



ORDINANCE NUMBER 20-2021

AN ORDINANCE TO CHANGE THE ZONING CLASSIFICATION OF PROPERTY OWNED BY FREEMAN FARM PARTNERS LLC. LOCATED ON FREEMAN FARM ROAD FROM C-3 (COMMERCIAL DISTRICT) AND I-1 (INDUSTRIAL DISTRICT) TO S-1 (SERVICE DISTRICT).

The City Council of Greer makes the following findings:

This ordinance pertains to a certain property owned by Freeman Farm Partners LLC. located on Freeman Farm Road and more clearly identified by the attached City of Greer Map specifying Spartanburg County Parcel Number 5-28-00-011.00 containing approximately 17.23 +/- acres marked as Exhibit A, and the Deed marked at Exhibit B.

1. The owners desire to change the zoning classification of their property and have shown the need for such use to the Greer Planning Commission at a public hearing held on April 19, 2021.
2. To accomplish the desired change in use in the most effective manner, the zoning classifications should be changed to S-1 (Service District).
3. The proposed use is in keeping with the general character of the surrounding property.


NOW, THEREFORE, be it ordained by the Mayor and Council of the City of Greer, South Carolina, as follows:

The zoning classification of property located on Freeman Farm Road more particularly identified by the attached City of Greer Map specifying Spartanburg County Parcel Number 5-28-00-011.00 containing approximately 17.23 +/- acres


attached hereto marked as Exhibit A shall be changed from C-3 (Commercial District) and I-1 (Industrial District) to S-1 (Service District).

This ordinance shall be effective upon second reading approval thereof.

CITY OF GREER, SOUTH CAROLINA


Richard W. Danner, Mayor

ATTEST:


Tammela Duncan, Municipal Clerk

Introduced by: Councilmember Wryley Bettis

First Reading: April 27, 2021

Second and
Final Reading: May 11, 2021

Approved as to Form:

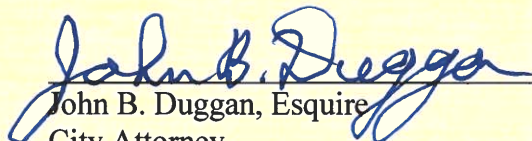
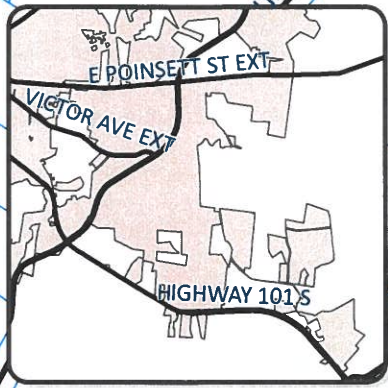
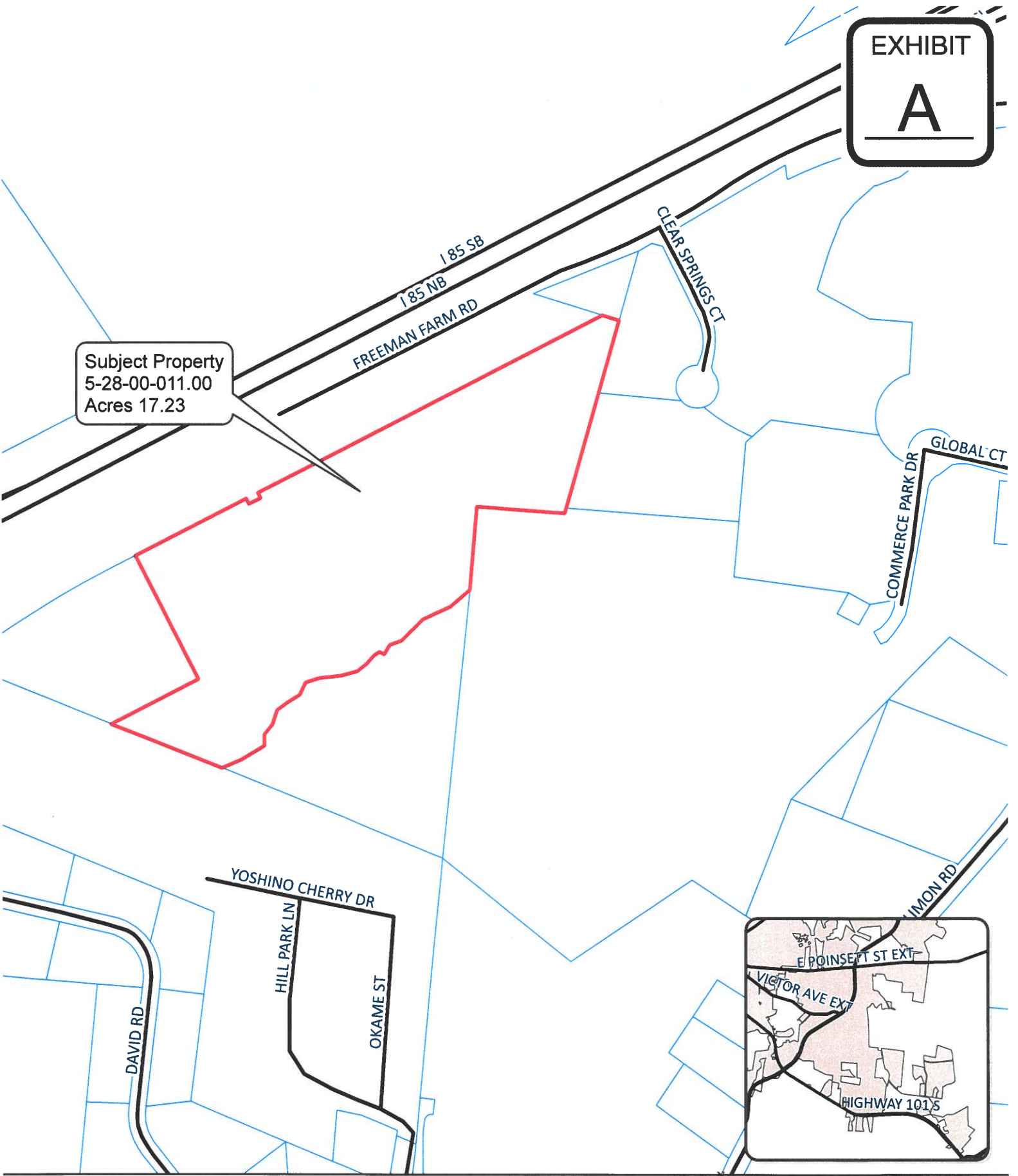

John B. Duggan, Esquire
City Attorney

EXHIBIT
A

Subject Property
5-28-00-011.00
Acres 17.23



Ordinance 20-2021



The City of Greer Planning/Zoning Department does not guarantee the accuracy or the correctness of this map nor assumes any legal responsibility for the information contained on it. This map is not a legal document. This map is based on the SC State Plane Coordinate System using the 1983 North American Datum. All rights reserved. No part of this map may be reproduced or used in any form or by any means without the expressed written consent of the City of Greer Planning/Zoning Department.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Mark III Properties, LLC,)
)
 Petitioner,)
)
 v.)
)
 Peggy S. Henson; SEPA Enterprises,)
 LLC; South Carolina Department of)
 Transportation, an agency of the State of)
 South Carolina; The County of)
 Spartanburg, South Carolina; and City of)
 Greer, South Carolina,)
)
 Respondents.)
)
 _____)

IN THE COURT OF COMMON)
)
ORDER FOR CLOSURE OF ROAD
C.A. No.: 2019-CP-42-00154

This matter comes before the Court upon Petitioner, Mark III Properties, LLC’s (“Mark III” or “Petitioner”) Petition for Closure of Road (the “Petition”), pursuant to Section 57-9-10 et seq. of the South Carolina Code of Laws, (1976) as amended. A hearing was held on June 12, 2019. Present at the hearing was Kristin Burnett Barber, as attorney for Petitioner; Stanley E. McLeod, attorney for Respondent SEPA Enterprises, LLC (“SEPA Enterprises”); Virginia M. Dupont, as attorney for Respondent County of Spartanburg, South Carolina (“Spartanburg County”); and Daniel R. Hughes, attorney for Respondent City of Greer, South Carolina (“City of Greer”).

Based upon the pleadings, the arguments of counsel, the affidavits presented, the record and the evidence, I find that the following facts were proven to the satisfaction of the Court, and the parties are entitled to the relief as hereinafter set forth.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. A Consent Order of Reference was filed of record on March 5, 2019.

2. This Court has jurisdiction over the parties and the subject matter before it and that venue is proper.

3. The Respondents, either personally or by and through their attorneys of record, were timely notified of the time, date and place of the hearing in this matter.

4. Petitioner desires to close that certain strip of land being an unpaved county road located in Spartanburg County, State of South Carolina, as more particularly described in the legal description attached hereto as **Exhibit "A"** and incorporated herein by reference (the "Subject Property"). The Subject Property is further shown on that certain plat of survey made for Westmoreland/EightyFive Associates by Arbor Engineering, Inc. dated May 31, 1989 and recorded May 31, 1989 in Plat Book 107 at page 184 in the Office of the Register of Deeds for Spartanburg County, South Carolina (the "Plat"). A copy of the Plat is attached to the Petition as **Exhibit "B"** and incorporated herein by reference.

5. At the time of the filing of this action, Westmoreland/Eighty-Five Associates, a South Carolina General Partnership ("Westmoreland/Eighty-Five") was the owner of certain real property which abuts the Subject Property (the "Westmoreland/Eighty-Five Tract") by virtue of that certain deed from William H. Westmoreland, Evelyn Merle Liles, Thelma Mae W. Strange, Barbara W. Henderson and Larry P. Westmoreland dated June 15, 1989 and recorded June 16, 1989 in Deed Book 55-M at page 625 in the Office of the Register of Deeds for Spartanburg County, South Carolina (the "Westmoreland/Eighty-Five Deed"). A copy of the Westmoreland/Eighty-Five Deed is attached to the Petition as **Exhibit "C"** and incorporated herein by reference.

6. Subsequent to and subject to the Lis Pendens filed in this action, Westmoreland/Eighty-Five conveyed to Mark III certain real property being generally described

as Parcel A, containing 24.76 acres, more or less, Parcel B containing 0.21 acres, more or less and Parcel C containing 0.03 acres, more or less, on a survey prepared for Mark III Properties, LLC by 3D Land Surveying, Inc. dated May 17, 2018 and recorded in Plat Book 175 at page 302 in the Office of the Register of Deeds for Spartanburg County, South Carolina (the "Mark III Plat"), which the Subject Property runs through, by virtue of that certain deed dated January 29, 2019 and recorded January 30, 2019 in Deed Book 122-Q at page 249 in the Office of the Register of Deeds for Spartanburg County, South Carolina (the "Mark III Deed"). A copy of Mark III Plat is attached hereto as **Exhibit "B"** and incorporated herein by reference. A copy of the Mark III Deed is attached hereto as **Exhibit "C"** and incorporated herein by reference.

7. On May 24, 2019, the undersigned executed and filed an Order Substituting Petitioner, substituting Mark III Properties, LLC as Petitioner.

8. Petitioner is an "interested person" with regard to the Subject Property, as defined under S.C. Code Ann. Section 57-9-10, by virtue of its ownership of the above-described properties.

9. Respondent Peggy S. Henson ("Henson") is the owner of certain real property adjacent to a portion of the Subject Property proposed to be closed (the "Henson Property") by virtue of that certain deed from Hendrix J. Bennett dated April 11, 2013 and recorded May 29, 2013 in Deed Book 103-K at page 869 in the Office of the Register of Deeds for Spartanburg County, South Carolina (the "Henson Deed"). A copy of the Henson Deed is attached to the Petition as **Exhibit "D"** and incorporated herein by reference.

10. At the time of the filing of this action, Respondent SEPA Enterprises, LLC was the owner of certain real property adjacent to a portion of the Subject Property proposed to be closed (the "SEPA Enterprises Property") by virtue of that certain deed from the South Carolina

Department of Transportation dated August 1, 2014 and recorded September 18, 2014 in Deed Book 107-B at page 405 in the Office of the Register of Deeds for Spartanburg County, South Carolina (the "SEPA Enterprises Deed"). A copy of the SEPA Enterprises Deed is attached to the Petition as Exhibit "E" and incorporated herein by reference.

11. On July 1, 2019, SEPA conveyed to Mark III certain real property generally described as 6.73 acres, more or less, as shown and designated as Parcel D on a survey prepared for Mark III Properties, LLC by 3D Land Surveying, Inc. dated May 17, 2018, revised May 1, 2019 and recorded in Plat Book 176 at page 54 in the Office of the Register of Deeds for Spartanburg County, South Carolina, by deed dated July 1, 2019 and recorded July 2, 2019 in Deed Book 124-K at page 273 in the Office of the Register of Deeds for Spartanburg County, South Carolina. A copy of said deed is attached hereto as Exhibit "D" and incorporated herein by reference.

12. That said property conveyed by SEPA to Mark III abuts the Subject Property to be closed.

13. Petitioner plans to further develop its property which the Subject Property runs through and believes that the further development will be a general and permanent benefit to the citizens and residents of the surrounding area.

14. Furthermore, the Subject Property is not a paved or dirt road, does not exist on the ground, and has never been used as a public road.

15. Neither Spartanburg County, South Carolina Department of Transportation, nor the City of Greer maintain the Subject Property and none claim any right, title or interest in the Subject Property.

16. There are no other owners of property abutting the Subject Property aside from Petitioner and Respondent Henson, as more particularly described hereinabove.

17. South Carolina Code Section 57-9-10, as amended in 2012, provides as follows:

Any interested person, the State or any of its political subdivisions or agencies may petition a court of competent jurisdiction to abandon or close any street, road or highway whether opened or not. Prior to filing the petition, notice of intention to file shall be published in the county where such street, road or highway is situated. Notice also shall be sent by mail requiring a return receipt to the last known address of all abutting property owners whose property would be affected by any such change, and posted by the petitioning party along the street, road or highway, subject to approval of the location of the posting by the governmental entity responsible for maintenance of the street, road or highway. The Department of Transportation shall promulgate regulations which once effective will establish the minimum mandatory size, language, and specific positioning of signs pursuant to this section.

18. That in accordance with S.C. Code Section 57-9-10, et seq., prior to filing this Petition, Petitioner published a Notice of Intention to File a Petition for Abandonment and Closure once a week for three (3) consecutive weeks in a newspaper published in Spartanburg County, State of South Carolina, the county and state where the Subject Property is located as evidenced by the Affidavit of Publication attached to the Petition as Exhibit "F" and incorporated herein by reference.

19. That in accordance with S.C. Code Section 57-9-10, et seq., prior to filing this Petition, Petitioner provided notice of this action to all abutting property owners whose property would be affected by the same. Said notices are attached to the Petition collectively as Exhibit "G" and incorporated herein by reference.

20. That, prior to filing this Petition, in accordance with S.C. Code Section 57-9-10, et seq., Petitioner posted notice of this action along the Subject Property in accordance with the requirements of S.C. Code Section 57-9-10 et seq. and South Carolina Department of Transportation regulations. Photographs of the signs placed by Petitioner along the Subject

Property are attached to the Petition collectively as Exhibit "H" and incorporated herein by reference.

21. No citizens and residents of the surrounding area have made an appearance to oppose the abandonment and closure of the road.

22. The Court hereby finds that it is in the best interest of the citizens and residents of the surrounding area for the Subject Property to be permanently abandoned and closed.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

a. That the Subject Property, as described herein, shall be permanently abandoned, closed, discontinued and vacated as a road;

b. That any and all rights the Respondents and the public in general might have in and to the Subject Property are hereby permanently terminated;

c. That the legal, fee simple and equitable title in and to the Subject Property be declared vested in Mark III Properties, LLC;

d. That the Subject Property is not subject to any express or prescriptive rights of way or easements for ingress and egress; and

e. That all costs associated with the closure of the Subject Property be borne by Mark III Properties, LLC;

f. That pursuant to Section 57-9-30 et.seq. of the South Carolina Code of Laws (1976) as amended, the Spartanburg County Register of Deeds shall record this Order in its records and index the same in the book of deeds to real property.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE TO FOLLOW]

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2019- CP-42-00154

Mark III Properties, LLC,
PETITIONER

Peggy S. Henson; SEPA Enterprises, LLC; et.al.,
RESPONDENTS

Submitted by: Kristin Burnett Barber, Esq.	Attorney for : <input checked="" type="checkbox"/> Petitioner <input type="checkbox"/> Respondent or <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : Road Closure

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		N/A

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Master-in-Equity

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of July, 2019 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of July, 2019 to attorneys of record or to parties (when appearing pro se) as follows:

Kristin Burnett Barber, Esq.
PO Drawer 5587
Spartanburg, SC 29304
ATTORNEY(S) FOR THE PETITIONER

See below

ATTORNEY(S) FOR THE RESPONDENT

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

Peggy S. Henson
780 Brockman McClimon Rd.
Greer, SC 29651

Stanley E. McLeod, Esq.
Brown, Massey, Evans, McLeod
& Haynsworth, LLC
PO Box 2464
Greenville, SC 29602

Linda C. McDonald,
Chief Counsel, SCDOT
PO Box 191
Columbia, SC 29202

Virginia M. Dupont,
County Attorney
PO Box 5666
Spartanburg, SC 29304

Daniel R. Hughes, Esq.
Duggan & Hughes, LLC
PO Box 449
Greer, SC 29652

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Spartanburg Common Pleas

Case Caption: Mark III Properties, LLC, plaintiff, et al VS Peggy S. Henson ,
defendant, et al
Case Number: 2019CP4200154
Type: Master/Order/Form 4

It is So Ordered

s/Judge Gordon G Cooper-3065

Electronically signed on 2019-07-09 14:25:03 page 9 of 9



**ZONING MAP AMENDMENT APPLICATION
(ZONING & REZONING)**

Date 3-18-2021

(Fees for this application are based on a sliding scale - See Fee Schedule)

Tax Map Number(s) 5-28-00-011.00

Property Address(s) Freeman Farm Road

Acreage of Properties 17.23 County Spartanburg

<u>Applicant Information</u>
Name <u>Alexander Zuentd, PE</u>
Address <u>21- E Washington Street</u> <u>Greenville, SC 29601</u>
Contact Number <u>864-990-2995</u>
Email <u>azuendt@zuendtengineering.com</u>

<u>Property Owner Information</u> <i>(If multiple owners, see back of sheet)</i>
Name <u>Freeman Farm Properties LLC</u>
Address <u>PO BOX 2267</u> <u>GREER SC 29652</u>
Contact Number <u>864-304-1446</u>
Email <u>bjones@servicetransport.com</u>
Brent Jones, Managing Member

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? Yes No

The applicant hereby requests that the property described be zoned *(in the case of Annexation)* or rezoned from S-1 to I-1.

Existing Use: Vacant Proposed Use: Truck Laydown Yard

Signature(s) 

All zoning classifications, permitted uses and fees are available at www.cityofgreer.org

<u>OFFICE USE ONLY</u>	
Date Filed _____	Case No. _____
Meeting Date _____	

**ZONING REPORT
STAFF REPORT TO THE GREER PLANNING COMMISSION
MONDAY, APRIL 19, 2021**

DOCKET: RZ 21-03

APPLICANT: Zuendt Engineering

PROPERTY LOCATION: Freeman Farm Rd

TAX MAP NUMBER: 5-28-00-011.00

EXISTING ZONING: I-1, Industrial and C-3, Commercial

REQUEST: I-1, Industrial

SIZE: 17.24 Acres

COMPREHENSIVE PLAN: Mixed Employment Community

ANALYSIS: **RZ 21-03**

RZ 21-03 is a request to rezone a parcel located on Freeman Farm Rd. The property is currently split-zoned with I-1, Industrial and C-3, Commercial with the request to rezone to I-1, Industrial. The applicant intends to use the lot for tractor trailer storage.

Surrounding land uses and zoning include:

North: Unzoned (Spartanburg County) – GSP Airport Property and I-85
East: I-1, Industrial (City of Greer) – Global Commerce Park
South: R-7.5, Single-family Residential (City of Greer) – Overton Park Subdivision, currently being graded
West: C-3, Commercial and R-7.5, Single-family Residential (City of Greer) – SCDOT Salt Shed and Overton Park Subdivision

The land use map in the Comprehensive Plan identifies the area as a Mixed Employment Community. Mixed Employment are office park or corporate campus-like developments geared toward meeting the needs of mid- to large businesses. Characterized by a campus-style development pattern integrating jobs, amenities and places of residence. These often center around research, medical, manufacturing, assembly, and educational uses.

Primary uses: Advanced manufacturing, research, office, mixed-use buildings, civic/institutional facilities

Secondary Uses: Open space, district commercial, multi-family residential

In accordance with the guidelines set forth in the Comprehensive Plan and after a detailed study of the area, staff recommends S-1, Services instead of I-1, Industrial.

STAFF RECOMMENDATION: Approval of S-1, Services District zoning

ACTION: Planning Commission asked the applicants if they were good with the recommended S-1, Service District zoning and the applicants stated they were ok with changing their request to S-1, Service District. Mr. Kriese made a motion to approve the S-1, Service District zoning. Ms. Jones seconded the motion. The motion carried with a vote of 4 to 0. The motion passed.