



# Public Notice

Planning and Zoning

From: Planning and Development Services Staff  
Subject: Upcoming Applications for the Board of Zoning Appeals  
Date: September 23, 2026

## **Meeting Information**

The City of Greenville Board of Zoning Appeals will hold an in-person Public Hearing for the following items on **Thursday, October 8, 2026**, at **4:00 PM** at Greenville City Hall, Council Chambers, 10<sup>th</sup> Floor at **206 South Main Street**. Those wishing to provide comment on an item may either provide written comment to staff or attend the in-person meeting.

The public may also view the meeting through Webex by going to <https://www.greenvillesc.gov/bza>. The Webex link is located on the meeting's media tab. The password is: meetnow.

The City of Greenville Board of Zoning Appeals will hold a Public Hearing on **Thursday, October 8, 2026, at 4:00 PM**, for the purpose of considering the following Applications:

## **NEW BUSINESS**

### **A. V 26-761**

Application by Robin and Justin Lane for a **VARIANCE** to reduce the side lot line setback for a carport addition in an RH-B, House B district at **7 HUNLEY LN** (TM# 021600-10-01201)

### **B. A 26-787**

Application by Baker, Donelson, Bearman, Caldwell & Berkowitz PC on behalf of Magnolia Park Greenville LLC to **APPEAL** the administrator's decision to disapprove building permit 25-4853, that traffic mitigation requirements are required prior to permit issuance, and that a performance bond is not permissible for a new tenant in a PD, Planned Development district at **1025 WOODRUFF RD STE F102** (TM# 054702-01-02504)

Documents relating to these applications are available for review online at [www.greenvillesc.gov/bza](http://www.greenvillesc.gov/bza). You may contact the Planning and Development Services office at (864) 467-4476 for more information.

You will have the opportunity to voice your comments at the public hearing. Each speaker is limited to three (3) minutes. Repetitive statements should be avoided; individuals sharing similar concerns are encouraged to appoint a spokesperson to represent their group. Written comments may be mailed to Planning Department, PO Box 2207, Greenville, SC 29602 or emailed to [planning@greenvillesc.gov](mailto:planning@greenvillesc.gov).

Written comments should be received by 5:00 p.m. on the Monday before the hearing to allow the Board reasonable time to review. Comments will continue to be forwarded to the Board until 5:00 p.m. on the Wednesday before the hearing. Comments after that time should be made at the public hearing. Please reference the application number and include your name and address on all correspondence. All written comments will be made part of the public record.

The criteria for the Board's decision are established in the Greenville Development Code (Chapter 19 of the City Code). A staff report will provide an analysis of the Applicant's request with regard to its context,

(Continue to next page)

any related City plans and ordinances, and the specific decision criteria. Staff will present its conclusion to the Board on whether the request satisfies the criteria and may recommend stipulations to the Board for its consideration in granting the request. The criteria for granting Special Exceptions and Variances is found in Greenville Development Code Section 19-6.2.15.D.

The Board will usually vote to grant or deny an application immediately after it considers the evidence and public testimony; however, it may decide to continue the hearing or postpone deliberation to a future date. After the Board votes to grant or deny an application, Staff will prepare a written decision for mailing to the Applicant. Anyone having a substantial interest affected by the decision may appeal to the Greenville County Circuit Court within thirty (30) days of the mailing of the decision.

## APPLICATION FOR VARIANCE

Contact Planning & Development (864) 467-4476 or [planning@greenvillesc.gov](mailto:planning@greenvillesc.gov)

### APPLICANT/OWNER INFORMATION

\*Indicates Required Field

|           | APPLICANT                                                                                                                                                            | PROPERTY OWNER |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| *Name:    | <div style="border: 1px solid black; padding: 10px; text-align: center;"> <p>Contact City of Greenville Planning<br/>Department for applicant information</p> </div> |                |
| *Title:   |                                                                                                                                                                      |                |
| *Address: |                                                                                                                                                                      |                |
| *State:   |                                                                                                                                                                      |                |
| *Zip:     |                                                                                                                                                                      |                |
| *Phone:   |                                                                                                                                                                      |                |
| *Email:   |                                                                                                                                                                      |                |

### PROPERTY INFORMATION

STREET ADDRESS: 7 Hunley Lane

TAX PARCEL #: 0216001001201 DEED BOOK/PAGE: 2425 - 4170 RECORDED DATE: 06/07/2013

ZONING DESIGNATION: RH-B ACREAGE: 0.48

\*Pursuant to S.C. Code Ann. § 6-29-1145, I hereby attest that the tract or parcel of land subject to this application IS NOT restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the requested activity.

Initial: [REDACTED]

If the planning office has actual notice that a restrictive covenant is contrary to, conflicts with, or prohibits the requested activity, the office must not issue the permit unless the office receives confirmation from the applicant that the restrictive covenant has been released by action of the appropriate authority, property holders, or by court order.

### REQUEST

***Unless limited by a condition of approval, a variance permit shall run with the land and not be affected by a change in ownership.***

CODE SECTION FROM WHICH A VARIANCE IS REQUESTED: 19-2.11.5.

#### DESCRIPTION OF REQUEST:

We are requesting that we be granted allowed to use the 5ft setback due to our yard has the bulk of it blocked from any builded due to public city water main running through the our yard that doesn't effect other lots in our neighborhood.

## **INSTRUCTIONS**

1. Prior to submitting this application, an Applicant must schedule a pre-application conference with the Administrator to discuss the procedures, standards, and regulations required for approval. Contact the Planning and Zoning Division to schedule a pre-application conference. The email address is [planning@greenvillesc.gov](mailto:planning@greenvillesc.gov) and the phone number is **864-467-4476**.
2. The questions on Page 3 of this application are the criteria that the Board will use to judge an application. Ensure answers demonstrate how and why the application meets the requirements for the granting of a variance. See also **Section 19-2.15(D)(1), Variance**, for additional information. You may attach a separate sheet addressing these questions.
3. Supplemental information will need to be included with this application as well. A floor plan and/or a site plan showing the existing and proposed conditions associated with the application is generally necessary.  
  
For site plans, attach a scaled drawing of the property that reflects, at a minimum, the following:
  - (a) property lines, existing buildings, and other relevant site improvements;
  - (b) the nature (and dimensions) of the proposed development (activity);
  - (c) existing buildings and other relevant site improvements on adjacent properties; and,
  - (d) topographic, natural features, etc. relevant to the requested variance.
4. The application must be received by the Planning and Zoning Division no later than 2:00 p.m. of the date reflected on the Board of Zoning Appeals meeting schedule. The application can be emailed to [planning@greenvillesc.gov](mailto:planning@greenvillesc.gov).
5. The Administrator will acknowledge receipt of the application and will provide instructions on application fee payment. The required application fees are as follows:
  - (a) Single-Family Residential Uses: \$150.00
  - (b) All Other Uses: \$250.00
6. The Administrator will review the application for "completeness" pursuant to Section **19-6.2.1(B)(3) Completeness Determination**, prior to proceeding with public notice. If the application is determined to be "incomplete," the Administrator will contact the Applicant to request that the applicant resolve the deficiencies.
7. The Applicant must post the subject property at least 15 calendar days (but not more than 18 days) prior to the scheduled hearing date. Additionally, the Applicant is responsible for preparing and mailing the written notice at least 15 calendar days prior to the public hearing. Posted and mailed notice instructions will be provided to the Applicant by the Administrator after application is determined to be complete.
8. Please read carefully: The Applicant and Property Owner affirm that all information submitted with this application; including any/all supplemental information is true and correct to the best of their knowledge and they have provided full disclosure of the relevant facts.

If the Planning and Zoning Division by separate inquiry determines that such a restriction exists, it shall notify the Applicant. If the Applicant does not withdraw or modify the application in a timely manner, or act to have the restriction terminated or waived, then the Administrator will indicate in its report to the Board of Zoning Appeals that granting the requested change would not likely result in the benefit the Applicant seeks.

APPLICANT / AGENT SIGNATURE: \_\_\_\_\_

DATE: 7/10/2026

PROPERTY OWNER SIGNATURE: \_\_\_\_\_

DATE: 7/10/2026

**APPLICANT RESPONSE TO**  
**SECTION 19-2.15(D)(1). VARIANCE**  
**(You may attach a separate sheet)**

1. Describe the extraordinary and exceptional condition (such as size, shape, and topography) that pertains to the subject property that does not generally apply to other land or structures in the vicinity.

See attached document- "Variance Write Up" for this response

2. Are the circumstances affecting the subject property the result of actions by the applicant/owner?

See attached document- "Variance Write Up" for this response

3. Describe the ways in which application of the requirement(s) of the ordinance effectively prohibit or unreasonably restrict the utilization of the subject property.

See attached document- "Variance Write Up" for this response

4. Is the request the minimum action that will make possible the reasonable use of land or structure which is not contrary to the public interest and which will carry out the spirit of the ordinance?

See attached document- "Variance Write Up" for this response

5. Describe the ways in which the granting of the variance will not result in substantial detriment to adjacent property or to the public good. In what way(s) will the granting of the variance not harm the character of the district?

See attached document- "Variance Write Up" for this response

6. Describe the ways in which the granting of the variance will be generally consistent with the purposes and intent of the ordinance.

See attached document- "Variance Write Up" for this response

### **\*\*\* Answers for Variance Permit Request\*\*\***

#### **1. Extraordinary and exceptional condition (size, shape, topography)**

A public/city water main runs underground through the center of our property, extending from the front of the lot to the rear and effectively bisecting the parcel. In addition, a creek/culvert runs beneath the property adjacent to a sewer easement and serves as a stormwater drainage channel for a portion of the surrounding neighborhood. As a result, a significant portion of the property is located within a designated floodplain and is unsuitable for construction.

These conditions are unique to this lot and do not affect neighboring properties in the same manner. Because construction cannot occur over or immediately adjacent to the water main, creek/culvert, sewer easement, or floodplain, the southeast side of the property, which would otherwise be the most logical and practical location for a carport, contains little to no buildable area.

The combination of the public utility infrastructure crossing the property and the extensive floodplain restrictions creates an extraordinary and exceptional physical condition unique to this parcel. These site-specific limitations substantially restrict the reasonable placement of accessory structures and create a hardship not generally shared by other properties in the vicinity.

#### **2. Are the circumstances the result of actions by the applicant/owner?**

No. The circumstances giving rise to this hardship were not created by us and existed before we acquired the property. The public water main was installed through the property long before our ownership, and we have no ability to relocate or alter municipal utility infrastructure. Likewise, the creek/culvert and associated floodplain are permanent site features that provide stormwater drainage for a portion of the surrounding neighborhood.

In addition, the increase in the required side-yard setback from 5 feet to 10 feet resulted from a change in the City ordinance, not from any action taken by us. This regulatory change further limits the already restricted buildable area on our lot.

The hardship results entirely from pre-existing physical conditions and subsequent zoning requirements beyond our control. It is not the result of any action, improvement, or condition created by the applicant.

#### **3. How the ordinance effectively prohibits or unreasonably restricts use of the property**

The combination of the public water main, the creek/culvert, and the associated floodplain severely limits the portions of the property where construction can occur. These site-specific conditions effectively eliminate the southeast side of the property as a viable location for any accessory structure, leaving the northwest side as the only practical area for a carport.

However, a portion of that remaining area is located only 5 feet from the adjacent property line. Because the City's revised ordinance requires a 10-foot side-yard setback, it is not possible to construct a carport in the only remaining buildable location on the property.

As applied to this uniquely constrained lot, the ordinance effectively prohibits reasonable residential improvement that is commonly permitted and enjoyed by other homeowners in the district. The restriction does not result from the size or configuration of the proposed structure, but rather from the unique combination of the public utility line, floodplain limitations, and increased setback requirement. Without a variance, these conditions leave no practical location on the property for construction of a carport.

**4. Is this the minimum action needed for reasonable use, consistent with the public interest and the spirit of the ordinance?**

Yes. We are not asking to eliminate the setback or to encroach to the property line. We are requesting only the 5-foot side setback that the City itself required until very recently — the minimum relief necessary to make a carport possible in the one location our property allows. This is the smallest deviation that would permit a reasonable use of the land while still maintaining a meaningful separation from the adjoining property.

**5. How granting the variance will not cause substantial detriment to adjacent property or the public good, or harm the character of the district**

Yes. The requested 5-foot side setback is the minimum variance necessary to allow construction of a carport on this uniquely constrained property. Due to the public water main, creek/culvert, associated floodplain, and limited remaining buildable area, there is no alternative location on the lot where a carport can reasonably be constructed while complying with the current 10-foot setback requirement.

The requested setback is consistent with the district's historical development pattern, as a 5-foot side setback was the applicable standard before the recent ordinance change. The proposed carport is an open, accessory structure intended solely to provide covered parking and will not alter the residential character of the neighborhood.

Granting variance will not adversely affect neighboring properties, public safety, drainage, traffic, or the general welfare of the community. Because the request is limited to the

minimum relief necessary to accommodate a reasonable residential improvement, it is consistent with both the public interest and the spirit and intent of the zoning ordinance.

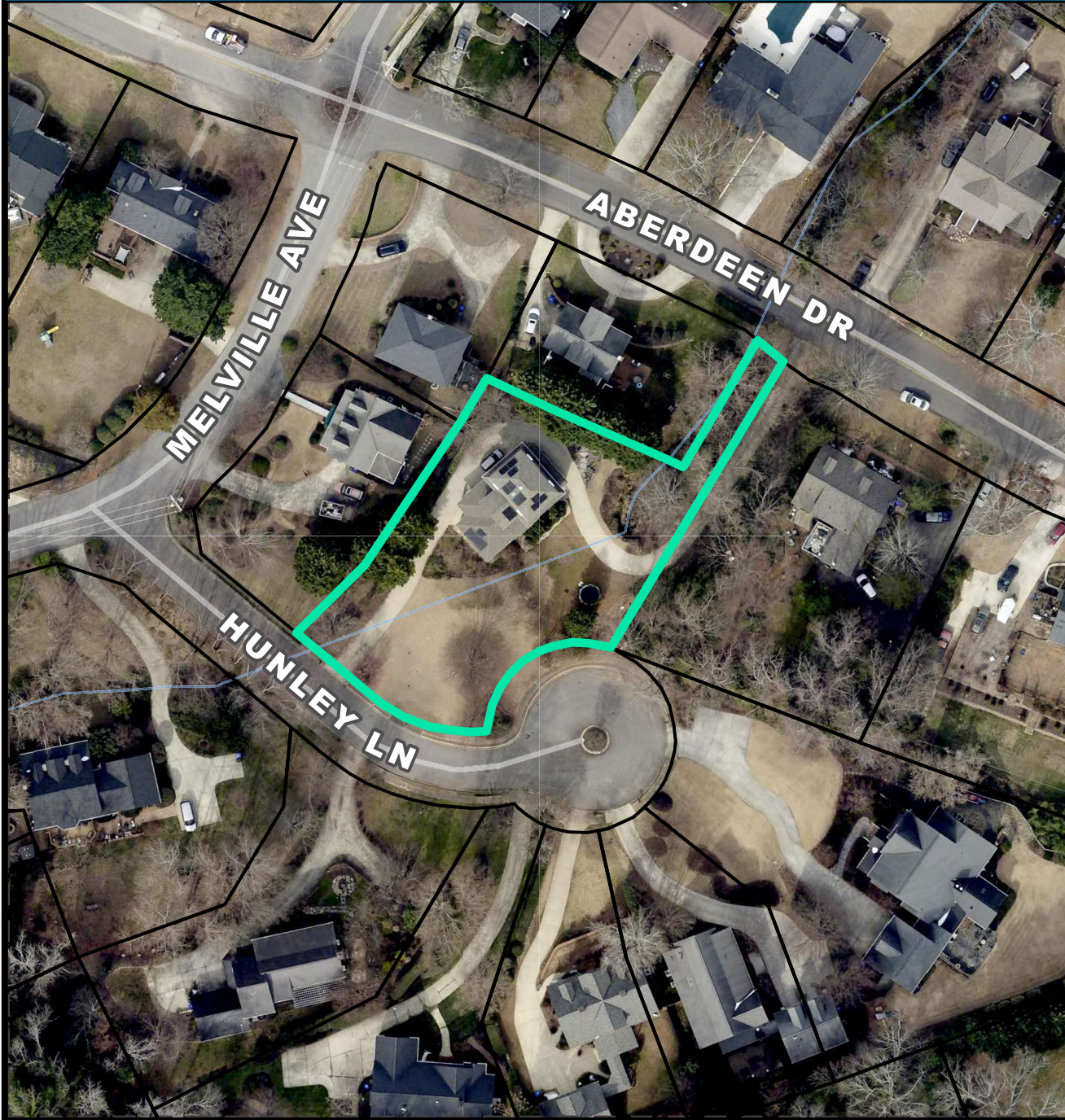
#### **6. How granting the variance is consistent with the purposes and intent of the ordinance**

The purpose of side-yard setback requirements is to provide adequate separation between structures, preserve light and air, protect public safety, and maintain the character of residential neighborhoods. Granting the requested variance remains consistent with each of these objectives.

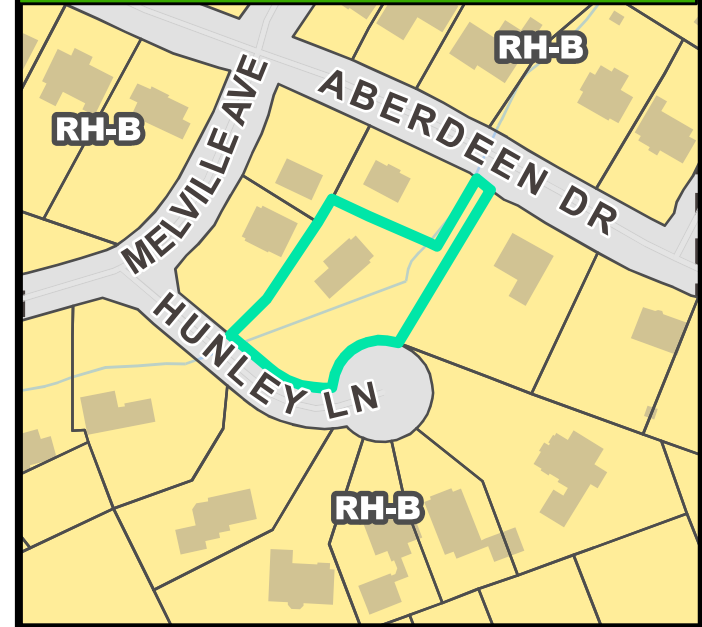
The proposed carport is an open, non-habitable accessory structure that will not significantly impede light, air circulation, visibility, drainage, or access. It will be compatible with the existing residential character of the neighborhood and will not create adverse impacts on adjoining properties.

The requested 5-foot setback reflects the standard that existed in this district before the recent ordinance amendment and is consistent with the established development pattern of the surrounding area. Granting the variance would allow reasonable use and enjoyment of a uniquely constrained property while preserving the underlying intent and purposes of the zoning ordinance.

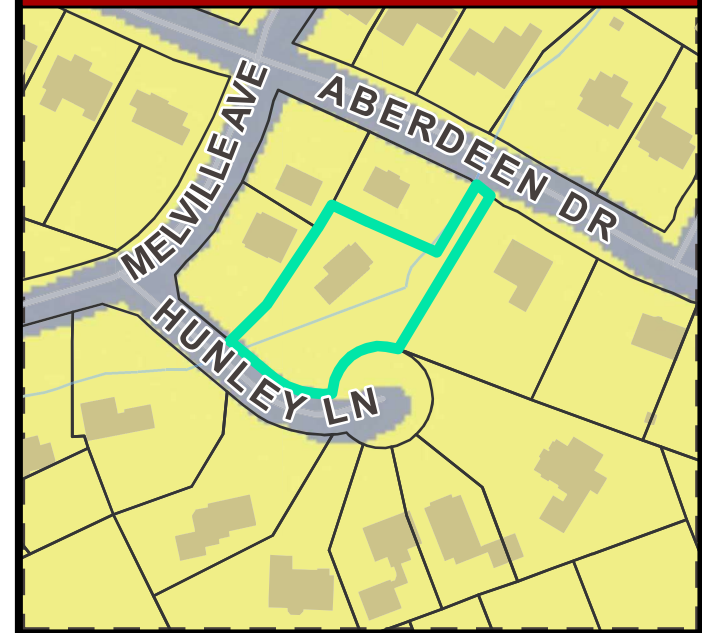
AERIAL VIEW



CURRENT ZONING



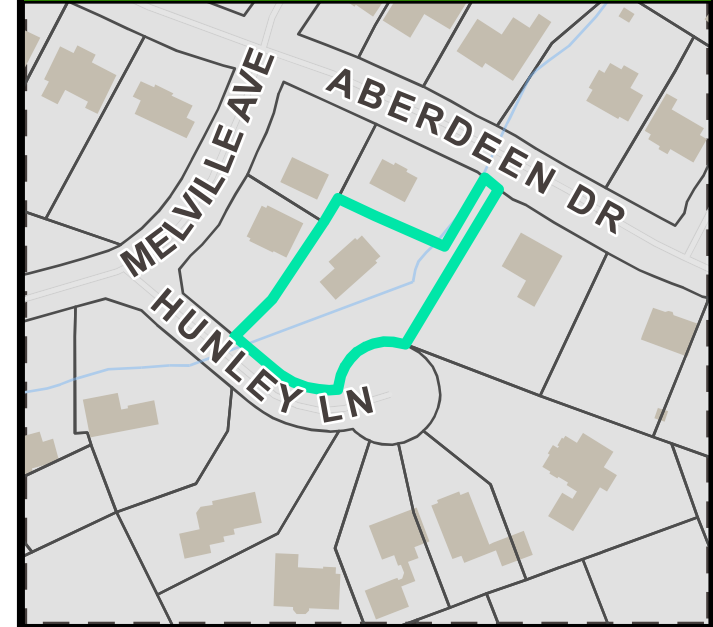
FUTURE LAND USE



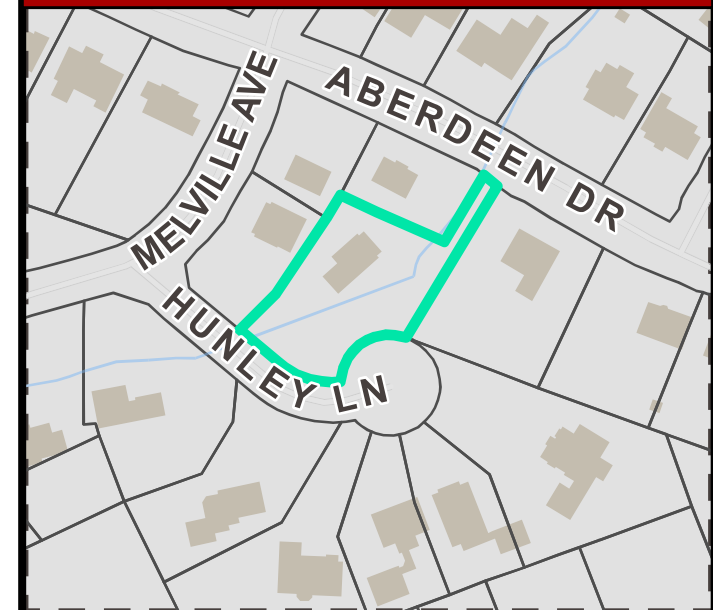
NATURAL / ENVIRONMENTAL FEATURES



SPECIAL EMPHASIS NEIGHBORHOODS



PRESERVATION OVERLAYS



Application # \_\_\_\_\_ Fees Paid \_\_\_\_\_  
Date Received: \_\_\_\_\_ Accepted by \_\_\_\_\_  
Date deemed complete \_\_\_\_\_ App Deny Conditions



## Application for APPEAL OF ADMINISTRATOR'S DECISION OR INTERPRETATION City Of Greenville, South Carolina

### APPELLANT/OWNER INFORMATION

APPELLANT

PROPERTY OWNER

Name:

Mailing

Address:

Phone:

Email:

Contact City of Greenville Planning Department  
for applicant information

### PROPERTY INFORMATION

Street Address: 1025 Woodruff Road, Suite F2, Greenville, South Carolina 29607

Tax Parcel #: 0547020102504

Zoning Designation: PD

### REQUEST

Applicable Code Section: Development Code §§ 19-6.1.4.B.1.c (Board authority); 19-6.2.15 (quasi-judicial review); 19-6.2.1.D (conditions of approval); 19-6.2.1.E (phased development). The decisions appealed from cite §§ 19-5.1.2.B.1 and 19-5.1.2.D.

Description of Request: Appeal from the City's written decision of August 14, 2026, issued by the City Attorney on behalf of the City, as confirmed and supplemented by the City's written interpretation of August 21, 2026, determining that Commercial Alteration Permit No. 25-00004853 (application date November 3, 2025) "is not approved at this time"; that an approved site plan for traffic mitigation, with construction to occur prior to issuance of a building occupancy permit, is required; and that "City Code does not provide for the option of a performance bond under the circumstances presented here." To the extent the City contends the operative written decision or interpretation is that of August 21, 2026, this appeal is taken from that determination in the alternative. Appellant requests reversal and issuance of the permit; in the alternative, approval of the permit subject to conditions authorized by § 19-6.2.1.E; or in the further

alternative, such modification of the conditions imposed as the Board determines appropriate. See Exhibit A, Statement of Grounds for Appeal, attached hereto and incorporated herein by reference.

## EXHIBIT A

### STATEMENT OF GROUNDS FOR APPEAL

Appellant: [REDACTED]

[REDACTED] (“**Magnolia Park**”) is the owner of the retail center located at 1025 Woodruff Road, Greenville, South Carolina (the “**Center**”). Magnolia Park submits this Statement of Grounds for Appeal to the City of Greenville (the “**City**”) Board of Zoning Appeals (the “**Board**”) pursuant to Section 19-6.2.15 of the City of Greenville Development Code (the “**Development Code**”). This appeal concerns the November 3, 2025, Commercial Alteration Permit No. 25-00004853 (the “**Permit**”). All section references in this Statement are to the Development Code unless otherwise indicated.

#### PRELIMINARY STATEMENT

By way of brief background, Magnolia Park has a committed national retail tenancy for approximately 60,000 square feet of vacant space within the Center (“**Retail Space**”). Magnolia Park’s lease agreement with the tenant for the Retail Space allows the tenant to terminate the lease if a commercial alteration permit (“**Upfit Permit**”) for the Retail Space is not obtained by the end of September 2026.<sup>1</sup> In November 2025, the City received a complete application for the Upfit Permit.

With regard to the Upfit Permit, the City’s Traffic Engineering Project Manager, in December 2025, determined that a traffic impact analysis (“**TIA**”) was required under Section 19-5.1.2 of the Development Code, and directed that the study encompass three specified intersections along the Woodruff Road corridor. Despite the facts that the Retail Space has been home to prior national tenants before and that TIAs have *not* been a standard requirement for other proposed tenancies at the Center, Magnolia Park commissioned and funded the requested TIA. The TIA determined the national retail tenancy at the Retail Space will *not* materially impact traffic on Woodruff Road. In fact, the TIA concluded that the new tenancy would **decrease** traffic as compared to the previously permitted tenant in the same Retail Space.

Nonetheless, the City refused to issue the Upfit Permit for the Retail Space. Instead, in June of 2026, the City Manager’s office relayed to Magnolia Park that, in exchange for issuing the Upfit Permit and allowing the proposed tenant to operate in the Retail Space, it wanted Magnolia Park to engage in an approximately \$1.5 million traffic improvement plan, specifically an exit lane expansion at the Center’s principal entrance (“**Exit Lane Expansion**”).<sup>2</sup>

Magnolia Park disputes that the TIA justifies this requested Exit Lane Expansion. However, in an effort to work amicably with the City and help the national retail tenant obtain the Upfit Permit expeditiously, Magnolia Park promptly retained engineers and commenced coordination of the requested Exit Lane Expansion with the City and SCDOT. However, this work will require separate design plans, permits, and approvals, and it is not expected that Magnolia Park could complete construction of the Exit Lane Expansion until the third quarter of 2027. A significant portion of that timeline results from the required City and SCDOT approval processes. Given that timeline, Magnolia Park reasonably has offered to secure the proposed construction by bond or other security satisfactory to the City.<sup>3</sup>

Despite that offer, by an August 14, 2026, written decision, the City advised Magnolia Park that the Upfit Permit “is

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<sup>1</sup> The lease provides an August 23, 2026, deadline for the Upfit Permit and for a subsequent thirty (30) day period before the tenant can issue Magnolia Park a termination notice based on the lack of an Upfit Permit.

<sup>2</sup> The City’s Director of Engineering Services, in May 2026, previously had suggested that Magnolia Park “partner with CostCo” on a “right turn lane on Woodruff Rd from Roper Mtn to the CostCo driveway.” CostCo is not part of the Center, and this suggestion is thus indicative of the fact that pre-existing Woodruff Road traffic (stemming from CostCo or other retailers) is unrelated to the tenant’s proposed occupancy of the Center’s Retail Space.

<sup>3</sup> This offer is consistent with the City’s Director of Engineering Services’ May 5, 2026, email that he is “open to discussing how to get [the tenant] their permit as long as we had some sort of commitment to mitigate their traffic impact.”

not approved at this time” because, in order for such a permit to issue and any occupancy by the tenant to occur, there first must be “an approved site plan” for *and* completed construction for the Exit Lane Expansion. By that same correspondence, the City notified Magnolia Park that “City Code does not provide for the option of a performance bond under the circumstances presented here” (the “**August 14 Decision**,” attached as **Exhibit A-1** and incorporated herein by reference). By written interpretation dated August 21, 2026, the City confirmed that decision and stated its reasoning (the “**August 21 Interpretation**,” attached as **Exhibit A-2** and incorporated herein by reference). Magnolia Park appeals from the August 14 Decision and, in the alternative, from the August 21 Interpretation.

In this appeal, Magnolia Park does not challenge the requirement that a TIA be performed, does not dispute the TIA itself, and does not – for purposes of this appeal – oppose ultimately constructing the Exit Lane Expansion in order for the Upfit Permit to be expeditiously issued by the end of September 2026. Rather, it appeals the conditioning of the Upfit Permit upon prior site plan approval for the Exit Lane Expansion and the conditioning of occupancy of the Retail Space upon its completed construction. Thus, Magnolia Park’s appeal is based on two grounds. Either ground, standing alone, requires reversal:

**First**, no provision of the Development Code requires a landowner, like Magnolia Park, to obtain site plan approval for a transportation improvement before the City may issue a commercial alteration permit to a tenant, and none requires that such an improvement be constructed before an occupancy permit may issue. Section 19-6.2.1.E expressly authorizes the relief Magnolia Park has requested: occupancy while a required improvement remains under construction, secured by a bond.

**Second**, the condition the City has imposed – a site plan for and completion of construction of a \$1.5 million Exit Lane Expansion - is not proportionate to the impact of the proposed tenancy, which, as the TIA determined, is not anticipated to materially impact existing Woodruff Road traffic. Section 19-6.2.1.D requires that conditions be “related in both type and scale” to that impact. This condition is not.

Over nine months of review, Magnolia Park has satisfied every requirement the City has imposed. It commissioned and funded the TIA the City required. It accepted each study parameter specified by the City and the South Carolina Department of Transportation (“**SCDOT**”), including a fourth study intersection the City added. It retained engineers for the Exit Lane Expansion the City selected, has advanced that design since June 2026, and has offered security exceeding the estimated cost of the work.

As noted above, for purposes of this appeal, Magnolia Park is not opposed to constructing the Exit Lane Expansion. However, the Exit Lane Expansion is related to pre-existing traffic conditions on Woodruff Road, and the TIA supports that the tenant for the Retail Space in question will not materially or negatively impact that pre-existing traffic (and actually will result in *less* of a traffic impact than the Retail Space’s prior tenant). Thus, Magnolia Park submits that the Exit Lane Expansion – which will cost approximately \$1.5 million – is not related in both type and scale to the new tenancy at the Retail Space or the Upfit Permit for that space. As a result, conditioning the Upfit Permit on a site plan for and completed construction of the Exit Lane Expansion is not proportionate, reasonable, or permitted under the Development Code. It also will result in termination of the lease and loss of the national retail tenant given that the Exit Lane Expansion cannot be completed until the third quarter of 2027.

Magnolia Park therefore requests that such a condition be removed and that the Upfit Permit for the Retail Space be allowed to proceed without it. Alternatively, it requests that the Upfit Permit be allowed to proceed if Magnolia Park posts a sufficient bond for the construction of the Exit Lane Expansion.

The Board is empowered to grant this relief. Section 19-6.2.15.C.2.b permits the Board, following the public hearing, to “approve, approve with modifications, approve with conditions, or disapprove.” No finding of municipal wrongdoing is required.

## **I. THE BOARD HAS JURISDICTION, AND THIS APPEAL IS TIMELY**

**A. The Board has jurisdiction.** Section 19-6.1.4.B.1.c vests the Board with final action over “[a]ppeals from administrative decisions on all approval processes of this Code,” excepting only appeals considered by the Historic Review Board or the Design Review Board and appeals concerning minor subdivisions. Neither exception applies. The decisions appealed from are administrative decisions interpreting and applying this Code, including Sections 19-5.1.2, 19-6.2.1.D, and 19-6.2.1.E. The appeal proceeds under Section 19-6.2.15.

**B. Magnolia Park is entitled to bring this appeal.** Magnolia Park owns the subject property, bears the cost of the condition imposed, and holds the leasehold interest that condition has placed at risk. It is accordingly a person aggrieved and affected by the decisions appealed from.

**C. The appeal is timely.** The Development Code prescribes no express deadline for an appeal from an administrative decision on an approval process. Section 19-6.4.2.G, which appears in the Development Code's enforcement division, requires that "[a] written notice of appeal must be submitted to the Administrator within 10 city recognized business days of the date of the written decision or interpretation." Without conceding that this provision governs an appeal of this nature, Magnolia Park has filed within ten city-recognized business days of the August 14 Decision, and this appeal is therefore timely under that standard as well as under any longer period that may apply.

Magnolia Park's written objection dated August 18, 2026, to which the August 21 Interpretation responds, is attached as **Exhibit A-6** and incorporated herein by reference.

## **II. THE DEVELOPMENT CODE DOES NOT REQUIRE PRIOR SITE PLAN APPROVAL, AND SECTION 19-6.2.1.E AUTHORIZES THE RELIEF REQUESTED**

### **A. The City has identified no provision requiring site plan approval before issuance of the Upfit Permit.**

The August 14 Decision imposes two distinct conditions. First, it requires "an approved site plan for mitigation of the traffic impacts" before the Permit may be approved. Second, it requires that construction of that mitigation "occur prior to the issuance of a building occupancy permit." Exhibit A-1. Neither the August 14 Decision nor the August 21 Interpretation identifies any provision of the Development Code imposing either condition.

Nor does such a provision exist. Sections 19-6.2.10 and 19-6.2.11 establish the Minor Site Plan and Major Site Plan approval processes, and neither provides that a site plan must be approved before a separate building permit may issue. That omission is significant, because the Development Code states such a requirement expressly where it intends one. For example, its stormwater provisions define a stormwater permit as one "issued through the city prior to the approval of a building permit." No comparable language governs site plan review.

The August 21 Interpretation cites Sections 19-5.1.2.B.1 and 19-5.1.2.D for the proposition that "[t]raffic impact analysis and any resulting mitigation requirements are a part of the development code's standard requirements." Exhibit A-2. As noted above, however, TIAs have not been "standard requirements" for prior upfit permits for tenancies at the Center. Nonetheless though, in this case, Magnolia Park has completed the requested TIA, and the City has accepted it. But neither cited section addresses sequencing. Section 19-5.1.2.D requires a developer to mitigate transportation impacts "as identified in the approved TIA based on criteria defined in the DSM." However, these Code provisions do not provide that an upfit permit for a proposed tenancy cannot issue until any traffic improvement activities identified in a TIA have site plans and have completed construction. Magnolia Park thus submits that conditioning issuance of the Upfit Permit on a site plan for and finished construction of the Exit Lane Expansion is neither required nor reasonable nor justified under the Code.<sup>4</sup>

### **B. Section 19-6.2.1.E permits use of a property before all requirements are fulfilled.**

Section 19-6.2.1.E provides that "[w]hen factors beyond the control of the landowner or when the decision-making body imposes additional requirements upon the landowner, the decision-making body may authorize the landowner to commence the intended use of the property or to occupy any building . . . before all of the requirements are fulfilled," subject to three standards: (1) security satisfactory to the decision-making body; (2) an automatic expiration date upon the permit; and (3) sufficient assurance of compliance through the remedies provided in Division 19-6.4 (emphasis added).

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<sup>4</sup> Also of note, Section 19-6.2.1.D provides that "[a]ll conditions imposed must be expressly set forth in the permit approval." That provision indicates that a permit may be approved and issued *with* conditions – e.g. the Upfit Permit here may be approved with the condition that Magnolia Park reasonably and in the future complete the Exit Lane Expansion (with or without a posted bond) within a specified timeframe.

In the August 14 Decision, the City took the position that the Upfit Permit cannot be issued until there is a site plan for and construction is completed of the Exit Lane Expansion. That is incorrect under Section 19-6.2.1 E, which authorizes the decision-making body to permit occupancy “before all of the requirements are fulfilled.” That is precisely the reasonable relief Magnolia Park has requested.

Additionally, each of the Section’s three standards can be satisfied. Magnolia Park has offered a performance bond exceeding the estimated cost of the work, and Section 19-6.2.1.E permits “other security” as well, leaving the amount and form for the Board to determine. An automatic expiration date may be imposed as a condition of approval; the City’s own Director of Engineering Services proposed that term. And the bond, the enforcement provisions of Division 19-6.4, and Magnolia Park’s continuing need for City permits across a multi-tenant center together afford ample assurance of compliance.

Of note, in July 2026, the City’s Director of Engineering Services negotiated these standards with Magnolia Park with regard to the \$1.5 million Exit Lane Expansion. On July 16, 2026, the City’s Director of Engineering Services wrote that “[i]n general . . . I think we’re good with proceeding with a bond”; that he was “good with the 1.5M bond amount”; that the bond “would have to [be] associated with the building permit for the tenant upfit work and reference the traffic impact study, at least until such time that it can be transferred to the site permit”; that the bond “will ultimately need an expiration date”; and that the parties “would need to agree to the schedule for implementing the driveway modifications.” He further confirmed that “[w]e have SCDOT’s general concurrence on the concept plan,” and relayed the project engineer’s opinion that “these changes to the driveway will result in an improvement in the traffic operations.” That correspondence is attached as **Exhibit A-5** and incorporated herein by reference.

**C. The phasing-plan language is a submission requirement, and it does not withdraw the Board’s authority.**

The August 21 Interpretation states that Section 19-6.2.1.E “does not apply” because “the landowner must submit plans that clearly show the various phases of the proposed development” and “[t]he city has not received such plans.” Exhibit A-2.

That conclusion is incorrect and wrongly rests upon a single sentence read apart from the sentence that follows it. Section 19-6.2.1.E provides, in consecutive sentences:

**As part of the application contents, the landowner must submit plans that clearly show the various phases of the proposed development.**

**When factors beyond the control of the landowner or when the decision-making body imposes additional requirements upon the landowner, the decision-making body may authorize the landowner to commence the intended use of the property or to occupy any building . . . before all of the requirements are fulfilled if the following standards are met . . . .**

The first sentence identifies what a landowner must include with an application. The second confers authority upon the decision-making body and states the three standards that govern its exercise. The first sentence is a submission requirement. It is not one of the three standards, and Section 19-6.2.1.E nowhere provides that the absence of phasing plans withdraws the authority the second sentence confers.

The Upfit Permit application has been pending since November 3, 2025. The tenant and Magnolia Park can provide a phasing plan identifying Phase 1 (the interior and façade alteration work for the Retail Space covered by the Permit) and Phase 2 (the Exit Lane Expansion), upon such terms and within such time as the Board may direct.

Magnolia Park has furnished a concept plan for the Exit Lane Expansion to the City and to SCDOT. SCDOT has given general concurrence in that plan, as the City’s own Director of Engineering Services confirmed on July 16, 2026. Exhibit A-5.

**III. THE CONDITION IMPOSED IS NOT RELATED IN TYPE AND SCALE TO THE IMPACT OF THE PROPOSED TENANCY**

Section 19-6.2.1.D requires that any condition imposed upon an approval “be related in both type and scale to the impact that the proposed development would have on the public and surrounding development.” The condition

imposed here does not satisfy that standard, and the City's own file demonstrates why.

**A. The City's zoning review determined that this use requires no improvements.**

Reviewing this application on November 26, 2025, the City's Zoning reviewer determined that the property is zoned PD, Planned Development, and lies within no overlay district, special emphasis neighborhood, or regulatory floodplain; that it is governed by the Magnolia Planned Development and the Final Development Plan approved through Z 32-2011 (PZ 11-180); that no Final Development Plan modification would be required; that general retail is "permitted by right within the PD zoning district"; and that "no improvements will be required despite the change of use given the PD regulating plan and FDP." Plan Review Comments dated January 15, 2026, attached as **Exhibit A-3** and incorporated herein by reference.

The Electrical, Fire Marshal, Addressing, Mechanical, Plumbing, Building Codes, and Environmental Engineering divisions likewise approved the application, subject to routine conditions. Only two divisions withheld approval: City Engineering, whose sole comment was that the applicant "must satisfy all conditions and requirements of engineering divisions," and Traffic Engineering. Exhibit A-3.

**B. The traffic requirement rests upon *pre-existing* conditions of the corridor rather than upon this tenancy.**

Traffic Engineering's comment dated December 30, 2025 identified four grounds for requiring a TIA: that ITE code 890 was "not appropriate for the intended use" and that code 869 might be more appropriate; that "Woodruff Rd is a heavily commercialized corridor that regularly experiences heavy, often acute, congestion at one or both of the site's access points"; that "[t]he traffic patterns & volumes have changed significantly from when the original TIA was completed for the shopping center (circa 2006)"; and that the proposed tenant "is expected to generate higher traffic volumes than the previous tenant, which closed operations back in Apr 2024." Exhibit A-3.

Three of those four grounds describe the long-standing condition of the Woodruff Road corridor and the age of a study now two decades old. None is attributable to the proposed tenancy. As to the fourth, the completed analysis did not bear out the expectation on which it rested.

**C. The TIA study the City accepted confirms the lack of proportionality of the Exit Lane Expansion to the proposed tenancy.**

The TIA, attached as **Exhibit A-4**, attributes to the proposed tenancy a peak hour increment of 92 weekday trips and 200 Saturday trips, which is less than the volume attributable to the prior tenant of the same space. It further documents the queuing and congestion the improvement is intended to remedy as a *pre-existing* condition of the corridor, observable at present with the space vacant.

The Exit Lane Expansion, which Magnolia Park's engineers estimate at approximately \$1.5 million and which is not projected for completion until the third quarter of 2027, is not related in scale to that increment. Neither is it related in type. It remedies a corridor deficiency that predates this tenancy and that the City's own zoning review determined requires no improvement in connection with this change of use.

**D. The conditioning of the Upfit Permit on the Exit Lane Expansion is not reasonable.**

As indicated, Magnolia Park does not object to the ultimate construction of the Exit Lane Expansion. However, withholding occupancy of the vacant Retail Space until such Expansion can be completed will result in immediate and unrecoverable harm upon the Center – which is especially punitive given the lack of the proposed tenancy's negative, material impact to traffic on Woodruff Road (which the Exit Lane Expansion is designed to help address). The City's condition also overlooks that it asks Magnolia Park to spend \$1.5 million to construct the Exit Lane Expansion with no guarantee that the City ultimately would issue the Upfit Permit (or that Magnolia Park – by the time of completion of the Expansion – would have any tenant for the Retail Space). Section 19-6.2.1.D requires that the burden of a condition bear a relationship to the impact it addresses. Here, the condition simply does not.

**IV. RELIEF REQUESTED**

Magnolia Park respectfully requests that the Board:

(a) reverse the August 14 Decision and the August 21 Interpretation and direct the City to issue the Upfit Permit;

**(b)** in the alternative, approve the Permit subject to conditions authorized by Section 19-6.2.1.E, consisting of a performance bond or other security in an amount and form the Board determines satisfactory; or  
**(c)** in the further alternative, modify the conditions imposed as the Board determines appropriate.

Each form of relief lies within the Board's authority under Section 19-6.2.15.C.2.b. Furthermore, the requested relief aligns with both the City's and the public's interest in filling vacant retail space with a national retailer who will create jobs and economic benefits.

Magnolia Park reserves the right to supplement the record, to submit additional materials in advance of the hearing, and to present evidence and argument at the hearing, and respectfully requests the earliest available hearing date.

## INSTRUCTIONS

1. The application and fee, **made payable to the City of Greenville**, must be received by the planning and development office no later than 4:00 pm within ten (10) business days of the date of the written decision or interpretation.
2. You must attach a statement addressing the reasons that you believe the administrator erred in his determination or interpretation of the City Code regarding the subject property.
3. You must attach any other information relevant to the disputed item, and if applicable, a scaled drawing of the property that reflects, at a minimum, the following:
  - Property lines, existing buildings, and other relevant site improvements;
  - The nature (and dimensions) of the disputed item;
  - Existing buildings and other relevant site improvements on adjacent properties; and
  - Topographic, natural features, etc.
4. You must attach the required application fee:
  - For appeal to the Board of Zoning Appeals: \$250.00 for persons having rights in contract in the subject land; \$50.00 for those adjacent to the subject land.
  - For appeal to the Design Review Board: \$150.00 for signs and single-family residential; \$300.00 for all other.
  - For appeal to the Planning Commission: \$250.00.
5. The administrator will review the application for “sufficiency” pursuant to **section 19-2.2.6, Determination of Sufficiency**, prior to placing the application on a public hearing agenda. If the application is determined to be “insufficient”, the administrator will contact the applicant to request that the applicant resolve the deficiencies. **You are encouraged to schedule an application conference with a planner, who will review your application for “sufficiency” at the time it is submitted. Call (864) 467-4476 to schedule an appointment.**
6. You must post the subject property at least 15 days prior to the scheduled hearing date.
  - The appellant acknowledges receiving \_\_\_\_\_ “Public Hearing” sign(s) and Posting Instructions from the Planning Office.

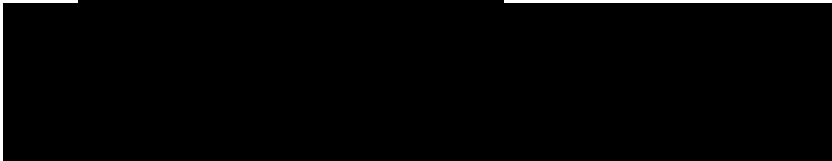
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7. The appellant and property owner affirm that all information submitted with this application; including any/all supplemental information is true and correct to the best of their knowledge and they have provided full disclosure of the relevant facts.

In addition, the appellant and property owner affirm that the tract or parcel of land subject of this application is, or is not, restricted by any recorded covenant that is contrary to, conflicts with, or prohibits, the requested activity.

If the planning office has actual notice that a restrictive covenant is contrary to, conflicts with, or prohibits the requested activity, the office must not issue the permit unless the office receives confirmation from the applicant that the restrictive covenant has been released by action of the appropriate authority, property holders, or by court order.

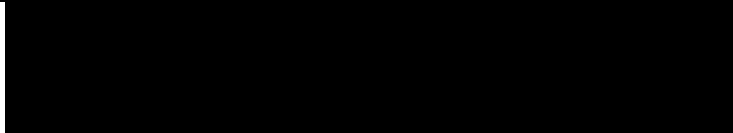
To that end, the appellant hereby affirms that the tract or parcel of land subject of the attached application **IS** \_\_\_\_\_ or **IS NOT**   X   restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the requested activity.

APPELLANT:



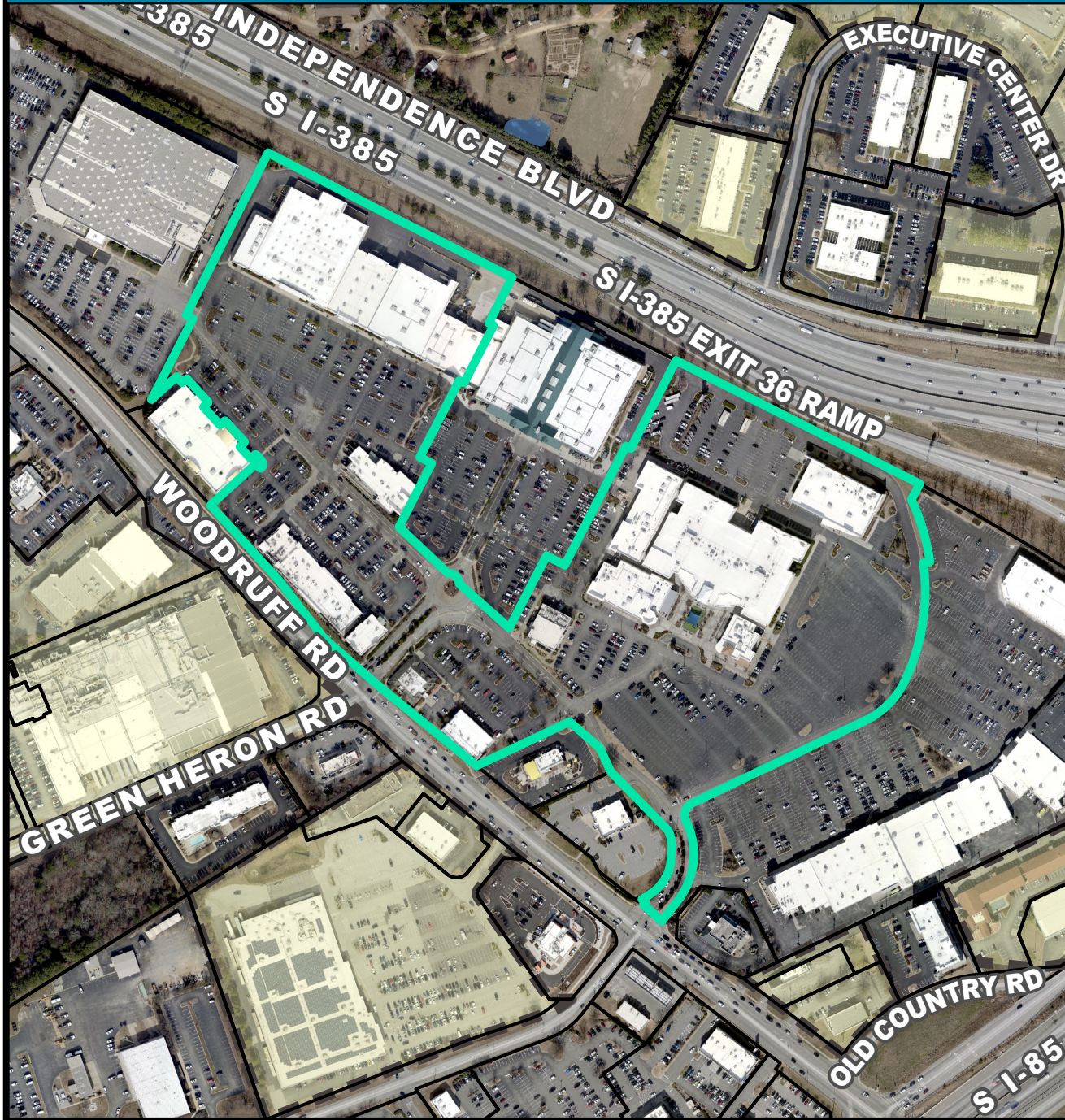
DATE: August 27, 2026

PROPERTY OWNER:

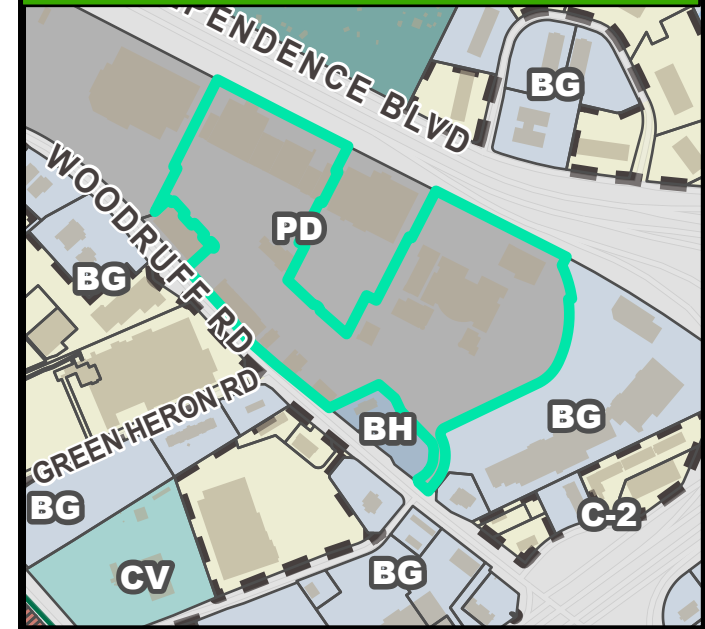


DATE: August 27, 2026

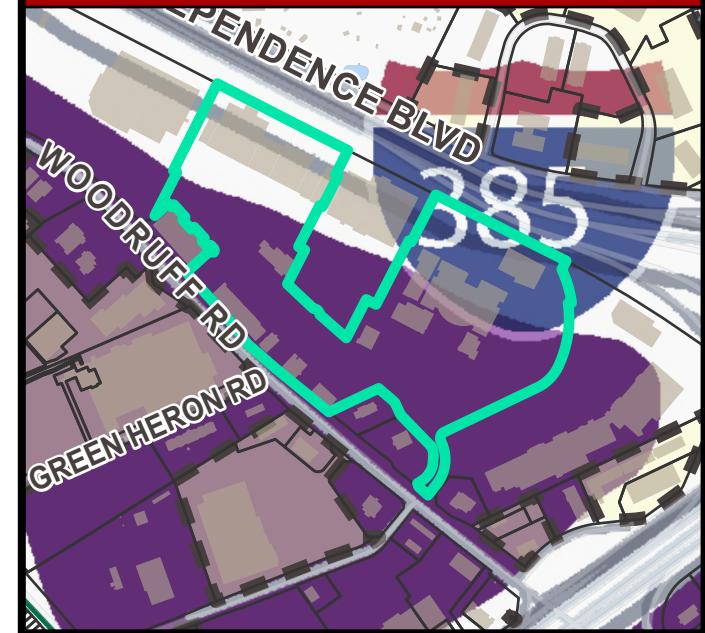
AERIAL VIEW



CURRENT ZONING



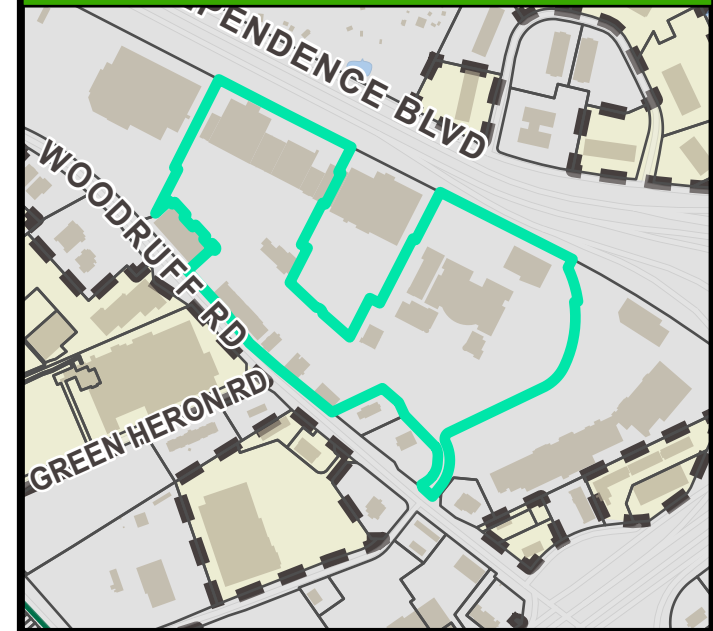
FUTURE LAND USE



NATURAL / ENVIRONMENTAL FEATURES



SPECIAL EMPHASIS NEIGHBORHOODS



PRESERVATION OVERLAYS

