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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Commons Pleas

J. Mark Hayes, II, Circuit Court Judge

Opinion No. 2026-UP-403 (S.C. Ct. App. filed August 5, 2026)

South Carolina Native Plant Society, Petitioner,

v.

Spartanburg County Planning Commission and Blue Sky Associates, LLC d/b/a T. Tree Farms RV Park, Respondents,

and

The Enclave at Fairview Farm Homeowners' Associations, Inc., Golden Hills of Fairview Homeowners' Association, Inc., Greenspace of Fairview, LLC, North Pacolet Association, Inc., Debra A. Whitaker, Charles D. Whitaker, Roxanne M. Hellman-Wojan, Richard G. Wojan, Judie R. Klapholz, Trustee of The Judie R. Klapholz Trust, and Slater Properties, Inc., d/b/a/ Caroland Farms, Appellants,

v.

Spartanburg County, SC, Spartanburg County Planning Commission, and Blue Sky Associates, LLC d/b/a T. Tree Farms RV Park, Respondents.

PETITION FOR WRIT OF CERTIORARI

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CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on October 21, 2026.

QUESTIONS PRESENTED

1. Whether a circuit court order that resolves all substantive issues in a land use appeal, but purports to remand the matter to a local planning commission for proceedings not authorized by ordinance, is immediately appealable under S.C. Code Ann. § 14-3-330(1) as an intermediate order involving the merits.
2. Whether a circuit court order is immediately appealable under S.C. Code Ann. § 14-3-330(2) when it conclusively determines the parties' substantive rights, leaves no factual issues for resolution on remand, and prevents any subsequent judgment from which appellate review may be obtained.

STATEMENT OF THE CASE

This appeal arises from the conditional approval of Blue Sky Associates, LLC d/b/a T. Tree Farms RV Park's ("Blue Sky") proposed recreational vehicle park ("RV Park") in Campobello, South Carolina by the Spartanburg County Planning Commission ("Commission"). Three key aspects of this approval are at issue in this appeal, among others.

First, the RV Park's site contains rare ecological resources, including habitat supporting *Hexastylis naniflora* (Dwarf-flowered Heartleaf), a rare species recognized as one of South Carolina's high conservation priorities by the South Carolina Department of Natural Resources; the site also includes equally rare forested and stream habitats upon which the rare plant depends. Whitten Aff. ¶ 14–16 (R. 01080-81); Newberry Aff. ¶¶ 13–14 (R. 01089); Gaddy Aff. ¶¶ 10–16 (R. 01105–06); Huffman Aff. ¶ 11–12 (R. 01098). A principal purpose of Spartanburg County's Unified Land Management Ordinance ("Ordinance") is to protect "ecologically sensitive areas,"

and the Ordinance specifically mandates that a developer of an RV park is required to preserve the "natural features and landscape" of the site. Ordinance Preamble, § 3.13.2 (R. 1022, 1047).

The RV Park will degrade these important natural features through construction, stormwater features, and septic pollution, as well as increased human traffic. Whitten Aff. ¶ 14–16 (R. 01080–81); Newberry Aff. ¶¶ 13–14 (R. 01089); Gaddy Aff. ¶¶ 10–16 (R. 01105–06); Huffman Aff. ¶ 11–12 (R. 01098).

Second, the Ordinance requires that an RV park be serviced by "sewer or other systems approved by DHEC." Ordinance § 3.13.8 (R. 1047). DHEC's governing board found that a staff-issued septic permit for this RV Park was invalid because it provided only half the capacity required for the RV Park. R. 00698–99. The DHEC Board's decision was overturned by the Administrative Law Court on the timing issue that the appeal to the Board was filed too late, R. 00041–42, but no court has questioned or overturned the DHEC Board's conclusion that the proposed septic system has half the capacity needed to treat and manage the sewage produced by this RV Park. Nevertheless, the Commission approved the RV Park as being served by a "system approved by DHEC."

Finally, when it issued its decisions, the Commission made no mention of these critical issues, provided no explanation for its decision on these points, and did not address any of the points made by the Petitioner concerning these provisions.

Thus, despite mandatory protection for natural features and a public health and safety requirement for a DHEC-approved septic system, as detailed in the Ordinance, *see* Ordinance § 3.13 (R. 01047); Ordinance Preamble (R. 01022), the Commission disregarded, without explanation, these provisions and unlawfully issued a conditional approval for the RV Park and its associated harms on March 7, 2023. R. 00686. The South Carolina Native Plant Society (the

"Society"), as well as local homeowners' associations and landowners (the "Homeowners"), requested that the Commission reconsider its conditional approval at its next meeting on April 4, 2023, and detailed the numerous Ordinance violations. R. 01005–11. The Commission declined to reconsider its approval, again without any explanation. *See generally* Commission Meeting Minutes (Apr. 4, 2023) (no mention of issues during meeting) (R. 00687–95).

Subsequently, the Society and the Homeowners filed four separate appeals of both the Commission's conditional approval and the Commission's decision not to reconsider its conditional approval. R. 00044; 00095; 00278; 00352. The appeals challenged the Commission's decisions on various grounds, including failure to comply with requirements of the Ordinance related to natural resources, public health, and public safety, and the Commission's failure to explain its decisions, to recognize these governing provisions, or to provide any rationale for rejecting the Petitioner's claims. *See* R. 00483. The appeals were consolidated. R. 00004.

On appeal to the circuit court, Judge J. Mark Hayes, III, granted the Society's appeal in part, concluding that the Commission had violated two other provisions of the Ordinance by approving an RV park without the required public water and public bathrooms and therefore vacated the Commission's approval of the RV Park. Opinion & Order, *S.C. Native Plant Society v. Spartanburg Cnty. Planning Comm'n*, Case No. 2023-cp-42-01221 (S.C. Cir. Ct. Apr. 22, 2024) (hereinafter "April 2024 Opinion & Order") (R. 00001–14). But the court also denied the appeal in part, concluding that the court would not vacate the Commission's approval based on the provisions requiring protection of natural features of the site and a septic system approved by DHEC. *Id.*

On May 1, 2024, Respondents moved to alter or amend the circuit court's order. R. 00582–583. On September 24, 2024, the circuit court held a hearing on the motion to alter or amend, R.

00629, and, by Form 4 Order dated September 26, 2024 ("Form 4 Order"), Judge Hayes granted in part the motion to alter or amend by "clarifying" that the term "vacate" meant "that the matter is remanded to the commission." R. 00015–16.

The Society and the Homeowners timely filed Notices of Appeal. On November 20, 2024, Blue Sky moved to dismiss the appeal as premature because the circuit court's Order was not final. R. 00593–597. On January 13, 2025, the Court of Appeals denied the motion "without prejudice to the parties addressing appealability in their briefs." Order, *S.C. Native Plant Soc'y v. Spartanburg Cnty. Planning Comm'n*, App. Case No. 2024-001828 (filed Jan. 13, 2025).

On August 5, 2026, after full briefing and argument, the Court of Appeals issued its decision. In its opinion, the Court of Appeals stated that it was "sympathetic to Appellants' arguments" and "question[ed] the Commission's conditional approval based on the stated requirements of the Ordinance." *S.C. Native Plant Soc'y v. Spartanburg Cnty. Planning Comm'n,* Op. No. 2026-UP-403, at 7 (S.C. Ct. App. filed Aug. 5, 2026). Nevertheless, the Court of Appeals dismissed the appeal, concluding that the circuit court's Form 4 Order was not immediately appealable because it remanded the matter to the Commission and that therefore the circuit court's decision was not a final judgment. *Id.* Petitioner timely filed a petition for rehearing, arguing that the circuit court's order was appealable under S.C. Code Ann. § 14-3-330(1) and (2) because it finally resolved all substantive legal issues in the case and left no factual matters for determination and because the Ordinance does not provide for any proceedings upon remand. The Court of Appeals denied rehearing on October 21, 2026. This petition follows.

ARGUMENT

I. REVIEW IS NECESSARY TO CLARIFY THE SCOPE OF APPELLATE JURISDICTION UNDER S.C. CODE ANN. § 14-3-330.

This case presents an important question concerning the scope of appellate jurisdiction under S.C. Code Ann. § 14-3-330. As the Court of Appeals recognized, "[t]he determination of whether a party may immediately appeal an order issued before or during trial is governed primarily by Section 14-3-330 of the South Carolina Code." *S.C. Native Plant Soc'y,* Op. No. 2026-UP-403, at 3 (quoting *Hagood v. Sommerville*, 362 S.C. 191, 195 (2005)). Section 14-3-330 authorizes appellate review of, among other things, "(1) Any intermediate judgment, order or decree in a law case involving the merits;" and "(2) An order affecting a substantial right made in an action when such order: (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action." S.C. Code Ann. § 14-3-330(1), (2).

The Court of Appeals nevertheless dismissed this appeal based solely on its conclusion that the circuit court's September 26, 2024 Form 4 Order was not a "final order." *S.C. Native Plant Soc'y*, Op. No. 2026-UP-403, at 7. In doing so, however, the Court of Appeals never addressed whether the circuit court's Order involved the merits of the action under Section 14-3-330(1) or whether it affected a substantial right and effectively determined the action under Section 14-3-330(2). The circuit court's Order satisfies both standards. These errors warrant review because, without review, the decision below effectively eliminates the grant of appellate jurisdiction in Section 14-3-330 whenever a merits determination is accompanied by a remand, contrary to both the governing statute and longstanding precedents.

A. The Court of Appeals' Dismissal Conflicts with Section 14-3-330(1) and Governing South Carolina Precedent Governing Orders "Involving the Merits."

An order "involves the merits" when it "finally determine[s] some substantial matter forming the whole or part of some cause of action or defense in the case." *Knowles v. Standard Sav. & Loan Ass'n*, 274 S.C. 58, 59, 261 S.E.2d 49, 50 (1979); *Mungo v. Rental Uniform Serv. of Florence, Inc.*, 383 S.C. 270, 278, 678 S.E.2d 825, 829 (Ct. App. 2009). The circuit court's Form

4 Order plainly satisfies that standard, yet the Court of Appeals ruled that it did not have appellate jurisdiction because "the Form 4 Order remanding the case to the Commission is not an appealable final order." *S.C. Native Plant Soc'y,* Op. No. 2026-UP-403, at 7. But Section 14-3-330(1) does not require finality—it expressly authorizes appellate review of an *intermediate* order that involves the merits. By treating the presence of remand language as dispositive, the Court of Appeals effectively imposed a finality requirement that the statute itself does not contain. The Court of Appeals also created an exception for remand orders which the statute itself does not contain.

In fact, the circuit court "finally determine[d]" *every* substantive issue raised in the Society's challenge to the Commission's conditional approval of the RV Park Site Plan. *See* April 2024 Opinion and Order, R. 00001–14. It determined which Ordinance provisions had been violated and which could not serve as a basis for vacating the Commission's decision. Those determinations finally resolved the parties' competing legal positions concerning the validity of the Commission's approval. Nothing remained for either the circuit court or the Commission to decide regarding those legal questions. There is nothing further to do upon a purported remand.

In addition, the Order's reference to a remand provides no basis for treating the order as non-appealable because the Ordinance contains no mechanism for the type of remand contemplated by the circuit court. The Ordinance establishes a comprehensive process for approval of major land development plans, including applications, public review, Commission determinations, and judicial review. R. 01023–30. But it does *not* authorize or provide procedures for reopening or reconsideration of a previously approved major development plan following judicial review. *Id.*

The mere inclusion of remand language in the circuit court's order does not alter the final character of the circuit court's clear merits rulings because there is nothing for the Commission to

do on remand. The determinative legal questions have already been answered by the circuit court. Immediate appellate review is necessary because those rulings will dictate the rights and obligations of the parties and the Commission going forward.

South Carolina courts have recognized that an order may be immediately appealable even if it remands a matter to a lower tribunal for additional proceedings. Under the plain language of the statute, the controlling inquiry is not whether the order contains language purporting to remand but whether it "involve[es] the merits." In *Mungo v. Rental Uniform Services*, for example, the Court of Appeals held that an order was appealable because it "decides with finality" a legal issue that would govern subsequent proceedings on remand. 383 S.C. at 278, 678 S.E.2d at 829. This Court declined to overturn that decision. Likewise, in *Brown v. Greenwood Mills, Inc.*,[1] the court exercised jurisdiction over a remand order because the decision below had finally resolved a merits issue notwithstanding the remand. 366 S.C. 379, 388, 622 S.E.2d 546, 551 (Ct. App. 2005). Again, this Court declined certiorari.

The same circumstance in *Mungo* and *Brown* is present here. The circuit court definitively ruled that the Commission's decision would not be overturned based on all contested provisions in the Ordinance and other grounds, other than the Ordinance requirements for public water and public restrooms—including whether the site plan complied with provisions concerning natural features and septic systems approved by DHEC and whether the Commission was required to provide reasons for its approval. *See* R. 00001–14. Those rulings are not tentative—they are binding merits determinations that would govern any subsequent proceedings. Under the plain

[1] The Supreme Court in *Bone v. U.S. Food Service* recognized that the *Brown* decision was "implicitly overruled" because it applied the "involving the merits" standard found in S.C. Code § 14-3-330 (the relevant statutory provision for the Society's appeal) when it should have applied the South Carolina Administrative Procedures Act standard for appeals applicable to administrative agencies. 399 S.C. 566, 573–74 (2012). Because this case does not implicate the Administrative Process Act, *Bone* remains good law and articulates the correct standard.

language of the statute and under *Mungo* and *Brown*, the Order involves the merits and falls within S.C. Code Ann. § 14-3-330(1). Yet the Court of Appeals dismissed the appeal without addressing these authorities or explaining why the circuit court's definitive legal rulings did not constitute merits determinations. The Court of Appeals simply created a new statutory exception for any order involving a remand—an exception that the statute itself does not contain.

The Court of Appeals' dismissal relies on authorities addressing fundamentally different circumstances. Contrary to the Court of Appeals' Order, the circuit court's Order bears no resemblance to either *Charlotte–Mecklenburg Hospital Authority v. South Carolina Department of Health and Environmental Control* or *Bone v. United States Food Service*. 387 S.C. 265, 692 S.E.2d 894 (2010); 399 S.C. 566, 733 S.E.2d 200 (S.C. 2012). As discussed in more detail below, *infra* Section II, both of those cases arose under the appellate framework in the Administrative Procedures Act ("APA"), S.C. Code Ann. § 1–23–390, and both cases relied upon that inapplicable and different statutory framework in dismissing the appeals as premature. Moreover, the remand orders in both *Bone* and *Charlotte-Mecklenburg* required further adjudication of specific factual matters before the lower tribunal.

Here, by contrast, there are no unresolved factual questions, no additional evidence to be taken, and no substantive legal issues left open for future determination. The circuit court completed its review and resolved the legal challenges to the Commission's decision. The fact that the Order contains remand language does not alter the reality that the court conclusively determined the parties' substantive rights. The Order therefore falls squarely within the category of orders "involving the merits" under Section 14-3-330(1).

This Court should grant certiorari to clarify that an order finally resolving substantive legal issues cannot be insulated from appellate review merely because it contains remand language.

Such a rule is inconsistent with S.C. Code Ann. § 14-3-330(1), disregards the plain language of the statute, conflicts with governing precedent, leaves affected parties with no effective remedy, and creates substantial uncertainty regarding the availability of appellate review in future cases. The Court of Appeals' Order has converted every remand order into a non-appealable order, regardless of whether the circuit court's order involves the merits or whether the circuit court has finally determined the merits of an issue. Such a rule cannot be reconciled with the General Assembly's explicit grant of appellate jurisdiction over orders "involving the merits." S.C. Code Ann. § 14-3-330(1). This Court's review is therefore warranted to clarify the proper application of Section 14-3-330(1).

B. The Court of Appeals' Dismissal Conflicts with Section 14-3-330(2)'s Grant of Appellate Jurisdiction Over Orders Affecting a Substantial Right and Effectively Determining the Action.

For many of the same reasons, the circuit court's Order is independently appealable under Section 14-3-330(2), and this case also presents an important question concerning the scope of appellate jurisdiction under S.C. Code Ann. § 14-3-330(2). That provision separately authorizes immediate appellate review of an order that affects a substantial right and either effectively determines the action or discontinues it. *Duncan v. Gov't Emps. Ins. Co.*, 331 S.C. 484, 485, 503 S.E.2d 617, 618 (1998); S.C. Code Ann. § 14-3-330(2). The circuit court's September 2024 Order satisfies those requirements.

South Carolina courts evaluate appealability under Section 14-3-330(2) by examining the practical effect of the order. *Dorn v. Cohen*, 418 S.C. 126, 138, 791 S.E.2d 915, 921 (Ct. App. 2016) ("To determine whether an order is immediately appealable, we look to the probate court order's *effect* on the proceedings.") (emphasis added); *Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C. 297, 307, 705 S.E.2d 475, 479 (Ct. App. 2011) (holding courts must consider the *effect* of an

interlocutory order when determining appealability under Section 14-3-330(2)). The circuit court's Order both affects substantial rights and effectively determines the action.

This Court has recognized that an order may be immediately appealable when it effectively discontinues the action or leaves the parties without a means of obtaining a final judgment on the issues in dispute. *See Neeltec Enters., Inc. v. Long*, 397 S.C. 563, 566, 725 S.E.2d 577, 579 (2012). That is precisely the circumstance presented here. Although characterized as a remand, the circuit court's Order resolved the controversy and foreclosed further proceedings that could alter the merits determinations already made.

The Order affects substantial rights because it conclusively resolved the central substantive challenges raised by Petitioner to the Commission's approval of the proposed RV Park. The circuit court held that the Commission's approval would not be overturned based on Petitioner's claims regarding the sewage disposal system, Blue Sky's obligation to preserve natural features of the site, or the failure of the Commission to provide any reasons for its disregard of these governing mandatory provisions of the Ordinance. As a result, if Blue Sky were to satisfy the remaining requirements regarding public water and comfort stations, nothing in the circuit court's Order would prevent the development from proceeding. The Order thus eliminated substantial legal claims asserted by Petitioner and substantially altered the parties' rights concerning the proposed development.

The Order also effectively determined the action and discontinued any meaningful proceedings. The circuit court resolved all substantive legal issues presented in the appeal and then remanded the matter to the Commission despite the absence of any provision in the Ordinance authorizing further proceedings concerning an approved major development plan following judicial review. Because the Ordinance contains no procedure through which the Commission may

reopen, amend, or revisit its approval on remand, the remand contemplated by the circuit court cannot function as a vehicle for further review of the underlying merits.

Further, even if there were some provision for remand proceedings by the Commission, there is nothing left for the Commission to consider. The circuit court has ruled that in two respects (failure to require public water and public restrooms) the Commission's decision violated the Ordinance, and that in two respects (using an inadequate septic system and not preserving the natural features and landscape of the site) the Commission is not required to change its original decision. R. 00001–14. Thus, on "remand," there are no further proceedings to be undertaken. The circuit court's Order therefore left Petitioner without any meaningful mechanism through which they could obtain review of the circuit court's dispositive legal rulings that allow construction of the RV Park with an inadequate septic system in a way that destroys rare plants and equally rare habitat. Further, there can be no further consideration of whether the Commission must provide any explanation or reasons for its disregard of two key provisions of the County's own Ordinance, since the circuit court refused to invalidate the Commission's decision on that basis. The Commission has no need to say anything further.

The Court of Appeals' dismissal leaves unresolved the important question whether an order that conclusively determines the parties' substantive rights may nonetheless evade appellate review simply because it includes remand language, even where no meaningful remand proceedings are available. As with the prior subsection, the statute itself contains no such exception for remand orders. Review by this Court is warranted to clarify the proper application of S.C. Code Ann. § 14-3-330(2) and to ensure that dispositive rulings affecting substantial rights do not escape appellate review. Absent review, the parties are left in limbo about this case—the Commission's approval is remanded to the Commission when the County's Ordinance provides for no further

proceedings and there is nothing further for the Commission to do in response to the circuit court's Order. Most important, affected citizens are deprived appellate review of the dispositive legal rulings that have already been made by the circuit court.

II. REVIEW IS NECESSARY BECAUSE THE COURT OF APPEALS IMPROPERLY APPLIED THE APA'S FINALITY PRINCIPLES TO A NON-APA APPEAL.

The Court of Appeals' dismissal also warrants certiorari because it applies principles derived from the APA, S.C. Code Ann. § 1–23–390, to an appeal governed by South Carolina's general appellate jurisdiction statute, S.C. Code Ann. § 14-3-330. The Court of Appeals extended APA-specific limitations on appellate review to cases where that statute does not apply.

The Court of Appeals' dismissal order relied principally on *Charlotte-Mecklenburg Hospital Authority v. South Carolina Department of Health & Environmental Control* and *Bone v. U.S. Food Service*. 387 S.C. 265, 692 S.E.2d 894 (S.C. 2010); 399 S.C. 566, 733 S.E.2d 200 (2012). Both decisions arose under the APA and addressed the appealability of remand orders within that specific statutory scheme. Neither case involved appellate jurisdiction under S.C. Code Ann. § 14-3-330, and neither purported to redefine the scope of appealability in non-APA cases.

Indeed, both *Bone* and *Charlotte-Mecklenburg* recognized that the right to appeal is entirely statutory and depends upon the particular statute at issue. Under the APA, judicial review is governed by S.C. Code Ann. § 1-23-610, which authorizes review only from a *final agency decision* and therefore imposes a narrower concept of appealability. By contrast, S.C. Code Ann. § 14-3-330 expressly permits immediate appeals from orders "involving the merits" or "affecting a substantial right" when the order "in effect determines the action."

In *Charlotte-Mecklenburg*, this Court dismissed an appeal from an order remanding a matter to the Administrative Law Court because the APA's finality requirements had not been satisfied. In reaching that conclusion, however, the Court reaffirmed that "[t]he right of appeal

arises from and is controlled by statutory law." 387 S.C. at 266, 692 S.E.2d at 894. Thus, the Court's holding was expressly grounded in the APA's jurisdictional framework, not in any generally applicable rule that remand orders are categorically unappealable as the Court of Appeals ruled.

Bone reinforces this distinction. There, this Court explained that prior cases had improperly analyzed APA appeals under S.C. Code Ann. § 14-3-330 and clarified that APA appeals are governed by that statute's more restrictive finality requirements. *See Bone v. U.S. Food Serv.*, 399 S.C. 566, 573-74, 733 S.E.2d 155, 159 (2012). Importantly, the Court's reasoning recognized that Section 14-3-330 and the APA establish different standards of appealability. Indeed, *Bone* suggested that the remand order at issue in *Charlotte-Mecklenburg* could have been immediately appealable if it arose under Section 14-3-330, rather than the APA, because the order conclusively resolved certain legal questions.

Accordingly, the Court of Appeals was correct only to the extent it observed that an order of the circuit court remanding a case for additional proceedings before an administrative agency is not directly appealable. *S.C. Native Plant Soc'y*, Op. No. 2026-UP-403, at 6. Under *Bone*, however, that proposition applies in the APA context because the APA permits review only of final decisions. The present case does not arise under the APA. Rather, appellate jurisdiction is governed by Section 14-3-330, including that statute's express authorization of interlocutory appeals from orders "involving the merits" and orders "affecting a substantial right" as described in Section 14-3-330 (2).

By treating APA finality principles as controlling in a case governed by Section 14-3-330, the Court of Appeals applies statutory limitations that the General Assembly imposed only on APA appeals. That approach erases the distinction recognized in *Bone* and *Charlotte-Mecklenburg* and

deprives Section 14-3-330 of independent meaning. This Court's review is therefore warranted to clarify the boundary between APA and non-APA appeals and to ensure that the appellate framework enacted by the General Assembly is applied as written.

III. THIS CASE PRESENTS AN IMPORTANT QUESTION OF STATEWIDE SIGNIFICANCE CONCERNING APPELLATE JURISDICTION.

This case presents consequential questions concerning the proper interpretation of appellate jurisdiction in S.C. Code Ann. § 14-3-330 that extend far beyond the dispute between these parties. At issue is not merely whether this particular appeal should have been heard, but whether litigants throughout South Carolina may not obtain appellate review of dispositive merits determinations whenever those determinations happen to be accompanied by remand language.

If the Court of Appeals' dismissal stands, substantial uncertainty will exist concerning when a remand order is appealable under Section 14-3-330 and the distinction between procedural remands and remands that finally determine substantive rights. These questions can arise often and will continue to arise. Appeals involving planning commissions, zoning boards, boards of zoning appeals, county councils, and other municipal governing bodies routinely proceed through circuit court review. Circuit courts might often issue orders that both resolve substantive legal questions and assume or direct some form of further proceedings below. The decision of the Court of Appeals provides no workable framework for determining when such orders are appealable under Section 14-3-330.

More importantly, the jurisdictional posture adopted below renders substantial portions of Section 14-3-330 meaningless. The statute expressly authorizes appeals from intermediate orders "involving the merits" and "affecting a substantial right" as set out in the statute. Yet if a circuit court may conclusively resolve substantive legal issues and simultaneously insulate those rulings from appellate review simply by including remand language, then the statutory grant of jurisdiction

becomes a nullity. Orders that finally determine the parties' legal rights could evade review based solely on the form rather than the substance of a particular order.

The practical consequences are significant—citizens seeking judicial review of local land-use decisions may be deprived of any meaningful opportunity to obtain appellate review of dispositive legal rulings, and lower courts will be left without clear principles for determining when appellate jurisdiction exists. Review is therefore warranted to provide guidance to litigants and to preserve the appellate jurisdiction granted by the General Assembly.

CONCLUSION

For the foregoing reasons, this case presents important questions of law warranting this Court's review. The decision below conflicts with the plain language of the foundational appellate jurisdiction statute and established principles of appellate jurisdiction, and it has significant implications beyond the parties to this case. Accordingly, Petitioner respectfully request that this Court grant the Petition for a Writ of Certiorari and review the decision of the Court of Appeals.

Respectfully submitted,

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