitner St, Hampton Av	X	
11/21/2019	Annexation & Resone at Woodruff Rd	X	
11/21/2019	Annexation and rezone at Mall Connector Road	X	
11/21/2019	Subdivision at Augusta St and Harris St	X	
2020			
1/16/2020	Multifamily Development Verdae blvd and Salters Rd	X	
1/16/2020	Multifamily Development Chestnut St and E North St	X	
1/16/2020	Subdivision Modification at 3590 Laurens Rd	X	
1/16/2020	Subdivision at Fariforest Way and United Way	X	
1/16/2020	Cluster Subdivision on Fisher Dr	X	
1/16/2020	PD Major Modification Adams Hill Planned Development	X	
2/20/2020	Cottage Subdivision at Hall St	X	
2/20/2020	Rezone at Westend Overlay District	X	
2/20/2020	Annexation and Rezone at Webb Road		X
2/20/2020	Annexation and Rezone at Woodruff Road	X	
2/20/2020	Multifamily Development at Salters Road and Woodruff Road	X	
2/20/2020	Subdivision at 38 Southland Av	X	
3/19/2020	Annexation and Rezone at Old Augusta road And Monteith Circle	X	
3/19/2020	Subdivision at 205 and 207 E Stone Ave	X	
3/19/2020	Rezone in Gower	X	
5/21/2020	Rezone in Unity Park Neighborhood	X	
5/21/2020	Stormwater Variance 317 Wilkins Street	X	
5/21/2020	Annexation & Rezone at D St and Shaw St	X	
5/21/2020	Multi-family development 350 Mohawk Drive	X	
5/21/2020	Subdivision at Dallas Road	X	

6/18/2020 Subdivision at 14 Bradshaw Street	X	
7/16/2020 Subdivision at Keith Drive		X
7/16/2020 Final Development Plan at Woods Crossing Road and 500 Conagre	X	
7/16/2020 Cottage Subdivision at 911 Rutherford Road	X	
8/20/2020 Subdivision on Welborn Street and Unity Park Plan	X	
8/20/2020 Final Development Plan on Pelham Road	X	
8/20/2020 Annexation and Rezoning at 601 Airport Road	X	
8/20/2020 Annexation at 3315 Augusta Road	X	
8/20/2020 Major Subdivision at Fairforest Way and United Way	X	
9/17/2020 Rezone at Tower Drive and airport Road	X	
9/17/2020 Rezone at 220 Roper Mountain Road Exit	X	
9/17/2020 Rezone at 1600 E Washington St	X	
10/15/2020 Final Development Plan at Adams Hill Planned Development	X	
10/15/2020 Rezone at Ridge Road	X	
10/15/2020 Subdivision at Ridge Road	X	
10/15/2020 Subdivision at 135 Carolina Point Parkway	X	
10/15/2020 Rezone at North Vance Street	X	
10/15/2020 Subdivision at Cavalier Drive and Fairforest Way	X	
10/15/2020 Subdivision on Dallas Road	X	
11/19/2020 Rezone on North Vance Street	X	
11/19/2020 Modification for a subdivision at South Main St and Japanesse Dog	X	
11/19/2020 Stormwater Management Variance at 30 Hall Street	X	
11/19/2020 Rezone on Academy Street	X	
12/17/2020 Subdivision at 410 Birnie St	X	
2021		
1/21/2021 Subdivision at Pinckney St and Mulberry St	X	
1/21/2021 Annexation at 7001 Cinelli St	X	
2/18/2021 Legacy Oaks II Multi-family development at 740 Woodruff Road		X
3/18/2021 Rezone at 15 E Stone Ave	X	
3/18/2021 Subdivision at 950 S Main St	X	
3/18/2021 Subdivision at 12 E Broad St	X	
3/18/2021 Annexation at Webb Road	X	
5/20/2021 Rezone on Academy Street	X	
5/20/2021 Rezone at 330 Pelham Road	X	
5/20/2021 Subdivision at Anderson St and Conwell ST	X	
5/20/2021 Rezone at 1200 Laurens Road	X	
6/17/2021 Subdivision Major Modification at 317 Wilkins Street	X	
8/19/2021 Annexation and Rezone at Prosperity Ave and Plantation Road	X	
8/19/2021 Annexation and Rezone at 1007 Hampton Ave	X	
8/19/2021 Subdivision Major Modification at 207 Anderson Street	X	
8/19/2021 Subdivision at 801 Pendleton Street	X	
9/16/2021 Multifamily Development on Gibbs Street and Westfield Street	X	
10/21/2021 Rezone at Douthit Circle and N Leach Street		X tie
10/21/2021 West End Small Area Plan	X	
10/21/2021 Subdivision at E. Faris Road		X
10/21/2021 Multi-family Development at Grove Road and Hawthorne Lane	X	
12/16/2021 Annexatin and Rezone at 3410 Augusta Road	X	

2022

1/20/2022 Subdivision at 111 S. Leach Street		X
1/20/2022 Annexation and Rezone at 2901 E. North Street	X	
1/20/2022 Annexation and Rezone at Conastee Road	X	
1/20/2022 Final Development Plan at 1200 Laurens Road	X	
2/17/2022 Multi-family Development at 846, 850 West Washington Street	X	
2/17/2022 Multi-family Development at West Washington Street, South Huds	X	
2/17/2022 Multi-family Development at 301 Shaw Street	X	
4/21/2022 Subdivision at 200 Fairforest Road	X	
4/21/2022 Annexation and Rezone at 2550 N. Pleasantburg Drive	X	
4/21/2022 Annexation and Rezone at 8 Calder Drive	X	
4/21/2022 Annexation and Rezone at Anderson Road and Conwell Street	X	
4/21/2022 Annexation and Rezone at 804 Mauldin Road	X	
4/21/2022 Planned Development at N. Pleasantburg Drive and Renaissance Ro	X	
4/21/2022 Multi-family Development at Mayberry Street and Delano Drive	X	
5/19/2022 Multi-family Development at Lowndes Hill Road and I-385	X	
5/19/2022 Subdivision at 25 Winn Street and Allison Street	X	
5/19/2022 Rezone at 205 Wilton Street	X	
5/19/2022 Multi-family Development at Haywood Road and Transit Drive	X	
5/19/2022 Subdivision at Conestee and Conestee Lake Road	X	
5/19/2022 Rezone at 1167 E. North Street	X	



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
January 18, 2018
4:00 PM
Meeting Notice Posted January 3, 2018

Minutes prepared by Sheryl Hobbs

Members Present: Trey Gardner, Catherine Smith, Meg Terry, David Keller, Jonathan Pait, Diane Eldridge, Jason Tankersley

Members Absent: none

Staff Present: Eric Vinson, Zoning Administrator; Courtney DeVoe, Development Planner; Brennan Williams, Development Planner; Nathalie Schmidt, Senior Development Planner; Dwayne Cooper, City Engineer; Jonathan Graham, Planning & Development Manager; Logan Wells, Assistant City Attorney

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on January 1, 2017 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 3:59 PM.

APPROVAL OF MINUTES: The December 21, 2017 meeting minutes were approved as amended.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved as amended to withdraw item B. SD 17-1148 and to postpone item D. MD 17-1139 to February 2018.

CONFLICT OF INTEREST: None.

OLD BUSINESS:

NEW BUSINESS:

A. AX-16-2017

Application by City of Greenville for **ANNEXATION** of 9.80 acres located at **2900 E NORTH ST** from R-M20, Greenville County to RM-2, Single- & Multi-Family Residential District (TM# 0279000100504)

DeVoe presented the staff report for this application. The subject property is an existing multifamily complex located on E North Street. In August 2015, the owner of the property entered into a water covenant, with the City, that requires annexation into the City of Greenville. The property owner did not apply for annexation according to the terms of the covenant. Therefore, the City Manager has initiated the process. The subject property is contiguous to the municipal corporate limits. The existing use is multifamily and RM-2 designation would allow

continuance as multifamily.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

1. Consistent with the Comprehensive Plan: Staff concludes that the proposed RM-2 zoning designation is consistent with the "Mixed-Use Community" Future Land Use designation shared by the closest surrounding City properties.
2. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
3. Addresses a demonstrated community need: The proposed RM-2 zoning designation would encourage multifamily living in this area.
4. Compatible with surrounding uses: The RM-2 zoning designation would allow development that is compatible with surrounding uses.
5. Promotes logical development pattern: The proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
6. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development due to use and property configuration.
7. Will not create an isolated zoning district: Adjacent County property is zoned R-M20 and R-20, and at this time, will likely remain in the county.
8. Surrounding property values: It is not readily apparent that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands.
9. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
10. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval for Rezone to City Council

Commissioner Terry made a motion to approve. Commissioner Pait seconded the motion. The motion was approved by a vote of 7-0.

B. SD 17-1148

Application by **JAMES WHITE** for a **SUBDIVISION** of 0.25 acre located at **8 DOUTHIT ST** from 1 LOT to 3 LOTS (TM# 0075000300900) *Application has been withdrawn.*

C. SD 17-1156

Application by Reid Hipp for a **SUBDIVISION** of 1.085 acres located at **20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, and 42 CLAUSSEN AV** and **51, 53, 55, 57, 59, 61, 63, 65, 67, 69, and 71 THRUSTON AV** from 26 LOTS to 30 LOTS (TM#s 0091010500101; 0091010500102; 0091010500103; 0091010500104; 0091010500105; 0091010500106; 0091010500107; 0091010500108; 0091010500109; 0091010500110; 0091010500111; 0091010500112; 0091010500113; 0091010500114; 0091010500115; 0091010500116; 0091010500117; 0091010500118; 0091010500119; 0091010500120; 0091010500121; 0091010500122; 0091010500123; and 0091010500124)

DeVoe presented the staff report for this application. The Applicant submitted an application for a major

subdivision from 26 to 30 lots. Subsequent to publication of the public notice for this request, staff discovered that SD 16-160 approved a 26-lot subdivision for this same land but the applicant modified and recorded a 24-lot subdivision. In addition, the applicant requested a reduction modification to this current major subdivision proposal for 30 lots down to 28 lots. Therefore, staff is presenting this modification request to you for your consideration to agree or disagree to accept the modification.

The proposed subdivision is located at the block bounded by Claussen Avenue and Thruston Street.

The applicant has submitted a modified plat to increase his recorded subdivision plat from 24 to 28 lots. The intent of this subdivision is to provide multifamily townhouse units (application submitted separately). The net increase request, from the original 26 lots approved by SD 16-160, is for two (2) additional lots.

All lots will remain zoned PD, Planned Development as part of the Haynie-Sirrine Planned Development and Haynie-Sirrine Special Emphasis Neighborhood. Additionally, at the time of building permit, each lot will need to conform to all Haynie-Sirrine PD development standards and all other applicable city zoning regulations.

Staff concludes that the proposed preliminary major subdivision meets the requirements.

Planning Conditions

- 1) Approval of this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including; building setbacks, building height, permitted uses and all applicable site development and design standards.

Staff Recommendation: Approve with Staff Comments and Conditions

Applicant Reid Hipp of 210 Townes Street Extension clarified price points, square footage, and height.

Board discussion included: number of lots; infill standards; open lot use; design review; Haynie Sirrine overlay.

Commissioner Keller made a motion to approve with staff conditions including number of lots increased from 24 to 28 lots. Commissioner Gardner seconded the motion. The motion was approved by a vote of 7-0.

D. MD 17-1139

Application by Reid Hipp for a **MULTI-FAMILY DEVELOPMENT** for 30 units on 1.085 acres located at **20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, and 42 CLAUSSEN AV** and **51, 53, 55, 57, 59, 61, 63, 65, 67, 69, and 71 THRUSTON AV** (TM#s 0091010500101; 0091010500102; 0091010500103; 0091010500104; 0091010500105; 0091010500106; 0091010500107; 0091010500108; 0091010500109; 0091010500110; 0091010500111; 0091010500112; 0091010500113; 0091010500114; 0091010500115; 0091010500116; 0091010500117; 0091010500118; 0091010500119; 0091010500120; 0091010500121; 0091010500122; 0091010500123; and 0091010500124) *Application to be postponed to following meeting.*

E. MD 17-1144

Application by **BYWATER DEVELOPMENT GROUP** for a **MULTI-FAMILY DEVELOPMENT** for 88-unit apartment complex on 4.61 acres located at **207 SHAW ST** (TM# 0150001300300)

DeVoe presented the staff report for this application. Staff concludes that the proposed renovation of the existing 88-unit multifamily development meets the criteria and intent of a multifamily development. The applicant held the required neighborhood meeting on January 4, 2018.

The application is subject to section 19-6.8, *Design Principles and Standards for Multifamily Residential Development* because there are three or more dwelling units in single structures (regardless of property lines). Staff reviewed the application for compliance with the design standards as follows:

19-6.8.9 Multifamily design standards.

(A) Orientation

Response: The proposed project retains all existing buildings onsite. No new construction of individual buildings are proposed with this application. The existing buildings front the streets and provide pedestrian entrances toward the adjacent streets and sidewalks.

(B) Setbacks

Response: The proposed project retains all existing setbacks.

(C) Entrances

Response: The existing conditions of the site include street-oriented entrances. Proposed exterior renovations to the buildings include more prominent articulation of entrances. Modifications are limited due to existing development design.

(D) Building Façades

Response: Proposed renovations to the building exteriors include front additions that aid in variations of façade planes. Proposed materials and colors appear to reflect consistent design, textures, colors, and features to the area.

(E) Service Areas

Response: Project appears to comply with the screening requirements given existing conditions.

(F) Roof Form

Response: Proposed alterations to building elevations include three-dimensional cornice treatments, varied building heights by roof form and overhanging eaves.

(G) Transparency

Response: Existing conditions occur onsite; however, the renovation includes installing new windows.

(H) Materials

Response: Proposed exterior renovations include a coordinated color scheme with consistent colors and finishes throughout the development. Proposed materials are similar to those in the surrounding area. Proposed building cladding materials are a mixture of cementitious siding and trim, TPO roofing and metal trim, vinyl windows, aluminum exterior railing, and cementitious column wrap with brick base.

(I) Open Space

Response: The project complies with open space requirements. Common open space is largely provided to the rear and side of the building units. Additions of a new gazebo, new tot-lot and new community garden are all part of the multifamily renovations.

(J) Parking Lot Location

Response: Existing conditions provide all parking on-street, non-conforming. As part of the multifamily renovations, the applicant proposes to add a new parking lot in the rear of the existing development. This will provide additional parking that is considered to be conforming and will provide adequate service operations and handicap accessibility.

(K) Access and Circulation

Response: The project is located near mass transit routes with sidewalks provided. Existing conditions offer site entrance locations from the street frontages. The applicant proposes to add a new parking lot in the rear of the property that will provide additional parking, ADA amenities, service/dumpster area, new vehicular access from Crest Lane, and additional fire access to the site.

(L) Landscaping and Screening

Response: Although, the site creates existing constraints for achieving all code requirements for new construction, the proposed landscaping meets the intent of the code. Existing mechanical equipment create constraints on full length building foundation landscaping. Where feasible, landscaping wraps the corners of the buildings and continues to a logical point. Additional foundation plantings, street plantings, interior parking lot plantings, and buffer and screening techniques are incorporated into the plan.

(M) Exterior Lighting

Response: Exterior lighting shall comply with the City of Greenville code requirements at the time of permitting.

(N) Pedestrian Walkways

Response: The site currently contains a substantial sidewalk/pedestrian system. The proposed new parking lot also includes sidewalks to connect to the existing portions of the site.

(O) Fences and Walls

Response: The applicant has indicated that the front fence will remain with a new five foot high vinyl privacy fence to be placed along the rear property line, adjacent to the single family residential area.

Planning Conditions

- 1) Approval of this multifamily application authorizes the development of such use and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including; building setbacks, building height, permitted uses, and all applicable site development and design standards.

Design Review Board - Neighborhood Panel Comments (1/4/2018)

Overall, the Neighborhood panel enthusiastically supports the application as it is a positive improvement for the site and area and offers affordable housing opportunities.

Staff Recommendation: Approve with Staff Comments and Conditions

Applicant Christine Robertson of ByWater Development Group explained tax credit approval, physical needs of units, central parking, new amenities; improvements for tenant retention; fencing for protection and privacy from surrounding properties.

Ivory Matthews of Greenville Housing Authority at 112 Edinburg Court shared support for project as well as the developers.

Board discussion included: facade and interior upgrades; expanded square footage; window replacement; vinyl fencing.

Commissioner Smith made a motion to approve with staff conditions. Commissioner Pait seconded the motion. The motion was approved by a vote of 7-0.

F. MD 17-1145

Application by **ARLINGTON PROPERTIES, INC.** for a **MULTI-FAMILY DEVELOPMENT** for 276-units on 10.3 acres located at **WOODRUFF ROAD** (TM# 0263000300200)

DeVoe presented staff report for this application as well as acreage correction to roughly 20 acres. Staff concludes that the proposed new 276-unit multifamily development meets the criteria and intent of a multifamily development. The applicant held the required neighborhood meeting on January 10, 2018.

The application is subject to section 19-6.8, *Design Principles and Standards for Multifamily Residential Development* because there are three or more dwelling units in single structures (regardless of property lines). Staff

reviewed the application for compliance with the design standards as follows:

19-6.8.9 Multifamily design standards.

(A) Orientation

Response: The proposed project largely orients the buildings toward the future trail. A pedestrian connection to the trail should be provided and included within the site plan.

(B) Setbacks

Response: The proposed appears to meet setback requirements.

(C) Entrances

Response: Proposed entrances appear pedestrian in scale and offer architectural details such as lighting, projections and coordinating materials. The majority of entrances are oriented towards the pedestrian realm, facing the proposed trail.

(D) Building Façades

Response: Proposed materials and colors appear to reflect consistent design, textures, colors, and features to the area. A distinctive base, middle and top are apparent in the elevations.

(E) Service Areas

Response: Project appears to comply with the screening requirements and shall meet code requirements.

(F) Roof Form

Response: The proposed buildings incorporate varied building heights by number of floors and pitched roof form and overhanging eaves.

(G) Transparency

Response: The intent of focusing the orientation of the buildings towards the future trail is to activate that frontage, create pedestrian activity and provide window transparency along those fronts.

(H) Materials

Response: Proposed exteriors include a coordinated color scheme and consistent colors and finishes throughout the development. Additionally, materials are similar to those in the surrounding area. Buildings include a mixture of fiber cement lap siding, fiber cement panel vertical siding, and stone veneer.

(I) Open Space

Response: It appears per the open space requirement, the project complies. Additionally, a pedestrian connection to the future trail should be incorporated into the site plan.

(J) Parking Lot Location

Response: The location of the proposed off-street parking is largely located to the back side of the buildings. The intent is to separate the vehicular circulation from pedestrian activity occurring in the provided open space areas and future trail. Additionally, the placement of parking behind those buildings nearest to the existing commercial center provides an increased buffer. The proposal provides the minimum required parking spaces.

(K) Access and Circulation

Response: The main access point to the site is off of Woodruff Road. Additional fire access is provided at the rear of the site. The project proposes vehicular and pedestrian circulation routes and access points. It appears the site is ADA compliant.

(L) Landscaping and Screening

Response: It appears the proposed project meets the intent and code requirements for foundation plantings, interior parking lot plantings, and buffer and screening techniques.

(M) Exterior Lighting

Response: Exterior lighting shall comply with the City of Greenville code requirements at the time of permitting.

(N) Pedestrian Walkways

Response: The proposed project incorporates a substantial sidewalk/pedestrian system that connects the buildings, entrances and parking lots; however, a pedestrian connection to the future trail should be included.

(O) Fences and Walls

Response: It appears a fence or wall will not be utilized in buffer screening.

Planning Conditions

- 2) A pedestrian connection to the future trail shall be incorporated into the site plan.
- 3) Density shall not exceed the maximum permitted within the S-1 zoning designation.
- 4) Approval of this Multifamily application authorizes the development of such use and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including; building setbacks, building height, permitted uses, and all applicable site development and design standards.

Design Review Board - Neighborhood Panel Comments (1/4/2018)

Overall, the Neighborhood panel supports the application with the following comments:

- 1) Positioning of buildings appear to direct views appropriately towards the future trail
- 2) Would encourage and prefer to see a connection to the future trail – development should respond to the specific location and site amenities (i.e. the future trail), such as architecture and activities
- 3) Consider appropriately screening areas where parking abuts ground floor units from headlights (i.e. landscaping)
- 4) Overall, the architectural design of the development is refreshing from recent projects; however, greater consideration to distinctive Greenville elements could be pushed further
- 5) In general, the complex sits approximately 15 feet below the adjacent shopping center with the trail below the elevation of the complex

Staff Recommendation: Approve with Staff Comments and Conditions

Applicant Mark Stewerman of Arlington Properties at 413 Dexter Avenue Birmingham AL elaborated on the development concept using the materials package supplied for the Commission. The project will be oriented toward the Swamp Rabbit Trail.

Rick Sumerall of Verdae Development cited support development which is consistent with the Verdae master plan.

Board discussion included: access into development; compliance to Verdae design standards; pond area use; elevations; window stacking; balconies; detail of eaves; color palette; Velo access; clarification of PC approval; view from the trail; master plan developments review; final plan review; DRB informal review comments; Greenville elements clarification; conformance to current approved materials; cultured stone; landscape plan; site plan; holding applicant to current details, materials, elevations; conditional Commission approval.

Commissioner Smith made a motion to approve with staff conditions and architectural review to be based on the elevations presented today prevailing over the presented floorplans. Commissioner Terry seconded the motion. The motion was approved by a vote of 7-0.

Commission discussion following the motion: Commission discussed multifamily review requirements providing a materials board as well as landscape plans for approval; Commission would like a joint workshop with DRB to enhance partnership for review and approval of plans in the future.

Other Business:

A. Monthly 2019 City Comprehensive Plan Update

Schmidt presented the Comprehensive Plan update including request for proposal; consultant by April; end of 2019 projection for final plan.

ADJOURNMENT: The meeting was adjourned at 4:58 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
February 15, 2018
4:00 PM
Meeting Notice Posted January 31, 2018

Minutes prepared by Sheryl Hobbs

Members Present: Catherine Smith, Meg Terry, David Keller, Jonathan Pait, Diane Eldridge
 *arrived after item B., Jason Tankersley

Members Absent: Trey Gardner

Staff Present: Eric Vinson, Zoning Administrator; Courtney DeVoe, Development Planner;
 Brennan Williams, Development Planner; Nathalie Schmidt, Senior
 Development Planner; Shannon Lavrin, Development Planner; Dwayne
 Cooper, City Engineer; Jonathan Graham, Planning & Development Manager;
 Michael Pitts, City Attorney; Kevin Howard, Economic Development Project
 Manager; Clint Link, Assistant City Engineer

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on January 1, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:01 PM.

APPROVAL OF MINUTES: The January 18, 2018 meeting minutes were approved as amended.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved as amended to include postponement of item A. V 18-37.

CONFLICT OF INTEREST: None.

OLD BUSINESS:

A. MD 17-1139

Application by Reid Hipp for a **MULTI-FAMILY DEVELOPMENT** for 30 units on 1.085 acres located at **20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, and 42 CLAUSSEN AV** and **51, 53, 55, 57, 59, 61, 63, 65, 67, 69, and 71 THRUSTON AV** (TM#s 0091010500101; 0091010500102; 0091010500103; 0091010500104; 0091010500105; 0091010500106; 0091010500107; 0091010500108; 0091010500109; 0091010500110; 0091010500111; 0091010500112; 0091010500113; 0091010500114; 0091010500115; 0091010500116; 0091010500117; 0091010500118; 0091010500119; 0091010500120; 0091010500121; 0091010500122; 0091010500123; and 0091010500124) *Applicant requests to postpone to March PC meeting.*

NEW BUSINESS:**A. V 18-37**

Application by SCR Greenville Augusta LLC for a **STORMWATER VARIANCE** from requirement to provide water quality for entire site of 3.74 acres located at **700 AUGUSTA ST; 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 20, 22, 23, 24, 25, 26, 27, 29, 30 AUGUSTA WALK AV** (TM# 0095000100500; 0095010102400; 0095010102300; 0095010100100; 0095010102200; 0095010100200; 0095010100300; 0095010102100; 0095010102000; 0095010100400; 0095010100500; 0095010100600; 0095010101900; 0095010100700; 0095010100800; 0095010100900; 0095010101000; 0095010101800; 0095010101100; 0095010101700; 0095010101200; 0095010101600; 0095010101500; 0095010101400)) *Applicant requests to postpone to March PC meeting.*

B. AX-1-2018

Application by CarMax Auto Superstores, Inc. for **ANNEXATION** of 13.76 acres located at **2800 LAURENS RD/HWY 276** from I-1, C-2, Greenville County to C-3, Regional Commercial District (TMS# 0272000101304; 0272000101305)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The subject property is an existing auto sales and display complex located at 2800 Laurens Road. The subject property is contiguous to the municipal corporate limits. Upon annexation and rezoning approval, the existing auto sales and display use may continue, subject to special exception approval from the Board of Zoning Appeals.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

1. Consistent with the Comprehensive Plan: Staff concludes that the proposed C-3 zoning designation is consistent with the "High Intensity Non-Residential" Future Land Use designation shared by the closest surrounding City properties.
2. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
3. Addresses a demonstrated community need: The proposed C-3 zoning designation would encourage commercial/non-residential uses in this area.
4. Compatible with surrounding uses: The C-3 zoning designation would allow development that is compatible with surrounding uses.
5. Promotes logical development pattern: The proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
6. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development due to existing use and property configuration.
7. Will not create an isolated zoning district: Adjacent County property is zoned C-2 and C-3, and at this time, will likely remain in the county.
8. Surrounding property values: It is not readily apparent that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands.
9. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.

10. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval for Rezone to City Council

Applicant Jim Lang, of CarMax management, outlined the annexation expansion and use of rezoning.

Board discussion included: parcels rezoned to C-3.

Commissioner Keller made a motion to approve with staff conditions. Commissioner Pait seconded the motion. The motion was approved by a vote of 5-0.

C. Z-25-2017

Application by Nick Gilley for a **REZONE** of approximately 0.83 acre located at **155 AUGUSTA ST; AUGUSTA ST; 205 AUGUSTA ST; 225 AUGUSTA ST; 229 AUGUSTA ST; and 7 BRADSHAW ST** from C-2, Local Commercial District to C-4, Central Business District and **9 BRADSHAW ST** from OD, Office & Institutional District to C-4, Central Business District (TMS# 0090000100801; 0090000101500; 0090000100904; 0090000101200; 0090000101400; 0090000101700; 0090000101600)

Vinson presented the staff report for this application noting that no public comments were received for this application. The subject properties are located on Augusta St. and Bradshaw St. Five (5) of the subject properties have frontage on Augusta St. and two (2) front Bradshaw St. The Augusta St. parcels are zoned C-2 and are characterized by one-story vacant service/commercial buildings, a one-story restaurant (Funnelicious), and an unimproved lot. Of the two properties fronting Bradshaw St, one is unimproved (currently zoned C-2) and the other consists of a vacant one-story office building (currently zoned O-D). The city's comprehensive plan recommends a 'Central Business District' designation for this section of Augusta St and Bradshaw St. as the area ideally situated for urban redevelopment, located on a major urban corridor close to the downtown core. Staff is of the opinion that the requested C-4 designation is consistent with the surrounding zoning and appropriate for these properties, advancing the city's goals as expressed in the comprehensive plan.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

11. Consistent with the Comprehensive Plan: The proposed C-4 zoning is consistent with the Future Land Use Map, designating this section of Augusta St as 'Central Business District,' which allows for high-intensity mix of uses, service, retail, entertainment, cultural, government, civic, light manufacturing, and residential uses. The intent of the district is to preserve and encourage pedestrian-oriented uses.
12. Changed conditions since the original designation: This section of Augusta St is an area of relatively rapid transition to an urban mixed-use and commercial corridor. Over the last 10 years, this area has seen steady redevelopment as Fluor Field continues to serve as a catalyst for redevelopment. Some projects of note include the adaptive reuse of Claussen Bakery into office and retail, Brick Street Lofts mixed-use development, and the recently approved Children's Museum and Gather GVL food collective. The city has also completed streetscape improvements to extend and enhance the pedestrian realm on a nearby section of Augusta St.
13. Addresses a demonstrated community need: The city's comprehensive plan designates these properties as 'Central Business District' in the future land use map. This designation supports the need for higher intensity urban uses in both form and function.
14. Compatible with surrounding uses: C-4 zoning is located directly across Augusta St. from the subject properties and is compatible with surrounding uses. There are no anticipated adverse impacts from zoning these properties C-4.

15. Promotes logical development pattern: The proposed C-4 district is consistent with the zoning and emerging development pattern along this urban section of Augusta St.
16. Will not result in "strip" or ribbon commercial development: This section of Augusta St is a planned urban corridor within close proximity to the downtown core. Rezoning of these properties will not result in strip commercial development.
17. Will not create an isolated zoning district: The proposed C-4 zoning is consistent with the surrounding zoning as C-4 abuts the subject properties to the north and west (across Augusta St) of the subject properties.
18. Surrounding property values: C-4 Zoning will not have an adverse impact on surrounding property values.
19. Effect on natural environment: Staff anticipates that future redevelopment of these properties will result in an improvement to the natural environment.
20. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Approval

Applicant Nick Gilley described need for personal residence requiring rezoning.

Board discussion included: driveway rezoning; neighboring building; property line connection; C-4 building constraints; adjacent properties; street front elevation potential; CBD design guidelines.

Commissioner Keller made a motion to approve with staff conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

D. Z-2-2018

Application by John C Darrohn PE for a **REZONE** of approximately 0.71 acre located at **600 E WASHINGTON ST** from OD, Office & Institutional District to FRD, Flexible Review District (TM# 0064000101600) *Applicant requests to postpone to March PC meeting.*

E. Z-1-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Sections 19-4.3.2(G) Communication tower, freestanding or roof-mounted and 19-1.11, Definitions to permit microcell technology and provide standards for wireless communication facility designs *Applicant requests to withdraw application.*

Other Business:

A. Monthly 2019 City Comprehensive Plan Update

Schmidt presented the Comprehensive Plan update including City Council member retreat and potential results.

Graham described the progress on the requested and now combined PC and DRB workshop.

ADJOURNMENT: The meeting was adjourned at 4:21 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
March 15, 2018
4:00 PM
Meeting Notice Posted February 28, 2018

Minutes prepared by Sheryl Hobbs

Members Present: Catherine Smith, Meg Terry *arrived during presentation of item MD 1139, David Keller, Jonathan Pait, Jason Tankersley, and Trey Gardner
 Members Absent: Diane Eldridge
 Staff Present: Eric Vinson, Zoning Administrator; Courtney DeVoe, Development Planner; Brennan Williams, Development Planner; Nathalie Schmidt, Senior Development Planner; Shannon Lavrin, Development Planner; Dwayne Cooper, City Engineer; Jonathan Graham, Planning & Development Manager; Michael Pitts, City Attorney; Kevin Howard, Economic Development Project Manager

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on January 1, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:01 PM.

APPROVAL OF MINUTES: The February 15, 2018 meeting minutes were approved as amended.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved.

CONFLICT OF INTEREST: None.

OLD BUSINESS:

A. MD 17-1139

Application by Kevin Dobbs for a **MULTI-FAMILY DEVELOPMENT** for 27 units on 1.085 acres located at **20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, and 42 CLAUSSEN AV** and **51, 53, 55, 57, 59, 61, 63, 65, 67, 69, and 71 THRUSTON AV** (TM#s 0091010500101; 0091010500102; 0091010500103; 0091010500104; 0091010500105; 0091010500106; 0091010500107; 0091010500108; 0091010500109; 0091010500110; 0091010500111; 0091010500112; 0091010500113; 0091010500114; 0091010500115; 0091010500116; 0091010500117; 0091010500118; 0091010500119; 0091010500120; 0091010500121; 0091010500122; 0091010500123; and 0091010500124) *Applicant and unit count amended for this notice.*

Staff Recommendation: Approve with Staff Comments and Conditions**Applicable Sections of the City of Greenville Code of Ordinances:**

Sec. 2-372, *Function, Powers, and Duties of the Planning Commission*
 Sec. 19-2.1.2, *Planning Commission Powers and Duties*
 Sec. 19-6, *Development and Design Standards*
 Sec. 19-6.8, *Design Standards for Multifamily Residential Development*

Other Applicable Documents:

2002 Haynie-Sirrinc Master Plan and Zoning Code (Planned Development, PD)

Project Request:

The applicant proposes to construct 27, two (2) and three (3) story townhomes to front on both Claussen Avenue and Thruston Street in a diminutive classical style design that syncs well with neighborhood design styles in the adjacent area.

Staff Analysis:

Staff concludes that the proposed new 27-unit multifamily townhome development, overall, meets the criteria and intent of a multifamily development. The applicant held the required neighborhood meeting on March 7, 2018.

The project is subject to section 19-6.8, *Design Principles and Standards for Multifamily Residential Development*. In addition, the development proposal is subject to the design principles and guidelines for the 2002 Haynie-Sirrinc Master Plan and Zoning Code. Staff reviewed the application for compliance with the design standards as follows:

19-6.8.9 Multifamily design standards.**(A) Orientation**

Response: The proposed project orients the buildings toward the public-right-of-way. Pedestrian sidewalks are incorporated along each roadway providing connectivity.

(B) Setbacks

Response: The proposed development appears to meet zoning and Haynie-Sirrinc PD setback requirements.

(C) Entrances

Response: Proposed entrances appear pedestrian in scale and offer architectural details such as lighting, projections and coordinating materials. All entrances are oriented towards the pedestrian realm, facing the adjacent street right-of-way. Additionally, those units fronting Claussen Avenue are higher in grade elevation, which creates design challenge in activating the garage level as a front activating street-level realm. Architectural details such as a porch, door and windows provide that pedestrian street activation.

(D) Building Façades

Response: Proposed materials and colors appear to reflect consistent design, textures, colors, and features to the area. A distinctive base, middle and top are apparent in the elevations.

(E) Service Areas

Response: It appears there is no central service/dumpster area for the multifamily units. Units will be individually serviced from the common rear alley access.

(F) Roof Form

Response: The proposed buildings incorporate varied building heights by pitched roof form and overhanging eaves.

(G) Transparency

Response: The proposed units appear to meet the minimum glazed area for all street-facing facades. Additionally, the overall design and transparency fosters casual surveillance over the development area.

(H) Materials

Response: Proposed exteriors include a coordinated color scheme and consistent colors and finishes throughout the development. Additionally, materials and design character provide a transition from the nearby cottage/craftsman style units and the higher density, three-story brick single family units. Building materials include fiber cement panels, PVC trim, PVC bracket, brick veneer, fiber cement lap siding, traditional 3-coat stucco, and powder-coated metal railings all within a neutral color palette with dark bronze accents.

(I) Open Space

Response: It appears per the open space requirement, the project complies with minimum open space requirements (minimum 200 square feet per unit). Although the project meets the minimum amount of open space required for multifamily units, staff has a concern regarding the shortage of useable common open space. Lot 28 was designated as open space during the subdivision process; however, the proposed plan utilizes the majority of this parcel to provide access to the rear loaded alley for the multifamily units.

(J) Parking Lot Location

Response: The location of the proposed off-street parking is provided with individual, two-car garages underneath each unit. Proposed parking exceeds the minimum parking requirement for multifamily units by 13 units.

(K) Access and Circulation

Response: There are two access points into the site. One entrance is off of Thruston Street and the other entrance being off of Howe Street. These entrances create a rear loaded alley access to each multifamily unit. The project proposes vehicular and pedestrian circulation routes and access points and appears the site is ADA compliant.

(L) Landscaping and Screening

Response: It appears the proposed project meets the intent and code requirements for foundation plantings. Additionally, a proper landscape buffer yard should be provided between the lot line abutting a single-family detached dwelling in order to provide appropriate screening from multifamily units, common areas, driveways, and other similar aspects.

(M) Exterior Lighting

Response: Exterior lighting shall comply with the City of Greenville code requirements at the time of permitting.

(N) Pedestrian Walkways

Response: The proposed project incorporates a sidewalk/pedestrian system that fronts all street frontages.

(O) Fences and Walls

Response: It appears a fence or wall is not proposed to be utilized in buffer screening or for another reason.

Design Review Board - Urban Panel Comments (3/1/2018)

The Urban panel supports the application with the following comments:

- 1) Service/AC units to be located on alley side
- 2) Overall design provides nice articulation, well thought out
- 3) Proposed color scheme offers a nice look with ability to read different textures without tons of color

- 4) Pedestrian realm well addressed by design – would like to see the two end units on Howe Street conform to design standards to ‘front’ Howe and to provide additional pedestrian entrance (add to walkability)
- 5) Nice greenways between buildings

Commissioner Keller made a motion to approve with staff conditions. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

B. V 18-37

Application by SCR Greenville Augusta LLC for a **STORMWATER VARIANCE** from requirement to provide water quality for entire site of 3.74 acres located at **700 AUGUSTA ST; 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 18, 20, 22, 23, 24, 25, 26, 27, 29, 30 AUGUSTA WALK AV** (TM# 0095000100500; 0095010102400; 0095010102300; 0095010100100; 0095010102200; 0095010100200; 0095010100300; 0095010102100; 0095010102000; 0095010100400; 0095010100500; 0095010100600; 0095010101900; 0095010100700; 0095010100800; 0095010100900; 0095010101000; 0095010101800; 0095010101100; 0095010101700; 0095010101200; 0095010101600; 0095010101500; 0095010101400) *Applicant requested to WITHDRAW application.*

C. Z-2-2018

Application by John C Darrohn PE for a **REZONE** of approximately 0.71 acre located at **600 E WASHINGTON ST** from OD, Office & Institutional District to FRD, Flexible Review District (TM# 0064000101600)

Staff Recommendation: Approve with Staff Comments and Conditions

Applicable Sections of the City of Greenville Code of Ordinances:

Sec. 2-372, *Function, Powers, and Duties of the Planning Commission*
 Sec. 19-1.3, *Purpose and Intent*
 Sec. 19-2.1.2, *Planning Commission Powers and Duties*
 Sec. 19-6.5, *Design Standards for Nonresidential Development*
 Sec. 19-6.8, *Design Standards for Multifamily Residential*
 Sec. 19-2.3.19, *Flexible Review District*
 Sec. 19-3.2(U), *FRD, Flexible Review District*

Project Request:

The applicant proposes a mixed-use project with residential and commercial space in the same building. The street level of the proposed development will have up to 17,750 sf of commercial space with up to 50 multifamily dwelling units spread through four floors above the commercial space. The design is Traditional Urban Loft, which provides transitional elements from downtown developments to nearby residential structures.

Staff Analysis:

Staff concludes that the proposed rezone request for a FRD, *Flexible Review District* at the above referenced location meets the intent of such a district and recommends Approval with Staff Comments and Conditions.

Based on the FRD district standards, the applicant provided a Statement of Intent and accompanying plans in order to identify and address the development program in regards to allowed uses, densities, configurations, design standards, and other development requirements established for this particular FRD plan.

Sec. 19-2.3.19, *Flexible Review District*; Sec. 19-3.2(U), *FRD, Flexible Review District*

An FRD zoning designation is requested by the applicant in order to allow for an increased residential density beyond what is permitted within the existing OD zoning classification. Maximum height increases and variable setback requirements are also included in this request.

As stated in Sec. 19-3.2 (U), *Flexible Review District*, an FRD is intended to allow development and

redevelopment that is compatible with the existing character of the area. As set forth by the city's comprehensive plan, tools, such as an FRD, that encourage exceptional planning and design in order to preserve the character of existing buildings, open spaces, streetscapes, and use clusters of unique areas of the city, are encouraged to protect critical environmental resources through a greater efficiency in the layout of roads, utilities and other infrastructure.

a) Uses

The proposed development is adjacent to low-density office and commercial development on three sides. Office and commercial neighbors include uses such as law firms and banks. Proposed uses for 600 E Washington Street are a mix of use classifications including residential and commercial.

The Statement of Intent indicates the project will consist of one, two, and three-bedroom multi-family condominiums (maximum 50 total units) and a maximum of 17,750 SF of commercial use space. The intent of the proposed Public and Institutional Uses is to remain consistent with the surrounding character by providing uses that may serve the immediate tenants and residents. Furthermore, the proposed FRD specifies a small list of uses that may be permitted by Special Exception.

The proposed uses are consistent with existing surrounding uses and additional details regarding proposed uses permitted within this FRD request may be found in 'Appendix A' of the Statement of Intent.

b) Development Principles

	OD Requirement	FRD Proposal	Deviation Request
<i>Min. Lot Area (sf)</i>	None	None (comply with C-4)	0 sf
<i>Min. Lot Width (ft)</i>	None	None (comply with OD)	0 ft
<i>Max. Lot Coverage (%)</i>	50%	50% (comply with OD)	0%
<i>Setbacks</i>	Front: 10' Side: 5' Rear: 15'	Front: 15' (Washington St) 5' (Heldman St) Side: 18' Rear: 10'	Front: +5' -5' Side: +13' Rear: -5'
<i>Height</i>	Max. 40'	Max. 63'-73'	+23'- +33'
<i>Use(s)</i>	See <i>Use Regulations – Table of Uses</i>	See <i>Statement of Intent – 'Appendix A'</i>	Request to restrict permitted uses
<i>Density</i>	Max. 14 total residential units (Max. 20 units per acre)	Max. 50 total residential units (Max. 35.5 units per acre)	+15.5 units per acre
<i>Parking</i>	Table 19-6.1.3	Table 19-6.1.3	Parking to meet Code requirements
<i>Design Requirements</i>	Nonresidential and Multifamily Design Standards	Downtown Design Guidelines	Requires Multifamily Land Development Permit approval based on Code and CBD Design Guidelines

c) Land Use Patterns

The proposed development project is surrounded by OD zoned properties with a Future Land Use designation of C-4, Mixed Use City Center. Additionally, the Pettigru Street Historic District is located one parcel away and a PD is located at E McBee Avenue and Heldman Street. As one moves towards the city center, the development pattern on E Washington Street is commercial/retail in nature with increasing residential density. The nearby Pettigru Street Historic District is largely zoned OD, providing a mix of commercial/retail and residential-type uses.

d) Utilities/Infrastructure

The proposed development is to be served by an underground detention system as well as the existing stormwater infrastructure adjacent to the site. All road-side improvements will maintain the existing drainage patterns within the SCDOT right-of-way.

Existing conditions on Heldman Street do not meet current civil engineering, traffic engineering and fire department regulations. The applicant is proposing to include a 5' wide, at-grade flush sidewalk with foldable bollards along the eastern side of Heldman Street adjacent to the building in order to provide pedestrian accessibility and site accessibility for emergency vehicles.

e) Access

The Statement of Intent indicates that one emergency and one utility access driveway will be included on the site with access from East Washington Street and Heldman Street. Additionally, the project will enhance the pedestrian realm by providing increased access area and eliminating both driveway curb cuts along East Washington Street. A ten foot sidewalk is provided along East Washington Street. A new flush sidewalk along Heldman Street, separated by foldable bollards, is proposed in order to provide a needed pedestrian zone as well as required fire access and engineering requirements.

Design Review Board - Urban Panel Comments (3/1/2018)

The applicant voluntarily sought informal advice and comments from the 'Design Review Board – Urban Panel' on March 1, 2018 to receive preliminary feedback on the overall massing and scale of the proposed project. The Urban Panel provided the following preliminary comments:

- 6) Proposed conceptual rendering looks nice
- 7) Height of building may be of a concern for public, but setback from street reduces the impact of the height at the pedestrian level – height seems fitting for area
- 8) Consider undulating façade / step-back to better address density – perhaps additional bump-out on top floor
- 9) Nice pedestrian feel around corner and sidewalk area
- 10) During the design development process, consider picking up cues/elements from the adjacent historic district to include in a new innovative manner

Neighborhood Meeting Comments

As part of the application approval process, the applicant held the required neighborhood meeting on February 5, 2018 at 5:30 pm at the NEXT Innovation Center. Items discussed at the meeting included: project schedule and timeline; interested buyers; and construction noise and dust.

Commissioner Keller made a motion to table. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

NEW BUSINESS:

A. AX-2-2018

Application by City of Greenville for **ANNEXATION** of 1.95 acres located at **11 KETRON CT** from S-1, Greenville County to C-3, Regional Commercial District, City of Greenville (TM# 0545010102501)

Staff Recommendation: Recommend Approval for Rezone to City Council

Applicable Sections of the City of Greenville Code of Ordinances:

Sec. 2-372 Function, Powers, and Duties of the Planning Commission

Sec 19-1.3 Purpose and Intent

Sec.19-2.1.2 (A) (2) (b) Zoning District Map Amendments (Rezoning)

Sec.19-2.3.2 (E) (2) Amendments to Zoning District Map

Sec.19-3.2 District Descriptions Staff Analysis:

Staff Analysis:

The subject property is located at 11 Ketron Court, located approximately 630 feet southwest of the Woodruff Rd. and Ketron Ct. intersection. In August 2017, the property owner entered into a water covenant with the City that requires annexation into the City of Greenville. The property owner did not apply for annexation according to the terms of the covenant. Therefore, the City Manager has initiated this process.

The subject property is contiguous to the existing City of Greenville municipal corporate limits on the northwest side of the parcel. The property is currently being developed as a hotel within Greenville County, and the City of Greenville C-3 Regional Commercial District allows for hotels and motels as a permitted use by right. The subject property is surrounded by other regional commercial uses and C-3 is an appropriate zoning designation for this property and hotel use.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

1. Consistent with the Comprehensive Plan: The Future Land Use designation for the surrounding property within the City of Greenville calls for this area to be either Mixed Use Regional or Mixed Use Community. Staff believes that the proposed C-3 zoning designation is consistent with the Future Land Use designation shared by the closest surrounding City properties.
2. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
3. Addresses a demonstrated community need: The proposed C-3 zoning designation would permit a hotel in this area, which is currently under construction.
4. Compatible with surrounding uses: There is a mix of uses and zoning designations surrounding this property, including C-3. There is a mix of hotel, retail, restaurant, and light industrial uses in the immediate area. The C-3 zoning designation would support the current development and is compatible with surrounding uses.
5. Promotes logical development pattern: The proposed zoning amendment will provide uses that are compatible with the development pattern of the area.

6. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development due to use and property configuration.
7. Will not create an isolated zoning district: Adjacent City property to the northwest is zoned C-3. Adjacent County property zoned S-1 will likely remain in the county for the foreseeable future.
8. Surrounding property values: It does not appear that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands. The property is surrounded by a mix a commercial and light industrial uses.
9. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
10. Public facilities and services: Public facilities and services are available to the site.

Commissioner Keller made a motion to approve with staff conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

B. AX-3-2018

Application by City of Greenville for **ANNEXATION** of 18.402 acres located at **1401 LAURENS VIEW RD** from S-1, Greenville County to RM-2, Single- & Multi-Family Residential District, City of Greenville (TM# M010030100201)

Staff Recommendation: Recommend Approval for Rezone to City Council

Applicable Sections of the City of Greenville Code of Ordinances:

Sec. 2-372 Function, Powers, and Duties of the Planning Commission

Sec 19-1.3 Purpose and Intent

Sec.19-2.1.2 (A) (2) (b) Zoning District Map Amendments (Rezoning)

Sec.19-2.3.2 (E) (2) Amendments to Zoning District Map

Sec.19-3.2 District Descriptions Staff Analysis:

Staff Analysis:

The subject property is a multifamily complex, currently under construction, at 1401 Laurens View Road, located on the north side of Laurens Road. In July 2016, the property owner entered into a water covenant with the City that requires annexation into the City of Greenville. The property owner did not apply for annexation according to the terms of the covenant. Therefore, the City Manager has initiated this process. The subject property is contiguous on its North, South and East boundaries to the existing City of Greenville municipal corporate limits. The existing use is multifamily and the RM-2 zoning designation is an appropriate zoning designation for multifamily development.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

11. Consistent with the Comprehensive Plan: The Future Land Use designation for the surrounding property within the City of Greenville calls for this area to be Transit Oriented Development (TOD). Staff believes that

the proposed RM-2 zoning designation is consistent within a TOD Future Land Use designation shared by the closest surrounding City properties. Multifamily, as a use, is also appropriate to support TODs.

12. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
13. Addresses a demonstrated community need: The proposed RM-2 zoning designation would permit multifamily living in this area, which is currently under construction.
14. Compatible with surrounding uses: There is a mix of uses and zoning designations surrounding this property. The RM-2 zoning designation would support the current development that is compatible with surrounding uses. In fact, a multifamily development exists directly east of this property at 75 Laurens Rd.
15. Promotes logical development pattern: The proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
16. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development due to use and property configuration.
17. Will not create an isolated zoning district: The subject property is 18.402 acres, which is a fairly large piece of residential property. Although this property is not contiguous with any other RM-2 zoning, the amount of property being rezoned to RM-2 does not create an isolation or spot zoning district.
18. Surrounding property values: It does not appear that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands. Again, the property immediately east of this property, zoned S-1, also contains multifamily development.
19. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
20. Public facilities and services: Public facilities and services are available to the site.

Commissioner Smith made a motion to approve with staff conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

C. Z-5-2018

Application by The Croft Co. Inc. for a **REZONE** of approximately 0.67 acre located at 38 SOUTHLAND AV from R-9, Single Family Residential to RM-1.5, Single- and Multi-Family Residential District (TM# 0067050100600)

Staff Recommendation: Approval

Applicable Sections of the City of Greenville Code of Ordinances:

Sec. 2-372 *Function, Powers, and Duties of the Planning Commission*

Sec.19-2.1.2 (A) (2) (b) *Zoning District Map Amendments (Rezoning)*

Sec.19-2.3.2 (E) (2) *Amendments to Zoning District Map*

Sec.19-3.2 *District Descriptions*

Staff Analysis:

The subject property is located on Southland Ave between Cleveland St and Woodland Way. Current development of the property consists of three apartment buildings containing 10 apartment units. Single family residential with some multi-family residential and religious institutions characterizes the immediate

area. The proposed RM-1.5 District is consistent with the existing use of the property as multi-family residential and the adjoining property to the west. Staff is of the opinion that the RM-1.5 zoning on this property will allow appropriate infill residential redevelopment in a manner that is complimentary and compatible to the neighborhood.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

21. Consistent with the Comprehensive Plan: The Future Land Use designation for the area is "General Residential" which encourages infill development that is consistent with the existing development pattern and strengthens the neighborhood. It may include a variety of single family and multi-family housing types, schools, religious institutions, and community service uses that are compatible with the existing neighborhood. Staff is of the opinion that the RM-1.5 District will facilitate quality residential redevelopment of the property that is consistent with the city's goals to encourage a mixture of housing types and design for various lifestyles, life stages, and incomes.
22. Changed conditions since the original designation: Residential infill has occurred over the last ten years. However, the subject location, consisting of an aging apartment complex, has changed little.
23. Addresses a demonstrated community need: There is a stated community need to encourage a variety of housing types to adequately serve changing demographics, lifestyles and life stages.
24. Compatible with surrounding uses: While RM-1.5 zoning permits higher residential density than the surrounding R-9 District, it is consistent with both the existing use of the property and the adjacent multi-family use to the west. Any future residential redevelopment under the RM-1.5 zoning will permit a maximum of 10 units, consistent with the residential density that exists today.
25. Promotes logical development pattern: The proposed RM-1.5 District is consistent with the existing pattern of development and will allow redevelopment in manner that is consistent with the current use of the property.
26. Will not result in "strip" or ribbon commercial development: The rezoning will not result in strip commercialization.
27. Will not create an isolated zoning district: The proposed district will not result in an isolated zoning district as it adjoins existing RM-15 District to the west.
28. Surrounding property values: The applicant states in the application that any future redevelopment of the property will be owner occupied. Introducing a RM-1.5 zoning will facilitate redevelopment of an aging apartment complex that may improve surrounding property values.
29. Effect on natural environment: Redevelopment of the property would be required to comply with City ordinances.
30. Public facilities and services: Public facilities and services are available to the site.

Commissioner Keller made a motion to approve with staff conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

D. MD 18-001

Application by Greystar GP II LLC for a **MULTI-FAMILY DEVELOPMENT** (6.17 acres) for 189 units on portion of 12.92 acres located at **40 MARKET POINT DR** (TM#s 0547010101627; 0547010101637)

Staff Recommendation: Approve with Staff Comments and Conditions

Applicable Sections of the City of Greenville Code of Ordinances:

Sec. 2-372, *Function, Powers, and Duties of the Planning Commission*
 Sec. 19-2.1.2, *Planning Commission Powers and Duties*
 Sec. 19-6, *Development and Design Standards*
 Sec. 19-6.8, *Design Standards for Multifamily Residential Development*

Other Applicable Documents:

Overture Greenville, Flexible Review District Statement of Intent (**Exhibit A**)

Project Request:

The applicant submitted a request for a Rezone to FRD, Flexible Review District for the June 15, 2017 Planning Commission meeting for an active adult, multifamily residential project. The request received City Council approval on July 24, 2017. As part of the FRD request, a development Statement of Intent was included to provide the development provisions for the future project. Additionally, the applicant submitted a Recombination request and provided recordation of the new parcel on March 7, 2018.

This Multifamily application is to request approval for a Multifamily Land Development Permit based on the previous approved FRD development provisions and multifamily design standards of the City of Greenville Code of Ordinances.

Staff Analysis:

Staff concludes that the proposed new 189-unit multifamily development meets the criteria and intent of a multifamily development located within the previous approved FRD rezoning case.

In addition, the proposed density, height, and use specific standards appear to comply with the 'Overture Greenville' FRD Statement of Intent.

The application is subject to section 19-6.8, *Design Principles and Standards for Multifamily Residential Development* as there are three or more dwelling units in single structures (regardless of property lines). In addition, the development proposal is subject to the design principles and guidelines as set forth in the project's Statement of Intent for FRD, Overture Greenville (**Exhibit A**). Staff reviewed the application for compliance with the design standards as follows:

19-6.8.9 Multifamily design standards.**(P) Orientation**

Response: The proposed project orients the buildings towards adjacent street frontage. Pedestrian sidewalks are incorporated along each roadway providing connectivity.

(Q) Setbacks

Response: The proposed development appears to meet zoning and the 'Overture Greenville' FRD Statement of Intent setback requirements.

(R) Entrances

Response: Proposed entrances appear pedestrian in scale and offer architectural details such as lighting, projections and coordinating materials. All entrances are oriented towards the pedestrian realm, facing the adjacent street right-of-way. Architectural details such as overhangs, porches, doors and windows provide pedestrian street activation.

(S) Building Façades

Response: Proposed materials and colors appear to reflect consistent design, textures, colors, and features to the area. The proposed façade treatment includes required elements such as changes in wall plane; distinctive architectural features; roofline changes; changes in texture and color; vertical accents; and distinctive window trim. The proposed architecture is consistent with the "craftsman light" style, as

identified in the 'Overture Greenville' FRD Statement of Intent.

Note: The proposed right wing/side of the Exterior Building Elevation – South contains a slight deviation from the approved FRD conceptual drawings in regards to building form.

(T) Service Areas

Response: The proposed service/trash area is internal to the site. Trash will be handled via a private services provider.

(U) Roof Form

Response: The proposed buildings incorporate varied building heights by pitched roof form and overhanging eaves.

(V) Transparency

Response: The proposed development incorporates numerous windows and storefront glazing systems to provide transparency on all building sides.

(W) Materials

Response: Proposed exteriors include a coordinated neutral color scheme and consistent colors and finishes throughout the development. Additionally, the materials and design character of "craftsman-light" provide consistency with the nearby area. Building materials include composition shingle roof, vinyl single hung windows, fiber cement horizontal lap siding, board and batten fiber cement siding; fiber cement trim and railings, standing seam metal roof, fiber cement panel wrapped column and storefront glazing systems.

(X) Open Space

Response: It appears, per the open space requirement indicated in the 'Overture Greenville' FRD Statement of Intent, that the project complies with minimum open space requirements (minimum 250 square feet per unit). The open space is to be designed in a way to complement the needs of the residents.

(Y) Parking Lot Location

Response: The location of the proposed off-street parking is provided as a surface parking lot with eight (8) single-loaded garages, located at the rear of the development. The parking spaces surround all building sides of the development. This is consistent with the existing character of the area and with the conceptual drawings provided at the time of FRD approval.

The 'Overture Greenville' FRD Statement of Intent identifies the minimum and maximum parking requirements. The proposed plan meets this requirement. In addition, the development provides the required 12 bicycle spaces. Per the City Code of Ordinances, a maximum of 20 percent of required parking spaces may be located in the front of the building. It appears the development meets this requirement.

(Z) Access and Circulation

Response: There are two access points into the site. One entrance is off Market Point Drive (main entrance) and the other entrance is off Market Point Connector. The project proposes vehicular and pedestrian circulation routes and access points and it appears the site is ADA compliant.

Additionally, an automatic gate is proposed at two access points within the site.

(AA) Landscaping and Screening

Response: It appears the proposed project meets the intent and code requirements for foundation plantings, interior parking lot plantings, and buffer and screening techniques as outlined within the City Code of Ordinances as well as the 'Overture Greenville' FRD Statement of Intent. The property has an existing Duke Power Easement along a portion of Market Point Drive and along the length of Market Point Connector. The number of required street trees may not be met due to this constraint; however, the overall landscape proposal meets the intent and exceeds total required tree credits. No historic or heritage trees

were identified on the site.

(BB) Exterior Lighting

Response: Exterior lighting shall comply with the City of Greenville code requirements at the time of permitting and will be energy-efficient, full-cutoff fixtures. Building entrance lighting shall comply with applicable building codes.

(CC) Pedestrian Walkways

Response: The proposed project incorporates a sidewalk/pedestrian system that fronts all street frontages.

(DD) Fences and Walls

Response: It appears a fence or wall is not proposed to be utilized in buffer screening. However, a 5-foot black vinyl coated chain link fence and 48-inch personnel gate is proposed for the dog run amenity. City Ordinance 19-6.8.9 (O)(2) prohibits the use of chain link fences in multifamily development. An evergreen hedge is proposed along the edge of the fence that is visible from Market Point Connector and the adjacent rear property line. The Final Development Plan must show a compliant fence solution in place of chain link fence.

Design Review Board - Urban Panel Comments (3/1/2018)

The Urban panel supports the application with the following comments:

- 11) Consider the possibility of incorporating Central Business District (CBD) Guideline to open bottom floor to exterior access.
- 12) Consider the possibility of roof massing by variations in roof plane.

Staff reviewed the regulating zoning documents of the FRD and found the project to be in compliance.

Commissioner Keller made a motion to approve with staff conditions. Commissioner Smith seconded the motion. The motion was approved by a vote of 6-0.

E. SD 18-001

Application by Chance Metro Properties for a **SUBDIVISION** of 0.34 acre located at **411 PERRY AV** from 1 LOT to 5 LOTS (TM# 0077000101200) *Applicant requested to WITHDRAW application.*

F. MD 18-002

Application by Chance Metro Properties for a **MULTI-FAMILY DEVELOPMENT** for 5 units on 0.34 acre located at **411 PERRY AV** (TM# 0077000101200) *Applicant requested to WITHDRAW application.*

G. Z-3-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Sections 19-4.3.2(G) Communication tower, freestanding or roof-mounted and 19-1.11, Definitions to permit microcell technology and provide standards for wireless communication facility designs

Staff Recommendation: Approve

Staff Analysis:

This text amendment to the Land Management Ordinance addresses the placement of wireless telecommunications facilities, both on private property and within the public right of way. In an effort to provide more wireless capacity to end users, the carriers and those companies that build wireless facilities on behalf of the carriers, have developed a technology known as Small Cell or Distributed Antenna System (DAS). Rather than transmitting signals via large, traditional cell towers, this technology is of a smaller scale and those companies wishing to deploy are increasingly seeking to place facilities on structures within the right of way.

Where these companies possess the appropriate permissions from the State and the City, the latter of which is typically in the form of a franchise, the City is arguably required to make its right of way available on a non-discriminatory basis. These new regulations seek to balance the City's significant interest in protecting aesthetics and preventing the proliferation of above-ground facilities while, at the same time, enabling new technologies which provide its citizens with additional wireless capacity.

The following is a summary of the proposed text amendment:

- 1) Updating and adding definitions to address newer technologies like Small Cell/DAS, clarifying that disguised, or "stealth" facilities are preferred, while discouraging deployment of outdated, large, cross member towers
- 2) Adding provisions to comply with new federal regulations governing wireless applications, and creating exceptions from some permitting for very small or temporary facilities
- 3) Allowing administrative review for more efficient permitting for facilities in the rights of way, and making it clear what departments will initially make decisions with respect to placement of facilities on and off the rights of way
- 4) Empowering the Board of Zoning Appeals with the authority to hear appeals from denial of applications related to wireless facilities
- 5) Requiring new roof mounted towers that were previously permitted by right to obtain conditional use permits, and providing for placement of disguised antennas on the sides of existing structures
- 6) Ensuring consistency with the surrounding area by minimizing impacts upon private and public property by generally providing
- 7) Where a City-issued franchise is in place, allowing stealth and concealed wireless facilities to be placed upon existing utility poles and light poles and generally prohibiting the erection of new structures in the rights-of-way except:
 - a) in areas where there are existing above-ground structures and co-location is not feasible;
 - b) an existing structure is removed and replaced with something that is substantially similar in scale and appearance
- 8) Adding a provision that permits an applicant to install a facility that would otherwise be prohibited where the applicant shows federal law mandates installation

Staff Recommendation: Approve

Commissioner Smith made a motion to approve with staff conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

H. Z-4-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Section 19-7.9.1 to allow reconstruction of structure located within regulatory floodway as damaged or destroyed by casualty

Staff Recommendation: Approve

Staff Analysis:

This text amendment is a revision to Section 19-7.9.1(c)(6) that contains two substantial changes. First, the revision allows a variance where development activity is located within a regulatory floodway and that it is determined the development activity meets seven (7) criteria:

1. The property associated with the development activity contained either a primary structure used for commercial purposes which was damaged or destroyed as a result of a casualty, or a secondary

structure integral to the business operated on the property which was damaged or destroyed as a result of a casualty;

2. No portion of the property was located within a regulatory floodway at the time the owner acquired the property;
3. No portion of the property was located within a regulatory floodway when the structure was originally constructed;
4. The structure was in use as an active business;
5. The use was continuously in operation until such time as the structure was damaged or destroyed as a result of a casualty;
6. It would be inequitable to deny the property owner of the opportunity to rebuild a structure of the same footprint or less such that the business activity occurring prior to the casualty may be resumed; and,
7. The development activity would not result in any increase in flood levels during the base flood discharge.

Second, the revision provides that a variance will not be granted for development located within a regulatory floodway that was requested more than five years after the damage or destruction of the structure as a result of casualty.

Commissioner Gardner made a motion to approve with staff conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

Other Business:

A. Monthly 2019 City Comprehensive Plan Update

Schmidt presented the Comprehensive Plan update including City Council member retreat and potential results.

Graham described the progress on the requested and now combined PC and DRB workshop.

ADJOURNMENT: The meeting was adjourned at 5:50 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
April 19, 2018
4:00 PM
Meeting Notice Posted April 4, 2018

Minutes prepared by Courtney DeVoe

Members Present: Catherine Smith, Jonathan Pait, Jason Tankersley, Trey Gardner, Diane Eldridge
 Members Absent: Meg Terry, David Keller
 Staff Present: Eric Vinson, Zoning Administrator; Courtney DeVoe, Development Planner; Brennan Williams, Development Planner; Nathalie Schmidt, Senior Development Planner; Shannon Lavrin, Development Planner; Dwayne Cooper, City Engineer; Jonathan Graham, Planning & Development Manager; Michael Pitts, City Attorney; Kevin Howard, Economic Development Project Manager; Ginny Stroud, Community Development Administrator

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:01 PM.

APPROVAL OF MINUTES: The April 19, 2018 meeting minutes were approved as amended.

CORRECTION: Correction on agenda item #4 Approval of Minutes is April 15, 2018 not May 15, 2018 as indicated. Seconded by Catherine Smith.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved.

CONFLICT OF INTEREST: None.

OLD BUSINESS:

A. Z-2-2018

Application by John C Darrohn PE for a **REZONE** of approximately 0.71 acre located at **600 E WASHINGTON ST** from OD, Office & Institutional District to FRD, Flexible Review District (TM# 0064000101600) *Applicant requested to WITHDRAW application.*

NEW BUSINESS:**A. MD 17-875M**

Application by Daniel Realty Co-Greenville Mixed Use Partners for a **MULTI-FAMILY DEVELOPMENT MODIFICATION** for roof design located at **930 OLD AIRPORT RD** (TM# 0260000100110)

DeVoe presented the staff report for this application noting that no public comments were received for this application and the applicant provided revised documents. This project received initial multifamily development approval at the October 2017 Planning Commission meeting. The intent is to continue providing high-end apartment rentals to the area by creating a design concept to transition from the downtown urban center style and the more residential, suburban type style development that occurs outside the Greenville urban center.

The applicant is requesting a roof design modification to three (3) of the six (6) onsite buildings. The three (3) buildings to be modified are Building A-1, Building B-1 and Building B-2. These buildings were originally approved with a flat roof design. The proposed modification will add a lower pitched roof (approximately 6:12) to these three buildings to address water runoff and maintain consistency with the previously approved roof design of the other three (3) buildings. There are no proposed changes to project materials.

Based on the information presented, staff recommends approval of this request.

Design Review Board - Neighborhood Panel Comments (4/5/2018)

Overall, the DRB – Neighborhood Panel is in support of the proposed roof design modification and does not see it as problematic.

Staff Recommendation: Approval

Applicant Justin Weintraub, of Daniel Realty Co. described the original development intent and new design. Spoke about proposed roof design and color changes.

No public comment.

Board discussion included: Design Review Board comments; explanation of “eyebrow overhang”; clarification on window color.

Commissioner Smith made a motion to approve with staff conditions and accept modifications presented 4/19/2018 with bronze color windows, not white. Commissioner Gardner seconded the motion. The motion was approved by a vote of 5-0.

B. Z-6-2018

Application by Carrols LLC for a **REZONE** of 0.319 acre located at **1106 PENDLETON ST** from RDV, Redevelopment District to C-3, Regional Commercial District (TM# 0077000100500) *Applicant requested to WITHDRAW application.*

C. Z-8-2018

Application by CITY OF GREENVILLE for a **TEXT AMENDMENT** to Sections 19-5.2; 19-5.2.5; 19-6.8; 19-6.8.9 to remove text not applicable to multifamily standards

Lavrin presented the staff report for this application. The proposed amendment to the Land Management Ordinance addresses two Sections: 19-5.2.5, *Multiple-family developments* and 19-6.8.9 (D) (1), *Multifamily design standards, Building facades*. The first proposed amendment to Section 19-5.2.5 eliminates the phrase, “such as townhouses and apartments” as stated examples for multifamily developments. The reason staff proposes this amendment is to eliminate confusion concerning the appropriate use classification for townhouses, which staff, in accordance with the Land Management Ordinance, classifies as single-family attached dwellings. By removing this language, it reduces the possibility of confusion with the public regarding

the type of use described.

The revision to section 19-6.8.9 (D) (1) eliminates wording that could cause confusion surrounding use classifications. Under this section of the code, which is specific to multifamily design standards, the text currently references “attached single family residential buildings” within the context of *multifamily* design standards. Since multifamily residential and attached single-family residential are different use classifications within the Land Management Ordinance, this amendment will provide ease of understanding when reviewing the Land Management Ordinance. As part of this amendment, staff is recommending removal of the picture depicting the attached single-family units within this section.

Staff Recommendation: APPROVE

No public comment.

No Board discussion.

Commissioner Pait made a motion to approve. Commissioner Smith seconded the motion. The motion was approved by a vote of 5-0.

Other Business:

A. Historic Resources Survey Announcement

Stroud presented the Historic Resources Survey update including public process for designation and criteria for demolition.

B. Monthly 2019 City Comprehensive Plan Update

Schmidt presented the Comprehensive Plan update including plan to narrow down proposals to three interviewees.

ADJOURNMENT: The meeting was adjourned at 4:36 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
May 17, 2018
4:00 PM
Meeting Notice Posted May 2, 2018

Minutes prepared by Courtney DeVoe

Members Present: Catherine Smith, Jonathan Pait, Jason Tankersley, Trey Gardner, Diane Eldridge, Meg Terry, David Keller
 Members Absent: None
 Staff Present: Courtney DeVoe, Development Planner; Brennan Williams, Development Planner; Nathalie Schmidt, Senior Development Planner; Shannon Lavrin, Development Planner; Dwayne Cooper, City Engineer; Jonathan Graham, Planning & Development Manager; Michael Pitts, City Attorney

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:00 PM.

APPROVAL OF MINUTES: The April 19, 2018 meeting minutes were approved.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved with unanimous to postpone item Z-10-2018.

CONFLICT OF INTEREST: Chairman Jason Tankersley for items SD 18-003 and SD 18-004.

OLD BUSINESS:

None.

NEW BUSINESS:

A. AX-4-2018

Application by CORE PROPERTY CAPITAL for **ANNEXATION** of 15.74 acres located at **HAYWOOD RD AND TRANSIT DIVE** from C-2 (Greenville County) to C-3, Regional Commercial District including 1,880 LF of public road frontage (TM# 0259000100605; 0259000100604; 0259000100600; 0259000100602; 0259000100605)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The majority of the subject property is vacant land with two small vacant commercial buildings located

on the property. The subject property is contiguous on its North, South and West boundaries to the existing City of Greenville municipal corporate limits. The C-3 zoning designation is an appropriate zoning designation for the area.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

1. Consistent with the Comprehensive Plan: The Future Land Use designation for the surrounding property within the City of Greenville calls for this area to be Transit Oriented Development (TOD). Staff believes that the proposed C-3 zoning designation is consistent within a TOD Future Land Use designation shared by the closest surrounding City properties.
2. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
3. Addresses a demonstrated community need: The proposed C-3 zoning designation would permit commercial type uses in this area, which is a current development trend in the area, as well as the opportunity to provide services to nearby residents.
4. Compatible with surrounding uses: There is a mix of uses and zoning designations surrounding this property. The C-3 zoning designation would support the current development that is compatible with surrounding uses.
5. Promotes logical development pattern: The proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
6. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development.
7. Will not create an isolated zoning district: The subject property is 15.74 acres, which is a fairly large piece of commercial property. The property is currently zoned commercial within the County and is surrounded by other commercial type uses, and therefore, the amount of property being rezoned to C-3 does not create an isolation or spot zoning district.
8. Surrounding property values: It does not appear that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands. The C-3 designation request is the comparable City zoning designation to that of the existing C-2 County designation.
9. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
10. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval for Rezone to City Council

No public comment.

Board discussion included: existing portion within city limits to be rezoned from C-2 to C-3.

Commissioner Keller made a motion to recommend approval to City Council and noted that the portion currently located within city limits is also be rezoned C-3. Commissioner Terry seconded the motion. The motion was approved by a vote of 7-0.

B. SD 18-002

Application by Nathan Kaser for a **SUBDIVISION** of 0.74 acre located at **575 LOWNDES HILL RD** from 1 LOT to 4 LOTS (TM# 0193030401000)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into four (4) lots located at northeast corner of Lowndes Hill Road and Oakland Drive. The subject property is zoned R-6, Single-family Residential District and allows for single-family dwellings. Currently, one single-family dwelling exists on the property. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on May 7, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: In favor of proposal

Board discussion included: orientation of homes towards Lowndes Hill Road

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 7-0.

C. SD 18-003

Application by CAP River LLC for a **SUBDIVISION** of 2.38 acres located at **55 E CAMPERDOWN WY** from 1 LOT to 3 LOTS (TM# 006900-03-00101)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into three (3) lots located at northeast corner of 55 E Camperdown Way and 500 Falls Street. The subject property is zoned C-4, Central Business District and allows for non-residential and residential uses. Currently, one multi-story commercial building and one multi-story parking deck exist on the property. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on May 8, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: clarification on purpose of subdivision.

Applicant discussion included: Rebecca, 935 S Main Street, via telephone, indicated purpose of request is for finance purposes.

Commissioner Pait made a motion to approve with staff comments and conditions. Commissioner Smith seconded the motion. The motion was approved by a vote of 6-0. Chairman Tankersley recused from item.

D. SD 18-004

Application by CENTENNIAL POINT LLC for a **SUBDIVISION** of 6.00 acres located at **MARKET POINT DR** from 1 LOT to 3 LOTS (TM# 0547010101631)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into three (3) lots located off of Woodruff Road along Market Point Drive. The subject property is zoned C-3, Regional Commercial District and allows for non-residential and residential uses. The site is currently vacant. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on May 8, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

No Board discussion.

Applicant Rebecca, 935 S Main Street, via telephone, no comment.

Commissioner Smith made a motion to approve with staff comments and conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0. Chairman Tankersley recused from item.

E. Z-10-2018

Application by CAROLS LLC for a **REZONE** of 0.319 acre located at **PENDLETON ST** from RDV, Redevelopment District to C-3, Regional Commercial District (TM# 0077000100500) *Applicant requests to postpone to June PC meeting.*

Received email public comment prior to Planning Commission meeting.

Unanimous approval to postpone item to June 21, 2018 Planning Commission meeting.

Other Business:

A. Monthly 2019 City Comprehensive Plan Update

Schmidt presented the Comprehensive Plan update including plan to narrow down proposals to three interviewees.

ADJOURNMENT: The meeting was adjourned at 4:54 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
June 1, 2018
4:00 PM
Meeting Notice Posted May 21, 2018

Minutes prepared by Courtney DeVoe

Members Present: Catherine Smith, Jonathan Pait, Jason Tankersley, Trey Gardner, Diane Eldridge, Meg Terry, David Keller
 Members Absent: None
 Staff Present: Courtney DeVoe, Development Planner; Brennan Williams, Development Planner; Shannon Lavrin, Development Planner; Jonathan Graham, Planning & Development Manager; Michael Pitts, City Attorney

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:06 PM.

APPROVAL OF MINUTES: None.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved.

CONFLICT OF INTEREST: Chairman Jason Tankersley for items SD 18-006.

OLD BUSINESS:

None.

NEW BUSINESS:

A. SD 18-006

Application by Brody Glenn for a **SUBDIVISION** of 3.256 acres located at **320 FALLS ST** from 1 LOT to 8 LOTS (TM# 0061000304101)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into eight (8) lots located at the corner of Falls Street and Japanese Dogwood Lane. The subject property is zoned C-4, Central Business District and allows for non-residential and residential uses. Currently, one multi-story multifamily residential building and one multi-story parking deck are being constructed on the property. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: specifics on vertical subdivision; clarification on number of lots being subdivided; other examples of vertical subdivision

Commissioner Terry made a motion to approve. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

ADJOURNMENT: The meeting was adjourned at 4:26 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
June 21, 2018
4:00 PM
Meeting Notice Posted June 6, 2018

Minutes prepared by Courtney DeVoe

Members Present: Jason Tankersley, Meg Terry, Trey Gardner, Diane Eldridge, Jonathan Pait, Catherine Smith
 Members Absent: David Keller
 Staff Present: Courtney DeVoe, Development Planner; Brennan Williams, Development Planner; Shannon Lavrin, Assistant Planning & Development Manager; Jonathan Graham, Planning & Development Manager; Michael Pitts, City Attorney; Jeff Giovanetti, Deputy Fire Marshall; Dwayne Cooper, Engineering Services Manager; Clint Link, Assistant City Engineer – Civil; Kevin Howard, Economic Development Project Manager

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:00 PM.

APPROVAL OF MINUTES: The May 17, 2018 and June 1, 2018 minutes were approved.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved with unanimous to withdraw Z-10-2018 and MFD 16-877M.

CONFLICT OF INTEREST: None.

OLD BUSINESS:

A. Z-10-2018

Application by CAROLS LLC for a **REZONE** of 0.319 acre located at **PENDLETON ST** from RDV, Redevelopment District to C-3, Regional Commercial District (TM# 0077000100500) *Applicant requested to WITHDRAW application.*

NEW BUSINESS:

A. AX-5-2018

Application by SALTERS ROAD VENTURE LLC for **ANNEXATION** of 4.00 acres located at **100 QUESTOVER DR** from S-1 (Greenville County) to S-1, Service District including 220 LF of public road

frontage (TM# 0261000103700)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The majority of the subject property is vacant land with a single family residential building located on the property. The subject property is contiguous on its North, South, East and West boundaries to the existing City of Greenville municipal corporate limits. The S-1 zoning designation is an appropriate zoning designation for the area.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

1. Consistent with the Comprehensive Plan: The Future Land Use designation for the surrounding property within the City of Greenville calls for this area to be Mixed Use Community (located on the subject property's north and west boundaries) and General Residential (located on the subject property's east and south boundaries). Staff believes that while the proposed S-1 zoning designation permits numerous use types, a portion of those permitted uses offer greater consistency and compatibility with the surrounding Future Land Use designations of Mixed Use Community and General Residential, shared by the closest surrounding City properties.
2. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
3. Addresses a demonstrated community need: The proposed S-1 zoning designation would permit commercial and residential type uses in this area, which is a current development trend in the area.
4. Compatible with surrounding uses: The predominating zoning designation surrounding this property is S-1. Most of the land adjacent to the subject site is either a residential use or currently vacant.
5. Promotes logical development pattern: It is anticipated that the proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
6. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development.
7. Will not create an isolated zoning district: The subject property is 4.00 acres, which is a fairly large piece of property. The property is currently zoned services within the County and is surrounded by other service district zoned properties, and therefore, the amount of property being rezoned to S-1 does not create an isolation or spot zoning district.
8. Surrounding property values: It does not appear that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands. The S-1 designation request is the comparable City zoning designation to that of the existing S-1 County designation.
9. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
10. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Approve

No public comment.

Board discussion included: whether part of Verdae development; possibility of rezone to multifamily district

Commissioner Terry made a motion to approve. Commissioner Smith seconded the motion. The motion was approved by a vote of 6-0.

B. AX-6-2018

Application by RENAISSANCE CUSTOM HOMES LLC for **ANNEXATION** of 0.54 acre located at **PROSPERITY AV** from R-10 (Greenville County) to R-6, Single Family Residential District including 138 LF of public road frontage (TM# 0367000100214)

DeVoe presented the staff report for this application noting that public comments were received for this application. The subject property is currently vacant land. The subject property is contiguous on its North and South boundaries to the existing City of Greenville municipal corporate limits. The R-6 zoning designation is an appropriate zoning designation for the area.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

11. Consistent with the Comprehensive Plan: The Future Land Use designation for the surrounding property within the City of Greenville calls for this area to be General Residential. Staff believes that the proposed R-6 zoning designation is compatible with the surrounding Future Land Use designations of General Residential, shared by the closest surrounding City properties.
12. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
13. Addresses a demonstrated community need: The proposed R-6 zoning designation would permit single family residential type uses in this area, which is a current development trend in the area.
14. Compatible with surrounding uses: The predominating zoning designation surrounding this property is R-10. Most of the land adjacent to the subject site is either a residential use or currently vacant.
15. Promotes logical development pattern: The proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
16. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development.
17. Will not create an isolated zoning district: The property is currently zoned single family within the County and is surrounded by other residential zoned properties, and therefore, the amount of property being rezoned to R-6 does not create an isolation or spot zoning district.
18. Surrounding property values: It does not appear that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands. The R-6 designation request is a comparable City zoning designation to that of the existing R-10 County designation.
19. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
20. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Approve

Public comment included: nearby church cemetery with unmarked graves; development to create disturbance of soil and disruption to graves

Board discussion included: impact of cemetery to development; table item to following Planning Commission meeting; recommended applicant work with church on details of cemetery

Commissioner Smith made a motion to table item until August Planning Commission. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

C. SD 18-005

Application by FREELAND AND ASSOCIATES INC for a **SUBDIVISION** of 0.73 acre located at **34 ALGONQUIN TRAIL** from 1 LOT to 3 LOTS (TM# 0262000101010)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into three (3) lots located at northwest corner of Algonquin Trail and Broadwell Drive. The subject property is zoned S-1, Service District and allows for commercial and residential type uses. Currently, one single-family dwelling exists on the property. The proposed major subdivision meets minimum dimensional requirements, provided that each lot has a minimum of 20 feet of road frontage, as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on June 12, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

No board discussion.

Commissioner Pait made a motion to approve with staff comments and conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

D. SD 18-007

Application by TREY COLE for a **SUBDIVISION** of 0.484 acre located at **12 S CALHOUN ST** from 1 LOT to 9 LOTS (TM# 0078000402200)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into nine (9) lots located at along S Calhoun Street for single-family attached dwellings. The subject property is zoned C-3, Regional Commercial District and allows for commercial and residential type uses. Currently, a vacant commercial building exists on the property. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on June 12, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: project proposal relation to existing development patterns

Commissioner Terry made a motion to approve with staff comments and conditions. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

E. SD 18-009

Application by Phillip Day for a **SUBDIVISION** of 20.1 acres located at **3590 LAURENS RD** from 1 LOT to 61 LOTS (TM# M010040100600)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into sixty-one (61) lots located off of Laurens Road for single-family attached dwellings. The subject property is zoned S-1, Service District and allows for commercial and residential type uses. Currently, the portion of the site to be subdivided is vacant land. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

Additionally, staff recommends that the proposed fire-access-only drive should be built to street standard with no gated access.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on June 4, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: access to land locked parcel; multifamily standards are no longer applicable

Commissioner Smith made a motion to approve with staff comments and conditions, including second access to be built as private road standard with no gate. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 6-0.

F. SD 18-010

Application by JAY MARTIN for a **SUBDIVISION** of 2.16 acres located at **733 BENNETT ST** from 2 LOTS to 8 LOTS (TM#s 0187001100100; 0187001100101)

DeVoe presented the staff report for this application noting that public comments were received for this application. The applicant proposes to subdivide two (2) lots into eight (8) lots located along Bennett Street for single-family detached dwellings. The subject property is zoned R-6, Single-Family Residential District and allows for residential type uses. Currently, the site consists of an existing single family home and vacant land. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on June 6, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: consideration of rhythm of street; consideration of garage orientation; smaller lot sizes; removal of green space and large trees; grade provides unsuitable site to develop; consideration of alley way ownership on western edge of property

Board discussion included: driveway considered circular; parking on access drive; how house grade will be handled; site distance issues on either side of access drive; responsible party to maintain grass area between access drive and Bennett Street; inconsistency of lots within area; limit number of lots

Commissioner Smith made a motion to table item until August Planning Commission and include an informal meeting prior to public hearing with three commission members, staff and applicant. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 5:40 PM after a brief recess.

G. SD 18-011

Application by Shouse Development for a **SUBDIVISION** of 1.25 acres located at **KEAT AV and PETE HOLLIS BLVD** from 5 LOTS to 15 LOTS (TM#s 0028000102000; 0028000101700; 0028000101800; 0028000101900; 0028000102101)

DeVoe presented the staff report for this application noting that public comments were received for this application. The applicant proposes to subdivide five (5) lots into fifteen (15) lots located at the corner of Keat Avenue and Pete Hollis Boulevard for single-family attached homes. The subject property is located within the Southernside Special Emphasis Neighborhood and is zoned RDV, Redevelopment District and allows for commercial and residential type uses. Currently, the site consists of two existing single family homes and vacant land. The proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on June 11, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: concerned about access to Pete Hollis Boulevard; widening of Keat Avenue; on-street parking concerns; safety consideration at Frank Street and Keat Avenue; neighborhood meeting not located within neighborhood; access issues if no access to Pete Hollis Boulevard; storm water concerns; concerns in keeping with Southernside neighborhood; density issues

Board discussion included: difficult site constraints; access; density; traffic; stormwater location

Commissioner Terry made a motion to table item until August Planning Commission and include an informal meeting prior to public hearing with three commission members, staff and applicant. Commissioner Smith seconded the motion. The motion was approved by a vote of 6-0.

H. SD 18-012

Application by MARK THOENNES BUILDERS for a **SUBDIVISION** of .46 acres located at **406 LONG HILL ST** from 1 LOTS to 2LOTS (TM# 0212000700900)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into two (2) lots located along 406 Long Hill Street for single-family detached homes. The subject property located within the Pleasant Valley Special Emphasis Neighborhood and is zoned R-6, Single-Family District, which allows for residential uses. Currently, the site consists of an existing single family home fronting Long Hill Street. Although, the proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance, the proposed subdivision creates a flag lot-style division of land.

It is understood by staff that the applicant's request to subdivide the parcel in this manner is to receive utilities located in the Long Hill Street right-of-way in order to construct a single-family detached home fronting Rice Street.

Staff recommends a condition of approval that includes a no-build/no access easement for the narrow portion of the lot be utilized for utilities from Long Hill Street to the new construction as a means to prohibit any future development or vehicular access from that narrow access point.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant conducted a neighborhood meeting as required by subsection 19-2.2.4(C) of the Land Management Ordinance on June 13, 2018.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: clarification on whether subdivision would affect their properties

No Board discussion.

Commissioner Smith made a motion to approve with staff comments and conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

I. Z-11-2018

Application by Michael Fletcher for a **REZONE** of 0.024 acre located at **109 W STONE AV** from C-2, Local Commercial District and OD, Office & Institutional District to C-2, Local Commercial District (TM# 0009000401900)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The subject property is located in the Viola Street Special Emphasis Neighborhood at 109 W Stone Avenue and shares a common property line on the back and part of one side with the Heritage Preservation Overlay District. Current development of the property consists of an existing commercial building that was renovated for retail and commercial tenants. It is staff's understanding that the applicant is requesting a rezone for a portion of the property that was recently recombined as part of this development which created a split zoned parcel. This rezone request is to rezone the portion added to the parcel to be consistent with the existing zoning designation of C-2, Local Commercial District. The proposed C-2 District is consistent with the existing use of the property as retail/commercial. Staff is of the opinion that the C-2 zoning on this property will resolve the split zoning issue and be consistent and compatible with existing zoning districts and uses.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

21. Consistent with the Comprehensive Plan: The Future Land Use designation for the area is "Mixed Use Neighborhood" which encourages development that is consistent with the existing development pattern and strengthens the neighborhood. It may small grocery stores, drug stores, service stations, neighborhood parks, day care centers, places of worship and schools and urban and general residential type uses. Staff is of the opinion that the C-2 District will facilitate quality mixed use neighborhood redevelopment of the property that is consistent will the city's goals to encourage a mixture of commercial and residential uses within the area.
22. Changed conditions since the original designation: A portion of the property was recombined with the parcel, which created a split zoned parcel.
23. Addresses a demonstrated community need: There is a stated community need to encourage a variety of neighborhood mixed type uses to adequately serve changing demographics, lifestyles and life stages.
24. Compatible with surrounding uses: The proposed C-2 designation is consistent with the existing use of the property.
25. Promotes logical development pattern: The proposed C-2 District is consistent with the existing pattern of development and will allow redevelopment in manner that is consistent with the current use of the property. Additionally, it will prevent split zoning on the parcel.
26. Will not result in "strip" or ribbon commercial development: The rezoning will not result in strip commercialization.
27. Will not create an isolated zoning district: The proposed district will not result in an isolated zoning district as is adjoins existing C-2 District to the east.
28. Surrounding property values: An adverse effect on surrounding property values is not anticipated.
29. Effect on natural environment: Redevelopment of the property would be required to comply with City ordinances.
30. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval to City Council

No public comment.

No Board discussion.

Commissioner Smith made a motion to recommend approval to City Council. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 6-0.

J. Z-14-2018

Application by Christopher Laney for a **REZONE** of 0.83 acre located at **121 W STONE AV** from OD, Office & Institutional District and C-2, Local Commercial District to OD, Office & Institutional District (TM# 0009000402100)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The subject property is located on W Stone Avenue. Current development of the property consists of vacant land and a single structure. It is staff's understanding that the applicant is requesting a rezone for a portion of the property that was recently recombined as part of this development which created a split zoned parcel. This rezone request is to rezone the portion added to the parcel to be consistent with the existing zoning

designation of OD, Office and Institutional District. The proposed OD District is consistent with the existing use of the property as residential. Staff is of the opinion that the OD zoning on this property will resolve the split zoning issue and be consistent and compatible with existing zoning districts and uses.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

31. Consistent with the Comprehensive Plan: The Future Land Use designation for the area is "Mixed Use Neighborhood" which encourages development that is consistent with the existing development pattern and strengthens the neighborhood. It may small grocery stores, drug stores, service stations, neighborhood parks, day care centers, places of worship and schools and urban and general residential type uses. Staff is of the opinion that the OD District will facilitate quality mixed use neighborhood redevelopment of the property that is consistent will the city's goals to encourage a mixture of commercial and residential uses within the area.
32. Changed conditions since the original designation: A portion of the property was recombined with the parcel, which created a split zoned parcel.
33. Addresses a demonstrated community need: There is a stated community need to encourage a variety of neighborhood mixed type uses to adequately serve changing demographics, lifestyles and life stages.
34. Compatible with surrounding uses: The proposed OD designation is consistent with the existing use of the property.
35. Promotes logical development pattern: The proposed OD District is consistent with the existing pattern of development and will allow redevelopment in manner that is consistent with the current use of the property. Additionally, it will prevent split zoning on the parcel.
36. Will not result in "strip" or ribbon commercial development: The rezoning will not result in strip commercialization.
37. Will not create an isolated zoning district: The proposed district will not result in an isolated zoning district as is adjoins existing OD District to the west.
38. Surrounding property values: An adverse effect on surrounding property values is not anticipated.
39. Effect on natural environment: Redevelopment of the property would be required to comply with City ordinances.
40. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval to City Council

No public comment.

No Board discussion.

Commissioner Smith made a motion to recommend approval to City Council. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

K. MFD 16-877M

Application by COTHRAN PROPERTIES for a **MULTI-FAMILY TOWNHOME DEVELOPMENT MODIFICATION** on 1.8 acres located at **121 W STONE AV** (TM# 0009000402100) *Applicant requested to WITHDRAW application.*

L. Z-13-2018

Application by John C. Darrohn for a **FLEXIBLE REVIEW DISTRICT** of 0.73 acre located at **600 E WASHINGTON ST** from OD, Office & Institutional District to FRD, Flexible Review District (TM# 0064000101600)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes a mixed-use project with residential and commercial space in the same building. The street level of the proposed development will consist of between 17,000 and 18,500 square feet of commercial space with up to 50 multifamily dwelling units spread through four floors above the commercial space. A two-level partially subterranean parking garage will be constructed below the building to serve the proposed uses. The design is Traditional Urban Loft, which provides transitional elements from downtown developments to nearby residential structures.

Furthermore, the applicant submitted an initial request for the March 15, 2018 Planning Commission hearing. At that time, the item was withdrawn. Following the withdrawal request, the applicant worked with City staff prior to presenting this formal application request.

Staff Analysis:

Staff concludes that the proposed rezone request for a FRD, *Flexible Review District* at the above referenced location meets the intent of such a district and recommends Approval with Staff Comments and Conditions.

Based on the FRD district standards, the applicant provided a Statement of Intent and accompanying plans in order to identify and address the development program with regard to allowed uses, densities, configurations, design standards, and other development requirements established for this particular FRD plan.

Sec. 19-2.3.19, Flexible Review District; Sec. 19-3.2(U), FRD, Flexible Review District

A FRD zoning designation is requested by the applicant in order to allow for an increased residential density beyond what is permitted within the existing OD zoning classification.

As stated in Sec. 19-3.2 (U), *Flexible Review District*, a FRD is intended to allow development and redevelopment that is compatible with the existing character of the area. As set forth by the city's comprehensive plan, tools, such as a FRD, that encourage exceptional planning and design in order to preserve the character of existing buildings, open spaces, streetscapes, and use clusters of unique areas of the city, are encouraged to protect critical environmental resources through a greater efficiency in the layout of roads, utilities and other infrastructure.

a) Uses

The proposed development is adjacent to low-density office and commercial development on three sides. Office and commercial neighbors include uses such as law firms and banks. Proposed uses for 600 E Washington Street are a mix of use classifications including residential and commercial.

The Statement of Intent indicates the project will consist of one, two, and three-bedroom multi-family condominiums (maximum 50 total units) and between 17,000 and 18,500 SF of commercial use space. The intent of the proposed Public and Institutional Uses is to remain consistent with the surrounding character by providing uses that may serve the immediate tenants and residents. Furthermore, the proposed FRD specifies a small list of uses that may be permitted by Special Exception.

The proposed uses are consistent with existing surrounding uses and additional details regarding proposed uses permitted within this FRD request may be found on Page 4 of the Statement of Intent.

b) Development Principles

	OD Requirement	FRD Proposal	Deviation Request
<i>Min. Lot Area (sf)</i>	None	None (comply with C-4)	0 sf
<i>Min. Lot Width (ft)</i>	None	None (comply with OD)	0 ft
<i>Max. Lot Coverage (%)</i>	50%	60% (w/ min, 3,500 SF of open space required)	+10%
<i>Setbacks⁽¹⁾</i>	Front: 10' Side: 5' Rear: 15'	Front: 20' (Washington St) 12' (Heldman St) Side: 10' Rear: 10'	Front: +10' +2' Side: +5' Rear: -5'
<i>Height</i>	Max. 40'	Max. 63'-73'	+23'- +33'
<i>Use(s)</i>	See <i>Use Regulations – Table of Uses</i>	See <i>Statement of Intent – Page 5</i>	Request to restrict permitted uses
<i>Density</i>	Max. 14 total residential units (Max. 20 units per acre)	Max. 50 total residential units (Max. ~~68.5~~ 35.5 units per acre)	+ ~~48.5~~ 15.5 units per acre
<i>Parking</i>	Table 19-6.1.3	Table 19-6.1.3	Parking to meet Code requirements
<i>Design Requirements</i>	Nonresidential and Multifamily Design Standards	Downtown Design Guidelines	Requires Multifamily Land Development Permit approval based on Code and CBD Design Guidelines

(1) Maximum building height increase is based on Land Management Ordinance for an office use in OD.

c) Land Use Patterns

The proposed development project is surrounded by OD zoned properties with a Future Land Use designation of Mixed Use City Center. Additionally, the Pettigru Street Historic District is located one parcel away and a PD is located at E McBee Avenue and Heldman Street. As one moves towards the city center, the development pattern on E Washington Street is commercial/retail in nature with increasing residential density and subsequent building heights to achieve those densities. The nearby Pettigru Street Historic District is largely zoned OD, providing a mix of commercial/retail and residential-type uses.

d) Utilities/Infrastructure

The proposed development is to be served by an underground detention system as well as the existing stormwater infrastructure adjacent to the site. All road-side improvements will maintain the existing drainage patterns within the SCDOT right-of-way.

The utility pole on Heldman Street will be relocated in order to accommodate building construction. Water will be provided by Greenville Water and will come into the site from East Washington Street. Sewer service will continue to be routed to East Washington Street.

e) Access

The Statement of Intent indicates that aerial fire access will be from East Washington Street and an additional emergency access drive is provided in the rear of the building off of Heldman Street. Additionally, the project will enhance the pedestrian realm by providing increased access area and eliminating both existing driveway curb cuts along East Washington Street. A wider ten foot sidewalk is provided along East Washington Street. A new flush sidewalk along Heldman Street, separated by foldable bollards, is proposed in order to provide a needed pedestrian zone as well as required fire access and engineering requirements.

Design Review Board - Urban Panel Comments (6/7/2018)

The applicant voluntarily sought informal advice and comments from the 'Design Review Board – Urban Panel' on June 7, 2018 to receive preliminary feedback on the overall massing and scale of the proposed project. The Urban Panel generally was in favor of the design and provided the following preliminary comments:

- 1) Great project. Very sensitive to scale of mass down to pedestrian level – good massing
- 2) Proposed conceptual courtyard is nice
- 3) Good materials. Use historic neighborhood for color cues for panels
- 4) Site meets design guidelines without being in downtown district

Staff Comments and Conditions:

Planning Staff Conditions

1. Proposed retail/commercial uses shall be office uses that are aimed to serve the adjacent neighborhood and immediate tenants, as outlined in the Statement of Intent.
2. At the time of Final Development Plan submittal, architectural details shall be reminiscent of the surrounding neighborhood; pedestrian scale lighting; street trees/plant-able areas; and any other applicable multifamily design standards (Sec. 19-6.8). Downtown Design Guidelines shall be included and addressed.
3. Per 19-2.2.13. Conditions of approval. General. As a condition of the approval, the proposed use, and the premises to be developed or used, pursuant to such approval, is required to comply with the general goals and policies of this chapter or with particular standards of this chapter to prevent or minimize adverse effects from the proposed development on surrounding lands.

Staff Recommendation: Recommend Approval with Staff Comments and Conditions to City Council

No public comment.

Board Discussion included: clarification on Urban Panel review prior to permits; clarification on Heldman Street side elevation and setbacks; confirmation on fire's comments; window fenestration; project is more engaging and better treatment of massing and scale; concern regarding spot zoning in future (comment not related to this project)

Commissioner Terry made a motion to recommend approval with staff comments and conditions to City Council. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 6-0.

M. Z-12-2018

Application by SOLOMON DEVELOPMENT SERVICES LLC for a **REZONE** of 2.926 acres located at **BUTLER AVE AND BUNCOMBE ST** from RDV, Redevelopment District to PD, Planned Development District (TM# 0019000100100; 0019000100500; 0019000102700)

DeVoe presented the staff report for this application noting that public comments were received for this application. The applicant proposes an integrated mixed-use institutional and residential development. The development will consist of 33 memory care units, 70 assisted living units, and approximately 134 independent living units for a total of 237 units.

Staff Analysis:

Staff concludes that the proposed rezone request for a PD, *Planned Development District* at the above referenced location meets the intent of such a district and recommends Approval with Staff Comments and Conditions.

Based on the PD district standards, the applicant provided a Statement of Intent and accompanying plans in order to identify and address the development program in regards to allowed uses, densities, configurations, design standards, and other development requirements established for this particular PD plan.

Sec. 19-2.3.3, Planned Development District; Sec. 19-3.2(N), PD: Planned Development District

A PD zoning designation is requested by the applicant in order to allow for innovative and creative design techniques that incorporate multiple uses, an increase in density and building height from that which is allowed under the current RDV zoning designation, flexibility in front and side setbacks, parking and open requirements.

As stated in Sec. 19-3.2 (N), *PD: Planned Development District*, a PD is intended to encourage innovative land planning and site design concepts that conform to community quality-of-life benchmarks and that achieve a high level of aesthetics, high-quality development, environmental sensitivity, energy efficiency, and other community goals.

f) Uses

The proposed development is intended to be an integrated mixed-use institutional and residential development.

The Statement of Intent indicates the project will consist of 33 memory care units, 70 assisted living units, and approximately 134 independent living units. Furthermore, the proposed PD specifies additional amenity uses to consist of fine and casual dining venues, a health club, social venues, performing arts spaces, movie screening rooms, craft rooms and small shops.

The proposed uses provide consistency with existing surrounding historical residential neighborhood as well as existing and future commercial downtown developments.

g) Development Principles

	RDV Requirement	PD Proposal	Deviation Request
<i>Min. Lot Area (sf)</i>	None	None (comply with RDV)	0 sf
<i>Min. Lot Width (ft)</i>	None	None (comply with RDV)	0 ft
<i>Max. Lot Coverage (%)</i>	100%	88.30%	-11.7%
<i>Setbacks</i>	Front: 10' (20' max) Side: 3' Rear: 10'	Front: 5' (Buncombe St) 5' (Butler Av) Side: 3' (greater than) Rear: 30' ⁽¹⁾	Front: -5' -5' Side: +0' Rear: +20'
<i>Height</i>	Max. 40' ⁽¹⁾	Max. 78'	+38'
<i>Use(s)</i>	See <i>Use Regulations – Table of Uses</i>	Institutional and Multifamily Residential	Permitted Uses
<i>Density</i>	Max. 20 units per acre	Max. 45 units per acre	+25 units per acre
<i>Parking</i>	210 Spaces (Table 19-6.1.3)	155 Spaces (Reduced parking based on data provided)	-55 spaces
<i>Design Requirements</i>	Nonresidential and Multifamily Design Standards	Nonresidential and Multifamily Design Standards	Requires Multifamily Land Development Permit approval based on Code

(1) Maximum height may increase by 3' for each 1' of additional setback from required rear and side setbacks.

h) Land Use Patterns

The proposed development project is surrounded by RDV zoned properties on two sides with R-6 and PD located on the remaining two sides. The subject site has a Future Land Use designation of Mixed Use Community. Additionally, the Hampton-Pinckney Historic District is located adjacent to the rear of the subject site. As one moves towards the city center, the development pattern on Buncombe Street is moderate to high density residential with commercial/retail.

i) Utilities/Infrastructure

The existing crosswalk will remain crossing Buncombe Street allowing pedestrian access to Heritage Green. Additionally, no regular vehicular access is proposed onto Buncombe Street. An emergency fire lane is proposed off of Buncombe Street.

Sanitary sewer and water service, as well as other utilities, are provided to the subject site.

j) Access

The Regulating Plan indicates that the main access to the site is off of Butler Avenue. There is a circular drive for drop-off at the main entrance and an access drive to the parking garage as well as for fire emergency access. An emergency fire lane is provided on Buncombe Street. A 6' sidewalk with 5' planting area and 4' building transition zone will be provided along Buncombe Street and Butler Avenue.

Design Review Board - Urban Panel Comments (6/7/2018)

The applicant voluntarily sought informal advice and comments from the 'Design Review Board – Urban Panel' on June 7, 2018 to receive preliminary feedback on the overall massing and scale of the proposed project. The Urban Panel generally was in favor of the design and provided the following preliminary comments:

- 5) Residential design is a great transition form for the Hampton-Pinkney neighborhood
- 6) Great use choice for this location
- 7) Good looking project
- 8) Vast improvement over the first submittal
- 9) Consider right in right out access at the entry drive
- 10) Consider use of brick material in lieu of brick-colored siding for the North wing of the building adjacent to the church
- 11) Will provide formal input again at time of Final Development Plan submittal for multi-family component

Staff Comments and Conditions:**Planning Staff Conditions**

4. Proposed retail/commercial uses shall be aimed to serve the adjacent neighborhood and immediate residents.
5. At the time of Final Development Plan submittal, architectural details shall be reminiscent of the surrounding neighborhood; pedestrian scale lighting; street trees/plant-able areas; and any other applicable multifamily design standards (Sec. 19-6.8) shall be included and addressed.
6. Per 19-2.2.13. Conditions of approval. General. As a condition of the approval, the proposed use, and the premises to be developed or used, pursuant to such approval, is required to comply with the general goals and policies of this chapter or with particular standards of this chapter to prevent or minimize adverse effects from the proposed development on surrounding lands.

Staff Recommendation: Recommend Approval with Staff Comments and Conditions to City Council

Public comment included: concern about which uses allowed; too much building for too little land; caution about limiting parking for proposed uses; access onto Butler Avenue

Board Discussion included: clarification on whether Final Development Plan (FDP) may come back to Planning Commission for review and approval; buffer along residential properties

Commissioner Terry made a motion to recommend approval with staff comments and conditions to City Council with the added condition that the Final Development Plan is approved by Planning Commission. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 6-0.

Other Business:

A. Monthly 2019 City Comprehensive Plan Update

Graham presented the Comprehensive Plan update including plan to finalize contact with consultant.

B. Board Discussion

Commissioner Eldridge made recommendation to Council to commission inventory survey of green space within the City that could be purchased and utilized for things such as green space or pocket parks.

Commissioner Eldridge made a motion to recommend survey of green spaces to City Council. Commissioner Smith seconded the motion. The motion was approved by a vote of 6-0.

ADJOURNMENT: The meeting was adjourned at 7:45 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
August 16, 2018
3:00 PM
Meeting Notice Posted August 1, 2018

Minutes prepared by Courtney DeVoe

Members Present: Jason Tankersley, Meg Terry, Trey Gardner, Diane Eldridge, Jonathan Pait, David Keller
Members Absent: Catherine Smith
Staff Present: Courtney DeVoe, Senior Development Planner; Brennan Williams, Development Planner; Shannon Lavrin, Assistant Planning & Development Manager; Jonathan Graham, Planning & Development Manager; Michael Pitts, City Attorney; Dwayne Cooper, Engineering Services Manager; Clint Link, Assistant City Engineer – Civil; Ginny Stroud, Community Development Administrator; Michael Williamson, Community Development Project Manager; Monique Mattison, Community Planner

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 3:05 PM.

APPROVAL OF MINUTES: The June 21, 2018 minutes were approved.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved to amend the agenda with unanimous to table AX-6-2018; AX-8-2018; SD 18-016.

RECESS: Chairman Jason Tankersley called the meeting to recess at 3:14 PM.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 3:20 PM.

Commissioner Keller made a motion to suspend rules in order to allow public comment on item SD 18-016. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

Applicant objected to the Commission's motion to suspend rules on item SD 18-016. Applicant requested that no public comment be received on item SD 18-016 as no presentation of the item was to be given at this meeting.

Board discussion included that intent to suspend rules was to provide an opportunity for the public in attendance to offer comments on item SD 18-016. The applicant, one person in favor, and one person in opposition may have five (5) minutes to speak. After that, no further public comments to be received on the item. Further discussion

included that receiving public comment on a tabled item creates an unfair forum.

Public discussion included that comments may wait until item SD 18-016 is formally presented to the Commission.

Commissioner Terry made a motion to reverse the motion to suspend rules in order to allow public comment on item SD 18-016. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

CONFLICT OF INTEREST: Commissioner Terry on item Z-20-2018.

OLD BUSINESS:

A. AX-6-2018

Application by RENAISSANCE CUSTOM HOMES LLC for **ANNEXATION** of 0.54 acre located at **PROSPERITY AV** from R-10 (Greenville County) to R-6, Single Family Residential District including 138 LF of public road frontage (TM# 0367000100214) *Applicant requested to TABLE application.*

B. SD 18-010

Application by JAY MARTIN for a **SUBDIVISION** of 2.16 acres located at **733 BENNETT ST** from 2 LOTS to 8 LOTS (TM#s 0187001100100; 0187001100101)

DeVoe presented the staff report for this application noting that public comments were received for this application. The applicant originally presented the proposed subdivision of two (2) lots into eight (8) lots located along Bennett Street for single-family detached homes at the June 21, 2018 Planning Commission meeting. At that meeting, concerns were raised by the neighborhood in regards to the number of lots, size of lots, a shared front access drive, stormwater management and the existing tree canopy. Additionally, the Planning Commission echoed similar concerns with the addition of parking on shared access drive, maintenance of the common area and homes disengaged from the street. Due to these concerns, the application was tabled at the June 21, 2018 Planning Commission meeting to the subsequent regularly scheduled meeting in order to allow a subcommittee, composed of three Planning Commission members, the applicant and City staff, informal review of the application..

After review, the applicant proposes a revised application that retains eight (8) lots with widths ranging from 50 feet to 91 feet. The new proposal removes the shared front access drive, which allows for individual access drives from Bennett Street. The removal of the shared access drive also enables the proposed single family detached homes to move towards Bennett Street to better address the street frontage and pedestrian realm. The original proposed plan indicated the front building line to be 50 feet or greater from the front property line. The new proposed plan indicates a front building line to be 30 feet from the front property line.

Staff concludes the revised proposed major subdivision meets minimum dimensional requirements and intent as set forth in the Land Management Ordinance. Previous staff comments and conditions, noted for June 21, 2018 Planning Commission meeting, apply.

Staff has attached the previous staff report from the June 21, 2018 Planning Commission meeting for review reference.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: stormwater concerns; rainfall; number of lots to be created; worried about people to be displaced; driveway arrangement improved from initial proposal; concern over lot widths; memorialize green space; construction noise

Board discussion included: stormwater; city regulations and requirements; proposed setbacks

Commissioner Terry made a motion to approve with staff comments and conditions. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

C. SD 18-011

Application by Shouse Development for a **SUBDIVISION** of 1.25 acres located at **KEAT AV and PETE HOLLIS BLVD** from 5 LOTS to 15 LOTS (TM#s 0028000102000; 0028000101700; 0028000101800; 0028000101900; 0028000102101)

DeVoe presented the staff report for this application noting that no additional public comments were received for this application. At the June 21, 2018 Planning Commission meeting, the applicant proposed a subdivision of five (5) lots into fifteen (15) single-family attached homes lots located at the corner of Keat Avenue and Pete Hollis Boulevard. At that meeting, concerns were raised, by the adjacent neighborhood residents, about the lack of access to Pete Hollis Boulevard, widening Keat Avenue, on-street parking, safety considerations at Frank Street and Keat Avenue, stormwater retention and density. The Planning Commission echoed similar concerns with the addition of difficult site constraints, stormwater detention location, access, and traffic. Due to these concerns, the application was tabled at the June 21, 2018 Planning Commission meeting to the subsequent regular scheduled meeting in order to allow a subcommittee informal review of the application with three Planning Commission members, the applicant and City staff.

After collaboration efforts, the applicant proposes a revised Major Subdivision of sixteen (16) single-family attached lots with rear access from a new private road. The new proposal extends the existing Frank Street through the development to increase site circulation and site. This extension of Frank Street eliminates two (2) proposed hammer head turn-arounds and offers an additional access point. In addition, the proposed stormwater detention area is further buffered from Pete Hollis Boulevard.

Staff concludes the revised proposed major subdivision meets minimum dimensional requirements and intent as set forth in the Land Management Ordinance. In addition to previous staff comments and conditions, provided for June 21, 2018 Planning Commission meeting (see attached staff report for Planning Commission reference and review), staff provides the following conditions in response to the new Frank Street connection running alongside Pete Hollis Boulevard:

1. Site shall include adequate and appropriate buffering, of sufficient density to visually separate the close juxtaposition, between Pete Hollis Boulevard and the new proposed extension of Frank Street; and
2. Site shall include green space/pocket park areas between end units to further enhance the pedestrian realm and pedestrian connectivity of the proposed development.

Staff has attached the previous staff report from the June 21, 2018 Planning Commission meeting for review reference.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: increased housing; guest parking concerns; traffic; widening of Keat Avenue; converting a two-way stop to a four-way stop; stormwater; drainage; questions regarding use of existing curb cut along Pete Hollis Blvd; emergency vehicle access; project density at this location.

Board discussion included: Pete Hollis Blvd intersection; cross access; increased traffic

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 5-1 (Commissioner Terry against).

NEW BUSINESS:**A. AX-7-2018**

Application by Legacy Greenville, LLC for **ANNEXATION** of 3.63 acres located at **WOODRUFF RD and 385** (TM# 0545010101703)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The subject property is currently being developed as a hotel within County limits. The subject property is contiguous on its North and East boundaries to the existing City of Greenville municipal corporate limits. The C-3 zoning designation is an appropriate zoning designation for the area, and the existing hotel use is permitted within the C-3 zoning designation.

Staff offers the following responses to the standards for rezoning found at Section 19-2.3.2 (E) (2), *Amendments to Zoning District Map*.

1. Consistent with the Comprehensive Plan: The Future Land Use designation for the surrounding property within the City of Greenville calls for this area to be Mixed Use Regional (located on the subject property's east, south and west boundaries) and Parks, Open Space and Schools (located on the subject property's north boundary). Staff believes that the proposed C-3 zoning designation permits numerous use types that are consistent and compatible with the surrounding Future Land Use designations of Mixed Use Regional, shared by the closest surrounding City properties.
2. Changed conditions since the original designation: The process of annexation requires the property be assigned a City zoning designation.
3. Addresses a demonstrated community need: The proposed C-3 zoning designation would permit commercial and residential type uses in this area, which is a current development trend in the area.
4. Compatible with surrounding uses: The predominating zoning designation surrounding this property is C-3. Most of the land adjacent to the subject site is commercial in nature.
5. Promotes logical development pattern: It is anticipated that the proposed zoning amendment will provide uses that are compatible with the development pattern of the area.
6. Will not result in "strip" or ribbon commercial development: It is not anticipated that the proposed amendment will result in strip or ribbon commercial development.
7. Will not create an isolated zoning district: The subject property is 3.63 acres, which is a fairly large piece of property. The property is currently zoned commercial within the County and is surrounded by other commercial district zoned properties, and therefore, the amount of property being rezoned to C-3 does not create an isolation or spot zoning district.
8. Surrounding property values: It does not appear that the proposed amendment will result in significant adverse impacts on the property values of surrounding lands. The C-3 designation request is the comparable City zoning designation to that of the existing County designation.
9. Effect on natural environment: It is not apparent that the proposed amendment will have any adverse impacts on the natural environment in this area.
10. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval for Rezone to City Council

No public comment.

Board discussion included: city process to address projects being built to county standards then annexed to avoid city requirements

Commissioner Terry made a motion to recommend approval for rezone to City Council. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

B. AX-8-2018

Application by Raymond Levy for **ANNEXATION** of 1.3 acres located at **WILKINS ST** (TM#s 0095000800500; 0106000200300) *Applicant requested to TABLE application.*

C. A 18-636

Application by Bubba Watts for an **APPEAL** located at **606 WEMBLEY RD** from Sec. 19-6.9 Single-family residential infill standards (TM# 0268030802100)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant intends to construct a new single-family residence and is requesting to install a circular drive at 606 Wembley Road. The applicant met and discussed with staff to inquire whether a circular drive request would be permitted, and if it is consistent with the standards of Section 19-6.9, Single-family residential infill standards.

After reviewing the request, staff concluded that the circular drive request would not be permitted based on the standards of Section 19-6.9, Single-family residential infill standards. Part of the intent of this section of the Land Management Ordinance is to maintain the harmony and character of established single-family residential areas by guiding residential infill development to occur in an orderly and desirable manner. Furthermore, it intends to minimize the impact of driveways on the character of established single-family residential areas, by addressing the location of driveways.

Specifically, the single-family residential infill standards state that driveways/parking shall not be allowed in the front yard, except for access to permitted front-loaded garages. The applicant is proposing a front-loaded garage that is permitted to have access via an apron the width of the garage opening and 20 feet deep tapering to a ten-foot wide driveway. Backup space in a front yard may be allowed when access to an adjacent street may be difficult due to traffic patterns on the street; however, Wembley Road is classified as a Local Residential road, with traffic volumes that do not support a need for a circular drive.

Garages, carports, and driveways shall be constructed in a way that is consistent with the predominant development pattern and rhythm of the block. A wider driveway and/or parking pad in the front yard may be permitted based on the administrator; however, it shall maintain consistency with existing character of the block and in compliance with the stated purpose and intent of the single-family residential infill standards. Per **Exhibit A**, there are two (2) existing circular drives located within the block. One is located adjacent to the subject property, while the other is located across the street. There are no permit approval records on file for either drive.

Staff concludes that the request for a circular drive is not consistent with the predominant development pattern and rhythm of the block. In addition, the circular drive request does not appear to meet the backup space in a front yard allowance due to difficult traffic patterns on Wembley Street. Therefore, staff recommends denial of the applicant's request.

Staff Recommendation: Deny

No public comment.

Board discussion included: front parking turn-around pad; single-family residential infill standards as written to date; variance eligibility.

Commissioner Keller made a motion to deny appeal request. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 5-1. (Commissioner Tankersley in favor).

D. SD 18-013

Application by Zuendt Engineering for a **SUBDIVISION** of 0.57 acre located at **200 OLD AUGUSTA RD** and **202 OLD AUGUSTA RD** from 2 LOTS to 4 LOTS (TMs# 0212000600100; 0212000600200)

Williams presented the staff report for this application noting that no additional public comments were received for this application. The applicant proposes to subdivide two (2) lots into four (4) lots located at the corner of Old Augusta Road and Gatling Avenue in the Pleasant Valley Special Emphasis Neighborhood. The proposed lots are zoned R-6, Single-Family Residential District, and meet the minimum dimensional requirements for lots zoned R-6. Additionally, the general purpose and intent of the Single-family infill standards aim to "maintain the harmony and character of established single-family residential areas" (Sec. 19-6.9.1). Although the proposed lot configurations are smaller than the original Augusta Road Ranches subdivision plat for April 1941, staff believes the proposed lots are in keeping with the existing lot orientations and configurations within the area. Therefore, staff recommends approval.

Staff Recommendation: Approve

Public comment included: concern over three of the four proposed homes; privacy; water issues; property tax values; purchase price of homes; water runoff; public notice signs; lack of diversity on Commission; low-income areas to be ignored; landscape requirements.

Board discussion included: stormwater; setbacks; building codes; building permit review; permit process.

Commissioner Pait made a motion to approve. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

E. SD 18-014

Application by Farm Products, LLC for a **SUBDIVISION** of 2.94 acres located at **141 TRACTION ST** from 1 LOT to 4 LOTS (TM# 0113000100100)

Williams presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide one (1) lot into four (4) lots located at the former Plush Mill site at the corner of Traction Street and U.S. Highway 123 / Easley Bridge Road. The property is zoned FRD, Flexible Review District and does not have minimum dimensional requirements. Although properties zoned FRD do not have minimum dimensional requirements, each Flexible Review District is bound by the recorded Flexible Review District Agreement.

According to the proposed subdivision plat, the four lots are labeled Tract 1 through 4. Tract 1 consists of the renovated Plush Mill. Tract 2 will bound a proposed future building. Finally, Tract 3 and 4 will be donated to the City to develop Point Park and additional parking for the site. Because the proposed subdivision conforms to the drawings associated with the Flexible Review District Agreement for Plush Mill, staff recommends approval.

Staff Recommendation: Approve

No public comment.

No Board discussion.

Commissioner Terry made a motion to approve. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

F. SD 18-016

Application by Robert Jenkins, Sr. for a **SUBDIVISION** of 0.813 acre located at **214 N LEACH ST** from 3 LOTS to 9 LOTS (TM# 0075000300206) *Applicant requested to TABLE application.*

G. SD 18-019

Application by Charles Gouch for a **SUBDIVISION** of 0.731 acre located at **RICE ST** from 1 LOT to 4 LOTS (TM# 0222020303204)

Williams presented the staff report for this application noting that public comments were received for this application. The applicant proposes to subdivide one (1) lot into four (4) lots located next to 327 Rice Street off Augusta Street. The property is zoned R-6, Single-Family Residential District. According to the table of dimensional standards, lots zoned R-6 require a minimum area of 6,000 square feet and a minimum width of 40 feet. All four lots meet the minimum area requirements. However, "LOT 4" does not meet the minimum width requirement by less than one (1) foot. Although lot width is measured from the front setback line rather than from the road front, it does not appear the lot has adequate width to meet minimum dimensional standards. Additionally, the general purpose and intent of the Single-family infill standards aim to "maintain the harmony and character of established single-family residential areas" (Sec. 19-6.9.1). Staff recommends approval if the applicant can acquire the requisite amount of lot width, but felt it important to mention that the lots will be much narrower than many of the surrounding properties.

Staff Recommendation: Approve with Staff Comments and Conditions

Public comment included: access issues; traffic concerns; Greenville County School nearby traffic stacking lane.

Board discussion included: minimum lot width; conservation area to remain as open space

Commissioner Keller made a motion to approve with staff comments and conditions for applicant to acquire the requisite amount of lot width to meet minimum standards. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

H. MFD 16-877M

Application by COTHRAN PROPERTIES for a **MULTI-FAMILY TOWNHOME DEVELOPMENT MODIFICATION** on 1.8 acres located at **121 W STONE AV** (TM# 000900-04-01900) (TM# 0009000402100)

Lavrin presented the staff report for this application noting that no additional public comments were received for this application. This project received multifamily development approval with comments and conditions at the January 2017 Planning Commission meeting (MFD 16-877). The previous approval consisted of three-story townhome buildings in a Georgian-style design. Exterior materials consisted mostly of a red/brown brick with other earth tones. Units faced interior to the proposed courtyard. The end units fronting West Stone Avenue addressed the street by providing windows and a porch.

The applicant is requesting a Major Modification to the prior approval for changes to the architectural design and

an increase to building height. The modification proposes the townhome building design in a modern style, with red brick and off-white cementitious siding. The unit ends that front W Stone Avenue are proposed to have an entrance with windows and a stoop overhang as a means to activate the street frontage. The applicant also proposes to increase the height of all three buildings from three (3) stories to four (4) stories. The fourth story is proposed to be a rooftop terrace which includes a small finished space. There are no changes to building layout and overall site plan, and therefore, the site design is not part of this modification request.

The subject site is surrounded by office and commercial uses along West Stone Avenue. Directly behind the site is the Heritage Preservation Overlay District residential neighborhood. In June 2018, the applicants proposed a design that was decidedly more modern than that now being presented. Originally, the design proposed a black brick, lighter cementitious siding, a "saw tooth roofline" for the terraces, and less pedestrian activation along W Stone Avenue. Staff reviewed the modifications presented in the application and based on the information presented, staff recommended denial of this request. Staff felt the design did not address the rear neighbors and projected a cold, stark, overall feel of the project. The applicant withdrew their application from the June Planning Commission meeting and decided to rework the design. Working with the City staff, the applicant proposed material changes and redesigned some of the building elements. The applicant also conducted another neighborhood meeting with the residents to present the revised architecture. Staff concludes the design change has made an effort to address the surrounding properties, while retaining the desire to provide a more modern design.

No public comment.

Board discussion included: architecture; elements missing, such as a top/cap

Commissioner Terry made a motion to table application to review with 2-3 Commission members, staff and applicant. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 6:01 PM after a brief recess.

I. MFD 14-84M

Application by Edward Rose Associates for a **MULTI-FAMILY DEVELOPMENT MODIFICATION** on 23.4 acres located at **301 FAIRFOREST WY** (TM# M012030100102)

DeVoe presented the staff report for this application noting that no public comments were received for this application. This project, known as Emerald Creek Apartments, received multifamily development approval with comments and conditions at the April 2014 Planning Commission meeting (MFD 14-84). The 23-acre property has frontage along Fairforest Way that connects Laurens Road to Mauldin Road. The project was approved for 330 multifamily apartment units contained in nine, 3-story buildings. Main access to the development is from the existing curb-cut at the intersection of Fairforest Way and Wenwood Road, with a secondary entrance farther south on Fairforest Way.

The applicant is requesting a Major Modification to the prior approval for architectural design and material changes. Details of the specific changes are outlined in the statement provided by the applicant on July 16, 2018. Some of the changes include:

- Ground mounted A/C condensers have been removed from all sides of all building.
- Through wall combination A/C-Heat units have been added to the rear elevations with ventilation grills that are to be painted to match the adjacent exterior finish materials.
- The proposed enhanced rear elevations will include:
 - More square footage of brick will all major sections of brick now extending up the soffit/frieze board.
 - Larger and more visually interesting roof gable structures.

- Roof structures over the decks/patios that were not present in the approved plans and now will create a ceiling over the rear patios and decks.
- Sliding patio doors have been replaced with full lite swing doors, adjacent and fully functional side lite windows and a transom over the swing doors.
- Ground mounted A/C condensers have been removed for clear visual benefit to all first floor residents.
- The enhanced rear elevations for Buildings 1 & 2, which will be facing Fairforest Way, will include the following which the other buildings will not.
 - Inclusion of window shutters
 - Inclusion of decorative Fypon type window cross heads.

The changes enumerated above that reference architectural changes to Buildings 1 & 2 is a response to a condition of approval that was part of the initial approval:

“Enhance the design of the street-facing facades of Buildings 1 & 2, using materials and details that remain consistent with the overall development, in order to distinguish the “front” street-facing presence of the development within the public realm.”

The proposed changes appear to address conditions of the prior approval while improving the site layout by removing all ground A/C units. Staff has reviewed the modifications presented in the application and based on the information presented, staff recommends approval, of this request, with the following conditions:

- Exterior façade should provide visual interest through the use of color variation and material changes

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: colors; architecture grill to be used

Commissioner Keller made a motion to approve with staff comments and conditions to use architectural grill. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 6-0.

J. FDP 18-638

Application by Chris Watson for a **FINAL DEVELOPMENT PLAN** of 5.0 acres located at **WHITNER ST, 15 DUNCAN ST, HAMPTON AV and 202 HAMPTON AV** (TM#s 0014000300103; 0014000400400; 0014000401200; and 0014000300800)

DeVoe presented the staff report for this application noting that no public comments were received for this application. Buncombe Street PD is an integrated mixed-use commercial/retail and residential development, which was approved as a Planned Development in May 2018. The residential uses are comprised of 54 multifamily units and 31 single-family attached units.

The proposed single-family attached units were originally approved as 35 multifamily townhouse-style units. The applicant submitted a minor modification for staff review and approval to modify the approved Planned Development to reflect the change of developing single-family attached units (Z-24-2018 Minor Modification). In addition, Docket Number SD 18-018 is the related subdivision for the proposed single-family attached units.

The applicant did not conduct a neighborhood meeting as the neighborhood residents of Hampton-Pinckney sought to waive the requirement as a consensus that this request is consistent with the neighborhood views

previously expressed during the rezone process.

As the development project still retains 54 multifamily residential units, this Final Development Plan application also includes the review and approval of a Multifamily application, for the mixed-use building only. Therefore, this project is subject to section 19-6.8, *Design Principles and Standards for Multifamily Residential Development*. In addition, the development proposal is subject to the design principles and Statement of Intent for the Buncombe Street PD. Staff reviewed the application for compliance with the design standards as follows:

19-6.8.9 Multifamily design standards.

(A) Orientation

Response: The proposed project orients the buildings toward the public-right-of-way. Pedestrian sidewalks are incorporated along each roadway providing connectivity.

(B) Setbacks

Response: The proposed development appears to meet zoning and Buncombe Street PD setback requirements.

(C) Entrances

Response: Proposed entrances appear pedestrian in scale and offer architectural details such as lighting, projections and coordinating materials. Windows and balconies surround the main sides of the building and are oriented towards the pedestrian realm.

(D) Building Façades

Response: Proposed materials and colors appear to reflect consistent design, textures, colors, and features to the area. A distinctive base, middle and top are apparent in the elevations. In addition, the design appears to be consistent with the Buncombe Street PD approval.

(E) Service Areas

Response: It appears the service area is located internal within the south portion of the mixed-use building.

(F) Roof Form

Response: The proposed buildings incorporate varied building heights by incorporating parapet walls and cornices. The roof form is consistent with the Buncombe Street PD approval.

(G) Transparency

Response: The proposed units appear to meet the minimum glazed area for all street-facing facades. Additionally, the overall design provides transparency throughout the mixed-use building and is consistent with the Buncombe Street PD approval.

(H) Materials

Response: Proposed exteriors include a coordinated color scheme and consistent colors and finishes throughout the development. Additionally, materials and design character provide a transition from the nearby historic residential district and that of the urban center. Building materials include fiber cement panels, cast stone, aluminum windows, painted steel, and brick. Materials appear to be consistent with the Buncombe Street PD approval.

(I) Open Space

Response: It appears per the open space requirement, the project complies with minimum open space requirements (minimum 200 square feet per unit). The proposed project includes 28, 200 square feet of open space, which exceeds the required minimum and meets the Buncombe Street PD approval.

(J) Parking Lot Location

Response: The parking for the mixed-use/multifamily component of the project is located internal to the

site.

(K) Access and Circulation

Response: The project site has direct access to Buncombe Street from Whitner Street. Additional street network access is provided to the site by way of Duncan Street to Buncombe Street, and Hampton Avenue to Butler Avenue and Academy Street. The applicant is also proposing a private street that will transect through the main portion of the site, creating cross connectivity from Whitner to Duncan Street.

(L) Landscaping and Screening

Response: It appears the proposed project meets the intent and code requirements for foundation plantings. Additionally, the commercial/retail landscape and outdoor finishes consist of an urban plaza at the entrance of the site, with street trees, site furnishings, pavers or other decorative paving. Residential landscape consists of street trees, outdoor lighting and foundation plantings at the units.

(M) Exterior Lighting

Response: Exterior lighting shall comply with the City of Greenville code requirements at the time of permitting and appears to be consistent with the Buncombe Street PD approval.

(N) Pedestrian Walkways

Response: The proposed project incorporates a sidewalk/pedestrian system that fronts all street frontages.

(O) Fences and Walls

Response: It appears a fence or wall is not proposed to be utilized in buffer screening or for another reason.

Staff concludes that the proposed Final Development Plan for the Buncombe Street PD is consistent with the applicable sections of the Land Management Ordinance as well as the regulating plans and Statement of Intent for the Buncombe Street PD (Z-24-2017); and therefore, recommends approve with staff comments and conditions of this application.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

Board discussion included: whether there were any significant changes to the proposed development

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

K. SD 18-018

Application by Chris Watson for a **SUBDIVISION** of 5.0 acres located at **WHITNER ST, 15 DUNCAN ST, HAMPTON AV and 202 HAMPTON AV** from 4 LOTS to 33 LOTS (TM#s 0014000300103; 0014000400400; 0014000401200; and 0014000300800)

DeVoe presented the staff report for this application noting that no public comments were received for this application. The applicant proposes to subdivide four (4) lots into 33 lots located along Whitner Street and Hampton Avenue for single-family attached homes. The subject property is located near the Hampton-Pinckney Historic District and is zoned PD, Planned Development.

The approved Planned Development (Z-24-2017), known as Buncombe Street PD, was approved for up to 20,000 SF retail/commercial; 48 multifamily apartment units; and 35 multifamily townhouse-style units. During the rezone approval process for the Planned Development, discussions occurred on constructing the 35 multifamily townhouse-style units as owner-occupied dwelling units; however, all dwelling units within the PD were approved as a multifamily development project. Since the original PD approval, the owner, The Beach Company, would like

to make the multifamily townhouse-style units owner-occupied, fee-simple ownership. This major subdivision request is in response to this development change.

Please note, item FDP 18-638 is the Final Development Plan for this project that indicates the revision of 35 multifamily townhouse-style units to 31 single-family attached units. In order to develop single-family attached units, the land must be subdivided off of roadway frontage in order to provide fee-simple ownership.

Staff concludes that the proposed major subdivision meets minimum dimensional requirements as set forth in the Land Management Ordinance and Statement of Intent for the Buncombe Street PD.

If approval is granted, this Preliminary Plat authorizes the subdivision of land only and does not constitute zoning or site plan approval. All lots shall comply with the zoning district and specific Planned Development requirements including: building setbacks, building height, permitted uses, and all applicable site development and design standards. Furthermore, the applicant is responsible to submit an addressing scheme at the time of final plat submission.

The applicant did not conduct a neighborhood meeting as the neighborhood residents of Hampton-Pinckney sought to waive the requirement as a consensus that this request is consistent with the neighborhood views previously expressed during the rezone process.

Staff Recommendation: Approve with Staff Comments and Conditions

No public comment.

No Board discussion.

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

L. Z-15-2018

Application by Jessica Chapman-Site Design Inc. for a **STORMWATER VARIANCE** located at **101 W BROAD ST and 20 JAPANESE DOGWOOD LA** to reduce compensatory storage requirement from 1.5 times volume to 1.0 times volume (TM#s 0058000500100; 0060000200200; 0060000300100)

DeVoe presented the staff report for this application noting that no public comments were received for this application. Staff concludes that this does not allow for variances and the filing of a map amendment does not preclude having to meet the requirements in Section 6. In addition, the applicant did not provide the amount of compensatory volume needed.

The floodplain ordinance in 19-7.1.B.6 and 7 states:

- (6) Compensatory storage is required for all storage lost or displaced in a regulatory floodplain. Hydraulically equivalent compensatory storage requirements for fill or structures in a riverine regulatory floodplain shall be at least equal to 1.5 times the volume of regulatory floodplain storage lost or displaced. Such compensation areas shall be designed to drain freely and openly to the channel and shall be located opposite or adjacent to fill areas. A deed or plat restriction is required to prohibit any modification to the compensation area. The regulatory floodplain storage volume lost below the existing ten-year frequency flood elevation must be replaced below the proposed ten-year frequency flood elevation. The regulatory floodplain storage volume lost above the ten-year existing frequency flood elevation must be replaced above the proposed ten-year frequency flood elevation.
- (7) If the proposed development would result in a change in the mapped regulatory floodplain, regulatory floodway, or the BFE on a site, the applicant shall submit sufficient data to the city and FEMA to obtain the appropriate letter of map change (LOMC). All adjacent property owners, communities, and the state department of natural resources shall be notified prior to any alteration or relocation of a floodplain, and submit copies of such notifications to the city. A LOMC due to fill does not preclude a development from

meeting the compensatory storage requirements.

Staff Recommendation: Recommend Denial to City Council

No public comment.

Board discussion included: question regarding ability to change compensatory storage; other possible locations; aesthetic issues of proposed six (6) foot wall behind stage; impact on modeling/

Commissioner Pait made a motion to recommend approval to City Council. Commissioner Keller seconded the motion. The motion was denied by a vote of 3-3. (Commissioner Terry, Keller and Eldridge against).

M. Z-16-2018

Application by KEVIN FEENY for a **REZONE** of 0.190 acre located at **17 and 19 RIDGEWAY AV** from R-6, Single-Family Residential District to C-3, Regional Commercial District (TM#s 0257000802100; 0257000805700)

Lavrin presented the staff report for this application noting that no additional public comments were received for this application. The subject properties are located on Ridgeway Avenue. Both parcels lie due north of Laurens Road. In addition, both parcels are zoned Residential R-6, which requires each lot in the subdivision to maintain a minimum 6,000 square foot lot. A portion of each property is being requested to be rezoned from R-6 to C-3, Regional Commercial District.

The applicant, Kevin Feeny, is the owner of the Kitchen Sync Restaurant, which sits directly south of the two rear yards of these properties at 1609 Laurens Road. Mr. Feeny's restaurant continues to grow in popularity, and he is experiencing parking issues at his current site. While the current site meets the base minimum parking required for an eat-in restaurant, he finds that the parking is not adequate on this existing site to serve both his customers and provide enough parking for his staff. Therefore, he has been looking to try and expand his parking lot to accommodate his staff and customer parking needs. Staff's understanding from meeting with Mr. Feeny several times on his parking needs is that he explored other options prior to seeking this rezoning for a portion of these properties.

As evidenced on the attached zoning map, this property is surrounded by C-3 Regional Commercial District zoned land directly to the south and west. The city's comprehensive plan recommends a 'Central Business District' designation for this section of Augusta St and Bradshaw St. as the area is ideally situated for urban redevelopment and is located on a major urban corridor close to the downtown core. Staff is of the opinion that the requested C-3 designation for just the rear portion of the properties is consistent with the surrounding zoning and appropriate for these properties. Staff would not be in favor of this request if the entire parcels were being requested for the rezoning, as the front part of the parcels contain single-family residential homes that are integral to the surrounding residential neighborhood. However, the C-3 zoning designation already abuts several of the adjacent residential properties directly north of the subject property.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

11. Consistent with the Comprehensive Plan: The proposed C-3 zoning is not consistent with the Future Land Use Map, as the entire parcel of both 17 and 19 Ridgeway Avenue was shown on the Future Land Use Map as General Residential. However, these properties serves as a logical breaking point between residential and commercial, as it followed the property lines. If the rezoning were to be approved, these parcels would become part of the Mr. Feeny's existing parcel to the south, and staff does not believe this concept is in conflict with the future land use plan or City's Comprehensive Plan.

In addition, the City has tried to find avenues through civic investment to revitalize the Laurens Road Corridor commercial node. Successful commercial businesses along this corridor support both the adjoining residential

neighborhoods and the City Of Greenville's efforts for vitality and livability on all of our major corridors. The intent of the district is to preserve and encourage pedestrian-oriented uses.

12. Changed conditions since the original designation: This section of Laurens Road is a commercial corridor that is experiencing re-investment in some of the commercial properties along the corridor. Laurens Road is surrounded by residential neighborhoods that have long been an important part of the community fabric within the City. The reason for the proposed rezoning is to add property to a neighborhood commercial restaurant use. Staff does not support any change to the zoning map that would alter or affect the overall residential character of the surrounding residential properties.
13. Addresses a demonstrated community need: The zoning is needed in order to add land to a neighborhood commercial restaurant. The business supports the surrounding neighborhood.
14. Compatible with surrounding uses: C-3 zoning is located directly south and west of the subject properties and is compatible with surrounding uses. There are no anticipated adverse impacts from zoning a portion of these properties to C-3.
15. Promotes logical development pattern: The proposed C-3 district is consistent with the zoning and emerging development pattern along this section of the Laurens Road corridor.
16. Will not result in "strip" or ribbon commercial development: This property being requested for rezoning will be required to be combined with Mr. Feeny's property along Laurens Road. Rezoning of these properties will not result in strip commercial development.
17. Will not create an isolated zoning district: The proposed C-3 zoning is consistent with the surrounding zoning as C-3 abuts the subject properties to the south and west of the subject properties.
18. Surrounding property values: C-3 Zoning will not have an adverse impact on surrounding property values.
19. Effect on natural environment: Staff anticipates that future redevelopment of the pieces of property being considered for rezoning will not significantly impact the natural environment around the area.
20. Public facilities and services: Public facilities and services are available to the site.

Staff Recommendation: Recommend Approval to City Council

No public comment.

Board Discussion included: whether property is to be subdivided after rezone approval; rezone based on metes and bounds.

Commissioner Gardner made a motion to recommend approval to City Council. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

N. Z-17-2018

Application by Patrick Victory for a **REZONE** of 0.162 acre located at **714 Pettigru St** from C-3, Regional Commercial District to OD, Office & Institutional District (TM# 0047000100200)

Lavrin presented the staff report for this application noting that no additional public comments were received for this application. The subject property is located at 714 Pettigru St. The parcel lies at the terminus of Pettigru St, directly south of E North St and west of Laurens Rd. As shown on the attached zoning map exhibit, all surrounding property along this portion of Pettigru St is zoned OD, Office & Institutional District. The property owner, who also owns 710 Pettigru St, desired to do a recombination plat moving the property lines between the two parcels.

However, during review of the recombination plat, staff noted, that under the Land Management Ordinance, the property could not be recombined with split-zone designations. The applicant thought that perhaps it was an error on the zoning map, because everything around this property is zoned OD. However, staff found an application for this property, as far back as 2008, that showed the property was zoned C-3, Regional Commercial District. The applicant is requesting to down zone the property to OD and remove the C-3 zoning designation in order to proceed with the recombination plat. Both this property and the adjacent property at 710 Pettigru St are developed, and there are no plans at this time to change anything on the properties. This is only a housekeeping measure in order to allow for the new subdivision to occur. Both the owner and staff felt it would be appropriate, and in keeping with the future land use plan, to ask to rezone 714 Pettigru St to OD rather than request a rezone of 710 Pettigru St to C-3.

Staff offers the following responses to the Rezoning Criteria found at Section 19-2.3.2(E)(2), *Amendments to Zoning District Map*.

21. Consistent with the Comprehensive Plan: The proposed OD zoning is consistent with the Future Land Use Map, which shows this property, along with all others along this section of Pettigru St, as Mixed Use Neighborhood. OD is an appropriate zoning classification for A Mixed Use Neighborhood land use classification.
22. Changed conditions since the original designation: Nothing has changed on this property since the 1990s. At some point, when C-3 was applied to properties along Laurens Road, directly east, this property was somehow or another a part of that. However, the breaking point between C-3 and OD is appropriate at the boundary of E North St and Laurens Rd. Staff believe this zoning is an anomaly that needs to be addressed.
23. Addresses a demonstrated community need: The zoning designation would match what this property is being used for, which is an office use.
24. Compatible with surrounding uses: The entire area along Pettigru St is zoned OD. OD zoning is located directly south and west of the subject property and is compatible with the existing and surrounding uses. There are no anticipated adverse impacts from downzoning this property to OD.
25. Promotes logical development pattern: The proposed OD zoning is consistent with the zoning and existing development pattern along this section of Pettigru St, and in staff's opinion, OD is more appropriate for this neighborhood than a broader, more intense commercial zoning designation.
26. Will not result in "strip" or ribbon commercial development: This property being requested for rezoning will retain the existing use and character and will not result in strip commercial development.
27. Will not create an isolated zoning district: The proposed OD zoning is consistent with the surrounding zoning and leaving the C-3 zoning in place is actually more inappropriate, as it currently is an isolated zoning district that abuts the subject properties to the south and west of the subject properties.
28. Surrounding property values: OD zoning will not have an adverse impact on surrounding property values.
29. Effect on natural environment: OD actually lowers any potential impacts on the natural environment by limiting the uses permitted on the property.
30. Public facilities and services: Public facilities and services are already available to the site.

Staff Recommendation: **Recommend Approval to City Council**

No public comment.

No Board discussion.

Commissioner Keller made a motion to recommend approval to City Council. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

Commissioner Terry recused from Council Chambers for item Z-20-2018.

O. Z-20-2018

Application by City of Greenville for a **REZONE** approximately 103 acres located along a portion of PENDLETON ST, N MEMMINGER ST, S CALHOUN ST, and S ACADMEY ST to RDV, Redevelopment District; OD, Office & Institutional District ; RM-2, Single- & Multi-Family Residential District; RM-1, Single- & Multi-Family Residential District and C-4, Central Business District (see project documents)

Graham presented the staff report for this application noting that public comments were received for this application. As the West End neighborhood continues to grow and change, the neighborhood association requested staff to review the current zoning districts and consider changes to promote more neighborhood friendly development. A similar recommendation was made in the Sterling Neighborhood Master Plan, adopted in 2010. The current zoning designation of C-3 (Regional Commercial) is one the most intense commercial districts in our code. Previously, city staff had studied the West End area and set an area, loosely bounded by Pendleton St, Academy St, N. Markley St and S. Main St. (see attached map of existing zoning). As staff conducted research into this request, we also considered this previous study and the zoning of the areas associated with it. From this study, staff suggests zoning changes that will promote redevelopment of properties along the Pendleton St., Academy St, N. Markley and S. Main St. corridor segments, as well as properties within a bounded area adjacent (see attached map of proposed zoning) which are consistent with and support the development that is occurring in the adjacent residential areas and nearby pedestrian focused business districts. Staff met with the West End Neighborhood Association on April 3 and received overwhelming support for the proposed changes. A public open house was held for property owners in this area on April 30 and May 1 from 4:00-6:00 at the St. Andrews Episcopal Church, [1002 S. Main Street](#). Property owners had the opportunity to meet one-on-one with staff and discuss proposed changes. Staff also met with Sterling Neighborhood Association on May 10 at 6:00 at the Sterling Community Center and with the Sterling Land Trust Board of Directors on May 17 at 6:30 at the Sterling Hope Center. Based on feedback received from those meetings, staff has incorporated adjustments, based on comments and feedback, and brings forward the attached proposal for your consideration.

Staff Recommendation: Recommend Approval to City Council

Public comment included: proposed RDV would allow more uses on property; concern over state building property being rezoned to RDV as adjacent to residential; RDV allows less intense commercial uses; retaining neighborhoods within area; properties to remain C-3; area designated as commercial shall remain commercial; blanket rezoning; public notice and community meetings; corner of Academy and Pendleton shall remain commercial, C-3; downzoning versus upzoning in certain areas

Board Discussion included: blanket zoning; downzoning; commercial areas; workshop to further study proposed request

Commissioner Keller made a motion to table application. Commissioner Gardner seconded the motion. The motion was approved by a vote of 5-0. (Commissioner Terry recused).

Commissioner Terry returned to Council Chambers for remaining agenda.

P. Z-18-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Sections 19-6.6.2(Q), Prohibited Signs; 19-6.6.4, Permanent Signs and 19-1.11 Definitions to clarify panel signs

Lavrin presented the staff report for this application noting that public comments were received for this application. The proposed text amendment to the Land Management Ordinance addresses, defines, and clarifies the differences between a cabinet (box) and flat panel sign. The reason staff proposes this amendment is to eliminate confusion concerning the two and to also provide definitions for these type signs that are currently not found within the ordinance.

Staff Recommendation: Recommend Approval to City Council

No public comment.

No Board discussion.

Commissioner Keller made a motion to recommend approval to City Council. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

Q. Z-19-2018

Application by City of Greenville for a **TEXT AMENDMENT** to Table 19-4.1.2, Table of Uses to distinguish between funeral homes with crematory and funeral homes without crematory

Lavrin presented the staff report for this application noting that public comments were received for this application. The proposed amendment to the Land Management Ordinance addresses section 19-4.1.2 – Table of Uses. The first proposed amendment is to differentiate between funeral homes, mortuary with crematory; and, funeral homes, mortuary without crematory. The reason staff proposes this amendment is that by distinguishing between the uses, it allows for consideration of allowing funeral homes without on-site crematories in a transitional zone district. This amendment does not currently remove funeral homes from any of the three districts they are permitted in: OD (Office & Institutional District), C-1 (Neighborhood Commercial District), and C-2 (Local Commercial District). However, it would allow for funeral homes and mortuaries without on-site cremation services as a permitted use in the RDV (Redevelopment District). The purpose of the RDV district is to provide convenient access to necessary goods and services for the neighborhood. It is a mixed-use zoning district intended to provide uses for those who live and work in the area. Funeral homes are needed services within our community. Other commercial uses permitted in the RDV include neighborhood service uses such as barbershops, personal services, vet clinics, restaurants, hotels, and retail sales and services under 25,000 sf.

Staff Recommendation: Recommend Approval to City Council

No public comment.

No Board discussion.

Commissioner Keller made a motion to recommend approval to City Council. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

Other Business:**A. Monthly 2019 City Comprehensive Plan Update**

DeVoe presented the Comprehensive Plan update including plan to finalize contact with consultant and steering committee selection.

ADJOURNMENT: The meeting was adjourned at 7:23 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
September 20, 2018
4:00 PM
Meeting Notice Posted September 5, 2018

Minutes prepared by Michael Frixen

Members Present: Jason Tankersley, Meg Terry, Catherine Smith, Trey Gardner, Jonathan Pait, David Keller

Members Absent: Diane Eldridge

Staff Present: Courtney DeVoe, Senior Development Planner; Brennan Williams, Development Planner; Shannon Lavrin, Assistant Planning & Development Manager; Jonathan Graham, Planning & Development Manager; Michael Frixen, Development Planner; Chad Hall, Development Planner; Calin Owens, Development Planner; Michael Pitts, City Attorney; Dwayne Cooper, Engineering Services Manager; Clint Link, Assistant City Engineer – Civil; Ginny Stroud, Community Development Administrator

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:02 PM. He explained the purpose of the planning commission, outlined the rules for procedure, and invited the Commissioners to introduce themselves.

APPROVAL OF MINUTES: The August 16, 2018, minutes were approved.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved as amended, with the following items postponed until the October 18, 2018, regular meeting: SD 18-016, Z-20-2018, AX-11-2018, Z-21-2018, SD 18-020, SD 18-021, and SD 18-022.

CONFLICTS OF INTEREST: None

OLD BUSINESS:**A. AX-6-2018**

Application by RENAISSANCE CUSTOM HOMES LLC for **ANNEXATION** of 0.54 acre located at **PROSPERITY AV** from R-10 (Greenville County) to R-6, Single Family Residential District including 138 LF of public road frontage (TM# 0367000100214)

DeVoe presented the staff report for this item. She explained that this originally came to the planning commission during the June meeting. At that meeting, there was public comment from members of a nearby church, which is located in the county, regarding concerns over the church cemetery. The applicant agreed to postpone so that he could meet with the church to address their concerns. DeVoe stated that the church provided a letter withdrawing their opposition to the request.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Recommend approval for rezone to city council

Public comments were for clarification of the property location.

No board discussion.

Commissioner Keller made a motion to recommend approval for rezone to City Council. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

B. AX-8-2018

Application by Raymond Levy for **ANNEXATION** of 1.3 acres located at **WILKINS ST** (TM#s 0095000800500; 0106000200300)

DeVoe presented the staff report for this item.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Recommend approval for rezone to city council

Justin Patterson of Johnston Design Group spoke on behalf of the applicant. He explained they had a neighborhood meeting with the Greater Sullivan Community on September 11. Concerns at the meeting included parking and flooding at the intersection of Guess and Wilkins St.

No public comment.

Board discussion included the requirements for receiving building permits.

Commissioner Smith made a motion to recommend approval for rezone to city council. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

C. SD 18-016

Application by Robert Jenkins, Sr. for a **SUBDIVISION** of 0.813 acre located at **214 N LEACH ST** from 3 LOTS to 9 LOTS (TM# 0075000300206) *Item postponed until the October 18, 2018, regular meeting, as requested by applicant.*

D. MFD 16-877M

Application by COTHRAN PROPERTIES for a **MULTI-FAMILY TOWNHOME DEVELOPMENT MODIFICATION** on 1.8 acres located at **121 W STONE AV** (TM# 000900-04-01900) (TM# 0009000402100)

Lavrin presented the staff report for this item. She explained that the applicant met with staff and two members of the planning commission in early September to revise the plans in response to some of the concerns the commission has at its August meeting. Lavrin presented out the changes since the meeting with staff and indicated that the changes appear to have met the planning commission's concerns.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Recommend approval of Design Modification

No public comment.

No board discussion.

Commissioner Terry made a motion to recommend approval for rezone to city council. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

E. Z-20-2018

Application by City of Greenville for a **REZONE** approximately 103 acres located along a portion of PENDLETON ST, N MEMMINGER ST, S CALHOUN ST, and S ACADMEY ST to RDV, Redevelopment District; OD, Office & Institutional District; RM-2, Single- & Multi-Family Residential District; RM-1, Single- & Multi-Family Residential District and C-4, Central Business District (see project documents) *Item postponed until the October 18, 2018, regular meeting, as requested by applicant.*

NEW BUSINESS:**A. A. Z-12-2018**

Application by SOLOMON DEVELOPMENT SERVICES LLC for a **REZONE** of 2.926 acres located at **BUTLER AVE AND BUNCOMBE ST** from RDV, Redevelopment District to PD, Planned Development District (TM# 0019000100100; 0019000100500; 0019000102700)

DeVoe presented the staff report for this item, noting that the request previously came to the planning commission at its June 21, 2018, meeting. The rezoning was recommended for approval to city council at the June meeting; however, the applicant decided to withhold going before council due to neighborhood concerns. DeVoe explained that the applicant has had numerous subsequent neighborhood meetings to discuss and address their concerns. The application is being presented as New Business due to changes from the originally approved submittal.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Recommend approval for rezone to city council

Davis Hunt with Solomon Development and Alan Williamson with Harrison Design described the changes from the originally approved plan and how they worked to address the neighborhood's concerns.

Public comments included changing the alley to a one-way street, the total number of parking spaces, traffic concerns, clarification of massing and buffering, and clarification on the review process for multifamily developments.

Board discussion included clarification on the rezoning vs. design review process. DeVoe explained that the current application is for the zoning modification; the final development plan will require DRB and final planning commission approval.

Commissioner Terry made a motion to recommend approval for rezone to city council with the following conditions:

1. **Amend the statement of intent to include the construction of a landscape buffer between the properties, within reason, if requested by the adjacent owners and subject to granting of a construction easement to install the landscape buffer.**
2. **Require the final development plan to go through informal review with DRB and come back to the planning commission for final approval.**

Commissioner Gardner seconded the motion.

Planning Director Graham sought clarification from the board regarding the landscaped buffer approved as a condition of the motion for approval. The commission confirmed that the landscaped buffer is not a substitution for the wall required for PDs in the zoning ordinance, but rather the landscaping is to be installed on the owner's property on the other (exterior) side of the wall.

The motion was approved by a vote of 6-0.

B. AX-9-2018

Application by Cecil Grant for **ANNEXATION** of .09 acre and 47.3 linear feet of road frontage located at **S CALHOUN ST** (TM# 0112000200800)

Frixen presented the staff report for this item.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Recommend approval for rezone to city council

The applicant, Cecil Grant, expressed some concerns about the instructions for the neighborhood meeting. However, he said there do not appear to be any outstanding concerns with the neighborhood.

No public comment.

No board discussion.

Commissioner Keller made a motion to recommend approval for rezone to city council. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

C. AX-10-2018

Application by David Grindstaff for **ANNEXATION** of 1.21 acres and 434 linear feet of road frontage located at **LOWNDES HILL RD and WOODS LAKE RD** (TM# 0284000100210)

Frixen presented the staff report for this item. He answered board members' concerns about zoning the property C-3 instead of S-1. Director Graham explained that there are no issues with the C-3 designation.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Recommend approval for rezone to city council

The applicant explained that the proposed use for the property is a dog boarding and pet care facility.

No public comment.

No board discussion.

Commissioner Smith made a motion to recommend approval for rezone to city council. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

D. AX-11-2018

Application by David Hargett for **ANNEXATION** of 285 acres located at **MAULDIN RD – CONESTEE NATURE PARK** (TM# 0423000101000; 0420000100200; 0423000100100; 0422000100100) *Item postponed until the October 18, 2018, regular meeting, as requested by applicant.*

E. SN 18-743

Application by Chelsea Townhomes, LLC for a **NEW STREET NAME** for Chelsea Townhome development located at **ROCKY SLOPE RD** (TM# 0262000100810)

Frixen presented the staff report for this item.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Recommend approval of street names

No public comment.

No board discussion.

Commissioner Gardner made a motion to approve the street names as presented. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

F. Z-21-2018

Application by Nathan Kaser for a **MAJOR MODIFICATION PD REZONE** of 8.7 acres located at **N PLEASANTBURG DR** from PD, Planned Development District to PD,

Planned Development District (TM#s 0276000300503; 0276000300518) *Item postponed until the October 18, 2018, regular meeting, as requested by applicant.*

G. SD 18-015

Application by FREELAND AND ASSOCIATES, INC. for a **SUBDIVISION** of 0.51 acre located at **102 POTOMAC AV** from 1 LOT to 3 LOTS (TM# 0211000802800)

Frixen presented the staff report for this item.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Approve with staff comments and conditions

No public comment.

Board discussion included questions about the location of the driveway in relation to Pleasant Ridge.

Commissioner Keller made a motion to recommend approval with staff comments and conditions. Commissioner Terry seconded the motion. The motion was approved by a vote of 6-0.

H. SD 18-017

Application by Jay Martin for a **SUBDIVISION** of 3.944 acres located at **200 WOODRUFF RD** from 1 LOT to 58 LOTS (TM# 0263000400100)

Lavrin presented the staff report for this item.

Note: Full staff report is on file at the Planning Office.

Staff Recommendation: Approve with staff comments and conditions

Mike Pitts, City Attorney, explained some legal issues with the road and other improvements for the Swamp Rabbit Trail, which are located in the rail bank. He suggested a condition that the dedication for the road would be subject to resolving the rail bank issues to the city's satisfaction.

No public comment.

Board discussion included the temporary cul-de-sac, possible future extension to the property behind this site, and clarification of the number of lots (59).

Commissioner Terry made a motion to approve with staff comments and conditions, and further conditioned on the resolution, to the city's satisfaction, of all issues involving the dedication of the proposed public road including, but not limited to, the proper extinguishment of any right to reactivate that portion of the rail corridor upon which the proposed road is to be constructed. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

I. SD 18-020

Application by Stephanie Chance for a **SUBDIVISION** of 0.34 acre located at **411**

PERRY AV from 1 LOT to 4 LOTS (TM# 0077000101200) *Item postponed until the October 18, 2018, regular meeting, as requested by applicant.*

J. SD 18-021

Application by Reid Hipp for a **SUBDIVISION** of 3.46 acres located at **NICHOL ST and SUMLAR DR** from 2 LOTS to 31 LOTS (TM# 0201000101802; 0201000101803) *Item postponed until the October 18, 2018, regular meeting, as requested by applicant.*

K. SD 18-022

Application by Salters Road Venture, LLC for a **SUBDIVISION** of 5.01 acres located at **100 QUESTOVER DR** from 3 LOTS to 33 LOTS (TM# 0261000103700; 0261000103800; 0261000103900) *Item postponed until the October 18, 2018, regular meeting, as requested by applicant.*

OTHER BUSINESS:

A. Resolution to Modify and Continue the Current Neighborhood Traffic Management Program

City Engineer Dwayne Cooper explained that the city is in the process of modifying the process for traffic calming in neighborhoods. There is a request for study areas to be presented to the planning commission to provide a public forum for comments to be submitted for or against each proposal.

Chairman Tankersly asked if there would be a text amendment involved. Mike Pitts said it might require an update to the city code.

Chairman Tankersly asked if this falls under the planning commission's charter. Mr. Pitts said he would review the charter and report back.

B. Monthly 2019 City Comprehensive Plan Update

DeVoe gave an update on the comprehensive plan. 228 city residents applied to serve on the steering committee; 44 applicants have been selected to serve on the volunteer committee. Unfortunately, the kickoff with the consultants was delayed due to the hurricane. It has been rescheduled to October 16-17. There will also be a work session with the planning commission and the comp plan consultants 12:00-1:00 Wednesday, Oct. 17.

Other Business:

A. Pendleton Street Rezoning Workshop

DeVoe announced that the Pendleton Street Rezoning Workshop is still scheduled for Thursday, October 27, at 4:00 PM.

B. Introduction of New Planning Staff

Director Graham introduced the new planning commission members: Michael Frixen, Chad Hall, and Calin Owens.

C. Recommendations from Planning Commissioner

Commissioner Smith presented the following recommendations for city council:

1. Hiring more staff to keep up with development and allow the city to remain proactive with its planning efforts.
2. As a part of Stormwater 2.0, take a look at retention ponds and what can be done to improve them aesthetically.
3. Review language regarding approval process for multifamily developments to ensure clarity between roles of DRB and planning commission.

Commissioner Keller thanked Ms. DeVoe for the minutes from the last meeting, comparing them to the first draft of *War and Peace*.

ADJOURNMENT: The meeting was adjourned at 5:32 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
October 18, 2018
4:00 PM
Meeting Notice Posted October 3, 2018

Minutes prepared by Michael Frixen

Members Present: Jason Tankersley, Catherine Smith, Trey Gardner,
Jonathan Pait, David Keller, Diane Eldridge

Members Absent: Meg Terry

Staff Present: Courtney DeVoe, Senior Development Planner; Brennan
Williams, Development Planner; Shannon Lavrin, Assistant
Planning & Development Manager; Jonathan Graham,
Planning & Development Manager; Michael Frixen,
Development Planner; Chad Hall, Development Planner; Calin
Owens, Development Planner; Logan Wells, Assistant City
Attorney; Dwayne Cooper, Engineering Services Manager;
Michael Williamson, Community Development Project
Manager; Monique Mattison, Community Planner

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

Immediately before the meeting was called to order, two copies of written comments were submitted for Item SD 18-021 and distributed to the commission members.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:00 PM. He explained the purpose of the planning commission, outlined the rules for procedure, and invited the Commissioners to introduce themselves.

APPROVAL OF MINUTES: The September 20, 2018, minutes were approved as amended.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved as amended,

with the following items postponed until the November 15, 2018, regular meeting: Z-21-2018, SD 18-020, SD 18-022, SD 18-028, and Z-23-2018. The following item was postponed to the December 20, 2018, regular meeting: SD 18-027.

CONFLICTS OF INTEREST: None

OLD BUSINESS:

A. AX-11-2018

Application by David Hargett for **ANNEXATION** of 285 acres located at **MAULDIN RD – CONESTEE NATURE PARK** (TM# 0423000101000; 0420000100200; 0423000100100; 0422000100100)

Frixen presented the staff report for this item. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Recommend approval for rezone to city council**

Tom Kester, Chair of the Conestee Foundation, gave background on the organization. He explained that almost all of the park is protected under conservation easements and open for public access. They have worked over the last 20 years to expand the park and are now asking to come into the city limits.

No public comments.

Board discussion included future management of the park, financial support from the city, concerns about fire services, and contracting with Belmont for fire service.

Commissioner Keller made a motion to recommend approval for rezone to City Council. Commissioner Pait seconded the motion. The motion was approved by a vote of 6-0.

B. Z-21-2018

Application by Nathan Kaser for a **MAJOR MODIFICATION PD REZONE** of 8.7 acres located at **N PLEASANTBURG DR** from PD, Planned Development District to PD, Planned Development District (TM#s 0276000300503; 0276000300518)

Item postponed until November 15, 2018, regular meeting, as requested by applicant.

C. SD 18-020

Application by Stephanie Chance for a **SUBDIVISION** of 0.34 acre located at **411 PERRY AV** from 1 LOT to 4 LOTS (TM# 0077000101200)

Item postponed until November 15, 2018, regular meeting, as requested by applicant.

D. SD 18-021

Application by Reid Hipp for a **SUBDIVISION** of 3.46 acres located at **SUMLAR HALL DR and SUMLAR DR** from 2 LOTS to 33 LOTS (TM# 0201000101802; 0201000101803)

Frixen presented the staff report for this item. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Approve with staff comments and conditions.**

There was a brief pause while the commissioners passed around the two copies of the written public comments that were submitted immediately prior to the meeting. Chairman Tankersly stated that the planning commission always takes into account items that are delivered in paper

form. He also said there is a recommendation from the [Nicholtown] Neighborhood Association; they have weighed in too.

The applicant, Reid Hipp, stated that they are working with the Nature Land Trust to develop an offsite water retention system, but if that doesn't work out, they may lose two or three lots due to the water retention system having to be on the subject property. He asked the commission that in the event revisions are needed, could be made without having to come back before the planning commission.

Chairman Tankersly asked if there is a reduction in the number of lots, would that come back before the planning commission? Planning Director Graham answered yes. In addition, Legal has some concerns about comments that were not published to the public. With that being the case, he indicated this application would probably have to come back at the next meeting.

Chairman Tankersly asked for additional information about the stormwater agreement with Nature Land Trust. Mr. Hipp and Stephanie Gates of Site Design, Inc., explained that they are trying to develop a larger water purification plan for the neighborhood that would treat more than just the proposed subdivision. If they cannot reach an agreement with Nature Land Trust, they would provide the stormwater treatment on site.

Mr. Hipp was open to the suggestion of postponing to provide time to work out the stormwater issues with Nature Land Trust and, if necessary, submitting a revised site plan to the planning commission. He asked if another neighborhood meeting would be required in that scenario.

Director Graham stated staff's primary concern was that Engineering's comments were not published. The public did not have an opportunity to review what Engineering said. Reducing the number of lots would not amount to a substantive change; therefore, another neighborhood meeting is not required.

Mr. Hipp said it sounds like they would need to postpone.

Public speakers in favor:

- Sylvia Palmer, President of Nicholtown Neighborhood Association (NNA) – majority of members of NNA voted in favor of the application; it would be an asset to the community

The commissioners asked the applicant about the number of affordable lots (between 6-9), eligibility criteria, and price point. The board also asked the NNA president about the dues requirement for voting members of \$15 per year. Does that meet the criteria for a neighborhood meeting?

Director Graham stated that this is a public hearing and mailed notices were sent out to all property owners within 500 feet. The NNA is one testimony at the public hearing.

- Yvonne Reader – supported the project, says all NNA members who voted to support the project live near the property.

There was continued discussion about stormwater for this project. City Engineer Dwayne Cooper said that any offsite stormwater facility would need a conservation easement.

Public speakers against:

- Rodney Acker – concerns about neighborhood meeting; discussed Early Adolescent

Alternative Proposal

Commissioner Smith made a motion to postpone the application to the November 15th meeting. Commissioner Gardner seconded the motion.

Commissioner Keller asked for written comments be submitted before the meeting in the future.

The motion was approved by a vote of 6-0.

Commissioner Eldridge asked staff to scan and send Mr. Acker's written comments before the November meeting.

E. SD 18-022

Application by Salters Road Venture, LLC for a **SUBDIVISION** of 5.01 acres located at **100 QUESTOVER DR** from 3 LOTS to 34 LOTS (TM# 0261000103700; 0261000103800; 0261000103900)

Item postponed until November 15, 2018, regular meeting, as requested by applicant.

NEW BUSINESS:

A. SD 18-027

Application by Jay Martin for a **SUBDIVISION** of 1.86 acres located at **808 MCDANIEL AV** from 1 LOT to 7 LOTS (TM# 0217000500700)

Item postponed until December 20, 2018, regular meeting, as requested by applicant.

B. SD 18-023

Application by Freeland and Associates for a **SUBDIVISION** of 0.70 acres located at **15 EDISTO ST** from 1 LOT to 3 LOTS (TM# 0221000116200)

Frixen presented the staff report for this item, noting one change – that the existing residence has already been removed from the property. He also added that during the neighborhood meeting, which was held after the staff report was published, there were no concerns other than general interest in the project. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Approve with staff comments and conditions.**

Kevin Tumlin, engineer for project, was present to represent the applicant and answer any questions.

No public comments.

No board discussion.

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

C. SD 18-024

Application by William Tolbert for a **SUBDIVISION** 0.47 acres located at **102 ONEAL ST** from 1 LOT to 13 LOTS (TM# 0071000101100)

Lavrin presented the staff report for this item, noting that the site plan and architecture was approved by the Design Review Board on October 4, 2018. (Note: Full staff report is on file at

the Planning Office.) **Staff Recommendation: Approve with staff comments and conditions.**

The commission asked staff for clarification on the proposed parking. Lavrin said they are providing 3 spaces on Rhett and several on O'Neal; the applicant will work with Engineering to finalize the parking. Curb improvements will also be required, as confirmed by Engineering.

Terry Birch was present to represent the developer. He said they worked with the neighborhood, especially the residents in the Brownstones, to develop a quality product. The commission asked for clarification on parking. There will be spaces for 2 cars within the footprint of each unit.

Public speakers in favor:

- Nate Johnson, Second Presbyterian Church – against parking on Rhett Street, unless improvements are made; concerns about water runoff; otherwise in favor of project

Public speakers against:

- None

No board discussion.

Commissioner Smith made a motion to approve with staff comments and conditions. Commissioner Keller seconded the motion. The motion was approved by a vote of 6-0.

D. SD 18-028

Application by Chris Laney for a **SUBDIVISION** of 2.67 acres located at **GUESS ST + MILLS MILL** from 1 LOT to 33 LOTS (TM# 0106000700101)

Item postponed until November 15, 2018, regular meeting, as requested by applicant.

E. Z-22-2018

Application by Benjamin Urueta for a **REZONE** of 29.9 acres located at **61 VILLA RD** from RM-2, Single- & Multi-Family Residential District to FRD, Flexible Review District (TM# 0283000100106)

DeVoe presented the staff report for this item (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Recommend approval for rezone to city council with staff comments and conditions.**

Commissioner Keller asked if the FAA is involved with this project. DeVoe indicated the applicant was present and would be able to provide an answer.

Commissioner Eldridge asked if this would come back before the commission for review. DeVoe explained it will be reviewed at staff level. FRD does not include a final development plan.

DeVoe added that signage would require a separate permit.

David Cesna is the developer and provided more information about the project. He stated the FAA has been involved and approved the plan.

Commissioner Smith asked about removing the banner visible from I-385. Mr. Cesna stated it's a quality building and a quality operation, and "there will be no eyesores." However, they would

like “a form of identification there, but something that’s approved and appropriate.”

Public speakers in favor:

- Joe Frazier of the Greenville Airport spoke in favor of the project. He added that the current residential zoning would not allow for a type of development that would be approved by the FAA.

Public speakers opposed:

- None

Commissioner Keller made a motion to recommend approval for rezone to City Council with staff comments and conditions. Commissioner Gardner seconded the motion. The motion was approved by a vote of 6-0.

F. Z-23-2018

Application by Jimmy Von Hollen for a **REZONE** of 0.776 acres located at **230 BUIST AV** from RM-1, Single- & Multi-Family Residential District to OD, Office & Institutional District (TM# 0177001302100)

Item postponed until November 15, 2018, regular meeting, as requested by applicant.

OTHER BUSINESS:

A. Monthly Comprehensive Plan Update

DeVoe gave an update on the comprehensive plan. The city has officially started the process and met with the consultants October 16-17. The first major public event will be sometime in January; dates will be announced next month. The website is www.gvl2040.com. The public can enter their contact information to stay informed.

ADJOURNMENT: The meeting was adjourned at 5:15 P.M.



MINUTES
GREENVILLE CITY PLANNING COMMISSION
10th floor Council Chambers
November 15, 2018
4:00 PM
Meeting Notice Posted October 31, 2018

Minutes prepared by Michael Frixen

Members Present: Jason Tankersley, Catherine Smith, Jonathan Pait, David Keller, Diane Eldridge, Meg Terry

Members Absent: Trey Gardner

Staff Present: Jonathan Graham, Planning & Development Manager
Shannon Lavrin, Assistant Planning & Development Manager
Courtney DeVoe, Senior Development Planner
Brennan Williams, Development Planner
Michael Frixen, Development Planner
Chad Hall, Development Planner
Calin Owens, Development Planner
Michael Pitts, City Attorney
Dwayne Cooper, Engineering Services Manager
Clint Link, Civil Engineer
Kevin Howard, Economic Development Project Manager

NOTICE OF MEETING: Pursuant to Section 30-4-80 of the S.C. Code of Laws, annual notice of this Commission's Meetings was provided on April 4, 2018 via the Greenville City Website. In addition, the Agenda for this Meeting was posted outside the meeting place (City Council Chambers in City Hall) and was emailed to all persons, organizations, and news media requesting notice. Notice for the public hearings was published in the *Greenville News*, posted on the properties subject of public hearing(s), mailed to all surrounding property owners, and emailed to all persons, organizations, and news media requesting notice pursuant to Section 6-29-760 of the S.C. Code of Laws and Section 19-2.2.9 of the Code of the City of Greenville.

CALL TO ORDER: Chairman Jason Tankersley called the meeting to order at 4:04 PM. He explained the purpose of the planning commission, outlined the rules for procedure, and invited the Commissioners to introduce themselves.

APPROVAL OF MINUTES: The October 18, 2018, minutes were approved as presented.

ACCEPTANCE OF AGENDA: The agenda was unanimously approved as amended, with the following items deferred until the December 20, 2018, regular meeting: Z-21-2018, SD 18-022, and SD 18-027.

CONFLICTS OF INTEREST: Jason Tankersly on agenda item F under Old Business.

OLD BUSINESS:**A. Z-21-2018**

Application by Nathan Kaser for a **MAJOR MODIFICATION PD REZONE** of 8.7 acres located at **N PLEASANTBURG DR** from PD, Planned Development District to PD, Planned Development District (TM#s 0276000300503; 0276000300518)

Item deferred until December, 2018, regular meeting.

B. SD 18-020

Application by Stephanie Chance for a **SUBDIVISION** of 0.34 acre located at **411 PERRY AV** from 1 LOT to 3 LOTS (TM# 0077000101200)

DeVoe presented the staff report for this item, noting that the number of lots had been reduced from 4 to 3 for this revised application. (Note: Full staff report is on file at the Planning Office.)

Staff Recommendation: Deny, based on not meeting Engineering requirements for a 20-foot-wide two-way shared drive and Planning's concerns over side yard setbacks.

The applicant, Stephanie Chance, invited the engineer for this project, Stephanie Gates, to explain the proposal. Mrs. Gates said they were requesting approval of the preliminary plat as submitted. In response to board concerns about front setbacks being consistent with the prevailing development pattern along the street, Stephanie explained that the setbacks would be met at the building permitting phase. She indicated they could meet the required 15-foot side setback by adjusting the lot lines for the final plat and by selecting a building design that would meet the setback. The developer also believed they can meet Engineering's requirements for a two-way shared drive by obtaining an easement from the neighbor. Dwayne Cooper said that they have accepted easements for shared driveways in the past. Given given that the number of units is three, Dwayne said they could consider a drive that is less than 20 feet. Mrs. Gates stated that the request to the planning commission is for the preliminary plat, and that setbacks and site improvements would be finalized at the site plan approval and permitting phase.

No public comments.

Board discussion included concerns about the number of units and density. Planning Director Graham pointed out that the existing building was a four-unit multifamily dwelling and the number of units was considered early on in staff's review. The final product will be a singular structure of attached single-family homes.

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Smith seconded the motion. The motion was approved by a vote of 3-1, with Commissioner Eldridge voting "no."

Note: Commissioner Meg Terry arrived during the presentation of agenda item SD 18-020, but did not vote because she was not present for the entire discussion.

C. SD 18-021

Application by Reid Hipp for a **SUBDIVISION** of 3.46 acres located at **SUMLAR HALL DR and SUMLAR DR** from 2 LOTS to 31 LOTS (TM# 0201000101802; 0201000101803)

Frixen presented the staff report for this item, noting that the original application for 33 lots was tabled at the previous meeting and was subsequently revised to 31 lots. (Note: Full staff report is on file at the Planning Office.) During the presentation, Frixen pointed out changes including the new detention pond and other lot adjustments. **Staff Recommendation: Approve with staff comments and conditions.**

The applicant, Reid Hipp, was present to answer any questions.

Public speakers in favor of application:

- Sylvia Palmer, president of the Nicholtown Neighborhood Association, said she supports the project.

Public speakers opposed to application:

- None

No board discussion.

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Smith seconded the motion. The motion was approved by a vote of 5-0.

D. SD 18-022

Application by Salters Road Venture, LLC for a **SUBDIVISION** of 5.01 acres located at **100 QUESTOVER DR** from 3 LOTS to 34 LOTS (TM# 0261000103700; 0261000103800; 0261000103900)

Deferred to December 20, 2018, meeting.

E. SD 18-027

Application by Jay Martin for a **SUBDIVISION** of 1.86 acres located at **808 MCDANIEL AV** from 1 LOT to 7 LOTS (TM# 0217000500700)

Deferred to December 20, 2018, meeting.

F. SD 18-028

Application by Chris Laney for a **SUBDIVISION** of 2.67 acres located at **GUESS ST + MILLS MILL** from 1 LOT to 31 LOTS (TM# 0106000700101)

Due to a conflict of interest, Chairman Tankersly recused himself for this agenda item. Commissioner Pait joined the meeting. A total of five commissioners were therefore present for this agenda item: Terry, Pait, Smith, and Eldridge, with Vice-Chairman Keller presiding.

Lavrin presented the staff report for this item. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Approve with staff comments and conditions.**

The applicant, Chris Laney, explained that they worked with staff and the owners of Mills Mill to develop the final design. The units will face outward.

Public speakers in favor of application:

- None

Public speakers opposed to application:

- Eric Brown – against due to removal of trees; presented petition with 400 signatures to save trees

The applicant indicated that there is a tree protection area in the bottom-right of the plan. Another tree is actually on the adjacent property. He stated that none of the trees are located in a setback and therefore not technically protected by any city ordinance, to their knowledge.

Board discussion included:

- Discussion about trees
- Commissioner Eldridge said she is disappointed that the City of Greenville has such weak tree protection requirements.

Commissioner Eldridge made a motion to approve with staff comments and conditions, adding that she hopes one of more of the trees on the site can be saved. Commissioner Pait seconded the motion. The motion was approved by a vote of 5-0.

Commissioners Pait and Terry left at the conclusion of this agenda item. Chairman Tankersly rejoined the meeting.

G. Z-23-2018

Application by Jimmy Von Hollen for a **REZONE** of 0.776 acres located at **230 BUIST AV** from RM-1, Single- & Multi-Family Residential District to RDV, Redevelopment District (TM# 0177001302100)

Frixen presented the staff report for this item. He also showed pictures of the roads around the subject property and presented an overview of the mix of commercial and residential zoning districts and land uses along the Rutherford Road corridor. He also stated that the applicant held several neighborhood meetings, with the most recent being November 7, 2018. The attendees were opposed to the rezoning. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Recommend approval of rezone to city council**

The applicant, Jimmy Von Hollen, and his attorney, Jim Price, explained the history of the building and their reasoning for rezoning the property.

Public speakers in favor of application:

- Stephanie Gates – said she works for Site Design, the prospective buyer of the property if it is rezoned, and she supports the rezoning.

Public speakers opposed to application:

- Christopher Honeycutt – prefers to see property remain residential; says the applicant is working with a commercial real estate agent and has not been marketed as residential; commercial development in the area has failed while residential has been successful; surrounding neighborhood has many historic homes which should be protected
- Tracey McGee – said the applicant knew the property would revert to RM-1; the Future Land Use Map is a recommendation, not a zoning guide; nonconforming uses should be discouraged; believes it is spot zoning
- Alicia Pierce – concerns about increased traffic along Buist Ave
- Hollis Divine – concerns about setting precedent; residential is highest and best use of property
- Jack Hess – says he bought property based on that zoning being RM-1 and the commercial business eventually going away
- Robert Kukainis – says lots of children in neighborhood; concerns about traffic and safety

After closing the public hearing, the commission asked others in audience who are opposed to the rezoning, but did not speak, to raise their hands.

Board discussion included OD not being appropriate and that the proposal does not meet the intent of the RDV district. Commissioner Eldridge read several sections of the ordinance why she did not believe RDV was appropriate. She also emphasized that the property is zoned RM-1, so if this is not approved, someone else could come in and put in 10 units per acre.

Commissioner Smith made a motion to recommend denial of the rezoning to city council. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 3-1, with Chairman Tankersly voting “no.”

NEW BUSINESS:

A. SD 18-026

Application by Spencer Elliott for a **SUBDIVISION** of 0.225 acres located at **109 WARDLAW ST**

and **4 LOGAN ST** from 2 LOTS to 7 LOTS (TM# 0056000400800; 0056000400100)

Hall presented the staff report for this item, with a correction that the proposed private street will be a two-way street, not one-way as stated in the staff report. He also noted that the applicant has reached out to city staff regarding the comments for sprinkler requirements included the staff report; ultimately, that is a building codes and permit issue and does not affect the request for preliminary plat approval. The application was presented to the Design Review Board on November 1, 2018, and approved. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Approve with staff comments and conditions.**

The applicant, Spencer Elliott, provided some additional information on the proposed project, to be named Westgate on Wardlaw, and was present to answer any questions. In response to a board question about stormwater, project engineer, John Darrohn, explained that stormwater retention would be provided under the private street. There will be a discharge out Payne Street, and they are tying into an existing storm drainage system on Wardlaw.

No public comments.

No board discussion.

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Smith seconded the motion. The motion was approved by a vote of 4-0.

B. Z-24-2018

Application by R. Bruce White for a **REZONE** of 1.455 acres located at **1041 VERDAE BLVD** from C-3, Regional Commercial District and S-1, Service District, to S-1, Service District (TM# 0545010102204)

Lavrin presented the staff report for this item, noting that the purpose of this rezoning is to correct a split-zoning issue as required under the ordinance. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Recommend approval of rezone to city council**

The commissioners asked staff why they are recommending approval of the rezone to S-1 instead of another zoning district. The commissioners have expressed serious concern about the S-1 zoning district in the past and do not want to see more property assigned with an S-1 zoning classification.

Staff explained that because the property is under Verdae control, they wanted to keep it consistent with all the other Verdae properties. Director Graham stated that one of the major points that the comprehensive plan will look at is the future of the Verdae area once the development corporation finishes its work and closes. Commissioner Keller said that the city and the planning commission does not have any control over Verdae's development plan. Commissioner Smith said C-3 makes more sense than S-1.

After a lengthy discussion on Verdae and the commission's concerns about S-1 zoning, the commission asked if they could recommend approval for C-3 instead. City attorney Michael Pitts stated that the planning commission cannot change the request and recommend a different zoning classification to council. They must vote yes or no on the application before them tonight.

Bruce White, the applicant and CEO of the Bank of Travelers Rest, indicated that the final zoning classification is incidental to them. He said they were instructed by staff to submit the rezoning application. He would prefer not to have to change the application and go through the process again.

Public speakers in favor of application:

- David Graffius – supports the rezoning; said he is the engineer working a project that

instigated the rezoning requirement; wants the rezoning approved so that project can move forward.

Public speakers opposed to application:

- None

No additional board discussion.

Commissioner Keller made a motion to recommend approval of the rezone to city council, with the added comment that the planning commission has significant concerns with the S-1 zoning district. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 3-1, with Commissioner Smith voting "no."

C. AX-12-2018

Application by Mills Armstrong for an **ANNEXATION** of 10.6 acres located at **CONESTEE RD + SPANCO DR** (TM#s 0423000101001; 0422000100300; 0423000101002)

Frixen presented the staff report for this item. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Recommend approval of rezone to city council**

In response to questions from the commission, City Attorney Michael Pitts explained that the previous annexation for the Conestee Nature Park, AX-11-2018, would be complete by the time this goes to council. In the event that annexation fails, the city could not take action on the annexation. He said at the end of the day, this is a recommendation to council.

The applicant, Mills Armstrong, said they are going to rehabilitate the existing Conestee Mill buildings into a mixed-use development. They want to come into the city for the public services that the city can provide. He said the city recommended the C-3 zoning designation.

No public speakers.

No additional board discussion.

Commissioner Keller made a motion to recommend approval of the annexation and rezoning to C-3. Commissioner Smith seconded the motion. The motion was approved by a vote of 4-0.

D. SD 18-031

Application by Neal Fogleman for a **SUBDIVISION** of 5.95 acres located at **DUVALL DR + ISBELL LN** from 1 LOT to 21 LOTS (TM# M011010100100)

DeVoe presented the staff report for this item. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Approve with staff comments and conditions.**

In response to a question from the board, staff stated that the applicant would be required to submit a traffic impact analysis form to determine if a traffic study is required. They may also be required to relocate one of the proposed fire hydrants.

The applicant, Neal Fogleman, addressed some of the concerns raised at the neighborhood meeting. He stated that they had several attorneys look into alleged restrictive covenants on the property, and there is nothing preventing the developer from proceeding with what they are proposing. He also stated they were willing to look into placing a berm along the rear lots adjoining the adjacent subdivision.

Commissioner Smith stated she would like to see the detention pond addressed.

Public speakers in favor of application:

- None

Public speakers opposed to application:

- Brian Mullard – believes the property, which is listed as the reserve area/parcel on plat book YY page 93, is subject to the restrictions for the Parkins Lake development; says an attorney agrees that the restrictive covenants apply to the subject property and the development cannot move forward as presented. Believes this question should be further researched to avoid potential liability or litigation in the future. Has doubts about sales price of homes due to proximity to interstate. Does not want hobos living there which would hurt their property values.
- Cathy Swelling – believes property is subject to deed restrictions as well; says berm is needed to limit noise from interstate
- Mark Swelling – also believes property is subject to deed restrictions as well; concerned about traffic from this development as well as new elementary school
- James Sharkey – lot sizes not compatible with development; concerns about setbacks

Board discussion included questions about restrictive covenants. City Attorney Michael Pitts said that if they have actual notice of CCRs, the commission cannot approve something not in compliance with them. However, this was the first he'd heard of restrictions for this property. He would need time to research and advise the commission accordingly. The owner would have to acquiesce to deferring the application due to the potential time constraints for subdivisions under state law.

Commissioner Smith made a motion to defer the application to the December 20, 2018, meeting. Commissioner Eldridge seconded the motion. The motion was approved by a vote of 4-0.

Planning Director Jay Graham said someone would need to provide staff with a copy of the alleged restrictions. A member of the audience handed Mr. Graham a packet of papers.

E. SD 18-009M

Application by Phillip Day for a **SUBDIVISION MODIFICATION** of 21.1 acres located at **3590 LAURENS RD** from 1 LOT to 88 LOTS (TM# M010040100600)

Owens presented the staff report for this item. (Note: Full staff report is on file at the Planning Office.) **Staff Recommendation: Approve with staff comments and conditions.**

The applicant's engineer, David Graffius, provided some additional information about the modifications to the subdivisions. He clarified that the revised proposal is for 83 residential units; the other parcels are the road ROW and common areas. Cul-de-sacs have been provided instead of T-turnarounds. Acknowledged they will need to increase the size of the cul-de-sacs to 96 feet from face-of-curb to face-of-curb. Right now they have 84 feet. If they lose a unit, his understanding is they could go down, not up.

No public comments.

Board discussion included beautification aspects around the stormwater detention areas.

Commissioner Keller made a motion to approve with staff comments and conditions. Commissioner Smith seconded the motion. The motion was approved by a vote of 4-0.

OTHER BUSINESS:

A. Monthly Comprehensive Plan Update

DeVoe gave an update on the comprehensive plan. They have been spreading word to the community and neighborhoods. The first big public event will be the last week of January. They will be roundtable discussions. On December 3-4, the consultants will be back in town for the next steering committee meeting as well as stakeholder meetings. The steering committee members are reaching out in their networks to build a database of resources and contacts for the comp plan process.

ADJOURNMENT: The meeting was adjourned at 6:02 P.M.