

RECEIVED

Jul 31 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2025-001505

Case No. 2025-CP-04-00328

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

v.

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

**RECORD ON APPEAL
VOLUME II**

Todd Russell Flippin (SC Bar No. 101197)
P.O. Box 1897
Spartanburg, SC 29304
(864) 594-5300
tflippin@holcombebomar.com
*Attorney for Anderson County
Planning Commission*

Carter R. Massingill (SC Bar No. 101802)
Ronald G. Tate, Jr. (SC Bar No. 5475)
55 Beattie Place, Suite 1200
Greenville, SC 29601
(864) 271- 9580
cmassingill@gwblawfirm.com
rtate@gwblawfirm.com
Attorneys for Spano & Associates

James G. Carpenter
S.C. Bar No. 1136
Jennifer J. Miller, S. C. Bar No. 11316
THE CARPENTER LAW FIRM, PC
819 E. North Street
Greenville, South Carolina 29601
(864) 235-1269
jim@carpenterlawfirm.net
jennifer.miller@carpenterlawfirm.net
Attorneys for Appellants

INDEX

VOLUME I

ORDERS

1. Order entered August 30, 2024	1
2. Form 4 Order entered November 13, 2024.....	5
3. Order of Remand entered November 20, 2024.....	9
4. Form 4 Order entered February 7, 2025	13
5. Order of Dismissal entered February 21, 2025	16
6. Form 4 Order entered June 5, 2025	22
7. Signed Order of Dismissal entered June 10, 2025.....	25
8. Formal, signed Order entered June 30, 2025	32
9. Form 4 Order entered June 30, 2025	39
10. Form 4 Order entered August 27, 2025	42
11. Order Granting Motion to Correct the Record entered September 4, 2025.....	45

PLEADINGS

12. Filed Summons and Complaint dated May 7, 2024.....	49
13. Commission Answer filed June 7, 2024	61
14. Spano and Associates Inc. Answer filed October 28, 2024	69
15. Summons and Complaint filed February 13, 2025	76
16. Answer of Spano and Associates, Inc. filed March 13, 2025	86
17. Commission Answer filed April 14, 2025	98
18. Plaintiff's Reply to the Commission filed April 22, 2025	108

MOTIONS AND MEMORANDA

19. Commission’s Motion to Alter or Amend filed September 9, 2024, with exhibit	112
Exhibit A - S&ME Site Visit and Geophysical Survey dated August 23, 2024	116
20. Spano and Associates, Inc. Motion to Intervene filed October 28, 2024.....	142
21. Commission’s Motion to Dismiss filed October 29, 2024.....	147
22. Spano and Associates, Inc. Prehearing Brief dated June 1, 2025, with 7 exhibits	150
Exhibit 1 - Chronology	159
Exhibit 2 - Court Transcript of February 6, 2025	161
Exhibit 3 - Order Entered August 30, 2024	180
Exhibit 4 - Revised Site Plan	184
Exhibit 5 - Commission minutes dated January 14, 2025, approving Anderson Reserve, and reaffirming the decision by the Commission from April 19, 2024	187
Exhibit 6 - Reports from Spano and Associates, Inc. dated December 23, 2024 & December 7, 2024.....	190
Exhibit 7 - Protective Covenants Draft	255
23. Commission prehearing brief filed June 2, 2025	260
24. Plaintiff’s Memorandum of Law, with 5 exhibits, dated June 3, 2025	261
Exhibit 1 - Affidavit of Stanley Hix.....	275
Exhibit 2 - Anderson County, SC Code of Ordinances Sec. 24-335.....	281
Exhibit 3 - Anderson County, SC Code of Ordinances Sec. 24-336.....	283
Exhibit 4 - Graveyard Hill Map	284
Exhibit 5 - Anderson County, SC Code of Ordinances Sec. 24-401	285
25. Plaintiff’s Motion to Alter or Amend dated June 16, 2025	286
26. Spano and Associates, Inc. Motion for Expedited Hearing and Motion to Lift the Automatic Stay and Order Appellants to Post Sufficient Bond during the Pendency of Their Appeal, with 4 Exhibits dated August 6, 2025	289
Exhibit 1 - Summons & Notice of Appeal	303
Exhibit 2 - Anderson Co. Property Record Details	311
Exhibit 3 - SC Sec. of State Business Entity - Spano & Associates Asheville, LLC	313
Exhibit 4 - Florida Business Entity - Spano & Associates, Inc.	315
27. Spano and Associates Inc. Motion to Correct the Record under Rule 60(A) SCRPC, dated August 6, 2025	317

28. Plaintiff’s Memorandum in Opposition to the Motion to Correct the Record and Motion to Lift the Automatic Stay and Post a Bond, with 6 exhibits entered August 25, 2025	320
Exhibit 1- Summons & Notice of Appeal	331
Exhibit 2 - Anderson Co. Property Record Details	338
Exhibit 3 - SC Sec. of State Business Entity - Spano & Associates Ashville, LLC	340
Exhibit 4 - Florida Business Entity - Spano & Associates, Inc.	342
Exhibit 5 - Affidavit of Kenneth Eugene Rhodes	345
Exhibit 6 - Anderson County FOIA Request	348
29. Spano and Associates Inc. Reply in Support of Spano’s Motion to Correct the Record and Motion to Lift the Automatic Stay Post a Sufficient Bond with 2 exhibits, filed August 26, 2025.....	353
Exhibit A - Massingill Email to the Court dated October 17, 2024	359
Exhibit B - Florida Business Entity - Spano & Associates, Inc.....	363
30. Plaintiffs’ Reply Memorandum in Opposition to the Motion to Correct the Record and Motion to Lift the Automatic Stay Post a Bond, dated August 27, 2025.....	367
31. Plaintiffs’ Motion to Reconsider the Form 4 Order of the Bond and Objection to the Proposed Formal Order on the Bond, with Hix Affidavit, filed September 26, 2025	374
32. Plaintiff’s Notice of Posting Bond dated October 3, 2025	386

VOLUME II

TRANSCRIPTS

33. Transcript of record dated August 21, 2024.....	387
34. Transcript of record dated February 6, 2025.....	435
35. Transcript of Record dated June 4, 2025	454

OTHER SUPPORTING MATERIAL

36. Affidavit of Kenneth Eugene Rhodes	475
37. Commission’s minutes dated April 9, 2024, giving preliminary approval of Anderson Reserve.....	477
38. Title to Real Estate filed May 22, 2024	529

39. Spano’s Archaeological Survey and Report dated August 23, 2024.....	534
40. Appellants’ letter to the commission dated December 9, 2024, with exhibits.....	560
Exhibit 1 - Order filed August 30, 2024	567
Exhibit 2 - Graveyard Hill Poem	571
Exhibit 3 - Rhodes Affidavit	572
Exhibit 4 - Order filed November 20, 2024	574
Exhibit 5 - Letter to Judge McIntosh from Robert P. Larsen, III, MSc, RPA dated October 25, 2024.....	578
Exhibit 6 - Rivoli Plantation Cemetery Survey	580
Exhibit 7 - Letter to Stanley Hix from Hugh B. Matternes, PhD, RPA dated October 28, 2024.....	588
41. Chapter 24 Rules from Anderson County	597
42. Graveyard Hill flyer	607

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT
COUNTY OF ANDESON) C.A. NO. 2024CP0400975

HUBERT SMITH	)
	)
Plaintiff(s),	)
versus	)
	)
ANDERSON COUNTY PLANNING	)
	)
Defendant(s).	)

H E A R I N G

Before The Honorable Lawton R McIntosh

DATE: August 21, 2024
LOCATION: South Carolina Circuit Court
TRANSCRIBED BY: Jane Daniel

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
Depos@legaleagleinc.com

1 APPEARANCES:

2 JAMES CARPENTER, Esquire

3 The Carpenter Law Firm

4 819 E North St

5 Greenville, SC 29601

6 Attorney for the Plaintiff,

7

8 A TODD DAWIN, Esquire

9 Holcombe Bomar, PA

10 PO Box 1897

11 Spartanburg, SC 29304

12 Attorney for the Defendant,

13

14

15

16

17

18

19

20

21

22

23

24

25

INDEX

1

2

3 Proceedings..... 5

4 Certificate of Transcriber..... 48

5

6

7

8

9

10

11 EXHIBITS

12 (None Marked)

13

14

15

16

17

18

19

20

21

22

23

24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL

25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: All right. Smith v. Anderson County
3 Planning Commission. Good morning.

4 MR. CARPENTER: Good morning.

5 MR. DAWIN: Good morning, your Honor.

6 THE COURT: This is an appeal for the commission's
7 decisions; is that right?

8 MR. CARPENTER: Yes. Planning commission.

9 THE COURT: This is your case?

10 MR. CARPENTER: Yes, sir.

11 THE COURT: All right, sir. Are you ready?

12 MR. DAWIN: Yes, your Honor. Todd Dawin, for the
13 commission.

14 MR. CARPENTER: Your Honor, we -- we have a witness
15 that we would like to have testify by remote hook up because
16 she's taken care of her very sick husband.

17 THE COURT: You want to testify by remote? You didn't
18 tell me before, so we didn't make any kind of arrangement for
19 that. I mean, that's a little bit late for you to be asking
20 for me right now.

21 MR. DAWIN: Your Honor, I object to any testimony.
22 This is an appeal. The record is what the record is. There
23 should be no testimony from any party.

24 THE COURT: And it's -- it's not a De novo. So anyway,
25 it is -- it's got to be heard on the record. But in the

1 future, if you need anything like that, you got to call me so
2 we can make arrangements. But I wouldn't have let you have
3 it at this juncture. This -- this is an appeal. Go ahead.
4 (Inaudible)

5 MR. CARPENTER: Your Honor, this is a -- we -- we have
6 six arguments. We filed the summons and complaint appealing
7 the decision for planning commission. And we have the
8 summons and complaint, we have an answer, I guess that's
9 already in the record.

10 First cause of action relates to failure to follow the
11 statutes related to the graves of deceased persons who -- who
12 were enslaved. This property that's at issue is -- was a
13 cattle farm or also probably described as a plantation.
14 There are statutes in South Carolina that govern how the
15 issue of graves need to be treated. There's a common --

16 THE COURT: Which statute are you referring to
17 27-43-310?

18 MR. CARPENTER: 27-43-310 and following. Yes.

19 THE COURT: All right.

20 MR. CARPENTER: All right.

21 THE COURT: Do you have anybody that you represented
22 who qualifies for any of the people who can enter the
23 property under that statute? Family, descendants,
24 genealogists, maintain the grave or the burial ground of the
25 deceased. That seems to me to be the people who would be

1 entitled to ingress, egress, unnoticed to the landowner.

2 MR. CARPENTER: Your Honor, what we have that -- the --
3 the plaintiffs are neighboring landowners.

4 THE COURT: Okay. Is there anything in the statute
5 that provide papers, the landowner have ingress and egress
6 under that statute?

7 MR. CARPENTER: I don't believe so, your Honor. But we
8 also have a common law that tells what -- what should be done
9 with burial grounds.

10 THE COURT: What does the common law provided?

11 MR. CARPENTER: Your Honor, I have some cases that have
12 that -- I can hand out some cases.

13 THE COURT: Sure. Do you have those?

14 MR. DAWIN: I do not, your Honor.

15 MR. CARPENTER: I -- I have -- I have notebooks here
16 that have our --

17 THE COURT: If you provide those accounts, you can file
18 them later.

19 MR. CARPENTER: (Inaudible) the Court.

20 THE COURT: Sure.

21 MR. CARPENTER: These -- these are organized. We --
22 we've got six arguments. These are organized by tabs one
23 through six.

24 THE COURT: Okay. Now I'm treating this, just so we're
25 all on the same page as Mr. Carpenter's appeal from the

1 Planning Commission. So my standard of review is very
2 limited based on the statute -- statutory provisions. Do you
3 agree or disprove that?

4 MR. CARPENTER: I -- I believe it's a -- a hearing on
5 review. Yes.

6 THE COURT: Okay. All right.

7 MR. CARPENTER: The -- the main point of our first
8 cause action is that citizens told the planning commission
9 about the presence of Graves on the property. They handed up
10 an affidavit, a former landowner, and testified that he
11 thought there were graves at four specific places on the
12 property.

13 He -- we would -- after the planning commission
14 hearing, he and other witnesses met with members of the
15 planning commission and expanded on the affidavit explaining
16 where the graves were he thought. Planning commission took
17 position that we haven't received any subjective or objective
18 evidence in relation to the graves --

19 MR. DAWIN: Your Honor, I object to anything that he's
20 testify or -- or argue, it's not in the record. The record's
21 very clear. There's minutes of this meeting. I'll be glad
22 to hand it to the Court.

23 They're on the website. It's public record. Opposing
24 counsel surely has those. That's the only thing, your
25 Honor's -- your Honor's limited to the meetings of -- of the

1 minutes. Not something that may have occurred after a
2 meeting or after a vote.

3 THE COURT: Mr. Carpenter, this is a matter of the
4 record in this case on appeal.

5 MR. CARPENTER: All right. We -- we have the minutes
6 here, your Honor, and we have -- I -- I'll -- I'll make
7 citations to the minutes.

8 THE COURT: Okay.

9 MR. CARPENTER: Okay. The two meetings that we're
10 concerned with are the March 12th meeting and the April 9
11 meeting. But -- but I mentioned the common law. What we
12 have handed up is a case called Frost v. Columbia Clay
13 Company.

14 And this sets the background for how to treat burial
15 grounds or graves. And this says we're the grounds been
16 dedicated to the public for use as a cemetery, the owner
17 cannot afterward --

18 THE COURT: Hang -- hang on. When you're looking down,
19 I can't do -- I'm not familiar with those cases. So look at
20 me and read it so I can understand the question.

21 MR. CARPENTER: Okay. I -- I handed it up to the Court
22 and I highlight --

23 THE COURT: I want you -- you do it so I can understand
24 it right now, because I have not read, so --

25 MR. CARPENTER: Okay.

1 THE COURT: -- I can I understand what you're saying.

2 MR. CARPENTER: Okay. I'm looking at Frost v. Columbia
3 Clay Company.

4 THE COURT: Okay.

5 MR. CARPENTER: Page 2 of the opinion, the highlighted
6 portion on this -- the first column. "Where ground has been
7 dedicated to public for use as a cemetery, the owner cannot
8 afterward resume possession or remove the bodies entered
9 therein."

10 And then it says, "The most refined and sacred
11 sentiments of humanity cluster around graves of departed
12 loved ones. And when those sentiments have become associated
13 and connected with a particular spot of ground, the
14 invitation or by invitation of consent of the owner, we shall
15 not for secular purposes disturbed." And that's what's going
16 on here. We have a disturbance.

17 THE COURT: How were the properties -- were these
18 graves dedicated? Was this a dedicated graveyard?

19 MR. CARPENTER: It was -- it was a -- according to the
20 affidavit, it was a place where they buried the enslaved
21 persons. It was a particular section of that.

22 THE COURT: Was -- was it marked or dedicated somehow
23 or was it just -- were they buried haphazardly? I -- I just
24 don't know.

25 MR. CARPENTER: Well, the -- if we'd been -- if we'd

1 been permitted to put evidence on, we would've had a
2 historian testify about how that happened. But if I could
3 proffer that it would've been that -- that when they had a
4 plantation like this, they would bury the bodies of the
5 deceased persons in a particular area, usually away from the
6 arable land. Near streams or rivers, near other buildings so
7 as to not interfere with the farming operations of the
8 property.

9 THE COURT: I thought you told me the outset that there
10 was a number of four graves or whatever that were
11 specifically there.

12 MR. CARPENTER: That there was a place --

13 THE COURT: That they pointed out to the planning
14 commission as actually being there. Not suspected that it
15 might be there. Is -- is it something that they know to be
16 there or they suspect could be.

17 MR. CARPENTER: There is -- is -- and -- and we have
18 the affidavit that was submitted to the planning commission,
19 and it said that this man walked with his father, and his
20 father pointed out areas where the slave graves were. And he
21 said they were in four particular areas on the property. He
22 put that in his affidavit. We handed that affidavit up to
23 the planning commission. I think they delegated to the staff
24 --

25 THE COURT: And this gentleman was who?

1 MR. CARPENTER: Mr. Rhodes.

2 THE COURT: I mean, the reason I'm asking, under the
3 statute that I looked up, there's certain people that you
4 have at grave size have access to the property. Is --

5 MR. CARPENTER: He's a former owner.

6 THE COURT: Is he a family member or a descendant?

7 MR. CARPENTER: I -- I think -- I think the graves were
8 those of enslaved persons. He would've been a descendant of
9 a prior owner of the property.

10 THE COURT: Okay.

11 MR. CARPENTER: I don't know that he's a descendant of
12 the persons buried there.

13 THE COURT: Okay.

14 MR. CARPENTER: But -- but this case goes on to say
15 that just through inaction doesn't create a situation of
16 abandonment. Those continue to be burial grounds and they
17 have to be preserved and protected. That's -- that's what --
18 that's what I read the Frost case to stand for. And this is
19 from 1924.

20 A similar effect is the case called Kelly v. Tyner,
21 which I've also handed up to the Court from South Carolina in
22 1912. Page 4 of the opinion, "if one has been permitted to
23 buried his dead in a cemetery by the express or implied
24 consent of those in proper control of it, he acquires such
25 possession in the spot of ground in which the bodies are

1 buried, as will entitle him to maintain an act of trespass,
2 where a clause on (inaudible) against the owners of the fee
3 or strangers who without his consent negligently or wantonly
4 disturb it.

5 One who dedicated public land to public for burial
6 purposes, dedication, having been accepted, may be prohibited
7 from defacing or peddling with the grave thereon at the suit
8 of one, having relatives or friends buried there."

9 The complainants in that case were residents of the
10 neighborhood and they had friends buried in the burying
11 ground and with us interested in preserving for themselves
12 and the public, the varying ground as it had been
13 established. And we are of the opinion that they had the right
14 to sue on behalf of themselves and others with a like
15 interest.

16 The plaintiffs have a general interest as citizens of
17 the community in which the cemetery is located and have a
18 special and particular interest because of their parents,
19 children, grandparents buried there.

20 So it's not just the direct descendants of those who
21 are buried there, but it's others in the community who have
22 interest in preserving the burial ground that were given
23 standing to -- to litigate the disturbance of those graves.
24 In the case of Kelly v. Tyner which we've handed up to the
25 Court.

1 THE COURT: Well, let's go back to the planning
2 commission requirements. Is there anything in the planning
3 commission requirements that if there is a suspected grave
4 site what has to be done? I'm not familiar with it and I'm
5 just asking.

6 MR. CARPENTER: Well, we're contending that based on
7 the statutes that -- that disallows certain things from
8 happening --

9 THE COURT: Which statute are you walking about?

10 MR. CARPENTER: Well, the ones we mentioned in the
11 first place --

12 THE COURT: Sir.

13 MR. CARPENTER: The ones we mentioned in the first
14 place, and you questioned my --

15 THE COURT: You talking about 27-43-310.

16 MR. CARPENTER: Yes.

17 THE COURT: In that it says the following people that
18 would like to ingress and egress, and that is family members
19 or descendants, applied owners, persons who will often
20 participate in a burial, genealogists engaging in research
21 with permission of the owner or family members or
22 descendants. I mean that seems to be the class of people who
23 were covered by that statute.

24 MR. CARPENTER: Okay. But the common law, I think is
25 broader according to this case.

1 THE COURT: Well, the statute -- I mean, the statute is
2 the statute, you know. And the legislature makes a list was
3 inclusio -- exclusio, whatever that the Latin term is. If
4 they included means that they didn't -- they specifically
5 excluded it.

6 MR. CARPENTER: Well, that, that's talking about a
7 right to go on there and do certain understand it. But this
8 is talking about preserving the burial grounds from
9 disturbance. And I think think that common law --

10 THE COURT: So going back to my question, if I'm
11 bringing a development before the planning commission ask for
12 it to be approved. And somebody says they're suspected
13 cemetery plots, there. What do the planning commission's
14 rules or regulations require in that event? Anything? Or
15 does it just go back to the statute?

16 MR. CARPENTER: I -- I think it would require
17 reasonable judgment, and I think that would include a duty to
18 look into it.

19 THE COURT: Does the statute say that or there, do the
20 rules or regulations say that, or is it just something you
21 think would be a common, sensible approach?

22 MR. CARPENTER: I don't know a specific statutory duty.

23 THE COURT: I'm sorry.

24 MR. CARPENTER: I said I don't know of a specific
25 statutory duty related to graves that applies specifically to

1 the planning commission.

2 THE COURT: Okay.

3 MR. CARPENTER: I think they've got a certain amount of
4 judgment and discretion, but we -- the point is we presented
5 this affidavit to the planning commission.

6 THE COURT: And -- and again, I have not looked at it,
7 Mr. Carpenter, that affidavit I will look at, but it says
8 specifically I was a former owner or my family was or
9 descendant of that, and this is where the graves actually
10 were. Is that pretty much to the effect of what he was
11 saying or this person was saying?

12 MR. CARPENTER: Let -- let me find the affidavit, your
13 Honor.

14 THE COURT: Okay. What tab are you under? You said
15 you might -- things you handed up to me

16 MR. CARPENTER: I'm -- I'm still on number one.

17 THE COURT: Okay.

18 MR. CARPENTER: Here's the affidavit of Kenneth Eugene.

19 THE COURT: You said in your submissions to me. If its
20 not, would you hand it up, please?

21 MR. CARPENTER: Yes -- yes, your Honor. That's what I
22 -- you -- you can have these.

23 THE COURT: Yes. Yes. (Inaudible).

24 MR. DAWIN: It's right behind the case.

25 MR. CARPENTER: Okay. Opposing counsel tells me it's

1 right behind the case under tab one, and it is. I just -- I
2 just --

3 MR. DAWIN: It's under tab one, your Honor, right after
4 the case.

5 MR. CARPENTER: Right -- right after the case. The
6 cases

7 THE COURT: Tell you what, give it to my law clerk
8 before you leave, make sure that I have it. Okay. I'm not
9 seeing it. Okay. I just didn't -- I -- you just handed me
10 the book, so I haven't read anything yet. Okay. Sir?

11 MR. CARPENTER: This is the original here.

12 THE COURT: Okay. Would you make a copy of that?
13 She'll give you your original back.

14 MR. CARPENTER: All right. All right. And you want me
15 to go through the affidavit?

16 THE COURT: Go ahead. Sure. I'll get back to sir.

17 MR. CARPENTER: Paragraph 3. Mr. Rhodes testifies and
18 he's an old man. "And in the late '30s, my father John Lee
19 Rhodes, who was a deputy police officer in Anderson, acquired
20 property including a property west of on Highway 187,
21 adjoining Fants Grove Circle," which is the property we're
22 talking about here, then known as Rivoli Plantation.

23 "I was around 10 years old when the property was
24 acquired, lived there with my father and mother and some of
25 my siblings. The portion of the property currently owned by

1 AnMed was in my family until 1982 when it was sold to
2 Motorola. When my father bought the property in the late
3 '30s, there was a black man who worked on the property who
4 were descendants of the slaves.

5 At that time, the property had a plantation home called
6 Ridley and a barn at the top of the hill on the property. We
7 had cattle and cotton on the property. There were three
8 wooden buildings near the barn, some pecan trees. My father
9 told me the slaves had lived in the buildings. In the '40s
10 my father also told me there were slave graves on the
11 property.

12 When I walked the property, I could see an area where
13 the ground had sunk in. When I asked my father what it was,
14 he told me slaves were buried in the shallow graves. I don't
15 know exactly where all the graves were.

16 Some were located on the hill right behind the barn.
17 There were some graves near a spring that started on a short
18 branch, not too far from the roads." And then he has the
19 affirmation and so on. So there -- there are four specific
20 places where the graves were according to the former owner of
21 the property.

22 And when we presented that to the commission we
23 suggested that the commission had -- because of the
24 seriousness of of desecrating graves, the commission had a
25 duty to at least look into that. And the commission --

1 THE COURT: Say that again, please.

2 MR. CARPENTER: We -- we submit that when we told the
3 commission about that, because of the seriousness of the
4 graves and the -- and the comparable cases that talk about
5 the seriousness of burial grounds, that the commission had a
6 duty to at least look into that, to see if there were graves
7 there to prevent the desecration of the graves. And they
8 didn't do that.

9 They -- they brushed it off and they said, in the
10 minutes, we don't have any subjective or objective evidence
11 that there might be graves on the property. And we contend
12 this affidavit is evidence and it -- and it should have
13 created a duty in the depart of the planning commission to at
14 least look into it.

15 And then Mr. -- Mr. Rhodes met with some officials
16 afterwards, which I know I'm going to get an objection on.
17 But -- and -- and further explained his affidavit and we --
18 we gave him this evidence, but they refused to consider it.

19 And we think that was a violation of their duty as
20 planning commissioners to protect the sanctity of burial
21 grounds on property that's going to be bulldozed and just
22 turned into a subdivision.

23 So that's -- we -- we think based on the -- the case
24 law that we've provided here, that it continues to be a
25 burial ground and there are certain requirements for

1 preservation burial grounds that they had a duty to at least
2 look into it and they didn't even look into it. Your Honor,
3 if we had been permitted, we would've offered an expert to
4 talk about the customs and -- and --

5 THE COURT: Say that again.

6 MR. CARPENTER: If we had been permitted, we would've
7 offered --

8 THE COURT: You know, the standard of review is the
9 standard review. I didn't create it. It's created by
10 statute. So you're not allowed to create new evidence up
11 here, you know that Mr. Carpenter.

12 MR. CARPENTER: All right. So (inaudible). Pretty
13 much.

14 MR. DAWIN: Your Honor, do you want to address these
15 one by one or me wait till the end, address all six.

16 THE COURT: Your objection. Whatever way you want to
17 have.

18 MR. DAWIN: I mean, I think it would be -- I think it'd
19 be easier for the Court to consider one at a time. So if
20 he's done with his argument --

21 THE COURT: Its your objection, if you want objection,
22 you should object.

23 MR. DAWIN: Yes, sir. So I -- I -- I'd like to address
24 number one and then we can go two, three, four, five, six.

25 THE COURT: All right.

1 MR. DAWIN: Instead of just waiting until the end, if
2 that's okay with you Honor.

3 THE COURT: All right.

4 MR. DAWIN: Okay. If -- if I may approach, your Honor.
5 That's the agenda, that's the amendments. Your Honor, if I
6 may approach, I've got the agenda that was for the planning
7 commission in April as well as the minutes for your Honor.

8 And your Honor, I -- I don't want to inundate you with
9 a lot of materials, but the, the timeline of this is this
10 project was considered in a -- in a similar form at the
11 December planning commission meeting. It was denied at that
12 meeting.

13 The developer, because of the denial sued, brought in a
14 bill. We had to prove they requested pre-suit mediation,
15 which was not requested in this case. We had that pre-suit
16 mediation in February. Some things were discussed and what
17 it might be able new to -- to tweak their project, they did.
18 So it was considered again in March.

19 It was again denied in March, same thing. They
20 listened to what the concerns were from the citizens and the
21 commission. Brought it back in April. And at the April
22 meeting it was approved.

23 That's why we're here today because now the citizens
24 who don't want the development have brought this appeal. So
25 I've got the minutes from December and March if you'd like to

1 see them, your Honor, because this burial ground was
2 mentioned in December. It was mentioned in March.

3 In the minutes you'll see from this April hearing, the
4 attorney for the developer, Carter Massingill specifically
5 starts his presentation with, "Hey, we've heard there's some
6 allegations that there may be a slave burial site."

7 And your Honor, if you look at that two-page affidavit,
8 it's just -- it's -- it's -- for hearsay. It's, my father
9 told me this might happen. There may be graves here. That
10 was submitted, there was discussion. We'll see that --

11 THE COURT: Well, let me ask you this.

12 MR. DAWIN: Yes, sir.

13 THE COURT: When it was brought up, even though it may
14 be hearsay, whatever, I mean anything at all done to attempt
15 to verify whether that was accurate or not accurate as to
16 whether -- no, (inaudible) --

17 MR. DAWIN: That's right.

18 THE COURT: -- as to whether or not they were grades
19 existed on this property. Did anything get done?

20 MR. DAWIN: Nothing -- well, the commission's
21 quasi-judicial, your Honor, I don't think this Court would've
22 any obligation to go back for anything that's not presented.

23 THE COURT: Did the commission require the proposed
24 developer to do anything to verify whether or not there were
25 actually graves on the property or not?

1 MR. DAWIN: The --

2 THE COURT: Did anybody require anything to be done?

3 MR. DAWIN: No, the developer actually said they wanted
4 that information. That's what I was getting to in a minute,
5 your Honor. They said they asked anyone that had information
6 to bring it with them because they wanted to know before they
7 started developing. But Your Honor, there's a statute --

8 THE COURT: I'll go back to my question to you.

9 MR. DAWIN: Yes, sir.

10 THE COURT: When this was brought up to the commission
11 and developer said this, whatever you wanted do, what, if
12 anything, did the commission require of the developer with
13 regard to these graves, anything at all?

14 MR. DAWIN: No, your Honor. Under 27-43-310 if the --
15 if graves are found during the development, there's --
16 there's a mechanism to deal with that. And that's what the
17 developer said he would do. That's why they said, we want to
18 know because we get halfway through this development and
19 discover, then we've got to go through the steps of 27-43-310
20 to try to handle what we--

21 THE COURT: Even by the nature of these type of graves,
22 you're not going to find any because they were not marked.
23 And so unless you do something to verify whether or not
24 they're there, then your decision not to seems somewhat off
25 very capricious to me.

1 MR. DAWIN: Well, your Honor, all we had was this
2 affidavit, which is arbitrary itself. It says they may be
3 somewhere. My dad told me in the '30s and '40s that they
4 made be somewhere. So I -- I mean by the same token, we --
5 we had that information, the planning commission considered
6 this affidavit --

7 THE COURT: But according what you told me that -- that
8 planning commission did absolutely nothing to acquire
9 anything to verify that, nothing.

10 MR. DAWIN: I don't know what you could do to verify
11 that, your Honor.

12 THE COURT: Sit down.

13 MR. DAWIN: Just honestly, I don't know what you could
14 have done --

15 THE COURT: I disagree with you on that.

16 MR. DAWIN: I understand that, your Honor.

17 THE COURT: The gentleman out there, let him walk
18 through or look, or have some other -- just a state
19 archeological -- the Office of State archeologist, they could
20 help to do that.

21 MR. DAWIN: Well --

22 THE COURT: Things you can do to verify whether or not
23 it's there, but just to say we're not going to do anything
24 seems to be arbitrary capricious.

25 MR. DAWIN: Your Honor, again, it had been brought up

1 by the members of the public in December and in March and no
2 further evidence had been presented on that end. Mr.
3 Carpenter now says he had an expert. They -- they could have
4 had that same person at the planning commission meeting. The
5 planning commission takes what it gets.

6 It's not a congressional subcommittee. It can't
7 subpoena witnesses. It can't have folks testify. They get a
8 project and they -- they listen to the developer, they listen
9 to the concerned citizens and then they make that decision
10 based on what was presented to them at that time.

11 And all they have is this two-page affidavit that
12 again, is -- is just to me, your Honor, hearsay on hearsay.
13 But that -- that's my argument to address that it was
14 considered and it was rejected. It was considered in
15 December and in March. And again, I'll be glad to hand those
16 minutes up to you as well, your Honor, if you want my --

17 THE COURT: No, if you tell me there and --

18 MR. DAWIN: Yes, your Honor.

19 THE COURT: I -- hey, gentlemen, I'm going to read
20 through all this before I issue a decision. All right. Mr.
21 Carpenter, next argument.

22 MR. CARPENTER: Could I address the question the Court
23 raised about what could have been done?

24 THE COURT: Sure.

25 MR. CARPENTER: Okay. The issue came up in the course

1 of this conversation at -- at the hearing about ground --
2 about LiDAR and -- and LiDAR could have been done. And LiDAR
3 is getting a drone and -- and going over the property and
4 doing a topographical study of the property, looking for the
5 indentations and so on.

6 The second thing that could have been done is called
7 ground penetrating radar, which would've disclosed the
8 presence of these graves. We believe neither of those was
9 done. And according to statements made by the developer and
10 planning commission, they thought it was just too expensive.
11 But there's no indication they looked into how expensive it
12 was going to be. We have --

13 THE COURT: Let ask you this. In some -- in some way I
14 don't necessarily disagree with county's counsel that -- I
15 mean county's attorney, that this is somewhat far removed to
16 try to prove that there is some kind of grave out there. But
17 you represent neighbors, right?

18 MR. CARPENTER: Yes.

19 THE COURT: And the neighbors don't want this
20 development there,

21 MR. CARPENTER: Right?

22 THE COURT: And so it would seem to me that raising the
23 issue of graves to stop this development could be in their
24 interest because they don't want this development there,
25 whether or not there are grave there or not. And -- and so

1 would your clients be willing to pay the cost to do this
2 investigation in the event that it is ordered?

3 MR. CARPENTER: I can certainly raise that question.

4 THE COURT: I mean, could you -- you're -- you are
5 trying to place it on some developer by some -- that had
6 somebody said some time ago, this may or may not have been
7 there. It sounds to me a little bit, quite frankly, is if
8 I'm the next door neighbor, I don't want this, so I raise
9 graves up.

10 This can stop it in its tracks. So if they really
11 believe the graves out there, really believe that something
12 needs to be protected, which if they are, they should be.
13 Are they willing to incur the cost to make sure there are?

14 MR. CARPENTER: If you give me a minute. I'll find
15 out.

16 THE COURT: Sure. Just take a couple minutes. I got
17 to get you a cup of coffee. I'll be right back. Okay.

18 (RECESS TAKEN)

19 THE COURT: Were back on the record. All right, sir.

20 MR. CARPENTER: (Inaudible) we continue to believe, we
21 would consider doing the payment of it. We think it's an
22 obligation of the developer, just like if they had discovered
23 some kind of hazardous part on the property or some kind of
24 investigation before they could develop it.

25 It -- it is an impediment to their development and we

1 think the expenses are rightly on the developer to -- to look
2 for the presence of these graves. When we told them --

3 THE COURT: Back to what you said earlier, you said
4 they are willing to pay or not willing to pay it?

5 MR. CARPENTER: Well, they're willing to consider it.

6 THE COURT: Consider it? Oh, that's just telling me
7 nothing. All right. Go ahead.

8 MR. CARPENTER: But -- but we -- we -- like I said, we
9 continue to believe this is an obligation of developer. Just
10 like if they -- if they were put on notice of some kind of
11 hazardous materials on the property, they would have a duty
12 to -- to look into it and -- and to take care of it.

13 Now the Court says, we're just trying to stop the
14 thing. Part of it has been approved already, so that's
15 beyond stopping. Phase 1 has been approved and we'll get
16 more into that as we go through the six arguments we have.
17 So that's -- that's already done. So were not trying to stop
18 that, but we are concerned about the presence of graves from
19 a humanitarian and neighborly consideration.

20 THE COURT: All right.

21 MR. CARPENTER: But we think that LiDAR can be done
22 very fairly economically and ground penetrating radar, we
23 think can be done over these areas where he pointed out that
24 graves likely were.

25 We -- I -- we think that can be done fairly

1 inexpensively compared to the value of this property.

2 There's 175 acres of residential real estate development,
3 which back in 2007 sold for two and a half million dollars.

4 We think that it would be worth two or three times that
5 now. So the cost of the LiDAR and ground penetrated radar
6 would be minuscule compared to value of property. And we
7 think it's the burden of the developer. But we're willing to
8 consider if the Court doesn't, again.

9 THE COURT: Willing to consider. It just tells me I'm
10 not going to do that down the road. So if he's willing, he's
11 willing, if he is not, he's not.

12 MR. CARPENTER: Okay.

13 THE COURT: Yes, sir. You can say right now, that's
14 fine. If he doesn't, he won't.

15 MR. CARPENTER: He will.

16 THE COURT: All right. Go ahead with your argument.

17 MR. CARPENTER: I think that included my rebuttal on
18 that point.

19 THE COURT: All right, sir. Next ground, please.

20 MR. CARPENTER: Okay. Second cause of action is the
21 failure to give proper notice under FOIA. We've submitted to
22 the Court the statutes to tab 2. The -- that the -- the
23 commission is a public body under FOIA meetings of public
24 meetings under FOIA and under 30-4-80(a), FOIA requires the
25 body to publish an agenda prior to the public meeting.

1 They -- they sent out -- we -- we attached in the notes
2 a copy of the notice that went out to the neighbors, the
3 landowners around that area. And in the notice they said
4 they were going to consider one part of this project.

5 THE COURT: Where -- is that in the submissions?

6 MR. CARPENTER: Yes, sir.

7 THE COURT: Okay. Where is that?

8 MR. CARPENTER: It is -- it is at -- right behind tab
9 2. I think it's the first thing behind tab 2.

10 THE COURT: Okay.

11 MR. CARPENTER: Second paragraph says that they're
12 going to consider phase 2. Phase 1 has already been
13 approved. Phase 1 is -- is nearing the one year anniversary
14 by which they have to take certain actions and they're --
15 they're about to run out of time on that. With this notice,
16 and they notified the public they were going to consider
17 phase 2 at the April nine meeting of the planning commission.

18 Well, when they got there the -- and we have the -- the
19 minutes of the planning commission. They did what we have
20 read they have done multiple times. And I -- I don't if the
21 Court has the April minutes or just the -- the March meeting
22 minutes.

23 MR. DAWIN: I don't know what I have and don't have
24 (inaudible).

25 THE COURT: Your Honor, I have that -- the April

1 minutes because that's what this is.

2 MR. CARPENTER: Okay. Okay. The April 9 notes.

3 THE COURT: Does this begin with the staff report
4 preliminary subdivision?

5 MR. DAWIN: It does, your Honor. And if you want to go
6 to page 12, that's where this specific project starts being
7 discussed.

8 MR. CARPENTER: Well, I want to talk about page 2.

9 MR. DAWIN: Okay. That's fine. First page of the
10 minutes.

11 MR. CARPENTER: First page of the minutes.

12 MR. DAWIN: I may not have it.

13 THE COURT: Go ahead.

14 MR. CARPENTER: Page 2, they opened the minutes -- they
15 opened the meeting and then the chairman says, at this time,
16 commissioners, I would like to invoke a motion for approval
17 of the agenda as printed. And then they had a motion and a
18 second and they had no discussion. They all voted to approve
19 it.

20 What this appears to me to be is they publish an agenda
21 and they send it out and notify everybody and they get to the
22 meeting and they want to do something else. So they have a
23 new printed agenda and they vote to adopt the agenda as
24 printed. Now, there's a statute that governs when they can
25 do that, and it requires -- and then we -- we've given the

1 statute to the Court 30-4-80 is in our materials here.

2 And it's paragraph A toward the bottom of the page,
3 toward the bottom of the paragraph. "Once an agenda for a
4 regular call, special or rescheduled meeting is posted,
5 pursuant to this subsection, no items may be added to the
6 agenda without an additional 24 hours' notice to the public,
7 which must be made in the same manner as the original
8 posting."

9 Here's the exception. "After the meeting begins, an
10 item upon which action can be taken only may be added to the
11 agenda by a two thirds vote of the members president voting.
12 However, if the item is one upon which final action can be
13 taken at the meeting, or if the item is one in which there
14 has not been, and will not be an opportunity for public
15 comment with prior public notice given in accordance with
16 this section.

17 It only may be added to the agenda by a two thirds vote
18 of the members present in voting and upon a finding by the
19 body that an emergency or an exigent circumstance exists. If
20 the item is not added to the agenda, nothing herein relieves
21 the public body of any notice requirement with regard to any
22 statutory required for public hearing."

23 What -- what they appear to be doing, and -- and it
24 appears they've done this on multiple occasions, is they get
25 to the meeting and they have a motion to adopt the agenda as

1 printed, which I understand to be different from the agenda
2 as previously published. But here --

3 THE COURT: Do you have a copy of the agenda as
4 published and as amended at the hearing?

5 MR. CARPENTER: No. But what we have is this notice
6 that went out that said we're going to consider --

7 THE COURT: That's what I'm asking for.

8 MR. CARPENTER: -- phase 2, what is consider phase 2 in
9 the hearing, they consider a combination of phase 1 and phase
10 2, where they -- these -- these developments require a
11 certain percentage of the lots to face out into open green
12 space.

13 Phase 1 met that requirement. Phase 2 originally did
14 not. And phase 1 was getting ready to -- the -- the
15 permission on phase 1 was getting ready to expire. So what
16 -- and -- and phase 2 didn't meet that open meeting, oh, open
17 green space requirement. But they came up with the idea of
18 combining phase 1 and phase 2 so that they would reach that
19 percentage required.

20 And it's this combination that was voted on in the
21 April 9 meeting when they had said they had put out the
22 notice to the -- to the landowners and said, we're only going
23 to -- we're only going to be considering phase 2, then they
24 changed it.

25 THE COURT: Let me ask you this, if they've already

1 approved phase 1 and the consideration is for phase 2, how is
2 that anywhere different from what is sent to the public? The
3 notice of the hearing?

4 MR. CARPENTER: Phase 2, the -- the notice to the
5 public was said, we're going to consider phase 2, but phase 2
6 didn't meet the requirements for green space. Oh, lots have
7 -- a certain percentage of the lots have to face to green
8 space.

9 Phase 2 in itself didn't meet that. But they decided
10 that if you combine phase 1 and phase 2, you start the
11 timetable again, which is about to expire. And you've got
12 the -- the combined phase 1 and phase 2, which has enough
13 facing the green space to meet the requirement, whereas phase
14 2 by itself did not.

15 So when they, when they did the combination without
16 notice to the public, then that was a violation of the notice
17 required by posting the agenda ahead of time because they
18 changed it at the meeting and -- and passed it without having
19 given the public prior notice that that's what was going to
20 go on.

21 THE COURT: All right, sir.

22 MR. CARPENTER: The Court -- if the Court will look at
23 page 24 of the minutes from the April 9, meeting.

24 THE COURT: Where's that?

25 MR. CARPENTER: I believe it was handed up to you.

1 MR. DAWIN: Yes. I handed it up this morning, your
2 Honor.

3 THE COURT: Page 24. All right, sir.

4 MR. CARPENTER: All right. If -- if you look at toward
5 three quarters of the way down, Mr. Hicks is one of the --

6 THE COURT: What bind number?

7 MR. CARPENTER: 32.

8 THE COURT: All right.

9 MR. CARPENTER: Toward the end of the line. "For
10 conservation subdivisions, at least 50 percent of the lot
11 shall directly from open spaces or face open spaces from
12 across the subdivision street" and so on. Mr. Hicks, who is
13 one of the plaintiffs is -- is talking to the commission
14 saying, I only see 24 percent for phase 2 showing directly in
15 front of the open spaces.

16 And he says at the bottom of the page, that last --
17 last paragraph at the bottom of the page, we're supposed to
18 only be looking at phase 2 for approval. And then he asked
19 if you -- at the top of page 25, asking you not to grant a
20 continuance for phase 1.

21 So anyway, they -- they ended up granting the -- the
22 approval of this combined phase 1 and phase 2. Phase 1 had
23 already been approved. And this combination by their map
24 enabled them to meet that percentage requirement of looking
25 out into open space. But it was -- it was the lack of notice

1 that we're objecting to in our second cause of action here.

2 All right.

3 MR. DAWIN: Thank you, your Honor. May it please the
4 Court. What counsel has presented to you are postcards that
5 are sent out to the owners of any property adjoining a
6 proposed preliminary -- preliminary plat subdivision is going
7 to be before the board that night.

8 So if there's 10 projects, then each landowner within
9 that radius only gets a postcard saying this project may
10 affect yours, not any of the other districts. So let's say
11 we've got a project in -- in Districts 1 through 6, it only
12 goes there.

13 This is not the agenda. This is just a postcard saying
14 that a -- a project on the agenda might be one of one, it
15 might be one of 10, is going to be considered tonight. The
16 -- the agenda is on the planning commission's website. And
17 this theory at least, normally, at least a week prior,
18 because your Honor, before I drive response to attend the
19 meetings for the commission.

20 THE COURT: Say that again.

21 MR. DAWIN: Before I drive from response break to
22 attend the -- the commission meetings I actually pulled the
23 agenda from that. And on the agenda it clearly states that
24 phases one and two are being considered as what I passed up
25 to, your Honor, the staff report for this, I -- I just put

1 for this one project at the very top.

2 So it's the -- the small packet of what I handed up, your
3 Honor.

4 And again, this was all, this is all on the website.
5 You can look at it right now. You can pull it up. It's all
6 there. It goes from last year, maybe to 2022. And it -- it
7 is clearly says 150 lots for phase 1 approved on May 9th, 182
8 lots for phase 2 were denied on March 12th.

9 Then it says preliminary subdivision A, Anderson
10 Reserve, phase 1 and two. It says what's going to be
11 considered the number of lots. All this is on the website
12 and all this is prior to meeting. And so the agenda was --
13 that he's referring to is the agenda that lays out all the
14 projects to be considered that night.

15 And on that agenda, on that website, your Honor, again,
16 you can look it up. I don't think I brought that today. I
17 brought it for March and -- and December. I see. But I
18 don't think I brought it for April. But it says exactly what
19 was going to be considered and that's what they voted to
20 approve that agenda and that's what was agreed to
21 unanimously. So the post --

22 THE COURT: Can you make sure you have a copy of that
23 agenda for me to look at?

24 MR. DAWIN: Absolutely. I'll -- I'll submit it to you.
25 Oh, here we go, your Honor.

1 THE COURT: Well show it to Mr. Carpenter.

2 MR. DAWIN: I will.

3 MR. CARPENTER: Well, with this -- we don't know
4 whether this is the agenda as printed or the agenda as
5 previously published.

6 THE COURT: We'll make you a copy and you can check.

7 MR. CARPENTER: Well, I -- I --

8 THE COURT: I would suspect the counsel will see here
9 make representation is not true.

10 MR. DAWIN: Well, I'll just say it's what's on the
11 website, your Honor. Again, it's public record and that's
12 where -- and -- and that's where all of these -- every
13 project that's going to go before the commission at any
14 meeting that agenda's posted, and then all the documents that
15 the developer has submitted for consideration is also on the
16 website. This is just a small packet I hand it to your
17 Honor. So I -- I don't think there's any violation of FOIA
18 because this postcard that was sent to them is not the
19 agenda. It's just a --

20 THE COURT: Can I have a copy of that, we'll make you a
21 copy, Mr. Carpenter.

22 MR. CARPENTER: But -- but the point I'm making is --

23 THE COURT: Well, hang on, let him finish.

24 MR. CARPENTER: Okay.

25 THE COURT: All right. So are you done?

1 MR. DAWIN: I am, your Honor. Yes.

2 THE COURT: All right. We -- guys, we got step this
3 up. We got a lot of guys who got to get some hearings done.

4 MR. CARPENTER: The -- the point I'm making is that
5 agenda, we don't know whether that was the agenda adopted at
6 the meeting on May -- April 9, the new agenda or whether that
7 was the one previously published.

8 It -- it looks like the one that was adopted on April
9 9, but the FOIA requires advance notice of the agenda and
10 from the -- from the transcript of the hearing, it looks like
11 they voted to change the agenda the first thing at the
12 beginning of the meeting, and they didn't have an emergency
13 to do it. They just voted to have the new agenda as printed
14 instead --

15 THE COURT: Was the agenda as published versus what is
16 approved different from what you just handed me?

17 MR. DAWIN: No, your Honor. The agendas on the website
18 is the agenda being --

19 THE COURT: What you just handed me was what was out
20 there before the meeting and what was approved at the
21 meeting?

22 MR. DAWIN: Correct, your Honor.

23 THE COURT: All right. All right. Next argument.

24 MR. CARPENTER: All right. Third cause of action is
25 that the -- the planning commission made a decision outside

1 the public meeting in violation of FOIA.

2 We look at the third tab; the meetings of public bodies
3 should be open -- open to the public. And as opposing
4 council represented, there was a developer -- developer who
5 appealed the denial of the December denial.

6 They filed a lawsuit in -- in the circuit Court Spano &
7 Associates Asheville, LLC against Anderson County Planning
8 Commission. They did the same thing we're doing. But then
9 they asked for mediation and -- and they -- they went into
10 mediation and they started meeting with members of the
11 planning commission. This is -- this is reflected in the
12 minutes.

13 They started meeting with members of the planning
14 commission and working out the details as represented by
15 council previously. And they went back and forth and they
16 changed this and they altered that. Then they came back in
17 March and they lost the vote again. Then they went back and
18 met some more and altered some more things.

19 And then when they got to the April meeting, there was
20 a perfunctory vote to approve it. And that's what we're
21 contending that this -- this decision was made in all these
22 meetings behind the scenes to approve the new version of this
23 development. That was all done in these behind the scenes
24 meetings and not in the public. The only thing that happened
25 to the public was --

1 THE COURT: Isn't that what staff does? They go back
2 and they do a -- a proposed development and they -- they look
3 for something wrong with it. After there's a problem, they
4 go back and work on it, and then they come up with something
5 that's acceptable and they put it on the record. Is that
6 wrong? It seems to me that's what -- that's what's done all
7 the time.

8 MR. CARPENTER: Well it -- it may be done a lot in --
9 in regular litigation and so on, but --

10 THE COURT: This isn't regular -- I'm not -- I'm saying
11 in front of the planning commission. They have the staff.
12 If there's a problem, they go and meet with the staff and
13 work with the staff. Isn't that not the way it always works?

14 MR. CARPENTER: Well, this is formal mediation as a
15 result of the appeal, but then the decision was -- was made
16 we contend outside the presence of a public meeting and
17 that's the violation of FOIA. Decisions have to be made in
18 the public meeting. instead of in -- in the back room
19 somewhere.

20 MR. DAWIN: Your -- your Honor, first of all, the
21 obligation, if a party appealed asks for pre-suit mediation,
22 we have to, by statute, we -- we can't say no. And Ms.
23 Hunter (ph) comes with me to the mediations that are
24 requested at any point, whether it be developer or a third
25 party has a -- an issue with a -- anything that was approved

1 by the commission or denied by the commission.

2 THE COURT: Well, let me ask you this. If I have a
3 plan that's submitted to the commission is voted down. And
4 the staff says these are the problems, for example, I don't
5 have enough lots facing the green area. What is the step the
6 happens next?

7 MR. DAWIN: The developer retweaks their project,
8 submits it again and it goes back before the commission for
9 approval or denial. And as opposing counsel said, the April
10 vote, your Honor, actually the motion was made to deny the
11 project by Commissioner Jones. And then she was -- four --
12 it was a four, two vote to not deny it.

13 So it was not made to approve, it wasn't rubber
14 stamped. These things come back, you'll see the minutes.
15 There's discussions just like what -- there were discussions
16 in December and in March. But we -- I mean, Ms. Hunter goes
17 with me and she's the planning, development and building
18 director. No commissioners go to these pre-suit mediations.
19 But again, we have to. If they had requested it, we would
20 have done the same thing to them.

21 So I -- I don't -- I don't think that is anything that
22 should come before the Court because as you said, that's what
23 staff does. They deal with the developers on issues.
24 Court's told me before we needed to be transparent with
25 developers on what they need to do instead of just keeping

1 them in the dark, which is what was done. Again, it was
2 submitted to the commission for them to vote to either
3 approve or deny.

4 THE COURT: All right. Next argument, next item.

5 MR. CARPENTER: All right. The fourth cause of action
6 is that one of the members of the planning commission had a
7 conflict of interest. One of the members of the commission,
8 we -- we submitted to the Court the -- the printout of who's
9 on the commission.

10 We cited the statute that prohibits conflicts of
11 interest, 8-8-13-700. We submitted the members of the
12 commission, one of whom is James McClain, MD, who's employed
13 by AnMed. And we -- we've attached his profile from the
14 hospital showing that he is indeed employed by the hospital.

15 This property is owned by AnMed and he's voting on this
16 property. We believe it may be under contract to somebody
17 else, but the public records show AnMed still owns this
18 property and he is voting on the approval of this project ---
19 this property, and he's employed by AnMed.

20 We believe that that's a violation of 8-13-700. "No
21 public official may knowingly use his official office
22 membership or employment to obtain the economic interest for
23 himself, a family member or so on, or a business with which
24 he is associated."

25 Again, "No public, official, public member or so on may

1 participate in making a -- or in attempting to use his office
2 of membership to influence a government decision in which he
3 a family member of individual who's -- with whom he's
4 associated, or a business with which he is associated as an
5 economic interest."

6 Those are prohibitions of having conflict of interest.
7 He's an employee of the hospital devoting on a piece of
8 ground owned by the hospital. We think that's a conflict of
9 interest.

10 THE COURT: All right. Thank you, sir.

11 MR. DAWIN: Thank you, your Honor. He's not employed
12 at hospital. He has hospital privileges to AnMed. But he's
13 not an employee. And your Honor, if you want me again, I can
14 hand my --

15 THE COURT: Is this Frankie McClain's son?

16 MR. CARPENTER: James T. McClain, MD. Yes.

17 THE COURT: It is. Okay.

18 MR. DAWIN: So secondarily, your Honor again, you can
19 look at the March minutes, they are public record on -- on
20 the planning commission's website, I -- I don't hear any
21 objection to Dr. McClain having voted in March minute when he
22 voted to deny this same project.

23 This time he thought enough information that the --

24 THE COURT: Two wrongs doesn't make a right.

25 (Inaudible).

1 MR. DAWIN: I understood, but he's not an employee,
2 your Honor.

3 THE COURT: All right.

4 MR. DAWIN: I -- I specifically asked that when this
5 came along on, this lawsuit. He has privileges, but he's not
6 employed by AnMed.

7 THE COURT: Anything further? Any other grounds?

8 MR. CARPENTER: We have a fifth and sixth. Yes, your
9 Honor.

10 THE COURT: Sir?

11 MR. CARPENTER: We have a fifth and sixth. Yes.

12 THE COURT: What are they?

13 MR. CARPENTER: Fifth is failure to have a master plan
14 and master plat. The Anderson County Anderson county
15 ordinances require a master plan and a master plat for each
16 of these developments.

17 In this case they -- they have forecast phases one,
18 two, and three. They only have plans laid out for phases one
19 and two. We think that the failure to have a master plan and
20 a master plat for the whole development violates the county
21 ordinance that requires that the master plan on a master
22 plat.

23 THE COURT: All right. Stop there (inaudible).

24 MR. DAWIN: Your Honor, the only thing that was before
25 the commission that night was phase 2. Phase 1 had already

1 been approved. There's discussion in the minutes that you'll
2 see on what I handed up.

3 Phase 3 may be storage buildings.

4 Phase 3 may be something the admin does with property. The
5 developer doesn't know. Developer wanted approval or a
6 consideration of phase 2. And that's all that was before the
7 commission that night.

8 THE COURT: Lastly.

9 MR. CARPENTER: Okay sixth cause of action is the
10 failure to fulfill the duty to vote under the --

11 THE COURT: Duty to do what?

12 MR. CARPENTER: The duty to vote. We -- we've handed
13 up a case called Gaskins v. Jones which is from the states --
14 from the Supreme Court of South Carolina. And that case
15 states, "As long as the members are present and the council
16 chamber have an opportunity to act and vote with the others
17 as their duty to act."

18 One of the commissioners David Cothran commissioner
19 from District 5 left the meeting prematurely for unstated and
20 unspecified reasons. That's indicated in April meeting
21 minutes. And there the -- the -- the rule is, the common law
22 rule is that when you have commissioners or council members
23 and so on, they can't just decline to vote.

24 If they have a conflict of interest, they have to put
25 the conflict of interest on the record. They have to give a

1 written statement to the chairman saying, I'm not voting on
2 this because of, you know, I have a conflict, I have an
3 ownership interest. My brother-in-law does, whatever.

4 They have to articulate the reason. The -- the general
5 rule is that if a person doesn't vote, then his vote is
6 counted with the majority. The problem comes when a person
7 does have a conflict, doesn't reveal it, and then his vote is
8 counted with the majority and there's this common law duty to
9 vote and that which is articulated in Gaskin v. Jones in the
10 case that we had handed up to the Court there.

11 MR. DAWIN: Your Honor, Mr. Cothran had told the chair
12 before the meeting started that depending on the timing, he
13 may have to leave for personal reasons. That's what he did.
14 He didn't vote. His vote was not counted. The -- the vote
15 in the minutes, you see are four, two. And you'll see the
16 commissioners that voted, those that didn't nothing's counted
17 on his vote whatsoever.

18 MR. CARPENTER: All right.

19 THE COURT: Gentlemen, I'm going to go through and read
20 all your submissions. I'll tell you that (inaudible) hearing
21 about it, before you read those allegations, but my concern
22 is under the first round was about there being a cemetery.
23 And -- and it seems to me, even though it's somewhat, I
24 wouldn't know -- what's the term I'm looking for strained or
25 a little bit far away.

1 But if you were, as a body told, as an owner, we know
2 that there are graves out there. My father told me. To do
3 nothing, to do absolutely nothing or require nothing to be
4 done seems to be arbitrary and -- and capricious to me. And
5 it would make -- send it all the way back down to do it all
6 over again.

7 And I might just do that. But if I do, the -- the
8 plaintiffs in this case, to the extent there might be those
9 type of tests run at this area, have agreed to pay. So they
10 will pay it if -- if it goes back down, if I think that's the
11 thing to do. Otherwise I'm going to read through the other
12 submissions and let y'all know. Okay. All right, guys.
13 Take care.

14 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING IS CONCLUDED)
15

CERTIFICATE OF TRANSCRIBER

I, JANE DANIEL, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court of Andeson County, South Carolina, on August 21, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Jane Daniel

November 18, 2025

JANE DANIEL

TRANSCRIBER

1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF ANDERSON

4 Hubert N. Smith, Jr.,
5 Plaintiff,

6 vs. Transcript of Record
2024-CP-04-00975

7 Anderson County Planning Commission,
8 Defendant.

9
10
11 February 6, 2025
12 Anderson, South Carolina

13 B E F O R E:

14 The HONORABLE R. LAWTON MCINTOSH

15 A P P E A R A N C E S:

16 James Carpenter, Representing the plaintiff

17 Carter Massingill, Representing intervener Spano &
18 Associates

19 A. Todd Darwin, Anderson County Planning Commission
20
21
22
23

24 SHARON G. HARDOON, CSR
25 Official Circuit Court Reporter, III

1 THE COURT: Hubert N. Smith vs. Anderson
2 County Planning Commission. This is a motion to
3 intervene; is that right?

4 MR. MASSILGILL: Yes, Your Honor.

5 THE COURT: Okay. Which case is this
6 one, please, sir?

7 MR. MASSILGILL: This is *Hubert N. Smith*
8 *and Stanley Nix vs. Anderson County Planning*
9 *Commission*. My name is Carter Massingill. I
10 represent the proposed intervener, Spano &
11 Associates.

12 THE COURT: Okay. Is this the matter
13 that was before us before?

14 MR. CARPENTER: Yes, Your Honor.

15 THE COURT: That had potential slave
16 graves; is that right?

17 MR. MASSILGILL: Yes, Your Honor.

18 THE COURT: And your client is the one
19 that everybody was to go out and look at the
20 property and at the last minute he put a trespass
21 notice that they would not be allowed to come on
22 the property; is that right? That is right? I
23 know it is, because that's what you did.

24 So why should I allow you to intervene is
25 this action?

1 MR. MASSILGILL: Just because the appeal
2 is still pending, and it's my client owns the
3 property, Your Honor. And I was prepared before
4 to put it in writing, the motion to intervene, to
5 just, kind of, briefly update the Court on what's
6 happened.

7 THE COURT: Sure, sure.

8 MR. MASSILGILL: Since we were last
9 together.

10 So, briefly, Your Honor, just to, kind
11 of, recap. So the original decision that started
12 this appeal was back in April 9th of 2024. The
13 appeal was file by -- on May 7, 2024. My client,
14 the property owner, was not named as a party to
15 the appeal.

16 Your Honor issued an initial order on
17 August 30, '24, where Your Honor rejected five of
18 the grounds on appeal but remanded it back to the
19 planning commission on one ground urging them to
20 consider allowing the appellate to conduct their
21 own testing. The planning commission then filed a
22 Rule 59 motion to that first order.

23 And one of the arguments that was raised
24 was that there had been a test performed by my
25 client. The appellate filed their opposition

1 arguing that that court was not sufficient.

2 There was a hearing on that Rule 59
3 motion. My client was not at that hearing. We
4 are not represented at that hearing because we
5 weren't a party to the case. That was the hearing
6 where I believe Your Honor directed that there is
7 10 days for them to work out going out to conduct
8 their own tests.

9 I found out about that after the hearing,
10 and that's when I started asking what was going on
11 and we had some conferences with the counsel and
12 the Court.

13 And then ultimately --

14 THE COURT: Well, hang on for a second.
15 I mean, you were here before these other hearings,
16 at least some. I remember you being here and
17 having discussions about these people wanting to
18 go out and look at this property. And, at that
19 last minute, after everybody been talking about
20 it, your client says, no, they come out there
21 they're going to be arrested for trespass. That's
22 my recollection in this case.

23 MR. MASSILGILL: Your Honor, we had calls
24 with Your Honor via Webex, but I've never appeared
25 in the courtroom. That's what I was saying.

1 THE COURT: Well, you were aware. You
2 were certainly aware and you were here, either on
3 Webex or here. But your face is very familiar. I
4 remember you being part of something here.

5 Anyway --

6 MR. MASSILGILL: Certainly, Your Honor.
7 That is accurate. Now I'm getting to the point to
8 what has happened since we were last together.

9 THE COURT: Okay, sure.

10 MR. MASSILGILL: So, ultimately, Your
11 Honor, as you said, in the Webex conference it was
12 said that the case was going to be remanded back
13 to the planning commission because of the
14 trespassing notice, and so then that same day is
15 when we filed the motion to intervene. On the
16 docket it says that it was entered three days
17 later, but we filed a notice of technical
18 difficulty showing that we tried to file the same
19 day.

20 THE COURT: Okay.

21 MR. MASSILGILL: So the planning
22 commission then filed a motion to dismiss which is
23 the next motion on the roster, but what I'm
24 getting to, Your Honor, is on November 13th Your
25 Honor issued a form-4 order which noted it did not

1 end the case. And that was where Your Honor wrote
2 out a new form-4 order, while you were sending it
3 back to the planning commission the things that
4 you wanted them to consider specifically and ask
5 Mr. Carpenter to prepare the proposed order.

6 November 20th, that formal order was
7 filed and it incorporated Your Honor's language
8 from the form 4 and so the matter was back on the
9 planning commission agenda December 10, 2024.

10 The day before that hearing at about 5:30
11 p.m. counsel for the appellate emailed a letter to
12 the planning commission. I believe Your Honor was
13 copied, or your staff was copied on that email,
14 but had attached several things. One was their
15 own report that they created after sending their
16 own folks out onto the land and they did create
17 their own report. That report was dated about a
18 month and a half earlier back on October 28th,
19 which is when we had all this back and forth on
20 the Webex, Your Honor. So we got that the night
21 before the planning commission.

22 So my client withdraws the application
23 from that agenda.

24 THE COURT: They withdraw the application
25 for what, please, sir?

1 MR. MASSILGILL: From the December
2 agenda, Your Honor.

3 THE COURT: Okay.

4 MR. MASSILGILL: Because they got this
5 report that they prepared after going on the
6 property from their own folks.

7 THE COURT: Got you.

8 MR. MASSILGILL: We take that report and
9 all that information, give it to our firm and to
10 our archeologist and say, *Hey, look, we have all*
11 *this new information --*

12 THE COURT: Well, did the reply -- I did
13 not have it and I was not copied, to my knowledge,
14 with it. What did the report find?

15 MR. MASSILGILL: They found that they
16 thought there was a different spot on the property
17 that was indicative of potential graves sites.

18 THE COURT: Were any found?

19 MR. MASSILGILL: That's exactly what I'm
20 getting to, Your Honor.

21 We gave all that information to our own
22 archeologist and said, *Hey, go look at this*. So
23 they go out there, do another investigation of the
24 property, take all their own information, create a
25 new report, incorporate all of the information

1 into their report. So, basically, took everything
2 they said as true. And we do find an area that
3 our archeologist said they believe was indicative
4 of a former grave site. They didn't find any
5 remains or evidence, but they said, *We do believe*
6 *this is indicative of a grave site.*

7 We revised our plan to accommodate that
8 and do what we were supposed to do per the statute
9 to not disturb that area. Provided -- and then we
10 created a report that says, *Hey, we investigated*
11 *everything they provided. We found this.*

12 And so --

13 THE COURT: Did you use -- I know at one
14 point there was some disagreement as to type of
15 imaging that was going to be used.

16 MR. MASSILGILL: Well, Your Honor, we
17 found -- we went and found places that they
18 identified. We actually did what they call
19 trenching where they make small digs in certain
20 areas.

21 THE COURT: I don't know what that is.

22 MR. MASSILGILL: I'm just explaining to
23 you what's in the report, Your Honor.

24 THE COURT: Sure.

25 MR. MASSILGILL: To summarize, all that

1 information, their new report that they paid for
2 and conducted themselves, the subsequent report
3 that took all that information, took it as true
4 and revised our plan accordingly, all that was
5 provided to the planning commission. So then
6 January 14th, last month, it was on the agenda.
7 There was an executive session where the planning
8 commission's counsel, I assume, discussed the
9 appeal with them and what Your Honor directed them
10 to do, what the Court tasked the planning
11 commission to do.

12 We obviously don't go sit in the
13 executive session, but they came back out on the
14 record and the planning commissioners stated on
15 the record exactly what the Court asked it to do.
16 They noted each report, they considered all the
17 reports, and they all voted unanimously to say
18 that they believed that the developer/owner had
19 gone above and beyond to investigate and determine
20 whether or not there were former grave sites on
21 the property.

22 Then they voted again in a second vote
23 that was unanimous to say that they were
24 reaffirming their prior decision to approve the
25 plan.

1 THE COURT: When your client changed
2 plans, did it take into consideration these areas
3 that were potentially slave graves and exclude
4 them from development?

5 MR. MASSILGILL: Yes, Your Honor.

6 THE COURT: Okay. How many graves were
7 there, did they say?

8 MR. MASSILGILL: I don't think there's
9 any way for them to know.

10 THE COURT: There's no number. Okay.

11 MR. MASSILGILL: They just find these
12 field stones and certain things about the soil
13 that made them believe it. And then based on the
14 literary surveys they did, the library and things
15 like that, and taking their information is how
16 they really found this spot.

17 So that brings me to last week. These
18 motions were coming up on the hearing. We got
19 notice from the Court that said if you need a
20 continuance let us know by X date. Mr. Darwin
21 reached out to counsel and said, Hey, we don't yet
22 have the published minutes from that January
23 meeting yet. I believe next week is when they
24 should be published and approved because the next
25 planning commission meeting is next week. And

1 Mr. Darwin asked that we continue this hearing to
2 the next term so we can put the published minutes
3 in the record for Your Honor to see exactly what
4 the planning commission did.

5 Mr. Carpenter said he didn't believe that
6 was appropriate because he thought that these two
7 motions were moot. I asked him, if that was the
8 case, was he going to dismiss the appeal or do we
9 need to have a hearing today. I never got a
10 response to that, so we're here.

11 So all I have to say, Your Honor, I'm
12 prepared to argue the motion to intervene. But I
13 just want to let the Court know from our
14 perspective, the appellate got exactly what they
15 asked for. They got to prepare their own report
16 with their own investigation, and then the
17 planning commission did exactly what the Court
18 asked it to do.

19 THE COURT: All right.

20 MR. MASSILGILL: So that moves into my
21 motion to intervene, if you'd like to hear that.

22 THE COURT: Thank you, sir. I appreciate
23 that.

24 From the County perspective.

25 MR. DARWIN: Well, I got a motion to

1 dismiss on a purely procedural matter.

2 THE COURT: Let's hear that later. Did
3 you disagree with anything?

4 MR. DARWIN: No, I didn't disagree with
5 anything Mr. Massingill just told the Court.

6 THE COURT: Okay.

7 MR. DARWIN: And all the studies, both
8 Mr. Carpenter's study and both of these Spano &
9 Associates studies. The one prior, after they
10 took their information and did second report, I'll
11 call it, all that was provided to the commission
12 before they were moot.

13 THE COURT: Very good.

14 Mr. Carpenter, I mean, you got what you
15 asked for.

16 MR. CARPENTER: Well, Your Honor, we
17 haven't seen any of this. This is the first we
18 heard of all this stuff.

19 What we were prepared to argue today, our
20 argument is these two motions, the motion to
21 intervene and the motion to dismiss which were
22 filed after the Court dismissed this and send it
23 back to the planning commission, which, in my
24 view, would render both of them moot and that case
25 is over with. They filed these motions after they

1 lost their case.

2 And now they come in with all this new
3 stuff, which they have not told us about until
4 now. It's certainly not been done publicly. It's
5 been done either in executive session or
6 privately. We haven't seen the first piece of
7 evidence of this, and this is the first we've
8 heard it. But we don't think this is properly
9 before the Court, these two motions, which we
10 think were filed after the case was over with and
11 are moot. That's the extent of our argument.

12 MR. DARWIN: Your Honor, if the case is
13 over with and they say that the appeal is
14 dismissed, we're fine with that, and that's what
15 we said. So if the case is over, it's over. But
16 the reason we --

17 THE COURT: They let me say this: The
18 motion to dismiss, the intervention claim, I'm
19 going to grant that.

20 I do think -- what I want -- I, quite
21 frankly, my concern, and I think your concern was
22 if there is actually potential for those graves to
23 be out there then they need to be checked. And if
24 they're checked out there, they need to be
25 protected because that's historic and we don't

1 want those to be ruined. That's what they did.

2 They went above and beyond what was necessary.

3 I told you at the time I didn't think I
4 really had jurisdiction to order that, but I asked
5 you to send it back and you did. So from a
6 procedural standpoint, you got what you asked for.

7 I think that -- I applaud your client for
8 doing what they're supposed to do. I appreciate.

9 But for today's hearing, I'm going to
10 grant your motion to dismiss that. That's it as
11 far as why I'm here today. I don't think there's
12 anything else, but I want you to understand those
13 are my thoughts about this case. Okay?

14 MR. MASSILGILL: Thank you, Your Honor.

15 MR. CARPENTER: What are you granting?

16 THE COURT: His motion to keep him out.
17 I think that's right. The motion to dismiss. You
18 asked for the motion to dismiss. His motion to
19 intervene --

20 MR. DARWIN: No, Your Honor. My motion
21 to intervene.

22 THE COURT: Correct me. I'll tell you,
23 I'm easily fooled up here, guys.

24 MR. DARWIN: My motion to dismiss was
25 because they were not included originally in the

1 appeal. So jurisdictionally, they should have
2 been and that's why the appeal should be
3 dismissed.

4 THE COURT: Oh, the appeal.

5 MR. DARWIN: They should have come in,
6 Your Honor. They own the property. They should
7 have been in from day one.

8 THE COURT: That's the first time you're
9 raising that. What's your position on that?

10 MR. CARPENTER: Like I said, they raised
11 both of these motions after the case was over,
12 after you already ruled. I think that they're
13 moot, and the Court shouldn't rule on them if
14 they're moot.

15 THE COURT: Let me just tell you this:
16 At this juncture, or whatever, I'm going to let
17 you. They're not going to complain about that.

18 But I think they did what they're
19 supposed to do. I wanted them to do that. They
20 have done it. There's nothing else for us to
21 fight about back here.

22 MR. CARPENTER: Well, we don't know. I
23 mean, we haven't seen any of that, Your Honor, and
24 we plan to appeal this decision.

25 THE COURT: You can appeal all you want

1 to, Mr. Carpenter, and we'll set it up such that
2 you can.

3 MR. DARWIN: That was my point for the
4 continuance, Your Honor, is all that's going to be
5 next week when the minutes are approved. They're
6 going to have all that. I couldn't provide that
7 until the minutes have been approved, to have all
8 the reports that were before the commission on
9 January 14th.

10 MR. MASSILGILL: Your Honor, just -- I
11 appreciate everything and listening to that
12 because I know it's a procedural thing to go
13 through everything and we've gone around and
14 around about this, but I didn't actually argue the
15 motion to intervene. I just, kind of, went
16 through the procedural history and I said I was
17 now ready to argue.

18 THE COURT: Well, do yourself a favor,
19 quit while you're ahead. Okay.

20 MR. MASSILGILL: Thank you, Your Honor.

21 THE COURT: That's what most lawyers do.

22 So I'm going to let you in. I'm going to
23 procedurally, I guess, grant your motion to
24 dismiss, that way you can appeal me if you want
25 to. I think the relief has been granted. I mean,

1 it has been fulfilled in the sense that I wanted
2 you to check for those things and they have been
3 done.

4 MR. CARPENTER: What's the basis for the
5 dismissal?

6 THE COURT: That they did what they were
7 supposed to do, and that's it.

8 Mr. Carpenter, I have very limited review
9 powers of the commission's orders. You know that.
10 I know that. I sent it back probably ultra vires
11 in some sense. I didn't have power to do that,
12 but I did. They've done it. And so I'm
13 dismissing your appeal based on the fact that
14 they've done what they were supposed to do. Okay?

15 If there are any other grounds, you want some
16 stated grounds, tell me what they are and I'll grant
17 them.

18 MR. DARWIN: Your Honor, the only other
19 grounds to grant my motion is, procedurally, it
20 can be raised at any time, even by the Court.

21 THE COURT: Okay.

22 MR. DARWIN: So I don't think it's
23 untimely as Mr. Carpenter argues. It's in my
24 motion --

25 THE COURT: Just prepare me an order.

1 Give it to Mr. Carpenter, look at it and see and
2 then we'll go from there.

3 Thank you, guys. Take care.

4 MR. MASSILGILL: Thank you, Judge.

5 (The hearing was concluded.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas, Anderson County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

May 26, 2025



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF ANDERSON

4 Hubert N. Smith, Jr.,
5 Plaintiff,

6 vs. Transcript of Record
2024-CP-04-00975

7 Anderson County Planning Commission,
8 Defendant.

9
10
11 June 4, 2025
12 Anderson, South Carolina

13 B E F O R E:

14 The HONORABLE R. LAWTON MCINTOSH

15
16 A P P E A R A N C E S:

17 James Carpenter, Representing the plaintiff
18 E. Brown Parkinson, Representing the defendants
19 Ron Tate, Representing Spano & Associates

20 SHARON G. HARDOON, CSR
21 Official Circuit Court Reporter, III
22
23
24
25

1	INDEX		
2	Certificate of Reporter	Page	Line
3		21	2
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 THE COURT: *Hubert Smith vs. Anderson*
2 *County Planning Commission.* Good morning.
3 You-all brought the heavy hitters today. Okay.

4 This is an appeal from the Planning
5 Commission. I know a little bit. This was
6 previously before me. I sent it back on the issue
7 of searching for potential slave graves, and I
8 think that was taken care of. I know what this
9 appeal is about.

10 So Mr. Carpenter, is this your appeal?

11 MR. CARPENTER: Yes, sir.

12 THE COURT: All right. I'll be glad to
13 hear from you.

14 .

15 MR. CARPENTER: All right. Thank you, Your
16 Honor. And we do acknowledge that the Court has some
17 familiarity with the case. I'll try to be brief
18 bringing the Court to the juncture that we are asking
19 for the ruling today.

20 The Planning Commission approved a
21 preliminary plat for Anderson Preserve back in
22 April of '24. The plaintiff told the Planning
23 Commission about the presence of graves on the
24 property and submitted an affidavit outlining
25 where the problem place of the graves would be.

1 The Planning Commission did not allow the
2 Reserve to go forward without addressing the
3 graves we appeal to this Court. During the
4 appeal, and without the knowledge of the Planning
5 Commission, a development sent a team out to the
6 property to search for the graves using
7 ground-penetrating radar.

8 The Court then rules that the decision to
9 approve the preliminary plat was arbitrary,
10 capricious, and abuse of discretion, reversed the
11 decision of the Planning Commission for the
12 failure to deal with the issue of the graves.

13 The Planning Commission filed a motion to
14 offer to amend --

15 THE COURT: Well, let me ask you
16 something Mr. Carpenter, it seemed -- if I recall,
17 once that was done, the owners of the property
18 appeared to you and said, *We've done that and we*
19 *went out and located the graves.* We've set that
20 aside, and they have done what I asked them to do
21 in the first place. Isn't that correct?

22 MR. CARPENTER: I'll jump forward on
23 that.

24 MR. TATE: Yes, Your Honor. That's
25 correct.

1 THE COURT: Okay.

2 MR. CARPENTER: So then there was another
3 hearing that was scheduled for December of '24.
4 And then right before the hearing in December of
5 '24, we submitted what we had found -- the 10 days
6 minus the time we were given trespass notice, we
7 found -- on Graveyard Hill, we found 14 to 20
8 graves out there.

9 THE COURT: Are those not in the exact
10 same place where they are talking about?

11 MR. CARPENTER: I'm honestly not
12 understanding the Court.

13 THE COURT: Where you said you found
14 these graves, is that not the same area that the
15 owner said, yes, we found them there.

16 MR. CARPENTER: They sent them out there.
17 They took our information. They went out there
18 after us, after the December hearing got postponed
19 to January. This is an appeal of the January
20 decision.

21 THE COURT: Right.

22 MR. CARPENTER: They went out there in
23 December. They found and confirmed the same
24 Graveyard Hill graves that we had found.

25 THE COURT: Right.

1 MR. CARPENTER: Now, our expert said the
2 whole property ought to be searched for graves.
3 We only had 10 days minus the time we got kicked
4 off to look for graves, and our expert said the
5 whole property ought to be. But we did find -- on
6 Graveyard Hill we found 14 more graves.

7 THE COURT: If I recall, your client
8 your -- you're Mr. Smith?

9 MR. SMITH: Yes.

10 THE COURT: All right. But whoever it
11 was's father used to take him around the property
12 and say, *This is where they used to bury the*
13 *slaves right in this area*, and that's the area
14 that was actually found containing those graves;
15 isn't that right?

16 MR. CARPENTER: The guy with the
17 affidavit gave three possible places where the
18 graves were. The experts went out there, looked
19 at a couple of those, and said, *Because we only*
20 *got one place where the graves are, the whole*
21 *property ought to be searched*. Our expert said
22 that.

23 The developer took our information, our
24 reports that we gave to the planning commission in
25 the beginning of December, went back out there

1 during the month of December and confirmed, yes,
2 this is Graveyard Hill, this needs to be set
3 apart, fence around it, and a buffer area, and so
4 on. They came up with a whole new map.

5 There was a map in April of '24. They
6 came up with a whole new map in December from a
7 different architect engineering firm, a different
8 set of numbering, lots, a different number of
9 lots, and that map in December did set aside and
10 provide protection for Graveyard Hill.

11 The hearing was postponed until January.
12 In January, the planning commission met in
13 executive session with counsel for the planning
14 commission and it came back out in public session.
15 When they came back out in public session, they
16 didn't allow any public to comment on the issue of
17 motions. They didn't publicize the findings
18 either by the plaintiffs or by the developer.
19 They simply enacted two motions.

20 The first motion commended the developer
21 for extraordinary efforts searching for the graves
22 on the property.

23 The second motion reaffirmed the finding
24 from April of '24. And when they approved the
25 map, they approved the map from April of '24 which

1 did not address the graveyard known as slave
2 graves. They went back to April of '24 and
3 approved that map. They didn't approve the map
4 that was submitted to them in December, the new
5 map from the developer.

6 THE COURT: So, what you're saying now
7 is, the current map that they're using does not
8 have any cite set aside for these graves that have
9 been found?

10 MR. CARPENTER: The map --

11 THE COURT: Answer what I asked you.

12 MR. CARPENTER: -- that has been
13 approved, yes. Yes. The developer has got one
14 map that they submitted to the planning
15 commission. The map the planning commission is
16 using is the one from April of '24, which doesn't
17 protect the Graveyard Hill graves. They -- and we
18 know this.

19 Your Honor, I submitted a memo last night
20 and finally got the approved stamp in this
21 morning. I have copies for everybody.

22 The first exhibit that I've got is an
23 affidavit of Stanley Hicks, who -- I'll pass them
24 out. I have one for the Court too.

25 THE COURT: We hand one to my law clerk.

1 MR. TATE: Your Honor, this is Ron State
2 for the developer Spano & Associates. We have an
3 objection to the affidavit because it was served
4 late, but it's immaterial.

5 THE COURT: I'll let you -- if you feel
6 like you need to have a response, let me know, and
7 I'll be glad for you to do it, and I'll
8 hold making a decision until you do.

9 MR. TATE: There is no need for a
10 response, Your Honor.

11 THE COURT: Okay.

12 MR. CARPENTER: In his affidavit, Mr. Hicks
13 sets out, he asked for a copy of the map that the
14 planning commission is using. He sent a FOIA request
15 using -- he used the online FOIA request. He got a
16 response back in April of '21 from Lizzie Wilkes, the
17 Anderson County FOIA office. And she provided the map
18 that was the map from March, April of '24. The old
19 map which does not protect Graveyard Hill and it does
20 not protect the graves. That's the map that the
21 planning commission has approved and authorized.

22 The new one --

23 THE COURT: So let me make sure I
24 understand. So when they approved the map, that
25 is the planned development that is shown on that

1 map; is that correct?

2 MR. CARPENTER: That's my understanding,
3 yes. And there is process, and we talk about the
4 process in our memorandum, that there is an
5 Anderson County process. They are supposed to
6 present the map to the subdivision administrator.
7 The subdivision administrator has got a legal duty
8 to -- there's another section of the code we cite
9 in there that's got 18 things that the subdivision
10 is supposed to be doing. And that subdivision
11 administrator is supposed to go through and see if
12 the developer is doing all 18 of those things.
13 And then the subdivision administrator makes a
14 recommendation to the planning commission.

15 Well, this new map that's been submitted,
16 like I said, is drawn by a different set of architect
17 and engineers, it's a different --

18 THE COURT: Who prepared that map?
19 Didn't the developer?

20 MR. CARPENTER: The developer, yes. The
21 developer had one set of engineers early on. And,
22 in the course of this process, they came up --
23 they decided to use a completely different set of
24 engineers who came up with a completely different
25 numbering system for all the lots. They got a

1 different quantity of lots.

2 And the latest map from them that they
3 submitted in December does protect Graveyard Hill.
4 But that's not the one adopted by the planning
5 commission. The planning commission went back to
6 April and adopted that one.

7 THE COURT: Let me stop you right there.
8 Let me ask: Who's here for the commission?
9 Mr. Parkinson?

10 MR. PARKINSON: Your Honor, I apologize.
11 I'm here for the commission.

12 THE COURT: Is that correct?

13 MR. PARKINSON: I also have Miss Felicia
14 Hunter here who is the administrator for planning.

15 THE COURT: Which map have they approved?

16 MR. PARKINSON: They approved -- let me
17 -- I'm going to let her correct me if I don't say
18 this right. The motion that he's put in his
19 brief, when they went into executive session
20 because Your Honor -- and I was not here through
21 the prior history. I'm pinch hitting for one of
22 my law partners. I was not here, but the Court
23 sent it back and you I said, *I'm not sure if I*
24 *really have the authority to do this, but you-all*
25 *go back and consider graves, the location of the*

1 *graves.*

2 And so it really was not -- so they
3 considered it in executive session. It was not
4 necessary for there to be a public hearing, start from
5 scratch, go from day one, public notice, all that
6 stuff. Let's just go back and take a look and make
7 sure we look out for these graves.

8 THE COURT: Right.

9 MR. PARKINSON: All that stuff was
10 concluded before then. The motion that was passed
11 that said -- a motion that the study -- that the
12 developers went above and beyond to confirm if
13 there were any grave sites on the property,
14 because all these reports from the experts had
15 already been submitted.

16 THE COURT: Well, at the end of the
17 day --

18 MR. PARKINSON: At the end of the day,
19 they said we approve -- considered the fact that
20 they had gone above and beyond. And we
21 reconsidered everything that the appellate
22 submitted.

23 Then the second motion was a motion to --

24 THE COURT: Let me stop you for a second
25 just so I understand. The map that ultimately has

1 been approved, does it set aside areas on it to
2 protect the grave sites?

3 MR. PARKINSON: Your Honor, on the
4 first --

5 THE COURT: Yes or no?

6 MR. PARKINSON: Your Honor, I believe the
7 way they operate is the first map was the one that
8 was approved. But once the entirety is approved,
9 they do allow some technical adjustments to be
10 made. There are all kinds of adjustments that
11 have to be made sometimes.

12 THE COURT: So, as we sit here today in
13 this courtroom, is there a map that is to be used
14 that protects these grave sites? Yes or no?

15 MR. PARKINSON: I will defer to Mr.
16 Massingill.

17 THE COURT: Why? You're in the
18 commission, you should know.

19 MR. PARKINSON: I do know that, Your
20 Honor, but he can explain that because it is being
21 used. It's already been approved. There's a
22 carve-out for all the graves. There is a plat
23 that shows that.

24 THE COURT: Do you have it here?

25 MR. PARKINSON: It's already admitted.

1 MR. TATE: Yes. This is Ron Tate again.

2 THE COURT: Okay.

3 MR. TATE: This map that we've been
4 referring to is a revision. It should be Exhibit
5 4. Yes, sir, Exhibit 4 to the brief, and that is
6 April 2025 iteration.

7 THE COURT: Mr. Carpenter, have you seen
8 that map?

9 MR. CARPENTER: Yes, but --

10 THE COURT: I'm just asking if you've
11 seen it.

12 MR. CARPENTER: Yes, sir.

13 THE COURT: Okay.

14 MR. TATE: Yes, sir. That's the most
15 recent iteration, as I understand it, of this
16 plat. Naturally -- and this was over a year ago
17 when the planning commission first approved the
18 preliminary plat. That's what gets approved by
19 the commission, Your Honor, for the ordinances, is
20 the preliminary plat. And it's got, you know, a
21 lot of iterations after that. You know, things
22 come up, things are found. The terrain isn't what
23 they thought it was. Maybe they need more surface
24 lines.

25 THE COURT: Let me ask you, Mr. Tate --

1 and all that's fine and I understand that. But
2 what I don't -- I'm not sure about is, what is
3 there in force that protects these grave sites
4 from being disturbed right now?

5 MR. TATE: Right now, what was in play
6 was the preliminary plat. That was before this
7 whole grave site came to light. Naturally, this
8 plat protects the graves.

9 THE COURT: That's what I'm asking, that
10 plat --

11 MR. TATE: -- protects the graves, Your
12 Honor.

13 THE COURT: Is that correct? I'm asking
14 your lady back there. Is that correct?

15 MS. HUNTER: Yes, Your Honor. It does.

16 THE COURT: Okay.

17 MR. TATE: There is no way the planning
18 commission's staff would approve --

19 THE COURT: I can't imagine.

20 MR. TATE: No, sir.

21 THE COURT: I can't imagine.

22 MR. TATE: No, sir.

23 Mr. Carpenter would be back if that was the
24 case, and it ain't going to happen that way.

25 THE COURT: All right.

1 MR. TATE: And why is that? Because Mr.
2 Spano, his company -- Mr. Spano is here, his
3 company. Mr. Spano is here. His partner is here.
4 The engineer, Jeremy McCutchens is here. All of
5 those people have done everything they could
6 possibly do. But, again, they've been thwarted
7 for the last year and two months in every step of
8 the process by Mr. Hix and Mr. Smith and their
9 supporters.

10 So we are here to continue to do the
11 right thing by the --

12 THE COURT: Let me stop you for a second,
13 if I may.

14 MR. TATE: Yes, sir.

15 THE COURT: Mr. Carpenter, based on the
16 limited scope of review this Court has in the
17 planning commission order, what error of law do I
18 need to correct that's been issued -- or, listen,
19 I asked my law clerk very quickly to give me the
20 scope of review that says the question presented
21 on appeal, the Court must determine only where the
22 decision of the Court is correct. It's a matter
23 of law. And I can't change anything, unless I
24 feel like they've been arbitrarily issued.

25 So far what I'm hearing is that they're

1 exactly not -- that they have taken into account
2 and they are doing exactly what you've asked them
3 to do and that is to protect these grave sites.

4 So I don't know what else you would ask them
5 to do at this juncture. If you think you're going to
6 get free, unfettered permission to go traipse across
7 the property, not going to happen.

8 MR. CARPENTER: I think that the
9 developer has done a lot. And since he finally
10 took our information and went out there and found
11 the graves after we found them -- that was in
12 December. And he came in with a new map, but that
13 new map has not gone through the processes to file
14 --

15 THE COURT: They already said from the
16 commission that map is what they -- that's what
17 they have to build by, and that is what's in force
18 and effect. That's what the lady sitting right
19 there from the commission, just shaking her head
20 now, saying that's it.

21 MR. CARPENTER: But when we --

22 THE COURT: So I'm not sure what you're
23 asking me to do.

24 MR. CARPENTER: We got the whole map.
25 This was in February of this year. They said --

1 THE COURT: Mr. Carpenter, they are
2 telling you that this map is the one that's in
3 force and effect. What else are you asking them
4 to do?

5 MR. CARPENTER: To have the planning
6 commission approve it, because it hasn't been
7 approved.

8 THE COURT: They're just saying that it's
9 a matter of -- I think you're being -- well, not
10 correct. Let me say it that way.

11 MR. TATE: That's the map that the
12 project is going to go forward on.

13 THE COURT: Right. The one Mr. Tate just
14 talked about. Right?

15 MR. TATE: Yes, sir.

16 THE COURT: And the one the lady said
17 that's the map. So this is the map.

18 MS. HUNTER: Yes, sir.

19 THE COURT: So what your client has
20 accomplished is what the goal, protecting these
21 grave sites, and plat does that.

22 I will applaud the developer. I know
23 it's costing him a whole lot of money to sit back
24 and deal with this, but they have and they've come
25 back and done that. So these things are

1 protected. I don't know what else you're asking
2 them to do. I'm not going to ask them to do
3 anything else. They've done what they're supposed
4 to do. And I can't change, as matter of law, what
5 the commission has done at this juncture. There's
6 nothing that I can see that I can change, or
7 inclined to.

8 MR. CARPENTER: To reinterate, my
9 criticism at this juncture is not directed toward
10 the developer. It's directed toward the
11 commission for not following its processes. They
12 didn't approve the new map. They didn't go
13 through the 18 different things that the code
14 requires. They adopted the old map and not the
15 new map.

16 THE COURT: I think that some of this
17 goes into what I suspected; the whole thing was
18 that people don't want this subdivision to go
19 through. That's not an issue for me. That's not
20 an issue just to delay them any further.

21 I'm denying your appeal. Okay? With all due
22 respect, you've gotten what you wanted. They
23 accomplished that. I don't think anything else can be
24 done other than that.

25 If, for some reason, they are not

1 building according to the plat as the commission
2 has issue it, then there will be room to move at
3 that point. But, at this juncture, I'm denying
4 your appeal. Okay, sir?

5 All right. Thank you, gentlemen.

6 Mr. Parkinson or Mr. Tate, which one of you
7 want to draft the order?

8 MR. TATE: Your Honor, I'll be happy to
9 do that. We will take that up.

10 THE COURT: Thank you, guys. I
11 appreciate it.

12 (The hearing was concluded.)
13
14
15
16
17
18
19
20
21
22
23
24
25

?

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Anderson County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

August 8, 2025



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

AFFIDAVIT OF KENNETH EUGENE RHODES

PERSONALLY CAME BEFORE ME the Affiant, Kenneth Eugene Rhodes who, after being duly sworn, did state and/or affirm as follows:

1. I am over the age of eighteen (18) years, am of sound mind, am not under the influence of any substance that is likely to impair my ability to give testimony, and am competent to offer this statement.
2. I currently reside at 6916 Hwy 187, Anderson, South Carolina 29625
3. In or about the late 1930's, my father, John Lee Rhodes, who was a deputy police officer in Anderson County, acquired property, including the property west of highway 187, adjoining Fant's Grove Circle, then known as the Rivoli Plantation (the "Property").
4. I was around ten years old when the Property was acquired and lived there with my father, mother, and some of my siblings.
5. The portion of the Property currently owned by AnMed was in my family until 1982, when it was sold to Motorola, Inc.
6. When my father bought the Property in the late 1930's, there were black men who worked on the Property who were descendants of the slaves
7. At the time, the Property had a plantation home called Rivoli and a barn on the top of a hill on the Property.
8. We had cattle and cotton on the Property.
9. There were three wooden buildings near the barn and some pecan trees.
10. My father told me slaves had lived in the buildings.
11. In the 1940s my father also told me there were slave graves on the Property.

12. When I walked the Property, I could see an area where the ground had sunken.
13. When I asked my father what it was, he told me slaves were buried in shallow graves.
14. I don't know exactly where all the graves are.
15. Some were located on the hill and behind the barn.
16. There were some graves near where a spring started and on a short branch not too far from the roads.
17. I affirm, under the pains and penalties of perjury, that the foregoing statements of fact are true to the best of my knowledge, information and belief.

FURTHER THE AFFIDAVIT SAYETH NAUGHT.

Kenneth E Rhodes

Kenneth Eugene Rhodes

SIGNED AND SUBSCRIBED BEFORE ME

Lisa M. Burdette
Signature of Notary

Lisa M. Burdette
Printed Name

Notary Public for the State of South Carolina
This 9th day of April, 2024.

My Commission Expires: April 30, 2031

Anderson County Planning Commission

Dan Harvell, Chair, District #7
James McClain, MD, District #1
Steven Gilreath, District #3
Jane Jones, District #6
Wesley Grant, At Large

Will Moore, Vice-Chair, District #4
Brad Burdette, District #2
David Cothran, District #5
Cole Walsh, At Large

May 14, 2024
Regularly Scheduled Meeting
6:00 PM

AGENDA

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes
 - A. April 9, 2024
6. Old Business
 - A. Amendment to allow for ingress and egress of industrial and commercial traffic on 3508 Dixon Rd - District 5
 - B. Consent Agenda – Sterling Place Subdivision
 - C. Consent Agenda- Shockley Bend Subdivision
7. New Business
 - A. Adoption of Piedmont Area Development Plan Partnership between Greenville and Anderson Counties
8. Public Comments, non-agenda items – 3 minutes limit per speaker
9. Other Business
10. Adjournment

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

ANDERSON COUNTY
PLANNING COMMISSION MEETING
APRIL 9, 2024

PRESENT:

DAN HARVELL, CHAIRMAN
JAMES MCCLAIN
BRAD BURDETTE
STEVEN GILREATH
DAVID COTHRAN
JANE JONES
WESLEY GRANT

ALSO PRESENT:
ALESIA HUNTER
HENRY YOUMANS
TIM CARTEE
GAYE SPRAGUE
DANETTE HANKS

1 DAN HARVELL: The April 9,
2 2024 meeting of the Anderson County Planning Commission
3 will be called to order. If you'll please rise for the
4 invocation and pledge. Mr. Gilreath.
5 STEVEN GILREATH: Let us pray.
6 **INVOCATION AND PLEDGE OF ALLEGIANCE BY STEVEN GILREATH**
7 DAN HARVELL: At this time,
8 Commissioners, I'd like to invoke a motion for approval
9 of the agenda as printed. Do I have a motion to
10 approve the agenda?
11 JAMES MCCLAIN: So moved.
12 DAN HARVELL: We have a
13 motion by Mr. McClain; second from Mr. Cothran. Any
14 discussion? Those in favor. Agenda approved.
15 Also we have one set of minutes to be approved,
16 those from March 12, 2024. You have those in front of
17 you. Do I hear a motion to approve those minutes as
18 printed?
19 JANE JONES: So moved.
20 DAN HARVELL: Motion by Ms.
21 Jones. Second?
22 BRAD BURDETTE: Second.
23 DAN HARVELL: Second by Mr.
24 Burdette. Any discussion? Those in favor. And so
25 ordered.
26 All right. 6(a) land use review, Oak Hill
27 Elementary School located on Elrod and Oak Road, TMS
28 238-00-09-017. This resides in County Council District
29 6. We'll hear from the staff now.
30 ALESIA HUNTER: Yes, sir.
31 Thank you, Mr. Chairman. As you mentioned earlier,
32 this is a large scale project, consisting of a proposed
33 Oak Hill Elementary School. It's located at Oak Road
34 and Elrod Road. This property is owned by Anderson
35 School District 1. ADC Engineering is the engineering
36 firm that they've acquired to design the school.
37 Intended Development is an elementary school, which is
38 considered institutional use. Again, this is Council
39 District 6, proposed elementary school. It's proposed
40 to construct 105,280 square foot elementary school with
41 a total build-out; this will be roughly 1,000 students,
42 70 faculty and staff and 246 off-street parking spaces
43 with setbacks and buffers.
44 The surrounding land use, north is Oak Road,
45 there's a single-family home there, south is a single-
46 family home, east is the Elrod Road portion and west is
47 a single-family home. Approximate acres of the
48 property is 26 acres. It is unzoned. Sewer will be
49 ReWa, Duke Energy will be your power supplier,
50 Poudersville Water, and there are no variances

1 requested.
2 And the traffic impact study, we'll ask Ms. Gaye
3 Sprague from Roads and Bridges to come up and speak
4 about the traffic study.
5 DAN HARVELL: Thank you.
6 GAYE SPROUSE: Thank you,
7 Alesia. Mr. Chairman and Commissioners, a traffic
8 study was conducted for this development. And the road
9 improvements are rather extensive, so I'm just going to
10 read them quickly so I can tell you about a couple of
11 minor edits after DOT's full review.
12 But the school will be constructing left turn
13 lanes in and right turn lanes in, and two exit lanes at
14 each of the school accesses. There's one on Oak Road
15 and two on Elrod, which is a county road. They will
16 also be adding left turn lanes on Oak Road and Elrod,
17 and that's a state road. Then the traffic study also
18 indicated that the turn lane requirements for a right
19 turn lane on Piedmont onto Elrod were met, but DOT is
20 not requiring that because of the angle of that
21 intersection.
22 The traffic study also indicated some restriping
23 on Piedmont Road between Frontage and River Road and
24 DOT is doing to do that with their own forces.
25 We also, at the county, have required and if you
26 recall, we adopted some more stringent left turn lane
27 guidelines several months ago. And this left turn off
28 of Old Williamston onto Oak Road meets those
29 requirements, as well as the old requirements. So it
30 would have been recommended even without the new
31 requirements. And we are requiring that improvement.
32 So that's the one improvement the county is
33 requiring that DOT is not requiring. And then there
34 are radius improvements also to help with buses. But
35 it's mainly the turn lanes at the school site, plus
36 this left turn lane off of Old Williamston onto Oak
37 Road.
38 I'm available for any questions you have.
39 DAN HARVELL: Any questions
40 for Ms. Sprague?
41 JANE JONES: That last one,
42 that turn lane off of Old Williamston onto Oak, is that
43 turning right or left?
44 GAYE SPROUSE: That's if
45 you're on ---
46 JANE JONES: Coming in on
47 81?
48 GAYE SPROUSE: Right. If
49 you come off of 81 there's no improvements in that
50 intersection and you're on Old Williamston and then

1 you're going to turn left onto Oak to go to the school,
2 that's the left turn. It's actually on Old
3 Williamston.
4 No improvements were -- and we didn't ask them to
5 study the intersection of 81 and Old Williamston,
6 because through our 81 corridor study, we have come up
7 with some recommendations and we hope to get those
8 built by other means. But we have no other means of
9 building the one that Ms. Jones just asked about, so
10 we're asking the development to do that.
11 JANE JONES: Do you just
12 happen to know if there are any turn lanes recommended
13 at 81 and Old Williamston?
14 GAYE SPROUSE: Not required
15 of this ---
16 JANE JONES: Not this
17 study, but I didn't know if ---
18 GAYE SPROUSE: Yes, yes. In
19 the 81 corridor study, there are -- there's a left turn
20 lane on 81. There's a right turn lane. There's a two-
21 lane exit off Old Williamston and a signal. That's the
22 proposal from that study, and then we'll be pursuing
23 other lending sources for that.
24 JANE JONES: Okay.
25 DAN HARVELL: Anyone have
26 any questions for Ms. Sprague? Thank you very much.
27 Is a representative from the school district here?
28 ALESIA HUNTER: Mr. Chairman,
29 here's the site map here for your viewing.
30 DAN HARVELL: Oh, okay, I'm
31 sorry.
32 ALESIA HUNTER: That's okay.
33 Here's the overall layout of the school. And you can
34 see the access drive right there. There's a more
35 detailed layout of the school itself. There's a view
36 of the parking; 246 parking spaces. Here's the
37 location of the property located on Elrod Road here.
38 That's an aerial map for your viewing. Of course,
39 here's the sign that we're required to put out. That's
40 a picture of the sign.
41 Staff recommends approval. This project has met
42 the requirements of Chapter 24 Land Use. We do have
43 representatives from the school district itself and
44 also the engineering -- ADC Engineering. That
45 concludes the staff report, Mr. Chairman.
46 DAN HARVELL: Okay. Thank
47 you. Would we have any words from the school district
48 themselves at this time?
49 LARRY BARTHELEMY: Good
50 afternoon. I'm Larry Barthelemy with ADC Engineering.

1 I'm here to answer any questions you may have.
2 DAN HARVELL: Okay. Thank
3 you. Any questions from the board at this time?
4 JAMES MCCLAIN: It appears
5 this is more of a school district representative. I'm
6 just curious, is this a feeder school for Powdersville
7 High or Palmetto High School?
8 LARRY BARTHELEMY: What was the
9 question?
10 JAMES MCCLAIN: I was curious
11 if this elementary school would be a feeder for
12 Powdersville High or Palmetto High?
13 LARRY BARTHELEMY: That's
14 correct, for Powdersville Middle and Powdersville High.
15 JAMES MCCLAIN: Okay.
16 JANE JONES: Also,
17 Concrete?
18 LARRY BARTHELEMY: Yeah.
19 Concrete and Powdersville Elementary are both very
20 overcrowded. And this school will take students from
21 both of those elementary schools to try to reduce the
22 overcrowding at those two schools.
23 DAN HARVELL: Any other
24 questions from the board?
25 Okay. At this time we have no one signed up that
26 I see here. These were not in order to start with, but
27 I see no one signed up to speak to this from the
28 citizen side. So at this time I will entertain a
29 motion to approve or deny this from the board.
30 JANE JONES: I make the
31 motion that this elementary school be approved. That
32 the overcrowding in Powdersville Primary and Concrete
33 Primary, the overcrowding of those schools will feed
34 into this one, as well as the growth that's taking
35 place. It'll fill up fast.
36 DAN HARVELL: Okay. We
37 have a motion from Ms. Jones. Do I hear a second?
38 WESLEY GRANT: Second.
39 DAN HARVELL: We have a
40 second from Mr. Grant. Any discussion at this time?
41 Those in favor of approval. And unanimous. Thank you
42 very much.
43 LARRY BARTHELEMY: Thank you.
44 All right. Next is 6(b), rezoning plus or minus
45 16.3 acres located on Beaverdam Road, TMS 220-00-08-
46 007, in Council District 7. Staff.
47 HENRY YOUMANS: Mr. Chair, 327
48 property owners within 2,000 feet of the proposed
49 development were notified via postcard. The owner is
50 Wayne B. Elmore Family Trust, et al. The applicant is

1 Garnett Land Development Corporation, also recognized
 2 as Sylvia Garnett. The precinct is Williamston Mill,
 3 Council District 7. Tax map number is there for your
 4 reference. It is 16.3 acres out of a total of 54.22
 5 acres. The surrounding land use is residential. The
 6 current zoning for this particular area is commercial
 7 district C-3. The requested zoning is single-family
 8 residence 20,000 square feet minimum R-20. The
 9 residential district is established as areas in which
 10 the principal use of land is for single-family
 11 dwellings and for related recreational, religious,
 12 educational facilities normally required to provide an
 13 orderly and attractive residential area.

14 The surrounding zoning -- all the surrounding
 15 properties are zoned R-20 single-family residential.
 16 Evaluation, the request is to rezone the parcel to R-20
 17 to construct single-family residences compatible with
 18 the R-20 standards.

19 Public outreach, staff certifies that the public
 20 notification actions have been completed by March 25 of
 21 2024. The rezoning notification postcards were sent to
 22 approximately 327 property owners within 2,000 feet of
 23 the property. Rezoning notification signs were posted.
 24 And we bring this before the Planning Commission as the
 25 advertisement was placed in the Independent Mail.

26 This is a sketch drawing of the proposed rezoned
 27 property. This represents the actual plat with total
 28 acreage. This is a tax map aerial view of the
 29 property. This is the zoning map of the property
 30 showing the R-20 zoning and the commercial zoning that
 31 is requesting to be rezoned. This is another detailed
 32 map showing the same R-20 and commercial zoning. This
 33 is the future land use map showing commercial on the
 34 left and residential on the right. And this is the
 35 zoning map showing C-3 and R-20 and the other variances
 36 showing zoning in the area. This is the sign placed on
 37 the roadway.

38 Staff recommends approval as the project has met
 39 the requirements for Chapter 48 Rezoning for referral
 40 to County Council for further discussion and decision.

41 DAN HARVELL: Thank you, Mr.
 42 Youmans. Is there anyone at this time from the
 43 landowner side or representative that would like to
 44 speak to this?

45 BRADLEY SMITH: My name is
 46 Bradley Smith. I'm representing Sylvia Garnett, the
 47 landowner. She's just asking to go back to the
 48 original R-20 zoning. The C-3 that it was rezoned for
 49 a business venture that she's not moving forward with.

50 DAN HARVELL: Okay. Any

1 questions?
2 JANE JONES: Since this
3 property that we're discussing here is surrounded
4 pretty much by residential zoning, I was just curious
5 as to how this came about. Was it requested by the
6 owner at the time?
7 BRADLEY SMITH: Yes, ma'am, it
8 was. It was a proposed business venture, and she
9 decided not to move forward with that.
10 JANE JONES: It was kind
11 of in keeping with what was surrounding as near as I
12 could tell from what I have up here. That was my
13 question.
14 BRADLEY SMITH: Yes, ma'am.
15 It's my understanding there was a lot of resistance
16 when it was changed the first time. So that's why
17 we're going back.
18 JANE JONES: Thank you.
19 DAN HARVELL: I will ask
20 also, it looks like the entire parcel is being changed
21 -- the request is for the entire parcel to be changed,
22 but I noticed that only a portion of it is marked off
23 for house sites. Correct?
24 BRADLEY SMITH: I'm not sure
25 I understand. When you say the whole ---
26 DAN HARVELL: It's 54
27 acres, and according to one of the maps we see ---
28 JAMES MCCLAIN: The black and
29 white map.
30 DAN HARVELL: It's the
31 black and white map. Yes, it's this one here. I was
32 just curious. We have what looks like seven lots there
33 plotted out and the rest is unplanned at this time. So
34 I was just wondering what the difference is there as
35 far as why ---
36 BRADLEY SMITH: Well, again,
37 the sketch there was part of the original business plan
38 that there was going to be some storage units. And
39 that's what she's not moving forward with. So the
40 request is to go back to the original R-20 zoning for
41 the whole 54 acres.
42 DAN HARVELL: All right.
43 That clarifies that. That map was very confusing.
44 Thank you.
45 BRADLEY SMITH: Yes, sir.
46 DAN HARVELL: Any other
47 questions from the board? All right.
48 STEVEN GILREATH: I do, just for
49 clarification. It does say 16.3 acres on Beaverdam, so
50 are we rezoning for the 54 or the 16?

1 HENRY YOUMANS: The 16.3.
2 STEVEN GILREATH: Okay.
3 JANE JONES: It's really
4 hard to see from what we were given.
5 DAN HARVELL: Any other
6 questions? Okay. We have no one signed up from the
7 citizen side to speak to this. So at this time I will
8 entertain a motion from the board to approve or deny
9 this change.
10 JAMES MCCLAIN: I make a
11 motion to approve.
12 DAN HARVELL: Okay. Dr.
13 McClain makes the motion to approve. Do I have a
14 second?
15 DAVID COTHRAN: Second.
16 DAN HARVELL: We have a
17 second from Mr. Cothran. Any discussion? All those in
18 favor. And unanimous. Thank you.
19 All right. Next is 6(c), rezoning IZD amendment
20 located off Highway 76, tax map number 65-00-04-013 in
21 County Council District 4. Staff.
22 HENRY YOUMANS: Mr. Chairman,
23 Springs at Clemson Boulevard is an IZD, Innovative
24 Zoning District amendment. Two hundred eighty-five
25 property owners within 2,000 feet of the proposed
26 amendment were notified by postcard. The preliminary
27 project name is Springs at Clemson Boulevard. The
28 applicant is L&W Properties, LLC. The precinct is
29 Denver-Sandy Springs. Council District 4. The tax map
30 number is there for your reference. 19.1 acres is the
31 acreage that's being considered. Current zoning is
32 IZD. The requested zoning is an amendment to the IZD.
33 The IZD district is established to allow flexibility in
34 the development that will result in improved design,
35 character and quality of developments, as well as
36 preserve natural and scenic features of open spaces.
37 The innovative zoning district regulations must
38 encourage innovative site planning for residential,
39 commercial, institutional and industrial development
40 within the district.
41 The evaluation, the request is to amend the IZD
42 previously approval of 225 apartment units. The
43 amendment is to downsize the units to 125 single-family
44 attached townhomes.
45 Public outreach, the staff certifies that the
46 public notification actions will be completed by March
47 25. The rezoning notification cards to the 285
48 property owners within 2,000 feet of the property was
49 completed. Rezoning notification signs were placed on
50 the subject property. And the Planning Commission

1 public hearing advertisement was placed in the
2 Independent Mail.

3 This is a plat of the area. This is a site plan
4 of the proposed project with the reduction that's
5 required and requested. This is the tax map area map
6 of the property. This is the zoning map of the
7 property showing that it is rezoned. And this is a
8 layout of the proposed property.

9 Staff recommends approval. The project has met
10 the requirements for Chapter 48 Zoning for referral to
11 County Council for their consideration.

12 DAN HARVELL: Okay. Thank
13 you, Mr. Youmans. Do we have a representative who
14 would like to speak to this particular case?

15 DOUG WALL: Hi, this is
16 Doug Wall with L&W Properties. I can answer any
17 questions anyone may have.

18 DAN HARVELL: Any questions
19 from the board at this time? Anyone? We may call you
20 back if we need to.

21 DOUG WALL: Thank you.

22 DAN HARVELL: Thank you,
23 sir.

24 All right. We have one citizen signed up to speak
25 to this, Robert Allen. If you'll come forward and
26 state your name, address and Council district.

27 ROBERT ALLEN: Hello, my name
28 is Robert Allen. I live at 208 Chapman Road, which is
29 directly across the road from where the development is
30 going to be. The question I've got is where is the
31 entrance going to be to this development? Is there
32 going to be a traffic light there? And I see two areas
33 that can be access to 176. I want to know which one
34 it's going to be. Also, before -- I know this was
35 zoned before and they were going to do a lot more
36 analyses on these townhouses. Are these going to be
37 owned or are these going to be rentals?

38 And the other question that I had was, I think it
39 was re-bought in 2023 and I'm wondering who is the
40 owner. I see it's Idea River Development out of
41 Spartanburg. I just want to verify that. That's it.

42 DAN HARVELL: All right.
43 Could we have a verification on that?

44 HENRY YOUMANS: The owner's
45 name is Idea River, LLC and they are located in
46 Greenville, based on the application.

47 DAN HARVELL: Okay. Thank
48 you.

49 All right. Any questions or statements from the
50 board at this time?

1 JANE JONES: Was there a
2 clarification made on where the entrance into the
3 subdivision is going to be? The man asked where it
4 was. I didn't know if we clarified that.
5 DAN HARVELL: Yes, sir, can
6 you answer to that, please?
7 DOUG WALL: There are two
8 entrances; one is an emergency only entrance proposed
9 and the other entrance is across from, I believe,
10 Chapin. And then his question about the townhome, they
11 will not -- well, we can't limit if somebody wants to
12 rent them, but they are designed to be a fee simple
13 development.
14 JAMES MCCLAIN: If I just
15 might clarify, Mr. Chairman?
16 DOUG WALL: Sure.
17 JAMES MCCLAIN: So the current
18 -- just to clarify the site plan, the current slide we
19 see here, I think that is the townhome plan; whereas
20 ---
21 DAN HARVELL: Could you turn
22 on your microphone?
23 JAMES MCCLAIN: Oh, sorry.
24 Whereas, the final slide, if you go to the final slide,
25 just click on the site plan, I think this is the town
26 home plan, which is the amended plan. Whereas, we can
27 look at the final slide real quick? Was this the
28 apartment site plan that was proposed? And this is to
29 be modified to four slides up?
30 DOUG WALL: That's
31 correct.
32 JAMES MCCLAIN: So if we could
33 just actually go back to the -- four slides up. The
34 area that has now no buildings, where I think there
35 have been sort of -- these two access roads, so to
36 speak, there had been sort of more apartment buildings
37 on the right access, or along the right side, where
38 these two square rectangular shaped boxes on this site
39 plan have no buildings. Is that going to be maybe
40 eventually new townhomes at a later date?
41 DOUG WALL: I'm not sure I
42 understand the question.
43 JAMES MCCLAIN: Do you see
44 this current site plan? Along the right side of the
45 site plan there's sort of open areas with no buildings
46 on them.
47 DOUG WALL: Yeah, those
48 are reserved for commercial only. Those will not be
49 residential. And that's tbd at this point.
50 DAN HARVELL: Any other

1 questions? All right. At this time do I have a motion
2 to approve or deny?
3 WESLEY GRANT: Mr. Chairman,
4 I make a motion to approve.
5 DAN HARVELL: We have a
6 motion by Mr. Grant. Do we have a second?
7 DAVID COTHRAN: Second.
8 DAN HARVELL: We have a
9 second from Mr. Cothran. Any discussion amongst the
10 board? Those in favor please raise your hand. And
11 unanimous. Thank you.
12 Okay. Next 7(a) consent agenda on Arbor Woods.
13 Staff.
14 TIM CARTEE: Thank you,
15 Mr. Chair. The following subdivision bond will expire
16 on May 19, 2024. The developer is requesting a one-
17 year extension renewal to proceed with the development.
18 The subdivision complies with Anderson County
19 Subdivision Regulations.
20 Staff requests that the subdivision bond be
21 renewed with staff conditions as previously approved.
22 The developer is Reliant Homes. Location is 81 North.
23 And there's 27 lots. The preliminary plat approval was
24 May 14, 2019. Final plat was approved on May 19, 2021.
25 That's all I have for that, Mr. Chairman.
26 DAN HARVELL: Okay. Thank
27 you. Do we have a representative who would like to
28 speak to this?
29 RANDY HUDSON: My name is
30 Randy Hudson, Vice President of Reliant Homes. We took
31 a long time getting started with the neighborhood;
32 staffing issues, turnover and what have you. And we
33 have now released -- we have six houses already under
34 construction and hope to be finished with the entire
35 neighborhood by one year from now and be able to put a
36 final coat of asphalt on it. I think it will work out
37 better for the county, as well as the homeowners, if we
38 wait until all the construction heavy equipment is off
39 the property.
40 DAN HARVELL: Okay. While
41 you're here, any comments or questions from the board?
42 JAMES MCCLAIN: One question
43 from me, Mr. Chairman. I'm just curious. Where on
44 Highway 81 North is this? Is this on the Anderson side
45 of 85 or the ---
46 RANDY HUDSON: It's on the
47 other side of 85 like you're heading back toward
48 Greenville or Powdersville.
49 JANE JONES: Is it between
50 the red light at Wren and the red light at 8 and 88?

1 Is that the one?
2 RANDY HUDSON: Yes, ma'am.
3 DAN HARVELL: Thank you. If
4 we need you, we'll call you back.
5 I don't see the sheet on Arbor Woods. Was anyone
6 signed up to speak to this?
7 ALESIA HUNTER: No, sir,
8 they're not required. It's just a consent agenda item.
9 DAN HARVELL: All right.
10 Thank you. Any other comments or questions from the
11 board before we entertain a motion? Okay. Do I have a
12 motion to grant this?
13 STEVEN GILREATH: I'll make a
14 motion to grant it.
15 DAN HARVELL: We have a
16 motion from Mr. Gilreath. Do I have a second?
17 WESLEY GRANT: Second.
18 DAN HARVELL: We have a
19 second from Mr. Grant. Any discussion amongst the
20 board? Those in favor, please raise your hand. And
21 unanimous. Thank you.
22 All right. Next is 7(b), conservation
23 subdivision, Anderson Reserve Phases I and II located
24 at Highway 187 and Fants Grove Circle. Tax map 42-00-
25 01-010, in Council District 4.
26 I will say before we get into this, I requested
27 for the board a copy -- or a section of the ordinance
28 dealing with what a conservation subdivision is as
29 specified by ordinance. And you should have that copy
30 in front of you now. So just be aware of that.
31 Okay. Staff.
32 TIM CARTEE: Thank you,
33 Mr. Chairman. Anderson Reserve Phase I and Phase II,
34 150 lots for Phase I was approved on May 9, 2023. A
35 hundred and eighty-two lots for Phase II was denied on
36 March 12, 2024.
37 A hundred and fifty-two property owners within
38 2,000 feet of the proposed development was notified via
39 postcards. This is, as you had stated earlier, single-
40 family conservation development. The applicant is
41 Jamie McCutchen on behalf of Spano & Associates. The
42 survey engineer is LJA, and it's located off of Highway
43 187 and Fants Grove, which is state maintained. It's
44 in Council District 4. Surrounding land use is
45 residential. This property is unzoned. Tax map number
46 is there for you viewing. 133.67 acres. And there's a
47 proposed 232 lots. No variance is requested. And the
48 traffic impact analysis is Fants Grove Circle and
49 Highway 187 are classified as collector roads with no
50 maximum average trips per day.

3 GAYE SPROUSE: Mr. Chairman
4 and Commission, I know you've heard this before but for
5 the record I will say what these improvements are
6 required because they are extensive. The DOT required
7 the addition of a northbound left turn lane on SC 187
8 at Fants Grove Circle as part of Phase I. So that's
9 already required and will still be required.

16 Then also the internal street servicing Access D,
17 that's the main access for this development onto 187,
18 will be built to the county's collector standards,
19 instead of just a major local standard, which means it
20 has to be a little bit wider and a little more right-
21 of-way.

34 And just once again please note that any roadway
35 improvements required by future accesses into this
36 development will require a new traffic study and will
37 have to be accommodated to meet our ordinances.

43 ---

49 what's before you tonight.

490

1 Sprague.

2 TIM CARTEE: Here's the
3 proposed map layout in the development for Phase II.
4 Phase I has not changed. They're just adding Phase I
5 and Phase II to extend their time for this development
6 as one.

7 Here's another layout. Here's the area for your
8 viewing. Here are the signs that were posted for this
9 development.

10 Staff recommends approval. The updated changes
11 have been met and exceed Chapter 24 Land Use
12 requirements. Staff has worked with the engineer to
13 make and address all requested changes that the
14 Planning Commission has requested.

15 That's the end of the report, Mr. Chairman.

16 DAN HARVELL: Okay. Thank
17 you very much. Do we have a developer or
18 representative that would like to speak at this time?

19 CARTER MASSINGILL: Good evening.
20 My name is Carter Massingill. I'm an attorney who has
21 been assisting the developer with this matter. And you
22 may be wondering why we're back here before you
23 tonight. It's because we heard the concerns from the
24 last month's meeting, and we have worked to address
25 those. And we're going to work through those with you.

26 But just to kind of briefly recap our journey on
27 this, when our application was originally denied back
28 in December of 2023, we participated in a mediation.
29 We had representatives from the county, the Planning
30 Commission staff there, and just based on our
31 discussions and feedback, we decided it made more sense
32 to just keep adjusting our application, try to listen
33 to what the concerns are, and go that route, instead of
34 drawing a line in the sand and trying to go through the
35 court process. That's just the way my client would
36 prefer to do this. And that's been our approach
37 consistently this whole time. But last month, our
38 application was again recommended for approval and more
39 narrowly voted down, this time four to three. So since
40 that night, we've continued to address the concerns
41 that we have heard. And, you know, I'm not an
42 engineer. I'm going to reserve most of the time for
43 Mr. McCutchen here. But as I understand it, the
44 purpose of this conservation subdivision is in part to
45 preserve and increase green space, open space. And you
46 will see on the new plan that since our last meeting,
47 we've gone back and enlarged the existing open space,
48 and as well as added additional parks and green spaces
49 throughout this phase. And that's why we hired Mr.
50 McCutchen here to begin with, is because we wanted to

1 make sure that not only that we followed these
2 requirements, but that we exceeded them where we could.
3 And just one example of that would be, I think,
4 with our current space, the current ordinance would
5 allow us about five units per acre or almost 700 units.
6 And as we just heard, we're proposing far, far less
7 than that, a little less than three units per acre and
8 about 232 units. I think that's a good illustration of
9 -- you know, that our intent is not only to comply, but
10 to exceed the standards and I think that could be a
11 good example for future development.

12 I also just wanted to briefly say that, like the
13 last meeting, Mr. Cartee represented that there had
14 been no evidence that we've seen other than some
15 anecdotal comment about a grave site on this property.
16 But in any event, we passed out our information to the
17 people that brought that up and asked them -- you know,
18 told them, we welcomed a meeting or discussion with
19 them, because, frankly, we would like to know that. We
20 would not want to find that out in the middle of
21 construction. But we have not heard from anybody since
22 then; nobody is reached out to us. So at the same
23 time, we're here today with the same amount of evidence
24 about that which is none.

25 And those are my comments. I will now turn over
26 to Jamie McCutcheon.

27 JAMIE MCCUTCHEN: Good evening,
28 Mr. Chairman and commission. Jamie McCutcheon here,
29 hoping the third time is a charm for you for this
30 project. So wanted to go through a more detailed
31 analysis tonight about how we do meet the conservation
32 design and also point out the specific changes we've
33 made. I started this back -- we compared more about
34 our initial submittal back in December. Lastly,
35 because of the denial in December, it was a motion to
36 approve, which was denied. And so we didn't have a lot
37 of direct feedback from the commission as far as
38 specific issues. We took what we heard from the --
39 from other comments of the community. As Mr.
40 Massingill stated, we sat down with the planning staff
41 and the county to try to work through that. And we
42 thought we had addressed that. Obviously, we missed
43 the mark a little bit. But we -- looks like we made a
44 better sense. So tonight, I want to be more thorough
45 about what we've done. And make sure we answer all
46 your questions. Let me figure out how to work the
47 thing. There we go.

48 So again, total project site is 173.6 acres.
49 We're proposing development on 133.67. That includes
50 Phase I and Phase II. Again, it's an unzoned. So this

1 is a conservation design subdivision. Phase I was 150
2 lots which was approved last May. So we're coming up
3 on a year on that. Phase II is 232 additional single
4 family lots. Required open space for this project
5 would be 25 percent. That would be 31.9 acres. We
6 actually have 48.77 acres. So we have over 36%. So
7 you know, almost 17 acres more open space than what is
8 required on the conservation design. And we're
9 proposing a density of 2.86 lots per unit -- I mean
10 lots per acre.

11 So just reviewing the conservation design
12 standards, the conservation design standards, and I
13 will say, and some of you may be aware of this, I
14 actually worked with planning staff when this was being
15 developed. I've had a lot of experience with doing
16 this work over about 30 years, and I was requested by
17 some staff members and commission members, and actually
18 council members to join in the conversation. So not
19 only do I appreciate it being passed, I'm very familiar
20 with the intent of what was done. And it is to allow
21 for preservation of open space. So under a standard
22 zoning or standard -- not zoning -- standard practice
23 in an unzoned would be a 10,000 square foot lot. And
24 you would maximize all the area you had on the site in
25 order to do get your yield.

26 Under the conservation design, we're allowed to
27 reduce that into a more compact development, but in
28 exchange, we preserved those unique sensitive features
29 and streams and buffers in that. There's a minimum 50
30 foot buffer around the perimeter of the project, which
31 helps to provide screening for the adjoining
32 properties. Their open space required, again, if
33 you're under a half acre lot is 25 percent. If your
34 lot size is bigger than that, you can reduce your open
35 space, but we're definitely under a half acre lot size.

36 We're also required to have 50 foot riparian
37 buffers. The state standard is 30 for DHEC standards.
38 So we're increasing that to 50 feet. Minimum lot size
39 will be 5,000 square feet, minimum lot width will be 40
40 feet. And then your rear and side setbacks are five
41 feet. And again, there's a 30 foot building setback
42 from the perimeter buffer.

43 So this plan shows all the green space in there.
44 That's a lot of our streams and wetland areas being
45 preserved with buffers. On the backside, we've got a
46 large natural area that goes against the Clemson forest
47 area back there and that goes on down to the creek. So
48 we've got extra preservation in that area. We also
49 have a number of internal parks for open space and
50 enjoyment of the neighborhood. These are smaller lots.

1 So people need to have a place to go. And you know,
2 kids need a place to play outside. So we've included
3 that throughout the project.

4 We have a 50 foot perimeter buffer that's in the
5 light green, then we have a 50 foot riparian buffer
6 that's in the blue. So just to kind of highlight the
7 amount of buffer areas that we've included with this
8 project. Want to compare the standards versus what
9 we've done. Because there's been some questions about,
10 you know, building too much or maximizing out or just
11 for profit. You know, we're not that way. We've done
12 a project here that we think makes sense. So again,
13 your minimum lot size will be 5000 square feet and then
14 a minimum a lot length of 40 feet. If you run the math
15 on that, if you take out the 25 percent open space,
16 assume about 20 percent for infrastructure, roads,
17 etc., that gives you a little over five units an acre
18 that would be allowable under a conservation design, if
19 you maxed everything out. We have proposed lot sizes
20 that vary from 5,175 up to 9,600 square feet. We have
21 lot widths that vary from 45 feet to 60 feet. And we
22 come out with a proposed density of 2.86 units per
23 acre, which is a total of 382 units total. Again, that
24 compares to a maximum that we could pack in here of
25 almost 670 units. So just over half of what we
26 possibly could fit in if we just -- were trying to
27 purely just max things out.

28 On infrastructure, Ms. Sprague recommended -- has
29 already discussed the traffic study. So just want to
30 say we've agreed with that and the developers have
31 agreed to implement all the traffic improvements she's
32 already mentioned there. There's been some question
33 about infrastructure being able to handle the project.
34 Sewer capacity has been confirmed by Anderson County.
35 Water capacity has been confirmed by Sandy Springs
36 Water.

37 So we have a memorandum here, just a piece of it,
38 of the Anderson County approval of the traffic study.
39 And we also have SCDOT approval. So we've got the
40 email included here from DOT confirming their approval
41 of the traffic study and then improvements requires.

42 Included this map to you as well. If you look at
43 this, you'll notice the site has a lot of ways to get
44 to a lot of places. It's on Highway 187. You can take
45 LaFrance Road over to 76. So you don't necessarily
46 have to get on 187. You can take LaFrance to get
47 there. You can take 187 out to 85. And you can take
48 Fant Grove Road to Fants Grove Circle to Fants Grove
49 Road and that's the back way into Clemson. So we do
50 expect to have a number of people associated with

1 Clemson to live here as well.

2 This is a copy of our sewer approval letter and
3 our water approval letter. There's no question that
4 both of those agencies have been contacted and
5 confirmed they do have infrastructure needed for this
6 project.

7 So to compare what we've done since the first
8 submittal, so we actually submitted in October of '24
9 (verbatim). It doesn't matter now, but we were on the
10 agenda for November of '24 -- of '23 -- excuse me --
11 meeting and had to be removed because it wasn't
12 advertised correctly. So it actually didn't get heard
13 until December of '23.

14 But the initial plan had 332 single-family lots.
15 It had 92 townhomes. Had a density of 3.31 lots per
16 acre, with just under 40 acres of open space. And we
17 did have to request a variance for our driveways,
18 because we had over 400 lots total, and we didn't have
19 five driveways; we only had four.

20 So the current submittal is 382 single family lot.
21 We're removed the townhomes entirely. Again, the
22 density has dropped to 2.86 lots per acre, which is
23 about a half unit per acre less density. And we've
24 increased the open space to 48.77 acres. So we've
25 reduced our density by 42 units, which is about 10
26 percent of where we started. And we increased open
27 space by 9.15 acres. We also changed the location of
28 the amenity area; we enlarged it. So that's now the
29 amenity area. And then we added these internal parks,
30 as well, to provide more open space within the
31 community. We defined the prior townhome which was
32 originally in that Phase III. We've now included that
33 in our single-family portion. So there was some
34 question in the last meeting, it seemed to be a concern
35 about what if -- what's going to happen, what's coming
36 here. So we've now defined that. And we said, we're
37 just going to do single-family lots in all of this. We
38 also reduced that area by 1.6 acres. And we added that
39 into what's going to be a future phase, which is most
40 likely going to be a self storage. And again, we have
41 no variance required at this time. So we meet the
42 standards for access points for this development.

43 So there is future development here. And there
44 were some questions about what's coming. I'm going to
45 give you the best information I have. This is not
46 locked in stone. We're telling you what we know today.
47 And I'm happy to share that. But I just wanted you to
48 understand this is not a certainty at this point, this
49 is just the best information we have.

50 So we have 6.8 acres, which is planned to be

1 retained by the Spano & Associates for a self-storage
2 facility. They feel like as this project develops,
3 there'll be some need for storage. Again, we
4 understand these are smaller lots and so people need
5 rooms to have boats and RVs stored there or maybe some
6 climate controlled storage, or building storage. AnMed
7 is retaining 10 acres. They have -- we've reached out
8 to AnMed. We asked what do you plan to do there? They
9 said, we're not really sure. But we expect it's
10 probably going to have medical offices, and we might
11 have an urgent care center. That's the information
12 we've been given from AnMed directly after the last
13 meetings, so we could try to give you some information
14 tonight.

15 That's the wrong place, but there's 22 acres on
16 the top that we have no idea what they're doing. Our
17 developer is saying that's probably a hold for three to
18 five years. Let's see what develops in this corridor.
19 See what the need is. Is there more single-family?
20 Maybe. Is there some commercial? Is there a
21 restaurant? We have no idea what's going to be there.
22 So we are not telling you it's there. It's purely
23 future development.

24 One other thing is we added a 50 foot buffer along
25 Fants Grove Circle. So we understand across Fants
26 Grove Circle, there's some residences, and we said,
27 hey, we want to be good neighbors. That's not
28 required. I believe the buffer went in there was
29 either a 20 or 30 foot buffer would be required if it
30 were commercial. We've now set it as a 50-foot buffer
31 along there to try to be a good neighbor to our
32 adjoining property owners.

33 So in summary, our traffic memo, it was provided
34 by Impact Designs based on the plan changes approved by
35 county and DOT and developer has agreed to make all
36 improvements. Again, no variance required. Our
37 utility infrastructure; water, sewer capacity, ability
38 to serve the project provided by Sandy Springs and
39 Anderson County. Our density, the project is about 57
40 percent less density than would be allowed under the
41 Anderson County Conservation Design Standards. And
42 we've reduced density by 40 units from initial proposal
43 and we've eliminated proposed townhomes. Schools and
44 fire were mentioned as a concern. We've spoken with
45 School District 4 and with the Anderson County Fire
46 Department to confirm they can serve the project. I
47 spoke with Chief Jimmy Ray Sutherland again today. He
48 actually spoke with the Zion and Pendleton departments.
49 And they said absolutely we can serve that; not a
50 problem whatsoever. To be honest, he sounded a little

1 bit aggravated that there was a question about that.
2 But I'll leave that to him. But he said there's
3 certainly no problem in serving this facility with the
4 fire departments.

5 Schools, I had a really good conversation with
6 Superintendent Christopher regarding the proposed
7 development. He has confirmed they recently passed
8 \$150 million bond for school -- for this district.
9 That they have planned growth for the next 10 years. I
10 wasn't aware of this, but Mr. Christopher came from the
11 Fort Mill area outside Rock Hill and Charlotte. They
12 experienced explosive growth while he was there. So
13 he's certainly, certainly educated on how to plan for
14 that growth. These -- this project will go to
15 Pendleton High. As you're aware, there's a new high
16 school planned for 1200 students. It's currently at
17 940 students and has sufficient capacity for the
18 anticipated growth over the next 10 years.

19 Riverside Middle will occupy the existing high
20 school. It will accommodate 1000 students. Currently
21 there are just under 700 students in the middle school.
22 And so it's got sufficient growth for what's
23 anticipated for the next 10 years. And LaFrance
24 Elementary has sufficient capacity as well, for the
25 anticipated growth over the next 10 years. So
26 Superintendent Christopher said he's -- no problems
27 with being able to serve the growth that's coming in
28 this corridor, and they're planning for it accordingly.

29 So again, I just want to thank you for your
30 consideration. We hope that we have listened to the
31 commission, listen to the comments. We've done our
32 best to answer those. And hopefully what I've done
33 tonight shows that our intention here is to provide a
34 quality project in this area. And we have done that in
35 two other projects that are undergoing right now. This
36 will be our third. And we really want to be an asset
37 to the community.

38 So if there are any questions, I'll be glad to
39 answer them.

40 DAN HARVELL: Okay. Well,
41 while you're here, do we have any questions from the
42 board for Mr. Massingill.

43 JANE JONES: Looking at
44 this plat that we were given, it's very small, hard to
45 see. But is that not wetlands that -- is that what
46 you're using as your conservation?

47 CARTER MASSINGILL: There's -- a
48 portion of it is. So all -- so we've had the wetlands
49 delineated. We've had a full survey, topo and boundary
50 of the site. So we're not basing this off GIS or

1 guessing. We've gone ahead and spent a lot of money to
2 get that done, as well as a full wetlands delineation.
3 And so yes, part of our conservation area is that which
4 is again, what that's intended to be, is to preserve
5 those ---
6 JANE JONES: Well, that's the
7 land you couldn't build on anyway, so ...
8 CARTER MASSINGILL: Well, actually,
9 ma'am, it's not because if we did a standard
10 development, the buffer would -- on that would only be
11 30 feet. And so we would gain back 20 feet around
12 that. And you can actually have those -- those wetland
13 areas within the lots. And so if they don't get
14 protected, like they do when they're in a conservation
15 design and in a conservation easement, and the HOA is
16 guarding those. So actually, the conservation design
17 subdivision ensures those are protected much better
18 than a traditional design would do so.
19 JANE JONES: I don't know if you
20 answered the question, but that's okay.
21 JAMES MCCLAIN: Mr. Chairman,
22 if I ask a question. This is a -- this map design here
23 is Phase I and Phase 2.
24 CARTER MASSINGILL: Yeah. So we
25 wanted to present the entire project as a whole. I
26 mean, understand, Phase I has been approved, we could
27 proceed with that, certainly. And -- but we wanted to
28 present this as an entirety.
29 JANE JONES: You're not
30 required to do this, but do you have any plans about
31 where your water run-off, your waste water is going?
32 Did you look into that?
33 CARTER MASSINGILL: Yes, ma'am.
34 In the site plan, we have multiple stormwater ponds
35 already identified. Now that will be refined when we
36 get into the engineering. But we've accounted for
37 three large detention areas already within this. And
38 then, you know, obviously, Anderson County does a great
39 job of regulating that. If we need to add more, we end
40 up losing some lots because of that, then that will be,
41 you know, what we'll have to do. But we'll make sure
42 we meet that. We recognize we've got some very
43 important natural areas behind us. And so we'll make
44 sure those are protected.
45 JAMES MCCLAIN: Another
46 question, Mr. Chairman. For these potential future
47 sites over here, which would be I guess, be identified
48 as Phase III, and you might not know, but the storage,
49 AnMed facility or whatever else, the restaurant, would
50 there be entrances from this road?

1 CARTER MASSINGILL: Yeah.
2 JAMES MCCLAIN: Would you
3 anticipate there will be entrances from this internal
4 road?
5 CARTER MASSINGILL: So the site
6 plans has a shared entrance for what we're showing as
7 the self storage and AnMed. So we anticipate having
8 one more access onto Fants Grove Circle, but then we do
9 not anticipate having any other access on Highway 187.
10 DOT has said they would prefer to have a primary access
11 that can be controlled that way. I'm sure whoever goes
12 there, AnMed may ask that, you know, if they want to
13 ride in or ride out or something, especially if it's an
14 urgent care if they need to get in quickly. That's
15 something we can review at that time.
16 JAMES MCCLAIN: But you know,
17 like curb cuts, where there's like little trees along
18 the internal road, but you may not like curb cuts
19 coming into the properties not from what Highway 187,
20 but ---
21 CARTER MASSINGILL: Yeah, there
22 will definitely be that collector road. That's how --
23 yeah, the internal collector, that's how those
24 properties will be accessed for sure. Yes, sir.
25 DAN HARVELL: Anyone else? I
26 would ask you concerning the conservation plan here,
27 are these wetlands accessible to the public or some of
28 these just totally off limits for like kids to play in
29 or whatever?
30 JAMIE MCCUTCHEN: So part of the
31 conservation design is that we have access to all open
32 spaces available. So it doesn't show up on this plan.
33 But on our other plans, we show some walking trails
34 through there. Now, those will be owned by the HOA.
35 So I want to be careful saying public because a lot of
36 times HOA don't like necessarily open to the public for
37 liability reasons. But we do have walking trails in
38 very low impact areas so that people can enjoy nature
39 and walk through there. You know, it'd be a great
40 place to take your morning or evening stroll with the
41 dog or whatever, you know, to go through there. But --
42 so they do have access. All the open space areas have
43 at least one, most of them have multiple, minimum 20
44 foot wide access points. So you can -- so people can
45 get access to them.
46 Now, the wetland areas themselves, we would very
47 much limit access to those. We just don't want to get
48 those areas disturbed or impacted in any way.
49 DAN HARVELL: Okay. Anyone
50 else? Okay, thank you. We may call you back if we

1 need to.

2 JAMIE MCCUTCHEN: Yes, sir. Be
3 happy to come up. Appreciate your time.

4 DAN HARVELL: All right. At
5 this time we have some citizens signed up to speak to
6 this. If you'll come to the microphone. Mr. David
7 Shalaby. You have three minutes. State your name and
8 address please.

9 DAVID SHALABY: I'm Dave
10 Shalaby. I'm at 6275 Highway 187. I'll make it quick.
11 This is my third meeting here to talk about this same
12 thing. And we've got a problem in Anderson County in
13 general, a lot of unzoned property, right. On my road
14 alone, I already mentioned last time I was here, our
15 traffic is terrible already. I think -- I estimate
16 well over 1000 homes that are already approved to be
17 built between where I live, we're just a little bit
18 north of that, down to a Highway 76. It's problematic.

19 The unzoned property in the overall County is a
20 problem because, you know, there's really not a lot of
21 control over it. Now we were down in Pendleton, in the
22 Pendleton precinct, which includes this property here,
23 and we got over 220 votes -- 220 signatures on a ballot
24 or on a petition. Mr. Harvell, you recommended we go
25 about a petition to go ahead and get this thing
26 reviewed for zoning. So 220 in one day, and everybody
27 is hopping mad about how many houses are getting put
28 the area and the density, the population. So what I
29 asked is we have 220 people signed a petition today, we
30 intend to spend the next few more weeks going out and
31 getting the rest, and we think we can get well over 700
32 people to sign a petition, which is well more than 15
33 percent of the voters in that precinct. I ask that you
34 hold off on any more approvals. It's interesting that
35 this is in concert with the area. If you've driven
36 down that area there's a lot of farmland. I have one
37 of the largest farms in that area. It's beautiful.
38 It's one reason why we live there. What we're trying
39 to do is conserve the amount of open space, trying to
40 have a quality of life. The developments that are --
41 they're putting down at 76 and 187, the people there
42 are hopping mad because there's not even enough room to
43 park their cars on the streets because the driveways
44 are too short. So what I asked is you hold off.

45 This fellow here hasn't even started developing
46 the first phase. Matter of fact, many of the houses
47 that have already been approved in -- on that road have
48 not even started. So you know, they're just going to
49 turn around this property, sell to another developer,
50 charge more money, make it make it so that we're going

1 to have to pay for the infrastructure to support this.
2 And I can tell you \$120 million bond that everybody had
3 to pay for and barely passed, you know, people support
4 the schools, but they don't support unplanned growth.
5 And this is unplanned growth. An extra two lanes -- an
6 extra two lanes for turning on Highway 187 is just
7 going to make it more congested in that area. It's
8 going to make it worse, especially when that new school
9 gets built on -- off LaFrance Road.

10 So please do us all a favor. We're going to
11 continue to keep getting these petitions signed all
12 around Anderson County, is our goal. And it will make
13 your job a lot easier to help us to review the stuff
14 for zoning. But please, today, the third time, please
15 do not vote for this. I beg you.

16 DAN HARVELL: Thank you,
17 sir. Next is Stanley Hix.

18 STANLEY HIX: Good evening.
19 My name is Danny Hix. I live in Deerhaven Drive in
20 Raleigh, North Carolina. I own property on Highway 187
21 and Fants Grove Circle.

22 I have some evidence here of grave sites on the
23 property. I have an affidavit from a previous owner.
24 So I'd like to submit that to you afterward --
25 afterwards. I also have the petition that -- I've been
26 gathering petitions against this proposal since
27 December. I'd like to submit that as well.

28 In 2021, the Anderson County Ordinance was updated
29 with the conservation subdivision rules in Chapter 24.
30 A group from Florida proposed and updated the rules
31 intertwined with the regular Chapter 24 guidelines. In
32 intensively standard sections, section B, for
33 conservation subdivisions, at least 50 percent of the
34 lots shall directly front open spaces or face open
35 spaces from across a subdivision street, unless a
36 variance is granted by the Planning Commission. Unless
37 my math is off, I only see 24 percent for Phase II,
38 showing direct front to open spaces.

39 In South Carolina DHEC, model conservation
40 subdivisions considered primary conservation areas that
41 should be included within the open space include
42 archaeological sites, cemeteries and burial grounds.
43 This proposal now is combining Phase I and II, and
44 they're adding numbers and dividing the numbers and
45 telling you different stories about what you're
46 approving tonight, which is Phase II.

47 We're supposed to only be looking at Phase II for
48 approval. If you approve this tonight, I'm afraid that
49 they're going to come in with the bulldozers and start
50 bulldozing Phase I and II as soon as you approve it. I

1 ask you to reject this proposal out of hand. And I
2 also asked you not to grant a continuance for Phase I.
3 We are working to get this area zoned and I have heard
4 directly from a lot of voters last Saturday in the
5 Pendleton precinct and they are angry about all these
6 huge subdivisions, the traffic, the quality of life.
7 They want these areas zoned and we are following the
8 process to do that.

9 Please give us time to complete that process
10 before this unpopular dense subdivision gets approved.
11 This land has not been sold to the developer. The maps
12 and deeds department verified today that no portion of
13 the land has been sold. I can see that AnMed owns it.
14 They bought it in 2007 from RB Properties LLC, I think
15 that's Rich Bennett, and JAJ Properties LLC, which I
16 believe had some board members on the AnMed at the
17 time, for 2.3 million.

18 After the meeting last month I was asked by the
19 lawyer if I knew how much it would cost to LiDAR the
20 property and find the graves, ---

21 HENRY YOUMANS: Time.
22 STANLEY HIX: --- my answer
23 is I do not but you can get estimates and bring that
24 forth.

25 DAN HARVELL: That's time.
26 Thank you, sir.

27 STANLEY HIX: And I'd like
28 to submit this if you ---

29 DAN HARVELL: Please hand it
30 to the staff there. They'll give it to us. Thank you.
31 Okay. Next on the list is Connie Black.

32 CONNIE BLACK: My name is
33 Connie Black, and I live at 217 Fants Grove Circle.

34 Over development is the quantity of buildings that
35 is excessive in terms of demand on infrastructure and
36 services or the impact on local character.

37 Over development is threatening everybody's
38 hometown. Every last bit of open space is vulnerable
39 at the moment, and that's why the voters of Anderson
40 County are getting involved to save the open spaces and
41 are trying to save the small town feel. Please listen
42 to your voters of Anderson County. They are your
43 people.

44 Update on the hidden grave -- hidden slave grave
45 sites. If you will pay attention to the affidavit, we
46 know that Rivoli Plantation has these grave sites. A
47 hidden grave site was just found on the Ashtabula
48 Plantation in Pendleton and is being preserved.
49 Unsurprisingly slaveholders didn't bother to honor
50 those who died. A direct reflection of the lack of

1 respectful treatment they granted the enslaved while
2 they were alive. Please be better than our ancestors.
3 Don't let these American slaves be disrespected again.
4 Putting bulldozers to these grave sites is so appalling
5 and horrible. Please don't allow your names to be
6 connected to such behavior.

7 Traffic. If you allow over-development of this
8 site, then there will be more deaths. Unfortunately,
9 it will be teenagers who are driving to and from their
10 schools. Turning lanes will help. No question. But
11 trying to get out onto the road is the hard part. And
12 it's hard now. And what's going -- and it's what's
13 going to be difficult and very difficult for
14 inexperienced drivers.

15 Please, please look at the affidavit. There are
16 grave sites there. And we cannot bulldoze over this
17 history. It's very important. Thank you.

18 DAN HARVELL: Thank you.

19 CONNIE BLACK: And I have
20 pictures of and history of the Rivoli Plantation I'd
21 like to turn in.

22 DAN HARVELL: Next is Scott
23 Hix.

24 SCOTT HIX: Hello, I'm
25 Scott Hix, 307 Fants Grove Circle. I own a farm just
26 across the street from where they're going to build all
27 these houses. I raise cattle, pigs, chickens, hogs.
28 And we know what happens when you put all of these
29 houses next to a farm. I'm probably going out. And as
30 well as all the rest of farms.

31 This gentleman was telling you about the 3.36
32 reduced down to 2.86. That's about 10 foot in case
33 y'all didn't know, or a little bit more maybe. I ain't
34 got it in my head. But the 50 foot buffer he's saying
35 is about as wide as this room. Thank you.

36 Oh, one more thing. I'm the former chief of the
37 Zion Fire Department. I've 50 years in this fire
38 system. And I live right across the road. And if you
39 -- one of your houses catches on fire that close
40 together, your neighbors are going to burn you out.
41 Thank you.

42 DAN HARVELL: Thank you.
43 Last on the list is Lindalee Cleveland.

44 LINDALEE CLEVELAND: My name is
45 Lindalee Cleveland. I live at 6703 Highway 187. And I
46 don't know if this has been answered or not, but I know
47 she said that they're going to do the turn lanes on
48 187. Will there be a traffic light?

49 DAN HARVELL: I don't
50 believe that was referred to. Ms. Sprague?

1 GAYE SPROUSE: DOT wants to
2 always get the traffic there first and then they do the
3 traffic light. That's how they like, and these are
4 their roads. So we would be going by their operations.
5 But it will be set up for a signal with these turn
6 lanes.
7 LINDALEE CLEVELAND: It will be set
8 up?
9 GAYE SPROUSE: The turn lanes
10 will be there and it would be necessary for a traffic
11 signal once the traffic is there and DOT approves it.
12 DAN HARVELL: All right.
13 You may continue with your time.
14 LINDALEE CLEVELAND: I will say
15 that -- it's been stated before but it's very, very
16 difficult to get out of my driveway as it is with my
17 neighbors, right now, and the houses haven't even been
18 built. And there's houses on down Burnside -- Burns
19 Bridge Road, they haven't built those yet either. So
20 once all of these houses come in, I don't even know how
21 I'm going to get out of my driveway. I'm opposed to
22 this subdivision.
23 DAN HARVELL: Okay. Thank
24 you, ma'am.
25 That concludes the citizens' comments on this. Do
26 I have any questions from the board concerning what
27 you've heard from the developer and/or the citizens who
28 have commented?
29 Okay, at this time I'll entertain a motion to
30 either approve or deny this project. Do I hear a
31 motion?
32 JANE JONES: Motion to
33 deny. My reasons are its inability on the
34 infrastructure and the transportation systems to
35 service a new development, along with the existing
36 developments that are there. It does not -- there's no
37 balance here with the subdivisions in the community.
38 And it's just not conducive to the general welfare of
39 the whole area. I think it will also affect the
40 property values of the homeowners that are there.
41 DAN HARVELL: Okay, we have a
42 motion by Ms. Jones to deny. Do I have a second for
43 that motion? I will second for means of discussion.
44 Now, any discussion amongst the board concerning this
45 before we take a vote? Any concerns? All right, I'll
46 call for the vote. Those in favor of denial of this
47 process -- of this project please raise your hand. Ms.
48 Jones, Mr. Harvell. Those against denial of the
49 project please raise your hand. Dr. McClain, Mr.
50 Burdette, Mr. Gilreath and Mr. Wess Grant. Denial

1 fails.

2 All right. Moving on to item 8, new business.
3 Preliminary subdivision Adley Acres located off Dunlap
4 Road and Town Creek Drive, tax map 146-00-10-013. This
5 resides in County Council District 1. Staff report.

6 HENRY YOUMANS: Mr. Chair, The
7 project is Adley Acres. 280 property owners within
8 2000 feet of the proposed development were notified by
9 postcards. The applicant is Mungo Home Properties, LLC
10 of Greer, South Carolina. The intended development is
11 single-family residence. Survey engineer is Ridgewater
12 Engineering and Surveying. Location access is Dunlap
13 Road. It's in Council District 1. Current --
14 surrounding land use is residential. Current zoning
15 it's R-20. The tax map number is there for your
16 reference. And it's 82 acres plus or minus.

17 The traffic impact analysis, Dunlap Road is
18 classified as a collector with no maximum trips per day
19 and Town Creek Drive is classified as a major local
20 road with about 1600 maximum average vehicle trips per
21 day.

22 This is a site plan of the complete development,
23 preliminary plat. This is an aerial map of the
24 proposed -- of the property for the proposed project.
25 This is the zoning map showing it's zoned R-20. This
26 is where the sign was placed on Town Creek Drive.

27 Staff recommends approval. The project has met
28 the requirements for Chapter 48 Zoning.

29 DAN HARVELL: Thank you, Mr.
30 Youmans. At this time do we have a representative
31 here, engineer, owner, to speak to this matter?

32 WESLEY WHITE: Thank you,
33 Commission, staff. I'm Wesley White with Ridge Water
34 Engineering and Surveying. We're here at 211 Society
35 Street in Anderson. Appreciate you guys' time.

36 Just for viewing purposes I've provided the
37 rendering here that shows the 95 lots. The light green
38 area is a reflection of the intent to grade these with
39 minimal land disturbance. These are 100 foot by 200
40 foot minimum, so it meets -- or really exceeds the
41 width requirement for R-20. So it allows for larger
42 width subdivision. Additionally, it allows for less
43 disturbance per lot. They will be on septic. No
44 septic -- or no sewer is proposed. As well as public
45 water.

46 Previously, there had been some ideas or plans
47 developed to bring and developed almost 300 lots here.
48 The community was asked their input and overwhelmingly
49 disagreed with that approach and idea and concept. So
50 the owner and the developer worked with us to leave the

1 subdivision zoning as it is, which is R-20, and develop
2 the best use for this property.

3 In doing that the dark green areas, those
4 highlight the existing vegetation that we plan on
5 leaving, particularly along the existing road frontage
6 on Town Creek and Dunlap to minimize the impact to the
7 overall area. I think with those buffers it ends up
8 being, you know, close to 100 feet or more. It'll be
9 very minimal impact to the vegetation that's out there,
10 and protect the surrounding areas.

11 Couple of just -- these are the site distance
12 checks on Dunlap. We're proposing one entrance there.
13 And then two entrances onto Town Creek. One of the
14 entrances, this one here, will be just for those 13
15 lots that are by themselves.

16 Additionally, the purple area that's the wetlands
17 on site, we've had those delineated and located in a
18 buffer per the county standards of 30 feet minimum to
19 protect those during the construction and for the life
20 of the project. So those will be permanent throughout
21 the subdivision and under the control of the HOA.

22 Just for the record, the subdivision name and
23 addresses have been approved. It is in compliance with
24 R-20 zoning. So no variances are being asked for or
25 requested. All of the stormwater will be dealt with
26 through the county ordinances once the preliminary plat
27 is granted approval.

28 Again, the traffic study was conducted and showed
29 no requirements for improvements. No turn lanes
30 required. So there should be very minimal impact to
31 the existing traffic that's out there.

32 So it's -- with that, all the infrastructure is
33 there. The project is compatible with the surrounding
34 area. And the balance is the interest of the property
35 owner who's in agreement with what we've come up with,
36 as well as the public interest, so we appreciate you
37 guys' input.

38 At the end, I'd be happy to address any concerns
39 that are brought up.

40 DAN HARVELL: Okay. While
41 the gentleman is still at the microphone, any questions
42 from the board?

43 JAMES MCCLAIN: Mr. Chairman,
44 I just have one question. So there's one entrance off
45 Dunlap and two off Town Creek?

46 WESLEY WHITE: That's
47 correct.

48 JAMES MCCLAIN: And for the
49 record, the name Adley Acres, how did they derive that
50 name?

1 WESLEY WHITE: I'm not
2 entirely sure. I think they have a list they pull from
3 a bucket. That's one of the most challenging parts of
4 any project I do, is picking a name. But it has been
5 approved.

6 DAN HARVELL: Okay, thank
7 you. We may call you back.

8 All right. At this time we have some people,
9 citizens, signed up to speak and the first one is Leigh
10 Watson.

11 LEIGH WATSON: Thank you. My
12 name is Leigh Watson and I live at 249 Ashley Road on
13 property that has been in my family for 70 years. We
14 are not happy about this. Ninety-five houses coming up
15 behind us is not what we want. There are a lot of
16 reasons we oppose this. But because I'm an educator,
17 I'm going to go to it from that aspect. Particularly
18 T.L. Hanna.

19 I currently have a sophomore at Hanna High School.
20 So I can tell you that the problems there are huge.
21 And there are many people that would agree with me when
22 I say at times out of control. I do not blame the
23 staff, the leadership. I actually commend them for
24 showing up every day, knowing what they face. I blame
25 the previous leadership in our district. New
26 elementary schools, new middle schools have been added
27 to District 5. We still have the same two high
28 schools. I believe I heard the gentleman from District
29 4 say they have 940 students at Pendleton High, and
30 they're building a new high school. We have 1,940
31 currently at Hanna, and it causes a lot of problems.
32 And now we're adding neighborhoods. They're currently
33 at least four densely populated neighborhoods that you
34 have already approved, that are already going in off
35 Midway that are going to all feed into Hanna. Now
36 we're looking at 95 more. These kids fly up my road.
37 I don't know about your traffic study you did. But
38 they fly up my road, and they fly up Dunlap Road. And
39 somebody is really going to get hurt. And I hate to
40 think that we're going to wait for that to happen
41 before we actually do something about all this growth.
42 It is out of control. And you need to be looking at
43 the schools. I don't know where with the teaching
44 shortage, you think we're going to find teachers for
45 all these added classrooms we're going to have to have.
46 I currently know of four District 5 teachers who walked
47 out this year.

48 I don't feel like you're really looking at this.
49 The big picture here. It's not just about homes. It's
50 about those of us who already lived there. Those of us

1 who've been here for generations. I think it would be
2 a lot better to look at this piece of land as maybe
3 putting in a country type place -- type neighborhood
4 with acreage. Anderson doesn't have a lot of that.
5 But we have plenty of this. And we don't need any
6 more.

7 DAN HARVELL: Thank you.
8 Next is Jack Fahy.

9 JACK FAHY: MY name is
10 Jack Fahy. I'm at 1235 Dunlap Road. I have a five
11 stage Planning Commission report that came in my inbox
12 on Friday. The plot plan does not show the surrounding
13 homes on either Dunlap Road or on Town Creek. We have
14 no idea in the world if these access roads are facing
15 our property or not. And we'd like to have that before
16 any decisions are made. The measurements for each lot
17 are not included on anything. Every lot that will be
18 built upon, I believe will be stripped and cleared of
19 all trees. How many won't? Where are those areas?
20 The only area that they showed as green space is
21 because it's unbuildable. There's a creek there.
22 Surrounding properties range from 1.7 to 80 acres, not
23 one half acre, not 24,000 square feet. So it doesn't
24 match the surrounding area. Can driveways be in the
25 buffer zone? Can somebody put a driveway on Dunlap
26 Road that comes -- when there's lots that are backing
27 up to Dunlap that come right through the back of it?
28 Will each lot require a satisfactory septic perk? What
29 determines what the impact will be of these septic
30 systems on the groundwater contamination with 95 new
31 homes? What's the price range of these homes? Will
32 the development be similar to the Mungo homes at Midway
33 Farms in Belton? Or would these be much smaller
34 locations? With a half an acre, I imagine they will
35 be. What would the impact be of the addition of --
36 additional hundred of cars and trips per day on these
37 roads? The Anderson Police Department now monitors
38 Dunlap Road for safety. Buses aren't allowed to even
39 use the road because of all the vantage points and
40 difficulties in getting in and off of Dunlap Road onto
41 Concord. The sight lines are atrocious, they're
42 terrible. I have some pictures that one of the folks
43 has given us and I'd like to present those to you. And
44 she'll describe those a little bit later when she
45 speaks.

46 On page one at the bottom of the document that we
47 received, what do the staff recommendation sections 24-
48 335, 336 mean? What did the staff recommend? We would
49 sure like to hear about that. Hammond water pressure
50 is already low in our area. Who gets the approval for

1 Hammond to handle 95 more homes? There's 100 foot
2 elevation drop from the northeast corner of Dunlap Road
3 to the southwest corner that goes through the Flying
4 Squirrel Ranch, and also the homes on Ashley. This
5 ceiling isn't even 20 feet high. Can you imagine five
6 times this ceiling? That's the drop-off of water
7 that's going from one part of that to the other? Who
8 monitors that? Who looks at that to make sure that
9 that's feasible? It sure doesn't make any sense from
10 the -- these are three and four bedroom homes and not
11 for retirees.

12 DAN HARVELL: That's time,
13 sir.

14 JACK FAHY: I'm so sorry.

15 DAN HARVELL: Thank you very
16 much.

17 JACK FAHY: Anybody has
18 any additional time, I'd love to take it.

19 DAN HARVELL: Next up is
20 Bill Hood.

21 BILL HOOD: Thank you, Mr.
22 Chairman. My name is Bill Hood and my wife and I live
23 at 1219 Dunlap Road. And that's just across from the
24 -- Dunlap Road, from the project.

25 I'd first like to echo the concern Mr. Fahy had
26 about the water pressure in our area. I would describe
27 the water pressure currently as adequate, marginal,
28 maybe. My wife and I recently installed some
29 landscaping, and we had to do some watering for a
30 while. And I can tell you from that experience, that
31 you can't operate two hoses at the same time
32 effectively with the water pressure the way it is.
33 Now, I'm no engineer, and I don't know what new
34 information there is available, but it stands to reason
35 to me that if you put 100 houses in across the road,
36 there is going to be some impact on the water pressure
37 unless there's some changes made. And if there is any
38 drop-off in the pressure we already have, what is maybe
39 now a marginal situation is going to become a problem
40 situation. So I just throw that out as a
41 consideration.

42 Now the other point I wanted to address is the
43 issue of buffering. Actually, I was encouraged by the
44 comments made by the representative from Ridgewater
45 concerning that issue, but the concern I still have is
46 that what is depicted up there on the screen now does
47 not appear to match up at all with what's shown on the
48 preliminary plat that you're being asked to approve
49 today. That plat does show what appears to be some
50 sort of buffer around the perimeter of the property.

1 It does not give any dimensions, but it does not appear
2 at all like that looks. Nowhere near any 100 foot
3 buffers around the edges of the property.
4 What's more, we have no -- I maybe didn't
5 understand fully, but I don't know what the intended
6 use or purpose or nature of the buffering is intended
7 to be. And I think it's also important to know who's
8 going to be responsible for those areas? That can
9 become a big problem as well if there's not some
10 responsibility allocated as to who will take care of
11 areas like that. But it's not going to be lot owner
12 and many times homeowner associations don't want to
13 assume responsibility for it. So therefore it goes
14 unattended and sometimes you end up with a worse
15 situation than you may have had before.
16 But I think currently every homeowner on Town
17 Creek and Dunlap when they look out their front yard,
18 you see a nice wooded area across the street. And we
19 don't necessarily expect that wooded area is going to
20 be there forever. But in this case I think it is very
21 important ---
22 DAN HARVELL: That's time,
23 sir.
24 BILL HOOD: All right.
25 Thank you.
26 DAN HARVELL: Next is
27 Wendell Willcox.
28 WENDELL WILLCOX: Thank you,
29 Commission. My name is Wendell Willcox, and I live at
30 216 McPhail Farm Circle which is just off of Concord
31 and McClellan.
32 Our concerns are you're adding literally 100 homes
33 into an area and the aesthetics do not fit with that
34 area to begin with, if you look at the homes that are
35 currently there. But my big concern is the amount of
36 traffic this is going to generate on Dunlap, Concord,
37 actually feeding out onto Concord Road and/or 81 across
38 from T.L. Hanna. It's a recipe for disaster out there.
39 Concord has two large blind spots. One of them is
40 right at Dunlap. The other one is right at McClellan
41 and where Concord form a Y intersection and there have
42 been major accidents there. I've been there 14 years
43 and I've seen them. It closes off the road and it has
44 serious injuries. These are small roads. Town Road
45 and Dunlap Road are very small roads. They're curvy.
46 Those kids, you know, they drive fast. I've seen the
47 traffic quadruple on Concord after the East-West
48 connector was put in. It is unbelievable out there.
49 Come out some night and you will hear them racing on
50 the roads. The roads are curvy out there. They have

1 accidents out there all the time. I'm just not, you
2 know, a fan of putting the lives of our citizens and
3 especially the kids at risk out there. So as they said
4 this doesn't make any sense. These won't fit into the
5 neighborhood and there's been no real consideration on
6 what you're going to have when they've got to come off
7 of Dunlap or Town onto either 81 or off onto Concord
8 Road. Thank you.

9 DAN HARVELL: Thank you,
10 sir. Next is Kristi, and I'm not catching the last
11 name here.

12 KRISTI BEJARANO: That's okay,
13 nobody catches that.

14 DAN HARVELL: Okay, I'm
15 sorry.

16 KRISTI BEJARANO: That's quite
17 all right. My name is Kristi Bejarano. My address is
18 161 Newington Circle. And I'd like to speak in
19 opposition to this subdivision.

20 On the application, Mundo Homes says that Town
21 Creek Drive is classified as a major local road with
22 1600 maximum average trips per day. That is wildly
23 incorrect. I was on that road this morning, and I took
24 these pictures. I went out this road; has no stripes.
25 It has no -- it's 15 feet across. It has seven homes
26 on it. It's six tenths of a mile long. I was on it
27 for 10 minutes. I got out of my car to take these
28 pictures. Nobody came down that road. That road is
29 absolutely mis-classified. It is not a major local
30 road. It is -- the people that are on this road live
31 on this road or accidentally turned on the road,
32 meaning to go somewhere else. It doesn't see that kind
33 of traffic. It was not built for that kind of traffic.
34 To suddenly have 95 homes with two entrances onto this
35 road, I think a new traffic survey would absolutely
36 need to happen prior to any approval for any kind of
37 subdivision on this road. It just doesn't make sense.

38 I also took the pictures for Dunlap. I don't know
39 if any of you have ever gone down Dunlap Road to
40 Concord Road. But there have been many accidents. And
41 there have been some deaths in that intersection.
42 Because it's awful. You cannot see when you come up
43 Dunlap Road to Concord Road, you can see 1500 feet to
44 the right. You can see probably less to the left,
45 because the road bends around this way. And if you're
46 going to suddenly had 95 more homes worth of people
47 coming down that road to that intersection, it's just
48 -- the classifications for the roads are wrong.
49 They're 100 percent wrong. These roads are not
50 designed for the level of traffic that this subdivision

1 would create.

2 Additionally, Mungo Homes, I went to the Better
3 Business Bureau's website, to find out, you know, what
4 kind of company we're dealing with. And the -- you can
5 give -- the lowest rating you can give is a one. The
6 highest rating you can give is a five. They got 1.21
7 and in 10 pages of looking through reviews, I only saw
8 one. So maybe somebody gave them a two.

9 But in closing, I'm just going to read you quoting
10 some of the Mungo Homes' reviews. I had to give them
11 one star. They deserve zero from me. The worst
12 builder we ever had. Mungo cares only about throwing
13 houses up and ---

14 DAN HARVELL: That's time,
15 ma'am.

16 KRISTI BEJARANO: Okay. Thank
17 you very much.

18 DAN HARVELL: Next is Anne
19 Harder.

20 ANNE HARDER: Thank you, Mr.
21 Chairman. My name is Anne Harder. I reside at 163
22 Newington Circle, and that's in Kings Grant. I have a
23 number of concerns, mostly concerning the
24 infrastructure not being able to support 95 homes, and
25 that many people coming into the area.

26 But as a teacher who taught at T.L. Hanna for 21
27 years, I -- and did traffic duty for a lot of that time
28 as a volunteer out front, I saw people heading out onto
29 Dunlap and also on to Town Creek Drive. And I -- my
30 big concern is that number of 1600 a day has to be, as
31 Kristi pointed out, wildly incorrect.

32 Some of my own students have been in very serious
33 accidents. One of them was completely paralyzed in one
34 of them. Mostly because of the blind corners,
35 especially on Dunlap. Very, very hard to see. I've
36 witnessed accidents myself. And so my concern is with
37 the safety, particularly with our young folk who are
38 already using that road a lot. It will also, I'm sure,
39 divert traffic once homes were up to Ashley and other
40 surrounding roads as well.

41 One of the things that makes Anderson such a
42 desirable place to live is that we do have a good
43 school system and I think T.L. Hanna and the feeder
44 pattern qualifies as that. We're ranked in terms of
45 excellent schools. We're ranked by USA Today in the
46 top 25 this past year. The biggest is -- the biggest
47 thing that affects the quality of education is the
48 ratio of student to teacher. And the more we bring in
49 high concentrations of homes, the more that ratio goes
50 up and the more the quality of our education goes down.

1 And that's one of the very things that makes Anderson
2 such a great place to live. And so that is one of my
3 largest concerns.

4 I have others, but I'll heed my time if anybody
5 else is behind me and wants a little bit more time.
6 Thank you.

7 DAN HARVELL: Thank you,
8 ma'am. Next is Michael Gardner.

9 MICHAEL GARDNER: Good
10 afternoon. My name is Michael Gardner. I'm with the
11 Friends of the Electric City Trail. As you may be
12 aware, the county has adopted a Complete Streets
13 Resolution in 2009 that called for, among other things,
14 providing appropriate accommodations for pedestrians.

15 In fact, according to the 2016 Anderson County
16 Comprehensive Plan, there is a significant need for
17 sidewalks and a safe routes to walk to school
18 initiative. Ms. Gaye Sprague did do a traffic
19 evaluation and recommended that no roadway changes are
20 required. We respectfully -- respectfully disagree and
21 encourage her to also look at non-auto transportation
22 needs when evaluating sites that are so close to a
23 school. There will be kids that are going to be
24 walking to schools, especially when the school is not
25 obligated to provide transportation if they live so
26 close. And that is according to the South County Board
27 of Education. So imagine not qualifying for bus
28 service or your car is being repaired, can't carry a
29 student to school, kids are going to be walking for
30 sure.

31 The site of this development is located within one
32 half mile -- half a mile of T.L. Hanna High School.
33 Plans for this site do not provide adequate pedestrian
34 facilities for a new neighborhood within such close
35 proximity to a school. Building sidewalks would help
36 to prevent auto to pedestrian accidents, like the one
37 that happened in the same area just a few years ago
38 where a young girl, a T.L. Hanna student, was walking
39 to school along the road from a nearby neighborhood
40 that also did not have sidewalks and was struck by
41 another student driving along the same road. She
42 sustained major life changing injuries.

43 You as a commission can help prevent such tragedy
44 in the future. Even if the current county ordinances
45 do not specifically require sidewalks to adjacent
46 properties, you can make pedestrian access to schools
47 for neighborhoods in close proximity a priority. We
48 are asking this Commission to require pedestrian
49 infrastructure at this site that is in agreement with
50 the Anderson School District 5 from a perspective of

1 safe pedestrian routes to school thing. Thank you.
2 DAN HARVELL: Next is
3 Michael Troise.
4 MICHAEL TROISE: Dr. Michael
5 Troise. I live at 220 Bronson Ridge not too far from
6 here, just across Highway 81. I was going to bring up
7 most of the things that everyone else already brought
8 up, the significant utility impact, the electrical
9 issues that we have. I think it was just last year we
10 had to have power cut in our neighborhood because of
11 the grid not being able to handle it. The water
12 pressure in our area, as everyone's already mentioned,
13 the safety issues where a T.L. Hanna student was killed
14 simply crossing the street on a busier road than what
15 they're proposing, with better view vantage points for
16 the drivers.
17 I'll say, living in Bronson Ridge, that is a
18 cookie cutter developed neighborhood, just like the one
19 they're proposing here. When we moved in, at the time
20 I didn't love the idea. The HOA has failed many times
21 to have any type of sustainable process within the
22 neighborhood. It is not a good place for me to raise
23 my family. It's a disappointing let-down. And it's
24 unfortunate, because we moved to Anderson to serve the
25 community, to live in a more rural area where we can
26 enjoy the environment and be around people who want to
27 make the country a better place and live in a better
28 place. And all I have seen now is development. We
29 have the phases of the Midway development just east of
30 here, where Phase I hasn't even been completed yet.
31 And they've really torn down all the areas for Phase II
32 and III, which they've had to sell to a different home
33 builder because they couldn't sell those properties.
34 In addition, they built the townhomes just north and
35 east of here also off of Highway 81. There's a
36 significant amount of townhomes there that had been
37 recently completed.
38 So you can see just in this kind of, I would say
39 three, four, five mile stretch, you're adding several
40 hundred homes to an area that has Midway Elementary,
41 which traffic is unsustainable in the mornings and
42 evenings. T.L. Hanna. South Carolina DOT is now
43 having to put in potential traffic circle and reroute
44 the traffic right where the Midway Cemetery is, which
45 is only going to make it more difficult for those
46 already live here trying to make our lives and raise
47 our families that much more difficult in a time where
48 now we have to fight to see, well, we don't even know
49 what the impact of these homes are going to be. Now we
50 are having to deal with more homes being built and

1 trees being torn down.
2 So I just ask that you seriously consider that.
3 We want to keep this place great for those that live
4 here that want to stay here that want to make the
5 community better. And this isn't a time to continue to
6 tear down trees and build more homes.
7 DAN HARVELL: Thank you,
8 sir.
9 MICHAEL TROISE: Thank you.
10 DAN HARVELL: Collin
11 Alexander.
12 COLLIN ALEXANDER: Good evening,
13 Collin Alexander, 1105 Bellmore Way. I live just up
14 the road from here. I came to speak out in opposition
15 to the development.
16 I'm just going to echo what everyone else has
17 already said that I can't imagine anybody coming to
18 this area, this busy intersection here and thinking,
19 you know, we need more track homes. That's exactly
20 what this spot needs. Everybody's already made the
21 case. But I'll make it again. It's simply not
22 sustainable from a traffic perspective, you're right
23 across the street from T.L. Hanna High School. There's
24 other developments surrounding the entire area.
25 There's the East-West Parkway, Highway 81. There's a
26 major hospital system just down the road as well. And
27 adding 100 new track homes is simply not going to be
28 sustainable for those roads, which we've clearly seen.
29 They're not capable of handling that kind of traffic.
30 And even if they were able to handle that kind of
31 traffic, is that what's best for everyone in Anderson
32 County right now, adding more homes and more traffic?
33 A leisurely drive down 81 that used to take 10 minutes
34 to get from the highway down to downtown now takes 30
35 to 45 minutes. Now added school traffic and another
36 neighborhood, it's simply not manageable, and it makes
37 everyone's life a little bit worse here in the county.
38 And then from a principle standpoint, this is
39 right off Highway 81, which is supposed to be the
40 Gateway into Anderson. It's supposed to be the most
41 beautiful stretch of highway leading into Anderson
42 County so that everybody else can take a look and look
43 at the natural beauty of Anderson and see open spaces,
44 beautiful homes that have been a longstanding part of
45 the community and the county. But instead, all we see
46 now are empty fulfillment centers, we see Dollar
47 Generals, gas stations and developed -- track home
48 developments popping up everywhere. And there's no
49 rhyme and reason and there's no long term thought
50 process behind adding developments. Growth for

1 growth's sake is not something that is good
2 necessarily. Instead of thinking for higher tax
3 revenue for property values or anything like that, you
4 should consider what everyone here has already said in
5 that we don't want these developments. It's not good
6 for the community. Thank you.

7 DAN HARVELL: Thank you.

8 Next is Tom Allen.

9 TOM ALLEN: Thank you, Mr.

10 Chairman, for this opportunity you're given us to speak
11 this evening. I'm Tom Allen. I live at 109 Wycombe
12 Drive in Kings Grant subdivision.

13 I'm going to try to look at this at a slightly
14 different angle than what some of the other speakers
15 have had to say tonight.

16 First of all, I appreciate the difficult position
17 that you're in, because you have to make some very
18 difficult decisions. You're much like a court, you've
19 got to listen to both sides of this argument and then
20 make your decision. And it's not easy to do. But like
21 every coin, there's two sides. And both have valid
22 positions in this project that we're looking at
23 tonight.

24 On one hand, the property owner wants to sell his
25 property. Should he not have the right to do with his
26 property as he sees fit? On the other hand, a large
27 group of citizens living adjacent to that property has
28 the right to protect their property. Who carries the
29 most weight? This is a decision you're going to have
30 to make. By ordinance, from what I've read so far, the
31 property in question is zoned R-20. There's nothing
32 that says the owner can't sell this property to a
33 developer as long as all the building and other codes
34 are met. So this presents a real conundrum. What are
35 we going to do?

36 We know so far, no codes are being violated. And
37 the roads meet county approval. Of course, I have to
38 agree with some of the previous speakers here. I don't
39 where those numbers came from, but those two roads are
40 in dire need of help. They can't handle a lot of
41 traffic. So, I would now like to bring both some
42 reality and my opinion into this. Town Creek Road is
43 not suitable for handling the additional traffic
44 generated by some 95 new homes. This could add up to
45 approximately 200 additional cars on that road. Dunlap
46 Road is a very dangerous intersection where it meets
47 Concord Road and this has been stated before, and it is
48 a definite safety hazard. Traffic is quite heavy on
49 Dunlap Road when Hanna High School is beginning and
50 when it's letting out at the end of the day. It's

1 quite packed at that intersection of Dunlop and
2 Greenville Street -- Dunlap and Greenville Street.
3 Dunlap Road is narrow, it has no shoulders, it's not
4 suitable for an additional traffic load.

5 There's also a question of fire and safety and for
6 the ability of firefighters to get into this area in a
7 timely manner. And as a previous fire chief said, when
8 you cram a lot of houses together, if one of them
9 catches on fire, you're going to lose more than one in
10 all likelihood.

11 So summing these these things up in just a few
12 statements, perhaps our county building ordinances
13 needed to be updated, especially in light of the
14 tremendous growth in Anderson County that's being
15 experienced here. Right now growth in Anderson County
16 appears to be somewhat helter-skelter.

17 DAN HARVELL: That's time,
18 Mr. Allen.

19 TOM ALLEN: There needs to
20 be more rhyme and reason to this whole process.

21 DAN HARVELL: Next is Jason
22 Beth Beard. I'm assuming you're the Jason?

23 JASON BEARD: I'm the Jason,
24 yes. So I'm Jason Beard. I live at 100 Town Creek,
25 which is the bottom right corner of that green area
26 across on the other side of Town Creek. I wanted to
27 bring up several topics or points today. Not to
28 belabor the point that Dunlap is an unsafe road. My
29 children when they were living at home were not allowed
30 to take a right outside of our neighbor -- our house to
31 go into town. They had to go left to the light, to
32 another light, and then down the connector, because
33 it's too dangerous to go that way. We don't go that
34 way. When you get on Dunlap, and turn left on Concord,
35 you say a prayer and you hit the gas, because it's an
36 oblique angle, up a hill. So you don't got a lot of
37 acceleration unless you drive a sports car. And then
38 cars fly through there and you cannot see them. Right?
39 Before you make a decision, go take a left turn there.
40 Please. Take the long way home tonight. Go take a
41 left turn there, feel the anxiety. And then you want
42 to add 100 houses to it.

43 The other concern I have is there's 100 houses,
44 there's going to be high schoolers in there. They're
45 going to want to walk to high school because what you
46 can't tell there is it's literally two blocks to the
47 high school. They're going to want to walk. But the
48 cross guard is up there, not down here. So whose
49 property are they going to shortcut through? Mine.
50 And steal from my garage that I might have left open.

1 I don't know. But they're not going to walk down and
2 then up, there's no sidewalk. They're going to cut
3 through my and my neighbor's yards and they're going to
4 go up through Hanna Crossing or whatever that little
5 division they put up there to where that cross guard
6 is. That's not right. It's my property. It's my
7 things on my porch there. You know, I'm sure that 99
8 percent of the students are going to be just fine, but
9 it's going to be the one that's going to steal from me.
10 I don't want them walking through my yard.

11 The next thing is, which I've already said,
12 there's no water pressure. Have we done an analysis of
13 this? What are we going to add? A hundred homes? You
14 can already tell what time of day it is by how much
15 water pressure you have in the shower. Now you're
16 going to add 100 homes to it? Doesn't make any sense.
17 And then when you decide that you do need to do that is
18 it through my yard that you're going to cut that
19 infrastructure? Right?

20 So are we going -- and then my next question is
21 it's nice that we have this nice green -- dark green
22 area with all the trees. Encouraged to see that.
23 That's not in this packet that I have. Is that legal?
24 Is that what you're actually voting for? Or are you
25 voting for this which has a very narrow gap. We need
26 to get that in writing. Is that protected? Or can day
27 one that homeowner across from me going to come in
28 there and cut all those trees down? The other person
29 said and put a driveway out to the street because why
30 not? I own the land. Can they do that? Is there a
31 legal protections against us from them doing that.

32 DAN HARVELL: That's time.

33 That completes those that have signed up to talk
34 on this issue. And at this time does the board have
35 any discussion, questions, of the developer or anything
36 you've heard from the citizens?

37 TERRY HOLDREDGE: Mr. Chairman,
38 could I have one minute?

39 DAN HARVELL: Have you --
40 did you come in late?

41 TERRY HOLDREDGE: Yeah, I did.

42 DAN HARVELL: Okay, come on
43 up. You can have three.

44 TERRY HOLDREDGE: I don't need
45 three. I'll make it easy.

46 DAN HARVELL: All right.
47 State your name and address, please.

48 TERRY HOLDREDGE: My name is
49 Terry Holdredge. And I have lived at 346 Town Creek
50 Drive for 35 years. My wife and I walk most every

1 evening up and down Town Creek and up Dunlap and make
2 the circle on the sidewalk.
3 The point I'm going to make is that the speed of
4 cars driving those narrow country roads is staggering.
5 Because we're on foot, we're watching it, and they are
6 fast and very scary. And most of the people driving on
7 the road who have gray hair slow down when they see
8 you. Sixteen year old kids don't. They bullet through
9 there. And Dunlap is terrifying. And people drive on
10 that so very fast. And that's it. Thank you.
11 DAN HARVELL: Your address?
12 TERRY HOLDREDGE: 346 Town Creek
13 Drive.
14 DAN HARVELL: Okay, thank
15 you. Okay, that concludes the comments from citizens.
16 Any questions from the board, developer or any other
17 shareable concerns?
18 STEVEN GILREATH: I have one for
19 the developer/engineer. I heard a lot about water
20 pressure. Have y'all talked with Hammond?
21 WESLEY WHITE: No, that's
22 part of what we'll do once the preliminary plat is
23 approved. But we understand that any pressure issues,
24 this will actually improve some of the off-site stuff.
25 So if they have pressure issues now, this won't
26 contribute to them. This will actually improve them.
27 So anything we do is going to add infrastructure,
28 including improving the off-site pressures. I
29 appreciate you letting me explain that.
30 DAN HARVELL: Okay, anyone
31 else?
32 All right, I will call your attention to something
33 that Council Member Wilson brought to our attention and
34 you have that in front of you. This is a compilation
35 of stormwater runoff or silt problems that have
36 occurred by Mungo Homes. I counted these. There seems
37 be 13 cease and desist orders here regarding runoff and
38 silt problems infiltrating neighborhoods and creeks.
39 So I'm going to perhaps ask the engineer if he'll come
40 back and address these issues.
41 WESLEY WHITE: I'm happy to.
42 I'm not sure what they're, you know, related to or how
43 they impact this area. I know Ms. Wilson has some
44 concerns in District 7. But again, not seeing those in
45 person, I have no idea -- I deal with -- well, I can
46 tell you in general terms. From an engineering
47 standpoint, a cease and desist implies that their
48 inspections have gone out and they've had any -- it can
49 be anything that they did incorrectly per our plans,
50 from having when it rains failing to clean out the silt

1 fence, to failing to clean out a detention pond in a
2 timely manner. It doesn't always imply off-site
3 impact. So you want to clarify that misnomer. But it
4 can be any number of things that they're not doing
5 right from the start of it if they don't follow the
6 sequencing that we have that we put on our engineering
7 plans. So, again, that's what the engineering portion
8 of the project is, is to design the plans that the
9 contractor and the developer have to follow. If not,
10 they're subject to those penalties that you see there
11 is the cease and desist ---

12 DAN HARVELL: Well, I know
13 that we have -- this is an ongoing problem with
14 development in the county. I passed through Crestview
15 and Midway today. I'm working on a job site at Lake
16 Keowee right now. I go through there every day. And
17 the runoff is happening there. I noticed DHEC had
18 already been out there. They got on that. And there
19 was a -- they were doing work down there trying to
20 clear the -- clear the retention ponds where all the
21 mud had washed down through there. And of course, it's
22 going past there into creeks.

23 So this is a real concern for us. And I think
24 County Council is going to begin to rewrite the
25 ordinance concerning this. But at this time, this is a
26 huge concern for us.

27 WESLEY WHITE: Well, and I
28 think then this particular subdivision would be
29 appreciated. I know there's a lot of talk about track
30 homes and smaller lots and things like this. A hundred
31 foot wide lot, 20,000 square foot, with no mass grading
32 intended. And we have actually spelled that out on our
33 plans. That's -- so to go back to what the rendering
34 that's more for everybody's information purposes versus
35 what you guys are looking at. When we go through the
36 permitting process, we have to tell the county as part
37 of our plan exactly how much we're going to disturb.
38 And that's the intent of the light green areas to show
39 you guys the minimal impact that the current zoning,
40 which is R-20, which is what these lots are, will
41 provide.

42 So I just want -- people throw the terms out
43 about, you know, fires with your neighbor. I mean,
44 these houses are going to be 40 to 50 feet apart.
45 Because you've got 100 to 110 foot lots. So I think
46 there's some issues that were brought up that I kind of
47 disagree with like.

48 I'd like to go through them if y'all have time,
49 but if y'all would allow me to.

50 DAN HARVELL: Go ahead.

1 WESLEY WHITE: Just a couple
2 of them on the septic issues. Yes, each lot is
3 required to have an individual septic permit. So if
4 for some reason, three in the back don't perk, then
5 they don't get a house. So that's controlled by the
6 DHEC. So it's part of the permitting process. So yes,
7 that's a perfectly understandable concern. We did the
8 traffic study as the county required. So I know
9 there's some concerns about traffic impacts, and about
10 walking to Hanna. We can't just -- you know, we're not
11 -- we can't force the neighbors to give us their
12 property to put in sidewalks and things like that.
13 Putting internal sidewalks that lead to nowhere isn't a
14 very cost effective method of growth. Again, the
15 impacts to the buffers that the neighbors were
16 concerned with, what they see out there now is what
17 they will see going forward with the exception of the
18 entrances. There will be no access out onto those
19 roads from the lots, except through those three access
20 points. So you could go back and subdivide this into
21 smaller tracts and have everyone have a driveway out
22 onto those roads. This eliminates that altogether.
23 It's not allowed by county ordinance. Again, the water
24 pressure issue is actually going to, I think, improve
25 for the majority of the subdivision.

26 Anyway, again, a lot of the concerns that they
27 bring up, I understand them. But a lot of that's
28 addressed during the design and permitting process.
29 Thank you.

30 DAN HARVELL: I will ask
31 you, what is the -- what is the concept of more houses
32 increasing water pressure?

33 WESLEY WHITE: Our design
34 part of the engineering is to address any concerns that
35 are in the area already. So that in -- that may be
36 that there's a small line from their main out onto
37 Highway 81. So we would bring a bigger main, with more
38 pressure, more water flow. So yeah, it's just part of
39 the engineering process, that would improve by bringing
40 larger infrastructure to these 95 lots.

41 JAMES MCCLAIN: The line
42 coming from 81 to Dunlap could be made bigger, you're
43 saying?

44 WESLEY WHITE: That's
45 correct. And that'll be part of what we design with
46 the work with their engineer and their staff to
47 develop, correct. So it'll act as actually an
48 improvement that -- the way Hammond works, they don't
49 do improvements unless there's a development. So they
50 don't have the funds to just randomly improve areas.

1 When talking to their staff in the past, that's just
2 not something -- so they put it on the developers to do
3 that.

4 DAN HARVELL: So are you
5 saying that Hammond would increase the capacity down
6 through here that would go beyond this to help other
7 people in the neighborhood beyond ---

8 WESLEY WHITE: The most that
9 they would be able to do is to require us to make
10 improvements from wherever to our site. After that it
11 would be up to them. But at least it would get at this
12 far and improve the pressures. It would bring the
13 pressures in that far.

14 DAN HARVELL: So for your
15 ---

16 WESLEY WHITE: And all
17 surrounding.

18 DAN HARVELL: All
19 surrounding?

20 WESLEY WHITE: In the
21 immediate area, yes, sir. So leading down to ---

22 JANE JONES: You don't have
23 any guarantee on what the water company is going to do
24 at this point?

25 WESLEY WHITE: I can
26 guarantee you that they're going to require us to make
27 improvements to make sure they've got adequate
28 pressure. So if there are any pressure issues, that's
29 the -- y'all mentioned the stuff on Crestview, they had
30 them do offsite improvements for all the development
31 that was there. They're doing it out at Cox Road and
32 29, those are having to require offsite impacts,
33 improvements. So yeah, they will require offsite
34 improvements necessary to make sure that no pressure is
35 lost in the area and that these homes have adequate
36 pressure.

37 STEVEN GILREATH: What are the
38 average houses -- house per acre?

39 WESLEY WHITE: I'm sorry,
40 what is that?

41 STEVEN GILREATH: The house per
42 acre, what is that average?

43 WESLEY WHITE: Probably .9,
44 because there's 80 lot -- 80 acres and we have 95 lots.
45 So about .85, I think. I think it might show on the
46 ---

47 JAMES MCCLAIN: There was some
48 concern about the plat maps by not quite being
49 representative of the rendering here. Because yeah, I
50 agree. It says opposed to sort of significant grading

1 this looks more appealing than the ---
2 WESLEY WHITE: Right.
3 JAMES MCCLAIN: So I'm just
4 curious, though, in the fine print, and maybe the fine
5 print matches this rendering. But it says, on the
6 setbacks, it talks about internal meaning, I guess in
7 terms of the subdivision, internal front -- internal
8 front 20 feet, internal side 10 feet, internal rear 20
9 feet, and then Dunlap Road, Town Creek Road, 40 feet
10 each.
11 WESLEY WHITE: That's
12 correct.
13 JAMES MCCLAIN: But if you use
14 those numbers and apply it to the math many people
15 have, would you end up sort of getting this rendering?
16 In other words, if you were to use those ---
17 WESLEY WHITE: Yeah, you
18 would be close to it. The dimension that we show, the
19 40 feet will actually overlap into the back of all
20 those rear lots. So you're guaranteed the 40 feet.
21 What we showed is representative of 120 feet, which is
22 the max that Mungo needs to construct a lot. So you've
23 got a good 80 feet plus the 25 foot that we've already
24 buffered. So that's where we came up with the 100
25 feet, if that makes sense, the math.
26 And again, none of these will access the perimeter
27 roads, except through those three locations. So the
28 buffer and vegetation that you have out there now is
29 what's intended to stay.
30 JAMES MCCLAIN: This is for my
31 own sake. On Dunlap, the homes that are along the
32 exterior perimeter of the subdivision, sort of above
33 the roads, that has to be 40 feet of setback, I mean,
34 there has to be 40 feet at least ---
35 WESLEY WHITE: Off the right-
36 of-way that's already 25 feet -- correct.
37 JAMES MCCLAIN: But even more
38 internally, like the little fingers that come up in
39 subdivisions map here, it says internal rear 20 feet as
40 opposed to internal side 10 feet. So ---
41 WESLEY WHITE: The internals
42 on these is what I'm showing is around 80 feet.
43 JAMES MCCLAIN: The internal
44 here is around 80 feet?
45 WESLEY WHITE: Right, the
46 dark green area in the back of these lots is
47 representative of about 80 feet at the back that we
48 don't plan on serving. And we have to call -- we have
49 to specify that on our engineering drawings. We can't
50 just go in and say we're going to disturb 20,000 square

1 feet per lot. They wouldn't -- so what we end up
2 averaging is what I've got there, which is around
3 12,000.

4 DAN HARVELL: Mr. White,
5 would you concur with what one of the citizens said,
6 that there is about 100 foot drop in elevation from one
7 part of this property to the other?

8 WESLEY WHITE: That sounds
9 about right, yes, sir. And again, that's ---

10 MALE: It's the
11 height of this ceiling -- six times the height of the
12 ceiling.

13 WESLEY WHITE: Right. But
14 that's also over, you know, 1000 feet. So, you know,
15 it's representative. I mean, that's why we do the road
16 design and county will mandate, you know, number of
17 catch basins and things like that, as well as the
18 infrastructure that goes in to convey that water down
19 to the detention water basin. So yeah, I mean, that's
20 just part of what we do during design. That's what we
21 do every day. So that is not concerning at all.

22 JANE JONES: Since you
23 brought it up, what's the guarantee that what you've
24 saying about the buffer zones that that is how it
25 actually ends up, those dimensions are what actually
26 occurs?

27 WESLEY WHITE: I mean, all I
28 can tell you is that that's our intent. I mean, we
29 can't -- the preliminary plat process is not -- that's
30 not where we tie that down. That's when we go to
31 stormwater for review, and that's where we'll, like I
32 said, dictate that we only intend to disturb about
33 12,000 square feet per lot to allow for the driveway,
34 the home and the septic area. And that will leave the
35 back of it eight, and these are 80 by 100 at the back.
36 These are averaging about 100 feet. So that's where
37 that 8000 at the back comes from.

38 DAN HARVELL: Any other
39 questions?

40 Okay, at this time, I'll call for a vote for
41 approval or denial of this project. Do I hear a motion
42 one way or the other.

43 PAT DUNLAP: Sir, could I
44 just have a couple of minutes?

45 DAN HARVELL: Were you late
46 coming in?

47 PAT DUNLAP: Yes, I was.
48 DAN HARVELL: You were
49 unable to sign up. Okay. Come on. This is a little
50 out of our protocol. I'll allow it this time. State

1 your name and address, please.
2 PAT DUNLAP: I am Pat
3 Dunlap and I own this property. I have mixed emotions
4 about all I've heard tonight. I would like to sell my
5 property. I would like to do it in a safe way. This
6 property has been in our family for long before I was
7 in the family and my husband passed away seven years
8 ago. I get calls every two weeks, at least, from
9 somebody wanting to buy the property to put in some
10 houses in this area. They live in Greenville, and they
11 are paying Greenville taxes and coming back and forth
12 to work in Anderson. And there are people in Anderson
13 that say there's not enough nice homes, and they would
14 like to develop the subdivision. I have been in
15 several contracts with different people. And it was
16 not zoned R-20. So when we talked with Mungo, they
17 said they would not change the zoning. So we felt like
18 it would be approved. The roads I agree are not good.
19 In Greenville County, when we've had students
20 going too fast, they have put in speed breaks in the
21 roads and put in sidewalks. That would help.
22 I'm not sure exactly what we need to do in order
23 to do this. I feel like they would correct the water
24 problem. But you know, I can't state that they will.
25 But I feel like that anybody who had property that
26 wanted to sell would be very disappointed if there was
27 not some sort of arrangement that could be worked out.
28 I do not want anyone killed for going too fast.
29 Or students. I have four kids of my own. And I
30 understand that. But this property was bought by my
31 husband's parents in hopes that someday we could use it
32 for education for our kids.
33 And I'm very disappointed about some of these
34 statements tonight because I certainly would not want
35 to create any problems. And you know, I hope that the
36 water pressure can be worked out or something can be
37 worked out for the roads, you know, widen them, putting
38 in sidewalks or speed breaks, whatever.
39 DAN HARVELL: That's time.
40 Thank you, ma'am.
41 WADE FICKLE: Mr. Chairman,
42 I came in late too.
43 KATIE CROSSON: I would love
44 to say something, too.
45 WADE FICKIE: Do you want to
46 go first?
47 DAN HARVELL: Well, two
48 more.
49 KATIE CROSSON: My name is
50 Katie Crosson. And I live at 1225 Dunlap Road, and I

1 live in your family's home. And we bought the property
2 and we lived there with our two boys. And it is -- I
3 grew up in the area right off Concord Road. I've lived
4 in that area my entire life. And when we purchased the
5 home, it was just kind of in the middle of nowhere you
6 say in the middle of town. Every home around me is on
7 its own acreage. And we want to preserve the area.
8 That's all that we're looking to do. And throw in this
9 amount of homes on that property in my front yard is
10 not -- does not fit the area.

11 So all we ask is that that be taken into
12 consideration.

13 DAN HARVELL: Thank you.
14 And your address?

15 KATIE CROSSON: 1225 Dunlap
16 Road.

17 DAN HARVELL: And sir.

18 WAKE FICKEY: My name is

19 Wake Fickey. I represent and I've worked with Ms.
20 Dunlap for three years trying to get the right fit
21 for this property. Two and a half years ago, I sat in
22 a conference room just around the corner with Alesia,
23 Tim and Rusty and some other of the staff and kind of
24 showed them this site and I said, What do you need?
25 Rusty Burns said, Everybody comes to Anderson from
26 outside of town and tries to build down because we've
27 got a lot of 30 year old, 40 year old successful folks
28 stuck in their first house because there's not that
29 move-up house. That sent me down a path of trying to
30 find the right builder. We've gone through Orion Homes
31 scenario. That went away. We went through a
32 neighborhood with -- potential with Meritage, who
33 completely threw out the idea of building an elevated
34 higher end house. To Ms. Dunlap's credit, and her
35 family, like they've kind of held firm on, hey, we're
36 not giving this property away. And it's not cheap
37 property. But at the same time, she had a vision of it
38 becoming a move-up neighborhood for the young
39 professionals that have families or the retirees that
40 want a nice, safe neighborhood.

41 These two houses are going to range -- they're
42 going to fit a missing link in the Anderson market.
43 You know, they're going to be priced from 475 to 700.
44 The idea here is to create a higher end neighborhood
45 that complements the market. I think as far as your
46 question about the setbacks that were in there, that's
47 part of the ordinance of R-20. We've exceeded those
48 setbacks. So I mean, that's just R-20 has that. You
49 know, there's nothing being requested that's outside of
50 the ordinance. This is a great public forum, and

1 hopefully Roads and Bridges take into account all of
2 the concerns on Town Creek and Dunlap. I just don't
3 know that it's necessarily the -- it's more of a county
4 issue. This particular tract, you know, like I said,
5 two and a half years in the making to get to this point
6 to find a builder that has the same vision of building
7 an elevated, you know, higher end neighborhood to
8 complement some of the immediate area, socioeconomic
9 status in an area that most houses are being built are
10 vinyl villages, 300,000 or less. This gives that
11 middle market buyer an opportunity to live in a really
12 good convenient location at an attainable price point.
13 That's all, sir.

14 DAN HARVELL: All right.
15 Thank you. All right, that ends the comments. Any
16 other questions or concerns from the board before I
17 call for a vote? Hearing none, I call for a vote for a
18 motion -- call for a motion for approval or denial, at
19 this time.

20 JANE JONES: I'll make the
21 motion that we deny the project. My reasons are the
22 inability of the infrastructure and transportation
23 systems to serve this subdivision, and that includes
24 the utilities. And also it's not in keeping with the
25 surrounding areas. The homeowners' properties I
26 believe will be adversely affected by this large
27 subdivision and the congestion. Those are my reasons
28 for denial.

29 DAN HARVELL: Thank you very
30 much. Do I hear a second for denial? Do I hear a
31 second for denial?

32 WESLEY GRANT: Mr. Chairman,
33 I'll second just for the sake of voting.

34 DAN HARVELL: Okay. We have
35 a second by Mr. Grant. Now discussion amongst the
36 board. Any discussion? Hearing none, call for the
37 vote. Those in favor of the denial please raise your
38 hand. Ms. Jones, Mr. Grant, Mr. Harvell, Mr. McClain.
39 Those against denial, Mr. Burnett and Mr. Gilreath.
40 The project is denied.

41 **APPLAUSE**

42 DAN HARVELL: Please leave
43 quietly. The meeting is not adjourned yet.

44 We have no one signed up for public comments on
45 non-agenda items.

46 We do have a couple of things that we need to
47 discuss amongst ourselves. And number one being the
48 training session tomorrow. Who is coming for that
49 tomorrow? Mr. Burdette, I will be there tomorrow, Mr.
50 Grant and Ms. Jones.

1 Is there any other business we need to look into
2 at this time?

3 ALESIA HUNTER: Mr. Chairman,
4 I wanted to talk with you concerning the Piedmont Area
5 Plan. This is a plan that Greenville County and
6 Anderson County have partnered in working -- Ms. Jones
7 may be familiar with it. She came -- I believe you
8 came to some of the meetings in Piedmont. The Piedmont
9 Area Plan?

10 JANE JONES: I came to
11 one, yes.

12 ALESIA HUNTER: Yes, yes,
13 she came to one. I've got some handouts to give to
14 you. It's going to highlight some of the long range
15 plans that the Piedmont -- citizens of Piedmont have
16 been proposing. And this is preservation of what
17 they're calling Piedmont, natural resources for
18 preserving streets, streets, trees, promoting bike
19 lanes, enhancing walk abilities, and have a beautiful
20 community and doing some historic preservation. So I
21 want to do a presentation probably next month. We're
22 going to give you the handouts. And we'll also email
23 you a link, so you can look at some of the maps.

24 Mr. Davis, Councilman Davis has been heavily
25 involved. I've attending a lot of the meetings with
26 Mr. Davis. So he's actually on the front cover of one
27 of our pictures here.

28 But take a look at it. If you've got any
29 questions reach out to us, but I'll email you a link
30 so you can look at all those maps so I didn't have to
31 print all of them out. We'll be bringing this back
32 probably by a representative of Greenville County to
33 actually present the plan to you all for May and then
34 we'll be sending it on to County Council for approval.

35 DAN HARVELL: All right,
36 thank you. Any comments amongst the board before we
37 adjourn? Okay. Do I hear a motion to adjourn?

38 JAMES MCCLAIN: I'll make a
39 motion to adjourn.

40 DAN HARVELL: We have a
41 motion from Dr. McClain and have a second from Mr.
42 Burdette. All those in favor.

43
44

MEETING ADJOURNED AT 8:24 P.M.

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON) TITLE TO REAL ESTATE
) LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that **AnMed Health ("Grantor")**, in consideration of **THREE MILLION EIGHT HUNDRED FIFTY EIGHT THOUSAND AND 00/100 (\$3,858,000.00)** Dollars, the receipt of which is hereby acknowledged, has granted, bargained, sold and released and by these presents does, bargain, sell and release unto **Spano & Associates Asheville, LLC**, a Florida limited liability company ("**Grantee**"), its successors and assigns all of Grantor's interest in and to the following:

**LEGAL DESCRIPTION ATTACHED
ON EXHIBIT "A"**

The within conveyance is made subject to any and all rights of way, easements, covenants, conditions, restrictions, rights-of-way and zoning ordinances which may appear of record, on the recorded plat(s) or actually existing on the ground affecting said property.

ADDRESS OF GRANTEE(S): 1540 International Parkway, Suite 2000
 Lake Mary, FL 32746

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining, including, but not limited to, all improvements of any nature located on the premises and all easements and rights-of-way appurtenant to the premises.

TO HAVE AND TO HOLD all and singular the premises unto Grantee, its successors and assigns forever.

AND Grantor does hereby bind Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantee, its successors and assigns, against Grantor and Grantor's successors and assigns, but no others.

[Signature Page Follows]

WITNESS the undersigned Grantor's hand and seal this 20th day of May, 2024.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

ANMED HEALTH

[Signature]
Witness #1

By: Christine Pearson (SEAL)
Name: Christine Pearson
Title: Chief Financial Officer

[Signature]
Witness #2

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

ACKNOWLEDGMENT

I, the undersigned Notary Public in and for the County and State aforesaid, certify that Christine Pearson, as Chief Financial Officer of AnMed Health, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of AnMed Health.

Witness my hand and official stamp or seal this 20th day of May, 2024.

Kerri J. Sh. Flett (SEAL)
Notary Public for the State of South Carolina
My Commission Expires: 4-2-2031

Printed name: Kerri J. Sh. Flett

EXHIBIT A

Legal Description

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Anderson, being shown and designated as Tract 1, containing 162.67 acres, more or less, and Tract 2, containing 11.02 acres, more or less, on a plat entitled "SUMMARY PLAT SUBDIVISION SURVEY FOR SPANO & ASSOCIATES ASHEVILLE, LLC ANMED HEALTH SITE", prepared by C.M. Edgerton, Jr., PLS #29906, of Ed Holmes & Associates Land Surveyors, PA, drawing number D24-057, dated and recorded May 21, 2024, in the Office of the Register of Deeds for said County in Plat Book S3153, at Page 3; reference to said plat being hereby made for a more complete metes and bounds description thereof.

This being the same property conveyed to AnMed Health by deed from JAJ Properties, LLC and RB Properties, LLC dated October 29, 2007 and recorded in the Anderson County Register of Deeds Office on October 30, 2007, in Deed Book 8333 at Page 129.

TMS Reference Number: 042-00-01-010

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

AFFIDAVIT FOR TAXABLE OR
EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit, and I understand such information.

2. The property being transferred located at 00 Fants Grove, Anderson, SC 29625 bearing County Tax Map Number(s): 042-00-01-010 was transferred by **ANMED Health, a South Carolina nonprofit corporation** on May 21, 2024 to Spano & Associates Asheville, LLC.

3. Check one of the following: The deed is

(a) ☒ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.

(b) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) ☐ exempt from the deed recording fee because (See Information section of affidavit):

(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?

Check Yes ☐ or No ☐

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

(a) The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$3,858,000.00.

(b) The fee is computed on the fair market value of the realty which is _____.

(c) The fee is computed on the fair market value of the realty as established for property tax purposes which is \$.

5. Check Yes ☐ or No ☒ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here:	\$3,858,000.00
(b) Place the amount listed in item 5 above here:	-0-
(If no amount is listed, place zero here.)	
(c) Subtract Line 6(b) from Line 6(a) and place result here:	\$3,858,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ 14,274.46

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

ANMED Health

By: Christine Pearson
Name: Christine Pearson
Its: Chief Financial Officer

SWORN to and subscribed before me this
20th day of May, 2024,
Notary Public for South Carolina
My Commission Expires: 4-2-2031

Notary (L.S.): Kerri J. Shuplett
Notary (printed name): Kerri J. Shuplett

240012282 05/22/2024 11:24:46 AM
FILED, RECORDED, INDEXED
Bk: 17381 Pg: 295 Pages: 5
Rec Fee: 15.00 St Fee: 10030.80
Co Fee: 4243.80
REGISTER OF DEEDS, ANDERSON CO, SC
Cynthia D. Radford

EXHIBIT A



August 23, 2024

Spano and Associates, Inc.
1540 International Parkway, Suite 2000
Lake Mary, Florida 32746

Attention: Mr. Ralph Spano

Reference: **Cultural Resources Literature Review, Site Visit, Geophysical Survey**
Anderson Reserve
Anderson County, South Carolina
Project No. 24600430

Mr. Spano,

S&ME, Inc. (S&ME) has completed a site visit and geophysical survey for the Anderson Reserve project area in Anderson County, South Carolina (Figures 1 and 2). During the due diligence process, an affidavit signed by Mr. Kenneth Rhodes provided information stating that graves of enslaved individuals were buried on the property and provided information to the best of his recollection on where these individuals were interred. A literature review, site visit, and geophysical survey was completed on portions of the project area. The purpose of the literature review was to review historic documents and mapping to determine the likely areas where the graves were present; the purpose of the site visit was to investigate the areas deemed likely for containing the graves based on the results of the literature review and narrow down the areas for the geophysical survey; and the geophysical survey was conducted to determine if anomalies were present that could represent unmarked graves.

Literature Review

Intermittently from June 4 through 9, 2024, a background literature review and records search was conducted utilizing sources from the Clemson University Archives, historic maps, reading through documents and books online that pertained to Rivoli Plantation, and reviewing the online GIS database at the South Carolina Institute of Archaeology and Anthropology (SCIAA) in Columbia. Two of the historic maps show the location of Rivoli Plantation, but do not show a cemetery within the project area. The 1877 map of Anderson County shows Rivoli is owned by J.B. Adger Jr. and the 1897 map of Anderson County shows Rivoli Plantation is owned by O.A. Bowen (husband of Clarissa W. Adger Bowen; daughter of Robert Adger) and an Old Slave Cemetery is located north of the project area (Figures 3 and 4).

The information that came from the Clemson University archives includes poems about Rivoli Plantation that were written by Mr. Robert Adger Bowen (1868–1972) son of O.A. and Clarissa Adger Bowen. One of the poems in the collection is called 'Graveyard Hill' which describes the hill where the graves were placed (Figure 5) and a hand drawn map that is not to scale showing what the layout of Rivoli Plantation was, including the barn, overseer house, main house, kitchen, and garden (Figure 6).

The affidavit from Mr. Rhodes states that:

- Some (graves) were located on the hill and behind the barn.
- There were some graves near where a spring started and on a short branch not too far from the roads.

Historic aerial imagery from 1947 (Figure 7) shows the plantation house with three outbuildings behind the house, the largest appears to be a barn and the other two are likely the overseer house and one of the other structures depicted on the hand drawn map from Robert Adger Bowen. The topographic map shows the spring head to the north not too far from structures (Figure 1).

Based on the information gathered during the literature review, it was thought that the graves of the enslaved individuals are within the area shown in Figure 8, which was the focus of the site visit.

Site Visit

The site visit was completed in June and August 2024, the foundation of the main house remains and two outbuildings adjacent to the house are standing, but in disrepair; there is building material and concentrations of artifacts and sheet metal behind the house, which likely represents the three buildings that were standing in the 1960s (Figures 9 and 10); the footers of the barn and a small enclosure that was attached to the barn were identified during the August 2024 site visit (Figure 11 and 12). During the site visit, there were two areas, fairly close to each other that stood out as containing possible graves due to the following reasons:

- Soil in these areas is deeper than the rest of the areas examined, suggesting the soil has been disturbed, possibly through burials of individuals.
- The volume and placement of fieldstones within these areas is not natural given very limited amounts of fieldstone were identified when walking through the project area. It is common for enslaved individuals or individuals with little wealth to use fieldstone markers instead of more traditional markers.
- One of the areas is situated behind the barn footers.
- The other area appears to be close to a spring head and not far from the road that once traveled through the project area.

Due to the close proximity of the two areas, they are depicted as one area in Figure 13.

Geophysical Survey

In August 2024, a geophysical survey was completed in the two areas of interest in Figure 13. The geophysical survey used electromagnetic profiling (EM) and ground penetrating radar (GPR) geophysical methods in an area behind the footers that belonged to the barn and in a second smaller area that appeared to be near a spring head that had fieldstones and other man-made features (Figures 14 through 18). During the geophysical survey, no evidence of unmarked graves was identified. The full geophysical report is attached to this letter.

Summary and Recommendations

Although no graves were identified during the survey, that does not mean that the individuals were not out there at one point. Given the burials are anywhere from 150 to 200 years old, placed in highly acidic soil in an area of terracing and erosion, it is unlikely that there would be human remains left to identify.

Cultural Resource Literature Review, Site Visit, and Geophysical Survey
Anderson Reserve

August 23, 2024
Page 3

Based on the results of the literature review and site visit, although no evidence of graves was identified during the investigations, it is the opinion of S&ME that the area marked in Figure 19, the landform behind the barn, was where the burials were located. This area should be fenced and avoided during ground disturbing and construction activities.

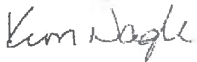
Cemeteries are protected by state law (SC Code of Laws 27-43-10 through 27-43-40) so if human remains are identified during ground disturbing activities in other portions of the project area, construction in that area should stop and the authorities should be contacted so the remains can be dealt with in the proper manner. An option to consider, if the developer of the property decides to go this route, is having an archaeological monitor on site during the initial ground disturbing phase of the project that can help mitigate the process should human remains be identified.

Closing

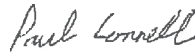
If you have questions or need additional information, please let us know by contacting Kimberly Nagle at knagle@smeinc.com or 803-561-9024.

Sincerely,

S&ME, Inc.



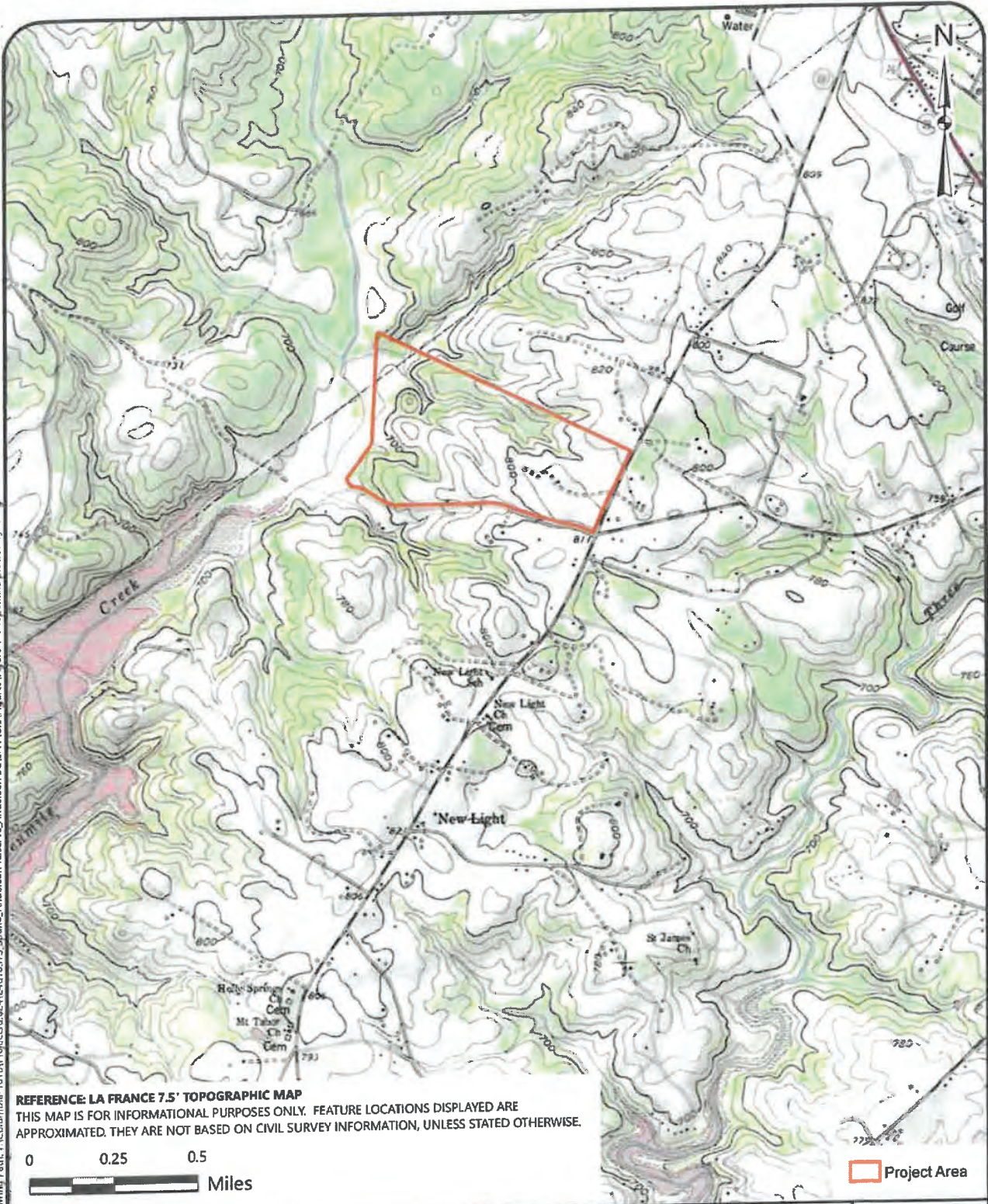
Kimberly Nagle, MS, RPA
Principal Archaeologist



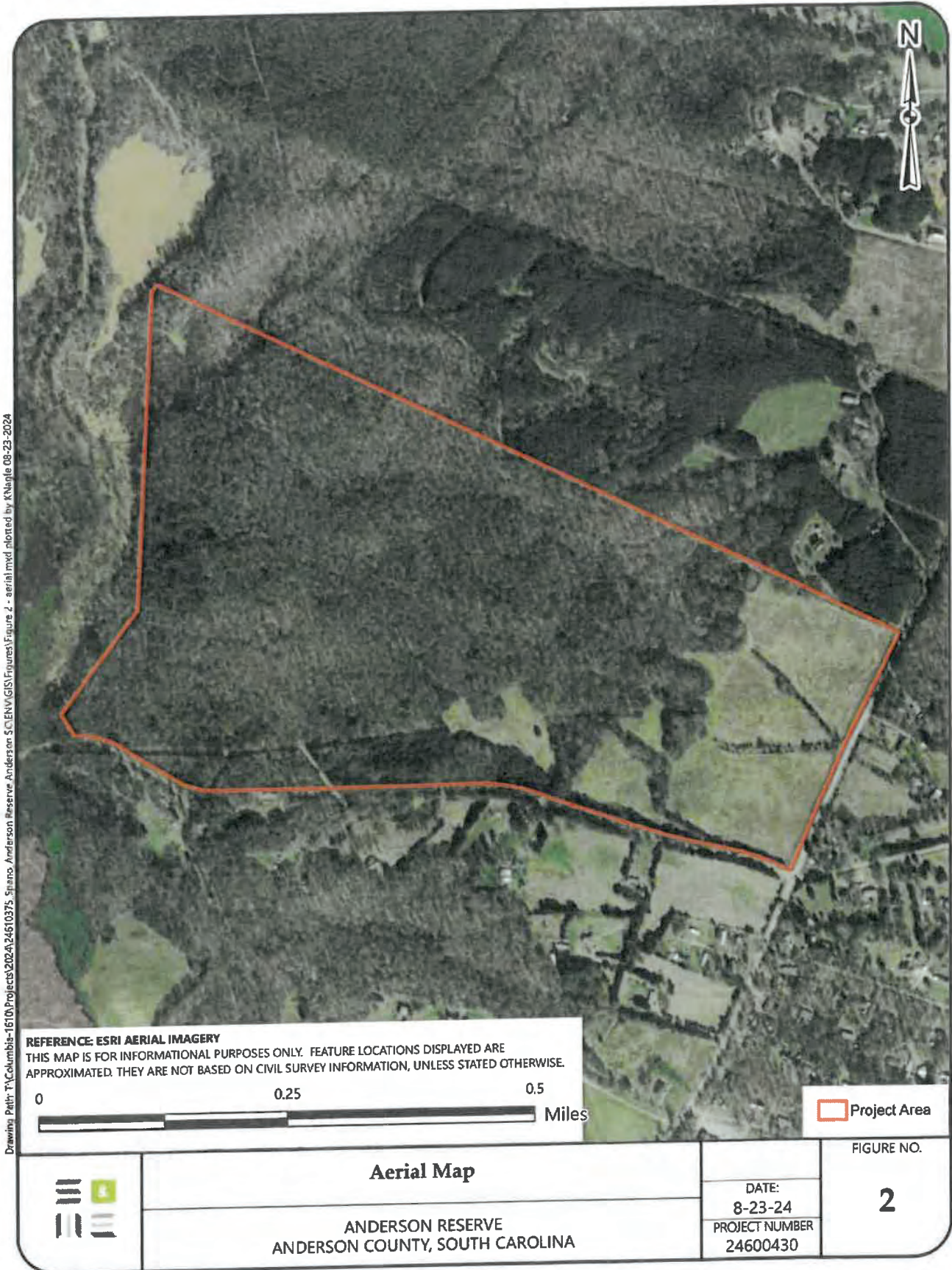
Paul Connell, MA
Field Director

S&ME, Inc.

Drawing Path: T:\Columbia-1610\Projects\2024\2460430\Spino_Anderson ReserveAnderson SOLENO\GIS\Figures\Figure 1-1 Topo.mxd, plotted by KVaagle 08-23-2024



	Topographic Map	DATE: 8-23-24	FIGURE NO. 1
	ANDERSON RESERVE ANDERSON COUNTY, SOUTH CAROLINA	PROJECT NUMBER 24600430	



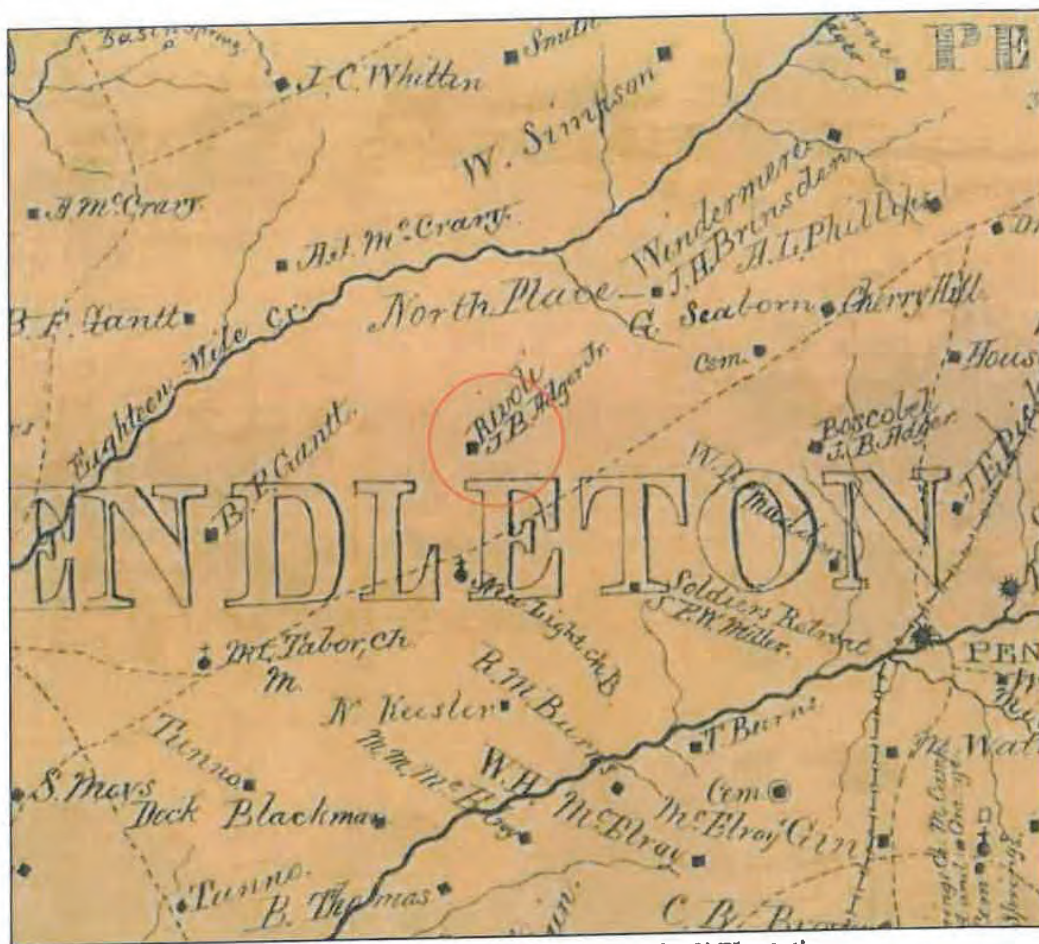


Figure 3. Portion of 1877 map of Anderson County showing Rivoli Plantation.

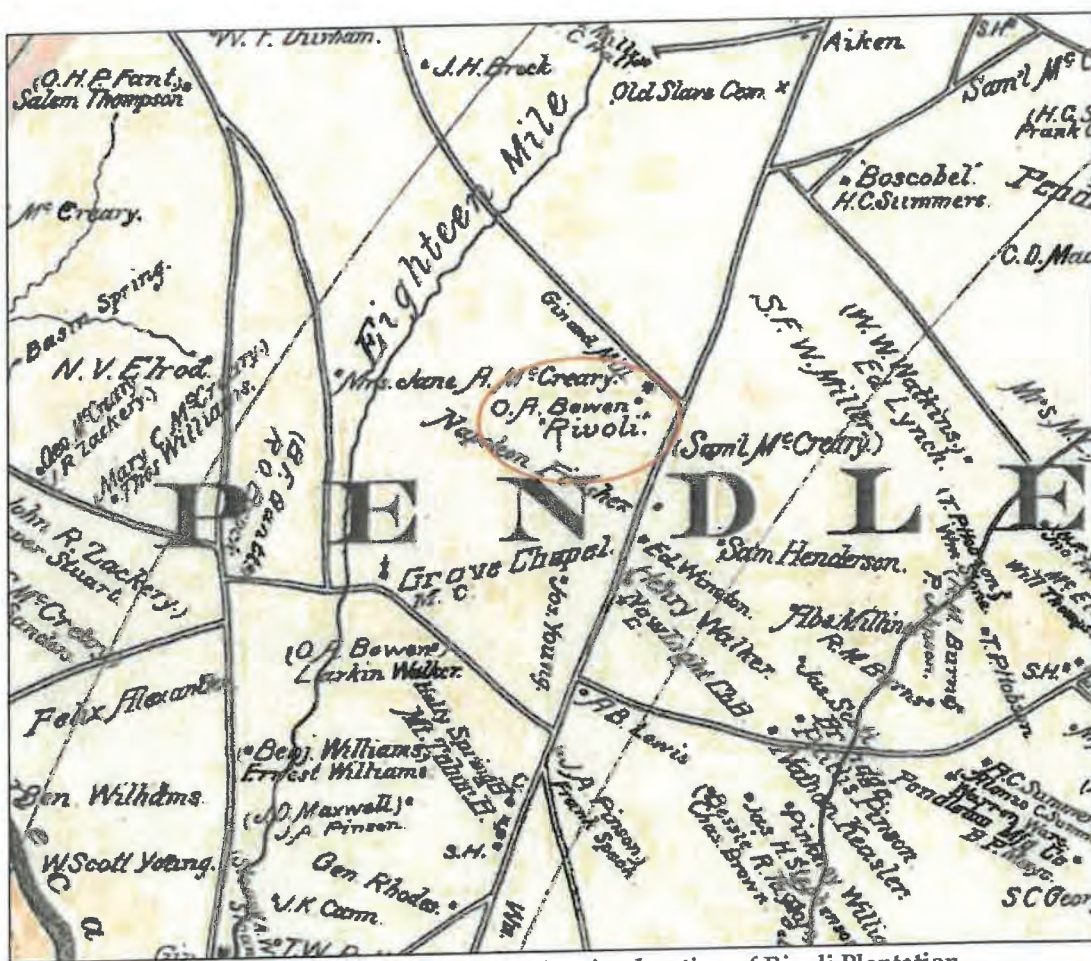


Figure 4. Portion of 1897 Anderson County map showing location of Rivoli Plantation.

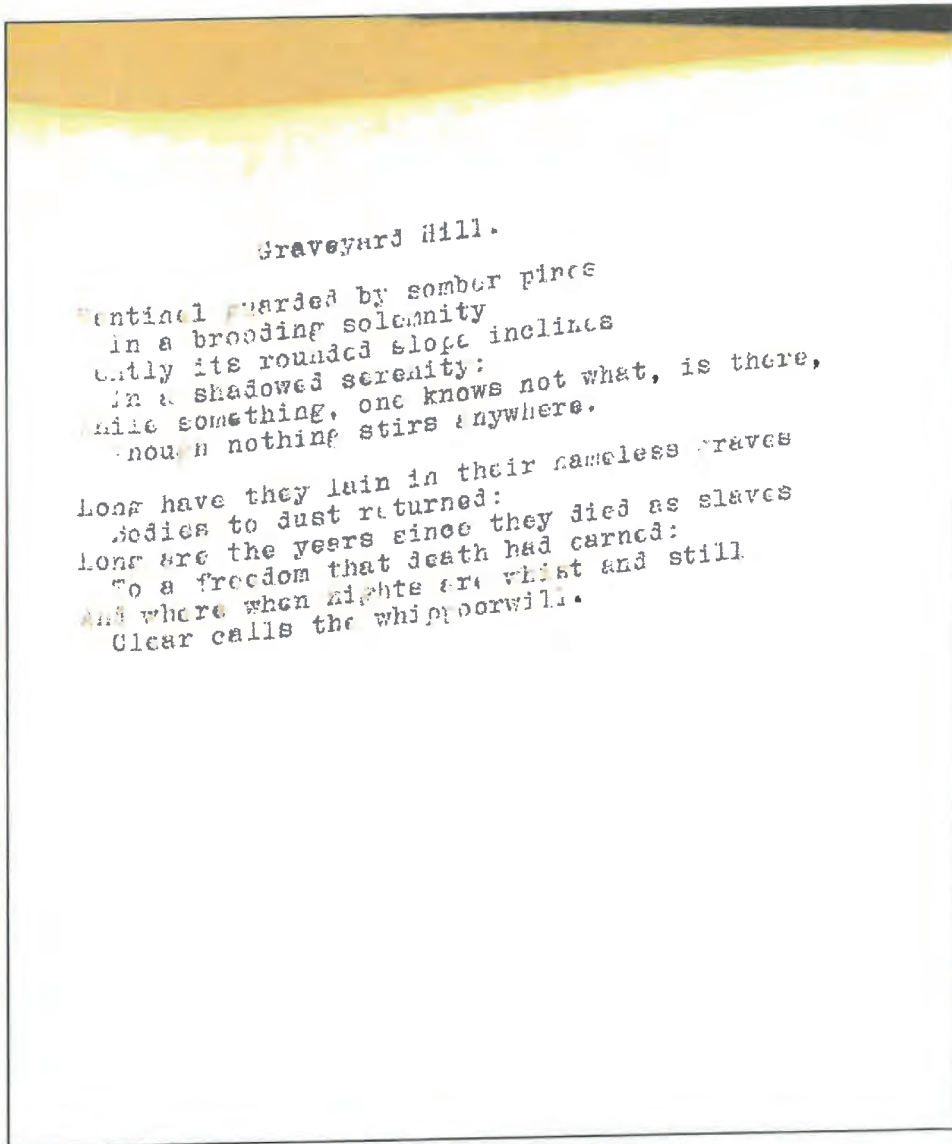


Figure 5. Graveyard Hill poem.

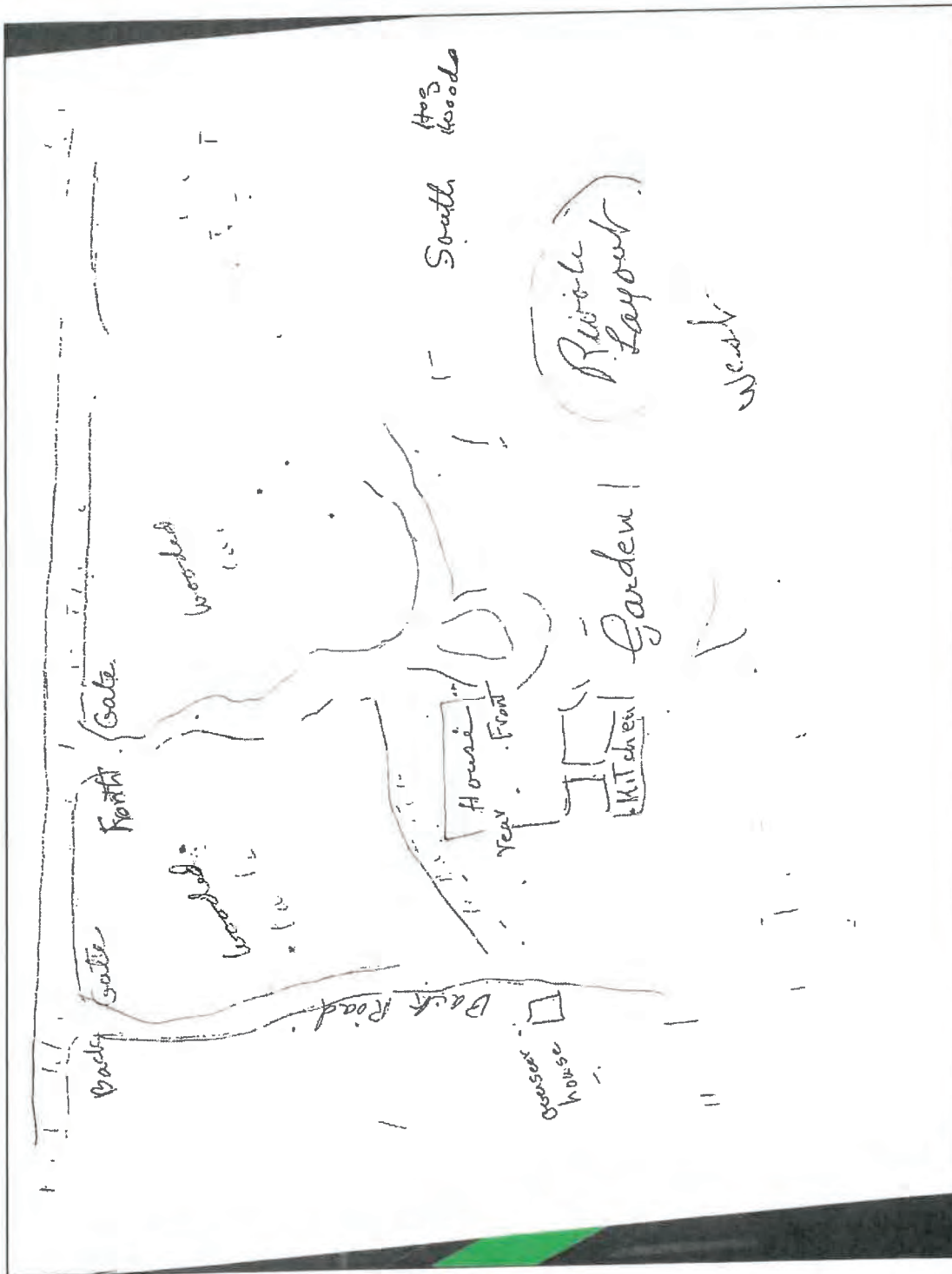


Figure 6. Hand drawn map of Rivoli Plantation.



Figure 7. Aerial imagery from 1947 showing Rivoli Plantation, barn, and two outbuildings.

Drawing Path: T:\Columbia-1610\Projects\2024\24610375 Spanso Anderson Reserve Anderson SC\ENV\GIS\Figures\Figure 8 - Site Visit.mxd plotted by K.Nugle 08-23-2024

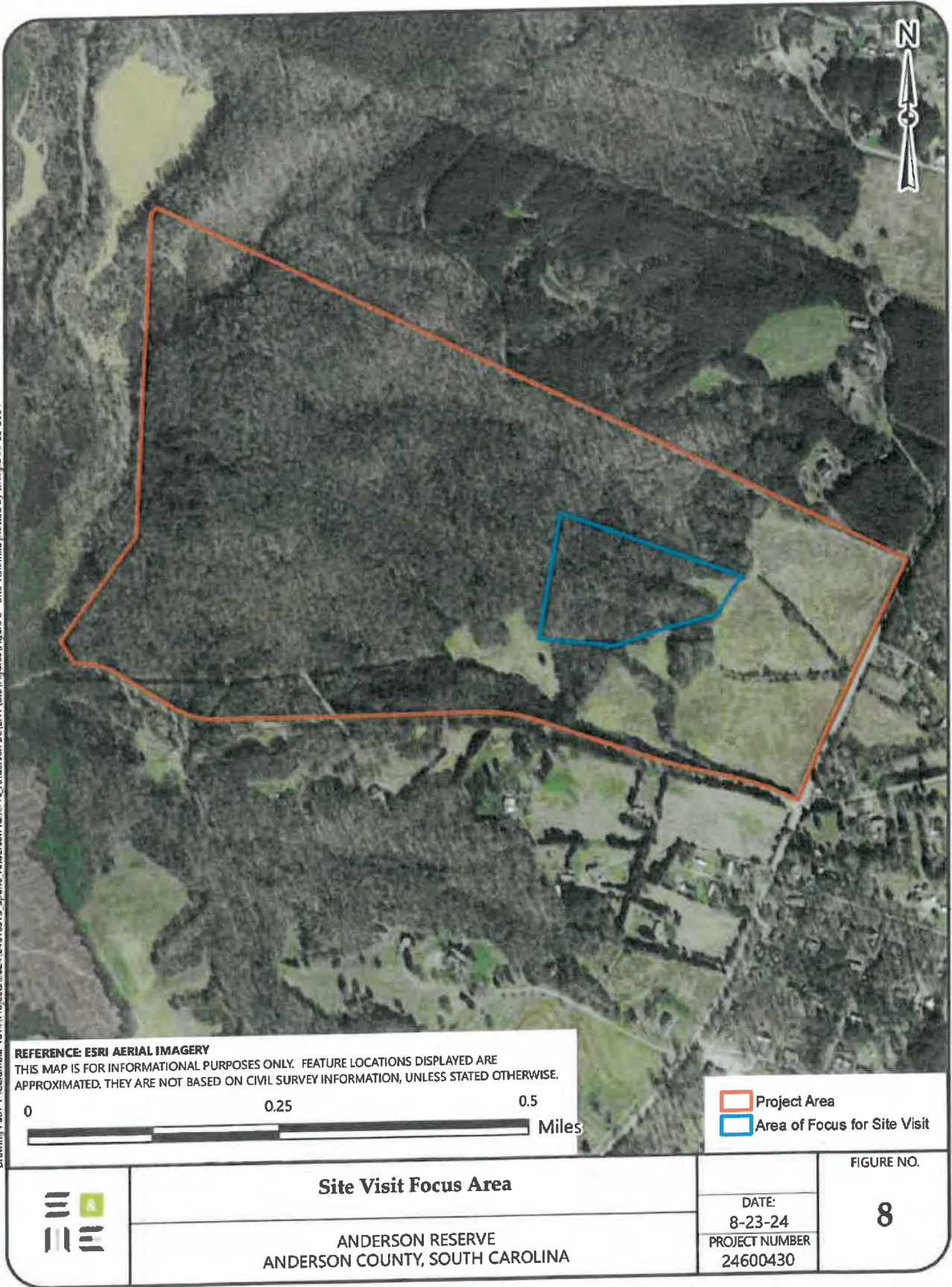




Figure 9. Foundation of the main house, facing southeast.



Figure 10. One of the standing outbuildings, facing east.



Figure 11. Enclosure attached to barn and one barn footer, facing northeast.



Figure 12. Barn footer, facing north.

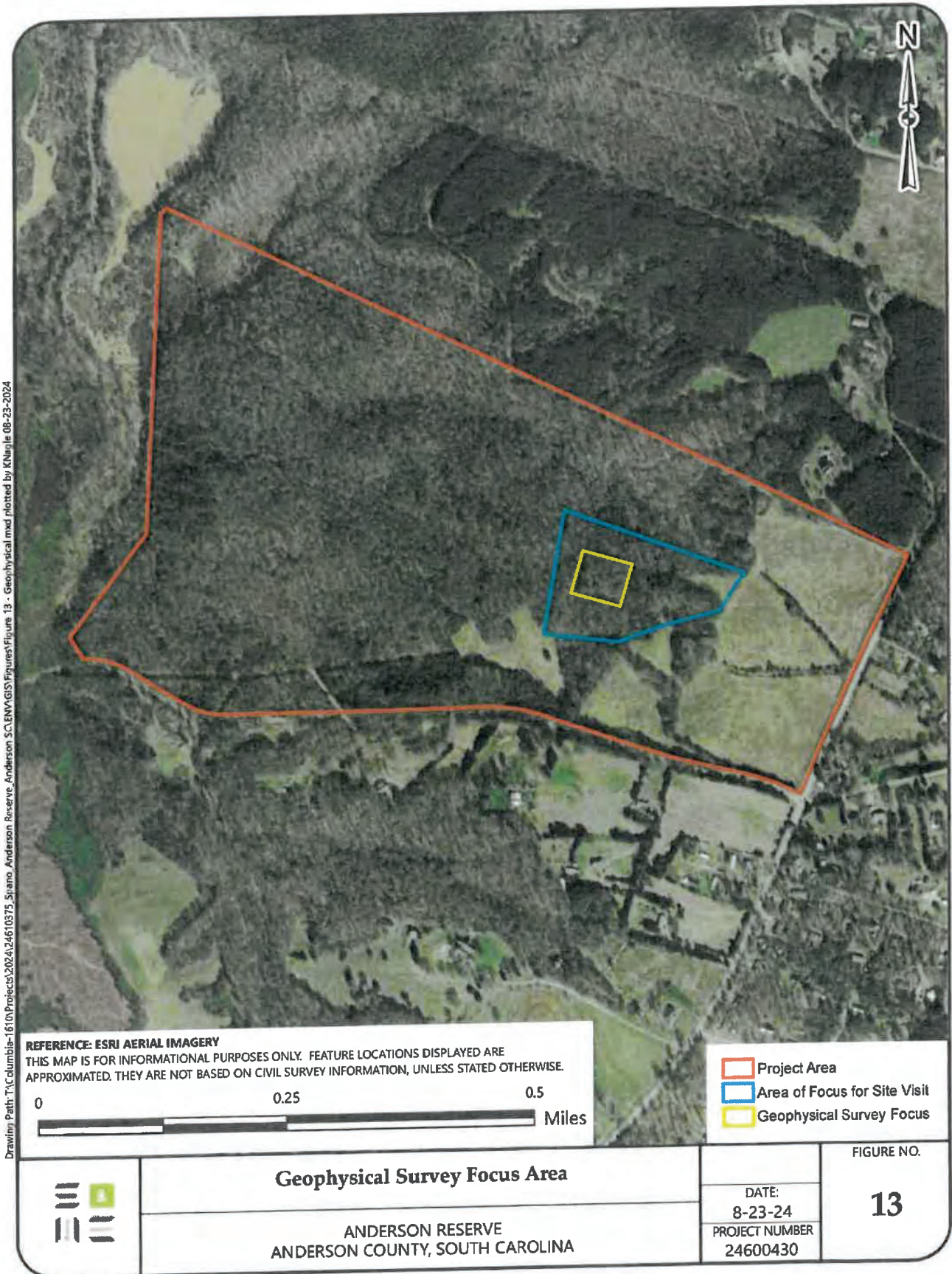




Figure 14. Area of interest behind the barn after vegetation clearing, facing southwest.



Figure 15. EM portion of geophysical survey of area behind barn, facing southeast.



Figure 16. GPR portion of geophysical survey of area behind barn, facing north.

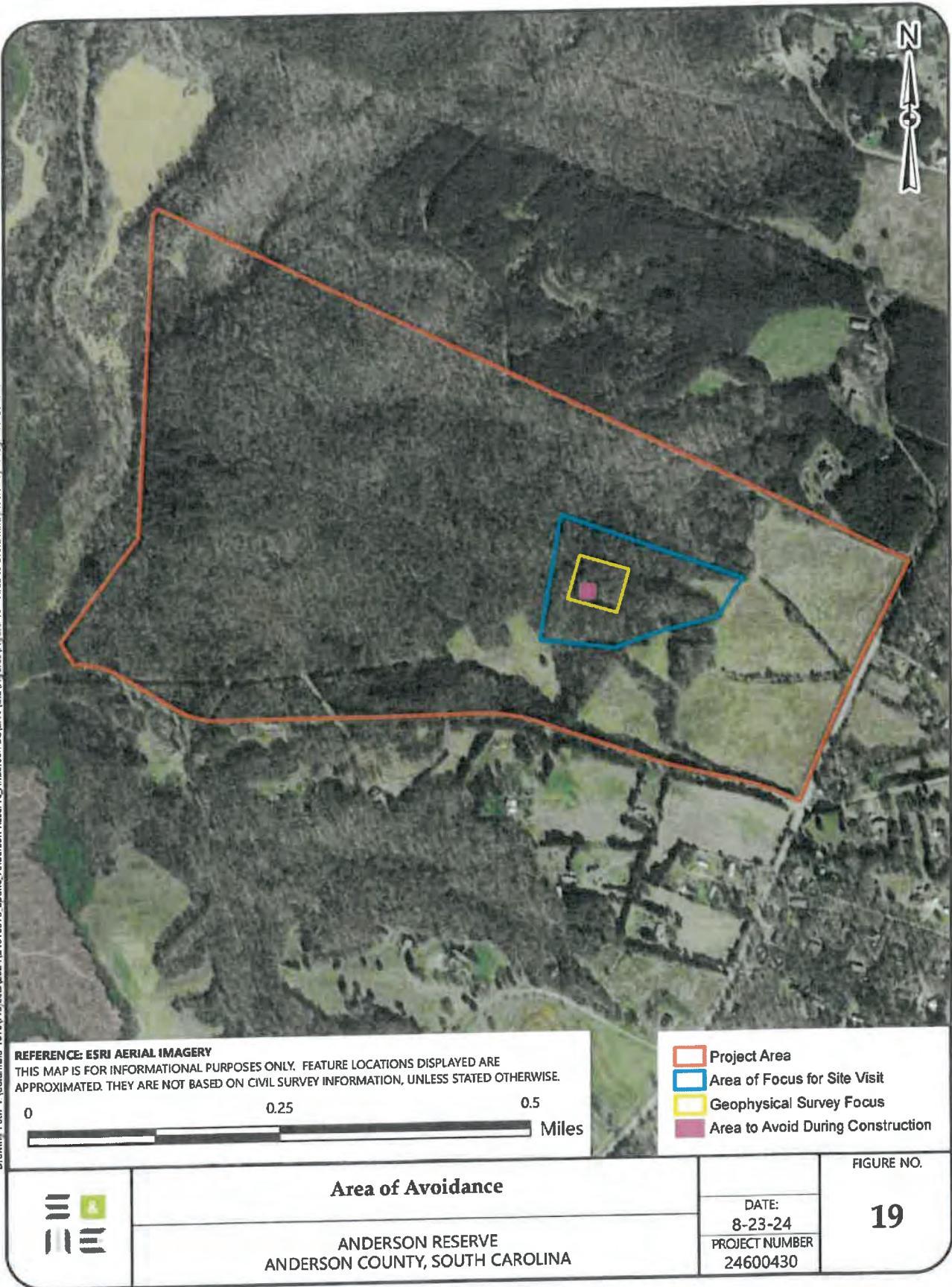


Figure 17. Area of interest near spring head, facing east.



Figure 18. GPR portion of geophysical survey of area near spring head, facing southeast.

Drawing Path: T:\Columbia-161\ON\Projects\2024\246\10375_Spano, Anderson Reserve, Anderson County, South Carolina\GIS\Figures\Figure 19 - Area to avoid.mxd, plotted by: K.Nagle 08-23-2024





www.REEDTECHINC.com
reedtechinc@gmail.com
(803) 750-9971
P.O. Box 61104
Columbia, SC 29260

Technical Report
Geophysical Evaluation for Unmarked Graves
Rivoli Plantation
La France, SC

Prepared For:
Kimberly Nagle, M.S., RPA
Senior Archaeologist/Project Manager S&ME
134 Suber Road
Columbia, SC 29210

Prepared By:
Reed Tech Utility and Geophysical Locating
PO Box 61104
Columbia, SC 29260

Submitted on: August 15th, 2024

Private Utility Locating | Ground Penetrating Radar | Underground Storage Tank Locating | Electromagnetic Profiling
Archaeogeophysical | Pre-Construction Utility Surveys | Utility Mapping

August 6th, 2024

**Kimberly Nagle, M.S., RPA
Senior Archaeologist/Project Manager S&ME
134 Suber Road
Columbia, SC 29210**

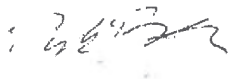
Re: Geophysical Evaluation for Unmarked Graves

Dear Ms. Nagle,

Reed Tech is pleased to submit this report of a geophysical evaluation of two areas of the Rivoli Plantation property near La France, in Anderson County, South Carolina completed on 8/6/24. Archived first-hand accounts suggest human burials may exist behind an old barn on the property. Using electromagnetic profiling and ground penetrating radar geophysical methods, the area behind the barn was evaluated. Another small area nearby has stones and other man-made features. For these reasons, this area was also evaluated. The study resulted in no evidence of unmarked graves. The following report reviews the methods and results of the geophysical evaluation.

Please do not hesitate to call if you have any questions concerning this report. We appreciate the opportunity to have collaborated with you on this project.

Sincerely,



**Duke Brantley, PhD, PG
President
Reed Tech Utility and Geophysical Locating**

Background

The evaluation site is located on the old Rivoli Plantation near La France in Anderson County, SC. The evaluation areas were primarily hardwood forest with patches of understory and briars. Kimberly Nagle of S&ME contacted Reed Tech Utility and Geophysical Locating to assist in identifying unmarked graves in these areas. A geophysical evaluation was conducted on 8/6/24 by Duke Brantley of Reed Tech Utility and Geophysical. Archeology field director Paul Connell was onsite for S&ME. The area has topography and erosion terraces are present. It is unknown if this is the original land elevation or if the elevation has been changed over time due to natural erosion or to previous land altering activity such as terracing. Figure 1 is a site location map showing the approximate locations of the evaluation areas.



Figure 1: Site location map. The yellow polygons identify the approximate locations of the geophysical evaluations in Anderson County, SC for potential unmarked graves (Google Earth Pro).

Technical Approach

Reed Tech completed the geophysical evaluations on August 6th, 2024, utilizing two geophysical methods to investigate the site:

Multifrequency Electromagnetic Profile Evaluation

A high-resolution electromagnetic profile (EMP) evaluation was completed using a GSSI EMP-400 multifrequency electromagnetic profiler. Two separate surveys were conducted both using three frequencies (10,000 Hz, 13,000 Hz, and 16,000 Hz) but different grids and orientation. The EMP data was collected on a hand-held Trimble Recon data logger that communicated with the EMP-400 unit via Bluetooth. The Trimble Recon has a GPS unit which is augmented by the Wide Area Augmentation System (WAAS) and is capable of high accuracy and real-time location data. The profiler was carried by hand approximately six inches above ground. The EMP method is useful at evaluating the shallow subsurface for both metallic and non-metallic conductive materials such as variations in soil conductivity which may be related to the presence/absence of graves.

Ground Penetrating Radar Evaluation

Reed Tech completed a detailed ground penetrating radar (GPR) evaluation over the site where accessible. Reed Tech utilized a Mala HDR radar unit outfitted with a 450 MHz antenna. Due to the near surface nature (< 6 feet) of typical graves, the 450 MHz antenna provides the optimum compromise between resolution and depth of penetration necessary to detect unmarked graves.

Results

The EMP and GPR data were analyzed and interpreted in the field and further analyzed in the office. None of the data display characteristics associated with graves.

Multifrequency Electromagnetic Profile Results

Reed Tech completed an EMP evaluation with parallel profiles around the entire property in two orientations. Once adequate survey coverage was achieved, the EMP field data were post-processed to produce a .dat file. These data were then processed using an inversion program to calculate the apparent conductivity and in-phase values for each EMP frequency collected (10,000 Hz, 13,000 Hz, and 16,000 Hz). The theme through most of the electromagnetic survey methods is that lower frequencies = deeper penetration at the cost of a coarser resolution (targets need to be larger to

“resolve”). All acquired frequencies were processed and interpreted. Typically, the in-phase data (sometimes referred to as the metal detection mode) is more representative of buried metallic materials whereas the apparent conductivity (sometimes referred to as quadrature data) is more representative of non-metallic conductive variations in the subsurface. By evaluating both the in-phase and apparent conductivity response, the horizontal extents of the conductive and non-metallic subsurface anomalies can be characterized. Anomalies such as graves can often be identified by the contrast of the disturbed soils versus the surrounding undisturbed soils. No anomalies characteristic of graves were present in the two study areas for this project.

Ground Penetrating Radar Results

The GPR evaluation for unmarked graves was completed in two perpendicular X, Y, grids. Survey transects were spaced approximately two feet apart throughout the entire site where access allowed with existing vegetation/debris. No anomalies characteristic of graves were present in the two study areas for this project.

Conclusions

- Reed Tech completed a detailed electromagnetic profile (EMP) and ground penetrating radar (GPR) evaluation of the accessible evaluation areas.
- EMP data – no anomalies characteristic of graves were present.
- GPR data - no anomalies characteristic of graves were present.

Limitations

The detection of subsurface objects is dependent upon parameters that include size, physical composition, depth of burial, and soil conditions. The combination of these parameters may produce a response that is below the detection threshold for a given geophysical method. Electromagnetic geophysical methods, including EMP and GPR, have inherent limitations due to site and/or ground conditions. It should be noted that geologically, the evaluation area is characterized by topography and terracing. It is unknown if natural or man-made processes have taken away or added material to the study areas. Reed Tech Utility and Geophysical Locating is not an archeological firm, and the work completed by us on this project was strictly geophysical in nature.



WHEN IT'S WORTH FIGHTING FOR

December 9, 2024

JAMES G. CARPENTER
james.carpenter@carpenterlawfirm.net
SERVING S.C. AND N.C.

Anderson County Planning Commission
Post Office Box 8002
Anderson, SC 29622

Re: Planning Commission Meeting
Monday, December 16, 2024
Anderson Reserve

Dear Sirs:

I write on behalf of Hubert N. Smith, Jr. and Stanley Hix, who appealed the decision of the Planning Commission to the Circuit Court, Civil Action Number 2024-CP-04-00975. The Circuit Court, the Hon. R. Lawton McIntosh, issued two Orders. In the first, “[T]he Court **reverse[d] the Planning Commission’s approval** of Phases I and II of Anderson Reserve.” Order entered August 30, 2024 (**Exhibit 1**). This body’s prior approval is **no longer valid or effective**. The Court sent the case back to the Planning Commission so the Commission could “establish requirements” to determine whether slave graves were on the property. *Id.*

The Circuit Court ruled:

The Court finds that the Planning Commission’s **failure to consider and require some affirmative action** by the developer to determine **whether slave graves exist** was **arbitrary and capricious**, and the failure of the Planning Commission to do so was **an abuse of discretion**.

Accordingly, **the Court reverses the Planning Commission’s approval** of Phases I and II of Anderson Reserve and remands this matter back to the Commission to consider and **establish requirements** for the developers to establish **whether slave graves exist on the property**. Although the Court cannot require the Commission to do so, it urges the Commission to consider Plaintiff’s offer to pay for the cost of testing and to allow Plaintiffs and their affiliates access to the premises for the purpose of doing so.

Id. (Emphasis added).

On September 9, 2024, the Planning Commission moved the Court to Alter or Amend the Order. The Planning Commission attached to its Motion a **report from S&ME, Inc.**, and argued that the developer had already conducted a search for the graves. The report included a copy of a poem

Graveyard Hill (Exhibit 2), reported to have been written by a resident of Rivoli Plantation, the site of the Anderson Reserve development.

The report from S&ME, Inc., also referred to an affidavit from Mr. Kenneth Eugene Rhodes (**Exhibit 3**), an 80-year-old former resident and owner of the property, who reported that his father had showed him graves of enslaved persons, and stated that, “some were located on the hill and behind the barn. There were some graves near where a spring started and on a short branch not too far from the roads.” (Appellants earlier presented this affidavit to the Planning Commission.)

The report from S&ME, Inc. was dated August 23, 2024, a week before the Order from the Court that reversed the decision from the Planning Commission, August 30, 2024. Nevertheless, the S&ME report recommended **changes** to the plan for Anderson Reserve:

[I]t is the opinion of S&ME, that the area marked in Figure 19, the landform **behind the barn**, was where the **burials were located**. This area should be **fenced and avoided** during ground disturbing and construction activities.”

Id., (emphasis added). Accordingly, even **the developer’s evidence requires changes** to the plans that the Planning Commission had earlier approved. As shown below, **additional significant changes** need to be made.

On November 20, 2024, the Court issued a second Order that **denied** the Planning Commission’s Motion to Alter or Amend (**Exhibit 4**). The Circuit Court ruled:

[t]he Court determined that the best course of action would be to remand this matter to the Anderson County Planning Commission, with the suggestion that the Planning Commission should **require adequate testing** to determine whether graves of enslaved persons are on the premises. This suggestion includes determining the following:

1. whether the developer actually tested for graves of enslaved persons
2. whether the process used would yield the best results
3. whether the area tested was sufficient and
4. whether Appellant and its representative should be allowed onto the premises to conduct testing.

CONCLUSION

The Planning Commission’s Motion to Alter or Amend is **DENIED**. This matter is **REMANDED** to the Planning Commission. Developer’s Motion to Intervene should be determined on remand.

SO ORDERED.

Id. (emphasis added).

In summary, the Court **reversed** the Planning Commission's **approval** of Phases I and II, and then it denied the Planning Commission's Motion to Alter or Amend, ordering affirmative action to effectively determine the existence of slave graves.

The Court assigned the Planning Commission the **four questions** above. This letter will suggest **answers** to those four questions.

1. The developer did not actually test for graves of enslaved persons.

Although the developer contends that he tested for the graves of enslaved persons, the developer did not use a professional who was trained to test for such graves. Instead, he used an entity that primarily tests for the presence of utilities and wires and does not test for graves.

Robert P. Larson III, Archaeologist, State Historic Preservation Office, visited the Anderson Reserve development and submitted a letter to the Court dated October 25, 2024 (**Exhibit 5**). Larson questions why the developer hired Reed Tech to do the ground penetrating radar. They are a utility and geophysical company. They specialize in buried utilities such as gas lines, internet cables, and storage tanks. They do not find ancient burial grounds.

In his letter to the Court, Larson said the developer's report was **not**:

a **compliant survey** under the *South Carolina Standards and Guidelines for Archaeological Investigations*, . . . the state archaeological standards for South Carolina. Likewise, our office **does not find Reed Tech** Utility and Geophysical Locating **to meet the Secretary of Interior's Professional Qualifications Standards** (36 CFR 61 and Federal Register 48:44738-44739) to be certified as a professional archaeological firm. **Nor**, have either S&ME or Reed Tech Utility and Geophysical Locating demonstrated **additional geophysical training**, such as the remote sensing course offered by the National Park Service's National Center for Preservation Technology and Training (NCPTT), which would convey the **necessary expertise** to identify unmarked burials through a Ground Penetrating Radar (GPR) survey.

Id. (emphasis added).

Because the developer did **not** use a qualified and properly trained contractor, or relevant methods, he **did not actually test** for the presence of enslaved burial grounds.

2. The developer used a process that did not yield the best results.

As noted above, because the entity conducting the survey did not have the proper qualifications and experience, the process used did **not** yield the best results.

3. The area tested by the developer was insufficient.

The developer tested only a small area in the eastern end of the plantation and failed to test all the areas listed in the affidavit of Kenneth Eugene Rhodes, including “the hill.” Second, the developer and its agents did not purport to find “Graveyard Hill,” as referenced in the poem by that name, which is likely in the western end of the plantation. The plantation consists of approximately 180 acres. Third, the process used did not survey the entire tract to see if enslaved burials were present within the development’s entire tract, as suggested by Mr. Larson. Mr. Larson added, “[H]ad a Phase I archaeological survey of the entire development tract been conducted, and shared with the public, it might have provided necessary supplemental data to determine if enslaved burials are present within the development tract.” Because of these deficiencies, the area tested was insufficient.

4. The appellants and their representatives should be allowed on the property to conduct additional testing.

Initially, the Court allowed the appellants and their representatives 10 days to enter the property to conduct testing for the presence of enslaved burials. The appellant and his representatives entered the property and conducted preliminary examinations and tests. However, the developer issued a “no trespassing” notice to the appellants. Nevertheless, the appellants were able to conduct preliminary examination and testing of the site.

These preliminary examinations and tests showed that in addition to the area suggested by the developer as enslaved burial grounds, there were two additional sites that indicated the possible presence of enslaved burials. As shown below, one of these sites is probably the “Graveyard Hill” referenced in the poem of that name. Appellants have performed preliminary testing on the site. Appellants should be allowed to finish their investigation.

In addition to hiring Mr. Larson, the appellants hired Preservation South to complete a ground penetrating radar survey at multiple sites on Rivoli Plantation (Exhibit 6). They climbed a hill on the western end of the property, which might be the Graveyard Hill reference in the poem. Preservation South reported that:

1. The hill is unusually circular and has a dome shape
2. At the top of the hill, they located multiple field stones in upright positions, which are in keeping with the burial practices of enslaved African Americans in the Upstate of South Carolina in the first half of the 19th century
3. Many of the head stones were paired with another stone that served as foot stones, similar to burial sites for enslaved persons
4. The stones were aligned east to west in keeping with the Judeo-Christian traditions of the plantation owners
5. The hill had not been terraced in the early 20th century, as many other hills on the property had been

Preservation South conducted multiple scans across the site on a north-south orientation, and over multiple linear depressions that had the same east-west alignment. The Preservation South scans revealed anomalies in the soil that are consistent with burials and that align with the data collected at multiple other sites in the Upstate from the same historical era.

Preservation South recommends that:

1. The site be cleared of the underbrush
2. A full scan of the hill be conducted to allow the burials to be documented
3. A perimeter around the cemetery be set up to protect it
4. Fencing be built to protect it from vandalism and
5. Warning signs be posted referencing South Carolina law prohibiting desecration a burial ground and making it a criminal offense.

Furthermore, Preservation South reported that the hill itself is an anomaly, in that it is almost a circular, dome-shaped hill in a floodplain, and it does not appear to be natural. Native American cultures in the area built many such mounds, one of which was excavated by John C. Calhoun's overseer in the first half of the 19th century a few miles away. Preservation South recommends that qualified experts in the archaeological field evaluate the hill to see if it is of additional Native American significance. It is a felony to desecrate a Native American burial ground. S.C. Code Ann. § 16-17-600.

Appellants also hired New South Associates, Archaeologists and Historians, to make an archaeological site visit. Dr. Hugh B. Matternes, RPA, served as the senior mortuary archaeologist and principal investigator (**Exhibit 7**). New South Associates:

1. Looked for a number of indicators of burial sites
2. Flagged indicators of a burial site with pin flags
3. Assigned preliminary inventory numbers
4. Digitally logged the sites using Juniper Systems Geode GNSS Device
5. Conducted spot probing using a ceramic steel probe
6. Identified 16 potential burial sites in what they called Area 1 and
7. Identified 17 potential burial sites in what they called Area 2

In **Area 1**, New South Associates:

1. Identified the presence of a number of Eastern cedar trees, which are associated with cemeteries in the American South, and are an indicator of burial grounds
2. Observed a number of field stones in the area composed of unmodified quartzite and other minerals commonly used for grave markers
3. Observed that these field stones in Area 1 tended to be blocky and within sizes consistent with fieldstone grave markers, and
4. Identified paired stones, potentially representing head and foot stones

In Area 2, at the summit of a hill in the northwest, New South Associates:

1. Confirmed that less compacted soils were present and detectable at the hilltop by spot probing
2. Found the concentration of 17 potential gravesites identified by the presence of fieldstone markers, linear depressions, or a combination of linear depressions and probable markers
3. Found paired head and foot stones
4. Found tabular field stones, imitating more formal tablet grave markers
5. Found vertical stones that appeared to have sunk into the ground
6. Found highly weathered stones
7. Found consistency with many historic, burial areas in rural settings
8. Note the higher elevation to maximize the use of arable farmland and metaphorically, to raise the deceased closer to God

New South Associates recommends:

1. Further study and further probing of these areas
2. A 30-foot wide grave-free buffer around the cemetery to ensure that any unmarked grave sites are adequately protected

Under South Carolina law, “Counties and municipalities are authorized to **preserve and protect** any cemetery located within its jurisdiction which the county or municipality determines has been abandoned or is not being maintained.” S.C. Code Ann. § 6-1-35(A) (emphasis added). Furthermore,

As used in this section, the term “preserve and protect” means to keep safe from destruction, peril, or other adversity and may include the placement of **signs, markers, fencing**, or other appropriate features so as to identify the site as a cemetery and so as to aid in the preservation and protection of the abandoned cemetery.

S.C. Code Ann. § 6-1-35(B) (emphasis added).

The Anderson Reserve subdivision has been denominated a **conservation subdivision** under the Anderson County Ordinances, Chapter 24, Rules for Land Use. One of the “specific objectives” of a conservation subdivision is to “preserve and maintain historic sites and structures that serve as significant visible reminders of the county’s social, archaeological, and architectural history.” Anderson County Ordinances, Sec. 24-401 (7). Appellants respectfully suggest that these “significant visible reminders” include the Rivoli Plantation burial grounds for enslaved people, and the Native American Mound, if it is found to be such by archeologists.

Summary and Conclusion

In addition to the probable burial grounds the developer recently found, Appellants have discovered two additional sites of probable graves of enslaved persons. One is probably the Graveyard Hill, of the poem by that name. Graveyard Hill is in the area known as Phase 1 of the development. On the hill, Appellants found:

1. evidence of **15 to 20 graves**, as indicated by standing headstones and foot stones
2. the east-west alignment of probable graves
3. indentations in the ground and
4. evidence of ground disturbances in the form of shallow graves, as indicated by Ground Penetrating Radar (GPR), as operated by approved and certified operators, trained in finding of enslaved burial sites.

Appellants believe that **additional graves are probably present** on Graveyard Hill and the other sites. However, Appellants were limited in their ability to get full information by the 10-day limitation, and by the “no trespassing” notice issued by the developer.

Area 1 and Area 2, as denominated by New South Associates, are both in the Phase 1 section of the development. Had it not been for the appellants’ appeal and investigation, the **developer would have already destroyed and obliterated these graves.**

The Court **rejected** the developer’s proposal and **reversed** the decision of the Planning Commission. Accordingly, the developer must restart the approval process. The developer must create a **new plan** that **protects** the graves in all the three probable locations. These protected areas require the developers to provide modified plans, drawings, and schematics for roads, utilities, etc. to protect the newly discovered graves.

Based on the results of appellants’ preliminary investigation, the Planning Commission should grant the Appellants additional access to the property to conduct full investigations of the areas to determine the presence of probable graves of enslaved persons, and to investigate whether the dome-shaped hill has significance as Native American created mound.

Respectfully submitted,



James G Carpenter
Attorney for the appellants
Hubert N. Smith, Jr. and Stanley Hix

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ANDERSON	)	
Hubert N. Smith, Jr. and Stanley Hix,	)	IN THE 10 TH CIRCUIT
Plaintiffs,	)	CASE NO: 2024-CP-04-00975
	)	
v.	)	
Anderson County Planning Commission	)	Order
Defendant.	)	

Plaintiffs appeal Anderson County Planning Commission's preliminary approval of Phase I & II of Anderson Reserve. Plaintiffs assert the following causes of action:

- 1) Failure to comply with the statute related to burial grounds,
- 2) Violation of the Freedom of Information Act,
- 3) Violation of the Freedom of Information Act (public meeting/published agenda),
- 4) Commissioner's conflict of interest,
- 5) Violation of Anderson County ordinance, &
- 6) Failure to fulfill the duty to vote

DISCUSSION

"By statute, the trial court must uphold a decision by the Planning Commission unless there is no evidence to support it." . . . "In reviewing questions presented on appeal, the court must determine only whether the decision of the board is correct as a matter of law." . . . "A court will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with that decision." . . . A . . . board's decision will be overturned if it is "arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion."

Furr v. Horry County Zoning Bd. of Appeals, 411 S.C. 178, 183-84, 767 S.E.2d. 221, 224 (Ct.App.2014) (*citations omitted*).

The Planning Commission staff presented to the developer what is characterized as an "anecdotal comment" regarding the existence of graves and/or gravesites on the subject property.

[Anderson County Planning Commission Meeting Transcript, April 19, 2024, p.15]. There is no evidence in the record that the Planning Commission required anything of the developer to confirm whether the information was true.

Plaintiff Stanley Hix presented evidence by way of affidavit from a previous owner of the property that he was shown by his father the existence of slave graves in particular areas of the subject property.

The Planning Commission again required nothing of the developer to answer whether slave graves are present on the property. Upon being questioned by the Court, Plaintiffs agreed to bear the cost of testing to determine if grave sites exist.

The issue of the existence of slave graves and their destruction is an important issue that should not be effectively discounted and not considered by planning commissions. In this case, when presented with evidence of the possible existence of slave graves, the Anderson County Planning Commission required nothing from the developer to determine whether the graves exist.

The Court finds that the Planning Commission's failure to consider and require some affirmative action by the developer to determine whether slave graves exist was arbitrary and capricious, and the failure of the Planning Commission to do so was an abuse of discretion.

Accordingly, the Court reverses the Planning Commission's approval of Phases I & II of Anderson Reserve and remands this matter back to the Commission to consider and establish requirements for the developers to establish whether slave graves exist on the property. Although the Court cannot require the Commission to do so, it urges the Commission to consider Plaintiff's offer to pay for the cost of testing and to allow Plaintiffs and their affiliates access to the premises for the purposes of doing so.

Plaintiff's first cause of action is held in abeyance.

Plaintiff's causes of action 2-6 are denied. Plaintiff's cause of action number two (2) is denied as the meeting was properly noticed. Cause of action number three (3) is denied as the transcripts reflect public discussion and vote. Cause of action number four (4) is denied as the Commissioner in question is not an employee of AnMed. Cause of action number five (5) is denied as no violation was proven, and cause of action number six (6) is denied, as the same was not established.

Plaintiff's counsel is to prepare a formal order.

SO ORDERED.

Lawton McIntosh, Circuit Judge

August ____, 2024



Anderson Common Pleas

Case Caption: Hubert N Smith Jr. , plaintiff, et al VS Anderson County Planning Commission
Case Number: 2024CP0400975
Type: Order/Other

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2024-08-30 12:43:29 page 4 of 4

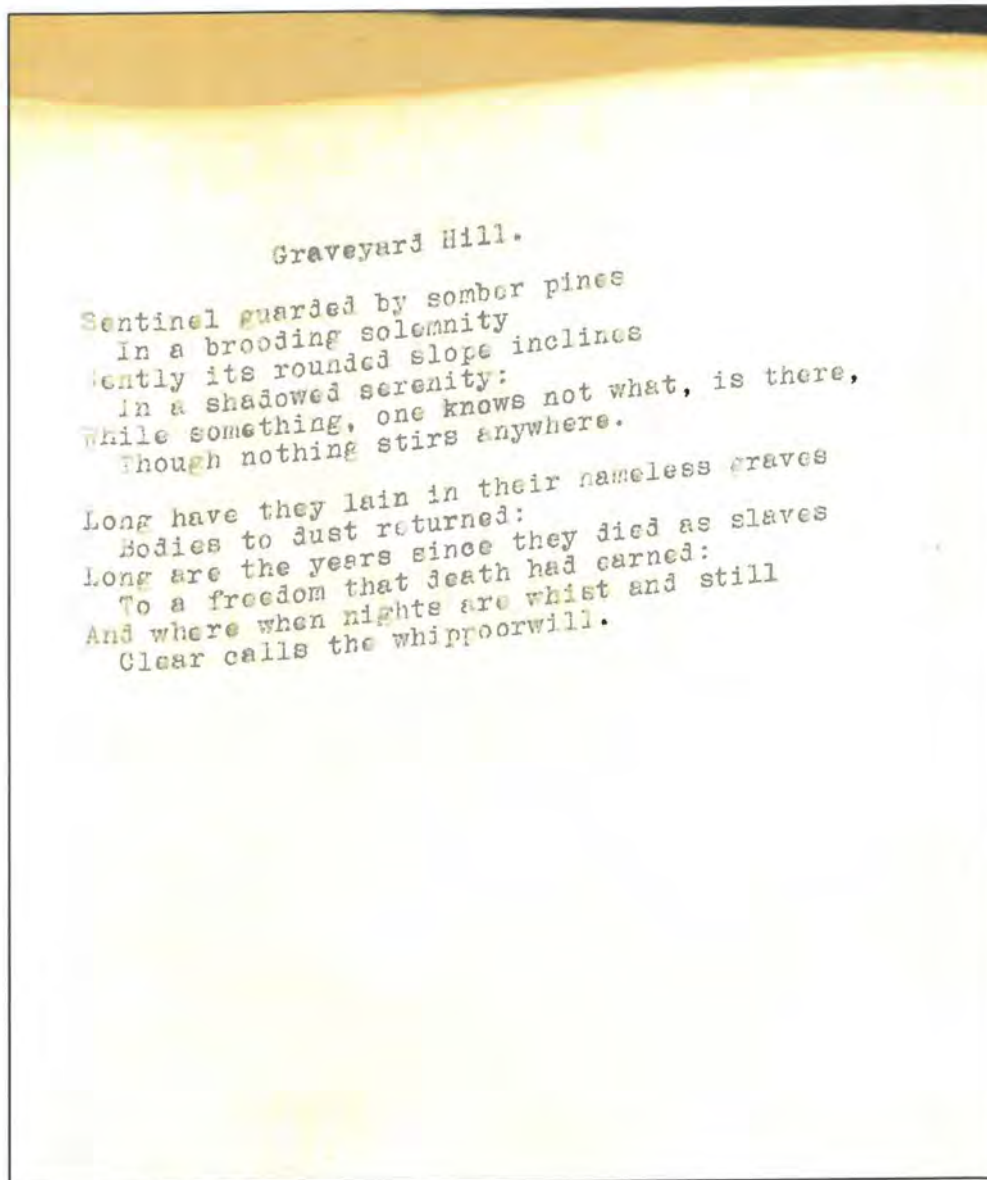


Figure 5. Graveyard Hill poem.

AFFIDAVIT OF KENNETH EUGENE RHODES

PERSONALLY CAME BEFORE ME the Affiant, Kenneth Eugene Rhodes who, after being duly sworn, did state and/or affirm as follows:

1. I am over the age of eighteen (18) years, am of sound mind, am not under the influence of any substance that is likely to impair my ability to give testimony, and am competent to offer this statement.
2. I currently reside at 6916 Hwy 187, Anderson, South Carolina 29625
3. In or about the late 1930's, my father, John Lee Rhodes, who was a deputy police officer in Anderson County, acquired property, including the property west of highway 187, adjoining Fant's Grove Circle, then known as the Rivoli Plantation (the "Property").
4. I was around ten years old when the Property was acquired and lived there with my father, mother, and some of my siblings.
5. The portion of the Property currently owned by AnMed was in my family until 1982, when it was sold to Motorola, Inc.
6. When my father bought the Property in the late 1930's, there were black men who worked on the Property who were descendants of the slaves
7. At the time, the Property had a plantation home called Rivoli and a barn on the top of a hill on the Property.
8. We had cattle and cotton on the Property.
9. There were three wooden buildings near the barn and some pecan trees.
10. My father told me slaves had lived in the buildings.
11. In the 1940s my father also told me there were slave graves on the Property.

12. When I walked the Property, I could see an area where the ground had sunken.
13. When I asked my father what it was, he told me slaves were buried in shallow graves.
14. I don't know exactly where all the graves are.
15. Some were located on the hill and behind the barn.
16. There were some graves near where a spring started and on a short branch not too far from the roads.
17. I affirm, under the pains and penalties of perjury, that the foregoing statements of fact are true to the best of my knowledge, information and belief.

FURTHER THE AFFIDAVIT SAYETH NAUGHT.

Kenneth E Rhodes

Kenneth Eugene Rhodes

SIGNED AND SUBSCRIBED BEFORE ME

Lisa M. Burdette
Signature of Notary

Lisa M. Burdette
Printed Name

Notary Public for the State of South Carolina
This 9th day of April, 2024.

My Commission Expires:

April 30, 2031

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

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

v.

Anderson County Planning Commission,
Defendant.

IN THE COURT OF COMMON PLEAS

IN THE 10TH CIRCUIT

CASE NO: 2024-CP-04-00975

Order

This matter came before the Court on August 21, 2024, on Plaintiffs' appeal from the Anderson County Planning Commission.

Generally, the Court's authority on these appeals is limited. "By statute, the trial court must uphold a decision by the Planning Commission unless there is no evidence to support it." *Town of Hollywood v. Floyd*, 403 S.C. 466, 476, 744 S.E.2d 161, 166 (2013).

"In reviewing questions presented on appeal, the court must determine only whether the decision of the board is correct as a matter of law." . . . "A court will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with that decision." . . . A . . . board's decision will be overturned if it is "arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion."

Furr v. Horry County Zoning Bd. of Appeals, 411 S.C. 178, 183-84, 767 S.E.2d. 221, 224 (Ct.App.2014) (citations omitted).

However, this case involved claims that the subject development could encroach on graves of enslaved persons, possibly existing on the subject property, as it is the site of a former plantation. That site's former owner's son filed an affidavit, stating *inter alia*, that his father had shown him places on the premises where graves of enslaved persons allegedly were located.

Because of the importance of this issue, the undersigned found it important to determine whether graves of enslaved persons were on the property. The Court found that the Planning Commission's failure to consider whether graves of enslaved persons exist, and failure to require

some affirmative action by the developer to determine whether graves of enslaved persons exist, was arbitrary and capricious, and the failure was an abuse of discretion.

The Court issued an Order on August 30, 2024.

September 9, 2024, the Planning Commission filed a Motion to Alter or Amend the Court's decision and included documents indicating that the developer had conducted testing for the presence of graves of enslaved persons. Appellant's representative asserts that the developer's process would not effectively demonstrate the presence of graves of enslaved persons.

Accordingly, this Court granted the Appellant and his archeological expert access to the property to search for graves of enslaved persons. The Court gave Appellant a short window of time to do so. Appellant agreed to pay the costs of the investigation. At this time, the developer did not object to Appellant's representatives coming onto the premises.

Just before Appellant's planned entry onto the premises, the developer's counsel told the Appellants that the developer had issued a "no trespassing" notice to the Appellants as to the property, and the developer indicated that if Appellants or their representatives entered the premises, they would be arrested.

Accordingly, upon the developer's pronouncement of the "no trespassing" notice, the Court determined that the best course of action would be to remand this matter to the Anderson County Planning Commission, with the suggestion that the Planning Commission should require adequate testing to determine whether graves of enslaved persons are on the premises. This suggestion includes determining the following:

1. whether the developer actually tested for graves of enslaved persons,
2. whether the process used would yield the best results,
3. whether the area tested was sufficient, and

4. whether Appellant and its representative should be allowed onto the premises to conduct testing.

CONCLUSION

The Planning Commission's Motion to Alter or Amend is **DENIED**.

This matter is **REMANDED** to the Planning Commission.

Developer's Motion to Intervene should be determined on remand.

SO ORDERED.

R. Lawton McIntosh,
Circuit Judge Presiding

November ____, 2024



Anderson Common Pleas

Case Caption: Hubert N Smith Jr. , plaintiff, et al VS Anderson County Planning Commission
Case Number: 2024CP0400975
Type: Order/Other

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2024-11-20 12:41:39 page 4 of 4



October 25, 2024

The Honorable R. Lawton McIntosh
Anderson County Circuit Court Judge
P.O. Box 8002
Anderson, SC 29662
lmcintoshsc@sccourts.org

Re: Anderson Reserve Development & Rivoli Plantation; Concerns over Enslaved Burials
Pendleton, Anderson County, South Carolina

Dear R. Lawton McIntosh:

This letter serves to inform you, that per your directive, which was provided to our office in a letter from the Carpenter Law Firm, P.C. on October 18th, 2024, I visited the Anderson Reserve Development on the morning of Wednesday, October 23rd, 2024 with Mr. Stanley Hix to analyze the two hills referenced in the *Cultural Resources Literature Review, Site Visit, Geophysical Survey, Anderson Reserve, Anderson County, South Carolina*, conducted by S&ME, Inc., dated August 23rd, 2024. Ultimately, our visit was inconclusive to determine if enslaved burials are present or not present within the aforementioned two hills or development tract.

Our office would not find the *Cultural Resources Literature Review, Site Visit, Geophysical Survey, Anderson Reserve, Anderson County, South Carolina*, a compliant survey under the *South Carolina Standards and Guidelines for Archaeological Investigations* ([https://scdah.sc.gov/sites/scdah/files/Documents/Historic%20Preservation%20\(SHPO\)/Publications/Standards_Guidelines2005-13.pdf](https://scdah.sc.gov/sites/scdah/files/Documents/Historic%20Preservation%20(SHPO)/Publications/Standards_Guidelines2005-13.pdf)), the state archaeological standards for South Carolina. Likewise, our office does not find Reed Tech Utility and Geophysical Locating to meet the Secretary of Interior's Professional Qualifications Standards (36 CFR 61 and Federal Register 48:44738-44739) to be certified as a professional archaeological firm. Nor, have either S&ME or Reed Tech Utility and Geophysical Locating demonstrated additional geophysical training, such as the remote sensing course offered by the National Park Service's National Center for Preservation Technology and Training (NCPTT), which would convey the necessary expertise to identify unmarked burials through a Ground Penetrating Radar (GPR) survey. Recent GPR surveys demonstrating sufficient methodologies to identify unmarked burials can be found in *A Ground Penetrating Radar Survey of Site 38CH1549, The Historic Ryan Cemetery, Johns Island, Charleston County, South Carolina* (Bailey & Cyr, 2024) & Appendix A: *Ground-Penetrating Radar Survey to Prospect for Unmarked Graves at the Midway Presbyterian Church Cemetery within the Phase I Cultural Resources Survey for the Proposed Improvements to the Midway Road, Crestview Road and Harriett Circle Intersection, Anderson County, South Carolina* (Pope, 2024). If necessary, our office can furnish copies of the aforementioned example reports.

While not asked directly, our office notes had a Phase I archaeological survey of the entire development tract been conducted, and shared with the public, it might have provided necessary supplemental data to determine if enslaved burials are present within the developmental tract. This letter has been for preliminary, informational purposes only and does not constitute consultation or agency coordination with our Office as defined in 36 CFR 800: "Protection of Historic Properties" or by any state regulatory process. As this project does not constitute an official undertaking for our office, this letter concludes our office's involvement. Consultation with the SHPO is not a substitution for consultation with Tribal Historic Preservation Offices, other Native American tribes including those with state recognition, local governments, or the public.

If you have any questions, please contact me at (803) 896-6181 or RLarsen@scdah.sc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "RPL III", written in a cursive style.

Robert P. Larsen III, MSc, RPA
Archaeologist
State Historic Preservation Office

Rivoli Plantation Cemetery Survey

Background:

Preservation South was contacted to conduct a ground penetrating radar survey of sites associated with the former Rivolli Plantation in Anderson County, South Carolina. Rivolli was established in the 19th century and owned by the Adger family who were prominent members of South Carolina society and owned multiple plantations across the state. The plantation was worked by enslaved African Americans who in many cases were born, lived and died on the same property. Due to the rural nature of the property and the lack of designated churches for the enslaved most plantations would have at least one cemetery for enslaved workers. Sometimes these would be adjacent to the family cemetery or in some cases they may be subdivided in a caste system between house and field slaves.



Figure 1: Portion of an 1897 map showing the site of Rivoli Plantation.

The remaining property is being subdivided for development of a subdivision and local citizens raised concerns about the existence of an unmarked cemetery on the property that could be destroyed by the grading activity. They had compiled a poem written about cemetery hill on the property as well as oral history accounts of the cemetery's existence. They had also walked the site looking for signs of the cemetery and had identified a few areas of interest.

Scope and Methodology:

Due to dense tree cover and access limitations a wide spread survey of the site was neither practical nor physically possible. Therefore, the survey would be limited to smaller areas with a higher likelihood of potential burials. When evaluating locations to be scanned the site was first evaluated to see if there were physical features that aligned with 19th century burial practices. During this time cemeteries were frequently established on high ground or hill tops. The topographical map of the site clearly shows the elevation changes between the creek bottom to the northwest and the higher ground to the south and east. The springheads and their associated creeks are also clearly visible in the center of the property, and it is unlikely that those gullies would have been used for burials. The largest high ground location is where the house and its associated support structures were once located so this area was unlikely to hold any burials. Survey of the historic USGS aerials for the site also indicates that much of the area was heavily terraced during the first half of the twentieth century. Terracing was a popular method of erosion control during this period where slopes were cut and filled to create step like terraces that were less likely to erode than a natural slope. This method is also highly destructive and any burials in those terraces would almost certainly have any surface stones or features removed or destroyed in the process. This further narrowed down the overall site to one hill at the west end of the property adjacent to the creek bottom. This hill aligned with the description of the cemetery hill in the poem, it was largely untouched by the terracing, and retained its tree cover during periods when the majority of the site had been converted into open fields. This meant that this site would have been historically appropriate for 19th century burial practices and appeared to have been largely unaltered throughout the period the site had been occupied and farmed. Based on this the determination was made to focus the survey on this site initially and if nothing was found we would expand the search to other locations with potential for burials.

Equipment and readings:

A Ground Penetrating Radar (GPR) survey was completed using a GSSI UtilityScan GPR System with a 350 MHz hyperstacking antenna. The GPR system sends pulses of electromagnetic energy or radar into the earth through a transmitter. The radar waves propagate through the subsurface and are partially reflected back to the receiver when materials with different electromagnetic characteristics (dielectric properties) are encountered below the surface. Soil that is excavated and used to backfill a grave shaft can have different dielectric properties (conductivity) than the surrounding undisturbed soil. Changes in subsurface materials such as disturbed soil in a grave shaft and vaults or intact coffins in a grave can be detected by the GPR system. The GPR system detects these changes and shows them as reflections or anomalies on the radar profiles.

The GPR system operates on a three wheeled cart with a calibrated survey wheel. North-south transects of GPR data are collected across different areas within the cemetery. These transects are located across areas between stones and over any visible depressions. The data processing steps included correcting for time zero, applying an automatic gain control and a background removal to eliminate horizontal banding or ringing in the GPR data. Unmarked graves can be represented as a distinct reflection or hyperbola on the GPR profiles. When these reflections appear at a similar location on adjacent profiles, this is evidence of a potential unmarked burial.

The site:

The hill is oddly circular in form and does not appear natural, especially based on the sharp turn of an adjacent stream to go around it. The appearance of an altered water course could be a result of the terracing work by could also potentially be caused by the construction or expansion of the hill. This area is known to have had a long history of Native American occupation and there have been multiple documented mounds in the region including one excavated by John C. Calhoun's overseer in the 19th century. In addition to the burial of enslaved individuals this hill should be investigated to see if it is a natural formation or a manmade construct.



Figure 2: Hill noted with orange arrow on USGS map, Rivoli tract outlined in red.



Figure 3: 1947 USGS aerial photo, circular hill identified with orange arrows, note intact tree cover and terracing lines in the surrounding fields.

The top of the hill was initially visually surveyed to see if there were any potential signs of human activity either from occupation or burial. Burials of the enslaved were not marked with elaborate or costly stones, the use of field stones picked up from the surrounding landscape to make the head, and sometimes the foot of the grave were the only markers, if they were marked at all. The stones were almost always arranged in an east west orientation which was in-keeping with the Judeo-Christian beliefs of their enslavers. The visual survey revealed multiple locations where field stones were sticking up out of the ground in an un-natural way, frequently in what appeared to be pairs. The pairs were checked for alignment using a compass and were close to an east west alignment. There were also linear depressions observed that also had a similar orientation.



Figure 4: Fieldstones stones marked with white flags.



Figure 5: Paired fieldstones oriented east/west

Given the physical evidence on site, it was determined that scanning the area with the Ground Penetrating Radar unit. The hill has a significant amount of trees and undergrowth as well as downed trees which limit the ability to scan the area fully. Where the site was clear enough to get the unit through 8 transects were run roughly north to south to have the greatest likelihood of intersecting a burial. The scans encountered 14 anomalies consistent with burials on site at depths between 3-5 feet.

Given the age and makeup of the soils in the area it is unlikely that there are significant amounts of intact remains within the burials. In the 19th century there were no sealed vaults or chemical embalming available and enslaved individuals were buried in a shroud or a simple wood coffin. The GPR shows the striation of various soil layers based on the changes in the density of each layer. When a burial is encountered those layers are disrupted because of the burial shaft excavation and

then the backfilling of the shaft. The GPR will typically pick up the bottom of the burial shaft where the radar encounters the harder undisturbed soil, it also can potentially detect the sides of the shaft where the backfill and undisturbed soil intersect.

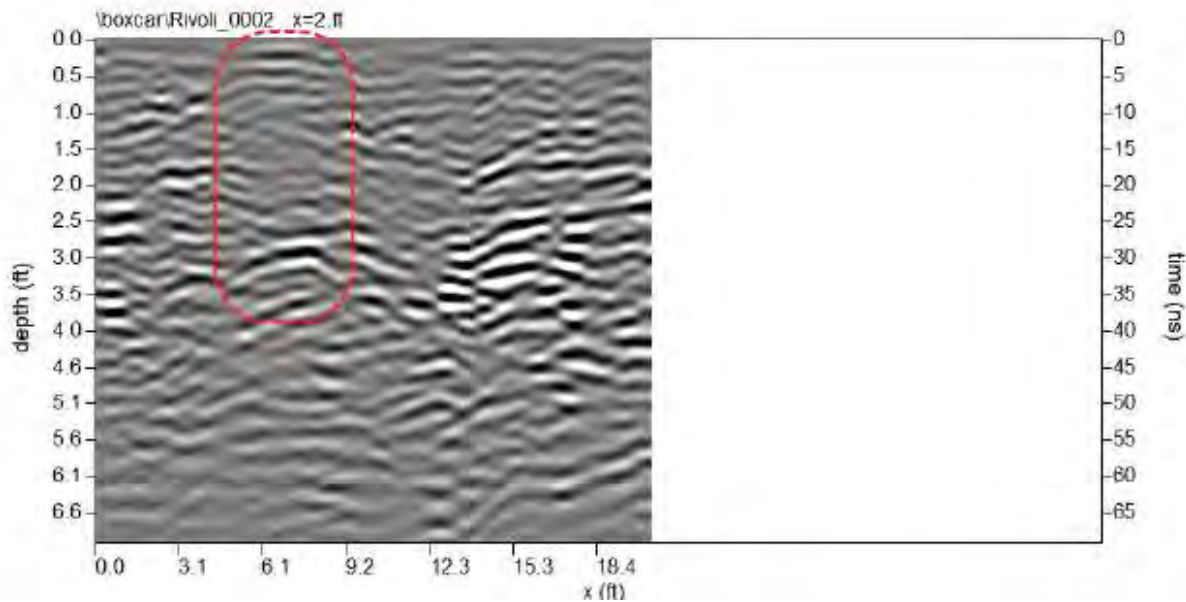


Figure 6: Example of an anomaly shown in red, bold reflection of the bottom of the shaft at the 3 foot depth.

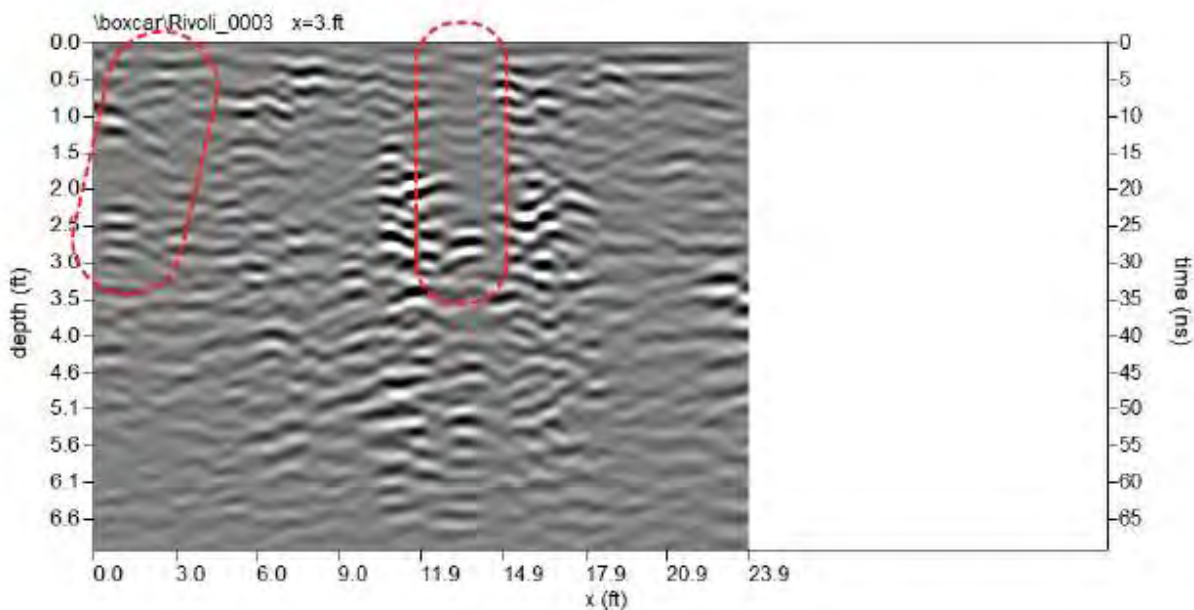


Figure 7: The left anomaly is fainter, while the right anomaly shows the bottom of the shaft at around 2.5 feet and the reflections of the sides of the shaft going down. The shaft appears to be approximately 3 feet across which is expected.



Figure 8: Transect Map overlaid on a Google Earth image of the site.

These burials were found across the open areas at the top of the hill and it is highly probable that there are additional burials in between the ones located in this scan.

Recommendations:

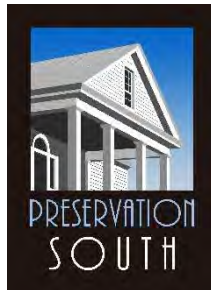
The site is overgrown and difficult to access in its current state with the GPR equipment. Selective clearing of the underbrush should be conducted in order to fully scan the hill. This will allow all of the burials to be documented and a perimeter around the cemetery can then be set to protect it during the construction phase and in the future.

The hill is itself an anomaly that should be protected, as an almost circular dome shaped hill in the flood plain, it does not appear natural. There is documentation of mounds built by native cultures in the area, one example was excavated by John. C. Calhoun's overseer in the first half of the 19th century a few miles away. It would be advisable to have qualified experts in the archeological field evaluate the hill to see if it is of greater importance.

The cemetery should be fenced to protect it from vandalism in the future, especially once development highlights its existence and makes it more accessible. Warning signs of SC Law making desecration a crime should also be posted around the perimeter.

Report Prepared by:

Preservation South, LLC



In consultation with:

Seramur and Associates, PC



October 28, 2024

Mr. Stanley Hix
217 Fants Grove Circle
Anderson, South Carolina 29625
(919) 816-6999

RE: Identification of Potential Cemetery Areas in the Anderson Reserve Tract in Anderson County, South Carolina

Dear Mr. Hix:

New South Associates, Inc. (NSA) conducted a preliminary archaeological site visit at two areas within an approximately 174.15-acre parcel (Parcel No. 420001010) in Anderson County, South Carolina on October 24, 2024 (Figure 1; Anderson County Clerk of Courts 2024). These site visits were completed at the request of the client, Mr. Stanley Hix, to determine whether potential cemeteries were present within a proposed development area referred to by developers, Spano and Associates, Inc., as the Anderson Reserve. This parcel is located on the northwest side of the intersection of Fants Grove Circle and SC 187.

Previous investigations of the property determined that it was formerly part of the Rivoli Plantation (Nagle and Connell 2024). A site visit by S&ME identified structural remains interpreted as part of the plantation and ground penetrating radar (GPR) was utilized on select portions of the property to identify potential gravesites. No gravesites were located. Members of the local community believe that potential burial areas were located on other portions of the property than were GPR surveyed by S&ME. Professional mortuary archaeologists from NSA were asked to examine potential gravesite areas identified by the local community to confirm whether there were surface indications present that worthy of further cemetery investigation. Dr. Hugh B. Matternes, RPA served as the Senior Mortuary Archaeologist and Principal Investigator for this project and Leigha Williams, MA, RPA was the Mortuary Archaeologist. They met with local informants, Stanley and Scott Hix who grew up next to the Anderson Reserve tract and escorted the survey team to the areas of interest.

Methods

Historic graves and cemeteries that developed in rural Southern environments, such as the Anderson Reserve tract, may be less clearly defined than those emerging in more urban areas, making rural-based burial grounds more difficult to detect. The following surface features can indicate the presence of potential burial sites:

GEORGIA
HEADQUARTERS
6150 East Ponce de Leon Ave.
Stone Mountain, GA 30083
770-498-4155
565 North Milledge Ave.
Athens, GA 30601
770-498-4155

SOUTH CAROLINA
1819 Hampton St.
Columbia, SC 29201
803-771-7083

NORTH CAROLINA
1006 Yanceyville St.
Greensboro, NC 27405
336-379-0433

TENNESSEE
1629 Fatherland St.
Nashville, TN 37206
615-262-4326

VIRGINIA
3975 University Dr., Suite 120
Fairfax, VA 22030
703-219-8301

1. Human-sized, cigar-shaped depressions or mounds;
2. Formal stone, metal, concrete, or wooden grave markers;
3. Dressed or undressed fieldstones arranged as headstones and/or footstones;
4. Concentrations of mortuary-associated plants, such as vinca, narcissus (daffodils), cedar, hemlock, crepe myrtle, gardenia, spirea, roses, lilies, and/or irises;
5. Stone, metal, wood, or floral enclosures that restrict the land from use for other (particularly agricultural) purposes;
6. Oval or rectangular concentrations of stone, glass, wood, metal, seashells or plastic containers used to outline a potential grave's dimensions;
7. Low oval or rectangular piles of stones;
8. Maintained areas where vegetation and unwanted debris have been removed; and/or
9. Oval or human-sized color/plant differences in mown areas.

Ground surfaces within the survey area were systematically examined for these surface features. When potential surface features were found, they were marked with pin flags and assigned preliminary inventory numbers. The locations of these markers were digitally logged using a Juniper Systems Geode GNSS Device. Spot probing using a ceramic-steel probe was conducted at both areas to assess underlying soil compaction and help confirm some surface observations. Not all potential gravesites were probed and no systematic probe survey was performed at either area.

Results

Two areas within Parcel No. 420001010 were systematically examined for surface features (listed above) that indicate the presence of potential burials. At the time of the investigation, the survey areas were wooded in adult (about 20-40 feet tall) pine and mixed hardwood trees with a moderate amount of underbrush, and heavy leaf litter covering the ground surface (Figure 2). The investigation resulted in the identification of 16 potential burials in Area 1 and 17 potential burials in Area 2 (Figures 3 and 4).

Area 1

Area 1 is located on a terraced hillside towards the southeastern portion of the survey parcel (Figure 2a). The area contained a number of eastern cedars, a tree commonly associated with cemeteries in the American South (Coco et al. 2023). Terracing and erosion contributed to the loss of most original surface soils and subsoil was encountered near or at the ground surface. While dry conditions were recognized as a contributing factor, spot probing revealed impenetrable soils, commonly associated with subsoil environments, were present at the ground surface. A number of fieldstones were observed across the general area, however the vast majority of these were too large or small to be adequately used as fieldstone markers. One large fieldstone towards the southern end of the examination area exhibited a number of indentations reminiscent of pictographs. Consultation with Dr. Johannes Loubser, a specialist in rock art, confirmed that the observed marks were not anthropogenic rather were the result of natural stone weathering. Among rock art specialists the observed pattern is referred to as 'gator skin weathering' (Loubser 2016).

Potential fieldstone markers composed of unmodified quartzite, feldspars, or igneo-metamorphic stone indicated the presence of potential gravesites. Similar locally derived stone were commonly used for grave markers among southern communities lacking access to more formal markers. Stones observed at Area 1 tended to be blocky and within sizes consistent with fieldstone grave markers. Paired stones, potentially representing head and foot stones were identified. The distribution of these potential gravesites are provided in Figure 3.

Area 2

Area 2 is located on the summit of an unnamed hill northwest of Area 1. The hill was forested and there were no paths leading directly to its summit (Figure 2b). Unlike Area 1, intact surface soil horizons appeared to be present and spot probing was able to confirm that less compacted soils were present and detectable on the hill top. A concentration of 17 potential gravesites, identified by probable fieldstone markers, linear depressions or combinations of probable markers and depressions. Paired potential head and footstones were common. The distribution of these features are provided in Figure 4. Fieldstones at Area 2 tended to be tabular, in imitation of more formal tablet grave markers; these stones were set vertically and most appear to have sunken into the ground surface. All were highly weathered. The location of Area 2 is consistent with many historic period burial areas in rural settings. They tend to occupy non-arable areas on higher ground to maximize use of farmable land and so that the deceased are metaphorically closer to God (Coco et al. 2023).

Recommendations

Both Areas 1 and 2 exhibit surface characteristics consistent with historic period rural cemeteries and further examination is recommended to confirm whether grave sites are present. Area 1 would be considered as a low-moderate possibility of having a cemetery while Area 2 was judged to be a high potential area for a cemetery.

The forested and highly compacted soil conditions in Area 1 limit testing strategies. Without substantial ground clearing GPR could only be used on a limited basis. The highly compacted soils in Area 1 limit a probe's ability to penetrate and provide clear indications of soil compaction differences that would differentiate grave from non-grave conditions. Alternatively, NSA recommends that slot trenches, which could be excavated across select sample of potential gravesites be used to confirm whether graves sites are present. Trenches manually dug approximately 12-18 inches wide across the grave and to a depth of about 12 inches would provide a window where grave shaft stains, if present would be visible. No excavations would impact underlying burial chambers. If grave stains were not encountered in any of the trenched potential gravesites, NSA feels that there would be sufficient evidence to reject Area 1 as a potential cemetery. If sampling revealed evidence of grave stains, delineation of the burial area may be possible after sufficient rainfall has moistened the soil. If gravesites are present, a 30-foot wide grave-free buffer should established around the cemetery to ensure that unmarked gravesites are adequately protected.

Area 2 is also forested and would require substantial clearing before GPR could be implemented. Spot probing, however indicated that soil conditions were currently capable of conveying differences in soil compaction that would indicate the presence of potential gravesites. NSA recommends that probing be conducted to verify the presence of unmarked and poorly potential gravesites and establish a 30-foot wide grave-free buffer around the potential cemetery to ensure that unmarked gravesites are adequately protected.

This letter report provides evidence that two potential, previously unidentified cemeteries may be present within Parcel No. 420001010. If you have any questions regarding these findings or require additional information, please feel free to call Hugh Matternes, Senior Mortuary Archeologist at (770) 498-4155 ext. 114 or by email at mmatternes@newsouthassoc.com. Mortuary archeologist, Leigha Williams may also be contacted at (770) 498-4155 ext. 137 or by email at lwilliams@newsouthassoc.com.

Sincerely,

NEW SOUTH ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'H. B. Matternes', with a stylized, flowing script.

Hugh B. Matternes, PhD, RPA
Senior Mortuary Archeologist

A handwritten signature in black ink, appearing to read 'Leigha Williams', with a long, horizontal flourish extending to the right.

Leigha Williams, MA, RPA
Mortuary Archaeologist

Figures

Figure 1. Project Location

Figure 2. Current Conditions within the Survey Areas

Figure 3. Preliminary Survey Results Map for Area 1

Figure 4. Preliminary Survey Results Map for Area 2

Sources Cited

Anderson County Clerk of Court

2024 Anderson County, South Carolina: Geographic Information Systems.
<https://propertyviewer.andersoncountysc.org/mapsjs/>, accessed October 25, 2024.

Coco, Julie, Mary Beth Reed, Hugh Matternes, and J.W. Joseph

2023 Identification and Evaluation of Georgia's Historic Burial Grounds: Context and Handbook. New South Associates, Inc., Stone Mountain, Georgia.

Loubser, Johannes

2016 Appraisal of Turtle Rock, Harris County, Georgia. Stratum, Unlimited, Johns Creek, Georgia.

Nagle, Kimberly, and Paul Connell

2024 Cultural Resources Literature Review, Site Visit, Geophysical Survey, Anderson Reserve. S&ME, Inc., Columbia S.C.

Figure 1. Project Location



Figure 2. Current Conditions within the Survey Areas

a. Area 1 Looking Northeast



b. Area 2 Looking Southeast



Figure 3. Preliminary Survey Results Map for Area 1

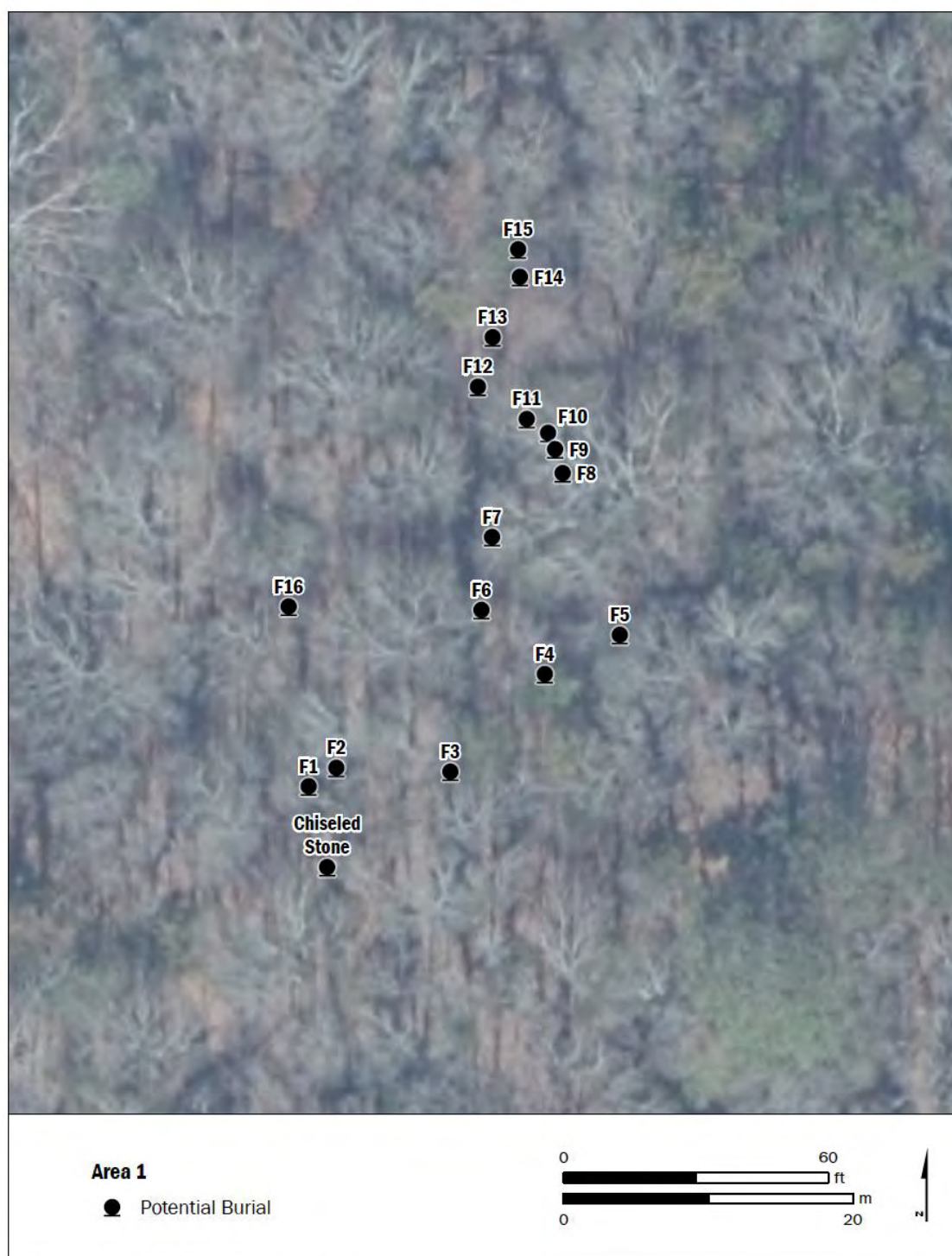


Figure 4. Preliminary Survey Results Map for Area 2



Sec. 24-335. - Review procedure; recommendations; approval.

Prior to making any physical improvements on the potential subdivision site, the subdivider shall create a preliminary plat containing the information required by section 24-336 and submit said plat for approval by the planning commission in the following manner:

- (1) Two copies of the complete preliminary plat shall be turned in to the planning department at least 14 working days, but not greater than 20 days, prior to any planning commission meeting at which the subdivider would like the plat to be discussed. Additional copies of the preliminary plat should be provided to the planning department upon request.
- (2) Prior to review of the preliminary plat by the planning commission, the subdivision administrator shall review the plat.
 - a. Should the subdivision administrator determine that the information provided on the plat is not in conformance with the requirements set forth in section 24-336, the subdivision administrator shall reject the plat. Notice of such rejection, as well as a list of all missing or incorrect information, shall be conveyed to the subdivider in writing and recorded, along with the date of notification to the subdivider, in the minutes of the first planning commission meeting after said notification. The subdivider may then submit a corrected preliminary plat, which shall be considered in the same manner as a newly submitted preliminary plat.
 - b. If the subdivision administrator determines that the information provided on the plat fulfills the requirements of section 24-336, the subdivision administrator shall submit a written recommendation to the planning commission, suggesting either that the planning commission approve the plat or that the planning commission reject the plat and indicating the reasons for said recommendation and place discussion of the plat on the agenda for the next planning commission meeting. The written recommendation of the subdivision administrator shall be recorded in the minutes of said planning commission meeting.
- (3) At the planning commission meeting during which the plat is scheduled to be discussed, the subdivision administrator shall present his recommendation to the planning commission. The planning commission shall then vote to approve or reject the plat during said meeting or at any subsequent meeting within 40 calendar days of said meeting. Should the planning commission fail to vote to approve or disapprove the preliminary plat within this 40-day period, the plat shall be deemed to be approved as submitted.
 - a. If the planning commission votes to reject the plat, it shall make its grounds for such rejection known for the public record, and shall notify the subdivider of such rejection, including the grounds for rejection, in writing. The subdivider may then submit a

corrected preliminary plat, which will be considered in the same manner as a newly submitted preliminary plat.

- b. If the subdivider submits a corrected preliminary plat as provided in subsection a. above and it is rejected by the planning commission, no further preliminary plats may be submitted within the next 90 days.
 - c. If the planning commission votes to approve the preliminary plat, such approval shall be noted and certified by the subdivision administrator. The date of the planning commission's action shall also be recorded on the plat. The subdivider shall be notified of the planning commission's approval within ten working days of the vote to approve the plat.
 - d. In addition to the standards set forth in this article and the recommendations of staff, the planning commission will also take into consideration the following criteria when making its decision to reject or approve a preliminary subdivision plat:
 - 1. Public health, safety, convenience, prosperity, and the general welfare.
 - 2. Balancing the interests of subdividers, homeowners, and the public.
 - 3. The effects of the proposed development on the local tax base.
 - 4. The ability of existing or planned infrastructure and transportation systems to serve the proposed development.
- (4) Within ten days after receiving notice of approval, the subdivider shall provide 15 copies of the approved preliminary plat to the planning staff.
- (5) Approval of the preliminary plat constitutes general approval by the planning commission of the road alignments, dimensions, layout, shape of lots and proposed rights-of-way. However, review and approval by other departments and governmental agencies must also be obtained, including, but not limited to, stormwater permits from county stormwater managements and the Department of Health and Environmental Control (DHEC), which must be obtained prior to beginning land disturbing activity. A list of appropriate review agencies shall be maintained and available at the planning commission office. This list shall be periodically reviewed and updated.

(Code 2000, § 38-311; Ord. No. 03-007, § 1, 4-15-2003; Ord. No. 2018-049, §§ 1, 2, 12-4-2018; Ord. No. 2021-036, § 1, 8-17-2021; Ord. No. 2022-004, § 1, 4-19-2022; Ord. No. 2022-022, § 1, 6-29-2022)

Sec. 24-336. - Preliminary plat.

The preliminary plat shall contain the following information:

- (1) Location of subdivision on a map indicating surrounding areas at an appropriate scale sufficient to locate the subdivision.
- (2) Map of development at a scale of not less than one inch equals 200 feet and not more than one inch equals 50 feet.
- (3) Name of subdivision, name and address of the owner(s), name of engineer or surveyor and the names of the owners of abutting properties.
- (4) A boundary survey of the area to be subdivided, showing bearings measured in degrees, minutes and seconds and distances measured in feet and decimals thereof.
- (5) Present use of land to be subdivided and of the abutting property and/or properties.
- (6) Acreage of land to be subdivided.
- (7) Contour maps of the proposed subdivision, with maximum contour intervals of ten feet or three meters.
- (8) Tax map number of original parcel or parcels prior to subdivision.
- (9) Location of existing and proposed easements with their location, widths and distances.
- (10) Location of existing watercourses, culverts, railroads, roads, bridges, dams, and other similar structures or features.
- (11) Location of utilities and utility easements on and adjacent to the tract, showing proposed connections to existing utility systems.
- (12) Proposed lot lines, lot numbers, lot dimensions and lot acreages.
- (13) North arrow.
- (14) Proposed road names pre-approved by E 911 addressing office for the county.
- (15) Certification by licensed surveyor stating that all lot sizes meet minimum size standards.
- (16) Designation of any areas that fall within any floodplain indicating the high water mark for same.
- (17) For conservation subdivisions: Density table showing the total land area (acres), number of lots total, number of lots per acre, open space (acres and percent of total).
- (18) For conservation subdivisions: Clear delineation of open space on plat.

(Code 2000, § 38-312; Ord. No. 03-007, § 1, 4-15-2003; Ord. No. 2020-035, § 1(Exh. A), 9-7-2021)

- **DIVISION 3. - FINAL PLAT**

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

- **Sec. 24-367. - Final approval required.**

modified

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

(a)

The final subdivision plat shall be prepared and submitted to the planning commission by the subdivider within 12 months after the approval of the preliminary plat. If the final plat is not submitted to the planning commission within that timeframe, preliminary approval shall be null and void unless an extension of time is applied for and granted by the planning commission. Final plat approval may be given for any phase of a subdivision where phased development is clearly indicated on the preliminary plat; provided, however, that once the first phase of any final plat is recorded and 80 percent of the lots in that phase are sold, the subdivider has two years to receive approval and record the final plat for the next phase, using the subdivision regulations as they were approved at the time the preliminary plat for the first phase was recorded. This same timeframe shall hold consistent through the development process, but only for those phases which were shown on the preliminary plat.

(1)

Conservation subdivisions may be done in phases, however all phases must be a part of a conservation design master plan that must be approved at the beginning of the development process.

(b)

Final plats shall be submitted for approval by the planning commission in the following manner:

(1)

Five copies of the final plat shall be turned in to the planning department at least 14 working days, but not greater than 20 days, prior to any commission meeting at which the subdivider would like the plat to be considered.

(2)

Additional copies of the final plat shall be provided to the planning department upon request.

(3)

Any deed restrictions or restrictive covenants then applying to all or a part of the subdivision shall be submitted along with the final plat at the time of submission to the planning department.

(c)

Final plats for conservations subdivisions must also include:

(1)

Open space table, using the same format as on the preliminary plan, and shall include the proportional acreage being recorded.

(2)

Notations indicating the delineated open space, including metes and bounds, are to be shown on the final plat.

(3)

Open space easements:

a.

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 the conservation subdivision.

b.

The easement shall be solely for the purpose of ensuring the land remains undeveloped 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.

c.

The easement shall run with the land, provide for protection in perpetuity, and be granted to an approved owner and recorded with the county register of deeds. The owner shall include a properly organized property-owners association or other third party approved according to the ordinances of the county.

d.

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 conservation subdivision 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, establishment of site-line requirements of the state department of transportation or the administrator, removal of invasive species according to a plan approved by the administrator, or 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 areas except by the owner of the easement or the administrator. If some part of the open space was designated to meet stormwater management requirements, permission must be obtained from the county stormwater division for any alteration of the designated open space. Normal maintenance and the removal of dead or fallen trees are permitted and recommended.

(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.

(d)

At the meeting on which the final plat is scheduled to be discussed, the subdivision administrator shall present his recommendation to the planning commission. The planning commission may then vote to approve or reject the final plat during said meeting or at any subsequent meeting within 40 calendar days of said meeting. Should the planning commission fail to approve or disapprove the final plat within this 40-day period, the plat shall be deemed to be approved as submitted.

(e)

Notwithstanding the foregoing, the planning commission may delegate authority to the subdivision administrator to approve or disapprove final plats.

(f)

All approved final plats must be recorded by the subdivider in the office of the register of deeds within 60 days from the date that approval is granted or said approval shall be void.

(g)

In addition to the provisions of subsection (a), the completion of improvements as shown on a preliminary plat must be completed within 12 months following preliminary plat approval. The subdivision administrator shall have authority to grant two six-month extensions to this requirement upon a finding of exigent circumstances to warrant such extension. If improvements are not completed with the 12 months time frame and any granted extension, preliminary plat approval is revoked and a new preliminary plat approval will be required.

(Code 2000, § 38-331; Ord. No. 03-007, § 1, 4-15-2003; Ord. No. 2003-069, § 1c, 1-20-2004; [Ord. No. 2020-035](#), § 1(Exh. A), 9-7-2021, § 1, 4-20-2021)

- **Sec. 24-368. - Final plat contents and information.**

modified

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

All final plats submitted for approval must contain, in addition to all requirements for preliminary plats, the following information:

(1)

A fully delineated plat of the subdivision accurately plotted to a scale of one inch equals 200 feet or larger and meeting or exceeding the minimum requirements of the state department of labor, licensing and regulation "Minimum Standards Manual for the Practice of Land Surveying in South Carolina."

(2)

Bearings and distances for all lines on the plat, with distance measured in feet and decimals thereof and bearings measured in degrees, minutes and seconds.

(3)

Lot numbers for each lot to be created by the division.

(4)

In the absence of a specific engineering stormwater plan as a minimum, five-foot drainage and utility easements shall be established along all side and interior rear property lines; ten-foot easements established along exterior boundary of the subdivision unless adjoining property owners have established easements.

(5)

All easements for water mains or sanitary sewers not located in public road rights-of-way and serving more than one user. Such easements shall show location, width and conditions, together with a statement identifying the purpose or use of same.

(6)

Dimensions and locations of all public road rights-of-way and any existing easements or rights-of-ways evidencing special conditions that cross the property and are not located in the right-of-way of a public road, together with a statement identifying the purpose or use of same.

(7)

A statement clarifying whether any property line is in the center of any stream or creek.

(8)

A title block containing the following information: subdivision name; name of owner; name, address, registration number and seal of engineer or surveyor registered in the state; date survey was made; certificate of authorization (unless surveyor is sole practitioner); certificate of accurate survey; certificate of ownership; certificate of approval for recording; TMS number and miles of new road (see appendix A (section [24-522](#))).

(9)

If the development is drawn in two or more sections, each section shall be accompanied by a key map indicating the location of the several sections.

(10)

The names of all abutting land owners, together with tax map numbers for abutting properties, shall be shown and verified by the surveyor.

(Code 2000, § 38-332; Ord. No. 03-007, § 1, 4-15-2003; [Ord. No. 2022-013](#), § 2, 5-3-2022)

- **Sec. 24-369. - Revised or rescinded plat.**

[SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD \(DOCX\) OF SECTIONEMAIL
SECTIONCOMPARE VERSIONS](#)

(a)

Should it ever become necessary to correct an approved final plat due to a surveyor's error, the subdivider shall have his surveyor correct, initial, and date such revision. This must be done with the approval of the subdivision administrator. The revised final plat shall be recorded in the office of the register of deeds within five days after approval.

(b)

In the event approval of a plat was based on false or incorrect information submitted by the subdivider, or its agents, including, but not limited to, its engineer or surveyor, the planning commission or subdivision administrator shall have the right to rescind approval of the plat, without liability for any damages or costs incurred by the subdivider as a result of the rescission. If a determination is made to rescind the plat, the recorded plat shall be marked "Rescinded" in the register of deeds office.

(Code 2000, § 38-333; Ord. No. 03-007, § 1, 4-15-2003)

Chapter 24-401.

Conservation subdivisions allow for the preservation of open space in exchange for more compact development. The purpose of the conservation subdivision is to preserve agricultural and forestry lands, natural and cultural features, provide open areas for rest and recreation, and encourage the development of more attractive neighborhoods with economical site design that conserve sensitive areas. Specific objectives are as follows:

(1) To preserve open land, including those areas containing unique and sensitive features such as natural areas and wildlife habitats, streams, wetlands, and floodplains.

(2) To preserve scenic views and elements of the county's rural character and to minimize perceived density by minimizing views of new development from existing roads.

(3) To minimize site disturbance and erosion through retention of existing vegetation.

(4) To provide for the active and passive recreational needs of the residents of the proposed subdivision.

(5) To provide greater efficiency in the siting of services and infrastructure by reducing road length, utility runs, and the amount of paving for development

(6) To encourage the maintenance and enhancement of habitat for various forms of wildlife and to create new woodlands through natural succession and reforestation where appropriate.

(7) To preserve and maintain historic sites and structures that serve as significant visible reminders of the county's social, archeological, and architectural history.

(8) To create compact neighborhoods accessible to open space amenities and with a strong identity.

GRAVEYARD HILL

PHASE 1C

