No. _____

AN ORDINANCE

TO AMEND THE GREENVILLE COUNTY LAND DEVELOPMENT REGULATIONS TO PROVIDE FOR RECONSIDERATION BY THE PLANNING COMMISSION; TO ADD A NEW SECTION 1.8 RELATING TO VESTED RIGHTS; TO CLARIFY WHEN A VESTED RIGHT IS TRIGGERED; 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 the Land Development Regulations under the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, S.C. Code Ann. §§ 6-29-310 through 6-29-1640. Section 6-29-1130(B) gives the Council the power to adopt and to amend the land development regulations.

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, and the Council finds that it is in the best interests of the community, County citizens, and property owners to have more certainty concerning when a Planning Commission decision is final.

The South Carolina Vested Rights Act authorizes the County to, among other things, prescribe the form and contents of a site-specific development plan and the factors constituting a site-specific development plan sufficient to trigger a vested right. Greenville County adopted Ordinance No. 3913 establishing vested property rights on May 17, 2005, and the Council is amending that ordinance concurrently with this Ordinance to clarify those factors.

In addition, because state law requires that the County's land development regulations include a specific procedure for the submission and approval or disapproval of plans and plats by the Planning Commission or designated staff, any authority of the Planning Commission to reconsider a decision is part of that specific procedure, and the County Council finds that providing a clear reconsideration procedure is necessary to foster confidence in the County's procedures and to remove uncertainty.

Section 2. Amend Article 1, Section 1.6.1(B) of the Land Development Regulations as follows:

B. Upon approval or denial of any plans or plats submitted to the Planning Commission, the ~~Community Planning, Development and Public Works Department~~Public Works and Planning & Development staff shall issue a ~~letter outlining the action taken and procedures for appeal or reconsideration, if applicable.~~written confirmation of the Planning Commission's decision within five business days after the meeting at which the Planning Commission acted. The written confirmation shall state the decision and any conditions attached to it, identifying any condition the Planning Commission designated as a condition precedent under Section 1.6.1(E); shall state that the Planning Commission may reconsider the decision as Section 1.6.2 provides; and shall state that state law governs the right to appeal the decision.

Section 3. Amend Article 1 of the Land Development Regulations by adding Section 1.6.1(E) as follows:

E. Conditions precedent and confirmation.

(1) When the Planning Commission approves a plan or plat subject to conditions, it shall expressly state, and when staff approves a plan or plat subject to conditions, staff shall designate in the written approval, each condition, if any, that the applicant must satisfy before the approved plan becomes operative. Such a condition is a condition precedent. A condition that governs later construction, final plat approval, financial security, or continuing maintenance or operation is not a condition precedent.

(2) When the applicant believes it has satisfied every condition precedent, the applicant may submit evidence of satisfaction to the Subdivision Administrator. Within fifteen (15) business days after the submission, staff shall issue either a written confirmation that the conditions precedent are satisfied or a written statement identifying each condition precedent that remains unsatisfied and what the applicant must do to satisfy it.

(3) The confirmation shall state:

(a) the plan or plat and the date of the Planning Commission's action;

(b) each condition precedent;

(c) the evidence on which staff relied and the date the applicant submitted it; and

(d) the date staff issues the confirmation.

(4) Staff shall mail the confirmation or statement to the applicant at the address stated on the application.

(5) A statement that a condition precedent remains unsatisfied is a staff decision that a party in interest may appeal under Section 1.6.2. If the Planning Commission determines on appeal that the applicant satisfied the conditions precedent, the applicant satisfied them on the date it submitted the evidence on which the Planning Commission relies.

(6) A certification under this subsection does not affect the date on which a decision becomes final under Section 1.7. Greenville County Ordinance No. 3913, as amended, governs the effect of satisfying the conditions precedent on the establishment of a vested right.

Section 4. Amend Article 1, Section 1.6.2 of the Land Development Regulations as follows:

1.6.2 Appeals and Reconsideration

Appeal. Any authorized action or decision made by the ~~Community Planning, Development and Public Works Department~~Public Works and Planning & Development staff may be appealed to the Planning Commission within fifteen (15) days. An appeal of staff action approving or disapproving a land development plan shall be scheduled for consideration at the next available Planning Commission meeting. An appeal of any other action or decision by Public Works and Planning & Development staff ~~Any appeals will be scheduled for the next available Planning Commission meeting for consideration.~~shall be scheduled for consideration no later than the second Planning Commission meeting after the appealing party submits the appeal.

An appeal from the decision of the Planning Commission must be made ~~within thirty (30) days after actual notice of the decision pursuant to the provisions of~~as required by Title 6, Chapter 29 of the Code of Laws of South Carolina, as amended.

Reconsideration. The Planning Commission may reconsider a decision on a plan or plat, including its decision on an appeal from staff, only as this Section provides.

(1) When. The Planning Commission may reconsider a decision at the meeting at which it made the decision or at the next

regular meeting at which a quorum is present (the "Reconsideration Meeting"), and not afterward.

(2) Who may seek reconsideration. A member of the Planning Commission may move to reconsider a decision at the meeting at which the Planning Commission made it or at the Reconsideration Meeting. A member who intends to move at the Reconsideration Meeting to reconsider an approval must give the Subdivision Administrator written notice of the motion no later than 5:00 p.m. on the tenth day before the reconsideration meeting. The applicant may request reconsideration by filing with the Subdivision Administrator, by the same deadline, a writing that identifies the decision, states the grounds, and presents the facts and law upon which the applicant's position relies. Greenville County Council may request a Planning Commission reconsideration, provided that the request is based on one of the grounds listed below and states the specific ground and the supporting facts.

(3) Grounds. The Planning Commission may grant reconsideration only upon a finding of newly discovered evidence, fraud, surprise, mistake, inadvertence, a clerical error that requires correction, a change in conditions, or other matters not the fault of the applicant that affect the result of the review.

(4) Notice. When the Planning Commission will consider a motion to reconsider an approval at the next meeting, staff shall mail notice to the applicant at least five days before that meeting. The applicant may address the Planning Commission on any motion or request for reconsideration.

(5) Vote and disposition. The Planning Commission grants reconsideration by a majority vote of the members present and voting. A motion or request that the Planning Commission considers but does not grant fails at the meeting at which the Planning Commission considers it. If the Planning Commission holds its next regular meeting with a quorum present and does not act on a timely request, the request fails at the adjournment of that meeting. If that meeting is not held or lacks a quorum, the request carries over to the next regular meeting at which a quorum is present. If the Planning Commission grants reconsideration, it may act on the merits at the same meeting or may continue the matter once, to its next regular meeting, for notice or additional evidence, and it shall act by the vote the matter originally required.

(6) Record. The Planning Commission shall state the ground it finds and the facts supporting it. Staff shall record the statement and the vote in the minutes and shall issue a written confirmation under Section 1.6.1(B).

(7) Limit. The Planning Commission shall not reconsider a decision more than once.

(8) Effect. A pending motion or request for reconsideration suspends finality under Section 1.7 until the Planning Commission disposes of it or it fails under paragraph (5). Neither the availability nor the pendency of reconsideration extends the time for appeal to the circuit court, and the filing of an appeal does not prevent the Planning Commission from reconsidering a decision within the time this Section allows.

(9) Exclusive procedure. This Section states the exclusive procedure and grounds for reconsideration by the Planning Commission of a decision on a plan or plat under these regulations, including its decision on an appeal from staff. No rule, bylaw, or other procedure the Planning Commission adopts authorizes the reconsideration of such a decision except as this Section provides, and any such rule, bylaw, or procedure has no effect to the extent it addresses the reconsideration of such a decision.

(10) Other powers preserved. This Section does not limit the authority to terminate or revoke a vested right after notice and public hearing as S.C. Code Ann. § 6-29-1540(4) and (10) and the County's Vested Rights Ordinance, as amended, provide, or to act in compliance with a judicial remand.

The Planning Commission's original action is its action on the plan or plat, or on the appeal, for purposes of Section 1.6.1(A), this Section, and S.C. Code Ann. § 6-29-1150(A) and (C). Reconsideration does not reopen the sixty (60) day period for action.

Section 5. Amend Article 1 of the Land Development Regulations by adding Section 1.7 as follows:

1.7 Finality of Decisions

1.7.1 Purpose. This Section establishes when a decision under these regulations becomes final for purposes of Greenville County Ordinance No. 3913, as amended, and for the administration of these regulations. For purposes of Section 1.6.1(A), Section 1.6.2, and S.C. Code Ann. § 6-

29-1150(A) and (C), the Planning Commission or staff acts on a plan or plat when it approves or disapproves the plan or plat, and the Planning Commission acts on an appeal from staff when it decides the appeal, whether or not the decision has become final under this Section.

1.7.2 Planning Commission decisions. A decision of the Planning Commission on a plan or plat, including its decision on an appeal from staff, becomes final at the adjournment of the next regular meeting of the Planning Commission at which a quorum is present following the meeting at which the Planning Commission made the decision. A decision the Planning Commission makes on reconsideration becomes final at the adjournment of the meeting at which it acts on the merits.

1.7.3 Staff decisions. A decision that these regulations authorize the Public Works and Planning & Development staff to make becomes final on the day after the fifteen (15) day appeal period in Section 1.6.2 closes, if no party in interest has appealed the decision. If a party in interest appeals, the decision of the Planning Commission on the appeal becomes final as Section 1.7.2 provides.

1.7.4 Approval by operation of law. If the Planning Commission or staff fails to act within the time Section 1.6.1 allows after receipt of the plans or plats with all documentation these regulations require, and the applicant and the County have not extended that time by mutual agreement, approval of the plan or plat by operation of law occurs on the day after the time expires, and that approval is final on that day. Within five business days after that day, staff shall issue the letter of approval and authorization to proceed, stating the date of approval and identifying the approved plans or plats and supporting documentation.

1.7.5 Withdrawal. An application the applicant withdraws before the decision becomes final produces no final decision.

1.7.6 Planning Commission rules; exclusivity of Section 1.6.2. Section 1.6.2 provides the exclusive procedure and grounds for reconsideration by the Planning Commission of a decision under these regulations, and a rule or bylaw of the Planning Commission has no effect to the extent it addresses that subject. Except as to that subject, nothing in these regulations limits the authority of the Planning Commission to adopt rules of organizational procedure governing its own proceedings. When a rule the Planning Commission adopts conflicts with these regulations, these regulations govern.

Section 6. Amend Article 1 of the Land Development Regulations by adding Section 1.8 as follows:

1.8 Vested Rights

1.8.1 Governing ordinance. Greenville County Ordinance No. 3913, as amended, governs the establishment, duration, conditions, limitations, and termination of vested rights in Greenville County.

1.8.2 Form and contents. Sections 3.3.4 and 3.5.4 of these regulations prescribe the form and contents of a site-specific development plan for a major and a minor subdivision for purposes of S.C. Code Ann. § 6-29-1540(1) and Section 2.9 of Ordinance No. 3913, as amended. For any other development, the form and contents of a site-specific development plan are those these regulations or the zoning ordinance prescribe for the plan the Planning Commission or staff approves.

1.8.3 No other basis. Nothing in these regulations establishes a vested right except as Ordinance No. 3913, as amended, provides.

Section 7. Amend Article 3, Section 3.3.5 of the Land Development Regulations as follows:

3.3.5 Plan Review

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Refer to Sections 1.6.1, 1.6.2, 1.7, and 1.8 regarding Planning Commission approval, denial ~~or appeals process.~~, reconsideration, appeal, finality, and vesting.

As authorized by the Planning Commission, preliminary approval of the subdivision plan shall be noted on the plan and certified by the Assistant County Administrator for ~~Community Planning, Development, and Public Works~~Public Works and Planning & Development or his/her authorized representative. Also noted shall be the date on which the Planning Commission granted preliminary approval and the date the approval became final under Section 1.7.

Upon approval of the preliminary plan by the Planning Commission, the subdivider may proceed to comply with the specific requirements of these regulations and the preparation of the final subdivision plat. Approval of a preliminary plan shall not constitute approval of the final subdivision plat. Preliminary approval shall constitute approval of the proposed widths and alignments of streets and dimensions and shapes of lots.

Preliminary approval does not authorize the subdivider to begin grading, clearing, or installing utilities, streets, or other infrastructure. Those activities require approval of construction plans under Article 6 and a land disturbance permit issued under the Greenville County Stormwater Management Ordinance, except when those regulations exempt the activities from that approval or permit. Engineering, surveying, design, the preparation of construction plans, and other professional work may proceed at the subdivider's risk.

All preliminary approvals shall be valid for a period of time not to exceed two (2) years unless a one (1) year extension of time is applied for and granted by Subdivision Administration. After the initial two (2) year period, the developer may apply for a one (1) year extension, not to exceed five (5) total extensions. The two (2) year period runs from the date the preliminary approval becomes final under Section 1.7. A preliminary approval does not expire while a vested right in the approved plan remains in effect under Greenville County Ordinance No. 3913, as amended, and an extension of that vested right extends the preliminary approval for the same period without a separate application.

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Section 8. Amend Article 6, Section 6.1 of the Land Development Regulations as follows:

After preliminary approval is granted and has become final under Section 1.7, detailed construction drawings shall be submitted for review and approval to other departments or agencies prior to construction.

Approval of construction plans under this Article, together with a land disturbance permit issued under the Greenville County Stormwater Management Ordinance, authorizes the subdivider to begin grading, clearing, and installing utilities, streets, and other infrastructure. No subdivider shall begin those activities before both approvals issue, unless the activities are exempt from that approval or permit. Engineering, surveying, design, the preparation of construction plans, and other professional work may proceed at the subdivider's risk.

The County shall not approve construction plans for a plan whose preliminary approval is subject to an unsatisfied condition precedent under Section 1.6.1(E), unless the condition by its terms calls for satisfaction through the construction plans.

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Section 9. **Applicability.** Sections 1.6.1, 1.6.2, 1.7, 1.8, 3.3.5, and 6.1 of the Land Development Regulations, as amended by this Ordinance, apply to an application accepted on or after the effective date of this Ordinance and to any later approval, extension, or revision of such an application. Those sections as they read before that date govern an application accepted before that date and any approval of it. 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 the effective date of this Ordinance continues under the ordinances and regulations in effect when it attached.

Section 10. **Repeal.** This Ordinance repeals any ordinance, resolution, or order with provisions that conflict with it only to the extent of the conflict.

Section 11. **Severability.** If a court of competent jurisdiction holds any section, subsection, sentence, clause, phrase, or portion of this Ordinance invalid or unconstitutional, that decision does not affect the validity of the remaining portions of this Ordinance or of the Land Development Regulations, which remain in full force and effect.

Section 12. **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