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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Appellate Case Number 2025-001505

Case No. 2025-CP-04-00328

Hubert N. Smith, Jr. and Stanley Hix, Appellants,

v.

Anderson County Planning Commission and Spano & Associates, Inc. Respondents,

**APPELLANTS' RESPONSE
TO MOTION TO DISMISS**

 /S/ James G. Carpenter
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December 24, 2025

Appellants, Hubert N. Smith, Jr. and Stanley Hix, submit this Response to the Motion to Dismiss filed by the Respondents on December 17, 2025.

A careful reading of the Motion will demonstrate that the Respondents **did not know** if or when the Appellants had received the relevant transcripts of proceedings. They based their motion on erroneous assumptions.

As the undersigned has previously informed the court, on December 11, 2025, counsel for the Appellants asked the typist, Legal Eagle about the August 21, 2025, hearing transcript. That day, Appellants learned that although Legal Eagle had earlier attempted to send the transcript to the undersigned attorneys, they had misspelled the word “Carpenter” in the email address, and the undersigned counsel did not receive the transcript or the bill for services. The undersigned counsel received that transcript on December 11, 2025.

Appellants received another relevant transcript two days later, on December 13, 2025. Accordingly, Appellants’ Initial Brief would have been due January 12, 2026, but for the Respondents’ motion to dismiss. “A motion to dismiss an appeal . . . shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.” Rule 240(b), SCACR.

Appellants Initial Brief is not late, and there is no basis to dismiss the appeal.

Wherefore, Appellants pray the Court to deny the Motion to Dismiss.

Respectfully submitted,

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