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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LAURENS	)	EIGHTH JUDICIAL CIRCUIT
VERANDA HOMES, LLC, VERANDA LAND ENTITLEMENT, LLC, AND BUSH RIVER SPORTING CLAYS PROPERTIES, LLC, Petitioners,	)	Case No.: 2025-CP-30-1031
vs.	)	**ORDER GRANTING APPEAL**
LAURENS COUNTY, SOUTH CAROLINA, and LAURENS COUNTY PLANNING COMMISSION, Respondents.	)	

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SC Court of Appeals

This matter comes before the Court as a civil appeal. Petitioners Veranda Homes, LLC, Veranda Land Entitlement, LLC, and Bush River Sporting Clays Properties, LLC (collectively, the "Petitioners") appeal the decision of the Laurens County Planning Commission pursuant to S.C. Code § 6-29-1150(D) and ask this Court to confirm that the Second Revised Major Subdivision Preliminary Plat submitted by Petitioners on June 16, 2025 (the "Preliminary Plat") was legally approved by Laurens County as of June 23, 2025, conferring vested rights to Petitioners as of that date.

A hearing of the appeal was held on Thursday, March 5, 2026. All parties were represented by counsel, filed written submissions, and presented oral argument. Having fully reviewed and carefully considered the record on appeal and the briefings submitted, the Court **GRANTS** Petitioners' appeal, **REVERSES** the Planning Commission's decision to deny the Preliminary Plat, and **ORDERS** that the Preliminary Plat is **APPROVED** effective June 23, 2025.

STANDARD OF REVIEW

The general standard of review on appeal from a local zoning board as to factual findings is stated in S.C. Code § 6-29-840, which provides that "[t]he findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence." *See* S.C. Code § 6-29-840(A). This is known as the "any evidence standard," which states that "a jury's ***factual findings*** will not be disturbed on appeal unless the record contains no evidence reasonably supporting the jury's findings." *See, e.g., Boehm v. Town of Sullivan's Island Bd. of Zoning Appeals*, 423 S.C. 169, 182, 813 S.E.2d 874, 880 (Ct. App. 2018) (applying S.C. Code § 6-29-840) (emphasis added).

However, notwithstanding the any evidence standard, "a decision of a municipal zoning board will be overturned if it is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion." *Id*. This principle was first recognized by the South Carolina Supreme Court decades ago. *See Hodge v. Pollock*, 223 S.C. 342, 348, 75 S.E.2d 752, 754–55 (1953) (holding that a "decision of the zoning board will not be upheld where it is based on errors of law, or fraud, or where there is no legal evidence to support it, or where the board acts arbitrarily or unreasonably, or in a discriminatory manner or where, in general, the board has abused its discretion"). This limitation applies specifically to local planning commissions. *See, e.g., Grays Hill Baptist Church v. Beaufort Cnty*., 431 S.C. 630, 637, 850 S.E.2d 29, 33 (2020) (confirming that a decision "will be overturned if it is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion.")

It is also recognized that a broader and more independent review of the decision of a local zoning board is appropriate when the dispute involves the proper interpretation or construction of a zoning ordinance. *See, e.g., Charleston Cnty. Parks & Recreation Comm'n v. Somers*, 319 S.C.

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65, 67, 459 S.E.2d 841, 843 (1995) (stating that "[a]lthough great deference is accorded the decisions of those charged with interpreting and applying local zoning ordinances, 'a broader and more independent review is permitted when the issue concerns the construction of an ordinance'"); *see also Christ Cent. Ministries v. City of Columbia Bd. of Zoning Appeals*, 424 S.C. 358, 361, 818 S.E.2d 30, 31 (Ct. App. 2018) ("Issues involving the construction of an ordinance are reviewed as a matter of law under a broader standard of review than is applied in reviewing issues of fact."). It is understood that determination of legislative intent is a matter of law. *Id.*

The "any evidence" standard applies only to findings of fact, not questions of law. *See Arkay, LLC v. City of Charleston*, 418 S.C. 86, 91–92, 791 S.E.2d 305, 308 (Ct. App. 2016) (stating that "[t]his court will not reverse a zoning board's decision unless the board's findings of fact have no evidentiary support or the board commits an error of law" and confirming that "issues involving the construction of an ordinance are reviewed as a matter of law under a broader standard of review than is applied in reviewing issues of fact"). In the event of potentially conflicting interpretations of a zoning ordinance, our appellate courts have repeatedly confirmed that "ordinances in derogation of natural rights of persons over their property are to be strictly construed as they are in derogation of the common law right to use private property so as to realize its highest utility and should not be impliedly extended to cases not clearly within their scope and purpose." *See Purdy v. Moise*, 223 S.C. 298, 302, 75 S.E.2d 605, 607 (1953); *see also Sherratt P'ship by Keane v. Hodge,* 292 S.C. 459, 465, 357 S.E.2d 193, 196 (Ct. App. 1987). Terms in zoning ordinances "limiting the use of […] property must be liberally construed for the benefit of the property owner." *Purdy*, 223 S.C. at 302, 75 S.E.2d at 607.

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FACTUAL BACKGROUND

On May 6, 2025, after months of discussion and collaboration with Laurens County (the "County"), Petitioners submitted a preliminary plat application for "Cambridge Farms," a proposed 523-lot "Open Space Residential Development." (R. at 00001–02). The application underwent three rounds of review by the County's Technical Review Committee.[1] On June 16, 2025, Petitioners submitted a "Second Revised Major Subdivision Preliminary Plat" (the "Preliminary Plat"), which incorporated the various comments and corrections that Petitioners received from the Technical Review Committee. (R. at 00012–19; 00020–21; 00253–256).

On the morning of June 23, 2025, the County issued written confirmation to Petitioners that the Technical Review Committee had approved the Preliminary Plat with conditions. (R. at 00022–25). This confirmed the Preliminary Plat complied with all applicable rules and regulations. As the County's Senior Planner, Lisa Wargo, explained the process, the Preliminary Plat "was reviewed through our technical review committee," "went through three rounds of review" and was found to be "consistent with the County's land development codes." (R. at 00063). The record supports the finding that the Preliminary Plat application submitted by Petitioners on June 16, 2025 was complete and contained all materials that were required by the County's ordinances.

On the evening of June 23, 2025, after the Technical Review Committee issued written confirmation to Petitioners that the Preliminary Plat was approved with conditions, the Laurens County Council ("County Council") conducted a special called meeting for the sole purpose of giving first reading to a proposed moratorium on Open Space Residential Developments. The

[1] The Technical Review Committee performs staff review of plat applications for the County and consists of "County and County agency staff members from the Building, Public Works, Planning, Road & Bridges, Fire & EMS, and Sheriff's Departments, Laurens County Development Corporation, LCWS Utilities Company, and members of Greenville and Laurens County School Districts 55 & 56." *See* R. at 00358.

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moratorium was eventually given three readings and ultimately adopted as Ordinance No. 989. (R. at 00359–365). The proposed moratorium did not include a proposed scheme of rezoning and, by its terms,[2] did not apply to Open Space Residential Developments that had received preliminary plat approval.

The County's ordinances confirm that approval of a preliminary plat occurs upon "approval by the staff of the Planning and Public Works Departments and/or the County Planning Commission which documents for the subdivider that their proposed subdivision is in accordance with applicable regulations, and that construction of the subdivision may proceed." *See* Ordinance 926, at § 9(A)(1). The Technical Review Committee approved the Preliminary Plat on June 23, 2025, which constitutes approval by the "staff of the Planning and Public Works Departments." However, the County informed Petitioners that another approval from the Planning Commission would be required, even though the County's ordinance expressly states that approval can be obtained by staff "and/or" the Planning Commission. Petitioners objected, as approval by the staff of the Planning and Public Works Departments (*i.e.*, the Technical Review Committee) is sufficient for confirming approval of a preliminary plat that does not involve a request for a variance. Notwithstanding the objections by Petitioners, the County placed the Preliminary Plat that had already been approved by the Technical Review Committee on the agenda for the Planning

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[2] As proposed and adopted, Ordinance No. 989 provides that it "shall not affect the issuance of permits or site plan reviews that have received preliminary plat or final plat approval by the Planning Department and/or the Planning Commission" and that it "shall not apply to any rights that have vested prior to the effective date of this Ordinance." (R. at 00363–364). Petitioners received preliminary plat approval on June 23, 2025. The "Effective Date" of the Ordinance was August 11, 2025, which was the date of third reading. *See* Ordinance 989 at Section 11, which states as follows: "Effective Date. This Ordinance shall take effect upon three (3) readings and a public hearing as required by law." As a result, the moratorium did not apply to Cambridge Farms.

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Commission's July 15, 2025 meeting.[3] During the meeting, the Planning Commission voted to defer any action on the matter. (R. at 00063).

The Planning Commission reconvened on August 19, 2025, at which time it voted to deny the Preliminary Plat. (R. at 00231–234). There were no specific grounds stated for disapproval, but the discussion among the members of the Planning Commission included references to generalized concerns regarding traffic conditions in other parts of Laurens County and the perceived fairness to future homeowners of annexation covenants that ***the County*** imposed as a condition of the Technical Review Committee's prior approval. (R. at 00231–234; 00247). Neither the Technical Review Committee nor the Planning Commission identified any specific deficiency, nonconformity, or violation of applicable ordinances with respect to the Preliminary Plat. Petitioners thereafter timely filed this appeal, which is now ready for determination.

CONCLUSIONS OF LAW

I. Approval of the Preliminary Plat by the County's Technical Review Committee Constituted Valid, Legal Approval and Conferred Vested Rights Without Need of Duplicative Approval

Ordinance No. 926, Division 9(a)(1), states that a preliminary plat approval means an approval by "the staff of the Planning and Public Works Departments and/or the County Planning Commission which documents for the subdivider that their proposed subdivision is in accordance with applicable regulations, and that construction of the subdivision may proceed." (R. at 00289). The County contends that it is entitled (at its discretion) to require approval by both staff and the Planning Commission. The Court disagrees. If "and/or" were read to require both Staff and the

[3] The County's voluntary placement of the Preliminary Plat for Cambridge Farms on the Planning Commission's July 15, 2025 agenda undercuts any argument that the moratorium applied to Cambridge Farms as of the evening of June 23, 2025. If the moratorium applied and no exceptions were applicable, it is inexplicable that the County would place a project on an agenda for action to be taken if the County believed the application to be subject to a moratorium prohibiting any such action.

Planning Commission, then "or" becomes meaningless.[4] The Court agrees with Petitioners' reading of Ordinance No. 926, Division 9 (a)(1). If approval by both Staff and the Planning Commission is required, the operative language of Ordinance No. 926, Division 9 (a)(1) would simply state that a preliminary plat approval means an approval by "the staff of the Planning and Public Works Departments ***and*** the County Planning Commission." The interpretation proffered by Respondents is contrary to the plain language of the ordinance.

Furthermore, South Carolina law recognizes that the language of a statute or ordinance must be read "in a sense which harmonizes with its subject matter and accords with its general purpose." *See Eagle Container Co., LLC v. Cnty. of Newberry*, 379 S.C. 564, 570, 666 S.E.2d 892, 896 (2008). Viewing Ordinance No. 926 as a whole, it is clear that the Technical Review Committee has legal authority to approve preliminary plats that do not involve a request for a variance and that the approval of a preliminary plat by the Planning Commission becomes necessary when an applicant seeks a variance. Ordinance No. 926, Division 9 (a) (4) states that

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[4] There is ample case law from various jurisdictions indicating that the words "and/or" commonly mean "the one or the other or both." *See, e.g., Loc. Div. 589, Amalgamated Transit Union, AFL-CIO, CLC v. Com. of Mass.,* 666 F.2d 618, 627 (1st Cir. 1981); *see also Detroit Water Team Joint Venture v. Agric. Ins. Co.,* 371 F.3d 336, 342 (6th Cir. 2004) (confirming that use of "and/or" in an insurance policy exclusion "unambiguously means that the exclusion applies if either or both of the two specified conditions are met."); *West v. Quality Gold, Inc.,* No. 5:10-CV-03124-EJD, 2012 WL 1067394, at *3 (N.D. Cal. Mar. 28, 2012) (stating that "the words 'and/or' commonly mean 'the one or the other or both'"); *Simpson v. Bell*, 557 F. Supp. 3d 365, 377, n.9 (E.D.N.Y. 2021) (same); *In re Am. LaFrance, LLC*, 461 B.R. 267, 273 (Bankr. D. Del. 2011) (confirming that the phrase "and/or" is commonly used to mean "either" or "both."); *State v. Recall Dunleavy*, 491 P.3d 343, 358 (Alaska 2021) ("[a]lthough the 'and/or' construction 'has been criticized in many legal opinions,' it is commonly understood to mean 'the one or the other or both.'"); *Cassano v. Cassano*, 85 N.Y.2d 649, 655, 651 N.E.2d 878, 882 (1995) (determining that "and/or" should be interpreted as either or both); *Castro v. Dryden Farms, Inc.,* 79 Mich. App. 633, 636, 263 N.W.2d 22, 24 (1977) (holding that use of and/or in statute "properly expresses the intent of indicating both or either and confirming that '[t]his is the plain meaning of the words as used.'"); *Cannell v. State*, No. 01-12-00334-CR, 2013 WL 6729857, at *12 (Tex. App. Dec. 19, 2013) ("[d]espite the ambiguity 'and/or' creates and the repeated calls to avoid its use, the phrase does have a commonly accepted meaning: it means 'the one or the other or both.'")

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"the Technical Review Committee may approve a Preliminary Plat and/ or Construction Site Plan without the review of the Planning Commission after approvals are received from all other departments and agencies and provided the Plat and/or Plan meets the requirements of the County's Code of Ordinance and does not include a request for a variance." This is further demonstrated by the flowchart prepared by the County to guide applicants through the subdivision approval process. (R. at 00358). As confirmed by the County's own published documents, upon approval by the Technical Review Committee, Petitioners were entitled to receive permits (subject to any lawful conditions of approval).

The Court finds that the County's decision to require duplicate approval by the Planning Commission is contrary to the plain wording of the County's Ordinance. The Court further finds that Petitioners complied with every applicable requirement of the County's Ordinances and regulations. Accordingly, the Preliminary Plat was lawfully approved on June 23, 2025, when the Technical Review Committee completed its review, deemed the application complete, and approved the Preliminary Plat for Cambridge Farms. This conferred vested rights upon Petitioners under the South Carolina Vested Rights Act as of that date. As Petitioners did not consent to subsequent changes to the zoning district designation or land use regulations made subsequent to vesting, the County's subsequent modifications to the Open Space Residential Development regulations do not affect the vested rights of Petitioners to undertake and complete the Cambridge Farms project under South Carolina law. *See* S.C. Code § 6-29-1540(13).

The County has not contested that approval by the Technical Review Committee constitutes approval by "the staff of the Planning and Public Works Departments" for purposes of Section 9(a)(1) of Ordinance 926. This is consistent with the County's publication on "Major Subdivision & Commercial Application In-Take & Review Processes," which specifically

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references the "Technical Review Committee" or "TRC" but does not include general references to "the staff of the Planning and Public Works Departments." (R. at 00358). Furthermore, Section 9(a)(4) specifically references the Technical Review Committee as having the authority to approve preliminary plat applications without Planning Commission involvement provided that no variance requests are involved. To the extent that the County argues that the use of "and/or" in Section 9(a)(1) gives rise to an ambiguity, Section 9(a)(4) resolves any ambiguity by clearly stating that the ***Technical Review Committee*** has the authority to approve preliminary plat applications that do not involve requests for variances.

II. The Planning Commission's Decision to Deny Duplicative Approval to the Preliminary Plat was Arbitrary, Capricious and an Abuse of Discretion

In the alternative, if Petitioners were required to obtain duplicative approval, the Planning Commission's decision to deny the Preliminary Plat was arbitrary, capricious, and lacked any legal evidence to support it. *See Kurschner v. City of Camden Plan. Comm'n*, 376 S.C. 165, 174, 656 S.E.2d 346, 351 (2008) (recognizing that a decision of a planning commission "will not be upheld where it is based on errors of law, where there is no legal evidence to support it, where the [commission] acts arbitrarily or unreasonably, or … has abused its discretion"). For these reasons, reversal of the Planning Commission's decision to deny the Preliminary Plat is warranted.

As stated above, the County's imposition of a duplicative approval requirement is contrary to the plain wording of the relevant ordinance and the County's own published interpretation of its ordinance. R. at 00289 and 00358. Therefore, the Court has found that duplicative review of the Preliminary Plat was not required and in violation of the terms of the ordinance, as review of a preliminary plat by the Planning Commission is proper only when a variance is requested or when the Technical Review Committee has denied approval. It is undisputed that the Preliminary Plat did not include any request for a variance.

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Assuming *arguendo* that the Planning Commission's review were required, the Planning Commission's denial of the Preliminary Plat is independently unsustainable and must be reversed. The motion to deny was based on generalized statements by a single commissioner (Duane Owens) relating to his personal frustration with suburban growth and traffic in a different portion of Laurens County where he lives, his belief that there was inadequate involvement in the review of Cambridge Farms by Laurens County School District #56, and his objection to future annexation covenants that were imposed by the Technical Review Committee as a condition of the June 23, 2025 approval. (R. at 00231-00234). None of these issues constitute a basis to deny Petitioners the ability to proceed with a lawful use of their property.

During this appeal, the County has sought to expand the grounds for the Planning Commission's denial to include a total of five (5) issues: (i) the withdrawal of a prior application by Petitioners with the City of Clinton; (ii) traffic concerns; (iii) annexation concerns; (iv) the failure to provide an electrical will-serve letter; and (v) stormwater and other environmental considerations. Upon careful review of the record and applicable law, the Court finds that none of these grounds provide legal evidence to support denial of duplicative approval.

None of the grounds put forth by the County tie back to definable criteria or applicable standards that are part of the County's published ordinances and regulations. As a result, the County is proffering reasons for denial that are subjective and without any governing principles. As our Supreme Court has stated, it is considered "well established that municipal ordinances placing restrictions upon lawful conduct or the lawful use of property must, in order to be valid, specify the rules and conditions to be observed in such conduct or business; and must admit of the exercise of the privilege of all citizens alike who will comply with such rules and conditions; and must not admit of the exercise, or of an opportunity for the exercise, of any arbitrary discrimination

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by the municipal authorities between citizens who will so comply." *Schloss Poster Advert. Co. v. City of Rock Hill*, 190 S.C. 92, 2 S.E.2d 392, 395 (1939). Allowing local zoning boards to create and act based upon grounds for denial that are untethered to objective standards encourages arbitrary decisions and abuses of discretion. Furthermore, the use of arbitrary, subjective criteria as a condition for approval is an abuse of discretion. *See, e.g., Peterson Outdoor Advert. v. City of Myrtle Beach*, 327 S.C. 230, 235, 489 S.E.2d 630, 633 (1997) (holding that permit standards so broad and subjective that they failed to provide any guidance to an applicant of the basis for denial were improper). With these principles in mind, the Court turns to the grounds for denial presented by the County in this appeal.

i. Withdrawal from City of Clinton

The Court finds that Petitioners' withdrawal of a prior development application with the City of Clinton does not justify the Planning Commission's denial of the Preliminary Plat. It is undisputed that the motion to deny, as reflected in the record on appeal, did not include this as a ground for denial. The County cites to a comment made by a member of the public during the meeting claiming that "70 percent of the lots do not conform to the current requirements of the City of Clinton, and the developer has already been denied by the City of Clinton Planning Commission." (R. at 00077–78). However, as reflected in the record, the City of Clinton application was for a different housing development that included 100 additional units and was ***withdrawn*** (not denied) due to an issue with the zoning classification allowing potential multifamily use. (R. at 00094–96). This matter was addressed by Petitioners' representative and was not discussed substantively by any member of the Planning Commission. (R. at 00094–96). The fact that the City of Clinton did not approve or participate in the project is irrelevant to the County's determination, as the County's review process does not involve input from the City of

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Clinton, which has its own zoning ordinances and review processes. The withdrawn application is wholly irrelevant to the Planning Commission's decision whether to grant duplicative approval and does not provide legal evidence to support a denial.

ii. Generalized Traffic Concerns

The Court finds that the generalized traffic concerns cited by the County do not justify the Planning Commission's denial of the Preliminary Plat. It is arbitrary to import traffic conditions from elsewhere in Laurens County into the analysis of Cambridge Farms. In connection with the Technical Review Committee review, a traffic impact analysis was conducted and submitted with the application. Also, the South Carolina Department of Transportation ("SCDOT") approved the project with conditions, including a requirement for turn lanes. (R. at 00187). The only evidence cited in support of denial on this ground consisted of unsupported opinions from members of the public and a planning commission member's personal frustration with having to sit at a traffic light in order to access Interstate 385 in an entirely different portion of the County. (R. at 00232). No evidence was presented to indicate that the project would have specific adverse impacts on traffic that would not be mitigated through the required turn lanes. It is recognized that unsubstantiated concerns voiced by neighbors are not considered "evidence" for purposes of the any evidence standard. *See, e.g., Bannum, Inc. v. City of Columbia,* 335 S.C. 202, 207, 516 S.E.2d 439, 441 (1999) (reversing denial of a specific exception by a local zoning board and stating that "[a]lthough we are sympathetic to the concerns of neighboring individuals, the ordinance simply does not provide such a basis for denial of the permit.") There is no evidence in the record to support a finding that the generalized issue of traffic, which was already considered by the Technical Review Committee and SCDOT prior to giving their approvals, was a legitimate basis for denial of a project that complied with all applicable requirements.

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iii. Electric Utility Will-Serve Letter

The County has asserted that the temporary uncertainty regarding the status of a will-serve letter by Laurens Electric Cooperative was a legitimate basis for the Planning Commission's denial. The Court disagrees. The temporary absence of the will-serve letter from the electric utility does not justify the Planning Commission's denial of the Preliminary Plat. Although an electrical will-serve letter was not presented during the initial hearing, the Preliminary Plat application had already been deemed complete and approved without any requirement of such a letter. Soon after the County's Planning Director indicated that she did not have a copy of the will-serve letter, it was provided by Petitioners. It remains uncertain whether the County had previously received a copy and misplaced it or if the County had never received a copy. Regardless, the County received the will-serve letter prior to the August 19, 2025 meeting of the Planning Commission at which duplicative approval was refused. Furthermore, a copy of the will-serve letter is included within the Record on Appeal. (R. at 00003). More importantly, the status of the will-serve letter was not stated by the Planning Commission as one of the reasons why duplicative approval was refused. All parties were aware that electrical service would be provided and understood who the provider would be, as reflected in the record. As a result, this was an arbitrary and inappropriate reason for duplicative approval to be refused.

iv. Annexation Concerns

The Court finds that the Planning Commission's concerns about the annexation covenants do not provide evidence to support a denial of the Preliminary Plat. First and foremost, it was the County who imposed the annexation covenant as a condition when the Preliminary Plat was approved on June 23, 2025. It is arbitrary for the Planning Commission to deny duplicative approval for Cambridge Farms based on a condition that the County itself had imposed. The stated

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concerns expressed by the Planning Commission included that homeowners "may or may not know what that means," that "it may not be described to them," and that it may act as a "hidden expense" (R. at 00247). As stated in the approval letter, "the signed annexation agreement is to be in the record in the Laurens County Register of Deeds Office to become a part of the chain of title and bind future landowners to the agreement." (R. at 00059). Potential home buyers will have the option whether to proceed with the home purchase with knowledge of the disclosed annexation agreement.

v. Stormwater and Environmental Considerations

The Court finds that generalized public concerns about stormwater or environmental considerations do not justify the Planning Commission's denial of the Preliminary Plat. As Senior Planner Lisa Wargo explained during the July 15, 2025, hearing, stormwater review occurs at the construction site plan stage, which is the next step after preliminary plat approval. Specifically, Ms. Wargo stated that "this is just the first stage of the three-stage process, and in the next stage it's the construction site plan. That's when we get all of the stormwater stuff. That's when we get everything on the ponds, all of the wetland information. That's when we get the permits from Army Corps of Engineers, from DOT, from DES because they have to have all of those permits before we give them a construction site plan approval, and then they get a land clearing permit." (R. at 00125). If Petitioners obtain the necessary permits and comply with applicable stormwater requirements, it is immaterial that one or more residents in the area might wish that the property would be put to a different use. Denying a preliminary plat based on speculative and unsubstantiated stormwater concerns is arbitrary and an abuse of discretion in light of the fact that, as demonstrated by the record, stormwater issues are reserved for a later portion of the process.

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III. The Approved Preliminary Plat is Not Affected by the Temporary Moratorium or Subsequent Modifications to the Open Space Residential Development Standards

As stated above, the Court finds that Petitioners' rights vested on June 23, 2025, upon approval by the TRC. Furthermore, the Court specifically finds that the temporary moratorium does not apply because it was imposed after the County received the complete application on June 16, 2025, and approved it on June 23, 2025. Similarly, seeing that Petitioners garnered vested rights in the Preliminary Plat as a result of the approval, the subsequent modifications to the Open Space Residential Development standards do not invalidate or affect the approved site specific development plan.

The County has urged the Court to apply the pending ordinance doctrine to the temporary moratorium (which did not receive a *first* reading until after the Technical Review Committee had already confirmed in writing that the Preliminary Plat was approved). Within the context of the pending ordinance doctrine, it is required that a governing body has resolved to consider a "particular scheme of rezoning" and "has advertised to the public its intention to hold public hearings" before the applicant's submission of an application in order for the pending ordinance doctrine to apply. *See, e.g., Adams Outdoor Advert. Ltd. P'ship v. Beaufort Cnty*., 105 F.4th 554, 563 (4th Cir. 2024) (applying South Carolina's pending ordinance doctrine). These conditions have not been met.

Ordinance No. 989 is not a "particular scheme of rezoning," *i.e.*, a set of revisions to existing zoning provisions. It is a moratorium. The premise underlying the pending ordinance doctrine is that "a municipality may properly refuse a building permit for a land use in a newly annexed area when such use is repugnant to a pending and later enacted zoning ordinance," meaning that an ordinance that would prohibit the use for which the permit is sought is already

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pending. *See Sherman v. Reavis*, 273 S.C. 542, 545, 257 S.E.2d 735, 737 (1979). The sequence of events in this case do not involve a zoning ordinance that was "pending and later enacted" as of June 23, 2025, when the Technical Review Committee approved the Preliminary Plat prior to first reading of the temporary moratorium. The temporary moratorium does not include a particular scheme of rezoning; it is an edict prohibiting further administrative activity on applications that were not yet approved. As a result, the temporary moratorium was not a "pending zoning ordinance" that constituted a "particular scheme of rezoning." *Id.* at 546, 257 S.E.2d at 737.

Petitioners have vested rights under state law, as the approved Preliminary Plat is a "site specific development plan" for purposes of the South Carolina Vested Rights Act. *See* S.C. Code § 6-29-1520(9). Neither the temporary moratorium nor any subsequent changes to the Open Space Residential Development standards may affect those vested rights. Under the South Carolina Vested Rights Act, "a change in the zoning district designation or land-use regulations made subsequent to vesting that affect real property does not operate to affect, prevent, or delay development of the real property under a vested site specific development plan or vested phased development plan without consent of the landowner." *See* S.C. Code § 6-29-1540(13). Petitioners did not consent to the changes; they pressed the County to be allowed to proceed with their approved plan. Accordingly, subsequent modifications to the County's Ordinances and standards do not apply to the Cambridge Farms project.

The County argues Petitioners must show reliance on a "significant affirmative governmental act" and "significant obligations and expenses" to garner vested rights. The Court disagrees. The Vested Rights Act provides that:

> If a local governing body does not have land development ordinances or regulations or fails to adopt an amendment to its land development ordinances or regulations as required by this section, **a landowner has a vested right to proceed in**

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> **accordance with an approved site specific development plan for a period of two years from the approval.**

See S.C. Code § 6-29-1560 (emphasis added). The County has adopted land development ordinances or regulations. *See* Ordinance 926 (R. 00270 – 00354). Petitioners obtained "approval" of a "site specific development plan" in accordance with the County's ordinances. This results in vested rights without need for reliance on a significant affirmative governmental action, which is an alternative mechanism to demonstrate vested rights when no approval process exists.

In addition, the rights of Petitioners are protected by the time of application rule. South Carolina adheres to the time-of-application rule, under which a development application is reviewed against the ordinances and regulations in effect at the time the complete application is submitted. *See, e.g., Pure Oil Div. v. City of Columbia*, 254 S.C. 28, 34, 173 S.E.2d 140, 143 (1970). Petitioners submitted a complete application on June 16, 2025, and the Court has found the application complied with all applicable requirements as of that date. Any subsequent legislative action by the County, including the moratorium imposed by Ordinance No. 989 and any subsequent modifications to Ordinance No. 926 relative to Open Space Residential Developments, are inapplicable as a matter of law. Petitioners shall be allowed to proceed with Cambridge Farms based on the requirements and standards that were in place at the time of the approval of the Preliminary Plat, which was June 23, 2025.

CONCLUSION

For the foregoing reasons, the Court finds that the June 23, 2025 approval of the Preliminary Plat by the Technical Review Committee constituted legal approval of the Preliminary Plat. As such, based on the plain wording of Ordinance 926, Petitioners were not and could not be required to seek duplicative approval of the Preliminary Plat from the Planning Commission when the Preliminary Plat did not involve a request for a variance. Furthermore, to the extent that any

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duplicative approval from the Planning Commission were required, the Planning Commission's denial of the Preliminary Plat was arbitrary, capricious, and an abuse of discretion as the Planning Commission failed to specify any valid grounds for disapproval. Even when the Court considers the five (5) *ad hoc* grounds for denial asserted in this appeal, none of these grounds provide any evidence in support of the denial, nor do they invalidate the prior approval by the Technical Review Committee. The Court further concludes that the moratorium does not apply because it was not given first reading until after the Technical Review Committee had already approved the Preliminary Plat. For these reasons, the Court confirms that the Preliminary Plat was approved as of June 23, 2025 and conferred vested rights upon Petitioners as of that date, which causes the County's subsequent modifications to the Open Space Residential Development standards to be inapplicable to Cambridge Farms under South Carolina law.

IT IS THEREFORE ORDERED:

i. That the August 19, 2025 decision of the Planning Commission to deny the Cambridge Farms Preliminary Plat is hereby **REVERSED**;

ii. That the Preliminary Plat for Cambridge Farms is confirmed to be **APPROVED** effective June 23, 2025;

iii. Petitioners have vested rights in the approved Preliminary Plat, which constitutes an approved "site specific development plan" for purposes of the South Carolina Vested Rights Act;

iv. The vested rights of Petitioners are not limited or affected by Ordinance No. 989 (the temporary moratorium) or subsequent modifications to the County's Open Space Residential Development standards adopted after Petitioners obtained vested rights;

v. The County shall accept, process, and act upon subsequent permit applications for Cambridge Farms under the provisions of Ordinance No. 926, including the Open Space Residential Development standards, existing as of June 23, 2025.

AND IT IS SO ORDERED.

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Laurens Common Pleas

Case Caption:	Veranda Homes, Llc , plaintiff, et al VS Laurens County, South Carolina , defendant, et al
Case Number:	2025CP3001031
Type:	Order/Other

So Ordered

Patrick C. Fant, III

Electronically signed on 2026-05-12 18:12:24

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