

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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**Dec 14 2021**

**SC Court of Appeals**

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Honorable Perry H. Gravely

Appellate Case No. 2021-001063

C. A. NO. 2021-CP-23-01494 & 2021-CP-23-01501

Frances Baty, Helene Lambert, Michael Evatt, O.D.  
Strickland, Keith Godfrey, Bonnie Spearman, Allison  
Morton, Brian Morton, Janet Lamb and Henry Lamb,  
Appellants Below,

v.

Greenville County Planning Commission and Mark III  
Properties, LLC, Respondents,

of whom Frances Baty, O.D. Strickland, and Keith  
Godfrey are the Appellants.

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**MOTION FOR EXPEDITED APPEAL  
OR APPELLATE BOND**

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Pursuant to Rule 263(b), SCACR, Respondent Mark III Properties, LLC (“Movant”) respectfully requests this Court to expedite the briefing schedule and the submission or calling for oral argument of this appeal if the Court deems oral arguments necessary.

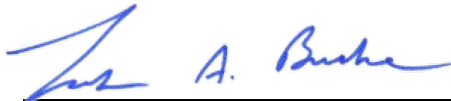
Movant is a developer whose subdivision projects, Cottonwood Ridge and Cloverdale Hills, were approved by the Greenville County Planning Commission in February 2021. On April 6, 2021, Appellants appealed the approval to the Court of Common Pleas. By order filed

July 22, 2021, the Honorable Perry H. Gravely affirmed the decision of the Planning Commission. This appeal followed.

This motion is made because of the significant and extreme damages that has and will be caused to Movant by delay of its project. By appealing this order, Appellants have effectively stayed and blocked Movant's ability to move forward with its project. Movant cannot move forward with construction of the project until it has unappealed final approval of its subdivisions. The Affidavit of Laura Henthorn, attached hereto, details the damages caused by delay, which will ultimately cost Movant \$114,116.00 per month in damages.

Alternatively, Movant respectfully requests that this Court order Appellants to post a security for the payment of Movant's costs and damages that will be incurred due to the delay caused by this appeal. Effectively, Appellant's have temporarily enjoined or restrained Movant's project from proceeding without posting security as required by Rule 65(c). As such, Movant respectfully request that Appellants be ordered to post security in an appropriate amount given the monthly damages that will be suffered by Movant.

Respectfully submitted,  
**BANNISTER, WYATT & STALVEY, LLC**



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*Attorneys for Respondents*  
*Mark III Properties, LLC*

December 14, 2021  
Greenville, South Carolina

STATE OF SOUTH CAROLINA

Frances Baty, O.D. Strickland, and Keith  
Godfrey,

Appellants,

v.

Greenville County Planning Commission and  
Mark III Properties, LLC,

Respondents.

S.C. COURT OF APPEALS

Appellate Case No. 2021-001063

**AFFIDAVIT OF  
Laura Henthorn**

PERSONALLY APPEARED before me Laura Henthorn, the undersigned, who, being duly sworn, state as follows:

1. I am at least eighteen (18) years of age and a citizen of the United States.
2. I am the Vice President, CFO of Mark III Properties, LLC (“Mark III”).
3. This Affidavit is based upon my personal knowledge and is true and correct, and I so state under penalty of perjury.
4. Mark III executed a contract with a builder to build homes on the property that is the subject of this appellate case (Cottonwood Ridge and Cloverdale Hills).
5. However, Mark III cannot proceed with its contract until it has unappealed final approval of the preliminary subdivision plans.
6. This appeal prevents Mark III from moving forward with its project while the appeal is pending.
7. Mark III suffers damages in the amount of \$114,116 for each month this project is delayed.

8. These damages include:
- a. Construction cost delays of approximately 15% annually or \$50,000 per month.
  - b. The cost to purchase the property will increase by \$1,300,000 on January 1, 2022 and will continue to increase by 14% per annum after January 1, 2022, or \$64,167 per month.

Further, Deponent saith not.



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Laura Henthorn

SWORN TO before me this  
14<sup>th</sup> day of December, 2021.

Stephanie M. Etter  
NOTARY PUBLIC for South Carolina  
Print Name: Stephanie M. Etter  
My Commission Expires: 09-25-28

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**PROOF OF SERVICE**

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The undersigned certifies that a true copy of the foregoing:

**MOTION FOR EXPEDITED APPEAL OR APPELLATE BOND**

was this the 14<sup>th</sup> day of December, 2021, e-mailed to counsel of record via their AIS e-mail on file:

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