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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas, Thirteenth Judicial Circuit
Hon. William C. McMaster, III, Circuit Court Judge

Case No. 2025-CP-23-03365
Appellate Case No. 2025-002385

AJC-101 Holdings, LLC,..... Appellant,

v.

Greenville County Planning Commission ..... Respondent.

RECORD ON APPEAL

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025CP2303365

Ajc 101 Holdings Llc
PLAINTIFF(S)

Planning Commission Greenville County
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

This matter came before the Court on September 17, 2025. Luke Burke was present on behalf of the Plaintiff. Andrew Lindemann was present on behalf of the Defendant. After careful consideration of the materials filed and the arguments of the parties, the Court finds that the Defendant issued its decision on April 23, 2025, of which Plaintiff had actual notice on that date. Subsequently, Plaintiff filed its Appeal of the Defendant's decision 35 days later, on May 28, 2025. Therefore, based on the applicable case law and S.C. Code Ann. Section 6-29-1150, the Decision of the Greenville County Planning Commission is AFFIRMED.

It is so Ordered.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/26/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Sep 26 1:13 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2025 Sep 26 1:13 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

ELECTRONICALLY FILED - 2025 Sep 26 1:13 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

Greenville Common Pleas

Case Caption: Ajc 101 Holdings Llc VS Planning Commission Greenville County

Case Number: 2025CP2303365

Type: Order/Electronic Form 4

So Ordered

William C. McMaster, III

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025CP2303365

Ajc 101 Holdings Llc
PLAINTIFF(S)

Planning Commission Greenville County
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

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☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

Plaintiff's Motion to Alter or Amend Judgment was filed with this Court on October 6, 2025. After careful consideration of the filings of the parties, the Court is unable to discover any material fact or principle of law that has either been overlooked or disregarded, and further finds no error of law or fact not appropriately considered. Therefore, Defendant's Motion is DENIED.

It is so Ordered.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/30/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Oct 30 12:29 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2025 Oct 30 12:29 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

ELECTRONICALLY FILED - 2025 Oct 30 12:29 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

Greenville Common Pleas

Case Caption: Ajc 101 Holdings Llc VS Planning Commission Greenville County

Case Number: 2025CP2303365

Type: Order/Electronic Form 4

So Ordered

William C. McMaster, III

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025CP2303365

Ajc 101 Holdings Llc
PLAINTIFF(S)

Planning Commission Greenville County
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

This Order rescinds the Form 4 dated October 30, 2025.

Plaintiff's Motion to Alter or Amend Judgment was filed with this Court on October 6, 2025. After careful consideration of the filings of the parties, the Court is unable to discover any material fact or principle of law that has either been overlooked or disregarded, and further finds no error of law or fact not appropriately considered. Therefore, Plaintiff's Motion is DENIED.

It is so Ordered.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/05/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Nov 05 3:43 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2025 Nov 05 3:43 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

ELECTRONICALLY FILED - 2025 Nov 05 3:43 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

Greenville Common Pleas

Case Caption: Ajc 101 Holdings Llc VS Planning Commission Greenville County

Case Number: 2025CP2303365

Type: Order/Electronic Form 4

So Ordered

William C. McMaster, III

ELECTRONICALLY FILED - 2025 May 28 2:00 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
AJC-101 Holdings, LLC, Appellant, v. Greenville County Planning Commission, Respondent.	C.A. No. 2025-CP-23- **SUMMONS**

TO: THE RESPONDENT ABOVE-NAMED:

You are hereby summoned and required to answer the Notice of Appeal and Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your answer upon the subscriber at 819 E. North Street, Greenville, SC 29601, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer within that time, a judgment by default will be entered against you for the relief demanded in the Notice of Appeal and Petition.

BURKE LAW, LLC

s/Luke A. Burke
Luke A. Burke (SC Bar # 100033)
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Attorney for the Appellant

May 28, 2025
Greenville, South Carolina

ELECTRONICALLY FILED - 2025 May 28 2:00 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
AJC-101 Holdings, LLC, Appellant, v. Greenville County Planning Commission, Respondent.	C.A. No. 2025-CP-23- **NOTICE OF APPEAL AND PETITION**

The Appellant, by and through his undersigned counsel, submits this Notice of Appeal and Petition and alleges the following:

JURISDICTION AND PARTIES

1. AJC-101 Holdings, LLC, ("Appellant") is a limited liability company organized and existing under the law of South Carolina.

2. The Greenville County Planning Commission ("the Planning Commission") is an appointed local planning commission as defined in South Carolina Code § 6-29-310, also known as the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, and was created by the Greenville County Council pursuant to S.C. Code § 6-29-320, et seq., and pursuant to Greenville County Code of Ordinances § 17-71, *et seq*.

3. AJC-101 Holdings is the owner of real property located in Greenville County (Tax Map Numbers: 0601020100802, 0409000100113, and 0601020100901 ("Property").

4. Gray Engineering Consultants ("Gray") submitted a Preliminary Subdivision Application (PP-2025-029) on behalf of AJC-101 Holdings to subdivide Property.

5. At its April 23, 2025 meeting, the Planning Commission denied the Preliminary Subdivision Application.

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6. By letter dated April 30, 2025, Greenville County notified Gray of the Planning Commission's decision.

7. The Planning Commission did not provide a reason for its decision in the denial letter.

8. Pursuant Title 6, Chapter 29, Article 7 of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, Greenville County has adopted land development regulations. LDR § 1.1.

9. This Court has jurisdiction over the parties due to their location or activities in Greenville County.

10. Venue is proper in Greenville County because the real property involved is situated within Greenville County and the Planning Commission is part of the Greenville County government.

11. This Court has subject matter jurisdiction of this action pursuant to S.C. Code § 6-29-1150.

12. Appellant hereby gives notice of its intent to appeal and does hereby appeal and petition this Court for review, pursuant to S.C. Code Ann. § 6-29-1150 and any other applicable section or section of the South Carolina Local Government Planning, of the Planning Commission's denial of the Preliminary Subdivision Application.

STANDARD OF REVIEW

13. The Planning Commission's decision must be overturned "where it is based on errors of law, where there is no legal evidence to support it, where the board acts arbitrarily or unreasonably, or where, in general, the board has abused its discretion." *Kurschner v. City of Camden Planning Commission*, 376 S.C. 165, 173-74, 656 S.E.2d 346, 351 (2008) (applying

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Zoning Board standards to a Planning Commission decision) (citing *Peterson Outdoor Advertising v. City of Myrtle Beach*, 327 S.C. 230, 235, 489 S.E.2d 630, 633 (1997)).

14. "[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." *Rest. Row Assocs. V. Horry Cty.*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999).

GROUNDS FOR APPEAL

15. "A record of all actions on all land development plans and subdivision plats *with the grounds for approval or disapproval*, and any conditions attached to the action must be maintained as a public record." S.C. Code § 6-29-1150(B) (emphasis added).

16. The Planning Commission's failure to state its grounds for disapproval is proof that its decision was arbitrary and capricious and that the Planning Commission had no legitimate ground for disapproval.

17. The Planning Commission's failure to state or record the grounds for disapproval represents an error of law and proof that no legal evidence exists to support its decision.

18. The Planning Commission has abused its discretion by disapproving the plan without any legal evidence to support its decision.

19. Further, the legislative history of Article 3 of the County's Land Development Regulations shows that the County intended to eliminate or significantly reduce the Planning Commission's discretion to approve or disapprove preliminary subdivision applications.

20. Specifically, in response to numerous appeals by applicants and other interested parties from the Planning Commission's decisions, the County amended LDR

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Article 3, removing LDR § 3.1,[1] which the Planning Commission had interpreted as allowing it discretion to deny preliminary subdivision applications that otherwise complied with the applicable statutes, ordinances, and land development regulations.

21. Here, the Preliminary Subdivision Application complies with all state laws, and Greenville County's ordinances and regulations.

22. Therefore, the Planning Commission's decision is based on errors of law, there is no legal evidence to support it, and the Planning Commission has acted arbitrarily or unreasonably and has abused its discretion.

Reservation of Rights

23. The minutes from the April 23, 2025 Planning Commission Meeting are not publicly available as of the time of filing this Notice of Appeal. As such, Appellant reserves the right to amend, modify, or supplement this appeal after receipt of the minutes and the full record on appeal.

[1] Prior to removal, LDR § 3.1 stated:

> Submitted subdivisions may be approved if they meet all of the following criteria:
> • Adequate existing infrastructure and transportation systems exist to support the project;
> • The project is compatible with the surrounding land use density;
> • The project is compatible with the site's environmental conditions, such as but not limited to, wetlands, flooding, endangered species and/or habitat, and historic sites and/or cemeteries.

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WHEREFORE, Appellant prays for the following relief:

1) That the Court enter an order remanding this decision to the Planning Commission with instructions to approve the Preliminary Subdivision Application;

2) That Appellant be awarded attorney's fees and other reasonable costs related to this appeal from Respondent; and

3) Such other and further relief as the Court deems just and proper.

BURKE LAW, LLC

s/ Luke A. Burke
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Attorney for the Appellant

May 28, 2025
Greenville, South Carolina

ELECTRONICALLY FILED - 2025 Jun 30 9:25 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF GREENVILLE	)	
AJC-101 Holdings, LLC,	)	
	)	Civil Action No. 2025-CP-23-3365
Appellant,	)	
	)	
v.	)	
	)	**ANSWER TO NOTICE OF APPEAL AND PETITION**
Greenville County Planning Commission,	)	
	)	
Respondent.	)	
_____	)	

The Respondent Greenville County Planning Commission answers the Appellant's Notice of Appeal and Petition (hereafter referred to as "Notice of Appeal") as follows:

1. The Respondent denies each and every allegation of the Notice of Appeal not hereinafter specifically admitted, qualified, or explained.

2. The allegations set forth in Paragraph 1 of the Notice of Appeal are, upon information and belief, admitted.

3. The Respondent admits the allegations in Paragraph 2 of the Notice of Appeal which state that it is a planning commission created by Greenville County through an ordinance and as contemplated in S.C. Code Ann. § 6-29-310.

4. The allegations set forth in Paragraphs 3 and 4 of the Notice of Appeal are denied as stated.

5. The allegations set forth in Paragraph 5 of the Notice of Appeal are admitted.

6. As to the allegations set forth in Paragraph 6 of the Notice of Appeal, the Respondent craves reference to the letter dated April 30, 2025, sent to Waverly Wilkes with Gray Engineering, Inc.

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7. The allegations set forth in Paragraph 7 of the Notice of Appeal are denied.

8. The allegations set forth in Paragraph 8 of the Notice of Appeal are admitted.

9. As to the allegations set forth in Paragraphs 9, 10, 11, and 12 of the Notice of Appeal, the Respondent does not contest personal jurisdiction or venue in Greenville County. The Respondent notes that this Court's jurisdiction is limited to appellate jurisdiction only under a strict standard of review and denies the allegations in these paragraphs if they can be construed to allege otherwise.

10. The allegations set forth in Paragraphs 13 and 14 of the Notice of Appeal are matters of law to which no response is required.

11. As to the allegations set forth in Paragraph 15 of the Notice of Appeal, the Respondent craves reference to S.C. Code Ann. § 6-29-1150(B).

12. The allegations set forth in Paragraphs 16, 17, 18, and 19 of the Notice of Appeal are denied.

13. As to the allegations set forth in Paragraph 20 of the Notice of Appeal, the Respondent craves reference to Article 3 of the Land Development Regulations.

14. The allegations set forth in Paragraphs 21 and 22 of the Notice of Appeal are denied.

15. The allegations set forth in Paragraph 23 of the Notice of Appeal require no response. Further answering, the Respondent objects to any reservation of rights to amend or modify the Notice of Appeal or Petition to the extent not authorized by or contrary to existing statutory law and ordinances.

16. The Respondent denies the allegations and relief sought as set forth in the prayer of the Notice of Appeal, including any claim for attorney's fees and costs which are not

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recoverable against the Respondent. The Respondent denies that the Court has the statutory authority to grant the relief requested.

17. The Respondent asserts that the Appellant seeks to have the judiciary act as a super planning commission in contravention of state and federal constitutional and statutory law.

18. The Respondent is a quasi-judicial entity created under South Carolina and local law and is, therefore, entitled to quasi-judicial immunity from suit including any claims for attorney's fees and costs.

19. The Respondent asserts that the relief requested by the Appellant violates the separation of powers doctrine and Article I, § 8 of the South Carolina Constitution.

20. The actions and decision by the Respondent as challenged on appeal are consistent with the functions, powers, and duties granted by state law, including S.C. Code Ann. § 6-29-340, and by local ordinance.

21. Under the applicable standard of appellate review, the Respondent denies that the Appellant has stated any proper basis or ground for reversal of any actions decision on appeal.

22. The appeal filed by the Appellant is untimely. The appeal has not been filed and served within thirty days after the Appellants received actual notice of the decision on appeal.

23. The Circuit Court lacks subject matter jurisdiction over this appeal because the Appellant filed and served its Notice of Appeal out of time.

24. The Appellant lacks standing to assert the issues on appeal.

WHEREFORE, the Respondent Greenville County Planning Commission asks this Court to set a formal briefing schedule for the appeal, to affirm the decision of the Greenville County Planning Commission, to dismiss the Petition, and to award the Planning Commission such other and further relief as the Court deems just and proper.

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LINDEMANN LAW FIRM, P.A.

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Counsel for Respondent
Greenville County Planning Commission

June 30, 2025

ELECTRONICALLY FILED - 2025 Sep 12 2:31 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
AJC-101 Holdings, LLC, Appellant, v. Greenville County Planning Commission, Respondent.	C.A. No. 2025-CP-23-03365 **MEMORANDUM IN SUPPORT**

I. STANDARD OF REVIEW

The Planning Commission's decision must be overturned "where it is based on errors of law, where there is no legal evidence to support it, where the board acts arbitrarily or unreasonably, or where, in general, the board has abused its discretion." *Peterson Outdoor Advertising v. City of Myrtle Beach*, 327 S.C. 230, 235, 489 S.E.2d 630, 633 (1997), cited in *Kurschner v. City of Camden Planning Commission*, 376 S.C. 165, 173-74, 656 S.E.2d 346, 351 (2008) (applying Zoning Board standards to a Planning Commission decision); *see also Rest. Row Assocs. v. Horry Cty.*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999) ("[A] decision of a municipal [Z]oning 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.").

This Court owes deference to the Planning Commission's findings of fact. *Furr v. Horry County Zoning Bd. of Appeals*, 411 S.C. 178, 184, 767 S.E.2d 221, 224 (Ct. App. 2014). However, this Court owes no such deference to the Planning Commission when reviewing the interpretation and application of statutory authority, including local ordinances. "Although 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.'" *Charleston County Parks & Recreation Comm'n v. Somers*, 319 S.C. 65, 67, 459

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S.E.2d 841, 843 (1995) (internal citation omitted) (quoting *Sea Island Scenic Parkway Coalition v. Beaufort County Bd. of Adjustments & Appeals*, 316 S.C. 231, 235, 449 S.E.2d 254, 256 (Ct. App. 1994)). "The determination of legislative intent is a matter of law." *Id.*

II. STATEMENT OF FACTS

a. Legislative History

On August 17, 2021, the Greenville County Council voted to amend the County's Land Development Regulations ("LDR") because "the problems associated with administration of Section 3.1 of the Regulations make it necessary to bring these amendments forward." Exhibit 1. Specifically, among other amendments, the County Council amended the LDR to repeal LDR Section 3.1 (Review Criteria), *id.* at § 4.

LDR 3.1 was the source of numerous appeals and lawsuits because the Planning Commission believed the regulation granted it discretion to create zoning-like regulations to deny specific applications. The regulation stated:

> To further the intent set forth in Section 1.2, the following shall apply for all developments reviewed under this Article.
>
> Submitted developments may be approved if they meet all of the following criteria:
>
> • Adequate existing infrastructure and transportation systems exist to support the project;
> • The project is compatible with the surrounding land use density;
> • The project is compatible with the site's environmental conditions, such as but not limited to, wetlands, flooding, endangered species and/or habitat, and historic sites and/or cemeteries.

Greenville County Council introduced an ordinance to repeal LDR 3.1 at its March 2021 meeting immediately before it agreed to settle two such lawsuits filed by Niemitalo, Inc. Exhibit 2 p. 8, Item 10.d., p. 9, Item 11.a.ii.; Exhibit 7; Exhibit 9. The impetus for Niemitalo's appeal and civil suit was the Planning Commission's use of LDR 3.1 to deny Niemitalo's preliminary

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subdivision application. (Ex. 7, 9). Niemitalo filed an appeal to overturn the denial in 2018, Ex. 7, and subsequently filed its civil suit seeking damages and declaratory judgment that LDR 3.1 was invalid in 2020, Ex. 9.

On April 27, 2021, Niemitalo dismissed its appeal, Exhibit 8, and partially dismissed its civil action with the exception of its cause of action challenging the validity of LDR 3.1, Exhibit 10. County Council repealed LDR 3.1 at its August 2021 meeting. Exhibit 5, pp. 4-5, Item 9.d. On September 17, 2021, Niemitalo dismissed its final cause of action. Exhibit 11.

b. Appellant's Application

Appellant is the owner of real property immediately south of I-185 in Greenville County. Exhibit 12. The property is zoned Residential Suburban ("RS"). Ex. 12. A portion of Appellant's property has already been subdivided and developed into a subdivision named O'Neal Farms. Exhibit 17.

On February 19, 2025, Appellant submitted an application for approval of a preliminary plat to develop O'Neal Farms (Phase II) and was assigned Subdivision File Number PP-2025-029 (the "Application"). Ex. 17. The Application was submitted as an Open Space Residential Development (Option #1) pursuant to the Greenville County Zoning Ordinance ("GCZO"). Exhibit 14; Exhibit 19, p. 9; Exhibit 22 § 7:2. Appellant's Application requested preliminary plat approval for a site consisting of 92.82 acres. Ex. 17; Ex. 19 p. 9. Appellant requested to build 147 lots on this acreage for a density of 1.58 lots per acre.

c. Planning Commission's Denial

At its April 23, 2025 meeting, the Planning Commission held a public hearing on the Application. Exhibit 16 p. 2 ¶ 5. At the meeting, County Staff recommended approval of the Application with minor conditions. Ex. 19 pp. 9-10. After discussion, the Planning Commission

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voted on a motion to approve the application, but the vote failed with three in favor and five opposed. Ex. 19 p. 10. The Planning Commission did not give a reason for its denial during the meeting. Ex. 19 p. 10. On April 30, 2025, the Subdivision Administrator sent a letter to Appellant's engineer notifying it of the denial. Ex. 20. This letter also did not include a reason for denial. Ex. 20.

On May 28, 2025, Appellant filed its Notice of Appeal and Petition. The Notice of Appeal and Petition was served on Respondent on May 29, 2025.

III. ARGUMENT

a. The Planning Commission's failure to state its grounds for disapproval is proof that its decision was arbitrary and capricious and that the Planning Commission had no legitimate ground for disapproval.

"A record of all actions on all land development plans and subdivision plats *with the grounds for approval or disapproval*, and any conditions attached to the action must be maintained as a public record." S.C. Code § 6-29-1150(B) (emphasis added). The conduct of the Planning Commission's meetings are governed by Robert's Rules of Order. Exhibit 23 p. 2 § II.5. Pursuant to Robert's Rules of Order, a deliberate body acts by approval of a motion or resolution, which is a proposal that the assembly take certain action, or that it express itself as holding certain views. RONR (11th ed.) p. 27, II. 18-23.

Here, the Planning Commission denied the Application; however, it did not make any factual findings or present any reason or grounds for the denial. Ex. 19 p. 10; Ex. 20.

The Planning Commission's failure to find grounds for disapproval renders it decision *de facto* arbitrary. "A governmental body's decision 'is arbitrary if it is without a rational basis, is based alone on one's will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or

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standards.'" *Pressley v. Lancaster County*, 343 S.C. 696, 704, 542 S.E.2d 366, 370 (Ct. App. 2001) (quoting *Deese v. South Carolina State Bd. of Dentistry*, 286 S.C. 182, 184-5, 332 S.E.2d 539, 541 (Ct. App. 1985)). As such, where, as here, the Planning Commission does not have a reason for its decision, but merely votes based on the individual whims of the members, its decision is *de facto* arbitrary and must be overturned.

Further, the Planning Commission's failure to have a reason for denying the application means there can be no legal evidence supporting the decision. The Court owes deference to the Planning Commission's findings of fact, but here the Planning Commission has failed to make any such findings. As such, the Planning Commission has not provided any legal evidence in support of its decision.

However, assuming the Planning Commission does have a hidden reason for denying the application, its failure to provide that reason to Appellant violates Appellant's due process right to appeal the decision. Among other things, procedural due process requires notice. *See, e.g., Cameron & Barkley Co. v. S.C. Procurement Review Panel*, 317 S.C. 437, 440-41, 454 S.E.2d 4 892, 894 (1995) (reversing a decision where appellant had no notice the Panel would consider an issue where the request for review did not assert that ground for review). Appellant is entitled to the same notice here, and the Planning Commission's failure to provide a reason denies Appellant its procedural due process rights.

Finally, it is necessary for the Planning Commission to provide a reason for denial so the applicant can fix any issues and reapply. The Planning Commission's failure to provide a reason for denying the application evidences its true intent, which is to deny any application for developing this property. That intent is unreasonable and contrary to the law allowing

development of this property pursuant to the applicable zoning ordinances and land development regulations.

Therefore, the Planning Commission's decision should be reversed.

b. Appellant's Application Complies with the Applicable Zoning Ordinances and Land Development Regulations.

An Open Space Residential Development (Option #1) for an RS-zoned property has two lot-density requirements. First, the density of lots may not exceed 1.7 units per acre. GCZO § 7:2.4-5 & Table 7.1. Second, the development must set aside at least 30 percent of the site to be designated as open space and remain undeveloped. GCZO § 7:2.4-6 & Table 7.2.

Appellant's Application requested preliminary plat approval for a site consisting of 92.82 acres. Ex. 17; Ex. 19 p. 9. Appellant requested to build 147 lots on this acreage for a density of 1.58 lots per acre. The plan set aside 29.94 acres as open space which is 32.2% of the total acreage. Of this open space, 22.8 acres consisted of developable land even though that designation is not required for RS-zoned properties.

As such, the Application complied with the requirements in the zoning ordinances.

The Application also complies with the intent of open space residential development. *See* GCZO § 7:2.1. The preliminary plat preserves substantial amounts of open space for recreational, environmental, and ecological reasons. Ex. 14. There are large areas of open space throughout the subdivision for recreational use by the residents. The plat preserves environmental wetlands and substantial amounts of standing timber on the property and contains a dedicated Tree Save Area. The plat also subdivides the and into lots of varying sizes providing home buyers a choice of lot sizes according to their needs while at the same time, preserving open space, tree cover, scenic vistas, natural drainage ways, and outstanding natural topography.

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As stated above, Appellant denies that the Planning Commission, as a body, has indicated any reason for denying the Application. However, to the extent any members of the Planning Commission voiced any objection to the Application, those objections do not indicate any violation of the LDR.

Two members of the Planning Commission stated they were concerned about traffic and traffic calming measures. Ex. 19 pp. 10-11. There is nothing in the LDR that enables the Planning Commission to consider traffic or deny an preliminary subdivision application based on traffic other than to require that the applicant complete a traffic impact study, which Appellant did, Exhibit 18. Two members even recognized that the SCDOT, and not the Planning Commission, was responsible for enforcing requirements regarding traffic improvements. Ex. 19 pp. 10-11. Further, Appellant agreed to comply with additional calming measures if requested by the County. Ex. 19 p. 10. Finally, County Staff stated they reviewed the Application and did not request any additional traffic calming measures. Ex. 19 p. 10.

One member asked if the open space had meaningful proportions. Ex. 19 p. 11. Presumable this statement was a reference to GCZO Section 7:2.4-6 ("Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable."). However, those proportions are specifically defined in Table 7.2, which the Application complied with. Further, the Application also complied with the requirement that the residents have sufficient access to the open space. LDR § 7.4. Finally, the preliminary plat shows that the residents have ample access to numerous areas of open space but on the sides and interior of the subdivision, including approximately ten acres of dedicated open space on the western side of the subdivision.

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However, no other statements about the Application's compliance with the zoning ordinance or LDR were voiced by the members of the Planning Commission. Ex. 19 pp. 10-11.

As such, the Application also complied with the requirements of the LDR. Therefore, the Planning Commission's decision should be reversed.

c. The Planning Commission Lacks Discretion to Deny an Application that Complies with the Applicable Zoning Ordinances and Land Development Regulations.

The Planning Commission is not a decision-making authority. *See* GCZO § 2:2.2 titled Decision-Making Authority ("The Planning Commission acts in a review and recommending capacity on the following matters: Preliminary Subdivision Plats . . ."); *see also* S.C. Code Ann. § 6-29-340(B)(2) (a planning commission is empowered to "*prepare and recommend for adoption to the appropriate governing body* . . . zoning ordinances to include zoning district maps and appropriate revisions thereof . . ." (emphasis added)). Instead, the Planning Commission is an administrative body empowered to enforce the City's ordinances. *See Peterson Outdoor Advertising v. City of Myrtle Beach*, 327 S.C. 230, 234-35, 489 S.E.2d 630, 632 (1997) ("[A] municipality may delegate the administration of its ordinances to a board provided the board's discretion is sufficiently limited by clear rules and standards."). The Planning Commission is not a legislative body with authority to create its own regulations.

As detailed in the legislative history above, County Council repealed LDR 3.1 because the Planning Commission was misusing that regulation to step outside of its administrative capacity and creating zoning-like regulations to deny specific applications. County Council chose to remove any indication that the Planning Commission has discretion to deny applications, like Appellant's, that comply with the applicable zoning ordinances and land development regulations. The Council specifically stated in its ordinances that it was necessary to repeal LDR 3.1 due to the

problems associated with the Planning Commission's administration of same. Ex. 1. It was with applications like Appellant's in mind that County Council repealed LDR 3.1.

The Planning Commission's duty is to confirm whether an application complies with the zoning ordinances and land development regulations. Any alternative would make it impossible for a property owner to know how they may develop their property when they purchase it. As discussed above, Appellant's Application complies. Further, the Planning Commission has not identified any ordinance or regulation the Application does not comply with.

Therefore, the Planning Commission's decision should be reversed.

IV. CONCLUSION

Therefore, based on the foregoing, Appellant respectfully requests that this Court reverse the decision of the Planning Commission and remand Appellant's Application to the Planning Commission with instructions to approve the Application.

Respectfully submitted,
BURKE LAW, LLC

s/ Luke A. Burke
Luke A. Burke (SC Bar # 100033)
819 E. North Street (29601)
P. O. Box 4885 (29603)
Greenville, South Carolina
Phone: (864) 735-8289
lburke@gvlattorney.com
Attorney for the Appellant

September 12, 2025
Greenville, South Carolina

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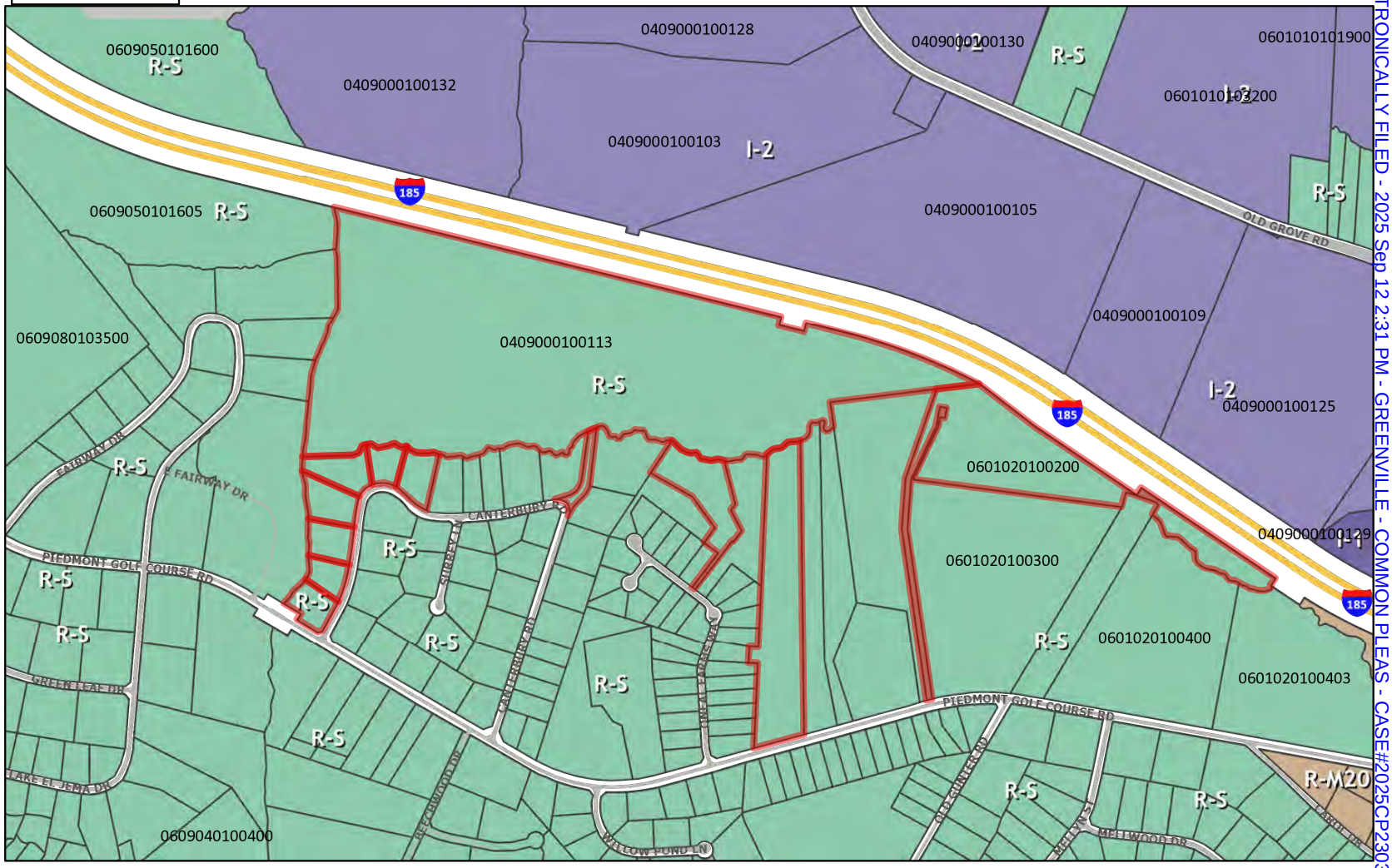
EXHIBIT
12

Greenville County, SC



September 10, 2025

1:9,600

0 437.5 875 1,750 ft

0 135 270 540 m

Greenville County GIS Division, Greenville, South Carolina, Greenville County, South Carolina GIS Division

Disclaimer: This Map is not a LAND SURVEY and is for reference purposes only. Data contained in this map are prepared for the inventory of Real Property found within this jurisdiction, and are compiled from recorded deeds, plats, and other public records.

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132 Pilgrim Road
Greenville, SC 29607
(864) 297-3027
www.grayengineering.com

Gray Engineering

EXHIBIT 13

Transmittal Form

To: GVL County Subdivision
301 University Ridge
Greenville, SC

Date: 06/7/24

Job: 2023064 (PP-2024-082)

We are sending you:

- ☐ Plans
- ☑ Digital Files
- ☐ Shop drawings
- ☐ Calcs
- ☐ Report

Doc. Type	# of Copies	Description
PDF	1	Transmittal Letter
PDF	1	Preliminary Plat
PDF	1	Sign posting

As checked below:

- ☐ For approval
- ☐ For your use
- ☐ As requested
- ☑ For review/comment
- ☐ Approved as submitted
- ☐ Approved as noted
- ☐ Returned for corrections
- ☐ Other

Notes:

From: Willis A. Converse, PE **Signature:**

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EXHIBIT 14

Line Table		
Line #	Length	Direction
L1	50.000	S13° 48' 14.52"W
L2	150.001	S76° 11' 45.87"E
L3	50.000	S13° 48' 14.52"W
L4	143.550	S8° 07' 04.31"E
L5	57.988	S56° 45' 35.45"W
L6	75.755	N60° 40' 29.86"W
L7	63.676	S23° 45' 49.53"W
L8	48.315	S69° 26' 43.94"W
L9	31.528	N81° 27' 46.37"W
L10	60.324	N86° 49' 11.36"W
L11	75.939	N54° 35' 47.11"W
L12	68.056	S88° 10' 03.45"W

Line Table		
Line #	Length	Direction
L13	51.791	S73° 06' 06.13"W
L14	58.474	S77° 13' 54.89"W
L15	91.377	N48° 46' 18.24"W
L16	63.917	S70° 14' 03.45"W
L17	70.671	S88° 12' 39.49"W
L18	70.529	S27° 49' 13.47"W
L19	58.976	S29° 14' 40.52"W
L20	34.939	S84° 43' 36.26"W
L21	24.387	S69° 34' 25.72"W
L22	52.897	N74° 58' 15.86"W
L23	79.243	N76° 04' 48.84"W
L24	51.248	N76° 23' 09.17"W

Line Table		
Line #	Length	Direction
L25	72.014	N76° 34' 15.95"W
L26	88.938	S71° 41' 52.21"W
L27	21.576	N76° 54' 22.51"W
L28	72.290	N89° 18' 36.31"W
L29	63.330	S44° 26' 10.37"W
L30	247.252	S86° 34' 19.07"W
L31	132.180	N76° 33' 22.88"W
L32	140.380	N67° 55' 02.97"W
L33	74.670	S73° 26' 17.71"W
L34	84.560	N79° 39' 15.94"W
L35	92.161	S50° 29' 48.95"W

LOT TABLE	
LOT #	AREA
1	6875
2	8030
3	7082
4	6875
5	6875
6	6875
7	6875
8	6875
9	6875
10	6875
11	6875
12	6875
13	14656
14	6875
15	6875
16	8920
17	11550
18	11249
19	8239
20	10351
21	7500
22	13883
23	11547
24	6600
25	6600

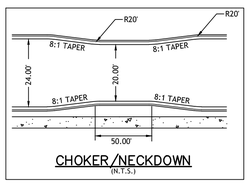
LOT TABLE	
LOT #	AREA
26	6600
27	6600
28	6600
29	6600
30	6600
31	6600
32	6600
33	6600
34	7223
35	7223
36	6600
37	6600
38	6600
39	6600
40	7211
41	8938
42	9714
43	9538
44	7488
45	6600
46	6600
47	9992
48	11257
49	11027
50	8708

LOT TABLE	
LOT #	AREA
51	9489
52	10184
53	8280
54	6600
55	6600
56	7488
57	6875
58	7466
59	8606
60	7868
61	11483
62	12075
63	12075
64	11616
65	6600
66	6600
67	6600
68	6600
69	6600
70	6600
71	6600
72	6600
73	6600
74	6600
75	6600

LOT TABLE	
LOT #	AREA
76	6600
77	6600
78	6600
79	6600
80	6600
81	6600
82	8231
83	9105
84	7527
85	7551
86	7000
87	7000
88	7000
89	7000
90	7000
91	7000
92	7000
93	7000
94	7000
95	7000
96	7000
97	7000
98	7000
99	7000
100	7000

LOT TABLE	
LOT #	AREA
101	6875
102	6875
103	6875
104	6875
105	6875
106	8294
107	14479
108	10122
109	7500
110	7500
111	7500
112	7500
113	6600
114	6600
115	6600
116	6600
117	7487
118	7487
119	6840
120	6840
121	6840
122	6840
123	6840
124	6840
125	6840

LOT TABLE	
LOT #	AREA
126	7039
127	7223
128	6599
129	12867
130	12607
131	6600
132	6600
133	6600
134	6600
135	7878
136	7161
137	6600
138	6600
139	6600
140	6600
141	6600
142	6600
143	6600
144	7487
145	7488
146	8656
147	8460
148	116190



CHOKER/NECKDOWN
(N.T.S.)

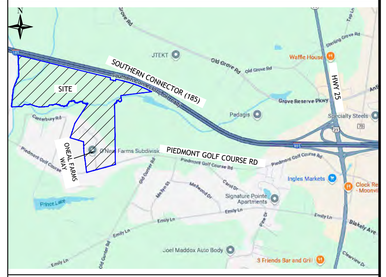
SUBDIVISION GENERAL NOTES:

SITE:
1. UNDERSIGNED SURVEYOR/ENGINEER ACKNOWLEDGES THAT THESE ARE GIS-BASED BOUNDARIES, WHICH WILL BE FULLY SURVEYED USING STATE PLANE COORDINATES AT FINAL PLAT.
2. ALL EXISTING STRUCTURES TO BE REMOVED/DEMOLISHED.
3. ALL NEW LOTS TO HAVE INTERNAL ACCESS ONLY.
4. SIGHT TRIANGLES SHALL ALLOW FOR UNOBSTRUCTED LINES OF SIGHT. THE PLANTINGS OF TREES, OTHER PLANTINGS, OR THE LOCATION OF STRUCTURES EXCEEDING THIRTY (30) INCHES IN HEIGHT THAT WOULD OBSTRUCT THE CLEAR SIGHT ACROSS THE PROPERTY IS PROHIBITED.
5. IF LOTS AND ROADS ARE ELEVATED USING FILL, FILL SLOPES MAY NOT EXTEND INTO "OPEN SPACE" AREAS. OPEN SPACE IS TO REMAIN UNDISTURBED.
6. ALL DIMENSIONS SHOWN ON ROADWAY ARE MEASURE FROM E.O.P. TO E.O.P UNLESS NOTED OTHERWISE.
7. ALL NEW ROADS WILL BE PUBLIC (GREENVILLE COUNTY) AND RIGHT-OF-WAYS WILL BE 46' WIDE MINIMUM. (UNLESS OTHERWISE NOTED)
8. ALL NEW ROADS WILL BE 24' WIDE ASPHALT WITH CURB AND GUTTER. (UNLESS OTHERWISE NOTED)
9. ALL CUL-DE-SAC RIGHT-OF-WAYS WILL BE 50'.
10. ALL STANDARD CUL-DE-SAC ASPHALT WILL BE A RADIUS OF 35'.
11. ALL TEAR-DROP CUL-DE-SAC ASPHALT WILL BE A RADIUS OF 40'.
12. ALL SIDEWALKS WILL BE 5' WIDE
13. CBU PARKING ARE TO BE MAINTAINED BY HOA
14. ANY STOP BARS/CROSSWALK MARKINGS TO BE MAINTAINED BY HOA

UTILITY & DOT:
15. PUBLIC WATER IS AVAILABLE ALONG PIEDMONT GOLF COURSE ROAD AND WILL BE PROVIDED BY GREENVILLE WATER SYSTEMS.
16. SANITARY SEWER IS AVAILABLE VIA METRO CONNECTS.
17. LOT 149 (EXISTING) WILL REMAIN ON SEPTIC
18. EXISTING UTILITIES ARE APPROXIMATE LOCATIONS BASED UPON INFORMATION PROVIDED BY UTILITY LOCATING SERVICES.
19. ALL WORK WITHIN THE SCDOT ROW SHALL BE DONE IN ACCORDANCE WITH APPROVED ENCROACHMENT PERMITS.

STORMWATER:
20. 5' DRAINAGE AND UTILITY EASEMENT SHALL BE ESTABLISHED ALONG ALL SIDE AND INTERIOR REAR PROPERTY LINES; 10' EASEMENTS SHALL BE ESTABLISHED ALONG EXTERIOR BOUNDARY OF THE SUBDIVISION UNLESS ADJOINING PROPERTY OWNERS HAVE ESTABLISHED EASEMENTS.
21. A "STORM WATER MANAGEMENT AND SEDIMENT REDUCTION PLAN" SHALL BE PREPARED FOR THIS PROPERTY AND SHALL BE APPLIED FOR LAND DISTURBING ACTIVITIES. EACH PROPERTY OWNER SHALL COMPLY WITH THIS PLAN UNLESS AN INDIVIDUAL PLAN IS PREPARED AND APPROVED FOR THAT PROPERTY.
22. GREENVILLE COUNTY SHALL NOT BE RESPONSIBLE FOR THE OWNERSHIP AND MAINTENANCE OF STORM WATER MANAGEMENT/QUALITY PONDS OR DEVICES.
23. ACCORDING TO FEMA PANEL 45045C0456E EFF. DATE 01/18/2019, FLOODPLAIN DOES EXIST ON THIS SITE. ALL STRUCTURES WILL HAVE A FINISHED FLOOR ELEVATION A MINIMUM OF 4' ABOVE BASE FLOOD ELEVATION

GREENVILLE COUNTY OPEN SPACE TABLE			
ZONING: R-S	OPEN SPACE OPTION: 1		
ACREAGE OF TOTAL SITE:		92.82	ACRES
REQD OPEN SPACE PER GCZO TABLE 7.2:	30 %	27.85	ACRES
TOTAL OPEN SPACE PROVIDED:	32.2 %	29.94	ACRES
DEVELOPABLE OPEN SPACE - TRACT A		6.18	ACRES
DEVELOPABLE OPEN SPACE - TRACT B		3.39	ACRES
DEVELOPABLE OPEN SPACE - TRACT C		1.16	ACRES
DEVELOPABLE OPEN SPACE - TRACT D		0.79	ACRES
DEVELOPABLE OPEN SPACE - TRACT E		0.61	ACRES
DEVELOPABLE OPEN SPACE - TRACT F		1.50	ACRES
DEVELOPABLE OPEN SPACE - TRACT G		0.87	ACRES
DEVELOPABLE OPEN SPACE - TRACT H		0.85	ACRES
DEVELOPABLE OPEN SPACE - TRACT I		0.14	ACRES
DEVELOPABLE OPEN SPACE - TRACT J		1.55	ACRES
DEVELOPABLE OPEN SPACE - TRACT K		5.76	ACRES
DEVELOPABLE OPEN SPACE - TOTAL		22.80	ACRES
UNDEVELOPABLE OPEN SPACE - TRACT A		0.33	ACRES
UNDEVELOPABLE OPEN SPACE - TRACT B		1.17	ACRES
UNDEVELOPABLE OPEN SPACE - TRACT C		3.75	ACRES
UNDEVELOPABLE OPEN SPACE - TRACT D		0.97	ACRES
UNDEVELOPABLE OPEN SPACE - TRACT E		0.92	ACRES
UNDEVELOPABLE OPEN SPACE - TOTAL		7.14	ACRES
TOTAL OPEN SPACE	32.2 %	29.94	ACRES
DEVELOPABLE OPEN SPACE - TOTAL	24.6 %	22.80	ACRES
UNDEVELOPABLE OPEN SPACE - TOTAL	7.7 %	7.14	ACRES
OPEN SPACE IN FLOOD PLAIN	3.7 %	3.39	ACRES
OPEN SPACES IN STEEP SLOPES	3.5 %	3.29	ACRES
OPEN SPACES IN STEEP SLOPES	0.5 %	0.46	ACRES
TOTAL COMMON AREA	25.5 %	23.7	ACRES
TOTAL STORMWATER MGMT AREA PROVIDED:	3.1 %	2.86	ACRES
TOTAL AREA TO BE OWNED & MAINTAINED-HOA:	60.9 %	56.50	ACRES



LOCATION MAP (N.T.S.)

SETBACKS:
FRONT: 30'
SIDE: 5'
REAR: 5'

DENSITY TABLE:
GROSS ACRES: 92.82 ACRES
ZONING: R-S
REQUIRED OPEN SPACE: 27.85 ACRES
OPEN SPACE PROVIDED: 29.94 ACRES
TOTAL # OF NEW LOTS: 147
REQUIRED DENSITY: 1.7 LOTS/ACRE
ACTUAL SITE DENSITY: 1.58 LOTS/ACRE

PROPERTY OWNERS
TAX MAP: 0409000100113
KENNETH G ELLS
151 WHITE OAK ROAD
GREENVILLE, SC 29609

TAX MAP: 0601020100802
AJC-101 HOLDINGS LLC
109 WHITE OAK ROAD
GREENVILLE, SC 29606

TAX MAP: 0601020100901 & 0601020100903
PIEDMONT INVESTMENTS LLC
109 WHITE OAK ROAD
GREENVILLE, SC 29609

**FROM GREENVILLE COUNTY LDR SECTION 11:3.2
A - ONLY THE REQUIRED ACREAGE TO MEET THE CLUSTER REQUIREMENTS SHALL BE IDENTIFIED AS "OPEN SPACE". ALL OTHER AREAS THAT WILL BE OWNED AND MAINTAINED BY THE HOA SHALL BE IDENTIFIED AS COMMON AREA.

**FROM GREENVILLE COUNTY LDR SECTION 8.21 (PARAGRAPH 2):
THE NEW (FORESTED NATURAL VEGETATIVE AND/OR LANDSCAPE) BUFFER MAY BE COUNTED TOWARDS THE DEVELOPABLE OPEN SPACE IN A RESIDENTIAL CLUSTER PROJECT.

**GCZO ARTICLE 7:2.4-6: IN AN OPEN SPACE DEVELOPMENT UNDER OPTION #1, A MINIMUM PERCENTAGE OF THE TOTAL ACREAGE MUST BE DESIGNATED AS OPEN SPACE. THE REQUIRED OPEN SPACE IN MAY INCLUDE BOTH DEVELOPABLE AND UNDEVELOPABLE LAND, AS DEFINED IN ARTICLE 4. DEFINITIONS. IN THE R-R3, R-R1,R-S AND R-20, R-20A DISTRICTS, THE REQUIRED OPEN SPACE IS NOT LIMITED TO CERTAIN PERCENTAGES OF EACH TYPE OF LAND. OF THAT LAND DEDICATED FOR OPEN SPACE IN THE R-M2 THROUGH R-M20, R-MA, R-6, R-7.5, R-10, R-12, AND R-15 DISTRICTS, A MINIMUM OF FIFTY PERCENT (50%) OF THE TOTAL OPEN SPACE MUST BE CONSIDERED DEVELOPABLE LAND, AS DEFINED IN ARTICLE 4. DEFINITIONS.

HATCHING LEGEND
- DEVELOPABLE OPEN SPACE
- UNDEVELOPABLE OPEN SPACE
- STORMWATER MGMT (AREA OWNED BY HOA)
- COMMON AREA (MAIL KIOSK, AMENITY, ETC)
- PROPOSED ROADS

SITE LEGEND
- PROPERTY BOUNDARY
- EXISTING DOT RIGHT-OF-WAY
- LOT LINES
- DRAINAGE/UTILITY EASEMENTS
- EXISTING/PROPOSED WATERLINE
- EXISTING/PROPOSED SEWER
- SETBACK
- MAIL KIOSK
- FIRE HYDRANT

O'NEAL FARMS
(PRELIMINARY PLAT)

TYPE OF DEVELOPMENT: SINGLE-FAMILY (RESIDENTIAL)

TAX MAP #: 0601020100802 & 0409000100113 & 0601020100901 & 0601020100903

NO. OF ACRES: 92.82 ACRES | NEW ROAD: 7392 LF (1.4 MI)

NO. OF LOTS/UNITS: 149 LOTS | DATE: 04/15/24

DEVELOPER/APPLICANT	ENGINEER	SURVEYOR
LEGACY PROPERTY MANAGEMENT LLC ALLEN SMITH 109 WHITE OAK ROAD GREENVILLE, SC 29609 864-442-2162	GRAY ENGINEERING WILLIS A. CONVERSE, P.E. 132 PILGRIM ROAD GREENVILLE, SC 29607 864-297-3027	

NO.	DATE	BY	REVISION
A	. . . . .		

Gray Engineering
132 PILGRIM ROAD - GREENVILLE, SC 29607
PH: (864) 297-3027 - FAX: (864) 729-8747
WWW.GRAYENGINEERING.COM
SC C.O.A.#COD060 - NC C.O.A.#C-1217 - GA C.O.A.#PE001941 - TN C.O.A.#4408819

GRAY ENGINEERING CONSULTANTS, INC. NO. C-1217 NORTH CAROLINA
WILLIS A. CONVERSE CERTIFICATE NO. 29984 SOUTH CAROLINA REGISTERED PROFESSIONAL ENGINEER
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STAKEOUT PLAN

O'NEAL FARMS
PHASE II

PIEDMONT GOLF COURSE ROAD

PIEDMONT, SC

0 200 400
Feet

SCALE: 1" = 200'

PROJECT MANAGER:	WAC
DRAWN BY:	CJR
PROJECT DATE:	04/15/24
JOB No.:	2023064
PLOT DATE:	2/18/25

SHEET
CV-1

2023064-P6.dwg

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LOCATION MAP (N.T.S.)

HATCHING LEGEND	
	- DEVELOPABLE OPEN SPACE
	- UNDEVELOPABLE OPEN SPACE
	- STORMWATER MGMT (COMMON AREA)
	- COMMON AREA (MAIL KIOSK, AMENITY, ETC)
	- PROPOSED ROADS

SITE LEGEND	
	PROPERTY BOUNDARY
R/W	EXISTING DOT RIGHT-OF-WAY
	LOT LINES
	DRAINAGE/UTILITY EASEMENTS
WL	EXISTING/PROPOSED WATERLINE
SS	EXISTING/PROPOSED SEWER
	SETBACK
	MAIL KIOSK
	FIRE HYDRANT

O'NEAL FARMS

(PRELIMINARY PLAT)

TYPE OF DEVELOPMENT: SINGLE-FAMILY (RESIDENTIAL)

TAX MAP #: 0601020100802 & 0409000100113 & 0601020100901 & 0601020100903

NO. OF ACRES: 92.82 ACRES NEW ROAD: 7392 LF (1.4 MI)

NO. OF LOTS/UNITS: 149 LOTS DATE: 04/15/24

DEVELOPER/APPLICANT	ENGINEER	SURVEYOR
LEGACY PROPERTY MANAGEMENT LLC ALLEN SMITH 109 WHITE OAK ROAD GREENVILLE, SC 29609 864-442-2162	GRAY ENGINEERING WILLIS A. CONVERSE, P.E. 132 PILGRIM ROAD GREENVILLE, SC 29607 864-297-3027	

NO.	DATE	BY	REVISION
A	.	.	.

Gray Engineering
132 PILGRIM ROAD - GREENVILLE, SC 29607
PH: (864) 297-3027 - FAX: (864) 729-8747
WWW.GRAYENGINEERING.COM

SC C.O.A.# COA0060 - NC C.O.A.# C1217 - GA C.O.A.# PE001941 - TN C.O.A.# 0410819

GRAY ENGINEERING CONSULTANTS, INC. NORTH CAROLINA CORPORATION NO. C0600

NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 29984 WILLIS A. CONVERSE

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STAKEOUT PLAN

O'NEAL FARMS
PHASE II

PIEDMONT, SC

PIEDMONT GOLF COURSE ROAD

0 100 200
Feet

SCALE:	1" = 100'
PROJECT MANAGER:	WAC
DRAWN BY:	CJR
PROJECT DATE:	04/15/24
JOB No.:	2023064
PLOT DATE:	2/18/25

SHEET
CV-1A

2023064-P6.dwg

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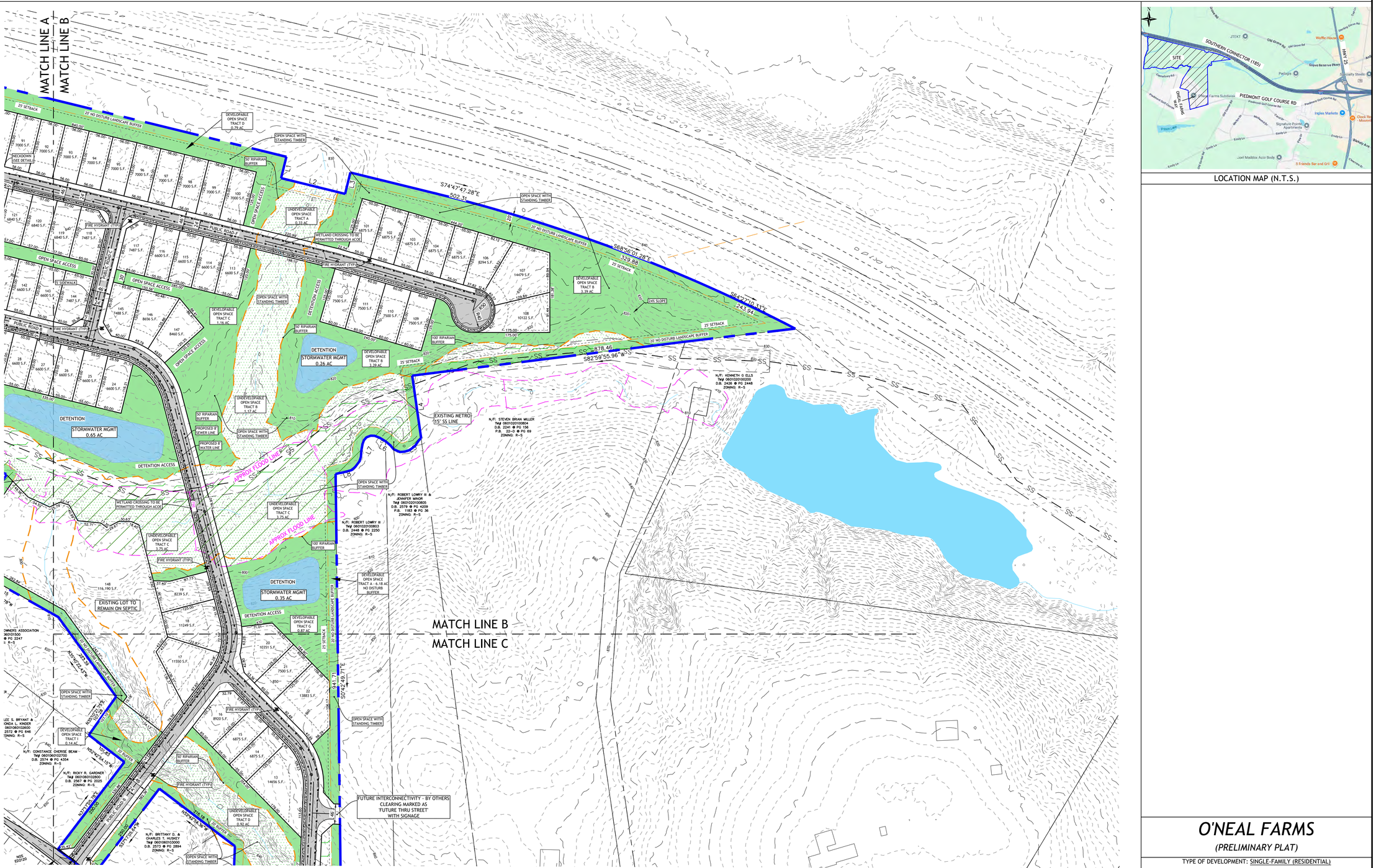
MATCH LINE A
MATCH LINE B
MATCH LINE B
MATCH LINE C
25 SETBACK
20' NO DISTURB LANDSCAPE BUFFER
DEVELOPABLE OPEN SPACE TRACT D 0.29 AC
OPEN SPACE WITH STANDING TIMBER
50' RIPARIAN BUFFER
S74°47'47.28"E
502.31'
S68°58'01.28"E
229.88'
S64°21'13.33"E
243.94'
S82°59'55.96"W
878.46'
S0°40'49.71"E
1041.21'
PUBLIC ROAD A
PUBLIC ROAD B
FIRE HYDRANT (TYP)
OPEN SPACE ACCESS
DETENTION ACCESS
4' SIDEWALK
DETENTION
STORMWATER MGMT
0.26 AC
0.65 AC
0.35 AC
DEVELOPABLE OPEN SPACE TRACT A 0.11 AC
DEVELOPABLE OPEN SPACE TRACT B 3.39 AC
DEVELOPABLE OPEN SPACE TRACT C 1.16 AC
DEVELOPABLE OPEN SPACE TRACT I 0.14 AC
DEVELOPABLE OPEN SPACE TRACT Q 0.87 AC
DEVELOPABLE OPEN SPACE TRACT A - 6.18 AC NO DISTURB BUFFER
UNDEVELOPABLE OPEN SPACE TRACT C 3.75 AC
UNDEVELOPABLE OPEN SPACE TRACT B 1.17 AC
UNDEVELOPABLE OPEN SPACE TRACT D 0.92 AC
100' RIPARIAN BUFFER
WETLAND CROSSING TO BE PERMITTED THROUGH ACOE
EXISTING METRO 15' SS LINE
PROPOSED 8" SEWER LINE
PROPOSED 8" WATER LINE
APPROX FLOOD LINE
EXISTING LOT TO REMAIN ON SEPTIC
FUTURE INTERCONNECTIVITY - BY OTHERS CLEARING MARKED AS 'FUTURE THRU STREET' WITH SIGNAGE
25' SETBACK
15' SS BUFFER
20' NO DISTURB LANDSCAPE BUFFER
24% SLOPE
N/F: STEVEN BRIAN MILLER TM# 0601020100804 D.B. 2241 @ PG 156 P.B. 22-D @ PG 69 ZONING: R-S
N/F: KENNETH G ELLS TM# 0601020100200 D.B. 2426 @ PG 2448 ZONING: R-S
N/F: ROBERT LOWRY III & JENNIFER MINOR TM# 0601020100805 D.B. 2579 @ PG 4209 P.B. 1183 @ PG 36 ZONING: R-S
N/F: ROBERT LOWRY III TM# 0601020100803 D.B. 2448 @ PG 2250 ZONING: R-S
N/F: CONSTANCE CHERISE BEAM TM# 0601060102700 D.B. 2574 @ PG 4304 ZONING: R-S
N/F: RICKY R. GARDNER TM# 0601060102800 D.B. 2567 @ PG 2025 ZONING: R-S
N/F: BRITTANY D. & CHARLES T. HUSKEY TM# 0601060103000 D.B. 2573 @ PG 2804 ZONING: R-S
LEE S. BRYANT & RONDA L. KINDER 0601060102600 2572 @ PG 646 ZONING: R-S
OWNERS ASSOCIATION 060120100500 @ PG 2247 R-S
OPEN SPACE WITH STANDING TIMBER
ASSUMED N0°42'54.15"W 1041.21'
ASSUMED N0°42'54.15"W 1041.21'
N0°42'54.15"W 1041.21'
N0°42'54.15"W 1041.21'
S37°17'05.47"W 229.18'
S37°17'05.47"W 229.18'
N53°42'54.15"W 50.00'
N53°42'54.15"W 50.00'
N0°42'54.15"W 229.18'
N0°42'54.15"W 229.18'
S0°42'54.15"E 1041.21'
S0°42'54.15"E 1041.21'
S37°17'05.47"W 229.18'
S37°17'05.47"W 229.18'
N53°42'54.15"W 50.00'
N53°42'54.15"W 50.00'
S0°42'54.15"E 1041.21'
S0°42'54.15"E 1041.21'
S37°17'05.47"W 229.18'
S37°17'05.47"W 229.18'
N53°42'54.15"W 50.00'
N53°42'54.15"W 50.00'
N0°42'54.15"W 229.18'
N0°42'54.15"W 229.18

EXISTING LOT TO REMAIN ON SEPTIC
DETENTION ACCESS
DEVELOPABLE OPEN SPACE TRACT G 0.87 AC
MATCH LINE B
MATCH LINE C
MATCH LINE A
N/F: AJC-101 HOLDINGS LLC TM# 060104000700 D.B. 2638 @ PG 590 P.B. 00 @ PG 139 ZONING: R-S
N/F: ONEAL FARMS OWNERS ASSOCIATION TM# 060106010500 D.B. 2585 @ PG 2247 ZONING: R-S
N/F: MEGAN M. LLEWELLYN & TRAVIS K. LLEWELLYN TM# 060106102400 D.B. 2540 @ PG 5836 ZONING: R-S
N/F: BILL & WANDA HATCHER TM# 060106012500 D.B. 2566 @ PG 4233 ZONING: R-S
N/F: LEE S. BRYANT & LASHONDA L. KINDER TM# 060106102600 D.B. 2572 @ PG 646 ZONING: R-S
N/F: CONSTANCE CHERISE BEAM TM# 060106102700 D.B. 2574 @ PG 4354 ZONING: R-S
N/F: RICKY R. GARDNER TM# 060106102800 D.B. 2567 @ PG 2025 ZONING: R-S
N/F: BRITTANY D. & CHARLES T. HUSKEY TM# 060106103000 D.B. 2573 @ PG 2894 ZONING: R-S
N/F: TRACE F. & VAN A. WILLIAMS TM# 060106103100 D.B. 2605 @ PG 1471 ZONING: R-S
N/F: JUWAN D. WHITESIDE TM# 060106103200 D.B. 2581 @ PG 2677 ZONING: R-S
N/F: TIFFANE M. HALLUMS TM# 060106103300 D.B. 2581 @ PG 3992 ZONING: R-S
N/F: BRIGGITT A. & HAROLD ANTHONY RHODES TM# 060106203600 D.B. 2532 @ PG 4495 ZONING: R-S
N/F: MICHELLE BROWN TM# 060106010100 D.B. 2567 @ PG 2391 ZONING: R-S
N/F: DAVID A. & JULIA D. MILES TM# 060106010100 D.B. 2572 @ PG 644 ZONING: R-S
N/F: ANGELA L. & DERRICK V. HILL TM# 060106010200 D.B. 2572 @ PG 640 ZONING: R-S
N/F: TOM W. DAVIS JR TM# 060106010300 D.B. 2543 @ PG 5817 ZONING: R-S
N/F: MARY M. & WILLIE E. SIMPSON TM# 060106010400 D.B. 2535 @ PG 3294 ZONING: R-S
N/F: ONEAL FARMS OWNERS ASSOCIATION TM# 060106010500 D.B. 2585 @ PG 2247 ZONING: R-S
N/F: JAMES R. & LISA R. FLANAGAN TM# 060102010900 D.B. 2547 @ PG 4889 ZONING: R-S
N/F: ROBERT LOWRY III TM# 060102010803 D.B. 2448 @ PG 3250 ZONING: R-S
DEVELOPABLE OPEN SPACE TRACT I 0.14 AC
DEVELOPABLE OPEN SPACE TRACT H 0.83 AC
UNDEVELOPABLE OPEN SPACE TRACT D 0.52 AC
DEVELOPABLE OPEN SPACE TRACT H 0.85 AC
DETENTION STORMWATER MGMT 0.24 AC
OPEN SPACE WITH STANDING TIMBER
50' RIPARIAN BUFFER
30' BUFFER
25' SETBACK
FIRE HYDRANT (TYP)
FUTURE INTERCONNECTIVITY - BY OTHERS CLEARING MARKED AS 'FUTURE THRU STREET' WITH SIGNAGE
5' SIDEWALK
NECKDOWN SEE DETAIL
PROPOSED 8" SEWER LINE
PROPOSED 8" WATER LINE
MAIL KIOSK
ENTRANCE MONUMENT
25' ROW DEDICATED TO COUNTY FROM CL OF ONEAL FARMS WAY
ONEAL FARMS WAY (D0422)
ROW: 44'
SPEED LIMIT: 25 MPH
GREENVILLE COUNTY ROAD
PIEDMONT GOLF COURSE RD (S-23-106)
ROW: 33'
SPEED LIMIT: 40 MPH
SCDOT ROAD
451.54' SIGHT DISTANCE
445' SIGHT DISTANCE
941.71' S0°42'49.70"E
777.38' S0°42'49.70"E
303.47' S74°43'06.02"W
N25°37'20.26"E 450.43'
N2°51'47.63"E 300.08'
N15°37'22.43"W 263.19'
N25°37'20.26"E 105.83'
N62°22'39.74"E 105.83'
N15°37'22.43"W 105.83'
N62°22'39.74"E 105.83'
N25°37'20.26"E

EXHIBIT 16

Greenville County Planning Commission
April 23, 2025
4:30 p.m.

The meeting will be live streamed via Zoom and open for on-site participation in the Committee Room, 301 University Ridge, Greenville

Citizens may access the meeting at the following web address:
https://www.greenvillecounty.org/livestreamplanning.aspx

1. **Call to Order** — Chairman Steven Bichel

2. **Invocation**

3. **Approval of the Minutes of the March 26, 2025 Commission Meeting**

4. **Rezoning Requests** — *Joshua Henderson, Zoning Administrator*

i.

Docket Number:	**CZ-2025-022**
Applicant:	Larry Kevin Cushman for Cole Emma II, LLC
Property Location:	12 Old Chick Springs Rd., Taylors, SC 29687
Tax Map Number:	T008000402100
Existing Zoning:	R-20, Single-Family Residential District
Requested Zoning:	R-MA, Multifamily Residential District
Future Land Use:	Suburban Mixed Use
Acreage:	0.343
County Council District:	18 – Long

ii.

Docket Number:	**CZ-2025-023**
Applicant:	Joshua Rafe Laws
Property Location:	13025 Old White Horse Rd., Travelers Rest, SC 29690
Tax Map Number:	0505010100700
Existing Zoning:	R-S, Residential Suburban District
Requested Zoning:	C-1, Commercial District
Future Land Use:	Suburban Edge
Acreage:	1.0
County Council District:	17 – Russo

iii.

Docket Number:	**CZ-2025-024**
Applicant:	Jesse Lee Evans for Lakesha Michele Evans & Dorothy J Kitchen
Property Location:	601 and 609 Jacobs Rd., Maxwell Ave., and Rearden Dr., Greenville, SC 29605
Tax Map Number:	WG01040114500 and WG01040114600
Existing Zoning:	R-20, Single-Family Residential District
Requested Zoning:	R-10, Single-Family Residential District
Future Land Use:	Suburban Neighborhood
Acreage:	2.35
County Council District:	25 – Fant

iv.

Docket Number:	**CZ-2025-025**
Applicant:	Jaime L. O'Brien of Carolina Holdings, Inc. for James A. Boling, Jr.
Property Location:	3835 E. North St., Greenville, SC 29615
Tax Map Number:	0541030100700
Existing Zoning:	O-D, Office District
Requested Zoning:	C-1, Commercial District
Future Land Use:	Suburban Center
Acreage:	0.6
County Council District:	22 - Farmer

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v. Docket Number: **CZ-2025-026**
Applicant: Paul J. Harrison of Bluewater Civil Design for Palmetto Business Partners, LLC
Property Location: New Easley Hwy. and Bent Bridge Rd., Greenville, SC 29611
Tax Map Number: 0240030102704
Existing Zoning: S-1, Services District
Requested Zoning: R-M8, Multifamily Residential District
Future Land Use: Rural Corridor
Acreage: 8.3
County Council District: 23 – Mitchell

vi. Docket Number: **CZ-2025-027**
Applicant: Pamela Woolson Gandhi for Sagar S. Gandhi
Property Location: 1421 Old Gunter Rd., Piedmont, SC 29673
Tax Map Number: 0601020101300
Existing Zoning: R-S, Residential Suburban District
Requested Zoning: AG, Agricultural Preservation District
Future Land Use: Suburban Mixed Use
Acreage: 15
County Council District: 25 – Fant

vii. Docket Number: **CZ-2025-028**
Applicant: Greenville County Council
Property Location: Countywide
Text Amendment: To amend Article 8, Section 8:5.8, ESD-PM, Environmentally Sensitive District – Paris Mountain; Special Provisions, of the Greenville County Zoning Ordinance
County Council District: All

ANYONE WISHING TO COMMENT ON THE FOLLOWING SUBDIVISION APPLICATIONS PLEASE ATTEND THE MEETING IN PERSON AND SIGN UP TO SPEAK. THERE WILL BE TEN MINUTES TOTAL ALLOTTED FOR SPEAKERS IN FAVOR AND TEN MINUTES ALLOTTED FOR SPEAKERS IN OPPOSITION.

5. **Preliminary Subdivisions:** — *Meagan Staton, Subdivision Administrator*

PP-2025-023 Devonport Station

PP-2025-027 Southpoint Commerce Center (Group Development)

PP-2025-028 Walton Estates

PP-2025-029 O'Neal Farms Phase II

PP-2025-032 Creekhaven
VAR2025-102 Creekhaven – Undisturbed Buffer Variance
VAR2025-103 Creekhaven – Secondary Access Variance
VAR2025-104 Creekhaven – Access/Road Width Variance
VAR2025-105 Creekhaven – Riparian Buffer Variance

PP-2025-033 Hartness Estates Phase 4-1

PP-2025-034 Fieldstone Place
VAR2025-106 Fieldstone Place – Undisturbed Buffer Variance

PP-2025-035 Greenheart Village

Variance Applications:
VA-2025-038 526 Congaree Road – 10.3.5 Screening and Buffer Variance Request

6. **Planning Report**

7. **Old Business**

8. **New Business**

9. **Adjourn**

Next Planning and Development Committee Meeting
Monday, May 5, 2025
5:00 p.m. Committee Room

Next Zoning Public Hearing
Monday, May 19, 2025
6:00 p.m. Council Chambers

Next Planning Commission Meeting
Wednesday, May 28, 2025
4:30 p.m. Committee Room

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EXHIBIT
17

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Preliminary Subdivision Data Sheet

Subdivision File Number: PP-2025-029

Subdivision Name: O'Neal Farms (Phase II)

Submittal Date: 2/19/2025

SAC Meeting Date/Time: Monday, March 17th, 2025 @ 9:30 AM

SAC Meeting Location: Council Committee Room

Planning Commission Meeting Date/Time: Wednesday, April 23rd, 2025 @ 4:30 PM

Planning Commission Meeting Location: Council Committee Room

Developer: Allen Smith
Developer Address: 109 White Oak Road
Greenville, SC 29609
Developer Telephone: 864-442-2162

Authorized: Willis A. Converse
Authorized Address: 132 Pilgrim Road
Greenville, SC 29607
Authorized Telephone: 864-297-3027

TMS Number: 0409000100113, 0601020100802, 0601020100901, & 0601020100903

Zoning: R-S Res. Suburban

Existing Access: Piedmont Golf Course Rd (State Road)

Extension of Existing Development: O'Neal Farms

Fire District: South Greenville

Sewer District: Metropolitan Sewer

Water Provider: Greenville Water

Previously Approved Case No. N/A

Proposed Changes: N/A

Acres: 92.82

Streets: 7,392.00 LF (Public)

Number of Lots: 149.00

Council District: 25, Ennis Fant

Census Tract: 003303

Municipality: Greenville Unincorporated

Variance Requested: Yes

Group Development: No

New Lots? Yes

Cluster Development: Yes

Option: Option 1

Open Space Required: 27.85

Open Space Provided: 29.94

EXHIBIT
18

TRAFFIC IMPACT STUDY

for the

O'Neal Farms Phase 2 Development

Located in
Greenville County, South Carolina

Prepared for
Legacy Property Management

Prepared by
Ramey Kemp Associates

Moving forward.
RKA
RAMEY KEMP ASSOCIATES

July 2023
RKA Project #23171

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TRAFFIC IMPACT STUDY

for the

O'Neal Farms Phase 2 Development

Located in
Greenville County, South Carolina

Prepared for
Legacy Property Management
109 White Oak Road
Greenville, South Carolina 29609

Prepared by
Ramey Kemp Associates
1411 Gervais Street, Suite 150
Columbia, South Carolina 29201

Moving forward.
RKA
RAMEY KEMP ASSOCIATES

July 2023
RKA Project #23171

DRAFT

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B) Traffic Count Data

C) Traffic Volume Development Worksheets and ITE Trip Generation Worksheets

D) Turn-Lane Analysis Worksheets

E) Capacity Analysis

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EXECUTIVE SUMMARY

A traffic impact study was conducted for the proposed O'Neal Farms Phase 2 residential development in accordance with Greenville County and SCDOT guidelines. The development is located north of Piedmont Golf Course Road (S-23-106) and south of I-185 in Greenville County, South Carolina. The development is planned to contain 152 single family homes with one full access on Piedmont Golf Course Road (S-23-106) and an internal connection to O'Neal Farms Way.

The new proposed site access can function adequately with one ingress and one egress lane. Based on the 2027 anticipated build out volumes, auxiliary turn-lanes on Piedmont Golf Course Road are not warranted at the site access. The site access should be designed to provide proper sight distances and meet SCDOT design criteria.

With construction of the project, all the study intersections should continue to function adequately; no changes are recommended.

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1. INTRODUCTION

The purpose of this report is to document a traffic impact study for the proposed O'Neal Farms Phase 2 residential development in accordance with Greenville County and SCDOT guidelines. This report summarizes the procedures and findings of the traffic impact study. Traffic scoping documentation is provided in Appendix A.

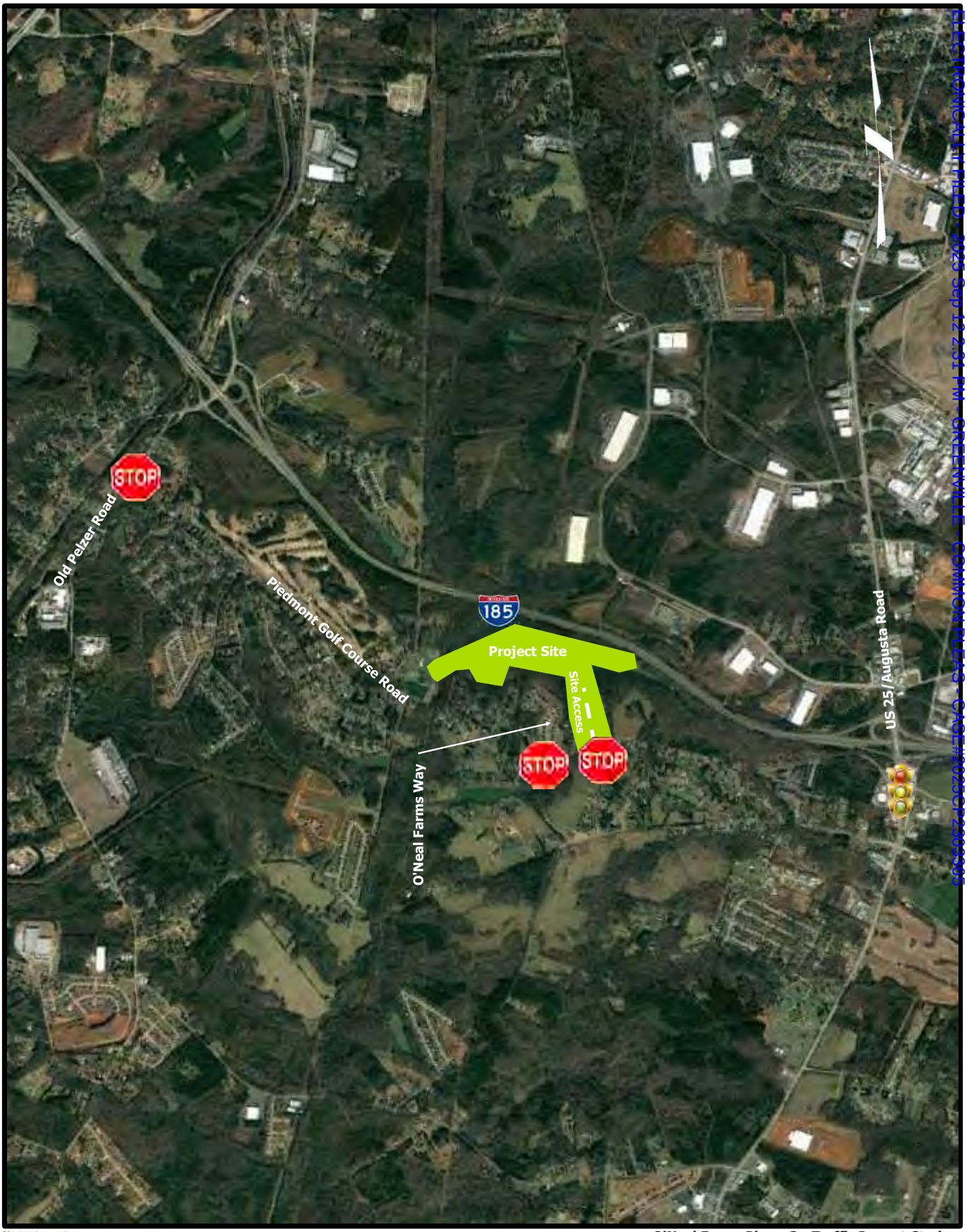
1.1. Project Background

The development is located north of Piedmont Golf Course Road (S-23-106) and south of I-185 in Greenville County, South Carolina. The development is planned to contain 152 single family homes with one full access on Piedmont Golf Course Road (S-23-106) and an internal connection to O'Neal Farms Way.

The traffic impact study considers the weekday AM peak period (between 7:00 AM and 9:00 AM) and the weekday PM peak period (between 4:00 PM and 6:00 PM) as the study time frames. The following intersections are studied:

- US 25/Augusta Road & Piedmont Golf Course Road (S-23-106)
- Piedmont Golf Course Road (S-23-106) & O'Neal Farms Way
- Old Pelzer Road (S-23-52) & Piedmont Golf Course Road (S-23-106)
- Piedmont Golf Course Road (S-23-106) & Site Access

Future-year analyses assume 2027 conditions as the Build scenario. Figure 1 shows the location of the project site, and Figure 2 illustrates the conceptual site plan.



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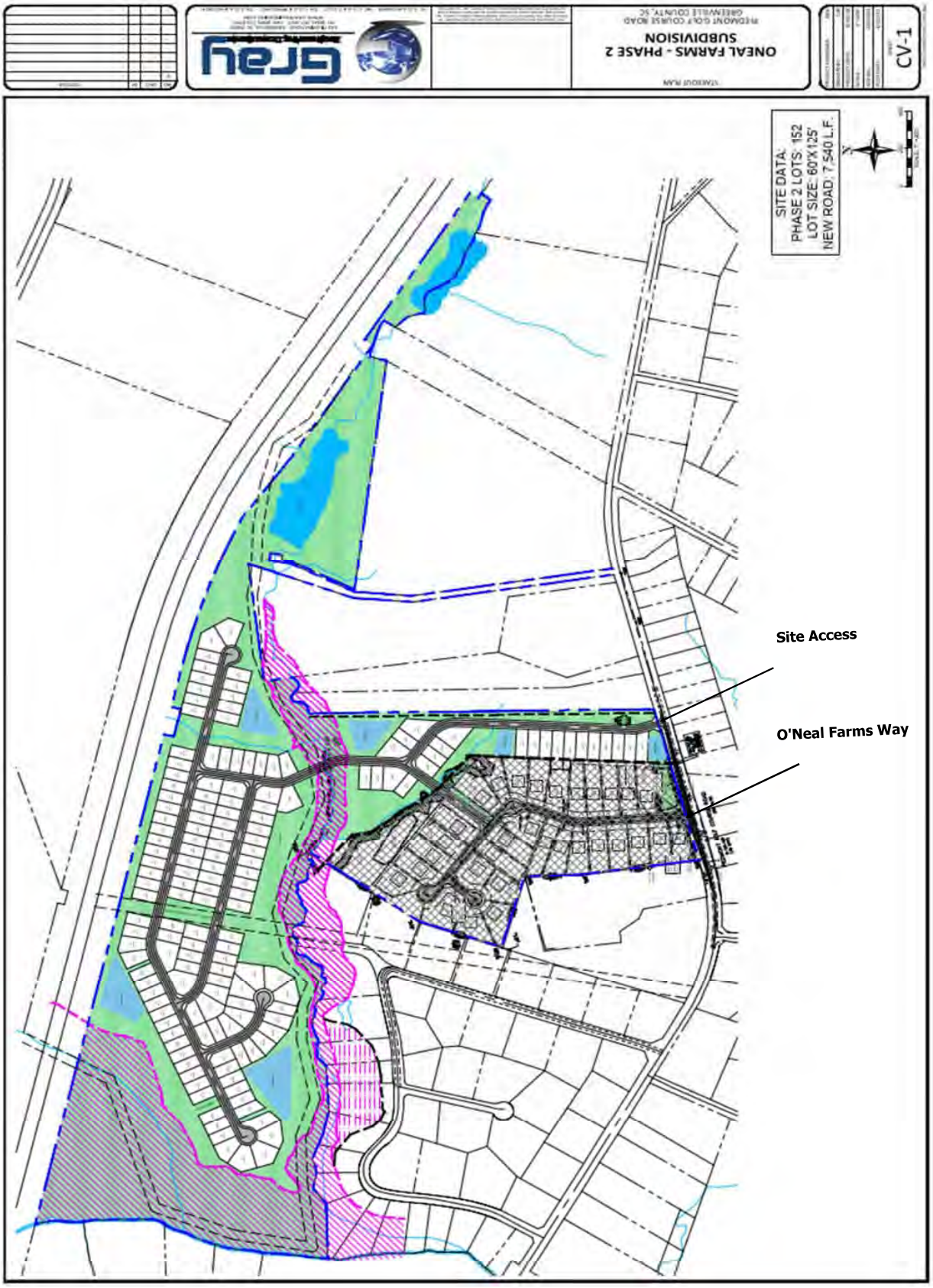

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1.2. Existing Roadway Conditions

A review of the existing roadway conditions in the study area was conducted and is summarized in Table 1. Figure 3 illustrates the existing lane geometry.

Table 1 – Street Inventory

Facility Name	Route #	Typical Cross Section	Posted Speed Limit	Maintained By	2022 AADT
US 25	US 25	5-lane undivided (TWLTL)	45 MPH	SCDOT	21,000[1]
Old Pelzer Road	S-23-52	2-lane undivided	35 MPH	SCDOT	1,400[2]
Piedmont Golf Course Road	S-23-106	2-lane undivided	40 MPH	SCDOT	3,100[3]
O'Neal Farms Way	N/A	2-lane undivided	25 MPH	Local	N/A

[1].SCDOT Count Station 23-0104; [2.] SCDOT Count Station 23-0295; [3.] SCDOT Count Station 23-0615

1.3. Existing Traffic Count

Vehicle turning movement counts were collected in May 2023 for the AM peak period (7:00 AM to 9:00 AM) and PM peak period (4:00 PM to 6:00 PM) at the following intersections:

- US 25/Augusta Road & Piedmont Golf Course Road (S-23-106)
- Piedmont Golf Course Road (S-23-106) & O'Neal Farms Way
- Old Pelzer Road (S-23-52) & Piedmont Golf Course Road (S-23-106)

All counts were conducted while the local school district was in session. The 2023 raw traffic volumes are provided in Appendix B. Existing traffic volumes are illustrated in Figure 4.

1.4. Driveway Location

The development is expected to provide one (1) full access driveway on Piedmont Golf Course Road (SC-106) and an internal connection to O'Neal Farms Way. The new proposed Site Access is located approximately 500 feet east of O'Neal Farms way.

The proposed driveways appear to meet the SCDOT ARMS spacing requirements.

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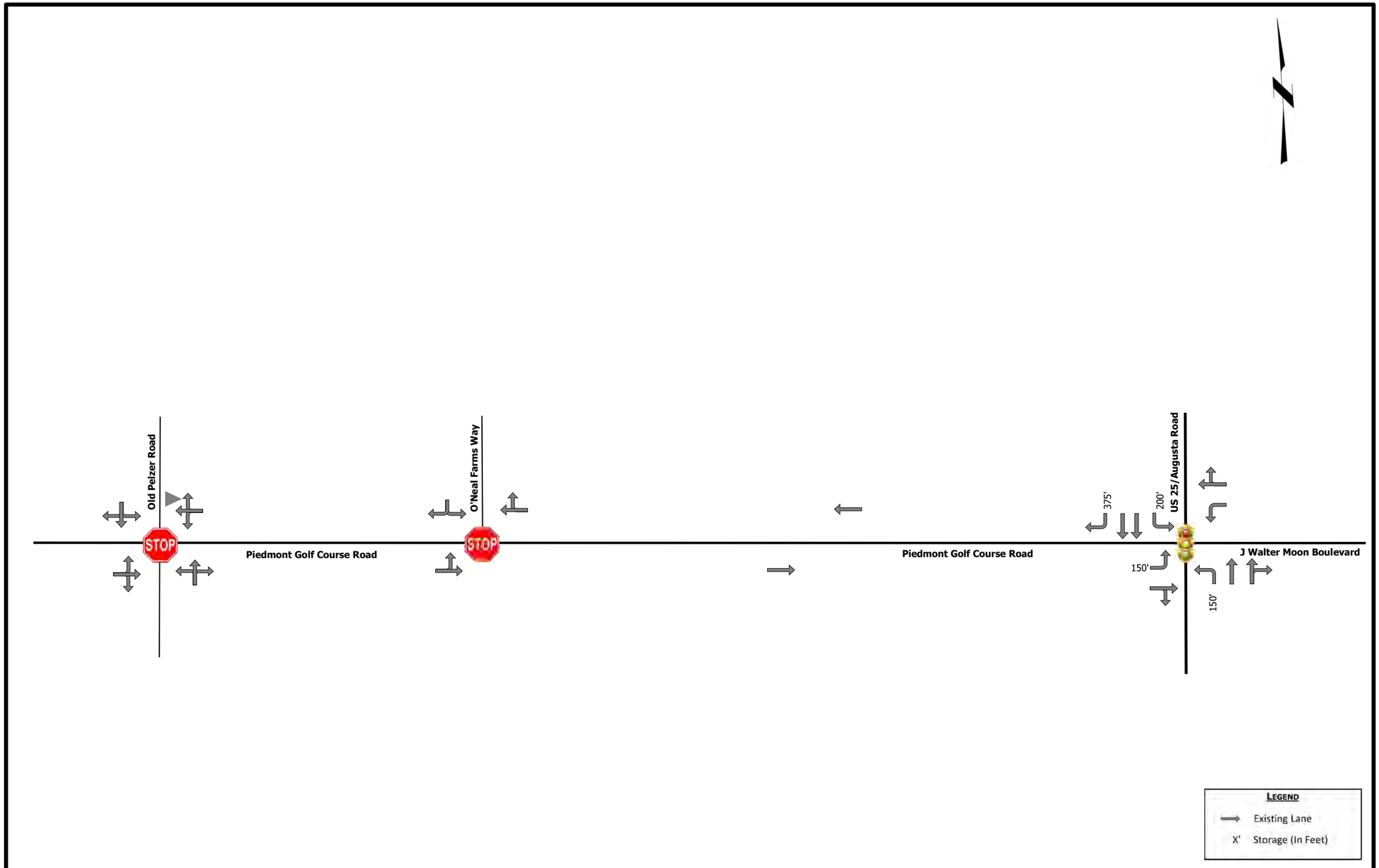

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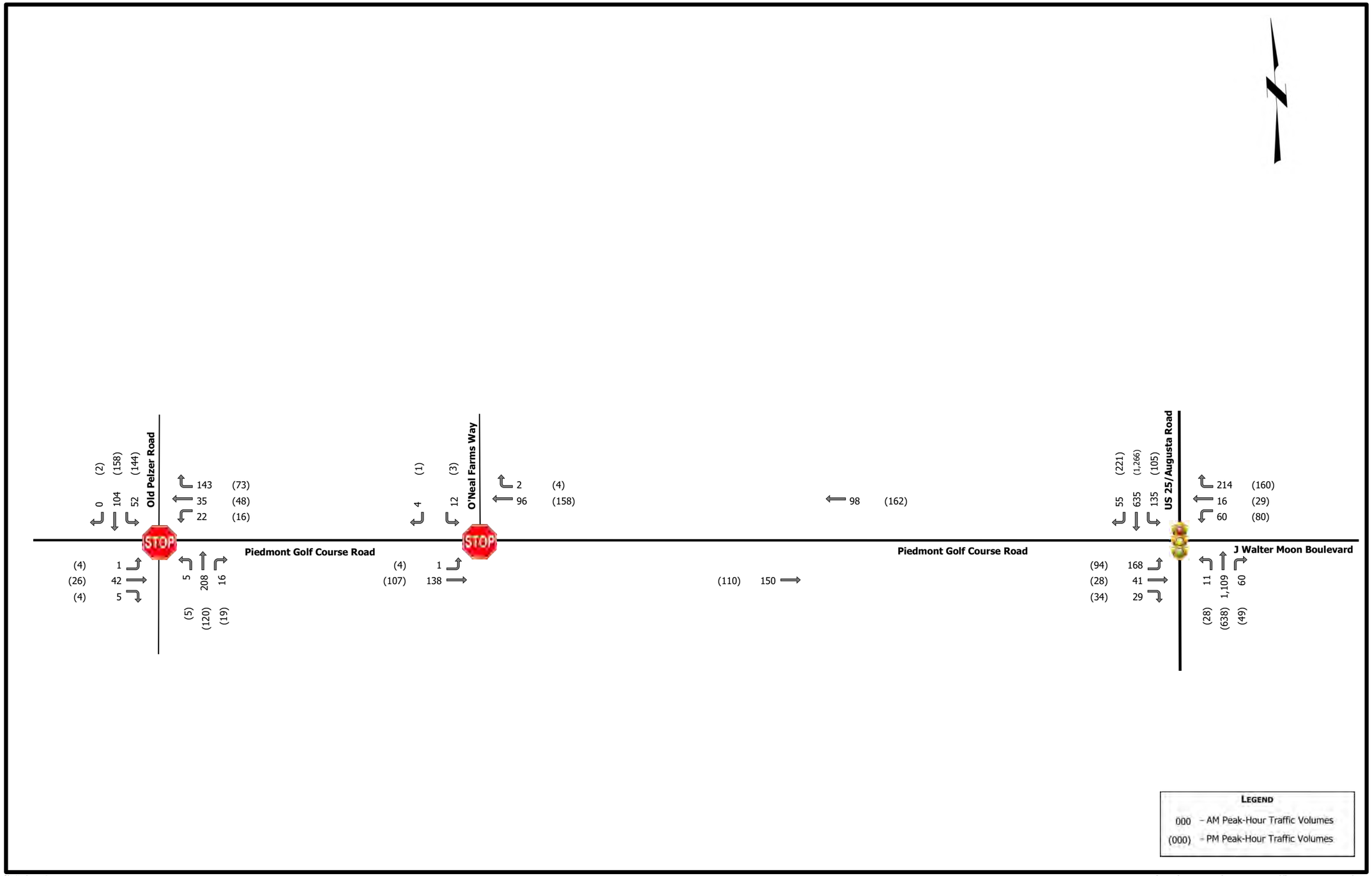

Moving forward.
RKA
RAMEY KEMP ASSOCIATES

O'Neal Farms Phase 2 - Traffic Impact Study
Figure 4 - Existing (2023) Peak-Hour Traffic Volumes
Page 6

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2. PROJECT TRAFFIC

2.1. Proposed Land Uses

The O'Neal Farms Phase 2 development is proposed to contain 152 single family homes. The project site is currently vacant.

2.2. Trip Generation Estimates

The trip generation potential was estimated using information contained in ITE's *Trip Generation Manual*, 11th Edition (2021) for land use code (LUC) 210 – Single-Family Housing. The trip generation estimates for the weekday daily, the weekday AM peak-hour of the adjacent street, and the weekday PM peak-hour of the adjacent street time periods are shown in Table 2.

Table 2 – Trip Generation Estimates

Land Use	ITE LUC	Size	Unit	Daily Traffic	AM Peak			PM Peak		
					Enter	Exit	Total	Enter	Exit	Total
Single-Family Detached Housing	210	152	DU	1,483	27	82	109	93	54	147
Daily Trips: Ln(T)=0.92 Ln(X)+2.68 (50% In; 50% Out) AM Peak Hour Trips: Ln(T)=0.91 Ln(X)+0.12 (25% In; 75% Out) PM Peak Hour Trips: Ln(T)= 0.94 Ln(X)+0.27 (63% In; 37% Out)										

2.3. Trip Distribution & Assignment

New external traffic expected to be generated was distributed and assigned to the roadway network based on the existing patterns and surrounding land uses. The general distribution of new external project trips was assumed to be:

- 35% to/from the north via Old Pelzer Road
- 35% to/from the north via US 25/ Augusta Road
- 10% to/from the south via Old Pelzer Road
- 10% to/from the south via US 25/ Augusta Road
- 5% to/from the east via J Walter Moon Boulevard and
- 5% to/from the south via Piedmont Golf Course Road

The directional distribution assumptions are shown in Figure 5. The assignment of the project traffic is shown in Figure 6.

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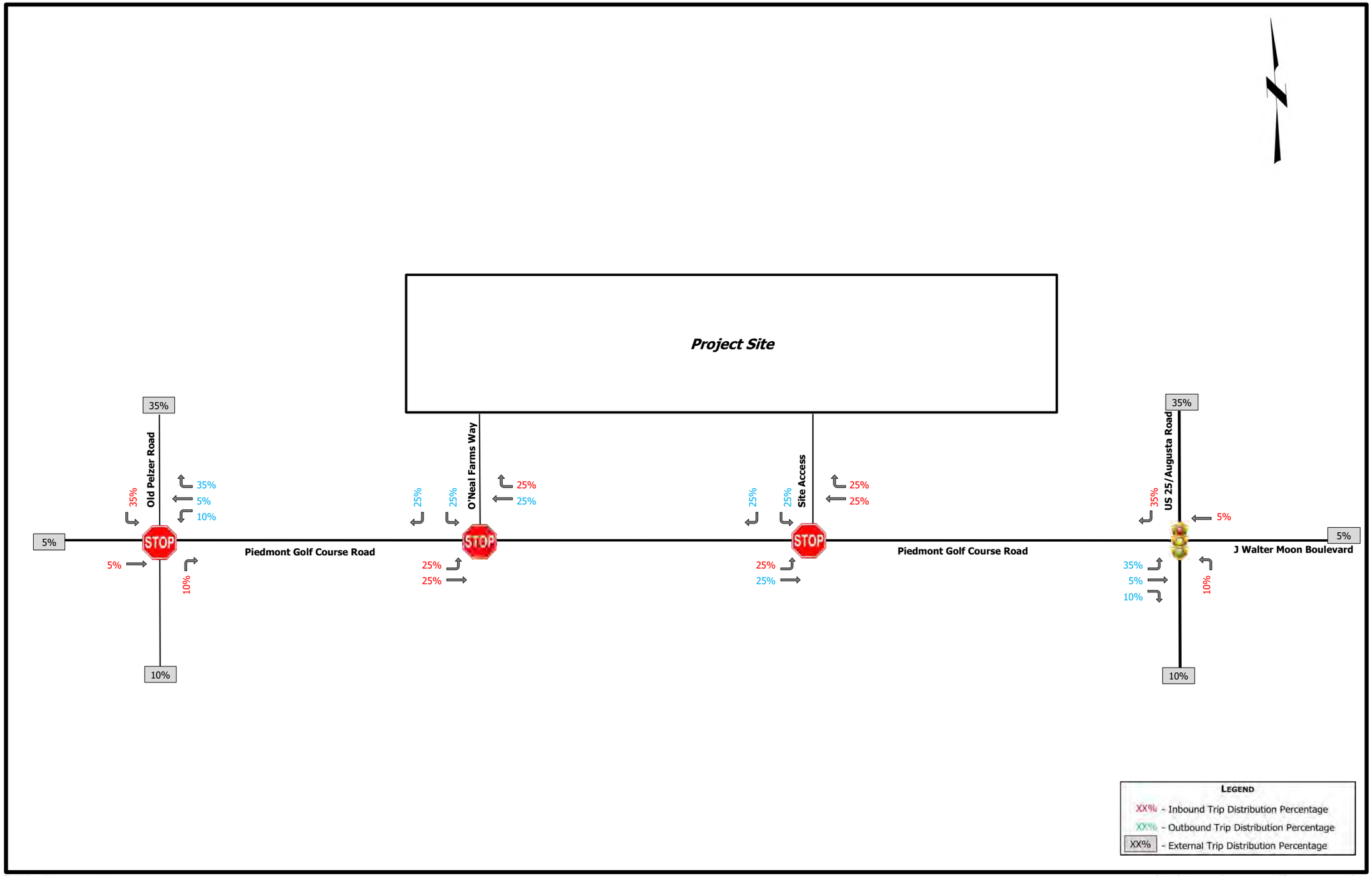

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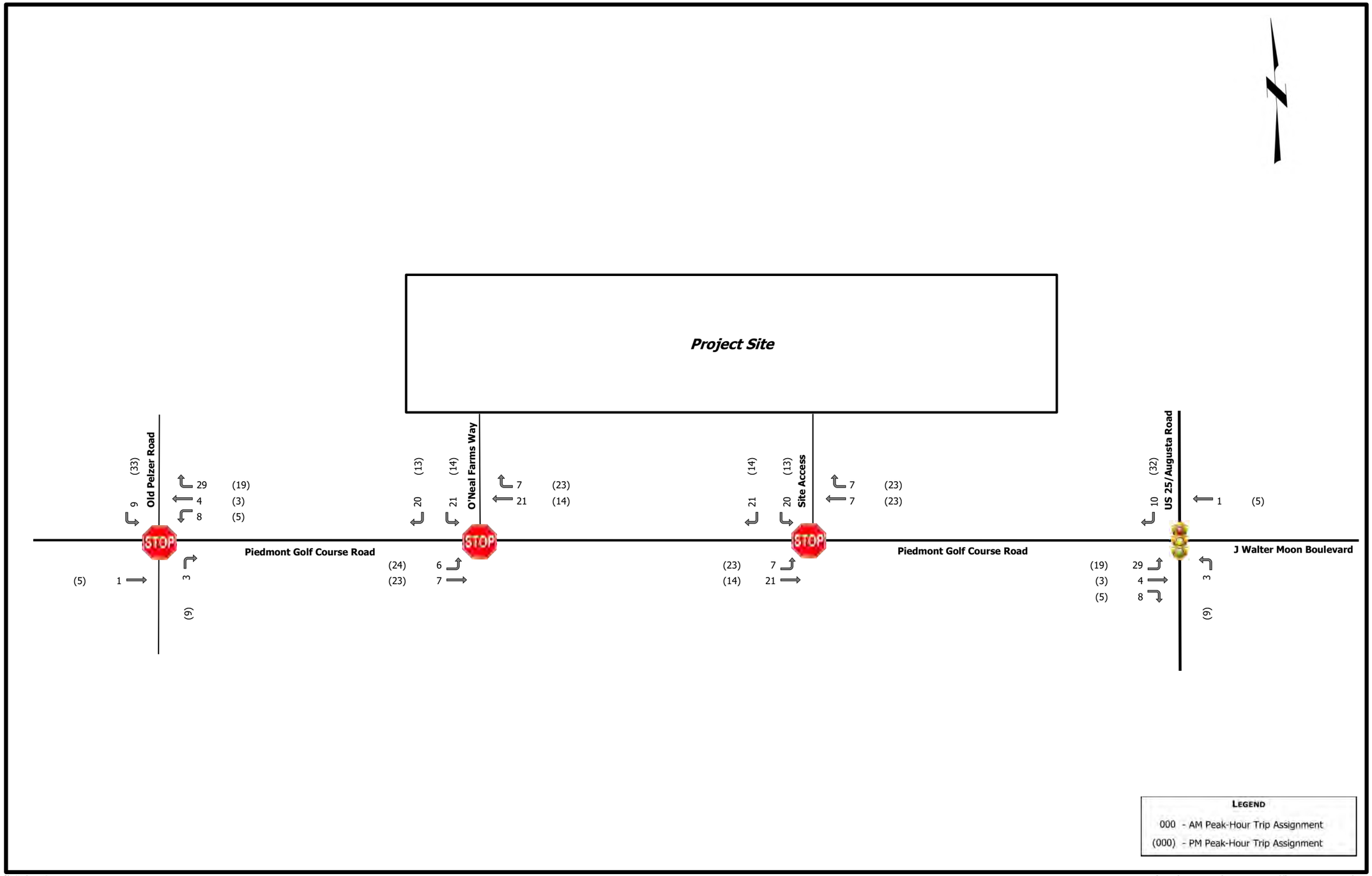

EXHIBIT 19

ELECTRONICALLY FILED - 2025 Sep 12 2:31 PM - GREENVILLE - COMMON PLEAS - CASE#2025CP2303365

Greenville County Planning Commission Minutes
April 23, 2025 at 4:30 p.m.
Council Committee Room at 301 University Ridge Greenville, SC 29601

Pursuant to the Freedom of Information Act, notice of the meeting date, time, place and agenda was posted online, at 301 University Ridge, Greenville, and made available to the newspapers, radio stations, television stations and concerned citizens.

Commissioners Present: S. Bichel, Chairman; J. Bailey, Vice Chair; F. Hammond; J. Wood; D. Manning; J. Holland; D. Franklin; J. Phillips

Commissioners Absent: J. Barbare

County Councilors Present: E. Fant; C. McGahhey

Staff Present: J. Henderson; M. Staton; T. Baxley; K. Lozko; N. Miglionico

1. Call to Order
Chairman Bichel called the meeting to order at 4:30 p.m.

2. Invocation
Mr. Holland provided the invocation.

3. Approval of the Minutes of the March 26, 2025 Commission Meeting

Motion: by Mr. Wood, seconded by Ms. Franklin, to approve the amended minutes of the March 26, 2025 Commission meeting, as presented. The motion carried unanimously by voice vote.

4. Rezoning Requests

CZ-2025-022
Mr. Henderson introduced the staff report and presentation into the record as background information for Rezoning Docket CZ-2025-022.

The subject parcel, zoned R-20, Single-Family Residential District is located along Old Chick Springs Road, a two-lane County-maintained residential road. Staff is of the opinion that a successful rezoning to R-MA, Multifamily Residential District would permit uses that are not compatible with the surrounding area. While the density requested is consistent with the Taylors Community Plan designation of *Medium Density Residential*, the recommended Zoning District is not.

Based on these reasons, Staff recommends denial of the requested rezoning to R-MA, Multifamily Residential District.

Discussion: None.

Motion: by Mr. Hammond, seconded by Ms. Manning, to deny CZ-2025-022. The motion carried unanimously by voice vote with one absent (J. Barbare).

CZ-2025-023
Mr. Henderson introduced the staff report and presentation into the record as background information for Rezoning Docket CZ-2025-023.

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The subject property, zoned R-S, Residential Suburban District is located along Old White Horse Road, a two-lane State-maintained local and collector road. Staff is of the opinion that a successful rezoning to C-1, Commercial District would be not be consistent with the primarily residential zoning and uses located along Old White Horse Road and could potentially begin to change the residential nature of Old White Horse Road.

Based on these reasons, Staff recommends denial of the requested rezoning to C-1, Commercial District.

Discussion: Ms. Phillips asked if there was a different option the applicant could use. Mr. Henderson stated they could pursue FRD zoning or make some adjustments to the plan and go to the Board of Zoning Appeals.

Chairman Bichel stated the concern was with the C-1 zoning, not the pet grooming services.

Mr. Hammond stated he would support the application because it is contiguous to C-2 zoning and is near a cemetery.

Mr. Bailey was of the opinion that Greenville County needed to have light-duty commercial centers within residential areas to mitigate traffic.

Mr. Hammond reminded the Commission that nobody was in opposition at the Public Hearing.

Motion: by Ms. Phillips, seconded by Mr. Holland, to deny CZ-2025-023. The motion carried by hand vote with five in favor (J. Phillips; J. Holland; S. Bichel; J. Wood; D. Manning) and three in opposition (J. Bailey; F. Hammond; D. Franklin) with one absent (J. Barbare).

CZ-2025-024

Mr. Henderson introduced the staff report and presentation into the record as background information for Rezoning Docket CZ-2025-024.

The subject properties, zoned R-20, Single-Family Residential District are located along Jacobs Road, a two to three-lane State-maintained collector road, Maxwell Avenue, a two-lane County-maintained residential road, and Rearden Drive, a two-lane County-maintained residential road. Staff is of the opinion that a successful rezoning to R-10, Single-Family Residential District would be consistent with the Plan Greenville County Comprehensive Plan designation of *Suburban Neighborhood*.

Based on these reasons, Staff recommends approval of the requested rezoning to R-10, Single-Family Residential District.

Discussion: Mr. Bailey thought that this would be considered spot zoning. Mr. Henderson pointed out a mix of different zoning classifications in the area and was of the opinion that it fit within the surrounding area.

Mr. Bichel asked why duplexes were allowed in R-10 but not R-12 zoning. Mr. Henderson stated he was not around when the classifications were created but thought that it could be because R-10 is more of an infill classification.

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Motion: by Ms. Franklin, seconded by Mr. Holland, to deny CZ-2025-024. The motion carried by hand vote with seven in favor (D. Franklin; J. Holland; S. Bichel; J. Bailey; J. Phillips; F. Hammond; J. Wood) and one in opposition (D. Manning) with one absent (J. Barbare).

CZ-2025-025

Mr. Henderson introduced the staff report and presentation into the record as background information for Rezoning Docket CZ-2025-025.

The subject parcel, zoned O-D, Office District, is located along East North Street, a three to five-lane, State-maintained minor arterial road. Staff is of the opinion that a successful rezoning to C-1, Commercial District is consistent with the Plan Greenville County Comprehensive Plan designation of *Suburban Center.* Additionally, Staff feels the requested zoning district would not create an adverse impact on surrounding parcels.

Based on these reasons, Staff recommends approval of the requested rezoning to C-1, Commercial District.

Discussion: None.

Motion: by Mr. Bailey, seconded by Ms. Manning, to approve CZ-2025-025. The motion carried unanimously by voice vote with one absent (J. Barbare).

CZ-2025-026

Mr. Henderson introduced the staff report and presentation into the record as background information for Rezoning Docket CZ-2025-026.

The subject property, zoned S-1, Services District is located along Easley Bridge Road, a four-lane State-maintained arterial road and Bent Bridge Road, a two-lane County-maintained local road. Staff is of the opinion that a successful rezoning to R-M8, Multifamily Residential District would not be consistent with the Plan Greenville County Comprehensive Plan designation of *Rural Corridor* which lists primary uses of agriculture, warehouses, and highway commercial, and secondary uses of single-family residential at a density of 1 dwelling per 2+ acres. Nor would the proposal be consistent with the Riverdale-Tanglewood Area Plan designation of *Service*. While the area plan does speak to preventing intensive uses such as heavy industrial, it also speaks to the pursuit of light industrial and service uses on existing S-1 zoned properties to bring jobs into the area.

Based on these reasons, staff recommends denial of the requested rezoning to R-M8, Multifamily Residential District.

Discussion: Mr. Hammond thought that the access to the site was the reason no S-1 development had or would develop it. Mr. Hammond stated that nobody opposed the rezoning at the Public Hearing.

Ms. Phillips believed that putting homes on the site with poor access would be a disservice to the residents.

There was some discussion on the potential of roadway improvements based on the different uses.

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Motion: by Mr. Holland, seconded by Ms. Phillips, to deny CZ-2025-026. The motion carried by hand vote with five in favor (J. Holland; J. Phillips; S. Bichel; D. Franklin; D. Manning) and three in opposition (J. Wood; J. Bailey; F. Hammond) with one absent (J. Barbare).

CZ-2025-027

Mr. Henderson introduced the staff report and presentation into the record as background information for Rezoning Docket CZ-2025-027.

The subject parcel, zoned R-S, Residential Suburban District is located along Old Gunter Road, a two-lane, County-maintained local road. Staff is of the opinion that a successful rezoning to AG, Agricultural Preservation District would be consistent with the goals of the South Greenville Area Plan which prioritizes the preservation of agricultural land and the rural character of the area. Staff does not feel that the requested rezoning would have an adverse impact on the surrounding area.

Based on these reasons, staff recommends approval of the requested rezoning to AG, Agricultural Preservation District.

Discussion: None.

Motion: by Mr. Wood, seconded by Ms. Phillips, to approve CZ-2025-027. The motion carried unanimously by voice vote.

CZ-2025-028

Mr. Henderson introduced the staff report and presentation into the record as background information for Rezoning Docket CZ-2025-028.

The current language of Article 8, Section 8:5.8, ESD-PM, Environmentally Sensitive District – Paris Mountain; Special Provisions, of the Greenville County Zoning Ordinance reads as thus:

8:5.8 Special Provisions

At any time that a property owner can demonstrate that the property can be developed by providing vehicular access from another source and not utilizing Altamont Road, the property will be removed from the ESD-P.M. classification and will revert back to the original zoning. The development must maintain the required setbacks from Altamont Road as buffer zones, and along the frontage of Altamont Road there shall be no points of ingress or egress.

Staff is of the opinion that the proposed change would close an unintended loophole and remove an ambiguous process from the current text of the Greenville County Zoning Ordinance.

Based on these reasons, staff recommends approval of the proposed text amendment.

Discussion: Chairman Bichel asked why the language was an issue. Mr. Henderson explained that under State Law, there is no reversion back to a previous zoning classification; the process is to go through a rezoning and have a Public Hearing. The current language conflicts with State Law.

Motion: by Ms. Manning, seconded by Mr. Wood, to approve CZ-2025-028. The motion carried unanimously by voice vote with one absent (J. Barbare).

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5. **Preliminary Subdivision & Variance Applications**

PP-2025-023 Devonport Station

Ms. Staton addressed the Commission members with a preliminary subdivision application for Devonport Station, a proposed Cluster Option 1 subdivision located south of the intersection of White Horse Rd (State) and Farrs Bridge Rd (State). The applicant is requesting 100 lots on 27.91 acres for a density of 3.58 units/acre. Access is provided off White Horse Rd, which is also US Hwy 25.

The project includes one full ingress/egress point, one hidden emergency access point, 3 internal roads, two cluster mailbox areas with appropriate parking, 21 guest spaces, 20-foot screening buffers around the perimeter of the site, including a 20 foot buffer shown closer in due to overhead power lines on site, sidewalks per the ordinance, three detention ponds, 2,667 linear feet of new public road, and 17.98 acres of open space (8.38 acres are required).

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated *Suburban Edge*. Suburban Edges are low-density residential areas that offer opportunities for low-intensity development that is well-integrated with the natural landscape and agricultural uses. Residential development may occur as individual single-family structures on large lots, or clusters of homes designed to preserve large amounts of open space, which should be interconnected as part of the county's larger open space system. Suburban Edge character area types recommend a density of 0 to 1 dwelling an acre. Devonport Station proposes a density of 3.58 dwellings per acre.

Staff recommends approval with conditions of the plan with the standard and specific requirements.

The conditions for approval are as follows:

1. Meet SCDOT requirements provided as part of the permitting process and due to any findings from the Traffic Impact Study. If a revised Preliminary Plan is required, this must be provided for review prior to submitting for Land Disturbance Permits.
2. Per Berea Fire Department, Open Space Tract "A" cannot be developed into additional townhomes unless a second entrance is provided, in accordance with Greenville County Land Development Manual Section 8.8.1. Any secondary access would be subject to SCDOT approval.
3. ~~Please provide a Preliminary Plan showing lots 17-54 directly touching additional open space beyond what is currently shown on the Preliminary Plan.~~

Added Planning Commission Conditions

1. Fence in the open space with sufficient opening to allow pedestrian access.

Discussion: There were no speakers in opposition of the proposed subdivision.

There were two speakers in favor of the proposed subdivision. The first speaker, Elaine Hitch, the property owner, provided a history of the property and stated that the proposed subdivision was needed in the Berea Community. The second speaker, Paul Harrison, spoke on open-space residential development and his opposition to abolishing LDR Article 11 or the open-space development guidelines in the Zoning Ordinance.

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Chairman Bichel asked if the applicant would be willing to put a fence around the open-space near the roadway. Mr. Harrison stated yes. Ms. Staton explained the open space could not be fully fenced in.

Mr. Hammond asked if the comments from SCDOT and the Fire Department had been resolved. Mr. Harrison stated yes, the driveway lines up to the intersection it referred to, and the open-space cannot be further subdivided.

Chairman Bichel and Ms. Manning believed the product was needed in the Berea Area.

Motion: by Mr. Hammond, seconded by Ms. Franklin, to approve with conditions PP-2025-023. The motion carried unanimously by voice vote with one absent (J. Barbare).

PP-2025-027 Southpoint Commerce Center (Group Development)

Ms. Staton addressed the Commission members with a preliminary subdivision application for Southpoint Commerce Center, a proposed Industrial Group Development located west of the intersection of Antioch Church Rd (State) and Fork Shoals Rd (State). The applicant is requesting 6 commercial lots on 23.80 acres. Access is provided off Antioch Church Rd, which is a State road. The applicant is proposing to subdivide a site that has already been permitted with a grading permit, and that is proposed to be an industrial park. Grading has begun on site. Per the LDR, any group development in which new lots are created requires Planning Commission review and decision.

The project includes one main ingress/egress point, with shared drive aisles and parking areas for 6 industrial lots. There are 6 industrial buildings proposed, each with lots ranging from 1.8 from 5.45 acres. The site includes one detention pond, appropriate loading spaces, and 35-foot stream buffers along the stream on site.

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated *Industrial* and *Floodplain*. Industrial may accommodate large format users with back-of-house spaces for industrial and warehouse uses as well as front-of-house office and commercial space. Landscaping requirements should screen development from the right-of-way and neighboring properties.

Staff recommends approval with conditions of the plan with the standard and specific requirements.

The conditions for approval are as follows:

1. Meet any SCDOT requirements. If changes are required by SCDOT, provide a revised Preliminary Plan with these changes shown.
2. Provide a revised Preliminary Plan showing all setback lines, with proposed buildings meeting setbacks, and addressing any final Zoning and Subdivision comments.
3. Site-specific zoning comments must be addressed at the grading permitting phase. If any changes require changes to the site plan, a new preliminary plan may be required.

Discussion: There were no speakers in opposition of the proposed subdivision.

There was one speaker in favor of the proposed subdivision, Aaron LeBrun, project engineer. Mr. LeBrun stated that this was a previously permitted project and the owner was looking to subdivide the parcels.

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Motion: by Mr. Bailey, seconded by Mr. Wood, to approve PP-2025-027. The motion carried unanimously by voice vote with one absent (J. Barbare).

PP-2025-028 Walton Estates

Ms. Staton addressed the Commission members with a preliminary subdivision application for Walton Estates, a proposed Cluster Option 1 subdivision located south of the intersection of Terry Rd (County) and McKelvey Rd (State). The applicant is requesting 22 lots on 68.72 acres for a density of 0.32 units/acre. Access is provided off of Terry Rd, which is a County road.

The project includes one full ingress/egress point, 2 internal roads, one cluster mailbox unit within a parking area that includes 4 parking spaces, 20-foot screening buffers around the perimeter of the site, sidewalks per the ordinance, one detention pond, 2,343 linear feet of new public road, and 34.63 acres of open space (34.36 acres are required).

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated *Rural*. Rural place types include working farms actively used for agricultural activities, including cultivated cropland, pastures, and raising livestock. The physical environment may consist of fences, tree rows, wooded areas, ponds, or large swales to drain cropland. Rural place types also support the primary residence of the property owner and any out-buildings associated with the activities of a working farm — otherwise, these are places characterized by natural or cultivated landscapes with minimal development. Rural Character Area types recommend a density of 1 dwelling unit to every 2+ acres. Walton Estates proposes 0.32 units per acre.

Staff recommends approval of the plan with the standard and specific requirements.

Discussion: There were five speakers in opposition of the proposed subdivision. The first speaker, Alyson Burns, provided an overview of the rezoning in the area and expressed concern with density, traffic, nonconformance with the surrounding area, and violation of the Zoning Ordinance 7:2.4-5 and 7:2.6, the Land Development Regulations and the Comprehensive Plan. The second speaker, Kimberly Monzi, echoed the concerns of the previous speaker. The third speaker, Linda Fitschen, explained that the community came together to have the area zoned R-R3, and the proposed plan is not in compliance with the community's desire to have one home per three acres of land and expressed concern with increased traffic. The fourth speaker, Gino Canclini, was dissatisfied with the increased development and disruption to local farms, traffic, and access to open areas. The final speaker, Paul Valentine, stated that the site backs up to his property and pointed out multiple already approved subdivisions that have yet to be developed. Mr. Valentine stated that Greenville County needed to maintain a rural area close to the city center.

There were two speakers in favor of the proposed subdivision. The first speaker, Waverly Wilkes, explained that they are in compliance with the Zoning Ordinance and have email documentation from the Zoning Administrator stating that they are in compliance and have interpreted the Ordinance correctly. Ms. Wilkes stated that developing the site conventionally would disturb more land. Ms. Wilkes explained that the larger lots will have a high-quality home product.

Chairman Bichel asked Ms. Wilkes to read the email from Joshua Henderson, the Zoning Administrator. Ms. Wilkes read the email affirming the interpretation of the Zoning

Ordinance. Chairman Bichel asked, even though the table 7.1 says not applicable? Ms. Wilkes stated that was the original question asked and Mr. Henderson stated yes.

Ms. Staton explained that the chart is a little confusing, but "n/a" is saying it can't show the units per acre because it is less than 1 unit per acre. Ms. Staton pointed out that the AG classification is blank because you can't develop an open space in AG zoning. Ms. Staton explained that it is standard in the Zoning Ordinance to make something blank when it is not permitted. In R-R3, it is listed as N/A because the units do not make sense in the way the table was originally created. Ms. Staton pointed out the table 7.2 where it provides a percentage of required open space for R-R3 which supports the idea that you are allowed to use R-R3 in the open space district.

Mr. Bailey asked why the table didn't have a fractional amount. Ms. Staton stated that it would be appropriate to implement it.

Ms. Wilkes provided an overview of the proposed subdivision and stated that all of the lots touch the open space, with additional width added to the back of each lot. Ms. Wilkes explained that they are prepared to handle required roadway improvements if needed.

Ms. Manning asked if the developer met with the local residents. Ms. Wilkes stated no because it was not a requirement of the process and did not feel twenty-two lots would warrant it. Ms. Wilkes explained they were unaware of the opposition.

Ms. Staton displayed the zoning tables on the screen.

The second speaker in favor, Lonnie Neves, a property owner, explained that multiple people in the room were offered to purchase the property, but nobody wanted to. Mr. Neves believed the proposed subdivision was appropriate for the area because it was only twenty-two houses on seventy acres of land.

Mr. Holland asked Mr. Neves if he was a part of getting the area zoned. Mr. Neves stated he had nothing to do with the rezoning.

Chairman Bichel stated that the number one reason for open space was recreational and had an issue with the application. Chairman Bichel pointed out the steep topography and the lack of meaningful proportions of open space at the top of the parcel.

Ms. Phillips asked staff if the application needed to follow the rural conservation guidelines. Ms. Staton stated no because it is a zoned parcel. Ms. Phillips pointed out that if the property were unzoned, it would have increased setbacks and buffers.

Mr. Wood made a motion to deny the application based on inadequate open space, dangerous topography of the open space, and traffic concerns.

Mr. Bailey believed that the application met the regulations and that approving the subdivision would be consistent with how the Commission has interpreted these regulations in the past.

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Mr. Hammond stated that if the development is denied, the property will be clear-cut, mass-graded, and developed traditionally. Mr. Hammond believed the application met and exceeded the requirements of the Ordinance.

Ms. Manning believed developers abused the spirit of the cluster development ordinance and that cluster developments should not be in rural areas.

Discussion ensued on whether there would be more density if the property was developed traditionally.

Mr. Bailey stated it is the County Council's duty to eliminate cluster developments, not the Planning Commission.

Ms. Wilkes stated that saying there are steep slopes near the lots creating a safety hazard is a misrepresentation of the site. Ms. Wilkes pointed out that there is only one area with a steep slope, and it is located by the wetlands, which is indicated appropriately.

Motion: by Mr. Wood, seconded by Ms. Manning, to deny PP-2025-028. The motion tied by hand vote with four in favor (J. Wood; D. Manning; S. Bichel; J. Holland) and four in opposition (J. Bailey; D. Franklin; F. Hammond; J. Phillips).

Motion: by Mr. Bailey, seconded by Mr. Hammond, to approve PP-2025-028. The motion tied by hand vote with four in favor (J. Bailey; D. Franklin; F. Hammond; J. Phillips) and four in opposition (J. Wood; D. Manning; S. Bichel; J. Holland). The motion failed. The application was denied.

PP-2025-029 O'Neal Farms Phase II

Ms. Staton addressed the Commission members with a preliminary subdivision application for O'Neal Farms Phase 2, a Cluster Option 1 Subdivision located west of the intersection of Piedmont Golf Couse Rd (State) and Hwy 25 (State). The applicant is requesting 147 lots on 92.82 acres for a density of 1.58 units/acre. Access is provided off of Piedmont Golf Course Rd, which is a State road, and O'Neal Farms Way, which is a County road.

The project includes two ingress/egress points, 5 internal roads, 1 cluster mailbox with 8 parking spaces, 20-foot undisturbed screening buffers around the perimeter of the site, additional creek buffers along creeks on site, six detention ponds, 1.4 linear miles of new public road, and 29.94 acres of open space (27.85 acres are required).

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated as *Suburban Mixed Use,* as well as partially *Open Space* and *Flood Plain.* Suburban Mixed-Use place types include a variety of single-family (detached and attached) and multi-family building types. Housing types should be designed as a cohesive, connected neighborhood, rather than isolated subareas. Buildings should be of a high-quality design, and developments should include common neighborhood amenities and open space connections. The Suburban Mixed Use character area type recommends a density of 6-20 dwellings per acre. O'Neal Farms Phase II is requesting a density of 1.58 lots/acre.

Staff recommends approval with conditions of the plan with the standard and specific requirements.

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The conditions of approval are as follows:

1. Preservation of riparian buffers shall be provided by final plat and deed restrictions.
2. Provide documentation from SCDOT that driveway concerns have been addressed, or documentation that an access waiver has been approved by SCDOT. If documentation cannot be obtained, a revised Preliminary Plan showing 275 feet of spacing between O'Neal Farms Way and the proposed new access will need to be provided prior to submitting for Land Disturbance Permitting.
3. Prior to obtaining a Land Disturbance Permit, the Traffic Impact Study must be updated. If any mitigations are warranted, please provide a revised Preliminary Plan showing any recommended changes.

Discussion: There were three speakers in opposition of the proposed subdivision. The first speaker, Sarah Lyons, spoke on behalf of the Piedmont Community Alliance. Ms. Lyons stated that the plan did not comply with the recently approved Piedmont Area Plan and did not believe the project was appropriate for the area. The second speaker, Anthony Smith, HOA president of O'Neal Farms, expressed concern about increased traffic, pedestrian endangerment, and nonconformance with the current rural setting. The final speaker, Tracie Williams, expressed concern with traffic and was unhappy with the entrance utilizing the existing subdivision entrance.

There was one speaker in favor of the proposed subdivision, Waverly Wilkes, project engineer. Ms. Wilkes provided a brief overview of the project and stated it was the original intent to develop the second phase onto the first phase of the development. Ms. Wilkes highlighted the common space, open space area, and stormwater retention measures. Ms. Wilkes explained that it was unfair to property owners for the Piedmont Area Plan to devalue land by looking at floodplain and creek and then deeming it reserved for land conservation.

Ms. Phillips asked if a traffic study was required. Ms. Wilkes stated yes. Ms. Phillips asked why an updated traffic study was not submitted. Ms. Wilkes stated that SCDOT said they could update traffic impact study as a part of the encroachment permit process. Ms. Phillips explained that this is a preliminary application and asked how staff or the Planning Commission could understand the whole picture. Ms. Wilkes stated Greenville County does not have purview over Piedmont Golf Course Road. Ms. Phillips pointed out that ponds do not improve or help with stormwater. Ms. Phillips asked what changed between this application and the previous one. Ms. Wilkes stated a reduction of lots by two, added notations, clarity of open space, floodplain, easements, and stormwater. Ms. Wilkes explained that the Ordinance does not designate open space as only recreational.

Chairman Bichel and Ms. Wilkes discussed and pointed out traffic calming measures. Chairman Bichel did not believe there were enough traffic calming measures.

Ms. Staton stated that Roads and Bridges reviewed the application and that they did not request any additional traffic calming.

Ms. Franklin asked Ms. Wilkes to point out where the lots were removed.

Mr. Hammond asked Ms. Wilkes if Greenville County requested additional calming measures would they comply. Ms. Wilkes stated yes. Mr. Hammond pointed out that SCDOT would not

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provide an encroachment permit if the traffic study were not completed and that the applicant would not receive a permit if they did not meet detention pond requirements.

Chairman Bichel asked how 20ft by 1000 ft open space is considered meaningful proportions. Ms. Wilkes stated in previous developments that it had been an acceptable width and that adding more space pushes things closer to the sewer easements and wetlands. Chairman Bichel did not believe the homes touched meaningful proportions of open space. Ms. Wilkes believed a majority of lots touched the open space. Chairman Bichel stated it was previously denied due to violation of LDR 11.1, 11.3.2, and 11.4. Ms. Wilkes expressed a lack of clarity on the interpretation of the open space regulations.

Mr. Hammond stated there would be no consistency with subjectivity. Mr. Hammond believed the open space provided was meaningful.

Ms. Phillips asked if the Planning Commission could add a requirement to the traffic study update to consider the nearby approved subdivisions and rezonings. Chairman Bichel stated it is a SCDOT road.

Discussion ensued on the cluster development requirements.

Ms. Wilkes stated that SCDOT includes traffic studies from other developments in their revised traffic studies.

Chairman Bichel asked why the Piedmont Area Plan wasn't added to the agenda packet. Ms. Staton stated it was an oversight.

Motion: by Mr. Wood, seconded by Mr. Hammond, to approve with conditions PP-2025-029. The motion failed by hand vote with three in favor (J. Wood; F. Hammond; J. Bailey) and five in opposition (S. Bichel; J. Phillips; D. Franklin; D. Manning; J. Holland). The application was denied.

PP-2025-032 Creekhaven
VAR2025-102 Creekhaven – Undisturbed Buffer Variance
VAR2025-103 Creekhaven – Secondary Access Variance
VAR2025-104 Creekhaven – Access/Road Width Variance
VAR2025-105 Creekhaven – Riparian Buffer Variance

Ms. Staton addressed the Commission members with a preliminary subdivision application for Creekhaven, a proposed conventional subdivision located north of the intersection of Roper Mountain Rd (State) and Roper Mountain Rd Ext. (State). The applicant is requesting 34 lots on 26.94 acres for a density of 1.26 units/acre. Access is provided off of Hawkins Rd, which is a County road.

The project includes one full ingress/egress point, 3 internal roads, one cluster mailbox area with 3 parking spaces in common area, 20-foot screening buffers around some portion of the site, requested reduced creek buffers along the creek on site, 0.38 new miles of new public road, and a proposed widening of the existing Hawkins Rd.

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated *Suburban Neighborhood* and *Floodplain*. Suburban Neighborhoods are generally shaped by residential

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subdivisions of medium-lot homes with relatively uniform housing types and densities. Homes include attached garages. Local streets are laid out in a curvilinear pattern with occasional cul-de-sacs. Streets may or may not include sidewalks. New single-family subdivisions should be designed with sidewalks, street trees, neighborhood parks, and community open space connections. Suburban Neighborhood Character Area types recommend a density of 3 to 5 dwelling units per acre. Creekhaven proposes 1.26 units per acre.

VAR2025-102 was submitted to request a variance from the requirements of LDR 8.21, which requires a natural vegetative or landscaped buffer of at least 20 feet wide. The applicant is requesting this variance in the area of the entrance road into the proposed subdivision, due to the limited road frontage of the development parcel. The applicant states that along the north portion of the requested buffer variance, the applicant will provide an average of a 13-foot buffer, as the adjoining owners' driveway is also within this area. Along the south side of the buffer variance request, the applicant is proposing to provide a 6-foot tall privacy fence in lieu of the buffer.

VAR2025-103 was submitted to request a variance from LDR 8.8.1, which requires any subdivision of more than 30 lots or 50 single family attached dwellings to provide at least two access points, the second may consist of an emergency access. The applicant states that the parcel has no additional road frontage beyond the proposed primary access. The developer states they are willing to widen the entrance road to 26 feet to the first intersection in lieu of an additional entrance and per the requirements of LDR 8.8.1, however, per VAR2025-104, they are requesting to not have to provide 26-feet.

VAR2025-104 was submitted to request a variance from LDR 8.8.1 requirement to widen roads to 26 feet in lieu of the required secondary access. The applicant states that the 26-foot-wide road is unnecessary as Hawkins Road will only by 22 feet wide. GC Roads and Bridges noted their support of the request at SAC.

VAR2025-105 was submitted to request a variance from LDR 8.22.2: A-3, which requires that a minimum 100-foot riparian buffer as measured from the top of the stream bank inland be established along each side of all intermittent, perennial, and blue line streams within watershed draining 50 acres or more. The applicant states that the lots in this area have been made intentionally larger to allow for more space for the homeowners, and that approval of the variance request will prevent the creation of more HOA-maintained common area. Land Development stated at SAC that they do not object this variance, as the 100-foot area has already been disturbed within a sanitary sewer easement line, which must stay clear of tree roots.

Staff recommends approval of the plan and variance requests with the standard and specific requirements.

> **Discussion:** There was one speaker in opposition of the proposed subdivision, Michael Ranks, a nearby resident. Mr. Ranks spoke on behalf of the local residents and expressed concern about road widening, pedestrian safety, increased traffic congestion, stormwater, resident well-being, and steeper driveways and yards, reducing property values.
>
> There was one speaker in favor of the proposed subdivision, Waverly Wilkes, project engineer. Ms. Wilkes provided a brief overview of the proposed subdivision and variance requests.

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Chairman Bichel asked Ms. Wilkes how they would obtain the right-of-way to widen the road. Ms. Wilkes stated that Greenville County owns 50 feet of right-of-way, and in one section, they can shift the center line.

Mr. Hammond asked if there were any feasible additional ingress and egress for the site. Ms. Wilkes stated due to the surrounding properties, no.

Chairman Bichel commended the design.

Ms. Phillips did not believe the 100ft riparian buffer would be sufficient and did not believe a variance should be approved due to known flooding.

Ms. Wilkes explained that all homes must be 4 feet above the floodplain elevation. Ms. Wilkes stated that the homes would be protected and sit at the lot's highest point. Ms. Wilkes stated that the intent of the buffer has already been met.

Discussion ensued on the variance requests.

Ms. Phillips moved to deny VAR2025-105 because it would be a hardship to future residents and a violation of LDR 1.6.3.

Motion: by Mr. Hammond, seconded by Mr. Wood, to approve VAR2025-102. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Bailey; J. Holland; D. Franklin; D. Manning) and one in opposition (J. Phillips) with one absent (J. Barbare).

Motion: by Mr. Hammond, seconded by Mr. Wood, to approve VAR2025-103. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Bailey; J. Holland; D. Franklin; D. Manning) and one in opposition (J. Phillips) with one absent (J. Barbare).

Motion: by Mr. Hammond, seconded by Mr. Wood, to approve VAR2025-104. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Bailey; J. Holland; D. Franklin; D. Manning) and one in opposition (J. Phillips) with one absent (J. Barbare).

Motion: by Ms. Phillips, seconded by Mr. Bailey, to deny VAR2025-105. The motion failed by hand vote with two in favor (J. Phillips; J. Bailey), five in opposition (S. Bichel; J. Wood; F. Hammond; D. Franklin; J. Holland) and one abstained (D. Manning) with one absent (J. Barbare). The motion failed, the variance was approved.

Motion: by Mr. Hammond, seconded by Mr. Bailey, to approve PP-2025-032. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Bailey; D. Franklin; D. Manning; J. Holland) and one in opposition (J. Phillips) with one absent (J. Barbare).

PP-2025-033 Hartness Estates Phase 4-1

Ms. Staton addressed the Commission members with a preliminary subdivision application for Hartness Phase 4-1, a Planned Development located south of the intersection of Pelham Rd and Highway 14. The applicant is requesting 4 lots on 3.46 acres for a density of 1.15 units/acre. Access is provided off Traverse Drive, a County Rd.

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The project is a continuation of the overall Hartness Planned Development and adds 4 lots along Traverse Drive, which was approved as part of Hartness Phase 4. This area was shown in previously plans as an amenity area, which has since been relocated to a different area of the overall Hartness PD. Each of the 4 lots range from approximately 26,000 square feet to 40,900 square feet. This application also includes a pedestrian connection with sidewalk from Traverse Drive to Socratic Avenue, as well as a strip of Common Area along SC-Hwy 14.

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated *Suburban Neighborhood*. Suburban Neighborhoods are generally shaped by residential subdivisions of medium-lot homes with relatively uniform housing types and densities. Homes include attached garages. Local streets are laid out in a curvilinear pattern with occasional cul-de-sacs. Streets may or may not include sidewalks. New single-family subdivisions should be designed with sidewalks, street trees, neighborhood parks, and community open space connections. Suburban Neighborhoods recommend a density of 3 to 5 dwelling units per acre. Hartness Phase 4-1 is proposing a density of 1.15 dwelling units per acre.

Staff recommends approval of the plan with the standard and specific requirements.

Discussion: There were no speakers in favor or in opposition of the proposed subdivision.

Mr. Bailey asked Jacob Kelly, the project engineer, about the distance between Highway 14 and the back of the lot line. Mr. Kelly stated approximately 35 feet. Mr. Bailey thought there would be an issue if Highway 14 were ever widened.

Motion: by Ms. Manning, seconded by Mr. Holland, to approve PP-2025-033. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Phillips; J. Holland; D. Franklin; D. Manning) and one in opposition (J. Bailey) with one absent (J. Barbare).

PP-2025-034 Fieldstone Place
VAR2025-106 Fieldstone Place – Undisturbed Buffer Variance

Ms. Staton addressed the Commission members with a preliminary subdivision application for Fieldstone Place, a proposed conventional subdivision located north of the intersection of Blacks Dr. (County) and Roper Mountain Rd (State). The applicant is requesting 6 lots on 3.93 acres for a density of 1.52 units/acre. Access is provided off of Fieldstone Place, which is a County road.

The project includes one ingress/egress point as an extension of an existing County road, 6 lots along a cul-de-sac, one cluster mailbox area, a 5-foot sidewalk, 20-foot undisturbed buffers around the perimeter of the site, except in areas that are requested to be reduced to 15-feet, additional stream buffers per LDR 8.22, one detention pond, and a proposed water main extension.

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated *Suburban Neighborhood*. Suburban Neighborhoods are generally shaped by residential subdivisions of medium-lot homes with relatively uniform housing types and densities. Homes include attached garages. Local streets are laid out in a curvilinear pattern with occasional cul-de-sacs. Streets may or may not include sidewalks. New single-family subdivisions should be designed with sidewalks, street trees, neighborhood parks, and community open space connections. Suburban Neighborhood Character Area types recommend a density of 3 to 5 dwelling units per acre. Fieldstone Place proposes 1.52 units per acre.

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VAR2025-106 was submitted to request a variance from the requirements of LDR 8.21, which requires a 20-foot undisturbed buffer adjacent to residential uses. The applicant is requesting to reduce the buffer to 15 feet and provide additional screening beyond what is required in the areas adjacent to existing residences in Fieldstone Place.

Discussion: There were no speakers in opposition of the proposed subdivision.

There was one speaker in favor of the proposed subdivision, Stephanie Gates, project engineer. Ms. Gates provided a brief overview of the variance request and stated it was needed to keep the proposal a conventional subdivision.

Motion: by Mr. Holland, seconded by Ms. Manning to approve PP-2025-034. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Phillips; J. Holland; D. Franklin; D. Manning) and one in opposition (J. Bailey) with one absent (J. Barbare).

Motion: by Mr. Holland, seconded by Ms. Manning to approve VAR2025-106. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Phillips; J. Holland; D. Franklin; D. Manning) and one in opposition (J. Bailey) with one absent (J. Barbare).

PP-2025-035 Greenheart Village

Ms. Staton addressed the Commission members with a preliminary subdivision application for Greenheart Village, a proposed conventional subdivision located south of the intersection of Fork Shoals Rd. (State) and Log Shoals Rd/Griffin Mill Rd (State). The applicant is requesting 12 lots on 13.03 acres for a density of 0.92 units/acre. Access is provided off of Fork Shoals Rd, which is a State road.

The project includes one full ingress/egress point, 1 internal road, one cluster mail box unit in the cul-de-sac, 20-foot screening buffers around the perimeter of the site, sidewalks per the ordinance, one detention pond, 782 linear feet of new public road.

The subject site is a part of the Greenville County Comprehensive Plan, where it is designated *Mixed Employment Center* and *Rural Living*. Mixed Employment Centers are a new type of office park or corporate campus-like developments geared toward meeting the needs of mid to large businesses. Typical features include signature architectural elements and a campus-style development pattern that connects jobs to amenities and places of residence in a well-organized fashion. Rural Living place types are transitional areas that offer opportunities for low-intensity development that is well-integrated with the natural landscape and agricultural uses. Residential development may occur as individual single-family structures on large lots, or clusters of homes designed to preserve large amounts of interconnected open space. Hobby farms on large lots with residential homesteads are common land uses. Mixed Employment Center Character Area types recommend a density of 8 to 30 dwelling units per acre while Rural Living Character Area types recommend a density of 1 dwelling per every 2+ acres. Greenheart Village proposes 0.92 units per acre.

Staff recommends approval with conditions of the plan with the standard and specific requirements.

The conditions for approval are as follows:

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1. If mitigation is warranted following left turn lane analysis, provide a revised Preliminary Plan showing any mitigations.

Discussion: There were no speakers in opposition of the proposed subdivision.

There was one speaker in favor of the proposed subdivision, Melanie Giles, developer representative. Ms. Giles was available for questions.

Mr. Bailey asked if the houses being close to the road would impede the future expansion of the road. Ms. Giles stated it was possible, but there were large setbacks from the road, and she believed there would be plenty of room for expansion.

Ms. Franklin asked why two lots were flag lots. Ms. Giles stated it was because the property owner is keeping a three-acre lot for themselves and they needed to make two flag lots due to the depth of the parcel.

Mr. Bailey stated per his note to County Council he would be voting against the application due to setbacks from main roads.

Motion: by Mr. Hammond, seconded by Mr. Holland, to approve PP-2025-035. The motion carried by voice vote with seven in favor (F. Hammond; J. Wood; S. Bichel; J. Phillips; J. Holland; D. Franklin; D. Manning) and one in opposition (J. Bailey) with one absent (J. Barbare).

Variance Applications:

VA-2025-038 526 Congaree Road – 10.3.5 Screening and Buffer Variance Request
Ms. Staton addressed the Commission members with a variance application from LDR 10.3.5, which requires a 15-foot landscaped buffer along the exterior property lines adjacent to residential uses and districts to be maintained. According to the applicant, the existing parking lot on site has been in place since 2009. The applicant is expanding the use on site, which requires that the site conform with the ordinance, which requires a 15-foot buffer requirement. The applicant states that previously, no residential use was on-site on the adjacent property. The applicant also states that they will screen the property with vegetative screening per the ordinance.

Staff recommends approval of the variance as requested.

Discussion: None.

Motion: by Mr. Holland, seconded by Ms. Manning, to approve VA-2025-038. The motion carried unanimously by voice vote with one absent (J. Barbare).

6. Planning Report
Ms. Staton presented the April planning report.

7. Old Business
None.

8. New Business

Chairman Bichel checked on the status of the By-Law Committee. Mr. Hammond and Ms. Phillips are currently the only members.

Chairman Bichel stated that Mr. Holland is the Chairman of the nominating committee for the Chairman and Vice Chairman elections.

Chairman Bichel stated that the phone numbers of Planning Commission members had been removed from the website due to potential issues with ex parte communications.

9. Adjourn

Without objection, Chairman Bichel adjourned the meeting at 7:53 p.m.

Respectfully submitted,

Nicole Miglionico

Nicole Miglionico

Recording Secretary

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EXHIBIT
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Department of Community Planning and Development
Subdivision Administration

Subdivision Administrator
(864) 467-5764

April 30, 2025

Waverly Wilkes
Gray Engineering, Inc.
132 Pilgrim Rd.
Greenville, SC 29607

Subject: **O'Neal Farms Phase 2**
Preliminary Subdivision Application #PP-2025-029

Dear Ms. Wilkes:

At their meeting on **April 23, 2025**, the Greenville County Planning Commission denied the above-referenced application.

If desired, an appeal from the decision of the Planning Commission must be made within thirty (30) days from the date of this letter in accordance with Section 6-29-1155 of South Carolina Code of Laws. If you have any questions regarding the Subdivision Process, or if this office can be of any further assistance, please feel free to contact me at (864) 467-4602.

Sincerely,

Meagan Staton
Subdivision Administrator

cc: file

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EXHIBIT
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GREENVILLE COUNTY
LAND DEVELOPMENT REGULATIONS

APRIL 2018

(With Amendments through January 2, 2024)

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ARTICLE 3 GENERAL SUBDIVISION REQUIREMENTS

3.1 [Reserved]

3.2 Project Processing

3.2.1 Incomplete or inaccurate submittals

Incomplete, inaccurate, or erroneous process submittals as of the submittal deadline will not be accepted or processed and will be required to schedule a pre-submittal meeting. It is highly recommended that project submittals are made prior to the deadline so that any deficiencies may be identified with ample time to address them. Projects that are not complete on the submittal day can expect delays.

3.2.2 Authorized Representative

Each submittal must identify on the application form an Authorized Representative, including phone number and email address. All communication regarding the project will be directed to that person. In the event that the Authorized Representative is not available, an alternate may be identified to Subdivision Administration staff.

3.2.3 Application Inactivity

Subdivision applications that are inactive for a period of six months on the applicant's part shall be closed and a new application and fee shall need to be submitted for approvals. After five months of inactivity, staff shall send a reminder letter to the applicant.

3.3 Major Subdivisions (Preliminary Plan Procedures)

3.3.1 Intent

Preliminary Plan**s** are the first step in the Major Subdivision process, where a parcel of land is requested to be divided into seven (7) or more lots with a private or public road. The Preliminary Plan must be brought before the Subdivision Advisory Committee and the Planning Commission. The final step in this process is Final Plat, where legal lots are created, roads accepted, and financial securities are taken for unfinished work.

3.3.2 Pre-Submittal Meeting

Pre-Submittal Meetings are highly recommended, but not required unless an incomplete, inaccurate, or erroneous process submittal is not accepted. This is to identify the proper process and ensure that the applicant can meet approval criteria, therefore streamlining reviews. Pre-Submittal Meetings for subdivisions are scheduled with Subdivision Administration in accordance with the Subdivision Activity Calendar.

3.3.3 Submittal Requirements

Application for preliminary approval of a subdivision plan shall be submitted to the Community Planning, Development and Public Works Department according to the Subdivision Activity Calendar available at the Department office or on the County website. A copy of the preliminary plan of the subdivision shall be such as to meet the minimum requirements contained herein. Upon confirmation that an application is complete and using the proper process, the applicant will be provided with signs to be posted in prominent places on or adjacent to the subject property as directed by staff. At the time the developer posts the required subdivision notice signs, the location of the centerlines of any proposed new roads which intersect the existing road will be staked and flagged.

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Signs should remain posted until the Planning Commission meeting and removed by the applicant within 48 hours of Planning Commission action.

After acceptance and posting, the preliminary plan is submitted to the Subdivision Advisory Committee (SAC) for their review and recommendations. The Authorized Representative will ensure that all comments made at the Subdivision Advisory Committee meeting are fully addressed on the plan during an identified revision period. It is this revised plan that is submitted for the Planning Commission's review and approval, hold, or denial.

To help offset the cost to the county of processing a subdivision plat, a filing fee shall be paid with the application for preliminary plan approval. All fees must be paid in full at the time of application. The fee schedule can be found on the Subdivision Administration website.

Any non-conditional revisions made after Planning Commission action shall be submitted for review with a review fee.

3.3.4 Plan Requirements

A preliminary plan shall be submitted to the Community Planning, Development and Public Works Department for review in a scale of not less than 1 inch to 100 feet and shall include the following. Maximum plat size shall be 24" X 36". (See example and checklist on Subdivision Administration website)

A. A narrative explaining how items brought up at the Pre-Submittal meeting were addressed, as applicable.
B. A preliminary lot layout and a GIS survey of the property of the proposed subdivision showing bearings and distances, along with the following note:
"Undersigned engineer/surveyor acknowledges that these are GIS-based boundaries, which will be fully surveyed using state plane coordinates at Final Plat."
C. The preliminary plan shall conceptually show all future phases of development so that road, infrastructure, and stormwater management connections and relationships may be considered during review. Projects that return as a subsequent phase, without the benefit of phasing review as a preliminary plan, shall apply for a preliminary plan revision to allow the comprehensive review.
D. The name of the subdivision (which shall remain consistent through all processing) ; the owner or owners and current address; the name of the engineer, surveyor, landscape architect, land planner, who prepared the plan;; the names of the adjoining subdivisions or property owners; and location of the proposed subdivision.
E. The location, right of way widths, and inventory numbers of all streets and roads adjacent to any property proposed for subdivision and whether they are public or private.
F. A vicinity map showing the relationship of the property submitted for approval with adjoining property and to all streets or roads existing within 1000 feet of any part of the property to be approved. In addition the property will be located on this sketch from at least one highway or well-known road or intersection by indicating the mileage to the nearest tenth to the property.
G. The location and size (if known) of sanitary and storm sewers, location and size (if known) of water mains, and other utilities immediately adjacent to the tract. Also, the names of the owners of the utilities should be included in the preliminary plan. If water mains and sewers are not on or adjacent to the tract, indicate the direction, distance to, and size of nearest accessible mains. If public sewage facilities are proven infeasible, the developer shall contact SCDHEC for septic

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tank approval information. If the area or any part of the area being platted lies within a sewer or water district, this district shall be shown clearly on the preliminary plan.

H. Topographic contour intervals, not greater than 12-feet, shall be overlaid on the preliminary lot layout.

I. The location of watercourses, live streams, marshes, known wetlands, floodplains and floodways, wooded areas, water impoundments, endangered or threatened species, habitat of endangered or threatened species, existing cemeteries and burial grounds, houses, barns, garages or storage sheds on site and any other significant features on the land proposed for approval. Additionally, the following requirements are part of the plan:

- The location of any historic sites or cemeteries, which merit protection on site.

- Protective measures shall be listed on the plan in a narrative form with ownership and location identified in the notes. These measures shall be in accordance with the laws, ordinances, and regulations of the County of Greenville, State of South Carolina, or Federal Government.

- Existing cemeteries shall be deeded as a separate lot in the subdivision and shall be accessed by a minimum twenty (20) foot wide private or public easement. Major subdivisions shall provide access with a minimum twenty (20) foot wide right-of-way (road construction is not required). Cemeteries shall be fenced in a manner to protect the cemetery and control access. Lots where cemeteries are located are not subject to the provisions of Section 22.3.2.

J. Areas held in common ownership, or areas that are required for stormwater or other infrastructure facilities (mailbox areas, detention ponds, conservation areas, etc.), shall be labeled "Undeveloped Area – A, B, C, etc." and identified as to use, responsibility, and ownership in plan notes.

K. The location, width of all street rights of way, centerline road radii, and other areas proposed to be dedicated to the public or intended for public use and proposed lot lines and approximate lot dimensions.

L. Scale, north arrow, legend and date.

M. Total area stated in acres of the land proposed for subdivision and a table showing the lot number and the approximate area of each proposed lot.

N. Where zoning exists within Greenville County including municipalities, all preliminary subdivision plans shall show the existing zoning classification for the area being platted and all abutting property. The preliminary plan shall comply with the requirements of the Zoning Ordinance in effect in the area proposed for a subdivision. If the area or any part being platted will not meet the minimum requirements of the Zoning Ordinance, and the developer's design requires the area to be rezoned, the developer must make an application for a zoning change with the appropriate authority. The application for rezoning must be submitted to the appropriate legislative body and have received at least second reading approval prior to the submittal of a preliminary subdivision plan.

O. The location of the Cluster Box Units

3.3.5 Plan Review

The SAC is made up of representatives of the following organizations as well as others which the Department may request:

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A. Emergency Management Service Representative
B. Governing Fire District
C. Greenville County Engineering and Maintenance Division
D. Greenville County Floodplain Management Division
E. Greenville County Land Development Division
F. Greenville County School District
G. Greenville Water and/or Appropriate Water System
H. MetroConnects: Sustainable Wastewater Solutions and/or Appropriate Sewer Subdistrict
I. REWA – Renewable Water Resources
J. SCDHEC – Department of Health and Environmental Control
K. Environmental Quality Control and Health Department
L. SCDOT – South Carolina Department of Transportation

The SAC will meet at least 3 days prior to the Planning Commission meeting. The Authorized Representative is required to attend the SAC meeting and the Planning Commission meeting as noted on the application for preliminary approval. Any interested citizens may attend this meeting for information about the subdivision. Upon review of the subdivision by the SAC, a recommendation is made to the Planning Commission. Based on the recommendation of the SAC, and the Community Planning, Development and Public Works Department staff, the Planning Commission may approve, deny, amend or hold the proposed subdivision plan. Such action on the application must occur within 60 days of the date of submittal. An application may be held beyond 60 days by mutual agreement between the applicant and Planning Commission/Staff.

Refer to Section 1.6.1 regarding Planning Commission approval, denial or appeals process.

As authorized by the Planning Commission, preliminary approval of the subdivision plan shall be noted on the plan and certified by the Assistant County Administrator for Community Planning, Development, and Public Works or his/her authorized representative. Also noted shall be the date on which the Planning Commission granted preliminary approval.

Upon approval of the preliminary plan by the Planning Commission, the subdivider may proceed to comply with the specific requirements of these regulations and the preparation of the final subdivision plat. Approval of a preliminary plan shall not constitute approval of the final subdivision plat. Preliminary approval shall constitute approval of the proposed widths and alignments of streets and dimensions and shapes of lots.

All preliminary approvals shall be valid for a period of time not to exceed two (2) years unless a one (1) year extension of time is applied for and granted by Subdivision Administration. After the initial two (2) year period, the developer may apply for a one (1) year extension, not to exceed five (5) total extensions.

An electronic copy of the preliminary plan shall be made available within five (5) working days by the Community Planning, Development and Public Works Department staff for the affected public agencies as well as the Authorized Representative.

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ARTICLE 11 CLUSTER DEVELOPMENTS

11.1 Intent

This section is intended to serve as guidelines for the submittal of preliminary plans for subdivisions in zoned areas utilizing the Open Space options. The Planning Commission shall determine if the preliminary plan(s) is consistent with the purpose and intent of the Zoning Ordinance related to cluster development and open space and these guidelines:

A. Home sites are clustered to preserve open space for recreational, environmental, or ecological reasons;
B. The development preserves open space, tree cover, scenic vistas, natural drainageways, and outstanding natural topography, whenever possible; and
C. Within an existing subdivision, the proposed clustered lots should have the least impact on other properties within the same subdivision.
D. Allowing the flexibility of lot sizes within the zoned areas of the County.
E. Home sites may be clustered to protect sensitive areas, such as wetlands, historic sites/cemeteries, endangered species habitat, or prime agricultural land. In these cases, homeowners and the general public would not have access to these preserved areas. Limited access will be provided to cemeteries for maintenance and family visitation.

11.2 General Provisions

A. The Tree ordinance requirements may be met with trees located within the Open Space. These trees must be clearly identified and labeled as such. A Tree Protection Plan must be submitted and approved.
B. Water quality buffers can be located within the Open Space to meet stormwater management requirements. Permission must be obtained from Land Development Division for use and any alterations of those features.

11.3 Preliminary Plans

In addition to the requirements in Article 3, General Subdivision Requirements, the following information must be provided at the time of submittal for preliminary approval:

11.3.1 Density Table

The preliminary plan should include a table with the number of gross acres, permitted density per acre, required open space (total and breakdown by type), and total number of dwelling units.

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Table 11.1 Sample Density Table

Cluster Development	***Example data***
Gross Acres	*10 acres*
Zoning / Permitted Density	*R-6 / 7.26 units per acre*
Number of Lots/Dwelling Units Allowed	*72*
Number of Lots/Dwelling Units Proposed	*60*
Option ____ Required Open Space	*Option __1__* *Required - 1.5 acres*
Developable Land (50% min)	*1.0 acres*
Undevelopable Land	*0.5 acres*

11.3.2 Open Space Delineation

All property designated for required open space shall be delineated on the preliminary plan. A breakdown of open space in floodplain and on steep slopes should be shown on the preliminary plan in total acres and percentages of gross acres. The Planning Commission shall determine the appropriateness of the dimensions of the required open space. The open space on the preliminary plan should have meaningful dimensions, proportions, and placement.

A. Only the required acreage to meet the Cluster Requirements shall be identified as "Open Space". All other areas that will be owned and maintained by the HOA shall be identified as Common Area.
B. The developable and undevelopable acreage of Open Space shall be shown on the preliminary plan; and proposed uses for these areas shall be shown on the plan.
C. Areas to be wholly preserved, such as wetlands, endangered species habitat, or cemeteries, shall be identified as "Preserved Area - No Access" on the plans. Limited access will be provided to cemeteries for maintenance and family visitation.

Areas designated for Open Space with standing timber, areas of 30% or greater slope, and other natural features should be shown on the preliminary plan.

11.4 Access to Open Space

The required open space must be directly accessible to the largest practical number of lots within the development. Non-adjoining lots must be provided with safe, convenient access to the open space. Each noncontiguous area designated for open space shall have a minimum of one primary access point from an internal subdivision road. Additional secondary access points may be included. Access points to the open space shall have the following restrictions:

A. The primary access point shall be twenty (20) feet in width.
B. Additional secondary access point(s) shall be not less than six (6) feet in width.
C. The primary and any secondary access points to the open space shall be shown as part of the open space and shall not be part of an individual lot nor shall it be an easement.

11.5 Ownership and Maintenance

All land dedicated as Open Space shall have land development restrictions. The easement shall run with the land, provide for protection in perpetuity, and be granted to the owning entity as noted above.

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The owner and developer or subdivider shall select land dedicated for open space purposes and type of ownership. Type of ownership may include, but is not necessarily limited to, the following:

A. The County, subject to acceptance by the governing body;
B. Other public jurisdictions or agencies, subject to their acceptance;
C. Non-profit or quasi-public organizations committed to the protection and conservation of open space, subject to their acceptance;
D. Homeowners Association, or cooperative associations or organizations;
E. Shared, undivided interest by all property owners within the subdivision.

11.5.1 Maintenance of Open Space

The person(s) or entity identified above, as having the right to ownership or control over open space, shall be responsible for its continuing upkeep and proper maintenance.

11.6 Final Plats

For residential developments utilizing open space development options, when recording a Final Plat, in addition to the requirements in Article 3, the following apply:

A. The recorded required acreage for open space on each final plat must be proportional or greater to the total acreage being platted. Subsequent final plats must also meet the proportional requirements for the overall platted acreage.
B. The following information must be shown on the final plat at the time of submittal:

1. Density table, using the same format as on the preliminary plan, and shall include the proportional acreage being recorded. As shown in the exhibit below.

Table 11.2 Density Table Example

Cluster Development	***Entire Development***	***This Plat***	***Cumulative (to date)***
Zoning / Permitted Density	*R-6 / 7.26 units/acre*		
Gross Acres	*10 acres*	*4*	*7*
Number of Lots Allowed	*72*		
Number of Lots Proposed	*60*	*24*	*34*
Required Open Space Option ____ / (15%)	*1.5 acres* *Option 1 / (15%)*	*0.6 acres*	*1.05 acres*
Developable Land (50% min)	*1 acres*	*0.4 acres*	*0.525 acres*
Undevelopable Land	*0.5 acres*	*0.2 acres*	*0.3 acres*

2. Notations indicating the delineated open space, including metes and bounds, are to be shown on the Final Plat;

3. Open Space Easements
Prior to the recording of a subdivision final plat, an easement shall be placed on all lands and private waters used to satisfy the open space requirements of cluster development. The easement shall be solely for the purpose of ensuring the land remains undeveloped

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and shall not, in any way, imply the right of public access or any other right or duty not expressly set forth by the terms of the easement. The easement shall run with the land, provide for protection in perpetuity, and be granted to the County, subject to acceptance, a County-approved non-profit land trust, the Homeowners Association or other qualified organization approved by the County. The easement shall include a complete metes and bounds of the property being designated as open space.

4. Notes to be included on the Final Plat:

   a. This development has been approved by the Planning Commission as a Cluster Development and has provided certain acreage of open space.
   b. Open Space Easement. The removal of trees and natural vegetation is permitted in the development phases for the purpose of utility crossing easements, passive recreational uses and drainage ways with the proper notations on the final plat. Neither the developer, property owners, or other subsequent contractors or builders shall be granted permission to remove or destroy any trees or natural vegetation from the open space area for passive recreational or any other purposes without the express written permission of the community board, or homeowners' association, or property owners, or trustees having jurisdiction over the implementation and enforcement of the subdivision covenants. If some part of the open space was designated to meet stormwater management requirements, permission must be obtained from the Land Development Division for any alteration of the designated open space. Normal maintenance and the removal of dead or fallen trees are permitted and recommended.
   c. The open space for this development is protected by an easement that has been recorded at the Greenville County Register of Deeds Office (Instrument #) and as outlined in the Subdivision Covenants (Instrument #).

5. Subdivision Covenants
   The covenants for the subdivision shall include provisions for the protection of trees and other natural amenities within the property designated for open space. A copy of the covenants is to be provided prior to the recording of a final plat.

6. Access to open space shall be shown on the final plat in conjunction with the requirements of Article 3.

11.7 Existing Subdivisions

Cluster development is permitted in previously platted subdivisions if:

1. A phase of an existing subdivision has received preliminary approval, but site preparation work, including grading, has not begun; and
2. A phase of a subdivision is not completely developed and 100% of all the property owners in that phase agree to the cluster design on the remaining property.

EXHIBIT
22

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COUNTY OF GREENVILLE, SC

ZONING ORDINANCE

Contains amendments adopted by County Council between the original adoption date of June 7, 2005 and June 4, 2025
Contains scrivener's error corrections as of February 22, 2011

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ARTICLE 2 REVIEW AND DECISION-MAKING BODIES

Section 2:1 County Council

2:1.1 Review Authority

The County Council does not act in a review or recommending capacity.

2:1.2 Decision-Making Authority

The County Council shall have final (local) decision-making authority on the following matters:

A. Comprehensive Plan Amendments

B. Zoning Ordinance Text Amendments (see Article 3, Section 3:2)

C. Zoning Map Amendments (Rezonings) (see Article 3, Section 3:2)

D. Major PD Changes to Concept Plans and Statement of Intent (see Article 8, Section 8:1)

E. Acceptance of public dedications (offered as part of Subdivision Plat process (see Section 6.6 of the Greenville County Land Development Regulations).

Section 2:2 Planning Commission

2:2.1 Review Authority

The Planning Commission acts in a review and recommending capacity on the following matters:

A. Comprehensive Plan Amendments

B. Zoning Ordinance Text Amendments (see Article 3, Section 3.2)

C. Zoning Map Amendments (Rezonings); (see Article 3, Section 3.2)

D. Major PD Changes to Concept Plans and Statement of Intent (see Article 8, Section 8.1)

2:2.2 Decision-Making Authority

The Planning Commission acts in a review and recommending capacity on the following matters:

Preliminary Subdivision Plats (see Section 3.1 of the Greenville County Land Development Regulations)

Section 2:3 Board of Zoning Appeals

2:3.1 Review Authority

The Board of Zoning Appeals does not act in a review or recommending capacity.

2:3.2 Decision-Making Authority

The Board of Zoning Appeals shall have final (local) decision-making authority on the following matters:

A. Special Exceptions (see Article 3, Section 3.3)

B. Variances (see Article 3, Section 3.4)

C. Appeals of Administrative Decisions (see Article 3, Section 3.5)

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ARTICLE 7 RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS

Section 7:1 Conventional Residential Development

7:1.1 Conventional Residential Development

A conventional residential development is one in which all land area within the development is devoted to building lots that comply with the minimum lot size limits of the residential zoning district. Unless otherwise expressly declared and approved at the time of preliminary plat approval, all residential subdivisions shall be considered conventional developments.

7:1.2 Permitted Uses

(See Table 6.1)

7:1.3 Minimum Lot Area

The minimum lot areas per dwelling unit for each zoning district are listed in Table 7.1 unless otherwise required by DHEC.

7:1.4 Calculating Minimum Lot Area

When calculating the minimum lot area within all residential districts, the area adjacent to a lot designated as being County owned right-of-way may be included in the computation and determination of the minimum lot area required under this Section. In the case of multiple lot frontages, only the single lot frontage with the greatest length shall be used in computing the minimum lot area.

This provision does not diminish the County's rights and privileges to use the right-of-way nor does it confer any additional rights or privileges concerning the County owned right-of-way to any adjacent landowner.

7:1.5 Lot Area for Non-residential Uses in Single Family Districts

For nonresidential buildings located in single-family districts, the lot area shall be adequate to provide the yard areas required by this section and the off-street parking and loading areas required in Section 12:2 and 12:3, Off-street Parking and Off-street Loading, provided, however, that the lot area for each nonresidential building shall not be less than 30,000 square feet.

7:1.6 Setback/Yard Requirements

Setbacks from existing roads will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.3 and Table 7.4.

7:1.7 Riparian Buffers

Riparian buffers shall be provided along all classes of streams in accordance with the Greenville County Soil and Water Conservation Commission Storm Water Management Design Manual.

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Section 7:2 Open Space Residential Development

7:2.1 Intent

An Open Space Residential Development is a residential subdivision in which dwellings are situated on the most developable portion of the site in exchange for the preservation of substantial amounts of open space for recreational, environmental, and ecological reasons. The purpose of open space development is to provide a method of land development that permits variation in lot sizes without an increase in the overall density of population or development. This allows the subdivision of land into lots of varying sizes which will provide home buyers a choice of lot sizes according to their needs, while at the same time, preserving open space, tree cover, scenic vistas, natural drainage ways, and outstanding natural topography. Such measures prevent soil erosion and flooding by allowing development to occur according to the nature of the terrain; provide larger open areas with greater utility for rest and recreation; and encourage the development of more attractive and economical site design.

The developer, while still building the same number of homes, is able to provide a more economical product to the consumer by reducing the overall cost of required sewer, roads, and other infrastructure. Open Space Development facilitates the economic and efficient provision of public services as well. The resultant subdivision benefits from the open, recreational space and by the placement of houses in a manner more conducive to better social interactions among neighbors.

7:2.2 Open Space Development General Provisions

7:2.2-1 Minimum Lot Area

There is no required minimum lot area per dwelling unit unless otherwise required by DHEC.

7:2.2-2 Yard Requirements

There is no minimum lot width, except as required by DHEC and/or the International Building Code.

7:2.2-3 Open Space Ownership, Dedication, and Management

A. Ownership of Open Space - The owner and developer, or subdivider, shall select land dedicated for open space purposes and type of ownership. Type of ownership may include, but is not necessarily limited to, the following:

1. The County, subject to acceptance by the governing body;
2. Other public jurisdictions or agencies, subject to their acceptance;
3. Non-profit or quasi-public organizations committed to the protection and conservation of open space, subject to their acceptance;
4. Homeowner or cooperative associations or organizations; or
5. Shared, undivided interest by all property owners within the subdivision.

B. Maintenance of open space - The person(s) or entity identified above, as having the right to ownership or control over open space, shall be responsible for its continuing upkeep and proper maintenance.

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7:2.2-4 Effective Date

In order to use the Open Space Residential Development option, developers must declare their intent to use the Open Space Development provisions at the time that the preliminary plat for the subdivision is submitted.

Any subdivision under consideration by the Planning Commission after the effective date of this ordinance is eligible to be considered for open space development, based on the requirements herein. Any subdivision approved prior to the effective date of this ordinance is required to be reconsidered by the Greenville County Planning Commission in accordance with the Greenville County Land Development Regulations.

7:2.3 Open Space Development Options

Two Open Space development options are available for developers to choose from. The requirements for each of the two options are listed below.

7:2.4 Open Space Residential Development, Option #1

7:2.4-1 Minimum Areas

The minimum tract area for a open space residential development shall be two (2) acres. The minimum area shall consist of contiguous parcels, not divided by an existing public or private road or a recreational or navigable body of water.

7:2.4-2 Setback

No structures shall be erected within 25 feet from any external lot line of any Open Space Development, otherwise no front, side, or rear setbacks are required for internal lots. Front setbacks from existing roads will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.

7:2.4-3 Permitted Uses

A. Single-Family Detached Dwellings

B. Single-Family Zero Lot Line Dwellings

C. Single-Family Attached Dwellings

7:2.4-4 Single-Family Attached

Single-family attached dwellings are permitted subject to the following requirements.

A. Any attached unit must be a townhouse and excludes condominiums.

B. Attached units must be contained within the subdivision and not part of any exterior lot except in those areas where exterior lots are adjacent to land zoned for commercial, office or multifamily development.

C. Attached units shall not exceed more than 6 attached units per structure.

D. Attached units shall not be located on preexisting platted lots within a subdivision.

7:2.4-5 Permitted Density

The overall number of dwellings allowed in an Open Space Development under **Option #1** may be found in Table 7.1.

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7:2.4-6 Required Open Space

In an Open Space Development under **Option #1**, a minimum percentage of the total acreage must be designated as open space. The required open space in may include both developable and undevelopable land, as defined in Article 4. Definitions. In the R-R3, R-R1, R-S and R-20, R-20A districts, the required open space is not limited to certain percentages of each type of land. Of that land dedicated for open space in the R-M2 through R-M20, R-MA, R-6, R-7.5, R-10, R-12, and R-15 districts, a minimum of fifty percent (50%) of the total open space must be considered developable land, as defined in Article 4. Definitions.

Land dedicated as open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The open space shall be contiguous to the extent practicable. Land dedicated to open space shall not include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses. Recreational lakes or ponds used for storm water management may be included in the land designated as open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required open space.

7:2.4-7 Riparian Buffers

Riparian buffers shall be provided along all classes of streams in accordance with the Greenville County Soil and Water Conservation Commission Storm Water Management Design Manual.

7:2.5 Open Space Residential Development, Option #2

7:2.5-1 Minimum Areas

The minimum tract area for a open space residential development shall be five (5) acres. The minimum area shall consist of contiguous parcels, not divided by an existing public or private road or a recreational or navigable body of water.

7:2.5-2 Setback

No structures shall be erected within 25 feet from any external lot line of any Open Space Development; otherwise no front, side, or rear setbacks are required for internal lots. Front setbacks from existing roads will be consistent with the requirements outlined in the appropriate zoning district and listed in Section 7:3, Table 7.4.

7:2.5-3 Permitted Uses

A. Single-Family Detached Dwellings

B. Single-Family Zero Lot Line Dwellings

C. Single-Family Attached Dwellings

7:2.5-4 Single-Family Attached

Single-family attached dwellings are permitted subject to the following requirements.

A. Any attached unit must be a townhouse and excludes condominiums.

B. Attached units must be contained within the subdivision and not part of any exterior lot except in those areas where exterior lots are adjacent to land zoned for commercial, office or multifamily development.

C. Attached units shall not exceed more than 6 attached units per structure.

D. Attached units shall not be located on preexisting platted lots within a subdivision.

7:2.5-5 Permitted Density

The overall number of dwellings allowed in an Open Space Development under **Option #2** may be found in Table 7.1.

7:2.5-6 Required Common Open Space

In a Common Open Space Development under **Option #2**, a minimum percentage of the total acreage must be designated as open space. The required open space in may include both developable and undevelopable land, as defined in Article 4. Definitions.

Not more than 50% of the required common open space may be used for active recreation; playgrounds, golf courses, and multi-use ball fields. With the exception of paved walking paths, the active recreation areas used to meet the common open space requirements may not contain impervious surfaces.

Land dedicated as common open space shall be of meaningful proportions and dimensions so as to be consistent with the purpose and intent of this section. The common open space shall be contiguous to the extent practicable. Land dedicated to common open space shall not include land dedicated for uses such as community swimming pool(s), clubhouse(s), and similar uses. Recreational lakes or ponds used for storm water management may be included in the land designated as common open space. Fenced detention or retention areas used for storm water management shall not be included in the calculation of required common open space.

7:2.5-7 Riparian Buffers

Riparian buffers shall be provided along all classes of streams in accordance with the Greenville County Soil and Water Conservation Commission Storm Water Management Design Manual.

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7:2.6 Minimum Lot Area/Permitted Densities for Single-Family Residential

The minimum lot area for conventional zoning, and densities (units/acre) provided for in each open space development option may be found in the following table. All densities are based on the total number of dwelling units divided by the total number of acres (both developed land and undeveloped land).

Table 7.1 Minimum Lot Area/Permitted Densities for Single-Family Residential

Table 7.1 Minimum Lot Area/Permitted Densities for Single-Family Residential			
		Density Based Residential	
District	**Conventional Development**	**Open Space Development Option #1**	**Open Space Development Option #2**
	Minimum Lot Size: sq. ft.	Units/Acre	Units/Acre
R-6	6,000	7.3 per acre	7.3 per acre
R-7.5	7,500	5.8 per acre	5.8 per acre
R-10	10,000	4.4 per acre	4.4 per acre
R-12	12,000	3.6 per acre	3.6 per acre
R-15	15,000	2.9 per acre	2.9 per acre
R-20 / R-20A	20,000	2.2 per acre	2.2 per acre
R-S Without public water	25,000 or 37,500 (Section 5:4.5)	1.7 per acre 1.2 per acre	1.7 per acre 1.2 per acre
ESD-PM	See Section 8:5	See Section 8:5	See Section 8:5
R-R1	43,560 (1 acre)	1.0 per acre	1.0 per acre
R-R3	130,680 (3 acres)	N/A	N/A
AG	217,800 (5 acres)		
R-M2 / R-M20	7,500	N/A	N/A
R-MA	7,500	N/A	N/A
R-MHP	87,120 (2 acres)	N/A	N/A

Table 7.2 Open Space Residential Development Options

Table 7.2 Open Space Residential Development Options														
Required Common Open Space											**Single Family Detached =S-FD Single Family Attached =S-FA**			
	R-M 2 through R-M20	**R-MA**	**R-6**	**R-7.5**	**R-10**	**R-12**	**R-15**	**R-20 / R-20A**	**R-S**	**RR-1**	**RR-3**	**Min. Tract Area**	**Min. Lot Area**	**Unit Types Permitted**
Option #1	15%	15%	15 %	15 %	15 %	15 %	15 %	30%	30 %	40 %	50%	2 acres	N	S-FD and S-FA
Option #2	30%	30%	30 %	30 %	30 %	30 %	30 %	45%	45 %	55 %	65%	5 acres	N	S-FD and S-FA

(Am. Ord. 4389 § 1(2), passed 11-2-2010)

EXHIBIT
23

BYLAWS
GREENVILLE COUNTY PLANNING COMMISSION

Article I
Organization

Section 1. Rules.
These rules of procedure are adopted pursuant to *S.C. Code 6-29-360* for the Greenville County Planning Commission, which consists of nine members appointed by the governing body, Greenville County Council.

Section 2. Officers.
The officers of the Commission shall be a Chair and Vice Chair elected by the Commissioners for one-year terms at the May meeting of the Commission in each calendar year. The Administrative Coordinator or an Assistant to the Assistant County Administrator shall serve as Secretary of the Commission.

Section 3. Chair.
The Chair shall be a voting member of the Commission and shall:

a. Call meetings of the Commission;
b. Preside at meetings and hearings;
c. Act as spokesperson for the Commission;
d. Sign documents for the Commission;
e. Transmit reports and recommendations to Council; and
f. Perform other duties approved by the Commission.

Section 4. Vice Chair.
The Vice Chair shall exercise the duties of the chair in the absence, disability, or disqualification of the chair. In the absence of the Chair and Vice Chair, an acting Chair shall be elected by the members present.

Section 5. Secretary.
The Secretary shall:

a. Provide notice of meetings;
b. Assist the Assistant County Administrator or his/her designee in preparation of agendas;
c. Keep minutes of meetings and hearings;
d. Maintain commission records as public records;
e. Maintain an attendance record of all commissioners; and
f. Perform other duties normally carried out by a secretary.

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Article II
Meetings

Section 1. Regular Meetings.
A regular meeting of the Commission shall be held on the fourth Wednesday of each month, convening at 4:30 p.m. When a regular meeting day falls on a legal holiday as recognized by Greenville County, the meeting shall be held on the following day, unless an alternative date and/or time is announced and approved by the Commission in advance. The regular meeting in January shall be deemed the annual meeting.

Section 2. Special Meetings.
Special meetings may be held at the call of the Chair or of an acting Chair, provided that notice of such meeting shall be given to all members at least forty-eight hours before the hour of which the meeting is called along with all required public notice and agenda requirements.

Section 3. Agenda.
A written agenda shall be furnished by the Secretary to each member of the Commission and the news media and shall be posted at least five (5) days prior to each regular meeting and at least forty-eight (48) hours prior to a special meeting.

Section 4. Quorum.
A majority of the members of the Commission shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting.

Section 5. Rules of Order.
Robert's Rules of Order shall govern the conduct of meetings, except as otherwise provided by these Rules of Procedure.

Section 6. Voting.
A member must be present to vote. Each member shall be eligible to vote on every question unless disqualified by law. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, give it to the Chair in writing, have it placed in the minutes, and refrain from deliberating or voting on the question.

A majority vote, of all Planning Commissioners, shall be required to pass or deny (depending on the motion made) subdivision applications, variances and resolutions. Any of these matters receiving a tie vote fails so the application is denied. For rezonings and amendments (except for Bylaws), a majority vote, for approval, is required for an Approval Recommendation to County Council. A majority vote for denial is required for a Denial Recommendation or a tie vote shall be sent to County Council as a Denial Recommendation.

Section 7. Conduct.
Except for public hearings, no person shall speak at a Commission meeting unless invited to do so by the Commission.

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Article III
Committees

Section 1. Special Committees.
The Chair of the Planning Commission may create special committees, without limit as to number of members, to study items that, in his/her judgment, require special attention. The Chair of the Planning Commission shall designate one member to Chair the special committee.

Section 2. Committee Meetings.
Any committee shall meet at the call of its Chair. A majority of the members of the Committee shall constitute a quorum. Committee meetings shall comply with the notice and agenda requirements of the S.C. Freedom of Information Act.

Article IV
Public Hearings

Section 1. Notice.
The Secretary shall give the notice required by statute or ordinance for all public hearings conducted by the Commission. Members of the public desiring to be heard shall give written notice to the Secretary prior to commencement of the hearing.

Section 2. Procedure.
In matters brought before the Commission for public hearing which were initiated by an applicant, staff shall be heard first, members of the public will be heard next, and then the applicant or his/her representative. Speaking times shall be ten (10) minutes in favor and ten (10) minutes in opposition unless otherwise set or limited at the discretion of the Chair. All questions shall be posed by members of the Commission. In matters not initiated by an applicant, members of the public shall speak in the order in which requests were received, or in such order as the Commission shall determine.

Article V
Records

Section 1. Minutes.
The Secretary shall record all meetings and hearings of the Commission electronically, which recording shall be preserved until final action is taken on all matters presented. The Secretary shall prepare minutes of each meeting for approval by the Commission at the next regular meeting. Minutes shall be maintained as public records.

Section 2. Reports.
The Secretary shall assist in the preparation and forwarding of all reports and recommendations of the Commission in appropriate form. Copies of all notices, correspondence, reports, and forms shall be maintained as public records.

Section 3. Attendance.
The minutes shall show the members in attendance at each meeting. The Chair shall contact any member who is absent from three (3) meetings to inquire about the absences and determine if the member wishes to continue serving on the Commission. The Chair shall notify County Council of any circumstances that will cause continuing attendance problems.

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Article VI
Review Procedure

Section 1. Zoning Amendments.
Proposed zoning text and map amendments shall be considered, and recommendations shall be forwarded to the governing body within thirty (30) days after receipt of the proposed amendments, unless additional time is given by the governing body.

Section 2. Plats.
Plats submitted for review pursuant to land development regulations shall be reviewed by designated staff members who may approve for recording plats of existing lots of record, summary plats, and any subdivisions which are exempt from regulation pursuant to S.C. Code Ann. 6-29-1110(2), as amended. Unless otherwise designated by the Commission, all other plats shall be subject to review and approval by the Commission.

Section 3. Comprehensive Plan.
All rezoning and land development regulations shall be reviewed first for conformity with the Comprehensive Plan. Conflicts with the Comprehensive Plan shall be noted in any report to the governing body on a proposed amendment. The elements of the Comprehensive Plan shall be reviewed and updated on a schedule adopted by the Commission and meeting the requirements of S.C. Code Ann. 6-29-510(E), as amended.

Section 4. Reconsideration.
The Commission may reconsider any review when so requested by the governing body, or when an applicant brings to the attention of the Commission new facts, a mistake of fact in the original review, correction of clerical error, or matters not the fault of the applicant that affect the result of the review. In the event an applicant is requesting reconsideration of a plat that has been denied by the Commission, the request must be made in time for the reconsideration to be included on the published agenda for the next regular Commission meeting after the meeting where the plat was denied.

Article VII
Assistant County Administrator

Section 1. General Duties.
The Assistant County Administrator shall be appointed by the County Administrator and serve at his pleasure. The Assistant County Administrator and the Planning Director shall be responsible to the County Administrator for operating the office; reporting on its operation and maintaining its records; employing personnel for authorized positions; directing, disciplining, and coordinating the activities of employees; and budgeting in accordance with procedures approved by the County Council.

Section 2. Representation.
The Assistant County Administrator or his/her designee (Planning Director) shall, in the absence of the Chair, represent the Commission before the County Council, County Legislative Delegation, or before any other public agency or public officer. Toward this end, the Assistant County Administrator or his/her designee (Planning Director) shall make official recommendations in accordance with adopted portions of the Comprehensive Plan or in accordance with other action by the Commission on matters that are referred to the Commission for its advice, provided that, when there is an obvious conflict of interest, public controversy, or uncertainty as to the approved plans, policies, or procedures, presentation of the matter shall be made at a meeting of the Commission. The Assistant County Administrator or his/her designee (Planning Director) shall have the authority, within the limits of policy as formulated by the

Commission, to conduct a program of public relations and to execute documents in the name of the Commission in accordance with policy approved by the Commission, including progress reports on governmental grant-in-aid programs, but not including documents that would constitute the acceptance of gifts.

Article VIII
Finances

Section 1. Budget.
The Assistant County Administrator in conjunction with the Planning Director shall submit written recommendations to the County Administrator for funding in the two-year annual budget in accordance with the County of Greenville's budget and financial policies.

Section 2. Personnel.
The Assistant County Administrator and Planning Director shall employ such staff and consultants as may be authorized and funded by budget, or make recommendations for staff members to be employed by the County. Consultants shall be engaged in accordance with the provisions of the Greenville County Procurement Ordinance.

Section 3. Commissioner Service.
In accordance with Greenville County policy, members of the Commission shall serve without compensation.

Section 4. Training.
Commissioners are required to attend an established number of certified training hours each year. Commissioners are eligible for reimbursement of expenses incurred in attendance at authorized training opportunities in accordance with budgeted funds and County reimbursement policies.

Article IX
Suspension and Amendment

Section 1. Suspension of Bylaws.
The Commission may suspend any of these Bylaws by unanimous vote of the members present constituting a quorum.

Section 2. Amendment of Bylaws.
These Bylaws may be amended, after consideration and discussion, by the affirmative vote of two-thirds of the appointed members of the Commission.

Section 3. Adoption of Bylaws.
These Bylaws were adopted by the affirmative vote of two-thirds of the appointed members of the Commission at a regular public meeting on March 27, 2019.

Amended October 26, 2005, to change the election of Chairman from the January meeting to the May meeting of each year.

Amended August 18, 2006, to change the Amendment of Bylaws by the affirmative vote of two-thirds of the appointed members of the Commission.

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Amended April 25, 2007, to reflect the restructuring of the duties of the Commission as reflected in Ordinance Number 4086.

Amended November 28, 2007, to reflect starting time of meeting.

Amended February 24, 2010, to reflect starting time of meeting.

Amended January 22, 2014, to reflect starting time of meeting being 4:30 p.m.

Amended March 27, 2019 as follows:

- To clarify when a regular meeting date may be changed.
- To clarify the public notice for special meetings.
- To clarify that all members are eligible to vote.
- To clarify that committee meetings in which a quorum of Commissioners are present must comply with the S. C. Freedom of Information Act.
- To revise the procedure for public hearings at Planning Commission meetings to reflect actual practice.
- To clarify that the Secretary will make electronic recordings of all meetings.
- To clarify attendance requirements for Commissioners.
- To clarify the process for reconsideration.
- To add Article VIII, Sections 3 and 4, Commissioner Service and Training.
- To update role of Assistant County Administrator and staff.

Amended March 26, 2025 to add the following paragraph to Section 6. Voting.

A majority vote, of all Planning Commissioners, shall be required to pass or deny (depending on the motion made) subdivision applications, variances and resolutions. Any of these matters receiving a tie vote fails so the application is denied. For rezonings and amendments (except for Bylaws), a majority vote, for approval, is required for an Approval Recommendation to County Council. A majority vote for denial is required for a Denial Recommendation or a tie vote shall be sent to County Council as a Denial Recommendation.

X

Steven Bichel
Planning Commission Chairman

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF GREENVILLE	)	
AJC-101 Holdings, LLC,	)	
	)	Civil Action No. 2025-CP-23-3365
Appellant,	)	
	)	
v.	)	
	)	**BRIEF OF RESPONDENT**
Greenville County Planning Commission,	)	
	)	
Respondent.	)	
_____	)	

The Respondent Greenville County Planning Commission submits this memorandum of law in opposition to the appeal from the Planning Commission as filed by the Appellant AJC-101 Holdings, LLC.

STANDARD OF REVIEW

S.C. Code Ann. § 6-29-840 prescribes the standard of review a Circuit Court shall apply when considering an appeal from a local planning commission. In *Kurschner v. City of Camden Planning Commission*, 376 S.C. 165, 656 S.E.2d 346 (2008), the South Carolina Supreme Court cited S.C. Code Ann. § 6-29-840 in holding that the Circuit Court "must uphold the Commission decision unless there is no evidence to support it." 656 S.E.2d at 351. The Supreme Court further explained:

> We refuse to apply a standard of review different from the any evidence standard in this case, for any other standard of review would be contrary to the legislature's intent in granting a planning commission broad discretion in this area. Furthermore, this standard of review does not violate the Kurschner's due process rights.

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Id. The Supreme Court concluded that the "any evidence" standard had been "consistently utilized in these types of cases." *Id*. Thus, under the prevailing standard of review, the findings of fact by the Planning Commission "must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence." S.C. Code Ann. § 6-29-840.

The articulation of the applicable standard of review was reaffirmed five years after *Kurschner* in the case of *Town of Hollywood v. Floyd*, 403 S.C. 466, 744 S.E.2d 161 (2013), in which the Supreme Court cited *Kurschner* and defined the standard of review as follows: "By statute, the trial court must uphold a decision by the Planning Commission unless there is no evidence to support it." 744 S.E.2d at 166. (Citation omitted).

The standard of review further provides that "[i]n determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law." S.C. Code Ann. § 6-29-840(A). *See*, *Clear Channel Outdoor v. City of Myrtle Beach*, 360 S.C. 459, 602 S.E.2d 76 (Ct. App. 2004) ("[a]ppeal to the circuit court is only for a determination of whether the board's decision is correct as a matter of law"); *Bennett v. Sullivan's Island Board of Adjustment*, 313 S.C. 455, 438 S.E.2d 273, 275 (Ct. App. 1993) ([b]ecause the findings of fact by the Board of Adjustment are final and conclusive on appeal, our scope of review is limited to determining whether the decision of the Board is correct as a matter of law"). It is important to note that a court will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with the decision." *McCrowey v. Zoning Board of Adjustment of City of Rock Hill*, 360 S.C. 301, 599 S.E.2d 617, 619 (Ct. App. 2004).

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BACKGROUND

This is an appeal from a decision by the Respondent Greenville County Planning Commission. The Appellant AJC-101 Holdings, LLC, through Gray Engineering Consultants, submitted a Preliminary Subdivision Application to subdivide the subject property owned by the Appellant. That Preliminary Subdivision Application came before the Planning Commission for review at its April 23, 2025 meeting. The application had previously been before the Planning Commission which issued a denial in October 2024. At the April 23, 2025 meeting, the Planning Commission heard testimony from Waverly Wilkes of Gray Engineering as well as from three interested parties, including the president of the O'Neal Farms HOA. The interested parties all opposed approval of the application and preliminary plat. The Planning Commission by a 5-3 vote, denied the application and preliminary plat at its April 23, 2025 meeting. The Appellant subsequently filed a Notice of Appeal and Petition on May 28, 2025.

LEGAL ANALYSIS

I. Appeal is Untimely and Court Lacks Appellate Jurisdiction

The Appellant's Notice of Appeal and Petition are jurisdictionally barred because they were not timely filed as required by S.C. Code Ann. § 6-29-1150(D)(1). In *Vulcan Materials Co. v. Greenville County Board of Adjustment,* 342 S.C. 480, 536 S.E.2d 892 (Ct. App. 2000), the Court of Appeals held that "the timeliness of an appeal from a zoning board's decision is a jurisdictional requirement." 536 S.E.2d at 896, n.7. The timeliness of an appeal from a planning commission is no different.

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In *Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 621 S.E.2d 361 (Ct. App. 2005), the Court of Appeals held that S.C. Code Ann. § 6-29-900(A) "mandates an appeal to the circuit court must be made 'within thirty days after the affected party receives *actual notice* of the decision.' Thus, the triggering mechanism for filing an appeal is actual notice of the adverse decision, not receipt of the written notice." 621 S.E.2d at 362-363. (Emphasis in original). The Supreme Court further explained that "[a]ctual notice is synonymous with knowledge," and as a result, "[n]otice is regarded as actual where the person sought to be charged therewith either knows of the existence of the particular facts in question or is conscious of having the means of knowing it, even though such means may not be employed by him." 621 S.E.2d at 363. In *Blind Tiger*, the appealing party was present at the meeting of the Charleston County Board of Architectural Review when the decision on appeal was rendered, and the Supreme Court found that the thirty-day deadline to file an appeal ran from the date of the Board's meeting. *Id*.

The same is true in the case at bar. S.C. Code Ann. § 6-29-1150(D)(1) provides that "[a]n appeal from the decision of the planning commission must be *taken* to the circuit court within thirty days after *actual notice* of the decision." *See*, S.C. Code Ann. § 6-29-1150(D)(1). (Emphasis added). Importantly, as in *Bling Tiger*, actual notice of the decision occurs on the date of the hearing where the decision is rendered, which in this case would be April 23, 2025. As the record demonstrates, the Planning Commission issued its decision at the April 23, 2025 meeting. The Appellant filed the Notice of Appeal and Petition on May 28, 2025.

S.C. Code Ann. § 6-29-1150(D)(2) does allow for a different appellate filing date where the property owner also makes a request for pre-litigation mediation. In that instance, S.C. Code Ann. § 6-29-1150(D)(2) provides that "[a] notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed." *See*, S.C.

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Code Ann. § 6-29-1150(D)(2). However, the Appellant did *not* include a Request for Pre-Litigation Mediation with its Notice of Appeal. Therefore, the timing for the appeal set forth in S.C. Code Ann. § 6-29-1150(D)(2) is not applicable here. In sum, as what occurred in *Blind Tiger,* the service of the Notice of Appeal on May 28, 2025 was late, and as a result, this Court lacks appellate jurisdiction and should dismiss the appeal on those grounds alone.

II. Local Planning Commission Not Required to Issue Formal Written Decision with Findings of Fact and Conclusions of Law

On appeal, the Appellant contends that the Respondent Planning Commission erred in failing to make findings of fact and conclusions of law in denying the preliminary plat for the O'Neal Farms (Phase II) subdivision. That argument is raised for the first time on appeal. The Appellant never sought reconsideration from the Planning Commission on the basis that it did not issue a formal decision or that the Appellant did not understand the bases for the denial. It is well settled in South Carolina appellate jurisprudence that new arguments may not be made for the first time on appeal and are not preserved for appellate review. *See, Wilder Corp. v. Wilkie*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("it is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review"). Thus, this issue is not preserved for appellate review.

Nonetheless, even if this Court considers the merits of the issue, a review of the applicable statutes demonstrate that a local planning commission is *not required* by law to issue findings of fact and conclusions of law. Instead, the Commission's meeting minutes, the video or transcript of the meeting, and the file materials provide the record of the Planning Commission's actions.

Specifically, an analysis of this issue necessarily begins with the applicable statute governing the conduct of a local planning commission. S.C. Code Ann. § 6-29-1150(B) provides:

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"A record of all actions on all land development plans and subdivision plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken." S.C. Code Ann. § 6-29-1150(B). The statute includes *no express requirement* that a planning commission prepare a formal written decision with findings of fact and conclusions of law.

To determine the legislative intent on this issue, it is also necessary to examine other parts of the same statutory scheme, namely the South Carolina Local Government Comprehensive Planning Enabling Act, which are *in pari materia* and should be construed together. *See*, *Joiner ex rel. Rivas v. Rivas,* 342 S.C. 102, 109, 536 S.E.2d 372, 375 (2000) ("it is well settled that statutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result"). As this Court has instructed, "[s]tatutes must be read as a whole and sections that are part of the same statutory scheme must be construed together." *Myat v. Tuomey Regional Medical Center*, 427 S.C. 601, 832 S.E.2d 306, 311 (Ct. App. 2019). Within the same statutory scheme, the General Assembly expressly included language requiring a board of zoning appeals to provide on appeal "the decision of the board including its findings of fact and conclusions." S.C. Code Ann. § 6-29-830(A). That same requirement, however, was not made of a local planning commission, likely in recognition of the differing roles the two bodies play. Importantly, the absence of the requirement for a formal decision with findings of fact and conclusions of law in the statute governing a local planning commission demonstrates that the General Assembly did not intend to require such a formal decision on each matter addressed by a planning commission.

Moreover, our appellate courts have recognized that "detailed orders" with findings of fact and conclusions of law are not even necessary to ensure meaningful appellate review. In *Porter v.*

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Labor Depot, 372 S.C. 560, 643 S.E.2d 96 (Ct. App. 2007), the Court of Appeals recognized that "not all situations require a detailed order, and the circuit court's form order may be sufficient if the appellate court can ascertain the basis for the circuit court's ruling from the record on appeal." 643 S.E.2d at 100. This Court further acknowledged that "courts reviewing the decisions of administrative agencies may look to written documents as well as records of proceedings as sufficient formats for final decisions." *Id*.

In sum, as the statutory law reflects, the Planning Commission was not required to issue a formal written decision with findings of fact and conclusions of law. Instead, the minutes and transcript of the meeting and submittals to the Planning Commission provide a sufficient record to allow for a meaningful review of the Planning Commission's decision in denying the preliminary subdivision plat at its meeting on April 23, 2025.

III. Planning Commission Acted within its Authority to Deny Preliminary Subdivision Plat

In its Notice of Appeal, the Appellant appears to challenge the Planning Commission's authority to deny the subdivision application and preliminary plat. The Appellant's position is legally incorrect.

By way of background, the Planning Commission was established pursuant to the South Carolina Local Government Comprehensive Planning Enabling Act, S.C. Code Ann. § 6-29-310, *et seq*. In accordance with S.C. Code Ann. § 6-29-340, county planning commissions are conferred "with the power to implement and to oversee the administration of regulations for the growth and development of land." *Kurschner v. City of Camden Planning Commission*, 376 S.C. 165, 656 S.E.2d 346, 350 (2008). According to the Supreme Court in *Kurschner*, the General Assembly intended to grant "a planning commission broad discretion in this area." 656 S.E.2d at

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352. Specifically, with respect to a planning commission's quasi-judicial role in approving subdivision plans, including preliminary plats, S.C. Code Ann. § 6-29-1150(A) states:

> The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval.

S.C. Code Ann. § 6-29-1150(A).

Article 1.2 of the Greenville County Land Development Regulations (LDR) provides as follows:

> The public health, safety, economy, good order, appearance, convenience, morals, and general welfare require the harmonious, orderly, and progressive development of land within the municipalities and counties of the State of South Carolina. In furtherance of this general intent, the regulation of land development by counties is authorized for the following purposes, among others:
>
> A. To encourage the development of economically sound and stable counties;
>
> B. To assure the timely provision of required streets, utilities, and other facilities and services to new land developments;
>
> C. To assure the adequate provision of safe and convenient multimodal traffic access and circulation in and through new land developments;
>
> D. To assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and,
>
> E. To assure, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the comprehensive plans of counties.

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See, LDR Article 1.2. Consistent with S.C. Code Ann. § 6-29-1150(A), the LDR Article 3.3.5 bestows the Planning Commission with the authority to "approve, deny, amend, or hold the proposed subdivision plan." *See*, LDR Article 3.3.5. LDR Article 3 does not place any express limitations on what the Supreme Court has described as the "broad discretion" bestowed on local planning commissions under state law. Additionally, with respect to cluster developments, Article 11.1 states that "[t]he Planning Commission shall determine if the preliminary plan(s) is consistent with the purpose and intent of the Zoning Ordinance related to cluster development and open space and these guidelines," after which there are five guidelines listed. *See*, LDR Article 3.3.5. Thus, the Planning Commission has the authority to fulfill the "broad discretion" as identified by the Supreme Court including acting within the legislative parameters described in LDR Article 1.2.

In sum, contrary to the Appellant's position, the Planning Commission clearly was acting within its quasi-judicial authority to approve or deny the Appellant's subdivision application and preliminary plat.

IV. Decision of the Planning Commission Satisfies the Any Evidence Standard

The Appellant also challenges the evidentiary basis for the Planning Commission's decision denying the preliminary subdivision plat for the O'Neal Farms (Phase II) subdivision. There is, however, sufficient evidence in the record to meet the "any evidence" threshold. As the minutes as well as the video recording of the April 23, 2025 meeting reflect, the Planning Commission received testimony and additional information from the Appellant and those opposing the development to support its ultimate decision to deny the preliminary plat.

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For starters, the Appellant fully conceded during the meeting that a current Traffic Impact Study had not been submitted. The Traffic Impact Study in the record was dated July 2023, and in bold red letters is described only as a "Draft." The Appellant's representative from Gray Engineering conceded during the meeting that the Traffic Impact Study needed to be "updated" and submitted. Thus, the Planning Commission, as one member pointed out in her questions, did not even have complete information in which to evaluate the preliminary plat. LRD Article 9.1 states that a Traffic Impact Study (TIS) "helps identify significant impacts on safety, traffic and transportation operations," and "[u]ltimately, the TIS can be used to assess if the scale of the development is appropriate for a particular site." *See*, LDR Article 9.1. The O'Neal Farms (Phase II) development is intended to be built behind the O'Neal Farms (Phase I), and the new development is designed to utilize an existing County road, namely O'Neal Farms Way, for ingress and egress. Based thereon, there were concerns expressed by the citizen participants at the meeting regarding the impact on safety of the additional traffic generated by the sheer scope of the 147 additional homes using O'Neal Farms Way, through an existing subdivision. The Planning Commission was certainly acting within its discretion, based on the admitted failure to submit an updated Traffic Impact Study, to deny the preliminary plat.

Additionally, as the discussion during the meeting reflects, there were also concerns expressed with whether the Appellant fully complied with the "open space" requirements under the LDR Article 11. In fact, LDR 11.3.2 states: "The Planning Commission shall determine the appropriateness of the dimensions of the required open space. The open space on the preliminary plan should have meaningful dimensions, proportions, and placement." *See*, LDR 11.3.2. On appeal, the Appellant has pointed to no evidence that such concerns have no basis in the record. In fact, that issue is not even raised in the Notice of Appeal.

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In sum, the decision-making by the Planning Commission is subject to a very deferential standard of review. This Court is not permitted to substitute its judgment for that of the Planning Commission. The record demonstrates nonetheless that there was sufficient evidence before the Planning Commission to support its decision to deny the Appellant's preliminary subdivision application and plat as decided at the April 23, 2025 meeting.

CONCLUSION

Based on the foregoing discussion, the Respondent Greenville County Planning Commission respectfully requests that the Court dismiss the Appellant's appeal for lack of appellate jurisdiction, or alternatively, affirm the decision of the Planning Commission to deny preliminary subdivision application and plat as decided at its April 23, 2025 meeting.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

BY: *s/ Andrew F. Lindemann*

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Counsel for Respondent
Greenville County Planning Commission

September 14, 2025

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF GREENVILLE	)	
AJC-101 Holdings, LLC,	)	
	)	Civil Action No. 2025-CP-23-3365
Appellant,	)	
	)	
v.	)	
	)	**BRIEF OF RESPONDENT**
Greenville County Planning Commission,	)	**(Corrected Version)**
	)	
Respondent.	)	
_____	)	

The Respondent Greenville County Planning Commission submits this memorandum of law in opposition to the appeal from the Planning Commission as filed by the Appellant AJC-101 Holdings, LLC.

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> We refuse to apply a standard of review different from the any evidence standard in this case, for any other standard of review would be contrary to the legislature's intent in granting a planning commission broad discretion in this area. Furthermore, this standard of review does not violate the Kurschner's due process rights.

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Id. The Supreme Court concluded that the "any evidence" standard had been "consistently utilized in these types of cases." *Id*. Thus, under the prevailing standard of review, the findings of fact by the Planning Commission "must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence." S.C. Code Ann. § 6-29-840.

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LEGAL ANALYSIS

I. Appeal is Untimely and Court Lacks Appellate Jurisdiction

The Appellant's Notice of Appeal and Petition are jurisdictionally barred because they were not timely filed as required by S.C. Code Ann. § 6-29-1150(D)(1). In *Vulcan Materials Co. v. Greenville County Board of Adjustment,* 342 S.C. 480, 536 S.E.2d 892 (Ct. App. 2000), the Court of Appeals held that "the timeliness of an appeal from a zoning board's decision is a jurisdictional requirement." 536 S.E.2d at 896, n.7. The timeliness of an appeal from a planning commission is no different.

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In *Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 621 S.E.2d 361 (Ct. App. 2005), the Court of Appeals held that S.C. Code Ann. § 6-29-900(A) "mandates an appeal to the circuit court must be made 'within thirty days after the affected party receives *actual notice* of the decision.' Thus, the triggering mechanism for filing an appeal is actual notice of the adverse decision, not receipt of the written notice." 621 S.E.2d at 362-363. (Emphasis in original). The Court of Appeals further explained that "[a]ctual notice is synonymous with knowledge," and as a result, "[n]otice is regarded as actual where the person sought to be charged therewith either knows of the existence of the particular facts in question or is conscious of having the means of knowing it, even though such means may not be employed by him." 621 S.E.2d at 363. In *Blind Tiger*, the appealing party was present at the meeting of the Charleston County Board of Architectural Review when the decision on appeal was rendered, and the Court of Appeals found that the thirty-day deadline to file an appeal ran from the date of the Board's meeting. *Id*.

The same is true in the case at bar. S.C. Code Ann. § 6-29-1150(D)(1) provides that "[a]n appeal from the decision of the planning commission must be *taken* to the circuit court within thirty days after *actual notice* of the decision." *See*, S.C. Code Ann. § 6-29-1150(D)(1). (Emphasis added). Importantly, as in *Blind Tiger*, actual notice of the decision occurs on the date of the hearing where the decision is rendered, which in this case would be April 23, 2025. As the record demonstrates, the Planning Commission issued its decision at the April 23, 2025 meeting. The Appellant filed the Notice of Appeal and Petition on May 28, 2025.

S.C. Code Ann. § 6-29-1150(D)(2) does allow for a different appellate filing date where the property owner also makes a request for pre-litigation mediation. In that instance, S.C. Code Ann. § 6-29-1150(D)(2) provides that "[a] notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed." *See*, S.C.

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Code Ann. § 6-29-1150(D)(2). However, the Appellant did *not* include a Request for Pre-Litigation Mediation with its Notice of Appeal. Therefore, the timing for the appeal set forth in S.C. Code Ann. § 6-29-1150(D)(2) is not applicable here. In sum, as what occurred in *Blind Tiger,* the service of the Notice of Appeal on May 28, 2025 was late, and as a result, this Court lacks appellate jurisdiction and should dismiss the appeal on those grounds alone.

II. Local Planning Commission Not Required to Issue Formal Written Decision with Findings of Fact and Conclusions of Law

On appeal, the Appellant contends that the Respondent Planning Commission erred in failing to make findings of fact and conclusions of law in denying the preliminary plat for the O'Neal Farms (Phase II) subdivision. That argument is raised for the first time on appeal. The Appellant never sought reconsideration from the Planning Commission on the basis that it did not issue a formal decision or that the Appellant did not understand the bases for the denial. It is well settled in South Carolina appellate jurisprudence that new arguments may not be made for the first time on appeal and are not preserved for appellate review. *See, Wilder Corp. v. Wilkie*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("it is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review"). Thus, this issue is not preserved for appellate review.

Nonetheless, even if this Court considers the merits of the issue, a review of the applicable statutes demonstrate that a local planning commission is *not required* by law to issue findings of fact and conclusions of law. Instead, the Commission's meeting minutes, the video or transcript of the meeting, and the file materials provide the record of the Planning Commission's actions.

Specifically, an analysis of this issue necessarily begins with the applicable statute governing the conduct of a local planning commission. S.C. Code Ann. § 6-29-1150(B) provides:

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"A record of all actions on all land development plans and subdivision plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken." S.C. Code Ann. § 6-29-1150(B). The statute includes *no express requirement* that a planning commission prepare a formal written decision with findings of fact and conclusions of law.

To determine the legislative intent on this issue, it is also necessary to examine other parts of the same statutory scheme, namely the South Carolina Local Government Comprehensive Planning Enabling Act, which are *in pari materia* and should be construed together. *See*, *Joiner ex rel. Rivas v. Rivas,* 342 S.C. 102, 109, 536 S.E.2d 372, 375 (2000) ("it is well settled that statutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result"). As the Court of Appeals has instructed, "[s]tatutes must be read as a whole and sections that are part of the same statutory scheme must be construed together." *Myat v. Tuomey Regional Medical Center*, 427 S.C. 601, 832 S.E.2d 306, 311 (Ct. App. 2019). Within the same statutory scheme, the General Assembly expressly included language requiring a board of zoning appeals to provide on appeal "the decision of the board including its findings of fact and conclusions." S.C. Code Ann. § 6-29-830(A). That same requirement, however, was not made of a local planning commission, likely in recognition of the differing roles the two bodies play. Importantly, the absence of the requirement for a formal decision with findings of fact and conclusions of law in the statute governing a local planning commission demonstrates that the General Assembly did not intend to require such a formal decision on each matter addressed by a planning commission.

Moreover, our appellate courts have recognized that "detailed orders" with findings of fact and conclusions of law are not even necessary to ensure meaningful appellate review. In *Porter v.*

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Labor Depot, 372 S.C. 560, 643 S.E.2d 96 (Ct. App. 2007), the Court of Appeals recognized that "not all situations require a detailed order, and the circuit court's form order may be sufficient if the appellate court can ascertain the basis for the circuit court's ruling from the record on appeal." 643 S.E.2d at 100. The Court of Appeals further acknowledged that "courts reviewing the decisions of administrative agencies may look to written documents as well as records of proceedings as sufficient formats for final decisions." *Id.*

In sum, as the statutory law reflects, the Planning Commission was not required to issue a formal written decision with findings of fact and conclusions of law. Instead, the minutes and transcript of the meeting and submittals to the Planning Commission provide a sufficient record to allow for a meaningful review of the Planning Commission's decision in denying the preliminary subdivision plat at its meeting on April 23, 2025.

III. Planning Commission Acted within its Authority to Deny Preliminary Subdivision Plat

In its Notice of Appeal, the Appellant appears to challenge the Planning Commission's authority to deny the subdivision application and preliminary plat. The Appellant's position is legally incorrect.

By way of background, the Planning Commission was established pursuant to the South Carolina Local Government Comprehensive Planning Enabling Act, S.C. Code Ann. § 6-29-310, *et seq*. In accordance with S.C. Code Ann. § 6-29-340, county planning commissions are conferred "with the power to implement and to oversee the administration of regulations for the growth and development of land." *Kurschner v. City of Camden Planning Commission*, 376 S.C. 165, 656 S.E.2d 346, 350 (2008). According to the Supreme Court in *Kurschner*, the General Assembly intended to grant "a planning commission broad discretion in this area." 656 S.E.2d at

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352. Specifically, with respect to a planning commission's quasi-judicial role in approving subdivision plans, including preliminary plats, S.C. Code Ann. § 6-29-1150(A) states:

> The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval.

S.C. Code Ann. § 6-29-1150(A).

Article 1.2 of the Greenville County Land Development Regulations (LDR) provides as follows:

> The public health, safety, economy, good order, appearance, convenience, morals, and general welfare require the harmonious, orderly, and progressive development of land within the municipalities and counties of the State of South Carolina. In furtherance of this general intent, the regulation of land development by counties is authorized for the following purposes, among others:
>
> A. To encourage the development of economically sound and stable counties;
>
> B. To assure the timely provision of required streets, utilities, and other facilities and services to new land developments;
>
> C. To assure the adequate provision of safe and convenient multimodal traffic access and circulation in and through new land developments;
>
> D. To assure the provision of needed public open spaces and building sites in new land developments through the dedication or reservation of land for recreational, educational, transportation, and other public purposes; and,
>
> E. To assure, in general, the wise and timely development of new areas, and redevelopment of previously developed areas in harmony with the comprehensive plans of counties.

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See, LDR Article 1.2. Consistent with S.C. Code Ann. § 6-29-1150(A), the LDR Article 3.3.5 bestows the Planning Commission with the authority to "approve, deny, amend, or hold the proposed subdivision plan." *See*, LDR Article 3.3.5. LDR Article 3 does not place any express limitations on what the Supreme Court has described as the "broad discretion" bestowed on local planning commissions under state law. Additionally, with respect to cluster developments, Article 11.1 states that "[t]he Planning Commission shall determine if the preliminary plan(s) is consistent with the purpose and intent of the Zoning Ordinance related to cluster development and open space and these guidelines," after which there are five guidelines listed. *See*, LDR Article 11.1. Thus, the Planning Commission has the authority to fulfill the "broad discretion" as identified by the Supreme Court including acting within the legislative parameters described in LDR Article 1.2.

In sum, contrary to the Appellant's position, the Planning Commission clearly was acting within its quasi-judicial authority to approve or deny the Appellant's subdivision application and preliminary plat.

IV. Decision of the Planning Commission Satisfies the Any Evidence Standard

The Appellant also challenges the evidentiary basis for the Planning Commission's decision denying the preliminary subdivision plat for the O'Neal Farms (Phase II) subdivision. There is, however, sufficient evidence in the record to meet the "any evidence" threshold. As the minutes as well as the video recording of the April 23, 2025 meeting reflect, the Planning Commission received testimony and additional information from the Appellant and those opposing the development to support its ultimate decision to deny the preliminary plat.

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For starters, the Appellant fully conceded during the meeting that a current Traffic Impact Study had not been submitted. The Traffic Impact Study in the record was dated July 2023, and in bold red letters is described only as a "Draft." The Appellant's representative from Gray Engineering conceded during the meeting that the Traffic Impact Study needed to be "updated" and submitted. Thus, the Planning Commission, as one member pointed out in her questions, did not even have complete information in which to evaluate the preliminary plat. LRD Article 9.1 states that a Traffic Impact Study (TIS) "helps identify significant impacts on safety, traffic and transportation operations," and "[u]ltimately, the TIS can be used to assess if the scale of the development is appropriate for a particular site." *See*, LDR Article 9.1. The O'Neal Farms (Phase II) development is intended to be built behind the O'Neal Farms (Phase I), and the new development is designed to utilize an existing County road, namely O'Neal Farms Way, for ingress and egress. Based thereon, there were concerns expressed by the citizen participants at the meeting regarding the impact on safety of the additional traffic generated by the sheer scope of the 147 additional homes using O'Neal Farms Way, through an existing subdivision. The Planning Commission was certainly acting within its discretion, based on the admitted failure to submit an updated Traffic Impact Study, to deny the preliminary plat.

Additionally, as the discussion during the meeting reflects, there were also concerns expressed with whether the Appellant fully complied with the "open space" requirements under the LDR Article 11. In fact, LDR 11.3.2 states: "The Planning Commission shall determine the appropriateness of the dimensions of the required open space. The open space on the preliminary plan should have meaningful dimensions, proportions, and placement." *See*, LDR 11.3.2. On appeal, the Appellant has pointed to no evidence that such concerns have no basis in the record. In fact, that issue is not even raised in the Notice of Appeal.

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In sum, the decision-making by the Planning Commission is subject to a very deferential standard of review. This Court is not permitted to substitute its judgment for that of the Planning Commission. The record demonstrates nonetheless that there was sufficient evidence before the Planning Commission to support its decision to deny the Appellant's preliminary subdivision application and plat as decided at the April 23, 2025 meeting.

CONCLUSION

Based on the foregoing discussion, the Respondent Greenville County Planning Commission respectfully requests that the Court dismiss the Appellant's appeal for lack of appellate jurisdiction, or alternatively, affirm the decision of the Planning Commission to deny preliminary subdivision application and plat as decided at its April 23, 2025 meeting.

Respectfully submitted,

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September 14, 2025

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STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
AJC-101 Holdings, LLC, Appellant, v. Greenville County Planning Commission, Respondent.	C.A. No. 2025-CP-23-03365 **MOTION TO ALTER OR AMEND JUDGMENT**

Appellant AJC-101 Holdings, LLC ("Appellant"), by and through undersigned counsel pursuant to Rule 59(e) SCRCP, hereby respectfully requests that this Court reconsider its Order filed September 26, 2025, dismissing this appeal and affirming the decision of the Respondent, Greenville County Planning Commission ("Respondent"), and the County.

INTRODUCTION

Reconsideration of the Court's ruling dismissing this appeal is warranted for four reasons.

First, the Court's conclusion that the appeal was untimely is contrary to binding precedent. Just six years ago, in a case against the same Respondent as in this proceeding, the Court of Appeals held that the deadline for an interested party to appeal from a decision of the Greenville County Planning Commission was 30 days after "*receiving*" the written notice from the county, and noted that this deadline was "*more liberal*" than the alternative deadline for a property owner to appeal 30 days "after the decision of the Board is mailed." *Citizens for Quality Rural Living, Inc. v. Greenville County Planning Commission*, 426 S.C. 97, 106–07, 825 S.E.2d 721, 726 (Ct. App. 2019) (first emphasis in original). That's the opposite of what this Court recently concluded in this case. If not corrected, this Court's ruling in this case is reversible error.

Second, if any further reason to reconsider the ruling is needed (and, respectfully, it is not), it can be found in the text and context of the statute containing the relevant appeal deadline as

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interpreted through well-established canons of interpretation. When S.C. Code Section 6-29-1150 is read as a whole, the intent of the General Assembly is clear: written notice is necessary to notify the applicant of either approval or disapproval of a preliminary plan. This Court's contrary ruling fails to harmonize the statutory subsections and would yield chaotic and inconsistent results.

Third, even apart from the binding precedent and settled interpretive canons, the Court should reconsider its prior ruling because Respondent's vote at the April 23, 2025 meeting *recommended* action but did not render a final, appealable decision. That's because the County has not delegated that decision-making authority to the Planning Commission. Not until County staff sent a letter notifying the developer (or, technically, its agent) of the decision did the developer receive actual notice of an appealable decision. The developer filed its Notice of Appeal within 30 days after that letter. The appeal was timely.

Fourth, with the timing issue out of the way, the Court should rule for Appellant on the merits, including but not limited to the fact that the Planning Commission's and County's reasonless denial of the application effectively deprives the Appellant of its legally cognizable right in the property in violation of the takings clause of the South Carolina Constitution.

The Court should reconsider and set aside its prior ruling, rule on the merits of Appellant's arguments, and reverse the appealed decision.

BRIEF FACTUAL AND PROCEDURAL HISTORY[1]

The relevant factual and procedural events for purposes of this Motion are as follows:

- February 19, 2025 — Appellant submitted an application for approval of a preliminary plat to develop O'Neal Farms (Phase II) (the "Application").
- April 23, 2025 — the Planning Commission held a public hearing on the Application and, by a vote of 3-to-5, declined to recommend approval of the Application.

[1] Appellant's prior briefing set out the background in greater detail. The reader's familiarity with these facts is presumed, and, for the sake of brevity, they will not be repeated fully here.

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- April 30, 2025 — Greenville County staff (the Subdivision Administrator) sent a letter to Appellant's engineer notifying her of the Planning Commission's vote. The letter stated that an appeal of the denial "must be made *within thirty (30) days* ***from the date of this letter*** in accordance with Section 6-29-1155 of the South Carolina Code of Laws" (emphasis added).[2]

- May 28, 2025 — Appellant filed its Notice of Appeal to the Circuit Court. Appellant served the Notice of Appeal and Petition the following day.

- September 2025 — the parties filed briefing. Respondent argued, among other things, that Appellant's appeal was untimely filed. The Court heard arguments on September 17, 2025.

On September 26, 2025, the Court issued a Form 4 Order affirming the denial of the Application because the Notice of Appeal had been filed "35 days" after the public meeting where the Planning Commission "issued its decision." The Order was based on the Court's interpretation of S.C. Code Ann. § 6-29-1150(D)'s timing requirements for an appeal. The Order provided no other findings, conclusions, or analysis, and did not rule on the merits of Appellant's arguments.

LEGAL STANDARD

"A motion under Rule 59(e) long has been viewed as 'motion for reconsideration' despite the absence of those words from the rule." *Elam v. S.C. Dept. of Transp*., 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). A party may file such a motion "when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." *Id*. at 24, 602 S.E.2d at 780. "A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Id*. (emphasis in original).

[2] The letter was dated April 30, 2025. The Record does not indicate when it was delivered. As noted in the discussion of *Citizens for Quality Rural Living* below, the appeal deadline begins to run when the recipient actually *receives* the notice, not when it is placed into the mail. But it makes no difference here, since even measuring from the date on the letter, Appellant's Notice of Appeal was timely filed and served.

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ARGUMENT

I. This Court's Order concluding that Appellant's appeal was untimely is contrary to clear, binding, and applicable precedent from the S.C. Court of Appeals.

The sole reason given by this Court for its Order affirming the denial of Appellant's Application is that (in the Court's view) the Appellant "had actual notice" of the Planning Commission's vote on April 23, 2025, but waited until "35 days later" to file its appeal. In the Court's view, the appeal was untimely, and it was unnecessary to evaluate or rule on the merits of Appellant's arguments.

The problem with that conclusion, however, is that it is contrary to binding precedent. Six years ago, in an appeal from a decision of the Greenville County Planning Commission, the South Carolina Court of Appeals examined the statutory deadline to file an appeal from the Planning Commission and reached the opposite conclusion. *See Citizens for Quality Rural Living, Inc. v. Greenville County Planning Commission*, 426 S.C. 97, 106–07, 825 S.E.2d 721, 726 (Ct. App. 2019). In that case, the Commission had approved a developer's application for preliminary approval. *Id*. at 101, 825 S.E.2d at 723. A coalition of neighbors who opposed the development appealed to the circuit court. *Id*. The court dismissed the appeal for lack of standing. *Id*. at 102, 825 S.E.2d at 723–24. The coalition appealed that ruling, and the Court of Appeals reversed, holding the coalition had standing to appeal. *Id.* at 114–15, 825 S.E.2d at 730.

The Court of Appeals gave particular attention to the statutory subsections that state *when* an appeal must be filed—the same statutory subsections argued here (again) by the Commission and relied on by this Court in the Order dismissing this appeal—namely S.C. Code Ann. § 6-29-1150(D)(1)–(2). *See id*. at 103–07, 825 S.E.2d at 723–26. The Court of Appeals held that when (as here) an interested party (which includes a developer) appeals from a Planning Commission vote pursuant to subsection (D)(1), the appeal is due within 30 days after "*receiving*" the notice of that

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decision. *Id*. at 106, 825 S.E.2d at 726 (emphasis in original).[3] Notably, the Court of Appeals also concluded that this deadline was ***longer*** than the deadline for the property owner, who can appeal and seek pre-litigation by filing the appeal "within thirty days after the decision of the board is *mailed*." *Id*.; *see also* S.C. Code Ann. § 6-29-1150(D)(2).

The critical point of the holding is that when, as here, an appellant appeals pursuant to subsection -1150(D)(2), the deadline to file that appeal runs not from the date of the Planning Commission's vote, and not even from the date when the County staff places the actual written notice of the decision into the mail, but from the date when the recipient *receives* the written actual notice:

> Further, subsection (D) as a whole gives different treatment to the larger class of appellants and the subclass of property owners who seek pre-litigation mediation. Under subpart (1), the larger class of appellants have thirty days after **receiving actual notice** of a commission decision to file an appeal to the circuit court; the use of the word "must" indicates that the appellant must file within the designated deadline in order to invoke the circuit court's appellate jurisdiction. On the other hand, subpart (2) uses the word "may" to indicate that a property owner has the option of adding a request for pre-litigation mediation to his notice of appeal, and if he takes advantage of this option, he must file the notice of appeal and the mediation request within thirty days after the Commission's decision is **mailed** in order to invoke the circuit court's appellate jurisdiction. If the owner of the subject property does not opt to request pre-litigation mediation, he would be subject to the **more liberal deadline** in subpart (1).

Citizens for Quality Rural Living, Inc., 426 S.C. at 106–07, 825 S.E.2d at 726 (first two emphases in original).

[3] This conclusion is also consistent with Rule 74, SCRCP, which governs the "Procedure on Appeal to the Circuit Court" and states, "Notice of appeal to the circuit court must be served on all parties within thirty (30) days after receipt of written notice of the judgment, order or decision appealed from."

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The application here is plain. Appellant filed its Notice of Appeal within 30 days after receiving notice from the County of the decision. Under *Citizens for Quality Rural Living*, that's the end of the timeliness analysis. The appeal was timely. This Court's should reconsider and set aside its Order, conclude the appeal was timely, consider the merits of Appellant's arguments, and reverse the denial of the Application.

II. The legislative intent of S.C. Code § 6-29-1150 was to create clear deadlines to appeal regardless of the substance of the notice of appeal.

If additional support is needed to confirm the Court of Appeals' holding in *Citizens for Quality Rural Living*, that support is found in the text of the statute and the canons of textual interpretation. The court's primary function in interpreting a statute is to determine and give effect to the intent of the General Assembly. *Joiner v. Rivas*, 342 S.C. 102, 108, 536 S.E.2d 372, 375 (2000); *Smith v. South Carolina Ins. Co.*, 350 S.C. 82, 87, 564 S.E.2d 358, 361 (Ct. App. 2002). The language must be read to harmonize with its subject matter and in accord with its general purpose. *Jones v. State Farm Mut. Auto. Ins. Co.*, 364 S.C. 222, 230, 612 S.E.2d 719, 723 (2005). "[C]ivil procedure and appellate court rules should not be . . . interpreted to create a trap for the unwary lawyer . . . ." *Swing v. Swing*, 445 S.C. 340, 345, 914 S.E.2d 158, 161 (2025) (quoting *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 25, 602 S.E.2d 772, 780 (2004)).

Courts will reject statutory interpretations that lead to results so plainly absurd they could not have been intended by the legislature or that defeat the plain legislative intention. *Jones*, 364 S.C. at 232, 612 S.E.2d at 724 (citations omitted). A court should not consider a particular clause in a statute in isolation, but should read it in conjunction with the purpose of the entire statute and the policy of the law. *Hinton v. South Carolina Dep't of Prob., Parole, and Pardon Servs.*, 357 S.C. 327, 333, 592 S.E.2d 335, 338 (Ct. App. 2004); *Doe v. Roe*, 353 S.C. 576, 580, 578 S.E.2d 733, 735–36 (Ct. App. 2003).

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When Section 6-29-1150 is read as a whole, the intent of the General Assembly is plain: written notice is necessary to notify the applicant of either approval or disapproval of a preliminary plan. "The developer must be issued a letter of approval and authorization to proceed to proceed based on the plans or plats and supporting documents presented." S.C. Code § 6-29-1150(A). "In addition, the developer must be notified in writing of the actions taken." *Id.* at -1150(B). Similarly, in subsection (D), a letter is the triggering mechanism for the time frame to file an appeal. Subsection (D)(1) sets out that the time period to appeal is thirty days, and Section (D)(2) reiterates that a letter must be sent to begin that time period.

Instead of bringing harmony and finality to any decision regarding a preliminary plan application, reading each section individually would create multiple deadlines to appeal based on the contents of the notice of appeal. If accepted, Respondent's argument that requesting pre-litigation mediation changes the deadline would mean that an appellant could breathe new jurisdiction into an appeal based on the format of the notice. Conceivably, these different deadlines could be months apart depending on when a letter stating the action taken is mailed to the developer and property owner. The chaos caused by such an interpretation could not have been what the General Assembly intended when it drafted this statute.

Respondent's argument relies heavily on the idea that S.C. Code Section 6-29-900 regarding appeals from a board of architectural review is the same statutory scheme as contained in S.C. Code Section 6-29-1150. Respondent argues that this scheme has already been interpreted in *Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 621 S.E.2d 361 (2005), and that interpretation is controlling precedent in this appeal.

However, Section 6-29-900 differs from 6-29-1150 in two important aspects. First, Section 6-29-900 does not require any written notice to be sent stating the action taken by the board.

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Second, Section 6-29-900 specifies that there are two separate procedures by which a property owner may appeal a decision:

> (B) A property owner whose land is the subject of a decision of the board of architectural review may appeal either:
>
> (1) as provided in subsection (A); or
> (2) by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-915.

No similar specification exists in Section 6-29-1150.

The General Assembly's reason for this distinction is that it recognized that, while the decision of a board of architectural review generally only affects the individual property owner, there are multiple individuals involved when a property is proposed to be subdivided including, at least, a developer and a property owner. And each of these individuals could have constitutionally protected rights regarding the decision to approve or deny a preliminary plan application. As such, in Section 6-29-1150, the General Assembly required clear communication through written notice of the action taken.

III. The Planning Commission recommended action but did not render a final, appealable decision at its April 23, 2025 meeting.

A planning commission is an administrative body created by and granted powers by a governing authority. Here, the governing authority is Greenville County Council, and Respondent is the administrative body. The governing authority is authorized by statute to grant authority to approve or disapprove a preliminary plat to "the planning commission *or designated staff*." S.C. Code § 6-29-1150(A) (emphasis added). The County has not delegated that authority to the Planning Commission.

Rather, Greenville County's ordinances specifically distinguish between the entities that have decision-making authority and those that don't. Specifically, the County Council and the

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Board of Zoning Appeals have decision-making authority, while the Planning Commission only acts in a review and recommending capacity. *Compare* Greenville County Zoning Ordinances ("GCZO") § 2:1.2 (listing areas in which the "County Council shall have final (local) decision-making authority") *and* § 2:3.2 (listing areas in which the "Board of Zoning Appeals shall have final (local) decision-making authority") *with* GCZO § 2:2.2 ("The Planning Commission *acts in a review and recommending capacity* on the following matters: Preliminary Subdivision Plats.") (emphasis added).

The County withheld the authority to decide on preliminary plans from Respondent and reserved that authority for County staff. Respondent routinely reviews and recommends approval or denial of preliminary plans and County staff routinely approves or denies those plans based on Respondent's recommendations. However, it is the *County* that acts on preliminary plans—not Respondent.

Accordingly, the first actual notice any property owner or applicant can have of the County's action is from the letter sent by County staff approving or denying the application, which is why the letter the County sent to Appellant in this case is accurate when it stated that an appeal must be made within thirty days of the letter.

Respondent's lack of action is contrasted with the authorized action of the architectural review board in *Blind Tiger*, where the Court of Appeals specifically referred to the board's explicit action at the meeting. *See Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 185, 621 S.E.2d 361, 362 (2005) ("Also, at the time the decision was rendered, a member of the commission placed an 'X' in the box of the application next to 'Denial'"). No such action was taken here by Respondent at its April 23 meeting.

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IV. The Court should rule on the merits of Appellant's arguments and should reverse the denial of the application.

With the threshold issue of the timeliness of the appeal out of the way, the Court should consider and rule on Appellant's substantive arguments. These issues and arguments found in Appellant's prior briefing will not be fully repeated here, but they include the fact that the effect of the Planning Commission's and County's reasonless denial of the application "is to deny *any* application for developing the property." *See* Appellant's Mem. at 4 (Sept. 12, 2025) (emphasis added).

"[W]hile property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922). Regulatory action that "denies all economically beneficial or productive use of land" is a *per se* taking for which no further case-specific inquiry is necessary. *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1015–16 (1992); *see also Sea Cabins on Ocean IV Homeowners Ass'n, Inc. v. City of N. Myrtle Beach*, 345 S.C. 418, 430, 548 S.E.2d 595, 601 (2001) (elaborating on the procedural effect of a *per se* taking).

Respondent's failure to provide any reason for denying Appellant's Application reveals its true intent, which is to deny *any* application by Appellant to develop the property. Such a denial deprives Appellant, as the owner and/or developer of the at-issue property, of all economic use of the land and requires the property remain "economically idle," effectuating a regulatory taking of the property. *Lucas*, 505 U.S. at 1015–16. Even if the Court fails to find a *per se* taking under *Lucas*, Appellant has nonetheless suffered a regulatory taking under the *Penn Central* balancing test. *See, e.g.*, *Braden's Folly, LLC,* 439 S.C. 171, 192–93; 886 S.E.2d 674, 685–86 (2023) (stating that the *Penn Central* balancing test considers the following: "(1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct

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investment-backed expectations; and (3) the character of the governmental action.") (internal citations omitted).

The Court should consider and decide this and the other merits arguments raised by Appellants and should reverse the denial of Appellant's Application.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reconsider its Order filed September 26, 2025, and decide Appellant's appeal on the merits based on the arguments in the parties' respective briefs and the oral arguments of counsel at the hearing on September 17, 2025.

Respectfully submitted,

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October 6, 2025

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF GREENVILLE	)	
AJC-101 Holdings, LLC,	)	
	)	Civil Action No. 2025-CP-23-3365
Appellant,	)	
	)	
v.	)	**RESPONDENT'S RETURN IN OPPOSITION TO APPELLANT'S MOTION TO ALTER OR AMEND JUDGMENT**
	)	
Greenville County Planning Commission,	)	
	)	
Respondent.	)	
_____	)	

This is an appeal from a decision by the Respondent Greenville County Planning Commission. The Appellant AJC-101 Holdings, LLC, which is the owner of the real property at issue, submitted a Preliminary Subdivision Application to subdivide the subject property That Preliminary Subdivision Application came before the Planning Commission for review at its April 23, 2025 meeting. The Planning Commission, by a 5-3 vote, denied the application and preliminary plat at that meeting. The Appellant was present and received actual notice of that denial on April 23, 2025. The Appellant subsequently filed a Notice of Appeal and Petition on May 28, 2025.

The appeal was heard on September 17, 2025. This Court issued a Form Order on September 26, 2025, with the finding that "the Defendant issued its decision on April 23, 2025, of which Plaintiff had actual notice on that date. Subsequently, Plaintiff filed its Appeal of the Defendant's decision 35 days later on May 28, 2025. Therefore, based on the applicable case law and S.C. Code Ann. Section 6-29-1150, the Decision of the Greenville Planning Commission is AFFIRMED." The Appellant subsequently filed a Motion to Alter or Amend Judgment on October 6, 2025.

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In that motion, the Appellant addresses the Court's ruling that Appellant's Notice of Appeal and Petition were not timely filed as required by S.C. Code Ann. § 6-29-1150(D)(1). In essence, the Appellant makes three arguments: (1) that the Appellant is an "interested party" and should not be treated as a "property owner"; (2) that the Court's ruling is contrary to the decision of the Court of Appeals in *Citizens for Quality Rural Living, Inc. v. Greenville County Planning Commission*, 426 S.C. 97, 825 S.E.2d 721 (Ct. App. 2019); and (3) that the Planning Commission does not make a decision on Preliminary Subdivision Application bur rather made a recommendation to the Greenville County planning staff. Each of those arguments is inaccurate and fatally flawed.

First, the Appellant argues that it should be considered an "interested party" rather than as a "property owner" in applying S.C. Code Ann. § 6-29-1150(D). While it actually makes no difference, as explained further below, the Appellant's position is nonetheless factually inaccurate. The Appellant has represented to this Court from the outset of this appeal that it is the property owner. In the Notice of Appeal and Petition, the Appellant pled that "AJC-101 Holdings is the owner of real property located in Greenville County (Tax Map Numbers: 0601020100802, 0409000100113, and 0601020100901)." *See*, Notice of Appeal and Petition, ¶ 3. That was reiterated in the Appellant's brief where it states: "Appellant is the owner of the real property immediately south of I-185 in Greenville County." *See*, Appellant's Memorandum in Support, filed September 12, 2025, p. 2. Consequently, the Appellant is not an "interested party" and did not appeal as an "interested party." It appealed as the property owner.

Next, the Court's decision in this case is fully supported by the Court of Appeals' decision in *Citizens for Quality Rural Living, supra*. Importantly, the dispute in that appeal was not the jurisdictional timing for the filing of an appeal from a planning commission. Instead, the

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issue before the Court of Appeals was solely a question of whether a citizens' organization had standing to appeal from an adverse decision of a planning commission. In that case, the Planning Commission approved a subdivision proposal by a developer, and a citizens' organization named Citizens for Quality Rural Living filed an appeal from the decision of the Planning Commission to the Circuit Court. The developer subsequently filed a motion to dismiss the appeal for lack of standing (and not based on the timeliness of the appeal), and the Circuit Court granted that motion finding that S.C. Code Ann. § 6-29-1150 does not grant standing to appeal to a citizens' organization. On appeal, the Court of Appeals reversed and concluded that a citizens' organization does have standing to appeal to the Circuit Court as an "interested party."

In analyzing the standing question, including the provisions of S.C. Code Ann. § 6-29-1150, the Court of Appeals recognized that "property owners" and "interested parties" both have standing to appeal, but there are certain differences in the timing for the filing of an appeal. The Court of Appeals explained that "subsection (D) as a whole gives different treatment to the larger class of appellants and the subclass of property owners who seek pre-litigation mediation." *Citizens for Quality Rural Living*, 625 S.E.2d 726. Thus, the timing for a property owner who seeks pre-litigation mediation is governed by subsection (D)(2) which provides that "[a] notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed." *See*, S.C. Code Ann. § 6-29-1150(D)(2). However, as the Court of Appeals acknowledged, if a property owner does not seek pre-litigation mediation, then it was subject to the timing deadline in subsection (D)(1), which is the same as for an "interested party." That deadline is stated in S.C. Code Ann. § 6-29-1150(D)(1), which provides that "[a]n appeal from the decision of the planning commission must be *taken* to the circuit court within

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thirty days after *actual notice* of the decision." *See*, S.C. Code Ann. § 6-29-1150(D)(1). (Emphasis added).

In its Rule 59(e) motion, the Appellant misstates the Court of Appeals' discussion. The Appellant states that the Court of Appeals found that the appeal must be filed within "30 days after 'receiving' the written notice from the county." *See*, Appellant's Motion, p. 1. That is not what the Court of Appeals stated. Instead, the Court of Appeals did not veer from the language of subsection (D)(1) and explained that "[u]nder subpart (1), the larger class of appellants have thirty days after receiving actual notice of a commission decision to file an appeal to the circuit court." *Citizens for Quality Rural Living*, 625 S.E.2d 726.

Thus, as this Court has correctly ruled in the case at bar, the triggering date for the Appellant (who did not seek pre-litigation mediation) is controlled by subsection (D)(1) and is the date of "actual notice." Moreover, as this Court correctly found, the Appellant had actual notice on April 23, 2025, but did not file its Notice of Appeal until 35 days later, which was not timely.

Contrary to the Appellant's suggestion otherwise, there is no requirement in S.C. Code Ann. § 6-29-1150(D)(1) for the "actual notice" to run from the receipt of ***written*** notice. In fact, such a requirement would be entirely at odds with the Court of Appeals' decision because an "interested party" would never receive "written notice" of a decision of a planning commission; only an applicant would.

Thus, the trigger date for appealing under subsection (D)(1) is the date of "actual notice" of the decision by the planning Commission. The meaning of that "actual notice" requirement is addressed explicitly in *Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 621 S.E.2d 361 (Ct. App. 2005), where the Court of Appeals held that S.C. Code Ann. § 6-29-900(A) "mandates an

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appeal to the circuit court must be made 'within thirty days after the affected party receives *actual notice* of the decision.' Thus, the triggering mechanism for filing an appeal is actual notice of the adverse decision, not receipt of the written notice." 621 S.E.2d at 362-363. (Emphasis in original). The Court of Appeals further explained that "[a]ctual notice is synonymous with knowledge," and as a result, "[n]otice is regarded as actual where the person sought to be charged therewith either knows of the existence of the particular facts in question or is conscious of having the means of knowing it, even though such means may not be employed by him." 621 S.E.2d at 363. In *Blind Tiger*, the appealing party was present at the meeting of the Charleston County Board of Architectural Review when the decision on appeal was rendered, and the Court of Appeals found that the thirty-day deadline to file an appeal ran from the date of the Board's meeting. *Id*.

Importantly, the Court of Appeals in *Citizens for Quality Rural Living* makes no mention of the *Blind Tiger* decision and certainly does not overrule or call it into question. Indeed, the dispositive issue in *Citizens for Quality Rural Living* was the issue of standing and not timeliness, so it makes perfect sense that the Court of Appeals did not cite, apply, or re-visit its decision in *Blind Tiger*.

In sum, the *Citizens for Quality Rural Living* decision fully supports this Court's decision and does not warrant any reconsideration. This Court properly applied S.C. Code Ann. § 6-29-1150(D)(1) and the *Blind Tiger* precedent in ruling that the Appellant failed to timely appeal from the date that it had actual notice of the decision by the Planning Commission to deny its subdivision application and preliminary plat.

Finally, as to the last argument, the Appellant is frankly in error in arguing that the Planning Commission was not the decision-maker but rather that the County planning staff is the

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decision-maker. That would certainly be contrary to the explicit language in S.C. Code Ann. § 6-29-1150(D)(1), which refers to "an appeal from the *decision* of the planning commission" and **not** "an appeal from the *recommendation* of the planning commission." That would also be contrary to what occurred in *Citizens for Quality Rural Living*, where the appeal was from a decision of the Planning Commission. That would also be contrary to the posture of *this appeal* where the Notice of Appeal states "[a]t its April 23, 2025 meeting, the Planning Commission denied the Preliminary Subdivision Application." *See*, Notice of Appeal and Petition, ¶ 5. Likewise, in its Notice of Appeal, the Appellant is not asking this Court to reverse a decision of the Greenville County planning staff but rather is asking this Court to reverse a decision of the Planning Commission.

In fact, if the Planning Commission only made a recommendation, as the Appellant now asserts only to try to salvage its appeal from an untimely filing, that recommendation (as opposed to a final decision) would not even be appealable.[1] Moreover, if that were the case, the Planning Commission would not be the proper party to this appeal. The proper party would have been Greenville County, which is not a party to this appeal. Thus, even if the Appellant is correct that the planning staff is the decision-maker (which it is not), then the Appellant brought its appeal *against the wrong party*, and on that basis, the appeal should still be dismissed. But, the reality is that the decision-maker is the Planning Commission, and as this Court correctly ruled, the Notice of Appeal was filed late. Hence, this appeal was correctly dismissed.

[1] Section 2:2 of the Greenville County Zoning Ordinances outlines the types of matters where the Commission has "Review Authority" and where it has "Decision-Making Authority." In Section 2:2.2 under the subtitle "Decision-Making Authority," there is listed "Preliminary Subdivision Plats."

Based on the foregoing analysis as well as its prior memorandum of law submitted before the hearing, the Respondent Greenville County Planning Commission respectfully requests that the Court deny the Appellant's Motion to Alter or Amend Judgment.

Respectfully submitted,

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS
C.A. NO.: 2025-CP-23-03365

AJC 101 HOLDINGS, LLC,

PLAINTIFF,

vs.

PLANNING COMMISSION GREENVILLE,

DEFENDANT.

H E A R I N G
BEFORE THE HONORABLE WILLIAM C. MCMASTER, III

DATE: SEPTEMBER 17, 2025
LOCATION: SOUTH CAROLINA CIRCUIT COURT 13

TRANSCRIBED BY: KRISTEN PRIMM

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P R O C E E D I N G S

THE COURT: All right. We're going to get back in line now with 2025-CP-2303365, *AJC-101 Holdings vs. LLC Planning Commission Greenville County*. This is an appeal. If the parties will identify themselves and who they represent, please.

MR. BURKE: Your Honor, Luke Burke on behalf of AJC Holdings.

MR. LINDEMANN: And Your Honor, Andrew Lindemann for the Greenville County Planning Commission.

THE COURT: All right. Yes, sir. I'll be happy to hear from my approach.

MR. BURKE: Your Honor, may I approach? I brought a courtesy copy of our memorandum and exhibits for the Court.

THE COURT: Okay. Go ahead and bring it up. That's fine. I have not watched the video of the Planning Commission meeting that was provided I think yesterday, but I think I'm up to speed on the rest of it. Go ahead.

MR. BURKE: Thank you, Your Honor. As you said, this is an appeal of a Planning Commission decision. I'm joined here by Mr. Mark Ells, who's one of the owners of the property, and Mr. Allen Smith, who is the project manager. Your Honor, I think it's important to start with what the Planning Commission is. It's a creature of statute that is created by the Local Government Comprehensive Planning Act, and it has

two functions. The first function is to develop a comprehensive plan, and then they send that to County Council. County Council uses that to create zoning ordinances, land development regulations. And then the Planning Commission enforces those, basically, administers the ordinances and regulations. It's not a legislative body, it's important to know. If you refer to Exhibit 22, which is a portion of the zoning ordinance, it lays out -- page 21, one, which is the second page of the Exhibit, lays out what the Planning Commission can do. The Planning Commission acts in a review and recommending capacity on the following matters, preliminary subdivision plats, which is what we're here for today. Importantly, it's a review and recommendation. They're not the ones acting on it. They recommend what to do. The County acts on the actual application. And it is our position that the Planning Commission's authority is to confirm that the application complies with the ordinance and the land development regulations. This particular Planning Commission has had an issue with that authority, which is why we submitted some portions of the *Niemitalo* case. The Greenville County Planning Commission thinks that they just can arbitrarily deny any subdivision plan they want, and they use this as a way to delay development in the county. My client has had to apply twice. Multiple people have to -- you have to go back,

and they don't tell you why they denied you so you can't fix the issue. And you know, my client tried to, by submitting a plat with more information on it and reducing the number of lots, but the Planning Commission doesn't tell you what is the issue with it. They just say, we deny it. County Council actually reacted to that *Niemitalo* case by trying to send a message to the Planning Commission saying, look, you can't do this. They repealed what was called LDR 3.1 which was a section that the Planning Commission was misusing to basically deny whatever plan they want. And they said, look, you can't do that anymore. We're going to repeal it. But the Planning Commission apparently didn't get the message. So getting to kind of the main part of why I think we're here, the Planning Commission is a deliberative body. It runs on the Robert's Rules of Order, according to their bylaws. And a deliberative body acts by and tells you what they think by taking a vote and saying, I'm going to approve this motion, and this is why we're going to approve it. Here the Planning Commission has modified their bylaws, and you'll see that as Exhibit 23 to our motion. They've changed their bylaws to say that if somebody moves to approve an application, and that motion is denied, then that acts as a denial. But what happens there is they don't have the ability to also make any findings about why they're doing it. Instead of saying, I'm making a motion to deny this because I

think traffic's a problem, or I'm making a motion to deny this because I don't think the open spaces is enough, they just say, well, he made a motion to approve, with conditions. We've denied that. And because of their bylaws, they never get to the part where they make a finding. A lot of the County Planning Commission's brief are talking about the any-evidence standard, and I agree that is the standard. If there's any evidence to uphold the findings of the body, then you have to uphold them. You can't replace their decision-making authority with your decision-making authority and say, well, I don't agree with your findings. But the problem we have here is there are no findings. And I would refer back to some of the cases that have been -- all of them that I can find. *Kurschner*, which is a case cited in both of our briefs, which is 376 S.C. 165. In that case, a commission denied the Kurschner's application, and then the Court says, Commission relied on section 150.6.4 1(B) 2(E) of the city of Camden's land development regulations, which provides that historic sites shall be preserved to the extent consistent with the reasonable utilization of the site. They made a finding that the Kurschner's application did not comply with that. *Hollywood vs. Floyd*, which is 403 S.C. 466, also cited in the respondent's brief, the Planning Commission ultimately tabled the issue based on inadequate information and the fact that none of the ordinance of the town had been followed.

The developers applied again. The Planning Commission informed the developers of multiple issues they need to address before the Commission to approve the subdivision, including acceptable septic system, a wetland certification letter, and a traffic study of Bryan Road, again, making findings. Those findings, if they had been made here would be -- any-evidence standard would apply them, but there are no findings here. Peterson Outdoor Advertising vs. City of Myrtle Beach, Camden denied the permit applications for construction of two of the billboards because it found the billboards created excessive clutter in the proposed areas and did not look good. City Council concluded the proposed sites for the billboards were part of the city in need of esthetic attention, and the billboards at issue would not enhance the appeal. Again, findings that are upheld. In *Bennett vs. Sullivan Island Board of Adjustment*, 313 S.C. 455, there's a finding that they granted a variance because the property had peculiar aspects to it. And this really becomes a due process issue for my clients. When they go to appeal this, they're entitled to appeal it to you as the circuit court judge, and when they go to appeal it, they're entitled to have notice of why it was denied so that they can agree with that or they can change their plan or they can argue that it's wrong. So I've included the plat and those arguments about why the plat is in compliance with the

ordinance and the LDR in my memorandum. I don't think I need to go through those again, but it complies with the zoning ordinance for how many lots you can have per acre. It complies with the LDR on open-space requirements and the other issues with cluster development in the LDR. Quickly, I'd just like to address some of the arguments in respondent's brief regarding jurisdiction, if I can find those cases. The argument in respondent's brief is that notice is given at the hearing, and therefore our appeal is filed 30 days after that notice. So for statutory interpretation, it's necessary to look at the statute as a whole to determine the intent of the legislators, which is Peak Week, SCDOT, I think SC DMV. I can't find that case. Anyway, if you look at the statute, it specifically says you have to appeal after actual notice, and then it says you have to -- at 30 days after written notice is when the appeal is due. Written notice was sent out less than 30 days from when we filed our appeal. The County's own denial letter, which you can find at Exhibit 20, states you need to appeal this within 30 days after the date of this letter. And then finally, going back to what we said before, the Planning Commission does not act; it recommends. The County acts. So the first time my clients had noticed what the County had denied their note their subdivision is when the letter is sent, not when the vote is taken. And *Blind Tiger*, the case

cited in respondent's brief, in that case, they sent a letter. It was 82 days after the hearing. They sent a letter. The appellant said, I didn't get it until last week, and said, so I don't have actual notice. And also, importantly, in *Blind Tiger*, they mention that the member of the Commission actually checked the mark and said, this is denied, at the hearing, as opposed to what we have here, where the actual denial happens by the County. Finally, I would object to any viewing of the video or reference to the video. Berkeley Electric Coop specifically states that the minutes are the official record of the Planning Commission's actions, and that if you allow parol evidence to go behind those minutes, then you just make them untrustworthy. It's the Planning Commission's own minutes. They don't get to bolster them now by coming in with more stuff or more evidence that -- they approved the minutes one month after they had the meeting. Those are the only records of what they did that this Court should consider. Thank you, Your Honor.

MR. LINDEMANN: Thank you, Your Honor. May it please the Court, Andrew Lindemann for the Planning Commission. I think it's best to start with this Court's jurisdiction. Obviously this court is sitting in an appellate capacity. The Court does not have appellate jurisdiction unless there was a notice of appeal that was

timely filed. Consistent with the way the supreme court and the court of appeals operate at the notice of appeal, it's not timely. There's no appellate jurisdiction. It's not something that can be ultimately established by waiver, estoppel, consent. Bottom line is, got to comply with the requirements of statute. And in this particular case, the appellant didn't do so, so therefore this Court doesn't have appellate jurisdiction. Don't need to actually go beyond that. We do rely on a case from the court of appeals from 2005, the *Blind Tiger vs. City of Charleston* case. In that case, Your Honor, the court of appeals was dealing with the statutes for the Design Review Board, or Architectural Review, is what Charleston calls it. It's the same type of statutory scheme, the exact same language as we have in 6-29-1150 (D)(1), which says an appeal from the decision of the Planning Commission must be taken to the circuit court within 30 days after actual notice of the decision. Now, what 6-29-1150, does provide, it provides for two different types of appeals to be filed. One is purely a notice of appeal without an accompanying pre-litigation mediation request, and that's what we have here. The appellant did not make any type of request for pre-litigation mediation. So as a result, (D)(1) is what applies, and it says, like I said, that the appeal must be filed within 30 days after actual notice of the decision. That's where the *Blind Tiger* case

comes in because the court of appeals addressed, what does it mean to have actual notice of the decision. The court said, quote, the triggering mechanism for filing an appeal is actual notice of the adverse decision, not receipt of the written notice. So the date that the letter was received from the planning department indicating that the application had been denied, that's not the triggering point. The triggering point is if the party was present at the hearing, and of course they were. They had their representative from Gray Engineering actually address the body and provide testimony to you, which is part of the video. They were present at the hearing. The meeting took place on April 23, 2025. The notice of appeal was not filed or served until more than 30 days later, on May 28, 2025. So based thereon, Your Honor, there is no appellate jurisdiction, and the court doesn't need to go beyond that. I will address the other issues on the merits in case the Court does find that you have jurisdiction.

THE COURT: I found a letter saying that you had 30 days from the receipt of the letter.

MR. LINDEMANN: Well, a couple things on that. Number one, you can't obtain appellate jurisdiction or subject matter jurisdiction of any kind based upon waiver, estoppel, or consent. So bottom line is, even though that information could be argued to be incorrect, and I don't

think it is, it certainly isn't binding or controlling here.

THE COURT: Why do you think it's not?

MR. LINDEMANN: Well, because it references section 6-29-1155, which is the provision for request for pre-litigation mediation. That's why I pointed out that they're two different timing mechanisms.

THE COURT: I got it.

MR. LINDEMANN: So ultimately, what's correct is stated there because that then runs from the time of decision. And there's been no challenge in this case to the statute itself. The statute clearly provides two different triggering mechanisms, and we clearly fall under the first, which, like I said, under *Blind Tiger*, the court of appeals made it very clear that runs from the date of actual notice, and actual notice is, you are participating in the hearing. You knew the decision because the vote was taken in an open session right before the parties. So clearly they had notice on April 23rd, and they don't argue that they don't. And obviously they've got the burden of proving that this court has jurisdiction. So turning to the merits, I disagree with Mr. Burke on a couple of things. First of all, he's wrong as far as his description of the authority of the Planning Commission when it comes to the approval or denial of subdivision applications and preliminary plats or preliminary plans. That authority is provided by statute in, again, 6-

29-1150. The General Assembly states, these procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval. So it's not discretionary. They're decision makers as far as any type of sketch plans, preliminary plans, or plats, and in addition to that, the land development regulations also provide that exact same decision-making authority. With the Court's indulgence, Article 3.3.5 gives the Planning Commission authority to, quote, approve, deny, amend, or hold the proposed subdivision plan. So it's not discretionary. What they're relying on is a provision in the zoning ordinance, which has an obvious clerical error, Your Honor. If you look at their Exhibit 22, it breaks out under Planning Commission under section 2:2. The first section is reviewing authority. The second is decision-making authority. Preliminary subdivision plats falls under 2:2.2, which is decision-making authority. There's obviously a clerical error where it says, the Planning Commission acts in a review and recommending capacity on the following matters. That's not what the intent was. The intent is decision-making authority, which is the subtitle. And bottom line is, there's an inconsistency between statute and the zoning regulations. The statute is going to control, anyway, and clearly by law, and if you look at *Kurschner* and all of the cases that they cited, the decision is for the Planning

Commission to approve or disapprove subdivision plats. So ultimately, Your Honor, I think the case law as well as the statutory law bears that out. To address their due process claim, and I don't really know that they brought it as a due process claim, but ultimately they have an argument that the Planning Commission must issue its approval or disapproval and issue a written decision with findings of facts and conclusions of law. As we cite in our memorandum of law, that is not supported at all by the statutory law. In fact, again, looking at 6-29-1150, and subsection B, it simply says, a record of all actions and all land development plans and subdivision plats with the grounds for approval or disapproval on any conditions attached to the record must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken. It doesn't say anything about issuing a decision with findings of fact and conclusions of law. What is important to recognize is that the same statutory scheme, the Local Government Comprehensive Planning Enabling Act, does include a requirement for a zoning board, a board of zoning appeals, to issue a decision of the board, including findings of fact and conclusions, and that's 6-29-830(A), so clearly the General Assembly intended planning commissions to be handled in a different way than the Board of Zoning Appeals. Board of Zoning Appeals, they expressly indicated that you had to have

a written decision with findings of fact and conclusions of law. That is not in the statutory language for planning commissions. Obviously there's a recognition that planning commissions fulfill a much different responsibility. I will advise the court that that particular issue is currently pending in front of the court of appeals in a case where I'm representing the Greenville County Planning Commission. It's the Old White Horse Road Alliance case. The exact same argument was made in that particular case by the appellants, and I'm happy to provide the Court judge Morgan's order. Judge Morgan ruled in favor of the Planning Commission and found, based on the analysis I just provided to the Court, that there is not a requirement to provide a written decision with findings of facts and conclusions of law. That appeal is currently pending before the court of appeals. As I indicated, I think oral arguments were held in that believe it was March, April. There's not yet been a decision, but ultimately, that case should probably decide that particular issue. And I'm happy to provide the court with Judge Morgan's decision, which is the decision on appeal, if that's helpful. Going to the actual merits of the appeal itself, as we address in our memorandum, and Plaintiff's counsel concedes, or appellant's counsel concedes, it's an any-evidence standard of review. The Court obviously sitting in a purely appellate capacity, can't substitute your judgment

for that of the Planning Commission, and the Planning Commission has very, very broad authority in what's been described by the Supreme Court in the *Kurschner* case. Ultimately, in this particular case, Your Honor, if you review the hearing itself, and obviously the hearing itself is absolutely appropriate to be in the record in this case. That's the evidence that was submitted to the Planning Commission. There were three citizen witnesses, and then there was the engineer from Gray Engineering representing the appellant's interest, who presented evidence to the Planning Commission. And so ultimately, Your Honor, what that shows is that there were substantial questions, number one, about the fact that there was a traffic impact study that was done in 2023. In fact, the appellants included that as an exhibit to their memorandum that was filed a few days ago. And if you look at that, not only was it prepared in July of 2023, it actually still has the word, draft, in big red print on the front of it. It is not a final traffic impact study. The engineer from Gray Engineering conceded that ultimately that there is grounds alone for denying the subdivision application at this stage. They conceded that they needed to provide an updated and complete traffic impact study, so that right there alone, like I said. There were other issues that were raised during the meeting of the Planning Commission regarding compliance with the cluster development

regulations. Ultimately, there is evidence in the record to support a denial based upon whether or not they have complied. They, meaning, the appellants, have complied with the cluster development regulations. Again, and any-evidence standard applies, and therefore ultimately that should be affirmed under the any-evidence standard. But again, to reiterate, Your Honor, I don't believe the Court necessarily needs to even reach the merits of this case. I don't believe the Court has appellate jurisdiction based upon the *Blind Tiger* case, which is binding precedent. And so ultimately we would ask the Court initially to deny this appeal for lack of appellate jurisdiction, or alternatively, if you reach the merits, to affirm based upon the fact that an any-evidence standard is met and supports the denial of the subdivision application in the preliminary plat at this point in time. Thank you, Your Honor.

MR. BURKE: Briefly, Your Honor, County Council grants the authority of the Planning Commission. The statute, as Mr. Lindemann just read, says that may include approval of plats. They didn't grant that authority. You can see it in their zoning ordinance. The zoning ordinance contains a provision stating that the titles of the ordinances are not to be considered. The language is the language, and if it's their error, they need to fix it. The timing provisions aren't in the section 6-29-1155. They are

in 6-29-1150. It states an appeal from the decision the Planning Commission must be taken to the circuit court within 30 days after actual notice of the decision, (D)(1). And then (D)(2), it says in a second separate paragraph from the one about pre-litigation mediation, a notice of appeal and request for request for pre-litigation mediation must be found within 30 days after the decision of the Board is mailed, which it did. And going back to Blind Tiger, LLC, which is a different type of commission. It is another authority. But apparently that commission was allowed to make decisions. The court specifically said, also, at the time the decision was rendered, a member of the Commission placed an X in the box, so the application next to denial. That didn't happen here, because the Planning Commission tells the County what to do. The County staff actually, they don't make the decision, but they take the action. We are not arguing here today if there's a requirement for a written facts down, but there is a requirement that the Planning Commission make a finding of fact. It could be in the minutes. They need to make a motion that says, I'm denying this because of X. Once they do that -- it might be the traffic impact study. It might be because it doesn't comply with LDR. Then my clients have notice, and that's where the due process issue comes in. Then my clients have notice of what they're appealing. But the Planning Commission didn't

do that, and the way a deliberative body does that is by making a motion and saying, this is why we're doing what we're doing. And they didn't do that. And for that reason alone, that should be overturned. The engineer, the SCDOT, requires an updated traffic impact study for any encroachment. In any of these, the engineer would have had to update the traffic impact study. And they had that discussion on the record in the minutes. I think the chairman of the Planning Commission said it's a SCDOT road, and the engineer said, yeah, the SCDOT is going to make me do an updated traffic impact study. That's going to be required regardless of what traffic impact study was submitted. And again, if the Planning Commission had said, we're denying it because it doesn't have a traffic impact study, we'd be having a different argument. Just for the Court's -- the Berkeley Electric Coop, which I mentioned. I found the site. It's 308 S.C. 205. That was about parol evidence not being admitted to explain the minutes. Thank you, Your Honor.

THE COURT: I'll give you the final word, Mr. Lindemann, if you like.

MR. LINDEMANN: Yeah, real quickly. As far as the traffic impact study, there were two roads that are at issue in this case. One is a SCDOT road, but this the way this was developed. This is O'Neal Farms Phase 2, which is back behind O'Neal Farms Phase 1. And so one of the access roads

to the new development is through the original development, Phase 1 development, and so there's a roadway, which is O'Neal Farms Way, which connects then to the new development as an access road for ingress and egress into the development. That is a county road, so the traffic impact study addresses not just SCDOT roads, but also county roads. I did want to make that clarification. One last point too about the *Berkeley Electric* case, I can't recall when that case was decided, but it was long before we had the power of the Internet in order to broadcast and tape and record the meetings themselves. I have never seen a court reject an actual video of the meeting itself or a transcript of the meeting itself as proper evidence. It is not what is considered new evidence, and it's certainly not parol evidence. It is the actual hearing itself. So I don't believe that the supreme court, if they took another look, or a modern look at *Berkeley Electric*, would rule that the hearing itself, or even a written transcript of the hearing itself, is not appropriate evidence, or certainly is not parol evidence. So I would raise that to Your Honor as well. And Your Honor, I do have a copy on a flash drive of that video, if it will be easy for you to access.

THE COURT: Thank you both for your arguments. I'll take them under advisement, hopefully have a ruling next week.

(THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED.)

CONTENTS OF DISC

Video of Greenville County Planning Commission (April 23, 2025)

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas, Thirteenth Judicial Circuit
Hon. William C. McMaster, III, Circuit Court Judge

Case No. 2025-CP-23-03365
Appellate Case No. 2025-002385

AJC-101 Holdings, LLC,..... Appellant,

v.

Greenville County Planning Commission ..... Respondent.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

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