

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas  
DeAndrea Gist Benjamin, Circuit Court Judge  
Case No. 2013-CP-400-1643

Appellate Case No. 2014-000583

Samuel T. Brick, Appellant

v.

Richland County Planning Commission and Fairways Development, LLC,  
Intervenor, Respondents

**APPELLANT'S MOTION FOR RELIEF TO THE REQUIREMENT  
FOR THE RECORD ON APPEAL FOR 15 COPIES  
AND  
FOR RELIEF FROM INCLUDING ALL OF RESPONDENT  
RICHLAND COUNTY PLANNING COMMISSION'S DESIGNATED  
MATERIAL IN THE RECORD**

*Relief from 15 Copies.* Samuel T. Brick, Appellant, Pro Se, moves that this Honorable Court relieve him from the requirement of Rule 210(b), SCACR, to file fifteen (15) copies of the Record and its Briefs with the Court. The Record in this matter is extensive with many motions, returns, and affidavits from the lower court including a number of local government regulations. It also includes

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necessary plats of the proposed Villages project, representing the sketch plan of the proposed Villages project, the subject of the appeal. Appellant purchased one copy of the Record prior to additions provided by Respondents and for a two-sided copy it cost \$19.44. This 120 page record did not contain the reduced size sketch plan. The cost of copying and binding the Record and its Briefs is substantial and, if amelioration is possible, Appellant prays that it be reduced with relief from the fifteen required copies to six copies or, as the Court deems necessary and appropriate. Appellant understands that an additional unbound copy of the record and his briefs also must be filed and that such additional copies be one-sided for purposes of scanning.

*Relief from Including Some Designated Matter.* Appellant has included as designated matter for the Record all matter designated by Intervenor, Respondent Fairways Development LLC, and all except portions of the transcript and parts of the initial appeal to the lower court with its appendices. Respondent Richland County Planning Commission designates the entire transcript and the entire appeal to the lower court from the planning commission with all the appendices to the appeal. See Respondent's designation at Appendix A to this Motion. Appellant has included all designated matter of the Intervenor/Respondent Fairways Development LLC including 17 pages of the lower court transcript. With what Appellant had designated in his initial filing, the transcript Appellant now designates as part of the Record would have 30 pages of the 51 page

transcript. Appellant considers as irrelevant the first seven administrative pages and another 14 pages. Appellant has excluded these 21 pages from the Designated Matter for the Record he filed this date with his Initial Reply brief although such are requested by Respondent Richland County.

The lower court hearing on the appeal addressed two motions to dismiss, a motion to intervene, a motion to amend, and a motion for a bond. The motions to dismiss considered different issues and both are included in the designated matter for the Record filed this date. Appellant's motion to amend was not appealed but Intervenor, Respondent considers parts of it relevant and those parts are included in Appellant's filed Designated Matter. Discussions regarding the right to intervene also are included. The initial motion to remove the stay was withdrawn and Appellant contends it has no relevance. Designated Matter relating to a later filed Motion to Remove the Stay under Rule 241 SCACR as it applies to the issues surrounding this appeal are included as part of the appeal record. Issues relating to amending the appeal do not involve issues in the instant matter. Respondent Richland County does not refer to any pages from the transcript in its Brief.

Respondent Richland County Planning Commission further designated that Appellant's Notice of Appeal to the lower court with attachments be included in the Record. Appellant withheld pages 5 through 8 of his Notice of Appeal relating to lot sizes, zoning density, and lot widths, considering those matters,

while relevant for the lower court's consideration, irrelevant to the issues facing this Honorable Court. Appellant withheld discussions of statutory construction regarding the lower court's legal reviews that were not addressed in the dismissal action before this Honorable Court, allegations of alleged procedural errors by the planning commission, and allegations of the project's non-compliance with the county's comprehensive plan. The planning commission's transcript<sup>1</sup>; a memorandum of law prepared by Appellant regarding statutory construction<sup>2</sup>; a Richland County publication regarding the reduction of impervious surfaces; and various unrelated county ordinances are appendices to Appellant's appeal but not included in his Designation of Matter to be Included in the Record even though designated by Respondent for inclusion.

Appellant included the Green Code (Section 26-186 of the Richland County Code) in its entirety as Designated Matter for the Record as well as relevant definitional and rules of construction, and appeal provisions. Respondent Richland County would include, as part of the Record, Appellant's appendices setting out county regulations 26-22, definition of density; 26-83, establishment of zoning districts; 26-93, residential, multi-family, medium density district standards; 26-94, residential multi-family, high density district standards; 26-172, density and dimensional standards; 2-218, planning director duties; and 2-29(h), a portion of county rules on hearings. It also seeks various pages included in the

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<sup>1</sup> The testimony is related almost verbatim in the Planning Commission Order that Appellant included in Des. Matter # 7 (App.B-6) (the testimony other than the Order is 33 pages).

<sup>2</sup> The Legal Memorandum is 13 pages and relates to statutory interpretations of the Green Code.

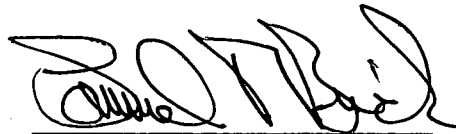
appendices to the Notice of Appeal relating to the county's comprehensive plan, none of which relate to the issue in the appeal. Appellant contends these inclusions are irrelevant to the Record in the appeal before this Honorable Court and requests relief from including such matter as otherwise required by the first sentence of Rule 210(c), SCACR. The inclusion of this matter is expensive and of dubious value. Respondent Richland County has made no reference to any of the local government regulations in its Initial Brief and does not discuss density, the county comprehensive plan, or statutory construction as such construction applies to legal interpretations of the Green Code.

Accordingly, Appellant prays that this Honorable Court relieve him of including the above-mentioned items requested by Respondent Richland County as matter to be included in the Record of Appeal and approve the attached Designation of Matter to be Included in the Record of Appeal that was filed this date with the Clerk of Court (Appendix B). Appellant further prays that if this Honorable Court decides that some or all of the requested matter be included, that Appellant be allowed to amend such designation of matter as attached in accordance with your direction.

Appendix A. Respondent Richland County Planning Commission's Designation of Matter to be Included in the Record on Appeal.

Appendix B. Appellant's Designation of Matter to be Included in the Record on Appeal, as filed October 17, 2014.

Very respectfully submitted,



Samuel T. Brick, Appellant, Pro se  
124 Runneymede Drive  
Blythewood, SC 29016  
803 546 4895  
[sbrick2011@gmail.com](mailto:sbrick2011@gmail.com)

Richland County, South Carolina

DATE: October 17, 2014

### **CERTIFICATE OF SERVICE**

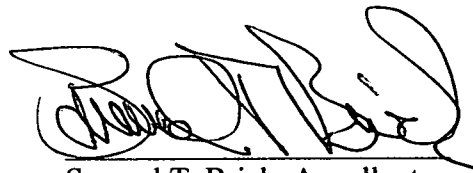
Appellant, Samuel T. Brick, hereby certify that the foregoing Motion in the above-captioned appeal with its appendices was served upon the parties to this action by my depositing a copy of same, enclosed in a First Class postpaid envelope addressed to the attorneys of record in a post office or official postal depository under the exclusive care and custody of the United States Postal Service, on October 17, 2014, addressed in the following manner:

Andrew F. Lindemann, Esquire  
Michael B. Wren, Esquire  
Davidson & Lindemann, P.A.  
P.O. Box 8568  
Columbia, S.C. 29202-8568

Attorneys for Respondent

Tobias G. Ward, Jr., Esquire  
J. Derrick Jackson, Esquire  
Post Office Box 6138  
Columbia, SC 29260

Attorneys for Intervenor/Respondent



Samuel T. Brick, Appellant

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
DeAndrea Gist Benjamin, Circuit Court Judge

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Case No. 2013-CP-40-1643

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Samuel T. Brick, ..... Appellant,

v.

Richland County Planning Commission and  
Fairways Development, LLC, Intervenor, ..... Respondents.

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**RESPONDENT'S DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

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The Respondent Richland County Planning Commission proposes that the following be included in the Record on Appeal, in addition to matters previously designated:

#7 #22 #23

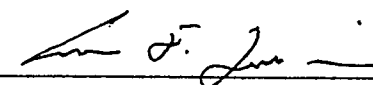
1. Notice of Appeal and Appeal of the Richland County Planning Commission Denial of Appellant's Appeal Regarding Administration of Zoning, filed March 18, 2013 (with attachments)

APPENDIX A

- 2. ✓ Notice of Motion and Motion to Dismiss on Behalf of Respondent Richland County Planning Commission, filed June 5, 2013
- 3. ✓ Return to Appeal on Behalf of Respondent Richland County Planning Commission, filed June 5, 2013
- 4. ✓ Form Order filed September 16, 2013, denying Plaintiff's Motion to Amend
- 5. # 34 Notice of Appeal to Court of Appeals, dated March 11, 2014
- 6. # 19 Transcript of August 30, 2013 Hearing, p. 1-51
- 7. # 14 ✓ Appellant's Motion to Amend Notice of Appeal, dated June 27, 2013

We certify that this designation contains no matter which is irrelevant to this appeal.

DAVIDSON & LINDEMANN, P.A.

BY:   
 ANDREW F. LINDEMANN  
 MICHAEL B. WREN.  
 1611 Devonshire Drive  
 Post Office Box 8568  
 Columbia, South Carolina 29202  
 (803) 806-8222

*Counsel for Respondent Richland County Planning Commission*

Columbia, South Carolina

October 7, 2014

**THE STATE OF SOUTH CAROLINA**

**In The Court of Appeals**

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**APPEAL FROM RICHLAND COUNTY**

**Court of Common Pleas  
DeAndrea Gist Benjamin, Circuit Court Judge  
Case No. 2013-CP-400-1643**

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**Appellate Case No. 2014-000583**

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**Samuel T. Brick, Appellant**

**v.**

**Richland County Planning Commission and Fairways  
Development, LLC, Intervenor, Respondents**

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**DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

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Appellant proposes the following be included in the Record on Appeal:

1. Order of December 17, 2013, granting Motion of Intervenor Fairways Development LLC's Motion to Dismiss;
2. Order of December 17, 2013, granting Motion of Respondent Richland County Planning Commission's Motion to Dismiss;
3. Order of December 17, 2013, granting Motion of Intervenor Fairways Development LLC to Intervene in the Case;
- 3 A Form Order filed September 16, 2013, denying Appellant's Motion to Amend


APPENDIX B

4. Form 4 Order dtd. February 5, 2014, denying Appellant's Motion for Reconsideration;
5. Order dated April 17, 2013 by Judge Alison Lee (2012-CP-40-7337).
6. Order dated October 16, 2013 by Judge Roger M. Young, Sr. (2012-CP-40-7337), Appellant's FOIA case.
7. Appellant's Notice of Appeal and Appeal to the Court of Common Pleas, Fifth Judicial District of the Richland County Planning Commission Denial of Appellant's Appeal Regarding Administration of Zoning p. 1, pp. 3-4, pp.9-10, pp. 18-19, App. A-1 (pp. 1-4), App. A-2 (p. 2-3, *DRT Meeting Notice*), App. A-4, App. B-1, App. B-3 (p. 1, pp. 16-19), and App. B-6 (*Order of Planning Commission*);
8. Notice of Motion and Motion to Dismiss on behalf of Respondent Richland County Planning Commission, dtd. May 31, 2013;
- 8A Return to Appeal on Behalf of Respondent Richland County Planning Commission, filed June 5, 2013
9. Appellant's Response to Richland County Planning Commission Motion to Dismiss Appeal, dtd. July 31, 2013;
10. Appellant's Affidavit and Response to Appellee's Motion to Dismiss Appeal, dtd. August 21, 2013;
11. Motion to Intervene by Fairways Development LLC, dtd. June 14, 2013, w/o Certificate of Service;
12. Appellant's Answer to Motion to Intervene, dtd. July 31, 2013;
13. Appellant's Affidavit in Response to Fairways Development LLC Motion to Intervene, with Appendices, dtd. August 21, 2013;
14. Appellant's Motion to Amend Notice of Appeal and Appeal of the Richland County Planning Commission Denial of Appellant's Appeal regarding Administration of Zoning and Notice of Defective File, dtd. June 27, 2013;
15. Fairways Development LLC's Motion to Dismiss Appeal with attachments, dtd. June 14, 2013;

16. Appellant's Response to Fairways Motion to Dismiss, dtd. July 31, 2013;
17. Appellant's Affidavit in Response to Fairways Development LLC Motion to Dismiss with Appendix 1, dtd. August 21, 2013;
18. Appellant's Notice and Motion for Reconsideration;
19. Transcript of Proceedings pp 10-16, 19, 28-29, 31-46, 49-51;
20. Richland County Planning Commission's Record on Appeal, w/o numbered submissions, dtd. May 31, 2013;
21. Richland County Planning Commission's Supplemental Record on Appeal, without numbered submissions, dtd. August 15, 2013;
22. Section 26-186 of the Richland County Code (App. C-10 of # 7, above);
23. Section 26-89 of the Richland County Code (App. C-6 of # 7, above);
- 23a Section 21(b)(9) of the Richland County Code
- 23b Section 22 of the Richland County Code, Definitions (Lot Adjacent)
24. Section 26-34 of the Richland County Code;
25. Section 26-54 of the Richland County Code;
26. Sketch/Concept Plans for The Villages at Longcreek, prepared for Longcreek Associates, LLC, dtd. Nov. 7, 2012, as stamped by Sustainable Design Consultants, Inc. and John D. Champoux, registered landscape architect and marked "submitted for approval" (Title Page and SP-01 through SP-03), such plans provided by Appellee as part of the official county record provided the Planning Commission for action on the appeal and referenced in Des. Matter #22, p. 3 and in other pleadings);
27. Electronic Communication by Law Clerk advising of Appeal; and
28. 5<sup>th</sup> Judicial Circuit Public Index of *Samuel T. Brick v. Richland County Planning Commission*, Case No. 2013CP4001643.

29. Affidavit of R. Steve McNair, Exhibit B1 to Intervenor/Respondent's Motion to Lift Automatic Stay and to Require Appellant to Post a Bond Pursuant to Rule 241 SCACR.
30. Excerpt of Tax records relating to portion of Villages Project, Exhibit F to Appellant's Return to Intervenor/Respondent's Motion to Lift Automatic Stay
31. Deed of 20.28 acres of portion of Villages Project, Exhibit E to Appellant's Return to Intervenor/Respondent's Motion to Lift Automatic Stay
32. Sustainable Design Consultants, Inc. internet display of projects, Exhibit D to Appellant's Return to Intervenor/Respondent's Motion to Lift Automatic Stay
33. Complaint, amended and supplemented filed by Samuel T. Brick (2012-CP-40-7337), Appellant's FOIA case.
34. Notice of Appeal to Court of Appeals, dated March 11, 2014

I certify that this designation, other than Intervenor/Respondent requested Designated Items 5,6,31 and pages 10,13,14, 16-17, 19, and 28-29 of the Transcript of Proceedings (Des. Matter # 19) and Respondent designated items 8A, 3A, and 34, contain no matter which is irrelevant to this appeal.



Samuel T. Brick, Appellant, Pro se  
124 Runnymede Drive  
Blythewood, South Carolina 29016  
(803) 546-4895  
[sbrick2011@gmail.com](mailto:sbrick2011@gmail.com)

October 17, 2014

Richland County, South Carolina

#### **CERTIFICATE OF SERVICE**

I, Samuel T. Brick, Appellant, Pro Se, hereby certify that this Designation of Matter to be Included in the Record on Appeal was served upon the parties to this

action by my depositing a copy of same, enclosed in a First Class postpaid envelope addressed to the attorneys of record in a post office or official postal depository under the exclusive care and custody of the United States Postal Service, on October 17, 2014, addressed in the following manner:

Andrew F. Lindemann, Esquire  
Michael B. Wren, Esquire  
Davidson & Lindemann, P.A.  
P.O. Box 8568  
Columbia, S.C. 29202  
Attorneys for Respondent

Tobias G. Ward, Jr., Esquire  
J. Derrick Jackson, Esquire  
Post Office Box 6138  
Columbia, SC 29260

Attorneys for Intervenor/Respondent



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Samuel T. Brick, Appellant

October 17, 2014

**RECEIVED**

OCT 17 2014

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

HAND DELIVERED: October 17, 2014

Re: Appellate Case Number 2014-000583, Samuel T. Brick, Appellant v. Richland County Planning Commission and Fairways Development LLC, Intervenor, Respondents

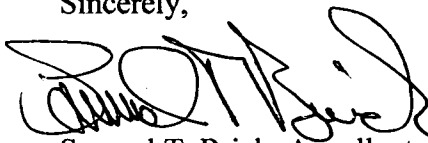
Dear Ms Kitchings:

Enclosed for filing is the Initial Reply Brief of Appellant along with Appellant's Designation of matter to be included in the Record on Appeal along with Appellant's Motion for Relief to the Requirement for the Record on Appeal for 15 Copies and for Relief from Including all of Respondent Richland County Planning Commission's Designated Material in the Record. Also enclosed is a check for \$25 payable to you as the motion filing fee.

Under Rule 240 SCACR, it is my understanding that this motion does not stay the requirement of Rule 210 SCACR to file a copy of the Record of Appeal within 30 days after this date (service of the last brief). If I do not receive a reply to the Motion by such date (November 17, 2014, according to my calculation), I must provide the Record with all the requested Designated Matter, irrelevant or not. After that, under Rule 211, SCACR, I must file the requisite number of bound briefs and bound Record on Appeal. In this regard, if a ruling in the Motion would not be projected by the required filing times, request an extension of the filing periods in order that a delay not result in the motion being mooted.

Thank you for your assistance in this matter.

Sincerely,



Samuel T. Brick, Appellant, Pro se  
124 Runnymede Drive  
Blythewood, SC 29016  
803 546 4895  
[sbrick2011@gmail.com](mailto:sbrick2011@gmail.com)

Enclosures:

1. Motion for Relief re the Record on Appeal
2. Filing Fee of \$25
3. Initial Reply Brief of Appellant

4. Designation of Matter for the Record

5. Certificate of Service for the Designation of matter and reply Brief

cc:

Tobias G. Ward, Jr. and J. Derrick Jackson (Counsel for Intervenor, Respondent

Andrew F. Lindemann and Michael B. Wren, Davidson & Lindemann, P.A. (Counsel for Respondent, Richland County Planning Commission).