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S C Supreme Court

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
J Ernest Kinard, Jr , Circuit Court Judge

Stephen P Donohue

Appellant,

v

City of North Augusta,
the Mayor and City Council
of North Augusta

Respondents

Case No 2013 CP-02-02781
Appellate Case No 2014-002235

**RECORD ON APPEAL
VOLUME I**

James D Mosteller, III
The Mosteller Law Firm, LLC
P O Drawer 328
Aiken, South Carolina 29802
(803) 226-0396

Attorney for Appellant

Belton T Zeigler
Gary T Pope, Jr
Charles D Rhodes III
Pope Zeigler LLC
P O Box 11509
Columbia, SC 29211
(803) 354-4900

Kelly F Zier
Zier Law Firm
P O Box 6516
North Augusta, SC 29861
(803) 278-4586

Attorneys for Respondents

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STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

Stephen P. Donohue,)

Plaintiff,)

v)

City of North Augusta, the Mayor and
City Council of North Augusta,)

Defendants,)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
CASE NO. 2013-CP-02-02781

ORDER

FILED 2/14/14
FILED 2/14/14
FILED 2/14/14

This case was brought by Stephen P. Donohue, a resident of the City of North Augusta (the "City"). Mr. Donohue seeks to invalidate City Ordinance No. 2013-19 (the "Ordinance"). The Ordinance amended the redevelopment plan for the North Augusta Riverfront Redevelopment District to allow for the construction of a minor league baseball stadium and other amenities on a 25-acre tract of land fronting the Savannah River in downtown North Augusta. Mr. Donohue's home is located several thousand feet downriver from the stadium site. In addition to seeking to invalidate the Ordinance, the Complaint also alleged that if the stadium is built, it would represent a nuisance to Mr. Donohue's enjoyment of his property. Mr. Donohue sought money damages for the prospective nuisance.

FACTUAL/PROCEDURAL BACKGROUND

The Complaint in this action was filed on December 9, 2013. The two initial plaintiffs were Mr. Donohue and the River Club Homeowners Association. On December 23, 2013, counsel for both filed an amended complaint (the "Complaint") which dropped the River Club Homeowners Association as a party.

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2014 AUGUST 14
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ROA Page 3

ROA Page 4

On January 15, 2014, Defendants petitioned the Supreme Court of South Carolina to remove this action to its original jurisdiction. The Court denied that motion but by administrative order gave exclusive jurisdiction over this action to this Court. Defendants answered the Complaint on April 14, 2014 effectively denying all claims. The trial of this matter was held on July 18, 2014.

The evidence at trial showed that beginning in the 19th Century the City's riverfront area was used for industrial activities, clay mines for brick works, a public dump and similar purposes. North Augusta Mayor Lark Jones, who has served on City Council since 1985, testified that by the 1980's the riverfront area was largely abandoned and overgrown.

In 1991, the City established the North Augusta Redevelopment Commission under the terms of the South Carolina Community Development Law S.C. Code Ann. §§ 31-10-10 *et seq*. See Ordinance No. 91-07 (**Joint Exhibit 1**). The City gave the commission the responsibility for "acquiring and replanning blighted and potentially blighted areas." Ordinance No. 91-07 at Section 18-10. The City also created the North Augusta Riverfront Redevelopment District to include the riverfront areas adjacent to downtown North Augusta and other adjoining properties. See Resolution 91-06 (**Joint Exhibit 2**). The City gave the Redevelopment Commission responsibility for redevelopment of the riverfront district.

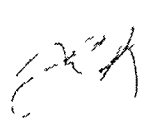
In the early 1990's, the City contracted with the planning firm of Lane Frenchman and Associates of Boston and others to prepare a redevelopment plan of the Riverfront Redevelopment District using work done by Clemson University's planning institute. See Ordinance 96-10 (**Joint Exhibit 5**). Among other things, this plan established anticipated land uses within the District and the nature and potential locations of public buildings, parks, greenways and other amenities. See Ordinance 96-10 at Section 101(14)-(16). The plan

identified potential sources of funding for redevelopment including the establishment of a tax increment financing ("TIF") district under S.C. Code Ann. §§ 31-6-10 *et seq.* (the "TIF Statute")

In 1996, the City designated portions of the plan developed by Lane Frenchman as the official redevelopment plan for the District (the "Redevelopment Plan"). See Ordinance No. 96-10. The City also created the North Augusta Tax Increment Financing District (the "TIF District") to finance the Redevelopment Plan in part. *Id.* The City expanded the Riverfront Redevelopment District to include more of the declining commercial area on upper Georgia Avenue in the District. *Id.*

After the passage of Ordinance No. 96-10, the City began assembling title to the lands along the riverfront, the ownership of which was fragmentary or confused. The City also constructed parks and constructed and streetscaped access roads to support development of the River Club, a golf course and high-end residential development located on the riverfront east of Georgia Avenue. On the west end of the riverfront, the City located and assisted a private development group in establishing Hammond's Ferry, a walkable, mixed use development on lands assembled by the City. In addition, the City streetscaped thoroughfares and made other improvements to the older commercial area along upper Georgia Avenue, which is on the bluff immediately behind the riverfront. The City built parks and a new city administration building to help link the declining commercial district to the riverfront.

In 2001, the City issued a TIF bond in the nominal amount of \$5,000 to begin the collection of revenue generated by the TIF District. See S.C. Code Ann. § 31-6-70. The City then used TIF revenues generated by increasing assessed values in the TIF District to pay the costs of authorized redevelopment projects on a pay-as-you-go basis.



In 2012, the City began discussions with North Augusta Riverfront Development Company, LLC, (the "Riverfront Company"), about developing the vacant 25-acre site which was immediately west of Georgia Avenue and directly on the riverfront. The Riverfront Company is the developer of Hammond's Ferry. At the time, the Riverfront Company was willing to commit to build two 4,000 square foot commercial buildings in exchange for the City's commitment to invest between \$2.4 million and \$3.4 million in streetscaping and parks in the adjacent area. Development Agreement at Article 5 (**Defendant's Exhibit 10**). However during these negotiations, the City was approached by a promoter about the possibility of relocating the Augusta Green Jackets minor league baseball team to a site adjacent to the City's industrial park. As the City's Administrator, Iodd Glover, testified, these discussions led to discussions with the owner of the Green jackets about relocating to the 25-acre site beside Georgia Avenue. The owner, who is a developer, eventually organized Greenstone Properties, LLC and committed to a plan for the construction of a city-center development on the 25 acre site anchored by a new baseball stadium. The plan, called Project Jackson, would include a 200 room hotel, a 275 unit apartment complex, 70,000 square feet of office, commercial and restaurant space, 25 residential units and a YMCA facility. See Ordinance No. 2013-19 at Section 1.01 (**Joint Exhibit 14**). To support this private investment, estimated at approximately \$128 million, the City would construct the baseball stadium and a convention center adjacent to the hotel. The City investment in Project Jackson would be approximately \$40 million. (**Financing Scenario 43, Defendant's Exhibit 13**)

Pursuing Project Jackson required the City to amend the Ordinance 96-10 to designate a baseball stadium as part of the redevelopment project, and to extend the amount and term of TIF



obligations to finance the project. See Ordinance No. 2013-19. The City adopted Ordinance No. 2013-19 on November 18, 2013. This lawsuit followed.

The trial of this case took place without a jury on July 18, 2014. Based upon the documentary evidence presented, a review of all applicable statutes and ordinances, the testimony of witnesses and a review of affidavits filed by several witnesses and their credibility, the Court finds and concludes that the ordinance as passed met the form and substance of the TIF law. I further find and conclude that Plaintiff fails on his Freedom of Information Act claims and also dismiss his claim for prospective nuisance all as set forth more fully below.

LAW/ANALYSIS

Plaintiff alleges that Ordinance No. 2013-19 is invalid for two reasons. First, Plaintiff alleges that the ordinance does not comply with the statutory requirements for amending a redevelopment plan under the TIF Statute. Second, Plaintiff alleges that the City violated the provisions of the South Carolina Freedom of Information Act ('FOIA') in its enactment of the Ordinance.

I. Validity of Ordinance No. 2013-19

Plaintiff argues that for the City to amend the current Redevelopment Plan and to change the term and amount of the TIF obligations (collectively the "TIF Plan"), it was required to make findings that a) conditions of blight were present in the district currently, and b) that property values in area could remain static or decline without substantial public assistance. But that argument is based on an incorrect reading of the TIF Statute and its provisions that govern amendments of an existing redevelopment plan.

Amending the TIF District Redevelopment Plan

The TIF Statute requires findings as to blight, declining or static property values and the need for public assistance to correct them S C Code Ann § 31-6-80(A) However, I find these findings of need are made only once, before any TIF obligations are issued and within ten years of the adoption of the TIF Plan See S C Code Ann §§ 31-6-70 & 80(A) In this case, the required findings were made in 1996, when the TIF Plan was adopted See Ordinance 96 10 Section 1 01(3) (6)

The sections of the TIF Statute that govern the amendment of the TIF plan do not require additional or updated findings as to blight declining or static property values or the need for public assistance to correct them See S C Code Ann § 31-6-80(B) (C) and (D) Instead, they require that the procedures involve public notice and hearing before the adoption of the ordinance amending the TIF plan, and notice to other taxing entities in the county—which then have the right to participate in the financing of the TIF plan or to exempt themselves from it *Id* There is no evidence that the City failed to follow these procedures in adopting Ordinance No 2013-19

Furthermore, Plaintiff's reading of the TIF Statute would result in an impractical reading of the statute as each improvement made on the property should reduce blight The TIF Statute requires the enumerated findings to be made before issuance of TIF obligations and within ten years of the adoption of a redevelopment plan S C Code Ann § 31-6-70 Those provisions are inconsistent with Plaintiff's argument that such findings were required in 2013, 17 years after adoption of the Redevelopment Plan and 12 years after issuance of TIF obligations Furthermore the practical effect of Plaintiff's argument could be to prevent municipalities from making even the most simple and necessary changes in a partially completed TIF plan That would be the case if during the initial stages of its implementation, the initial blight and property value concerns had been ameliorated Municipalities could be locked into implementing

outdated plans that did not meet current needs. Such a result would violate the rule that statutes are to be interpreted in a way that harmonizes their provisions, avoids inconsistency and gives them a reasonable and practical effect. *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 677, 74 S.E.2d 877, 881 (2011).

For the reasons stated above, the Court finds that in amending the TIF Plan under S.C. Code Ann. § 31-6-80(F)(2) the City was not required to make updated findings related to blight, declining or static property values or the need for public assistance to correct them.

Other Grounds for Upholding the Ordinance

There are several additional grounds for upholding Ordinance No. 2013-19 against the challenge that it lacks valid or sufficient findings related to blight, declining or static property values or the need for public assistance to correct them.

First, under the TIF Statute, any area designated to be a redevelopment district under the Community Redevelopment Act is "deemed to be blighted." S.C. Code Ann. § 31-6-30(1). The TIF District is such an area. See Resolution 91-06. Accordingly, it has been deemed blighted as a matter of law. In this regard, the Court notes that at trial, Plaintiff took the position that the existence of declining or static property values and the need for public assistance to correct them are incorporated into the blight definition and so are part and parcel of a required finding of blight. Accordingly, if blight is presumed, these other findings must be presumed also.

Second, the Ordinance in fact contains express findings of blight, declining or static property values and the need for public assistance to correct them. Ordinance No. 2013-19, Section 2.08 (c) and (d). These findings would be sufficient to meet the statutory requirements if such findings were in fact required, which I find are not. The absence of the word "values" in the

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discussion of "static and declining property" is immaterial. The intended meaning is entirely clear.

The Standards for Review of Legislative Findings

At the trial in this matter, and its pretrial motion in limine, Plaintiff argued that in justifying legislative findings required by the TIF Statute, the City Council was limited to matters established in the "legislative record." In Plaintiff's view, that record consisted of documents placed before Council when considering the Ordinance and matters referenced in the minutes of the Council's deliberations concerning it. Plaintiff argued that absent sufficient facts in the "legislative record," any findings made by City Council in adopting the Ordinance, whether independently supportable or not, should be found to be arbitrary and capricious. This is not the law.

As to factual questions related to legislative determinations:

The matter is largely within the discretion of the legislative authority, which is presumed to have investigated and found conditions such that the legislation which it enacted was appropriate, so that if the facts do not clearly show that the ~~bounds of that discretion have been exceeded, the courts must hold that the action~~ of the legislative body is valid. In this respect, it has been declared that the municipal governing bodies are better qualified because of their knowledge of the situation to act upon those matters than are the courts, which will not substitute their judgment for that of the legislative body.

Talbot v. Myrtle Beach Bd. Of Adjustment 222 S.C. 165, 169-170, 72 S.E.2d 66, 68 (1952) (quoting 58 Am. Jur. 956, 975 § 23)

Courts will not overturn legislative findings in ordinances except on "convincing evidence to the contrary" showing that the findings are "clearly erroneous." *Richards v. City of Columbia* 227 S.C. 538, 560-61, 88 S.E.2d 683, 694 (1955). The party challenging an ordinance bears the burden of proof and must show by clear and convincing evidence that the ordinance is arbitrary and capricious, and the Court will not overturn the ordinance "as long as the decision is

fairly debatable "' *Peterson v City of Clemson*, 312 S C 162, 165, 439 S E 2d 317 320 (Ct App 1993) (citations omitted)

[T]here are many instances where the constitutionality of an act depends upon pertinent facts and in such a case it is presumed from the mere passage of the act that there was a finding of such facts as were necessary to authorize the enactment. However, by the better rule such implied or express finding is subject to judicial review, **and the court may consider extrinsic evidence or this purpose**, although the statute will not be held unconstitutional unless such (legislative) finding is clearly erroneous.

Richards v City of Columbia, 227 S C at 561, 88 S E 2d at 694 (emphasis supplied)

These authorities establish a highly deferential standard for the judicial review of legislative findings, one which provides for the consideration of any competent evidence supporting them. The argument that legislative are reviewed on a "legislative record" that limits the facts that may be shown to support them is entirely foreign to the law in South Carolina. Accordingly, the Court rules as a matter of law that any competent evidence relevant to the findings made in ordinance No 2013-19 is properly before the Court.

Facts Supporting the Findings of Ordinance No 2013-19

At trial, the City's Mayor Lark Jones and its Administrator, Todd Glover, testified in detail concerning the continued existence of blight within the TIF District, the fact that certain properties were static and declining in value, and the fact that continued public assistance is necessary to prevent future decline. The Court finds their testimony to be credible and persuasive.

In this regard, the Court finds are a matter of fact:

1. That the specific property on which Project Jackson will be developed is unimproved since the TIF District was established 18 years ago.

2 That this property is characterized by collapsing buildings, vacant buildings, and ground which is contaminated on the surface and below the surface by waste brick, rubble and debris, including debris that is contaminated with lead-based paint

3 That, as indicated by the testimony of Mr. Glover, a sufficient number of elements of the statutory definition of blight are met by properties within the TIF District

4 That, for the reasons set forth in the testimony of Mr. Jones and Mr. Glover, and as documented in Defendant's Exhibit 9, there are multiple properties within the TIF District and the surrounding area that exhibit static or declining values

5 That persuasive evidence supports the finding that substantial public assistance is necessary to allow the Project Jackson property to be developed, including evidence that the property is contaminated by waste brick and rubble that it will require nearly \$2.4 million to remediate it, and the fact that it has remained unimproved since the TIF District was established 18 years ago. This conclusion is also supported by direct and affirmative testimony of the City's witnesses that public assistance is required to counteract static or declining values in the area of the TIF District

6 That Project Jackson is part of a larger project to reverse the ongoing decline of the City's commercial district, which is suffering from the migration of customer traffic and commercial activities to new malls and strip malls in more suburban locations

7 That public investment in the riverfront area is necessary to attract commercial traffic back to the North Augusta downtown commercial district and thereby counteract conditions of stagnation and decline in that district. The City Administrator also indicated that all officials were aware of economic improvement in similar ball park additions to cities such as Greenville, South Carolina

8 That the 2013 development agreement with the Riverfront Company involved public investment of between \$3.4 million and \$4.4 million in exchange for guaranteed private investment of approximately \$1.2 million.

9 That the 2013 development agreement with the Riverfront Company is not evidence that the stagnation and decline in the City's riverfront and commercial area will be counteracted without public investment, but to the contrary, it shows the need for substantial public investment to support even modest development activities on sites like the Project Jackson site.

In light of the testimony and other evidence presented at trial, the Court finds as a matter of fact that blight and declining or static property values existed within the TIF District when the Ordinance was adopted and that substantial public assistance was necessary to correct them. For that reason, the findings contained in Ordinance No. 2013-19 are neither arbitrary, capricious nor clearly erroneous as a matter of law, and I carefully considered the testimony of Tom Regan.

II Freedom of Information Act Claims

Plaintiff alleges that the City Council violated FOIA by (1) meeting in executive sessions between January 2013 and September 2013 without properly announcing the specific purpose to be discussed and (2) by taking action in an executive session on March 11, 2013 to postpone a public hearing with the Aiken County School Board related to Project Jackson.

Announcing Executive Sessions

Under FOIA, all meetings of governmental bodies must be open to the public, unless the subject being discussed falls within one of the five topics enumerated in S.C. Code Ann. § 30-4-70(a)(1)-(5). These topics include contractual negotiations, personnel matters and the receipt of legal advice, among others. Where a governmental body enters into an executive session to

discuss one of these topics it must vote in open session to do so and the presiding officer must announce the specific purpose of the executive session S C Code Ann § 30-4-70(b)

The FOIA statute clearly establishes the level of detail required to meet the "specific purpose" standard. Specific purpose is defined as "a description of the matter to be discussed, as identified in items (1) through (5) of [Section 30-4-70(a)]" *Id.* The plain language of the definition of "specific purpose" requires only that the purpose of the executive session be identified as it is described in Section 30-4-70(a), *e.g.* contractual negotiations, personnel matters and the receipt of legal advice. *Cf. Quality Towing, Inc. v. City of Myrtle Beach*, 345 S C 156, 547 S E 2d 862 (2001) (finding a violation of FOIA where the mayor made no announcement whatsoever as to the specific purpose of an executive session).

The record before the Court includes the minutes of all City Council meetings during the period which Project Jackson was under consideration. It also includes the affirmative testimony of the Mayor and City Administrator concerning the City's practice in convening executive sessions. Both the minutes and the testimony indicate that in each case where an executive session was held, the Mayor announced the purpose of the executive session and the Council properly voted to enter executive session. In each instance, the "specific purpose" was a description of the matter as it was identified in the list of approved purposes for executive sessions provided for in FOIA. (**Council Minutes, Joint Exhibit 6**)

The Court finds this evidence credible and persuasive. The means used by City Council to announce and convene executive sessions did not violate FOIA.

Alleged March 11, 2013 Violation of FOIA

In the Complaint, Plaintiff alleged that on March 11, 2013 the City took action in executive session to postpone certain public hearings, including a public hearing that the City

had requested before the Aiken County School Board. The City had requested the hearing to formally request that the School District enter into an intergovernmental agreement consenting to participate in the TIF financing plan under S.C. Code Ann. § 6-31-85. The decision to reschedule the presentation of this request was based on an unexpectedly negative initial reaction from County Council to a similar request.

At trial, Mayor Jones and Mr. Glover testified that Mayor Jones made the decision to postpone a public hearing several days before the executive session. He did so pursuant to the authority given to him by the City Council in Resolution 2012-01 (**Joint Exhibit 7**). The purpose of the executive session was to brief the Council on the status of negotiations related to the intergovernmental agreement and the reasons for the delay in the public hearing. Both witnesses testified that no decision of any kind was made during the March 11, 2013 executive session.

This testimony is entirely credible. The Court finds that there is no evidence that would lead to the conclusion that the City Council took any action during the executive session held at its March 11, 2013 meeting. Obviously Mr. Donohue sincerely believes that secret meetings took place, but I have no clear evidence to refute the finding I make as to FOIA compliance.

III Speculative Nuisance Claim

Plaintiff claims that the implementation of the Redevelopment Plan may create a nuisance related to traffic congestion, noise, light pollution or parking congestion resulting in the diminution of the value of his property in an unspecified amount at some unspecified time in the future. Speculative allegations of diminution in property value are insufficient to support a claim sounding in nuisance. See *Yadkin Brick Co. Inc. v. Materials Recovery Co.*, 339 S.C. 640, 646, 529 S.E.2d 764, 767 (Ct. App. 2000) ("[B]ald allegations are insufficient to establish a

claim for diminution in value, and the evidence must not be speculative as to the amount of the alleged diminution ") Where, as is the case here the claim is one of anticipatory nuisance (i.e., nuisance from an action that has not yet been taken), the plaintiff must show that

[A] nuisance will inevitably or necessarily result from the act or thing which it is sought to enjoin. It is not enough to show that the anticipated acts threatened to or may become a nuisance, but the evidence must show that a nuisance is inevitable from the proposed use of the premises or will necessarily result. If the proposed business may be operated in a way as not to constitute a nuisance, an injunction will not be issued. The alleged nuisance must be the necessary result of the operation of a business.

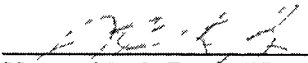
Strong v Winn Dixie Stores, Inc. 240 S.C. 244, 254, 125 S.E.2d 628, 633 (1962) (citing 39 Am. Jur. Nuisances, §§ 151 and 152). In addition, evidence was presented that Mr. Donohue's residence is currently exposed to heavy traffic, traffic noise, noise from boats using the river, and occasional lights and noise generated from an entertainment forum across the river in Georgia.

The record at trial includes credible testimony from officials of the City describing a multitude of ways in which the City might operate a baseball stadium that would mitigate any negative impacts alleged by Plaintiff. Plaintiff cannot support a claim for nuisance on these facts.

CONCLUSION

Based upon the findings of fact and conclusions of law above, the Court denies the relief prayed for by Plaintiff and finds for Defendant as to all of Plaintiff's causes of action.

IT IS SO ORDERED



Honorable J. Ernest Kinard, Jr.
South Carolina Circuit Court Judge

Camden, South Carolina
August 1st, 2014

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9/23/2014

ROA Page 17

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

Stephen P. Donohue)

Plaintiff)

City of North Augusta the Mayor and
City Council of North Augusta,)

Defendants,)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT
CASE NO. 2013-CP 02-02781

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
ORDER
I, the Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing is a true and correct copy of the
original document which have been filed in my office this

SEP 19 2014

CCCP & G A. Aiken County SC

Deputy Clerk

Subsequent to the order I executed that was filed on August 20, 2014, Plaintiff filed a motion on September 2, 2014 seeking an order to alter or amend the previous order I signed that was filed on August 20, 2014.

I have carefully considered each of the issues raised in the 12 page motion, memorandum, and the attached affidavit. I decline to alter or amend as I feel that all issues were addressed in the original order I signed, although I concede that I could have made the order much more lengthy by discussing in more detail the issues addressed.

Accordingly, the motion to alter or amend is denied.

IT IS SO ORDERED

[Signature]
Honorable J. Ernest Kinard Jr.
South Carolina Circuit Court Judge

Camden, South Carolina
September 17, 2014

FILED

9 19 2014

[Signature]
CCCP & G S

Deputy Clerk

12:00pm

ROA Page 17

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Stephen P Donohue,

Plaintiff,

vs

City of North Augusta,
the Mayor and City Council
of North Augusta

Defendants

Case No 2013-CP-02-2781

AMENDED
Complaint For Declaratory Judgment

C O P Y
ORIGINAL FILED
DEC 23 2013
AIKEN COUNTY
CLERK OF COURT

Plaintiff would respectfully show unto the Court that

PARTIES AND FACTUAL BACKGROUND

- 1 This is a suit to challenge the validity of the adoption of an ordinance pursuant to Section
31-6-80 of the South Carolina Tax Increment Financing Law, S C Code § 31-6-10 *et seq*
(hereinafter "the TIF Law") and for a declaratory judgment pursuant to S C Code § 15-53-10
et seq
- 2 Plaintiff, Stephen P Donohue, is a taxpayer residing in the city of North Augusta, and a
homeowner near to the situs of a proposed tax-payer financed commercial development
- 3 Defendant, City of North Augusta, South Carolina, is an incorporated municipality
(hereinafter "the City") located in Aiken County, and is a political sub-division of the State
of South Carolina, therefore a body politic having the capacity to sue and be sued
- 4 Defendants, Mayor and City Council, constitute the governing body of the City and are suit
is brought against them in their official and not their personal capacities
- 5 On April 15, 1991, the City adopted Ordinance 91-07, finding that blight existed in the City

and established the North Augusta Redevelopment Commission pursuant to S C Code § 31-10-10

6 On April 15 1991, the City simultaneously adopted Resolution 91-06 establishing the North Augusta Riverfront Redevelopment District That District included lands from Hammond Ferry Road to the west, the Savannah River to the south, the city limits to east and north to various boundaries from Buena Vista Avenue to Martintown Road The resolution divided the lands in the District into three tiers Tier one included the properties bordering the Savannah river south of the railroad right-of-way which the city found to be in a flood plain and undeveloped or underdeveloped, but did not find to be blighted Tier two properties were those properties immediately adjacent to tier one property and were not found to be blighted Tier three properties were all the other property in the District that would need to be developed in order for tier one and two properties to be developed Tier three property was the only property found to be blighted

7 Upon information and belief, the 25 acres more or less which the City has designated for its new "Project Jackson" is in tier one of the Riverfront Redevelopment District and no finding of blight has ever been made for this property Project Jackson or the stadium project as discussed more fully below is the subject of plaintiff's suit

8 On December 19, 1996, the City published a notice of adoption of Ordinance 96-10, entitled "An Ordinance Providing for the Creation of the North Augusta Tax Increment Financing District within the North Augusta Riverfront Redevelopment District and the Adoption of a Redevelopment Plan for the Redevelopment District and the Tax Increment Financing District and Other Matters Relating Thereto," which the Mayor and City council enacted on

December 16, 1996 (hereinafter "the Ordinance")

9 The Ordinance established a portion of the City as the North Augusta Tax Increment Financing District (hereinafter "the TIF District"), approved a Redevelopment Plan for the North Augusta Riverfront Redevelopment District (hereinafter "the Redevelopment Plan"), and authorized the subsequent use of tax increment bonds to finance public improvements in furtherance of the Redevelopment Plan. The term of the Tax Increment District was set for fifteen years from the date of the first issuance of tax increment bonds.

10 The amount of the bond issuance was estimated to be Thirteen Million Four Hundred Thousand (\$13,400,000.00) Dollars as set forth in Section 3.03 of the 1996 ordinance.

11 The TIF District comprises 457 acres of wooded, vacant land between the Savannah River and the river bluff, the developed area along upper Georgia Avenue constituting a portion of downtown, and a wooded, vacant tract of land running from the river bluff across Buena Vista Avenue to Martintown Road.

12 The TIF Law authorizes a municipality to incur indebtedness for the redevelopment of areas suffering from urban blight, or which threaten to become blighted, and to divert to the municipality for debt repayment property tax revenues generated from the increases in the assessed value of real property within the TIF district and millage levied by or on behalf of school districts, counties and special purpose districts.

13 The City issued its Tax Increment Revenue Bond, Series 2001 in the aggregate principal amount of \$5,000 (the "2001 Bond") both to finance redevelopment projects described in the Original North Augusta Redevelopment Plan and to initiate the collection of TIF Revenues to fund such redevelopment projects on a pay-as-you-go basis. The 2001 Bond is payable

only from TIF Revenues The 2001 Bond matures on December 5, 2016

- 14 The original TIF district Redevelopment Plan provided for the city building, *inter alia*, a new city hall, beautifying existing streets, building parks, greenways and bicycle paths
- 15 On December 17, 2012, the City enacted ordinance no 2012-14, which, *inter alia*, approved a development agreement for the same redevelopment area in the same TIF district established by Ordinance No 96-10 which did not require substantial public assistance and which was consistent with the City's land development regulations including the Riverfront Ordinance (Ordinance No 2010-13)
- 16 On January 8, 2013, the City entered into the development agreement authorized by Ordinance No 2012-14, with North Augusta Riverfront Company LLC, (the Riverfront Company) The Riverfront Company averred in that agreement that it intended "to develop the Property in accordance with the Riverfront Ordinance" The agreement also recognized the vested development rights of the Riverfront Company
- 17 On November 18, 2013 the City enacted ordinance no 2013-19 amending the TIF established by ordinance no 96-10 The duration of the Redevelopment plan was extended from December 5, 2016 to November 18, 2048, and the amount of the potential bond was increased almost fourfold
- 18 Because that amendment was more than twenty years subsequent to the passage of the original ordinance establishing the alleged blight in Tier Three properties, more than fifteen years after the passage of the original 1996 TIF ordinance, and the amount of the proposed bond was more than quadrupled plaintiffs contend the City is required to follow procedures under the TIF law for the initial approval of a redevelopment project and designation of a

redevelopment project area, S C Code § 31-6-80(F)(2)

FOR A FIRST CAUSE OF ACTION

(Declaratory Judgment - S C Code § 15-53-10 *et seq*)

- 19 Plaintiff restates herein the above allegations as though set forth verbatim herein
- 20 Plaintiff, Stephen P Donohue, is a property owner in the City of North Augusta and pays
property taxes on a residence owned by him situated at 316 E Shoreline Dr to the City
- 21 The Redevelopment Area contemplated by the City in Ordinance No 2013-19 will place
burdens on the City for public safety and other essential governmental services for which the
development will not contribute taxes since those will be captured to pay for public
development, to wit baseball stadium, parking decks, and conference center and as such will
increase the tax burden on the plaintiff to pay for the additional public services
- 22 The intended development of the district will bring increased traffic, light pollution noise
pollution, and parking congestion, all to the detriment of plaintiff's quiet enjoyment of his
residence
- 23 In March 2013, the City received a study indicating that for baseball events, at the proposed
new stadium, or concerts the City will be short by approximately 1100 to 1300 parking
spaces, which will place additional burdens upon nearby residents, including plaintiff
- 24 Based upon the traffic studies, available parking, projected overflow of parking, and
congestion in the area, plaintiff is informed and believe he has standing to bring this action,
as he will suffer damages not incurred by the general tax-paying public, including but not
limited to potential diminution of his property values Moreover, plaintiff is informed and
believes he has standing under the TIF Statute as an interested party

- 25 The TIF law, S C Code § 31-6-80(A)(7) requires that ordinances adopted pursuant to that law include findings that
- a the redevelopment project area is an agricultural, blighted, or conservation area and that private initiatives are unlikely to alleviate these conditions without substantial public assistance,
 - b property values in the area would remain static or decline without public intervention, and
 - c redevelopment is in the interest of the health, safety, and general welfare of the citizens of the municipality
- 26 The ordinance does not comply with Section 31-6-80(A)(7) for the following reasons
- a There is no evidence supporting a current finding of "blight" or "conservation area",
 - b The City's reliance on a finding of blight from the early 1990s which did not include the Project Jackson area , with an initial finding 22 years ago without further evidence thereof constitutes an arbitrary and capricious action by the City,
 - c There was no finding that the property values in the area would remain static or decline without public intervention. In fact property values in the area have increased over the last 15 years from assessed value of \$996,178 to over \$6,378,000,
- 27 There were no findings that private initiatives are unlikely to alleviate these conditions without substantial public assistance. Such a finding would be contrary to the very agreement signed on January 3, 2013 with a private company to develop the same area
- 28 Upon information and belief, all of the above defects are grounds for the Court to declare the TIF, Ordinance No 2013-19 invalid

FOR A SECOND CAUSE OF ACTION

(In the Alternative, Nuisance-Inverse Condemnation)

29 Plaintiff restates as though verbatim herein, the allegations set forth above in paragraphs one through twenty-seven

30 The intended development of the district will bring increased traffic, light pollution, noise pollution, and parking congestion, all to the detriment of plaintiff's quiet enjoyment of his personal residence

31 The plaintiff is informed and believe the intended development will diminish the value of the plaintiff's property

32 Plaintiff is informed and believe that in the event the Court fails to declare the redevelopment ordinance authorizing the TIF invalid, that he is entitled to reimbursement from the City for any diminution in value to his property

FOR A THIRD CAUSE OF ACTION

(Breach of the Freedom of Information Act)

33 Plaintiff restates as though verbatim herein, the allegations set forth above in paragraphs one through twenty-seven

34 The City Council has repeatedly met in private, executive sessions between January 2013 and September 2013 without properly announcing the specific purpose to include a description of the matters to be discussed contrary to S C code § 30-4-60, et seq (FOIA), which on information and belief Plaintiff aver were discussions about Project Jackson (the TIF)

35 The City Council met March 11, 2013 and immediately went into "executive" or private session to discuss "contracts" with no further description as declared by the Mayor, the

presiding officer After that private meeting with no business discussed in a public meeting, the City Administrator declared he had been given "direction" by the city council on how to proceed with Project Jackson

- 36 Subsequently, the City issued a press release following that meeting wherein it stated, inter alia " The North Augusta City Council has decided to postpone the public hearing scheduled for its March 18th meeting during which it was to hear public comments regarding Tax Increment Financing for 'Project Jackson City Council also decided to postpone its request for approval of such amendments by the Aiken County Public School District " Those decisions were each made in a private, executive session contrary to S C § 30-6-60, et seq (FOIA)

WHEREFORE, having set forth his complaint against the defendants, plaintiff prays that this Court issue its judgment as follows

- a The court declare ordinance no 2013-19 was enacted contrary to the South Carolina TIF law and is therefore invalid,
- b The court declare ordinance no 2013-19 was the product of arbitrary and capricious findings by the city and is therefore contrary to law and invalid,
- c The court restrain the city from collecting any School or County taxes from the redevelopment area or crediting them to any special tax allocation fund as provided in ordinance no 2013-19,
- d The court restrain the city from issuing any debt instruments secured by taxes collected pursuant to ordinance no 2013-19
- e The court nullify each and every action of the City Council concerning the TIF

District and "Project Jackson" occurring on or after January 7th as products of improperly convening private meetings in violation of S C code § 30-4-60, et seq (FOIA) and award attorney's fees in accordance with the FOIA statute,

f In the alternative that the Court award plaintiff his actual damages for diminution in his property value,

g For such other and further relief as is just, including costs and reasonable attorneys fees according to law and S C Code § 15-77-300

December 23, 2013

James D. Mosteller III
The Mosteller Law Firm, LLC
322 Laurens Street NW
Aiken, SC 29801
803-226-0396
Fax 803-226-0493
Attorney for Plaintiff

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN	)	CASE NO 2013-CP-02-02781
	)	
Stephen P Donohue,	)	
	)	
Plaintiff	)	ANSWER OF THE DEFENDANTS CITY
	)	OF NORTH AUGUSTA AND THE
vs	)	MAYOR AND CITY COUNCIL OF
	)	NORTH AUGUSTA
City of North Augusta, the Mayor and	)	
City Council of North Augusta	)	
	)	
Defendants	)	
	)	

The Defendants the City of North Augusta and the Mayor and City Council of North Augusta (hereafter collectively the City or 'North Augusta), hereby answer the Amended Complaint (the 'Complaint) filed by Plaintiff, Stephen P Donohue denying each and every allegation of the Complaint not hereinafter admitted, qualified or explained

FOR A FIRST DEFENSE TO THE GENERAL ALLEGATIONS
(General Denials of Complaint)

1 Defendants answer the Complaint of Plaintiff as follows Each and every allegation of the Complaint not admitted, explained or qualified herein is denied and strict proof thereof is demanded

2 Defendants admit the allegations of paragraphs 1 2 3, and 4 of the Complaint

3 As to paragraphs 5 and 6 of the Complaint

a Defendants admit that on April 15, 1991 the City Council of North Augusta (the City Council) adopted Resolution 91-06 creating the North Augusta Riverfront Redevelopment District (the 'Riverfront Redevelopment District) and enacted Ordinance 91-07 establishing the North Augusta Redevelopment Commission

b Defendants admit that in Ordinance 91-07 the City Council found that blighted areas and potentially blighted areas existed within the 457 acre Riverfront Redevelopment District which is located in the urban core of the Augusta-Richmond County Metropolitan Statistical District

c Defendants admit that the blight in those areas was sufficient to support the creation of the Riverfront Redevelopment District as a 'redevelopment area' under Chapter 10 of Title 31 of the Code of Laws of South Carolina, 1976

d Defendants admit that the boundaries and area of the Riverfront Redevelopment District are as specified in paragraph 6

e Defendants deny that Tier Three property was the only property found to be blighted in the 1991 Ordinance or Resolution. Ordinance 91-07 found blight and areas of blight throughout the Riverfront Redevelopment District

f Pleading further to the allegations of paragraphs 5 and 6 Defendants would show that property contained in the Riverfront Redevelopment District was blighted in 1991 and remains blighted today

4 Responding to paragraph 7 of the Complaint

a Defendants admit that the property comprising Project Jackson (the 'Property') is located within the boundaries of the Riverfront Redevelopment District

b Defendants deny that the Property has never been found to be either blighted or to have the potential to become blighted as the Complaint alleges. Numerous blight findings have been made for the Riverfront Redevelopment District, of which the Property is a component of for the purposes of the TIF Statute

c Defendants would show that the Riverfront Redevelopment District comprises what was formerly industrial property along the Savannah River where activities such as brickworks, pottery works and other industrial activities took place from the 19th century onward

d Specifically, Defendants would show that the Riverfront Redevelopment District today suffers from significant blight and environmental problems and will require extensive remediation to be redeveloped

e In recitals (a) and (i) of an Intergovernmental Agreement by and between the City and Aiken County, South Carolina, dated November 18, 2013, both the City and Aiken County found that Riverfront Redevelopment District is blighted or threatens to become blighted

f Defendants would show that because of blight the Riverfront Redevelopment District has not been redeveloped successfully without the investment of public funds and is not anticipated to be

5 Responding to the allegations of paragraphs 8 9 and 10 of the Complaint, Defendants admit that Ordinance 96-10 provided for the establishment of a Redevelopment Plan authorized under Chapter 10 of Title 31 of the Code for all property located within the Riverfront Redevelopment District, including the Property where Project Jackson is to be located Defendants admit that Ordinance 96-10 created a Tax Increment Finance District (the TIF District) that includes all property located within the Riverfront Redevelopment District and encompassed by the Redevelopment Plan Defendants would show that Ordinance 96-10 was supported by express findings of blight that apply to the entire Riverfront Redevelopment District and that the blight conditions found in Ordinance 96-10 remain unabated for the vast

majority of the property in the Riverfront Redevelopment District Defendants would refer to the text of Ordinance 96-10 for a more complete understanding of its provisions

6 Defendants admit the allegations of paragraph 11 of the Complaint insofar as they describe the general area of the TIF District but would refer to Ordinance 96-10 for the precise statement of the boundaries of the TIF District

7 Defendants deny that paragraph 12 of the Complaint provides an accurate summary of the provisions of Title 31, Chapter 6 of the Code of Laws of South Carolina 1976 (the "TIF Statute ") as they relate to financing the redevelopment of blighted areas Defendants would refer to the language of the TIF Statute for an accurate understanding of its terms

8 Defendants admit the allegations of paragraph 13 of the Complaint

9 Defendants admit the allegation of paragraph 14 of the Complaint insofar as it alleges that "building a new city hall, beautifying existing streets, building parks, greenways and bicycle paths' are some, but not all, of the public projects that were authorized and have been completed under the Redevelopment Plan

10 Responding to the allegations of paragraphs 15 and 16 of the Complaint

a Defendants admit that on December 17 2012 the City Council adopted Ordinance No 2012-14 authorizing a Development Agreement in furtherance of a development plan that preceded Project Jackson (the "2012 Development Plan")

b Defendants deny that the 2012 Development Plan did not require substantial public assistance but called for public investment of approximately \$5 million in redevelopment projects and infrastructure See, the Affidavit of Howard Kaufman previously filed with the Supreme Court of South Carolina in this docket on January 15 2014

c Defendants would show that the 2012 Development Plan was replaced with a new Development Plan (the 'Project Jackson Development Plan') when a second developer approached the first developer and North Augusta with a new and superior redevelopment plan for the Property

d Defendants would show that the new developer proposes, with the City's assistance, to construct a minor league baseball stadium, convention center, convention hotel, commercial building and residential units on a 25-acre parcel of property located in the Riverfront Redevelopment District

e Defendants would show that the successful development of Project Jackson would result in private investment in the Riverfront Redevelopment District of \$101 million, would require public investment by the City of \$43 million, and would result in incremental tax and other revenue to the City estimated at over \$112 million over a thirty-year period

11 Defendants admit so much of the allegations of paragraph 17 of the Complaint as it alleges that Ordinance No. 2013-19 was enacted on November 18, 2013, and amends Ordinance No. 96-10 to make Project Jackson possible under the Redevelopment Plan for the Riverfront Redevelopment District. The amendments were required to provide for the issuance of new bonds under the TIF and because certain uses, such as a baseball stadium, were not envisioned as general land uses under Ordinance 96-10. The amendments in no way expand the Redevelopment District or change its fundamental nature as the vehicle for the redevelopment of this area. As to other allegations of the Plaintiff, Ordinance No. 2013-19 speaks for itself.

12 Responding to the allegations of paragraph 18 of the Complaint

a Defendants admit that Ordinance No 2013-19 relates to the general land uses established pursuant to the redevelopment plan to the proposed use of the proceeds of the obligations in relationship to the redevelopment plan or to extend the maximum amount or term of obligations to be issued under the redevelopment plan S C Code Ann § 31-6-80(F)(2) (Supp 2013)

b Defendants admit that the TIF Statute required the City to follow the procedures provided in this chapter for the initial approval of a redevelopment project and designation of a redevelopment project area when making those changes S C Code Ann § 31-6-80(F)(2)

c Defendants would show that in adopting Ordinance No 2013-19 City Council followed all the procedures legally required for initial approval of a redevelopment project and designation of a redevelopment project area and the amendment of a TIF District

d Defendants deny that City Council was under any special requirement related to Tier Three properties or the passage of time, or was under any requirement to make new or special findings related to the blighted nature of the Property in the Riverfront Redevelopment District These allegations are supported nowhere within the TIF Statute but are refuted by it Nonetheless, Defendants would show that in adopting Ordinance No 2013-19 the City Council made all of the findings that Plaintiff mistakenly alleges to have been legally required Defendants deny the remaining allegations of paragraph 18 and crave reference to the TIF Statute for an accurate understanding of its provisions

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION
(General Denials of Allegations)

13 Defendants deny each and every allegation of the first cause of action in paragraphs 19 through 28 of the Complaint that is not hereinafter admitted, qualified or explained

14 With respect to paragraph 19 the Defendants incorporate by reference the answers provided herein for each and every allegation of the Complaint

15 Defendants admit the allegations of paragraph 20

16 Defendants deny the allegations of paragraphs 21 and 22

17 Defendants admit so much of paragraph 23 as alleges that the City received a study regarding Project Jackson and states that the study speaks for itself

18 Defendants deny the allegations of paragraph 24 and demand strict proof thereof

19 The TIF Statute speaks for itself and the characterization of the statute in paragraph 25 is inaccurate in light of the terms of the statute as a whole

20 Defendants deny the allegations of paragraph 26 and would show

a Because the Property is included within a redevelopment plan validly established under Chapter 10, Title 31 of the Code, as a matter of law, it is "deemed to be a blighted area under S C Code Ann § 31-6-30(1)(b)(ii) (Supp 2013) See, Section 2 08(b) of Ordinance No 2013-19

b Nonetheless section 2 08 of Ordinance No 2013-19 expressly recites findings by the City Council that the Property continues to be a blighted or conservation area and private initiatives are unlikely to alleviate these conditions in the most affected areas without substantial public assistance' and that [s]ignificant portions of the

[Riverfront Redevelopment District] would remain static or decline without public intervention.’

c In the City Council’s deliberations in considering Ordinance No. 2013-19, it had before it extensive evidence of blighted areas, stagnation and decline.

d Further, Section 2.08(f) of Ordinance No. 2013-19 states that “[t]he proposed new Private Investment, estimated to be approximately \$101 million, will not occur without the continued long-term investment of IIF Revenues in the Redevelopment Project Area and the development of the proposed new public projects to support the private development.’

e No new or additional findings of blight are required to amend a development plan which has been validly adopted under the TIF Statutes.

21 Defendants deny the allegations of paragraph 27 that Ordinance No. 2013-19 lacks the necessary findings that property values in the area would remain static or decline without public intervention.

22 Defendants deny paragraph 28 and would show that

a No new blight determination is necessary to amend the development plan of a validly adopted TIF District, especially where the TIF District is encompassed by a Redevelopment Plan established under Chapter 31, Title 10,

b Nonetheless, the City Council made an express blight determination and an express determination of static or declining property in Section 2.08(a) of Ordinance No. 2013-19, and

c Evidence of blight known to the Defendants was sufficient to support this determination.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(General Denials of Allegations)

23 Defendants deny each and every allegation of the second cause of action that is not hereinafter admitted, qualified or explained

24 With respect to paragraph 29, Defendants incorporate by reference the answers provided herein for each and every allegation of the Complaint

25 Defendants deny the allegations of paragraphs 30, 31 and 32 and demand strict proof thereof

FOR A SECOND DEFENSE TO THE SECOND CAUSE OF ACTION
(Plaintiffs Claim is Premature)

26 Plaintiff's claim of nuisance if any may be possible in the future, is premature as the nuisances complained of by Plaintiff will not inevitably or necessarily result from the intended development

FOR A THIRD DEFENSE TO THE SECOND CAUSE OF ACTION
(South Carolina Tort Claims Act)

27 Plaintiff's recovery is limited by the South Carolina Tort Claims Act, S C Code Ann §§ 15-78-10 *et seq* (Supp 2013)

FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION
(General Denials of Allegations)

28 The Defendants deny each and every allegation of the third cause of action that is not hereinafter admitted, qualified or explained

29 With respect to paragraph 33, Defendants incorporate by reference the answers provided herein for each and every allegation of the Complaint

30 Defendants deny the allegations of paragraphs 34, 35 and 36 and demand strict proof thereof

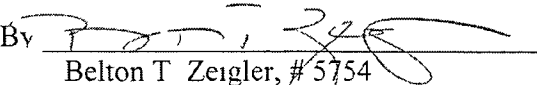
FOR A FIRST DEFENSE TO ALL CAUSES OF ACTION
(Failure to State a Claim)

31 Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against Defendants and should be dismissed

WHEREFORE, having fully answered the Complaint, the Defendants pray that the Court enter judgment as follows

- 1 Dismissing Plaintiff's claims against the Defendants, and
- 2 For such other and further legal and equitable relief as the Court finds just and proper

POPE ZEIGLER LLC

By 
Belton T. Zeigler, #5754
bzeigler@popezeigler.com
Gary T. Pope Jr. #77852
gpopejr@popezeigler.com
1411 Gervais St. Suite 300
Columbia SC 29201
(803) 354-4900

ATTORNEYS FOR DEFENDANTS

Columbia South Carolina
April 4, 2014

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

STEPHEN P DONOHUE,

Plaintiff,

vs

CITY OF NORTH AUGUSTA, the
MAYOR and CITY COUNCIL OF
NORTH AUGUSTA

Defendants

COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Notice of Motion and Motion
In Limine

Case No 2013-CP-02-2781

COPY LMC
ORIGINAL FILED

4:25 pm
AIKEN COUNTY
CLERK OF COURT

To The defendants, and their attorney of record, Belton Ziegler, Esq

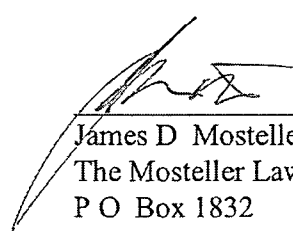
You will please take notice that within ten (10) days or as soon thereafter as the matter may be heard, the plaintiff will move the Court for an order restricting the testimony of the Mayor and the rest of City Council in this case to testimony identifying documents generated by the City Council in its collective legislative capacity on the record in open session of the City Council

This motion is based upon the rationale set forth in the recent case of Horry Telephone Cooperative, Inc , v City of Georgetown et al, Opinion NO 27394, filed June 4, 2014 (S Ct), which held that testimony of individual council members should not be admitted since it is not competent evidence “Municipal records properly authenticated or verified are the **only competent evidence** of the proceedings or the transactions of governing bodies”, Horry Telephone Cooperative Inc , supra, (string citations omitted , emphasis added) Since Council

takes collective action, what each one may have known, thought, heard or understood should not be relevant to the actions taken by the body as a whole, unless discussed before the public in open session as part of the legislative record. To allow testimony as to matters not of the public record, would not only violate the rationale of the line of cases leading up to the Horry Telephone case, but would violate the essence of the Freedom of Information Act, and the concept of a legislative record.

For these reasons, plaintiff moves that testimony of the Mayor and City Council be limited to properly authenticating municipal records. The undersigned hereby certifies that in his belief no useful purpose would be served by consultation with opposing counsel, as this is an evidentiary motion.

Respectfully submitted on this the 18th day of June, 2014



James D. Mosteller III, Esq
The Mosteller Law Firm L L C
P O Box 1832
Barnwell, SC 29812
803-259-4964
Fax-259-4966
Aiken 803-266-0396

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Stephen P Donohue,

Plaintiff,

vs

City of North Augusta,
the Mayor and City Council
of North Augusta

Defendants

Case No 2013-CP-02-2781

CERTIFICATE OF MAILING

THIS IS TO CERTIFY that I the undersigned employee of the Mosteller Law Firm, did this day place in the United States, postage prepaid and return address clearly marked and indicated, in the case of **Stephen P Donohue v City of North Augusta, the Mayor and City Council of North Augusta, the Defendants, City of North Augusta, the Mayor and City Council of North Augusta, the Notice of Motion and Motion In Limine and Notice of Motion and Motion for a Protective Order** addressed as follows

Mr Belton Zeigler
P O Box 11509
Columbia, SC 29211

6/18, 2014
Aiken SC

Carla Williams
Carla Williams
Paralegal to James D Mosteller III

COPY LMC
ORIGINAL FILED

4:25pm
AIKEN COUNTY
CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SECOND JUDICIAL CIRCUIT
COUNTY OF AIKEN	)	CASE NO 2013-CP-02-02781
	)	
Stephen P Donohue,	)	
	)	NOTICE OF MOTION, MOTION AND
Plaintiff,	)	MEMORANDUM IN SUPPORT OF
	)	PLAINTIFF'S MOTION TO ALTER
	)	OR AMEND THE JUDGMENT
v	)	
	)	
City of North Augusta, the Mayor and	)	
City Council of North Augusta,	)	
	)	
Defendants,	)	
	)	

CITY
CLERK OF COURT
SEP 22 2014 10:15
AIKEN COUNTY
CLERK OF COURT

TO The Honorable Ernest J Kinard, Circuit Court Judge and opposing counsel

YOU WILL PLEASE take notice that within ten (10) days, or as soon thereafter as the matter may be scheduled for hearing, that the plaintiff moves for an Order amending or Altering the Court's order filed on August 20, 2014, and received by plaintiff on August 27, 2014 This motion is made pursuant to Rule 59 (e) of the South Carolina Rules of Civil Procedure, and the grounds for the motion are set forth below

I Court's Findings

The court made the finding that the "Pursuing Project Jackson required the City to amend the Ordinance 96-10 to designate a baseball stadium as part of the redevelopment project, and to extend the amount and term of TIF obligations to finance the project " Project Jackson envisions a significant infusion of public moneys to build a baseball stadium, conference center and parking deck, but there is nothing in the concept that requires City to use a TIF district There was no evidence admitted at trial that supports the Court's finding of fact The City opted to use

the TIF vehicle to generate the revenues instead of other funding sources such as revenue bonds. Once the TIF option was elected, a new TIF could have been created or the existing TIF could be amended. The City opted to fund these projects through the amended TIF process.

II Amending the TIF District Redevelopment Plan

The court concluded that the law only requires the finding blight, declining or static property values and the need for public assistance to correct them one time, before any TIF obligations are issued and within ten years of the adoption of the TIF Plan. *See S.C. Code Ann. §§ 31-6-70 & 80(A)*. Such an interpretation of the law would permit cities to make the required findings for a small parcel of land in order to create a TIF district and then add any amount of land to that district without any other findings of blight, or declining values or need for public assistance.

For example, per the logic of the City's position, with a seed of merely 2 acres of land a city could amend the TIF repeatedly to 50 or 500 acres and never have to go through the factual findings required of an initial TIF, in fact the TIF statute does not even require the TIF District to be areas of contiguous land. The court's interpretation of the amending provisions would allow a small TIF district to operate like a seed, which once established, permit a city to use its "TIF license" to designate any lands in their jurisdiction whether contiguous or not to the original district, so long as they held a public hearing (B), provide notice to the other taxing districts (C), and the other taxing district are deemed to have consented unless they object (D).

That interpretation of the law should be compared to the amendment process that does not expand the area, or time, or change the uses of the proceeds of the obligations. SC Code § 31-6-80(F)(1). There the legislature was very clear, basically stating, that if you are not going to substantially alter a TIF, then you are required to seek agreement from the other taxing entities.

similar to section 31-6-80(C), supra, and publish a notice in the paper of the changes similar to section 31-6-80(B), supra

The legislature was very detailed when it laid out the amending process for a TIF when the amendment was not substantial i.e., property wasn't added, area not expanded, or time period not extended. But when it came to substantial changes to the TIF, the legislature clearly indicated that it was required that all of the steps to create a municipal TIF originally must be undertaken, "The municipality may by ordinance make changes to the redevelopment plan in accordance with the procedures provided in this **chapter** for the **initial approval** or a redevelopment project and designation of a redevelopment project area" [Emphasis added] SC Code § 31-6-80(F)(2)

The court's conclusion of law that following the entire chapter and all its procedures in the substantial amendment process would prevent a municipality from amending a project that is no longer viable, or lock it into outdated plans that did not meet current needs completely discounts the streamlined amendment process in the preceding section. See SC Code § 31-6-80(F)(1). Furthermore, if the legislature intended that construction they would have used the words "subsections (B), (C), and (D) of this section" or words to that effect instead of referencing the entire TIF chapter and emphasizing it was to be treated like an initial TIF. The court order allows a TIF to potentially live on in perpetuity. The court's conclusion of law on amending TIF's leads to the unintended result that once created, TIF's can take on a zombie-like existence and never ending – they can spread, and be repeatedly extended with never having to undergo the analysis and findings expected in the TIF statute.

The TIF District the City created in 1996 stands as an example of such a zombie TIF. It did not spend the up to the \$13.4 Million authorized in the ordinance, it did not complete all the

projects in the "The Plan" (which is hard to discern since it is composed of "Clemson Study", "Final Master Plan for the North Augusta Riverfront Development District", "North Augusta Riverfront Redevelopment District Summary Plan" and "certain documentation relating to a Hotel and Conference Center, Upper Georgia Avenue, a Town Center, The park System, the Roadway Master Plan, and the Master Financing Plan") all incorporated by reference in Ordinance 96-10. The current TIF only expended money on the Greenway, streetscaping, and the purchase of about 3 acres across from the municipal building. With a hotel and conference center still not built, the City was facing the end of the current TIF in 2016. With those projects not completed, the City had no statutory complications with regard to rolling back the intended expenditures. The claim that amending a TIF using the entire TIF chapter as the legislature wrote it, not just subsections B, C, and D of section 31-6-80, would lock a city in to obsolete plans is a red herring. As long as bond holders are paid, and the land no longer blighted, the other taxing entities would receive their normal tax revenues sooner rather than later as planned in the TIF, which is an issue easily covered in intergovernmental agreements.

The TIF law is pernicious in that it amasses tax dollars beyond the normal tax revenues of a city for other than their original purposes all without taxpayer approval. For example, school tax dollars are now being spent on baseball stadiums and hotel conference centers. Because those tax dollars are diverted to other than school operations, new children moving into the area will not be paying their education burden on the system. New businesses residents in the area will impose additional burdens on the city for municipal services but will not be carrying their share of police, fire, and other municipal services, because their taxes are now being diverted to building stadiums and conference centers.

It is for this reason the legislature clearly indicated that the entire TIF process be revisited every time a city decided to make substantial changes such as expand the area, or the time, or the projects themselves. The legislature did not intend the law to be a tax revenue playground. The TIF law is clearly intended to eliminate blight, and once that goal is achieved, the playground should be closed. If the essence of the law is not to eliminate blight the legislature could have reduced the TIF law to one page – allowing the amassing of taxes for any purpose the local taxing districts agreed to.

III Other Grounds for Upholding the Ordinance

The court held that a “under the TIF Statute, any area designated to be a redevelopment district under the Community Redevelopment Act is “deemed to be blighted.”” Citing S.C. Code Ann. § 31-6-30(1). The entire redevelopment district is not “deemed to be blighted” under the TIF statute, only vacant land within a redevelopment district is because that clause is in a subparagraph of Section 31-6-30(1), to wit:

(b) if vacant, the sound growth is impaired by

(1) the area immediately prior to becoming vacant qualified as a blighted area. Any area within a redevelopment plan established by Chapter 10 of Title 31 is deemed to be a blighted area. S.C. Code § 31-6-30(1)(b)(1).

The uncontroverted evidence at trial was that the 457-acre TIF district had in fact increased in assessed value by more than \$100 million. The evidence also showed the 25-acre parcel being used for the designated projects had gone up in value, not down. Furthermore that “vacant” area was not designated as blighted by the City in its redevelopment district. (See Ordinance No. 91-06). It is clear the legislature did not want a City to have to replicate previous findings of blight when they had gone through the process under the Community Development Law S.C. Code §§ 31-10-10 et seq. The City made no such finding of blight in 1991.

The court further held that Defendant's Exhibit 9 clearly established declining values in the TIF area. Defense Exhibit 9 is not competent evidence for the court to make that conclusion of law for the following reasons:

- 1 The Plaintiff was not advised of this evidence until 17 hours prior to trial. Plaintiff objected to its offer in to evidence at trial, because he did not have time to scrutinize that evidence prior to trial, nor was it ever presented to the City Council for deliberation, and did not constitute proper evidence pursuant to the doctrine outlined in Horry Telephone Cooperative, Inc. v. City of Georgetown et al, Opinion NO. 27394, filed June 4, 2014 (S Ct), which held that "Municipal records properly authenticated or verified are the **only competent evidence** of the proceedings or the transactions of governing bodies", Horry Telephone Cooperative Inc. , supra, (string citations omitted, emphasis added). Furthermore, it violates the discovery rules under Rule 34, SCRPC. Plaintiff had requested documents in support of the City's finding of reduced or static values in the TIF area well before trial. Defense exhibit 9, upon which the court makes finding declining or static property values was not provided to Plaintiff until 17 hours before trial. The movant believes exhibit was improperly admitted into evidence and relied upon by the Court over Plaintiff's timely objection.
- 2 Defense Exhibit 9 does not support the findings of the court of reduced property values, and is significantly misleading to the Court. The exhibit consists of 132 graphs of parcels in the TIF that the city claims show reduced value. Most of the graphs are of recently completed houses or condominiums each worth hundreds of thousands of dollars built since 2007. (Please refer to the attached affidavit of Steve Donohue regarding this exhibit). Even with these properties recent decline in value, since they were built after the

TIF was created in 1996 their current impact is an increase in value to the property not a decrease. The graphs purport to show a drop in value during the same period the entire nation was experiencing a housing recession. When measuring property values from their origins as undeveloped property to 2013, those 132 properties increased in value well over \$14,000,000 as demonstrated by Defense exhibit 9.

- 3 It is clear the City did not consider those properties in passing the TIF ordinance. The City should not be allowed at trial to supplement the legislative record to justify their findings in the statute. Allowing that evidence to support static or declining values violates the holding in Horry Telephone Cooperative, Inc. v. City of Georgetown, Supreme Ct. Case No. 27394 (2014).
- 4 The City's TIF amending ordinance, No. 2013-19, only finding as to "value" (note, the word value never appeared in the ordinance) was in section 2.08 (c) to wit:

(c) Significant portions of the Redevelopment Project Area, and particularly in the Riverfront Redevelopment District area west of Georgia Avenue within the Redevelopment Project Area, have had little or no development since the adoption of the original Redevelopment Plan in 1996 or sixteen years ago, and would remain static or decline without public intervention,

Defense exhibit 9 has mostly developed properties in its listing. Forty-three (43) of the properties are condominiums on the east side of Georgia Avenue, and the decline in value was only measured after they were built. The condominiums listed in Defense exhibit 9 have a current value of \$6,718,080. That is value that did not exist prior to the 1996 TIF. Yet the City would have you believe that because the condominiums declined to that value, they are now justified in amending the TIF because of "static or declining values." Ironically these are River Club area properties, the same area the mayor testified how the City's investment in roads helped to develop the area. Once developed, the City now

claims they went down in value after the housing bubble burst which justifies their TIF amendment. One property in that exhibit is a \$906,000 house in Hammond's Ferry, that had gone down in value to \$824,000. It strains credulity to assume the legislature had that kind of "declining value" in mind when they drafted the TIF statute.

- 5 Defense exhibit 9 does not even contain parcel number 007-17-02-001, the 25 acres of the Riverfront Development District and the very area the City claims has gone down in value as interpreted by the court and the very area where the baseball stadium is to be built. The very same area the city manager and the mayor testified was full of loose bricks and dilapidated structures fails the "declining value" test in the TIF law – that area went up in value not down as proved at trial by Plaintiff.
- 6 The only evidence of declining values in the TIF area used by the city prior to the ordinance's passage was the 16 properties provided to City Council in October 2013. That list was completely discredited when Plaintiff proved nine of those properties were not even in the TIF, two were not even in the City, and five properties had new houses built on them. The City felt so strongly about this now discredited evidence they attached it to an affidavit of the City manager in their petition to the Supreme Court seeking original jurisdiction in January 2014 some three months later. That evidence proved nothing with regard to the TIF law, yet the City held onto that justification until 17 hours before trial.

The court's finding that substantial public assistance was met because the current development agreement still required the City to widen two roads at a cost of \$2.4 million to \$4.4 million for only \$1.2 million in private investment is also in error since that agreement was only the opening salvo in the planned development that would ultimately

have 337 housing units and over 50,000 sq ft of commercial space. The court has only considered the initial contract of development as opposed to the final goal as announced in City Ordinance No. 2012-14. Public investment of \$2.4 is a far cry from the \$43 million public investment the City now claims is required to eradicate the alleged "blight." The entire Project Jackson has no contract for development in place and is not guaranteed, yet the court looks to the alternative development plan in Ordinance No. 2012-14 and only considers what part of that plan is under contract. The contract is just the first step in a multi-step process for the alternative plan, which does not require a new or amended TIF.

IV Freedom of Information Act Claims

The court's finding of law that the "specific purpose" is clear and that a governmental entity is only required to announce the purpose of the session, is inconsistent with the language the legislature used. The statute provides as follows:

§ 30-4-70 Meetings which may be closed, procedure, circumvention of chapter, disruption of meeting, executive sessions of General Assembly

- (a) A public body may hold a meeting closed to the public for one or more of the following reasons:
- (1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body, however, if an adversary hearing involving the employee or client is held, the employee or client has the right to demand that the hearing be conducted publicly. Nothing contained in this item shall prevent the public body, in its discretion, from deleting the names of the other employees or clients whose records are submitted for use at the hearing.
 - (2) Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

(5) Discussion of matters relating to the proposed location expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body

(b) Before going into executive session the public agency shall vote in public on the question and when the vote is favorable, the presiding officer shall announce the specific purpose of the executive session. As used in this subsection, "specific purpose" means a description of the matter to be discussed as identified in items (1) through (5) of subsection (a) of this section. **However, when the executive session is held pursuant to Sections 30-4-70(a)(1) or 30-4-70(a)(5), the identity of the individual or entity being discussed is not required to be disclosed to satisfy the requirement that the specific purpose of the executive session be stated (Emphasis Added)**

The court's conclusion, that a City may enter executive session with only announcing the authority for the session, to wit "discussion or negotiation incident to proposed contractual arrangements" and nothing more makes the last sentence in subsection (b) irrelevant, surplusage. If the legislature did not intend the City to provide more information than the wording of the statute, why would they add the language in (b) where they exempt naming of the individual or the entity in the specific description under (a)(1) and (a)(5)? Clearly, the legislature intended that more information beside the statutory language was required, but needed to add the last sentence in (b) in order to protect the privacy of the individual, and the economic advantage in recruiting businesses. Under the court's interpretation of the law, the legislature did not need that language. It is a well established principle of statutory construction that laws should be construed so as not to render the language in them as surplusage. The court's holding in the case at bar does exactly that. State v. Sweat, 665 S E 2d 645, 379 S C 367 (S C App 2008) "A statute should be so construed that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous." citing Matter of Decker, 322 S C 215, 219, 471 S E 2d 462, 463 (1995) (citing 82 C J S Statutes § 346). See also Pike v. S C Dep't of Transp., 332 S C 605, 618, 506 S E 2d 516, 523 (Ct App 1998), aff'd as modified, 343 S C 224, 540 S E 2d 87 (2000) State v. Sweat, 665 S E 2d 645, 379 S C 367 (S C App 2008)

V The Essence of the Case

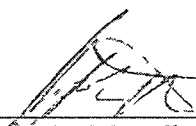
Plaintiff requests the court reconsider its order by considering the overall flavor of the case its essence. The City wants desperately to build a minor league baseball stadium, believing it delivers economy advantage to its citizens, notwithstanding all the economic research to the contrary. These stadiums are sold to local governments on false promises of economic stimulus. The City treated this from the start as a paperwork exercise and never really attempted to make pre requisite findings of fact with any basis in the legislative record merely reciting the language as required by the statute.

What is clear from the evidence, the TIF area contains over 500 parcels of property in 457 acres which includes million dollar homes. In such an area the City did not attach the parcel list to the ordinance, no one in the City knows which of those 500 parcels are blighted or which are legitimately declining in value. With the area having increased in value more than \$100 million no effort was made by the City to examine the condition of the properties in the TIF area. The citizens, who do not get a vote on this issue need to know which parcels are still blighted, which parcels truly will never become productive because of persistent blight. The citizens should be able to look at an ordinance and understand why the City took the actions they did. No one including the Defendants can answer that question by looking at the ordinance. This is a blatant case of the City voting for a result, then looking for the evidence later to justify their actions. Every time the City "produces" the evidence, when looked at in detail as opposed to just a paperwork exercise, it proves the opposite from what the City claims it proves.

There may be blight somewhere in the existing TIF or in the City, but if there is, the voters and the citizens should not have to guess where the blight is. The actions of the City in

the case at bar meet neither the spirit nor the letter of the TIF statute. For the reasons set forth above, Plaintiff respectfully requests the court reconsider its order and find for the plaintiff.

Respectfully submitted on this the 2nd day of September, 2014



James D. Mosteller III
The Mosteller Law Firm LLC
P O Drawer 328
Aiken SC 29801
803 226 0396
Attorney for the Plaintiff

STATE OF SOUTH CAROLINA

Stephen P. Donohue

Plaintiff Respondent

vs

City of North Augusta the Mayor and City
Council of North Augusta

Defendants Petitioners

COURT OF COMMON PLEAS

SECOND JUDICIAL CIRCUIT

CASE No. 2013-C-P-02-02781

AFFIDAVIT OF
STEPHEN P. DONOHUE

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ALL DOCUMENTS
CLEAN UP

Comes now the undersigned Stephen P. Donohue after having been duly sworn and deposed and states the following

1. I am Stephen P. Donohue the Plaintiff in this case and reside at the River Club the neighborhood immediately to the east of the proposed development by the Defendants the City of North Augusta which has been designated by them as Project J. J. 1.
2. On July 17, 2014 late in the afternoon my attorney forwarded an email from the Defendants attorneys that they intended to submit 132 graphs of declining values in the 111 area. Neither my attorney nor I had been advised of this development until only 17 hours before trial.
3. Up to that point our discovery request for all documents submitted to City Council substantiating the finding of static or declining values in the 111 area prior to the passage of Ordinance No. 2013-19 had produced no documents. The City had only relied on the much discredited 16 properties which was submitted to City Council in October 2013 and then used to support the City's petition to the South Carolina Supreme Court for original jurisdiction in this case in January 2014.
4. Plaintiff was preparing its case for trial and had no opportunity to review in detail the 132 graphs and what they represented. Plaintiff made timely objections to these graphs at trial.
5. Since the trial Plaintiff spent two full working days reviewing the graphs checking parcel numbers against the Assessor's database reviewing the values as well as street addresses and pictures of current property.

- 6 The result of that research is a long story in short, in fact, instead of showing a decrease in value, the parcels increased in value since the TIF was started in 1996. Apparently the City submitted the graph of any parcel that showed any decrease in value since the start of the TIF.
- 7 For example, Parcel No. 007-13-02-071 shows a decrease of \$2,350 from 2008 to 2013. The property was valued in 2008 at \$171,870 and in 2013 decreased to \$134,520. That parcel is a condominium. It was built on vacant land in 2007. Defense Exhibit 9 includes 45 such condominiums in the same complex, the Landings at River Club. The City also says the properties declined in value using the time period from 2007, the start of the nationwide housing recession, to 2013. In fact, those condominiums were built on a 28 acre parcel of land deeded to the Landings developer in 2004 (Deed Book 2467, page 65). Total value of that acreage in 2004 was \$500,000. Today those condominiums have added over \$6,000,000 in value to the TIF area. All 45 of those condominium parcels have substantially increased in value since the TIF was created in 1996.
- 8 I then looked at the Hammond's Ferry properties included in Defense Exhibit 9. There are 7 such properties, some vacant lots, some with houses on them, and about three commercial properties. Again, the City claims these went down in value. These parcels are all part of the Hammond's Ferry development that began with 47 acres deeded to the Hammond's Ferry developer in 2004 (Deed Book 2457, pages 126-131) by the City for \$816,205. Those parcels are now valued at over \$10 million. That is a 210% increase since the current TIF started. Every one of those parcels has gone up in value since the TIF's creation in 1996, not down. These are properties west of Georgia Avenue for which the City made findings in section 2.08 of Ordinance No. 2013-09 was especially blighted, undeveloped, and would remain static or decline in value] according to the Court's order.
- 9 Two of the parcels in question, 007-14-02-009 and 007-14-02-010, are located at 207 Clifton Avenue, one of the sixteen properties the City used in October 2013 and their petition to the Supreme Court. Their value graph shows the parcels went up in value \$61,309 since 2002.

- 10 Another parcel 00-14-17-008 which Defendant provided to Plaintiff in discovery is located at 505 Sikes Avenue the only other property in the original 16 property list provided to Council and the Supreme Court wherein the City claimed decreased in value. In fact that parcel more than doubled in its value between 2002 to 2013 going from \$20,985 to \$44,100.
- 11 It is a complete misrepresentation of the true facts for the City to submit 132 properties claiming proof of declining values only 17 hours before trial. When analyzed in detail the evidence proves the Plaintiff's case - property values in the TIF and in the area west of Georgia Avenue have gone up dramatically. It is this very practice of evidence tampering that the discovery rules were intended to eliminate.
- 12 The total increase in property values in the parcels submitted by the City is over \$24 million since the TIF started in 1996. The City's Exhibit 9 proves not only is the defendant arbitrary and capricious in its implementation of the TIF statute it actually misrepresents the facts of property values.
- 13 The ultimate irony is that the 25 acre parcel upon which Project Jackson will be built and which the mayor and the city manager testified was blighted with old bricks and defunct factories went up in value by \$22,726 since 2007 (Plaintiff's Ex. 6). Even that parcel fails the static or declining value test of the TIF law.

FURTHER AFFIANT SAYETH NOT


Stephen P. Donohue

SIGNED AND SWORN TO BEFORE ME THIS 2ND DAY OF Sept 2014


Notary Public for South Carolina
My commission expires 8/13/2017

Affidavit of Stephen P. Donohue 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN) FAMILY COURT
) 2013-CP-02-02781
)
)
)
)
STEVEN P DONAHUE,)
 PLAINTIFF,)
)
vs) TRANSCRIPT OF RECORD
)
CITY OF NORTH AUGUSTA, THE)
MAYOR AND CITY COUNCIL OF)
NORTH AUGUSTA,)
 DEFENDANTS)
_____)

July 18, 2014
Aiken, South Carolina

B E F O R E

THE HONORABLE J ERNEST KINARD, JUDGE

A P P E A R A N C E S

J D MOSTELLAR, ESQ
Attorney for the Plaintiff

BELTON ZEIGLER, ESQ
KELLY ZIER, ESQ
C D RHODES, ESQ
Attorney for the Defendants

PENNY M JOHNSON
Official Court Reporter

1 every house, basically, is anywhere from 13 to \$1500 The
2 homes were around \$500,000 you see on an average when I
3 did it And when I did that analysis, all I did was
4 follow scenario 38 from this that was previously filed and
5 I just followed their things, their growth rates and I
6 also used the assessed valuation from the county

7 Q Now, when you talk about MSA, what is the MSA?

8 A Metropolitan Statistical Area, basically, I just
9 called it the Richmond, which is the county seat of
10 Augusta, which is basically the main city in the MSA And
11 in South Carolina, you have Aiken County that is part of
12 that MSA

13 Q And you talked about a benefit from construction,
14 that's because there's going to be construction while
15 working on the project, spending money in the area,
16 correct?

17 A There's no question that any construction, no matter
18 what it would be, has some benefit on the local economy
19 The question that should be addressed would be is that
20 going to be a South Carolina construction firm that would
21 be doing it And in many cases, the larger facilities
22 like that are usually outside the South Carolina area on
23 construction But I have no knowledge of where the
24 contractor would be from

25 Q Would there be a similar type of benefit if housing

1 and retail shops were built without a stadium?

2 A Yes, there would be, but you don't have a 24 million
3 dollar facility at that time being built, or 30 million
4 dollar facility immediately The developers would have
5 developed the subdivisions out over that period of time
6 You would have a larger tax gain from individual housing
7 than you're going to from a stadium of this type There's
8 research over and over and over about that So that's
9 really a nonissue

10 Q In your report, you have some extensive discussions
11 of your methodologies and the analysis that you did
12 Could you just briefly give an overview to the Court --
13 rather than restating everything in your report, give a
14 brief overview to the Court as to the methodologies that
15 you used in coming to your conclusions?

16 A And input/output model was used for -- my
17 dissertation, basically, was through Inplan, which I did
18 the first for an economic model in that My methodology
19 would be when you take a look at -- and I'll use -- by
20 displacement, I, basically, mean it's fairly clear, you
21 move a team from here to here, two miles, same team, same
22 employees, basically, the same fans because it's going to
23 be in that MSA

24 When I took a look at -- and I've done it multiple
25 times at stadiums and even in my dissertation, you take a

1 look at the ad valorem taxes that are going to be
2 surrounding, so I looked at the houses within Hammonds
3 Ferry and, also, the River Club, I looked at the ad
4 valorem taxes that were generated from there We took --
5 what I did then was I extrapolated that into a build-out
6 if there were new additional homes being built

7 From that, if you built up those homes with the new
8 additional homes that were being already built on lots
9 that are anywhere from 80 to \$200,000 for the lot, I took
10 a look at the assessed valuation that would be prorated
11 over time or forecasted in the future When I took a look
12 at the ad valorem taxes that would be generated for the
13 assessed valuation and I compared that to what would be a
14 tax-free stadium because if they're going to have that
15 benefit of being a nontaxable entity at the property tax
16 level, what I did in my methodology was I followed the
17 same procedures that were done through the report before
18 that was through the Rems 2, I followed the same
19 methodology using private, basically, homes and ad valorem
20 taxes and extrapolated that data into the future in order
21 to show a much greater benefit from the private homeowners
22 than it would be from the tax-free stadium

23 Q Did you analyze the issue of blight within the
24 457-acre TIF district?

25 A Yes, we did In order to take a look at it, just one

1 point, I mean, when it started out in that area to take a
2 look at blight as their -- you know, first of all, we
3 walked the property, took a look at it and then I also
4 took a look at all the values of the properties around
5 there When you have assessed valuation of 997,000 and
6 then all of a sudden in your 2013, you have, I believe it
7 was, around 6 7 million in increased valuation, it's
8 pretty difficult to indicate that there would be any what
9 I would consider blight at that time

10 I worked on different blight studies within -- in
11 three of them, kind of, in Columbia, South Carolina when I
12 did the blight with Harry Miley, who's an expert in that
13 area, we did it on taking a look at what's called the
14 Vista Taking a look at currently in Columbia, at the
15 Bull Street, there are some issues and they're taking a
16 look at it And I've also done some things within the
17 Charlotte area The assessed valuation, even in the
18 period of time after recession in 2008, you see an
19 increase in the valuation of those assessed properties
20 You see the new homes being built The houses are very
21 upscale between Hammonds Ferry and the riverfront It is
22 prime property on the river and I have seen -- if that's
23 blight, I wish I lived there

24 Q And you mentioned that you had looked at blight in
25 the context of the Vista What is the Vista?

1 A The Vista is an area in Columbia, South Carolina
2 that's located away from the University It was an area
3 that had some serious buildings that were dilapidated
4 They were obsolete They were a burden to the other
5 properties around there You had issues with burnt out
6 buildings at that time and there was a crime problem in
7 that area and in the other parts of it

8 And what they did -- it's called the Vista Guild now,
9 the Vista area, they came in, made a special tax district
10 And the TIF was to correct blight It was not to -- you
11 know, you're starting to see in the literature and
12 everybody else is starting to say it's economic
13 development But what it did, it corrected an area that
14 was dilapidated, basically, obsolete, burnt-out buildings
15 And there was some serious tax issues because the values
16 of the property around there were becoming less valuable
17 because of the buildings next to it I don't see that
18 here

19 MR MOSTELLAR Your Honor, would the Court prefer if
20 I hand the exhibits up to the Court after we identify
21 them?

22 THE COURT I have --

23 MR MOSTELLAR I believe you have a copy of his
24 report

25 THE COURT I have a copy of his report You need to

1 put it in evidence I have read it, so I consider the
2 whole report, not just what he testified to

3 MR MOSTELLAR Yes, Your Honor And we've got that
4 premarked as Plaintiff's 1 without objection from the
5 other side

6 THE COURT Okay

7 (WHEREUPON, Plaintiff's Exhibit No 1 was admitted
8 into evidence)

9 BY MR MOSTELLAR

10 Q Did you do an analysis of crime in South Carolina in
11 general and in North Augusta?

12 A Yes, I did, and there was -- according to the report,
13 the North Augusta crime rate is above the South Carolina
14 crime rate And therefore, if you take a look at bringing,
15 in another 150,000 people within, basically, a residential
16 area, you know, it has to have some impact upon that
17 It's already above the average of South Carolina

18 The other thing is that -- the report also shows that
19 most of the baseball stadiums and stuff -- baseball
20 stadiums and major gathering facilities for events are
21 usually in urban areas and they're moving that way A
22 classic example right now is the Charlotte Knights They
23 were outside in South Carolina Now, they're right
24 downtown Charlotte They have a naming rights deal there
25 When they were in South Carolina, they didn't Their

1 attendance is hugely up Most of the stadiums are going
2 to urban locations because the citizens are there, the
3 larger population, the travel patterns that are occurring
4 and you bring people into that area, that urban area You
5 don't see very many stadiums that are in residential
6 areas And part of that situation is not only the
7 security, but the quality of life I'm not a big advocate
8 of having fireworks over my home during the Fourth of July
9 and special events for minor league baseball, which they
10 promote and that's part of their life and that's how they
11 attract people

12 Q And when you say urban area, you're classifying the
13 area on the riverfront as being suburban and not urban?

14 A Yes

15 Q And is that because of the nature of the housing?

16 A That's absolutely correct When you take a look at
17 that neighborhood, that's a residential neighborhood that
18 just hasn't been built out And over time, I believe it
19 would be with a good developer

20 Q Do you stand by your report?

21 A Yes, sir

22 MR MOSTELLAR Please answer any questions that Mr
23 Zeigler or Mr Rhodes may have for you

24 CROSS-EXAMINATION

25 BY MR ZEIGLER

1 riverfront parks, interlinking riverfront parks?

2 A Yes, sir

3 Q And did you ever at any time in any of those
4 redevelopment district plans or master plans see a
5 baseball stadium as being part of the plan?

6 A In nothing that I have read, no

7 Q Based on the 1996 master plan, did it appear that the
8 city was moving its urban core to the river or making it a
9 park, interlinked park situation?

10 A From what I read in those documents, I did not read
11 into as being the urban core Not did I see that until
12 later in the Project Jackson

13 Q And I do believe you're making a distinction between
14 the urban core of North Augusta and the area on the
15 riverfront, is that correct?

16 A Yes

17 Q Just to be clear With respect to the master plan
18 that was originally created for the TIF district, it
19 called for retail space?

20 A Yes

21 Q Did it call for shops and hotel and convention
22 center?

23 A Yes

24 Q Are those types of developments necessarily dependent
25 upon the stadium?

1 the cross-examination of Mr Regan, I would like to call
2 Todd Glover to the stand

3 THE COURT All right

4 TODD GLOVER,

5 after being duly sworn, testified as follows

6 THE CLERK Please have a seat in the witness box and
7 state your full name for the Court

8 THE WITNESS Barry Todd Glover

9 DIRECT EXAMINATION

10 BY MR MOSTELLAR

11 Q Mr Glover, how are you doing this morning?

12 A Fine Thank you

13 Q You heard some of the testimony that was presented
14 and the cross-examination of Mr Regan Do you recall
15 having your deposition taken in early June?

16 A I do

17 Q And with respect to the Medac building, which was
18 discussed on cross-examination, I believe you testified
19 that part of the reason Medac came to North Augusta was
20 the Riverfront Development project, including Project
21 Jackson, is that correct?

22 A Correct

23 Q But did you not also testify that the lease for the
24 property had already been signed, that if the stadium
25 falls through, the Medac building is still coming?

1 A That's correct

2 Q So even though some of the initial attraction may
3 have been the stadium, that 12 million dollars of
4 investment, or whatever the amount is, is still coming to
5 North Augusta, correct?

6 A That's correct

7 Q With respect to the development along the riverfront,
8 did the City of North Augusta sign a development agreement
9 on January 8th, 2013, with an entity?

10 A We did

11 Q And what was that entity going to build?

12 A The development agreement required a 4000 square foot
13 building and then the city would do additional work, and
14 then they would do another 4000 square foot building, and
15 then the city would do some additional work and then they
16 would construct with the possibility of another 15,000
17 square foot building That agreement also allowed them to
18 not build any of that if financing couldn't be arranged

19 Q And the city's expected costs of its improvements was
20 approximately 2 4 million dollars?

21 A 2 4 million for the infrastructure and some water
22 sewer and some shared participation in a parking lot The
23 2 4 million does not include the money that the city had
24 committed for a riverfront park

25 Q But between the 2 4 million dollars in infrastructure

1 and the riverfront park, the city would have been able to
2 pay for that under the existing TIF, which had authorized
3 13 4 million dollars?

4 A I believe that's correct

5 Q So under the 2013 January agreement, no additional
6 TIF monies would have been needed to complete the city's
7 obligations?

8 A Of the 2 4 million dollars, no, for the park

9 Q Now, with respect to the preparation of the city for
10 the amendment of the TIF ordinance and the increase to, I
11 believe it's 43 million dollars, is that correct?

12 A Approximately It's changed a few times

13 Q But in rough numbers, that's about what we're talking
14 about, correct?

15 A Correct,

16 Q There was no economic development study done by an
17 outside entity, is that correct?

18 A In regards to what?

19 Q In regards to job creation, that sort of thing?

20 A The jobs creation report Dr Regan was referring to
21 was done in-house

22 Q And you had a financial analyst assisting the city,
23 is that correct?

24 A We did

25 Q That was Mr Goldsmith?

1 A Correct

2 Q And Mr Goldsmith did not do an economic development
3 study as to the impact of the stadium?

4 A As to the impact of the stadium?

5 Q Yes

6 A No There was a study done on the impact of the
7 hotel

8 Q And the hotel was something that's been contemplated
9 since 1996, is that correct?

10 A It's been included in a plan, correct

11 Q With respect to the 25 point something acres where
12 the stadium is supposed to be located, is it true that the
13 owner of that was going to donate that to the city?

14 A The 25 acres?

15 Q Correct

16 A No, that's not correct

17 Q How was the city supposed to acquire the land to
18 build the stadium on?

19 A It's a donation, but it doesn't comprise of 25 acres
20 It's only about seven acres

21 Q Only about seven acres, okay And there's a draft
22 agreement regarding that donation?

23 A The outline of it, yes

24 Q Originally, when the stadium was first contemplated
25 or the city was first approached about the stadium, where

1 was it going to be located?

2 A A private landowner reached out to the team about a
3 possible location close to our North Augusta Industrial
4 Park The mayor and I met with the team at that time and
5 over the course of about two meetings, it became clear
6 that that was not going to be a feasible location

7 Q But, originally, it was not contemplated to be on the
8 river?

9 A Within the course of three meetings, it was proposed
10 to be on the river, so I don't know how -- you know, if
11 you want, to say it wasn't originally The first meeting,
12 it was not, but by the third meeting, it was

13 Q Are you aware of any blight study that's been
14 conducted on the TIF property since 1991 that was
15 presented to the City Council during 2013?

16 A Conducted by an outside source?

17 Q Yes

18 A I'm not aware of that

19 Q Are you aware of any blight study conducted by an
20 inside source that was presented to the Council between
21 January of 2013 and October of 2013?

22 A I know that we presented to Council a -- I believe it
23 was a cultural study that was completed of the area that
24 directly referenced blight We showed them a local news
25 story that was done about the blight and then we included

1 some other property information that I know they reviewed

2 Q And is the other property information dealing with
3 static or declining values of property?

4 A It was

5 Q And was that a 16-parcel study that was presented to
6 City Council?

7 A It was

8 Q Do you know if that was ever discussed on record?

9 A I don't recall if it was

10 Q I'd like you to look at Plaintiff's Exhibit 9, and
11 it's a list of 16 properties Do you recall forwarding
12 that by e-mail to City Council?

13 A I believe that's correct

14 Q And I believe you testified earlier that you did not
15 actually prepare that document?

16 A That's correct

17 Q And that's -- is that the only document you're aware
18 of that was presented to Council in 2013 regarding static
19 or declining values?

20 A To my knowledge

21 Q Mr Glover, when that was submitted to Council, were
22 you aware that three of the properties were in Belvedere?

23 A I was not at the time

24 Q Were you aware that there were only five properties
25 located within the TIF district?

1 A At the time, no

2 Q You've since become aware of that?

3 A I have

4 Q Let me ask you about how Council goes into executive
5 session Would it be correct for me to state that Council
6 would announce that it was going into executive session
7 for contractual negotiations?

8 A We announce that we go into executive session for any
9 one of the list of applicable reasons that you can go into
10 executive session It could be legal matters, legal
11 advice, contractual matters, things of that nature

12 Q Do you ever recall saying contractual matters
13 regarding Project Jackson?

14 A I believe we would say contractual matters

15 Q Do you ever recall stating contractual matters
16 dealing with intergovernmental agreements with the school
17 district or the County of Aiken?

18 A I don't recall that

19 Q And I believe there were, roughly, 18 executive
20 sessions in 2013?

21 A I don't dispute it I don't have a number before me

22 Q With respect to those executive sessions, I believe
23 your testimony was previously that a little more than half
24 dealt with Project Jackson, is that correct?

25 A I think it's safe to say the majority of them --

1 Q The majority of them?

2 A -- had something to do with Project Jackson

3 MR MOSTELLAR Thank you Please answer any
4 questions that your counsel may have for you

(5 CROSS-EXAMINATION

6 BY MR ZEIGLER

7 Q Mr Glover, you testified 2 4 million was the amount
8 that the city would be investing under what we call the
9 Riverfront Development Agreement, the Riverfront
10 Development group, which was the one that was the
11 development agreement supplanted by Project Jackson, is
12 that correct?

13 A That's correct

14 Q And when you entered in that development agreement,
15 you specifically provided in that agreement that Project
16 Jackson would possibly displace that agreement because
17 Project Jackson was already under consideration at that
18 time, is that right?

19 A That's correct

20 Q And what was the purpose of entering the agreement at
21 that time?

22 A The discussions had been going on for some time And
23 the developer, Riverfront Development Company, you know,
24 wanted that development agreement in place, but also knew
25 of the discussions we were having on Project Jackson So

1 we entered into the agreement because, statutorily, a
2 development agreement really is more of a protection for
3 the developer in that the City doesn't go behind them and
4 change zoning and things of that nature after they've
5 purchased land and made plans for development So when we
6 entered into that agreement, it was at the request of
7 North Augusta Riverfront, but they were wholeheartedly in
8 support at that time of Project Jackson and still are and
9 agreed to those stipulations being placed into the
10 agreement

11 Q Why were they supportive?

12 A Well, it was on a much larger scale It had more
13 impact than what was being proposed at the time I think
14 they saw the value in it We've been trying to create a
15 town center there for a number of years They had been
16 partners with the city for a number of years and saw the
17 potential impact of it It was certainly in the hundreds
18 of millions of dollars in private investment and that was
19 not what was being contemplated at the time for the
20 development agreement

21 Q Now, did you ever quantify the private investment
22 that was being guaranteed under the prior development
23 agreement?

24 A It was more of a square footage basis that was under
25 the prior agreement that was dedicated buildings It

1 referred to two 4000 square foot buildings and the
2 possibility of a 15,000 square foot that was intended to
3 be a Family Y You know, if you place similar value on
4 what we placed in -- to the model of Project Jackson, I
5 would say that private investment would probably be
6 somewhere in the five million dollar range

7 Q All right, sir Well, actually, if you look at the
8 Project Jackson investment, you could calculate a value
9 per square foot, couldn't you?

10 A Correct

11 Q And if I'm correct, that value was somewhere in the
12 \$155 square foot?

13 A I was using the \$150

14 Q So it's just a simple matter of doing math?

15 A Correct

16 Q Eight times 150 would give you the total amount of
17 investment -- actually, it would probably be just around a
18 million dollars, maybe a little more?

19 A Correct And I was adding in the additional Y just
20 to be conservative

21 Q All right In addition to 2 4 million the city was
22 committed to, did that include the investment prior to the
23 Y being built?

24 A It included our participation up to the Family Y
25 Like I said, it did not include the park

1 Q What do you think the park would cost? What's a
2 reasonable estimate?

3 A We did an RFP for design, but it was prior to Project
4 Jackson and when Project Jackson started, we put that on
5 hold We've never gotten into an actual cost estimation
6 of the park We were internally estimating somewhere in
7 the one to two million dollar range

8 Q Okay So between one and two million dollars in
9 addition In effect, you're putting in almost as much as
10 the developers under that?

11 A It's fairly close

12 Q And if you look at Project Jackson, you're only
13 putting in about 25 percent of the investment, so it's a
14 much better deal I think it's important that we get an
15 understanding of how the TIF district works Let me ask
16 you this, has the City of North Augusta raised property
17 taxes recently?

18 A To my knowledge, I just started in January of 2012,
19 but I believe the City of North Augusta has not raised the
20 property tax millage in 22 years

21 Q So when we're talking about a TIF district, we're not
22 talking about raising millage on anyone, are we?

23 A We're not

24 Q We're talking about taking growth in millage and
25 using it for a particular purpose?

1 A That's correct

2 Q So we're talking about additional dollars, we're
3 talking about additional dollars created by development
4 not by City Council asking for more money from its people?

5 A Correct

6 Q And let me ask you this, do you expect your Council
7 members to know what's happening in the City of North
8 Augusta?

9 A Yeah, we're a small town The majority of them have
10 lived there -- I think most of them have lived there all
11 their lives You know, they certainly come to the
12 municipal center and drive by the property in question,
13 you know, every time they come to a meeting or anything
14 like that

15 Q Do you believe they're familiar with trends in real
16 estate and trends in real estate valuation?

17 MR MOSTELLAR Your Honor, I'm going to object to
18 this line of questioning based upon our prior motion in
19 limine and --

20 THE COURT But he can testify

21 MR ZEIGLER Thank you, Your Honor

22 BY MR ZEIGLER

23 Q You think they're generally familiar with trends in
24 real estate prices and development?

25 A I don't know that I could speak to what they know I

1 think generally they're aware of the economic conditions
2 of the city in general

3 Q All right, sir And they speak with constituents,
4 don't they?

5 A Certainly

6 Q They read the newspaper, don't they?

7 A Yes, sir

8 Q They read the announcements of property sales that
9 run sometimes in the local newspapers?

10 A Constantly

11 Q They would see what was happening in terms of vacant
12 buildings or boarded-up buildings, wouldn't they?

13 MR MOSTELLAR Your Honor, I believe this calls for
14 speculation

15 THE COURT It does, but, you know, it's just general
16 knowledge stuff Like, I don't read property sales My
17 wife does, for some reason She has some weird interest
18 in it I'm aware of all that Some kinds of people read
19 it and some don't, but they're aware of where the property
20 is, what's going on around it because they go right by it
21 all the time

22 MR MOSTELLAR Your Honor, just for preservation of
23 the record purposes, I'd like to make that objection from
24 the motion in limine just as an ongoing objection so I
25 don't have to continuously be standing up

1 THE COURT You can do that

2 BY MR ZEIGLER

3 Q Do you have any knowledge as to what specific
4 documents your City Council members based their decision
5 on when they made the TIF amendment decision?

6 A I know the documents that we put in front of them,
7 the information we put before them

8 Q Tell me a little bit about this crime study for North
9 Augusta that we talked about Can you tell us about that?

10 A The City of North Augusta, as well as many other
11 cities in Aiken County, were just recognized as some of
12 the safest cities in South Carolina It was based upon
13 the FBI crime information I looked at the information
14 that was in the report by Dr Regan, I went to that
15 website and reviewed it It goes up into zip codes all
16 the way up to 29829, which is in Graniteville And it,
17 clearly, outlines areas that are outside the city limits
18 of North Augusta

19 Q All right, sir

20 MR ZEIGLER No further questions, Your Honor

21 REDIRECT EXAMINATION

22 BY MR MOSTELLAR

23 Q Mr Glover, are you familiar with the 1996 riverfront
24 development plan?

25 A I am

1 Q And in addition to calling for a hotel and marinas
2 and some downtown -- or retail space, for lack of a better
3 term, it did call for the building of roughly 337 houses,
4 didn't it, residential units?

5 A There was residential in there, I don't know how many
6 offhand

7 Q And an interlocking park system?

8 A Correct, the greenway

9 Q Was there any mention in the 1996 plan about moving
10 the center of the city down to the river?

11 A I think it discussed, clearly, creating new urbanism,
12 which is a walkable urbanist center where you have zero
13 lot lines, you bring buildings to the forefront You look
14 at the municipal building, it's right up against the
15 street There's an urban feel to it I think the Clemson
16 study did discuss that new urbanism aspect of it

17 Q Walkways and greenways and parks and housing and some
18 retail?

19 A Mixed use

20 Q But no mention of a baseball stadium?

21 A There was no mention of a baseball stadium, that's
22 why we had to amend the agreement

23 Q And under the original TIF of 13 4 million dollars,
24 it wasn't scheduled to be paid out in 2048, was it?

25 A I believe it was scheduled to end sometime in 2016,

1 '17

2 Q And the new one is scheduled to be paid off in 27, 28
3 years?

4 A Approximately

5 Q And that's a longer period of time than originally,
6 correct?

7 A A longer period as to the initial?

8 Q Yes The initial TIF was supposed to expire next
9 year?

10 A Correct

11 Q This TIF --

12 A Or two years from now

13 Q And this TIF is scheduled out to 2048, is that not
14 correct?

15 A I think that may be the furthestest extent to it, but
16 we do have provisions in there to pay it off earlier

17 Q And by paying it off earlier, you mean in, roughly,
18 27, 28 years, is that correct?

19 A I believe that's about correct

20 Q And so that would be an extension of time beyond the
21 original TIF time contemplated, correct?

22 A Correct, which necessitated the amendment

23 MR MOSTELLAR I have nothing further, Your Honor

24 MR ZEIGLER Nothing further, Your Honor

25 THE COURT All right

1 Q Mr Gudith, you heard the prior testimony of Mr
2 Glover about the 16 parcels of property?

3 A I did

4 Q And are you a resident of the River Club HOA?

5 A I am

6 Q And just to get this out in the open, you have
7 contributed some to the legal fund of this process?

8 A I've contributed to both sides

9 Q And would you explain what you mean by contributed to
10 both sides?

11 A Well, contributed monetarily to Mr Donahue and his
12 case against the city and I feel I've contributed on the
13 city's behalf because in 2013, I paid in excess of \$18,000
14 in city and county taxes

15 Q As a resident of the River Club, how far is this
16 proposed baseball stadium from where you live?

17 A I would say approximately half a mile

18 Q And with respect to the 16 properties that Mr Glover
19 testified were submitted to Council before they voted,
20 have you had a chance to visit those properties?

21 A I've visited 90 percent of them I think there was
22 two properties I, actually, did not physically drive by
23 Other than that, yes, I have been to see each individual
24 property

25 Q And were the two properties that you did not go see

1 located in Belvedere as opposed to North Augusta?

2 A No, I did drive to Belvedere

3 Q Which two did you not look at?

4 A The one on -- there's three properties on Clifton,
5 304, I believe, 305 I did look at There's another
6 property on -- I don't know the number on Clifton that I
7 did not look at, and there's one in -- I believe it was
8 Riverwind that I did not look at

9 Q The ones that you did not look at, were they located
10 in the TIF district?

11 A One of them was

12 Q With respect to your affidavit that you filed
13 previously with this Court, do you stand by that
14 affidavit?

15 A Yes

16 Q Do you stand by its contents?

17 A Absolutely

18 Q Attached to that affidavit and now marked as
19 Plaintiff's Exhibit 9, there were some photographs taken
20 Are these an accurate depiction of the photographs that
21 you took?

22 A Yes, they are

23 Q With respect to those properties, there are large
24 houses being built on them or have been built on them?

25 A I mean, what I would consider large houses, probably

1 in excess of 3000, 4000, 5000 square feet homes

2 Q And would you mind passing that up to the Court, sir?

3 A Yes

4 Q With respect to the 16 properties, did you make a
5 determination that only five are within the TIF district?

6 A Correct

7 Q And those five are the ones that we've got photos of
8 that you just passed to the Court?

9 A Yes

10 Q Except for the empty lot, is that correct?

11 A Correct

12 Q There is one empty lot that is in the TIF district
13 that's on that list and you did not take a photo of it?

14 A Correct

15 Q Is that an empty lot that you used to own?

16 A It is

17 Q Do you believe that that lot has gone down in value
18 since 1996?

19 A Absolutely not

20 Q Do you think it's gone up in value?

21 A Yes

22 Q When did you move to North Augusta?

23 A Officially moved to North Augusta in 2004

24 Frequented North Augusta on a regular basis since late
25 1995

1 Q And you married a North Augusta girl, is that
2 correct?

3 A I did

4 Q And is that why you kept coming to North Augusta
5 before you moved there?

6 A Absolutely

7 Q And you own investment properties in North Augusta?

8 A Both residential and commercial

9 Q And is that why your tax burden is so high?

10 A It is

11 Q So when you visited North Augusta in the 90's, did
12 you see the River Club being built out?

13 A I did

14 Q When you first saw it, the streets and sewers were
15 in, correct?

16 A Correct

17 Q Did you see houses being built?

18 A I did

19 Q And tell me about the foundations of the houses in
20 River Club?

21 A The foundations looked -- we had a whole plat when we
22 became interested in moving and, quite frankly, investing
23 in the River Club, and I say that because we've owned
24 quite a few properties in there We looked very closely
25 at the whole entire plat of the community Attached to

1 the plat were soil studies due to the soil contamination
2 and instability of the soil And we had contemplated
3 building several homes on several lots We did not do
4 that largely based on the expense The majority of the
5 lots in the River Club have soil contamination that
6 requires either A, you build on helical piers or some type
7 of Hylon or you -- they can excavate it and go back in
8 with quality soil, or there's been a few houses built on
9 oversized foundations

10 Q Is that because it's on the old North Augusta city
11 dump?

12 A Yes

13 Q And have you seen some of these excavations?

14 A I have seen many of the excavations in the River
15 Club

16 Q And what does the soil look like as they're digging
17 it out?

18 A It's very interesting, sad at some point because
19 sometimes they'll dig 18 to 20 feet deep and you can see
20 layers of tires, garbage bags, apparently, through the
21 years, some lots, there's three or four feet of old brick
22 No telling what you're going to see I've just dug up the
23 side of my yard and discovered all kinds of things right
24 beneath the surface

25 Q But you're aware that it was built on the old city

1 dump?

2 A Yes

3 Q And how would you describe the houses in River Club,
4 is it moderate, low middle class, higher value?

5 A I would consider it upscale, very upscale, price
6 range from high three's to over a million

7 Q And what's the size of the house you have there?

8 A Approximately 3400 square feet

9 Q And as someone who has built houses, would you be
10 willing to build where they are talking about putting the
11 baseball stadium?

12 A I see no reason this same type of community could not
13 be built on the proposed area, 25 acres, or the proposed
14 area for the stadium, which consist of, I believe, seven
15 acres

16 Q Do you consider your community to be blighted?

17 A No way, shape or form

18 Q Do you consider that the value of the area where the
19 stadium is supposed to go to be one of declining value?

20 A No way, shape or form

21 Q Do you believe it to be land that is static in value?

22 A Absolutely not

23 Q I think I may have misspoke when I asked you a
24 question . Out of the 16 properties, you've taken five
25 pictures of properties with houses and we've talked about

1 a vacant lot, but there's, actually, seven properties
2 within the TIF district, is that correct?

3 A Correct

4 Q Do you believe that any of those seven properties
5 that you reviewed have gone down in value or have remained
6 static in value?

7 A I don't believe they've gone down in value

8 Q One of them has a duplex built on it, does it not?

9 A It does

10 Q And one of those duplexes just recently sold for
11 275,000?

12 A Yes

13 Q And the other one is for sale?

14 A Correct

15 Q Has it sold since you last looked at it?

16 A It has not

17 Q Do you know what the offering price is on it?

18 A I think it's 274,900

19 Q So a hundred dollars less than the other one?

20 A No, actually, the other one, I believe, sold in June
21 for 274,900 I believe they got full asking price

22 MR MOSTELLAR Please answer any questions opposing
23 counsel may have for you

24 CROSS-EXAMINATION

25 BY MR ZEIGLER

1 A Not aware of that

2 Q But you would think that property that no one would
3 want to buy would be blighted, wouldn't you?

4 A Not necessarily, no

5 Q Not necessarily You think property sitting in the
6 delinquent tax commission's office unpurchased would not
7 be blighted? That would not be an indication of blight to
8 you?

9 A Absolutely not

10 Q Okay People just don't have sense enough to go buy
11 it for 10 cents on the dollar?

12 A There's a lot of vacant property sitting out there
13 right now that's not being purchased by anybody

14 Q There is, indeed, isn't there? A lot of vacant
15 property Let me show you these pictures These are
16 Defendant's Exhibit 15, which have already been provided
17 to the court reporter Would you recognize those as
18 pictures of current conditions of the Project Jackson
19 site?

20 A I would

21 Q And you don't believe that constitutes blight?

22 A No, sir

23 Q Okay, sir If I read your report correctly, you
24 admit that you've sold property that you bought at the
25 River Club for less than what you bought it for?

1 them is true?

2 A Yes

3 Q You have been involved in Project Jackson for the
4 last year and a half, is that correct?

5 A It seems like five, but I'll accept your assertion
6 that it's a year and a half

7 Q Did you attend a number of Council meetings?

8 A I did, too many

9 Q Did you make any presentations?

10 A I did I made many presentations

11 Q Tell me about -- you've made an allegation in the
12 complaint about violation of the freedom of information
13 act Could you please describe to the Court what your
14 problems with executive session have been throughout?

15 A When this was first announced, it interrupted my
16 retired life I was enjoying golf and enjoying North
17 Augusta, South Carolina And I realized that the quiet
18 life that I had grown accustomed to and enjoyed was going
19 to be ruined by a baseball stadium, so I started attending
20 the meetings And they have public sessions where it's
21 pretty much pro forma, they just send up resolutions and
22 they vote on them But they have study sessions and
23 that's in the back room and those are required to be
24 public as well under statute So I started going to
25 those

1 And then I started seeing they would now go into
2 executive session I would see it on the agenda
3 Nothing It would say negotiations incident to two
4 contractual matters That's all it would say on the
5 agenda A motion would be made by a Council member,
6 basically, repeating orally what was on the agenda, who
7 was seconded A vote would be taken Typically, it would
8 unanimous I don't remember any nonunanimous vote Then
9 I would hear the mayor, who every meeting I was at, and I
10 don't claim I attended every one I attended about four
11 in the study session that I recall The mayor would not
12 announce the purpose He would just say, We're going in
13 executive session, we have to have y'all leave the room
14 now or words to that effect So we left

15 And it bothered me a lot because it was becoming very
16 clear to me that instead of an operating government in the
17 sunshine, we were now trying to make it as opaque as
18 possible because now there are people who are interested
19 in what the city councilmen were considering, what they
20 were voting on, where this was headed And the statute
21 provides that you must state the specific purpose, not the
22 reason, the specific purpose That was never said They
23 quoted a statute, as I recall, it's 30-4-70(A)(2),
24 contractual negotiations, that was it

25 Q Did you know what the contractual negotiations were

1 about?

2 A No, idea None

3 Q Did you find out subsequently in discovery that a
4 majority of those meetings dealt with Project Jackson?

5 A I did I was at a deposition with Mr Glover and I
6 had counted up the executive sessions for contractual
7 reasons and there was -- there were over 18 sessions
8 between March 4th and December 16th All of them,
9 according to the Minutes -- the four I went to all went in
10 the same way I just described All the agendas looked the
11 same All the Minutes looked the same

12 Q And the Minutes of the meetings are now a joint
13 exhibit of both Defense and Plaintiff You've had an
14 opportunity to look at the Minutes throughout this
15 litigation, haven't you?

16 A I've had an opportunity I don't claim I've read
17 every word I've read the executive session parts of it,
18 how they went in and went out and how they documented it

19 Q And did any of them ever reference going into
20 executive session to discuss Project Jackson?

21 A None

22 Q Did any of them ever reference going into executive
23 session to discuss intergovernmental agreements with Aiken
24 County?

25 A They did not

1 Q How about intergovernmental agreements with the
2 school district?

3 A They did not

4 Q Do you believe that this violates the intent of the
5 freedom of information act?

6 A I do

7 Q Did you stop going to meetings?

8 A I did, I was frustrated I realized after about the
9 fourth meeting I was wasting my time, which I think was
10 the intent of the city, to keep it opaque to its citizens
11 so they didn't know what was going on

12 Q You testified earlier that you thought that your way
13 of retired life and your adopted home city was going to
14 change with a baseball stadium Could you explain more
15 specifically what it is you're talking about?

16 A Sure Let me say at the outset that I think up to
17 that point, the City of North Augusta has done a pretty
18 good job They've created a park district down where I
19 live They've developed -- had some development along
20 what's called Hammonds Ferry and the River Club And it
21 was for that reason we were attracted to it when we
22 retired to come down and live near our daughter

23 But when they announced a 5000 seat stadium and they
24 were all aglow about it, it immediately came to mind
25 fireworks over the current stadium, which is only 1 7

1 miles away from where they want to move to, traffic
2 congestion, parking, noise, litter, increased crime that
3 comes with public events It was even recently a concert
4 over there in that stadium, the Georgia Line concert
5 They had two golf carts stolen They had some credit
6 cards stolen out of the box I mean, just everything that
7 I wanted no part of was now coming

8 To where I live, the stadium is going to be sited --
9 it's less than half a mile If you measure it out, it's
10 about 2100 feet from my house There's only one entrance
11 and exit in the River Club It's Shoreline Drive The
12 city has got a master plan on there to complete a river
13 road right through Shoreline They're going to have
14 congestion and traffic There's going to be pressure down
15 there I know the other side says well, it's all
16 speculative Well, they want to wait until they build a
17 25 million dollar stadium and then deal with the nuisance
18 it created and then, of course, at that point, they're
19 going to say, well, you don't expect us to tear down the
20 stadium, do you? No That's going to be the answer

21 Q What about the parking?

22 A Oh, they don't have enough parking Mr Glover
23 admitted to that in his deposition

24 Q And in the city planning documents, it shows that
25 there will be an overflow if the events sell out?

1 A I don't know I've heard in Council meetings we're
2 going to shuttle people from church parking lots I've
3 heard all sorts of scenarios I don't know where they are
4 on it You try to keep abreast of it, but given the way
5 they operate, it's pretty hard

6 Q But the plan is showing anywhere from 1100 to 1900
7 parking spaces short, is it not?

8 A It does

9 Q With respect to the TIF ordinance itself, did it list
10 all of the real property located within the TIF?

11 A It did not In fact, the statute requires a listing
12 of all of the parcels in the TIF district It's not in
13 their ordinance They didn't attach it

14 Q And you've read ordinance number 213-19, which is a
15 joint exhibit?

16 A I have

17 Q Does it ever mention the word value anywhere within
18 the ordinance?

19 A Value's not in there They're required to make a
20 finding as to static or declining values They did not

21 Q Do you believe there are static and declining values
22 within the TIF district?

23 A Anywhere within the 457 acres could there be a
24 decline? Of course I don't think there's 457 acres in
25 any city anywhere in the whole United States that doesn't

1 have some property that's gone down in value Is that
2 possible? Absolutely

3 Q Have you had an opportunity to look at both the Aiken
4 Tax Assessor's property values and the exhibit prepared by
5 the City with regard to property values within the TIF?

6 A Is that referring to the 16 properties on the
7 spreadsheet?

8 Q No, all of the properties?

9 A All of them Oh, all 577 parcels? I have

10 Q Did you using Excel prepare a spreadsheet with some
11 graphs?

12 A I did

13 Q Is this it?

14 A Yes, I did do that It's just a summary of what was
15 provided by the city of the value of the parcels in the
16 TIF district

17 Q Okay And what was your conclusion based on those
18 parcels?

19 A Based on what the city delivered under discovery, in
20 2002, the tax value, the market value went from 22 7
21 million approximately to over 138 million dollars in 2013,
22 which is over a hundred million dollar increase, in excess
23 of 500 percent increase for the whole TIF district

24 MR MOSTELLAR We'd like to introduce this as
25 Plaintiff's 3

1 MR ZEIGLER No objection

2 THE COURT Okay

3 (WHEREUPON, Plaintiff's Exhibit No 3 was admitted
4 into evidence)

5 BY MR MOSTELLAR

6 Q And you heard prior discussion, I believe, by Mr
7 Gudith and Mr Glover regarding the location of the 16
8 properties?

9 A I have

10 Q Did you prepare a map --

11 A I did

12 Q -- with pins?

13 A I did

14 Q And that's Plaintiff's Exhibit 4 Is that the map
15 you prepared?

16 A That is

17 Q Would you please hand that to the Court

18 A (The witness complied)

19 Q With respect to the city's actions at close of year
20 end 2012, they passed an ordinance to approve the
21 development agreement, did they not?

22 A They did

23 Q And that development agreement was signed on January
24 8th, 2013?

25 A Correct

1 Q Do you have any problems at all with that development
2 agreement?

3 A None whatsoever

4 Q Is the intent of this lawsuit in any way to interfere
5 with that development agreement?

6 A Absolutely not I would welcome that development

7 Q And I believe that was ordinance number 2012-14?

8 A It is

9 Q And attached to it is the development agreement
10 signed with North Augusta Riverfront Company, LLC?

11 A That's the preliminary agreement to a larger plan,
12 but, yes

13 Q Do you recognize Exhibit No 5?

14 A I do

15 Q Is that what we're talking about?

16 A It is

17 Q Would you please hand that to the Court?

18 A (The witness complied)

19 Q When you say that's a preliminary agreement to a
20 larger plan, what do you mean by that?

21 A They've had a series of iterations of plans for that
22 area starting back as far back as -- go back to 1991 You
23 could probably go back earlier than that for all I can
24 tell The ultimate iteration before we got into this
25 Project Jackson was a 1996 resolution, could have been an

1 A According to the assessor's, it's 459,646

2 Q Would you please hand that to the Judge?

3 A (The witness complied)

4 Q Given the development plan of January 2013, do you
5 believe that any additional TIF monies were necessary to
6 develop the area near your home?

7 A No Let me just put it this way They had a TIF --
8 most of what they spent the TIF on was a pay-as-you-go
9 program They issued a nominal \$5000 bond in 2001 because
10 at the time the TIF statute required you to start it with
11 an issuing of the bond and they had to do it within five
12 years, so they did a nominal bond After that, I think
13 most of it was pay as you go They collected it in a
14 special fund They were using it to widen the greenway,
15 put in street lights, widen roads, which is required under
16 preliminary agreements

17 Did it require -- it was pretty evident from the
18 agreement that agreement did not require an additional
19 TIF In amendment of the TIF, they were going to take
20 existing funds and pay it out of that Whether it was TIF
21 funds or general revenue funds, I don't know The city's
22 better equipped to speak to that than I am

23 Q You said you've read back all the way to the 1991
24 redevelopment ordinance Could you explain to the Court
25 what tier one, tier two and tier three properties are?

1 A Sure Back in 1991, the city entered into what --
2 there's a section under Title 31, that's Title 31, Chapter
3 10 The TIF's under Title 31, Chapter 6 Title 31,
4 Chapter 10 allows you to create a committee developing
5 zone, which they did And in a part of that process, if
6 you look at their community development law, it's called,
7 Chapter 10, there's a process of finding blight That's
8 why you'll see in the TIF statute, which is Chapter 6, as
9 well as it's under our community development law, it's
10 deemed blighted provided it's vacant land I think the
11 theory is that why make them go through multiple
12 iterations of the same thing If it's blighted under this
13 statute, then it's blighted under that That's the
14 background And when the city passes their Project
15 Jackson ordinance 213-19, they reference that community
16 development law So, okay

17 So then you go back and read what they did in 1991,
18 you read the ordinance and they had a resolution, 9107
19 And in the resolution, it outlined the boundaries of the
20 community development area and they said there are three
21 tiers of property, tier one, tier two, tier three Tier
22 one was called riverfront property And all they said
23 under that was well, just undeveloped They didn't say it
24 was blighted Then they add tier two Tier two was
25 property that adjoined tier one and it was affected by

1 development If you developed tier one, it would affect
2 tier two Said it was undeveloped And they said the
3 rest of the property in this area, which they outlined,
4 you know, with meets and bounds, basically, is what they
5 used, in effect, that's blighted

6 So when you express one thing in an ordinance and
7 exclude it, that means they never found tier one or tier
8 two blighted, which is the riverfront property and
9 property adjoining it So when they relied on their
10 ordinance that they passed in 2013 and incorporate the
11 1991 ordinance, they're incorporating a finding that it
12 wasn't blighted That's basically what I found in my
13 reading

14 Q Now, with respect to the riverfront, and I apologize
15 if I've already asked this question, but do you believe
16 that area to be blighted?

17 A No, I don't

18 Q There are abandoned buildings there, correct?

19 A Yes The area where they want to build, it's 25
20 acres, I walked it almost everyday with my dog, Bailey
21 And I've walked down the center of it and I've seen -- and
22 there are some old buildings down there, yes, but I don't
23 consider it blighted as you work through the whole
24 definition of blight in the statute

25 Q And is that because you don't believe the property

1 value to be static or declining?

2 A That's correct

3 Q At one point, I believe you measured the distance
4 between the stadium project and one of the closest houses
5 within the River Club How far would you say that was?

6 A Seven hundred feet

7 Q With respect to the 2013-19 ordinance, in a preamble,
8 it says that there are -- that the City Council finds
9 areas to be blighted Have you seen any evidence that
10 City Council was presented or discussed blight, static or
11 declining values in open session?

12 A No The closest we got in the sessions I attended --
13 just so we get it all, I didn't attend every single one of
14 them I got things like the mayor saying, Did you see
15 that broadcast on Channel 12? Chad, Chad Mills, you here?
16 That was blighted, wasn't it? Some little video, it was
17 about a 30-second video That was the extent of it,

18 Q Did you ever see --

19 A In the four corners of the ordinance, nobody in this
20 courtroom could tell you what parcel was found to be
21 blighted and what wasn't I would challenge anybody to do
22 it You're not going to find it

23 Q With respect to the evidence that was presented to
24 Council, you did read through the Minutes of the meetings
25 you did not attend, correct?

1 A I did I didn't study them to any extent, but I did

2 Q But did you see anything that indicated to Council or
3 that Council even discussed static or declining values?

4 A I did not

5 Q Do you believe that's required under an amendment of
6 the TIF statute?

7 A The statute's pretty clear If you're amending a TIF
8 district -- they call it a TIF district I think in
9 proper nomenclature, it's the redevelopment project area,
10 which frequently is shortened to the TIF district If
11 you're amending the TIF district post-ordinance, so their
12 ordinance was 1996, the language in the statute says you
13 must follow the procedures in this chapter, it's all 12
14 sections, as if it were an initial TIF

15 Q Now, in 1996, when they passed the initial TIF,
16 you're aware that there were extensive findings of facts?

17 A There were Again, I'm not -- I mean, I wasn't here
18 then I'm not convinced of the intent of the statute or
19 the spirit, but nobody complained And under the way the
20 statute's written, if nobody complains, you press on By
21 that, I mean file a legal challenge to it

22 Q Do you believe that there were extensive findings of
23 fact presented to Council to make a decision upon with
24 respect to this amendment?

25 A No, because like I said, I would challenge anybody in

1 the whole courtroom Look at the ordinance on its face,
2 not there They've got vague wording It appeared to me
3 that there was a lot of cut and pasting going on, just cut
4 and paste from the statute, put that over in the
5 ordinance City Council, basically, passed a -- it's more
6 like a decree, we find it blighted We find it whatever

7 Q Do you think there should be a difference between a
8 simple declaration or a recitation of fact versus a
9 finding of fact?

10 A Sure A finding means you've considered facts and
11 based on the facts presented, you make a finding of X
12 Criminal trial, a jury makes a finding of guilt or
13 innocence Somewhere in the trial, there's some evidence,
14 otherwise, we just walk the defendant in and say we find
15 you guilty Oh, okay Was there any evidence? No, we
16 don't need to do that We just need to find it

17 Q Just a few minutes ago, you testified that you did
18 not think the 25-acre area was blighted, but in your
19 deposition in an answer to a specific question, you did
20 admit that it was blighted --

21 A I did Mr Zeigler did a good job and he asked if I
22 thought it was blighted and I hesitated, I said, Well,
23 let's look at the statute and start walking through the
24 statute Definition of blight is in section 30 And if
25 you read it, it list 16 categories You've got to meet

1 five of the 16 categories And at the end of it, there's
2 a conjunctive phrase and it's static or declining in
3 value And we never got to the conjunctive phrase It's
4 not dysjunctive, it's doesn't say or, it says and And
5 that's the part that's failed because where they want to
6 build the stadium has gone up in value, the whole TIF
7 area, which is the redevelopment project area under the
8 statute, has gone up over a hundred million dollars It
9 fails in my view

10 Q And for those reasons, you're asking the Court to
11 declare the ordinance null and void?

12 A I am

13 Q For what you consider to be the freedom of
14 information act violations?

15 A I'd ask the Judge -- as far as I can tell, the city
16 has been conducting business this way for a long time
17 And where you have a controversial issue that's raised a
18 lot of public awareness, people went to a lot of meetings,
19 meetings were overflowing, at one point, the county had a
20 meeting on this, they had to meet at a local college, that
21 it's critically important that the public have access to
22 information Democracy is a messy business It's not
23 easy Yeah, it's much more fun to go back in the closet,
24 make everything opaque, don't tell anybody anything, but
25 that's part of it

1 And had they opened it up, they would have found out
2 maybe the 16 properties was a joke The 16 properties,
3 they were titled as riverfront properties Get out the
4 map, one of them, 110 Monterey Avenue, it's four miles
5 from the river That was called a riverfront property
6 Another on Hampton Circle is like three and a half miles
7 They're not even in the city They're in Belvedere Nine
8 of them are not even in the TIF district where they're
9 trying to show -- and by the way, blight has to be in the
10 TIF district, that's what the whole statute's about Nine
11 of them aren't even in it

12 The other seven that are in that TIF district that
13 they quoted in this e-mail on the 16 parcels, five of them
14 had houses that were added to it, hundreds of thousands,
15 one of them was like a half a million dollars That's the
16 duplex they we're talking about That left two properties
17 in the TIF district One of them was owned by Mr Gudith,
18 that's now a vacant lot The other property is owned by
19 Ms Espinoza How I know, I went by there, looked at it,
20 her name's on the mailbox You go look at the acreage of
21 those two properties that they say went down in value,
22 it's less than half an acre in a 457-acre TIF district

23 So the city's hanging their hat blighted, remedial
24 action, that's not even -- I think that comes out to about
25 one-tenth of one percent of the entire district I think

1 it's, clearly, arbitrary and capricious of a city council
2 to act -- they had the deer in the headlights, we want a
3 baseball stadium and they didn't care how they got there

4 Q So for failure to comply with the finding of static
5 or declining values and for the freedom of information act
6 violations, you're asking the Court to declare the
7 ordinance null and void?

8 A Yes, sir, I am

9 Q Are you asking for any other relief from the Court at
10 this point in time?

11 A I'd be satisfied with that

12 Q With respect to the point made by opposing counsel in
13 opening arguments, your fears about the nuisance are
14 prospective and in the future, is that correct?

15 A They are, but like I said, once we put a 25 million
16 dollar edifice there and the truth comes out that all the
17 problems that are created, no one is going to expect them
18 to tear down a 25 million dollar edifice built by the tax
19 payer That's not going to happen So it will be, use of
20 the Latin phrase, a pactum factum, a done deal, you know,
21 and we'll just have to grin and bear it I'm sorry, Mr
22 Donahue, you don't like the growth our city's taking, I
23 guess leave town I don't know what they want you to do
24 At that point, it will be too late It will be done

25 MR MOSTELLAR Thank you Please answer any

1 obsolescence or any of those things, but because you don't
2 believe that the declining or static property value has
3 gone up?

4 A That's part of it And I think you need to go to the
5 blight compared to the volume of land that you're talking
6 about

7 Q Can you tell me where you find that in the statute,
8 sir?

9 A Yeah, I think it's called reasonableness, Mr
10 Zeigler

11 Q So that's not in the statute?

12 A Of course not --

13 Q That's the law --

14 A Because you're expected to read the statute with
15 reason

16 Q Well, thank you, sir I appreciate that So you've
17 applied your standard of reasonableness to our statutes
18 and we thank you for that

19 A I think the reasonable man standard is in existence
20 throughout the law

21 Q Thank you, sir And you don't dispute your
22 particular house is now assessed at a value that's almost
23 a hundred thousand dollars less than what you paid for it,
24 do you?

25 A Yes

1 Q Tell me why you dispute that

2 A No, I don't dispute that it's valued less, but that's
3 because they tried to value it more, but I took it to a
4 tax appeal

5 Q But it's still less than you paid for it originally?

6 A Correct

7 Q All right

8 A At least the last time I looked at it

9 Q So your property value as assessed by the county is
10 now less than the price that you paid for the house when
11 you bought it when, in 2000 --

12 A Seven

13 Q All right, sir Now, let's talk a little bit about
14 your house and where you live You're here because you're
15 a homeowner, is that correct?

16 A Correct

17 Q And you have ownership of one of the 85 homes at the
18 River Club, is that right?

19 A There are not 85 homes in the River Club

20 Q How many are there?

21 A I think there's about 79 There are two that are
22 under construction I think we're right at 79

23 Q So there's two under construction and there are about
24 79 Now, most of these houses are very nice homes, aren't
25 they?

1 A I would say yes

2 Q And most of the houses in your neighborhood are built
3 right on the edge of the Savannah River, is that correct?

4 A You have about 41 -- I'm going by memory now I
5 think it's 41 on the river and the remainder of the lots
6 are on what we consider the golf course side, the River
7 Club golf course

8 Q All right, sir But your house is one that's on the
9 river, so you've got the Savannah River at your back door,
10 literally, don't you?

11 A I do

12 Q And you've got a dock on the river?

13 A I do

14 Q And do you keep a boat there?

15 A I do

16 Q All right, sir And I think we've heard testimony
17 that the houses in the River Club are somewhere in the
18 high 400's to a little over a million dollars in value, is
19 that correct?

20 A I did an analysis, did a spreadsheet of every
21 property in there at one time, total value in there is
22 about 48 million dollars It's according to the assessor
23 I'd say the average house, developed house is about
24 650,000

25 Q All right, sir

1 A On the river side, they tend to be about the 700,000,
2 750 average

3 Q All right, sir

4 A Golf course side runs about 200 to 250 less than
5 that

6 Q So somewhere between the high 400's, and a million --

7 A Would capture probably 90 percent of the houses,
8 that's correct

9 Q And it's a very pleasant place to live, isn't it?

10 A Up to this date, it is

11 Q All right, sir , But it's in an urban setting, isn't
12 it?

13 A I'm sorry?

14 Q It's in an urban setting, isn't it?

15 A I wouldn't call it that

16 Q You wouldn't call it that? Well, isn't the City of
17 Augusta the largest urban area between Columbia and
18 Atlanta?

19 A I'll take your premise as true, but there's something
20 called the Savannah River between me and the City of
21 Augusta

22 Q All right, sir And that Savannah River is 250 yards
23 wide, isn't it?

24 A It varies in width You're talking about where I
25 live?

1 Q All right, sir But you've seen the records from
2 that time, haven't you?

3 A Not all of them Some that I've been able to look
4 at, sure

5 Q All right, sir But the questions I want to ask you
6 I think would be matters you would probably have some
7 familiarity with If you went to the North Augusta
8 riverfront in 1991, you would have found where the River
9 Club is now an inactive garbage dump, isn't that correct?

10 A Inactive? I don't know I know it was a garbage
11 dump Whether it was active or inactive, I don't know

12 Q All right, sir And that's where the River Club is
13 today?

14 A That's correct

15 Q On that dump And we've already had people discuss
16 the fact that because of that, you have to build your
17 houses on pilings or have to do substantial excavation?

18 A Some are pilings, some are replacing unstable soil at
19 private expense

20 Q Because there's so much --

21 A Nobody helps them out

22 Q That's because there's so much junk and rubble and
23 debris, you have to get it out?

24 A True

25 Q And if you go back to 1991, part of the riverfront

1 as to what's under the ground in those other areas?

2 A No, of course not

3 Q Have you seen any of the soil studies that have been
4 done?

5 A I have not

6 Q Well, sir, would it surprise you to know that there
7 are many places where you have old basements of industrial
8 facilities that have been filled with rubble that will
9 have to be dug out before any development can take place?

10 A If it's like the River Club, no, it wouldn't surprise
11 me

12 Q All right

13 A That's entirely possible

14 Q And is there even industrial tunnels there that would
15 have to be excavated --

16 A I have no idea If you want to show me the report,
17 I'll be glad to read it

18 Q Okay This is a report from Brasfield and Gorrie
19 General Contractors conceptual budget site remediation and
20 development for the Greenstone properties, which is the
21 Project Jackson site And it involves, if you look at the
22 first subcode, 2 3 million dollars in site remediation
23 work, correct?

24 A How much?

25 Q 2 398700 million

1 A I'm not sure -- say the figure again, I'm trying to
2 find it on your spreadsheet here

3 Q 2398700, first blue line --

4 A 707, okay, mine says -- that's why it threw me off,
5 mine says 707 Just so we're clear, it appears to be
6 prepared for Greenstone Properties They're the people
7 trying to build the stadium, right?

8 Q It's prepared as to Project Jackson, yes

9 A It says Greenstone, I assume he paid for it

10 Q Right

11 A This is the stadium guy He wants to build the
12 stadium, right?

13 Q I believe he does, yes

14 A Okay Just so we know where this came from and who
15 paid for it

16 Q This was not paid for by -- no contract has been
17 awarded on this This is done as site preparation --

18 A Who paid for it, do you know, Mr Zeigler?

19 Q Greenstone paid for it

20 A Greenstone paid for it Who's lined up to build the
21 stadium? I think the owners are in the back of the
22 courtroom there

23 Q It hasn't been put out for bid yet

24 A Oh, yeah, okay

25 Q That's what the study shows If you look there, you

1 will see -- you ask for a document You will see there on
2 the second line, line 2010, removed tunnel slabs,
3 backfilled tunnels, see tunnel location So there are
4 even tunnels under the ground that they found in looking
5 at this property?

6 A Assuming this survey is correct, sure

7 Q All right, sir

8 A When you're going to build a structure that heavy
9 that requires that amount of support, I guess you're going
10 to need eight million dollars You build a house down
11 there, nobody -- the five acres of housing would cover
12 maybe in the River Club, 10 sites, that kind of money
13 wasn't spent Why? The structures aren't as heavy as a
14 baseball stadium

15 Q Correct Now --

16 A Which I might add, no TIF money, let's put that out
17 there, was ever spent in the River Club

18 Q Well, we'll talk about that

19 A Not one cent

20 Q We'll talk about that Now, if you had gone to the
21 site before the city began to investigate, you would have
22 found abandoned brick ponds, wouldn't you?

23 A I have no idea I think the brick ponds -- I know
24 the brick ponds, I think, are descendent of that brick
25 manufacturing down there, which, I might add, the city did

1 Q Right But they were putting a formal --

2 A I've seen the plan I have a pretty good memory
3 It's not photographic, so it may be there If you say
4 it's there, I'll take your word

5 Q And a convention center and a hotel?

6 A I don't remember the convention center being part of
7 it, although it's integrated into the hotel I'll take
8 your word If that's important to your cross-examination,
9 I'll admit to it

10 Q And you would agree that until Project Jackson, there
11 was no plan, no development agreement, no undertaking that
12 would have given the city a convention center and a hotel
13 and a city center development that was feasible in that
14 property?

15 A I totally disagree with that I totally disagree
16 with that That's what 9610's all about That's what the
17 preliminary development agreement in January of 2013
18 That's what Exhibit D is, the 9610, talking about,
19 ultimately, up through 2017, where we want to build 337
20 homes and 53,450 square feet of commercial retail No, I
21 don't agree with that

22 Q What were the commitments made by the developer in
23 that agreement?

24 A The actual agreement was a preliminary agreement for
25 two 4000 square foot --

1 Q Correct

2 A -- but attached to that was to further the plan of
3 9610, in furtherance of the plan

4 Q But you agree with me there was no commitment to go
5 beyond two 4000 --

6 A 'In the four corners of that document, you're correct,
7 although they reference the plan in Exhibit D that this is
8 the first step in furtherance of And I agree with Mr
9 Glover that they entered these agreements because a
10 developer's putting a lot of money in and they have a
11 right to make sure the zoning ordinances aren't changed or
12 whatever So he's going to make a commitment

13 Q Now, is it your testimony that there's no substantial
14 public assistance being given to the development plan
15 that's included in the Riverfront Development Company's
16 development agreement?

17 A Under 9610, that agreement?

18 Q Yes, sir

19 A Yeah, that's my view

20 Q You believe there's no substantial --

21 A Public --

22 Q -- public commitment?

23 A Right

24 Q So we're public commitment of 2 4 million dollars?

25 A Correct

1 Q Plus a million, two million dollars for a park?

2 A Say that again, plus what?

3 Q Plus a million, two million dollars for a park,
4 correct?

5 A Sure

6 Q So you're talking about a public commitment somewhere
7 in the three and a half to four million dollar range?

8 A Yeah, although I think the park, as I recall, was
9 being donated, but I could be wrong on that I think it
10 was a two and a half acre park I think that was being
11 donated, but I don't know

12 Q You're talking about the property for the park, not
13 building the park, not the costs of the park itself?

14 A Right They have lots of parks in North Augusta that
15 aren't in the TIF, right? I mean, that's what cities do,
16 they build parks --

17 Q My question to you --

18 A -- TIF or no TIF

19 Q -- is the amount of the public assistance is
20 somewhere between three and a half to 3 4 --

21 A Sure, if you want to include a park, which they build
22 all over the city, sure

23 Q And you would agree that a 4000 square foot building
24 isn't very big, is it?

25 A No, it's not

1 Maybe you know something I saw that I don't know I saw
2 Just show me what it is

3 Q You were with me when we did the deposition of Mr
4 Glover, correct?

5 A Sure

6 Q Did you find him to be unbelievable?

7 A Mr Glover?

8 Q Right

9 A No, I thought he was okay at his deposition

10 Q By my count, you've appeared 13 times at public
11 meetings trying to stop Project Jackson, would you agree
12 with that?

13 A Well, you counted it better than I did I don't
14 know I'll take your word for it

15 Q Well, I've got February 26th school board meeting,
16 March 5th county council meeting, March 12th school board
17 meeting -- this is back in 2013, by the way, May 14th
18 school board meeting, May 22nd school board meeting, July
19 16th meeting of Council where you provided each Council
20 member with a binder of information during the public
21 comment period, August 13th school board meeting, an
22 August 20th county council meeting, a September 10th
23 county council meeting, a September 17th county council
24 meeting, an October 21st county council meeting, a
25 November 4th county council meeting and November 18th

1 county council meeting

2 A All I can think of is all the golf I missed getting
3 ready for those meetings

4 Q Very good, but you agree that those meetings --

5 A That sounds right

6 Q And you spoke at each of those?

7 A It sounds correct

8 Q And you were given the opportunity to say whatever
9 you wanted to about this project at those meetings,
10 weren't you?

11 A Not exactly

12 Q What weren't you allowed to say?

13 A At the school board, they gave me the hook after five
14 minutes They gave the City 45 minutes to present their
15 case I was yanked after five minutes They couldn't
16 stand the heat, I guess

17 Q So you -- there was time limits, but you got to say
18 within that time whatever you needed to say?

19 A Well, in five minutes?

20 Q Yeah

21 A You think you can discuss this in five minutes, Mr
22 Zeigler, really?

23 Q Now --

24 A That was the school board's idea of a hearing, yeah

25 Q All right, sir That's the school board's decision

1 how much time to give members of the public?

2 A Sure

3 Q And you weren't successful in convincing the majority
4 of county council to oppose this project, were you?

5 A Obviously not or we wouldn't be here today

6 Q Nor were you successful in convincing the school
7 board?

8 A That's correct or we wouldn't be here today

9 Q And the school board issued a finding that this was a
10 blighted area and the result --

11 A They did not

12 Q I -- well, give me a second Let me come back to
13 that Nor did you convince City Council on this?
14 Obviously, or we wouldn't be here?

15 A No, the fix was in, you're right

16 Q But instead, you decided to bring a lawsuit?

17 A I decided to exercise my statutory right to
18 challenge, yes

19 Q All right, sir And when you brought this suit, you
20 were the president of the River Club Homeowner's
21 Association?

22 A That's correct, I was

23 Q And as president, you filed the suit in the name of
24 the homeowner's association, didn't you?

25 A I did

1 Q But you did that without getting prior approval for
2 the lawsuit itself from the board of that entity?

3 A True There was an approval to spend money for legal
4 advice

5 Q All right, sir And when questions were raised about
6 this matter, that became a matter of public dispute within
7 the homeowner's association, didn't it?

8 A Yes I think what brought it to a head was the
9 City's resolution 213-36, where they threatened to
10 countersue

11 Q You're a lawyer, aren't you, sir?

12 A I am

13 Q And you know what a counterclaim for summary judgment
14 is, don't you?

15 A I do

16 Q And if someone were going to bring a counterclaim for
17 summary judgment in a case like this, you'd just be asking
18 the Court to give a ruling on the merits even if the other
19 side dropped the case --

20 A It was, except summary judgment wasn't in that
21 resolution, Mr Zeigler It was a threat It's the first
22 time I've seen a city threaten to sue its own citizens for
23 exercising their statutory right to have an ordinance
24 reviewed by a court I've never seen it before

25 Q It would not have been a threat, would it, sir, if

1 what that ordinance meant was the city was authorizing its
2 lawyers to bring a counterclaim for declaratory judgment
3 in response to --

4 A I don't think -- say that again If you want to take
5 on a lawsuit, just file a summary judgment Just file a
6 motion on the pleadings if you think it's an empty
7 lawsuit You don't need authority from a governing body
8 for the lawyers to go in and say Your Honor, we request a
9 judgment on the pleadings That's pretty straightforward
10 That was done publically to intimidate the citizens And
11 by the way, it worked Congratulations, it worked

12 Q Mr Donahue, do you know what an action for
13 declaratory judgment means?

14 A I do

15 Q What does it mean?

16 A You're asking a court to declare -- usually, you're
17 not asking -- most of the time, you're not asking for
18 money damages, you're asking to declare an action was
19 invalid contrary to law, generally speaking

20 Q Or valid?

21 A Or valid, true

22 Q And it would not be unusual in a case where a citizen
23 sues a city saying what you've done is illegal for the
24 city to counterclaim saying no, Your Honor, we
25 affirmatively want a ruling from the court that what we've

1 to Council, City Council that would constitute evidence of
2 static or declining values?

3 A I haven't seen it

4 Q That doesn't mean there isn't something that has been
5 created later that might be presented to the Court?

6 A I suppose I got some e-mail yesterday about they
7 went around after the fact and generated some evidence out
8 of there, I don't know But no, I haven't seen anything

9 Q With respect to an e-mail you saw yesterday, are you
10 talking about the 136 pages --

11 A Yeah, it was so late before court We were less than
12 24 hours I didn't even open it There was some series
13 of graphs I think they took the parcel numbers and
14 graphed them or something I don't know I did not even
15 open it It was so late in the day that I said I'm not
16 going to go through 136 properties

17 Q Based upon your review of the Minutes or attendance
18 of meetings and your freedom of information act request,
19 did you ever see any sort of 136-page document with graphs
20 presented to the City Council?

21 A Never saw it First time I saw it was yesterday
22 about 10 in the morning, maybe later

23 Q Now, you were asked at the outset of your
24 cross-examination about your house valuation being less
25 than it was when you purchased it in 2007, did you contest

1 made to create the redevelopment district?

2 A That is correct

3 Q Had there been any work before that on the riverfront
4 and planning for it?

5 A Actually, there has been It goes back to around
6 1980, the City commission disbursed riverfront study,
7 which was done by Wilber Smith & Associates And it
8 focused primarily on the riverfront from I-20 down to, I
9 believe, around the Fifth Street bridge

10 Q All right, sir If you go back to 1991, what were
11 the conditions within the redevelopment district at that
12 time?

13 A In 1991 -- of course, I've lived in North Augusta all
14 my life, but in 1991, there was, actually, no development
15 of any significance on the riverfront And when I say
16 riverfront, I'm talking from where I would call the Rapids
17 Subdivision, River Oaks Subdivision, Hammond Hill pool
18 area, all the way down to the Fifth Street and beyond,
19 there was very little development other than Riverview
20 Park began in the 70's Riverview Park was the big park
21 in the City and it was close to the river We didn't have
22 any property on the river, but it was close to the river

23 Q Where is that park?

24 A It is above Campbell Town Landing It's kind of hard
25 to point it out at this distance, but it's next to

1 Campbell Town Landing, which is next to Hammonds Ferry
2 Subdivision

3 Q So it's, basically -- if we assume the river's
4 running north/south, it would be north of Hammonds Ferry?

5 A ,That's correct

6 Q Can you describe for me the conditions, physical
7 conditions in the area of the current TIF district in
8 1991?

9 A All along the area, which is now the riverfront of
10 that district, was undeveloped Hammonds Ferry -- I say
11 it was undeveloped, there had been development there many,
12 many years before that had just ceased to exist When the
13 1890's plat of the City of North Augusta was founded, that
14 plat, actually, had industrial and commercial areas down
15 along the river

16 In the early -- mid-1800's to early 1900's, there
17 were brick manufacturers down there There was an oil and
18 gas business Many of the people in the North Augusta
19 remember there was a dispensary inn right by the bridge,
20 which was an old brick building that around the turn of
21 the century was a place where the state actually dispensed
22 alcohol And there was a lot of buildings and commerce
23 down there many, many years ago But by, I guess, the --
24 by World War II or somewhere along those areas, most of
25 that stuff was gone Mark Baynum built a little concrete

1 welding shop that was in business for a while and the
2 pottery was in existence for a pretty good while, but by
3 the 1990's, it no longer was operating and just about
4 everything was vacant or abandoned

5 Q What was the condition of the property that is now
6 the brick pond park?

7 A There were ponds there, but they were completely
8 grown up with trees and they were all scum covered and
9 they weren't very well defined, a lot of trash in the
10 area It was just a place -- it was kind of an enigma
11 from the standpoint that thousands of people drove across
12 the bridge everyday and drove right past all these
13 properties, but nobody ever went down there because there
14 seemed to be no real reason to

15 Q All right, sir

16 MR ZIEGLER At this point, I would like to place
17 into evidence exhibits that have already been marked and
18 provided to the clerk, including Exhibits No 1 and 2 of
19 the Defendants, which are the ordinances adopted and
20 resolution adopted in 1991, along with Exhibit 3, which is
21 the map of these districts shown here in large scale, and
22 a map of the City, which is Exhibit 4 -- excuse me, let me
23 correct that Exhibit 3 is a small scale map of the
24 development district, this is the large scale map of the
25 City, which is Exhibit 4

1 THE COURT Okay

2 (WHEREUPON, Defendant's Exhibit Nos 1 through 4 were
3 admitted into evidence)

4 BY MR ZEIGLER

5 Q So in 1991, you made determinations that there was
6 blight in this area, so you created a redevelopment
7 district to encompass the riverfront area, is that
8 correct?

9 A That's correct It came to our attention that in
10 order to avail ourselves of various government vehicles to
11 reclaim an area or to develop an area, we had to put a
12 commission in place I think maybe there were some
13 statutory requirements for that in order to do that, and
14 we formally adopted it at that time And the mayor and
15 the Council were, actually, the members of the commission

16 Q And you all are still members today, is that correct?

17 A Yes, sir

18 Q And the reason was because y'all made the
19 determination this was a blighted area?

20 A Well, it sort of came to our attention -- one of the
21 things that the city has done for longer than I've been
22 involved with the city is we have an annual planning
23 retreat, which we call North Augusta Forward And back in
24 those days, we would go off to Hickory Knob, or we had a
25 meeting place on a lake in Graniteville and we'd meet

1 pretty intensively for usually a couple of days and we
2 would plan out the future of the City

3 And it came to our attention at that point that we
4 had a real untapped asset as far as North Augusta was
5 concerned in our riverfront And we started to embark on
6 what would we need to do to take advantage of our
7 riverfront and make it the kind of place that people would
8 be attracted to and would want to live, want to work, want
9 to play and all those sort of things And it was obvious
10 to us from the very beginning that the property was in
11 terrible condition and that we were going to have to do
12 some things that was going to take some proactive work by
13 us as a government to turn it around

14 Q Now, there's been discussion of tier one and tier two
15 and tier three properties Was there any distinction in
16 1991 in the condition of the properties that were tier one
17 or tier two or tier three?

18 A Well, I would, obviously, the tier one properties --
19 I may have it backwards between one and three, but the
20 properties closest to the river were the ones that were in
21 need of the most help and were the most blighted, you
22 know, with all the vacant buildings, abandoned buildings,
23 the scum ponds I don't know that there was any available
24 utilities down there Those were the worst ones And
25 then because of the topography of the property, there was

1 what they call an escarpment or a bank there that really
2 geographically differentiated between the riverfront and a
3 low area and then up where the town was built And I
4 guess back in the 90's, we still had -- you know, our
5 downtown was struggling a little bit There was some
6 vacancies there There was some, you know, just lack of
7 development downtown, not much had been built in a long
8 period of time My office was right downtown There was
9 not a whole lot happening downtown, as, I guess, that's a
10 second or third tier, but they were all linked together

11 One of the things in our discussions in our retreats
12 were that North Augusta was -- we didn't have a real
13 defined entrance to our city And we wanted to have an
14 entrance where you knew you were coming into North
15 Augusta, where you were because of -- as you can see from
16 that map, our boundaries in the darker cream color there
17 are very hard to follow and we wanted people to know when
18 they were in North Augusta And we wanted to tie -- when
19 we developed the river, we were hopeful that those two
20 would meld together and if you didn't certain things
21 downtown, it would be good for the riverfront and if you
22 did things in the riverfront, it would be good for
23 downtown And that was one reason why we put all of these
24 properties sort of together in our study area
25 Q But I want to be clear on this, you understand that

1 in 1991, the most blighted properties were the tier one
2 properties, is that right?

3 A Yes, sir

4 Q All right, sir Let me ask you this, what did you do
5 next to advance the redevelopment of the property?

6 A Well, I'll have to think a minute because, you know,
7 you do this for 30 years, it all blends together, but we
8 -- I believe after we set the commission up, we got some
9 help from Clemson, which I think was probably a couple of
10 years after that And at some point in time -- to be
11 honest with you, I don't recall whether it was '93 or '96,
12 we got a grant from SRRDI, which was a local initiative to
13 help because of the downsizing of the Savannah River
14 Plant We got a \$50,000 grant somewhere in that
15 timeframe But we got in touch with Clemson and some of
16 their planning and architectural people and they came down
17 and did a study more downtown than river, but it had river
18 aspects to it

19 And this is the first time that I remember in North
20 Augusta we had what was called -- I didn't know what the
21 word was, they kept using it, it was a charette That was
22 a public meeting where the entire community was invited
23 And they went over what their study area was and then we
24 broke into groups and different people got to come up with
25 their ideas of what they would like to see downtown

1 become, maybe what they would like to see on the river and
2 that sort of thing And that started a process that -- it
3 didn't cost very much to do this There were students
4 involved And I think very quickly we learned that we had
5 an asset for the citizens of North Augusta that really
6 required some professional study And then along about
7 '96, we got in touch with the folks out of Boston

8 Q Let me stop you there Did you also participate in
9 the charette?

10 A Yes, I did

11 Q And the acronym that you referred to, the Savannah
12 River Regional Diversification Initiative?

13 A That's SRRDI, yes, sir

14 Q And I believe that you then hired a professional
15 planning group to come in and assist Clemson, correct?

16 A Right That was Lane Frenchman and City Design
17 Collaborative or something similar to that out of Boston

18 Q And they were advised by a citizens panel of some 21
19 citizens and landowners, is that correct?

20 A That is correct

21 Q And you were one of the members of that panel,
22 weren't you?

23 A Yes, I was

24 Q And the result of that was ordinance 9610 and the
25 attached master plan for the North Augusta riverfront

1 development district, isn't that correct?

2 A That's correct

3 MR ZEIGLER Your Honor, we would move into evidence
4 Exhibits 5 and 6 -- excuse me, just Exhibit 5, which is
5 that ordinance

6 THE COURT Okay

7 (WHEREUPON, Defendant's Exhibit No 5 was admitted
8 into evidence)

9 BY MR ZEIGLER

10 Q Could you give us an overview of what was anticipated
11 in 1996 as the development plan for this area?

12 A Well, this, again, I guess, was probably the first
13 introduction into North Augusta of the term mixed used
14 development You know, historically, we thought -- we
15 thought old school, that nobody wanted to have anything
16 commercial close to their home or that sort of thing And
17 that thinking sort of evolved and they came up with the
18 concept of a mixed use development, which would be a
19 combination of residential, commercial They may have
20 introduced the first concept of what we call live-aboves,
21 where you have commercial space underneath and apartments
22 rented above, those kinds of things They also discussed
23 recreational amenities

24 Throughout all these studies, it's kind of amazing as
25 I studied and refreshed my memory on these things in

1 anticipation of this day how even back to 1980, they
2 talked about brick ponds and making use of the brick
3 ponds, which has been a part of just about every study
4 that we've done They talked about trails, bicycling and
5 those sort of things, which we have done And all of
6 those things were components

7 I think one of the big components that they also came
8 up with was a marina And they talked about coming
9 inland At one point in time, they talked about coming
10 inland even as far as -- in one of the designs we saw --
11 you know, over the years, you'll see so many ideas and all
12 bounced around in all these charettes, but they talked
13 about bringing the marina all the way up to where the
14 municipal center is, but those things sort of fell by the
15 wayside based on environmental concerns and all those
16 sorts of things But they had a tremendous amount of
17 ideas and different uses

18 Q When you talk about the gateway to North Augusta,
19 specifically, where would that be located?

20 A Well, that's a good -- that's sort of a point of
21 contention That was one of the reasons why we wanted a
22 gateway, nobody really knew Because most of our
23 entrances -- probably the vast majority of people this day
24 and age who are not familiar with North Augusta maybe come
25 in off I-20 and Martintown Road I don't know More

1 people -- a lot of people travel back and forth across
2 Georgia Avenue and the bridge, which is right in this
3 property We also have entrances along Fifth Street and
4 then in the Buena Vista Avenue, off Highway 1 and Schultz
5 Hill and then entrances on 25 through Belvedere But all
6 of those entrances have always been either industrial or
7 commercial or not really a place that you could really
8 define you're coming into a city, you're coming somewhere
9 That was one of the things that we wanted to address And
10 in this area now, I believe we have addressed it

11 Q And by this area now, you mean what, sir?

12 A The lower part of Georgia Avenue

13 Q All right And just to tie up some loose ends, what
14 amount of traffic do you think there is on Georgia Avenue
15 on a given day?

16 A Well, the simple answer would be a lot You know,
17 during this time, and I don't recall the exact date, but
18 during this time, Georgia Avenue, for many, many years was
19 just two lanes And I want to say probably -- my memory's
20 telling me somewhere in the 90's or maybe early 90's is
21 when Georgia Avenue was made into four lanes You know,
22 I'm at the age now where what seems like 10 years is 20
23 and those sort of things, but it was widened And I think
24 the traffic counts are somewhere in the neighborhood of --
25 I want to say I've seen the figure 19,000 a day somewhere,

1 but I wouldn't question that

2 Q Let me go over the elements of the plan as far as the
3 area that would be near Georgia Avenue, the gateway that
4 we've been talking about We've talked about a hotel
5 there, is that correct?

6 A That was an element of the plan, yes

7 Q Convention center?

8 A With the hotel

9 Q Possibly theaters?

10 A We don't have any theaters in North Augusta and
11 that's, certainly, something in my 17 plus years as mayor
12 have been unable to attract

13 Q And you've talked about having a commercial center of
14 some sort in that area, is that correct?

15 A One of the things that the design team that I will
16 really remember is they fell in love with Lookaway Hall,
17 which is up at the top of the hill of Georgia Avenue and
18 what an icon building it is for the city And they talked
19 about tying into that all the way down to the river And
20 there were a number of plans that even -- they thought
21 very briefly about moving Georgia Avenue over so that it
22 would be one straight -- right where the municipal
23 building is, there's a real bad curve there and they
24 talked about trying to move Georgia Avenue over and
25 straighten it so you would have this big long vista, but,

1 obviously, the cost of moving the bridge and all, that sort
2 of shot that down real quickly But they also talked
3 about bringing the street, which is now Center Street,
4 straight down into that area

5 Q And in 1996, you not only adopted a plan, but you
6 also established a TIF district, is that correct?

7 A That's correct And one of the elements of the plan
8 as far as -- when we asked for a plan, we wanted to study
9 what's there, give us ideas what should be there and,
10 also, how do we really go about implementing the plan
11 I'm not one for doing plans and throwing them on a
12 bookshelf somewhere If you think this thing is worth
13 doing, then you need to do it And I think that's the way
14 North Augusta has always operated as a government

15 And one of the elements in the plan on how you
16 implement it would be to use the tax increment financing
17 And then shortly after or almost simultaneous to the
18 adoption of the plan, we set the wheels in motion for the
19 TIF district

20 Q And when you create a TIF district, it doesn't create
21 additional revenue in and of itself, does it?

22 A No, but it freezes the values at that time for tax
23 purposes so that all of the increment is used for whatever
24 private infra -- excuse me, public infrastructure you can
25 put in the district

1 Q But until the tax values in the district begin to
2 rise, there's no TIF revenue that's additional, is there?

3 A That's correct

4 Q So you have to prime the pump to make that happen?

5 A In fact, we went about five years before we even
6 pulled the trigger on the TIF district by issuing bonds
7 And we just issued one, I think it was a \$5000 bond, in
8 order to get the ball rolling

9 But in the meantime, between that time, we -- I think
10 at that point that's when we started as a city to assemble
11 all of these various odd pieces of property because we
12 knew there had to be one ownership in order to implement
13 the plan That was probably one of the -- the first order
14 of business was assembling various properties so that we
15 could get them developed

16 Q All right, sir Let me ask you about assembling
17 those properties At that time, what was the condition of
18 ownership of the land that's now a TIF district?

19 A Well, it was sort of a collective mix There were
20 several big tracts The Haskell tract, primarily, where
21 Hammonds Ferry is, was one of the largest tracts, over a
22 hundred acres The golf course tract was well over a
23 hundred acres They still had a few little pieces in it
24 that went into private hands By '96, the golf course
25 side and the River Club had been purchased by a developer

1 out of Atlanta We were working primarily with assembling
2 the properties on the west -- I call it the west side of
3 the bridge, up towards Hammonds Ferry There were a
4 number of small parcels There were the big Haskell
5 tract There may have been one or two medium-sized, but
6 there wasn't a lot of five, six-acre tracts There were a
7 lot of smaller pieces, some of which throughout that area
8 -- throughout the riverfront area because we have since
9 bought some property down around what we call the old
10 Hamburg US 1 interchange A number of those properties
11 have been purchased by individuals at tax sales and we had
12 some title implications involved in that

13 Q So that means if someone didn't pay the taxes or
14 abandoned the land --

15 A Actually, right by the greenway, just below the
16 municipal center where the old pottery was, that was a
17 piece of property there that I think a Japanese developer
18 bought up at some point in time in anticipation of
19 development of the golf course Before it was purchased
20 by the people who developed the golf course and River
21 Club, there were Japanese investors who fell on hard
22 times, they had assembled it and they couldn't move
23 forward This was, I think, the Maruca property And it
24 actually went up for a tax sale And I don't know that
25 they sold all of the property because you can only sell

1 enough of the property to pay back the taxes that are
2 owed In other words, if you owe a hundred dollars and
3 somebody has a hundred acres, they'll only let you sell
4 like an acre or two acres to pay that tax They don't
5 sell the whole thing

6 But we bought part of that property at -- we didn't
7 buy it at the tax sale, it had already been sold at the
8 tax sale and no one -- no person from the public or anyone
9 bid on it And when that happens, the land commission,
10 there's an Aiken County land commission, it just takes the
11 property back over And we got in touch with them and we
12 purchased that property And then because of the need for
13 development -- this was development in conjunction with
14 the greenway, we -- I think we did a condemnation
15 proceeding on the rest of that property for the greenway

16 Q All right, sir And the primary access from the
17 upper part of the club down to where the River Club is is
18 a road that's called Riverside Boulevard?

19 A Riverside Boulevard, right

20 Q Now, when was that built and by whom?

21 A That was built in conjunction with the development of
22 the River Club I would guess the River Club started, I'm
23 going to say '97, somewhere along in there When we
24 started doing the '96 study, the golf course was, I think,
25 beginning to be built or -- you know, the whole golf

1 entrance of the first few lots of the River Club There
2 was a lot of big heavy equipment and machinery I don't
3 know if it was boiler or some kind of big geared wheel I
4 don't know, to be honest with you, whether it was from the
5 brick production or what it was But, generally, it was
6 in the same shape as it was in '80 when they did the first
7 study, and '90, nothing much had happened

8 Q All right, sir And then in 2001, you issued a TIF
9 bond that you mentioned?

10 A That's correct

11 Q And at that time, did you make further findings of
12 blight and declining or static property values in the
13 area?

14 A We did Of course, at that time, the River Club was
15 underway and things were beginning to happen that we
16 wanted to happen, which was the sole purpose for us taking
17 all of this action

18 Q All right, sir Now, part of what you did to improve
19 this area was to build a new city administration building,
20 is that correct?

21 A We did That was probably -- that probably started
22 around 2005 or so The old building, which I take
23 absolutely no responsibility for, was -- it was pretty
24 small by our standards and we were growing and we knew we
25 needed to upgrade it And we started embarking on sort of

1 a two-fold process of what kind of building did we need or
2 want and where were we going to put it

3 And after quite a bit of effort from the City
4 Council, we decided that to put it where it is today, at
5 the lower end of Georgia Avenue, would meet several
6 objectives One objective was that gateway or that
7 entranceway to the city And the other was that's where
8 the plans had showed for the town center to begin and be a
9 part of and we thought that location would be perfect to
10 tie the existing downtown to what we hoped to be the new
11 development on the river

12 Q And the new administration building literally
13 overlooks the riverfront area and the TIF district,
14 doesn't it?

15 A It does

16 Q And it has a museum in it, I believe?

17 A It does We were -- again, we had some public input
18 on all of that process I guess from the time we started
19 the process until we opened the door was probably, I would
20 say, in the neighborhood of four years We spent 20
21 million dollars on that building and we wanted it to look
22 like an icon building because North Augusta didn't have
23 anything like that And we felt like if we were going to
24 have a building that the citizens could take hold of and
25 take interest in and be proud of, we had to have something

1 in there just for the citizens We didn't want it to be
2 the "Taj Mahal" for the city folks

3 And about half of the space of the building is for
4 public use There's a museum, arts and heritage
5 component, on the bottom floor, which takes up about, I
6 guess, half or more of the bottom floor and then the
7 complete top floor, as most people here know, is the
8 Palmetto Cherish, which is used for social and business
9 rentals

10 Q And it has a panoramic view?

11 A It has an outside balcony that's probably the view, I
12 would say, in my opinion, is the best in North Augusta

13 Q All right, sir And do you have an idea of what the
14 total investment has been to date, public money, in the
15 TIF district that we're talking about?

16 A Well, the municipal building was 20 million dollars
17 We did a downtown streetscapes on both Georgia Avenue and
18 West Avenue, which I -- you know, Belton, to be honest
19 with you, all the numbers begin to run together, but I
20 mean, that was a number of million dollars We did the
21 greenway along the riverfront, which is probably a couple
22 of million dollars You know, we can't do anything in the
23 city that's not a million dollars, it seems like But the
24 -- we also have done water and sewer improvements The
25 roadway Center Street was put in We did get some federal

1 -- we got the last earmarks, I think, involved with that

2 And then, of course, we did the brick pond park,
3 which as Mr Donahue stated earlier in his testimony, has
4 been a very successful venture by the City of North
5 Augusta that almost happened by accident from the
6 standpoint all the studies talked about the brick ponds
7 and what to do with them and in conjunction with the
8 developers of Hammonds Ferry, we decided that would be a
9 good place to create what is there now, not only for a
10 passive park and the visual amenity and it's sort of
11 become a wildlife reserve, but it's also used to cleanse
12 storm water runoff from the upper parts of Georgia Avenue
13 It cleans itself and goes down into the Savannah River

14 Q I believe you, actually, were able to close down and
15 redevelop a trailer park that was in the commercial
16 district?

17 A Well, right in the middle of town and, probably, the
18 main intersection of North Augusta, which is Georgia
19 Avenue and Buena Vista Avenue, where Jackson Square is
20 today, which is sort of a multi-purpose business block of
21 offices and various businesses, that property when I
22 became mayor and for years before that was, actually, a
23 mobile home park And we sort of took the position that
24 if we were going to be the kind of city that we wanted to
25 be and the kind of city that our residents would be proud

1 of -- I lived in a mobile home for three years while I was
2 in law school, so nothing against people in mobile homes,
3 but the middle of your downtown area is not a place for a
4 mobile home park

5 So we gave those folks -- they were -- a
6 nonconforming use, but they were grandfathered under our
7 statute We amended our statute to give them five years
8 to remove the mobile homes They waited until the last
9 month of the five-year period They removed the mobile
10 homes and then we -- we got some money, maybe some more
11 SRRDI money, I really don't remember, but we cleaned up a
12 dry cleaners and a gas station And the lady sold her
13 part of the park shortly thereafter for, I believe, it was
14 \$300,000 And she had been getting \$300 a month in rent
15 off the mobile home park

16 Q What's on that location today?

17 A The property we call Jackson Square, which on the
18 corner is the Southern Bank There's a restaurant there,
19 a real estate office, an attorney's office, a gift shop
20 Up above, there's some meeting rooms and there's also a
21 fitness center

22 Q What happened to the development plans when the
23 recession hit in 2008?

24 A Well, the -- when things started going bad, I guess
25 -- really, let me go back a little bit We worked hard on

1 trying to get businesses and development in not only that
2 area, but North Augusta, and we just weren't having too
3 much luck Residentially, it began to take off Hammonds
4 Ferry started around 2005 or so And the first couple of
5 years, they did very well They started a number of
6 houses all at once, which was the right thing to do so it
7 would look good from the beginning

8 And they did fairly well, but when the recession
9 started hitting and, especially, the recession was really
10 housing crisis based and a lot of people got very, very
11 skittish and things slowed down quite a bit And the
12 response to people that we contacted about opening
13 restaurants and doing things in North Augusta, a lot of
14 them said we're putting everything on hold for a year or
15 until things change

16 I know I dealt face to face with Fatz cafe in the
17 parking lot of the Ming Yat restaurant trying to convince
18 them to come right there where Ming Yat's -- tear it down
19 and start right there That's not because it's across the
20 street from my office and I wanted to eat there, but that
21 was a factor And they said at that point in time, they
22 said that North Augusta and Statesboro were our largest --
23 were our top two destinations That was five years ago
24 and we just haven't heard from them So things slowed
25 down quite a bit as they did nationwide as we approached

1 the late 2000's

2 Q Would it be fair to say that development stalled at
3 that point?

4 A I don't know if stalled is the right word, but I
5 would say slowed drastically

6 Q All right, sir There's been a good deal of talk
7 about Hammonds Ferry Who did the idea for Hammonds Ferry
8 come from?

9 A Well, I'm not one to take credit for things because
10 it's definitely a team effort for all the stuff that we've
11 accomplished, but I am -- my daughter went to college down
12 in Charleston And I used to take several magazines, but
13 the only magazine I take now is Southern Living And they
14 had an article on the Ion subdivision in Charleston, which
15 is in Mt Pleasant And that interested me and I was led
16 to Vince Graham, who was the developer of Ion And when I
17 went down there, there were probably just eight or 10
18 houses This would have been probably about '96 or so
19 The golf course was not open It was maybe just beginning
20 to be constructed

21 We brought Vince Graham up here and I offered him a
22 couple of Master's tickets You can get anybody to come
23 for a Master's ticket And he came up and we showed him
24 the golf course and we showed him our riverfront, very
25 similar to the piece of ground that he bought in Ion and

1 Q When you say transactional, what do you mean?

2 A Real estate, business, do a lot of Wills and estates

3 Q Do you close real estate deals?

4 A Yes, sir

5 Q Do you close home sales?

6 A Yes, sir

7 Q Close homes sales in this area?

8 A I have

9 Q And you've been on City Council, I think you said, 28

10 years, 29 years?

11 A This November will be 29 years

12 Q And have you ever heard anyone suggest that you need

13 to have a particular set of papers, particular legislative

14 record in front of you to make a decision as a Council, is

15 that something you've heard tell of?

16 A No, sir

17 Q All right Let me ask you this, you've heard

18 discussion of Council's procedures for calling executive

19 sessions Would you just refresh our memories as to what

20 those are?

21 A Well, normally, the request for an executive session

22 will be placed on the agenda so we'll be prepared for it

23 It's usually made by Mr Glover, our city administrator

24 I may point out I am a part-time mayor, obviously

25 Mr Glover is our full time administrator and he handles

1 all of the day-to-day interfacing with folks involved with
2 the City The Council and mayor, of course, set policy

3 But if he'll be working on something that will come
4 up in the city that would require an executive session,
5 it's put on the agenda He will make the request I will
6 say we have a request for executive session and we usually
7 -- we say what the purpose of it is, whether it's -- 99
8 percent of our executive sessions are either a
9 contractual matter, a personnel matter or legal advice or
10 lawsuit advice, a pending lawsuit That covers most all
11 of them We'll say what the purpose is for I will ask
12 him -- if it's a council meeting and there's a request for
13 executive session, I will ask him do you think there will
14 be any need to come out of this session and vote in the
15 public session Because you cannot vote in an executive
16 session And most of the time, he says, no, there's not
17 I mean, I always do that so if there's audience there or
18 there's press there, I don't want them to have to wait
19 unnecessarily if we're going to be in executive session
20 and it takes 30 minutes, 45 minutes A lot of times,
21 we'll ask how long it's going to be

22 But when we do that, then we -- I always ask is there
23 a motion A council member or myself will make a motion
24 There will be a second I'll ask for discussion
25 Usually, there is no discussion and we vote to go into

1 executive session

2 We use the same procedure at study sessions I
3 probably don't ask -- I know I don't ask if there's
4 anything that we're going to report out we have to vote on
5 because on the study session, we cannot vote We can only
6 vote in an open council meeting

7 Q But you have a motion, you state the purpose --

8 A Right

9 Q -- and you call the executive session? Was that
10 followed, to the best of your knowledge, throughout this
11 --

12 A That's been followed every time I've asked for an
13 executive session the whole time I've been mayor And I
14 have Mr Zier sitting right beside me and if for some
15 reason, I should have a slip up or something, which
16 happens occasionally when I -- I'll say all right, I call
17 for a vote and somebody will say we haven't seconded it
18 yet or something like that I'm always either corrected
19 by Mr Zier or our clerk because she's writing down all
20 the procedures and has a checklist and if we've missed
21 something, I'm called to task on it It doesn't happen
22 very often, but, occasionally, I'm human, and it will
23 happen

24 Q It's wonderful to have good support, isn't it?

25 A You couldn't work without it

1 Q All right, sir But just so that I'm clear, did the
2 North Augusta City Council make any decision, formally or
3 informally, concerning the TIF ordinance -- TIF amendment
4 ordinance before you here in executive session?

5 A Mr Zeigler, I'll -- my answer to that is no, we did
6 not make any decisions that should have been voted on in
7 an open meeting We've never made decisions like that in
8 executive session And I can you tell in my 29 years with
9 the City of North Augusta on any issue, we have never made
10 any decision, come to any special agreement, have private
11 meetings in home or handle things by phone calls We do
12 not operate that way in the City of North Augusta And
13 for that reason, I think we're considered to be one of the
14 best cities in the State of South Carolina

15 Q Thank you, sir Now, on the -- on March 11th, there
16 was a hearing -- excuse me, there was an executive session
17 concerning a matter And at the end of that executive
18 session, it was announced that hearings that had
19 previously been scheduled concerning this ordinance with
20 the school district and Council were being postponed
21 Explain what happened there

22 A Well, to backtrack just a little bit on you to lay a
23 proper foundation, in order for the whole Project Jackson
24 to take place, from the very beginning when Mr Glover and
25 I met with developers, when we embarked on this riverfront

1 something that's down there People will want to park
2 close to that restaurant So we're going to have to deal
3 with those things We're going to have to put in some
4 ground parking, maybe some more parking garages and
5 facilities

6 Those are all things that will certainly have to be
7 addressed If you don't address them and you don't do it
8 right, then you're going to have problems on your hands
9 You're going to have to be proactive from the get-go
10 We've said all along this is an A to Z process and I would
11 say we're getting, I don't know, P or Q or somewhere along
12 in there, but when we get to P, parking will definitely be
13 there

14 MR ZEIGLER One second, Your Honor I have no
15 further questions of this witness

16 CROSS EXAMINATION

17 BY MR MOSTELLAR

18 Q Good afternoon, Mr Jones?

19 A J D , how are you doing?

20 Q Pretty well

21 A Good

22 Q Let me just clear something up that I'm not quite
23 clear on And I'll try to go down the same format that
24 Belton used You were discussing in your testimony the
25 city building, the greenways, redoing the brick ponds,

1 redoing streets, making Jackson Square out of the trailer
2 park, and that was all done pretty much with public money,
3 right?

4 A The City building, of course, is public money The
5 greenway is public money The brick pond was a
6 combination of North Augusta Riverfront Development and
7 the city working together Jackson Square, that is a
8 private development That's privately owned -- all those
9 buildings are privately owned and leased We did do some
10 assistance providing a little bit of on-street parking on
11 Buena Vista Avenue in exchange for them giving us -- we
12 'didn't have enough right-of-way to have parking on Buena
13 Vista in front of -- I don't know if you're familiar with
14 Antonio's restaurant, that property was actually provided,
15 donated by the developer to the City and then we put
16 public parking there

17 Q But today, the only TIF bond that's been issued by
18 the City is the \$5000 bond in 2001, is that right?

19 A That is correct Since that time, once the bond was
20 issued, since 2001, then we got all of the tax, additional
21 tax revenue based on the '96 values We've got all those
22 revenues We've saved them, we've banked them, and then
23 we've done projects with them The level of development
24 that has come our way, we've been able to handle without
25 issuing any additional bonds because, as I said earlier,

1 we like to do things right We're not going to issue
2 bonds to pay for improvements until we know the private
3 development is going to occur to generate the revenues to
4 pay the bonds

5 Q And the TIF monies that have been collected since
6 '01, would I be correct in my understanding that there's
7 approximately 2 4 million dollars of that money left?

8 A You would have to ask Mr Glover or Mr Potter, our
9 finance director, on those exact numbers because I -- I do
10 know that you used that 2 4 figure and that is the number
11 that has been testified to earlier about that was what we
12 were going to use as an inducement to North Augusta
13 Riverfront Development Under our development agreement
14 with them, that was the number we said we could come up
15 with and money that we did have on hand

16 Q And it could be more now?

17 A Well, hopefully, it is I mean, this is generated
18 from 2001 to 2012

19 Q And, currently, you're collecting \$700,000 in TIF
20 monies now?

21 A That number sounds right, but it will increase when
22 things like Medac and all of that come on board

23 Q And I know you may not have reread the work that you
24 guys put together back in 1991, and it has been a long
25 time, but is it possible that the tier one riverfront was

1 delineated as undeveloped and it was tier three that was
2 considered to be blighted in that redevelopment study?

3 A You know, I know we've got tier one, tier two and
4 tier three And I'd have to look at the study to tell you
5 --

6 Q I understand

7 A Read the definition of each one and say yeah -- you
8 know, like I told Mr Zeigler, I don't know if tier one or
9 tier three is the most blighted area There is a
10 progression There's blighted, adjacent to blighted and
11 adjacent to adjacent to blighted type thing

12 Q But the best thing would be is refer to the document
13 itself, right?

14 A Sure But I would say this, the property that
15 remains in Project Jackson area is in the same condition
16 that it was when all of this started It is very similar
17 to the rest of -- to what the River Club was at that time
18 Now, Hammonds Ferry was not -- it was agricultural It
19 was a cornfield and the Haskells, who were dairy farmers
20 for years, grew corn there The area with Project Jackson
21 all the way down to the Fifth Street bridge was very, very
22 similar to what remains there now

23 Q Mayor, you taught me a new word today and I don't
24 know if the court reporter could spell it, I sure can't
25 spell it How do you spell charette?

1 if this is what you're after, we have not had any public
2 meeting or planning charettes for Project Jackson because,
3 again, on that time line of A to Z, wherever we are, we
4 haven't gotten -- you know, I guess the biggest downside
5 of us giving the proposal in December is it was just a
6 proposal and when people saw it, they immediately locked
7 in on it as this is what's going to happen

8 And at this point, the things that have changed since
9 that proposal are the location of the hotel, addition of
10 shops and businesses as part of the stadium, the building
11 between the stadium and the bridge There are a lot of
12 things that have changed

13 The point I'm trying to make is we haven't gotten
14 deep enough into the actual plan that we've even decided
15 to have a charette yet We've also got a lot of different
16 components We have hotel people We have apartment
17 people We have office people And all of that is going
18 to have to come together to make it all work We're just
19 not there yet We're not doing this quickly We're not
20 rushing anything As I said earlier, this is the largest
21 economic development project in the history of our city
22 and we've got to be thoughtful and cautious about it

23 Q In the meetings in 2013, do you recall -- in the
24 public meetings in 2013, not the executive sessions, do
25 you recall discussions of values being made by Council on

1 the record and then reflected in the Minutes of the
2 meetings?

3 A I don't think there was a lot of discussion about the
4 condition of the property because, again, the vast
5 majority of the people on Council, they know the property
6 This is something we've been dealing with for over 20
7 years and a lot of them have been involved on Council -- I
8 know three or four of them have been there 15, couple of
9 them over 20 years We have a very diligent Council and
10 they take their business seriously And if we have
11 something that involves a piece of property or something,
12 fortunately, they can get in a car and ride over there and
13 look at it I think the property, in essence, and its
14 condition spoke for itself Most of the Council members
15 -- we have two new Council members who have come on board
16 in the middle of this process One of them actually lives
17 in Hammonds Ferry, so he's well familiar with everything
18 down there Bless his heart, he probably gets an earful
19 from both sides all the time But I think everybody is
20 aware of what's there It speaks for itself

21 Q How is the public supposed to gauge the debate by
22 Council on topic if there isn't a discussion of it in open
23 session?

24 A Well, I think the public can, certainly, attend the
25 Council meetings, which very few people do I take that

1 as some sign of apathy, but, also, some sign of
2 satisfaction on the job that we're doing You know, Mr
3 Donahue attended, I don't know how many meetings, y'all
4 said, 13, 18, whatever it was, and he, certainly, got to
5 voice his opinion at every meeting and make his feelings
6 known You know, there are a lot of times, you elect
7 somebody to vote and make their own decisions and you
8 can't control what their parameters are for their
9 decision-making, just that they make a decision, but I
10 have no doubt that our council members take every decision
11 they make very seriously because they are elected by the
12 entire city, which I think is a good thing for us in North
13 Augusta and not just some little group or click

14 Q In your discussion of all the civic improvements that
15 have taken place, in particular, since 1996, a lot has
16 happened in North Augusta, hasn't it?

17 A A lot of good things have happened

18 Q A lot of good things

19 A Yes, they have

20 Q Would it surprise you that in the ordinance 2000-19,
21 that the specific findings of blight refer back to the
22 1996 ordinance?

23 A Well, you know, as far as I'm concerned, there is
24 blight still within the district there Like I said
25 before, where Project Jackson is going to be, in that area

1 -- to be honest with you, when I saw the Channel 12 video
2 that Mr Donahue spoke of earlier, it was worse than I
3 thought that it was

4 Q But would it surprise you to know that section 2 08
5 of article 2 of the ordinance expressly refers back to the
6 1996 ordinance?

7 A It doesn't surprise me at all I think it should
8 because I think what we started doing in 1996 still exist
9 today And we're trying to complete what we set out to
10 do, but because we didn't get development like we had
11 hoped -- the '96 study, the Lane Frenchman study, just by
12 coincidence projected a build out of 18 years This is 18
13 years from 1996 if my numbers are correct And we haven't
14 accomplished it for a myriad of reasons, not for lack of
15 trying And that's what we're continuing to try to do to
16 this moment

17 Q Well, would it surprise you if you looked at the 1996
18 ordinance to find out that its discussion of blight that
19 was referred and relied upon in 2013 refers all the way
20 back to the 1991 redevelopment study?

21 A Wouldn't surprise me at all because, again, I think
22 those conditions were the same -- from '91 to '96, the
23 conditions were the same From '96 to 2001, conditions
24 were improving because the River Club had started and
25 there were improvements and we were embarking on that path

1 to do exactly what a TIF is supposed to do

2 Q Well, and, quite frankly, that gets me to the next
3 point You testified to a lot of improvements that have
4 been made and I've seen them I very much appreciate them
5 as a citizen of Aiken County, but in relying upon a study
6 that was initially done in 1991, updated and, apparently,
7 a lot of work was spent between '93 and '96 by your group
8 and your citizens council to refine that and come up with
9 a development plan, but you've now gone and extended the
10 repayment plan and extended the amount of the debt
11 dramatically if it occurs Don't you believe the statute
12 requires that all of the steps of a chapter be complied
13 with?

14 A I think, again, we amended the statute because we had
15 not completed everything that we wanted to do to begin
16 with and we finally had the opportunity to get those
17 things done And the conditions on the area that we were
18 trying to improve were the same as when we began

19 Q Do you know why the parcels that you were trying to
20 improve were not actually listed in the ordinance as
21 required by the TIF statute?

22 A You know, we delineated the redevelopment area and
23 the TIF area as the 457 something acres and that's always
24 been the area

25 Q But by your testimony, a lot of that 457 acres is no

1 longer in the same character is was 30 years ago?

2 A And I'm glad that it's not because that's why we've
3 tried to do this to make the town a better place I think
4 I went to Mr Donahue and members of Hammonds Ferry to
5 improve that property between them to make it nicer
6 Reasonable and unreasonable people can disagree over what
7 should or should not be done

8 Q One last question, sir Is it possible that just the
9 clubhouse of the golf course is in the TIF and that the
10 rest of the golf course is not?

11 A That's correct from my understanding Because,
12 obviously, when there's a golf course there, there's not
13 going to be any increment that you can use for
14 improvements

15 MR MOSTELLAR Thank you very much

16 THE WITNESS Thank you

17 REDIRECT EXAMINATION

18 BY MR ZEIGLER

19 Q Mr Jones, there was some confusion in
20 cross-examination that I'd like to ask you about Is it
21 your understanding that the ordinances in 1991, 1996 and
22 2001 made independent decisions about blight and property
23 values?

24 A I think there was sort of a cumulative effect, but we
25 made that finding because the property was pretty much the

1 same shape each time

2 Q But you both reflected the prior finding and made a
3 new finding?

4 A There had been no dramatic change in a lot of the
5 areas

6 Q I'd like to show you Defendant's Exhibit 2, which is
7 the 9106 resolution, and ask you to look at the tier one,
8 tier two, tier three discussion Tier one for all the
9 properties along the Savannah River and from Hammonds
10 Ferry Road south to near Horse Creek, and these properties
11 are flood plains and they're considered to be undeveloped
12 or underdeveloped, that's tier one?

13 A That is correct And one of the big holdups to
14 development all these years that we have not mentioned
15 here today is that most of this property was in the flood
16 plain and then the city, through the efforts in
17 conjunction with one of the major private landowners, got
18 the flood plain redelineated because the flood statistics
19 didn't take in Clark Hill dam, which had been there for 50
20 years And it lowered the flood plain and it allowed for
21 development to occur

22 Q So it made the land developable?

23 A Right

24 Q And then tier two are the properties adjoining those
25 lands whose redevelopment would have a great impact on

1 those lands So tier two are the lands that would be
2 helpful to redevelop while you're redeveloping the tier
3 one?

4 A Right

5 Q And tier three are properties even further away
6 adjoining tier two that you may have to plan to develop in
7 order to develop tier one, is that correct?

8 A That's correct

9 Q And the focus is on redeveloping tier one, that is
10 what you're looking for?

11 A That is right But, you know, we took the position
12 that if we developed tier one, it would just --
13 development and improvement would spill over into two and
14 three

15 Q But the focus all along has been to correct the
16 blight on the riverfront, which is tier one?

17 A That is correct

18 MR ZEIGLER Thank you No further questions

19 RECROSS-EXAMINATION

20 BY MR MOSTELLAR

21 Q Mr Jones, would you look at tier three and tell the
22 Court what tier three is determined to be?

23 A You want me to read it?

24 Q Yes, sir

25 A Properties adjoining tier two that may be required

1 for the effective planning and development, redevelopment
2 of the required transportation corridors, both motorized
3 and nonmotorized, connecting the riverfront properties to
4 the remaining sections of the city Also, including in
5 tier three are properties considered to be blighted or
6 partially blighted and whose redevelopment would be
7 required along with the development and redevelopment of
8 the riverfront and adjoining lands to ensure the public
9 and private investments therein

10 Q So the riverfront property is merely considered to be
11 undeveloped in 1991, is that correct?

12 A It had a lot of vacant buildings and abandoned
13 construction equipment and things of that nature There
14 wasn't anybody actively living there or any buildings
15 actually -- there were a couple that might have been used
16 in '91 ~ Baynum Welding shop may have been used I don't
17 think the pottery was being used anymore at that time

18 Q But in terms of your official records, the only
19 section that's considered to be blighted in 1991 is tier
20 three, which is further back up from the river and further
21 back up from where the stadium is proposed to be located?

22 A I don't think that was my opinion I don't know if
23 it was the opinion of the other council members because
24 that was the area that was -- tier one was the area that
25 was in the worst shape and needed the most work And

1 Q And at that time, what remained to be done with the
2 TIF redevelopment district that we've been talking about?

3 A Well, as the mayor testified previously, you know,
4 some work had been done by the city as far as streetscape
5 work and some other things, but the actual development of
6 the riverfront had not been realized at that point I

7 came in as negotiations were taking place with North
8 Augusta Riverfront, LLC on the development agreement

9 Q All right, sir That was the development agreement
10 that was signed in early 2013, is that correct?

11 A That's correct

12 Q January 3rd I believe that's one of our exhibits
13 and I believe it's already been introduced into evidence
14 Tell me -- if I can back up a minute, in 2011, the City
15 adopted a comprehensive plan, is that correct?

16 A It was an update of the 2005 comprehensive plan

17 Q Every five years you update your comprehensive plan?

18 A That's correct We're required to by law

19 MR ZEIGLER And that's another exhibit, which I'd
20 move into evidence at this point Exhibit No 9, I
21 believe

22 MR MOSTELLAR Without objection, Your Honor

23 THE COURT Okay

24 (WHEREUPON, Defendant's Exhibit No 9 was admitted
25 into evidence)

1 BY MR ZEIGLER

2 Q And what does a comprehensive plan do?

3 A It's mainly a planning document for the City It's
4 look at areas of comprehensive, I mean, that's the name,
5 comprehensive plan It looks at all areas of your city
6 It looks at -- it's a planning document, land use,
7 economic development, just a myriad of different factors
8 It's a way for a city to plan its future

9 Q Now, the plan that was adopted in 2011, did it
10 include an evaluation, discussion of problems that are
11 occurring because of disinvestment in the commercial core
12 of North Augusta?

13 A It did In the mid-2000's when the Wal-Mart was
14 built on Knox Avenue, there was a great deal of commercial
15 development that followed that There was a new Lowe's,
16 subsequently, a new Kroger There were the strip centers
17 around the Wal-Mart So we had a lot of commercial focus
18 in our city that moved toward that Knox Avenue corridor
19 and vacated the downtown And our comprehensive plan in
20 2005, especially, begins to talk about that movement and
21 commercial areas moving away from the central district out
22 to the Wal-Mart and the 2011 comprehensive plan mirrors
23 that discussion as well

24 Q Are there concerns that that development will
25 continue to move out from the business district?

1 A Well, I think we're in line for almost a similar
2 circumstance in that we have another Wal-Mart that's
3 coming to Exit 5 And we're starting to already see the
4 surrounding development around that Wal-Mart just as we
5 did on Knox Avenue We've seen a new Zaxby's We've seen
6 a new Bojangles We've seen the Waffle House actually
7 jump the side -- move from one side of the interstate to
8 the other to be on the same side with the Wal-Mart So
9 we're seeing another heavily concentrated commercial area
10 away from the central business district

11 Q If you look on that large map there, Exit 5 is that
12 sort of spaghetti in that top right corner, correct?

13 A That's correct

14 Q And that's where you say a lot of your development is
15 going Well, what does that mean for the downtown
16 commercial area, the commercial area around upper Georgia
17 Avenue?

18 A Well, it means you have businesses who move towards
19 higher concentration of commercial activity So you have
20 businesses that vacate downtown buildings and we have
21 buildings that are empty We have less commercial
22 activity And as that continues on, it begets more and
23 more movement away from that activity to higher areas of
24 concentrated retail activity

25 Q So it's a vicious circle, classic vicious circle, one

1 step leads to the next in terms of decline as traffic
2 leaves the area?

3 A Correct

4 Q And you've seen that happening recently in the upper
5 Georgia Avenue area?

6 A We have

7 Q All right, sir What's the answer to that?

8 A Well, I think the answer is what we've been moving
9 toward and that is a higher density type of retail
10 development in our downtown To do that, we would need to
11 have the same type of effect that a Wal-Mart has in that
12 it's an anchor tenant If you were likening this to a
13 mall, if you located a Dillards or Macy's anywhere, people
14 will drive to those type of stores They're anchor
15 tenants The businesses in a mall that benefit are the
16 small businesses that latch onto those big anchor tenants
17 and they benefit from the retail activity generated by
18 those anchor tenants We don't have that anchor tenant in
19 our central business district in our downtown That is
20 what this stadium is contemplated to do It is to drive
21 the retail activity so that the other small restaurants
22 and things of that nature that we've planned for for
23 decades to be in our downtown, they've got to have
24 something that drive that activity to them And that's
25 the whole purpose of having something like that in our

1 plan

2 Q I understand you all, you all being the mayor and
3 others on Council, have taken tours of minor league ball
4 fields in other towns in this area Could you go over the
5 ones you've been to?

6 A We've been to Fluor Field in Greenville You know, a
7 great success story there, built in a blighted area It
8 had approximately 200 businesses within a half mile of
9 that stadium opened up within the first couple years of
10 business It's a thriving area of the city now I read
11 that even during the economic recession where we've had
12 down turns in property values that the property
13 surrounding that stadium in Greenville averaged 31 percent
14 increases even during the down turn in the economy

15 We've gone to Charlotte to the new BB&T park Now,
16 granted, when we went there, it was still under
17 construction It was not completed There was a lot -- a
18 multitude of activity going on around the stadium There
19 was a large multi-family complex being constructed
20 immediately next door, a lot of foot traffic around that
21 area We've talked to some of the people that have been
22 involved since the stadium opened We actually hired the
23 same architects that did that stadium It's been very
24 successful in its first season

25 We also traveled to Birmingham, Regions Field in

1 Birmingham, very similar type of situation there The
2 city invested in that stadium They invested in a park
3 Now, they've had private investment around it taking over
4 old warehouses and industrialized area Just another
5 success story And we've seen these over and over and
6 over again where these stadiums are the catalyst for
7 redevelopment in areas that have seen a decline in retail
8 activity

9 Q All right, sir Let me ask you about the way that
10 Project Jackson came into being I'll ask you to back up
11 and start with the development agreement with Riverside
12 Development, what was entailed in that and how it fit with
13 the Jackson development?

14 A Well, as I said earlier today, the development
15 agreement with North Augusta Riverfront, LLC was -- you
16 know, required two 4000 square foot buildings That's
17 what we were, essentially, guaranteed to get out of that
18 deal

19 Q Do you know what the value of those would be, you
20 think?

21 A You know, if you do the math at \$150 a square foot,
22 that's, what, 800,000, somewhere in that range

23 Q It would be 1 2 million

24 A Okay That's what we were guaranteed from that deal
25 Now, if you go back and look at the earliest or any

1 renditions of the Hammonds Ferry neighborhood, that
2 commercial district was very heavy density That was the
3 plan all along That's what the city wanted, that's what
4 we wanted on that riverfront area was a commercial
5 district that brought the types of things that the
6 citizens of North Augusta have been asking for,
7 restaurants and retail shops that we wanted within our own
8 district

9 Now, during the time we were negotiating that
10 agreement, the aspects of Project Jackson began to fall in
11 place, so when we actually went to North Augusta
12 Riverfront, LLC and then we had joint meetings between the
13 developers or Project Jackson and North Augusta Riverfront
14 LLC, it became clear that this was a once in a lifetime
15 project We named it Project Jackson after the founder of
16 North Augusta because it was the biggest thing that
17 happened to North Augusta since its founding, in our
18 opinion So when we began to look at the possibilities of
19 what could be done on the riverfront, North Augusta
20 Riverfront LLC agreed with us, agreed to add the
21 stipulation into that agreement that we could put it on
22 hold until we fleshed out the possibilities of Project
23 Jackson

24 Q How did Project Jackson itself come to your
25 attention?

1 A Initially, I was talking to a hotel developer He is
2 no longer involved in the project We were talking about
3 a hotel in the conference center, but, you know, he was
4 even looking at Exit 5 -- to go back to my point of the
5 commercial activity, was looking at other places of the
6 city, not our downtown We had to steer them back towards
7 our downtown

8 As we began to talk about that, as I said earlier, we
9 met with the representatives of the ball club We looked
10 at another site within the city It was clear, as the
11 mayor said earlier, we had to have the development come
12 with that stadium that would pay for it Our Council was
13 not going to increase taxes to pay for this project, so we
14 had to have the things around it that would make it pay
15 for itself Nobody felt that a stadium there adjacent to
16 our industrial park was going to be conducive to
17 multi-family parks, walking trails, you know, retail So
18 we began to talk about the riverfront and the hotel that
19 we had planned

20 Now, when we talked to the developer and the team, we
21 said you're going to have to bring to us a plan that
22 brings with you the types of other amenities to help us
23 pay for the stadium And they did, they brought the
24 retail, the office, the multi-family And that's what
25 we've come to call Project Jackson The renderings, if

1 you look at the renderings, they're much like our
2 financial models We've had 43 versions of the financial
3 model and probably about that many versions of the master
4 plan for Project Jackson

5 Q Let me show you a couple of exhibits, Exhibits 11 and
6 12, Defendant's Exhibits 11 and 12

7 MR MOSTELLAR 11 and 12 are not a problem The
8 only one I have a problem with is 16

9 (WHEREUPON, Defendant's 11 and 12 were admitted into
10 evidence)

11 BY MR ZEIGLER

12 Q Could you identify those for me Start with Exhibit
13 11

14 A Exhibit 11 is the exhibit to the development
15 agreement with North Augusta Riverfront LLC outlining the
16 areas whereby the City would cooperate with them in the
17 investment as far as the infra -- you can see the road
18 infrastructure with the black dotted lines The parking
19 lot there, this is, basically, the layout of where the
20 City would participate with the 2 4 million dollars that
21 was talked about earlier in the riverfront area

22 Q And the area immediately adjacent to the river park
23 that was not priced as part of that 2 4 million?

24 A The front part, that is correct

25 Q All right And then let me ask you to identify

1 Exhibit 12 for us and tell me what that shows?

2 A Exhibit 12 is -- and I'll say the latest, it may have
3 changed since these have been put together, but this is
4 one of the latest versions of the layout of Project
5 Jackson

6 Q All right, sir And it shows baseball field, YMCA
7 between the baseball field and Georgia Avenue, is that
8 correct?

9 A That's correct

10 Q Hotel, office, retail, conference center?

11 A Correct And from the earliest renderings, which is,
12 actually, the second page of Exhibit 12, that was,
13 actually, the first rendering that we put out the day that
14 we announced Project Jackson And you can see how it's
15 developed over time Specifically, I would point out that
16 in response to some of the feedback we've gotten from the
17 community, the mayor talked about we put a building in
18 between the stadium and the bridge that was not indicated
19 in the earliest plans as some way of distancing the bridge
20 from the River Club and adding some type of buffer In
21 the original plan, you can see in the top right there,
22 there was a large 900-space parking deck

23 And to address traffic concerns, we've actually moved
24 the deck -- that deck has actually become the one that
25 we're constructing for Medac with the thought being if we

1 particular topic, if you'll bear with me just one second
2 Look at page three, this shows the total TIF revenues that
3 will be coming from the district and the net TIF revenues
4 Am I correct that column D tells you what is going to be
5 generated from Project Jackson that will be TIF revenue to
6 the City, that's the net of what the county is being paid,
7 is that correct?

8 A Actually, the county's participating in the entire
9 district The school district is participating in the 25
10 acres

11 Q All right, sir So the first -- A is the column that
12 will have the City's TIF revenues, is that correct?

13 A That's correct

14 Q And that's showing that you would be generating in
15 2016, for example, \$421,000 in TIF revenues from this
16 existing TIF?

17 A Correct

18 Q And the new TIF -- flip over to the fourth page,
19 would in 2016, first year, be generated an additional
20 390,000 going up to as much as 886,000 at the end of the
21 period, is that correct? Did I lose you there?

22 A In that plan, yes

23 Q Back on page four of the first set?

24 A Right

25 Q Column P, those are the new TIF revenues the city

1 will be --

2 A Correct

3 Q Now, tell me about the procedures to amend the 1996
4 development ordinances It was ordinance 2013-19 Did
5 you conduct public hearing as required by law?

6 A We did

7 Q Did you negotiate an intergovernmental agreement with
8 the county and the school district?

9 A We did

10 Q Were public hearings held before the county and the
11 school district?

12 A Exhaustively so

13 Q Were there any procedural steps that you missed in
14 that process?

15 A I don't believe there were any, no

16 Q All right, sir And to the best of your knowledge,
17 was the freedom of information act followed in that
18 process?

19 A Yes

20 Q Are you aware of any decisions made in executive
21 session concerning that statute?

22 A I'm not In fact, we were very careful throughout
23 the process to make sure that no FOIA violations occurred,
24 even to the point, to the extent when our Council took a
25 trip to Greenville that I made sure to include members of

1 the press and a couple from the River Club on the bus just
2 so they could see -- because I had a quorum of Council on
3 the bus and I wanted to make sure that nobody thought any
4 deliberation was taking place And we took that type of
5 care throughout the process

6 Q All right, sir Can you describe for me what the
7 condition of the 25 acres upon which Project Jackson is
8 going to be located is? What condition is that land in
9 today?

10 A It's overgrown And the reason I say it's overgrown,
11 I mean, to many people it looks like untouched woodlands,
12 but that was a heavily industrialized area of the city at
13 the turn of the century and up to, I believe, into the
14 1970's, I believe was the last time there was industrial
15 activity down there There's abandoned buildings
16 There's remnants of the kilns There's underground
17 tunnels There's brick found throughout the area, spread
18 throughout the area We've provided a map of the area
19 that shows brick in the soil anywhere from the surface to
20 13 to 20 feet down There is significant subsurface
21 mitigation that will have to take place for any
22 construction of any type of activity down there on the
23 size of these commercial buildings

24 Q I'm going to take you through some of the definitions
25 of blight Would you say that there are facilities,

1 buildings that are suffering blight due to age?

2 A Absolutely

3 Q Due to dilapidation?

4 A Absolutely

5 Q Due to obsolescence?

6 A Absolutely

7 Q Deterioration?

8 A Absolutely

9 Q Illegal use?

10 A Absolutely

11 Q Tell me what that would be

12 A There's evidence of homeless squatters down there I
13 mean, we find TVs We've found, you know, where they've
14 had campfires where they're camping out down there Just,
15 basically, squatters and things of that nature

16 Q A low code?

17 A Absolutely

18 Q Vacancies?

19 A Yes

20 Q Environmental hazards?

21 A Yes

22 Q Please explain the environmental hazards related to
23 brick

24 A Well, the bricks, I believe we mentioned earlier,
25 there is lead on the bricks, lead paint There has been

1 initial discussion with DHEC I do not know if there's
2 been any resolution to that, but there has been some
3 discussion as to whether or not once we dig up and
4 mitigate that area whether or not those bricks that have
5 lead paint on them would have to be disposed of in a
6 subtitle D landfill

7 Q Now, subtitle D landfill, what's that mean in common
8 province?

9 A It's lined So, basically, water that passes through
10 the trash can't get out into the ground water or
11 surrounding areas

12 Q And for a certain level of hazardous material, you
13 have to use that sort of landfill, is that correct?

14 A That's correct You know, if you take your just
15 general yard debris or construction debris, you can go to
16 the C & D landfill on Connector Road that the county has
17 and, basically, you dump it in an open hole and they cover
18 it up Subtitle D landfill, which is, actually, built out
19 at Savannah River Site has a liner that keeps any types of
20 those materials from leaking out into the surrounding
21 area If there is some determination from DHEC that we
22 have to take that -- those bricks to the subtitle D
23 landfill, there is substantial more costs involved in
24 that

25 Q I understand

1 MR MOSTELLAR No objection, Your Honor

2 BY MR ZEIGLER

3 Q Mr Glover, let me ask you to identify this exhibit
4 for us

5 A This was a conceptual budget that was provided to
6 Greenstone Properties for site remediation of the entire
7 area This is not just the footprint of the stadium

8 Q And what does it show?

9 A It shows -- I believe it shows substantial costs
10 involved in remediating the area to prepare it for
11 construction Part of what Greenstone Properties and our
12 discussions with Greenstone Properties is their delivery
13 to these other components of the project what we're
14 calling a pad ready site That would mean the Greenstone
15 in its capacity would go through down there clearing the
16 area, mitigate the brick situations and, basically, have a
17 pad ready site for the multi-family or the hotel to come
18 in and begin construction immediately

19 Q I believe we heard testimony earlier that the land
20 was valued at \$400,000, is that correct?

21 A I believe that's correct

22 Q But it's going to cost well over two million to get
23 brick off of it, is that correct?

24 A I don't think it's any accident that the other parts
25 of Hammonds Ferry have developed before this has because

1 it's more costly to do this The other area was a field
2 before that and that's where they developed

3 Q All right, sir Now, on the question of property
4 values, have you conducted a study of property values and
5 how they've changed according to the county land records
6 in the TIF district area?

7 A We did a FOIA request to the county tax assessor
8 office for records within the TIF district, which they
9 supplied to us It was, basically, a large, very large
10 Excel spreadsheet I gave that to my GIS staff and they
11 went through and examined all of the information, created
12 some charts that we printed out and were able to go
13 through and see a graphical version of each of the
14 property values of each parcel within the district

15 Q And from those, you selected 136 particular
16 properties, is that correct?

17 MR MOSTELLAR Your Honor, I would respectfully
18 request the witness be instructed to state when this took
19 place

20 BY MR ZEIGLER

21 Q Perfect question for cross-examination, but I'm happy
22 to ask it When did you do the study?

23 A It's been within the last couple to three weeks in
24 preparation for trial

25 Q Very good And you selected this group of properties

1 that are all within the TIF district, correct?

2 A Correct

3 Q And they all show a change in property value that you
4 would testify and believe is either static or declining,
5 is that correct?

6 A Correct And we took specific care There were more
7 than what we took out of there, but there were clear
8 anomalies in there that we either believed there was some
9 situation going on there that was outside the norm or
10 there could be some error in the information we received
11 We believe those to be outside of that area We believe
12 those probably more accurately reflect properties that
13 either declined or remain static

14 Q Let me show you a copy of Defendant's Exhibit 9 Is
15 that the results of your study?

16 A Yes, that appears to be the charts that were created

17 MR ZEIGLER I would move that into evidence, Your
18 Honor

19 MR MOSTELLAR Your Honor, we have an objection

20 THE COURT I understand, but in preparation, they
21 can do it

22 MR MOSTELLAR I'm sorry?

23 THE COURT In preparation of trial, knowing that
24 that was going to be an issue, they can do it They
25 should have given it to you before today, but --

1 MR MOSTELLAR Yes, sir, Your Honor, we did get it
2 before today The objection would be the weight and
3 credibility of the document, but as well as to the
4 relevancy because the Plaintiff's case is dealing with the
5 information that was directly available to the City
6 Council at the time it passed this ordinance And the
7 only evidence of valuation that the City Council,
8 apparently, had prior to the passing the ordinance was the
9 16 properties that we've been going over extensively
10 today

11 THE COURT I understand Their position is all the
12 Council really did is they keep up with the property
13 values and so forth This was just done for backup for
14 trial, which I may or may not rely on when I make a
15 decision, but they're going to put it in evidence and I'll
16 look at it

17 MR MOSTELLAR Thank you, Your Honor I just wanted
18 to make sure the objection was on the record

19 THE COURT I understand If you didn't raise the
20 issue of must static and declining, they wouldn't have
21 done this You did, so it forced them to do something

22 MR ZEIGLER That's exactly right, Your Honor

23 BY MR ZEIGLER

24 Q Mr Glover, are you familiar with properties in the
25 district?

1 A I am

2 Q Do you believe there's properties in the district
3 which are static or declining?

4 A I do

5 Q Do you believe that substantial public assistance is
6 necessary to prevent or reverse that static or declining
7 condition?

8 A I do And I think we've been bolstered by recent
9 cost estimates on the construction of Project Jackson that
10 reflect that

11 Q And those cost estimates being to prepare the site?

12 A Correct

13 Q What's the relationship between the Medac decision
14 and the stadium?

15 A Well, there's a symbiotic relationship between the
16 parking deck that is utilized for Medac Again, as I
17 mentioned earlier, we had already made a decision to move
18 the large deck to the top of the hill to alleviate some
19 traffic issues at the bottom of the hill at Railroad
20 Avenue By doing so, the developer was able to bring to
21 us Medac, so we had the opportunity to allow Medac to use
22 it during the day and the ball field to use it at night,
23 which is a perfect relationship for that structure

24 Q The parking decking aside, was Medac at all put off
25 by their being a stadium near their site?

1 THE COURT I asked him that earlier, he doesn't have
2 to it twice And I asked him that to let y'all know that
3 he had to do that since y'all, apparently, did know that

4 MR ZEIGLER Appreciate the Judge trying to train
5 young lawyers a better way to proceed

6 CROSS-EXAMINATION

7 BY MR MOSTELLAR

8 Q Mr Glover, you were asked earlier, I think it's
9 Defendant's Exhibit 8, which is the comprehensive plan of
10 2011 that updates the 2005 plan, is that correct?

11 A Correct

12 Q And you're aware that there's a section in that 9 7 1
13 that's called blight disinvestment?

14 A Correct

15 Q I've taken the liberty of excerpting that If you
16 can take a look at that, please Do you recognize that?

17 A Yes

18 Q If you look at the bottom of the first paragraph, it
19 discusses the areas that are blighted, does it not?

20 A On the first page?

21 Q The first paragraph

22 A It says neighborhoods that exhibit some symptoms of
23 blight, yes

24 Q And do you see the riverfront area being listed in
25 that list of blighted areas?

1 A It depends on what you consider the riverfront area

2 Q Are any of those areas on the riverfront?

3 A Again, it depends on how you define the riverfront

4 Q Near the stadium?

5 A A mile, half a mile, quarter of a mile?

6 Q A half mile from the stadium?

7 A Crystal Lake is immediately adjacent to one of the
8 entrances of the Hammonds Ferry neighborhood Carsville,
9 and this is on the other side of what we would call the
10 Mealing tract as the crow flies, about 2500 feet from Mr
11 Donahue's house, which I would probably consider one of
12 the more blighted areas in the entire city

13 Q Does it mention the stadium property at all as being
14 blighted?

15 A Not specifically

16 MR MOSTELLAR Your Honor, this has already been
17 introduced as part of a mega exhibit, you don't want
18 another copy, do you?

19 THE COURT No

20 BY MR MOSTELLAR

21 Q I believe there was some discussion in your direct
22 examination about a hotel coming In your deposition, do
23 you recall discussing that there were discussions with the
24 hotel company, whom I cannot name, that they might still
25 come even without a baseball stadium, it just would not be

1 previously discussed with counsel for the Plaintiff a list
2 of 15 exhibits We'd like to have all exhibits,
3 Defendant's Exhibits 1 through 15 entered into evidence

4 THE COURT Okay

5 (WHEREUPON, Defendant's Exhibit Nos 1 through 15
6 were admitted into evidence)

7 MR ZEIGLER The court reporter has a set of those,
8 so nothing needs to be done physically, but we'd like to
9 have them moved into the record

10 MR MOSTELLAR Your Honor, without objection to
11 those 15 My only objection was the previously stated one
12 to the 136-page graph exhibit

13 THE COURT Got it

14 Okay How can I help y'all?

15 MR ZEIGLER The Defendant would ask for a ruling in
16 its favor on all matters

17 THE COURT So does the Plaintiff, right?

18 MR MOSTELLAR Yes, sir, Your Honor

19 THE COURT Well, what's y'all's schedule? Here is
20 the thing, first, Mr Rhodes, I don't have any connection
21 with you directly or indirectly, right?

22 MR RHODES That's correct

23 THE COURT You've been practicing for what, about a
24 year?

25 MR RHODES A little less

1 going to that rather than reading the briefs then

2 MR MOSTELLAR Your Honor, respectfully, I've got an
3 order of protection for Monday and Tuesday, if we could
4 get that to you by Thursday, would that be --

5 THE COURT I don't have time That's what I'm --
6 I'm leaving Friday at 6 30 in the morning, I think If
7 you get it to me by nine o'clock on Thursday, then I'll
8 try to do it, but if I've got to make a bunch of changes,
9 I might not be able to do it

10 MR MOSTELLAR Thank you, Judge

11 THE COURT But if you get it there, I'll give it my
12 best shot to get it done Thursday

13 Now, I have lots of the exhibits, I mean, already
14 prefilled They were attached to the briefs and things I
15 don't need Exhibit 9 to take with me The backup
16 information is all covered on the graph on the front,
17 which I have seen Any other exhibits that you need for
18 me to take, y'all just give me a copy of it I'll take
19 them with me with the file so you don't have to send them
20 to me when you mail your proposed order Y'all just go
21 over anything y'all need for me to take I already have
22 all of the ordinances I think I have the Minutes of the
23 meetings I have the affidavits from everybody that's
24 filed I don't know when you say you've got 15 exhibits
25 whether I have all of those or whether it's even necessary

Executive Summary

In the case of *Stephen P. Donohue vs. City of North Augusta, the Mayor and City Council of North Augusta*, plaintiff contends that The City of North Augusta (hereafter known as the City) has misapplied the law to further its desire to fund Project Jackson, a project that will include a new 5,000-seat baseball stadium, 200-room hotel and conference center, 275 apartments, and 25 single family homes, 30,000 square feet of commercial space, 40,000 sq. feet of office space, and a YMCA. Project Jackson will also include a 700-space parking deck across the street from the baseball stadium, an additional 200-space parking deck across the street from the hotel, 100 surface parking spaces for the general public and 400 surface parking spaces reserved for the apartment residents. In regards to the baseball stadium and the 700-space parking deck, The City will need \$43 million to cover its portion. The City has renewed an existing Tax Increment Financing (TIF) district to provide funding for the project. The City is claiming the area to be redeveloped is blighted, but the plaintiff argues that the City did not execute a proper blight analysis that would have indicated the proposed redevelopment area is in fact not blighted and would likely undergo redevelopment without any assistance via TIF. Plaintiff further contends that The City has attempted to garner government and public support for the baseball portion of the project through the utilization of economic impact analysis that has not been executed properly and has yielded inflated economic impact numbers.

The main areas of this report include:

- 1) Discussion of blight in general as it pertains to South Carolina law and how it has been misapplied in this redevelopment proposal by the City of North Augusta
- 2) Discussion of TIF laws, their misapplication and abuse, and their applicability to the present case
- 3) A brief review of literature concerning sport facility subsidies, their realized benefits in general and in the specific cases of major and minor league baseball
- 4) An economic impact analysis of the proposed Project Jackson stadium proposal
- 5) Analysis of economic information concerning the stadium proposal by the City of North Augusta
- 6) A brief review of baseball stadium locations and a cursory analysis of the potential ability of the identified area to adequately handle a 5,000-seat baseball stadium that will host 70 home games each year

Application of Blight Statutes

Dictionary.com defines blight (in regards to land or real estate) as "the state or result of being blighted or deteriorated, dilapidation, decay." It also provides an alternate definition: "a person or thing that mars or prevents growth, improvement, or prosperity." In the context of South Carolina real estate law, Law Title 31 Chapter 6, Section 30 (31-6-30) defines blight as

any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where

(a) if improved, industrial, commercial and residential buildings or improvements because of a combination of five or more of the following factors: age, dilapidation, obsolescence, deterioration, illegal use of individual structures, presence of structures below minimum code standards, excessive vacancies, overcrowding of structures and community facilities, lack of necessary transportation infrastructure, presence of or potential environmental hazards, lack of water or wastewater services, inadequate electric, natural gas or other energy services, lack of modern communications infrastructure, lack of ventilation, light, sanitary or storm drainage facilities, inadequate utilities, excessive land coverage, deleterious land use or layout, depreciation of physical maintenance, lack of community planning and static or declining land values are detrimental to the public safety, health, morals, or welfare or

(b) if vacant, the sound growth is impaired by

(i) a combination of two or more of the following factors: obsolete platting of the vacant land, diversity of ownership of such land, tax and special assessment delinquencies on such land, deterioration of structures or site improvements in neighboring areas adjacent to the vacant land, overcrowding of structures and community facilities in neighboring areas adjacent to the vacant land, lack of necessary transportation infrastructure, presence of or potential environmental hazard, lack of water, or wastewater, lack of storm drainage facilities, inadequate electric and natural gas energy services, and lack of modern communications infrastructure

South Carolina TIF Law authorizes a municipality to incur indebtedness for the redevelopment of areas suffering from blight or which are threatened to become blighted. The City of North Augusta has deemed the 25-acre Project Jackson area which includes the stadium site as well as the other parcels on which the adjoining projects will be completed to be blighted, but this is an incorrect analysis for the following reasons:

- 1) The City has not established that but for the proposed development that property values would remain static or decline.
- 2) Property less than 5 miles to the stadium site commonly known as The River Club Subdivision has already been successfully developed with 75 homes that are valued between \$400,000 to over \$1.2 million each. The River Club currently has two vacant lots that are under construction that will yield houses likely valued at over \$900,000.

Eight additional vacant lots will likely see construction within the next three years that will yield homes priced above \$450,000

- 3) Property less than 50 miles to the east of the stadium site commonly known as the Hammond's Ferry Planned Development has been successfully developed with over 115 homes an additional number of lots valued at a minimum of \$80,000 and home values estimated from \$250,000 to over \$1,000,000
- 4) The City had previously established that the land could be developed without substantial public assistance when on December 17, 2012 it approved a development agreement for the same redevelopment area in the TIF district as the stadium would be built (Ordinance 2012-2014)
- 5) The City entered into a development agreement with North Augusta Riverfront Company on January 8, 2013 which would result in construction of 375 residential units, 53,000 or more square feet of commercial and office space, and a YMCA
- 6) The 25-acre vacant parcel upon which the stadium and other Project Jackson structures will be constructed has been the motivating factor for amending the current TIF without a thorough evaluation of the redevelopment project area mandated by the TIF law
- 7) Of the 16 lots the city has noted as being blighted and decreasing in value, five increased in value with new structures built on them. Allocated lots and developed structures (some of which are separate from those in The River Club and Hammond's Ferry) that the City has cited as evidence of blight in the TIF district are clearly not blighted and have in fact increased in value rather than decreased in value
- 8) In 1996 assessed property value in the TIF district was \$997,000. In 2013 assessed value approached \$6.2 million an increase of over 500%.

Property Values in the Proposed Project Jackson Footprint

South Carolina TIF Law Title 31 Chapter 6 Section 80 (31-6-80) mandates that before an area can be deemed blighted and targeted for redevelopment the City must find that

(a) The redevelopment project area is an agricultural, blighted, or conservation area and that private initiatives are unlikely to alleviate these conditions without substantial public assistance. (b) Property values in the area would remain static or decline without public intervention, and

(c) Redevelopment is in the interest of the health, safety, and general welfare of the citizens of the municipality.

Further, Section 20 of the law states that there must be a legislative finding of blight which must include elements of the following factors:

- 1) Excessive expenditures of public funds
- 2) Inadequate public and private investment
- 3) Unmarketability of property

- 4) Growth in delinquencies and crime
- 5) Substandard housing conditions and zoning law violations in such areas together with an abnormal exodus of families and businesses so that the decline of these areas impairs the value of private investments and threatens the sound growth and the tax base of taxing districts in such areas, and
- 6) Threatens the health, safety morals and welfare of the public

The City of North Augusta has failed to provide evidence that the conditions mandated by law for application of blight have been demonstrated. On the contrary, common sense and an examination of the surrounding area indicates that the area in question is clearly not blighted and that The City has provided misleading information regarding property values in the area.

As previously mentioned, two communities - The River Club and Hammond's Ferry - which are in close proximity to the proposed stadium site, are clearly not blighted. The River Club subdivision sits adjacent to a top-quality golf experience at The River Golf Club (<http://www.rivergolfclub.com/>). A sample of photos among the 75 homes that have been built in The River Club subdivision since 2000 clearly indicates a thriving, upscale community (see Appendix 1 for sample photos of constructed homes in The River Club Subdivision). Hammond's Ferry is a thriving community on roughly 195 acres with a website advertising genteel architecture, friendly streets and rich heritage that thrive in the culturally-rich Savannah River Area (<http://hammondsferry.com/>). The Hammond's Ferry website further states that a potential resident would find 'a range of housing types - large and small single-family homes, live/work houses, apartments and town-homes.' Current listings on the Hammond's Ferry website indicate lots for sale priced from \$80,000 to \$175,000 and homes for sale ranging from \$200,000 to \$600,000. Additionally, previous homes in the Hammond's Ferry community have been sold for more than \$1,000,000. (A sample of various photos of homes in the Hammond's Ferry neighborhood can be found in Appendix 2.)

Previous Efforts to Seek Outside Development Agreements

The City's contention that the area is blighted and would not be developed but for the TIF financing mechanism is in direct opposition to its recent activities and the perception and action of developers. On December 17, 2012, The City enacted Ordinance 2012-2014 which approved a development agreement that would not require substantial public assistance¹¹ and which was consistent with its land development regulations. Shortly after this action, on January 8, 2013, The City entered into a development agreement with North Augusta Riverfront Company LLC (hereafter known as NARC) to begin building retail and office space (two 4,000 square foot buildings and a 15,000 square foot structure) with the ultimate goal to construct 377 residential units, 53,000 or more square feet of commercial and office space, and a YMCA. The projects to be constructed by NARC would have tied in nicely with the existing River Club and Hammond's Ferry developments. Under its current interpretation, the general public is to believe that in less than one year after consummating a deal to redevelop the identified parcels that the area is blighted and cannot be redeveloped, but for substantial financial assistance in the amended TIF.

¹¹ It should be noted that under that redevelopment agreement The City would likely have spent \$2.4 million to widen two roads. This could certainly be perceived as substantial public assistance by some. However, it certainly is a much lower amount than the \$43 million that is called for under the current Project Jackson stadium plan.

Analysis of 25-Acre Parcel for the Stadium Footprint

The specific 25-acre parcel in question where the new stadium will be constructed (Parcel Number 007-17-02-001) is an excellent example of how property values in the TIF district have increased primarily because there is an absence of blight and a prevailing interest exists in developing these and other parcels in The City of North Augusta. According to Aiken County records, when The City first sold the land to NARC in 2007 for \$436,920, it was assessed at \$25,850. In 2012, it was assessed at \$27,580 and appraised at \$459,646 yielding an increase in assessed value of 6.7% and an increase in appraised value of 5217%. These figures clearly indicate the property is increasing in value, not decreasing.

In addition to the increase in assessed and appraised value, which (besides a sale and/or a redevelopment agreement that has already been executed) is the most important component in determining the viability of a redevelopment project, a cursory visual inspection of the specific 25-acre parcel on which the stadium is to be constructed reveals a potential conflict in the interpretation of blight as it is defined under the law. In regards to vacant land, by law, to deem a parcel to be blighted, The City must show,

a combination of two or more of the following factors: obsolete platting of the vacant land, diversity of ownership of such land, tax and special assessment delinquencies on such land, deterioration of structures or site improvements in neighboring areas adjacent to the vacant land, overcrowding of structures and community facilities in neighboring areas adjacent to the vacant land, lack of necessary transportation infrastructure, presence of or potential environmental hazard, lack of water or wastewater, lack of storm drainage facilities, inadequate electric and natural gas energy services, and lack of modern communications infrastructure.

During most of its public posturing, The City has indicated the vacant land is blighted because of deterioration of structures and presence of environmental hazards. After the initial council vote on October 21, 2013, "Mayor Lark Jones said the area was a blighted industrial and manufacturing area when the TIF district was adopted." (Mirshak, 2013, para. 10). City administrator Todd Glover noted, "if you walk back into those woods, there's an abandoned building, there's foundations of former structures, there's brick contamination all in the soil" (Mills, 2013, para. 7). A walk beyond the tree line to initially inspect the entire parcel is warranted to assess the landscape, but that walk would not necessarily indicate blight. Upon inspection of the property, it appears that a simple cleanup of the area, which includes some abandoned buildings and various other building materials, could be successfully executed by a developer, particularly one who would then reap the rewards from developing the property that has a large stretch of land adjacent to the river. (See Appendix 3 for a sample of photos of the 25-acre parcel).

Though the authors of this report are not experts in "brick contamination" nor claim to know how specific chemicals are spread through the soil that have bricks in them, it seems presumptuous for Mr. Glover to claim there is "brick contamination" without a specific study to support the notion, particularly if that "brick contamination" is a focal point in the assessment of

blight. Certainly bricks can retain certain chemicals that could adversely affect the soil though an examination of various literature on the subject reveals that bricks are among the safest (from an environmental standpoint) of building materials as various forms of bricks have been used for centuries (Mason n d) One website noted With their organic qualities, bricks are 100% recyclable and can be reclaimed and reused Even if bricks end up in landfill, they are inert and will not lead to chemical leaching, pollution or groundwater contamination (Bricks 2008 paras 4 5)

City Previous Incorrect Citations of Blight and Changes in Property Value

In support of its contention of blight in various areas of the TIF district, The City has submitted a list of 16 properties that have remained static or decreased in value or price over a specific period of time Upon initial examination of the list (see Exhibit 1) there are some errors For instance two of the properties are not in the TIF district and are not even in the City of North Augusta An additional seven properties listed are not in the TIF district Of the remaining properties, the decreases in prices for some were not indicative of evidence of blight For example, some of the properties experienced small decreases in value of the land, but then a new house on the lot was built indicating that the parcel was certainly not blighted and had increased in value not decreased The submission of this document by The City is troubling as it indicates a lack of attention to detail or an attempt to obfuscate the actual situation For a more thorough discussion of The City s submission of properties that indicate blight please refer to the affidavit of Scott Gudith taken May 21 2014

Misapplication of Blight Statutes

As the previous sections indicate, it appears that The City of North Augusta has failed to indicate that much of the area of the TIF district is blighted It has not met the standard of legislative finding of blight as it has certainly not indicated the presence of any of the elements mandated by Section 20

- 1) Excessive expenditures of public funds
- 2) Inadequate public and private investment
- 3) Unmarketability of property
- 4) Growth in delinquencies and crime
- 5) Substandard housing conditions and zoning law violations in such areas together with an abnormal exodus of families and businesses so that the decline of these areas impairs the value of private investments and threatens the sound growth and the tax base of taxing districts in such areas and
- 6) Threatens the health, safety, morals and welfare of the public

As previously demonstrated, for most of the aforementioned six elements the exact opposite of blight has occurred Property values have increased in nearly every area of the TIF, redevelopment opportunities are present, and housing conditions in the TIF footprint are not only not dilapidated but in fact are in many cases among the most expensive in all of Aiken County The City has not demonstrated excessive expenditures of public funds to maintain any of the land within the TIF boundaries At best, it has indicated that there are some buildings and building materials that will need to be removed by a developer once redevelopment proceeds

Lastly there is no indication that any of the areas of the TIF threaten the health, safety morals and welfare of the public

Unfortunately the misuse of blight statutes has become a common problem throughout the United States. For the last 15 years, a variety of American communities have undergone costly and sometimes unnecessary or even unproductive transformations because of "blight" (Vela, 2002). Too many blight statutes provide a wide-ranging mechanism that encourages city and county officials to seek to build now without adequate forethought to the short and long-term ramifications. Often, these blight statutes are utilized as a subcomponent of eminent domain, that is often implemented to take property from one private party and grant it to another (Beito, Gordon & Tabarrok, 2002, Benson, 2010). The South Carolina Policy Council (2014) recently noted its concern with the state's blight statutes as a component of eminent domain legislation.

the blight section, leaves a lot to be desired. The definitions of blight, such as lack of light, are extremely vague, and it is easy to imagine a government agency claiming "blight" for reasons other than public safety. Indeed, the section also allows land condemned for reasons of blight to be put to a private use. This power to transfer land from one private owner to another using eminent domain is precisely what the constitution was supposed to be reformed to prevent. (para 8)

Though there are no adverse takings in the Project Jackson redevelopment plan, there clearly appears to be a misapplication of the TIF statute. When analyzed by the basic dictionary definition of blight or by the South Carolina law regarding blight, the identified property does not appear to meet those standards.

Application of TIF Laws

Tax Increment Financing (TIF) laws were first established in the state of California in 1952 and as of 2008, every state except Arizona had established TIFs within their borders (Council of Development Finance Agencies, 2008). They were initially designed to permit a municipality to identify areas that had become blighted and were unlikely to be redeveloped without government intervention. Since property values in a blighted area are low and are likely to remain in that state (or potentially decrease in value), they produce minimal property tax for the municipality. Therefore the government can identify a need to act to assist redevelopment where it would ordinarily not occur.

In most cases, a government identifies a TIF district and notes the current property tax that the land in that district produces. It then 'freezes' the property tax amount under the assumption that it would not increase without its involvement. After freezing the tax base, the government then issues debt to improve the infrastructure and finance public or private projects within the TIF district. The government then can repay the debt through the increased property taxes that the upgraded property now produces.¹¹

¹¹ Note that the increased property taxes produced go to repay debt service first and then potentially can be utilized by the local government for other projects of its choosing if there is money remaining. Other entities within the municipality (schools) may not receive direct rewards from the increase in property tax generated by the TIF district.

Though TIFs initially were usually applied to areas that were clearly blighted, local governments soon realized that TIF statutes enabled them to exercise tremendous power to alter large areas within their jurisdictions. In many cases, TIF districts were utilized not to redevelop land that was clearly blighted but to redevelop whatever land the municipality deemed necessary (LeRoy, 2008). In many jurisdictions, gradually the definition of blight began to expand to the point it became almost meaningless in some states, while in some other states the term was abandoned altogether. States like Virginia and North Carolina simply substituted "economic development opportunity" for "blight" in their definition of what would constitute an area worth establishing as a TIF district. As noted by LeRoy, the more expansive definition caused a proliferation of TIF areas with a dangerous lack of focus. In fact, LeRoy argues that TIF has often aided and abetted sprawl rather than urban renewal, and it has subverted the intended public-private partnership as developers know that government officials can misuse TIF to generate funding for projects that would otherwise need to be acquired by private interests.

A variety of community groups have complained and sued local jurisdictions regarding their misapplication of TIF laws¹¹ (Brantley, 2011; Costin, 2013; Gallegos, 2009). Of particular concern is the "but for" clause that accompanies most state TIF statutes. TIFs should only be established if the property would not undergo any redevelopment "but for" the TIF. Within a TIF, true blight should exist, though many municipalities have unfortunately replaced "blight" with "economic development" in their mentality regarding TIF redevelopment activities. The concern and litigation regarding misapplication of TIF led the state of California to cease TIF as a funding mechanism in 2012 (Thomas, 2012). Unfortunately, elements of the Project Jackson stadium plan appear to have violated not only the spirit but also the letter of the law regarding appropriate use of TIF funding.

City of North Augusta TIF Timeline

The following provides a brief overview of the TIF that is currently under dispute.

April 15, 1991¹² - The City adopted Ordinance 91-07 finding that blight existed in the City and established the North Augusta Redevelopment Commission.

April 15, 1991 - The City simultaneously adopted Resolution 91-06 establishing the North Augusta Riverfront Redevelopment District. Within this district, properties were allocated to one of three tiers, with tier one and two properties not found to be blighted. Tier three properties were found to be blighted. Note the current Project Jackson proposal involves tier one, an area which has not been found to be blighted.

December 19, 1996 - The City passed an ordinance creating the North Augusta Tax Increment Financing District, approved a Redevelopment Plan for the North Augusta Riverfront Redevelopment District, and authorized use of tax increment bonds to finance public improvements in furtherance of the Redevelopment Plan. The initial term of the Redevelopment

¹¹ The Florida Supreme Court recently held that bonds that rely upon TIF require a referendum. See *Strand v. Escambia County*, 2007 WL2492294.

District was set for 15 years from the issuance of tax increment bonds. Amount of bond issuance was estimated to be \$13 400,000)^v

2001 – The City issues Tax Increment Revenue Bonds in the aggregate principal amount of \$5 000 both to finance redevelopment projects described in the Original Augusta Redevelopment Plan and to initiate the collection of TIF Revenues to fund such redevelopment projects on a pay-as-you-go basis. The TIF bond matures on December 5, 2016.

December 17, 2012 – The City approves development agreement that did not require substantial public assistance.

January 8, 2013 – The City signed an agreement with North Augusta Riverfront Company LLC.

November 18, 2013 – The City enacted ordinance 2013 19 amending the TIF established by ordinance no. 96-10. The duration of the redevelopment plan was extended from December 5, 2016 to November 18, 2048 and the amount of the potential bond was increased almost fourfold.

Literature Review of Stadium Subsidy Research

In the early part of the 20th century, the vast majority of stadiums and arenas in the United States were privately owned. There were certainly examples of communities providing direct and indirect financial support^v to build selected facilities such as the Los Angeles Memorial Coliseum, Municipal Stadium in Cleveland, and Memorial Stadium in Baltimore but the overall trend was for sport facilities to be owned and operated by private interests (Noll & Zimbalist, 1997). Though most people think of the 1958 move of the Brooklyn Dodgers to Los Angeles as the start of the modern facility subsidy era, the first Major League Baseball (MLB) team to move west for a publically supported stadium deal was the Boston Braves move to Milwaukee in 1953. Milwaukee's willingness to provide direct financial support^{vi} to entice the Braves to move west was seen as successful by other municipalities seeking to be viewed as "big league." The Dodgers' and New York Giants' 1958 move to California spurred a rapid willingness of various communities to subsidize major league franchises not just from MLB, but also from the National Football League (NFL), National Hockey League (NHL), and National Basketball Association (NBA). By 1969, sport facility ownership in the "Big 4" leagues had changed from nearly all private ownership to 82% of stadiums^{vii} and 100% of arenas being

^v In 1997, the School Board sued The City regarding the TIF alleging the law was unconstitutional and that the area was not blighted, or static or declining in value, and it was not detrimental to the health, safety, and welfare of the community. Though the particulars of the case are not important given the lawsuit was settled in 1999 and subsequent findings made a significant portion of the School Board's initial argument regarding its potential funding moot, it is interesting to note that the issue of blight and accurate property values was a point of contention in that legal dispute as it is in the current one.

^{vi} Direct support is typically defined as a community providing a direct cash payment, issuing various types of bonds, providing tax abatement, or other forms of direct subsidy to support the initial construction, ongoing maintenance, or remodeling of a facility. Indirect payments are typically defined as the community providing infrastructure improvements or other ancillary benefits that can be seen as a more direct benefit to non-facility activities.

^{vii} It should be noted that other cities were rumored to be interested in attracting the Braves (and other MLB teams).

^{viii} Ironically, the Milwaukee Braves would move for a better stadium deal in Atlanta in 1966.

owned by municipalities (Crompton Howard & Var 2003) The general trend for major league facilities to be primarily publically funded would continue until the mid-1990s

In regard to minor league professional sport, and minor league baseball in particular, public funding of facilities lagged their Big 4 counterparts While many cities in the 1960s particularly in the west and southeast, perceived the need to build facilities to attract major league teams few minor league baseball teams had the same perceived importance as their major league counterparts As a result, for most of the 1970s and 1980s only a small number of new minor league baseball ballparks were opened or significantly renovated However, in 1990, the Professional Baseball Agreement¹¹ (PBA) signed between Major League Baseball and the National Association of Professional Baseball Leagues¹² (NAPBL) included a provision mandating enhanced stadium standards¹³ (Baade & Sanderson, 1997b) Many of the affiliated minor league teams were playing in facilities that did not meet the new standards, so some team owners began to explore options for significant renovations or building new facilities Since some municipalities were unwilling or unable to provide the stadium demands of minor league owners 35 franchise relocations occurred from 1993 to 1996 It was estimated that 67% of the new or significantly remodeled stadiums during that period were financed primarily through public means (Baade & Sanderson, 1997b)

The willingness of municipalities to subsidize facilities for teams was primarily driven by two factors One was the 'psychic' income benefits that having a professional team would provide Past and current prominent politicians consistently have noted that having a professional sport franchise particularly one competing in the Big 4 leagues, 'will enhance the local communities reputation and standing throughout the nation and potentially, the world Numerous mayors have noted that the team is a centerpiece to show the world how the city is now "big league" and on equal footing with others throughout the country In addition having a professional sports team potentially provides a community a sense of pride, though that is often limited to the fans that consistently follow the team's exploits

As noted by Siegfried and Zimbalist (2000) there is a belief that

a local sports franchise may create external benefits for local residents who never attend games Fans may follow the team in the newspaper and watch games on television, while never attending an event A local team provides a topic for conversation around the water cooler at work These benefits can be of value to many

¹¹ The PBA provides the rules and regulations by which MLB teams and their affiliates will operate The most important aspect of the PBA is the promise by the MLB team to provide players for their minor league affiliates This enables the minor league affiliate to not have to scout, sign or pay any playing talent In addition the MLB team will assign and pay the team manager and coaching staff While there are some MLB teams that own some or all of their affiliates in most cases the minor league clubs operate their businesses independently and are responsible for ticket sales securing sponsorship agreements executing promotions etc

¹² The NAPBL is now commonly referred to as Minor League Baseball

Minor League Baseball affiliates are typically organized with each MLB team having one AAA (highest level) one AA three A (with one considered high A one considered A and one considered short-season A) and at least one Rookie League franchise in their system In most cases MLB team differentiate their A affiliates though the distinction is not always readily apparent in media reports Players are assigned to teams based upon their skill level and experience with the primary goal being to develop players that can advance to the MLB team In most cases the higher the level of minor league team the greater the team's budget larger the team's metropolitan market size etc

local residents and may provide broad political support for a public subsidy to a team (pg 99)

Though there is not extensive literature concerning the specific psychic benefits provided by professional sport franchises there is certainly evidence rejecting the notion that a community needs a team for its citizens to feel valued or for the community to be perceived as a good place for businesses to locate. When the NFL's Raiders and Rams relocated out of the Los Angeles area in 1995, surveys indicated attracting a new NFL franchise was of very low importance to the local citizens, particularly if any public money was to be used to build a new facility (Simers, 1996). Since 1995, the Los Angeles metropolitan market has had little trouble attracting new residents or businesses. Though there have been numerous discussions and potential plans to attract an existing or expansion NFL team, the local citizens have continued to demonstrate that attracting an NFL team with public dollars is not a priority.

In regards to minor league sports the potential psychic benefits have typically been recognized to be far less than the potential of their major professional sport counterparts. Minor league sports typically do not draw extensive media attention - especially on a regional or national basis - or large numbers of out-of town travelers like major professional sport leagues potentially can. Even the most favorable psychic income estimations of minor league sports would likely not advocate it producing extensive psychic benefits though minor league sports can generate some local community pride in a subset of citizens.

The second main area of support proffered for public subsidies of sport facilities is the anticipated economic benefits that these venues and the teams provide. In most cases, economic impact will attempt to measure the net changes for income, jobs, spending, and tax revenues in a determined geographic area for a specific activity or set of activities (e.g. new stadium manufacturing plant). Of particular concern is the proper measurement of inputs (what was spent) and outputs (what was generated). Obviously the goal of any subsidy is to generate a positive economic outcome for the people (tax payers) who have subsidized the project. However, opportunity costs of any publically funded project should also be evaluated.

As public subsidies for sport facilities increased in the 1960s and 1970s, economists began to investigate the results of these municipal investments. Noll's (1975) seminal work laid the foundation for much of the future investigation of economic impact of sport franchises and sport venues. In most cases in the 1980s, 1990s and early 2000s, studies focused upon the economic impact of 'Big 4 league' facilities. In many cases scientific studies countered the economic claims of local politicians who had supported direct public subsidies for new sport facilities (Howard 1995, Hudson, 2008).

Though one should never make a blanket statement regarding economic impact because every case is unique the general consensus among numerous scholars is that extensive public subsidies for sport facilities do not provide a positive effect on local metropolitan area income (Baade, 1996, Baade & Dye, 1990, Coates & Humphreys, 1999, Lertwachara & Cochran, 2007) employment (Baade, 1996, Baade & Sanderson 1997a, Coates & Humphreys 2003, Hudson, 1999, Rosentraub, Swindell, Przybylski, & Mullins 1994), sales tax revenues (Baade, Baumann & Matheson 2008, Rosentraub & Nunn, 1978) or spending (Zipp 1996). In many cases the

large initial and ongoing public investments sometimes totaling hundreds of millions of dollars, created an economic environment where net positives could not be generated for the community

There have been numerous studies investigating the financial and economic impact of major league sports, but the study of minor league sports is not nearly as extensive. Certainly, some scholars investigated the potential impact of minor league sports in general and specific minor league teams and facilities after the 1990 PBA produced a large number of new stadium projects and franchise movement (Brade & Sanderson 1997b, Colclough, Daellenbach, & Sherony 1994, Johnson 1995, Rosentraub & Swindell 1991) but it was not until Agha's (2013) work that a systematic analysis of the economic impact of minor league baseball teams and facilities was undertaken.

Agha's examination of 238 Metropolitan Statistical Areas that hosted independent and affiliated minor league baseball teams from 1985 to 2006 indicated some small positive effects on local per capita income, particularly for AAA teams, A+ teams (also known as high A teams) and AA and Rookie stadiums. There were non-positive effects for AA, A^{III}, A- (also known as short-season A or low A), rookie and independent teams and AAA, A+, A, A- and independent stadiums. Her research contradicted numerous previous research articles indicating that the presence of professional sport stadiums was typically financially non-positive. However, Agha also noted that she conducted no cost-benefit analysis to determine individual team or stadium situations. Agha advocated for continued research to be conducted, particularly for individual teams and facilities.

Based upon the previous literature review regarding public subsidies and the minor league baseball landscape, it is crucial that an accurate economic impact analysis regarding the likely and potential net economic benefits of the Project Jackson stadium plan be undertaken.

Professional Baseball in Augusta, Georgia

Augusta has a long and storied baseball history that predates the GreenJackets who are currently a Class A member of the South Atlantic League (Sally League). Baseball has been entrenched in the fabric of Augusta's community dating back to 1885 with the Augusta Browns. Over the last 123 years, Augusta has been home to 12 minor league teams with the GreenJackets completing their 25th season in Augusta in 2013.

After going without a baseball team for 25 years, modern day baseball returned to Augusta in 1988 with the Augusta Pirates. In 1994, the team was renamed the GreenJackets and moved into their newly built home, Lake Olmstead Stadium. In 1995, before the San Francisco Giants took over the club's affiliation before the 2005 season, the GreenJackets were a part of the Boston Red Sox organization. In fall 2012, Agon Sports and Entertainment, a Georgia-based corporation, purchased the team with a group of investors. For the first time since HWS (named after their late father Herbert W. Savit) ownership, GreenJackets Baseball is mostly local. Agon is led by Jeff Eiseman, who is the new president of both Agon Sports and the GreenJackets, and Chris Schoen, but the ownership group also includes other local and regional owners. The sale price was not officially disclosed, but the price was estimated to be about \$7.5 million. After

^{III} In Agha's study, the Augusta GreenJackets were classified as an A team.

failing to secure publically funded stadiums at multiple sites in Augusta the GreenJackets recently decided to attempt to move to North Augusta

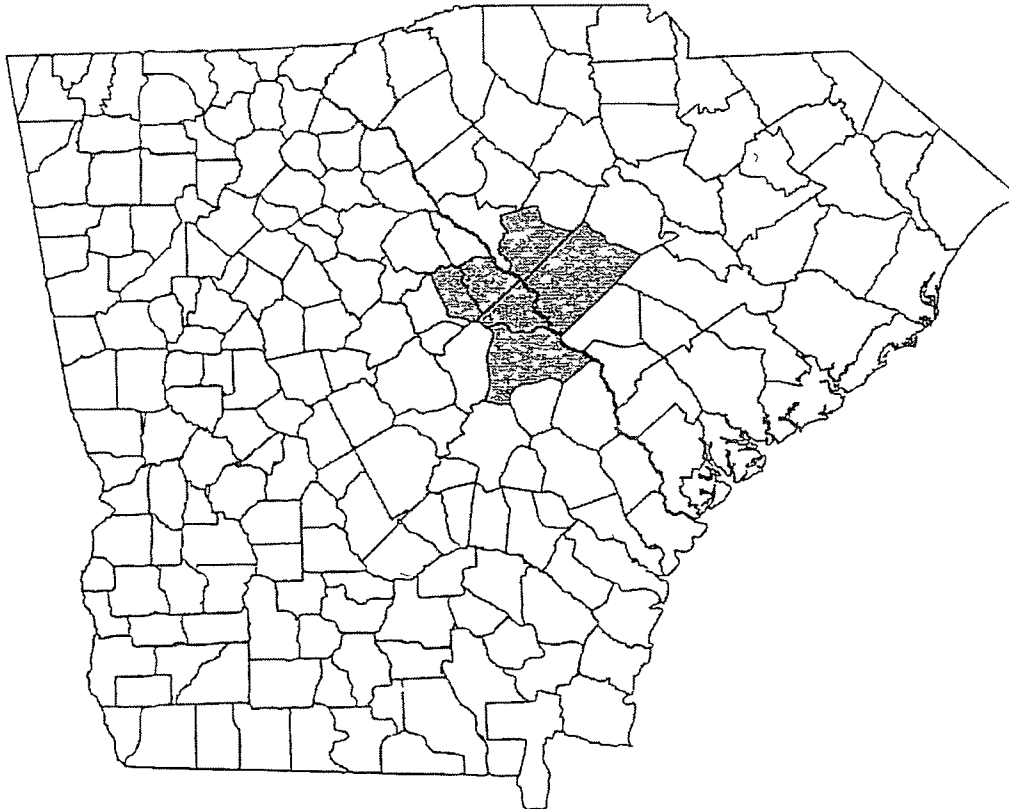
The key arguments concerning the Project Jackson baseball stadium for the relocation of the Augusta GreenJackets to North Augusta South Carolina will involve various economic theories that will be critical in determining the potential impact the team and the stadium will provide to the greater community

Overview of Economic Analysis

- The economic benefit of new construction has an immediate impact on any region during the construction phase Jobs are created during the construction phase and then disappear
- The vast majority of employees of the GreenJackets are not likely to move to North Augusta South Carolina The commute from the old stadium to the proposed new site is only 1.7 miles meaning employees do not have to relocate to maintain their employment
- Since the team will be moving less than two miles, there will be no change in the composition of the Metropolitan Statistical Area (MSA) in which the team has impact
- Given the team's small geographic move there will be no new economic benefit from the team's presence, only a differential displacement No additional revenue to the region will be produced by the team and a neutral effect concerning tax enhancement will be present
- Six counties are included in the Augusta-Richmond County MSA

See MSA in the graph below

Augusta-Richmond County MSA



Six counties are included in the Augusta Richmond County MSA

Georgia (4 counties)

Burke County Pop 23 125
Columbia County Pop 131,627
McDuffie County Pop 21,663
Richmond County Pop 202 587

South Carolina (2 counties)

Aiken County Pop 162 812
Edgefield County Pop 26,347

Midsize Cities Information Jobs - 2014 Best Cities Rankings

View the Best Cities for Information Jobs 2014 List

2014 MSA Information				2014 Ranking Change from 2013
	2014 Weighted	2013 Information	2012-13 Information	
Ranking - Midsized MSAs	INDEX	Employment	Growth	Midsized MSAs
1 Provo Orem UT	93	9 8	10 50%	3
2 Lansing East Lansing MI	90 3	3 2	5 40%	1
3 Madison WI	85 5	12 6	1 90%	2
4 Santa Barbara Santa Maria Goleta CA	84 7	4 3	0 80%	2
5 Bridgeport-Stamford Norwalk CT NECTA	83 7	12	5 90%	13
6 Baton Rouge LA	83 2	5 5	6 40%	1
7 Huntsville, AL	82 8	2 7	3 80%	2
8 Durham-Chapel Hill NC	79	3 7	2 80%	3
9 Charleston-North Charleston Summerville SC	78 4	5 2	2 00%	20
10 Augusta Richmond County GA SC	77 7	3 1	5 60%	70

According to NewGeography.com a site devoted to analyzing and discussing the places where people live and work has named Augusta, Georgia on their list of 'Cities Winning the Battle for Information Jobs in 2014' for midsize cities.

The Augusta metropolitan area is a metropolitan area in the U.S. States of Georgia and South Carolina centered on the principal city of Augusta, Georgia. The U.S. Office of Management and Budget, Census Bureau, and other agencies define Augusta's Metropolitan Statistical Area (MSA), the Augusta-Richmond County GA-SC Metropolitan Statistical Area as comprising Richmond, Burke, Columbia and McDuffie counties in Georgia and Aiken and Edgefield counties in South Carolina. As of the 2010 Census the area had a population of 556,877, though a 2012 estimate of population was 575,898.

MSA Analysis

The economic engine of the MSA is the City of Augusta, Georgia and Richmond County, Georgia. The labor elasticity in an economy that does not have full employment will be from the area that has the largest elasticity of labor supply. Augusta, Georgia is the largest city in the MSA and has a downtown and infrastructure of a mid-sized city. The travel pattern into North Augusta is easy and accessible by the citizens of Augusta, Georgia. The team and stadium

employees within the MSA have no new reason to move to North Augusta, South Carolina if the proposed baseball stadium is built

The team will not be new to the area. Therefore, just like other professional teams that build new stadiums in a different location in the same metropolitan area, the labor pool is displacement. No additional jobs or additional taxes will be generated in the metropolitan area and housing demand in North Augusta will not be increased due to the close proximity of labor 17 miles away. In other words, this is a differential economic displacement to the MSA and to the cities involved. An economic impact analysis using IMPLAN will demonstrate that the only economic benefit will be the original construction of the stadium. This will last for no more than two years and will then dissipate.

In fact, given the financing and ownership plan in the Project Jackson proposal, the stadium will be a non-taxable asset to North Augusta. Continued development of residential housing that has already occurred in the area will be a better tax generator for The City in the long term over the cost of the tax-free \$25-million stadium and a projected public investment of \$42 million.

Research indicates that in most cases, stadiums built in urban areas, downtown or uptown, are better economic engines than venues built in residential or non-urban areas (Coates, 2007). For example, in the early 2000's, the Charlotte Coliseum was deemed economically obsolete due to location and amenities. It was at one time among the 'best' NBA facilities. It hosted 364 consecutive NBA sell-outs from December 1988 to November 1997. After hosting its last event in 2005, the city of Charlotte sold the property, and the building was demolished. A mixed-use development is currently under construction at the property.

The Project Jackson Economic Impact projections on the spectator sport facility (team) used the RIMS II data set. The provided estimated impacted indicated Total Economic Output (impact) of \$24 million, Total Earning of \$10 million and the creation of 200 full-time equivalent jobs (Three Rivers Model). Our analysis indicates the proposed stadium project is completely economic displacement. It must be noted this includes the same team (Augusta GreenJackets), within the same Metropolitan Statistical Area (MSA), retaining largely the same employees in a new stadium that is heavily subsidized by the citizens of North Augusta, South Carolina. There will be no new economic direct spending from the team operations. The MSA will have no additional direct, indirect, or induced spending from the move. What will occur is a new capital expenditure of \$25 million for the stadium and \$42 million in total public subsidy that will have debt service responsibility moved from Georgia (Richmond County) to Aiken and Edgefield Counties in South Carolina. The stadium in Augusta, Georgia will no longer have an anchor tenant and may become a blighted venue.

Construction Phase of Stadium

The construction phase of the stadium will have an economic benefit. New construction will produce economic benefits to the state, region, county, and city where the capital expenditure occurs. This is not being argued. The multipliers used in RIMS II are much higher than other studies the lead author has completed in South Carolina. These studies include Darlington

Raceway (NASCAR), Family Circle Cup (Charleston and Hilton Head, Golf in the State of South Carolina) University of South Carolina athletics (three different studies over 20 years) St Patrick's Day - Columbia, Carolina and Colonial Cup (Camden), and other additional studies completed in the State. Multipliers using IMPLAN tend to be smaller and show less indirect and induced effects.

The stadium is a duplication of an asset that is only a few miles away. Construction will provide short-term job employment during the construction phase but not the projected 400 jobs in the South Carolina community of North Augusta, as stated in the RIMS II – final demand model proposed by The City. The key factor to remember regarding construction jobs, they are not permanent. They produce short-term employment gains and then dissipate. Another important factor is the general contractor may be located out of state and the gains from construction (profit) will then not remain in the MSA or the Aiken/Edgefield counties.

The use of improper multipliers by The City is not an uncommon occurrence, particularly when sport facilities are constructed with municipal dollars. Johnson (1995) noted, "these studies more often than not use impractical multipliers: assume all tickets are sold to non-residents; ignore the opportunity cost of taxes used to fund stadium construction; defy job creation even when unemployment rates threaten to ignite inflation; and assert (rather than argue) that the psychological benefits are large." (p. 2) Johnson's comments occurred nearly 20 years ago before extensive investigations of the true impact of sport facilities had been revealed.

Most economic impact analyses for sport facilities involve major league franchises which can attract significant out-of-town attention and attendance. The case for economic development arising from a minor league baseball team, however, is far weaker than that for major league teams. First, the gross revenues of a minor league team are two orders of magnitude less than a major league team. Second, few people drive long distances to see minor league baseball, causing most of the revenues to come at the expense of alternative local entertainment expenditures (many of which will not be receiving any tax abatements or other direct or indirect subsidies). Third, employment at minor league baseball parks (especially those in Single A) is seldom more than a few dozen full-time people plus a number of low paid part-time game attendants and interns (Johnson, 1995). Currently, the full time staff of the GreenJackets includes eleven (11) full-time employees and four interns. They all appear to live in Augusta, Georgia. That means according to the RIMS II study submitted by the city, 289 additional full-time employees would be hired directly related to baseball activities.

Minor league baseball success has typically been noted in downtown stadiums, not in residential suburban locations. For example, The AAA Sky Sox of the Pacific Coast League franchise moved from downtown Colorado Springs to a suburban location with a view of Pikes Peak. Jeff Smith, potential owner of the Sky Sox, noted "baseball belongs downtown and a stadium remains part of a redevelopment plan for the warehouse and industrial neighborhood of south downtown." (Vogrin, 2013, para. 4). Other success stories of minor league baseball include Memphis, Tennessee; Fresno and Sacramento, California; Oklahoma City, Oklahoma; and, most recently, Charlotte, North Carolina. All of these franchises have stadiums located in a downtown urban location.

Another point that cannot be overlooked is a stadium will create other public concerns such as overcrowded parking lots and expenses concerning security and sanitation issues. A 2013 parking study by Walker Parking Consultants indicated that the current Project Jackson stadium plan will not have sufficient parking to meet demand. The City has not adequately addressed this issue, particularly since the infrastructure near the proposed stadium site is designed primarily for residential homes which do not typically experience high traffic at any hour of the day. If a stadium attracts approximately 150,000 mostly local fans to a residential suburban upscale neighborhood each year, the quality of life will be impacted and security concerns will increase. The current property crime rate comparison is listed below. The North Augusta area is above the national median and State of South Carolina median for crime. Property crimes are higher in North Augusta than the State median according to Neighborhood Scout (2013).

Current Property Crime Rate Comparison per 1,000 residents

(source: Neighborhood Scout. Enterprise grade data for every neighborhood and city in the U.S.)

National Median 28.6

My chances of becoming a victim in North Augusta 1 in 25

My chances of becoming a victim in South Carolina 1 in 26

40.81

38.22

North Augusta

South Carolina

Security and public safety must be a factor in considering a move to a suburban neighborhood. A key point that must be considered is when fans are traveling to the stadium, particularly for weekday evening games, the current residents in the local communities will be returning home, taking care of families and attending to typical homeowner duties. A stadium located downtown presents the opposite and typically optimal scenario: businesses are closing in the late afternoon and workers are leaving the area to go home or some may stay and entertain clients and business associates. The flow of traffic works in the favor of the downtown stadium location for baseball due to its high number of games, particularly on weekday evenings.

Analysis of Ad Valorem Taxes and the Tax Exempt Stadium

Property taxes are a central issue when discussing a new stadium, upscale suburban neighborhoods, and economic development. Building a tax exempt stadium produces no ad valorem taxes for the city and/or county. Personal residential property is a cornerstone for city and county planning. The proposed stadium would produce no additional property tax for the city of North Augusta or for Aiken County, South Carolina. The North Augusta county assessors web site as of June 15, 2014 indicated detailed personal property tax assessments.

The city's mill levy for 2008 (2007 tax year) is 77.20 with 68.69 mills dedicated to the general fund and 8.51 mills dedicated to the Capital Projects Fund. To compute city taxes, simply determine the appraised value of the property (Aiken County Tax Assessor) and your assessment ratio. If you occupy your home, your assessment ratio is 4% for commercial and rental residential property the assessment ratio is 6%. To compute your taxes multiply the appraised value by the assessment ratio and then multiply that result by the millage rate.

The following table (scenario #1) will indicate the value of building out the proposed stadium site with a subdivision of similar quality to Hammond's Ferry and The River Club Subdivision. The first column would be new homes built with an average cost of \$500,000.

Scenario #1 – no increase in assessed valuation

New homes	AVG Cost	Assessment Ratio	Assessed Value	* Millage Rate	Ad valorem Taxes	Accum Ad Valorem
1	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 1,306
2	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 2,612
3	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 3,918
4	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 5,224
5	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 6,530
6	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 7,836
7	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 9,142
8	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 10,448
9	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 11,754
10	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 13,060
11	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 14,366
12	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 15,672
13	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 16,978
14	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 18,284
15	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 19,590
16	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 20,896
17	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 22,202
18	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 23,508
19	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 24,814
20	\$ 500,000	4.0%	\$ 20,000	0.0653	\$ 1,306	\$ 26,120

TOTAL \$ 10,000,000 \$ 400,000

* Note: Millage rate used for the assessment was comparable to Scenario #38 City schedule

New homes	Accumulated Ad Valorem taxes			
	5 years	10 years	20 years	30 years
1	\$ 6,530	\$ 13,060	\$ 26,120	\$ 39,180
2	\$ 13,060	\$ 26,120	\$ 52,240	\$ 78,360
3	\$ 19,590	\$ 39,180	\$ 78,360	\$ 117,540
4	\$ 26,120	\$ 52,240	\$ 104,480	\$ 156,720
5	\$ 32,650	\$ 65,300	\$ 130,600	\$ 195,900
6	\$ 39,180	\$ 78,360	\$ 156,720	\$ 235,080
7	\$ 45,710	\$ 91,420	\$ 182,840	\$ 274,260
8	\$ 52,240	\$ 104,480	\$ 208,960	\$ 313,440
9	\$ 58,770	\$ 117,540	\$ 235,080	\$ 352,620
10	\$ 65,300	\$ 130,600	\$ 261,200	\$ 391,800
11	\$ 71,830	\$ 143,660	\$ 287,320	\$ 430,980
12	\$ 78,360	\$ 156,720	\$ 313,440	\$ 470,160
13	\$ 84,890	\$ 169,780	\$ 339,560	\$ 509,340
14	\$ 91,420	\$ 182,840	\$ 365,680	\$ 548,520
15	\$ 97,950	\$ 195,900	\$ 391,800	\$ 587,700
16	\$ 104,480	\$ 208,960	\$ 417,920	\$ 626,880
17	\$ 111,010	\$ 222,020	\$ 444,040	\$ 666,060
18	\$ 117,540	\$ 235,080	\$ 470,160	\$ 705,240
19	\$ 124,070	\$ 248,140	\$ 496,280	\$ 744,420
20	\$ 130,600	\$ 261,200	\$ 522,400	\$ 783,600

The table indicates with the addition of only twenty (20) new homes with an average value of \$500,000 the total ad valorem taxes after five years will add to North Augusta and Aiken County \$130,600. This will increase to \$261,200 after 10 years, \$522,400 after 20 years and \$783,600 after 30 years. This is additional tax revenue and not a tax exempt, \$25 million dollar stadium. The schedule does not take into account any growth in assessment, and does not show what the current TIF is producing in city and county revenues. This is new tax money in an upscale suburban community that is showing growth and development. The area is developing into a great planned neighborhood as originally structured.

Scenario #2 with 3% growth in assessed values

** 3% Growth							
New homes	AVG Cost	in Assessed Values	Assessment Ratio	Assessed Value	* Millage Rate	Ad valorem Taxes	Accum Ad Valorem
1	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 2 817
2	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 5,633
3	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2,817	\$ 8 450
4	\$ 500 000	\$ 1 078 296	4 0%	\$ 43,132	0 0653	\$ 2 817	\$ 11,266
5	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 14 083
6	\$ 500,000	\$ 1,078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 16 899
7	\$ 500 000	\$ 1,078,296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 19 716
8	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 22,532
9	\$ 500 000	\$ 1,078,296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 25 349
10	\$ 500,000	\$ 1,078,296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 28 165
11	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2,817	\$ 30,982
12	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2,817	\$ 33 798
13	\$ 500 000	\$ 1,078,296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 36 615
14	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 39 431
15	\$ 500,000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 42,248
16	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 45 064
17	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 47 881
18	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 50 697
19	\$ 500,000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2 817	\$ 53 514
20	\$ 500 000	\$ 1 078 296	4 0%	\$ 43 132	0 0653	\$ 2,817	\$ 56,330
TOTAL	\$10 000 000	\$ 21 565 913		\$ 862 637			

* Note Millage rate used for the assessment was comparable to Scenario #38 City schedule

** 3% growth as shown in Scenario #38 City Schedule

Note Schedule of growth is through 2043

The table includes a 3% growth rate in assessed valuation to use as a comparison to scenario #38 – the City of North Augusta South Carolina – Preliminary Summary of Project Financing Options The table only uses 20 new homes and this is a small portion of the available lots that could be added to the current developments in Hammond s Ferry and the River Club neighborhoods

The table indicates with the addition of only twenty (20) new homes with an average value of \$500,000 with a 3% assessed valuation growth rate the total ad valorem taxes after five years will add to North Augusta and Aiken County a total of \$281,651. This will increase to \$563,302 after 10 years, \$1,126,603 after 20 years, and \$1,689,905 after 30 years. This is additional tax revenue and not a tax exempt, \$25 million stadium. The schedule does take into account growth in assessment and does not show what the current TIF is producing in city and county revenues. This is new potential tax money in an upscale suburban community that is showing growth and development. The accumulated ad valorem tax would be \$8,449,524 for 100 homes and \$16,899,049 for 200 homes utilizing the similar growth rate and assessments.

Plus if the current TIF is allowed to expire in December 2016 according to the City's own scenario (#38) that will generate an additional \$25,522,672 (\$18,157,903 for the city and \$7,364,769 for the County) in tax revenues through 2043. The new single family and commercial buildings would only add to this total.

The total additional new tax revenues with new homes and an expired TIF will be significantly more than scenario #1 and #2 even with the 3% growth rate. The development can build out an additional 337 homes and this could be extrapolated to over \$60 million or more not including commercial property at the higher assessed valuation.

References

- Agha, N (2013) The economic impact of stadiums and teams: The case of minor league baseball *Journal of Sports Economics* 14(3), 227-252
- Baade R. A. (1996) Professional sports as catalysts for metropolitan economic development *Journal of Urban Affairs* 18, 1-17
- Baade, R. A., Baumann, R. & Matheson, V. A. (2008) Selling the game: Estimating the economic impact of professional sports through taxable sales *Southern Economic Journal* 74, 794-810
- Baade R. A., & Dye R. F. (1990) The impact of stadiums and professional sports on metropolitan area development *Growth & Change* 21 1 14
- Baade R. A. & Sanderson, A. R. (1997a) The employment effects of teams and sports facilities (pp 92-118) In R. G. and A. Zimbalist (ed.) *Sports, jobs and taxes* Washington D.C. Brookings Institute
- Baade R. A., & Sanderson, A. R. (1997b) Minor league teams and communities (pp 452-493) In R. G. and A. Zimbalist (ed.) *Sports, jobs and taxes* Washington D.C. Brookings Institute
- Beito D. T., Gordon, P., & Tabarrok A. T. (2002) *The voluntary city* Ann Arbor MI: University of Michigan Press
- Benson B. L. (2010) *Property rights: Eminent domain and regulatory takings reexamined* New York: Palgrave Macmillan
- Brantley M. (2011, November 4) Fayetteville schools sue over TIF land grab *Arkansas Times*. Retrieved from <http://www.arktimes.com/ArkansasBlog/archives/2011/11/04/fayetteville-schools-sue-over-tif-tax-grab>
- Bricks A. (2008, May 23) Austral Bricks research confirms bricks as eco-friendly building materials. Retrieved from <http://www.infolink.com.au/c/austral-bricks/austral-bricks-research-confirms-bricks-as-eco-friendly-building-material-n777354>
- Coates D., & Humphreys B. R. (1999) The growth effects of sport franchises: stadia and arenas *Journal of Policy Analysis and Management* 18 601-624

- Coates, D & Humphreys B R (2003) The effect of professional sports on earnings and employment in the services and retail sectors in US cities *Regional Science and Urban Economics* 33 175-198
- Coates, D (2007) Stadiums and arenas economic development or economic redistribution? *Contemporary Economic Policy* 25(4) 565-577
- Colclough W G Daellenbach L A, & Sherony, K R (1994) Estimating the economic impact of a minor league baseball stadium *Managerial and Decision Economics* 15, 497-502
- Costin, B (2013 August 11) Politicized Belleville TIF district results in lawsuit from small business owner Retrieved from <http://www.illinoispolicy.org/politicized-belleville-tif-district-results-in-lawsuit-from-small-business-owner/>
- Council of Development Finance Agencies (2008) 2008 TIF state-by-state report Retrieved from <http://www.cdfa.net/cdfa/cdfaweb.nsf/0/8e94afece08bc988257936006747c5?FILE/C DFA-2008-TIF-State-By-State-Report.pdf>
- Crompton, J L, Howard, D R & Var, T (2003) Financing major league facilities Status evolution and conflicting forces *Journal of Sport Management* 17, 156-184
- Gallegos, R (2009, October 7) Washington County suing city of Riverside for funds *Iowa City Press-Citizen* Retrieved from <http://www.press-citizen.com/article/20091007/NEWS01/910070331/1079/>
- Hudson, I (1999) Bright lights, big city Do professional sports teams increase employment? *Journal of Urban Affairs* 21, 397-408
- Hudson I (2008) The use and misuse of economic impact analysis The case of professional sports (pp 328-435) In M Weeda (ed) *Sport and tourism A reader* New York Routledge
- IMPLAN – MIG Inc (Formerly "Minnesota IMPLAN Group Inc") is the corporation that is responsible for the production of IMPLAN (IMpact analysis for PLANning) data and software
- Johnson, A T (1995) *Minor league baseball and local economic development* Urbana and Chicago University of Illinois Press

- Johnson, A T (1991) Local government minor league baseball and economic development strategies *Economic Development Quarterly*, 5(4) 313-324
- Lertwachara K & Cochran J J (2007) An event study of the economic impact of professional sport franchises on local US economies *Journal of Sports Economics* 8, 244-254
- LeRoy, G (2008 February) TIF, greenfields and sprawl How an incentive created to alleviate slums has come to subsidize upscale malls and new urbanist developments *Planning & Environmental Law* 60(2), 3-11
- Mason T O (n d) Brick and tile *Encyclopedia Britannica* Retrieved from <http://www.britannica.com/EBchecked/topic/79195/brick-and-tile>
- Mershak, M (2013 October 21) North Augusta council gives first OK to Project Jackson *The Augusta Chronicle* Retrieved from <http://chronicle.augusta.com/news/metro/2013-10-21/north-augusta-council-gives-first-ok-project-jackson>
- Mills C (2013 October 29) Is North Augusta Project Jackson's riverfront truly blighted? Retrieved from <http://www.wrdw.com/news/politics/headlines/Is-North-Augusta-Project-Jackson-riverfront-truly-blighted-229640361.html>
- Noll R G (1975) *Government and the sports business* Washington D C Brookings Institute
- Noll, R G , & Zimbalist, A (1997) Build the stadium – create the jobs (pp 1-54) In R G and A Zimbalist (ed) *Sports jobs and taxes* Washington D C Brookings Institute
- RIMS II Regional I-O Multiplier System II
- Rosentraub, M S , & Nunn, S R (1978) Suburban city investment in professional sports Estimating the fiscal returns of the Dallas Cowboys and Texas Rangers to investor communities *American Behavioral Scientist* 21, 393-414
- Rosentraub M S & Swindell D (1991) “Just say no? The economic and political realities of a small city's investment in minor league baseball *Economic Development Quarterly* 5 152-167
- Rosentraub, M S Swindell D Przybylski M , & Mullins, D R (1994) Sport and downtown development strategy If you build it will jobs come? *Journal of Urban Affairs* 16 221-239

- Siegfried, J (1995) Minor league baseball and local economic development, *Southern Economic Journal* ISSN0038 4038
- Siegfried J & Zimbalist, A (2000, Summer) The economics of sports facilities and their communities *Journal of Economic Perspectives* 14(3) 95-114
- Simers, T J (1996 February 22) Survey says L A wants football not at any cost *Los Angeles Times* Retrieved from <http://articles.latimes.com/1996-02-22/sports/sp.38856.1.los-angeles-county-residents>
- South Carolina Policy Council (2014 May 20) Reforming S C s eminent domain law Retrieved from <http://www.scpolicycouncil.org/research/individual-liberty/reforming-em-domain>
- Thomas K (2012, February 5) California birthplace of TIF, Axes it Retrieved from <http://www.dailykos.com/story/2012/02/06/1062126/-California-Birthplace-of-TIF-Axes-It#>
- Vela, S (2002 December 23) Threatened homeowners ask What is blight? *The Cincinnati Enquirer* Retrieved from http://enquirer.com/editions/2002/12/23/loc_blight23.html
- Vogrin, B (2013, May 15) A look back Four minor-league downtown stadiums scored big *The Gazette* Retrieved from <http://gazette.com/a-look-back-four-minor-league-downtown-stadiums-scored-big/article/1500732>
- Walker Parlung Consultants (2013 March 14) North Augusta Riverfront Development shared parking analysis Retrieved from <http://www.rchana.com/Resources/524.pdf>
- Zipp, J F (1996) The economic impact of the baseball strike of 1994 *Urban Affairs Review* 32, 157-185

Exhibit I – Table of City Documentation of Static or Declining Property Values

City's Documentation of Static or Declining Property Values in the Riverfront Area

Address	City	State	Zip	1st date it sold	1st price it sold	2nd date it sold	2nd price it sold	% Decline	Comments
444 Arrington Ave	North Augusta	S	29841	9/13/2007	\$82,000	11/1 / 012	\$70,000	15%	New House
512 Front Street	North Augusta	SC	29841	5/24/2010	\$200,000	12/19/2012	\$200,000	11%	New House Construction
120 Cutley Drive	North Augusta	SC	29841	6/2005	\$48,000	11/25/20	\$48,000	0%	Out of TIF
1 Phlox Lane	North Augusta	S	29841	11/21/2009	\$70,000	2/12/2013	\$55,000	7%	New House
207 W. Clifton Ave	North Augusta	S	29841	10/6/2005	\$55,000	11/22 2010	\$17,000	0%	In TIF
101 Madison Ave	North Augusta	SC	29841	8/4/2005	\$45,000	10/3/2012	\$45,000	0%	Out of TIF Belvedere
211 R. Wind D	North Augusta	SC	29841	7/6/2007	\$75,000	6/6/2013	\$70,000	0%	Out of TIF
66 Hampton Cr	North Augusta	SC	29841	12/6/2005	\$80,700	1/16/2013	\$56,777	0%	Out of TIF Belvedere
101 C. Hubbard A	North Augusta	S	29841	10/9/2008	\$46,000	1/15/2013	\$3,500	7%	Out of TIF
130 West Ave	North Augusta	S	29841	10/22/2007	\$230,000	7/25/2012	\$152,000	34%	Subdivided Sold \$272,000
301 W. Clifton Ave	North Augusta	S	29841	10/6/2000	\$80,700	5/10/2011	\$70,000	17%	Out of TIF
301 W. Clifton Ave	North Augusta	SC	29841	5/1/2009	\$98,500	4/1/2013	\$98,000	1%	Out of TIF
457 Wood D. Leon A	North Augusta	SC	29841	7/1/2003	\$150,000	6/10/2013	\$50,000	67%	Subdivided to New Duile \$540,000
108 W. Woodawn Ave	North Augusta	S	29841	7/1/2007	\$170,000	3/5/2013	\$50,000	5%	Out of TIF
606 Cran A	North Augusta	SC	29841	8/5/2000	\$9,000	8/5/2013	\$5,000	44%	Out of TIF
501 S. S. Ave	North Augusta	SC	29841	7/2/2000	\$48,000	5/7/2012	\$40,000	6%	In TIF

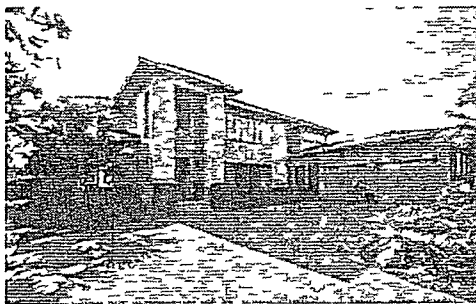
Appendix #1
The River Club Subdivision
Photos of Selected Homes



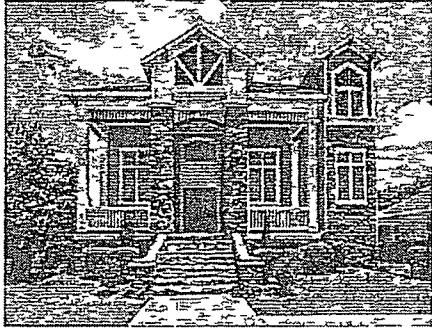
465 E Shoreline Drive



477 E Shoreline Drive

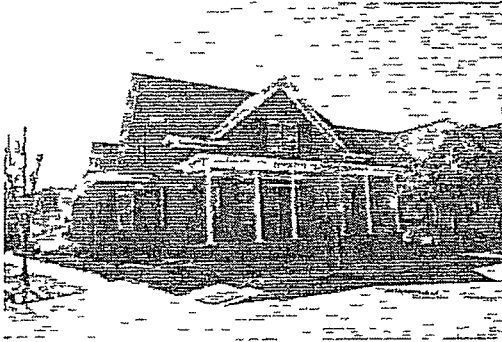


460 E Shoreline Drive

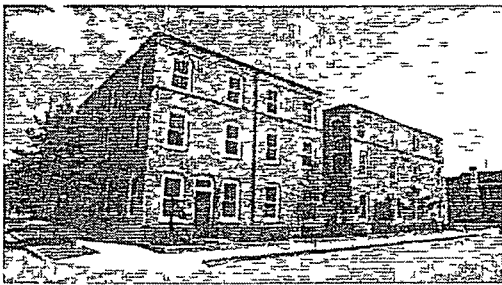


429 E Shoreline Drive

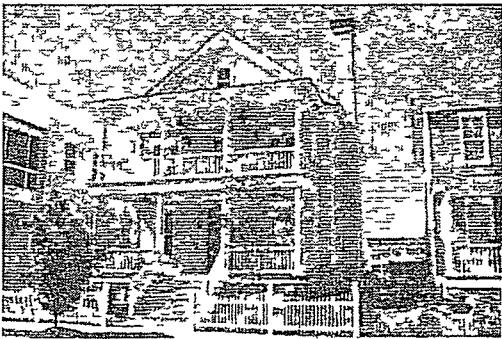
**Appendix #2
Hammond's Ferry
Sample Photos of Homes**



437 Railroad Ave



450 Railroad Ave



513 Railroad Ave

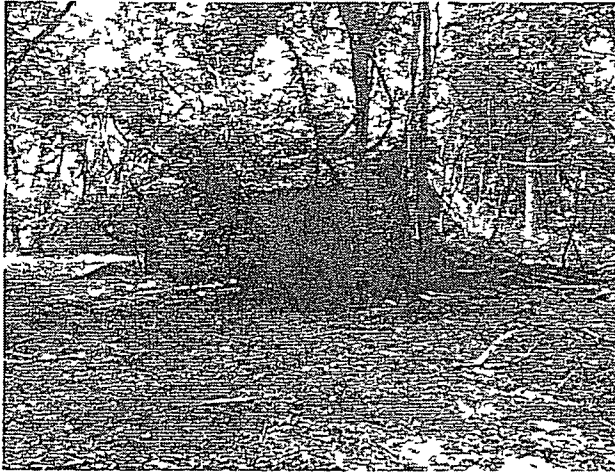


517 Railroad Ave

Appendix #3

25-Acre Parcel Earmarked for Stadium Site

Sample Photos



Abandoned Building



Open Space Typical of most of the Topography



Open Space



Part of Abandoned Building

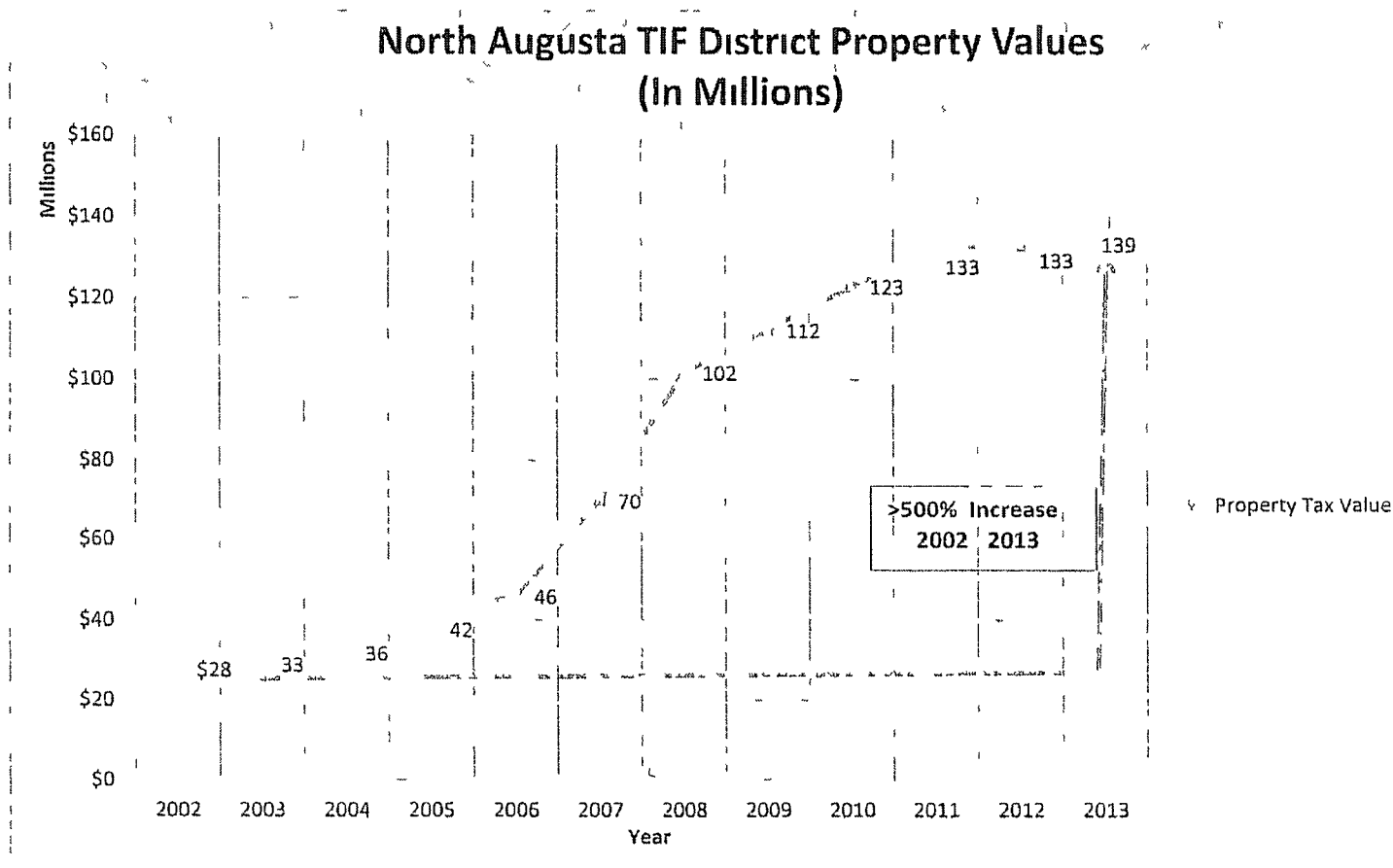


Abandoned Building

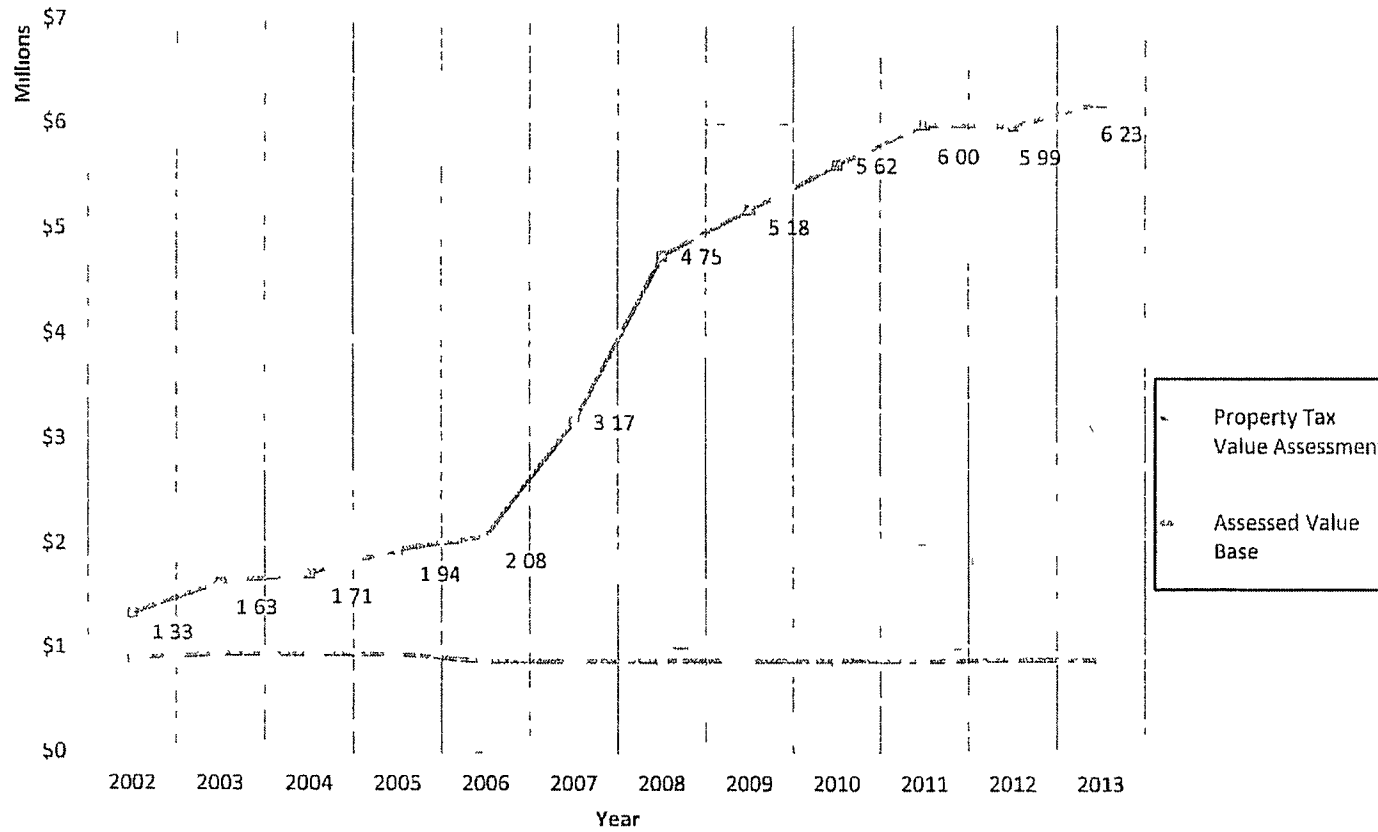
North Augusta FIF District Property Values

(Source Defendant's Discovery Documents)

Tax Year	Assessed Value Base	Property Tax Value	Property Tax Value Assessment	Appraised Value	Appraised Value Assessment	Assessed Percentage
2002	\$899,339	\$27 690,547	\$1,334,510	\$0	\$0	
2003	938,653	33,198,629	1,627 890	0	0	0 049
2004	938,653	35 966 030	1 713,120	0	0	0 048
2005	938 653	42,378,160	1 944,950	0	0	0 046
2006	870,722	45,823,546	2,076 330	0	0	0 015
2007	873,493	69,766,710	3 166,490	88,065,739	4 412,540	0 050
2008	878,342	101 679 600	4 745,530	119 137,070	5,946 030	0 050
2009	878,522	112,161,230	5,183,220	178,426,880	6,313,950	0 049
2010	879 961	122,938,903	5,615,000	138,785,140	6,723,910	0 018
2011	879,960	112,598,797	6 002 700	118,311,260	7 177,110	0 048
2012	896 336	133,133,289	5,994 910	117,917,190	7,104,720	0 045
2013	896,336	138 671,160	6,227 220	151,318,950	7 233,500	0 045



North Augusta TIF District Assessed Property Values (In Millions)



eged to have been static or decline in va

(Todd Glover email to City Council and Mayor 10/29/2013)



ORDINANCE NO. 2012-14

TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF NORTH
AUGUSTA AND NORTH AUGUSTA RIVERFRONT DEVELOPMENT COMPANY
LLC FOR 44.01± ACRES OF REAL ESTATE LYING WITHIN THE CITY OF NORTH
AUGUSTA IN THE PROXIMITY OF THE SAVANNAH RIVER GENERALLY
REFERRED TO AS THE HAMMOND'S FERRY AREA

WHEREAS the City of North Augusta through its staff has for a period of time discussed and negotiated a possible Development Agreement with North Augusta Riverfront Company LLC for such companies proposed development of a tract of land containing approximately 44.01± acres of land lying in the Riverfront area of the City commonly referred to as Hammond's Ferry and,

WHEREAS the City Council has conducted two Public Hearings related to the adoption of this Development Agreement in accordance with Section 6-31 of the Code of Laws for the State of South Carolina referred to as the South Carolina Local Government Development Agreement Act, and

WHEREAS the Council has pursuant to their own review of the proposed Agreement, to include the information received at the Public Hearings, revised and refined the Development Agreement as initially proposed, and

WHEREAS the City Council believes that the Development Agreement as now drafted is in the best interest of the City of North Augusta and should be entered into for the purpose of encouraging both residential and commercial development within the area designated

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA SOUTH CAROLINA IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT

- I The Development Agreement that is attached hereto and marked Exhibit A to this Ordinance being an agreement between the City of North Augusta and North Augusta Riverfront Company LLC is hereby approved by the City of North Augusta with the City Administrator being authorized to formally execute such Development Agreement on behalf of the City of North Augusta
- II Said Agreement is in accordance with and subject to Section 6 Chapter 31 of the South Carolina Code of Laws as amended SOUTH CAROLINA LOCAL GOVERNMENT DEVELOPMENT ACT
- III All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed

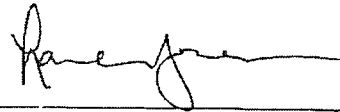
IV This Ordinance shall become effect immediately upon its adoption of third reading

DONE RATIFIED AND ADOPTED BY THE MAYOR AND CITY COUNCIL
OF THE CITY OF NORTH AUGUSTA SOUTH CAROLINA, ON THIS 17 DAY OF
~~OCTOBER~~ 2012
December

First Reading 12/3/12

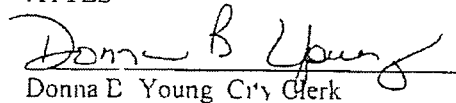
Second Reading 12/3/12

Third Reading 12/17/12



Earl W. Jones Mayor

ATTIES?



Donna E. Young City Clerk

STATE OF SOUTH CAROLINA)
) - DEVELOPMENT AGREEMENT
COUNTY OF AIKEN)

This Development Agreement (the "Development Agreement") is made and entered into this 8th day of January, 2013, by and between **NORTH AUGUSTA RIVERFRONT COMPANY, LLC**, a Delaware limited liability company (the "Company"), and the **CITY OF NORTH AUGUSTA**, a municipal corporation organized and existing under the laws of the State of South Carolina (the "City")

WITNESSETH

WHEREAS, it is the desire of the City and its citizens to create a more livable community, to spur economic vitality, to integrate the waterfront of the Savannah River into the life and work of the City, to develop parkland, green space and recreational facilities for all its citizens and to create a community easily accessed on foot by bicycle or other alternative means of transportation and

WHEREAS, the City has determined that its objectives can best be achieved by facilitating the development of certain property to be known as Phases A4 and A5, and Phase B of Hammond's Ferry, including the Hammonds Ferry Riverfront Center, such area comprising in excess of 25 acres (the "Project Area") adjacent to the Savannah River, which are intended to be developed into a mixed use neighborhood containing residential, commercial and civic uses (the "Project"), and,

WHEREAS, the City shall provide the Project with those services generally provided to its citizens, including water, sewer and garbage collection services, and,

WHEREAS, on October 18, 2010 the City adopted Ordinance No. 2010-13 to approve the Revised General Development Plan for the Hammond's Ferry Planned Development (the "Riverfront Ordinance") which established certain regulations which will apply to the proposed development of the Project, and,

WHEREAS, the Project is consistent with the City's comprehensive plan and land development regulations, including the Riverfront Ordinance, and,

WHEREAS, the Company possesses particular qualifications to develop the Project as desired by the City, and,

WHEREAS, the legislature of the State of South Carolina has enacted the 'South Carolina Local Government Development Agreement Act' (the "Act"), as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended, and,

WHEREAS, the Act recognizes the benefit of providing developers with reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of the government to enforce the laws and regulations which promote the public safety, health, and general welfare, ' and,

WHEREAS, the Act authorizes local governments, including municipal governments, to enter into development agreements with developers to accomplish this and other goals as set forth in Section 6-31-10 of the Act, and,

WHEREAS, the City and the Company entered into that certain Development Agreement dated June 23, 2003 (the "Initial Development Agreement"), as amended by a First Amendment to Development Agreement dated February 2, 2004 and a Second Amendment to Development Agreement dated October 7, 2004, which contained certain agreements of the parties related to the Project and other portions of the Hammonds Ferry development, and said Initial Development Agreement has now expired, and,

WHEREAS, the Company and the City entered into that certain Real Estate Purchase Agreement dated June 23 2003 (the "Real Estate Contract"), as amended by First Amended and Restated Purchase Agreement dated February 2, 2004 and Amendment Number One to First Amended and Restated Purchase Agreement dated October 7, 2004, pursuant to which the Company acquired certain property, including the lands now owned by the Company, which property is generally shown on Exhibit A annexed hereto (the "Property"), and the City has retained certain land to be used for public purposes which lands are also generally shown on Exhibit A (the "Public Land"), and,

WHEREAS, the Company intends to develop the Property in accordance with the Riverfront Ordinance and the City intends to develop the Public Land for public use and enjoyment, and,

WHEREAS, the Real Estate Contract was deemed satisfied by that certain Tripartite Riverfront Agreement dated November 10, 2010, following the conveyance of the Phase D land to Westo Development Company, LLC, in accordance with the agreement of the parties, and,

WHEREAS, the Company has a vested interest and rights in the Property, and,

WHEREAS, the City and the Company both deem it to be in their best interests, and the best interests of the citizens of the City, to enter into this Development Agreement, which shall supersede the Initial Development Agreement and the Real Estate Contract, and,

WHEREAS, notwithstanding the foregoing, the City is also giving consideration to an alternative approach to development within the Project Area in connection with an initiative known as "Project Jackson" and has requested the Company's cooperation in this connection, recognizing that such cooperation may require the deferral of certain obligations provided for in this Development Agreement, and,

WHEREAS the parties further acknowledge that a full implementation of Project Jackson could result in this Development Agreement being replaced in its entirety as contemplated by Article Ten of this Agreement

NOW THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the parties agree as follows

ARTICLE ONE

INCORPORATION The above recitals are hereby incorporated into this Agreement, together with the South Carolina General Assembly findings as set forth in Section 6-31-10(B) of the Act

ARTICLE TWO

DEFINITIONS The following terms when used in this Development Agreement (unless the context clearly indicates to the contrary) shall have the following meanings

(a) "Act" shall mean the South Carolina Local Government Development Agreement Act as codified in Sections 6-31-10 through 6-31-160 of the Code of Laws of South Carolina (1976), as amended

(b) "City" shall mean and refer to the City of North Augusta, a municipal corporation organized and existing under the laws of the State of South Carolina

(c) "Company" shall mean and refer to the North Augusta Riverfront Company, LLC a Delaware limited liability company

(d) "Development" shall have the meaning attributed to such term in the Act

(e) "Development Rights" shall mean Development undertaken by the Company in accordance with the Riverfront Ordinance, the Zoning Regulations and this Development Agreement

(f) "Event of Default" shall mean the occurrence of a breach of a term of this Agreement, following which notice of such breach has been given to the defaulting party, and which breach has not been cured within thirty (30) days following the giving of said notice, provided, however, that if the defaulting party commences the cure of said breach within said thirty (30)-day period, and continues with diligence to endeavor to cure same, said thirty (30)-day period shall be extended, and no Event of Default shall be deemed to occur, for such additional period as shall reasonably be required to enable the defaulting party to complete such cure. In the absence of an Event of Default, no right or remedy shall arise as a result of any breach, default or other failure to perform hereunder

(g) "Master Plan" shall mean and refer to that certain map depicting the Project Area, a copy of which is attached hereto as Exhibit A. It is understood and agreed that the Master Plan shall evolve over time, and that the Company may revise same from time to time, so long as the Master Plan continues to comply with the Riverfront Ordinance

(h) "Project Jackson" shall mean an alternate proposal for development of the real estate that is subject to this Development Agreement, involving additional developers

(i) "Term" shall mean the duration of this Development Agreement as set forth in Article Three hereof

(j) "Zoning Regulations" shall mean the current North Augusta Zoning and Development Standards, and shall be deemed to include the Riverfront Ordinance. It is understood that pursuant to the Riverfront Ordinance, conflicts between other Zoning Regulations and the Riverfront Ordinance shall be resolved in favor of the

Riverfront Ordinance The City hereby represents that the Zoning Regulations and the Riverfront Ordinance constitute all of the City of North Augusta's rules, regulations and ordinances governing the development of the Property as of the date hereof A complete copy of the Zoning Regulations and Riverfront Ordinance are attached hereto collectively as Exhibit B, and incorporated herein by reference

ARTICLE THREE

TERM The term of this Development Agreement shall commence on the date this Development Agreement is executed by the City and the Company, and shall terminate five (5) years thereafter, provided however, that the term of this Agreement may be renewed for such periods of time as determined by mutual agreement of the parties

ARTICLE FOUR

CHANGES TO ZONING REGULATIONS The Zoning Regulations shall not be amended, modified or supplemented during the Term in any way that affects the Property, without the express written consent of the Company It is acknowledged that nothing in this Development Agreement shall be deemed or construed to affect the right of the Company (or any other person) to seek a variance from the provisions of the Zoning Regulations in accordance with applicable state and local laws in effect at the time of the variance application

ARTICLE FIVE

DEVELOPMENT SCHEDULE

(a) INITIAL PUBLIC IMPROVEMENTS BY CITY

The City, within one (1) year from the signing of this Agreement will complete the public improvements to Railroad Avenue and Center Street as identified on Exhibit C and the Addendum attached thereto Notwithstanding the foregoing, in the event the City desires to defer the construction of such public improvements during the consideration of Project Jackson, the City may elect to defer such work for up to one (1) year

(b) DEVELOPMENT BY COMPANY

- 1) Within ninety (90) days of the completion of the public improvements by the City as outlined in Paragraph (a) above, the Company shall commence construction of not less than 4,000 square feet of retail development on Center Street or Railroad

Avenue and complete said construction within one (1) year of commencement

- 2) Within nineteen (19) months of the completion of the public improvements by the City as outlined in Paragraph (a) above, the Company shall commence construction of not less than an additional 4,000 square feet of retail development on Center Street or Railroad Avenue with such construction to be completed within one (1) year of commencement

Notwithstanding the foregoing, during the consideration of Project Jackson the foregoing obligations shall be deferred for up to one (1) year, unless both the City and the Company mutually determine that such development will not be inconsistent with Project Jackson

(c) REMAINING PUBLIC IMPROVEMENTS BY CITY

The City will complete the balance of the public improvements as identified in Exhibit C, and the Addendum attached thereto, at such time as the Company provides (i) its undertaking to construct a facility within the Project Area with a square footage of not less than 15,000 square feet (the "Additional Private Improvements"), such construction to commence not later than ninety (90) days following completion by the City of sufficient portions of such infrastructure to allow the Company's construction of the Additional Private Improvements to proceed in a reasonable manner, or (ii) satisfactory verification of a firm commitment to undertake equivalent development by a third party based upon a lease agreement or other acceptable documents. The City may require that it be made a third party beneficiary of any lease or other contractual arrangements for the construction of the Additional Private Improvements. The term "sufficient portions", as used above, shall be deemed to provide passable access to the property and utility services available thereto.

The City shall not be required to commence the construction of said public improvements until such time as a building permit has been obtained for the construction of the Additional Private Improvements required hereunder and work actually commences, with the exception that the City shall perform the portion of said infrastructure that is reasonably required prior to the commencement of work on the Additional Private Improvements. The City shall be responsible for completion of the remaining public improvements within one (1) year from the date of the commencement of said construction, or such earlier date as shall be

required in order to facilitate a timely opening of the Additional Private Improvements

Notwithstanding the foregoing, in the event the City desires to defer the construction of such public improvements during the consideration of Project Jackson, the City may elect to defer such work for up to one (1) year

The Development Schedule for the balance of development on the Property is annexed hereto as Exhibit D. It is understood and agreed that although portions of the development are anticipated to be completed after the end of the Term of this Agreement, the City shall not be obligated to extend the Term, provided that the City shall have the right to agree to an extension of the Term at a later date, in accordance with the Act. It is also understood that development of additional portions of the Property may take longer to complete than is shown on the Development Schedule. Pursuant to the Act, the failure of the Company to meet the Development Schedule shall not, in and of itself, constitute a material breach of this Development Agreement, but must be judged based upon the totality of the circumstances.

ARTICLE SIX

EFFECT OF FUTURE LAWS The Company shall have vested rights to undertake Development of any or all of the Property in accordance with the Zoning Regulations, as defined herein and modified hereby, and as may be modified in the future pursuant to the terms hereof, for the entirety of the Term. Future enactments of, or changes or amendments to City ordinances, including zoning or development standards ordinances, which conflict with the Zoning Regulations shall apply to the Property only if permitted pursuant to the Act, and shall be subject to the Riverfront Ordinance.

The parties specifically acknowledge that this Development Agreement shall not prohibit the application of any present or future building, housing, electrical, plumbing, gas or other standard codes, or any tax or fee of general application throughout the City, necessary to protect the health, safety and welfare of the citizens of North Augusta. Notwithstanding the above, the City may apply subsequently enacted laws to the Property only in accordance with the Act.

ARTICLE SEVEN

The parties recognize that mutual cooperation will be necessary to timely and efficiently construct the infrastructure necessary to serve the Project. The following items of particular importance have been agreed upon by the parties:

(a) *PUBLIC RIVERFRONT CENTER INFRASTRUCTURE* The City will pay for all costs associated with design and construction of the infrastructure generally shown as the "Public Infrastructure" on Exhibit C annexed hereto, and as further described in the Addendum to Exhibit C attached thereto. The Company will be responsible for conveying to the City all rights of way and land not already owned by the City necessary for the Public Infrastructure, including the parking lot east of Center Street, which shall become a municipal parking facility available to the public. At the request of the City, the Company will consider undertaking the construction of such improvements, for the cost of such work, plus a fee equal to 5% of the hard costs of construction (the "CM Fee"), pursuant to a separate agreement satisfactory to the parties. In such event, the City shall agree to reimburse the Company for the cost of such work on a monthly basis, as such costs are incurred, and pay the Company the CM Fee on a monthly basis. The City shall commence construction of the Public Infrastructure on or before March 1, 2013, and shall complete such work on or before February 1, 2014, such dates to be extended for causes beyond the reasonable control of the City, or for up to one year during the consideration of Project Jackson. As noted above, the City shall be responsible initially for the public improvements to Center Street and Railroad Avenue, and the balance of the public improvements shall not be an obligation of the City until the Company has satisfied the requirements of Article 5, Section (c), and that the obligation to construct such public improvements may be deferred during consideration of Project Jackson, as set forth above. It is further understood that (i) the City may wish to expand the proposed parking lot in the southeast block by adding a deck, and if the City desires to do so, the Company shall provide its reasonable cooperation, and (ii) when the City constructs the Center Street and Railroad Avenue improvements, it shall also construct temporary parking facilities in the southeast parking area or elsewhere in the Project Area, which temporary parking facilities shall support use of the parkland in the riverfront vicinity and the private development on Center Street and Railroad Avenue, as referenced above in Article V.

(b) *RIVERFRONT PARK* The City currently owns or the Company shall convey to the City the property necessary for the development of a riverfront park in the Project Area, as general shown on the Master Plan. The City will be responsible and pay for the design and construction of said park. The City will

endeavor to complete the design of the riverfront park on or before December 31, 2013, and to complete construction of same on or before December 31, 2014, such dates to be extended for causes beyond the reasonable control of the City, or during the consideration of Project Jackson (with deferral due to Project Jackson not to exceed one (1) year, unless the parties agree otherwise)

(c) *PRIVATE DEVELOPMENT* The Company agrees to pursue the private development in the Project, as permitted by the Riverfront Ordinance, subject to certain conditions hereinafter set forth. Among other things, the City acknowledges that adequate financing will need to be obtained in order for the Company to complete such private development. In addition, the private development is dependent upon obtaining suitable parties willing to lease or purchase parcels of land within the Project Area at prices and upon terms satisfactory to the Company. The City agrees to accept the deeds of dedication to all streets, roads, lanes and avenues, and all water, sewer and storm water systems, all parks, and all other public infrastructure within the Project upon their completion in accordance with established standards and procedures in place as of the date hereof, or other mutually agreed-upon procedures.

(d) *LAND EXCHANGE* The City and the Company hereby agree to exchange title to the lands generally shown on Exhibit E attached hereto. It is agreed that the lands to be exchanged shall be more particularly described in a survey to be prepared by the Company, subject to the City's approval, such approval not to be unreasonably withheld or delayed. As indicated in Exhibit E, the lands to be conveyed by the City to the Company hereunder shall also include portions of the right of way for Railroad Avenue that are in excess of the required 50 feet in width, all as to be more particularly described in said survey to be prepared by the Company and approved by the City.

(e) *PERIODIC REVIEW* Performance by the Company shall be subject to compliance with Section 6-31-90 of the South Carolina Code of Laws, as to periodic review, not less than once every twelve (12) months, to assess whether the Company has complied in good faith with the terms of this Agreement, and as to the remedies for non-performance set forth in said statute.

ARTICLE EIGHT

LAND EXCHANGE DATES OF TRANSFER

Within ninety (90) days from the approval of this Development Agreement, the Company shall transfer title to the City all lands required for the completion of road construction and the Riverfront Park. This would include Center Street all the way to the Riverfront Park and Railroad Avenue. The City may request title for the parking lot property east of Center Street at any time following the commencement of the design of said parking lot by the City. The Company shall then be required to convey title to said property within thirty (30) days of such request. Upon receipt of the deed by the City to said property, the City would then have a legal obligation to construct the parking lot on the premises transferred.

For all other title to real estate, related to improvements to be constructed by the City, the City would have the right to request the transfer of the real estate required, at any time following the commencement of design related to such improvements. The Company shall then be required to convey title to the necessary property within thirty (30) days of such request. Upon receipt of the deed by the City to such property, the City would then have the legal obligation to construct the improvements as intended for the premises.

The parcels of land, designated by this Agreement to be exchanged and conveyed by the City to the Company would be done contemporaneously with the transfer by the Company to the City of the Riverfront Park, Center Street property transfers.

ARTICLE NINE

DEFAULT Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to pursue all rights and remedies available to it at law or in equity.

ARTICLE TEN

MODIFICATION OF AGREEMENT This Development Agreement may be modified or amended only by the written agreement of the City and the Company. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced. The

City and the Company do, however, recognize that as the Project proceeds, it may become desirable for some provisions of this Agreement to be revised, including the provision of reasonable extensions of time. The City and the Company shall cooperatively negotiate and mutually approve any reasonable modifications and additions that may be requested. Furthermore, it is acknowledged that if the parties elect to implement Project Jackson, significant amendments to, or possible replacement of, this Development Agreement shall be required, and the parties agree to cooperate with one another in this regard.

ARTICLE ELEVEN

NOTICES All notices and demands which a party is required to or may give to another party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other addresses as such party may from time to time direct by written notice given in the manner herein prescribed, and such notices and demands shall be deemed to have been given or made only when made by hand delivery or by recognized overnight courier service, such as Federal Express. All notices and demands shall be addressed as follows:

IF TO THE CITY	City of North Augusta Municipal Building 100 Georgia Avenue North Augusta, South Carolina 29841 Attention: City Manager
WITH A COPY TO	Kelly F. Zier, Esq. 602 West Avenue North Augusta, South Carolina 29841
IF TO THE COMPANY	North Augusta Riverfront Company, LLC c/o LeylandAlliance LLC P O Box 878 - 233 Route 17 Tuxedo, New York 10987 Attention: Howard Kaufman, Esq.
WITH A COPY TO	J. Noel Schweers III, Esq. P O Box 31390 Augusta, Georgia 30903

ARTICLE TWELVE

ENFORCEMENT Any party hereto shall have the right to enforce the terms, provisions and conditions of this Agreement by any remedies available at law or in equity, including specific performance, and the right to recover attorneys' fees and costs associated with said enforcement

ARTICLE THIRTEEN

GENERAL

VESTED RIGHTS All rights accorded the Company by this Development Agreement shall immediately constitute vested rights of the Company for the Development and uses of the Property. This Development Agreement does not abrogate and shall supplement, any rights that may vest in the Company pursuant to common law or would otherwise vest in the Company in the absence of this Development Agreement

SUBSEQUENT LAWS In the event state or federal laws or regulations are enacted after the execution of this Development Agreement or decisions are issued by a court of competent jurisdiction which prevent or preclude compliance with the Act or one or more provisions of this Agreement ("New Laws"), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, or court decision, a person designated by each of the Company and the City shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect such New Laws would have on the purposes and intent of this Agreement. During the time that these parties are conferring on such modification or suspension or challenging the New Laws, the City and the Company may each take reasonable action to comply with such New Laws. Should the Company and the City be unable to agree to a modification or suspension of this Agreement, either party may petition a court of competent jurisdiction for an appropriate modification or suspension of this Agreement. In addition, the Company and the City each shall have the right to challenge the New Laws preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect

ESTOPPEL CERTIFICATE The City and the Company may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing

- (1) that this Agreement is in full force and effect,
- (2) that this Agreement has not been amended or modified, or if so amended identifying the amendments,
- (3) whether, to the knowledge of such party, the requesting party has committed an Event of Default, and
- (4) whether, to the knowledge of such party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute an Event of Default and, if so, specifying each such event

ENTIRE AGREEMENT This Development Agreement sets forth all of the agreements, conditions and understandings between the City and the Company relative to the Property and its development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth in such documents

NO PARTNERSHIP OR JOINT VENTURE Nothing in this Development Agreement shall be deemed to create a partnership or joint venture between the City and the Company or to render either party liable in any manner for the debts or obligations of another party

EXHIBITS All exhibits attached hereto and/or referred to in this Development Agreement are incorporated herein as though set forth herein in full

CONSTRUCTION The parties agree that each party and its counsel have reviewed and revised this Development Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Development Agreement or any amendments or exhibits hereto

ASSIGNMENT Other than as expressly provided for herein, no rights, obligations, duties or responsibilities devolved by this Development Agreement on or to the City are assignable to any other person, firm, corporation or entity The Company may assign its rights under this Development Agreement upon obtaining the consent of the City, such consent not to be unreasonably withheld or delayed

GOVERNING LAW This Development Agreement shall be governed by the laws of the State of South Carolina

COUNTERPARTS This Development Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument

AGREEMENT TO COOPERATE, FURTHER ASSURANCES In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Development Agreement, the parties hereby agree to cooperate in defending such action, provided, however, each party shall retain the right to pursue its own independent legal defense. Each party shall take all further actions as may be reasonably necessary or desirable in connection with carrying out the purposes of this Agreement

EMINENT DOMAIN Nothing contained in this Development Agreement shall limit, impair or restrict the City's right and power of eminent domain under the laws of the State of South Carolina

NO THIRD PARTY BENEFICIARIES The provisions of this Development Agreement may be enforced only by the Company and the City and their respective successors and permitted assigns. No other persons shall have any rights hereunder

RECORDING This Development Agreement shall be recorded in the Office of the Register of Deeds for Aiken County, South Carolina. The burdens of this Development Agreement shall be binding upon, and the benefits of this Development Agreement shall inure to, all successors in interest to, and all permitted assigns of, the Company and the City

IN WITNESS WHEREOF, the Company has caused this Development Agreement to be executed and delivered by its duly authorized officer as of the day and year first above written

Signed, sealed and delivered in the presence of

North Augusta Riverfront Company, LLC

Lucy Bohn
Witness Lucy Bohn

By Howard Kaufman
Howard Kaufman
As its Manager

Stephanie Livolsi
Witness 2 Stephanie Livolsi

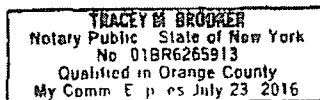
State of New York
Orange County

I Tracey M Brooker, do hereby certify that Howard Kaufman, as Manager of North Augusta Riverfront Company, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument

Witness my hand and official seal this the 3rd day of January 2013

Tracey M Brooker
Notary Public, State of New York
County of Orange

(SEAL)



IN WITNESS WHEREOF the City has caused this Development Agreement to be executed and delivered by its duly authorized officer as of the day and year first above written

Signed sealed and delivered in the presence of

City of North Augusta South Carolina

Dorcas B Young
Witness 1

By B Todd Glover
As its City Administrator

[Signature]
Witness 2

State of S.C.,
Aiken County

I Kelly F. Zier do hereby certify that B. Todd Glover as City Administrator of the City of North Augusta, South Carolina personally appeared before me this day and acknowledged the due execution of the foregoing instrument

Witness my hand and official seal this the 8th day of JAN, 2012

[Signature]
Notary Public, State of SC
County of Aiken
(SEAL)

Exhibit "A"

See Attached

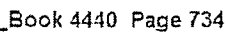
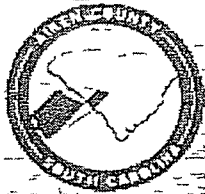


Exhibit "D"

Development Schedule

Phase	Acres	Name	Lots	Residential Units	Commercial SF	Years
A	16 96	Riverbend	95	130	10,000	2013-2020
B	24 87	Riverfront Center	104	337	53,450	2012-2017
C	2 18	Lake West	1	0	Recreation	2013-2020
Totals	44 01	---	200	467	63,450	---



AIKEN COUNTY, SOUTH CAROLINA

PUBLIC PROPERTY RECORD CARD

FOR ROLL YEAR 2013

PRINTED ON June 17 2014

Property Details

TAX MAP NUM	SITUS	PROPERTY TYPE	STATUS	TAX DIST	SOLID COD	AL R BY	APPR DATE	CNCL DIST	TOWN
00170-001		PLAT FRONT	ACTIVE	NORTH AUGUSTA TIF	1707500	ACCEJOIL	12-01-11	04	
PRE DISTRICT	CLASSIFICATION	EXEMPTION TYPE	HO. RES. ADJ.	VALUE METHOD	TOT. LAND VAL	TOT. BLDG VAL	TOT. INC. VAL	AP. LAISED	SSE. SET
NORTH AUGUSTA FIRE DISTRICT	CONSTRUCTION			CAMA	\$40146	\$0	\$0	\$964	\$7780
OLD TAX MAP	DISNUMBER	LOT DESCRIPTION							
00170-001		LOT 5 (A B R W 105) #25 N 55 W 114							
BLDG. DET. DESCRIPTION		LOCATION DESCRIPTION							
		LOT 5 (A B R W 105) #25 N 55 W 114							

Current Owners

NAME	MAILING ADDRESS
NORTH AUGUSTA FRONT COMPANY LLC	89 CYPRESS LAKE ROAD NORTH AUGUSTA SC 29801

Land Details

(Note: A "T" in the VALUE OVERRIDE field indicates that the LAND VALUE displayed is the Override Value for the Land)

Land ID 0

LAND USE	UNITS	UNIT TYPE	UNIT PRICE	ZONING	TOUGHNESS	SOIL TYPE	SEWER	UAS	WATER	FLC
Residential	568	ACRES	\$511460							
MARKET VALUE	ACFT. VALUE	LAND VALUE	VALUE OVERRIDE	RATIO		ASSESSMENT				
\$45965	\$0	\$459646		0.06		5.000				

Office of the Assessor

Aiken, SC 29801

June 17 2014

RECEIVED

10

Sales Summary

SALE DATE	SALE PRICE	DATE AT SALE DATE	SALE RATIO	QUALIFIED	OF ALL THE REASON	BOOK	PAGE	COMM. P.
12/1/07	\$76070	\$0	0.00	ENHANCED	NO M/TCH	114	11	

For Tax Map Number 00170-001 Disclaimer: This report is for assessment purposes only. Unauthorized reproduction is strictly prohibited.

Page 1 of 1

AIKEN COUNTY ASSESSOR'S OFFICE

NAME NORTH AUGUSTA RIVERFRONT COMPANY LLC
MAILING ADDRESS 89 CRYSTAL LAKE ROAD NORTH AUGUSTA, SC 29811
PARCEL # 007 17 02 001
OLD PARCEL #

APPRAISED VALUE OF PROPERTY

<u>IMPROVEMENTS</u>	<u>\$ 0</u>
<u>MOBILE HOME</u>	<u>\$ 0</u>
<u>LAND VALUE</u>	<u>\$ 459,646</u>
<u>TOTAL VALUE</u>	<u>\$ 459 646</u>

DATE 6/17/2014
SIGNED BY _____
RECEIVED BY _____

Office of the Assessor
Aiken, SC 29801

JUN 17 2014

NOT DELIVERED

Let 

STATE OF SOUTH CAROLINA

Stephen P. Donohue

Plaintiff, Respondent

vs

City of North Augusta the Mayor and City
Council of North Augusta,

Defendants Petitioners

COURT OF COMMON PLEAS

SECOND JUDICIAL CIRCUIT

CASE No 2013 CP-02-02781

AFFIDAVIT OF

SCOTT GUDITH

COPY
ORIGINAL FILED

J. L. Dean
AIKEN COUNTY
CLERK OF COURT

Comes now the undersigned, Scott Gudith, after having been duly sworn deposes and states the following

1 I am Scott Gudith, a resident of the River Club, the neighborhood immediately to the east of the proposed development by the city of North Augusta SC, which has been designated by them as Project Jackson

2 I bought a house in this neighborhood in 2004, sold that and bought another house in the River Club in 2005, then sold that and bought a third house in the River Club in 2010 where I currently reside

3 There are 85 properties in the River Club, of which seven are still undeveloped. There is one main road through the River Club, Shoreline Drive which has only one exit and entry point at the west end of the neighborhood. This road ends right at the beginning of the Project Jackson development area.

4 According to the county assessor's office the average home on the Savannah River in the River Club, of which there are 40, has a fair market value of over \$780,000. On the other side of the road are houses situated on a golf course and their average value is over \$470,000.

1 5 When the concept and the details of "Project Jackson" were revealed to the residents of the River
2 Club in January 2013 there were many objections. We were given special briefings by the developer
3 and the city because of the impact a development of this size and character would have on our
4 neighborhood and the upscale neighborhood immediately to the west of the area called Hammond s
5 Ferry. Few of the residents in the River Club were comfortable with the idea of a 5,000-seat stadium
6 sitting on the only entrance to our neighborhood. The residents were further concerned because of
7 congestion with the stadium sandwiched between the two most upscale neighborhoods in the city, the
8 lack of parking, noise and light pollution, and a city master plan that showed a River Road connecting
9 the neighborhoods and the stadium which would dramatically increase traffic, noise, pollution, and
10 the incidence of crime.

11 6 I never understood why the TIF district had to be amended because there was a development
12 agreement that had already been signed by the City in January 2013 for the very same 25-acre area
13 without any changes to the current TIF and without substantial public assistance.

14 7 I am in the real estate and property management business in North Augusta. Currently I own
15 15 rental properties around the city which I personally maintain. I frequently buy, sell, and trade
16 properties with a view to upgrading them and then reselling them or renting them.

17 8 I have reviewed the list of 16 properties the City of North Augusta attached to its petition to the
18 Supreme Court and its motion for summary judgment which they claim shows static or declining
19 property values in the area. I have also reviewed the current TIF map which was prepared by the City
20 of North Augusta's Engineering Department dated October 29, 1996 and compared the TIF map with
21 the City's list.

22 9 Two of the properties, 110 Monterey Ave and 662 Hampton Circle, are both more than three
23 miles away from the Savannah River, are not in the TIF district, and are not even in the city of North
24 Augusta. They are in Belvedere.

10 An additional seven properties 120 Culley Drive 251 River Wind Dr, 101 Cumberland Ave 304
W Clifton Ave, 305 W Clifton Ave 108 W Woodlawn Ave, and 608 Grant Ave, are not in the TIF
district

11 Of the remaining properties four of them have brand new houses on them or ones that have been
under construction since last summer

12 The property at 444 Arrington Avenue is accurately depicted in the picture attached hereto From
my experience with real property in this area that house has a fair market value well over \$300,000

13 The property at 19 Phoenix is accurately depicted in the picture attached hereto From my
experience with real property in this area that house has a fair market value well over \$300,000

14 The property at 512 Front is accurately depicted in the picture attached hereto That property
appears to be a combination of river front lots in Hammond's Ferry and will be one of the biggest
homes in that area when it is completed From my experience with real property in this area that
house has a fair market value well over \$1,000,000

15 I have personal knowledge of 497 Ponce De Leon Ave because I owned it before the current
owners After I sold it to the buyer it was subdivided into several parcels less than half its original
size The city readdressed the property to 501 and 505 Ponce De Leon and the developer sold it to the
contractor for \$50,000 who then built a duplex each unit of which is currently on the market for more
than \$270,000 for a combined offering price of more than \$500,000 The property previously known
as 497 Ponce De Leon Ave and now addressed as 501/505 Ponce De Leon Ave is accurately depicted
I the picture attached hereto

16 I also have personal knowledge of 505 Sikes Ave because I owned it as well I sold that property
in a four way swap and we assigned a deed recorded value of the sale at \$44,900 While that shows
a loss of \$3 100, I always felt I broke even on the deal because of the other benefits that ran to me in
the trade That property is about 1/3 acre in size

17 I also have knowledge of 233 West Ave because I made overture to the owner Mr Ernest
 18 Long about buying it The property was purchased by Mr Long on 10/22/2007 for \$230,000 He
 19 partitioned the property in two pieces on 1/15/2008 and sold one piece to Mr Robert Walker for
 20 \$120,000 and sold the remaining piece (233 West Ave) to Mr Howard Hucks for \$152,000 so Mr
 21 Long's total profit on that lot was \$42,000

22 While I have no personal knowledge of the property at 207 W Clifton, the only remaining
 23 property, I have reviewed the property records and it appears to be a small house on a small lot of
 24 less than ¼ of an acre I personally visited the house, and it appears to be one of the better maintained
 25 homes in that area

26 Of the 16 properties the City included, 9 are out of the TIF district Seven are in the TIF district
 27 with 5 increasing in value by hundreds of thousands of dollars and only two properties with less than
 28 1 acre in total area showing a slight decrease in value

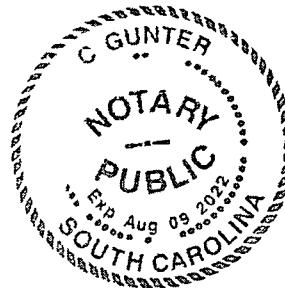
FURTHER AFFIANT SAYETH NOT

Scott Gudith

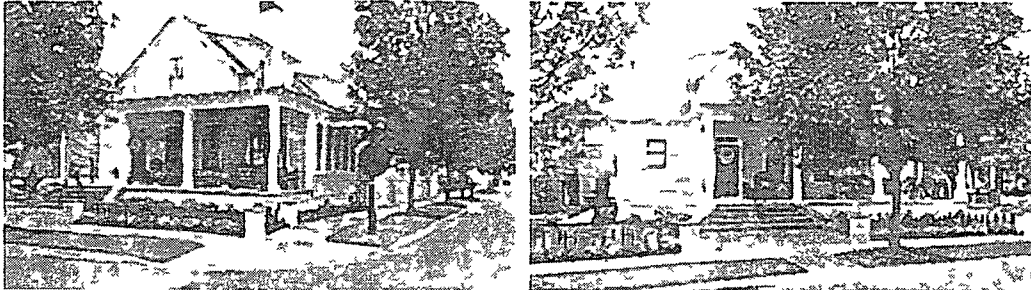
Scott Gudith

SIGNED AND SWORN TO BEFORE ME THIS 11th DAY OF May, 2014

[Signature]
 Notary Public for South Carolina
 My commission expires 5/1/22



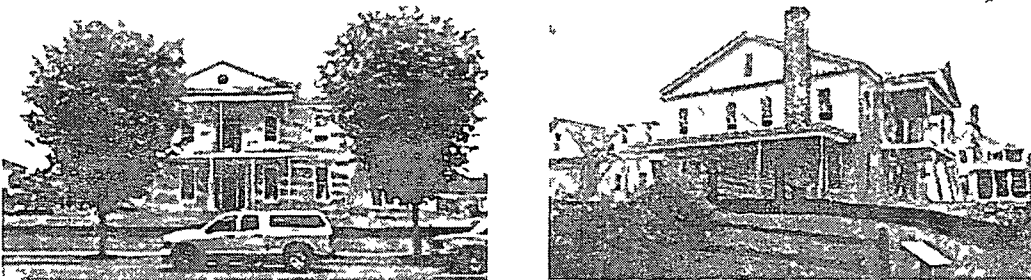
Attachment to Scott Gudith s Affidavit



444 Arrington Avenue, Hammond's Ferry



19 Phoenix St Hammond's Ferry



512 Front Street, Hammond s Ferry

Affidavit of Scott Gudith - 5

Attachment to Scott Gudrith's Affidavit



497 Ponce De Leon (Now 501 and 505 Ponce De Leon)

Affidavit of Scott Gudrith - 6

Address	City	State	Zip	1st date sold	1st price sold	2nd date sold	2nd price sold	Percent slope Decline
111 Hamilton	North Augusta	SC	29511	7/1/00	1000	5/1/01	\$7000	1%
514 Froese Street	North Augusta	SC	29511	6/1/00	10000	1/19/01	50000	1%
100 Cullen Hwy	North Augusta	SC	29511	2/10/00	515000	11/3/00	420000	3%
19 Pickett Street	North Augusta	SC	29511	11/25/00	520000	7/3/01	650000	1%
207 W. Clinton Ave	North Augusta	SC	29511	10/6/00	30300	1/5/01	117000	2%
1101 W. Carey Ave	North Augusta	SC	29511	8/14/00	540000	10/3/01	515000	3%
251 E. Wind Dr	North Augusta	SC	29541	7/16/00	\$70000	6/3/01	575000	2%
624 Hampton Ct	North Augusta	SC	29511	1/23/00	42000	9/10/01	25000	11%
131 E. Wind Dr	North Augusta	SC	29511	1/6/00	\$16000	7/15/01	51500	5%
134 W. A	North Augusta	SC	29511	10/2/00	42000	7/6/01	51500	3%
503 W. Clinton Ave	North Augusta	SC	29511	10/22/00	\$8000	7/10/01	\$20000	12%
15 W. Clinton Ave	North Augusta	SC	29511	5/1/00	70000	6/22/01	198000	1%
117 E. DuPont Ave	North Augusta	SC	29541	3/7/01	510000	6/19/01	400000	1%
103 W. Woodlawn Ave	North Augusta	SC	29541	7/17/00	127000	7/5/01	183000	3%
605 S. Main Ave	North Augusta	SC	29511	8/29/00	55000	4/10/01	\$20000	41%
201 S. Main Ave	North Augusta	SC	29511	5/22/00	\$12000	4/17/01	\$11900	2%

RESOLUTION NO 91-06
TO ESTABLISH THE NORTH AUGUSTA
RIVERFRONT REDEVELOPMENT DISTRICT

WHEREAS, through the adoption of Ordinance No 91-07, Mayor and City Council of the City of North Augusta have established the North Augusta Redevelopment Commission, and

WHEREAS, said ordinance provides the procedure by which the Mayor and City Council may establish from time to time the area of operation within which the Redevelopment Commission shall function

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF, THAT.

The Redevelopment Commission shall operate within an area of the City of North Augusta along the Savannah River and adjoining properties, said area being known as the North Augusta Riverfront Redevelopment District and more specifically described as follows

All those properties within the corporate limits of the City of North Augusta and within the area described as follows Beginning at a point of intersection with the City limits line within the Savannah River and the western right-of-way line of Hammond Ferry Road, thence northerly along said right-of-way line to its point of intersection with the northern right-of-way line of Manly Drive, thence easterly along said right-of-way line to its point of intersection with the northern right-of-way line of West Buena Vista Avenue, thence easterly along said right-of-way line to its point of intersection with the eastern right-of-way line of Columbus Avenue, thence southerly along said right-of-way line to its point of intersection with the northern right-of-way line of Pershing Drive, thence easterly along said right-of-way line to its point of intersection with the northeastern right-of-way line of Alta Vista Avenue, thence easterly along said right-of-way line to its point of intersection with the northern right-of-way line of Bluff Avenue, thence easterly along said right-of-way line to its point of intersection with the western right-of-way line of West Avenue, thence northerly along said right-of-way line to its point of intersection with the northern right-of-way line of Clifton Avenue, thence easterly long

A000248

RESOLUTION TO ESTABLISH
NORTH AUGUSTA RIVERFRONT
REDEVELOPMENT DISTRICT

Page 2

said right-of-way line to its point of intersection with the western right-of-way line of Victoria Avenue, thence northerly along said right-of-way line to its point of intersection with the northern right-of-way line of East Buena Vista Avenue, thence easterly along said right-of-way line to its point of intersection with the eastern property line of properties of the City of North Augusta, thence northerly along said property line to its point of intersection with the southern property line of properties of the Aiken County School District, thence easterly along said property line to its point of intersection with the eastern property line of said Aiken County School District, thence northerly along said property line to its point of intersection with the northern right of way line of said property, thence northerly to the southeastern corner of property presently occupied by Quincy's Restaurant, thence northerly along the eastern property line of said property to a point of intersection with the northern right-of-way line of East Martintown Road, thence easterly along said right-of-way line to its point of intersection with the northern right-of-way line of Holly Lane, thence easterly along said right-of-way line to its point of intersection with the eastern right-of-way line of Carolina Springs Road, thence southerly along said right-of-way line to its point of intersection with the northern right-of-way line of Tyler Avenue, thence easterly and thence southerly along said right-of-way line to its point of intersection with the northern right-of-way line of East Buena Vista Avenue, thence easterly along said right-of-way line to its point of intersection with the eastern right-of-way line of U S 1 and the northern right-of-way line Hamburg Road, thence southeasterly along said right-of-way line to its point of intersection with the City limits line, thence southerly along said City limits line to its point of intersection with the southern right-of-way line of the Norfolk Southern Railroad right-of-way line, thence easterly along said southern right-of-way line to its point of intersection with the City limits line, thence southerly along the City limits line to its point of intersection with the South Carolina/Georgia State line, thence northwesterly along the South Carolina/Georgia State line to the point of beginning

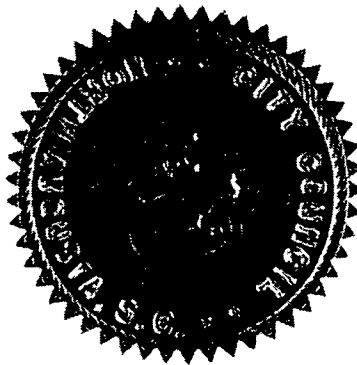
Said Riverfront Redevelopment District is also shown on a map attached hereto, entitled "North Augusta Riverfront Redevelopment District, City of North Augusta, South Carolina," dated April, 1991, and made a permanent part hereof

A000249

RESOLUTION TO ESTABLISH
NORTH AUGUSTA RIVERFRONT
REDEVELOPMENT DISTRICT

Page 3

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY
COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS
15th DAY OF April, 1991



Thomas W. Greene
Thomas W. Greene, Mayor

ATTEST

Leona J. Lewis
Leona J. Lewis, City Clerk



NORTH AUGUSTA RIVERFRONT REDEVELOPMENT DISTRICT
CITY OF NORTH AUGUSTA, SOUTH CAROLINA
APRIL, 1991

CRITERIA FOR INCLUSION OF PROPERTIES
IN RIVERFRONT REDEVELOPMENT DISTRICT

TIER 1

All the properties along the Savannah River, from Hammond Ferry Road south to the City limits line near Horse Creek, bordered by the Savannah River and the railroad right-of-way. These are the properties within the flood plain, and are considered to be underdeveloped or undeveloped. These properties may be referred to as the riverfront lands.

TIER 2.

Properties adjoining the riverfront lands, tier 1, and whose development/redevelopment would have a direct impact upon the riverfront lands, be impacted by development/redevelopment of the riverfront lands, or whose development/redevelopment would be best done in conjunction with tier 1 and/or tier 3.

TIER 3

Properties adjoining tier 2 that may be required for the effective planning and development/redevelopment of the required transportation corridors, both motorized and non motorized, connecting the riverfront properties to the remaining sections of the City. Also included in tier 3 are properties considered to be blighted or partially blighted and whose redevelopment would be required along with the development/redevelopment of the riverfront and adjoining lands to insure the public and private investments therein.

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

I the undersigned City Clerk of the City of North Augusta, South Carolina (the City) DO
HEREBY CERTIFY

That the following constitutes a true, correct, and verbatim copy of an Ordinance enacted by the
City on December 16th, 1996, at which a quorum was present and acting throughout which Ordinance has
been compared by me with the original thereof, and that such Ordinance has been duly enacted and has not
been modified, amended, or repealed and is in full force and effect on and as of the date hereof in the form
attached hereto

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the City of North Augusta
South Carolina, this 5th day of December, 2001

(SEAL)

Donna B. Young
City Clerk, City of North Augusta, South Carolina

ORDINANCE NO 96-10
PROVIDING FOR THE CREATION OF THE
NORTH AUGUSTA TAX INCREMENT FINANCING DISTRICT
WITHIN THE NORTH AUGUSTA RIVERFRONT REDEVELOPMENT DISTRICT
AND THE ADOPTION OF A REDEVELOPMENT PLAN FOR THE
REDEVELOPMENT DISTRICT AND THE TAX INCREMENT FINANCING DISTRICT
AND OTHER MATTERS RELATING THERETO

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH AUGUSTA SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF THAT

I There is hereby created the North Augusta Tax Increment Financing District within the North Augusta Riverfront Redevelopment District and hereby adopted a Redevelopment Plan for the Redevelopment District and the Tax Increment Financing District, and other matters relating thereto, as follows

ARTICLE I
FINDINGS AND DECLARATIONS

Section 1 01 Findings of Fact Establishment of Redevelopment Areas and Adoption of Redevelopment Plans

As an incident to the adoption of this Ordinance, the Mayor and City Council of the City of North Augusta, South Carolina (the "Mayor and Council"), the governing body of the City of North Augusta South Carolina (the "City") find that the facts set forth in this Article exist, and the following statements are in all respects true and correct

- 1 The City is an incorporated municipality located in Aiken County, and as such possesses all powers granted to municipalities by the Constitution and general law of this State
- 2 Pursuant to Section 5-5-10, Code of Laws of South Carolina, 1976, as amended (the "Code"), the City has selected the Mayor-Council form of government and is governed by a Mayor and the City Council composed of six (6) members which together constitute the governing body of the City

3 The General Assembly of the State of South Carolina (the General Assembly') has provided by law codified as Chapter 10 of Title 31 (the 'Community Development Law') of the Code for municipalities to designate blighted and conservation areas as 'redevelopment areas' and has granted to such municipalities, or commissions established by the governing bodies of such municipalities, certain powers to undertake and to pay for projects intended to stabilize such areas, preserve and enhance the tax base therein and thereby to protect the public safety, health, morals, or welfare of the municipality. For purposes of the Community Development Law, 'blighted area' means any improved or vacant area where

(a) if improved, industrial, commercial, and residential buildings or improvements, because of a combination of five or more of the following factors--age dilapidation, obsolescence, deterioration, illegal use of individual structures, presence of structures below minimum code standards, excessive vacancies, overcrowding of structures and community facilities, lack of ventilation, light or sanitary facilities, inadequate utilities, excessive land coverage, deleterious land use or layout, depreciation of physical maintenance, or lack of community planning--are detrimental to the public safety, health morals, or welfare, or

(b) if vacant, the sound growth is impaired by

(1) a combination of two or more of the following factors
obsolete platting of the vacant land, diversity of ownership of such land, tax and special assessment delinquencies on such land, deterioration of structures or site improvements in neighboring areas adjacent to the vacant land or

(2) the area immediately prior to becoming vacant qualified as a blighted area

For purposes of the Community Development Law "conservation area" means any improved area that is not yet a blighted area but, because of a combination of three or more of the following factors--dilapidation, obsolescence, deterioration, illegal use of structures, presence of structures below minimum code standards, abandonment excessive vacancies overcrowding of structures and community facilities lack of ventilation light or sanitary facilities, inadequate utilities excessive land coverage, depreciation of physical maintenance or lack of community planning--is detrimental to the public safety health, morals, or welfare and may become a blighted area

4 The General Assembly has provided by law, codified as Chapter 6 of Title 31 (the 'Tax Increment Financing Law') of the Code for municipalities to designate blighted and conservation areas as "redevelopment areas" and has granted to such municipalities or commissions established by the governing bodies of such municipalities, certain powers to undertake and to pay for, through tax increment financing pursuant to Article X, Section 14(10) of the South Carolina Constitution, projects intended to stabilize such areas, preserve and enhance the tax base therein, and thereby to protect the public safety, health, morals or welfare of the municipality. For purposes of the Tax Increment Financing Law "blighted area" means any improved or vacant area within the boundaries of a redevelopment project area located within the territorial limits of the municipality where

(a) if improved, industrial, commercial, and residential buildings or improvements, because of a combination of five or more of the following factors--age, dilapidation, obsolescence, deterioration, illegal use of individual structures, presence of structures below minimum code standards, excessive vacancies, overcrowding of structures and community facilities, lack of ventilation, light, or sanitary facilities, inadequate utilities, excessive land coverage, deleterious land use or layout, depreciation of physical maintenance, lack of community planning, are detrimental to the public safety, health, morals, or welfare, or

(b) if vacant, the sound growth is impaired by

(1) a combination of two or more of the following factors: obsolete planning of the vacant land, diversity of ownership of such land, tax and special assessment delinquencies on such land, deterioration of structures or site improvements in neighboring areas adjacent to the vacant land, or

(2) the area immediately prior to becoming vacant qualified as a blighted area

Any area within a redevelopment plan established by the Community Development Law is deemed to be a blighted area. For purposes of the Tax Increment Financing Law, "conservation area" means any improved area within the boundaries of a redevelopment project area located within the territorial limits of the municipality that is not yet a blighted area but because of a combination of three or more of the following factors--dilapidation, obsolescence, deterioration, illegal use of structures, presence of structures below minimum code standards

abandonment excessive vacancies, overcrowding of structures and community facilities, lack of ventilation light, or sanitary facilities inadequate utilities, excessive land coverage depreciation of physical maintenance, or lack of community planning--is detrimental to the public safety, health, morals or welfare and may become a blighted area

- 5 Pursuant to the Community Development Law, the Mayor and Council by Ordinance 91-07, adopted on April 15, 1991, established the Mayor and Council as ex officio, the North Augusta Redevelopment Commission (the "Commission") References herein to the Mayor and Council shall mean, and actions taken by the Mayor and Council herein are being taken by, the Mayor and Council in their capacities as Mayor and Council and in their capacities as the Commission, as the case may be
- 6 Pursuant to the Community Development Law, the Mayor and Council, by Resolution 91-06 adopted on April 15, 1991, established the North Augusta Riverfront Redevelopment District (the "Riverfront Redevelopment District") as a "redevelopment area" under the Community Development Law, having found that the area encompassed therein fit within each of the categories outlined above as "blighted" and "conservation" areas under the Community Development Law Based on information before the Mayor and Council at that time, and on the information presented to the Mayor and Council in connection with the development of the "Plan" (as defined below), the Mayor and Council hereby reiterate such findings The Mayor and Council hereby expand the Riverfront Redevelopment District established by Resolution 91-06 to include, in addition to all areas previously designated all areas described on Exhibits X and XI not previously so designated
- 7 The Mayor and Council established the Riverfront Redevelopment District for the purpose of addressing blighted areas within the District through the acquisition, preparation, sale, replanning and redevelopment of such areas where such conditions exist, in accordance with sound and approved plans developed in conjunction with private financial institutions and in cooperation with private and public sectors to promote the public health, safety, convenience and welfare of the citizens of the City and to stimulate economic development
- 8 On June 7 1993 the Mayor and Council adopted Resolution 93-15 authorizing a contract with Clemson University for the preparation of the Urban Design Study Element of the Comprehensive Plan designated as Exhibit XVII

- 9 On October 17, 1994, the Mayor and Council adopted Resolution 94-15, accepting a \$50 000 grant from the Savannah River Regional Diversification Initiative to be used along with funds from the City's Capital Projects Fund toward the development of a riverfront redevelopment plan
- 10 On April 3, 1995, by adoption of Resolution 95-11 the Mayor and Council retained the Joint Venture of Lane, Frenchman and Associates Inc , and City Design Collaborative, Inc , for the purpose of developing a Master Plan for the Riverfront Redevelopment District including the Urban Core District
- 11 On September 18, 1995, the Mayor and Council adopted Ordinance 95-13 adopting the revised Comprehensive Land Use and Development Plan in accordance with the Code of Laws of South Carolina, Title 6, Chapter 29 entitled "Comprehensive Planning Enabling Act of 1994 "
- 12 The Mayor and Council's Steering Committee for Riverfront Redevelopment appointed a Citizens' Advisory Panel ("CAP") consisting of twenty-one (21) citizens, property owners, and business leaders sharing a common goal of quality development for North Augusta's Riverfront to work with the Joint Venture in developing the Riverfront Master Plan
- 13 The consulting planning firm and the CAP have completed their study and presented their final recommendations to a joint meeting of the Mayor and Council, the North Augusta Planning Commission, and the CAP in a public meeting on February 12 1996, and such recommendations were endorsed by Mayor and Council by Resolution 96-06, adopted February 19 1996
- 14 Since that time, the scope, timing and potential financing sources for such recommendations have been reviewed by the City Administrator, the Director of Planning and Community Development the Director of Finance, and other staff of the City and recommendations and the results of that review were presented to and considered by the Mayor and Council in detail at the North Augusta Forward 1996 retreat on May 23-24 1996 and by this Ordinance the Mayor and Council are adopting the recommendations and such review of scope timing, and financing sources as a 'redevelopment plan' (the 'Plan') for the Riverfront Redevelopment District within the meaning of the Community Development Law. The Plan documentation consists of this Ordinance, the "Urban Design Element for the Comprehensive Plan" also known as the "Clemson Study", and the "Final Master Plan for the North Augusta

Riverfront Redevelopment District' submitted by the Joint Venture and dated February 8, 1996, the 'North Augusta Riverfront Redevelopment District Summary Plan' submitted by the Joint Venture and dated April 1996, certain documentation relating to a Hotel and Conference Center Upper Georgia Avenue a Town Center the Park System the Roadway Master Plan, and the Master Financing Plan, the spreadsheet analysis of sources, uses, and timing of availability of funds dated May 13, 1996, the map of the 'Tax Increment District' (as defined below), and the list of parcels contained within the Tax Increment District, as each of which is attached hereto and incorporated herein by reference as Exhibits I through XI and XVII.

- 15 The Plan for the Riverfront Redevelopment District outlines the goals, objectives, policies, and projects along with recommended phased development and potential funding sources for eighteen (18) years for the Riverfront Redevelopment District, and encompasses the goals of access, use, character, image, and economic development.
- 16 The Plan calls for the creation of a tax increment financing district as one means of recovering "blighted areas" within the meaning of the Tax Increment Financing Law and of preserving "conservation areas" within the meaning of the Tax Increment Financing Law. The Mayor and Council, on the basis of the information presented to the Mayor and Council in connection with the development of the Plan, hereby find that those areas specified in Exhibits X and XI hereto fit within each of the categories outlined above as 'blighted' and 'conservation' areas under the Tax Increment Financing Law; that such areas constitute 457 acres, and that such acreage is less than five percent (5%) of the total land mass of the City. In addition, the Mayor and Council, having painstakingly explored private options for development, find that private initiatives are unlikely to alleviate these conditions without substantial public assistance, that property values in these areas are likely to remain static or decline without public intervention, and that redevelopment is in the interest of the health, safety, and general welfare of the citizens of the City. The Mayor and Council therefore hereby declare such areas (the "Tax Increment District") to constitute a "redevelopment area" under the Tax Increment Financing Law, and by this Ordinance adopt the Plan as it relates to the Tax Increment District as a "redevelopment plan" pursuant to the Tax Increment Financing Law. Any tax increment financing undertaken pursuant hereto shall be used for portions of the Plan located inside the Tax Increment District and any project paid for by such tax increment financing shall be owned by the City, unless State law at the time permits otherwise.

ARTICLE II
NOTICES AND FILINGS

Section 2 01 Notice of Public Hearing

Pursuant to Section 31-6-80 of the Code, prior to the Adoption of this Ordinance, the Mayor and Council shall have held a public hearing hereon. Not less than fifteen (15) nor more than thirty (30) days prior thereto, the City Administrator shall have caused the publication in *The Star and/or the Aiken Standard* of a notice of such public hearing in substantially the form attached hereto as Exhibit XII. *After the giving of such notice and the holding of such hearing, the City Council shall not revise the plan prior to final adoption in such a manner that would (1) alter the exterior boundaries of the Tax Increment District, (2) substantially affect the general land use established in the plan, or (3) substantially change the nature of the redevelopment projects, unless such notice, including any such changes, and such hearing shall have been repeated prior to final adoption hereof.* Adoption of this Ordinance shall constitute a finding that such notice was provided and such hearing held.

Section 2 02 Notice to Affected Taxing Jurisdictions

Pursuant to Section 31-6-80 of the Code, not less than forty-five (45) days prior to the public hearing, the City Administrator shall have caused a copy of the form of notice set forth as Exhibit XII together with copies of Exhibits X and XI and the request set forth as Exhibit XIII hereto, to the County Council of Aiken County and the Board of Trustees of the School District of Aiken County. *After the giving of such notice and the holding of such hearing, the City Council shall not revise the plan prior to final adoption in such a manner that would (1) alter the exterior boundaries of the Tax Increment District, (2) substantially affect the general land use established in the plan, or (3) substantially change the nature of the redevelopment projects, unless such notice, including any such changes, and such hearing shall have been repeated prior to final adoption hereof.* Adoption of this Ordinance shall constitute a finding that such notice was provided. The Mayor and Council hereby declare that pursuant to such notice no objection was received from the County Council of Aiken County *and that an objection was received from the Board of Trustees of the School District of Aiken County.*

Section 2 03 Notice of Changes in Plan Prior to Adoption

Pursuant to Section 31-6-80 of the Code not less than ten (10) days prior to the adoption of this Ordinance the City Administrator (if any changes in the Plan shall have been made by the Mayor and Council since the giving of

notice pursuant to Section 2 02 above) shall have caused a copy of the form of notice set forth as Exhibit XIV hereto to be sent to the County Council of Aiken County and the Board of Trustees of the School District of Aiken County, and to be published in *The Star and in the Aiken Standard*. Adoption of this Ordinance shall constitute a finding that such notice, if necessary, was provided, and that any changes described therein do not alter the exterior boundaries of the Tax Increment District, do not substantially affect the general land use established in the Plan, or do not substantially change the nature of the redevelopment project.

Section 2 04 Notice of Adoption

Pursuant to Section 31-6-80 of the Code, the City Administrator is hereby directed to cause to be published in *The Star and in the Aiken Standard* immediately after the effective date hereof notice of the adoption of this Ordinance substantially in the form of Exhibit XV hereto.

Section 2 05 Filing with County Clerk and Treasurer

Pursuant to Section 31-6-40 of the Code, the City Administrator is hereby directed to cause a certified copy of this Ordinance to be filed with the Clerk of the County Council of Aiken County and with the County Treasurer of Aiken County.

Section 2 06 Request to County Auditor to Establish Initial Equalized Assessed Value

Pursuant to Section 31-6-100 of the Code the City Administrator is hereby directed to send on behalf of the Mayor and Council a request to the County Auditor of Aiken County, substantially in the form attached hereto as Exhibit XVI requesting as of the effective date hereof, the most recently ascertained equalized assessed value of the taxable parcels in the Tax Increment District.

ARTICLE III
MISCELLANEOUS PLAN PROVISIONS

Section 3 01 Effect on Revenues of Other Taxing Jurisdictions

The Plan will have no adverse impact upon the revenues of Aiken County, or of the School District of Aiken County the taxing districts in which the Tax Increment District is located. The long-term impact upon such taxing districts will be beneficial in that, upon making the public improvements it is expected that substantial private investment will occur.

Section 3 02 Term of Tax Increment District

The term of the Tax Increment District shall be fifteen (15) years from the date of the first issuance of tax increment bonds pursuant to the Tax Increment Financing Law, which is anticipated to be in the second half of 1998

Section 3 03 Amount of Tax Increment Bonds

The City anticipates obtaining approximately \$13,400,000 through the issuance of tax increment bonds pursuant to the Tax Increment Financing Law and utilizing tax increment revenues not required to pay debt service on such bonds for the payment of other redevelopment project costs

Section 3 04 Current Equalized Assessed Value of Taxable Property in the Tax Increment District

The current equalized assessed value of taxable property in the Tax Increment District is estimated to be \$1,013,038

Section 3 05 Treatment of Displaced Persons

Due to the low residential population density in the Tax Increment District and in the Riverfront Redevelopment District, the Mayor and City Council do not expect any significant displacement of persons as a result of the implementation of the Plan and hereby direct the City Administrator and City staff to take reasonable steps to minimize any such displacement consistent with the Plan. To the extent that displacement does occur, the City will comply with all State and Federal laws regarding such. In particular and pursuant to Section 31-6-90 and 31-10-100(9) of the Code, the City will not displace any person in the Tax Increment District pursuant to the Plan unless housing is made available to such person pursuant to the Tax Increment Financing Law. The City will in any such instance, take reasonable good faith steps to the extent feasible, to enable a substantial number of any such displaced persons to relocate within or near the Tax Increment District

II This Ordinance shall become effective immediately upon its adoption on third and final reading

III All ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict, hereby repealed

ORDINANCE ESTABLISHING TAX INCREMENT
FINANCING DISTRICT & REDEVELOPMENT

Page 10
ROA Page 271

DONE, RATIFIED AND ADOPTED BY THE MAYOR AND CITY
COUNCIL OF THE CITY OF NORTH AUGUSTA, SOUTH CAROLINA, ON THIS
16th DAY OF December 1996

Public Hearing 9-16-96

First Reading 9-16-96

Second Reading 11-4-96

Thurd Reading 12-16-96

Thomas W. Greene
Thomas W Greene, Mayor

ATTEST

Leona J. Lewis
Leona J Lewis, City Clerk

This Ordinance has been reviewed by me and is hereby approved as to form and legality

Kelly E. Zier
Kelly E. Zier, City Attorney

I HEREBY CERTIFY THIS TO BE A TRUE AND CORRECT COPY

Leona J. Lewis 2/4/97
Leona J Lewis, City Clerk Date

ROA Page 271

Final

Master Plan for the North Augusta Riverfront Redevelopment District

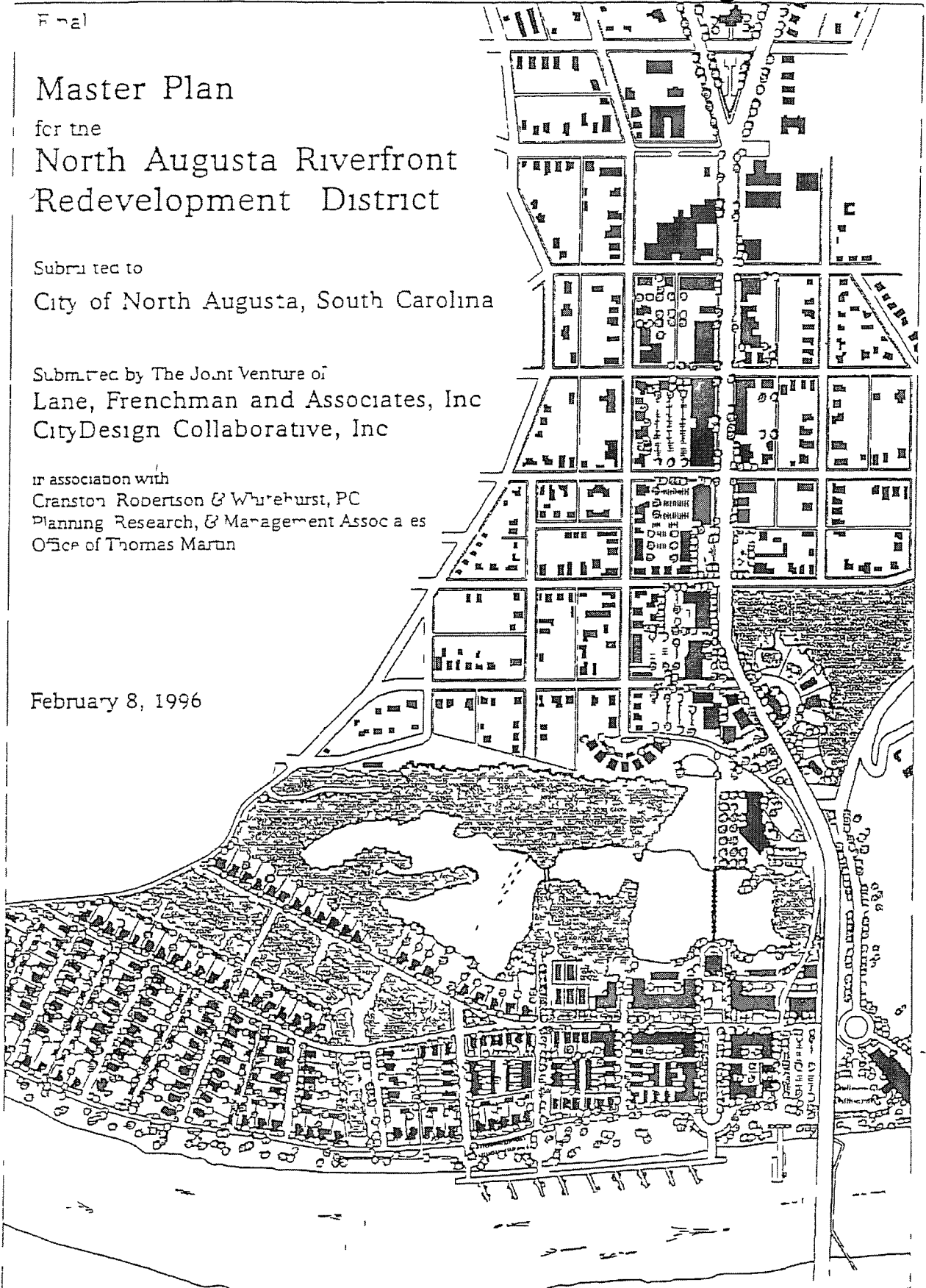
Submitted to

City of North Augusta, South Carolina

Submitted by The Joint Venture of
Lane, Frenchman and Associates, Inc
CityDesign Collaborative, Inc

in association with
Cranston Robertson & Whitehurst, PC
Planning Research, & Management Associates
Office of Thomas Martin

February 8, 1996



Acknowledgements

Appreciation is expressed to staff and elected officials of the City of North Augusta and to appointed members of the Citizens' Advisory Panel, who advised the Consultant Team on all aspects of the planning process. Members of the project Steering Committee (indicated by *) provided important detailed feedback and guidance to the project team.

City Council Members

Mayor Thomas W. Greene *
Mayor Pro-tem William L. Gray
Carolyn C. Baggott *
T. Scott Beck
Pat C. Carpenter
Lark W. Jones *
Kent Sullivan

City Staff

Charles B. Martin *, City Manager
Anthony J. Criscitello *, Planner
Leona J. Lewis, City Clerk
Diana Miller, Administrative Assistant

Citizens Advisory Committee

Mr. Robert Bolton
Ms. Mary Bright
Mr. Robert Butterworth
Mr. William R. Collins
Mr. D. Hugh Connolly
Mr. Richard Fletcher
Mr. Don Harris
Mr. Jack Herrman
Mr. Michael Hitchler
Ms. Jeanne McDaniel
Mr. Kenneth McDowell
Mr. Steven McElmurray
Dr. Henry G. Mealing, Jr.
Mrs. Laura Phinizy
Mr. Stanley Price
Mr. Carl Sanders, Jr.
Mr. Jerry Stallworth
Mr. Charles Taylor
Mr. Larry Watts
Mr. Harry Weigle

Credits

This project was prepared by the joint venture of Lane, Frenchman and Associates, Inc. and CityDesign Collaborative, Inc., who take responsibility for the findings and recommendations herein. The consultant team included Cranston, Robertson & Whitehurst, P C, who provided transportation, engineering, and environmental inputs, The Office of Thomas Martin, who provided economic and market analyses, and Planning, Research, and Management Associates, who assisted with economic assessment and local data analysis. Personnel of each firm are noted below.

**The joint venture of Lane, Frenchman and Associates, Inc.
and CityDesign Collaborative, Inc.**

Jonathan S. Lane, co-principal-in-charge
John Shields, co-principal-in-charge
Rob Frechette
Rodrigo Herrera
Catherine Stramer

Cranston, Robertson & Whitehurst, P C

Thomas H. Robertson
Vaughn Maxwell

The Office of Thomas Martin

Thomas Martin
Robert Brais

Planning, Research, and Management Associates

Dayton Sherrouse

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Section 1
Background of The Plan

1.1 The Study Area

This Plan evolves from a concern on the part of the citizens and government of North Augusta that its waterfront, at the center of the community, has been long neglected. This waterfront district, between the river and the bluff which defines the developed limits of current North Augusta, has been relatively inaccessible from the rest of the city and susceptible to flooding. The area, containing large amounts of vegetated land, large trees, and many small ponds, is now under consideration for significant development, due, in part, to recent modifications to the flood plain limits and improved flood protection measures. Several proposals have been made for this area, leading officials to recognize that a formal plan for the area which defines an overall framework which can achieve public and private benefit would facilitate long term uses which would encourage its orderly growth.

The Planning area, shown in Figure 1, included the waterfront of North Augusta, extending from Campbelltown Landing, on the west, nearly to mouth of Horse Creek, to the east. The area was defined to include the entirety of the land between the bluff line and the river, extending northerly to incorporate key adjacent neighborhoods and undeveloped lands, as well as the core of Georgia Avenue up to Lookaway Hall.

1.2 Public Involvement

This plan has been prepared in consultation with City officials and has utilized an extensive public involvement process.

- o A Citizens' Advisory Panel (CAP) was assembled, to include representatives of major land owners, commercial interests, nearby neighborhoods, and other involved constituencies that might be affected by the Plan. This group met approximately monthly throughout the course of the nine month study, providing input and advice regarding goals for the area, alternatives, and the final recommendations. All meetings of the CAP were publicly advertised and open to the public.
- o Public Hearings and Workshops were held at key points in the work process to afford any interested citizens an opportunity to comment on the work in process.
- o Briefings for a City Steering Committee and for the City Council of North Augusta were held periodically to insure that key policy-makers within the City were kept abreast of the work in progress.

As part of the process several interim memoranda presenting findings of the technical work, were presented. These included the Stage I Inventory Report (June 13, 1995), the Stage II Alternatives Report (September 11, 1995), and a Refinement of the Plan in response to comments (November 13, 1995). The findings of these reports is highlighted in this Plan. Full copies of these documents are available for review at the Municipal Building, City of North Augusta.

1.3 Goals for the Area

The project goals were developed through a workshop process with the Citizens' Advisory Panel and were also circulated through publication of drafts of interim progress memoranda. The goals dealt with access, use, character/image, and economic development/implementation of the Plan.

Access	Provide public access to the Riverfront area
	Design the waterfront area and its public and private areas as an integral part of the North Augusta community
	Create greenway pedestrian and bicycle linkages between the riverfront and North Augusta parks and neighborhoods
Use	Conceive the waterfront plan to complement North Augusta's downtown and to encourage its revitalization
	Develop a mix of uses, including housing, stores, and parks
Character and Image	Make the plan distinctive and attractive, using the riverfront to provide a signature image and vision for North Augusta and to define a clear sense of arrival from the Savannah River Crossings
	Maintain and enhance historic and archeological features and sites which make the riverfront and community unique
	Attract development and uses on the North Augusta side of the river which will complement river uses in adjacent Augusta, creating an overall riverfront which makes best use of the features and characteristics of both banks of the river
Economic Development and Implementation	Develop a plan which will produce long term economic benefits to the community and will increase the tax base commensurate with its associated public expense
	Balance private and public interests, enabling the plan to benefit both citizens and property owners
	Coordinate public and private initiatives to achieve the maximum impact and effectiveness of each

Figure 1 Study Area Map

For the
City of North Augusta, South Carolina

By the joint venture of
Lane Frenchman and Associates Inc
and
CutyDesign Collaborative Inc

with
Craig Robertson & Whitburn P.C.
Office of Thomas J. Martin
Planning, Research and Management Associates
William Smith Associates

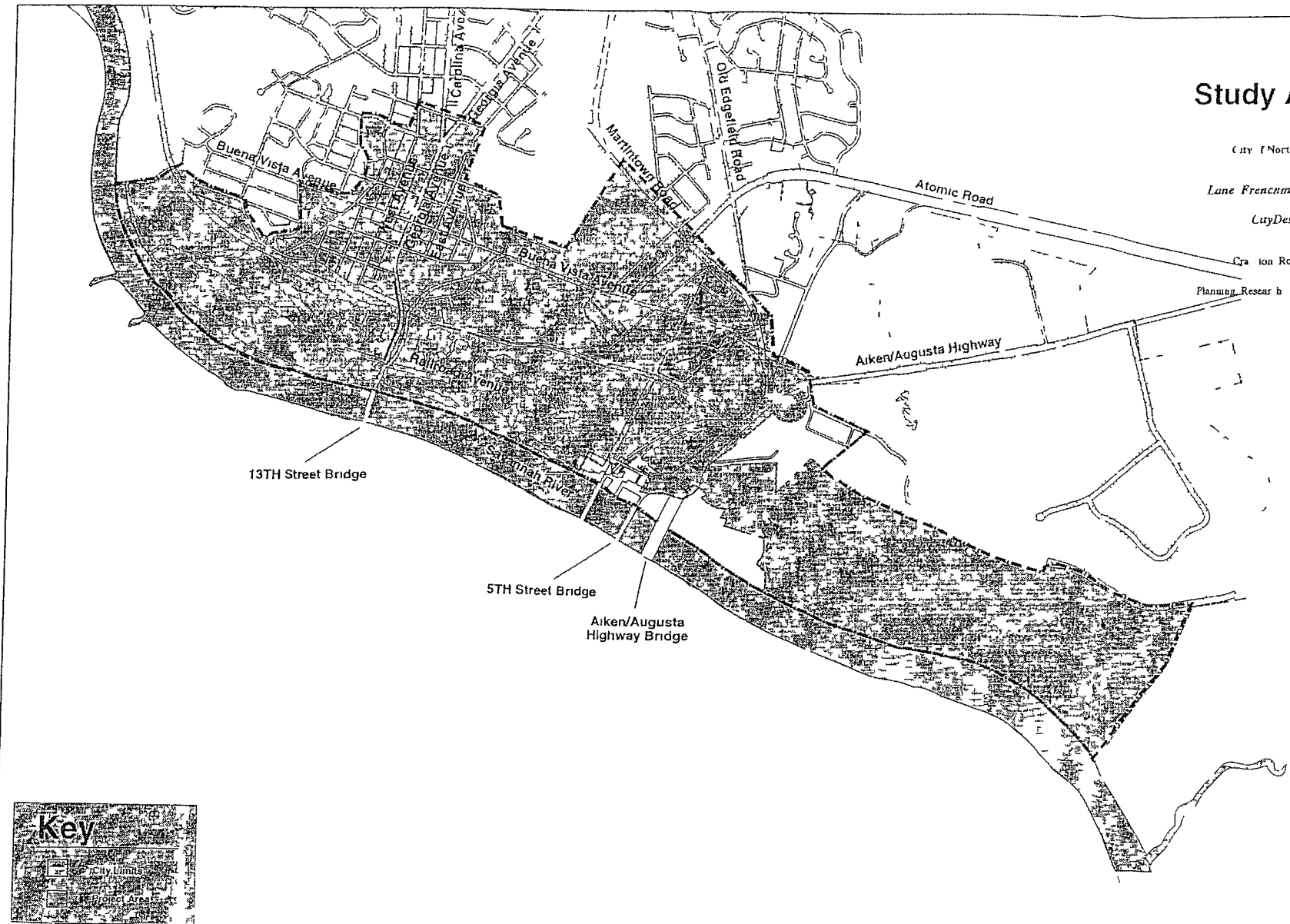
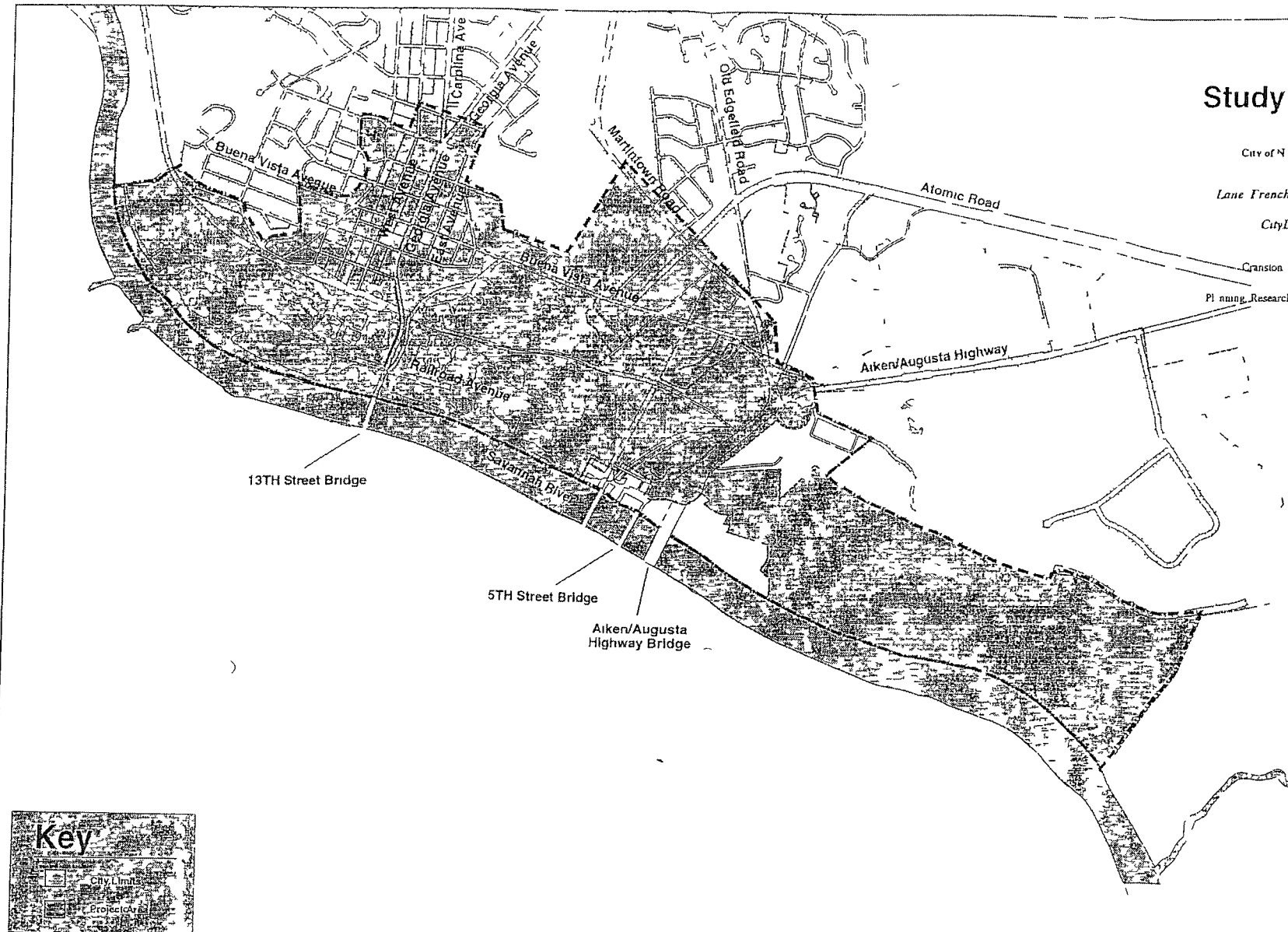


Figure 1 Study Area Map

For the
City of North Augusta South Carolina

By the joint venture of
Lane Frenchman and Associates, Inc.
and
CityDesign Collaborative, Inc.

with
Granston Robertson & Whitehurst P.C.
Office of Thomas J. Martin
Planning, Research and Management Associates
Wilbur Smith Associates



Section 2
The North Augusta Waterfront

2.1 Physical Environment

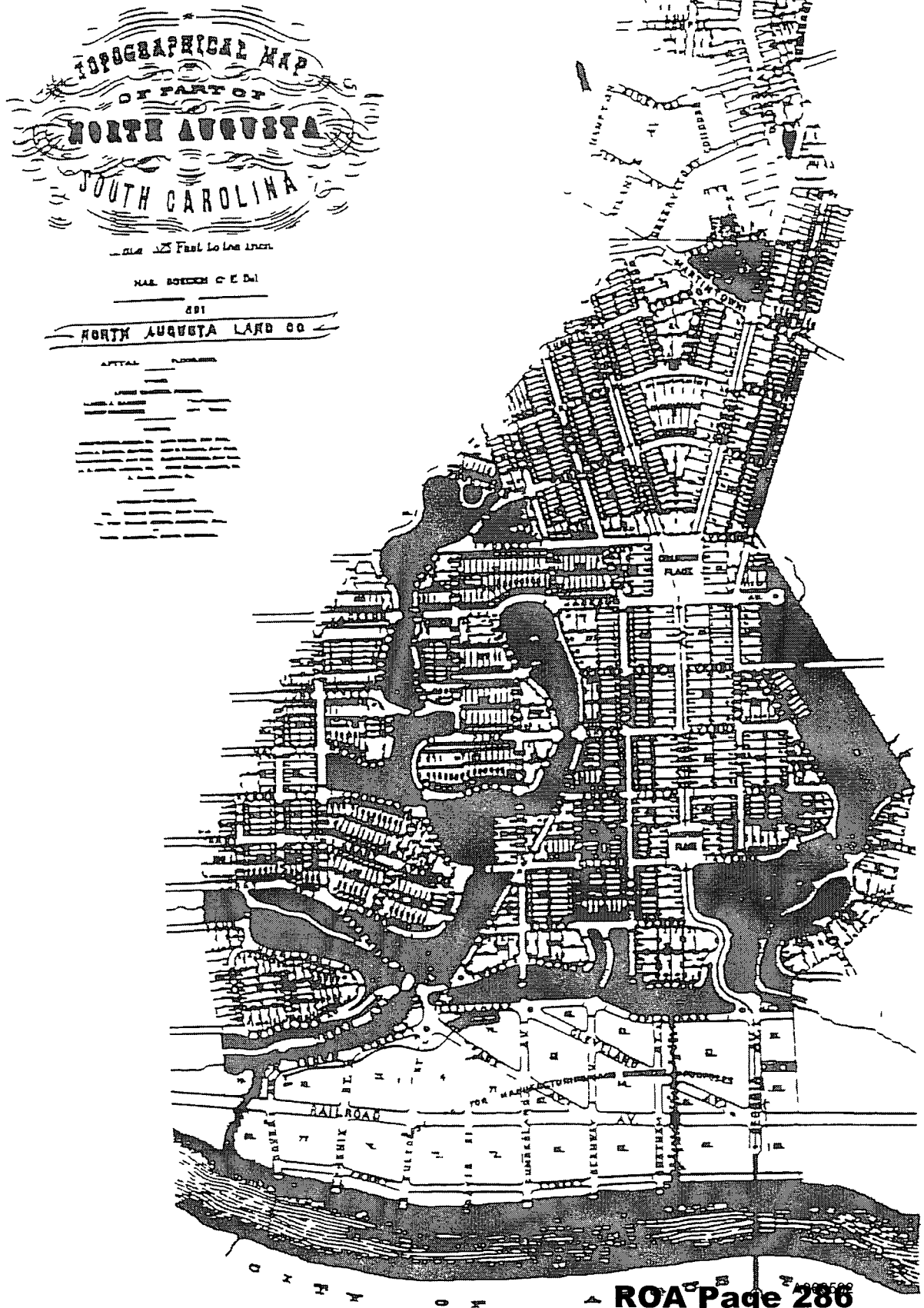
The Historic Pattern of Development

North Augusta was a planned community, connected by a bridge crossing the Savannah River to nearby Augusta, Georgia. The Plans of 1891 and 1912, prepared by William Boeckh and Civil Engineer George Summers, respectively, set the pattern for North Augusta's development (the Boeckh Plan is shown in Figures 2). The plans showed an orderly development of a grid city with major open spaces following drainage swales leading to the Savannah River. Major common elements of these plans included

- o definition of a major axis for Georgia Avenue perpendicular to the River between a formal "Hampton Place" and "Calhoun Place" (the triangular park in front of Look-Away Hall)
- o larger lots along Georgia Avenue, not only along its major axis but also leading up the hill toward the current Butler Historic District
- o a street railway connection to Augusta.
- o accommodation of large industrial lots near the river along Railroad Avenue, which intersected Georgia Avenue at grade at the site of the Dispensary, where several factories were sited adjacent to the tracks
- o creation of a major impoundment area at the easterly terminus of Buena Vista Avenue, where the water flowing from the easterly swale was intended to be formed into a pond in the midst of a park.

Major changes to these plans have been caused by the contemporary widening of Georgia Avenue and the building of a high level bridge over the Savannah River, eliminating easy access to the riverfront by vehicle. Additionally, the construction of the railroad at the edge of the city's escarpment overlooking the River caused a further separation between the developed part of the City and the waterfront, interrupting the extension of Cumberland Avenue to the River. The major parks which were envisioned along the swales have remained "green," for the most part, although these spaces have not been fully improved and are overgrown except for several cultivated areas adjacent to the North Augusta Municipal Building, the Recreation Center, and along Lake Avenue north of Buena Vista. Finally, the city limits have expanded in all directions to encompass areas up- and down-stream as well as northwards to include Martintown Road, which has evolved into the strip commercial center of the community. This contemporary commerce has led to a diminished role for the Georgia Avenue "downtown" shopping area, which has undergone substantial change and pressure to add parking.

Figure 2 1891 Boeckh Plan



There is one National Register Historic District within North Augusta, the Georgia Avenue-Butler Avenue Historic District, located outside the study area between Georgia Avenue and Martintown Road. This district encompasses part of the property upon which the Hampton Terrace Hotel was originally built (1903) and contains two buildings which were associated with it, as well as other large residences. Several of the structures along Georgia Avenue within the study area remain substantially intact and may be eligible for historic designation. An additional and potentially important resource is the former site of the town of Hamburg, which was located in the vicinity of the Fifth Street bridge, connecting North Augusta and Augusta. This community predated the establishment of North Augusta and was constructed by German-born immigrant Henry Schultz, who named it after his birthplace. The town had a brief, but important role as a competitor to Augusta, initially as a steamboat landing and later as the terminus of the South Carolina Railroad, which ran between Hamburg and the port of Charleston. The pilings of an early rail bridge which carried tracks over the Savannah River still remain west of the existing rail bridge. This former town has been demolished, although rights of way from its original layout remain platted.

Land Use

The existing land uses are shown on Figure 3. The pattern of land use is quite different below and above the rail right of way due to the significant shift of topography and the difficulty of access across the rails. In general, the land along the riverfront is mostly open, with a few small buildings in the vicinity of each river crossing. The major parcels between the Georgia Avenue and 5th Street Bridges and west of Georgia Avenue are open, with approved residential subdivisions (although with few complete houses) on the easternmost parcel (RiverNorth) and on the Campbelltown Landing parcel to the westerly edge of the study area.

Above the rail line, many of the community's traditional land use patterns prevail, including commercial uses along Georgia Avenue and West Avenue, lower density residential neighborhoods to the east, west, and north, and remaining open spaces in the swales which lead down to the river. Some multi-family residential areas have been developed within the study area, these include relatively new developments to the west and an area including a nursing home and apartments to the east. The land use map overstates the amount of "developed" land, inasmuch as parcels are coded according to their use, not their density. As an example, the RiverNorth parcel (east of the Gordon Highway) is shown as single family, despite the fact that not one house has yet been built.

Larger commercial uses which can be seen along Martintown Road are typical of that artery, and continue further north where their density and scale tend to outweigh the commercial uses which remain along the core of Georgia Avenue.

Zoning

Existing zoning is shown on **Figure 4**. This indicates a "core" zoning which is generally consistent with the land use pattern, including general commercial along the heart of Georgia Avenue and West Avenue, office commercial adjacent to this core to the west and extending along Georgia Avenue towards Martintown Road, which has significant lengths which are also zoned commercial. Large amounts of the downtown core are zoned for multi-family (R4) residential, with smaller pockets of single family residential within the study area. Two Planned Unit Developments exist along the riverfront (RiverNorth and Campbelltown Landing) with the remainder zoned for either Open Space Preservation or Light Industrial. A significant land area nearby to the Augusta-Aiken Highway is located outside the City boundary of North Augusta.

The provisions of the Planned Unit Development zoning are worth noting, inasmuch as new development of any scale along the river will be obliged to seek such a zoning change. The intent of the PUD is to encourage flexibility in land development, PUD's typically apply to parcels which are over 5 acres in area and in single ownership or control. A PUD District may be established by a Map Amendment, which requires an application to the Planning Commission, a report by the Planning Commission on the desirability of such change, a public hearing, and approval by the City Council of North Augusta. Prior to issuance of any Building Permits, a detailed site plan must be submitted and approved, providing the City ample statutory opportunity to comment and to request changes.

Parcel Ownership

Key parcel ownerships are shown on **Figure 5**, as derived from the City of North Augusta's Geographic Information System (GIS) data base. Significant portions of the river frontage are consolidated into four major ownerships: RiverNorth (east of the Augusta-Aiken Highway), Omninvest (between the bridges and to the west of Georgia Avenue), the Haskell (McCarthy, et al) family interests (west of Omninvest), and Campbelltown Landing (at the western edge of the study area). These parcels constitute the majority of river frontage in the City of North Augusta. Other key parcels along the river tend to be concentrated in the vicinity of the bridges and are held by a variety of owners. Several other large ownerships include property owned by Dr. Mealing (from the rail right of way across Buena Vista to Martintown Road) and city parcels from the Community Center (north of Buena Vista) to the rail right of way.

Figure 3 Existing Land Use



For the
City of North Augusta, South Carolina

By the joint effort of
Lane Frenn Fman and Associates Inc
and
City Design Collaborative Inc

with
Crawston Robertson & Whitehurst, P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Wilbur Smith Associates

Data Courtesy of The City of North Augusta
Geographic Information System

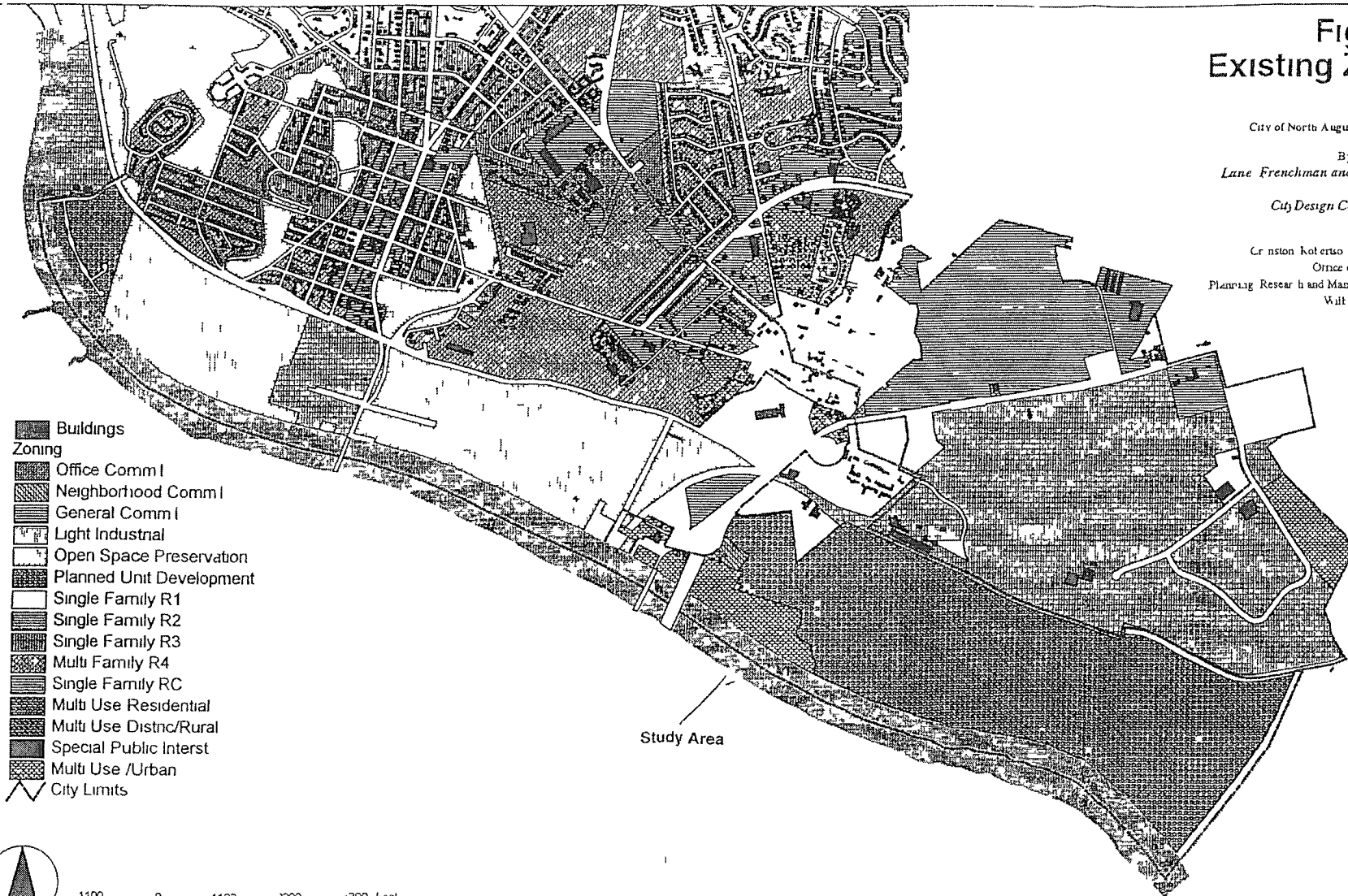
**Figure 4
Existing Zoning**

For the
City of North Augusta, South Carolina

By the joint venture of
Lane Frenchman and Associates, Inc.

City Design Collaborative, Inc.

with
Christopher Kotowski & Whitehurst, P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Walter Smith Associates



Data Courtesy of The City of North Augusta
Geographic Information System

Figure 5 Key Parcel Ownership

For the
City of North Augusta, South Carolina

By the joint venture of
Lane Frenchman and Associates, Inc.
and
City Design Collaborative, Inc.

with
Crawston Robertson & Whitburn, P.C.
Office of Thomas J. Murtin
Planning Research and Management Associates
Wilbur Smith Associates

1	TRA C Inc		Public Rights-of-way
2	Marooka Corp		City of North Augusta
3	The Ledges		Religious Institutions
4	Martha B. Kearns		Other Exempt
5	Henry G. Mealing		Omnivest
6	North Augusta Business		Carl E. Sanders (RiverNorth)
7	Hamburg Industries Inc		Judith H. McCarthy et al
8	Frances D. Holley		
9	The Phoenix Co		
10	Ernest K. Wrenn		



100 0 100 2200 3300 Feet

2.2 Demographics

Population

The City of North Augusta lies within the Augusta-Aiken Metropolitan Area which includes Richmond, Columbia and McDuffie Counties in Georgia, and Aiken County in South Carolina. This metropolitan area has an estimated 1994 population of 450,500. Approximately 29 percent of the metro area's population is in Aiken County with its population of 128,400. Population is projected to grow in the area, with Aiken County projected by the South Carolina Division of Research and Statistical Services, to increase in population 23 percent in the period from 1990 to 2010, to 149,000 residents.

The population of the Augusta ADI, or Arbitron Media Market Area of Dominant Influence, is estimated at 605,000 persons in 1994. This is the media market area, and is a better definition of the market area dominated by the Augusta media. The Augusta ADI ranks 110 among media markets nationally, and is ranked 114 in effective buying income and buying power. This indicates a market size that can support a wide variety of retail and service uses.

In 1990, the City of North Augusta contained 15,351 residents or about 13 percent of the Aiken County population of 120,940 persons. The City of North Augusta has grown during the last decade. In 1980, the population was 13,593 persons, so that the City grew 13 percent in population for the decade.

Income

The household income distribution in Aiken County closely matches the South Carolina household income distribution. The City of North Augusta had a per capita income of \$16,134 in 1989, which was 36 percent higher than the State-wide average, and 23 percent higher than Aiken County's average of \$13,127 in 1989.

Employment

Aiken County is particularly strong in manufacturing, with additional strength in services and mining. Manufacturing represented 44 percent of employment in 1990, compared to 30 percent for the State as a whole. Aiken County represented 57 percent of State annual payroll in that year, compared to its 35 percent of population and 37 percent of employment. This strength in its employment base is reflected in the income data profiled above.

Major employers in the metro area are

- o **The Westinghouse Savannah River Site (SRS)** -- SRS is a mainstay of the local economy. Several years ago employment at SRS was reported to be as high as 25,000, but has since declined. While SRS employees reside throughout the urban

area, most live in Aiken County. A major effort is under way in the metro area to transfer technology developed at the site to private industry, being coordinated by the Southeastern Technology Center, located in Augusta. The operating profile of SRS in the upcoming years will effect the local economy.

- o **Fort Gordon, and Eisenhower Hospital** which survived the final round of base closures and realignment, and will each gain several hundred new positions. Current employment is about 18,000 persons.
- o **The Medical Community** – anchored by the Medical College of Georgia, University Hospital and the VA Hospital, with employment of 11,088.

The metro area is growing and the economy is currently healthy. The population trends in the metro area have continued to propel the area at a good rate of growth, with a consequent demand for residential retail, office, and other types of land uses.

2.3 Market Characteristics

The following section is a summary of the project market analysis

Retail Sales

Aiken County with \$386 million in retail sales in 1994 captured approximately 25 percent of metro area sales, compared to its 29 percent of the areas population, indicating that there may be some outflow of retail sales to nearby areas. The presence of sales leakage to nearby areas along with growth in population and income levels may indicate opportunity for additional retail development in Aiken County.

Travel and Tourism Industry

A growth industry nationally as well as in South Carolina and locally is the travel and tourism industry. Statistical measures provided by the South Carolina Department of Parks, Recreation and Tourism portray the overall growth in this industry. Accommodations tax collections in the summer months grew 21 percent for the State and 18 percent for Aiken County from 1992 through 1994. Attendance at an array of State Parks, amusement parks, sports complexes, zoos, historical sites, museums and so forth in the State of South Carolina increased 14 percent to 80 million from 1993 to 1994. State-wide collections of admissions taxes for activities such as golf, amusement parks, theaters, miniature golf and auto racing increased 16 percent in the same period. Other visitation indicators have been less robust, such as inbound interstate traffic which was down nearly 4 percent in 1994 from 1993 levels. State welcome Centers showed slight declines in use, but airline travel was up over 30 percent from the previous year.

Locally, this sector of the economy has seen increased activity in the last decade as Augusta, Georgia has become an increasingly important visitor destination. Attractions and events in the area range from the world-renowned Masters Golf Tournament to the Invitational Rowing Regatta which bring both participants and spectators into the metro area. There are numerous other events on the River which bring people into the community. The Masters in 1992 was estimated to have resulted in \$93.7 million in economic impacts, with an estimated attendance of over 220,000 for the seven-day period. The motorcoach tour group business has been increasing significantly within the last few years in the area. This sector of the economy is expected to continue its growth, and become even more important in the future. Identification of opportunities to serve this growing economic sector should be considered as a part of the planning process for the North Augusta Waterfront Area.

Recreational Facilities

The Augusta - North Augusta area has a number of golf courses ranging from prestigious private clubs to daily fee courses. There are fifteen 18-hole courses in the area, with six public and nine private courses. Given the population and income growth in the area and the increasing popularity of the sport there are indications that one or more additional golf courses could be supported in the area. The market study conducted for the original project proposed for the North Augusta waterfront concluded that there was ample demand for this use at the waterfront site.

Other recreational uses could be appropriate for the waterfront. There are just under 10 000 boats registered in Aiken County, and boating is a popular activity, suggesting the possibility of marina development

Residential Development Trends

For the last two decades the metro area has absorbed an average of just under 3,000 dwelling units a year, the great majority being developed as single family homes in the suburbs. Continuing population growth and decline in household size would suggest a continuing demand for residential development in the metro area

In Aiken County, there were 49,266 occupied housing units in 1990, 75 percent of which were owner occupied and 25 percent rental units. North Augusta, had 7,072 units of which 63 percent were owner occupied, which is close to the State-wide average. The vacancy rate in 1990 of owner occupied units was 2.2 percent in Aiken County, but only 1.3 percent in North Augusta. When compared to the national average of 2.1 percent vacancy in ownership units, and 1.7 percent for South Carolina, there is evidence of strong demand for single family housing units in the City of North Augusta. Conversely, the vacancy rate for rental units was 10.1 percent in North Augusta and 11.0 percent in Aiken County as a whole in 1990, compared to the national and State averages of 8.5 and 11.5 percent, indicating that at that time, this housing product was somewhat overbuilt.

In North Augusta, the ten years from 1985 to 1994 saw an average of 71 single family and 28 multi family units developed annually. However, single family production has increased with the average in the 1990's of 90 units per year.

Housing is relatively affordable in Aiken County and North Augusta. Housing prices in North Augusta typically equal the average for the southeast which is below averages for the nation as a whole. The affordability of housing is cited as a contributing factor to population growth in the southeastern U.S. as a whole. Data on sales of residential property in the North Augusta market over the last few years show that single family home sales predominate, with an average value that is somewhat lower than for Aiken County. Lifestyle analysis for the Augusta metro area indicates a generally younger population, with a high percentage of professional and technical workers, and a higher percentage of families with children at home. As would be expected, the lifestyle characteristics that have a high participation index are characteristic of single-family home ownership and include such activities as fishing, owning a dog, running/jogging, and gardening.

There are a number of residential subdivisions in North Augusta, including two within the boundaries of the Riverfront Planning Area. The North Augusta Planning Department had identified 19 such subdivisions with over 1,000 available lots, of which about half have been developed (11/15/93). At current absorption rates, these equal a five to seven year supply of lots at current absorption rates. This is a healthy position for the market, offering prospective buyers a variety of locations, unit types and price ranges. Since this survey, the River North subdivision has been platted. The first phase of River North is for 39 lots, while Phase 2 includes an additional 144 lots. The full build-out is 450 lots, which would add many years supply to the market. Competitive factors, of course, dictate the relative competitiveness of a single family housing development within the marketplace. The Campbelltown Landing project is the other project in the Riverfront Area, and this project has sold all of its riverfront lots but the back lots have been slower sellers.

The Draft North Augusta Comprehensive Land Use and Development Plan summarized housing as follows

"North Augusta plays a minor part in the Aiken/Augusta Urbanized Area housing market. It is important to realize that the size of North Augusta's role in the local housing market is less important than the quality of life that results from the process of building the community. Rampant growth (with all the attendant evils -- traffic congestion, strip development, visual blight, etc.) is more to be avoided than slow growth. Experience shows that this is not sour grapes rationalization. Unfettered growth eventually leads to a deterioration of the quality of life which brings many people to a community in the first place.

Nevertheless, the reasons why potential home buyers select one community over another are fraught with complexity. The school system may give Columbia County an edge for those home buyers who perceive this attribute as paramount. Proximity to SRS may give Aiken an edge for other home buyers. North Augusta's parks and recreational facilities may give this City an edge over both communities. Whatever the reasons, supporting strategies that promote an orderly and beautiful community, in the long run, are the best prescription for creating incentives for choosing North Augusta over other cities in the regional housing market."

Land Uses Within The Plan

In assessing the potential marketability for the North Augusta waterfront, it has been assumed that the Plan will encourage high quality development that will enrich the quality of community life and the prosperity of the community as a whole. The Plan will include recreational amenities and river accessibility for City residents and visitors to North Augusta and will be conceived to allow development within the district to contribute significantly to the financing of the infrastructure necessary to promote high quality development and community amenities.

The plan as conceived will encourage the following development types

- o Single Family Residential
- o Multi-family Residential
- o Hotel/Conference Center
- o Golf
- o Commercial
- o Marina
- o Municipal Services
- o Public Open Space and greeneways

The Riverfront Redevelopment District will be an extremely desirable residential development based on the following factors

- o A location close to the job center and urban amenities of Augusta.
- o Home sites with excellent natural settings including riverfront and river views, mature vegetation and fairway sites
- o Recreational and transportation amenities associated with the Riverfront Master Plan
- o Close-by shopping and services

The exact location of residential development, density, type of housing and ownership has not been determined for the Riverfront Redevelopment District. However, an estimate of total residential build-out is possible based on the significant amenities proposed, and the current major development proposals. The following residential build-out is assumed for the purposes of this analysis

Build-Out Potential

Housing Type	Owner Occupied Residential	Owner Occupied Residential	Owner Occupied Residential	Multi-Family Residential
Owner	RiverNorth	Haskell Family	Omnivest and adjacent parcels	Omnivest
Residential Units	317	167	116	150

The estimate of residential units in the RiverNorth project is based on their current approved plans. The estimate of units in the Omnivest project are based on their current proposal which is subject to further refinement. There are no current publicly released development plans for the Haskell and adjacent parcels. However, they are prime development parcels. The build-out of the Haskell property and adjacent parcels is based on the density levels proposed in this plan. For the purposes of this analysis, it has been assumed that this parcel can support 167 market rate single family housing units. These housing units are included in the projected residential build-out of the site.

Development Pace Of Proposed Residential Development

Absorption in the Riverfront area will be based on the following factors

- o Population trends in the Augusta Metro Area
- o Transportation improvements and public amenities created by the Riverfront Masterplan.

- o The extent to which the housing products planned for private parcels to appeal to diverse markets such as families, seniors, second home, vacation and rental, as well as different income levels, with a more diverse array of housing types creating higher levels of absorption.
- o The extent to which residential developments and privately developed recreational amenities are well planned, constructed and marketed

The City has averaged over 90 single family homes built during the past 5 years. Residential development in the Riverfront area would receive not only its fair share of the current North Augusta housing absorption, but would offer housing with additional market appeal within the entire metro area based on

- o golf orientation
- o river orientation
- o proximity to downtown Augusta, with a suburban setting
- o excellent accessibility within the metro area
- o a waterfront district with extensive trail systems, water access and park amenities

Based on these factors, an annual absorption pace of 60 single family units in the Riverfront district has been assumed for 10 years, then the pace is reduced to 30 units per year during the last five years to reflect the earlier year absorption of the most desirable lots, and the competition of re-sale units to new units. In all, a total of 600 single family homes are assumed to be absorbed over a 10 year period.

Current plans for the Omnivest property include multi-family housing units. This analysis assumes that 150 units will be developed, and that they will be developed in two 75-unit phases. There has been relatively little rental housing developed in North Augusta in recent years, and the proposed units would likely be very marketable based on the desirable setting combined with proximity to downtown Augusta and major transportation routes.

Hotel/Conference Center

The Augusta area lodgings market has grown in the past two decades based on the following factors:

- o Growth in the areas employment sector, particularly the segments that relate to the regional and national economies. These include the Savannah River Site, manufacturing etc.
- o The increase in attendance at meetings, conferences and conventions nationally and regionally.
- o The increase in pass-through travel on I-20.

- o The growth in the tourism and recreation industries, with golf a particularly strong market segment
- o The population growth in the Augusta Metro Area.

The result has been an increase in the supply of lodgings facilities in the Augusta Metro Area, while maintaining healthy occupancy rates. Currently there are approximately 5,000 rooms in 60 Augusta-area hotels and motels. These include 7 properties with 150 or more rooms, and 17 properties with between 100 and 150 rooms. However, North Augusta has only 74 rooms in 5 smaller properties. Given the proximity to downtown Augusta of the Riverfront district, and the unique amenity package that could be offered, a hotel/conference center would occupy a competitive niche in the marketplace. A 100 room hotel would represent only a 2 percent increase in the areas hotel supply, which is within the ongoing growth trend of the local economy and the areas lodging and meetings markets.

Based on these factors, a 125 room hotel/conference center in the Riverfront is assumed. A hotel/conference facility program might be

- o 50,000 SF rooms
- o 20,000 SF meeting space
- o 20,000 SF lobby, restaurant, health club etc

Golf

Indications from our review of the local golf market and the plans put forward by Omnivest, Inc. indicate that this land use has a reasonable likelihood of being developed. In turn, the golf amenity substantially boosts the potential for residential and commercial uses in the Riverfront Redevelopment District. This analysis assumes that a high quality 18 hole course will be developed on the site. Associated clubhouse and residential development would also be developed with a golf course. A 10,000 SF clubhouse and restaurant facility is assumed along with 18 holes.

Commercial

Based on the size, location, population and land uses of the study area, we are assuming the following commercial build-out

- o RiverNorth and other Riverfront areas 20,000 SF
- o Georgia Avenue corridor and other in-fill 80,000 SF

Government Services

The Georgia Avenue corridor represents an opportunity to build a new Municipal Building as part of a Town Center project. This project would offer the benefits of an upgraded City Hall to all residents, while creating an anchor use in the revitalized Georgia Avenue corridor. In addition, the existing Municipal Building has substantial real estate value that could contribute to the cost of a new Municipal Building if the decision were made to sell the property to the private sector.

2.4 Constraints, Problems, and Opportunities

Constraints

Major physical constraints existing to the development of the North Augusta waterfront are shown in **Figure 6** and include the following

- o **Flood Plain** -- some portion of the property in question here is considered an overbank flow area within the flood plain and floodway of the Savannah River. As such, the flood damage prevention ordinance requires a permit for alterations to, or construction on the land. The approximate limit of the flooding is shown on the map in **Figure 6**
- o **Wetlands** -- wetlands are protected or highly limited for most land uses by Section 404 of the United States Clean Water Act. The enforcement of this law is carried out by the Secretary of the Army through a permit program administered by the Corps of Engineers. Delineation of wetland is highly technical and depends on hydrology, plant materials, soil materials, and other factors. Based on these definitions, wetland areas have been identified by others on the Sanders Tract and the Omnivest Tract. The wetlands have not been delineated for the remainder of the project area, however, wetland boundaries have been approximated through study of the Soil Survey of Aiken County as determined by the United States Department of Agriculture, Soil Conservation Service. Approximate wetland boundaries are shown on **Figure 6**
- o **Utilities and Infrastructure** -- Utility systems serving the planning area are generally of sufficient capacity and proximity to accommodate present needs and conceivable types of new development.

Potable water is furnished by the City from its water intake and filter plant on the Savannah River at the upstream extremity of the riverfront district.

Sanitary sewerage main trunk sewer for the collection system extends through the riverfront district, from the upstream service areas toward the Horse Creek Valley Wastewater Treatment Facility near the mouth of Horse Creek. Overall, the arrangement and capacity of the collection system appears adequate to support reasonable new development in the riverfront district.

Storm sewerage is also handled by the City, utilizing a combination of piped systems, natural drains, and detention facilities. The City normally requires storm water detention works to be installed as a part of most new developments.

Other available utilities include natural gas, electric power, telephone, and cable television. The first two are provided by South Carolina Electric and Gas Company. Telephone service is furnished by Southern Bell, and the CATV company is Jones Intercable, Inc. While these services are generally available at strategic sites within the area, additional feeder lines may be needed depending upon the intensity and type of new development.

Utility lines and easements traverse and extend through various parts of the project area. Some of the major easements within the project area consist of Georgia Power Company Easement, South Carolina Electric and Gas Co. Easement, a Colonial Pipeline (gasoline) Easement, and various water distribution and sanitary sewer trunk line easements. The major utility easements are shown on **Figure 6**

- o **Transportation** -- Area traffic projections generally indicate only a few future capacity problems. These are being addressed by the widening projects along the Aiken-Augusta Highway (U S 1) and Knox Avenue (U S 25), as well as the construction of the Bobby Jones Expressway (I-520) extension. Access to the planning area by road needs improvement. The elevated roadways at the bridge approaches that mark the principal gateways cause motorists to whisk through or over the riverfront district without a second glance. The severe topography of the bluff and the location of a rail line at its base, taken together with the old flooding habits of the Savannah River itself, have combined to limit severely vehicular access to the riverfront lands. Even where access physically exists, the route is often not easy to find and is of poor physical and visual quality. New development of riverfront district lands will generate some increased level of new vehicular traffic flows, depending upon the intensity and types of development. These increased volumes, considered on top of the current access deficiencies, will require roadway improvements, the exact character of which will be assessed.

Problems

Figure 7 indicates a summary of the major site and access problems which must be addressed in the waterfront plan development process. These tend to be associated with the "barrier" effect of both topography and active rail usage, which divorces the waterfront land from the remainder of the city, as well as with negative image of the waterfront and poor access to it. The problems which have been shown tend to be clustered in two zones.

- o **Along Georgia Avenue** -- North Augusta has a "formal" street with a very strong axis, but where economic and physical deterioration have occurred. The economic deterioration has been associated with more recent retail developments on large sites along Martintown Road and elsewhere which have made businesses along Georgia Avenue less competitive. Some traditional retail frontages have become vacated and others are not developed in a way which allows them to be competitive with more contemporary competitors. Physical deterioration has tended to occur in two ways. Over time, large street trees and generous sidewalks have been lost or diminished in favor of additional parking and road space. Additionally, pressures for parking visible from the road have led to removal of some buildings which had strong street frontages in favor of more contemporary ones with large parking expanses, diminishing the historic character of this important entry street to the community. Areas where the streetscape character has been particularly diminished include the large parking expanses surrounding the churches on either side of Calhoun Park at the northern terminus of Georgia Avenue and the poorly sited and relatively unattractive area in the vicinity of the motel and liquor store at the bend in Georgia Avenue at its southern terminus. The southerly area plays an important role in defining the image of this segment of the street and the community, as it is highly visible from vehicles traveling both north and south on this key street.

Figure 6 Physical Constraints

For the
City of North Augusta South Carolina

By the joint effort of
Lan Frenchman and Associates Inc
and
CityDesign Collaborative Inc

with
Crampton Robertson & Whitehurst P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Walbur Smith Associates

Slope Slopes

••••• > 25%

••••• 12.5% - 25%

■ Buildings

■ Easements

— Road

— Utility

— Sewage

— Drainage

— Rights-of way

— Streets

— Railroads

■ Water Bodies

— Flood Plain

— 100 year

— City Limits



1200 0 1200 2400 3600 Feet

Figure 7 Summary of Study Area Problems

For the
City of North Augusta, South Carolina

By the joint effort of
Lane Trinchman and Associates, Inc.
and
City Design Collaborative, Inc.

with
Cranston Robinson & Whitehurst, P.C.
Office of Douglas J. Martin
Planning Research and Management Associates
Wilbur Smith Associates



Figure 8

Summary of Study Area Opportunities

For the
City of North Augusta, South Carolina

By the joint venture of
Lane trenchman and Associates Inc.
and
CityDesign Collaborative Inc.

with
Ciancio, Roberts & Whitehurst P.C.
Office of Thomas J. Marun
Planning Research and Management Associates
William Smith Associates

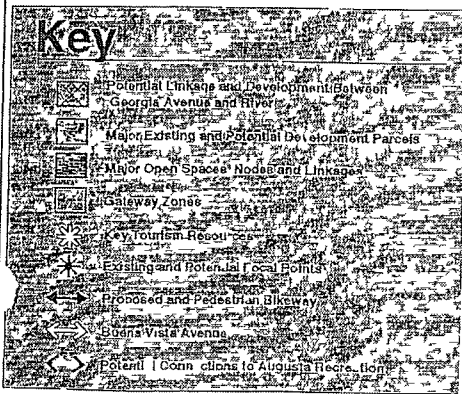


Figure 9 The Recommended Plan

City of North Augusta, South Carolina

By the joint efforts of
Lane Finchman and Associates, Inc.
and
City Design Collaborative, Inc.

Created by Robertson & White, Inc.
City of North Augusta, South Carolina
and
Lane Finchman and Associates, Inc.
City Design Collaborative, Inc.

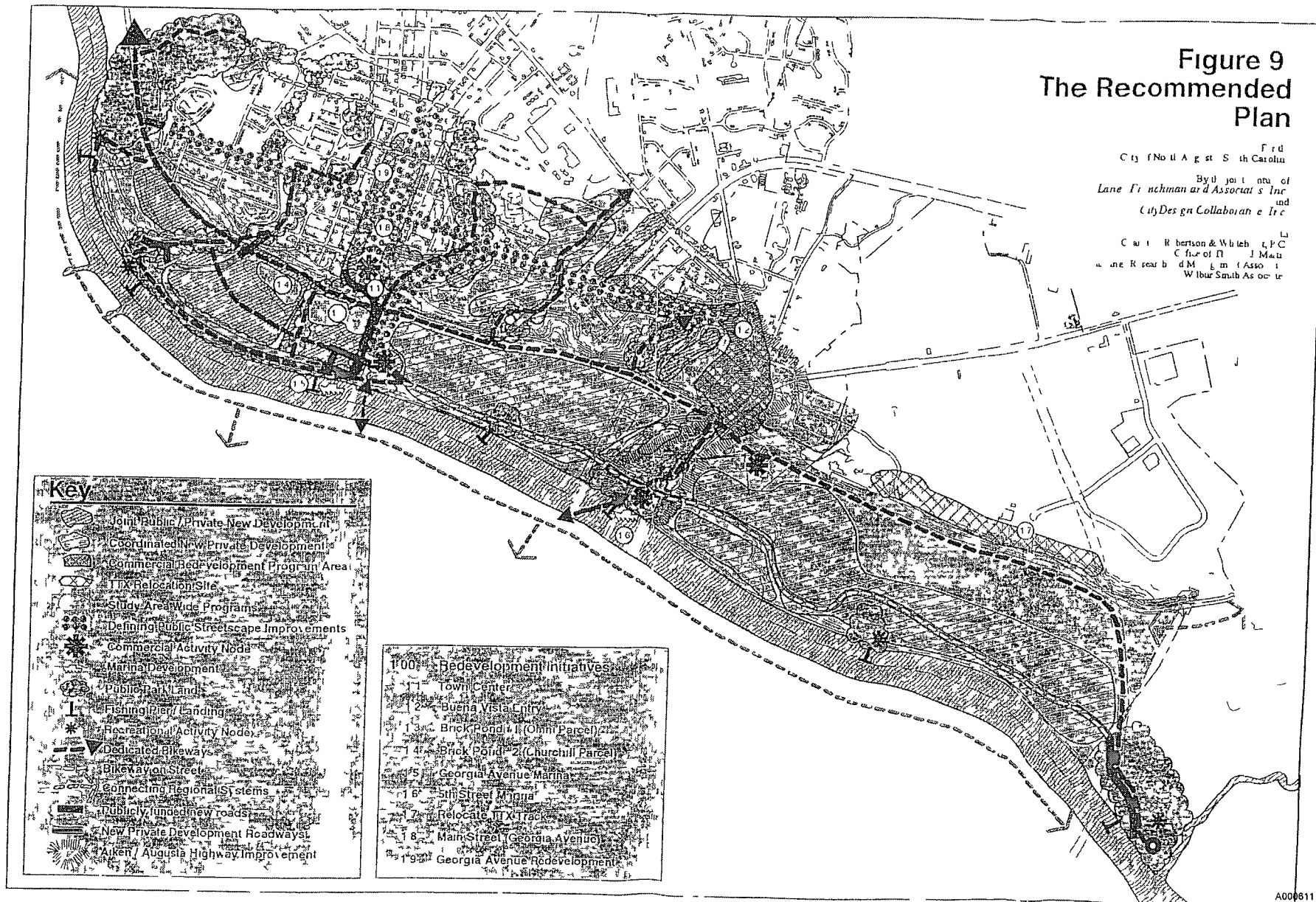


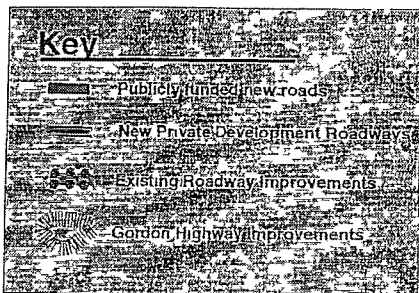
Figure 10 Street Improvements

For the
City of North Augusta, South Carolina

By the joint venture of
Lane Frenchman and Associates, Inc.
and
City Design Collaborative, Inc.

with
Cranston Robertson & Whitburn, P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Walbur Smith Associates

Aiken Augusta Highway/
River Road Gateway
Improvements Area



2.00 Roads and Streets

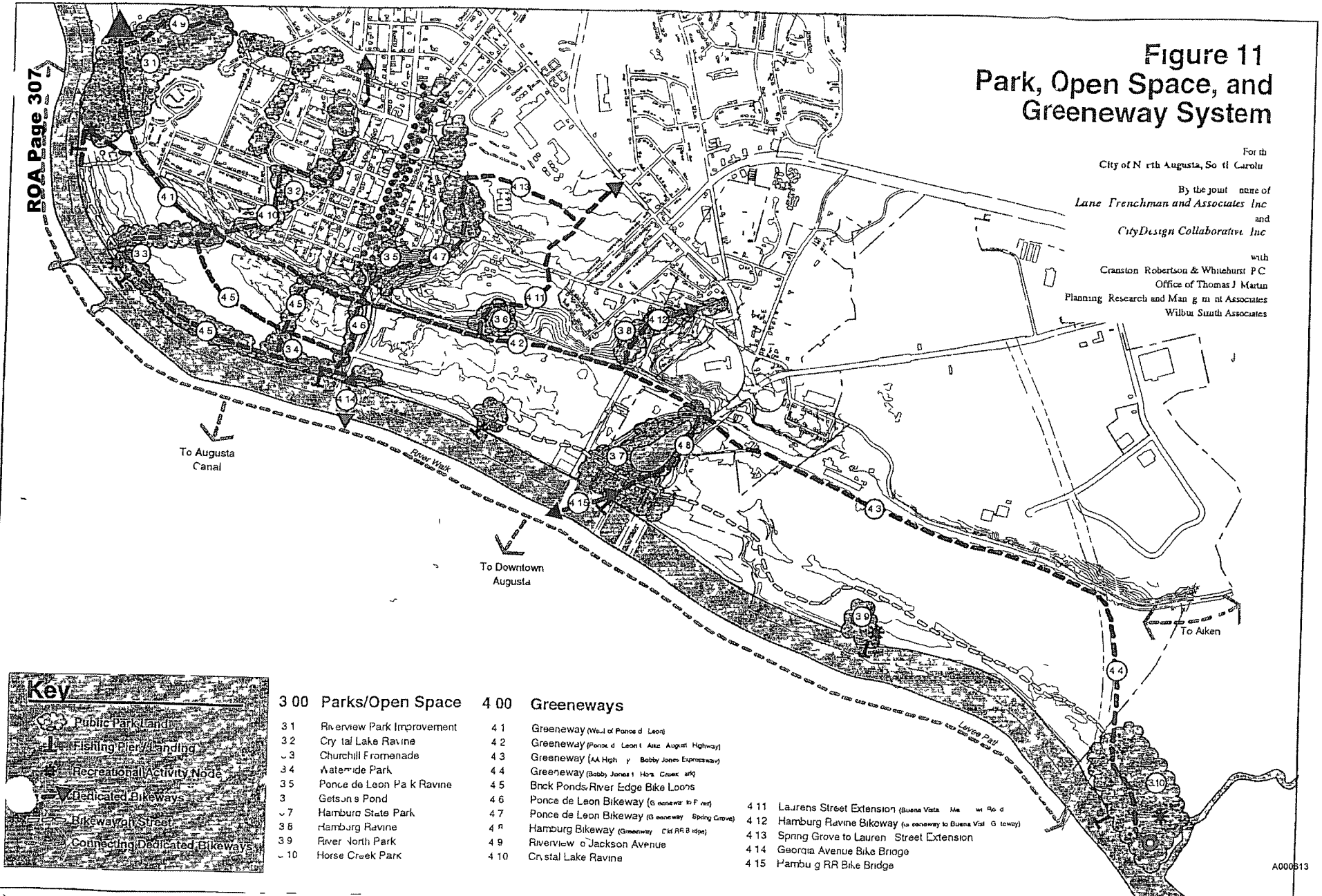
- 2.1 Campbell Town Crossing
- 2.2 Railroad Avenue/Waterside Park Boulevard
- 2.3 Hamburg State Park River Road
- 2.4 Horse Creek Access Road
- 2.5 Riverview Park Entry
- 2.6 Crystal to Churchill Access Road
- 2.7 Wus Avenue Extension (Overlook Road)
- 2.8 Rivergate Improvements (Greenway to Five)
- 2.9 Rivergate Improvements (Greenway to Bucina Vista)
- 2.0 Buena Vista Improvements

Figure 11 Park, Open Space, and Greenway System

For the
City of North Augusta, South Carolina

By the joint name of
Lane Frenchman and Associates, Inc.
and
CityDesign Collaborative, Inc.

with
Cranston Robertson & Whitehurst, P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Wilbur Smith Associates



Key

- Public Park Land
- Fishing Pier/Landing
- Recreational Activity Node
- Dedicated Bikeways
- Bikeway on Street
- Connecting Dedicated Bikeways

300 Parks/Open Space

- 31 Riverview Park Improvement
- 32 Crystal Lake Ravine
- 33 Churchill Fromenade
- 34 Wateride Park
- 35 Ponce de Leon Park Ravine
- 36 Getson's Pond
- 37 Hamburg State Park
- 38 Hamburg Ravine
- 39 River North Park
- 40 Horse Creek Park

400 Greenways

- 41 Greenway (West of Ponce de Leon)
- 42 Greenway (Ponce de Leon to Aiken Highway)
- 43 Greenway (AA Highway Bobby Jones Expressway)
- 44 Greenway (Bobby Jones to Horse Creek area)
- 45 Back Ponds/River Edge Bike Loops
- 46 Ponce de Leon Bikeway (Greenway to Ferry)
- 47 Ponce de Leon Bikeway (Greenway to Spring Grove)
- 48 Hamburg Bikeway (Greenway to Old RR Bridge)
- 49 Riverview to Jackson Avenue
- 410 Crystal Lake Ravine
- 411 Laurens Street Extension (Buena Vista to Main Highway)
- 412 Hamburg Ravine Bikeway (Greenway to Buena Vista Highway)
- 413 Spring Grove to Laurens Street Extension
- 414 Georgia Avenue Bike Bridge
- 415 Hamburg RR Bike Bridge

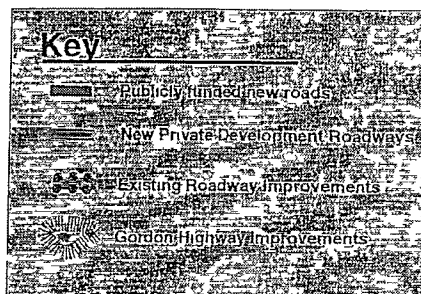
Figure 10 Street Improvements

For the
City of North Augusta, South Carolina

By the joint venture of
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and
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with
Cranston Robinson & Whitburn, P.C.
Office of Thomas J. Martin
Planning, Research and Management Associates
Walrus Smith Associates

Aiken Augusta Highway/
River Road Gateway
Improvements Area



2 00 Roads and Streets

- 2 1 Campbell Town Crossing
- 2 2 Railroad Avenue/Waterside Park Boulevard
- 2 3 Hamburg/Slate Park/River Road
- 2 4 Horse Creek Access Road
- 2 5 Riverview Park Entry
- 2 6 Cross to Churchill Access Road
- 2 7 West Avenue Extension (Overlook Road)
- 2 8 Rivergate Improvements (Greenway to River)
- 2 9 Rivergate Improvements (Greenway to Bucna Vista)
- 2 0 Bjerrevia Improvements

A000814

Figure 11 Park, Open Space, and Greenway System

For the
City of North Augusta, South Carolina

By the joint venture of
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Office of Thomas J. Martin
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Wilbur Smith Associates

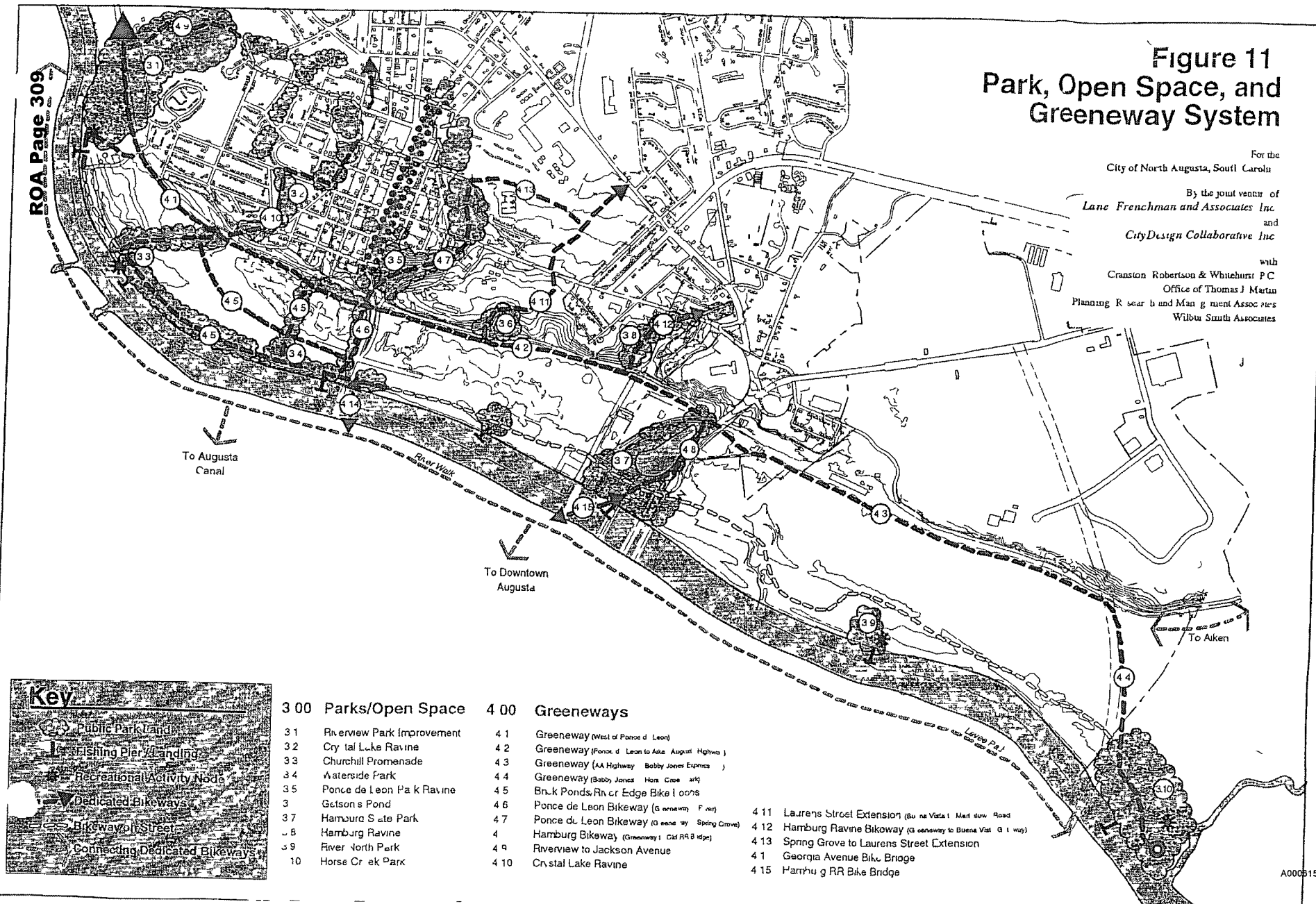


Figure 12 Sub-Areas

For the
City of North Augusta, South Carolina

By the joint venture of
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and
CityDesign Collaborative, Inc.

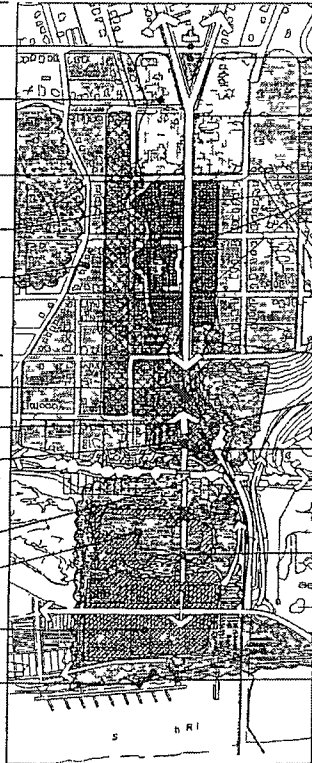
with
Cranston Robertson & Whitehurst, P.C.
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Planning Research and Management Associates
Wilbur Smith Associates



Figure 13
Georgia Avenue Gateway
Design Concepts

Proposed Landuse

- Sub-area 1.1
Upper Georgia Ave
- The Industrial Area
- West Area uses New Village
Main Street
- Artisanal Commercial Area
- Existing Traditional Neighborhoods
- Sub-area 1.2 Village Center
- Transit/Commercial Complex
- Transit Area
- Village Scale Commercial
- Sub-area 1.3
Georgia Avenue West Front
- Overlook Park
- Back Pond / Nature Area
- High Density Traditional
Neighborhood Development
- Riverfront Park / Marina and
Commercial / Office Core



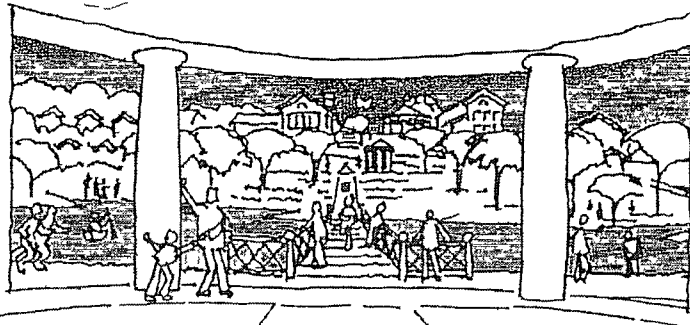
Reinforcing the Georgia Avenue Axis

- Operate Visual to Look North
- Coordinated Streetscape Treatment (See Fig. 14)
- Planting
- Lighting
- Street Furniture
- Signage
- Paving
- New Private Development Guidelines
- Medium Front Yard Setbacks (Ten Feet Maximum)
- Primary Entrances and Windows Display Georgia Avenue
- Parking in Rear With Access via Side Streets
- Minimize Mid-Block Curb Cuts and Provide
- Landscaped Buffer at Georgia Avenue
- First Street West Area Corner
- With Relocated Village Scale Community Building
- Re-establish Historic Park
- Corner to Public Open Space
- Develop Village Center
- for Georgia Avenue
- Continue Axial View
- throughout Village Center Focus
- Relocate and Connect
- Axial to Riverfront
- Low Traffic Density
- Mid-Block Park
- Flanking Bridge
- Park Features
- Axis
- Art, Flags, Banners
- Terminal Axis with
- Park Features at River Edge
- Overlook Terrace
- Art, Flags, Banners

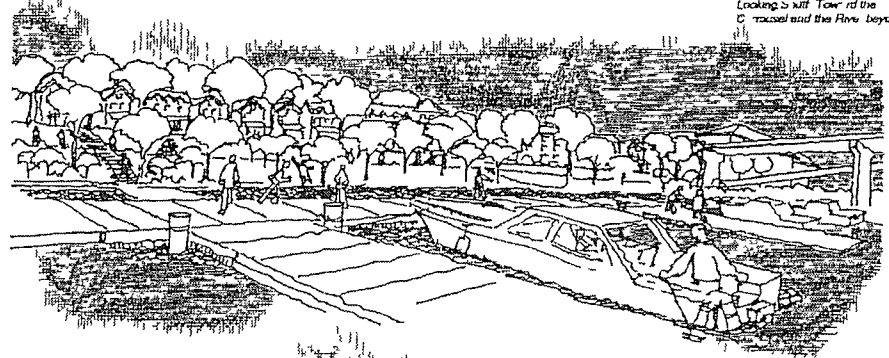


For the
City of North Augusta, South Carolina
By the joint effort of
Lane Frenchman and Associates Inc.
and
CityDesign Collaborative Inc.
with
Cranston, Robertson & Whitehurst, P.C.
Office of Thomas J. Martin
Planning, Research and Management Associates
William Smith Associates

1. The Village Center
Looking South from the
Cultural and the River beyond

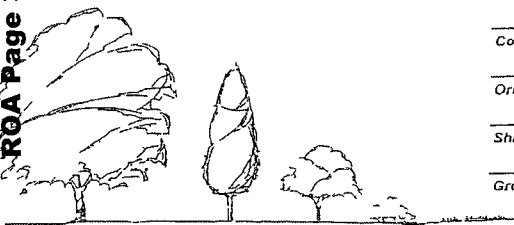


The Axis is Reinforced Through the Back
Pond Area with Pedestrian and
Floating Bridge.

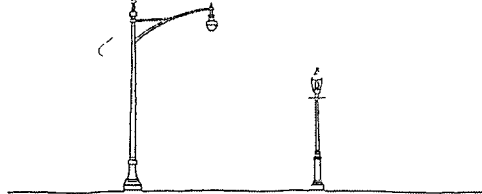


Marina and Back Bridge August 1991

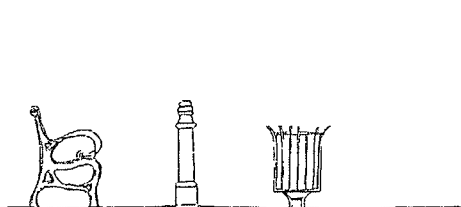
Elements of the Public Streetscape

Item	Type	Use Location	Speciman/Product Recommendations
	Primary Street Tree	Provide canopy effect on Major Arterials	Chinese Elm, Ale (Ulmus Parviflorus, Alle)
	Columnar Street Tree	Reinforce street wall at narrow sidewalk locations	Bald Cypress (Taxodium Distichum)
	Ornamental Tree	Provide seasonal flowering and color	Crape Myrtle (Lagerstroemia Indica)
	Shrubs	Provide seasonal buffer and reinforce street wall	Liquidambar, Boxwood, American Holly and as ornamental A.alea
	Ground cover	Median between sidewalk and street/ Park locations	Centipede or zoysia sod and annual plantings

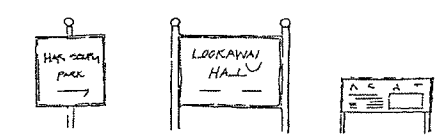
LIGHTING

	Boulevard Scale	Roadway lighting along Major Arterials	Various manufacturers Lamp Type Halogen Lamp post: Cast Iron with banner brackets
	Village Scale	Pedestrian scaled within new village center and TND areas	Various manufacturers Lamp Type Halogen Lamp post: Cast Iron with banner brackets
	Accent lighting	Illuminate special features, facades and areas	Various manufacturers Lamp Type Halogen Lamp post: Cast Iron with banner brackets

TREE FURNITURE

	Benches	New town center parks and other high volume outdoor nodes	Cast Iron & Wood (Suggested North Augusta standard Cretchen's Bench by Landscape Forms, Inc)
	Bollards	Corridor wide at critical pedestrian/vehicular conflict areas	Wood or Cast Iron to match light standards
	Waste Receptacles	Corridor wide at high volume foot traffic areas	Decorative steel trash receptacle with lid (Suggested North Augusta standard 278/96 Model 87 benches by DuMor Inc)
	Special Features	At key locations to reinforce the axis and celebrate sites including the new town center and the riverfront	Sculpture, banners, kiosks, etc to be determined

SIGNAGE

	Identification	Area and node announcement, Street name signs	Custom wood/metal with silk screen artwork and typography
	Directional	Trailblazers on arterials directing visitors to specific areas, nodes and sites	Custom wood/metal with silk screen artwork and typography Metal post with finial cap
	Interpretive	Storytelling panels	

PAVING

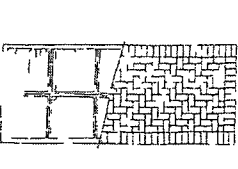
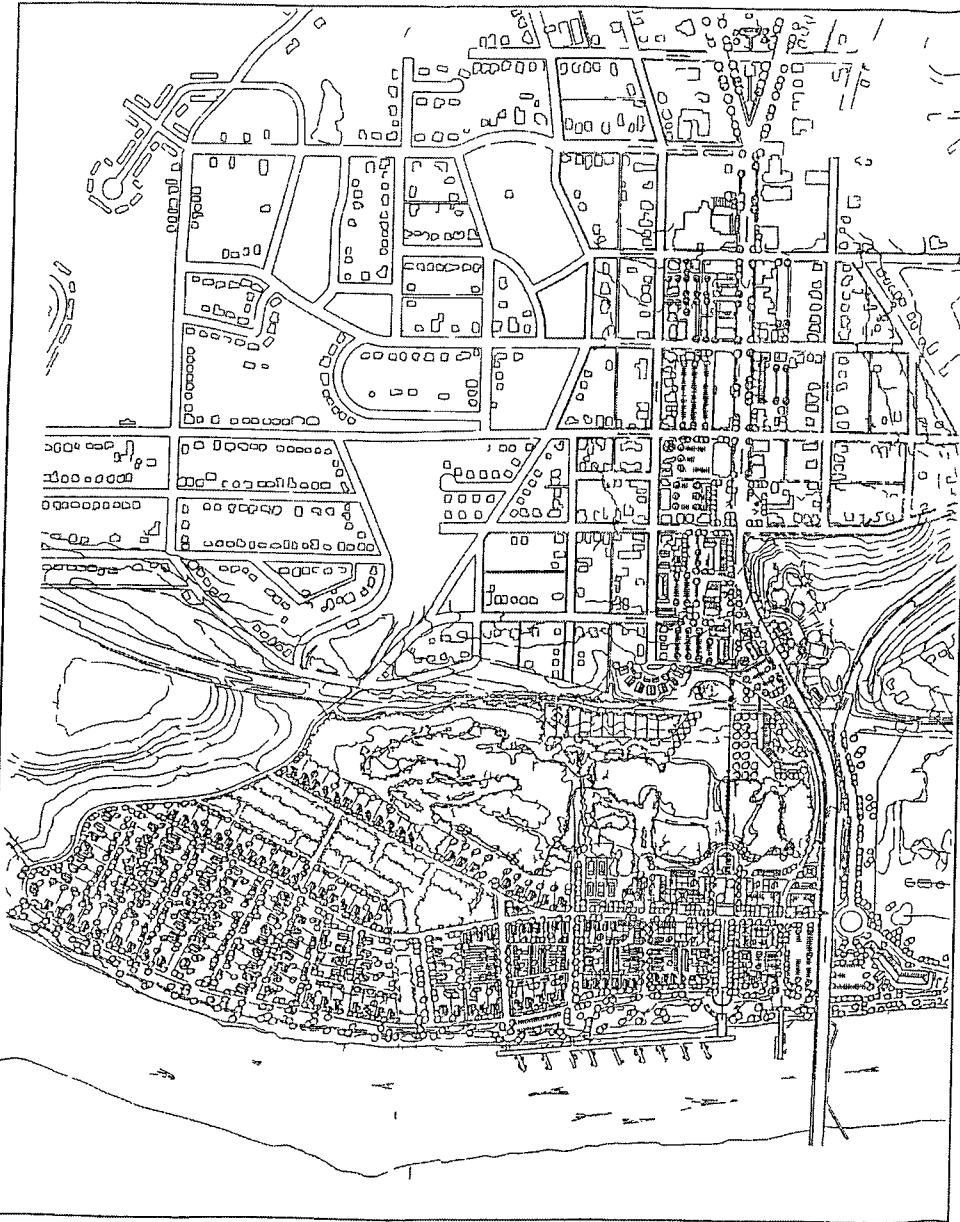
	Concrete	Typical sidewalk treatment in the institutional and arterial commercial corridors of Georgia Avenue	Scored, polished, or stamped concrete with room finish
	Brick pavers	Specialty paving and around the river to create a at key locations along the lower Georgia Avenue axis Also utilized in broad field application by private commercial enterprises as an alternative to concrete sidewalks	Only to select a North Augusta standard brick paver from local manufacturers to be laid in decorative fields with soldier course border

Figure 13a Georgia Avenue Coordinated Streetscape Concepts

For the
City of North Augusta, South Carolina

By the joint venture of
Lane Frenchman and Associates, Inc.
and
City Design Collaborative, Inc.

with
Canton, Robertson & Whitehurst, P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Wilbur Smith Associates



Sub area 1 1 Upper Georgia Avenue

Look Away Hall

The Institutional Area

- *West Avenue as New Village Main Street*

Arterial Commercial Area

- *Existing Traditional Neighborhoods*

Sub area 1 2 Village Center

- *TownHall / Communities Complex*
- *Towngreen*
- *Village Scale Commercial Center*

Sub area 1 3 Georgia Avenue Water Front

- *Over Look Park*
- *Brick Ponds / Nature Area*
- *High Density Traditional Neighborhood Development*
- *Riverfront Park / Marina and Commercial / Conference Complex*

Figure 14 Georgia Avenue Gateway Illustrative Plan

For the
City of North Augusta, South Carolina

By the joint venture of
Lane Frenchman and Associates Inc.
and
CityDesign Collaborative Inc.

with
Crawston Robertson & Whitehurst, P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Wilbur Smith Associates

Figure 12 Sub-Areas

For the
City of North Augusta, South Carolina

By the joint venture of
Lane Frenchman and Associates Inc
and
CityDesign Collaborative Inc

with
Cranston Robertson & Whitehurst, P.C.
Office of Thomas J. Martin
Planning Research and Management Associates
Wilbur Smith Associates



Proposed Landuse

Sub-area 1.1
Upper Georgia Ave

Local Commercial

Traditional Neighborhood

Art/Local Commercial

Existing Traditional Neighborhood

Sub-area 1.2 Village Center

Traditional Commercial

Traditional Commercial

Village Scale Commercial

Sub-area 1.3 Georgia Ave

Wider Front

Overlook Park

Back Porch / Natural Area

High Density Traditional Neighborhood Development

River Park / Marina and Commercial / Conference Complex

Reinforcing the Georgia Avenue Axis

Open Pavement Low-key Hill

Coordinated Streetscape Treatment (See Fig. 3a)

Planting

Lighting

Signage

Paving

Neighborhood Design Guidelines

Minimize Front Yard Setbacks (Ten Feet Maximum)

Planting in Rear With Access via Side Streets

Minimize Mid-block Curb Cuts and Provide Landscaping Buffer at Georgia Avenue

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Minimize Mid-block Curb Cuts and Provide Landscaping Buffer at Georgia Avenue

Figure 13 Georgia Avenue Gateway Design Concepts

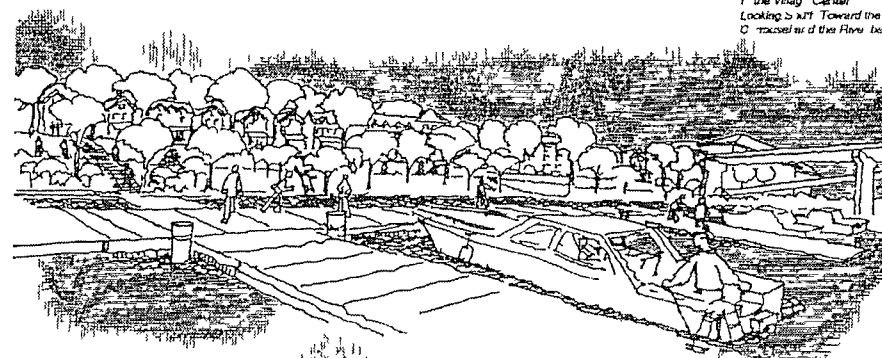


For the
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Landscape Research and Management Associates
William Smith Associates

1. The Village Center
Looking South Toward the
River beyond



Marina and Bridge to Augusta Riverwalk

A000621

Elements of the Public Streetscape

Item	Type	Use/Location	Speciman/Product Recommendations
PLANTING	Primary Street Tree	Provide canopy effect on Major Avenues	Chinese Elm - Alle (Ulmus Parviflora - Alle)
	Columnar Street Tree	Reinforce street wall at narrow sidewalk locations	Bald Cypress (Taxodium Distichum)
	Ornamental Tree	Provide seasonal flowering and color	Crape Myrtle (Lagerstroemia indica)
	Shrubs	Provide visual buffer and reinforce street wall	Lingum Boxwood American Holly and as ornamental Allea
	Ground cover	Median between sidewalk and street/ Park locations	Centipede or zoysia sod and annual plantings

LIGHTING

	Boulevard Scale	Roadway lighting along major Avenues	Various manufacturers Lamp Type Halogen Lamp post: Cast Iron with banner brackets
	Village Scale	Pedestrian scaled within new village center and TND areas	Various manufacturers Lamp Type Halogen Lamp post: Cast Iron with banner brackets
	Accent lighting	Illuminate special features facades and areas	Various manufacturers Lamp Type Halogen Lamp post: Cast Iron with banner brackets

TREET FURNITURE

	Benches	New town center parks and other high volume outdoor nodes	Cast Iron & Wood (Suggested North Augusta standard Cretchens Bench by Landscape Forms, Inc)
	Bollards	Corridor wide at critical pedestrian/ vehicular conflict areas	Wood or Cast Iron to match light standards
	Waste Receptacles	Corridor wide at high volume foot traffic areas	Decorative steel trash receptacle with lid (Suggested North Augusta standard 28/96 Model 87 Cretchens by DuMor Inc
	Special Features	At key locations to reinforce the axis and celebrate sites including the new town center and the riverfront	Sculpture banners kiosks etc to be determined

SIGNAGE

	Identification	Area and mode announcement Street name signs	Custom wood/metal with silk screen artwork and typography
	Directional	Trailblazers or venues directing visitors to specific areas nodes and sites	Custom wood/metal with silk screen artwork and typography Metal post with finial cap
	Interpretive	Story telling panels	

PAVING

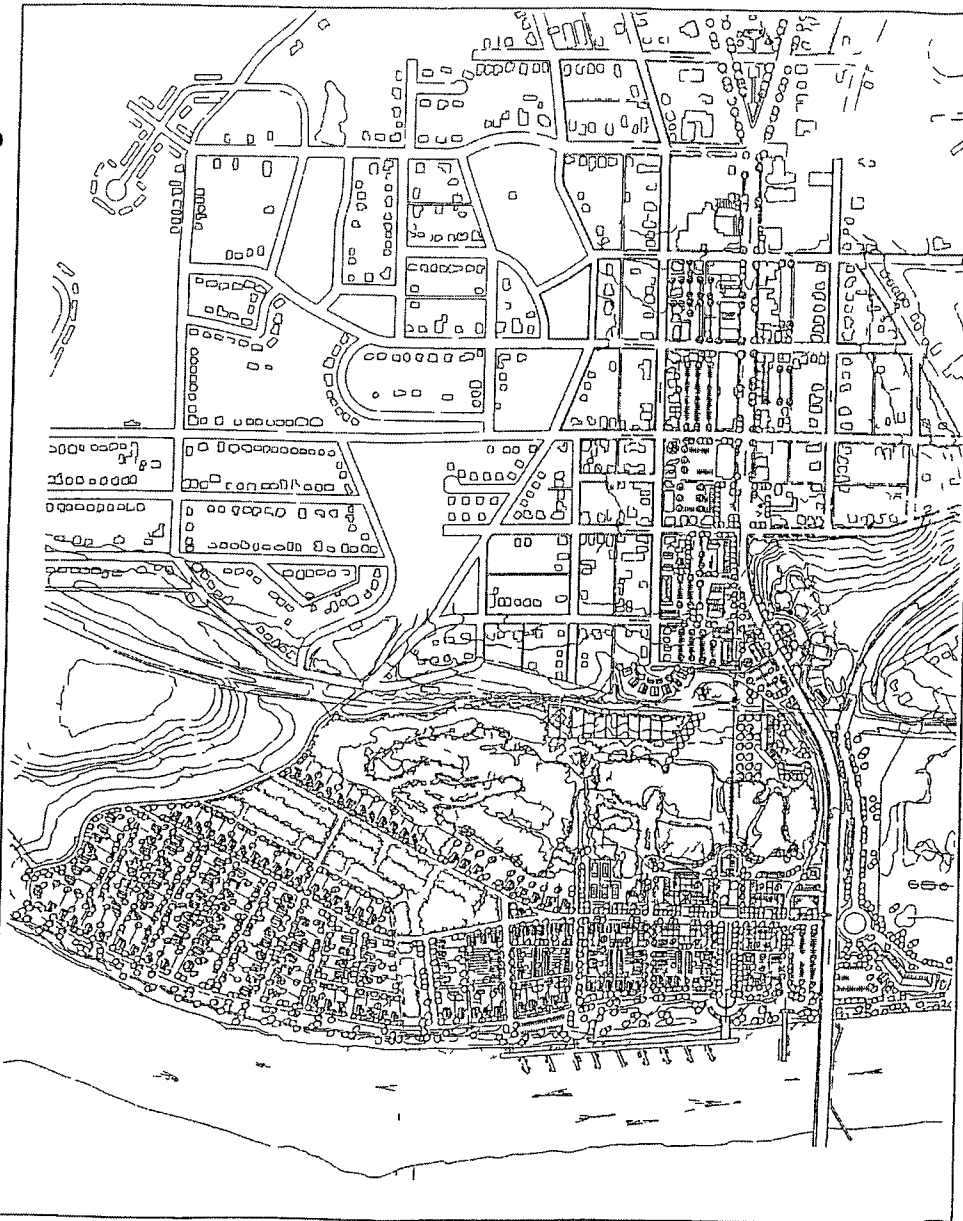
	Concrete	Typical sidewalk treatment in the institutional and arterial commercial segments of Georgia Avenue	Scored poured in-place concrete with rebar
	Brick pavers	Specialty paving around the new town center at key locations along the Lower Georgia Avenue axis Also allowed in road frontage applications by private commercial interests as an alternative to concrete sidewalks	City to select a North Augusta standard brick paver from local manufacturers to be laid decorative fields with soldier course border

Figure 13a Georgia Avenue Coordinated Streetscape Concepts

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Planning Research and Management Associates
Wilbur Smith Associates



Sub area 1.1 Upper Georgia Avenue

Look Away Hall

The Institutional Area

- *West Avenue as New Village Main Street*

- *Arterial Commercial Area*

Existing Traditional Neighborhoods

Sub area 1.2 Village Center

- *TownHall / Communities Complex*

- *Towngreen*

- *Village Scale Commercial Center*

Sub area 1.3 Georgia Avenue Water Front

- *Over Look Park*

- *Brick Ponds / Nature Area*

- *High Density Traditional Neighborhood Development*

- *Riverfront Park / Marina and Commercial / Conference Complex*

Figure 14 Georgia Avenue Gateway Illustrative Plan

For the
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Wilbur Smith Associates

Figure 16 Tax Increment Finance (TIF) Area

For the
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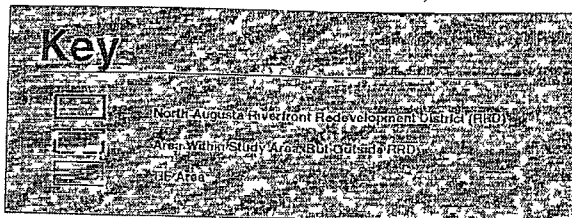
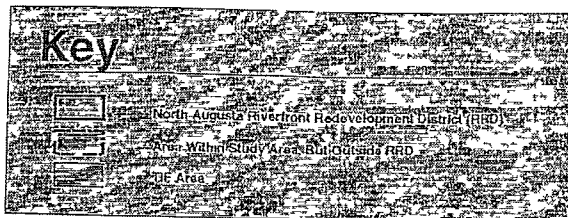


Figure 16 Tax Increment Finance (TIF) Area

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Office of Thomas J. Martin
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Wilbur Smith Associates



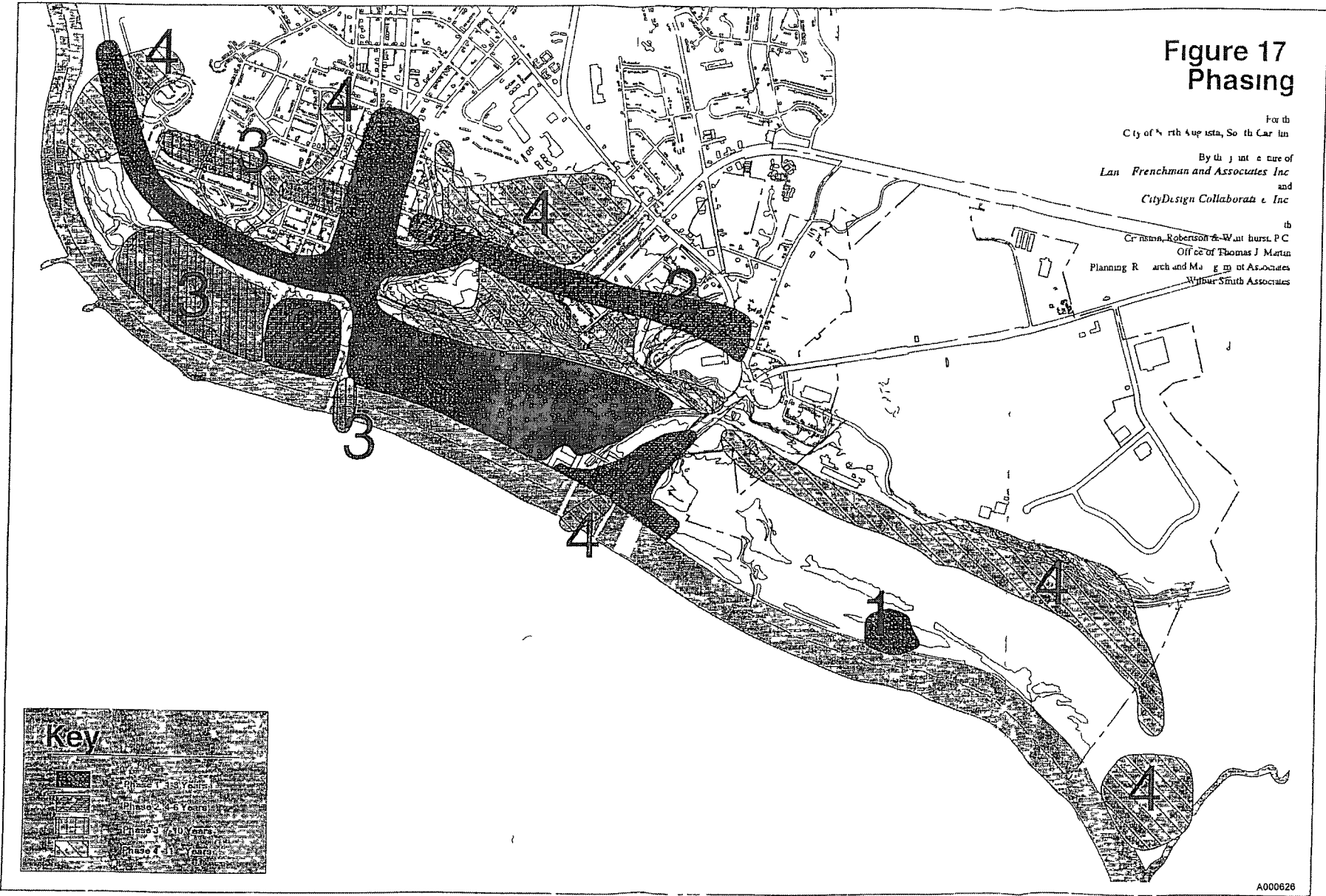
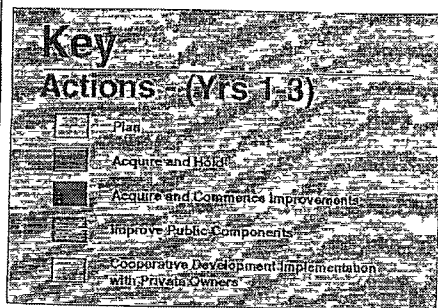


Figure 18 Phase I Actions

For the
City of North Augusta, South Carolina

By the joint effort of
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and
City Design Collaborative, Inc.

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Wilbur Smith Associates



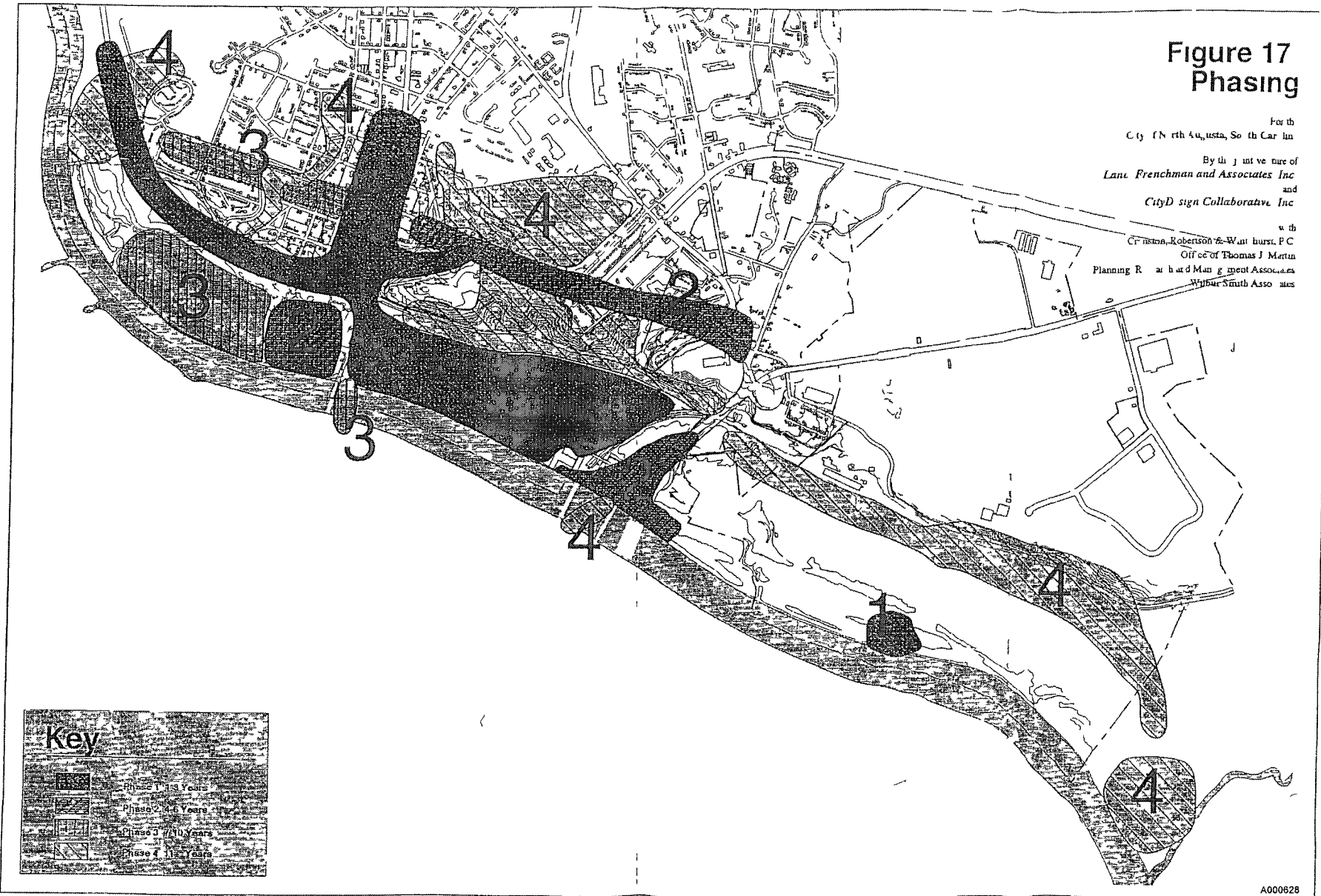
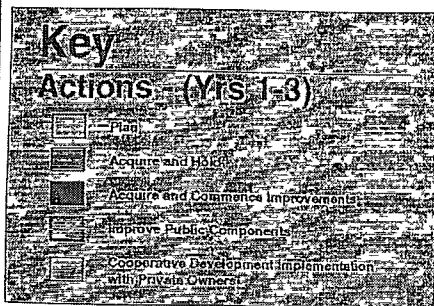


Figure 18 Phase I Actions

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**NEW ISSUE – FULL BOOK-ENTRY ONLY
BANK QUALIFIED**

**RATING Moody's "MIG-1"
(See "MISCELLANEOUS"—Rating herein)**

In the opinion of McNair Law Firm P A Bond Counsel assuming continued compliance by the School District with the provisions of the Internal Revenue Code of 1986 as amended (Code) as described herein interest on the Notes is excludable from gross income for federal income tax purposes under existing laws regulations rulings and judicial decisions Interest on the Notes is not an item of tax preference in computing the alternative minimum tax on individuals and corporations nor is it included in adjusted current earnings when calculating corporate alternative minimum tax The Notes and the interest thereon will also be exempt from all State county municipal school district and other taxes or assessments imposed within the State of South Carolina except estate transfer and certain franchise fees See LEGAL MATTERS – TAX EXEMPTION AND OTHER TAX MATTERS regarding these and other matters The School District has designated the Notes as qualified tax exempt obligations for purposes of Section 265 of the Internal Revenue Code of 1986 as amended

**\$3,600,000
SCHOOL DISTRICT NO 1
OF SPARTANBURG COUNTY, SOUTH CAROLINA
GENERAL OBLIGATION BOND ANTICIPATION NOTES, SERIES 2010**

Dated July 28, 2010

Due July 28, 2011

The \$3 600 000 General Obligation Bond Anticipation Notes Series 2010 (the Notes) of School District No 1 of Spartanburg County South Carolina (the School District) are issued in anticipation of the issuance of general obligation bonds The Notes will be general obligations of School District No 1 of Spartanburg County South Carolina (the School District) and as such the full faith credit and taxing power of the School District will be irrevocably pledged for the payment thereof

The Notes are issuable in fully registered form and when issued will be registered to Cede & Co as nominee of The Depository Trust Company New York New York (DTC) to which principal and interest payments on the Notes will be made Individual purchases of beneficial interests in the Notes will be made in book entry form only in the principal amounts of \$5 000 or any whole multiple thereof So long as Cede & Co as nominee of DTC is the registered owner of the Notes references herein to the holders of the Notes or registered owners of the Notes shall mean Cede & Co and shall not mean the beneficial owners of the Notes So long as Cede & Co is the registered owner of the Notes the principal and interest on the Notes are payable to Cede & Co as nominee for DTC which in turn will remit such principal and interest to the DTC Participants (as defined herein) for subsequent disbursements to the beneficial owners of the Notes See THE NOTES–Book Entry Only System

The Notes will be dated their date of delivery The principal of and interest on the Notes will be payable at maturity upon presentation at Regions Bank in Columbia, South Carolina The Notes will bear interest at the interest rate shown below calculated on the basis of a 360 day year comprised of twelve 30-day months and will mature on July 28 2011 The Notes are not subject to redemption prior to maturity

GENERAL OBLIGATION BOND ANTICIPATION NOTES SERIES 2010

<u>Maturity</u>	<u>CUSIP</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>
July 28 2011	846880 DW9	\$3 600 000	1 50%	0 600%

The Notes are offered when as and if issued and delivered to and received by the Underwriter and subject to the approving opinion of McNair Law Firm P A Greenville South Carolina Ross Sinclair & Associates LLC has served as Financial Advisor for the School District in connection with the issuance of the Notes It is expected that the Notes in definitive form will be delivered on July 28 2010 to DTC and be available for credit to the account of the DTC Participants

*This cover page contains certain information for quick reference only It is **not** a summary of this issue Investors should read the entire Official Statement to obtain information essential to the making of an informed decision*

SOUTHWEST SECURITIES, INC

This Official Statement is dated July 14 2010

APPENDIX C

FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the Disclosure Certificate) is executed and delivered by School District No. 1 of Spartanburg County, South Carolina (the School District) in connection with the issuance of \$3,600,000 General Obligation Bond Anticipation Notes Series 2010 (the Notes). The Notes are being issued pursuant to a Resolution adopted by the Board of Trustees of the School District on May 10, 2010 (the Resolution). The School District covenants and agrees as follows:

SECTION 1 Purpose of the Disclosure Certificate This Disclosure Certificate is being executed and delivered by the School District for the benefit of the beneficial owners and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

SECTION 2 Definitions The following capitalized terms shall have the following meanings:

Annual Report shall mean any Annual Report provided by the School District pursuant to, and as described in Sections 3 and 4 of this Disclosure Certificate.

Beneficial Owner shall mean any person who (a) has the power directly or indirectly to vote or consent with respect to or to dispose of ownership of, any bonds (including persons holding bonds through nominees, depositories or other intermediaries) or (b) is treated as the owner of any bonds for federal income tax purposes.

Dissemination Agent shall mean the School District or any successor Dissemination Agent designated in writing by the School District and which has filed with the School District a written acceptance of such designation.

Holders or Holders of the Notes shall mean the registered owners of the Notes.

Listed Events shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

MSRB shall mean the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934.

National Repository shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

Notes shall mean the \$3,600,000 original principal amount General Obligation Bond Anticipation Notes Series 2010 dated July 28, 2010.

Official Statement shall mean the official statement of the School District dated July 14, 2010, prepared in connection with the issuance of the Notes.

Participating Underwriter shall mean the original underwriter of the Notes required to comply with the Rule in connection with offering of the Notes.

Repository shall mean the National Repository and each State Repository, if any.

Rule shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934 as the same may be amended from time to time.

State Repository shall mean any public or private repository or entity designated by the State of South Carolina as a state repository for the purpose of the Rule. As of the date of this Certificate, there is no State Repository.

SECTION 3 Provision of Annual Reports

(a) The School District shall provide or shall cause the Dissemination Agent to provide not later than February 1 of each year commencing in 2011 to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the School District shall provide the Annual Report to the Dissemination Agent, if other than the School District provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date, unaudited financial statements of the School District may be included in such Annual Report in lieu thereof, and the School District shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package and may cross-reference other information as provided in Section 4 of this Disclosure Certificate, provided that the audited financial statements of the School District may be submitted separately from the balance of the Annual Report.

(b) If the School District is unable to provide to the Repositories an Annual Report by the date required in subsection (a), the School District shall send a notice to the Municipal Securities Rulemaking Board and State Repository, if any, in substantially the form attached hereto as Exhibit A.

(c) The Dissemination Agent shall

(1) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and each State Repository, if any, and

(2) if the Dissemination Agent is other than the School District, file a report with the School District and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and if provided, stating the date it was provided, and listing all the Repositories to which it was provided.

SECTION 4 Content of Annual Reports The School District's Annual Report shall contain or incorporate by reference the following:

(a) The audited CAFR for the fiscal year ended on the previous June 30, prepared in conformity with generally accepted accounting principles applicable as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board (or if not in conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of financial information). If the School District's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall include unaudited financial statements in a format similar to the financial statements contained in the Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report within 15 days after said financial statements become available.

(b) Financial information relating to the School District's General Fund revenues and expenditures for the previous five fiscal years, prepared substantially in the form of and updating the table appearing in the Official Statement under the heading "FINANCIAL INFORMATION--General Fund Five Year Summary."

(c) Information concerning the School District's budget for the fiscal year in which the Annual Report is issued, prepared substantially in the form of the summary shown in the Official Statement under the heading "FINANCIAL INFORMATION --Current General Fund Budget."

(d) Information concerning the Education Finance Act of 1977 and the Education Improvement Act of 1984 for the fiscal year in which the Annual Report is issued prepared in substantially the form of the tables shown in the Official Statement under the heading SCHOOL DISTRICT Education Finance Act of 1977 and Education Improvement Act of 1984

(e) (i) Information concerning the assessed value of taxable real and personal property in the School District for each of the five previous fiscal years and if available from the auditor of Spartanburg County an estimate for the fiscal year in which the Annual Report is issued prepared substantially in the form and updating the tables shown in the Official Statement under the heading TAX INFORMATION -Assessed Value of Taxable Property

(f) Information showing the ad valorem property taxes collected for the School District for each of the five previous fiscal years prepared substantially in the form of and updating the table shown in the Official Statement under the heading TAX INFORMATION -Tax Collections ' and (ii) information concerning the ten largest taxpayers in the School District and the amounts of School District taxes paid during the previous fiscal year, prepared substantially in the form of the table shown in the Official Statement under the heading, TAX INFORMATION--Ten Largest Taxpayers

(g) Information showing the legal debt limit of the School District as of June 30 of the previous fiscal year or some later date substantially in the form shown in the Official Statement under the heading DEBT STRUCTURE- Legal Debt Limit of the School District and (ii) information showing the outstanding indebtedness of the School District, including long term lease obligations and other long-term liabilities as of June 30 of the previous fiscal year or some later date substantially in the form of and updating the table and information in the Official Statement under the heading DEBT STRUCTURE--Outstanding Indebtedness--Description of General Obligation Indebtedness by Issue--Capital Lease Obligations--Other School District Debt, ' and the composite debt service table in the Official Statement under the heading, DEBT STRUCTURE- Composite Debt Service '

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the School District is an ' obligated person ' (as defined by the Rule) which have been filed with each of the Repositories or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The School District shall clearly identify each such other document so incorporated by reference.

SECTION 5 Reporting of Significant Events

(a) Pursuant to the provisions of this Section 5 the School District shall give or cause to be given in a timely manner (i) to each National Repository or to the Municipal Securities Rulemaking Board and (ii) to the State Repository if any notice of the occurrence of any of the following events with respect to the Notes if material

- (1) Principal and interest payment delinquencies
- (2) Non-payment related defaults
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties
- (5) Substitution of credit or liquidity providers or their failure to perform
- (6) Adverse tax opinions or events affecting the tax exempt status of the security
- (7) Modifications to rights of security holders
- (8) Bond calls
- (9) Defeasances
- (10) Release substitution or sale of property securing repayment of the securities and
- (11) Rating changes

(b) If the School District has determined that the occurrence of a Listed Event would be material the School District shall promptly file a notice of such occurrence with the Municipal Securities Rulemaking Board and each State Repository. Notwithstanding the foregoing, notice of Listed Events described in subsections (a) 8 and 9 above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Notes.

SECTION 6 Termination of Reporting Obligation The School District's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Notes. If such termination occurs prior to the final maturity of the Notes, the School District shall give notice of such termination in the same manner as for a Listed Event under Section 5(b).

SECTION 7 Dissemination Agent The School District may from time to time appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate and may discharge any such Agent with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the School District.

SECTION 8 Amendment, Waiver Notwithstanding any other provision of this Disclosure Certificate, the School District may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the School District, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9 Additional Information Nothing in this Disclosure Certificate shall be deemed to prevent the School District from disseminating any other information using the means of dissemination set forth in this Disclosure Certificate or any other means of communication or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the School District chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the School District shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10 Default In the event of a failure of the School District, or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any Beneficial Owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the School District, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Resolution, and the sole remedy under this Disclosure Certificate in the event of any failure of the School District or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11 Beneficiaries This Disclosure Certificate shall inure solely to the benefit of the School District, the Dissemination Agent, the Participating Underwriters, and Holders from time to time of the Notes, and shall create no rights in any other person or entity.

SECTION 12 Counterparts This Disclosure Certificate may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same instrument

SCHOOL DISTRICT NO 1 OF SPARTANBURG
COUNTY SOUTH CAROLINA

By _____
Superintendent

Dated July 28 2010

EXHIBIT A

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of School District School District No 1 of Spartanburg County South Carolina
Name of Bond Issue \$3 600 000 General Obligation Bond Anticipation Notes Series
 2010 School District No 1 of Spartanburg County South Carolina
Date of Issuance July 28 2010

NOTICE IS HEREBY GIVEN that School District No 1 of Spartanburg County South Carolina (the School District') has not provided an Annual Report with respect to the above-named Notes as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the School District as Dissemination Agent. The School District has notified us in writing that the Annual Report will be filed by

Dated _____

SCHOOL DISTRICT NO 1 OF SPARTANBURG
COUNTY SOUTH CAROLINA