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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

RECEIVED

APR 28 2015

SC Court of Appeals

Case No. 2013-CP-400-1643

Samuel T. Brick,

Appellant,

v.

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

Respondents.

RESPONDENT FAIRWAYS DEVELOPMENT, LLC'S  
MOTION FOR SUBSTITUTION ON APPEAL

The Respondent Fairways Development, LLC ("Fairways") and SPPLA, LLC hereby moves this court for an order pursuant to Rule 265(c) substituting or adding SPPLA, LLC as a Respondent to this appeal.

Appellant Samuel T. Brick ("Brick") is appealing an order dismissing his appeal to the circuit court of a decision by the Richland County Planning Commission which denied Bricks appeal of an approval by the Richland County Development Review Team of subdivision review application and sketch pan for a development called "The Villages at LongCreek." The lower court dismissed Brick's appeal because he failed to name and serve Fairways as development permittee on his appeal to circuit court. The Respondents have argued as additional sustaining grounds on appeal that Brick lacks both constitutional and statutory standing to pursue an appeal from the approval of Fairways' development permit.

The grounds for this motion are that Fairways conveyed its interest in Phase I of the property which is the subject of this appeal and it is now owned by SPPLA, LLC. (Exhibit 1) This substitution is necessary so that SPPLA, INC. can protect and advocate its interest during the pendency of this appeal.

By letter dated December 7, 2012, Fairways was advised that its Sketch/ Concept plan had been approved by Richland County Development Review Team at its November 29, 2012 meeting. (Exhibit 2) Since that time, Brick has effectively use the appellate process to delay this development for over two years, despite the approval of Richland County and despite his lack of standing and this court's lack of jurisdiction. Brick is taking advantage of Richland County Code Section 26-54(c)(3)(d)(5) which provides in part, "An appeal shall cease all staff review regarding the subject property."


If SPPLA, LLC becomes a party through addition or substitution, it intends to immediately file a motion in lower court to lift the stay or require Brick to post a bond. Fairways is also filing alternative motions to dismiss and expedite this appeal.

Richland County supports this motion, Brick, *Pro Se* has not been consulted.

**WHEREFORE**, having set forth the grounds therefore, Respondent Fairways Development, LLC ("Fairways") moves this court for an order pursuant to Rule 265(c) substituting or adding SPPLA, LLC as a Respondent to this appeal.

Respectfully Submitted,

**TOBIAS G. WARD, JR., PA**



Tobias G. Ward, Jr.

6 Calendar Court, Suite 3

Columbia, SC 29206

SC Bar No.: 5826

803-708-4200

Fax 803-403-8754

tw@tobywardlaw.com

Attorney for Fairways Development

Dated: 4-24-15

STATE OF SOUTH CAROLINA )  
 ) DEED  
COUNTY OF RICHLAND )

KNOW ALL MEN BY THESE PRESENTS That

LONGCREEK ASSOCIATES, LLC

(hereinafter called "GRANTOR"), in the State aforesaid, for and in consideration of the sum of Two Hundred Seventy-Six Thousand Seven Hundred Eighty-Eight and 00/100 (\$276,788.00) Dollars and the assumption of outstanding mortgage indebtedness as set forth below to Grantor in hand paid at and before the sealing of these presents by SPPLA, LLC (hereinafter called "GRANTEE"), in the State aforesaid (the receipt of which is hereby acknowledged), has granted, bargained, sold and released unto SPPLA, LLC:

All that certain piece, parcel of tract land, together with improvements thereon, situate, containing 20.28 acres, more or less, situate, lying and being at the northeastern corner of Club Colony Parkway and Longtown Road East, and adjacent to Fairways No. 11 and 10 of the Windermere Country Club Golf Course, in the community known as LongCreek Plantation, near the Town of Blythewood, County of Richland, State of South Carolina being shown and designated as Parcel 1 on a plat prepared for LongCreek Associates, LLC by Cox and Dinkins, Inc. dated April 12, 2012, and recorded in the Office of the Register of Deeds for Richland County in Record Book 1820 at page 194.

The above plat is incorporated herein by reference and is made a part hereof for a more complete and accurate description. All measurements shown on said plat are a little more or less.

This is the same property conveyed to Longcreek Associates, LLC by deed of Fairways Development, LLC dated December 13, 2012, recorded December 17, 2012, in Record Book 1820 at page 2444.

GRANTEE'S Mailing Address: 7900-D Stevens Mill Road  
Matthews, NC 28104

TMS No.: 20401-01-03 (PT. OF)

As part of the consideration herein Grantee does hereby assume the indebtedness secured by a mortgage of Longcreek Associates, LLC to Fairways Development, LLC dated December 13, 2012, recorded December 17, 2012, in Record Book 1820 at page 2446, securing the original principal sum of \$123,212.00, and having an outstanding balance in current condition of \$123,212.00.

This conveyance is made subject to existing easements and to covenants, conditions, restrictions and easements of record, including, but not limited to, any shown on recorded plats.

EXHIBIT 1 - (Page 1 of 2)

Book 1849-738

2013025764 04/03/2013 14:04:36:873

Fee:\$10.00 County Tax: \$304.70

State Tax: \$720.20

Deed



2013025764 John T. Hopkins II

Richland County R.O.D.





**DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES**  
Post Office Box 192 • 2020 Hampton Street • Columbia, S.C. 29202  
Zoning & Land Development: (803) 576-2180 • Zoning Fax: (803) 576-2182

December 7, 2012

John D. Champoux  
125 Blythewood Road  
Blythewood, SC 29016

RE: The Villages at LongCreek - Sketch Plan  
RCF # SD-12-04  
TMS # 20401-01-03

Dear Mr. Champoux:

Please be advised the Sketch/Concept Plan entitled "The Villages at LongCreek", dated November 7, 2012, was approved at the Development Review Team meeting on November 29, 2012.

Note: This approval does not indicate certification or acceptance of the conservation areas per Richland County Land Development Code Sec 26-186 (d).

The following items must be addressed at the time preliminary plans are submitted for review:

*Hope Hasty, Land Development Administrator, Planning (803-576-2188):*

1. No comments, approved.

*Andrea Bolling, Flood Coordinator, Public Works (803-576-2150):*

1. The 100-year floodplain should be delineated on the plan sheets based on the FEMA designated elevation, not a "scaled" elevation from the FIRM maps. The site appears to be within an AE Zone with a 100-year elevation of 348 feet, NAVD '88 at the project location.
2. Please provide the 100-year floodplain delineation of the wetlands within the proposed project area.
3. Delineate and quantify any areas of proposed floodplain encroachment within the floodplain of the on-site wetlands and the required compensation.
4. Provide match lines on the plans.
5. It is not clear if there is floodplain encroachment due to the proposed trail. If the trail is within the 100-year floodplain, be sure to provide details of the trail that clearly show there are no impacts due to the construction of the trail or provide encroachment and compensation information.
6. The proposed trail appears to impact Wetlands A and B. Please provide evidence (approved permit or exemption letter) that this impact has been approved by the Army Corp of Engineering (ACE).
7. It is not clear from the plans whether the "Waterfront Park" and associated structure extending into Lake Columbia is included in the proposed project. If these areas are included, please provide additional details as it appears the park may be within the 100-year floodplain and there may be impacts associated with the structure within the limits of the lake.
8. Please provide the datum (NAVD or NGVD) on the plans.
9. A wetland survey, approved by the Army Corp of Engineers, needs to be submitted.

*William Simon, Engineer II Development, Public Works (803-576-2413):*

1. No comments, approved.

*Miranda Spivey, Fire Marshal, Emergency Services (803-576-3405):*

1. No comments, approved.

EXHIBIT 2 - (Page 1 of 3)

A-4

**Geozard Price, Zoning Administrator, Planning (803-576-2174):**

1. The reference that the project will have attached dwellings needs to be removed. Neither the current zoning district, nor the application of the Green Code to the project will allow for attached dwellings.

**James B. Atkins, Director, Conservation Department (803-576-2082):**

Additional information is required before the Conservation Department can issue certification of the conservation areas. As mentioned during the Design Review Team (DRT) meeting of November 29, 2012, these include:

1. A listing of each individual conservation area by type (primary or secondary) and the surface area of each. Each area listed should be clearly labeled on a site map. Consistent with Sec 26-186, (g), each individual conservation area should also be identified by subtype and listed in a table. For example:

10 acres of primary conservation areas are comprised of three acres of 100 year flood floodplains, two acres of stream buffers, two acres of slopes greater than 40% and three acres of wetlands. Fifteen acres of secondary conservation areas are comprised of 10 acres of healthy, native forests, two acres of trails and three acres of neighborhood greens.

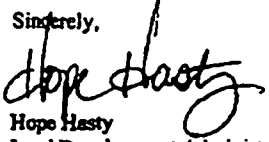
2. Consistent with Sec 26-186, (g), (2), (b), the location, type and surface area of any proposed stormwater BMPs (bioswales, etc.) and outlets constructed in or impacting the proposed conservation areas.
3. The final detail of trail construction materials, for each section of trail, to determine the area of impervious trail surface. In addition, list all other impervious surfaces in recreation areas (gazebos, impervious sidewalks in neighborhood greens, community center, waterfront park, parking spaces at the community garden, etc.). Per Sec 26-186, (g), (3), impervious surfaces in recreation areas shall not be credited as conservation area. Also, please note, constructed facilities shall not exceed 15% of the conservation area [Sec 26-186, (g), (4) (a)].
4. Consistent with Sec 26-186, (g), (4) (a) and (b), quantification of the existing trees in the proposed conservation areas through a tree survey and/or photo documentation to provide a baseline reference for permanent protection of the conservation areas to be conveyed to the POA.
5. A plan detailing how the POA will permanently protect the conservation areas conveyed to the POA consistent with Sec 26-186, (g), (4), (b). Implicit in the plan is the requirement to physically delineate and mark the conservation areas and boundaries prior to any earth-moving, clearing, home construction, or similar activities which could potentially damage or encroach upon the future certified and accepted conservation areas.

The following is noted for informational purposes:

1. Upon written notice of sketch plan approval for a phase, the applicant shall have a two (2) year vested right to proceed with the development of the approved subdivision phase under the regulations that are in place at the time of subdivision approval. Failure to submit an application for preliminary plan approval within this two (2) year period shall render the sketch plan approval void. Approval of the above-referenced sketch plan will expire on December 6, 2014. However, the applicant may apply to the planning department for a one (1) year extension of this time period no later than 30 days and no earlier than 120 days prior to the expiration of the sketch plan approval.
2. Preliminary plans may now be submitted. Please use the Preliminary Plan submittal checklist included in the Major Subdivision Development application packet. This packet is available online at: <http://www.richlandonline.com/departments/Planning/forms.asp>.

If you have any further questions or concerns, please feel free to contact Hope Hasty at (803) 576-2188 or [hastyh@rcgov.us](mailto:hastyh@rcgov.us).

Sincerely,



Hope Hasty  
Land Development Administrator

Cc: John Bakhaus, c/o Fairways Development Group, Applicant

Miranda Spivey, Fire Marshal  
William Simon, Engineer II - Development  
Tracy Hegler, Planning Director  
Geonard Price, Deputy Planning Director  
Andres Bolling, Flood Coordinator  
Holland Leger, Planning Services Manager  
Mike Bagley, SCDOT

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

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Case No. 2013-CP-400-1643

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Samuel T. Brick,

Appellant,

v.

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

Respondents.

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PROOF OF SERVICE

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I certify that I have served a copy of the Respondent Fairways Development, LLC's Motion for Substitution or addition on all parties, by depositing the same in the United States Mail, postage prepaid, on April 24, 2015 addressed as follows:

Samuel T. Brick  
124 Runneymeade Drive  
Blythewood, SC 29016

Andrew Lindemann, Esquire  
Davidson & Lindemann, P.A.  
Post Office Box 8568  
Columbia, South Carolina 29202-8568

RECEIVED

APR 28 2015

SC Court of Appeals

TOBIAS G. WARD, JR., PA



Tobias G. Ward, Jr.,

J. Derrick Jackson, SC Bar No.: 15192

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[dj@tobywardlaw.com](mailto:dj@tobywardlaw.com)

Attorneys for Fairways Development, LLC

April 24, 2015  
Columbia, SC

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**TOBIAS G. WARD, JR., PA**  
— ATTORNEYS AT LAW —

TOBIAS G. WARD, JR.  
tw@tobywardlaw.com

J. DERRICK JACKSON  
dj@tobywardlaw.com

April 24, 2015

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

75814  
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APR 28 2015

**SC Court of Appeals**

RE: Samuel T. Brick v. Richland County Planning Commission  
Civil Action No.: 2013-CP-40-001643  
Case Tracking No. 2014-000583

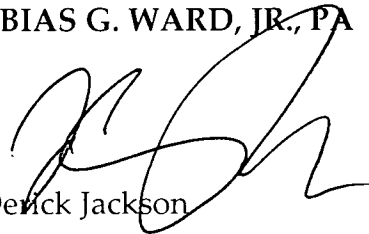
Dear Ms. Kitchings:

Enclosed for filing are the original and seven (7) copies of the Respondent Fairways Development, LLC's Motion To Expedite, Motion for Substitution and Motion to Dismiss Appeal and Proofs of Service in the above referenced matter along with a check for \$75.00 for the filing fees. Please file the originals and return clocked copies in the envelope provided.

Along with a copy of this correspondence we are serving other parties of record.

Respectfully,

**TOBIAS G. WARD, JR., PA**

  
J. Derrick Jackson

Enclosures  
TGW,Jr.:wrc

cc: Andrew Lindemann, Esquire (w / enclosures)  
Samuel T. Brick, pro se (w / enclosures)

**TOBIAS G. WARD, JR., PA**

— ATTORNEYS AT LAW —

P.O. Box 638, Columbia, SC 29260

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

