

To: Clerk

The following documents are enclosed:

- A 1.YC website page showing zoning compliance & zoning verification as separate processes
2. Zoning verification application from Judi Quinby (not Silfab)
 3. Zoning verification letter from technician (not administrator)
 4. Zoning compliance application never provided by or on behalf of Silfab (see middle page 2)

B 1. YC 155.262

2. YC 155.1123

3. SC 6-29-950

4. SC 6-29-1145

C. YC Defense Brief (dismissed) pages related to:

1. "Zoning compliance verification"
2. FILOT ratified zoning

D. TIA

E. Change in Use - YC email

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www.yorkcountygov/377/Zoning - Then scroll about half way down the page, and you will see the following:

Zoning Permits, Forms & Applications

[Code Enforcement Violation Complaint Form 3-13-20](#)

[Grand Tree Removal Application 1_30_2024](#)

[Home Occupation Application Larger than 2 Acres Lot 6-29-22](#)

[Home Occupation Application less than 2 Acres 6-29-22](#)

[Individual Plat & Minor Subdivision Checklist & Submittal Form 11_27_2023](#)

[Lake Wylie Catawba River Buffer Permit Application and Instructions 5_11_2020](#)

[Power Authorization Request and Instructions 7_8_25](#)

[Rezoning Application 11-17-22](#)

[Sign - Permanent Permit Application 5_12_2022](#)

[Zoning Compliance General Application 5_11_2022](#)

Zoning Compliance (2 page application) is a separate process that cost \$100

[Zoning Verification Request Form 3_28_23](#)

Zoning Verification (1 page application) is one process that only cost \$50

Board of Zoning Appeals Forms & Applications

[Administrative Appeals Application and Instructions BZA 7_30_24](#)

[Board of Zoning Appeals Variance Application and Instructions BZA 3-2-22](#)

[Special Exception Application and Instructions BZA 3_2_22](#)



PLANNING & DEVELOPMENT SERVICES
18 W. LIBERTY ST., PO BOX 96, YORK, SC 29745-0096
PHONE (803) 909-7230 / FAX (803) 909-7227

ZONING VERIFICATION REQUEST

The word "Comliance" is not here.

****PLEASE ALLOW 5 BUSINESS DAYS FOR PROCESSING****

Directions: Please complete the following, sign the application, and enclose the \$50.00 processing fee. (Checks are payable to York County).

Silfab's name is not on this form.

Name: Judi Quinby

Address: 3343 Peachtree Road, NE, Suite 1600, ATL, GA 30326

Phone: 404.495.3682 Email: jquinby@mmmlaw.com

Preferred method of delivery (mail, email, or fax): email

Property address: 7149 Logistics Lane, Fort Mill, SC 29715

Property Tax Map Number: _____

Proposed use: Manufacturing of photovoltaic cells & PV Module

(solar panels), with general and ancilliary office use.

In/Outdoor storage of chemicals related thereto.

Signature of applicant:  Date submitted: 12/21/22

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.



December 27, 2022

Judi Quinby

3343 Peachtree Rd NE Suite 1600
Atlanta GA 30326

This is not specific to Silfab.

Ref: **Zoning Verification** for 7190000201

The word "Compliance" is not here.

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 confirms change of use, which requires Zoning Compliance approval per YC 155.262

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. Proper permits require the approval of the Zoning Administrator per SC 6-29-950

Best Regards,

Emily Stephens
York County Zoning Technician



PLANNING & DEVELOPMENT SERVICES

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



Zoning Compliance Application & Checklist

See middle of page 2, adhering to state law, highlighted in yellow.

This is to assist with the submittal of a request for a Zoning Compliance and should be used to ensure all appropriate documentation is submitted. Completion of this form is necessary for the following type of applications. Please indicate the type of application you are requesting:

- | | |
|---|--|
| <input type="checkbox"/> Conditional or Special Exception Use | <input type="checkbox"/> Temporary Sign Permit |
| <input type="checkbox"/> Temporary Use | <input type="checkbox"/> Moving a Structure (Excluding a Manufactured Home) |
| <input type="checkbox"/> Change to an Existing Use | <input type="checkbox"/> Altering a site, structure, or landmark within the Historic Overlay (Submit with Building Permit Application) |
| <input type="checkbox"/> Reestablishing a Use after 180 days or more | <input type="checkbox"/> Other _____ (Describe) |
| <input type="checkbox"/> Detached Accessory Structure Less Than 200sf | |
- Structure Type: _____

Zoning Compliance review cost \$50 for residential uses and \$100 for non-residential uses. The review and determination can take up to five (5) 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 Zoning Compliance requests should contain the attached Zoning Compliance Application AND the following information:

Conditional or Special Exception Use, Temporary Use, Change to an Existing Use, Reestablishing a Use:

- Narrative** – Written narrative explaining the nature of the request
- Other relevant factors pertaining to the request

Detached Accessory Structure:

- Site Plan/Plat** – With setbacks clearly labeled showing distances from all 4 property lines, and showing any easements or right-of-ways that exist on the property
- Sketch/Drawing** – Documentation that shows what the structure will look like, and provides a clear understanding of materials being used for construction
- Accessory Building Letter of Acknowledgement**
- Homeowners Association (HOA) Approval** – If applicable

Temporary Sign:

- Plan** – Drawing, rendering, or picture illustrating the sign content, including height/size of sign
- Site Plan/Plat** – Showing where the temporary sign will be located with setbacks if freestanding; OR
- Building Elevation** – Showing location of wall sign on building
- Dates:** Signs will be erected: _____ Signs will be removed: _____

Moving a Structure:

- Narrative** – Written narrative explaining the nature of the request
- Other relevant factors pertaining to the request

Altering a site, structure, or landmark within the Historic Overlay

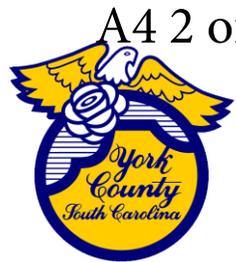
- Building Permit Application** – All necessary documentation required for a building permit, depending on the type of alteration
- Narrative** – Written narrative explaining the nature of the request
- Other relevant factors pertaining to the request

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.



PLANNING & DEVELOPMENT SERVICES

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YORK, SC 29745-0096
PHONE (803) 909-7200 / FAX (803) 909-7227



ZONING COMPLIANCE APPLICATION

Date: _____

GENERAL INFORMATION

Applicant Name: _____ Phone: _____

Applicant Address: _____ Email: _____

Property Owner Name: _____ Phone: _____

Property Owner Address: _____ Email: _____

PROPERTY INFORMATION

Property Address: _____

Current Condition: _____

Current Use: _____

Proposed Use: _____

Zoning District: _____ Tax Parcel ID: _____

Acreage: _____ # of Buildings: _____ (Current) _____ (Proposed)

Describe the proposed project in detail:

*****Acknowledgement of SC 6-29-1145***** Is this parcel of land restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity that is being applied for? Yes No

This law was ignored for Silfab.

General Acknowledgement

- I certify to the best of my knowledge that all information provided herein is true and correct and all work performed under this permit shall conform to the plans and specifications herewith submitted and to all applicable Building Codes and Laws and Ordinances pertaining thereto.
- Plans submitted in association with this application are owned by the applicant or agent of, and has permission to use them.
- I further understand that if any information provided is found to be incorrect or falsely stated that this permit will be null and void and that I may be responsible for violation of other related state laws and local ordinances.
- I certify no construction or portion of construction will be built over or under any electrical, water, sewer, storm water or any other utility easements or rights-of-way.

Applicant Signature

Applicant Title

Applicant Printed Name

Date

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.

For Staff Use:

Date Submitted: _____ Date Deemed Complete: _____ Checked By: _____

Case Number (if applicable): _____

(C) Part 3 : *Conditional and Special Exception* Uses of this Subchapter applies to all conditional uses (as specified in Part 2 : *Use Table*) and certain special exception uses. These standards supplement the other requirements of this Chapter.

(D) Part 4 : *Accessory Uses and Structures* of this Subchapter applies to all accessory uses, buildings, and structures.

(E) Part 5 : *Temporary Uses and Structures* of this Subchapter applies to all temporary uses.

§ 155.262 ZONING COMPLIANCE REQUIRED.

(A) Prior to a change in use or establishment of a new conditional, accessory, or temporary use, an applicant must receive zoning compliance approval (see Subchapter E: *Procedures*).

(B) All special exception uses also require zoning compliance approval, following approval by the Board of Zoning Appeals and prior to the establishment of the use.

§ 155.263 REPLACEMENT OF AN EXISTING SINGLE-FAMILY DWELLING.

(A) The Zoning Administrator may issue conditional zoning compliance approval for the construction of a conforming single-family detached dwelling to replace an existing single-family detached dwelling, if the lot owner files a cash performance bond/letter of credit to ensure the demolition and removal of the dwelling being replaced.

(B) This conditional zoning compliance allows the lot owner to reside in the existing single-family detached dwelling during the construction of another single-family detached dwelling located on the same lot.

(C) The bond or letter of credit will be in an amount and form as will be sufficient to guarantee for the demolition and removal of the dwelling and all debris in an approved manner. The bond or letter of credit will be in a form and amount approved by and acceptable to the Zoning Administrator and the Building Official.

(D) Upon approval and acceptance of the bond/letter of credit under this Section, the lot owner must complete the demolition and removal of the existing dwelling within 90 days of the issuance of a certificate of occupancy for the new dwelling, with hardship extensions of 90 days upon review and approval by the Zoning Administrator.

(E) If the owner fails to demolish and remove the existing dwelling within the required period of time, the bond/letter of credit will be forfeited and applied to the costs of demolition and removal of the existing dwelling. This provision in no way releases the owner from financial liability incurred above the value of the bond to demolish and remove the existing dwelling.

(F) A request for a conditional zoning compliance and the posting of a bond/letter of credit will constitute a waiver and absolute forfeiture of the right to request a variance from the above referenced requirements of the Zoning Code.

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

(F) 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

SECTION 6-29-950. Enforcement of zoning ordinances; remedies for violations.

(A) The governing authorities of municipalities or counties may provide for the enforcement of any ordinance adopted pursuant to the provisions of this chapter 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. It is unlawful to construct, reconstruct, alter, demolish, change the use of or occupy any land, building, or other structure without first obtaining the appropriate permit or permit approval. No permit may be issued or approved unless the requirements of this chapter or any ordinance adopted pursuant to it are complied with. **It is unlawful for other officials to issue any permit for the use of any land, building, or structure, or the construction, conversion, demolition, enlargement, movement, or structural alteration of a building or structure without the approval of the zoning administrator.** A violation of any ordinance adopted pursuant to the provisions of this chapter is a misdemeanor. In case a building, structure, or land is or is proposed to be used in violation of any ordinance adopted pursuant to this chapter, the zoning administrator or other appropriate administrative officer, municipal or county attorney, or other appropriate authority of the municipality or county or 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. Each day the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues is considered a separate offense.

(B) In case a building, structure, or land is or is proposed to be used in violation of an ordinance adopted pursuant to this chapter, the zoning administrator or other designated administrative officer may in addition to other remedies issue and serve upon a person pursuing the activity or activities a stop order requiring that entity stop all activities in violation of the zoning ordinance.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-1145. Determining existence of restrictive covenant; effect.

(A) In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

(C) As used in this section:

(1) "actual notice" is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;

(2) "permit" does not mean an authorization to build or place a structure on a tract or parcel of land; and

(3) "restrictive covenant" does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land.

HISTORY: 2007 Act No. 45, SECTION 3, eff June 4, 2007, applicable to applications for permits filed on and after July 1, 2007; 2007 Act No. 113, SECTION 2, eff June 27, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A), substituted "in the application or by written instructions to an applicant whether" for "if", rewrote subsection (B); and in subsection (C), added paragraph (1) defining "actual notice" and redesignated paragraphs (1) and (2) as paragraphs (2) and (3).

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.)	DEFENDANTS' MEMORANDUM IN
)	SUPPORT OF ITS 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.)	
)	

INTRODUCTION

Defendants York County, Joshua Edwards, Josh Reinhardt, and Jonathan Buono (collectively, the County), by and through the undersigned counsel, respectfully submit this memorandum in support of their Motion to Dismiss Plaintiff Dennis Floyd Bivins' Complaint pursuant to Rule 12(b) of the South Carolina Rules of Civil Procedure (SCRCP).

This action is the *third* civil matter presently pending before the circuit court arising from the facts set forth below.¹ Each of the plaintiffs in these related cases is represented by the same counsel, Mr. Halford, who has also represented related, or the same, parties in two appellate

¹ Specifically, two other matters are similarly pending in the Court of Common Pleas, Sixteenth Judicial Circuit, York County: (1) 2024-CP-46-02641, *Silfab Solar, Inc., et al. v. York County Board of Zoning Appeals*; and (2) 2024-CP-46-03532, *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* (collectively, the Related Litigation).

proceedings regarding the subject matter of this case.² Collectively, these challenges pursue a single objective: to halt non-party Silfab Solar, Inc.'s (Silfab) county-approved, -induced, and -regulated development in York County. However, this piece of the continued coordinated attempt cannot succeed, as a matter of law, and therefore should be dismissed.

BACKGROUND

- A. **Zoning Compliance Verification** creating a salad of 3 words is confirmation that COMPLIANCE is required and an admission that verification is not an approval.

In late 2022, 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,³ a division of the County's Planning and Development Services Department, issued a letter to Silfab verifying that Silfab's proposed operations were compatible

York County treats zoning verification and zoning compliance as two distinct processes. Just look on the website.

² Those matters are (1) Appellate Case No. 2025-001325 (Petition denied July 21, 2025), and (2) Appellate Case No. 2025-002174 (Pending review) (collectively, the Related Appellate Litigation).

³ The Complaint attempts to attach significance to the fact that the Zoning Compliance Verification issued to Silfab lacked the Zoning Administrator's signature, arguing Zoning Administrator alone may approve or deny zoning compliance. Instead, a staff member of the Zoning Division, with the title of "York County Zoning Technician," signed the Zoning Compliance Verification letter to Silfab. The fact that the Zoning Compliance Verification to Silfab was signed by the technician assigned to the request is indicative and dispositive of nothing. The County's Zoning Division staff is specifically tasked with assisting the public with requests or information associated with the use and development of property within the County. *See* <https://www.yorkcountygov.com/377/Zoning>. 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." *Id.*; *see also* Zoning Code § 155.957 (Table 155.957-1). Compliance reviews and approvals are evaluated collectively by the staff, including the Zoning Administrator, prior to responding to the requesting person or entity. Therefore, the Zoning Compliance Verification was the Zoning Division's official position on the inquiry, the letter was not appealed and has not been revoked or rescinded, and Plaintiff's allegations to the contrary are meritless.

In accordance with the Inducement Ordinance, also on September 18, 2023, the County and Silfab executed the FILOT agreement. *See* Ex. C. The FILOT is a binding agreement between the County and Silfab to pursue development of the Silfab project at the Parcel. Among other terms, Recital 4 of the FILOT states that “[t]he 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 *Id.* at 1. Recital 5 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.*

Id. at 1–2 (emphasis added). Thus, the County, through formal legislative action of its County Council, has approved and has specifically induced Silfab to locate in the County at the site in question. 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.

Compliance and Verification are 2 different processes

Verification can't be substituted for Compliance, because it does not inquire about deed restrictions per 6-29-1145

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.⁶

⁵ Multi-County Park is defined in the FILOT agreement as “the joint county industrial park (York County and Chester County) established pursuant to the terms of the [November 11, 2002 Agreement for Development of Joint County Industrial and Business Park].” *Id.* at 5.

⁶ Since it began developing, to date, Silfab has had two building-related violations at the Parcel. First, during a routine meeting onsite on May 20, 2025, the County discovered that three support buildings within the bulk storage area were partially constructed prior to building permits being issued. As each of these buildings required a separate building permit, three individual stop work orders were issued on May 21, 2025, for construction without building permits. Conditions to rectify the orders included submittal of the appropriate permit documents, licensed contractor information, as well as a letter from an engineer in order to verify that construction had been

A. Standing¹⁸

i. Statutory Standing

To the extent that Plaintiff has or should contend that S.C. Code Ann. section 6-29-950 provides him statutory standing to maintain this lawsuit, the complaint fails to plead the necessary and required facts to satisfy his burden under the precedent of the South Carolina Supreme Court. Beyond that deficiency, Plaintiff overlooks the application of the Inducement Ordinance and the supporting **FILOT agreement, which was passed specifically for the Silfab project and authorizes its development on the Parcel.** The existence of the Inducement Ordinance is fatal to Plaintiff's claim that the County's actions in issuing approvals and permits to Silfab for its development is violative of the Zoning Code, as it eliminates the threshold condition precedent to Plaintiff's claim under section 950(A). **6-29-950 requires zoning compliance, not a FILOT that allegedly ratified a zoning verification that did not name Silfab.**

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 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, **The FILOT nor the zoning verification asked for "restrictive covenants" (deed restrictions) to be disclosed in writing, which is required by 6-29-1145, and shown on York County's Zoning Compliance Application, a process that Silfab was allowed to skip, and a process that requires the approval of the Zoning Administrator, who must approve prior to the issuance of any permits per 6-29-950.**

¹⁸ Generally, there are three related avenues by which a plaintiff can demonstrate standing: traditional, constitutional standing; statutory standing, where a specific statute provides a defined opportunity for challenging a particular action; and the public importance exception to standing. Plaintiff does not plead or argue the public importance exception to standing and it has no applicability to this case. Due to the deficiencies of the allegations of the complaint, it is not readily apparent from the face of the pleading whether Plaintiff claims statutory standing, although Plaintiff's memorandum in opposition to this motion to dismiss argues that it does. *But see Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308 (2007) (holding that, in considering a motion to dismiss, a “court may consider only the facts alleged in the complaint,” rather than arguments of counsel submitted in memoranda for the purpose of shoring up deficient pleadings). Out of an abundance of caution, and because the complaint is deficient under either avenue, this memorandum addresses the complaint's failure to plead facts sufficient to satisfy both statutory and constitutional standing for the Plaintiff.

More importantly, the complaint does not reference, and thereby attempts to entirely avoid, the indisputable fact that the County’s governing body has taken official, formal action through the Inducement Ordinance to approve Silfab’s location at the Parcel. See Ex. B. Therefore, contrary to Plaintiff’s unsupported assertion that Silfab’s development is being conducted in violation of an ordinance, in fact, it is being developed pursuant to and at the express direction of a specific ordinance adopted by County Council to induce the development at the Parcel. In addition, the Inducement Ordinance specifically references the fact that the FILOT agreement was presented to County Council for consideration at the time of the ordinance’s adoption and contains a legislative finding of fact that the FILOT agreement was “appropriate” and “approved” for execution by the County.²² In turn, the FILOT agreement specifically identifies the Parcel for development of the Silfab project. See Ex. C, 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). Further, as set forth above, the FILOT agreement—which was expressly reviewed and approved by County Council in the Inducement Ordinance—includes a finding that “all prior actions taken with respect to the Project” were “ratified.” *Id.* at 2. Such prior actions include the Zoning Compliance Verification, whose issuance by the County’s zoning office predated the Inducement Ordinance and FILOT agreement and was specific to both Silfab and the Parcel. Again, the entire basis for Plaintiff’s claim that Silfab’s development, and the permits issued to Silfab by the County, are in violation of an ordinance, is that the Zoning

Looks like it is Council's fault for approving zoning via a FILOT.

²² See *id.* at 2 (“**WHEREAS**, the County Council has caused to be prepared and presented to this meeting the form of the [FILOT] 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.”).

Compliance Verification was invalid, void and unlawful. But that claim fails as a matter of law in the face of the foregoing legislative findings and actions of the County's governing body.

Moreover, although none actually exists, to the extent that there is a perceived discrepancy between the general review and approval of projects under the Zoning Code (§ 155.1120 *et seq.*) and that which has occurred with respect to Silfab, the more specific ordinance controls over the general application ordinance. *Mikell v. Cnty. of Charleston*, 386 S.C. 153, 160, 687 S.E.2d 326, 330 (2009) (“When interpreting an ordinance, the legislative intent must prevail if it can be reasonably discovered in the language used.” (citing *Charleston County Parks & Recreation Comm’n v. Somers*, 319 S.C. 65, 67, 459 S.E.2d 841, 843 (1995))). “Further, where two provisions deal with the same issue, one in a general and the other in a more specific and definite manner, the more specific prevails.” *Id.* (citing *Capco of Summerville v. J.H. Gayle Constr. Co., Inc.*, 368 S.C. 137, 628 S.E.2d 38 (2006)). Here, without question, the Inducement Ordinance is specific to Silfab and development on the Parcel. County Council specifically and legislatively authorized the development by and through the Inducement Ordinance, further “authoriz[ing] and direct[ing]” the County Manager to ensure and “do any and all things necessary to effect ... the performance of all obligations of the County [under the FILOT agreement].” In addition, and consistent with the traditional “statutory construction” standard of giving primary effect to legislative intent, the County Council specifically—and expressly—stated that, in the event of a conflict, the more specific Inducement Ordinance controls over any contrary general zoning provisions. *See* Ex. B, Inducement Ordinance at 3, Section 5 (“All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.”).

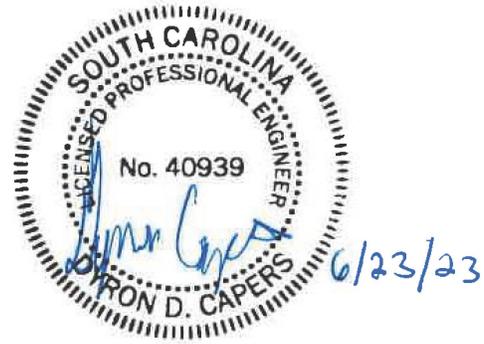
RAMEY KEMP ASSOCIATES

TOGETHER WE ARE LIMITLESS

To: Christopher Stephens
 Planning and Development, York County
christopher.stephens@yorkcountygov.com

Allison C. Love, AICP
 South Carolina Department of Transportation
LoveAC@scdot.org

From: Dyron Capers, P.E.
 John Schick, PTP
 Cameron Seger, EIT
Ramey Kemp & Associates, inc.
 SC Corporate License #6878



Subject: Logistics Lane **Manufacturing – Traffic Impact Analysis Addendum**
 York County, South Carolina

Date: May 10, 2023 – Revised June 23, 2023

Introduction/Background Information

This document provides the results from a Traffic Impact Analysis Addendum, which is a supplement to the Traffic Impact Analysis (TIA), submitted and approved in 2019, prepared for the proposed Logistics Lane Manufacturing development. The site is located on the south side of Logistics Lane and west of U.S. Route 21 in York County, South Carolina.

The site was the subject of an approved rezoning petition in 2019 that included two warehouse facilities totaling 1.1M square feet (SF). The rezoning petition in 2019 included an approved Traffic Impact Analysis (TIA). **At the time of the rezoning, the intended and studied use of the site was warehousing. The development has since been constructed and one of the two buildings is now planned to house manufacturing uses.** The purpose of this addendum is to determine the potential impacts to the surrounding transportation system created by the **minor increase in traffic generated by the change in program**, as well as recommend improvements to mitigate the impacts.

Per coordination with York County and SCDOT, this addendum includes updated analysis/discussion of the operations at the following study intersections, listed below:

- Logistics Lane and Baxter Lane
- Central Carolina Parkway and Logistics Lane
- U.S. Route 21 and Central Carolina Parkway
- U.S. Route 21 and Regent Parkway

Refer to Figure 1 of Attachment A for the site location and study intersections included in the study.

Existing and No-Build Peak Hour Conditions

Per coordination with the County and SCDOT, peak hour turning movement counts were conducted on April 12, 2023, during weekday AM (5:30 AM – 7:30 AM) and PM (5:30 PM – 7:30 PM) peak periods at the following intersections while schools were in session:

- Logistics Lane and Baxter Lane
- Central Carolina Parkway and Logistics Lane
- U.S. Route 21 and Central Carolina Parkway
- U.S. Route 21 and Regent Parkway

It was agreed that the hours of 6:00-7:00 AM and 6:00-7:00 PM be studied given the shift hours of the manufacturing tenant. Existing weekday AM and PM peak hour traffic counts are shown on Figure 3. Refer to Attachment B for the approved scoping document and Attachment C for the traffic count data.

No-build AM and PM peak hour traffic volumes were developed utilizing the methodology and rationale contained within the original TIA. Consistent with the original TIA, a compounded growth rate of 3% per year was assumed with no adjacent developments. Refer to Figure 4 within Attachment 1 for the 2024 no-build peak hour traffic volumes.

Trip Generation

The proposed development is assumed to consist of 314,000 SF of warehousing and 786,000 SF of manufacturing. Average weekday daily, AM peak hour, and PM peak hour trips for the warehousing use of the proposed development were estimated using methodology contained within the *ITE Trip Generation Manual*, 9th Edition to remain consistent with the previously approved TIA. Average weekday daily, AM peak hour, and PM peak hour trips for the manufacturing use were based on employee estimates and shift information provided by the manufacturing tenant. A summary of trip generation potential for the proposed site is shown in Table 1.

Table 1: Trip Generation Summary

Land Use (ITE Code)	Intensity	Daily Traffic (vpd)	Weekday AM Peak Hour Trips (vph)		Weekday PM Peak Hour Trips (vph)	
			Enter	Exit	Enter	Exit
Warehousing ¹ (150)	314 KSF	1,318	122	33	31	93
Manufacturing ²	786 KSF	652	163	163	163	163
Total Trips		1,970	285	196	194	256
Existing Trip Generation ³			28	5	2	2
Total Additional Trips			257	191	192	254

1. Warehousing trip generation based on the 9th Edition of the *ITE Trip Generation Manual*. Only trips in addition to what is counted will be forecasted for build conditions.
2. Manufacturing trip generation based on employee estimates and shift information provided by manufacturing tenant.
3. Based on counts collected on April 12, 2023 at the Logistics Lane and Baxter Lane intersection.

From: Rutland, Jason <Jason.Rutland@colliers.com>
Sent: Friday, January 6, 2023 11:20 AM
To: Reinhardt, Josh; Treff MacDonald; Alex Ghusein; Chow, Tran
Cc: Swenson, David
Subject: Silfab/York County - Zoning Verification Process and Site Plan Review for Stateline 77 (Fort Mill)
Attachments: attachment.ics

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From: Reinhardt, Josh <Josh.Reinhardt@yorkcountygov.com>

Sent: Friday, January 6, 2023 10:12 AM

To: Treff MacDonald <t.macdonald@silfabsolar.com>; Rutland, Jason <Jason.Rutland@colliers.com>

Cc: Swenson, David <David.Swenson@yorkcountygov.com>; Alex Ghusein <a.ghusein@silfabsolar.com>

Subject: RE: Silfab/York County - Zoning Verification Process and Site Plan Review for Stateline 77 (Fort Mill)

Good morning,

I am available at both of those times and would be happy to discuss how we can help the project move forward.

Regarding the requirement for a set of plans showing any improvements on the site, this is standard when buildings are proposed to be occupied by a different use than initially approved for. This building was approved as warehouse, so a change to manufacturing with outdoor storage and many more employees than initially anticipated would trigger the need for revised plans. This is to illustrate that the proposed use will function properly on the site. From a quick glance, I think the two main areas of concern would be the location of the outdoor storage and how parking would be addressed. There appears to be 288 parking spaces on the site, and I understand there will now be over 1000 employees while the initial site plan was anticipated for warehouse with 150 employees. Where will the outdoor storage tanks be located, and will the proposed location(s) impact any vehicle circulation or cause any building code related issues?

All things that are typically worked out rather easily. For example, I would assume some of the current semi-truck parking could be reconfigured to address the increased need. However, this, and any other site additions/changes, are all things that a design professional, such as a civil engineer, would address on the revised plans that are submitted to us for review.

In addition, you are correct in that many of the actual site plan improvements listed with our Civil Construction Plan Summary and Development Guide have already been completed when the site was developed. So, even though it may seem onerous, this should not be a very large undertaking.

I hope that helps clarify things a bit, and I look forward to speaking with you all either Monday morning or at 1:00 this afternoon.

Thanks,
Josh

Josh Reinhardt

[Development Services Manager](#)

Permit Services

Planning and Development

York County Government

josh.reinhardt@yorkcountygov.com

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From: Treff MacDonald <t.macdonald@silfabsolar.com>
Sent: Friday, January 6, 2023 8:42 AM
To: Rutland, Jason <jason.rutland@colliers.com>; Reinhardt, Josh <Josh.Reinhardt@yorkcountygov.com>
Cc: Swenson, David <David.Swenson@yorkcountygov.com>; Alex Ghusein <a.ghusein@silfabsolar.com>
Subject: RE: Silfab/York County - Zoning Verification Process and Site Plan Review for Stateline 77 (Fort Mill)

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Good day Jason,
 I prefer a 1 pm today or a Monday meeting between 9-10 am.
 Thanks

From: Rutland, Jason <Jason.Rutland@colliers.com>
Sent: January 5, 2023 2:45 PM
To: Reinhardt, Josh <Josh.Reinhardt@yorkcountygov.com>
Cc: Swenson, David <David.Swenson@yorkcountygov.com>; Alex Ghusein <a.ghusein@silfabsolar.com>; Treff MacDonald <t.macdonald@silfabsolar.com>
Subject: Silfab/York County - Zoning Verification Process and Site Plan Review for Stateline 77 (Fort Mill)

Caution: This is an external email

Hi Josh,

Great to meet you virtually. As part of the Project were in receipt of the enclosed correspondence related to the Zoning for the property against Silfab's proposed use as a Solar (PV) Cell and Panel manufacturing facility.

It is noted in the verification letter that a Site Plan Review is required. As a next step, I'd like to arrange a meeting with you/your team and participation from Silfab to better understand these requirements and to be very precise in the information that we provide given expedient timelines that were trying to adhere to.

From what I can gather, I think the focus of a Site Plan Review would be on the amount and nature of outdoor storage of chemicals used in the production processes and perhaps focused on the makeup of the facilitation spaces and tank yard outdoors.

Silfab's law firm, who triggered the zoning verification process, also passed along this website link to me: <https://www.yorkcountygov.com/378/Civil-Construction-Plan-Review> which I've reviewed at the high level but admittedly on first blush **the requirements seem too onerous for a site that is already constructed and is occupancy ready.** Lets take the opportunity to clarify.

Treff, Alex, and I are flexible to meet tomorrow 1-3pm or 4pm onwards. On Monday, we are also flexible 9-10am or 12-2pm. All ET time zone. Let me know what works best for you, or suggest alternative times in the next 2-3 business days and we'll accommodate.

Best,

Jason

Jason Rutland, CPA, CA

Senior Vice President, Strategic Advisory

Strategy & Consulting Group

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From: Swenson, David <David.Swenson@yorkcountygov.com>

Sent: Thursday, January 5, 2023 1:36 PM

To: Reinhardt, Josh <Josh.Reinhardt@yorkcountygov.com>; Rutland, Jason <Jason.Rutland@colliers.com>

Subject: Introduction

Importance: High

Gentlemen,

By way of this email, I would like to introduce you both.

Josh,

Jason Rutland is with Colliers and is located in their Toronto office. He is working with Project Mountie that is considering leasing space at the Stateline 77 large building in Fort Mill. His client is a manufacturing operation looking to put in a production operation that would make solar cells and solar panels. He can tell you more about their operations. He has some specific questions he needs to talk to you about related to process and requirements of their client as they look to set up operations. Their operations will be an impact project for our area.

Jason,

Josh is the York County Development Services Manager for York County. He is our go to guy to help get things started with clients and helps you as you may start getting into the process with the county Planning and Development Department.

I have attached the contact information for you both so feel free to connect when possible.

David Swenson, CEcD

Director

York County Economic Development

1830 Second Baxter Crossing | Fort Mill, SC 29708

O: 803.802.4300 | D: 803.802.5636

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Chief Operating Officer



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