

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT
COUNTY OF DORCHESTER) C.A. NO. 2023CP1800594

BARBARA RICHARDSON)
Plaintiff(s),)
versus)
TOWN OF RIDGEVILLE)
Defendant(s).)

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SC Court of Appeals

H E A R I N G

Before The Honorable Courtney Clyburn Pope

WITNESS: REBECCA VANCE
DATE: September 19, 2024
LOCATION: South Carolina Circuit Court 9
TRANSCRIBED BY: Jane Daniel

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2	PARTY'S	DESCRIPTION
3	Exhibits 1 - 31	Documents
4	Exhibits 32 - 50	Documents

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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL
25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

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PROCEEDINGS

THE COURT: All right. We have Barbara Richardson and Kimberly Marchant v. the Town of Ridgefield, the Florence B. Appleby Family Limited Partnership, Eugene V. Varn -- M. Varn, excuse me, and David Johns as trustees for the W.H. Varn Junior Trust. Counsel, I do have your pretrial briefs as well as your exhibits. Do we have all counsel who is relevant to the hearing today? Do we have everyone on the line?

MR. GOWDER: We do, your Honor, this is -- again, this is Andy Gowder counsel for the plaintiff, along with my co-counsel Mr. Jeff Lee, who's sitting here next to me. And so we are here for the plaintiff.

THE COURT: Very good. And we have all of defense counsel on -- on WebEx.

MR. GASKINS: Yes, your Honor. This is Brandon Gaskins on behalf of Eugene -- Eugene Varn and David Johns, trustees of the Varn Trust.

MS. SHOUN: And your Honor, I'm Cheryl Shoun. I'm here on behalf of the Florence B. Appleby Family Limited Partnership.

MS. SPENCER: And your Honor, I'm Virginia Spencer here on behalf of the town of Ridgeville.

THE COURT: Very good. Thank you very much. And so let's go ahead and get started now that we have everyone. I

1 do believe that we have our clerk on the line. Madam clerk,
2 are you -- can you hear us?

3 THE CLERK: Yes, ma'am, I can. I'm so sorry for the
4 delay, Judge.

5 THE COURT: It's all right. We -- we're just getting
6 started with introductions, and so we will -- we will proceed
7 forward. I've called the case. We're being videoed, and so
8 everyone is aware of that. All right, very good. Let's --
9 let's --

10 THE CLERK: Thank you, Judge.

11 THE COURT: -- begin.

12 MR. GOWDER: Your Honor. This is Andy Gowder. As sort
13 of a -- perhaps a housekeeping matter and introduction, I
14 have conferred with my -- my counsel in this case. And we
15 have discussed, and we discussed this with with Judge
16 Goodstein as well, trying this case as it is a non-jury case
17 by submitting by agreement the documents in the case to you.

18 And we'll ask you here in a minute to accept them into
19 evidence without the need for calling witnesses to do that.
20 And then I, at least your Honor, and I think my other counsel
21 in the case will proceed without calling witnesses, but will
22 essentially argue as if it were a summary judgment matter and
23 proceed in that way, if that is acceptable to you.

24 THE COURT: Very good. Yes. And I -- I was advised by
25 Judge Goodstein how -- what you all -- what you all discussed

1 in terms of how to proceed with today. And so I am in
2 agreement with that as to -- is defense counsel also in
3 agreement with that? Just for the record,

4 MR. GASKINS: Your Honor, we are with one caveat to
5 that. I believe the town of Ridgeville is going to call one
6 witness which I believe is planned to be called after all
7 counsel make their opening statement and arguments based on
8 the exhibits entered into evidence.

9 THE COURT: All right. Thank you, Mr. Gaskins.
10 (Inaudible). Correct. Very good. All right. So are -- we
11 still have other -- all right, and so just a few housekeeping
12 issues. Obviously if you are not speaking at the time or if
13 you are not making any objections, if you will mute. Make
14 sure that your devices are muted so that we can cut down on
15 the possibility of feedback or echoes. All right. So
16 everyone, just make sure that they are muted and we will go
17 ahead and begin.

18 MR. GOWDER: With that, thank you, your Honor --

19 THE COURT: Well, I'm sorry, Mr. Gowder, let me -- let
20 me just place on the record that I am going to accept the
21 documents into evidence. So that has been accepted by me.
22 Mr. Gowder.

23 (Exhibits 1 through 31 admitted into evidence)

24 MR. GOWDER: Thank you, your Honor. And that was going
25 to be my first order of business asking you to accept

1 documents one through 31, so I appreciate the court's ruling
2 on that. Thank you very much.

3 THE COURT: Very good. All right. Yes, sir.

4 MR. GOWDER: Your Honor, (inaudible) by -- may it
5 please the Court. By means of introduction, Dorchester
6 County has seen rapid growth in the last two decades with
7 more than 60,000 people moving in since 2000. By 2030, the
8 county is projected to have more than 200,000 residents.
9 Located between Somerville and St. George the town of
10 Ridgeville has fewer than 2000 people.

11 In a February, 2023 meeting, the Ridgeville four-member
12 town council voted unanimously to annex and rezone two tracts
13 of county land, which together equal about a thousand acres.
14 Two separate developers had separate agreements with the town
15 to eventually turn the areas into residential subdivisions of
16 single family homes, town homes and duplexes.

17 This will quadruple the town's population within a few
18 years without the infrastructure or town resources to support
19 the growth. The two annex -- the two annexed tracts are each
20 south of downtown. According to the rezoning applications
21 and the PUDs, which are Exhibits 3 and 4, your Honor.

22 The Varn tract, 626 acres just east of Ridge Road to be
23 developed by Ryan Homes, part of Virginia Base NVR Inc. It
24 will have a maximum of 1,400 single family homes, 120,000
25 square feet of commercial space, a three-acre civic site for

1 government offices, fire and EMS stations and et cetera, and
2 a 6.8 acres of space for parks.

3 The Appleby tract, 470 acres off of Campbell Thicket
4 Road will have a maximum of 1200 single family homes along
5 with commercial space and a five-acre town park. Town
6 officials said the developer, Lennar Construction also plans
7 provide land for a new school Dorchester county school
8 district 4 (inaudible). Construction (inaudible) between two
9 of the maximum number of residences --

10 THE COURT: Mr. Gowder, I'm sorry. Mr. Gowder, I
11 apologize. Your last sentence was garbled on my end. I -- I
12 just didn't hear --

13 MR. GOWDER: Okay.

14 THE COURT: -- the -- the last thing that you said.

15 MR. GOWDER: Okay. I think I -- I may have said
16 between the two, if the maximum number of residences are
17 built, just those developments will have more homes by 2033
18 than the town of Ridgeville has people right now.

19 The developers sought this rezoning in the town of
20 Ridgeville instead of the county, thus avoiding the county's
21 regulations for new development, which Dorchester County
22 created in 2021 as a growth management plan for the
23 Ridgeville Givhans area, that's Exhibit 31 in your exhibits.

24 That recommends residential growth in the area, be
25 quote, "Incremental and (inaudible) that does not overburden

1 the county's ability to provide services or lead to a long
2 lasting negative financial consequence." But it also, it set
3 a growth boundary in that document, an area where officials
4 recommend limiting development to avoid sprawl, and both
5 tracts fall within that boundary.

6 This kind of comprehensive growth management plan as --
7 as the Givhans Ridgeville plan is, and as the town of
8 Ridgeville's plan is, is exactly what was envisioned by our
9 state's Local Government Comprehensive Planning Act of 1994,
10 which is found at South Carolina -- South Carolina code
11 annotated section 6-29-310, that requires the local
12 government to first engage the citizens and create a
13 comprehensive plan in a public process before engaging in
14 rezoning and requires the rezoning to be consistent with the
15 prior adopted comprehensive plan.

16 What happened in this case with the Varn and Appleby
17 tracts, your Honor, is exactly the opposite of what is
18 envisioned and required by the Comprehensive Planning Act.
19 Rather than looking at what had already been established
20 through the public process of the comprehensive plan, the
21 applicants sought to change the future land use provided in
22 the plan for their private gain and to the detriment of the
23 common good of the citizens of the town of Ridgeville.

24 Today's case presents the court with the opportunity to
25 affirm the intent and were in text of the Comprehensive

1 Planning Act and enforce its provisions that require zoning
2 changes conform to the comprehensive plan, rather than have
3 hundreds and thousands of separate zoning actions create a
4 crazy quilt of land uses, which is the opposite of
5 comprehensive planning.

6 Your Honor, we fully outlined our arguments in the
7 complaint and our pretrial brief, but we would ask that you
8 consider all those arguments and the documents that are now
9 in evidence, but I would like to highlight three main
10 arguments this morning. One, the -- the South Carolina
11 Comprehensive Planning Act requires that zoning changes
12 conform to the future land use designations in the
13 comprehensive plan.

14 Two, the rezoning for PUD of both the Appleby and Varn
15 tracts is wholly inconsistent with the town's comprehensive
16 plan and that of the surrounding area of Dorchester County.
17 Three, the town's action in rezoning the Appleby and Varn
18 tracts to a zoning category that is inconsistent with the
19 town's comprehensive plan and violation of law is arbitrary
20 and capricious and not entitled to judicial deference.

21 First, your Honor, a little factual background. Local
22 governments must create comprehensive plans under these, the
23 South Carolina Local Government Comprehensive Planning Act as
24 I previously cited. The current comprehensive plan for the
25 town of Ridgeville is the 2015 comprehensive plan adopted by

1 town council on April 12th, 2016.

2 In 2023 when these annexations and rezonings had
3 occurred, the town subsequently made a limited update to its
4 2015 plan. At the owner's request the town of Ridgeville
5 annexed and rezoned the Appleby tract, 446 acres and the Varn
6 tract 632 acres.

7 At the time that these annexations, both properties
8 were undeveloped and forested. The Appleby tract is
9 immediately adjacent to the Great Cypress Swamp, the primary
10 headwater of the Ashley River.

11 In conjunction with the annexations, the town rezoned
12 each property to a planned development, PUD zoning, prepared
13 for national production home builders allowing for 2,600
14 housing units and 240,000 square feet of commercial space.

15 The current population of the town of Ridgeville is
16 approximately 1800 to 2000 people. Utilizing the national
17 average of 2.6 people per home, the population of these
18 developments would be 6,760 people or three to four times the
19 current population of Ridgeville.

20 Before annexation both properties were zoned
21 agricultural residential in Dorchester County, allowing one
22 home per acre density. The town of Ridgeville's future land
23 use map, which considers properties outside its boundaries
24 for future land use, designated the Appleby tract as
25 agricultural and the Varn tract as rural residential. Both

1 categories are described, your Honor, in the -- in the -- the
2 future land use document.

3 But to summarize, agricultural is "Preference of the
4 agricultural future. Land use within the planning area is
5 primarily identified along the railroad and inter --
6 interstate 26. Land is designated this way, not only because
7 it currently is wooded and or used for agricultural purposes,
8 but also due to its accessibility.

9 The large lots along the railroad or interstate often
10 may have limited access points to roads in public facilities
11 such as water and sewer. These agricultural land should
12 remain as such in order to protect vital natural resources.
13 More intensive land uses should be reversed for areas along
14 corridors with roads and utilities in place."

15 Rural residential, your Honor, is -- is described as,
16 "The designated future land use for areas abutting most of
17 the roads that lead out from the town limits, including
18 Ridge, Carter, Givhans, Ridgeville and school roads. This
19 area should remain rural with residential dwellings as the
20 predominant use. These may include site built, single family
21 homes.

22 Manufactured homes would be allowed in this area with
23 appropriate restrictions on the appearance and condition of
24 the homes or in existing manufactured home parks if they're
25 so designated.

1 Preference should be given for residential development
2 on larger lot sizes since these areas are currently
3 (inaudible) town." So primarily residential, some commercial
4 (inaudible) when consistent with the character of the area.

5 THE COURT: Mr. Gower Gowder, --

6 MR. GOWDER: Your Honor --

7 THE COURT: -- repeat that -- repeat that last sentence
8 one more time. I'm sorry. It's chopped up.

9 MR. GOWDER: I will. I -- I apologize, your Honor.
10 Yes. "Although primarily residential, some commercial and
11 agricultural uses may be allowed in this district when
12 consistent with the character of the area. Your Honor, the
13 rezoning process went in this way. The town of Ridgeville is
14 annexed and rezoned, two large properties known as the
15 Appleby tract and the Varn tract, which we described earlier.

16 Your Honor, as -- as previously described, the current
17 infrastructure in the area cannot possibly accommodate the
18 level of development that is included in the PUDs that were
19 passed by the Council of the town of Ridgeville. Also, the
20 developments do not meet the town of Ridgeville zoning
21 ordinance, which requires that properties be compatible to
22 other nearby uses within and beyond the district.

23 Both the Appleby Limited Partnership and Varn and Johns
24 applied to the town to rezone their tracts to PUD in
25 conjunction with entering into a development agreement and

1 simultaneously annexing into the town. The applications
2 first came before the town planning commission for
3 consideration on June 8th, 2022, and were discussed again on
4 October 22nd, 22.

5 Finally, on November 28th, 2022, the planning
6 commission voted (inaudible) ordinances for the Appleby tract
7 and the Varn tract on first reading at its council meeting
8 dated January the 10th, 2023. After extensive public
9 comment, decision was tabled.

10 On January the 24th. 2023, a special call town council
11 meeting was held with only 24 hours notice. At that meeting
12 the town council voted to approve the rezoning application to
13 PUD for the Appleby tract and Varn tract. On February the
14 14th, 2023, the town council passed the second and final
15 reading of the rezoning application to PUD for both tracts.

16 Your Honor, later and all of this, your Honor, are in
17 the exhibits. All of the meeting agendas and minutes are --
18 are included in plaintiff's exhibits. Following the
19 rezoning, the future land use map and future land use section
20 of the comprehensive plan for the town of Ridgeville was
21 amended, although they made no significant changes to the to
22 the zoning for these affected areas.

23 They did include, your Honor, a section called Rural
24 Residential that I read to you earlier that includes the
25 sentence at the beginning, "Rural Residential is the

1 designated future land use for areas outside or close to the
2 Ridgeville Givhans urban growth boundary."

3 Your Honor, after the rezonings plaintiffs in this case
4 filed this action challenging the rezoning according to South
5 Carolina Code annotated 6-29-760(c) within 60 days of the
6 action by counsel adopting the rezoning request.

7 So, your Honor, this declaratory judgment action today
8 challenges this rezoning is contrary to the town of
9 Ridgeville comprehensive plan, and therefore invalid and
10 seeks a declaratory judgment to that effect. Point number
11 one, the South Carolina Comprehensive Planning Act requires
12 that zoning changes conform with the future land use
13 designations in the comprehensive plan.

14 Your Honor, the South Carolina Local Government
15 Comprehensive Planning Act requires that local governments
16 create comprehensive plans first and then make all zoning
17 decisions to implement those plans.

18 In fact, the language, your Honor, of 6-29-720 is a,
19 "When the local planning commission has prepared and
20 recommended, and the governing body is adopted, at least the
21 land use element of the comprehensive plan as set forth in
22 this chapter, the governing body of the municipality or
23 county may adopt a zoning ordinance to help implement the
24 comprehensive plan."

25 So what's significant there, your Honor, we believe is

1 that first, the comprehensive plan must come first, and that
2 makes sense because the comprehensive plan is a process that
3 involves public engagement and public hearings, and it also
4 involves looking at the municipality or county as a whole and
5 making decisions on the wise use of land for the -- the
6 jurisdiction as a whole, as opposed to a parcel by parcel
7 decision.

8 It also is one that is broad based and allows citizens
9 to participate in hearings and meetings that result in the
10 comprehensive plan that has been adopted or reviewed by
11 planning commission and adopted by the town or county
12 council.

13 That's what happened here in the town of Ridgeville.
14 But the -- the comprehensive planning ordinance requires that
15 the comprehensive plan come first and then zoning ordinances
16 that are passed are passed for the purpose of implementing
17 the comprehensive plan. That's the only authority and the
18 only purpose for zoning ordinances under the Comprehensive
19 Planning Act in South Carolina.

20 The enabling Act, your Honor, permits the governing
21 body to adopt these ordinances, to implement those, and we
22 cite, your Honor, the -- not only the statute, but the
23 Sinkler v. Charleston County case, which is a PUD case, and
24 it's one in which the PUD was rejected by the court in that
25 case, because the PUD itself did not comply with the

1 Comprehensive Planning Act.

2 Your Honor, there's also authority that we cite that
3 says that "A local government must not -- must not only make
4 zoning decisions consistent with the land use portion of the
5 comprehensive plan, but it may not single out a small parcel
6 of land for use classification, totally different from that
7 of the surrounding area for the benefit of the owners of that
8 property and to the detriment of other owners.

9 We cite that in our brief. That's the Bob Jones
10 University v. City of Greenville case. And interestingly,
11 your Honor, that case is a 1963 case, so it comes 30 years
12 before the Comprehensive Planning Act, and it's -- it -- that
13 case is a spot zoning case, which is a common law principle
14 in our law, but it is consistent with and supports the, you
15 know, later statutory provisions of the Comprehensive
16 Planning Act.

17 Finally, your Honor, there's a case that I know the
18 defendants may cite for the purposes of arguing that you
19 should defer to the -- the zoning board and the county
20 counsel in this matter, but we cited to you for this purpose.
21 The case of Knowles v. Aiken, which was decided in 1991, says
22 "That where an ordinance establishes a small area within the
23 limits of a zone in which are permitted uses different from,
24 or inconsistent with those permitted within the larger, such
25 spot zoning is invalid, where the ordinance does not form a

1 part of a comprehensive plan of zoning, or is for mere
2 private gain as distinguished from the good of the common
3 welfare."

4 Your Honor, we would contend that in this case we have
5 both of those situations. We have a situation where the
6 rezoning ordinance does not form a part of a comprehensive
7 plan. It's certainly the density that is allowed by the PUD
8 and -- and the development agreement in these two areas is
9 completely inconsistent with the agricultural and rural
10 residential zoning of either the county zoning or the town of
11 Ridgeville zone.

12 So -- and the other point of Knowles was also invalid,
13 where the decision is made for the mere private gain as
14 distinguished from the good of the common welfare. We
15 believe that's also the case here in this case. In this
16 case, the -- obviously the rezoning benefits the property
17 owner and the developer who will develop the property and
18 sell the homes there.

19 But the common good of the town of Ridgeville and of
20 that part of Dorchester County is evidenced by the terms of
21 the comprehensive plan of both jurisdictions, and that's
22 certainly not supported by these dense rezonings.

23 Number two, your Honor, the rezoning to PUD of both the
24 Appleby and Varn tracts is wholly inconsistent with the
25 comprehensive plan of the town and the surrounding areas of

1 Dorchester County. They're not in compliance with either --
2 and you can -- you can see that, its self evident when you
3 review it, your Honor, of the comprehensive plan or the
4 future land use map.

5 The density allowed in rezoning to PUD is not in
6 conformant -- conformance with those documents. Further
7 current infrastructure in the area cannot accommodate the
8 level of (inaudible) you heard the size of the town, and you
9 can see the documents that are before you --

10 THE COURT: I'm sorry -- I'm sorry, Mr. Gowder. One --
11 one more time. It's chopping you up.

12 MR. GOWDER: Okay.

13 THE COURT: I can kind of piece it together, but on
14 some parts I can't. On the --

15 MR. GOWDER: That is unfortunate, your Honor, and if I
16 knew how to -- to fix that, I would but I -- I don't.

17 THE COURT: It's okay. It's -- it's not often. It's
18 not often. It's just that last sentence. Say that one more
19 time for me.

20 MR. GOWDER: Absolutely. I think that what I said was
21 that the -- the infrastructure in the town and in the area
22 cannot accommodate the level of development anticipated and
23 allowed by the PUD. for example, the Appleby tract, the
24 446-acre tract slated for 1200 homes is located on Campbell
25 Thicket Road, which is not a primary road, and at times is an

1 unpaved road, and so cannot support that level of
2 development.

3 Rezoning is contrary and ignores the future land uses
4 described in the plans and also, as I said, inconsistent with
5 the Ridgeville growth management (inaudible) the desire for
6 gain as distinguished from the commonwealth.

7 Your Honor. The third (inaudible) is that the town's
8 action in rezoning the Appleby and Varn tract to a zoning
9 category that is inconsistent with the town's comprehensive
10 plan is a violation of law that is arbitrary and capricious
11 and not entitled to judicial deference by this Court. Given
12 the incongruity between the new use classification to PUD and
13 the existing surrounding land uses and the future uses called
14 for in the comprehensive plan and the damage that the
15 rezoning will cause the surrounding area, town council's
16 actions are without justification, are not fair or debatable,
17 and are instead arbitrary and unreasonable.

18 The purpose of -- behind requiring conformance to
19 (inaudible) plan is to prevent the arbitrary and reasonable
20 and discriminatory exercise of the zoning power and to serve
21 as an effective break on ad hoc one-off zoning decisions.

22 The town council's actions in allowing the rezoning of
23 these properties to accommodate these dense suburban
24 developments in this location, totally out of character with
25 surrounding property uses is the antithesis of planned zoning

1 as required by the South Carolina comprehensive planning law.

2 The rezoning neither adheres to the town's
3 comprehensive plan or -- or promotes the good of the common
4 welfare. Evidence in the comprehensive plan, the application
5 and its supporting documents before the planning commission
6 and counsel all demonstrate the contradiction between the new
7 use classification and the existing surrounding land uses and
8 the future use is called by -- for by the comprehensive plan.

9 The damage that the zoning caused the -- the plaintiffs
10 and other representatives of the Ridgeville and Dorchester
11 communities.

12 Your Honor, four, the plaintiffs -- and this is a --
13 this is a point that we -- we know that from the pleadings
14 and from the arguments and the documents have been filed in
15 this case, that the defendants will argue that the plaintiffs
16 in this case do not have standing, and so I'd like to address
17 that. Plaintiffs have statutory and public importance
18 standing to seek and obtain the declaratory and other relief
19 that they're seeking.

20 South Carolina code annotated section 6-29-760(c)
21 provides that "Owners of adjoining land or their
22 representatives have standing to challenge zoning ordinances,
23 amendments, or map changes approved by the town council."

24 Your Honor, also the plaintiffs have public importance
25 standing in this matter.

1 The South Carolina Supreme Court has consistently
2 recognized that "Even without an allegation that
3 particularized injury, standing may be conferred upon a party
4 when an issue is of such public importance as to require its
5 resolution for future guidance."

6 That's found in the cases of South Carolina Public
7 Interest Foundation v. Wilson, Sloan v. Sanford and the South
8 Carolina Public Interest Foundation v. the South Carolina
9 Department of Transportation.

10 Your Honor, from that last case is the quote, "The
11 purpose of public importance standing is to allow interested
12 citizens a right of action in our judicial system when issues
13 are of significant public interest and importance to ensure
14 accountability and the concomitant integrity of government
15 action.

16 Your Honor, in this case this decision to zone these
17 properties to allow for thousands of new residents in this
18 area that is not prepared for it, that will quadruple
19 possibly the population of the town is certainly of a
20 significant public interest.

21 There's also the need for future guidance, your Honor,
22 because in -- in this case you know, we raise the argument,
23 which we think is clear, that comprehensive planning requires
24 that zoning decisions be made consistent with it.

25 But your Honor, we see these situations recur

1 consistently across the state, and it would be helpful to the
2 jurisdictions of the state for this Court to rule on the
3 interaction between rezoning decisions and comprehensive
4 plans in those areas.

5 Finally, your Honor, the plaintiffs have the ability
6 under declaratory (inaudible) challenge resuming in fact, the
7 (inaudible) 15-50-380 says, "When declaratory relief is
8 sought, all persons shall be made parties who have or claim
9 any interest which would be affected by the declaration.

10 And no declaration shall prejudice the right
11 proceeding, and any proceeding which involves a validity of
12 municipal ordinance or franchise municipality shall be made a
13 party and shall be entitled to be heard." And your Honor,
14 certainly in this case given their -- where they live these
15 two plaintiffs shall be effect -- would be affected by the
16 decision of the town in rezoning these cases and in the
17 decision of this court.

18 Also, your Honor, the property owners and the town of
19 Ridgeville are before the Court, so we believe that under
20 declare (inaudible) affected are -- are before you. So, your
21 Honor, for all of these reasons we respectfully request that
22 as requested in the complaint, you find that the decision of
23 the town of Ridgeville in rezoning this parcel to be
24 arbitrary and unreasonable and set it aside. And I'm would
25 answer any questions you may have.

1 THE COURT: I don't have any questions at -- at this
2 time. Do -- are the other -- who -- which defendant will be
3 presenting next?

4 MR. GASKINS: Good morning, your Honor. I-- I'm --
5 will be leading off for the defendants.

6 THE COURT: All right, very good. And Mr. -- Mr.
7 Gowder, thank you for your argument as --

8 MR. GOWDER: Thank you, your Honor.

9 THE COURT: -- as well as your memo. And so Mr.
10 Gaskins, we'll move on to -- to your argument, sir.

11 MR. GASKINS: Thank you, your Honor. And good morning.
12 As I mentioned earlier, my name is Brandon Gaskins, and I
13 represent Eugene Varn and David Johns, who are the trustees
14 of the W.H. Varn trust, which owns a 632-acre parcel that was
15 recently annexed into the town of Ridgeville as a planned
16 development.

17 At its essence, this case about whether the future of
18 the town of Ridgeville is controlled by its town council
19 members who are elected by and ultimately accountable to the
20 voters who live in Ridgeville or two people, the plaintiffs,
21 who do not live in Ridgeville and refuse to even consider
22 annexing into the town.

23 As the plaintiff, Barbara Richardson testified during
24 her deposition, she doesn't need the town, so therefore she
25 does not want the town. Despite Ms. Richardson's

1 unapologetic disregard for the town of Ridgeville, she has
2 brought this lawsuit to invalidate zoning ordinances enacted
3 for the benefit of the town by its democratically elected
4 leaders.

5 Thankfully, for these leaders and the town citizens,
6 the law in South Carolina is in their favor and establishes a
7 high burden that a plaintiff must overcome to invalidate a
8 zoning ordinance, specifically South Carolina law, as
9 articulated by our Supreme Court, imposes on the party
10 challenging the validity of a zoning ordinance, the burden of
11 establishing by clear and convincing evidence that the zoning
12 decision was arbitrary, unreasonable, and unjust.

13 Under this standard, if the propriety of the -- of the
14 zoning decision is even fairly -- fairly debatable, then a
15 court cannot disturb the local government's decisions. For
16 the reasons that I'm about to explain plaintiffs cannot
17 overcome this high burden, and the Court should reject their
18 invitation to invalidate what the democratically elected
19 leaders of the town of Ridgeville decided was in the best
20 interest of this -- of the town and its citizens.

21 Before getting into the documentary evidence, I would
22 like to start by previewing the testimony of Rebecca Vance,
23 who is the town employee who is responsible for shepherding
24 the annexation and rezoning of the Varn tract and the Appleby
25 tracts through the town zoning process.

1 Not only is Ms. Vance an experienced professional in
2 the field of land planning and local government -- local
3 government management, she's a native of -- of Dorchester
4 County who has worked in various capacities for Dorchester
5 County, the town of Somerville, and the Berkeley Charleston
6 Dorchester Council of Governments. As such, she is very
7 knowledgeable about both the town of Ridgeville and the
8 challenges and opportunities that it -- that it faces.

9 As Ms. Vance will testify, the town of Ridgeville is a
10 small town with relatively few residents who are
11 predominantly African-American. For many years, the growth
12 experienced around the Charleston region has eluded the town,
13 and as a result, the town has little to offer in regards to
14 commerce, housing opportunities and governmental services.

15 It is effectively a food desert. It has no grocery
16 stores and the only food options in town are what can be
17 found in the local barbecue restaurant or at the nearest
18 convenience store. It has no pharmacies, it has no doctor's
19 office, has no place to really even shop for clothes and
20 other essential needs.

21 And because it has a small tax base, the town can only
22 provide the most basic of governmental services. It only has
23 a handful of employees, has to contract for garbage
24 collection and has no fire department or recreational
25 programs.

1 As a result, it has to rely on Dorchester County to
2 provide many of the governmental services that are typically
3 provided by municipalities. Despite years of being seemingly
4 stuck in time, the town of Ridgeville knows that growth is
5 coming as a result of major economic development projects
6 that have recently come online or on the horizon, such as a
7 new Walmart distribution center, just outside town limits, a
8 Volvo car manufacturing facility just down the road and
9 Redwood materials.

10 And together these projects are going to bring
11 thousands of jobs to the Ridgeville areas. And these jobs
12 are going to create a demand for housing in Ridgeville and
13 the surrounding area.

14 And so you're going to hear how Dorchester County and
15 the town of Ridgeville are planning to meet this demand in
16 unincorporated areas surrounding ridgeville. Put simply the
17 town has decided that it would rather accept and manage this
18 growth through annexation and implementing zoning decisions
19 that will allow it to control development and expand its tax
20 base and governmental services instead of allowing the
21 development to occur in unincorporated Dorchester County.

22 As I mentioned earlier, I represent the owners of the
23 Varn trust, and as Mr. Gowder referred to their property, a
24 large property, not a small property, as Mr. Gowder was
25 suggesting in his argument regarding spot zoning, his plan to

1 be developed in response to this growing demand for housing
2 in the Ridgeville area.

3 In combination with NVR, which is the home builder and
4 prospective buyer of the Varn tract, and after consultation
5 with Dorchester County and the town of Ridgeville, my client
6 sought to annex their property in the -- into the town and
7 have it developed under a planned development, which is also
8 called PD or PUD zoning.

9 Through a year long process, the owners buyer and their
10 land planning consultants worked closely with the town and
11 the county to develop a PD that will govern the zoning and
12 development of the property. Through this process, the town
13 insisted on several requirements to ensure responsible
14 development of the property and to provide additional
15 benefits for the town and its citizens.

16 Ultimately, after the planning commission recommended
17 approval and the town council unanimously approved the PD
18 zoning for the Varn tract in February, 2023, and the -- the
19 PD document, which is founded as Exhibit 4, and I will now
20 try to share my screen. Second. Your Honor, can you see the
21 PD document, which is Exhibit 4?

22 THE COURT: Yes. Yes, I see it.

23 MR. GASKINS: So this is the PD -- sorry, didn't mean
24 to interrupt you. This is the PD document that was adopted
25 by town council unanimously, and it is in effect the zoning

1 that governs the development of the Varn tract. And so I'm
2 just going to walk through this briefly.

3 And so on page 3, it talks about the types of uses and
4 density that is allowed under this PD. And as you can see
5 here this PD allows for a maximum of 1400 single family
6 dwelling units. So when you look at that based on the size
7 of the property, that is a very low density of only 2.2 units
8 per acre.

9 In addition, as you can see on page 4 and page 8.
10 Sorry, (inaudible) allows for a variety of housing to
11 establish different price points and will give the town of
12 Ridgeville additional options for affordable housing, which
13 it is sorely needing. All right. As you can see below, with
14 regards to open space, this PD requires that a significant
15 amount of the Varn property be reserved as open space.

16 There is approximately 139 acres of wetlands on the
17 property most of which will be untouched and undevelopable,
18 but it also requires that up to 20 percent of the total
19 upland acreage, which is I think 493 acres, must be reserved
20 for open space. When you combine that, that means that
21 almost 40 percent of the property will be undeveloped or used
22 for open space.

23 There will also be 120,000 square feet of commercial
24 uses, but these are fairly limited in what commercial uses
25 are allowed. Here you see on page 3, the types of uses,

1 commercial uses, restaurants, retail, other uses, consistent
2 with the neighboring zoning district but not including
3 multifamily, which is important. And it also includes a list
4 of prohibited commercial uses, which you can see here on page
5 7.

6 No junk yards, no video poker parlors, no sexual
7 oriented businesses, no multifamily, no mobile homes, no high
8 cost loan, payday loan type businesses.

9 In addition, there's going to be a three acre civic
10 site that the town can use for whatever governmental services
11 it wants. Governmental offices, a fire station, EMS
12 facility. Currently, as I mentioned before, the town relies
13 on Dorchester County to provide many of those services. And
14 with the dedication and donation of the civic space, it is
15 going to allow Dorchester County to expand its -- the
16 governmental services that it can provide -- it can provide
17 to its residents.

18 In addition, here on page 3. Let's see here. There's
19 also going to be a dedication of a six point acre park. Ms.
20 Vance can -- will testify about the town's recreational or
21 park offers -- offerings. It has a small park and a
22 part-time employee to take care of its park. And this will
23 through this development, will significantly expand its
24 recreational offerings.

25 Also importantly, as you'll see on page 15 of Exhibit

1 4, this PD imposes pretty stringent residential architectural
2 standards that go above and beyond what is existing in the
3 town zoning code to ensure that these are well built --
4 well-built quality homes that will be aesthetically pleasing
5 and add to the -- to the housing environment in the town of
6 Ridgeville.

7 Also want to address infrastructure because that's
8 going to -- that was mentioned by Mr. Gowder. As you'll see
9 on page 11, it talks about water and sewer service, which is
10 going to be provided by Dorchester County because the town of
11 Ridgeville simply lacks the infrastructure and capacity to
12 serve these -- to serve this development.

13 And Dorchester County actually supports this
14 development and has agreed to provide water and sewer
15 service, and that's going to bring these services closer to
16 the existing residents of the town of Ridgeville and benefit
17 them in that way.

18 So overall, this Varn PD establishes a low density
19 development with plenty of open space and other responsible
20 development standards. In conjunction with the adoption of
21 the PD the town council also approved the development
22 agreement for the Varn tract, which is marked as Exhibit 48.

23 While protecting the development rights under the Varn
24 PD this development agreement also provides significant
25 important additional benefits to the town. And I will,

1 again, share my screen to go through some of the relevant
2 provisions of the development agreement. Is that up on the
3 screen?

4 THE COURT: It is.

5 MR. GASKINS: All right. First I want to go to page
6 12, to again, address infrastructure. See in section 16(b)
7 the developer or property owner under -- under this
8 development agreement is responsible for making the site
9 specific and improvement plans and cooperating with the town
10 and the county in the South Carolina Department of
11 Transportation to implement any necessary offsite
12 improvements that are going to be required because of the
13 additional traffic.

14 And in thinking about the infrastructure that this
15 project, as well as the Appleby project is going to need,
16 it's important to remember these houses are not going to just
17 pop up overnight. This is a long process. And ultimately
18 the houses are going to be built as demand necessitates.

19 But it -- that is a long process. And under the PD and
20 under this development agreement, it is anticipated that at
21 least the Varn tract will not be built out for at least 10
22 years after construction begins. So there will be adequate
23 infrastructure for this project.

24 Additionally, as you'll see in section 15(c), the
25 development agreement requires that the property owner or

1 developer make a one-time contribution to the town of \$15,000
2 to assist in the preparation of a downtown master plan that
3 will be implemented to revitalize the town of Ridgeville's
4 downtown area and bring more businesses that can support jobs
5 and provide more commercial opportunities for the town of
6 Ridgeville.

7 Next, under section 16(c) of the development agreement
8 where it talks about sidewalks, this development agreement
9 imposes on the developer an obligation to pay a fee to the
10 town of \$75 per residential lot to expand sidewalks or a
11 multi-use path that will connect the development to downtown,
12 thereby increasing pedestrian and biking activity and
13 mitigating traffic impacts, but also making the town a more
14 walkable community.

15 Finally, section 17 requires the town and the developer
16 to cooperate and work together to find financing solutions to
17 get the -- get the funds needed to make these infrastructure
18 improvements such as roads and other things.

19 And some of the options that it mentions are the
20 establishment of a municipal improvement district, a tax
21 increment financing district and the like.

22 But despite these clear benefits to the town, Ms.
23 Richardson and Ms. Marchant want to make sure the town --
24 never realizes by challenging this plan development. Their
25 primary argument for doing so is that the Varn -- the Varn PD

1 and the development envisioned there under is inconsistent
2 with the future land map in the town's 2016 comprehensive
3 plan, which designated the Varn tract as a potential property
4 for future annexation under the rural residential future land
5 use classification.

6 There are several fatal flaws in the plaintiff's
7 argument. First, their theory is based on the comprehensive
8 plan being a rigid planning tool that requires zoning
9 ordinances to be adopted in strict compliance with the
10 comprehensive plan.

11 But in reality, the South Carolina Local Government
12 Comprehensive Planning Act, which I'll just refer to as the
13 act for short, requires no such thing.

14 Instead of requiring strict compliance section
15 6-29-510(a) of the South Carolina code under the act provides
16 that the comp plan is merely intended to guide the
17 development of a local government's area of jurisdiction.

18 And as Ms. Vance will explain, a comp plan is a guiding
19 document that must be applied flexibly to accommodate for
20 ever-changing and unforeseen circumstances, including the
21 ones where we have -- like we have in this case, where there
22 is rapid economic development, bringing new jobs to the area
23 and creating -- creating significant demand for housing.

24 Second, plaintiff's argument ignores the fact that
25 local governments must also consider the plans of other

1 jurisdictions in their planning process. Not only is this
2 required -- required under the act under section 6-29-510(b),
3 it is also required under the town's 2016 comprehensive plan
4 which is found as -- at Exhibit 2. One second. I'll bring
5 that document up. See that?

6 THE COURT: Yes.

7 MR. GASKINS: All right.

8 THE COURT: Well, it -- it's a blank --

9 MR. GASKINS: It's a blank page, but you see it. I'm
10 -- I'm going to get there. Thank you. This is the part of
11 the land use element of the comprehensive plan that
12 establishes the goals behind the land planning. And as you
13 can see under the goals in 2.2, it specifically requires the
14 town to work with Dorchester County and property owners to
15 make sure that their plans for future land use are
16 consistent. And that's exactly what happened in this case.

17 As you'll see in here this is extremely important in
18 this case because Dorchester County's plans for these areas
19 expressly envisioned more intense, more dense and more
20 suburban development of the Varn tract than what has allowed
21 under the Varn PD. I'm going to start by going through the
22 Dorchester County's 2018 comprehensive plan, which was in
23 place at the time the Varn PD was adopted. And that is found
24 at -- at Exhibit 32. Do you see that, your Honor?

25 THE COURT: Yes, I can see that.

1 MR. GASKINS: All right. This is the Future Land Map
2 in the 2018 Dorchester county comprehensive plan. And as
3 you'll see in the middle of the screen in the middle part of
4 the county, you see Ridgeville. And the Varn tract is just
5 to the South.

6 And you'll see the shading designating the future land
7 use classifications for the Varn tract right there. So you
8 see the purple that -- that's the future land use
9 classification of transit oriented development. And the
10 lighter blue beyond it is low density traditional
11 neighborhood. Right.

12 So I'm going to go to page -- it is page 22 of the comp
13 plan, which describes the type of development envisioned
14 under low density traditional neighborhood. And so where you
15 see the settlement character, it says "Low to medium
16 density." While these are not defined terms it does allow for
17 medium density and depending on who you ask, that could be
18 anywhere from five to -- or seven to 15 units per acre which
19 is not what we have here.

20 And then going to go to the transit oriented land use
21 classification, which is found on page 25 of the Dorchester
22 County Comprehensive Plan. And so what this actually visions
23 is a -- really an urban type development with higher density.
24 And you can see under this settlement character, higher
25 density, mixed density, townhouses and multifamily.

1 So contrary to what Mr. Gowder was talking about
2 earlier, Dorchester County's plans actually envision that the
3 Varn property would be developed much more densely, much more
4 intensely than what the town of Ridgeville's comprehensive
5 plan and the Varn PD envision.

6 In addition to this comprehensive plan, Dorchester
7 County supplemented this comprehensive plan in 2021 with the
8 Ridgeville Givhans's Growth Management plan. I'll pull that
9 up now, which is Exhibit 31.

10 So this is the -- the Ridgeville Givhans growth
11 management plan, which was intended -- adopted, and intended
12 to ensure that development would proceed in a controlled
13 fashion and be supported with adequate infrastructure.

14 To do that, it established what's called an urban
15 growth boundary line, which is discussed on page 10 of
16 Exhibit 31. And here you can see four sentences in, in that
17 first paragraph. "An urban growth boundary line is a tool
18 used to manage growth and limit sprawl by allowing land
19 within the boundary for -- for natural area or agriculture or
20 along allowing land within its boundaries to develop under
21 urban slash suburban standards while preserving the land
22 outside the boundary for the natural area or agriculture."

23 And below you can see the urban growth boundary line,
24 which clearly has the Varn tract well within its boundaries.

25 And earlier in the document it talks about the type of

1 rezoning that would be supported or allowable in Dorchester
2 County for areas within the urban growth boundary line. And
3 so it talks about the land use types, or at least one of them
4 that we talked about earlier, low density traditional
5 neighborhoods.

6 And it says, "Agricultural residential zoning is
7 appropriate in the low density rural areas." And this is
8 where we talk about the low -- low density traditional areas
9 while R1 single family residential zoning could be supported
10 in low density traditional areas where and when the
11 infrastructure is sufficient. Importantly, R1 zoning is
12 three units per acre. And as I mentioned earlier, the Varn
13 tract has a density of 2.2 units per acre.

14 What's important is the record and the evidence is
15 going to reflect is that the town took the county's future
16 land use planning into consideration when it approved the
17 Varn PD. One second, I'm going to show that. So going back
18 to the Varn PD, which is Exhibit 4.

19 This is page 4 of Exhibit 4. And as you can see here,
20 the intent of the Varn PD, "The proposed project area is
21 designated as a combination" -- Sorry, hold one second. This
22 screen is -- "of transit oriented development and low density
23 traditional neighborhood on the Dorchester County
24 comprehensive plan and future land map."

25 Again, this is what the town of Ridgeville reviewed and

1 adopted. So it was showing that it was consistent with the
2 Dorchester County plan and during the legislative process.
3 One second. It's clear that the town council took into
4 consideration the county's growth management plan. Are you
5 seeing this different document now or is it -- okay. So
6 these are the media -- what's that?

7 THE COURT: I can see it. I'm just confirming I can
8 see it.

9 MR. GASKINS: Okay. So these are the meeting minutes
10 for the January 10th town council meeting in which the Varn
11 PD was considered. In here we'll see a discussion about
12 first reading. And it talks about Mrs. Vance stating to the
13 mayor that the mentioned properties are within the Dorchester
14 Ridgeville Givhans urban growth boundary.

15 With that being said, the county will develop the
16 property and the town of Ridgeville will not receive any
17 revenue or have any say in what comes with the development.

18 So when this background is considered the fact that the
19 county was going to allow more dense, more intense
20 development in the Varn tract under the PD, it was clearly
21 not arbitrary and unreasonable for town council to approve
22 the Varn PD. By adopting it, they can ensure that they can
23 control -- control the development of the property, while
24 also expanding the tax base and providing better and more
25 governmental services to its citizens.

1 The next flaw in plaintiff's argument supporting their
2 challenge is that they are asking the court to consider
3 consistency with the comp plan by focusing on future land --
4 by focusing on -- on the future land use section in isolation
5 without considering the comp plan as a whole.

6 As you heard in Mr. Gowder's opening statement and
7 argument, he focused on the future land use map and the
8 future land use categories, but that is only one section of
9 the comp plan, and there are other sections that need to be
10 taken into consideration. And I'll again refer back to the
11 comprehensive plan.

12 And this is Exhibit 2, the 2016 town of Ridgeville
13 comprehensive plan. And at the beginning of the document, it
14 sets forth the guiding principles, and I think this last
15 bullet point is important, where it talks about "Pursuing an
16 annexation strategy to create logical borders for the town of
17 Ridgeville to increase efficiency in the provision of
18 services and allow for future land uses to meet the needs of
19 area residents and businesses." And that's exactly what the
20 Varn PD does.

21 Next, I want to go to the population element. And here
22 we talk about -- it talks about the goals needed to take
23 proactive steps to prepare for population growth in and near
24 the current town limits. Goal. 1.1.1, "Expand the
25 infrastructure systems to account for additional capacity

1 needs within the town."

2 And again, the Varn PD does exactly that. It expands
3 the tax base to allow for more revenue that can fund more
4 services and more infrastructure. It expands the sewer
5 service, or it envisions expansion of the sewer service
6 closer to town.

7 It envisioned along with the development agreement
8 various financing vehicles to support infrastructure growth.
9 It imposes the fee that we talked about earlier that allows
10 for the expansion of the sidewalk system. So it's consistent
11 with the population element of the comp plan as well.

12 Next, the comp plan also includes a community
13 facilities section. And specifically goal 4.12, "Work with
14 Dorchester County to ensure that sewer services are available
15 throughout the town and have capacity to expand for new
16 development."

17 By adopting this PD and encouraging the development of
18 the Varn tract, that is going to extend Dorchester County's
19 sewer lines and sewer capacity that -- that will ultimately
20 benefit the town of Ridgeville. So the Varn PD is also
21 consistent with the community facilities section of the comp
22 plan.

23 Next comp plan includes a housing element, and as you
24 can see here at the end of that first paragraph, under future
25 housing need, and again, this was developed in 2016 prior to

1 the -- a lot of the announcements of the economic development
2 growth and projects that were coming to the area. But even
3 then, it -- it states that "The current housing stock will
4 not be able to accommodate the projected 1,766 new
5 residents."

6 So the comp plan recognizes the fact that the town has
7 inadequate housing supply and that it needs to be expanded.

8 And that's talked a little further below, where it
9 talks about "The -- the town may also consider whether they
10 want to allow for more dense residential development close to
11 the town center or in the new plan development district,"
12 which is exactly what happened with the adoption of the -- of
13 the Varn PD.

14 Further on in the housing element section it states the
15 goals.

16 Section 5.1.1, develop regulations to encourage new
17 structures that improve and enhance existing conditions
18 through superior design and construction. As you recall when
19 I went through the Varn PD, it imposes significant new
20 stringent architectural standards. So in that respect, it
21 also complies with the comprehensive plan.

22 Next, goal 5.1.3, which talks about addressing the need
23 for affordable housing by implementing policies such as
24 density allowances to ensure that new housing units are
25 within a range of price -- prices accessible to current

1 future residents.

2 And what Ms. Vance is going to testify about. And as
3 you saw in the PD document, the Varn PD requires a variety of
4 houses and different houses including senior housing that can
5 provide more affordable housing options to the town of
6 Ridgeville. So again, the Varn PD is consistent with the
7 comprehensive plan in that regard as well.

8 And then in the economic development element of the
9 comp plan, it talks about using zoning and other land use
10 controls to provide adequate and appropriate locations for
11 small and local businesses. And that's exactly what the Varn
12 PD does by creating a commercial pod where new businesses can
13 locate.

14 So, your Honor, we believe that the Varn PD complies
15 with the comprehensive plan as a whole. But even if you want
16 to accept plaintiff's argument and look solely at the future
17 land use section in the comp plan, Ms. Richardson still
18 cannot carry her heavy burden of providing by clear and
19 convincing evidence that the Varn PD is not consistent with
20 the rural residential future land use classification
21 described in the 2016 comprehensive plan.

22 I'm going to go back to the comprehensive plan in the
23 relevant section. Again, this is the 2016 comprehensive plan
24 Exhibit Number 2, and this includes the description of the
25 rural residential future land use classification.

1 And it talks about, "This area should remain rural with
2 residential dwellings as the predominant use, including
3 site-built single family homes. Although primary
4 residential, some commercial and agricultural uses may be
5 allowed in the district when consistent with the character of
6 that area."

7 Your Honor, the Varn PD requires a development that is
8 consistent with this classification. The predominant use is
9 going to be residential dwellings, and it also provides for
10 some commercial use, but is very limited and consistent with
11 the character of that area. Although plaintiffs may want to
12 focus on the term rural and what that means, it is not
13 defined in the comp plan.

14 It does not provide for a maximum density in this rural
15 residential future land use category, and it doesn't even
16 provide for a range of allowable densities. So given the
17 broadness of this description, it was within the discretion
18 of town council to determine the type and scale of rural
19 residential development that it desires for the Varn tracts.

20 And because this Varn PD is predominantly residential,
21 has a low density of 2.2 units per acre and preserves
22 approximately 40 percent of the 632 acre site as open space,
23 it was certainly not arbitrary or unreasonable for town
24 council to conclude that the Varn PD constitutes rural
25 residential development consistent with the 2016

1 comprehensive plan.

2 At the very least, it is fairly debatable whether this
3 low density, low intensity development established under the
4 Varn PD is considered rural residential, and therefore
5 plaintiff cannot meet her heavy burden of proof.

6 Your Honor, even if the Court concludes that it can
7 only look at the future land use section of the comp plan in
8 isolation. And if you determine that the Varn PD is not
9 consistent with the rural residential land use classification
10 under the 2016 comprehensive plan, any inconsistency was
11 cured by the town's subsequent update to the comprehensive
12 plan in 2023.

13 And although plaintiffs may attempt to characterize
14 this action as some attempt to conceal or rectify and
15 oversight a violation of the law, that's simply not the case.
16 As Ms. Vance will explain, an update to a comprehensive plan
17 is a time consuming and laborious process.

18 And this process, specifically in which the town of
19 Ridgeville updated his comp plan to later include the Varn
20 tract in the traditional neighborhood. residential future
21 land use classification began well before the approval of the
22 Varn PD back in 2021, and that was present in town council's
23 mind that it was going through this process when it approved
24 the PD.

25 And so, your Honor, you've heard a lot from me and I've

1 -- I've probably gone on too long, but I'm going to -- I'm
2 going to shut it down, but I -- instead of me talking, I -- I
3 want you to hear the testimony of, or -- or see the testimony
4 of the plaintiff, Barbara Richardson, because it's pretty
5 telling.

6 And in doing so, I'm not trying to be critical of her,
7 I -- I think Ms. Richardson genuinely has concerns about
8 these developments.

9 And there's -- there's nothing strange about that, it's
10 human nature. Anytime there's change, anytime there's
11 growth, there's going to be apprehension and fear.

12 But I think if you look at Ms. Richardson's testimony,
13 you'll see that a lot of her concerns are based on a
14 misunderstanding of the planning process and what all goes
15 into it, and the fact that it's a long process that includes
16 many players.

17 The property owners, the developers, the consultants,
18 the town planning staff, the county planning staff, county
19 water and sewer. In this particular instance, it took a long
20 time to come up with this PD as Ms. Vance is going to
21 explain. this process began probably a year or more before
22 the actual Varn PDs were adopted.

23 And it -- it went through different iterations and the
24 town imposed a lot of requirements to ensure that this would
25 be a responsible plan and that there would be adequate

1 infrastructure to support it. And what you'll see in Ms.
2 Richardson's deposition testimony, and I'm not going to go
3 through all of it, is that she didn't understand this process
4 and a lot of her concerns were speculative based on that
5 misunderstanding.

6 But most importantly, your Honor, I think her -- her
7 testimony is very revealing on the -- the primary issue that
8 the plaintiffs have put before you about whether the Varn PD
9 was consistent with the rural residential future land use
10 classification. And now I'm going to share that testimony
11 with you so you can see it.

12 So here you can see this is on page, I think 120 at 124
13 of her deposition where I was questioning her about whether
14 she considered the Varn development consistent with that
15 rural residential classification. In here she agrees that
16 residential dwellings will be the predominant use, consistent
17 with the rural residential classification. That it will also
18 include commercial uses consistent with that classification.

19 She admits that there's some commercial uses and it's
20 -- but it's only a very small portion. And I think this is
21 the most relevant part of her deposition testimony that
22 completely undermines their position today.

23 And so if you look on line 9, I ask, "Because this is
24 not -- some of the terms in here are not clearly defined, you
25 would agree with me that this is at least debatable as to

1 whether the Varn tract proposed -- whether the Varn tract
2 proposed development falls under this category?"

3 Referring to the rural residential future land use
4 classification. And her answer was short and simple and
5 unequivocal. "Yes."

6 So your Honor, no matter what the lawyers may argue,
7 her testimony reveals that it is at least fairly debatable
8 whether the Varn PD is consistent with the comprehensive plan
9 and the future land use map.

10 And your Honor, for those reasons, we would ask that
11 you reject the plaintiff's challenge and uphold the zoning
12 decision enacted by the democratically elected leaders of the
13 town of Ridgeville. Thank you, your Honor.

14 THE COURT: Mr. Gaskins, thank you very much. All
15 right. Do we have argument from, is it Miss -- is it Shoun?

16 MS. SHOUN: It's Shoun, your Honor.

17 THE COURT: Shoun.

18 MS. SHOUN: Yes, ma'am. Yes, ma'am.

19 THE COURT: I apologize, Ms. Shoun.

20 MS. SHOUN: No, no, it's okay. It's just like shout,
21 but put an N on it. No problem.

22 THE COURT: Okay. Very good. All right. Miss -- Ms.
23 Shoun, have -- are you arguing today as well?

24 MS. SHOUN: Your Honor, mine will be very -- very
25 truncated. If it -- if it pleases the Court. To begin with,

1 I will incorporate the arguments and the references made by
2 Mr. Gaskins --

3 THE COURT: Right.

4 MS. SHOUN: -- to the documents that are before the
5 Court by way of exhibits. Just -- just for brevity's sake
6 and not to belabor the points.

7 THE COURT: All right.

8 MS. SHOUN: And I am proud to be here this, I guess
9 it's still morning, this morning, your Honor, on behalf of
10 the Florence B. Appleby -- Appleby Family Limited
11 Partnership that I will refer to throughout as Appleby and
12 its property, which I will refer to as the Appleby tract.

13 THE COURT: Okay.

14 MS. SHOUN: Much of what Mr. Gaskins advised the court
15 is either identical or strikingly similar as to the Varn
16 tract. This tract has 400 -- roughly 470 acres and its
17 maximum density as proposed under the documents before, your
18 Honor, is roughly 2.4 units per acre, whereas the Varn tract,
19 if I remember correctly, is 2.2 units per acre.

20 And by way of background as to this family partnership,
21 your Honor, this property has been in this family for some
22 period of time, decades, if not longer.

23 And this was a difficult decision for the family to
24 even entertain this sale of the property. And it was done
25 after very thoughtful consideration and careful thought and

1 planning, and planning being a very critical word that I want
2 to bring to this Court's attention and will carry out through
3 the presentation that I make here.

4 As indicated, and again, I'll try not to belabor the
5 points made by Mr. Gaskins, but this all came about, this
6 being the -- the rezoning of this property by and through a
7 process, and that's a legislative defined process that was
8 followed by candidly, not only the Appleby family, but by all
9 the defendants here. Those who own the -- the Varn tract and
10 the town of Ridgeville as well.

11 The process involved, I think you'll hear from Ms.
12 Vance years of negotiation with the town, with -- with the
13 respect -- with the owners of the respective parcels and with
14 the town and with Ms. Vance, who was a very well qualified
15 planner acting on behalf of the town throughout the series of
16 negotiation.

17 And the Appleby family did what it needed to do to
18 reach this point. It went through this. It went through the
19 negotiations, it went through the required planning
20 commission process, ultimately securing the approval of --
21 sorry, town council only to be met by this challenge by the
22 plaintiffs. And this challenge by the plaintiffs, as Mr.
23 Gowder indicated to you, comes under 6-29-730.

24 And while it may have been timely filed as anticipated
25 by the statute, what we lack here is neither of these

1 plaintiffs adjoin the Appleby tract. It's in the testimony
2 of Mrs. Richardson that neither her property nor that of her
3 daughter, Mrs. Marchant, adjoin any -- adjoin or abut any
4 border of the Appleby property.

5 And to -- to emphasize how it does not adjoin, I think,
6 think it's page 44 of her deposition. And -- and I think
7 this is Exhibit 50, your Honor, not only does Mr. -- Ms.
8 Richardson says she doesn't know how close or how far away
9 her property is from the Appleby tract, and I would submit
10 that her daughter is even farther away than Mrs. Richardson's
11 property.

12 Additionally, your Honor if you refer to page 6 of Ms.
13 Richardson's deposition, further attenuating the standing
14 issues that were addressed by Mr. Gowder and I'll address a
15 little further, you will see that the South Carolina Coastal
16 Conservation League is actually the entity behind this
17 lawsuit, or at least the -- the entity funding this lawsuit
18 according to a post made by Mrs. Richardson, which she said
19 nobody else would've made on her Facebook account or on her
20 behalf.

21 So failing at the statutory standing that Mr. Gowder
22 addressed, I will turn to the public importance standing
23 here. And again, that -- that is applied when further and
24 future guidance is required to resolve the issue. Here
25 again, this is a very distinct, detailed and clear process

1 that's set forth.

2 This process is set out very largely by ordinances.

3 And -- and those ordinances are enacted by the elected
4 officials of the town of Ridgeville. Officials that cannot
5 be supported or rejected by either of the plaintiffs here,
6 because neither of them live within the town of Ridgeville.
7 They can't vote for these officials.

8 But yet they come before this Court and purport to
9 present to this Court what is best for the citizens of the
10 town of Ridgeville. What is best for the health and welfare
11 of the citizens of the town of Ridgeville when they're not
12 part of that demographic whatsoever.

13 And in fact, according to the testimony of Mrs.
14 Richardson pointed out by Mr. Gaskins, she doesn't choose to
15 be -- would not choose to be part of that particular
16 demographic.

17 Therefore, your Honor, we submit certainly that neither
18 of these plaintiffs enjoy statutory standing to challenge
19 this rezoning as it relates to the Appleby tract and further
20 submit to this Court they likewise fail on the public
21 importance standing.

22 There is a clear process to be followed in the future,
23 and these individuals cannot stand before this Court and
24 purport to represent the best interest of residents of the
25 town in which they're not -- in which they don't reside.

1 And again, I -- I welcome the Court's further review of
2 the PD or the PUD as it relates to the Appleby tract. Mr.
3 Gaskins went through much of that as it relates to the Varn
4 tract. And again, further incorporating Mr. Gaskins's
5 presentation.

6 This sets forth a manner and method by which growth
7 will come to this -- this town, it's coming to this area that
8 has been -- that has been recognized and acknowledged through
9 what Mr. Gaskin's presented to the Court previously.

10 And what this PUD allows for, is for this town to enjoy
11 the benefits of the growth yet -- in - yet in experience it
12 in a very controlled, consistent, and methodical manner. It
13 is anticipated that this development will take nearly a
14 decade. And like Varn, the Appleby tract commits a minimum
15 of open space of 20 percent of the upland acres, which is
16 just slightly than a hundred acres to open space.

17 And no less than 25 percent of that number will be
18 usable open space. It too will be primarily residential with
19 some limited commercial.

20 And those commercial uses are set forth, those limited
21 commercial uses are set forth in the governing documents, in
22 the PD, again, with residential being the primary use. And
23 that residential use goes from cottages, detached and
24 attached single family homes all the way through retirement
25 facilities or retirement homes.

1 What that allows is it allows those who are trying to
2 support the town of Ridgeville, be it through teaching its
3 children, governing in its streets or whatever manner in
4 which it continues to grow in a controlled fashion, to allow
5 them to have housing where they can settle in.

6 Where they don't come to the town of Ridgefield and
7 teach for a year or work for a year and find that not only
8 can they not function under the commute, but they probably
9 can't afford to live in Somerville anymore. They need to be
10 able to -- to be there to support this town and its people.

11 The -- the development standards are greater than what
12 would normally be found undergrowth that wasn't regulated
13 by the PUD. There's strict architectural standards,
14 landscaping standards are in there as well.

15 And again, not to belabor, but the plaintiff's case
16 files on the purported failure to comply with the
17 comprehensive plan. And Mr. Gaskins went through that in --
18 in detail demonstrating to the Court how that simply is not
19 true.

20 First, that comprehensive plan, and the Court will hear
21 more about this from Ms. Vance, is not a rigid and obligatory
22 standard. It is a guidance for growth.

23 In fact, it says in some of the opening lines of the --
24 of the of the comp plan, which is in the exhibits before,
25 your Honor, this is what it does. It is intended to show the

1 design, a pathway. It is not a -- it does not present an
2 ordinance; it does not present a statute. It's merely
3 guidance.

4 And this Appleby tract as it is proposed pursuant to
5 both the PUD and the development agreement, both of which,
6 again, I encourage your Honor to take the -- the time
7 necessary to read is consistent with both the 2016
8 comprehensive plan and the plan is it was updated in 2023.

9 Likewise, for -- for the future land use map and -- and
10 categories submit to you that the -- the Appleby PD likewise
11 is consistent with those goals and plans for growth in the
12 same manner, in the same fashion as Mr. Gaskins presented to
13 the Court the Varn PUD and DA accomplishes.

14 It likewise allows for residential growth allowing
15 teachers, and again, teachers and firefighters and hopefully
16 even a fire station at some point. It -- it provides for
17 increased tax base and revenue. It allows for the growth and
18 improvement of infrastructure.

19 It provides for civic and community growth in
20 compliance with that comprehensive plan. And that is all
21 managed and controlled growth to benefit this town as
22 determined by those individuals who are elected to lead this
23 town.

24 Your Honor, we would submit that the Appleby PD refers
25 to -- is consistent and as Varn it is very carefully guided

1 to be compliant with the rule residential as envisioned under
2 2016 and again, consistent with the 2023 updated plan.

3 And that was a very truncated version of what Mr.
4 Gaskin's presented to your Honor. But again, I'm
5 incorporating his arguments.

6 So not to belabor the point and try to be respectful of
7 judicial economy here. But I do want to bring to the Court's
8 attention what again, is what I, and -- and my clients, the
9 Appleby Family Limited Partnership strongly urge this court
10 to consider is that what is before this Court today is a
11 challenge to a rezoning by two individuals who have no
12 standing to make that challenge.

13 They don't adjoin this property. They don't abut this
14 property. They do not live in and enjoy the benefits of the
15 town of Ridgeville, nor are they limited by what's lacking at
16 the -- in the town of Ridgeville that will be brought to the
17 town by way of the development of both my clients' tract and
18 candidly that of the Varn tract as well.

19 And with that, your Honor, we again invite the Court to
20 look at the exhibits before the Court and pay attention to
21 the -- the testimony of Ms. Vance as it will be presented to
22 your Honor, very shortly. And happy to answer any questions,
23 your Honor.

24 THE COURT: I don't have any questions at this point,
25 but thank you very much --

1 MS. SHOUN: Thank you, your Honor.

2 THE COURT: -- for your argument. All right. Is it
3 Spencer? Ms. Spencer, will you be making argument as well on
4 behalf of your clients?

5 MS. SPENCER: Yes, your Honor. And just, you know, I
6 -- we've been going for a little bit, I don't want to
7 presume, but do we need to take a comfort -- a brief comfort
8 break for anyone?

9 THE COURT: Yes. Yes. I was -- after you answered, I
10 was actually going to suggest that we stand down for about 10
11 minutes so that we can just take a break and then -- and then
12 restart our arguments that -- at that point.

13 MS. SHOUN: Thank you, your Honor.

14 THE COURT: All right. So it is 11:35 now. We will
15 begin arguments again at 11:45.

16 MR. GOWDER: Thank you, your Honor.

17 THE COURT: Thank you.

18 (RECESS TAKEN)

19 THE COURT: All right. Ms. Spencer, are you ready to
20 proceed?

21 MS. SPENCER: Yes, your Honor.

22 THE COURT: All right. Are all parties -- it looks
23 like all parties are here. All right. Very good. Ms.
24 Spencer.

25 MS. SPENCER: All right. Good morning, your Honor.

1 Still barely morning, but good morning, your Honor. May it
2 please the Court. Virginia Spencer, on behalf of the Town of
3 Ridgeville. Just as a brief housekeeping note defendants
4 collectively have identified Exhibits Number 32 through 50,
5 and to the extent that they were not accepted into evidence
6 under Mr. Gowder's motion, we would move that those be
7 accepted into evidence at this time.

8 THE COURT: All right. Any objection? Well, it's Mr.
9 Gowder's motion?

10 MR. GOWDER: No objection, your Honor.

11 THE COURT: All right. Very good. So moved.

12 (Exhibits 32 through 50 admitted into evidence)

13 MS. SPENCER: All right. And your Honor, in the
14 interest of time, to not keep us all here all day the town, I
15 guess first begins by incorporating and adopting the
16 arguments made by Mr. Gaskins and Ms. Shoun but I wanted to
17 add on before calling Ms. Vance as a witness on behalf of the
18 defendants with some additional information that -- some
19 additional kind of draw -- draw the Court's attention to some
20 specific provisions of the town's 2016 comprehensive plan
21 that support the decisions that were made by counsel in this
22 case.

23 A, that these two planned developments and the
24 rezonings and annexations are not only consistent with, but
25 were in fact envisioned by the 26 -- by the town in its 2016

1 comprehensive plan.

2 So the -- the comp town's plan has been marked as
3 Exhibit Number 2. And -- and just kind of to give you some
4 background drawn from the -- from the 2016 plan, which is
5 Exhibit 2 and also from Exhibit 30, which is the 2023 update
6 to the comprehensive plan.

7 And as your Honor may note, Dorchester County is and
8 has been the fastest growing county in South Carolina. From
9 2020 -- or from 2010 the Charleston metropolitan statistical
10 area grew at a rate of 21.1 percent from 2010 to 2020.

11 Dorchester county's population grew 18.2 percent.
12 Dorchester -- the town of Ridgeville population since the
13 1940s has remained relatively stagnant, but the population
14 numbers don't actually reflect that because beginning in
15 1986, Lieber Correctional Institutions inmate population was
16 counted as part of the census population for the town of
17 Ridgeville.

18 When you remove the inmate population for the town of
19 -- for the -- from the -- from those population counts, in
20 2010, the population of the town of Ridgeville, the
21 non-inmate population was 594 individuals. By 2020, that
22 number had almost doubled, a growth of 97 -- over 97 percent
23 to 1,175 people.

24 Ridgeville has also experienced explosive economic
25 development in areas not necessarily within the town limits,

1 but incredibly adjacent to which Ridgeville is the closest to
2 municipality, for example, the Volvo manufacturing plant in
3 Camp Hall industrial -- industrial development in Berkeley
4 County which are just across I-26 from the town of Ridgeville
5 and the Walmart distribution center, which opened in 2022.

6 In its comprehensive plan, the town of Ridgeville, and
7 this is just page 1, you know, notes that "The plan," and
8 analyzes a number of important elements that compromise the
9 jurisdiction, "anticipates trends that will affect the
10 community and establishes goals and recommended strategies
11 that help achieve a community vision."

12 In kind of the introduction, you know, the town's
13 comprehensive plan acknowledges that, "It has the potential
14 to grow significantly in the coming years with the great --
15 with great potential for further development the town of
16 Ridgeville looks to take proactive steps to direct future
17 growth to meet its vision and goals, while ensuring a high
18 quality of life for its residents."

19 And you know, at -- as part of that, the town adopted a
20 vision statement which says "Ridgeville -- in part,
21 Ridgeville seeks to take advantage of economic opportunities,
22 but plans for growth that is compatible with the town's
23 existing character.

24 The town strives to maintain its peaceful small town
25 feel and affordability while enhancing and expanding its

1 public facilities and services and attracting new businesses
2 that serve the community.

3 Ridgeville aspires to be an exemplary town that values
4 diversity, preserves the natural environment and serves as a
5 home for residents of all ages."

6 And when you look at the existing zoning map for the
7 town of Ridgeville at the time in April, 2016, which is
8 figure 25, on page 27 of the 2016 plan, you'll notice that
9 there are only four zoning districts out of six in use within
10 the town limits at that time.

11 And at that time, Ridgeville had a planned development
12 zoning district within its ordinance, so that these PDs were
13 something that Ridgeville knew was coming and had allowed for
14 under its zoning ordinance.

15 And in fact, when you look at its future land use map,
16 which has been marked as Exhibit 1, but is also figure 26 on
17 page 32 of the -- the 2016 future land use map, you'll notice
18 that the tract adjacent to the Appleby tract, which is -- is
19 and was in the town of Ridgeville, is designated as an
20 agricultural future use, even though it's zoned TNR,
21 traditional neighborhood.

22 You know, while the land to the west of that which
23 would include the Varn tract is zoned, you know -- is -- is
24 expected for rural residential.

25 The town's comprehensive plan envisions that there will

1 be a need to adjust -- to improve and -- and -- its
2 infrastructure and to accommodate future growth. On page 51
3 as part of its community facilities and goals, which
4 addresses infrastructure like water and sewer it, you know --
5 it notes, "The town should investigate ways to improve access
6 to a number of community emergency services for current and
7 future residents.

8 And also says that, you know, "As the town grows, the
9 water and sewer services will require special attention to
10 ensure adequate capacity and quality of service."

11 Within the housing element of the comprehensive plan on
12 page 58, you know it, in talking about the need to increase
13 the housing supply and you know, directly after the housing
14 element language that Mr. Gaskin's quoted it notes, you know,
15 "The town may also consider whether they want to allow for
16 more dense residential development close to the town center
17 or in a new planned development district.

18 As the area grows, it is increasingly likely that
19 apartment buildings will be proposed to -- to provide
20 adequate workforce housing for new industries in the area.
21 Additionally, the future land use map should -- should set --
22 identify new areas where residential growth should be
23 encouraged both inside and outside the town boundaries."

24 And subsequent to that, you know, when Dorchester
25 County and Ridgeville particularly are experiencing these

1 incredible growth pressure and at the same time that
2 Ridgeville is beginning and due to undertake its five-year
3 review of its comprehensive plan, Dorchester County adopted
4 the Ridgeville Givhans growth management plan, which everyone
5 has already referred to.

6 And as part of that plan, you know, the growth
7 management plan discusses the fact that the county needs to
8 be prudent about where and when -- where and when rezonings
9 are allowed, you know. That it needs to be done in a manner
10 that is -- does not overburden the county's ability to
11 provide services.

12 But also the fact that it is, you know -- does this
13 growth management plan and particularly the proposed growth
14 -- the urban growth boundary are planned to and -- and
15 prepared for with to -- developed to have that development
16 focused around the town of Ridgeville and not further out
17 within the county.

18 And both of these proposed developments are within the
19 urban growth boundary and they're within the planning area
20 that town of Ridgeville looked at and planned for when it did
21 its 2016 comprehensive plan.

22 And in particular on the first page of the -- or the
23 urban growth management plan, which is Exhibit 31. You know,
24 the county says, you know, "Given the information provided on
25 the following pages, low density rural would generally fall

1 west of Carter Road and west of Right road while traditional
2 neighborhood would generally fall east of those roads."

3 And just so that Your Honor is aware, you know, the
4 Appleby tract is on the eastern side of Carter Road. While
5 the Varn tract is immediately to the left. These tracts --
6 Carter Road essentially runs in and bisects these -- in
7 between these two tracts.

8 The decisions made by the town of Ridgeville in
9 adopting these planned developments and to allow for this --
10 and -- and plan for this future growth also took into account
11 the other areas that are not within the town but are within
12 the unincorporated county that affect, you know, the
13 surrounding uses.

14 In particular there just down Carter Road in the
15 county, further out from the town -- from downtown town of
16 Ridgeville, there is another major subdivision that has
17 already begun construction and is in the process of build
18 out.

19 And you know, that's a planned development that was
20 approved by the county and is even discussed and
21 acknowledged, you know, in some of these documents.

22 This is something that, you know, looking the county
23 and the town we're looking at to say we need this growth, we
24 need these plans, particularly as the economic development is
25 happening on this I-26 side and on the kind of northern side

1 next to the show and income plant, you know. As Mr. Gaskins
2 and Ms. Shoun have -- have discussed, the Varn and Appleby
3 plans are consistent with the comprehensive plan.

4 Again the comprehensive plan as Mr. Gaskins and Ms.
5 Shoun noted is just a guide. And you know, the planning, you
6 know -- these are within the planning areas and have a
7 maximum density of 2.2 and 2.4 per acre, which is actually
8 lower than the maximum density under the town's least
9 restrictive non PD zoning ordinance of traditional
10 neighborhood which has a maximum density of four units per
11 acre, you know.

12 The comprehensive plan makes multiple references to
13 coordination with the county and reacts to the county in part
14 because the town of Ridgeville is surrounded by the county
15 and is so dependent on the county for many services including
16 sewer, you know.

17 The Appleby tract is directly adjacent to parcels that
18 are zoned, you know --- that are in the future map -- map as
19 rural residential and it's directly adjacent and the --
20 achieved annexation by its connection to property that is in
21 the town that's zoned for TNR.

22 PD zoning allows for a mix of densities and allows, you
23 know, under Ridgeville zoning ordinance a way to cluster
24 development closer to that infrastructure, closer to Carter
25 Road and further away from the railroad and the you know,

1 less accessible portions of the -- of that tract.

2 Prior to annexation, both of these properties and these
3 planned developments were completely consistent with the
4 county's land use plan.

5 And so, you know, while the -- you know, exact level of
6 development could not have been foreseen by the town in 2016
7 when -- in April, 2016, when it adopted this plan, it does
8 acknowledge that growth was coming and that that growth was
9 the next step.

10 And, you know, we would note that these were decisions
11 that the town did not enter into lightly. And has been
12 referenced, this was a -- a significant process that began
13 long before these documents came before the planning
14 commission.

15 And ultimately it was a almost a year from the time
16 that they first came, before the planning commission, before
17 they came before council to be considered and ultimately were
18 approved, you know.

19 There's a lot, you know -- there's a lot of speculation
20 and argument, you know, that this is just something that was
21 rushed through, that it wasn't duly considered and it's not
22 consistent.

23 But the thing that has been overlooked is that a lot of
24 the work happened on the front end before these actually
25 began the legislative process to ensure that they were

1 consistent with what the town and would -- and the county
2 could support, and what the town wanted and envisioned for
3 its future, which is not what the county envisioned for the
4 town's future.

5 The town is committed to having that small town feel,
6 which means less dense development than what the county might
7 have envisioned.

8 The county wants, you know, to be more urban, more -- a
9 denser suburban than what -- in more of a population center
10 like Somerville is, than what the town envisions for itself,
11 which is a more country feel, a more peaceful feel, but with
12 still being able to attract and provide services and attract
13 and provide the quality of life measures for its residents,
14 including houses for the people who are working in these
15 economic developments so close to Ridgeville, you know.

16 And you know, again, we would incorporate, you know,
17 the arguments made by Ms. Chown and Mr. Gaskins that these
18 develop -- planned developments are consistent with the
19 comprehensive plan and that they are consistent with the
20 surrounding character, not only of the town, but also of the
21 county itself.

22 And also, you know, the process was -- the process was
23 followed. It was properly noticed; it was -- there were
24 hearings held. People, you know, there was an opportunity to
25 be heard.

1 And ultimately, not only did the planning commission
2 recommend this, but council agreed with the planning
3 commission that these were the best steps for the growth of
4 the town.

5 And even if at the time, you know, this -- the Court is
6 persuaded by Mr. Gowder's argument that the future land use
7 map is the predominant part of the comprehensive plan that is
8 -- that -- that controls the decisions for land use and
9 zoning.

10 The town has modified the future land use map to
11 designate these areas as traditional neighborhood would allow
12 for them to be developed as a planned development district
13 under the town zoning classifications.

14 To -- because again, the town has recognized that
15 growth is coming, whether the town wants it or not, and they
16 want to be able to keep that small town feel, rather than
17 being a small town isolated within a larger city. And at
18 this time, the town would like to call Rebecca Vance as a
19 witness.

20 THE COURT: All right. Very good. Do we still have
21 our clerk on?

22 THE CLERK: Yes, ma'am. Can you hear me?

23 THE COURT: Yes. Very good. Will you swear the
24 witness please?

25 THE CLERK: Yes, ma'am. Ms. Vance, if you'll please

1 raise your right hand and state your full name for the
2 record.

3 THE WITNESS: Rebecca Lynn Vance.

4 REBECCA VANCE

5 first being duly sworn, were examined and testified as
6 follows:

7 THE WITNESS: Yes, I do.

8 THE COURT: All right. The witness has been sworn.
9 Your witness.

10 MS. SPENCER: All right.

11 DIRECT EXAMINATION BY MS. SPENCER:

12 Q. Ms. Vance, where do you currently work?

13 A. I have my own consulting firm that I provide local
14 government planning and land use consulting to communities
15 and developers in the state of South Carolina.

16 Q. Okay. And what all services besides you know -- does
17 Vance Consulting provide to governments?

18 A. So I do any -- anything planning related and anything
19 government related, if -- so, from a number of municipalities
20 I provide actual, like staffing for their planning. I'm like
21 their town planner. I amend and update zoning ordinances,
22 comprehensive plans, master plans. I also work with
23 different governments on grants and public input and funding
24 opportunities.

25 Things like economic development, public funding,

1 public finance, so tiffs, residential improvement districts,
2 things of that nature.

3 And really anything that the communities need. I don't
4 usually provide actual management services, but I have in the
5 past served as interim city managers or interim executive
6 directors for different entities that were in transition
7 after losing their executives, I'll come in and fill in for
8 them and help them hire and recruit a new executive.

9 Q. And do you have any educational background related to
10 these types of services?

11 A. Yes. So my undergraduate degree, I have a degree in
12 geography from University of South Carolina with a minor in
13 environmental science, and I have a master's degree from the
14 -- from College of Charleston in public administration.

15 Q. And how long have you been working in local government
16 management planning?

17 A. About 22 years.

18 Q. Okay. And do you have any professional certifications
19 relating to government management or land use planning?

20 A. Yes. I have my AICP, which is a certification from the
21 American Institute of Certified Planners that I've had since
22 2008. I'm also a certified manager through the International
23 City County Managers Association.

24 Q. And -- and just kind of what is -- what is an AICP
25 designation?

1 A. So to receive this designation, it's a little bit
2 probably like an engineering PE or a -- a landscape
3 architect. You have to work in the field for a number of
4 years and then you have to pass the test. And to keep that
5 certification, you have to do a certain number of continuing
6 education, which I know you guys as attorneys are very
7 familiar with, the continuing education you have to do every
8 year.

9 So those are the type of, you know, requirements that I
10 have also that I have to keep up each year for both of those
11 certifications.

12 Q. Okay. And -- and AICP is a kind of land use planning
13 certification?

14 A. Yeah. American Institute of Certified Planners, it's
15 comes from the American Planning Association. So APA is the
16 governing body and AICP is the certification that they
17 provide.

18 Q. All right. And remind me, when did you first get your
19 AICP designation?

20 A. 2008.

21 Q. Okay. And since obtaining that, have you worked for
22 any local governments in South Carolina?

23 A. Yes. So I -- since that, so 2008, I would've worked in
24 the city of Manning, the city of Cayce, Dorchester County and
25 the town of Summerville.

1 Q. Okay. And what is your current connection to the town
2 of Ridgeville?

3 A. Currently I -- when I began working with them, I was a
4 --, a contract employee as like as a consultant. I'm
5 currently actually a part-time employee for them. So I'm --
6 I'm part-time and work as needed for them. And I go to the
7 planning commission meetings, the town council meetings and
8 do any meetings or anything that -- that they ask of me to do
9 is within my scope.

10 Q. And have your -- your duties that you've performed for
11 the town been relatively consistent since you began working
12 for them?

13 A. Yes.

14 Q. Okay. And just when did you begin working for the town
15 of Ridgeville?

16 A. The fall of '21. So I think it was around August of
17 2021.

18 Q. Okay. Have you ever been qualified as an expert
19 witness before?

20 A. Actually, no.

21 Q. Okay. Is land use and planning something that is a
22 matter of general knowledge for the public?

23 A. I would argue, no, unfortunately it's not.

24 MS. SPENCER: Okay. At this time, the town would like
25 to offer Ms. Rebecca Vance as an expert in the -- in the

1 matters of government management and planning.

2 THE COURT: All right. Mr. Gowder, do you have any
3 questions for this witness?

4 MR. GOWDER: I don't have any questions, your Honor, I
5 would just say that, I mean, this is a non-jury matter. We
6 believe that obviously the Court -- the Court can take this
7 witness's testimony for what it's worth. We do not believe
8 that the areas of land use or local ordinances are such that
9 would require expert testimony and the Court is the expert in
10 the law in -- in this matter.

11 So we would object to her being characterized as an
12 expert, but -- but again, recognizing that this is non-jury,
13 sure, the Court will take her testimony for what it's worth.

14 THE COURT: All right. Ms. Spencer, any response?

15 MS. SPENCER: Yes. I mean, I'm happy to -- to provide
16 additional you know testimony, you know -- questioning from
17 the witness with regards to planning, you know, how -- how
18 the ordinances and the -- the practice that we --

19 THE COURT: I don't find it -- I don't find it
20 necessary just if you -- if -- if you would like for her to
21 be designated as an expert -- expert. Let me -- let me ask
22 your -- your -- well, your -- the other defendant's counsel,
23 are there any questions for this witness?

24 MS. SHOUN: None -- none on behalf of Appleby, your
25 Honor. And in fact, we would join in and support the motion

1 that Ms. Vance be determined an expert witness before this
2 Court.

3 THE COURT: Thank you, Mr. Gaskins?

4 MR. GASKINS: No, your Honor. I have no questions for
5 her, and also joining the motion.

6 THE COURT: All right. Very good. Thank you -- thank
7 you, counsel. What I am going to do is to find that she is
8 an expert witness. I will say that there's no jury here and
9 -- and -- but it is -- it is an area of the law for which --
10 excuse me, an area of expertise for which I certainly can
11 take her testimony into account for that she will be treated
12 as such. All right. And so I've declared her an expert
13 witness.

14 MS. SPENCER: All right.

15 BY MS. SPENCER:

16 Q. All right. Ms. Vance, are you familiar with the laws
17 governing local government land use and zoning processes and
18 requirements?

19 A. Yes. The South Carolina Local Government Comprehensive
20 Planning Enabling Act is the law for South Carolina that
21 governs all -- governs all land use.

22 Q. And just generally, what does that act require of a
23 local government?

24 A. If a local government and county or city or town wants
25 to regulate land use, so if they want to regulate what people

1 do with their land, then they have to have a comprehensive
2 plan and they have to have a planning commission.

3 Q. Okay. Anything else?

4 A. No.

5 Q. Okay. And -- and how is a comprehensive plan actually
6 put into effect once it has been adopted by -- by a local
7 government?

8 A. So the local government take to -- the local
9 government, the council appoints a planning commission. That
10 planning commission is charged with going through and
11 creating the comprehensive plan as it relates to the
12 Comprehensive Plan Enabling Act.

13 There's elements that are required. They're required
14 to look at demographic data and housing data and data that
15 relates to each of the 10 elements.

16 They're required to have a future land use map and
17 asked to have goals and objectives for each of the elements
18 that the town would like to try to achieve in furthering
19 improvement of the town as it relates to those elements.

20 Q. All right. And in terms of a comprehensive plan, how
21 does a town or a -- a government's zoning fit into that?

22 A. So you -- to -- to have zoning, you have to have a
23 comprehensive plan. The comprehensive plan is, is a guiding
24 document. It goes through and provides data, provides
25 objectives, and provides an example of -- of how the future

1 land use could happen in a community.

2 But it is just a guiding document. These documents are
3 done every 10 years and reviewed every five. And, you know I
4 wish that we all had a crystal ball and we could predict
5 things down to the parcel level what was going to happen in
6 five or 10 years, but we can't.

7 So you look at your market trends, you look at current
8 uses, and you look at what the community would like the uses
9 to be and try to predict that with a future land use map for
10 the community.

11 But often, you know, as I mentioned, we don't have a
12 crystal ball and if we did, we would all not be doing this.
13 We would be on an island somewhere because that would be a
14 very great thing to be able to do if we can -- we could
15 predict future land use.

16 Q. Okay. And you mentioned that there are -- I think you
17 said 10 different elements of a comprehensive plan. Do all
18 of these different elements have to match up exactly within
19 the plan itself?

20 A. No, I -- you know, each element has its own goals and
21 objectives and -- and data associated with it. So it -- it
22 can be that some of the -- the goals and some of the, you
23 know, expectations for each of the elements don't mesh
24 together completely.

25 You know, there are certain things with population and

1 there are things you would like to happen that just aren't
2 going to happen.

3 As you work through the different elements with
4 population, you may want for community facilities to have a
5 -- a 15,000 square foot fire headquarters in your city, well,
6 if your population is only 2000 people, those two things
7 aren't going to mesh together. So your wants and needs may
8 not necessarily you know, mesh up with your reality.

9 Q. Okay. And the -- you talked about how the
10 comprehensive is -- plan is a guide and how sometimes things
11 don't work out the way that they want. In terms of making
12 decisions about use of land within a local government, how
13 does a local government evaluate you know, those various
14 competing factors within the -- the changing reality?

15 A. So I think when you look to do a rezoning, there's
16 several things you have to look at. Obviously the
17 comprehensive plan is one of those, but there's different
18 parts of the comprehensive plan. So you -- you -- the future
19 land use map is just one. And then a lot of future land use
20 maps, it's very vague.

21 I mean, if you look at the town of Ridgeville is one.
22 It's just some different shades of color. It's not parcel
23 based. None of them are usually parcel based. So you are
24 looking at kind of -- we think this area might be this.

25 So you look at the future land use map, you look at the

1 goals and objectives on each of the elements and you look at
2 the existing conditions and try to figure out if the rezoning
3 that you're -- you're looking at or if the land use that
4 you're looking at that's proposed generally fits into the
5 goals and objectives and -- and the future land use map and
6 then the reality that's just on the ground.

7 Q. All right. All right. And you mentioned that you
8 began working with the town of Ridgeville in au August or
9 roughly fall of 2021. Prior to that you mentioned that you
10 had worked for the town of Summerville and -- and for
11 Dorchester County. Did you have any other familiarity with
12 the town of Ridgeville before you began working with them in
13 '21?

14 A. Yes, actually I have a -- a family member that lives
15 outside of town that I would grow -- an uncle that would --
16 we would go out there during the summer and go, you know, out
17 on the boat with him and stuff like that. So -- and he
18 actually still lives there. And then I also worked at the
19 BCD -- the Berkeley, Charleston, Dorchester Council of
20 Governments in their planning department. And I actually
21 wrote the town's zoning ordinance.

22 Q. And when was that?

23 A. Oh gosh, 2004, five-ish I think is when their zoning
24 ordinance was adopted. So yeah, it's -- it -- it was older
25 and we've sent -- 2004. And we've since made amendments to

1 it and are continuing to make amendments to it.

2 Q. Okay. Is the planning process and -- and the -- and --
3 and the process of zoning something that is static or is it
4 more organic?

5 A. So the -- the process is, you know, is regulated by
6 law. So you know, the -- the hearings you have to have, the
7 recommendation from planning commission. There are state
8 laws that you have to, you know, meet, there are FOIA laws
9 that you have to meet.

10 And then each jurisdiction has different -- can have
11 more or stricter notice requirements or regulations as it
12 comes to the actual process of -- of, you know, rezoning or
13 making a text amendment or making changes to the
14 comprehensive plan.

15 Q. And I guess in what, in terms of -- of the planning of,
16 you know, how the -- how land is going to be used and -- and
17 in term -- and what, you know, what an owner wants for their
18 land versus what the government wants.

19 Are there certain principles that kind of apply as kind
20 of a best practice for government, you know, when they are
21 faced with a request to, you know, change the use of a
22 property or to, you know, add town -- add a -- add a use or
23 add -- add a property to its jurisdiction.

24 A. So I think when you're looking at whether you rezone
25 something or whether you annex it, you've got to figure out

1 how it benefits the town. And you know what, it's -- it's
2 basically like a -- a SWOT analysis. You know, what are the
3 -- what are the benefits, what are the pros to annexing or
4 rezoning and what are the negatives and what can you do to
5 take advantage of the pros and what can you do to mitigate
6 the negatives or require the developer to do to mitigate the
7 negatives for a rezoning or a -- an annexation. And
8 ultimately it comes down to what is the vision for the town
9 that the elected officials have. And it may not be the
10 vision that the -- the property owner has for that area.

11 Q. And then in kind of, in terms of, you know, the -- the
12 way that land is used within an area, are there general kind
13 of guidelines for how, you know, area -- how use land use is
14 planned for by -- by a jurisdiction?

15 A. Again, you look at what -- what's the reality of your
16 situation? You know, so some people, you know -- every --
17 every jurisdiction, you know, there's certain things that
18 everybody wants a -- an olive garden or a -- a I think
19 yesterday a (inaudible) talked about that in one of the
20 meetings I was in, everybody have the -- has the things that
21 they want Trader Joe's, everybody wants a Trader Joe's here.

22 But there's certain market realities for whether or not
23 things are going to work in your community. So if you have
24 needs for residential, then those are some of the things you
25 -- you're going to look to, to approve those sorts of

1 changes. If you need, in the case of Ridgeville, if you need
2 people to bring a grocery store or a pharmacy.

3 One of the interesting things that I think the Post and
4 Courier had an article a normal like 50,000 square foot
5 grocery store is not going to come to a place unless there
6 are 4,000 units or 10,000 people. That's when they start
7 looking.

8 So when you talk about a food desert and the fact that
9 in Ridgeville you have like three restaurant choices and --
10 and a gas station they're not going to be able to recruit a
11 grocery store until they can get somewhere close to those
12 numbers.

13 So those are the type -- you know, what are the needs
14 of the community, what's the reality of the situation and
15 whether or not the uses that are proposed fit on the
16 properties that they're proposing it for. It may be that you
17 want a Trader Joe's, but it's -- and that Trader Joe's wants
18 to come here, but it won't fit on the piece of property
19 they're asking to own because of certain limitations.

20 Q. Okay. And -- and talking about other limitations, you
21 know, are there certain uses within a specific town --
22 government's ordinances that are compatible or incompatible
23 with each other, you know, when you're looking at zoning
24 decisions or land use decisions?

25 A. You -- you generally, you know -- there's -- there's --

1 you -- the -- the current planning kind of, you know, manage
2 -- best management practice is mixed use. But those mixed
3 uses need to be things that compliment thing -- compliment
4 each other. You want a mix of residential uses and a mix of
5 your neighborhood commercial uses close to that.

6 You don't want to put industrial next to -- to
7 residential. You -- there are certain specific uses that are
8 -- have very specific requirements like sexually oriented
9 businesses or tattoo parlors or different things like that,
10 you know.

11 You try to look for things that match each other and
12 benefit each other through either by the type of residence
13 that you're putting there or the type of commercial you're --
14 they -- that you're putting there. You need to have people
15 where the services are and services where the people are.

16 Q. Okay. And to talk a little bit more about the town of
17 Ridgeville in particular how many residents does Ridgeville
18 have?

19 A. Around 1200.

20 Q. Okay. And how has that population changed over the
21 last roughly 10 years?

22 A. So it has increased. The -- the non-inmate population
23 hasn't increased. It's a predominantly like 60 percent
24 African American population. It still has a -- a very low
25 per capita income, which is less than 10,000 bucks.

1 Q. All right. What about level of education for the town
2 -- for -- for the majority of the town?

3 A. It's majority high school diploma right now.

4 Q. Okay. And what sort of services does the town provide
5 to its residents?

6 A. So the town has five employees really only through --
7 only -- right now, only three full-time employees and two
8 part-time employees. But there are -- there's a water clerk,
9 an actual town clerk, which works for the court and for the
10 council.

11 There is a police chief who they've currently hired but
12 has not started yet. And then two police officers. Myself,
13 I'm a part-time employee and then they have a part-time
14 facilities guy, I guess is what you would call him. He works
15 on the town hall and on the parks and -- and does things like
16 right of away cleanup up and landscaping.

17 Q. Okay. And in terms of, you know, kind of resident
18 amenities, you mentioned there's a town hall and -- and you
19 mentioned a park. How is there -- how many parks are there?

20 A. So right now there's really only one public park in
21 town. Also the town doesn't provide its own fire service or
22 EMS, the county does that for them. Trash service is a third
23 party; an independent third party does their trash service.
24 Even their building permits and things are also done by the
25 county. And the town has a water system and the county

1 provides sewer in the town.

2 Q. And you mentioned that, you know, there's really not a
3 lot of kind of shopping. You mentioned there's three
4 restaurants and a -- and then a gas station. Are there other
5 kind of commercial opportunities for like services like
6 beauty or doctors, lawyers, accountants, things like that?

7 A. Yeah, there are no doctors or lawyers or accountants
8 unless, I think I've mentioned maybe there's somebody doing
9 taxes out of their house. But other than that there's not --
10 I think there's one hairdresser that I can -- I know where it
11 is. But other than that, no there's not.

12 There used to be a -- a -- it -- it was called Vaughn
13 store and it was kind of like a -- I don't know what you
14 would call it. Had a little bit of everything in it,
15 convenience type store, but it also had some hardware and
16 different like things like that.

17 Since that has closed down, that's -- which is probably
18 like 10 years ago. There hasn't been anything there in town
19 or really near town.

20 Q. Okay. And where do residents of town go to buy
21 groceries?

22 A. So the closest grocery store now is in Jedburg, which I
23 think is like 10 to 15 minutes away. And that's a new
24 grocery store. That is relatively in the past two or three
25 years that was there. For doctors or lawyers or professional

1 services, they're going to have to go to -- in town into
2 Summerville, which is again, 15, 20, 20-ish depending on --
3 on the traffic that's the closest there.

4 Q. All right. What about things like a pharmacy for, you
5 know, medications and things like that or first aid?

6 A. Yeah, I think the closest pharmacy is going to be
7 downtown Summerville or maybe in Knightsville, which is in --
8 you know, still about 15, 20 minutes away if you dare to go
9 down Orangeburg road -- road to get to the Knightsville city.

10 Q. Okay. And, you know, in terms of the kind of economic
11 development around the town, what are some of the
12 opportunities you know, kind of that have come to the town
13 that impact the, you know -- what's available to its
14 residents?

15 A. Opportunity wise, you know, there -- there are a number
16 of industrial -- light industrial uses that are coming around
17 the town. So the Ridgeville -- interesting, like the
18 Ridgeville zip code stretches from Cross in Berkeley County
19 all the way down to Cottageville in Colleton County. So it's
20 a big zip code, not that many people in it. But Volvo, Camp
21 Hall and (inaudible) -- they're now opening Camp Hall two and
22 the development that's happening around there.

23 The Walmart distribution center being in the Ridgeville
24 Commerce Park -- commerce Center, I think that they call it.
25 Part of that property is actually in the town.

1 So there's a small piece of property that's in the town
2 that's in that industrial park that's actually, we had a
3 groundbreaking a couple weeks ago for a cold storage
4 distribution center facility that'll be in town and in that
5 building.

6 So you've -- you've got some industrial that's
7 happening near it, but the closest, you know, Ridgeville it
8 is the closest kind of your -- Ridgeville Harley Village, St.
9 George, Harley Hill are the closest communities to all of
10 this industrial that's happening. And now the question is
11 where are the people going to come from, you know.

12 Where are -- where are they going to live? Are they --
13 are there enough people to drive from, you know, your
14 Summerville's and North Charleston's, and Goose Creek's and I
15 would say no, because the unemployment rate is -- is already
16 very low in those counties. So there're going to have to be
17 people that move into the area to fill these jobs.

18 Q. And I guess in terms of, you know, and the available
19 housing and the available resources within the town for these
20 people, what's existing?

21 A. There are -- there -- the only thing that you could
22 possibly if you wanted to rent is rent a mobile home in the
23 -- the town of Ridgeville. There's not a lot of properties.
24 There's not -- there's not a lot of properties available at
25 all, and they're all just single family.

1 There's no duplexes or things that you see kind of in
2 some of your normal downtowns like at Columbia. There --
3 there's not that mixture of uses.

4 I mean, literally your option is a half acre lot in
5 town with probably a mobile home on it. There's not a lot of
6 other options for you. If you -- if you're not from there
7 and you want to come there and you need to find someplace to
8 live, those are really your only options.

9 Q. Okay. And in terms of, you know, when you began
10 working for the town, what -- did they bring in someone with
11 your -- with your background to try to address some of these
12 issues?

13 A. Yeah, so I -- I commend the mayor and I think he's on
14 the call. I commend the mayor and council because they
15 realized that they were being you know, contacted by
16 different developers and different uses and that they didn't
17 have the expertise on staff to try to -- to, you know -- to
18 even move the process along legally, you know. People can
19 request anything and you -- you have to be able to have a
20 process. There's a legal process laid out in state law for
21 -- for rezoning requests, and there's a legal process laid
22 out in the town's ordinances.

23 So they needed someone with their limited staff, you
24 know, to -- to deal with these requests and try to find ways
25 for the town to take advantage of the things that were coming

1 and not have these things -- these people run over them. And
2 I commend them for having the self-awareness to know that
3 these were opportunities, but these are opportunities came
4 with you know, things that -- problems that needed to be
5 mitigated. So I commend them for that.

6 Q. When you first began working with the town in 2021, did
7 it have a comprehensive plan?

8 A. Yes. The comprehensive plan, the 10-year update had
9 been done in 2016.

10 Q. Okay. And has that plan been reviewed or updated
11 since?

12 A. Yes. We began updating it in the beginning of '22 and
13 didn't finish until 2023. And I -- I know that that's a
14 question of when that occurred. And what I will tell you is
15 that when you're reviewing a -- a comprehensive plan, you're
16 not just reviewing the future land use map, you know. You're
17 supposed to go through the data and they -- there's new data.

18 There was new data because 2016 and -- and now in 2023
19 you have new census data; 2022 you have new census data. The
20 -- you have to go through all of the goals and objectives.
21 So even though the future land use piece is one piece,
22 there's still a whole other portion of the document that you
23 need to go through, and that takes a while.

24 Getting the planning commission together, getting a
25 quorum of the planning commission together, having them meet,

1 have -- you know, going through sections over and over,
2 updating the town of St. George comprehensive plan. I have
3 a meeting tonight at 6:30 if we're out of here by then,
4 hopefully. And I literally have printed out the -- the goals
5 and objectives and we're going to go line by line and say,
6 you know, does this still fit?

7 So it's not something that we say, oh, we're just --
8 we're not updating it and happens at a meeting. So the
9 process began in the beginning of '22. It didn't end until
10 the end of 2023. But there were also all of the other plans
11 that were going on at the same time that had to be included.
12 And I -- I think that's one thing I want to make sure we
13 understand is that you had the 2016 town comprehensive plan.
14 You had the 2018 county comprehensive plan.

15 You then had the 2021 Dorchester County growth
16 management plan that happened. And then in 2023, the town --
17 so -- so through those, the town and the county then did
18 their five year reviews, and those were finalized in 2023.
19 So these are all plans that are being, you know -- are fluid
20 as they're trying to address the growth that's happening and
21 trying to react to the things that they're being hit with.

22 Q. All right. And as a result of -- of your involvement
23 in -- in updating this plan -- you know, in updating the
24 plan, is it fair to say that you are familiar with both the
25 2016 plan and the 2023 review updates that we made?

1 A. Yes.

2 Q. Okay. And kind of turning to what has been marked as
3 Exhibit 2, which is the 2023 or 2016 land use plan
4 specifically on page -- trying to share my screen so that --
5 okay. So specifically you know, on page 26 where it talks
6 about existing zoning, what zoning districts have been
7 adopted.

8 THE COURT: Ms. Spencer?

9 MS. SPENCER: Yes.

10 THE COURT: I just -- I just want to be clear, all we
11 see is a blank page.

12 MS. SPENCER: Oh (inaudible) share. Yeah.

13 THE COURT: Can anyone else, and maybe it's just mine.
14 Does anyone else see an image?

15 MS. SHOUN: No, ma'am. I don't have it either.

16 THE COURT: All right.

17 MR. GOWDER: Nor do I.

18 MS. SPENCER: Let's see. Try it a different way.

19 MR. GASKINS: I believe I still have it open and -- and
20 may be able to share it if -- if that -- if that's better for
21 everyone.

22 BY MS. SPENCER:

23 Q. I got it.

24 A. So you were asking what the existing zoning districts
25 were. So the town at that point had six zoning districts

1 town center, traditional neighborhood residential,
2 neighborhood commercial, light industrial office, planned
3 development and manufactured housing park.

4 Q. Okay.

5 THE COURT: We still don't see anything. Is -- is Mr.
6 Gaskins going to share or we still don't see anything?

7 MS. SPENCER: Yeah, it's -- it is -- I -- I was -- I'm
8 trying -- I was -- I don't know why it wouldn't -- so I was
9 trying to -- to open it as -- to open the file as a -- as
10 shared as a -- as an open file within WebEx. But it is --
11 it's 60 percent loading.

12 THE COURT: Okay. Okay. All right. I just wanted to
13 -- before you proceeded, I just wanted to make sure that we
14 did not see anything as of yet. Okay.

15 MS. SPENCER: And -- and really that -- the -- I'm
16 sharing mostly so that we're all kind of following along. So
17 that -- you know, so.

18 THE COURT: Okay. BY MS. SPENCER:

19 Q. Okay. Makes sense.

20 A. Yes.

21 Q. Did I go too far? There we go. Okay. And so I guess
22 kind of in -- you know, in 2021, were there any PD zoning
23 districts within the town at that point.

24 A. There were none that were adopted, but again, the --
25 the ordinance that was adopted in 2004 for the town of

1 Ridgeville had a plan development district in it and had
2 specific regulations that could go -- that had -- you were
3 required if you wanted to do a PD. So it was contemplated
4 even back in 2004 when I wrote the ordinance that you could
5 do a PD in the town of Ridgeville.

6 Q. Okay. And then kind of turning you know -- later on
7 we've talked a little bit about the future land use map. Is
8 that included in the 2016 comprehensive plan?

9 A. Yes.

10 Q. All right. And that appears on page, I believe 31,
11 system zoning. All right. And I believe this is also been
12 marked as Plaintiff's Exhibit or as Exhibit 1. Does this
13 land use map depict areas outside of the town limits?

14 A. It does.

15 Q. Why is that?

16 A. So it's not a requirement with state law that
17 communities consider properties outside of their town limits
18 when it comes to future land use. But they can, and I
19 believe one of the goals in this ordinance was to look at an
20 annexation strategy and look at the properties outside of
21 town that are contiguous and try to figure out which ones
22 could conceivably be annexed that would make sense for the
23 town. I believe that's one of the land use goals and one of
24 the guiding principles for the -- for the 2016 comp plan.

25 Q. Okay. And is the Varn tract included in the planning

1 area?

2 A. Yes, the Varn tract is included as rural residential.

3 Q. Okay.

4 A. For a future land use in the planning area.

5 Q. All right. And what about the Appleby tract?

6 A. It's included as agricultural, if you go by the green

7 -- I -- I believe that's green and that was my, you know,

8 working through the process. I worked -- I believe it was

9 green and it was agricultural in -- in its future lands.

10 Q. Okay. All right. And is rural residential a zoning

11 district?

12 A. No. So the -- the important thing to know about land

13 use, future land uses in the zoning ordinance is that they're

14 usually very -- I mean, in the comprehensive plan, they --

15 they're just land uses. They're just usually vague and in

16 some ordinances, they're very vague. It just says

17 residential, commercial, industrial. So it doesn't have to

18 be very specific and it's just a general idea of what someone

19 thinks might happen. So -- but it's not an actual zoning

20 district.

21 Q. Okay. And -- and what is the predominant use under the

22 comprehensive plan, you know, envisioned for something that

23 is classified as a -- a rural residential future zoning?

24 A. So for their rural residential in 2016 it was

25 predominantly site built homes, some small commercial

1 manufactured homes, manufactured home parks things of -- of
2 that nature. Give a preference to like larger size lots.

3 Q. Okay. And -- and sort of what zoning districts under
4 the town zoning ordinance would that type of a rural
5 residential use encompass?

6 A. So the -- the comprehensive plan does not designate any
7 of those. It doesn't say, you know, rural -- if -- if we
8 have it as rural residential, then it should be rezoned, you
9 know, when it's zoned to X or Y. But traditional
10 neighborhood residential is really their only residential
11 district that would've -- that -- that is compatible with
12 rural residential.

13 Q. Okay. And what is the default zoning district for
14 somebody -- if somebody's being annexed into the town?

15 A. Traditional neighborhood residential.

16 Q. Okay. And what types of uses are allowed under a TNR
17 zoning?

18 A. It's single family residential, mobile home, and some
19 of your like basic commercial uses. Nothing at all
20 intensive, just very basic.

21 Q. Okay. And kind of what is the density under -- under
22 that type of zoning?

23 A. So the traditional neighborhood residential district,
24 it allows for half acre lots and allows two houses on each
25 lot. So technically the traditional neighborhood residential

1 district, which is the predominant district in the -- the
2 town, allows for four units per acre.

3 Q. Okay. Yes. So for today, if -- if that property were
4 to come in and it had not -- not come in as a PD and came in
5 as traditional neighborhood residential, it would allow four
6 units per acre.

7 A. Uh-huh.

8 Q. Okay. Does Dorchester County also have a comprehensive
9 plan?

10 A. Yes.

11 Q. Okay. And -- and does the -- the laws, the enabling
12 act and the -- the local government planning act, does that
13 require a government like Ridgeville to consider other
14 jurisdictions?

15 A. Yes.

16 Q. And how -- you talked a little bit earlier about how,
17 you know, when Ridgeville was kind of doing its review and --
18 and ultimate update in 2023 that Dorchester County was
19 having, you know -- was also updating and -- and that sort of
20 thing. How much of Ridgeville's process in looking at and
21 deciding as a -- as a municipality, how they want to use
22 their land and what they want for their town in terms of the
23 -- the land use is affected by the decisions that Dorchester
24 County is making?

25 A. Well, as I mentioned Dorchester County provide --

1 provides fire EMS, building services and sewer to the town of
2 Ridgeville. So as you know -- when you're looking at how you
3 want to grow as a town that's dependent on -- on another
4 entity what they do is very important.

5 Q. And -- and is that something that is envisioned under
6 the town's comprehensive plan in 2016? Kind of that -- that
7 recognition that they're dependent on Dorchester County?

8 A. Yes. I -- I believe that in the goals and objectives
9 in several different places, it talks about coordination with
10 them on things like roads and in general services. Yeah.

11 Q. Okay. And we've talked a little bit earlier about, and
12 -- and Mr. Gaskins I think made his argument talked about the
13 Dorchester County land use map. Is -- is that map that
14 they've adopted in, I think you said 2018 at what has been
15 marked as Exhibit Number 32? (Inaudible) go to page 17.

16 Okay. Let's see.

17 MR. GASKINS: I still have it open if you would like me
18 to share it.

19 MS. SPENCER: That would be great actually. I
20 appreciate you being my -- my assistant here.

21 MR. GASKINS: Is this what you're looking for?

22 MS. SPENCER: Yes. Thank you, Brandon.

23 BY MS. SPENCER:

24 Q. And so kind of looking at the county's map here what
25 type of of uses is the county envisioning for around ridge --

1 for Ridgeville and -- and its surrounding area?

2 A. So in the 2018 and -- and -- comprehensive plan which
3 you have up there, it shows -- the -- the two tracts we're
4 talking about, they're either low density, rural and
5 traditional neighborhood or transit ready, transit oriented.
6 And that was back in 2018. So they -- their ordinance, they
7 based everything -- they came up with settlement types.

8 So as you go through the ordinance, they'll go through
9 each of those settlement types on the bottom and then have
10 kind of definitions of what they think that should be. So
11 with the low density rural that's low to medium density,
12 variety of home -- home types, even allowing for medium
13 density town zones, so suburban streets, things of that
14 nature.

15 So the Varn property was in low density, rural and
16 traditional neighborhood and in -- a little bit in transit
17 ready. And then the Appleby property, I believe was more in
18 just the transit ready, transit oriented. And the transit
19 ready, transit oriented property allows for that -- one of --
20 you know, the characteristics for high density, mixed
21 density, townhome, multi-family, allocation land for
22 employment, things of that nature.

23 So the 2018 plans, which then in the 2023 update have
24 these areas, the -- the Varn tract and the Appleby tract as
25 low density, rural and traditional neighborhood or transit

1 ready, that both which allow for low to medium density,
2 medium density town homes, multifamily and then in the case
3 of Appleby allowed for higher density and -- and mixed
4 density.

5 Q. And -- and it in general, kind of, you know, that type
6 of -- of use that the county was envisioning for Ridgeville
7 was -- did that change how the town viewed its use and
8 changed its plans when it was going through this update?

9 A. Yeah, so remember 2016 was the town's plan, then the
10 county did their 2018 plan. So yes, as you're going into
11 your review -- your five-year review of the town's plan, you
12 then need to take into consideration what the county's doing
13 because remember the county is the provider of most of your
14 services.

15 So if the county is saying that we're going to service
16 these areas outside of your town to the level of medium
17 density or high density, then you need to take that into
18 consideration into your plans. And then as we roll out of
19 that 2018 plan, then they create the urban growth boundary,
20 the Ridgeville Givhans urban growth boundary, which then
21 further kind of tells the -- the town -- basically it tells
22 the town and -- and, you know, you guys read it -- it -- an
23 urban growth boundary is basically a way to control growth.

24 And it sets up a, a line and a boundary. And I think
25 there seems to be a little bit of confusion about what that

1 means. Within that urban growth growth boundary, which the
2 town is in that boundary, that is where the county wants to
3 direct growth, that's where it wants growth to occur. And
4 the words it uses are urban and suburban standards for that
5 to develop within the growth boundary, not outside.

6 So the idea is that the county wants to drive
7 development inside that boundary and to do that, they're only
8 going to approve rezonings and provide services to
9 developments inside that growth boundary.

10 The town is inside that boundary. These two
11 developments are inside that boundary. And the -- the county
12 in that ordinance used basically they're R-1 standard, it
13 basically said we want things to develop to a density like
14 R-1 for the county.

15 R-1 is a minimum lot size of 14,500 square feet, so
16 that would mean three units per acre. So the urban growth
17 boundary, which the town is in, and which those -- the two
18 properties we're talking about are in the county has said
19 they wanted to -- to grow in a way that is equal to their R-1
20 standard, which is three units per acre. And as we've
21 already said, the Varn and Appleby track are 2.2 and 2.4
22 units per acre.

23 Q. Okay. And -- and kind of in -- in going through its
24 update and -- and reviewing this you know, did the -- what
25 was the town of Ridgeville's reaction to the county's

1 indication, you know, not only through the -- through the
2 urban growth boundary, but through this, you know -- it's
3 land use plan of this is how -- of what we envision the area
4 around Ridgeville development. What was the -- the town's
5 reaction to that from its council and its planning commission
6 in -- in terms of, you know, what they saw for the area
7 around the town.

8 A. So I think that's probably part of the reason why the
9 mayor reached out to me and -- and you know, asked me to
10 come, you know, help them, they realized that it was coming.
11 They knew that things like the -- the development you were
12 talking about, which is Carolina Bay had been approved,
13 Timothy Lakes had been approved. There were a number of --
14 of developments that had already been approved or were in the
15 rezoning process outside of the county.

16 So the town knew they kind of had to -- to get
17 themselves organized because these developments were -- were
18 going to start looking at -- at the town and the ones that
19 were contiguous, you know, at that point, the question is why
20 would you not annex them into town?

21 Why would you not want as a town to have control over
22 what happens to property that touches your town limits. I
23 mean, in the case of Varn, there's a piece of the Varn fact
24 that's already in the town limits.

25 So the -- the town wanted to try to figure out how to

1 take advantage of -- of this development, how to bring it
2 into town so that they could benefit from the taxes and
3 business license, but also to have some control over what
4 happened, you know.

5 Towns generally have more restrictive regulations than
6 counties do, period. You -- you can't require someone in the
7 county -- you can't require the entire county to do very --
8 you know, some of the design standards and things that you
9 can do in a town.

10 Q. What about things like -- like density by looking at,
11 you know, kind of -- it's -- if you talked about, you know,
12 how this transit oriented development that Dorchester was
13 envisioning for parts of -- of the area around Ridgeville,
14 you know, is medium potentially high density you know, but
15 that's not the, you know, traditional neighborhood that was
16 part of Ridgeville zoning ordinance, is that something that
17 Ridgeville kind of had to -- to consider to struggle with
18 and?

19 A. Well, I think it's -- it is that general wanting to
20 have control over what happens. Because if someone -- if the
21 Appleby tract had gone to Dorchester County and said, we want
22 to rezone and we want to have higher density, and by higher
23 density, you know, what we're talking about is very low
24 density. When I say higher density, I mean, you know, 10, 15
25 units per acre apartments, things of that nature.

1 If they had gone to the county to rezone, if you're
2 wanting it to strictly comply with the -- if -- if we're
3 going along with Mr. Gowder's, you know, strict adherence to
4 the comprehensive plan, if Appleby had requested to rezone in
5 Dorchester County, they would be allowed to do apartments and
6 that would've met the comprehensive plan.

7 So for the town, having these properties in town, being
8 able to work with the owners and -- and get things -- get
9 some sort of development that was more you know, conducive to
10 the town, I think was important.

11 Q. And we talked a lot already today about, you know, the
12 town's review and update of the comprehensive plan in 2023.
13 When did that process start? Remind me.

14 A. So if you remember, I started with town in probably
15 like August of '21. I actually looked back through my notes
16 yesterday -- last night. I'm trying to figure out when we
17 started meeting about it. Internally I started meeting with
18 people in like October of 21 about it.

19 It then -- you know, we then went to the planning
20 commission in '22 -- in the -- you know, in -- in '22 in
21 June. It was specifically on the agenda. We talked about it
22 before that.

23 Q. Okay. And as part of -- kind of, how long did that
24 process ultimately take to go through that review?

25 A. About a year from my -- I think beginning to end about

1 a year.

2 Q. Okay. And as part of that review, the town update its
3 future land use map?

4 A. Yes.

5 Q. Okay. And is that what has been marked as, hang on.
6 Let's see, I'm trying to make sure I got -- take -- reference
7 the right exhibit. Is that ultimately what ended up being
8 marked as Exhibit -- as Defendant's Exhibit 34?

9 A. Yes.

10 Q. Okay. And what about the zoning map? Did that get
11 updated as part of this review?

12 A. No. The zoning maps don't get updated until you know,
13 a property is rezoned or annexed. So the future land use map
14 got updated. The -- the thing I will say is that you know,
15 the future land use map was updated based on, you know, I
16 think there's some argument of whether it should have
17 happened before or after.

18 So if you updated the future land use map before, and
19 we went through all of this process before those zonings
20 happened, the types of land uses that are allowed in the --
21 in the planning area outside of the town are not the same
22 types of land uses that are allowed in the planning area
23 inside the town.

24 So we would've then had to have updated it again,
25 because TNR is allowed -- is a land use in town, it's not a

1 land use out of town. So it -- when you annex property, it
2 then needs to have a land use that's in town land use. I
3 know that's complicated, but it's -- it's the, you know --
4 the uses are very specific for the planning area in town and
5 the planning area out of town. So once it annexed into town,
6 it had to be given a land use that's designated for in town.

7 Q. Okay.

8 A. Which is the TNR.

9 Q. All right.

10 A. I know that's complicated.

11 Q. Okay. And the land use Exhibit 34 was ultimately
12 adopted by counsel when?

13 A. 2023. Mid-2022.

14 Q. Okay. All right. And -- and so the -- the areas that
15 had previously been -- been done as rural residential, you
16 know, now in -- in the 2016 map are now TNR or mixed use
17 residential. What's the difference between rural residential
18 and TNR or mixed use?

19 A. Okay. So if -- if -- the -- the big difference between
20 the 2016 map and the 2023 map is that the town expanded their
21 planning area outside of town limits to include all of the
22 property within the urban growth boundary that the county
23 adopted. Because ideally the county is saying, this is where
24 we want growth to happen. The town is saying, okay, if you
25 want growth to happen, this is how we'd like for it to

1 happen.

2 So the town adopts a mixed residential and adapts some
3 of the rural residential language. Basically mixed
4 residential allows for like, what -- what it sounds like. A
5 mix of residential uses to create affordability and different
6 housing type options. It does not allow for apartments, it
7 allows for your cottages or town homes, things of that
8 nature. And a mix of commercial that is complimentary to the
9 residential.

10 The TNR is again, an in town use and it's a traditional
11 neighborhood residential that basically is like the
12 traditional neighborhood residential zoning district, which
13 is the four units per acre.

14 Q. Okay. And -- and kind of that mix -- you -- you're
15 talking about, you know, a mix of of -- of residential types
16 and -- and you know, traditionally as a commercial. Is that
17 something that was important to the town in kind of looking
18 at what they wanted for their future?

19 A. Yeah. If you remember, one of the specific
20 conversations I had with the planning commission and the town
21 council is that before this you could not have built a town
22 home or a duplex in the town of Ridgeville. So that meant
23 your only affordable option was a mobile home on a half-acre
24 lot. And even that, if you guys know what land presses are
25 is not affordable because the land is too expensive.

1 So trying to create some sort of options to where their
2 kids or you know, the teachers could live in town was
3 important to everyone. And that's how that mixed use
4 residential came about because before you -- you didn't have
5 an option.

6 If -- if your -- if you were from Richville and your
7 kid grew up and went to college and wanted to come back and
8 have their first home, their only option was to buy a house
9 on a half-acre lot or buy a mobile home on a half-acre lot,
10 there were no other options for you, which is not affordable
11 or realistic for, you know, someone right out of college or a
12 single -- single parent or a teacher. Teacher, a fireman,
13 you know, your kind of workforce housing.

14 Q. So I kind of just, you know -- generally, what's the
15 general process of if an owner of property that's outside of
16 the town wants to become part of the town?

17 A. Per state law, if you want to annex into a
18 municipality, you have to petition to annex into a
19 municipality. All of the property owners have to sign the
20 petition and that is presented to the town. Then at that
21 point, the question is, you know, how it moves forward
22 through the process.

23 If there is a zoning district that's requested, then
24 the zoning of the property goes to the planning commission,
25 not the annexation. So with the town of Ridgeville, it's

1 different for some towns. but with the town of Ridgeville,
2 the planning commission isn't making a recommendation on
3 whether or not the property gets annexed.

4 They're making a recommendation on what the zoning of
5 the property is. So there has to be a hearing at the
6 Planning Commission where they make a recommendation on the
7 zoning. Then there is first reading and second reading of
8 the annexations, including the zoning, and a public hearing
9 for the zoning and second reading.

10 Q. Okay. And in 2022, did the town have annexation
11 requests for Varn and Appleby tracts?

12 A. Yes.

13 Q. And were those requests submitted and considered at
14 roughly the same time?

15 A. Yes.

16 Q. Were you involved in those -- in the -- in those
17 considerations?

18 A. Yes.

19 Q. All right. Prior to the requests being submitted to
20 the town and to the planning commission was there any kind of
21 negotiation or communication, cooperation between the
22 property owners and the town about these properties coming
23 into the town?

24 A. Yes. I -- I think my first meeting with the engineers
25 for the develop -- for -- for both developers, and it's the

1 same engineers, it was Thomas and Hutton. My first meeting
2 with them was in October of '21. So we began the process
3 then of talking about what could be put in those plan
4 development documents.

5 And as Mr. Gatson -- Gaskins showed, you know, it's --
6 it's a comprehensive document that takes -- basically
7 outlines every regulation for that particular property. So
8 we went through every regulation from signs to storm water to
9 roads to density to land uses.

10 We went through each of those and decided what would be
11 included in each of those sections. I very specifically went
12 through those documents with those engineers. They would
13 submit drafts, we would have meetings, they would make
14 changes, they would submit other drafts, and it didn't get to
15 a point where I felt comfortable with the documents until we
16 submitted it to the planning commission.

17 Q. And -- and you talked a little bit about, about the
18 changes and things like that. What was driving those
19 changes?

20 A. So as we went through the process, I met with --
21 continually met with different departments in the --
22 departments in the county. We required a traffic impact
23 analysis, so those had to go through DOT. The district
24 engineer for DOT has to go back and forth with them about the
25 traffic impact analysis. So that coordination was required.

1 We had to work with the county over you know, roads, building
2 any uses that -- that they thought shouldn't be there.

3 I had to work with the school district. We
4 specifically wanted to make sure that the school district
5 knew what was going on and that potentially if they needed
6 property, we could get property from one of those owners --
7 property owners for a new school.

8 So I had -- I went to a couple school board meetings
9 and actually had the school board down to the area. They got
10 a bus. I did not drive the bus, thankfully. And I showed
11 them both properties and they decided that they would prefer
12 the Appleby tract for a potential school site. So that was
13 taken into consideration.

14 We -- and I actually have a -- a zoom meeting tomorrow
15 with the schools superintendent and the developer to kind of
16 pin those negotiations down and get that on paper tomorrow.
17 So I tried to make sure, because I've done these before, that
18 we coordinated with everyone we could coordinate with and
19 that I got, you know, suggestions from any of the entities
20 that were going to have to touch this property and deal with
21 it in the future.

22 Q. What about like the towns, like members of the planning
23 commission? Were they involved in these kind of early
24 process as well?

25 A. Yeah, I -- purposely, I like to with these big, like

1 rezonings or annexations to bring them to them beforehand and
2 just have on the agenda, like discussion of potential
3 annexation of whatever tract or development so that we can go
4 through it and ask questions in a -- more of a informal
5 state. And then we can make more changes to it before it's
6 brought in its official submittal format.

7 So we did that. The planning commission looked at
8 those sites at least once, maybe twice, I can't remember. We
9 just kind of talk through like, hey, this is the map, this is
10 what they're thinking about. What do you think? They gave
11 me their reactions back to the engineers and those were
12 incorporated in the -- the actual submittal that came in.

13 Q. Okay. And -- and kind of in these early negotiations
14 and kind of pre-submit discussions, was the town encouraging
15 or you know, or -- or inclined towards annexation?

16 A. Yes. I mean, they came to the town to talk about what
17 -- what they wanted to do, and we encouraged them to annex
18 into town because again, we wanted to be able to control what
19 happened and control how it integrated into the rest of the
20 town. And we wanted to be able to get things like property
21 taxes and business license.

22 Because those people -- both of the properties touch
23 the town and most people don't even know if they're in town
24 limits or not, and they're going to use your services and use
25 your roads, they might as well pay taxes to be able to

1 improve those roads and -- and make those services better.

2 Q. And in kind of going through these -- these -- these
3 processes and this potential annexation, were there
4 discussions about the appropriate zoning you know, of which
5 zoning classification ultimately what's the best?

6 A. Yes, so we talked through, and I very -- we very early
7 on, we decided we wanted to do a plan -- planned developments
8 because we wanted to allow for a mix of residential uses, so
9 to allow for townhouses, duplexes cottage homes.

10 So from the conversations that we had with the school
11 district, one of the things that the superintendent at that
12 time said was, we have trouble keeping teachers. They get
13 out of college, they come here, they work for us for a couple
14 years, and they can't afford -- they've got to live in
15 Somerville.

16 They can't afford the rent. So we need something --
17 somewhere for them to live. Well, that's not a single family
18 house in the -- in Dorchester County. They're too expensive
19 for a teacher on a, I mean, they might be up to \$50,000
20 salary. They can't afford it. So we went through and
21 created --

22 MR. GOWDER: Your Honor, I'm going to -- I'm going to
23 -- I'm sorry. I've got to object. I mean I know this is
24 non-jury and I -- and I have tried to be very you know,
25 respectful and quiet here, but I mean, we're -- we're

1 testifying about hearsay on hearsay and -- and you know,
2 evidence that's not in -- or -- or information that's not in
3 the record, not in evidence. And so I -- I would object to
4 hearsay. I'd object to this -- this line of testimony.

5 THE COURT: All right. Ms. Spencer, any response?
6 I'll say that -- that there has been -- there has been some
7 hearsay testimony. I -- I do not -- I do not make a ruling
8 until there is an objection.

9 MR. GOWDER: Right.

10 THE COURT: And so there -- if we can clean up the line
11 of the questioning or perhaps rephrase some of the questions
12 so that we do not elicit the hearsay.

13 MS. SPENCER: Yeah.

14 THE COURT: I'll sustain that objection, Mr. Gowder.

15 MR. GOWDER: Thank you, your Honor.

16 THE COURT: All right.

17 THE WITNESS: So -- so I guess the question was why did
18 we choose PD?

19 BY MS. SPENCER:

20 Q. Yes.

21 A. Because it allowed for a mixture of uses and allowed
22 for a mixture of residential options.

23 Q. Okay.

24 A. That were not allowed in the current zoning industry.

25 Q. Okay. let's see. Sorry. (Inaudible). All right.

1 When were the annexation and -- and PD submittals formally
2 presented to the town?

3 A. I believe June of 2022.

4 Q. All right. And when did the planning commission
5 finally consider whether or not to recommend annexation and
6 approval of the proposed plan developments for the Varn and
7 Appleby tract?

8 A. November, 2022.

9 Q. All right. Did -- and you -- did you attend those
10 meetings?

11 A. Yes.

12 Q. All right. And what was the recommendation of the
13 planning commission to the town council as to whether or not
14 these annexations and zonings should be recommended?

15 A. They recommended approval of the zoning.

16 Q. Okay. What happened after that?

17 A. The town council had first reading of the ordinance in
18 January.

19 Q. Okay. And were you at that meeting?

20 A. Yes.

21 Q. All right. What happened at that meeting?

22 A. The January meeting council deferred approval of the
23 first reading of both the rezonings and the development
24 agreements.

25 Q. Okay. Did they also defer consideration of the planned

1 developments or is that --

2 A. Yes, that's what I'm -- yeah.

3 Q. Okay. And when did they next consider these documents?

4 A. The 24th. Let me make sure I'm right. It was the 10th
5 and then January 24th.

6 Q. Okay. And what happened at that meeting?

7 A. The plan developments were approved.

8 Q. Okay. How many readings are required under the law
9 before a planned development is adopt -- is adopted?

10 A. Two, for annexation and planned development.

11 Q. Okay. And when did they receive a second reading?

12 A. February 14th.

13 Q. All right. And the votes of council for these PDs, and
14 -- were they -- what was the votes from them?

15 A. I do not recall. I believe they were unanimous, but I
16 don't know specifically.

17 Q. Okay.

18 A. You have the minutes. I believe you guys have the
19 minutes.

20 Q. All right. Is there any reason that the minutes would
21 not reflect what the actual vote was?

22 A. No.

23 MS. SPENCER: It -- we've got a little bit -- I've got
24 a little bit more I didn't know since it's one o'clock if
25 anybody needed another break.

1 THE COURT: Sure. Just for housekeeping you -- you
2 have a few more -- how long do you anticipate, just for
3 housekeeping reasons how much more questioning do you
4 anticipate in your line of questioning?

5 MS. SPENCER: I have a -- probably about another 20
6 minutes or so.

7 THE COURT: Okay. And Mr. -- Mr. Gowder, you have
8 questioning as well?

9 MR. GOWDER: I -- my cross-examination will probably
10 last five minutes.

11 THE COURT: Okay.

12 MS. SPENCER: And I believe that Ms. Shoun and Mr.
13 Gaskins, I think had hoped to -- had planned to -- to also
14 question Ms. Vance.

15 THE COURT: All right. And you all have questions as
16 well, Mr. -- Mr. Gaskins?

17 MR. GASKINS: I may have a few. A lot of what I was
18 going to question has been covered, so I think I'll be brief
19 as well.

20 THE COURT: Okay. And Ms. Shoun?

21 MS. SHOUN: Same here, your Honor. Yes, ma'am. Same
22 here.

23 THE COURT: Okay. So let's stand -- let's stand down
24 for a 10-minute break. We'll stand down for a 10-minute
25 break and then we'll continue questioning.

1 MS. SHOUN: Thank you.

2 THE COURT: All right. Thank you.

3 (RECESS TAKEN)

4 THE COURT: All right. Ms. Spencer, are you ready to
5 continue with questioning?

6 MS. SPENCER: I am. If everyone else is ready.

7 THE COURT: All right. I see all parties on. All
8 right. Very good. Miss -- Ms. Spencer, please.

9 BY MS. SPENCER:

10 Q. All right. Ms. Vance in reviewing these submittals did
11 the planning commission consider or evaluate how these
12 proposals fit with the comprehensive plan the town had
13 adopted?

14 A. Yes.

15 Q. And -- and what did -- was there anything in particular
16 that the commission looked at in -- in evaluating that fit?

17 A. Yes. We looked at the county's growth management plan.
18 We looked at the existing conditions and like the
19 neighborhoods that were already being built outside of the
20 town that were -- but -- but around the town. We looked at
21 kind of the market, where it was going, the growth that's
22 happening in the area. We looked with the comprehensive
23 plan.

24 We specifically talked about the rural residential
25 designation for the Varn tract and the agricultural

1 designation for the Appleby tract, which is why the Appleby
2 tract, the planning commission suggested that we do a -- that
3 they proposed to the council that they amend the future land
4 use map for the -- the Appleby tract.

5 They believed that the Varn rezoning met the rural
6 residential district. That the Appleby tract rezoning maybe
7 did not with the agricultural land use, and they proposed to
8 amend it. So that was one of the things that actually went
9 through the process also. And then they also talked about
10 the fact that we were in the middle of reviewing the -- the
11 comprehensive plan, and that there would be more changes made
12 to it.

13 Q. Okay. And -- and with regard to the Appleby, you
14 mentioned that it -- it -- that the planning commission
15 ultimately, you know, felt that a amendment to the future
16 land use map for that particular area was, was beneficial.
17 Did the Appleby proposal support other goals or objectives of
18 the comprehensive plan that were important to the commission?

19 A. Yes, we talked about the -- both developments meeting
20 some of the goals and objectives. The idea that the, you
21 know -- that eventually they were going to annex properties,
22 so it met that goal for annexation, met the goals of more
23 housing opportunities and employment opportunities and just
24 different land uses.

25 Q. Okay. Okay. And we talked about the commission's

1 process of reviewing the -- the proposals and the comprehend
2 --and in connection with the comprehensive plan. Did the --
3 how did the council's consideration of when -- when these --
4 when the planning commissions recommendation came before them
5 how did they evaluate the -- whether or not it fit with --
6 with the comprehensive plan?

7 A. They looked at the planning commission's
8 recommendation, and we discussed this -- basically the same
9 topics as were discussed with the planning commission. I
10 had, you know, created kind of one pagers for it, I actually
11 did, ended up being only three pagers for them with all of
12 the -- the issues that were on them and we went through
13 those. Either in the meeting or with one-on-one meetings
14 when I met with them, the council members.

15 Q. When did those one-on-one meetings occur?

16 A. Tried to -- I actually wanted -- made them aware that
17 these annexations were coming, kind of as the process went
18 along. I can't give you exact dates, but we -- just to -- at
19 -- at town council meetings just to say, "Hey, these things
20 are -- are coming, and start thinking about it."

21 Q. And were counsel's decisions based on discussions that
22 they had had and -- and submissions up from the planning
23 commission?

24 A. Yes.

25 Q. Okay. And at the end of the day, these documents,

1 these -- these proposed plan developments, are they
2 characteristic of what is going on around the town within the
3 county?

4 A. That -- the regulations outlined in the PDs are
5 stricter and include more regulations than the developments
6 that are happening in the county outside of the town.

7 Q. Uh-huh. What about the -- the density in terms of how
8 -- how much housing and how much use there is of these
9 parcels. How does that compare to, you know, what's going on
10 around the count -- what -- around the town within the
11 county?

12 A. In the -- in the county, most of the recent -- there
13 have been several rezonings around the town, as I mentioned,
14 Timothy Lake, Carolina Bay, HQ Givhans, the Carter tract, the
15 second and third phases of Bridlewood all of these things
16 have been rezoned in the county and rezoned to an R-1, which
17 as we mentioned was the -- the three units per acre. And
18 they are allowed to do -- the county ordinance allows for
19 clustering.

20 Q. There's a cluster ordinance that has specific
21 regulations for it that, you know, if you do better design
22 elements, then you can cluster and have smaller lots when you
23 cluster, but it requires more open space. So the Varn and
24 Appleby tracts are similar to that. I would -- similar to
25 that, there -- again, their -- for their minimum lot size is

1 14''5, so it's three units per lot.

2 Even if you cluster them, it still has to equal out to
3 three units per lot. Three units per acre. And with the --
4 the Varn and the Appleby tract, the units per acre, even
5 though they're clustered, is more like 2.2 and 2.4 So it's a
6 little bit, it's less density that would be allowed on those
7 two -- these two PDs than would be allowed in the R-1, even
8 if they cluster -- even if they use their cluster in
9 ordinance.

10 Q. Is that something that was important to the -- commit
11 to the planning commission and to the council in evaluating
12 these proposals?

13 A. Yes.

14 Q. And does (inaudible)?

15 A. No, the town's or the -- the traditional neighborhood
16 residential districts is just --

17 THE COURT: I'm sorry, I did not -- I did not hear the
18 question. Ms. Spencer.

19 BY MS. SPENCER:

20 Q. Oh, sorry. Does -- does the town's existing zoning
21 ordinances not PD, so like TNR, does that allow for
22 clustering?

23 A. No. It would just -- TNR is the two unit -- half acre
24 -- the minimum lot size is half acre and allows for two
25 housing units on the half acre. So that would be four units

1 per acre, but it doesn't allow for clustering.

2 Q. Right.

3 A. So -- so if you built a subdivision in TNR, it would
4 just be four units per acre. They couldn't cluster and do
5 open space and other things.

6 Q. Okay. And is -- is open space something that was
7 desirable in these particular two tracts?

8 A. Yes.

9 Q. Why is that?

10 A. Because of the rural nature of those, those properties?
11 if you look --

12 MR. GOWDER: Your Honor, like you, I can't hear them,
13 so yeah.

14 THE COURT: I think perhaps her signal gave out. I'll
15 give her a --

16 MR. GOWDER: Right.

17 THE COURT: Can someone maybe call her just she -- she
18 may not know that that we can't see anything. Ms. Spencer,
19 can you hear us?

20 MS. SHOUN: Your Honor, I'm trying to reach out right
21 this minute to her.

22 THE COURT: Thank you.

23 MS. SHOUN: She says she can see us and they have
24 audio.

25 THE COURT: Her signal may be weak. I -- I'm not sure,

1 but we're -- it's not transmitting,

2 MS. SHOUN: Your Honor, I think they're going to exit
3 out and try to come back into the WebEx.

4 THE COURT: Very good. Thank you.

5 MS. SHOUN: Your Honor, if I just might inform the
6 court and everyone else on the WebEx, I guess they've lost
7 their internet connection, so Ms. Spencer is going to get
8 back on using a hotspot, so it might take just a minute.

9 THE COURT: Thank you. She -- she also could also can
10 use her phone if that's -- if the hotspot for some reason is
11 not --

12 MS. SHOUN: She may be -- yeah, she may actually may be
13 using that. I -- I don't know. I just -- I just got
14 hotspot.

15 THE COURT: Thank you.

16 MS. SHOUN: Yes, ma'am.

17 MS. SPENCER: Okay. It's connecting.

18 THE COURT: All right, Ms. Spencer, it looks like it's
19 -- it sounds like you're on. Ms. Spencer, can you hear me?
20 Ms. Spencer, can you hear us?

21 MS. SHOUN: Got kicked off, your Honor. She's trying
22 again.

23 THE COURT: Thank you.

24 MS. SHOUN: Yes, ma'am. I'm so sorry.

25 THE COURT: It's okay.

1 MS. SPENCER: If there's anything else (inaudible).

2 THE WITNESS: Okay. Let me just hold it.

3 MS. SPENCER: I got it.

4 THE COURT: Very good. All right. Ms. Spencer, let's
5 jump right back into questioning.

6 MS. SHOUN: I apologize. Our internet went down and --
7 and it was not coming back up, and then it kept kicking me
8 out. So having thoroughly lost my place, I was about done
9 anyway, so I'm done questioning with this witness and we'll
10 tender her for further questioning.

11 THE COURT: All right. Very good. And so we have
12 additional questioning from Mr. -- Mr. Gaskin -- Mr. Gaskins
13 or Ms. Shoun. Mr. Growder -- Gowder, excuse me. You also
14 have some cross examination --

15 MR. GOWDER: Yes.

16 THE COURT: Can I -- can I allow --

17 MR. GOWDER: (Inaudible) I -- I have a very short
18 cross-examination. Yes, your Honor.

19 THE COURT: All right. Very good. And so I'll let you
20 do that cross after -- well --

21 MR. GOWDER: I -- I think that's right, your Honor. I
22 think maybe, perhaps they should go first.

23 THE COURT: Why don't we allow them to go first, and
24 then we'll let you cross in full. All right.

25 MR. GOWDER: Thank you, your Honor. Appreciate that.

1 THE COURT: All right. Mr. Gaskins or Miss -- Ms.
2 Shoun, I have no preference as to who goes first.

3 MR. GASKINS: Ms. Shoun, do you have a preference?

4 THE COURT: Okay.

5 MS. SHOUN: I do not. You may -- you may feel free to
6 go because you started first. Thank you.

7 MR. GASKINS: All right, I'll be glad to.

8 CROSS-EXAMINATION BY MR. GASKINS:

9 Q. Good afternoon, Ms. Vance. How are you?

10 A. I'm good, how are you?

11 Q. I'm good. I will try to be brief. You were online and
12 listening to Mr. Gowder's opening statement slash argument,
13 correct?

14 A. Yes.

15 Q. Do you recall him suggesting that the developers of the
16 Varn tract and Appleby tract sought to be annexed to avoid
17 the regulations, the zoning regulations of Dorchester County?

18 A. Yes.

19 Q. Based on your involvement in the annexation and zoning
20 process with respect to the Varn tract, do you have any
21 indication to believe that's true?

22 A. No.

23 Q. Did the county either encourage or discourage the
24 property owners or developer from annexing into town?

25 A. I would say encouraged them to annex.

1 Q. Okay. Did they give any indication why?

2 A. Not that I can recall.

3 Q. During his statement, Mr. Gowder also suggested that
4 the -- the PDs, both of the PDs were intended to solely
5 benefit the developers with respect to the Varn tract. Do
6 you believe that's true?

7 A. No, I don't.

8 Q. Why not?

9 A. The PD -- the planned development requires specific
10 land uses, types of land uses and design standards from
11 neighborhood and commercial design standards to park -- the
12 requirements for parks, the requirements for civic space. so
13 the developments were designed in a way to benefit the
14 community.

15 Q. And in addition to that, it also provided for
16 contributions?

17 A. The development agreements for -- and well, the -- the
18 plan developments required for contribution of property for
19 civic space and for parks. It also required for donation and
20 reservation of right of ways for any road improvements that
21 might -- might be needed. It required coordination on road
22 improvements.

23 It requires them to do all of the site specific road
24 improvements that were identified in the traffic impact
25 analysis. And it requires that they participate with the

1 town -- town and county on any greater planning that we -- we
2 do for the offsite road improvements that are needed.

3 Q. Thank you. And -- and that -- that is a good
4 distinction. So the Varn PD establishes one thing and then
5 the -- there's a separate development agreement that imposes
6 additional obligations on the developer; is that fair to say?

7 A. Yes.

8 Q. Okay. But those -- that development agreement was
9 adopted at the same time that the VA PD was adopted, correct?

10 A. Yes.

11 Q. Okay. And that development agreement references and
12 incorporates the Varn PD, correct?

13 A. Yes.

14 Q. Okay. And I'm going to bring up Exhibit Number 48,
15 which is the Varn development agreement. And in this section
16 5, it states that the agreement which incorporates the Varn
17 PD is consistent with the town's comprehensive plan and
18 current regulations; is that correct?

19 A. Yes.

20 Q. Okay. And so this was unanimously approved by town
21 council as well?

22 A. Yes.

23 MR. GASKINS: That's all the questions that I have.

24 Thank you.

25 THE COURT: All right. Ms. Shoun.

1 MS. SHOUN: Yes, ma'am. Just very briefly.

2 CROSS-EXAMINATION BY MS. SHOUN:

3 Q. Ms. Vance, will you, if you don't mind, take a quick
4 look at Exhibit 45 and briefly describe that document?

5 A. That's the development agreement that was approved for
6 the Appleby tract between the town and Lennar.

7 Q. Okay. And Mr. Gaskins just asked you questions about
8 the development agreement entered into between the town and
9 the -- the ultimate developer of the Varn tract. Would you
10 agree that this development agreement and that with Varn is
11 -- is very, very similar?

12 A. Yes.

13 Q. And would you agree that it too has additional
14 obligations and responsibilities of the developer to the town
15 and to its -- its demographics that are set forth in this
16 development agreement?

17 A. Yes.

18 Q. Okay. Do -- can you recall just off the top of your
19 head what some of those may be?

20 A. Yes. Both developments are required to contribute
21 \$15,000 to the town for a Ridgeville downtown master plan to
22 help incorporate the two developments kind of into town.
23 Both developments are required to donate a per lot fee for
24 sidewalks outside of their development.

25 So they're required to do multi-use pass or sidewalks

1 in the development, but this fee is a per lot fee that will
2 help with connecting them to the town for -- in constructing
3 sidewalks or multi-use paths on property that's not in their
4 developments.

5 They're also required to do all of the site specific
6 road improvements. And there is also, I believe in both of
7 them a line, you know, a section about coordination with the
8 state and town and county for road improvements and for
9 funding for the greater road improvements that are not site
10 specific, but have been identified as -- as improvements that
11 are going to be need as part of all of the development that's
12 happening in the area.

13 Q. Okay. Thank you. And as you indicated to Mr. Gaskins,
14 is this development agreement as it relates to the Appleby
15 tract, likewise incorporate the PD about which we've had
16 discussions today applicable to the Appleby tract?

17 A. Yes.

18 Q. Okay. Now, you indicated that in this development
19 agreement there are certain provisions that require
20 coordination of the ultimate developer with the town, the
21 county, the state, DOT, various entities. Would you agree
22 that neither the development agreement nor the PD were
23 dictated to the town by -- by Lennar or by Appleby?

24 A. I would agree with that.

25 Q. Okay. Would you agree that they -- both documents are

1 the result of negotiation?

2 A. Yes, I would agree with that.

3 Q. Would you also agree that these were reached in large
4 part, and this is based on your experience, your role with
5 the town throughout this process, that they both came to be
6 as a result of the town wishing to see this development
7 progress in this -- in the fashion that's laid out both in
8 the PD and the -- I'm sorry, the DA and the incorporated PD?

9 A. Yes.

10 Q. And you talked a few minutes ago about maybe the
11 Appleby tract did not quite meet some of the same standards
12 for rural residential that the Varn tract met. So that's one
13 reason for an amendment to the future land use map; is that
14 right?

15 A. Yes.

16 Q. Okay. Now, was the head amendment done again because
17 the town desired this particular development that's
18 anticipated in this DA -- in this PD?

19 A. Yes. Yes.

20 Q. You also heard, and -- and in response to Mr. Gaskin's
21 question, you indicated that you heard Mr. Gowder's opening
22 statements to this court including -- or let me ask you this,
23 do you recall in Mr. Gowder's opening statements that he made
24 comments that the -- the -- these proposals both for the
25 Appleby and Varn tract were not in the best interest of the

1 public as -- as they are laid out?

2 A. Yes, I recall that he said that.

3 Q. Okay. In this process in which you have been involved
4 for years now in regard to both or either of these tracts,
5 has anything -- any objective evidence been presented to you
6 whatsoever that -- that these developments as they're
7 anticipated are harmful to the public, safe, healthy --
8 safety, health, and welfare?

9 A. No.

10 Q. And as I understand it, just to make sure, the manner
11 in which the town has moved forward with the Appleby
12 development and -- and the Varn development for that matter
13 as well it has done so in a fashion to allow it to -- to gain
14 the advantage from the developments; is that correct?

15 A. Yes.

16 Q. And has it also done it in a manner that will allow it
17 to -- to control the growth that is inevitable to this town?

18 A. Yes. By having it in the town limits, you have a seat
19 at the table for what they do.

20 Q. And without that, the town would have little to no
21 control at all, correct?

22 A. Correct. We would rely on the county to tell us what
23 they were doing.

24 Q. Okay. And another thing that we talked about in -- in
25 response to my question and Mr. Gaskins, you said that there

1 was a commitment to work together with as roads and
2 infrastructure. Is there an agreement in both of these
3 documents, the DA and the PD that these developers commit to
4 continue working with the town throughout this 10-year
5 development?

6 A. Yes.

7 MS. SHOUN: I don't think I have anything else. Thank
8 you, your Honor.

9 THE COURT: All right. Thank you, Ms. Shoun Mr.
10 Gowder.

11 MR. GOWDER: Your Honor, before I start, I just have a
12 -- a question. I -- I see some folks in the room with the
13 witness who (inaudible)?

14 MS. SPENCER: That's just me.

15 THE WITNESS: Yeah, we had to use the phone.

16 MS. SPENCER: Andy (inaudible).

17 THE COURT: Andy, we can't hear you now. Mr. Gowder,
18 are you muted?

19 MR. GOWDER: Got it. Can you hear me now?

20 THE COURT: Yes.

21 MR. GOWDER: Thank you. And thank you for answering my
22 question. It looked --

23 THE COURT: I think you saw the purse, but go ahead.

24 THE WITNESS: Oh, yeah, sorry. It's a big purse.

25 THE COURT: Mr. Gowder you're muted again.

1 MR. GOWDER: I'm not touching it, so I don't know what
2 -- what's going on. But anyway, I'll -- I'll keep my eye on
3 that. How about that?

4 THE COURT: All right. Very good.

5 CROSS-EXAMINATION BY MR. GOWDER:

6 Q. Ms. Vance, good afternoon. can you hear me?

7 A. Yes.

8 Q. Good. You're not --

9 A. You've gone mute again.

10 THE COURT: I think WebEx wants us to get off. I -- I
11 don't know what's happening today.

12 MR. GOWDER: Every time I talk; it I'm going to hold
13 the -- the --

14 THE COURT: I'm sorry. Yes, thank you. Mr. Gowder.

15 MR. GOWDER: Okay. All right, I'll just do that.

16 MS. SHOUN: I'm actually doing that. Andy, no offense.

17 MR. GOWDER: Oh, hey, look, man, if you -- if you're --
18 if you're able to do that, I applaud -- you know, I take my
19 hat off to you. Okay.

20 BY MR. GOWDER:

21 Q. Ms. Vance, you're not a full-time employee of the town
22 of Ridgeville, are you?

23 A. No, sir.

24 Q. In fact, the town only has five employees, and three of
25 them full-time, right?

1 A. They have five full-time and two part-time.

2 Q. Okay. You are a consultant to the town?

3 A. I'm currently an employee of the town. I'm a W-2
4 employee.

5 Q. Okay. All right. You were -- I think you told me
6 though, that you were hired as a consultant back in 2021; is
7 that right?

8 A. Yeah, in the beginning our relationship was as a
9 consultant.

10 Q. Okay. And in fact, Ridgeville has no planning
11 department, right? Other than you.

12 A. I would agree with that.

13 Q. Okay. And you are here testifying today as a person
14 who is paid to carry through the rezoning and annexation for
15 the town, right?

16 A. I would not agree with that.

17 Q. Well, whose job was it to manage and oversee the
18 rezoning and annexation that we're here today about at the
19 town other than you?

20 A. It was my job to oversee the process. It was not my
21 job to ensure that it was approved.

22 Q. Okay. I didn't ask you that. But your job was to
23 manage that process for the town, right?

24 A. My job was to ensure that the process was done legally
25 and in a way that benefited the town.

1 Q. This annexation and rezoning was your project?

2 A. I was charged with the tasks of seeing -- overseeing
3 the -- the process.

4 Q. Okay. Very good. Now, I think in your testimony you
5 said that to have zoning, you have to have a comprehensive
6 plan, right?

7 A. Yes.

8 Q. Okay. The -- the statute, Comprehensive Planning Act
9 statute that I'm sure you're familiar with at 6-29-720 also
10 says that, "When the local planning commission has prepared
11 and recommended, and the governing body has adopted, at least
12 the land use element of the comprehensive plan as set forth
13 in this chapter, the governing body of a municipality or
14 county may adopt a zoning ordinance to help implement the
15 comprehensive plan." That's what it says. Right?

16 A. I can't confirm or deny that. I -- I don't have that
17 in front of me.

18 Q. That's your understanding of the law, is it not?
19 You're -- you're -- you've been classified as an expert.

20 A. In general, yes.

21 Q. Do you -- was there anything that I read to you that
22 you disagree with?

23 A. And I can tell you whether I agree with every word you
24 said. You're muted.

25 Q. I know. Thank you. You agree that the amendment to

1 the comprehensive plan did not occur until these rezonings
2 had already taken place, right?

3 A. Yes. The actual adoption did not occur until after the
4 rezonings had been adopted.

5 Q. Right. So at the time that these rezonings occurred in
6 February of 2023, the 2016 comprehensive plan was in effect,
7 right?

8 A. Yes.

9 Q. Right. And so these -- these changes to the future
10 land use map and the designation of traditional neighborhood
11 residential occurred after the rezoning and not before,
12 right.

13 A. The property could not have been designated traditional
14 neighborhood residential until it was in the town, because
15 traditional neighborhood residential is not in -- a land use
16 allowed for outside of town.

17 Q. I apologize, but that's not what I asked you. What I
18 asked you was the rezoning, when the rezonings occurred,
19 those changes had not yet been made to the comprehensive
20 plan.

21 A. Correct.

22 Q. I think you said that the planning commission
23 recommended a change to the comprehensive plan because
24 agricultural was not consistent with the rezoning, right?

25 A. Yes.

1 Q. And that did not happen. That change to the
2 comprehensive plan did not change until after the rezoning.
3 You've already established that, right?

4 A. First reading of that change actually occurred with
5 first reading of the other ordinances.

6 Q. It was not passed until after the rezoning, correct?

7 A. That change was not passed at all.

8 Q. Okay. So at the time of the rezoning of the Appleby
9 tract, the Appleby tract's future land use designation in the
10 comprehensive plan was agricultural, right?

11 A. Yes.

12 Q. And the Varn tract future land use designation in the
13 comprehensive plan was rural residential, correct?

14 A. Yes.

15 MR. GOWDER: Your Honor. I have no further questions.

16 THE COURT: Thank you. Any redirect?

17 MS. SPENCER: No, your Honor.

18 THE COURT: All right. All right. (Inaudible).

19 MR. GASKINS: No questions from me, your Honor.

20 THE COURT: Ms. Shoun, any -- any questions?

21 MS. SHOUN: Nothing -- nothing further. Thank you.

22 THE COURT: All right. Very good. And so that will
23 conclude the testimony from this witness. Are there any
24 other witnesses?

25 MS. SPENCER: None from the town, your Honor.

1 THE COURT: All right. And I -- I believe he indicated
2 only one -- one witness. So we'll move -- we'll move on.
3 Now, we've -- we've heard -- we've heard obviously argument,
4 opening arguments. I -- I would assume, is there -- is there
5 any closing arguments from any of the parties? It's not
6 necessary. I'm just asking if -- if you all --

7 MR. GOWDER: Your Honor, I -- you know, I had actually
8 written some notes for a brief reply, but given how long
9 we've gone and how exhaustive it has been I think I will -- I
10 will hold my piece.

11 THE COURT: All right. Mr. -- Mr. Gowder. Thank you,
12 sir. Any -- any other closing statements if -- if there are
13 any? Okay.

14 MR. GASKINS: None from the Varn defendant, your Honor.

15 MS. SHOUN: No, ma'am. Your Honor, I would just
16 mention, and -- and I don't mean to speak for all the
17 parties, but the parties did work together to give what we
18 hope is a comprehensive list of exhibits to the Court. And
19 with those, in addition to the testimony of Ms. Vance I -- I
20 feel like we -- I -- at least I don't have any closing
21 arguments. I think it's all before the Court at this point.

22 THE COURT: All right. Very good. And -- and thank
23 you all for, for doing that. I want to thank you all for
24 your presentations and your arguments here today in court and
25 also for your patience as we navigate through the world of

1 WebEX.

2 But we certainly appreciate that from -- from all of
3 counsel. In addition to that, I am going to take what has
4 been given to me via exhibits as well as oral arguments and
5 written argument and go over that information as I make my
6 decision.

7 All right. And so that, that may take me a bit of
8 time. I -- I just want to manage the expectations, but I am
9 going to thoroughly read and analyze all of the information
10 that I've heard here today, as well as the witness testimony.
11 All right.

12 MR. GOWDER: Thank you, your Honor.

13 THE COURT: And so thank -- thank you all for being
14 here. That will conclude the hearing for today,

15 MR. GASKINS: Your Honor. Before we break.

16 THE COURT: Yes.

17 MR. GASKINS: If the clerk is still on, does she have
18 the exhibits or do we need to provide her with written or
19 hard exhibits for the record?

20 THE COURT: I have electronic exhibits and -- and they
21 did mirror what was shown to me today. And so I can -- I can
22 access those. That would be sufficient for me.

23 MR. GASKINS: And I understand that that's sufficient
24 for you. I was just talking about the clerk of court.

25 THE COURT: Oh, if she has the exhibits. I'm sorry.

1 Do you have --

2 THE CLERK: Mr. Gaskins, were they e-filed?

3 MR. GASKINS: They were not.

4 THE CLERK: Okay. So you only sent them via email?

5 MR. GASKINS: That is correct.

6 THE CLERK: If you want them on the case, you can
7 e-file them. Normally, you know, with trial exhibits, we
8 have hard copies because we're in the courtroom but whatever
9 your Honor would be okay with is okay with us.

10 THE COURT: What -- what's easier for you? If -- if
11 you want to e-file them, if that's easier, if you want to run
12 down there and give hard copies, what's your pleasure, Mr.
13 Gaskins?

14 MR. GASKINS: I -- I guess we can confer and -- and see
15 what's best and just advise the Court if -- if we're given
16 that option.

17 THE COURT: Okay.

18 MR. GASKINS: If that's all right with everyone. I
19 don't want to speak for anybody, but --

20 MS. SHOUN: That's fine.

21 MR. GASKINS: -- I don't want to waste anybody's time
22 as well

23 THE COURT: All right. Very good. And so if you all
24 just conference about that and determine the best way, just
25 loop us in once -- once you've made that decision.

1 MR. GASKINS: We will do so.

2 THE COURT: All right. Very good.

3 MR. GASKINS: Thank you, your Honor.

4 MS. SHOUN: Thank you, your Honor.

5 MR. GOWDER: Thank you, your Honor.

6 MS. SPENCER: Thank you, your Honor.

7 THE COURT: Thank you. Bye-bye.

8 THE CLERK: Thank you. Bye-bye.

9 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING IS CONCLUDED)

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CERTIFICATE OF TRANSCRIBER

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I, JANE DANIEL, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Dorchester County, South Carolina, on September 19, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Jane Daniel

December 16, 2025

JANE DANIEL

TRANSCRIBER