No. _____

AN ORDINANCE

TO AMEND ORDINANCE NO. 3913, RELATING TO THE ESTABLISHMENT OF VESTED PROPERTY RIGHTS, TO CLARIFY THE FACTORS THAT CONSTITUTE A SITE SPECIFIC DEVELOPMENT PLAN SUFFICIENT TO TRIGGER A VESTED RIGHT; TO CLARIFY WHEN AN APPROVAL IS FINAL FOR PURPOSES OF VESTING; TO PROVIDE FOR VESTING OF PHASED DEVELOPMENT PLANS; TO REPEAL SECTION 6; TO PROVIDE FOR APPLICABILITY; AND TO REPEAL OR AMEND INCONSISTENT PROVISIONS.

BE IT ORDAINED by the County Council of Greenville County, South Carolina:

Section 1. Findings. Greenville County Council adopted Ordinance No. 3913, establishing vested property rights, on May 17, 2005, under the South Carolina Vested Rights Act, S.C. Code Ann. §§ 6-29-1510 through 6-29-1560. Since that date the County has operated under its own vested rights ordinance rather than under the default provisions of state law.

Over the ensuing years, Greenville County has experienced unprecedented growth, resulting in a massive increase in residential and commercial development. This increase in development has revealed the need to update and clarify the regulation of vested rights both in the County's Vested Rights Ordinance and its Land Development Regulations.

In addition, citizens and property owners of Greenville County have expressed confusion concerning when a vested right arises and how long it lasts, and the Council finds that it is in the best interests of the community, County citizens, and property owners to have more certainty concerning the point at which a vested right attaches.

The Council adopts this Ordinance and the concurrent amendments to the Land Development Regulations with the intent that they operate together.

Section 2. Amend Section 2.1 of Ordinance No. 3913 as follows:

> 2.1 "Approved" or "approval" means a final action by the county governing body or an exhaustion of all administrative remedies from decisions of Greenville County zoning, planning or land use officials, boards or commissions which results in the authorization of a site specific development plan or a phased development plan. An action of the Greenville County Planning Commission is not a final action until

it becomes final under Section 1.7 of the Land Development Regulations.

Section 3. Amend Section 2.3 of Ordinance No. 3913 as follows:

2.3 "Conditionally approved" or "conditional approval" means an interim action taken by the Greenville County governing body or the Greenville County Planning Commission, or Board of Zoning Appeals that provides authorization for a site specific development plan or a phased-development plan which is subject to further approval. An approval subject to one or more conditions precedent designated under Section 1.6.1(E) of the Land Development Regulations is a conditional approval. A condition that governs later construction, final plat approval, financial security, or continuing maintenance or operation does not by itself make an approval a conditional approval.

Section 4. Amend Section 2.9 of Ordinance No. 3913 as follows:

2.9 "Site specific development plan" means a development plan submitted to the local governing body or a body authorized by the local governing body to make land-use decisions by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties and satisfying the form and content requirements that the Land Development Regulations or the zoning ordinance prescribe for that plan. Subject to the paragraphs that follow, ~~T~~the plan may be in the form of, but is not limited to, the following plans or approvals: planned unit development; subdivision plat; preliminary or general development plan; variance, conditional use or special use permit plan; conditional or special use district zoning plan; or other land-use approval designations as are used by Greenville County with regard to submitted plans.

For a major subdivision, a site specific development plan is a preliminary plan containing every item that Section 3.3.4 of the Land Development Regulations requires, drawn at the scale that section requires. For a minor subdivision, a site specific development plan is a plat containing every item that Section 3.5.4 of those regulations requires. For a family subdivision under Section 3.6 of those regulations or a simple plat under Section 3.7 of those regulations, a site specific development plan is the plat approved under that section. For any other development, including a group development plan under Article 12 of those regulations, a site specific development plan is a plan described in the first paragraph of this Section that the Planning Commission or staff has approved under the Land Development Regulations or the zoning ordinance.

An item the regulations make inapplicable to the plan, or that the County has waived or varied in accordance with the regulations, is not a required item for purposes of this Section.

None of the following is a site specific development plan: a sketch plan; a pre-submittal submission; a preliminary development plan submitted pursuant to the Greenville County Zoning Ordinance; a plat indicating existing lots of record, a mortgage plat, or a plat of an individual lot of record, recorded under Section 3.8 of the Land Development Regulations; or a family subdivision plat bearing the notes Section 3.6.3(B) of those regulations requires when the applicant does not wish to develop the lots.

Section 5. Amend Section 2 of Ordinance No. 3913 by adding Section 2.11 as follows:

2.11 "Construction plans" means the detailed construction drawings that Article 6 of the Land Development Regulations requires.

Section 6. Amend Section 3.1 of Ordinance No. 3913 as follows:

3.1 A vested right as defined herein is established for two years upon the approval of a site specific development plan~~.~~ subject to Sections 3.3, 3.5, 3.7, and any other applicable sections of this ordinance. Section 3.8, and not this Section, governs phased development plans.

Section 7. Amend Section 3.3 of Ordinance No. 3913 as follows:

3.3 The Greenville County Planning Commission may, but is not required, to provide for the establishment of a two-year vested right in a conditionally approved site specific development plan. No two-year vested right is established in a conditionally approved site specific development plan unless such vested right is specifically and expressly approved by the Greenville County Planning Commission ~~in writing~~ when a site specific development plan is conditionally approved. Absent that approval, a conditionally approved site specific development plan becomes an approved site specific development plan, and a vested right may attach under Section 3.7, when the landowner has satisfied every condition precedent designated under Section 1.6.1(E) of the Land Development Regulations. The date of satisfaction of a condition precedent is the date the landowner submitted the evidence of satisfaction on which staff's confirmation or the Planning Commission's decision on appeal relies.

Section 8. Amend Section 3.5 of Ordinance No. 3913 as follows:

3.5 No vested right in a site specific development plan shall attach or be established until plans have been received, all required approvals identified in Section 3.7(b) have been given or granted, and all fees required for the approval have been paid in accordance with the procedures outlined in this code. No vested right attaches or is established until a final decision has been rendered favorable to the applicant on all administrative appeals. No vested right attaches or is established until the approval has become final under Section 1.7 of the Land Development Regulations and until every factor stated in Section 3.7(b) occurs or is in place, except as Section 3.7(e) provides.

Section 9. Amend Section 3 of Ordinance No. 3913 by adding Section 3.7 as follows:

3.7 Factors that constitute a site specific development plan sufficient to trigger a vested right.

(a) Council adopts this Section under S.C. Code Ann. § 6-29-1540(2) and § 6-29-1540(16). This Section governs vested rights in site specific development plans. Section 3.8 governs vested rights in phased development plans.

(b) A vested right in a site specific development plan attaches when all of the following occur or are in place:

(1) the landowner has submitted a site specific development plan satisfying Section 2.9 of this ordinance;

(2) the Greenville County Planning Commission, or staff when the Land Development Regulations or the zoning ordinance authorize staff to act, has approved that plan, or approval of the plan has occurred by operation of law under S.C. Code Ann. § 6-29-1150(A);

(3) the approval is not a conditional approval, or, if it is a conditional approval, the plan has become an approved site specific development plan under Section 3.3 of this ordinance;

(4) the approval has become final under Section 1.7 of the Land Development Regulations;

(5) the landowner has obtained every variance, special exception, and rezoning the plan requires; and

(6) the landowner has paid every fee the County requires for the approval.

(c) The factors in subsection (b) are the only prerequisites to the attachment of a vested right in a site specific development plan.

(d) The vested right attaches on the date the last of the factors in subsection (b) occurs, and it runs for two years from that date.

(e) Notwithstanding subsections (b) and (d), a vested right in an approved or conditionally approved site specific development plan attaches no later than the earlier of the following:

(1) the date Greenville County first issues an approval authorizing the landowner to proceed with grading or the installation of utilities, streets, or other infrastructure for development covered by the plan; or

(2) immediately before a building permit validly issues for development covered by the plan.

Section 10. Amend Section 3 of Ordinance No. 3913 by adding Section 3.8 as follows:

3.8 Phased development plans.

(a) The vested right attaches when that approval has become final under Section 1.7 of the Land Development Regulations and the landowner has obtained every variance, special exception, and rezoning and paid every fee the plan requires, and it runs for the period stated in the approval.

(b) The landowner must obtain approval of a site specific development plan for each phase in accordance with the regulations in effect when the phased development plan vested.

(c) Section 3.7(e) applies to a phased development plan.

Section 11. Amend Section 4.1 of Ordinance No. 3913 as follows:

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(2) Section 3.7 of this ordinance states the factors that constitute a site specific development plan sufficient to trigger a vested right, and Section 3.8 states the rule for phased development plans. No~~no~~ vested right in a site specific development plan shall be established except in conformity with Sections 3.7 and 3.8 and with Greenville County zoning, planning, stormwater management and sediment control,

building, electrical, mechanical, life safety, fire and other land-use codes, ordinances and regulations;

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(5) a vested right established in accordance with the provisions of this ordinance shall be vested ~~upon approval by the Greenville County Planning Commission of the site specific development plan or phased development plan that authorizes~~on the date fixed by Section 3.7 or Section 3.8 of this ordinance, which date is earlier than the issuance of a building permit and not later than the approval that authorizes the developer or landowner to proceed with investment in grading, installation of utilities, streets and other infrastructure and to undertake other ~~specific~~significant expenditures necessary to prepare for application for a building permit. No developer or landowner shall proceed with investment in grading, installation of utilities, streets or other infrastructure~~, or shall undertake other significant expenditures necessary to prepare for application for a building permit~~ before ~~a site specific development plan or phased development plan authorizing such improvements and expenditures has been approved by the Greenville County Planning Commission~~approval of construction plans under Article 6 of the Land Development Regulations and issuance of a land disturbance permit under the Greenville County Stormwater Management Ordinance, except activities exempt from that approval or permit. Engineering, surveying, design, and other professional work may proceed at the landowner's risk. ~~No investments in grading, installation of utilities, streets, or other infrastructure, or other significant expenditures shall give rise to or establish a vested right until the Greenville County Planning Commission has approved the site specific development plan or phased development plan that authorizes the developer or landowner to proceed with improvements or undertake other significant expenditures on the real property which is proposed for development.~~No investment in grading, installation of utilities, streets, or other infrastructure, and no other expenditure, gives rise to or establishes a vested right under this ordinance. Any vested right so granted is subject to all land development regulation requirements, including, but not limited to, meeting all financial security requirements prior to acceptance of final plats.

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Section 12. Amend Section 4.3 of Ordinance No. 3913 as follows:

4.3 A vested right for a site specific development plan expires two years after vesting~~;~~. ~~provided, however, that the landowner of real~~

~~property with a vested right may apply to the Greenville County Planning Commission before the end of the vesting period for an annual extension of the vested right for a period of one year. If a timely application is made, the Planning Commission must approve applications for no more than five successive annual extensions unless an amendment to land development ordinances or regulations has been adopted that prohibits approval of such annual extension applications.~~ Section 3.2 of this ordinance governs annual extensions. ~~The Greenville County Planning Commission shall designate the vesting point for a phased development plan as the date of approval of the phased development plan.~~Section 3.8 of this ordinance fixes the vesting point for a phased development plan. ~~The Greenville County Planning Commission may extend the time for a vested site specific development plan to a total of five years upon a determination that there is just cause for the extension and that the public interest is not adversely affected.~~ Upon expiration of the vested right, a building permit may be issued for development only in accordance with applicable land development ordinances and regulations and may require new plan submissions in accordance with the applicable ordinances and regulations.

Section 13. Repeal Section 6 of Ordinance No. 3913 and reserve the section number, so that the numbering of Sections 7, 8, and 10 is unchanged, as follows:

Section 6. ~~Landowner Rights Deemed Vested~~[Reserved.].

~~6.1 The landowner's rights are considered vested in the types of land use and density or intensity of uses defined in the development plan, and the vesting is not affected by later amendments to a zoning ordinance or land use or development regulation if the landowner: (a) obtains or is the beneficiary of a significant affirmative government act that remains in effect allowing development of a specific project. (b) relies in good faith on the significant affirmative government act; and (c) incurs significant obligations and expenses in the diligent pursuit of the specific project in reliance on the significant affirmative government act.~~

~~6.2 For purposes of this section, the following are significant affirmative governmental acts allowing development of a specific project: (a) the local governing body has accepted exactions or issued conditions that specify a use related to a zoning amendment; (b) the local governing body has approved an application for a rezoning for a specific use; (c) the local governing body has approved an application for a density or intensity of use; (d) the local governing body or zoning~~

~~board of appeals has granted a special exception or use permit with conditions; (e) the local governing body has approved a variance; (f) the local governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of phased development for the landowner's property and the applicant diligently pursued approval of the final plat or plan within a reasonable period of time under the circumstances; or (g) the local governing body or its designated agent has approved a final subdivision plat, site plan or plan of phased development for the landowner's property.~~

Section 14. Amend Section 8 of Ordinance No. 3913 as follows:

Section 8. Severability. The provisions of this ordinance, as amended, are hereby declared to be severable, and if any provision, ~~or~~ section, or subsection of this ordinance is declared to be unconstitutional or unenforceable by a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality or enforceability of any other section, subsection, or provision of this ordinance.

Section 15. Amend Ordinance No. 3913 by adding Section 9 as follows:

Section 9. Applicability of the 2026 amendments. The amendments to Sections 2.1, 2.3, 2.9, 3.1, 3.3, 3.5, 4.1(2), 4.1(5), 4.3, and 8 of this ordinance, the addition of Sections 2.11, 3.7, 3.8, and 4.11, and the repeal of Section 6 apply to any application accepted on or after the effective date of this Ordinance amending Ordinance No. 3913 and to any later approval or extension of such an application. If the applicant revises an application accepted before that date to change the number of lots, the density or intensity of use, or the street layout, the date the applicant files the revision becomes the date of acceptance. A vested right that attached before that date and a right that accrued under Section 6 of this ordinance on the basis of acts taken before that date continue under this ordinance and the Land Development Regulations as they existed when the right attached or accrued, whether the landowner establishes the right before or after that date.

Section 16. Repeal. This Ordinance repeals any ordinance, resolution, or order with provisions that conflict with it only to the extent of the conflict.

Section 17. Effective Date. This Ordinance shall take effect on the date of its adoption.

DONE IN REGULAR MEETING THIS _____ DAY OF _____, 2026.

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Benton Blount, Chairman
Greenville County Council

ATTEST:

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Regina McCaskill
Clerk to Council

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Joseph M. Kernell
County Administrator