

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA**

CLARA GREIG and]	
TANA FILECCIA-FLAGG,]	
]	
Petitioners,]	
v.]	Civil Action No. SPCV25-00195
]	
CITY OF SAVANNAH, SEACREST]	
SEVEN, LLC 1015 WHITAKER, LLC]	
and PORTFOLIO HOLDINGS, LLC,]	
]	
Defendants.]	

**THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH’S RESPONSE TO
PETITIONERS’ PETITION FOR JUDICIAL REVIEW**

The Mayor and Aldermen of the City of Savannah (the “City”), Defendant herein, responds to Petitioners’ Petition for Review as follows:

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Petition fails to state a claim upon which relief can be granted and should be dismissed.

SECOND DEFENSE

The Petition should be dismissed as Petitioners lack standing.

THIRD DEFENSE

The Petition should be dismissed for failure to exhaust all administrative remedies.

FOURTH DEFENSE

There is substantial evidence to support the decision of the City.

FIFTH DEFENSE

At all times the City acted in good faith and complied with the applicable zoning ordinance(s) and any applicable rules, regulations, and laws.

SIXTH DEFENSE

All public officers are presumed to have performed their official duties at the proper time and in the proper manner. The public officers in this instance appropriately exercised their discretion, which was not abused.

SEVENTH DEFENSE

Petitioner does not have a clear legal right to the relief sought.

EIGHTH DEFENSE

Some or all of Third Party Plaintiff's claims against the City are barred by governmental and/or sovereign immunity.

NINTH DEFENSE

The Petition is fatally defective in that it proceeds under O.C.G.A. § 36-66-5.1(a)(1) but does not challenge either (1) the validity of maintaining the existing zoning at the subject property or (2) the validity of conditions or an interim zoning category other than what was requested, as required by that statute.

TENTH DEFENSE

The Petition is fatally defective in that it proceeds under statutes which do not authorize a private right of action or an independent basis for overturning a zoning decision, including without limitation O.C.G.A. §§ 36-67A-3(a), -4.

ELEVENTH DEFENSE

The Zoning Amendment and FLUM Amendment¹ are proper and constitutional in all respects and supported by substantial evidence.

TWELFTH DEFENSE

Petitioners' claims are barred by waiver, estoppel, and/or laches.

THIRTEENTH DEFENSE

Petitioners are barred from relying on purported defects with the Zoning Amendment and FLUM Amendment and procedures and documents related thereto raised for the first time in this action including without limitation alleged technical defects in subject application materials such as omissions of campaign disclosure information and authorized agent forms.

FOURTEENTH DEFENSE

The Petition does not state or support a claim which would authorize or entitle Petitioners to recover interest, costs, or expenses of litigation, including attorney's fees.

FIFTEENTH DEFENSE

Defendant reserves the right to rely on any and all other defenses which may become available or apparent during this matter, and reserves the right to amend its Answer, as necessary, to assert such defenses.

SIXTEENTH DEFENSE

Subject to and without waiving their affirmative defenses, the City answers and responds to the numbered allegations of the Petition as follows:

¹ Terms capitalized herein but not defined herein shall have the meanings ascribed to them in the Petition.

1. Admitted.
2. Admitted.

PARTIES, JURISDICTION AND VENUE

3. The City lacks sufficient information to respond to this Paragraph's allegations concerning Petitioners' principal residences and thus deny the same. The City denies that Petitioners are aggrieved by the subject final decision and that they have exhausted their remedies. The City denies any remaining allegations of this Paragraph not expressly admitted herein.

4. Admitted.

5. Denied as stated. The City denies that David Paddison is listed as Seacrest Seven, LLC's Registered Agent with Georgia's Secretary of State. The City admits the remaining allegations of this Paragraph.

6. Denied as stated. The City denies that Key D. Compton is listed as 1015 Whitaker, LLC's Registered Agent with Georgia's Secretary of State or that its Registered Agent's address is as listed in the Petition. The City admits the remaining allegations of this Paragraph.

7. Admitted.

8. The City lacks sufficient information to either admit or deny the allegations contained in this Paragraph and therefore, the same is denied.

9. The City lacks sufficient information to either admit or deny the allegations contained in this Paragraph and therefore, the same is denied.

10. Denied as stated. The City admits that this *matter* arises from the rezoning by the City of properties located in Chatham County, Georgia, but denies that Petitioners have asserted any viable *cause of action*. The City denies any remaining allegations of this Paragraph not expressly admitted herein.

11. Denied as stated. The City admits that jurisdiction and venue are proper but denies that Petitioners have stated any viable cause of action or basis for their appeal. The City denies any remaining allegations of this Paragraph not expressly admitted herein.

FACTS

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Denied.

25. Denied as stated. The decision at issue is not an example of “conditional” zoning in the sense that it could be returned to the prior zoning classification if certain conditions are not met. Rather, it is a zoning change subject to a use restriction. The City denies any remaining allegations of this Paragraph not expressly admitted herein.

26. Admitted.

27. Denied.

28. Admitted.

29. Denied.

30. The City denies that “[t]he Zoning Amendment and FLUM Amendment are arbitrary and unreasonable acts that serve primarily the interest of private parties and are insubstantially related to public health, safety, morality, or general welfare.” The City admits the remaining allegations of this Paragraph.

31. Denied.

32. Denied.

33. Denied.

34. Admitted.

35. Admitted.

36. Denied as stated. The City admits that Michael Garcia of LS3P, LTD was not named as an agent of the LLCs in the notarized authorization forms in the Rezoning and FLUM Amendment Application, but denies any allegation or implication that that fact voids or renders defective in any way any zoning or other decision or otherwise negatively affects the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for such fact nor does it give rise to any independent basis for invalidating a zoning decision. Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised this issue below). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

37. Admitted.

38. Admitted.

39. Admitted.

40. Admitted.

41. Denied as stated. The City admits the Rezoning and FLUM Amendment Application contains immaterial issues related to the disclosure of certain campaign contributions, but denies any allegation or implication that those issues void or render defective in any way any zoning or other decision or otherwise negatively affect the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for a violation of O.C.G.A. § 36-67A-3 (requiring disclosure of campaign contributions) as Petitioners seek to assert here, nor does that statute contain an independent basis for invalidating a zoning decision. *See, e.g.*, O.C.G.A. § 36-67A-4 (identifying consequences of failure to disclose campaign contributions yet omitting any private right of action or any independent basis for invalidating zoning decision). Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised any campaign disclosure issues below); *see also* Pet. at Ex. K (Petitioner Greig's public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues); Ex. L (Petitioner Fileccia-Flagg's public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

42. Denied as stated. The City admits the Rezoning and FLUM Amendment Application contains immaterial issues related to the disclosure of certain campaign contributions, but denies any allegation or implication that those issues void or render defective in any way any zoning or other decision or otherwise negatively affect the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for a violation of O.C.G.A. § 36-67A-3 (requiring disclosure of campaign contributions) as Petitioners seek to

assert here, nor does that statute contain an independent basis for invalidating a zoning decision. *See, e.g.*, O.C.G.A. § 36-67A-4 (identifying consequences of failure to disclose campaign contributions yet omitting any private right of action or any independent basis for invalidating zoning decision). Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised any campaign disclosure issues below); *see also* Pet. at Ex. K (Petitioner Greig’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues); Ex. L (Petitioner Fileccia-Flagg’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

43. Denied.

44. Denied as stated. The City admits that “[t]he application included an authorization form for agent Jeff Jepson as authorized agent for the LLCs” and that such a form was not included for Michael Garcia, but denies any allegation or implication that that fact voids or renders defective in any way any zoning or other decision or otherwise negatively affects the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for such fact nor does it give rise to any independent basis for invalidating a zoning decision. Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised this issue below). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

45. Denied as stated. The City is without sufficient information to admit or deny Michael Garcia’s authority but denies any allegation or implication that that fact voids or renders

defective in any way any zoning or other decision or otherwise negatively affects the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for such fact nor does it give rise to any independent basis for invalidating a zoning decision. Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised this issue below). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied. By way of further response and explanation, Petitioners failed to exhaust their remedies as evidenced by the fact that they assert in this action purported defects that they failed to raise below, including without limitation alleged technical defects in subject application materials such as omissions of campaign disclosure information and authorized agent forms.

54. Denied as stated. The City admits that Petitioners submitted statements in opposition for purposes of the November 19, 2024 hearing by the Metropolitan Planning Commission, but denies the remaining allegations in this Paragraph.

55. Denied as stated. The City admits only that it was on notice of that certain residents opposed the rezoning. The City denies any remaining allegations of this Paragraph not expressly admitted herein.

56. The City lacks sufficient information to respond to this allegation and thus deny the same.

57. Denied as stated. The minutes from the September 14, 2023 hearing, which are attached to the Petition at Exhibit M, speak for themselves. As noted in those minutes, all campaign contributions are publicly available. The City disputes and denies any allegation or implication of any wrongdoing on the part of any public official or Defendant hereto or anyone acting on any of their behalf. The City denies any remaining allegations of this Paragraph not expressly admitted herein.

58. Denied.

59. Admitted. By way of further response and explanation, public hearing in the matter had been previously conducted.

COUNT I – CONSTITUTIONAL CHALLENGE

60. The City incorporates by reference its responses and affirmative defenses to the foregoing allegations and claims of the Petition as if fully restated herein.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

COUNT II – VIOLATION OF THE ZONING PROCEDURES LAW

72. The City incorporates by reference its responses and affirmative defenses to the foregoing allegations and claims of the Petition as if fully restated herein.

73. Denied.

74. Denied as stated. The applicable statutes speak for themselves. The City admits the Rezoning and FLUM Amendment Application contains immaterial issues related to the disclosure of certain campaign contributions, but denies any allegation or implication that those issues void or render defective in any way any zoning or other decision or otherwise negatively affect the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for a violation of O.C.G.A. § 36-67A-3 (requiring disclosure of campaign contributions) as Petitioners seek to assert here, nor does that statute contain an independent basis for invalidating a zoning decision. *See, e.g.*, O.C.G.A. § 36-67A-4 (identifying consequences of failure to disclose campaign contributions yet omitting any private right of action or any independent basis for invalidating zoning decision). Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised any campaign disclosure issues below); *see also* Pet. at Ex. K (Petitioner Greig’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues); Ex. L (Petitioner Fileccia-Flagg’s public comments for the MPC November 19, 2024 hearing omitting any reference to

campaign disclosure issues). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

75. Denied as stated. The City admits the Rezoning and FLUM Amendment Application contains immaterial issues related to the disclosure of certain campaign contributions, but denies any allegation or implication that those issues void or render defective in any way any zoning or other decision or otherwise negatively affect the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for a violation of O.C.G.A. § 36-67A-3 (requiring disclosure of campaign contributions) as Petitioners seek to assert here, nor does that statute contain an independent basis for invalidating a zoning decision. *See, e.g.*, O.C.G.A. § 36-67A-4 (identifying consequences of failure to disclose campaign contributions yet omitting any private right of action or any independent basis for invalidating zoning decision). Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised any campaign disclosure issues below); *see also* Pet. at Ex. K (Petitioner Greig's public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues); Ex. L (Petitioner Fileccia-Flagg's public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

76. Denied as stated. The City admits the Rezoning and FLUM Amendment Application contains issues related to the disclosure of certain campaign contributions, but denies any allegation or implication that those issues void or render defective in any way any zoning or other decision or otherwise negatively affect the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for a violation of

O.C.G.A. § 36-67A-3 (requiring disclosure of campaign contributions) as Petitioners seek to assert here, nor does that statute contain an independent basis for invalidating a zoning decision. *See, e.g.,* O.C.G.A. § 36-67A-4 (identifying consequences of failure to disclose campaign contributions yet omitting any private right of action or any independent basis for invalidating zoning decision). Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised any campaign disclosure issues below); *see also* Pet. at Ex. K (Petitioner Greig’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues); Ex. L (Petitioner Fileccia-Flagg’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

77. Denied as stated. The City admits the Rezoning and FLUM Amendment Application contains immaterial issues related to the disclosure of certain campaign contributions, but denies any allegation or implication that those issues void or render defective in any way any zoning or other decision or otherwise negatively affect the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for a violation of O.C.G.A. § 36-67A-3 (requiring disclosure of campaign contributions) as Petitioners seek to assert here, nor does that statute contain an independent basis for invalidating a zoning decision. *See, e.g.,* O.C.G.A. § 36-67A-4 (identifying consequences of failure to disclose campaign contributions yet omitting any private right of action or any independent basis for invalidating zoning decision). Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised any campaign disclosure issues below); *see also* Pet. at Ex. K (Petitioner

Greig’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues); Ex. L (Petitioner Fileccia-Flagg’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

78. Denied.

79. Denied.

80. Denied.

COUNT III – MANIFEST ABUSE OF POWER

81. The City incorporates by reference their responses and affirmative defenses to the foregoing allegations and claims of the Petition as if fully restated herein.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

87. Denied as stated. The City admits that the Rezoning and FLUM Amendment Application omitted forms authorizing Michael Garcia’s signature, but denies any allegation or implication that that fact voids or renders defective in any way any zoning or other decision or otherwise negatively affects the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for such fact nor does it give rise to any independent basis for invalidating a zoning decision. Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised this issue below). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

88. Denied as stated. The City admits that the Rezoning and FLUM Amendment Application contains immaterial issues related to the disclosure of certain campaign contributions, but denies any allegation or implication that those issues void or render defective in any way any zoning or other decision or otherwise negatively affect the Development or its applications in any way. By way of further response and explanation, no private cause of action exists for a violation of O.C.G.A. § 36-67A-3 (requiring disclosure of campaign contributions) as Petitioners seek to assert here, nor does that statute contain an independent basis for invalidating a zoning decision. *See, e.g.,* O.C.G.A. § 36-67A-4 (identifying consequences of failure to disclose campaign contributions yet omitting any private right of action or any independent basis for invalidating zoning decision). Furthermore, Petitioners fail to allege that they raised the issue below, thus waiving any right to contest it in this proceeding. *See generally* Pet. (containing no allegations that Petitioners raised any campaign disclosure issues below); *see also* Pet. at Ex. K (Petitioner Greig’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues); Ex. L (Petitioner Fileccia-Flagg’s public comments for the MPC November 19, 2024 hearing omitting any reference to campaign disclosure issues). The City denies any remaining allegations of this Paragraph not expressly admitted herein.

89. Denied.

90. Denied.

91. Denied. By way of further response and explanation, the City denies the existence of any “‘pay-to-play’ scheme” or “‘concealment thereof.’”

92. Denied.

COUNT IV – SPOT ZONING

93. The City incorporates by reference its responses and affirmative defenses to the foregoing allegations and claims of the Petition as if fully restated herein.

94. Denied.

95. Denied as stated. The City admits only that the Properties were rezoned. The City denies any remaining allegations of this Paragraph not expressly admitted herein.

96. Denied.

97. Denied.

98. Denied.

COUNT V – ATTORNEY’S FEES

99. The City incorporates by reference its responses and affirmative defenses to the foregoing allegations and claims of the Petition as if fully restated herein.

100. Denied.

101. Denied.

WHEREFORE, having fully responded to the allegations contained in the Petition, and having presented their defenses thereto, the City respectfully requests:

(a) That Petitioners take nothing and that their Petition be dismissed with prejudice;

(b) That the Court enter judgment in the City’s favor and uphold the Zoning Amendment and FLUM Amendment and all other decisions related to the Development implicated by this action;

(c) That all costs, including attorney’s fees and expenses, be borne by Petitioners; and

(d) That the Court award the City such other and further relief as may be just and proper.

[Signature Page to Follow]

Respectfully submitted this 14th day of March, 2025.

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/s/ Catherine M. Bolger
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Alderman of the City of Savannah

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CERTIFICATE OF SERVICE

This is to certify that I have this date served counsel for all parties in the foregoing matter with a copy of this pleading by electronic mail and by STATUTORY ELECTRONIC SERVICE through the Court's Odyssey E-Filing Notice System.

This 14th day of March, 2025.

Person served:

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