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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM OCONEE COUNTY
Court of Common Pleas
The Honorable R. Lawton McIntosh

Case No. 2022-CP-37-00447
Appellate Case No. 2025-000982

_____

Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon,

Appellants,

v.

Oconee County, Globe, A South Carolina Limited Partnership, Farmes, A South Carolina Limited Partnership,

Respondents.

RECORD ON APPEAL
(VOLUME 3 of 4)

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I certify that this designation contains no matter which is irrelevant to this appeal.

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November 3, 2025

A. Georgia, I believe, was 1995. And North Carolina was 1997.

Q. As a registered professional land surveyor, do you have continuing education requirements?

A. Yes, we do.

Q. What are those?

A. Thirty hours every two years, so 15 hours a year.

Q. Tell us what activities fall under your license as a professional land surveyor?

A. Surveyors are licensed -- are the only licensee that can tell you where your property bounds are. We are licensed to take measurements of the earth's surface and interpret those measurements reading maps, plats, and other documents.

Q. Does it also include locating property lines and property boundaries?

A. Yes, it does.

Q. Does it include locating rights-of-way?

A. Yes, it does.

Q. Does it include locating easements?

A. Yes.

Q. And creating surveys, maps, reflecting these types of property indications on those maps and surveys?

A. Yes, that is what we do.

Q. Okay. As part of your process do you review any

historical documents to prepare a survey?

A. For a property survey or property boundary survey, we research and obtain deeds and plats as far back as we can for the parcel that you are surveying. And then deeds and plats for parcels adjoining -- each parcel adjoining the parcel we are surveying to ensure that we give both people as much as possible the boundaries that they are supposed to have.

Q. And you use those historical deeds and plats as to interpret them in relation to property boundaries and rights-of-way and easements; is that right?

A. That's correct.

Q. And have you ever provided expert testimony on any of these areas of surveying?

A. Yes, I have.

Q. And describe for me generally how many times you have testified as an expert in court?

A. In court, I believe 14 or 15 times. Most of those cases have been title to marshland cases, which is kind of my niche. But I have also testified in some boundary disputes and determinations of property boundaries.

Q. So you have been a professional surveyor for nearly 40 years; is that right?

A. Forty-four. Correct, professional, licensed surveyor for 40 years, yes.

Q. And where are you currently employed?
A. Thomas and Hunt Engineering Company.
Q. How long have you worked for Thomas and Hunt?
A. Twenty-six years.
Q. And what is your current title at Thomas and Hunt?
A. I am a shareholder and the head of the survey group for the company for South Carolina and North Carolina.
Q. And just generally, what do your job duties entail?
A. I'm responsible for all of the surveying operations in North Carolina and South Carolina, but I also kind of oversee the Charleston surveying office. I don't work on individual projects as much as I once did, but I have people beneath me that report to me that do that work.
Q. Approximately how many people report to you?
A. I am responsible for about 30.
Q. And do you have some responsibility for preparing surveys or signing on surveys in your job?
A. That is exactly what I do, yes.
Q. So annually, approximately, how many surveys are you preparing annually?
A. Personally, that I'm involved with probably between 25 to 75. As far as my whole group, literally hundreds.
Q. All right. And you have been at Thomas and Hunt

since, what year was that?

A. 1998.

Q. Where did you work immediately prior to Thomas and Hunt?

A. I had my own surveying company which Thomas and Hunt purchased in 1998.

Q. How many years of that?

A. Four years.

Q. In 1985 when you first become licensed in South Carolina as a professional land surveyor until today, have you continually worked as a professional land surveyor?

A. The only thing that I have ever done.

Q. Are you involved in any professional organizations?

A. Yes, I am.

Q. And what are those?

A. I am a member and part president of South Carolina Society of Professional Land Surveyors. A member of the Surveying and Mapping Society of Georgia. And North Carolina Society of Surveyors. And the National Society of Surveyors.

Q. Have you held officer positions in any of those organizations?

A. In the South Carolina Society, yes.

Q. What was that?

A. I was president in 2013 and 2014.

Q. Earlier we asked you if you had ever testified in trial and you told me that you had. Do you recall approximately when you first were identified as an expert witness in trial?

A. Sometime in the mid '90s.

MR. PAAVOLA: Your Honor, at this time we would offer Mr. Quinn as an expert in land surveying, to include identifying property boundaries, rights-of-way, easements, and preparing surveys, maps, plats reflecting the same.

THE COURT: Any voir dire? Do you stipulate to his expertise?

MR. HOLLIDAY: With one condition, I guess. Mr. Quinn, are you an expert in identifying or determining whether a road is a public road or not?

THE COURT: That would be a question of law.

MR. HOLLIDAY: That is why I'm making sure that that is not an area that he is an expert in.

THE COURT: The stated areas didn't include that.

MR. HOLLIDAY: They did not. I just wanted to confirm that.

THE COURT: Do you have an objection, or do you stipulate that he is an expert in the stated areas?

MR. HOLLIDAY: I stipulate that he is an expert in the stated areas.

THE COURT: And actually it is a mixed question of fact also. Go ahead.

BY MR. PAAVOLA

Q. Mr. Quinn, have you performed any work on Ellenburg Road?

A. Yes, I have.

Q. Let me back up and ask you about surveying just briefly. Are there guidelines that you are supposed to follow as a surveyor?

A. Yes, there is regulations that are part of legislation that is the -- I don't know why it just went out of my head. The standards of practice manual for land surveying in South Carolina, Section 49 of some legislation.

Q. Okay. Generally, tell the Court what is the process for performing a boundary survey?

A. We begin with performing courthouse and other research, including usually South Carolina DOT for adjoining roads. So we obtain the plats and deeds as far back as we can on the parcel that we are surveying. And then we obtain current plats and deeds for all of the adjoining parcels. And sometimes if those are unclear we will continue to go back as far as we can trace.

We do not perform a title search, but we do

identify what easements that are recorded on either a document or plat that could affect our property and try to determine the location of those on the property.

Q. So have you looked at properties on Ellenburg Road in this matter?

A. Yes, I have.

Q. What were you asked to do in this case?

A. Initially I was asked to review plats and deeds to see if I could determine if there was a County right-of-way on the road.

Q. Have you undertaken that process?

A. I have.

Q. What else did you do in this case?

A. Since that time I have come to the property and looked at the property, and then I have also -- my survey crews have performed a boundary survey of 585 Ellenburg Road.

Q. Were you asked to identify whether there were any rights-of-way in front of 585 and 599 Ellenburg?

A. Yes, I have.

Q. So what did you do to complete that process?

A. I reviewed the historic plats and deeds of those properties and the adjoining parcels and -- to see if any referred to a public right-of-way or a designated right-of-way of the road.

Q. Now, did you at any point in time visit 585 or 599 Ellenburg Road?

A. The first time that I visited was right around Thanksgiving of this past year. And then again sometime this spring when my crews were doing actual field surveys of 585.

Q. The first time that you visited the properties, just generally, what were your observations?

A. Well, I noticed that the pavement along Ellenburg Road changed at a location west of the subject properties. And then at that point the painted road stripe changed from being a nice bright yellow color, but continued -- a faded double road stripe continued on for another few hundred feet. But still ending prior to 585. And then beyond that it was just an asphalt road.

Q. Okay. Did you meet with anyone at that first visit?

A. No, I did not.

Q. When was the second time that you visited the properties?

A. I don't know the exact date, but sometime in the spring.

Q. What was the purpose of that visit?

A. That visit was to, at your request, to meet with the surveyor who had surveyed the Globe and Farmes'

property. And then also, was to show my crew what we were supposed to survey for 585.

Q. And as a result of that second visit, did you prepare some surveys?

A. Yes, I did.

Q. If you will turn in the Plaintiffs' binder, which is the black binder, if you will turn to what is in evidence as Exhibit 80.

THE COURT: Eighty?

MR. PAAVOLA: Eighty.

BY MR. PAAVOLA

Q. There is a screen behind you as well. All right. This is a document that you helped prepare?

A. Yes, it is. Or it was prepared by people who work for me. I supervised its preparation.

Q. Prepared under your direction?

A. Yes.

Q. Okay. Can you describe for the Court what this depicts?

A. This is the results of the field survey for just the road. Okay. Let's see if I can make this pointer work.

Q. It should work.

A. Okay. The kind of grayed out area is the actual asphalt pavement as we located it. Along the road we found a nail, a survey nail which we call a PK nail. That is just

a brand, but every surveyor knows what it is because it is a survey nail. A nail and cap at the end of the road. Actually found -- almost buried and beside a boat. And then we found another -- as we went down the road we found four additional nails that all matched the plats, the historic and the contemporary plats of these parcels. And then we also denoted where the road striping changed. And then farther back to the west, so where the pavement type or overlay ended.

Q. Okay. And where the pavement overlay ends, you said location of pavement change, right?

A. Correct.

Q. And what does that mean to you, pavement change?

A. Well, as we saw in the photos yesterday, it is obvious where there is a newly paved section of road and then older asphalt beyond that point. So that would be that point where that new overlay ended.

Q. And it looks like the tax map -- sorry, excuse me, tax parcel right above that. If I can blow that up. I don't want to do it too much. But it looks like the owner of that tax map's last name is Brunzlick; is that right?

A. That's correct.

Q. Tax map 103?

A. That's correct.

Q. We have been referring to properties by addresses

a number of times in this trial. Is that -- do you know the address of that property?

A. Brunzlick I think is 565 as I recall.

Q. In your notation the change in pavement is generally at the location of 565?

A. If I recall from the photos yesterday, it was right near that mailbox that had that address on it.

Q. Okay. And then you look at the middle section on your survey, Exhibit 80, this would show that the property to the north of the road ends in tax map 099, do you see that?

A. That's correct, and that is 585.

Q. That is owned by Jimmy and Lucretia, right?

A. That's right.

Q. And then we see on the south of the road there is a property owned by Harris; do you see that?

A. I do.

Q. And is it Dianne Harris?

A. Yes, that's what it says. That is what the County record said.

Q. And then we see the location, end of striping just beyond the border of the Harris' property?

A. That is correct.

Q. I will get to your testimony about the Cooper property as well. Last name of Cooper on it, so is that the

Cooper property?

A. Reask me that question.

Q. Yes, question yesterday about the Cooper property and the half-moon driveway.

A. Oh, yes.

Q. And is that the Cooper property there?

A. Yes, that is the Cooper property.

Q. Do you know what the address of that property is?

A. I do not.

Q. We will look at it in the next image. Okay. Turn in your binder to what is admitted as Exhibit 81.

A. Okay.

Q. And do you recognize this document?

A. Yes, I do.

Q. This is a document that was prepared by you or under your direction?

A. Yes, it is.

Q. Okay. So what is this document showing us that is different than we saw in Exhibit 80?

A. The only difference between these two documents is on this one we have the aerial photograph overlay. The document before overlaid on the aerial photograph.

Q. Let's zoom in here and now we are able to see on this zoomed-in image, we see -- where is the change in pavement, the location of the change in pavement, where is

that notated?

A. Just before the first of the -- the first driveway of the circular driveway for the Cooper's.

Q. Which is also on here labeled as 565?

A. Correct.

Q. Okay. And then we also see the end of striping, and can you point out to the Court where that is?

A. The striping is there, this is 585.

Q. And have you reviewed Oconee County's testimony or deposition excerpts in this case?

A. I have.

Q. And did you review anything about -- do you recall them testifying about pavement stopping or stopping pavement at any certain location?

A. Yes, I do.

Q. Are you able to identify on this map where their testimony is based off of paving?

A. They said they stopped paving in 2012, which would be this location of where I said the overlay of the pavement was, which would be just to the west of the Cooper's driveway.

Q. Let me ask you about -- let me see if I can put these -- is GIS data always accurate?

MR. PAAVOLA: And, Your Honor, on the screen we have Exhibit 81 to the left and then Exhibit 83 to

the right. Both are admitted into evidence.

BY MR. PAAVOLA

Q. My question for you, is a GIS data always accurate as to property boundaries?

A. No.

Q. In this instance, is the -- let me see if I can -- I'll try to blow this up a little bit so I can see it better. Okay. Are you able to see on the left is the survey that you prepared, correct?

A. Correct.

Q. Exhibit 81. And on the right is Exhibit 83, it says GIS; do you see that?

A. Yes.

Q. The boundaries for tract 599 Ellenburg are different on those two; are they not?

A. They are. Well the over -- the position on the photo overlay is different. The boundary is probably a little different as well. But more so that the photo is not correctly geo referenced on the GIS versus on our survey.

Q. Okay. The GIS shows 599, the property line is cutting through their concrete parking pad in front, right?

A. That's correct.

Q. And not including the boats to the right side of the concrete pad?

A. That's correct.

Q. Whereas your survey on the ground shows all of that area is actually encompassed within the property at 599, right?

A. That's correct.

Q. Is this the first time that you have seen GIS data not match what is on the ground?

A. No, it is pretty common.

Q. Turn your attention, or turn your binder to Exhibit 79 that has been admitted into evidence. This is a document that you prepared or was prepared under your supervision?

A. It is.

Q. What is this document?

A. This is a boundary survey of 585 Ellenburg Road.

Q. Okay. And talk to me about how your crew or your team went about preparing this survey?

A. Like any survey, the field survey is just a series of measurements we find. We go out and we find existing points. We use the historic plats as information that gives us dimensions and angles between those points. We find them and then we set up a survey instrument and measure the actual angle and distances between those points. Bring that into the office and process that data and adjust it, any adjustments that need to be made. Because mathematical adjustments, you know, make it a closed loop. And then

prepare a plat like this.

Q. And this is something that you put your seal on; is that right?

A. That's correct.

Q. In this survey you have indicated -- the dark area to the right, what is that dark area?

A. Dark area is also the pavement, similar to the other exhibits that we looked at.

Q. And is a road indicated here?

A. Yes, it is.

Q. All right. Is a right-of-way indicated here?

A. We did not know that there is a right-of-way, right-of-way width, so we labeled it as no known right-of-way.

Q. And what was that notation based on?

A. All of my reading of these documents and plats.

Q. Is that your opinion today based on the records that you looked at?

A. Yes, that is my opinion.

Q. I'll direct your attention to Exhibit 20 in your binder.

A. Okay.

Q. Do you recognize this document?

A. I do.

Q. And what is this document?

A. This is a -- what we would call a closing survey, a survey for a real estate closing of 585 Ellenburg prepared by Michael Henderson.

Q. Do you -- is it a document that you would have reviewed in your own survey of 585 Ellenburg?

A. Yes, we did review this.

Q. And I have highlighted the notation at the bottom where the road is that says, Ellenburg Road WA-42 subject to right-of-way public; do you see that notion?

A. I do see that.

Q. Do you agree with that notation?

A. No, I do not.

Q. Do you believe that that note was incorrectly noted?

A. I do.

Q. Well, let's look at some of the documents that form the basis of historical record. If you turn to tab one -- Exhibit 1, tab one also admitted as Exhibit 1. And I have also highlighted it on the screen for you, some portions of it. If you will just let me know when you get there.

A. I'm there.

Q. Okay. And what is this document?

A. This is a document from JJ Younce who originally owned this piece of property. Well, at least in the chain

of title that I received. And as he conveyed 66 acres to T B Ellenburg.

Q. That would be 66 acres at the top of the page?

A. Right, right.

Q. And then is there a reference to -- how is the property described in this deed?

A. All that piece of parcel and tract of land and land, township in Oconee County, State of South Carolina, in Keowee school district, containing 66 acres more or less bounded by the lands of Gene Kelly, Eugene Kelly, Fred Kiser, Larkin Mayfield and others. And it also refers to a plat which is not recorded in the registrar of deeds office here but it is recorded in the Federal Land Bank. Which I have no clue how to get those records.

Q. You have not seen that plat?

A. I have not seen that plat, no.

Q. And this property description doesn't reference in the -- no mention of road or public road, does it?

A. It does not.

Q. Turn to tab two, which is also Exhibit 2, admitted into evidence.

A. Yes, sir.

Q. If I could pull this up and if you can tell me what this document is?

A. It is a deed from T B Ellenburg to Helen and James

Pinion for a lot of one acre on the east side of a public road, which I think that they have their cardinal directions wrong, and then it describes it with dimensions of 210 -- basically a 210 by 210-foot square.

Q. Okay. And it said on the east side of the public road, right?

A. Correct.

Q. What is the date of this plat, if you would, or this deed?

A. March of '62.

Q. All right. Do you have an understanding in looking at the maps, do you have an understanding generally where the Pinion property is in relation to properties in question in this litigation?

A. I do, by other plats that were in the chain.

Q. All right. If you would turn to tab three, also Exhibit 3 admitted into evidence. This one is dark, kind of hard to see, but what is this document if you know, this deed?

A. This is a deed from T B Ellenburg to Jerry and Fay Ellenburg for an acre on the south side of an unnamed paved road.

Q. Okay. And it mentions its location in relation to an unnamed paved road several times, doesn't it?

A. It does.

Q. And what is the date of this deed?
A. April 10th, 1963.
Q. And same question, do you have a general idea of where the Jerry and Fay Ellenburg property is in relation to the T B Ellenburg property?
A. Yes, again based on later plats in the chain.
Q. If you will turn to Exhibit 4 also admitted into evidence already, and let me know when you get there.
A. I'm there.
Q. Okay. And what is this document?
A. This is a plat of 12.8 acres owned by T B Ellenburg which is called the fourth Knox property.
Q. And what is the date of this plat?
A. February the 8th, 1964.
Q. Let me see if I can -- there is a notation -- is there, let me see here, let me blow it up. Is there a roadway indicated on this plat?
A. Yes, there is. It calls for center line of pavement to be the property line, and it indicates that. The road runs from South Carolina Highway 183 on the southwest to High Falls Church on the northeast.
Q. Okay. And what is the indication or notation on this plat that shows the road? Besides the word "pavement", what else is there if anything?
A. Well, that we call a center line type, that line

right there. It calls it center line of pavement property line, and it indicates that it is a pathway at least running between these two points.

Q. Is there any notation on there calling -- on the side of the pavement there calling it specifically a public road?

A. No.

Q. If you would turn to tab five in your binder, also admitted as Exhibit 5. Let me know when you get there. Mr. Quinn, what is this document?

A. This is a deed between T B Ellenburg and South Carolina Land and Timber Corporation for 51.2 acres, which has a very convoluted description of how they got to the 51.2, but the map all works out.

Q. Okay. So what, if it references being part of a previous 66 acres, right?

A. Correct. It describes it as being all of that 66 acres less and excepted some pieces. And then also less and except a piece of property that isn't on a plat but it is recorded in book Y page 118.

Q. Okay, so let's look at what it is excepting. It is excepting --

A. The lots that were conveyed to Helen Pinion and lot -- Helen and James Pinion, and also lot conveyed to Jerry and Fay Ellenburg.

Q. Okay. We just looked at two deeds for T B Ellenburg to those two folks, correct?

A. Correct.

Q. Those are excepted as well as?

A. The 12.8 acres which is shown on the plat that I referred to at Y 118.

Q. Excepting all of those things we end up with 51.2 acres being deeded to SC --

A. Land and Timber, yes.

Q. All right. Can you give me a date on this document?

A. May 7, 1964.

Q. If you will turn to Exhibit 6 in your binder.

A. Okay.

Q. Tab six, admitted as Exhibit 6, which is really multiple pages of the same document. But just because we were trying to figure out what was the best, easiest way to look at this one. The dark color and this up here is the kind of white highlighted copy, the white copy, which somehow seems easier to read. Let's see, can you tell me what this document is at the top? It says --

A. Yes, this is a plat of property that Crescent Land and Timber Corporation for the Keowee Toxaway project is acquiring from T B Ellenburg.

Q. And what year is that?

A. April 28th, 1966.
Q. Does this outline, does it look similar to the 12-acre plat?
A. Yes, it does.
Q. As in, are we taking that 12 acre plat and then --
A. The 12 acres would be this piece down here.
Q. All right. That piece is which piece? I am sorry, the bottom piece, that is the area that Mr. Ellenburg --
A. This is the part that Mr. Ellenburg is retaining here, yes.
Q. How big is that?
A. 6.52 acres.
Q. What is the area that Mr. Ellenburg is deeding to Crescent?
A. It looks to me on this plat, it is called 6.62 acres. But I think in the actual deed that goes with, refers to this plat calls it 6.52.
Q. Okay.
A. But I think that that was just a scribner's error.
Q. Can you outline for the Court which section that is?
A. So it would be actually what is surrounded by the dark lines.
Q. Okay. So essentially this entire property was 12

acres and Mr. Ellenburg is now giving away the six acres on the top right here?

A. Correct.

Q. And retaining -- he retains this bottom piece?

A. Correct.

Q. Are you able to see the notations of the roads on this plat? It may be the dark lines.

A. Yes.

Q. Let's see here. I'm trying to find the easiest picture to see those on. I don't know if this is it or not. Is that better or not?

A. It is good with me.

Q. Okay. Let's start with on the -- show me what road indications you see on this?

A. Along here called center line blacktop road being the boundary of the piece that he's retaining. And also this, on the northeast end says, to South Carolina -- I can't really -- maybe I can read it here -- to South Carolina Road S-37-2 something, 201 I think that is, and then on the southwest side, which is just off of the screen right now, it says, to South Carolina Highway No. 183. And also this is the plat, how I was able to determine --

Q. Zoom into that section.

A. Yes, there it is.

Q. Okay. It shows it going to the SC --

A. Thirty-seven is 201.

Q. Okay. And then there we see the notation here about sand clay road to the top; is that right?

A. That's correct. The previous plat that we looked at, it also showed a boundary along the northeast side of Mr. Ellenburg's property to be a dirt road on the previous plat, and on this one it calls it a sand clay road.

Q. Okay. I'll zoom in for everyone's benefit. You identified a road right on the bottom.

A. The road would be these two lines and right there, center line of road. And then up here, the property line is that little symbol is property line and this is center line. Property line and center line of blacktop road.

Q. Okay. Is there a notation there about public road?

A. No.

Q. What was the date of this plat?

A. 1966, April of '66.

Q. Is this before or after the lake was created?

A. I think this is when they were acquiring land to create the lake. To my knowledge the lake wasn't flooded until the mid or early '70s.

Q. Let's see if I can pull up the bottom section. We had talked about -- we looked at deeds for the Pinion property. Does this identify where -- the Pinion property?

A. Yes, this is the plat that I was talking about that it told me where Pinion and Jerry Ellenburg were. So those two lines coming off of the boundary of the 12 acres is Jerry Ellenburg, and then this little square piece down here is the Pinions' property.

Q. The Pinion, in relation to today's addresses and today's -- what we looked at modern day Ellenburg Road, where in relation to the properties, 565, 85, 95 is the Pinion property sitting?

A. Roughly it would be across the street from 565, I believe.

Q. And then we see --

A. Because 565 western boundary is this western boundary of Mr. Ellenburg's property. So there is 565 in there, and then 585, and then 599 is down in this upper right-hand corner.

Q. Turn to tab seven in your binder, admitted as Exhibit 7.

A. Okay, I am there.

Q. And what is this document?

A. This is a deed from T B Ellenburg to Crescent Land and Timber Corporation for 6.52 acres.

Q. And that is corresponding --

A. To this plat that we just looked at, yes, sir.

Q. I have highlighted a section here. How is it

describing the property in this deed?

A. Contains 6.52 acres as shown on a plat dated April 28, 1966. That file number is a Duke or Crescent, how they filed things. And it calls for this plat and it refers to -- how Mr. Ellenburg got the property.

Q. Originally Mr. Younce?

A. Yes.

Q. So that K-574 is a notation for what?

A. That is how -- that is Duke or Crescent, one of those Duke Power entity's filing system. It is not a plat book and page in the Oconee County, or deed.

Q. What was the date of this deed from T B Ellenburg to Crescent?

A. Twenty-fourth of September 1966.

Q. Before the lake was created?

A. Correct.

Q. If you will turn to tab ten. If you would turn to tab ten which is admitted as Exhibit 10. And Page 2 has a -- let's look at Page 1 first. Do you recognize this document?

A. I do.

Q. What is it, to your understanding?

A. It is a Duke Power drawing of one of their drawings of the Keowee Toxaway project as they were developing it. It indicates parcels of land that they

acquired and it gives a reference to them.

Q. Do you have a date on this map?

A. The original date was August 1963. I do not see a revision date anywhere on it.

Q. Okay. If we turn to Page 2 of that exhibit and we have an excerpt out of that map, and do you see land in relation to Mr. Ellenburg and Arrowhead Pointe?

A. I do. This is what Mr. Ellenburg retained, this little area here. This is Arrowhead Pointe. And this was the 6.62 or 52 acres that Crescent acquired from Mr. Ellenburg. And then over here was the Pinion parcel. There was the Fay and Jerry Ellenburg parcel. And this part of the property down here, or this portion of it was also Ellenburg.

Q. So are you able to outline what you believe was the 66 acres, roughly, that Mr. Ellenburg owned originally?

A. Yes, I am. And it actually goes off of this page, but -- so, all of this includes -- came down and followed this line, followed that line up to it appears to be to the road, and then follow the road and follow this line to this creek, and then follow this creek up and on off the map. And then it goes back down through here.

And when I do that and scale this map in the computer and trace what I believe to be the line, I come up just shy of 66 acres.

Q. All right. And at this point, per this map here, it appears that Crescent owns essentially all of the land around T B Ellenburg at this point; is that a fair assessment?

A. That is correct. Well, I don't know if they acquired Pinion. Yes, they had. Okay.

Q. So the only private land owner in this area of Ellenburg, which today is Ellenburg Road, was Mr. T B Ellenburg; is that right?

A. That's correct.

THE COURT: What was your question?

MR. PAAVOLA: The only private landowner in this area on Ellenburg Road was T B Ellenburg.

BY MR. PAAVOLA

Q. So the only land around that Crescent and SC Timber was T B Ellenburg, right?

A. Yes, from this point on.

Q. Right, that point on.

A. We are on to the northeast at that point right there.

Q. N565 Ellenburg Road --

A. T B Ellenburg was the only non-Crescent or Duke related owner.

Q. In your understanding, do you have an understanding of whether it would make sense for public

maintenance to end at the western edge of T B Ellenburg's property?

MR. HOLLIDAY: Objection, it is outside of the scope.

THE COURT: Sir?

MR. HOLLIDAY: It is outside of the scope of what he's qualified to testify about.

THE COURT: What is your response?

MR. PAAVOLA: I'll move on, Your Honor.

BY MR. PAAVOLA

Q. If you turn to tab 11, Exhibit 11, in your binder.

A. Okay.

Q. What is document number 11 that is admitted as -- sorry, tab 11 admitted as Exhibit 11?

A. You ask me what is this document?

Q. Yes, what is this document?

A. This is a plat of the property of Mr. and Mrs. Claude Morgan.

Q. And what is the date of this plat?

A. August 28th, 1974.

Q. Is there a road indicated on this plat?

A. Yes, there is, along this, which would be the southern boundary. But on the left-hand side of the page there is a road indicated there.

Q. There is a road indicated there?

A. Yes.

Q. Is there any notation there as to whether that is public or private?

A. No, there is not.

Q. Any indication that there is a right-of-way, a public right-of-way?

A. No, there is not.

Q. And 1974 you said was the date of this plat. Would that be, from your understanding, before or after the lake was created?

A. I'm not positive when the lake was created. But the plat does call for a water line of Lake Keowee being the boundary, so I am thinking that the lake was already created. But I do not know that as a fact.

Q. And I believe the Morgan property, prior to this plat, T B Ellenburg owned this property; is that your understanding?

A. That is correct.

Q. Okay. And so from the deed for the 6 acres where Mr. Ellenburg had 12 and got rid of 6 and deeded 6 to Crescent was around 1966?

A. Sixty-six from what I recall.

Q. From '66 to '74 T B Ellenburg was the only owner of those six acres that was the Morgan property?

A. Correct.

Q. All right. So it says -- where we see road, do we see an indication with an arrow going towards Knox Road?

A. Yes, it calls for this piece of property to be located four-tenths of a mile northeastward of S37-12, which is Knox Road as we heard yesterday from the DOT lady, that after it quit or ceased being 183 it became secondary road 12.

Q. And is there any road indication to the -- I guess that could be the east?

A. Indication to the road continues, but it doesn't call for anything.

Q. If you will turn to Exhibit 12.

A. Okay.

Q. Do you recognize this document?

A. This is a deed from T B Ellenburg to Claude and Esther Morgan for the three acres that we just looked at. It refers to that plat in the deed.

Q. All right. No other indication of the road or public road?

A. No.

Q. Just a personal plat?

A. Correct.

Q. Okay. If you will turn to Exhibit 13.

A. Okay.

Q. What is this document?

A. Okay. This is a plat prepared for Steve Kempinski and Janet Streeter Kempinski.

Q. What property is this a plat of?

A. This is a portion of the property that we were just looking at that the Morgans had. So this overall outer shape was the Morgan parcel from that previous plat. And now they are cutting off two lots, two tracts at the northern end of this property.

Q. Do you have an understanding of who owns those two Morgan tracts today?

A. Yes, Jimmy and Lucretia own those two tracts.

Q. And the southern portion is -- is that what you referred to as 565?

A. That is correct.

Q. There's a notation along -- is there a notation of a road here?

A. Yes, this plat calls it Ellenburg Road WA-42 ditch to ditch right-of-way.

Q. And is there a reference from this plat to any prior plats or documents?

A. Well it refers to the deeds on either side. And it does have a plat reference in the lower left corner here. And it refers to that plat that we were just looking at, P39 page 67.

Q. It refers back to the 1974 plat?

A. Correct.
Q. Did you see any documents between 1974 and the day of this plat date in '94 that would reflect a new public ditch to ditch right-of-way on this property?
A. I did not.
Q. Turn to tab 14, which is also Exhibit 14.
A. Okay.
Q. And what is this document?
A. It is a plat prepared for Brian Marcedes of one -- it is the residual property after that previous plat cut those two lots out of it.
Q. What is the date of this plat?
A. March the 9th, 2005.
Q. Is there a road indicated on this plat?
A. Yes, there is.
Q. And it appears to carry forward the description that we saw on the Kempinski plat; is that fair?
A. Yes, it does.
Q. Is there a plat reference for the Marcedes plat?
A. Yes, in the upper right corner here it refers to that same P39 page 67 plat.
Q. And that is the next '74 plat, right?
A. Yes.
Q. So between 1994 when the Kempinski plat was created and 2005 when the Marcedes plat was created, have

you seen any documents that indicate a public ditch to ditch right-of-way on 565 Ellenburg Road?

A. I have not.

Q. Turn to Exhibit 15. Can you identify what this document is?

A. This is a deed from Steve Kempinski and Janet Kempinski to James L. Ratliff and Lucretia Morgan.

Q. And what year was that?

A. October 2018.

Q. And is this -- what property is this for?

A. This is for the two tracts A and B that came out of the Morgan plat, two plats that go -- when we were looking at what I guess would be 14.

Q. We referred to that as 575 Ellenburg Road?

A. Correct. Well, the plat of 575 Ellenburg Road, but I'm not sure what the address of these two pieces in the back are. But the lots are being conveyed.

Q. I'll show you demonstrative two.

A. These two back here. Which are now shown as just one parcel. Platted as two.

Q. Notation of 575 Ellenburg Road, right?

A. Yes, 575, sorry.

Q. All right. If you will turn to Exhibit 16 in your binder also admitted into evidence.

A. Okay.

Q. What is this document?

A. This is a plat of the property of T B and Mabel Ellenburg, 2.765 acres.

Q. And do you understand what modern day property we have been -- it refers to?

A. This would be 585 Ellenburg Road.

Q. What is your understanding as to who owns this property today?

A. I think that Jimmy and Lucretia also own this parcel.

Q. Is there a road indicated on this plat?

A. Yes, there is, on the left-hand side or southern side of the property.

Q. And what does the notation say?

A. It just says, Center line of road is property line and then it indicates that it is four-tenths of a mile southwest to S37-12.

Q. Is there any notation of a public right-of-way on this plat?

A. There is not.

Q. And this was -- what is the date of this plat?

A. August '74.

Q. You testified earlier that would be after the lake was created?

A. To the best of my knowledge.

Q. When was the plat recorded? Do you see its recording date?

A. I do. January 21st of 1997.

Q. That is after the Kempinski plat was prepared, isn't it?

A. Yes.

Q. Can you turn to tab 17, Exhibit 17 admitted into evidence?

A. Okay.

Q. And what is this document?

A. This is the deed from T B Ellenburg to Terry V. Ellenburg for 2.765 acres and is shown on that plat that we were just looking at, that being P61/557.

Q. And that is still for the T B Ellenburg property that we were talking about?

A. Correct.

Q. It references the 1974 plat, right?

A. That is correct.

Q. And what is the date of this deed?

A. Twenty-one January, 1997.

Q. That would appear to be in the same range when that plat was recorded?

A. Yes, it does.

Q. Does the property description in this deed reference a public road?

A. No, it does not. It refers to that plat solely.
Q. Turn to Exhibit 19 in your binder. This has been admitted into evidence.
A. Okay.
Q. What is this document?
A. This is a deed from Rhonda Ellenburg to James L. Ratliff and Lucretia Morgan.
Q. Okay. And what property is that for?
A. It is for 2.71 acres that is shown on another plat. So it would be B754 Page 6. This would be 585.
Q. It is a deed showing that Jimmy and Lucretia own 585?
A. Correct.
Q. And then it references a plat at plat book B754 Page 6?
A. That's correct.
Q. So if you would turn to Exhibit 20 in your binder admitted into evidence. Tell me when you get there.
A. I am there.
Q. Is this the plat that is referenced in the deed to Jimmy and Lucretia?
A. It is.
Q. And who is this prepared by?
A. Michael Henderson.
Q. What -- all right. On the bottom here, what is

the date of this plat?

A. November 23rd, 2020.

Q. Does Mr. Henderson include a reference plat in his description?

A. Yes, he does, he refers to Book P-61 Page 577, which is the previous plat.

Q. The 1974 plat?

A. Correct.

Q. Is there any difference between the 1974 plat and this plat, as to how the roadway is depicted?

A. Yes, Mr. Henderson on this plat calls Ellenburg Road WA-42 subject to right-of-way public.

Q. Do you see any documents between 1974 and Mr. Henderson's 2020 plat that would indicate a public right-of-way on Ellenburg Road from 585 Ellenburg Road?

A. I have not.

Q. This notation was not on the 1974 plat, was it?

A. No, it was not.

Q. Have you read Mr. Henderson's testimony designated by the Plaintiffs in this case?

A. I have.

Q. Does Mr. Henderson provide any basis for notating a public right-of-way along 585 Ellenburg Road?

MR. LOGAN: I am going to object, Your Honor. I don't think that he is qualified to answer that

question.

THE COURT: Your response?

MR. PAAVOLA: Well, we designated testimony and there was a determination that the testimony be put into evidence. And Mr. Quinn would have been listening to testimony here or he could read instead, so he can read and hear what the other surveyor says. Mr. Quinn is an expert in boundary surveys and he can understand Mr. Henderson's testimony about how he prepared his survey and answer questions about it as well, and that is what I am asking him to do.

THE COURT: Well, as an expert he's allowed to give facts to substantiate what his opinion is, but not make conclusions of law and ultimate facts, right, conclusions of law?

MR. PAAVOLA: That's right, and I am simply asking him -- I can rephrase.

THE COURT: Rephrase it for me.

MR. PAAVOLA: Okay.

BY MR. PAAVOLA

Q. Mr. Quinn, did Mr. Henderson identify any documents that would support a notation along 585 Ellenburg Road that was subject to a right-of-way that was public?

A. He did not.

Q. What do you understand Mr. Henderson's basis is

for having placed this notation on this plat?

A. Because it was a paved road and people drove down it.

Q. Anything else?

A. No.

Q. Do you have opinions on whether Mr. Henderson's plat directly notates that there is a public right-of-way on this property?

A. I find no basis for him showing it as a public right-of-way or being a County road and having a right-of-way.

Q. If you would turn to Exhibit 21 in your binder. Let me know when you get there.

A. I'm there.

Q. What is this document?

A. This is a plat of the property of Nancy R. Bearden, 1.225 acres, which is now known as 599 Ellenburg Road.

Q. And what is the date of this plat?

A. August of 1974.

Q. Is there a road indicated on this plat?

A. There is.

Q. How is that identified?

A. The center line of the road is the property line and also indicates that this property is located four-tenths

of a mile from S37.12.

Q. Okay. Any arrows or indications to the east of the property?

A. It does show the road continues to the east of the property but nothing -- it is not pointing to anything being beyond there, other than Duke Power Company as the adjoining.

Q. Is there any indication of a public right-of-way on this land?

A. There is not.

Q. Exhibit 22 in your binder. Let me know when you get there.

A. I am there.

Q. And what is this document?

A. This is a deed from T B Ellenburg to Nancy Bearden for the property we were just looking at, 1.225 acres shown on plat P-39 at 61.

Q. Is there a reference to a road in this property description?

A. There is not, it just refers to the plat.

Q. What is the date of this deed?

A. August of '74.

Q. Turn to Exhibit 23 in your binder.

What is this document?

A. This is a deed from Nancy Bearden to Edward J.

Ratliff and Frances J. Ratliff.

Q. Is property described in this deed?

A. The property is described the same as 1.225 acres as shown on previous plat P-39 at 61.

Q. And what is the date of this deed?

A. May of 1981.

Q. Turn to Exhibit 24 in your binder.

A. Okay.

Q. What is this document?

A. This is a deed of distribution of the estate of Edward John Ratliff.

Q. And the grantees here are the Plaintiffs in this action; is that fair?

A. To my understanding, yes.

Q. If you will turn to Exhibit 65 in your binder.

A. What number?

Q. Sixty-five. And go to Page 6.

A. Okay.

Q. And what is this document?

A. This is a plat prepared for James F. Ratliff of -- that was a proposed subdivision of 599 Ellenburg Road.

Q. Is this plat recorded?

A. Not to my knowledge, no.

Q. Who was this prepared by?

A. Michael Henderson. No, Cornerstone of Seneca,

yeah, which is Michael Henderson, sorry.

Q. Do you mind giving me a date? What was the date?

A. March of 2021.

Q. And this document, just for reference for the Court, is also Exhibit 3 to Henderson's deposition. And I am going to switch to that, because it is a clearer picture for demonstrative purposes. Is this the same document that we were looking at?

A. Yes, it is.

Q. Okay. We have these strange boxes. I want you to look at -- is there a roadway indicated on this box?

A. Yes, there is. It calls that Ellenburg Road WA-42 says, Road public.

Q. Does it show the pavement?

A. Called the boundary is the center of the pavement. It does show some right-of-way lines which just kind of end a little bit northeast of the proposed dividing line between lot A and lot B as shown on this plat.

Q. Does it have a reference plat?

A. It does, B-291 Page 1.

Q. Do you remember what document that is?

A. I don't. Didn't we previously look at that?

Q. I think that one is --

A. No, I don't remember which one that is off of the top of my head, sorry.

Q. Any other references that --

A. Wait just a minute. So what I just read to you is the reference for the Globe property, it is not the reference for this property. The reference for this property is right above the title where it says, Plat prepared for James Ratliff, 39 Page 61. What I was reading to you were the adjoining -- reference information for the adjoining parcel, sorry.

Q. That is up top here, right?

A. That's correct.

Q. And what plat is that?

A. That is the 1974 plat.

Q. Have you found any documents in your research indicating between 1974 and 2021 when this was created, indicating for -- to support a notation for a public right-of-way in front of 599 Ellenburg Road?

A. I have not.

Q. Did Mr. Henderson refer to any documents that supported his use of this notation on this plat?

A. He did not.

Q. What is your understanding of why Mr. Henderson placed this notation on this plat?

A. Because there was a road there.

Q. Anything else?

A. And it was paved I think is part of his

explanation.

Q. Anything else?

A. Not that I recall.

Q. If you would turn to Exhibit 25.

A. Okay.

Q. Exhibit 25 is admitted into evidence, and I'll see first where this is recorded. Does this indicate where this plat is recorded?

A. B291 Page 1.

Q. Okay. But I think that earlier we were referring to it, we were looking at the --

A. Henderson referred to this as the adjoining reference, yes.

Q. This is a document that you looked at as part of your preparation in this case for preparing the surveys?

A. Yes, it is.

Q. And on this document there is -- Ellenburg Road is notated; do you see that?

A. I do.

Q. And is there any other notation next to Ellenburg Road?

A. So it calls Ellenburg Road to the southwest of the parcels that we are talking about as being a maintenance right-of-way.

Q. What is your understanding of what that means?

A. First time I have ever heard that or seen that exact term. I'm assuming that it means that it is a right-of-way that is created by some kind of maintenance.

Q. Is there any indication of where that maintenance right-of-way begins or ends?

A. There is not.

Q. And in reviewing this document as part of your preparation of surveys, did you conclude that this document would require you to place a public right-of-way along the subject properties in question here?

A. I did not.

Q. And why not?

A. Because it still doesn't give me any information for a right-of-way, an existing right-of-way on the Ratliff property.

MR. LOGAN: What exhibit are you referring to?

MR. PAAVOLA: I was on 25.

MR. LOGAN: I am sorry?

MR. PAAVOLA: I was on 25.

BY MR. PAAVOLA

Q. Will you turn to Exhibit 31?

A. All right.

Q. And page -- well, first, can you identify this document?

A. It is a general highway map of Oconee County and it has February 1st, 1969 revised handwritten on there above the title.

Q. Okay. And this has been admitted into evidence already. I am just going to direct your attention to page three which is a blow-up of the area in question.

A. Okay.

Q. Have you seen this document before?

A. I have.

Q. And this would be before the Lake Keowee was created; is that right?

A. That's correct.

Q. And are you able to identify what is today known as Ellenburg Road, or at least a portion of it?

A. It is the green highlighted portion that is shown there.

Q. And are you able to tell them where the lake was flooded to and what portion of green still exists today?

A. I am not.

Q. And there appeared to be a road that moved, moved around from modern Ellenburg up to High Falls Church; do you see that?

A. That's correct.

Q. And you had knowledge of this document before you prepared your surveys in this case; is that right?

A. I did.

Q. And did that historical loop inform your decision either way as to whether there is a public right-of-way along Ellenburg Road in front of my clients' property?

A. It to me showed that the public used a road that runs parallel to where Ellenburg Road is to get -- and paved road, paved road continued to, prior to the lake, it goes from Knox Road to High Falls Church and Highway 201, or secondary road 201.

Q. After the lake was created, is anyone able to travel from the green section to High Falls Church Road?

A. Only by boat.

Q. After the lake was created, was anybody able to travel from the green section to High Falls Church?

A. Like I say, only by boat.

Q. Only by boat. If you turn to Exhibit 32, already admitted into evidence, and if you will identify that.

A. This too is a general highway map of Oconee County that is dated 1971.

Q. And Page 3 of that document is also a blow-up of the area in question?

A. Yes, it is.

Q. All right. And are you able to see that loop road anymore?

A. No, it doesn't -- here the right-hand portion of

the loop is totally gone. And the beginnings of the left-hand portion is going from Ellenburg up shows it ending prior to the lake.

Q. Any ability to get from modern Ellenburg to High Falls Church is no longer existing, except for by the lake; is that right?

A. That's correct.

Q. And we saw some of the deeds and plats we looked at today earlier where we saw the arrows and we could point and say, High Falls Church, High Falls 201?

A. Correct.

Q. And travelers today are not able to get to any of those locations off of modern Ellenburg Road?

A. That's correct.

Q. Back on 31. Property owners who were along the loop, I don't know who that would be, but property owners along the loop would be able to access their property by that loop road before the lake was created; right?

A. That's correct.

Q. Okay. And after the lake, there is no longer an access to those properties, is there?

A. Well, only to the point or the Arrowhead Pointe parcel.

Q. The rest of the property is underwater, aren't they?

A. Underwater or on the other side of the water.

Q. All right. If you will turn in the binder to Exhibit 49?

A. Okay.

Q. It is admitted into evidence and I would like you to look at photo one. And you had talked about visiting the property and noticed a pavement change. Does this photo reflect what you saw on the ground?

A. Yes, that right there where the lighter gray color hits the darker gray color would be the pavement change that I was speaking of.

Q. And if we turn to photo two.

A. It would be there, it would be the left-hand side of the road.

Q. And you see this post that says 565, correct?

A. Correct.

Q. Is that where you marked on your survey this change in pavement?

A. Correct.

Q. And you also notate something about the line changes here too; what was that note?

A. Also that, I don't remember exactly how I worded it, but that the brighter yellow line ended and then faded yellow striping continues.

Q. If we look at photo six in this Exhibit 49.

A. Okay.
Q. What do we see that?
A. This would be where the faded yellow lines end. And to the left right here is 585, and to the right here is the Globe and Farmes' property. With the boat -- John's Marine down there at the end where you see the boats.
Q. Mr. Quinn, do you have an opinion as to whether the road in front of 585 Ellenburg and 599 Ellenburg is a public right-of-way?
THE COURT: Say that question again, please?
MR. LOGAN: Objectionable question based on --
THE COURT: I want to hear it first.
BY MR. PAAVOLA
Q. Do you have an opinion as to whether the road in front of 585 Ellenburg Road and 599 Ellenburg has a public right-of-way?
THE COURT: When you get to the end, you are gong too fast and I am missing. Do you have an opinion if Ellenburg Road is what?
BY MR. PAAVOLA
Q. Do you have an opinion as to whether the road in front of 585 Ellenburg and 599 Ellenburg has a public right-of-way?
MR. LOGAN: Objection, Your Honor. He has

been -- he didn't offer him as an expert on giving opinions as to public roads. That is not part of his qualifications.

THE COURT: What is your response?

MR. PAAVOLA: Well, it is within his expertise as a surveyor and he has given the opinion that he's looked at documents and has arrived to a conclusion that there is not a known public right-of-way on that section of Ellenburg Road.

THE COURT: Rephrase your question.

BY MR. PAAVOLA

Q. Mr. Quinn, have you reached a conclusion in your role as an expert surveyor as to whether there is a public right-of-way on the road in front of 585 Ellenburg and 599 Ellenburg?

MR. LOGAN: Your Honor, again, an objection. He was not offered as a witness to give opinions about public or private roads. He was offered -- especially public roads, whether something was a public road. He stood up here and said that is not included in what I am asking him or allowing or wanting him to testify to.

THE COURT: What is your response?

MR. PAAVOLA: Your Honor, I can rephrase the question if I need to.

THE COURT: What was your response that you

never offered him as an expert as to whether or not this is a public or private road that was raised by Mr. Holliday?

MR. PAAVOLA: Yes, sir. I was not offering him as a legal expert to the law, Your Honor. I am offering in his scope and his field, which is what he is offered for, as a surveyor, what he can say as a surveyor.

MR. LOGAN: I believe your opinion -- you did respond saying that is a legal issue.

THE COURT: I don't disagree that is a legal issue. But I am going to let you rephrase it based on his expertise as a surveyor.

BY MR. PAAVOLA

Q. Mr. Quinn, in your expertise as a surveyor, and in all of the deeds and plats that you reviewed in relation to 585 Ellenburg and 599 Ellenburg, did you identify any documents, any evidence of a public right-of-way along Ellenburg Road in front of those two properties?

MR. LOGAN: Subject to my objection, Your Honor.

THE COURT: Noted.

A. I just wanted to make sure that everybody was good. I found no documents or evidence prior to 1994 that the road in front of 585 or 599 had a public right-of-way.

I do -- it is my opinion that Ellenburg Road prior to the lake being flooded was a road used by the public, whether it has a right-of-way or not, I don't know. But it is my opinion that now it really is a road to be used by the property owners on either side of the road.

THE COURT: I'm striking the last opinion that he had. That is beyond his expertise and that is a legal conclusion.

BY MR. PAAVOLA

Q. You said prior to 1994?

A. 1994 was the first plat that was recorded that called the road WA-42. Prior to that there was nothing that ever indicated that it was a County road of any sort.

Q. Is it your opinion to a reasonable degree of certainty as a professional land surveyor?

A. It is, it is caveated like I just gave in testimony, yes.

MR. PAAVOLA: No further questions at this time, Your Honor.

THE COURT: Let's take about a five-minute break.

(Brief recess.)

CROSS EXAMINATION

BY MR. HOLLIDAY

Q. Good morning, Mr. Quinn.

A. Good morning.
Q. Tell me how you are being compensated by the Plaintiffs.
A. Billing by the hour.
Q. What is your hourly rate?
A. $225.
Q. Do you have any idea how much you have billed them to-date?
A. I have not. I do not.
Q. Can you give me a ballpark?
A. Including the field survey, maybe $5,000. I mean, it is truly a wild ballpark.
Q. Can you identify any facts or information that the Plaintiffs' counsel provided you with and that you considered in forming your opinion?
A. Most of the documents that we looked at have been provided to me by the Plaintiffs' counsel.
Q. Okay. So what we looked at this morning -- is there anything other than the documents that we looked at this morning that were provided to you?
A. Yes, sir. Numerous other documents as well, yes.
Q. Were there additional facts or data covered that are not publicly recorded documents that Mr. Paavola provided you with?
A. DOT maps are not recorded. As I said, the FERC

maps, Federal Energy Regulation Commission maps of the lake. Also some Duke, other Duke maps. I believe that those would be the only unrecorded documents.

Q. Were there any assumptions that Mr. Paavola gave you that helped you in forming your opinion?

A. Assumptions, no.

Q. What is your understanding of who paved the road?

A. I don't know who paved the road. The road has been paved, just by looking at the historical documents, since at least the '40s.

Q. The road has been paved since the '40s.

A. Yes.

Q. And that is all of Ellenburg Road?

A. Right.

Q. On beyond where the lake is now?

A. Yes.

Q. And that would be before the Ratliffs owned 599; would that be correct?

A. That would be correct.

Q. At least it was paved of some sort. So an assumption that you were not provided with was that the Ratliffs had paved the road at some point during the '80s?

A. I have heard that, but I was not --

Q. Do you know who told you that?

A. Probably Mr. Paavola.

Q. Is that an assumption that you relied on in forming your opinion?

A. No, it is not.

Q. Is your obligation as a surveyor to reflect what is shown on the ground?

A. It is.

Q. Can you create rights-of-way or easements?

A. No, I cannot. Well, we can show them, but they have to be created by a dedication or a document conveying them.

Q. Do you know in your expert opinion if there is an option, if a bank requires a survey as a condition of lending, whether that survey has to be recorded?

A. It is my -- I don't know, as far as an option, if there is an option, yes, I would think that it is an option. But it does not -- banks do not require what we call closing surveys to be recorded. At least not where I work.

Q. Okay. So the bank wouldn't typically require a closing survey to be recorded?

A. No.

Q. Do you know how a County road would typically appear on a map? What is your opinion as to how a County road would typically appear on a survey?

A. Be labeled County road something, like the later maps call it WA-42.

Q. Okay. And WA-42 is a County road designation to the best of your knowledge?

A. To the best of my knowledge, yes.

Q. Do you have any idea how Oconee County designates private roads?

A. I do not.

Q. Is there any indication in your review of Oconee County's records that any portion of Ellenburg Road is a private road?

A. There is not.

Q. Do you have any idea why the road is named Ellenburg Road?

A. I assume because Mr. T B Ellenburg was one of the property owners along it.

Q. And is Ellenburg Road also a County designation?

A. I believe so.

Q. When you were out on the property I think you testified that you had done site visits there twice?

A. Yes.

Q. When you were out on the property, did you happen to see a road sign that indicated Ellenburg Road WA-42 at the intersection of Knox Road?

A. I didn't pay attention to it. I just looked for the road sign so I could find the designation. I saw the Ellenburg Road sign, but I didn't see WA-42.

Q. Did you happen to see any end of County maintenance signs while you were out performing your work?

A. I did not.

Q. Did you happen to review any other documents other than the ones that we covered earlier with Mr. Paavola? Publicly recorded documents.

A. Yes, there were additional publicly recorded documents.

Q. Are there any additional publicly recorded documents that called Ellenburg Road a County road?

A. I don't recall any -- no, I -- until the plats of 1994 that I have seen there is nothing that calls it a County road. There is a plat that you showed yesterday of the Pinions' property that calls it a State road in error.

Q. Do you have a binder in front of you marked Defendants' 1?

A. I do.

Q. I think that it is still up on the counter.

A. Yes, just a second. I can get this one closed. Okay.

Q. I believe the earliest deed that we referenced earlier was the 1950 deed from JJ Younce to T B Ellenburg; is that your recollection of provided testimony?

A. Yes.

Q. Do you recall talking about an older deed than

1950?

A. I don't recall any deed older than the one from JJ Younce to T B Ellenburg, no.

Q. Okay. Did you happen to search any further back than 1950?

A. I did not.

Q. Can you open your binder to Defendants' 1.2A?

A. Okay.

Q. Does that appear to be a deed?

A. It does.

Q. 1946 from JJ Younce to Larkin Mayfield?

A. It does.

Q. Does that indicate that Ellenburg Road is a public road and that the --

A. It does call it a public road, yes.

Q. If we go to 1.2B.

A. Okay.

Q. What does that appear to be?

A. That is a plat of 34.56 acres, which now would consist of the Arrowhead Pointe piece of property.

Q. Okay. So the on -- 1.2B, that 34.56 acres, that is past the fork at Ellenburg Road, correct?

A. The previous, yes, the old fork, yes.

Q. Okay. The old fork at Ellenburg Road, is that located more or less at the end of the current pavement

right now somewhere in the vicinity of the intersection of Globe and Mr. Jimmy Ratliff's shop at 599?

A. I believe it to be only because the road on the northwest side of this parcel, it calls the road the line in the plat, so -- of Mr. Ellenburg's parcel called the eastern boundary to be -- of the dirt road the line.

Q. Okay. Do you have any idea what the dashed lines on L117, which is Defendants' 1.2 Bravo, do you have any idea what those dashed lines indicate?

A. They are roads.

Q. Could they potentially indicate anything else?

A. Not to my knowledge, no.

Q. So dashed lines could never indicate rights-of-way?

A. It is possible, but this one calls road the line.

Q. But that is the property line?

A. That is correct.

Q. Okay. But the dashed lines showing the road, that would never indicate a property line?

A. I would not say never, no.

Q. So the dashed lines could indicate a right-of-way?

A. It is possible, yes.

Q. Okay. Can we go to 1.3A, which is a 1947 deed from JJ Younce to Eugene Kelly. Does that deed indicate that Ellenburg Road is a public road?

A. Yes, it calls for the property to be located on a public road.

Q. If we go to 1.5, which is a 1951 deed from Larkin Mayfield to James Sloan, does that call Ellenburg Road a public road?

A. Again it gives it the same description, located on a public road.

Q. If we go to 1.6, which is a deed from T B Ellenburg to Ida Dodgin, how does Defendants' 1.6 define Ellenburg Road?

A. It says property located on the west by a County road.

Q. So that 1957 deed that is Defendants' 1.6 indicates that it is a County road?

A. It does call it that, yes.

Q. If we look at Defendants' 1.7, how does that reference Ellenburg Road?

A. It also calls it west by County road.

MR. PAAVOLA: Your Honor, can we have a reference as to what document this is?

THE COURT: Sir?

MR. PAAVOLA: If we could get a reference as to what document this is?

THE COURT: 1.7.

MR. PAAVOLA: We were not provided a book.

MR. HOLLIDAY: It is recorded as Book 7N at Page 19.

BY MR. HOLLIDAY

Q. If you look at 1.8, which is a 1962 deed from T B Ellenburg to Helen and James Pinion, how does that define Ellenburg Road?

A. Calls it a public road.

Q. I am showing you the second page of Plaintiffs' 6. I don't know if you can read it terribly well up on the screen, but you also have a copy of it there in your binder. Do you see the Pinion property that we just discussed described anywhere in this 1966 plat?

A. Right there.

Q. Okay. And that also shows a blacktop road; is that correct?

A. It does.

Q. And this blacktop road runs from 183 to 201; is that correct?

A. That is correct.

Q. And that runs by the Pinion property that we just discussed, said was a County road?

MR. PAAVOLA: Objection, Your Honor, mischaracterizes witness' testimony.

THE COURT: You have got to speak up.

MR. PAAVOLA: Misstating the witness'

testimony. He didn't testify --

THE COURT: Rephrase your question for me please.

BY MR. HOLLIDAY

Q. Is where the Pinion property is located there, has that previously been indicated as a County road based on the deeds that we just covered?

A. Based on the deed to the Pinions, it calls it a public road. It doesn't call it a County road.

Q. If we go to 1.9, Defendants' 1.9, which is a 1963 deed from T B Ellenburg to Jerry and Fay Ellenburg, how does that describe the road?

A. Describes the property as being on the south side of an unnamed paved road.

Q. Okay. And if we go to 1.12, how does that describe Ellenburg Road?

THE COURT: What is that document, please?

MR. HOLLIDAY: That is the 1965 deed from James Sloan to South Carolina Land and Timber recorded at Book 9-Q/164 -- 154.

THE WITNESS: Repeat your question, I am sorry.

BY MR. HOLLIDAY

Q. How is Ellenburg Road described in Defendants' 1.12?

A. It is described as a public road leading from State Highway 183 to Knox's store to High Falls.

Q. Do you happen to know, does it say leading from Knox's store to High Falls?

A. It does, yes.

Q. Do you happen to know where Knox's store is?

A. I do.

Q. Is it on Knox Road?

A. Yes.

Q. Is Knox Road former 183?

A. That is correct.

Q. Do you know approximately how far Knox's store is from 599 Ellenburg?

A. I know that 180 -- or Highway 12, Knox Road, is four-tenths of a mile from -- oh, Knox's store is from Ellenburg Road where it ties in on the property?

Q. Sure, let's answer that question. How close is Knox's store to the intersection of Knox Road and Ellenburg Road?

A. I would have to guess it would be within a few hundred feet.

Q. Okay. So Knox's store is within a couple hundred feet of the intersection of Ellenburg Road, S12, which is Knox Road?

A. South of the intersection, yes.

Q. Okay. But it is close?
A. Yes.
Q. So that the intersection where Knox's store is close to Ellenburg Road, how far is it from Knox's store to 599 Ellenburg?
A. Just based on these plats we have been looking at, it is somewhere in the neighborhood of four-tenths of a mile.
Q. So it is pretty close?
A. It is.
Q. And so before the lake was created, was there any other road that ran from Knox's store to High Falls other than Ellenburg Road?
A. Not that I am aware of.
Q. Just as a demonstration to the Court, we are looking at Plaintiffs' 31. Would you agree that Knox's store is somewhere in the vicinity of the end of my marker, this 61 line crosses 183, which is now Knox Road?
A. That is my understanding, yes.
Q. So it's somewhere right in here. And you would agree that High Falls Church is north, correct?
A. That is correct.
Q. And as you testified, you are not aware of any other road other than this green highlighted section of Plaintiffs' 31, which is Ellenburg Road, correct?

A. That's correct.
Q. That would go from Knox's store to High Falls?
A. Correct.
Q. So if a deed referred to a public road leading from Knox's store to High Falls, could it be any other road other than Ellenburg?
A. I don't believe so, no.
Q. Are you familiar with the opinion that you wrote in this matter?
A. I am.
Q. Would you recognize it if I showed it to you?
A. I would.
Q. I'm showing you pages that are Bates stamped N01 through 04.
A. Okay, I recognize this.
Q. And what is that?
A. This is my review of the -- observation of the provided files that Mr. Paavola provided me. And then at the end I give my opinions of those files at that time.
Q. Okay.
MR. HOLLIDAY: I would move to introduce this as Defendants' 9.
THE COURT: Any objection?
MR. PAAVOLA: No objection, Your Honor.
THE COURT: Admitted.

(Whereupon, Defendants' Exhibit No(s). 9 marked for identification and received in evidence.)

BY MR. HOLLIDAY

Q. The first part of your opinion on Page 3 of Defendants' 9, which is Quinn 003 says, Early maps show a road going beyond Ellenburg property but do not show it as a public road, correct?

A. That is what it says, yes.

Q. Was your prior testimony here today a couple of few minutes ago, that it is described as a public road leading from Knox's store to High Falls?

A. It was.

Q. But your opinion on Page 3 says, Do not show it as a public road?

A. My opinion at that time was based on the documents that I list in this, in this opinion paper.

Q. Okay.

A. And none of those documents listed it as a public road. I did not have the benefit of the documents you showed me now that call it out as a public road in the deed.

Q. So has your opinion changed since you wrote this?

A. Yes, my opinion has changed. If this road was a road used by the public to get from Knox's store to High Falls Church, what is now Knox Road to High Falls Church.

Q. In your experience as a surveyor, have you ever

been involved in a road closure action?

A. I have.

Q. What is your understanding of what a road closure action is?

A. I can only speak to a DOT road closure.

Q. Okay. Why would the DOT bring a road closure action?

A. If they no longer use the road.

Q. Do you have any idea what happens to a road once the DOT abandons it?

A. It generally goes back to the County.

Q. Okay. So if it is a County road, would the County then subsequently have to abandon it?

A. I would think so.

Q. And that would require a road closure action?

A. I would think so.

MR. PAAVOLA: Objection, Your Honor, calls for a legal conclusion.

THE COURT: Sustained.

BY MR. HOLLIDAY

Q. If we go to the first page of your opinion. I think the testimony you gave earlier today was that the dashed lines would just show a road and would not show a right-of-way; is that an accurate representation of your testimony?

A. You were asking me about a specific plat?
Q. Correct.
A. And I also said that it is possible that the right -- that the dashed lines didn't show a right-of-way, yes.
Q. Okay. So it would be your --I'm showing you Plaintiffs' 16, which is P-61 at Page 577; is that the same plat that you looked at on the first paragraph of your opinion?
A. It is.
Q. What does the first paragraph of your opinion read in full?
A. Plat of Ellenburg property, 599 Ellenburg Road, dated August 1974 show road center line as boundary line, no mention of a right-of-way, calls for corners in the road to be railroad spikes or nail-in cap indicating that the road is paved. So those dashed lines which can either be the edge of pavement or a right-of-way line, but they are not labeled.
Q. So the dashed lines could be a right-of-way line, and that is your words in your opinion?
A. It is.
Q. Okay. Just for the reference, we are talking about these dashed lines right here could be a right-of-way?
A. It could be, but they are not labeled.
Q. Was it common at that time in 1974 to show

right-of-ways -- was it common for surveyors in 1974 to show right-of-ways with dashed lines?

A. In my experience, yes.

Q. So a surveyor in 1974 would have expected other surveyors in 1974 to understand that a dashed line meant a right-of-way?

A. Not necessarily, no. To me a dashed line like that, from my experience, would indicate a -- normally a dirt road is that line type.

Q. But this doesn't indicate dirt, does it?

A. It does not. It doesn't call it as paved either. I just deduced that it was paved because of the type of material that they used to set the corners in the road.

Q. So you are saying that nobody would use a railroad spike or a nailed-in cap to set pins in the middle of a dirt road?

A. Correct.

Q. So it is definitely a paved road in 1974?

A. Yes.

Q. Are you aware of -- I believe that you heard Jimmy Ratliff's testimony yesterday; is that correct?

A. I did.

Q. He had testified that he wasn't aware of any survey in between 1974 and 2020 for the 585 Ellenburg portion. And I believe that he also testified that he was

not aware of any survey between 1974 and 2021 for the 599 Ellenburg Road section, is that -- do you recall hearing that testimony?

A. I believe so, yes.

Q. Are you aware of any survey in between 1974 and 2020 or 2021 for these two properties?

A. I am not.

Q. Okay. Did you happen to find any railroad spikes or magnetic nails in the road when you performed your survey?

A. We did.

Q. I'm showing you Plaintiffs' 79. Does this indication down here on Plaintiffs' 79, does that say that you found a railroad spike?

A. Yes.

Q. So you wouldn't have set a railroad spike?

A. No, we didn't set anything, any boundary corners.

Q. Okay. And so you are saying that this property here never would have been re-surveyed in between '74 and 2020?

A. I can't answer that question.

Q. But you are not aware of any?

A. I'm not aware of any, no.

Q. How common are the use of railroad spikes currently in surveys?

A. Used to be very common when I first started.
Q. And when was that?
A. Late 1970s.
Q. Okay. When did the use of railroad spikes kind of start to wane in favor of maybe a magnetic nail?
A. When the railroad told us that we couldn't be in their right-of-way to get them.
Q. So you were borrowing them from the railway?
A. Yes.
Q. Okay. So did you locate a number of pins in the road?
A. Yes.
Q. And you are aware that, from your review -- let me ask you this question: Did you review Mr. Henderson's file in its entirety as part of your review in reaching your opinion?
A. I didn't read Mr. Henderson's file until yesterday. So I have not seen -- I don't know if I have his entire file.
Q. Okay.
A. I did read his deposition, so it did help form my opinion.
Q. But you have seen -- and this is the fifth page of Plaintiffs' 65; you have seen his 2020 plat, correct?
A. Yes, I have.

Q. Okay. And that also indicates that there is a railroad spike found?

A. Correct.

Q. And that indicates that there was one magnetic nail found?

A. Three more actually.

Q. Oh, yes. Okay.

A. And we found all of those.

Q. You found all of those?

A. Yes.

Q. If you look at his 2021 -- I am sorry, let me turn this. If you look at his 2021 plat, does that also appear over here at the intersection of Globe and Farmes' property that he found a magnetic nail in 2021?

A. It does, and we found that one as well.

Q. Okay. Do -- when you found these, did they appear to be -- did you find them with a magnetometer of some sort or you visually saw them?

A. We visually saw them. We used, it is called a Shonstat (phonetic), that is just a brand but it is a metal locator. We did use that to find the nails, yes.

Q. Okay. So you --

A. It is the one at the intersection of Globe and Farmes' property because it was under dirt. The rest of them were plainly out -- plainly in the road.

Q. Okay. So all of the other pins down Ellenburg Road in between 585 and 599, except for that last one in the dirt, all of those others, say six-ish pins, were really in the asphalt?

A. Right.

Q. And you could visually see them?

A. Yes.

Q. And in your experience as a surveyor, if a road is re-paved do those pins survive?

A. No.

Q. So the pins would have to be set again after the road was re-paved?

A. Yes, it would.

Q. And you heard Mr. Ratliff's testimony yesterday that said that there had been no survey between '74 and 2020?

A. I did.

Q. Okay. If the road had been re-paved sometime in the mid '80s, is it your opinion that those pins wouldn't be there anymore?

A. I would have to agree with you, yes.

Q. Was your testimony earlier today that the lane striping ends prior to 585 Ellenburg when we were reviewing Plaintiffs' 80?

A. That was my original testimony, but I do revise

that after seeing my exhibit. It is actually continued in front of 585 somewhat.

Q. I'm showing you Plaintiffs' 80 -- no, I'm not. There we go. And does that indicate that the lane striping continues past Globe and Farmes' property line right here?

A. It does.

Q. And that lane striping to you indicates public maintenance down to Globe and Farmes' property; is that correct?

A. It is definitely evidence that they have maintained the road. Someone has maintained the road and striped up to that point at some time.

Q. Have you ever been told that the Ratliffs put any stripes in the road?

A. I have not.

Q. So the lane striping continues past Globe and Farmes' property, so that would be an indication of public maintenance at least to Globe and Farmes' property?

A. Yes, it could be.

Q. Okay. In the second part of your opinion on Quinn 03, which I think is the third page of Defendants' 9, what does that paragraph say?

A. In conducting a site visit the newer pavement and road continues well before the properties in question and the old asphalt continues farther and there are old, faded

road stripes. These also end before the subject property. This leads me to believe that any public maintenance of the roadway ends prior to the road reaching the subject property.

Q. Is that not contrary to your testimony a minute ago?

A. It is. But at the time that I made the visit in November we had not done a survey so I had not found any of those property markers, I was just going visually by where the boat maintenance area started.

Q. Okay. So you didn't know where the property lines were when you made this opinion?

A. That's correct.

Q. Do you normally offer an opinion before you know where property lines are?

A. No, not normally.

Q. You say in the third page of your opinion -- or the fourth page, third bullet point, that it is my professional opinion that the road -- that the section of the road in question is not a public or public maintained road and rights to use it beyond the beginning of the subject properties' boundaries would be reserved to the owners beyond the subject properties; is that correct?

A. It is.

Q. All right. Is that still your opinion?

A. I still believe that the owners on either side of that property are the only people that --

THE COURT: What was that answer, please? Would you repeat that?

THE WITNESS: Okay. I believe that. The owners on either side of the property after -- when it gets down there are the only ones that have access via that road. Because the public has no reason to go down there beyond that unless they are going as guests or customers of Mr. Ratliff, to get to his boat shop at this point.

BY MR. HOLLIDAY

Q. But you would agree that Globe and/or their successors in interest would?

A. Absolutely, yes.

Q. Okay. And you have agreed that public maintenance extends past Globe's property line, is that --

MR. PAAVOLA: Objection, Your Honor, mischaracterizes the witness' testimony.

THE COURT: Say that again.

MR. PAAVOLA: Mischaracterizes the witness' testimony about public maintenance.

MR. HOLLIDAY: No, it does not.

THE COURT: Overruled.

THE WITNESS: I would say that evidence of

public maintenance does extend beyond the boundary line of the Globe and Farmes' property, yes.

BY MR. HOLLIDAY

Q. Okay. And it extends well past the boundary line of 585?

A. It does.

Q. Okay. But is 585 part of the subject properties in your opinion?

A. It is, but I was not aware where 585 began when I made this opinion.

Q. Okay. Because you didn't know where the property lines are, correct?

A. Correct.

Q. Okay. But you say on Quinn 4, fourth page of Exhibit 9, that this section of this road is not a publicly maintained road beyond the beginning of the subject properties' boundaries?

A. I did, yes, when I was in there.

Q. Okay. So your opinion is in error?

A. That portion of my opinion is in error, yes.

Q. Are there any other portions of your opinion that are in error?

A. Not to my knowledge, no.

Q. In your experience could the County maintain a road without any kind of lane striping on it?

A. Yes.

Q. Would there be a good example of a type of County road that wouldn't be striped?

A. I mean maybe some roads in Charleston County and Berkeley County might be like that, that don't have any stripes that are definitely County roads.

Q. Are you aware of any County maintained gravel roads?

A. Yes.

Q. And those wouldn't have stripes on them, right?

A. Correct.

Q. Could the County maintain a road without it having perennially fresh concrete?

A. Asphalt, yes. Or asphalt or concrete, either one, yes.

Q. Are there a number of roads in South Carolina that are not terribly-well repaired roads that are publicly maintained?

A. It would be easier to list the ones that are.

Q. So there's a lot of public County roads in South Carolina that are in bad shape?

A. Yes.

Q. Could County maintenance extend to cutting the grass, maintaining ditches and signs?

A. Yes.

Q. In your survey of the property, do you recall off of the top of your head what your reference plats were?

A. The two 1974 plats, I believe. The 1974 plat.

Q. I'm showing you Plaintiffs' 79.

A. We also listed the Henderson plat because it was on record for that piece of property, yes.

Q. Did you use the 1974 plat as a reference plat for your plat?

A. Well, we definitely used it. Oh, okay, so look in the -- in the parcel, we should list it like -- move up, yeah. Well we did use it. We didn't list it. My drafter didn't. And I -- but we did use it, yes. But we didn't list it, you are absolutely correct.

Q. Okay. So what are listed as your reference plats? And if you can't read this --

A. I can read it. The Henderson plat of 2020 of this piece and then those other plats, I'm not positive of what those are.

Q. Okay. When, on that second plat it says a plat by William Dixon; is that correct?

A. I believe so, yes.

Q. And then it says, Book?

A. That book doesn't make any sense to me.

Q. That doesn't appear to be a publicly recorded document, does it?

A. No, it does not. I don't know what that is, though, I really don't off of the top of my head. I would have to look at our files and figure out what that is. If that is -- I don't know, I can't answer that question, sorry.

Q. Okay. That plat, that plat by William Dixon, does that plat appear to have any recording marks? You know, you see the first one is recorded in Plat Book B something at Page 6, and the third one is recorded at maybe B something at Page 1. Do you see any recording there where it says, Book?

A. I believe that plat is a Duke Energy plat.

Q. A Duke Energy plat?

A. Yes.

Q. Would you recognize it if you saw it?

A. I would.

Q. Okay. But is it publicly recorded?

A. It is not.

Q. Okay. But you relied on it and you would know what it looked like?

A. I would know what it looked like, yes.

MR. PAAVOLA: Objection. I don't believe the witness' testimony relied on it.

MR. HOLLIDAY: It is literally listed as a reference plat.

THE COURT: Overruled.

BY MR. HOLLIDAY

Q. Does this appear to be Mr. Dixon's plat?

A. It does.

Q. And is this the plat, or one of the three plats you relied on in creating your survey?

A. This is one of the references.

Q. Okay.

A. Because we also located the boundary -- as part of what we were doing, we were locating some lines, if you will notice, go back to my exhibit if you can. Which is -- I don't remember because we give -- no, my exhibit. It should be the page before that, I believe.

Q. Your exhibit.

A. Exhibit before the road.

Q. Maybe the page after? Exhibit 80?

A. Yes. So, the Dixon plat is what we used to establish this line, which is a Globe and Farmes' boundary line that is part of an agreement between Duke and -- or maybe it was a lawsuit, but a settlement that this was their boundary. So we could give these dimensions off of the property line of Ratliff and common line between Globe and Farmes' and the Ratliffs as to how much land there was to go through there.

Q. So you took these measurements with regards to the

Board of Zoning Appeals variance?

A. We took those measurements with regard to this boundary line of the property between Duke and the lake and Globe and Farmes. And then the other line being the line between the Globe and Farmes and the Ratliffs' property.

Q. And are you aware of what the significance of this 32-foot line here means?

A. I just know that when we went to do our field survey that Mr. Hamrick met us out there, along with another surveyor, and he had staked a proposed road.

Q. Can you show me where those stakes were with your laser pointer and your understanding of where the proposed road is?

A. Somewhere in here, this would be a rough. And followed somewhat parallel to the existing road and then entered -- and crossed so that the stakes in the line pretty much crossed at that nail between Globe and Farmes and Ratliff.

Q. Explain that to me, where it crossed over here.

A. That PK nail that we found right there was pretty much the center line of the road, proposed road at the boundary.

Q. Okay. And that proposed road came in somewhere near the end of the striping?

A. That is correct.

Q. Okay. So the proposed road was to shift the road south on to Globe and Farmes' property and then get back in to access this proposed subdivision?

A. That is correct.

Q. Okay. So with regard to the Dixon plat, you have seen that plat before, you recognize it, you relied on it in creating your survey; is that accurate?

A. In creating that exhibit, yes.

Q. Okay.

MR. HOLLIDAY: So I would move to introduce that as Defendants' 10.

THE COURT: Any objection?

MR. PAAVOLA: No objection, Your Honor.

THE COURT: Admitted. That is the Dixon plat?

MR. HOLLIDAY: It is, Your Honor.

(Whereupon, Defendants' Exhibit No(s). 10 marked for identification and received in evidence.)

BY MR. HOLLIDAY

Q. On Defendants' 10, can you find Ellenburg Road?

A. I can.

Q. Is there any notation about what type of road it is?

A. Ellenburg Road maintenance right-of-way.

Q. Okay. Is there any other notation there?

A. There is not.
Q. And is that similar to the Henderson plat that you used as the first reference plat?
A. It is not, no.
Q. There isn't a notation on the Henderson plat?
A. The Henderson plat says, Subject to right-of-way, public.
Q. Okay. So this is --
THE COURT: Identify what document that is.
MR. HOLLIDAY: I am sorry.
BY MR. HOLLIDAY
Q. This is Exhibit-- Plaintiffs' Exhibit 65 Page 5. And so, as you just testified, it says Ellenburg Road WA-42 subject to right-of-way, public.
A. Correct.
Q. So it says that it's subject to a right-of-way, and the Dixon plat, which is Defendants' 10 says what?
A. It says, Maintenance right-of-way.
Q. Okay. So the third plat that you referenced in your survey appears to be a plat by Ted Beverly. Do you know off of the top of your head what that plat is that is recorded at B291 at Page 1?
A. I believe -- we looked at it this morning. I believe that it is the Morgan property, but I'm not positive without seeing it.

Q. Okay. But you would recognize B291 at Page 1 if I showed it to you?

A. If it has the recording information on there, yes.

Q. Okay.

A. Oh, okay. I was wrong.

Q. Does this appear to be plat B291 at Page 1?

A. Yes, it does.

Q. Okay. And this is Plaintiffs' 25. And when we are looking at how Ellenburg Road is defined on B291 at Page 1, which is your third reference plat, how does that define Ellenburg Road?

A. It also calls it a maintenance right-of-way to the southwest of the parcel.

Q. Does that include any indication that that maintenance right-of-way ends before 585 Ellenburg? Does it include any indication that that maintenance right-of-way ends prior to 585 Ellenburg?

A. No, it does not.

Q. So you used three plats that indicated that there was a right-of-way all the way to the end of the pavement, and yet your opinion in Quinn 3 and 4 says, I am not aware of anything that calls this a public road -- a public right-of-way; is that correct?

A. These plats -- well, my survey that you are looking at is from May or June, June.

Q. Let's see, we can get a date.
A. Whereas my opinion that you are referring to was many months ago, at the beginning of the year, before I had any of these plats or had done an actual survey of the property.
Q. I'm looking at Defendants' 79 and I have not found a date on it.
A. Lower right-hand corner under the title.
Q. Okay.
A. Under our logo.
Q. I am trying. It is there and I am just trying to --
UNIDENTIFIED SPEAKER: 4-29-24.
A. April 29th, '24.
Q. Okay. So your survey, which is Exhibit 79, was done less than two months ago?
A. Correct.
Q. Is there a reason you didn't provide an updated opinion with your new opinion that this right-of-way extends all the way?
A. I was not asked to.
Q. Because that is contrary to the Plaintiffs' position. Do you see what you marked below Ellenburg Road on Plaintiffs' 79?
A. I do. "No known right-of-way."

Q. But all three of your reference plats indicate a right-of-way all the way to the end of the pavement, correct?

A. You could formulate that opinion, but that is not what any of them show actually. There is no right-of-way line shown on the two Duke surveys. And Mr. Henderson's survey showed the right-of-way ending somewhere in the middle of 599.

Q. Okay. So if we were to look at Exhibit 10, is this black line --

A. It is edge of pavement.

Q. That is the edge of pavement. This dark shaded is the concrete around Mr. Ratliff's shop?

A. Correct.

Q. Okay. And this black line --

A. Edge of pavement.

Q. -- is the edge of pavement.

A. That's correct.

Q. Does that line come all the way down here to the edge of pavement at the intersection of Globe and Farmes' road?

A. Yes, that is what they are depicting is edge of pavement.

Q. But that edge of pavement, that doesn't mean that that edge of pavement is also the boundary of the

maintenance right-of-way?

A. I don't know. They don't label it that way.

Q. So what, in this reference plat from the Dixon plat, Defendants' 10, what does maintenance right-of-way mean to you?

A. That they are indicating that there is possibly a right-of-way that is the width -- well, an unknown width but that someone has a right-of-way to maintain that road.

Q. So they are indicating that there is a right-of-way?

A. They are calling for a right-of-way, yes, on that plat.

Q. And this is a plat that you used to generate your survey?

A. Yes, that is what we list on our survey.

Q. And your survey says, No known right-of-way?

A. Which, to me, meant it should have been more clear. No known right-of-way with no -- we don't know whether there is a right-of-way there or not. I can't determine that.

Q. So what do you think is an accurate way of saying that, with the benefit of going through all of these deeds and plats, and calling it a public County unnamed paved road, what do you think the -- what do you think you should have labeled your survey instead of no known right-of-way?

A. I'm labeling the road, that there is a road there.
Q. Okay.
A. But I don't know, I don't know of a right-of-way, a designated right-of-way for that road, so I labeled it, No known right-of-way, because I don't know if there is a designated right-of-way for that road. I think that is accurate.
Q. Okay. Even though this shows a maintenance right-of-way to the end of the pavement?
A. That just shows the next maintenance right-of-way, it doesn't indicate where that right-of-way is.
Q. But you would admit that the maintenance right-of-way is in between the edge of the asphalt, correct?
A. No.
Q. The words, Ellenburg Road maintenance right-of-way is not between the edge of asphalt here?
A. Well the words are, yes, sorry.
Q. Right, right. So the maintenance right-of-way to you could be anywhere?
A. Yes, somewhere in relation to that road, yes.
Q. So that, what would the edge of asphalt indicate to you with regards to this plat when it says, Maintenance right-of-way? Would you assume that at least that would extend to the edge of pavement?
A. Not necessarily, no.

Q. Explain to me how the maintenance right-of-way wouldn't extend to at least the edge of pavement if it's clearly in between the edge of pavement?

A. That is where surveyors label roads. I mean, they are labeling the road. I said earlier in my testimony this morning, I never heard of maintenance right-of-way before, and so I can't answer that question. I don't know what that means.

Q. All right. We are looking at Plaintiffs' 4. Earlier when Mr. Paavola asked you about this, do you recall what your testimony with regards to this dashed line was?

A. That was the center of the road.

Q. The dashed line is the center of the road?

A. Yes.

Q. Would -- so the property boundaries would have changed to come farther out into the road at some point after this plat was done?

A. No, it calls for the plat. Center line pavement is property line.

Q. Okay. So is this the property line, this solid line?

A. No.

Q. That is -- that solid line is not the property line?

A. That is correct.

Q. How -- where are the boundaries of this property? Because I was under the impression, in looking at this plat, that the solid line would be the boundaries of this property?

A. The boundary of the property would follow that line out and extend it to the center of the road, follow the center line of the road up to here, come across and follow this dirt road along there where the center of that dirt road.

Q. Along -- this solid -- this is a solid line, correct?

A. That's correct.

Q. That runs, I guess, northwest?

A. Correct.

Q. And it comes down to this point in the southernmost part of this plat?

A. Correct.

Q. Wouldn't this be the property line, this solid line?

A. If you didn't call it out as the center line pavement property line. Which is what all of that abbreviation means, it would be, yes.

Q. So this says, Center line of pavement is property line?

A. Correct.

Q. Okay. And this solid line would not be the property line in the center of the pavement?

A. That's correct.

Q. Why are the other property lines not indicated as a dashed line?

A. I have no idea. I didn't draw the plat.

Q. Are you sure?

A. I'm reasonably sure. To the best of my professional opinion, yes.

Q. Earlier you testified that a dashed line could indicate a right-of-way; is that correct?

A. That's correct.

Q. Okay. And your opinion says that a dashed line could either be edge of pavement or a right-of-way line.

A. That's correct. But there is different types of dashes. This particular line type is a standard line type for a center line. And that is even in our regulations that is a center line. So the line with a short dash in the middle and then a single short dash and a longer line and a single short dash, that is the center line.

Q. So if the center line is the property line, why does this solid line not meet with this dashed line?

A. I do not know.

Q. And you are absolutely certain that this black line, solid black line, similar to all of the other property

boundaries, is not the southeastern property boundary of this 12.8 tract?

A. Well, not indicated on -- because on this side it is the same way. It calls center line a dirt road and line, and this is a solid line as well. So, yes, I'm absolutely -- I am 90 percent sure, 99 percent sure, yes, that is not the way he drew it or called it out.

Q. So this dashed line would not indicate the edge of pavement?

A. No, not the way that he has got it drawn.

Q. So why, if the dashed line is the property line, why on the eastern side of this parcel does it not connect to the solid line otherwise showing the property boundaries?

A. I do not know, but he doesn't connect it on the western side either. He has a dimension, I think -- or no he calls it new iron set or something, that is your concrete corner. But he shows that the road continues on and the dashed line keeps going. And then the new dashed line was the dirt road coming up this way.

Q. Are you aware of where the road forked at this time?

A. Looking at this plat it looks like it forked right along in there.

Q. Okay. And do you know where the shop at 599 Ellenburg would be?

A. Somewhere in this general vicinity. No, this is the 12 acres. So, you know, near that portion right in there.

Q. So that fork is more or less where the shop at John's Marine is?

A. In the general vicinity, yes.

Q. I'm trying to help you here, but you are 100 percent sure?

MR. PAAVOLA: Objection, Your Honor, asked and answered multiple, multiple times.

THE COURT: Overruled.

BY MR. HOLLIDAY

Q. You are certain that this solid black line is not the center line of the asphalt?

A. I am to a reasonable degree of professional certainty I'm sure that that line is not.

Q. And you think that this dashed line is the center line of the asphalt and otherwise known as the property line?

A. Yes, based on the way that he's drawn it and the way that he's labeled it.

Q. I just really -- can you help me understand that?

MR. PAAVOLA: Objection, Your Honor. He is -- Mr. Quinn has already answered that same question.

THE COURT: Rephrase.

BY MR. HOLLIDAY

Q. Why do you have that opinion?

A. As I say, this is a standard line type that is in our regulations as a center line, as it is up here. And he labels it along that line as being center line of pavement. P/L is property line. And along here center line dirt road is property line.

Q. He's saying that the center line of pavement is the property line?

A. Correct.

Q. And yet there is no connection on the east or west side to the dashed line?

A. I agree that it is strange, but yes.

Q. But the solid black line continues around for the entirety of this parcel showing all of the other boundaries of this property. Every other property boundary line is a solid line?

A. Two of the property boundary lines are a solid line, and the remainder are these -- are a road.

Q. You are saying that there is only two solid lines showing the property boundaries?

A. There is a solid line all the way around it, but right here is the property -- if he doesn't say anything about not being a solid line. And along here it doesn't say anything about it not being a solid line. But on here he --

center line line of pavement. He calls it center line of pavement is property line. And along here he calls -- shows center line line of pavement and calls it center line dirt road property line.

Q. Okay. I don't know that I'm going to understand this. So if we go to -- let me ask you this question: Do you happen to see an indication here in Plaintiffs' 4?

A. I see where your finger is pointing, but what are you asking?

Q. Do you see, do you see a symbol there?

A. There is something there that I can't make out, yes.

Q. Okay. Could it be a bridge?

A. Could be, yes.

Q. Do you see a similar symbol here?

A. I do.

Q. What does that symbol indicate?

A. It indicates a bridge.

Q. Okay. And can you point, with your laser pointer, where on this map Jimmy's shop -- John's Marine would be located?

A. Somewhere right near there.

Q. Okay. So it would be -- well, this map isn't oriented correctly. It would be somewhere south of this dirt road and somewhere west of the green highlighted

section?

A. Correct.

Q. Okay. And you have indicated that the road does fork there?

A. Correct.

Q. Okay. Earlier when we were reviewing Plaintiffs' 5 and 6 I believe, I believe that you testified that there was a scribner's error as to the amount of property conveyed and retained in between Mr. Ellenburg and Crescent in this, in this deed and Exhibit 6, which is the plat for that. Do you recall --

A. I do.

Q. -- that scribner's error? And what was that scribner's error?

A. I could be wrong in reading the plat, but it appears to me that the plat says that the property is being conveyed to Crescent. It is 5.62 acres, whereas the deed says 5.52.

Q. Okay.

A. But it refers to the plat, so the plat would actually help.

Q. Okay. So here is the plat. And actually Page 2 might be more legible.

A. Where is it? It is right there. Right there is where it lists acreage, see where that is.

Q. 5.62?
A. Yes.
Q. Okay. Is that the land -- is that the land being conveyed to Crescent or is that the land being retained by Mr. Ellenburg?
A. That is being conveyed to Crescent.
Q. So it says, 5.62. And where do we see the scribner's error?
A. I don't think that is the right deed.
Q. That is what I have got down in my notes, that you said that there was a scribner's error.
A. When we were looking this morning this was the deed for a larger piece. It is the deed beyond that plat. That plat is -- are you following me?
Q. Do you want to go to Exhibit 7?
A. Yes, there you go.
Q. Okay.
A. Or contains 6.6 -- we were -- 6.52 versus -- one second.
Q. Yeah, it is in your book also.
A. What number?
Q. I thought that your testimony was that there was a scribner's error in Exhibit 5. The plat is Exhibit 6.
A. Six, yes. I know, yes, 6.62. A moment ago I was saying 5.62, but it is 6.62.

Q. Okay. And what does it say?
A. 6.52 is what it says in the deed rather than 6.62.
Q. It says 6.52, because this is a deed where T B is selling to Crescent?
A. Correct.
Q. And this is a separate deed from Plaintiffs' 5 where T B is selling to Crescent, correct?
A. South Carolina Land and Timber. Crescent is its predecessor.
Q. And what of Crescent?
A. Crescent is I believe --
Q. South Carolina Land and Timber is a predecessor to Crescent?
A. Is my understanding, yes.
Q. And both of those are effectively subsidiaries of Duke, correct?
A. Yes.
Q. Okay. So where do we see -- I am just trying to understand your prior testimony about the scribner's error.
A. It is not in this deed at all.
Q. Okay.
A. That plat -- it does refer to this plat.
Q. I believe it says Y at 118?
A. Yes.
Q. So if we go to -- let's see. There is Y at 118.

No, that is not right, is it? Y at 118 is the prior deed.

A. It is the deed in -- which is Plaintiffs' No. 7 that goes with the plat where the scribner's error is is No. 6.

Q. I am showing you Plaintiffs' 4, does that appear to be Y at 118?

A. Yes.

Q. Okay. So that --

A. That has nothing to do with the scribner's error.

Q. Yeah, but I'm trying to get there.

A. Right.

Q. That indicates that it is 12.8 acres, correct?

A. Yes.

Q. Okay. And we also see that 12.8 acres --

A. Right there, yeah.

Q. -- referenced in Exhibit 5, correct?

A. Yes.

Q. Okay. And we see that the chain of title has come from Younce and then Pinion and we have Jerry and Fay Ellenburg, we see all of that, and it is more or less retained by the grantor. So he is subdividing his property in Exhibit 6; is that correct?

A. Well, effectively he is subdividing it, yes.

Q. Okay. And he is --

A. Or Crescent is subdividing it.

Q. And he is conveying this northern portion, the northeastern portion -- I guess it is just northern portion. He is conveying that portion to Crescent or Duke or South Carolina Land and Timber in Exhibit 6, correct?

A. Correct.

Q. And so he's giving them how much?

A. The plat says 6.62.

Q. Okay. But he's retaining how much?

A. 6.52.

Q. Okay. So he retains 6.52, and then in Exhibit 7, does he then convey that remaining 6.52 to Duke or to South Carolina Land and Timber?

A. This was to Crescent. This deed goes with that plat.

Q. Oh this --

A. And it calls it 6.52. Yes.

Q. This deed, Plaintiffs' 7 goes with this plat?

A. With Plaintiffs' 6, correct.

Q. Okay.

A. Yeah, the plat came first and then the deed.

Q. Got you. What is the legal description here where it says, Beginning, can you read that for me?

A. Beginning at the intersection of center line of South Carolina Road S37 201 and the southeasterly edge of a bridge to turn thence. Do you want me to rephrase that?

Q. Yes, I just -- how about keep that in front of you.

A. Okay.

Q. And I want you to show me on Plaintiffs' 6 how we are tracing that boundary line on Plaintiffs' 6 as described in Plaintiffs' 7. So in your expert opinion as a surveyor, if we are beginning at a bridge, where does that, with your laser pointer, where does that -- how does that take us around this property? Are we going clockwise or are we going counterclockwise?

A. It should be clockwise. Well, this is the nail at the bridge.

Q. So that is --

A. That is the northernmost point.

Q. And that is at South Carolina 201, correct?

A. Well, that is what it calls for.

Q. Uh-huh.

A. From the testimony yesterday it wasn't. But then it is running southeast, so it is running in a clockwise direction in this description.

Q. So that is a road, correct?

A. Correct.

Q. And says center line of that road is the property line?

A. This plat does not call for it to be the center

line of the road. Oh, yes, it does. Center line -- yes, it does. Yes, it does, it says, Following the sand clay road.

Q. Okay. And when that reaches its easternmost point right here, is that where the road forks?

A. Near where the road forks it looks like. If you look at it, it is really faint but you can see how the road keeps on coming down and ties into Ellenburg, what is now Ellenburg, right along in there.

Q. Okay. So this road that is marked as a blacktop road?

A. Right.

Q. And you would admit that this 1966 plat, I believe -- yes, this 1966 plat --

A. Right.

Q. -- it calls Ellenburg Road a blacktop road?

A. That's correct.

Q. Okay. So the fork is somewhere right in here?

A. Yes.

Q. And what is identified as 201 continues north to that bridge, all the way at the top there; correct?

A. That's correct.

Q. And the other fork comes somewhere off over here, but it is immaterial to this plat?

A. That's correct. This plat seems to indicate that it keeps going straight, where the old maps show it forking

off, but yes.

Q. Okay. If we see in Plaintiffs' 7 an indication of K-574, would that -- what does K-574 mean to you?

A. As I earlier testified, that is a Duke or a -- their entity's file number. If you look on the corner of Exhibit 6. Go back to the plat.

Q. Go back to Exhibit 6?

A. Yep.

Q. Do you want the white one or the darker one?

A. It doesn't matter.

Q. Okay.

A. On the bottom left -- bottom right corner. Well, it is cut off on yours, go to the next one.

Q. I will get you a better one.

A. The very bottom right says, File number, and then larger text, K-574.

Q. Okay. And that is a reference to a Duke plat?

A. That is my understanding.

Q. Okay. I'm showing you Plaintiffs' 10. Do you see a K-574 on this map?

A. I do right there indicating the area that they purchased from T B Ellenburg.

Q. Okay. And you see where it says, Nail and cap south end of bridge?

A. I do.

Q. Did you previously testify that a nail and cap would only be used in a paved road?

A. Well, bridge -- yes, I did testify to that. But we didn't talk about bridges. A bridge is probably wooden so you would probably nail where you couldn't drive an iron.

Q. Okay. And you can see how the road forks up there and forks here; is that correct?

A. Yes, that's correct.

Q. And can you identify Arrowhead Pointe on this map?

A. That point right there inside that dark line.

Q. And so that public road ran through Arrowhead Pointe?

A. It did. Well, yes, it did.

Q. Okay.

A. Along the common boundary between Arrowhead Pointe and the Ratliffs.

Q. If we look at Plaintiffs' 11. If we are looking at the road here, do you see any dashed lines there?

A. I do.

Q. And those dashed lines likely indicate the edge of asphalt or the edge of a right-of-way based on your prior testimony; is that correct?

A. That's correct.

Q. Okay. So when this plat was made in 1974 there was a -- at least a paved road running through there, maybe

a paved road with a right-of-way?

A. That's correct.

Q. Okay. And that center line is center line of that road, which is shown with a solid line, is the property boundary in the middle of the road?

A. That is correct. This is drawn like it ought to be.

Q. I believe your testimony earlier to Mr. Paavola was that Mr. Henderson didn't indicate any basis for putting a right-of-way here; is that correct?

A. His basis was that it was a paved road and people drove on it.

Q. Okay.

A. From my recollection.

Q. Have you ever discussed this with Mr. Henderson?

A. I have not. I do not know Mr. Henderson.

Q. Okay. Have you ever seen any emails that were exchanged with Mr. Henderson?

A. I have not.

Q. Okay. I'm showing you Plaintiffs' 64. Can you read this portion of Mr. Henderson's August 16th, 2022 email to Jimmy Ratliff? But he testified yesterday that this was actually through Lucretia because he has an email but he's never emailed.

A. I can. Let me drink water.

Q. What does that say?

A. "Concerning your question about the label on the road, Ellenburg Road is a longstanding road that at one time looped around back over to High Falls Road before Lake Keowee was created. Since Ellenburg has a County designated number, it is a public road. I do not see any confirmed width size on the road from any of the deeds, thus it is subject to some unknown right-of-way width."

Q. Given our review of deeds and plats and maps, do you disagree with Mr. Henderson?

A. I don't disagree with Mr. Henderson except questioning the part about that portion having a designated road number just based on some of the evidence in the field.

Q. What you are saying is, you agree with him except you are not sure about the designated road number?

A. And that the County is maintaining it down there, yes.

Q. But he doesn't say anywhere --

A. He doesn't say anything about it.

Q. -- in here about County maintenance?

A. Correct.

Q. He says, Since it has a County designated number it is a public road?

A. Yes.

Q. And that is the part that you take issue with?

A. No, I do not.
Q. So you agree with him on that part?
A. Yes, I do.
Q. Okay. We go to Exhibit 31. Plaintiffs' Exhibit 31. Are you familiar with map legends?
A. I am.
Q. Do you see "private road" marked on here?
A. I do.
Q. Okay. Do you see any portion of Ellenburg Road on the third page of Plaintiffs' 31 that indicates that any portion of it public? Or is a private road?
A. I do not.
Q. Does it appear to be a public road?
A. It appears to be a bituminous road of load type or something like that is the legend.
Q. Okay. Did you -- in your experience out there doing your site visit, does any portion of Ellenburg Road as it exists today appear to be inundated by Lake Keowee?
A. No.
Q. Do you know -- I'm showing you Plaintiffs' 49. Do you have any knowledge of when these photos were taken?
A. I do not.
Q. Okay. Do they appear to be substantially similar as to when you went out there?
A. They do.

Q. Okay. When you were on the site, did you observe -- let me go back one. Let me go back two, sorry. You see the mailbox for 582 here; is that correct?

A. I do.

Q. And if we go one farther, I believe that Ms. Harris' testimony yesterday was that this gravel road or gravel parking area here was hers serving 582; is that correct?

A. That is what I heard, yes.

Q. Okay. So if we go one more, do you have any knowledge or understanding of what this stake is with a green flag represents?

A. I do not.

Q. So when you walked the property with Mr. Lee and his surveyor, do you -- is this not an indication of where this road would be shifted onto their property subject to your prior testimony?

A. Mr. Hamrick, but there was a series of stakes so that stake could be one of them. But there was a series of stakes that began somewhere in this general vicinity and went all the way down to the end of the road. It was three different colors that meant three different things, and so I don't know what that particular stake is.

Q. Okay. But generally their plan was to shift the road to the right in this photo, or to the south on the map

--

A. That is correct.

Q. -- to create more room for Mr. Ratliff?

A. Correct.

MR. PAAVOLA: Objection, Your Honor. Mr. Holliday is testifying.

THE COURT: What is your objection?

MR. PAAVOLA: Mr. Holliday is testifying as to making more room. Mr. Quinn hasn't been identified as an expert on what the plan is for the development; he has no knowledge about that.

MR. HOLLIDAY: He met with the developer.

THE COURT: Overruled.

MR. HOLLIDAY: Thank you, Your Honor.

BY MR. HOLLIDAY

Q. Can you -- your understanding from meeting with -- did you meet with Mr. Hamrick or Mr. Lee?

A. I really don't know to be perfectly honest with you. It is the gentleman here sitting outside kind of has curly hair.

Q. Okay.

A. So which one is that if you ask me that question again?

Q. It is Mr. Lee. Mr. Hamrick is here in the white shirt.

A. Mr. Lee. My apologies to you, Mr. Hamrick.

Q. And so your understanding from your meeting with them and reviewing the stakes that they had put up through the woods here was that their desire was to shift the road south and right on this map -- or on this photo to give Mr. Ratliff more room for his shop?

A. My understanding is that they were going to shift the road to the south, yes, and tie it back in at the other end.

Q. Okay. And they were going to tie back in somewhere in this vicinity of the end of the lane striping?

A. That is correct.

Q. Okay. So when we review your opinion you say early maps show a road going beyond the Ellenburg property but do not show it as a public road; is that true based on your knowledge and understanding today?

A. Early maps indicate to me that the public did use it. It was used by the public to get from Knox Road and Knox's store to the High Falls Church.

Q. So that opinion would be not true based on your testimony today?

A. That is correct, knowing what I know now.

Q. You said in conducting a site visit the road striping ends well before the properties in question. This leads me to believe that any public maintenance of the

roadway ends prior to the road reaching the subject property. Based on reviewing photographs and your testimony of your site visit, is that true today?

A. A portion of it is, but I was not aware of where 585 started on the left-hand side there. So it does continue into the front of 585 somewhat, yes.

Q. So, instead of it being untrue, you were mistaken?

A. Correct.

Q. And your last portion says, It is my professional opinion that the road in question is not a public or publicly maintained road and that any rights to use it beyond the beginning of the subject properties' boundaries would be reserved to the owners and the property beyond the properties. Based on all of the evidence that we have reviewed, based upon your prior testimony today, is that accurate?

A. It is accurate, yes. Because I believe that the public doesn't use that road any longer, so it is not used as a public road. I think that prior to the lake being formed it was used by the public. But now the lake is there so it has been cut off. That is a legal opinion as to whether it is a public road, not mine.

Q. Wasn't it your testimony today that to cease being a public road it had to be abandoned, there had to be an abandonment action filed in a court of law?

MR. PAAVOLA: Objection, Your Honor, calls for legal conclusion.

MR. HOLLIDAY: I believe that it was his prior testimony today.

MR. PAAVOLA: Misstates his prior testimony as well in making an objection.

THE COURT: Calls for a legal conclusion?

MR. PAAVOLA: Yes, Your Honor.

THE COURT: I believe that he just asked him to review what he testified to earlier. But to the extent that you are asking for a legal opinion, I sustain. You can ask what he testified to earlier.

MR. HOLLIDAY: Sure.

BY MR. HOLLIDAY

Q. Did you testify earlier about the road abandonment process?

A. I did.

Q. Was your testimony earlier today that for the public to abandon a portion of a road, a road abandonment lawsuit would have to be filed?

A. My testimony was that the DOT or a County would have to go through a process to abandon it, yes.

Q. Are you aware of any road abandonment process ever being filed with regards to any portion of Ellenburg Road?

A. I am not.

MR. HOLLIDAY: Thank you.

THE COURT: Redirect?

MR. HOLLIDAY: Have you got anything?

MR. LOGAN: No, Your Honor, I don't have anything.

THE COURT: Oh, I am sorry.

MR. LOGAN: No problem.

REDIRECT EXAMINATION

BY MR. PAAVOLA

Q. Mr. Quinn, you are not an attorney, are you?

A. No, I am not.

Q. You are not qualified to speak on any -- all of the ways that a road can be abandoned, right?

A. No, I'm not.

Q. You were just talking about a road abandonment process, is it your understanding that that is one way to abandon a road through a formal process?

A. It is, based on my experience of abandoning DOT roads.

Q. But you are not saying that that is the only way that it could be abandoned?

A. That is out of my purview.

Q. You looked at a number -- you were asked about the old Ellenburg Road before the lake was created and historic map showing the bituminous load, right?

A. Correct.
Q. And you have been saying that it is paved, haven't you?
A. Yes.
Q. You are not able to tell us today what the quality of that road was like in the maps showing the pre-lake times, right?
A. No, I am not.
Q. Are you familiar with a tar and gravel road?
A. I am.
Q. Is that a form of improved road?
A. It is my understanding, yes.
Q. Called a bituminous load road?
A. It could be, yes. Bituminous yes, for sure. But load type, I don't know what that definition is.
Q. You are not able to tell us what the road looked like when it was a smooth, paved road like we know today or it was rocky with tar in it, are you?
A. I am not.
Q. Well first let me grab Defendants' 10.
MR. PAAVOLA: May I approach, Your Honor?
THE COURT: Yes, sir.
BY MR. PAAVOLA
Q. Mr. Quinn, we looked at Defendants' 10 earlier today. You were asked about this document?

THE COURT: What number is that, please?

MR. PAAVOLA: Defendants' 10.

THE WITNESS: Yes, I was.

BY MR. PAAVOLA

Q. And there are words on the page here that say maintenance right-of-way; is that correct?

A. That's correct.

Q. Is that maintenance right-of-way defined in this on this page?

A. It is not.

Q. Is it explained on this page?

A. It is not that I recall, no.

Q. Do you have any idea what that means?

A. Ask me that question again.

Q. Do you have an idea what that means, as a surveyor?

A. As I have stated a couple of times, I have never heard the term maintenance right-of-way before this particular project. So I am assuming that it means that someone maintains it and they have the rights to do that.

Q. This is a document that you had in your file at the time that you created the survey that we looked at today, isn't it?

A. It is.

Q. And did you have Duke's surveyor's file in your

possession prior to looking at this?

A. Not to my knowledge, no, I did not.

Q. So you are not certain what documents they looked at or had in their file?

A. I am not.

Q. This is Plaintiffs' Exhibit 49, we looked at this earlier, correct?

A. We did.

Q. And I believe that you testified earlier that at this section is where you noted the change in pavement; is that right?

A. That's correct.

Q. And that you are aware that the County testified that it stopped paving in 2012 at that location?

A. That's correct.

Q. And the County also testified that it stopped laying stripes in that location in 2012?

A. That's correct.

Q. You have not seen any documents showing County maintenance on Ellenburg Road beyond that point, have you?

A. I have not.

Q. Do you recall the County testified that it had no records of paving and patching in front of 585 and 599 Ellenburg Road?

MR. LOGAN: Objection, Your Honor.

THE COURT: Yes, sir. What is your objection?

MR. LOGAN: The witness has said that he has no knowledge of these documents, and now he's trying to tell him what the documents say to get him to --

THE COURT: Sustain your objection.

MR. PAAVOLA: I will rephrase the question.

BY MR. PAAVOLA

Q. Mr. Quinn, do you recall the County testifying that the County had no documents of records reflecting any paving or patching in front of 585 or 599 Ellenburg Road?

A. I recall reading their depositions, yes, and that was the case.

MR. LOGAN: Move to be stricken, Your Honor. He is testifying based upon a deposition that he said he read.

MR. PAAVOLA: The deposition has been admitted into evidence as if they were testifying.

THE COURT: Well, you know, you are not allowed to pit witnesses' testimony against each other. I'll sustain the objection. You can't pit witness' testimony one against the other. I don't know that you did or not but . . .

BY MR. PAAVOLA

Q. Mr. Quinn, do you have any understanding of

whether the County has any documents of any maintenance in front of 585 and 599 Ellenburg Road?

A. I'm not aware of any, no.

Q. You are not aware of any maintenance by the County beyond this point in this picture down to John's Marine, are you?

A. I am not aware of it, no.

Q. You can see the old lane striping on the ground and see that the lane striping ended here, right?

A. I do.

Q. And you mentioned that could be evidence of County maintenance, didn't you?

A. I did.

Q. How long does it take to stripe a center line of a road?

A. Never done it, so I have no clue.

Q. It is a one-time thing, any idea?

A. I do not know.

Q. But it is one act of potential maintenance, right?

A. Yes.

Q. You have any knowledge about how often that would be redone?

A. I do not.

Q. And you can't rule out that the idea that this striping went beyond where County maintained the roadbed,

can you?

A. I cannot.

Q. You performed independent research of your own of the plats and deeds prior to preparing your survey for this case, didn't you?

A. I did.

Q. You were shown Exhibit 11 and asked about the dashed lines along the bottom of the road, right?

A. Correct.

Q. And you testified in your experience as a surveyor dashed lines could mean end of property or end of the road?

A. Normally that particular type of dash, that line type, indicates a dirt road. But it could indicate the edge the pavement, or as Mr. Holliday said, it could symbolize a right-of-way. It is not labeled so I don't know what it is.

Q. Here it is not labeled, is it?

A. Correct.

Q. You are not able to tell one way or the other?

A. Correct.

Q. You were asked about Plaintiffs' Exhibit 64, an email that Mr. Henderson wrote?

A. I was.

Q. You read this email earlier, didn't you?

A. I did.

Q. And you don't disagree with Mr. Henderson that

there was a loop road connecting current Ellenburg to High Falls Road before the lake was created, right?

A. I do not agree. I mean, I do not disagree, correct.

Q. And you don't disagree that Ellenburg Road is County designated, a designated number, right?

A. That is correct.

Q. And I believe you also said that you don't disagree that a road before the lake was created could be used by the public to access High Falls Church between 183 and 201.

A. I do not.

Q. And as to your understanding, Mr. Henderson's basis for placing a public right-of-way on the Ratliffs' plat was the fact that a road existed and saw cars on it, right?

A. That is what his deposition -- what I read in his deposition, yes.

Q. Mr. Quinn, Plaintiffs' Exhibit 79 is a survey that you prepared in this case, isn't it?

A. That is correct.

Q. And you were not shown any documents today that you have not seen before today, have you?

A. Other than that email that you just read me, no.

Q. The email, okay. And all of those documents, you

were able to draw a conclusion about the -- whether you had seen historic documents of a public right-of-way on Ellenburg Road in front of 585 and 599 Ellenburg Road; is that correct?

A. That's correct, I did not find any documents that showed a right-of-way.

THE COURT: Hang on, no, sir, he is not going to do that, no, sir. He's already said, I disavow that opinion. I am not letting him come back and reavow it now, no, sir.

MR. PAAVOLA: I'm trying to clarify his opinion, Your Honor.

THE COURT: It doesn't need to be clarified. I don't need a clarification. I heard him loud and clear.

BY MR. PAAVOLA

Q. Mr. Quinn, historical plats and deeds referencing arrows before the lake was created pointed to High Falls, High Falls Church, 201; right?

A. That's correct.

Q. Does that still exist today?

A. It does not.

MR. PAAVOLA: No further questions, Your Honor.

THE COURT: Thank you, sir. May this witness

be excused?

MR. HOLLIDAY: Yes, please.

THE COURT: Thank you, sir. You are excused.

MR. PAAVOLA: Thank you, sir.

THE COURT: All right. Let's break for lunch. Be back, say, 2:00. How many more witnesses do you have?

MR. PAAVOLA: In total, Your Honor?

THE COURT: Yes, sir.

MR. PAAVOLA: Five.

THE COURT: How many do you have?

MR. PAAVOLA: Five, Your Honor.

THE COURT: All right. I'll get y'all to come back and chat with me for a minute to schedule things. We will start back up at, say, 2:15 to give me a minute to talk to you.

(Lunch recess.)

THE COURT: Have a seat. Plaintiff ready for the next witness?

MR. BIBLE: Yes, Your Honor.

THE COURT: Do you have those cases for my law clerk?

MR. BIBLE: I do, Your Honor. I have handed them to opposing counsel.

MR. PAAVOLA: Your Honor, also the

designations that we object to, or the objections to the designations -- sorry, I am not speaking clearly. You asked me to write down what we object to and their designations.

THE COURT: Okay. I appreciate that. Let's make that part of the Court record in the case, Madam Court Reporter. Next witness.

Thereupon,

BRUCE HADLEY

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BIBLE

Q. Mr. Hadley, good afternoon.

A. Good afternoon.

Q. How are you doing today?

A. Good.

Q. Will you please state your full name for the record?

A. It is Bruce Hadley.

Q. Mr. Hadley, where do you live?

A. 167 North Shores Drive, Seneca, South Carolina 29672.

Q. Is that in Oconee County?

A. It is.

Q. Okay. How long have you been a resident of Oconee County?

A. I have been a resident since 2011. I built that house in 2005.

Q. Okay. So prior to 2011 when you became a full resident, were you visiting Oconee County?

A. Yes, at least twice a month.

Q. Okay. And what was the purpose of your visits prior to building the house or at the time of building the house?

A. We had bought this lot and I had put a boat dock on it immediately and I brought a boat down and starting to develop that property.

Q. Okay. You mentioned having a boat. Do you cause that boat or have you historically caused your boats to be maintained here in Oconee County?

A. I have.

Q. Okay. And by whom do you have that maintenance performed?

A. It has always been -- always taken care of by John's Marine.

Q. How far back in time have you been taking a boat for maintenance to John's Marine?

A. 2003.

Q. Is it fair to say you know the Ratliff family,

then?

A. Yes, sir.

Q. Okay. And how long have you known the Ratliff family?

A. Since 2003.

Q. Have you been out to John's -- have you been to John's Marine by way of vehicle, by truck, car, or motorcycle?

A. I have.

Q. Okay. Have you also been to John's Marine by way of boat?

A. Yes.

Q. Okay. How many times a year would you say, dating back to 2003, would you go to John's Marine by way of a road-traveling vehicle?

A. I would say probably an average of six to seven times a year.

Q. As a result have you become familiar with a road called Ellenburg Road?

A. Yes, sir.

Q. Okay. And what is Ellenburg Road?

A. It is a road that goes down to the marina. And the marina is the last place of business or last location on that road on the left at the bottom of the hill.

Q. I am sorry, I didn't mean to speak over you. When

you say "marina," are you referring to John's Marine?

A. Yes, sir.

Q. I am going to show to you what has been marked for demonstrative purposes as demonstrative number two. Are you able to familiarize yourself and tell us where John's Marine is in relationship to this map?

A. Yes, it would be the areas marked in the purple.

Q. Okay. And that is at the far end or white square at the point there; is that what you are referring to?

A. That is the shop.

Q. Okay. And so for six to seven times a year since -- remind me again, was it 2003 that you have been going down there?

A. 2003.

Q. Okay. Have you become familiar with the condition of the roads on Ellenburg Road in your travels to John's Marine?

A. Yes, sir.

Q. Would you have any other purpose to travel down Ellenburg Road but to go to John's Marine?

A. No, sir.

Q. You don't own any property off of Ellenburg Road, do you?

A. No, sir.

Q. What is the condition of Ellenburg Road on your

way to John's Marine?

A. I would describe it as a narrow Oconee County road.

Q. Okay. Is, to the best of your recollection, Ellenburg Road striped in the middle?

A. It is to a certain point.

Q. Okay. Could you tell the Court here where you last recall seeing the striping of the road stop?

A. It stops, you know, up farther from the purple area.

Q. Mr. Hadley, you actually have a laser pointer?

A. I do.

Q. Yes, sir. And at the top button there will give you the ability to point. If you could use that to depict where you believe the striping stops.

A. I don't see it. Oh, there it is.

Q. There it is, yep.

A. So I would say that somewhere in this area right here that that double line in the middle disappeared.

Q. Are you familiar with any paving activities that have taken place on Ellenburg Road?

A. Back in this part back here, or down by the marine?

Q. At all, sir. Are you familiar with Ellenburg Road having been paved at all?

A. You know down by the marine, marina, John at some point was putting some paving in there. And Jimmy put in some, you know, major concrete in front of the shop.

Q. Okay. I'll represent to you that we have been referring throughout the history of this trial to some addresses, so I'm just going to give you some orientation here. This is 585 -- excuse me, this is 585 and that is 599. So when we are talking about the shop we are talking about 599.

A. Yeah.

Q. And the property next to it is 585. In relation to, from 585 back towards Knox Road, have you observed any paving activities along Ellenburg?

A. I have not.

Q. Okay. Have you observed any road signage in the vicinity of 585 or closer to Knox Road on Ellenburg Road?

A. From 585. Could you repeat that question, please?

Q. Yes, sir. Along Ellenburg Road, are you familiar with any road signage?

A. You know there -- there was an end of maintenance sign as you are coming into this area at the lower level.

Q. Okay. At the lower level, are you talking about to the right of the road as you are heading towards John's Marine?

A. To the right of the road somewhere to this side of

591 and maybe past. And coming from the other way it would be from 585 to 591, somewhere right in there.

Q. All right, sir. Is there a Sharpie up there?

A. Yes.

Q. Okay. We have previously marked as an exhibit Exhibit No. 83, this is the overhead image that has been approved and admitted in. But, Mr. Hadley, what I want to do is I want to present to you an overhead image substantially similar to demonstrative number two.

A. Right.

Q. And I would like for you to indicate with that Sharpie where you last recall seeing, as you call it, end of County maintenance sign?

A. Okay. (Witness complies.)

Q. Okay.

A. That would be my recollection.

Q. And can you describe how you have marked on this Exhibit 83 the location where you recall seeing the end of County maintenance sign?

A. Do you want me to just draw a line down?

Q. No, just verbally so that the court reporter can take it down.

A. Oh, okay.

Q. How have you indicated it?

A. I have indicated it before 591 and after 582.

Q. Is it with a big black dot?
A. Yes, big black dot.
Q. All right. Thank you.
MR. BIBLE: Your Honor, I would move to introduce this as 83C, if I'm not mistaken.
THE COURT: Any objection?
MR. HOLLIDAY: None, Your Honor.
THE COURT: Admitted.
(Whereupon, Plaintiffs' Exhibit No(s). 83C marked for identification and received in evidence.)
MR. BIBLE: Thank you, Your Honor.

BY MR. BIBLE

Q. Mr. Hadley, I'll blow it up on the overhead projector so that the Court can have orientation where you have marked it. So where I'm pointing at is 585, right?
A. Yes.
Q. Okay. And right here is 582; is that right? Do you recall?
A. I can't read that, but 591 would be the one down below that. Well, up a little bit.
Q. 591 is back in here?
A. Yes, there is a mailbox on it.
Q. All right. But there is a drive that leads to 591?
A. Yes.

Q. Okay. You recall having seen that sign on the right side of Ellenburg Road before that drive leading to 591?

A. Yes.

Q. Okay. All right, thank you for that. Do you recall the color of the sign?

A. You know, if -- I would say that it was black and white with, you know, a dirty white. It had been there for years.

Q. Okay. In the six to seven times a year that you would travel that road down to John's Marine, did you, have the occasion of seeing any County maintenance work performed on Ellenburg Road beyond the location of that sign?

A. I didn't see any County work, but there was, you know, there was some work that was done down there at the bottom that I think was not approved.

Q. Okay. What do you mean by that?

A. Well, you know, I have been on this lake a long time and I am a contractor and I have to deal with a lot of different jurisdictions and pull permits and all that kind of stuff. And somebody came in there and just dumped some gravel at the bottom back of that road so that they could gain access to the back of that property.

Q. When you are talking about the back of that property, are you talking about this property here?

A. Yes.

Q. Okay. You don't have any idea who did that work though?

A. I mean, I don't know who did that but there was, you know, they poured that gravel and that fill in what is called the, you know, below the 800 line on the lake which Duke controls. And there's all kinds of regulations on it. I was just shocked by that.

Q. Okay. Have you seen any of the Ratliff family maintain the stretch of Ellenburg Road beyond the point where you have indicated the sign was located?

A. I can recall John doing some patching of -- with asphalt. And I have seen Jimmy do pretty major concrete repair. Or, I mean, redo really.

Q. Okay. And John, is that Mr. Ratliff, the patriarch of the Ratliffs?

A. Mr. Ratliff, Senior, yes.

Q. Okay. And Jimmy is Mr. John's son; is that right?

A. Yes, he is.

Q. All right. You should have a black binder. In fact, it is the binder right in front of you.

A. This one, the big one?

Q. Yes, sir. If you don't mind, sir, flip to Tab 49. And this is Plaintiffs' Exhibit No. 49 that has already been accepted into evidence. Before I walk you through a couple

of these photographs I would like to ask you, did you having seen the end of County maintenance sign that you just described, did that have any significance to you?

A. You know, that kind of a sign really sticks out in my mind because I'm always trying to figure out what the intent was. And the intent of that was, to me, I thought about it and I am saying, why would the County put a sign in that says they are not maintaining something; is that a liability issue or is it an ownership issue. So, every time I saw that sign, and when I see it throughout the county, it -- the contractor in me basically wonders what the deal is.

Q. If you don't mind, sir, flip to the first or actually the second page of Exhibit 49. I'll represent to you that there's a -- what looks to be a mailbox post on the left-hand side that you see that says 565 on it.

A. Yes.

Q. Okay. Are you familiar with this area?

A. This is just up, up the road.

Q. This is Ellenburg Road?

A. Yes, it is.

Q. Okay. Would you have any objection to believing that 565 that is listed on this post here is 565 Ellenburg Road?

A. I would believe that is true.

Q. Okay. All right. Do you notice anything particular about this photograph that you have noticed while traveling down Ellenburg Road?

A. Well, it appears that -- it appears that the paint on the road is not being maintained. And it looks like there's a, you know, there is a little hump that you go over, which you definitely could tell the difference once you got down closer to the marina.

Q. Okay.

A. The quality of the pavement.

Q. Describe for me in a little bit more detail the quality of pavement difference that you have observed?

A. Well, I drive a pick-up truck and when you -- you know, I mean, it is just a little bump when you go over the edge, a little rougher.

Q. Does that quality of pavement in the vicinity of the 565 post that you see there in that photograph, does it get any better as you head towards John's Marine?

A. No, sir.

Q. Okay. Does it get any worse?

A. I believe that it does get a little worse.

Q. Okay. All right. We are on Page 2 there. If you don't mind, sir, flip to Page 5 of that same exhibit.

A. Oh is it --

Q. It should have a Bates number at the bottom that

indicates Ratliff 000487. Do you see that photograph?

A. Yes.

Q. Okay. And what does that photograph depict?

A. This is coming into the marina. And you can see at the end of the yellow line you might have -- I mean, you have got a little worse condition than you do at the yellow line.

Q. Okay. Flip to the next page. This is identified as Ratliff 000488?

A. Yes.

Q. Okay. That is a closer-up of the same photograph that we just looked at?

A. Yes.

Q. Okay. Does -- from that point forward, is there, in your mind, a discernible difference in the condition of the road compared to how the road condition is prior to getting to 565 Ellenburg Road?

A. Going back the other way?

Q. Yes, sir.

A. Yeah. I mean, this is -- this gets a little worse as you get down here.

Q. Okay. Does the paved surface, in your mind, remain a consistent width?

A. Absolutely not. To me it looks like that this -- I mean, it actually switches -- I mean, you know, shifts to

the left. And then you can see at the very back of that picture where they dumped that gravel in a low area where the -- where that road dipped off on the right. It just looks more like a driveway to me.

Q. Okay. Where the road striping ends that we see in the photograph, is there any need for anybody traveling down that road publicly to go down that road but for if you go to either a residence or to John's Marina?

A. No, it would be John's Marine.

MR. LOGAN: Objection. I have objected, Your Honor.

MR. BIBLE: Sir.

MR. HOLLIDAY: Calls for speculation.

MR. BIBLE: I'll rephrase.

THE COURT: Okay.

BY MR. BIBLE

Q. Mr. Hadley, would you have any need to travel down Ellenburg Road beyond where the yellow stripes end but for if you go to the Ratliff property and/or John's Marine?

A. I would not.

Q. In your experience, having been down there five, six times a year, have you seen anybody from the public at-large driving down that stretch of road but for to visit John's Marine or the Ratliff family property?

A. I have not.

MR. BIBLE: Mr. Hadley, I appreciate your time. That is all of the questions that I have. Please direct your attention to opposing counsel for any questions that they may have.

THE COURT: Cross-examination.

CROSS EXAMINATION

BY MR. HOLLIDAY

Q. I guess, Mr. Hadley, I was preoccupied during some of your testimony about your residency, and so about the first thing that I heard was that you had built your house and moved in there in 2012; is that accurate?

A. Absolutely not.

Q. No. When did you build your current house?

A. I built that house in 2005. I have owned the lot since 2000.

Q. What were you talking about building a house in 2012 then?

A. I didn't say that, sir.

Q. Okay. I guess that I completely misheard you.

A. Yes, you did.

Q. So you purchased a lot on the lake in 2000?

A. 2000.

Q. And you moved in in 2005?

A. I did. I put a dock on the property very early on, probably in 2002. I had just a dock. I had power on

the dock. I had water on the dock. And I was -- I was living out of town, so I was in the process of developing that property. I came down here two times a year -- I mean two times a month for the first few years. And built the house in 2005. Bought a boat in 2003.

Q. Got you, okay. And where were you living out of town in between 2002 and 2005?

A. Gaithersburg, Maryland.

Q. So is it your testimony that you came down every other week from Gaithersburg, Maryland?

A. That is correct.

Q. Okay. You drove down or flew down?

A. Both.

Q. Okay. And you did that for a period of three years?

A. More than -- I have been doing that for a long time.

Q. Okay. I believe you defined this road as a narrow Oconee County road; is that an accurate representation of your prior testimony?

MR. BIBLE: Objection, Your Honor, calls for -- he's mischaracterizing the witness' testimony.

THE COURT: No, he is not. I have that in my notes.

BY MR. HOLLIDAY

Q. Did you say that this was a narrow Oconee County road?

A. It is narrower than most roads. And y'all don't build the roads that wide here.

Q. I think that your testimony was that you saw John, Edward John Ratliff, paving the road; is that accurate?

A. I didn't see him actually paving it. But I could tell that he had done paving and we had talked about that. We had a relationship because he was also from Maryland, and that is why we got to know each other.

Q. Got you, got you. Was that maybe -- was that before or after 2012?

A. That would be a hard question to answer.

Q. Okay. Was it ten years ago?

A. No, I don't think that it would be ten. It would be more than ten, I could answer that.

Q. I guess that I'm just curious about when, you know, from 2003 to now, when did Mr. Ratliff pave the road, John Ratliff?

A. I would say that it was longer than ten years ago because he got sick and, you know, I -- I can't put a specific date on that for you, sir.

Q. Could it have been during -- in 2012?

A. I'm not going to answer that. You are -- I -- I'm telling you that my recollection is that it is probably more

than ten years. He got sick, and I think that it's been longer than ten years ago.

Q. Okay. But your testimony is that you are not sure when he paved it?

A. I am sure. More than ten years.

Q. Okay. How -- was it 20 years ago? Was it 2004?

A. I can't answer that. I can tell you that it is -- you know, you can't pin me down to a date like that. I know that he did paving in there, but he got sick and I believe that that -- you know, I believe that he started to get sick ten years ago in my mind, so the paving would have occurred before that.

Q. Do you know when he got sick?

A. I would in my, you know, from what I can remember, what I recall, I would say that was about ten years ago.

Q. Okay. So he got sick in about 2014?

A. It might be a little longer than that. I am going to say that it is a -- I am going to say that it is about 12 years ago, if I can recall correctly.

Q. Okay. You think that it was sometime during 2012?

A. That is what I would think.

Q. Are you aware that John Ratliff died in November of 2011?

A. I am now I guess.

Q. Okay.

A. So, I was right, it was before -- you know, I'm telling you a time frame of when I knew he got sick. So I'm close to that. And the paving would have occurred before that.

Q. I was under the impression that your testimony a moment ago was that he paved it in 2012?

A. No, I said "before". I'm not giving you a certain day of the year or month, I'm telling you that he paved it before a certain date. Because I knew he got sick and he, you know, so that is what I'm testifying to.

Q. Okay. I think that your testimony was that Jimmy had put in a major amount of concrete; is that an accurate representation of your testimony?

A. Yes.

Q. Do you know where that concrete was located?

A. It is out from the shop, and I believe down to the boat ramp.

Q. Okay. I'm going to show you -- I can switch it back. I'm showing you Defendants' 6; do you recognize where this is?

A. Not right this second.

Q. Okay. I'll show you the second page; do you recognize where this is?

A. I guess that is a road that turned to the right into a development before you get down to the marina.

Q. Okay. But you don't recognize this? Does this appear to be Ellenburg Road?

A. Oh, wait a second. Oh, this is -- is this up at the top of Ellenburg?

Q. Do you recognize it?

A. Not really. It is not a very clear picture.

Q. But you have traveled Ellenburg Road, say, 60 or 70 times in your life?

A. Can I walk up there and look at that?

Q. Yes, I'll just hand it to you.

A. Okay. So with the picture like this, this is on the way down Ellenburg. And there's a newer development off to the right as you are going down that way.

Q. Okay. As you go through that exhibit, can you tell me if you see the black and white end of County maintenance sign anywhere in that exhibit?

A. I don't see it.

Q. When is the last time that you recall seeing a black and white sign?

A. I would say that that sign was probably missing in -- I mean, I don't know that you have got the right area here in these pictures either. But that sign was probably there in the last nine or ten years.

Q. So that sign would have been there in 2008?

A. I would think that it was there for sure then.

Q. Can you tell me the date of those images?
A. It says 2008, but you don't have the exact place where I think that sign was.
Q. Where does the last page of that, where does that take you?
A. Yes, it could be just a hair in front of this though.
Q. When you say in front of it, towards Knox Road?
A. Yes, sir. Yep.
Q. Okay.
A. It could have been a little bit before 2008.
Q. Okay. I want to show you Defendants' No. 7 and ask you if you see an end of County maintenance sign in Defendants' 7?
A. I see one in here.
Q. Is that on the last page or second to the last page of Exhibit 7?
A. Yes, yes, sir.
Q. And that green sign appears to be an end of County maintenance sign; is that your testimony?
A. That was moved there or put in there after the fact like -- what was the date of that picture? Fifteen. So you are -- I can guarantee you that that thing wasn't down there back in the olden days.
Q. But I believe that your testimony was that -- my

question was: Do you see an end of County maintenance sign, and you said yes and indicated on the second or third -- second or last page -- last page or second to last page?

A. That was not where the sign was that I saw. And that sign showed up mysteriously.

Q. But you do recognize the last page of Exhibit 7 shows an end of County maintenance sign?

A. Yeah.

Q. And that sign would have looked substantially similar to Defendants' 8?

A. Yes, that sign was not there from 2003 when I met John. I had -- I have never seen that sign to be honest with you, except for in your picture and that is kind of suspect to me.

Q. Okay. How so?

A. Well, I mean, the sign was up the street. You know, I mean, I can see it plain as day. And now we have got one that shows up at the end of the street; what is the deal with that?

Q. Did you at any time witness anybody installing, or moving, or otherwise maintaining the sign, or moving the sign? Do you have any recollection of anybody touching either one of these purported signs?

A. I don't.

Q. And you never would have been told by Jimmy that

he had removed the sign?

A. I have never had a conversation in regards to that.

Q. Are you aware of where the County says the end of County maintenance sign is?

A. I am not.

Q. I'm going to show you the tenth page to Exhibit 65, which is in evidence. I am sorry, 68, it is the tenth page to Exhibit 68. So you are not -- you are not aware that the County says that it is in the same location as to where Exhibit 7, Defendants' Exhibit 7, says it is?

A. I am not seeing that in here.

Q. Are you in Exhibit 68, Plaintiffs' 68?

A. Yep.

Q. Okay. Are you on the tenth page?

A. Is that 000070?

Q. No, 69.

A. Why don't you show me what you want me to look at, sir.

Q. All right. It is on the screen. Do you see that red, and then lower down on that page it says, End of County maintenance? So you are not aware of where the County actually says the end of County maintenance sign --

A. I have --

Q. And this is already in evidence.

A. I have never seen that document, but could I look at it rather than on that screen?

Q. Sure. It is right here.

A. So, let's see, you are saying that the sign is where the -- that is where they say the sign was?

Q. What does the lower right corner of that document, Ratliff 69, say?

A. End of County maintenance, GPS point.

Q. Okay.

A. Right there.

Q. By the red X?

A. Yes. I would have to respectfully disagree with that.

Q. Does that appear to be the same location as this sign in the last page of Defendants' 7 is located?

A. No, because it would be farther over in the woods.

Q. Okay. And you don't -- okay. When you say that Jimmy did a fair amount of concrete work, did any of that concrete come into the road and interfere with the asphalt surface at all, or is that all on the left side of the road as we are looking at this?

A. I believe that it would come to about the center point of the road in my recollection.

Q. So the road is partially asphalt, partially concrete?

A. Yes.

Q. Okay. Your recollection is that that concrete comes into the road?

A. Well, in the center. I mean, if you drew an imaginary line down the center, the concrete comes out into the asphalt, yes.

Q. Do you know who put the black and white sign on Ellenburg Road?

A. What black and white sign?

Q. Wasn't your testimony earlier that there was a black and white end of County maintenance sign?

A. I would assume that was Oconee County.

Q. But you never saw them put it there?

A. No, sir.

Q. Okay. Earlier you were asked a question about whether anybody who came down Ellenburg Road would have a need to go down there other than Jimmy and his family; is that an accurate representation of your testimony?

A. Yes.

Q. What about my clients that own the property past the Ratliffs, do they have a right?

A. Did they have a right to go back there?

Q. Yes.

A. I guess. But, you know, there was nothing back there, so the question was generally related to normally who

would be going down that road, and it would be going to the marina.

Q. Didn't you testify that you saw them dump gravel on their property?

A. I did not testify that I saw them, but I saw the gravel after it was dumped in the -- past the 800 line, which is not legal.

Q. Okay. Do you have any knowledge of a boundary line agreement in between my clients and Duke?

A. I don't.

Q. So you wouldn't know if that boundary line agreement said that what they did was okay?

A. I know that when somebody dumps gravel into a place where the water, the lake, touches it or is anywhere near it that there needs to be a silt fence in there by code. And it was a jackleg job. So that is what upset me as a contractor who tries to do everything by the book.

Q. Do you have any idea if Duke is seeking any sort of sanctions or criminal or civil actions against my client?

A. I'm not aware of that.

Q. Are you aware of whether everything that happened is okay with Duke?

A. I'm not aware of that.

Q. Okay. Dumping that gravel, where that gravel is dumped, does that appear to be a roadbed to further access

my client's property?

A. It appears that it was something put in there to get back to that property. And it appears to me that they broke a few rules to do it.

Q. Are you aware of where the boundary line is between my client's property and Mr. Ratliff's property?

A. I'm not.

Q. So you wouldn't know whether my client owned half of the road?

A. I don't.

Q. Okay. Do you live on a public road?

A. I do.

Q. If you patched a pothole in that public road, would that make it no longer a public road?

MR. BIBLE: Objection, Your Honor, calls for legal conclusion.

THE COURT: Sustained.

MR. HOLLIDAY: I think that we are going to call it good.

MR. BIBLE: No further questions, Your Honor.

THE COURT: Are you done, Mr. Holliday?

MR. HOLLIDAY: Oh, yes, sorry.

MR. BIBLE: No further questions.

THE COURT: May this witness be excused?

MR. BIBLE: Yes, Your Honor.

THE COURT: Thank you.

MR. BIBLE: Thank you, Mr. Hadley.

THE COURT: Call your next witness, please, sir.

MR. PAAVOLA: May it please the Court, the Plaintiffs call Gary Taylor.

Thereupon,

GARY TAYLOR

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PAAVOLA

Q. Mr. Taylor, how are you today?

A. Good.

Q. Please speak into the microphone so everybody can hear you. Please state your full name for the record?

A. Gary H. Taylor.

Q. Mr. Taylor, you live in Oconee County?

A. Actually I am in transition. We just bought a farm in Greenwood County in Hodges. But, yes, I still have the house on Lake Keowee that we have lived at since -- part-time since 2000/2001 and full-time since 2004.

Q. Okay. And prior to owning that property, did you own any other property in Oconee County?

A. No, we bought the lot around 1996.

Q. Okay.

A. We used to -- we bought the lot because we used to come down here and go camping. And bought the lot and built it as a second home. And made it a full-time home in 2004.

Q. When you used to go camping, was it still in Oconee County?

A. It was High Falls there on Keowee.

Q. Okay. How long have you, would you say you have been coming to the Lake Keowee area and Oconee County?

A. Oh, since the middle of -- you know my daughter was about three, and she was born in '91, so around -- in the middle '90s, '94, '95.

Q. Okay.

A. Probably '94.

Q. All right. Do you know the Ratliff family?

A. I do.

Q. How have you come to know the Ratliff family?

A. Once I got a boat when I was coming down here, if I needed something, and they were just right across from the campground so they were convenient.

Q. When you are referencing right across from the campground, are you talking about the High Falls' recreation?

A. Correct. Yeah.

Q. How long -- when did you first obtain a boat and

start taking it to the Ratliff family for maintenance?

A. Probably bought the boat about '96 to '97, somewhere in there.

Q. Okay. As a result of taking your boat to the Ratliff family, was that taken to John's Marine?

A. Right.

Q. Okay. And to your knowledge was John's Marine owned by the Ratliff family?

A. Correct, yeah.

Q. Have you had the ability to travel down Ellenburg Road?

A. Right, yes.

Q. Okay. And what is Ellenburg Road to you?

A. Well, I mean, it is a way to get to John's Marine. That is it.

Q. Where is John's Marine located in relation to Ellenburg Road?

A. End of the road.

Q. Is there anything -- any residences that you are aware of or any other businesses at the end of Ellenburg Road?

A. Nope.

Q. Okay. I'm going to pull up on the screen what has been identified as Plaintiffs' demonstrative two, and if it's helpful I would like for you to direct me to where you

believe John's Marine is located.

A. Well, it is the building with the white roof down there.

Q. This building?

A. Yep, that is it.

Q. Okay. All right. Are you familiar generally with this area?

A. I am.

Q. Okay. And how long have you been going down there?

A. Well, since the mid '90s or, you know, '96, '97.

Q. Okay. How often would you go down there by traveling Ellenburg Road?

A. Three, four, sometimes five or six times a year. And then one year I bought a boat that I was restoring that was parked there, so I was there every Saturday. That was back when I was working.

Q. Okay. When do you recall having purchased the boat that you were restoring?

A. Well, my daughter got married about ten years ago and I think that I redid the boat a year or two before that, so it was around 2012 I guess, '11 or '12, you know.

Q. Over the number of years that you have been traveling down Ellenburg Road, have you noticed a difference in development activities along the road?

A. Yeah, I mean, the development to the right went in and some of the houses on the left went in going down Ellenburg Road. I mean the -- it's just a part of the whole Keowee cycle.

Q. Right. Have you noticed any improvements having been made to the roadway that is known as Ellenburg Road over the course of time that you have been traveling down it?

A. Not at the end of the road.

Q. How about prior to the end of the road?

A. Yeah, I think that the asphalt was redone a few years ago.

Q. Okay. Do you have any recollection, based on this image here, where you recall the asphalt being restored?

A. It would come about to the -- where the end County maintenance sign was on the right. It was roughly where old man Ellenburg's property line started there on the left.

Q. Right about there?

A. Yeah, it was right in that general area. That is -- you know, trying to pinpoint it exactly, but that is roughly about how far up the road it was.

Q. And unprovoked there you mentioned an end of County maintenance sign, is that right; did I hear that correctly?

A. Right.

Q. And where I just indicated on the screen, is that generally where you last recall seeing an end of County maintenance sign?

A. Right.

Q. Okay. I'll show you again. This is a recurring exhibit, 83. And there should be a Sharpie right there beside you. And, Mr. Taylor, what I would like you to do on this document here, indicate with that Sharpie marker where you believe was the area where you last saw end of County maintenance sign that you just testified about?

A. Right in there maybe -- well, within a few yards.

Q. Okay. And for the record's purposes, Mr. Taylor has indicated on Exhibit 83 a black dot in the vicinity of the sign where he last recalls seeing it.

MR. PAAVOLA: That is going to be 83 Delta.

MR. BIBLE: Your Honor, at this time I would move to introduce this document as Plaintiffs' Exhibit 83D.

THE COURT: Any objection?

MR. HOLLIDAY: Without objection.

MR. LOGAN: No objection.

THE COURT: Admitted.

MR. BIBLE: Thank you, Your Honor.

(Whereupon, Plaintiffs' Exhibit No(s). 83D marked for identification and received in evidence.)

BY MR. BIBLE

Q. All right. Mr. Taylor, I'm showing you here on an overhead projector where you have indicated on Exhibit 83D where you last recall seeing the end of County maintenance sign; is that right?

A. Right.

Q. Do you recall the color of that sign?

A. White with black lettering.

Q. Okay. And did the sign show any evidence of it being there for a long or a short period of time?

A. Yes, it was an older sign.

Q. Okay. Do you recall roughly what year you last saw it?

A. Well, when I know that it was pointed out to me, you know, things just kind of blend in over time. But the point when I know that I last saw it was after I finished a large addition to my house in Keowee Key I parked my tractor with Jimmy for a while and actually helped him with his parking, so we were -- we worked on some parking to the right side of his building and then between his building and his mom's house. And they bought some culverts and he was going to put the culvert in here and extend the parking and I said, Do we need to check with the State or the County, and he said, Well, that sign right up there, they gave this up years ago, you know. And I remember in 2008 and then

other than that actually time that it was pointed out when we worked on his parking lot I can't say seeing it or not seeing it. I don't know.

Q. Right. And that was -- did I hear you correctly, that was 2008 when you recall that?

A. Correct, 2008.

Q. Okay. So at least some time around 2008 you last remember seeing it?

A. Right.

Q. Okay. From the point of where you marked on that map the location of the end of the County maintenance sign until you get to John's Marine, in the number of years you have been traveling down Ellenburg Road and frequenting John's Marine, have you observed any County personnel performing maintenance on the road surface or the vegetation along the edge of the road surface?

A. No.

Q. Have you observed the Ratliff family performing any maintenance on the road surface and/or along the edges of the road surface?

A. Well, when I'm there Jimmy is normally working on my boat, so I don't know, but I'm sure that there has been some work on the driveways and so forth but I have not specifically seen anybody working on the road.

Q. Okay. Has Jimmy used your tractor to perform --

to use for maneuvering gravel around the property?

A. Well, actually I was working with it for the most part with the gravel and moving dirt and so forth.

Q. Okay. What was the significance of the end of County maintenance sign to you?

A. Well, you could tell that the road asphalt was much older. I just bought a farm in Hodges and it looks about like the 1977 asphalt that is at this house. I am presuming, you know, that the roadway ended when they built the lake in '72 so I doubt that much has been done to it. It looks about like the asphalt at this place that I bought. It is just getting pebbly looking and worn down.

Q. Okay. How about the road striping, do you recall there being any yellow road striping all the way down to John's Marine?

A. Not that far down.

Q. Okay. You recall, though, there being some yellow striping that stopped short of John's Marine?

A. Yeah, because there was some sharp curves back up there that you need to stay on your side of the yellow line.

Q. Will you flip to, in your black binder there right in front of you, tab number 49, which has been marked as Plaintiffs' Exhibit 49.

A. Okay.

Q. Sir, there should be some photographs in front of

you. It would be better to probably start with the second photograph.

A. Yes, that looks like the end of Ellenburg Road.

Q. So, you are familiar with the end of that area?

A. Oh, yeah.

Q. Do you notice anything about the painting or asphalt surface in the vicinity of picture number two?

A. Yes, the closer that you get to John's Marine the more worn the asphalt is and the more worn a lot of the striping is.

Q. Is that indicative to you that maintenance has been performed on that section of Ellenburg Road with any degree of frequency?

A. Not after where the yellow striping pretty much ends. And there is just some old faded striping.

Q. All right. Sir, I'm going to direct your attention to photograph number I think it is five -- excuse me, number six. And it should have a Bates number at the bottom of 000488. Do you see that?

A. I do.

Q. Okay. What is reflected in this photograph?

A. Well, that is the area as you get closer to John's Marine.

Q. And do you see any stoppage of the center line striping?

A. Yes, it pretty much stops totally right there.

Q. Beyond that point, does the road surface remain consistent such that it is the same width as it is farther down the road towards Knox Road?

A. As you get to John's place, it is broken up more on the right side because there has been a lot of traffic in there, pulling up and backing out without any maintenance. That driveway that I have got that I was telling you about, you can tell how the edges are wearing off of it after 45 years.

Q. Speaking of the driveway, do you feel that after the yellow line stops on the asphalt towards John's Marine, did you feel that this area was the driveway?

MR. LOGAN: Object to the form of the question.

THE COURT: Sustained.

BY MR. BIBLE

Q. Mr. Taylor, other than visiting John's Marine at the end of Ellenburg Road, did you have any other need or purpose to go down to the end of Ellenburg Road?

A. No.

Q. During the time period that you would spend performing restoration on the boat that you had purchased and that you had restored at John's Marine --

A. Right.

Q. -- did you have the occasion of witnessing traffic come down towards John's Marine?

A. Well, usually customers, yeah, or UPS, or typical traffic that you would have for a business.

MR. BIBLE: Mr. Taylor, that is all of the questions that I have. I appreciate your time and please direct your attention to opposing counsel who might have some questions.

MR. HOLLIDAY: Thank you.

CROSS EXAMINATION

BY MR. HOLLIDAY

Q. Mr. Taylor, have you had any conversations about this case with anyone?

A. With this attorney here.

Q. What were your conversations? Is it your attorney; does he represent you?

A. No.

Q. Tell me about those conversations.

A. He was simply seeing where I thought the end of County maintenance sign used to be.

Q. Do you recall when that was?

A. We had a conference, I guess, that is a meeting online about, roughly, two weeks ago.

Q. And you wouldn't have talked to anybody else at any point prior to that?

A. Nope.

Q. Do you recall executing an affidavit with regards to this case?

A. Yes, I sent something back.

Q. Does this appear to be your affidavit and your signature?

A. It does.

Q. I move to introduce that as Defendants' Exhibit 11.

THE COURT: Any objection?

MR. BIBLE: No, Your Honor.

THE COURT: It is admitted.

(Whereupon, Defendants' Exhibit No(s). 11 marked for identification and received in evidence.)

BY MR. HOLLIDAY

Q. Did you create that affidavit more than two weeks ago?

A. Well, I did, yes. I have been restoring this house, so my memory has been going about 10/12 hours a day. So, yes, I did fill out an affidavit. But as far as talking with someone, that was your question, I said about two weeks ago.

Q. Yes, I said with anyone.

A. Yes, I mean. And then I think one of his staff asked if I could do an affidavit so . . .

Q. Okay. And do you recall when you executed the affidavit?

A. No, I do not. I have been restoring a 3200 square foot house by myself for the most part, so my brain cells are about worn out.

Q. Okay. When you are looking at Exhibit 83D, that has a scale at the bottom of it, doesn't it, that allows you to calculate distances?

A. I would have to figure out what that scale does.

Q. Is it -- does it show you that -- I'm going to guess here -- say an inch is roughly, is approximately .03 miles?

A. Approximately.

Q. Is there any way that you can calculate by looking at that scale on Plaintiffs' 83D how far away that dot is from John's Marine?

A. Well, you know, just from my recollection from where their culvert property line began, it was 200 or 300 yards back up the road, but I never took a tape measure to it.

Q. So you think that the sign was 200 to 300 yards away from John's Marine, up the road towards Knox Road?

A. Yes.

Q. Are you aware that your affidavit that is Defendants' 11 says that it is 100 or 125 yards before you

get to John's Marine?

A. That's been a while since I wrote that.

Q. You don't remember when you wrote the affidavit?

A. It's been a while.

Q. Okay. I am going to show you Defendants' No. 7. Can you tell me in looking at Defendants' No. 7 if you see an end of County maintenance sign anywhere in Defendants' 7?

A. Not there. That is back before the subdivision begins.

Q. It is a whole package of documents.

A. Right.

Q. In any of those photos do you see an end of County maintenance sign?

A. Not there. These were done in 2015. The last time that I made a significant notice of it was in 2008.

THE COURT: What is that, please, sir?

THE WITNESS: There is not a photograph that shows end of County maintenance sign there.

BY MR. HOLLIDAY

Q. So you don't see the black and white sign?

A. Not in these that were done in 2015.

Q. Okay. Do you perhaps see a green sign on the last page of Exhibit 7?

A. Are you talking about this one?

Q. Does that appear to be a green sign to you?

A. Green or blue.

Q. Okay. And I'm now showing you Defendants' 8. You never saw a sign substantially similar to this in about the same location as the last page of Defendants' 7?

A. No.

Q. Do those appear to be the same sign?

MR. BIBLE: Objection, Your Honor, we have already established about the sign. I think Mr. Holliday --

THE COURT: Hang on. What is your objection?

MR. PAAVOLA: I think Mr. Holliday -- the question is --

MR. HOLLIDAY: I'll rephrase it.

MR. PAAVOLA: Thank you.

BY MR. HOLLIDAY

Q. Do these two signs appear to be substantially similar?

A. This one looks narrower.

Q. But in terms of --

A. And I can't read the letters on it so --

Q. But --

A. I mean, yeah, this looks more like it is a foot wide instead of two foot wide.

Q. Got you. But do they look substantially similar, the last page of 7 and Defendants' 8?

A. This is blurry.
Q. But, yes, they do look substantially similar?
A. If you say so.
Q. I'm asking for your testimony.
A. I'm saying that I can't tell from that picture.
Q. Okay. So you are not sure. Are you aware of where the County says the end of County maintenance is?
A. I've never talked with the County about it.
Q. Have you ever talked with anybody else about this case other than the attorney?
A. I mean, other than when Jimmy was talking about it last year, I agreed to talk about it to anyone that wanted to hear.
Q. So you agreed to do the affidavit last year?
A. I -- you know, I can't even remember when I did that.
Q. Okay. So what makes this -- do you have any idea how many road signs you see on a daily basis?
A. More than I would like to.
Q. What makes this one particular road sign so memorable, given the hundreds or thousands that you see on a daily basis?
A. Exactly, and you are exactly right. I mean, the only reason that I remember it was when I was working on putting culverts in with Jimmy and I said, Well, we are

tying into the roadway, are we clear here, and he pointed it out and said, Yeah, the end of maintenance sign has been way up there for ages, and he was correct.

Q. But you can't give me a ballpark when you signed the affidavit?

A. That was 2008. And, you know, that is a long memory.

Q. I am sorry. But you would recognize what Ellenburg Road looked like in 2008; is that correct?

A. It still looks the same.

Q. Okay. Showing you Defendants' 6. Can you tell me where in Defendants' 6 there is a photograph of the black and white sign?

A. Where it was was farther on down past this new development.

Q. There's a lot of pages there, so do you see the black and white sign in any of these photos from 2008 that is Defendants' Exhibit 6?

MR. BIBLE: Judge, by stipulation, the Exhibit 6 that Mr. Holliday is showing him, by stipulation we would say that the Internet imagery does not reflect a black and white sign on the road.

THE COURT: That is what y'all -- y'all mutually agree on that stipulation?

MR. HOLLIDAY: I am fine with it. It is not

there.

THE COURT: Do you mutually agree with the stipulation, yes or no?

MR. HOLLIDAY: That there is no black and white sign in Defendants' 6, yes.

THE COURT: Is that your stipulation?

MR. BIBLE: Yes, on the Internet imagery that is reflected as Defendants' No. 6 there is no black and white sign.

THE COURT: Okay. That will be a stipulation in the trial, on Exhibit 6 there is no end of maintenance sign. Is that an appropriate statement for the stipulation?

MR. BIBLE: Yes, Your Honor.

THE COURT: Thank you.

MR. HOLLIDAY: Can I have that back? Sorry.

BY MR. HOLLIDAY

Q. Are you aware of any photographs of the black and white end of County maintenance sign?

A. No.

Q. In 2008, when you worked on the parking lot and there was gravel and dirt moved with your tractor as you testified to earlier, did any of that come into the roadway?

A. No.

Q. Were you doing any work on the road?

A. No, we were not.
Q. Have you seen any work done on the asphalt ever?
A. No.
Q. Have you ever seen anybody do any work on any of the asphalt?
A. I have not.
Q. Did Jimmy tell you when he removed the green sign?
A. I don't know anything about that.
Q. Do you know where the County identifies the end of maintenance? Oh, wait, we have already covered that, sorry. I just left this up there.
I believe that your testimony earlier that the asphalt was redone a couple of years ago; is that an accurate representation of your testimony?
A. In the beginning of Ellenburg Road, I don't -- a few years ago, I didn't say two, but several, sometime in the last few years it has been repaved.
Q. And that is on the Knox Road side of Jimmy --
A. Where it comes off of Knox Road, right.
Q. Okay. If you look at Plaintiffs' 49, do you see that in the binder in front of you?
A. Right.
Q. If we go to the -- go to the fourth page, does that yellow striping in the middle of the road continue past the point where you believe the end of County maintenance

sign was?

A. Yeah, this one that is kind of faded does. That is '87.

Q. I'm specifically asking about 486.

A. Yeah, I believe that that goes farther than where I, where I remember the sign being.

Q. Okay. Just to clarify, the lane striping goes farther than where you believe the sign to be; is that correct, yes?

A. Yes.

MR. HOLLIDAY: Thank you. No further questions.

THE WITNESS: Okay. In one of these pictures it is even better paint closer back to the intersection.

MR. HOLLIDAY: Sir -- sir.

THE COURT: No, sir, you can't keep going. Do you want to ask him a question or have him excused?

MR. BIBLE: I would like him excused, Your Honor.

THE COURT: All right, sir, you are excused. Thank you for coming today.

MR. BIBLE: Thank you, Mr. Taylor.

THE COURT: Call your next witness, sir.

MR. PAAVOLA: The Plaintiffs call Laurie

Ellenburg Bright.

Thereupon,

LAURIE ELLENBURG BRIGHT

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PAAVOLA

Q. Good afternoon, Ms. Bright.

A. Good afternoon.

Q. Please state your full name for the record?

A. Laurie Ellenburg Bright.

Q. Ms. Bright, where do you currently live?

A. 178 Madison Pointe Drive, Seneca.

Q. Is that in Oconee County?

A. Yes.

Q. How long have you lived there?

A. Since 2021.

Q. And prior to 2021, where did you live?

A. At 591 Ellenburg Road.

Q. I'll bring up on the screen for you what we identified as Plaintiffs' demonstrative two. And there is a laser pointer in front of you. Do you recognize the area on the screen?

A. Yes.

Q. What area is that? Not working?

A. No.
Q. Just generally tell me --
A. The area right in the middle of the point there is where I resided at 591.
Q. Okay. That one right here?
A. Yes, yes, exactly.
Q. Okay, all right. And when did you reside there?
A. From the time that I was born in 1974 until 1998, and then I moved back in 2002 to 2021.
Q. That is roughly how many years?
A. I believe 43 in total.
Q. Anybody else live on the property when you grew up there?
A. Yes, when I was growing up, my grandfather lived at 585 Ellenburg Road. And my parents, Rhonda Ellenburg and Terry Ellenburg lived there until 2002 and then they moved and I returned to the property.
Q. And 585 Ellenburg Road where your grandfather lived, is that this area here where we see with the trees?
A. Yes, yes.
Q. Old house there?
A. Yes.
Q. Okay. Was the road always called Ellenburg Road when you were growing up?
A. No, not always. At some point it was named

Ellenburg Road. It was just a rural route before that.

Q. Do you recall your address when you were growing up?

A. My address was Route 1 Box 267 Seneca.

Q. Do you have an idea or do you recall approximately when the road was named Ellenburg?

A. I believe late '80s, late '80s, early '90s.

Q. What would give you that belief of that time frame?

A. It was around the time that the 911 system was introduced in Oconee County and all roads had to be named, so that is how I remember the timing.

Q. Do you have any recollection of why it was named Ellenburg Road?

A. Well, my grandfather had owned the property and lived there since the 1930s. And there was some discussion I believe between him and my father and the Ratliff family and they agreed that the road would be named Ellenburg Road.

Q. Are you familiar with the Ratliff family?

A. Yes.

Q. Okay. And how did you come to be familiar with them?

A. They moved to the property beside where I grew up when I was around seven or eight years old and have been there ever since, so we were neighbors for many, many years.

Q. And when you were growing up, who else lived on Ellenburg Road?

A. Up near the intersection of Knox Road and Ellenburg Road, there was an elderly lady that lived up near the intersection, Mrs. Knox. And then I don't remember the address, but on the point behind where I grew up at 591 there was an elderly couple who owned that property and used it as like a summer place. Their last name was Morgan. And then it was just my family and the Ratliff family.

Q. If you would turn in your exhibit binder in front of you to Exhibit 58?

THE COURT: What number, please?

MR. PAAVOLA: Fifty-eight admitted in evidence.

BY MR. PAAVOLA

Q. I also have it on the screen for your convenience. And on Page 2 it has the date on the bottom of this Google Earth image of 1994; do you see that?

A. Yes, yes.

Q. And back to the first page of this exhibit, in 1994 you would have been how old?

A. In '94 I would have been 20.

Q. Okay. So no longer school age?

A. Right.

Q. But does this look different than when you were in

school, school age, or similar?

A. Similar, yes.

Q. And I think you identified as far as people who lived on the road and possibly somebody at the front of the road near Knox Road?

A. Yes, that is true.

Q. This area here?

A. Yes.

Q. And then other than that, just your grandfather's old property?

A. Yes.

Q. How did you get home from school when you were a kid?

A. Most days rode the school bus. And it didn't go down Ellenburg Road, and so we were dropped off at the intersection of Ellenburg and Knox Road.

Q. Walk all the way down home?

A. Yes.

Q. You did?

A. Yes.

Q. Okay. And in this Page 2 of Exhibit 58, across the street from where you grew up, this image doesn't appear to show any trees. Do you recall if there were any trees when you grew up there?

A. Across the street there may have been some small

trees, but it was mostly cleared at that time.

Q. Did your grandfather use any portion of that property I am circling here?

A. Yes, he used that for pasture. Sometimes it was pasture and he had two or three cows. And then sometimes he planted a garden over there.

Q. And do you recall the Ratliffs ran a business at 599 Ellenburg when you grew up there?

A. I am sorry?

Q. Do you recall if the Ratliffs ran a business at 599 Ellenburg Road?

A. Yes.

Q. What type of business was that?

A. Boat repair.

Q. So generally, what was -- what was the road like and the shop like, as far as were there boats around that area?

A. There were, yeah, there were boats around and often boats parked in their yard and some along the sides of the road where they, you know, in front of their property.

Q. Okay. On both sides of the road?

A. Yes.

Q. Do you recall any -- seeing any County signs on Ellenburg Road?

A. Yes.

Q. And what County signs do you recall seeing?
A. There was a sign that simply said, End County maintenance.
Q. Do you recall what color that sign was?
A. I do not recall the color.
Q. Do you recall approximately where that was located?
A. Yes.
Q. And approximately where was that, do you remember -- to the best of your recollection?
A. Was located in the area where -- that is currently Rollingwood Drive, the entrance to what is now Harbor Oaks subdivision.
Q. I am going to show you --
MR. HOLLIDAY: I don't believe Rollingwood is on that map.
MR. PAAVOLA: I'm not showing her that map, I'm showing her this.
MR. HOLLIDAY: But wasn't her testimony that it was near Rollingwood?
MR. PAAVOLA: That is what she said, yeah.
MR. HOLLIDAY: Okay, I apologize.
MR. PAAVOLA: I will hand you what has been -- we are going to mark or admit as Plaintiffs' Exhibit 83 but we will mark it as 83E.

MR. HOLLIDAY: Echo.

BY MR. PAAVOLA

Q. Ma'am, there is a Sharpie on your table. If you would, please put a mark around the area that you believe that the sign was located. Can you describe for the Court what area you marked?

A. I marked the area just before Rollingwood and then just after between, between Rollingwood and five -- I can't see the address on the next property, but the next concrete drive on the right, so in that area between those two.

Q. Okay, so somewhere in between there, okay.

MR. PAAVOLA: Your Honor, we move this into evidence as Plaintiffs' 83E.

THE COURT: Any objection?

MR. HOLLIDAY: Without objection. It is 83 Echo.

THE COURT: Admitted.

(Whereupon, Plaintiffs' Exhibit No(s). 83E marked for identification and received in evidence.)

BY MR. PAAVOLA

Q. Ms. Bright, I'm showing you what has been admitted into evidence as 83E. And you placed two brackets on this document; is that correct?

A. Right.

Q. What is that area that you have indicated with the

bracketing?

A. That is where I recall the sign being in the area within those brackets.

Q. Okay.

A. So somewhere in between Rollingwood Drive and the next property on the right.

Q. Is there a memory that you have as to why you would place it in that location?

A. Well, just seeing it, you know, on a daily basis for many, many years, you know, walking, walking up and down the road, you know, back and forth to the bus and whatnot. And then later driving. You know, playing there as a child. Just, you know, those kinds of things. I just -- you know, it was just always there. It was something that was always there.

Q. What is your earliest memory of the sign being there?

A. I would say for sure, you know, around mid '80s, around ten years old. I'm not sure that I would have noticed it before then but --

Q. Okay. Is there a sign there today, indicate a sign there today?

A. No.

Q. Do you have knowledge of when the sign no longer showed up at the location that you believe that it was at?

A. I don't. I don't know when it ceased to be there.
Q. Have you ever seen another end of maintenance sign on Ellenburg Road from Rollingwood Drive to the marine shop there?
A. No.
Q. Ms. Bright, who maintained the section of the road and sides of the road in front of your parents' and grandparents' property when you grew up?
A. Mostly my grandfather. Sometimes my dad. The area directly in front of the property.
Q. Okay. Did your grandfather mow any other areas of Ellenburg Road?
A. Yes. He mowed. Most of the time he mowed the sides of the entire road.
Q. And how far down?
A. I can't say if he -- I know that he did the -- you know, the area in front of his property. I don't know if he went farther down, you know, in front of the Ratliff property or not or down farther to the end of the road, I'm not -- I can't say for sure about that.
Q. And do you have any personal knowledge of who maintained the road and sides of the road of the Ratliff property when you were growing up?
A. I think the Ratliff family.
Q. Did you see the Ratliff family maintaining it?

A. I saw them mowing and, yes.
Q. My question was when you grew up, but what about -- you lived there as an adult too?
A. Yes.
Q. Up to just three years ago?
A. Yes.
Q. Who --
A. Same thing, the family took care of it.
Q. Have you ever seen the County perform maintenance on the road or sides of the road in front of 585 Ellenburg Road or 599 Ellenburg Road?
A. No.
Q. Ever seen them do any mowing or weed wacking?
A. Not in front of 585 or 599.
Q. What is -- have you ever seen the County perform any maintenance on the entirety of Ellenburg Road?
A. I have. There was one instance that I remember very clearly was the upper part of the road was resurfaced around 2000 -- around 2010, I believe. My son was small. So I remember that resurfacing project as, you know, there may have been a few times, you know, trees were down and that sort of thing, you know, that they came and cleaned it up.
Q. That resurfacing project, did that come all the way down the road to 585 Ellenburg?

A. No.
Q. Was that while you were living there?
A. Yes.
Q. Did your grandfather keep anything to water the cattle there on the property?
A. Yes. Directly across from 585 there was an old iron bathtub, he used it like you said for watering cattle.
Q. Do you have any recollection of where that tub was in relation to the maintenance sign if you recall?
A. I believed that the end maintenance sign was before, before the bathtub. But not, not far.
MR. PAAVOLA: No further questions for you, ma'am. Please answer any questions that the other side may have.

CROSS EXAMINATION

BY MR. HOLLIDAY

Q. Mrs. Bright, have you talked to anybody about this case?
A. Not in months, no.
Q. Okay. Who did you talk to?
A. Well, just -- just Mr. Ratliff when, you know, they were asking me if I would be willing to testify. That is all.
Q. And that is Jimmy?
A. Yes, yes.

Q. Okay. And Jimmy is the only one that you ever talked to about this case?

A. And Lucretia, when they asked me if I would be willing to testify.

Q. Okay. Did you -- did you ever execute an affidavit with regard to the location of the sign?

A. Yes.

Q. Would you recognize that if I showed it to you?

A. Yes.

Q. Okay. Does this appear to be your affidavit?

A. Yes.

Q. Okay. That is your signature?

MR. HOLLIDAY: I move to introduce this as 12, Defendants' 12.

THE COURT: Any objection?

MR. PAAVOLA: No, sir.

(Whereupon, Defendants' Exhibit No(s). 12 marked for identification and received in evidence.)

BY MR. HOLLIDAY

Q. I didn't really understand earlier, but what were the time periods that you lived at 591? Is that the home that you came to when you were born?

A. Yes.

Q. Okay. So you started residing there in '74?

A. Yes.

Q. Okay. And then did -- when did you stop residing there?

A. I moved when I was married for the first time in 1998. And then my former husband and I returned in 2002 after my parents moved. So there was a four-year period that I was not living there.

Q. Okay. Can you tell me about your relationship with your grandfather? The typical relationship with a grandfather, he was a great guy, loving grandfather and y'all were close; is that correct?

A. Yes, for most of my life, yes.

Q. He was a pretty great guy?

A. Yeah.

Q. Do you know if he ever identified Ellenburg Road as a County road or a public road?

A. The only things that I can remember, you know, occasionally if there were thunderstorms or ice storm, something like that, if there were trees down, many times my father, my grandfather, Mr. Ratliff, they would, you know, just take care of those things. But, you know, if it was something larger or whatever that needed to be cleared up I remember my dad or my grandfather saying, you know, we need to call the County, you know, that kind of thing. But that is my only memories about --

Q. So your grandfather sought assistance from the

County in maintaining the road from time to time?

A. From time to time, yes.

Q. Okay. And that would have been at 585 and 599 Ellenburg?

A. Yes.

Q. Okay. Do you know -- do you know if your grandfather lived on this property prior to purchasing it?

A. I don't know.

Q. And do you know when your grandfather purchased this property?

A. I believe the 1930s.

Q. Okay. There should be a binder -- there should be two binders I think. Let me figure out which one. It is the one on your right is Defendants' exhibits, and I would like for you to flip to 1.4, Defendants' 1.4?

A. Okay.

Q. Are you there?

A. Yes.

Q. Okay. Does that appear to be a deed from JJ Younce to your grandfather?

MR. PAAVOLA: Your Honor, we object to this line of questioning, it exceeds direct and gets into what is a public part of the road and we have already been instructed that is out.

THE COURT: What is the last part?

MR. PAAVOLA: We have been instructed -- as I understand the instruction is that we are no longer to discuss the public nature of the road or that argument, so that argument we think is outside if she responds.

MR. HOLLIDAY: It is not outside of direct.

THE COURT: What is your response?

MR. HOLLIDAY: She testified during direct that it was purchased in 1930. I just asked her whether it was purchased in 1930 and she said yes, and I'm asking her if Defendants' 1.4 is a deed from when her grandfather acquired title to the property. She also said that she doesn't believe that he resided there prior to buying it. I am going to be very brief on this, I promise.

THE WITNESS: I am sorry, I believe that I was looking at the wrong one. I will turn back. Yes, I see the one that you are referring to.

BY MR. HOLLIDAY

Q. Does that have a date on it?

A. I should have brought my glasses.

Q. Does that appear to be dated 1950?

A. Okay. I see this one is July 1936 is what I see.

Q. Okay. Are you at 1.1 or 1.4?

THE COURT: Would you show her what you are talking about?

MR. HOLLIDAY: Certainly, certainly. Sorry.

THE WITNESS: That is okay.

BY MR. HOLLIDAY

Q. Sorry, let me take you to the second page. I should have been more clear. Do you see 1950 on the second page of 1.4?

A. Yes.

Q. Okay. Can you go to 1.6 now?

A. Okay.

Q. And to us in the -- does this appear to be a deed from your grandfather to a Mr. Dodgin?

A. Yes.

Q. Okay. Can you, can you read in the legal description here, do you see a reference to a County road?

MR. PAAVOLA: Objection, Your Honor, these documents have already been discussed in evidence. She has no personal knowledge of this document and outside the scope of her direct.

MR. HOLLIDAY: I can move on.

THE COURT: Let me just say this, I have already told them that it is a public road and we are not going down that further, so let's move on.

MR. HOLLIDAY: All right.

BY MR. HOLLIDAY

Q. All right. If we were to look at the -- I need to

just unplug this. If we were to look at what is 83 Echo, do you know approximately where this, this tub would be for watering the cattle?

A. Where 582 is now. It was on that same piece of property.

Q. So you think --

A. Yes.

Q. -- it would have been somewhere down here?

A. Yes.

Q. Okay. Was there other stuff around this metal tub, like junk or old appliances or anything?

A. Not that I remember.

Q. Okay. Do you know who owns the property where the tub was located today?

A. I do not remember their names.

Q. Okay.

A. I'm not sure if it is the same people who did a few years ago.

Q. Okay. Have you ever met Dianne Harris or Warren Harris?

A. I have met the couple who owned that property when I lived there prior to 2021. I am honestly -- I do not remember their names.

Q. Okay. But the metal tub would have been somewhere down at 582?

A. Yes.

Q. Okay. In your -- in your affidavit, do you recall saying the end of County maintenance sign was located near a bathtub my grandfather used to water his cattle?

A. Yes. And it was near that just before maybe, maybe a couple of hundred feet before where the bathtub was located.

Q. Okay. Do you -- you see this scale down here?

A. Yes.

Q. Okay. Does that appear to indicate that whatever that is, let's see, 2 inches, that is six one-hundredths of a mile. I can -- I'm showing you Exhibit 83E. How far based on that scale would you say it is from 582 to up here where you indicated the sign was?

A. Approximately the six one-hundredths, so, yeah.

Q. Okay. Do you have any idea how far six one-hundredths of a mile is in feet?

A. I should, but not right off of the top of my head, no.

Q. Let's call it roughly 316 feet, does that sound about right?

A. Okay.

Q. Is that near the tub?

A. Yes, I would say so.

Q. Okay. You also say that your grandfather was

given naming rights for the road and he chose to give it -- he chose to name it Ellenburg Road; is that accurate?

A. Yes.

Q. Who gave him naming rights to Ellenburg Road?

A. As far as I know there were some discussions between him and the Ratliff family and they just agreed. I guess since he had been there longest, you know. It was when many of the small country roads like that were being named because of the 911 system.

Q. Who is the 911 system run by?

A. I could not say -- I would assume the County.

Q. So the County gave your grandfather the naming rights?

A. I suppose so.

Q. Do you know how old you would have been between the years of 1983 and '86?

A. Ten to 12.

Q. During that time when you were 10 to 12 years old, do you ever remember your grandfather paving any section of Road?

A. I do not.

Q. Do you think that you would have? I mean, that would have been a pretty substantial --

A. I would think so.

Q. Okay. And the road in front of 585, 591, 599

Ellenburg, do you have any knowledge as to when that road was paved?

A. No.

Q. It's been paved, basically as it is now, your whole life; is that correct? As far as you can remember back?

A. I do not remember it being paved while I was there.

Q. Okay. Your first recollection as a child, was it a paved road?

A. Yes.

Q. Okay. So that would -- when do you think that was, maybe when you were five?

A. Less than 10 for sure, yeah.

Q. Okay. Okay. So to the best of your knowledge, Ellenburg Road hasn't been repaved or no asphalt has been put down in front of 585, 591, or 599 since before 1981?

A. Not that I remember in front of those properties.

Q. Okay. Do you know when the Ratliffs purchased their property?

A. They -- I remember when they moved to the property. I don't know about purchase, but approximately '81 to '82 based on my age, you know, when they moved there.

Q. And you would have been about six or seven then?

A. Yes, I was in second grade.

Q. So when you moved or when -- sorry. When they moved there, the road was already paved?

A. I can't -- I can't say for sure. I mean. I -- I was really young.

Q. Is there any asphalt that you are aware of on Ellenburg Road that exists there now that is different from when you were a child?

A. On the entire road, or on any portion of the road?

Q. Well let me -- sure, let me ask that in two parts.

A. Okay.

Q. From 591 and 585 -- and they share a common driveway; is that correct?

A. 591 and 85, yes.

Q. From that address towards the end of the blacktop in front of John's Marine, is any of that asphalt different from when you were a child, other than perhaps maybe worse because it has cracked with age?

A. I can't say for sure.

Q. You are not aware of any paving work that happened in between 585 and 591 and the end of the blacktop in front of John's Marine?

A. No.

Q. And you are aware of paving work that happened in between 591 and Knox Road?

A. Yes.

Q. Okay. You had mentioned Knox -- a neighbor named Knox earlier in your direct.

A. Yes.

Q. Did you know any of the Knoxes?

A. Yes.

Q. Is Knox Road now known as Knox Road because it was named that way presumably by the Knoxes?

A. As far as I know, yes.

Q. Do you know where Knox's store was on Knox Road?

A. Yes.

Q. How close is that to the intersection of Ellenburg Road, less than a half mile?

A. Yes, yes.

Q. It is pretty close?

A. Yes, pretty close.

Q. And then there has been paving work down Ellenburg as recently as a couple of years ago by the County?

A. The last time that I remember was around 2010 when my son was small. He's 20 now.

Q. Do you have any -- did you ever have any conversations with the Ratliffs about them denying the County the ability to come down the road?

A. No.

Q. Have you ever witnessed boats blocking portions of the road?

A. No, not blocking the road.
Q. Okay. Have the boats been on the side of the road?
A. On the side, yes.
MR. HOLLIDAY: Okay. Okay. Thank you.
MR. PAAVOLA: Very briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. PAAVOLA

Q. Ms. Bright, you had mentioned, talked about your father and grandfather cutting down trees that had fallen on Ellenburg Road, right?
A. Yes.
Q. And you mentioned that sometimes they would cut them down themselves?
A. Yes.
Q. And other times they may ask the County to come down and cut trees?
A. Yes.
Q. Was that on the upper portion of Ellenburg Road --
A. Yes.
Q. -- before your property?
A. Yes, on the upper portion. There was never anything directly in front of the property that I can recall.
Q. Okay. Any trees that they would have asked the

County's help with was not on your grandfathers' property?

A. Right, right.

Q. If it was small enough they would take care of it because they lived out there?

A. Right.

Q. The end of -- you mentioned approximately ten years ago you recall the County paving a portion of Ellenburg Road, right?

A. Right.

Q. I think that you pointed to the Plaintiffs' Exhibit 49 that I am putting on the screen for you. And the second page, do you recognize where this is on Ellenburg Road?

A. Yes.

Q. And where is this?

A. It's just up from -- it is a couple hundred feet up from the driveway from 585 and 591.

Q. Do you recall the location where the County stopped paving about ten years ago?

A. Yes, in that area right there.

Q. This right here?

A. Yeah.

Q. Okay. Ms. Bright, you lived down at 585 cumulatively for over 40 years?

A. At 591, sorry.

Q. Is there any doubt in your mind that there was an end of County maintenance sign on the right-hand side of the road before you reached your property?

A. No doubt.

MR. PAAVOLA: No further questions, Your Honor.

THE COURT: May this witness be excused?

MR. HOLLIDAY: Yes, Your Honor.

MR. PAAVOLA: Yes.

THE COURT: Thank you. You may step down. How long is your next witness?

MR. PAAVOLA: For my portion, Your Honor, maybe 15 minutes.

THE COURT: Go ahead and call them, please.

MR. BIBLE: Okay. May it please the Court, Your Honor. The Plaintiffs would call Karen Rasbornik.

Thereupon,

KAREN RASBORNIK

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BIBLE

Q. Ms. Rasbornik, thank you for joining us. State your full name for the record, and please speak clearly into the microphone.

A. Yes, Karen Jean Rasbornik.

Q. Is it okay if I call you Karen? Because I don't want to butcher your last name.

A. No problem.

Q. Thank you. Karen, how is it that you have become familiar with the Ratliff family?

A. I met Jay on July 3rd, 1998. We met, I like to say, with a boat and a blind date.

Q. Are you married to Jay Ratliff?

A. I am.

Q. And Mr. Ratliff, Jay Ratliff, is a member of the Plaintiffs that have brought this action; is that right?

A. Yes, that is correct.

Q. And you met them in 1998; what happened after that?

A. We were engaged in 1999. We were married in 2000. Our son was born in 2002.

Q. How did you come to meet Jay Ratliff?

A. As I had mentioned just previously, a boat and a blind date is what I like to say. I was living in South Florida at the time but had a corporate apartment in Austin, Texas working on a project at Motorola semi-conductor at the time. And the boat, I needed some service, I physically had my dad help me move it from South Florida to Lake Keowee. And my dad brought it over to John's Marine Service.

Jay was home from a summer cruise, it was one of the submarines that he was required to ride as part of his Citadel training. It was either the Memphis or Rhode Island, I don't remember which one. But my dad brought the boat over to John's Marine, and Jay was there after his summer cruise and he was home helping his dad. And he said, Hey, you got a nice boat here Mister. And my dad said, It is not my boat. Well, whose is it? It is my daughter's. Is she cute? So, that is basically how we met. My dad set us up on a blind date for later that week. And we dated and subsequently, obviously, married.

Q. Okay. And how long have y'all been married?

A. 2002, September, so 24 years this September.

Q. Give the Court some perspective of, what is your educational background?

A. I have a bachelor's degree in electrical engineering from Fairleigh Dickinson University and a masters in engineering management from the University of Colorado at Boulder.

Q. And when did you get the degree from University of Colorado?

A. That was in December of 1997. I completed that while I was working full-time for Mentor Graphics. They had a program, University of Colorado did where it was called the center for advanced training in engineering and computer

science and they broadcast along the front range, so if you were physically at a company, Hewlett Packard, Martin Marietta, any of the companies that were there at the time, you could attend classes at your workplace.

Mentor Graphics didn't have such an arrangement so I went to the basement of the Littleton Colorado library and interacted with the professor on a TV and polycom microphone. If you were unable to attend class, then they would make a videotape, a VHS tape, and send it, Fed Ex it to your house and it would be essentially two days behind the day of travel, and you could watch it and be caught up with the class, so I did that.

Q. Okay. When did you first start visiting Oconee County?

A. My parents purchased a lot in the early 1990s. My parents retired to this area. They subsequently built a house and moved in in the mid/1995 time frame. So it was the early 1990s while my dad was building. Occasionally I would be able to come over and look at the progress. So that was the earliest time frame I was here in Oconee County.

Q. Okay. Was your frequency to Oconee County, at least along Ellenburg Road, did that start occurring after you had met Jay?

A. Yes.

Q. Okay. Can you bring up demonstrative number two? Karen, I'm showing you what has been identified as Plaintiffs' demonstrative number two. Are you familiar with the property that is reflected on this overhead image?

A. Yes.

Q. Okay. Could you acquaint me just to make sure that I understand that you understand what this reflects. Would you tell me where John's Marine is located?

A. Yes, I call it the purple heart that is there.

Q. This section?

A. That is correct.

Q. Okay.

A. And the biggest building on the top right there, that would be John's Marine Service. And the other building that is within the purple on the long driveway, that is my mother-in-law's house, Jan Ratliff's house.

Q. Okay. And what is next door here?

A. So that property is now where Jimmy and Lucretia live.

Q. Do Jimmy and Lucretia own this property to your knowledge?

A. They do now. They didn't when I first met Jay.

Q. Okay. What about up here?

A. That is also owned by Jimmy and Lucretia. My understanding is that was called the Morgan property, that

is how they typically refer to it.

Q. I know that you haven't had the pleasure of listening to testimony throughout the trial of this case, but we have been, for the purposes of this, we have been calling these by addresses; do you recall the address to this property up here?

A. That one I do not.

Q. Okay. Does 575 sound --

A. 575 sounds okay.

Q. Okay. And then down here?

A. I think that one has two addresses, 585 I believe.

Q. Okay.

A. And 591 I believe. And my mother is clearly 599 Ellenburg.

Q. Excellent, thank you. When you first started seeing Jay, how often would you come down Ellenburg Road to his property?

A. Well, in the 1998 time frame, the dating years I'll call them, it was really the summer prior to him going back to school. But then it would -- as often as I could get back, at least once a month probably. And then we spent kind of holiday time -- he would return for family holidays, I, same for my family. So certainly Thanksgiving, Christmas, those types of times. So at least one a month, probably more.

Q. And then after you married Jay, did y'all eventually move to Oconee County?

A. We did. Jay completed his service with the Navy in 2005 and so we moved. He interviewed and accepted a position with Duke Energy here in Oconee County, so we moved at that point in time.

Q. Okay. And from 2005 until -- have you consistently lived in Oconee County since 2005?

A. We moved and lived here until 2021 is when we sold the house. Jay received a job transfer to North Carolina, Southport, North Carolina. However, our son was still in high school at the time, he was a junior at Daniel High School, so he and I stayed here so he could finish his education at Daniel. And we would commute back and forth to Southport as frequently as we could until certain restrictions like Covid took place. We got our son off to college. I worked on the house and moved and then sold. And then, subsequently, live in Southport, North Carolina with him.

Q. Okay. For the time period that you actually lived in Oconee County, did you -- how frequently would you visit the Ratliff property that is located on Ellenburg Road?

A. Definitely more than once a month. Sometimes, I would say, you know, weekly. Sometimes more than once a week. In the early time, Jay was in the engineering role

with more regular hours and then he moved into an operations role, which was shift work, so sometimes we were able to have time during the week where we could be together on the lake essentially. Our weekend day was during the week.

So it was more frequent early on, I would say. And then, subsequent as our son got more active in activities, less so. But always holidays, special occasions, birthdays, those type of things, we tried to celebrate as a family.

Q. Okay. Did you have occasion to help in the Ratliff family in the caretaking of Ms. Jan Ratliff or to assist Ms. Jan Ratliff in family matters?

A. Yes, definitely for a variety of things, whether it was a dental appointment. Sometimes maintenance on the lot. And certainly when emergencies took place. There was an occasion in 2001 -- now, physically, I wasn't living there but John suffered a heart attack and subsequently needed surgery. Jay was out to sea at the time, so of course they would call and let me know what was going on and I would have to relay messages to him through his chain of command on the sub.

Q. All right. In your travels down Ellenburg Road, do you recall ever seeing a road sign that indicated some type of cessation of County maintenance?

A. Yes.

Q. Describe that sign for the Court, please.

A. At the time there was not the Harbor Oaks subdivision so it was a very wooded drive from Knox Road down to Jan's property. That sign was on the right-hand side, right now, I would describe it where the pavement changes from very smooth, just past Rollingwood Harbor Oaks subdivision on the right-hand side just right there. Jay and I would run the roads in 1998. That was part of our exercise. Sometimes we would run to the sign or run past it.

Q. Was the sign a benchmark for a race or something?

A. Absolutely.

Q. All right. I am going to show you what has been, again, identified as Plaintiffs' 83. And you should have a Sharpie right there beside you.

A. Yes.

Q. If you can, Karen, on this map, similar to demonstrative number two that we were just showing you --

A. Okay.

Q. -- I would like you to, with brackets, identify the range along Ellenburg Road where you last recall having seen the end of County maintenance sign that you were just discussing.

A. Okay. Is that good enough? Mark that one out, and right there.

Q. Okay. All right.

MR. HOLLIDAY: Good advice to bracket.

THE COURT: Sir?

MR. HOLLIDAY: Nothing.

THE COURT: Do you have any objection to this?

MR. HOLLIDAY: None.

THE COURT: Admitted.

MR. BIBLE: Thank you, Your Honor.

(Whereupon, Plaintiffs' Exhibit No(s). 83F marked for identification and received in evidence.)

BY MR. BIBLE

Q. I don't know what Mr. Holliday was implying. But did I instruct you to move the brackets?

A. No, I mismarked the first one. I was looking at it trying to figure out where the line actually went.

Q. So the first mark that I am pointing to with my finger here I guess which would be on the Knox Road side?

A. That is incorrect.

Q. Okay. So the brackets beyond the X?

A. Okay.

Q. Tell the Court what you were indicating by the brackets?

A. The location where the end of County maintenance sign was located.

Q. Okay. Was it on the left or right-hand side of the road?

A. On the right-hand side. If your back is to Knox Road, it is on the right-hand side as you are heading down to Jan's property.

Q. Okay. What color was that sign, to the best of your recollection?

A. For the most part in my memory, it was black and white. I don't have a perfect memory of the color of the sign.

Q. Do you recall when that sign got missing?

A. I know definitively it was there during the time that we had the meeting with the Oconee County representative. So I know that it was there in 2009. Could it have been there beyond that time, 2010, '11, '12, most likely yes. I don't know when it might have been removed.

Q. You mentioned having a meeting with the County; was that a specific point in time in 2009?

A. Yes, October 1st, 2009.

Q. Okay. Tell me about that meeting.

A. Well, my mother-in-law --

MR. HOLLIDAY: We object as to hearsay.

THE COURT: Let her get there first.

BY MR. BIBLE

Q. Tell me what the purpose of that meeting was.

A. My mother-in-law had been upset, she was upset that there was development activity and what appeared to be road activity extension activity going on on Ellenburg. And she was concerned that -- oh, I am sorry, and she was concerned that they were going to be taking her property. She says, This is my property, this is my property. So she was very concerned that somehow she was going to be impacted. And Jay was working at the time. He was -- had recently been accepted into a very intensive training class, a licensed class, and was unable to go anywhere with his mom for that. And Jimmy was working. And so I said, Well, try to set up a meeting with Oconee County and I'll go with you, I'll help take notes and we will see if we can't help understand what is going on.

Q. Okay. And did, to the best of your recollection, Jan set up that meeting?

A. Yes, she did.

Q. Okay. And did you assist her in attending a meeting with the County?

A. Yes.

Q. Okay. And where did y'all meet?

A. At the roads and bridges department on Wells Highway.

Q. Okay. Here in Oconee County?

A. Yes.

Q. Okay. Could you describe, when you walked into the building, what you recall?

A. Well, we met in the parking lot. The meeting was in the morning. My son was still in elementary school, so my job was to get him to school on time and be sure to pick him up after school on time. So I asked Jan, you know, she asked what time she should set it up, it should be for the morning.

When we walked in, there was no one sitting at the desk. I thought was a little odd. We said, Hello, hello. Eventually some people appeared and we were escorted back into a large room with a very large table. Jan and I sat together on one side. And in my notes, Matt Kelly, as I identified him, and my understanding is that his name is actually Mack Kelly not Matt Kelly. But Matt set across from me in my notes. Prince Brown to my right. And Larry Harden to my left.

Q. Okay. You mentioned having prepared notes when you went to this meeting?

A. Correct.

Q. In a black binder to your left there should be a tab 62.

THE COURT: What number?

MR. BIBLE: Tab 62, Your Honor. And this would be Plaintiffs' Exhibit No. 62 that has already

been admitted into evidence.

BY MR. BIBLE

Q. Are you familiar with that document?

A. Yes, these are my notes.

Q. Is this your handwriting?

A. Yes.

Q. Okay. And you identified just a moment ago Mack Kelly?

A. Correct.

Q. Is that the same person that you are indicating in these notes as Matt Kelly?

A. Correct.

Q. Okay. And who are the other two again?

A. Prince Brown and Larry Harden.

Q. Okay. Did you come to learn of their respective roles with Oconee County at that time?

A. In 2009, I didn't know because they are not listed here. Based on the dialogue that I was having with Mack, it seemed that he and I connected in an engineering type of way, so I made an assumption that he was County engineer.

Subsequent to this meeting, I have since learned, via Oconee County's web page, their County council meeting minutes, that all three of these individuals were introduced to the County council, Mack as being the director of roads and bridges, Prince being the right-of-way technician, and

Larry being a manager with the roads and bridges department.

Q. Okay. And what were your or Jan's goals for this meeting?

A. That is what I wrote down here. It was typical of how I would try to take notes. Try to identify what people wanted to get out of the meeting, so I, in the middle part there, Jan's goal for the meeting was, one, to get a more accurate map for the County road maintenance. The second thing with the bullet says she wanted to know what were her rights. And the third was, is there a widening of the road project. I cycled back at the end of it and wrote that Jan had received a copy on the right-hand side, so that is how that ended up being there.

Q. Okay. You indicated that Jan received a copy. And that was directly beside the "get more accurate map"?

A. Yes, correct, for the County road maintenance.

Q. Okay. And Jan did actually receive a map?

A. Correct.

Q. Okay. Would you flip the tab to number 63 in the binder?

A. Okay.

Q. Based on your recollection and having personally attended that meeting with Jan, is this the map that was conveyed by Oconee County representatives to you all on October 1st, 2009?

A. Yes.

MR. BIBLE: Your Honor, this was not an exhibit that was previously admitted, it was objected to, but at this time I would move to introduce it as Plaintiffs' Exhibit No. 63?

THE COURT: What is your position?

MR. HOLLIDAY: Our position is that ultimately it is going to -- they are going to attempt to use the map for hearsay purposes to tell us what these dots mean based on the words of Oconee County representatives.

THE COURT: I think that it is hearsay. Do you know any exceptions to the hearsay rule?

MR. BIBLE: Yes, Your Honor, I think it is admission against interest of a party-opponent.

THE COURT: By whom?

MR. BIBLE: A party-opponent.

THE COURT: I understand the party-opponent. But who made the statement, please?

MR. BIBLE: I think that I can develop that through testimony.

THE COURT: I want you to tell me. Is that who, the man that is on some notes?

MR. BIBLE: Yes, Your Honor.

THE COURT: What are --

MR. BIBLE: Prince Brown and Mack Kelly.

THE COURT: What is their position with the County?

MR. BIBLE: Ms. Ratliff just testified that Mack Kelly was the party responsible over roads and bridges. And Prince Brown being the right-of-way coordinator or officer for Oconee County.

THE COURT: What is your response?

MR. BRANDT: Well, I think that it is -- basically no foundation has been laid in order for them to get that in, whatever, they have got to show that their job gave them the authority to make the representations. And you can see they haven't given anything as far as their job. They have given job titles and certainly, you know, what they may have said. But they can't confine the County, neither Prince Brown nor Mack Kelly had any authority to relinquish County assets.

And they are coming to, what they are going to say is that they said that County maintenance ended here, basically took the road out of the public domain and gave it away, basically, and that is where they are going and there is no authority for that, for either one of those people to testify that way. And Prince Brown is also now deceased and we cannot call him.

THE COURT: I am sorry?

MR. LOGAN: Prince Brown is now deceased and we cannot call him.

THE COURT: Dead man's statute?

MR. BRANDT: Yes. Raise that too. Admission against interest that he was representing at the time that he was living. Additionally, the County denies in their 30(b)(6) deposition, which was entered into evidence as part of our case, that this meeting never happened. So, there's that.

THE COURT: What is your response?

MR. BIBLE: Your Honor, again, to the extent that it was Prince Brown that marked on the map, which there are initials on the map that we would get towards that she would testify are Prince Brown's, and he is deceased. That is declarant unavailable. It is really not material to it, but at the end of the day I think it is declarant unavailable. I think that it is an admission against the County's interest.

THE COURT: What are you talking about, 804?

MR. BIBLE: 804 is declarant unavailable. Statement against interest. 804(3). 804(4), excuse me, Your Honor, I apologize.

THE COURT: All 804(3) does is further define what unavailability is, that doesn't show that it is

admissible.

MR. BIBLE: 804(4) A witness is unavailable if he or she is unavailable to present or testify at hearing because of death.

THE COURT: Unavailable. If you look back at Page 172 or under subpart (a) says, Unavailable to witness including situations where an employee is unable to be present or testify at the hearing because of death or then existing physical or mental illness or infirmity.

MR. BIBLE: Then we go to (b)(3), Your Honor.

THE COURT: Okay. That is what I was asking.

MR. BIBLE: My apologies.

THE COURT: I'm going to sustain Mr. Brandt's objection to the extent that you need to lay further foundation. If he's going to bind the County you need to show further authority on the part of this person or another person to be able to bind that. Okay, I'll give you the opportunity to do that.

MR. BIBLE: All right, thank you.

THE COURT: Yes, sir.

BY MR. BIBLE

Q. Karen, when the meeting that we were just discussing was established, who established that meeting?

A. My mother-in-law, Jan Ratliff.

Q. Did individuals that you met with introduce theirselves to you?

A. Yes, as roads and bridges employees. I asked for business cards, they didn't provide them.

Q. Okay. Did you perceive them to be representatives of the County with authority?

A. I knew that they were roads and bridges department employees because we were meeting in a roads and bridges office, that is where their office was. And I asked them what the roads and bridges department did. And that was the first, what were they responsible for. And those were the first two bullets there. They said they maintained county roads from ditch to ditch for drainage. If no ditch, then to the edge of the road. And when we specifically started talking about Ellenburg Road, which was the purpose of the meeting, Jan lived there, she was the Oconee County resident. We specifically, you know, asked questions about Ellenburg Road.

Q. Okay. Did they represent to you at any point in time that they had authority to speak to you on behalf of Oconee County?

MR. BRANDT: Objection.

MR. HOLLIDAY: Objection.

THE COURT: Hang on, what is your objection?

MR. HOLLIDAY: Hearsay.

THE COURT: I sustain that.

MR. BRANDT: May I further expound on Myrtle Beach v. Parker --

THE COURT: Hang on, let me do this. Go ahead.

MR. BRANDT: The case of Myrtle Beach v. Parker at 260 South Carolina 475 197 So.2d 290, it is a 1973 case, that case failed, misrepresented by a County employee doesn't bind the County unless the employee had authority to make decision or statement. They requiring further that they have got to show before they put it in that they have the authority to make whatever representation it was. The mere title to a position doesn't tell you that.

Also, with that, the authority to make the decision, where they are going here is basically an estoppel argument to estop the County from denying that they had abandoned maintenance. Now I don't even know that that even gets them where they want to go. But they don't show that they have the authority to make it, but they are trying to hold the County to it.

That is tantamount to a claim of estoppel. And the governmental agency can't be estopped by any acts or representations of employees unless they had an official authority to do the act or to make

representation. That is what that case stands for. That had to do with a zoning misrepresentation by the County.

Went in and asked about zoning of the property and the clerk, basically, the person there in zoning looked at it and looked at the map and told them, yeah, they were okay on a particular zoning and they weren't. And that case failed, they couldn't bind the County to that representation, so . . .

THE COURT: Your response. Hearsay statement and then go into the second objection of Mr. Brandt.

MR. BIBLE: I'll withdraw the hearsay statement that we just discussed. But as to the second commentary there by Mr. Brandt, we would contend first that, what I was trying to do through this witness was establish apparent authority versus actual authority. Apparent authority may be binding as to the County representatives. The County has the opportunity to present another witness to rebut the testimony of Ms. Rasbornik. They are able to do that. They have denied this meeting occurred, and this witness is testifying to a disagreement between the parties.

They say that the meeting never occurred. And Ms. Rasbornik has a very vivid memory of a meeting occurring. So to the extent that the Court was

inclined to strike this for hearsay testimony, we could also argue that it be admissible because it is contrary to the County's position in that there is a disagreement between the parties on whether or not this meeting took place. And this is present sense impression of the witness -- or, excuse me, not the present sense impression of the witness, but the recorded recollection of the witness of this meeting having occurred.

MR. HOLLIDAY: I don't have any objection to the present sense impression. I stipulated to Plaintiffs' 62, it is in the record. It is her notes of this meeting.

THE COURT: Her notes has nothing to do with the position that they are offering.

MR. BIBLE: Well, in a different point, Your Honor, if the notes were admitted and references that Jan received a copy of the map, how can Karen not be allowed to testify that this was the map that they received.

THE COURT: I can't stop them as to how. But tell me how it comes in.

MR. BIBLE: I believe if the defense has a document that has other documents referenced in this document and it is dealing with using --

THE COURT: In this case you stood up, or Mr. Paavola did, one of you guys stood up and said, These are admitted to, these are being admitted without objection. That one is being objected to. So, you acknowledged that it was being objected to and it wasn't. So that just flies in the face of the argument. And it is not admitted, okay.

So you are going to have to show me a rule that lets it in. And he said it is hearsay and you started to say that it is exception to the hearsay rule and then he kind of moved around. So, go back and tell me how that comes in.

MR. BIBLE: Your Honor, I still believe that this is a statement against the interest of the County in that --

THE COURT: You still have to show that they have the authority to bind the County, don't you?

MR. BIBLE: And I think so, Your Honor, but --

THE COURT: Where is that shown?

MR. BIBLE: Ms. Rasbornik's testimony that she met with County representatives.

THE COURT: I understand. And I read her notes several times, or two times.

MR. BIBLE: Yes, sir.

THE COURT: But there is nothing in there that I saw that said anything about the positions that these people said that they were in that would be a position that could bind the County. I just don't see it. If you have anything different, show me and I will be glad to look at it.

MR. BIBLE: Yes, sir, Your Honor. I want to say that there was reference to engineering. Forgive me. Beg the Court's indulgence.

THE COURT: Yes, sir. Let's take about five minutes and that will give you a chance to get a sip of water and we will be right back.

MR. BIBLE: Thank you, Your Honor.

(Brief recess.)

THE COURT: Mr. Bible, have you had a chance to look at that?

MR. BIBLE: Yes, Your Honor. And forgive me, there was another set of notes, not these, that had the reference that I was talking about. However, Your Honor, I did take the opportunity to relook at the Rules of Evidence. And particularly Rule 801. Statements which are not hearsay, (d). Two, admission of a party-opponent. And then I particularly draw your attention to (d)(2)(A) and (d)(2)(D).

THE COURT: Just one second. Let me get 801.

Okay, sir.

MR. BIBLE: Your Honor, we would contend that, pursuant to 801, that the marking of the map, which we were trying to discuss, is an admission by a party-opponent that is not hearsay based on 801(d)(2)(A), the party's own statement, because the testimony would get developed, she would testify that they marked on the map and that they clearly indicated to her that they were representatives of the County.

THE COURT: Well, let me ask you this: It goes back to the objection that Mr. Brandt had under 801(2)(B), or excuse me, (2)(A). Party-opponent statement in either an individual or representative capacity. And certainly this is not an individual capacity; do you agree with that?

MR. BIBLE: Yes, Your Honor, I agree.

THE COURT: So in order for it to be in a representative capacity to bind the County, you have to show that he is the authority to bind the County. Same thing that we were saying earlier. All right?

MR. BIBLE: I believe that you are correct, Your Honor, you are correct.

THE COURT: I am going to sustain the objection.

MR. BIBLE: However, what about (D), Your

Honor?

THE COURT: (D)?

MR. BIBLE: Yes, Your Honor.

THE COURT: Let me go back and get my book, I put it up.

MR. BIBLE: Sorry, Your Honor.

THE COURT: That's all right, Brother. You are talking about (D)?

MR. BIBLE: Yes, Your Honor.

THE COURT: You talking about prior statement by a witness?

MR. BIBLE: I am sorry, 801(d)(2)(D), a statement by the party's agent or servant concerning a matter within the scope of the agency or employment.

MR. HOLLIDAY: Your Honor, that is directly to your previous point.

THE COURT: It is the same standard, you have got to be in a position to bind the County. That has always been my understanding. If I'm wrong you can give me a case to show that I'm wrong, but right now I'll sustain the objection, okay.

MR. BIBLE: Yes, Your Honor.

THE COURT: I think that is the right standard. If you show me that I'm wrong, I'll let you recall her.

MR. BIBLE: Thank you, Your Honor.

THE COURT: All right.

BY MR. BIBLE

Q. All right. Karen, so set aside tab 63, we won't reference the map at this point in time.

THE COURT: Let's do this. I don't mean to interrupt you now, but let's go ahead and break for the day. We have got to a good breaking point. We are going to be back tomorrow anyway with this witness, and it is 5:25 and we have got people that have kids and things, we need to go ahead and call it for the day.

MR. BIBLE: Will do.

MR. HOLLIDAY: Your Honor, we would ask for instructions to be given to this witness to not discuss this with any party or counsel.

THE COURT: Sure. You understand that you can't talk about your testimony with anybody, including the attorneys, anybody outside including family members, spouses, friends, anyone. Okay?

THE WITNESS: Yes, Your Honor.

THE COURT: Okay. You can step down.

All right. See you in the morning at 9:30.

(Proceedings adjourned for the day.)

* * *

6-14-2024 PROCEEDINGS

THE COURT: Are you ready to proceed, Mr. Bible?

MR. BIBLE: Yes, Your Honor. I think as a preliminary matter, Your Honor, I would like to address the hearsay stuff that we ended on before we bring the witness back in, and I am sure that would be helpful for the Court. To the best of my understanding, and fill me in if I am mistaken, we left it as we -- the Plaintiffs were arguing in relation to proposed Exhibit 63, which is a map which my client says they received at that meeting. And that was objected to based on hearsay grounds. We argued that --

THE COURT: Also based on the lack of establishing that they had --

MR. BIBLE: The authority.

THE COURT: -- the authority, right.

MR. BIBLE: Yes, Your Honor. And we would argue that 804(a)(4) declarant unavailable because of death applies. And then 804(b) statement against interest. And then also we argued 801(d)(2) where it says --

THE COURT: I didn't hear you argue (d)(2), what is that?

MR. BIBLE: 801(d)(2) --

THE COURT: Oh, yes, you did. Yes, you did.

MR. BIBLE: It is party either in an individual or representative capacity, and then we resorted to that 801(a)(2)(D), which is a statement by the party's agent or servant concerning the matter within the scope of agency or employment made during the existence of that relationship. As an initial matter, Your Honor, we went back and looked at it and looked at the law as well. But we also realized, and I apologize for this, but that document has already been admitted in evidence.

THE COURT: How?

MR. PAAVOLA: The Defendants, in their designations of deposition testimony, also inserted it into evidence without objection and without qualification or limitation as to the use of the document. Exhibit 17 to the County's deposition, which includes that map.

THE COURT: Okay. What is your response to that, Mr. Holliday?

MR. HOLLIDAY: If I did, then I did. I don't know the answer to that off of the top of my head.

THE COURT: Look at that exhibit and see if that was a part of it. If it is in, it is in.

MR. BIBLE: I have a printed copy for you, Andrew.

(Pause.)

MR. HOLLIDAY: It appears to be in, Your Honor.

THE COURT: Very well. Bring your witness in.

MR. BIBLE: Thank you, Your Honor. The Plaintiffs would call Karen Rasbornik.

MR. LOGAN: Mr. Brown is deceased, they are going to go under the deadman's statute?

THE COURT: Well, y'all have put it in evidence, it doesn't matter, it's already in now.

MR. LOGAN: I just wanted the record to establish that.

(Whereupon, Plaintiffs' Exhibit No(s). 63 marked for identification and received in evidence.)

THE COURT: Absolutely.

MR. HOLLIDAY: We would still contend that any non-verbal assertion --

THE COURT: You can argue that later. It is in evidence and we will let him go ahead with this witness.

Come around. Ma'am, you are still under oath from yesterday.

THE WITNESS: Yes, sir.

THE COURT: All right. Your witness.

MR. BIBLE: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. BIBLE

Q. Ms. Rasbornik, thank you for joining us again today. Where we left off yesterday, it was arguing back and forth and you were not getting to say anything. But what we were speaking to was a meeting that you participated in with your mother-in-law, Jan Ratliff; is that right?

A. Correct.

Q. Okay. And you have binders in front of you, ma'am. And I would refer your attention to the black binder and Exhibit No. 62, which is tab number 62 in that binder. I think that it was 62.

A. I'm getting there.

Q. Ma'am, I believe, if I recall correctly, you established that you attended a meeting on October 1st, 2009 with representatives of Oconee County; is that right?

A. That's correct.

Q. All right. And these are your notes related to that meeting?

A. Correct.

Q. Okay. And Ms. Jan Ratliff also participated in that meeting with you?

A. Yes, my mother-in-law.

Q. All right. We were discussing yesterday the purposes for which that meeting was called. Can you, again, tell us what the purpose of that meeting was?

A. Well, Jan had specific goals for the meeting. It is kind of in the center part of the page. She specifically wanted to get a more accurate map for County road maintenance. She wanted to understand what her rights were. And she wanted to inquire whether or not there was a widening of the road project. Matt also had some questions. I am referring to him as Matt. My notes refer to him as Matt. My understanding is his name is Mack, but I continue to refer to him as Matt here. He wanted to know if there was an end of County maintenance sign and was there -- he wasn't aware of a prescriptive easement near or in front of Jan Ratliff's property. So we were primarily talking about my mother-in-law's property associated with where she lived.

Q. That being 599?

A. 599 and the area there. She was upset because there was a -- construction that had been going on in the road, project up ahead. I say up ahead, Harbor Oaks up there. And she was concerned, very concerned that, you know, something was going to be happening in front of, you know, her area.

Q. Okay. And to give us some reference, Harbor Oaks,

there is an opening to that subdivision; what is the name of that road, do you recall?

A. Rollingwood.

Q. Rollingwood. Is that the area that your mother-in-law was concerned about the construction so to speak?

A. Correct. That is where it was starting and she didn't know how far it was going to be coming down the road if at all. And that was -- and she knew, based on multiple incidences over the years, that there was a long time desire for developers to acquire her property, so she had concerns about that.

Q. Okay. And did development activities, at least road improvements or road widening extend beyond, what is it, Rolling Greene?

A. Rollingwood.

Q. Rollingwood, excuse me.

A. Rollingwood. At that time, in 2009, no, they did not.

Q. Afterwards did it?

A. Not to my knowledge, no.

Q. Okay.

A. The extent of any of the pavement that was done and the widening was really right, just after the entrance there. There is a significant change in pavement. It is

wider, it is newer, is it is prettier. After that, it narrows down and it is more crackly.

Q. Okay. And was that in the vicinity of 565 Ellenburg Road?

A. Correct. Correct.

Q. And refresh my recollection, who did you understand the individuals that purported as County representatives, who were they and what were their representative capacities as you understood it?

MR. HOLLIDAY: Objection, calls for speculation.

THE COURT: Lay some foundation for the question, please, sir.

MR. BIBLE: Okay. Well, Your Honor, these are meeting minutes.

MR. HOLLIDAY: Okay.

MR. BIBLE: And it identifies --

MR. HOLLIDAY: Was it produced in discovery?

MR. BIBLE: No, it is a public record.

THE COURT: What is that?

MR. HOLLIDAY: It is meeting minutes from a transportation committee that weren't produced in discovery.

MR. BIBLE: Oconee County meeting minutes.

THE COURT: I don't care what it is, if you

didn't give it in discovery, you are not using it now.

MR. BIBLE: Your Honor, we would contend that these are public records.

THE COURT: Sir?

MR. BIBLE: These are public records.

THE COURT: That doesn't mean that you don't have to identify it for a trial. You are not going to use it now. You can proffer it and you can make it an exhibit. I am not going to allow it in. I can be proven wrong, but it is not in evidence.

MR. BIBLE: Okay. Your Honor, I move to introduce meeting minutes of the transportation committee meeting of Oconee County dated August 25th, 2009. This is a public record. We would contend that this is something that is kept in the ordinary course of Oconee County records and that the Court should take judicial notice. This is a public record. In relation to this matter, this specifically references individuals that met with Ms. Rasbornik.

THE COURT: The Court denies that. At this late date, you can make it a Court exhibit.

MR. BIBLE: Thank you, Your Honor.

(Whereupon, Court's Exhibit No(s). 2 marked for identification and received in evidence.)

MR. BIBLE: Your Honor, I would raise another

matter on that. Also, the Defendants' designations in the County 30(b)(6) deposition transcript identifies these individuals. We offer that in -- this has been offered into evidence before presentation of this witness, and had the Court had time to look at those designations it would have seen that a gentleman named Mack Kelly is identified in the County designations at Page 183, lines 19 through 22. What role was Mack Kelly when he was employed with Oconee County? He was public works director county engineer.

Your Honor, it also identifies Larry Harden on Page 154, lines 19 through Page 155, line two. Question: Okay, so let me ask you, who did you talk to and ask that question of Larry Harden who is the roads manager and is also a member of the meeting that Ms. Rasbornik is testifying to. And it also identifies George Prince Brown. It also identifies the signature that is on the map that we are going to discuss as George Prince Brown's. And this is County testimony at Pages 188 lines 20 through 23 through 189.

THE COURT: Let me ask you this. Excuse me to interrupt you. Let me ask you this: The minutes that you are trying to introduce into evidence that I did not allow you to, are they referenced anywhere before last night? I mean, before today?

MR. BIBLE: No, Your Honor. This is a separate argument. If the meeting minutes would not be considered, I would say that the defense has already stipulated to the admission of deposition testimony that is binding on the County and their 30(b)(6), they have walked through the map with these individuals. They have identified and authenticated the signature that is on the document that is Prince Brown's.

THE COURT: Okay, very good. Thank you. What is your response?

MR. HOLLIDAY: We would stipulate to that. But there is no authority. The County administrator doesn't even have the authority to abandon any portion.

THE COURT: Not now, we will not argue that now.

MR. HOLLIDAY: Yes, but for the purposes of --

THE COURT: Not now. You will have a chance to argue that. But if you put it in there in evidence, then he has that right to it.

MR. HOLLIDAY: That is their job titles.

MR. BIBLE: Thank you, Your Honor.

THE COURT: Yes, sir.

BY MR. BIBLE

Q. Sorry, Ms. Rasbornik. The individuals that you

met with at the County meeting on October 1st, 2009, again, they were -- what we understand now, was Mack Kelly, Prince Brown, who also bears the first name of George; is that right?

A. That's correct.

Q. Okay. And then Larry Harden.

A. That's correct.

Q. Okay. Did they hold themselves out to you to be County representatives at that meeting?

A. Yes.

MR. HOLLIDAY: Objection.

THE COURT: Sustained. That is hearsay.

BY MR. BIBLE

Q. Did you understand them to be County representatives?

A. I did.

MR. HOLLIDAY: Same objection.

MR. BRANDT: Same objection.

THE COURT: Sustained.

BY MR. BIBLE

Q. Where was that meeting held?

A. In the roads and bridges department on Wells Highway.

Q. And was that Oconee County roads and bridges department?

A. Correct.

Q. Was there anybody in attendance from the public other than yourself and your mother-in-law?

A. When we sat down at the table, there were five of us. That meeting lasted more than an hour. And other employees came into that building. They were in another area of, I would say, the big work room. When we left there was an administrative assistant physically sitting at the table where you would normally be welcomed in. So there were other people there. I did not write down their names.

Q. Okay. Did you believe that, when you were attending this meeting, you were speaking with, you know, just normal citizens or somebody else?

A. We believed that it was the road and bridges department. My mother-in-law had set the meeting and she confirmed the meeting with them, validated that that was where we were supposed to be that day, that time, that morning.

Q. All right. And ultimately, one of the goals being to get an accurate map for County road maintenance; is that what is reflected in your notes?

A. Correct.

Q. Okay. Did you obtain a map at that meeting?

A. We did.

Q. Okay. Did you make any markings yourself on that

map?

A. I did not.

Q. Okay. Will you flip to tab 63. All right. Tab 63 has been stipulated into evidence as Plaintiffs' No. 63. And is this the map that you received?

A. Yes.

Q. Okay. And the markings on this map, did you make them?

A. No, I did not.

Q. Did Jan make them?

A. She did not.

MR. HOLLIDAY: Objection. If she didn't make the markings, somebody else would have made the markings. And a statement can include, for hearsay purposes, nonverbal conduct of somebody that is not the deponent.

THE COURT: Do your notes indicate who marked on the map?

MR. HOLLIDAY: They don't, Your Honor.

MR. BIBLE: Well, the map itself has the initials of the individual, Your Honor. That has been testified to in the deposition of the County 30(b)(6).

MR. HOLLIDAY: That is not what the County testified to. The County said they recognized the initials.

THE COURT: Well, let me stop you for a second. Are you saying that the writings can be hearsay as well based on 801's definition. What is your response?

MR. BIBLE: Right, Your Honor. I think we have already stipulated that it is admitted into evidence based on the testimony that the County gave.

THE COURT: There is no question that it is in evidence. But when you go further and say what somebody else said or did, which may constitute hearsay, that 801 does include writing, right? Doesn't it? I believe it does.

MR. HOLLIDAY: 801 (a)(2) specifically says nonverbal conduct of a person, if it is intended by the person as an assertion. It is exactly what these green markings are.

MR. BIBLE: And, Your Honor, I think --

THE COURT: Oral or written assertions. But you know, hang on. Under the definition, Mr. Bible, it appears to me that that would be hearsay. I mean, do you want to argue against that or argue to an exception?

MR. BIBLE: Right, Your Honor. I was going to get that what her understanding was of the markings. I didn't ask who marked it. I didn't ask what maybe an

individual told her these mean. All that I'm trying to glean from this is that she was present at a meeting and she received a map, which is not disputed, and she received it as marked and did not alter this herself, and what did she understand from that. And I think that the Court at that point -- that is not me, or that is not her testifying as to what somebody told her, that is just what she understood this map represented.

THE COURT: How could she understand it without being told?

MR. BIBLE: I think, based on the personal knowledge of her having traveled down Ellenburg Road and this map reflecting where it shows the end of Ellenburg Road is consistent with all of the witnesses' testimony, including what Ms. Rasbornik would testify to as to where maintenance has historically stopped on that road.

THE COURT: Is there any testimony by any of the deposition people about this map or any discussions about the markings on the map anywhere else?

MR. BIBLE: Other than the testimony in the deposition, the best that I recall, Your Honor, was, had Mr. Reid, by way of example, seen this map before and was it in County records. And it wasn't to his knowledge. That is the extent.

THE COURT: Any other testimony that says what the markings mean by anybody else in these depositions?

MR. HOLLIDAY: No, Your Honor. And Mr. Reid's testimony denied --

THE COURT: Okay. Let him answer.

MR. BIBLE: Okay, Your Honor. Also, pursuant to 801(b)(2)(D) as an agent or servant within the scope of agency, Your Honor, I'm happy to present to the Court --

THE COURT: Let me stop you right there. Mr. Holliday.

MR. HOLLIDAY: I think that we have probably made this argument ten times, clearly out of state --

THE COURT: You made it without making reference to the fact that you had these deposition excerpts out there that identify who these people were and what their positions were.

MR. HOLLIDAY: The deposition excerpts also identify the fact that Mr. Reid spoke with two of the people that also purportedly attended this meeting, and they denied that it ever happened. The only one who, you know, we can't examine is the one who initialed. We admitted, those are his initials.

THE COURT: The initials is of the dead man?

MR. HOLLIDAY: Correct, the dead man initialed it. Mack Kelly and Larry Harden are both alive. They were both interviewed in advance of Mr. Reid's deposition which was noticed as a 30(b)(6) and they both denied to Mr. Reid that this meeting ever happened.

THE COURT: All right. I am going to sustain the objection. I am going to let you proffer your evidence. But I am going to deny it. I think that it is not admissible. I'll let you proffer it in the record, okay.

MR. BIBLE: Yes, Your Honor. And the point that I was going to make before Mr. Holliday ended is that, in addition to the transcript testimony that I cited earlier, it identifies the roles and capacities those individuals' roles and capacities with the County contemporaneous with when this meeting occurred.

I would like to draw the Court's attention to the Oconee County code of ordinances, which again, this is the law within the County indicates that the Oconee County roads and bridges department will conduct a thorough investigation adequate to determine whether the road in question is or has ever been a County road, whether the road still is a County road, whether the road is still in general public use or has been

practicably abandoned, whether the County has any documentation relating to the status of the road such as a dedication of a right-of-way, or an easement, or a deed, or whether such road was subject to a prescriptive easement or easement by usage, whether there is any other information which would assist County council in determining whether the best interest of Oconee County public will be served by consenting to the abandonment and closure of a road in question, or by not so consenting. That is 26-9A of Oconee County Code of Ordinances.

THE COURT: Let me ask you, is that something that the County duties are upon the institution of an action to close a road under the State statute?

MR. BIBLE: This is Oconee County.

THE COURT: I understand that it is Oconee County. But --

MR. BIBLE: But this is not --

THE COURT: Listen to me. Quit interrupting me, please. It sounded to me, when you were reading, that they are saying that they will do that if they are making a decision as to whether they are abandoning a road; is that right?

MR. BIBLE: That is correct.

THE COURT: The only way to do that would be

under the statutory procedure unless you have common law. That is not something you can do by filing something, it can be done by inaction or some other way, but not by filing something?

MR. BIBLE: No, Your Honor, the only point of me referencing this is to say that the individuals that --

THE COURT: Sit down, Mr. Holliday, please.

MR. BIBLE: -- the individuals that Ms. Rasbornik met with was the Oconee County roads and bridges department, and clearly within the scope of the road and bridges department's responsibility is evaluation of roads and rights-of-way.

THE COURT: I hear that.

MR. BIBLE: So that is why we would continue --

THE COURT: I am not going to let you do it. If you want to proffer it, go ahead.

MR. BIBLE: Okay.

THE COURT: I think that it is hearsay and falls under the deadman's statute. If you want to proffer this evidence, you can, so it is in the record so if I am wrong I will be corrected later. Okay.

MR. BIBLE: Yes, sir. Thank you, Your Honor.

PROFFERED EXAMINATION

BY MR. BIBLE

Q. Ms. Rasbornik, there were markings on that map, were there not?

A. Correct.

Q. Okay. And you didn't make those markings?

A. Correct.

Q. Did Jan make those markings?

A. She did not.

MR. HOLLIDAY: Your Honor, just for clarification, I don't need to object, this is just a proffer; correct?

THE COURT: Yes, sir, I think that you are protected. But if you think that you need to, do it because people tell me that just because I think you are protected doesn't mean you are protected. So if you want to object, object.

MR. HOLLIDAY: Okay.

THE COURT: Yes, sir.

MR. HOLLIDAY: Thank you, Your Honor.

BY MR. BIBLE

Q. All right. And ultimately, did you understand anything about this map before you received it. Have you ever seen this map prior to receiving it at the meeting?

A. I had not ever seen it prior to receiving it at the meeting.

Q. Okay. And what did you glean from this map during the October 1st, 2009 meeting?

MR. HOLLIDAY: Objection.

MR. LOGAN: Same.

THE COURT: Noted.

BY MR. BIBLE

Q. What did you glean from this map at that October 1st, 2009 meeting with the County?

MR. HOLLIDAY: Okay. Just for the record purposes, because they always say it has to be objection, hearsay, so that is on the record.

BY MR. BIBLE

Q. You may proceed.

A. The largest, green area where it says 100, 1.2 AC, that was identified as my mother-in-law's property.

Q. That is up there at the top of the map?

A. Correct.

Q. Okay. And is that -- I am sorry to interrupt. But is that the address that we have been referring to as 599?

A. Correct. 599 Ellenburg Road.

Q. Okay. And what is -- can you see 99 right beside it?

A. Correct.

Q. Okay. What address is that, to your knowledge?

A. I think those are the two addresses, 585 Ellenburg and 591 Ellenburg.

Q. Okay. And then right next to it at 103?

A. Yes, that is the one that continued to refer to as the Morgan property, and I don't recall what that number is.

Q. Okay.

A. But you know what, actually you said 103, it is 313 on this map I think was the Morgan property. And I don't understand or remember what that split was, we didn't really talk about it. All that I know is that my husband used to play as a child with the children that come in the summer to that Morgan property. And those were childhood friends, that is where they came in the summer, so that is how I know it as the Morgan property.

Q. Okay. And then we move farther down and there is another marking; what is that?

A. Correct, there is a green dot. And that --

MR. HOLLIDAY: Object as to hearsay.

THE COURT: Noted. Sorry to interrupt, ma'am, it is just procedure.

A. I understand. The green dot there is what I understood to be the end of County maintenance, as marked by the representatives from Oconee County roads and bridges.

Q. And that is those folks that were there in attendance with you?

A. Correct.
Q. Okay. Did they physically mark it at the meeting?
A. Yes, I believe that they did. It was not pre --
MR. HOLLIDAY: Objection, hearsay.
A. It was not pre-marked.
Q. Okay. All right. And then, moving farther down, this map reflects to me it looks like it creates a road from that point; is that right?
A. Correct.
Q. Okay.
A. There is some markings in the middle there that say WA-42, and then if you continue up towards Knox Road, you see RD, you see Ellenburg, and you see some yellow highlights in that area there between Ellenburg and RD. That came about as a result of our discussions about deeded rights-of-way. We had, and if I can flip back and forth between the notes.
Q. Yes, ma'am, just let me know if you are referring to your notes.
A. Right, the notes. That was when we had -- that is really the kind of top of the second page, they indicated that deeds will usually have language like, private, mutually exclusive, or perpetual easement or some similar language and that that -- they were explaining to my mother-in-law that that would be --

MR. HOLLIDAY: Objection, hearsay.

MR. LOGAN: Same.

THE COURT: Noted.

A. That would give the County rights to get to her property, or in this case your property. So that -- I asked, are there any examples on Ellenburg Road, and that was how that got marked, that is where those types of things existed.

Q. Okay. Did you -- at that meeting, did you learn of any easement or maintenance right extending in front of 585 or 599 Ellenburg Road?

MR. HOLLIDAY: Objection, hearsay.

MR. LOGAN: Objection.

THE COURT: Are you going beyond this map or is this still on the map?

MR. BIBLE: Still on the map.

THE COURT: Okay.

THE WITNESS: The green, baby green dot represented where Oconee County maintenance ended was my understanding as we discussed during the meeting.

MR. HOLLIDAY: Object.

MR. LOGAN: Same.

THE COURT: Okay. For the sake of this witness' testimony you do not need to object anymore when she talks about somebody said it. I got you, that

it is hearsay.

MR. HOLLIDAY: I just want to make sure that the record is clear.

THE COURT: I think that you are doing a pretty good job of it, I think you are doing an ample job of objecting on the record.

BY MR. BIBLE

Q. Did you question -- did you have questions about this map?

A. I think that we had questions about the process of what could be happening, essentially, to the road in -- the area in front of my mother's, mother-in-law's house. As my notes indicate, I was concerned about imminent domain, did the County ever exert any type of taking of property. And they indicated that to their collective knowledge Oconee County hadn't ever done that, but the State had. And I asked for some examples, and that is where that came from.

Q. And there's, there's a marking at the top right corner of Exhibit 63. Did you ask that that be placed there?

A. I did. Towards the end of the discussion about this, I had indicated to them that I'm usually used to seeing a legend, you know, when this came into existence for use, and so I asked that it be notated, you know, who created it. And they sort of looked around at each other,

and Prince Brown was the one that sort of took the initiative to do that. And I asked him to put a date on it as to, you know, when they had been using this map for Oconee County maintenance.

Q. Okay.

A. And specifically on the area in there.

Q. And you personally witnessed Mr. Brown execute this document?

A. Correct, correct.

MR. LOGAN: Your Honor, I would just make a statement. When he gets through with his proffer, if he will let us know so we know not to -- that we are protected in going forward after that.

BY MR. BIBLE

Q. All right. Eventually that meeting ended, did it not?

A. Yes. I think the only other thing that I can offer is that, you know, during this process of getting the map and having it initialed and everything, the only other thing I could say is that we did walk, or I did at least, get up and walk around from the table looking at things that were on the wall. There were other maps that were around there in the building on the wall.

Q. Did anybody direct your attention to any of those maps?

A. I believe that it was Prince, since he was largely in charge of creating this document, or creating, copying it because it was already in existence then. We talked about it on the wall, and then subsequent to what was then presented to us or given to us.

Q. Did you learn anything from that or not?

A. I would say the only other thing --

MR. LOGAN: Is this still part of the proffer?

MR. BIBLE: Yes.

MR. LOGAN: Thank you.

A. -- was the section of the tax map as it was, we learned that that was what they were using at the time for road maintenance. So that section of the tax map 150 and we could kind of see other areas on it that were also numbered with three-digit numbers, and that is how he -- how it was explained to me that it was used.

Q. Okay. And you say 150, that is down at the bottom of this?

A. Correct.

Q. Okay. And then you talked about tax map, is that what is reflected generally in the lots that are --

A. That is my understanding. And the only other thing that I can offer about this is that, the fact that it's so blurry on the left-hand side, it was copied there.

The copying machine was physically in the roads and bridges department that was being used there.

Q. Okay. And all right, and that again was Exhibit 63. And that is the end --

MR. LOGAN: End of the proffer?

MR. BIBLE: End of the proffer.

THE COURT: Are you moving that into evidence?

MR. BIBLE: Yes, Your Honor, I would move it into evidence at this time.

THE COURT: It is not accepted.

MR. BIBLE: Yes, Your Honor, thank you. Based on the objections of opposing counsel, the hearsay objections?

THE COURT: Based on the totality of our discussions, yes, sir.

* * * END OF PROFFERED EXAMINATION * * *

DIRECT EXAMINATION CONTINUED

BY MR. BIBLE

Q. All right. Ms. Rasbornik, after the meeting, what happened then?

A. As the meeting was continued or as --

Q. After the meeting was concluded, did you think to do anything?

A. Well, we exited. We got up and left. As I had

mentioned, the administrative assistant was then seated at the departure area, the entrance/departure area, the book to sign-in was there. I do remember looking at that, thinking --

MR. HOLLIDAY: Objection as to relevance.

MR. BIBLE: It is showing that --

THE COURT: I haven't heard it yet so I don't know if it's relevant or not. Go ahead.

A. We hadn't signed in, but I felt like it was a meeting that we took, so we should sign out. I wanted to. I wasn't offered the pen. I can't remember if I leaned down to sign in. I believe that we did sign in and sign out at that same time period. And then Jan and I exited the building and went to the parking lot, and I said that you need to go home and take a picture of that end of County maintenance sign. I had to leave to go back to Clemson to make sure that I was home in time to get our son from school. And that was how the end of the meeting transpired.

Q. Okay. And did you ever go take a picture of the end of County maintenance sign?

A. Not that day, but subsequent in that month of October. We kept it on our digital camera for a period of time. My husband transferred it to a USB drive and I kept it on that for a period of time. Unfortunately that USB drive ended up getting used for other projects and I didn't

take care enough with that picture to get it off of the USB drive, printed at Walgreen's and shoved into the file folder with my notes. I had asked my mother-in-law if she would take care of it, but I handed her the folder and requested that she put it in there. And when the folder resurfaced, you know, many years later, that picture was not in it.

Q. Okay. And the location of that sign, when you took the photograph of it; do you recall where that was?

A. Where I had marked yesterday on that map, which is close to that 565 on the right-hand side after Rollingwood, in that area, in a wooded area. It is no longer wooded.

Q. Okay. In the many times that you have traveled down Ellenburg Road, have you ever identified any County personnel performing maintenance beyond where you last recall seeing that sign?

A. No, I have not.

Q. And that is the same with regards to paving or patching the asphalt surface of Ellenburg Road beyond where you last remember seeing that sign?

A. Correct.

Q. Striping?

A. Correct.

Q. Okay. How about landscape maintenance along the edges of the road?

A. None.

Q. Okay. Ms. Rasbornik, do you have any direct recollection of the Ratliff family actually performing maintenance on the asphalt surface in front of 599?

A. Not direct knowledge to the asphalt, no.

Q. How about landscape maintenance around the edges of the road?

A. Landscape maintenance, gravel on the edges of the road. But nothing that I can remember in terms of patching with the asphalt.

Q. Did you personally participate in any clean-up along the edges of the road?

A. Yes.

Q. What was that? What would that be?

A. Primarily just pulling weeds and poison ivy and those types of things, general maintenance.

Q. Is that the same or consistent with other members of the Ratliff family, what you saw them do?

A. No, theirs was far more extensive than mine. Sherry, I believe I recall her running the weed whacker underneath boats, around boats, so that customers would be able to get to their property. Jimmy, of course. And then my mother-in-law, she would take care of her property as well.

Q. Over the years that you have been traveling down that, you just mentioned parking of boats; have boats been

parked along the edge of the asphalt along 599 and 585?

A. Yes, significantly when my father-in-law was running the business, there were boats all over. It was very difficult to find a -- kind of weave your way down to get to the property and park in Jan's driveway. Jimmy, when he began running the business and having other areas to store boats, it cleared out more. But there was still boats on the roadway.

Q. During the time period that you have been visiting the Ratliff property, have you observed public traffic traveling down that road other than to go to John's Marine?

A. No, they were customers, friends. That is who I have seen come to the location.

Q. To your knowledge, the asphalt surface, does it continue on past John's Marine?

A. I believe that it stops right where that nail is for the asphalt that is there. Jay has shown me in the lake where, when you look at the map of -- it sort of splits, we have -- and he showed me and we have driven up to the point on the road and then as it splits. We have gone both on the lake side by boat and swam over in Jan's cove where the kind of sand road is right there, stepped on it, sunk in it, walked on it in the water.

Q. Is that the end of any roadway that travels further beyond John's Marine? Are you aware of any other

roadway that extends further beyond?

A. No, now those two. It splits and goes to either side.

Q. And beneath the water?

A. Beneath the water, correct.

Q. So there is no realistic use of those at this time?

A. No.

MR. HOLLIDAY: Objection.

THE WITNESS: Well, you can't --

THE COURT: Excuse me, when there's an objection, stop. What is the objection?

MR. HOLLIDAY: Objection, calls for speculation. I mean, it is a legal conclusion, because there is clearly a use for our property.

THE COURT: Common sense, if you have a road under water you can't drive on it.

MR. HOLLIDAY: Yeah, but some of that road is on our property.

THE COURT: If it is under water, it is not on your property.

MR. HOLLIDAY: That is not my understanding of how that question was phrased.

THE COURT: Thank you.

BY MR. BIBLE

Q. You wouldn't have any need to drive on any State road under water, would you?

A. I cannot drive on roads under water.

MR. BIBLE: Ms. Rasbornik, that is all of the questions that I have for you at this time. Please direct your attention to opposing counsel.

CROSS EXAMINATION

BY MR. HOLLIDAY

Q. Ms. Rasbornik, are you aware of your family ever filing a road closure action, notifying any of the additional land owners, or running any notice in the paper with regards to any portion of Ellenburg Road?

A. Am I aware of any road closure activities that my family initiated?

Q. A formal road closure action filed with the Court. Did your family ever file a road closure action with this Court?

A. My family never filed a road closure action because they didn't need to because the road ended prior to their property. They have a driveway to get to their property and didn't need to file anything because beyond their property was lake on both sides.

Q. Do you have, I believe it is 83 Echo?

A. I have this book.

Q. No, it would be a document that you marked on yesterday.

Eighty-three Echo. Is that the exhibit you marked yesterday as to the location of the black and white sign that you say was there in between those brackets?

A. No, this is not my map. This is not the one that I marked. I had actually three markings. There was an X on the one, and this one only has two markings on it. This is not my exhibit.

Q. Okay. Here is 83 Foxtrot. Does that appear to be the one that you marked on?

A. Yes, this is the markings that I made yesterday.

Q. Okay. When you are looking at where you made your markings on Ellenburg Road, can you tell, when comparing that to Exhibit 63 here, Plaintiffs' 63, does the green dot appear in the same location as it does on 83F?

A. Correct.

Q. Okay. So, if we were to look at these side by side, you would agree that where you said the end of County maintenance sign is is in a substantially different spot because you would agree this is 575 Ellenburg Road, correct?

A. I don't know the address, but no, that portion but -- no, that portion -- I don't -- agree that they are the same.

Q. You believe that they are the same?

A. I do, sir.

Q. Okay. And you believe that in this meeting with the County, you told the County that that sign was present; is that correct?

A. Your question one more time?

Q. At this October 1st, 2009 meeting, you told the County that the sign was present? Were you asked by Mr. Kelly if there was an end of County maintenance sign?

A. That was what Matt wanted to know. And so that is what I took my notes on. Those questions, I think, were more directed to his, the people in the room that were there, so Larry Harden and George Prince Brown. It seemed to me that Matt, as the manager of the group, was wanting to get additional information --

Q. Did you tell the County --

THE COURT: Let her finish her answer please.

A. Did I tell the County that there was an end of County maintenance sign there, I don't have that specifically in my notes and I don't recall whether or not I said that the County maintenance sign was there. I wanted to get information, as did my mother-in-law.

THE COURT: All right. Limit your responses to the question, please.

THE WITNESS: I will. I am sorry, Your Honor.

BY MR. HOLLIDAY

Q. And if you go to Page 3, were you told that the County may post a sign on Ellenburg which states the location of end of County maintenance?

A. Yes, I do see that.

Q. So if the sign existed at the time of this meeting, why would they say they may post a sign on Ellenburg?

A. That was confusing to me as well.

Q. Okay. Did the County also tell you that they had been cutting grass and paving, et cetera?

A. They did. And they marked on the map that part. I clarified. I said, Up by the yellow, correct? And he said, Yes, that is where they had been cutting and paving.

Q. And in 2009 you were told that the right of access to the property was from ditch to ditch, correct?

A. Matt said that that is what basic rights to the property are, ditch to ditch.

Q. Okay. And were you also told that deeds usually contain language like private, mutually exclusive, perpetual easement, or similar language?

A. Correct.

Q. Are you aware of any deeds that include any language such as private, mutually exclusive, perpetual easement?

MR. BIBLE: Objection, Your Honor, calls for speculation. He says any deeds anywhere in the history of time essentially.

BY MR. HOLLIDAY

Q. Are you aware of any deeds with regards to this property on Ellenburg Road, 585 or 599?

A. The only ones that they marked were -- because I had that same question, and it was in the yellow area. It had similar language because that was what I was curious about, how would I know what an easement was, a perpetual easement, and where did it exist.

Q. And you were also told that the language would be in all of the deeds or none of the deeds?

A. If it had that type of easement on it.

Q. Okay.

A. If it was a County, a County road.

Q. Okay. Do you recall in your deposition when you testified that you believed your father-in-law paved the road?

A. I mean, I understood that he paved the road so.

Q. Do you remember specifically the year that you referenced in your deposition?

A. It would have been in the 1989 time frame.

Q. Okay. And you would know your deposition if you saw it?

A. I believe that is what is contained in there.
Q. Does that appear to be an original copy of the deposition that you gave in this matter?
A. Yes, sir.
Q. Can you go to Page 17, please? I'm sorry, Page 19. On lines one and two, and this is in response to me asking you on Page 18, "Do you have firsthand knowledge of your family putting any of the asphalt down?" And your response in lines one and two of Page 19 are, "Not what I have seen. I mean, I wasn't there in 1986 sort of time frame, you know, mid 1990s."
A. Correct.
Q. Is that accurate?
A. Right. I was not on the property in the 1986, clearly in what I said, '86 time frame. Again '86 to '89. I was trying to say that the first time -- and I think that it was as we were discussing earlier in my deposition you asked, you know, when was the first time that I had been down Ellenburg Road in the Seneca area. My first time in the area was the mid 1990s, and that is what my understanding was of our conversation.
Q. So you have no knowledge about the Ratliff family paving the road; you never saw them pave the road?
A. I never saw them pave the road. I have knowledge from listening to discussions and stories of what happened,

what was going on in the Ratliff family at the time, and I believe that I referred to it as the family lore in my deposition.

Q. Okay. And you have no knowledge of any maintenance other than weed wacking and pulling poison ivy and the like along the side of the road?

A. The only other knowledge that I have is Jimmy paved -- I say paving, concreting the area in front of his shop. That happened in the time frame when I was there in the mid-2013ish time frame.

Q. Did any of that concrete encroach on the asphalt, which is the road?

A. I know that they certainly abut. Now, whether or not anything had to get moved prior to that in order to make that abutment, I have no knowledge of that.

Q. Concrete isn't in the asphalt that they applied, is it?

A. I don't know if it goes over it and if there was some issue relative to that. So I can't speak to, you know, where the exact line is right there.

MR. HOLLIDAY: All right. No further questions.

MR. BIBLE: Just briefly, Your Honor.

MR. LOGAN: May I ask some?

THE COURT: Yes, sir.

MR. BIBLE: I am sorry.

CROSS EXAMINATION

BY MR. LOGAN

Q. Good morning. Very brief. As I understand your testimony, the purpose of the meeting or the -- excuse me, subject to my objection, Your Honor, if you look at Page 63, behind that tab, the map that is shown there was explained to you as pertaining to maintenance of Ellenburg Road only; is that correct?

A. Not just maintenance, we used it to describe rights as well, because I had questions about easement and understanding that. And so the yellow markings were where dedicated rights to Oconee County existed. That was my understanding where it said, No maintenance and beyond that, no rights. Nothing else was marked on that.

Q. Well, is your testimony --

MR. BIBLE: Your Honor, briefly. I would like to comment if, to the extent that Mr. Logan is discussing this map and the interactions that Ms. Rasbornik had at this meeting, he can't do that over his own objection. He is opening the door to hearsay testimony and I think that it should be allowed at this point, Your Honor.

THE COURT: You are about to do that.

MR. LOGAN: That is why I said subject to my

objection, but if that is the case then I will stop. Thank you.

MR. BIBLE: In fact, Your Honor, I would say he has already asked questions about what happened at that meeting, so accordingly it should be allowed in.

THE COURT: I'll note your objection on the record.

MR. BIBLE: Thank you, Your Honor.

THE COURT: Any redirect?

MR. BIBLE: Yes. Sorry, Your Honor. Thank you for pointing it out.

REDIRECT EXAMINATION

BY MR. BIBLE

Q. Ms. Rasbornik, when Mr. Holliday was asking you questions, you mentioned family lore. That piqued my interest. What did you -- in the context of having family discussions about this property, what did you mean by that?

A. Well, my understanding of really several things. One, my husband begged his father to pave the road because he received a pair of rollerblades as a gift and the -- someone paved Ellenburg Road prior, farther up. And what my husband had to do was physically take his rollerblades off, walk over the tar and gravel to get to his house. So the farther-up part was right where the end of County maintenance sign was, so he could come down Ellenburg Road

on rollerblades. Nice, paved, not tar, not gravel, not bumpy, and then physically have to take his rollerblades off. So begging his father to pave so that he didn't have to do that. So his father and Mr. Ellenburg, that would be T B, the grandfather, got together and they paved. And my husband was very happy as a result of that, he could rollerblade from the top all the way down without taking his rollerblades off. That was one of the family stories.

The other family story that I was aware of, at some point in time when my mother-in-law lost her engagement diamond and she -- my father-in-law went and purchased a replacement for her. Hurricane Hugo came in 1989 and a diamond was found in front of the shop, reappeared. My father-in-law wanted to surprise my mother-in-law with the diamond so the kids were sworn to secrecy. But my understanding was that Jimmy had a very difficult time keeping his mouth shut and all that he could end up doing was, I know what you are getting for Christmas, I know what you are getting for Christmas. So my father-in-law ended up giving his wife, my mother-in-law, her diamond back. And the story that my father-in-law would always tell was that, boy are we lucky.

MR. HOLLIDAY: Objection, hearsay.

THE COURT: Sustained.

MR. BIBLE: Don't say what your father-in-law

said.

THE WITNESS: Okay.

MR. BIBLE: Ms. Rasbornik, that is all of the questions that I have. Thank you.

THE COURT: Thank you. May she be excused?

MR. BIBLE: Yes, and now, having given testimony, she can sit in the audience?

THE COURT: If you are not going to recall her.

THE WITNESS: If I may. May I leave? I need to attend for something for my mother, my own mother.

THE COURT: You are certainly welcome to leave.

THE WITNESS: Okay.

THE COURT: Call your next witness, please.

MR. BIBLE: Thank you, Your Honor. May it please the Court, before calling the next witness. Yesterday afternoon at the conclusion of testimony we discussed with opposing counsel a couple of documents in the Plaintiffs' binder that was previously not stipulated to, which I understand now is going to be stipulated to. So I would like to go ahead and notify the Court of Plaintiffs' Exhibit 59 and Exhibit 60. These are -- 59 is Oconee County tax records indicating taxes having been paid related to property that is

owned by James and Lucretia Morgan, as well as tab 60, Plaintiffs' No. 60 is also additional tax records for additional property that Mr. Ratliff owns. And this is the John's Marine property. So at this time, Your Honor, based on stipulations between the parties, Plaintiffs would move to introduce 59 and 60 as exhibits to this case.

MR. HOLLIDAY: Without objection.

MR. LOGAN: No objection.

THE COURT: Those are admitted.

(Whereupon, Plaintiffs' Exhibit No(s). 59-60 marked for identification and received in evidence.)

MR. BIBLE: Thank you, Your Honor. The Plaintiffs would now call Lucretia Morgan.

Thereupon,

LUCRETIA MORGAN

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BIBLE

Q. Ms. Morgan, good morning. Can you please state your full name for the record?

A. Lucretia B. Morgan.

Q. I hate to ask you this, but how old are you?

A. Fifty-four.

Q. Do you have any children?
A. Yes, I do.
Q. And where do you live?
A. I live at 591 Ellenburg Road, Seneca, South Carolina.
Q. And do you own property -- is that property that you own?
A. Yes, it is, I am joint.
Q. Do you own that with any person?
A. Yes, with Jimmy Ratliff.
Q. You said that is 591?
A. Yes. Well, 585/591.
Q. Is that this middle property here?
A. Yes, it is.
Q. Do you own any additional property other than that?
A. The portion behind that, which is 575 Ellenburg Road.
Q. Do you have any ownership interest in 599 Ellenburg Road?
A. I do not.
Q. Okay. Who owns that?
A. That is the Ratliff family.
Q. Is that the location of John's Marine?
A. Yes, it is.

Q. When did you -- how long have you lived in Oconee County?
A. About eight or nine years.
Q. And prior to that, where did you live?
A. Pickens County.
Q. When you were living in Pickens, would you still frequent Lake Keowee?
A. Yes.
Q. And in Oconee County?
A. Yes, I owned a boat.
Q. Where would you get that boat serviced?
A. John's Marine.
Q. How many years prior to moving to Oconee would you say that you had your boat serviced at John's Marine?
A. In the spring of 2011.
Q. Why does that stick out for you?
A. Because we were getting the boat ready to take out for the spring and water was coming from the engine, which I guess is not a good thing.
Q. Yes. Okay. And you took that to John's Marine for repair?
A. I did.
Q. Was that your first time down Ellenburg Road?
A. Yes.
Q. Do you recall your observations of Ellenburg Road

at that time?

A. As we were driving down, which we also wondered where are we going because the road narrowed and you can't turn a 24-foot boat around on a dime. So as we are going down to the end we see end of County maintenance sign and we assume that we are going to someone else's private property. And I still didn't see the marine shop at that point.

Q. Do you have any recollection of where you last saw the sign that you are referring to?

A. When I first traveled down the road, that was all woods on the right side. There was a brick house on the left, and it was in that proximity.

Q. I am going to show you an overhead image similar to what you see up on the screen there. There should be a Sharpie beside you.

A. Okay.

Q. If you could orient yourself to that and then also, for our purposes, in brackets, identify where you believe you last saw that sign?

A. Can I have my glasses? They are in my purse.

MR. BIBLE: Your Honor, may we get her glasses?

THE COURT: Oh, absolutely.

(Pause.)

BY MR. BIBLE

Q. And could you tell the Court what you have done there?

A. I have marked it right at where 565, the western side, where their property line is.

Q. Okay.

MR. BIBLE: Your Honor, I would move to introduce this as 83G.

THE COURT: Any objection?

MR. HOLLIDAY: No, Your Honor.

MR. LOGAN: No, sir.

THE COURT: It is admitted.

(Whereupon, Plaintiffs' Exhibit No(s). 83G marked for identification and received in evidence.)

MR. BIBLE: Thank you, Your Honor.

BY MR. BIBLE

Q. All right. Ms. Morgan, before you marked on this document, Exhibit 83G, did you orient yourself and were you familiar with the area in which you marked it?

A. Yes.

Q. Is that marking indicative to you where you first saw the sign or where you last saw the sign that we are talking about?

A. Where I recall seeing that sign, yes.

Q. Okay. Do you recall having seen that sign since

2011?

A. It was there for sometime, for at least a couple of years.

Q. Okay. And did that sign eventually disappear?

A. Yes.

Q. Did you have any idea of how or where that sign went?

A. No.

Q. Okay. Do you recall the appearance of that sign, color-wise?

A. Yes, it was white background with black letters.

Q. Did the sign appear to be new when you first saw it?

A. No.

Q. Did it show some sign of age?

A. Yes.

Q. And you said that your first time down there was 2011, right?

A. Spring of 2011.

Q. Did your degree of frequency of traveling down to John's Marine or in the vicinity of 585 and 599 Ellenburg Road increase over the years?

A. Yes, it did.

Q. Okay. And why is that?

A. In 2014 I started seeing Jimmy. And in 2015 I

started helping him with his invoices.

THE COURT: Started doing what, please?

THE WITNESS: Helping him with his invoices. Seeing him. Yes, we were seeing each other and then he asked me for some help in the office.

THE COURT: Okay.

BY MR. BIBLE

Q. All right. And you and Jimmy are engaged?

A. Correct.

Q. Do you currently assist John's Marine in bookkeeping essentially?

A. Yes, I do all of his administrative work.

Q. And you were present during Jimmy's testimony in this trial, right?

A. Yes.

Q. Okay. Jimmy indicated that he rarely does emails, if any?

A. He never has written an email.

Q. So if an email was prepared since you have been dating Jimmy, it might have been from you?

A. It was. And I actually set up his Jimmy Ratliff 1980 at G mail dot com mailbox. He didn't want email.

Q. Okay. As a part of your recordkeeping role with John's Marine, did you participate in the payment of taxes on that property?

A. Yes.

Q. For the properties that you owned with Jimmy, who is responsible for carrying out the administrative task of actually paying the property taxes?

A. I am.

Q. For the property that we have been referring to as 585 Ellenburg Road, which you own with Jimmy, do you have knowledge of whether you own any portion of the roadbed?

A. Yes, our property lines go to the center of the road.

Q. To your knowledge has your property received any exemption or credit on taxes for that section of land?

MR. HOLLIDAY: Objection, calls for speculation. We don't have any witness from the County to say whether any part is exempted or not. She doesn't know whether the County exempted the road from taxation.

THE COURT: Overruled. Go ahead.

MR. BIBLE: Thank you, Your Honor.

THE WITNESS: I do. We pay for the full acreage that is listed on our plat. And I also went to the County office to ask the specific question.

BY MR. BIBLE

Q. And prior to working at John's Marine, where did you work?

A. I worked at Associated Fuel Pump Systems Corporation in Anderson.

Q. When did you end your service with that company?

A. The company closed in 2018.

Q. Did you go on to work anywhere else other than John's Marine?

A. Two years prior I also started a boat rental business just doing a little, few on the side on weekends. And then when they announced the company was closing I decided rather than continuing on sitting in an office all day, that I would try the boat rental route because I had one year of severance. And during that time I built up my business. And that is my sole income now.

Q. And for the Court's reference, when roughly was the year that you started that up?

A. 2016.

Q. Where does that business get operated out of?

A. Mostly out of -- Jimmy puts the boats in for me at his ramp there, so at the marine shop.

Q. My apologies for speaking over you. Has that historically been the case since 2016?

A. Yes.

Q. And with what degree of frequency have you rented boats that offload at John's Marine since 2016?

A. It is usually only opened for a six-month period

from April through September. I do mostly multi-day rentals, so -- but I'm down there everyday.

Q. Is it accurate to say that, at least the substantial majority of the days between you starting this business until the day that we sit here in this court, that you have been down Ellenburg Road?

A. Since 2015, everyday.

Q. And you currently live along Ellenburg Road today?

A. Yes.

Q. Have you had any -- on any occasion observed County personnel or County workers performing any asphalt or pavement maintenance along Ellenburg Road?

A. No.

Q. Does that include just the section in front of 585 to 599?

A. I haven't observed them do anything. But I do remember that they paved it in 2012 down to the area I marked.

Q. Okay. When you say the area you marked, are you referring to the Exhibit 83G where you put in parentheses where you last saw the sign?

A. Yes.

Q. You don't recall the County having paved beyond where you last remember seeing the sign?

A. They have not.

Q. What about road striping, have you observed any of that beyond where you last saw the sign?

A. No.

Q. Any edge of pavement maintenance, lawn maintenance, weed eating, have you seen any of that beyond where you last saw the end of County maintenance sign?

A. Not from the County.

Q. You said not from the County, who has performed maintenance historically along that area beyond where you last saw end of County maintenance sign?

A. I have mowed the grass even prior to moving down to 59. I have mowed Jan's grass on several occasions for her. And I have also seen Jimmy putting gravel along the side and also in some potholes that were in the road.

Q. Okay. Starting at 585 and working your way towards John's Marine, are there any property owners other than yourself and the Ratliff family and Globe and Farmes beyond 585?

A. On the right there is the lot for the Harrises, but that is it.

Q. So the Harrises, Globe and Farmes, yourself and Jimmy, and the Ratliff family; right?

A. That is it, yes.

Q. Other than traffic that comes for -- associated with your business as a boat rental or John's Marine

business as a marine repair shop, over the years that you have been helping out with those businesses or running those businesses, have you observed anybody coming down to that end of the road for any other purpose but to go to privately owned property and/or go to John's Marine?

A. No.

Q. All right. Ms. Morgan, if you don't mind, please flip to the tab number 59 in the binder, and this has now been marked as Plaintiffs' No. 59.

A. Okay.

Q. Okay. Are you familiar with this?

A. Yes, I am.

Q. What is this?

A. This is the tax records where we have paid our taxes from year 2021 through 2023, at five -- 591, 585 Ellenburg.

Q. Okay. And it says there, 2.71 acres?

A. Yes.

Q. To your knowledge, is that to the center line of the road?

A. Yes.

Q. All right. On Page 3 of that document, or that exhibit, excuse me, is this a 2023 tax notice?

A. Yes, it is.

Q. Okay. Have you received this tax notice?

A. Yes. Let me see. Yes.
Q. Down in the right-hand side, you see a pie chart?
A. Yes.
Q. Okay. And then it shows an ability for credits to be shown. Do you see any credits there other than less school tax credit?
A. No.
Q. This is where your property is located at 585 and 591?
A. Yes.
Q. That property hasn't been subdivided has it, 585 or 59 -- it is the same property, right?
A. Correct.
Q. To your knowledge have you consistently, since owning that property, paid taxes?
A. Yes.
Q. Go to tab 60, which has now been introduced as Plaintiffs' No. 60.
A. Okay.
Q. You discussed earlier having been essentially administrative and bookkeeper for John's Marine; is that right?
A. Yes.
Q. Okay. And when did that role start again?
A. 2015.

Q. Okay. And what is this document to you?
A. These are the tax receipts or online where you can see where it's been paid by year, since 2015 to 2023.
Q. Okay. And this is for what property?
A. 599 Ellenburg Road.
Q. Is that the location of John's Marine?
A. Yes, it is.
Q. Are these tax payments that you made?
A. I wrote checks probably for most of them, yes.
Q. Okay. Are you aware of having received any credit on taxes because of any right-of-way or easement granted across your property?
A. No.
Q. To the degree that you have actual knowledge and have remitted payment for taxes on 585 and 591 and 599, are you aware of, at any time, the County granting you any credit because they have a right-of-way on the property?
A. No.
Q. Did you ever have a plat prepared for 585?
A. When we purchased 585 I was told by Community First, which is the Defendant John Hamrick, he is a shareholder at that bank, they required us to perform a survey for the appraisal.
Q. Did you have that survey performed?
A. Yes.

Q. Okay. Who performed that?
A. It was Cornerstone.
Q. Is that associated with Michael Henderson?
A. Yes.
Q. And did you, after Mr. Henderson prepared that survey, did you have the occasion to view it before it was submitted to be recorded?
A. I had the opportunity, yes.
Q. Okay. Did you?
A. Not really. I just forwarded it to the bank because we were wanting to get the property closed. Our agreement was approaching the deadline.
Q. Was it your intentions to get a survey before acquiring the property, or was that something that you were asked to do?
A. No, I was not.
Q. You were not asked?
A. No, I was not asked. Or I was asked. No, I didn't intend to, sorry.
Q. Did you participate in the closing of that property?
A. I did.
Q. Where did you -- where did that closing take place?
A. It took place at Derrick Ritter Williams and

Morris where the Plaintiff -- or where Defendants' attorney works.

Q. But that wasn't to imply --

A. He wasn't the closing attorney, no.

Q. During that closing process, were you informed by anybody whether or not there was a new encumbrance being placed on the property or a new easement being placed on the property?

A. Absolutely not.

Q. Did you get shown the plat that was prepared by Mr. Henderson and get that explained?

A. No.

Q. Were you shown the title policy for that property and any exceptions thereto and get that explained to you?

A. No, it was clipped together with a paperclip and just handed to us with a packet.

Q. Did you, during the acquisition of that property and when the plat was prepared, did you instruct Mr. Henderson to reflect the right-of-way?

A. I did not.

Q. Did you intend to grant any easement, right-of-way across your property?

A. No, I did not.

Q. Did you indicate that that was your intentions to the bank or to the closing office?

A. No.

MR. BIBLE: Ms. Morgan, I think that is all of the questions that I have. If you would please direct your attention to opposing counsel.

CROSS EXAMINATION

BY MR. HOLLIDAY

Q. Ms. Morgan, how long have you and Jimmy Ratliff been engaged?

A. A couple of years.

Q. Do you, in addition to the tax records that we looked at for 591, do you own any other property along Ellenburg Road?

A. Along the road or --

Q. How many parcels of land along Ellenburg Road do you own or own part of?

A. I own also Harbor Oaks lot 2A.

Q. Okay.

A. Abutting Ellenburg Road.

Q. Okay. Do you also own 575 Ellenburg?

A. Yes.

Q. And that is right next to this property?

A. Yes. But there is no road frontage on that property.

Q. Okay. Fair point. But it is 575 Ellenburg is accessed from Ellenburg Road?

A. Yes, through an easement.
Q. Okay. Do you see where this says, 4 percent, the assessment ratio is four, and then it says six?
A. Yes.
Q. And then you see, less the school tax credit?
A. Yes.
Q. Does that mean anything to you? Does that -- do you know why you are getting a $1,517.14 reduction in your taxes?
A. (No audible response.)
Q. Are you aware of a primary residence exemption in Oconee County?
A. Yes, and that is my primary residence.
Q. Okay. You have identified 591 as your primary residence?
A. I am sorry, 575 is what you are asking me about.
Q. You told Oconee County that 575 is your primary residence?
A. That is Jimmy's primary residence. It is one piece of property but in each other --
Q. But it is two different tax parcels; is that correct?
A. Correct.
Q. Okay. So he's told the County that 575 is his primary residence?

A. No, that is mine.
Q. So you have told the County that 575 is your primary residence?
A. Yes.
Q. Didn't you testify earlier today that you lived at 591?
A. That is the driveway that I go down. There is a camper behind it where I live.
Q. If you got married, wouldn't you be precluded from claiming two separate properties as your primary residence?
A. We are not married.
Q. That is not my question.
A. If we get married?
MR. HOLLIDAY: Correct.
MR. BIBLE: Objection, Your Honor, calls for legal conclusion.
THE COURT: If she knows.
BY MR. HOLLIDAY
Q. Do you know if your marriage to Jimmy would preclude you as having a spouse with another property in Oconee County from claiming both properties as primary residences?
A. No.
Q. Okay. But currently you and Jimmy live at 591?
A. I'm there sometimes and also in the camper behind

it. Depends on how much he snores.

Q. But you both claim separate primary residences?

A. Yes.

Q. And you both get reductions in your -- as to the school tax credit as a primary residence on both properties?

A. 575 is mine. I have a camper there.

Q. Okay. And you heard the vast majority of testimony in this case and seen multiple copies of Plaintiffs' Exhibit 83 during the course of this trial; is that accurate?

A. Yes.

Q. Would you think that it is an accurate representation that there are multiple witnesses who have testified to that, and basically none of them have agreed on the location of this black and white sign?

A. I don't know. I didn't see exactly where they marked it.

Q. Okay. Would you agree that the public is using the road between 585 and 599 to access John's Marine?

A. Customers are.

Q. And those customers would be members of the public?

A. If they call and make an appointment.

Q. So they have never come down there without an appointment?

A. I'm sure that they do on occasion, yes. But there's -- yeah.

Q. Do you happen to recognize this document?

A. Yes, it has my handwriting on it.

Q. All right. I was honestly not sure whose handwriting that was on it, but I thought that it was yours. So that is your handwriting and you drew around that and you recognize that document?

MR. BIBLE: If you --

MR. HOLLIDAY: Sorry, it is Ratliff 156.

MR. BIBLE: Thank you, sir.

MR. HOLLIDAY: I move to introduce this as Defendants' Exhibit 13.

MR. BIBLE: Objection, Your Honor.

(Whereupon, Defendants' Exhibit No(s). 13 marked for identification and received in evidence.)

BY MR. HOLLIDAY

Q. Do you recall why you created Defendants' 13?

A. This was the original parcel that T B owned before he split it.

Q. Okay. So where you have highlighted there in blue is where T B Ellenburg owned before it was, I guess, now four lots?

A. Around the border on this side, yes.

Q. Okay. So that blue border down to the road, it

doesn't appear to be a blue line through the center of the road, but it would be your understanding that the center of the road is more or less the property line of what T B Ellenburg owned?

A. I'm not good at reading plats and -- if that is what it means. It looks like it is the center line.

Q. Okay. But you created this to show what T B Ellenburg owned and then this reflects more -- well, not really the current owners because you bought Terry Ellenburg's property and you bought part of Robert Morgan's property, correct?

A. Repeat that again, please.

Q. This isn't entirely accurate as to the current owners, because this shows that 599 is -- you would agree that this property on the right showing that Edward Ratliff owns it is 599, right?

A. That is correct.

Q. Okay. And that is currently owned by Jan and all of Jan and John's children?

A. Yes.

Q. And you would agree that this property shown as Terry Ellenburg's is 585 Ellenburg, this one in the middle?

A. In the middle, okay.

Q. Yes.

A. That is going all the way across, yes.

Q. Okay. And that is currently owned by you and Jimmy?

A. Yes.

Q. Okay. And then there's -- it is not shown on here, but there is a parcel that is up here now where the T B is indicated, and that parcel is 575 currently; correct?

A. Yes.

Q. Okay. And you own 575 also with Jimmy?

A. Uh-huh. (Indicating affirmatively.)

Q. Okay. Are you aware or did you witness any maintenance on the road prior to 2011?

A. I wasn't on the road prior to 2011.

Q. Okay. And that is less than 20 years ago?

A. Yes. What is 2024 minus 2011, 13.

Q. So yes?

A. Yes.

Q. Are you aware of the Ratliff family ever filing an abandonment action in this court?

A. Am I aware of what?

Q. Has the Ratliff family, to the best your knowledge, ever filed a road abandonment action pursuant to Rule 57-9-10 in this court?

A. I have had any conversations regarding that.

Q. Are you aware of whether the intention to abandon has ever been published in any newspaper with regards to any

portion of Ellenburg Road?

A. Again, I have no knowledge.

MR. HOLLIDAY: No further questions, Your Honor.

THE COURT: Redirect?

MR. BIBLE: No redirect, Your Honor. Sorry, Mr. Logan.

MR. LOGAN: Let me just ask her one question. What did you do with that exhibit?

MR. HOLLIDAY: On top of the defense exhibit.

RECROSS EXAMINATION

BY MR. LOGAN

Q. I just want to make sure that I understand now. This plat, which is Defendants' Exhibit 13, and where on that plat is the end of maintenance sign, according to your recollection?

A. I can't tell without --

Q. Okay. Is it before you get to this property line right here?

A. What is that property line?

Q. Well, I think that you recognize the three lots in this area here, don't you, it is Ellenburg property? This is the shop, this is where y'all live, and then this is where you live, back up here, and the Morgans have here? Is the end of maintenance sign before, according to you, before

you get to the Morgan property?

A. Before the Morgan property at 575?

Q. As I understand it, the Morgan property is right there, which is --

A. So before they split off the back piece; is that what you are --

Q. Yes, ma'am, yes, ma'am.

A. I would say right there at that.

Q. At that, okay. And you would agree with me that the only -- and that Jimmy's property, or excuse me, the boat marina is right here; is that correct?

A. It is on that parcel.

Q. Okay. So, but by excluding access by boat, the public that you serve or that is served by John's Marine has to use this right-of-way right here to get to John's Marine; is that right?

A. Unless they come by boat.

Q. Right. So the public is using the property that is between that point and the end of this property right here, correct?

A. Customers of John's Marine use that property.

Q. Customers are members of the public, are they not?

A. So am I, I guess.

Q. I am sorry?

A. Yes, so am I.

Q. Exactly. So it is a public road.

MR. LOGAN: That is all that I have got, Your Honor.

MR. BIBLE: No redirect, Your Honor. I would ask that the witness be excused.

THE COURT: Any objection to this witness being excused?

MR. HOLLIDAY: No, Your Honor.

THE COURT: If she wants to stick around, is she allowed to stay in the courtroom?

MR. HOLLIDAY: No objection.

THE COURT: Okay, thank you, ma'am. You can either go or stay.

THE WITNESS: Okay, thank you.

THE COURT: Yes, ma'am.

Thereupon,

EDWARD JOHN RATLIFF, JUNIOR

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PAAVOLA

Q. Good morning, Mr. Ratliff. Would you state your name for the record?

A. Edward John Ratliff, Junior.

Q. And tell us what year you were born and how old

you are.

A. I was born March 22nd, 1977. I'm 47 years old.

Q. Where do you currently live?

A. I currently live at 3668 Pepper Bush in Southport, North Carolina.

Q. And when did you move to North Carolina?

A. I moved to North Carolina January 1st of 2019.

Q. And prior to 2019, where were you living?

A. Prior to that, 114 Red Maple Way, Clemson, South Carolina.

Q. And how long did you live in Clemson?

A. Approximately 14 years.

Q. So about to what year was that when you started living there?

A. We moved there in August of 2005, and then I took a job transfer in 2019. My wife stayed in Clemson until our son graduated. And then we sold the house and she moved to Southport with me.

Q. Are you currently employed?

A. I am.

Q. And who do you work for?

A. I currently work for Duke Energy.

Q. What do you do? What is your job title?

A. Yes, I'm the plant manager at the Brunswick Nuclear Plant in Southport, North Carolina.

Q. And do you have people that report to you?
A. I do. I have -- at the plant we have approximately 600 employees, an additional 400 to 600 contractors. And then when we refuel a unit, we bring in about an additional thousand workers to support that as well.
Q. So how long have you worked with the company?
A. I've worked for Duke for approximately 19 years.
Q. So going back to about 2005?
A. That is correct.
Q. All right. So prior to 2005, what were you doing?
A. Prior to that I was in the United States Navy driving submarines.
Q. And where were you stationed?
A. Kings Bay, Georgia was my primary duty station. Prior to that I was in various schools for my nuclear training, submarine school, nuclear power school, and prototype.
Q. So when did you enter the Navy?
A. When I graduated from the Citadel in 1999.
Q. Did you earn a degree at the Citadel?
A. I did. I have a Bachelor's of Science in Electrical Engineering from the Citadel. I also have a Master's of Business Administration from the University of Florida.

Q. When did you graduate high school before you went to the Citadel?

A. I graduated high school from Walhalla High School in 1995.

Q. And when you were growing up, before you graduated high school, where were you living?

A. 599 Ellenburg Road.

Q. Do you recall how long you lived there?

A. We moved there in 1981, so I lived there from 1981 until I graduated from high school and went to the Citadel.

Q. Do you have an ownership interest in property on Ellenburg Road as we sit here today?

A. I do. I inherited an ownership portion of the property when my father passed away.

Q. What is the property address you are referring to?

A. 599 Ellenburg Road.

Q. Have you ever seen a plat of this property?

A. I have.

Q. Are you familiar with that document?

A. I am.

Q. If you can turn to tab 21 in your binder, which has been admitted as Exhibit 21.

THE COURT: What was that, please, sir?

MR. PAAVOLA: Twenty-one.

BY MR. PAAVOLA

Q. Do you recognize this document?

A. I do.

Q. And what is it?

A. It is a plat of my mother's property, which I'm now part owner of.

Q. And do you see a notation of a road on this property?

A. I do see an annotation that says CL Road. It is CL, center line of road is property line.

Q. As owner of this property today, do you have any understanding of whether there is a public right-of-way over this section of Ellenburg Road in front of 599?

A. My understanding is that there is no public right-of-way over 599 Ellenburg Road.

Q. What is your -- what was your childhood address, when you were growing up, if you recall?

A. When we moved to the property in 1981 it was Route 1 Box 268, Seneca, South Carolina, 29678. And then it transitioned to 599 Ellenburg Road. And then later, Seneca, South Carolina, 29672. At some point the zip codes were transitioned from 78 to 72.

Q. And do you have a recollection as to when the name of the road changed? Do you have an idea of the time period?

A. The, I would say late '80s, early '90s. I do know that it was before I turned 15. I obtained my driver's license at age 15. I still have, probably not supposed to, but I have my original driver's license from back then, and it has the address of 599 Ellenburg Road on it. So I would say that it was before I was 15 years old.

Q. And you grew up at 599 Ellenburg, correct?

A. That's correct.

Q. Can we discuss since 1995 when you graduated high school, there's been different periods that you have lived there or moved in various area around the country, correct?

A. That's correct. Well, I would say all in the southeast with the exception of submarine school, which was in the northeast. A three-month period. But the remainder in the southeast.

Q. Tell us how, your frequency of visiting your parents at 599 Ellenburg Road and those various portions of times. So we will start with college period of time, how often would you come back to the property in the college years?

A. Yes, so as a freshman when we had furlough I would come home, Thanksgiving, Christmas, spring break. And then as I progressed through my years in college I was afforded more leave, more time away from school, nights or weekends. I came home as much as I could. Charleston is a nice place,

but the Citadel is not, so I tried to go home as much as I could. When I had a weekend, which as you progress through higher levels in the Citadel you get more weekends, so if I had two nights off I would come home. If I had one night off it wasn't enough to be able to come home. But I did on occasion, because I had a classmate whose father was also from Seneca, who is a pilot, so on occasion I would fly home with him. So, I would say as much as I could. And then by the time that I was a senior at the Citadel, I would say that it was at least once a month.

Q. And generally, your time in the Navy from 1999 to 2005, just generally describe your frequency of visits back to 599 Ellenburg.

A. Yeah, so when we were in the Navy we would drive home. By then Edward was born, our son. So we would spend holidays, Christmas vacation. We would come up to the lake. We lived at the beach, so we didn't really feel the need to go vacation at the beach, so we would come up to the lake for vacation. And so every chance we had to get out of town, we would come up to the lake.

So my wife's parents also lived in the area, so any time we would go see family it was always back to Seneca.

Q. All right. And then, the Clemson area time, 2005 to 2019, can you describe your frequency of visiting 599

Ellenburg?

A. The 2005 to 2019, we were living in Clemson. I would say about once a week I would go over to my mother's. Early on in my engineering days as a systems engineer I had more time on my hands to go see mom or go hang out in the shop. And when I transitioned into operations roles, I was on rotating shifts, so I would go during the week sometimes if I was on my seven day off. When I would rotate back from night shift I would need to stay up to lunchtime to make the switch back to a day shift rotation, I would take my mother fishing. I had a boat I would leave at the dock and take her fishing. I would fish and she would read a book and we would get to spend time together.

Q. Fairly regularly -- it sounds like fairly regularly each week when you were living at Clemson?

A. Yes, I would say once a week for sure.

Q. And then the last five years you have lived in North Carolina, describe how often you would come back to visit the family property?

A. Similar to when I was in the Navy, as often as I can. I would say it's more frequent with my elderly mother-in-law. So my wife, she travels up to help her mother. And so I try to come with her as much as I can. So when I moved to Southport and Karen and Edward stayed, I flew a lot, flew up here. It was a shorter commute than the

six and a half hour drive from Southport. And those two years prior to Covid I flew so much that I became a platinum member with American Airlines.

Q. All right. Take me back to your memories of Ellenburg Road when you were a child. Do you remember what Ellenburg Road was like as a kid?

A. I do. So when we moved there it was a tar and gravel road, also known as bituminous, old, old type of paving that was performed prior to asphalt. It was cheaper. That is what the road was made from. The -- I remember pretty distinctly when I was about ten years old, I was in third grade, I had a bicycle accident, I was racing a friend of mine's sisters and I hit our dog Collette and went over the handle bars and I hit, hit the tar and gravel and -- chin first with my hands behind me. I didn't break my jaw but I had to eat from a straw for about six weeks. I had to have some teeth work done, dental work and so forth. So, it is a pretty distinct memory of mine from that.

Q. You said you hit the tar and gravel. Is this a time -- describe the entirety of Ellenburg Road, how it was at this point in time.

A. At that point it was tar and gravel from the top all the way down. It wasn't Ellenburg Road then. As I stated before, it was Route 1 Box 268 was our address. All the way to the stop sign down was tar and gravel. The

accident was on Mr. Ellenburg's portion. I had to walk home from that location to mom's front porch holding my chin with the blood all over my shirt and stuff.

Q. Do you have any other memories of what today we call Ellenburg Road of when it was tar and gravel?

A. I do. We, my brother and I, we got a go cart one Christmas. We used to ride that up and down. We would ride over to Ms. Morgan's field, through that. We would go all the way up to the stop sign. We were allowed to stay on the road. We were not allowed to go on Knox Road, that was off limits. Knox Road was also tar and gravel at that point as well. But, we did, we crossed the road, we went all the way down to Walker Pointe or over to McDonald Pointe. We had some friends that lived nearby down Knox Road. We had some short-cuts through the woods that we could get there, but we only had one wheel that had traction on the go cart. Our go carts were not positive traction like our friends', so we didn't like to go through the woods as much because we would get stuck, so we traveled the road more.

Q. And approximately how old are you in these -- your memories before Ellenburg Road, tar and gravel before it was improved, they fixed it?

A. Yes, I would say less than 12, 12 years old. Definitely not driving, so I know beyond a shadow of a doubt I was less than 15.

Q. And that puts us in what time frame are we talking about?

A. Late '80s.

Q. And did you ride the bus home from school when you were a child as well?

A. I did. The bus would drop us at the stop sign. We would walk from the stop sign all the way home.

Q. What other kids were with you when you were walking home?

A. My sisters, my brother. The two kids that lived up the street, they would be dropped there as well. Their grandmother lived at the top, so they would walk a short distance to her house. And then Laurie Ellenburg, she would also walk the distance. She lived down there with us.

Q. So how many homes were there on Ellenburg Road back when you were an elementary/middle school child?

A. There were four homes. My -- the home I grew up in. Mr. Ellenburg's home, Terry Ellenburg's home. And then Ms. Morgan, her home.

Q. Now if you would turn to -- I will put Exhibit 58 that has already been admitted into evidence on the screen. Fifty-eight is a Google Earth image from 1994. Let me know when you get there.

A. I'm here.

Q. Does that generally depict the area on or around

1994 if you recollect?

A. That's correct.

Q. Now, you were describing who lived on Ellenburg Road. Can you point out to the Court with your laser pointer where these folks lived? You can go ahead.

A. This is the house that I grew up in. This is Mr. Ellenburg's house, Terry Ellenburg's house. Ms. Morgan's house. And then this portion here was Ms. Morgan's field.

Q. And today there are a bunch of trees on the Globe and Farmes side of Ellenburg Road; is that right?

A. That's correct. And that is in this location, this area here.

Q. How was that used back in the '90s when you were a kid; do you recall?

A. So Mr. Ellenburg had cows that he would put over there. He also had a garden in the -- this section here that he would, he would plow and plant. And then the upper portion here my father would use to park boats.

Q. And so I believe that you were testifying that when you got dropped off from the school bus, you were dropped off -- where were you dropped off in this image in relation to this area?

A. Approximately right here at the stop sign.

Q. And you would walk the full distance home?

A. That's correct.

Q. In doing that you have recollection of the road being tar and gravel?

A. I do. Jimmy won't like this story, but we had an argument one time, I don't recall what it was about, but he was to the distance of the first curve. I picked up a rock and I threw it as hard as I could, never intended, but I hit him square in the top of the head. And dad was not happy. I got in trouble for that one for sure. But that rock was picked up off of the road. I mean, it was tar and gravel. The material, the tar did hold the gravel together as a pavement type. So my understanding is that there is documentation shows it as a paved road. I believe that pavement represented the tar and gravel material.

Q. And do you have a recollection of when a portion of Ellenburg Road was improved to something different than tar and gravel?

A. I do. It was asphalted. The asphalt started at the stop sign and came down to the upper portion of Ellenburg Road. It was a brand new, freshly paved road, asphalt, smooth. And I did find it odd because South Carolina 12 was not paved, it was the old tar and gravel, so it started right here at the top. And it seemed strange to me as a young kid, but I liked it because it was nice and smooth.

Q. Okay. Did you use that newly smoothed, paved

surface?

A. I did. I had a set of rollerblades that I got for Christmas that Christmas, and I liked the nice smooth road because I would come to the top, which Ellenburg Road is sloped and curvy. I would wear my rollerblades and ride all the way down to the point where the pavement stopped.

Q. Okay. And where did the pavement stop at that point in time?

A. The pavement stopped at the edge of Ms. Morgan's field. And at that point forward I would have to remove my rollerblades and walk barefoot from that portion to get back home.

Q. And approximately what year, if you can give us a year or range of when you believe this?

A. It would have been before I was driving, so I believe maybe around the time that I was 12, which would be late '80s. And that is based on when I can best recollect getting a set of rollerblades and before I was driving. But by the time I got into cars, I wasn't riding rollerblades anymore, I had moved on to other interests.

Q. Do you have a recollection of the rest of -- what is now known as Ellenburg Road, from 565 to the end where the marine shop is, of that section being improved at some point in time?

A. I do. So when I would take off my rollerblades

and walk home, I begged my father to make the road improved, to pave it to the end. Not recognizing as a child how much that would cost, but I asked and did not stop until my father and Mr. Ellenburg got together and paved from that section down which allowed me to ride my rollerblades the entire distance of Ellenburg Road.

Q. Is it your understanding that Mr. Ellenburg and your father paved even in from the Morgans' property all the way down to the end?

A. That is correct. Ms. Morgan was an elderly woman, so my father and Mr. Ellenburg did a lot of things for her. She was a widow at that time, and so taking care of her property, Mr. Ellenburg and my dad did a lot of those activities.

Q. And approximately how much later was that, you testified that you were approximately 12 when you believe the western portion was paved; how much later was it when the section in front of your parents' property and the Ellenburgs' were paved?

A. I don't believe that it was a long time. I don't have a good reference for a time range. To me, I do the older I get the more compressed time seems to be, so it seems like a short period of time for me. I'm sure at the time, as a child, it seemed like a long period of time. So I would say somewhere between two and six weeks would be my

best guesstimate on a time reference.

Q. Still in that 12 year old range?

A. That's correct.

Q. Still before you were driving?

A. Yes, definitely before I was driving.

Q. Before 15?

A. Yes. I definitely rode on the new section after Mr. Ellenburg and dad paved it with the rollerblades. We had some friends that would come, Matt and Bo Morgan, they were grandchildren of Ms. Morgan, and our go cart was only a two-seater, and when we would ride in the go cart all four of us would go. Two would wear rollerblades and two would sit in the go cart and we would hang on to the side of the go cart to ride. So I know that we rode on the new section with the rollerblades and go cart.

Q. Okay. And growing up in I suppose the '90s and when you went through high school, did you know everybody that lived from there to the end of Ellenburg Road?

A. I did.

Q. And if cars were coming down Ellenburg Road towards your dad's boat shop, would you notice that?

A. Oh, absolutely. It was pretty isolated. We had no street lights. Down at the end it was very dark. Scary to a child. And when you saw car lights coming, we would see the car at night, it would light up the whole -- the

whole area.

Q. In your recollection of going through high school, who are the people who would come down to the end of the road?

A. Customers of John's Marine or family and friends that were visiting either us or our neighbors.

Q. Turn to Exhibit 51 in your binder. Exhibit 51 has been admitted as Plaintiffs' 51. Let me know when you get there.

A. I'm here.

Q. A series of photographs, and if you would, please describe in this photograph what we are seeing?

A. We are standing in a boat, presumably a customer of John's Marine. We are looking out my mother's house. 599 is behind us. And we are looking towards Globe and Farmes' property. You see the asphalt that was put in front of our property and you see a fence line that is kind of a -- degraded in some fashion that is there as well.

Q. And do you have an idea or know who put that fence up?

A. I believe it was either Duke Energy, or at the time would have been Duke Power. Or Mr. Ellenburg. Or a combination thereof. And Mr. Ellenburg, as I stated before, would use that area for cows. And so that fence was there to keep the cows in, or to keep my father from parking boats

on that section of property, or both.

Q. All right. Let me see --

A. Just one more thing. I do believe that there was an electrified portion that was lower than the cable portion here as well.

Q. And beyond the fence in this picture we see what appears to be trees and bushes. Are you able to place a date on this photo roughly?

A. I would say more recent. I can see that there's some gravel that Jimmy added here. The culvert that the ambulance backed into when my father had his heart attack is not here, so this would be after the passing of my father. So, I would say sometime 2014/2015 type time frame.

Q. Page 2 of this exhibit is another photo. Do you recognize this photograph?

A. I do.

Q. Please describe for us what we are seeing in this photograph?

A. That is me standing right there. This is my pick-up truck. That is the blue goose, which was the work truck. This is me prior to returning to the Citadel. I can tell my Citadel attire wearing there. This is either 1996 or '97 as I'm returning to school. You can see all of my Citadel belongings in the back of the truck. And I drove that truck for two years while I was at the Citadel prior to

buying the Honda Accord my senior year. You can't have a truck or vehicle your freshman year at the Citadel, so I know that it was either my sophomore or junior year.

Q. In this photo we are able to see across your parents' property out to the lake on the Globe side?

A. That's correct.

Q. And do we see some of -- there appears to be boats parked on the Globe and Farmes' side as well?

A. Yes, sir. There is a boat that is parked in front of my pick-up truck, and there would be some down here and some past mom's mailbox as well.

Q. Is that fairly typical about how boats were parked on the property when your father was running the shop?

A. Yes.

Q. And what, this next photo is photo three in Exhibit 51, what is this a picture of?

A. This is the front porch. That is either Sebastian or Robbie, I'm not sure which. That is my father's truck. Most likely that is my sister's car. And then these three children are in Halloween costumes. The center one is Cameron Ratliff, my brother's son. This is Colby Ratliff. And this is Hope, Sara Hope Cawthon.

Q. So earlier we heard that Cameron today is approximately 24 and we have no idea when this photo was taken, but he appears to be under ten?

A. I would say so. So Edward, Hope, and Colby were all born around the same time, 2002 time frame. So these, these two on the ends are toddlers, so I would say that they are a year or two old there. So I would put this picture, most likely, around 2003 to 2005.

Q. All right. And can you describe what we are seeing along the road, sides of the road?

A. Yes, I do see boats over here on both sides of the road as well.

Q. Turn to image four in Exhibit 51. Please describe for us what we are seeing in this photo.

A. We are standing in the Ski Natique. Mr. Briggs owned this boat, was a customer of John's Marine. We stored his boat full-time for him and he allowed us use of his boat when he was not using it. We are looking towards the shop of John's Marine, and to the left you see my mother's, station wagon. And then you see affectionately known as the brown bomber in the driveway.

Q. Are you able to place an approximate date on this photograph?

A. I am. The brown bomber was my car. I drove it senior year of high school. The pick-up truck we saw in the previous picture, that was my first vehicle, however I had an accident in that truck and parked it until I started driving the brown bomber, which would have been senior year

of high school, so '94/'95 is this photo. My father did have the pick-up truck fixed for my Christmas present and that is when I started driving it again as a sophomore in college.

Q. Are we able to see the roadway in this picture?

A. We are. It is to the right over here. And you can see boats and the edge of the basketball goal.

Q. Okay. If you turn to photo five in this packet. Tell us what is in this photograph.

A. Yes, someone is hitting a golf ball right here. I'm not sure who that is, presumably a family member or friend standing on the property. This is a boat trailer across, and then they are hitting out towards the lake.

Q. Is this photo taken from your parents' property looking out towards the Globe and Farmes' property?

A. That is correct.

Q. There is no -- you don't see trees across the road at this point in time?

A. No, we do not. I don't see a fence on there either. There's not a lot of information for me to put a time frame other than it is not heavily wooded with lots of trees.

Q. Go to photo six, and tell us what we are seeing in photo six.

A. Seeing Sara Hope Cawthon playing in mom's flower

bed. This is, I believe, my sister Amy, her SUV here to the right. And then you do see boats over in the distance towards the road.

Q. Okay. And where are those, in the roadway in the distance?

A. That is correct.

Q. Boats along both sides?

A. Correct.

Q. And approximately -- do you know approximately the date of this photograph?

A. So Hope is a toddler in this picture as well, I would say two to three years old. I would say '04/'05/'06 time frame.

Q. In the next photograph we have this exhibit, photograph seven. Can you describe what we are seeing in photograph seven?

A. This is Amy, my sister, junior or senior prom of high school. The -- and I'm not sure who took the photo, most likely mom in the shadow there. And I see --

Q. Can you date that?

A. Yes, so Amy is three years older than me, and so if in this picture I would have been -- either an eighth or ninth grade time frame, so you are not going to make me do math on the stand, are you?

Q. I was going to, yeah. Approximately 14 years old?

A. Yes. So I would say somewhere between '91/'92 time frame.

Q. And we are seeing the road in this picture?

A. We are.

Q. Can you describe what we see on the sides of the road?

A. Yes, sir. We see the road back behind Amy and we see boats on both sides of the road. I'll note that this is the ditch that the ambulance backed into.

Q. And we see some grass and weeds in this picture. Did you have any responsibility as a child to maintain the sides of the road when you were growing up?

A. Yes, we all did. We were all expected to do chores and maintain the property. So we all mowed, weed-eated, pulled weeds, those types of activities.

Q. And here is another photograph eight in Exhibit 51. Are you able to describe what we are seeing in this photograph?

A. This is my sister's graduation. The most -- most likely LPN school, when she graduated there. That's my grandmother with her back to us. My sister's -- or my mother's sister and my cousin here.

Q. Are you able to give us an approximate date of this photograph?

A. I would say '97/'98 time frame.

Q. Are we able to see the roadway in this photograph?
A. We are. You can see it back here beyond the porch.
Q. And you are seeing people along the sides of the road?
A. I do. I see boats parked all the way along the edge of the road.
Q. Is that fairly typical in your memory of how John's Marine operated when you were growing up?
A. It is.
Q. In the next photograph, can you describe what this is a picture of?
A. This is John Ratliff, my father. He's sitting, sitting on the porch. And I do believe that is Sara Hope Cawthon. A little younger, so I'm not a hundred percent sure, but I would say that is pretty close. So I would say that that child is less than a year old.
Q. And approximately what year?
A. I would put this 2002/2003. I do see my father's truck back there, so he was still driving at this point. It would have been before he got sick. So it lines up with the time line.
Q. Do you see a road in this picture?
A. I do, it is in the background just in front of my father's truck.

Q. And are you able to identify anything on the side of the road?

A. Yes, sir, I see boats down both sides of the road.

Q. Turn to image ten in Exhibit 51 and describe to us what we are seeing in this picture.

A. Yeah, so this is Amy. And the bicycle she's on, that is the bicycle her friend was riding when I had my accident. Not the one that I was on, but her friend. So Amy in this picture has to be 13, 14, 15 sometime -- you know, some age around there.

Q. And you are about three years younger than her?

A. That's correct.

Q. So we are talking about, maybe, you are about ten, maybe the mid '80s?

A. Yeah, I would say probably '85/'86 time frame.

Q. And what is the brick structure we are seeing behind her?

A. That is my mother's mailbox. It is right there. The mailbox was there when we purchased the house and has been there ever since.

Q. Still there today?

A. It is.

Q. And we -- behind your sister, are we looking at Globe and Farmes' property that they own today?

A. That's correct. This is before Mr. Ellenburg put

the cows over there. And you can see a boat parked over here on that side as well.

Q. And image 11 in Exhibit 51, can you describe what we are seeing in this photograph?

A. They were standing on the front porch looking out. You can see the building John's Marine over to the left, and customer boats around.

Q. Are we able to see the roadway in this picture?

A. We are. Right along the front of the property here.

Q. All right. And you can see boats parked on the sides of the road?

A. I do. Both sides up and down I see boats.

Q. And finally the last image in Exhibit 51 is image 12. Can you describe what we are seeing in this picture?

A. This is my mother sitting on the front porch. This is Sara Hope Cawthon. She looks closer to four years old to me, four or five maybe. So I would say 2006/2007 time frame.

Q. Are we able to see the roadway in this picture?

A. We are. In the background you can see the road.

Q. Are there boats around the property?

A. There is, all around the driveway on both sides of the road. The driveway looks pretty busy here, so I would say that it is probably around the summertime.

Q. Turn to Exhibit 55 in your binder.

THE COURT: Okay. Do me a favor, let's take about a ten-minute break.

MR. PAAVOLA: That is fine.

THE COURT: I'll let you step down. Just don't talk to anybody about your testimony during the break. Okay, sir?

THE WITNESS: Yes, sir.

THE COURT: All right, about ten minutes.

(Brief recess.)

BY MR. PAAVOLA

Q. Mr. Ratliff, we were looking at Exhibit 55 in your binder. If you can turn to this, please?

A. Yes, sir, I'm there.

Q. Can you describe for me what this photograph is?

A. This is an aerial photograph that my father had commissioned of the property so that he could have a view of his property from, from flight. The shop is there on the right, John's Marine. There are no doors on the shop at that point. There's doors on it today. Back then we were not concerned about theft or any members of the public on our property, so it -- we didn't feel the need to have to protect it. You can see boats on both sides of the road going up and down.

And what you can't see in this photo, it is cut

off at the top, is Mr. Ellenburg is in the photo mowing his grass. Just happened to be out that particular day. Affectionately known as Grandpa Ellenburg, not Terry. T B Ellenburg.

Q. Do you have an idea of an approximate date for this picture?

A. Yes, I would say the mid '80s. When this picture was taken the houseboat next to the shop there, I remember playing in that houseboat. It was a customer's houseboat. But it was a long-time storage.

THE COURT: Okay. Let's get to the point if you would. Move the case a little bit forward to the point in the case. Okay.

BY MR. PAAVOLA

Q. Mr. Ratliff, if you would turn to Exhibit 49 in your folder.

A. Yes, sir.

Q. Earlier you testified about your recollection of the portion of Ellenburg Road being paved first. That was western 565 and then the portion being paved by T B Ellenburg and your father; is that correct?

A. Yes, sir, that's correct.

Q. Are you able to identify approximately where that line was in this photo?

A. Yes, sir, it's approximately at the transition

point of the change in the pavement.

Q. Maybe photograph two might be better. Is it shown in this photograph?

A. It is. I cannot see Ms. Morgan's field in this photo, but I do see the tree line beyond her field there. There is a house to the left there now. It is 565. And so to the right there is a driveway there -- that was woods, and to the left was the field. So this is the location I recall the transition point.

Q. And do you recall seeing any signs on Ellenburg Road?

A. I do.

Q. And what signs did you see?

A. End of County maintenance sign.

Q. And where was that sign located?

A. At the same location we were just looking at. Except that it was on the right side of the road.

Q. Do you recall what color it was?

A. It was black lettering and white background.

Q. Tell me how far back in your memory you recall seeing the sign, like how old were you?

A. I can remember it always being there. I don't have a memory of it not being there until one point it disappeared, which I believe was sometime around 2015.

Q. The sign is not in that same location today, is

it?

A. It is not.

Q. Mr. Ratliff, I am going to hand you what we have introduced as Plaintiffs' Exhibit 83. And there is a Sharpie. If you would indicate, create a bracket or range, or indicate on there where you believe the sign was located. And can you describe for the record where you placed it?

A. I placed it at the edge of Ms. Morgan's field. The upper edge of her field.

MR. PAAVOLA: We move to admit this as Plaintiffs' 83H.

THE COURT: Any objection?

MR. HOLLIDAY: Without objection.

THE COURT: Admitted.

(Whereupon, Plaintiffs' Exhibit No(s). 83H marked for identification and received in evidence.)

BY MR. PAAVOLA

Q. Mr. Ratliff, did you mark on Plaintiffs' 83H?

A. Yes, sir, that is my markings right there.

Q. Okay. And you are indicating that is where you recall the end of County maintenance sign being located?

A. That's correct. Like I said, that house didn't exist on the left and neither on the right; however, I have a fairly good reference point of that being Ms. Morgan's field to the left with the tree line between Mr. Ellenburg's

property and Ms. Morgan's. And then there was a wooded area on the right.

Q. You are referring to this tree line?

A. That is correct.

Q. This is a reference point for where the sign was located?

A. Above that, the edge of Ms. Morgan's field. So that tree line right here -- this tree line right here was Mr. Ellenburg's property. This was Ms. Morgan's field, and I recall it being at the upper edge of Ms. Morgan's field.

Q. Okay. And somewhere in that area where that house has been built at 566?

A. That is correct.

Q. Mr. Ratliff, you were growing up, through your time and even through today, who do you recall maintaining the road surface in front of 585 and 599 Ellenburg Road?

A. My family. Workers of John's Marine, employees. And Mr. Ellenburg's family. Not Ms. Morgan or her family.

Q. And have you ever seen, when you grew up at 599 Ellenburg Road, did you ever see any County employees come down to maintain the road or sides of the road in front of ' your parents' property?

A. No, sir.

Q. Since you moved out of the house, have you ever been down to your parents' property and at any time seen any

County employees performing maintenance on the road or sides of the road?

A. No, sir.

MR. PAAVOLA: That is all of the questions that I have, Your Honor. Mr. Ratliff, please answer questions from defense counsel.

THE COURT: Yes, sir.

CROSS EXAMINATION

BY MR. HOLLIDAY

Q. Mr. Ratliff, I believe that your testimony earlier today was that the road was paved in the late '80s; is that what you testified to today?

A. That is correct.

Q. Do you know who your father used to pave the road, what company?

A. No, sir, I do not.

Q. And are you aware of the existence of any records from this paving in the mid '80s?

A. I have not been able to locate any.

Q. When you say late '80s, when are you talking about there?

A. Sometime between '86 and '90.

Q. Okay. Do you recall what you said in your deposition as to when the road was paved?

A. I do not.

Q. And you would recognize it if I showed it to you?
A. I would.
Q. Does this appear to be an original copy of your deposition?
A. It does.
Q. Would you go to Page 37 for me?
A. I am there.
Q. And you testified on line six, "And then Old Man Ellenburg and my father got together and paved down to the shop."
Is that accurate?
A. It is.
Q. And I said, "And when would that -- when was that?"
And you said, "Mid '80s."
A. Yes, I see that.
Q. Is that at a different time than the late '80s?
A. No, sir, same time.
Q. Mid '80s and the late '80s are the same time?
A. Yes, sir. As I stated, '86 to '89, that is mid '80s to late '80s. 1985 I believe would be the center point, which would be mid '80s.
Q. Did you hear your brother's testimony on Wednesday?
A. I did.

Q. Is there any part of it that you didn't hear?
A. Yes, I went to the bathroom several times I'm sure.
Q. Did you happen to hear your brother say that he wasn't aware of any survey in between 1974 and 2020 on the road in front of 585 and 599?
A. I did.
Q. Is that an accurate statement?
A. I'm not sure.
Q. Are you aware of any survey in between 1974 and 2020?
A. I'm not aware of or participated in any surveys on any of these properties.
Q. Did you happen to hear Mr. -- or Mrs. Ellenburg Bright's testimony yesterday?
A. I did.
Q. And would you agree that she is approximately three years older than you?
A. She is.
Q. You grew up with her, you were friendly, you guys, as children?
A. We were. Well, I mean, as friendly as neighborly children can be, yes.
Q. Did you hear her testimony yesterday that she denied that her grandfather and your father ever jointly

paved this section of the road?

A. That is not what I heard. I heard her say that she did not have a recollection of a memory, but not denying it.

Q. Do you know if she is roughly three years older than you, how old she would have been in between '86 to '89?

A. I mean, if I'm ten and she's 13, so if I am 11 she's 14.

Q. So that would have been 13 to 15?

A. Fourteen, something like that, yeah.

Q. Did you happen to hear Mr. Quinn's testimony yesterday?

A. I did.

Q. Did you hear his testimony that he found the historical pins in the center line of the road?

A. I did.

Q. And those were the same that were indicated on a 1974 plat?

A. I did hear him say that.

Q. Did you also hear him testify that if the road would have been repaved in the '80s, that those pins would have been destroyed.

A. He did say that, yes.

Q. So how is it that pins that exist in a road now are, based on your expert's testimony, the same historical

pins that would have been there in 1974, if the road has been paved in between there?

A. Yeah, the pins were not moved. The road was resurfaced with asphalt. It was not milled. The original tar and gravel is still under the asphalt surface.

Q. I believe that Mr. Quinn's testimony was that he visually identified the pins.

A. I understand. You can see them. They are there.

Q. So the resurfacing done by your father would have not covered those pins?

A. That is correct.

Q. Can you explain that to me?

A. Yeah, you lay asphalt down around the pin, it's there. They are there. And the tar and gravel is underneath the surface, you can see it as well.

Q. Were you involved in a companion case of this one with regard to the Board of Zoning Appeals?

A. I was.

Q. Did you speak at the Board of Zoning Appeals?

A. I did.

Q. Would you recognize an order of this Court with regards to that Board of Zoning Appeals' order?

MR. PAAVOLA: Objection, Your Honor, I'm not familiar with what he's showing him. He is not an attorney.

THE COURT: Speak up for me, please.

MR. PAAVOLA: That is not a document that is an exhibit in this case. I don't know what this is.

MR. HOLLIDAY: This is the order from this Court from the Board of Zoning Appeals appeal. Which I think would be properly admissible for you to take judicial notice of, but that is not what I am asking him right now.

MR. PAAVOLA: Your Honor, that case is on appeal right now before the Court of Appeals.

MR. HOLLIDAY: It is directly related to this.

THE COURT: I'll let you proffer it and then move it in if you think it is appropriate.

MR. HOLLIDAY: Okay.

PROFFERED EXAMINATION

BY MR. HOLLIDAY

Q. Do you recognize this document?

A. I believe so.

Q. Does this appear to be the order from the Board of Zoning Appeals appeal?

A. Yes, it does.

Q. Except I have added some highlighting.

A. Yes, I see that.

Q. So if we go to -- here, I'll let you hold it. So

if we go to the third page where this is highlighted.

MR. PAAVOLA: Again, Your Honor, we object to not being able to see what is highlighted. We have no idea what he's showing the witness, no copy provided to us.

MR. HOLLIDAY: Have you read the order?

MR. PAAVOLA: We have not --

THE COURT: Gentlemen, you address me. If you do that again I'll sanction both of you. You understand me? All right.

Look at it.

Do not publish anything that has not been admitted, please.

MR. PAAVOLA: Your Honor, if I understand correctly, this is a proffer of this document at this time?

THE COURT: Proffer the document in with testimony. And then he will have to move it in at the end to determine if it goes in.

MR. PAAVOLA: Subject to our objection.

THE COURT: Yes, sir. Do you want to state the basis of it?

MR. PAAVOLA: This is a court order. It is outside of this case. It is not a document prepared in this case. It is a Judge's order. Mr. Ratliff is not

an attorney. He is not competent to testify. It is also up on the Court of Appeals.

THE COURT: All right, sir. Thank you.

BY MR. HOLLIDAY

Q. This first section I am highlighting, can you read that for me, please?

A. I can.

Q. Okay.

A. "Ratliff only owns approximately one half of the old Ellenburg Road right-of-way at the point where it abuts the property line of Globe and Farmes' property. The Globe and Farmes own approximately the remaining half of the Ellenburg Road right-of-way in that area."

Q. Is that a fact that you would have provided to the Board of Zoning Appeals?

A. No, it is not.

Q. What about the next highlighted section, can you read that for me?

A. "Running all the way from Knox Road and along the lakebed of what is now Lake Keowee, that a portion of that roadbed continuing under Lake Keowee was tar and gravel road. And that, at a point, about where old -- or where Globe and Farmes' property line is located Ellenburg Road split and a dirt road went along the lakebed toward High Falls. But the Route 1 and Ellenburg continuing along the

edge of the shoreline, Globe and Farmes' property, which is now flooded but can still be seen as a tar and gravel road under the water."

Q. Is that information that you would have provided the Board of Zoning Appeals?

A. No, sir, it is not.

Q. Okay. And you remember what you would have told the Board of Zoning Appeals?

A. That is correct.

MR. HOLLIDAY: Okay.

WITNESS: And just to be clear, the words that are documented there are not the words that I said at the Board of Zoning Appeals, which I'm full aware that you are going to show and I can describe it.

MR. HOLLIDAY: Can I show it now?

THE COURT: No, sir, you have not tried to move it in and I haven't let it in.

BY MR. HOLLIDAY

Q. Did you speak at that Board of Zoning Appeals November 30th, 2021 meeting?

A. I did.

Q. And you recall exactly what you said during that meeting?

A. I don't recall exactly, but it is pretty close. I have watched it several times since you sent it to me

multiple times to watch.

(Video playing.)

Q. Was it your testimony that this second highlighted section of Page 3 of the order was not your words to the Board of Zoning Appeals?

A. Portions of it are my words, but not all of it, no.

Q. Okay. So the second --

A. Hang on, hang on. You asked me a question. I need to answer it. At that point where Globe and Farmes' property is located, so what I was describing in the Board of Zoning Appeals is the road is under water, not on Globe and Farmes' property. And so I think that there is some inaccuracies in this conclusion that are not my exact words. That is what I was trying to say. If you -- if you did a transcript of the Board of Zoning Appeals, which I believe that we have one, you can look at that and you can see my words verbatim. And I can testify to that. But these are not my words, I didn't write these words.

Q. I understand that you didn't write them. Did you say them to the Board of Zoning Appeals at their November 30th, 2021 meeting?

A. Not all of these words, no.

Q. Okay.

A. Everything that you highlighted here is not

everything I said.

Q. I'm aware of that.

A. Okay.

Q. May I have that back?

A. But that is not what you asked me, right?

Q. I asked you if this is what you told the Board of Zoning Appeals?

A. That is not what I told the Board of Zoning Appeals.

Q. Okay.

A. What you showed in the video is what I told the Board of Zoning Appeals.

Q. Okay. Then let's watch that one more time.

A. We can.

(Video playing.)

BY MR. HOLLIDAY

Q. And this says, "It was a tar and gravel road."

(Video playing.)

BY MR. HOLLIDAY

Q. And then your words continue on, "Ellenburg Road split and a dirt road went along the lakebed towards High Falls."

A. That is accurate.

(Playing video.)

BY MR. HOLLIDAY

Q. And then this continues on that, "Route 1 Ellenburg continued along the shoreline of the Globe and Farmes' property."

(Playing video.)

THE WITNESS: Mr. Holliday, I did not say Globe and Farmes' property. I said that it went under the lake along the shoreline.

BY MR. HOLLIDAY

Q. Okay. When you were gesturing on the map, do you recall where you were pointing at that time?

A. I know where the road exists today.

Q. Okay. And where were you pointing?

A. Into the lake.

Q. And where that road connected to what is now land, were you on Globe and Farmes' property?

A. No, I was not.

Q. So the split is where?

A. On Ratliff property.

Q. Do you recall telling the Board of Zoning Appeals that Ellenburg was a State road?

A. I do.

Q. And you would recognize that if I showed it to you?

A. I would. I have seen it. And I said it as well.

(Video playing.)

BY MR. HOLLIDAY

Q. So you told the Board of Zoning Appeals that it became a County road, and that is also when it became an asphalt road?

A. No, what I was doing there was speculating and providing additional information. You can tell in the video at that point questions was complete to me and I was attempting to provide clarifying information, based on my understanding of my mother's address of Route 1, assuming that was a State road. I have since learned that mail routes do not signify whether something was or was not a State road at any point in time. And I have since learned that the County and State do not have any records demonstrating that Ellenburg Road was ever a State road.

Q. But you don't have any records showing that your father paved the road; does that make that true?

A. It makes it true because I was there. I was there when dad paved the road. I am the one who asked him to pave the road.

MR. HOLLIDAY: Your Honor, I think that it would be appropriate, at the very least, even if it's not an exhibit -- I would move to make this order an exhibit. But I think at the very least it would be appropriate to take judicial notice of this order,

specifically the finding by Judge Maddox that the absence of any evidence that an abandonment procedure was ever brought to terminate the public right-of-way for Ellenburg Road requires a determination that, as a matter of law, Ellenburg Road remains an Oconee County maintained road.

THE COURT: That case is on appeal. So, it is not final. I'll let you make that a court exhibit as a proffer; however, your video can be admitted as an exhibit.

MR. PAAVOLA: May I just add on the record that we would object to the order coming in as it's not --

THE COURT: Sir?

MR. PAAVOLA: We object to the order coming in. It is not a prior statement of the witness so it shouldn't come in.

THE COURT: It is not in.

MR. PAAVOLA: We would like to add that for the record. We would agree with the clip. But I think that the video, if I might, we would agree with the clip but not -- the video is much longer, obviously. So, only the portion shown.

THE COURT: The portion that has to do with the witness' statements to the Zoning Board. But if it

is longer than that, no.

MR. PAAVOLA: The video he showed is the whole YouTube video which is much longer than that.

THE COURT: Okay. I agree with you.

(Whereupon, Court's Exhibit No(s). 3 marked for identification and received in evidence.)

CROSS EXAMINATION CONTINUES

BY MR. HOLLIDAY

Q. Do you agree that Ellenburg Road is designated by Oconee County as WA-42?

A. I would.

Q. Do you have any idea why it would be designated as WA-42?

A. I don't understand the question.

Q. Why would Oconee County designate the road as WA-42; is that an indication of anything to you?

A. No. I didn't deal in terms of road names and numbers.

Q. Do you know if you or your family ever brought an action to close Ellenburg Road pursuant to 57-9-10?

A. I believe that is why we are here today, to determine rights of the road in front of our property.

Q. Do you believe that this is a road closure action that your attorney has filed?

A. I believe that we are here to determine who owns

property rights to 599 and 585.

Q. Aside from this case, are you aware of your family ever filing a road closure action pursuant to 57-9-10?

A. We never had a need to until today.

Q. Have you ever posted notice of any sort of intent to close the road?

A. I never had a need to. There's been an end of County maintenance sign that has never been on our property.

Q. Have you ever posted notice in the newspaper of your intent to close Ellenburg Road?

A. I have never had a need to.

MR. HOLLIDAY: Nothing further, Your Honor.

THE COURT: Redirect?

MR. PAAVOLA: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. PAAVOLA

Q. Mr. Ratliff, you heard testimony from the DOT about the State road system in this case; is that correct?

A. That's correct. And I was physically present during the deposition as well.

Q. Would you defer to the testimony of DOT as to what roads were State roads to start with?

A. I will.

Q. Mr. Ratliff, if the notice was posted to close the road, the only owners that would be notified by a road

closure action would be property owners out here today for 585 and 599 and Globe and Farmes, correct?

A. Depending on the location of the posting.

Q. If the closing was done --

MR. LOGAN: I object. That is a legal conclusion.

THE COURT: Sustained.

MR. PAAVOLA: Your Honor, he was asked that on cross-examination, about whether they ever posted notice. And I was just asking who would receive the notice at their property.

THE COURT: Asked if there was ever a road closure filed and related activities with that road closure being filed. That is what I understood you to be asking.

MR. PAAVOLA: He also asked if he ever posted a notice on the property of a road closure action.

THE COURT: Go ahead and ask your question.

MR. PAAVOLA: Mr. Ratliff, what property owners would be on notice had you posted a road closure notice?

MR. HOLLIDAY: Same objection.

THE COURT: Sustained. He didn't file a road closure action in this matter. Has there ever been a road closure action filed to your knowledge?

MR. PAAVOLA: We have never suggested that there is, Your Honor.

THE COURT: Sir?

MR. PAAVOLA: We have never suggested that there was a road closure action filed.

THE COURT: I am not saying that you suggested it, I am just asking if there ever has been.

MR. PAAVOLA: Not to my knowledge.

THE COURT: Thank you.

BY MR. PAAVOLA

Q. Mr. Ratliff, who maintained the road and the sides of the road in front of 585 and 599 Ellenburg Road to your recollection, since your family has owned the property?

A. 585 to 599, Ratliff family, employees of John's Marine, and the Ellenburg family.

Q. Have you ever seen the County perform any maintenance in front of 585 and 599 Ellenburg?

A. No, sir, never.

MR. PAAVOLA: No further questions, Your Honor.

THE COURT: Thank you. This is going to be in relation to his redirect.

MR. HOLLIDAY: No, Your Honor.

THE COURT: Sir?

MR. HOLLIDAY: No, Your Honor.

THE COURT: You have none. You are asking for more cross-examination is why you are standing up?

MR. HOLLIDAY: I was under the impression that the Plaintiffs were resting at this time.

THE COURT: And I'm saying to you, if you want to cross-examine him again you can, but it has to be in response to his redirect.

MR. HOLLIDAY: I have no questions for Mr. Ratliff.

THE COURT: I misunderstood.

MR. HOLLIDAY: Sorry.

THE COURT: Okay. Any further witnesses for the Plaintiff?

MR. PAAVOLA: No, Your Honor.

THE COURT: May this witness be excused and allowed to stay in the courtroom?

MR. PAAVOLA: Yes, Your Honor.

THE COURT: Okay. Thank you, sir.

Do you have any other witnesses?

MR. PAAVOLA: Your Honor, we do not have any other witnesses. I do have -- we would move at this time to amend our pleadings to conform to the evidence in this case.

THE COURT: Which evidence are you asking to conform to?

MR. PAAVOLA: The evidence -- we had added cause of action for quiet title and reformation of deed in our amended complaint we filed with the Court. So we would ask --

THE COURT: What evidence goes along with those causes of action that you are referring to?

MR. PAAVOLA: All of the evidence is the same that we presented today that for the original declaratory judgment action, both the original cause of action for quiet title and reformation of deed. So you instructed that we were able to move to amend our pleadings to conform with the evidence. The evidence was presented about incorrect plat of 2020 by Mr. Henderson and the need to reform the deed for that, and quiet title as well.

THE COURT: I'm denying that motion. That is not what the evidence shows in my notes. I'm denying your motion.

MR. HOLLIDAY: Your Honor, we would like to make a motion for directed verdict at this time.

THE COURT: What for, involuntary nonsuit?

MR. HOLLIDAY: Also involuntary nonsuit.

THE COURT: What is your motion?

MR. HOLLIDAY: This case was filed as a prescriptive easement to determine whether Oconee

County had a prescriptive easement or not. Ultimately that is really not even a determining factor in this case. Because it's clear from the evidence in this case that the entirety of Ellenburg Road was and is a public road. The Department of Transportation has testified to that. And we -- there is numerous excerpts in the deposition of Oconee County that indicate that they have maintained it.

Now, one of the arguments that has been made by the Plaintiffs, specifically with regards to, I believe, Exhibit 73 which is the map that purportedly resulted out of the 2009 meeting, that they have relied on this. Estoppel has to be affirmatively pled. Not only was it not pled. Prince Brown, as a right-of-way technician, which is what Karen Rasbornik said that his job title was, and I think that we stipulated that his job title was right-of-way technician, had no authority to bind the County with regards to where County maintenance stopped. And he also had no authority to unilaterally abandon roadways.

As I said earlier, not even the County administrator, as much as I like Ms. Brock, has the authority to do that. It must come through County council. As we heard from Title 26 earlier from Mr. Bible when he was quoting Title 26 about the roads

department, has an obligation to, you know, look at all of these roads and understand where they are. Part of what he said in that when he was citing Title 26 was to inform the council. The council, ultimately, the five individuals that serve on County council have to bless basically any disposition of County assets or County rights. If we were to settle this case, we would have to have County council bless it, because Oconee County is a party.

Really what this case comes down to is whether Ellenburg Road was ever abandoned. It is our contention that the abandonment of a public road, a public road is always a public road until and unless it's closed pursuant to 57-9-10.

And I would point you specifically to South Carolina Department of Transportation versus Hinson Family Holdings. The issue in that case was whether the circuit court erred in granting Hinson's motion for a partial summary judgment because a genuine factual dispute exists, whether Old Water Town Road has been formally abandoned. The facts of that indicate that Horry County abandoned the portion of Old Water Town Road when the road was relocated. The problem with that is that unless a road closure action is filed it is still a public road. And so the case concludes

South Carolina Department of Transportation versus Hinson Family Holdings, which is 361 S.C. 649.

The conclusion is that the circuit court correctly concluded that Old Water Tower Road remains publicly accessible because no formal action had been instituted to abandon it pursuant to 57-9-10 and 20. Now, assuming that we are wrong, assuming we are wrong and that common law abandonment remains an option, you can just look to the Plaintiffs' own Bench brief as to what must be shown in that circumstance. I don't know what page this is, but it is Subsection D of the Plaintiffs' Bench brief, that with regards to abandonment, with regards to a right-of-way -- and I would, for the purposes of this argument, like to make clear that abandonment and closure are legally separate concepts.

Abandonment by and of itself does not equal closure of the public's right-of-way. So assuming that we are wrong, the Plaintiffs' Bench brief says that the burden of proof is upon the party asserting abandonment to show abandonment by clear and unequivocal evidence, and that the intention of the party is the primary inquiry. And that a highway may be extinguished by direct action through government agencies, in which case it can be said to be discontinued. But that

non-user or a mis-user or non-user does not constitute abandonment of land dedicated to the public use.

And so I don't believe that the Plaintiff is able to show through clear and convincing evidence that the County ever intended to abandon or close this road. The intention of Oconee County is your primary inquiry. And the bar is clear and convincing evidence of an unequivocal desire to close the road. Oconee County council never took any action with regards to this purported road closure. Oconee County would not be fighting this case as a defendant on the side of the other defendants saying that it is, in fact, a public road if they had intended to abandon it. Oconee County would not have sought to maintain Ellenburg Road if it had abandoned Ellenburg Road.

As we heard from Jimmy Ratliff's testimony, he had stopped County employees that had come down there, he has turned them around. He has parked boats within the right-of-way to prohibit County maintenance. That is all within the record. That is also in the County's deposition. If you look at the County's deposition and our designations of that deposition, we are told by Kyle Reid that the reason for this road in front of 585 and 599 was not paved in and around 2012 is because that section of the road at the time was

better than the one near Rollingwood, which is the Harbor Oak subdivision, and also because there were boats parked in the right-of-way.

And we also look at Kyle Reid's deposition we see that the same issue comes up a couple of years later in approximately 2014 or 2015 when the road is striped. And the reason that the stripe ends just past 582 is because he told the person out there doing the striping, if they could not turnaround once they got down there due to the boats being in the way, that they should not stripe all the way to the end of the asphalt.

The records for Oconee County for road maintenance, which we see in Exhibit 70 and 71. These are exhibits that the Plaintiff entered that we stipulated to, are Oconee County's road maintenance records. We agree, they are not exhaustive. But they show maintenance all along portions of Ellenburg Road for decades. Additionally, there would not be a GPS pin that the County placed if we go to Exhibit 68 at Page 10, the County would not have a record of the end of County maintenance GPS pin being placed in a substantially similar location as to where the sign appears in Defendants' 7 and 8.

That green sign was placed there. The County

has a record of it being placed there in their GIS system. And there is just no clear and convincing evidence that there has ever been an abandonment. Laurie Ellenburg Bright denied that the Ratliffs ever paved it. The expert witness denied that it would be possible for them to have paved it because those pins were still there. It's clear from the record of this case that this is still a County road, this is a public road all the way to the edge of pavement. It's never been abandoned. Even if it had been abandoned, it has never been closed because no one, as the testimony of all of the Plaintiffs have said, have filed a road closure action pursuant to 57-9-10.

MR. LOGAN: May I add something?

THE COURT: Yes, sir.

MR. LOGAN: In addition to the road closing statute, which is, in my judgment, the sole method of abandoning and closing a public road, and we have clearly established that it is a public road.

THE COURT: Let me ask you a question if I may, Mr. Logan. Testimony over and over again, and I haven't looked at it, but it sounds like that road closing statute was in 1962 when it was first enacted. And I'm looking at cases that were cited by the Plaintiffs in their brief. This is K & A Acquisition,

for example, and that is 2009, citing Hoogenboom versus Beaufort, which is 1993, which continues to talk about abandonment. So if the statute in 1962 became the sole manner by which a road can be closed, abandonment was no longer viable, why do cases continue to discuss it after the enactment of the statute?

MR. LOGAN: Why do cases -- well, I have got one here that says that you don't.

THE COURT: I have one cited here that says that, one, discontinuance of the County -- or that the governmental agency filed to close it, discontinuance, otherwise it is an abandonment. There is two different concepts.

MR. LOGAN: Can I refer -- I am going by the 2004 case. And this statute that I'm referring to was adopted in 1962, as I understand it. It is the case of South Carolina Department of Transportation versus the Hinson family. And I'll read two statements from that case. "County road had not been abandoned, and thus remained publicly accessible," which we have established that this road has remained accessible, "although County has ceased maintaining the road. No interested person had instituted an action under the statutory process to effect abandonment of the road and the County has not abandoned the road."

And then it says, "By creating a formal judicial procedure for terminating a right-of-way over lands, statute allowing interested persons," which is 57-9-10, "to petition the Court to abandon the street, road, or highway removes the uncertainty attending the common law of dedication and abandonment. It also ameliorates the rigor of common law requiring strict proof of intent to abandon a public right-of-way before that right can be extinguished."

That is a Supreme Court of this state opinion in 2004, which is directly applicable to this case. This was and continues to be a public road as we have discussed several times during this process. It has -- no action has ever been taken by any interested person, the State, or any of its political subdivisions or agencies to petition that the road be closed. And also in this particular case in Hinson it says although the County had ceased maintaining the road, maintaining the road or any portion of the road. We have established that the road was maintained, but even if they want to argue that that strip where they claim that other -- somebody else paved it, it is still -- it says "any portion" of the road.

And that, the failure to maintain the road by the County does not mean by case law that that section

has been abandoned. It is only abandoned or closed when there has been a judicial process filed pursuant to the code section involved. And I also cite to you the Wessinger case versus Goza, a 1957 case. And the first footnote says, The general principle of the common law that where is once a highway there is always a highway, though subject to certain limitations and exceptions. That predates this, the code section.

Now, in 2000 and whatever this year is, '24, that is the process that has to be followed. That is the process that the Supreme Court in the Hinson case said had to be followed in 2004. And it is a public road. And the fact that they, according to them, failed to maintain some portion of it is not sufficient. So this testimony about who maintained this or who maintained that is totally irrelevant.

THE COURT: I want to give them an opportunity. Go ahead.

MR. PAAVOLA: Do you want me to respond to the entirety of their argument, or just that one question about the statute being exclusive?

THE COURT: However you want to do it.

MR. PAAVOLA: Okay. Your Honor, on that, the point about the exclusivity, the statute itself at SC Code 57-9-40.

THE COURT: I am familiar with it.

MR. PAAVOLA: It says that this chapter shall not be construed to repeal any other provision of law but shall be cumulative thereto. So, it is not the exclusive means to close a road.

THE COURT: Let me tell both sides. In my view, you have the statutory procedure, you also have your common law of abandonment that is still applicable. Otherwise, the language in all of these cases since 1962 would be meaningless because you wouldn't have that opportunity. One, I don't know if they use these similar terms of abandonment. One is a discontinuation by the County through their action or somebody who has statutory decision. And the other one is an abandonment under the common law abandonment, the higher standard that has to be met.

So under this case that is the way that I'm looking at it. If I'm wrong, then I'm wrong. It won't be the first time that I'm wrong, I promise you. Anything else?

MR. PAAVOLA: May I respond to the rest of their motion, unless you have denied them?

THE COURT: However you want to proceed.

MR. PAAVOLA: Well, Your Honor, I believe that directed verdict shouldn't be granted. We brought

this case as a prescriptive -- to declare that Oconee County has no prescriptive easement over our clients' property. That is what the County claimed at the Board of Zoning Appeals. And Mr. Reid's testimony before this Court, which is in through designation, when he was asked what is the basis of the County's claim as easements, you know, rights over our clients' property, he said prescriptive easement by maintenance by long time use. That is the sole basis that they testified today, or in this trial, that they have a right over the property.

Mr. Reid did not testify that the road was dedicated or that it was offered by landowners and accepted to the public. So that has not been presented in our case. If they want to present that --

THE COURT: You have the deeds and the plats that have been testified to and no dedication. That is what the law says. By use of the public and acceptance of maintenance by the municipality acceptance as well.

MR. PAAVOLA: Right. There can be a dedication, but on the prescriptive easement side, I guess what burdens the Court is the prescriptive easement claim is their burden to prove that they have prescriptive easement.

THE COURT: I don't disagree with you there.

MR. PAAVOLA: So I think that a directed verdict should be denied because they have not even presented a case on that issue.

THE COURT: Does anybody really disagree with the fact that y'all have established a prescriptive easement in this case?

MR. HOLLIDAY: I don't think that we can because it has to be adverse, and everybody for 60 years has been under the impression that this is a public road.

THE COURT: Well, let me just tell you this. I agree with you, they had the burden. I didn't let you speak to that, but I don't see that you have established anything about a prescriptive easement, nor could you.

MR. LOGAN: Well, we didn't at that particular stage, but now that this action has been before us, we have established that it is a public road.

THE COURT: I think it is a public road, so I don't think that it is necessary for you to do a prescriptive easement.

MR. LOGAN: That is my point. That is my point.

THE COURT: And we had a meeting in my

chambers and I told Plaintiffs' counsel that after their expert, who quite frankly, was not credible in the least and whose opinions were disavowed by himself while he was on the stand, along with the other evidence, clearly established that this area was on point a public road predating anything that was -- you were saying in 1974. So it is a public road. And the issue in this case is whether or not an abandonment has taken place, because obviously there's not been any road closure petition filed by anybody. So the sole issue for me to decide is whether the Plaintiffs met their burden under the common law abandonment, and that is the way that I'm proceeding, okay.

And at this juncture that is for me to weigh the evidence, and I will not do that until I hear all of the evidence in this case. But I'll take the motion under advisement, but I'm not going to make a ruling on that now.

MR. HOLLIDAY: Okay.

MR. BRANDT: May I make a comment?

THE COURT: Yes, sir, you may.

MR. BRANDT: There is another case, Howell v. Napier (phonetic) down here in Walhalla.

THE COURT: What are you asking me to do, saying that the closing procedure --

MR. BRANDT: I want you to take note of that case and what it says.

THE COURT: Are you asking me to say that the road closing per statute is the only proceeding to close a road?

MR. BRANDT: What?

THE COURT: Are you arguing that the statute is the only way in which a road can be closed or abandoned?

MR. BRANDT: Yes.

THE COURT: Okay. You can put the case on the record. I don't want to hear it because I disagree with you, okay. But you can put the case on the record and say that I'm wrong in my interpretation of law.

MR. BRANDT: I passed it up and here is what happened in that case. Can I explain it?

THE COURT: You guys have drug this case, immersed -- this case should have been done days ago. This has been crazy and it is now 1:15 and we have got people out here wanting to -- if you want the case to be considered, put it on the record as it is given. I don't want you to describe it, I can read it.

MR. BRANDT: I can't find it. I passed it up to your law clerk. He has a copy of that.

THE COURT: Okay. That will be fine. Okay,

we will make that a copy of the Court record.

MR. BRANDT: And he has a copy of Wessinger too, it is also in that packet.

THE COURT: Okay. I am going to take a lunch break at 1:15 and we will be back at 2:15 to continue this case.

(Lunch recess.)

THE COURT: Please be seated. If you would, that snippet of the hearing or zoning board that we watched earlier, instead of -- do you have a whole hearing on there or what is it?

MR. HOLLIDAY: That is a YouTube video from Oconee County's YouTube channel.

THE COURT: What is all on there?

MR. HOLLIDAY: It is basically the entire Board of Zoning Appeals hearing.

THE COURT: Can you cut that down just to have the witness' testimony or presentation to the Board?

MR. HOLLIDAY: You just want the snippets that we watched?

THE COURT: When he is testifying or presenting to the Board.

MR. HOLLIDAY: The whole portion where he is speaking. We should be able to do that. Let me try.

THE COURT: If you can't, then the only part of that that is going to be entered into evidence is the part of his testimony or presentation to the Board.

MR. HOLLIDAY: I just heard that there was a question about the snippet that was presented to the Court, right? Whatever was before the Court?

THE COURT: Whatever his entire testimony was I am putting it into evidence.

MR. HOLLIDAY: It was not shown?

THE COURT: It was not shown.

MR. HOLLIDAY: We object to that, but I understand.

THE COURT: Yes, sir, I understand.

MR. HOLLIDAY: We will attempt to do that.

THE COURT: Just put the whole thing in, but that is the only part that is going to be admitted as far as the record goes in this case. Over your objection, that witness' presentation to the Board. That is the only part that will be a part of the record in this case. The rest of it is not. If someone wants to watch it on appeal, they have the right to.

MR. HOLLIDAY: If it is not accessible, is that -- can we reference the URL in the transcript? I mean, I don't even know how that works.

THE COURT: Do you want me to exclude it and

just throw it out?

MR. HOLLIDAY: I would prefer that you not.

THE COURT: I just wish that you would quit arguing with me and let's get started.

MR. HOLLIDAY: Okay.

THE COURT: Okay, sir, let's go.

MR. HOLLIDAY: We call John Hamrick.

THE COURT: Okay. Come around.

Thereupon,

JOHN HAMRICK

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOLLIDAY

Q. Mr. Hamrick, what is your relationship with the Defendants, Globe and Farmes?

A. I am general partner.

Q. When did you purchase Arrowhead Pointe?

A. 208.

Q. Did you have an understanding about what type of road Ellenburg was when you purchased Arrowhead Pointe?

A. I thought it was public.

Q. You thought it was public all the way to the end of the pavement at your property?

A. Certainly.

Q. Have you ever been served with a lawsuit seeking to close a portion of Ellenburg?

A. No.

Q. Have you ever received any notice that anybody was seeking to close any portion of Ellenburg?

A. No.

Q. You would agree that your parcel of land is the last parcel of land on Ellenburg Road?

A. That is correct.

Q. Are you aware of any document that shows the County's intent to close Ellenburg Road?

A. No.

Q. Are you aware of any document that supports the position that Ellenburg Road was private?

A. No.

Q. Did you ever agree to close any portion of Ellenburg Road?

A. No.

Q. And are you ready to grant the County an expressed easement over your property?

A. I'm sorry, please explain what you are asking me.

Q. Would you happily allow the County --

A. Certainly.

Q. -- to put a road on your property?

A. Yes.

MR. HOLLIDAY: I have no further questions of this witness, Your Honor.

THE COURT: Very good.

CROSS EXAMINATION

BY MR. BIBLE

Q. Mr. Hamrick, will you clarify for me when you said you acquired what we have been calling Arrowhead Pointe?

A. 208. February.

Q. Is that 2008?

A. That is correct.

Q. Okay. You have a black binder in front of you to your left. If you don't mind sir, please --

A. This one?

Q. Yes, sir. Tab 78. It has been admitted into evidence.

A. Yes, I see it.

Q. Okay. What is this document?

A. Would you like for me to read that to you?

Q. No, sir. If you know what it is, if you could describe for the Court, that would be fine. You don't have to read it all the way.

A. This is a "To whom it may concern"; is that what you are asking?

Q. No, sir. Tab 78.

A. I am sorry, 78, yes, okay. That is a deed to my

property. A deed to Globe's property, and Farmes.

Q. And your company acquired this property from Crescent Community; is that right?

A. My family.

Q. Say that again, I am sorry.

A. My family, not my company.

Q. Okay. All right. The deed is from Crescent to Farmes, a South Carolina partnership, and Globe; is that correct?

A. That is correct.

Q. Are you treating those entities as your family?

A. That is correct.

Q. All right. Thank you for that. And this purchase was for 1.844 million dollars; is that right?

A. That is correct.

Q. Have you entered into any contract to sell that property?

A. Have I entered into a contract? Yes, I have.

MR. HOLLIDAY: Your Honor, that is outside the scope of direct.

THE COURT: Sir?

MR. HOLLIDAY: Outside the scope of direct.

THE COURT: Wide open, like I said yesterday. Go ahead.

BY MR. BIBLE

Q. Have you entered into any contracts to sell the Arrowhead Pointe that is conveyed in this deed that we are looking at?

A. That is correct. Yes, I have.

Q. Do you currently have a contract on that property?

A. Yes.

Q. Okay. With whom?

A. I'm sorry?

Q. With whom is that contract?

A. That contract is with Mr. Lee.

Q. Okay. And what is the stipulated sum of money for which that property would be conveyed to Mr. Lee and/or his company?

A. The -- 8 million dollars.

Q. Is that contingent on the development of that property?

A. Certainly.

Q. You would agree that you have a financial interest in Arrowhead Pointe being permitted a public right-of-way through that land?

A. Yes, I do.

Q. Did you personally speak with anybody at the County prior to this deed that is reflected in Plaintiffs' 78?

A. No.
Q. Did you speak to anybody from the County following receiving this deed regarding whether or not the County maintained all the way to the end of Ellenburg Road?
A. No.
Q. Have you personally observed -- you have had the benefit of sitting through a lot of the testimony in this trial?
A. Yes.
Q. Are you familiar with 585 Ellenburg Road all the way down to the end of Ellenburg Road?
A. I am not familiar with the numbers, but I am familiar with the road.
Q. Okay. So the lot before the boat shop towards your property.
A. Thank you.
Q. Have you ever witnessed any County personnel performing maintenance in that stretch of road?
A. I have not.
Q. And you have owned this property, through your company or through your family, as you call it, since 2008?
A. That's correct.
Q. Did you have occasion to travel down Ellenburg Road prior to the acquisition of Arrowhead Pointe?
A. Yes.

Q. Okay. And in your travels, I understood that you participated in some development activities of what I'll call a subdivision called Harbor Oaks; is that right?

A. I represented Crescent Resources on all of their properties on Lake Keowee and developed them for them, which was Duke Power and Crescent.

Q. Okay. And did you participate in setting up whether Ellenburg Road would need to be repaved in order for that development to go forward?

A. I did not.

Q. Who would have done that?

A. I do not know.

Q. Okay. In the time period that you have been traveling down Ellenburg Road, do you recall an end of County maintenance sign posted on the right side of the road?

A. I do not.

Q. Do you recall any end of County maintenance sign whatsoever?

A. I do not.

Q. Have you been down to Arrowhead Pointe where there have been boats parked on either side of Ellenburg Road?

A. I have.

Q. Other than people that you have invited or that you have asked or that Mr. Lee has asked to come to the

Arrowhead Pointe property, have you observed the public at large traveling along Ellenburg Road in the vicinity of 585 and 599 Ellenburg Road?

A. I have not.

MR. BIBLE: I have no further questions, Mr. Hamrick. I appreciate your time.

THE COURT: Thank you.

Redirect?

MR. HOLLIDAY: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. HOLLIDAY

Q. Do you still have Plaintiffs' Exhibit 78 in front of you, Mr. Hamrick?

A. I do.

Q. This is the deed from Crescent to --

A. Yes, uh-huh. (Indicating affirmatively.)

Q. -- to Globe and Farmes?

A. That is correct.

Q. Can you go to the second page of that and tell me what number six on the second page of Plaintiffs' 78 says?

A. Number six says, "Easements, covenants, restrictions and conditions of record, all rights-of-way public and private streets and roads, including but not limited to the right-of-way showing on the plat as Ellenburg Road."

Q. Okay. So in the deed where you acquired this property from Crescent there is an exception as to the right-of-way for Ellenburg Road?

A. That is correct.

Q. Do you think that you would recognize that plat?

A. I think so.

THE COURT: Is it in evidence?

MR. HOLLIDAY: It is, Your Honor.

THE COURT: Okay.

MR. HOLLIDAY: It is B291 at 1, but I don't know what Plaintiffs' exhibit it is.

THE COURT: Okay.

MR. HOLLIDAY: Sorry, Your Honor.

THE COURT: That is all right.

UNIDENTIFIED SPEAKER: Twenty-five.

MR. HOLLIDAY: You think it is 25.

BY MR. HOLLIDAY

Q. Does this appear to be the plat from when you purchased Arrowhead Pointe over here?

A. Yes, it does.

Q. And does that seem to indicate that Ellenburg Road goes all the way to this pin at the intersection of your property and Mr. Ratliff's property?

A. Yes.

Q. Okay. You were asked if you had ever seen the

County maintaining any portion of Ellenburg Road; have you seen the Ratliffs ever doing any maintenance on Ellenburg Road?

A. No.

Q. And you would agree that your property is an adjoining property to the Ratliffs'?

A. It is.

Q. And you do not agree to the existing road being closed?

A. I do not.

Q. And you would ask that it be -- that it remain open?

A. I do.

Q. And you are not aware of any records from the County closing any section of Ellenburg Road?

A. I am not.

MR. HOLLIDAY: Thank you very much.

THE COURT: Thank you, sir. You can step down.

WITNESS: Thank you.

THE COURT: Yes, sir.

MR. HOLLIDAY: Next we would call Andy Lee.

Thereupon,

WILLIAM ANDERSON LEE

was called as a witness, having been first duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOLLIDAY

Q. Mr. Lee, could you state your full name for the record please?

A. William Anderson Lee.

Q. What do you do for a living?

A. I do real estate and development.

Q. Do you serve on any state boards or commissions?

A. I am the chair of the South Carolina Real Estate Association.

Q. I am sorry?

A. I am the chair of the South Carolina Real Estate Commission.

Q. I thought that you said association.

A. Sorry.

Q. Can you tell me about your history with Mr. Hamrick, working for and with Mr. Hamrick?

A. Sure. I have known him a very, very long time. I started with him shortly after I got out of the Navy. He hired me as the construction manager. I built -- I organized the construction of the subdivisions. Not the homes, but the subdivisions themselves, the infrastructure of the roads, that type of thing. And then eventually there was a hybrid time when I was in sales and helping with

construction. And then I eventually just moved into sales until I purchased the company.

Q. And you purchased what company?

A. I purchased -- well, it was John Hamrick Real Estate, but Lake Keowee Real Estate. He owned both technically.

Q. Okay. So what is your position with Lake Keowee Real Estate?

A. I am the sole proprietor.

Q. Do you have any other companies or membership interests in other companies?

A. I do. I have Lake Keowee Development Group and I still technically own Generation Builders.

Q. Okay. And what was Generation Builders?

A. It was a construction company.

Q. How long since you have actively constructed something with your own hands?

A. That I got paid for, it has been a very long time, yes.

Q. I am not counting chores around the house.

A. No, 20 -- it has been a long time.

Q. Does Lake Keowee Development Group, does that develop real estate?

A. Hopefully. It depends on how the day goes really.

Q. Have you -- how many communities would you say

that you have developed with Crescent?

A. I would say upper 30s, maybe 40s. It has been a good bit.

Q. Have you ever developed a Crescent property for Mr. Hamrick on Ellenburg Road before?

A. I was part of it, yes.

Q. What was the name of that subdivision?

A. That was Harbor Oaks.

Q. Was the, when you developed Harbor Oaks the first time you were ever on Ellenburg Road?

A. Was it the first time?

Q. Correct.

A. That is a -- I know that I have taken my boat to Jimmy's forever, I just honestly don't remember the exact year. It was early 2000, so I would guess that I had taken my boat there before that was built.

Q. So you think that you had been on Ellenburg prior to the development of Harbor Oaks?

A. Yes.

Q. Okay. Do you recall when you started taking your boat to Jimmy?

A. Let's see. Yeah, early 2000s is the best that I can give you honestly. I don't recall the exact year that I purchased it. It is a '94, but it was used when I bought it.

Q. Are you -- are you familiar with any road signage on Ellenburg Road?

A. Yes.

Q. Do you recognize Defendants' Exhibit No. 7?

A. I do.

Q. Okay. Can you tell me what that is?

A. That is a screen shot. You would turn right to go into Harbor Oaks, and you would continue straight on down and lead to John's Marine and Arrowhead Pointe.

Q. Okay. If you go to the last page of Defendants' 7, can you tell me if you see a sign in this photo?

A. I do.

Q. Does that sign appear to be substantially similar to Defendants' No. 8 that I'm holding?

A. Yes, same sign.

Q. And what does that sign say?

A. End Oconee County maintenance.

Q. Did you ever see any other sign at any portion of Ellenburg Road other than this sign indicating end of County maintenance?

A. I did not.

Q. You never saw a black and white sign?

A. Huh-uh.

Q. Okay.

THE COURT: Can you give verbal responses,

please, sir?

A. Yes. I did not.

Q. You did not ever see a black and white sign. Are you familiar with the Board of Zoning Appeals processes in any prior or kind of companion case to this case?

A. Yes.

Q. Would you be familiar with the plans that you had submitted to the Board of Zoning Appeals in that case?

A. I believe so, yes.

MR. PAAVOLA: Objection, Your Honor, we think that this line of questioning is outside the scope of the case, as far as what the plans for development are.

THE COURT: What is your response?

MR. HOLLIDAY: I think it is directly at issue because the plans show why we are having this issue. We would not -- without these plans we do not have a clearly -- a clear demonstration of why this is an issue.

THE COURT: Overruled. Anything else that you want to put on the record? I know that I cut you off.

MR. PAAVOLA: Yeah, just that the existence of plans or the drawing with the Board of Zoning Appeals is in no way a fact that impacts whether there's public rights to a section or road.

THE COURT: Okay, thank you, sir.

BY MR. HOLLIDAY

Q. Can you tell me what this is?

A. Yes, this is the -- this is a drawing showing the existing road, and then also where we diverge off of the existing road to bring the road fully on to the Arrowhead Pointe property and the pinchpoint where the variance was needed.

Q. Okay. So can you explain to me why you needed a variance at the pinchpoint?

A. Yes. So Oconee County in 2011, I believe, changed the way the -- changed the requirements for a road, so even whether it is public or private, they make -- you have to have a 50-foot easement. The reason for the 50-foot is in case that two-lane ever got so busy it would have room to make it a four-lane and still have 10 feet left over for an easement -- I am sorry, for utilities. That is the reason that we had to go to the BZA. And obviously a road going into a peninsula will never be a four-lane road, so they granted the variance.

MR. HOLLIDAY: I would move to introduce this into evidence as Defendants' Exhibit 14.

MR. PAAVOLA: I have not seen it. I don't have an objection. But do we know which document was before Board of Zoning Appeals?

MR. HOLLIDAY: I have no idea. I just know that it was produced in this case.

MR. PAAVOLA: Your Honor, I'm not sure if we know that this was presented to the Board of Zoning Appeals. We have a complete record of all documents that the Board of Zoning Appeals had during the Board of Zoning Appeals process and also on appeal. I don't know if this document was presented one way or the other.

MR. HOLLIDAY: Been provided as such, I am going to overrule your objection. Go ahead.

(Whereupon, Defendants' Exhibit No(s). 14 marked for identification and received in evidence.)

MR. LOGAN: Your Honor, I realized that I left my coat in the car.

THE COURT: I was waiting for you to stand up so I could bite you.

MR. LOGAN: Do you want me to go get it?

THE COURT: If you don't mind, do you want my law clerk to go get it for you? Do you mind?

BY MR. HOLLIDAY

Q. We are looking at Exhibit 14, Mr. Lee. Can you -- actually, I'll publish this now. Is this area what you were describing as the pinchpoint?

A. That's correct.

Q. Right next to this two plus zero zero?
A. That is correct.
Q. Okay. So can you explain to me why this was the proposed design?
A. So when we had started this, I had told Jimmy, I said, I'm going to move this road and try to keep it as far away from you as possible as a courtesy of our friendship. So when I was working with the engineer, that's what I had them do, I had them push this as far down as I possibly could to give more room for Jimmy.
Q. And you would agree that this is Jimmy's, where it says John's Marine Service, that is his shop?
A. That is correct.
Q. Okay. And so you would -- this area, this shaded area over here is effectively all that exists right now in terms of existing pavement?
A. Correct. That is half of it, yeah.
Q. Do you know approximately how wide the existing pavement is?
A. It is going to be either 18 or 20.
Q. Okay.
A. As old as it is, it is probably 18.
Q. Okay. And you would have to build this new road to Oconee County specifications?
A. That's correct.

Q. And how wide would that be?
A. 20 feet.
Q. Okay. So is it your opinion, in reviewing this, that your proposal would give Mr. Ratliff more room?
A. It would. It would definitely improve his scenario. He would have more room to maneuver boats. That was the intent, was to improve his situation.
Q. Okay. Are you aware of any effort to close any portion of Ellenburg Road at any point in time?
A. No.
Q. Do you think that you would have been aware given your relationship with Mr. Hamrick?
A. One hundred percent would have, yes.
Q. Do you have any knowledge of any document from Oconee County that seeks to abandon any portion of Ellenburg Road?
A. No.
Q. Did you ever agree to close any portion of Ellenburg Road?
A. Absolutely not. And I don't believe that Crescent or -- you know, Crescent is a development company. It would not behoove them in any way whatsoever to shut down public access to a road. That is a ludicrous idea. And Mr. Hamrick, when he purchased it, it was with the intent to develop also. So no developer is going to say I don't want

the public right-of-way anymore. That is just not real.

Q. And you have traveled Ellenburg Road since at least the early 2000s; is that correct?

A. That's correct.

Q. You never saw the black and white sign?

A. No.

Q. The only sign that you ever saw was the green sign at the end of the pavement?

A. Yes, that's correct?

Q. And that green sign was on Globe and Farmes' property?

A. It was.

MR. HOLLIDAY: Thank you. I have no further questions. Please answer Mr. Paavola's questions.

CROSS EXAMINATION

BY MR. PAAVOLA

Q. Mr. Lee, you don't own any property from Ellenburg Road from 565 to the end of it, do you?

A. Not yet.

Q. You hope to own Globe and Farmes' property at some point?

A. Correct.

Q. Okay. I want to grab the Defendants' Exhibit 14. Mr. Lee, you testified earlier about Defendants' 7; do you recall doing that?

A. Yes.

Q. And I think that you testified about the sign in this location?

A. Uh-huh. (Indicating affirmatively.)

Q. Do you recall testifying about that?

A. Yes.

Q. All right. The date of this image from Microsoft is January 2015; do you see that?

A. I do.

Q. Did you ever take any independent photos of this sign?

A. No.

Q. Is this the only image you have ever seen of this sign?

A. Yes.

Q. Do you have any knowledge of when this sign was put up?

A. No, I know that I have seen it since forever.

Q. Is the sign there today, do you know?

A. It is not.

Q. Do you have any knowledge of when it was taken down?

A. It came down about the time that we started discussing this subdivision in the BZA hearing.

Q. And where did you come up with that knowledge

from?

A. I am sorry?

Q. Where did you come up with that knowledge from?

A. Because we were out there and it was not there anymore.

Q. You don't know when it disappeared, do you, Mr. Lee?

A. I do not have a date, no.

Q. Mr. Lee, you have not personally seen Oconee County perform any maintenance on Ellenburg Road, have you?

A. Any maintenance?

Q. Yes.

A. No.

Q. And you don't have any personal knowledge about any maintenance that the County has ever done in front of 585 or 599 Ellenburg Road, do you?

A. No.

Q. You were shown Defendants' Exhibit 14, and can you identify for me on this exhibit where the edge of travel surface is on Globe and Farmes' side of the road, current existing road? Which line is the existing edge of travel on the Globe and Farmes' side?

A. Sure. How would you like me to do that?

Q. You can use that.

THE COURT: The question was, the edge of the

travel surface?

MR. PAAVOLA: Yes, existing, today on the edge of Globe and Farmes' property.

MR. HAMRICK: Judge, can you ask the attorney to speak up? I cannot hear any of the questions.

THE COURT: Yes, sir. And if you need to move up just a little bit, Mr. Hamrick, you may do so. Everybody on this side can't hear if you can't hear.

Let me ask the attorneys, do y'all have any problem with any of the spectators sitting in the grand jury box or the jury box? If anybody wants to sit in the jury box over here, you can. Mr. Hamrick or your side, y'all can sit in the jury box. It may be closer and easier for you to hear. You are more than welcome to come sit in the jury box if you like.

(Pause.)

THE WITNESS: It would be right there.

BY MR. PAAVOLA

Q. It's been a while, sorry. I initially asked if you could identify what line on this page is the edge of the existing travel road on the Globe and Farmes' side of the property?

A. Yeah. On the existing road?

Q. Right.

A. So, come on now -- there it is. So that is one

lane right there, right. The lane that is on -- that is attached to the Globe side will be under this.

Q. What I'm asking you is, let me help you, there is a bottom curb here?

A. Yes.

Q. Is that bottom curb there -- is that the existing edge?

A. No, it isn't.

Q. The top line here, is that the existing edge of the road?

A. That would be middle line, middle of the road.

Q. Is that a yes or a no?

A. No.

Q. So is the existing travel surface depicted on this diagram?

A. No.

Q. Your testimony today is that whatever is within this red area with the yellow cross checks is area that will be deeded to Francis Ratliff et al.?

A. That is exactly what that is, yes.

Q. And the measurements of that section, someone could refer to the measurements on this page or I suppose they could talk to Ridgewater Engineering?

A. I am sorry, ask that one more time.

Q. Do you see measurements in this red area outline,

how wide it is, how long it is?

A. I do not know. One second. I can't see that.

Q. Would it help you if I give it to you?

A. It would. It says the length is around 140 feet.

Q. Is there a width on there?

A. I don't see one, no.

Q. Who would be able to tell us what the width is?

A. Yeah, it would be the engineer.

Q. Whatever the engineer said would be -- you would rely on?

A. Correct.

Q. All right. Mr. Lee, you have entered into a contract with your company to purchase Arrowhead Pointe; is that correct?

A. That's correct.

Q. How much -- what is that contract price, if you know?

A. 8 million.

Q. If you would turn in the black binder to tab 71, also in evidence as Exhibit 71, and let me know when you get there.

A. Okay.

Q. And what is this document?

A. That is the agreement to buy the Arrowhead Pointe.

Q. And highlighted or blown up on the screen, an

excerpt of the first page, that looks like the buyer is Lake Keowee Development LLC; is that correct?

A. Yes.

Q. Is that you?

A. Yes.

Q. And Farmes partnership -- Globe partnership is the seller?

A. Correct.

Q. That is Mr. Hamrick?

A. That's correct.

Q. And the purchase price is $8 million, right?

A. Yes.

Q. And the last page, page nine of this contract, it says, you sign on behalf of Lake Keowee and Mr. Hamrick signed on behalf of Farmes and Globe; is that right?

A. That's correct.

Q. And that is April of 2021, right? August of 2021.

A. I am sorry, yes.

Q. Mr. Lee, do you intend to make a profit on the development of Arrowhead Pointe?

A. I hope so.

Q. In order to do that, you have to sell the lots for more than 8 million dollars, right?

A. That's correct.

Q. You are not happy with the fact that brings this

action, are you?

A. Not at all.

Q. They are standing in the way of your company making money, right?

A. Correct.

Q. At one time you estimated you would make a profit at Arrowhead Pointe of 12 million dollars?

A. That is the gross.

Q. You hope to make millions of dollars developing Arrowhead Pointe?

A. Yeah.

MR. PAAVOLA: No further questions, Your Honor.

REDIRECT EXAMINATION

BY MR. HOLLIDAY

Q. Would you develop property at a loss?

A. Not in theory. You wouldn't do it very long anyway.

Q. You were asked if you had ever seen the County maintaining any portion of Ellenburg Road. Have you ever seen the Ratliffs maintaining any portion of Ellenburg Road?

A. Not at all.

Q. That green sign, you didn't quite get there, but I think that you said that up until the point that this development started, the green sign identified as the last

page in Defendants' 7 that I'm showing you here -- no, I'm not. You personally saw this sign at that location?

A. Many, many times.

Q. And that sign disappeared at some point in 2021?

A. Yes. And I can't give an exact date. But yes, that is when it was no longer there.

Q. What happened to that sign?

A. It was taken down.

Q. Do you know if the County took it down?

A. That is unlikely.

Q. Do you have any suspicions of who took it down?

A. I believe --

MR. PAAVOLA: Your Honor, calls for speculation.

THE COURT: Sustain that.

BY MR. HOLLIDAY

Q. Are you aware of Jimmy Ratliff every removing the sign?

A. I can only speculate. But I don't have proof of that, no, but it would fulfill or back-up his narrative, false narrative.

Q. Do you know if Mr. Ratliff ever admitted to you of destroying any other kinds of identifying marker?

A. He didn't. We discussed the pin once standing at right about that spot as a matter of fact.

Q. There is a property pin somewhere behind this white truck?

A. Yes, parked under a boat presently, but they won't get out of the way so we can survey properly. But we were standing there, the pin that would be closer to the sign is actually what I am talking about. It is not that one, it is the other one that separates Duke Energy and Globe. We were talking and he said that there was no room there. And I said, you know, there is, I have got the plat. And he explained to me, he goes, well, that pin is not there anymore. Well I don't -- what he didn't understand was that it doesn't matter if the metal is in the ground, if I have got a plat I can find that spot again because of the plat. So, yes, so that was our conversation and he was very proud of the fact that that pin wasn't there anymore.

MR. HOLLIDAY: Thank you. I don't have any further questions for you.

THE COURT: You may step town. You can stick around if you like and sit in the jury box or gallery.

MR. HOLLIDAY: We now call Kyle Reid.

MR. PAAVOLA: Your Honor, we have -- we would like to have a discussion about this witness at some point before he testifies.

THE COURT: I am sorry?

MR. PAAVOLA: We would like to have a

discussion at some point about this witness before he testifies.

THE COURT: Sure.

MR. PAAVOLA: Mr. Reid has already testified in the record in his deposition excerpts, so designations. And so we would ask that he not be allowed to testify. It is not anything new that he hasn't testified to already in the record.

MR. HOLLIDAY: That is precisely why I want him here. I'm going to be very narrow with this, except I may cover a little bit of his background with the County just for some brief foundation, although that is in the deposition.

THE COURT: Is that satisfactory, Mr. Paavola?

MR. PAAVOLA: Yes, as long as it is related to something new and his general background, no problem.

THE COURT: Very good.

Thereupon,

KYLE REID

was called as a witness, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOLLIDAY

Q. Good afternoon, Mr. Reid.

A. Good afternoon.

Q. Can you tell me what your job title is?

A. Assistant director of public works for Oconee County.

Q. Okay. Does that entail maintaining Oconee County's roads?

A. Yes, sir.

Q. Can you tell me briefly what your job entails?

A. Maintaining the 660 miles of the road that the County has, reviewing subdivision plans for accuracy to the code of ordinances. Helping with construction projects or engineering questions from other departments, things of that nature.

Q. When did you join the County?

A. July of 2009.

Q. That would be before October 1st of 2009, correct?

A. Yes, sir.

Q. Are you aware of any meeting that occurred with the roads and bridges department?

MR. PAAVOLA: Objection, Your Honor, it is in the transcript already in the record.

THE COURT: What is your response?

MR. HOLLIDAY: I just -- I didn't recall this

portion of my question to have been in there. Are you saying that he --

THE COURT: Direct me to it. Go ahead. Just listen to his question and see if you agree with him or not and renew your objection, please.

BY MR. HOLLIDAY

Q. Are you aware of a meeting in October of 2009 in between the Ratliffs and Oconee County roads and bridges?

MR. PAAVOLA: Yes, Your Honor, we have an objection to that. That is already in the record.

THE COURT: Let him get beyond it.

BY MR. HOLLIDAY

Q. Are you aware of a meeting that occurred in October of 2009 with Oconee County roads and bridges and the Ratliffs?

THE COURT: Go ahead.

A. I'm aware of it by rep -- or by people talking about it happened, but no, I was not involved and do not know the contents of it.

Q. Does the County have any records of it?

A. No.

Q. As the assistant director of roads and bridges, who are your -- what are the job titles of some subordinates of yours?

A. The roads manager is under me. The crew leader is

under him. Which consists of mowing crew, asphalt crew, pipe crew, new construction crew, sign shop, ditches and motor grader crew, and arbor crew.

Q. Would a right-of-way technician be subordinate to you?

A. Yes.

Q. Do you have the authority as the assistant director of roads and bridges to abandon any right-of-ways on behalf of the County?

A. No, no.

Q. Would a subordinate have that right?

A. No.

Q. Would you agree that George Prince Brown's job title in 2009 was right-of-way technician?

A. Yes, he was right-of-way technician when I came.

Q. I believe you testified during your deposition as to the existence of an old road map; is that accurate?

MR. PAAVOLA: Objection, Your Honor, again, he's testified to it in his deposition. It is already available and designated.

MR. HOLLIDAY: We never looked at it in the deposition.

THE COURT: Overruled.

MR. PAAVOLA: We also object -- Globe had the opportunity to ask questions in the deposition as well.

THE COURT: You can make an objection, don't keep jumping up. I am going to overrule the objection.

BY MR. HOLLIDAY

Q. Would you recognize a picture of a historical road map of Oconee County?

A. Possibly.

Q. Are you aware of a historical road map from Oconee County?

A. Yes.

Q. Do you know what it's called?

A. The one that I'm referring to is just -- we call it the champion map. It was a map that was made by the County to encompass and show its road network in 19 -- I believe, by ordinance, in 1982 I believe.

THE COURT: Has that been admitted in evidence?

MR. HOLLIDAY: It has not. But the full map is online. It is on the Oconee County website.

THE COURT: Are you moving it into evidence?

MR. HOLLIDAY: I'll move in a snippet of it here in a minute.

THE COURT: Just do so before you put it on the screen, please.

MR. HOLLIDAY: Okay.

BY MR. HOLLIDAY

Q. Okay. Would you recognize an excerpt of the champion map?

A. Generally, maybe. With the title and the full map, I would, yes, sir.

MR. PAAVOLA: We would object to the excerpt coming in without the full document itself coming into evidence, and we don't have that.

THE COURT: Overruled. Go ahead.

BY MR. HOLLIDAY

Q. Does this appear to be an excerpt of the champion map?

A. Yes, sir, it does.

Q. Does that identify Ellenburg Road on it? Let me rephrase the question. Does Ellenburg Road have a County designated number?

A. Yes.

Q. Do you know what Ellenburg Road's County designated number is?

A. Not off of the top of my head.

Q. Okay. I am going to show you Plaintiffs' 69.

MR. PAAVOLA: Your Honor, we object to this document as well. It's been designated in Mr. Reid's testimony and it is already in evidence and testified to in deposition.

THE COURT: Exhibit 59 has been testified to in deposition.

MR. HOLLIDAY: Sixty-nine.

THE COURT: Sixty-nine?

MR. HOLLIDAY: Correct.

MR. PAAVOLA: Yes, Your Honor.

THE COURT: If he's already testified to it, are you replicating testimony?

MR. HOLLIDAY: No, Your Honor. I don't think so. I mean, I was going to ask him, he provided records and those are referred to here and I was going to ask him a very brief question about that.

THE COURT: I haven't read the deposition, I don't know if it is there or not.

MR. PAAVOLA: He testified at deposition about the records and we designated these documents as part of his testimony in this case. And these exact documents he's testified about already.

BY MR. HOLLIDAY

Q. Do you know -- are you saying that you are unsure of what Oconee County's road number is, or what Ellenburg Road's road number is?

A. Yes, I'm unsure what the number is for the road.

Q. How do you today, without looking at historical maps, how do you determine what is or is not a County road?

A. The County website, there is a road map that has all of the numbers and names of the roads. There is end of County maintenance.

Q. Okay. And is there one that has, it has got a search function built into it?

A. Yes.

Q. Okay. And would you recognize that if you saw that?

A. Yes.

Q. Okay. What does that appear to be?

MR. PAAVOLA: Your Honor, I think that he first has to introduce it if he is going to ask testimony about it.

THE COURT: Sir?

MR. PAAVOLA: He has to first admit it before he asks questions.

MR. HOLLIDAY: I'm laying the foundation as to what it is.

MR. PAAVOLA: He has asked him to identify the document before he can ask questions about it.

THE COURT: Overruled. Go head and lay the foundation.

BY MR. HOLLIDAY

Q. What does this appear to be?

A. This appears to be the road map, the County road

map.

Q. So you exclusively, or you rely on this reference as to show you what is or is not a County road?

A. Yes.

Q. Okay. Can I -- is this printed anywhere, or its all through an app online?

A. Portions of it have been printed over time. But on the online is where we generally go to use it, yes.

Q. Okay.

MR. HOLLIDAY: I would like to introduce that as Defendants' 15. It is three pages.

THE COURT: Any objection?

MR. PAAVOLA: I would like to see it.

(Pause.)

MR. PAAVOLA: Your Honor, no objection, subject to a limited instruction that it has no date on it so it doesn't -- it is not identified by any date, time frame, so we don't know when that was taken.

THE COURT: I think that will be good for cross-examination, but I'll take note of it.

(Whereupon, Defendants' Exhibit No(s). 15 marked for identification and received in evidence.)

BY MR. HOLLIDAY

Q. Okay. I'm showing you Defense 15. Does that show Ellenburg Road?

A. Yes.

Q. What color does Ellenburg Road appear to be on that map?

A. Green.

Q. What does that indicate to you?

A. That it is a County road.

Q. Are they color coded?

A. Yes.

Q. What do the colors mean?

A. By the legend, highway is red, primary is black, secondary is magenta, County is green, City is blue, and yellow is other.

Q. Does the County have any current records, other than this online app that shows County roads, or is that the only holistic source of this information?

A. We have right-of-way records.

Q. But those are incorporated into the app?

A. No, not this app. But there are right-of-way files for various roads. But we don't have anything except for one near the beginning of Ellenburg to my memory.

MR. HOLLIDAY: Your Honor, is there any chance that I can show the Oconee County app?

THE COURT: Have you moved it into evidence?

MR. HOLLIDAY: This excerpt has been.

THE COURT: And it is admitted. Any

objection?

MR. PAAVOLA: Yes, we object to the entire website coming in.

THE COURT: I thought that you said that you didn't object but you wanted to limit the instruction as to there was no date.

MR. PAAVOLA: Yes. The three-page document that Mr. Reid is actually handed, not to the entire website.

THE COURT: Can you limit to what he's holding other than going to the website?

MR. HOLLIDAY: I would like to just really, briefly ask him how this works.

THE COURT: Well, you have got to get it admitted into evidence before you can put it up there, that is the rules. If you want to admit the website, you have to ask him questions.

BY MR. HOLLIDAY

Q. Okay, I'll hand you my computer. Does that appear to be Oconee County's road search website?

A. Yes.

Q. If you wanted to use that website to find a County road, what would you do?

A. Type in the search part on the top left.

Q. Okay. Can you type in Ellenburg for me in the

search bar? Sorry.

A. You have to select it.

(Pause.)

THE WITNESS: I am not sure why it is not populating results. I would just go to the map and I would just -- knowing where it is I would just zoom in to it.

MR. HOLLIDAY: I'm having issues with my computer right now. I will come back to that.

BY MR. HOLLIDAY

Q. Did you ever mow around any boats on Ellenburg Road, or did the County ever mow around boats on Ellenburg Road?

MR. PAAVOLA: Objection, Your Honor. He's already testified to the maintenance and existence or lack thereof during deposition, and that is already in evidence.

THE COURT: If it is in the deposition, let's move on.

MR. HOLLIDAY: I don't know if mowing around boats is in the deposition.

MR. PAAVOLA: Your Honor, he was asked extensively about maintenance on Ellenburg.

THE COURT: Move on.

MR. HOLLIDAY: Okay.

BY MR. HOLLIDAY

Q. Is Ellenburg Road a County road?

MR. PAAVOLA: Your Honor, that same question is asked in the deposition. He has already testified to it and it is already admitted into evidence.

THE COURT: Sustained.

BY MR. HOLLIDAY

Q. On the third page of Exhibit 15, do you see any indication of end of County maintenance?

A. Yes.

Q. How is that described on the third page of Exhibit 15?

A. The magenta triangle.

Q. Okay. And you --

THE COURT: What?

MR. HOLLIDAY: Magenta triangle.

BY MR. HOLLIDAY

Q. And that magenta triangle is approximately where I'm pointing to right here to the right of John's Marine shop?

A. Yes.

Q. And it is over here near the edge of pavement?

A. Yes.

Q. Okay. Have you seen that sign there?

A. Yes.

Q. Have you ever seen any other end of County maintenance sign on Ellenburg Road?

MR. PAAVOLA: Objection, Your Honor, he's asked him, again, in his deposition. He testified about what sign he's seen or where they are located.

THE COURT: Sustained.

BY MR. HOLLIDAY

Q. Is that the only point that you are aware of in Oconee County's records where the end of County maintenance sign is?

A. Yes.

Q. Do you know if there is any document that Oconee County attempted to abandon any portion of Ellenburg Road?

A. No.

Q. Would it take, based on your understanding of roads, would it take an action by the County council to abandon the road?

MR. PAAVOLA: Objection, Your Honor, calls --

THE COURT: Sustained, it is a leading question.

BY MR. HOLLIDAY

Q. Did the County ever intend to abandon any portion of Ellenburg Road?

MR. PAAVOLA: Objection, Your Honor, he can't testify what the County intends to do one way or the

other. He is not able to speak on behalf of Oconee County council.

THE COURT: When you sit there and speak, I cannot hear you for the tenth time. Would you speak up and look at me when you speak, please?

MR. PAAVOLA: Mr. Reid is not able to speak on behalf of Oconee County council in his capacity.

THE COURT: What is your response?

MR. HOLLIDAY: If we are saying that Oconee County council is the one that has to show intent, I'm more than happy with that assertion.

THE COURT: I'll sustain the objection. Move on, please.

BY MR. HOLLIDAY

Q. Are you aware of any document that shows Oconee County's intent to abandon any portion of Ellenburg Road?

A. No, not to my knowledge.

MR. HOLLIDAY: No further questions, Your Honor.

THE COURT: Redirect? Or cross-examination, excuse me?

MR. PAAVOLA: No questions, Your Honor.

THE COURT: You may step down. May he be excused?

MR. HOLLIDAY: Yes, Your Honor.

THE COURT: Thank you, sir.

THE WITNESS: Thank y'all.

MR. HOLLIDAY: At this time, Your Honor, we would like to renew our motion.

THE COURT: Do you rest?

MR. HOLLIDAY: I guess not officially. But I now officially rest.

THE COURT: Okay. You are reviewing your motion for voluntary nonsuit?

MR. HOLLIDAY: I am, Your Honor.

THE COURT: Is there going to be any reply from the Plaintiffs?

MR. PAAVOLA: No, Your Honor, not at this point.

THE COURT: Very good.

MR. HOLLIDAY: I'm guessing that he doesn't want to ask -- sorry, Your Honor, Larry was telling me that Jim still had an opportunity to question.

THE COURT: Sorry. Do you want me to call him back?

MR. LOGAN: I'm sorry.

THE COURT: I am so sorry. You would think that I have never done this before. I am sorry.

MR. LOGAN: No.

THE COURT: Okay. Go ahead and renew your

motion.

MR. HOLLIDAY: Thank you, Your Honor. In addition to what I said earlier, I would like to draw the Court's attention to Bancohio versus Neville, which we gave you either yesterday or Wednesday, which says that if the road is deemed abandoned, it can't be abandoned without the consent of all of the interested parties. Mr. Hamrick has testified now he never consented to the abandonment.

THE COURT: Let me ask you a question while you are looking at that. Under the discontinuation statute, or is this under common law?

MR. HOLLIDAY: That would be under the common law. I mean, we are still of the position that the statute is the only appropriate way.

THE COURT: I understand that. But what are you referring to now?

MR. HOLLIDAY: I'm saying with regards to the law of abandonment, as it comes out of Bancohio versus Neville --

THE COURT: That is common law?

MR. HOLLIDAY: Correct.

THE COURT: Okay.

MR. HOLLIDAY: Correct. But additionally you referenced K & A Acquisition earlier and I wanted to

point out a handful of things about K & A Acquisition that I found important. If you look at the copy that was provided by Plaintiffs' counsel on the middle of Page 5 on the right it says, "The discontinuance of a highway may be evidence of abandonment; however, mere discontinuance is not sufficient to prove abandonment." Because abandonment is its own legal theory. I mean, if you were to look especially at Wessinger versus Goza, you would see that closure, abandonment, nonuse, they are all different things, technically, even though they all sound awfully synonymous.

So it says, "The mere discontinuous is not sufficient proof of abandonment. This conclusion is supported by our case law and our state's statutory scheme governing the procedure required for abandonment." So that supports -- the case by the Plaintiff supports our position that this is a mandatory process. But if it's not, there still has to be clear and convincing evidence of intent to abandon. We just heard from the County that there is no intent to abandon. We heard from Mr. Lee. We heard from Mr. Hamrick who are the adjoining property owner and the soon-to-be property owner, hopefully, that there is no intent for these additional parties, who are necessary parties. Bancohio versus Neville makes that clear.

And that they never consented to this road closure.

And so if you look at the last page of K & A Acquisition in the conclusion, it says, "We conclude the original public easement remained intact until the SCDOT affirmatively abandoned the property. Additionally we hold SCDOT properly conveyed the .42-acre parcel at issue by complying with the statutory requirements of Section 57-5-340 in issuing a valid deed." That is a different mechanism for abandoning a road where the DOT gives you a deed. But in this instance we don't have the County deeding anybody any property.

THE COURT: The County can't deed it, can they, unless they have --

MR. HOLLIDAY: No, I mean, they might be able to give you a quit claim deed, but I would still argue that that is probably not appropriate.

THE COURT: I think the distinction in the case that you are pointing out is that sometimes the County has deeds to underneath the road as opposed to the right-of-way, and there's a distinction that they deal with that. But go ahead.

MR. HOLLIDAY: Right. And so we would just say, in short, the statutory process has not been complied with. And assuming that we are wrong and that

the common law is still a valid way to close a road, we would argue that there's no clear and convincing evidence. As a matter of fact, there is no evidence of intent by the County to close this road.

MR. PAAVOLA: Your Honor, I would just submit that this is for the Court to decide and weigh the evidence before it. So there is no purpose for a directed verdict at this time. And we presented plenty of evidence that can be used on the abandonment issue.

THE COURT: Well, let me ask, at this juncture all of the evidence is in. If I made the decision earlier it would be me weighing the evidence prematurely, in my mind. However, the only thing that I have not looked at are these depositions that are in -- that you have presented to me. In the deposition, I'll start with Plaintiffs, is there information that has to do with these being public roads, or information as to abandonment, or a combination of the two?

MR. PAAVOLA: It's going to be information to do with really all of the above, Your Honor.

THE COURT: Because, let me tell you, I have no intention of going back and reading things about something that I have already read if I don't have to. And I'm glad to read it, and I read a lot. But I have

already found that this is a public road and there is no question in my mind that this was a public road.

The only issue that I have is whether it's been abandoned, and abandoned pursuant to the common law requirements. Because, although the defense disagrees with me, I think that there is two procedures. One can be the statutory procedure to do a discontinuance, or the common law discontinuation. Otherwise it makes no sense for that to continue to be recited in our cases after '62 and as late as 2009. So you would agree with me that there has been no action brought to discontinue the use of this road under the statute?

MR. PAAVOLA: I agree with you, Your Honor.

THE COURT: So you would also agree that this case is solely based on abandonment?

MR. PAAVOLA: At this stage, if they are abandoning their argument for prescriptive easement and just going on dedication.

THE COURT: I am granting your motion on that, subject to your objection.

MR. PAAVOLA: And also if Your Honor has agreed that it is not a State road, and if they have abandoned that argument, then I would say yes to the final argument is on dedication and on abandonment.

So, if the State road argument, again, is no longer in their --

THE COURT: I think that that document shows here, unequivocally, it was not a State road.

MR. PAAVOLA: I agree, Your Honor. So if that is the case, I believe you are right, you are in dedication and looking at abandonment for our side.

THE COURT: Okay. So, with that being said, I don't need to read in these depositions things that say that this is a State road, this is a public road or not a public road. I think that clearly it is a public road and it is a County road. But there is language that has to do with abandonment or, you know, testimony along those lines. Can you direct me there so I don't have to go back and read hundreds of pages that are unnecessary? You don't have to do it right this second, but I am asking, can you?

MR. PAAVOLA: Yes, I can direct you if we file -- I think that it is broken down by sections, not complete sections -- but I could do that, Your Honor.

THE COURT: From the top of your head, and this may be an unfair question. And so I understand that it may be unfair, but can you tell me concisely in the deposition excerpts, or at least your deposition excerpts, what testimony is in there that there has

been an abandonment and evidence in regards to the abandonment?

Evidence that I have been hearing throughout this whole trial, no evidence of maintenance, no evidence of seeing anybody doing anything. Is there any other evidence other than that?

MR. PAAVOLA: Yes, this would be the County's, you know, testimony on those issues, on those maintenance issues.

THE COURT: The County people's testimony?

MR. PAAVOLA: That is right. And their knowledge of the maintenance on our section of Ellenburg Road and the road in total.

THE COURT: Didn't they testify or isn't their some exhibits showing that they allege that they did mowing and some maintenance on some parts of the road?

MR. PAAVOLA: There is -- well, of course they have alleged that. And there is maintenance records that we have submitted to Your Honor. And the closest maintenance record is 565 Ellenburg. There is no records, and they admit that, from 565 to the end. There is extensive testimony about that.

THE COURT: You would agree with that?

MR. HOLLIDAY: I would agree that Plaintiffs'

66 through 70 are the County's records. And I do not believe that there are any records beyond that. But those records are not extensive. Those records only show work orders where work was requested. And interestingly, John Ratliff, the Plaintiffs' father, is one of the people that requests work in one of those work orders, so I mean there are things in the deposition with regards to mowing and sign installations that are not necessarily reflected in Plaintiffs' 66 to 70.

THE COURT: Okay. Let me ask you this: Could you point out to me, this is based on your submission to me, and this is a quote apparently from the K & A Acquisition Group case. It says, "Highway may be extinguished by direct action through government agencies, in which case is said to be discontinued." And that would be -- you would agree that would equate to filing a case in statutory procedures; is that right?

MR. PAAVOLA: It would seem to indicate that.

THE COURT: Sir?

MR. PAAVOLA: It would seem to indicate that, Your Honor.

THE COURT: You are shaking your head no, Mr. Bible?

MR. BIBLE: I don't believe so, Your Honor. I think that a discontinuance can also be shown by a series of facts and circumstances. It does not have to -- that statute that we have talked about is not only dealing with discontinuance, but that statute is also --

THE COURT: Hang on. Let me finish my question so you can be clear on it.

MR. BIBLE: Yes, sir.

THE COURT: Then this is going, "Or by nonuser by the public for a long period of time with the intention to abandon, in which case it is said to be abandoned." So you have the State taking action to discontinue, which I equate to be the statutory action. Or you have got abandonment under the common law. That is what I'm seeing. Do you disagree with that?

MR. BIBLE: Personally, Your Honor, I believe that the statute could be used to seek a discontinuance a public body or an interested party in addition to.

THE COURT: The statute says anyone who is interested can do it.

MR. BIBLE: That is right. Discontinuance, and I think that it also applies to abandonment. I just think that there's two ways to do it.

THE COURT: Well, okay I don't think so, but

that's all right. But here is the critical language that I'm looking at as far as the abandonment goes. This says, An easement created by dedication -- in this case, anybody doubt that is what happens in this case? You have got plats and you have user and maintenance to some degree, which would equal dedication. Does anybody disagree with that? What if I find that is the case and that is what I do with it?

MR. HOLLIDAY: What cases are you in, Your Honor?

THE COURT: What?

MR. HOLLIDAY: What case are you in?

THE COURT: I just quoted it for you a minute ago.

MR. HOLLIDAY: I am sorry, I missed it.

THE COURT: It is K & A, number three in the Plaintiffs' submission.

MR. BIBLE: As far as the dedication, Your Honor, one of the issues that I think is before you in evidence --

THE COURT: Well, if I haven't, I am going to find in this case that there was a dedication by the prior file, plats, and documents predating this '74, and is brought out by Plaintiffs' counsel multiple times in this case which shows a dedication and also

used by the public as well as maintenance by the County in some regard. So, it is a dedication case and abandonment of that dedication case, okay, just to clarify my ruling.

So, going back it says, Easement created by dedication may be abandoned by, quote, unequivocal acts showing a clear intent to abandon. Now could you describe to me precisely the unequivocal act showing a clear intent to abandon?

MR. PAAVOLA: Yes, Your Honor. In this instance, it would be the paving of Ellenburg Road only up to 565. Placement of an end of County maintenance sign. And then, thereafter, you know, forty plus years of no maintenance of our section of property.

MR. BIBLE: In addition to that, Your Honor, at the time that we are talking about the dedication occurring, early back in the deed. The end-use for that dedication was to get to High Falls Church. There is ample testimony on that. That use ceased to exist once the roads were --

THE COURT: I disagree with that. That might have been one of the uses. But it is a road, and it was a circular road. But to say they are only going to the church is just pure speculation, there is no evidence of that at all. It is a dedication case.

Let me ask you this, okay. And I am going to let you go. I mean, I like to grill you guys when I get a chance to. It says, and either one of you, to constitute abandonment the use for which the property is dedicated must become impossible of execution. How, or is there any evidence in the record in this case that this roadway has become impossible for use as a roadway? Because that is what it sounds like to me has to be shown by your submission.

MR. BIBLE: Right, Your Honor. I don't think the evidence requires us to show that the surface itself cannot become anymore usable. I think that gets to my prior point that I was making. Eventually, eventually this pathway led into Arrowhead Pointe and split off. That is the only reason to get -- the only reason that road continued on was to get to High Falls or the other side of what is currently the lake. Any other --

THE COURT: People that would live along that roadway would disagree with you because they like to get back and forth to their house, so I think you are wrong.

MR. BIBLE: But the fee itself gives each person on that strip of road an easement of ingress and egress.

THE COURT: The what?

MR. BIBLE: The fee, the underlying fee when these people were deeded to the center line of the road. That gave -- if we were to put the current parties in past times, say the original parties were the Ratliffs and Globe and Farmes, they both owned to a certain point on that road. The underlying fee itself, regardless of a reference in a deed granting an easement, gives that property owner the ability to traverse that area to get to his personal property.

THE COURT: I think that you are right. I mean, I understand that a reverter from the -- may go back to the original owner to the center of the road, but that doesn't give them unfettered use unless it is a County road there and it is a roadway. Because the other side, the other half of that road, is owned by the Farmes and Globe folks and the other side is not -- it just doesn't make any sense what you are saying.

All right. There is a dedication, regardless of what your experts failed to find, of a public dedication of this roadway before you said there was. How you missed it, I don't know. But I don't hear any evidence that that dedication has been impossible of execution. In fact, the evidence clearly was, over and over again, that the people used it to get to the

marine -- John's Marine, and also the rental marine over there.

So, it is certainly not impossible of execution, because that shows that it is being used. Or, on the other side, the object of the use must wholly fail. And I'm quoting the cases that y'all gave me. So, what evidence is that?

MR. BIBLE: Your Honor, there is also case law.

THE COURT: No, I want you to answer my question, which is: What evidence is in the record that says that this object, which is this right-of-way, has wholly failed? I mean, what evidence is there?

MR. BIBLE: Right. Your Honor, there's no -- if the object is for the public to be able to travel down this road in perpetuity, wherever the road ends, the only people that are going down there -- there is testimony that the only people that are going down there are the private property owners and invitees to the business. And what I was getting at was --

THE COURT: The people getting to the business aren't public?

MR. BIBLE: Right, Your Honor. But that is what I'm looking for. It is in the Bench brief. Forgive me for my absent-mindedness, but there is case

law in the Bench brief indicating that use that arises out of, you know, someone's personal benefit -- in other words, if John's Marine is inviting folks to the property, that itself does not equate to public use. Public use has to be more than recreational, sporadic use. And what we have here, based on the testimony that has been set before you, has been merely sporadic or recreational use. That is what the case law says.

THE COURT: I disagree with you. I think that it's been used by the public. To the extent that people are going down there and using it. You may disagree with me. I just disagree with you. And it says also that generally a mere misuser or nonuser does not constitute abandonment. Dedicated lien . . .

MR. BIBLE: That fact alone, I agree, Your Honor.

THE COURT: Anyway, those are my thoughts on it. I'm not ruling that. I will read -- I would ask counsel, if they would, to give me some more pointed references so I can look towards issues of abandonment without having County road, I have already ruled. If I'm wrong, I'm wrong, okay. But if you can show me in your deposition submissions that I will look at it this weekend. The same thing for you. If you can give me some references to where your documents have to do with

abandonment issues, okay. And I have got your documents here. I need deposition references.

MR. HOLLIDAY: Oh, sorry, I thought that you were talking about case law. You are talking specifically about deposition, okay. And that is specifically as to the issue of abandonment?

THE COURT: Yeah. I mean, abandonment of a dedicated road. And I have looked over everything else you have in here. And with that being said, based on my comments, I'll be glad to give you the floor, Mr. Bible or Mister -- I have been calling your name the whole time.

MR. PAAVOLA: Paavola.

THE COURT: Mr. Paavola, excuse me. If either one of you want to put anything on the record that you think will be helpful or enlightening for me.

MR. BIBLE: Beg the Court's indulgence.

(Pause.)

MR. PAAVOLA: Yeah, your Honor, I think that we have essentially argued our case and made the closing arguments, these arguments here. So, nothing additional. You have heard the testimony of all of our witnesses. So, nothing further, Your Honor.

THE COURT: Anything that you want to put on the record?

MR. HOLLIDAY: No.

THE COURT: Would you address existence or nonexistence of evidence that address -- that goes to the issue that I just asked these gentlemen, and that is under that heading number three, the K & A. Is there any evidence in the record that this dedicated easement, other easement, has become impossible of execution?

MR. HOLLIDAY: Not that I'm aware of, Your Honor. I believe that the people that --

THE COURT: What evidence is in the record that shows the opposite.

MR. LOGAN: No, he is asking --

MR. HOLLIDAY: Oh, I misunderstood your question. I'm sorry. It is not impossible to use this road; it is very possible.

THE COURT: He is answering right.

MR. LOGAN: All right, okay.

THE COURT: You were right. I was asking you if there was evidence showing that there was not impossible execution and you said no. You said there is. That is what I thought I heard you say.

MR. HOLLIDAY: Yeah, yeah, sorry, I guess that I got confused. It is entirely possible to use this road. It was not inundated by Lake Keowee. And

it is not uncommon for County roads to be dedicated and for people to own the fee. I mean, I --

THE COURT: What about Mr. Bible's argument that the purpose of this road entirely was to benefit going to the High Falls Church? Is that your argument?

MR. PAAVOLA: The private property owners on either side allowed it to get to High Falls.

MR. HOLLIDAY: I don't think that he argued the first part of that earlier. I would say that the first purpose of this road is to access property along this road. At the time that it was created I believe the testimony of the parties is that it was a farm road and there was some farms located out there. It is not a road from a store to a church, that is just the description of the road.

It is not that it was solely used for going to that church. It wasn't solely used to go to Knox's store. That is just the legal -- or that is the description that is included in the legal description defining what road we are talking about.

THE COURT: Mr. Logan, I can see you jumping up and down.

MR. LOGAN: No, I just -- as I understand it, you are asking us to submit additional information?

THE COURT: Or just say what evidence is in

the record to support or not support.

MR. LOGAN: Exactly. And we will do that. We will do that.

MR. HOLLIDAY: I think that was how I was starting to answer that question. What evidence is in the record to support the contention that it was abandoned, and I am not aware of any evidence in the record that supports the contention that it was abandoned. I will have to read the depositions again, but I don't think that there is anything in Kyle Reid's deposition that supports that position that the County ever sought to abandon it or took any affirmative act, or through any clear and unequivocal evidence showed an intent to abandon.

MR. LOGAN: Or that it was impossible to use.

THE COURT: Let me ask you, gentlemen, obviously I have given you hard questions and you can see how I'm looking at the case, so I am just being candid with you. But, other than misuse or nonuse and failure to maintain, what evidence in the record supports this dedicated easement is no longer a dedicated easement?

MR. PAAVOLA: I think that we have already stated, Your Honor, what we believe. It was abandonment by: The sign, them paving that one part of

the road, allowing us/our family to undertake the expense to pave it, and maintain it for almost 40 years, and collection of taxes, Your Honor.

THE COURT: I'm not all that convinced that you paved it.

MR. PAAVOLA: Collection of taxes as well, Your Honor.

THE COURT: All right. Guys, thank you. I appreciate your presentation. Mr. Brandt, anything that you want to add? I cut you off at lunchtime today.

MR. BRANDT: No, I'm getting fussed at.

THE COURT: He is still frustrated, y'all. Any chance I get to fuss at you, you fussed at me for so many years.

MR. HOLLIDAY: Is there a certain deadline that you want that by? Is there any way we could push that out into next week and allow us a little bit --

THE COURT: I will be holding court in Beaufort next week, so -- you know, I say that I am going to look at it this weekend, and I am going to look at it as soon as I can, but I just got married and my wife may have other stuff for me to do.

MR. LOGAN: Really.

THE COURT: I'm telling you. You would think

at my age I might know better, or she may. Do you remember the Gallow family, Anna.

MR. LOGAN: Well, congratulations.

THE COURT: I appreciate it. All right.

MR. BRANDT: One thing that I would like to do is see a case cited by Jim.

MR. HOLLIDAY: He finally decided now that he doesn't think that he is going to get fussed at.

MR. BRANDT: Wessinger v. Goza, that case and what they did in that case.

THE COURT: Okay. Go ahead.

MR. BRANDT: Well, what they did was Lexington County, the Court in that case said that even though they hadn't worked it, that anybody could bring an action, basically, to force Lexington County to maintain the road, even if they were not working it. And that is kind of strange when you pack everything together, the whole body of law dealing with these things. You and I look at this case differently, of course.

I think the statute, what it did was it started off with that Goza case. I think that it was '55. Six years later the statute was passed. And then you had Hinson Holdings and you had the body of law that talks about Bancohio v. Neville, and so basically

that one case that says once a public road, always a public road. That was Goza.

THE COURT: That was in the '50s?

MR. BRANDT: Yeah, and so I think that Goza kind of negates the duty of the County to still maintain the roadway because it gives room in that decision for the -- anybody to bring an action against the County to say, you are not maintaining the roadway, maintain it. Well, if lack of maintenance is abandonment and they -- if abandonment is complete, how do they have a right to go back in there?

THE COURT: I think it is probably an element of abandonment myself, but let me ask you a question: If you and your side has presented repeatedly that you think that the only way to close this road is by the statutory procedure and the common law doesn't count, that that is no longer a way to really --

MR. BRANDT: That is really my honest belief.

THE COURT: I know it is. I know it is. I mean, why would they continue 40, 50 years later, continue to reference common law abandonment and standards that must be met if it is not good since 1962? That makes absolutely no sense.

MR. BRANDT: Now, obviously some of those cases and reasoning in there, you know, I don't agree

with either.

THE COURT: There you go.

MR. BIBLE: We like that.

MR. LOGAN: Do you have a copy of Goza?

THE COURT: Sir?

MR. LOGAN: Do you have a copy of Goza, the case that he's been talking about?

MR. BRANDT: I think that you do. I handed up cases to your clerk and it should be in there.

THE COURT: He says that we have it.

MR. LOGAN: Okay, great.

THE COURT: Guys, if there is anything, talk to my law clerk. I don't care if you want to write me a memo or something, you don't have to. If you want to give me something, just tell me. But point me to those cites, if you would, to help me get to them faster. Thank you, guys. Take care.

(Proceedings adjourned.)

THE COURT: All right. Go ahead. We are back on the record. You said that we needed to, Mr. Holliday.

MR. HOLLIDAY: We realized when we were looking, after your instruction to pull more information from the depositions, that neither Plaintiffs' or Defendants' depositions and exhibits and

designations ever actually made it into the record and got marked. Or, I believe, that maybe Plaintiffs' exhibits are marked.

THE COURT: Can you supplement those and I will let you do it next week? Or are y'all ready to do it right now?

MR. HOLLIDAY: Yeah, we are ready.

THE COURT: Okay.

MR. HOLLIDAY: So we just need to have those marked. And I guess you go first.

MR. PAAVOLA: Okay. So, madam court reporter, I had in my records that we had actually marked Plaintiffs' exhibits, our depositions as 84, we just never put a sticker on it.

(Whereupon, Plaintiffs' Exhibit No(s). 84 marked for identification and received in evidence.)

MR. PAAVOLA: And then the Plaintiffs' exhibits to Mr. Henderson's deposition we were going to mark as 85, or did.

(Whereupon, Plaintiffs' Exhibit No(s). 85 marked for identification and received in evidence.)

MR. PAAVOLA: And then we will just do 86. We have E-filed the Plaintiffs designations for Oconee County. And I have a hard copy here that we can mark for the Court as Plaintiffs' Exhibit 86.

And then we also, E-filed Plaintiffs' designations of Michael Henderson. And I have brought a hard copy that we can mark as Exhibit 87, so 86 and 87.

MR. HOLLIDAY: No objection.

(Whereupon, Plaintiffs' Exhibit No(s). 86-87 marked for identification and received in evidence.)

MR. HOLLIDAY: Okay, we have one red notebook which is -- all right. There was a second series of exhibits from Oconee County's deposition which should start at No. 8 and I can't find them. Did you get them?

(Off-the-record discussion.)

MR. HOLLIDAY: So now I'm putting a red binder of deposition excerpts, which is Oconee County and Henderson, and the associated exhibits that we referenced, in as Defendants' 16.

(Whereupon, Defendants' Exhibit No(s). 16 marked for identification and received in evidence.)

MR. BIBLE: Subject to the objections that the Plaintiffs have made on counter designations for hearsay purposes.

THE COURT: Absolutely.

MR. BIBLE: That is filed, of record.

THE COURT: Yes, sir. Thank you, sir.

Anything else that you need?

MR. BIBLE: I don't think so.

THE COURT: Okay. Off the record now for defense too?

MR. HOLLIDAY: I think so, Your Honor.

THE COURT: Y'all have a good one.

(Proceedings concluded.)

CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF OCONEE:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 13th day of February, 2025.

Mona L. Manley /s/

MONA L. MANLEY
Official South Carolina Court Reporter
Circuit Reporter for the 10th Circuit
(850) 893-6662
mmanley@sccourts.org

ELECTRONICALLY FILED - 2024 Jun 17 10:55 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

STATE OF SOUTH CAROLINA COUNTY OF OCONEE Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Plaintiffs, v. Oconee County, Globe, A South Carolina Limited Partnership, Farmes, A South Carolina Limited Partnership, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE TENTH JUDICIAL CIRCUIT Case No. 2022-CP-37-00447 **PLAINTIFFS' OBJECTIONS TO DEFENDANTS' DESIGNATIONS OF OCONEE COUNTY 30(b)(6)**

Plaintiffs object to the following deposition designations of Oconee County's 30(b)(6) Deposition by Defendants as hearsay:

155:3-18; 23-25

159:9-160:16

161:2-16

172:2-175:5

176:4-23

178:19-180:15

181:16-182:14

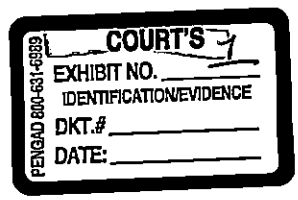
182:23-184:13

185:12-23

190:15-191:11

200:4-201:14

202:21-203:4



203:15-204:7

206:11-207:21

232:19-24

Respectfully submitted,

s/ David L. Paavola
David L. Paavola (S.C. Bar No. 100714)
Mark A. Bible, Jr. (S.C. Bar No. 101624)
Kenison, Dudley & Crawford, LLC
1122-B Barnwell Street
Columbia, South Carolina 29201
Office: (864) 242-4899
Email: paavola@conlaw.com
Counsel for Plaintiffs

June 13, 2024
Columbia, SC

ELECTRONICALLY FILED - 2024 Jun 17 10:55 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

ELECTRONICALLY FILED - 2024 Jun 17 10:55 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

MINUTES
TRANSPORTATION COMMITTEE MEETING
August 25, 2009
COMMITTEE MEMBERS
Mr. Joel Thrift, District IV, Chairman
Mr. Wayne McCall, District II

No Recording of this meeting was made.

The Transportation Committee met Tuesday, August 25, 2009 at 5:30 p.m. in the Conference Room, Oconee Administrative Offices, 415 South Pine Street, Walhalla, SC with all members present & Elizabeth G. Hulse, Clerk to Council present.

Other Council Members Present: Mr. Reg Dexter

Press:

Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeese.com/council]. In addition it was made available to the newspapers, radio stations, television stations and concerned citizens.

Member of the press present: Carlos Galarza – Daily Journal

Call to Order:

Chairman Thrift called the meeting to order at 5:34 p.m.

Approval of Minutes:

Mr. McCall made a motion, seconded by Mr. Thrift, approved 2 – 0 to approve the minutes from the June 23, 2009 Committee meeting as presented.

Mr. McCall made a motion, seconded by Mr. Thrift, approved 2 – 0 to approve the minutes from the June 30, 2009 Committee meeting as presented.

Introduction of Roads & Bridges Staff Present:

Mr. Mack Kelly, Roads & Bridges Director introduced staff present from his department to include:

- Ms. Dale Owens / Engineering Technician
- Mr. Kyle Reid / Assistant Roads & Bridges Manager
- Mr. Prince Brown / Right of Way Technician
- Mr. Larry Harden / Roads & Bridges Manager

Discussion of Roles & Responsibilities:

Mr. Thrift reviewed with the Committee and those present the Roles & Responsibilities presented. A vote to adopt these will be taken at the next meeting of the Committee.

COURT'S EXHIBIT NO. 21
IDENTIFICATION/EVIDENCE
DKT.#
DATE:
PENGAD 800-631-6989

Discussion of and Request for Approval of Proposed Agenda Format:

Mr. Kelly addressed the Committee noting that he had worked with the Clerk to Council to develop the proposed format. Discussion followed.

Mr. McCall made a motion, seconded by Mr. Thrift, approved 2 – 0 to approve the agenda format as presented.

Discussion of Frequent Concerns:

Mr. Kelly presented a list of current Frequent Concerns and issues encountered by his department and current response. Discussion followed.

Mr. Thrift made a motion, seconded by Mr. McCall, approved 2 – 0 to direct the Roads & Bridges Director to work with the County Attorney to draft an ordinance or policy regarding failing driveway aprons and pipes stating that after one year it will be the financial responsibility of the property owner to fix or replace an apron or pipe.

2010 / Sign Inventory: Mr. Kelly also discussed an issue that would impact his department in the future which will require a complete sign inventory by 2010. He stated that the inventory will have to include the type of sign, location, current condition and reflectivity. The Department will also be required to replace all signs maintained by the County on a 7-10 year cycle regardless of the signs condition [current inventory +1,200 signs / current replacement value +/- $585,000]. He noted that the financial impact is unknown at present and future discussion will need to take place.

Approval of Forms:

Application for Consideration of Acceptance of Private Road into County System for Maintenance: Mr. Kelly reviewed with the Committee the form to be utilized by the Roads Department, Clerk to Council and additionally posted on the Council's Committee website for citizens to reference and complete when they desire to have a road or roads considered by the County for acceptance into the road system for maintenance. Discussion followed.

Mr. McCall made a motion, seconded by Mr. Thrift, approved 2 – 0 to approve use of the form as presented.

Application to Request to Appear at Transportation Committee Meeting: Mr. Kelly reviewed with the Committee the form to be utilized by the Clerk to Council [to be posted on the Council's Committee website] when either a department or citizen requests to appear before the Transportation Committee. Discussion followed.

Mr. McCall made a motion, seconded by Mr. Thrift, approved 2 – 0 to approve use of the form as presented.

Discussion regarding Local Attorney Attendance at Meetings:

Mr. Thrift made a motion, seconded by Mr. McCall, approved 2 - 0 to ask the local attorney to attend meetings on a case by case basis.

Ongoing Project Status / Staff Report:

Road Improvement Project Schedule & Calendar:

Mr. Kelly reviewed with the Committee the proposed paving project schedule. Discussion followed. Council approved in concept the schedule; adjustments to the scheduled may be made based on department needs.

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Discussion of "C" Funds:

There was a brief unscheduled discussion of "C" funds. Mr. Thrift asked the Roads & Bridges Director to obtain [if available] a current Oconee County balance.

Project Status Report:

Mr. Kelly reviewed with the Committee a Project Status Report [filed with these minutes] regarding the following key areas:

- **Coneross Point Subdivision Sign Agreement**: Mr. Thrift made a motion, seconded by Mr. McCall, approved 2 – 0 to authorize Mr. Kelly to write a letter to the POA outlining a timeline for removal of their signs and posts and installation of county signs and posts. Additionally, the Committee directed Mr. Kelly to work with the County Attorney to draft a template sign agreement for future use by the Roads & Bridges Department.
- **Merry Branch Road:** Mr. Kelly noted that Mr. Martin contacted Mr. Wells representative stating that the County will maintain this road to the previously identified end of county maintenance – no further action required.
- **Cedar Creek Lane**: Mr. Kelly noted that the application has been provided to the citizens – no further action required.
- **Bennettsville Road** *[this issue was unresolved and will be scheduled for further discussion at an upcoming Transportation Committee meeting]*
- **Jenkins Bridge** *[this issue was unresolved and will be scheduled for further discussion at an upcoming Transportation Committee meeting]*
- Special Projects Completed: Accepted as information.
- Special Projects Assigned: Accepted as information.

Old Business: None discussed at this meeting.

New Business:

High Pointe Road: Mr. Thrift notified the Committee that he was in receipt of a letter signed by the residents [filed with these minutes] of this road stating their request that the County abandon the road back to the citizens for ongoing maintenance.

Mr. Thrift made a motion, seconded by Mr. McCall, approved 2 – 0 to instruct Mr. Kelly to work with and notify the citizens that the County is willing to abandon the roadway.

Cooper Road: Mr. Kelly reviewed with the Committee structural issues that make it impossible for the Road Department to install either a guardrail or guide wire along a portion of this roadway. Discussion followed.

Road Improvement List [Proposed] & City of Seneca Sewer Upgrade Project: Mr. Kelly provided member of the Committee [copy filed with these minutes] with a listing of proposed road improvement. Discussion of this issue was deferred to the next meeting.

Adjourn:

Mr. McCall made a motion, seconded by Mr. Thrift, approved unanimously to adjourn at 7:03 p.m.

Respectfully Submitted:

_____

Elizabeth G. Hulse, Clerk to Council

DEED BOOK 6-I

J. J.Younce

TO

T. B. Ellenburg

12

OCONEE COUNTY

CONVEYANCE TO 66 Acres, Keowee School Dist.

THE STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

KNOW ALL MEN BY THESE PRESENTS:

That I, J. J. Younce, formerly of Oconee County

In the State aforesaid, for and in consideration of the sum of Eighteen hundred Dollars to me in hand paid at and before the sealing of these Presents by T.B.Ellenburg (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said T.B.Ellenburg, and his heirs and assigns

All that piece, parcel or lot of land in Township, Oconee County, State of South Carolina, and Keowee School District, containing sixty six (66) acres, more or less, bounded by lands of Eugene Kelly, Fred Kaiser, Larkin Mayfield and others.

The above described land is the same conveyed to me by Fed ral Land Bank on the 2nd day of July, 1936, deed recorded in office Register of Mesne Conveyance for Oconee County, in Book 4-P, Page 166.

CERTIFIED TRUE COPY
Register of Deeds
Oconee County, S.C.
By:
Date: 5-24-2024

TOGETHER with all and singular, the Rights, Members, Hereditaments and appurtenances to the said Premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises mentioned unto the said T.B. Ellenburg and his Heirs and Assigns forever.

PLAINTIFF'S EXHIBIT 1

ELECTRONICALLY FILED - 2024 May 29 AM 09:05 - OCONEE - COMMON PLEAS - CASE#2024CP3700467 - PAGE 7 OF 8

And I do hereby bind myself and my Heirs, Executors, and Administrators, to warrant and forever defend, all and singular, the said premises unto the said T. B. Ellenburg and his Heirs and Assigns, against me and my Heirs, and against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

WITNESS my hand and seal this 12th day of September in the year of our Lord one thousand nine hundred and fifty and in the one hundred and seventy fifth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the Presence of: $4.00 State Stamps & $2.20 Federal.

Suzanne C. Alexander
R. Lee Wilson

J. J. Younce (SEAL)
(SEAL)

THE STATE OF SOUTH CAROLINA,
County of Oconee

Personally appeared before me Suzanne C. Alexander and made oath that she saw the within named J. J. Younce sign, seal, and as his act and deed, deliver the within written Deed; that she, with R. Lee Wilson witnessed the execution thereof.

SWORN to before me, this 12th day of September, A. D. 19 50
Suzanne C. Alexander (Seal)
Notary Public for S. C.

R. Lee Wilson

THE STATE OF SOUTH CAROLINA,
County of Oconee

RENUNCIATION OF DOWER

I, R. Lee Wilson, a Notary Public for S. C.

do hereby certify unto all whom it may concern, that Mrs. Etta Younce the wife of the within named J. J. Younce did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within named T. B. Ellenburg and his Heirs and Assigns, all her interest and estate, and also her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my hand and seal, this 12th day of September, A. D. 19 50
R. Lee Wilson (Seal)
Notary Public for S. C.

Etta Younce

Recorded this 13th day of September, 1950, and certified.

Claude Burdette
C. C. P. & G. S.

R-001432

RATLIFF 000468

9.

The State of South Carolina,
County of Oconee

Keowee Courier Job Prin
Walhalla, S. C.

1 Acre, Keowee Dist.

KNOW ALL MEN BY THESE PRESENTS, That I, T. B. Ellenberg

in the State aforesaid, in consideration of the sum of

Two Hundred ($200.00 DOLLA

to me in hand paid at and before the sealing of these presents

Helen B. Pinion and James L. Pinion

(this receipt whereof is hereby acknowledged), have granted, bargained, sold and released and by these prese

do grant, bargain, sell and release unto the said Helen B. Pinion and James L. Pinion

All that certain piece, parcel or lot of land containing One (1) acre, situate, lyin

and being in Keowee School District, Oconee County, S. C., lying on the east side o

a public road, and fronting on said road one hundred ten (210) feet and running back

in parallel lines two hundred and ten (210) feet, bounded on the north and east by

lands of T. B. Ellenberg, on the south by lands of Eugene Kelley and on the west by t

said public road. This is the same lot of land conveyed to me by N. A. Dodgens by dee

dated December 27, 1957 and recorded in the office of the Clerk of Court for Oconee

County in Deed Book Y-N, at page 19.

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3704477

PLAINTIFF'S EXHIBIT 2

Helen B. Pinion and James L. Pinion and their

RATLIFF 000472

heirs and assigns forever.

And I do hereby bind myself and my heirs, executors and administrators, to warrant and forever defend all and singular the said Premises unto the said Helen B. Pinion and James L. Pinion and their heirs and assigns from and against ____ and ____ heirs, executors, administrators and assigns and every person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITNESS MY HAND ____ and Seal ____ this 30th day of March in the year of our Lord one thousand nine hundred and sixty two, and in the one hundred and ____ year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the presence of

R. Lee Wilson

Angie Fricks

T. B Ellenburg (SEAL)

(SEAL)

The State of South Carolina,
County of Oconee

Personally appeared before me R. Lee Wilson and made oath that he saw the within named T. B. Ellenberg sign, seal, and as his act and deed, deliver the within written Deed, and that he with Angie Fricks witnessed the execution thereof.

Sworn to before me this 30th day of March, A. D. 1962

Angie Fricks (SEAL)
Notary Public for S. C.

R. Lee Wilson

RECORDED 4 DAY OF Apr. 1962
ROY D. HARDEN, C. C. P. & G. S.
OCONEE COUNTY, S. C.

The State of South Carolina,
County of Oconee

Renunciation of Dower

I, L. J. Powell, Jr., Notary Public for S. C. do hereby certify unto all whom it may concern, that Mrs. Lillian Ellenberg wife of the within named T. B. Ellenberg did this day appear before me, and upon being privately and separately examined by me, did declare that she ____ and without any compulsion, dread or fear of any person or persons whomsoever,

R-001434

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

TITLE TO REAL ESTATE

STATE OF SOUTH CAROLINA

Oconee COUNTY

188

Lot in Keowee Dist.

Know All Men By These Presents, That I, T.B. Ellenburg

in the State aforesaid, for and in consideration of the sum of Five Dollars and Love and Affection for My Son and Daughter -in-t Law to me paid by Jerry and Fay R. Ellenburg in the State aforesaid (Receipt of which is hereby acknowledged)

have granted, bargained, sold and released, and by these presents do grant, sell and release unto the said Jerry and Fay R. Ellenburg, Their Heirs and Assigns Forever;

All that part, parcel or lot of land with improvements thereon, situate, lying and being in the county of Oconee, state of South Carolina

Beginning at an iron stake on the south side of an unnamed paved road, said stake being on the western land line of land of Mayfield. Said land line of Mayfield being .4 mile east of the intersection of Highway 183 and the aforementioned unnamed paved road. Said intersection being 5.8 miles north of the intersection of Highway 183 and Highway 170 Said intersection being 24 miles north of Greenville, S.C. Running from said stake in a southerly direction along the land line of Mayfield 270 feet to an iron stake thence running in a westerly direction 20 feet to an iron stake thence running in a northwesterly direction 270 feet to an iron stake on the south side of said unnamed paved road thence, running along the south side of said road in an easterly direction 270 feet to the point of the beginning. Being a portion of that certain tract of land conveyed to T.B. Ellenburg by deed of J.J. Younce dated the 12th day of September, 1950 and recorded in the office of the Clerk of Court for Oconee County in Deed Book 6 I at Page 182.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said

Jerry and Fay R. Ellenburg, Their

Heirs and Assigns forever.

And I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said

Jerry and Fay R. Ellenburg, Their

Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my Hand and Seal this 10th day of April in the year of our Lord one thousand nine hundred and Sixty-three and in the one hundred and eighty-seventh year of the Sovereignty and Independence of the United States of Ame

SIGNED, SEALED AND DELIVERED IN THE PRESENT OF

Paul E. McGuire

Mary L. Kinsman

T B Ellenburg (SEAL)

T.B. Ellenburg

PLAINTIFF'S EXHIBIT 3

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

STATE OF SOUTH CAROLINA,
Oconee COUNTY,

Personally appeared before me Paul S. Wagner
and made oath that he saw the within-named T. B. Ellenburg
sign, seal and, as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and
that he , with Mary F. Ramsay witnessed the execution thereof.

SWORN to before me this 10th
day of April , 1963

Mary F. Ramsay (L. S.)
Notary Public of S.C.
My Commission Expires at the pleasure of the Governor.

Paul S. Wagner

Oconee COUNTY,
STATE OF SOUTH CAROLINA,

RENUNCIATION OF DOWER

I, Mary F. Ramsay, Notary Public for South Carolina , do hereby certify
unto all whom it may concern, that Mrs. Lillian Ellenburg
the wife of the within-named T. B. Ellenburg
did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named

heirs

Jerry Ellenburg and wife, Fay R. Ellenburg, their

and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this 10th
day of April
Anno Domini 1963

Mary F. Ramsay (L. S.)
Notary Public for S.C.
My Commission Expires at the pleasure of the Governor.

Lillian Ellenburg

RECORDED 8 DAY OF May AD 63
ROY D. HARDEN, C. C. P. & G. S.
OCONEE COUNTY, S. C.

Mail To:
Modern Homes Construction Co.
P. O. Box 278
West Columbia, South Carolina

Carolina

e, Fay R. Ellenburg

ESTATE

thin Deed was filed
25 A. M o'clock
of May
ly entered upon the
ded in Book 8-Z

Pleas and General
County,

ithin Deed has been
May , A.D.
ok L, of

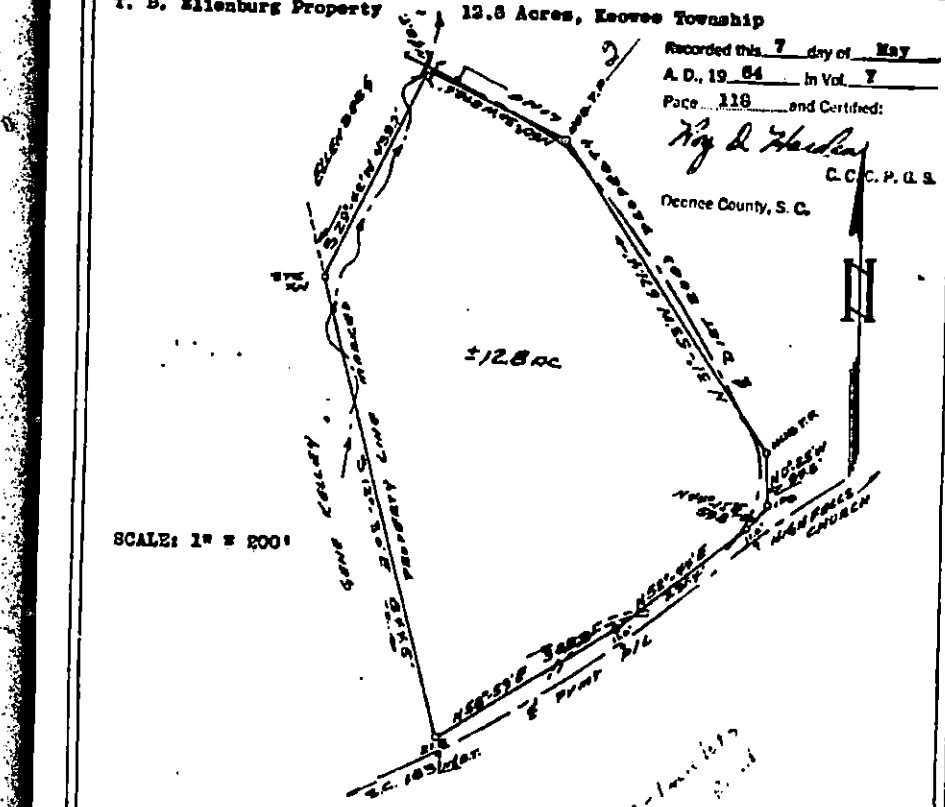
Auditor
County

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

INFI

T. B. Ellenburg Property - 12.8 Acres, Keowee Township

Recorded this 7 day of May
A. D., 19 64 in Vol. Y
Page 118 and Certified:
Reg D. Hendrix
C. C. C. P. & S.
Oconee County, S. C.



SOUTH CAROLINA
OCONEE COUNTY

PROPERTY OF T.B. ELLENBERG, A PART OF #8 OF THE GERMAN LANDS IN THE FALLS TRACT. FORMER WHIT KNOX PROPERTY.

February 8, 1964

John B. Earle
S.C. Reg. L.S. 2721

CERTIFIED TRUE COPY
Register of Deeds
Oconee County, S.C.
By:
Date: 5-22-2024

PLAINTIFF'S EXHIBIT 4

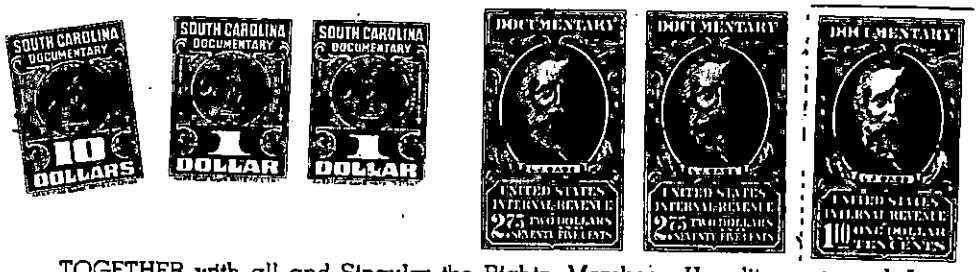
State of South Carolina
COUNTY OF ~~ANDERSON~~ OCONEE

TITLE TO REAL ESTATE
51.2 Acres, Keowee Township

214

KNOW ALL MEN BY THESE PRESENTS That I, T. B. Ellenburg, of the County of Oconee, ---------- in the State aforesaid, in consideration of the sum of Five thousand nine hundred twenty and 00/100 ($5,920.00) ---------- Dollars, to me in hand paid at and before the sealing of these presents by South Carolina Land & Timber Corp., ---------- (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said South Carolina Land & Timber Corp., its Successors and Assigns forever:

ALL that piece, parcel or tract of land situate, lying and being in Keowee Township, County of Oconee, State of South Carolina, containing 51.2 acres more or less. The tract of land herein conveyed is all of a tract containing 66 acres more or less conveyed to the grantor by deed of J. J. Younce dated September 12, 1950, of record in the office of the Clerk of Court for Oconee County in Deed Book 6-I, at page 182, less two one-acre lots heretofore conveyed by the grantor to Helen E. Pinion and James L. Pinion by deed recorded in said Clerk's office in Deed Book 8-Q, at page 366, and to Jerry and Faye R. Ellenburg by deed recorded in said Clerk's office in Deed Book 8-Z, at page 188, and less 12.8 acres more or less retained by the grantor which 12.8 acre tract is more particularly shown on a plat made by John B. Earle, S. C. Reg. L. S. #2721, dated February 8, 1964, and recorded in said Clerk's office in Plat Book Y, at page 118.



Register of Deeds
Oconee County, S.C.
By:
Date:

TOGETHER with all and Singular the Rights, Members, Hereditaments and Appurtenances to the said premises Belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the said South Carolina Land & Timber Corp., its Successors ---------- Heirs and Assigns forever. And I do hereby bind myself and my Heirs, Executors and Administrators to warrant and forever defend all and singular the said premises unto the said South Carolina Land & Timber Corp., its Successors ----------~~xxxx~~ Heirs and Assigns against me and my Heirs and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Witness my hand and seal this 7th day of May in the year of our Lord One Thousand Nine Hundred and Sixty-four and in the One Hundred and Eighty-eighth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the Presence of:

T. B Ellenburg (Seal)

Robert L. Waldrep Jr. (Seal)

Angie Fricks (Seal)

PLAINTIFF'S EXHIBIT 5

STATE OF SOUTH CAROLINA,
COUNTY OF ~~ANDERSON~~ OCONEE

Personally appeared before me Angie Fricks and made oath that she saw the within named T. B. Ellenburg sign, seal and as his act and deed deliver the within written deed, and that she, with Robert L. Waldrep, Jr. witnessed the execution thereof.

Sworn to before me this 7th day of May, A. D., 19 64

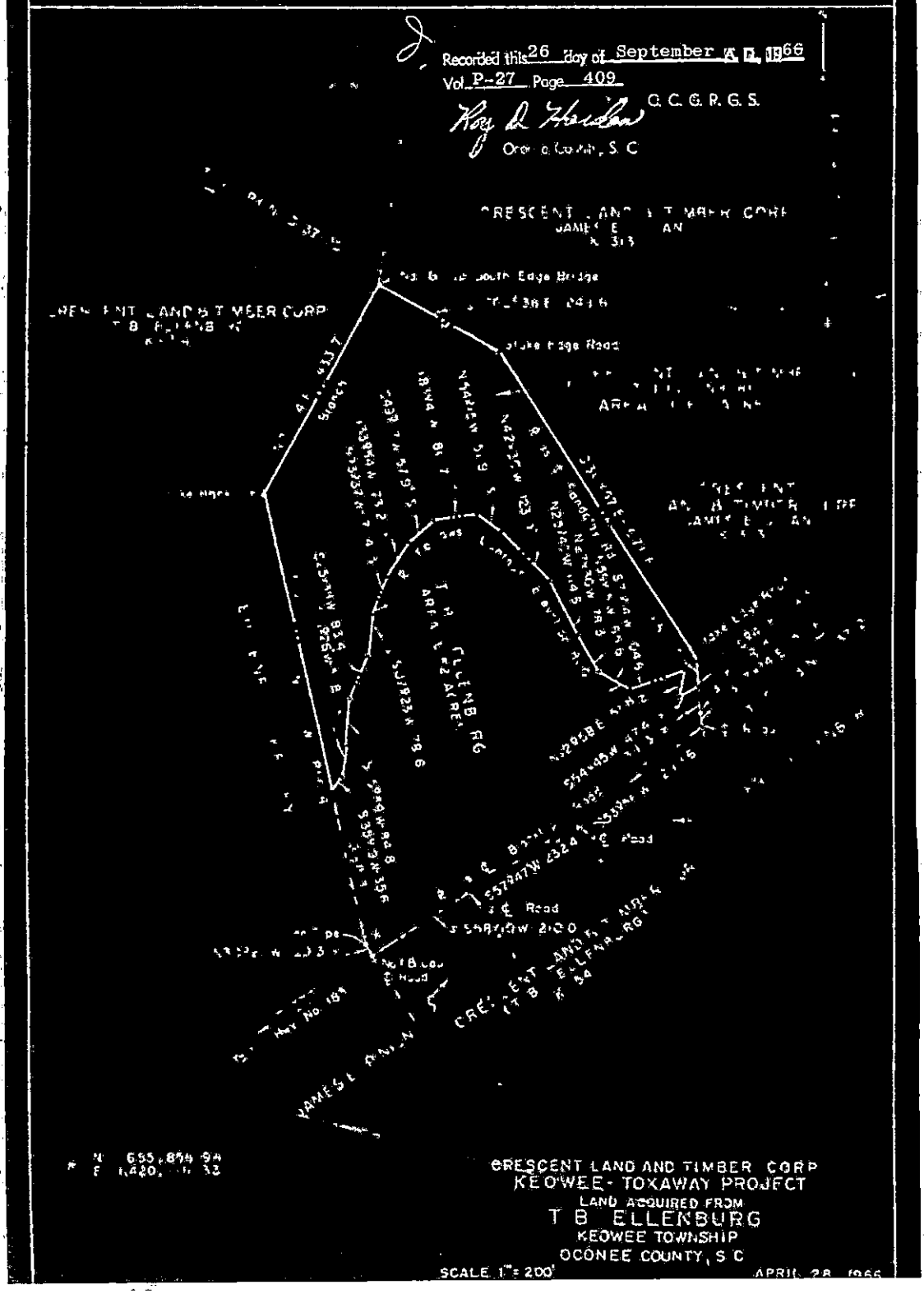
Robert L. Waldrep Jr. (Seal)
Notary Public for South Carolina

Angie Fricks

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3702147

T. B. Ellenburg To Crescent Land & Timber Corp.. 6.52(Acres, Keowee T/S
See Deed Book 9-Y, Page 349.

Recorded this 26 day of September A. D. 1966
Vol. P-27 Page 409
Roy D. Hendricks C. C. G. R. G. S.
Oconee County, S. C



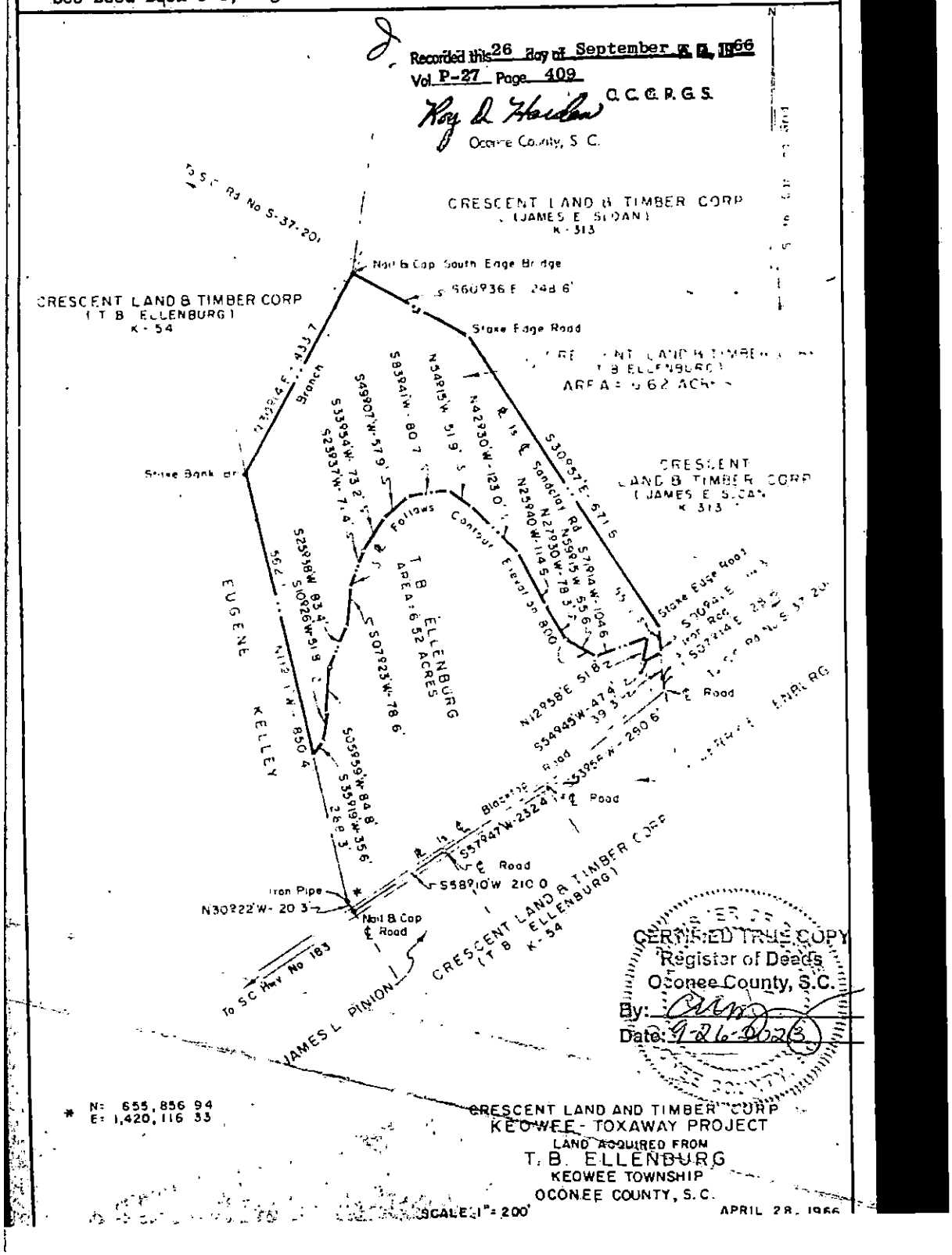
PLAINTIFF'S EXHIBIT 6

RATLIFF 000411
R-001439

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

T. B. Ellenburg To Crescent Land & Timber Corp.. 6.52 Acres, Keowee T/S
See Deed Bqbk 9-Y, Page 349.

Recorded this 26 day of September A. D. 1966
Vol P-27 Page 409 O.C.C.P.R.S.
Roy D. Hawkins
Oconee County, S. C.



CERTIFIED TRUE COPY
Register of Deeds
Oconee County, S.C.
By:
Date: 9-26-2023

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

ELECTRONICALLY FILED - 2024-Jun-17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

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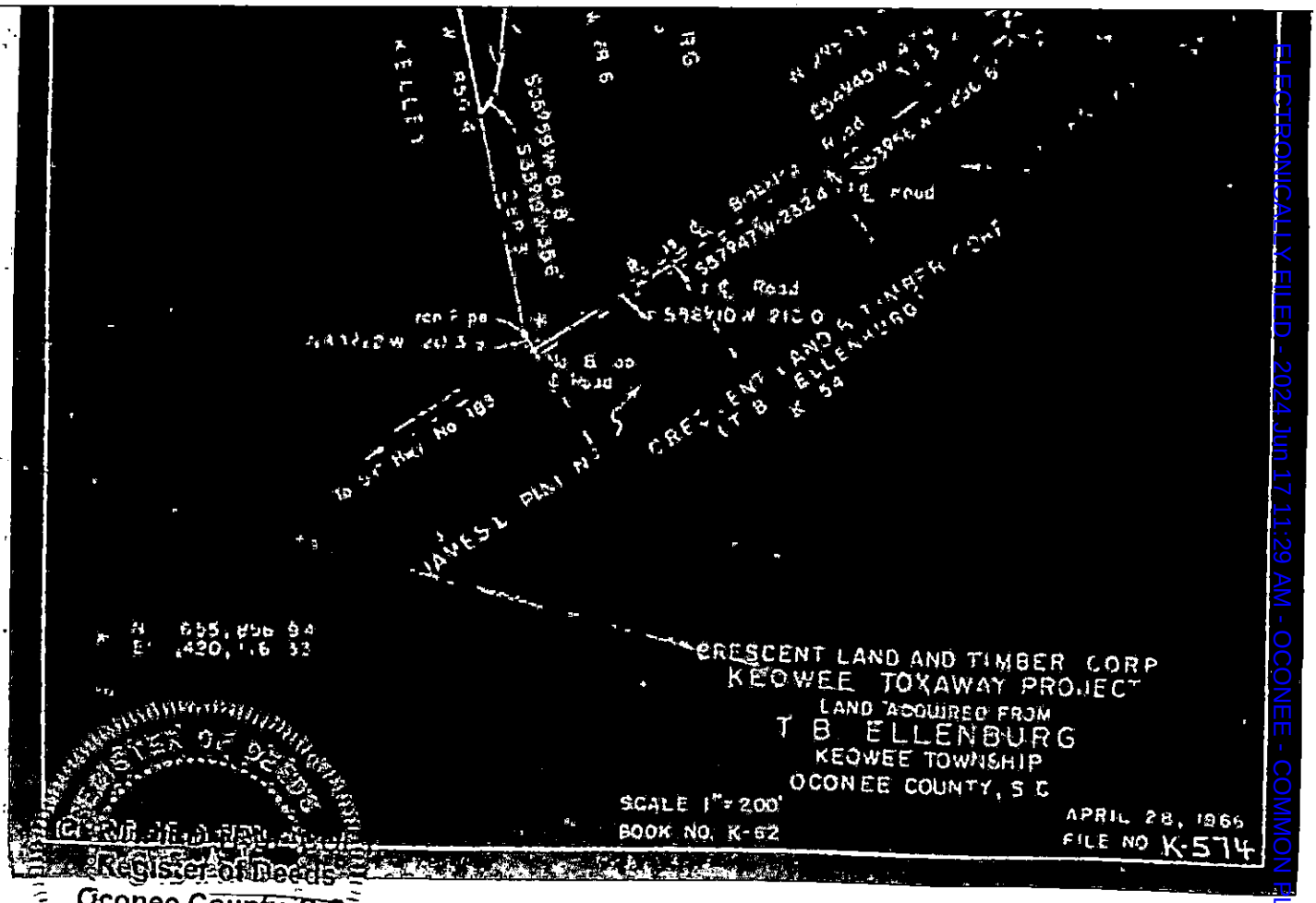
T. B. Ellenburg To Crescent Land & Timber Corp.. 6.52 Acres, Keowee T/S
See Deed Book 9-Y, Page 349.

Recorded this 26 day of September A. D. 1966
Vol P-27 Page 456
O. C. C. R. G. S.
Oconee S. C



Register of Deeds
Oconee County, S.C.
By:
Date: 5-24-2024

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

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PLAINTIFF'S EXHIBIT 7

RATLIFF 000476

STATE OF SOUTH CAROLINA)
:
COUNTY OF OCONEE)

6.52 Acres, Keowee Township

349

KNOW ALL MEN BY THESE PRESENTS that T. B. ELLENBURG

hereinafter called "Grantor", in consideration of the sum of Ten ($10.00) Dollars and other good and valuable considerations to Grantor in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto CRESCENT LAND & TIMBER CORP., a corporation organized under the laws of the State of South Carolina, hereinafter called "Grantee", all that certain tract of land lying and being in Keowee Township, Oconee County, South Carolina, more particularly described as follows:

BEGINNING at the intersection of the center line of South Carolina Road No. S-37-201 and the southeasterly edge of a bridge and runs thence S 60-36 E 248.6 ft.; thence S 30-57 E 671.6 ft.; thence S 00-41 E 55.0 ft.; thence the following courses and distances with contour at elevation 800 feet above mean sea level, U.S.G.S. datum: S 54-45 W 47.4 ft.; S 12-58 E 51.8 ft.; S 71-14 W 104.6 ft.; N 59-15 W 65.6 ft.; N 27-30 W 78.3 ft.; N 25-40 W 114.6 ft.; N 42-30 W 123.0 ft.; N 54-15 W 51.9 ft.; S 83-41 W 80.7 ft.; S 49-07 W 57.9 ft.; S 33-54 W 73.2 ft.; S 23-37 W 71.4 ft.; S 07-23 W 78.6 ft.; S 25-38 W 83.4 ft.; S 05-59 W 84.8 ft.; S 10-26 W 51.8 ft.; S 35-19 W 35.6 ft. to a point in the easterly line of the Eugene Kelley property; thence with the easterly line of said property N 11-11 W 562.1 ft.; thence with the southeasterly line of Crescent Land & Timber Corp. (formerly T. B. Ellenburg) property N 30-14 E 433.7 ft. to the BEGINNING, containing 6.52 acres as shown on print dated April 28, 1966, marked File No. K-574, a copy of which is attached hereto and made a part hereof, and being a part of the property conveyed to Grantor by Deed of J. J. Younce, dated September 12, 1950, and recorded in Book 6-I, page 182 in the Oconee County Registry.

R-001443

See Plat Book P-27, Page 409

SOUTH CAROLINA DOCUMENTARY SOUTH CAROLINA DOCUMENTARY SOUTH CAROLINA DOCUMENTARY SOUTH CAROLINA DOCUMENTARY DOCUMENTARY DOCUMENTARY

CERTI
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By:

And for the consideration above set out, Grantor hereby grants, s, sells and releases unto Grantee, its successors and assigns, the owing rights, privileges and easements:

The right, privilege and easement of backing, ponding, raising, flooding or diverting the waters of the Keowee River and its tributaries in, over, upon, through or away from any portion of the lands of the Grantor not conveyed in fee by this instrument, lying below elevation 810 feet, whenever and to whatever extent deemed necessary or desirable in connection with, as a part of, or incident to the construction, operation, maintenance, repair, altering or replacing of a dam and electric power plant to be constructed across the Keowee River, the top of the floodgates on top of the spillway of said dam to be at an elevation not to exceed 800 feet above mean sea level, U.S.G.S. datum, together with the right at any time and from time to time to clear the portion of said land between elevations 800 feet and 810 feet above mean sea level, U.S.G.S. datum, of underbrush and other growth, and to drain

and otherwise treat said portion of said land in any manner deemed necessary or desirable by Crescent Land & Timber Corp. in connection with the construction, maintenance and operation of the dam and power plant above referred to and of the reservoir or lake created or to be created by same; provided, however, that Crescent Land & Timber Corp. shall not cut merchantable timber except within a ten foot strip, measured horizontally, adjoining the 800-foot contour; and with the further right to Crescent Land & Timber Corp. for a right of way over the portion of said land above contour elevation 800 feet above mean sea level, U.S.G.S. datum, for the purpose of access to the property conveyed, said right of way to be over such roads as are now or as hereafter may be on said land, and in case there is no road on the land which Crescent Land & Timber Corp. can use at the time it desires such use, Crescent

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[redacted]O HAVE AND TO HOLD, the aforesaid land, flood easement and other [redacted]nd privileges above described, and all privileges and appurtenances [redacted]to belonging, to the said Crescent Land & Timber Corp., its successors [redacted]d assigns, to its and their only use and behoof forever, except that Grantor reserves the right of ingress and egress over the above described tract of land below an elevation of 800 feet during periods of low water for access to the lake to be formed by the dam above referred to.

And the Grantor does hereby bind Grantor and Grantor's heirs, executors and administrators to warrant and forever defend all and singular the said premises unto the Grantee hereinabove named, and the Grantee's successors and assigns against the Grantor, Grantor's heirs and assigns, and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS Grantor's hand and seal this 24th day of September in the year of our Lord 1966 and in the 190th year of the Independence of the United States of America.

T. B. Ellenburg (SEAL)

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

Signed, Sealed and Delivered
in the Presence of:

RATLIFF 000478

R-001445

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STATE OF SOUTH CAROLINA)
:
COUNTY OF OCONEE)

PERSONALLY appeared before me Betty H. Miley and made oath that she saw the within named T. B. Ellenbrug sign, seal and as his act and deed deliver the within written deed, and that she with J. Pat Miley witnessed the execution thereof.

SWORN to before me this 24th day of September, A.D. 1966.

Notary Public for S. C.

Betty H. Miley

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE.....)

RENUNCIATION OF DOWER

I, J. Pat Miley, Notary Public of S. C., do hereby certify unto all whom it may concern, that Mrs. Lillian D. Ellenburg the wife of the within named T. B. Ellenburg did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons, whomsoever, renounce, release and forever relinquish unto the within named Crescent Land & Timber Corp., its successors and assigns, all her interest and estate, and also all her right and claim of dower of, in or to all and singular the premises within mentioned and released.

Given under my hand and Seal, this 24th day of September Anno Domini 1966.

Notary Public of S. C. (L. S.)

Lillian D Ellenburg
Lillian D. Ellenburg

RECORDED 26 day of Sept. 1966
ROY D. HARDEN, C. C. P. & G. S.
OCONEE COUNTY, S. C.

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

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STATE OF SOUTH CAROLINA)
COUNTIES OF OCONEE & PICKENS)

QUIT-CLAIM DEED

WHEREAS, The South Carolina State Highway Department pursuant to authority contained in Section 33-124, Code of Laws of South Carolina, 1962, authorizing the release of the premises hereinbelow described and in accordance with Act #913 of the Acts and Joint Resolutions of South Carolina, 1967, being quoted in part as follows:

> "The State Highway Department may abandon such State Highways, or sections thereof, in the locality of the Keowee-Toxaway Project which, as in its discretion, may be rendered unserviceable by the construction and operation of the Keowee-Toxaway Project;" NOW

KNOW ALL MEN BY THESE PRESENTS, That the South Carolina State Highway Department, for and in consideration of the sum of Five Dollars ($5.00) to it in hand paid, receipt of which is hereby acknowledged, and other valuable considerations, including the covenants set forth in an Agreement between the South Carolina State Highway Department, Grantor herein, and Duke Power Company, Grantee herein, dated September 1, 1967, and any supplemental agreement or agreements entered into pursuant to the Agreement dated September 1, 1967, all of which are incorporated herein by reference, does hereby remise, release and quit-claim unto Duke Power Company all its right, title, interest in or to and including any and all reversionary interest in such highway rights of way of any county to the following described property:

> All those pieces, parcels or strips of land and rights of way, lying within the high water mark of Lakes Keowee and Jocassee, forming state highways and portions thereof which are to be inundated by the Grantee in said lakes, all of which are more particularly shown on a map that is attached hereto and made a part hereof and of which are described as follows:

OCONEE COUNTY

ITEM NO.	ROAD/RT. NO.	DESCRIPTION	MILEAGE
1	S-16	From High Water Mark (H.W.M.) approximately 1.2 miles north of U. S. 76 Bypass northerly to H.W.M. approximately 0.1 mile north of S-340, thence from H.W.M. approximately 0.8 mile south of S-61	2.5

- Continued -

OCONEE COUNTY CONTINUED

ITEM NO.	ROAD/RT. NO.	DESCRIPTION	MILEAGE
2	S-284	From junction with Road S-353 southerly to the H.W.M. approximately 0.5 mile north of U. S. 76 Bypass	1.0
3	S-135	From S-284 westerly to H.W.M. approximately 0.1 mile west of S-353	0.9
4	S-353	From S-46 westerly to S-135	1.0
5	S-41	From S-16 easterly to S. C. 130	0.9
6	S-415	From S-41 northwesterly to county road	0.7
7	S-46	From H.W.M. approximately 0.5 mile south of S-340 southerly to S-16	1.2
8	S-134	From H.W.M. approximately 0.3 mile east of S-360 northeasterly to H.W.M., thence from H.W.M. approximately 0.3 mile east of S-379 easterly to H.W.M. approximately 0.6 mile southwest of S-46	1.7
9	S-379	From S-134 northerly to H.W.M. approximately 1.5 miles south of S-202	0.3
10	S-202	From H.W.M. approximately 1.0 mile east of S. C. 28 easterly to H.W.M. approximately 1.6 miles southwest of S-379	0.4
11	S-61	From H.W.M. approximately 1.0 mile northeast of S-16 northeasterly to H.W.M. approximately 0.3 mile south of S. C. 183	0.6
12	S-201	From H.W.M. approximately 0.2 mile west of S-45 westerly to new location of S. C. 183	0.8
13	S-92 S-45	From H.W.M. approximately 0.1 miles south of S-45 southwesterly to H.W.M. approximately 1.2 miles north of S-201 and the inundated section on Road S-45	1.5
14	S-44	From Pickens County Line westerly to H.W.M.	0.5
15	S-98	From Pickens County Line westerly to H.W.M.	0.5
16	S. C. 130	From H.W.M. approximately 0.3 miles north of Newry northerly to H.W.M. approximately 0.2 miles south of S-38	2.0
17	S. C. 183	From H.W.M. approximately 0.1 mile south of S-61 easterly to H.W.M. approximately 0.6 miles west of S-38	1.2
18	S. C. 11	From H.W.M. approximately 1.8 miles south of Jocassee northerly thence easterly to the Pickens County Line	3.0
19	S-43	From Road S-44 near Shallow Ford Bridge via Chapman Bridge at Keowee River to Route 11	5.6

- Continued -

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OCONEE COUNTY CONTINUED

ITEM NO.	ROAD/RT. NO.	DESCRIPTION	MILEAGE
20	S-93	From H.W.M. east of Road S-45 to Road S-98 near Keowee Bridge	3.0
21	S-199	From S. C. Route 11 northwesterly to the end	3.5
29	S-175	The inundated section at Crooked Creek	0.4

PICKENS COUNTY

ITEM NO.	ROAD/RT. NO.	DESCRIPTION	MILEAGE
22	S-50	From its present western terminus near Crow Creek northeasterly to S-172	2.6
23	S-172	From S-50 easterly to a paved county road	0.4
24	S-74	From S. C. 11 southerly to High Water Mark approximately 1.6 miles north of S-32	0.8
25	S-196	From S. C. 11 to end	0.4
26	S-32	From Oconee County Line northeasterly to H.W.M. near paved county road and the inundated section at Crow Creek	0.2
27	S-157	From Oconee County Line northeasterly and southeasterly to H.W.M. Approximately 2.0 miles northwest of S. C. 183	1.8
28	S. C. 11	From Oconee County Line easterly to H.W.M. approximately 0.3 mile east of Cane Creek; thence from another point on Lake Keowee northeasterly to H.W.M. approximately 1.0 mile south of S-143	2.5

TO HAVE AND TO HOLD unto the said Duke Power Company, its Successors and Assigns forever, the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest

- Continued -

R-001449

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24

and claim whatsoever of the South Carolina State Highway Department.

WITNESS the hand and seal of the South Carolina Highway Department this 8th day of January, in the year of our Lord One Thousand Nine Hundred Sixty-nine, and in the One Hundred and Ninety-third year of the Sovereignty and Independence of the United States of America.

SOUTH CAROLINA STATE HIGHWAY DEPARTMENT

Signed, sealed and delivered in the presence of:

Hazel B. Oliver

By: S. N. Pearman (L.S.)
Chief Highway Commissioner

By: J. K. Crowson (L.S.)
Secretary-Treasurer

Hereunto duly authorized and empowered.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

PROBATE

Personally appeared before me W. W. Turbyfill and made oath that he saw the within named South Carolina State Highway Department, by its duly authorized officers, S. N. Pearman, Chief Highway Commissioner and J. K. Crowson, Secretary-Treasurer, sign, seal with its corporate seal, and as its act and deed deliver the within written instrument, and that he with Hazel B. Oliver witnessed the execution thereof.

SWORN to before me this 8th day of January, 19 69

Emily D. Sullivan (L.S.)
Notary Public for South Carolina
My Commission Expires January 1, 1971.

Recorded Jan 31 1969
R. D. Hardan
Clerk C.C.C.P. & G.S.

Recorded and certified this 31 day of Jan 1969.
Roy D. Hardan, Clerk of Court, Oconee County, S. C.

RATLIFF 000177

R-001450

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PLAINTIFF'S EXHIBIT 9

62

State of South Carolina,
County of Oconee.

TITLE TO REAL ESTATE

62

County Doc. Tax in am't. of $16.50 collected

Lot in Keowee District

Know All Men By These Presents, That

We, JERRY ELLENBURG and FAY R. ELLENBURG,

in the State aforesaid, for and in consideration of the sum of---Ten Dollars ($10.00) and other valuable considerations. (See affidavit on file)---

to us paid by CRESCENT LAND & TIMBER CORP.
in the State aforesaid (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

CRESCENT LAND & TIMBER CORP., its successors and assigns forever:

All that certain piece, parcel or lot of land with improvements thereon, situate, lying and being in the County of Oconee, State of South Carolina, BEGINNING at an iron stake on the south side of an unnamed paved road, said stake being on the western land line of Mayfield. Said land line of Mayfield being .4 mile east of the intersection of Highway 183 and the aforementioned unnamed paved road. Said intersection being 3.8 miles north of the intersection of Highway 183 and Highway 130. Said intersection being 39 miles north of Greenville, South Carolina. Running from said stake in a southerly direction along the land line of Mayfield 270 feet to an iron stake thence running in a westerly direction 90 feet to an iron stake; thence running in a northwesterly direction 200 feet to an iron stake on the south side of said unnamed paved road, thence running along the south side of said road in an easterly direction 270 feet to the point of beginning.

This being the identical property conveyed by T. B. Ellenburg to Jerry Ellenburg and Fay R. Ellenburg by deed dated April 10th, 1963 and recorded in Deed Book 8-Z, page 188, records of Oconee County.

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TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said

CRESCENT LAND & TIMBER CORP., its successors ~~Heirs~~ and Assigns forever.

And we do hereby bind ourselves and our Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said CRESCENT LAND & TIMBER CORP., its successors ~~Heirs~~ and Assigns, against us and our Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS our Hands and Seals this 8th day of February in the year of our Lord one thousand nine hundred and sixty-nine and in the one hundred and ninety-third year of Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the presence of

Sonya Orr

J. Pat Miley

(1) Jerry Ellenburg (SEAL)
Jerry Ellenburg

(2) Fay R. Ellenburg (SEAL)
Fay R. Ellenburg

(3) _____ (SEAL)

(4) _____ (SEAL)

STATE OF SOUTH CAROLINA,
COUNTY OF OCONEE. } PROBATE

Personally appeared before me Sonya Orr and made oath that she saw the within named Jerry Ellenburg and Fay R. Ellenburg sign, seal and as their act and deed, deliver the within written Deed for the uses and purposes therein mentioned, and that she with J. Pat Miley witnessed the execution thereof.

Sworn to before me this 8th day of February 1969.

J. Pat Miley (L.S.)
Notary Public of S.C.
My Commission Expires: January 1, 1971.

Sonya Orr

Recorded 8 Day Of Feb. Th 69
Roy D. Marden, C. C. P. & G. S.
Oconee County, S. C.

STATE OF SOUTH CAROLINA,
COUNTY OF OCONEE. } RENUNCIATION OF DOWER

I, J. Pat Miley, Notary Public of S.C., do hereby certify unto all whom it may concern, that Mrs. Fay R. Ellenburg the wife of the within named Jerry Ellenburg did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons, whomsoever, renounce, release and forever relinquish unto the within named Crescent Land & Timber Corp., its successors ~~heirs~~ and assigns, all her interest and estate, and also all her right and claim of dower of, in or to all and singular the premises within mentioned and released.

Given under my hand and Seal, this 8th day of February, Anno Domini 1969.

J. Pat Miley (L.S.)
Notary Public of S. C.
My Commission Expires: January 1, 1971.

Fay R. Ellenburg
Fay R. Ellenburg

RATLIFF 000509
R-001452

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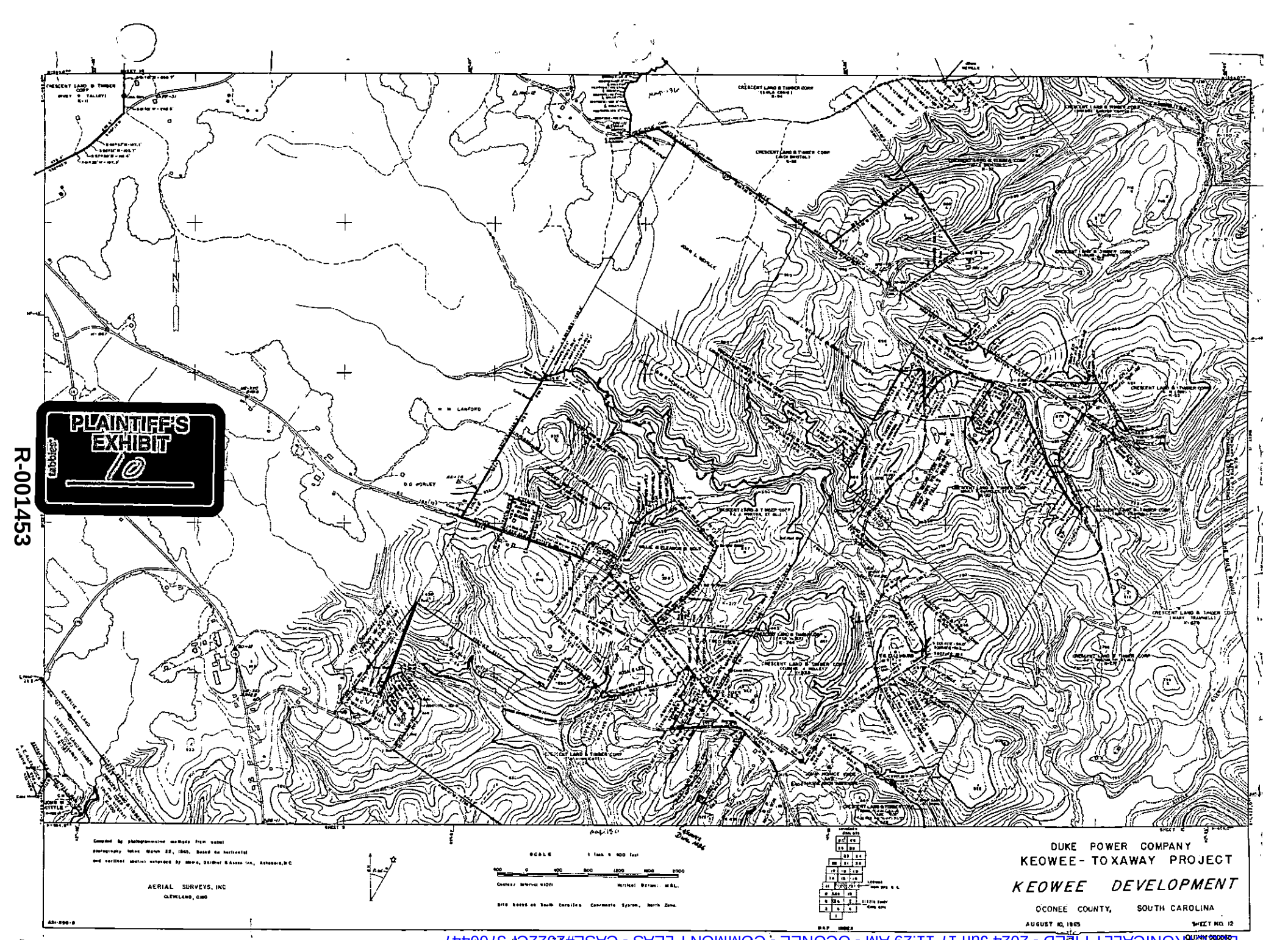

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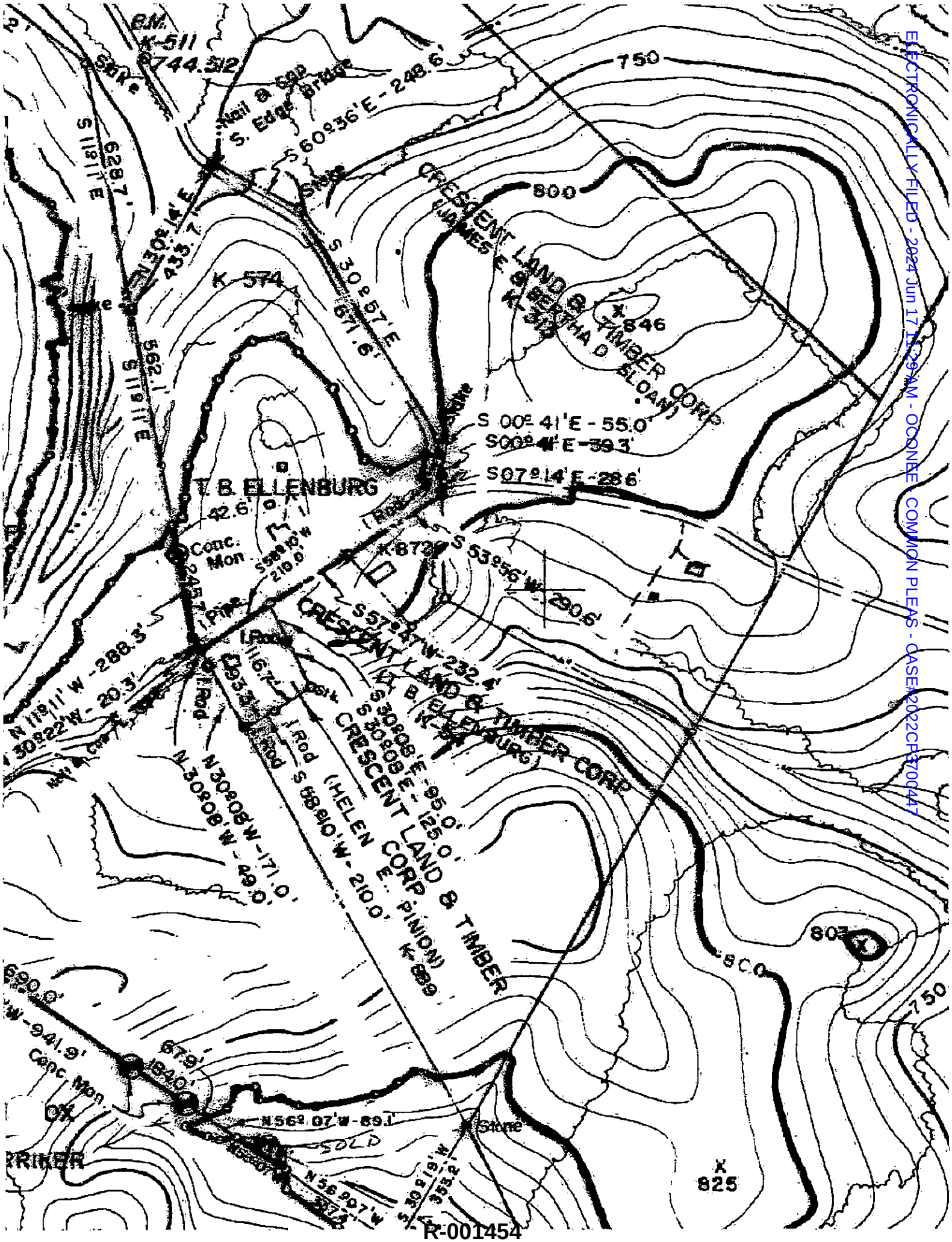

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PLAINTIFF'S EXHIBIT

R-001455

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MILEY AND MACAULAY
Attorneys at Law
Walhalla, S. C.

State of South Carolina,
County of Oconee

County Doc. Tax in amt.
of $33.00 collected

61

Know All Men by These Presents, That I,

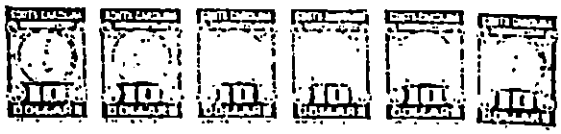
T. B. ELLENBURG,

in the State aforesaid, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable considerations, to me paid by CLAUDE L. MORGAN and ESTHER E. MORGAN in the State aforesaid (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

CLAUDE L. MORGAN and ESTHER E. MORGAN,
their heirs and assigns forever:

ALL that certain piece, parcel or tract of land situate, lying and being in the State of South Carolina, County of Oconee, Keowee District, containing three (3.00) acres, more or less, and being more particularly described according to plat of survey prepared by Schumacher Engineering Service, dated August 28, 1974, and recorded in Plat Book P-39, at page 67, Records of Oconee County, South Carolina, reference to which said plat is invited for a more particular description.

The tract of land herein conveyed is a portion of that property conveyed to T. B. Ellenburg by deed of J. J. Younce, dated September 12, 1950, and recorded in Deed Book 6-L at page 183, Records of Oconee County, South Carolina.



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Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

To Have and to Hold all and singular the premises before mentioned unto the said CLAUDE L. MORGAN and ESTHER E. MORGAN, their Heirs and Assigns forever.

And I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said CLAUDE L. MORGAN and ESTHER E. MORGAN, their Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my *Hand and Seal this* sixth *day of* September *in the year of our Lord one thousand nine hundred and* Seventy-four *and in the one hundred and* ninety-ninth *year of the Sovereignty and Independence of the United States of America.*

Signed, Sealed and Delivered in the Presence of

Brenda S. Greenaway (Seal)
Sonya Derr

T. B. Ellenburg (Seal)
T. B. Ellenburg

(Seal)
(Seal)
(Seal)
(Seal)
(Seal)
(Seal)
(Seal)
(Seal)

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STATE OF SOUTH CAROLINA,
OCONEE County.

Personally appeared before me Sonya Orr and made oath that she saw the within-named

T. B. ELLENBURG

RECORDED
ROY D. HARDEN
SEP 9 1974
CLERK OF COURT
OCONEE COUNTY, S. C.

sign, seal and, as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that she, with Alexander S. Macaulay witnessed the execution thereof.

SWORN to before me this 6th
day of September 1974.

(L. S.)
Notary Public of S. C.

Sonya Orr

STATE OF SOUTH CAROLINA,
OCONEE County.

RENUNCIATION OF DOWER

I, Alexander S. Macaulay, Notary Public for South Carolina, do hereby certify unto all whom it may concern, that Mrs. Mabel F. Ellenburg the wife of the within-named T. B. Ellenburg did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named Claude L. Morgan and Esther E. Morgan, their heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this 6th
day of September
Anno Domini 1974.

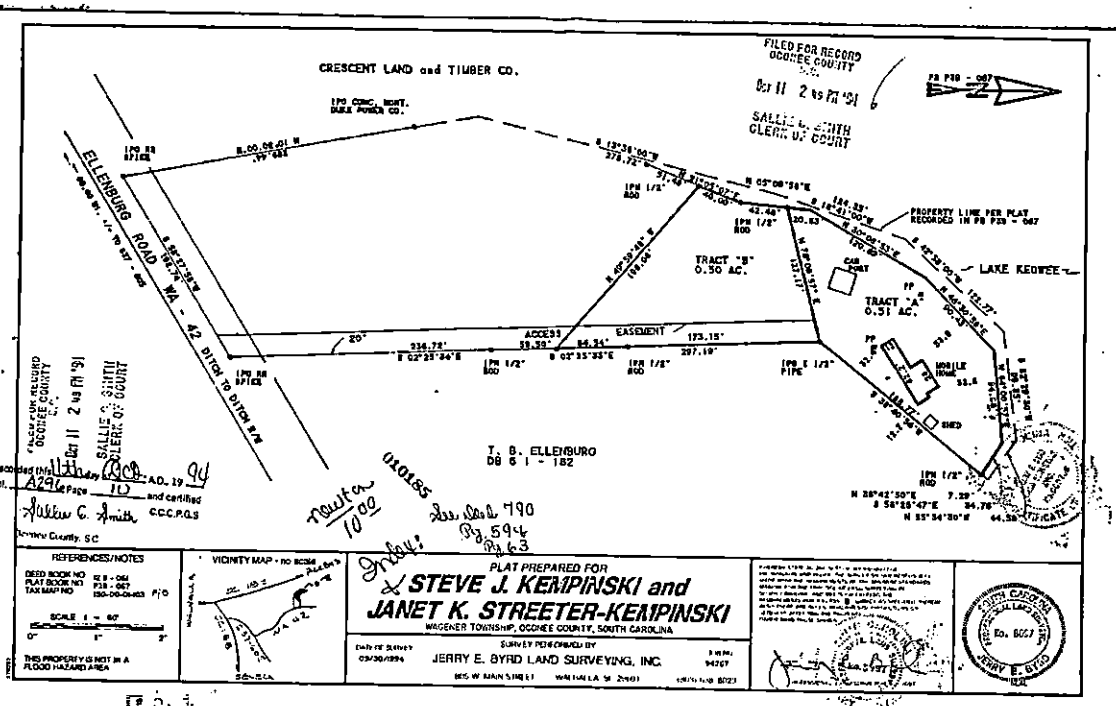
(L. S.)
Notary Public of S. C.

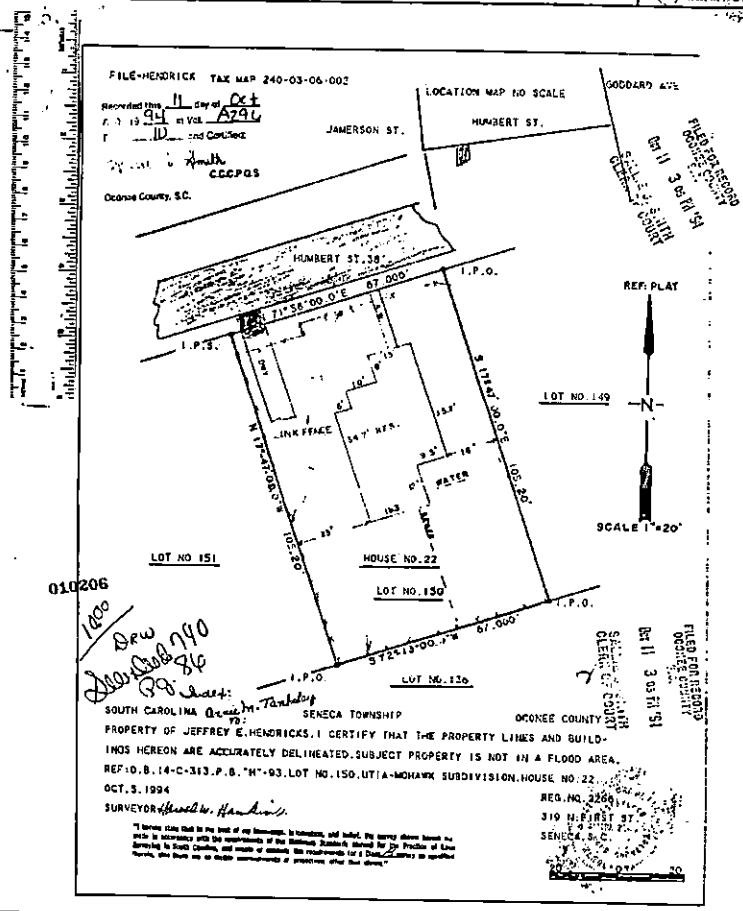
Mabel F. Ellenburg
Mabel F. Ellenburg

R: A296 Page: 10 Page: 1 of 1

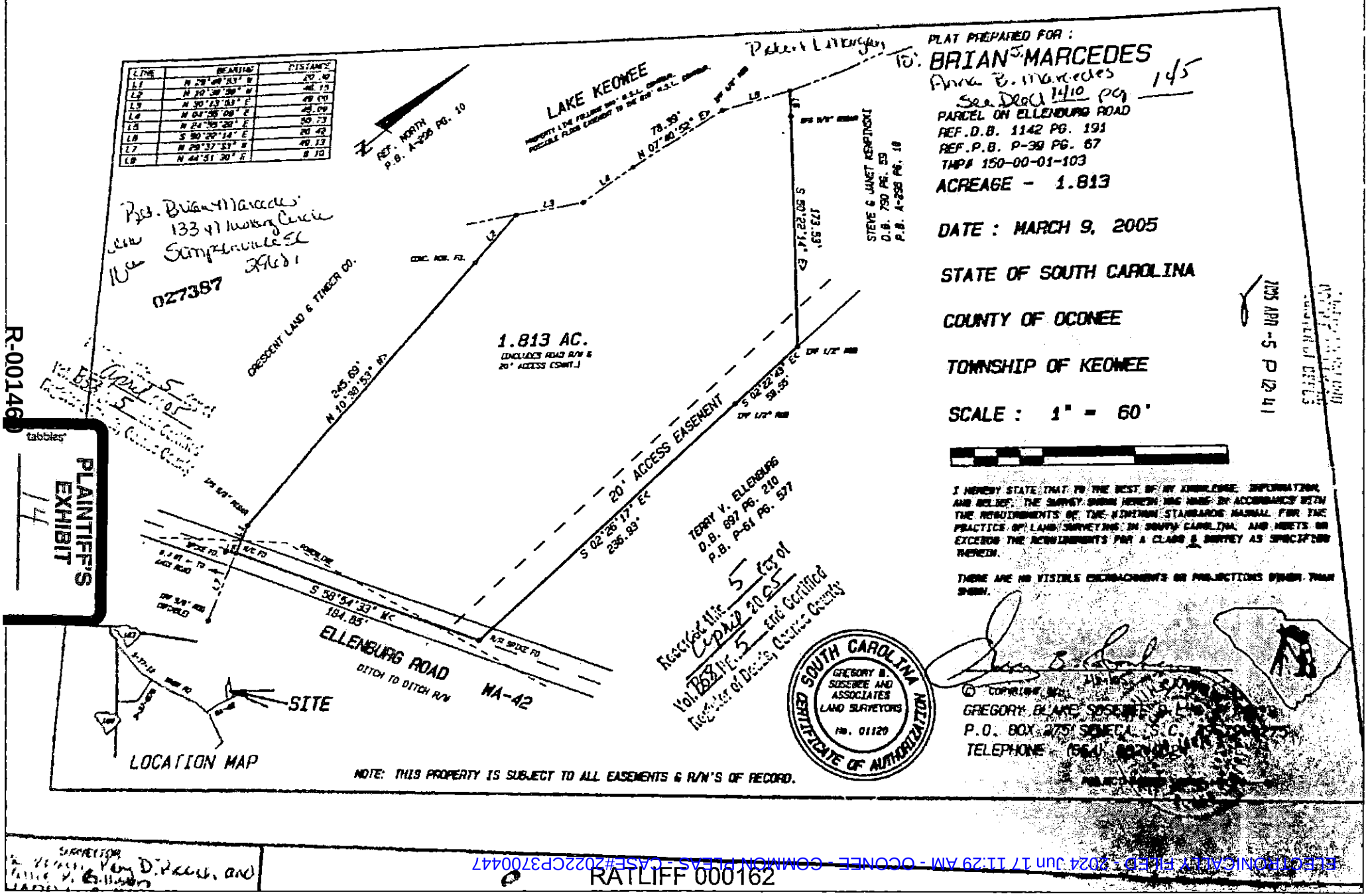
10

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447
RATLIFF 0000419





PLAINTIFF'S EXHIBIT 13



ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

FOR OFFICE USE ONLY
THIS PROPERTY DESIGNATED AS
MAP 150 SUB ( ) BLK 01 PARC 313
ON OCONEE COUNTY TAX MAPS
OCONEE COUNTY ASSESSOR

Doc ID: 005348940004 Type: DEE
BK 2403 PG 199-202

FILED OCONEE COUNTY, SC
ANNA K. DAWSON
REGISTER OF DEEDS
2018 OCT 10 P 4:16

Prepared by: Ann Marie Sullivan, Attorney at Law, LLC
116 Ram Cat Alley, Suite 201
Seneca, SC 29678

045351 CC

TMS #150-00-01-313

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

KNOW ALL MEN BY THESE PRESENTS that WE, **STEVE KEMPINSKI AND JANET S. KEMPINSKI**, in the state aforesaid, for and in consideration of the sum of Ten ($10.00) Dollars and other considerations (See Affidavit on File), to us in hand paid by **JAMES L. RATLIFF AND LUCRETIA B. MORGAN**, receipt of which is hereby acknowledged, have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said **JAMES L. RATLIFF AND LUCRETIA B. MORGAN, subject to the below stated Exceptions, as joint tenants with right of survivorship, and not as tenants in common**, their heirs and assigns forever:

All those certain pieces, parcels or tracts of land lying and being situate in the State of South Carolina, County of Oconee, Wagener Township, and being known and designated as TRACT "A", containing .51 of an acre, more or less, and TRACT "B", containing 0.50 of an acre, more or less, as shown and more fully described on a plat thereof prepared by Jerry E. Byrd, RLS #8097, dated September 30, 1994 and recorded in Plat Book A296, at page 10, records of Oconee County, South Carolina, reference to which is invited for a more complete and accurate description.

ALSO, a non-exclusive right of way and easement of ingress and egress from Ellenburg Road to the subject property and shown as a Twenty (20) foot easement on the aforementioned plat.

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING EXCEPTIONS: It is mutually understood and agreed that this conveyance is made subject to those easements and/or rights-of-way as may appear on the premises and/or of record and all zoning and setback requirements.

AND ALSO: All that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Oconee, Wagener Township, being shown and designated as the shoreline area located between the property line appearing on plat prepared by Jerry E. Byrd, RLS #8097 dated September 30, 1994 and recorded in Plat Book A296, page 10, and the property line shown on plat recorded in Plat Book P-39, page 67, records of Oconee County, South Carolina.

OCT 11 2018
Auditor, Oconee County S.C.

(Page #1 of 3 Pages)

OCONEE COUNTY
STATE TAX 1040.00
COUNTY TAX 440.00
EXEMPT

PLAINTIFF'S EXHIBIT 15

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

This being the identical property conveyed unto STEVE KEMPINSKI AND JANET S. KEMPINSKI by deed of Esther E. Morgan, dated October 10, 1994 and recorded October 11, 1994 in Deed Book 790, at Page 61, records of the Register of Deeds Office for Oconee County, South Carolina.

Grantee's Address: 575 Ellenburg Rd.
Seneca, SC 29672

TOGETHER with, subject to the above stated Exceptions, all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, subject to the above stated Exceptions, all and singular, the premises before mentioned unto the said **JAMES L. RATLIFF AND LUCRETIA B. MORGAN, as joint tenants with right of survivorship, and not as tenants in common**, their heirs and assigns forever.

AND, WE do hereby bind ourselves and our heirs, successors, executors, and administrators, to warrant and forever defend all and singular the premises before mentioned, subject to the above stated Exceptions, unto the said **JAMES L. RATLIFF AND LUCRETIA B. MORGAN, as joint tenants with right of survivorship, and not as tenants in common**, their heirs and assigns, from and against us and our heirs, successors and assigns, and against every person whosoever lawfully claiming or to claim the same or any part thereof.

WITNESS our hands and seals this 9th day of October, 2018.

Signed, Sealed and Delivered
In the Presence of:

WITNESS #1

STEVE KEMPINSKI (SEAL)

WITNESS #2

JANET S. KEMPINSKI (SEAL)

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

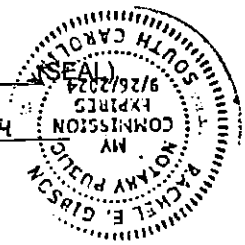
ACKNOWLEDGEMENT

I, Rachel Gibson, Notary Public for South Carolina, do hereby certify that **STEVE KEMPINSKI AND JANET S. KEMPINSKI**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 9th day of October, 2018.

(SEAL)

Notary Public for South Carolina
My Commission Expires: 9/26/2024



ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

AFFIDAVIT

PERSONALLY APPEARED BEFORE ME, the Undersigned, who being duly sworn says that I am the Seller and am familiar with that certain transaction whereby certain real property was conveyed this date from **STEVE KEMPINSKI AND JANET S. KEMPINSKI to JAMES L. RATLIFF AND LUCRETIA B. MORGAN,** and wherein the consideration was stated as "Ten ($10.00) Dollars and other considerations" that the actual consideration for this transfer was the sum of **Four Hundred Thousand and 00/100 ($400,000.00) DOLLARS.**

_____(SEAL)
STEVE KEMPINSKI

_____(SEAL)
JANET S. KEMPINSKI

SWORN TO before me this
9th day of October, 2018.

_____(LS)
Notary Public of South Carolina
My Commission Expires: 9/26/2024

RACHEL E. GIBSON NOTARY PUBLIC SOUTH CAROLINA COMMISSION EXPIRES 9/26/2024

FILED OCONEE COUNTY, SC
ANNA K. DAWSON
REGISTER OF DEEDS
2018 OCT 10 P 4:16

Book: P-61 Page: 577 Page: 1 of 1

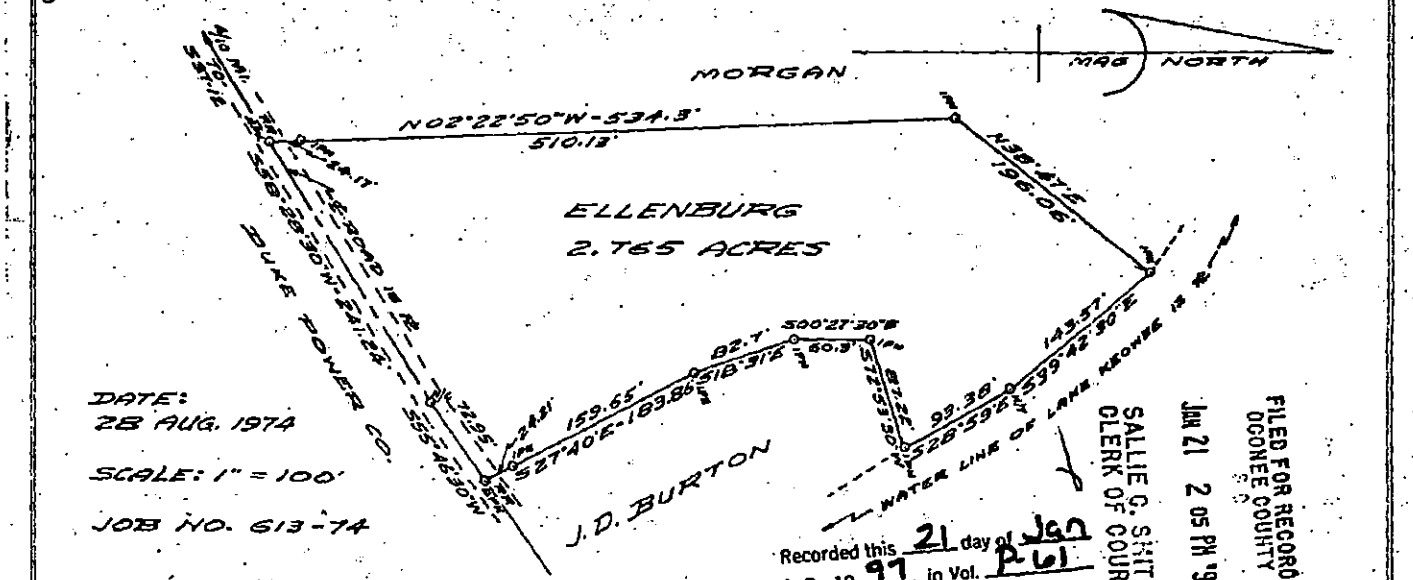
R-001465

577

RATLIFF 000192

PROPERTY OF: T. B. & MABLE F. ELLENBURG
KEOWEE COMMUNITY To: Terry V. Ellenburg
OCONEE COUNTY
SOUTH CAROLINA Deed 897 Pg 210

R&W
5-wje
C00720



DATE:
28 AUG. 1974

SCALE: 1" = 100'

JOB NO. 613-74

SOUTH CAROLINA REGIS. PROF. ENGINEER & LAND SURVEYOR NO. 2105 SNEAD SCHUMACHER

SOUTH CAROLINA REGIS. PROF. LAND SURVEYOR NO. 5293 WAYNE R. GARLAND

FILED FOR RECORD
OCONEE COUNTY S.C.
JAN 21 2 05 PM '97
SALLIE G. SMITH
CLERK OF COURT

Recorded this 21 day of Jan
A. D., 19 97 in Vol. P-61
Page 577 and Certified:
Sallie G Smith
C.C.C.P.G.S.
Oconee County, S.C.

SCHUMACHER ENGINEERING SERVICE
SNEAD SCHUMACHER
CIVIL ENGINEER • LAND SURVEYOR
South Carolina Professional Registration No. 2105
POST OFFICE BOX No. 512 WALHALLA, S. C.

Tabbies
PLAINTIFF'S EXHIBIT
12

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

RKW 000719

10-09-96

FILED FOR RECORD OCONEE COUNTY BOOK 897 PAGE 0210

CONVEYED WITHOUT TITLE EXAMINATION (RKW)

Jan 21 2 05 PM '97

STATE OF SOUTH CAROLINA)

) TITLE TO REAL ESTATE

COUNTY OF OCONEE) SALLIE C. SMITH CLERK OF COURT

KNOW ALL MEN BY THESE PRESENTS, that, T. B. ELLENBURG in consideration of Ten and 00/100 ($10.00) Dollars love and affection for my son, the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto TERRY V. ELLENBURG, His Heirs and Assigns forever, to wit:

ALL that certain piece, parcel or tract of land, with improvements thereon, lying, situate and being in the Keowee Community, Oconee County, South Carolina, containing 2.765 acres, more or less, as shown on a plat prepared by Snead Schumacher, PR #2109, dated August 28, 1974, and recorded in Plat Book P-61, Page 577, records of Oconee County, South Carolina.

This conveyance is made subject to any and all easements, restrictions, covenants, conditions, rights of way, zoning rules and laws and regulations, any of which may be found of record in the Office of the Clerk of Court for Oconee County, South Carolina.

This being a portion of the property conveyed unto T. B. Ellenburg by deed of J. J. Younce dated September 12, 1950, and recorded September 13, 1950, in Deed Book 6-I, Page 182, records of Oconee County, South Carolina.

TAX MAP NO. 150-00-01-099

THIS PROPERTY DESIGNATED AS P10

MAP 150 SUB 00 BLK 01 PARC 099

ON OCONEE COUNTY TAX MAPS

Kay R. Williams

OCONEE COUNTY ASSESSOR

GRANTEE'S ADDRESS: 591 Ellenburg Road, Seneca, SC 29672

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(s), and the grantees(s') heirs or successors and assigns, forever. And, the grantor(s) do(es) hereby bind the grantor(s) and the grantors(s) heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s) heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

OCONEE COUNTY

Recorded this 22 day of Jan 1997
Book 897 Page 0210354
Fee
K.F. Williams
Auditor Oconee County, S.C.

STATE TAX

COUNTY TAX

EXEMPT V V

PLAINTIFF'S EXHIBIT 17

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

BOOK 897 PAGE 0211

WITNESS the Grantor's hand(s) and seal(s) this 21 day of January, 1997.

SIGNED, sealed and delivered
in the presence of:

Sandra L. Lee

Robert K. Whitney

T. B. Ellenburg (SEAL)
T. B. ELLENBURG

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

ACKNOWLEDGEMENT

I, Robert K. Whitney, a Notary Public for South Carolina, do hereby certify that T. B. ELLENBURG personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 21 day of January, 1997.

Robert K. Whitney (L.S.)
Notary Public for South Carolina
My Commission Expires: 7/30/06

FILED FOR RECORD
OCONEE COUNTY
JAN 21 2 05 PM '97
SALLIE C. SMITH
CLERK OF COURT

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

Doc ID: 001220120003 Type: DEE
BK 1579 PG 289-291

NO TITLE EXAM BY DRW&M

STATE OF SOUTH CAROLINA]
]
COUNTY OF OCONEE]

IN THE PROBATE COURT

2007 APR 17 A 10:41

OCONEE COUNTY, S.C.
REGISTER OF DEEDS

10.00
18000
Drury

IN THE MATTER OF ESTATE OF TERRY VESS ELLENBURG

CASE NUMBER: 2006-ES-37-00-436

DEED OF DISTRIBUTION

WHEREAS, the decedent died on the 7th day of September, 2006; and

WHEREAS, the estate of the decedent is being administered in the Probate Court of Oconee County, South Carolina, File Number 2006-ES-37-00-436; and

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary in this matter; and

NOW THEREFORE, in accordance with the laws of the State of South Carolina the Personal Representative has granted, bargained, sold and released and by these presents does grant, bargain, sell and release to:

NAME: RHONDA ELLENBURG
ADDRESS: 185 Boondock Trail, Seneca, SC 29672

OCONEE COUNTY
STATE TAX
COUNTY TAX
EXMPT

in the following described property, to wit:

All that certain piece, parcel or tract of land, with improvements thereon, lying and being situate in the Keowee Community, Oconee County, South Carolina, containing 2.765 acres, more or less, as shown on a Plat prepared by Snead Schumacher, PR #2109, dated August 28, 1974 and recorded in Plat Book P-61, page 577, records of Oconee County, South Carolina.

This being the identical property conveyed to Terry V. Ellenburg by deed of T. B. Ellenburg recorded January 21, 1997 in Deed Book 897, page 210, records of Oconee County, South Carolina.

AND ALSO: All that certain piece, parcel or tract of land, with improvements thereon, situate, lying and being in the State of South Carolina, County of Oconee, Keowee District, containing twelve and sixty-one one-hundredths (12.61) acres, more or less, and being shown and delineated upon a plat of survey prepared by John B. Earle, R.L.S., dated March 18, 1982, and recorded in Plat Book P-47, at page 477, records of

THIS PROPERTY DESIGNATED AS
MAP 150 SUB 00 BLK 21 PARC 499
ON OCONEE COUNTY TAX MAPS
Pearli Smith
OCONEE COUNTY ASSESSOR

Recorded this 18 day of April
Book 2007 Page 71220
Fee
Linda R. Pitt
Auditors Oconee County, S.C.

PLAINTIFF'S EXHIBIT 18

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

Oconee County, South Carolina, to which said plat reference is craved for a more particular description thereof.

AND ALSO: ALL that certain right-of-way and easement, twenty (20') feet in width, for ingress and egress described in that instrument, dated September 19, 1988, and recorded October 5, 1988 in Deed Book 553, at page 165, records of Oconee County, South Carolina.

This being the identical property conveyed to Terry V. Ellenburg by deed of T. B. Ellenburg recorded February 10, 1992 in Deed Book 681, page 261, records of Oconee County, South Carolina.

TOGETHER WITH all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular, the premises before mentioned unto the said **RHONDA ELLENBURG**, her heirs and assigns forever.

IN WITNESS WHEREOF, the Undersigned as Personal Representative of the estate of the Decedent has executed this Deed this 17 day of APRIL, 2007.

Signed, Sealed, and Delivered
in the Presence of:

Rhonda Ellenburg [SEAL]
Rhonda Ellenburg, Personal Representative

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

STATE OF SOUTH CAROLINA]
]
COUNTY OF OCONEE]

PROBATE

PERSONALLY APPEARED the undersigned Witness, who being duly sworn says that (s)he saw the within named Personal Representative sign, seal, and as her act and deed deliver the within written instrument for the uses and purposes therein mentioned, and that the Deponent, together with the second witness above subscribed, witnessed the execution thereof.

Clela C Bryson

Sworn to before me this 19th day of APRIL, 2007.

Mary B. Davis [LS]
Notary Public of South Carolina
My Commission Expires: 2-11-2008

DEC 07 2020

Auditor, Oconee County S.C.

Barcode ID: 2048986 Type: DEE
Recorded: 12/04/2020 at 10:25:31 AM
Fee Amt: $1,495.00 Tax: $1,480.00
Oconee, South Carolina, Register Of Deeds Office
Anna Davison - Register Of Deeds
Page 1 of 3
BK 2633 PG 1-3

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

STATE OF SOUTH CAROLINA

TITLE EXAM
BY DRWM, P.A.

COUNTY OF OCONEE

Grantee Address:
575 Ellenburg Rd
Seneca SC 29672

PLAINTIFF'S EXHIBIT 19

TITLE TO REAL ESTATE
(DEED)

DRWM
150
009058

KNOW ALL MEN BY THESE PRESENTS that I, **RHONDA ELLENBURG**, in the state aforesaid, for and in consideration of the sum of Four Hundred Thousand and No/100 ($400,000.00) dollars, to me in hand paid by **JAMES L. RATLIFF AND LUCRETIA B. MORGAN**, receipt of which is hereby acknowledged, have granted, bargained, sold and released and by these presents do grant, bargain, sell and release, subject to the easements, restrictions, reservations and conditions ("Exceptions") set forth below unto the said **JAMES L. RATLIFF AND LUCRETIA B. MORGAN**, *as joint tenants with rights of survivorship, and not as tenants in common*, **subject to the below stated Exceptions**, their heirs and assigns forever, the following described real property, to wit:

All that certain piece, parcel or tract of land, with improvements thereon, lying and being situate in the State of South Carolina, County of Oconee, Wagener Township, **containing Two and Seventy-One One-Hundredths (2.71) ACRES**, more or less, as shown on a Plat prepared by Michael L. Henderson, PS #6946, dated November 23, 2020 and recorded of even date herewith in Plat Book B754, page 6, records of Oconee County, South Carolina.

FILED OCONEE COUNTY, SC
ANNA K. DAVISON
REGISTER OF DEEDS
2020 DEC -4 PM 3:51

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING EXCEPTIONS: Any and all easements or rights of way heretofore conveyed by the Grantor herein or any predecessor in title as may appear of public record or upon the premises.

This being a portion of the property conveyed to Rhonda Ellenburg by Deed of Distribution of the Estate of Terry Vess Ellenburg recorded on the 17th day of April, 2007, in Deed Book 1579, at page 289-291, records of Oconee County, South Carolina.

TMS #: 150-00-01-099

TOGETHER with, subject to the above stated Exceptions, all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident or appertaining.

OCONEE COUNTY
STATE TAX 1040.00
COUNTY TAX 440.00
EXEMPT _____

(Page #1 of 3 Pages)

RATLIFF 000480

FOR OFFICE USE ONLY
THIS PROPERTY DESIGNATED AS
MAP 150 SUB 00 BLK 01 PARC 099 MR
ON OCONEE COUNTY TAX MAPS
12-13-22
OCONEE COUNTY ASSESSOR

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

TO HAVE AND TO HOLD, subject to the above stated Exceptions, all and singular, the premises before mentioned unto the said **JAMES L. RATLIFF AND LUCRETIA B. MORGAN**, *as joint tenants with rights of survivorship and not as tenants in common*, their heirs and assigns forever.

AND, I do hereby bind myself and my heirs, executors, and administrators, to warrant and forever defend all and singular the premises before mentioned, subject to the above stated Exceptions, unto the said **JAMES L. RATLIFFAND LUCRETIA B. MORGAN**, *as joint tenants with rights of survivorship and not as tenants in common*, their heirs and assigns, from and against me and my heirs, successors and assigns, and against every person whosoever lawfully claiming or to claim the same or any part thereof.

WITNESS my hand and seal this 3rd day of December, in the two thousand twentieth year of our Lord and in the two hundred forty-fourth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Rhonda Ellenburg [SEAL]
RHONDA ELLENBURG

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

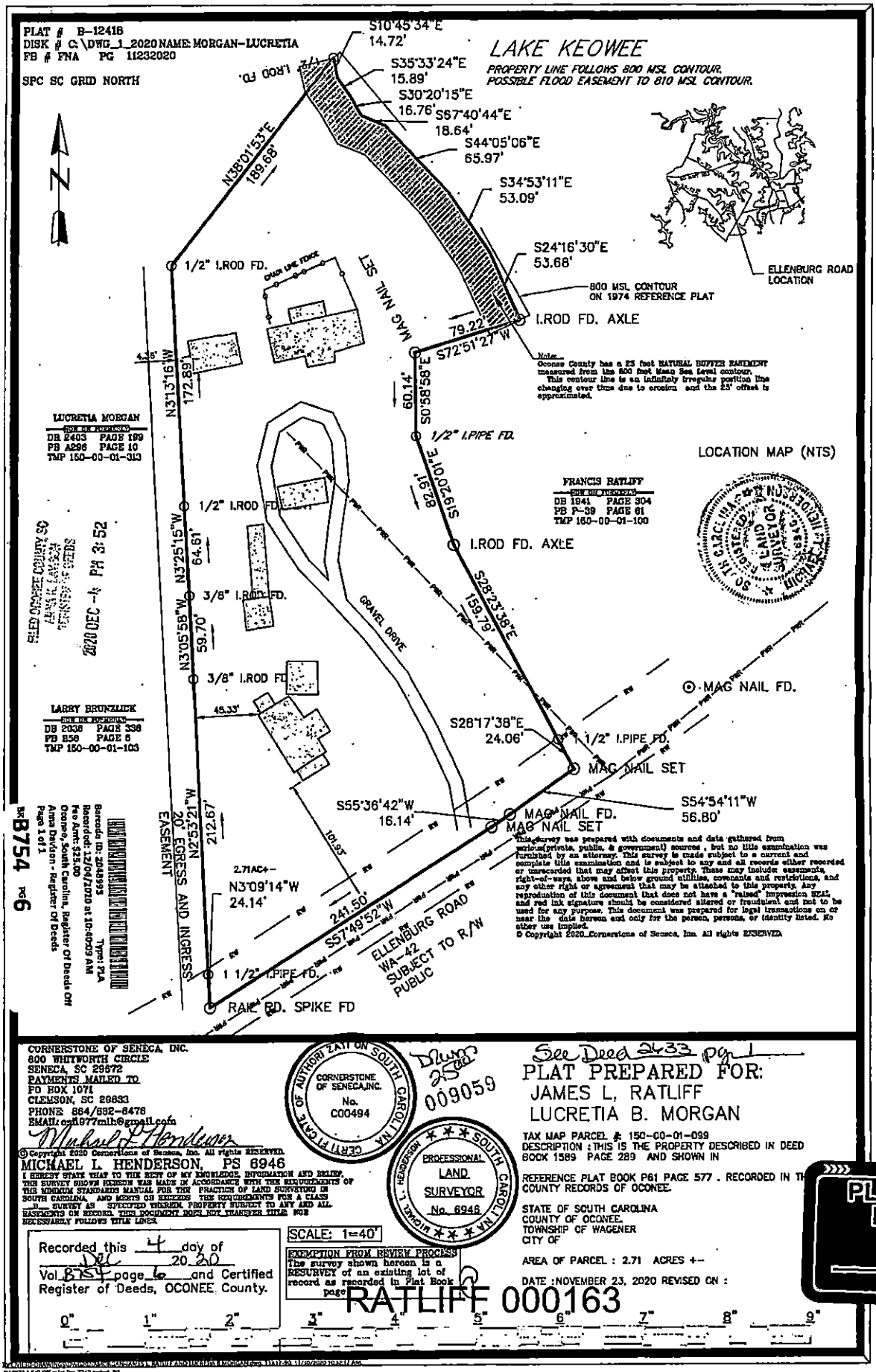
STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF OCONEE)

BEFORE ME, a Notary Public for the State of South Carolina, personally appeared RHONDA ELLENBURG, Grantor(s) who, being personally known to me or having produced proper identification, and upon being duly sworn, stated that she executed the within written Title to Real Estate for the purposes therein written.

Sworn to before me this
31st day of December, 2020.

Emma W. Morris (LS)
Notary Public of South Carolina
Printed Name: Emma W Morris
My Commission Expires: 3.9.2021

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447



PLAINTIFF'S EXHIBIT 20

RATLIFF 000163

PROPERTY OF: NANCY R. BEARDEN

KEOWEE COMMUNITY

OCONEE COUNTY

SOUTH CAROLINA

30th Aug.

Recorded this ..... day of .....

A. D., 19 74 In Vol. P-39

Page 61 and Certified:

Roy D. Hardin

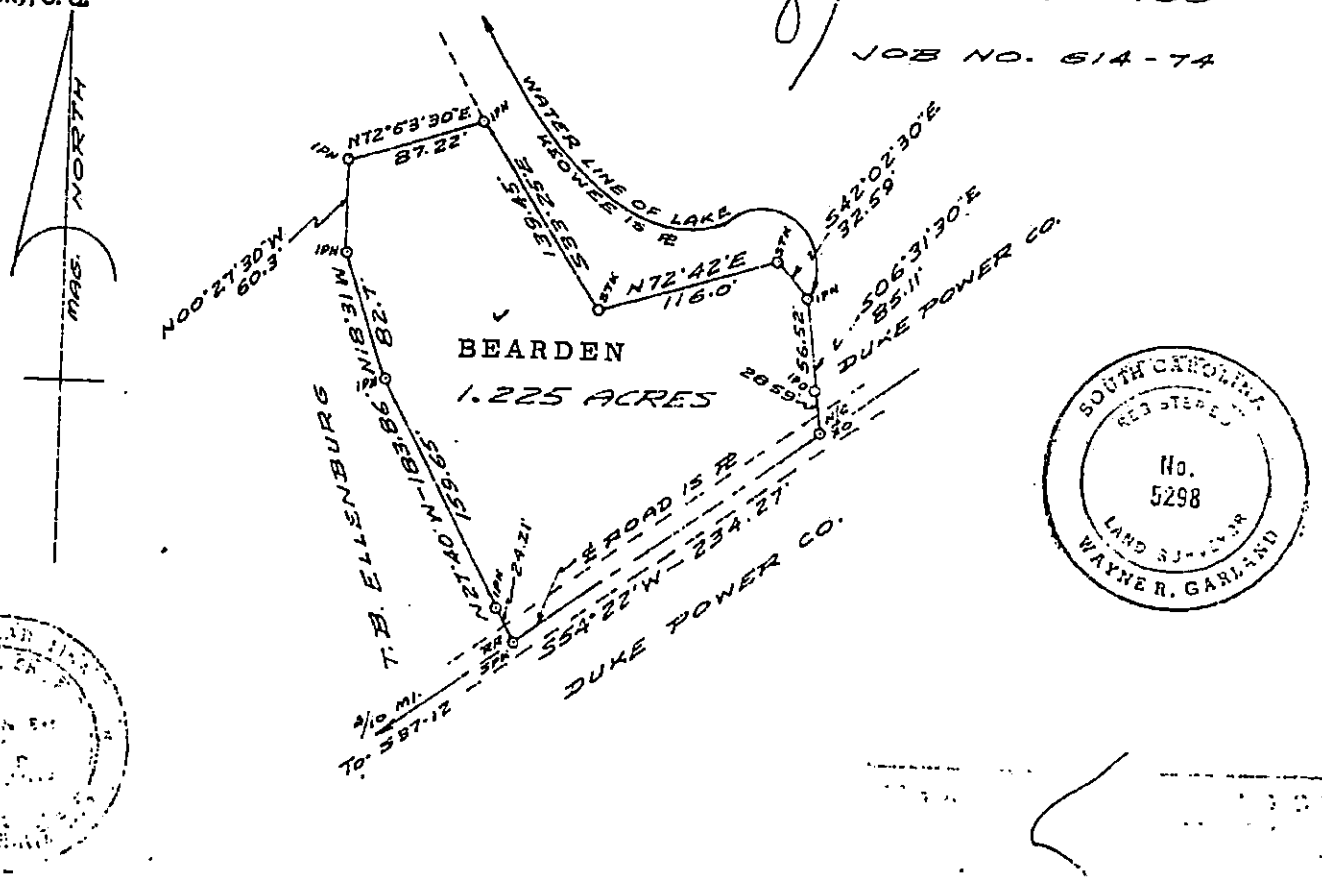
C. C. C. P. G. S.

Oconee County, S. C.

DATE: 28 AUG. 1974

SCALE: 1" = 100'

JOB NO. 614-74



SOUTH CAROLINA REGISTERED No. 5298 LAND SURVEYOR WAYNE R. GARLAND

PLAINTIFF'S EXHIBIT 21

R-001475

COPY
ds
S.C.
Pratt

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

476

MILEY AND MACAULAY
Attorneys at Law
Walhalla, S.C.

County Doc. Tax in am't. of $13.75 collected

State of South Carolina,
County of Oconee

Know All Men by These Presents, That I,

T. B. ELLENBURG,

in the State aforesaid, for and in consideration of the sum of Twelve Thousand Two Hundred Fifty Dollars ($12,250.00), to me paid by NANCY R. BEARDEN in the State aforesaid (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said

NANCY R. BEARDEN, her heirs and assigns forever:

ALL that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Oconee, Keowee District, containing 1.225 acres, more or less, and being more particularly described according to a plat of survey prepared by Schumacher Engineering Service, dated August 26, 1974, and recorded in Plat Book P-39, at page 61, Records of Oconee County, South Carolina, to which said plat reference is invited for a more particular description.

The lot herein conveyed is a portion of that tract of land conveyed to T. B. Ellenburg by Deed of J. J. Younce, dated September 12, 1950, and recorded in Deed Book 0-1, at page 182, Records of Oconee County, South Carolina.

PLAINTIFF'S EXHIBIT 22

476

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

476

Together with all and singular, the rights, members, hereditaments and appertenances to the said premises belonging or in anywise incident or appertaining.

To Have and to Hold all and singular the premises before mentioned unto the said NANCY R. BEARDEN, her Heirs and Assigns forever.

And I do hereby bind myself and my Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said NANCY R. BEARDEN, her Heirs and Assigns, against me and my Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS my *Hand and Seal this* 30th *day of* August *in the year of our Lord one thousand nine hundred and* Seventy-four *and in the one hundred and* ninety-ninth *year of the Sovereignty and Independence of the United States of America.*

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

T. B. Ellenburg (SEAL)

T. B. Ellenburg (SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

(SEAL)

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

STATE OF SOUTH CAROLINA,
OCONEE COUNTY.

PERSONALLY appeared before me Sonya Orr

and made oath that she saw the within-named

T. B. ELLENBURG

sign, seal and, as his act and deed, deliver the within-written Deed for the uses and purposes therein mentioned and that she, with Alexander S. Macaulay witnessed the execution thereof.

SWORN to before me this 30th
day of August, 1974.

(L.S.)
Notary Public of S. C.

Sonya Orr

STATE OF SOUTH CAROLINA,
OCONEE COUNTY.

RENUNCIATION OF DOWER

I, Alexander S. Macaulay, Notary Public for South Carolina, do hereby certify unto all whom it may concern, that Mrs. Mabel F. Ellenburg the wife of the within-named T. B. Ellenburg did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within-named Nancy H. Hearden, her heirs and assigns, all her interest and estate, and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.

Given under my Hand and Seal, this 30th
day of August
Anno Domini 1974.

(L.S.)
Notary Public of S. C.

Mabel F. Ellenburg
Mabel F. Ellenburg

RECORDED
ROY D. HARDEN
AUG 30 1974
CLERK OF COURT
OCONEE COUNTY, S. C.

476

ELECTRONICALLY FILED - 2024 Jun 17 11:29 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700447

4116

3351

State of South Carolina,
County of Oconee

TO

TITLE TO REAL ESTATE

I hereby certify that the within Deed was filed for record in my office at 8:48P. M. o'clock on the 30th day of Aug. 19 74 and was immediately entered upon the proper indexes and duly recorded in Book 12-A of Deeds, page 476

Clerk of Court of Common Pleas and General Sessions for Oconee County, S. C.

I hereby certify that the within Deed has been duly 30th day of Aug. A. D. 19 74 Recorded in Book R of Deeds, page E-4

Auditor for Oconee County

MILEY AND MACALLAY
Attorneys at Law
Walhalla, S.C.

3.25
plat 2.00
25.00
13.75

ROY D. HARDEE
CLERK OF COURT
OCONEE COUNTY, S.C.
Aug 30 4 48 PM '74

RATLIFF 000203
R-001479

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14-I Page 102

State of South Carolina,
County of Oconee

TITLE TO REAL ESTATE

County Doc. Tax in amt. of $99.00 collected

RECORDED
ROY D. HARDEE
MAY 07 1981
CLERK OF COURT
OCONEE COUNTY, S. C.

Know All Men By These Presents, That we, Jennings Dewey Burton and Nancy R. Bearden Burton, formerly Nancy R. Bearden,

in the State aforesaid, for and in consideration of the sum of $10.00 and other considerations to us paid by Edward J. Ratliff and Frances J. Ratliff in the State aforesaid, (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Edward J. Ratliff and Frances J. Ratliff, their heirs and assigns forever:

All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Oconee, Keowee District, containing 1.225 acres, more or less, shown on plat thereof by Schumacher Engineering Service dated 8/28/74 and recorded in Plat Book P-39, page 61, records of Oconee County, South Carolina.

This being the identical property conveyed unto Nancy R. Bearden by deed of T. B. Ellenburg dated 8/30/74 and recorded in Deed Book 13-A, page 476, with a one-half interest having been conveyed to Jennings Dewey Burton by deed of Nancy R. Bearden Burton, formerly Nancy R. Bearden, by deed recorded in Deed Book 13-M, page 423, records of Oconee County, South Carolina.

This conveyance is made subject to any easements or rights-of-way for roadways or utilities heretofore conveyed by the Grantors herein or any predecessor in title as may appear of public record or upon the ground.

102

PLAINTIFF'S EXHIBIT 23

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102

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the said Edward J. Ratliff and Frances J. Ratliff, their Heirs and Assigns forever.

And we do hereby bind ourselves & our Heirs, Executors and Administrators to warrant and forever defend all and singular the said premises unto the said Edward J. Ratliff and Frances J. Ratliff, their Heirs and Assigns, against us and our Heirs, Successors and Assigns, and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS OUR Hand(s) and Seal(s) this 7th day of May in the year of our Lord one thousand nine hundred and eighty-one and in the two hundred fifth year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered in the presence of:

Janie W. Cole

C. D. Robinson

(1) Jennings Dewey Burton (SEAL)
(2) Nancy R. Bearden Burton (SEAL)
(3) _____ (SEAL)
(4) _____ (SEAL)

PROBATE

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE.

Personally appeared before me Janie W. Cole and made oath that he saw the within named Jennings Dewey Burton and Nancy R. Bearden Burton sign, seal and as their act and deed, deliver the within Deed for the uses and purposes therein mentioned, and that he with C. D. Robinson witnessed the execution thereof.

Sworn to before me this 7th day of May A.D. 81.

C. D. Robinson (L.S.)
Notary Public of S. C.
My Commission expires 3-21-89

Janie W. Cole

STATE OF SOUTH CAROLINA,
COUNTY OF OCONEE.

RENUNCIATION OF DOWER

I, C. D. Robinson, Notary Public of S.C. do hereby certify unto all whom it may concern, that Mrs. Nancy R. Bearden Burton the wife of the within named Jennings Dewey Burton did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily and without any compulsion, dread, or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within named Edward J. Ratliff and Frances J. Ratliff, their Heirs and Assigns, all her interest and estate, and also all her right and claim of dower of, in or to all and singular the premises within mentioned and released.

Given under my hand and Seal, this 7th day of May, Anno Domini 81.

C. D. Robinson (L.S.)
Notary Public of S. C.
My Commission expires 3-21-89

Nancy R. Bearden Burton