

EXHIBIT 1

PART 11: ZONING CODE INTERPRETATIONS

§ 155.1090 PURPOSE.

A zoning code interpretation is a written decision issued by the Zoning Administrator regarding the interpretation of any provision set forth in the zoning code. It is intended to clarify ambiguities in the zoning code and to resolve any ambiguities in future amendments.

§ 155.1091 APPLICABILITY.

This part applies to requests for a decision by the Zoning Administrator to interpret a possible ambiguous standard in this chapter, to clarify a standard in this chapter, to clarify conditions of approval pursuant to this chapter, or to clarify standards approved for special districts.

§ 155.1092 INITIATION.

(A) *Applicant eligibility.* Any person may submit a written request for a zoning code interpretation to the Zoning Administrator regarding any section of this chapter.

(B) *Application requirements.* A request for a zoning code interpretation shall be filed with the Planning and Development Services Department. At a minimum, the request for a code interpretation shall be in writing and include:

- (1) The section of the zoning code, standard, or condition that is allegedly ambiguous or needing clarification;
- (2) The subject matter or nature of the request; and
- (3) A statement of facts relevant to the nature of the request.

§ 155.1093 DECISION.

(A) The Zoning Administrator may approve a request by issuing a written decision regarding the interpretation of any provision set forth in the zoning ordinance or standard identified in § 155.1091: Applicability.

(B) The Zoning Administrator may deny or reject the request in writing to the applicant that shall be delivered by regular mail.

§ 155.1094 APPROVAL CRITERIA.

(A) The Zoning Administrator may approve a request if there is an ambiguity or need for the clarification demonstrated by the applicant.

(B) The Zoning Administrator may deny or reject the request if there is no ambiguity or need for the clarification demonstrated by the applicant.

(C) The Zoning Administrator shall render only one interpretation per issue. If an interpretation is requested on an issue previously addressed, the Zoning Administrator shall provide a copy of the previous interpretation.

§ 155.1095 SCOPE OF APPROVAL.

(A) A zoning code interpretation will become effective upon execution by the Zoning Administrator.

(B) A zoning code interpretation does not authorize development. Any development that occurs after the zoning code interpretation has been issued is subject to all applicable requirements of this chapter, as revised by the interpretation.

§ 155.1096 RECORDKEEPING.

(A) *Identification and retention.* All code interpretations shall be numbered consecutively in order of their issuance. The Planning and Development Services Department shall maintain such interpretations for public access and review in hard copy and on its Internet site until the applicable section of the zoning code, if applicable, is amended to provide the necessary clarification.

(B) *Indexing.* The Planning and Development Services Department shall establish an index on its internet site that refers to the applicable section of the zoning code, if applicable, and the identification number of the code interpretations that relate to that section.

EXHIBIT 2

PART 3: APPEALS OF ADMINISTRATIVE DECISIONS

§ 155.980 PURPOSE.

This part provides a process for applicants to request the review and correction of decisions by administrative officials that they believe are in error.

§ 155.981 APPLICABILITY.

This part applies to appeals of an order, requirement, decision, or determination made by the Zoning Administrator or any other administrative official in the enforcement of this chapter.

§ 155.982 INITIATION.

(A) *Applicant eligibility.* An appeal of an administrative decision may be initiated by a person aggrieved by an order, requirement, decision, or determination made by the Zoning Administrator or any other administrative official in the enforcement of this chapter or by any officer, department, board, or bureau of the county.

(B) *Application requirements.* An appeal must be filed with the Zoning Administrator on an application provided by the Planning and Development Services Department within 30 days of the written decision or other action that is the subject of the appeal.

(C) *Effect on other proceedings.* An appeal stays all legal proceedings by the county relating to the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals, after the appeal application has been filed, that a stay would cause an imminent peril to life and property. In cases where there is an imminent peril to life and property, proceedings will not be stayed unless a restraining order is granted by the Board or by a court of record on application.

§ 155.983 NOTICE.

The notice required by Table 155.983-1 applies to an appeal of an administrative decision.

TABLE 155.983-1: REQUIRED NOTICE FOR APPEALS OF ADMINISTRATIVE DECISIONS			
Type	Required?	To Whom?	When?
Mail	Yes	Applicant/Parties	Due Notice
		Adjoining Landowners	N/A
		Interest Groups	N/A
Posting	Yes	General Public	15 days, if the matter is unique to an individual property
Publication	Yes	General Public	15 days before BZA meeting

§ 155.984 DECISION.

(A) The Board of Zoning Appeals will hear appeals of all administrative decisions and will render a decision in each matter.

(B) The Board will hear an appeal of an administrative decision within a reasonable time of the date the application is deemed complete.

(C) Based on the hearing, the Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination, and has all the powers of the officer from whom the appeal is taken to issue or direct the issuance of a permit.

(D) The Board will issue a written decision within 45 days of the hearing on the matter.

(E) All final decisions or orders of the Board will be delivered to parties-in-interest by certified mail.

§ 155.985 APPROVAL CRITERIA.

In considering an appeal of an administrative decision, the Board shall apply the standards of this chapter, other applicable law, and previous interpretations of this chapter by the Board.

§ 155.986 SUBSEQUENT APPLICATIONS.

If an appeal is denied, the aggrieved person may not initiate the same or a similar appeal application for the parcel for a

period of one year, unless conditions have changed substantially and the Board votes unanimously to rehear the matter.

§ 155.987 APPEALS.

Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal from any decision of the Board to a court of competent jurisdiction in and for York County, filing with the clerk of such court a petition in writing setting forth plainly, fully, and distinctly wherein the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Board is mailed.

§ 155.988 SCOPE OF APPROVAL.

Approval of an appeal does not authorize development. Any development that occurs after the decision on the appeal is subject to all applicable requirements of this chapter, as amended by the Board of Zoning Appeals' decision, if applicable.

§ 155.989 RECORDKEEPING.

(A) The Board will keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating the fact.

(B) The Board will issue a written decision to all parties involved in the matter.

(C) All final decisions and orders of the Board must be in writing and will be permanently filed in the office of the Board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board.

EXHIBIT 3



December 27, 2022

Judi Quinby
3343 Peachtree Rd NE Suite 1600
Atlanta GA 30326

Ref: Zoning Verification for 7190000201

To whom it may concern,

This letter is written to inform you that the laws and regulations of York County, South Carolina govern the referenced property, tax map parcel 7190000201. The property is located 7149 Logistics Lane in the Fort Mill community. It is currently owned by RG Baxter Lane LLC. The property zoned **Light Industrial District (LI)**.

The intent of the **Light Industrial District (LI)** is to create and protect industrial areas for light manufacturing and distribution. LI is intended to accommodate less intensive industrial uses with operations primarily conducted indoors. The district's less intensive uses protect nearby residential areas from the encroachment of heavy industrial uses. Whenever possible, this district should be separate from residential districts by natural or structural boundaries such as drainage channels, sharp breaks in topography, strips of vegetation, traffic arteries, and similar features. LI is generally appropriate for areas designated as Industrial, Employment Center, or I-77 Corridor Employment on the Future Land Use Map.

Within the Light Industrial District (LI) zoning district **Electrical Equipment, Appliance, And Component Manufacturing** as defined below is a permitted use.

Electrical Equipment, Appliance, And Component Manufacturing: Establishments that manufacture products that generate, distribute, and use electrical power, such as electric lamp bulbs, lighting fixtures, and parts; small and major electrical appliances and parts; electric motors, generators, transformers, and switchgear apparatus; and batteries, wire, and wiring devices.

The use as described in your request (manufacturing of photovoltaic cells and PV modules) is considered *electrical equipment, applicant, and component manufacturing* and is therefore principally permitted. Please be advised that establishment of this use at the subject site will require civil site plan review.

This letter does not constitute a permit. This letter only states that the site can, with the proper permits, be used for the aforementioned use. All of this information is determined by the York County, South Carolina Code of Ordinance. If you need any additional information regarding this, please feel free to contact me at (803) 909-7235.

Best Regards,

Emily Stephens
York County Zoning Technician

EXHIBIT 4

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTEENTH JUDICIAL CIRCUIT
COUNTY OF YORK	)	
	)	C/A NO.: 2025-CP-46-04007
Dennis Floyd Bivins,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER GRANTING IN PART AND
	)	DENYING IN PART DEFENDANTS'
	)	MOTION TO DISMISS
York County by and through Joshua	)	
Edwards, York County Manager, Josh	)	
Reinhardt, York County Development	)	
Services Manager, and Jonathan Buono,	)	
York County Planning and Development	)	
Services Director,	)	
	)	
Defendants.	)	
	)	

THIS MATTER COMES before the Court on the November 17, 2025 motion of Defendants York County, Joshua Edwards, Josh Reinhardt, and Jonathan Buono (collectively, the County), pursuant to Rule 12(b), of the South Carolina Rules of Civil Procedure (SCRCP), to dismiss the Complaint of Plaintiff Dennis Floyd Bivins. The Court heard argument on the County's motion on December 16, 2025. Present at the hearing were Cameron J. Halford, Esquire, of the Halford Law Firm, representing Plaintiff, and Chad N. Johnston, Esquire, and Samantha J. Dorward, Esquire, both of Burr & Forman, LLP, and Austin T. Reed, Esquire, of Smith Robinson LLC, representing the County. In reaching this decision, the Court has fully considered the arguments of the parties at the hearing, the respective filings of the parties, including the submitted memoranda of law and exhibits,¹ the relevant case law, and the applicable rules and standard of

¹ See *Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009) (holding that a Court may consider documents incorporated by reference in the complaint to prevent plaintiffs "from surviving a motion to dismiss by intentionally omitting documents upon which their claims are based" without converting the motion into one for summary judgment); see also *Ballard v. Admiral Ins. Co.*, 442 S.C. 22, 33, 897 S.E.2d 183, 188 (Ct. App. 2023) (same).

review. For the reasons set forth herein, and in accordance with Rule 12(b), SCRC, the Court GRANTS IN PART and DENIES IN PART the County's motion and dismisses the complaint with prejudice.

STATEMENT OF THE FACTS²

I. Zoning Compliance Verification

In late 2022, Silfab Solar, Inc. (Silfab) sought zoning compliance approval under subchapter E, part 13 of the York County Zoning Code (§§ 155.1120 *et seq.*) for proposed solar panel manufacturing operations on a parcel located at 7149 Logistics Lane, Fort Mill, South Carolina (Parcel). The Parcel is located in a multi-county industrial park developed by York and Chester Counties under South Carolina Code section 4-1-170 and is zoned Light Industrial. On December 27, 2022, the County's zoning office, a division of the County's Planning and Development Services Department, issued a letter to Silfab verifying that Silfab's proposed operations were compatible and compliant with the Parcel's Light Industrial zoning district (Zoning Compliance Verification).³ No challenge or appeal of the Zoning Compliance Verification was instituted.

II. Fee in Lieu of Tax and Incentive Agreement

During that same period, Silfab and the County began negotiating a fee in lieu of tax

² The Court has considered the factual allegations set forth in the complaint, and has accepted all well-pled allegations as true. *Disabato v. S.C. Ass'n of Sch. Adm'rs*, 404 S.C. 433, 441, 746 S.E.2d 329, 333 (2013). In ruling on this motion to dismiss, the Court finds the following facts.

³ The County's Zoning Division staff is tasked with assisting the public with requests or information associated with the use and development of property within the County. Among the staff's responsibilities is to "[r]eview and approve subdivision plats and non-residential site plans for compliance with York County development regulations." <https://www.yorkcountygov.com/377/Zoning>; *see also* Zoning Code § 155.957 (Table 155.957-1).

(FILOT) and incentive agreement to induce Silfab to locate its operations in the County. A proposed inducement and incentive ordinance (Inducement Ordinance) that would authorize the execution of the FILOT agreement was introduced and given first reading by County Council on March 6, 2023. Second reading, along with a public hearing, occurred on August 21, 2023. On September 18, 2023, County Council held a third reading of the Inducement Ordinance and enacted the same. The Inducement Ordinance authorized and directed County representatives to execute the FILOT agreement. It further provided that “[a]ll ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.”

In accordance with the Inducement Ordinance, also on September 18, 2023, the County and Silfab executed the FILOT agreement, thereby creating a binding agreement between the County and Silfab to pursue development of the Silfab project at the Parcel. Among other terms, the FILOT agreement specifically identifies the Parcel for development of the Silfab project. FILOT agreement at 5 (defining “land” as “the land upon which the Project will be located, as described in Exhibit A”); at A-1, FILOT agreement Exhibit A (providing the legal description for the Parcel). Recital 5 of the FILOT agreement further provides that:

The County has determined that it is in the best interests of the County to enter into this Agreement with [Silfab], subject to the terms and conditions set forth herein, and, by Ordinance No. [6623] enacted by the Council on September 18, 2023 ... approved the form, terms and conditions of this Agreement *and ratified all prior actions taken with respect to the Project.*

(Emphasis added). Thus, the County, through formal legislative action of its County Council, approved and specifically induced Silfab to locate in the County at the Parcel. Further, based on the FILOT agreement’s finding that “all prior actions taken with respect to the Project” were ratified, as authorized by official action taken by the County Council in the Inducement Ordinance, the Zoning Compliance Verification issued by the County’s zoning office specific to both Silfab and the Parcel was legislatively approved.

Thereafter, Silfab began undertaking steps to develop the identified Parcel, including seeking relevant permits and authorizations from the County and other relevant regulatory entities, site work, and construction on the site.

III. Related Actions and Litigation

A. Zoning Interpretation and Subsequent Appeal

On February 1, 2024, a Fort Mill resident requested a zoning interpretation (Zoning Interpretation Request) from the County Planning and Development Services Department under Subchapter E, Part 11 of the York County Zoning Code (§§ 155.1090 *et seq.*). The Zoning Interpretation Request submitted seven questions directed specifically at the approval of Silfab's development of the Parcel, despite Zoning Code section 155.1090's stated purpose of a zoning interpretation: "to clarify ambiguities in the Zoning Code and to resolve any ambiguities in future amendments."

On February 16, 2024, the County Zoning and Development Standards Administrator provided a response to the Zoning Interpretation Request (Zoning Interpretation). Therein, the County declined to address the requests, consistent with its authority under Zoning Code section 155.1093(B), but did provide certain "clarifications" as to other tangentially-related issues. Thereafter, on March 14, 2024, certain of the submitted zoning interpretation requests were appealed to the County Board of Zoning Appeals (BZA), (BZA Appeal).

On May 9, 2024, the BZA held a hearing on the BZA Appeal, following which it voted 5-0 to reverse the Zoning Interpretation and thereafter issued a final decision setting forth a written record of its decision and findings (BZA Order).⁴ The BZA Order contained the following

⁴ Although neither question proposed by the BZA Order were presented in the Zoning Interpretation Request, the BZA Order characterized the questions presented in the appeal as: (1)

conclusions:

- i. The Zoning Administrator erred in determining that Solar Panel Manufacturing is a Use under Computer and Electronic Products Manufacturing permitted in Light Industrial; and
- ii. Solar Panel Manufacturing is not listed as a Use applicable for the Light Industrial Zoning District and is therefore prohibited pursuant to section 155.270(G), York County Code of Ordinances.

The BZA Order did not mention Silfab, its specific project, or the Parcel, nor does section 155.1090 of the Zoning Code authorize zoning interpretations to evaluate specific, ongoing developments.

Thereafter, Silfab and its landlord, Exeter 7149 Logistics, L.P. (Landlord), appealed the BZA Order to the York County circuit court. *See Silfab Solar, Inc., et al. v. York County Board of Zoning Appeals*, 2024-CP-46-02641. As a result of the appeal, the BZA Order is stayed.⁵ Consistent with South Carolina Code section 6-29-820(B)(2), Silfab requested pre-litigation mediation of the BZA Appeal, and on April 21, 2025, the parties unsuccessfully mediated the case. The matter is ongoing.

B. Stayed Circuit Court Action

On September 5, 2024, Citizens Alliance for Government Integrity, Inc. (CAGI), a South Carolina non-profit, filed a complaint in the York County circuit court against Silfab, Landlord, and the County. *See Citizens Alliance for Government Integrity, Inc., a South Carolina Non-Profit v. Silfab Solar, Inc., Exeter 7149 Logistics, L.P., and York County by and through its Planning and Development Services and Zoning Administrator, a body politic and political subdivision of York County and the State of South Carolina*, 2024-CP-46-03532 (CAGI Action). In that lawsuit,

whether “Solar Panel Manufacturing is a Permitted Use within the Light Industrial Zoning District”; and (2) whether “Solar Panel Manufacturing [is] considered a Heavy Industrial use.”

⁵ See York County Zoning Code § 155.982(C) (“**Effect on Other Proceedings.** An appeal [of an administrative decision] stays all legal proceedings by the County relating to the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals, after the appeal application has been filed, that a stay would cause an imminent peril to life and property.” (emphasis in original)).

CAGI seeks declaratory and injunctive relief, arguing that the subsequently-issued BZA Order controls over the prior, specific Zoning Compliance Verification issued to Silfab for the Parcel. The defendants there, including the County, moved to dismiss the action on a number of grounds. While the motions to dismiss were pending, CAGI sought a preliminary injunction to stay or revoke all permits issued by the County to Silfab. On December 18, 2024, The Honorable Martha M. Rivers held a hearing on the pending motions and, on January 29, 2025, issued a Form-4 Order declining to rule on CAGI's motion to stay or revoke all permits and instead stayed the entire lawsuit pending final resolution of the BZA Appeal.

C. Related Appellate Litigation

On July 2, 2025, a Fort Mill resident, petitioned the Supreme Court to invoke its original jurisdiction to issue writs of mandamus and prohibition, requesting that the court require the County to revoke permits issued to Silfab and ultimately halt its project. *See* Appellate Case No. 2025-001325. On July 21, 2025, the Supreme Court declined to entertain the matter in its original jurisdiction.

Then, on October 28, 2025, CAGI similarly petitioned the Supreme Court in its original jurisdiction, pursuing writs of mandamus and prohibition on the same bases as those in the initial petition and in this case. *See* Appellate Case No. 2025-002174. On December 16, 2025, the Supreme Court declined to entertain the matter in its original jurisdiction.

DISCUSSION

In this action, Plaintiff seeks relief against both the County and non-party Silfab, pursuing claims for temporary and permanent injunctive relief, declaratory relief, and writs of mandamus and prohibition, including issuance of stop work orders and revocation of permits, to prevent Silfab from continuing its development. For the reasons set forth herein, that relief is DENIED.

I. Justiciability

The County first asserts that the Court is without jurisdiction, pursuant to Rule 12(b)(1), SCRCP, for lack of standing, depriving the Court of a justiciable controversy. *See Capital City Ins. Co. v. BP Staff, Inc.*, 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009) (“A motion to dismiss for lack of standing challenges the court’s subject matter jurisdiction.”); *Lennon v. S.C. Coastal Council*, 330 S.C. 414, 415, 498 S.E.2d 906, 906 (Ct. App. 1998) (“A threshold inquiry for any court is a determination of justiciability, *i.e.*, whether the litigation presents an active case or controversy.”); *Jackson v. State*, 331 S.C. 486, 490 n. 2, 489 S.E.2d 915, 917 n. 2 (1997) (stating the concept of justiciability encompasses the doctrines of ripeness, mootness, and standing). The Court agrees. In South Carolina, standing can be established in three ways: (1) by statute, (2) by constitutional standing, and (3) under the public importance exception. *Bodman v. State*, 403 S.C. 60, 66–67, 742 S.E.2d 363, 366 (2013). The complaint appears to seek to establish standing alternatively by statute or under the traditional three-part test for constitutional standing.⁶ The Court finds that the complaint fails to meet its burden under either method, and accordingly, the Court lacks jurisdiction.

A. Statutory Standing

Plaintiff contends that section 6-29-950 of the South Carolina Code provides him statutory standing to maintain this lawsuit. While section 6-29-950 provides an avenue for a neighboring or adjacent property owner to challenge a zoning action, the Court finds the complaint fails to plead the necessary and required facts to maintain such an action.

The Supreme Court has stated that “[s]tatutory standing exists, as the name implies, when a statute confers a right to sue on a party, and determining whether a statute confers standing is an

⁶ Plaintiff does not plead or argue the public importance exception to standing.

exercise in statutory interpretation.” *Youngblood v. S.C. Dep’t of Soc. Servs.*, 402 S.C. 311, 317, 741 S.E.2d 515, 518 (2013) (citing *Freemantle v. Preston*, 398 S.C. 186, 194-95, 728 S.E.2d 40, 44-45 (2012)). Relevant here, South Carolina Code section 6-29-950(A) provides,

In case a building, structure, or land is or is proposed to be used in violation of any ordinance adopted pursuant to this chapter, . . . an adjacent or neighboring property owner who would be *specially damaged by the violation* may in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land.

(Emphasis added). Thus, there are two mandatory requirements for an adjacent or neighboring property owner, such as Plaintiff, to meet in order to advance a claim under section 6-29-950(A): (1) first, the adjacent or neighboring property owner must be “specially damaged”; and (2) such special damage must flow from the use—or proposed use—of the property in question in violation of an ordinance.

The County asserts that Plaintiff fails to meet either criterion. As to the first, the complaint fails to plead facts that would support a claim that Plaintiff has been specially damaged by the development. The Supreme Court has equated the special damages requirement under section 6-29-950(A) to the particularized injury-in-fact requirement of traditional constitutional standing analysis. See *Carnival Corp. v. Historic Ansonborough Neighborhood Ass’n*, 407 S.C. 67, 75, 753 S.E.2d 846, 850 (2014) (equating the “special damage” requirement specified in section 6-29-950(A) to the particularized-injury requirement under constitutional standing). Pertinent here, an “injury in fact” has been defined as “an invasion of a legally protected interest” which is “concrete and particularized” and “actual or imminent,” not “conjectural or hypothetical.” *Commander Health Care Facilities, Inc. v. S.C. Dep’t of Health & Env’t Control*, 370 S.C. 296, 301, 634 S.E.2d 664, 666 (Ct. App. 2006) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992)). Moreover, “[p]rospective concern falls far short of the standard of ‘concrete and particularized and

... actual or imminent' harm" *Beaufort Realty Co. v. Beaufort Cnty.*, 346 S.C. 298, 303, 551 S.E.2d 588, 590 (Ct. App. 2001). For the injury to be particularized, it must affect the plaintiff in a personal and individual way and must be different than the general impact to the public. *Sea Pines Ass'n for the Prot. of Wildlife v. South Carolina Dep't of Natural Res. & Cmty. Servs. Assocs., Inc.*, 345 S.C. 594, 601, 550 S.E.2d 287, 291 (2001).

As to harm or injury, Plaintiff offers only a conjectural and generalized grievance concerning future public health and welfare concerns. Plaintiff does not allege any individualized harm that he has suffered as an adjacent property owner or neighbor that is distinct from what he contends the public might suffer at large. *See Commander*, 370 S.C. at 301, 634 S.E.2d at 666 ("The injury must be of a personal nature to the party bringing the action, *not merely of a general nature that is common to all members of the public.*" (emphasis added) (citing *Quality Towing, Inc. v. City of Myrtle Beach*, 340 S.C. 29, 34, 530 S.E.2d 369, 371 (2000))); *see also Carnival Corp.*, 407 S.C. at 75, 753 S.E.2d at 850 ("[A] plaintiff raising only a generally available grievance about government—claiming only harm to his and every citizen's interest in proper application of the Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not' possess standing." (quoting *Lujan*, 504 U.S. at 573–74)). Moreover, even if Plaintiff had alleged or could claim some personal stake distinct from that of the public at large, the alleged injury here is merely speculative rather than actual or imminent, as Silfab is not yet fully operating on the Parcel, and none of the injuries Plaintiff alleges as certain to befall him and the community have occurred. As a result, these allegations are not concrete or particularized, but rather conjectural and hypothetical.

Beyond those future speculative health concerns resulting from presumed conduct and conjectural injuries, Plaintiff alleges injuries resulting from "spot zoning" or "site specific zoning."

However, the issue is not that the Parcel has been rezoned; it has not. Rather, Plaintiff disagrees with the County's determination that Silfab's proposed use of the site is consistent with the Parcel's Light Industrial zoning designation. While Plaintiff disagrees with that determination, made by the County in the Zoning Compliance Verification, that determination was not appealed and was later ratified by the action of County Council through the Inducement Ordinance and FILOT agreement adopted specific to Silfab and the Parcel. Further, the complaint pleads no facts that would support an allegation that he has been—or would be—specially damaged by spot or site specific zoning.

Because the complaint fails to meet the pleading standard as to special damages under section 6-29-950(A), Plaintiff has not satisfied that condition precedent to assert standing under the statute.⁷

B. Constitutional Standing

The Court also finds Plaintiff has failed to establish standing by pleading the “irreducible constitutional minimum of standing,” which consists of three elements: (1) an injury in fact; (2) that the injury and the conduct complained of must be causally connected; and (3) that it must be likely, rather than merely speculative, that the injury will be redressed by a favorable decision. *Sea Pines*, 345 S.C. at 601, 550 S.E.2d at 291 (citing *Lujan*, 504 U.S. 555); *see id.* (“The party seeking to establish standing carries the burden of demonstrating each of the three elements.”).

1. Injury in Fact

As set forth above, the complaint fails to plead facts that could satisfy Plaintiff's burden of

⁷ In light of the disposition of the special damages criterion, the Court need not address the second criterion of whether Silfab's use—or proposed use—is in violation of an ordinance. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (“In light of our disposition of the case, it is not necessary to address [the movant's] remaining issues.”).

showing a concrete and particularized injury that is neither contingent nor hypothetical, and that is different than would be suffered by the public generally. *See Carnival Corp.*

2. Causation

Having failed to identify a viable injury in fact, attempting to trace or evaluate the cause of such a hypothetical injury is futile. Nevertheless, Plaintiff's allegations of future public health and welfare concerns also fail the second element of constitutional standing, as those harms, should they ever come to pass one day, would be attributable to Silfab's operations on the parcel, rather than any action—or inaction—by the County. Where the causal link between the complained-of activity and the alleged injuries is superseded by a third party, the alleged injuries are not traceable to the government action. Courts, including the United States Supreme Court, have found the causal link between a challenged governmental action and alleged injuries to be broken where the action itself does not cause the alleged injuries, but rather independent actions of third parties who are not before the Court do. *See Town of Arcadia Lakes v. South Carolina Department of Health and Environmental Control and Roper Pond, LLC*, 404 S.C. 515, 532, 745 S.E.2d 385, 394 (Ct. App. 2013) (noting an inability to establish a causal link where alleged injuries would result from potential future violation of permits, rather than the issuance of the permits themselves); *Beaufort Realty Co.*, 346 S.C. at 301, 551 S.E.2d at 589 (finding that the acceptance of filed plats was not causally connected to allegations of future injury); *see also Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26 (1976); *Allen v. Wright*, 468 U.S. 737 (1984).

The import of those and similar cases is clear: government's role, including local governments like the County, is to set policy and provide infrastructure and related service to be used by its citizens in a lawful way. The collateral effects of companies who locate in the County are not attributable to the County for confirming a use as appropriate for a given site and issuing

permits for its operations.

3. Redressability

Finally, even if this Court were to presume a viable injury and causation, Plaintiff has not alleged sufficient facts to demonstrate that his purported injuries could or would be redressed by a favorable decision of the Court. *See Sea Pines*, 345 S.C. at 601, 550 S.E.2d at 291 (providing that it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision); *see also* *Vt. Agency of Natural Res.*, 529 U.S. at 771 (stating that there must be “a ‘substantial likelihood’ that the requested relief will remedy the alleged injury in fact” (emphasis added) (internal citations omitted)). Redressability is necessarily tied to the relief sought by the Plaintiff. Here, Plaintiff seeks declaratory relief and stop work orders or permit revocations through writs of mandamus and prohibition. As discussed below, the requested relief is alternatively inappropriate or non-cognizable under the presented circumstances. Accordingly, Plaintiff’s alleged injuries are not redressable by this Court either.⁸

II. Failure to State Claims

In addition to its jurisdictional arguments, the County also moves to dismiss the complaint under Rule 12(b)(6), SCRCp, for failure to state facts sufficient to constitute causes of action for Declaratory Judgment, Injunction, and Writs of Mandamus and Prohibition. The Court agrees that dismissal under Rule 12(b)(6) is also appropriate. *See Flateau v. Harrelson*, 355 S.C. 197, 202, 584 S.E.2d 413, 415 (Ct. App. 2003) (explaining a motion to dismiss under Rule 12(b)(6) should be granted if facts alleged and inferences reasonably deducible therefrom would not entitle the plaintiff to relief on any theory of the case).

⁸ The County also moved to dismiss the case for lack of justiciability based on its contention that the claims are not ripe. In light of the determination that Plaintiff lacks standing, the Court respectfully denies the County’s alternative ripeness ground for dismissal.

To survive a motion to dismiss for failure to state a claim, a complaint must contain facts sufficient “to raise a right to relief above the speculative level” and to satisfy the court that the claim is “plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 554, 555, 570 (2007); see also *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 426 S.C. 175, 180, 826 S.E.2d 585, 587 (2019) (citing *Twombly* with approval). A claim is plausible only “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged”—a standard that requires more than facts “that are ‘merely consistent with’ a defendant’s liability.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 556–57); see also *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 603 (1995) (affirming a motion to dismiss where the reasonable inferences derived from the pleaded facts did not support the cause of action).

A. Declaratory Judgment

The County first contends that Plaintiff has failed to sufficiently plead a claim for declaratory relief. First, the Court finds no justiciable controversy. See *Waters v. S.C. Land Res. Conservation Comm’n*, 321 S.C. 219, 228 n.7, 467 S.E.2d 913, 918 n.7 (1996) (“Declaratory judgment actions must involve an actual, justiciable controversy that is ripe for determination.”); see also *Rhodes*, 405 S.C. at 595, 748 S.E.2d at 787 (“[T]he Act does not require the courts to give purely advisory opinions as to the issues sought to be raised.”); *id.* (“[A]n issue that is contingent, hypothetical, or abstract is not ripe for judicial review.” (quoting *Colleton Cnty. Taxpayers Ass’n*, 371 S.C. at 242, 638 S.E.2d at 694)); *Power v. McNair*, 255 S.C. 150, 154, 177 S.E.2d 551, 553 (1970) (“A cause of action under the Declaratory Judgment Act is established by showing the existence of a justiciable controversy, defined as “a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute or difference of a

contingent, hypothetical or abstract character.”).

Here, the premise of Plaintiff’s declaratory judgment cause of action is that the permits issued to Silfab were without the consent or “written” approval of the Zoning Administrator. However, Plaintiff has failed to plead any facts that would support or give rise to that conclusion regarding consent or approval, generally, and the plain language of section 6-29-950 and Zoning Code section 155.1121, both cited as the authority for Plaintiff’s claims and requested declarations, bely the assertion of a “written” approval or signature requirement. The complaint seeks only a general declaration that “[a]ny permit lacking the zoning administrator’s approval violates law and zoning code”; however, such a request does not establish a justiciable controversy that is both supported by well-pled facts or that rises above an assertion that is contingent, hypothetical or abstract in nature. See *Waters*, 321 S.C. at 228 n.7, 467 S.E.2d at 918 n.7; *Rhodes*, 405 S.C. at 595, 748 S.E.2d at 787.

Moreover, Plaintiff has not pled facts to support his claims that actions were taken without County approval, the premise underlying his claim for declaratory relief. Nevertheless, the authority cited by Plaintiff actually dispels Plaintiff’s claim that every County determination or permit must bear specifically the Zoning Administrator’s written approval or signature. Table 155.957-1 in the Zoning Code, consisting of the “Summary of Procedures” for general approvals and permits, specifies that “Staff” is “Decision-Making Body” for zoning compliance verifications, further undercutting Plaintiff’s assertion that the Zoning Compliance Verification is invalid because it was not signed by the Zoning Administrator but by a member of the Zoning Administrator’s staff. Plaintiff’s assertions to the contrary cannot be sustained as a matter of law. See *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 635, 699 S.E.2d 699, 705 (Ct. App. 2010) (explaining that on a Rule 12 motion, “the court is required to presume well pled facts, not

propositions of law, to be true” (emphasis in original)).

Finally, a collateral action in the courts seeking a declaration as to the invalidity or revocation of permits is inappropriate where a valid administrative remedy is available and has not been sought. In particular, Part 3 of Subchapter E of the Zoning Code sets forth the exclusive appeal procedures available for any “person aggrieved by an order, requirement, decision, or determination made by the Zoning Administrator or any other administrative official in the enforcement of this Chapter or by any officer, department, board, or bureau of the County.” Zoning Code § 155.982(A). The Zoning Compliance Verification, as well as all other permits and approvals issued subsequently by the County to Silfab, are decisions or determinations which fall under the appeals procedures of Part 3. An appeal must be initiated “within 30 days of the written decision or other action that is the subject of the appeal.” Zoning Code § 155.982(B).

The doctrine of exhaustion of administrative remedies generally requires a party seeking relief from the action of an administrative agency to pursue all available remedies *before* seeking such relief from the courts. *See Stanton v. Town of Pawleys Island*, 309 S.C. 126, 128, 420 S.E.2d 502, 503 (1992) (holding a plaintiff is generally required to exhaust administrative remedies before seeking relief from the courts, and dismissal for failure to do so is in the sound discretion of the trial judge); *see also Thomas Sand Co. v. Colonial Pipeline Co.*, 349 S.C. 402, 413, 563 S.E.2d 109, 115 (Ct. App. 2002) (stating a party is “clearly [] required to exhaust its administrative remedies prior to bringing suit” challenging denial of a permit); *id.* (“The doctrine of exhaustion of administrative remedies *only* comes into play when a litigant attempts to invoke the original jurisdiction of a circuit court to adjudicate a claim based on a statutory violation for which the [governing body] has provided an administrative remedy.” (quoting *Med. Mut. Liab. Ins. Soc. of Md. v. B. Dixon Evander & Assocs.*, 92 Md.App. 551, 609 A.2d 353 (1992))). Exhaustion is

required so that the administrative agency “may function efficiently and so that it may have the opportunity to correct its own errors, to afford the parties and the courts the benefit of its experience and expertise, and to compile a record which is adequate for judicial review.” *Video Gaming Consultants, Inc. v. S.C. Dep’t of Revenue*, 342 S.C. 34, 38, 535 S.E.2d 642, 644 (2000).

Neither Plaintiff nor any other party initiated an appeal of the Zoning Compliance Verification issued to Silfab, timely or otherwise. Nor has any permit or approval issued to Silfab been challenged or appealed. Because there is a specific procedure to challenge an administrative agency decision, compliance with such procedure is a condition precedent for judicial review. *Meredith v. Elliott*, 247 S.C. 335, 346-47, 147 S.E.2d 244, 249 (1966) (“Having failed to follow the administrative remedy created by the statute for the correction of errors in the valuation of their property, [taxpayers] are precluded from resorting to the courts for relief.”); *Lominick v. City of Aiken*, 244 S.C. 32, 44, 135 S.E.2d 305, 310 (1964) (“It was incumbent upon [the challenging party]... to appeal to the Zoning Board of Adjustment from the decision of the Building Inspector if [she]... considered his decision erroneous.... Not having done so, she cannot now attack the validity of his decision.”). As such, Plaintiff has failed to exhaust his administrative remedies.

B. Injunctive Relief

The County next contends that Plaintiff has failed to allege facts sufficient to establish any of the required elements to secure an injunction against the County. The Court agrees. To obtain an injunction here, Plaintiff must allege facts sufficient to demonstrate that: (1) he would suffer irreparable harm if the injunction is not granted; (2) he will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 51, 674 S.E.2d 505, 508 (Ct. App. 2009). In addition, because the County is a governmental body, Plaintiff must also allege facts sufficient to demonstrate that the County acted in an arbitrary,

capricious, or oppressive manner. *Richland Cnty. v. S.C. Dep't of Revenue*, 422 S.C. 292, 310, 811 S.E.2d 758, 767 (2018).

The Court first finds that Plaintiff has failed to advance sufficient facts supporting an assertion of harm, much less irreparable harm, that he would suffer absent an injunction. The Court has already determined that the alleged harm or injury is insufficient to meet the pleading standard for a justiciable controversy. Moreover, as described above, Plaintiff's allegations regarding harm in the complaint directly tie its allegation of "imminent" and "irreparable" harm to "spot zoning" or "site specific zoning." However, Plaintiff pleads no facts that would support an assertion that the Parcel has been rezoned, either through "spot zoning" or "site specific zoning," and the Parcel remains zoned as Light Industrial.⁹ Further, the complaint's assertions of future harm and injury are impermissibly speculative, conjectural, and hypothetical, *cf. Proctor v. Dep't of Health & Env't Control*, 368 S.C. 279, 317, 628 S.E.2d 496, 516 (Ct. App. 2006) ("It is, of course, true that the existence or amount of damages cannot be left to conjecture, guess or speculation."), in addition to being generalized concerns regarding future public health and welfare. Finally, the complaint does not detail how Plaintiff will be *irreparably* harmed absent an injunction, offering only a conclusory legal assertion that "the harm will be irreparable," which is insufficient to meet a burden of good faith persuasion. *See Mulherin-Howell v. Cobb*, 362 S.C. 588, 600, 608 S.E.2d 587, 593–94 (Ct. App. 2005) (finding an argument advanced through

⁹ Plaintiff's assertion of spot or site specific zoning necessarily presumes other facts which are alternatively incorrect or that this Court is precluded from reaching in light of the Related Litigation: (1) the invalidity of the Zoning Compliance Verification, which was never challenged and was later ratified by the County; (2) the applicability of the Zoning Interpretation and BZA Order to Silfab's development; and (3) the supremacy of the Zoning Interpretation and BZA Order over the prior Zoning Compliance Verification, both of which are (a) stayed, not final, and the subject of an ongoing appeal (BZA Appeal), and (b) the subject of the pending—and also stayed—other action in the circuit court (CAGI Action).

conclusory statements with no argument or supporting authority abandoned).

2. Likelihood of Success on the Merits

The Court similarly finds that Plaintiff has not shown a likelihood of success on the merits. Instead, the complaint merely states, “Plaintiff can further demonstrate likelihood of success on the merits pursuant to state statutory law and local zoning law where defendants have issued numerous construction permits without approval of the zoning administrator for York County, specifically.” However, as discussed, the law does not require a signature of the Zoning Administrator, and Plaintiff has pled no facts supporting his assertions that the Zoning Compliance Verification or subsequent permits issued to Silfab were done without the Zoning Administrator’s approval.¹⁰ Further, in light of this order’s disposition of the complaint’s allegations and causes of action, likelihood of success on the merits has not been demonstrated.

3. Adequate Remedy at Law

The Court also finds that Plaintiff has failed to allege sufficient facts demonstrating he lacks an adequate remedy at law. In fact, the complaint merely recites the applicable injunctive relief element in a conclusory assertion that “Plaintiff is without adequate remedy at law.” This is insufficient to meet a burden of good faith persuasion. *See Mulherin-Howell*, 362 S.C. at 600, 608 S.E.2d at 593–94. What is more, notwithstanding disposition by this order, the complaint sought declaratory relief, which undermines Plaintiff’s claim that an adequate remedy at law did not exist.

4. Arbitrary, Capricious, and Oppressive

Finally, the Court finds the complaint fails to plead, as required, any facts supporting a

¹⁰ To the contrary, the Zoning Interpretation issued by the Zoning Administrator confirmed its interpretation and agreement that solar panel manufacturing could appropriately locate on a parcel zoned Light Industrial, and permits issued to Silfab in the intervening period are evidence contradicting Plaintiff’s assertions.

contention that the County's actions were arbitrary, capricious or oppressive. Thus, for this additional reason, Plaintiff's claim for injunctive relief fails and is dismissed.

C. Writ of Mandamus

The County next contends that Plaintiff is incapable of stating a claim for mandamus against the County because the County has no duty to act under the governing statute and ordinance generally, or specifically in the manner desired by Plaintiff, rendering the request non-ministerial in nature. *See Redmond v. Lexington Cnty. Sch. Dist. No. 4*, 314 S.C. 431, 437, 445 S.E.2d 441, 445 (1994) (explaining that to obtain a writ of mandamus requiring the performance of an act, the applicant must show (1) a duty of the opposing party to perform the act, (2) the ministerial nature of the act, (3) the applicant's specific legal right for which discharge of the duty is necessary, and (4) a lack of any other legal remedy (citing *Willimon*, 243 S.C. at 86–87, 132 S.E.2d at 170–71)).

Plaintiff pursues mandamus, asking the Court to require the County to issue a stop work order to Silfab, or alternatively revoke its existing permits, because it believes Silfab is operating without a valid permit and is exceeding the scope of the approved use of the property. Even assuming Plaintiff's allegations are true for purposes of this motion, issuing a stop work order is an inherently governmental—not judicial—function that is discretionary. *See* S.C. Code Ann. § 6-29-950(A) (“The governing authorities of municipalities or counties *may* provide for the enforcement of any ordinance ... by means of the withholding of building or zoning permits, or both, and the issuance of stop orders against any work undertaken by an entity not having a proper building or zoning permit, or both.” (emphasis added)); Zoning Code § 155.1237(B)(5) (“Stop Work. With or without revoking permits, *the County may issue a stop work order* on any development, building, or structure on any land on which there is an uncorrected violation of a provision of this Chapter or a violation of a condition or qualification of a permit, certificate,

approval, or other authorization previously granted by the County.” (emphasis added)). The use of the word “may” indicates that the action is within the County’s discretion. *See Kennedy v. S.C. Ret. Sys.*, 345 S.C. 339, 352–53, 549 S.E.2d 243, 250 (2001) (“The use of the word ‘may’ signifies permission and generally means that the action spoken of is optional or discretionary unless it appears to require that it be given any other meaning in the present statute.”). Where there is discretion, no duty exists.¹¹

Further, where no duty exists, an action is not ministerial. *See Edwards v. State*, 383 S.C. 82, 96, 678 S.E.2d 412, 419 (2009) (“A ministerial act or duty is one which a person performs because of a legal mandate which is defined with such precision as *to leave nothing to the exercise of discretion.*” (emphasis added)); *Sanford v. S.C. State Ethics Comm’n*, 385 S.C. 483, 495 n.4, 685 S.E.2d 600, 606 n.4 (2009) (“Discretionary authority, however, is insufficient for mandamus.” (citing *Redmond*, 314 S.C. at 438, 445 S.E.2d at 445 (stating a writ of mandamus is inappropriate for a discretionary authority))).

Third, Plaintiff has pleaded no facts to support a contention that he has a specific legal right to a stop work directive aimed at Silfab. For one thing, by definition, one cannot claim entitlement to a discretionary act. For another, Plaintiff has not cited any case law demonstrating it has a clearly established right to the desired act. *See Charleston Cnty. Sch. Dist. v. Charleston Cnty. Election Comm’n*, 336 S.C. 174, 184, 519 S.E.2d 567, 573 (1999) (finding the school district failed to cite any statute or case demonstrating an established right to force the county election commission to distribute a supplemental ballot handout).

Finally, other remedies were available to Plaintiff in his pursuit of stopping the County-

¹¹ Nor does the County have an obligation to stop Silfab’s project based on the BZA Order, as its applicability is questionable, and it is otherwise stayed, not final, and its appeal pending in the circuit court.

approved development, including the appeal procedures of the Zoning Code, but he did not avail himself of those administrative remedies.

D. Writ of Prohibition

Lastly, the County moves to dismiss the claim for writ of prohibition based on case law holding that a writ of prohibition cannot lie against the County. The Court agrees. (“A writ of prohibition may issue in a proper case to restrain a judicial act; and, on the other hand it will, according to the weight of authority, ordinarily issue only to restrain the exercise or performance of judicial functions or acts, or acts which are quasi-judicial in their character.” *Holladay v. Hodge*, 84 S.C. 91, 95, 65 S.E. 952 (1909); *see also State Bd. of Bank Control v. Sease*, 188 S.C. 133, 198 S.E. 602 (1938) (stating the writ is primarily used to “prevent the assumption and exercise of jurisdiction by a lower tribunal in cases where wrong, damage, and injustice are liable to follow such action”). The County neither acts as a court, court official, or officer, nor does it exercise any manner of judicial or quasi-judicial powers; therefore, it is not subject to a writ of prohibition.

Moreover, the subject matter of the acts complained of by Plaintiff, namely, approving zoning classifications, issuing zoning compliance verifications, issuing permits, issuing stop work orders, and revoking permits, are inherently legislative functions that reside exclusively within the jurisdiction of the County and its officials. 72A C.J.S. Prohibition § 7 (“In the absence of a statute providing otherwise, prohibition will not lie to prevent legislative acts, or those of a ministerial nature, nor to prevent those of an administrative, prosecutorial, political, governmental, or executive character.”). Therefore, any error in the exercise of the County’s legislative functions is one for which a writ of prohibition cannot lie. *See Berry v. Lindsay*, 256 S.C. 282, 292, 182 S.E.2d 78, 83 (1971) (holding that actions challenged were a quasi-legislative function for which “it is clear that the Writ [of Prohibition] sought here will not lie.”); *see also State v. Price*, 441

S.C. 423, 456, 895 S.E.2d 633, 650 (2023) (“A writ of prohibition will not lie to correct the procedural irregularities in this case, nor will such a writ lie to prevent an erroneous result . . .”).

III. The County’s Remaining Arguments

Because the foregoing issues are dispositive, the Court respectfully denies County’s motion alternatively seeking dismissal pursuant to Rules 12(b)(7) and (8), SCRCP.

CONCLUSION

For the foregoing reasons, Defendants’ Motion to Dismiss Plaintiff’s complaint is GRANTED IN PART and DENIED IN PART.

IT IS SO ORDERED.

[JUDICIAL E-SIGNATURE ON FOLLOWING PAGE]



York Common Pleas

Case Caption: Dennis Floyd Bivens VS York County , defendant, et al

Case Number: 2025CP4604007

Type: Order/Dismissal

So Ordered

G.D. Morgan Jr.

EXHIBIT 5

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	Civil Action No.: 2024-CP-46-02641
COUNTY OF YORK	)	
	)	
Silfab Solar, Inc., and Exeter 7149 Logistics,	)	
L.P.,	)	
	)	
Appellants,	)	
	)	
vs.	)	AMENDED ORDER AFFIRMING
	)	THE DECISION OF THE YORK
York County Board of Zoning Appeals,	)	COUNTY BOARD OF ZONING
	)	APPEALS
Respondent.	)	
	)	
Walter Buchanan,	)	
	)	
Intervenor.	)	
	)	

This order is hereby substituted for the court’s order from July 21st, 2026.

This matter comes before the Court on the appeal of Silfab Solar, Inc. (“Silfab”) and Exeter 7149 Logistics, L.P. (“Exeter”) (together, “Appellants”) from the May 30, 2024 final decision of the York County Board of Zoning Appeals (the “BZA”). The BZA, by a 5–0 vote, reversed the Zoning Administrator’s February 16, 2024 interpretation that solar panel manufacturing is a permitted use in the Light Industrial (LI) district under the use category “Computer and Electronic Products Manufacturing” and held that solar panel manufacturing is not expressly listed for the LI district and is therefore prohibited under York County Code of Ordinances § 155.270(G). (R. 937–938.)

The Court heard oral argument on May 26, 2026. Brandon Gaskins of Moore & Van Allen PLLC appeared for Silfab; Robert H. Jordan, Steven D. Weber, and Mallory S. Sparks of Parker Poe Adams & Bernstein LLP appeared for Exeter; Ross A. Appel of McCullough Khan Appel and Stafford J. “Mac” McQuillin, III of Haynsworth Sinkler Boyd, P.A. appeared for the BZA; and J.

Cameron Halford of Halford Law Firm appeared for Intervenor Walter Buchanan. The Court has considered the certified record on appeal, the parties' briefs and reply briefs, and the arguments of counsel. For the reasons set out below, the BZA's decision is AFFIRMED.

Background

Silfab is the tenant of a manufacturing facility under construction at 7149 Logistics Lane, Fort Mill, in York County. Exeter is the owner of the underlying real property. (R. 740, 811.) The property is zoned Light Industrial ("LI") under the York County Code of Ordinances. (R. 811, 938.)

On February 1, 2024, Intervenor Walter Buchanan, an adjacent property owner, submitted a formal request to the York County Zoning Administrator for an interpretation of the Zoning Code under Subchapter E, Part 11 of the Code (§§ 155.1090–.1096). (R. 742–743.) On February 16, 2024, the Zoning Administrator issued a written interpretation (the "Interpretation") concluding that solar panel manufacturing is a permitted use in the LI district under the defined use category "Computer and Electronic Products Manufacturing," relying primarily on the North American Industry Classification System ("NAICS"). (R. 740–741.) The Interpretation classified the use solely under the "Computer and Electronic Products Manufacturing" category. It did not address any other defined use category in the Code. The Interpretation expressly advised Mr. Buchanan that he could appeal the determination to the BZA within thirty days. (R. 741.)

A separate document predating the Interpretation also appears in the record. On December 27, 2022, in connection with Silfab's pre-construction due diligence, a York County zoning technician issued a "zoning verification letter" to a third-party diligence firm. (R. 811.) That letter stated that the property was zoned LI and that the manufacturing of photovoltaic cells and modules was "considered Electrical Equipment, Appliance, and Component Manufacturing," a different defined use category. (R. 811.) The verification letter expressly stated on its face: "This letter does

not constitute a permit.” (R. 811.) The verification letter was not a formal Zoning Code Interpretation under §§ 155.1090–.1096, was not appealed by any party, and is not the decision under review in this appeal.

Mr. Buchanan timely appealed to the BZA on March 14, 2024. (R. 1–6, 735–739.) The BZA held a public hearing on May 9, 2024 at which it received documentary submissions, heard presentations from the Zoning Administrator and from Mr. Buchanan’s representative, and took public comment. (R. 749–933; certified transcript at R. 857–933.) Silfab itself participated at the BZA proceeding as an “interested party.” (R. 813.) At the close of deliberation the BZA voted 5–0 to reverse the Zoning Administrator’s interpretation. (R. 934.) The BZA’s written decision, dated May 30, 2024, contains seven numbered paragraphs of findings and conclusions, including an express findings-of-fact paragraph made “[u]pon consideration of all presentations, evidence, and testimony presented before the Board of Zoning Appeals.” (R. 937.) The decision recites the following grounds:

[T]he Board finds: that the Zoning Administrator erred in determining that Solar Panel Manufacturing is a permitted use in the Light Industrial District; that while the Zoning Administrator is not prohibited from using the North American Industry Classification System (NAICS) as an aid in making classification interpretations under the Zoning Code, NAICS is not referenced in the York County Code of Ordinances as the authority by which such determinations are made, and staff presented insufficient evidence that any analysis independent of NAICS was utilized in making the determination that Solar Panel Manufacturing fits within the Computer and Electronic Products Manufacturing Use, which is a Permitted Use in the Light Industrial District; that Solar Panel Manufacturing is not expressly listed as a Permitted Use in the Light Industrial District, and as a result, is Prohibited pursuant to the Zoning Code § 155.270(G), which states that any use not listed for an applicable zoning district in the Use Tables provided in the Code is prohibited.

(R. 937–938.)

On June 28, 2024, Appellants timely filed a notice of appeal and demand for mediation under S.C. Code Ann. § 6-29-825. Mediation occurred on April 21, 2025 and concluded in an

impasse. The appeal petition was filed June 2, 2025 and amended June 6, 2025. The matter is fully briefed.

Standard of Review

The standard of review on a circuit court's consideration of a BZA decision is fixed by statute and by binding Supreme Court precedent. The General Assembly has provided that "[t]he findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence." S.C. Code Ann. § 6-29-840(A). The Court "must proceed to hear and pass upon the appeal on the certified record of the board proceedings." *Id.* The Court may reverse the board's decision only if the decision is contrary to law.

The Supreme Court of South Carolina has held, in *Stanton v. Town of Pawleys Island*, 317 S.C. 498, 502, 455 S.E.2d 171, 172 (1995), that "the factual findings of the [zoning] Board must be affirmed by the Circuit Court if they are supported by any evidence and not influenced by an error of law." That holding is binding on this Court.

The Court of Appeals has applied *Stanton* to confirm that a zoning board's determination whether a particular activity does or does not constitute a defined "use" under a zoning ordinance is itself a finding of fact. *Heilker v. Zoning Bd. of Appeals for City of Beaufort*, 346 S.C. 401, 412, 552 S.E.2d 42, 48 (Ct. App. 2001) ("A determination by a zoning board that a particular purpose or activity does or does not constitute a 'use' is a finding of fact."); accord *Boehm v. Town of Sullivan's Island Bd. of Zoning Appeals*, 423 S.C. 169, 186, 813 S.E.2d 874, 882 (Ct. App. 2018); *Furr v. Horry Cnty. Zoning Bd. of Appeals*, 411 S.C. 178, 185, 767 S.E.2d 221, 225 (Ct. App. 2014), *cert. dismissed as improvidently granted*, 415 S.C. 440, 783 S.E.2d 51 (2016). The Court of Appeals has further characterized this standard of review as "extremely narrow." *Heilker*, 346 S.C. at 412, 552 S.E.2d at 48. The Supreme Court has likewise instructed that a reviewing court "will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with

the decision.” *Restaurant Row Assocs. v. Horry Cnty.*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999).

Appellants urge a broader, less deferential standard, relying on *Helicopter Solutions, Inc. v. Hinde*, 414 S.C. 1, 9–10, 776 S.E.2d 753, 757–58 (Ct. App. 2015). The Court has carefully considered *Helicopter Solutions* and concludes that, to the extent it can be read to require de novo review of a zoning board’s factual determination that an activity does or does not fit a defined use, it cannot be reconciled with the Supreme Court’s holding in *Stanton*. It is also distinguishable on its facts, as explained in Section E below. As a trial court, this Court is bound to follow the Supreme Court. *See* S.C. Const. art. V, § 9. Under settled principles of *stare decisis*, *Stanton* controls. The Court accordingly applies the “any evidence” standard to the BZA’s factual findings and reviews for error only the BZA’s legal determinations.

The Court’s review under § 6-29-840(A) is on the certified record of the board proceedings. That review is not confined to the four corners of the board’s written decision. Where a zoning board’s factual conclusions are supported by findings that appear in the board’s hearing transcript, meeting minutes, or other record materials reflecting deliberation and action at a lawfully convened session, the reviewing court may consult those materials together with the written decision. *Vulcan Materials Co. v. Greenville Cnty. Bd. of Zoning Appeals*, 342 S.C. 480, 494, 536 S.E.2d 892, 899 (Ct. App. 2000) (“[G]enerally, the format of a final decision is immaterial as long as the substance of the decision is sufficiently detailed so as to allow a reviewing court to determine if the decision is supported by the facts of the case.”); *Austin v. Bd. of Zoning Appeals*, 362 S.C. 29, 34–35, 606 S.E.2d 209, 212 (Ct. App. 2004) (a board’s letter of decision, read together with the hearing transcript, satisfies the writing requirements of § 6-29-800). A reviewing court may also “rely on uncontroverted facts which appear in the record, but not in a zoning board’s findings.”

Vulcan Materials, 342 S.C. at 491, 536 S.E.2d at 898; accord *Boehm v. Town of Sullivan's Island Bd. of Zoning Appeals*, 423 S.C. 169, 183, 813 S.E.2d 874, 881 (Ct. App. 2018) (recognizing that although a “[z]oning [b]oard's findings of fact are final and conclusive on appeal,” a reviewing court “may rely on uncontroverted facts which appear in the record, but not in a zoning board’s findings”).

Conclusions of Law

A. The BZA’s determination that solar panel manufacturing does not fit within the defined use “Computer and Electronic Products Manufacturing” is a finding of fact entitled to deference under the “any evidence” standard.

The BZA’s May 30, 2024 decision is a written, two-page document containing seven numbered paragraphs of findings and conclusions. Paragraph 6 is an express findings-of-fact paragraph: “THE BOARD MAKES THE FOLLOWING FINDINGS OF FACT WHICH ARE SUPPORTED BY THE EVIDENCE.” (R. 937.) The Board recited that it made those findings “[u]pon consideration of all presentations, evidence, and testimony presented before the Board of Zoning Appeals.” (R. 937.) The decision also records, at Paragraph 4, that Mr. Buchanan’s appeal asked the Board not only to reverse the Interpretation but to “further determine that Solar Panel Manufacturing be considered a Heavy Industrial use.” (R. 937.) The factual character of the manufacturing activity was thus squarely presented to the Board as a question for decision, and the Board resolved it on the evidence. Those findings rest on a comparison of two things: the activity at issue (solar panel manufacturing as presented at the May 9, 2024 hearing) and the defined use category in the York County Zoning Code (Computer and Electronic Products Manufacturing as defined in § 155.1301). The BZA found, on the record before it, that the activity did not fit within the defined category. (R. 938.)

That determination is, in substance, the same kind of fact-laden comparison the Court of Appeals confronted in *Furr v. Horry Cnty. Zoning Bd. of Appeals*, 411 S.C. 178, 767 S.E.2d 221

(Ct. App. 2014), where a hospice was not specifically listed in the use table and the BZA had to determine whether it fit “nursing home” or “group housing” (permitted) or “hospital” (prohibited). The Court of Appeals held that the use determination “required a **factual inquiry** to discern the type of care, staffing, and activity that would be involved . . .” and that “the circuit court should have given deference to the Board’s decision because its decision was based upon appropriate findings of fact which are supported by the record.” *Id.* at 185, 767 S.E.2d at 225 (emphases added). The BZA here engaged in the same kind of factual inquiry: it considered staff’s reliance on NAICS, the absence of any independent analysis tying the manufacturing process at issue to the defined use, the chemistry described in the Construction Air Permit Application in the record (R. 750–758), and the relationship of that chemistry to the Code’s structural distinction between Light Industrial and Heavy Industrial. The BZA’s determination is a finding of fact in the most conventional sense.

Because the BZA’s determination is a finding of fact, the Court reviews it under the “any evidence” standard prescribed by *Stanton* and codified at § 6-29-840(A). The Court “will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with the decision.” *Restaurant Row*, 335 S.C. at 216, 516 S.E.2d at 446. Reversal is appropriate only if no evidence in the record reasonably supports the BZA’s findings. *Austin v. Bd. of Zoning Appeals*, 362 S.C. 29, 35, 606 S.E.2d 209, 212 (Ct. App. 2004).

B. There is evidence in the record reasonably supporting each of the BZA’s findings, well beyond the “any evidence” threshold.

The Court FINDS, on review of the certified record, that there is evidence reasonably supporting each material BZA finding.

The BZA’s May 30, 2024 written decision sets out three numbered grounds. That written recitation, however, is not the entirety of the Board’s action for purposes of this Court’s review.

Section 6-29-840(A) directs review on the whole certified record of the board proceedings, which includes the certified transcript of the May 9, 2024 public hearing. The transcript records the on-the-record deliberations of the five Board members preceding the unanimous vote to reverse the Zoning Administrator's Interpretation. Where those deliberations articulate factual concerns and evidentiary observations that support the Board's ultimate conclusion, they are properly considered together with the written decision. *Vulcan Materials*, 342 S.C. at 494, 536 S.E.2d at 899; *Boehm*, 423 S.C. at 183, 813 S.E.2d at 881.

First, on the BZA's finding that "staff presented insufficient evidence that any analysis independent of NAICS was utilized in making the determination that Solar Panel Manufacturing fits within the Computer and Electronic Products Manufacturing Use" (R. 938), the record reveals that the Zoning Administrator's interpretation and her presentation to the BZA rested almost entirely on NAICS subsector 334 and on the assertion that "all 19 of the Zoning Code's manufacturing uses are directly attributable to NAICS manufacturing subsectors." (R. 740–741, 731.) The BZA Chairman observed during deliberation that "there's no regulatory, no mention of the NAICS" in the County code itself. (R. 931.) Member Hebert agreed: "The fact that it's not reflected in the Zoning Ordinance, I don't think it gives us enough purview to be able to uphold it." (R. 932.) The member who moved to reverse the Interpretation stated the same factual basis on the record: there had been "a misinterpretation" because "[n]owhere in the current code" is solar panel manufacturing "a specified action under the current code . . . as a permitted action." (R. 930.) That deliberation, together with the absence of any analysis in the record tying solar panel manufacturing to the defined use independent of NAICS, is more than sufficient to support the BZA's finding.

Second, on the BZA’s finding that solar panel manufacturing is “not expressly listed as a Permitted Use” in the LI district (R. 938), Appellants concede the point. *See* Appellants’ Brief at 12 (“[S]olar cell and panel manufacturing is not expressly listed in the use table.”). The plain text of § 155.270(G) provides that “any use not listed for an applicable zoning district in the Use Table is prohibited.” The BZA’s application of that rule is a direct, textual application.

Third, the record affirmatively supports the BZA’s finding that the manufacturing process at issue is qualitatively distinct from the listed Computer and Electronic Products Manufacturing examples and is more consistent with heavy industrial activity than light. The Code defines Light Industrial as activity that “ordinarily do[es] not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot” and expressly excludes “hazardous material treatment and storage facilities, plating or enameling, or petroleum and gas refining.” § 155.1301. The record contains an excerpt of Silfab’s Construction Air Permit Application disclosing the use of hydrofluoric acid, hydrochloric acid, potassium hydroxide, and silane (R. 750–758, 763), the projected emission of hydrogen fluoride at substantial percentages of rural and urban thresholds (R. 755), and the contemporaneously increased stack height of the acid-scrubber stack from 19.7 feet to 70 feet (R. 755). CDC information in the record describes hydrogen fluoride as a substance that “can irritate the eyes, nose, and respiratory tract” and that “can cause death from an irregular heartbeat or from fluid buildup in the lungs.” (R. 765.) The Code’s own point of contrast was also before the Board. Section 155.1301 defines heavy industrial use as manufacturing “by means that ordinarily have greater than average impacts on the use and enjoyment of adjacent property in terms of noise, fumes, odors, glare, health, and safety hazards.” And the purpose provision of the LI district states that the district’s “less intensive uses protect nearby residential areas from the encroachment of heavy industrial uses.” § 155.041(A)(2). The Board heard testimony walking

through these provisions (R. 883, 888, 890), including testimony that hydrogen fluoride is a “category three air pollutant” under the applicable DHEC classification, a category defined by pollutants “which can cause chronic effects resulting in death or permanent injury after very short exposure to small amounts” (R. 880–881), and that silane, stored on site in compressed form, can “ignite spontaneously in air” (R. 881). The BZA’s on-the-record deliberation reflected substantive engagement with these record-based hazards. Board Member Bud Smith identified as the “biggest problem” with the Interpretation “the fact that there there’s differences between the hazards from the experts” and that “[n]one of . . . the things that these people pointed out were listed as a hazard in . . . our documentation.” (R. 930.) BZA Chairman Blair observed on the record: “when you have a production facility . . . that has a rather lengthy pollution scrubber . . . I begin to question whether or not it’s truly a light industrial use.” (R. 932.) Board Member Rob Cameron, an engineer by background, acknowledged during deliberation that “solar hasn’t been here in South Carolina” and that the Code contains no “specificness” and no “slot for solar.” (R. 931.) Board Member Lauren Hebert then concurred that the NAICS-only analysis and “the lack of clarity there” did not give the Board “enough purview to be able to uphold” the Interpretation. (R. 932.) These deliberations, recorded on the transcript and reflected in the Board’s 5–0 vote at a properly convened session, are findings of the Board as a body on which this Court may rely under *Vulcan Materials* and *Boehm*. Each of these record materials provides evidence in support of the BZA’s conclusion that the actual activity at issue does not fit the Code’s defined Light Industrial category. *See DT LLC v. Horry Cnty. Zoning Bd. of Appeals (In re Venture Eng’g)*, 433 S.C. 419, 433, 858 S.E.2d 638, 646 (Ct. App. 2021) (“Although the Board’s written order failed to set forth any reasoning, the hearing transcript and the Board’s minutes indicate the Board’s decision was supported by the testimony of residents in the surrounding community expressing concerns about particulates,

noise, and traffic.”). The case for considering the certified record here is stronger than it was in *DT LLC*: the Board’s written decision contains express findings of fact, and the transcript confirms and amplifies them.

The “any evidence” standard prescribed by *Stanton* is fully satisfied. Indeed, on this record the evidence in support of the BZA’s findings well exceeds that threshold.

C. The BZA properly confined its review to the Interpretation actually on appeal.

Appellants contend that the BZA erred by failing to consider whether solar panel manufacturing also fits the use category “Electrical Equipment, Appliance, and Component Manufacturing.” The Court rejects that contention.

Section 6-29-800(A)(1) authorizes the BZA to hear and decide appeals from “an order, requirement, decision, or determination” of an administrative official. The BZA’s appellate function is bounded by the administrative decision actually before it. The decision before the BZA on Mr. Buchanan’s March 14, 2024 administrative appeal was the Zoning Administrator’s February 16, 2024 Interpretation. (R. 1–6, 735–739.) That Interpretation classified solar panel manufacturing solely under the “Computer and Electronic Products Manufacturing” use category and analyzed only that category. (R. 740–741.) The BZA accordingly reviewed and reversed *that* classification, and *only* that classification. (R. 938.) The Board’s written decision confirms the scope of the question presented: it recites that the Board’s findings concerned “whether the Zoning Administrator erred in determining that Solar Panel Manufacturing exists within the York County Zoning Code under the Use ‘Computer and Electronic Products Manufacturing’ and as a result, is a permitted use in the Light Industrial District.” (R. 937–938.)

Appellants’ reference to a different use category, “Electrical Equipment, Appliance, and Component Manufacturing,” derives from the December 27, 2022 zoning verification letter (R.

811), not from the Interpretation under appeal. That earlier letter (i) was issued by a zoning technician, not the Zoning Administrator; (ii) was not issued in response to a § 155.1092 interpretation request; (iii) does not invoke the formal Zoning Code Interpretation procedure of Subchapter E, Part 11; (iv) states on its face that “[t]his letter does not constitute a permit” (R. 811); and (v) was never appealed to the BZA by any party. A BZA appellate proceeding under § 6-29-800(A)(1) does not properly reach an administrative communication that was not appealed and is not in the appellate posture before the board. The BZA was correct to confine its review to the Interpretation that was actually before it.

Appellants’ contrary view, taken to its logical end, would convert every BZA hearing into an open-ended adjudication of every conceivable use classification, regardless of whether any administrative official has issued an appealable determination on each category. That is not the structure the General Assembly enacted in § 6-29-800. *See Vulcan Materials Co. v. Greenville Cnty. Bd. of Zoning Appeals*, 342 S.C. 480, 488, 536 S.E.2d 892, 896 (Ct. App. 2000) (applying the “any evidence” standard and the limits of the appellate function in zoning matters). Nor was the BZA obligated, upon finding the Interpretation unsupported, to originate and adjudicate a classification analysis the Zoning Administrator never made. Nothing in the Court’s ruling today forecloses Appellants from requesting a separate § 155.1092 Zoning Code Interpretation from the Zoning Administrator on any other defined use category Appellants believe might apply, and pursuing any appellate review that follows. The Court rules today only on the appeal actually before it.

D. In the alternative, the BZA’s reading of § 155.270(G) is not an error of law.

Even were a portion of the BZA’s decision reviewable as a matter of law (an interpretation the Court rejects above for the reasons stated), the BZA’s reading of the Zoning Code is correct.

Section 155.270(G) provides, in plain terms, that “[a]ny use not listed for an applicable zoning district in the Use Table is prohibited.” That language is unambiguous. It states a rule of strict construction adopted by the County Council itself. Where the words of an ordinance are plain and unambiguous, the Court must apply them according to their literal meaning. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000); *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 342, 713 S.E.2d 278, 283 (2011) (“Where the statute’s language is plain, unambiguous, and conveys a clear, definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.”).

The Code defines “Computer and Electronic Products Manufacturing” as establishments that manufacture “computers, computer peripherals, communications equipment, and similar electronic products, and establishments that manufacture components for such products.” § 155.1301. Reading “similar electronic products” in context, under the canon *ejusdem generis*, confines the term to products of a kind with the listed examples, computers, peripherals, and communications equipment, each of which is a device that processes, controls, or transmits electronic signals or data. *Eagle Container Co. v. Cnty. of Newberry*, 379 S.C. 564, 570, 666 S.E.2d 892, 895–96 (2008) (“Words in a statute must be construed in context, and the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute.”) (cleaned up); *S. Mut. Church Ins. Co. v. S.C. Windstorm & Hail Underwriting Ass’n*, 306 S.C. 339, 342, 412 S.E.2d 377, 379 (1991). Solar photovoltaic panels do not process or transmit signals; they convert sunlight to electric current. The BZA’s conclusion that they are not “similar electronic products” within the meaning of § 155.1301 is, in addition to being a finding of fact under *Heilker* and *Stanton*, a faithful application of the ordinance’s text.

The Court rejects Appellants' contention that the Zoning Administrator's reliance on the NAICS controls. The Zoning Code does not adopt the NAICS as a source of regulatory authority. The Code's defined uses control. The BZA was correct to so hold.

E. *Helicopter Solutions* is distinguishable and, to the extent it cannot be reconciled with *Stanton*, this Court is bound by *Stanton*.

Appellants' primary authority on the standard of review is *Helicopter Solutions, Inc. v. Hinde*, 414 S.C. 1, 776 S.E.2d 753 (Ct. App. 2015). The Court has considered *Helicopter Solutions* and concludes that, to the extent that decision can be read to displace *Stanton*'s "any evidence" rule for a BZA's determination whether an activity does or does not fit a defined use category, it cannot be reconciled with the controlling Supreme Court precedent. *Helicopter Solutions* is also in tension with *Heilker*, which directly applied *Stanton* to hold that a board's determination of whether an activity constitutes a "use" under a zoning code is a finding of fact. 346 S.C. at 412, 552 S.E.2d at 48.

Helicopter Solutions is, in any event, distinguishable on its facts. The material facts there were undisputed: the Court of Appeals emphasized that it was "undisputed that Helicopter Adventures operates a sight-seeing business and that the tours conducted originate and terminate upon the subject property," and that the only disputed issue raised to the zoning board "concerned the meaning of the word 'depot,'" an undefined ordinance term. 414 S.C. at 11–12, 776 S.E.2d at 758–59. The board there made no evidence-based determination about the nature of a contested activity. Only ordinance construction remained. Here, by contrast, the character of the manufacturing activity was the contested center of the BZA hearing, and the Board resolved that question by express findings of fact. (R. 749–933, 937–938.) The same distinction disposes of Appellants' reliance on *Mikell v. Cnty. of Charleston*, 386 S.C. 153, 158, 687 S.E.2d 326, 329 (2009). *Mikell* states that "[i]ssues involving the construction of an ordinance are reviewed as a

matter of law under a broader standard of review than is applied in reviewing issues of fact.” The Court accepts that rule and applies it to the construction questions addressed in Section D. It does not convert the Board’s antecedent factual determination of what the activity is, and whether it fits a defined use category, into a question of law. *Heilker*, 346 S.C. at 412, 552 S.E.2d at 48; *Furr*, 411 S.C. at 185, 767 S.E.2d at 225.

As a trial court, this Court is bound by Supreme Court precedent. *See* S.C. Const. art. V, § 9. The Court therefore applies *Stanton* and *Heilker*, under which the BZA’s use determination is a finding of fact reviewed for any evidentiary support.

Two additional considerations confirm this conclusion. First, *Stanton* is the more specific authority on the point: it directly addresses the standard of review of a zoning board’s factual findings. *Helicopter Solutions*, by contrast, did not purport to address *Stanton* at all. Second, even were *Helicopter Solutions* applied here, the BZA’s reading of § 155.270(G) is correct for the reasons stated in Subsection D above. The disposition does not change.

F. The BZA had jurisdiction over Intervenor’s appeal.

Appellants contend that the Zoning Administrator’s February 16, 2024 written interpretation was a “mere advisory opinion” and that the BZA accordingly lacked jurisdiction to review it under S.C. Code Ann. § 6-29-800(A)(1). The Court rejects that contention.

Section 6-29-800(A)(1) authorizes a board of zoning appeals to hear and decide appeals “where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance.” The York County Zoning Code expressly establishes a formal Zoning Code Interpretation procedure under Subchapter E, Part 11, §§ 155.1090–.1096. Section 155.1095(A) provides that a “Zoning Code interpretation will become effective upon execution by the Zoning Administrator.” Section 155.1096 imposes

recordkeeping and indexing requirements for all such interpretations. Section 155.981 provides that any “order, requirement, decision, or determination made by the Zoning Administrator” is appealable to the BZA. The Interpretation itself instructed Mr. Buchanan that he could appeal it to the BZA within thirty days. (R. 741.) On its face, then, the Interpretation is a formal, recorded, effective administrative determination made under a formal procedure adopted by the County. It is not an advisory opinion.

Appellants’ argument that the Code may not enlarge the BZA’s authority beyond § 6-29-800 is well-taken as a matter of general principle but does not apply here. The Code does not enlarge BZA jurisdiction; it implements § 6-29-800(A)(1) by adopting a specific procedure under which the Zoning Administrator issues formal, binding interpretations. Such an interpretation is itself a “determination made by an administrative official in the enforcement of the zoning ordinance” within the meaning of § 6-29-800(A)(1). The BZA accordingly had statutory jurisdiction.

Appellants’ conduct confirms the point. Silfab participated in the BZA hearing as an “interested party.” (R. 813.) When the BZA reversed the Interpretation, Appellants invoked the appeal and mediation provisions of § 6-29-825, a procedure that is available only after a binding BZA decision affecting property rights. The Court declines to permit Appellants to invoke those procedures while simultaneously contending that no appealable decision exists.

G. Intervenor Buchanan had standing to appeal the Interpretation.

Section 6-29-800(B) permits an appeal to a board of zoning appeals by “any person aggrieved.” An aggrieved party is one whose interest is materially affected by the decision. *Beaufort Realty Co. v. Beaufort Cnty.*, 346 S.C. 298, 301, 551 S.E.2d 588, 589 (Ct. App. 2001). Owners of property adjacent to or in the near vicinity of a proposed development have a

“substantial interest” in the board’s decision. *Spanish Wells Prop. Owners Ass’n v. Bd. of Adjustment of Town of Hilton Head Island*, 292 S.C. 542, 544, 357 S.E.2d 487, 488 (Ct. App. 1987), *rev’d on other grounds*, 295 S.C. 67, 367 S.E.2d 160 (1988).

Mr. Buchanan owns property immediately adjacent to the Silfab site. (R. 742, 752.) The Interpretation directly classified the use at the adjacent parcel as a permitted use in the LI district. The classification has a direct and material effect on Mr. Buchanan’s neighborhood, and the record contains substantial evidence of the off-site impacts of the use, including the projected emission of toxic air pollutants and the construction of a 70-foot acid-scrubber stack. (R. 750–758, 765.) *Beaufort Realty Co.* is distinguishable: the appellant there was an environmental organization without a causal connection to the alleged harm, and the harm complained of arose from the mere filing of subdivision plats. Here, the Interpretation classifies the kind of manufacturing on the parcel next to Mr. Buchanan’s home, with concrete and documented off-site consequences. Appellants respond that the Board Chairman described the appeal at the outset of the hearing as addressing “whether or not one particular activity can occur in a light industrial zone,” without “specific reference to any particular location, any particular project.” (R. 857.) That framing does not defeat aggrievement. Mr. Buchanan’s interpretation request and appeal arose from, and the record evidence concerned, the solar panel manufacturing facility under construction on the parcel adjacent to his property. (R. 742–743, 750–758, 811.) A use classification for the district in which the adjacent parcel sits determines what may lawfully occur next to Mr. Buchanan’s property. Its generic form does not diminish its concrete effect. Appellants’ own position confirms the point: they invoke this Court’s jurisdiction under § 6-29-825 on the premise that the same decision materially affects their property interests. The decision cannot simultaneously aggrieve Appellants and aggrieve no one.

Independently, this Court has already granted Mr. Buchanan's motion to intervene on a finding of substantial interest under § 6-29-825(A). (Order of Hon. Marvin Dukes dated October 22, 2024.) That order was not appealed and is the law of the case.

H. Appellants' separation-of-powers and "Council ratification" arguments fail.

Appellants contend that York County Council, by adopting a Fee in Lieu of Taxes ("FILOT") ordinance and entering a FILOT agreement in 2023 that purported to ratify "all prior actions taken with respect to [Silfab's] Project," thereby ratified the December 27, 2022 zoning verification letter's determination that solar cell and panel manufacturing is a permissible use at the Property, such that the BZA's decision impermissibly contradicts a Council determination.

First, the FILOT ordinance, the FILOT agreement, and the Council meeting minutes adopting them are not in the certified record on appeal. The Court's review under § 6-29-840(A) is on the record. Appellants' request that the Court take judicial notice of materials outside the record is declined as a means of supplementing the record below. *Masters v. Rodgers Dev. Grp., S.C., Inc.*, 283 S.C. 251, 255, 321 S.E.2d 194, 196 (Ct. App. 1984).

Second, and even if the FILOT materials were properly before the Court, a fee-in-lieu agreement and its enabling ordinance are tax-incentive instruments adopted under S.C. Code Ann. § 12-44-10 *et seq.* They do not amend the Zoning Code. Zoning amendments require compliance with separate statutory procedures under S.C. Code Ann. § 6-29-760, including public notice and planning commission review. Appellants' ratification theory, if accepted, would permit Council to amend the zoning ordinance by side agreement, in violation of § 6-29-760 and of the bar on contract zoning.

I. Appellants' constitutional avoidance argument is premature.

Appellants argue that the Court should adopt their reading of the Code in order to avoid a constitutional question about whether the BZA's reading effectively excludes solar panel manufacturing from the County altogether. Appellants concede, however, that a constitutional challenge is "premature under the current posture of the case." Reply Brief at 15. The Court agrees. The BZA's decision addresses only Computer and Electronic Products Manufacturing in the LI district. It does not pass on whether solar panel manufacturing fits any other use category in any other district. Council retains its plenary authority to amend the Use Table at any time. *See Greenville Cnty. v. Kenwood Enters., Inc.*, 353 S.C. 157, 577 S.E.2d 428 (2003); *Harkins v. Greenville Cnty.*, 340 S.C. 606, 533 S.E.2d 886 (2000). Moreover, York County itself is not a party to this proceeding. *See* S.C. Code Ann. § 6-29-840(B) (preserving subsequent right to trial by jury on issues beyond the board's jurisdiction). The constitutional avoidance canon does not require the Court to rewrite an unambiguous ordinance to avoid hypothetical concerns not before the Court.

Final Order and Judgment

The decision of the York County Board of Zoning Appeals dated May 30, 2024 is **AFFIRMED** in all respects. The Court FINDS that the BZA acted within its statutory and ordinance jurisdiction; that the BZA's determination that solar panel manufacturing does not fit within the defined use category "Computer and Electronic Products Manufacturing" in the Light Industrial district is a finding of fact supported by evidence in the record; that the BZA's alternative legal conclusion that solar panel manufacturing is prohibited in the Light Industrial district under § 155.270(G) is not influenced by any error of law; and that none of Appellants' alternative grounds for reversal has merit.

Appellants' Petition for Appeal is **DENIED**.

IT IS SO ORDERED.

The Honorable William A. McKinnon
Circuit Court Judge
Sixteenth Judicial Circuit

York, South Carolina
_____, 2026

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York Common Pleas

Case Caption: Silfab Solar Inc , plaintiff, et al VS York County Board Of Zoning Appeals
Case Number: 2024CP4602641
Type: Order/Other

So Ordered

/s William A. McKinnon, #2761, Circuit Judge

EXHIBIT 6

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN YORK COUNTY, SOUTH CAROLINA (THE "COUNTY"), SILFAB SOLAR CELLS SC INC., AND SILFAB SOLAR PV SC INC., COMPANIES PREVIOUSLY AND COLLECTIVELY IDENTIFIED AS "PROJECT MOUNTIE", WITH RESPECT TO CERTAIN PROPERTY, INCLUDING, WITHOUT LIMITATION, ECONOMIC DEVELOPMENT PROPERTY, IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF AD VALOREM TAXES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, YORK COUNTY, SOUTH CAROLINA, a political subdivision of the State of South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act") (collectively, the "Act") and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with qualifying industry to encourage investment and projects constituting economic development property to which the industrial development of the State of South Carolina (the "State") will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; (ii) to covenant with such industry to accept certain payments in lieu of *ad valorem* taxes (a "FILOT") with respect to such investment; and, (iii) to create, in conjunction with one or more other counties in the State, a multi-county industrial or business park (a "Multi-County Park") in order to afford certain enhanced income tax credits to such industry; and

WHEREAS, Silfab Solar Cells SC Inc. and Silfab Solar PV SC Inc., both South Carolina corporations previously identified collectively as Project Mountie, and each acting for itself, one or more affiliates, and/or other project sponsors (each, a "Company" and collectively, the "Companies"), is considering the establishment and/or expansion of certain manufacturing and related facilities at one or more locations in the County (the "Project"), and anticipates that, should its plans proceed as expected, the Companies will invest, or cause to be invested, at least \$150,000,000, in the aggregate, in the County at the Project site and will create, or cause to be created, at least 800 net, new full-time jobs, in the aggregate, in connection therewith, all within a period commencing on the first day that Project expenses have been, or will be, incurred and ending on eighth anniversary of the last day of the property tax year in which any portion of the Project is first placed in service; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County intends to cause the site on which the Project is or will be located, to the extent not already therein located, to be located in a Multi-County Park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Companies that the Project would qualify as a "project" and "economic development property"

as such terms are defined in the Negotiated FILOT Act and the Project would meet all other requirements of the Act and serve the purposes of the Act; and

WHEREAS, in accordance with such findings and determinations, and in order to induce the Companies to locate the Project in the County, the County Council is enacting this Ordinance, which Ordinance is also intended to serve as an "inducement resolution" for purposes of Section 12-44-30(11) of the Negotiated FILOT Act, whereby the County agrees to provide the benefits of a FILOT and a Multi-County Park with respect to the Project, all as set forth in greater detail in a Fee in Lieu of Tax and Incentive Agreement (the "Fee Agreement") by and between the County and the Companies; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Fee Agreement which the County proposes to execute and deliver; and

WHEREAS, it appears that the document above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered or approved by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED, by the County Council as follows:

Section 1. Based on information supplied by the Companies, it is hereby found, determined and declared by the County Council, as follows:

(a) The Project will constitute a "project" and "economic development property" as said terms are referred to and defined in the Negotiated FILOT Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Negotiated FILOT Act;

(b) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally;

(c) The Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either;

(d) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs and addition to the tax base of the County, are proper governmental and public purposes; and

(e) The benefits of the Project are anticipated to be greater than the costs.

Section 2. The form, terms and provisions of the Fee Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The Chairman of County Council and/or the County Manager are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Fee Agreement to be delivered to the Companies and cause a copy of the same to be delivered to the York County Auditor, Assessor and Treasurer. The Fee Agreement is to

be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the County Manager, upon advice of counsel, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

Section 3. The Chairman of County Council, the County Manager and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County thereunder.

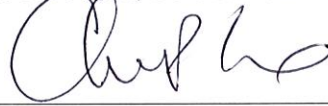
Section 4. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 5. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the County Council.

[End of Ordinance]

ENACTED in meeting duly assembled this 18th day of September, 2023.

YORK COUNTY, SOUTH CAROLINA

By: 

Christi Cox
Chairwoman of County Council
York County, South Carolina

ATTEST:

By: 

David Hudspeth
County Manager
York County, South Carolina

First Reading: March 6, 2023
Second Reading: August 21, 2023
Public Hearing: August 21, 2023
Third Reading: September 18, 2023

STATE OF SOUTH CAROLINA

COUNTY OF YORK

I, the undersigned Clerk to County Council of York County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received unanimous approval, by the County Council at its meetings of March 6 2023, August 21, 2023, and September 18, 2023, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.


Clerk to County Council,
York County, South Carolina

Dated: 12-19, 2023

EXHIBIT 7

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

By and Between

YORK COUNTY, SOUTH CAROLINA,

SILFAB SOLAR CELLS SC INC.

and

SILFAB SOLAR PV SC INC.

Dated as of September 18, 2023

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**SUMMARY OF CONTENTS OF
FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT**

As permitted under Section 12-44-55(B), Code of Laws of South Carolina 1976, as amended (the "Code"), the parties have agreed to waive the requirements of Section 12-44-55 of the Code. The following is a summary of the key provisions of this Fee in Lieu of Tax and Incentive Agreement. This summary is inserted for convenience only and does not constitute a part of this Fee in Lieu of Tax and Incentive Agreement or a summary compliant with Section 12-44-55 of the Code.

Company Name(s)	Silfab Solar Cells SC Inc. and Silfab Solar PV SC Inc.	Project Name	Project Mountie
Projected Investment	\$150,000,000	Projected Jobs	800
Location (Street)	7149 Logistics Lane, Fort Mill, SC 29715	Tax Map No.	7190000201
1. FILOT			
Required Investment	\$150,000,000 (if create 125 jobs) or, alternatively, \$400,000,000 (for 4% assessment ratio)	Required Jobs	125 (if required for 4% assessment ratio)
Investment Period	Ends, initially, eight (8) years from the Commencement Date (as defined herein)	Ordinance No./Date	No. [], September 18, 2023
Assessment Ratio	4%	Term (Years)	30 years for each annual Phase (as defined herein)
Adjustable Millage	Five (5) year adjustable	Net Present Value (*If yes, discount rate)	N/A
Clawback Information	See Section 4.03		
2. MCIP			
Included in an MCIP	Yes		
If Yes, Name and Date	Agreement for Development of Joint County Industrial and Business Park (York and Chester Counties) dated as of November 11, 2002, as supplemented, modified, amended, or replaced from time to time.		
3. SSRC			
Percentage of Fees	N/A		
No. of Years	N/A		
Clawback Information	N/A		
4. Other information	N/A		

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

THIS FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT (the "**Agreement**") is made and entered into as of September 18, 2023 by and between **YORK COUNTY, SOUTH CAROLINA** (the "**County**"), a body politic and corporate and a political subdivision of the State of South Carolina (the "**State**"), acting by and through the York County Council (the "**Council**") as the governing body of the County, **SILFAB SOLAR CELLS SC INC.**, and **SILFAB SOLAR PV SC INC.** both South Carolina corporations previously identified collectively as Project Mountie, and each acting for itself, one or more affiliates, and/or other project sponsors (each, a "**Company**" and collectively, the "**Companies**").

RECITALS

1. The County, acting by and through the Council, is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "**Code**"), particularly Title 12, Chapter 44 of the Code (the "**Negotiated FILOT Act**") and Title 4, Chapter 1 of the Code (the "**MCIP Act**", and, together with the Negotiated FILOT Act, the "**Act**") and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "**State**") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("**FILOT**") payments, including, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; and, (iii) to place property in a joint county industrial or business park (a "**Multi-County Park**") created with an adjoining county in the State pursuant to an agreement entered into pursuant to Section 4-1-170 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution in order to allow for certain enhanced income tax credits to investors.

2. The Companies are considering the establishment and/or expansion of certain manufacturing and related facilities at one or more locations in the County (the "**Project**"), and anticipate that, should their plans proceed as expected, the Companies will invest, or cause to be invested, in the aggregate, at least \$150,000,000 in the Project and will create, or cause to be created, in the aggregate, at least 800 new, full-time jobs within the County, all by the end of the Enhanced Investment Period (as defined herein) and as set forth in greater detail in this Agreement.

3. Based on information supplied by the Companies, the Council has evaluated the Project based on certain criteria including, but not limited to, the purposes of the Project, the anticipated dollar amount and nature of the investment, the employment to be created or maintained, and the anticipated costs and benefits to the County. Pursuant to Section 12-44-40(I)(1) of the Negotiated FILOT Act, the County finds that: (a) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project will give rise to no pecuniary liability of the County or any incorporated municipality therein and to no charge against their general credit or taxing powers; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

4. The Project is located, or if not so located as of the date of this Agreement, the County intends to use its best efforts to locate the Project, in a Multi-County Park.

5. The County has determined that it is in the best interests of the County to enter into this Agreement with the Companies, subject to the terms and conditions set forth herein, and, by Ordinance

No. [] enacted by the Council on September 18, 2023 (the "**Ordinance**"), which Ordinance also serves as an "inducement resolution" for the purposes of Section 12-44-30(11) of the Negotiated FILOT Act, approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Project.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, the above recitals which are incorporated herein by reference, the potential investment to be made, or caused to be made, and the potential jobs to be created, or caused to be created, by the Companies which contributes to the tax base and the economic welfare of the County, the respective representations and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Companies agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions

The terms that this Article defines shall for all purposes of this Agreement have the meanings herein specified, unless the context clearly requires otherwise:

"Act" shall mean, collectively, the Negotiated FILOT Act and the MCIP Act.

"Administration Expenses" shall mean the reasonable and necessary expenses incurred by the County with respect to this Agreement including, without limitation, reasonable attorneys' fees and costs; provided, however, that no such expense shall be considered an Administration Expense until the County has furnished to the Companies a statement in writing indicating the amount of such expense and the reason it has been or will be incurred.

"Affiliate" shall mean any corporation, limited liability company, partnership or other entity which owns all or part of any Company (or with respect to a Sponsor Affiliate(s), such Sponsor Affiliate(s)) or which is owned in whole or in part by any Company (or with respect to a Sponsor Affiliate(s), such Sponsor Affiliate(s)) or by any partner, shareholder, member or owner of any Company (or with respect to a Sponsor Affiliate(s), such Sponsor Affiliate(s)), as well as any subsidiary, affiliate, individual or entity who bears a relationship to any Company (or with respect to a Sponsor Affiliate(s), such Sponsor Affiliate(s)), as described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

"Agreement" shall mean this Fee in Lieu of Tax and Incentive Agreement, as originally executed and from time to time as supplemented or amended, as permitted herein.

"Cell Company" shall mean Silfab Solar Cells SC Inc., a South Carolina corporation previously identified, together with the Module Company, as Project Mountie, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or, any other person or entity which may succeed to the rights and duties of the Cell Company, subject to the Transfer Provisions (defined below) and any and all other notice and approval rights of the County, if any, as provided herein or under the Negotiated FILOT Act.

"Code" shall mean the Code of Laws of South Carolina 1976, as amended, unless the context clearly requires otherwise.

“Commencement Date” shall mean the last day of the Property Tax Year during which the Project or the first Phase thereof is placed in service, which date shall not be later than the last day of the Property Tax Year which is three (3) years from the year in which the County and the Companies enter into this Agreement.

“Company” shall mean each of the Cell Company and the Module Company, each with respect to its respective portion of the Project

“Companies” shall mean the Cell Company and the Module Company collectively.

“Condemnation Event” shall mean any act of taking by a public or quasi-public authority through condemnation, reverse condemnation or eminent domain.

“County” shall mean York County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the Council as the governing body of the County.

“County Manager” shall mean the York County Manager, or the person holding any successor office of the County.

“County Assessor” shall mean the York County Assessor, or the person holding any successor office of the County.

“County Auditor” shall mean the York County Auditor, or the person holding any successor office of the County.

“Council” shall mean York County Council, the governing body of the County.

“County Treasurer” shall mean the York County Treasurer, or the person holding any successor office of the County.

“Defaulting Entity” shall have the meaning set forth for such term in **Section 6.02(a)** hereof.

“Deficiency Amount” shall have the meaning set forth for such term in **Section 4.03** hereof.

“Department” shall mean the South Carolina Department of Revenue.

“Diminution in Value” in respect of the Project shall mean any reduction in the value, using the original fair market value (without regard to depreciation) as determined in Step 1 of **Section 4.01(a)** of this Agreement, of the items which constitute a part of the Project and which are subject to FILOT Payments which may be caused by any Company’s or any Sponsor Affiliate(s)’s removal and/or disposal of Equipment pursuant to **Section 4.04** hereof, or by its election to remove components of the Project as a result of any damage or destruction or any Condemnation Event with respect thereto.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the Negotiated FILOT Act and which are placed in service during the Investment Period, as selected and identified by any Company or any Sponsor Affiliate(s) in its annual filings of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time).

“Enhanced Investment Period” shall mean the period commencing with the first day that Economic Development Property is purchased or acquired, whether before or after the date of this Agreement, and ending eight (8) years after the Commencement Date, all as specified in Section 12-44-30(13) of the Negotiated FILOT Act.

“Enhanced Investment Minimum Requirement” shall mean, by the end of the Enhanced Investment Period, either (a) aggregate investment by the Companies and any Sponsor Affiliate(s) in the Project of at least \$400,000,000, or (b)(i) aggregate investment by the Companies and any Sponsor Affiliate(s) in the Project of at least \$150,000,000 and (ii) the creation of at least 125 new, full-time jobs at the Project.

“Equipment” shall mean machinery, equipment, furniture, office equipment, and other tangible personal property, together with any and all additions, accessions, replacements, and substitutions thereto or therefor.

“Event of Default” shall mean any event of default specified in Section 6.01 hereof.

“Exemption Period” shall mean the period beginning on the first day of the Property Tax Year after the Property Tax Year in which an applicable portion of Economic Development Property is placed in service and ending on the Termination Date. In case there are multiple Phases of the Project, the Exemption Period applies to each such Phase.

“Existing Property” shall mean property which will not qualify for the negotiated FILOT pursuant to Section 12-44-110 of the Negotiated FILOT Act, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) property acquired or constructed by or on behalf of any Company or any Sponsor Affiliate(s) during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property, or property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County, including the Ordinance, prior to execution of this Agreement pursuant to Section 12-44-40(E) of the Negotiated FILOT Act, which property shall qualify as Economic Development Property; (b) property purchased by or on behalf of any Company or any Sponsor Affiliate(s) during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that such Company or such other Sponsor Affiliate(s) invests at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (b); or, (c) modifications which constitute an expansion of the real property portion of Existing Property.

“FILOT” or ***“FILOT Payments”*** shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein, whether pursuant to the Negotiated FILOT Act or the MCIP Act.

“FILOT Act Minimum Investment Requirement” shall mean, with respect to the Project, an investment of at least \$2,500,000 by each Company and any Sponsor Affiliate(s), as the case may be, or, alternately, of at least \$5,000,000 by the Companies and any Sponsor Affiliate(s), in the aggregate, in Economic Development Property.

“Improvements” shall mean improvements to the Land, including buildings, building additions, building upfit and renovations, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor.

“Investment Period” shall mean, and shall be equal to, the Enhanced Investment Period, unless the provisions of **Section 4.03(a)** shall apply, in which case the Investment Period shall be equal to the Standard Investment Period.

“Land” means the land upon which the Project will be located, as described in Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with **Section 3.01(c)** hereof.

“MCIP Act” shall mean Title 4, Chapter 1, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“MCIP Agreement” shall mean the Agreement for Development of Joint County Industrial and Business Park (York and Chester Counties) dated as of November 11, 2002, as supplemented, modified or amended, and, as such agreement may be further supplemented, modified, amended, or replaced from time to time.

“Module Company” shall mean Silfab Solar PV SC Inc. a South Carolina corporation previously identified, together with the Cell Company, as Project Mountie, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or, any other person or entity which may succeed to the rights and duties of the Module Company, subject to the Transfer Provisions (defined below) and any and all other notice and approval rights of the County, if any, as provided herein or under the Negotiated FILOT Act.

“Multi-County Park” shall mean: (i) the joint county industrial park (York County and Chester County) established pursuant to the terms of the MCIP Agreement; and, (ii) any joint county industrial park created pursuant to a successor park agreement delivered by the County and a partner county in accordance with Section 4-1-170 of the MCIP Act, or any successor provision, with respect to the Project.

“Negotiated FILOT Act” shall mean Title 12, Chapter 44, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“Non-Qualifying Property” shall mean that portion of the real and personal property located on the Land, which does not qualify as Economic Development Property, such property to include: (i) Existing Property; (ii) except as to Replacement Property, property which any Company or Sponsor Affiliate(s) places in service after the end of the Investment Period; and (iii) any other property which fails or ceases to qualify for FILOT Payments under the Negotiated FILOT Act or under this Agreement, including without limitation property as to which any Company or Sponsor Affiliate(s) has terminated the FILOT as provided herein.

“Phase” or ***“Phases”*** in respect of the Project shall mean that the components of the Project are placed in service during more than one year during the Investment Period, and the word “Phase” shall therefore refer to the applicable portion of the Project placed in service in a given year during the Investment Period.

“Project” shall mean the Land and all the Improvements and Equipment that any Company or any Sponsor Affiliate(s) determines to be necessary, suitable or useful for the purposes described in **Sections 2.02(b)** and **2.03 (b)** hereof, to the extent determined by any Company and any Sponsor Affiliate(s) to be a part of the Project, and any Replacement Property, but excluding Non-Qualifying Property, all to the extent, other than with respect to Replacement Property, such real and personal property is placed in service within the Investment Period.

“Property Tax Year” shall mean, with respect to any Company or any Sponsor Affiliate(s), the annual period which is equal to the fiscal year of such Company or such Sponsor Affiliate(s), as the case may be, *i.e.*, with respect to the Cell Company, the annual period ending on December 31 of each year, and, with respect to the Module Company, the annual period ending on December 31 of each year.

“Removed Components” shall mean components of the Project or portions thereof which any Company or any Sponsor Affiliate(s) elects to remove from the Project pursuant to **Section 4.04** hereof or as a result of any Condemnation Event.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment or any Improvements previously subject to this Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvements to the fullest extent that the Negotiated FILOT Act permits, all as set forth in Section 12-44-60 of the Negotiated FILOT Act.

“Sponsor Affiliate(s)” shall mean an entity that joins with the Companies and that participates in the investment in, or financing of, the Project and which meets the requirements under the Negotiated FILOT Act to be entitled to the benefits of this Agreement with respect to its participation in the Project, all as set forth in **Section 5.13** hereof. As of the original execution and delivery of this Agreement, **there are no Sponsor Affiliates.**

“Standard Investment Period” shall mean the period commencing with the first day that Economic Development Property is purchased or acquired, whether before or after the date of this Agreement, and ending five (5) years after the Commencement Date, all as specified in Section 12-44-30(13) of the Negotiated FILOT Act.

“State” shall mean the State of South Carolina.

“Termination Date” shall mean, with respect to each Phase of the Project, and subject to the provisions of **Section 4.03(d)** hereof, the end of the last day of the Property Tax Year which is the twenty-ninth (29th) year following the first Property Tax Year in which such Phase of the Project is placed in service, provided that in such event, and subject to the provisions of **Section 4.03(d)** hereof, the intention of the parties is that the Companies will make at least thirty (30) annual FILOT Payments under **Article IV** hereof with respect to each Phase of the Project; and provided further, that if this Agreement is terminated earlier in accordance with the terms hereof, the Termination Date shall mean the effective date of such termination.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Negotiated FILOT Act, as amended or supplemented from time to time, concerning, among other things, the necessity of obtaining County consent to certain transfers and such other provisions contained herein which may grant the County any notice or approval rights including, but not limited to, the provisions contained in **Sections 5.05 and 5.09** below.

“Weighted Average Wage Requirement” shall mean the creation of at least 125 new, full-time jobs at the Project by the end of the Enhanced Investment Period with an aggregate weighted average hourly wage of at least \$22.00/hour, when utilizing a 2000-hour work year.

Any reference to any agreement or document in this **Article I** or otherwise in this Agreement shall include any and all amendments, supplements, addenda, and modifications to such agreement or document.

Section 1.02 Project-Related Investments

The term "investment" or "invest" as used herein shall include not only investments made by the Companies and any Sponsor Affiliate(s), but also to the fullest extent permitted by law, those investments made by or for the benefit of the Companies or any Sponsor Affiliate(s) with respect to the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT Payments by the Companies or any Sponsor Affiliate(s).

ARTICLE II**REPRESENTATIONS, WARRANTIES, AND AGREEMENTS**Section 2.01 Representations, Warranties, and Agreements of the County

The County hereby represents, warrants, and agrees as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the Council as its governing body. The County has duly authorized the execution and delivery of this Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Companies, the Project constitutes a "project" within the meaning of the Negotiated FILOT Act.

(c) The County has agreed that each item of real and tangible personal property which is selected for inclusion in the Project by any Company or any Sponsor Affiliate(s) and which is eligible to be Economic Development Property, including, without limitation, each item of real and tangible personal property comprising the Project which is placed in service during the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the Negotiated FILOT Act, together with all Replacement Property (but excluding any Non-Qualifying Property and any Removed Components) shall be considered Economic Development Property.

(d) The millage rate set forth in Step 3 of **Section 4.01(a)** hereof is 414.2 mills, which is the millage rate in effect with respect to the location of the proposed Project as of June 30, 2022, as permitted under Section 12-44-50(A)(1)(d) of the Negotiated FILOT Act, and which millage rate shall be adjusted every five (5) years in accordance with Section 12-44-50(A)(1)(b)(ii) of the Negotiated FILOT Act, during the Exemption Period to determine the amount of the FILOT Payments due during the Exemption Period on the applicable payment dates.

(e) The County will use its best efforts to ensure that the Project will be included, if not already included, and will remain, within the boundaries of a Multi-County Park pursuant to the provisions of the MCIP Act and Article VIII, Section 13(D) of the State Constitution on terms which allow the Companies and any Sponsor Affiliate(s) to seek from the State any additional jobs creation tax credits for the Project afforded by the laws of the State for projects located within multi-county industrial parks.

Section 2.02 Representations, Warranties, and Agreements of the Cell Company

The Cell Company hereby represents, warrants, and agrees as follows:

(a) The Cell Company is a corporation organized and in good standing under the laws of the State of South Carolina, is duly authorized to transact business in the State, has power to enter into this Agreement, and has duly authorized the execution and delivery of this Agreement.

(b) The Cell Company intends to operate the Project as a “project” within the meaning of the Negotiated FILOT Act as in effect on the date hereof. The Cell Company intends to operate the Project for the purpose of manufacturing solar cells, solar modules, and related activities, and for such other purposes that the Negotiated FILOT Act permits as the Companies may deem appropriate.

(c) The execution and delivery of this Agreement by the County has been instrumental in inducing the Cell Company to locate the Project in the County.

(d) The Cell Company, together with the Module Company and any Sponsor Affiliate(s), will use commercially reasonable efforts to meet, or cause to be met, the Enhanced Investment Minimum Requirement within the Enhanced Investment Period.

Section 2.03 Representations, Warranties, and Agreements of the Module Company

The Module Company hereby represents, warrants, and agrees as follows:

(a) The Module Company is a corporation organized and in good standing under the laws of the State of South Carolina, is duly authorized to transact business in the State, has power to enter into this Agreement, and has duly authorized the execution and delivery of this Agreement.

(b) The Module Company intends that the Project be operated as a “project” within the meaning of the Negotiated FILOT Act as in effect on the date hereof. The Module Company intends that the Project be operated for the purpose of manufacturing solar cells, solar modules, and related activities, and for such other purposes that the Negotiated FILOT Act permits as the Companies may deem appropriate.

(c) The execution and delivery of this Agreement by the County has been instrumental in inducing the Module Company to locate the Project in the County.

(d) The Module Company, together with the Cell Company and any Sponsor Affiliate(s), will use commercially reasonable efforts to meet, or cause to be met, the Enhanced Investment Minimum Requirement within the Enhanced Investment Period.

ARTICLE III

COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.01 The Project

(a) The Companies intend and expect, together with any Sponsor Affiliate(s), to: (i) construct and acquire the Project as shall be determined in their sole discretion; and, (ii) meet the Enhanced Investment Minimum Requirement by the end of the Enhanced Investment Period. The Companies anticipate that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2024.

(b) Pursuant to the Negotiated FILOT Act and subject to **Section 4.01** hereof, the Companies and the County hereby agree that the Companies and any Sponsor Affiliate(s) shall identify annually those assets which are eligible for FILOT Payments under the Negotiated FILOT Act and which any

Company or any Sponsor Affiliate(s) selects for such treatment by listing such assets in its annual PT-300S form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Agreement to the contrary notwithstanding, the Companies and any Sponsor Affiliate(s) shall not be obligated to complete the acquisition of the Project; provided, however, if the Companies, together with any Sponsor Affiliate(s), do not meet the Enhanced Investment Minimum Requirement within the Enhanced Investment Period, the provisions of **Section 4.03** hereof shall control.

(c) Any Company may add to the Land such real property, located in the same taxing district in the County as the Land designated as of the original execution and delivery of this Agreement, as such Company, in its discretion, deems useful or desirable. In such event, such Company, at its expense, shall deliver an appropriately revised Exhibit A to this Agreement, in form reasonably acceptable to the County.

Section 3.02 Diligent Completion

The Companies agree to use their reasonable efforts to cause the completion of the Project, as shall be determined in their sole discretion, as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.03 Filings and Reports

(a) Each year during the term of the Agreement, each Company and any Sponsor Affiliate(s) shall deliver to the County, the County Auditor, the County Assessor and the County Treasurer a copy of its most recent annual filings with the Department with respect to its respective portion of the Project, not later than thirty (30) days following delivery thereof to the Department.

(b) The Companies shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor, and to their counterparts in the partner county to the MCIP Agreement, the County Manager and the Department within thirty (30) days after the date of execution and delivery of this Agreement by all parties hereto.

(c) Each Company and any Sponsor Affiliate(s) agree to maintain complete books and records accounting for the acquisition, financing, construction, and operation of its respective portion of the Project. Such books and records shall (i) permit ready identification of the various Phases and components thereof; (ii) confirm the dates on which each Phase was placed in service; and (iii) include copies of all filings made by such Company and any such Sponsor Affiliate(s) in accordance with **Section 3.03(a)** or **(b)** above with respect to property placed in service as part of the Project.

ARTICLE IV

FILOT PAYMENTS

Section 4.01 FILOT Payments

(a) Pursuant to Section 12-44-50 of the Negotiated FILOT Act, each Company and any Sponsor Affiliate(s), as applicable, are required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Companies anticipate an initial investment of sums sufficient for all, or a portion of, the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the Negotiated FILOT Act, the County and the Companies have negotiated the amount of the FILOT Payments in accordance therewith. Each Company and any

Sponsor Affiliate(s), as applicable, shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises its respective portion of the Project and is placed in service, as follows: each Company and any Sponsor Affiliate(s), as applicable, shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property it places in service during the Investment Period, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual FILOT Payments shall be in accordance with the following procedure (subject, in any event, to the procedures required by the Negotiated FILOT Act):

Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Investment Period using original income tax basis for State income tax purposes for any real property and improvements without regard to depreciation (provided, the fair market value of real property, as the Negotiated FILOT Act defines such term, that any Company and any Sponsor Affiliate(s) obtains by construction or purchase in an arms-length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value is by appraisal) and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The fair market value of the real property for the first year of the Exemption Period remains the fair market value of the real property and improvements for the life of the Exemption Period. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to any Company and to any Sponsor Affiliate(s) if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the Negotiated FILOT Act specifically disallows.

Step 2: Apply an assessment ratio of four percent (4%) or, in the event that the Companies, together with any Sponsor Affiliate(s), fail to meet the Enhanced Investment Minimum Requirement by the end of the Enhanced Investment Period, an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the twenty-nine (29) years thereafter or such longer period of years in which the Negotiated FILOT Act permits any Company and any Sponsor Affiliate(s) to make annual FILOT Payments.

Step 3: Use an initial millage rate of 414.2 mills, which millage rate shall be adjusted every five (5) years in accordance with Section 12-44-50(A)(1)(b)(ii) of the Negotiated FILOT Act, during the Exemption Period, and applied against the taxable value to determine the amount of the FILOT Payments due during the Exemption Period on the applicable payment dates.

(b) In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the Negotiated FILOT Act and/or the herein-described FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof (without increasing the amount of incentives being afforded herein) and so as to afford the Companies and any Sponsor Affiliate(s) with the benefits to be derived herefrom, the intention of the County being to offer the Companies and such Sponsor Affiliate(s) a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Agreement shall terminate, and the Companies and any Sponsor Affiliate(s) shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Companies and such Sponsor Affiliate(s). Any amount determined to be due and owing to the County from any Company and any Sponsor Affiliate(s), with respect to a year or years for which such Company

or such Sponsor Affiliate(s) previously remitted FILOT Payments to the County hereunder, shall (i) take into account all applicable tax exemptions to which such Company or such Sponsor Affiliate(s) would be entitled if the Economic Development Property was not and had not been Economic Development Property under the Act; and (ii) be reduced by the total amount of FILOT Payments such Company or such Sponsor Affiliate(s) had made with respect to its respective portion of the Project pursuant to the terms hereof.

Section 4.02 [Reserved.]

Section 4.03 Failure to Achieve Minimum Investment Requirements; Failure to Achieve Weighted Average Wage Requirement

(a) In the event the Enhanced Investment Minimum Requirement is not met by the end of the Enhanced Investment Period, then, so long as the FILOT Act Minimum Investment Requirement has been met by the end of the Standard Investment Period, beginning with the FILOT Payment due January 15 of the second (2nd) year following the final year of the Enhanced Investment Period, the FILOT Payments due shall be prospectively computed in the manner set forth in **Section 4.01(a)** hereof, except that an assessment ratio of six percent (6%) shall be substituted for four percent (4%). Further, in such event, (A) the Companies and any Sponsor Affiliate(s) shall make, or cause to be made, payment to the County of (i) an amount equal to the difference between the net FILOT Payments theretofore made by the Companies and such Sponsor Affiliate(s) with respect to the portions of the Project placed in service during the Standard Investment Period and the net FILOT Payments which would have been theretofore due from the Companies and such Sponsor Affiliates with respect to the Project had the assessment ratio been applied at six percent (6%), plus (ii) an amount equal to the Deficiency Amount (here, and hereinafter, as defined below) with respect to the remaining portion of the Project (that is, the portion placed in service after the Standard Investment Period but before the end of the Enhanced Investment Period), with interest on such Deficiency Amount at the statutory rate for the late payment of *ad valorem* taxes, and (B) the Investment Period hereunder shall be deemed to be the Standard Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be payable to the County on or before the second (2nd) January 15 following the last day of the Enhanced Investment Period.

(b) In the event the Enhanced Minimum Investment Requirement is not met by the end of the Enhanced Investment Period and the FILOT Act Minimum Investment Requirement is not met by the end of the Standard Investment Period, this Agreement shall terminate and the Companies and any Sponsor Affiliate(s) shall be obligated to pay the County an amount which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes, or FILOT Payments due pursuant to the MCIP Act, as applicable, as would result from taxes levied on the Project by the County, any municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Companies and such Sponsor Affiliate(s) would be entitled in such a case, through and including the end of the Standard Investment Period, over (ii) the total amount of FILOT Payments the Companies and such Sponsor Affiliate(s) have made with respect to the Economic Development Property (such excess, a "**Deficiency Amount**") for the period through and including the end of the Standard Investment Period. Any amounts determined to be owing pursuant to the foregoing provisions of this Section shall be payable to the County on or before the one hundred twentieth (120th) day following the last day of the Standard Investment Period.

(c) As a condition to the FILOT benefit provided herein, the Companies agree to provide the County Manager, the County Assessor, the County Auditor and the County Treasurer with an annual certification as to investment in the Project, and the cumulative number of new, full-time jobs created at the Project, by the Companies and any Sponsor Affiliate(s). Such certification shall be in substantially the

form attached hereto as Exhibit B, and shall be due no later than the May 1 following the immediately preceding December 31 of each year during the Investment Period.

(d) In the event the Weighted Average Wage Requirement is not met by the end of Enhanced Investment Period, the Termination Date shall automatically be reduced to be the end of the last day of the Property Tax Year which is the twenty-fourth (24th) year following the first Property Tax Year in which such Phase of the Project is placed in service, such that the intention of the parties in such event would be that the Companies would make at least twenty-five (25) annual FILOT Payments under Article IV hereof with respect to each Phase of the Project; provided that if this Agreement is terminated earlier in accordance with the terms hereof, the Termination Date shall mean the effective date of such termination. As a means of memorializing satisfaction of the Weighted Average Wage Requirement, the Companies agree to provide, on or before the end of the Enhanced Investment Period, written documentation to the County Economic Development Director reasonably reflecting satisfaction of the Weighted Average Wage Requirement.

Section 4.04 Removal of Equipment

Subject, always, to the other terms and provisions of this Agreement, each Company and any Sponsor Affiliate(s) shall be entitled to remove and dispose of components of the Project from the Project in its sole discretion with the result that said components shall no longer be considered a part of the Project and, to the extent such components constitute Economic Development Property, shall no longer be subject to the terms of this Agreement. Economic Development Property is disposed of only when it is scrapped or sold or removed from the Project. If it is removed from the Project, it is subject to *ad valorem* property taxes to the extent such property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.05 FILOT Payments on Replacement Property

If any Company or any Sponsor Affiliate(s) elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or any Company or any Sponsor Affiliate(s) otherwise utilizes Replacement Property, then, pursuant and subject to the provisions of Section 12-44-60 of the Negotiated FILOT Act, such Company or such Sponsor Affiliate(s) shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest Economic Development Property subject to the FILOT, whether real or personal, which is disposed of in the same Property Tax Year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same Property Tax Year. More than one piece of property can replace a single piece of Economic Development Property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is entitled to treatment under the Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the FILOT shall be recorded using its income tax basis, and the calculation of the FILOT shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the FILOT.

Section 4.06 Reductions in Payment of Taxes Upon Diminution in Value; Investment Maintenance Requirement

In the event of a Diminution in Value of the Economic Development Property, the FILOT Payment with regard to the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property as determined pursuant to Step 1 of **Section 4.01(a)** hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project remaining in the County based on the original income tax basis thereof (that is, without regard to depreciation), is less than the FILOT Act Minimum Investment Requirement, then beginning with the first payment thereafter due hereunder and continuing until the Termination Date, the Project shall no longer be entitled to the incentive provided in **Section 4.01**, and the Companies and any Sponsor Affiliate(s) shall therefore commence to pay regular *ad valorem* taxes thereon, calculated as set forth in **Section 4.01(b)** hereof.

ARTICLE V

PARTICULAR COVENANTS AND AGREEMENTS

Section 5.01 Cessation of Operations

Notwithstanding any other provision of this Agreement, each Company and any Sponsor Affiliate(s) acknowledges and agrees that County's obligation to provide the FILOT incentive ends, and this Agreement is terminated, if the Companies cease operations at the Project. For purposes of this Section, "ceases operations" means closure of the facility comprised in whole, or in part, by the Project or the cessation of commercial operations at the Project, in either case, following commencement of commercial operations, for a continuous period of twelve (12) months. The provisions of **Section 4.03(b)** hereof relating to retroactive payments shall apply, if applicable, if this Agreement is terminated in accordance with this Section prior to the end of the Investment Period. Each Company and any Sponsor Affiliate(s) agrees that if this Agreement is terminated pursuant to this Section, that under no circumstance shall the County be required to refund or pay any monies to any Company or any Sponsor Affiliate(s).

Section 5.02 Rights to Inspect

Each Company agrees that the County and its authorized agents shall have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice, to have access to examine and inspect any Company's South Carolina property tax returns, as filed, with respect to its respective portion of the Project. The aforesaid rights of examination and inspection shall be exercised only upon such reasonable and necessary terms and conditions as the Companies shall prescribe, and shall be subject to the provisions of **Section 5.03** hereof.

Section 5.03 Confidentiality

The County acknowledges and understands that the Companies and any Sponsor Affiliate(s) may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques ("**Confidential Information**"). In this regard, any Company and any Sponsor Affiliate(s) may

clearly label any Confidential Information delivered to the County "Confidential Information." The County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall disclose or otherwise divulge any such clearly labeled Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law. Each of the Companies and any Sponsor Affiliate(s) acknowledge that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. In the event that the County is required to disclose any Confidential Information obtained from any Company or any Sponsor Affiliate(s) to any third party, the County agrees to provide such Company and such Sponsor Affiliate(s) with as much advance notice as is reasonably possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by such Company and such Sponsor Affiliate(s) to obtain judicial or other relief from such disclosure requirement.

Section 5.04 Limitation of County's Liability

Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money, shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County; provided, however, that nothing herein shall prevent any Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

Section 5.05 Mergers, Reorganizations and Equity Transfers

Each of the Companies and any Sponsor Affiliate(s) acknowledges that any mergers, reorganizations or consolidations of such Company and such Sponsor Affiliate(s) may cause the Project to become ineligible for FILOT Payments under the Negotiated FILOT Act absent compliance by such Company and such Sponsor Affiliates with the Transfer Provisions; provided that, to the extent provided by Section 12-44-120 of the Negotiated FILOT Act or any successor provision, any financing arrangements entered into by any Company or any Sponsor Affiliate(s) with respect to the Project and any security interests granted by such Company or such Sponsor Affiliate(s) in connection therewith shall not be construed as a transfer for purposes of the Transfer Provisions.

Section 5.06 Indemnification Covenants

(a) Notwithstanding any other provisions in this Agreement or in any other agreements with the County, the Companies agree to indemnify, defend and save the County, its Council members, elected officials, officers, employees, servants and agents (each, an "*Indemnified Party*", and collectively, the "*Indemnified Parties*") harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on the Project or the Land by any Company or any Sponsor Affiliate(s), their members, officers, shareholders, employees, servants, contractors, and agents during the term of this Agreement, and, the Companies further shall indemnify, defend and save the Indemnified Parties harmless against and from all claims arising during the term of this Agreement from (i) entering into and performing its obligations under this Agreement, (ii) any condition of the Project, (iii) any breach or default on the part of any Company or any Sponsor Affiliate(s) in the performance of any of its obligations under this Agreement, (iv) any act of negligence of any Company or any Sponsor Affiliate(s) or its agents, contractors, servants, employees or licensees, (v) any act of negligence of any assignee or lessee of any Company or any Sponsor Affiliate(s), or of any agents, contractors, servants, employees or licensees of any assignee or lessee of any Company or any Sponsor Affiliate(s), or (vi) any environmental violation, condition, or effect with respect to the Project. The Companies shall indemnify, defend and save the County harmless from and against all costs and expenses including, but not limited to, reasonable attorneys' fees incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon

notice from the County, the Companies shall defend it in any such action, prosecution or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld).

(b) Notwithstanding the fact that it is the intention of the parties that the Indemnified Parties shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the granting of the FILOT, by reason of the execution of this Agreement, by the reason of the performance of any act requested of it by any Company or any Sponsor Affiliate(s), or by reason of the County's relationship to the Project or by the operation of the Project by any Company or any Sponsor Affiliate(s), including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County or any of the other Indemnified Parties should incur any such pecuniary liability, then in such event the Companies shall indemnify, defend and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses including, but not limited to, reasonable attorneys' fees incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Companies shall defend them in any such action or proceeding with legal counsel selected by the Companies and acceptable to the County (the acceptance of which shall not be unreasonably withheld, conditioned, or delayed); provided, however, that such indemnity shall not apply to the extent that any such claim is attributable to: (i) the grossly negligent acts or omissions or willful misconduct, of any Indemnified Parties; or, (ii) any material breach of this Agreement by the County.

(c) Notwithstanding anything in this Agreement to the contrary, the above-referenced covenants insofar as they pertain to costs, damages, liabilities or claims by any Indemnified Party resulting from any of the above-described acts of or failure to act by any Company or any Sponsor Affiliate(s), shall survive any termination of this Agreement.

Section 5.07 Qualification in State

Each of the Companies and any Sponsor Affiliate(s) warrants that it is duly qualified to do business in the State, and covenants that it will continue to be so qualified so long as it operates any portion of the Project.

Section 5.08 No Liability of County's Personnel

All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the County and shall be binding upon any member of the Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any elected official, officer, agent, servants or employee of the County and no recourse shall be had against any member of the Council or any elected official, officer, agent, servant or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

Section 5.09 Assignment, Leases or Transfers

The County agrees that any Company and any Sponsor Affiliate(s) may at any time (a) transfer all or any of their rights and interests under this Agreement or with respect to all or any part of the Project, or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing or other entity with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic

lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to any Company or any Sponsor Affiliate(s) or operates such assets for any Company or any Sponsor Affiliate(s) or is leasing the portion of the Project in question from any Company or any Sponsor Affiliate(s). In order to preserve the FILOT benefit afforded hereunder with respect to any portion of the Project so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to an Affiliate of any Company or of any Sponsor Affiliate(s), or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the transferor Company or Sponsor Affiliate(s), as applicable, shall obtain the prior consent or subsequent ratification of the County for any such transfer or assignment, which consent or subsequent ratification may be granted or withheld by the County in its sole discretion, with the understanding that the County's willingness to ratify a transfer will be adversely impacted if the request for ratification is raised by the Sponsor or the Sponsor Affiliate, as applicable, more than sixty (60) days following the date of the transfer; (ii) except when a financing entity which is the income tax owner of all or part of the Project is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the transferor Company or Sponsor Affiliate(s), as the case may be, hereunder, or when the County consents in writing, no such transfer shall affect or reduce any of the obligations of the transferor Company and Sponsor Affiliate(s), as the case may be, hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make FILOT Payments hereunder, the transferee shall assume the then current basis of, as the case may be, of the transferor Company or Sponsor Affiliate(s) (or prior transferee), as the case may be, in the portion of the Project transferred; (iv) the transferor Company or applicable Sponsor Affiliate(s), transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department a true and complete copy of any such transfer agreement; and (v) the transferor Company or Sponsor Affiliate(s), as the case may be, and the transferee shall comply with all other requirements of the Transfer Provisions. If the County and the Department do not receive written notification of the identity of each transferee and such other information as may be required by the Department with the appropriate returns within sixty (60) days after the date of the transfer, a penalty may be assessed by the Department for late notification for up to ten thousand dollars (\$10,000.00) a year or portion of a year, up to a maximum penalty of fifty thousand dollars (\$50,000.00) under Section 12-44-120(C)(1) of the Negotiated FILOT Act, as the same may be amended.

Subject to County consent when required under this Section, and at the expense of the transferor Company or Sponsor Affiliate(s), as the case may be, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of such Company or Sponsor Affiliate(s), as the case may be, under this Agreement and/or any release of such Company or Sponsor Affiliate(s), as the case may be, pursuant to this Section.

Each Company and each Sponsor Affiliate(s) acknowledges that such a transfer of an interest under this Agreement or in its respective portion of the Project may cause all or part of the Project to become ineligible for the FILOT benefit afforded hereunder or result in penalties under the Negotiated FILOT Act absent compliance by the Companies and any Sponsor Affiliate(s) with the Transfer Provisions.

Section 5.10 Administration Expenses

The Companies agree to pay any Administration Expenses to the County when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Agreement or the date which is forty-five (45) days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the

County's or Indemnified Party's right to receive such payment, specifying the nature of such expense and requesting payment of same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the Project or the incentives authorized by this Agreement, and anticipates, in connection with the original execution and delivery of this Agreement, no out of pocket expenses, including legal fees, in connection with this Agreement and the transactions authorized hereby.

Section 5.11 Priority Lien Status

The County's right to receive FILOT Payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the Negotiated FILOT Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code.

Section 5.12 Interest; Penalties

In the event any Company or any Sponsor Affiliate(s) should fail to make any of the payments to the County required under this Agreement, then the item or installment so in default shall continue as an obligation of such Company or such Sponsor Affiliate(s) until such Company or such Sponsor Affiliate(s) shall have fully paid the amount, and such Company and such Sponsor Affiliate(s) agrees, as applicable, to pay the same with interest thereon at a rate, unless expressly provided otherwise herein and in the case of FILOT Payments, of five percent (5%) per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT Payments, at the rate for non-payment of *ad valorem* taxes under State law and subject to the penalties the law provides until payment. If any such default relates to its obligations to make FILOT Payments hereunder, such entity shall pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Negotiated FILOT Act.

Section 5.13 Sponsor Affiliate(s)

Any Company may designate from time to time any Sponsor Affiliate(s) pursuant to the provisions of Sections 12-44-30(20) and 12-44-130 of the Negotiated FILOT Act, which Sponsor Affiliate(s) shall join with the Companies and make investments with respect to the Project, or participate in the financing of such investments, and shall agree to be bound by the terms and provisions of this Agreement pursuant to the terms of a written joinder agreement with the County and the Companies, which such joinder agreement shall be in substantially the form attached hereto as Exhibit C. The Company shall provide the County and the Department with written notice of any Sponsor Affiliate(s) designated by such Company pursuant to this Section within ninety (90) days after the end of the calendar year during which any such Sponsor Affiliate(s) has placed in service any portion of the Project, in accordance with Section 12-44-130(B) of the Negotiated FILOT Act, provided that delivery of the joinder agreement described above to the County and the Department shall satisfy such notice requirement.

Section 5.14 Insurance; Standby Letter of Credit

The Companies and any Sponsor Affiliate shall, procure and maintain pollution insurance for the duration of the Incentive Agreement in the amount of \$1,000,000 naming Property Owner and the County as Additional Insureds and naming the County as a Certificate Holder. Proof of Insurance shall be provided to County by, or at the direction of the Companies or any Sponsor Affiliate, as applicable, on an annual basis during the term of the FILOT Agreement. Failure to maintain such insurance during the term of the FILOT Agreement shall constitute an Event of Default under, and subject to, Section 6.01(c) hereof.

Promptly following the execution and delivery of the FILOT Agreement, the Companies shall place a Standby Letter of Credit, in form and substance reasonably agreeable to the County and the Companies, in the amount of \$50,000 on file with the York County Treasurer, renewable annually, for purposes ensuring access to funds in the event the Property Owner or the County or their respective designees reasonably determine they must address an occurrence necessitating site cleanup subsequent to a hazardous substance release, abandonment of product or component parts upon cessation of operations, or other environmental occurrence for which cleanup or remediation is necessary by Property Owner or the County, as determined by a State or other governmental agency of competent jurisdiction, including York County. Failure to maintain the Letter of Credit by a Company shall constitute an Event of Default under, and subject to, Section 6.01(c) hereof.

ARTICLE VI

DEFAULT

Section 6.01 Events of Default

The following shall be "Events of Default" under this Agreement, and the term "Event of Default" shall mean, whenever used with reference to this Agreement, any one or more of the following occurrences:

(a) Failure by any Company or any Sponsor Affiliate(s) to make the FILOT Payments described in **Section 4.01(a)** hereof, or any other amounts payable to the County under this Agreement when due, which failure shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; provided, however, that the Companies and any Sponsor Affiliate(s) shall be entitled to all redemption rights granted by applicable statutes; or

(b) A representation or warranty made by any Company or any Sponsor Affiliate(s) hereunder which is deemed materially incorrect when deemed made; or

(c) Failure by any Company or any Sponsor Affiliate(s) to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of thirty (30) days after written notice from the County to such Company or such Sponsor Affiliate(s) specifying such failure and requesting that it be remedied, unless such Company or such Sponsor Affiliate(s) shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the thirty (30) day period shall be extended to cover such additional period during which such Company or such Sponsor Affiliate(s) is diligently pursuing corrective action; or

(d) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of thirty (30) days after written notice from any Company to the County and any Sponsor Affiliate(s) specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the thirty (30) day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 6.02 Remedies Upon Default

(a) Whenever any Event of Default by any Company or any Sponsor Affiliate(s) (the “*Defaulting Entity*”) shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions as to the Defaulting Entity only:

- (i) terminate this Agreement; or
- (ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder.

In addition to all other remedies provided herein, the failure to make FILOT Payments shall give rise to a lien for tax purposes as provided in Section 12-44-90 of the Negotiated FILOT Act. In this regard, and notwithstanding anything in this Agreement to the contrary, the County may exercise the remedies that general law (including Title 12, Chapter 49 of the Code) provides with regard to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, any Company and any Sponsor Affiliate(s) may take one or more of the following actions:

- (i) bring an action for specific enforcement;
- (ii) terminate this Agreement as to the acting party; or
- (iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 6.03 Reimbursement of Legal Fees and Expenses and Other Expenses

Upon the occurrence of an Event of Default hereunder by any Company or any Sponsor Affiliate(s), should the County be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement from the applicable Defaulting Entity of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 6.04 No Waiver

No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

ARTICLE VII**MISCELLANEOUS**Section 7.01 Notices

Any notice, election, demand, request, or other communication to be provided under this Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

If to the Cell Company:

Silfab Solar Cells SC Inc.
c/o Silfab Solar Inc.
Attn: Treff MacDonald, Chief Operating Officer
240 Courtneypark Drive East
Mississauga, ON, L5T 2S5, Canada

With a copy (which shall not constitute notice) to:

Maynard Nexsen PC
Attn: Tushar V. Chikhliker, Esq.
1230 Main Street, Suite 700 (29201)
P.O. Box 2426
Columbia, South Carolina 29202

If to the Module Company:

Silfab Solar PV SC Inc.
c/o Silfab Solar Inc.
Attn: Treff MacDonald, Chief Operating Officer
240 Courtneypark Drive East
Mississauga, ON, L5T 2S5, Canada

With a copy (which shall not constitute notice) to:

Maynard Nexsen PC
Attn: Tushar V. Chikhliker, Esq.
1230 Main Street, Suite 700 (29201)
P.O. Box 2426
Columbia, South Carolina 29202

If to the County:

York County
Attn: County Manager
6 South Congress Street
P.O. Box 66
York, South Carolina 29745

With a copy (which shall not constitute notice) to:

York County
Attn: Michael K. Kendree, Esq.
26 West Liberty Street (29745)
P.O. Box 299
York, South Carolina 29745

Section 7.02 Binding Effect

This Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Companies and any Sponsor Affiliate(s), the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 7.03 Counterparts; Facsimile/Scanned Signatures

This Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument. The parties hereto agree that use of a fax or scanned signature and the signatures, initials, and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties hereto as if the original signature, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

Section 7.04 Governing Law

This Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 7.05 Headings

The headings of the articles and sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement.

Section 7.06 Amendments

The provisions of this Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 7.07 Further Assurance

From time to time, upon the request of any Company and any Sponsor Affiliate(s) and at the expense of such Company or such Sponsor Affiliate(s), the County agrees to execute and deliver to such Company or such Sponsor Affiliate(s) such additional instruments as such Company or such Sponsor Affiliate(s) may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Negotiated FILOT Act, the MCIP Act, and this Agreement to effectuate the purposes of this Agreement.

Section 7.08 Invalidity; Change in Laws

In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Agreement, the County hereby expresses its intention that the interpretation of this Agreement shall be in a manner that provides for the broadest inclusion of property under the terms of this Agreement and the maximum incentive permissible under the Negotiated FILOT Act and the MCIP Act, to the extent not inconsistent with any of the explicit terms hereof. If any provision of this Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate

most closely the legal, valid, and enforceable intent thereof and so as to afford the Companies and any Sponsor Affiliate(s) with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Companies and any Sponsor Affiliate(s) the strongest inducement possible, within the provisions of the Negotiated FILOT Act and the MCIP Act, to locate the Project in the County. In case a change in the Negotiated FILOT Act, the MCIP Act, or the laws of the State eliminates or reduces any of the restrictions or limitations applicable to any Company and any Sponsor Affiliate(s) and the FILOT incentive, the parties agree that the County will give expedient and full consideration to reformation of this Agreement, and, if the Council so decides, to provide the Companies and any Sponsor Affiliate(s) with the benefits of such change in the Negotiated FILOT Act, the MCIP Act, or the laws of the State.

Section 7.09 Termination by Companies

Any Company is authorized to terminate this Agreement at any time with respect to all or part of its respective portion of the Project upon providing the County with thirty (30) days' written notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto (including, without limitation, any amounts owed with respect to Article IV hereof) shall survive such termination; and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all such property shall be subject to *ad valorem* taxation or such other taxation or fee in lieu of taxation that would apply absent this Agreement. Such Company's obligation to make FILOT Payments under this Agreement shall terminate in the year following the year of such termination pursuant to this Section.

Section 7.10 Entire Understanding

This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and none of the parties hereto has made or shall be bound by any agreement or any representation to the other parties which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 7.11 Waiver

Any party may waive compliance by any other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 7.12 Business Day

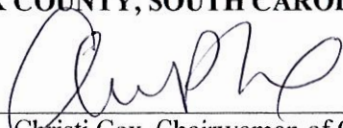
In the event that any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the County, acting by and through the Council, has caused this Agreement to be executed in its name and behalf by the Chairwoman of the County and the County Manager and to be attested by the Clerk of the Council; and the Companies have caused this Agreement to be executed by their duly authorized officers, all as of the day and year first above written.

YORK COUNTY, SOUTH CAROLINA

(SEAL)

By: 
Christi Cox, Chairwoman of County
Council of York County, South Carolina

By: 
David Hudspeth, County Manager
York County, South Carolina

ATTEST:


Karen Brogdon, Clerk to County Council of
York County, South Carolina

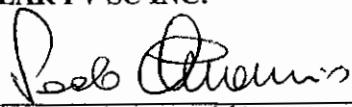
[Signature Page 1 to Fee in Lieu of Tax and Incentive Agreement]

SILFAB SOLAR CELLS SC INC.

By: 
Print Name: PAUL MACCARIO
Its: CHIEF EXECUTIVE OFFICER

[Signature Page 2 to Fee in Lieu of Tax and Incentive Agreement]

SILFAB SOLAR PV SC INC.

By: 
Print Name: PAOLO MALLANO
Its: CHIEF EXECUTIVE OFFICER

[Signature Page 3 to Fee in Lieu of Tax and Incentive Agreement]

EXHIBIT A

DESCRIPTION OF LAND

That certain parcel or tract of land, situate, lying and being in York County, South Carolina, containing approximately 53 acres, shown and designated as "Lot 2" on that certain plat by Nicholas L. Mansfield with Survey Matters, dated November 22, 2019, last revised August 22, 2022 entitled "Stateline 77 Subdivision Prepared For: RG Baxter Lane, LLC Property of : RG Baxter Lane, LLC Highway 21 Bypass North York County, South Carolina" and recorded on September 22, 2022, in the York County Clerk of Court's Office at Plat Book 170, Page 29-30.



EXHIBIT B**INVESTMENT AND JOB CREATION CERTIFICATION**

I _____, the _____ of _____, do hereby certify in connection with Section 4.03 of the Fee in Lieu of Tax and Incentive Agreement dated as of [_____, 2023] (the "*Agreement*") between York County, South Carolina, Silfab Solar Cells SC Inc., a South Carolina corporation (the "*Cell Company*"), and Silfab Solar PV SC Inc., a South Carolina corporation (the "*Module Company*", and together with the Cell Company, collectively, the "*Companies*"), as follows:

(1) The total investment made by the Companies and any Sponsor Affiliate(s) in the Project during the calendar year ending December 31, 20__ was \$_____.

(2) The cumulative total investment made by the Companies and any Sponsor Affiliate(s) in the Project from the period beginning _____, 20__ (that is, the beginning date of the Investment Period) and ending December 31, 20__, is \$_____.

(3) The number of full-time jobs at the Companies' facilities where the Project is located was _____ persons as of _____, 20__ (the beginning date of the Investment Period).

(4) The number of net new, full-time jobs created at the Project since _____, 20__ (the beginning date of the Investment Period) is _____ persons.

All capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

IN WITNESS WHEREOF, I have set my hand this _____ day of _____, 20__.

Print Name:_____
Its:_____



EXHIBIT B**FORM OF JOINDER AGREEMENT****JOINDER AGREEMENT**

Reference is hereby made to that certain Fee in Lieu of Tax and Incentive Agreement, dated as of [____], 2023 (the "**Agreement**"), by and between York County, South Carolina (the "**County**"), Silfab Solar Cells SC Inc., a South Carolina corporation (the "**Cell Company**"), and Silfab Solar PV SC Inc., a South Carolina corporation (the "**Module Company**"), and together with the Cell Company, collectively, the "**Sponsors**").

1. Joinder to Agreement.

[____], a [____] organized and existing under the laws of the State of [____] (the "**Company**"), hereby: (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Agreement with respect to its portion of the Project, as a Sponsor Affiliate thereunder; and (b) acknowledges and agrees that (i) in accordance with the Agreement, the Company has been designated as a Sponsor Affiliate by the Sponsors for purposes of the Project and such designation has been previously consented to by the County in the Agreement in accordance with the Negotiated FILOT Act, but only to the extent that the Negotiated FILOT Act requires the County's consent, (ii) the Company qualifies or will qualify as a Sponsor Affiliate under the Agreement and Sections 12-44-30(20) and 12-44-130 of the Negotiated FILOT Act upon the execution and delivery to the County and the Department of this Joinder Agreement, and (iii) the Company shall have all of the rights and obligations of a Sponsor Affiliate as set forth in the Agreement with respect to its portion of the Project.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Agreement.

3. Representations.

The Company, as a Sponsor Affiliate under the Agreement, represents and warrants to the County as follows:

- (a) The Company is a [____] validly existing and in good standing under the laws of the State of [____] and is, or will be prior to operation of the Project, authorized to do business in the State of South Carolina, has all requisite power to enter into this Joinder Agreement and to carry out its obligations hereunder and under the Agreement, and by proper action has been duly authorized to execute and deliver this Joinder Agreement. The Company's fiscal year end is [____] and the undersigned will notify the County of any changes in the fiscal year of the Company.
- (b) The Company intends that its respective portion of the Project be operated for [____] and related activities.
- (c) To the best knowledge of the Company, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the Company in any court or before any

governmental authority or arbitration board or tribunal, which would materially adversely affect this Joinder Agreement or which would, in any way, adversely affect the validity or enforceability of this Joinder Agreement, or the transactions contemplated hereby.

4. **Governing Law.**

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to any principles of choice of law that would refer the governance of this Joinder Agreement to the laws of any other jurisdiction.

5. **Notice.**

Notices under Section 7.01 of the Agreement with respect to the Company shall be sent to:

[]

6. **Multiple Counterparts.**

This Joinder Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

[Signature Page Follows]



IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

[Name of Entity]

By: _____

Name: _____

Its: _____

IN WITNESS WHEREOF, the Sponsors consent to the addition of the above-named entity as a Sponsor Affiliate under the Agreement effective as of the date set forth above.

SILFAB SOLAR CELLS SC INC.

By: _____

Name: _____

Its: _____

SILFAB SOLAR PV SC INC.

By: _____

Name: _____

Its: _____

County Acknowledgement:

[REQUIRED ONLY FOR THOSE SPONSOR AFFILIATES FOR WHICH COUNTY CONSENT IS REQUIRED BY THE FEE IN LIEU OF TAX SIMPLIFICATION ACT, CODIFIED AS TITLE 12, CHAPTER 44, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED.]

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Agreement effective as of the date set forth above.

YORK COUNTY, SOUTH CAROLINA

By: _____

Name: _____

Its: _____



**SUMMARY OF CONTENTS OF
FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT**

As permitted under Section 12-44-55(B), Code of Laws of South Carolina 1976, as amended (the "Code"), the parties have agreed to waive the requirements of Section 12-44-55 of the Code. The following is a summary of the key provisions of this Fee in Lieu of Tax and Incentive Agreement. This summary is inserted for convenience only and does not constitute a part of this Fee in Lieu of Tax and Incentive Agreement or a summary compliant with Section 12-44-55 of the Code.

Company Name(s)	Silfab Solar Cells SC Inc. and Silfab Solar PV SC Inc.	Project Name	Project Mountie
Projected Investment	\$150,000,000	Projected Jobs	800
Location (Street)	7249 Logistics Lane, Fort Mill, SC 29715	Tax Map No.	7190000201
1. FILOT			
Required Investment	\$150,000,000 (if create 125 jobs) or, alternatively, \$400,000,000 (for 4% assessment ratio)	Required Jobs	125 (if required for 4% assessment ratio)
Investment Period	Ends, initially, eight (8) years from the Commencement Date (as defined herein)	Ordinance No./Date	No. [], September 18, 2023
Assessment Ratio	4%	Term (Years)	30 years for each annual Phase (as defined herein)
Adjustable Millage	Five (5) year adjustable	Net Present Value (*If yes, discount rate)	N/A
Clawback Information	See Section 4.03		
2. MCIP			
Included in an MCIP	Yes		
If Yes, Name and Date	Agreement for Development of Joint County Industrial and Business Park (York and Chester Counties) dated as of November 11, 2002, as supplemented, modified, amended, or replaced from time to time.		
3. SSRC			
Percentage of Fees	N/A		
No. of Years	N/A		
Clawback Information	N/A		
4. Other information	N/A		

P₂

EXHIBIT 8

PART 13: ZONING COMPLIANCE

§ 155.1120 PURPOSE.

Zoning compliance is a process that allows the Zoning Administrator to review new uses, structures, activities, and developments prior to establishment of the use or commencement of development activities to ensure they comply with the standards in this chapter, have appropriate design and infrastructure, and comply with any conditions of rezoning, special exception use, or variance approval.

§ 155.1121 APPLICABILITY.

(A) This part applies to an application for zoning compliance approval. Unless elsewhere exempted by this chapter, an applicant shall obtain zoning compliance approval prior to:

- (1) Establishing a new conditional or special exception use;
- (2) Changing an existing use;
- (3) Reestablishing a use after a period of non-use of 180 days or more;
- (4) Constructing, moving, adding to, or structurally altering a building or other structure;
- (5) Constructing, enlarging, moving, or replacing a sign;
- (6) Commencing shoreline stabilization activities, removing trees measuring more than six inches DBH, or initiating land disturbance activity of any kind in a riparian buffer;
- (7) Removing trees measuring more than six inches DBH or initiating land disturbance activity of any kind in a cemetery buffer; and
- (8) Demolishing, destroying, removing, relocating, or renovating an historically or architecturally significant site, structure, or landmark located in the Historic Sites Overlay District.

(B) This part does not apply to any change to or replacement of the permanent copy on an existing lawful sign if the copy change does not change the size or nature of the sign in such a manner as to render the sign in violation of this chapter.

(C) Zoning compliance applications for communications towers or small wireless facilities are subject to the requirements in this part and in Part 4.

(D) Communications Towers Permits and Part 7 : Small Wireless Applications, as applicable.

(E) This part does not apply to home occupation permits, which are provided for in Part 5 Home Occupation Permits.

§ 155.1122 INITIATION.

(A) *Applicant eligibility.* A zoning compliance application may be initiated by:

- (1) The lot owner or tenant of the lot proposed for use or development; or
- (2) An agent of the lot owner or tenant of the lot proposed for the use or development.

(B) *Application requirements.* A zoning compliance application:

- (1) Shall be filed with the Zoning Administrator on an application form provided by the Planning and Development Services Department;
- (2) May be filed concurrently with a commercial building plan review application;
- (3) May be filed concurrently with a non-residential or multi-family construction plan application;
- (4) May be filed concurrently with a building permit application for a residential dwelling or sign structure.

§ 155.1123 DECISION.

(A) *Approval authority.* A zoning compliance application is reviewed and approved, approved with conditions, or disapproved by the Zoning Administrator.

(B) *Two-part approval.*

- (1) Zoning compliance applications have two components of approval:
 - (a) Site plan approval; and
 - (b) Final zoning compliance approval.
- (2) For a zoning compliance application proposing the establishment of a new use or change in use that does not

require any associated construction or land development activities, the Zoning Administrator may issue final zoning compliance approval at the same time as site plan approval.

(3) For a zoning compliance application proposing any construction or land development activities, the Zoning Administrator shall approve or approve with conditions the site plan prior to the issuance of building or land development permits, but shall not issue final zoning compliance approval until construction or land development is complete, except as provided in division (C), below.

(4) Prior to the issuance of a certificate of occupancy by the Building Official, the Zoning Administrator or Building Official shall conduct a field inspection to ensure the use(s) and structure(s) comply with the approved zoning compliance site plan.

(a) If the Zoning Administrator finds the use(s) and structure(s) comply with the approved zoning compliance site plan, the Administrator shall issue final zoning compliance approval.

(b) If the Zoning Administrator finds the use(s) or structure(s) does not comply with the approved zoning compliance site plan, the Administrator shall not issue final zoning compliance approval until the applicant corrects all deficiencies.

(C) Temporary zoning compliance approval for non-residential uses.

(1) Upon the applicant's request and prior to the issuance of a certificate of occupancy by the Building Official, the Zoning Administrator may issue a temporary zoning compliance approval for a non-residential use if the applicant has met all requirements of this chapter, except for the completion of impervious surfaces in parking areas, driveways, roads, sidewalks, and other areas.

(2) This does not include accessible parking spaces and accessways, which shall be surfaced prior to issuance of a temporary zoning compliance approval.

(3) A temporary zoning compliance approval may include certain safeguards and conditions in order to protect the safety of the occupants and the public.

(4) If the Zoning Administrator issues a temporary zoning compliance approval, the applicant shall submit to the Administrator financial assurance in the form of cash, a bank or cashier's check, or an irrevocable letter of credit. The financial assurance shall be filed in an amount equal to 150% of the cost to install and complete the improvements.

(5) Upon approval of the financial assurance for the proposed improvements, the applicant shall complete the improvements within 180 days of the financial assurance approval date.

(6) If the applicant fails to complete the required improvements satisfactorily within the required period of time, the financial assurance shall be forfeited and applied to the cost of completion of the required improvements.

(7) This provision in no way releases the applicant from financial liability incurred above the value of the financial assurance in making the required improvements. A request for a temporary certificate of occupancy and the posting of a financial assurance will constitute a waiver and absolute forfeiture of the right to request a variance from the above referenced requirements of this chapter.

(D) Zoning compliance approval for activities in a riparian or cemetery buffer.

(1) Activities in a riparian or cemetery buffer require two inspections by the Zoning Administrator.

(2) Prior to site plan approval, the Zoning Administrator shall conduct an inspection to ensure that the request meets the requirements of the chapter.

(3) If all applicable requirements for the project have been met, the Zoning Administrator shall issue site plan approval and the proposed work may begin.

(a) Prior to the initiation of work, the applicant shall install survey flagging to clearly indicate the location of:

1. The shoreline, river bank, stream bank, or cemetery boundary, as applicable;
2. The interior edge of the buffers;
3. All trees six inches DBH or greater;
4. All trees proposed to be removed; and
5. All areas proposed to be disturbed on the subject lot.

(b) The applicant shall have a period of 180 days from the issuance of the approval to complete the proposed work, at which time the permit shall expire.

(4) Upon completion of the work, the applicant shall notify the Zoning Administrator, and the second inspection shall be conducted to ensure that the scope of the work conforms to the activity authorized in the approved site plan.

(a) If the Zoning Administrator finds the work complies with the approved zoning compliance site plan, the Administrator shall issue final zoning compliance approval.

(b) If the Zoning Administrator finds the work does not comply with the approved zoning compliance site plan, the

Administrator shall not issue final zoning compliance approval until the applicant corrects all deficiencies.

(5) Prior to the second inspection of work in a riparian buffer, the applicant shall install permanent survey markers indicating the location of the interior edge of the buffer in accordance with Subchapter D, Part 3, Subpart 3.5, § 155.853: Marking of Buffers.

§ 155.1124 APPROVAL CRITERIA.

(A) The Zoning Administrator shall review the zoning compliance application for compliance with this chapter with respect to the following:

- (1) The application's compliance with applicable provisions of the zoning code including, but not limited to:
 - (a) Subchapter B: Zoning Districts;
 - (b) Subchapter C: Use Regulations;
 - (c) Subchapter D: Development and Design Standards;
- (2) The relationship of the development to adjacent uses in terms of compatibility, access, setbacks, and any other possible negative impacts;
- (3) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged;
- (4) The use of landscaping and fencing, walls, or berms to provide adequate screening to shield lights, noise, movement, or activities from adjacent lots where required; and
- (5) The use of outdoor lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection upon adjacent lots.

(B) When a zoning compliance application includes two or more lots proposed for development as a single, unified site, all setback, bufferyard, and screening requirements apply only to the exterior lot lines of the unified development site and not to internal lot lines within the unified site.

(C) The Zoning Administrator shall not issue a zoning compliance approval except in conformity with the provisions of this chapter, unless the Administrator receives a written order from the Board of Zoning Appeals in the form of an administrative appeal, special exception use, or variance as provided by this chapter.

§ 155.1125 SCOPE OF APPROVAL.

(A) *Approval of zoning compliance site plans.* Approval of a zoning compliance site plan is considered authorization to proceed with:

- (1) Activity in a riparian or cemetery buffer, which must be completed within 180 days of site plan approval;
- (2) Application for or issuance of a building permit for the lot(s) (see Chapter 150: Building Regulations); and
- (3) Application for or issuance of land development permits as required by Chapter 151: Floodplain Management, Chapter 152: Stormwater Management and Sediment Control, and Chapter 154: Land Development Code, as applicable.

(B) *Temporary zoning compliance approval.* Temporary zoning compliance approval:

- (1) Is valid for a period not to exceed 180 days following approval of the financial assurance; and
- (2) Authorizes the issuance of a temporary certificate of occupancy in accordance with Chapter 150, § 150.05: Temporary or Conditional Certificates of Zoning Compliance and Occupancy.

(C) *Final zoning compliance approval.* Final zoning compliance approval is considered authorization to proceed with:

- (1) Establishment of the proposed use; and
- (2) Application for or issuance of a certificate of occupancy.

§ 155.1126 RECORDKEEPING.

The Zoning Administrator shall maintain a record of all zoning compliance applications and related materials. A copy shall be furnished upon a written request of any person.

EXHIBIT 9



PLANNING & DEVELOPMENT SERVICES

18 W. LIBERTY STREET, PO BOX 96
YORK, SC 29745-0096
PHONE (803) 909-7200 / FAX (803) 909-7227



Application for Civil Construction Plan Approval

This Application for Civil Construction Plan Approval and the associated Guide and Checklist is not inclusive of all the requirements set forth by York County Planning & Development Services, and York County Engineering. Other local, state, and federal codes may also apply. Therefore, there may be requirements that are not addressed in the following Guide and Checklist. Also, further information on the requirements may be found in the York County's [Chapter 154 Land Development Code](#) and [Land Development Manual](#).

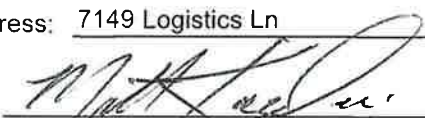
Project and/or Development Name: Silfab Parking and Utility Modifications

Applicant/Developer/Agent: ☒ Check box to be copied on correspondence (Email address required)

Name (Printed): Matt Korzelius/ Silfab Solar Cells SC Inc.

Phone Number: (716) 949-0241 Email Address: m.korzelius@silfabsolar.com

Mailing Address: 7149 Logistics Ln City, State, Zip Code: Fort Mill, SC 29715

Signature: 

Property Owner: ☐ Check box to be copied on correspondence (Email address required)

Name (Printed): RG Baxter Lane LLC / Antonio Zang

Phone Number: (770) 999-0837 Email Address: azang@rockefellergroup.com

Mailing Address: c/o Rockefeller Group Deve Corp City, State, Zip Code: Atlanta, GA 30326
3455 Peachtree Rd.

Signature: 

Professional Engineer: ☒ Check box to be copied on correspondence (Email address required)

Name (Printed): Daniel Esteban / Stantec Consulting Services, Inc.

Phone Number: (864) 315-3438 Email Address: daniel.esteban@stantec.com

Mailing Address: 101 N. Main Street, Suite 810 City, State, Zip Code: Greenville, SC 29601

Signature: _____ State and License Number: SC #27191

Registered Land Surveyor: ☐ Check box to be copied on correspondence (Email address required)

Name (Printed): _____

Phone Number: () Email Address: _____

Mailing Address: _____ City, State, Zip Code: _____

Signature: _____ State and License Number: _____

Any and all information provided on this document may be subject to the South Carolina Freedom of Information Act and may be disclosed to third parties in accordance with applicable law.

PROVIDE THE FOLLOWING WITH THIS APPLICATION:

- A. Submit One (1) DIGITAL PLAN completed including a signed copy of pages 1, 2, and 3 of this Application.
- B. For DIGITAL PLAN submittal, please access and upload the digital plan Through York County's Evolve Website at <https://evolvepublic.yorkcountygov.com/>. Log in or create an account, then select "Create Project". If you need further assistance, you may contact York County Planning & Development Services at (803) 909-7200.
- C. Civil Construction Plan Review Fee (as allowed by § 31.01 of the York County Code of Ordinances). If paying by check, please make check payable to York County, unless otherwise noted:

Civil Construction Plan Review Fee: (Make check payable to York County or use Credit Card)

- ☒ Initial Submittal:\$550.00
- ☐ 1st Re-Submittal: No Fee.
- ☐ 2nd Re-Submittal and subsequent Re-Submittals:\$350.00

Traffic Impact Analysis (TIA) Review Fee: (Make check payable to York County or use Credit Card)

- ☐ TIA Tier Zero: No Fee
- ☐ TIA Tier One:\$150.00.
- ☐ TIA Tier Two:\$300.00
- ☐ TIA Re-Submittal: Half the Initial Fee depending on Tier.

Land Disturbance Permit/Plan Review Fee: (Make check payable to York County or use Credit Card)

- ☒ Initial Submittal:\$350.00 per disturbed acre or fraction thereof.
- ☐ 1st Re-Submittal: No Fee.
- ☐ 2nd Re-Submittal and subsequent Re-Submittals:\$100.00 (< 1.0-acre land disturbance),

Or,

Half the Initial Fee up to a maximum of \$1,050.00 (≥ 1.0-acre land disturbance)

Resource Remediation Fee: (Make check payable to York County or use Credit Card)

- ☐ One Time Submittal:\$50.00 per disturbed acre or fraction thereof.

South Carolina NPDES General Permit for Stormwater Discharges Associated with Construction Activities (NPDES CGP) Coverage Fee: (Make check payable to SCDHEC or use Credit Card)

- ☐ Notice of Intent (NOI) Coverage Fee:\$125.00

NOTE: If using credit card for payment of the SCDHEC fee, SCDHEC typically sends an email direct to the Applicant with an invoice and payment instructions, following receipt of NOI approval from York County. SCDHEC requires 7 to 10 business days, upon receipt of payment, for processing and issuance of the NPDES Construction General Permit.

D. Tax Map Parcel Number(s): 7190000201

E. Existing Zoning & Land Use: Light Industrial, Vacant

Any and all information provided on this document may be subject to the South Carolina Freedom of Information Act and may be disclosed to third parties in accordance with applicable law.

F. Description of Proposed Subdivision or Commercial Development (acres, phases, and number of lots):

Parking modifications (replacing trailer storage parking with employee parking, replacing vehicle parking with accessible parking spaces), installing additional water and sewer utility services, installing required landscaping in modified parking areas. 0.98 acres disturbance for utility installation +

G. What classification does this development represent? (Check as applicable):

- ☐ New Development ☐ Re-Development ☐ Change of Use
- ☒ Building Renovation/Up-Fit ☐ Building Addition
- ☐ Other (please specify): landscaping, utilities

H. Water Utility Service Provider (Check as applicable):

- ☒ York County ☐ City of Rock Hill ☐ Town of Fort Mill
- ☐ City of Tega Cay ☐ City of York ☐ Town of Hickory Grove
- ☐ Town of Sharon ☐ Riverview Water District ☐ Private Well System
- ☐ Private Community Well System (Name): _____
- ☐ Private Utility Service Provide (Name): _____

I. Sanitary Sewer Utility Service Provider (Check as applicable):

- ☒ York County ☐ City of Rock Hill ☐ Town of Fort Mill
- ☐ City of Tega Cay ☐ City of York
- ☐ Private Individual Small On-Site Wastewater Systems (less than 1,500 gpd and as per S.C. Reg. 61-56).
- ☐ Private Large On-site Wastewater System (greater than 1,500 gpd and as per S.C. Reg. 61-56).
- ☐ Private Community Cluster On-site Wastewater System (greater than 1,500 gpd and as per S.C. Reg. 61-56).
- ☐ Private Utility Service Provider (Name): _____

J. Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application?

☐ Yes ☒ No

K. Is the owner of the property aware of and has authorized the proposed work as described in this application?

☒ Yes ☐ No

L. Certification:

By my signature below, I certify, under penalty of law, the provided information in the application is true, accurate and complete to the best of my knowledge.

Applicant Name (Signed):



Date:

9/24/23

Applicant Name (Printed):

Matt Korzelius / Silfab Solar Cells SC Inc.

Any and all information provided on this document may be subject to the South Carolina Freedom of Information Act and may be disclosed to third parties in accordance with applicable law.

PROCESS FOR REVIEW AND APPROVAL:

- A. A civil construction plan application is required to be submitted for construction plan review for a major subdivision that has received preliminary plat approval and for a non-residential or multi-family development. An applicant must obtain construction plan approval before making any street improvements or installing any utilities.
- B. Applicant eligibility shall be per § 154.332(A). **Note that an application by an Agent for the Owner shall require a notarized authorization from the Owner.**
- C. An application for approval of a civil construction plan shall be filed with the Planning and Development Services Director on this application form provided by the Planning and Development Services Department. [Subchapter L: Submittal Requirements](#) provides the required submittals for subdivision construction plan applications.
- D. As allowed by § 154.274, an application is not complete until all required items (see [Subchapter L: Submittal Requirements](#)) are submitted and accepted by the County. If Department staff determine that the application is not complete, Department staff will transmit the determination to the applicant within 10 business days of the application's filing date that specifies those parts of the application that are incomplete and indicates how they can be made complete, including a list and description of the information needed to complete the application. The Department staff and the review and decision-making bodies are not obligated to further review the application until the required information is provided. If the applicant fails to provide the required information within 180 days of the application filing date, then the application expires, and an applicant may be required to re-file an application for any further consideration.
- E. Other reviewing departments shall indicate in writing to the Planning & Development Services Department any specific inadequacies, comments or conditions affecting the proposed subdivision, anticipated development and surrounding areas. These comments will be forwarded to the Applicant.
- F. The applicant shall submit one complete digital (PDF) copy of all final approvals from any other required local, state, or federal permitting agencies as a pre-condition for approval of the civil construction plans. All approvals must be demonstrated to be up-to-date and in effect. In cases where a final permitting agency approval has not been rendered at the time a County application is submitted, the applicant shall provide one complete digital (PDF) copy of the application submitted to other permitting agencies. Once final approval is received, the applicant shall provide one complete digital (PDF) copy of the permit to County staff.
- G. The Director of Planning and Development Services may approve a properly completed application for approval of a civil construction plan by stamping it approved and will notify the applicant of the decision in writing. The Director shall approve a properly completed application for civil construction plan approval if the plan conforms with the requirements of Chapter 151: Flood Damage Prevention Ordinance, Chapter 152: Stormwater management and Sediment Control Ordinance, Chapter 154: Land Development Code, and Chapter 155: Zoning Code.
- H. Appeals: As allowed by § 154.335, the applicant may appeal any administrative decision on an application for a civil construction plan approval in accordance with [Part 12: Appeals of Administrative Decisions](#).
- I. Civil construction plans are usually submitted prior to architectural building construction plans but may be submitted simultaneously with building plans for review. If submitted at the same time, the civil construction plans and building plans should be submitted as two separate packages or plan sets. Do not combine civil plans and building plans. A building permit will not be approved until the associated civil construction plans are approved.
- J. Final Plat Approval Required: Approval of a civil construction plan for a major subdivision shall not constitute approval of the final plat. Application for approval of the final plat shall be considered only after the specifications and requirements of this Chapter are met and all other specified conditions have been met. Upon approval of the civil construction plan, the developer may proceed to comply with other requirements of Chapter 154: Land Development Code and the preparation of the final subdivision plat.
- K. Commencement of Construction: Pursuant to § 154.336, improvements authorized by the civil construction plan approval must begin within 12 months from the date of the approval or the approval shall be considered null and void. If this 12-month requirement is not met or if the project ceases at any time for a period of 12 consecutive months, the developer shall then resubmit for civil construction plan approval and preliminary plat approval, if applicable, in

accordance with the Land Development Code. **Note that the scheduling and conducting of a Pre-Construction Conference, in and by itself, does not constitute a demonstration of construction start. Actual construction and land disturbance activities must be shown to have started.** For multi-phase approvals, phases approved by the Director that are not being constructed are not considered null and void provided other phases are being actively developed. In addition, changes in phase lines may be reviewed and approved by the Director.

CIVIL CONSTRUCTION PLAN REQUIREMENTS

The civil construction plan and supporting data shall comply with § 154.330 through § 154.344, the [Land Development Manual](#) and shall include necessary basic standards of design as set forth in these regulations to provide a complete application package. All construction plans and specifications submitted to York County for approval must be prepared, amended when necessary, and signed and stamped by a qualified and active registered professional engineer, meeting the requirements of S.C. Code, Title 40, Chapter 22 – Engineers and Surveyors.

MINIMUM STANDARDS FOR CIVIL CONSTRUCTION PLAN APPLICATION

GENERAL:

- ☒ Show proposed name of project or subdivision.
- ☒ Provide the name, mailing address, email address, and phone number of the owner and/or developer, the design professional engineer(s), and registered land surveyor, all responsible for the preparation of the plan.
- ☒ Include a map scale using appropriate engineer's scale, north arrow, and date. The north arrow shall be identified as magnetic, true, grid, or reference.
- ☒ The plan sheets shall be drawn at an appropriate engineer's scale.
- ☒ A vicinity map at a scale of not less than 1-inch equals 1-mile showing the relationship to the adjacent surrounding area.
- ☒ The boundaries of the tract to be subdivided with all bearings and distances indicated. At least two points of the survey must be tied to SC geodetic control points (i.e. State Plane coordinates). An on-site temporary benchmark shall be established by the registered land surveyor with reference to datum to appropriate datum including State Plane coordinates and shown and labeled on the plat.
- ☒ Dimensions and size (in acres or square footage of developed land) of each proposed lot, building and the total site, as a whole, to be developed.
- ☒ Setback requirements for all buildings and structures (Refer to [Chapter 155: Zoning Code](#)).
- ☒ Address and show any and all applicable Conditional and Special Exception requirements, including separation and other restriction requirements, for the proposed use (Refer to [Chapter 155: Zoning Code](#)).
- ☒ Show proposed major contour changes in areas where substantial cut and/or fill is proposed.
- ☒ Show municipal boundary limit lines, if adjacent to the property.
- ☒ Tax map number, Zoning District, and Overlay District.
- ☒ Land use (e.g. commercial, residential, etc.), including tax map number and zoning classification of adjacent property owners.
- ☒ Show location of existing and proposed roadways, alleys, and/or railroads, all existing and proposed curb cuts and driveways, the respective existing and proposed roadway rights-of-way, existing and proposed utility and stormwater easements on the site and adjacent properties within a minimum 300-feet of the project site.
- ☒ Show topography by contours at vertical intervals of no larger than two feet. All elevations shall refer to Mean Sea Level Datum.

- ☐ A preliminary site evaluation or Traffic Impact Analysis (TIA) is required to be reviewed and approved prior to approval of the civil construction plan per § 154.513.
- ☐ Further information, including process and procedure for review and approval, can be found in [Part 7: Traffic Impact Analysis](#) of the Land Development Code and the separate, stand-alone York County [Traffic Impact Analysis Checklist](#).

ZONING:

BUILDINGS: See architectural plans/building up-fit submittal for building specifications

- ☐ Shape, dimensions and location of all buildings (existing and proposed).
- ☐ Label the proposed zoning use for the property and for each building structure.
- ☐ Setback requirements for all buildings and structures (Refer to [Chapter 155: Zoning Code](#)).
- ☐ Building height.
- ☐ Building construction type.
- ☐ Specific building design standards per District or Overlay (Refer to [Chapter 155: Zoning Code](#)).
- ☐ Building orientation in relation to street (Refer to [Chapter 155: Zoning Code](#)).
- ☐ Label the proposed building wall types per § 155.782. (Primary, Secondary, Utility and Active or Inactive.)
- ☐ Proposed location for a future ground sign to be permitted separately.
- ☐ Complete a Demolition Permit Application if any buildings will be demolished. An asbestos inspection report and SCDHEC demolition permit may be required.

PARKING LOTS: As applicable

- ☒ Number of parking spaces provided and number required per [Chapter 155: Zoning Code](#).
- ☒ Dimensions of parking spaces and aisles.
- ☐ Loading spaces, if required.
- ☐ Traffic circulation plan including vehicle entrance stacking and queuing lane lengths. (Refer to [Chapter 154: Land Development Code – Sub. B: Part 2 Site Design](#))
- ☐ External street connectivity. Show ingress and egress points to streets or other property.
- ☐ Total impervious surface area (including gravel parking lots).
- ☐ Location, size and number of dumpster pads.
- ☐ Location and dimensions of fire lanes for any building that is 15,000 square feet or more.
- ☒ Indicate how parking spaces will be separated from walkways, sidewalks, streets or alleys, and required yards (can be a wall, fence, curbing, or other pre-approved protective devices). (Refer to [Land Development Manual](#))
- ☒ Indicate barriers along driveways and parking areas to control entrance and exit of vehicles and pedestrians.
- ☒ Indicate how individual parking spaces, crosswalks, drive aisles, etc. will be marked.

OPEN SPACE: N/A

- ☐ A separate open space plan shall be submitted as a part of the civil construction plan set per § 154.185(A), and shall meet all requirements set forth in [Chapter 154, Part 3: Open Space](#).
- ☐ All open space shall meet a minimum dimension of 40' x 40', except for greenways. Greenways shall be at least 20' in width. A multi-use trail will need to be proposed to qualify as a greenway.

- ☐ Amenities required dependent upon number of parking spaces or dwelling units per § 154.184(D). Refer to Table 154.184.-1 for the number of amenities required and amenities considered acceptable.

LANDSCAPE: As applicable

- ☒ Landscape Plans (Tree Planting Plans) for civil construction plan sets shall be prepared by a licensed landscape architect in the State of South Carolina per § 154.205(A)(2)(b).
- ☒ Meet landscape plan (Tree Planting Plan) requirements set forth in Sect. 4.2 of the *Land Development Manual*.
- ☐ Submit a tree survey with the civil construction plan as required per § 154.199(A)(1)(d). The tree survey shall specify the species, size, location, and health of all trees required to be surveyed. The following categories shall be surveyed:
 1. Grand Trees - Per § 154.200, all Grand Trees within the proposed limits of disturbance or within twenty-four feet (24') from the proposed limits of disturbance must be located. The species, size, and health information of the located Grand Trees must also be provided. All Grand Trees must be retained on any development site except in the AGC and AGC-I Districts. The qualifying size of a Grand Tree is based on the species, and can be found in Table 154.200-1.
 2. Bufferyards – Survey all trees over (6") DBH per § 155.822(A)(4).
 3. Tree Save Areas (if applicable) - Survey all tree over six inches (6") DBH per § 154.199(A)(1)(d)(1). A 100' x 100' sample survey may be provided for tree save areas three acres or larger per § 154.199(A)(1)(d)(2).
- ☐ Bufferyards shall be shown and labeled, and standards shall be followed per § 155.820 through § 155.838. All existing trees six inches (6") DBH and larger shall be retained per § 155.822(A)(1), except for right-of-way bufferyards, which may be replanted per § 155.804(C). See Table 155.823-1 for non-residential developments and Table 155.824-1 for major residential subdivisions.
- ☐ Tree save areas shall be shown and labeled, and standards shall be followed per § 154.195 through § 154.214. All tree save areas shall be at least 2,000 square feet in area and twenty-five feet (25') in width per § 154.199(A)(1)(b).
- ☒ Parking Lot Landscaping per § 154.028
- ☐ Foundation Landscaping per § 155.811
- ☐ Internal Lot Boundary Landscaping § 155.812

TREE PROTECTION N/A

- ☐ A separate Tree Protection Plan is to be provided in the civil construction plan set as required by § 154.205.(A).(1).
- ☐ Meet Tree Protection Plan requirements set forth in Sect. 4.1 of the *Land Development Manual*.
- ☐ Show and label tree protection fencing around trees to be preserved.
- ☐ Standard Notes & Details: See Sect. 4 of the *Land Development Manual* for standard notes and details to provide on tree protection plans.

LIGHTING: N/A

- ☐ Show exterior outdoor lighting meeting the specific provisions per *Chapter 155: Zoning Code*, including *Subchapter D, Part 4: Outdoor Lighting*, as applicable.
- ☐ For Special Districts, provide a Master Lighting Plan meeting the requirements of § 155.079.

CERTIFICATIONS AND NOTES: N/A

- ☐ As applicable, note conditions of the proposed zoning use. (*Chapter 155: Zoning Code – Sub C: Part 3*)

- ☐ Location of any known abandoned cemeteries as defined in § 155.861. Minimum buffer requirements shall comply with § 155.863. If abandoned cemeteries do not exist on the property, provide the following statement:

THE DEVELOPER OR PROPERTY OWNER HAS CONFIRMED THROUGH A TITLE SEARCH AND A REVIEW OF THE HISTORIC SURVEY OF YORK COUNTY MAINTAINED BY THE YORK COUNTY CULTURAL AND HERITAGE COMMISSION STAFF THAT NO KNOWN ABANDONED CEMETERIES EXIST ON THE PROPERTY.

- ☐ As applicable, the rezoning case number, approved zoning district, and conditions of rezoning, shall be noted on the commercial site plan. Additionally, if a variance or special exception has been granted, the commercial site plan shall include a reference noting the variance or special exception granted, including conditions, if any.
- ☐ The York County may establish additional requirements, including the submission of legal affidavits stating an applicant's and/or property owner's intent to comply with applicable codes, for site plan approval, and in special cases, may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper assessment of the project.
- ☐ Landscape Standard Notes & Details: See Sect. 4.6 of the Land Development Manual for standard notes and details to provide on landscape plans and tree protection plans

ROADWAYS: N/A

All roadways or streets, whether public or private, classified as alleys, local streets, or connectors shall be designed and constructed in accordance with the standards established in the [Land Development Manual](#). The design for arterial streets and other types of major roads shall meet South Carolina Department of Transportation Road Design Standards and be approved by the County Engineer on a case-by-case basis. The design for these roads should be based on the expected traffic load, speed, and a complete soil report. Note that the following section references refer to provisions of the [Land Development Manual](#) unless otherwise noted.

- ☐ Design professionals are encouraged to review and utilize the following separate technical and design checklist:
1. [York County Roadway Construction Plans Checklist for Design Professionals](#)
- ☐ Per § 57-9-10 of the South Carolina Code of Laws, no plan approval of any kind will be given to a developer who wants to change an existing County road or its right-of-way. The road or right-of-way must be legally abandoned and copies of all legal actions must be forwarded to York County Engineering prior to plan approval.
- ☐ Improvement of existing substandard or unpaved roadways is required per § 154.092(F), where applicable.
- ☐ Roadways are to be classified in accordance with Sect. 2.3.2(A).
- ☐ Traffic data is to be determined using the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, per Sect. 2.3.3(A).
- ☐ Per Sect. 2.3.8, a Subsurface Investigation Report (SIR) shall be submitted with Civil Construction Plans for County approval, to either demonstrate and support the use of the County's minimum pavement cross-sections and standards, or, demonstrate and support an alternative pavement design that exceeds the County's minimum standards.
- ☐ Per Sect. 2.3.4, roadway geometric elements are to comply with SCDOT and AASHTO standards, whichever may be stricter.
- ☐ Right-of-way for County and private roadways shall meet the requirements of § 154.093(B) and as discussed in Sect. 2.3.5.
- ☐ Half streets are not allowed, per § 154.093(C).
- ☐ Provide typical roadway cross-section(s) indicating the roadway type(s) to be proposed, per Sect. 2.2(B)(9).

All roadway details must be York County Standard Details as provided in the Land Development Manual.

- ☐ Pavement widths shall comply with Sect. 2.3.6 and Table 2-3 of the Land Development Manual.
- ☐ Streets must be designed with either curb and gutter or open ditch. The mixing or combination of ditch drainage and curb and gutter roadways along the same road is prohibited per Sect. 2.3.6(C).
- ☐ Minimum horizontal curve radii shall comply with Sect. 2.3.10 and Table 2-5 of the Land Development Manual.
- ☐ Roadway intersections shall comply with § 154.093(E) and Sect. 2.3.15.
- ☐ Clear sight distance and sight easements shall be provided at all roadway intersections, per § 154.093(F). Sight easements are required at each proposed entrance and intersection per Sect. 2.3.15(C) and Table 2-7.
- ☐ Curb cuts shall comply with Sect. 2.3.19.
- ☐ Entrance islands shall comply with Sect. 2.3.20.
- ☐ Street access management for both public and private roadways is governed by § 154.093(K). Gated entrance requirements are provided in § 154.093(K)(2) and Sect. 2.3.20(H).
- ☐ All dead-end roadways are to comply with § 154.092(E)(3) and Sect. 2.3.21 and are to terminate in an approved turnaround.
- ☐ Temporary dead-end roads are to be provided with a temporary turnaround consistent with Sect. 2.3.23 and the standard details.
- ☐ Cul-de-sac requirements are presented in Sect. 2.3.22.
- ☐ Alley ways are subject to the provisions of § 154.093(G).
- ☐ Roadways that are proposed to be private, not County-maintained, are to meet the requirements of § 154.093 and Sect. 2.3.25. Private road ways shall be designed, constructed, and inspected meeting the same York County standards for public road ways.
- ☐ Road connectivity requirements are presented in Sect. 2.3.26.
- ☐ Roadway bridge crossings shall meet the requirements of § 154.093(H) and Sect. 2.3.27.
- ☐ Traffic calming requirements are provided in § 154.093(J) and Sect. 2.3.28 and are required where a road length is 2,000-linear feet or greater. Roadway stormwater drainage provisions are found in § 154.093(I) and Sect. 2.3.29. Easements are to be shown on the plat per Sect. 2.3.29(C).
- ☐ Acceptable pipe materials for stormwater infrastructure within right-of-way or County-dedicated easement can be found in Sect. 2.3.29(C).
- ☐ Stormwater infrastructure within the right-of-way will require digital video camera inspection per Sect. 2.3.29(H) and Sect. 2.7.2(B). Inspection criteria shall be per Sect. 2.7.2(C).
- ☐ Roadway signage provisions can be found in § 154.093(L).

NOTES:

1. *ROADS ARE TO BE PROPOSED FOR ACCEPTANCE INTO THE YORK COUNTY ROADWAY SYSTEM.*
or,
ROADS ARE TO ARE TO BE PRIVATE ROADS MAINTAINED BY THE DEVELOPER OR DEVELOPER'S DESIGNEE;
whichever condition applies;
2. *INDIVIDUAL LOT IRRIGATION SYSTEMS ARE NOT PERMITTED WITHIN THE ROAD RIGHT-OF-WAY;*

3. *THE DEVELOPER, INDIVIDUAL LOT OWNER, OR THEIR REPRESENTATIVES SHALL NOT PIPE OR FILL IN ROADSIDE DITCHES NOR DISCHARGE LOT OR ROOF DRAINAGE SYSTEMS INTO ROADSIDE DITCHES, ENCLOSED ROAD DRAINAGE SYSTEMS, OR ROAD RIGHT-OF-WAY WITHOUT SUBMITTING A ROAD ENCROACHMENT PERMIT TO THE YORK COUNTY PUBLIC WORKS DEPARTMENT FOR APPROVAL;*
4. *THE DEVELOPER OR HIS DESIGNEE IS RESPONSIBLE FOR KEEPING ALL SIGHT DISTANCE EASEMENTS CLEAR OF ALL SIGNS, VEGETATION, AND OTHER OBJECTS THAT MAY BLOCK DRIVERS' LINE OF SIGHT.*

WATER AND WASTEWATER UTILITIES:

All water and sewer systems that are dedicated and maintained by York County and wholesale systems shall meet all requirements as described in *Title V – Public Works* and *Chapter 154 – Land Development Code* of the York County Code of Ordinances, including the most recent edition of the *York County Land Development Manual*, the *York County Water and Sewer Technical Specifications*, the *York County Water and Sewer Details*, and applicable regulations promulgated by the South Carolina Department of Health and Environmental Control (SCDHEC).

- ☒ Design professionals are encouraged to review and utilize the separate technical and design checklists depending on the type of proposed development project:

1. **Subdivision and Commercial Development with multiple connections:**

1. *York County Water and Sewer Construction Plans Checklist for Design Professionals*

2. **Civil Development Project with a single connection:**

1. *York County Individual Service Connection Construction Plans Checklist for Design Professionals*

- ☒ Per § 154.131(A), all new development located within 1,000-feet of a public water distribution or gravity sewer collection line, as measured from the closest point of the parcel to the line(s), shall connect to such systems.
- ☒ No water or sewer utilities shall be extended outside the Urban Services Boundary as delineated in the adopted York County Comprehensive Plan unless approved by the County Council, pursuant to § 154.132(B)(1).
- ☒ York County may require the over-sizing of utilities to meet the demands of planned system capacities, and may require the extension of utility lines to immediately adjacent properties following the provisions under § 154.132(B)(2).
- ☒ **Proposed York County Systems and Wholesale Systems.** As a pre-condition to civil construction plan approval, the following shall be provided as described in § 154.133(B):
1. Water and sewer plans meeting the submittal specifications of the *York County Water and Sewer Specifications*;
 2. A non-reimbursable extension agreement between York County and the developer;
 3. A letter of willingness and capability from York County stating the intent to provide the project with water and/or sewer service.
 4. A copy of the application for construction to be submitted to SCDHEC.

- ☐ **Proposed Non-York County Systems (Other than Wholesale Systems).** All water and sewer systems that are to be dedicated and maintained by agencies other than York County or wholesale systems shall be approved by both York County and the applicable service agency. These lines shall be designed and constructed to the standards of the appropriate service agency and are subject to review by York County, SCDHEC, and the appropriate service agency. The following shall be submitted for York County's review as a pre-condition to civil construction plan approval as described in § 154.133(C):

1. A general layout plan and typical section drawn to the specifications of the *York County Land Development Manual*, or those of the service provider, if it is not York County; and

2. A letter from the servicing agency indicating their approval of the utility plan and willingness and capability to supply the proposed development.
- ☐ **Proposed On-Site Wastewater Disposal Systems.** Pursuant to § 154.134, prior to the construction of any on-site waste water disposal system, the location, size, plans, and specifications of such a facility shall be approved by SCDHEC and any other applicable agencies per SC Reg. 61-56: *Onsite Wastewater Systems*. In addition, the following County standards shall apply to all on-site wastewater systems:
1. **Drain Fields.** On-site wastewater system drain fields may not occupy any portion of a dedicated open space.
 2. **Pipe Location.** Pipes associated with an on-site wastewater system may not encroach within or cross any right-of-way.
- ☒ Individual lot irrigation systems are not permitted to be installed within road rights-of-way. Irrigation systems shall only be permitted in entrance medians and cul-de-sac islands if a surface and subsurface drainage system is designed and provided as described in § 154.135.
- ☐ Per § 154.136(A), on arterial roads, all utility services constructed outside the road right-of-way or an existing utility easement will be installed underground or along the rear property line. Existing distribution facilities may remain in place.
- ☐ Per § 154.136(B), utility lines constructed along new arterial roads will be placed underground where feasible, utilizing appropriate utility industry best engineering practices in making the determination.
- ☐ Where additional right-of-way is required to be dedicated under § 154.092(C), new utilities installed to serve the development shall be placed within easements located in a manner that will not require their relocation as part of the improvement project, and easements will be provided at the edge of the dedicated right-of-way for existing utilities to accommodate their relocation during construction, as described in § 154.137.
- ☐ General Utility Easement Requirements:
1. All utility lines and appurtenant facilities shall be located within dedicated easements, unless installed within a road right-of-way.
 2. Water and sewer utility lines that will be dedicated to York County shall be located within easements that meet the specifications of the [York County Land Development Manual](#).
 3. All other utilities shall be installed in easements having a minimum width of 20 feet, and shall be centered on side and rear lot lines.
- ☒ Provide the following note on the utility drawing sheet(s):
- "ALL APPLICABLE WATER/SEWER IMPACT AND METER FEES MUST BE PAID BEFORE ANY BUILDING PERMITS ARE ISSUED."*
- Note: In order to pay the fees, the Water and Sewer Account application must be completed by the entity responsible for payment. The Water and Sewer Account Information for Commercial Projects form must be completed and returned to the Utility Plan Reviewer. Failure to do so could result in a delay for releasing the building permit. This form can be accessed on the Development Services Webpage.
- ☒ At all tie in locations, add the following note to the construction plans:
- "CONNECT TO EXISTING (INSERT SIZE IN INCHES) WATER MAIN AFTER SUCCESSFUL TESTING & SAMPLING."*

BUILDING & CODES: As applicable / See architectural plans/building up-fit submittal for building specifications

The following items are per the 2018 International Building Code, Table 602 and 2017 ICC A117.1 Accessible and Usable Buildings and Facilities. Please note that this guide may not be all-inclusive and additional items may warrant comment from the York County Planning & Development Services Department.

If further information is needed regarding this portion of the plan review, please contact the York County Building

Plans Examiner. Please provide the following items when applicable:

BUILDING SEPARATION DISTANCE:

- ☐ The building/structure should maintain a 20' separation from other buildings/structures on or off-site. If this cannot be achieved, provide rating protection on the walls that do not meet the 20' separation per Table 602 of the 2018 International Building Code.

ACCESSIBLE PARKING SPACES:

- ☒ Minimum space or stall requirements is based on the International Building Code per § 154.027(D) and as summarized on Standard Detail #2.06 of the Land Development Manual.
- ☐ The sidewalk shall provide curbed access at the parking area that does not impede the access aisle.
- ☐ The outside and inside of all doorways must have a minimum of 18" of clearance on the latch side of door to allow for wheelchair to get out of the way of the door swing when a 5' x 5' area is provided.
- ☐ Ramp and deck must have pickets 4" OC with guardrails 42" high if over 30" from level ground. Ramp must maintain a 1": 12" slope with no more than a 2% cross slope.
- ☐ Ramp and deck must have handrails between 34" to 38" if the rise is greater than 6".
- ☐ Handrail must have a 2" graspable surface and extend 12" past walking surface.

CURB RAMP:

- ☐ Sidewalks and curb ramps shall be located and constructed in accordance with § 154.121 and Sect. 2.3.31 of the *Land Development Manual*. Refer to Standard Details #2.01 and 2.09 of the *Land Development Manual*.
- ☐ The curb cut ramp shall be located at the top of the access aisle of the accessible parking spaces.
- ☐ If the accessible parking spaces are located across a vehicular aisle, a minimum 36" wide striped crosswalk leading from the access aisle to the curb cut ramp shall be provided.

PATH OF TRAVEL:

- ☐ Accessible path of travel shall be a minimum of 4-feet wide, per Sect. 4.3.5.1 of the 2017 ICC A117.41.
- ☐ All objects protruding into the path shall be detected by a person with a visual disability using a cane. In order to be detected using a cane, an object shall be within 27" of the ground. Objects hanging or mounted overhead shall be higher than 80" to provide clear head room. It is not necessary to remove objects that protrude less than 4" from the wall.
- ☐ The path of travel shall maintain a cross slope of less than 2%.
- ☐ All areas of sudden elevation along the accessible path shall be less than 1/4".

ACCESSIBLE ENTRANCE:

- ☐ At least 60% of all public entrances shall be accessible (not including delivery entrances or employee entrances).
- ☐ All inaccessible entrances shall have signs indicating the location of the nearest accessible entrance.
- ☐ The threshold level shall be less than 1/4", or beveled, up to 1/2" high.
- ☐ A clear and level landing area of 5' x 5' shall be provided at each accessible entrance with a maximum 1": 48" surface area.

FIRE SAFETY: As applicable / See architectural plans/building up-fit submittal for building specifications

The York County Department of Fire Safety reviews all civil construction plan submittals for compliance with the 2018 International Fire Code and referenced standards. The following is a list of common code requirements which should be shown on the plans, if applicable. (This should not be considered all of the requirements and any applicable section of the 2018 International Fire Code should be documented).

- ☒ The 2018 International Fire Code section 503.2.1, requires fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).
- ☐ The 2018 International Fire Code section 507.5.1 (as amended by the SC Building Codes Council) states: Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 500 feet (152m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on site fire hydrants and mains shall be provided where required by the fire code official. The location and number of hydrants shall be designated by the fire official, but in no case, shall distance between installed fire hydrants exceed 1000 feet (305 m). Fire hydrants shall be located within 500 feet (152 m) of all fire fighter access points when measured along the normal routes of fire department vehicle access which conforms to the requirements of section 503. No point of the exterior of a building shall be located more than 500 feet (152 m) from a hydrant accessible to fire department vehicles as provided in section 503.

Exceptions:

1. For Group R-3 and Group U occupancies, the distance requirements shall be 600 feet (183m).
 2. For buildings equipped with an automatic sprinkler system installed in accordance with Section 903.1.1.1 or 903.3.1.2 the distance requirement shall be 600 feet (183m).
- ☐ The 2018 International Fire Code section 912.2 allows the fire code official to designate the location of the sprinkler system's "fire department connection" with respect to fire hydrants. The York County Dept. of Fire Safety requires the "fire department connection" to be located within 100 feet to a fire hydrant connected to a public water supply.
 - ☐ § 51.17(E) requires any construction or extension of any water main or water system in the unincorporated areas of the county to have fire hydrants installed at intervals not to exceed 1000 feet in residential areas and 300 feet in commercial or industrial areas. Fire hydrants shall be installed so as to be accessible by fire apparatus at ALL intersections.
 - ☐ The 2018 International Fire Code, section 503.1.1 requires approved fire apparatus access roads to be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.
 - ☐ The 2018 International Fire Code, section 503.2.5 requires dead end fire apparatus access roads in excess of 150 feet in length to be provided with an approved area for turning around fire apparatus.
 - ☐ A site plan must be submitted to confirm compliance with the 2018 International Fire Code requirements for water supply and fire apparatus access.

ENVIRONMENTAL AND FLOOD DAMAGE PREVENTION:

As applicable / See architectural plans/building up-fit submittal for building specifications

- ☒ Show location and label any and all streams, ponds, lakes, wetland and/or other riparian features surface water features as indicated by the U.S. Fish & Wildlife Service or United States Geologic Service national wetlands inventory database.

- ☒ Show the regulatory flood hazard area including the regulatory floodway limits based on FEMA FIRM mapping for the 100-year (1% annual risk) flood event. Base flood elevations (BFEs) referenced to mean sea level shall be identified. Provide reference current FEMA FIRM map number(s) including effective date on the plat.
- ☐ Subdivision and Commercial civil construction plans shall address the applicable provisions of [Chapter 151 – Flood Damage Prevention Ordinance](#).
- ☐ A lowest floor elevation or floodproofing certification is required after the lowest floor is completed and before the approval of an open floor inspection by the Building and Codes Department, as required by § 151.23(B)(1) and (2). Upon completion of the development, as-built certification is required per § 151.23(B)(3).
- ☐ Residential Construction: Any residential structure (including manufactured homes), including any substantial improvement, shall have the lowest floor elevated no lower than two (2.0) feet above the base flood elevation, per § 151.36(A).
- ☐ Non-Residential Construction: New construction and substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor elevated no lower than two (2.0) feet above the level of the base flood elevation, per § 151.36(B).
- ☐ For streams without established Base Flood Elevations and/or floodways per § 151.37(E), provide a hydrologic and hydraulic engineering analysis that generates Base Flood Elevations for all subdivision proposals and other proposed developments containing at least 50 lots or five (5) acres, whichever is less.

STORMWATER, EROSION & SEDIMENT CONTROL: N/A - Disturbed area < 1.0 acres

- A. Please refer to [Chapter 152 – Stormwater Management and Sediment Control Ordinance](#) of the York County Code of Ordinances, the [York County Stormwater Management Design Manual](#), and the most recent edition of SCDHEC's NPDES General Permit for Stormwater Discharges for Construction Activities for additional information on plan requirements for Environmental Compliance. For sites that are a part of a larger common plan of development where storm water quantity and post construction water quality are provided for in a shared storm water management facility, sedimentology trapping efficiencies must be calculated and provided as a part of the C-SWPPP. This site plan must be prepared and sealed by a design professional registered in the State of South Carolina.

NOTE: If the property on which any land disturbance activity or development includes any wetlands, ponds, lakes, special flood hazard areas, streams or other environmentally sensitive areas or buffers, permits may be required from the appropriate State and Federal jurisdictional agencies as a pre-condition for issuance of a York County Land Disturbance Permit.

- ☐ Design professionals are encouraged to review and utilize the following separate technical and design checklist:
 1. [York County Stormwater Management and Sediment Control Plan Review Checklist for Design Professionals](#)
- ☐ Stormwater civil site designs, including any supporting hydraulic and hydrologic calculations and modeling, shall comply with the following standards, unless otherwise specified otherwise, and applicable ordinances and manuals:
 1. The [York County Land Development Manual](#), including attached standard details.
 2. York County Chapter 152 – Stormwater Management and Sediment Control Ordinance,
 3. York County Stormwater Management Design Manual,
 4. South Carolina NPDES General Permit for Stormwater Discharges from Construction Activities, effective March 1, 2021,
 5. S.C. Regulation 72-300 – Standards for Stormwater Management and Sediment Reduction,

6. S.C. Regulation 61-9.122.26 – Permit Application and Special NPDES Program Requirements - Stormwater Discharges,
7. S.C. Code Ann. § 48-1-10, et seq. – South Carolina Pollution Control Act, and
8. S.C. Code Ann. § 48-14-10, et seq. – South Carolina Stormwater Management and Sediment Reduction Act.

CERTIFICATIONS AND NOTES

- ☐ Provide Applicant Certification on the Plan Cover Sheet, per Sect. 2.6.1 of the *Stormwater Management Design Manual*.
- ☐ Provide Design Professional Certification on the Plan Cover Sheet, per Sect. 2.6.2 of the *Stormwater Management Design Manual*.
- ☐ Provide the SCDHEC Standard Notes from the South Carolina NPDES General Permit for Stormwater Discharges from Construction Activities, per Sect. 5.4 of the Land Development Manual
- ☐ The following York County Standard Notes are required. Other standard notes that are required can be found under Sect. 3.1 of the *Stormwater Management Design Manual*. Further additional notes may be required based on site-specific conditions.
 1. *THIS SITE IS CONSIDERED TO BE A LARGER COMMON PLAN (LCP) OR IS PART OF A LARGER COMMON PLAN OF DEVELOPMENT, AS DEFINED BY YORK COUNTY ORDINANCE AND SCDHEC REGULATIONS. STORMWATER DETENTION AND WATER QUALITY REQUIREMENTS SHALL BE REQUIRED FOR LAND DISTURBANCE DURING THE DEVELOPMENT OF ANY AND ALL LOTS WITHIN THIS LARGER COMMON PLAN.*
 - a. *STORMWATER QUANTITY OR DETENTION MEASURES SHALL BE IMPLEMENTED WHERE TWO (2) OR MORE ACRES ARE DISTURBED OR ARE PLANNED TO BE DISTURBED.*
 - b. *STORMWATER WATER QUALITY MEASURES SHALL BE IMPLEMENTED WHERE FIVE (5) OR MORE ACRES IN THIS LCP ARE DISTURBED OR ARE PLANNED TO BE DISTURBED.*
 - c. *ALL PERMANENT STORMWATER MANAGEMENT FACILITIES AND BEST MANAGEMENT PRACTICES (BMPS) SHALL REQUIRE A COVENANT FOR PERMANENT STORMWATER SYSTEM MAINTENANCE AND RESPONSIBILITY FORM TO BE RECORDED WITH THE YORK COUNTY REGISTRAR OF DEEDS. THIS AGREEMENT SHALL CONSTITUTE A COVENANT RUNNING WITH THE LAND, AND SHALL BE BINDING UPON THE RESPONSIBLE PARTIES, HEIRS, ADMINISTRATORS, EXECUTORS, ASSIGNS AND ANY OTHER SUCCESSORS IN INTEREST. THE PROVISIONS OF THIS AGREEMENT MUST ALSO IDENTIFY A SOURCE OF FUNDING TO SUPPORT FUTURE REQUIRED MAINTENANCE AND UPKEEP ACTIVITIES, AND AN ENTITY RESPONSIBLE FOR GENERAL UPKEEP, MAINTENANCE AND REPAIR.*
 - d. *NO PERMANENT BMPS CAN BE CONSTRUCTED ON A NUMBERED LOT. PROPERTY WHICH CONTAINS STORMWATER MANAGEMENT AND/OR WATER QUALITY FEATURES (PERMANENT BMPS) SHALL NOT BE NUMBERED AS LOTS AND SHALL BE SET ASIDE AS STORM DRAINAGE EASEMENTS WITHIN OPEN SPACE OR GREEN SPACE.*
 - e. *ALL PERMANENT BMPS TO BE IMPLEMENTED TO MEET THESE REQUIREMENTS WILL NEED TO BE APPROVED PRIOR TO ANY DISTURBANCE BEING PERMITTED.*
 - f. *ALL ASSOCIATED PERMITS, PLANS, FEES, ETC. MUST BE EXECUTED PRIOR TO THE DISTURBANCE OF ANY LAND ASSOCIATED WITH THIS PLAN AND/OR BUILDING PERMIT.*
 2. *THE DESIGN OF ALL EROSION CONTROL AND STORMWATER MANAGEMENT FEATURES FOR WATER QUALITY AND WATER QUANTITY AND OTHER BMPS, STORM DRAIN PIPING AND MANHOLES, CULVERTS, DITCHES, SWALES AND OTHER CHANNELS, ALL OUTFALLS TO THEIR RECEIVING WATERS, IN ADDITION TO ALL ROAD INFRASTRUCTURE, SANITARY SEWER AND WATER UTILITIES, AS PRESENTED HEREIN, HAS BEEN COMPLETED FROM*

FIELD SURVEY INFORMATION PREPARED BY A LICENSED SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR.

3. FOLLOWING THE PRE-CONSTRUCTION CONFERENCE, CONTACT YORK COUNTY ENVIRONMENTAL COMPLIANCE AT (803) 909-7250 NOT LESS THAN 48 HOURS BEFORE COMMENCEMENT OF THE LAND-DISTURBING ACTIVITY. THE PERMITTEE SHALL ALSO CONTACT YORK COUNTY AFTER THE REMOVAL OF THE TEMPORARY SEDIMENT CONTROL MEASURES AND THE CONVERSION OF ANY BMPS REQUIRED TO BE CONVERTED INTO PERMANENT CONTROL MEASURES, ONCE THE SITE HAS BEEN FINALLY STABILIZED.
4. NO STAGE OF WORK, RELATED TO THE CONSTRUCTION OF STORMWATER MANAGEMENT FACILITIES, SHALL PROCEED TO THE NEXT SUBSEQUENT STAGE OF WORK, ACCORDING TO THE SEQUENCE SPECIFIED IN THE APPROVED C-SWPPP STAGED CONSTRUCTION AND INSPECTION CONTROL SCHEDULE UNTIL IT IS INSPECTED AND APPROVED BY YORK COUNTY, OR AN AMENDED C-SWPPP AND ENGINEERED PLAN IS APPROVED BY YORK COUNTY PRIOR TO COMMENCING THE WORK.
5. THE PERMITTEE ENGAGED IN OR CONDUCTING THE LAND-DISTURBING ACTIVITY SHALL BE RESPONSIBLE FOR INSTALLING AND MAINTAINING ALL TEMPORARY AND PERMANENT EROSION AND SEDIMENT CONTROL MEASURES AND FACILITIES DURING THE DEVELOPMENT OF A SITE, AS REQUIRED BY THE APPROVED PLAN OR ANY PROVISION OF THE YORK COUNTY STORMWATER ORDINANCE. OPERATIONS AND MAINTENANCE CONDITIONS SHALL BE INCLUDED IN THE PLAN OUTLINING HOW THE PERMITTEE AND OWNER INTENDS TO PROVIDE FOR OPERATIONS AND MAINTENANCE DURING AND POST CONSTRUCTION;
6. STOCKPILES SHALL BE TEMPORARY AND SHALL BE LEVELED TO CONFORM TO SURROUNDING ELEVATION AS A PRECONDITION FOR ANY OF THE FOLLOWING, WHICHEVER OCCURS FIRST:
 - a. REQUEST FOR A NOTICE OF TERMINATION, OR,
 - b. REQUEST FOR YORK COUNTY ACCEPTANCE OF A ROAD OR STREET IN ACCORDANCE WITH THE ROAD/STREET ACCEPTANCE REQUIREMENTS OF CHAPTER 154 – SUBDIVISION CODE OF THE YORK COUNTY CODE OF ORDINANCES.
7. THE BURIAL OF ANY CELLULOSE DEBRIS IS REQUIRED TO BE PLATTED. THE REMOVAL OF SOIL OR WASTE FROM THE PROPOSED SITE IS REQUIRED TO BE TAKEN TO A PERMITTED LANDFILL OR ANOTHER PERMITTED SITE WITH A VALID LAND DISTURBANCE PERMIT AS ALLOWED BY STATE AND FEDERAL REGULATIONS. THE ASSOCIATED SITE WOULD ALSO BE REQUIRED TO PROVIDE THE APPROPRIATE EROSION AND SEDIMENT CONTROL NECESSARY TO RETAIN SEDIMENT ON SITE (WITHIN THE LIMITS OF DISTURBANCE PERMITTED).
8. AREAS AT FINAL GRADE SHALL RECEIVE PERMANENT STABILIZATION MEASURES WITHIN 14 CALENDAR DAYS OF REACHING FINAL GRADE;
9. THE RESPONSIBILITY FOR MAINTAINING ALL TEMPORARY AND PERMANENT EROSION AND SEDIMENT CONTROL MEASURES AND STORMWATER FACILITIES, INCLUDING EASEMENTS, AFTER SITE LAND-DISTURBING ACTIVITY IS COMPLETED SHALL LIE WITH THE LANDOWNER OR PERSON IN POSSESSION OR CONTROL INCLUDING THE DEVELOPER, THE DEVELOPER'S DESIGNEE, OR ANY HOMEOWNER'S ASSOCIATION, PROPERTY OWNER'S ASSOCIATION OR OTHER COMMON OWNER ENTITY ESTABLISHED FOR THE GOVERNANCE/ADMINISTRATION OF A SUBDIVISION OR COMMON PLAN OF DEVELOPMENT, EXCEPT FACILITIES AND MEASURES INSTALLED WITHIN ROAD OR STREET RIGHTS-OF-WAY OR EASEMENTS ACCEPTED FOR MAINTENANCE BY YORK COUNTY;
10. FOR DEVELOPMENTS WHICH ESTABLISH A HOMEOWNER'S ASSOCIATION, PROPERTY OWNER'S ASSOCIATION OR OTHER COMMON OWNER ENTITY, PROVISIONS FOR LONG

TERM MAINTENANCE OF SITE STORMWATER FACILITIES AND/OR BMPS, AS OUTLINED IN THE APPROVED PLAN, SHALL BE DEFINED IN A SIGNED AND RECORDED COVENANT FOR PERMANENT STORMWATER SYSTEM MAINTENANCE AND RESPONSIBILITY. THE PROVISIONS OF THIS COVENANT SHALL ALSO IDENTIFY A SOURCE OF FUNDING TO SUPPORT FUTURE REQUIRED MAINTENANCE AND UPKEEP ACTIVITIES, AND THE ENTITY RESPONSIBLE FOR GENERAL UPKEEP, MAINTENANCE AND REPAIR.

11. *APPROVED PLANS REMAIN VALID FOR FIVE YEARS FROM THE DATE OF APPROVAL.*

NOTE: Any submittals that are determined to be incomplete will not be processed, and the applicant will be notified with an explanation of the submittal's deficiencies. To prevent any delays in the review process, please use this checklist as a guide.

EXHIBIT 10



Planning & Development Services

18 W. Liberty Street

York, SC 29745

(803) 909-7200

www.yorkcountygov.com

Letter of Notification for Plan Review

Silfab Solar Upfiit

Review of:

Civil Construction Plan

Parking Lot & Utilities

Status:

Conditional Approval

To:

Daniel Esteban

Stantec Consulting Services Inc.

daniel.esteban@stantec.com

(980) 297-7654

Project:

20240468

Silfab Solar Upfiit

7149 Logistics Lane, Fort Mill, SC 29

The scope of work includes an upfit to the existing building to include a clean room for the manufacturing of solar panels. There are also (3) Ancillary buildings being constructed on the north side to support the manufacturing process. Bulk gas storage is also planned on the north side of the existing building.

We have completed our review of the plan identified above. The plan was approved per attached comments, if any that must be addressed. This letter is not to be construed as a zoning compliance, grading, or building permit, certificate of occupancy, or a substitute for any permit or certificate required by any state or federal government entity.

If your plans were uploaded through the online York County Development portal any applicable document markups by reviewers will be available through your login under "My Projects" at www.yorkcountygov.com/permitting.

For approved commercial civil site plans, once the owner/developer has received NPDES approval (if applicable) for the project (this is issued by SCDHEC and can take up to 14 days from the date the project is approved by York County), you may contact the Environmental Compliance Inspector listed on your approval letter to schedule the pre-construction meeting. This meeting will occur on-site with county staff members, the financially responsible person, site engineer, and the contractor (who must be licensed in South Carolina through the SC Labor Licensing Board). Your preliminary grading permit will be issued at the pre-construction meeting. Once this meeting has occurred, building permits can be applied for.

Pursuant to York County Ordinance (Ch. 154: Land Development Code), improvements authorized by plan approval must begin within 12 months from the date of approval or the approval shall be considered null and void. If the 12-month requirement is not met or if the project ceases at any time for a period of 12 consecutive months, the applicant must resubmit for plan approval.

Approved plans can be viewed and/or printed at www.yorkcountygov.com/permitting under applicant login.

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Sincerely,



Adrienne Michaud
Development Coordinator
Planning and Development Services
803-909-7200

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Review Comments

Civil Construction Plans

The following comments are grouped as "Review Comments" or "Advisory Comments". "Review Comments" are items related to your plan review that require action on your part. "Advisory Comments" are informational notes that may be important in the future and are for your information.

Addressing/E-911 - Gina Aaron - gina.aaron@yorkcountygov.com - 803-909-7482

Approved

Review Comments:

Building & Codes - Nicole Troutman - nicole.troutman@yorkcountygov.com - 803-909-7205

Conditional

Review Comments:

NOTE:

a) Building and Codes will require a full review of the architectural and engineering plans for all upfits associated with the interior of building. Approval from the ICC portions is required prior to York County Approval.

b) Additional permits may be required as detailed information is submitted for the exterior areas. Separate structures for exterior equipment may require separate permits.

c) Provisions for building safety, per SC IBC and IFC, may be required as detailed information for chemical supply and gasses supply areas is provided.

d) Building permits cannot be issued until civil site plan has been reviewed and approved by all required departments of the Planning and Development Services.

e) Sprinkler Information: The building permit can be issued without the Office of the State Fire Marshall approval however, no component of the sprinkler system shall be installed or modified, and no inspection of sprinkler system will be completed without final plan approval from OSFM.

Fire Safety - Donnie Helms - donnie.helms@yorkcountygov.com -

Approved

Review Comments:

Zoning - Jeff Kirchner - jeff.kirchner@yorkcountygov.com - 803-909-7232

Approved

Review Comments:

PROJECT: 20240455 - Silfab Solar
 Previous Project: 20231912 - Project Borealis
 Previous Project: 20230087 – Mountie
 Civil & Shell Building Project: 20194032 - Stateline 77
 LOCATION: 7149 Logistics Lane
 PARCEL TAX MAP#: 7190000201 – LOT 2

LOT SIZE (ac.): 53
ZONING DISTRICT: LI (Light Industrial)
OVERLAY DISTRICT: n/a
AREA: URBAN SERVICES BOUNDARY (York County)
PROPOSED ZONING USES: Industrial – Manufacturing
- Shell Warehouse Building

**Engineering - Road - Amanda Cain - amanda.cain@yorkcountygov.com -
803-909-7149**

Approved

Review Comments:

There are no changes proposed to the existing access points. Please note: Any future changes needed to either curb cut to the site would require a transportation review.

Advisory Comments:

If further information is needed regarding this portion of the plan review, please call Amanda Cain in the Planning and Development Department at 803-909-7149.

**Engineering - W&S - Amanda Cain - amanda.cain@yorkcountygov.com -
803-909-7149**

Approved

Review Comments:

Attached is the York County water and sewer account information form. Please have the top section filled out and send it back to me. This information will be used to set the water and sewer account up for the fees to be paid. The information provided will be the entity responsible for the water/sewer fees and account. A building permit cannot be issued until the water and sewer fees have been paid.

Advisory Comments:

(Internal Note: 2 sets of digitally stamped plans)

If further information is needed regarding this portion of the plan review, please call Amanda Cain in the Planning and Development Department at 803-909-7149.

Land Development - Shane Parris - shane.parris@yorkcountygov.com -

Approved

Review Comments:

"New NPDES Permit - YC permit
3 plan sets and SWPPP to York County Planning and Development office.

The following documents will be forwarded to SCDHEC for review and issuance of the NPDES permit:

Notice of Intent
York County Approval Letter"

**Floodplain - Christine Taylor - christine.taylor@yorkcountygov.com -
803-909-7156**

Approved

Review Comments:

Advisory Comments:

The correct FEMA FIRM Panel number is on the site plans and in the C-SWPPP. The Special Flood Hazard Area (SFHA - 100-yr Floodplain) is correct on the plans. Per the site plan, no work is proposed in the SFHA.

FEMA FIRM Panel number: 45091C0204F

Any questions may be addressed to Christine Taylor – Stormwater Plan Reviewer – at 803-909-7156 or via email at Christine.Taylor@yorkcountygov.com.

Planning - Transportation - Chris Stephens -
christopher.stephens@yorkcountygov.com - 803-909-7224

Approved

Review Comments:

Landscape - Peter Kisicki - Peter.Kisicki@yorkcountygov.com -
803-620-2016

Approved

Review Comments:

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PLANNING & DEVELOPMENT SERVICES

18 W. LIBERTY STREET, PO BOX 96
YORK, SC 29745-0096
PHONE (803) 909-7200 / FAX (803) 909-7227

Water & Wastewater Construction Plans Checklist

This checklist is not all inclusive of all the requirements set forth by the York County Planning & Development Services, York County Engineering, and/or SCDHEC. Other local, state, and federal codes may also apply; therefore, there may be design requirements that are not addressed in the following summary. Also, further information on the requirements for water and sewer construction plans may be found in the York County Land Development Manual. The review of construction plans may take up to twenty (20) business days, and are processed with other permit package submittals in the order in which they are received.

Any submittals that are determined to be incomplete will not be processed, and the applicant will be notified with an explanation of the submittal's deficiencies. To prevent any delays in the review process, please use this checklist as a guide.

Title or Cover Sheet:

- ☐ Project name and/or subdivision or commercial development name on cover sheet.
- ☐ All construction plans and specifications submitted to York County for approval must be prepared, amended when necessary, and stamped by a qualified and active registered professional engineer, meeting the requirements of S.C. Code Title 40, Chapter 22 – Engineers and Surveyors.
- ☐ Vicinity map.
- ☐ Tax map and parcel numbers shown on the title sheet.
- ☐ Name, address, phone number and email address of developer and/or owner, design professional or firm, surveying company, and contractor (if selected before plan approval).
- ☐ Legend of sanitary sewer and water lines, other utilities and structures, existing and proposed ground and pavement profile.
- ☐ Summary of quantities of all water and sewer lines and appurtenances (i.e. lengths of lines with sizes and type, number of hydrants, valves, manholes, service connections and any other relevant appurtenances).
- ☐ Sheet index.
- ☐ Add the following text to the title or cover sheet:

"MUNICIPALITY: _____

SCDOT ENCROACHMENT PERMIT NO.: _____

SCDHEC PERMIT NO.: _____"

General Drawing Sheets:

- ☐ Special notes as appropriate.
- ☐ Adjacent property owner name(s) and tax map numbers must be shown on the plans.
- ☐ Vertical Scale 1"= 4' and horizontal scale 1"= 40' or as approved by York County. Horizontal and vertical scale shown on each sheet.
- ☐ All designs conform to the latest York County, State, and Federal regulations or standards.

- ☐ Plan and profile sheets on 24" x 36" paper or as approved by York County.
- ☐ An overall plan of the water and/or sewer layout, indexed to sheet numbers and a vicinity map showing project location.
- ☐ Existing water and/or sewer lines labeled with size, and show the nearest existing valve(s) to be used for cut-off purposes.
- ☐ Location of all existing and proposed fire hydrants within 500-feet of the proposed development, where applicable.
- ☐ Bench marks must be tied to NAD83 South Carolina State Plane, 1983, US foot coordinate system and NADV83 vertical datum.
- ☐ All existing or proposed rights-of-way and construction easements are to be accurately located and must be shown on plans. Provide deed book and page number for all existing easements.
- ☐ All existing and proposed storm sewer lines, gas, telephone, power, and other utility lines, which cross or run parallel to the sewer or water lines, must be shown with exact horizontal alignment. Subsurface exploration must be performed where potential conflicts exist and field changes are not practical.
- ☐ Proposed road and drainage projects must be shown.
- ☐ Road names, state and or county route numbers, and right-of-way widths must be shown.
- ☐ Plan and profile are drawn in the same direction. Stations increase from left to right.
- ☐ Show proposed water and sewer infrastructure extended to property boundaries.
- ☐ Proposed water/sewer lines are shown with reference distances from right-of-way property boundary, buildings, other utilities, etc.
- ☐ All property corners must be shown.
- ☐ Location of existing houses, buildings, fences, wells, septic systems, and other infrastructure and utilities (buried and overhead) are shown on plans.
- ☐ Locations of special features must be shown.
- ☐ Pre and post-development topography of site.

Water & Wastewater Utilities General Plan Requirements:

- ☐ Where a line is to be bored or tunneled; indicate location and length of bore or tunnel and type of pipe (DIP required) and casing or tunnel liner. Casings should extend a minimum of 5' beyond the existing or proposed edge of pavement. Show the location of the boring pit and the receiving pit on the plans.
- ☐ Water and sewer mains that are outside road rights-of-way must be provided maintenance and access easements that are a minimum of 20-feet in width. A combined 30-foot easement is required if the water and sewer mains parallel each other. A 30-foot minimum easement will be required for utilities proposed off-site unless approved otherwise by the County Engineer. Additional easement may be required for water or sewer mains in the right-of-way where a net of 20-feet (10-feet on each side of the utility) is not provided.
- ☐ A Non-Reimbursable Extension Agreement must be signed by the developer or owner before approval of the utility plans. This will be completed when York County is provided with an approvable set of plans. Two (2) original sets must be signed and returned for County signatures.
- ☐ Show all proposed water and sewer service connections and sizes. This information is necessary to determine proper fees and deposits for commercial projects.
- ☐ For any water and/or sewer extension infrastructure proposed within a phased development, please note that each proposed phase must be able to function entirely on its own. Sewer mains ending at phase lines within the development must end in a manhole and be constructed to be outside of the pavement. Water mains ending at phase lines must end with an in-line valve and blow-off or a temporary valve and blow-off for testing purposes.

- ☐ To avoid possible conflict with the location of driveways, show the water and sewer service lines in the center of the lots with 5-foot of separation unless the proposed locations of drive ways are shown on the plans and no conflict will exist. All proposed driveway locations should be shown and shaded using concrete hatch.
- ☐ Horizontal and vertical separation of water and sewer lines must meet current SCDHEC and York County specifications. Provide bottom-of-pipe and top-of-pipe elevations for all crossings. All conflicts with storm sewer infrastructure and other utility lines must be shown with appropriate design changes.
- ☐ All exposed ductile iron piping must have mechanical joints.
- ☐ Provide a typical placement detail for water and sewer lines within easements or rights-of-way.
- ☐ Show any planned and future community pools. Provide an approval letter from York County Public Works for backwash connection of the pool into the sewer system.
- ☐ Show benches constructed within proposed utility easements where existing or finished slopes are 2:1 or greater.
- ☐ A request for a water and sewer willingness and capability letter from York County must be submitted based on SCDHEC Unit Contributory Loadings Chart. A Willingness and Capability Letter must be issued by York County as a prerequisite for plan approval.
- ☐ Where applicable, submit a completed SCDOT encroachment application package for review and signature by the County Engineer. For those water and/or sewer utilities proposed for construction which will ultimately be owned and operated by York County, SCDOT requires that the encroachment application be completed referencing York County as the owner rather than the developer.
- ☐ Where applicable, submit a completed and signed York County Application for Encroachment Permit for review to the York County Public Works Department. The application can be found at [Application-for-Encroachment-Permit-PDF \(yorkcountygov.com\)](#). Submit a copy of the approved permit to Planning and Development Services when it has been received from Public Works.
- ☐ Design and layout of roads, sanitary sewer (gravity sewer piping), storm drain piping, and water quality and detention ponds shall be completed using ground profiles generated from field surveys. The field survey(s) shall be certified by a South Carolina professional land surveyor. Profiles generated from GIS information shall not be accepted. Field surveys are to be tied to the South Carolina State Plane Coordinate System as defined by the North American Datum of 1983 (NAD83), and mean sea level as defined by the North American Vertical Datum of 1988 (NAVD88).
- ☐ Provide verification that any off-site easements have been conveyed from the property owner(s) to the developer. All supporting documentation must be submitted prior to plan approval.
- ☐ After site plan approval, submittal of shop drawings will be required with a title sheet from the supplier/manufacturer for the water and sewer design. The shop drawings must be approved prior to the pre-construction meeting.
- ☐ All water and sewer details must be the most current York County standard details with the York County data block and revision/drawn date. The details may be obtained within the Engineering Department website, Utilities section. All required notes are also in a detail form and must be shown on the plans as well. Please assure that all water and sewer details and notes are in this format unless a specialty detail is needed.
- ☐ If the site is located outside of the York County Utility Service area, a letter indicating approval of the utility plan including willingness and capability to supply the proposed development for service from the utility servicing agency is required prior to plan approval.
- ☐ Provide a copy of the completed and signed application to be submitted to SCDHEC for the water and/or sewer Permit(s) to Construct. The copies will be required prior to plan approval and Permits to Construct must be received prior to construction.
- ☐ Place a note on the utility page that states where existing utility information and locations were obtained from. Provide a copy of the as-built and mark the tie in point. Water and sewer as-built information can be obtained by submitting an email request to York County Engineering Department at Engineering@yorkcountygov.com.

- ☐ Provide the following note on the utility page:

"ALL APPLICABLE WATER/SEWER IMPACT AND METER FEES MUST BE PAID BEFORE ANY BUILDING PERMITS ARE ISSUED."

In order to pay the fees, the Water and Sewer Account application must be completed by the entity responsible for payment. The Water and Sewer Account Information for Commercial Projects form must be completed and returned to the Utility Plan Reviewer. Failure to do so could result in a delay for releasing the building permit. This form can be accessed on the Development Services Webpage.

- ☐ As-built record drawings of the constructed utility system are to be provided to York County after completion and as a pre-condition for County acceptance. All utility check list items must be addressed.

Water Distribution System Requirements:

- ☐ Plans must show all fittings, fire hydrants, and valves including sizes. Each appurtenance must be properly labeled. There is no 2-1/2-inch size valve.
- ☐ The specified vertical clearance has been designed and obtained at all crossings of other utilities. Show clearance dimensions on the plan profile sheets.
- ☐ All water lines must have a minimum of 30-inches (2.5-feet) of cover, or ductile iron pipe is required.
- ☐ Blow-offs or hydrants must be designed at the end of all lines. The location of hydrants must comply with guidelines outlined in design standards. Hydrants or blow-off valves are designed at major low places in the line where possible and air release valves are designed at the high points.
- ☐ Water distribution systems must be designed in accordance with available pressures and fire flow. Pressure calculations and supporting documents must be included with the utility plan submittal.
- ☐ When pressures are planned to exceed 80 psi, it shall be noted as such on the plans for each lot exceeding this pressure rating. A general note shall also be included on the site plan, preliminary plat, and/or final plat stating that the home builder or contractor for those lots shall install an appropriate pressure reducing valve on the customer's side of the meter.
- ☐ Plans must show all connections to the existing mains. Mechanical joint sleeves are required for all size on size taps. This must be noted on the plans.
- ☐ Profiles and cross sections of the proposed water line are required when the water main is near large culverts or retaining walls. Retaining wall tie-back and geogrid influence area must be clearly indicated; water main and water main easement must be located outside of the influence area, in compliance with the latest edition of the *York County Policy on Permitting, Design and Construction of Earth Retaining Structures or Retaining Walls*.
- ☐ At all tie in locations, add the following note to the construction plans:
"CONNECT TO EXISTING (INSERT SIZE IN INCHES) WATER MAIN AFTER SUCCESSFUL TESTING & SAMPLING."
- ☐ Line location must be shown relative to back of curb or edge of pavement and water main alignment is designed along the same side of the road, unless approved otherwise.
- ☐ Water pipe sizes and materials per York County specifications must be noted on plans.
- ☐ Water line stub-outs are to be installed at a minimum distance of 3-feet beyond the back of curb or proposed edge of pavement to provide for expansions to future phases or extended to the adjoining property line to serve undeveloped lands not part of the proposed site.
- ☐ Fire Hydrant locations must comply with design guidelines and installed along water main line extensions at intervals not to exceed 1,000-feet in residential subdivisions, and 300-feet in commercial or industrial areas including townhomes and apartments. Fire hydrants must be installed so as to be accessible by fire apparatus at all intersections. Fire hydrants shall, at all times, be connected to a water supply so as to provide water for purposes of combating fire. Fire hydrants connected to non-potable water sources are to be painted purple and labeled as a non-

potable water source.

- ☐ Place fire hydrants along lot lines; not in the center of lots. Hydrants may not be placed behind any on-street parking.
- ☐ All buildings requiring sprinkler systems must propose a fire line with a Double Check Valve Assembly (DCVA) with a 3/4-inch bypass meter.
- ☐ Gate valves must be installed in the mainline in the vicinity of all proposed fire hydrants. Gate valves must be open left type.
- ☐ Show an approved jumper-connector at the connection point of the proposed water line to the existing water line. Show on plan sheets as well as in the water details.
- ☐ Water lines must extend straight thru cul-de-sacs and not traverse around them. Connect and loop all water lines. Eliminate dead-end mains, where possible.
- ☐ All water meters that are 1-inch or greater in size will require a separate back-flow preventer. Double Check Valve Assemblies are required for any line where low hazard cross connections are involved and RPZ-BFP devices or air gap separation is required for hazardous cross connections, as defined by SC Reg. 61-58.7. Show the back-flow preventer located at the back of the meter outside of the easement or right-of-way and provide the corresponding York County Detail on the plans.
- ☐ Separate taps are required for all services unless the existing main is located within the roadway.
- ☐ Water meters and services shall be perpendicular to the main and meters set in front of the property they will serve. Water meters and services cannot be located within existing or future driveways.
- ☐ All water meters not located in the right-of-way must be included in an easement. Easements must be shown to the back of the meter.
- ☐ Valves must be located in a soft area. Valves cannot be located in sidewalks, curbing, or driveways or asphalt areas.

Sewer Collection System Requirements:

- ☐ Manholes and structures must be labeled and standard detail reference included if applicable. Each manhole must be labeled with a unique/individual identification number. Number consecutively beginning with the first proposed downstream manhole. Numbering should begin with any existing manhole labeled as "EX MH-XX", then the first proposed manhole will start with Prop MH-1 and be numbered consecutively from there.
- ☐ For any sewer main extension, provide a drainage basin map of the entire contributing drainage basin with the calculations. A sewer extension shall follow the drainage pattern in the proposed development. In some cases proposed stubbed out sanitary sewer will be required to serve the upstream drainage basin. In other cases, a sanitary sewer easement shall be required to serve future developments.
- ☐ The sewer profile view should be provided directly over the plan view, when possible, and run left to right (downstream to upstream). Match lines should be provided at manholes only and label the corresponding sheet numbers in the plan view.
- ☐ In compliance with the latest edition of the *York County Policy on Permitting, Design and Construction of Earth Retaining Structures or Retaining Walls*, any proposed retaining wall tie-back geogrid influence area must be clearly indicated on the plans. Sewer mains and easements must be located outside of the influence area, unless previously approved under hardship conditions. Casing pipe will be required for any approved crossings within the influence zone.
- ☐ Proposed and existing sewer lines must be shown with flow directions.
- ☐ Special structures must be detailed.
- ☐ All conflicts with water mains must be shown with changes to DIP as required.
- ☐ All pipes must meet minimum cover requirements or are protected as required. PVC pipe must be replaced with ductile iron where there is less than 3' of cover or greater than 16' of cover.

- ☐ All pipes must meet minimum and maximum slope requirements (0.6% min. for 8-inch diameter and 12% max.) Maximum design velocities should not be less than 2 feet per second (FPS) or greater than 10 FPS at peak flow.
- ☐ Manholes shall not be located in ditch lines or ditch side-wall slopes and near culverts.
- ☐ Sewer lines that terminate at a proposed subdivision entrance must be designed at an acceptable vertical and horizontal location to allow future main extensions and must be located on the shoulder of the roadway.
- ☐ Aerial creek crossings or inverted siphons must have prior approval by York County Engineering and must be properly detailed.
- ☐ Bearings and distances between manholes must be shown on plan view.
- ☐ All pipes proposed for construction that are 15-inches or less in diameter must not exceed 400-feet in length between manholes.
- ☐ Sewer lines less than 100-feet from wells must be DIP and sewer lines must not be within 25-feet of any well.
- ☐ Proposed pipes and manholes must be shaded on profile view.
- ☐ Include the appropriate York County sewer tie-in standard detail on the plans for connections into existing manholes.
- ☐ Sewer service laterals connecting to the mainline within 10-feet of a manhole must go directly into the manhole. Place a note and show this in the plans.
- ☐ Manholes in cul-de-sacs shall have a maximum of 3 laterals. Any in-line manhole shall have a maximum of 4 laterals.
- ☐ Show angle measurements of pipes at all manholes. Angles must be 90 degrees or greater.
- ☐ Eliminate proposed 90-degree bends in the sewer force main line if possible. Replace with the appropriate number of 45- or 22.5-degree bends. Label accordingly on the plans.
- ☐ Show plug valves every 2,000-feet on sanitary sewer force main lines and at all major road intersections.
- ☐ Sewer mains and manhole stub-outs are to be installed at a minimum distance of 3-feet beyond the back of curb or proposed edge of pavement to provide for expansions to future phases or extended to the adjoining property line to serve undeveloped lands not part of the proposed site.
- ☐ Manhole rims outside street rights-of way and landscaped areas must be at least 2-feet above finished grade. Within street rights-of-way and in landscaped (lawn) areas, manhole rims must be flush with finished grade.
- ☐ All proposed outside drop manholes must have a minimum of 18-feet ductile iron pipe extending from the influent side of the manhole. See York County's outside drop manhole standard detail. Indicate on profile as well as in the details.
- ☐ Manholes deeper than 19-feet must be provided as 5-feet in diameter.
- ☐ Show the location and elevation of the 100-year (1% annual chance) flood plain or FEMA Special Flood Hazard Area (SFHA) on the applicable sanitary sewer plans and profiles views.
- ☐ Manholes located within the 100-year (1% annual chance) flood plain or FEMA SFHA must have steel vents installed at a minimum 1-foot above the 100-year flood elevation. Minimum vent spacing of 1,000-feet. All off-site sewer manholes must be constructed with a manhole rim elevation at a minimum of 2-feet above the 100-year flood elevation.
- ☐ Manholes within the 100-year (1% annual chance) flood plain or FEMA SFHA must have waterproof, bolt-down lids.
- ☐ Sanitary sewer clean-outs should be located in soft areas at the back of all easements and/or rights-of-ways where possible. All sanitary sewer laterals must be terminated with a clean-out.
- ☐ Sanitary sewer pump station, generator and SCADA manufacture submittals must be submitted for review and approved by York County prior to the pre-construction meeting.
- ☐ Sanitary sewer pump station grading plans must be submitted to assure any stormwater runoff will be directed away from the pump station site.

- ☐ Show the sanitary sewer pump station footprint as a minimum 50-foot by 50-foot lot with the 14-foot minimum access drive, on the plan sheets.
- ☐ Provide a detail of the access road to the sanitary sewer pump station. The developer will be responsible for maintaining proper access to the station site during construction of the project and until the pump station is conveyed to York County.
- ☐ The final grade of the pump station site must be a minimum of 2-feet above the established 100-year (1% annual chance) flood plain or FEMA SFHA elevation.

YORK COUNTY

CODE OF ORDINANCES

PERFORMANCE STANDARDS AGREEMENT

LOCAL LEGISLATION CURRENT THROUGH ORDINANCE 903, PASSED 2/3/03.

**NOT TO BE CONSTRUED AS THE OFFICIAL ORDINANCE IN ITS ENTIRETY & IS
SUBJECT TO CHANGE.**

**CONTACT THE YORK COUNTY ZONING DEPARTMENT AT (803) 909-7230 FOR
ADDITIONAL INFORMATION**

APPENDIX D - EXHIBIT 1:

**CODE OF YORK COUNTY
PERFORMANCE STANDARDS AGREEMENT**

All permitted uses in the ID, LI and UD Districts and special exceptions approved by the Zoning Board of Appeals shall, in addition to all applicable state and federal regulations, meet the following minimum standards regulating the emission or existence of dangerous, detrimental and objectionable elements, where applicable:

(A) *Fire and explosive hazards.* All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against the hazards of fire and explosion including adequate fire fighting and fire suppression equipment.

(B) *Radioactive emissions.* There shall be no radiation emitted from radioactive emission measured at the property line.

(C) *Smoke, dust and dirt.* The emission of visible smoke, dust, dirt, fly ash particulate matter from any pipes, vents, or other openings, or from any other source, into the air, shall comply with the regulations of the South Carolina Pollution Control Authority.

(D) *Fumes, vapors and gases.* There shall be no emission of any fumes, vapors or gases of a noxious, toxic, or corrosive nature which can cause any damage or irritation to health, animals, vegetation, or to any form of property.

(E) *Vibration.* There shall be no perceptible earth vibrations measured at the property line.

(F) *Heat, cold, dampness or movement of air.* Activities which could produce any adverse effect on the temperature, motion, or humidity of the atmosphere beyond the lot line shall not be permitted.

(G) *Noise.* The permitted level of noise or sound emission at the property line of the lot on which the principal use is located shall not exceed the values given in the following tables, except that the following uses and activities shall be exempt from the noise requirements:

- (1) Noises not directly under the control of the property user.
- (2) Noises emanating from construction and maintenance activities between 7:00 a.m. and 9:00 p.m.
- (3) The noises of safety signals, warning devices, and emergency pressure relief valves.
- (4) Transient noises of moving sources such as automobiles, trucks, airplanes, railroad cars and locomotives.

The instruments used for these measurements shall conform to all current United States of America Standards Institute specifications. Impact noises shall be measured by means of an impact noise analyzer. Impact noises are those whose peak values are more than five decibels higher than the values indicated by the sound level tables. Between the hours of 7:00 p.m. and 7:00 a.m., the permissible sound levels at residential district boundaries shall be reduced by five decibels in each octave band, or in the overall band for impact noises.

Table 1. Maximum Permitted Sound Levels Using Pre-1960 Octave Bands

<i>Octave Bands, in Cycles Per Second</i>	<i>Sound Levels</i>
20 - 75.....	77 db
75 - 150.....	65
150 - 300.....	58
300 - 600.....	54
600 - 1200.....	50
1200 - 2400.....	47
2400 - 4800.....	44
4800 - 10KC.....	42

Table 2. Maximum Permitted Sound Levels, Using Preferred Frequency Octave Bands

<i>Preferred Center Frequency, in Cycles Per Second</i>	<i>Sound Levels</i>
315.....	86 db
63.....	75
125.....	64
250.....	57
500.....	53
1000.....	49
2000.....	46
4000.....	44
8000.....	41

(H) *Odor.* There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at the property line. Any process which may involve the creation or emission of any such odor shall be provided with both a primary and a secondary

safeguard system so that control may be maintained in the event of failure of the primary safeguard system.

(I) *Glare.* There shall be no direct or sky reflected glare, whether from floodlights, high temperature processing, combustion, welding or otherwise, so as to be visible in any residential district.

(J) *Compliance guarantee.* The applicant shall acknowledge in writing his understanding of the performance standards applicable to his proposed business and shall submit an agreement to conform with such standards at all times. Any violation of the agreement shall constitute a violation of this ordinance and shall be treated accordingly.

Owner/Contractor

Date

County Official

Date

('77 Code, Appendix D, Exhibit 1) (Ord. passed 1-3-00)

Any information provided on this document may be subject to the South Carolina Freedom of Information Act and may be disclosed to third parties in accordance with applicable law.

EXHIBIT 11

Screenshot Reflecting Final Approval – CO (and including 2nd Step of Zoning Compliance Approval)

Permit # 202403901

Permit ID
116916

Permit Number
202403901

Site Address
7149 LOGISTICS LN |520494

Report Code
437 - Non-Residential & Non-Housekeeping

Description
Sifab Solar Bldg A- Main Warehouse-
Partial Upfit in existing shell 816 600sf-
Project- 20240468 - Sifab Solar//
Changes to UPFIT- Elec Dwgs removed//
Deferred Panelized Construction.

Calc Type

Contract Price
\$58,600,000

Year Built

SummaryGISContactsZoningApprovalChecklistFinancialInspectionsCertificateNotes/Emails

Inspections

Type Of Inspection	Comment	Name	Phone	Scheduled	Inspection Dt	Inspector	Inspector Number	Status
Final Fire Marshal	Approved by Donnie Helms				2/13/2026	Donnie Helms		Approved
Final					2/13/2026	Josh Gordon 803-371-6249		Approved
Final	Complete item 6 and 7 from previous inspection 0.00 Fee Charged				2/11/2026	Josh Gordon 803-371-6249		Not Approved
Final Fire Marshal	1. Fire Alarm has trouble signal. 2. Riser 18 is shut down. These items are due to sprinkler work being done. \$0 Fee Charged				2/11/2026	Fire Marshal		Not Approved
Final Fire Marshal	1. Relocate Knox Box to the front of the building. 2. Mount fire extinguisher in maintenance area. 3. Repair emergency lights at I-26, I-25, I-23. 4. Remove extension cords at southeast corner and behind Fastenal Machines. 5. Replace missing junction box covers at riser 22, and main electrical room. 6. Extend sprinkler coverage inside of test chambers. 7. Add exit door and proper signage in wall between fire area C and D warehouse side. 8. Install fence and gate in electrical corridor each side of fire pump room label it Authorized Personnel Only. 9. Secure all compress gas cylinders to prevent falling. After completion of building C. 1. Remove all temporary HVAC Units. 2. Remove temporary fuel tank in parking lot. 3. Install NO Parking signs rear access rode. \$0 Fee Charged				2/6/2026	Donnie Helms		Not Approved
Final	1 Open electrical box and wire in floor at area D22 2 permanently wired equipment with wheels will need wheels removed or fixed to floor 3 Wire that is not in conduit at disconnect in electrical corridor will need to be removed 4 Missing junction box covers. wiring hanging out of conduit in electrical corridor. 5 wire not in in conduit coming from panel will need to be removed. if it is to stay it will need to be in conduit and a updated engineers' letter and new panel schedule 6 abandon wire from outside across ceiling above clean room stopping above maintenance area will need to be removed. 7 Temporary cooling equipment on exterior and interior will need to be removed once hydros in building C are complete, tested and approved 0.00 Fee Charged				2/6/2026	Josh Gordon 803-371-6249		Not Approved
Final Landscape	The final inspection approval constitutes final zoning compliance, as duly authorized by the ZA.				2/6/2026	Peter Kisicki		Approved
Final Stormwater	Final CO approved by York County Stormwater Inspector Brian Moskalick				2/6/2026	Brian Moskalick		Approved
Final Zoning	This final inspection approval constitutes final zoning compliance, as duly authorized by the Zoning Administrator.				2/5/2026	Jeff Kirchner		Approved

EXHIBIT 12



York County Building and Codes Certificate of Occupancy

18 W. Liberty Street
York, SC 29745
(803) 909-7200 Phone

Permit Number:	202403901	Permit Type	Commercial Building
Site Address:	7149 LOGISTICS LN	Tax Map ID #:	7190000201
Owner:	EXETER 7149 LOGISTICS L.P.	Subdivision / Lot:	B2
Owner Address:		Contractor:	SPG
Code Edition:	2021	Occupant Load:	
Fire Sprinkler:		Occupancy Class:	F-1
Final Inspection Date:	2/13/2026	Construction Type:	II-B
Permit Description:	Silfab Solar Bldg A- Main Warehouse- Partial Upfit in existing shell 816,600sf- Project- 20240468 - Silfab Solar// Changes to UPFIT- Elec Dwgs removed// Deferred Panelized Construction.		

Conditions:

This certificate issued pursuant to the requirements of the International Codes certifying that at the time of issuance this structure was in compliance with the various ordinances of York County regulating building construction or use. For the following:

Josh Gordon
Building Inspector

2/13/2026
Issue Date

Jennifer Culver
Building Official

(Post in a conspicuous place)

EXHIBIT 13



PLANNING & DEVELOPMENT SERVICES

18 W. LIBERTY STREET, PO BOX 96
YORK, SC 29745-0096
PHONE (803) 909-7200 / FAX (803) 909-7227



ELECTRONICALLY FILED - 2026 Oct 16 3:28 PM - YORK - COMMON PLEAS - CASE# 2026CP4603786

Zoning Code Interpretation Application & Checklist

This checklist is to assist with the submittal of a request for an interpretation in the Zoning Code and should be used to ensure all appropriate documentation is submitted. The review and determination on a Zoning Code interpretation cost \$150 and can take up to ten (10) business days. Use additional sheets when necessary.

Any submittals that are determined to be incomplete will not be processed, and the applicant will be notified with an explanation of the submittal's deficiencies. To prevent any delays in the review process, please use this checklist as a guide.

All Code Interpretation requests should contain the following information:

- ☐ Completed for below
- ☐ Written narrative explaining the nature of the request
- ☐ Other relevant factors pertaining to the request

Applicant Name: Walter Buchanan

Address: 256 Baxter Ln, Fort Mill, S.C.

Phone: 803 547 7609 Email: WallyNEsther@MSN.COM

The section of the Zoning Code, standard, or condition that is allegedly ambiguous or needing clarification:

See Attached File

Applicant Signature: Wally Buchanan Date submitted: _____

Delivered in Person

Pursuant to Section 155.1092, please provide an interpretation of the following codes:

1. If you are protecting us (and the air we breathe), how do you allow a use that produces deadly toxic air pollutants next to two schools and nearby residences? Section 155.041 (2) states: "The district's less intensive uses protect nearby residential areas from the encroachment of heavy industrial uses."
2. Section 155.042 (2) states: "Uses allowed in this district typically are not compatible with other, non-industrial land uses and therefore are intended to be separated and buffered from adjacent development." Why was Silfab not required to be in an Industrial Development (ID) district when they are obviously exhausting highly toxic air pollutants that are "not compatible" with both existing and new developments nearby. These developments include two schools currently under development next to the proposed Silfab plant site, an assisted living facility opening soon, and several surrounding residential areas. Both purpose statements show that Silfab should not be in Light Industrial (LI). Silfab seems perfectly suited for ID Zoning and not LI Zoning.
3. According to Section 155.948 (C) it states "There shall be NO EMISSION of ANY fumes, vapors, or gases of a noxious, toxic, or corrosive nature, which CAN cause ANY damage or irritation to health, animals, vegetation, or to any form of property", why is Silfab allowed in ANY zoning district when they have noxious Volatile Organic Compounds (VOCs), toxic Hydrofluoric (HF) Acid, Toluene and corrosive Hydrochloric Acid (HCl) air pollutants emitted into our air when, knowing up front, Silfab will be in violation of the above referenced standard because any one of these pollutants (and certainly the combination of all) can cause damage or irritation?
4. In Section 155.1301, Defined Terms (page 557 of the zoning code) for LI, why is Silfab allowed in LI when the definition states it ordinarily does not create noise, smoke, FUMES, odors, glare, or HEALTH or SAFETY hazards OUTSIDE the building or lot?
5. In Section 155.1301, Defined Terms (page 557 of the zoning code) for LI, why is Silfab allowed in LI when the definition states the processing is housed entirely within a building and Silfab's highly toxic exhaust is obviously going outside into our air?
6. Shouldn't Silfab be in more of a heavy industrial district, when in Section 155.1301, Defined Terms (page 557 of the zoning code) the definition of **heavy industrial** states, "ordinarily have greater than average impacts on the use and ENJOYMENT of adjacent property in terms of ... FUMES ... HEALTH, and SAFETY HAZARDS? Since we cannot enjoy our neighborhood parks or go for a jog for fear of breathing in deadly air pollutants, then this falls into **heavy industrial** as referred to in Section 155.041 (2). The purpose statement of light industrial states "LI is intended to accommodate less intensive industrial uses with operations primarily conducted indoors. The district's less intensive uses **protect nearby residential areas from the encroachment of HEAVY INDUSTRIAL uses.**"
7. Since this is the first time ever for a solar manufacturing use in York County and "solar" is not listed in Use Table 155.271-2, why was Silfab allowed in LI when in Section 155.270 (G) it states "**Unlisted Uses Prohibited.** Any use not listed for an applicable zoning district in the Use Table is prohibited"?

EXHIBIT 14



PLANNING & DEVELOPMENT SERVICES
York County, SC



Sent Via Email 2/16/24

February 16, 2024

Walter Buchanan
256 Baxter Lane
Fort Mill, SC

RE: Zoning Code Interpretation, Various Sections Related to Industrial Uses

Dear Mr. Buchanan:

This Zoning Code interpretation is in response to a request submitted to the York County Planning and Development Services Department on February 1, 2024, attached, seeking clarification of several code sections related to industrial uses. Part 10 of the York County Zoning Code indicates that the purpose of a Zoning Code Interpretation is to provide clarification on any ambiguities. The Zoning Administrator may approve a request if there is an ambiguity or need for clarification demonstrated by the application. Additionally, the Zoning Administrator may deny or reject the request if there is no ambiguity or need for clarification demonstrated by the applicant.

Your request included seven questions on various code sections, which are paraphrased in material part below. I have provided responses to each question below.

1. How do you allow a use [in the Light Industrial District] ...Section 155.041(2) The district's less intensive uses protect nearby residential areas from the encroachment of heavy industrial uses.

Response: § 155.041(A)(2) is part of the Purpose Statement for the Light Industrial district, describing the intent of the district's creation. It provides no regulatory provisions in and of itself. There is no ambiguity or need for clarification in this statement.

2. Section 155.042(2) states: Uses allowed in this district typically are not compatible with other, non-industrial land uses and therefore are intended to be separated and buffered from adjacent development. Why was Silfab not required to be in an Industrial Development (ID) district...?

Response: § 155.042(A)(2) is part of the Purpose Statement for the Industrial Development district, describing the intent of the district's creation. It provides no regulatory provisions in and of itself. There is no ambiguity or need for clarification in this statement.

It is my understanding that you are seeking clarification on the zoning district(s) that permit solar panel manufacturing facilities, which I infer from the reference to "Silfab", shorthand for Silfab Solar, Inc. The uses defined in the Zoning Code are informed by the North American Industry Classification System (NAICS). This system is commonly used by jurisdictions across the country to help inform and define uses in zoning code, including York County. While this system was created to track economic activities, it was developed on the principle that businesses that are similar in form or function, or that use similar production processes should be grouped together.

"Solar panel manufacturing", as a narrowly-defined business, is grouped in NAICS under National Industry 334413 Semiconductor and Related Device Manufacturing, which includes fuel cells, semiconductors, microprocessors, photovoltaic cells and devices, silicon wafers, and solar cells, among other related products manufactured by such businesses (see <https://www.census.gov/naics>). 334413 Semiconductor and Related Device Manufacturing is an industry under the 334 Computer and Electronic Product Manufacturing NAICS subsector.

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"Computer and Electronic Product Manufacturing" is also a defined use in the Zoning Code, permitted in the Light Industrial (LI), Industrial (ID), Business and Technology Park (BT), and Urban Development (UD) zoning districts. Therefore, any specific type of manufacturing industry that falls under the 334 Computer and Electronic Product Manufacturing NAICS subsector is a permitted use in those districts.

3. Section 155.948(C) states: There shall be NO EMISSION of ANY fumes, vapors, or gases of a noxious, toxic, or corrosive nature, which CAN cause ANY damage or irritation to health, animals, vegetation, or to any form of property.

Response: *The Performance Standards section of the York County Zoning Code is intended to protect the public health, safety, welfare, and quality of life by regulating the emission or existence of dangerous, detrimental, and objectionable environmental elements. The standards apply as long as the emitting land uses are in existence; the uses must "perform" according to the expected standard.*

The Performance Standards do not outright ban any emission of noise, radiation, fumes, vibration, humidity, or odor, nor do they preclude any specific uses, materials, or operations from locating in the County. Rather, the standards are implemented through substantiated evidence of a breach in performance, evaluated in terms of the controlling state or federal standard that are set for any particular emission.

4. In Section 155.1301: Defined Terms for [Industrial, Light], why is [solar panel manufacturing] allowed in LI when the definition states that it ordinarily does not create noise, smoke, fumes, odor, glare, or health or safety hazards outside the building or lot?

Response: *A definition is not regulatory in and of itself. There is no ambiguity or need for clarification for the defined term "Industrial, Light." Regarding why a solar panel manufacturing facility is permitted in LI, please refer to the response to #2.*

5. In Section 155.1301: Defined Terms for [Industrial, Light], why is [solar panel manufacturing] allowed in LI when the definition states the processing is housed entirely within a building...?

Response: *Please refer to the response to #4.*

6. Shouldn't [solar panel manufacturing] be in more of a heavy industrial district, when in Section 155.1304: Defined Terms the definition of [Industrial, Heavy] states "ordinarily have greater than average impacts on the use and enjoyment of adjacent property in terms of noise, fumes, odors, glare, health, and safety hazards...?"

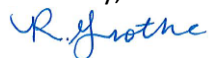
Response: *Referenced are the definition of Heavy Industrial and the Purpose Statement of the Light Industrial District. There is no ambiguity or needs for clarification for either code section. Regarding why a solar panel manufacturing facility is permitted in LI, please refer to the response to #2.*

7. Since this is the first time ever for a solar manufacturing use in York County and "solar" is not listed in Use Table 155.271-2, why [is solar panel manufacturing] allowed in LI when in Section 155.270(G) it states "Unlisted Uses Prohibited. Any use not listed for an applicable zoning district in the Use Table is not permitted"?

Response: *Please refer to the response to #2.*

If you believe you are aggrieved by this determination, you may elect to submit an administrative appeal application by **March 18, 2024**. Please be advised appeals of Zoning Code interpretations are heard by the Board of Zoning Appeals at a public hearing. The application should be filed with the Planning & Development Services Department in person at 18 W. Liberty Street, York, SC 29745 or via mail to P.O. Box 96, York, SC 29745. If you have any questions, please do not hesitate to contact me at 803-909-7204 or Rachel.Grothe@yorkcountygov.com.

Sincerely,



Rachel Grothe, MCRP

Zoning & Development Standards Administrator

EXHIBIT 15

**BOARD OF ZONING APPEALS
ADMINISTRATIVE APPEAL APPLICATION**

GENERAL INFORMATION

Walter Buchanan

wallynesther@msn.com

APPLICANT'S NAME

EMAIL ADDRESS

ADDRESS: 256 Baxter Lane

NUMBER

STREET

APARTMENT/BOX NUMBER

Fort Mill 29715

CITY

STATE

ZIP CODE

PHONE: 803-547-7609

803-547-7609

WORK

HOME

Judi Quinby

PROPERTY OWNER'S NAME

EMAIL ADDRESS

ADDRESS: 3343 Peachtree Rd NE, Suite 1600

NUMBER

STREET

APARTMENT/BOX NUMBER

Atlanta

GA

30326

CITY

STATE

ZIP CODE

PHONE:

WORK

HOME

PROPERTY INFORMATION

PROPERTY ADDRESS: 7149 Logistics Lane, Fort Mill, SC 29715

PROPERTY DIRECTIONS:

PROPERTY CONDITIONS:

PROPERTY TAX MAP #: 7190000201

PLAT: PLEASE ATTACH TO APPLICATION

LOT AREA: ACRES:

SQ. FEET:

ZONING DISTRICT:

LI

USE OF PROPERTY: Distribution Center

CONCEPTUAL SITE PLAN:

RELEVANT FACTORS PERTAINING TO THE ADMINISTRATIVE APPEAL

1. APPLICANT HEREBY APPEALS TO THE BORAD OF ZONING APPEALS FROM THE ACTION OF THE PLANNING & DEVELOPMENT SERVICES STAFF AFFECTING THE PROPERTY DESCRIBED IN THIS APPLICATION ON THE GROUNDS THAT AN INTERPRETATION OF THE ZONING CODE WAS ERRONEOUS AND CONTRARY TO PROVISIONS OF THE ZONING CODE IN SECTION See attached sheet AS FOLLOWS:

Please see attached sheet

2. APPLICATION IS AGGRIEVED BY THE ACTION OR DECISION IN THAT:

Please see attached sheet

3. APPLICANT CONTENDS THAT THE CORRECT INTERPRETATION OF THE ZONING CODE AS APPLIED IS:

Please see attached sheet

4. APPLICANT REQUESTS THE FOLLOWING RELIEF:

Please see attached sheet

5. IF YOU ARE SUBMITTING ADDITIONAL INFORMATION, PLEASE LIST BELOW:

Please see attached sheet

Relevant Factors Pertaining to the Administrative Appeal

-Walter (Wally) Buchanan

Section 1 & 3 Erroneous interpretation of the code by Zoning staff and correct interpretation of the zoning code.

1. **§155.015 (A)** The staff states the purpose statements are not regulations. Zoning staff put a period where there is a comma and it in fact states, **The purpose statements are not regulations, but rather a summary of the district character and regulatory intent.**

The purpose statement for LI is: §155.041 (A) (2) LI is intended to accommodate less intensive industrial uses with operations primarily conducted indoors. The district's less intensive uses **protect nearby residential areas** from the encroachment of **heavy industrial uses**.

The definition of **heavy industrial** is: "The assembly, fabrication, finishing, manufacturing, packaging, processing, or distribution of goods and materials by means that ordinarily have **greater than average impacts on the use and enjoyment of adjacent property** in terms of noise, fumes, odors, glare, health and safety hazards, or that **otherwise does not constitute light manufacturing**".

The definition of light industrial is: The assembly, fabrication, or processing of goods and materials by means that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where the assembly, fabrication, or processing takes place; where the processing is housed entirely within a building. **LIGHT INDUSTRIAL does not include hazardous material treatment and storage facilities**, plating or enameling, or petroleum and gas refining.

2. **155.270 (G) Unlisted Uses Prohibited.** Any use not listed for an applicable zoning district in the Use Table is **prohibited**. Note: It does not give any reference to NAICS (North American Industry Classification System) therefore the reference in the staff response to justify Silfab being approved in LI is not valid. There is no reference in the code that if it is not listed we refer to NAICS. Furthermore, The NAICS has a category and code for Solar cell manufacturing **by itself**. It is not combined with electrical components.
3. **155.948 Performance Standards** Our question was stated, **KNOWING UP FRONT**, they will violate the code, was not acknowledged in the staff response. § 155.948 Performance Standards is shown below. It has no reference to the property line compared to other standards. Nowhere does the code state that we rely or refer to DHEC.

§ 155.948 OTHER PERFORMANCE STANDARDS.

(A) **Fire and Explosive Hazards.** All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against the hazards of fire and explosion including adequate firefighting and fire suppression equipment.

(B) **Radioactive Emissions.** There shall be no radiation emitted from radioactive emission measured at the lot line.

(C) **Fumes, Vapors, and Gases.** There shall be **no emission** of any fumes, vapors, or gases of a noxious, toxic, or corrosive nature, which can cause **any damage or irritation to health, animals, vegetation, or to any form of property**.

(D) **Vibration.** There shall be no perceptible earth vibrations measured at the lot line.

(E) **Heat, Cold, Dampness, or Movement of Air.** Activities that could produce any adverse effect on the temperature, motion, or humidity of the atmosphere beyond the lot line are prohibited.

(F) **Odor.** There shall be no emission of odorous gases or other odorous matter in such quantities as to be offensive at the lot line. Any process that may involve the creation or emission of any such odor shall be provided with both a primary and a secondary safeguard system so that control may be maintained in the event of failure of the primary safeguard system.

(G) **Glare.** There shall be no direct or sky reflected glare, whether from floodlights, high temperature processing, combustion, welding, or any other source, so as to be visible in any residential district.

4. Three of our questions referred to the definitions. The staff response was that the definitions were not regulations. However, the definitions are legally binding, otherwise why would they be in there?
5. **§ 155.975 APPROVAL CRITERIA.** In considering an appeal of an administrative decision, the Board shall apply the standards of this Chapter, other applicable law, and previous interpretations of this Chapter by the Board. What we would like to see is a previous approval of a 70-foot smokestack or show me where this has been denied. Therefore, your decision will set a precedent that all light industrial districts will be allowed to have a 70-foot smoke stack emitting toxic pollutants and will be allowed to have hazardous waste.

Section 2. Applicant is aggrieved by the action or decision in that:

This will allow highly toxic air pollution to be released and hazardous waste and explosive chemicals to be kept onsite in close proximity to my home that will endanger me and my family. Our property includes four generations of family members, one with COPD will be especially negatively affected.

Section 3. (Listed above with section 1)

Section 4. Applicant requests the following relief.

Silfab must be considered heavy industrial and not allowed to do business at the current location where it is zoned Light Industrial. It must be placed where it is safe for heavy industrial businesses to manufacture.

Section 5. Additional information

Andy Lytle will speak as my representative at the Zoning Administrative Appeal Hearing.

I CERTIFY THAT ALL INFORMATION PRESENTED BY ME IN THIS APPLICATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BENEFIT:

Walter Buslone 3/14/24
APPLICANT DATE

I (WE) CERTIFY THAT I (WE) ARE THE OWNERS OF THE PROPERTY INVOLVED IN THIS APPLICATION AND FURTHER THAT I (WE) DESIGNATE THE PERSON SIGNING AS APPLICANT TO REPRESENT ME (US) IN THIS APPLICATION.

Walter Buslone 3/14/24
PROPERTY OWNER (S) DATE

*ATTACHED OWNER'S NOTARIZED WRITTEN AUTHORIZATION IF OWNER'S SIGNATURE CANNOT BE OBTAINED.

OFFICE USE ONLY

AMOUNT PAID: _____ CHECK #: _____

CASH AMOUNT: _____

DATE RECEIVED: _____

RECEIPT NUMBER: _____

DATE FILED: _____

MEETING DATE: _____

ACCEPTED BY:

STAFF SIGNATURE

DATE

EXHIBIT 16

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Transcription of York County Board of Zoning Appeals

Held on May 9, 2024

Video Runtime: 4:39:17

1 (Beginning of Video Recording)

2 THE CHAIR: The Board is no longer in
3 executive session. No action was taken during
4 executive session. We'll now proceed with the agenda.
5 Our first agenda item is the approval of the minutes.
6 Any questions about the minutes, as they are written?

7 MR. SMITH: I'll make a motion we approve
8 them.

9 THE CHAIR: I'll second. Any discussion?
10 All those in favor, signify by raising your right
11 hand. Any opposed? Passes.

12 Now enter the new business section, and let
13 me explain the way that the meeting is conducted. We
14 have one bit of new business tonight. It is an
15 administrative appeal. The flow of the meeting will
16 be once that application is heard, staff comes forward
17 and makes a presentation, then the appellant will come
18 forward and make a presentation. We will have a
19 public hearing.

20 During that public hearing, anyone that
21 wishes to speak for or against can come forward. You
22 will get three minutes to speak. Staff will be
23 keeping track of the time. You should get a warning
24 when you're halfway through.

25 If you represent a group, you can receive

1 ten minutes to speak. However, you have to state what
2 group that you are representing, and I need to see the
3 people that are in your group, as in they will have to
4 stand, and they will have to understand that they are
5 forfeiting their right to individually speak. Okay?

6 When you come forward to speak, the first
7 thing you should say is your name and address. I will
8 call you by your name, by those that have signed up,
9 but we need your name and address recorded for the
10 record.

11 So regarding the specific administrative
12 appeal, I want you to understand that what this board
13 is doing tonight, what we hear, the case as we hear,
14 is very limited. It only regards whether or not one
15 particular activity can occur in a light industrial
16 zone. It has no specific reference to any particular
17 location, any particular project. It is a generic
18 representation of the -- of that particular type of
19 manufacturing in that particular zoning district.
20 That is all.

21 So there's a lot of people here. We'll
22 listen to everyone. But I would just ask that when
23 you come forward, please keep your comments directed
24 toward that, toward the issues that the -- that the
25 board should hear regarding that particular activity

1 CERTIFICATE OF TRANSCRIPTIONIST

2

3 I WENDY K. SAWYER, hereby certify that I was
4 authorized to and did transcribe the provided
5 recording and that the foregoing transcript is a true
6 transcript of said electronic recording to the best of
7 my ability.

8 I FURTHER CERTIFY that I am not a relative,
9 employee, attorney, or counsel of any of the parties,
10 nor am I a relative or employee of any of the parties'
11 attorneys or counsel connected with the action, nor am
12 I financially interested in the action.

13

14 DATED this 20th day of September, 2024.

15

16

17

18 _____
WENDY K. SAWYER, CDLT

19 Notary Public #202411500157

20 Commission Expires April 23, 2029

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25

EXHIBIT 17

FOR USE OF BOARD OF ZONING APPEALS ONLY
(FINAL DECISION)

REQUESTED ADMINISTRATIVE APPEAL REQUEST FOR: WALTER BUCHANAN

FOR: WALTER BUCHANAN IS APPEALING THE ADMINISTRATIVE DECISION MADE BY THE YORK COUNTY ZONING ADMINISTRATOR TO A ZONING CODE INTERPRETATION, VARIOUS SECTIONS RELATED TO USES PERMITTED IN THE LIGHT INDUSTRIAL (LI) DISTRICT. CASE NUMBER Z24-2 AA

REQUEST AN ADMINISTRATIVE APPEAL TO: THE APPLICANT REQUESTS AN ADMINISTRATIVE APPEAL OF THE ZONING CODE INTERPRETATION MADE BY THE YORK COUNTY ZONING ADMINISTRATOR REGARDING A USE IN THE LIGHT INDUSTRIAL ZONING DISTRICT.

ANY PREVIOUS REQUESTS FOR SAME VARIANCE: () YES (X) NO

IF "YES," APPEAL TAX REFERENCE NUMBER AND DATE: _____

1. PUBLIC HEARING SET FOR MAY 9, 2024
2. ADVERTISED IN: THE HERALD DATE: MARCH 24, 2024
3. PUBLIC HEARING HELD: YORK COUNTY GOVERNMENT CENTER DATE: MAY 9, 2024
4. THE BOARD OF ZONING APPEALS HELD A PUBLIC HEARING ON MAY 9, 2024 TO CONSIDER an administrative appeal by Walter Buchanan requesting that the Board reverse the Zoning Administrator's Interpretation that Solar Panel Manufacturing is a Permitted Use within the Light Industrial Zoning District and further determine that Solar Panel Manufacturing be considered a Heavy Industrial use.
5. In her Interpretation of the York County Zoning Code, the Zoning Administrator determined that Solar Panel Manufacturing is classified as Computer and Electronic Products Manufacturing as defined in the York County Zoning Code. The Zoning Administrator's conclusion resulted after consultation with the North American Industry Classification System (NAICS), a system created and developed by the U.S. Bureau of Labor Statistics to track economic activities in North America on the principle that businesses that are similar in form or function, or that use similar production processes, should be grouped together. NAICS is utilized by countless jurisdictions across the Country to assist with classification of uses. Additionally, the York County Zoning Code is heavily informed by NAICS, as evinced by the numerous defined uses and manufacturing subsectors that are shared (verbatim) between the York County Zoning Code and NAICS.
6. THE BOARD MAKES THE FOLLOWING FINDINGS OF FACT WHICH ARE SUPPORTED BY THE EVIDENCE: Upon consideration of all presentations, evidence, and testimony presented before

the Board of Zoning Appeals regarding whether the Zoning Administrator erred in determining that Solar Panel Manufacturing exists within the York County Zoning Code under the Use "Computer and Electronic Products Manufacturing" and as a result, is a permitted use in the Light Industrial District, the Board finds: that the Zoning Administrator erred in determining that Solar Panel Manufacturing is a permitted use in the Light Industrial District; that while the Zoning Administrator is not prohibited from using the North American Industry Classification System (NAICS) as an aid in making classification interpretations under the Zoning Code, NAICS is not referenced in the York County Code of Ordinances as the authority by which such determinations are made, and staff presented insufficient evidence that any analysis independent of NAICS was utilized in making the determination that Solar Panel Manufacturing fits within the Computer and Electronic Products Manufacturing Use, which is a Permitted Use in the Light Industrial District; that Solar Panel Manufacturing is not expressly listed as a Permitted Use in the Light Industrial District, and as a result, is Prohibited pursuant to the Zoning Code § 155.270(G), which states that any use not listed for an applicable zoning district in the Use Tables provided in the Code is prohibited.

7. UPON CONSIDERATION OF THE FOREGOING, THE BOARD CONCLUDES: The Zoning Administrator erred in determining that Solar Panel Manufacturing is a Use under Computer and Electronic Products Manufacturing permitted in Light Industrial; and, that Solar Panel Manufacturing is not listed as a Use applicable for the Light Industrial Zoning District and is therefore prohibited pursuant to § 155.270 (G), York County Code of Ordinances.

THE BOARD, THEREFORE, UPON MOTION AND VOTE OF 5-0, **REVERSED** THE INTERPRETATION OF THE ZONING ADMINISTRATOR THAT SOLAR PANEL MANUFACTURING IS PERMITTED IN THE LIGHT INDUSTRIAL DISTRICT UNDER THE COMPUTER AND ELECTRONIC PRODUCTS MANUFACTURING USE.

EXHIBIT 18



ALAN WILSON
ATTORNEY GENERAL

March 17, 2026

The Honorable Christi Cox
Chairwoman, York County Council
Post Office Box 66
York, SC 29745

Dear Chairwoman Cox,

Following the recent incidents at the Silfab facility in York County, my Office continues to receive questions from concerned citizens regarding the status of Silfab's zoning in York County.

As I have reviewed these questions, there appears to be some confusion over the status of some of Silfab's manufacturing operations under its present zoning. Much of this confusion is due to an ongoing lawsuit in York County Circuit Court that arises out of a decision from the York County Board of Zoning Appeals. That zoning board previously determined that solar cell and panel manufacturing at Silfab's facility were not a permitted use under the facility's zoning as a Light Industrial district. In response, Silfab appears to contend that York County itself previously verified that solar cell and panel manufacturing were permissible under the facility's zoning as a Light Industrial district.

In an attempt to provide some clarity about this situation, I'd respectfully ask that you answer the following questions.

1. Did York County follow the standard permitting process for the construction of the Silfab facility?
2. As part of that permitting process, did Silfab seek a zoning permit from York County?
3. As part of the zoning process, did York County ever formally conclude that solar cell and panel manufacturing are permissible under Silfab's zoning as a Light Industrial district?
4. If so, who made that decision on behalf of York County?

5. If that decision was made by an employee of York County, did York County Council ratify that decision?
6. At any point in time, has Silfab requested a variance from existing zoning or rezoning?
7. What effect, if any, should be given to the York County Board of Zoning Appeals' decision?
8. Has York County issued any additional permits to Silfab following the Board of Zoning Appeals' decision?

As the Chief Legal Officer of the State, like many other concerned citizens, I would like to understand the process of how Silfab received their current zoning and permits. I have the utmost respect for York County Council, and I trust you agree that citizens deserve answers to these questions about the zoning of Silfab's facility.

Finally, given the importance of this issue to York County and its residents, I'd respectfully urge the parties to the ongoing lawsuit in York County Circuit Court to request that the court expedite the pending litigation so that a decision can be reached as soon as possible.

Sincerely,



Alan Wilson
South Carolina Attorney General

EXHIBIT 19



York County, SC Manager

April 2, 2026

Dear Attorney General Wilson,

Thank you for your letter and for your interest in the Silfab matter. The County appreciates your work and efforts in concert with the Department of Environmental Services to address the recent occurrences at the Silfab site, ensuring compliance with the law and maintaining the health and safety of York County citizens. As you know, representatives of the County reached out to you and your staff directly following the first reported incident at the Silfab site to attempt to engage on these issues. We continue to welcome the opportunity for further engagement on the subject and would reiterate our request for a follow-up meeting once you and your team have had the opportunity to review our below responses.

Your letter correctly notes that there is significant confusion in the public regarding the processes and approvals with how Silfab came to locate in York County and receive the required zoning approvals and permits to operate. Clarity on those issues by all involved is paramount. We believe an appropriate place to begin this response is with the background and context that seems to be missing from the public dialogue on this subject.

The Silfab site was and is still zoned light industrial, and prior to Silfab's location and significant investment in the County, the County's zoning staff evaluated and determined that Silfab's proposed use of the site was allowed as a matter of right under the York County Zoning Code. When questions and concerns regarding Silfab's zoning were raised, including whether all required and appropriate processes were followed, County Council directed County management to investigate the zoning and permitting issues associated with Silfab. Based on that review, and as detailed below, the County's position remains that all zoning approvals and permits were properly issued in accordance with the law and the County's Code of Ordinances.¹

¹ To provide information to address the public's concerns, statements issued by the County related to this project are posted publicly on the County's website at:
<https://www.yorkcountygov.com/1113/Information-on-Silfab-Solar>.

York County Manager
6 South Congress Street, Post Office Box 66, York, S.C. 29745
Phone: (803) 684-8511 Website: www.yorkcountygov.com

Below is a chronological timeline and summary of the relevant events of Silfab's development and describes the seven (7) litigation matters associated with the project to date:

- In December 2022, Silfab sought a zoning verification from the County. Zoning verifications are routinely sought from the County as a preliminary indication as to the compatibility of a proposed use on a particular site. County staff evaluated the request, found the proposed use to be compatible under the Zoning Code, and issued a verification letter to Silfab on December 27, 2022.² The verification was not appealed, and a recent circuit court order found it to be final.³
- On September 18, 2023, following two initial readings and a public hearing, County Council adopted an Inducement Ordinance regarding Silfab that authorized execution of a fee in lieu of tax (FILOT) agreement for the company.⁴ Consistent with S.C. Code Ann. § 12-44-50, the FILOT agreement identified and specified that the Silfab development would occur on the parcel where Silfab is currently operating, which is in a multi-county industrial park developed by Chester and York Counties, pursuant to S.C. Code Ann. § 4-1-170.
- On October 2, 2023, Silfab submitted a comprehensive application for civil construction approval which included a request for zoning compliance under Section 155.1122(B)(2) of the Zoning Code.⁵ This process is typical for larger scale developments of any type, with zoning being only one component of the application review and occurring contemporaneously with other review components.
- On February 1, 2024, a neighboring property owner (Walter Buchanan) submitted a request for a zoning interpretation under Section 155.1090 of the Zoning Code.⁶
- On February 16, 2024, the Zoning Administrator declined to issue a zoning interpretation directly responding to the seven questions posed in Mr. Buchanan's request, consistent with the discretion afforded the Administrator under Sections 155.1093(B) and 155.1094(B) of the Zoning Code (Attachment G).⁷
- On March 14, 2024, Mr. Buchanan appealed the Zoning Administrator's decision to decline the request for an advisory zoning interpretation to the Board of Zoning Appeals (BZA), as permitted by the Zoning Code.⁸
- After multiple rounds of review and comment, including review of zoning compliance by zoning staff, on April 24, 2024, the County approved the civil construction plan submitted by Silfab. Consistent with Sections 155.1123(B)(1)(a) and (B)(3) of the Zoning Code (Attachment

² A copy of the verification is enclosed as Attachment A.

³ A copy of the circuit court's January 21, 2026 order is enclosed as Attachment B.

⁴ Copies of the Inducement Ordinance and the FILOT are enclosed as Attachments C and D.

⁵ A copy of the zoning compliance section of the Zoning Code is enclosed as Attachment E.

⁶ A copy of the zoning interpretation request is enclosed as Attachment F, and a copy of the zoning interpretation section of the Zoning Code is enclosed as Attachment G.

⁷ A copy of the letter declining to issue a zoning interpretation is enclosed as Attachment H.

⁸ A copy of the appeal is enclosed as Attachment I.

E), this approval constituted the first step of zoning compliance, which involves confirming that the proposed use is consistent with Zoning Code requirements.

- On May 9, 2024, the BZA held a hearing on Mr. Buchanan's zoning interpretation appeal. By a vote of 5-0, the BZA reversed the decision of the Zoning Administrator.
- On May 29, 2024, the BZA issued a formal order reversing the Zoning Administrator and providing a zoning interpretation which, for the first time, found that solar panel manufacturing is not a permitted use under the computer and electronic products manufacturing designation in the County's Light Industrial zoning classification and that solar panel manufacturing is not listed as a use applicable for the Light Industrial Zoning District and is therefore prohibited.⁹ The BZA order speaks for itself and is currently pending on appeal before the circuit court; however, it is represented in your letter that the "zoning board previously determined that solar cell and panel manufacturing at Silfab's facility were not a permitted use under the facility's zoning as a Light Industrial district." For clarification, in fact, the BZA order and BZA-issued interpretation does not mention Silfab, its specific project, or the parcel on which Silfab is located. (Attachment J). Nevertheless, Silfab filed an appeal of the BZA order to the circuit court where it is currently pending. (2024-CP-46-02641) (**Lawsuit #1**). The appeal is expected to be heard on May 26, 2026.
- On July 30, 2024, Mr. Buchanan instituted a contested case proceeding (**Lawsuit #2**) in the Administrative Law Court (ALC) challenging the air permit issued by the South Carolina Department of Environmental Services. (Docket No. 24-ALJ-07-0367-CC).
- On September 5, 2024, a group of citizens opposed to Silfab (referred to as CAGI) filed a class action lawsuit in the circuit court (**Lawsuit #3**) against the County, Silfab, and the owner/landlord of the property. (2024-CP-46-03532). The lawsuit seeks a declaration that the BZA order and interpretation, which found solar panel manufacturing is not permitted on properties zoned light industrial, controls over the verification to Silfab and should act to prevent the development or issuance of any further permits or approvals to Silfab by the County. CAGI also sought a preliminary injunction seeking to stay the Silfab project and issuance of permits, or to revoke all permits issued by the County.
- On December 23, 2024, the ALC dismissed Mr. Buchanan's challenge to Silfab's air permit (**Lawsuit #2**).
- On January 29, 2025, the circuit court declined to grant an injunction against the County and Silfab in the CAGI class action lawsuit and stayed the case pending resolution of the BZA appeal. Despite two attempts by CAGI to lift the stay, the case remains stayed today (**Lawsuit #3**).
- On March 28, 2025, a second neighboring property owner (John Lee) submitted a request for a zoning interpretation under Section 155.1090 of the Zoning Code regarding the Silfab development.¹⁰

⁹ A copy of the BZA order is enclosed as Attachment J.

¹⁰ A copy of the zoning interpretation request is enclosed as Attachment K.

- On April 11, 2025, the Zoning Administrator declined to issue a zoning interpretation as to the three questions posed in Mr. Lee's request, consistent with the discretion afforded the Administrator under Sections 155.1093(B) and 155.1094(B) of the Zoning Code (Attachment G).¹¹ Thereafter, Mr. Lee instituted an appeal to the BZA.
- On July 2, 2025, a third neighboring property owner (Merlyn Bivens) filed a petition in the original jurisdiction of the Supreme Court against the County (**Lawsuit #4**) seeking writs of mandamus and prohibition, issuance of stop work orders, or permit revocations against Silfab. (Appellate Case No. 2025-001325).
- On July 10, 2025, the BZA held a hearing on Mr. Lee's appeal. By a vote of 3-2, the BZA affirmed the decision of the Zoning Administrator.
- On July 21, 2025, the Supreme Court denied the Ms. Bivens' petition for original jurisdiction (**Lawsuit #4**).
- On August 6, 2025, the BZA issued a decision letter formally affirming the decision of the Zoning Administrator as to Mr. Lee's interpretation request.¹²
- On September 4, 2025, Mr. Lee filed an appeal of the BZA decision in the circuit court where it is currently pending. (2025-CP-46-03474) (**Lawsuit #5**).
- On October 13, 2025, a fourth neighboring property owner (Dennis Bivens) filed an action in the circuit court against the County (**Lawsuit #6**) seeking declaratory judgment, preliminary and permanent injunctive relief, and writs of mandamus and prohibition requesting invalidation of all permits issued by the County to Silfab, or in the alternative, the issuance of stop work orders or permit revocations against Silfab. (2025-CP-46-04007).
- On October 28, 2025, CAGI filed a petition in the original jurisdiction of the Supreme Court against the County (**Lawsuit #7**) seeking writs of mandamus and prohibition, issuance of stop work orders, or permit revocations against Silfab. (Appellate Case No. 2025-002174).
- On December 16, 2025, the Supreme Court denied the CAGI petition for original jurisdiction (**Lawsuit #7**).¹³
- On January 21, 2026, the circuit court entered an order (Attachment B), dismissing the claims of Mr. Bivens against the County (**Lawsuit #6**).¹⁴
- On February 6, 2026, as a part of the inspection process required to obtain a certificate of occupancy, the County's zoning staff provided final zoning compliance approval to Silfab.
- On February 13, 2026, the County issued a certificate of occupancy to Silfab.

¹¹ A copy of the letter declining to issue a zoning interpretation is enclosed as Attachment L.

¹² A copy of the BZA's letter is enclosed as Attachment M.

¹³ CAGI has indicated an intent to file a petition for certiorari of the denial of original jurisdiction to the United States Supreme Court.

¹⁴ The order of dismissal has been appealed to the Court of Appeals. (Appellate Case No. 2026-000199).

Regarding the specific questions of your letter, the County provides the following answers and additional information:

1. Did York County follow the standard permitting process for the construction of the Silfab facility?
 - a. Yes.
2. As part of that permitting process, did Silfab seek a zoning permit from York County?
 - a. As described above, although the York County Zoning Code does not contemplate the issuance of a “zoning permit” for development, Silfab sought and received zoning compliance approval for its development. As further information, the process for obtaining zoning compliance is outlined in detail in Part 13: Zoning Compliance, of the York County Zoning Code. Applications for development plans and permits are reviewed by zoning staff for compliance with any provisions of the zoning code that are applicable to the project. Zoning compliance is approved in two steps under Section 155.1123(B): 1) site plan approval to check the proposal against code requirements, and 2) final compliance once construction is complete, to ensure that everything was built according to the approved site plan. (Attachment E). The process to complete the two reviews and achieve zoning compliance depends on the scale of the project. For smaller projects, a 2-page stand-alone zoning compliance application, specified in Section 155.1122(B)(1) of the Zoning Code, is required. For larger developments, Section 155.1122(B)(2) of the Zoning Code provides that zoning compliance may be sought concurrently with a plan review application, as multiple code reviews are required, and zoning compliance review is only one part of that process. For these large developments, a 17-page application for civil construction (civil construction plans) must be submitted, and the zoning compliance portion must include the same information required for a stand-alone zoning compliance application, along with other supplementary information necessary to satisfy the full scope of the plan review. Under Section 155.1123(B)(3), the first step of zoning compliance is required prior to the issuance of building or land development permits.
3. As part of the zoning process, did York County ever formally conclude that solar cell and panel manufacturing are permissible under Silfab’s zoning as a Light Industrial district?
 - a. Yes, as detailed above in the summary and timeline, the County initially reviewed Silfab’s proposed use against the site’s zoning in response to the zoning verification request. (Attachment A). Further, in response to Mr. Buchanan’s zoning interpretation request, the Zoning Administrator clarified and confirmed Silfab’s use was appropriate on the parcel zoned Light Industrial. (Attachment H). Finally, as a part of the County’s comprehensive review of Silfab’s civil construction plans, the zoning office reviewed and provided zoning compliance approval for the project.

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4. If so, who made that decision on behalf of York County?
 - a. Under York County's adopted Council-Manager form of government (S.C. Code Ann. §§ 4-9-810 et seq.), the County's staff, under the supervision of the Zoning Administrator and County Manager, is responsible for review of zoning for all projects under the Zoning Code and for issuing all approvals and permits. The standard process and review was followed as to Silfab's development.
5. If that decision was made by an employee of York County, did York County Council ratify that decision?
 - a. Under the County Code, County Council has no defined process for or role in the review of either preliminary zoning verifications or zoning compliance approvals made by the County's zoning staff; accordingly, Council did not review or otherwise ratify the zoning compliance approval issued to Silfab. However, as detailed in the order of the circuit court (Attachment B), the December 27, 2022, the preliminary zoning verification provided to Silfab was an action undertaken by the County which predated the Inducement Ordinance and FILOT agreement, and the FILOT agreement provided that it "ratified all prior actions taken with respect to the Project." (Attachment D, Recital 5). Council's ratification was not prospective and did not act to ratify any of the approvals or permits issued by the County after execution of the FILOT agreement. In addition, since the adoption of the Inducement Ordinance and execution of the FILOT agreement, County Council has taken no further specific action with respect to Silfab.
6. At any point in time, has Silfab requested a variance from existing zoning or rezoning?
 - a. No.
7. What effect, if any, should be given to the York County Board of Zoning Appeals' decision?
 - a. This question is the ultimate question in dispute in the stayed but still pending CAGI circuit court action (**Lawsuit #3**) against the County. Therefore, the County does not intend, either directly or indirectly, purposefully or accidentally, to waive its privilege, disclose attorney-client information, or compromise its interests in the suit. However, as information, the Zoning Code provides that interpretations are authorized only to "clarify ambiguities in the Zoning Code and to resolve any ambiguities in future amendments." (Attachment G, Section 155.1090). Because the stated purpose and intent of zoning interpretations is to clarify ambiguities for future amendments, the County has historically treated zoning interpretations as prospective only and improper for the purpose of challenging specific projects under use or in development. Further, as found by the circuit court in Attachment B at page 5, under Section 155.982(C) of the Zoning Code,¹⁵ because the BZA order was appealed, its effect is formally stayed; therefore, it is not final, could be modified or

¹⁵ A copy of the appeals section of the Zoning Code is enclosed as Attachment N.

reversed on appeal, and further comment as to its effect before the appeal is finally decided would be futile.

8. Has York County issued any additional permits to Silfab following the Board of Zoning Appeals' decision?

a. Yes, following approval of the site plan in the first step of zoning compliance under Sections 155.1123(B)(1)(a) and (B)(3) on April 24, 2024, County staff has issued the following permits in the ordinary course and in furtherance of the adopted Inducement Ordinance and FILOT agreement:

1. Permit # 202403901, June 29, 2024
2. Permit # 202403902, August 29, 2024
3. Permit # 202403903, August 29, 2024
4. Permit # 202501790, April 21, 2025
5. Permit # 202503831, August 21, 2025
6. Permit # 202502321, May 21, 2025
7. Permit # 202502322, May 21, 2025
8. Permit # 202502323, May 21, 2025

Again, the County appreciates your work and efforts to bring clarity and transparency to these issues, as well as ensure that the recent occurrences at the Silfab site are fully addressed and resolved by the proper authorities. We trust that you also recognize the complexity of these issues and reiterate that the County's obligation is to ensure that the best interests, safety, and welfare of its citizens is paramount, while also steadfastly adhering to its adopted ordinances, procedures, policies, and contractual commitments in light of the many legal challenges and the resulting decisions of courts who have evaluated these same issues. We look forward to a follow-up conversation or meeting with you and your team in the near future.

Sincerely,



Josh S. Edwards

York County Manager

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