THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge
Kristi Lea Harrington, Circuit Court Judge

Appellate Case No. 2017-001563

Cynthia Wright and Richard Wright, ... Appellants

v.

South Carolina Department of, Transportation, Pilot Travel Centers, LLC, Speedway, LLC, Ashley Land Surveying, Inc. f/k/a Ashley Engineering and Consulting, Inc., and Munlake Contractors, Inc.

Of Whom

South Carolina Department of, Transportation, Pilot Travel Centers, LLC, Speedway, LLC, Ashley Land Surveying, Inc. f/k/a Ashley Engineering and Consulting, Inc., ... Respondents.

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RECORD ON APPEAL (VOLUME 3)

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
Cynthia Wright and Richard Wright,	)	Civil Action No.: 2016-CP-08-334
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	**PLAINTIFFS' MEMORANDUM**
South Carolina Department of Transportation, Pilot Travel Centers, LLC Speedway, LLC, Ashley Land Surveying, Inc., F/K/A Ashley Engineering and Surveying, Inc. and Ashely Engineering & Consulting, Inc., and Munlake Contractors, Inc.,	)	**OF LAW IN OPPOSITION TO DEFENDANT PILOT TRAVEL CENTERS, LLC'S MOTION FOR SUMMARY JUDGMENT**
	)	
Defendants.	)	

Plaintiffs Cynthia and Richard Wright respectfully submit their Memorandum of Law in Opposition to Defendant Pilot Travel Centers, LLC's ("Pilot") Motion for Summary Judgment.

INTRODUCTION

There have been a total of 254 collisions in front of the Pilot Travel Center in just 10 years since changes were made to this stretch of Highway 17A. Roughly one-third of these preventable accidents are directly related to allowing left turns in and out of the Pilot Travel Center.[1] The intersection at issue is on the Moncks Corner side of Highway 17A, right past the I-26 exchange. The dangers Pilot created at this intersection mostly affect motorists exiting I-26 from Charleston at the Summerville exit headed towards Moncks Corner and those traveling from Summerville in the same direction.

[1] A SCDOT Accident Study and Collision data from 2004-14 is attached as **EXHIBIT 14**.

This case began when South Carolina Department of Transportation ("SCDOT") was making changes to Highway 17A from the I-26 interchange towards Moncks Corner. From the outset, SCDOT's plans mandated placement of a raised median which separated six lanes of travel. The purpose was to prevent left turns in or out of the businesses close to the functional area of this busy intersection right before the Pilot Travel Center. Nearly every authority on highway design mandates steps to limit turns across several lanes of traffic close to busy intersections. In addition, these same safety standards prohibit driveways from being placed within the functional area of an intersection. As will be shown and demonstrated, Pilot and SCDOT worked hand-in-hand through what they termed "negotiations" to remove the requirement for a raised median and allow unlimited access to the Pilot gas station by placing two of the three driveways on Highway 17A directly in the functional area of the intersection, all of which is a clear violation of the applicable safety standards and rules meant to protect against the very thing that happened to Richard and Cynthia Wright.

SCDOT and Pilot had a duty to ensure that safety standards were met when "negotiating" the terms of the intersection and raised median. Even if Pilot argues they did not have a duty, once they entered into a negotiation that culminated in the elimination of raised median and allowance of dangerous ingress and egress onto Highway 17A, they assumed a duty to all motorists on the Highway. It is only through these "negotiations" that necessary barriers and deadly routes into and out of the Pilot station were allowed to occur. Without these "negotiations", a raised median is placed at this intersection and safer ingress and egress routes are constructed or left in place at the Pilot Travel Center and the Plaintiffs are not severely injured. It is only through the breach of a duty by Defendants that Richard and Cynthia Wright's lives were changed forever.

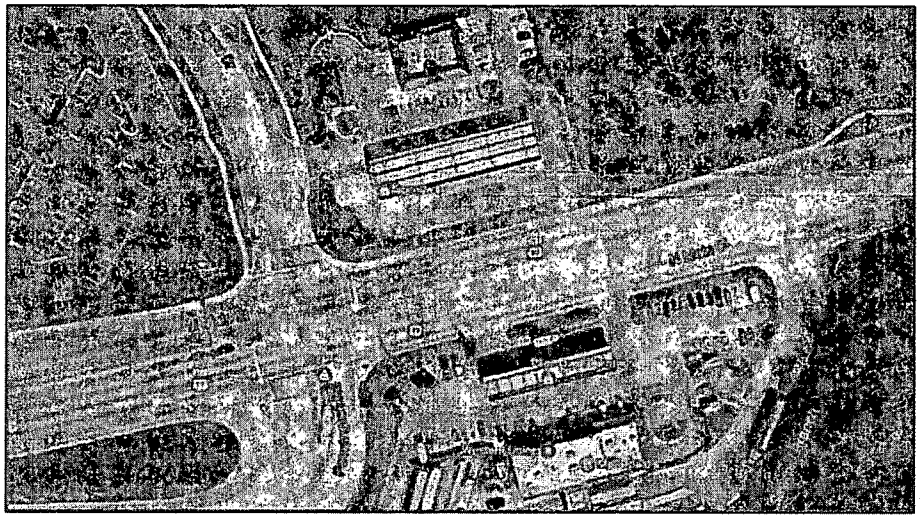
To maximize customer access, Pilot built three driveways but ignored SCDOT rules by placing the driveways too close together and too close to a crowded intersection. Pilot went one step further by negotiating with SCDOT to eliminate a planned traffic safety device on the adjacent highway all in an effort to increase its customer base. Unsurprisingly, Pilot's business-boosting maneuvers made the area far more dangerous for motorists. Although counsel for Pilot has painted a picture of simply submitting plans that were ultimately approved by the SC-DOT, the documents and evidence suggests Pilot had a much greater role in the process. In fact, there is some evidence to suggest that Pilot may have agreed to sell land to the SC-DOT at a cheaper rate in exchange for allowing unfettered access to its gas station which stood to produce greater, if not double, profits. While the SC-DOT has already destroyed the original appraisals for the land at issue, the Plaintiffs are in the process of trying to discover them elsewhere.

In its motion, Pilot argues it owed the Wrights no duty, did not act unreasonably, and did not cause the Wrights' injuries. However, South Carolina law requires that landowners like Pilot act reasonably, follow SCDOT rules, and avoid creating dangerous conditions when connecting their business to a neighboring highway. Plaintiffs' evidence and Pilot's own witness testimony demonstrate that the collision that crippled the Wrights' likely would not have happened if Pilot followed nationally accepted highway design safety rules at issue in this case. Pilot may certainly take reasonable steps to make its business more attractive and accessible to customers, but it may not do so at the expense of innocent motorists like the Wrights. Pilot's motion should be denied.

FACTS

Cynthia and Richard Wright suffered severe injuries after being thrown from their motorcycle in an automobile collision on Highway 17 in Summerville, South Carolina on October 6, 2012. (Am. Compl. ¶¶ 27, 30). At this location, Highway 17 is a multilane surface road in a

heavily traveled area near a "very busy" intersection and within a few hundred feet of an Interstate 26 interchange. W. Mulligan Dep. 19:2-3; 63:18-19, excerpts attached as **EXHIBIT 1**; D. Sena Dep. 113:8-9, excerpts attached as **EXHIBIT 2**. At the time of the collision, the Wrights were traveling past Pilot's gas station and convenience store which also houses a McDonald's restaurant. A competing gas station and convenience store is located directly across the street.



Pilot acquired the property in 2001 and set out to redesign the existing premises to create a Pilot Travel Center. W. Mulligan Aff. ¶¶ 5-6, attached as **EXHIBIT 3**. During this process, Pilot (and its predecessors in interest)[3] added driveways to connect its premises to Highway 17 and submitted an "encroachment permit" (attached as **EXHIBIT 5**) to SCDOT to facilitate the driveways' construction. Id. at ¶ 8; see also SCDOT Encroachment Permit Final Approval Form, attached as **EXHIBIT 6**). Pilot designed and constructed three driveways to serve passenger vehicles and commercial trucks. In violation of SCDOT rules, Pilot constructed one or more of these driveways in an area that was unreasonably close to an adjacent intersection. R. Clark Dep.

[3] Pilot redesigned the property in question as part of a joint effort between its parent company (Pilot Corp.) and Marathon Ashland Petroleum, LLC. Letter from Pilot Project Manager Gary Bloom to SCDOT, dated May 7, 2002 (attached as **EXHIBIT 4**). Pilot submitted the plans that resulted in the driveways at issue in this suit. Id.

11:23 – 12:1-4, excerpts attached as **EXHIBIT 7**); L. Colvin Dep. 169:15-22; 173:11-16, excerpts attached as **EXHIBIT 8**). Pilot also violated SCDOT rules by failing to provide the minimum required space between each of its driveways. R. Clark Dep. 30:23-25.

Pilot was also very cognizant of the way in which certain features of Highway 17 itself could affect customer access to Pilot Travel Center. Specifically, Pilot learned SCDOT had a plan in place to install a raised, non-transversable median across the center of Highway 17 and running nearly the full length of Pilot Travel Center. (Letter from SCDOT Right-of-Way Manager dated Aug. 28, 2000 with handwritten notes, PILOT 000045, attached as **EXHIBIT 9**). A non-transversable median is specifically intended to increase safety for highway motorists by limiting left turns at locations that are either very busy or unreasonably close to an existing intersection. W. Mulligan Dep. 27:6-7; L. Colvin Dep. 101: 9-25. From Pilot's perspective, however, the planned non-transversable median could harm its business by making it harder for potential customers to make a left turn in to its parking lot. W. Mulligan Dep. 60:10-23. Accordingly, Pilot discussed the issue with SCDOT and eventually "negotiated" a resolution that would remove the proposed non-transversable median and replace it with a flush, painted median. See **EXHIBIT 9**.

At the same time, SCDOT was trying to buy a portion of land owned by Pilot as a right-of-way acquisition. While not much is known about that deal at this point, SCDOT admits that the issue of removing the requirement for the raised median was a part of the negotiations in the right-of-way acquisition with Pilot. (Colvin dep p. 121

As the Wrights rode along Highway 17 on October 6, 2012, a vehicle driven by Daniel Sena moved into the painted median and attempted a left turn into one of Pilot Travel Center's driveways. (Am. Compl. ¶ 29); see also Accident Report (attached as **EXHIBIT 10**). Mr. Sena did not see the Wrights and struck their motorcycle during his turn. According to Mr. Sena, if a non-

transversable median had been installed in front of Pilot Travel Center, then it "could have prevented my accident and a lot more accidents and any more to come." D. Sena Dep. 119:2-4.

SUMMARY JUDGMENT STANDARD

To grant a motion for summary judgment, the court must find that "there is no genuine issue as to any material fact." Rule 56(c), SCRCP. The judge is not to weigh the evidence but rather to determine if there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 106 S. Ct. 2505, 91 L.Ed.2d 202 (1986). For claims where the preponderance of evidence burden applies, "the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

In determining whether any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the party opposing summary judgment. Summer v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997); Pye v. Aycock, 325 S.C. 426, 480 S.E. 2d 455 (Ct. App. 1997). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Brockbank v. Best Capital Corp, 341 S.C. 372, 534 SE 2d 688 (2000); Moriarity v. Garden Sanctuary Church of God, 534 S.C. 150, 511 S.E.2d 699 (Ct. App.1999). "Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing & Regulation, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999).

ARGUMENT

1. Pilot owed the Wrights a Legal Duty under South Carolina law.

Defendant Pilot (and its predecessors in interest) altered both the entrances to its premises and a traffic control device on an abutting highway during the redesign of its gas station and convenience center. Specifically, Pilot "negotiated" for the "removal" of a planned raised median intended to limit left turns into Pilot's station and designed driveway entrances to the station that were both too close together and improperly lying within the functional area of the intersection. Pilot's admitted goal was to make its location a more convenient and attractive option than neighboring gas stations. However, Pilot's design specifications and construction choices created a foreseeable danger to motorists traveling through the already cramped intersection. Since Pilot's conduct violated established South Carolina common law standards and SCDOT regulations, Pilot breached a legal duty to the Wrights and is liable for their losses.

South Carolina law establishes that the owner of land adjacent to a highway may face liability when its conduct unreasonably creates danger for highway travelers. According to the Supreme Court's ruling in Skinner v. South Carolina Department of Transportation, 383 S.C. 520, 524, 681 S.E.2d 871, 873 (2009), South Carolina common law imposes liability "where an individual or business has undertaken an activity that creates an artificial condition on the highway which is dangerous to travelers." Moreover, when a property owner's conduct creates a foreseeable danger to others, the owner must mitigate or eliminate that risk even if otherwise under no duty to act. Faile v. S.C. Dep't of Juvenile Justice, 350 S.C. 315, 334 n. 8, 566 S.E.2d 536, 546 n. 8 (2002) (citing Restatement (Second) of Torts § 321). Additionally, long-standing common law rules hold that a highway's neighbor may not conduct activities on its own premises that unreasonably endanger motorists traveling on the highway. Skinner, 383 S.C. at 525, 681 S.E.2d at 874

(collecting cases from other jurisdictions imposing liability where "the conduct of the landowner's business has created an artificial condition on the highway").[4] Finally, the SCDOT Access and Roadside Management Standards ("ARMS manual") impose specific rules on the location of driveways the violation of which may serve as a basis for civil liability. Id. at 523, 681 S.E.2d at 873 (identifying ARMS manual as potential duty source but finding its regulations inapplicable to defendant before it).

At its core, Skinner stands for the proposition that property owners like Pilot must use reasonable care when creating an "artificial condition" on their property[5] or on the adjoining

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[4] This same rule is recognized by the Restatement (Second) of Torts § 364 which reads as follows:

> A possessor of land is subject to liability to others outside of the land for physical harm caused by a structure or other artificial condition on the land, which the possessor realizes or should realize will involve an unreasonable risk of such harm if (a) the possessor created the condition, or (b) the condition is created by a third person with the possessor's consent or acquiescence while the land is in his possession, or (c) the condition is created by a third person without the possessor's consent or acquiescence, but reasonable care is not taken to make the condition safe after the possessor knows or should know of it.

[5] Skinner is consistent with rulings from a number of other jurisdictions permitting liability on property owner for condition on the owner's property that contributes to the injury of motorists on an adjoining highway. Keith v. Beard, 464 S.E.2d at 637; see also Rosengren v. City of Seattle, 205 P.3d 909, 913 (Wash. App. 2009) ("a person in possession of land may owe a duty to others outside the land on the abutting sidewalk"); Walsh v. Avalon Aviation, Inc., 118 F. Supp. 2d 675, 677 (D. Md. 2000) ("an owner of property abutting on a highway is under an obligation to use reasonable care not to endanger travelers on the highway by objects so located on his premises that they are likely to cause injury"); Donavan v. Jones, 658 So.2d 755, 764 (La. App. 1995) ("an owner of property abutting a highway . . . may be liable for causing or contributing to a defective or dangerous condition in the area, despite the fact that a public authority is charged with maintaining the highway"); Lawson v. B Four Corp., 888 S.W.2d 31, 34 (Tex. App. 1994) ("an owner or occupier of premises abutting a highway has a duty to exercise reasonable care to avoid endangering the safety of persons using the highway as a means of travel"); Zens v. Chicago, Milwaukee, St. Paul & Pac. R. Co., 386 N.W.2d 475, 479 (S.D. 1986) ("if an abutting landowner creates a hazard or defect in a public roadway or appurtenant thereto, which could foreseeably cause or contribute to injuries sustained by those using the public highway, or reasonably straying therefrom, the abutting landowner can be liable for such injuries"); Schulz v. Quintana, 576 P.2d 855, 856 (Utah 1978) ("Once a highway has been established there is an obligation upon the occupiers of abutting land to use ordinary care to see that the passage way is reasonably safe for

highway and may face liability when an artificial condition of their creation contributes to a passing motorist's injury. 383 S.C. at 524-25, 681 S.E.2d at 873-74. While Skinner does not define the term, "artificial condition" has been defined elsewhere to include both improperly designed or constructed driveways as well as an insufficient median. When used to describe a landowner's duty to highway motorists, "artificial condition" includes any "structure erected upon land" as well as "changes in the surface by excavation and filling." Restatement (Second) of Torts § 363 cmt. b. In fact, the only non-artificial (i.e. natural conditions) are those for which "the condition of the land has not been changed by any act of a human being." Id. A median, whether raised or painted, is not a naturally occurring phenomenon but rather a change in the surface of the roadway that lies squarely within the definition of an "artificial condition." The same is true of a driveway linking private property to the highway. A driveway is a structure erected upon land and has been specifically recognized as an artificial condition for landowner liability purposes. Keith v. Beard, 464 S.E.2d 633, 637 (Ga. App. 1995).

As the Supreme Court recognized in Faile, South Carolina common law also holds a party responsible for the foreseeable danger caused by harms the party created. 350 S.C. at 334, 566 S.E.2d at 546. Faile held that when a party's conduct creates danger for others, the party may be

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travel"); De Ark v. Nashville Stone Setting Corp., 279 S.W.2d 518, 521 (Tenn. App. 1955) (quoting 25 Am. Jr. Highways § 530 at 811) ("The general rule is that one who creates or maintains, on premises adjacent to a highway, a condition of such character that danger therefrom to persons lawfully using the highway may or should, in the exercise of ordinary care, be foreseen or apprehended is under a duty of exercising reasonable care"); Concho Constr. Co. v. Okla. Natural Gas Co., 201 F.2d 673, 674-75 (10th Cir. 1953) ("the owner of land abutting a public highway owes a duty to keep it from being a source of danger to the public or to travelers upon and lawful users of the highway"); Mays v. Gamarnick, 93 N.E.2d 236, 237 (Mass. 1950) (owner of land abutting highway "must exercise reasonable care to maintain his premises in a proper and safe condition so as not to cause injury to the public traveling on the way").

required to take affirmative steps to protect foreseeable victims. Specifically, Faile adopted a Restatement provision that reads in full:

> If the actor does an act, and subsequently realizes or should realize that it has created an unreasonable risk of causing physical harm to another, he is under a duty to exercise reasonable care to prevent the risk from taking effect.

Id. at 334 n. 8, 566 S.E.2d at 546 n. 8 (citing Restatement (Second) of Torts § 321). Accordingly, Pilot had a duty to ensure that its median alteration and driveway construction did not unreasonably endanger motorists on the highway and also had a duty to take affirmative action to mitigate the danger once it became apparent through repeated collisions in the intersection. See also 65th Center, Inc. v. Copeland, 825 S.W.2d 574, 577 (Ark. 1992) (when owner of property adjoining highway creates condition that renders travel on highway unsafe, then owner "has a duty to take reasonable precautions to guard against the danger and to protect travelers from that danger"). Even if the Court were to find Pilot had no common law duty to make changes to Highway 17, Pilot undertook to do so by successfully negotiating for the planned non-transversable median's removal. Having voluntarily undertaken this duty, Pilot had an affirmative duty going forward since Pilot's conduct "increased the risk" of harm to motorists. Restatement (Second) of Torts § 323.[6]

Skinner appears to recognizes the ARMS Manual as a source for a legal duty related to a private landowner's construction project that connects to a state highway. 383 S.C. at 523, 681 S.E.2d at 873. Skinner declined to impose a duty based on the ARMS manual in the case before it but only because the manual's provisions did not apply to the defendant, a party who was not covered by the manual's "encroachment permit" provisions. Id.; see also Madison v. Babcock

[6] South Carolina recognizes Section 323 and has applied its principles in many different contexts. See e.g., Sherer v. James, 290 S.C. 404, 408, 351 S.E.2d 148, 150 (1986); Crowley v. Spivey, 285 S.C. 397, 406, 329 S.E.2d 774, 780 (Ct. App. 1985)).

Center, 371 S.C. 123, 135, 638 S.E.2d 650, 656 (2006) (noting, in general, the role of "the common law, statutes, regulations, or [a state agency's] policies and guidelines" in determining a party's duty). The reconstruction project Pilot (and its predecessors in interest) undertook in this case are covered by ARMS Manual requirements including those related to encroachment permits. As acknowledged by Pilot's Vice President for Development, Pilot submitted an encroachment permit for the project, and Pilot acknowledges the importance of industry standards including ARMS Manual requirements governing driveways and medians. W. Mulligan Dep. 11:17-25; 62-66. Accordingly, ARMS Manual standards state a duty and define the parameter of the duty Pilot was required to meet during the design and construction of its new facility.

Finally, Plaintiffs note Pilot also cites Skinner and argues that it actually supports the position that Pilot did not owe the Wrights a legal duty. However, in the aggregate, Skinner strongly supports a property owner's duty to an adjoining highway's motorists and the Supreme Court refused to apply that duty in Skinner based only on factual distinctions that do not exist here. Skinner held that South Carolina recognizes a duty where "an individual or business has undertaken an activity that creates an artificial condition on the highway which is dangerous to travelers." 383 S.C. at 525, 681 S.E.2d at 873. That duty did not apply under Skinner's facts because the condition in question (i.e. ruts in the shoulder of a road caused by heavy trailers) was not "artificial" but rather normal wear and tear on the highway. Id. at 525, 681 S.E.2d at 874. In contrast, Pilot built driveways and removed a planned median, both of which created artificial conditions to which the duty discussed in Skinner applies. Moreover, Skinner recognized the ARMS Manual as a potential source of duty but refused to apply it because the defendants in that case were not required to seek an encroachment permit and were not subject to ARMS Manual requirements. Id. at 523, 681 S.E.2d at 873. Here, however, Pilot did submit an encroachment

permit and was subject to all ARMS Manual requirements including its sidewalk standards. W. Mulligan Dep. 11:17-25; 62-66. Despite its outcome on the facts, Skinner's holding definitively states the basis of a duty that, on the facts of this case, applies to Pilot's design and construction decisions.

In sum, Pilot's duty of care regarding artificial conditions on its property are well established in South Carolina case law and Restatement provisions adopted or otherwise utilized by South Carolina courts. Skinner also makes clear that this duty is owed not only to Pilot's customers but also to motorists on the adjacent highway endangered by Pilot's conduct. Moreover, Pilot's VP of Development acknowledged the company's duty to use reasonable care in designing and constructing those portions of its premises attached to the highway. W. Mulligan Dep. 58:1-3 (agreeing Pilot has duty to construct its facilities safely); J. Teague Aff. ¶ 6, attached as **EXHIBIT 11**. As discussed below, Pilot breached these duties in multiple ways resulting in an auto collision and injuries that were a foreseeable result of Pilot's misconduct.

2. Pilot Breached their Legal Duty by Negotiating for the Removal of a Non-Transversable Median and by Installing Unsafe Driveways.

Pilot planned, designed, and constructed its Pilot Travel Center to maximize its customer base by making customers' entry and exit to the facility as convenient as possible. However, to further this goal, Pilot made strategic decisions about access to the Center that rendered the adjoining highway more dangerous both for its customers and all other motorists passing through. Pilot went so far as to interfere with the original plan for a non-transversable median in the highway that would have made the intersection safer. Through each of these actions, Pilot created dangerous artificial conditions that violate its duties under South Carolina common law and SCDOT regulations.

Highway 17 abuts the Pilot Travel Center a few hundred feet from where the highway meets Interstate 26 and presents a very busy intersection. D. Sena Dep. 113:8-9 ("That's a very busy intersection"); W. Mulligan Dep. 19:2-3; 63:18-19 (acknowledging intersection is "heavily traveled" and "high volume"); L. Colvin Dep. 229:1-5 (agreeing this was a high accident rate intersection in 2013). At approximately the same time Pilot (and its predecessors in interest) began designing and constructing Pilot Travel Center, SCDOT had multiple projects underway to improve this heavily-traveled roadway. L. Colvin Dep. 50-51. According to renderings and the testimony of SCDOT's Deputy Secretary for Engineering, the original design called for the inclusion of a raised, non-transversable median running nearly the entire length of Pilot Travel Center's Highway 17 frontage. L. Colvin Dep. 86:14-15 ("at one point in time, the interchange plans showed a raised median"); 88:16-24 (stating that raised median was in intersection project's "original design"). The planned median would have a beneficial effect on traffic flow by restricting the areas from which motorists could turn left into Pilot Travel Center. L. Colvin Dep. 101:9-25; W. Mulligan Dep. 27:6-7. More importantly, the proposed non-transversable median was a safety matter. L. Colvin Dep. 141:8-10 ("A nontraversable median cuts down on the number of conflict points compared to a flush painted median").

While the non-transversable median would have a net positive effect on traffic in the area, it would have a decidedly negative impact on the number of cars that patronize Pilot Travel Center. After all, for motorists travelling south on Highway 17, it would be far more convenient to turn right into Pilot's competitor station than to be forced further down the highway before finally turning left toward Pilot Travel Center. See W. Mulligan Dep. 60:10-23 (acknowledging strong competition for customers by stating "if it's hard to get in and out . . . they won't come because there's so many other choices"); L. Colvin Dep 113:1-4 (noting raised median was undesirable to

property owner because it would "change . . . access to the premises"). Recognizing this potential threat to its profitability, Pilot took efforts to alter the proposed median design. See R. Balgowan Aff. ¶ 13 ("a monetary incentive is the only reason behind the removal of the concrete barrier in this case") (attached as **EXHIBIT 12**). Through meetings and correspondence with SCDOT officials during the encroachment permit process, Pilot conveyed their preferred design both for driveways linking their premises to Highway 17 and for the highway itself. L. Colvin Dep. 80:16 – 81:5. Specifically, Pilot raised concerns about the planned non-transverable median. Id. SC DOT considered these concerns and the two sides reached a "negotiated" resolution. (EXHIBIT 9). The primary result of that negotiation was a change in the design of the median fronting Pilot's property. At Pilot's behest[7], SCDOT:

> Approved to have painted median only from far western curb cut to stop bar (stop light). In other words, **the unmountable median has been eliminated from the plan.**

Id. (emphasis added).

Through this negotiation, Pilot effectively replaced a non-transversable median with one far more conducive to Pilot's business interest. Unfortunately, what benefited Pilot's business made Highway 17 far less safe for motorists like the Wrights. According to SCDOT, non-transversable medians have the effect of a 35 percent reduction in traffic collisions. L. Colvin Dep. 139:1-9. The benefit of raised medians is evident from SCDOT regulations. ARMS Manual, Section 3E (P. 18) (stating that "[d]ivided highways operate at higher levels of safety with a minimum of median crossovers" because "[a]dditional crossovers create more conflicts and can

[7] Plaintiffs acknowledge SCDOT asserts the change in median design was unrelated to its discussions with Pilot. L. Colvin Dep. 88:12-15. Pilot's VP of Development testified that he was unaware of whether there were earlier plans for a raised median. W. Mulligan Dep. 26:11-22. In light of the evidence describing a "negotiated" resolution regarding the median and the parties' differing accounts, this issue presents a question of fact that a jury must resolve.

lead to higher accident experience") (attached as **EXHIBI 13**). Plaintiffs have also produced expert testimony further establishing that it was unreasonable under the circumstances to replace the planned non-transversable median with a flush painted median.

Plaintiffs' first expert, John Mark Teague, is a civil engineer with extensive expertise in the field of intersection safety. J. Teague Aff. ¶¶ 2-3. Mr. Teague concluded that a non-transversable median at this location "would have significantly reduced the risk of harm" to motorists like the Wrights. J. Teague Aff. ¶ 13. Additionally, Mr. Teague found that the absence of a non-transversable median rendered the intersection "unsafe." J. Teague Aff. ¶ 9. Plaintiffs also presented an expert affidavit from Richard M. Balgowan, a civil engineer specializing in municipal and highway engineering. Mr. Balgowan stated that Pilot "owes a duty to design a premises that utilizes reasonably safe ingress and egress so potential customers and persons on highways adjacent to a company's facility will not be needlessly placed in a risk of harm." R. Balgowan Aff. ¶ 5. By negotiating to have the proposed non-transversable median removed from SC DOT's existing plans, Pilot did "the exact opposite" of what its duty required. R. Balgowan Aff. ¶ 14. As both experts concluded, Pilot created an artificial condition by altering the proposed median design and, as such, breached its duty owed to Highway 17 motorists. J. Teague Aff. ¶¶ 11, 13, 15; R. Balgowan Aff. ¶¶ 11, 13, 14. By creating this artificial condition that led to the Wrights' injuries, Pilot violated its duty as recognized in Skinner and the Restatement sections discussed above.

The foregone non-transversable median is directly related to Pilot's other major breach of duty. A raised median or other device to restrict left turns to Pilot Travel Center was especially important given Pilot's poor design for the Center's driveways. J. Teague Aff. ¶ 9. As Pilot acknowledges, driveway placement affects motorist safety on an adjoining highway and poorly

designed driveways are "detrimental to safety" on the highway. W. Mulligan Dep. 64:8-11. SCDOT agrees that regulations on driveway placement are important to the safety of motorists because "driveways have long been recognized as a major source of conflict for traffic on public highways." L. Colvin Dep. 32:1-13; 46:20-25.

As such, ARMS contains specific requirements and limitations on where a driveway may be placed and, in the case of multiple driveways, how far each must be from each other. In general, ARMS requires all roadway access points including driveways to be located "as far from roadway intersections . ... as possible." ARMS Manual at 10 § 3A-4. Moreover, every driveway "shall be located at a point which provides optimum sight distance along the roadway. Id. at 9 § 3A-3. ARMS includes a table outlining the acceptable minimum distances between driveways and stated in clear terms that "[n]o access point shall be located within the radius of intersecting roadways." Id. at 9 § Table 3-2, 10 § 3A-4. These statements are not mere suggestions or recommendations; they are mandatory rules. L. Colvin Dep. 45:20-25.

Fundamental among these rules is the express prohibition on driveways within the "functional area" of an intersection. Yet, two different SCDOT representatives testified that Pilot Travel Center violates this rule. SCDOT investigator Robert Clark testified that at least one of Pilot's driveways was in the functional area of the intersection. R. Clark Dep. 11:23 – 12:1-4. SCDOT Program Manager Leland Colvin agreed that one of Pilot Travel Center's driveways was in the functional area of the intersection and another was on the borderline. L. Colvin Dep. 169:15-22; 173:11-16. Another fundamental ARMS rule requires a certain minimum distance between driveways that varies based on the adjoining highway's speed limit. ARMS Manual at 9 § Table 3-2. The portion of Highway 17 where the Wrights were injured has a 45 miles-per-hour speed limit, and as a result, Pilot Travel Center's driveways were required to be spaced at least 250 feet

apart. Id.; R. Clark Dep. 30:16-22. Mr. Clark agreed that Pilot Travel Center's driveways did not meet this standard. R. Clark Dep. 30:23-25. This failure is crucial because the ARMS driveway spacing requirements Pilot breached are safety considerations. R. Clark Dep. 31:1-10. This testimony from SCDOT's corporate representative establishes that Pilot breached its legal duty by planning and constructing its driveways and made the intersection more dangerous for motorists. Plaintiffs' experts also found that Pilot's driveway design and construction made the intersection unsafe. J. Teague Aff. ¶ 9; R. Balgowan Aff. ¶ 9. Each expert found that the driveways were too close to the functional area of the intersection, and Pilot had a duty to take some affirmative action to prevent left turns into this dangerous area. Id.

Thus, Pilot is not entitled to summary judgment on the breach element of Plaintiffs' negligence claims. Plaintiffs have presented expert testimony demonstrating Pilot breached their legal duties and created dangerous artificial conditions by negotiating for the exclusion of a proposed non-transversable median and by installing driveways that violated multiple ARMS requirements. Plaintiffs' expert opinions are supported by the testimony of SCDOT's corporate representatives who acknowledge Pilot Travel Center's driveways were too close to the intersection and too close to each other.

3. Pilot's Conduct was a Proximate Cause of the Collision and the Wrights' Injuries.

Pilot's property design and construction errors were a proximate cause of the collision leading to the Wrights' injuries. Pilot's conduct was a cause-in-fact of the collision because the collision would not have happened at an adequately designed intersection. Moreover, innocent motorists are precisely the type of people Pilot should have foreseen as possible victims of their misconduct. Proximate causation is an essential element of any negligence cause of action. Burnett v. Family Kingdom, Inc., 387 S.C. 183, 191, 691 S.E.2d 170, 175 (Ct. App. 2010). This element

requires proof of both "causation in fact and legal cause." Small v. Pioneer Mach., Inc., 329 S.C. 448, 463, 494 S.E.2d 835, 842 (Ct. App. 1987) (citing Hurd v. Williamsburg County, 363 S.C. 421, 428, 611 S.E.2d 488, 492 (2005)). Causation in fact is established by proof that the injury "would not have occurred but for the defendant's negligence." Cody P. v. Bank of Am., N.A., 395 S.C. 611, 620, 720 S.E.2d 473, 478 (Ct. App. 2011) (citing Mellen v. Lane, 377 S.C. 267, 278, 659 S.E.2d 236, 245 (Ct. App. 2008). Legal cause is established by determining foreseeability, a factor which focuses on "whether the injury is the natural and probable consequence of the alleged negligent act." Id. As the Cooke court noted, "[p]roximate cause is generally a question for the jury." 741 F. Supp. at 1214; see also Ballou v. Sigma Nu Gen. Fraternity, 291 S.C. 140, 147, 352 S.E.2d 488, 493 (Ct. App. 1986) ("Only in rare or exceptional cases may the question of proximate cause be decided as a matter of law"). Summary judgment on proximate cause is inappropriate where the plaintiff has produced "some evidence." Cooke, 741 F. Supp. at 1214.

Where a negligence claim alleges an injury directly caused by the intervening act of a third party, a "special case" is presented. Cody P. v. Bank of Am., N.A., 395 S.C. at 620, 720 S.E.2d at 478. In those special cases, the test becomes whether a third party criminal act was foreseeable to the defendant. The finder of fact must determine whether "the injury at the hand of the intervening party was within the general range of consequences which any reasonable person might foresee as a natural and probable consequence of the negligent act." Shepard v. S.C. Dep't of Corr., 299 S.C. 370, 375, 375 S.E.2d 37, 37 (Ct. App. 1989). Plaintiff need not prove the "particular chain of events" was foreseeable but only that the injury the criminal inflicted was "within the general range of consequences which any reasonable person might foresee." Cody P., 395 S.C. at 621, 720 S.E.2d at 478 (citing Shepard 299 S.C. at 375, 385 S.E.2d at 38).

Several different types of evidence may be used to demonstrate that a defendant could reasonably foresee injuries ultimately perpetrated by an independent third party. Expert testimony may be used to establish foreseeability. An expert with knowledge of the defendant's business may testify regarding the types of harms the defendant anticipates in its business. See Cody P., 395 S.C. at 621-22, 720 S.E.2d at 478 (considering banking expert's testimony that banks anticipate theft). Here, Plaintiffs' experts concluded that Pilot's design and construction errors were a proximate cause of the collision. For instance, Mr. Teague found that a non-transversable median would have significantly reduced the risk of harm to motorists like the Wrights. J. Teague Aff. § 13. Mr. Teague reached this conclusion because this accident occurred during a left turn into Pilot Travel Center and the non-transversable median Pilot negotiated to remove would have most likely prevented that turn. SC DOT shares this opinion. L. Colvin Dep. 101:9-25 (stating that non-transversable median's purpose is "access control" and "is not intended to be transversed by the motoring public"); 139:1-9 (agreeing that non-transversable median decrease traffic collisions by 35%).

Even Pilot's Vice President of Development admits that a non-transversable median's specific purpose is to prevent the type of turns that resulted in this collision. W. Mulligan Dep. 27:6-7 (acknowledging median's purpose would be "[t]o keep people from making a left turn"). Crucially, the at-fault driver also agrees that the absence of a non-transversable median was a crucial factor in the collision. According to the driver, a non-transversable median "could have prevented my accident and a lot more accidents and any more to come." D. Sena Dep. 119:2-4. Taken as a whole the lay and expert witness testimony establishes a substantial causal connection between the absent raised median and the collision that caused the Wrights' injuries.

The same is true for Pilot's defective driveways. As Pilot acknowledges, "inadequate driveway design creates conflicts that can be detrimental to safety" on the adjoining highway. W. Mulligan Dep. 64:8-11. When a person attempts to enter or exit a driveway that is either too close to a major intersection or too close to another heavily-utilized driveway, he has little time to react to opposing traffic. As this intersection has proven many times over the last fifteen years, traffic collisions are alarmingly common at Pilot Travel Center's driveways. L. Colvin Dep. 217:16-20 (agreeing many collisions happen when motorists attempt left turns out of Pilot Travel Center's driveways); 219:12-15 (noting 17 different accidents involving left turns at Pilot Travel Center over just a four-year period). Based on this historic accident data and their knowledge of intersection design principles, Plaintiffs experts concluded the driveways were also a proximate cause of the Wrights' injuries. J. Teague Aff. ¶ 15 (finding Pilot "created an artificial condition, which generated hazardous conditions and contributed to the injuries of the plaintiffs"). Viewing the situation as a whole, Plaintiffs' experts concluded that the collision most likely would not have occurred if the driveways had been properly designed. J. Teague Aff. ¶ 19.

CONCLUSION

Based on the arguments stated above, Plaintiffs respectfully request an order denying Pilot's motion for summary judgment. Pilot breached duties imposed by South Carolina common law and SCDOT regulations when it negotiated for the removal of a non-transversable median and constructed a series of improper and dangerous driveways at its facility. As a direct and proximate result of the dangers created by the Defendants, the Wrights were injured in a serious auto collision. Pilot's motion should be denied.

Respectfully submitted,

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Attorneys for the Plaintiffs

Rock Hill, South Carolina

April 7, 2017

EXHIBIT 1

State of South Carolina)
)
County of Berkeley)

Cynthia Wright and Richard Wright, Plaintiffs, v. South Carolina Department of Transportation and Pilot Travel Centers, LLC Defendants.) 2014-CP-08-675

Video Deposition of William Mulligan

Cynthia Wright and Richard Wright, Plaintiffs, v. Speedway, LLC, Ashley Land Surveying, Inc. F/K/A Ashley Engineering & Surveying, Inc. and Ashley Engineering & Consulting, Inc., and Munlake Contractors, Inc., Defendants.) 2016-CP-08-334

Date: July 14, 2016
Time: 9:07 a.m.
Location: McGowan, Hood & Felder, LLC, 1517 Hampton Street, Columbia, South Carolina

Reported by
Kathleen R. Tackett, CVR-M

Center." And, when you say that, what is an "encroachment permit"?

A It's a permit to access the state right-of-way of the state road.

(A cell phone rings.)

Q And the state road would've been Highway --

A 17-A.

THE DEPONENT: Sorry about that.

MR. HOOD: Oh, no problem.

THE DEPONENT: I thought I had that off.

MR. HOOD: Reminds me of mine.

MR. BESLEY: Everybody can now take a moment to --

MR. HOOD: Yes.

MR. BESLEY: -- silence their phones.

MR. HOOD: To silence my phone.

Q And you had to get that encroachment permit from the South Carolina DOT before you could construct the driveways to the -- to the new Pilot Travel Center?

A Correct.

Q And, when they talk about the new Pilot Travel Center, you're talking about the redesigned Pilot Travel Center?

A Correct.

A I would agree.
Q You know, it's very heavily traveled.
A I would agree.
Q When you have a heavily traveled road like that, you agree that there are -- you had two different driveways independent of the truck driveway that fronted 17, right?
A Correct.
Q Now, if you had put those two together, it would've required a signal device, based on the amount of traffic, wouldn't it?
MR. MAYBANK: Object to the form.
A I do not know that. I do not know that.
Q Okay. And do you know if there was 220 feet between these two driveways?
A I do not know the exact amount of feet between the two driveways.
Q You would -- you would agree with me that, based on the amount of -- of traffic on that highway, it would've required them to be 220 feet apart, right?
A I do not know that.
MR. MAYBANK: Object to the form.
Q Okay. I'm going to hand you some of the stuff in regard to this project, sir. This is really only one -- it should only be one page, but I'm half

Q And -- and do you know why they would not be able to enter or turn right from US 17-A?
A "Trucks will not be able to turn right." Well, it looks like it's a one-way entrance. So, if it was a one-way entrance, you couldn't get the trucks back out.
Q Okay. And, I mean, it's -- they -- they take a much greater radius to get into a driveway too, don't they?
A Yes, sir.
Q And then, if you go to the last page, it -- it says here -- starting on the left side, it says, "Stop unmountable median." And then, it has, it looks like, a colored thing. And it says, "Painted median to stop bar per Leland Colvin, 8/16/2000. And "All radii shown are inadequate for use." Do you know what any of that means?
A No idea.
Q Okay. Were you aware that at one time, prior to the joint venture, that there was either a raised median or specifications for a raised median?
A No idea.
Q Okay. If there was a raised median, you would agree with me that people -- most people would not be able to make a left turn into the facility?

MR. MAYBANK: Object to the form.

A I disagree with that.

Q And -- and why is that?

A Anybody can make a left turn and go over a -- a median.

Q Okay. Why do they have medians?

A To keep people from making a left turn.

Q Okay. I'm going to have marked as Plaintiffs' Exhibit 3 . . .

MR. HOOD: There you go. Whoops. That's mine. I'm sorry.

MR. BERLINSKY: I've got one.

MR. HOOD: If you've got -- okay. Okay.

Plaintiffs' Exhibit Number 3, "Application for Encroachment Permit."

Q Have you had an opportunity to look at --

A Yes, sir.

Q Okay. This says "Application for Encroachment Permit." On the left side, it says, "Applicant, Pilot Travel Center, LLC; care of Ashley Engineering & Consultants, Inc." And then, it says, "Type of encroachment: four asphalt driveways for commercial truck access." You see that, right?

Q Pilot has a responsibility to construct one of their travel centers in a safe way?
A Yes, sir.
Q And, if they construct it unsafely, who does it put at risk?
A Well, it would put at risk their customers that were coming into the facility.
Q Okay. I believe you've already said that -- that Pilot employees do not have a responsibility to know state regs, right? Because y'all depend on someone else?
A That -- that's correct. They will research the state regulations. They will research the professionals that they use. None of -- none of the guys -- Gary Bloom is not a licensed traffic engineer, so he is going to go -- he is going to hire professionals that are. He's going to rely on the Department of Transportation, again, who has responsibility for all roads, has immense amounts of data, has professionals that study this day in, day out. It's -- it's their living, so he's going to rely on those, and -- and that's what you, as the traveling public or as a customer, would -- would want. You want the -- the best people and that's why the DOTs are there: They're to protect

our safety.
Q Okay. And -- and the -- when you talk about that, you're talking about y'all -- y'all either hire someone or rely on the DOT, right?
MR. MAYBANK: Object to the form.
A We -- but, well, ultimately it's the DOT, so --
Q Okay.
A Because it's -- it's -- they're the guys that're going to issue the permits. It's their road. It's their access.
Q Okay. And we know that there's a book called, and they refer to it as, "The State -- State Regulations," right?
A I -- I'm sure they have a book. I don't know what it's called, but I'm sure --
Q But there are industry standards to -- you've heard of the term "industry standards"?
A Absolutely.
Q And you know there are industry standards, too, right?
A Yes, sir.
Q And, if -- if Pilot constructed a parking lot with a goal of maximizing profits over safety, bad things could happen, right?
A I don't think we -- we design things like that.

Q Right. That's what I'm saying.
A Right. Right.
Q Bad things could happen if somebody did do that, right?
A No. That's incorrect.
Q Okay. So bad things couldn't happen if they maximize profits over safety?
A No. You have a one-sided statement.
Q How is it one-sided?
A Well, today there's numerous choices that somebody could -- could buy, so if there's a lot of accidents or it's a safety issue, people just won't patronize your business. So, when you say, "Well, just do however you would -- design it however you want and -- and more people would come," that -- that's incorrect. People today have choices -- multiple choices, so if a site is unsafe -- like you said, if there's vagrants hanging around, if it's congested, if it's hard to get in and out, all those types of things, they won't come because there's so many other choices for them to go. Why would they risk themselves or their family in a dangerous situation?
Q Okay. But somebody that's just driving down the road and is smacked while somebody's trying to move

into your station, they're not actually trying to go into your station, they're just traveling down the road, right, like the person on this motorcycle?

A The person on this motorcycle was hit by a drunk, intoxicated driver.

Q Who was pulling into the Pilot station?

A That -- that's -- that's even more of a reason there. He was drunk and intoxicated and was hit by a person pulling in. He could've been hit -- the station could've been a thousand yards down the road, and he would've hit him anyway. He was drunk and intoxicated and hit a motorcycle in the closest lane to him. Could've happened a thousand -- could've happened a mile from the intersection.

Q Okay. I know you had said earlier you were down in Charleston yesterday. Was -- was it down there at this particular Pilot Travel Center?

A No, sir. We were opening a new travel center down by the port.

Q Okay. I'm going to hand you that -- where's that? We're almost done. Let's see.

Plaintiffs' Exhibit Number 15, "SCDOT ARMS Access & Roadside Management Standards."

Q I think this was Exhibit 15, and it says, "SCDOT ARMS," which is the Access and Roadside Management Standards. And, when I go to the very first page, which is actually Page 19. I didn't make a copy of the whole manual, I just made the one about driveways.

It says, "The ASHTO A Policy of Geometric Design of Highways and Streets (Green Book, 2004) states: Driveways are, in effect, intersections and should be designed consistent with their intended use." Do you see that?

A Uh-huh.

Q And you would agree with that, right? They should be used for their intended use?

A Yeah. Yeah.

Q And then, at the bottom it says, "Appropriate engineering and safety factors should be considered in conjunction with these standards so that conditions unique to individual driveways are properly taken into account."

A Correct.

Q You would agree with that?

A Uh-huh. Yes, sir.

Q Now, on the -- Page 20, which is the third page, but -- and you may not know this, I just --

A Uh-huh. Uh-huh.
Q I'm going to ask anyway.
It says, "Driveway Classification," and then on the left side it has, "Low Volume, Medium Volume, High Volume, and Major Volume."
Do you know which volume it was in front of this particular store?
A Well, this is not talking about traffic volume in front of a store. This is not talking about road traffic volume.
Q Oh. Okay.
A Has nothing to do with road traffic volume.
Q Is it trips to the store itself?
A That's what it is. Yes, sir.
Q Okay. Do y'all know if you have -- do -- do y'all know how many trips you have to the store a day or --
A I -- I am guessing it's somewhere in the high volume, 601 to 4,000.
Q Okay. If you go to the next page, it just talks about the angle of an intersection, the width and radii. That stuff that you -- when you say that you rely on others for that, that's what you rely on them for, right?
A You rely -- yes. You rely them on all types of

design, yes.

Q Okay. Going to the next page, Page 22, under the first paragraph, the last sentence, it says, "Inadequate driveway design creates conflicts that can be detrimental to safety and operations on the mainline." Would you agree with that?

A Say that again.

Q Yes. "Inadequate driveway design creates conflicts that can be detrimental to safety and operations on the mainline."

A Okay. I'd agree to that.

Q Okay. The next page -- let's go to the next. When I go to Page 25, it says, "Islands."

It says, "Traffic islands are used to guide motorists into proper lanes and can be used for pedestrian access." You see that, right?

A Yes, sir.

Q It says, "They shall be used when the driveway characteristics or complexity is of such a nature that their use is needed to eliminate conflicts." Do you see that?

A Yes, sir.

Q And you would agree with that, right?

A Yes, sir.

Q Okay. If you go to the bottom, it says, "Right-in,

Right-out Driveways."

A Uh-huh.

Q It says, "Their -- their" -- it says, "Right-in, right-out driveways are necessary in some locations in accordance with Section 3C. A right-in, right-out driveway should incorporate a triangular (pork chop) raised concrete island no smaller than 100 square feet with sides a minimum of 12 feet in length after rounding the corners." Do you see that?

A I do.

Q And you would agree with that, right?

A In general, yes.

Q Okay. It says, the next page, it says, "When a right-in, right-out driveway is implemented on an undivided highway, the use of a restrictive median in concurrence with the 'pork chop' island is preferred; however, adjacent impacts must be evaluated prior to implementing restrictive medians." You see that, right?

A Uh-huh.

Q Says, "A 4 foot wide raised median concrete median is recommended. However, if a concrete median cannot be provided, consider the use of a Department-approved surface-mounted curbing system

with flexible delineator posts as an alternative." Do you see that?

A Uh-huh.

Q So you can actually have guardrails used instead of just a raised median to prevent left turns, right?

A Sure. The DOT can put whatever they want up in a median.

Q Okay.

A Can put trees.

Q Sure. Okay. Now, a couple general things and we're almost done.

Your name is William Mulligan. You're from Atlanta, Georgia?

A No, sir.

Q Where?

A Knoxville, Tennessee.

Q Knoxville, Tennessee. You're in Gamecock country.

A I know. There you go.

Q Date and place of birth?

A Dubuque, Iowa. April 20th, 1961.

Q Now, you got the Big Ten and the SEC.

A I'm telling you. I went to Texas A&M.

Q Oh, gosh. Then you got a Big Twelve. Well, now the SEC.

A Now the SEC.

EXHIBIT 2

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF BERKELEY

CYNTHIA WRIGHT AND RICHARD WRIGHT,

Plaintiffs,

vs. CASE NO. 2014-CP-08-675

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, C&A UNLIMITED, INC. AND PILOT TRAVEL CENTERS, LLC,

Defendants.

DEPOSITION OF: DANIEL JAMES SENA

DATE: May 6, 2015

TIME: 10:17 A.M.

LOCATION: Walden Correctional Institution
4340 Broad River Road
Columbia, SC

TAKEN BY: Counsel for the Defendant SCDOT

REPORTED BY: LORI S. MORTGE,
Certified Court
Reporter, CCR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Charlotte, NC (704) 573-3919

me. And I may not even mark these but I want to show you here two pictures of a white truck with a dented hood. Is that the vehicle you were driving that night?

A. Yes, sir. From my truck.

MR. MAYBANK: Can we mark these, Bill? Do you mind? At least one, so we can establish.

MR. BESLEY: Taking all my stuff.

(DFT. EXH. 5, Photograph of White Truck, was marked for identification.)

(DFT. EXH. 6, Photograph of White Truck, was marked for identification.)

(DFT. EXH. 7, Photograph of Airbag in Truck, was marked for identification.)

MR. BESLEY: All right. I think that's all the questions I have right now, unless Kevin asks some question that prompts me to ask another.

EXAMINATION

BY MR. SMITH:

Q. Mr. Sena, I'm Kevin Smith. I introduced myself to you before we started but, for the record, I represent Cynthia and Richard Wright.

Mr. Maybank here went over with you in his questioning the time that you spent in Summerville, the fact that you're very familiar with

the area. Remember that?

A. Yes, sir.

Q. And you've been to this Pilot center several times before; right?

A. Correct.

Q. And you knew that if you approached it from the way that you approached it this night that you were allowed to make a left-hand turn into the Pilot Travel Center; is that fair to say?

A. Yes, sir.

Q. And you had made that same left-hand turn, that same route, many times before?

A. Yes, sir.

Q. And these would be times when you were 100 percent sober; is that true?

A. Correct.

Q. You started to talk a little bit about, when you saw some these pictures here, you started to talk about the difficulty you had seeing at night at this intersection. I don't want to put words in your mouth. Can you just maybe talk about that some more, maybe explain that? What did you mean by that?

A. I just -- as you're in the center and make the left-hand turn, you got -- you know what

I'm saying, I had two cars coming towards me, to the best of my knowledge I remember. And as two cars come, the light turned yellow. And you see cars come down the hill, you see people turning, you know, from -- come down the hill -- just a mixture of the lights. I just made a bad judgment and assumed that the headlight I seen was -- the motorcycle light is smaller than a car light, or I won't say as bright. You know, I just figured it was at the intersection and not coming through the intersection or where it was at the time.

Q. Okay. And I think I understand what you're saying because the head lamp on the motorcycle was a little bit -- was different than the head lamps on the cars, you're thinking that you assumed it was a little further back than it was?

A. Yes, sir.

Q. And -- but with regards to what you were saying before it sounds like you were here, you know, stopping to make this left-hand turn into the travel center. You've got the street lights, you've got the traffic lights, you've got the cars coming off the Interstate, cars coming down the -- down the hill, cars on the left, cars on the right, cars behind you, cars coming in and out of the Pilot

Travel Center.

A. Yes, sir.

Q. Those are all things that you would encounter waiting to make that left-hand turn?

A. Yes, sir.

Q. And is it a little difficult to make out what's what at night?

A. At times it can be. That's a very busy intersection right there. The gas station is very popular, of course, so...

Q. Do you remember what you were going to order that night from the McDonald's for the family?

A. A Happy meal, kids meal, my wife eats the chicken sandwich with nothing, just plain chicken sandwich, and number 1 combo.

Q. Do you remember what you were going to have?

A. Number 1 combo.

Q. Were you supposed to get drinks there, too, or did you have drinks at home?

A. No, sir. Tea. We had tea at the house.

Q. When you were just answering Mr. Besley's questions you said that you were surprised yourself at the BA level given the fact that it was just two beers?

DANIEL JAMES SENA - EX. BY MR. SMITH

A. Yes, sir.
Q. And you said that that's the whole reason why you consented to all these tests, especially the blood alcohol test; right?
A. Yes, sir.
Q. Did you feel like you were intoxicated?
A. No, sir. I did not. I got a field sobriety on full camera that can show everything, you know, the whole nine yards.
Q. And you described on one of these exhibits here where you had pulled in and you made this -- right where this arrow here is, that's where you had pulled in, you had described that as -- what do you call that area?
A. That arrow right there would be where my truck was parked waiting for oncoming traffic to clear so I could make a left-hand turn.
Q. You think that was a turn lane?
A. If I'm not mistaken, to the best of my knowledge, it's designed to where you can turn into there. But as you see this lane here if -- you got the entry there, so this lane here is turn only -- turn only here so you can go to this light here. You can also make that turn there but as the -- traffic's waiting, that's where you pull as you

DANIEL JAMES SENA - EX. BY MR. SMITH

wait. That's what -- I would assume that's what that median is for. (Indicating.)
Q. Would you have any clue whatsoever that you're not allowed to pull in that median stop and make that turn?
A. No, sir. Like I said, I've lived there my whole life and done it my whole life. Everybody -- everybody does it.
Q. Is it fair to say you saw the bike, you just misjudged your turn?
A. I'd say I misjudged what it was doing, yes, sir. I wouldn't say I seen -- seen the bike. If I seen and known it was coming I would have made my turn, but I wouldn't be able to tell you it was a motorcycle coming or stopped.
Q. Okay. Had there been a raised median here where you had stopped to make that left-hand turn, would you have crossed over the raised median to turn into the Pilot?
A. No, sir.
Q. Where would you have gone to enter the Pilot if there had been a raised median where you pulled in?
A. The only way you can go is the turn lane, which is on the other side of the highway.

DANIEL JAMES SENA - EX. BY MR. SMITH

You've got Hardee's, Waffle House and all that, but you can't turn there because there's a raised median. You got to go to the Walmart entry, turn into Walmart and then go to whatever restaurant you want to go to.
Q. But you can still get to those restaurants in that area; right?
A. Correct.
Q. Just make a couple of extra turns?
A. Correct.
Q. And if there was a raised median here where you made your left-hand turn, couldn't you have just gone to this light, the frontage road, and come back up here and gone to McDonald's?
A. Correct.
Q. If a raised median had been there and you wanted to go to McDonald's, wouldn't you have simply done that?
A. Yes, sir.
Q. Okay. Have you ever -- in your life, have you ever crossed over a raised median in the road?
A. No, sir.
Q. To make a left-hand turn, right-hand turn, any kind of turn?

DANIEL JAMES SENA - EX. BY MR. SMITH

A. No, sir.
Q. On your way home that day from work did you run over any raised medians?
A. No, sir.
Q. And since this happened with the Wrights have you ever run over a raised median?
A. No, sir.
Q. Is it fair to say that had a median been there, a raised median had been there the night that this happened with the Wrights, that you -- that this accident, this wreck, would not have happened?
MR. BESLEY: Object to the form.
MR. MAYBANK: Same objection.
BY MR. SMITH:
Q. You can answer.
A. Like I say, it would have prevented the accident because, of course, it would have prevented me from turning. Not as much as a wall but, you know, I just wouldn't have drove over a raised median, as some people do.
Q. Are you familiar with how many accidents take place at this particular area since this construction or this road widening took place?
A. No, sir. I'm not familiar with the number of them.

DANIEL JAMES SENA - EX. BY MR. SMITH

Q. Okay. Do you know that in the original plans for widening this road and building these -- this Pilot Travel Center, do you know that in the original plans there was a requirement for a raised median?

A. No, sir. That's not something I would look into. That's something that sucks, I can say that.

Q. And do you know that the Pilot Travel Center got that requirement removed for the raised median?

MR. BESLEY: I'm going to object to the form of the question. That's mischaracterizing evidence and testimony.

THE WITNESS: No, sir. I was not aware.

BY MR. SMITH:

Q. Not aware of that. But you're going to accept responsibility for what you did; is that true?

A. Yes, sir. I was the driver of the vehicle.

Q. You're not looking to place blame anywhere else?

A. I mean, that's -- you say there was something in the original plans. I'm not going to

DANIEL JAMES SENA - EX. BY MR. SMITH

say that was the reason why -- what happened happened. I mean, that could have prevented my accident and a lot more accidents and any more to come. I'm not going to post blame on -- my actions on them for that evening because I was the one that was behind the vehicle.

Q. Sure.

A. I can leave it at that.

Q. And you told Mr. Maybank you're clearly sorry and remorseful for what happened?

A. Yes, sir. I am.

Q. And do you think about -- obviously while you're here being incarcerated, I mean, do you think about what happened and why you're here and things like that pretty often?

A. Every day.

Q. All right. And the fact that you have accepted responsibility for all this, does that help you deal with it and grow and mature and heal from all this?

A. It was -- yes. There's no way, you've got to -- lesson learned. Just be more cautious out there.

MR. SMITH: That's all I have. Thank you.

MR. BESLEY: Have you got anything else, Roy?

MR. MAYBANK: Yeah, I do, just a couple.

EXAMINATION

BY MR. MAYBANK:

Q. Your alcohol level was actually not a .1 but a .12. Did you realize that? It was even higher than what we talked about.

A. No, sir. In my discovery portion it was .10 there.

Q. Have you seen the police accident report?

A. On...

Q. Right down there.

A. Some paperwork. If you go back to my preliminary hearing it's also recorded and testified by officers it's a .10.

Q. All right. But right there is .12; correct? (Indicating.)

A. Okay.

Q. Do you see that?

A. Yes, sir.

Q. And you wouldn't have crossed over -- how high would that median have been where you wouldn't have crossed over it?

A. Sir, if there had been -- anything.

Q. An inch?

A. Anything. Considering, you know...

Q. Two inches?

A. Two inches.

Q. Six inches?

A. Yes, sir. Just been a piece of grass, it is what it is. You don't cross. The point of this median is for emergency vehicles to come through, for turning lanes to come through along this dotted line; correct? I mean, you're DOT; right? If it's a dotted -- solid dotted line?

Q. Are you aware that that is an actual -- you did a legal turn that night?

A. A legal?

Q. A legal turn.

A. Illegal?

Q. No, legal.

A. Oh, legal. I was allowed to --

Q. You did a legal turn that you did?

A. As you were saying --

Q. I'm just asking. Are you aware that that was a legal turn that you did?

A. I was hoping it was. Can I say it that way?

EXHIBIT 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	C/A NUMBER: 2014-CP-08-675

Cynthia Wright and Richard Wright,

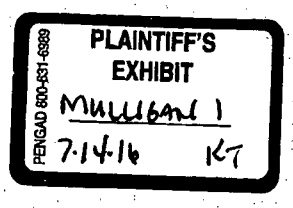
Plaintiffs,

vs.

South Carolina Department of Transportation, C & A Unlimited, Inc. and Pilot Travel Centers, LLC,

Defendants.

AFFIDAVIT OF BILL MULLIGAN



Personally appeared before me the undersigned, after being duly sworn, deposes and says:

1. The contents of this affidavit are based on my own personal knowledge.

2. I am of sound mind and over eighteen years of age.

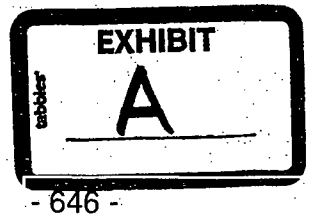
3. I am familiar with the allegations alleged by the Plaintiffs in the above-captioned lawsuit pending in Berkeley County.

4. Beginning in 1994, I began serving as the Director of Construction for Pilot. That Directorship later became a Vice President's position, and I have continuously served as the Vice President of Construction to the present date, which title is now Vice President of Development.

5. On or about September 1, 2001, Pilot acquired the existing gas station and real property located at 1521 North Main Street, Summerville, South Carolina 29483 (the "Property").

6. After acquiring the Property in September 2001, Pilot redesigned and constructed a new Pilot Travel Center station on the Property.

7. When Pilot acquired the Property, the existing gas station located on the Property had three driveways with access to U.S. Hwy 17-A. There was no raised median in the highway preventing left turns into the existing gas station from the southbound lane.



8. Pilot was required to obtain an encroachment permit from the South Carolina Department of Transportation ("SCDOT") before Pilot could construct the driveways to the new Pilot Travel Center. In order to obtain the permit, the location and design of Pilot's driveways had to be approved by the SCDOT. In May 2002, Pilot submitted an application for an encroachment permit to the SCDOT, seeking approval of the location and design of its proposed driveways. The encroachment application was approved, and the SCDOT issued Pilot a permit to construct the driveways.

9. Construction of the Pilot Travel Center began in or around August 2002. Around the time the Pilot Travel Center was being planned/constructed, SCDOT was also performing an improvement project to the intersection of I-26 and U.S. Hwy 17-A, which was adjacent to the Property. The SCDOT did not install a raised median in the highway to prevent left turns into the Pilot Travel Center as part of the improvement project.

Bill Mulligan

April 28, 2016

Sworn to before me this 28th

day of April, 2016

Sherry L Blake

Notary Public for Tennessee

My commission expires: 9-11-16

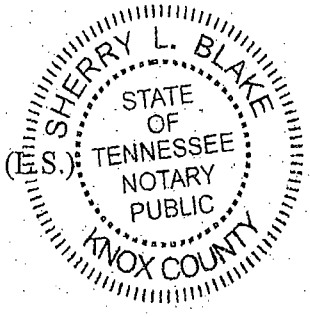


EXHIBIT 4

May 7, 2002

South Carolina Department of Transportation
Mr. Moskal, Encroachment Administrator
436 North Highway 52
Monks Corner, SC 29461
843/761-8481

RE: Pilot Travel Center, 1520 North Main Street, Summerville, SC.

Dear Mr. Moskal;

We have been playing phone tag today so I thought I would go ahead and send you this letter in the meantime. I am the Project Manager for Pilot Travel Center's, LLC (a combination of Marathon Ashland Petroleum, LLC and Pilot Corporation), which now owns the Speedway, operated at the above address. Previously this facility was being redesigned and permitted by Nathan Fox of Marathon Ashland Petroleum, LLC. Mr. Fox's design is based on meetings with Mr. Tommy Smoak and Mr. R.F. Clair, Jr. of the Department. I am submitting these drawings for a driveway access permit for the driveways as shown. I anticipate that there is an application form that will need to be completed. Would you please call me so that I can complete the additional information required for you. I can be reached at 1-800-562-6210 extension 2027.

Your assistance in this matter is greatly appreciated.

Sincerely,

PILOT TRAVEL CENTERS, LLC

Gary Bloom

EXHIBIT 5

APPLICATION FOR ENCROACHMENT PERMIT

No. 5-08-02016

(ENCROACHMENT PERMIT OTHER THAN A PUBLIC UTILITY)

APPLICANT: PILOT TRAVEL CENTER LLC
AND c/o ASHLEY ENGR & CONSULTANTS, INC
ADDRESS: 306 SANGAREE PKWY
SUMMERVILLE, SC 29483
TELEPHONE NUMBER: 843-873-9787

COUNTY: BERKELEY
ROAD/ROUTE: US 17-ALT & S-8-1258
ROAD NAME: N MAIN ST & FARMINGTON RD.

1. The undersigned applicant hereby applies to the South Carolina Department of Transportation (SCDOT) for a permit for encroachment on State Highway Right of Way as shown and described below:

2. Type of Encroachment: 4 - ASPHALT DRIVEWAYS FOR COMMERCIAL & TRUCK ACCESS

3. Description of location:

ALONG US 17-A FROM FARMINGTON ROAD, INSTALL 2-30' WIDE DRIVES & ONE 40' WIDE TRUCK ENTRANCE (ONE WAY) DRIVE.

ALONG FARMINGTON ROAD (S-8-1258) FROM US 17-A, INSTALL ONE 50' WIDE TRUCK EXIT DRIVE.

(Attach sketch indicating roadway features such as: pavement width, shoulder width, sidewalk and curb and gutter location, significant drainage structure, north arrow, right of way width, and location of the proposed encroachment with respect to the roadway centerline and the nearest intersecting road on the State system.)

4. The undersigned applicant hereby requests the SCDOT to permit encroachment on the Department right of way as described herein. It is expressly understood that the encroachment, if and when constructed, shall be installed in accordance with the sketch attached hereto and made a part hereof. The applicant agrees to comply with and be bound by the Department's "A Policy for Accommodating Utilities on Highways Rights of Way" and "Standard Specifications for Highway Construction" (made a part hereof by reference) on file in the Utility Office of the Department, and all general provisions on the reverse hereof and special provisions below or attached hereto during the installation, operation and maintenance of said encroachment within the Department Right of Way. The applicant hereby further agrees, and binds his heirs, successors, assigns, to assume any and all liability this Department might otherwise have in connection with accidents or injuries to persons, or damage to property, including the highway, that may be caused by the construction, maintenance, use, moving or removing, of the physical appurtenances contemplated herein and agrees to indemnify this Department for any liability incurred or injury or damage sustained by reason of the past, present, or future existence of said appurtenances.

APPLICANT NAME: GARY BLOOM (PLEASE PRINT OR TYPE) DATE: 5-13-02

APPLICANT SIGNATURE: [signature] TITLE: Project Manager

In compliance with your request and subject to all the provisions, terms, conditions and restrictions stated in the application, general provisions on the reverse hereof, and special provisions below or attached hereto, the Department approves the request. This permit shall become null and void unless the work contemplated herein shall have been completed prior to 07/25/2003.

SPECIAL PROVISIONS:

SEE ATTACHMENT "A"
SEE ATTACHMENT "B"

PLAINTIFF'S EXHIBIT MULLIGAN 3 7-14-16 KT
PENGAD 800-631-6989

5/30/2002 DATE RECEIVED BY RES. MAINT. ENGR.

DATE FORWARDED

[signature] SCDOT APPROVAL 7/25/2002 DATE

DATE RECEIVED BY DIST. ENGR. ADMIN.

DATE FORWARDED

☑ RESIDENT MAINTENANCE ENGINEER ☐ STATE HIGHWAY ENGINEER
☐ DISTRICT ENGINEERING ADMINISTRATOR ☐ DISTRICT MAINT./CONSTRUCTION ENGINEER

EXHIBIT 6

PLAINTIFF'S EXHIBIT
MULLIGAN 7
7.14.16 KT
PENGAD 800-631-6989

PERMIT NO. S-08- 02016

SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ENCROACHMENT PERMIT
FINAL APPROVAL FORM

PERMITTEE Pilot Travel ROAD NUMBER US 17 & SR 126

ADDRESS _____

ON SITE INSPECTION REQUIRED YES [ ] NO [ ]

FINAL ON-SITE INSPECTION DATE 10-10-03

INSPECTORS COMMENTS: Complete

PERMITTEE REQUEST FOR APPROVAL, LETTER DATED [ ]

SCDOT APPROVAL OF CONSTRUCTION YES [ ] NO [ ]

SCDOT LETTER OF APPROVAL ISSUED YES [ ] NO [ ]

LETTER DATED [ ]

ONE YEAR INSPECTION CONDUCTED YES [ ] NO [ ]

INSPECTORS COMMENTS: _____

Logged 2/15/2007 mam

EXHIBIT 7

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY

CYNTHIA WRIGHT AND RICHARD WRIGHT,

Plaintiffs,

vs. CASE NO. 2016-CP-08-334

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, C & A UNLIMITED, INC., and PILOT TRAVEL CENTERS, LLC, SPEEDWAY, LLC, ASHLEY LAND SURVEYING, INC., F/K/A ASHLEY ENGINEERING & SURVEYING, INC., and ASHLEY ENGINEERING & CONSULTING, INC., and MUNLAKE CONTRACTORS, INC.

Defendants.

VIDEOTAPE
DEPOSITION OF: ROBERT T. CLARK

DATE: March 13, 2017

TIME: 7:16 PM

LOCATION: SCDOT District 6
6355 Fain Boulevard
North Charleston, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: TERRI L. BRUSSEAU, RPR, CRR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Columbia, SC (803) 731-5224
Greenville, SC (864) 234-7030
Charlotte, NC (704) 573-3919

Encroachment Permit, PILOT 001925 to 001936, was marked for identification.)

BY MR. SMITH:

Q. Exhibit Number 2, we've marked as the application for encroachment permit. The question is: Do you know what the specific differences were between the old driveway plans that were on the widening project versus the new driveway plans that were being requested in Exhibit Number 2?

A. I -- I can't -- I don't recall exactly what was originally there.

Q. Okay.

A. I -- I believe there were a couple of commercial-type drives --

Q. Okay.

A. -- but I can't say for sure.

Q. But the driveways that were approved that were requested in the encroachment permit, those driveways were still in the functional area of the intersection. True?

MR. BESLEY: Object to the form of the question.

MR. MAYBANK: Same objection.

THE WITNESS: The -- the driveways in Exhibit 2 in the functional area of the

intersection?

BY MR. SMITH:

Q. Yes, sir.

A. I don't believe all of them were, no, sir.

Q. Some of the driveways that were being requested in Exhibit Number 2 were in the functional area of the intersection of 17A and Farmington Road?

A. They may have been. Functional area of an intersection is kind of a theoretical concept that --

Q. Um-hum.

A. -- when you get in and start looking at driveways and how they function, how they interact with the roadway and the drivers, then you -- you -- you make those determinations. So say this is the cutoff line or this is the exact spot, from one year to the next or for five years, that may change. It depends on the traffic, on what the traffic's doing, what developments happen on the side streets.

So a lot of things can change. So at that point in time, I can't say exactly what was the functional area of the intersection. Probably

the first drive coming from Summerville was probably in the functional area of the intersection because of right turns coming off the frontage road. Beyond that, I can't say.

Q. And both driveways, the Hess gas station across the street, those were both in the functional area of the intersection?

A. They probably were.

Q. Okay. And when we look at the definition of the functional area of an intersection in the ARMS manual, is it true that that defines the functional section -- area of the intersection as the physical intersection of two roadways that comprises decision and maneuvering distance plus any required vehicle storage length?

A. If you read it correct, that's what it said.

Q. Okay. It includes the length of the road upstream from an oncoming intersection needed by motorists to perceive the intersection and begin maneuvers to negotiate it?

A. Right. Essentially a motorist driving any road perceives what's happening. They have to have time to process. They have to have time to react to it. So if you're approaching, say, a

signalized intersection, then you need to have enough room to be able to say, okay, I see a vehicle stopping in front of me, I put my foot on the brake, I come to a stop.

Over time, as traffic builds on a road or it may go down depending on what's happened in an area, that length or that functional area that's related to that intersection can change.

Q. Okay. Is it true that when the new driveways or the changed driveways reflected in Exhibit Number 2 were approved, there isn't a document anywhere that defines the functional area of the intersection with 17A and Farmington Road?

A. No, it doesn't need to be.

Q. Okay. No one determined where the functional area of the intersection was when they were considering --

A. You use engineering judgment when you're reviewing an encroachment permit. You know the area, you know what the traffic is, you review it. Depending on the type of development, you may actually have a traffic study done by a professional engineer. You know, the applicant may be asked to do that. So it depends on -- again, on the area, on the type of development. But you

Management Standards, was marked for identification.)
BY MR. SMITH:
Q. Marked as Exhibit Number 3 to this deposition, the ARMS manual from 1996?
A. Correct.
Q. Okay. We were talking about this width of driveways?
A. Yes, sir.
Q. Okay. And can you tell me whether or not the width of the driveways at the -- at what is now the Pilot Travel Center is in compliance with Page 21, Section 3G-2, Table 3-9? Well, I gave you the wrong page. I'll find the right page for you.
A. Okay.
Q. All right. Sorry. Page 9, Table 3-2, spacing of driveways. Operating speed, we know this was a 45-mile-an-hour zone?
A. Correct.
Q. Okay. And what does that say there is the minimum spacing from center to center?
A. 250 feet.
Q. Okay. And whatever the driveways ended up being, they weren't 250 feet, were they?
A. That is correct.

Q. What's the purpose of this? What's the purpose of the spacing?
A. When you have a large undeveloped tract that they envelope, say a shopping center is coming in or something like that in an area that hasn't had previous development on it, that's a way to space driveways so that the inter -- a road will operate functionally and efficiently, safely.
Q. Okay. That's a safety consideration?
A. Yes.
Q. Okay. There's one other thing I wanted to ask you about. I'm going to try and get through it real quick.
This Page 8 here, Table 3.1 (sic) --
MR. CRITES: Is that Exhibit 3, Kevin?
MR. SMITH: Yeah. Sorry.
BY MR. SMITH:
Q. Table 3.1 (sic), maximum number of driveways per frontage, can you apply that to the Pilot Travel Center?
A. I don't know the frontage, what the distance is.
Q. Is there any document that records what the frontage is that was considered in the application, Exhibit Number 2?

A. If -- if there was a -- an exhibit with the permit, you could see what the distance is on it, I would think. But I don't see an exhibit on this permit.
Q. But you would agree with me that under Table 3. -- 3-1, you've got to have between 1,000 and 1500 feet of frontage to be allowed four driveways? True?
A. You would need that much on one road for four driveways.
Q. Right. So when we're talking about the section of 17A, to have three driveways -- right?
A. Correct.
Q. -- you'd have to have between 600 and 1,000 feet of frontage on Highway 17A?
A. That's correct.
Q. Okay. Anything outside of that range and -- that's not in compliance with your ARMS manual?
A. That's correct. Again, it depends on internal circulation as to what you want to do. You may have a one-way pair. Or if you've got trucks, you don't want trucks and automobiles to mix. So you take that and then you look at site plan and look at what's being used on the site to

make an engineering judgment as to what is appropriate.
Q. But in any situation, if you are asked to review plans that are in conflict with the ARMS manual and you are using reasons to approve something different, the Department of Transportation wouldn't write those reasons down to say we know the ARMS manual requires this, but we considered X, Y, and Z and that's why we're not going with what the ARMS manual says?
A. They would be in those notes.
Q. The notes that get destroyed?
A. That's correct.
Q. So we don't know if -- we don't know what was considered, do we? We don't even know if the ARMS manual was considered at all, do we?
A. Well, it always is.
Q. But I mean, there's no -- there's no evidence, there's no documents, there's no proof of any kind that anyone ever looked at the ARMS manual when they were looking at these driveways for the Pilot Travel Center?
A. I would say that the staff when I was traffic engineer, traffic engineers that have followed me have always used that as a resource in

EXHIBIT 8

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY

CYNTHIA WRIGHT AND RICHARD WRIGHT,

Plaintiffs,

vs. CASE NO. 2016-CP-08-334

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, C & A UNLIMITED, INC., and PILOT TRAVEL CENTERS, LLC, SPEEDWAY, LLC, ASHLEY LAND SURVEYING, INC., F/K/A ASHLEY ENGINEERING & SURVEYING, INC., and ASHLEY ENGINEERING & CONSULTING, INC., and MUNLAKE CONTRACTORS, INC.

Defendants.

VIDEOTAPE
DEPOSITION OF: LELAND D. COLVIN, JR.

DATE: March 13, 2017

TIME: 11:35 AM

LOCATION: SCDOT District 6
6355 Fain Boulevard
North Charleston, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: TERRI L. BRUSSEAU, RPR, CRR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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AWR

duties in ensuring the location will be safe and free from hazards. And it's kind of a general subject there.

A. Right.

Q. And Number 14 talks about the applicable safety standards and things like that. Okay?

A. Right, yes, sir.

Q. So do you believe the South Carolina Department of Transportation must only approve safe highway plans?

A. Yes.

Q. All right. And is the reason for that to prevent injury or death to other people on the road?

A. Yes, the -- the reasonable expectations. There's four E's of traffic safety, and engineering is one of the four E's.

Q. All right. And I -- I think I may have misspoken. The reason for only approving safe highway plans, is that to prevent injury or death to everyone using the road?

A. Reasonable, again, when I look at -- when I look at traffic safety, it's -- it's known amongst the community there's four E's. There's

education, there's enforcement, there's emergency, and there's engineering. And the -- and the Department of Transportation plays into a couple of those.

Certainly education, we -- we partner with the Department of Public Safety and engineering, so yes. That's part of that, is to -- is provide a -- a reasonably safe highway network.

Q. Okay. Do you believe the South Carolina Department of Transportation must follow industry safety standards when considering changes to a highway or the additions of driveways?

A. Yes.

Q. And is the reason for that to prevent injury or death to everyone using the road?

A. It is to ensure that we provide sound, safe engineering. Again, we can't -- we can't protect the motoring public from themselves sometimes. You have impaired drivers, you have drivers that are texting. So as to the reasonable expectation of engineering standards from a safety -- safety concern, yes. If they are reasonably using those roadways in state statute, the -- the engineering side of that should -- should -- should work.

Q. Okay. So one of the reasons that the Department of Transportation must follow the industry safety standards when considering changes to the highway or the additions of driveways, one of the reasons to follow these industry standards is to prevent injury or death to everybody using the road?

MR. CRITES: Object to the form.

MR. MAYBANK: Object to the form.

BY MR. SMITH:

Q. You can go ahead.

A. Yeah. That are using the road as intended.

Q. Okay.

A. That's following all state laws and statute, correct.

Q. Would it not encompass people just, you know, alongside the highway? Can you see how decisions regarding driveways or highways would also affect people, you know, on foot walking as pedestrians?

A. Certainly. I -- I think both the pedestrians and bicyclists are modes of transportation that's taken into account with our -- our highway design there. Yes, sir,

absolutely.

Q. So if the safety standards are followed, one of -- the intention is, is that that would ultimately protect people both on and around the highway?

MR. MAYBANK: Object to the form.

BY MR. SMITH:

Q. You can go ahead.

A. Yes. I mean, if -- if the -- if the pedestrians, bicyclists, the -- the -- and -- and vehicle drivers are following all the applicable laws, the -- that one E is part of safety, the engineering. Absolutely, it is -- it is one of the four E's regarding highway safety.

Q. Okay. Are there parts of the highway design process or the maintenance issues with changes to the highway or just simply the process of approving driveways or -- or curb cuts and the safety standards that apply to those issues, do those not take in account for situations where someone is performing a illegal use of the road? Or do all of these safety standards presume that people are going to legally use the road and just simply don't apply if there's any illegal use?

MR. MAYBANK: Object to the form.

standards?
A. I'm not familiar with that document.
Q. Okay. Oh, that was the one I had showed you, I think, before, the --
A. AASHTO?
Q. This one here (indicating). There's a lot of the same stuff from this was in the ARMS.
A. Yeah. I would -- I would say that DOT, in developing the state-specific guidelines, takes into consideration AASHTO and USDOT standards --
Q. Okay.
A. -- but applies those specifically to South Carolina conditions, as do most other state DOTs.
Q. All right. And I had a note here to ask you about any others. And I just want to -- I don't know if I wrote it down, but you -- early on, you said that one of the things you looked at was this highway and whether it met this certain manual. And I showed you this and showed you that, and you said that wasn't it. Can you just say that again so I can write it down?
A. Yeah. It's the South Carolina Highway Design Manual.
Q. Okay. And you have in your possession

the versions of that manual that existed back in 2000 up through today? Not in your physical possession right now, but that's available to you?
A. Yes, sir.
Q. Okay. After we're done here today, could you maybe take those -- those manuals, those versions from 2000 up through today, and provide them to your attorney?
A. Yes. I provided the one that was in place at the time of the design. But -- but the new one, there's been an updated version that we did not provide, so I can provide that as well. One has already been provided.
Q. Okay.
MR. MAYBANK: And -- and if you gave it to me, Kevin, it should be in the documents that we -- all these -- A, B, C, I think you've got a list of them. You've got those.
MR. SMITH: All right. Thanks.
THE WITNESS: I'll make a note of that.
MR. MAYBANK: Do you want the new manual, Kevin?
MR. SMITH: Yeah, any -- any changes since 2000.
MR. MAYBANK: Okay.

BY MR. SMITH:
Q. Are you personally familiar with the ARMS manual?
A. I am, yes, sir.
Q. And I believe your description of the ARM manual -- ARMS manual was it's a set of guidelines used by others when they are wanting to make changes to the highway or curb cuts and driveways and things like that?
A. It is. I mean, it's something that both the DOT as well as that private individual or company uses to provide those guidelines for -- for access to the state highway system. Something we use as well in a review if there are any encroachment permits.
Q. Does the ARMS manual contain -- does it contain a set of safety rules or -- or rules for the -- I'm trying to -- trying to figure out how you're using the word guidelines. Maybe I can rephrase the question.
The ARMS manual, are those merely suggestions or are those rules that are to be followed?
A. They are guidelines to be followed. There are -- the manual does allow for exceptions

to that, so there is a -- there is an exception process as -- as well that does -- that's within this -- incorporated within the manual itself.
Q. So what's in the ARMS manual is mandatory, but the ARMS manual itself provides examples for exceptions and procedures to -- to gain those exceptions. Is that a fair summary?
A. That is correct.
Q. Okay.
A. Yes.
MR. CRITES: Kevin, when you were referring to the manual as being mandatory, is that the South Carolina Highway Design Manual?
MR. SMITH: I'm talking about the ARMS manual.
MR. CRITES: Okay.
BY MR. SMITH:
Q. And maybe I'll -- I'll head off his question in advance.
The South Carolina Highway Design Manual, is that also a set of mandatory rules that would provide instances for exceptions and a set of procedures to try and qualify for those exceptions?
A. Yes, sir, it does. It provides a -- a process for exceptions to the manual.

Q. Does the community have a right to expect the Department of Transportation to make all changes in the roadway that are safe? I'm sorry. Bad question.

Does the community have a right to expect the Department of Transportation to make sure all changes in the roadway are safe?

A. I would say that the public has a reasonable expectation to make sure that we provide safe highways, and we have safety guidance that we use to -- to follow.

Q. Okay. Is it true that ordinary people in the community going up and down the highways, and in particular 17A, they wouldn't know about the particular safety standards or rules and regulations in the ARMS manual or those published by the Department of Transportation?

A. I think that's a fair assessment, yes, sir.

Q. And does the South Carolina Department of Transportation know that driveways have long been recognized as a major source of conflict for traffic on public highways? Is that a true statement?

A. That's a true statement.

Q. It comes out of the ARMS manual?

A. Certainly.

Q. Reasonable access means a property owner must have access to the public highway system rather than being guaranteed that potential patrons -- patrons should have convenient access from a roadway to the property. Is that a true statement, describing reasonable access?

MR. MAYBANK: Object to the form.

THE WITNESS: Could -- could you repeat that one more time, please?

BY MR. SMITH:

Q. Sure. I'm trying to define reasonable access --

A. Sure.

Q. -- with regards to the South Carolina Department of Transportation.

And would you agree with me that reasonable access means that a property owner must have access to the public highway system, rather than being guaranteed that potential patrons should have convenient access from a roadway to the property?

A. I agree with that statement.

Q. Okay. And the reason for that is

because the Department of Transportation is required more -- is required to care more about safety than what a property owner thinks will make him or her more money. Is that true?

A. Yeah. Our -- yes. We -- we are charged with providing safe, reasonable access to the state highway system.

Q. All right. And safety takes precedent over any wishes that private corporations may have that may result in them making more or less money? Safety trumps that?

A. Yes.

Q. Okay. And would you say that safety is the primary concern for any decision regarding access to private property?

A. Yes. I would say safety and the operation of the state highway system are the two primary functions that the DOT looks at for access to the state highway system.

Q. And I -- and I read a -- a little bit about that. And -- and I think that term, to me, seemed to say that we know what safety is, but the operation of the road, that's about traffic issues and stuff, about the road functioning smoothly and not backing up and -- is that what you were talking

about, the second end of it?

A. Yes. I mean, that -- that -- the -- the operation, the functionality of that roadway. In other words, you've got a different safety standard for a interstate system that does not have any access points, then an urban arterial, then a minor arterial, then a neighbor street. So each -- no one roadway is treated the same with regards to the reasonable expectation of those drivers.

Each functional class of that highway has different safety components that -- that are tied to that, which is -- which I would say most drivers understand those reasonable expectations. They've got a -- you know, driving along an interstate with higher speeds, less conflict points versus driving along a neighborhood street. And then you've got those roads in between those two.

Q. But in any of those situations where it's an interstate or it's a major highway or a neighborhood or a -- or a smaller street, in any of those situations, there's two concerns that the Highway Department would -- I'm sorry -- the Department of Transportation would have that would trump the wishes of private property owners. And those two concerns would be, number one, safety,

and, number two, the functioning of the highway or roadway in question?

A. Yes.

Q. Okay.

A. That's a fair statement, yes, sir.

Q. All right. Let's talk about -- and I think that maybe even Question 1 under yours? Let me get to the page so I don't have to keep flipping here.

So the history of the design, that Number 1 --

A. Sure.

Q. -- why it was decided to -- decided to separate the north- and southbound lanes, barrier-type median, that seems to be your topic rather than Mr. Clark's, right?

A. Correct.

Q. Okay. So talk to me about this history of the design here.

A. Sure. Well, first thing I think you've got to recognize, there's two different projects and they just happen to start in at Farm -- at the intersection of 17A and Farmington.

Q. And let me ask you -- let me stop you right there.

The two different projects, are you talking about the stuff that the -- that people that would be later identified as Pilot wanted to do? Or two separate DOT projects?

A. Two separate DOT projects.

Q. Okay. So tell me what those two separate projects were.

A. The first one is referred to -- there's two sets of plans that were provided, is that what the DOT commonly refers to -- they've got file numbers, but the common name is the I-26/US 17A intersection -- interchange improvement project. And that would be from Farmington Road back towards Summerville. I guess that's west. Then we'd refer to Farmington Road back to the east as the US 17A widening project.

Q. Okay. So basically at Farmington Road, you head towards Summerville and that is the interchange improvement project?

A. Yes, sir.

Q. And if you -- Farmington Road towards Moncks Corner, that would be the widening project?

A. Yes, sir.

Q. Okay. And those two projects, we talked about the history of the design here. Those

two projects, were they happening at about the same time?

A. They are roughly happening at about the same time. The interchange project was being designed by a outside consultant, and then the -- the widening project was designed, what we refer to, in-house by South Carolina DOT staff. A little bit of different purpose and needs from -- from those two, and -- and certainly different from a design aspect of -- of what we did.

The interchange project, do you want me to go ahead and describe kind of what that is or --

Q. Well, you had mentioned the -- I think that portion was designed by a private firm?

A. Yes.

Q. Who -- who was that?

A. It's Arcadis Geraghty, I think it's -- & Miller. Arcadis is kind of the name we went by. They have since been bought out, so I'm not sure what it belongs to at this point.

Q. Were they employed by the Department of Transportation for that portion of the -- or for that project?

A. Yes, sir, they were.

Q. And when you -- when we talk about the

history of the design here, did any part of the interchange improvement project from Farmington Road up to Summerville, that way, did any of those changes impact your analysis in this case?

When you're looking at the safety standards applied here and whether or not those were met by the Department and designs or the changes thereafter and things like that, did any of the interchange improvement project issues come up? Or were you just simply looking at basically Farmington Road, Moncks Corner?

A. No. There was -- when you looked at those two tie-ins of the project, you had to look at them together. I -- and -- and that's what we had to do. You know, when we stop one project and start another, we've got to make sure that project is designed so that the set -- the widening project was set up to accept the lanes coming to it.

In other words, you can't have five lanes just tying down into two.

Q. Yeah.

A. Same thing, the -- the widening project of 17A, similar to there, it had a stopping point at US 176. You just can't all of a sudden cut off

indicating what volume the -- what now is the Pilot Travel Center, are there any notes that indicate what type of volume that business was?

A. Not that I have seen. Again, if -- if this was a new gas station/convenience store going in, that would be part of the encroachment permit process was -- would be to determine those volumes since that is access already existed. It's not something that we would typically look at as part of a roadway widening project. Certainly the volume on the road itself, but not those individual property owner volumes.

Q. And how about -- I mean, is -- was that -- was that something that was ever considered in the history of the entire project? And what I'm talking about the project is, you know, the -- the -- the widening in front of the Pilot Travel Center and the construction of the driveways, was a -- was the volume of the Pilot, was that ever considered in any of those decisions?

A. Not that I recall.

Q. Okay. And I want to ask you about who did particular work. I see in their encroachment permit about, you know, things about you pay for this, we'll pay for that, and -- and things like

that. But I want to get sort of a little bit more specific if we can.

So painting the actual median where there used to be this plan for the raised median and then it became paint, who paid for the paint?

A. The SCDOT, as --

Q. Okay.

A. -- part of the widening project.

Q. And who paid for the paint to be put down?

A. SCDOT.

Q. Okay. So Pilot didn't have to pay for any of that stuff?

A. No.

Q. All right. Okay. And how about the -- the driveways and curb cuts along 17A, who would have paid for that?

A. SCDOT would pay for that.

Q. Okay. And signage alongside the road, paint markings on the road, DOT as well?

A. Yes, sir.

Q. All right. Is there any part of what Pilot was asking for -- and when I -- when I say Pilot in this case, I mean Pilot and the entities before them and all that. Okay?

A. Sure.

MR. BESLEY: Yeah, I'm going to object and ask that you clarify your question specifically. Because there are different parties in this case. If you can try to do that, that would be helpful. Could mean him having to ask all the questions over again when you get done.

BY MR. SMITH:

Q. Well, the group that was originally involved here, this Marathon Ashland Petroleum, okay, at some point they became somebody else, right? I think it was Marathon Speedway or Speedway Marathon; is that right?

MR. CRITES: (Moved head up and down.)

BY MR. SMITH:

Q. So what these people were wanting to do, they wanted the -- the raised median gone and they wanted these particular driveways on 17 and Farmington Road. Is that fair to say?

MR. CRITES: Object to the form.

MR. MAYBANK: Same objection.

THE WITNESS: Yeah. I mean, I think as part of any right-of-way acquisition, there's -- there's about two or three things that's contemplated. Certainly the value of the

acquisition land that's taken, any damages to the remainder of that, and then the access to the road system, those were the three general rule-of-thumb, broad-brush items that come into play when we're acquiring -- when we're acquiring right-of-way.

BY MR. SMITH:

Q. Okay. But in -- in terms of so we can figure out who paid for what --

A. Right.

Q. -- it's my understanding that Marathon Ashland Petroleum, that they were requesting basically two things: They wanted the raised median gone and they wanted some driveways along 17A and Farmington Road. Is that your understanding of basically what they were asking for in terms of this project?

MR. CRITES: Object to the form.

THE WITNESS: Yes. That as -- in -- in addition to the value of the property that was acquired by the Department.

BY MR. SMITH:

Q. Okay. I got you. The new right-of-way that was acquired?

A. Correct. Correct.

Q. Okay. And did Marathon Ashland

that raised median would have spanned the -- basically the entire length of the -- what is now the Pilot Travel Center area on 17A.

Originally there was -- there was a requirement for a raised median. And that was sometime later changed, I understand that. But my question is: The original plans for the widening in front of the Travel Pilot Center, the original plans had a requirement for a raised median at Farmington Road going towards Moncks Corner. True?

A. Can I look at this letter?

Q. Yeah.

A. Yes. There -- there was a -- yes. Absolutely at one point in time, the interchange plans showed a raised median.

Q. Okay. I got you.

A. At -- at -- at some point in time during the process --

MR. MAYBANK: Hold on. I don't mean to interrupt. He's talking interchange, you're talking road widening. You all -- you all aren't coming together, and I want to make sure the record is clear. I don't mean to interrupt you.

Is anybody else hearing this? Because that's --

MR. BERLINSKY: Well, you know, I -- I agree wholeheartedly with what you're saying.

MR. MAYBANK: Here's -- you know, I think you all are confusing one another.

MR. SMITH: Well, what -- what I'm hearing from him is that portions of the interchange project blended into the road widening. Because when doing the inter -- interchange project, they are drawing in this raised median as part of accepting these lanes from the widening project into their interchange improvement project.

BY MR. SMITH:

Q. That's what I heard you say.

A. Yes. When -- when -- in my job as the program manager for the project, we had to take a set of design plans that were done by a consultant, a set of design plans for the widening -- it doesn't really matter who did them -- and marry those two plans together.

Q. Okay.

A. And as part of that marrying and coming up with that final design, it was -- the final design was a flush painted median and not a raised median.

Q. Okay.

A. And that happened, no pun intended, that was flushed out as part of the merging of the two projects.

Q. Okay.

A. Keep -- keep in mind, both -- both documents had that piece of that design because they're just right here at the termini. So when you look at that termini, both -- both sets of plans had that same -- had -- had the road widening in front of the -- the gas station/convenience store included that. Okay? You -- you had to.

So in marrying the interchange project to the widening project, the decision was made to go with a -- a flush median from Farmington out toward Moncks Corner, yes.

Q. Well, just back to the original question: The original requirement was for a raised median in that section? Subsequently that was changed, but that was the original plan?

A. I would -- I would phrase that the original design. I would not phrase that as original requirement.

Q. Okay.

A. I would say the original design.

Q. Okay.

A. There was -- there was a design at some point prior to 1999 that had -- the plan showed a -- a raised median, yes.

Q. Okay. Got you.

And where in -- in this, these documents, do we see the original plan or design for the raised median? Maybe just give me the document number.

A. Yeah. I think the right-of-way, these are the right-of-way plans. They show a raised median at the location, the subject location.

Q. Okay. And we're back to -- I think you were on 37?

A. Yes.

Q. Okay.

MR. MAYBANK: Can I -- I don't mean to interrupt, but which set of plans are you referring to? The interchange plans or the road widening plans?

THE WITNESS: These are the interchange right-of-way plans.

MR. MAYBANK: Thank you. All right.

THE WITNESS: Now when I go to the interchange construction plans --

BY MR. SMITH:

Q. Um-hum.
A. -- and you look at the subject, it's 17A to I -- at I-26.
Q. Um-hum.
A. So as part of the project -- again, it's -- we're all right at this -- what I call this construction joint, which is Farmington Road.
Q. Um-hum.
A. So I mean, you can't just throw one out and look at the other. You've got to look at them in totality. And that's when -- when I prepared for this case and this deposition, I had to look at everything in totality. And when you do that, yes, there's -- always was a painted flush median.
And we had to correct the interchange plans to -- to reflect that. And part of that was done as part of the right-of-way because we were out buying right-of-way. Tommy was using the interchange plans to acquire the right-of-way, which is part of that. Because again, we had acquired right-of-way, as I showed you on that last exhibit highlighted in green along Farmington. And he was using this plans, the 17A plans, as we married those two together. We, in looking at this whole project in totality and not having that --

call that construction joint, whatever you want to call it, that terminus of one and the -- and the starting point of the other one and marrying those two together, that's when the correction was made to show that -- that flush painted median.
Q. All right. Was that around the time of this letter, marrying those two together?
A. Yes.
Q. Okay.
A. Yes, sir.
Q. Okay.
VIDEO TECHNICIAN: Fifteen minutes, counselor.
MR. SMITH: Okay.
BY MR. SMITH:
Q. All right. Whose decision was it to change the plans from what was in the interchange project from a raised median to a flush median in the final plans? Whose decision was that?
A. That was my decision as the program manager.
Q. Okay. Now, what discussions did you have with anyone associated with the property owners or the people developing what is now the Pilot Travel Center with regards to that raised

median?
A. I wouldn't have had -- I don't recall any direct contact. That would have been through our right-of-way acquisition agent, which was Tommy Smoak.
Q. Okay.
A. So as the PM, I'm coordinating those. I'm not saying from time to time, do I have a direct conversation with the property owner, I do. Generally speaking, that is done through our right-of-way agents. Again, Tommy was our right-of-way manager down here out of -- out of our local office. And that's one thing I would do is we -- you know, kind of like I said early on, is the PM part of that job duty is kind of quarterbacking between purpose and need, environmental, right-of-way, plan development, right-of-way acquisition, and construction.
Q. Okay.
A. So as part of that, yes, that where when Tommy went out, I started reviewing the interchange plans in conjunction with the road widening plans and said, nope, the plan is from Farmington east, we're going with that flush median.

Q. Okay. Now, with regards to the original, we saw some mention of a unmountable median. Does unmountable mean uncrossable?
A. Yes, un -- unmountable meaning uncross -- uncrossable. And I'm not sure that -- yes, that is what that word means.
Q. Okay. And is that -- is a raised median also a nontraversable median?
A. A -- a -- a raised median serves two purposes. A raised median serves for channelization and for access control. It's transversable from the standpoint that, yes, we want that median to be transversable for emergency services. So I don't want to contradict myself, but yes. The -- the intent of that is, yes, for everyday morning traffic -- well, not transversable, is it unmountable? That's why I say the term unmountable is probably -- this was done by -- I don't even know whose signature this is. I don't believe this is a DOT -- I don't believe that's a DOT person, but I -- I think that term probably is inaccurate. Certain -- but I don't want to mislead you. A -- a -- a raised median is not intended to be transversed by the motoring public.

widening project --
A. Correct.
Q. -- correct?
A. Yes, sir. Yes, sir.
Q. But the -- the interchange improvement project around that same time would have shown the raised median in that same area?
A. Yeah. The plan, the right-of-way plans that's date-stamped July of '99 showed the raised median, yes.
Q. Okay. And so what I want to talk about and we've been going back and forth to this letter here, and it says -- I imagine that -- that means September the 5th of probably 2000, just after this August 28th letter -- there was a per phone call verification with T. Smoak. And there's some notes here: Negotiated median removal and drive cuts.
And earlier, you were talking about marrying the two plans together, being the interchange improvement project and the widening project and the two different designs for the median in that area, right?
A. Right.
Q. And so my question is: Is the two plans, when they were put together and the final

decision made to go without the raised median, was that in this time frame of September or August of 2000?
A. You know, you had two concurrent designs going on at the same time. And like I said, I would -- I would almost state it that we got this -- we got the interchange plans corrected to show the appropriate median as designed on the widening project.
Q. Okay.
A. Now, certainly the right-of-way acquisition process facilitated that. There was -- I don't know there was anything that was really pushing that at that point in time, but certainly this -- this right-of-way acquisition pushed this -- pushed that -- accelerated making sure those two plans married up. Because you've got one set of plans that showed one thing, another set of plans that showed something else.
The set of plans that really was the design east of Farmington always had the painted median. The set of plans, the interchange that went up to -- to Farmington and just kind of had a placeholder, so to speak, beyond that showed the raised median.

Now, what makes it a little bit more difficult is the right-of-way acquisition. Because it included that section that we talked about along Farmington was actually acquired under the interchange.
Q. Right.
A. So that's kind of what spurred this letter and why the right-of-way acquisition was acquired as part of the interchange project and not the widening project.
Q. And the right-of-way acquisition, is that another way for just describing the dealings with Marathon Ashland Petroleum, LLC?
A. Yes, sir. Absolutely, yes, sir.
Q. And so is it true that Marathon Ashland Petroleum, as referenced on Plaintiffs' Exhibit Number 5 there, it was their desire that the raised median which appeared in the interchange improvement project, that the requirement for the raised median would go away?
MR. CRITES: Object to the form.
MR. MAYBANK: Same objection.
BY MR. SMITH:
Q. Is that your understanding?
A. Yeah. I mean, certainly Marathon

Ashland Petroleum would have liked to have maintained the same access they had prior to the widening project and the -- and a raised median would have changed that access.
Q. Okay. Because a raised median at that -- at that portion of Highway 17A would have meant they would only get business off of 17A, people turning right in, and they would lose access to the business for people who wanted to turn off 17A into the Pilot Travel Center?
A. I don't know if I would categorize it like that. It certainly would have -- would have restricted left turns into those drives. There could have been a -- still a left turn made at the signal at Farmington, another left made from Farmington into the gas station.
Q. But that -- that -- that entrance on Farmington Road, that was a right-in, right-out; is that right?
A. That is correct. It ended up being right in, right out, correct.
Q. So people coming down 17A from Moncks Corner, if they couldn't make a left across where this -- what -- what became the flush median, they go up to the intersection of Farmington Road

the SCOD -- SCDOT ARMS manual.
A. Yes.
Q. Right?
A. Um-hum.
(PLF. EXH. 9, SCDOT Access & Roadside Management Standards, was marked for identification.)
BY MR. SMITH:
Q. And this section here, this is the 2008 edition. So I'm going to be asking you about things in here --
A. Sure.
Q. -- and then how that maybe relates to information from back then. Okay?
A. Sure.
Q. So if you -- if you look at that there and then you turn to Page 6 -- it's double-sided, so --
A. Okay, got you.
Q. -- it should be back there.
A. Sure.
Q. And that's where I was getting this term nontraversable -- nontraversable medians. Do you see that?
A. Yes.

Q. Is it true that nontraversable medians have the effect of a 35 percent reduction in traffic collisions?
A. Yes. I mean, on Page -- on -- on Table 1.1, a continuous two-way left turn lane, TWLTL is our engineering term, has 35 percent reduction in total crashes, as well as a nontraversable median. Both showed 35 percent reduction in total crashes.
Q. All right. So nontraversable medians, those would have the effect of a 35 percent reduction in traffic collisions?
A. Correct.
Q. Okay. And so the absence of a nontraversable would increase traffic collisions by 35 percent?
A. That is not what this table states. This table -- this table states that a continuous two-way left turn lane, which is what we have --
Q. Okay.
A. -- has -- the effects on that has a 35 percent reduction in total crashes, a 30 percent decrease in delay, and a 30 percent increase in capacity. The same increases and decreases as a nontraversable median as noted in this table.

Q. Okay. Where was that -- TWLTL? Yeah. And these -- these percentages here --
Well, how do you -- how -- how do you square that? Because a nontraversable is going to prevent left-hand turns, a continuous two-way left turn lane is going to allow left-hand turns, each one of those results in a 35 percent reduction in total crashes? If you allow left-hand turns, it's a 35 percent reduction in crashes; if you don't allow left-hand turns, it's a 35 percent reduction in crashes?
A. I -- I'm just -- I'm reading the -- I'm reading the -- the book that you provided to me, which is a DOT access management. And it just -- I guess this is under the heading of effects of specific access management techniques. And it talks about -- that summarized the general safety and operation effects of specific access management techniques based on researches to date.
So again, if you don't have that TWLTL -- and you're right, that's the term we use -- you don't have that storage area to allow that -- that vehicle, as we talked early on in the deposition, to get out of that through lane of traffic.

Q. But can you -- can you -- can you square that -- that -- that statement that I just made that allowing left-hand turns with that area to get out of traffic reduces the number of crashes by the exact same percentage as simply not allowing left-hand turns at all by using a nontraversable median? Does that make sense?
A. Yeah. A nontraversable median cuts down on the number of conflict points compared to a flush painted median.
Q. And the number of conflict points, that talks about as a person is turning left, the conflict points would be the two or three lanes heading towards them. Those each would be conflict points, right?
A. Correct.
Q. Okay. And allowing left-hand turns in this particular area created three conflict points?
MR. MAYBANK: Object to the form.
BY MR. SMITH:
Q. If there were three lanes?
A. It didn't create any conflict points that -- those, that was already there. Those left turns are already allowable, so it didn't create any -- any conflict points that weren't on --

thousands of pages of documents that have been produced so far, you've never seen a single page that would actually mark out where the functional areas of the intersection between 17A and Farmington Road are. True?

A. Correct. That's correct.

Q. And if we go back to this Exhibit Number 10, let me just ask you in general: Allowing driveways within the functional area of an intersection increases the likelihood of collisions. True?

MR. MAYBANK: Object to the form.

THE WITNESS: Any driveway anywhere increases conflict points.

BY MR. SMITH:

Q. Um-hum.

A. So by increasing a conflict point on any road anywhere, yes, there is a -- there is a higher chance. So yes, any conflict point whether it's right angle, whether it's as noted in that -- earlier in that document where there's a merging maneuver, diverging maneuver, yes, any -- any contact point, there's a -- there's an increased chance of accidents.

Q. And if you combine conflict points and

you put those conflict points in the functional area of an intersection, those conflict points became -- become even more dangerous. Is that true?

A. I would not say that necessarily.

Q. So conflict points outside of the functional area of an intersection are -- have the same danger as conflict points within the functional area of the intersection. Is that your testimony?

A. It -- it depends on several things. In -- for instance, if a intersection has a traffic signal, is that -- as -- as the control device, is it stop signs? It just depends on each -- each intersection is a case-by-case scenario that you have to evaluate that in context of that exact location.

I mean, I think you're talking hypotheticals. But you've got to take each case as a case-by-case scenario. A -- a driveway next to a signalized intersection, that signalized intersection provides gaps in traffic versus a -- versus a driveway that's in a mid block that you don't necessarily have the gaps in traffic based on a signalized intersection. So it's -- it's a

case-by-case scenario.

Q. And this Exhibit Number 10 here, this U.S. Highway Department -- or U.S. Department of Transportation, really this paragraph right here talks about limiting or -- I'm sorry -- limiting or possibly eliminating driveways within the functional area of an intersection upstream and downstream helps reduce the number of decisions motorists make while traveling through an intersection and improves the safety in the -- in the vicinity of an intersection.

Do you take that statement as true?

MR. MAYBANK: Object to the form.

THE WITNESS: I mean, I -- it's going to be hard for me to comment on a document that -- that I haven't really studied.

BY MR. SMITH:

Q. Okay. But do -- do you need to study anything to -- to know about left-hand turns in the functional area of -- well, let me ask you. Let's just break it down here.

If you limit or eliminate driveways within the functional area of an intersection, does that help reduce the number of decisions that motorists make when they're in the functional area

of the intersection?

A. Yes.

Q. Okay. And do you believe that limiting or eliminating driveways within the functional area of an intersection improves safety in the vicinity of an intersection?

MR. MAYBANK: Same objection.

THE WITNESS: Eliminating driveways?

BY MR. SMITH:

Q. Or limiting. Limiting or eliminating driveways within the functional area of an intersection improves safety in the vicinity of an intersection.

A. It -- I would say that's case by case.

Q. Okay. Well, how about -- how about here, let me ask you this: Are the driveways in the functional area of the intersection, the driveways in the Pilot Center -- Travel Center on 17A, are those driveways within the functional area of the intersection with 17A and Farmington Road?

A. I believe one of the three are, yes.

Yes.

Q. And is there a -- just, you know, is -- is there a general rule or principle that you would initially start with when you think about allowing

driveways in the functional area of an intersection? A general principle like it doesn't really matter or we need to be real careful about this or that's a really safe thing to do and that's something we should look at trying to implement?

A. Yeah. I mean, I think driveway locations is -- is a part of the design of the highway. Absolutely.

Q. And allowing driveways in the functional area of an intersection is generally frowned upon in the decisions that you all make.

MR. MAYBANK: Objection.

BY MR. SMITH:

Q. Is that a fair statement?

MR. MAYBANK: Object to the form.

THE WITNESS: Not in a vacuum, I would not think that's a fair statement.

BY MR. SMITH:

Q. Okay. Oh, I'm sorry. I -- I asked you to do something, then I just kind of moved on from something else.

You were going to take one of those exhibits and you were going to circle for me the area -- the functional area of the -- the functional area of the intersection. I may have

grabbed that from you. Yep, here we go.

We were going to do that on Exhibit 6. And why don't you take a yellow highlighter and, you know, you can circle it the whole way around.

A. I can do it for the western side. I think this -- I think this exhibit, I cannot -- I cannot tell on the eastern side of the intersection, if that makes sense.

Q. All right. So you think that maybe the functional area of the intersection would -- would -- would encompass more than what's shown on the left-hand end of Exhibit 6 that might extend further than that?

A. I don't know the answer to that. I'd have to look at the 17A widening plans to determine that.

Q. Okay. So can you -- can you -- can you do that?

A. Sure.

Q. Okay.

A. Sure.

Q. Which one can I hand you?

A. I am looking at Document 0437.

Q. Oh. Oh, you've got it in front of you?

A. Yes.

Q. Sorry.

MR. MAYBANK: What number is that?

THE WITNESS: 0437.

MR. MAYBANK: Let us pull that so we can make that an exhibit.

MR. SMITH: Yeah. Is that this, 38? I've got this as 37.

MR. CRITES: I think we already marked that as an exhibit.

MR. SMITH: No, I'm sorry. We might have marked it. It might be the back side of one of those. Yeah, this is -- you know, you said 437, right?

THE WITNESS: O437, yeah.

MR. MAYBANK: Here you go, 437.

MR. SMITH: All right. Oh, that's that same one we were looking at before. I'm sorry. Okay.

BY MR. SMITH:

Q. So 0437 is actually Exhibit Number 4, and we've got some green highlighter markings that you made before.

A. Right.

Q. Now let's use the yellow highlighter marking to mark the functional area of the

intersection.

A. That is it.

MR. MAYBANK: You got a pen?

THE WITNESS: Yeah.

MR. MAYBANK: All right. Will you do the little thing that said -- draw a line that says functional area of the intersection?

THE WITNESS: (Witness complies.)

MR. MAYBANK: Perfect.

BY MR. SMITH:

Q. Okay. So if we look at what you've marked up here on Exhibit Number 4, that would seem to suggest that both of the auto driveways are in the functional area of the intersection?

A. Definitely the westernmost. The easternmost is kind of right on the borderline.

Q. Sort of half of it is, half of it isn't?

A. You know, I'm -- I'm going by way more than a half size set of plans. I would almost say the easternmost is not in the functional area. Here's your left turn lane here. This is just your taper back. And your -- so, you know, as per the AASHTO guide that you showed me or the SCDOT, it talked about the turn lane. So I would --

Q. Okay. And one of the ways that the DOT could learn that a particular stretch of highway needs changes is the number of motor vehicle collisions that happen on that stretch of highway?

A. That would be one factor. The rate is a bigger factor, but that is part of that rate calculation, yes.

Q. Um-hum. And the DOT, do you all have access to the South Carolina Public Safety database showing GPS locations of collisions?

A. Absolutely.

Q. Okay. And is there any -- is there any particular number? I know you've talked about the -- the -- you want to know the vehicles that pass through, but is there any particular number like five collisions a year, ten collisions a year, is -- is there any sort of number of collisions per year that would trigger the DOT to come in and say, hey, we need to go look at something here?

A. Not necessarily just raw number of collisions. It goes back by rate.

Q. Um-hum. Was the -- was the rate ever established with this stretch of highway in front of the Pilot?

A. At what point in time?

Q. From 2000 to 2012.

A. Yes.

Q. And what was that rate?

A. There -- I would have to refer to some additional information that was provided.

Q. Would it be in this notebook –

A. It should be.

Q. – we've been looking at?

A. Absolutely. It should be -- it should be associated with a G.

(Reporter asks for clarification.)

THE WITNESS: Yeah, G as in -- there you go. Clint Davis likes golf. Okay.

BY MR. SMITH:

Q. All right. So we're looking at Document SCDOT Colvin Documents 0612, and what is this?

A. This is a collision diagram that was put together by our traffic safety office out of Columbia.

Q. And when was that done?

A. Some of this stuff is cut off at the very bottom, but the date of this is 10 -- October 15th, 2013.

Q. All right. And to your knowledge, were

any similar studies ever done between 2000 and 2013?

A. Not that I'm aware of.

Q. And the -- the project here was finished at around 2003, was it not? I think that was the final inspection date?

A. The widening project was completed June 17, 2002. And the interchange project was completed November 1st, 2003.

Q. Okay. So basically ten years after those changes were made was the first accident study that the Department of Transportation undertook?

A. It was the first study that I'm aware of.

Q. Okay.

MR. MAYBANK: And -- and just for the record, the continued objection to any of the traffic safety studies and admissibility thereof.

MR. SMITH: Okay.

MR. MAYBANK: But ask him whatever you want.

BY MR. SMITH:

Q. Now, what -- what did -- what did this tell you?

A. The study that was looked at as part of our safety program -- you had asked the question, do we -- do we have one of those, absolutely we do -- basically indicates that the left turns out of the driveway farthest east.

Q. Okay. The middle driveway, could we say?

A. Yes.

Q. If we count the truck driveway that's far out?

A. Yes. Yeah, that is experiencing riding while accidents -- folks trying to make a left out of the Pilot, out of the drive -- the eastern automobile drive, middle drive, however you want to term that.

Q. So people coming out this middle driveway taking a left, heading toward Summerville, there's a lot of collisions happening because of that maneuver?

A. That is correct.

Q. Left-hand turn-outs?

A. Left turn-outs.

Q. All right. How about left-hand turn-ins?

A. If you look at the two driveways,

there's not any collisions on the driveway -- the westernmost driveway, there's not a single collision during this time frame noted. The left turns coming in, there are two left turns going out at the westernmost drive.

At the easternmost vehicular drive, there are three collisions in the four years -- three collisions in four years involving that left turn into that drive.

Q. Um-hum. So in the three years between, what, 2000 and 2013 (sic), I guess?

A. It's four -- four years' worth of data, 2010, 2011, 2012, and 2013.

Q. Okay. So in those four years, how many collisions are there because of left-ins and left-outs, put together, on -- on 17A?

A. At the two drives?

Q. Yeah.

A. Less out. There are two collisions at the westernmost drive, and zero collisions on left-in. On --

Q. Just -- just a total number of left -- left-in, left-outs. You can just --

A. Our left-outs at the -- at the easternmost commercial drive, there's one, two,

three -- sorry. Let's see.

Q. You want a piece of paper?

A. No. Where's that magnifying glass?

(Off-the-record discussion.)

THE WITNESS: Let's see. There is 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 left turners out; and 1, 2, 3 left turners in.

Q. So 15?

A. At that driveway, correct.

Q. Which driveway?

A. The easternmost commercial driveway.

Q. Okay. I'm -- I'm just talking about left-in, left-out access to the Pilot Travel Center 2010 to 2013, how many?

A. 17.

Q. Okay. And that's in four years?

A. That's correct.

Q. And -- and how do you all go about discovering, you know, which -- which ones go on here? Where -- where do you get that from?

A. DPS's database.

Q. Okay. Department of Public Safety?

A. Yes.

Q. All right. Now, I did a -- let me tell you what I did to figure this out.

A. Sure.

Q. I basically drew a box around this area right here (indicating).

A. Um-hum.

Q. And I got the GPS coordinates for what would be in here and then went to the Department of Public Safety and said, give me all the accidents on 17A.

A. Right.

Q. And then I was able to arrange those accidents by GPS location, and I was able to figure out that 280 accidents had occurred in this box location in front of there from, you know, basically 2002 to -- to 2012.

And then what I did was went through and looked at all the ones that would be affected by left-ins and left-outs. And what that showed was in those 10 years, I saw 77 that were left-in/left-out to the Pilot Travel Center.

Would that -- would 77 over 10 years, would that be consistent with the rate that you're seeing over the course of 4 years?

MR. MAYBANK: Object to the form.

THE WITNESS: The only thing I can testify to is there was 17 left-in or left-outs at

the two drives at the Pilot station in the 4 years, as noted on this diagram. I can't speak to the -- to the number that you've produced.

BY MR. SMITH:

Q. I mean, it sounds like you got a whole lot less than I came up with. I came up with 72 -- 72? I came up with 72 in 10 years with left-ins and left-outs, and it looks like you came up with 17 in 4 years, left-in and left-outs. Does -- does that seem to be a similar number or is that a lot different?

MR. MAYBANK: Object to the form.

THE WITNESS: Can I do a little bit of math?

BY MR. SMITH:

Q. You can Google. You can ask Siri if you want.

A. It's not Google. It's a calculator. I mean, based on the data here in the 4 years, there's about 4 collisions -- 4.25, to be exact, per year in the 4 years that were studied here. I can't -- I can't --

Q. All right. It says 4.2 a year with left-in, left-outs?

A. At both drives.

BY MR. SMITH:

Q. Yeah.

A. And the question?

Q. So turns -- so is this Farmington here?

A. Correct.

Q. Okay. I don't see the first driveway. Is it -- is this the first driveway there?

A. No. It's the first driveway, second commercial driveway.

Q. Oh, okay. Okay. So is there going to be any change to the first driveway, whether or not left-ins or left-outs?

A. Yes. The -- the safety project as designed would restrict left turns into and left turns out of the westernmost drive.

Q. Okay. And so that's the drive closest to Farmington Road?

A. Correct.

Q. All right. And that's based on the accident -- the accident study that was done in 2013?

A. Correct.

Q. Okay. So no left-ins or outs from that first driveway closest to Farmington?

A. Correct.

Q. Second driveway is going to allow left-in but prohibit left-outs?

A. Correct.

Q. Any change to the third driveway?

A. No change.

Q. Okay. And what is going to be done to prevent the left-outs from the second driveway, the middle driveway?

A. It's part of the concrete median that is -- that is going in.

Q. Okay. Just a break in the median?

A. Yes.

Q. Okay. But a break in the median only in a certain direction that's going to allow those left-outs --

A. The lefts --

Q. -- but not left-ins?

A. No. You got it backwards.

Q. I'm sorry. Opposite?

A. Yes. It would -- left-ins on the easternmost commercial drive will be allowed. Lefts out of the easternmost drive will not be allowed out.

Q. Okay.

A. And no change to the truck drive.

Q. Okay. Is there -- and at what -- what's the -- what's the usual sort of frequency of these accident -- what would you call that, an accident analysis or traffic study? Or what do you call that thing?

A. It would be a -- yeah, a safety analysis.

Q. Okay. What's the frequency of the -- of a safety analysis? Is ten years between construction and a safety analysis the norm?

A. No. We do safety analysis annually.

Q. Oh, so every year?

A. Yes.

Q. Okay.

A. Across the state.

Q. Across the state. And is that -- would this particular driveway in front of the Pilot, would that have received a safety analysis every year since --

A. No. A safety analysis, the way that process works, we go out and we pull the intersections that have the highest accident rates.

Q. Okay.

A. So -- so that's -- that -- that analysis is done on an annual basis.

Q. So the -- so the reasoning that this accident analysis was done was because in 2013, this intersection was one of the high accident rates?

A. Correct.

Q. And if it -- and -- and because we know that the accident analysis was not done prior to 2013, is it your position that from -- from 2002 all the way up to 2012, this intersection was not one of the highest accident rate locations?

A. I don't know the answer to that. I -- I'm not aware of an accident study at this location prior to the 2013 that we looked at. That does not mean that I -- I'm not aware of one.

Q. But you -- but you do them every year, and the way that you determine which ones are going to be done is the frequency of accidents at those locations?

A. Yes.

Q. Okay. And -- and who tells you that this particular one needs to be looked at or that one needs to be looked at? Who -- who lets you know which ones of these high rate of accident locations? Who tells you which ones are which?

A. It is performed by our traffic safety

EXHIBIT 9

South Carolina
Department of Transportation

August 28, 2000

PLAINTIFF'S EXHIBIT
MULLIGAN 11
7.14.16 KT
PENGAD 800-631-6989

Marathon Ashland Petroleum LLC
3200 Pointe Parkway
Suite 200
Norcross, Georgia 30092
Attn: Mr. Robert G. Greiwe

SUBJECT: Curb Cuts, 17A @ I-26 Summerville

Dear Mr. Greiwe:

Enclosed is a copy of the driveway drawings for the 17A project at Summerville. If you have any questions, please call.

Sincerely,

Tommy W. Smoak
District Right of Way Manager
P. O. Box 308
St. George, South Carolina 29477
1-800-690-5130

TWS/hjh

9/5 Per Phone Verification w/T. Smoak (Negotiated Medians/Remove 1 Drive Cuts)

1. Approved To Have Painted Median Only From Far Western Curb Cut To Stop Bar (Stop Light). In Other Words, The Unmountable Median Has Been Eliminated From The Plan.
2. Truck Driveway on 17A is 40' w/40' Radius - Can Be Ingress and Egress If Desired.
3. The 2 Auto Driveways can only Be 30' w/30' Radius - Ingress and Egress.
4. The Driveway on The Frontage Rd can Be 50' w/20' Radius But Can Be A Right In/Right Out Only.

An Encroachment Permit Will Be Required From DOT When Installing The Cuts.

AN EQUAL OPPORTUNITY/
AFFIRMATIVE ACTION EMPLOYER

EXHIBIT 10

ORIGINAL-AMENDED

2012570776

SOUTH CAROLINA DPS/OHS & DMV USE ONLY | Page # 1 Of 2 | SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR-310 (Rev. 7/2010) | # Of Units 02 | X Amended - Attach Copy of Original Report | Corrected | Notified 2109 | Arrived 2118

Date	Time of Collision	County	1-Interstate 4-Secondary 2-US Primary 5-County 3-SC Primary 6-PP	Collision Location (Rt. # / Name)	0-Main 6-Connection 2-Alternate 7-Business 5-Spur	Miles	Dir.	In / Near City or Town of:
10-06-2012	2104	08	2	17 / NORTH MAIN STREET	2	.02	S	SUMMERVILLE

Lane # / Dir.	Distance Offset	Direction	1-Interstate 4-Secondary 2-US Primary 5-County 3-SC Primary 6-Other	Base Intersection (Rt # / Name)	0-Main 6-Connection 2-Alternate 7-Business 5-Spur 9-Other	GPS COORDINATES 00 00' 00.00" DEGREES MINUTES SECONDS
# 1 Of 6 (N) E S W	Miles .02 Feet	N E (S) W		From 570 / ROSE DRIVE		Latitude 33 02 21.73
R.R. Id.	From: N E S W 1-Entrance 2-Exit Ramp Only	To: N E S W	1-Interstate 4-Secondary 2-US Primary 5-County 3-SC Primary 6-Other	Second Intersection (Rt. # / Name)	0-Main 6-Connection 2-Alternate 7-Business 5-Spur 9-Other	Longitude 80 08 33.94

E-378565 — Driver/Pedestrian's Full Name: WRIGHT RICHARD THORNE

Unit #	Sex	Race	Street/R.F.D.
01	M	W	304 FOREST CIR
# Occ 2	Birth Date [redacted]		City, State, & Zip: SUMMERVILLE SC 294832808

State	Driver's License #	Class	Insurance Company
SC	[redacted]	AM	PROGRESSIVE

Year	Body	Vehicle Make	VIN #
2007	MC	HD	1HD1FS4157Y663138

State	Year	License Plate #	Owner's D.L. #
SC	2012	ZZ0956	004455712

Home Telephone	Owner's Full Name
(843) 3038378	WRIGHT RICHARD THORNE
Bus. Telephone: ( )	Street/R.F.D.: 304 FOREST CIR
Contributed To Collision: Yes (No)	City, State, & Zip: SUMMERVILLE SC 294832808

Estimated Speed	Speed Limit	C.D.L. Req: Yes (No)	T/B $ Req: Yes (No)	Alc/Drg Info (see back): Yes (No)	Summons #	Code	Summons #	Code	Towed (Yes) No
30	45								HENRYS

E-378566 — Driver/Pedestrian's Full Name: SENA DANIEL JAMES

Unit #	Sex	Race	Street/R.F.D.
02	M	W	238 WINDING TRAIL LN
# Occ 1	Birth Date [redacted]		City, State, & Zip: SUMMERVILLE SC 294831738

State	Driver's License #	Class	Insurance Company
SC	[redacted]	D	GEICO

Year	Body	Vehicle Make	VIN #
1998	PK	CHEV	1GCEC14W7WZ273426

State	Year	License Plate #	Owner's D.L. #
SC	2013	HKU349	100650647

Home Telephone	Owner's Full Name
(843) 2097237	CHINNERS JESSICA NICOLE
Bus. Telephone: ( )	Street/R.F.D.: 127 ASHWOOD DR
Contributed To Collision: (Yes) No	City, State, & Zip: SUMMERVILLE SC 29483

Estimated Speed	Speed Limit	C.D.L. Req: Yes (No)	T/B $ Req: Yes (No)	Alc/Drg Info (see back): (Yes) No	Summons #	Code	Summons #	Code	Towed (Yes) No
10	45								HOWDY BOYS

Driver/Pedestrian's Full Name | State | Year | License Plate # | Owner's D.L. #

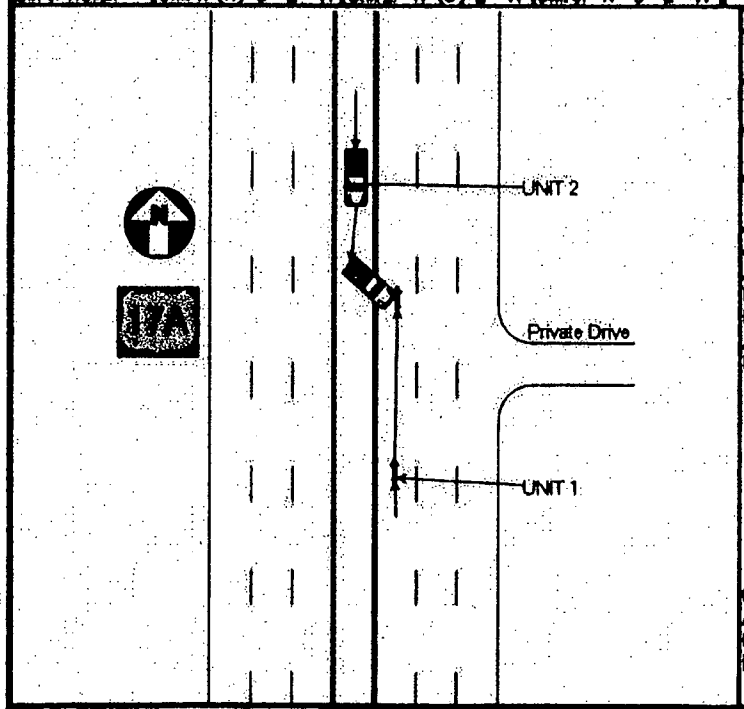
Unit # | Sex | Race | Street/R.F.D. | Home Telephone | Owner's Full Name

Occ | Birth Date | City, State, & Zip | Bus. Telephone: ( ) | Street/R.F.D.

State | Driver's License # | Class | Insurance Company | Contributed To Collision: Yes No | City, State, & Zip

Year | Body | Vehicle Make | VIN # | Estimated Speed | Speed Limit | C.D.L. Req: Yes No | T/B $ Req: Yes No | Alc/Drg Info (see back): Yes No | Summons # | Code | Summons # | Code | Towed Yes No

Dir. of Travel: Unit 1: (N) S E W Unit 2: N (S) E W Unit 3: N S E W



Unit 1 Dam.	Unit 2 Dam.	Unit 3 Dam.	Prop. Dam. 1	Prop. Dam. 2
$5200	$2000	$	$	$

Property Owner (Witness)	Address	City	State	Zip	Phone
COOLEY LYNNETTE G	143 LAKE JOGASSEE DR	SUMMERVI	SC	294858861	8435602515
HAMM KEVIN	223 N. LIVE OAK DR	MONCKS	SC	29461	8437233800

Photo: (Y) N

Describe What Happened (Refer to Units by Number)

UNIT # 1 WAS TRAVELING NORTH ON US 17A IN THE #1 LANE. UNIT #2 ATTEMPTED TO TURN LEFT INTO A PRIVATE DRIVE AND STRUCK THE LEFT SIDE OF UNIT #1. THE DRIVER OF UNIT #2 FLED THE SCENE.

PLAINTIFF'S EXHIBIT Mullinax 14 7-14-16 KT

PENGAD 800-631-6989

01/07/2013 MAIT INVESTIGATION COMPLETE; DIAGRAM ATTACHED; NARRATIVE COMPLETE;SPEED ADDED 02/04/2013 AMENDED TO SHOW DRUG RESULTS ON BACK OF REPORT FOR UNIT #2 DRIVER.

NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANT IS MADE AS TO THE FACTUAL ACCURACY THEREOF.

Investigating Officer's Name	Rank	Badge #	Jurisdiction Code	Review Date	Reviewer's Name	Rank	Internal Agency Code
PEARSON - C A	CPL	A143	HP06	02-05-2013	C M Wooten	Cpl	12CH090602

2012570776

Unit:	Date of Birth	Sex	Race	INJ:	Seat:	R/SD	A.S.D.	Elect	LAI:	Tran:	Name	Street Address	Zip Code
01	[redacted]	M	W	3	01	00	7 3	1	1	1 1	WRIGHT RICHARD THORN	304 FOREST CIR SUMMERVIL SC	294832808
02	[redacted]	M	W	0	01	13	1 3	1	1	2	SENA DANIEL JAMES	238 WINDING TRAIL LN SUMMERVIL SC	294831738
01	[redacted]	F	W	3	70	00	7 3	1	1	1 1	WRIGHT CYNTHIA	304 FOREST CIR SUMMERVIL SC	294831738

Race: A - Asian/Pacific Islander; B - African American; H - Hispanic; I - Alaskan Native or American Indian; O - Other; U - Unk.; W - Caucasian

a) Injury Status: 0-Not Injured; 1-Possible Injury; 2-Non-incapacitating; 3-Incapacitating; 4-Fatal

b) 2 or 3 Wheel Motorized Vehicle Head Injury: 1-Yes; 2-No

Seating Loc.: 01 02 03 / 04 05 06 / 07 08 09; 20-Pedestrian; 30-Trailing Unit; 40-Bus or Van (4th row or Higher); 50-Other Enclosed Area (nontrailing); 51-Other Unenclosed Area (nontrailing); 60-Sleeper of Cab; 70-Riding on Unit Exterior; 80-Lap; 99-Unk./NA

Restraint/Safety Device: 00-None Used; 11-Shoulder belt; 12-Lap Belt Only; 13-Shoulder & Lap Belt; 21-Child Safety Seat; 98-Other; 99-Unk.

Air Bag Deployment / Switch

a): 1-Deployed Front; 2-Deployed Side; 3-Deployed Both; 4-Not Deployed; 7-Not Applicable; 9-Deployment Unk.

b): 1-Switch In On Position; 2-Switch In Off Position; 3-No Switch; 9-Unknown

Ejection: 1-Not Ejected; 2-Part. Ejected; 3-Tot. Ejected; 7-Not App.; 9-Unk.

Location After Impact: 1-Not Trapped; 2-Extricated (Mechanical Means); 3-Freed (non-mech.); 4-Not Applicable; 9-Unknown

a) Transported to Medical Facility: 1-Yes; 2-No; 3-Unknown

b) By: 1-EMS; 2-Police; 8-Other; 9-Unk.

Pedestrian, Motor/Pedalcycle Only: 31-Helmet; 51-Reflective Clothing; 41-Protective Pads; 61-Lighting

Sequence of Events

	Event 1	Event 2	Event 3	Event 4	Most Harmful	1st Harmful
1	22	12			22	22
2	22				22	
3						

Non-Collision: 01-Cargo/Equip Loss or Shift; 02-Cross Median/Center; 03-Downhill Runaway; 04-Equipment Failure; 05-Fire/Explosion; 06-Immersion; 07-Jackknife; 08-Overturn/Rollover; 09-Ran off Road Left; 10-Ran off Road Right; 11-Separation of Units; 12-Spill (Two-Wheeled Veh.); 13-Other Non-collision; 14-Unk. Non-collision

Collision: Not Fixed: 20-Animal (Deer Only); 21-Animal (All Other); 22-Motor Veh. (In Transport); 23-Motor Veh. (Stopped); 24-Motor Veh. (Other Roadway); 25-Motor Veh. (Parked); 26-Pedalcycle; 27-Pedestrian; 28-Railway Veh.; 29-Work Zone Maint. Equip.; 30-Other Movable Object; 36-Unk. Movable Object

Collision: Fixed Object: 40-Bridge Overhead Structure; 41-Bridge Parapet End; 42-Bridge Pier or Abutment; 43-Bridge Rail; 44-Culvert; 45-Curb; 46-Ditch; 47-Embankment; 48-Equipment; 49-Fence; 50-Guardrail End; 51-Guardrail Face; 52-Highway Traffic Sign Post; 53-Impact Attenuator/Crash Cushion; 54-Light/Luminaire Support; 55-Mail Box; 56-Median Barrier; 57-Overhead Sign Support; 58-Other (Post, Pole, Support, Etc.); 59-Other (Wall, Building, Tunnel, Etc.); 60-Tree; 61-Utility Pole; 62-Work Zone Maint. Equipment; 98-Other; 99-Unk.

Manner of Collision (Struck Veh.): 1 42; 2; 3; 1st Harmful Collision

00-Not Coll. w/ Motor Veh.; 10-Rear End; 20-Head On; 30-Rear-to-Rear; 41-Angle (↖|↗); 42-Angle (→|←); 43-Angle (↗|↖); 50-Sideswipe Same Dir.; 60-Sideswipe Opposite Dir.; 70-Backed Into; 99-Unknown

1st / Most Deformed Area: 1st Deformed 80 2 1; Most Deformed 80 2 1

21-Pedestrian; 61-None; 62-Rollover; 63-Total; 64-Under Carriage; 98-Other; 99-Unk.

Vehicle Type: 125; 212; 3; X

01-Automobile; 02-Pickup Truck; 03-Truck Tractor; 04-Other Truck; 15-Full Size Van; 16-Mini Van; 17-Sport Utility; 25-Motorcycle; 26-Other Motorbike; 27-Pedalcycle; 30-Animal (Ridden); 41-Pedestrian; 51-Train; 61-School Bus; 62-Passenger Bus; 98-Other; 99-Unk. (Hit and Run Only)

Vehicle Use Code: 101; 201; 3

01-Personal; 02-Driver Training; 03-Construction/Maint.; 04-Ambulance; 05-Military; 06-Transport Passengers; 07-Transport Property; 08-Farm Use; 09-Wrecker or Tow; 10-Police; 11-Government; 12-Fire Fighting; 13-Logging; 18-Other; 41-Pedestrian

Vehicle Attachment: 11; 21; 3

1-None; 2-Mobile Home; 3-Semi-Trailer; 4-Utility Trailer; 5-Farm Trailer; 6-Trailer w/Boat; 7-Camper Trailer; 8-Towed Motor Vehicle; 9-Petroleum Tanker; A-Lowboy Trailer; B-Autocarrier Trailer; C-Other Tanker; D-Flat Bed; E-Twin Trailers; F-Other

Action Prior to Impact: 106; 210; 3; X

(Vehicle)	(Non-motorist)
01-Backing	21-Approaching/Leaving Vehicle
02-Changing lanes	22-Entering/Crossing Location
03-Entering traffic lane	23-Playing/Working on Vehicle
04-Leaving traffic lane	24-Pushing Vehicle
05-Making U-turn	25-Standing
06-Movements Essentially Straight Ahead	26-Walking, Playing, Cycling
07-Overtaking/passing	27-Working
08-Parked	
09-Slowing or Stopped in traffic	
10-Turning left	
11-Turning right	
88-Other 99-Unk.	

Alcohol / Drug Test Given: A1 01; A2 1 02 1; A3 03; 1-Given - Known Results; 2-Given - Unusable; 3-Given - Pending; 4-None; 5-Refused

Test Type: A1 01; A2 1 02 2; A3 03; 1-Breath (Alc Only); 2-Blood; 3-Urine; 4-Serum; 8-Other

Drug Results: 01; 02 2; 03; 1-Amphetamines; 2-Cocaine; 3-Marijuana; 4-Opiates; 5-PCP; 8-Other

Alc Test Results: A1-; A2- .120; A3-

Special Use Only

Underride/Override: 6 6

1-Under-Compartment Intrusion; 2-Under-No Intrusion; 3-Under-Unknown; 4-Over-4/MV in transport; 5-Over-Other Vehicle; 8-None; 9-Unk.

Extent of Deformity: 3 2

0-None/Minor; 1-Functional Damage; 2-Severe/Totaled; 3-Disabling Damage; 8-Not Applicable; 9-Unk.

Action (Vehicle): 1-Straight - Level; 2-Straight - On grade; 3-Straight - Hillcrest; 4-Curve - Level; 5-Curve - On grade; 6-Curve - Hillcrest

Road Character: 1

Road Surface Condition: 1

1-Dry; 2-Wet; 3-Snow; 4-Slush; 5-Ice; 6-Contaminate; 7-Water (Standing, etc.); 8-Other; 9-Unk.

Traffic Control Type: 31

01-Stop and Go Light; 02-Flashing Traffic Signal; 11-RR (X-bucks, Lights & Gates); 12-RR (X-bucks & Lights); 13-RR (X-bucks Only); 21-Officer or Flagman; 22-Oncoming Emergency Vehicle; 31-Pavement Markings (only); 41-Stop Sign; 42-School zone Sign; 43-Yield Sign; 44-Work Zone; 45-Other Warning Signs; 51-Flashing Beacon; 98-None; 99-Unk.

Trafficway: 2

1-Two-way, Not Divided; 2-Two-way, Divided, Unprotected Median; 3-Two-way, Divided, Barrier; 4-One-Way; 8-Other

Action (Non-motorist): A: 1-Gore; 2-Island; 3-Median; 4-Roadside; 5-Roadway; 6-Shoulder; 7-Sidewalk; 8-Outside Trafficway; 9-Unk.

B: X-walk: 1-Y 2-N 9-U

1st Harmful Event Loc.: M 5 2

Weather Condition: 1

1-Clear (no adverse conditions); 2-Rain; 3-Cloudy; 4-Sleet, Hail; 5-Snow; 6-Fog, Smog, Smoke; 7-Blowing Sand, Oil, Dirt or Snow; 8-Severe Crosswinds; 9-Unk.

Light Condition: 5

1-Daylight; 2-Dawn; 3-Dusk; 4-Dark (Lighting Unspecified); 5-Dark (Street Lamp Lit); 6-Dark (Street Lamp Not Lit); 7-Dark (No lights)

School Bus Involved: 3

1-Yes, Directly; 2-Yes, Indirectly; 3-No; 9-Unk.

Work Zone: 2

1-Before 1st Sign; 2-Advanced Warning Area; 3-Transition Area; 4-Activity Area; 5-Termination Area; 1-Yes 2-No

Work Zone Location:

Work Zone Type:

1-Shoulder/Median Work; 2-Lane Shift/Crossover; 3-Intermittent/Moving Work; 4-Lane Closure; 8-Other; 9-Unk.

Workers Present: 1-Yes 2-No

Junction Type: 02

01-Crossover; 02-Driveway; 03-Five/More Points; 04-Four-way Intersection; 05-Railway Grade Crossing; 07-Shared Use Paths or Trail; 08-T-Intersection; 09-Traffic Circle; 12-Y-Intersection; 13-Nonjunction; 99-Unk.

Contributing Factors

Primary: 16

Drivers: 01-Disregarded Signs, Signals, Etc.; 02-Distracted/Inattention; 03-Driving Too Fast for Conditions; 04-Exceeded Authorized Speed Limit; 05-Failed to Yield Right of Way; 06-Ran off Road; 07-Fatigued/Asleep; 08-Followed Too Closely; 09-Made an Improper Turn; 10-Medical Related; 12-Aggressive Operation of Vehicle; 13-Over-correcting/Over-steering; 14-Swerving to Avoiding Object; 15-Wrong Side or Wrong Way; 16-Under the Influence; 17-Vision Obscured (Within Unit); 18-Improper lane Usage/Change; 19-Cell Phone; 20-Texting; 28-Other Improper Action; 29-Unk.

Roadway: 30-Debris; 31-Non-highway Work; 32-Obstruction in Roadway; 33-Road Surface Condition (i.e., Wet); 34-Rut, Holes, Bumps; 35-Shoulders (None, Low, Soft, High); 36-Traffic Control Device (i.e., Missing); 37-Work Zone (Const./Maint./Utility); 38-Worn, Travel-Polished Surface; 48-Other; 49-Unk.

Non-Motorist: 50-Inattentive; 51-Lying &/or Illegally in Roadway; 52-Failure to Yield R. of W.; 53-Not Visible (Dark Clothing); 54-Disregard Signs, Signals, Etc.; 55-Improper Crossing; 56-Darting; 57-Wrong Side of Road; 58-Other; 59-Unk.; 66-Under the Influence; 67-Other Person Under Influence

Environmental: 60-Animal in Road; 61-Glare; 62-Obstruction; 63-Weather Cond.; 68-Other; 69-Unk.

Vehicle Defect: 70-Brakes; 71-Steering; 72-Power Plant; 73-Tires/Wheel; 74-Lights; 75-Signals; 76-Windows/Shield; 77-Restraint System; 78-Truck Coupling; 79-Cargo; 80-Fuel System; 88-Other; 89-Unk.

ORIGINAL-AMENDED

2012570776

SOUTH CAROLINA DPS/OHS & DMV USE ONLY | Page # 2 Of 2

SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM

TR - 310 (Rev. 7/2010)

Of Units: 02 | X Amended - Attach Copy of Original Report | Corrected | Notified: 2109 | Arrived: 2118

Date	Time of Collision	County	1- Interstate 2-US Primary 3- SC Primary 4- Secondary 5- County 6- PP	Collision Location (Rt. # / Name)	0-Main 2-Alternate 5-Spur 6-Connection 7-Business	Miles:	Dir.	In / Near City or Town of:
10-06-2012	2104	08	2	17 / NORTH MAIN STREET	2	.02	N E S W	SUMMERVILLE

Lane #	Of	Dir.	Distance Offset	Direction	1- Interstate 2- US Primary 3- SC Primary 4- Secondary 5- County 6- Other	Base Intersection (Rt # / Name)	0-Main 2-Alternate 5-Spur 6-Connection 7-Business 9-Other	GPS COORDINATES 00 00' 00.00" DEGREES MINUTES SECONDS
1	6	N E S W	.02 Miles Feet	N E S W		From 570 / ROSE DRIVE		Latitude 33 02 21.73
R.R. Id.	From	Ramp Only	To	1- Interstate 2- US Primary 3- SC Primary 4- Secondary 5- County 6- Other	Second Intersection (Rt. # / Name)	0-Main 2-Alternate 5-Spur 6-Connection 7-Business 9-Other		Longitude 80 08 33.94
	N E S W	1 - Entrance 2 - Exit	N E S W		Toward / SANGAREE PARKWAY			

Driver/Pedestrian's Full Name	Unit #	Sex	Race	Street/R.F.D.	# Occ	Birth Date	City, State, & Zip	State	Driver's License #	Class	Insurance Company	Year	Body	Vehicle Make	VIN #	State	Year	License Plate #	Owner's D.L. #	Home Telephone ( )	Owner's Full Name	Bus. Telephone ( )	Street/R.F.D.	Contributed To Collision Yes No	City, State, & Zip	Estimated Speed	Speed Limit	C.D.L. Req: Yes No	T/B S Req: Yes No	Alc/Drg Info (see back): Yes No	Summons #	Code	Summons #	Code	Towed Yes No

Driver/Pedestrian's Full Name	Unit #	Sex	Race	Street/R.F.D.	# Occ	Birth Date	City, State, & Zip	State	Driver's License #	Class	Insurance Company	Year	Body	Vehicle Make	VIN #	State	Year	License Plate #	Owner's D.L. #	Home Telephone ( )	Owner's Full Name	Bus. Telephone ( )	Street/R.F.D.	Contributed To Collision Yes No	City, State, & Zip	Estimated Speed	Speed Limit	C.D.L. Req: Yes No	T/B S Req: Yes No	Alc/Drg Info (see back): Yes No	Summons #	Code	Summons #	Code	Towed Yes No

Dir. of Travel: Unit 1: N S E W | Unit 2: N S E W | Unit 3: N S E W

Unit 1 Dam.	Unit 2 Dam.	Unit 3 Dam.	Prop. Dam. 1	Prop. Dam. 2
$	$	$	$	$

Property Owner (Witness)	Address	City	State	Zip	Phone
COLLINS CHRIS	223 N. LIVE OAK DRIVE	MONCKS	SC	29461	8437233800

Property Owner (Witness)	Address	City	State	Zip	Phone
VAUGHN PHILLIP	223 N. LIVE OAK DRIVE	MONCKS	SC	29461	8437233800

Photo: (Y) N

Describe What Happened (Refer to Units by Number)

PAGE 2 IS FOR ADDITIONAL WITNESS INFORMATION ONLY.

NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANT IS MADE AS TO THE FACTUAL ACCURACY THEREOF.

Investigating Officer's Name	Rank	Badge #	Jurisdiction Code	Review Date	Reviewer's Name	Rank	Internal Agency Code
PEARSON - C A	CPL	A 1 4 3	H P 0 6	02-05-2013	C M Wooten	Cpl	12CH090602

2012570776

Unit:	Date of Birth	Sex:	Race	INJ:	Seat:	R/SD	A.B.D.	Elect	LAI:	Tran:	Name	Street Address	Zip Code

Race: A - Asian/Pacific Islander; B - African American; H - Hispanic; I - Alaskan Native or American Indian; O - Other; U - Unk.; W - Caucasian

a) Injury Status: 0-Not Injured; 1-Possible Injury; 2-Non-Incapacitating; 3-Incapacitating; 4-Fatal

b) 2 or 3 Wheel Motorized Vehicle: Helmet Worn: 1-Yes; 2-No

Seating Loc.: 01 02 03 / 04 05 06 / 07 08 09; 20-Pedestrian; 30-Trailing Unit; 40-Bus or Van (4th row or Higher); 50-Other Enclosed Area (nontrailing); 51-Other Unenclosed Area (nontrailing); 60-Sleeper of Cab; 70-Riding on Unit Exterior; 80-Lap; 99-Unk./NA

Restraint/Safety Device: 00-None Used; 11-Shoulder belt; 12-Lap Belt Only; 13-Shoulder & Lap Belt; 21-Child Safety Seat; 88-Other; 99-Unk.

Air Bag Deployment / Switch:
a) 1-Deployed Front; 2-Deployed Side; 3-Deployed Both; 4-Not Deployed; 7-Not Applicable; 9-Deployment Unk.
b) 1-Switch in On Position; 2-Switch in Off Position; 3-No Switch; 9-Unknown

Ejection: 1-Not Ejected; 2-Part. Ejected; 3-Tot. Ejected; 7-Not App.; 9-Unk.

Location After Impact: 1-Not Trapped; 2-Extricated (Mechanical Means); 3-Freed (non-mech.); 4-Not Applicable; 9-Unknown

a) Transported to Medical Facility: 1-Yes; 2-No; 3-Unknown
b) By: 1-EMS; 2-Police; 8-Other; 9-Unk.

Pedestrian, Motor/Pedalcycle Only: 31-Helmet; 81-Reflective Clothing; 41-Protective Pads; 91-Lighting

Sequence of Events

Event 1	Event 2	Event 3	Event 4	Most Harmful	1st Harmful
1	1	1	1	1	22
2	2	2	2	2	
3	3	3	3	3	

Non-Collision: 01-Cargo/Equip Loss or Shift; 02-Cross Median/Center; 03-Downhill Runaway; 04-Equipment Failure; 05-Fire/Explosion; 06-Immersion; 07-Jackknife; 08-Overturn/Rollover; 09-Ran off Road Left; 10-Ran off Road Right; 11-Separation of Units; 12-Spill (Non-Vehicular Veh.); 13-Other Non-collision; 19-Unk. Non-collision

Collision: Not Fixed: 20-Animal (Deer Only); 21-Animal (All Other); 22-Motor Veh. (In Transport); 23-Motor Veh. (Stopped); 24-Motor Veh. (Other Roadway); 25-Motor Veh. (Parked); 26-Pedalcycle; 27-Pedestrian; 28-Railway Veh.; 29-Work Zone Maint. Equip.; 30-Other Movable Object; 39-Unk. Movable Object

Collision: Fixed Object: 40-Bridge Overhead Structure; 41-Bridge Parapet End; 42-Bridge Pier or Abutment; 43-Bridge Rail; 44-Culvert; 45-Curb; 46-Ditch; 47-Embankment; 48-Equipment; 49-Guardrail End; 51-Guardrail Face; 52-Highway Traffic Sign Post; 53-Impact Attenuator/Crash Cushion; 54-Light/Luminaire Support; 55-Mail Box; 56-Median Barrier; 57-Overhead Sign Support; 58-Other (Post, Pole, Support, Etc.); 59-Other (Wall, Building, Tunnel, Etc.); 60-Other; 99-Unk.; 66-Tree; 61-Utility Pole; 63-Work Zone Maint. Equipment

Manner of Collision (Struck Veh.): 1-Not Coll. w/ Motor Veh.; 2-Rear End; 3-Head On; 30-Rear-to-Rear; 41-Angle; 42-Angle; 43-Angle; 50-Sideswipe Same Dir.; 60-Sideswipe Opposite Dir.; 70-Backed Into; 99-Unknown

1st / Most Deformed Area: 1st Deformed; Most Deformed

21-Pedestrian; 81-None; 82-Rollover; 83-Total; 84-Under Carriage; 88-Other; 89-Unk.

Vehicle Type: 01-Automobile; 02-Pickup Truck; 03-Truck Tractor; 14-Other Truck; 15-Full Size Van; 16-Mini Van; 17-Sport Utility; 26-Motorcycle; 28-Other Motorbike; 27-Pedalcycle; 38-Animal Drawn Veh; 39-Animal (Ridden); 41-Pedestrian; 51-Train; 61-School Bus; 62-Passenger Bus; 88-Other; 99-Unk. (Hit and Run Only)

Alcohol / Drug Test Given: 1-Given - Known Results; 2-Given - Unuseable; 3-Given - Pending; 4-None; 5-Refused

Special Use Only

Test Type: 1-Breath (Alc Only); 2-Blood; 3-Urine; 4-Serum; 8-Other

Drug Results: 1-Amphetamines; 2-Cocaine; 3-Marijuana; 4-Opiates; 5-PCP; 8-Other

Vehicle Use Code: 01-Personal; 02-Driver Training; 03-Construction/Maint.; 04-Ambulance; 05-Military; 06-Transport Passengers; 07-Transport Property; 08-Farm Use; 09-Wrecker or Tow; 10-Police; 11-Government; 12-Fire Fighting; 13-Logging; 18-Other; 41-Pedestrian

Vehicle Attachment: 1-None; 2-Mobile Home; 3-Semi-Trailer; 4-Utility Trailer; 5-Farm Trailer; 6-Trailer w/Boat; 7-Camper Trailer; 8-Towed Motor Vehicle; 9-Petroleum Tanker; A-Lowboy Trailer; B-Autocarrier Trailer; C-Other Tanker; D-Flat Bed; E-Twin Trailers; F-Other

Underride/Override: 1-Under-Compartment Intrusion; 2-Under-No Intrusion; 3-Under-Unknown; 4-Over-MV in transport; 5-Over-Other Vehicle; 8-None; 9-Unk.

Extent of Deformity: 0-None/Minor; 1-Functional Damage; 2-Severe/Totaled; 3-Disabling Damage; 8-Not Applicable; 9-Unk.

Alc Test Results: A1-; A2-; A3-

Action Prior to Impact: (Vehicle) / (Non-motorist)
01-Backing; 02-Changing lanes; 03-Entering traffic lane; 04-Leaving traffic lane; 05-Making U-turn; 06-Movements Essentially Straight Ahead; 07-Overtaking/passing; 08-Parked; 09-Slowing or Stopped in traffic; 10-Turning left; 11-Turning right; 21-Approaching/Leaving Vehicle; 22-Entering/Crossing Location; 23-Playing/Working on Vehicle; 24-Pushing Vehicle; 25-Standing; 26-Walking, Playing, Cycling; 88-Other; 99-Unk.; 27-Working

Trafficway: 1-Two-way, Not Divided; 2-Two-way, Divided, Unprotected Median; 3-Two-way, Divided, Barrier; 4-One-Way; 8-Other; 2

1st Harmful Event Loc.: 1-Gore; 2-Island; 3-Median; 4-Roadside; 5-Roadway; 6-Shoulder; 7-Sidewalk; 8-Outside Trafficway; 9-Unk.; X-yes/n; Y-yes/n; 5 2

Road Character: 1-Straight - Level; 2-Straight - On grade; 3-Straight - Hillcrest; 4-Curve - Level; 5-Curve - On grade; 6-Curve - Hillcrest; 1

Road Surface Condition: 1-Dry; 2-Wet; 3-Snow; 4-Slush; 5-Ice; 6-Contaminate; 7-Water (Standing, etc.); 8-Other; 9-Unk.; 1

Traffic Control Type: 01-Stop and Go Light; 02-Flashing Traffic Signal; 11-RR (X-bucks, Lights & Gates); 12-RR (X-bucks & Lights); 13-RR (X-bucks Only); 21-Officer or Flagman; 22-Oncoming Emergency Vehicle; 31-Pavement Markings (only); 41-Stop Sign; 42-School zone Sign; 43-Yield Sign; 44-Work Zone; 45-Other Warning Signs; 51-Flashing Beacon; 66-None; 99-Unk.; 31

Weather Condition: 1-Clear (no adverse conditions); 2-Rain; 3-Cloudy; 4-Sleet, Hail; 5-Snow; 6-Fog, Smog, Smoke; 7-Blowing Sand, Oil, Dirt or Snow; 8-Severe Crosswinds; 9-Unk.; 1

School Bus Involved: 1-Yes, Directly; 2-Yes, Indirectly; 3-No; 9-Unk.; 3

Work Zone: 1-Before 1st Sign; 2-Advanced Warning Area; 3-Transition Area; 4-Activity Area; 5-Termination Area; 1-Yes 2-No; 2

Work Zone Location: 1-Shoulder/Median Work; 2-Lane Shift/Crossover; 3-Intermittent/Moving Work; 4-Lane Closure; 8-Other; 9-Unk.

Work Zone Type:

Workers Present: 1-Yes 2-No

Light Condition: 1-Daylight; 2-Dawn; 3-Dusk; 4-Dark (Lighting Unspecified); 5-Dark (Street Lamp Lit); 6-Dark (Street Lamp Not Lit); 7-Dark (No lights); 5

Junction Type: 01-Crossover; 02-Driveway; 03-Five/More Points; 04-Four-way Intersection; 05-Railway Grade Crossing; 07-Shared Use Paths or Trail; 08-T-Intersection; 09-Traffic Circle; 12-Y-Intersection; 13-Nonjunction; 99-Unk.; 02

Primary Contributing Factors: 16

Driver:
01-Disregarded Signs, Signals, Etc.; 02-Distracted/Inattention; 03-Driving Too Fast for Conditions; 04-Exceeded Authorized Speed Limit; 05-Failed to Yield Right of Way; 06-Ran off Road; 07-Fatigued/Asleep; 08-Followed Too Closely; 09-Made an Improper Turn; 10-Medical Related; 12-Aggressive Operation of Vehicle; 13-Over-correcting/Over-steering; 14-Swerving to Avoiding Object; 15-Wrong Side or Wrong Way; 16-Under the Influence; 17-Vision Obscured (Within Unit); 18-Improper lane Usage/Change; 19-Cell Phone; 20-Texting; 28-Other Improper Action; 29-Unk.

Roadway: 30-Debris; 31-Non-highway Work; 32-Obstruction in Roadway; 33-Road Surface Condition (i.e., Wet); 34-Rut, Holes, Bumps; 35-Shoulders (None, Low, Soft, High); 36-Traffic Control Device (i.e., Missing); 37-Work Zone (Const./Maint./Utility); 38-Worn, Travel-Polished Surface; 46-Other; 49-Unk.

Non-Motorist: 50-Inattentive; 51-Lying &/or Illegally in Roadway; 52-Failure to Yield R. of W.; 53-Not Visible (Dark Clothing); 54-Disregard Signs, Signals, Etc.; 55-Improper Crossing; 56-Darting; 57-Wrong Side of Road; 58-Other; 59-Unk.; 66-Under the Influence; 67-Other Person Under Influence

Environmental: 60-Animal in Road; 61-Glare; 62-Obstruction; 63-Weather Cond.; 66-Other; 69-Unk.

Vehicle Defect: 70-Brakes; 71-Steering; 72-Power Plant; 73-Tires/Wheel; 74-Lights; 75-Signals; 76-Windows/Shield; 77-Restraint System; 78-Truck Coupling; 79-Cargo; 80-Fuel System; 88-Other; 89-Unk.

EXHIBIT 11

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
	)	
Cynthia Wright and Richard Wright,	)	C.A. No.: 2015-CP-08-675
	)	
Plaintiffs,	)	
	)	
vs.	)	**AFFIDAVIT OF JOHN MARK TEAGUE, P.E., CPM**
	)	
South Carolina Department of Transportation, C & A Unlimited, Inc., and Pilot Travel Centers, LLC,	)	
	)	
Defendants.	)	

FILED
17 APR -6 AM 11:17
BERKELEY COUNTY, S.C.
CLERK OF COURT
MARY P. BROWN

Personally appeared before me the undersigned, and after being duly sworn, deposes and states the following:

1. I am the owner and principal engineer of J.M. Teague Engineering, PLLC, in Waynesville, North Carolina.

2. I am a civil engineer by education and training and a certified professional engineer in North Carolina, Georgia, South Carolina, Virginia, Alabama, and Tennessee.

3. As the owner and principal engineer of Teague Engineering, I have extensive experience and familiarity with any number of traffic-related engineering issues and on a regular basis provide engineering services to local governments, school systems, private engineering firms, developers, colleges, and others in private industry. These services include (among other things): intersection safety, traffic flow, traffic impact analyses, risk management, forensic traffic engineering, roadway maintenance, sign operation and installation, traffic signal warrant and design, work zone safety, parking lot design and operation (including ingress and egress access

points), training, traffic calming, and traffic control design and operation, as well as serving as an expert in these areas.

4. I am familiar with the facts of the above-captioned case and have reviewed extensive amounts of documentation produced by various parties including, but not limited to, Pilot and South Carolina Department of Transportation ("SCDOT"). These documents encompass many areas, but relevant to the current issue, include design drawings for improvements to Pilot's facility, SCDOT plans for the design of US Highway 17-A, applications for permits to encroach upon same, correspondence between Pilot (or representatives) and SCDOT, the layout of the traffic signal adjoining the subject property, etc.

5. From my professional experience, as briefly outlined above, I am familiar with what a reasonably prudent company should do, or should not do, in undertaking the design, construction, warning, and communication in regard to the creation of artificial conditions (i.e. those conditions that are not the natural consequence of highway use). Specifically, I am informed about the industry standards in conforming with the reasonably prudent standard. In sum, Pilot has a duty to design, construct, warn, and communicate artificial conditions which may impede reasonably safe ingress and egress so that potential customers and persons known to use highways adjacent to the facilities (i.e. the public) will not be put at needless risk of harm.

6. This duty is common and one that was, for all practical purposes, admitted by Pilot's witness, William Mulligan, Pilot's Vice President of Development, when he essentially said Pilot had a duty to construct its premises in a safe manner. He also admits a company should be aware of potential dangers that are inherent in a particular piece of property.

7. Regardless, such companies must design and construct premises that; are in compliance with industry standards and design, construct, warn, and communicate artificial

conditions which may impede safe ingress and egress into a facility like Pilot. These industry standards would include, but not necessarily be limited to, the South Carolina Department of Transportation Access and Roadside Management Guide ("ARMS Manual"), the standards promulgated by the American Association of State Highway and Transportation Officials ("AASHTO"), and the Manual on Uniform Traffic Control Devices ("MUTCD").

8. Mr. Mulligan's affidavit, dated April 28, 2016, and more specifically Paragraph 8 therein, suggests because Pilot's driveway plans were submitted and approved by SCDOT the facility's obligation to customers and the public utilizing the highway was satisfied. To the extent that is the import of the assertions contained therein, unfortunately they are misguided. The duty to design a safe premises is independent to any requirement to get approval for the designs. Approval may not absolve responsibility. Just as the duty to design is independent, so is the duty to construct, warn and communicate dangers caused by artificial conditions created by a facility such as Pilot.

9. The design, construction, warnings, and communication regarding ingress and egress into the Pilot's facility is unsafe for a number of particulars, including, but not limited to, the fact that the driveways are too close to the functional area of the adjoining intersection. Given the driveways' proximity to the intersection, a more safe and proper undertaking would have included measures to prevent traffic crossing over opposite bound lanes to access the facility as happened in this case. This mitigation would have included a barrier to prevent traffic from turning left—whether it was a raised median or a raised island restricting the Pilot's access to a right-in / right-out movement. Moreover, given Pilot's knowledge of accidents at this location, and similarly situated facilities, the design Pilot implemented ignores its responsibility to provide a proper means for ingress and egress off of US Highway 17-A, and created an

artificial condition, thereby placing the general public and Pilot's customers at risk. Additionally, Pilot's overall site design, specifically the traffic flow, is inadequate to properly serve customers and to protect the traveling public. Pilot does not have an ingress from Farmington Road, forcing all left-turning patrons to either make a U-Turn near the congested area of I-26 or risk turning left across opposite bound traffic at the two access points on US Highway 17-A. Pilot's truck egress on Farmington Road is too close to US Highway 17-A, especially for vehicles turning left toward I-26. Pilot's passenger car egress, although technically connected to the truck egress onto Farmington Road, is obscure and inadequately marked, fooling drivers into re-entering US Highway 17A by making a left turn

10. The unsafe nature of the construction of the ingress and egress into Pilot's facility off of US Highway 17-A should have become apparent to Pilot in the time since the facility was renovated. I have reviewed a significant amount of material from the South Carolina Department of Public Safety which indicates, as previously mentioned, accidents in this location have been common place since the construction at issue was completed. These accidents would have put Pilot on notice of the unsafe nature of its access points.

11. As noted in Paragraph 9 of Mr. Mulligan's affidavit, at or around the time Pilot was constructing and/or renovating the subject facility, SCDOT had plans that included the installation of a raised "unmountable" concrete barrier between the east and west-bound lanes of US Highway 17-A. This barrier would have prevented traffic crossing over oncoming traffic on US Highway 17-A. While Mr. Mulligan is correct in his affidavit that SCDOT elected not to install that median, what he omits is the reason the median was not installed. Whether or not to install this median or create a means of safe ingress and egress points are artificial conditions.

The natural shoulder of the property does not include curb cuts or ingress or egress point for the Pilot facility.

12. There is correspondence which indicates that the SCDOT did not install the unmountable barrier because Pilot (or others working on its behalf) negotiated to have the barrier removed from the plans. The correspondence at issue is attached to this affidavit as **Exhibit A**.

13. In my experience as a civil (and traffic) engineer, the primary reason a company would negotiate the removal of such a barrier, a type of artificial condition, is to increase traffic into their facility in an effort to increase profits. It is my belief that such a reason could be the only motivation behind the removal of the concrete barrier in this case. In my opinion, the placement of an artificial barrier like a median would have significantly reduced the risk of harm.

14. The absence of the unmountable barrier, among other things, is responsible for the tremendous injuries and damages suffered by Plaintiffs in this case.

15. The overall goal of any facility is to create a safe ingress and egress point into a facility. That can be achieved through proper design, construction, warnings, and communication of artificial conditions created by a facility. However, the creation of an unmitigated ingress and egress point off a busy highway close to an expansive situation is the creation of an artificial condition. By utilizing proper design, construction, warnings and communication, Pilot could have created a safe ingress and egress point into their facility. By virtue of their failure to remedy the unmitigated access into their facility off of US Highway 17-A. Pilot created an artificial condition, which generated hazardous conditions and contributed to the injuries of the Plaintiffs.

16. Pilot should have worked with SCDOT to create the safest facility possible for potential customers and members of motoring public utilizing the adjoining roads, intersections,

etc. Unfortunately, it appears Pilot did the exact opposite by negotiating to have the barrier removed. Moreover, even if Pilot initially constructed an improper means of ingress and egress at the time of renovation, if it had acknowledged and accepted both its role and responsibility in creating an artificial condition Pilot could have contacted SCDOT to implement a means to curtail the artificial condition and construct a safer form of ingress and egress into the facility. For example, Pilot could have constructed a right turn in-right turn out only feature which would have disallowed left hand turns into the facility off of US Highway 17-A.

17. While my expertise is engineering, it is my understanding Plaintiffs suffered horrible injuries including as to Richard Wright: fractures to his fibula, tibia, right hip, scarring, and others, and as to Cynthia Wright: a traumatic brain injury, pulmonary contusions, abdominal hematoma, and countless abrasions.

18. It is my belief that Pilot perpetrated improper actions and/or inactions, including, but not limited to negotiating the removal the barrier, and constructing the facility without care or concern for the public, not providing adequate access points for trucks egressing the facility, not providing adequate internal traffic flow to steer drivers to a safe traffic signalized intersection, not providing drivers an adequate left-turn ingress from US Highway 17-A.

19. In my opinion, Pilot should have constructed the facility consistent with the cited regulations, created a right in-right out feature as the only ingress and egress off of US Highway 17-A, accepted and acknowledged responsibility for the large number of accidents occurring for vehicles entering its facility off of US Highway 17-A, and constructed proper ingress and egress points. Had such action be taken among other things, this accident, and Plaintiffs' injuries would not have occurred.

Signature on following page

John Mark Teague

John Mark Teague, P.E., CPM

Sworn to me this 5th

day of December, 2016

Nicole Polzella

Notary Public for Haywood County, NC

My Commission Expires: 01/08/19

NICOLE POLZELLA
Notary Public
Haywood
County
My Comm. Exp.
01-08-2019
NORTH CAROLINA

EXHIBIT 12

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	NINTH JUDICIAL CIRCUIT
Cynthia Wright and Richard Wright,	)	C.A. No.: 2015-CP-08-675
Plaintiffs,	)	
vs.	)	**AFFIDAVIT OF RICHARD M. BALGOWAN, P.E., P.P., CPWM, CPM**
South Carolina Department of Transportation, C & A Unlimited, Inc., and Pilot Travel Centers, LLC,	)	
Defendants.	)	

FILED
17 APR -6 PM 1:17
BERKELEY COUNTY, S.C.
CLERK OF COURT

Personally appeared before me the undersigned, and after being duly sworn, deposes and states the following:

1. I am an associate engineer, specializing in municipal and highway engineering and parking lot safety, at Robson Forensic in Mount Laurel, New Jersey.

2. I am a civil engineer by education and training and a certified professional engineer in New Jersey, North Carolina, Colorado, Texas, Pennsylvania, New York, Maryland, Delaware, Connecticut, New Mexico, South Carolina, and Washington.

3. I have worked for more than thirty five years for state and municipal departments of transportation, and commonly serve as an expert in these areas. Specifically, I participate in investigations, and routinely testify in matters related to highway and municipal infrastructure design, construction, operations, and maintenance.

4. I am familiar with the facts of the above-captioned case and I have reviewed documentation provided by Pilot and the South Carolina Department of Transportation (hereinafter "SCDOT"). These materials, including, but are not limited to, design drawings for improvements to the

Pilot facility, SCDOT plans for the design of Highway 17-A, applications for permits to encroach upon same, correspondence between Pilot (or representatives) and SCDOT, along with the layout of the traffic signal adjoining the subject property, etc.

5. From my professional experience, I am familiar with what a reasonably prudent company should do, or should not do, in undertaking the design, construction, warning, and communication in regard to the creation of artificial conditions (i.e. those conditions that are not the natural consequence of highway use) for a facility such as Pilot's facility. In sum, a company owes a duty to design a premises that utilizes reasonably safe ingress and egress so potential customers and persons on highways adjacent toa company's facility will not be needless placed in a risk of harm. Included within this duty is an obligation to design, construct, warn, and communicate artificial conditions which may impede reasonably safe ingress and egress.

6. This duty is a common one, and for all practical purposes, acknowledged and admittedby Pilot's witness, William Mulligan, Pilot's Vice President of Development, when he explained Pilot had a duty to construct its premises in a safe manner. Mulligan admits a company should be aware of potential dangers that are inherent in a particular piece of property and arise from said property.

7. Generally, pursuant to industry standards, a company must design and construct a premisesin compliance with industry standards, which includes properly designing, constructing, warning, and communicating artificial conditions arising as a result of their facility that may impede ingress and egress into a facility like Pilot. These industry standards include, but are not necessarily limited to, the South Carolina Department of Transportation Access and Roadside Management Guide ("ARMS Manual"), the standards promulgated by the American Association of State Highway and Transportation Officials ("AASHTO"), and the Manual on Uniform Traffic Control Devices ("MUTCD").

8. Mulligan's affidavit, specifically Paragraph 8 therein, suggests because Pilot's driveway plans were submitted and approved by SCDOT the company's obligation to customers and the public utilizing the highway was satisfied. To the extent these are the assertions contained therein, they are misguided. The duty to designasafe premises is independent from any requirement to get approval for the designs. Approval does not absolve a company of its responsibility. The company has an independent duty to construct, warn, and communicate dangers created by artificial conditions created by a facility such as Pilot.

9. The design of the subject facility is unsafe for a number of reasons including, but not limited to, the fact that the driveways are too close to the functional area of the adjoining intersection.Given the driveway'sproximity to the intersection, a more safe and proper design would have included a restricted means of ingress and egress to prevent traffic from crossing over opposite bound lanes to access the facility as in this case, which could have been achieved in a multitude of ways, including the utilization of a raised median or right turn in-right turn out only concept. In addition, signs prohibiting turning movements should have been installed. This was not done and was in violation of the federal Manual on Uniform Traffic Control Devices (MUTCD), Section 2B.19 and the South Carolina DOT supplemental MUTCD. The functional area of the intersection was also in violation of the Institute of Traffic Engineers (ITE)Intersection Design GuidelinesManual (Chapter 10), ITE Travelled Way Design Guidelines (Chapter 9), ITE Toolbox on Intersection Design and Safety (Chapter 5 and 7), National Cooperative Highway Research Program (NCHRP) Report 780 Design Guidance for Intersection Auxiliary Lanes, NCHRP Report 279 Intersection Channelization Design Guide, American Association of State Highway and Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets (Chapter 9), South Carolina Department of Transportation (SCDOT) Design Manual, SCDOT Access & Roadside Management Standards (ARMS) and the Federal Highway

Administration's Access Management in the Vicinity of Intersections Manual. Moreover, given Pilot's knowledge of prior accidents at this location, and similarly situated facilities, the design Pilot implemented ignored itsresponsibility to provide a proper means for ingress and egress off of Highway 17-A, and in turn created an artificial condition. Thereby placing the general public at risk, as well as Pilot's customers.

10. The construction's unsafe nature of ingress and egress into Pilot's facility from Highway 17-A should have become apparent to Pilot in recent years. I have reviewed a significant amount of material from the South Carolina Department of Public Safety which indicates, as previously mentioned, accidents in this location have been common place since the construction at issue was completed. These accidents put Pilot on notice of the unsafe nature of its access points.

11. As noted in Paragraph 9 of Mulligan's affidavit, at or around the time Pilot was constructing and/or renovating the subject facility, SCDOT had plans that included the installation of a raised "unmountable" concrete barrier between the east and west-bound lanes of Highway 17-A. This barrier would have prevented traffic crossing over oncoming traffic on Highway 17-A. While Mulligan is correct in his affidavit that SCDOT elected not to install that median, what he omits is the reason the median was not installed. Whether or not to install this median or create a means of safe ingress and egress points are artificial conditions.

12. There is correspondence indicating SCDOT did not install the unmountable barrier because Pilot (or others working on its behalf) negotiated to have the barrier removed from the plans. The correspondence at issue is attached to this affidavit as **Exhibit A**.

13. In my experience as a highway and parking lot engineer, the main reason a company would negotiate the removal of such a barrier is to increase traffic into their facility as an effort to increase profits. I believe a monetary incentive is the only reason behind the removal of the concrete

barrier in this case. In my opinion, the placement of an artificial barrier like a median would have significantly reduced the risk of harm created by the Pilot's driveways, a hazardous artificial condition. The absence of the unmountable barrier, among other things, is responsible for the tremendous injuries and damages suffered by Plaintiffs in this case.

14. The overarching goal of any facility is to create a safe ingress and egress point into a facility. That can be achieved through proper design, construction, warnings, and communication of artificial conditions created by a facility. However, the creation of an unmitigated ingress and egress point off a busy highway close to an expansive situation is the creation of an artificial condition. By utilizing proper design, construction, warnings and communication, Pilot could have created a safe ingress and egress point into their facility. By virtue of their failure to remedy the unmitigated access into their facility off of Highway 17-A Pilot created an artificial condition, which generated hazardous conditions and contributed to the injuries of the Plaintiffs. Pilot should have worked with SCDOT to create the safest facility possible for potential customers and members of motoring public utilizing the adjoining roads, intersections, etc. Unfortunately, Pilot appears to have done the exact opposite by negotiating to have the barrier removed.

15. Moreover, even if Pilot initially constructed an improper means of ingress and egress at the time of renovation, if it had acknowledged and accepted both its role and responsibility in creating an artificial condition Pilot could have contacted SCDOT to implement a means to curtail the artificial condition and construct a safer form of ingress and egress into the facility. For example, Pilot could have constructed a right turn in-right turn out only feature which would have disallowed left hand turns into the facility off of Highway 17-A.

16. The lack of measures to prevent unsafe entry into Pilot's facility (the planned unmountable barrier) and the unsafe nature of the ingress and egress points as designed by Pilot are, in

my opinion, the cause of the damages suffered by Plaintiffs. While my experience stems from engineering, my understanding is Plaintiffs suffered significant injuries as a result. Specifically, Richard Wright sustained fractures to his fibula, tibia, right hip, scarring, etc., and as to Cynthia Wright she experienced a traumatic brain injury, pulmonary contusions, abdominal hematoma, and countless abrasions.

17. In my opinion, Pilot ignored industry standards and prioritized its own revenue over the safety of its customers and the general public. Instead, it ignored the artificial condition it created by the placement of its driveways. Pilot should have worked with SCDOT to create the safest and most accessible facility possible for both customers and those members of the public using the adjacent roads and intersections.

Further Affiant Sayeth Not

Richard M. Balgowan, PE, PP, CPM, CPWM, PWLF

Sworn to me this 12th
day of December, 2016

Notary Public for New Jersey State

My Commission Expires: 07/01/2020

EXHIBIT 13

ACCESS and ROADSIDE MANAGEMENT STANDARDS

SCDOT

South Carolina Department of Transportation

Dual Units of Measurement:

US Customary Units & INTERNATIONAL Metric SYSTEM OF UNITS

South Carolina Department of Transportation
Traffic Engineering Section
955 Park Street
Post Office Box 191
Columbia, South Carolina 29202-0191

1996 Edition

1st printing October, 1996 2,000 copies

Access and Roadside Management Standards is published by the South Carolina Department of Transportation and may be obtained at a cost of $5.00 per copy from the Director of Traffic Engineering at the above address.

As the need arises, *Access and Roadside Management Standards* is revised, updated, and distributed within the South Carolina Department of Transportation. Others are responsible for obtaining the most current edition.

The mission of the South Carolina Department of Transportation is to provide South Carolina the best possible intermodal transportation systems and services for the safe, efficient movement of people and goods, and stewardship of the State's environment and natural beauty.

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Chapter 1 — Introduction

1A PURPOSE

These standards have been developed to establish uniformity for encroachments upon roads in the State Highway System so as to provide for the safe and efficient movement of traffic while allowing reasonable access to abutting property.

1A-1 History

Points of access have long been recognized as major sources of conflict for traffic on public highways. In order to reduce these conflicts and address the need for basic access, legislation was enacted in 1956 to establish a permitting process for driveways, and a handbook was developed to regulate the location, design and construction of driveways adjoining highways.

Reasonable access means that a property owner must have access to the public highway system, rather than being guaranteed that potential patrons should have convenient access from a specific roadway to the owner's property.

1A-2 Need

The above mentioned standard recognized that the efficiency and safety of a highway depend to a large extent upon roadside interference and its detrimental effect upon the movement of traffic. However, recent years have brought changes in land use and developmental impacts to our highways. With higher traffic volumes came increased pressure to allow a variety of additional activities to occupy the roadside. The Department's desire to satisfy the public's need for efficient and safe traffic movement has to be weighed against property owners' needs for adequate access while taking into consideration significant changes in traffic and roadside characteristics. Since the primary purpose of highways is to provide for the safe and efficient movement of traffic, control of access points on the roadside is paramount. Previous standards became inadequate for regulating the location, design, construction, operation, and maintenance of points of access to the State Highway System and other activities within highway rights-of-way. This necessitated the development of more comprehensive standards in step with current highway and land development practices in the region and nation.

1B AUTHORITY

These standards are enacted pursuant to Sections 57-3-610, 57-5-1080, and 57-5-1090 of the *Code of Laws of South Carolina* (1976 as amended) and with the approval of the South Carolina Department of Transportation Commission.

1C DEFINITIONS

Access – Entrance to and/or exit from land fronting on the public highway system.

Access Point – A location on a property frontage at which access is allowed by the Department.

Applicant – The owner of a property or his or her agent applying for an encroachment permit.

Auxiliary Lane – A lane adjoining the roadway and used for the purpose of acceleration, deceleration, or storage of vehicles for turning maneuvers.

Controlled-Access Highway – A highway over, from, or to which owners or occupants of abutting properties or others have no legal right of access except at such points and in such manner as determined by the Department.

Crossover – A paved or graded area in the highway median designed specifically for vehicles to cross the median of a divided highway.

Department – The South Carolina Department of Transportation.

Driveway – An access point that is not a public street, road, or highway.

Encroachment – Use of the right-of-way by anyone other than the Department's personnel or authorized agents for any purpose other than that generally intended.

Flag Lot – A large lot not meeting minimum frontage requirements and where access to a public road is by a narrow, private right-of-way or driveway.

Frontage – The length of that portion of a property which directly adjoins a highway.

Frontage Road – A highway, road, or street which is auxiliary to and located on the side of another highway, road, or street for service to abutting property and adjacent areas and for the control of access to the main highway, road, or street.

Highway; Street; Road – The entire width between right-of-way or boundary lines of a public way open for vehicular travel.

"May" – see *"Shall," "Should," and "May."*

Median – The portion of a divided highway which separates opposing traffic flow.

Outparcel – Any lot created from an overall tract wherein the remaining tract is larger than any single lot created and wherein the conditions and locations of access to such lot from a public highway or street may be restricted and/or provided through easements granted by the larger tract holder.

Permit – A legal document in which the Department gives written permission for an encroachment by an applicant.

Permittee – The owner of a property or his or her agent to whom a permit is issued.

Right-of-Way – The land secured and reserved by the Department for the construction and maintenance of a highway and its appurtenances.

Road – See *Highway; Street; Road.*

Roadway – The portion of a highway ordinarily used for vehicular travel, exclusive of the sidewalk, shoulder, or median.

"Shall," "Should," and "May": Shall – A *mandatory* condition. Where certain requirements in the design or application are described with the "shall" stipulation, it is mandatory when an installation is made that these requirements be met.

Should – An *advisory* condition. Where the word "should" is used, it is considered to be advisable usage, recommended but not mandatory.

May – A *permissive* condition. No requirement for design or application is intended.

Speed: Operating – Operating speed is the highest overall speed at which a driver can travel on a given highway under favorable weather conditions and under prevailing traffic conditions without at any time exceeding the safe speed as determined by the design speed on a section-by-section basis.

Design – Design speed is the maximum safe speed that can be maintained over a specified section of highway when conditions are so favorable that the design features of the highway govern.

Street – See *Highway; Street; Road.*

Chapter 2 — Encroachment Permits

2A APPLICATION AND REQUIREMENTS

An encroachment permit must be obtained prior to any encroachment including nonroutine maintenance of (see subsection 2D-5) and revisions to any existing encroachment. The property owner or his agent will be responsible for all requirements of the permit (see appendix E, South Carolina Department of Transportation Engineering Directive Memorandum M-1). The agent of the property owner shall be a person with actual or apparent authority conferred on him or her *in writing* by the property owner, who has been expressly granted the power to act in the place of and instead of the property owner, and upon whom the SCDOT may rely to do all acts within the scope of the encroachment permit.

2A-1 Application

The permitting procedure is begun by contacting the Department's Resident Maintenance Engineer in the county in which the work is to be done (see appendix A). Where application is made for a permit for an encroachment which will cross county lines, the application may be submitted in any county in which a part of the encroachment is to be located. Once the extent of the proposed work on the right-of-way is determined, the requesting individual will be given an Application for Encroachment Permit (SCDOT Form 638) to complete. To assist the applicant, directions for completing the application and a check list are provided in appendix B. The completed application form with all the necessary documents must then be submitted to the Resident Maintenance Engineer. The completed application is intended to provide all information needed for the Department to make a decision on the request and will be a record of the work when the work is completed.

2A-2 Preliminary Site Plan Review

In cases such as large developments (e.g. industrial parks, shopping centers, large apartment complexes, or school sites) where significant traffic volumes are expected, considerable time and effort often can be saved and the permitting time shortened when the Department and the local jurisdiction are involved in the early stages of development planning. In such cases the Department recommends a preliminary site development plan be submitted before the permitting process is begun. Preliminary plans should be submitted to the Resident Maintenance Engineer.

2A-3 Coordination with Local Jurisdictions

In the event that regulations or ordinances of more than one jurisdiction apply, the applicant shall contact each involved entity to ascertain the requirements of and obtain approval from all jurisdictions. The more restrictive re-

quirements shall apply; however, the Department shall not issue a permit for an encroachment that meets local standards but violates the provisions of Access and Roadside Management Standards. Similarly, the Department's issuing of an encroachment permit does not relieve the applicant of the need to comply with local requirements, even if more restrictive.

2B REVIEW AND APPROVAL

Early submittal of the Application for Encroachment Permit will allow for proper review and approval prior to completion of design so that any required revisions can be incorporated into the construction plans. The time involved in reviewing applications will depend upon the complexity of the application. All permits will be reviewed and returned as soon as practicable. Verbal approval will not be given to permit any work until an encroachment permit for the work has been issued. All extensions, amendments or additions to existing permits must be in writing.

2C PERFORMANCE BONDS

The Department may require a performance bond before issuance of an encroachment permit. Any such requirement shall be included in the special provisions of the permit, and evidence of the bond shall be attached to the permit. The amount of the bond shall be equal to 1.5 times the estimated construction cost or $5,000, whichever is greater. The purpose of such a bond is to ensure compliance with all terms of the permit by providing, in cases of noncompliance, for any and all damages and costs incurred in collecting damages through legal or other appropriate means. A bond shall be released only when the work described on the permit has been completed to the satisfaction of the Department.

2D CONDITIONS AND LIMITATIONS

2D-1 Traffic Safety and Operational Restraints

Safety and efficient traffic operations are important considerations in the review of Application for Encroachment Permits. In some cases it may be necessary to restrict access because of safety problems or operational restraints due to geometry, vertical grades, horizontal curves, or other conditions. Access at points within or near acceleration lanes or channelization may be restricted, limited, or prohibited. If operational or safety concerns exist, the application may be forwarded to the Director of Traffic Engineering for review.

2D-2 Land Use Changes and Redevelopment

When there is a change in land use which will affect the amount, type, or intensity of traffic activity to a site, the Department reserves the right to require submission of a new Application for Encroachment Permit. For example, a residential lot may be rezoned to allow for a professional office which will generate commercial traffic. In this case the Department may require the existing access

to be revised to better accommodate the expected traffic even if no significant building renovations are planned. In some cases the number and/or width of driveways allowed may change depending upon the land use change and the current standards. This provision will also apply to existing accesses when a property is redeveloped with the same general land use.

2D-3 Subdividing Large Parcels

Access to future subdivided parcels shall be considered in the initial Application for Encroachment Permit's review process. The Department will not be obligated to allow direct access for any parcels which may be subdivided from a larger overall development at a later date. See also subsection 3C-2.2 on outparcels.

2D-4 Setback

The area to which the driveway provides access shall be sufficiently large for stopping, parking, and maneuvering of vehicles completely off the right-of-way.

2D-5 Maintenance Responsibilities

The owner shall be responsible for the maintenance of access points, including any drainage structures, for areas within the rights-of-way of State maintained facilities. An encroachment permit is not required for routine maintenance such as mowing, patching potholes, clearing pipes and ditches, applying seal coating, and repairing minor erosion damage.

The Department shall be responsible for the maintenance of permittee-provided crossovers, auxiliary lanes, and right-of-way.

2D-6 Retrofitting by the Department

The Department may require driveway accesses to be modified to conform to these standards. This may require that some driveways be narrowed, widened, or removed in order to correct safety and operational problems. Preferably, such actions should be considered during the preconstruction phase. When this is required as part of a road improvement project, it will be done by the Department as part of the construction contract.

2D-7 Private or Commercial Use of Right-of-Way

Pursuant to Sections 57-7-210 and 57-25-10 of the *Code of Laws of South Carolina* (1976 as amended), erecting fruit and vegetable stands on the right-of-way, displaying automobiles for sale on the right-of-way, or any other private or commercial uses of the right-of-way are prohibited. Some exceptions, such as placing banners across the roadway, for which encroachment permits or letters of authorization have been issued in accordance with these standards are allowed.

2D-8 Parking

Facilities and accommodations for parking on the State Highway System's right-of-way shall be permitted only when installed by local governments who maintain the responsibility for enforcing parking regulations within their jurisdiction. At no time shall any on-street parking be allowed on the right-of-way that is not in accordance with Section 56-5-2550 of the *Code of Laws of South Carolina* (1976 as amended).

Only parallel parking is permitted on the State Highway System's right-of-way, unless the Department specifically permits otherwise. Parking other than parallel parking increases the accident potential due to vehicles backing into the roadway while under the restraint of limited sight distances created by vehicles in adjacent spaces. Angle parking, therefore, shall be permitted only on minor streets where there is sufficient width to allow maneuvering without interfering with the free movement of traffic (see appendix C, page C-15, for angle parking geometry). At no time shall 90° parking be permitted. Internal parking of a development or improvement will not be allowed to extend onto the State Highway System's rights-of-way.

2D-9 Transfer of Responsibility and Liability

When, for any reason, there is a change in property ownership, all responsibilities and liabilities of the owner as pertains to these standards shall become those of the owner's heirs, successors, or assignees upon the legal transfer of ownership.

2D-10 Other Restrictions on Access

Owners of private property which is separated from the highway right-of-way by railroad or utility right-of-way must have the railroad or utility company's written approval prior to applying for the encroachment permit.

A controlled-access (full or partial) highway or frontage permits no legal right of access except at such points and in such manner as determined by the jurisdictional authority. On highways with partial control of access, points of access are restricted to driveways on a planned spacing in addition to normally provided interchanges and/or at-grade intersections.

Access may be required to be from service or frontage roads when direct access to the main highway is restricted or prohibited.

The median of a divided highway provides for safer, more efficient traffic movement by reducing accidents involving left-turn access maneuvers as well as head-on collisions. Access to adjacent property is provided by right-in and right-out maneuvers in conjunction with U-turn and crossing maneuvers at paved median crossovers. Crossovers are provided at a planned spacing and at intersections, and additional crossovers are not normally permitted at access points.

Chapter 3 — Points of Access

3A GENERAL

Appropriate engineering and safety factors should be considered in conjunction with these standards so that conditions unique to individual access points are properly taken into account.

3A-1 Number Allowed per Frontage

Generally, one point of access to a given property will be allowed, situated in a safe location and in accordance with other provisions of this manual. However, additional access points may be allowed as given in table 3-1, provided the continuous roadway frontage of the property exceeds 200 feet (60 m).

TABLE 3-1 MAXIMUM NUMBER OF DRIVEWAYS PER FRONTAGE

Length of Frontage		Maximum Number of Driveways
ft.	m	
200 or less	60 or less	1*
200+ to 600	60+ to 180	2
600+ to 1,000	180+ to 300	3
1,000+ to 1,500	300+ to 450	4
More than 1,500	More than 450	4 plus 1 per each additional full increment of 500 feet (150 m) of frontage
* On frontages of 200 feet (60 m) or less, a pair of one-way driveways may be substituted only if the internal circulation on the site is compatible with the one-way driveways and wrong-way movements on the driveways are rendered impossible or extremely difficult for motorists.		

Driveways will be limited to the number needed to provide adequate and reasonable access to a property. Factors such as alignment with opposing driveways and minimum spacing requirements will have a bearing on the number of driveways approved. A residential property with a frontage of less than 50 feet (15 m) or a commercial property with a frontage of less than 64 feet (19.4 m) will be permitted a point of access only upon special consideration by the Department. A property with more than one frontage may have the frontages considered separately.

3A-2 Location, Spacing, and Offset

Points of access should be located to avoid undue interference with or hazard to traffic on the roadway. They should be located where there are no sharp curves or steep grades and where the provisions outlined in the following subsections are met. Access points should not be located on auxiliary lanes or their tapers.

In the interest of public safety and convenience, the Department may restrict a point of access to a particular location along the frontage. On properties where points of access would not otherwise be clearly defined, a physical barrier such as curbing may be required along the frontage to define specific access points.

Table 3-2 is a recommended spacing chart for adjacent driveways on the same frontage. High-volume driveways should align with driveways on the opposite side of the street or should be offset in the same manner as streets as shown in figure 3-3 (see section 3D). Minimum spacing will be increased if right-turn deceleration lanes are required and shall equal the length of the turning lane and taper plus 50 feet (15 m), unless a continuous right-turn lane is approved. Nowhere shall a distance of less than 40 feet (12 m) between edges of one-way driveways be permitted (See appendix C, page C-2).

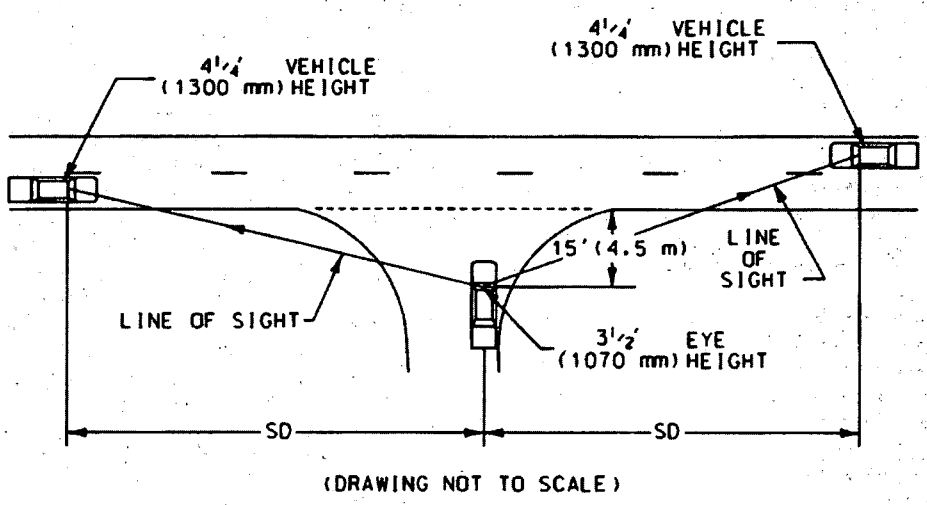
TABLE 3-2 SPACING OF DRIVEWAYS

Operating Speed		Recommended Minimum Spacing from Center to Center	
mph	km/h	ft.	m
30 or less	50 or less	100	30
35	60	150	45
40	60	200	60
45	70	250	75
50	80	300	90
55 and above	90 and above	350	105

3A-3 Sight Distance

To the extent feasible, an access shall be located at a point which provides optimum sight distance along the roadway. The recommended intersection sight distance required at a driveway is set forth in table 3-3. Sight distances for streets and higher-volume driveways shall comply with the Department's *Highway Design Manual*. Proper sight distance shall be provided for all turning movements into and out of driveways.

TABLE 3-3 RECOMMENDED SIGHT DISTANCES FOR DRIVEWAYS



Design vehicle entering arterial	Sight distance (SD)* per 10 mph (16 km/h) of arterial speed for arterial width of:					
	2 lanes		4 lanes		6 lanes	
	ft.	m	ft.	m	ft.	m
Passenger Car (P)	100	31	120	37	130	40
Single Unit Truck (SU)	130	40	150	46	170	52
Tractor Trailer (WB-50 ft. {15 m})	170	52	200	61	210	64
* Distances given are for flat grades.						

3A-4 Proximity to Intersections, Ramps, Crossovers, and Railroads

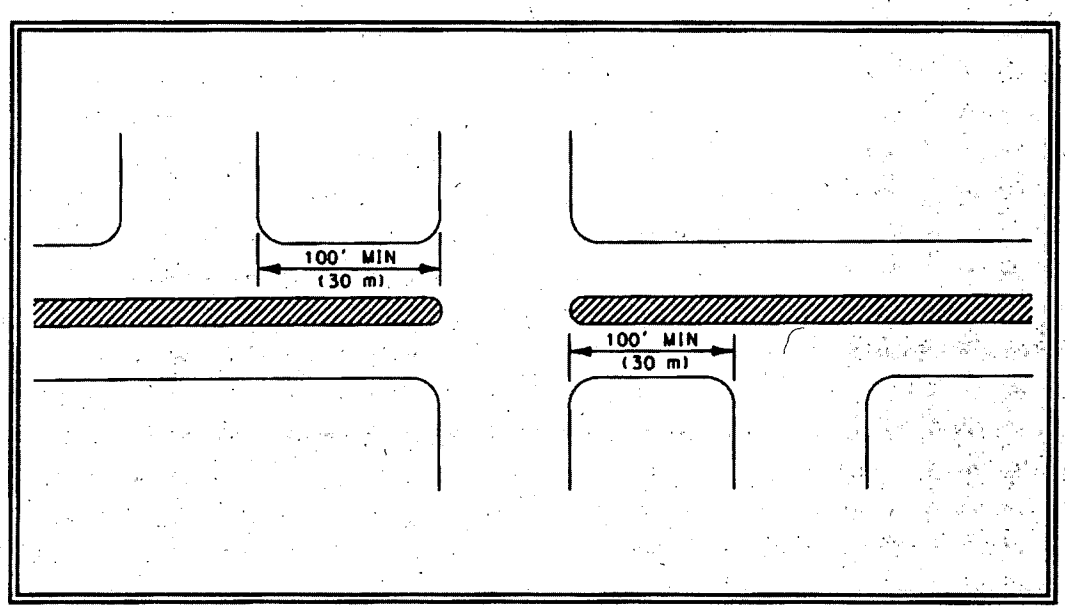
Points of access should be located as far from roadway intersections or railroads as feasible and practical. No access point shall be located within the radius of intersecting roadways. The beginning of the radius of driveways close to intersections shall be at least 10 feet (3 m) from the point of tangency of the intersecting roadway's radius and not closer than 75 feet (22.5 m) to the edge of the intersecting roadway when property frontage allows. See the minimum driveway location standards in appendix C, page C-2. These requirements may limit or exclude access points on some corner lot frontages.

At intersections where corner right-of-way or sight-distance areas have been obtained, no driveways shall be permitted to cross or enter the area, except where the elongation of areas may warrant special consideration.

Points of access in the vicinity of freeway or expressway ramps shall comply with the requirements outlined above for those near roadway intersections. However, in addition, these access points shall not be located in such proximity to a ramp that, as determined by the Department, they may interfere with the safe and orderly transition of traffic from one roadway system to another. In no case shall a point of access be permitted on a freeway or expressway ramp or on a controlled-access highway unless illustrated on the original design plan for the controlled-access highway.

Whenever applicable, points of access should align directly with existing median crossovers. Those that do not align directly should be located a minimum of 100 feet (30 m) (edge to edge) from the nearest crossover so that conflicts with traffic using the crossover can be avoided (See figure 3-1).

FIGURE 3-1 POINTS OF ACCESS WITH MEDIAN CROSSOVERS



3A-5 Property-Line Clearance

With the exception of residential driveways, points of access shall be located a minimum distance of 20 feet (6 m) and have a minimum radius offset of 5 feet (1.5 m), as measured parallel to the roadway, from the intersection of the right-of-way and property lines. See the minimum driveway location standards in appendix C, page C-2. No point of access shall be located so that its radius encroaches on the adjacent property frontage unless the adjacent property's owner agrees in writing.

3A-6 Traffic Control

Traffic control at access points shall comply with the *South Carolina Manual on Uniform Traffic Control Devices* and shall be designed to accommodate the needs of traffic generated by development while minimizing interference with other traffic. Traffic control devices shall be installed on all streets and on drive

ways which have geometric and operational characteristics resembling those of a street. Design, equipment, installation, and maintenance of traffic control devices (except maintenance of traffic signals) shall be the responsibility of the owner and shall require approval by the Department.

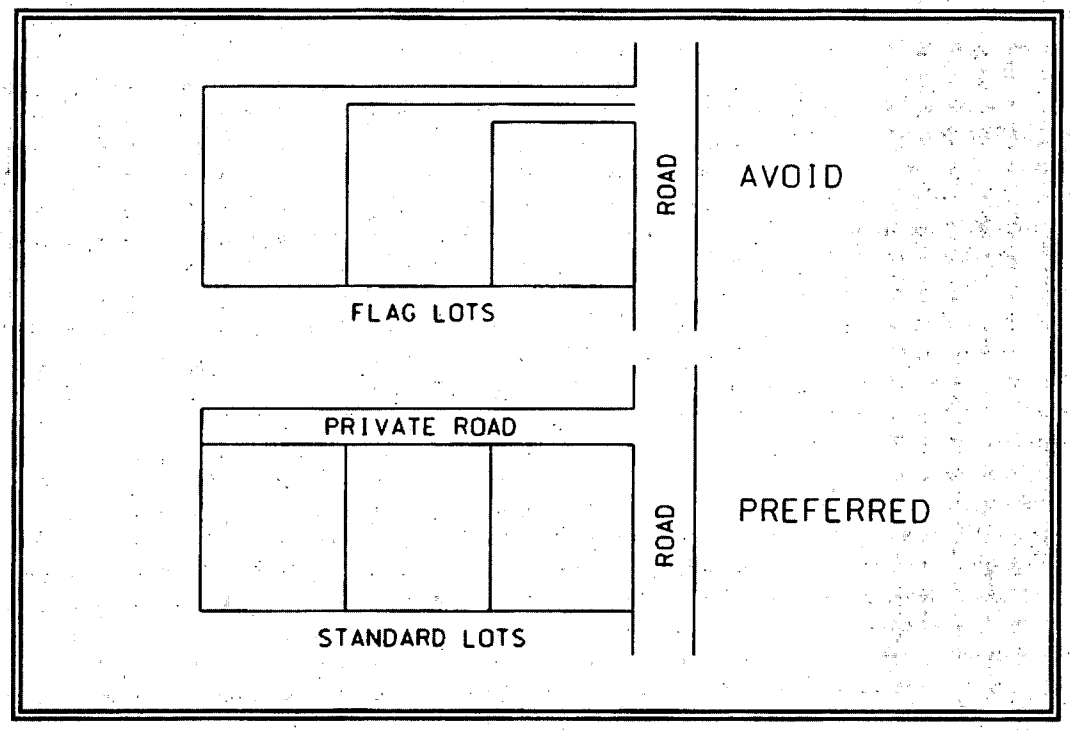
3A-7 Shared Driveways

Shared driveways requiring mutually executed easements are encouraged and, in some circumstances, may be required by the Department. The requirements of subsection 3A-5 shall not apply to shared driveways.

3A-8 Flag Lots

Access problems often occur as the result of land development techniques that produce lots shaped like flags with long narrow access poles (see figure 3-2). Landowners often stack flag lots when dividing a parcel to provide interior lots with direct access to the State Highway System, thereby avoiding the expense of providing a public or private road.

FIGURE 3-2 FLAG LOTS AND ALTERNATIVE ACCESS



Access problems frequently occur when drives from stacked flag lots violate driveway spacing standards on the State Highway System. Inadequate spacing between these driveways increases safety hazards from vehicles turning on and off the high speed roadway.

To reduce the potential for access problems and improve safety, the construction of one drive per flag lot should be avoided. Instead, internal flag lots should be served by an internal street or road system that provides access to the State Highway System at one location. This access point should meet the design standards for a street or roadway and not those of a driveway.

A residential property with a frontage of less than 50 feet (15 m) will be permitted a point of access only upon special consideration by the Department.

3A-9 Auxiliary Lanes

On roadways with substantial traffic volumes and/or higher speeds, lanes for deceleration, or turn storage may be required by the Department or as the result of an impact study. The design and construction of auxiliary lanes, as well as the acquisition of additional right-of-way where necessary, shall be the responsibility of the permittee and shall be accomplished at no expense to the Department. Design guidelines for auxiliary lanes are given in subsection 3G-7.

3A-10 Frontage Roads

The objective of a frontage road is to provide a means of access where direct access to the main roadway is not advisable or is limited by access control. This concept holds significant value for high-speed and divided highways and should be considered especially along areas susceptible to strip development. At an intersecting roadway, the frontage road should be separated from the main roadway by 300 feet (90 m) or more to allow adequate space for vehicle storage on the intersecting roadway between the frontage road intersection and the main roadway intersection.

3B RESIDENTIAL DRIVEWAYS

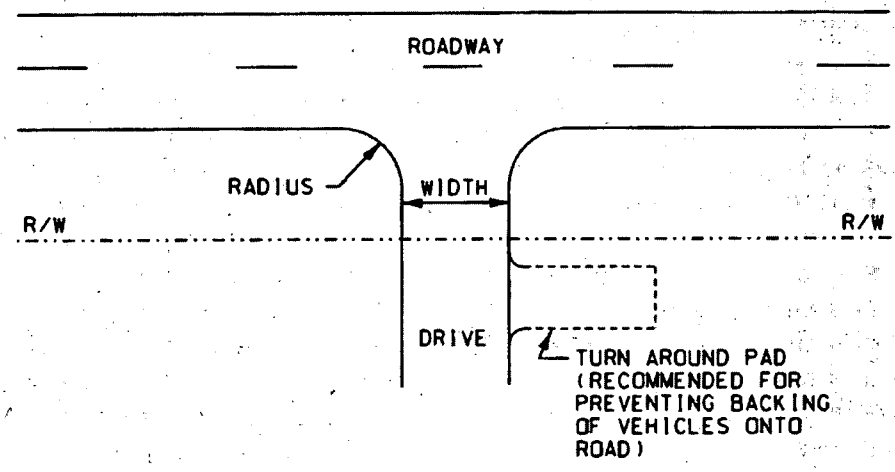
3B-1 Single Residences and Small Apartment Complexes

This subsection covers driveways for single-family residences, duplexes and small apartment complexes consisting of five apartments or fewer. Generally, only one driveway will be allowed on a residential lot. Any exception to this must be justified on the basis of safety or special circumstances. See table 3-4 for applicable standards.

3B-2 Large Apartment Complexes

Multi-unit complexes of more than five apartments are considered large apartment complexes. The number of driveways allowed per frontage will generally be one. Additional driveways may be justified provided the required property frontage and spacing as discussed in subsections 3A-1 and 3A-2 are met. Widths and radii for these driveways are given in table 3-5. Divided driveways should comply with subsection 3G-6.

TABLE 3-4 SINGLE RESIDENCE AND SMALL APARTMENT COMPLEX DRIVEWAY WIDTHS AND RADII



	Urban with Curb & Gutter		Urban & Rural with Shoulder	
	ft.	m	ft.	m
Width*	10 – 16	3 – 4.8	10 – 16	3 – 4.8
Radius*	5 – 10	1.5 – 3	10 – 20	3 – 6

* Within ranges given, dimensions should be based on the characteristics, including the speed of the roadway, at each site.

TABLE 3-5 LARGE APARTMENT COMPLEX DRIVEWAY WIDTHS AND RADII

	ft.	m
Width*	24 – 40	7.2 – 12
Radius*	20 – 40	6 – 12

* Within ranges given, dimensions should be based on the characteristics, including the speed of the roadway, at each site.

3C COMMERCIAL AND INDUSTRIAL DRIVEWAYS

3C-1 High-Turnover and/or Drive-Through Businesses

High turnover driveways should have a suitable connection to the arterial street comparable to that for a well-designed street intersection serving a similar volume of traffic. Applications for high-turnover businesses and those which depend heavily on drive-through traffic must have accompanying site plans for a design which will prevent negative impacts on the road system. Examples of these types of businesses are fast-food restaurants, financial institutions with drive-through windows, convenience stores, and car washes. The site plan shall show

internal areas for drive-through lanes that will prevent traffic from queuing on the right-of-way. Also, internal circulation must be on private property and the parking design must not allow backing of vehicles onto the right-of-way. Developments with one-way traffic flow systems shall have internal circulation plans that are compatible with the one-way flow plan and discourage wrong-way use of the one-way driveways. See the typical sketch in appendix C, page C-7.

3C-2 *Shopping Centers and Other Large Developments*

3C-2.1 Impact Studies

Early contact with the Department by the developer is recommended. A traffic impact study may be required for large developments such as major shopping centers, large planned-unit developments, industrial complexes, and other projects as may be determined by the Department. In table 3-6 are guidelines that may be used to determine whether a study will be required.

TABLE 3-6 GUIDELINES FOR DETERMINING THE NEED FOR AN IMPACT STUDY

Shopping Center	**100,000+ gross square feet (9,300 m²)**
Planned-Unit Development	**75+ acres (303,500 m²)**
Industrial	**350+ employees**
Residential Development	**100+ single-family detached units or 200+ total dwelling units**
Office	**100,000+ gross square feet (9,300 m²)**

A Traffic impact study shall meet the criteria of the Institute of Transportation Engineers and shall be conducted by a qualified engineer. An impact study shall analyze traffic conditions for both the initial opening and full development of the site under the most critical traffic situations expected. The study will be used to help assess the need for changes in traffic control devices and roadway improvements necessary to lessen the impact of the new development. The study must also justify the proposed access plan and demonstrate the effects of the development on public roadways. The developer of a site will be responsible for making roadway improvements and installing traffic control devices which may be necessary to reduce the impacts of the new development. The Department may require road improvements by the developer without a traffic impact study.

3C-2.2 Outparcels

Outparcels derive a significant portion of their attraction from their relationship and connection to their associated major development. The prime development generates a large portion of the traffic which will be attracted

to the outparcel; therefore, it is appropriate that access be from the major development. This will reduce the number of conflict points and improve safety while giving greater emphasis to the main development. Access for outparcels should be provided only internally; however, shared or individual access points may be permitted provided that twice the normal spacing requirements of subsection 3A-2 are met. See also subsection 2D-3 on subdividing large parcels. When direct access is approved, it may be limited to right turns. Even when single or shared out-parcel access points are allowed, additional access from the outparcels to the major development should be provided. Notation of access for outparcels shall be made on the plans for the development. For sample drawings of out-parcel access, see appendix C, pages C-8 and C-9.

3C-3 Industrial Driveways

Access points for industrial sites shall be located and designed to accommodate the traffic which the facilities will generate. Consideration in design should be given to the type of vehicles which will use the driveways, especially when they are likely to be large trucks. In addition, the higher volumes of traffic entering and leaving industrial sites at shift changes must be considered in the design of queuing areas and turning lanes. The number and spacing of points of access for industrial sites are established in subsections 3A-1 and 3A-2. Data on geometric design is provided in section 3G. The minimum corner radii recommended when trucks are used as design vehicles are given in table 3-7.

Table 3-7 Driveway Radii

Design Vehicle			Minimum Radius	
	ft.	m	ft.	m
Single Unit Truck	SU	SU	40	12
Tractor Trailer	WB-40	WB-12	40	12
Tractor Trailer	WB-50	WB-15	50	15
Tractor Trailer	WB-62	WB-19	50	15

3D STREET INTERSECTIONS

Street intersections whether commercial or residential, public or private, shall be designed and constructed in conformance with the SCDOT *Highway Design Manual*; the American Association of State Highway and Transportation Officials' *A Policy on Geometric Design of Highways and Streets*, current edition; and the Department's *Standard Specifications for Highway Construction*, current edition.

Right-of-way for new streets should provide triangular areas sufficient to accommodate the intersection turn radii and provide for adequate intersection sight distance.

The minimum radius for street intersections is 30 feet (9 m). Recommended travelway widths at intersections for streets with no provisions for parking and/or islands

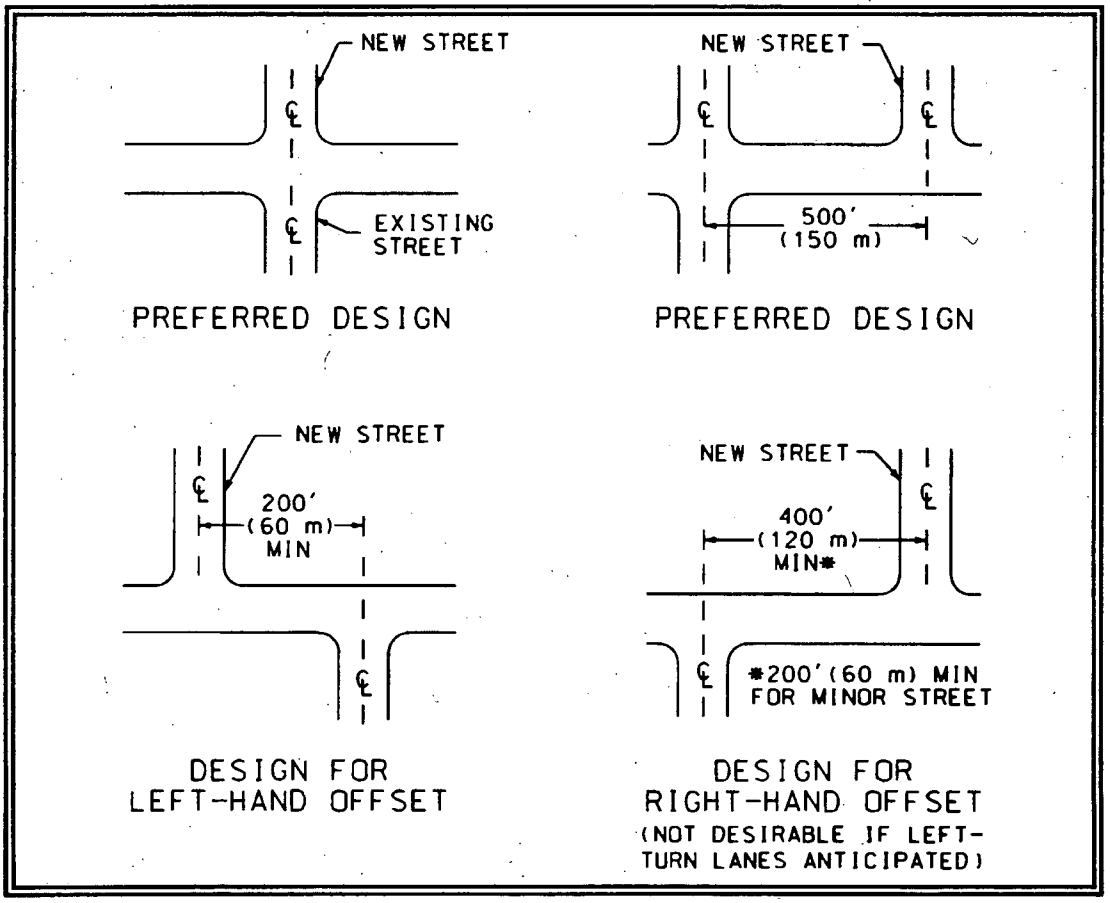
are presented in table 3-8. The values for street and high volume driveway widths in table 3-8 shall be adjusted for parking and islands to provide minimum travel width.

TABLE 3-8 STREET AND HIGH-VOLUME DRIVEWAY WIDTHS

Number of Lanes	Recommended Travelway Width Without Parking and/or Islands	
	ft.	m
2	24 – 36	7.2 – 10.8
3	36 – 44	10.8 – 13.2
4	48 – 54	14.4 – 16.2
5	60 – 66	18 – 19.8

Streets should align opposite other streets or major driveways or shall have sufficient offset so that operational problems cannot develop. See figure 3-3.

FIGURE 3-3 STREET ALIGNMENT/OFFSET



3E MEDIAN CROSSOVERS

The initial placement of median crossovers along divided highways was determined by engineering design. Divided highways operate at higher levels of safety with a minimum of median crossovers. Additional crossovers create more conflicts and can lead to higher accident experience and loss of the advantages of the divided highway. They, therefore, are not normally permitted at access points, and the Department reserves the right to limit access to right turns only. However, when additional median crossovers are warranted, in order not to compromise the operation of existing crossovers or the highway, the spacing of these additional median crossovers should follow a typical pattern for each roadway and shall be limited by the criteria set forth in this section. Applications for median crossovers which are difficult to reconcile shall be forwarded for review to the Director of Traffic Engineering.

3E-1 Requirements

A median crossover may be permitted when an engineering review by the Department indicates that all of the conditions listed below are met.

a) The spacing to the nearest crossover is at least 500 feet (150 m) in urban areas and 1000 feet (300 m) in rural areas (centerline to centerline).
b) When needed as determined by the Department, a suitable left turn lane and taper shall be included.
c) Sight distance criteria are met (see subsection 3A-3).
d) Significant traffic volumes will be generated.
e) The operation of the highway, other accesses, or crossovers will not be adversely affected.
f) The maximum grade on the crossover shall not exceed 8 percent and should not exceed 5 percent.

The Department may approve the relocation of a median crossover if the new location meets the above requirements and all directly affected property owners concur.

A median crossover and any associated turn lanes are considered components of the driveway and are to be constructed by the permittee where approved.

3E-2 Design

The length of a median opening shall be based on the control radii in accordance with figure 3-4.

For median crossovers provided for points of access, median ends should be of the bullet nose design with a minimum radius at the nose of one-fifth the median width and a control radius of between 40 feet (12 m) and 75 feet (22.5 m). See figure 3-4 for design dimensions.

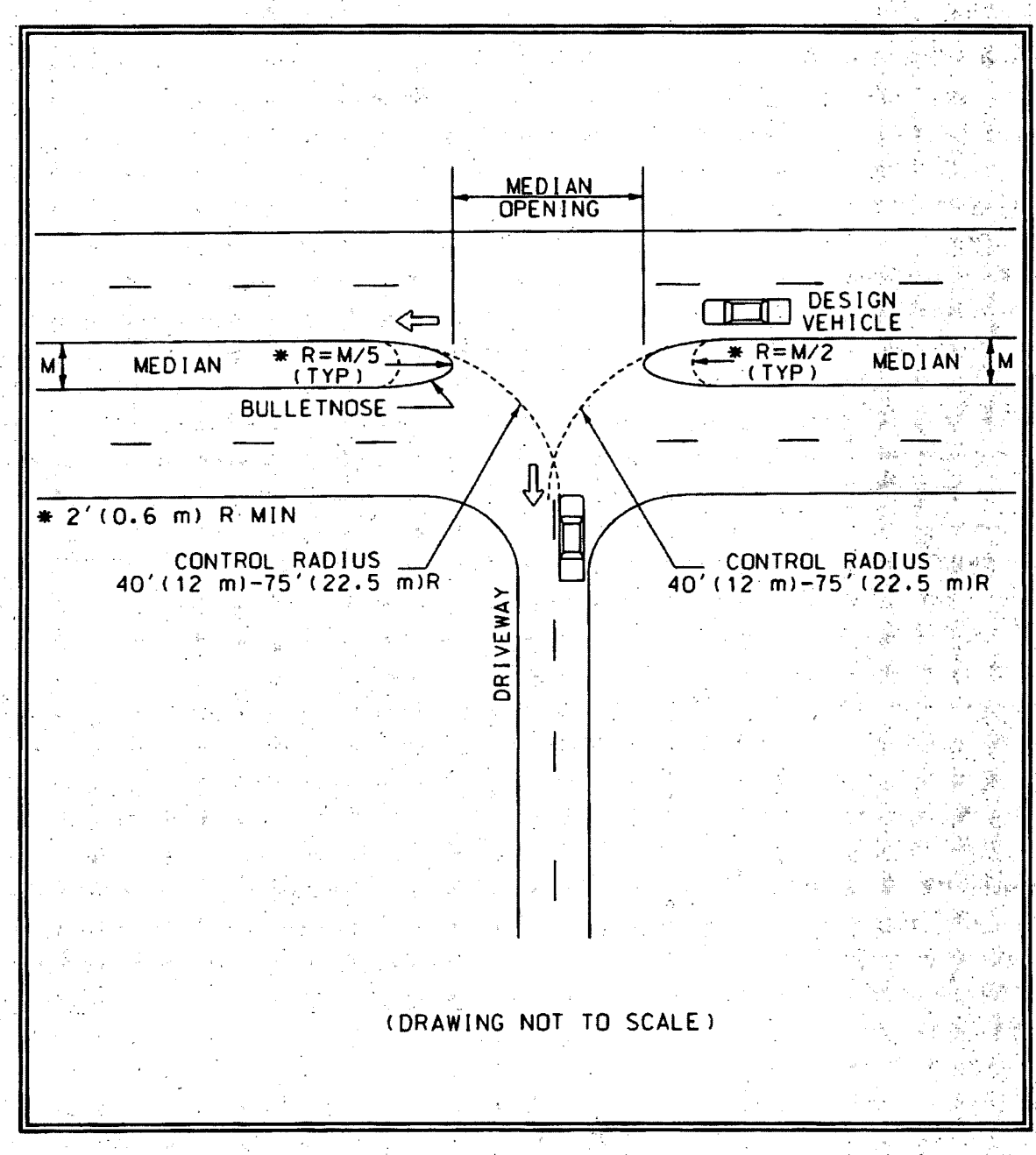
The length of median crossovers for U-turns should be determined by the turning radius of the type of vehicle normally expected to use the crossover. A U-

turn crossover should have a minimum length of 24 feet (7.2 m) and should have semicircular median ends.

Pavement design shall equal or exceed that of the existing roadway.

If auxiliary lanes are required they shall be designed in accordance with subsection 3G-7.

FIGURE 3-4 MINIMUM MEDIAN OPENING



3F OTHER DRIVEWAYS

3F-1 Temporary Driveways

Any driveway which is not for use by the general public and which will be closed after being used for only a limited time may be considered a temporary driveway. The limited time shall be specified on the permit and shall not exceed two years. The requirements for temporary driveways will be the same as for permanent driveways except that a stone surface may be used instead of pavement. Temporary driveways shall not block existing drainage features. When the driveway is closed, all materials shall be removed and the site restored to its original condition by the permittee.

3F-2 School and Church Driveways

School and church driveways are considered commercial driveways for the purposes of these standards. Special consideration should be given to ensure sufficient on-site storage and circulation of vehicles.

3F-3 Farm Driveways

Farm driveways may be considered either commercial or residential depending on usage. An area off the right-of-way for cleaning mud off tires may be required.

3F-4 Car Wash Driveways

Car wash driveways are commercial driveways, and special consideration should be given to ensure sufficient on-site storage of vehicles. The size and layout of the site shall ensure operation without exceeding the maximum driveway widths allowed herein. Also, the car wash shall have adequate drainage to prevent water from draining onto the roadway.

3F-5 Logging Driveways

Driveways to logging operations can generally be considered temporary driveways with special consideration being given to ensure that mud and debris are not carried onto the highway. An area off the right-of-way for cleaning mud and debris off tires shall be required. Proper warning signs shall be provided, installed, and maintained by the permittee in accordance with the *South Carolina Manual on Uniform Traffic Control Devices*.

3F-6 Construction Driveways

A driveway to a construction site may be considered a temporary driveway. An area off the right-of-way for cleaning mud and debris off tires shall be required.

3G GEOMETRIC DESIGN

3G-1 *Angle of Intersection*

The angle between a two-way driveway and the roadway it intersects preferably should be 90 degrees but no less than 60 degrees. The angle of a one-way driveway entering a property may be decreased to 45 degrees, but the angle of a one-way driveway exiting a property shall not be less than 60 degrees and preferably should be 90 degrees.

3G-2 *Width*

The width of driveways, exclusive of any shoulder, should be based on various conditions including the type of highway facility, the driveway volumes, the driveway alignment angle, and the turning radii. Table 3-9 indicates minimum and maximum driveway widths for various types of driveways. Streets and high-volume driveways are governed by the widths given in table 3-8 (see section 3D).

TABLE 3-9 DRIVEWAY WIDTHS

Driveway Type	Width	
	ft.	m
Residential & Minimum Use	see table 3-4	see table 3-4
Urban Commercial (One-Way)	14 – 24	4.2 – 7.2
Urban Commercial (Two-Way)	24 – 40	7.2 – 12
Rural Commercial (One-Way)	18 – 24	5.4 – 7.2
Rural Commercial (Two-Way)	24 – 50	7.2 – 15

3G-3 *Radii*

Driveway radii should be designed to provide safety and ease of vehicle movement for the largest vehicle that will regularly use the driveway.

On roadways with curb and gutter, driveways serving low volumes of traffic may have a drop curb design instead of curb returns. On higher-volume driveways and on higher-speed roadways, curb returns should be utilized and may be required. Design drawings for driveways with drop curb and for driveways with curb returns are given in appendix C, pages C-10, C-12-C14.

Refer to table 3-7 for minimum corner radii.

3G-4 *Approach Grade and Side Slope*

On streets or higher-volume driveways or when curb and gutter are present, the approach should be in accordance with appendix C, page C-11.

Where a shoulder exists the profile grade of the approach from the edge of the pavement shall slope at the same rate as the highway shoulder for the full width of the shoulder. A grade not to exceed plus or minus 8 percent shall be maintained from the edge of the shoulder for a minimum distance of 40 feet (12 m). Low-volume drives can have an additional grade change at this point not to exceed 14 percent total grade change from the shoulder grade. See figure 3-5.

Driveways shall have a maximum side slope ratio of 4:1 (1:4 metric).

3G-5 Islands

Traffic islands are used to guide motorists into proper lanes. They shall be used when the driveway characteristics or complexity is of such a nature that their use is needed to eliminate conflicts. They should be constructed with a mountable curb and should be offset from the traffic lanes as shown in figure 3-6. The minimum size of a raised concrete island is 100 square feet (9.3 m²).

FIGURE 3-5 DRIVEWAY APPROACH GRADE

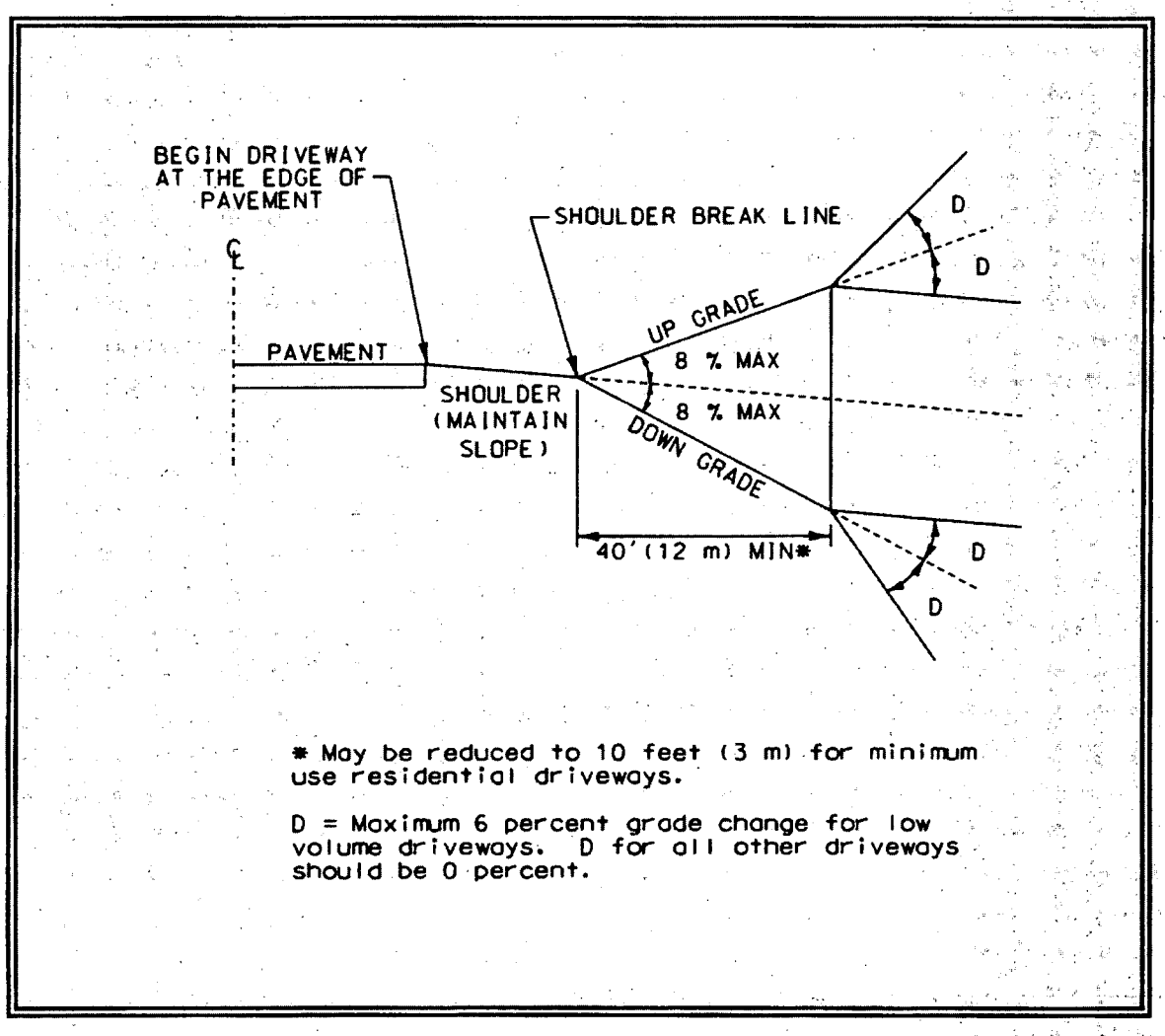
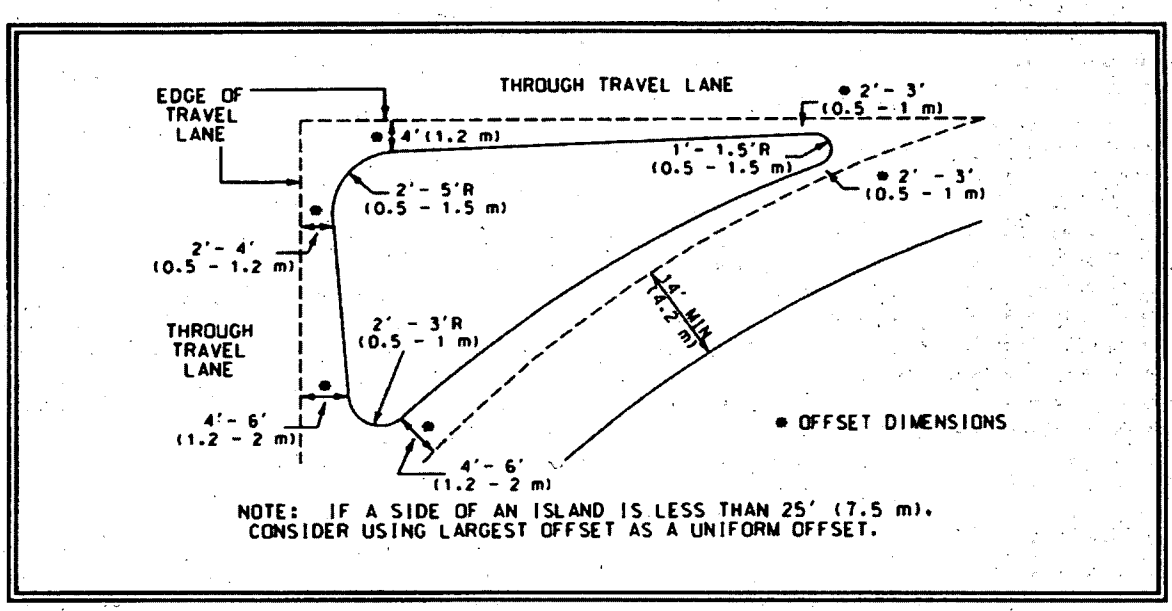


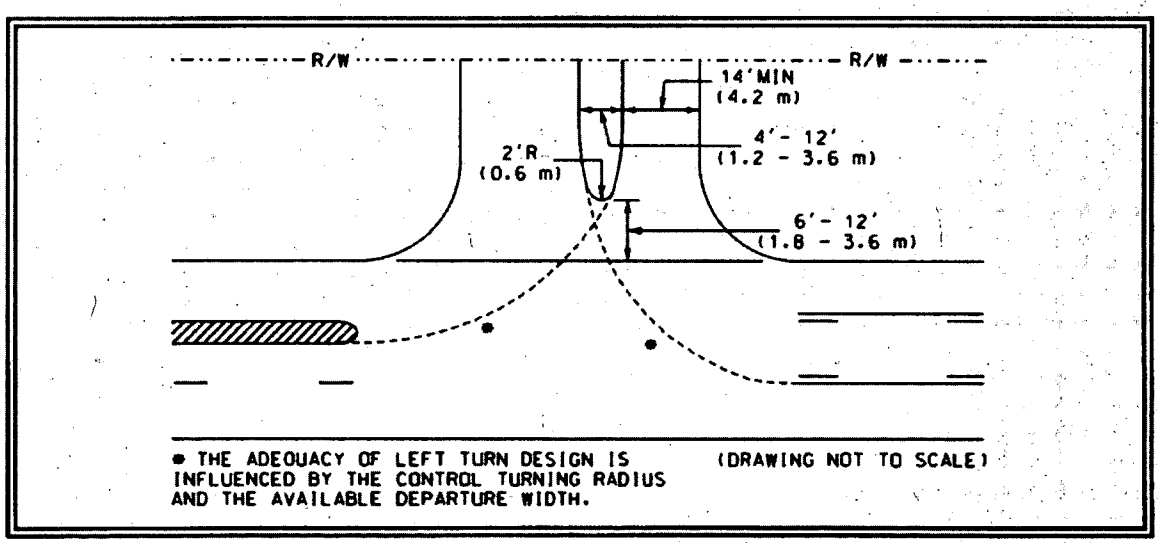
FIGURE 3-6 CHANNELIZING ISLAND DESIGN



3G-6 *Driveway Medians*

When a median is used to separate opposing traffic on a driveway, the part of the median within the right-of-way shall have a minimum width of 4 feet (1.2 m) and a maximum width of 12 feet (3.6 m). The nose of the median shall be set back 6 to 12 feet (1.8 to 3.6 m) from the edge of the roadway. Landscape plants on the median and within 25 feet (7.5 m) of the roadways should be limited to low growing plants not exceeding 2½ feet (760 mm) in height. See also subsection 3A-3 and section 4E regarding sight distance and landscaping respectively. When the median width is larger than 4 feet (1.2 m), the nose shall be defined with a 2 foot (0.6 m) radius and the control turning radius. See figure 3-7.

FIGURE 3-7 DRIVEWAY MEDIAN DESIGN



3G-7 *Auxiliary Lanes*

When adding auxiliary lanes, the entire roadway at the site shall be resurfaced to prevent differential settlement, to eliminate undesirable pavement contrast, and to provide proper pavement markings.

When the through travelway shifts alignment to a new location, the entire roadway within the limits of the shift shall be resurfaced. However, when a right turn lane only is added, resurfacing of the entire area may not be required.

3G-7.1 Acceleration and Deceleration Lanes

Acceleration and deceleration lanes should be 12 feet (3.6 m) wide and constructed in accordance with table 3-10. Greater corner radii or channelization should be used to encourage and facilitate higher-speed turns at locations where right turns are made into acceleration lanes. An acceleration lane shall not be permitted on a two or three lane roadway.

TABLE 3-10 ACCELERATION AND DECELERATION LANE AND TAPER LENGTHS

Roadway Design Speed	Minimum Length of Taper		Minimum Length* of Full Width Lane	
	ft.	m	ft.	m
40 mph (60 km/h) and less	150	45	150	45
45 and 50 mph (70 and 80 km/h)	180	54	200	60
55 mph (90 km/h) and above	200	60	250	75
* Lengths given are for flat grades. For downgrades on deceleration lanes and upgrades on acceleration lanes, increase lengths 10 percent for every 1 percent of grade.				

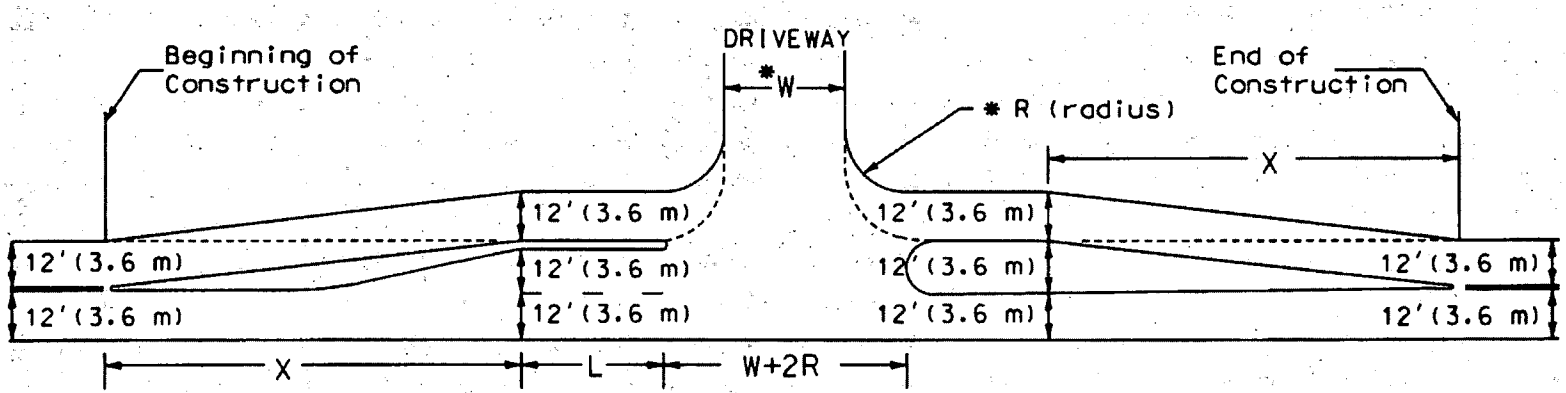
3G-7.2 Left-Turn Storage Lanes

If a left-turn lane is required, it should be 12 feet (3.6 m) wide and constructed in accordance with table 3-11. When widening is necessary to accommodate a left-turn lane, the methods presented in tables 3-12 and 3-13 should be used. The method in table 3-12 is preferred.

TABLE 3-11 LEFT-TURN STORAGE LANE AND TAPER LENGTHS

Roadway Design Speed	Minimum Length of Taper		Minimum Length of Storage Lane	
	ft.	m	ft.	m
40 mph (60 km/h) and less	150	45	150	45
45 and 50 mph (70 and 80 km/h)	180	54	200	60
55 mph (90 km/h) and above	200	60	250	75

TABLE 3-13 METHOD FOR WIDENING ON ONE SIDE OF ROAD TO ACCOMMODATE A LEFT-TURN LANE



L = Storage lane length from table 3-12

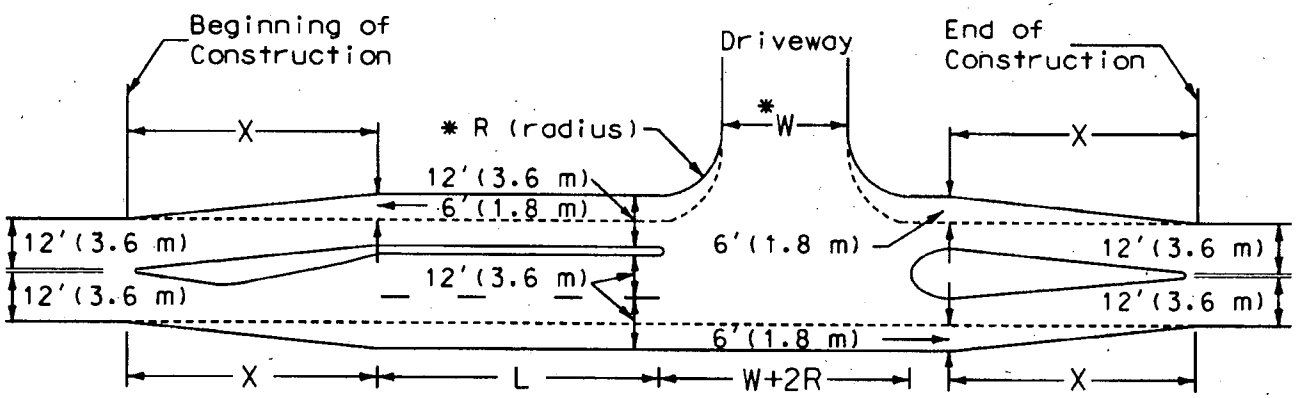
* See sections 3B & 3C for driveway widths and radii

RESURFACING OF THE ENTIRE AREA WITHIN THE LIMITS OF CONSTRUCTION IS REQUIRED. IN ADDITION, AN EXTENSION OF RESURFACING BEYOND THE CONSTRUCTION LIMITS MAY BE REQUIRED IN ORDER TO OBTAIN A SMOOTH RIDING SURFACE.

(DRAWING NOT TO SCALE)

Speed		Minimum Length of Taper "X"	
mph	km/h	ft.	m
40 and less	60 and less	480	144
45 and 50	70 and 80	600	180
55 and above	90 and above	660	198

TABLE 3-12 METHOD FOR WIDENING ON BOTH SIDES OF ROAD TO ACCOMMODATE A LEFT-TURN LANE



L = Storage lane length from table 3-12

* See sections 3B & 3C for driveway widths and radii

RESURFACING OF THE ENTIRE AREA WITHIN THE LIMITS OF CONSTRUCTION IS REQUIRED. IN ADDITION, AN EXTENSION OF RESURFACING BEYOND THE CONSTRUCTION LIMITS MAY BE REQUIRED IN ORDER TO OBTAIN A SMOOTH RIDING SURFACE.

(DRAWING NOT TO SCALE)

Speed		Minimum Length of Taper "X"	
mph	km/h	ft.	m
40 and less	60 and less	240	72
45 and 50	70 and 80	300	90
55 and above	90 and above	330	99

Chapter 4 — Roadside Encroachments

4A MAILBOXES, SUPPORTS, AND TURNOUTS

The location and construction of mailboxes shall conform to these standards and the rules and regulations of the United States Postal Service. An encroachment permit is not required for such mailbox installations. A mailbox installation that does not conform to the provisions of these standards constitutes an obstruction in the highway pursuant to Section 57-7-210 of the *Code of Laws of South Carolina* (1976 as amended).

4A-1 Structure

Mailboxes and newspaper boxes shall be constructed of light-weight materials.

The post-to-box attachment should be of sufficient strength to prevent the box from separating from the post if the installation is struck by a vehicle.

Mailbox supports should be a single 4-inch x 4-inch (100 mm x 100 mm) or 4½-inch (115 mm) diameter wooden post or a metal post with strength no greater than that of a 2-inch (50 mm) diameter standard strength steel tubing and shall be embedded no more than 24 inches (600 mm) into the ground. A metal post shall not be fitted with an anchor plate, but it may have an anti-twist device that extends no more than 10 inches (250 mm) below the ground surface.

No more than two mailboxes may be mounted on a support structure; however, lightweight newspaper boxes may be mounted below the mailbox or on the side of the mailbox support. Consecutive installations must be separated by a distance of at least 3 feet (1 m).

Mailbox support designs not described in these standards will be acceptable only if approved by the Department. Any construction which is considered a hazardous fixed object shall not be allowed as a support, encasement, or housing for the mailbox.

4A-2 Location

For safety and operational purposes, mailbox installations should be placed a sufficient distance from the edge of the roadway to permit the delivery and receipt of mail without vehicles occupying any part of the roadway.

Mailboxes shall be located on the right-of-way side of the roadway in the direction of the delivery route except on one-way streets where they may be placed on the left-hand side. The bottom of the box shall be set at an elevation established by the United States Postal Service, usually between 3 feet, 6 inches (1 m) and 4 feet (1.2 m) above the roadway surface. The roadside face of the box shall be offset from the edge of the roadway a minimum distance as set forth in table 4-1.

TABLE 4-1 MINIMUM OFFSET OF MAILBOXES

Roadside Character	Offset of Mailbox Face*
Shoulder (paved or unpaved)	Shoulder width plus 8 to 12 inches (200 to 300 mm)
Paved valley gutter	Gutter width plus 8 to 12 inches (200 to 300 mm)
All-weather turnout	Turnout width specified by Department plus 8 to 12 inches (200 to 300 mm)
Curb and gutter with no paved emergency lane (except residential areas)	5 foot, 8 inch (1.5 m) minimum from curb face or 8 to 12 inches (200 to 300 mm) back of sidewalk
Primarily residential	8 to 12 inches (200 to 300 mm) from edge of roadway, face of curb or back of sidewalk

*** Under extenuating circumstances the Department may deem it in the public interest to permit lesser clearances or require greater clearances.**

Where a mailbox is located at a driveway, it should be placed on the far side of the driveway in the direction of the delivery route.

A mailbox at an intersecting road shall be located not less than 100 feet (30 m) from the edge of the intersecting road or at the far corner of the nearest property.

For those installations requiring numerous mailboxes such as apartment complexes, mobile home parks, etc., the property owner shall place the installation on a low volume intersecting road or on private property whenever possible.

Paved turnouts should be considered by the owner when shoulders, whether paved or unpaved, are less than 8 feet (2.4 m) wide and any of the following conditions exist:

a) There is a multiple mailbox installation.
b) Sight distance is inadequate.
c) Average daily traffic exceeds 400 vehicles per day.
d) The speed limit is 45 mph (70 km/h) or greater.

The design details for turnouts as presented in appendix D are intended to represent minimum requirements for these installations.

4A-3 Nonconformance

Any mailbox installation that is found to violate the intent of these standards shall be removed by the postal patron upon written notification by the Department. At the discretion of the Department, based on an assessment of danger to the public, the patron will be granted not less than 10 nor more than 30 days to remove an unacceptable mailbox installation. After the specified removal period has expired, the unacceptable mailbox may be removed by the Department at the postal patron's expense.

4B SIGNS

Any unauthorized sign placed on the highway right-of-way by an individual or private organization constitutes a public nuisance and will be removed pursuant to Section 56-5-1020 of the *Code of Laws of South Carolina* (1976 as amended). By the same authority, any sign in view of a highway which purports to be or interferes with the effectiveness of an official traffic control device is likewise a public nuisance and will be removed accordingly.

4C LIGHTS AND REFLECTIVE SURFACES

When in view of a highway, any sign lighting must be constructed and maintained to prevent light from being directed at any portion of the roadway. Sign lighting which causes glare, impairs vision, unduly distracts, or otherwise interferes with the operation of a motor vehicle is prohibited. These conditions also apply to individual lights, lighting or surfaces reflecting light or sun glare. Flashing or pulsing lights may not be attached to or used to illuminate any sign, except a sign giving brief messages regarding public service information such as time, temperature, weather, or similar information. Lights which change color may not be attached to or used to illuminate any sign.

Where roadway lighting is provided, light standards on the right-of-way or within 30 feet (9 m) of the roadway should have breakaway supports designed so that no fixed part of the support extends further than 3 inches (76 mm) above ground level. When used, the breakaway capability of the support shall incorporate the use of breakaway electrical connectors so that no live electrical wires exist after impact by a vehicle.

4D WALLS, FENCES, AND OTHER STRUCTURES

Walls, fences, decorative structures, or other unyielding, hazardous structures are not permitted on the right-of-way pursuant to Section 57-7-210 of the *Code of Laws of South Carolina* (1976 as amended). Upon notification, a property owner is required to remove a structure erected on the right-of-way. If, after notification, it is not removed or relocated, the Department will remove the structure at the owner's expense. The Department will not be responsible for any damage to the structure nor be required to re-erect it or to provide or erect a replacement structure. The Department will hold any removed materials for 30 days and then, if not claimed, will dispose of them.

Gates associated with points of access shall be set back far enough from highway right-of-way to allow the longest vehicles normally using the access to completely clear the roadway while the gate is being opened.

4E LANDSCAPING

4E-1 General

The South Carolina Department of Transportation desires to cooperate as much as possible with organizations desiring to undertake projects to beautify certain sections of various highway rights-of-way. An encroachment permit is required for any landscaping work performed on the highway right-of-way. A sketch plan of the proposed project must be attached to the Encroachment Permit Application. This plan should show the planting arrangement and the type of plants to be used. Photographs may also be helpful.

All proposed beautification permits should clearly state the following information:

a) Speed limit (mph).
b) Cut or fill slope (Check with local Resident Maintenance Engineer).
c) Traffic volume – less or greater that 1,500 ADT (Check with local Resident Maintenance Engineer).
d) Label guardrail; barrier curb; sidewalks; edge of pavement and right-of-way line on sketch.
e) State distance plant material is from curb or edge of pavement (offset).

The following guidelines establish a framework for preparing design work for projects of this nature.

Applicants shall furnish, install, and maintain all plantings. They shall be responsible for maintaining all vegetation within the right-of-way that is contiguous with the landscaping. If the applicant is a city, this may include mowing the grass around the plantings. See Engineering Directive Memorandum M-26 in appendix E for guidelines. The Department shall not be responsible for providing water, fertilizer, labor, materials, or maintenance within the landscaping limits of the right-of-way.

The Department will exercise care in maintenance, construction, or reconstruction to avoid unnecessary damage. It cannot, however, accept responsibility to protect plants or irrigation systems against damage or theft. If subsequent changes in the highway require removal of plants, this must be done by applicant.

All landscaping work within the SCDOT right-of-way must conform to all local ordinances and all state environmental regulations.

The applicant will make this installation under the supervision of the SCDOT, and shall not block traffic at any time. All traffic control devices will be the responsibility of the applicant and shall conform to section V of the *South Carolina Manual on Uniform Traffic Control Devices*. Planting work that may block billboards will have to be approved on-site by the local District Outdoor Advertising Coordinator prior to the start of planting. The use of plant materials to block the visibility of billboards is not desired.

No tree, shrub, etc., shall be permitted in any location where it may interfere with highway safety or traffic visibility. Plants that might prove detrimental to safety, to the highway, or to adjacent property will not be permitted. Otherwise, the selection of

plants is left to the discretion of the applicant. Experience has proven that indigenous plant material is more satisfactory. Features such as autumn foliage, flower effects, etc., should be considered. If advice in landscape planning is needed, the Department's Landscape Architect may be contacted through the Director of Maintenance at the headquarters building in Columbia. Applicants may want to contact the Urban Forester for their region for advice (see list in appendix F).

Minimum offsets for trees and shrubs shall be as described in Table 4-2. This offset would not apply if the location does not leave at least 5 feet (1.5 m) of a grassed area suitable for pedestrian traffic along roads without sidewalks. This area is to be seeded or sodded as needed to prevent erosion and provide stable footing for pedestrian traffic. Cross tie planters may be allowed 5 feet (1.5 m) from any roadway structure if buried flush with the existing grade.

No trees will be allowed close enough to the road to allow root systems to undermine or damage any roadway structure, such as curbing, sidewalk, or drainage components, at any time during the tree's life. A biological or physical root barrier system may be considered in extenuating circumstances, on a case-by-case basis, as determined by the Landscape Architect.

Trees, shrubs, or earthen mounds shall not block the line of sight along the roadway. This means that no planting shall occur in the area bounded by the sight area formed as shown in section 3A-3. This information shall be determined on a local level by the Resident Maintenance Engineer or his assistant.

Landscape lighting on the right-of-way shall be flush with the ground.

If in the future a plant's growth obstructs the view of signs or interferes with the sight distances of approaching traffic, the Department will require the applicant to remove, relocate, or prune the plants to eliminate this obstruction at his expense. Plants other than low ground covers shall not be permitted within 50 feet (15 m) of a median crossover.

On a case-by-case basis, plantings may be allowed in sight triangle areas, but in these cases the plants must be kept to a maximum height of 2½ feet (0.762 m). Generally, all grass should be removed in these triangles and ground covers planted.

All trees shall be delimbed and kept limbless for the first 6 feet (1.83 m) in height and up to 7 feet (2.13 m) in height where trees are near pedestrian walkways.

Trees shall be selected and placed so that, even when they are fully matured, their limbs shall not overhang into the roadway and block vehicles. The applicant agrees that the trees shall be kept trimmed, if this is required to keep limbs from overhanging into the road.

4E-2 Irrigation Systems

Irrigation systems for landscaping should be designed so that irrigation can be achieved without any system components encroaching on the right-of-way. When encroachment is unavoidable, details of the irrigation system shall be included in the landscaping plan. In any case, the landscaping plan shall detail

provisions for the drainage of water used to irrigate the right-of-way. In no case shall water used to irrigate the right-of-way drain or be sprayed onto the roadway. The correction of any problem involving irrigation water draining or spraying onto the roadway will be the responsibility of the permittee, regardless of the Department's approval of the permit and landscaping plan.

4E-3 Offset of Trees and Shrubs

A tree or shrub that will attain a 4-inch (100 mm) or greater diameter at maturity shall have the edge of its trunk offset from the edge of the roadway a minimum distance as specified in table 4-2. When a tree or shrub with multiple trunks or a group of small trees close together will have at maturity a combined cross-sectional area equivalent to that of a 4-inch (100 mm) diameter tree, it shall be offset likewise.

4F UTILITIES

Public Utility lines may be located within the highway right-of-way provided they are constructed so as not to endanger the safety of persons or to interfere with the use of the highway. Such an encroachment must be approved by the Department. Applications from the utility companies are reviewed for acceptance using the Department's *A Policy for Accommodating Utilities on Highway Rights-of-Way* as a guide. A copy of this document is available from the Department's Utilities Engineer.

4G DAYLIGHTING

Clearing of trees, bushes, and underbrush for the purpose of making commercial and industrial sites more attractive and visible is governed by the Department's Engineering Directive M-11, included in appendix E (or latest revision).

TABLE 4-2 MINIMUM OFFSET OF TREES AND SHRUBS AT MATURITY

Roadside Feature	Roadway Design Speed	Offset from Roadway for Current Volume (ADT) of:			
		≤ 1,500		> 1,500	
		ft.	m	ft.	m
Guardrail *	All	4	1.2	4	1.2
Barrier curb *	40 mph (60 km/hr) and less	1.5	0.5	1.5	0.5
	45 and 50 mph (70 and 80 km/h)	6	1.8	8	2.4
	55 mph (90 km/h)	10	3	12	3.6
6:1 or flatter cut slope ** (Metric 1:6)	40 mph (60 km/hr) and less	10	3	14	4.2
	45 and 50 mph (70 and 80 km/h)	14	4.2	20	6
	55 mph (90 km/h)	16	4.8	22	6.6
6:1 or flatter fill slope (Metric 1:6)	40 mph (60 km/hr) and less	10	3	14	4.2
	45 and 50 mph (70 and 80 km/h)	12	3.6	18	5.4
	55 mph (90 km/h)	16	4.8	22	6.6
4:1 to 5:1 cut slope (Metric 1:4 to 1:5)	40 mph (60 km/hr) and less	10	3	14	4.2
	45 and 50 mph (70 and 80 km/h)	12	3.6	18	5.4
	55 mph (90 km/h)	14	4.2	20	6
4:1 to 5:1 fill slope (Metric 1:4 to 1:5)	40 mph (60 km/hr) and less	12	3.6	16	4.8
	45 and 50 mph (70 and 80 km/h)	16	4.8	24	7.2
	55 mph (90 km/h)	20	6	26	7.8
3:1 cut slope (Metric 1:3)	40 mph (60 km/hr) and less	10	3	14	4.2
	45 and 50 mph (70 and 80 km/h)	10	3	14	4.2
	55 mph (90 km/h)	10	3	16	4.8
3:1 fill slope (Metric 1:3)	40 mph (60 km/hr) and less	14	4.2	18	5.4
	45 and 50 mph (70 and 80 km/h)	20	6	28	8.4
	55 mph (90 km/h)	28	8.4	30	9

* Where barrier curb or guardrail exists, offset is measured from face of curb or guardrail.

**Use for all medians with curbing.

Chapter 5 — Drainage

5A GENERAL REQUIREMENTS

Each access point shall be constructed in a manner that prevents water from flowing onto the roadway and from adversely affecting the existing storm drainage system. For example, driveways and paved areas sloping down toward the roadway should have provisions for water to be intercepted off the right-of-way and shall not have a low point within the shoulder break line. The driveway's slope between the shoulder break line and roadway edge shall be the same as the slope of the shoulder as specified in subsection 3G-4.

5B DESIGN AND DISCHARGE

Drainage collected off the right-of-way shall not be discharged into the highway drainage system unless a permit is issued by the Department. Release rates to the highway drainage system shall be equal to or less than that calculated for the predeveloped rate as determined in accordance with Department design policy for the given site conditions. The applicant may be required to submit a drainage plan justifying the proposed drainage system and the hydraulic adequacy of the existing highway drainage system. If the downstream highway drainage system capacity is inadequate, the applicant shall provide flow retention on the developed property. Details for retention structures and means of discharge as well as design calculations shall be approved by a registered professional engineer in compliance with Sections 40-21-10 and 40-21-30 of the *Code of Laws of South Carolina* (1976 as amended) and shall be submitted with the Application for Encroachment Permit. Approval by a professional engineer or the Department does not preclude the need for compliance with any applicable local regulations or ordinances.

5C MAINTENANCE AND SAFETY CONSIDERATIONS

Pipes or ditches discharging into the highway drainage system shall join the system at an appropriate angle and have other provisions as necessary to prevent scour, erosion, or blockage of the existing drainage components.

The design of drainage structures shall be in conformance with the Department's *Standard Drawings for Road Construction*. New drainage components that would create maintenance problems or compromise safety shall not be permitted. These may include, but are not limited to, vertical wingwalls/headwalls, grates, pipes, and above-ground catch basin covers which are within 30 feet (9 m) of the roadway. Curbing on driveways or streets shall not extend beyond the right-of-way line or ditch line when the driveway or street connects to a roadway not having curbing. Culverts shall extend at least the full distance from the toe of one side of a fill to the toe of the opposite side.

All drainage components shall conform to the existing roadway cross section and profile. All structures shall be brought to a final grade flush with the existing profile and cross section. Catch basins are strongly discouraged in curved sections and within intersection radii.

Sediment and erosion control measures shall be shown on the application and constructed as the first phase of construction to prevent any sediment from reaching the highway right-of-way or drainage system.

Chapter 6 — Construction

6A GENERAL

All construction performed on highway rights-of-way, including modification to existing features, shall be subject to the terms and conditions of the encroachment permit along with accompanying plans, drawings, sketches, or other attachments. No work shall be performed on highway rights-of-way by the applicant or his contractor prior to approval of the encroachment permit by the Department. The permittee or his contractor shall have a copy of the encroachment permit available at the site during construction; therefore, verbal permission to begin work cannot be given.

6B MATERIALS AND METHODS

Construction practices and placement of materials on highway rights-of-way shall conform to the Department's *Standard Specifications for Highway Construction*, current edition.

A typical cross section drawing which shows the pavement thickness and design shall be shown on the Application for Encroachment Permit.

Special care shall be taken during the construction or modification of the access point and development of abutting property to avoid blocking drainage facilities or tracking mud or other material onto the highway.

Construction costs including those for all drainage features, modification, and repair of damage done to the existing highway shall be the responsibility of the permittee and not the Department.

6C TRAFFIC CONTROL

During the period of time the access point is being constructed or modified, care shall be taken to ensure the safety of workmen, the motoring public, and pedestrians within the right-of-way. Safe traffic control at the work site shall be the responsibility of the applicant or his contractor and shall be accomplished in accordance with Part V of the *South Carolina Manual on Uniform Traffic Control Devices*. A traffic control plan showing signs, channelizing devices, etc., shall be included with the Application for Encroachment Permit. Taking peak traffic periods into consideration, the work should be scheduled to minimize interference with normal highway operations. It may be necessary to restrict work to certain hours of the day. The Department may immediately stop work if proper traffic control is not maintained.

6D INSPECTION AND APPROVAL

The Department reserves the right to inspect and approve any construction within the right-of-way. In the event of faulty workmanship or materials, the

Department shall have the right to stop all work or revoke the permission as set forth in the encroachment permit for such construction. This action may deny use of the access point until such time as the conditions are corrected. Proper workmanship and materials may be ensured by means of performance bonds as set forth in section 2C of these standards.

Appendix A

Addresses of Department Officials and Resident Maintenance Engineers

HEADQUARTERS:

South Carolina Department of Transportation
955 Park Street
Post Office Box 191
Columbia, South Carolina 29202-0191

The following officials are located in the headquarters building:

Deputy Director for Construction, Engineering, and Planning	(803) 737-1314
Director of Traffic Engineering	(803) 737-1462
Director of Maintenance	(803) 737-1290
Director of Construction	(803) 737-1308
Director of Preconstruction	(803) 737-1350
Utilities Engineer	(803) 737-1293

DISTRICT ENGINEERING ADMINISTRATORS AND OTHER DISTRICT PERSONNEL:

Note: Engineering districts are shown on map on page A-5.

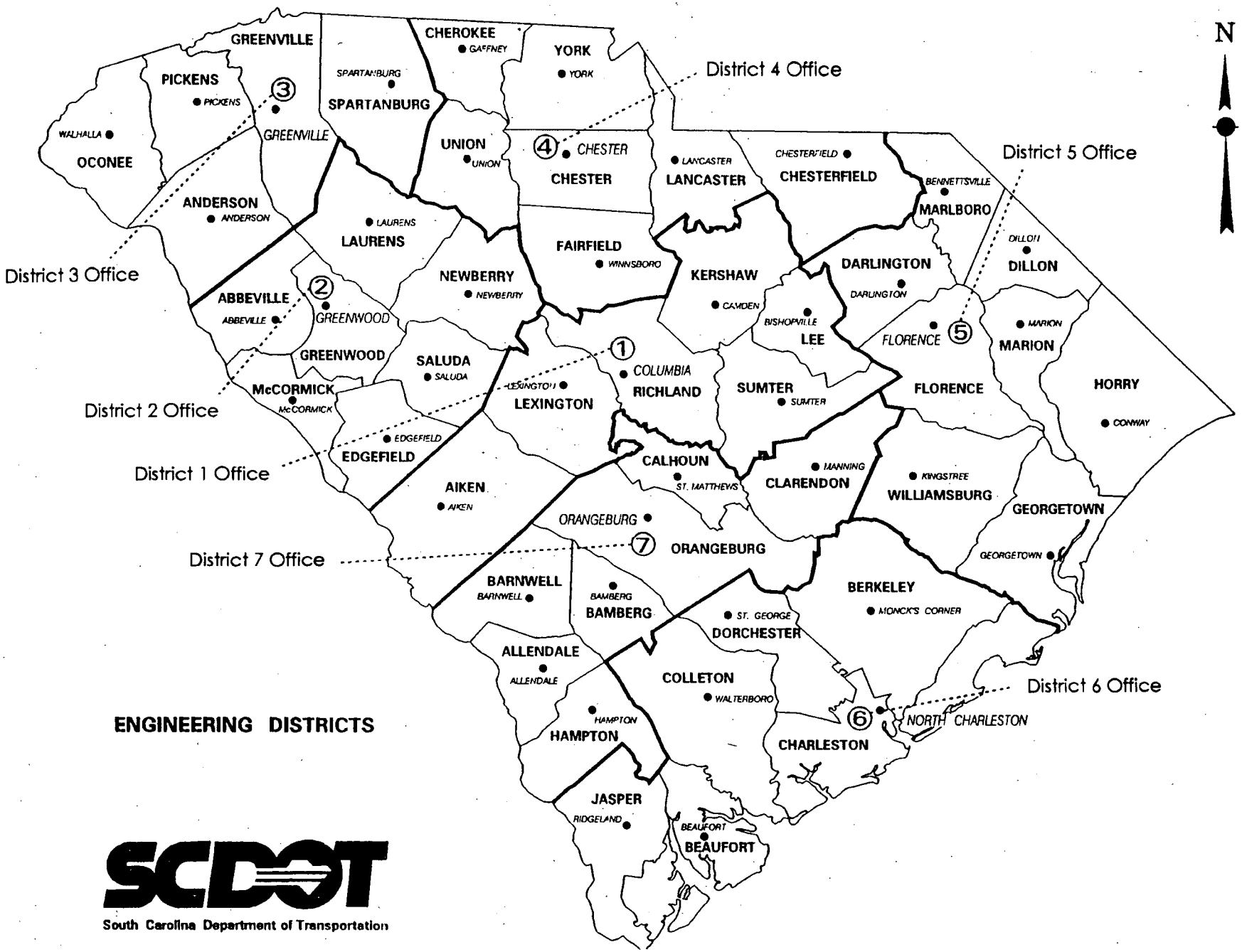
District One	1400 Shop Road Columbia, SC 29201	(803) 737-6660
District Two	510 W. Alexander Avenue Greenwood, SC 29646	(864) 227-6971
District Three	Post Office Box 6608 - Station B Greenville, SC 29606	(864) 241-1010
District Four	J. A. Cochran Bypass Post Office Box 130 Chester, SC 29706	(803) 377-4155
District Five	Post Office Box 1911 Florence, SC 29501	(803) 661-4710
District Six	6355 Fain Blvd. North Charleston, SC 29406-4989	(803) 740-1665
District Seven	US Route 178 East Bowman Road Drawer 1086 Orangeburg, SC 29116-1086	(803) 531-6850

RESIDENT MAINTENANCE ENGINEERS:

Abbeville	Post Office Box 609 Abbeville, SC 29620	(864) 459-4206
Aiken	Post Office Box 2010 Aiken, SC 29801	(803) 641-7665
Allendale	Post Office Box 296 Allendale, SC 29810	(803) 584-3465
Anderson	Post Office Box 221 Anderson, SC 29622	(864) 260-2215
Bamberg	Post Office Box 545 Bamberg, SC 29003	(803) 245-5181
Barnwell	Post Office Box 366 Barnwell, SC 29812	(803) 259-1141
Beaufort	13 Munch Drive Beaufort, SC 29902	(803) 524-7255
Berkeley	Post Office Box 698 Moncks Corner, SC 29461	(803) 761-8481
Calhoun	Post Office Box 406 St. Matthews, SC 29135	(803) 874-3231
Charleston	6355-C Fain Blvd. North Charleston, SC 29406-4989	(803) 740-1655
Cherokee	Post Office Box 237 Gaffney, SC 29340	(864) 489-2844
Chester	Post Office Box 386 Chester, SC 29706	(803) 377-8101
Chesterfield	Post Office Box 649 Chesterfield, SC 29709	(803) 623-2543
Clarendon	Post Office Box 26 Manning, SC 29102	(803) 435-4431
Colleton	Post Office Box 169 Walterboro, SC 29488	(803) 538-8031
Darlington	Drawer 495 Darlington, SC 29532	(803) 393-6171
Dillon	Post Office Box 1009 Dillon, SC 29536	(803) 774-7376
Dorchester	Post Office Box 96 St. George, SC 29477	(803) 563-3451

Edgefield	Post Office Box 490 Edgefield, SC 29824	(803) 637-6511
Fairfield	Post Office Box 261 Winnsboro, SC 29180	(803) 635-4222
Florence	Post Office Box 1911 Florence, SC 29501	(803) 661-4715
Georgetown	Post Office Box 593 Georgetown, SC 29442	(803) 546-2405
Greenville	13 Saluda Dam Road Greenville, SC 29611	(864) 241-1224
Greenwood	501 W. Alexander Avenue Greenwood, SC 29646	(864) 227-6701
Hampton	Post Office Box 278 Hampton, SC 29924	(803) 943-3721
Horry	Post Office Box 1663 Conway, SC 29526	(803) 365-2130
Jasper	Drawer 490 Ridgeland, SC 29936	(803) 726-3431
Kershaw	Post Office Box 509 Camden, SC 29020	(803) 432-4358
Lancaster	Post Office Box 929 Lancaster, SC 29721	(803) 283-3397
Laurens	Post Office Box 750 Laurens, SC 29360	(864) 984-7632
Lee	Post Office Box 191 Bishopville, SC 29010	(803) 484-6236
Lexington	Post Office Box 70 Lexington, SC 29072	(803) 359-4103
McCormick	Route 2 Post Office Box 83T Road 53 McCormick, SC 29835	(864) 465-2216
Marion	Post Office Box 986 Marion, SC 29571	(803) 431-1130
Marlboro	Post Office Box 276 Bennettsville, SC 29512	(803) 479-4161
Newberry	Drawer 39 Newberry, SC 29108	(803) 276-0554
Oconee	Post Office Box 38 Richland, SC 29675	(864) 647-0798

Orangeburg	Post Office Box 508 Orangeburg, SC 29116-0508	(803) 531-6870
Pickens	Post Office Box 877 Pickens, SC 29671	(864) 859-0039
Richland	7201 Fairfield Road Post Office Box 191 Columbia, SC 29202	(803) 786-0128
Saluda	Post Office Box 715 Saluda, SC 29138	(864) 445-2586
Spartanburg	Post Office Box 5706 Spartanburg, SC 29304	(864) 587-4725
Sumter	Post Office Box 417 Sumter, SC 29150	(803) 778-5466
Union	Post Office Box 458 Union, SC 29379	(864) 427-3575
Williamsburg	Post Office Box 190 Kingstree, SC 29556	(803) 354-7491
York	Post Office Box 2932 CRS Rock Hill, SC 29731	(803) 327-6186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MARLBORO
DILLON
DILLON
ANDERSON
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LAURENS
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FAIRFIELD
WINNSBORO
KERSHAW
CAMDEN
DARLINGTON
DARLINGTON
ABBEVILLE
ABBEVILLE
GREENWOOD
NEWBERRY
NEWBERRY
BISHOPVILLE
LEE
FLORENCE
MARION
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GREENWOOD
SALUDA
SALUDA
LEXINGTON
COLUMBIA
RICHLAND
SUMTER
SUMTER
FLORENCE
HORRY
CONWAY
McCORMICK
McCORMICK
EDGEFIELD
EDGEFIELD
AIKEN
AIKEN
CALHOUN
ST. MATTHEWS
MANNING
CLARENDON
KINGSTREE
WILLIAMSBURG
GEORGETOWN
GEORGETOWN
ORANGEBURG
ORANGEBURG
BARNWELL
BARNWELL
BAMBERG
BAMBERG
ST. GEORGE
DORCHESTER
BERKELEY
MONCK'S CORNER
ALLENDALE
ALLENDALE
COLLETON
WALTERBORO
HAMPTON
HAMPTON
CHARLESTON
NORTH CHARLESTON
JASPER
RIDGELAND
BEAUFORT
BEAUFORT
District 3 Office
District 4 Office
District 5 Office
District 2 Office
District 1 Office
District 7 Office
District 6 Office
ENGINEERING DISTRICTS
SCDOT
South Carolina Department of Transportation

Appendix B

Directions for Completion of Permit Application

Note: Reference the following eight guidelines to the sample permit applications on pages B-2 through B-3. See pages B-4 and B-5 for a checklist and sample sketches.

1) A permit number will be assigned by the Department.

2) Fill in name and address of applicant (owner or his or her agent). Provide telephone number(s) at which the contact person may be reached 24 hours a day, 7 days a week. Give name of contact person if different from applicant.

3) Provide name of county, road or route number, and road name if known.

4) Provide a detailed description of the type of encroachment (driveway, landscape, subdivision street, etc.).

5) Provide description of location. For example, "2.1 miles north of intersection of road S-04-22" or "300 feet west of road S-04-66." This information shall also be included on the drawing as instructed in the permit application checklist.

6) Provide applicant's name and signature and date of application.

7) The Department will provide the date by which the work is to be completed.

8) The Department will add any special provisions to the permit. For example, "applicant shall erect Department approved stop signs" or "work shall only be done between hours of 9 A.M. and 4 P.M. on weekdays."

S.C. DEPARTMENT OF TRANSPORTATION
FORM 630 (REV. 7/93)

APPLICATION FOR ENCROACHMENT PERMIT

No. ①

(ENCROACHMENT PERMIT OTHER THAN A PUBLIC UTILITY)

APPLICANT: AND ADDRESS: ② TELEPHONE NUMBER:	COUNTY: ROAD/ROUTE: ③ ROAD NAME:

1. The undersigned applicant hereby applies to the South Carolina Department of Transportation (SCDOT) for a permit for encroachment on State Highway Right of Way as shown and described below:
2. Type of Encroachment: ④
3. Description of location:

⑤

(Attach sketch indicating roadway features such as: pavement width, shoulder width, sidewalk and curb and gutter location, significant drainage structure, north arrow, right of way width, and location of the proposed encroachment with respect to the roadway centerline and the nearest intersecting road on the State system.)

4. The undersigned applicant hereby requests the SCDOT to permit encroachment on the Department right of way as described herein. It is expressly understood that the encroachment, if and when constructed, shall be installed in accordance with the sketch attached hereto and made a part hereof. The applicant agrees to comply with and be bound by the Department's "A Policy for Accommodating Utilities on Highways Rights of Way" and "Standard Specifications for Highway Construction" (made a part hereof by reference) on file in the Utility Office of the Department, and all general provisions on the reverse hereof and special provisions below or attached hereto during the installation, operation and maintenance of said encroachment within the Department Right of Way. The applicant hereby further agrees, and binds his heirs, successors, assigns, to assume any and all liability this Department might otherwise have in connection with accidents or injuries to persons, or damage to property, including the highway, that may be caused by the construction, maintenance, use, moving or removing, of the physical appurtenances contemplated herein and agrees to indemnify this Department for any liability incurred or injury or damage sustained by reason of the past, present, or future existence of said appurtenances.

⑥

APPLICANT NAME: _____ DATE: _____
(PLEASE PRINT OR TYPE)

APPLICANT SIGNATURE: _____ TITLE: _____

In compliance with your request and subject to all the provisions, terms, conditions and restrictions stated in the application, general provisions on the reverse hereof, and special provisions below or attached hereto, the Department approves the request. This permit shall become null and void unless the work contemplated herein shall have been completed prior to _____. ⑦

SPECIAL PROVISIONS:

⑧

DATE RECEIVED BY RES. MAINT. ENGR.	DATE FORWARDED	SCDOT APPROVAL	DATE
DATE RECEIVED BY DIST. ENGR. ADMIN.	DATE FORWARDED	☐ RESIDENT MAINTENANCE ENGINEER ☐ STATE HIGHWAY ENGINEER ☐ DISTRICT ENGINEERING ADMINISTRATOR ☐ DISTRICT MAINT./CONSTRUCTION ENGINEER	

B-2

GENERAL PROVISIONS

1. **NOTICE PRIOR TO STARTING WORK:** Before starting the work contemplated herein within the limits of the highway right of way, the Department's Maintenance Superintendent in the county in which the proposed work is located shall be notified 24 hours in advance so that he may be present while the work is under way and this permit is subject to any further restrictions.

2. **PERMIT SUBJECT TO INSPECTION:** This permit shall be kept at the site of the work at all times while said work is under way and must be shown to any representative of the Department or law enforcement officer on demand.

3. **PROTECTION OF HIGHWAY TRAFFIC:** Adequate provisions shall be made for the protection of the highway traffic at all times. Necessary detours, barricades, warning signs and flagmen shall be provided by and at the expense of the permittee and shall be in accordance with the South Carolina Manual on Uniform Traffic Control Devices. The work shall be planned and carried out so that there will be the least possible inconvenience to the highway traffic. The permittee agrees to observe all rules and regulations of the Department while carrying on the work contemplated herein and take all other precautions that circumstances warrant.

4. **STANDARDS OF CONSTRUCTION:** All work shall conform to recognized standards of construction and shall be performed in a workmanlike manner. Adequate provisions shall be made for maintaining the proper drainage of the highway. All work shall be subject to the supervision and satisfaction of the Department.

5. **FUTURE MOVING OF PHYSICAL APPURTENANCES:** If, in the opinion of the State Highway Engineer, it should ever become necessary to move or remove the physical appurtenances, or any part thereof contemplated herein, on account of change in location of the highway, widening of the highway, or for any other sufficient reason, such moving or removing shall be done on demand of the Department at the expense of the permittee.

6. **RESTORATION OF HIGHWAY FACILITIES UPON MOVING OR REMOVING OF PHYSICAL APPURTENANCES:** If, and when, the physical appurtenances contemplated herein shall be moved or removed, either on the demand of the Department or at the option of the permittee, the highway and facilities shall immediately be restored to their original condition at the expense of the permittee.

7. **COSTS:** All work in connection with the construction, maintenance, moving or removing of the physical appurtenances contemplated herein shall be done by and at the expense of the permittee.

8. **PERMITTEE:** The word "Permittee" used herein shall mean the name of the person, firm, or corporation to whom this permit is addressed, his, her, its, heirs, successors and assigns.

9. **PERMISSION OF ABUTTING PROPERTY OWNERS:** It is distinctly understood that this permit does not in any wise grant or release any rights lawfully possessed by the abutting property owners. Any such rights necessary shall be secured from said abutting property owners by the permittee.

10. **WORK PERFORMANCE:**
   (a) Poles shall be placed at the distance from the centerline of the highway as specifically stipulated herein.
   (b) All crossings over the highway shall be constructed in accordance with Specifications for Overhead Crossings of Light and Power Transmission Lines and Telephone and Telegraph Lines over each other and over Highway Rights of Way in South Carolina, as approved by the Public Service Commission of South Carolina and operative as of date of this permit.
   (c) All tunnelling, boring, or jacking shall be done in such a way as not to disturb the highway surfacing.
   (d) No pavement shall be cut unless specifically authorized herein.
   (e) No excavation shall be nearer than three feet to the edge of pavement unless specifically authorized herein.
   (f) Underground facilities will be located at minimum depths as defined in the Utility Accommodations Manual for the transmittant, generally as follows: (1) Bury under pavement - 4 feet minimum for hazardous or dangerous transmittant; 3 feet minimum for other lines. (2) Bury under other surfaces - 30 inches minimum for power and communication lines and 3 feet for all other facilities. Shallower depths may be approved if adequate protection is provided.
   (g) Service and other small diameter pipes shall be jacked, driven, or otherwise forced underneath the pavements on any surfaced road without disturbing said pavement. The section under the highway pavement and within a distance of two (2) feet on either side shall be continuous without joints.
   (h) Work shall be performed in accordance with the Department's "A Policy for Accommodating Utilities on Highway Rights-of-Way", and "Standard Specifications for Highway Construction".

11. For the purpose of this permit, the word "DEPARTMENT" shall mean the South Carolina Department of Transportation.

12. The permittee shall be responsible for obtaining any other approvals or permits necessary for installation.

13. Permittee is responsible for maintaining reasonable access to private driveways during construction.

14. It is expressly provided that with respect to any limited access highway, the permittee shall not have or gain access from the main travel way of said highway or its on or off ramps to any facility authorized by this permit except upon approval by the Department.

15. **DRIVEWAYS AND APPROACHES:**
   (a) The existing crown of the highway shall be continued to the outside shoulder line of the highway.
   (b) If the driveway or approach is of concrete pavement, the pavement shall be constructed at least 6 inches thick, and of a mix not leaner than 1-2-4. There shall be a bituminous expansion joint, not less than ¾ inches in thickness, placed between the highway paving and the paving of the approach for the full width of the latter.

16. **RAILROAD TRACKS:**
   (a) The rails of railroad tracks crossing the highway at grade shall conform to the grade of the highway.
   (b) The provisions of the Code of Laws for South Carolina as amended regarding the construction and maintenance of railroad and highway grade crossings shall be complied with in all respects.
   (c) Unless specifically authorized herein, all engines, trains or cars operating over the tracks across the highway at grade shall be brought to a complete stop immediately before crossing the highway and before proceeding across the highway, flagmen carrying a red flag by day and a lantern by night shall be stationed on each side of the train to warn approaching highway traffic. Should the permittee fail to consistently operate the railroad in accordance with this section, after having received written notice from the Highway Department of such failure, this permit shall automatically become null and void insofar as the continuance of the railroad is concerned.
   (d) The railroad track contemplated herein and its appurtenances shall be completely removed from the highway right of way within 60 days if, when, and after operations across the highway on the railroad shall have been abandoned, and the highway replaced in at least as good condition as the adjacent sections of the highway may be at the time of abandonment of said operations. The cost of same shall be borne by the permittee.

17. **BEAUTIFICATION WORK:**
   (a) All trees, plants, flowers, etc., shall be placed in accordance with the provisions specifically stipulated herein.
   (b) All trees, plants, flowers, etc., shall be taken care of by and at the expense of the permittee and the provisions of this letter shall become null and void if and when said permittee ceases to take care of said trees, plants, flowers, etc.

18. There shall be no excavation of soil nearer than two feet of any public utility line or appurtenant facility except with the consent of the owner thereof, or except upon special permission of this Department after an opportunity to be heard is given the owner of such line or appurtenant facility.

White Copy to be kept by Permittee. Blue Copy to be returned to this Department, Columbia, South Carolina. Pink Copy for files of District Engineering Administrator. Canary Copy for files of Maintenance Superintendent.

Encroachment Permit Application Checklist

I. Permit Form: The appropriate completed quadruplicate form is required.

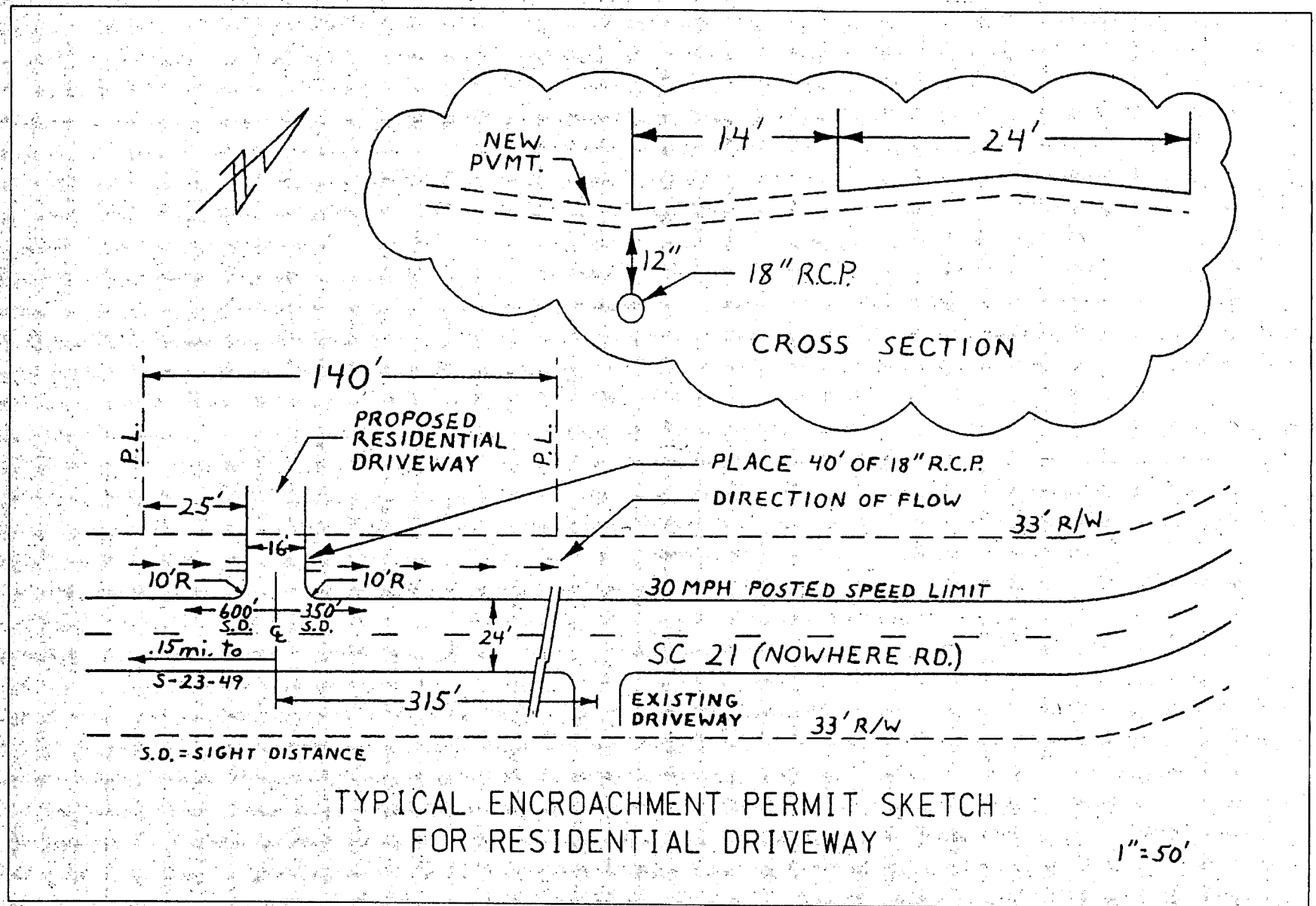
II. Drawing: At least four copies of a drawing are to be included, giving details of the proposed work and existing conditions and including but not limited to the following:

1) Roadway on which the encroachment is located.
2) Direction and distance to the nearest intersecting State and county roadways, if applicable.
3) North arrow.
4) Drawing to be to scale. For example, 1" = 20' (1:250), 1" = 50' (1:600), etc.
5) Existing and proposed roadway geometry including pavement widths, curves, driveways, etc.
6) Existing and proposed pavement design, if applicable.
7) Existing and proposed drainage features with flow direction.
8) Existing right-of-way and associated property lines.
9) Existing sight distance, if applicable.
10) Proposed utility work.
11) Traffic Control Plan, if applicable.
12) Erosion control.

Note: Drawing should be submitted on 8½" x 11" (215.9 x 279.4 mm) [or 11" x 17" (279.4 mm x 431.8 mm)] size paper. A 36" x 22" (914.4 x 558.8 mm) site plan showing the relationship of the driveways to the circulation plan and the site development may be required. When readily available, a 36" x 22" (914.4 x 558.8 mm) site plan should be submitted initially to facilitate review of the application.

III. Proof of Bonding: Evidence of any required bond must accompany the permit application.

IV. Stormwater Management and Sediment Control Plan: All applications for encroachment permits that involve bringing stormwater water runoff or sediment to the highway for a developed area of 2.0 acres or more must include a copy of a Stormwater Management and Sediment Control Plan approved by DHEC, the local government, or the conservation district responsible for approving such plans pursuant to The Stormwater Management and Sediment Reduction Act. See S. C. Code Ann. Section 48-14-10, et seq. (Supp. 1995). The plan should include drainage design computations. If the area is less than 2 acres, the application must include a drainage plan with supporting design computations limiting the post construction 10-year peak discharge to the pre-developed 10-year peak.



TYPICAL ENCROACHMENT PERMIT SKETCH
FOR RESIDENTIAL DRIVEWAY

1"=50'

B-5

Appendix C

Standard and Typical Drawings

Minimum Driveway Location Standards C-2

Typical Driveway – Single Residences and Small Apartment Complexes C-3

Typical Commercial Two-Way Driveway C-4

Typical Commercial One-Way Driveways C-5

Typical Corner Lot Commercial Driveways C-6

High-Turnover or Drive-Through Commercial One-Way Driveways C-7

Typical Access to Outparcel – #1 ..... C-8

Typical Access to Outparcel – #2 ..... C-9

Plan of Standard High-Volume Driveway or Intersecting Street C-10

Profile of Standard High-Volume Driveway or Intersecting Street C-11

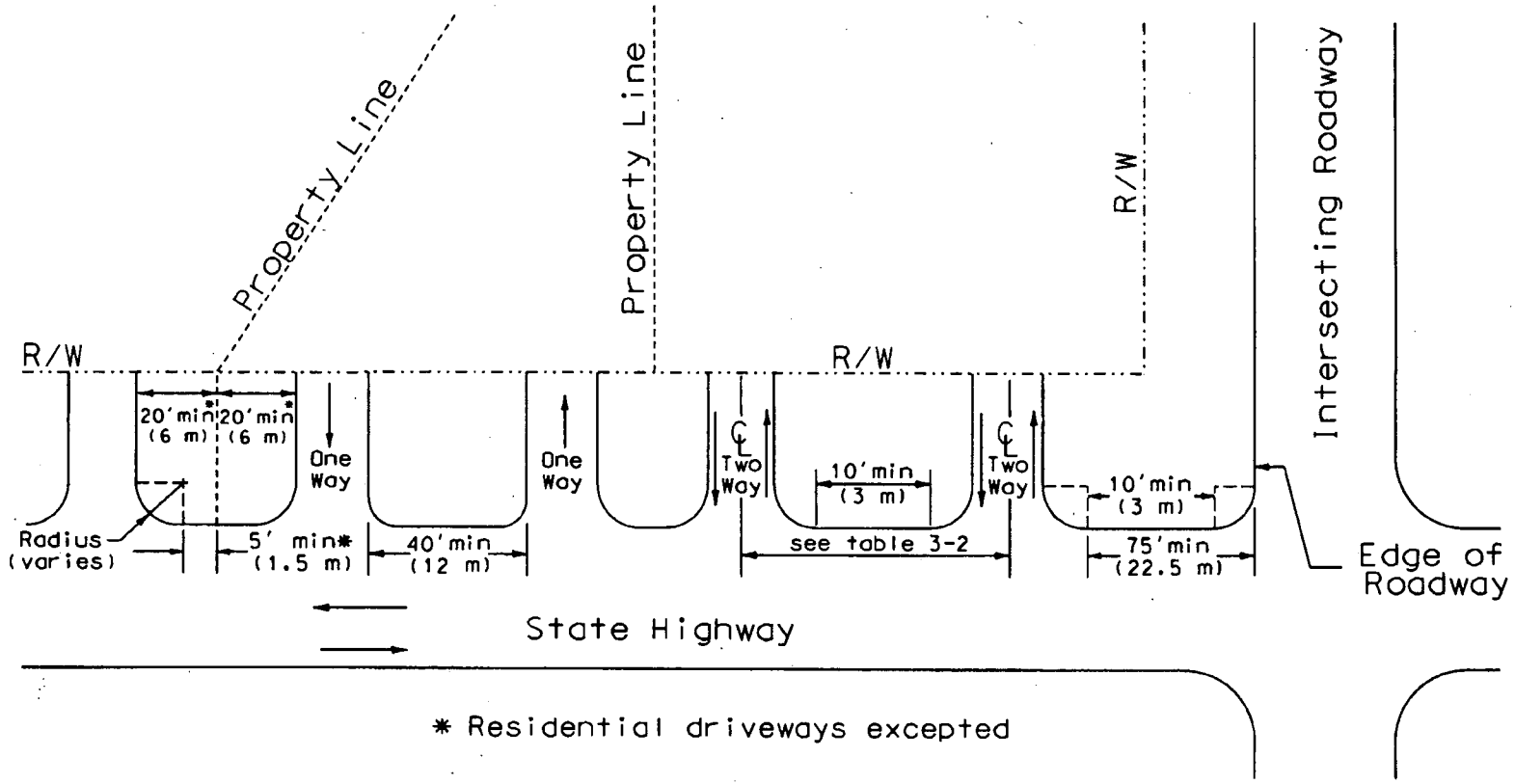
Detail of Standard Drop-Curb Driveway Where Sidewalk is Adjacent to Curb C-12

Detail of Standard Drop-Curb Driveway Where No Sidewalk Exists or A Grass Plot of 7'4¾" (2.25 m) or Greater Exists C-13

Detail of Drop-Curb Driveway Where A Grass Plot of Less Than 7'4¾" (2.25 m) Exists C-14

Angle Parking Geometry C-15

MINIMUM DRIVEWAY LOCATION STANDARDS

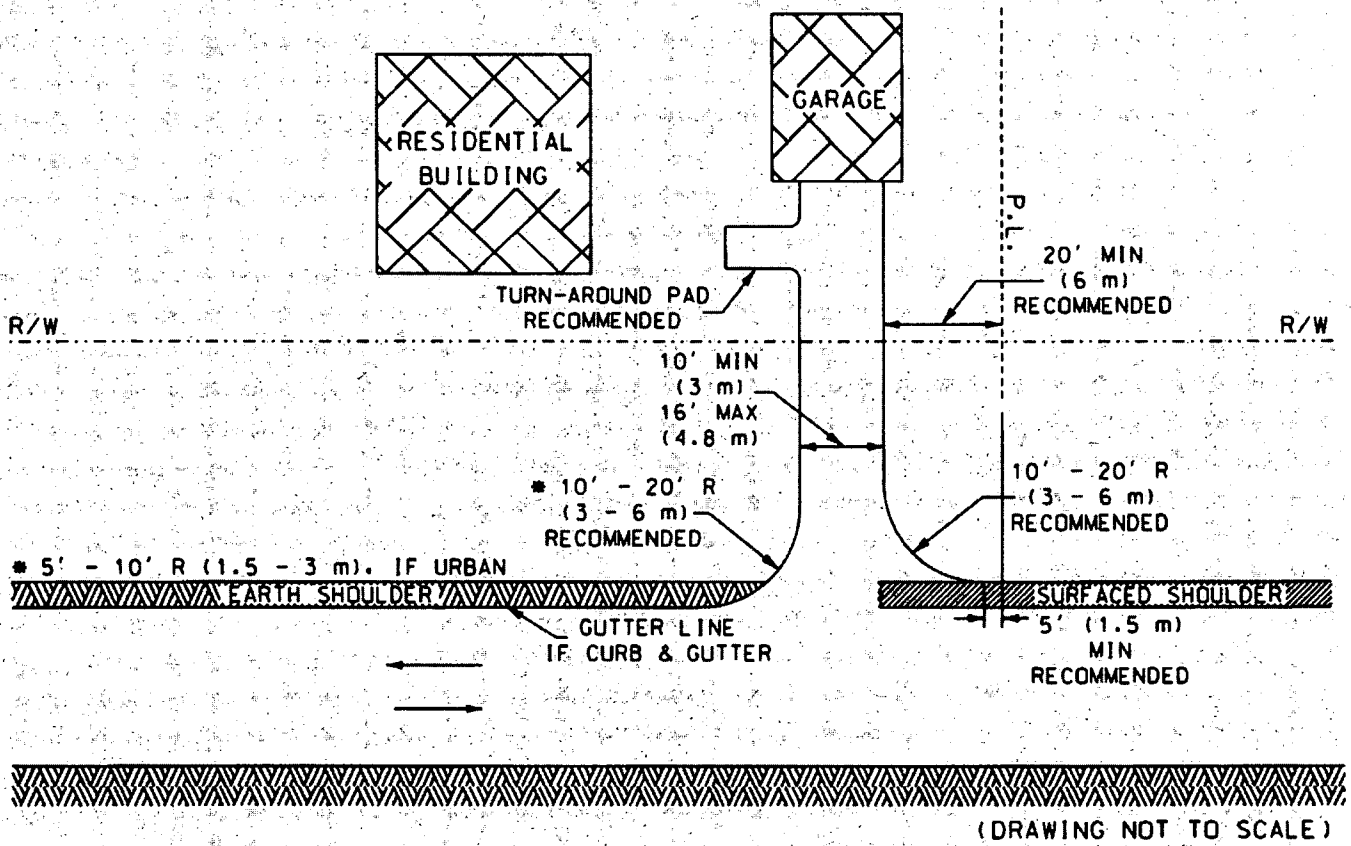


See table 3-3 for sight distance requirements

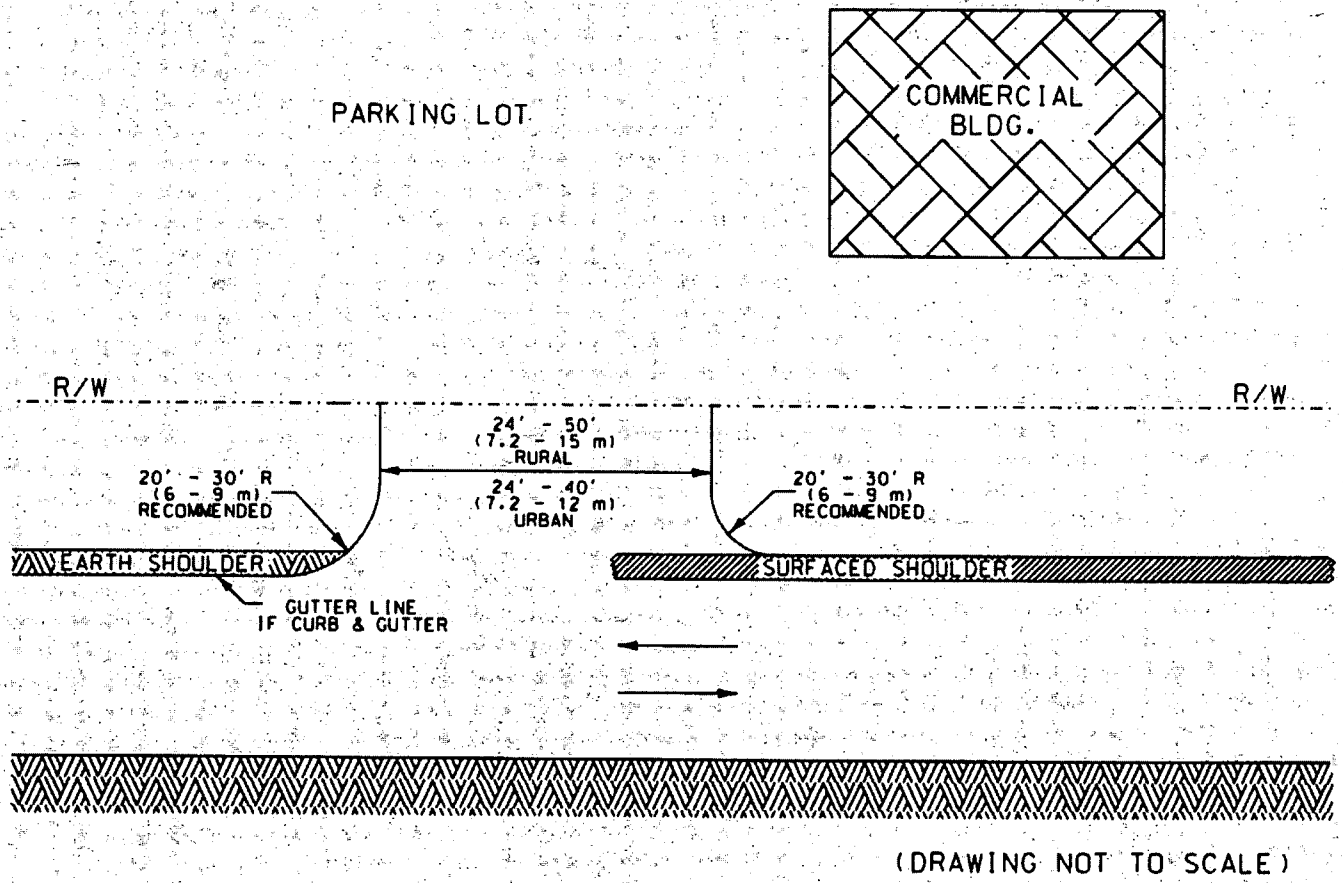
(DRAWING NOT TO SCALE)

C-2

TYPICAL DRIVEWAY
SINGLE RESIDENCES AND SMALL APARTMENT COMPLEXES



TYPICAL COMMERCIAL TWO-WAY DRIVEWAY



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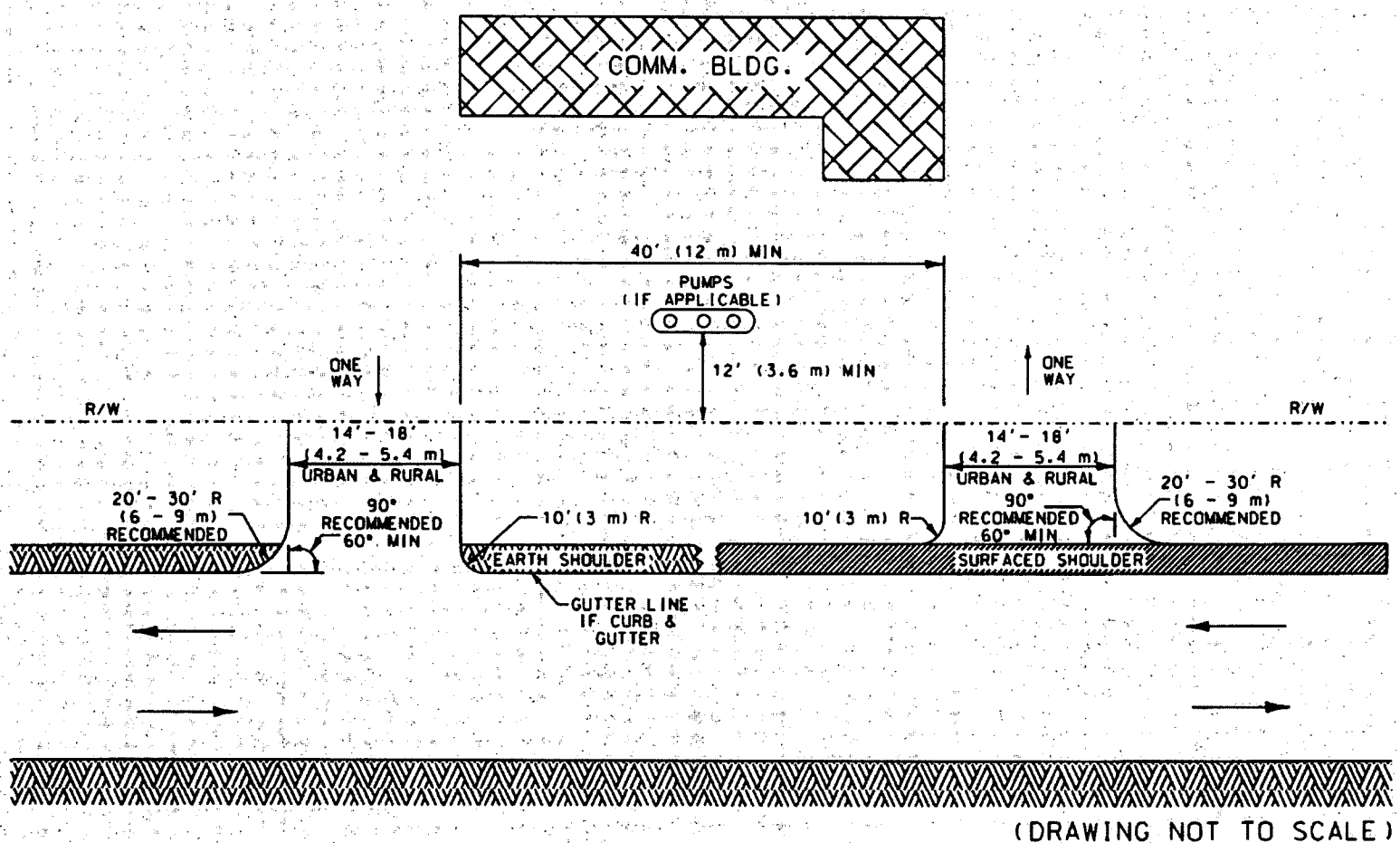
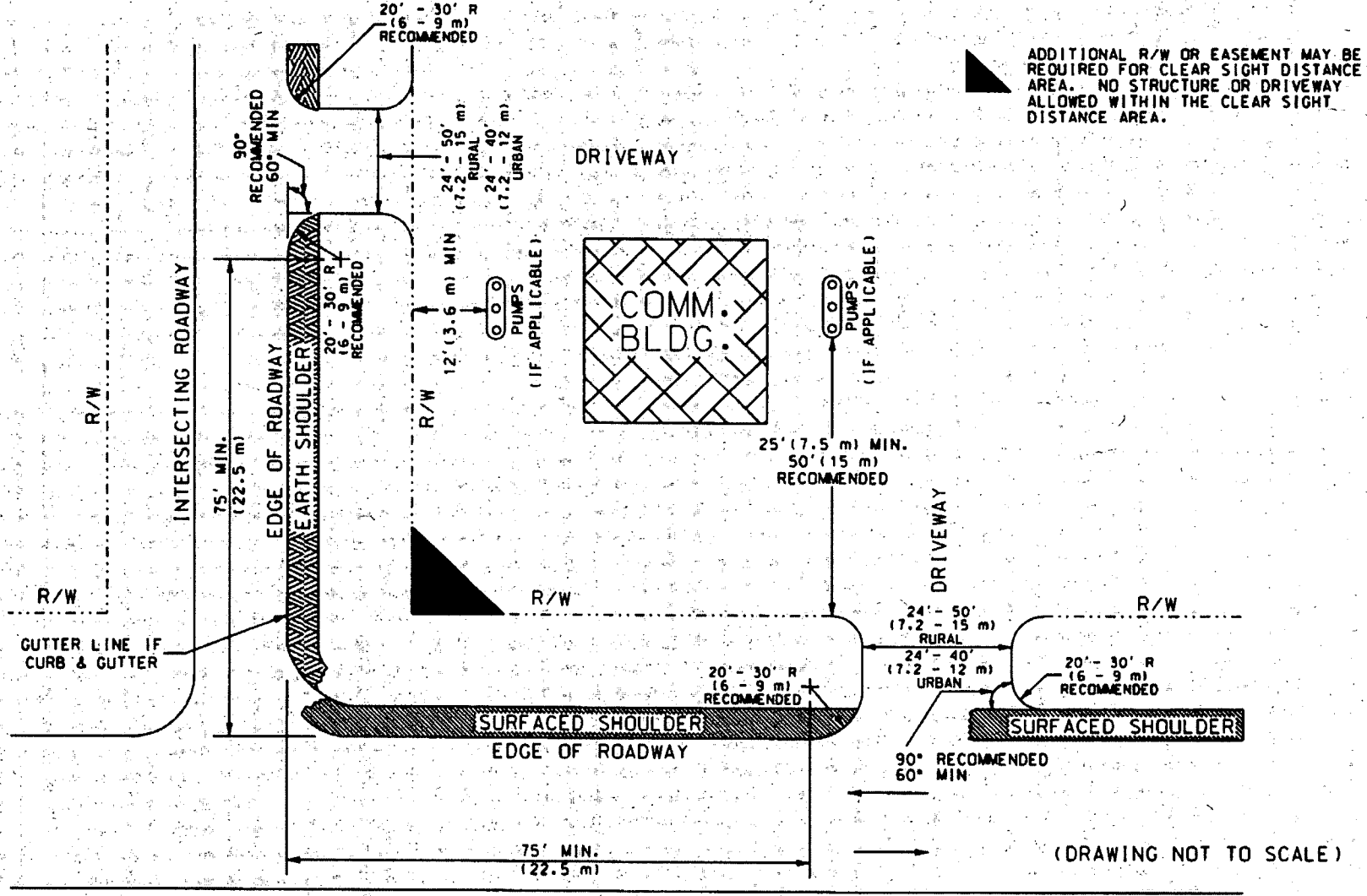
TYPICAL COMMERCIAL ONE-WAY DRIVEWAYS

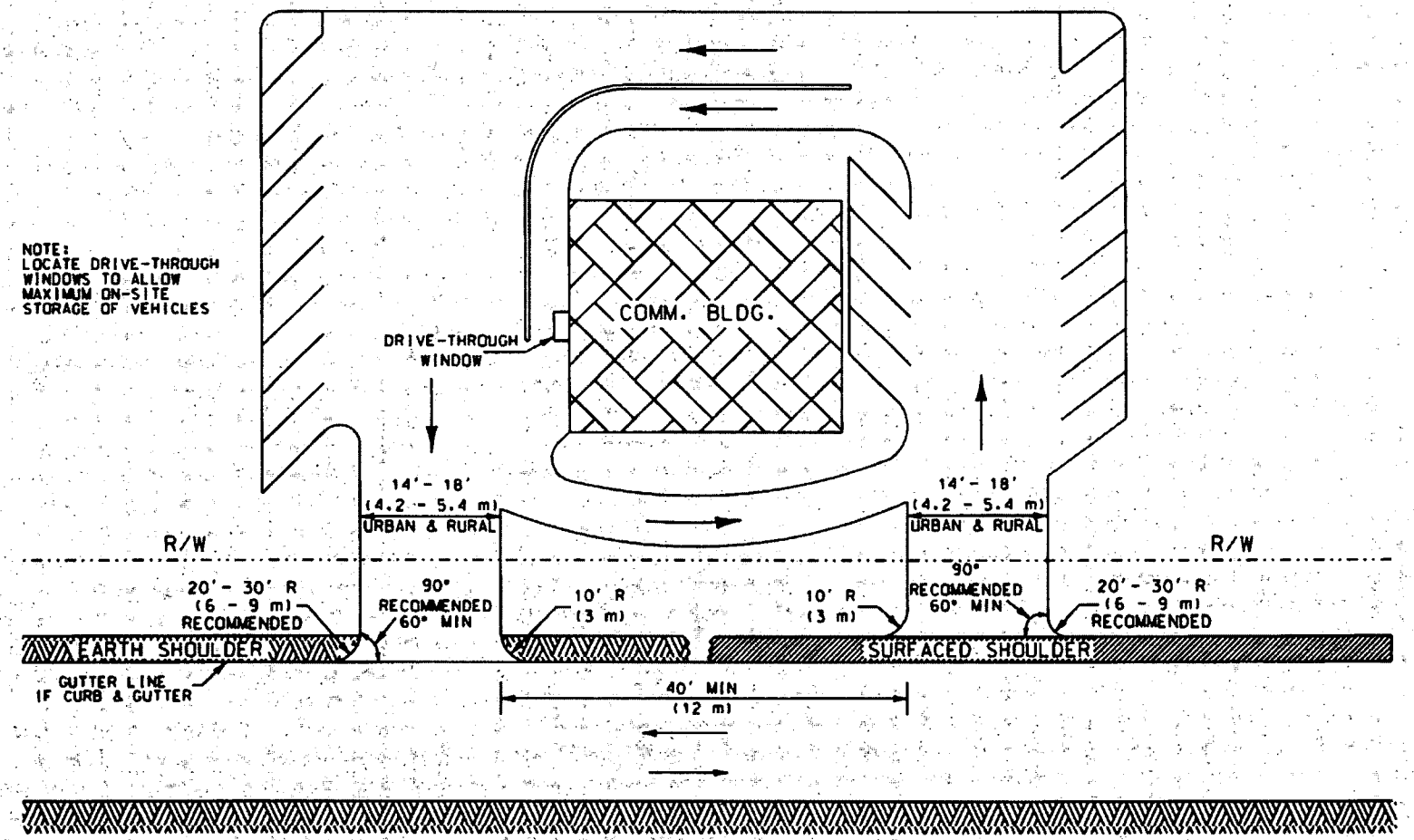


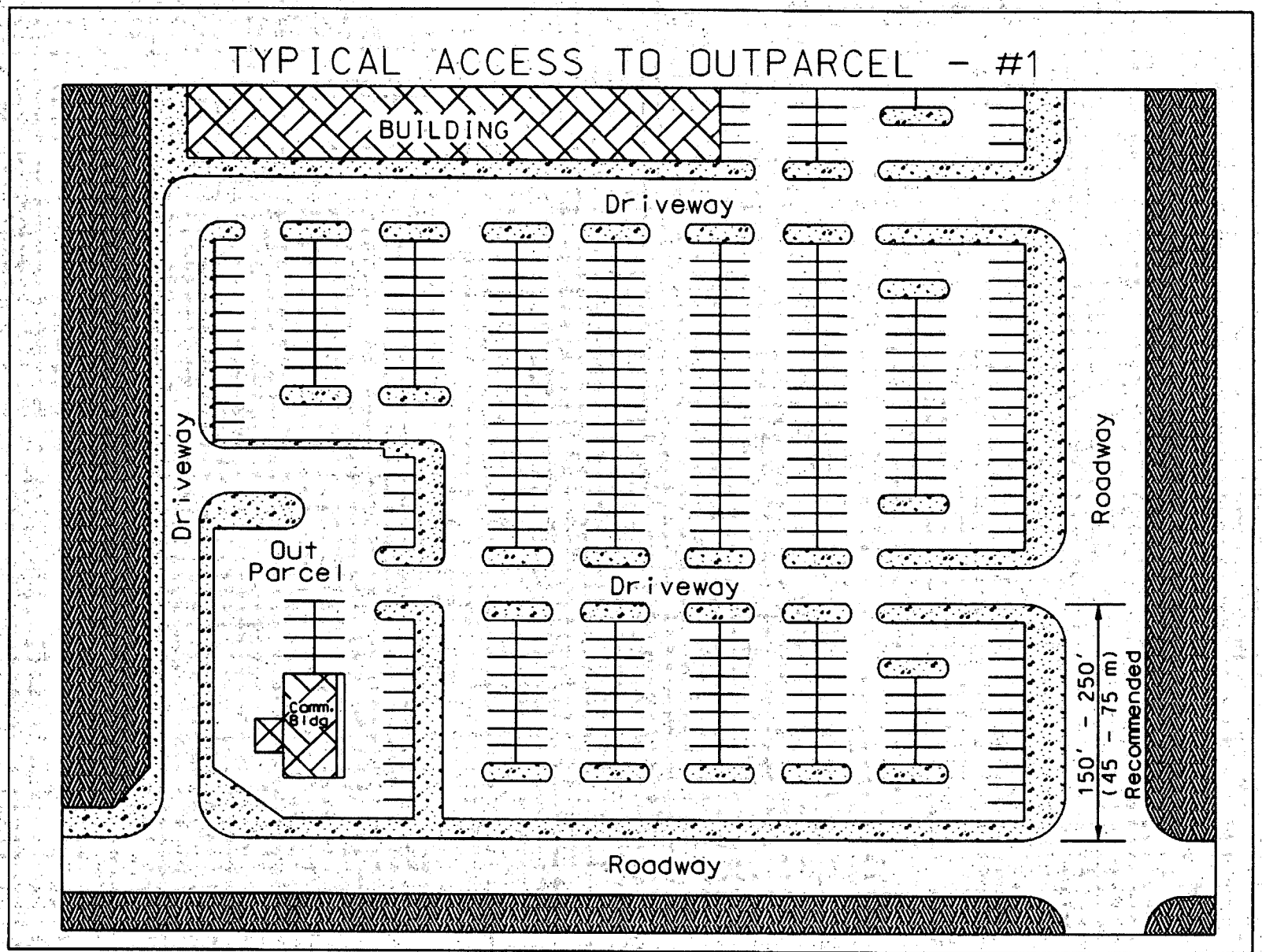
(DRAWING NOT TO SCALE)

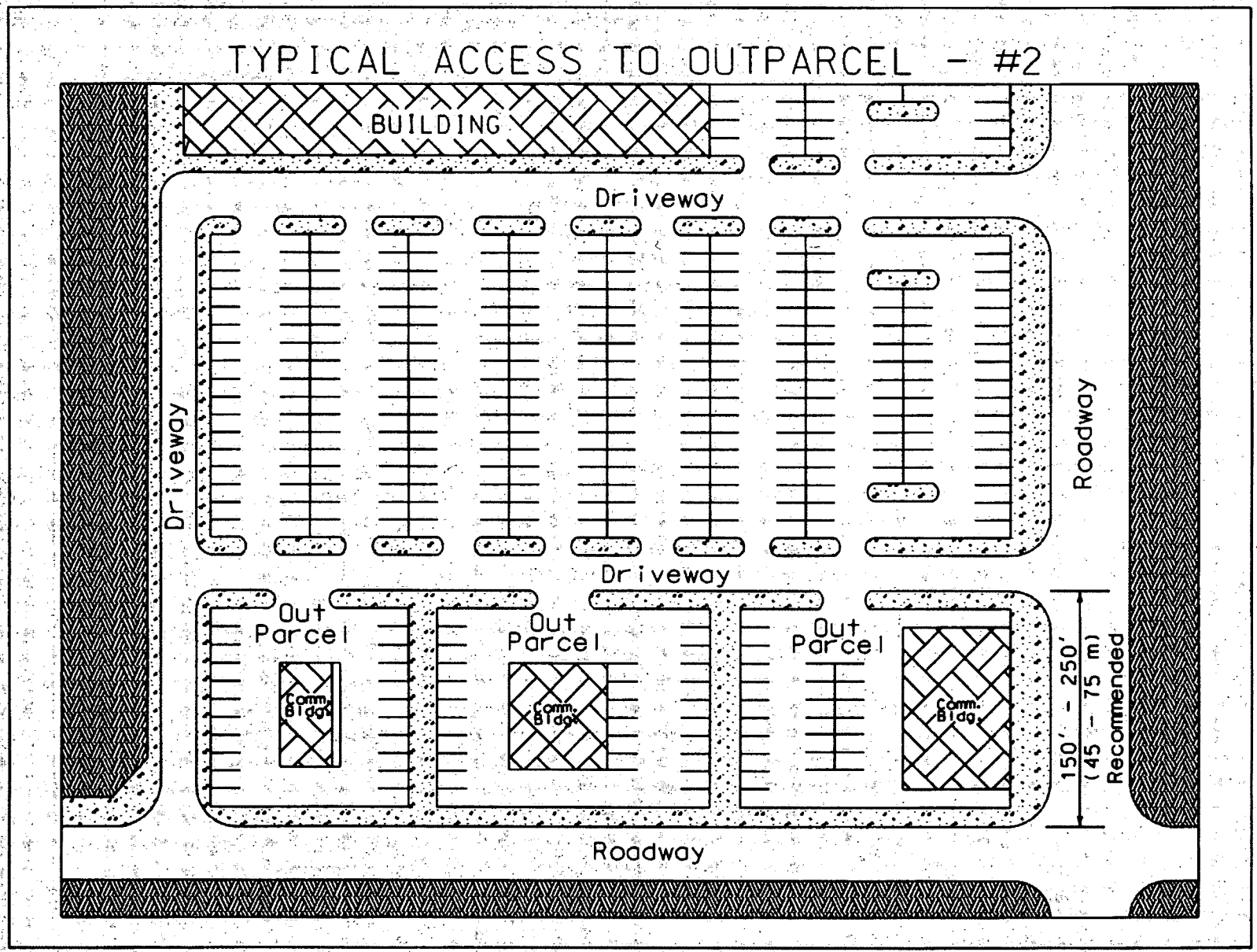
TYPICAL CORNER LOT COMMERCIAL DRIVEWAYS



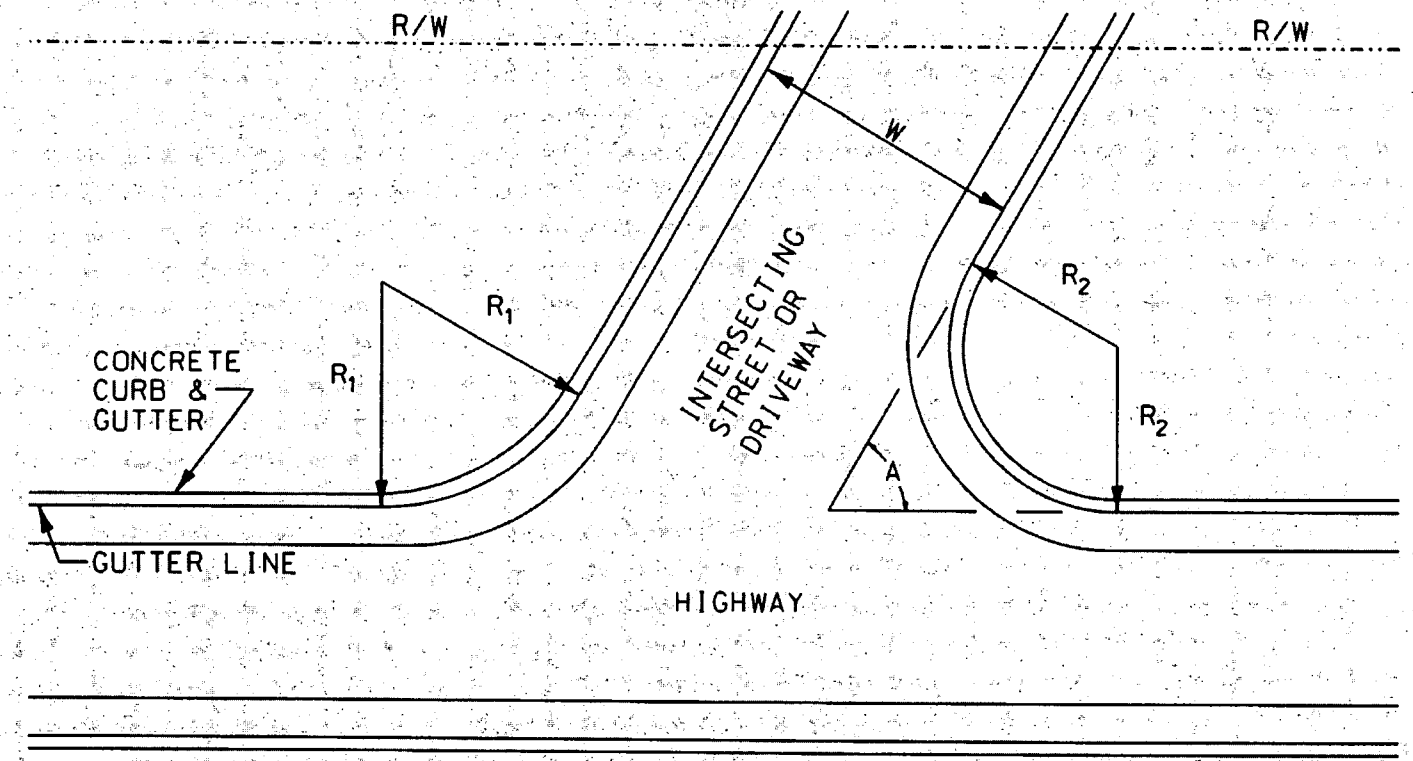
HIGH-TURNOVER OR DRIVE-THROUGH COMMERCIAL ONE-WAY DRIVEWAYS




TYPICAL ACCESS TO OUTPARCEL - #1
BUILDING
Driveway
Driveway
Out Parcel
Comm. Bldg.
Driveway
Roadway
Roadway
150' - 250'
(45 - 75 m)
Recommended


TYPICAL ACCESS TO OUTPARCEL - #2
BUILDING
Driveway
Driveway
Roadway
Driveway
Out Parcel
Comm. Bldg.
Out Parcel
Comm. Bldg.
Out Parcel
Comm. Bldg.
150' - 250'
(45 - 75 m)
Recommended
Roadway

PLAN OF STANDARD HIGH-VOLUME DRIVEWAY OR INTERSECTING STREET

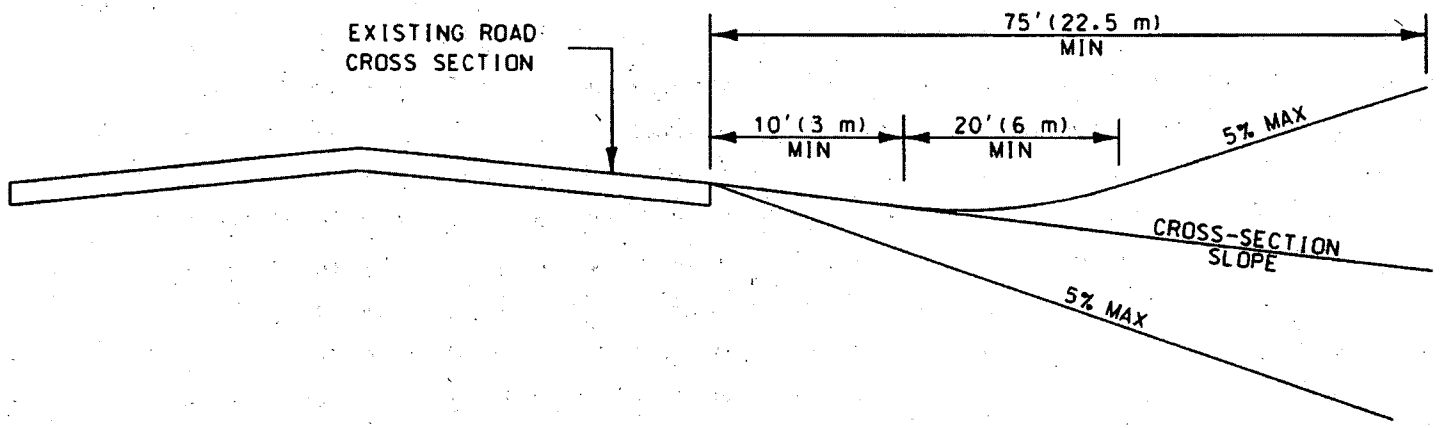


W = WIDTH (MEASURED FROM CURB FACE TO CURB FACE* AT 90° TO APPROACH)
R = RADIUS (MEASURED TO CURB FACE*)
A = ANGLE OF INTERSECTION (MIN 60°)

* IF NO CURB AND GUTTER, USE EDGE OF ROADWAY

C-10

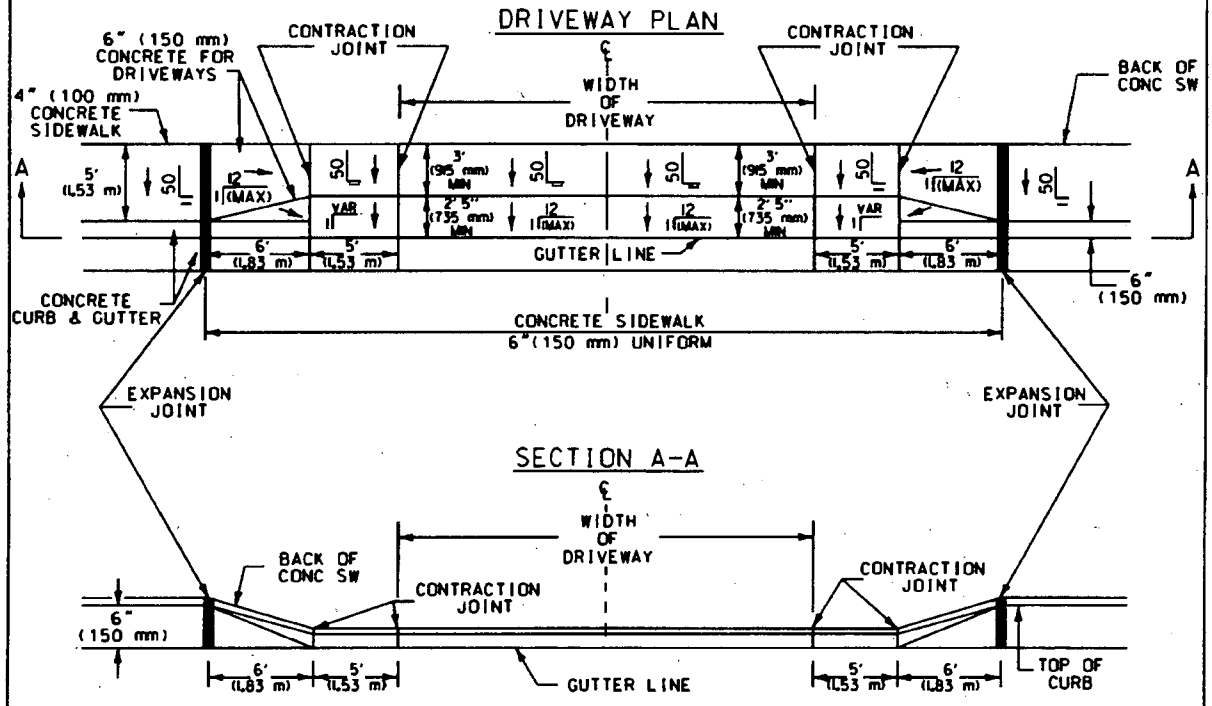
PROFILE OF STANDARD HIGH-VOLUME DRIVEWAY OR INTERSECTING STREET



(DRAWING NOT TO SCALE)

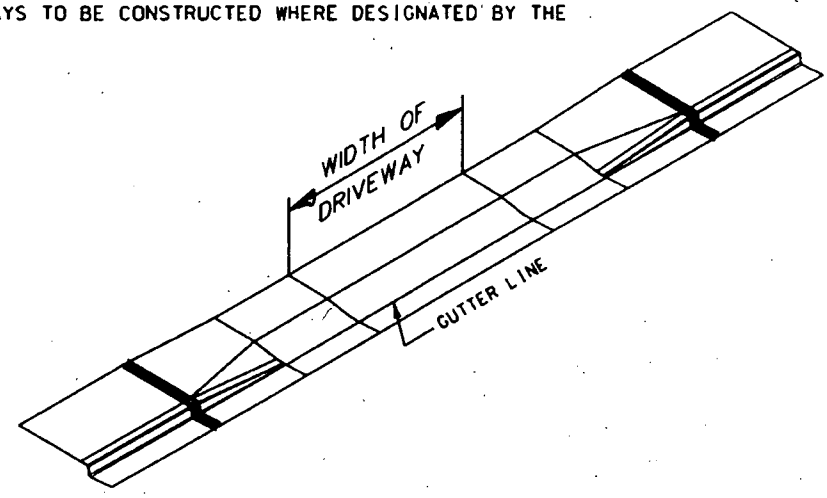
C-11

DETAIL OF STANDARD DROP-CURB DRIVEWAY WHERE SIDEWALK IS ADJACENT TO CURB



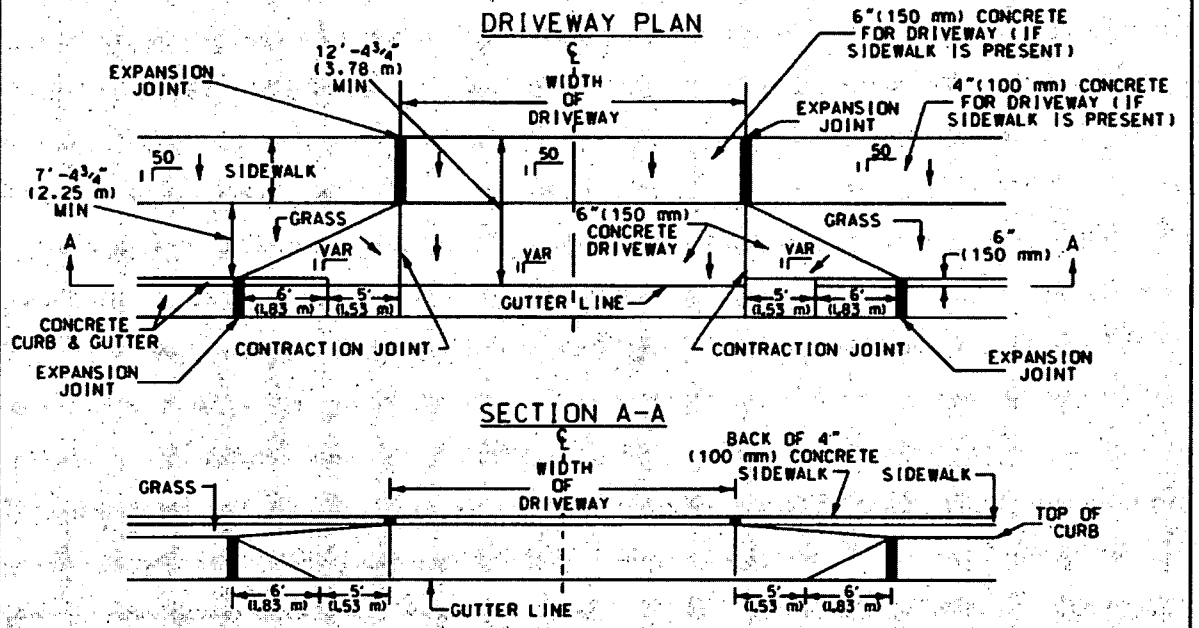
NOTE:
1. WHERE THE WIDTH OF A DRIVEWAY IS 15 FT.(4.5 m) OR GREATER, A CONTRACTION JOINT SHALL BE PLACED IN THE CENTER OF THE DRIVE. IF THE WIDTH EXCEEDS 30 FT.(9 m), TWO JOINTS SHALL BE USED.

2. DRIVEWAYS TO BE CONSTRUCTED WHERE DESIGNATED BY THE ENGINEER.



C-12

DETAIL OF STANDARD DROP-CURB DRIVEWAY WHERE NO SIDEWALK EXISTS OR A GRASS PLOT OF 7'-4 3/4" (2.25 m) OR GREATER EXISTS

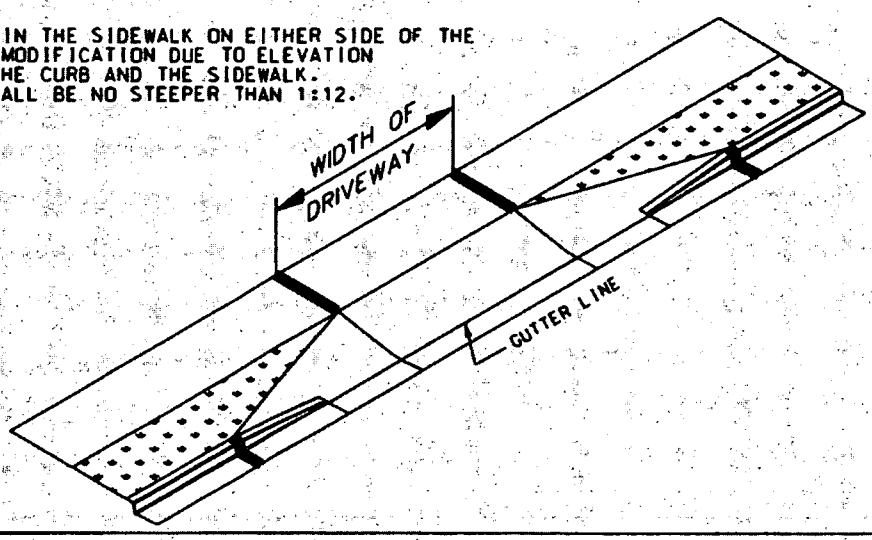


NOTE:

1. WHERE THE WIDTH OF A DRIVEWAY IS 15 FT.(4.5 m) OR GREATER, A CONTRACTION JOINT SHALL BE PLACED IN THE CENTER OF THE DRIVE. IF THE WIDTH EXCEEDS 30 FT.(9 m), TWO JOINTS SHALL BE USED.

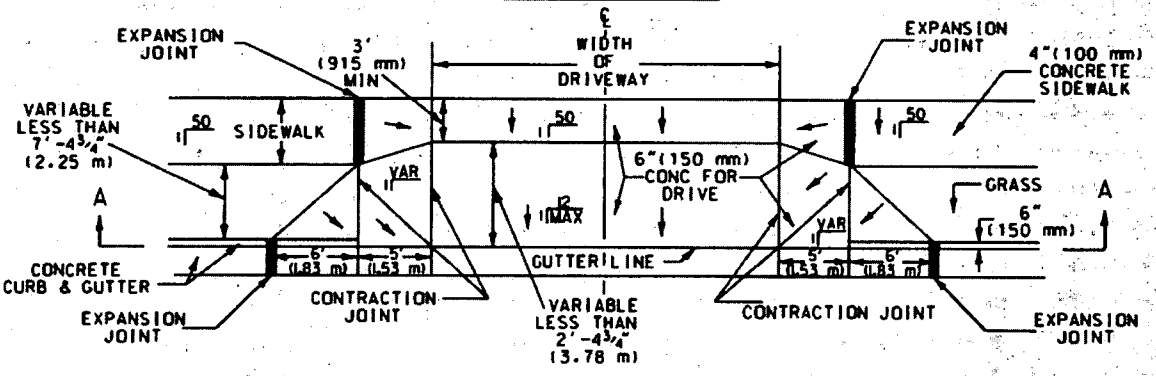
2. DRIVEWAYS TO BE CONSTRUCTED WHERE DESIGNATED BY THE ENGINEER.

3. THE FLARED SLOPE IN THE SIDEWALK ON EITHER SIDE OF THE DRIVEWAY MAY REQUIRE MODIFICATION DUE TO ELEVATION DIFFERENCES BETWEEN THE CURB AND THE SIDEWALK. HOWEVER, THE SLOPE SHALL BE NO STEEPER THAN 1:12.

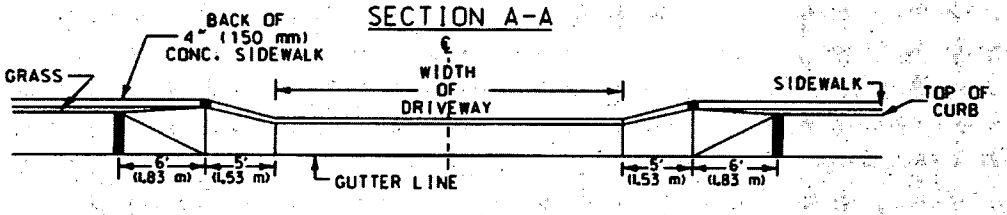


DETAIL OF DROP-CURB DRIVEWAY WHERE A GRASS PLOT OF LESS THAN 7'-4 3/4" (2.25 m) EXISTS

DRIVEWAY PLAN



SECTION A-A

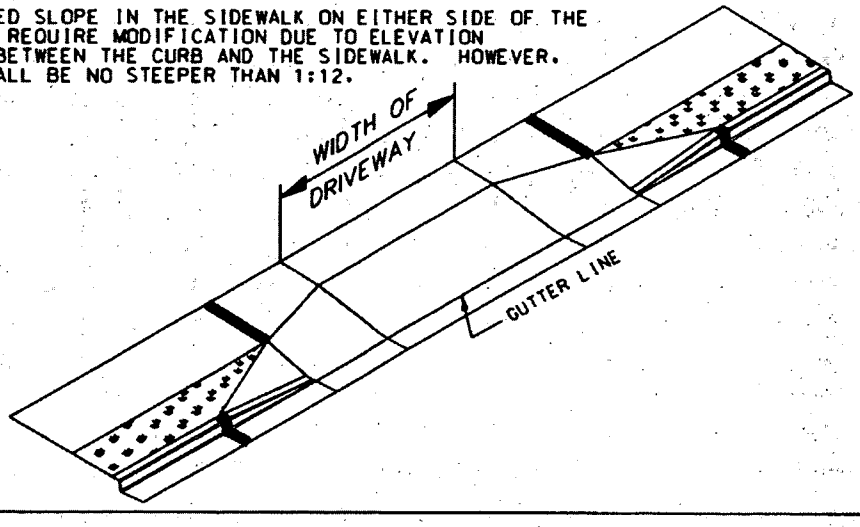


NOTE:

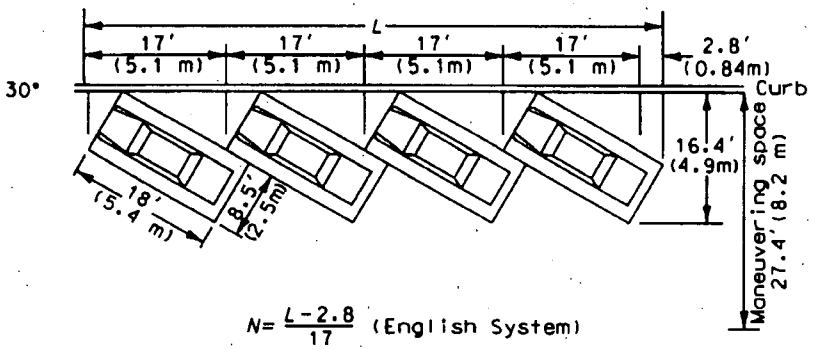
1. WHERE THE WIDTH OF A DRIVEWAY IS 15 FT.(4.5 m) OR GREATER. A CONTRACTION JOINT SHALL BE PLACED IN THE CENTER OF THE DRIVE. IF THE WIDTH EXCEEDS 30 FT.(9 m). TWO JOINTS SHALL BE USED.

2. DRIVEWAYS TO BE CONSTRUCTED WHERE DESIGNATED BY THE ENGINEER.

3. THE FLARED SLOPE IN THE SIDEWALK ON EITHER SIDE OF THE DRIVEWAY MAY REQUIRE MODIFICATION DUE TO ELEVATION DIFFERENCES BETWEEN THE CURB AND THE SIDEWALK. HOWEVER, THE SLOPE SHALL BE NO STEEPER THAN 1:12.

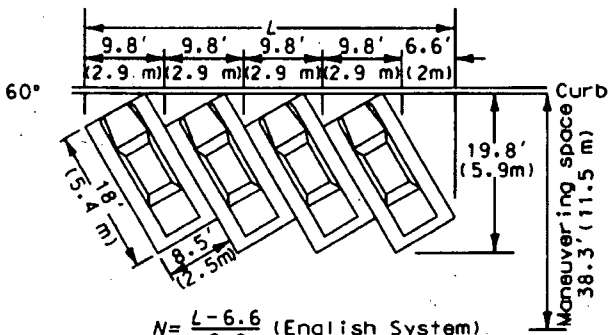


ANGLE PARKING GEOMETRY



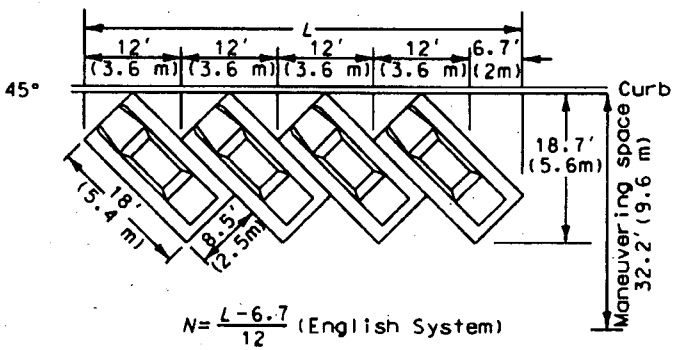
$N = \frac{L - 2.8}{17}$ (English System)

$N = \frac{L - 0.84}{5.1}$ (Metric System)



$N = \frac{L - 6.6}{9.8}$ (English System)

$N = \frac{L - 2}{2.9}$ (Metric System)



$N = \frac{L - 6.7}{12}$ (English System)

$N = \frac{L - 2}{3.6}$ (Metric System)

N = Number of spaces
L = Curb length

TYPICAL RESIDENTIAL MAILBOX TURNOUT

D-1

Appendix E

Engineering Directives

M-1 Encroachment Permits E-2

M-11 Daylighting Commercial and Industrial Buildings Adjacent to Controlled Access Highways E-5

M-26 Landscaping Projects Within the Department's Right-of-Way E-7

South Carolina Department of Transportation
Engineering Directive Memorandum

Number: M-1 (revised 7/29/96)

Subject: Encroachment Permits

1. Submittal of applications. Applications for Encroachment Permits will be made available at all SCDOT offices. Permit applications must be submitted to the SCDOT county office in the county in which the encroachment will be located. Where application is made for a permit for an encroachment which will cross county lines, the application may be submitted in any county in which a part of the encroachment is to be located.

2. Approval of applications. The Resident Maintenance Engineer ("RME") will review and finally approve all applications for permits, unless otherwise provided in writing by the District Engineering Administrator. Prior to final approval of permits, the RME should obtain recommendations from the following SCDOT offices:

Permit	Recommendation
Longitudinal encroachments on controlled access facilities	Utilities Engineer
Railroad crossings	Utilities Engineer
Bridge attachments	Bridge Maintenance
Major reconstruction or relocation of State-maintained roads, including storm drainage, curb, gutter and paving	Preconstruction
All road connections	Traffic Engineering
Access to major traffic generators such as shopping centers, planned developments, and industrial or office parks	Traffic Engineering
School site plans or renovations	Traffic Engineering (HQ)
Beautification	Landscape Engineer (HQ)

Where a recommendation is required from another SCDOT office prior to final approval of a permit application, the RME shall promptly forward to that office the information necessary for making the recommendation.

3. Monitoring wells. Prior to final approval of a permit application for a monitoring well, the RME must obtain from the applicant a letter from the South Carolina Department of Health and Environmental Control ("DHEC") stating that the monitoring well is required by DHEC.

4. Multi-county encroachments. Prior to final approval of applications for permits involving encroachments which cross county lines, the RME shall coordinate with the RME in the other affected county or counties.

5. Maintaining record of applications. The original application, with supporting documentation and the required recommendations and approval, shall be maintained in the RME's Office. Other offices may keep copies of the applications and approved permits as they deem appropriate.

6. No verbal approvals, extensions, or amendments. Verbal approval will not be given to perform any work until an encroachment permit for the work has been issued. All extensions, amendments or additions to existing permits must be in writing.

7. Traffic control responsibilities. Traffic control devices and procedures required during the installation and maintenance of the encroachment shall be the responsibility of the applicant, which shall be stated on the permit. Traffic control devices and procedures shall be in accordance with the South Carolina Manual on Uniform Traffic Control Devices (SCMUTCD).

8. Longitudinal pavement cuts. Resurfacing of the entire roadway will be required where longitudinal pavement cuts are made.

9. Stormwater Management and Sediment Control Plan. All applications for encroachment permits that involve bringing stormwater water runoff or sediment to the highway for a developed area of 2.0 acres or more must include a copy of a Stormwater Management and Sediment Control Plan approved by DHEC, the local government, or the conservation district responsible

for approving such plans pursuant to The Stormwater Management and Sediment Reduction Act. See S. C. Code Ann. Section 48-14-10, et seq. (Supp. 1995). The plan should include drainage design computations. If the area is less than 2 acres, the application must include a drainage plan with supporting design computations limiting the post construction 10-year peak discharge to the pre-developed 10-year peak.

Approved: W. A. Kellett III
Deputy Director of Engineering

Effective date: 7-29-96

SOUTH CAROLINA DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION

ENGINEERING DIRECTIVE MEMORANDUM

Number: M-11 (Revised 5-5-93)

Subject: Daylighting Commercial and Industrial Buildings Adjacent to Controlled Access Highways

For Policy: See Engineering Policy Memorandum No. 19

In order to make the area surrounding commercial and industrial building sites more attractive and visible, it is proposed to allow selective clearing within the Department's rights-of-way in accordance with the Policy of Vegetation Preservation on SC Highways and the following procedures:

1. An Encroachment Permit will be required in the usual manner.

2. Only bona fide commercial and industrial establishments will be allowed to participate in this program. Locations consisting of sign locations only shall be excluded.

3. Prior to submitting an Application for Encroachment Permit to the Columbia office, the Landscape Architect, the District Outdoor Advertising Coordinator, the Resident Maintenance Engineer, and the applicant's representative shall make an on-site inspection and determine what type of work will be allowed within the right-of-way. The work shall be limited to limbing up of large trees, the removal of selected small trees, the removal of underbrush and vines, and mowing as necessary. After the team makes a determination of the extent of work to be accomplished, they shall mark the trees to be removed and show all work agreed upon the application in the usual manner.

4. The extent of the area to be daylighted shall generally be limited to the right-of-way immediately in front of the applicant's property. (Property line to property line and abutting the right-of-way line.)

5. Any trees of 6" diameter or larger that the Department determines can be cut shall be replaced with another tree and/or shrub as approved by the Landscape Architect. The replacement trees or shrubs shall be detailed on a sketch plan and prepared by a reputable landscaping firm who will also perform the removal and replanting as specified thereon. All tree removal and planting, and shrubbery planting shall be in accordance with the S.C.D.H.P.T. Standard Specifications - 1986 Ed, and Special Provisions shown on the Encroachment Permit. The Department may also require the planting of trees, shrubbery, and wildflowers where no 6" or larger caliper trees are removed in keeping with the specific area or locale where the work is performed.

6. Perpetual maintenance of the area will not be allowed. When additional work becomes necessary to renew the visibility, another Encroachment Permit will be required.

7. No work shall be accomplished from the mainline side of the controlled access facility. Ingress and egress from the work area shall be made from private property and shall so be stated on the "Application for Encroachment Permit."

8(a) A performance and idemnity bond in the amount of $5,000.00 or an equivalent guarantee, as approved by the Department, will be required and shall be submitted along with the application. The bond or approved equivalent is to guarantee the completion of the work in accordance with the approved encroachment permit.

(b) When an approved guarantee other than a performance bond is accepted, such as a money order or cashiers check, it shall be promptly submitted using Form 3025A in the usual manner. The following entry should be made thereon:

"To be deposited in Special Account Number 3900.950"

When the work is successfully completed a Form 608 shall be submitted to reimburse the permittee using the above account number as the charge code.

9. This type permit should be used only where a legitimate need is to be served and should be kept to a minimum.

Approved: _____
Director of Maintenance

Effective Date: 5 - 5 - 93

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

ENGINEERING DIRECTIVE MEMORANDUM

Number: M-26

Subject: Landscaping Projects Within the Department's Right-of-Way

1. All landscaping projects within the Department's right-of-way and accomplished under a standard encroachment permit shall be maintained by the permittee or his designee.

2. Since the mowing around the plant material within a landscaped area would be costly and burdensome to most garden clubs and other permittees, the Department will be responsible for the mowing of permitted landscaped areas if the following conditions are met:

   (a) The design of the landscaped area shall be such that mowing can be accomplished by regular highway mowers that are routinely used to mow the grass on the interstate, primary, and secondary systems.

   (b) Any mowing by the Department will be in accordance with our standards and no special or additional mowings will be done.

   (c) A request, in writing, is to be made by the permittee for the Department to mow the landscaped area and a statement holding the Department harmless for any damage by our mowers will be required.

3. District and county engineering personnel should encourage landscaping and vegetation management on our streets and highways and offer suggestions to prospective permittees that will allow our mowers to work within the planted areas to eliminate hand mowing.

APPROVED: _____
Director of Maintenance

Date: 4 - 18 - 94

Appendix F

South Carolina Forestry Commission
Regional Urban Foresters

State Urban Forestry Coordinator
Post Office Box 21707
Columbia, South Carolina 29221

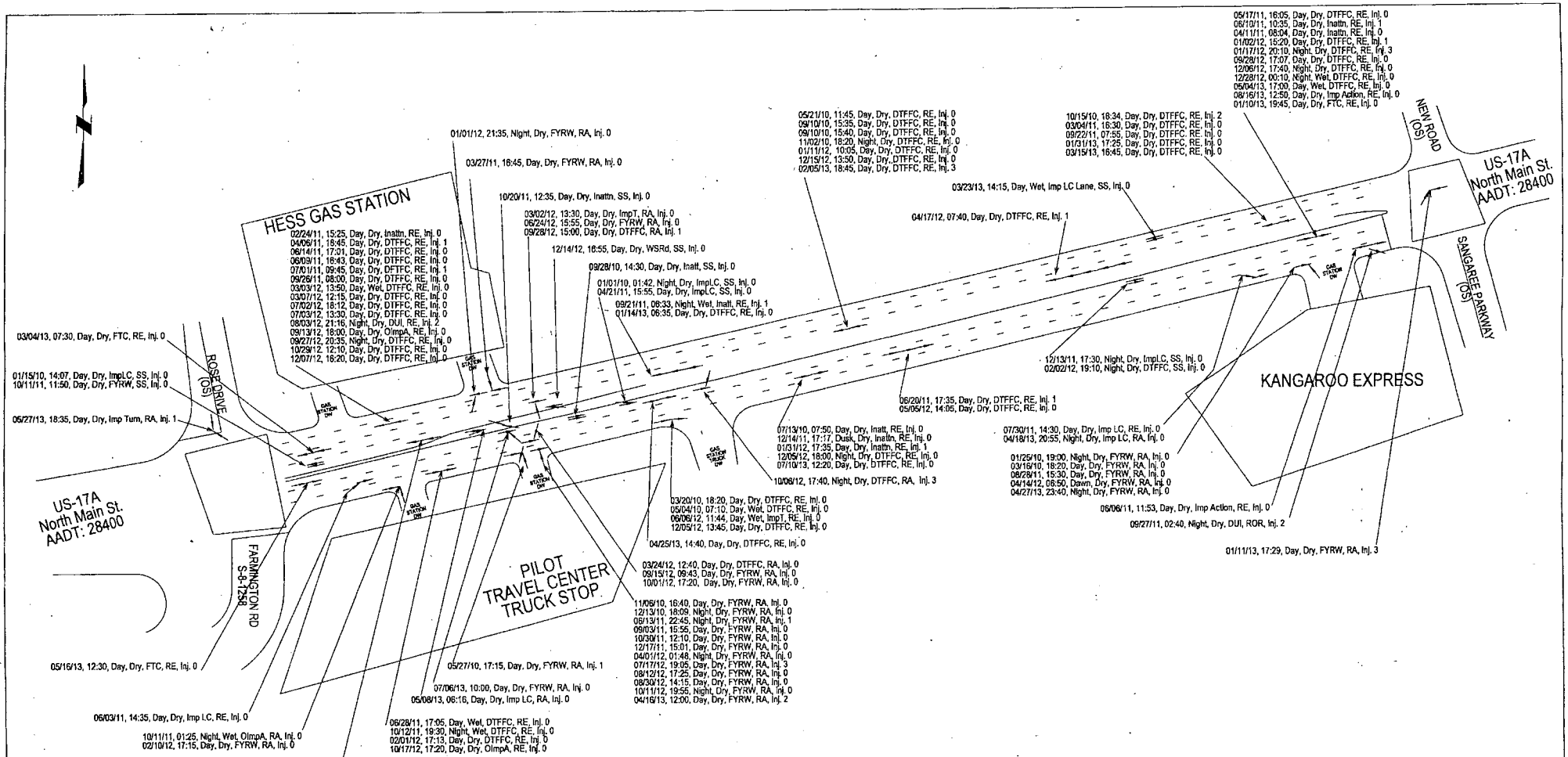
URBAN FORESTER	ASSISTANCE AREA	
Coastal Region Urban Forester 6501 Back Bay Drive Isle of Palms, South Carolina 29451 (803) 886-3183	Aiken County Allendale County Bamberg County Barnwell County Beaufort County Berkeley County Calhoun County	Charleston County Colleton County Dorchester County Hampton County Jasper County Orangeburg County
Pee Dee Region Urban Forester Post Office Box 457 Camden, South Carolina 29020 (803) 432-3181	Chesterfield County Clarendon County Darlington County Florence County Georgetown County Kershaw County Lancaster County	Lee County Lexington County Marlboro County Richland County Sumter County Williamsburg County
Piedmont Region Urban Forester Post Office Box 84 Greenwood, South Carolina 29648 (864) 374-7111	Abbeville County Anderson County Cherokee County Chester County Edgefield County Fairfield County Greenville County Greenwood County Laurens County	McCormick County Newberry County Oconee County Pickens County Saluda County Spartanburg County Union County York County
Marion Area Urban Forester 1949 Industrial Park Rd. Suite #6 Conway, South Carolina 29526 (803) 365-5810	Dillon County Horry County Marion County	

Appendix G

Conversion Factors

From English Units	To Metric Units	Multiply By	From Metric Units	To English Units	Multiply by
Mile	kilometer	1.609344	kilometer	Mile	0.621371
yard	meter	0.9144	meter	yard	1.0936
foot	meter	0.3048	meter	foot	3.2808
foot	millimeter	304.8	millimeter	foot	.00328
inch	millimeter	25.4	millimeter	inch	0.0394
square mile	square kilometer	2.59	square kilometer	square mile	0.3861
acre	square meter	4,046.856	square meter	acre	.000247
acre	hectare	0.4046856	hectare	acre	2.471
square yard	square meter	0.83612736	square meter	square yard	1.19599
square foot	square meter	0.09290304	square meter	square foot	10.7639
square inch	square millimeter	645.15	square millimeter	square inch	.00155
cubic yard	cubic meter	0.764555	cubic meter	cubic yard	1.3079
cubic foot	cubic meter	0.0283168	cubic meter	cubic foot	35.3147
cubic foot	Liter	28.31685	Liter	cubic foot	0.0353
cubic inch	cubic millimeter	16,387.064	cubic millimeter	cubic inch	.000061024
pound	kilogram	0.453592	kilogram	pound	2.2046
ounce	gram	28.34952	gram	ounce	0.0353
ton (2,000 lbs.)	metric ton	0.907184	metric ton	ton (2,000 lbs.)	1.1023
mile/hour	kilometer/hour	1.609344	kilometer/hour	mile/hour	0.6214

EXHIBIT 14



LEGEND

DCC - Disregarded Sign or Signal
Inatt - Inattention
DTFF - Driving Too Fast for Conditions
FYRW - Failure to Yield Right of Way
ROR - Ran off Road
FTC - Followed Too Closely
AGV - Aggressive Operation of Vehicle
SWO - Swerving to Avoid Object
DUI - Under the Influence
Imp LC - Improper Lane Change

RA = Right Angle
RE = Rear End
SS = Side Swipe
HO = Head On
OC = Out of Control
HA = Hit Animal

YR	2010	2011	2012	2013	Total
RA	5	7	15	7	34
RE	8	19	24	12	63
SS	3	4	2	1	10
HO	0	0	0	0	0
OC	0	1	0	0	1
HA	0	0	0	0	0
OTH	0	0	0	0	0

Night - 23
Day - 85
Wet - 82
Dry - 26

Total = 108
Length = 0.253
AADT = 28400
Years = 3.58
01/01/10 - 07/31/13
CR = 2.910

PDO - 87
Inj. 1 - 12
Inj. 2 - 5
Inj. 3 - 4

SCDOT
South Carolina Department of Transportation

TRAFFIC ENGINEERING DIVISION
COLUMBIA, S.C.

TRAFFIC SAFETY PROGRAM

SUBJECT TITLE: Collision Diagram

SPECIFIC LOCATION: US 17 Alt MP 1.36 - 1.613

CITY	COUNTY
Summerville	Berkeley

DRAWN BY	DATE	SCALE	PAGE
CLW/REW	10/15/13	None	1 of 1

102.051 Wright v. SCDOT
SCDOT Corwin Documents0612

	Motor Vehi	Roadway	33022140	80083090	33	0.033333	0.005944	33.03928	80	0.133333	0.008583
	Motor Vehi	Roadway	33022060	80083350	33	0.033333	0.005722	33.03906	80	0.133333	0.009306
	Motor Vehi	Roadway	33022250	80083060	33	0.033333	0.00625	33.03958	80	0.133333	0.0085
	Motor Vehi	Roadway	33022130	80083270	33	0.033333	0.005917	33.03925	80	0.133333	0.009083
	Motor Vehi	Roadway	33022020	80083400	33	0.033333	0.005611	33.03894	80	0.133333	0.009444
	Motor Vehi	Roadway	33023900	80083580	33	0.033333	0.010833	33.04417	80	0.133333	0.009944
	Motor Vehi	Roadway	33023900	80083580	33	0.033333	0.010833	33.04417	80	0.133333	0.009944
	Motor Vehi	Roadway	33024220	80083320	33	0.033333	0.011722	33.04506	80	0.133333	0.009222
	Motor Vehi	Roadway	33023940	80083000	33	0.033333	0.010944	33.04428	80	0.133333	0.008333
	Motor Vehi	Roadway	33022280	80083510	33	0.033333	0.006333	33.03967	80	0.133333	0.00975
	Motor Vehi	Roadway	33022180	80083160	33	0.033333	0.006056	33.03939	80	0.133333	0.008778
	Motor Vehi	Roadway	33022230	80083580	33	0.033333	0.006194	33.03953	80	0.133333	0.009944
	Motor Vehi	Roadway	33022260	80083370	33	0.033333	0.006278	33.03961	80	0.133333	0.009361
	Motor Vehi	Roadway	33022130	80083070	33	0.033333	0.005917	33.03925	80	0.133333	0.008528
	Motor Vehi	Roadway	33022230	80083110	33	0.033333	0.006194	33.03953	80	0.133333	0.008639
	Motor Vehi	Roadway	33022050	80083370	33	0.033333	0.005694	33.03903	80	0.133333	0.009361
	Motor Vehi	Roadway	33022050	80083280	33	0.033333	0.005694	33.03903	80	0.133333	0.009111
	Motor Vehi	Roadway	33022160	80083260	33	0.033333	0.006	33.03933	80	0.133333	0.009056
	Motor Vehi	Roadway	33022120	80083350	33	0.033333	0.005889	33.03922	80	0.133333	0.009306
	Motor Vehi	Roadway	33022160	80083210	33	0.033333	0.006	33.03933	80	0.133333	0.008917
Fast for Conditions	Motor Vehi	Roadway	33022280	80083160	33	0.033333	0.006333	33.03967	80	0.133333	0.008778
	Motor Vehi	Roadway	33022090	80083370	33	0.033333	0.005806	33.03914	80	0.133333	0.009361
	Motor Vehi	Roadway	33022260	80083060	33	0.033333	0.006278	33.03961	80	0.133333	0.0085
	Motor Vehi	Roadway	33022030	80083390	33	0.033333	0.005639	33.03897	80	0.133333	0.009417
	Motor Vehi	Roadway	33022130	80083300	33	0.033333	0.005917	33.03925	80	0.133333	0.009167
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	Motor Vehi	Roadway	33022070	80083350	33	0.033333	0.00575	33.03908	80	0.133333	0.009306
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	Motor Vehi	Roadway	33022280	80083230	33	0.033333	0.006333	33.03967	80	0.133333	0.008972
	Motor Vehi	Roadway	33022070	80083420	33	0.033333	0.00575	33.03908	80	0.133333	0.0095
	Motor Vehi	Roadway	33022270	80083510	33	0.033333	0.006306	33.03964	80	0.133333	0.00975

3137104	Berkeley	11/15/03	1625	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N		5
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3139492	Berkeley	11/19/03	1020	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	E		5
4019141	Berkeley	2/21/04	1335	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	4	N	6
4022646	Berkeley	3/4/04	1520	3	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	1	N	6
4030915	Berkeley	3/24/04	1716	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N		8
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4127787	Berkeley	11/1/04	1815	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	W		6
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4140846	Berkeley	12/4/04	2240	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	2	N	6
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5014560	Berkeley	2/12/05	320	2	0	0	US	Primary	17	Main	Secondary	1258	Main	0	N		4
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5041175	Berkeley	4/10/05	1300	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	W		2
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5121306	Berkeley	10/8/05	1325	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N		6

5136593	Berkeley	11/18/05	1619	2	0	0	US	Primary	17	Alternate	Secondary	1258	Alterna	0.3	W	5
5149705	Berkeley	12/14/05	1149	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	N	8
6001245	Berkeley	1/3/06	1300	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
6009978	Berkeley	2/2/06	1950	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	8
6015862	Berkeley	2/16/06	1300	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	S	8
6017032	Berkeley	2/17/06	1900	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	5
6017033	Berkeley	2/17/06	1900	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	5
6029838	Berkeley	3/22/06	845	2	0	0	US	Primary	17	Alternate	Secondary	157	Main	0	S	4
6037138	Berkeley	4/7/06	1022	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	4
6039504	Berkeley	4/11/06	1510	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	S	7
6053957	Berkeley	5/13/06	850	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
6068592	Berkeley	6/14/06	1315	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	S	8
6070879	Berkeley	6/21/06	650	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	S	
6070884	Berkeley	6/22/06	1456	3	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	N	8
6071757	Berkeley	6/23/06	1645	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
6081567	Berkeley	7/14/06	1500	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	4
6081577	Berkeley	7/16/06	2030	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0.1	S	6
6081726	Berkeley	7/18/06	1920	2	0	1	US	Primary	17	Alternate	Secondary	1258	Main	0	S	6
6089587	Berkeley	8/1/06	17	2	0	0	US	Primary	17	Main	Secondary	1258	Main	0.1	N	6
6097067	Berkeley	8/19/06	920	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	S	6
6101795	Berkeley	8/24/06	1740	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	6
6099092	Berkeley	8/25/06	2205	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	6
6104173	Berkeley	9/5/06	1912	2	0	1	US	Primary	17	Alternate	Secondary	1258	Main	0	N	6
6107078	Berkeley	9/11/06	1632	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	S	8
6108622	Berkeley	9/13/06	2010	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	S	9
6114610	Berkeley	9/26/06	700	2	0	1	US	Primary	17	Alternate	Secondary	570	Main	0	S	6
6114501	Berkeley	9/28/06	1453	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	S	7
6122104	Berkeley	10/17/06	1115	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	7
6124388	Berkeley	10/18/06	640	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	S	7
6124341	Berkeley	10/19/06	2005	3	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
6139853	Berkeley	11/22/06	1710	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	5
6143978	Berkeley	11/22/06	1020	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0.1	N	7
6139855	Berkeley	11/22/06	2100	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	S	6

7005028	Berkeley	1/15/07	1500	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	N	7
7005046	Berkeley	1/18/07	955	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	S	8
7005051	Berkeley	1/19/07	2115	2	0	0	US	Primary	17	Alternate	Secondary		570	Main	0	E	6
7009997	Berkeley	1/26/07	1120	2	0	0	US	Primary	17	Alternate	Secondary		1156	Main	0.1	N	6
7014957	Berkeley	2/11/07	125	2	0	2	US	Primary	17	Alternate	Secondary		1258	Main	0.5	N	7
7030216	Berkeley	3/15/07	2045	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	N	6
7035445	Berkeley	4/3/07	150	1	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	N	
7037387	Berkeley	4/7/07	1455	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	N	7
7040971	Berkeley	4/15/07	1400	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	S	8
7060189	Berkeley	5/26/07	635	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	N	6
7070723	Berkeley	6/20/07	1305	2	0	0	US	Primary	17	Alternate	Secondary		570	Main	0.1	N	6
7088628	Berkeley	7/21/07	349	2	0	0	US	Primary	17	Alternate	Secondary		986	Main	0	S	6
7099205	Berkeley	8/13/07	1525	2	0	1	US	Primary	17	Alternate	Secondary		1258	Main	0	N	6
7098930	Berkeley	8/21/07	801	2	0	0	US	Primary	17	Alternate	County	SANG	Main		0	S	4
7108516	Berkeley	9/11/07	1850	2	0	0	US	Primary	17	Alternate	Secondary		570	Main	0	N	7
7110127	Berkeley	9/11/07	900	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0	S	6
7162363	Berkeley	10/14/07	1300	2	0	1	US	Primary	17	Main	Secondary		1252	Main	0.2	N	6
7124605	Berkeley	10/18/07	1909	3	0	4	US	Primary	17	Alternate	Secondary		570	Main	0	N	6
7138211	Berkeley	11/14/07	1440	2	0	1	US	Primary	17	Alternate	Secondary		1258	Main	0.1	S	7
7138212	Berkeley	11/14/07	940	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0.1	S	7
7153637	Berkeley	12/22/07	1243	2	0	0	US	Primary	17	Alternate	Secondary		570	Main	0	N	7
7153653	Berkeley	12/24/07	1745	3	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0.1	S	7
8001588	Berkeley	1/11/08	1348	2	0	1	US	Primary	17	Alternate	Secondary		570	Main	0	N	6
8004818	Berkeley	1/15/08	1450	2	0	0	US	Primary	17	Alternate	Secondary		570	Main	0	N	7
8005969	Berkeley	1/26/08	1920	2	0	0	US	Primary	17	Alternate	Secondary		570	Main	0	N	
8008855	Berkeley	2/1/08	1740	2	0	0	US	Primary	17	Alternate	Interstate		26	Main	0.2	S	
8010024	Berkeley	2/6/08	2400	2	0	1	US	Primary	17	Alternate	Secondary		1258	Main	0.1	N	7
8024158	Berkeley	3/8/08	2005	2	0	2	US	Primary	17	Alternate	Secondary		1258	Main	0.1	S	6
8026295	Berkeley	3/15/08	1225	2	0	0	US	Primary	17	Alternate	Secondary		570	Main	0.2	N	6
8029671	Berkeley	3/22/08	1600	2	0	0	US	Primary	17	Alternate	Interstate		26	Main	0	N	8
8032437	Berkeley	3/25/08	2352	2	0	0	US	Primary	17	Alternate	Secondary		1258	Main	0.2	N	5
8050148	Berkeley	5/5/08	2200	3	0	1	US	Primary	17	Alternate	Secondary		570	Main	0	S	5
8071772	Berkeley	6/22/08	1025	2	0	1	US	Primary	17	Alternate	Secondary		1258	Main	0.2	S	6

8074426	Berkeley	7/1/08	835	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	6
8080517	Berkeley	7/20/08	1335	3	0	1	US	Primary	17	Alternate	Secondary	1258	Main	0.2	N	6
8083345	Berkeley	7/25/08	1548	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	S	8
8093773	Berkeley	8/10/08	1532	2	0	1	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
8094198	Berkeley	8/12/08	2200	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	6
8103677	Berkeley	9/14/08	1615	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	1	N	7
8123648	Berkeley	10/29/08	1530	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0.3	N	8
8133783	Berkeley	11/9/08	1625	2	0	2	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
8133779	Berkeley	11/17/08	1545	3	0	1	US	Primary	17	Alternate	Secondary	1258	Main	0	S	6
8143045	Berkeley	12/13/08	1135	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	4
8148182	Berkeley	12/17/08	548	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	S	6
9001174	Berkeley	1/10/09	1625	3	0	0	US	Primary	17	Alternate	Secondary	1259	Main	1	N	6
9001636	Berkeley	1/13/09	1605	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	7
9007498	Berkeley	1/28/09	800	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	6
9015548	Berkeley	2/23/09	1130	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	S	8
9017234	Berkeley	2/26/09	1935	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0.8	N	8
9020349	Berkeley	3/5/09	2021	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	6
9020348	Berkeley	3/5/09	1820	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	S	7
9022840	Berkeley	3/12/09	1800	3	0	0	US	Primary	17	Alternate	Secondary	570	Main	0.5	N	7
9040926	Berkeley	4/18/09	1250	2	0	2	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
9049201	Berkeley	5/2/09	1435	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0.1	N	9
9049185	Berkeley	5/6/09	1015	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	7
9060307	Berkeley	6/3/09	1335	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	6
9063877	Berkeley	6/9/09	830	2	0	1	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	4
9074183	Berkeley	7/8/09	900	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	S	7
9076475	Berkeley	7/15/09	2235	2	0	4	US	Primary	17	Alternate	Secondary	570	Main	0.8	N	8
9079614	Berkeley	7/22/09	1230	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	W	4
9087076	Berkeley	8/6/09	1830	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	6
9103047	Berkeley	9/15/09	1505	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	S	8
9104105	Berkeley	9/16/09	1610	2	0	1	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	7
9103052	Berkeley	9/16/09	1613	3	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	7
9106622	Berkeley	9/25/09	1810	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
9115072	Berkeley	10/6/09	1630	1	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6

9117920	Berkeley	10/14/09	1530	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0.2	N	8
9115215	Berkeley	10/14/09	1614	2	0	0	US	Primary	17	Alternate	Secondary	986	Main	0.9	S	5
9122917	Berkeley	10/30/09	835	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	N	6
9125263	Berkeley	11/6/09	1334	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0.1	S	7
9126523	Berkeley	11/12/09	1400	2	0	2	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	7
9126524	Berkeley	11/12/09	1400	2	0	1	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	7
9143868	Berkeley	12/19/09	1720	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0.1	S	8
9148965	Berkeley	12/23/09	1945	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	6
10004851	Berkeley	1/1/10	142	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	4
10007441	Berkeley	1/30/10	1530	2	0	0	US	Primary	17	Main	Secondary	1258	Main	0	N	8
10027230	Berkeley	3/12/10	1310	2	0	0	US	Primary	17	Alternate	Interstate	26	Main	0.2	N	8
10029757	Berkeley	3/20/10	2105	2	0	3	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	4
10045382	Berkeley	5/4/10	1710	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	6
10053063	Berkeley	5/21/10	1145	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	6
10056982	Berkeley	5/27/10	1715	3	0	2	US	Primary	17	Alternate	Secondary	1258	Main	0.1	N	6
10078359	Berkeley	7/13/10	750	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	4
10086989	Berkeley	8/4/10	1210	2	0	1	US	Primary	17	Main	Secondary	1258	Main	0.1	N	6
10101046	Berkeley	9/3/10	2245	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	S	9
10115695	Berkeley	9/13/10	1300	2	0	0	US	Primary	17	Alternate	Secondary	930	Main	0.1	N	2
10102939	Berkeley	9/14/10	800	3	0	0	US	Primary	17	Alternate	Secondary	375	Main	0.3	S	2
10114534	Berkeley	9/28/10	1430	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0.1	N	6
10111343	Berkeley	9/29/10	1640	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	S	6
10127314	Berkeley	10/21/10	1130	2	0	0	US	Primary	17	Main	Secondary	1258	Main	0.2	N	6
10121233	Berkeley	10/21/10	1218	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	S	7
10130156	Berkeley	11/4/10	1340	2	0	0	US	Primary	17	Alternate	Secondary	1258	Main	0	N	9
10143987	Berkeley	12/11/10	1940	1	0	0	US	Primary	17	Main	Secondary	1258	Main	0	N	
10141905	Berkeley	12/13/10	1809	2	0	0	US	Primary	17	Alternate	Secondary	570	Main	0	N	6
10155995	Berkeley	12/22/10	606	1	0	0	US	Primary	17	Alternate	Interstate	26	Main	0	N	7
10155999	Berkeley	12/26/10	1540	3	0	0	US	Primary	17	Alternate	Secondary	1259	Main	0	N	7
10154465	Berkeley	12/31/10	1203	2	0	4	US	Primary	17	Alternate	Secondary	1258	Main	0.1	S	8
11016844	Berkeley	2/24/11	1525	2	0	0	US	Primary	17	Main	Secondary	570	Main	0	N	
11012209	Berkeley	3/27/11	1645	2	0	0	US	Primary	17	Main	Secondary	570	Main	0.1	N	
11513770	Berkeley	4/6/11	1845	2	0	1	US	Primary	17	Main	Secondary	570	Main	0.1	N	

11529526	Berkeley	6/3/11	1435	2	0	0	US	Primary	17	Main	N	Secondary	1258	Main	0 N
11529509	Berkeley	6/9/11	1643	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
11530593	Berkeley	6/13/11	2245	2	0	2	US	Primary	17	Main	N	Secondary	986	Main	2.7 S
11532121	Berkeley	6/14/11	1701	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
11528613	Berkeley	6/15/11	1325	2	0	0	US	Primary	17	Main	N	Secondary	1258	Main	0 S
11530803	Berkeley	6/20/11	1735	4	0	1	US	Primary	17	Main	N	Secondary	570	Main	0.1 N
11532131	Berkeley	7/1/11	945	2	0	1	US	Primary	17	Main	N	Secondary	570	Main	0 N
11532247	Berkeley	7/5/11	2114	3	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 S
11538035	Berkeley	8/1/11	754	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 S
11549788	Berkeley	9/3/11	1555	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
11558010	Berkeley	9/26/11	800	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
11567636	Berkeley	10/11/11	125	2	0	0	US	Primary	17	Main		Secondary	1258	Main	0 N
11567015	Berkeley	10/20/11	1235	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0.1 N
11573068	Berkeley	10/30/11	1210	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
11576005	Berkeley	11/9/11	1620	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 S
11585267	Berkeley	12/2/11	1135	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
11588025	Berkeley	12/14/11	1717	2	0	0	US	Primary	17	Main	N	Secondary	1258	Main	0.1 N
11587444	Berkeley	12/17/11	1501	2	0	0	US	Primary	17	Main	N	Secondary	1258	Main	0 N
11591708	Berkeley	12/31/11	1926	3	0	0	US	Primary	17	Main	N	Secondary	1258	Main	0 S
12500316	Berkeley	1/1/12	2135	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
12501616	Berkeley	1/11/12	1005	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0.1 N
12504940	Berkeley	1/31/12	1735	2	0	2	US	Primary	17	Main	N	Secondary	570	Main	0.1 N
12505951	Berkeley	2/1/12	1713	3	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
12507196	Berkeley	2/10/12	1715	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
12511303	Berkeley	3/3/12	1350	2	0	0	US	Primary	17	Main	N	Secondary	1258	Main	0 N
12512659	Berkeley	3/7/12	1215	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
12515244	Berkeley	3/14/12	1605	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 S
12521495	Berkeley	3/24/12	1240	2	0	0	US	Primary	17	Main	N	Secondary	1258	Main	0 N
12518964	Berkeley	4/1/12	148	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0.1 N
12534457	Berkeley	5/30/12	1540	3	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 S
12539842	Berkeley	6/24/12	1555	2	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
12543208	Berkeley	7/2/12	1812	3	0	0	US	Primary	17	Main	N	Secondary	570	Main	0 N
12541404	Berkeley	7/3/12	1330	3	0	0	US	Primary	17	Main	N	Secondary	570	Main	0.1 N

12544218	Berkeley	7/3/12	1644	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	S
12552412	Berkeley	8/2/12	1251	2	0	0	US	Primary	17	Main	N	County	SANG		Main	0.4	S
12550382	Berkeley	8/3/12	2116	2	0	1	US	Primary	17	Main	N	Secondary		570	Main	0	N
12555957	Berkeley	8/12/12	1725	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	N
12559428	Berkeley	8/30/12	1415	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	N
12565482	Berkeley	9/13/12	1800	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	S
12565037	Berkeley	9/15/12	943	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0.1	N
12568659	Berkeley	9/28/12	1500	2	0	1	US	Primary	17	Main	N	Secondary		570	Main	0	N
12570770	Berkeley	10/1/12	1720	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0.1	N
12570776	Berkeley	10/6/12	2104	2	0	2	US	Primary	17	Main	N	Secondary		570	Main	0	N
12574845	Berkeley	10/11/12	1955	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0.1	N
12580597	Berkeley	10/29/12	1210	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	N
12597412	Berkeley	12/5/12	1345	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	N
12596928	Berkeley	12/7/12	1620	4	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	N
12597271	Berkeley	12/14/12	1655	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	N
12602689	Berkeley	12/14/12	1520	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	S
13513535	Berkeley	3/4/13	730	2	0	0	US	Primary	17	Main	N	Secondary		986	Main	0.1	S
13516715	Berkeley	3/7/13	1930	2	0	0	US	Primary	17	Main		Secondary		570	Main	0	N
13516771	Berkeley	3/14/13	1025	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	S
13524697	Berkeley	4/16/13	1200	2	0	2	US	Primary	17	Main	N	County	SANG		Main	0.1	S
13532315	Berkeley	5/8/13	616	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	N
13532708	Berkeley	5/9/13	1738	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	S
13543481	Berkeley	6/10/13	1530	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	S
13545819	Berkeley	6/13/13	1430	1	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	N
13578676	Berkeley	9/6/13	1815	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	N
13595610	Berkeley	9/27/13	1622	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0.1	N
13600595	Berkeley	10/22/13	615	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0.1	N
13614333	Berkeley	11/26/13	1200	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0.1	N
13617048	Berkeley	11/27/13	1120	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	N
13619832	Berkeley	12/11/13	1837	2	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	N
14511278	Berkeley	2/14/14	1545	2	0	4	US	Primary	17	Main	N	Secondary		570	Main	0.1	N
14511878	Berkeley	2/17/14	842	2	0	0	US	Primary	17	Main	N	Secondary		570	Main	0	N
14534042	Berkeley	4/5/14	1333	1	0	0	US	Primary	17	Main	N	Secondary		1258	Main	0	N

14536841	Berkeley	4/20/14	1112	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0.1 S
14541860	Berkeley	5/8/14	1745	2	0	0	US Primary	17	Main	N	Secondary	1258	Main	0 S
14546409	Berkeley	5/22/14	1230	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0 N
14551651	Berkeley	5/30/14	2115	2	0	1	US Primary	17	Main	N	Secondary	570	Main	0.1 N
14555022	Berkeley	6/9/14	1755	2	0	2	US Primary	17	Main	N	Secondary	570	Main	0.1 N
14566025	Berkeley	7/3/14	956	2	0	1	US Primary	17	Main	N	Secondary	570	Main	0 N
14562891	Berkeley	7/3/14	953	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0 N
14567258	Berkeley	7/16/14	2005	2	0	0	US Primary	17	Main	N	Secondary	1258	Main	0 N
14568670	Berkeley	7/21/14	1208	3	0	0	US Primary	17	Main	N	Secondary	570	Main	0 N
14568650	Berkeley	7/21/14	1225	2	0	0	US Primary	17	Main	N	Secondary	1258	Main	0 N
14575294	Berkeley	8/8/14	1541	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0.1 N
14576450	Berkeley	8/8/14	1540	6	0	4	US Primary	17	Main	N	Secondary	570	Main	0.1 N
14582479	Berkeley	8/17/14	2030	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0.1 N
14581481	Berkeley	8/22/14	1811	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0 N
14588028	Berkeley	9/4/14	2018	2	0	0	US Primary	17	Main	N	Secondary	1258	Main	0 N
14587921	Berkeley	9/8/14	735	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0 N
14595013	Berkeley	9/26/14	1238	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0 N
14598607	Berkeley	9/30/14	1622	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0 N
14605811	Berkeley	10/10/14	1800	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0.1 N
14603571	Berkeley	10/15/14	1520	2	0	0	US Primary	17	Main	N	Secondary	1258	Main	0 S
14606045	Berkeley	10/24/14	835	2	0	2	US Primary	17	Main	N	Secondary	570	Main	0.1 N
14606142	Berkeley	10/25/14	950	2	0	1	US Primary	17	Main	N	Secondary	570	Main	0 N
14608927	Berkeley	10/29/14	755	2	0	0	US Primary	17	Main	N	Secondary	570	Main	0.1 N

Non-Junction	3	N	Dark (Lighti	Clear, No A	Dry	Distracted/Inattention	0	0
Four-Way Intersection	4	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	0	0
Four-Way Intersection	4	E	Daylight	Clear, No A	Dry	Made an Improper Turn	0	0
Driveway	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	Driving Too Fast for Cor	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions		
Four-Way Intersection	4	S	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		
Driveway	1	N	Daylight	Rain	Wet	Failed To Yield Right of Way		
Driveway	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Non-Junction	3	N	Dark (Stree	Cloudy	Wet	Distracted/Inattention	On Cell Phone	
Non-Junction	1	N	Daylight	Clear, No A	Dry	Distracted/Inattention	Driving Too Fast for Cor	
Four-Way Intersection	3	N	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	Unknown	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Other Improper Action		
Non-Junction	1	S	Dawn	Clear, No A	Dry	Driving Too Fast for Conditions		
Driveway	2		Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way		
Non-Junction	3	S	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	Vision Obscured (Withir	
Non-Junction	3	N	Dark (Stree	Clear, No A	Dry	Improper Lane Usage/Change		
Non-Junction	2	S	Daylight	Clear, No A	Dry	Followed Too Closely	Distracted/Inattention	
T-Intersection	2	N	Dark (Stree	Clear, No A	Dry	Driver Under Influence		
Non-Junction	1	S	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions		
Non-Junction	1	S	Dark (Stree	Cloudy	Dry	Driving Too Fast for Conditions	Distracted/Inattention	
Driveway	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Driveway	3	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Driveway	1	E	Daylight	Clear, No A	Dry	Other Improper Action		
Four-Way Intersection	2	W	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		
Four-Way Intersection	4	N	Daylight	Clear, No A	Dry	Distracted/Inattention		
Non-Junction	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Four-Way Intersection	2	S	Daylight	Clear, No A	Dry	Followed Too Closely		
Non-Junction	1	N	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention	
Non-Junction	1	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		
Non-Junction	3	N	Daylight	Rain	Wet	Improper Lane Usage/Change		
Non-Junction	3	S	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		
Non-Junction	1	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way		
Four-Way Intersection	2	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		

Four-Way Intersection	4	W	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Non-Junction	3	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		
Non-Junction	1	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions		
Non-Junction	4	N	Dark (Lighti	Rain	Wet	Distracted/Inattention		
Non-Junction	4	S	Daylight	Clear, No A	Dry	Distracted/Inattention		
Non-Junction	2	N	Dark (Lighti	Clear, No A	Dry	Driving Too Fast for Conditions		
Non-Junction	2	N	Dark (Lighti	Clear, No A	Dry	Driving Too Fast for Conditions		
Non-Junction	2	S	Daylight	Clear, No A	Dry	Driver Under Influence		
T-Intersection	2	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Non-Junction	2	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		
Driveway	3	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions		
Four-Way Intersection	4	S	Daylight	Cloudy	Dry	Failed To Yield Right of Way		
Four-Way Intersection			Daylight	Clear, No A	Dry	Other Improper Action		
Non-Junction	2	N	Daylight	Clear, No A	Dry	Distracted/Inattention		
Non-Junction	3	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions		
Non-Junction	2	N	Daylight	Clear, No A	Dry	Followed Too Closely		
Non-Junction	2	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions		
Driveway	3	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Non-Junction	3	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way		
Driveway	3	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way		
Non-Junction	1	N	Daylight	Rain	Wet	Failed To Yield Right of Way	Driving Too Fast for Cor	
Driveway	1	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way		
T-Intersection	1	N	Daylight	Cloudy	Wet	Failed To Yield Right of Way		
Non-Junction	2	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	Distracted/Inattention	
Non-Junction	3	N	Dark (No Li	Rain	Wet	Driving Too Fast for Conditions		
Four-Way Intersection	1	S	Daylight	Clear, No A	Dry	Disregarded Signs/Signals/Etc.		
Four-Way Intersection	1	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change		
Non-Junction	2	S	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions		
Non-Junction	3	S	Dawn	Cloudy	Wet	Driving Too Fast for Conditions		
Non-Junction	3	N	Dusk	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention	
Non-Junction	1	S	Daylight	Cloudy	Wet	Driving Too Fast for Conditions		
Driveway	1	S	Daylight	Rain	Wet	Made an Improper Turn		
T-Intersection	1	N	Dark (Stree	Cloudy	Dry	Driving Too Fast for Conditions		

Non-Junction	1	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Four-Way Intersection	3	N	Daylight	Rain	Wet	Distracted/Inattention	
Four-Way Intersection	2	S	Dark (Lighti	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Four-Way Intersection	2	S	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	1	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction			Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	3	N	Daylight	Clear, No A	Dry	Distracted/Inattention	
Four-Way Intersection	3	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	2	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	3	S	Daylight	Cloudy	Wet	Failed To Yield Right of Way	
Non-Junction	3	N	Dark (Stree	Clear, No A	Dry	Made an Improper Turn	
Four-Way Intersection	3	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
T-Intersection	1	N	Daylight	Clear, No A	Dry	Disregarded Signs/Signals/Etc	
Driveway	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	0	N	Daylight	Clear, No A	Dry	Distracted/Inattention	Made an Improper Turr
Cross-Over	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	S	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	2	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	3	S	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	2	S	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	3	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	S	Daylight	Cloudy	Dry	Medical Related	
Non-Junction	2	S	Daylight	Clear, No A	Dry	Other Improper Action	
Non-Junction			Dark (Stree	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	2		Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	2	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	3	S	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	0	S	Dark (Stree	Clear, No A	Dry	Made an Improper Turn	
Four-Way Intersection	1	N	Dark (Stree	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Disregarded Signs/Signals/Etc	

T-Intersection	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	3	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Cross-Over	1	N	Daylight	Clear, No A	Dry	Other Improper Action	
Driveway	3	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	0	N	Dark (Stree	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	1	N	Daylight	Clear, No A	Dry	Followed Too Closely	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Distracted/Inattention	Glare
Non-Junction	2	N	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	N	Dark (Stree	Cloudy	Dry	Driver Under Influence	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	S	Daylight	Cloudy	Wet	Driving Too Fast for Conditions	
Non-Junction	2	N	Daylight	Cloudy	Wet	Failed To Yield Right of Way	
Four-Way Intersection	2	N	Daylight	Clear, No A	Dry	Made an Improper Turn	
Non-Junction	5	S	Dark (Stree	Clear, No A	Dry	Improper Lane Usage/Change	
Driveway	2	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	3	N	Daylight	Clear, No A	Dry	Distracted/Inattention	
Four-Way Intersection	2	S	Dusk	Clear, No A	Dry	Brakes	
Non-Junction	1	E	Daylight	Clear, No A	Dry	Other Improper Action	
Non-Junction	4	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	S	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Driveway	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	1	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	S	Daylight	Clear, No A	Dry	Other Improper Action	
Four-Way Intersection	2	S	Dark (Stree	Clear, No A	Dry	Driver Under Influence	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	2	S	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	3	N	Daylight	Clear, No A	Dry	Other Improper Action	Distracted/Inattention
Non-Junction	1	S	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	Improper Lane Usage/C
Non-Junction	2	S	Daylight	Clear, No A	Dry	Other Improper Action	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Distracted/Inattention	

Non-Junction	2	N	Daylight	Rain	Wet	Improper Lane Usage/Change	
Non-Junction	3	S	Daylight	Rain	Wet	Swerving To Avoid Object	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Non-Junction	3	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	S	Daylight	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction	2	S	Daylight	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction	5	N	Dark (Stree	Clear, No A	Dry	Improper Lane Usage/Change	
Non-Junction	3	N	Dark (No Li	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	1	N	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	1	N	Daylight	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction	3	N	Daylight	Cloudy	Wet	Driving Too Fast for Conditions	
Non-Junction	2	N	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	3	N	Daylight	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction	1	S	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	3	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	2	N	Dark (No Li	Clear, No A	Dry	Other Improper Action	
Non-Junction	1	N	Daylight	Clear, No A	Dry	Wrong Side/Wrong Way	
Non-Junction	1	N	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	1	N	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	1	N	Daylight	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction	2	N	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Y-Intersection	1	S	Daylight	Clear, No A	Dry	Distracted/Inattention	
Four-Way Intersection	1	N	Daylight	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction			Dark (Stree	Cloudy	Wet	Tires/Wheels	
Driveway	3	N	Dark (Lighti	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	4	S	Dark (Stree	Clear, No A	Ice	Road Surface Condition (ie. Wet)	
Non-Junction	1	S	Daylight	Fog,Smog,S	Wet	Distracted/Inattention	
Non-Junction	4	N	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention
Four-Way Intersection	4		Daylight	Clear, No A	Dry	Distracted/Inattention	
Driveway	2		Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	3		Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	On Cell Phone

Driveway	2	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	2	Dark (No Li	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	Daylight	Clear, No A	Dry	Other Improper Action	
Non-Junction	3	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Four-Way Intersection	1	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	1	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	3	Dark (Stree	Rain	Wet	Other Improper Action	
Non-Junction	0	Daylight	Clear, No A	Dry	Distracted/Inattention	
Driveway	2	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	4	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Made an Improper Turn	
Non-Junction	2	Dusk	Clear, No A	Dry	Distracted/Inattention	
Driveway	1	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	1	Dark (Lighti	Clear, No A	Dry	Improper Lane Usage/Change	
Driveway	3	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	1	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	2	Daylight	Cloudy	Dry	Failed To Yield Right of Way	
Non-Junction	1	Daylight	Rain	Wet	Driving Too Fast for Conditions	
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Other Improper Action	
Driveway	3	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
T-Intersection	2	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention
Driveway	1	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	4	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	1	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	

Non-Junction	1	Daylight	Clear, No A	Dry	Other Improper Action	
Non-Junction	1	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	1	Dark (Stree	Clear, No A	Dry	Driver Under Influence	
Driveway	1	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	2	Daylight	Cloudy	Dry	Failed To Yield Right of Way	
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Other Improper Action	
Driveway	1	Daylight	Clear, No A	Dry	Distracted/Inattention	Failed To Yield Right of
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	2	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	1	Dark (Stree	Clear, No A	Dry	Driver Under Influence	
Driveway	2	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	3	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention
Driveway	1	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Other Improper Action	
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Followed Too Closely	
Non-Junction	1	Dark (Stree	Clear, No A	Dry	Distracted/Inattention	Followed Too Closely
Non-Junction	3	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	2	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	0	Dawn	Clear, No A	Dry	Improper Lane Usage/Change	
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Non-Junction	3	Daylight	Clear, No A	Dry	Truck Coupling	
Driveway	3	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	3	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	1	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention
Driveway	2	Daylight	Rain	Wet	Failed To Yield Right of Way	
Non-Junction	2	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Four-Way Intersection	2	Dark (Stree	Clear, No A	Dry	Fatigued/Asleep	Distracted/Inattention
Driveway	3	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	Debris
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Cargo	

Driveway	3	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Driveway	1	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	3	Dark (Stree	Clear, No A	Dry	Driving Too Fast for Conditions	Ran Off Road
Driveway	0	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Driveway	3	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	Distracted/Inattention
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	0	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Four-Way Intersection	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Four-Way Intersection	1	Daylight	Clear, No A	Dry	Disregarded Signs/Signals/Etc.	Failed To Yield Right of
Non-Junction	1	Daylight	Cloudy	Dry	Improper Lane Usage/Change	
Non-Junction	2	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Driveway	3	Dark (Stree	Clear, No A	Dry	Failed To Yield Right of Way	
Driveway	3	Daylight	Clear, No A	Dry	Failed To Yield Right of Way	
Non-Junction	3	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Non-Junction	1	Daylight	Rain	Wet	Improper Lane Usage/Change	
Non-Junction	2	Daylight	Clear, No A	Dry	Distracted/Inattention	Driving Too Fast for Cor
Non-Junction	4	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Non-Junction	2	Daylight	Clear, No A	Dry	Improper Lane Usage/Change	
Four-Way Intersection	4	Daylight	Clear, No A	Other	Driving Too Fast for Conditions	
Non-Junction	1	Daylight	Clear, No A	Dry	Distracted/Inattention	
Non-Junction	3	Daylight	Clear, No A	Dry	Driving Too Fast for Conditions	
Non-Junction	1	Daylight	Clear, No A	Dry	Followed Too Closely	

	0	0	Motor Vehi	Roadway	33022140	80083270	33	0.033333	0.005944	33.03928	80	0.133333	0.009083
	0	0	Motor Vehi	Roadway	33022110	80083330	33	0.033333	0.005861	33.03919	80	0.133333	0.00925
	0	0	Motor Vehi	Roadway	33022070	80083530	33	0.033333	0.00575	33.03908	80	0.133333	0.009806
Fast for Conditions			Motor Vehi	Roadway	33022230	80083120	33	0.033333	0.006194	33.03953	80	0.133333	0.008667
			Motor Vehi	Roadway	33022160	80083330	33	0.033333	0.006	33.03933	80	0.133333	0.00925
			Motor Vehi	Roadway	33022170	80083440	33	0.033333	0.006028	33.03936	80	0.133333	0.009556
			Motor Vehi	Roadway	33022200	80083140	33	0.033333	0.006111	33.03944	80	0.133333	0.008722
			Motor Vehi	Roadway	33022200	80083140	33	0.033333	0.006111	33.03944	80	0.133333	0.008722
			Motor Vehi	Roadway	33022150	80083280	33	0.033333	0.005972	33.03931	80	0.133333	0.009111
Fast for Conditions			Motor Vehi	Unknown	33022190	80083000	33	0.033333	0.006083	33.03942	80	0.133333	0.008333
			Motor Vehi	Roadway	33022040	80083310	33	0.033333	0.005667	33.039	80	0.133333	0.009194
			Motor Vehi	Roadway	33022260	80083000	33	0.033333	0.006278	33.03961	80	0.133333	0.008333
			Motor Vehi	Roadway	33022250	80083070	33	0.033333	0.00625	33.03958	80	0.133333	0.008528
			Motor Vehi	Roadway	33022101	80083340	33	0.033333	0.005836	33.03917	80	0.133333	0.009278
ured (Within Unit)			Motor Vehi	Roadway	33022230	80083390	33	0.033333	0.006194	33.03953	80	0.133333	0.009417
			Motor Vehi	Roadway	33022150	80083220	33	0.033333	0.005972	33.03931	80	0.133333	0.008944
			Motor Vehi	Roadway	33022250	80083460	33	0.033333	0.00625	33.03958	80	0.133333	0.009611
			Motor Vehi	Roadway	33022140	80083320	33	0.033333	0.005944	33.03928	80	0.133333	0.009222
			Motor Vehi	Roadway	33022250	80083300	33	0.033333	0.00625	33.03958	80	0.133333	0.009167
			Motor Vehi	Roadway	33022250	80083300	33	0.033333	0.00625	33.03958	80	0.133333	0.009167
			Motor Vehi	Roadway	33022170	80083280	33	0.033333	0.006028	33.03936	80	0.133333	0.009111
			Motor Vehi	Roadway	33022150	80083060	33	0.033333	0.005972	33.03931	80	0.133333	0.0085
			Motor Vehi	Roadway	33022300	80083520	33	0.033333	0.006389	33.03972	80	0.133333	0.009778
			Motor Vehi	Roadway	33022130	80083480	33	0.033333	0.005917	33.03925	80	0.133333	0.009667
			Motor Vehi	Roadway	33022050	80083370	33	0.033333	0.005694	33.03903	80	0.133333	0.009361
			Motor Vehi	Roadway	33022170	80083230	33	0.033333	0.006028	33.03936	80	0.133333	0.008972
			Motor Vehi	Roadway	33022300	80083480	33	0.033333	0.006389	33.03972	80	0.133333	0.009667
			Motor Vehi	Roadway	33022330	80083480	33	0.033333	0.006472	33.03981	80	0.133333	0.009667
			Motor Vehi	Roadway	33022270	80083530	33	0.033333	0.006306	33.03964	80	0.133333	0.009806
			Motor Vehi	Roadway	33022150	80083230	33	0.033333	0.005972	33.03931	80	0.133333	0.008972
			Motor Vehi	Roadway	33022050	80083220	33	0.033333	0.005694	33.03903	80	0.133333	0.008944
			Motor Vehi	Roadway	33022220	80083160	33	0.033333	0.006167	33.0395	80	0.133333	0.008778
			Motor Vehi	Roadway	33022040	80083350	33	0.033333	0.005667	33.039	80	0.133333	0.009306

	Motor Vehi	Roadway	33022240	80083480		33	0.033333	0.006222	33.03956		80	0.133333	0.009667
	Motor Vehi	Roadway	33022160	80083220		33	0.033333	0.006	33.03933		80	0.133333	0.008944
	Motor Vehi	Roadway	33022070	80083410		33	0.033333	0.00575	33.03908		80	0.133333	0.009472
	Motor Vehi	Roadway	33022060	80083410		33	0.033333	0.005722	33.03906		80	0.133333	0.009472
	Motor Vehi	Roadway	33022170	80083430		33	0.033333	0.006028	33.03936		80	0.133333	0.009528
	Motor Vehi	Roadway	33022250	80083090		33	0.033333	0.00625	33.03958		80	0.133333	0.008583
	Other	Outside Tra	33022140	80083260		33	0.033333	0.005944	33.03928		80	0.133333	0.009056
	Motor Vehi	Roadway	33022190	80083230		33	0.033333	0.006083	33.03942		80	0.133333	0.008972
	Motor Vehi	Roadway	33022150	80083040		33	0.033333	0.005972	33.03931		80	0.133333	0.008444
	Motor Vehi	Roadway	33022250	80083070		33	0.033333	0.00625	33.03958		80	0.133333	0.008528
	Motor Vehi	Roadway	33022330	80083230		33	0.033333	0.006472	33.03981		80	0.133333	0.008972
	Motor Vehi	Roadway	33022050	80083010		33	0.033333	0.005694	33.03903		80	0.133333	0.008361
	Motor Vehi	Roadway	33022130	80083020		33	0.033333	0.005917	33.03925		80	0.133333	0.008389
	Motor Vehi	Roadway	33024100	80083100		33	0.033333	0.011389	33.04472		80	0.133333	0.008611
	Motor Vehi	Roadway	33022200	80083250		33	0.033333	0.006111	33.03944		80	0.133333	0.009028
proper Turn	Motor Vehi	Median	33022260	80083330		33	0.033333	0.006278	33.03961		80	0.133333	0.00925
	Motor Vehi	Roadway	33022096	80083238		33	0.033333	0.005822	33.03916		80	0.133333	0.008994
	Motor Vehi	Roadway	33022230	80083480		33	0.033333	0.006194	33.03953		80	0.133333	0.009667
	Motor Vehi	Roadway	33022220	80083200		33	0.033333	0.006167	33.0395		80	0.133333	0.008889
	Motor Vehi	Roadway	33022300	80083520		33	0.033333	0.006389	33.03972		80	0.133333	0.009778
	Motor Vehi	Roadway	33022170	80083450		33	0.033333	0.006028	33.03936		80	0.133333	0.009583
	Motor Vehi	Roadway	33022070	80083380		33	0.033333	0.00575	33.03908		80	0.133333	0.009389
	Motor Vehi	Roadway	33022210	80083320		33	0.033333	0.006139	33.03947		80	0.133333	0.009222
	Motor Vehi	Roadway	33022300	80083500		33	0.033333	0.006389	33.03972		80	0.133333	0.009722
	Motor Vehi	Roadway	33022360	80083270		33	0.033333	0.006556	33.03989		80	0.133333	0.009083
	Motor Vehi	Roadway	33022020	80083340		33	0.033333	0.005611	33.03894		80	0.133333	0.009278
	Motor Vehi	Roadway	33022080	80083220		33	0.033333	0.005778	33.03911		80	0.133333	0.008944
	Motor Vehi	Roadway	33022250	80083190		33	0.033333	0.00625	33.03958		80	0.133333	0.008861
	Motor Vehi	Roadway	33022320	80083250		33	0.033333	0.006444	33.03978		80	0.133333	0.009028
	Motor Vehi	Roadway	33022090	80083410		33	0.033333	0.005806	33.03914		80	0.133333	0.009472
	Motor Vehi	Roadway	33022170	80083070		33	0.033333	0.006028	33.03936		80	0.133333	0.008528
	Motor Vehi	Roadway	33022380	80083470		33	0.033333	0.006611	33.03994		80	0.133333	0.009639
	Motor Vehi	Roadway	33022190	80083560		33	0.033333	0.006083	33.03942		80	0.133333	0.009889

	Motor Vehi Roadway	33022250	80083050	33	0.033333	0.00625	33.03958	80	0.133333	0.008472
	Motor Vehi Roadway	33022170	80083220	33	0.033333	0.006028	33.03936	80	0.133333	0.008944
	Motor Vehi Roadway	33022380	80083490	33	0.033333	0.006611	33.03994	80	0.133333	0.009694
	Motor Vehi Roadway	33022150	80083220	33	0.033333	0.005972	33.03931	80	0.133333	0.008944
	Motor Vehi Roadway	33022090	80083320	33	0.033333	0.005806	33.03914	80	0.133333	0.009222
	Motor Vehi Roadway	33022240	80083120	33	0.033333	0.006222	33.03956	80	0.133333	0.008667
	Motor Vehi Roadway	33022260	80083510	33	0.033333	0.006278	33.03961	80	0.133333	0.00975
	Motor Vehi Roadway	33022260	80083480	33	0.033333	0.006278	33.03961	80	0.133333	0.009667
	Motor Vehi Roadway	33022110	80083380	33	0.033333	0.005861	33.03919	80	0.133333	0.009389
	Motor Vehi Roadway	33022290	80083530	33	0.033333	0.006361	33.03969	80	0.133333	0.009806
	Motor Vehi Roadway	33022170	80083400	33	0.033333	0.006028	33.03936	80	0.133333	0.009444
	Motor Vehi Roadway	33022120	80083050	33	0.033333	0.005889	33.03922	80	0.133333	0.008472
	Motor Vehi Roadway	33022090	80083420	33	0.033333	0.005806	33.03914	80	0.133333	0.0095
	Motor Vehi Roadway	33022130	80083260	33	0.033333	0.005917	33.03925	80	0.133333	0.009056
	Motor Vehi Roadway	33022270	80083500	33	0.033333	0.006306	33.03964	80	0.133333	0.009722
	Motor Vehi Roadway	33022250	80083460	33	0.033333	0.00625	33.03958	80	0.133333	0.009611
	Motor Vehi Roadway	33022210	80083250	33	0.033333	0.006139	33.03947	80	0.133333	0.009028
	Motor Vehi Roadway	33022030	80083340	33	0.033333	0.005639	33.03897	80	0.133333	0.009278
	Motor Vehi Roadway	33022280	80083490	33	0.033333	0.006333	33.03967	80	0.133333	0.009694
	Motor Vehi Roadway	33022150	80083020	33	0.033333	0.005972	33.03931	80	0.133333	0.008389
	Motor Vehi Roadway	33022080	80083420	33	0.033333	0.005778	33.03911	80	0.133333	0.0095
	Motor Vehi Roadway	33022190	80083260	33	0.033333	0.006083	33.03942	80	0.133333	0.009056
	Motor Vehi Roadway	33022130	80083200	33	0.033333	0.005917	33.03925	80	0.133333	0.008889
	Motor Vehi Roadway	33022210	80083190	33	0.033333	0.006139	33.03947	80	0.133333	0.008861
	Motor Vehi Roadway	33022320	80083230	33	0.033333	0.006444	33.03978	80	0.133333	0.008972
	Motor Vehi Roadway	33022150	80083380	33	0.033333	0.005972	33.03931	80	0.133333	0.009389
	Motor Vehi Roadway	33022050	80083440	33	0.033333	0.005694	33.03903	80	0.133333	0.009556
	Motor Vehi Roadway	33022160	80083120	33	0.033333	0.006	33.03933	80	0.133333	0.008667
	Motor Vehi Roadway	33022040	80083060	33	0.033333	0.005667	33.039	80	0.133333	0.0085
ıne Usage/Change	Motor Vehi Roadway	33022250	80083290	33	0.033333	0.00625	33.03958	80	0.133333	0.009139
	Motor Vehi Roadway	33022000	80083300	33	0.033333	0.005556	33.03889	80	0.133333	0.009167
	Motor Vehi Roadway	33022240	80083120	33	0.033333	0.006222	33.03956	80	0.133333	0.008667
	Overturn/R Roadway	33022100	80083000	33	0.033333	0.005833	33.03917	80	0.133333	0.008333

Motor Vehi	Roadway	33022200	80083200	33	0.033333	0.006111	33.03944	80	0.133333	0.008889
Motor Vehi	Roadway	33022270	80083310	33	0.033333	0.006306	33.03964	80	0.133333	0.009194
Motor Vehi	Roadway	33022140	80083020	33	0.033333	0.005944	33.03928	80	0.133333	0.008389
Motor Vehi	Roadway	33022080	80083380	33	0.033333	0.005778	33.03911	80	0.133333	0.009389
Motor Vehi	Roadway	33022250	80083150	33	0.033333	0.00625	33.03958	80	0.133333	0.00875
Motor Vehi	Roadway	33022250	80083150	33	0.033333	0.00625	33.03958	80	0.133333	0.00875
Motor Vehi	Roadway	33022600	80083300	33	0.033333	0.007222	33.04056	80	0.133333	0.009167
Motor Vehi	Roadway	33022120	80083060	33	0.033333	0.005889	33.03922	80	0.133333	0.0085
Motor Vehi	Roadway	33022230	80083130	33	0.033333	0.006194	33.03953	80	0.133333	0.008694
Motor Vehi	Roadway	33022280	80083530	33	0.033333	0.006333	33.03967	80	0.133333	0.009806
Motor Vehi	Roadway	33022150	80083220	33	0.033333	0.005972	33.03931	80	0.133333	0.008944
Motor Vehi	Roadway	33022130	80083100	33	0.033333	0.005917	33.03925	80	0.133333	0.008611
Motor Vehi	Roadway	33022070	80083230	33	0.033333	0.00575	33.03908	80	0.133333	0.008972
Motor Vehi	Roadway	33022210	80083000	33	0.033333	0.006139	33.03947	80	0.133333	0.008333
Motor Vehi	Roadway	33022170	80083190	33	0.033333	0.006028	33.03936	80	0.133333	0.008861
Motor Vehi	Roadway	33022090	80083400	33	0.033333	0.005806	33.03914	80	0.133333	0.009444
Motor Vehi	Roadway	33022230	80083130	33	0.033333	0.006194	33.03953	80	0.133333	0.008694
Motor Vehi	Roadway	33022140	80083230	33	0.033333	0.005944	33.03928	80	0.133333	0.008972
Motor Vehi	Roadway	33022350	80083230	33	0.033333	0.006528	33.03986	80	0.133333	0.008972
Motor Vehi	Roadway	33022350	80083230	33	0.033333	0.006528	33.03986	80	0.133333	0.008972
Motor Vehi	Roadway	33022120	80083310	33	0.033333	0.005889	33.03922	80	0.133333	0.009194
Motor Vehi	Roadway	33022100	80083270	33	0.033333	0.005833	33.03917	80	0.133333	0.009083
Motor Vehi	Roadway	33022170	80083150	33	0.033333	0.006028	33.03936	80	0.133333	0.00875
Motor Vehi	Roadway	33022200	80083500	33	0.033333	0.006111	33.03944	80	0.133333	0.009722
Motor Vehi	Roadway	33022120	80083550	33	0.033333	0.005889	33.03922	80	0.133333	0.009861
Other(Post,	Roadside	33022090	80083330	33	0.033333	0.005806	33.03914	80	0.133333	0.00925
Motor Vehi	Roadway	33022080	80083320	33	0.033333	0.005778	33.03911	80	0.133333	0.009222
Bridge Rail	Roadway	33022210	80083420	33	0.033333	0.006139	33.03947	80	0.133333	0.0095
Motor Vehi	Roadway	33022090	80083420	33	0.033333	0.005806	33.03914	80	0.133333	0.0095
Motor Vehi	Roadway	33022120	80083050	33	0.033333	0.005889	33.03922	80	0.133333	0.008472
Other Mov	Roadway	33022152	80083523	33	0.033333	0.005978	33.03931	80	0.133333	0.009786
Motor Vehi	Roadway	33022206	80083242	33	0.033333	0.006128	33.03946	80	0.133333	0.009006
Motor Vehi	Roadway	33022202	80083268	33	0.033333	0.006117	33.03945	80	0.133333	0.009078

Motor Vehi Roadway	33022166	80083430	33	0.033333	0.006017	33.03935	80	0.133333	0.009528
Motor Vehi Roadway	33022144	80083545	33	0.033333	0.005956	33.03929	80	0.133333	0.009847
Motor Vehi Roadway	33022216	80083199	33	0.033333	0.006156	33.03949	80	0.133333	0.008886
Motor Vehi Roadway	33022195	80083314	33	0.033333	0.006097	33.03943	80	0.133333	0.009206
Motor Vehi Roadway	33022141	80083556	33	0.033333	0.005947	33.03928	80	0.133333	0.009878
Motor Vehi Roadway	33022195	80083203	33	0.033333	0.006097	33.03943	80	0.133333	0.008897
Motor Vehi Roadway	33022177	80083394	33	0.033333	0.006047	33.03938	80	0.133333	0.009428
Motor Vehi Roadway	33022141	80083577	33	0.033333	0.005947	33.03928	80	0.133333	0.009936
Motor Vehi Roadway	33022137	80083570	33	0.033333	0.005936	33.03927	80	0.133333	0.009917
Motor Vehi Roadway	33022180	80083386	33	0.033333	0.006056	33.03939	80	0.133333	0.009406
Motor Vehi Roadway	33022155	80083512	33	0.033333	0.005986	33.03932	80	0.133333	0.009756
Motor Vehi Roadway	33022141	80083199	33	0.033333	0.005947	33.03928	80	0.133333	0.008886
Motor Vehi Median	33022216	80083188	33	0.033333	0.006156	33.03949	80	0.133333	0.008856
Motor Vehi Roadway	33022202	80083275	33	0.033333	0.006117	33.03945	80	0.133333	0.009097
Motor Vehi Roadway	33022141	80083548	33	0.033333	0.005947	33.03928	80	0.133333	0.009856
Motor Vehi Roadway	33022144	80083545	33	0.033333	0.005956	33.03929	80	0.133333	0.009847
Motor Vehi Roadway	33022209	80083210	33	0.033333	0.006136	33.03947	80	0.133333	0.008917
Motor Vehi Roadway	33022188	80083336	33	0.033333	0.006078	33.03941	80	0.133333	0.009267
Motor Vehi Roadway	33022134	80083566	33	0.033333	0.005928	33.03926	80	0.133333	0.009906
Motor Vehi Roadway	33022180	80083397	33	0.033333	0.006056	33.03939	80	0.133333	0.009436
Motor Vehi Roadway	33022231	80083098	33	0.033333	0.006197	33.03953	80	0.133333	0.008606
Motor Vehi Roadway	33022234	80083098	33	0.033333	0.006206	33.03954	80	0.133333	0.008606
Motor Vehi Roadway	33022195	80083275	33	0.033333	0.006097	33.03943	80	0.133333	0.009097
Motor Vehi Roadway	33022159	80083451	33	0.033333	0.005997	33.03933	80	0.133333	0.009586
Motor Vehi Roadway	33022198	80083278	33	0.033333	0.006106	33.03944	80	0.133333	0.009106
Motor Vehi Roadway	33022159	80083487	33	0.033333	0.005997	33.03933	80	0.133333	0.009686
Motor Vehi Roadway	33022144	80083548	33	0.033333	0.005956	33.03929	80	0.133333	0.009856
Motor Vehi Roadway	33022177	80083394	33	0.033333	0.006047	33.03938	80	0.133333	0.009428
Motor Vehi Roadway	33022213	80083167	33	0.033333	0.006147	33.03948	80	0.133333	0.008797
Motor Vehi Roadway	33022134	80083592	33	0.033333	0.005928	33.03926	80	0.133333	0.009978
Motor Vehi Roadway	33022180	80083358	33	0.033333	0.006056	33.03939	80	0.133333	0.009328
Motor Vehi Roadway	33022159	80083505	33	0.033333	0.005997	33.03933	80	0.133333	0.009736
Motor Vehi Roadway	33022245	80083044	33	0.033333	0.006236	33.03957	80	0.133333	0.008456

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Motor Vehi Roadway	33022144	80083566	33	0.033333	0.005956	33.03929	80	0.133333	0.009906
Motor Vehi Roadway	33022216	80083163	33	0.033333	0.006156	33.03949	80	0.133333	0.008786
Motor Vehi Roadway	33022152	80083523	33	0.033333	0.005978	33.03931	80	0.133333	0.009786
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Motor Vehi Roadway	33022177	80083293	33	0.033333	0.006047	33.03938	80	0.133333	0.009147
Motor Vehi Roadway	33022141	80083566	33	0.033333	0.005947	33.03928	80	0.133333	0.009906
Motor Vehi Roadway	33022195	80083293	33	0.033333	0.006097	33.03943	80	0.133333	0.009147
Motor Vehi Roadway	33022166	80083426	33	0.033333	0.006017	33.03935	80	0.133333	0.009517
Motor Vehi Roadway	33022209	80083232	33	0.033333	0.006136	33.03947	80	0.133333	0.008978
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Motor Vehi Roadway	33022180	80083358	33	0.033333	0.006056	33.03939	80	0.133333	0.009328
Motor Vehi Roadway	33022162	80083433	33	0.033333	0.006006	33.03934	80	0.133333	0.009536
Motor Vehi Roadway	33022144	80083548	33	0.033333	0.005956	33.03929	80	0.133333	0.009856
Motor Vehi Roadway	33022177	80083368	33	0.033333	0.006047	33.03938	80	0.133333	0.009356
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Motor Vehi Roadway	33022137	80083595	33	0.033333	0.005936	33.03927	80	0.133333	0.009986
Motor Vehi Roadway	33022224	80083134	33	0.033333	0.006178	33.03951	80	0.133333	0.008706
Motor Vehi Median	33022198	80083282	33	0.033333	0.006106	33.03944	80	0.133333	0.009117
Motor Vehi Roadway	33022141	80083577	33	0.033333	0.005947	33.03928	80	0.133333	0.009936
Motor Vehi Roadway	33022141	80083566	33	0.033333	0.005947	33.03928	80	0.133333	0.009906
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Motor Vehi Roadway	33022177	80083332	33	0.033333	0.006047	33.03938	80	0.133333	0.009256
Motor Vehi Roadway	33022198	80083250	33	0.033333	0.006106	33.03944	80	0.133333	0.009028
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	Motor Vehi Roadway	33022177	80083397	33	0.033333	0.006047	33.03938	80	0.133333	0.009436	
	Motor Vehi Roadway	33022198	80083232	33	0.033333	0.006106	33.03944	80	0.133333	0.008978	
	Motor Vehi Median	33022198	80083260	33	0.033333	0.006106	33.03944	80	0.133333	0.009056	
	Motor Vehi Roadway	33022166	80083412	33	0.033333	0.006017	33.03935	80	0.133333	0.009478	
	Motor Vehi Roadway	33022148	80083520	33	0.033333	0.005967	33.0393	80	0.133333	0.009778	
	Motor Vehi Roadway	33022162	80083455	33	0.033333	0.006006	33.03934	80	0.133333	0.009597	
	Motor Vehi Roadway	33022188	80083318	33	0.033333	0.006078	33.03941	80	0.133333	0.009217	
eld Right of Way	Motor Vehi Roadway	33022162	80083444	33	0.033333	0.006006	33.03934	80	0.133333	0.009567	
	Motor Vehi Roadway	33022216	80083170	33	0.033333	0.006156	33.03949	80	0.133333	0.008806	
	Motor Vehi Roadway	33022220	80083170	33	0.033333	0.006167	33.0395	80	0.133333	0.008806	
	Motor Vehi Roadway	33022234	80083077	33	0.033333	0.006206	33.03954	80	0.133333	0.008547	
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	Motor Vehi Roadway	33022188	80083311	33	0.033333	0.006078	33.03941	80	0.133333	0.009197	
Fast for Conditions	Motor Vehi Roadway	33022144	80083520	33	0.033333	0.005956	33.03929	80	0.133333	0.009778	
	Motor Vehi Roadway	33022195	80083307	33	0.033333	0.006097	33.03943	80	0.133333	0.009186	
	Motor Vehi Roadway	33022206	80083235	33	0.033333	0.006128	33.03946	80	0.133333	0.008986	
	Motor Vehi Roadway	33022141	80083559	33	0.033333	0.005947	33.03928	80	0.133333	0.009886	
	Motor Vehi Roadway	33022224	80083145	33	0.033333	0.006178	33.03951	80	0.133333	0.008736	
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	Motor Vehi Roadway	33022234	80083084	33	0.033333	0.006206	33.03954	80	0.133333	0.008567	

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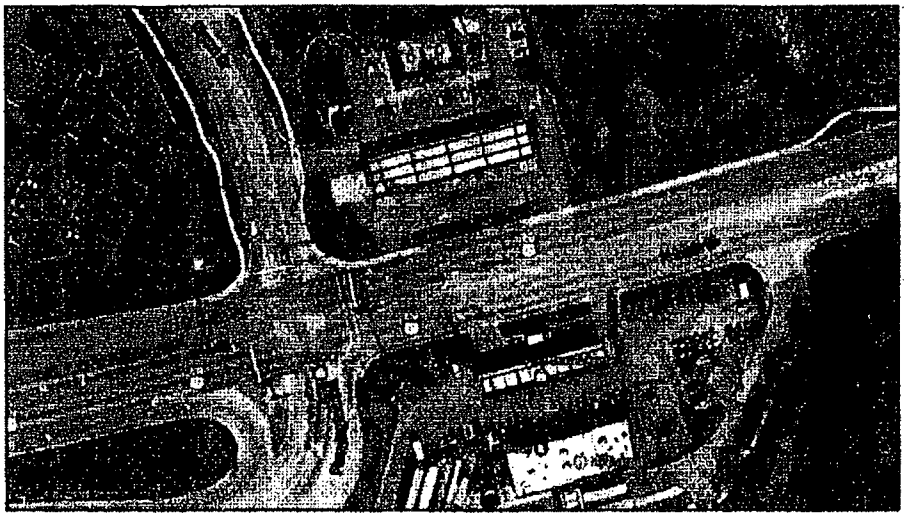
STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BERKELEY)	NINTH JUDICIAL CIRCUIT
Cynthia Wright and Richard Wright,)	Civil Action No.: 2016-CP-08-334
)	
Plaintiffs,)	
)	
v.)	
)	**PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION'S MOTION FOR SUMMARY JUDGMENT**
South Carolina Department of Transportation, Pilot Travel Centers, LLC Speedway, LLC, Ashley Land Surveying, Inc., F/K/A Ashley Engineering and Surveying, Inc. and Ashley Engineering & Consulting, Inc., and Munlake Contractors, Inc.,)	
)	
Defendants.)	

Plaintiffs Cynthia and Richard Wright respectfully submit their Memorandum of Law in Opposition to Defendant South Carolina Department of Transportation's ("SCDOT") Motion for Summary Judgment.

FACTS

Cynthia and Richard Wright suffered severe injuries after being thrown from their motorcycle in an automobile collision on Highway 17 in Summerville, South Carolina on October 6, 2012. (Am. Compl. ¶¶ 27, 30). At this location, Highway 17 is a multilane surface road in a heavily traveled area near a "very busy" intersection and within a few hundred feet of an Interstate 26 interchange. W. Mulligan Dep. 19:2-3; 63:18-19, excerpts attached as **EXHIBIT 1**; D. Sena Dep. 113:8-9, excerpts attached as **EXHIBIT 2**. At the time of the collision, the Wrights were traveling past Pilot's gas station and convenience store which also houses a McDonald's restaurant. A competing gas station and convenience store is located directly across the street.



Pilot acquired the property in 2001 and set out to redesign the existing premises to create a Pilot Travel Center. W. Mulligan Aff. ¶¶ 5-6, attached as **EXHIBIT 3**. During this process, Pilot (and its predecessors in interest)[1] planned driveways to connect its premises to Highway 17 and submitted an "encroachment permit" (attached as **EXHIBIT 5**) to SCDOT to facilitate the driveways' construction. Id. at ¶ 8; see also SCDOT Encroachment Permit Final Approval Form, attached as **EXHIBIT 6**). Pilot's designed included three driveways to serve passenger vehicles and commercial trucks. In violation of its own rules, SCDOT approved Pilot's plan to construct one or more of these driveways in an area that was unreasonably close to an adjacent intersection. R. Clark Dep. 11:23 – 12:1-4, excerpts attached as **EXHIBIT 7**); L. Colvin Dep. 169:15-22; 173:11-16, excerpts attached as **EXHIBIT 8**). SCDOT also approved the plan despite the fact that the driveways were not the required distance from each other. R. Clark Dep. 30:23-25.

Pilot also learned SCDOT had a plan in place to install a raised, non-transversable median across the center of Highway 17 and running nearly the full length of Pilot Travel Center. (Letter

[1] Pilot redesigned the property in question as part of a joint effort between its parent company (Pilot Corp.) and Marathon Ashland Petroleum, LLC. Letter from Pilot Project Manager Gary Bloom to SCDOT, dated May 7, 2002 (attached as **EXHIBIT 4**). Pilot submitted the plans that resulted in the driveways at issue in this suit. Id.

from SCDOT Right-of-Way Manager dated Aug. 28, 2000 with handwritten notes, PILOT 000045, attached as **EXHIBIT 9**). A non-transversable median is specifically intended to increase safety for highway motorists by limiting left turns at locations that are either very busy or unreasonably close to an existing intersection. W. Mulligan Dep. 27:6-7; L. Colvin Dep. 101:9-25. Pilot worried that the planned non-transversable median could harm its business by making it harder for potential customers to make a left turn in to its parking lot. W. Mulligan Dep. 60:10-23. Accordingly, Pilot discussed the issue with SCDOT and eventually "negotiated" a resolution that would remove the proposed non-transversable median and replace it with a flush, painted median. See **EXHIBIT 9**.

As the Wrights rode along Highway 17 on October 6, 2012, a vehicle driven by Daniel Sena attempted a left turn across the painted median to which SCDOT improperly acceded and into one of the driveways SCDOT should not have approved. (Am. Compl. ¶ 29); see also Accident Report (attached as **EXHIBIT 10**). Mr. Sena did not see the Wrights and struck their motorcycle during his turn. According to Mr. Sena, if a non-transversable median had been installed in front of Pilot Travel Center, then it "could have prevented my accident and a lot more accidents and any more to come." D. Sena Dep. 119:2-4.

SUMMARY JUDGMENT STANDARD

To grant a motion for summary judgment, the court must find that "there is no genuine issue as to any material fact." Rule 56(c), SCRCP. The judge is not to weigh the evidence but rather to determine if there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 106 S. Ct. 2505, 91 L.Ed.2d 202 (1986). For claims where the preponderance of evidence burden applies, "the non-moving party is only required to submit a mere scintilla of evidence in

order to withstand a motion for summary judgment." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

In determining whether any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the party opposing summary judgment. Summer v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997); Pye v. Aycock, 325 S.C. 426, 480 S.E. 2d 455 (Ct. App. 1997). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Brockbank v. Best Capital Corp, 341 S.C. 372, 534 SE 2d 688 (2000); Moriarity v. Garden Sanctuary Church of God, 534 S.C. 150, 511 S.E.2d 699 (Ct. App.1999). "Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing & Regulation, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999).

ARGUMENT

The Wrights were injured in a severe auto collision when their motorcycle were struck by a driver attempting a left-turn at a busy intersection. The at-fault driver's fateful turn would never have been possible had SCDOT properly maintained the highway, timely responded to substantial evidence of the intersection's danger, and resisted the urge to approve an adjoining landowner's plan to increase its profits by making the intersection more dangerous. The Wrights' Complaint alleges SCDOT's negligent, grossly negligent, and reckless conduct was a proximate cause of the collision and their injuries. (Am. Compl. ¶¶ 25-30). SCDOT's motion for summary judgment on these claims should be denied because the Wrights have presented evidence on all required elements of a negligence claim and SCDOT cannot meet its burden to obtain immunity under the South Carolina Tort Claims Act ("SCTCA").

1. The Wrights' Negligence Claim Presents Factual Questions a Jury Must Answer.

Negligence is the breach of a duty of care owed by the defendant to the plaintiff. Savannah Bank, N.A. v. Stalliard, 400 S.C. 246, 251, 734 S.E.2d 161, 163-64 (2012). To prevail on their negligence claim against SCDOT, the Wrights must only prove SCDOT owed a legal duty, breached that duty by negligent act or omission, and the negligent conduct proximately caused the Wrights' damages. Id. (citing Thompson v. Poole, 349 S.C. 7, 11, 561 S.E.2d 597, 599 (2002)). The evidence in the record supports all required elements of a negligence claim, and SCDOT's summary judgment motion should be denied.

a. Legal Duty

SCDOT has extensive duties for South Carolina roadways including that portion of Highway 17 in Berkeley County where the Wrights were injured. SCDOT expressly acknowledged these duties in the testimony of their designated corporate representative Leland Colvin. Mr. Colvin, who also served as program manager for multiple projects on Highway 17, testified that SCDOT has a duty to maintain the highway in a safe condition. L. Colvin Dep. 213:14-17. SCDOT also has an affirmative obligation to monitor highways to determine whether their physical state or traffic conditions have created dangerous circumstances for motorists. L. Colvin Dep. 38:16-20; 213:22-25. If the department knows or should know of dangerous highway conditions, SCDOT has a duty to undertake any reasonable changes available to make the highway reasonably safe. L. Colvin Dep. 213:14-21. When performing these changes and in all other highway-related activities, SCDOT must follow industry safety standards including the SCDOT Access and Roadside Management Standards ("ARMS manual") (attached as **EXHIBIT 13**). L. Colvin Dep.

31:9-13; 40:8-16. In light of SCDOT's admissions, the Wrights have properly demonstrated a legal duty owed by SCDOT.[2]

b. Breach of Duty

SCDOT failed to comply with its duties regarding Highway 17 in a number of different ways. First, despite acknowledging its affirmative duty to monitor highways for dangerous conditions (L. Colvin Dep. 213:22-25), SCDOT failed to take reasonable steps to determine the safety of the intersection where the Wrights were injured. For example, while annual safety analyses are typical for high traffic intersections, SCDOT did not conduct a single safety analysis of the subject intersection in the 10 year period (2003-2013) after the highway was widened and its capacity greatly increased. L. Colvin Dep. 215:25 – 216:15. This failure is especially unreasonable given that all parties associated with this case agree the subject intersection was a heavily-traveled roadway at the time of the Wrights' injuries. W. Mulligan Dep. 19:2-3; 63:18-19 (acknowledging intersection is "heavily traveled" and "high volume"); L. Colvin Dep. 229:1-5 (agreeing this was a high accident rate intersection in 2013); D. Sena Dep. 113:8-9 (at-fault driver acknowledging "[t]hat's a very busy intersection").

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[2] The Court should also reject SCDOT's assertion that the Wrights' claims are barred by the public duty rule. See Answer to Am. Compl. ¶ 18. The public duty rule applies only to statutorily-created duties. Trousdell v. Cannon, 351 S.C. 636, 641, 572 S.E.2d 264, 266 (2002) (quoting Arthurs v. Aiken Cnty., 346 S.C. 97, 103, 551 S.E.2d 579, 582 (2001) (limiting public duty to instances "[w]hen, and only when, the plaintiff relies upon a *statute* as creating the duty") (emphasis in original). South Carolina courts have specifically held that the rule does not apply to common law duties. Trousdell, 351 S.C. at 641, 572 S.E.2d at 266-67; see also Platt v. S.C. Dep't of Transp., 388 S.C. 441, 697 S.E.2d 575 (2010) (refusing to consider common law negligence claim against SCDOT but only because issue was not raised to lower court). The Wrights' negligence claim is based on SCDOT common law duties. A party that undertakes to perform construction, maintenance, or repair to a highway has a common law duty in addition to any contractual obligations. Dorrell v. S.C. Dep't of Transp., 361 S.C. 312, 319-20, 605 S.E.2d 12, 15-16 (2004). The common law duty includes a responsibility to conduct road work "in a manner that provide[s] for the safety of the traveling public." Id.

When a safety analysis was finally conducted in 2013, it revealed an alarming number of collisions at the intersection involving left turns to and from the Pilot Travel Center. Over a period of four years from 2010 to 2013 (including the time of the Wrights' collision in 2012), there were 17 left turn collisions in this single intersection. L. Colvin Dep. 219:12-15. This finding (4.25 collisions/year) was evidence that something needed to be done to improve safety at this dangerous intersection. L. Colvin Dep. 221:18-25; 223:13-25 (describing collision rate as "concern[ing]" and agreeing these numbers "mean something needs to change"). As a result of this belated safety analysis, SCDOT has planned for a "countermeasure" to make left turns safer in this intersection. L. Colvin Dep. 224:19-22. While it chose to address the situation with something other than a raised median, SCDOT acknowledged a raised median would have effectively addressed the spate of left turn accidents that have infected this intersection since the highway was widened. L. Colvin Dep. 224:3-6.

Moreover, the data is even more concerning than SCDOT acknowledges. SCDOT's safety analysis covers only 2010-2013. When the parameters are extended back to 2003 when Highway 17 was widened and Pilot Travel Center was completed, accident reports reveal well over 200 collisions in the immediate vicinity of the intersection where the Wrights were injured. This information was readily available to SCDOT before the Wrights' collision as Plaintiffs' counsel acquired the reports from the South Carolina Department of Public Safety ("DPS"), the precise agency from which SCDOT collects collision data when planning and conducting safety analyses. L. Colvin Dep. 229:20 – 230:8 (stating that SCDOT's traffic safety office "use the DPS accident information").

Second, SCDOT breached its legal duties by approving driveway plans for Pilot Travel Center that violated existing safety standards. As Mr. Colvin acknowledged, SCDOT must follow

industry safety standards when considering the addition of driveways because "driveways have long been recognized as a major source of conflict for traffic on public highways." L. Colvin Dep. 31:9-13; 46:20-25. The ARMS Manual is an essential component of the governing standards for driveway design and placement. L. Colvin Dep. 40:8-16. As such, ARMS contains specific requirements and limitations on where a driveway may be placed and, in the case of multiple driveways, how far each must be from each other. In general, ARMS requires all roadway access points including driveways to be located "as far from roadway intersections . . . as possible." ARMS Manual at 10 § 3A-4. Moreover, every driveway "shall be located at a point which provides optimum sight distance along the roadway." Id. at 9 § 3A-3. ARMS includes a table outlining the acceptable minimum distances between driveways and stated in clear terms that "[n]o access point shall be located within the radius of intersecting roadways." Id. at 9 § Table 3-2, 10 § 3A-4. These statements are not mere suggestions or recommendations; they are mandatory rules. L. Colvin Dep. 45:20-25.

Fundamental among these rules is the express prohibition on driveways within the "functional area" of an intersection. Yet, two different SCDOT representatives testified that the Pilot Travel Center plan SCDOT approved violates this rule. SCDOT investigator Robert Clark testified that at least one of Pilot's driveways was in the functional area of the intersection. R. Clark Dep. 11:23 – 12:1-4. SCDOT Mr. Colvin agreed that one of Pilot Travel Center's driveways was in the functional area of the intersection and another was on the borderline. L. Colvin Dep. 169:15-22; 173:11-16. Another fundamental ARMS rule requires a certain minimum distance between driveways that varies based on the adjoining highway's speed limit. ARMS Manual at 9 § Table 3-2. The portion of Highway 17 where the Wrights were injured has a 45 miles-per-hour speed limit, and as a result, Pilot Travel Center's driveways were required to be spaced at least

250 feet apart. Id.; R. Clark Dep. 30:16-22. Mr. Clark agreed that Pilot Travel Center's driveways did not meet this standard. R. Clark Dep. 30:23-25. This failure is crucial because the ARMS driveway spacing requirements SCDOT breached are safety considerations. R. Clark Dep. 31:1-10. This testimony from SCDOT's corporate representative establishes that SCDOT breached its legal duty by approving driveways and made the intersection more dangerous for motorists. Plaintiffs' experts also found that the driveway design and construction made the intersection unsafe. J. Teague Aff. ¶ 9 (**EXHIBIT 11**); R. Balgowan Aff. ¶ 9 (**EXHIBIT 12**). Each expert found that the driveways were too close to the functional area of the intersection.

Third, SCDOT breached its legal duties by altering its plan for a raised median across Highway 17 at the request of Pilot Travel Center's owners. SCDOT's duty in maintaining highways and in approving driveways that connect to highways require SCDOT to prioritize safety. A property owner's profit-driven preference for more expansive physical access to its premises cannot take precedence over motorist safety. L. Colvin Dep. 39:3-7; 213:11-17. The original design called for the inclusion of a raised, non-transversable median running nearly the entire length of Pilot Travel Center's Highway 17 frontage. L. Colvin Dep. 86:14-15 ("at one point in time, the interchange plans showed a raised median"); 88:16-24 (stating that raised median was in intersection project's "original design"). The planned median would have a beneficial effect on traffic flow by restricting the areas from which motorists could turn left into Pilot Travel Center. L. Colvin Dep. 101:9-25. More importantly, the proposed non-transversable median was a safety matter. L. Colvin Dep. 141:8-10 ("A nontraversable median cuts down on the number of conflict points compared to a flush painted median").

Through meetings and correspondence with SCDOT officials during the encroachment permit process, Pilot conveyed their preferred design both for driveways linking their premises to

Highway 17 and for the highway itself. L. Colvin Dep. 80:16 – 81:5. Specifically, Pilot raised concerns about the planned non-transverable median. Id. SC DOT considered these concerns and the two sides reached a "negotiated" resolution. The primary result of that negotiation was a change in the design of the median fronting Pilot's property. At Pilot's behest[3], SCDOT:

> Approved to have painted median only from far western curb cut to stop bar (stop light). In other words, **the unmountable median has been eliminated from the plan.**

Id. (emphasis added).

Through this negotiation, Pilot effectively replaced a non-transversable median with one far more conducive to Pilot's business interest. Unfortunately, what benefited Pilot's business made Highway 17 far less safe for motorists like the Wrights. According to SCDOT, non-transversable medians have the effect of a 35 percent reduction in traffic collisions. L. Colvin Dep. 139:1-9. The benefit of raised medians is evident from SCDOT regulations. ARMS Manual, Section 3E (P. 18) (stating that "[d]ivided highways operate at higher levels of safety with a minimum of median crossovers" because "[a]dditional crossovers create more conflicts and can lead to higher accident experience"). Plaintiffs have also produced expert testimony further establishing that it was unreasonable under the circumstances to replace the planned non-transversable median with a flush painted median. Plaintiffs' expert John Mark Teague, a civil engineer with extensive expertise in the field of intersection safety, concluded that a non-transversable median at this location "would have significantly reduced the risk of harm" to

[3] Plaintiffs acknowledge SCDOT asserts the change in median design was unrelated to its discussions with Pilot. L. Colvin Dep. 88:12-15. Pilot's VP of Development testified that he was unaware of whether there were earlier plans for a raised median. W. Mulligan Dep. 26:11-22. In light of the evidence describing a "negotiated" resolution regarding the median and the parties' differing accounts, this issue presents a question of fact that a jury must resolve.

motorists like the Wrights. J. Teague Aff. ¶ 2-3, 13. Additionally, Mr. Teague found that the absence of a non-transversable median rendered the intersection "unsafe." J. Teague Aff. ¶ 9.

Accordingly, the Wrights have provided substantial evidence demonstrating SCDOT breached its legal duties. By ignoring an easily-observable problem with left turns at this busy intersection and by permitting the Pilot Travel Center's owners to construct driveways within the functional area of the intersection, SCDOT failed to perform its essential functions in highway maintenance. Moreover, SCDOT affirmatively made the intersection less safe by negotiating for the removal of a planned raised median.

c. Proximate Cause

SCDOT's failure to comply with its duties to maintain Highway 17 were a proximate cause of the collision leading to the Wrights' injuries. SCDOT's conduct was a cause-in-fact of the collision because the collision would not have happened at an adequately designed intersection. Under South Carolina law, any negligence or even criminal conduct of the at-fault driver does not absolve SCDOT from liability. Moreover, SCDOT's conduct was a proximate cause of the Wrights' injuries because, as innocent motorists, they are precisely the type of people SCDOT should have foreseen as possible victims of their misconduct.

Proximate causation is an essential element of any negligence cause of action. Burnett v. Family Kingdom, Inc., 387 S.C. 183, 191, 691 S.E.2d 170, 175 (Ct. App. 2010). This element requires proof of both "causation in fact and legal cause." Small v. Pioneer Mach., Inc., 329 S.C. 448, 463, 494 S.E.2d 835, 842 (Ct. App. 1987) (citing Hurd v. Williamsburg County, 363 S.C. 421, 428, 611 S.E.2d 488, 492 (2005)). Causation in fact is established by proof that the injury "would not have occurred but for the defendant's negligence." Cody P. v. Bank of Am., N.A., 395 S.C. 611, 620, 720 S.E.2d 473, 478 (Ct. App. 2011) (citing Mellen v. Lane, 377 S.C. 267, 278,

659 S.E.2d 236, 245 (Ct. App. 2008). Legal cause is established by determining foreseeability, a factor which focuses on "whether the injury is the natural and probable consequence of the alleged negligent act." Id. As the Cooke court noted, "[p]roximate cause is generally a question for the jury." 741 F. Supp. at 1214; see also Ballou v. Sigma Nu Gen. Fraternity, 291 S.C. 140, 147, 352 S.E.2d 488, 493 (Ct. App. 1986) ("Only in rare or exceptional cases may the question of proximate cause be decided as a matter of law"). Summary judgment on proximate cause is inappropriate where the plaintiff has produced "some evidence." Cooke, 741 F. Supp. at 1214.

Where a negligence claim alleges an injury directly caused by the intervening act of a third party, a "special case" is presented. Cody P. v. Bank of Am., N.A., 395 S.C. at 620, 720 S.E.2d at 478. In those special cases, the test becomes whether a third party criminal act was foreseeable to the defendant. The finder of fact must determine whether "the injury at the hand of the intervening party was within the general range of consequences which any reasonable person might foresee as a natural and probable consequence of the negligent act." Shepard v. S.C. Dep't of Corr., 299 S.C. 370, 375, 375 S.E.2d 37, 37 (Ct. App. 1989). The Wrights need not prove the "particular chain of events" was foreseeable but only that the injury the criminal inflicted was "within the general range of consequences which any reasonable person might foresee." Cody P., 395 S.C. at 621, 720 S.E.2d at 478 (citing Shepard 299 S.C. at 375, 385 S.E.2d at 38).

Several different types of evidence may be used to demonstrate that a defendant could reasonably foresee injuries ultimately perpetrated by an independent third party. Expert testimony may be used to establish foreseeability. An expert with knowledge of the defendant's business may testify regarding the types of harms the defendant anticipates in its business. See Cody P., 395 S.C. at 621-22, 720 S.E.2d at 478 (considering banking expert's testimony that banks anticipate theft). Here, Plaintiffs' experts concluded that the intersection and driveway design were proximate

causes of the Wrights' collision. For instance, Mr. Teague found that a non-transversable median would have significantly reduced the risk of harm to motorists like the Wrights. J. Teague Aff. § 13. Mr. Teague reached this conclusion because this accident occurred during a left turn into Pilot Travel Center and the non-transversable median SCDOT planned but then chose to remove would have most likely prevented that turn. SCDOT shares this opinion. L. Colvin Dep. 101:9-25 (stating that non-transversable median's purpose is "access control" and "is not intended to be transversed by the motoring public"); 139:1-9 (agreeing that non-transversable median decrease traffic collisions by 35%).

Even Pilot's Vice President of Development admits that a non-transversable median's specific purpose is to prevent the type of turns that resulted in this collision. W. Mulligan Dep. 27:6-7 (acknowledging median's purpose would be "[t]o keep people from making a left turn"). Crucially, the at-fault driver also agrees that the absence of a non-transversable median was a crucial factor in the collision. According to the driver, a non-transversable median "could have prevented my accident and a lot more accidents and any more to come." D. Sena Dep. 119:2-4. Taken as a whole the lay and expert witness testimony establishes a substantial causal connection between the absent raised median and the collision that caused the Wrights' injuries.

The same is true for the defective driveways SCDOT reviewed and approved. As this intersection has proven many times over the last fifteen years, traffic collisions are alarmingly common at Pilot Travel Center's driveways. L. Colvin Dep. 217:16-20 (agreeing many collisions happen when motorists attempt left turns out of Pilot Travel Center's driveways); 219:12-15 (noting 17 different accidents involving left turns at Pilot Travel Center over just a four-year period). As Pilot acknowledges, "inadequate driveway design creates conflicts that can be detrimental to safety" on the adjoining highway. W. Mulligan Dep. 64:8-11. When a person

attempts to enter or exit a driveway that is either too close to a major intersection or too close to another heavily-utilized driveway, he has little time to react to opposing traffic. Based on this historic accident data and their knowledge of intersection design principles, Plaintiffs experts concluded the driveways were also a proximate cause of the Wrights' injuries. J. Teague Aff. ¶ 15 (finding Pilot "created an artificial condition, which generated hazardous conditions and contributed to the injuries of the plaintiffs"). Viewing the situation as a whole, Plaintiffs' experts concluded that the collision most likely would not have occurred if the driveways had been properly designed. J. Teague Aff. ¶ 19.

2. The SCTCA does not Immunize SCDOT's Misconduct.

The Wrights' negligence claim against SCDOT is governed by the SCTCA which holds governmental entity liable for their torts "in the same manner and to the same extent as a private individual under like circumstances" except for those limited instances where the SCTCA itself provides a different standard. S.C. Code Ann. § 15-78-40. Section 15-78-60 enumerates a variety of tortious acts and omissions for which the state refuses to waive its sovereign immunity and for which governmental entities may not face liability. SCDOT's answer alleges that 17 different provisions of Section 15-78-60 immunize its conduct in this case.[4] However, the vast majority of the cited provisions plainly have no relevance to the allegations in the Wrights' Complaint.[5] For the reasons described below, the remaining provisions on which SCDOT relies do not apply and SCDOT's request for immunity should be denied.

[4] Specifically, SCDOT cites subsections 1-5, 7, 8, 10, 12, 13, 15-17, 20, 21, 25, and 27.

[5] The Wrights do not allege claims based on legislative/judicial action (subsections 1 and 2), adoption/enforcement/or compliance with a law (4), nuisance (7), "natural conditions" on a roadway (8, 10), defects in a public park (16), supervision of inmates (21, 25), or charitable solicitations (27).

When a governmental entity cites SCTCA immunity provisions to avoid liability, it is asserting an affirmative defense. Strange v. S.C. Dep't of Highways & Pub. Transp., 314 S.C. 427, 430, 445 S.E.2d 439, 440 (1994). SCDOT bears the burden to establish it is entitled to assert each immunity provision under these facts and the burden to prove it is entitled to summary judgment on each immunity provision. Id.The Wrights allege SCDOT's negligent conduct includes (1) improperly approving Pilot's encroachment permit application that was based on a plan that violated unambiguous highway management standards; (2) failing to identify and improve the intersection where the Wrights were injured despite substantial evidence of dangerous conditions; and (3) altering its plan for a raised median on Highway 17 as part of negotiations with Pilot. Am. Compl. ¶ 29. SCDOT first argues it is immune for any action relating to the encroachment permit pursuant to Section 15-78-60(12) which generally covers "the issuance . . . or refusal to issue . . . any permit." However, the same section expressly excludes from immunity permit-related activities performed "in a grossly negligent manner." Gross negligence is "the failure to exercise slight care." Jinks v. Richland County, 355 S.C. 341, 345, 585 S.E.2d 281, 283 (2003). Gross negligence is a "relative term" meaning "the absence of care that is necessary under the circumstances." Id. The issue of gross negligence "is a mixed question of law and fact" that should generally be resolved by a jury. Etheredge v. Richland Sch. Dist. One, 341 S.C. 307, 310, 534 S.E.2d 275, 277 (2000); Faile v. S.C. Dep't of Juvenile Justice, 350 S.C. 315, 332, 566 S.E.2d 536, 545 (2002) (holding that gross negligence determination "best rests with the jury").

A number of factors may be considered to determine whether a defendant's conduct rises from ordinary to gross negligence. Cole v. S.C. Elec. & Gas, Inc., 335 S.C. 183, 193, 584 S.E.2d 405, 411 (Ct. App. 2003) (holding that a jury determining gross negligence may consider statutory and regulatory violations as well as "other facts and circumstances surrounding the event"). A

governmental entity's violation of its only operational policies can be strong evidence of gross negligence. Proctor v. S.C. Dep't of Health & Envtl. Control, 368 S.C. 279, 297, 628 S.E.2d 496, 506 (Ct. App. 2006) (finding jury question on gross negligence where state agency's conduct was against what "was its policy to do"); Clark v. S.C. Dep't of Public Safety, 362 S.C. 377, 384-85, 608 S.E.2d 573 (2005) (holding that trial court properly submitted gross negligence to jury based in part on an expert description of department policy).

In this case, SCDOT's approval of Pilot's encroachment permit application was grossly negligent. Pilot's application was based on a driveway plan that violates clear SCDOT policy as stated in the ARMS Manual. SCDOT acknowledges the policy and admits the violation. SCDOT's corporate representative Robert Clark testified that the ARMS Manual provides that driveways may not be placed in the functional area of the intersection. R. Clark Dep. 19:15-20. Mr. Clark also acknowledged the ARMS Manual requires a minimum distance between driveways. In the same deposition, Mr. Clark acknowledges SCDOT approved a plan calling for one or more driveways within the functional area of the intersection and that the proposed driveways did not meet the minimum distance standard. R. Clark Dep. 12:1-4; 30:10-25; L. Colvin Dep. 169:15-22; 173:11-16. In light of the policy violation and SCDOT's acknowledgments, a reasonable jury could conclude SCDOT failed to exercise slight care in issuing an encroachment permit for Pilot Travel Center.

SCDOT is also not entitled to immunity under Section 15-78-60(13), which refers to "regulatory inspection powers or functions, including failure to make an inspection, or making an inadequate or negligent inspection." However, a state agency's total failure to inspect or investigate an easily observable is grossly negligent conduct that supports SCTCA liability notwithstanding Section 15-78-60(13)'s seemingly broad scope. For example, in Bass v. S.C.

Department of Social Services, 414 S.C. 558, 574, 780 S.E.2d 252, 260 (2015), the South Carolina Supreme Court found SCTCA liability was supported by evidence that the state "failed to conduct any investigation" when it had a duty to do so. See also Proctor, 368 S.C. at 297, 628 S.E.2d at 506 (finding jury question on gross negligence where stage agency "did not perform an inspection, as it was its policy to do"). Here, SCDOT had not conducted a single safety analysis of the subject intersection for 10 years at the time the Wrights were injured. L. Colvin Dep. 215:25 – 216:15.

In light of the substantial number of collisions at this specific intersection (4.25/year and over 200 since Pilot Travel Center opened), SCDOT's failure to investigate and respond to the danger was grossly negligent. While Section 15-78-60(13) does not reference that standard, since SCDOT asserts the permit immunity provision (Section 15-78-60(12)) that contains a gross negligence standard, the same standard applies to all the SCTCA immunity provisions on which SCDOT relies. Steinke v. S.C. Dep't of Labor, Licensing & Regulation, 336 S.C. 373, 398, 520 S.E.2d 142, 155 (1999) ("when an exception containing the gross negligence standard applies, that same standard will be read into any other applicable exception"). Just as in this case, Steinke applied a gross negligence standard to the inspection immunity provision because the defendant also asserted the licensing immunity provision which includes an explicit gross negligence standard. Id. at 395-96, 520 S.E.2d at 153-54. Thus, SCDOT's total failure to inspect the subject intersection and to investigate its dangerous conditions constitute gross negligence and defeats SCDOT's immunity assertion.

SCDOT also may not rely on Section 15-78-60(15), which provides immunity for the "absence, condition, or malfunction of any sign, signal, warning device, illumination device, guardrail, or median barrier." This section covers a broad section of traffic control devices but its plain terms do not cover the allegations related to the deficient *driveways* SCDOT improperly

approved. Plus, while decisions regarding medians are generally immune, SCDOT can face liability when a defective median is not corrected "within a reasonable time after actual or constructive notice." S.C. Code Ann. § 15-78-60(15). Based on the numerous collisions reported in this area, SCDOT was on actual or constructive notice of the dangers motorists faced as a result of customers attempting left turns in to and out of Pilot Travel Center. Collision reports were readily available to the public including SCDOT's own traffic safety office. L. Colvin Dep. 229:20 – 230:8. SCDOT did not act on the danger within a reasonable time as it failed to conduct any safety analyses for 10 years. L. Colvin Dep. 215:25 – 216:15.

In this way, the Wrights' claim is similar to Giannini v. S.C. Dep't of Transp., 378 S.C. 573, 664 S.E.2d 450 (2008), where the South Carolina Supreme Court refused to apply Section 15-78-60(15) to a claim based on SCDOT's failure to install median barriers along an interstate highway. Giannini held that, while this immunity provision immunizes median design choices[6], it does not immunize SCDOT's failure to install a more substantial barrier when events provided notice of dangerous highway conditions. 378 S.C. at 580, 664 S.E.2d at 453 ("This is not a claim of defective construction but, rather, one of failure to take corrective action subsequent to notice of a defect"); see also Wooten v. S.C. Dep't of Transp., 333 S.C. 464, 467-68, 511 S.E.2d 355, 357 (1999) (holding that design immunity is not "perpetual" and that once SCDOT has notice intersection is hazardous, it is no longer immune from liability). Giannini found that SCDOT was

[6] SCDOT is also not entitled to immunity on SCDOT's decision to alter its original plan for a raised median. Since SCDOT asserts at least one immunity provision with a gross negligence standard, that standard applies to all immunity provisions including Section 15-78-60(15)'s general protection for median design choices. Steinke v. S.C. Dep't of Labor, Licensing & Regulation, 336 S.C. at 398, 520 S.E.2d at 155. Here, there is evidence of gross negligence in that SCDOT changed its plan from a much safer raised median to a painted median during "negotiations" with Pilot Travel Center's owners who prioritized profits over highway safety. As SCDOT acknowledges, planning for a median based on business interests rather than safety is antithetical to SCDOT's core objectives. L. Colvin Dep. 39:3-25; 213:11-13.

on notice of the need for a median based on "several" similar collisions on the interstate. 378 S.C. at 580, 664 S.E.2d at 453.

Here, Plaintiffs' counsel has obtained hundreds of collision reports for incidents in the immediate vicinity of the subject intersection. SCDOT even admits left turn related collisions were occurring in this intersection at a rate of 4.25 per year at the time the Wrights were injured. This information placed SCDOT on actual or constructive notice of the need to more tightly control the areas at which left turns would be permitted in this intersection. At the very least, the collision reports and SCDOT representatives' testimony creates a question of fact for the crucial issue of notice. Wooten, 326 S.C. 516, 528, 485 S.E.2d 119, 125 (Ct. App. 1997) (*aff'd as modified* 333 S.C. 464, 467-68, 511 S.E.2d 355, 357 (1999) ("Whether there was a history of accidents which put SCDOT on notice of a potentially dangerous situation is a quintessential matter for the jury").

Finally, the Court should reject SCDOT's assertion of discretionary immunity under S.C. Code Ann. § 15-78-60(5). As with all SCTCA immunity provisions, SCDOT bears the burden of proving it is entitled to discretionary immunity. To prove discretionary immunity, SCDOT must prove that, "when faced with alternatives, it actually weighed competing considerations and made a conscious choice." Pike v. S.C. Dep't of Transp., 343 S.C. 224, 230, 540 S.E.2d 87, 90 (2000). SCDOT must also demonstrate that "in weighing the competing considerations and alternatives, it utilized acceptable professional standards appropriate to resolve the issue." Id. (citing Foster v. S.C. Dep't of Highways & Pub. Transp., 306 S.C. 519, 525, 413 S.E.2d 31, 35 (1992)). Mere room for discretion is not enough and "[i]t is not enough to say the defect was noted and a decision was made not to repair it." Id. SCDOT cannot meet this burden for its negligent failure to discover and respond to the dangerous conditions at the subject intersection. SCDOT has no explanation for the failure to conduct proper safety analyses at this busy intersection (L. Colvin Dep. 216:4-15) and,

therefore, cannot argue this was a discretionary decision. SCDOT's approval of Pilot's deficient driveway plan is not entitled to discretionary immunity because it did not apply acceptable professional standards. Driveways located within the functional area of an intersection and spaced too closely together violated the ARMS Manual and SCDOT's decision to sanction those violations is not entitled to immunity. Pike, 343 S.C. at 230, 540 S.E.2d at 90 (limiting discretionary immunity to actions where governmental entity "utilized acceptable professional standards").

In sum, SCDOT's summary judgment motion should be denied to the extent it relies on SCTCA immunity provisions. SCDOT bears the burden of proof for each of these affirmative defenses and cannot meet the requirements for any of them. SCDOT's conduct from the time Pilot submitted its driveway plans until the date of the Wrights' collision was grossly negligent and not protected from liability.

CONCLUSION

Based on the arguments stated above, Plaintiffs respectfully request an order denying SCDOT's motion for summary judgment. Evidence in the record supports all required elements of the Wrights' negligence claim, and SCDOT cannot meet their burden to obtain summary judgment on any of their affirmative defenses.

Respectfully submitted,

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June 5, 2017

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BERKELEY)	NINTH JUDICIAL CIRCUIT
Cynthia Wright and Richard Wright,)	Civil Action No.: 2016-CP-08-334
)	
Plaintiffs,)	
)	
v.)	
)	**PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT SPEEDWAY LLC'S MOTION FOR SUMMARY JUDGMENT**
South Carolina Department of Transportation, Pilot Travel Centers, LLC Speedway, LLC, Ashley Land Surveying, Inc., F/K/A Ashley Engineering and Surveying, Inc. and Ashely Engineering & Consulting, Inc., and Munlake Contractors, Inc.,)	
)	
Defendants.)	

Plaintiffs Cynthia and Richard Wright respectfully submit their Memorandum of Law in Opposition to Defendant Speedway LLC's Motion for Summary Judgment.

INTRODUCTION

There has been a total of 254 collisions in front of the Pilot Travel Center in just 10 years since changes were made to this stretch of Highway 17A. Pilot Travel Center was the product of a joint venture formed in 2001 by Defendants Pilot Travel Centers, LLC ("Pilot") and Speedway, LLC. W. Mulligan Dep. 23:13-15, excerpts attached as **EXHIBIT 1**. Roughly one-third of these preventable accidents are directly related to allowing left turns in and out of the Pilot Travel Center.[1] The intersection at issue is on the Moncks Corner side of Highway 17A, right past the I-26 exchange. The dangers Speedway created at this intersection mostly affect motorists exiting I-

[1] A SCDOT Accident Study and Collision data from 2004-14 is attached as **EXHIBIT 14**.

26 from Charleston at the Summerville exit headed towards Moncks Corner and those traveling from Summerville in the same direction.

This case began when South Carolina Department of Transportation ("SCDOT") was making changes to Highway 17A from the I-26 interchange towards Moncks Corner. From the outset, SCDOT's plans mandated placement of a raised median which separated six lanes of travel. The purpose was to prevent left turns in or out of the businesses close to the functional area of this busy intersection right before the Pilot Travel Center. Nearly every authority on highway design mandates steps to limit turns across several lanes of traffic close to busy intersections. In addition, these same safety standards prohibit driveways from being placed within the functional area of an intersection. As will be shown and demonstrated, Pilot/Speedway and SCDOT worked hand-in-hand through what they termed "negotiations" to remove the requirement for a raised median and allow unlimited access to the Pilot gas station by placing two of the three driveways on Highway 17A directly in the functional area of the intersection, all of which is a clear violation of the applicable safety standards and rules meant to protect against the very thing that happened to Richard and Cynthia Wright.

SCDOT and Speedway had a duty to ensure that safety standards were met when "negotiating" the terms of the intersection and raised median. Even if Speedway argues they did not have a duty, once they entered into a negotiation that culminated in the elimination of raised median and allowance of dangerous ingress and egress onto Highway 17A, they assumed a duty to all motorists on the Highway. It is only through these "negotiations" that necessary barriers and deadly routes into and out of the gas station were allowed to occur. Without these "negotiations", a raised median is placed at this intersection and safer ingress and egress routes are constructed or

left in place at the Pilot Travel Center and the Plaintiffs are not severely injured. It is only through the breach of a duty by Defendants that Richard and Cynthia Wright's lives were changed forever.

To maximize customer access, Pilot/Speedway built three driveways but ignored SCDOT rules by placing the driveways too close together and too close to a crowded intersection. Speedway went one step further by negotiating with SCDOT to eliminate a planned traffic safety device on the adjacent highway all in an effort to increase its customer base. Unsurprisingly, Speedway's business-boosting maneuvers made the area far more dangerous for motorists. Although Speedway suggests it simply submitted plans that were ultimately approved by the SCDOT, the documents and evidence suggests Speedway had a much greater role in the process.

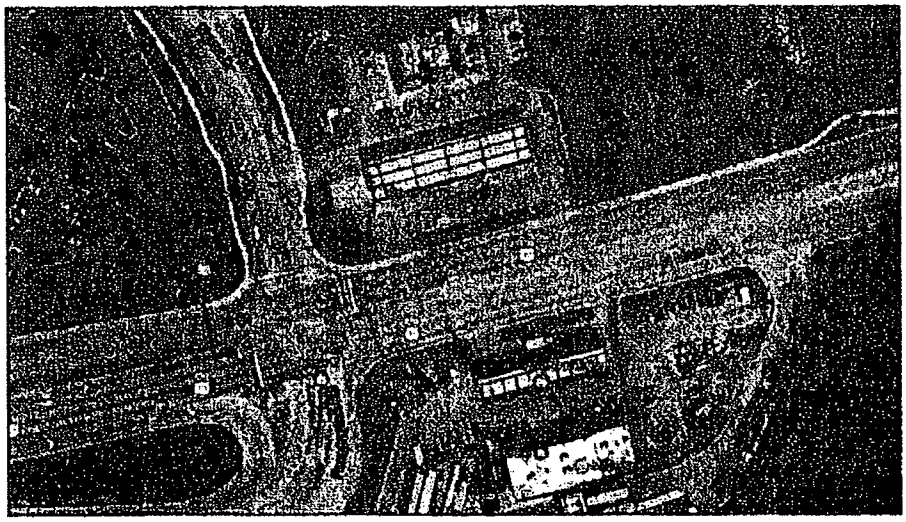
In its motion, Speedway argues it owed the Wrights no duty, did not act unreasonably, and did not cause the Wrights' injuries. However, South Carolina law requires that landowners like Speedway act reasonably, follow SCDOT rules, and avoid creating dangerous conditions when connecting their business to a neighboring highway. Plaintiffs' evidence and witness testimony demonstrate that the collision that crippled the Wrights' likely would not have happened if Speedway followed nationally accepted highway design safety rules at issue in this case. Speedway may certainly take reasonable steps to make its business more attractive and accessible to customers, but it may not do so at the expense of innocent motorists like the Wrights.

Speedway's motion mimics the arguments Pilot made in support of summary judgment and cites an order granting Pilot summary judgment as evidence for why Speedway should also be dismissed. This argument should be rejected for two reasons. First, Plaintiffs have filed a motion to alter or amend judgment on the order granting Pilot summary judgment and that motion has not been resolved. Plaintiffs' motion argues the order granting Pilot summary judgment overlooked legal duties Pilot owed in relation to the driveways on its property and for the median design

alteration that it negotiated to obtain. Second, the order granting Pilot summary judgment made a critical finding of fact that does not apply to Speedway. In the Pilot order, the court refused to consider a letter documenting "negotiations" for an altered design of the median because the court found the letter was neither addressed to nor written by a Pilot employee. Order at 6 n. 7. Speedway cannot make the same argument because the letter was addressed to its agent. Therefore, the court should not rely on the Pilot motion in ruling on Speedway's motion and, for the reasons stated above, Speedway's motion should be denied.

FACTS

Cynthia and Richard Wright suffered severe injuries after being thrown from their motorcycle in an automobile collision on Highway 17 in Summerville, South Carolina on October 6, 2012. (Am. Compl. ¶¶ 27, 30). At this location, Highway 17 is a multilane surface road in a heavily traveled area near a "very busy" intersection and within a few hundred feet of an Interstate 26 interchange. W. Mulligan Dep. 19:2-3; 63:18-19; D. Sena Dep. 113:8-9, excerpts attached as **EXHIBIT 2**. At the time of the collision, the Wrights were traveling past Pilot Travel Center, a gas station and convenience store which also houses a McDonald's restaurant. A competing gas station and convenience store is located directly across the street.



A joint venture between Pilot and Speedway acquired the property in 2001 and set out to redesign the existing premises to create a Pilot Travel Center. W. Mulligan Aff. ¶¶ 5-6, attached as **EXHIBIT 3**. During this process, Pilot (and its predecessors in interest)[3] added driveways to connect its premises to Highway 17 and submitted an "encroachment permit" (attached as **EXHIBIT 5**) to SCDOT to facilitate the driveways' construction. Id. at ¶ 8; see also SCDOT Encroachment Permit Final Approval Form, attached as **EXHIBIT 6**). Pilot designed and constructed three driveways to serve passenger vehicles and commercial trucks. In violation of SCDOT rules, one or more of these driveways were constructed in an area that was unreasonably close to an adjacent intersection. R. Clark Dep. 11:23 – 12:1-4, excerpts attached as **EXHIBIT 7**); L. Colvin Dep. 169:15-22; 173:11-16, excerpts attached as **EXHIBIT 8**). The property owners also violated SCDOT rules by failing to provide the minimum required space between each of its driveways. R. Clark Dep. 30:23-25.

Speedway was also very cognizant of the way in which certain features of Highway 17 itself could affect customer access to Pilot Travel Center. Specifically, Speedway learned SCDOT had a plan in place to install a raised, non-transversable median across the center of Highway 17 and running nearly the full length of Pilot Travel Center. (Letter from SCDOT Right-of-Way Manager dated Aug. 28, 2000 with handwritten notes, PILOT 000045, attached as **EXHIBIT 9**). A non-transversable median is specifically intended to increase safety for highway motorists by limiting left turns at locations that are either very busy or unreasonably close to an existing

[3] Pilot redesigned the property in question as part of a joint effort between its parent company (Pilot Corp.) and Marathon Ashland Petroleum, LLC. Letter from Pilot Project Manager Gary Bloom to SCDOT, dated May 7, 2002 (attached as **EXHIBIT 4**). Marathon Ashland and Speedway are simply different names for the same entity. W. Mulligan Dep. 21:3-10. Thus, the joint venture consisted of Pilot and Marathon/Speedway and "the joint venture rebuilt the facility" into Pilot Travel Center. W. Mulligan Dep. 23:17-18.

intersection. W. Mulligan Dep. 27:6-7; L. Colvin Dep. 101: 9-25. From Speedway's perspective, however, the planned non-transversable median could harm its business by making it harder for potential customers to make a left turn in to its parking lot. W. Mulligan Dep. 60:10-23. Accordingly, Speedway discussed the issue with SCDOT and eventually "negotiated" a resolution that would remove the proposed non-transversable median and replace it with a flush, painted median. See **EXHIBIT 9**.

As the Wrights rode along Highway 17 on October 6, 2012, a vehicle driven by Daniel Sena moved into the painted median and attempted a left turn into one of Pilot Travel Center's driveways. (Am. Compl. ¶ 29); see also Accident Report (attached as **EXHIBIT 10**). Mr. Sena did not see the Wrights and struck their motorcycle during his turn. According to Mr. Sena, if a non-transversable median had been installed in front of Pilot Travel Center, then it "could have prevented my accident and a lot more accidents and any more to come." D. Sena Dep. 119:2-4.

SUMMARY JUDGMENT STANDARD

To grant a motion for summary judgment, the court must find that "there is no genuine issue as to any material fact." Rule 56(c), SCRCP. The judge is not to weigh the evidence but rather to determine if there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 106 S. Ct. 2505, 91 L.Ed.2d 202 (1986). For claims where the preponderance of evidence burden applies, "the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

In determining whether any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the party opposing summary judgment. Summer v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997); Pye v. Aycock, 325 S.C. 426, 480 S.E.

2d 455 (Ct. App. 1997). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Brockbank v. Best Capital Corp, 341 S.C. 372, 534 SE 2d 688 (2000); Moriarity v. Garden Sanctuary Church of God, 534 S.C. 150, 511 S.E.2d 699 (Ct. App.1999). "Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing & Regulation, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999).

ARGUMENT

1. Speedway Owed the Wrights a Legal Duty under South Carolina law.

Defendant Speedway altered both the entrances to its premises and a traffic control device on an abutting highway during the redesign of its gas station and convenience center. Specifically, Speedway "negotiated" for the "removal" of a planned raised median intended to limit left turns into Pilot Travel Center and designed driveway entrances to the station that were both too close together and improperly lying within the functional area of the intersection. Speedway's goal was to make its location a more convenient and attractive option than neighboring gas stations. However, its design specifications and construction choices created a foreseeable danger to motorists traveling through the already cramped intersection. Since Speedway's conduct violated established South Carolina common law standards and SCDOT regulations, Speedway breached a legal duty to the Wrights and is liable for their losses.

South Carolina law establishes that the owner of land adjacent to a highway may face liability when its conduct unreasonably creates danger for highway travelers. According to the Supreme Court's ruling in Skinner v. South Carolina Department of Transportation, 383 S.C. 520, 524, 681 S.E.2d 871, 873 (2009), South Carolina common law imposes liability "where an

individual or business has undertaken an activity that creates an artificial condition on the highway which is dangerous to travelers." Moreover, when a property owner's conduct creates a foreseeable danger to others, the owner must mitigate or eliminate that risk even if otherwise under no duty to act. Faile v. S.C. Dep't of Juvenile Justice, 350 S.C. 315, 334 n. 8, 566 S.E.2d 536, 546 n. 8 (2002) (citing Restatement (Second) of Torts § 321). Additionally, long-standing common law rules hold that a highway's neighbor may not conduct activities on its own premises that unreasonably endanger motorists traveling on the highway. Skinner, 383 S.C. at 525, 681 S.E.2d at 874 (collecting cases from other jurisdictions imposing liability where "the conduct of the landowner's business has created an artificial condition on the highway").[4] Finally, the SCDOT Access and Roadside Management Standards ("ARMS manual") impose specific rules on the location of driveways the violation of which may serve as a basis for civil liability. Id. at 523, 681 S.E.2d at 873 (identifying ARMS manual as potential duty source but finding its regulations inapplicable to defendant before it).

At its core, Skinner stands for the proposition that property owners like Pilot must use reasonable care when creating an "artificial condition" on their property[5] or on the adjoining

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[4] This same rule is recognized by the Restatement (Second) of Torts § 364 which reads as follows:

> A possessor of land is subject to liability to others outside of the land for physical harm caused by a structure or other artificial condition on the land, which the possessor realizes or should realize will involve an unreasonable risk of such harm if (a) the possessor created the condition, or (b) the condition is created by a third person with the possessor's consent or acquiescence while the land is in his possession, or (c) the condition is created by a third person without the possessor's consent or acquiescence, but reasonable care is not taken to make the condition safe after the possessor knows or should know of it.

[5] Skinner is consistent with rulings from a number of other jurisdictions permitting liability on property owner for condition on the owner's property that contributes to the injury of motorists on an adjoining highway. Keith v. Beard, 464 S.E.2d at 637; see also Rosengren v. City of Seattle, 205 P.3d 909, 913 (Wash. App. 2009) ("a person in possession of land may owe a duty to others outside the land on the abutting sidewalk"); Walsh v. Avalon Aviation, Inc., 118 F. Supp. 2d 675,

highway and may face liability when an artificial condition of their creation contributes to a passing motorist's injury. 383 S.C. at 524-25, 681 S.E.2d at 873-74. While Skinner does not define the term, "artificial condition" has been defined elsewhere to include both improperly designed or constructed driveways as well as an insufficient median. When used to describe a landowner's duty to highway motorists, "artificial condition" includes any "structure erected upon land" as well as "changes in the surface by excavation and filling." Restatement (Second) of Torts § 363 cmt. b. In fact, the only non-artificial (i.e. natural conditions) are those for which "the condition of the land has not been changed by any act of a human being." Id. A median, whether raised or painted, is not a naturally occurring phenomenon but rather a change in the surface of the roadway that lies squarely within the definition of an "artificial condition." The same is true of a driveway linking

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677 (D. Md. 2000) ("an owner of property abutting on a highway is under an obligation to use reasonable care not to endanger travelers on the highway by objects so located on his premises that they are likely to cause injury"); Donavan v. Jones, 658 So.2d 755, 764 (La. App. 1995) ("an owner of property abutting a highway . . . may be liable for causing or contributing to a defective or dangerous condition in the area, despite the fact that a public authority is charged with maintaining the highway"); Lawson v. B Four Corp., 888 S.W.2d 31, 34 (Tex. App. 1994) ("an owner or occupier of premises abutting a highway has a duty to exercise reasonable care to avoid endangering the safety of persons using the highway as a means of travel"); Zens v. Chicago, Milwaukee, St. Paul & Pac. R. Co., 386 N.W.2d 475, 479 (S.D. 1986) ("if an abutting landowner creates a hazard or defect in a public roadway or appurtenant thereto, which could foreseeably cause or contribute to injuries sustained by those using the public highway, or reasonably straying therefrom, the abutting landowner can be liable for such injuries"); Schulz v. Quintana, 576 P.2d 855, 856 (Utah 1978) ("Once a highway has been established there is an obligation upon the occupiers of abutting land to use ordinary care to see that the passage way is reasonably safe for travel"); De Ark v. Nashville Stone Setting Corp., 279 S.W.2d 518, 521 (Tenn. App. 1955) (quoting 25 Am. Jr. Highways § 530 at 811) ("The general rule is that one who creates or maintains, on premises adjacent to a highway, a condition of such character that danger therefrom to persons lawfully using the highway may or should, in the exercise of ordinary care, be foreseen or apprehended is under a duty of exercising reasonable care"); Concho Constr. Co. v. Okla. Natural Gas Co., 201 F.2d 673, 674-75 (10th Cir. 1953) ("the owner of land abutting a public highway owes a duty to keep it from being a source of danger to the public or to travelers upon and lawful users of the highway"); Mays v. Gamarnick, 93 N.E.2d 236, 237 (Mass. 1950) (owner of land abutting highway "must exercise reasonable care to maintain his premises in a proper and safe condition so as not to cause injury to the public traveling on the way").

private property to the highway. A driveway is a structure erected upon land and has been specifically recognized as an artificial condition for landowner liability purposes. Keith v. Beard, 464 S.E.2d 633, 637 (Ga. App. 1995).

As the Supreme Court recognized in Faile, South Carolina common law also holds a party responsible for the foreseeable danger caused by harms the party created. 350 S.C. at 334, 566 S.E.2d at 546. Faile held that when a party's conduct creates danger for others, the party may be required to take affirmative steps to protect foreseeable victims. Specifically, Faile adopted a Restatement provision that reads in full:

> If the actor does an act, and subsequently realizes or should realize that it has created an unreasonable risk of causing physical harm to another, he is under a duty to exercise reasonable care to prevent the risk from taking effect.

Id. at 334 n. 8, 566 S.E.2d at 546 n. 8 (citing Restatement (Second) of Torts § 321). Accordingly, Speedway had a duty to ensure that its median alteration and driveway construction did not unreasonably endanger motorists on the highway and also had a duty to take affirmative action to mitigate the danger once it became apparent through repeated collisions in the intersection. See also 65th Center, Inc. v. Copeland, 825 S.W.2d 574, 577 (Ark. 1992) (when owner of property adjoining highway creates condition that renders travel on highway unsafe, then owner "has a duty to take reasonable precautions to guard against the danger and to protect travelers from that danger"). Even if the Court were to find Speedway had no common law duty to make changes to Highway 17, Speedway undertook to do so by successfully negotiating for the planned non-transversable median's removal. Having voluntarily undertaken this duty, Speedway had an

affirmative duty going forward since Speedway's conduct "increased the risk" of harm to motorists. Restatement (Second) of Torts § 323.[6]

Skinner appears to recognizes the ARMS Manual as a source for a legal duty related to a private landowner's construction project that connects to a state highway. 383 S.C. at 523, 681 S.E.2d at 873. Skinner declined to impose a duty based on the ARMS manual in the case before it but only because the manual's provisions did not apply to the defendant, a party who was not covered by the manual's "encroachment permit" provisions. Id.; see also Madison v. Babcock Center, 371 S.C. 123, 135, 638 S.E.2d 650, 656 (2006) (noting, in general, the role of "the common law, statutes, regulations, or [a state agency's] policies and guidelines" in determining a party's duty). The reconstruction project Speedway and Pilot undertook in this case are covered by ARMS Manual requirements including those related to encroachment permits. As acknowledged by Pilot's Vice President for Development, the joint venture's members submitted an encroachment permit for the project, and Pilot acknowledges the importance of industry standards including ARMS Manual requirements governing driveways and medians. W. Mulligan Dep. 11:17-25; 62-66. Accordingly, ARMS Manual standards state a duty and define the parameter of the duty Pilot and Speedway were required to meet during the design and construction of its new facility.

Finally, Plaintiffs note Speedway also cites Skinner and argues that it actually supports the position that Pilot did not owe the Wrights a legal duty. However, in the aggregate, Skinner strongly supports a property owner's duty to an adjoining highway's motorists and the Supreme Court refused to apply that duty in Skinner based only on factual distinctions that do not exist here. Skinner held that South Carolina recognizes a duty where "an individual or business has

[6] South Carolina recognizes Section 323 and has applied its principles in many different contexts. See e.g., Sherer v. James, 290 S.C. 404, 408, 351 S.E.2d 148, 150 (1986); Crowley v. Spivey, 285 S.C. 397, 406, 329 S.E.2d 774, 780 (Ct. App. 1985)).

undertaken an activity that creates an artificial condition on the highway which is dangerous to travelers." 383 S.C. at 525, 681 S.E.2d at 873. That duty did not apply under Skinner's facts because the condition in question (i.e. ruts in the shoulder of a road caused by heavy trailers) was not "artificial" but rather normal wear and tear on the highway. Id. at 525, 681 S.E.2d at 874. In contrast, Speeway built driveways and removed a planned median, both of which created artificial conditions to which the duty discussed in Skinner applies. Moreover, Skinner recognized the ARMS Manual as a potential source of duty but refused to apply it because the defendants in that case were not required to seek an encroachment permit and were not subject to ARMS Manual requirements. Id. at 523, 681 S.E.2d at 873. Here, however, Speedway did submit an encroachment permit and was subject to all ARMS Manual requirements including its sidewalk standards. W. Mulligan Dep. 11:17-25; 62-66. Despite its outcome on the facts, Skinner's holding definitively states the basis of a duty that, on the facts of this case, applies to Speedway's design and construction decisions.

In sum, Speedway's duty of care regarding artificial conditions on its property are well established in South Carolina case law and Restatement provisions adopted or otherwise utilized by South Carolina courts. Skinner also makes clear that this duty is owed not only to Speedway's customers but also to motorists on the adjacent highway endangered by Speedway's conduct. As discussed below, Speedway breached these duties in multiple ways resulting in an auto collision and injuries that were a foreseeable result of Speedway's misconduct.

2. Speedway Breached its Legal Duty by Negotiating for the Removal of a Non-Transversable Median and by Installing Unsafe Driveways.

Speedway planned, designed, and constructed Pilot Travel Center to maximize its customer base by making customers' entry and exit to the facility as convenient as possible. However, to further this goal, Speedway made strategic decisions about access to the Center that rendered the

adjoining highway more dangerous both for its customers and all other motorists passing through. Speedway went so far as to interfere with the original plan for a non-transversable median in the highway that would have made the intersection safer. Through each of these actions, Speedway created dangerous artificial conditions that violate its duties under South Carolina common law and SCDOT regulations.

Highway 17 abuts the Pilot Travel Center a few hundred feet from where the highway meets Interstate 26 and presents a very busy intersection. D. Sena Dep. 113:8-9 ("That's a very busy intersection"); W. Mulligan Dep. 19:2-3; 63:18-19 (acknowledging intersection is "heavily traveled" and "high volume"); L. Colvin Dep. 229:1-5 (agreeing this was a high accident rate intersection in 2013). At approximately the same time Pilot (and its predecessors in interest) began designing and constructing Pilot Travel Center, SCDOT had multiple projects underway to improve this heavily-traveled roadway. L. Colvin Dep. 50-51. According to renderings and the testimony of SCDOT's Deputy Secretary for Engineering, the original design called for the inclusion of a raised, non-transversable median running nearly the entire length of Pilot Travel Center's Highway 17 frontage. L. Colvin Dep. 86:14-15 ("at one point in time, the interchange plans showed a raised median"); 88:16-24 (stating that raised median was in intersection project's "original design"). The planned median would have a beneficial effect on traffic flow by restricting the areas from which motorists could turn left into Pilot Travel Center. L. Colvin Dep. 101:9-25; W. Mulligan Dep. 27:6-7. More importantly, the proposed non-transversable median was a safety matter. L. Colvin Dep. 141:8-10 ("A nontraversable median cuts down on the number of conflict points compared to a flush painted median").

While the non-transversable median would have a net positive effect on traffic in the area, it would have a decidedly negative impact on the number of cars that patronize Pilot Travel Center.

After all, for motorists travelling south on Highway 17, it would be far more convenient to turn right into a competitor station than to be forced further down the highway before finally turning left toward Pilot Travel Center. See W. Mulligan Dep. 60:10-23 (acknowledging strong competition for customers by stating "if it's hard to get in and out . . . they won't come because there's so many other choices"); L. Colvin Dep 113:1-4 (noting raised median was undesirable to property owner because it would "change . . . access to the premises"). Recognizing this potential threat to its profitability, Speedway took efforts to alter the proposed median design. See R. Balgowan Aff. ¶ 13 ("a monetary incentive is the only reason behind the removal of the concrete barrier in this case") (attached as **EXHIBIT 12**). Through meetings and correspondence with SCDOT officials during the encroachment permit process, Speedway conveyed their preferred design both for driveways linking their premises to Highway 17 and for the highway itself. L. Colvin Dep. 80:16 – 81:5. Specifically, Speedway raised concerns about the planned non-transverable median. Id. SCDOT considered these concerns and the two sides reached a "negotiated" resolution. (EXHIBIT 9). The primary result of that negotiation was a change in the design of the median fronting Pilot Travel Center. At Speedway's behest[7], SCDOT:

> Approved to have painted median only from far western curb cut to stop bar (stop light). In other words, **the unmountable median has been eliminated from the plan**.

Id. (emphasis added).

Through this negotiation, Speedway effectively replaced a non-transversable median with one far more conducive to Speedway's business interest. Unfortunately, what benefited Pilot's

[7] Plaintiffs acknowledge SCDOT asserts the change in median design was unrelated to its discussions with Pilot. L. Colvin Dep. 88:12-15. Pilot's VP of Development testified that he was unaware of whether there were earlier plans for a raised median. W. Mulligan Dep. 26:11-22. In light of the evidence describing a "negotiated" resolution regarding the median and the parties' differing accounts, this issue presents a question of fact that a jury must resolve.

business made Highway 17 far less safe for motorists like the Wrights. According to SCDOT, non-transversable medians have the effect of a 35 percent reduction in traffic collisions. L. Colvin Dep. 139:1-9. The benefit of raised medians is evident from SCDOT regulations. ARMS Manual, Section 3E (P. 18) (stating that "[d]ivided highways operate at higher levels of safety with a minimum of median crossovers" because "[a]dditional crossovers create more conflicts and can lead to higher accident experience") (attached as **EXHIBI 13**). Plaintiffs have also produced expert testimony further establishing that it was unreasonable under the circumstances to replace the planned non-transversable median with a flush painted median.

Plaintiffs' first expert, John Mark Teague, is a civil engineer with extensive expertise in the field of intersection safety. J. Teague Aff. ¶¶ 2-3. Mr. Teague concluded that a non-transversable median at this location "would have significantly reduced the risk of harm" to motorists like the Wrights. J. Teague Aff. ¶ 13. Additionally, Mr. Teague found that the absence of a non-transversable median rendered the intersection "unsafe." J. Teague Aff. ¶ 9. Plaintiffs also presented an expert affidavit from Richard M. Balgowan, a civil engineer specializing in municipal and highway engineering. Mr. Balgowan stated that landowners like Speedway "owes a duty to design a premises that utilizes reasonably safe ingress and egress so potential customers and persons on highways adjacent to a company's facility will not be needlessly placed in a risk of harm." R. Balgowan Aff. ¶ 5. By negotiating to have the proposed non-transversable median removed from SCDOT's existing plans, Speedway did "the exact opposite" of what its duty required. R. Balgowan Aff. ¶ 14. As both experts concluded, Speedway created an artificial condition by altering the proposed median design and, as such, breached its duty owed to Highway 17 motorists. J. Teague Aff. ¶¶ 11, 13, 15; R. Balgowan Aff. ¶¶ 11, 13, 14. By creating this artificial

condition that led to the Wrights' injuries, Speedway violated its duty as recognized in Skinner and the Restatement sections discussed above.

The foregone non-transversable median is directly related to Speedway's other major breach of duty. A raised median or other device to restrict left turns to Pilot Travel Center was especially important given Speedway's poor design for the Center's driveways. J. Teague Aff. ¶ 9. As Pilot acknowledges, driveway placement affects motorist safety on an adjoining highway and poorly designed driveways are "detrimental to safety" on the highway. W. Mulligan Dep. 64:8-11. SCDOT agrees that regulations on driveway placement are important to the safety of motorists because "driveways have long been recognized as a major source of conflict for traffic on public highways." L. Colvin Dep. 32:1-13; 46:20-25.

As such, ARMS contains specific requirements and limitations on where a driveway may be placed and, in the case of multiple driveways, how far each must be from each other. In general, ARMS requires all roadway access points including driveways to be located "as far from roadway intersections . . . as possible." ARMS Manual at 10 § 3A-4. Moreover, every driveway "shall be located at a point which provides optimum sight distance along the roadway. Id. at 9 § 3A-3. ARMS includes a table outlining the acceptable minimum distances between driveways and stated in clear terms that "[n]o access point shall be located within the radius of intersecting roadways." Id. at 9 § Table 3-2, 10 § 3A-4. These statements are not mere suggestions or recommendations; they are mandatory rules. L. Colvin Dep. 45:20-25.

Fundamental among these rules is the express prohibition on driveways within the "functional area" of an intersection. Yet, two different SCDOT representatives testified that Pilot Travel Center violates this rule. SCDOT investigator Robert Clark testified that at least one of Pilot's driveways was in the functional area of the intersection. R. Clark Dep. 11:23 – 12:1-4.

SCDOT Program Manager Leland Colvin agreed that one of Pilot Travel Center's driveways was in the functional area of the intersection and another was on the borderline. L. Colvin Dep. 169:15-22; 173:11-16. Another fundamental ARMS rule requires a certain minimum distance between driveways that varies based on the adjoining highway's speed limit. ARMS Manual at 9 § Table 3-2. The portion of Highway 17 where the Wrights were injured has a 45 miles-per-hour speed limit, and as a result, Pilot Travel Center's driveways were required to be spaced at least 250 feet apart. Id.; R. Clark Dep. 30:16-22. Mr. Clark agreed that Pilot Travel Center's driveways did not meet this standard. R. Clark Dep. 30:23-25. This failure is crucial because the ARMS driveway spacing requirements Speedway breached are safety considerations. R. Clark Dep. 31:1-10. This testimony from SCDOT's corporate representative establishes that Speedway breached its legal duty by planning and constructing its driveways and made the intersection more dangerous for motorists. Plaintiffs' experts also found that the driveway design and construction made the intersection unsafe. J. Teague Aff. ¶ 9; R. Balgowan Aff. ¶ 9. Each expert found that the driveways were too close to the functional area of the intersection, and the landowners had a duty to take some affirmative action to prevent left turns into this dangerous area. Id.

Thus, Speedway is not entitled to summary judgment on the breach element of Plaintiffs' negligence claims. Plaintiffs have presented expert testimony demonstrating Speedway breached its legal duties and created dangerous artificial conditions by negotiating for the exclusion of a proposed non-transversable median and by installing driveways that violated multiple ARMS requirements. Plaintiffs' expert opinions are supported by the testimony of SCDOT's corporate representatives who acknowledge Pilot Travel Center's driveways were too close to the intersection and too close to each other.

3. Speedway's Conduct was a Proximate Cause of the Collision and the Wrights' Injuries.

Speedway's property design and construction errors were a proximate cause of the collision leading to the Wrights' injuries. Speedway's conduct was a cause-in-fact of the collision because the collision would not have happened at an adequately designed intersection. Moreover, innocent motorists are precisely the type of people Speedway should have foreseen as possible victims of their misconduct. Proximate causation is an essential element of any negligence cause of action. Burnett v. Family Kingdom, Inc., 387 S.C. 183, 191, 691 S.E.2d 170, 175 (Ct. App. 2010). This element requires proof of both "causation in fact and legal cause." Small v. Pioneer Mach., Inc., 329 S.C. 448, 463, 494 S.E.2d 835, 842 (Ct. App. 1987) (citing Hurd v. Williamsburg County, 363 S.C. 421, 428, 611 S.E.2d 488, 492 (2005)). Causation in fact is established by proof that the injury "would not have occurred but for the defendant's negligence." Cody P. v. Bank of Am., N.A., 395 S.C. 611, 620, 720 S.E.2d 473, 478 (Ct. App. 2011) (citing Mellen v. Lane, 377 S.C. 267, 278, 659 S.E.2d 236, 245 (Ct. App. 2008). Legal cause is established by determining foreseeability, a factor which focuses on "whether the injury is the natural and probable consequence of the alleged negligent act." Id. As the Cooke court noted, "[p]roximate cause is generally a question for the jury." 741 F. Supp. at 1214; see also Ballou v. Sigma Nu Gen. Fraternity, 291 S.C. 140, 147, 352 S.E.2d 488, 493 (Ct. App. 1986) ("Only in rare or exceptional cases may the question of proximate cause be decided as a matter of law"). Summary judgment on proximate cause is inappropriate where the plaintiff has produced "some evidence." Cooke, 741 F. Supp. at 1214.

Where a negligence claim alleges an injury directly caused by the intervening act of a third party, a "special case" is presented. Cody P. v. Bank of Am., N.A., 395 S.C. at 620, 720 S.E.2d at 478. In those special cases, the test becomes whether a third party criminal act was foreseeable to the defendant. The finder of fact must determine whether "the injury at the hand of the intervening

party was within the general range of consequences which any reasonable person might foresee as a natural and probable consequence of the negligent act." Shepard v. S.C. Dep't of Corr., 299 S.C. 370, 375, 375 S.E.2d 37, 37 (Ct. App. 1989). Plaintiffs need not prove the "particular chain of events" was foreseeable but only that the injury the criminal inflicted was "within the general range of consequences which any reasonable person might foresee." Cody P., 395 S.C. at 621, 720 S.E.2d at 478 (citing Shepard 299 S.C. at 375, 385 S.E.2d at 38).

Several different types of evidence may be used to demonstrate that a defendant could reasonably foresee injuries ultimately perpetrated by an independent third party. Expert testimony may be used to establish foreseeability. An expert with knowledge of the defendant's business may testify regarding the types of harms the defendant anticipates in its business. See Cody P., 395 S.C. at 621-22, 720 S.E.2d at 478 (considering banking expert's testimony that banks anticipate theft). Here, Plaintiffs' experts concluded that Speedway's design and construction errors were a proximate cause of the collision. For instance, Mr. Teague found that a non-transversable median would have significantly reduced the risk of harm to motorists like the Wrights. J. Teague Aff. § 13. Mr. Teague reached this conclusion because this accident occurred during a left turn into Pilot Travel Center and the non-transversable median Speedway negotiated to remove would have most likely prevented that turn. SCDOT shares this opinion. L. Colvin Dep. 101:9-25 (stating that non-transversable median's purpose is "access control" and "is not intended to be transversed by the motoring public"); 139:1-9 (agreeing that non-transversable median decrease traffic collisions by 35%).

Even Pilot's Vice President of Development admits that a non-transversable median's specific purpose is to prevent the type of turns that resulted in this collision. W. Mulligan Dep. 27:6-7 (acknowledging median's purpose would be "[t]o keep people from making a left turn").

Crucially, the at-fault driver also agrees that the absence of a non-transversable median was a crucial factor in the collision. According to the driver, a non-transversable median "could have prevented my accident and a lot more accidents and any more to come." D. Sena Dep. 119:2-4. Taken as a whole the lay and expert witness testimony establishes a substantial causal connection between the absent raised median and the collision that caused the Wrights' injuries.

The same is true for the defective driveways. As Pilot acknowledges, "inadequate driveway design creates conflicts that can be detrimental to safety" on the adjoining highway. W. Mulligan Dep. 64:8-11. When a person attempts to enter or exit a driveway that is either too close to a major intersection or too close to another heavily-utilized driveway, he has little time to react to opposing traffic. As this intersection has proven many times over the last fifteen years, traffic collisions are alarmingly common at Pilot Travel Center's driveways. L. Colvin Dep. 217:16-20 (agreeing many collisions happen when motorists attempt left turns out of Pilot Travel Center's driveways); 219:12-15 (noting 17 different accidents involving left turns at Pilot Travel Center over just a four-year period). Based on this historic accident data and their knowledge of intersection design principles, Plaintiffs experts concluded the driveways were also a proximate cause of the Wrights' injuries. J. Teague Aff. ¶ 15 (finding Pilot "created an artificial condition, which generated hazardous conditions and contributed to the injuries of the plaintiffs"). Viewing the situation as a whole, Plaintiffs' experts concluded that the collision most likely would not have occurred if the driveways had been properly designed. J. Teague Aff. ¶ 19.

CONCLUSION

Based on the arguments stated above, Plaintiffs respectfully request an order denying Speedway's motion for summary judgment. Speedway breached duties imposed by South Carolina common law and SCDOT regulations when it negotiated for the removal of a non-transversable

median and constructed a series of improper and dangerous driveways at its facility. As a direct and proximate result of the dangers created by the Defendants, the Wrights were injured in a serious auto collision. Speedway's motion should be denied.

Respectfully submitted,

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June 5, 2017

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BERKELEY)	NINTH JUDICIAL CIRCUIT
Cynthia Wright and Richard Wright,)	Civil Action No.: 2016-CP-08-334
)	
Plaintiffs,)	
)	
v.)	
)	**PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT ASHLEY LAND SURVEYING, INC.'S MOTION FOR SUMMARY JUDGMENT**
South Carolina Department of Transportation, Pilot Travel Centers, LLC Speedway, LLC, Ashley Land Surveying, Inc., F/K/A Ashley Engineering and Surveying, Inc. and Ashely Engineering & Consulting, Inc., and Munlake Contractors, Inc.,)	
)	
Defendants.)	

Plaintiffs Cynthia and Richard Wright respectfully submit their Memorandum of Law in Opposition to Defendant Ashley Land Surveying, Inc.'s ("Ashley") Motion for Summary Judgment.

INTRODUCTION

This motion is part of a multi-defendant action arising from a motor vehicle collision on Highway 17 in Summerville right in front of the Pilot Travel Center.[1] The Wrights, who were seriously injured by a vehicle attempting a left turn into Pilot Travel Center, argue activities undertaken by Pilot Travel Center's owners made the intersection substantially less safe and proximately caused the collision and the Wrights' injuries. While Ashley did not own Pilot Travel Center, it played a crucial role in the road conditions present on the night of the Wrights' collision.

[1] Plaintiffs incorporate by reference the statement of facts included in their Memorandum in Opposition to Defendant Speedway LLC's Motion for Summary Judgment as well as the exhibits cited in that memorandum.

Ashley is listed as one of the submitting parties for an encroachment permit submitted to the South Carolina Department of Transportation ("SCDOT") in which Ashley sought approval for driveways linking Pilot Travel Center to Highway 17 even though some of the driveways were in the functional area of a busy intersection and violated state regulations by being too close together.

Ashley's motion mimics the arguments Defendant Pilot Travel Centers, LLC ("Pilot") made in support of summary judgment and cites an order granting Pilot summary judgment as evidence for why Ashley should also be dismissed. This argument should be rejected for two reasons. First, Plaintiffs have filed a motion to alter or amend judgment on the order granting Pilot summary judgment and that motion has not yet been resolved. Plaintiffs' motion argues the order granting Pilot summary judgment overlooked legal duties Pilot owed in relation to the driveways on its property and for the median design alteration that it negotiated to obtain. Second, there is evidence suggesting Ashley had a greater connection to the poor design and construction choices than Pilot. Pilot takes the position that it fully trusted Ashley to submit an encroachment permit application that complied with state driveway location regulations. W. Mulligan Dep. 48:21 – 49:10; 79:24 – 80:3. Accordingly, the Pilot order should have no bearing on the court's ruling for this motion and, for the reasons stated below, Ashley's motion should be denied.

SUMMARY JUDGMENT STANDARD

To grant a motion for summary judgment, the court must find that "there is no genuine issue as to any material fact." Rule 56(c), SCRCP. The judge is not to weigh the evidence but rather to determine if there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 106 S. Ct. 2505, 91 L.Ed.2d 202 (1986). For claims where the preponderance of evidence burden applies, "the non-moving party is only required to submit a mere scintilla of evidence in

order to withstand a motion for summary judgment." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

In determining whether any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the party opposing summary judgment. Summer v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997); Pye v. Aycock, 325 S.C. 426, 480 S.E. 2d 455 (Ct. App. 1997). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Brockbank v. Best Capital Corp, 341 S.C. 372, 534 SE 2d 688 (2000); Moriarity v. Garden Sanctuary Church of God, 534 S.C. 150, 511 S.E.2d 699 (Ct. App.1999). "Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing & Regulation, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999).

ARGUMENT

1. **Ashley owed the Wrights a Legal Duty under South Carolina law.**

Defendant Pilot (and its predecessors in interest) altered both the entrances to its premises and a traffic control device on an abutting highway during the redesign of its gas station and convenience center. Specifically, Pilot "negotiated" for the "removal" of a planned raised median intended to limit left turns into Pilot's station and designed driveway entrances to the station that were both too close together and improperly lying within the functional area of the intersection. Pilot's admitted goal was to make its location a more convenient and attractive option than neighboring gas stations. However, these design specifications and construction choices created a foreseeable danger to motorists traveling through the already cramped intersection. According to Pilot, many of the design and construction choices it made for this intersection were made by or

in conjunction with Ashley, the construction company Pilot hired for the project. W. Mulligan Dep. 79:24 – 80:3 (acknowledging Pilot hired Ashley to "get the compliance" from the state to complete the Pilot Travel Center project). Ashley contribution to the project included, among other things, construction work and submitting a faulty encroachment permit to SCDOT. Since Ashley's conduct violated established South Carolina common law standards and SCDOT regulations, Ashley breached a legal duty to the Wrights and is liable for their losses.

South Carolina law establishes that the owner of land adjacent to a highway may face liability when its conduct unreasonably creates danger for highway travelers. According to the Supreme Court's ruling in Skinner v. South Carolina Department of Transportation, 383 S.C. 520, 524, 681 S.E.2d 871, 873 (2009), South Carolina common law imposes liability "where an individual or business has undertaken an activity that creates an artificial condition on the highway which is dangerous to travelers." Moreover, when a property owner's conduct creates a foreseeable danger to others, the owner must mitigate or eliminate that risk even if otherwise under no duty to act. Faile v. S.C. Dep't of Juvenile Justice, 350 S.C. 315, 334 n. 8, 566 S.E.2d 536, 546 n. 8 (2002) (citing Restatement (Second) of Torts § 321). Additionally, long-standing common law rules hold that a highway's neighbor may not conduct activities on its own premises that unreasonably endanger motorists traveling on the highway. Skinner, 383 S.C. at 525, 681 S.E.2d at 874 (collecting cases from other jurisdictions imposing liability where "the conduct of the landowner's business has created an artificial condition on the highway").[2] Finally, the SCDOT Access and

[2] This same rule is recognized by the Restatement (Second) of Torts § 364 which reads as follows:

> A possessor of land is subject to liability to others outside of the land for physical harm caused by a structure or other artificial condition on the land, which the possessor realizes or should realize will involve an unreasonable risk of such harm if (a) the possessor created the condition, or (b) the condition is created by a third person with the possessor's consent or acquiescence while the land is in his possession, or (c) the condition is created by a third

Roadside Management Standards ("ARMS manual") impose specific rules on the location of driveways the violation of which may serve as a basis for civil liability. Id. at 523, 681 S.E.2d at 873 (identifying ARMS manual as potential duty source but finding its regulations inapplicable to defendant before it).

At its core, Skinner stands for the proposition that property owners like Pilot must use reasonable care when creating an "artificial condition" on their property[3] or on the adjoining

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person without the possessor's consent or acquiescence, but reasonable care is not taken to make the condition safe after the possessor knows or should know of it.

[3] Skinner is consistent with rulings from a number of other jurisdictions permitting liability on property owner for condition on the owner's property that contributes to the injury of motorists on an adjoining highway. Keith v. Beard, 464 S.E.2d at 637; see also Rosengren v. City of Seattle, 205 P.3d 909, 913 (Wash. App. 2009) ("a person in possession of land may owe a duty to others outside the land on the abutting sidewalk"); Walsh v. Avalon Aviation, Inc., 118 F. Supp. 2d 675, 677 (D. Md. 2000) ("an owner of property abutting on a highway is under an obligation to use reasonable care not to endanger travelers on the highway by objects so located on his premises that they are likely to cause injury"); Donavan v. Jones, 658 So.2d 755, 764 (La. App. 1995) ("an owner of property abutting a highway . . . may be liable for causing or contributing to a defective or dangerous condition in the area, despite the fact that a public authority is charged with maintaining the highway"); Lawson v. B Four Corp., 888 S.W.2d 31, 34 (Tex. App. 1994) ("an owner or occupier of premises abutting a highway has a duty to exercise reasonable care to avoid endangering the safety of persons using the highway as a means of travel"); Zens v. Chicago, Milwaukee, St. Paul & Pac. R. Co., 386 N.W.2d 475, 479 (S.D. 1986) ("if an abutting landowner creates a hazard or defect in a public roadway or appurtenant thereto, which could foreseeably cause or contribute to injuries sustained by those using the public highway, or reasonably straying therefrom, the abutting landowner can be liable for such injuries"); Schulz v. Quintana, 576 P.2d 855, 856 (Utah 1978) ("Once a highway has been established there is an obligation upon the occupiers of abutting land to use ordinary care to see that the passage way is reasonably safe for travel"); De Ark v. Nashville Stone Setting Corp., 279 S.W.2d 518, 521 (Tenn. App. 1955) (quoting 25 Am. Jr. Highways § 530 at 811) ("The general rule is that one who creates or maintains, on premises adjacent to a highway, a condition of such character that danger therefrom to persons lawfully using the highway may or should, in the exercise of ordinary care, be foreseen or apprehended is under a duty of exercising reasonable care"); Concho Constr. Co. v. Okla. Natural Gas Co., 201 F.2d 673, 674-75 (10th Cir. 1953) ("the owner of land abutting a public highway owes a duty to keep it from being a source of danger to the public or to travelers upon and lawful users of the highway"); Mays v. Gamarnick, 93 N.E.2d 236, 237 (Mass. 1950) (owner of land abutting highway "must exercise reasonable care to maintain his premises in a proper and safe condition so as not to cause injury to the public traveling on the way").

highway and may face liability when an artificial condition of their creation contributes to a passing motorist's injury. 383 S.C. at 524-25, 681 S.E.2d at 873-74. While Skinner does not define the term, "artificial condition" has been defined elsewhere to include both improperly designed or constructed driveways as well as an insufficient median. When used to describe a landowner's duty to highway motorists, "artificial condition" includes any "structure erected upon land" as well as "changes in the surface by excavation and filling." Restatement (Second) of Torts § 363 cmt. b. In fact, the only non-artificial (i.e. natural conditions) are those for which "the condition of the land has not been changed by any act of a human being." Id. A median, whether raised or painted, is not a naturally occurring phenomenon but rather a change in the surface of the roadway that lies squarely within the definition of an "artificial condition." The same is true of a driveway linking private property to the highway. A driveway is a structure erected upon land and has been specifically recognized as an artificial condition for landowner liability purposes. Keith v. Beard, 464 S.E.2d 633, 637 (Ga. App. 1995).

As the Supreme Court recognized in Faile, South Carolina common law also holds a party responsible for the foreseeable danger caused by harms the party created. 350 S.C. at 334, 566 S.E.2d at 546. Faile held that when a party's conduct creates danger for others, the party may be required to take affirmative steps to protect foreseeable victims. Specifically, Faile adopted a Restatement provision that reads in full:

> If the actor does an act, and subsequently realizes or should realize that it has created an unreasonable risk of causing physical harm to another, he is under a duty to exercise reasonable care to prevent the risk from taking effect.

Id. at 334 n. 8, 566 S.E.2d at 546 n. 8 (citing Restatement (Second) of Torts § 321). Accordingly, Ashley had a duty to ensure that the median alteration and driveway construction did not unreasonably endanger motorists on the highway and also had a duty to take affirmative action to

mitigate the danger once it became apparent through repeated collisions in the intersection. See also 65th Center, Inc. v. Copeland, 825 S.W.2d 574, 577 (Ark. 1992) (when owner of property adjoining highway creates condition that renders travel on highway unsafe, then owner "has a duty to take reasonable precautions to guard against the danger and to protect travelers from that danger"). Even if the Court were to find Ashley had no common law duty to make changes to Highway 17, Ashley undertook to do so by successfully negotiating for the planned non-transversable median's removal. Having voluntarily undertaken this duty, Ashley had an affirmative duty going forward since Ashley's conduct "increased the risk" of harm to motorists. Restatement (Second) of Torts § 323.[4]

Skinner appears to recognizes the ARMS Manual as a source for a legal duty related to a private landowner's construction project that connects to a state highway. 383 S.C. at 523, 681 S.E.2d at 873. Skinner declined to impose a duty based on the ARMS manual in the case before it but only because the manual's provisions did not apply to the defendant, a party who was not covered by the manual's "encroachment permit" provisions. Id.; see also Madison v. Babcock Center, 371 S.C. 123, 135, 638 S.E.2d 650, 656 (2006) (noting, in general, the role of "the common law, statutes, regulations, or [a state agency's] policies and guidelines" in determining a party's duty). The reconstruction project Ashley undertook in this case are covered by ARMS Manual requirements including those related to encroachment permits. As acknowledged by Pilot's Vice President for Development, Ashley submitted an encroachment permit for the project, and Pilot acknowledges the importance of industry standards including ARMS Manual requirements governing driveways and medians. W. Mulligan Dep. 11:17-25; 62-66. Accordingly, ARMS

[4] South Carolina recognizes Section 323 and has applied its principles in many different contexts. See e.g., Sherer v. James, 290 S.C. 404, 408, 351 S.E.2d 148, 150 (1986); Crowley v. Spivey, 285 S.C. 397, 406, 329 S.E.2d 774, 780 (Ct. App. 1985)).

Manual standards state a duty and define the parameter of the duty Ashley was required to meet during the design and construction of the new facility.

Finally, Plaintiffs note Ashley also cites Skinner and argues that it actually supports the position that Pilot did not owe the Wrights a legal duty. However, in the aggregate, Skinner strongly supports a property owner's duty to an adjoining highway's motorists and the Supreme Court refused to apply that duty in Skinner based only on factual distinctions that do not exist here. Skinner held that South Carolina recognizes a duty where "an individual or business has undertaken an activity that creates an artificial condition on the highway which is dangerous to travelers." 383 S.C. at 525, 681 S.E.2d at 873. That duty did not apply under Skinner's facts because the condition in question (i.e. ruts in the shoulder of a road caused by heavy trailers) was not "artificial" but rather normal wear and tear on the highway. Id. at 525, 681 S.E.2d at 874. In contrast, Ashley built driveways and removed a planned median, both of which created artificial conditions to which the duty discussed in Skinner applies. Moreover, Skinner recognized the ARMS Manual as a potential source of duty but refused to apply it because the defendants in that case were not required to seek an encroachment permit and were not subject to ARMS Manual requirements. Id. at 523, 681 S.E.2d at 873. Here, however, Ashley did submit an encroachment permit and was subject to all ARMS Manual requirements including its sidewalk standards. W. Mulligan Dep. 11:17-25; 62-66. Despite its outcome on the facts, Skinner's holding definitively states the basis of a duty that, on the facts of this case, applies to Ashley's design and construction decisions.

In sum, Ashley's duty of care regarding artificial conditions on its property are well established in South Carolina case law and Restatement provisions adopted or otherwise utilized by South Carolina courts. Skinner also makes clear that this duty is owed not only to Pilot Travel

Center customers but also to motorists on the adjacent highway endangered by Ashley's conduct.. As discussed below, Ashley breached these duties in multiple ways resulting in an auto collision and injuries that were a foreseeable result of Pilot's misconduct.

2. Ashley Breached its Legal Duty by Installing Unsafe Driveways.

Ashley planned, designed, and constructed Pilot Travel Center to make customers' entry and exit to the facility as convenient as possible. However, to further this goal, Ashley made strategic decisions about access to the Center that rendered the adjoining highway more dangerous both for customers and all other motorists passing through. Acting in consultation with Pilot, Ashley submitted an encroachment permit to SCDOT based on a plan for driveways that violated multiple state highway regulations. Through each of these actions, Ashley created dangerous artificial conditions that violate its duties under South Carolina common law and SCDOT regulations.

The encroachment permit application Ashley submitted for Pilot Travel Center was based on a poor design for the Center's driveways. J. Teague Aff. ¶ 9. As Pilot acknowledges, driveway placement affects motorist safety on an adjoining highway and poorly designed driveways are "detrimental to safety" on the highway. W. Mulligan Dep. 64:8-11. SCDOT agrees that regulations on driveway placement are important to the safety of motorists because "driveways have long been recognized as a major source of conflict for traffic on public highways." L. Colvin Dep. 32:1-13; 46:20-25. As such, ARMS contains specific requirements and limitations on where a driveway may be placed and, in the case of multiple driveways, how far each must be from each other. In general, ARMS requires all roadway access points including driveways to be located "as far from roadway intersections . . . as possible." ARMS Manual at 10 § 3A-4. Moreover, every driveway "shall be located at a point which provides optimum sight distance along the roadway. Id. at 9 §

3A-3. ARMS includes a table outlining the acceptable minimum distances between driveways and stated in clear terms that "[n]o access point shall be located within the radius of intersecting roadways." Id. at 9 § Table 3-2, 10 § 3A-4. These statements are not mere suggestions or recommendations; they are mandatory rules. L. Colvin Dep. 45:20-25.

Fundamental among these rules is the express prohibition on driveways within the "functional area" of an intersection. Yet, two different SCDOT representatives testified that Pilot Travel Center violates this rule. SCDOT investigator Robert Clark testified that at least one of Pilot's driveways was in the functional area of the intersection. R. Clark Dep. 11:23 – 12:1-4. SCDOT Program Manager Leland Colvin agreed that one of Pilot Travel Center's driveways was in the functional area of the intersection and another was on the borderline. L. Colvin Dep. 169:15-22; 173:11-16. Another fundamental ARMS rule requires a certain minimum distance between driveways that varies based on the adjoining highway's speed limit. ARMS Manual at 9 § Table 3-2. The portion of Highway 17 where the Wrights were injured has a 45 miles-per-hour speed limit, and as a result, Pilot Travel Center's driveways were required to be spaced at least 250 feet apart. Id.; R. Clark Dep. 30:16-22. Mr. Clark agreed that Pilot Travel Center's driveways did not meet this standard. R. Clark Dep. 30:23-25. This failure is crucial because the ARMS driveway spacing requirements Ashley breached are safety considerations. R. Clark Dep. 31:1-10. This testimony from SCDOT's corporate representative establishes that Ashley breached its legal duty by planning and constructing its driveways and made the intersection more dangerous for motorists. Plaintiffs' experts also found that Ashley's driveway design and construction made the intersection unsafe. J. Teague Aff. ¶ 9; R. Balgowan Aff. ¶ 9. Each expert found that the driveways were too close to the functional area of the intersection, and Pilot had a duty to take some affirmative action to prevent left turns into this dangerous area. Id.

Thus, Ashley is not entitled to summary judgment on the breach element of Plaintiffs' negligence claims. Plaintiffs have presented expert testimony demonstrating Ashley breached their legal duties and created dangerous artificial conditions by negotiating for the exclusion of a proposed non-transversable median and by installing driveways that violated multiple ARMS requirements. Plaintiffs' expert opinions are supported by the testimony of SCDOT's corporate representatives who acknowledge Pilot Travel Center's driveways were too close to the intersection and too close to each other.

3. Ashley's Conduct was a Proximate Cause of the Collision and the Wrights' Injuries.

Ashley's property design and construction errors were a proximate cause of the collision leading to the Wrights' injuries. Ashley's conduct was a cause-in-fact of the collision because the collision would not have happened at an adequately designed intersection. Moreover, innocent motorists are precisely the type of people Ashley should have foreseen as possible victims of their misconduct. Proximate causation is an essential element of any negligence cause of action. Burnett v. Family Kingdom, Inc., 387 S.C. 183, 191, 691 S.E.2d 170, 175 (Ct. App. 2010). This element requires proof of both "causation in fact and legal cause." Small v. Pioneer Mach., Inc., 329 S.C. 448, 463, 494 S.E.2d 835, 842 (Ct. App. 1987) (citing Hurd v. Williamsburg County, 363 S.C. 421, 428, 611 S.E.2d 488, 492 (2005)). Causation in fact is established by proof that the injury "would not have occurred but for the defendant's negligence." Cody P. v. Bank of Am., N.A., 395 S.C. 611, 620, 720 S.E.2d 473, 478 (Ct. App. 2011) (citing Mellen v. Lane, 377 S.C. 267, 278, 659 S.E.2d 236, 245 (Ct. App. 2008). Legal cause is established by determining foreseeability, a factor which focuses on "whether the injury is the natural and probable consequence of the alleged negligent act." Id. As the Cooke court noted, "[p]roximate cause is generally a question for the jury." 741 F. Supp. at 1214; see also Ballou v. Sigma Nu Gen. Fraternity, 291 S.C. 140, 147, 352

S.E.2d 488, 493 (Ct. App. 1986) ("Only in rare or exceptional cases may the question of proximate cause be decided as a matter of law"). Summary judgment on proximate cause is inappropriate where the plaintiff has produced "some evidence." Cooke, 741 F. Supp. at 1214.

Where a negligence claim alleges an injury directly caused by the intervening act of a third party, a "special case" is presented. Cody P. v. Bank of Am., N.A., 395 S.C. at 620, 720 S.E.2d at 478. In those special cases, the test becomes whether a third party criminal act was foreseeable to the defendant. The finder of fact must determine whether "the injury at the hand of the intervening party was within the general range of consequences which any reasonable person might foresee as a natural and probable consequence of the negligent act." Shepard v. S.C. Dep't of Corr., 299 S.C. 370, 375, 375 S.E.2d 37, 37 (Ct. App. 1989). Plaintiff need not prove the "particular chain of events" was foreseeable but only that the injury the criminal inflicted was "within the general range of consequences which any reasonable person might foresee." Cody P., 395 S.C. at 621, 720 S.E.2d at 478 (citing Shepard 299 S.C. at 375, 385 S.E.2d at 38).

Several different types of evidence may be used to demonstrate that a defendant could reasonably foresee injuries ultimately perpetrated by an independent third party. Expert testimony may be used to establish foreseeability. An expert with knowledge of the defendant's business may testify regarding the types of harms the defendant anticipates in its business. See Cody P., 395 S.C. at 621-22, 720 S.E.2d at 478 (considering banking expert's testimony that banks anticipate theft). Here, Plaintiffs' experts concluded that Ashley's design and construction errors were a proximate cause of the collision. As Pilot acknowledges, "inadequate driveway design creates conflicts that can be detrimental to safety" on the adjoining highway. W. Mulligan Dep. 64:8-11. When a person attempts to enter or exit a driveway that is either too close to a major intersection or too close to another heavily-utilized driveway, he has little time to react to opposing traffic. As this intersection

has proven many times over the last fifteen years, traffic collisions are alarmingly common at Pilot Travel Center's driveways. L. Colvin Dep. 217:16-20 (agreeing many collisions happen when motorists attempt left turns out of Pilot Travel Center's driveways); 219:12-15 (noting 17 different accidents involving left turns at Pilot Travel Center over just a four-year period). Based on this historic accident data and their knowledge of intersection design principles, Plaintiffs experts concluded the driveways were also a proximate cause of the Wrights' injuries. J. Teague Aff. ¶ 15 (finding Pilot "created an artificial condition, which generated hazardous conditions and contributed to the injuries of the plaintiffs"). Viewing the situation as a whole, Plaintiffs' experts concluded that the collision most likely would not have occurred if the driveways had been properly designed. J. Teague Aff. ¶ 19.

CONCLUSION

Based on the arguments stated above, Plaintiffs respectfully request an order denying Ashley's motion for summary judgment. Ashley breached duties imposed by South Carolina common law and SCDOT regulations when it submitted a plan for and constructed a series of dangerous driveways at Pilot Travel Center. As a direct and proximate result of the dangers created by the Defendants, the Wrights were injured in a serious auto collision. Ashley's motion should be denied.

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Attorneys for the Plaintiffs

Rock Hill, South Carolina

June 5, 2017

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO: 2016-CP-08-334
CYNTHIA WRIGHT AND RICHARD WRIGHT, Plaintiffs, vs. SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, PILOT TRAVEL CENTERS, LLC, SPEEDWAY LLC, ASHLEY LAND SURVEYING, INC., f/k/a ASHLEY ENGINERRING & CONSULTING, INC., AND MUNLAKE CONTRACTORS, INC. Defendants.	**NOTICE OF MOTION AND MOTION TO COMPEL**

FILED
2017 JUN 12 PM 3:44
MARY P. BERRY
CLERK OF COURT
BERKELEY COUNTY, S.C.

TO: WILLIAM G. BESLEY, ESQUIRE, ATTORNEY FOR DEFENDANT PILOT TRAVEL CENTERS, LLC

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, by and through his undersigned attorney, will move before the Presiding Judge of the Court of Common Pleas of Berkeley County, on the tenth (10) day after service hereof, or at such other time and place as is convenient to the Court and counsel, for an Order requiring the Defendant Pilot Travel Centers, LLC to produce the documents set out in Plaintiff's Requests for Production. On April 4, 2017, Plaintiff served requests for production upon counsel for Defendant Pilot Travel Centers, LLC requesting information, but no response has been made.

The parties have conferred and were unable to resolve this matter. Plaintiffs ask the Court for an Order requiring the Defendant to comply with the requests for production and to award costs and attorney's fees to the Plaintiff in the seeking of this Order.

Kevin B. Smith
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Attorney for Plaintiff

North Charleston, South Carolina

June 7, 2017

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-08-334

CYNTHIA WRIGHT AND RICHARD WRIGHT,

Plaintiffs,

vs.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, PILOT TRAVEL CENTERS, LLC, SPEEDWAY LLC, ASHLEY LAND SURVEYING, INC., f/k/a ASHLEY ENGINERRING & CONSULTING, INC., AND MUNLAKE CONTRACTORS, INC.

Defendants.

NOTICE OF MOTION AND MOTION TO COMPEL

FILED
2017 JUN 12 PM 3:54
BERKELEY COUNTY, SC

TO: ROY P. MAYBANK, ESQUIRE, ATTORNEY FOR DEFENDANT SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, by and through his undersigned attorney, will move before the Presiding Judge of the Court of Common Pleas of Berkeley County, on the tenth (10) day after service hereof, or at such other time and place as is convenient to the Court and counsel, for an Order requiring the Defendant South Carolina Department of Transportation to produce the documents set out in Plaintiff's Requests for Production. On April 4, 2017, Plaintiff served requests for production upon counsel for Defendant South Carolina Department of Transportation requesting information, but no response has been made.

The parties have conferred and were unable to resolve this matter. Plaintiffs ask the Court for an Order requiring the Defendant to comply with the requests for production and to award costs and attorney's fees to the Plaintiff in the seeking of this Order.

Kevin B. Smith
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Attorney for Plaintiff

North Charleston, South Carolina

June 7, 2017

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-08-334

CYNTHIA WRIGHT AND RICHARD WRIGHT,

Plaintiffs,

vs.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, PILOT TRAVEL CENTERS, LLC, SPEEDWAY LLC, ASHLEY LAND SURVEYING, INC., f/k/a ASHLEY ENGINERRING & CONSULTING, INC., AND MUNLAKE CONTRACTORS, INC.

Defendants.

NOTICE OF MOTION AND MOTION TO COMPEL

FILED
2017 JUN 12 PM 3:57
BERKELEY COUNTY, SC

TO: J. BENNETT CRITES, III, ESQUIRE, ATTORNEY FOR DEFENDANT SPEEDWAY LLC

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, by and through his undersigned attorney, will move before the Presiding Judge of the Court of Common Pleas of Berkeley County, on the tenth (10) day after service hereof, or at such other time and place as is convenient to the Court and counsel, for an Order requiring the Defendant Speedway LLC to produce the documents set out in Plaintiff's Requests for Production. On April 4, 2017, Plaintiff served requests for production upon counsel for Defendant Speedway LLC requesting information, but no response has been made.

The parties have conferred and were unable to resolve this matter. Plaintiffs ask the Court for an Order requiring the Defendant to comply with the requests for production and to award costs and attorney's fees to the Plaintiff in the seeking of this Order.

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Attorney for Plaintiff

North Charleston, South Carolina

June 7, 2017

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY)

Cynthia Wright and Richard Wright,) Civil Action No. 2016-CP-08-334

Plaintiffs,)

vs.)

South Carolina Department of Transportation, Pilot Travel Centers, LLC, Speedway LLC, Ashley Land Surveying, Inc., f/k/a Ashley Engineering & Surveying, Inc. and Ashley Engineering & Consulting, Inc., and Munlake Contractors, Inc.) **Speedway LLC's Return to Plaintiffs' Motion to Compel**

Defendants.)

BERKELEY COUNTY SC
2017 JUN 15 P 1:05

Following Speedway and other Defendants' Motions for Summary Judgment on June 6, 2017, Plaintiffs' counsel conferred with the parties about the subject Requests for Production. Counsel for Speedway LLC (hereinafter Speedway) explained it would immediately look into the Request and locate the responsive documents, if any. Counsel for Plaintiffs emailed the subject Request for Production that afternoon, and Counsel for Speedway again communicated its intent to comply with Plaintiffs' request. On June 8, 2017, Speedway fully responded to the subject Request for Production. (Ex. A.) Notwithstanding, on June 7, 2017, Plaintiffs submitted the attached Motion to Compel to the Court by U.S. Mail. Defendant Speedway received the same on June 12, 2017. (Ex. B.) Because Speedway fully responded to Plaintiffs' Request, Plaintiffs' Motion is now moot and should be withdrawn by Plaintiffs or denied by the Court. Speedway requests further relief as the Court deems just and proper under these circumstances.

SMITH MOORE LEATHERWOOD LLP

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Kathleen F. Monoc
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Charleston, SC 29413
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Fax 843.300.6700
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katie.monoc@smithmoorelaw.com

Attorneys for Defendant Speedway LLC

June 13, 2017
Charleston, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS
Cynthia Wright and Richard Wright, Plaintiffs, vs. South Carolina Department of Transportation, Pilot Travel Centers, LLC, Speedway LLC, Ashley Land Surveying, Inc., f/k/a Ashley Engineering & Surveying, Inc. and Ashley Engineering & Consulting, Inc., and Munlake Contractors, Inc. Defendants.	)	Civil Action No. 2016-CP-08-334 Speedway LLC's Responses to Plaintiffs' Requests for Production

TO: KEVIN B. SMITH, ESQUIRE, ATTORNEY FOR PLAINTIFFS:

Defendant Speedway LLC responds to Plaintiffs' Requests for Production as follows:

1. Copies of all documents relating to the right of way acquisition for the I-26/US17A Interchange Improvement project.

RESPONSE: Defendant is in possession of the following:

(a) Title to Real Estate with Exhibit A executed by Speedway Super America LLC in favor of SCDOT dated October 31, 2000 (bates labeled Speedway 000001 – 000002);

(b) Appraisal prepared by Pledger M. Bishop on behalf of SCDOT dated June 20, 2000 (bates labeled Speedway 000003 – 000014);

(c) 6 pages of miscellaneous correspondence (bates labeled Speedway 000015 – 000020).

2. Please provide a copy of the Settlement Agreement relating to the right of way acquisition for the I-26/US17A Interchange Improvement project.

RESPONSE: Defendant is not in the possession of any documents that meet this Request.

3. Please provide a copy of any and all appraisals relating to the right of way acquisition for the I-26/US17A Interchange Improvement project.

RESPONSE: See attached appraisal prepared by Pledger M. Bishop on behalf of SCDOT dated June 20, 2000.

4. Please provide a copy of the Condemnation Notice relating to the right of way acquisition for the I-26/US17A Interchange Improvement project.

RESPONSE: Defendant is not in the possession of any documents that meet this Request.

SMITH MOORE LEATHERWOOD LLP

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Attorneys for Defendant Speedway LLC

June 7, 2017
Charleston, South Carolina

DOT R/W Form 602EXHI (01-00)

05-456-SC-31
(DOC 4)

IE STATE OF SOUTH CAROLINA

OUNTY OF BERKELEY

TITLE TO REAL ESTATE
Approximate Survey Station

ad/Route..... I-26/US17A Interchange Improvements
e..... 8.790
m.....
ject..... IU-0264(174)
N..... 22338

20+000 To 20+080
Farmington Road Survey
To
To

KNOW ALL MEN BY THESE PRESENTS, That I (or we) Speedway Super America LLC, 3200 Pointe rkway, Suite 200, Norcross, Georgia 30092 in consideration of the sum of Fifty Thousand and No/100 ($50,000.00) llars and other valuable consideration to me (or us) in hand paid at and before the sealing and delivering thereof, by the uth Carolina Department of Transportation, Columbia, South Carolina, receipt of which is hereby acknowledged, have nted, bargained, sold and released, and by these presents do grant, bargain, sell and release, unto the said South Carolina partment of Transportation, its successors and assigns, all that certain real property of the Grantor in fee simple absolute I 17A From Berlin G. Myers Parkway to West of Sangaree Parkway on I-26/US17A Interchange Improvements, te and County aforesaid, as shown on plans prepared by the South Carolina Department of Transportation and dated July ,1999.

PECIAL PROVISIONS: All that certain parcel of land, containing 9,102 square feet of land, more or less and any provements thereon owned by Speedway Super America, LLC shown as the "Area of Acquisition" on Exhibit A, attached reto and made a part hereof. This being a portion of the property acquired from Emmaline B. Smith by deed dated ptember 11, 2000 and recorded September 12, 2000 in Deed Book 2027, Page 8 and from Meredith Brown by deed dated ptember 11, 2000 and recorded September 12, 2000 in Deed Book 2027, Page 4 in the records for Berkeley County and own as Tax Map Numbers 221-00-00-015 & 221-00-00-091.

Together with, all and singular, the rights, members, hereditaments and appurtenances thereunto belonging, or in any se incident or appertaining.

And I (or we) do hereby bind my (or our) heirs, executor and administrators, to warrant and forever defend all and ngular the said premises unto the said South Carolina Department of Transportation, it's successors and assigns, against me r us) and my (or our) heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part reof.

TO HAVE AND TO HOLD in fee simple, absolute and singular the said property and the rights hereinbefore anted, unto the said South Carolina Department of Transportation, its successors and assigns forever.

IN WITNESS WHEREOF, I (or we) have hereunto set my (or our) hand(s) and seal(s) this 31st
y of October, in the year of our Lord, Two Thousand and 00
gned, sealed and delivered in the presence of:

Witness

Witness

SPEEDWAY SUPER AMERICA LLC
BY:
ITS: Sr. Vice President - Oper. (L.S.)
(L.S.)

APPROVED AS TO FORM 11/6

NOTE: All right of way agreements must be in writing and are subject to rejection by the South Carolina Department of Transportation.

TE STATE OF
OUNTY OF

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within above named sign, seal and their act and deed, deliver the within affidavit; and that s/he with the other witness whose signature appears above witnessed the ecution thereof.

VORN to before me this 31st
y of October, 2000
OTARY PUBLIC FOR
y Commission Expires:

Natalie A. Rogers

ROSALIE B. LAWSON, NOTARY PUBLIC
IN AND FOR THE STATE OF OHIO
MY COMMISSION EXPIRES MARCH 3, 2005

iecked By
icorded By
oject File No. Tract 29

Speedway 000001

EXHIBIT "A"

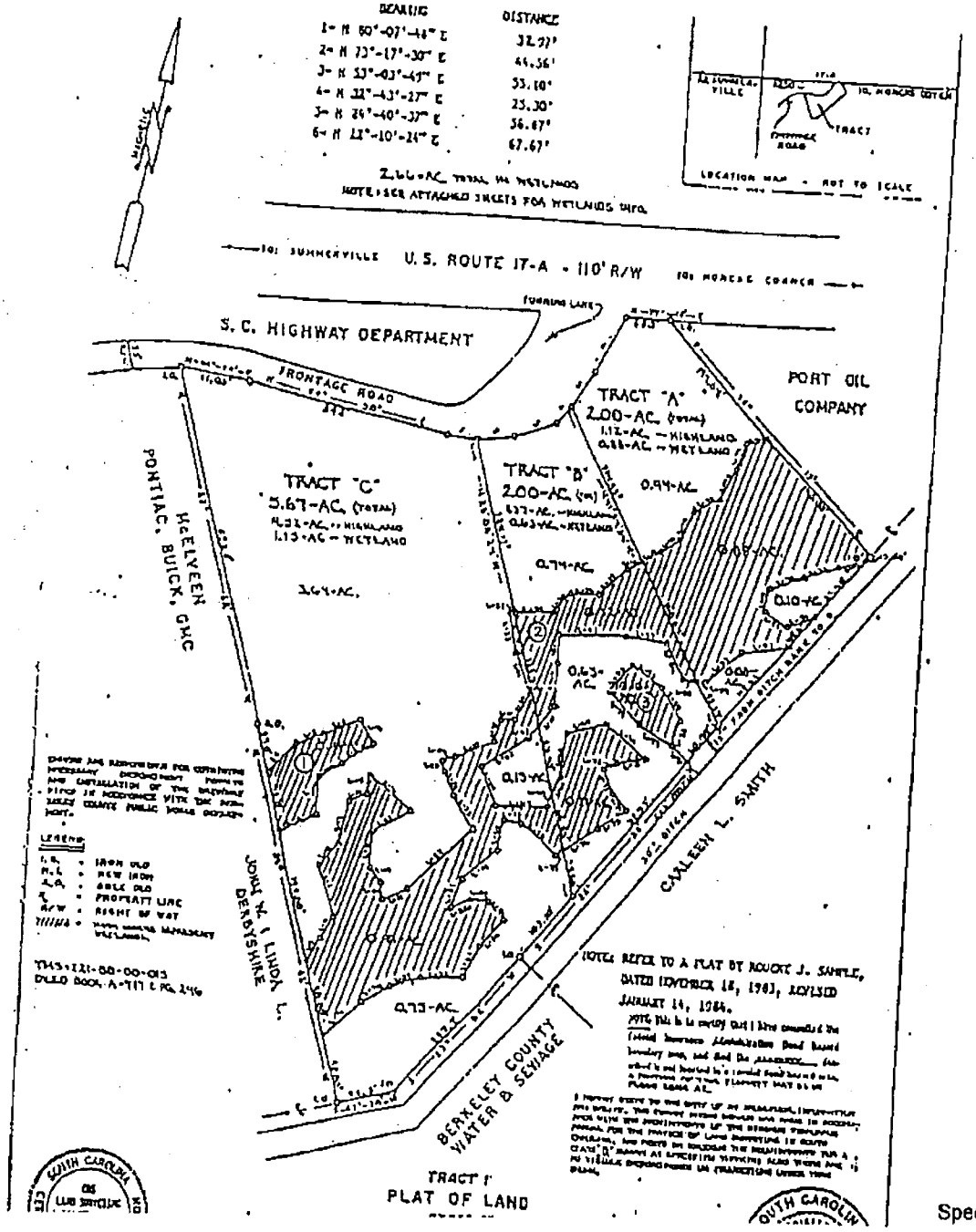
To Option to Purchase

Between

MEREDITH BROWN (Seller)

and

SPEEDWAY SUPERAMERICA LLC



0.94 ACRE USABLE IN FRONT
0.88 ACRE WETLANDS
0.18 ACRE HIGHLANDS AT REAR ALONG DITCH
2.00 ACRE - TOTAL AREA

0.94 ACRE USABLE IN FRONT
0.63 ACRE WETLANDS
0.63 ACRE HIGHLAND AT REAR
2.00 ACRE - TOTAL AREA

Speedway 000002

SCDOT R/W Form 102A (Revised 08-21-95)

South Carolina Department of Transportation

STANDARD APPRAISAL

1- File: 8.795 | R/W: I26 Interchange Improvements
Project: ID-0264(174) | Pin: 22338 | County: Berkeley

2- From Station: 204000 | To Station: 204080 LT | Sheet: 4,40,11

3 a- Owner: Emmaline D. Smith and Meredith Brown | Telephone: 873-3203
Owner Address: 122 Owens Circle, Summerville, S.C. 29483
Tract Location: Main Street (Hwy 17A) at Farmington Drive, Summerville, S.C.
b- Mortgages & Addresses: NOR
Recorded: Bk. | Pg. | Date | Amt.
c- Lessees & Address: N/A
Terms of Lease: N/A

4- Size: A) Before: 3.5757 ac; 155,094 sf | Approx. Dimensions (Before): 275ff x 375 feet deep
B) After: 3.7649 ac; 163,992 sf | Approx. Dimensions (After): 275 FF x 335 feet deep
C) Acquired: .0289 ac; 9,102 sf | Width of R/W: Variable

5- Tabulation of sales: (At least 5 years; if more than 5 years, last sale)

From	To	Date	Consideration	Book	Page
Roosevelt Brown	Emmaline D. Smith	3-21-97	$210,000	1023	176

Tax Map: 237-00-00-015 & 091 | Plat: M | 278

6- PURPOSE OF THE APPRAISAL: To estimate the difference in the market value of this property caused by acquisition of the right of way for the proposed construction of this project. This is a complete self-contained appraisal report as described by USPAP Standard 1 and 2.
Property Rights Appraised: Fee Simple

7- Present Use: Commercial - Vacant | Zoning: General Commercial

8- Highest and Best Use Before: Commercial
Highest and Best Use After: Commercial

9- Utilities: ☒ Elect. ☐ Gas ☐ Well ☒ Pub. Water ☐ Septic Tank ☒ Pub. Sewer ☐ Other -

10- Prior to inspection, the owner was contacted by (☒ telephone ☐ letter ☐ in person) and invited to be present during inspection of this property. The tract was inspected on June 20, 2000, and I was accompanied by no one. Required by Sec. 301(2) of Uniform Act.
Explain: (Why not accompanied, relation of representative, items discussed, etc.)
I contacted Ms. Brown via telephone and explained the proposed taking and the appraisal process. She explained that the adjacent property owners were negotiating to purchase the subject and that she was aware of the SCDOT highway changes. She instructed me to proceed and that she did not need to meet me at the site.

☐ Original - R/W
☑ Copy - Agent
☐ Copy - FHWA

RECEIVED
JUL 7 2000
ROBINSON COMPANY

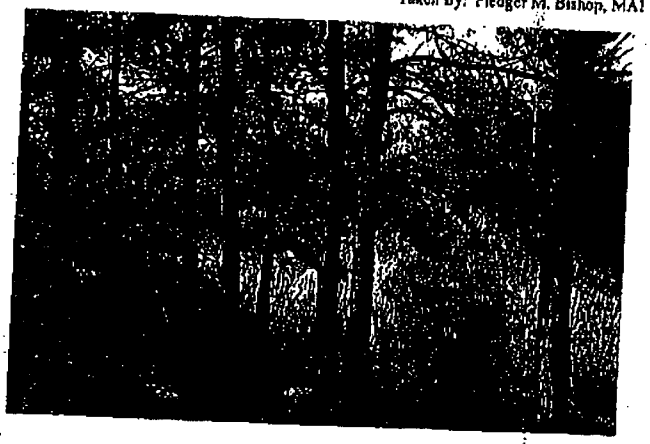
JUL 13 2000

Prepared by: Pledger Bishop, MAI
File No: 8.795
Tract No: 28 & 28P

Speedway 000003

PHOTOGRAPHS OF SUBJECT

Date Taken: June 22, 2000
Taken By: Pledger M. Bishop, MAI



View of Subject from Farmington Road

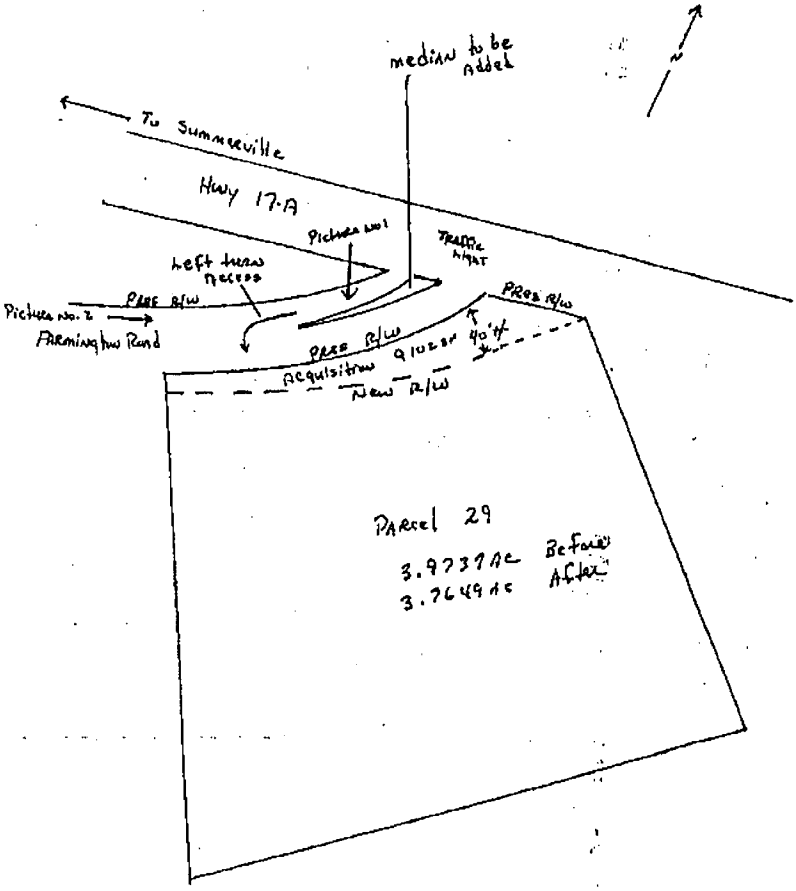
View of Acquisition area

File No: 8.790
Parcel No: 29 & 29P

Page No. 2

Speedway 000004

PROPERTY SKETCH



File No: 8.790
Tract No: 29-& 29P

Page 3

Speedway 000005

PARAGRAPH 11. Zoning and Health Requirements:
The subject is located in the Town of Summerville and is zoned for general commercial use. The zoning category permits most any type commercial use including service stations and convenience stores. The existing use is a vacant commercial partial, a portion of which is wetlands. All properties around the subject are improved commercially. I do not anticipate a zoning change for this parcel.

The subject is currently valued at $400. This is an agricultural use value that results in a property tax liability of $7. Anyone changing the use of the property may be obligated to pay a rollback tax based on market value over the last 5 years. According to public records, the property taxes are current.

PARAGRAPH 12. Highest and Best Use (Before):
The Highest and Best Use of a property should be scrutinized utilizing four criteria. The anticipated use must be:

1 - Physically Possible;
2 - Legally Permissible;
3 - Financially Feasible;
4 - Maximally Productive

Physically Possible - Size, shape and topography affect the uses to which land may be developed. The subject is semi-rectangular and totals 3.9737 acres or 173,094 square feet. It has approximately 275' of effective frontage on Farmington Road (frontage road) at the intersection of Highway 17A (Main Street) and a depth of approximately 375 feet. All utilities are available at the property line. There are no restrictions, other than zoning, on use of the property. The soil, to my knowledge, contains no deficiencies but a portion is classified as wetlands and cannot be developed. The front portion is below grade and will also require fill. This is a traffic light controlled intersection next to Interstate 26. Its proximity to Interstate 26 is a positive feature.

The subject's size, location, visibility and access are considered good.

Legally Permissible - The subject property is currently zoned for General Commercial use by the Town of Summerville. This commercial zoning category permits a variety of commercial uses ranging from professional office to retail use. The current use is conforming.

Financially Feasible - Based upon surrounding land use patterns, and the subject's location, commercial development of some type high volume retail business appears to be the highest and best use. Rental rates along this corridor range from $12.00 to $14.00 per square foot for typical retail, and could be substantially higher for specialty type uses such as convenience stores. It has been my observation that there are no significant differences in land prices amongst the potential commercial uses for the subject. A typical commercial lot along the Main Street corridor would sell for the same price regardless of the commercial use for which it is intended. Professional office, residential, or light industrial use would not be considered feasible as the rental rates in the area could not support acquisition and development of this site. High volume retail uses would be able to generate sufficient rental income to justify acquisition and development. Market rental rates along the Main Street corridor are sufficient to justify new commercial development compatible with the surrounding environment and trends for this neighborhood.

Maximally Productive - The productivity of any use may be measured by the potential return on the overall investment. High volume retail uses in this area can command rental rates sufficient to justify commercial construction due primarily to the subject's proximity to Interstate 26, downtown Summerville, and the abundance of new retail construction in the immediate area.

It is beyond the scope of this appraisal to ascertain a particular use for the subject site, but data discussed above reasonably indicates that the highest and best use of the site, if it were vacant, would be for commercial/retail development.

PARAGRAPH 13. Description of the Realty:

Site Description

Size - The subject site totals 3.9737 acres or 173,094 square feet. It has approximately 275' of frontage on Farmington Drive (frontage road), and a depth of 375 feet. It is typical in size of other commercial lots in the immediate area.

Access - Access to the subject is via a single curb cut from Farmington Road. The site has minimal frontage on Hwy 17A (Main Street), but is too close to the intersection for access from this corridor. This is a traffic light controlled intersection and access and exposure are good. Hwy 17A is a four lane commercial corridor.

Topography - The site is below grade and will require fill. The rear portion of the lot is classified as

wetlands.

Drainage - The lot abuts a natural drainge area providing good drainage for the subject.

Soil Conditions - I was not provided an engineering or soil analysis for the subject, but have assumed for purposes of this appraisal, that no unusual soil or subsoil conditions exist that might inhibit or prohibit continued use of the property. As stated, portions are low or below grade and will require suitable fill dirt for development.

Hazardous Soil Conditions - In the preparation of this report, I have made the assumption that there are no environmental pollution or hazardous materials present in any part of the subject property or nearby properties. I have made no environmental survey or study and assume no responsibility in connection with such matters or for any studies which might be required to discover such matters.

Utilities - Public water and sewer are available at the property line.

Flood Zone - According to FIRM Flood Map Panel 45029-0290C, dated May 6, 1996, the subject property is located in Flood Zone X. This is a non-hazardous flood zone permitting slab on grade construction.

Surrounding Properties - The subject is located between a convenience store/gasoline station and vacant commercial land on the frontage road of Interstate 26. There are numerous uses on this road including an automobile dealership, a commercial machinery dealership and a UPS distribution center.

Easements & Encroachments - Typical utility and access easements apply, but I am aware of no adverse easements affecting the subject site.

PARAGRAPH 14 Valuation Before Acquisitions

This analysis addresses a partial taking of the subject property. I have used the Sales Comparison Approach to prepare an estimate of market value on the subject property in its present or "as is" condition. Generally, this is the only approach applicable to the appraisal of vacant land. Sales of other commercial land sites in the immediate area have been directly compared to the subject.

A. Direct Sales Comparison Approach to Value
Land Valuation - Before Acquisition

I have researched the immediate neighborhood for recent sales of vacant land sites that might indicate value for the subject. I have located several closed transactions as well as information on the subject. It is my understanding that negotiations are ongoing with the adjacent property owner to acquire the subject. Other transactions were investigated, and those that were sufficiently comparable have been discussed in detail in the sales brochure for this project. The sales selected that were considered comparable to the subject, are identified as L-24, L-25, L-26, and L-27. L-25 is the subject property.

Explanation of Adjustments

Time - This was discussed earlier in the original sales brochure section.

Location - Sale L-24 is on the town side of I-26 next to WalMart, which is superior. A pairing of L-24 to L-25 indicates a downward adjustment of 25% for L-24. L-24 and L-25 are similar in site condition as both require substantial fond fill. Sale L-27 is 1/4 mile south of the Farmington Road intersection which limits its potential uses to service or industrial. A pairing of this sale with L-25, indicates a positive adjustment of 90% after sale L-27 is adjusted for a superior site condition.

Site Condition - The subject property is low and will require fill. Sale L-24 is similar and also required fill. Sales L-26 and L-27are level high land. A pairing of L-25 and L-26 suggests an adjustment of 20% for superior site condition.

Size - It has been my experience that with all else being equal, smaller parcels tend to sell for higher unit prices. All of the comparables are similar to the subject and no adjustments were required.

As shown, adjusted unit prices range from $2.31/sf to $2.33/sf. With the primary emphasis placed on Sale L-25, which is bracketed and adequately supported, it is my opinion that a unit value of $2.31/sf is reasonable.

The above sales have been compared to the subject in chart form on the following page:

File No: 8.790
Tract No: 29 & 29P

SCDOT R/W Form 103A (Revised 08-21-95)

LAND VALUATION - BEFORE ACQUISITION
SCDOT - TRACT NO. 29
FARMINGTON RD - SUMMERVILLE,S.C.

TRANSACTION NO:	L-24	L-25	L-26	L-27
TYPE TRANSACTION	SALE	SALE	SALE	SALE
LOCATION	Jockey Cl	Farmington Rd	Farmington Rd	Farmington Rd
IDENTIFICATION	Vacant Site	Vacant Site	Vacant Site	Vacant Site
DATE OF SALE	Mar-97	Jun-00	Jul-98	Apr-99
SALES PRICE	$ 445,000	$ 400,000	$ 355,000	$ 271,827
SIZE(SF)	87,120	173,094	139,436	192,274
SIZE(ACRE)	2.00	3.97	3.00	4.41
SALES CONDITION	$ (226,000)	0	0	0
ADJ S.P./SF	$ 2.53	$ 2.31	$ 2.23	$ 1.41
TIME ADJUSTMENT	1.231	1.0000	1.300	1.076
TIME ADJ S.P./SF	$ 3.11	$ 2.31	$ 2.90	$ 1.52
ADJUSTMENTS:				
LOCATION	0.75	1.00	1.00	1.00
ACCESS/SHAPE	1.00	1.00	1.00	1.00
SIZE	1.00	1.00	1.00	1.00
SITE CONDITION	1.00	1.00	0.80	0.80
NET ADJ FACTOR	0.75	1.00	0.80	1.52

RECONCILIATION:
INDICATED UNIT VALUE $/SF $ 2.31
SIZE (SF) 173,094

INDICATED VALUE $ 399,847

ROUNDED TO: $ 400,000

B. Cost Approach to Value

Not Applicable

C. Income Approach to Value

Not Applicable

PARAGRAPH 15. Resolution of Before Value and Value Estimates:

Value Indicated by the Sales Comparison Approach----------$400,000
Value Indicated by the Cost Approach----------N/A
Value Indicated by the Income Approach----------N/A

Based on the above, it is my opinion that market value of the subject property before the acquisition, on June 20, 2000, is

FOUR HUNDRED THOUSAND DOLLARS ($400,000).

PARAGRAPH 16. Description of the Acquisition

The Highway 17A right-of-way will be widened, which will require the taking of a strip across the front of the subject parcel. The strip will average 40' in depth. The entral acquisition will total .2089 acres or 9,102 SF.

At present, there is a single curb cut or access-way from Farmington Road. A raised concrete median will be added on Farmington Road at the immediate intersection of Hwy 17A. Left turn access to the subject from Farmington Road will have to negotiate around the end of the median but left turn access will be available. Left turn access would generally have to negotiate around traffic backed up at the traffic light; hence, it is my opinion that the median will cause no additional access problems for the subject.

There are no improvement acquisitions.

PARAGRAPH 17. Description of the Remainder:
The remaining tract will total 3.7649 acres or 163,992 sf. The parcel still has similar frontage and exposure. Access from Farmington Road is similar to the "before" condition. Left turn access must negotiate around the end of a concrete median but left turn access is adequate. Left turn access often has to negotiate around traffic backed up at the traffic light, which is similar to the median access. The acquisition and median result in no damage to the subject. The size of the subject is adequate and permits similar utility when compared to the "before acquisition" condition.

PARAGRAPH 18. Highest and Best Use (After)
The same considerations as discussed in the "before" status apply to the remainder. The remainder will total 163,992 square feet which is large enough to accommodate a variety of commercial improvements. Exposure will be excellent and access adequate for commercial development.

PARAGRAPH 19. Value After the Acquisition:

LAND VALUATION

I have used the same comparables as discussed in the "Before" section and the same adjustments apply. The reduction in size has not reduced the lots utility. There are no other damages to the subject. The same adjustments apply indicating adjusted unit values of $2.31 sf to $2.33/sf.. A unit value of $2.31/sf is reasonably supported indicating a property value in the after condition as follows:

163,992 sf x $2.31/sf = $378,882, rounded to $379,000.

LAND VALUATION - AFTER ACQUISITION
SCDOT - TRACT NO. 3B
FARMINGTON RD - SUMMERVILLE,S.C.

TRANSACTION NO:	L-24	L-25	L-26	L-27
TYPE TRANSACTION	SALE	SALE	SALE	SALE
LOCATION	Jockey Cl	Farmington Rd	Farmington Rd	Farmington Rd
IDENTIFICATION	Vacant Site	Vacant Site	Vacant Site	Vacant Site
DATE OF SALE	Mar-97	Jun-00	Jul-98	Apr-99
SALES PRICE	$ 445,000	$ 400,000	$ 355,000	$ 271,927
SIZE(SF)	87,120	173,094	169,430	192,274
SIZE(ACRE)	2.00	3.97	3.89	4.41
SALES CONDITION	$ (226,000)	0	0	0
ADJ S.P./SF	$ 3.63	$ 2.31	$ 2.23	$ 1.41
TIME ADJUSTMENT	1.231	1.0000	1.300	1.075
TIME ADJ S.P./SF	$ 3.11	$ 2.31	$ 2.90	$ 1.52
ADJUSTMENTS:				
LOCATION	0.75	1.00	1.00	1.00
ACCESS/SHAPE	1.00	1.00	1.00	1.00
SIZE	1.00	1.00	1.00	1.00
SITE CONDITION	1.00	1.00	0.80	0.80
NET ADJ FACTOR	0.75	1.00	0.80	1.52

RECONCILIATION:

INDICATED UNIT VALUE $/SF	$ 2.31
SIZE (SF)	163,992
INDICATED VALUE	$ 378,822
ROUNDED TO:	$ 379,000

PARAGRAPH 20. Resolution of After Value and Value Estimate:
Since there are no improvements, I have used only the Sales Comparison Approach to estimate land value.

The estimated land value after acquisition as of June 20, 2000, is

THREE HUNDRED SEVENTY NINE THOUSAND DOLLARS ($379,000)

PARAGRAPH 21. Uneconomic Remainder
None

SCDOT R/W Form 104A (Revised 09-21-05)

22.	Final Estimate of Value	Before (P#14)		After (P#19)		Difference
	Indicated Value by Direct Sales Comparison	$400,000		$379,000		$21,000
	Indicated Value by Summation	$00		$00		$00
	Indicated Value by Income	$00		$00		$00

23.	Distribution of Values	Before (P#14)		After (P#20)		Difference
	Land Value	$400,000		$379,000		$21,000
	Improvement Value	$00		$00		$00
	Other – N/A	$00		$00		$00
	TOTAL	$400,000		$379,000		$21,000

24.	Recommended Distribution of Difference	
	Right of Way Acquired:	
	Land: 9,102 sf Acres Sq. Ft. @: $2.31/sf	$21,000
	Site Improvements: N/A	$00
	Buildings: N/A	$00
	Total for Acquisition	$21,000
	Damages (if any to remainder) Explain:	
	None	
	Total Damages	$00
	Benefits (if any to remainder) Explain:	
	00	
	Subtract Total Benefits	$00
	Total Value of part acquired, plus damages, less benefits (Should equal total difference above)	$21,000

25.	Final Statement of Value *	
	I. Having considered all applicable approaches, it is my opinion that the indicated value of the whole property before the acquisition.....	$400,000
	II. Having considered all applicable approaches, it is my opinion that the indicated value of the remainder, after the acquisition.....	$379,000
	III. The difference between the indicated value of the property before the acquisition, and the indicated value of the remainder, after the acquisition.....	$21,000

26. Based on this report, the fair market rental for this property is $N/A per month.

Appraisal made as of: [illegible]

Date: March 20, 2008

* These values must agree exactly and also in the Certificate.

Pledger M. Bishop, MAI
SC General Real Estate Appraiser
CG795

ASSUMPTIONS AND LIMITING CONDITIONS

The legal description, furnished by SCDOT is assumed to be correct, and no responsibility for matters legal in nature is assumed, nor is any opinion of title, which is assumed to be marketable, rendered. Any existing liens or encumbrances have been disregarded, and the property appraised as free and clear.

No current survey of the property was made, and the improvements are assumed to be within the lot lines, in accordance with the building codes and any restrictive covenants covering the property. The sketches in this report are included only to assist the reader in visualizing the property, and are not to be considered as accurate.

All information included in this report which was furnished by others is believed to be correct, but no responsibility for its accuracy is assumed.

Possession of this report, or a copy thereof, does not carry with it the right of publication, either in whole or in part, nor may it be used for any purpose by any except the party for whom it was prepared without the consent of the appraiser, and then only with proper qualification.

The appraiser is not required to give testimony or to appear in court with reference to this property by reason of this report unless prior arrangements have been made.

Distribution of the value reported between land and building applies only under the existing program of utilization, and separate valuations for land and improvements must not be used in conjunction with any other report, and are invalid if so used.

Unless otherwise stated in this report, the existence of hazardous material, which may of may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substance such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

SCDOT R/W Form 112A (09-21-95)

REAL ESTATE DEFINITIONS

PROPERTY RIGHTS APPRAISED:

The property right considered in this appraisal is the fee simple estate of the subject property. The fee simple estate is the "*absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police powers, and escheat.*" (The Dictionary of Real Estate Appraisal, 3rd Edition, Page 140)

SCOPE OF APPRAISAL:

The appraiser conducted market analysis to locate comparable sales and other relevant data. Local real estate brokers, appraisers, and public records, were used together information such as market conditions, sales, verification of sales, subject area data, etc.

HIGHEST AND BEST USE:

The highest and best use is defined as "*the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility and maximum profitability.*" (The Dictionary of Real Estate Appraisal, 3rd Edition, Page 171)

Highest and best use of the site as vacant is defined as "*among all reasonable, alternative uses, the use that yields the highest present land value, after payments are made for labor, capital, and coordination. The use of a property based on the assumption that the parcel of land is vacant or can be made vacant by demolishing any improvements.*" (The Dictionary of Real Estate Appraisal, 3rd Edition, Page 170)

Highest and best use of a site as improved is defined as "*the use that should be made of the property as it exists. An existing property should be renovated or retained as is so long as it continues to contribute to the total market value of the property, or until the return from the new improvement would more than offset the cost of demolishing the existing building and constructing a new one.*" (The Dictionary of Real Estate Appraisal, 3rd Edition, Page 171)

The four test for highest and best use enables the appraiser to determine the most probable use of the property and leads to the selection of comparable properties for the tract being appraised. The four test encompass the following:

1. Legally permissible describes the zoning, restrictions, easements, and regulations a tract must meet to be a permissible use.

2. Physically possible describes the physical character such as shape, size, and access which makes it possible for potential development.

3. Financially feasible describes the financial obligations and investment criteria the potential use must meet in order to be viable use.

4. Maximally productive describes the best use for the property based on the financially feasible conclusions.

(Appraisal of Real Estate, pages 275-297, 10th edition)

File No: 8,790
Tract No: 29 & 29P

VALUATION PROCESS:

The valuation process is "*a systematic procedure employed to provide the answer to a clients question about a real estate property value.*" (Appraisal of Real Estate, page 82, 10th edition)

MARKET VALUE

Market value is defined as "*the most probable price, as of a specified date, in cash or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest and assuming that neither is under undue duress.*" (The Dictionary of Real Estate Appraisal, 3rd Edition, Page 222)

SALES COMPARISON APPROACH

The sales comparison approach is defined as "*a set of procedures in which a value indication is derived by comparing the property being appraised to similar properties that have been sold recently, applying appropriate units of comparison, and making adjustments to the sale prices of the comparables based on the elements of comparison. The sales comparison approach may be used to value improved properties, vacant land, or land being considered as though vacant; it is the most common and preferred method of land valuation when comparable sales data are available.*" (The Dictionary of Real Estate Appraisal, 3rd Edition, Page 318)

COST APPROACH

The cost approach is used in valuing new improvements and specialty property. The cost approach is defined as "*a set of procedures through which a value indication is derived for the fee simple interest in a property by estimating the current cost to construct a reproduction of, or replacement for, the existing structure; deducting accrued depreciation from the reproduction or replacement cost; and adding the estimated land value plus an entrepreneurial profit. Adjustments may then be made to the indicated fee simple value of the subject property to reflect the value of the property interest being appraised.*" (Dictionary of Real Estate Appraisal, page 81, 3rd edition)

INCOME APPROACH

The income approach is used when value is derived from the future benefits of a income stream. The income approach is defined as "*a set of procedures through which an appraiser derives at value indication for an income-producing property by converting its anticipated benefits (cash flows and reversions) into property value. This conversion can be accomplished two ways. One year's income expectancy can be capitalized at a market derived capitalization rate or at a capitalization rate that reflects a specified income pattern, return on investment, and change in value of investment. Alternatively, the annual cash flows for the holding period and the reversion can be discounted at a specified yield rate.*" (Dictionary of Real Estate Appraisal, page 178, 3rd edition)

File No: 6.790
Tract No: 29 & 29P

SCDOT R/W Form 199A (03-07-96)

CERTIFICATE OF APPRAISER

I Hereby certify:

That I have personally inspected the property herein and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the brochure which supplements said appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and information upon which the opinions expressed therein are based is correct: subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with acquisition of right of way for a highway to be constructed by the State of South Carolina with the assistance of Federal-aid highway funds, or other Federal Funds.

That such appraisal has been made in conformity with the appropriate State laws regulations and policies and procedures applicable to appraisal of right of way for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consist of items which are noncompensable under the established law of South Carolina.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the South Carolina Department of Transportation or officials of the Federal Highway Administration and I will not do so until so authorized by the State officials or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That the owner or his designated representative was given the opportunity to accompany me during my inspection of the property that was appraised.

That any decrease or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement for which such property is being acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to the physical deterioration with in the reasonable control of the owner, has been disregarded in determining the compensation for the property.

That my opinion of the fair market value of the acquisition as of the 20 th day of June, 2000 is $21,000 based upon my independent appraisal and the exercise of my professional judgment.

Date: July 3, 2000

Walter McBishop, MAI
State Certified General Real Estate Appraiser
CG 1795

File No. 8.790

Tract No. 29 & 29P

12

SCDOT
South Carolina
Department of Transportation

9-25-00

File 8.790 - Interstate 26/US HWY 17A Interchange Improvements - Berkeley County
PIN 22338 - Project IU-0264(174) - Tract 29

Marathon Ashland Petroleum
Attention: Mr. Robert Greiwe
3200 Pointe Parkway
Suite 200
Norcross, Georgia 30092

Dear Mr. Greiwe:

The South Carolina Department of Transportation proposes to acquire a portion of the property formerly owned by Ms. Emmaline B. Smith located off of US Highway 17A near the town of Summerville, SC. I understand that a closing has taken place and that Marathon Oil now holds title to the property.

An offer for the 9,102 square feet of land to be converted to state right of way was made to Ms. Smith on August 21, 2000, at which time she was still the property owner. No agreement was ever reached between Ms. Smith and the Department. Consequently, the Department will now make the offer to purchase the right of way to Marathon Oil as the new owner.

Enclosed please find the letter of offer and a copy of the appraisal from which the offer is derived. Please review the offer and let me know if you have any questions or concerns. I will be in touch with you shortly to discuss our offer. I will look forward to speaking with you soon to reach an amicable settlement.

Sincerely,

Timothy B. Bowers
Right of Way Agent
301 Stefan Drive
Charleston, SC 29412
(843) 762-7882

Speedway 000015

SCDOT
South Carolina
Department of Transportation

File 8.790 Road/Route I-26/17A Interchange Improvements -Berkeley County
PIN 22338 Project IU-0264(174) Tract-29

Marathon Ashland Petroleum
Attention: Mr. Robert Greiwe
3200 Pointe Parkway, Suite 200
Norcross, Georgia 30092

Dear Mr. Greiwe:

Reference is made to the above captioned project, under which the South Carolina Department of Transportation proposes to acquire a portion of your property for this improvement as has been discussed with you previously. The Department must pay just compensation for the property which is based on an appraisal made by a qualified real estate appraiser using comparable sales in the area.

The appraisal, which is available to the landowner upon request, has been made, reviewed and approved, and I am now authorized to make you the following offer:

$21,000.00 For fee simple title to 9,102 square feet of land and all improvements thereon, if any.

Please give this offer your prompt attention and let me know your decision as soon as possible.

If I can be of any further assistance, do not hesitate to contact me.

Sincerely,

Timothy Bowers

Timothy B. Bowers
Right of Way Agent
301 Stefan Drive
Charleston, SC 29412
(843) 762-7882

9-25-00
Date offer made

Speedway 000016

South Carolina
Department of Transportation

10-3-2000

File 8.790 - Interstate 29/ US 17A Interchange Improvements - Berkeley County
PIN 22338 - Project IU-0264(174) - Tract 29

Marathon Ashland Petroleum
Attention: Mr. Robert Greiwe
3200 Pointe PKWY, Suite 200
Norcross, Georgia 30092

Dear Mr. Greiwe:

Reference is made to the above captioned project, under which the South Carolina Department of Transportation proposes to acquire a portion of your property for this improvement as has been previously discussed with you. The Department must pay just compensation for the property which is based on an appraisal made by a qualified real estate appraiser using comparable sales in the area.

Based on said appraisal, an offer of $21,000.00 was made to you on Sept. 25, 2000. However, a settlement agreement was reached in the amount of $50,000.00. This settlement figure is not an admission by the Department that our original offer was not a true reflection of the property value, rather an attempt to avoid any litigation or further delay.

Sincerely,

Tim Bowers

Timothy B. Bowers
Right of Way Agent
301 Stefan Drive
Charleston, SC 29412
(843) 762-7882

Speedway 000017

SCDOT

South Carolina
Department of Transportation

10-3-2000

File 8.790 - Interstate 29/ US 17A Interchange Improvements - Berkeley County
PIN 22338 - Project IU-0264(174) - Tract 29

Marathon Ashland Petroleum
Attention: Mr. Robert Greiwe
3200 Pointe PKWY, Suite 200
Norcross, Georgia 30092

Dear Mr. Greiwe:

Please find enclosed the title to real estate for the 9,102 square feet of land to be converted to state right of way along with a request for the tax payer id information. Also enclosed per your request is a copy of the construction plans, a copy of the profile, and copies of the cross sections.

Please have the title and tax payer id request executed as quickly as possible and returned to me no later than October 23. If you have any questions or concerns, please contact me at once. Thank you for your cooperation.

Sincerely,

Tim Bowers

Timothy B. Bowers
Right of Way Agent
301 Stefan Drive
Charleston, SC 29412
(843) 762-7882

Speedway 000018

SCDOT RW Form 812 (Revised 11-10-97)

SOCIAL SECURITY NUMBER INFORMATION

REQUEST FOR SOCIAL SECURITY NUMBER OR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION

Road/Route I-26/US 17A Interchange Improvements

File 8.790

Project IU-0264(174)

Tract 29

PIN 22338

TMS 221-00-00-015 & 221-00-00-091

Amount $50,000.00

Acquisition (Sq. Ft./Acres) 9,102 sf.

You are required by law to provide the South Carolina Department of Transportation (Hereinafter "SCDOT") your correct Social Security Number or Taxpayer Identification Number. If you do not provide SCDOT your correct Social Security Number or Taxpayer Identification Number, you may be subject to civil or criminal penalties imposed by law.

Please print or type:

NAME: Speedway Super America, LLC
(If husband & wife filing jointly, enter both names and circle name of person whose Social Security Number appears below.)

MAILING ADDRESS: 539 South Main Street

CITY: Findlay STATE: OH ZIP-CODE: 45840

SOCIAL SECURITY NUMBER AND TAXPAYER ID NO.: [redacted]

Under penalties of perjury, I certify that the number shown on this statement is my correct Social Security Number or Taxpayer Identification Number.

Date: 10/31/00 Linda B. Miller
Signature of Landowner

You are further requested to provide to the South Carolina Department of Transportation the dollar amount of your share of the gross proceeds, or if gross proceeds are not known, the percentage of your share.

Your Share: $ 50,000.00 , or 100 % of ownership

Linda B. Miller
Signature of Landowner

Speedway 000019

Marketing – Real Estate

MARATHON ASHLAND Petroleum LLC

539 South Main Street
Findlay, OH 45840-3295
Telephone 419/422-2121
Fax 419/421-3522
Internet www.marathon.com/realest

November 9, 2000

VIA OVERNIGHT MAIL

Mr. Timothy B. Bowers, Right of Way Agent
South Carolina Department of Transportation
301 Stefan Drive
Charleston, SC 29412

RE: File 8.790 – Interstate 29/US 17A Interchange Improvements
Berkeley County – PIN 22338 – Project IU-0264(174) – Tract 29
SSA #0258, 1520 N. Main Street, Summerville, SC

Dear Mr. Bowers:

Enclosed please find the fully executed Title to Real Estate form and Social Security Information relating to the subject project for your further processing.

Please forward the check made payable to Speedway SuperAmerica LLC in the amount of Fifty Thousand ($50,000.00) to my attention.

If we can be of any further service, please advise.

Sincerely,

Linda B. Miller
Real Estate Coordinator

lm

Enclosures

ccs: G. R. Grelwe
R. Q. Scholes

Speedway 000020

STATE OF SOUTH CAROLINA COUNTY OF BERKELEY	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO: 2016-CP-08-334
CYNTHIA WRIGHT AND RICHARD WRIGHT, Plaintiffs, vs. SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, PILOT TRAVEL CENTERS, LLC, SPEEDWAY LLC, ASHLEY LAND SURVEYING, INC., f/k/a ASHLEY ENGINERRING & CONSULTING, INC., AND MUNLAKE CONTRACTORS, INC. Defendants.	**NOTICE OF MOTION AND MOTION TO COMPEL**

TO: J. BENNETT CRITES, III, ESQUIRE, ATTORNEY FOR DEFENDANT SPEEDWAY LLC

YOU WILL PLEASE TAKE NOTICE that Plaintiffs, by and through his undersigned attorney, will move before the Presiding Judge of the Court of Common Pleas of Berkeley County, on the tenth (10) day after service hereof, or at such other time and place as is convenient to the Court and counsel, for an Order requiring the Defendant Speedway LLC to produce the documents set out in Plaintiff's Requests for Production. On April 4, 2017, Plaintiff served requests for production upon counsel for Defendant Speedway LLC requesting information, but no response has been made.

The parties have conferred and were unable to resolve this matter. Plaintiffs ask the Court for an Order requiring the Defendant to comply with the requests for production and to award costs and attorney's fees to the Plaintiff in the seeking of this Order.

Kevin B. Smith
SC Bar No. 70587
Hoffman Law Firm, LLC
7087 Rivers Ave.

N. Charleston, SC 29406
Ph: 843-769-7077
Fax: 843-769-4567
ksmith@hoffmanlaw.net
Attorney for Plaintiff

North Charleston, South Carolina

June 7, 2017

intersection, at every vehicle that comes your way or is driving around you. You ride aware, all the time, not just there; anywhere.

Q. Did you slow down as you approached the white truck?

A. I maintained my constant speed. Slowing down could possibly give people the indication that they could make it.

Q. Okay.

A. No different than if you were in a car and you saw a car about to turn in front of you. If you slow down, then he can't decide if you're letting him go or not.

Q. Were you aware of other people having accidents in that same location prior to your accident?

A. I was aware of one.

Q. Did you ever consider writing the DOT, prior to your accident, about your concerns?

A. I did not. I didn't say I had a "concern." I was aware of somebody else having an accident there, that was a friend of mine. I never had a concern.

Q. Prior to the accident, did you ever have a belief that there should be a raised median there?

A. No.

Q. Educate me a little bit on motorcycles. What