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**Oct 20 2026**

**SC Court of Appeals**

# EXHIBIT 1

|                                          |   |                                   |
|------------------------------------------|---|-----------------------------------|
| STATE OF SOUTH CAROLINA                  | ) | IN THE COURT OF COMMON PLEAS      |
|                                          | ) |                                   |
| COUNTY OF SPARTANBURG                    | ) | SEVENTH JUDICIAL CIRCUIT          |
|                                          | ) |                                   |
| Concerned Citizens of Spartanburg        | ) | Civil Action No. 2026-CP-42-03416 |
| County,                                  | ) |                                   |
|                                          | ) |                                   |
| Plaintiff,                               | ) |                                   |
|                                          | ) | <b>ORDER GRANTING DEFENDANTS'</b> |
| vs.                                      | ) | <b>MOTIONS TO DISMISS</b>         |
|                                          | ) |                                   |
| Valara Holdings LLC, Spartanburg County, | ) | <b>RECEIVED</b>                   |
| and Spartanburg County Administrator,    | ) | <b>Oct 20 2026</b>                |
|                                          | ) | <b>SC Court of Appeals</b>        |
| Defendants.                              | ) |                                   |
|                                          | ) |                                   |

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This matter comes before the Court on Defendants Valara Holdings LLC's ("Valara") and Spartanburg County's and Spartanburg County Administrator's (collectively, the "County") Motions to Dismiss, which were heard along with Plaintiff Concerned Citizens of Spartanburg County's ("Plaintiff") Motion for Preliminary Injunction before the undersigned on September 17, 2026. After a thorough review of the pleadings, motions, memoranda, and applicable case law, this Court **GRANTS** Valara's and the County's Motions to Dismiss. Because the Court's ruling has the effect of dismissing Plaintiff's Amended Complaint, it likewise disposes of Plaintiff's Motion for Preliminary Injunction.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff alleges it is an association of individuals living and owning property near a parcel of property in Spartanburg County upon which Valara is developing what it calls a "high-performance computing center," and which Plaintiff refers to in its Complaint as a "data center" (the "Data Center"). Plaintiff alleges Valara and the County have violated the Spartanburg County Unified Land Management Ordinance, Spartanburg County Ordinance No. O-99-015 (December

31, 1999, as subsequently amended) (“ULMO”), by processing two of Valara’s permit applications relating to the construction of the Data Center as “Minor Land Developments,” as that term is defined in the ULMO. Plaintiff alleges the permits should be categorized as “Major Land Developments” under the ULMO. The first permit application was filed in July 2025 for purposes of redeveloping an existing manufacturing facility at the site. The County approved the July 2025 application and issued the permit in August 2025. This approval is referenced in this Order as the “Phase I Permit.”

In April 2026, Valara filed an application for a second Minor Land Development permit to address additional planned development at the Data Center site. That application is still pending with the County, and it is referenced as the “Phase II Application.” Plaintiff alleges the processing of these applications as Minor Land Development permits violates the ULMO and is irreparably harming the landscape and Plaintiff’s members’ rights.

Plaintiff seeks declaratory and injunctive relief, requesting an Order from this Court stating that the County must require Valara to obtain a Major Land Development permit for the Data Center project and that Valara’s Phase I Permit was issued in violation of the ULMO. Plaintiff also seeks to enjoin the County from issuing any additional Minor Land Development Permits for the Data Center and to enjoin Valara from conducting any additional construction or land disturbance activities at the Data Center site.

Specifically, Plaintiff alleges three claims for relief in its Amended Complaint, to wit:

COUNT I: Declaratory Judgment Act – The Data Center is a Major Land Development being Reviewed, Approved, and Constructed as a Minor Land Development, in violation of the ULMO

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COUNT II: Planning Enabling Act – The Data Center is a Major Land Development being Reviewed, Approved, and Constructed as a Minor Land Development, in violation of the ULMO

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COUNT III: Declaratory Judgment Act & Planning Enabling Act – Valara is Substantially Exceeding the Scope of its First Minor Land Development Permit, Conducting Development Activities without a Land Development Permit in violation of the ULMO

In its Prayer for Relief, Plaintiff requests this Court do the following:

1. Declare that the Valara Data Center is a Major Land Development under Spartanburg County's ULMO;
2. Declare that the County improperly and unlawfully issued Valara's First Minor Land Development Permit because the project is actually a Major Land Development requiring full review and public process;
3. Declare that the County must immediately cease processing Valara's Second Proposed Minor Land Development Permit;
4. Permanently enjoin Spartanburg County from processing any Minor Land Development permit application submitted for this facility;
5. Declare that the County and Valara have violated the ULMO by processing the First Minor Land Development Permit and the Second Proposed Minor Land Development Permit as minor land development permits;
6. Declare that the County and Valara are violating the ULMO by allowing construction, redevelopment, and grading activities to commence before all required development permits have been approved; and
7. Enjoin the unlawful erection, construction, reconstruction, alteration, conversion, grading, clearing, and any other construction or development activities at the Valara site until all required permits are issued.

Valara's and the County's Motions to Dismiss are based on their collective positions that (1) Plaintiff lacks standing to maintain certain claims in this action; and (2) Plaintiff is barred from maintaining this action due to its failure to exhaust its administrative remedies.

### **LEGAL ANALYSIS**

In considering Valara's and the County's Motions to Dismiss, the Court bases its ruling solely on the allegations set forth in the Plaintiff's Complaint. *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). In addition, the Court will presume all well-pled facts to be true. *Gressette v. South Carolina Electric and Gas Co.*, 370 S.C. 377, 378-79, 635 S.E.2d 538 (2006).

## I. STANDING

Valara argues Plaintiff lacks standing to pursue injunctive relief in Counts II and III of its Amended Complaint. Based on the allegations as pled in the Amended Complaint, this Court agrees.

Our courts have long held and established that constitutional standing requires three elements: (1) “the plaintiff must have suffered an injury-in-fact which is a concrete, particularized, and actual or imminent invasion of a legally protected interest”; (2) “a causal connection must exist between the injury and the challenged conduct”; and (3) “it must be likely that a favorable decision will redress the injury.” *Carnival Corp. v. Historic Ansonborough Neighborhood Ass’n*, 407 S.C. 67, 75, 753 S.E.2d 846, 850 (2014). An association, such as Plaintiff, may possess standing by virtue of associational standing on behalf of its members if “one or more of its members will suffer an individual injury by virtue of the contested act.” *Carnival*, 407 S.C. at 75-76 (internal quotations omitted).

Section 6-29-950(A) of the South Carolina Code Annotated provides the following regarding the remedies available for an alleged violation of any zoning ordinance and those who may seek such remedies, in relevant part:

In case a building, structure, or land is or is proposed to be used in violation of any ordinance adopted pursuant to this chapter, the zoning administrator or other appropriate administrative officer, municipal or county attorney, or other appropriate authority of the municipality or county ***or an adjacent or neighboring property owner who would be specially damaged by the violation*** may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land.

S.C. Code Ann. § 6-29-950(A) (emphasis added). Under this Court’s current standard of review, the members of Plaintiff’s association do qualify as “adjacent or neighboring property owner[s]”

of the Data Center site. However, Plaintiff must also show it has been “specially damaged” by the alleged violation in a manner sufficient to confer statutory standing upon it to maintain its claim for injunctive relief. It has not.

In Plaintiff’s Amended Complaint, the alleged injuries to Plaintiff’s members are either speculative or non-particularized. *See* Am. Compl. ¶¶ 18-32. For example, the members allege disruption of general peace and solace; lack of transparency regarding the permitting process; generalized noise, dust, tree-clearing, and traffic concerns on the Data Center site; potential environmental, health and community impacts, and potential disruption to enjoyment of property and quality of life. *Id.* While the Court acknowledges that these are all understandable concerns, they are not particularized injuries sufficient to confer constitutional, statutory, or associational standing upon Plaintiff. Generalized grievances suffered by the public as a whole, as seen here, are insufficient to establish standing. *Carnival*, 407 S.C. at 76.

Plaintiff also argues the public-importance exception to standing should apply if it is found not to otherwise possess standing to pursue its claims as alleged in Counts II and III of the Amended Complaint. “South Carolina courts recognize an exception to the requirement that a plaintiff possess standing where an issue is of such public importance as to require its resolution for further guidance.” *Carnival*, 407 S.C. at 79 (internal quotations omitted). Similar to *Carnival*, this action involves the application of a zoning ordinance. In this case, it is the application of the ULMO to the Data Center project. As the court noted in *Carnival*, if there are parties who have suffered the requisite injuries sufficient to confer standing upon them, then those parties may bring the claims. *Carnival*, 407 S.C. at 81. Otherwise, the Court finds that the issues raised by Plaintiff in the Amended Complaint are public policy concerns and generalized grievances that are not

appropriate for resolution by the courts. As such, the Court finds the public-importance exception to standing does not apply to this case as currently pled.

## II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Valara and the County argue the Amended Complaint should be dismissed because: (1) Plaintiff's challenge to the issuance of the Phase I Permit is untimely because Plaintiff's members never appealed to the Board of Zoning Appeals regarding the SCA's decision to grant the Phase I Permit; (2) Plaintiff's challenge to Valara's and the County's alleged violation of its Phase I Permit is improper because Plaintiff failed to exhaust the administrative complaint process outlined in the ULMO; and (3) Plaintiff's challenge to the Phase II Application is both premature under the ULMO and unripe for resolution under the Declaratory Judgment Act (the "DJA"). The Court agrees.

South Carolina law provides that "the exhaustion of administrative relief available to a party is necessary before the party can seek redress in the courts." *Lominick v. City of Aiken*, 244 S.C. 32, 44, 135 S.E.2d 305, 310 (1964); *see also Moore v. Sumter Cnty. Council*, 300 S.C. 270, 274, 387 S.E.2d 455, 458 (1990) (holding that landowners "must exhaust their administrative remedies before seeking judicial relief" from an allegedly invalid zoning ordinance); *Dunbar v. City of Spartanburg*, 266 S.C. 113, 118, 221 S.E.2d 848, 850 (1976) (refusing to address whether a zoning ordinance was unconstitutional as applied to a specific property because "the Landowner . . . failed to pursue his administrative remedies by applying for a variance"); *Charleston Dev. Co., LLC v. Alami*, 433 S.C. 533, 544-46, 860 S.E.2d 687, 693-94 (Ct. App. 2021) (holding that the trial court did not err in finding "Appellants had not exhausted their administrative remedies because they had not appealed any decision of the Zoning Administrator to the Board of Zoning Appeals").

The South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (the “Planning Act”) expressly contemplates an “administrative mechanism designed to enforce [local] zoning ordinance[s].” S.C. Code Ann. § 6-29-780(A). To that end, the Planning Act authorizes local zoning ordinances to “provide for the creation of a board to be known as the board of zoning appeals.” *Id.* It grants that board the exclusive power to “hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance.” S.C. Code Ann. § 6-29-800(A)(1). Any “person aggrieved” by an allegedly erroneous decision of an administrative official must exhaust their administrative remedies by appealing the alleged error to their local board of zoning appeals in the first instance. S.C. Code Ann. § 6-29-800(B). Under the Planning Act, any such appeal must be filed “within a reasonable time, as provided by the zoning ordinance or rules of the board.” *Id.*

As Plaintiff acknowledges, “Spartanburg County utilizes its ULMO to govern development and land use decisions.” Am. Compl. ¶ 40. The ULMO permits individuals to submit alleged zoning violations to the SCA and directs the SCA to “record and investigate such complaint[s], and take such action as provided by this Ordinance,” including “issu[ing] stop work order[s]” or “withhold[ing] permits.” ULMO §§ 1.17, 1.18. Pursuant to the authority granted by Section 6-29-780(A) of the Planning Act, the ULMO establishes the Board of Zoning Appeals and vests the Board with the power “[t]o hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the enforcement officer of [the] Ordinance.” *Id.* §§ 5.02-1, 5.02-2(1). The ULMO prescribes the process that any person aggrieved must follow when challenging the issuance of a permit or other alleged violation of the Board: file an appeal with the Board “within 10 days of the date of the action.” *Id.* §§ 1.04, 5.02. Only after the Board

of Zoning Appeals renders a final decision on the administrative appeal can an aggrieved party initiate an appeal in the circuit court. *See, e.g.*, S.C. Code Ann. § 6-29-820(A); Board of Zoning Appeals Rules of Procedure Art. IV, § 10; ULMO § 1.05 & Application Procedural Chart 2. In this action, neither Plaintiff nor any of its members exhausted, or even pursued, their administrative remedies before challenging the Phase I Permit, Valara’s alleged violation of the Phase I Permit, or the Phase II Application in this Court.

“‘A [circuit court] must have a sound basis for excusing the failure to exhaust administrative relief.’” *Robinson v. S.C. Dep’t of Emp. & Workforce*, 443 S.C. 63, 74, 902 S.E.2d 41, 47 (Ct. App. 2024) (alteration in original) (quoting *Hyde v. S.C. Dep’t. of Mental Health*, 314 S.C. at 209, 442 S.E.2d at 583 (1994)); *see also Smith v. S.C. Ret. Sys.*, 336 S.C. 505, 526-27, 520 S.E.2d 339, 350-51 (Ct. App. 1999) (holding a party's belief "even with good reason[ ] that [the agency would] reject her claim, d[id] not establish futility as a basis for excusing exhaustion in the absence of a definitive statement by the agency administrator").

“‘[An] exception to the requirement of exhaustion of administrative remedies exists when a party demonstrates that pursuit of them would be a vain or futile act.’” *Ward v. State*, 343 S.C. 14, 19, 538 S.E.2d 245, 247 (2000). “Futility, however, must be demonstrated by a showing comparable to the administrative agency taking ‘a hard and fast position that makes an adverse ruling a certainty.’” *Cox v. S.C. Educ. Lottery Comm’n*, 441 S.C. 209, 221, 893 S.E.2d 342, 348 (quoting *Brown v. James*, 389 S.C. 41, 54, 697 S.E.2d 604, 611 (Ct. App. 2010)); *see also Smith v. S.C. Ret. Sys.*, 336 S.C. 505, 526-27, 520 S.E.2d 339, 350-51 (Ct. App. 1999) (holding a party's belief “even with good reason[ ] that [the agency would] reject her claim, d[id] not establish futility as a basis for excusing exhaustion in the absence of a definitive statement by the agency administrator”).

The allegations of Plaintiff's Amended Complaint in this action do not demonstrate that the County has taken a hard and fast position as to the disputed permitting process or enforcement of the ULMO such that Plaintiff's engagement in the appeal procedures under the ULMO would be futile. Therefore, the Court does not find it has a sound basis for excusing Plaintiff's failure to exhaust its administrative remedies regarding the issuance of the Phase I Permit, or the alleged violations thereof, in this case. This finding is consistent with the court's holding in *Lominick, supra*, in which the court prohibited a party from challenging the issuance of a building permit in circuit court because that party had not appealed the decision to the Board of Zoning Appeals. *Lominick*, 244 S.C. at 44.

In further support of its argument that this Court should excuse Plaintiff's failure to exhaust administrative remedies, Plaintiff argues that alternative remedies are inadequate to address the alleged harm. *See Storm M.H. ex rel. McSwain v. Charleston Cnty. Bd. of Trs.*, 400 S.C. 478, 487, 735 S.E.2d 492, 497 (2012). The Court disagrees. Had Plaintiff exercised its opportunity to appeal the Phase I Permit, the Board of Zoning Appeals must have conducted a hearing, received pertinent evidence and testimony, and rendered a decision on the appeal. If necessary, that decision, with an underlying record, may have then been appealed to the circuit court.

Plaintiff also argues that the doctrine of exhaustion of administrative remedies does not apply where the facts are undisputed and the issues are solely ones of law. The Court does not find the question before it is purely one of law. The appeals process under the ULMO would allow a factual record to be developed regarding the permit process and the SCA's decision to permit the Data Center project as a Minor Land Development.

Plaintiff has not yet had the opportunity to exhaust its administrative remedies as to the Phase II Application, because that application has not yet been finalized. "The existence of an

actual, justiciable controversy is essential to jurisdiction to render a declaratory judgment. A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from this dispute of a contingent, hypothetical or abstract character.” *Orr v. Clyburn*, 277 S.C. 536, 542, 290 S.E.2d 804, 807 (1982). The Court finds that Plaintiff’s allegations as to Phase II are not ripe for adjudication because the outcome of the Phase II Application is not yet legally certain.

Therefore, Plaintiff’s Amended Complaint is **DISMISSED** for failure to exhaust the administrative remedies available to it as to the issuance of the Phase I Permit and Phase II Application, as well as the alleged violations of the ULMO pursuant to the Phase I Permit. Plaintiff’s claims for relief, including injunctive relief, to the extent they arise out of the Planning Act in Counts II and III of their Amended Complaint, are **DISMISSED** for lack of standing.

[Electronic Signature Page Follows.]



Spartanburg Common Pleas

**Case Caption:** Concerned Citizens Of Spartanburg County VS Valara Holdings, Llc ,  
defendant, et al  
**Case Number:** 2026CP4203416  
**Type:** Order/Dismissal

IT IS SO ORDERED!

s/ J. Derham Cole, Jr. 2789