STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	
Fred Crawford and Marc Balsa, individually, and on behalf of all other similarly situated,	)	Civil Action No.: 2018-CP-23-04167
	)	
Plaintiffs,	)	**ORDER**
	)	
vs.	)	
	)	
City of Greenville and the Greenville City Council,	)	
	)	
Defendants.	)	
	)	

This matter is before the Court by way of Plaintiffs Fred Crawford and Marc Balsa's Motion for Temporary Injunction, filed August 17, 2018. The hearing was held on August 28, 2018. Appearing for Plaintiffs was James G. Carpenter, and for Defendants City of Greenville and Greenville City Council, Michael S. Pitts and Logan M. Wells. After hearing oral arguments and considering the submissions of the parties, Plaintiffs' Motion is hereby DENIED.

FACTUAL AND PROCEDURAL BACKGROUND

The present case involves a complaint for declaratory judgment and injunctive relief brought by two citizens and taxpayers of South Carolina, alleging that the conversion of a portion of McPherson Lane in Greenville to a one-way street following a properly noticed vote by Greenville City Council was unlawful. A temporary barrier is currently in place preventing traffic from entering McPherson Lane from Augusta Street. Plaintiffs seek a temporary injunction to prevent the installation of a permanent barrier in place of that temporary barrier. Defendants oppose Plaintiffs' Motion.

The essential facts are not in dispute as far as the issue of a temporary injunction is concerned. McPherson Lane is a residential city street located in the City of Greenville that

intersects with Augusta Street, which is primarily commercial in nature and more heavily trafficked than McPherson Lane. In 2017, a commercial development on Augusta Street was expanding, which led to a concern regarding the possibility of increased commercial traffic on McPherson Lane and the adjoining residential streets; a member of the City Council who resided on McPherson Lane indicated he could not support the rezoning of the commercial development unless the traffic issue was addressed. The City's Engineering Division held a public meeting regarding the anticipated traffic issue. Thereafter, in accordance with guidelines established by a City resolution, Resolution 2003-31, a traffic calming process was instituted pursuant to which the City defined a traffic study area that included McPherson Lane, Cothran Street, Warner Street, Camille Avenue between McPherson Lane and McDaniel Avenue, and McDaniel Court. In 2018, a ballot setting forth choices for traffic calming methods on McPherson Lane was sent to residents in the study area; the ballot included the option of making McPherson Lane a one-way at its intersection with Augusta Street such that traffic from Augusta Street could not travel down McPherson Lane past the point of the commercial development fronting on Augusta Street. The results of the advisory vote indicated that more than seventy percent of those who voted desired the one-way on McPherson Lane. Plaintiffs, who do not reside within the study area, did not participate in the advisory vote.

All City residents, including residents outside the study area, were given the opportunity to provide public input and comment on the proposed one-way at numerous properly noticed City Council meetings, including a dedicated public hearing on the one-way on May 7, 2018, and the May 14, 2018 meeting at which the City Council voted to designate McPherson Lane a partial one-way. The council member who resided on McPherson Lane was no longer a member of the City Council by this time and did not participate in the vote.

Plaintiffs filed this action against Defendants on August 7, 2018, alleging causes of action for nuisance/unlawful purpresture, breach of the public trust doctrine, breach of fiduciary duty, unlawful use of the process for traffic calming devices, violation of Resolution 2003-31, violation of SCDOT guidelines, and violation of the equal protection clause; and seeking relief in the form of a declaratory judgement and a permanent injunction. On August 17, 2018, Plaintiffs moved this Court for a temporary injunction, requesting the Court require the removal of the temporary barrier on McPherson Lane, and enjoin the City from constructing a permanent barrier in place of the temporary barrier. The temporary barrier in question was deployed by the City in May 2017. Defendants responded on August 27, 2018, arguing Plaintiffs' Motion should be denied because Plaintiffs: (1) failed to serve the Motion for Temporary Injunction; (2) lack standing; (3) cannot demonstrate irreparable harm; (4) cannot establish likelihood of success on the merits; and (4) have an adequate remedy at law. Plaintiffs filed a reply memorandum later that evening, attaching three affidavits that Plaintiffs had not previously provided. The hearing on Plaintiffs' Motion for Temporary Injunction took place the following morning, on August 28, 2018, at 9:30 a.m., and the parties presented argument.

LEGAL ANALYSIS

I. Plaintiffs Lack Standing to Prosecute This Action.

"It is well established that standing is a threshold jurisdictional issue that must be determined first because '[w]ithout jurisdiction the court cannot proceed at all in any cause.'" *Covenant Media of N.C., LLC v. City of Monroe, N.C.*, 285 Fed. Appx. 30, 34 (4th Cir. 2008) (quoting *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998)). "[T]here are three ways in which a party can acquire this fundamental threshold of standing: (1) by statute; (2) through what is called 'constitutional standing'; and (3) under the public importance exception." *Bodman*

v. State, 403 S.C. 60, 67, 742 S.E.2d 363, 366 (2013). A party seeking to establish standing bears the burden of proving it. *See Sea Pines Ass'n for Prot. of Wildlife, Inc. v. S.C. Dep't of Natural Res.*, 345 S.C. 594, 601, 550 S.E.2d 287, 291 (2001).

Plaintiffs do not allege they have statutory standing. As to constitutional standing, one of the core requirements is that Plaintiffs suffer a "concrete and particularized" injury. *Id.*, 742 S.E.2d at 366; *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). Plaintiffs point to the representations in Plaintiff Fred Crawford's Affidavit that the partial one-way prevents him from using McPherson Lane to access his home on Lanneau Drive and that it has increased traffic past his home as evidence of concrete, particularized injuries. Considering this and the Frances Elliott and Virginia Cebe affidavits, plaintiffs have not established concrete, particularized injuries. A landowner has no interest in the flow of traffic past his property. Likewise, a road re-configuration that does not cut off a landowner's access to the public road system does not deprive him of an interest. *See Hardin v. S.C. Dep't of Transp.*, 371 S.C. 598, 641 S.E.2d 437 (2007); *S.C. State Highway Dep't v. Carodale Assoc.*, 268 S.C. 556, 561, 235 S.E.2d 127, 128-29 (1977). To the extent that Plaintiffs have suffered or will suffer any harm as a result of the placement of the barrier on McPherson Lane or the designation of McPherson Lane as a one-way, this harm is common to all citizens and taxpayers of the City of Greenville.[1] "[T]his feature of commonality defeats the constitutional requirement of a concrete and particularized injury." *Freemantle v. Preston*, 398 S.C. 186, 193, 728 S.E.2d 40, 44 (2012). Accordingly, Plaintiffs' status as citizens and taxpayers is insufficient to confer standing upon them. *See, e.g., Manson v. South Bound R. Co.*, 64 S.C. 120, 41 S.E. 832 (1902) (residents of city lacked standing to enjoin condemnation of

[1] Plaintiffs' reliance *on City of Rock Hill v. Cothran*, 209 S.C. 357, 40 S.E.2d 239 (1943), is misplaced as *Cothran* was explicitly overruled by *Hardin v. South Carolina Department of Transportation*, 371 S.C. 598, 641 S.E.2d 437 (2007).

park; "It is settled by numerous authorities... that a suit for an injunction to restrain apprehended wrongs against the public cannot be maintained by a citizen on the ground that his interest and rights as a member of the state will be interfered with or disturbed, where the injuries which he apprehends are of the same kind as those which will be sustained by the people at large; and this rule has been rigidly adhered to in a great variety of cases, -e.g., suits to restrain public nuisances, purprestures, obstruction of highways, official delinquencies, and usurpations of corporate powers.").

Nor can Plaintiffs claim standing under the public importance exception, "a rule which has been the subject of much confusion and misapplication." *Bodman*, 403 S.C. at 67, 742 S.E.2d at 366. Although courts have repeatedly found standing through this exception in the past, it is not without its limits. Those limits were underscored by the South Carolina Supreme Court in *ATC South, Inc. v. Charleston County*, 380 S.C. 191, 669 S.E.2d 337 (2008):

> We tempered the application of the public importance exception somewhat in *ATC.* In doing so, we reminded the bench and bar that "[w]hether an issue of public importance exists necessitates a cautious balancing of the competing interests presented." *ATC,* 380 S.C. at 198, 669 S.E.2d at 341. To avoid an overzealous use of this exception, we said that "[t]he key to the public importance analysis is whether a resolution is needed for future guidance. It is this concept of 'future guidance' that gives meaning to an issue which transcends a purely private matter and rises to the level of public importance." *Id.* at 199, 669 S.E.2d at 341.

Bodman, 403 S.C. at 68, 742 S.E.2d at 367.

"[S]tanding may be conferred upon a party when an issue is of such public importance as to require its resolution for future guidance." *ATC S.*, 380 S.C. at 198, 669 S.E.2d at 341; *see also Carnival Corp. v. Historic Ansonborough Neighborhood Ass'n*, 407 S.C. 67, 79, 753 S.E.2d 846, 853 (2014) ("Whether the [public importance] exception applies turns on whether the resolution of the dispute is needed for future guidance."). "However, [the Court] 'must be cautious with this exception, lest it swallow the rule.'" *Jowers v. S.C. Dep't of Health & Envtl. Control*, 423 S.C.

343, 815 S.E.2d 446 (2018) (internal citations omitted). "'[S]tanding cannot be granted to every individual who has a grievance against a public official. Otherwise, public officials would be subject to numerous lawsuits at the expense of both judicial economy and the freedom from frivolous lawsuits.'" *Carnival Corp.*, 407 S.C. at 80, 753 S.E.2d at 853 (quoting *Sloan v. Sanford*, 357 431, 434, 593 S.E.2d 470, 472 (2004)); *see also Bodman*, 403 S.C. at 68-69, S.E.2d at 367 (quoting *Ariz. Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125, 145-146 (2011)) ("Few exercises of the judicial power are more likely to undermine public confidence in the neutrality and integrity of the Judiciary than one which casts the Court in the role of a Council of Revision, conferring on itself the power to invalidate laws at the behest of anyone who disagrees with them. In an era of frequent litigation, class actions, sweeping injunctions with prospective effect, and continuing jurisdiction to enforce judicial remedies, courts must be more careful to insist on the formal rules of standing, not less so.").

Plaintiffs identify three issues that they contend are of such great public importance as to remedy their lack of standing: "the law of purpresture, public nuisance, and the unlawful closing of a public street." (Pls.' Mot., p. 2). Plaintiffs do not specify any way in which these matters require "future guidance." *See ATC S.*, 380 S.C. at 199, 669 S.E.2d at 341 ("[F]or a court to relax general standing rules, the matter of importance must, in the context of the case, be inextricably connected to the public need for court resolution for future guidance."). South Carolina courts have refused to find public importance standing where these precise issues were at stake. *See, e.g.*, *Jowers*, 423 S.C. 343, 815 S.E.2d 446 (finding public importance exception to requirement of standing did not apply where owners of property along rivers and streams brought action against DHEC claiming that Surface Water Withdrawal, Permitting, Use, and Reporting Act's registration provisions were unconstitutional taking of private property for public use, that Act violated their

due process rights by depriving them of their property without notice or an opportunity to be heard, and that Act violated the public-trust doctrine by disposing of assets that state held in trust); *Carnival Corp.*, 407 S.C. 67, 753 S.E.2d 846 (refusing to apply public importance exception to requirement of standing where neighbors and conservationist associations alleged nuisance claims and sought injunction against cruise ship operator); *see also ATC S.*, 380 S.C. 191, 669 S.E.2d 337 (Cellular telephone tower builder's concern about competition from competitor's construction of tower on nonadjoining property was not matter of public importance, as required to confer standing on builder to challenge rezoning of property to permit competitor's construction of tower).[2]

This is a case regarding a single one-way residential street in the City of Greenville. It is not of the sort to which South Carolina courts have previously applied the public importance exception. *Cf. Sloan v. Dep't of Transp.*, 365 S.C. 299, 618 S.E.2d 876 (2005) (violations of statutory bidding requirements of state agencies); *Sloan v. Sanford*, 357 S.C. 431, 593 S.E.2d 470 (2004) (legality of governor's eligibility for military service); *Baird v. Charleston Cnty.*, 333 S.C. 519, 511 S.E.2d 69 (1999) (issuance of hospital bonds affecting public health and welfare); *Sloan v. Greenville Cnty.*, 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003) (failure to follow procurement procedures pursuant to the competitive bidding statute). This case concerns the discrete issue of the designation of a single public street that was a two-way street as a partial one-way. No future guidance is required on this matter. Plaintiffs have not demonstrated such an overriding public purpose or concern to confer standing upon them. Accordingly, it is the opinion of this Court that the public importance exception does not apply and Plaintiffs lack standing to maintain this action. As such, this Court finds Plaintiffs are not entitled to a temporary injunction.

[2] The Court notes that in *Sloan v. City of Greenville*, 235 S.C. 277, 111 S.E.2d 573 (1959), upon which Plaintiffs rely heavily, the court did not address the issue of standing as the city was deemed to have waived its right to question the right to bring the action by failing to demur the complaint.

II. Plaintiffs Are Not Entitled to a Temporary Injunction.

"The remedy of an injunction is a drastic one and should be cautiously applied only when legal rights are unlawfully invaded or legal duties are willfully or wantonly neglected." *Lefurgy v. Long Cove Club Owners,* 313 S.C. 555, 558, 443 S.E.2d 577, 578 (Ct. App. 1994). The party seeking an injunction has the burden of demonstrating facts and circumstances warranting an injunction. *Strategic Resources Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544, 627 S.E.2d 687, 689 (2006).[3] For a temporary injunction to be granted, Plaintiffs must establish that (1) they would suffer irreparable harm if the injunction is not granted; (2) they will likely succeed on the merits of the litigation; and (3) there is no adequate remedy at law. *Denman v. City of Columbia*, 387 S.C. 131, 691 S.E.2d 465 (2010). For the following reasons, it is the opinion of this Court that in addition to lacking standing, Plaintiffs have not met the requirements for temporary injunction.

A. Plaintiffs Will Not Suffer Irreparable Harm If the Injunction Is Not Granted.

Plaintiffs have failed to meet their burden of showing they are entitled to injunctive relief because they have not shown irreparable harm. Plaintiffs fail to articulate any facts in either the Complaint or their Motion and Reply to support their contention of irreparable harm. The only harm Plaintiffs identify as warranting an injunction is "loss of access to [McPherson Lane]." However, neither Plaintiffs nor the general public have lost access to McPherson Lane. The street is not closed. Rather, McPherson Lane is open to the public and freely accessible to all who wish to utilize it. The traveling public simply must drive in one direction on that street. Plaintiffs identify

[3] The purpose of a temporary injunction is to preserve the status quo. The barrier in question is currently in place, and has been place since May 2017. Although Plaintiffs seek removal of the temporary barrier, preservation of the status quo does not therefore require removal of the temporary barrier. At most, a temporary injunction would enjoin the construction of a permanent barrier.

no facts demonstrating that driving in one direction results in any harm, much less irreparable harm. *See Hardin*, 371 S.C. 598, 641 S.E.2d 437 (a road re-configuration that does not cut off a landowner's access to the public road system does not deprive him of an interest); *Carodale Assoc.*, 268 S.C. 556, 235 S.E.2d 127 (same). Additionally, Plaintiffs' assertion of irreparable harm is undercut by the fact that the temporary barrier has been in place since May 2017, and Council approval of the permanent barrier occurred in May 2018, yet Plaintiffs waited to file this action until August 2018. Accordingly, this Court finds Plaintiffs have failed to demonstrate they will suffer irreparable harm if their Motion is not granted.

B. Plaintiffs Have Not Demonstrated a Likelihood of Success on the Merits.

Additionally, Plaintiffs are not entitled to injunctive relief as they have failed to demonstrate facts and circumstances showing a likelihood of success on the merits in this litigation.

1. Purpresture

The central claim brought by Plaintiffs is one for purpresture, a claim that is more broadly preserved today in the doctrine of public nuisance. *Overcash v. S.C. Elec. & Gas Co.*, 364 S.C. 569, 573, 614 S.E.2d 619, 620-21 (2005). Purpresture originates from a medieval English criminal writ intended to redress encroachments upon the highways and other domains of the King. *Id.*; 614 S.E.2d at 620-21. A purpresture requires an encroachment or appropriation of the public way for a private use. *Lowcountry Open Land Trust v. South Carolina*, 347 S.C. 96, 109 n.8, 552 S.E.2d 778, 785 n.8 (2001); 10A *McQullin, The Law of Municipal Corporations* § 30:72 (3d ed.). Without such a private appropriation, the claim fails.

Plaintiffs rely primarily on *Sloan v. City of Greenville*, 235 S.C. 277, 111 S.E.2d 573 (1959). That case involved the granting of air rights over McBee Avenue and South Laurens Street

so that a private concern could construct a parking structure that projected above and over the public right of way. The question presented was whether the city had the authority to permit the areas above the streets to be used for private purposes. *Sloan*, 235 S.C. at 281, 111 S.E.2d at 575. The court invoked the common law doctrine of purpresture and answered the question in the negative.

Here, there has been no appropriation or encroachment of McPherson Lane for private purposes. McPherson Lane remains open to the public and the barrier in question is owned by the City. There has been no right or interest conferred upon a private party. Plaintiffs argue that the traffic calming measure uniquely benefits those residents living on the street. If that were enough to effect a purpresture, then every speed hump and every other traffic calming measure in the City effects a purpresture.

More importantly, Plaintiffs' argument ignores the express statutory authority of the City Council to "open new streets, close, widen or alter streets in the city when, in its judgment, it may be necessary for the improvement of the city." S.C. Code Ann. § 5-27-150. Plaintiffs also disregard the City's broad power under Home Rule to exercise its police powers as they relate to roads and streets. *See* S.C. Code Ann. § 5-7-30.

The Court finds there has been no encroachment granted for a private purpose as McPherson Lane remains open to the public. Accordingly, it is the opinion of this Court that the Plaintiffs have not demonstrated a likelihood of success on the merits of their purpresture claim.

2. Breach of Public Trust Doctrine/Breach of Fiduciary Duty

Plaintiffs restate their purpresture claim in the form of an alleged breach of the public trust doctrine and breach of fiduciary duty. Both claims require a finding that McPherson Lane has been converted to something other than a public street. *Sloan*, 235 S.C. at 282-83, 111 S.E.2d at

576; *see also Haesloop v. City Council of Charleston*, 123 S.C. 272, 115 S.E. 596 (1923). There has been no conversion of McPherson Lane for a private purpose, and it remains a public street as explained above. Moreover, the one-way was enacted pursuant to the City's broad authority over its streets and roads.

Plaintiffs make much of the fact that a former council member who lived on McPherson Lane indicated his position that he could not support the rezoning of the commercial development if the traffic issue on McPherson Lane was not addressed, and insinuate that the traffic calming issue resulted from his expressed position. Even if that were the case, it is of no consequence here as no private interest in the street has been conveyed, and that council member did not vote on the resolution designating McPherson Lane a partial one-way as he was not on City Council at that time. That the traffic-calming process may have been instigated by a landowner on the street in question is not dispositive. *Cf. City of Greenville v. Bozeman*, 254 S.C. 306, 175 S.E.2d 211 (1970); *City of Rock Hill v. Cothran*, 209 S.C. 357, 40 S.E.2d 242 (1946), *overruled on other grounds* ("The mere fact... that the vacation [of a street or part thereof] was at the instigation of an individual or a private corporation who owns abutting property, to enable him or it to use the vacated portion in his business, does not of itself invalidate the vacation, nor constitute such fraud or abuse of discretion as, in the absence of any further showing, will authorize a court of equity to interfere and declare the vacating resolution to be void. The fact that some private interest may be served incidentally will not invalidate the vacation resolution.").

McPherson Lane has not been converted to a private purpose, and was designated a partial one-way in the exercise of City Council's official discretion. Therefore, this Court finds that Plaintiffs have not demonstrated a likelihood of success of the merits on these causes of action.

3. Unlawful Use of Traffic Calming Process

Plaintiffs' Fourth Cause of Action alleges that the partial one-way conversion of McPherson Lane should not have been deployed as a traffic calming measure. Although that may well be Plaintiffs' opinion, it does that create a private cause of action. The one-way conversion is one of many traffic calming measures recognized by the City, and was completed by a formal action of the City Council following properly noticed public hearings. Accordingly, this Court finds that Plaintiffs have not demonstrated a likelihood of success of the merits on this claim.

4. Alleged Violation of Resolution No. 2003-31

The Fifth Cause of Action is based upon the City's alleged failure to follow its traffic calming guidelines as set forth in a 2003 resolution. A resolution is an expression of intention only and does not carry with it the force of law:

> Resolutions do not normally have mandatory or binding effect. Rather, the passage of resolutions is generally considered to be merely directory. *See Central Realty Corp. v. Allison*, 218 S.C. 435, 446, 63 S.E.2d 153, 158 (1951) (holding that " it seems to be well settled that a resolution is not a law, and in substance there is no difference between a resolution, order, and motion"); *see also* 56 Am Jur.2d Municipal Corporations § 296 (2000) (commenting that "an ordinance is distinctively a legislative act, while a resolution may simply be an expression of opinion or mind concerning some particular item of business coming within the legislative body's official cognizance ..."); 62 C.J.S. Municipal Corporations § 247 (Supp.2004) (commenting that "a resolution ordinarily is an act of a special or temporary character, not prescribing a permanent rule of government, but is merely declaratory of the will or opinion of a municipal corporation in a given matter ...").

Glasscock Company, Inc. v. Sumter Cnty., 361 S.C. 483, 488-89, 604 S.E.2d 718, 721 (Ct. App. 2004).

Any alleged failure to strictly follow Resolution No. 2003-31 does not give rise to a private cause of action. As such, it is the opinion of this Court that Plaintiffs have not demonstrated a likelihood of success of the merits on this claim.

5. Violation of the SCDOT Traffic Calming Guidelines

The South Carolina Department of Motor Vehicles ("SCDOT") guidelines do not apply to City streets. *See* S.C. Code Ann. §56-5-710(A)(4); §56-5-940; *see also* S.C. Code Ann. §5-27-150. Even if they did, there is no private cause of action for any alleged violation of same for the reasons set forth above. Accordingly, this Court finds that Plaintiffs have not demonstrated a likelihood of success of the merits on this claim.

6. Equal Protection

Plaintiffs' seventh and final cause of action alleges a violation of the Equal Protection Clause arising out of their exclusion (along with an undefined "class" of similarly situated persons) from the advisory vote. As no suspect classification is involved, the equal protection claim is analyzed under a rational basis standard.

In *German Evangelical Lutheran Church of Charleston, S.C. v. City of Charleston*, 352 S.C. 600, 576 S.E.2d 150 (2003), a church brought suit challenging the creation of the King Street municipal improvement district because it was excluded from the petition process in light of the fact it was not an owner of real property subject to ad valorem taxation. In setting forth the rational basis standard, the court noted the challenged classification must (1) bear reasonable relation to the legislative purpose sought to be achieved; (2) members of the class must be treated alike under similar circumstances; and (3) the classification must rest on some rational basis. *Id.* at 608; 576 S.E.2d at 154. Importantly, the court stated "a legislative enactment will be sustained against constitutional attack if there is 'any reasonable hypothesis' to support it." *Id.*; 576 S.E.2d at 154. The court held that exclusion of owners of exempt property from the petition process did not rise to an Equal Protection violation because it was reasonable to provide greater participation in the process to owners of fully taxable property. *Id.*; 576 S.E.2d at 154. In so holding, the court observed that the petition process was not outcome determinative and the city council had the final

say in the creation of the district. While not having direct bearing on the equal protection analysis, the court additionally recognized the challenged ordinance was passed after two readings and public hearings, which afforded the church ample opportunity to be heard. *Id.* at 607; 576 S.E.2d at 153.

On point factually is the case of *Johnson v. City of Little Rock*, 160 F.Supp.3d 1094 (E. D. Ark. 2016). In *Johnson*, the plaintiff alleged the city had a blanket policy of eliminating the access of apartment complexes to adjoining neighborhood streets and the city ignored that policy when it refused to block his street from a nearby apartment project. The court applied rational basis scrutiny, stating that to "pass rational basis review, all the court must find is that, under any reasonably conceivable state of facts, the city's decision would be 'rationally related to a legitimate government interest.'" *Id.* at 1100. After first recognizing that controlling traffic flow is a legitimate government interest, the court found that it was rational for the city to deviate from its alleged policy in order to prevent forcing traffic onto an already heavily traveled arterial road.

Here, the City Engineer made a decision to use the study area from a previous McPherson Lane traffic calming process, seeing no need to create a new study area. Rational basis scrutiny does not afford an opportunity to second-guess that decision; it was reasonable for the City to include only those areas immediately in and around McPherson Lane as the boundaries for the study area. *Cf. Ball v. James*, 451 U.S. 355 (1981) (If an election is of special interest, the state may limit the election to those who will be primarily affected.); *Salyer Land Co. v. Tulare Water District*, 410 U.S. 719 (1973) (same). The lines had to be drawn somewhere, and Plaintiffs have not established a lack of "any reasonable hypothesis" to support the study area that was utilized. Moreover, the study area vote was advisory in nature and all citizens were afforded the opportunity to voice their opinion on the matter in numerous public meetings.

The McPherson Lane one-way passes that rational basis scrutiny. This Court finds Plaintiffs have not demonstrated a likelihood of success on the merits of their equal protection claim.

C. Plaintiffs Have an Adequate Remedy at Law.

Finally, Plaintiffs are not entitled to an injunction as they possess an adequate remedy at law. The designation of McPherson Lane as a partial one-way was lawfully done at the City Council's discretion. If Plaintiffs disagree with the way the City Council exercised its discretion, City Council members may be removed at the next election. *See Plunkett v. City of Aiken*, 159 S.C. 97, 156 S.E. 245 (1930). Moreover, the City had numerous public hearings on the McPherson Lane one-way, including one dedicated hearing, at which all citizens of the City of Greenville were invited to voice their opinion with regard to the proposed one-way. As discussed previously, Plaintiffs do not have an interest in the flow of traffic past their properties. Nonetheless, to the extent Plaintiffs contend the street on which they live has been negatively affected due to diversion of traffic from McPherson Lane, Plaintiffs are entitled to seek traffic calming measures. Accordingly, this Court finds Plaintiffs have failed to demonstrate the absence of an adequate remedy at law.

In summary, Plaintiffs lack standing to prosecute this action, and thus, are not entitled to a temporary injunction. Moreover, Plaintiffs cannot establish the requirements for a temporary injunction. Plaintiffs' Motion for Temporary Injunction is therefore denied.

ORDER

The Court finds that Plaintiffs lack standing, and Plaintiffs have failed to set forth grounds for which a temporary injunction is warranted under the particular facts of this case. Thus, for the foregoing reasons, Plaintiffs' Motion for Temporary Injunction is DENIED.

AND IT IS SO ORDERED.

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The Honorable G. Thomas Cooper, Jr.
Fifth Judicial Circuit

Greenville Common Pleas

Case Caption: Fred Crawford , plaintiff, et al vs. Greenville City Of , defendant, et al

Case Number: 2018CP2304167

Type: Order/Temporary Injunction

So Ordered

s/ Honorable G. Thomas Cooper, Jr. Circuit Judge 2126