

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Jul 21 2026

SC Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson
Circuit Court Judge

Appellate Case No. 2024-000023
Circuit Court Case No. 2022-CP-22-00912

Michael T. Green and Carrie J. Green; Julian P. Rutledge and Melvin L. Rutledge; Patricia S. Grate; Carlethia B. Jenkins; Frances Jo Baker; Parkersville Planning & Development Alliance, Inc.; Keep It Green, Inc.; and Preserve Murrells Inlet, Inc., Plaintiffs

of which Michael T. Green and Carrie J. Green; Julian P. Rutledge and Melvin L. Rutledge; Carlethia B. Jenkins; Frances Jo Baker; Parkersville Planning & Development Alliance, Inc.; Keep It Green, Inc.; and Preserve Murrells Inlet, Inc. are the Appellants,

v.

Georgetown County; Laine CRE, LLC; TriStar Land, LLC; and Samuel J. Nesbit on behalf of the heirs of Will Nesbit, Respondents.

APPELLANTS' RETURN IN OPPOSITION TO
RESPONDENTS' PETITION FOR REHEARING

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BACKGROUND

Respondents seek rehearing of the Court of Appeals' decision of June 10, 2026, reversing the trial court's Rule 12(b)(6), SCRCF, dismissal of Appellants' complaint and finding that Georgetown County Ordinance 607 and Georgetown County Council's approval of two subdivision (site plan) applications conflicted with the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 rendering the approval and the ordinance invalid.

Respondents' Petition for Rehearing does not identify any point of law or material fact overlooked or misapprehended by the Court as required by Rule 221, SCACR. Instead, it reasserts arguments fully presented during the appeal, answered by Appellants, and resolved by the Court's Opinion.

For the reasons set forth herein, Appellants oppose Respondents' Petition for Rehearing and respectfully request that it be denied.

ARGUMENT

Requirements of Rule 221 Petition for Rehearing

A Petition for Rehearing is governed by SCACR Rule 221 and must “state with particularity the points supposed to have been overlooked or misapprehended by the court.” According to the South Carolina Supreme Court in *Kennedy v. South Carolina Retirement System*, 349 S.C. 531, 564 S.E.2d 322 (2001), the purpose of a Petition for Rehearing is to correct material judicial errors and omissions. It is not intended to provide a second opportunity to argue the appeal or to obtain reconsideration following an adverse decision because a party disagrees with the Court’s interpretation of the law or the outcome.

The *Kennedy* court held that “[i]n order to prevail on a petition for rehearing, ... [a party] must demonstrate the Court overlooked or misapprehended their argument.” *Id.* at 532, 322.

Accordingly, the relevant question is not whether Respondents agree with the Court's decision. The question is whether the Court overlooked or misapprehended controlling matters.

Application of Rule 221 to Present Case

In the present case, Respondents' Petition for Rehearing identifies no matter overlooked or misapprehended by this Court. Instead, Respondents rehash the following arguments that were repeatedly presented throughout this litigation and in appellate briefing and oral arguments, all of which were thoroughly addressed by the parties and resolved by the Court's Opinion: (a) Georgetown County Council's broad legislative authority; (b) principles of legislative deference; (c) the “fairly debatable” doctrine; (d) constitutional considerations; (e) the role of the Comprehensive Plan; and (f) the function of the Planning Commission versus County Council.

A Petition for Rehearing is not intended to be used as a vehicle “to present points which lawyers for the losing parties have overlooked or misapprehended” *Id.* at 532, 322 (citations omitted). Appellants have never disagreed with the concept that County Council generally has broad legislative powers in zoning matters and the Court of Appeals did not hold otherwise. That has never been the issue. The dispositive issue has always been that County Council exercised its broad legislative authority in a manner that was *inconsistent with mandatory statutory procedures* specifically established by the General Assembly, rendering Council's approval of the subdivision applications invalid and void. It has always been Appellants' position that Georgetown County Ordinance 607 impermissibly transferred authority specifically assigned to the Planning Commission by the Enabling Act.

The Court of Appeals agreed with Appellants and resolved that issue in Appellants' favor holding that Ordinance 607 conflicts with the Enabling Act rendering the ordinance and County Council's actions under that ordinance invalid.

Once the Court determined that Ordinance 607 conflicted with the Enabling Act and that Appellants sufficiently alleged claims for relief, it properly declined to address additional issues unnecessary to the disposition. The Court's resolution of the appeal on that dispositive ground does not mean that it overlooked Respondents' broader arguments. An argument is not overlooked or misapprehended merely because the Court resolves the appeal on a dispositive issue that makes consideration of subordinate issues unnecessary. The issues raised by Respondents were neither overlooked nor misapprehended. They were presented during the appeal, and the Court resolved the dispositive issue in favor of Appellants. Respondents' disagreement with the Court's conclusion does not establish that the Court overlooked or misapprehended a point of law or material fact.

Respondents' Petition for Rehearing essentially asks the Court to replace its interpretation with Respondents' preferred interpretation. Rule 221 does not authorize that relief. The Petition identifies no point of law or material fact overlooked or misapprehended by the Court. Instead, it improperly seeks reconsideration of legal conclusions the Court intentionally reached.

CONCLUSION

For the foregoing reasons, Appellants respectfully request this Honorable Court to deny Respondents' Petition for Rehearing.

Respectfully submitted,

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of which Michael T. Green and Carrie J. Green; Julian P. Rutledge and Melvin L. Rutledge; Carlethia B. Jenkins; Frances Jo Baker; Parkersville Planning & Development Alliance, Inc.; Keep It Green, Inc.; and Preserve Murrells Inlet, Inc. are the Appellants,

v.

Georgetown County; Laine CRE, LLC; TriStar Land, LLC; and Samuel J. Nesbit on behalf of the heirs of Will Nesbit, Respondents.

PROOF OF SERVICE

The undersigned hereby certify that APPELLANTS' RETURN IN OPPOSITION TO RESPONDENTS' PETITION FOR REHEARING was served this 21st day of July, 2026, as follows:

Upon Respondents Georgetown County, Laine CRE, LLC, and TriStar Land, LLC, by emailing a copy of same to the primary email address of counsel of record listed in the AIS system as set forth below. Copies of said emails are attached hereto in accordance with SC Appellate Court Rules and related orders.

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LAND, LLC

Respectfully submitted,

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Michael T. Green v. Georgetown County, 2024-000023

1 message

KIG Advocacy <kig.advocacy@gmail.com>

Tue, Jul 21, 2026 at 8:00 AM

To: Tommy Morgan <tommy@smithrobinsonlaw.com>, Sydney Douglas <Sydney.Douglas@smithrobinsonlaw.com>, Shanon Peake <shanon.peake@smithrobinsonlaw.com>, Pecoy Matt <mpecoy@pecoylaw.com>

Cc: "Hubbard, Patrick" <phubbard@law.sc.edu>

Dear Tommy, Sydney, Shanon & Matthew:

Attached please find Appellants' Return in Opposition to Respondents' Petition for Rehearing in the above matter which is hereby served upon you and will be filed with the Court of Appeals today.

Thanks,
Cindy

Cynthia Ranck Person, Esquire
Legal Counsel & Executive Director

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