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In support of Plaintiff's claims for declaratory judgment and injunctive relief, Plaintiff shows this Court the following:

Parties

1.

Solid Solutions One, LLC is a limited liability company organized and registered to do business under the laws of the State of Georgia, having its principal place of business at 2931 Paces Ferry Road SE, Suite 100 Atlanta, Georgia, 30339. Plaintiff is duly licensed to do business in the State of Georgia.

2.

Defendant Haralson County, Georgia is a Georgia local government body established and existing under the Georgia Constitution, which acts through its elected Board of Commissioners. The Defendant Haralson County, Georgia and its Board of Commissioners reside in Haralson County, Georgia.

3.

Defendants Ronald J. Ridley, David Tarpley, Jamie Brown, John Daniel, and Ryan Farmer are individuals residing in Haralson County, Georgia, and are the elected officials constituting the current members of the Haralson County Board of Commissioners. These individuals are named in this Complaint as Defendants in their official capacities as members of the Haralson County Board of Commissioners.

4.

Plaintiff has binding contracts to acquire legal title to real property in southwest Haralson County, consisting of 2047 acres located in the vicinity of Highway 100 and Interstate 20 in an unincorporated area of Haralson County. Since September, 2021 said real property has been the

subject of an application submitted to Haralson County and the Haralson County Board of Commissioners by Plaintiff for rezoning of that property for reasonable, lawful, and beneficial uses appropriate and advantageous to the property's proximity to Interstate 20 and Georgia Highway 100 and the Interstate 20/ Highway 100 interchange located a short distance southwest of the subject property. That above-described property is hereinafter referred to as the "Subject Property".

5.

Jurisdiction and venue are proper as to all of the named Defendants.

6.

This Court has jurisdiction over the claims and relief sought in Plaintiff's Complaint under Georgia law pursuant to O.C.G.A. § 9-4-1, *et seq.*, O.C.G.A. § 9-5-1, *et seq.*, O.C.G.A. § 9-11-65, the due process clause of the Georgia Constitution, Article I, Section I, Paragraph I, and related principles of Georgia statutory and constitutional law referenced herein.

General Allegations and Relevant Facts

7.

Plaintiff's application for rezoning by the Haralson County Board of Commissioners was submitted pursuant to applicable provisions and requirements in a Haralson County Zoning Ordinance enacted by the Haralson County Board of Commissioners in December, 2004, re-adopting with certain amendments a Zoning Ordinance originally adopted in September, 1998. Plaintiff's application proposes to rezone a portion of the Subject Property to the I-1 "Light Industrial" zoning classification for development as a planned, mixed use industrial park, which is consistent with the planned use for that property under the Joint Comprehensive Plan Update adopted by Haralson County and its municipalities, titled "A Joint Comprehensive Plan for

Haralson County 2022-2026.” Plaintiff’s application for rezoning proposes to rezone another portion of the property to the I-2 “Heavy Industrial” zoning classification for the development and operation of a state-of-the-art municipal solid waste disposal facility (“landfill”), in accordance with the Georgia Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 *et seq.* and the Georgia Department of Natural Resources Rules for Solid Waste Management, Chapter 391-3-4. As a prerequisite for applying for a solid waste handling permit for that solid waste disposal facility, Plaintiff is required to obtain verification of local zoning compliance for that property within which the proposed disposal facility is planned to be developed. In addition, Plaintiff’s application for rezoning seeks to rezone other areas within the 2047 acre Subject Property to the I-1 “Light Industrial” classification for use for soil borrow areas necessary for and associated with the operation of the waste disposal facility, which requires substantial volumes of suitable soils available from those areas of the Subject Property for liner construction and waste “cover” purposes. Finally the Plaintiff’s application includes one tract that adjoins Highway 100 for which “Commercial-General Business” zoning is requested, and two additional areas of land within the Subject Property proposed for potential conservation and/or recreational purposes to be determined by Plaintiff potentially in cooperation with the County.

8.

Prior to submittal of the application for rezoning, Solid Solutions, over a substantial period of time and at very substantial expense to Plaintiff, conducted numerous studies of the Subject Property and the above-described uses, which are explained in detail in the zoning application materials. Solid Solutions retained independent, professional consultants to conduct some fourteen studies which addressed all relevant environmental and land use aspects of this project proposed for the Subject Property and all applicable legal standards for rezoning. The rezoning application

materials including those studies are contained in two large binders which together constitute the zoning application.

9.

Plaintiff's above-described application for rezoning to the Haralson County Board of Commissioners remains pending for a final decision.

10.

In early January, 2022, Plaintiff submitted to Haralson County, the Haralson County Board of Commissioners, and the Haralson County Zoning Director, a request for certain County records in accordance with the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.* A true and accurate copy of the letter dated January 3, 2022, containing that Georgia Open Records Act request for County records is attached to this Complaint as Exhibit "A." Among other documents, the letter attached as Exhibit "A" requested the County to produce all minutes, resolutions, ordinances, certifications or any other documents that reflect or refer to official adoption by the Haralson County Board of Commissioners of the "Official Zoning Maps, Haralson County, Georgia" establishing the zoning districts in the County, as referenced in Section 50-28 of the Haralson County Zoning Ordinance. A true and accurate copy of that Section of the Haralson County Zoning Ordinance contained in Article II of the Zoning Ordinance is attached as Exhibit "B" to this Complaint. The January 3, 2022, Georgia Open Records Act request also specifically requested the County to produce "any and all records or documents reflecting the certification of the "Official Zoning Maps, Haralson County, Georgia" as referenced in and expressly required by Section 50-28 of the Zoning Ordinance.

11.

Following a letter from the County attorney dated January 26, 2022, responding to the January 3, 2022, records request, a true and accurate copy is attached as Exhibit “C,” the County produced to counsel for Plaintiff copies of what were represented to be all of the County documents requested by the January 3, 2022, Open Records Request attached as Exhibit “A.” No minutes, resolutions, ordinances, certifications, or any other documents that identify, reflect, or refer to the “Official Zoning Maps, Haralson County, Georgia” establishing zoning districts in the County, or documents which reflect or refer to any official adoption by the Haralson County Board of Commissioners, were produced with the County’s response to that records request. No document produced established the zoning maps currently used by the Zoning Administrator to determine zoning districts or district boundaries in the County to be the official zoning maps for Haralson County adopted at the time of either the 1998 or the 2004 Haralson County Zoning Ordinances.

12.

The documents produced by the County include minutes from a September 1, 1998, County Commission meeting where the Chairman of the Board of Commissioners “signed an ordinance adopting zoning laws for Haralson County.” There is no mention of any zoning maps in those minutes, nor is there any mention of other resolutions or documents evidencing the identity or adoption of any zoning map or zoning maps for Haralson County. A true and accurate of those September 1, 1998, Board of Commissioners meeting Minutes is attached as Exhibit “D.” The County documents produced reflect certain amendments to the Zoning Ordinance were adopted after 1998 and before 2004, but again the minutes referencing those amendments make no reference to any zoning maps.

13.

At a Haralson County Board of Commissioner meeting on December 7, 2004, the County Commission Chairman “signed an Amendment to the Haralson County Zoning Ordinance that corrected a number of pen and ink changes to the basic document.” Again, those minutes make no reference whatsoever to any zoning maps or the identity or adoption of any zoning maps in connection with the Board of Commissioners adoption of the 2004 Zoning Ordinance. That 2004 Ordinance is presently in effect, and pursuant to the 2004 Ordinance the Plaintiff was required to submit an application for rezoning. A true and accurate of the December 7, 2004, County Commission meeting Minutes is attached as Exhibit “E.” The documents also produced by the County included a copy of that 2004 Zoning Ordinance, as amended, but no certification or any other document was produced identifying, adopting, referencing, or certifying any zoning map or zoning maps or the adoption of any such zoning maps in connection with the 2004 amended Zoning Ordinance.

14.

Plaintiff’s January 3, 2022, Open Records Act request specifically requested “any and all records or documents reflecting the certification of the “Official Zoning Maps, Haralson County, Georgia” by the Haralson County Zoning Administrator, as contemplated and required by the Zoning Ordinance contemporaneous with and correlated to the adoption of the 2004 Zoning Ordinance by the Haralson County Board of Commissioners. No such certification by the Zoning Administrator was provided with the documents produced by the County in response to that request.

15.

Subsequent to the production of those records, counsel for Plaintiff requested and was granted an opportunity to view the purported County zoning maps located in the office of the current County Zoning Director. Those maps contained no certificate or certification of any nature on or attached to those maps in any form, as contemplated and required by Section 50-28 of the Haralson County Zoning Ordinance. No other document of any nature was produced identifying, constituting or reflecting any such certification by the Zoning Administrator of the “Official Zoning Maps, Haralson County, Georgia” referenced in the Zoning Ordinance at the time it was originally adopted in 1998, or at the time the current official Zoning Ordinance was re-adopted in amended form on December 7, 2004.

16.

By letter dated February 11, 2022, Solid Solutions, through its undersigned counsel, informed the Haralson County Board of Commissioners of Plaintiff’s legal position set forth in that letter, and now set forth in this Complaint, that the Zoning Ordinance of Haralson County is invalid, unenforceable, null, and void with respect to the Subject Property and its intended uses by Plaintiff, for the reason that the Zoning Ordinance does not legally incorporate any maps constituting the “Official Zoning Maps, Haralson County, Georgia,” as more fully set out in that letter with citations to applicable Georgia law. A true and accurate copy of that February 11, 2022, letter is attached as Exhibit “F.” That letter advised the Board of Commissioners and the County attorneys that the participation of Solid Solutions’ representatives in a public hearing concerning the application for rezoning, scheduled for the following Tuesday, February 15, 2022, was expressly subject to and without waiving this legal position of Solid Solutions with respect to the legal invalidity and resulting unenforceability of the Haralson County Zoning Ordinance with

respect to the Subject Property, Plaintiff's legal rights in that property, and the development of the Subject Property for the uses intended by Solid Solutions as described above.

17.

The letter attached as Exhibit "F" specifically requested that the Board of Commissioners and County attorneys respond and advise Solid Solutions of the County's response to Plaintiff's position that the Haralson County Zoning Ordinance is legally invalid and unenforceable for the reasons set forth in that letter. No official response was received by Solid Solutions from the County or the Board of Commissioners. The County Board of Commissioners proceeded to hold a public hearing on Plaintiff's application for rezoning on February 15, 2022.

18.

The public hearing before the Haralson County Board of Commissioners on February 15, 2022, was subject to the legal position of Solid Solutions set forth in the letter attached as Exhibit "F" in this Complaint. Any final action or decision by the Board of Commissioners with respect to the application for rezoning taken under and pursuant to the legally invalid and therefore unenforceable Haralson County Zoning Ordinance will be *ultra vires*, void, and of no legal effect to regulate, prohibit, or prevent Plaintiff's exercise of its property rights in the Subject Property to use and develop the Subject Property for the intended uses described herein.

19.

It is the present intent of the Board of Commissioners to issue a final decision with respect to the application for rezoning at the Commission's regular meeting scheduled for Tuesday, March 1, 2022.

20.

Plaintiff submitted to Defendants at the same time Plaintiff filed its application for rezoning a letter in accordance with the Georgia law making Defendants aware of the principles of Georgia constitutional and decisional law governing their decision with respect to Plaintiff's application for rezoning. The letter specifically advised Defendants of Plaintiff's property rights under the Georgia Constitution and the constitutional requirements applicable to the Defendants' decision of Plaintiff's application for rezoning. A true and accurate copy of that "Constitutional Objection" letter is attached as Exhibit "G."

Count I – Invalidity of Haralson County Zoning Ordinance

21.

The contents of the preceding paragraphs 1 – 20 of this Complaint are incorporated in full by reference as if fully restated in this Count I.

22.

Plaintiff possesses a vested, fundamental property right to utilize the Subject Property for lawful beneficial uses including but not limited to its development for lawful businesses and facilities in accordance with applicable law.

23.

Defendants do not have the lawful authority to regulate Plaintiff's property rights and uses of the Subject Property except through a lawful Zoning Ordinance consistent with Georgia law and the Georgia Constitution, adopted in strict accordance with the requirements of the Georgia Zoning Procedures Law O.C.G.A. § 36-66-1, *et seq.* As an indispensable part of a legally valid zoning ordinance, the zoning map or zoning maps that establish zoning districts and district boundaries within a County must be treated in each stage of the legislative process in the same

formal manner as the Ordinance text and must be adopted as part of and correlated to the Ordinance text. O.C.G.A. § 36-66-3(4)(A) and (5).

24.

Well-settled Georgia law holds that where a local government Zoning Ordinance attempts to incorporate by reference a set of zoning maps establishing zoning districts within the local government, such zoning map or zoning maps must have been adopted and incorporated at the same time as the official adoption of the Zoning Ordinance in which they purport to be incorporated and correlated to that Zoning Ordinance. For a zoning map or maps to be officially identified and incorporated in and as part of a Zoning Ordinance it “must be apparent by documents or records thereof that the map was identical to the one which was incorporated by reference in the Zoning Ordinance.” To demonstrate that a map or maps which purport to be an official zoning map or maps establishing districts and zoning classifications on the County or the local government in question, the map or maps must have been in existence and identified and adopted as such at the same time and in conjunction with the adoption of the Zoning Ordinance, through official minutes of the Zoning Ordinance adoption, an Ordinance, resolution, certification, or similar official documentation reflecting the adoption of the zoning maps with and as part of the Zoning Ordinance. *Brantley County Development, Partners, LLC v Brantley County, Georgia et al*, United States District Court for the Southern District of Georgia, Judge Lisa Godbey Wood, Case 5:19-cv00109-LGW-BWC, dated and docketed May 14, 2021 (See pages 34-39). Applicable Georgia Court decisions also cited in the foregoing federal court decision include but are not limited to the following: *Newton County v East Georgia Land & Dev. Co., LLC*, 290 Ga. 737, 764 S.E. 2d 830, 831 (2014); *Foskey v Kirkland*, 221 Ga. 773, 147 S.E. 2d 310, 312 (1966); *Tilley Properties, Inc v Bartow County*, 261 Ga. 153, 401 S.E. 2d 527 (1991), followed in *Southern States*

– *Bartow County, Inc. v Riverwood Farm Property Owners Ass’n, Inc.*, 300 Ga. 609, 797 S.E. 2d 468, (2017); *City of Flovilla v McElheney*, 246 Ga. 552 (1980); *City Council of Augusta v Irvin*, 109 Ga. App. 598 (1964); *City of Waycross v Boatwright*, 104 Ga. App. 685 (1961).

25.

No zoning map or zoning maps were adopted by the Haralson County Board of Commissioners in connection with or correlated to the text of the Haralson County Zoning Ordinance adopted in 1998 or the amended Zoning Ordinance adopted in 2004.

26.

Section 50-28 of the Zoning Ordinance attached as Exhibit “B” makes reference to zoning maps titled “Official Zoning Maps, Haralson County, Georgia” and required those maps to have been “certified by the zoning administrator” at the time of and contemporaneous with the adoption to the Haralson County Zoning Ordinance. No such certification by the Haralson County zoning administrator at the time of the adoption of either Zoning Ordinance exists or occurred to officially incorporate any maps purporting or alleging to be the “Official Zoning Maps, Haralson County, Georgia”.

27.

Under established Georgia law a zoning map or zoning maps cannot be proven to be part of a Zoning Ordinance by parole evidence. *Foskey v Kirkland*, *supra* at 221 Ga. at 775; *East Georgia Land v Newton County*, *supra* at 290 Ga. at 738; *Waldrep v. Stratton & McLendon*, 230 Ga. 709, 710 (1973).

28.

In the absence of a properly adopted and certified zoning map or zoning maps correlated to the text of the Zoning Ordinance, the Haralson County Zoning Ordinance is legally invalid, null,

void, and unenforceable to regulate uses of land in Haralson County including but not limited to the Subject Property and the Plaintiff's vested right to its proposed uses of the Subject Property.

Count II – Due Process – Invalidity of Ordinance

29.

The contents of the preceding paragraphs 1-28 are incorporated by reference as if fully set forth in this Count II.

30.

“No person shall be deprived of life, liberty or property except by due process of law” and “protection of person and property is a paramount duty of government and shall be impartial and complete.” Georgia Constitution, Article I, Section I, Paragraph I; Article I, Section I, Paragraph II. The right of Plaintiff as a property owner to devote its land to a legitimate, lawful use free from arbitrary, unreasonably or confiscatory government regulations and restrictions on use, including governmental regulation and land use restrictions imposed through an invalid zoning ordinance, is a property right protected by these due process guarantees of the Georgia Constitution.

31.

Under requirements of Georgia law, inasmuch as the Haralson County Zoning Ordinance identifies the land to which its various zoning classifications apply only by reference to zoning maps, those maps are an integral and indispensable part of the Zoning Ordinance. Without those maps referred to in the Zoning Ordinance being properly certified as the zoning maps contemplated at the time of adoption of the Zoning Ordinance, the Haralson County Zoning Ordinance is too indefinite and vague to satisfy the requirements of the due process guarantees in the Georgia Constitution, Article I, Section I, Paragraph I.

32.

Under Georgia law, for a zoning ordinance to properly constitute a map or other document by record, four criteria must be satisfied: (1) the document must be officially identified so that there is no uncertainty as to what was adopted, (2) the document must be made a public record, (3) the map or other document must be assessable to members of the public who are or may be affected by it, and (4) the adopted resolution must give notice of this accessibility. The Defendants cannot satisfy any of these requirements as Defendants cannot identify the zoning maps referenced in the Zoning Ordinance in accordance with law from documents or other records demonstrating that the maps which currently purport to be the Haralson County zoning maps were the zoning maps which were incorporated by reference into the Zoning Ordinance when it was adopted.

33.

By reason of the foregoing facts, there is no official zoning map or maps titled “Official Zoning Maps, Haralson County, Georgia” incorporated into or correlated to the Haralson County Zoning Ordinance which gives reasonable and adequate notice to Plaintiff or other landowners in Haralson County of what zoning district classification applies to the Subject Property or other lands in the County. The Haralson County Zoning Ordinance therefore cannot be applied to the Subject Property in a manner comporting with requirements of due process and application of that Ordinance to Plaintiff and the Subject Property would be *ultra vires*, null and void.

Count III – Declaratory Judgment

34.

The contents of the preceding paragraphs 1-33 are incorporated by reference as if fully set forth in this Count III.

35.

By reason of the facts set forth herein, Plaintiff is in danger of losing its valuable and vested property rights as a result of the Defendants' application of an invalid and unenforceable Zoning Ordinance to attempt to regulate and restrict Plaintiff's rights in the Subject Property and rights to develop the Subject Property for lawful beneficial uses.

36.

By reason of the facts and issues set forth herein, an actual, substantial, and justiciable controversy exists between Plaintiff and the Defendants. Plaintiff is uncertain of its legal rights, legal relations, and the status of its property rights to use and develop the Subject Property for the lawful and beneficial uses proposed by Plaintiff. Declaratory judgment relief as requested herein will afford Plaintiff relief from uncertainty and insecurity with respect to the status of the Subject Property and Plaintiff's rights flowing from the ownership thereof by a determination whether the Haralson County Zoning Ordinance imposes any valid restrictions upon Plaintiff's use of the Subject Property.

37.

Pursuant to O.C.G.A. § 9-4-1 *et seq.*, Plaintiff is entitled to a declaratory judgment that the existing Haralson County Zoning Ordinance is invalid and unenforceable with respect to the Subject Property and Plaintiff's vested property rights to utilize the Subject Property for the lawful beneficial uses proposed by Plaintiff.

38.

For the reasons set forth in this Complaint, Plaintiff is entitled to a declaration that Plaintiff has a legal right to proceed to utilize and develop the Subject Property and Plaintiff's property rights therein for the intended purpose, and the Defendants cannot deny Plaintiff a certificate of

land use compliance for those purpose to enable Plaintiffs to proceed with development of the proposed planned, mixed use industrial park and to proceed to apply for a State of Georgia Solid Waste Handling Permit for the proposed waste disposal facility.

Count IV- Temporary Restraining Order and Preliminary and Permanent Injunctive

Relief

39.

The contents of the preceding paragraphs 1-38 are incorporated by reference as if fully set forth in this Count IV.

40.

Pursuant to O.C.G.A. § 9-11-65 and O.C.G.A. § 9-5-1, Plaintiff seeks a temporary restraining order and preliminary and permanent injunctive relief enjoining and prohibiting Defendants from the application of the legally invalid and unenforceable Haralson County Zoning Ordinance to the Subject Property and its intended uses by Plaintiffs. Plaintiff seeks to enjoin the Defendants from proceeding with a final decision of the application for rezoning submitted by Plaintiff at the upcoming March 1, 2022, Board of Commissioners meeting pursuant to that invalid and unenforceable Zoning Ordinance which would be an *ultra vires* act by Defendants.

41.

In the absence of the injunctive relief requested herein by Plaintiff, Plaintiff will suffer irreparable harm by the Defendants' deprivation of Plaintiff's property rights, and Plaintiff has no adequate remedy at law to prevent that deprivation of its rights. Grant of the requested injunctive relief will serve the ends of justice by preserving Plaintiff's property rights protected by Georgia law and the Georgia Constitution.

Wherefore, Plaintiff prays for the following relief:

(a) That this Court declare the Haralson County Zoning Ordinance to be invalid and unenforceable to or against the Subject Property and Plaintiff's vested property rights to use the Subject Property for lawful and beneficial uses under Georgia law;

(b) That this Court enjoin any action or decision by the Defendants at the Board of Commissioner meeting scheduled for March 1, 2022 to apply that invalid Ordinance to Plaintiff and the Subject Property;

(c) That this Court temporarily and permanently enjoin Defendants from applying that invalid Zoning Ordinance to the Subject Property to regulate use and development of the Subject Property as proposed by Plaintiff;

(d) That Plaintiff be granted any and all such further relief as this Court may deem just and proper under the circumstances and evidence presented.

Dated this 23 day of February, 2022.

ATTORNEYS FOR PLAINTIFF

/s/ Joseph H. Fowler
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State Bar No.271950
jfowler@hrflegal.com

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/s/ Robert C. Norman, Jr.
ROBERT C. NORMAN, JR.
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(478) 745-2821

Exhibit “A”

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THOMAS W. JOYCE
BRANDON A. OREN
CALLIE DICKSON BRYAN
EUGENE S. HATCHER, JR.
J. PATRICK GOFF
CHRISTOPHER J. ARNOLD
COLLIER W. MCKENZIE
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C. BAXTER JONES
1895-1968
CHARLES M. CORK
1908-1982

January 3, 2022

Haralson Board of Commissioners
155 Van Wert Street
Buchanan, Georgia 30113

Via email and US Mail: alison.palmer@haralsoncountyga.gov
Haralson County Clerk
Alison Palmer
155 Van Wert Street
Buchanan, GA 30113

Via email and US Mail: hcpersmits@haralsoncountyga.gov
Glenda M. Wade
Zoning Director
Haralson County Building
Permits Inspections & Zoning
155 Van Wert Street
Buchanan, Georgia 30113

Re: Georgia Open Records Act Request

Dear Commissioners, Ms. Wade and Ms. Palmer:

This is a request for public records of Haralson County, the Haralson County Board of Commissioners, and all relevant County departments, offices, and officials, including but not limited to the Planning and Zoning Department and the Zoning Director, pursuant to the provisions and requirements of the Georgia Open Records Act, O.C.G.A. § 50-18-70 *et. seq.*

As used herein, "Haralson County" includes all County officials, including the County Manager or Administrator, the Haralson County Planning Commission and its members, the Board of Commissioners and members of the Board of Commissioners in their official and individual capacities, the County Clerk, the County Planning and Zoning Director, and all other

Exhibit "A" to Complaint

County Staff and personnel, attorneys for the County, and anyone else acting on behalf of Haralson County with regard to the subject matter of this Request.

“Public record” shall have the same meaning as that term is defined in O.C.G.A. § 50-18-70, and includes but is not limited to all documents, papers, letters, written or electronic documents, communications, minutes, notes, proposals, drafts, and any other written information within the definition in the Act of the term “public record”, including all computer-based and electronically generated information requested herein including e-mail communications, text messages, and the like. Haralson County, acting through its Board of Commissioners, County Staff and employees, and others acting for or on behalf of the County is a “public agency” subject to the requirements of the Georgia Open Records Act. The records requested herein are not exempted from public inspection and production in accordance with that Act (with the exception of attorney-client privileged communications, if any). If you determine for any other reason not to produce any document requested herein, please provide an explanation in accordance with the provisions in O.C.G.A. § 50-18-71(d).

If you or any person responding to this request on your behalf asserts that any of the records requested herein are for any reason exempt from public inspection and production under the terms of the Georgia Open Records Act, and/or if you or the person responding contends that any of the requested documents are subject to any privilege from public inspection and production in accordance with the controlling provisions of the Act, including any claim of attorney-client privilege, then you are hereby requested to identify such document or documents by date, author(s) and recipient(s), and a brief description of the document, and provide an explanation of the factual and legal basis for the claim of exemption or privilege.

The public records requested to be produced for inspection, review, and copying are as follows:

(1) All written or electronic correspondence or other communications by and in between any attorney or staff in the office of Stack & Associates, P. C., Attorneys, and any Haralson County official concerning or referring to the request for rezoning submitted to Haralson County by Solid Solutions One, LLC for the proposed Vindicator Environmental & Industrial Park project.

(2) A certified copy of the Haralson County Zoning Ordinance contained in Chapter 50 of the Haralson County Code of Ordinances.

(3) All correspondence and communications in written or electronic form by or between the Haralson County Alliance for Responsible Waste Management and the Haralson County Board of Commissioners or other Haralson County officials concerning or referring to an application for rezoning submitted by Solid Solutions One, LLC for the Vindicator Environmental & Industrial Park project.

(4) All resolutions, minutes and other records concerning or relating to the adoption by the Haralson County Board of Commissioners of the Haralson County Zoning Ordinance

contained in Section 50-1 *et seq* of the current Haralson County Code of Ordinances and reflecting the official adoption date of the Zoning Ordinance.

(5) Any minutes, resolution(s), or ordinance(s) reflecting or referring to official adoption by the Haralson County Board of Commissioners of the "Official Zoning Maps, Haralson County, Georgia" establishing the zoning districts in the County and referenced in Section 50-28 of the Haralson County Zoning Ordinance.

(6) Any and all records or documents reflecting the certification of the "Official Zoning Maps, Haralson County, Georgia" by the Haralson County Zoning Administrator as stated in Section 50-28 of the Haralson County Zoning Ordinance.

(7) Any and all records or documents identifying the "Series of Maps" titled the "Official Zoning Maps, Haralson County, Georgia" as referenced in Section 50-28 of the Haralson County Zoning Ordinance and elsewhere in said Ordinance, including any listing, title page, index, table of contents, or similar record identifying the contents of that "Series of Maps" identified as "Official Zoning Maps, Haralson County, Georgia".

(8) All records reflecting the date of official adoption by the Haralson County Board of Commissioners of the "Official Zoning Maps, Haralson County, Georgia" referenced in the Zoning Ordinance.

(9) The Comprehensive Land Use Map adopted by resolution of the Board of Commissioners on December 6, 1994, and any amendments thereto by which the unincorporated areas of Haralson County were divided into land use categories, as referenced in Section 50-30 of the Haralson County Zoning Ordinance, and all minutes or resolution(s) reflecting official adoption of that Comprehensive Land Use Map by the Haralson County Board of Commissioners.

(10) The current official Comprehensive Land Use Map for the unincorporated areas of Haralson County and all minutes or resolution(s) reflecting official adoption of such Comprehensive Land Use Map by the Haralson County Board of Commissioners.

(11) All written or electronic communications prior to your response to this Request, in any form by or between any member of the Board of Commissioners in his or her official capacity or individual capacity and any person or entity (including but not limited to any other member of the Board of Commissioners or any other Haralson County official or staff) concerning a proposal by Solid Solutions One, LLC to develop a mixed use industrial park and municipal solid waste disposal facility at a location in Haralson County.

You are requested to specifically respond to each of the above-numbered requests and to indicate whether or not documents are or are not being produced in response to each numbered Request.

O.C.G.A. § 50-18-71(b)(1)(A) requires that requested records subject to the Act shall be produced for inspection by the public office or agency having control of such records not later

three (3) business days of receipt of this Request. If any of the requested records cannot reasonably be provided within that time, then please provide all other documents within that time despite reasonable and diligent efforts, and provide the remaining documents as soon as practicable and advise the undersigned of their expected production date, in accordance with the provisions of the above-referenced Code Section.

Please contact or have the custodian of the above-requested records and documents contact the undersigned to notify me when production of the requested records will be made within that time period required by the Act. We will pay the reasonable costs required by the Act related to the collection and production of the requested records and any photocopying costs. Please contact me at the above phone number if there are any questions concerning this request.

Thank you for your consideration and assistance regarding this Georgia Open Records Act Request.

Yours very truly,

Robert C. Norman

RCN/trl

Cc:  ~~David Mecklin~~, Haralson County attorney
Joe Fowler

Exhibit “B”

ARTICLE I. - IN GENERAL

Sec. 50-1. - Preamble and enactment clause.

The board of commissioners, pursuant to Ga. Const. art. IX, § 2, ¶ 4, hereby ordains and enacts into law the articles and sections contained in this chapter.

(Ord. of 12-7-2004, art. I)

Sec. 50-2. - Short title.

This chapter shall be known and may be cited as the "Haralson County, Georgia, Zoning Ordinance."

(Ord. of 12-7-2004, art. II)

Sec. 50-3. - Interpretation of certain terms and words.

For the purpose of interpreting this chapter, certain words or terms used herein shall be defined as follows:

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular number include the plural, and words used in the plural include the singular.
- (3) The term "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
- (4) The term "lot" includes the term "plot" or "parcel."
- (5) The term "building" includes the term "structure."
- (6) The term "shall" is always mandatory.
- (7) Except in the context of section 50-91 on nonconforming uses, the term "used" or "occupied," as applied to any land or building, shall be construed to include the terms "intended, arranged, or designed to be used or occupied."
- (8) The term "maps," "zoning map," or "Haralson County Zoning Map" means the "Official Zoning Maps of Haralson County, Georgia."

(Ord. of 12-7-2004, art. III(3.1))

Sec. 50-4. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means a use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Agriculture means the raising of soil crops and livestock in a customary manner on tracts of land at least five acres in size and shall include all customary associated activities. Retail selling of products raised on the premises shall be considered a permissible activity, provided that space necessary for the parking of customers' vehicles shall be provided off the public rights-of-way.

Exhibit "B" to Complaint

ARTICLE II. - ESTABLISHMENT OF ZONING DISTRICTS

Sec. 50-27. - Division into districts.

For the purpose of this chapter, the county is divided into 15 districts designated as follows. See article VI of this chapter for permitted uses in each district.

R-1	Single-family residential district
R-2	Single-family residential district
R-3	Single-family residential district
R-LM	Low density multifamily residential district
R-HM	High density multifamily residential district
R-MHP	Manufactured house park residential district
A-1	Agricultural district
F-1	Forestry district
C-OI	Office and institutional commercial district
C-NB	Neighborhood business commercial district
C-GB	General business commercial district
I-1	Light industrial district

I-2	Heavy industrial district
M-1	Mining district
PUD	Planned unit development

(Ord. of 12-7-2004, art. IV, § 4.1)

Sec. 50-28. - District boundaries.

The boundaries of each district are as shown on a series of maps, which collectively are entitled "Official Zoning Maps, Haralson County, Georgia," and certified by the zoning administrator. Said maps and all explanatory matter thereon are hereby made a part of and incorporated into the ordinance from which this chapter is derived. Said maps shall be retained in the office of the zoning administrator.

(Ord. of 12-7-2004, art. IV, § 4.2)

Sec. 50-29. - Rules for determining boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts listed in section 50-27, as shown on the zoning maps, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway rights-of-way lines, such centerlines, street lines, or highway rights-of-way lines shall be construed to be such boundaries.
- (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning maps. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- (4) Where a district boundary line, as appearing on the zoning maps, divides a lot in single ownership at the time of this enactment, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than 35 feet beyond the district boundary line.

(Ord. of 12-7-2004, art. IV, § 4.3)

Sec. 50-30. - Establishment, adoption of comprehensive land use map.

By this section, the comprehensive land use map adopted by resolution of the board of commissioners on December 6, 1994, and as thereafter amended, is established as the official policy of the county concerning proposed land uses, under which the unincorporated areas of the county are divided into the following land use categories:

- (1) Residential;
- (2) Commercial;
- (3) Industrial;
- (4) Public/institutional;
- (5) Transportation/communication/utilities;
- (6) Park/recreation/conservation;
- (7) Agriculture/forestry; and
- (8) Undeveloped.

(Ord. of 12-7-2004, art. IV, § 4.4)

Sec. 50-31. - Comprehensive land use map distinguished from zoning.

The comprehensive land use map does not alter or affect the existing zoning districts in the county, does not effectuate an amendment to the official zoning map, and does not itself permit or prohibit any existing land uses.

(Ord. of 12-7-2004, art. IV, § 4.5)

Sec. 50-32. - Land use districts.

The boundaries of the various land use districts are shown upon the comprehensive land use map and are made a part of the ordinance from which this chapter is derived and shall be maintained by the zoning administrator. Such map and all notations, references, and information shown thereon shall be as much a part of this chapter as if the matter and information set forth by the map were fully described herein. All other writings concerning the comprehensive land use map, including the technical document entitled "Haralson County, Georgia, Comprehensive Plan, 1994-2014," adopted by the board of commissioners, are for guidance and informational purposes only, and are not a part of this chapter.

(Ord. of 12-7-2004, art. IV, § 4.6)

Sec. 50-33. - Interpretation of land use district boundaries.

Where uncertainty exists as to the boundaries of any land use districts shown on the comprehensive land use map, the rules set forth in section 50-29 shall apply.

(Ord. of 12-7-2004, art. IV, § 4.7)

Sec. 50-34. - Relationship between land use categories and zoning districts.

- (a) The land use categories established by the comprehensive land use map are to be implemented by the establishment of appropriate zoning districts within each category. The zoning districts that are permitted within each land use category are restricted to the following:

<i>Land use category</i>	<i>Zoning district</i>
Residential	R-1, R-2, R-3, R-LM, R-HM, PUD, R-MHP, C-NB (Conditional)
Commercial	C-OI, C-NB, C-GB, PUD
Industrial	I-1, I-2, M-1, PUD
Public/institutional	R-1, R-2, R-3, PUD, C-OI, C-NB, C-GB, I-1, I-2, A-1, F-1
Transportation/communication/utilities	PUD, C-GB, I-1, I-2, A-1, F-1
Park/recreation/conservation	R-1, R-2, R-3, PUD, C-OI, C-NB, C-GB, A-1, F-1
Agriculture/forestry	A-1, F-1, PUD, C-NB (Conditional), R-1, R-2, R-3, R-LM, R-HM, R-MHP
Undeveloped	A-1, F-1

- (b) A residential zoning district that allows a greater dwelling unit density than is normally permitted within a given land use category may be established within such land use category only if the zoning is conditioned so as to limit the allowable density of dwelling units to the maximum permitted by the land use category, according to the table in subsection (a) of this section.

(Ord. of 12-7-2004, art. IV, § 4.8)

Sec. 50-35. - Permitted land uses.

Within the various land use categories described in this chapter and shown on the comprehensive land use map, no amendment to the official zoning map shall permit a use except in accordance with the uses permitted in the comprehensive land use category applicable to the property to which the proposed zoning map amendment applies.

(Ord. of 12-7-2004, art. IV, § 4.9)

Secs. 50-36—50-58. - Reserved.

Exhibit “C”

LAW OFFICES
TISINGER VANCE, P.C.

100 WAGON YARD PLAZA
CARROLLTON, GEORGIA 30117

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(ADMITTED IN GA AND AL)

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ROBERT D. TISINGER
1909-1991

January 26, 2022

Via Electronic Mail: bob.norman@jonescork.com

Mr. Robert C. Norman
Jones Cork
P. O. Box 6437
Macon, Georgia 31208-6437

Re: Open Records Requests dated January 3, 2022 and January 19, 2022
to Haralson County Board of Commissioners, et al.

Dear Mr. Norman:

I am responding to the open records requests to Haralson County Board of Commissioners, Haralson County Clerk, and Haralson County Zoning Director dated January 3, 2022 and January 19, 2022.

In the open records request dated January 3, 2022, you asked for:

1. All written or electronic correspondence or other communications by and in between any attorney or staff in the office of Stack & Associates, P. C., Attorneys, and any Haralson County official concerning or referring to the request for rezoning submitted to Haralson County by Solid Solutions One, LLC for the proposed Vindicator Environmental & Industrial Park project.
2. A certified copy of the Haralson County Zoning Ordinance contained in Chapter 50 of the Haralson County Code of Ordinances.
3. All correspondence and communications in written or electronic form by or between the Haralson County Alliance for Responsible Waste Management and the Haralson County Board of Commissioners or other Haralson County officials concerning or referring to an application for rezoning submitted by Solid Solutions One, LLC for the Vindicator Environmental & Industrial Park project.

Exhibit "C" to Complaint

4. All resolutions, minutes and other records concerning or relating to the adoption by the Haralson County Board of Commissioners of the Haralson County Zoning Ordinance contained in Section 50-1 et seq of the current Haralson County Code of Ordinances and reflecting the official adoption date of the Zoning Ordinance.
5. Any minutes, resolution(s), or ordinance(s) reflecting or referring to official adoption by the Haralson County Board of Commissioners of the "Official Zoning Maps, Haralson County, Georgia" establishing the zoning districts in the County and referenced in Section 50-28 of the Haralson County Zoning Ordinance.
6. Any and all records or documents reflecting the certification of the "Official Zoning Maps, Haralson County, Georgia" by the Haralson County Zoning Administrator as stated in Section 50-28 of the Haralson County Zoning Ordinance.
7. Any and all records or documents identifying the "Series of Maps" titled the "Official Zoning Maps, Haralson County, Georgia" as referenced in Section 50-28 of the Haralson County Zoning Ordinance and elsewhere in said Ordinance, including any listing, title page, index, table of contents, or similar record identifying the contents of that "Series of Maps" identified as "Official Zoning Maps, Haralson County, Georgia".
8. All records reflecting the date of official adoption by the Haralson County Board of Commissioners of the "Official Zoning Maps, Haralson County, Georgia" referenced in the Zoning Ordinance.
9. The Comprehensive Land Use Map adopted by resolution of the Board of Commissioners on December 6, 1994, and any amendments thereto by which the unincorporated areas of Haralson County were divided into land use categories, as referenced in Section 50-30 of the Haralson County Zoning Ordinance, and all minutes or resolution(s) reflecting official adoption of that Comprehensive Land Use Map by the Haralson County Board of Commissioners.
10. The current official Comprehensive Land Use Map for the unincorporated areas of Haralson County and all minutes or resolution(s) reflecting official adoption of such Comprehensive Land Use Map by the Haralson County Board of Commissioners.
11. All written or electronic communications prior to your response to this Request, in any form by or between any member of the Board of Commissioners in his or her official capacity or individual capacity and any person or entity (including but not limited to any other member of the Board

of Commissioners or any other Haralson County official or staff) concerning a proposal by Solid Solutions One, LLC to develop a mixed use industrial park and municipal solid waste disposal facility at a location in Haralson County.

In the open records request dated January 19, 2022, you asked for:

1. All documents including photographs, attachments and any other information in written form submitted by the attorney for the "organized opposition group" at the Haralson County Planning Commission public hearing on January 18, 2022.
2. All letters, photographs, and other documents submitted by the Planning Commission at that public hearing by any other person who spoke during the hearing in opposition to the subject rezoning application.
3. Any and all Petitions in whatever form submitted to the Haralson County Planning Commission, Zoning Director, or Board of Commissioners by the 'organized opposition group' or any other person or group concerning the subject rezoning application.
4. Any and all letters, emails or other correspondence or communications to the Zoning Director, the Haralson County Planning Commission, or the Haralson County Board of Commissioners since January 1, 2022, concerning to, referring to, or relating to the subject rezoning application.
5. Any written communications by or between the attorney for the opposition group (Stack & Associates) and the Haralson County attorney concerning the subject application for rezoning.
6. Any written report or recommendation of or from the Haralson Planning Commission to the Haralson County Board of Commissioners containing or concerning the decision and recommendation of the Planning Commission with respect to the subject rezoning application as contemplate by the Haralson County Zoning Ordinance.

As to your requests numbers 1-11 from your letter dated January 3, 2022, and your requests numbers 1-4 from your letter dated January 19, 2022, the County has made copies of the responsive documents that were located in the County's possession except for the maps which cannot be easily copied. The County is not producing any records or documents subject to the attorney-client privilege or that are confidential work product, which are not required to be released under O.C.G.A. § 50-18-72(a)(41) and (42). The copied documents are currently available to be picked up at my office. The "Official Zoning Maps, of Haralson County, Georgia" are available for inspection in the Office of the Zoning Administrator. If you would like to inspect these documents, then please do so by appointment and I would like to be present for the inspection. The County

Mr. Robert C. Norman
January 6, 2022
Page 4

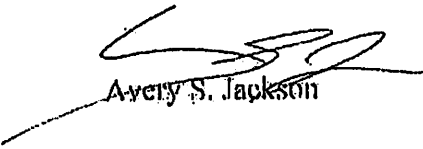
does not currently have any responsive documents to your requests 5-6 in your letter dated January 19, 2022.

As authorized by O.C.G.A. § 50-18-71, the cost for the copying charge incurred in providing these documents is \$74.50 (745 pages at \$.10/each). If you will remit the check payable to Haralson County to me, I will forward the check to the County.

Should you have any questions concerning this response, you may contact me at the above number.

Yours very truly,

TISINGER VANCE, P.C.



Avery S. Jackson

ASJ/vm
932754

Exhibit “D”

HARALSON COUNTY GOVERNING AUTHORITY

~~Tuesday, September 1, 1998~~

Haralson County Commissioner Amos Sparks held his regular monthly business meeting on Tuesday, September 1, 1998 at the courthouse in Buchanan. Commissioner Sparks called the meeting to order at 7:04 P.M. Mr. Ralph Lively led in a prayer of invocation.

The minutes of the August meeting were adopted as printed with no errors or omissions noted.

Administrative/fiscal matters:

Mr. Sparks signed a Resolution declaring September 18, 1998 as Prisoner of War/Missing in Action Day in Haralson County. The resolution urges all citizens to observe a brief moment of silence and reflection in memory or in honor of those who were prisoners of war or missing in action.

The Commissioner announced a change of title for Mr. Bill McConnell from Road Superintendent to Public Works Director. Mr. Sparks expressed his appreciation for Bill's dedication to his job. The change of title will enable Bill to attend training seminars related to the position.

~~Mr. Sparks signed an Ordinance adopting zoning laws for~~ Haralson County. He expressed his admiration and appreciation for the Planning Commission for the work they have done over the past year. The present Planning Commission is composed of Chairman John Levett, members John Baxter, J. N. Posey, Alan Kiker, and Max Wade. Appreciation was also expressed for citizen interest and input. Citizens are asked to give the zoning regulations some time and observe the effects. If the Ordinance creates a countywide problem, the Planning Commission will be asked to make relevant changes. The newly adopted Ordinance includes twelve changes to the draft ordinance. These changes address issues that seemed to give citizens the most concern. Mr. Sparks read the changes aloud. A copy of the changes will be made available free of charge to purchasers of the draft copies of the Ordinance. Copies of the Ordinance will be kept on file and available for public review in the Commissioner's Office and in the Permit Office. Copies will also be placed in the libraries in Bremen and Tallapoosa.

Mr. Sparks expressed appreciation to Speaker Tom Murphy, Senator Nathan Dean, and Max Goldin for their assistance in securing a State contract for

Exhibit "D" to Complaint

Governing Authority

Page 2

resurfacing of eight County roads. These are in addition to a little more than nine miles of resurfacing contracts received earlier this year. The additional roads are: Waddell Road, Harper Road, Mormon Church Road, McPherson Lane, Reynolds Street, Spiva Road, King Street, and Golf Course Road. Paving should be complete by June 1999.

County road crews hauled 1,578 tons of gravel and 2,654 tons of rock to roads during the month of August and used \$6,851 worth of fuel.

The Fire Department responded to 36 emergency calls during the month. The calls included seven structure fires, seven woods fires, six medical calls, eight vehicle fires, six auto accidents, and one down power line.

Work has started on the convenience center site on Bethlehem Church Road. Road crews have been repairing six roads washed away during last week's four inch rain.

All County offices will be closed for the Labor Day Holiday.

Mr. Sparks was in Montgomery all day today attending a water allocation formula meeting in regard to the reservoir. Alabama presented their proposal today. Georgia had submitted their proposals last month. News is encouraging. Mr. Sparks believes formulas will be agreed upon by the first of the year. The next meeting will be September 11 in Atlanta.

The Commissioner attended a leadership seminar in Athens last week. He will return calls accumulated while he was out of the office.

During the question/comment period, Mr. Clyde Poovey, President of Atlanta Structural Concrete, expressed his appreciation for County work in leveling Old Jacksonville road off Highway 27 crossing the railroad which his trucks use to enter and exit the concrete company.

Meeting adjourned at 7:25 P.M.

Exhibit “E”

HARALSON COUNTY GOVERNING AUTHORITY

155 Van Wert Street
Buchanan, GA 30113

Haralson County Commissioner, Charles R. Sanders, Sr. held the regular monthly Commissioner's Meeting on Tuesday, December 7, 2004. Mr. Sanders called the meeting to order at 10:00 AM. The Commissioner welcomed those in attendance and thanked them for coming to the meeting.

The Commissioner asked everyone to join him in the pledge of allegiance to the flag.

The Commissioner signed a renewal lease with the Haralson County Historical Society for the Historical Court House. Ms. Karen Higgins and Ms. Peggy Kimball signed the lease agreement for the Historical Society. Dr. McBrayer thanked the Commissioner for his continued support of the historical courthouse.

Commissioner Sanders signed an Amendment to the Haralson County Zoning Ordinance that corrected a number of pen and ink changes to the basic document. Robert Smith of the Planning and Zoning Board said the document had been a working status for almost two years.

John Levitt commented the previous ordinance was not that bad but lacked enforcement and he wondered how the new Amendment would be enforced. He was specifically referring to junkyards that he felt has started and blossomed in the area. The Commissioner asked if he thought the lack of enforcement was during his term or prior to his term. John said he was not saying the Commissioner did not enforce the code only that some had been started before the Commissioner's term. He was actually referring to the junkyard that he passes each day on Highway 27 across from Mr. Sparks cell tower.

With no further comments, the Commissioner gave an update on the animal shelter. The shelter appears to be running six-eight weeks behind schedule. The contractor is doing a good job. He did not capitalize on good weather, now they are behind due to wet weather. The DA's office appears to be on schedule with an occupancy date of December 31, 2004.

The Commissioner said the rough grading has gone well at the Recreation Park. Bill thought he needed another 2-3 weeks to complete the grading.

Commissioner Sanders said this was his last meeting and he appreciated the support from the public. He felt he was leaving the county in a sound fiscal condition. The county would be paying the final loan payment this month that would return the ownership of the fire stations to the county. The Commissioner felt the Department Heads were doing an excellent job and he thanked them for their support.

John Levitt said as a taxpayer, he appreciated the job the Commissioner had done while in office and could appreciate the condition of things when he took over compared to what he was leaving.

The Commissioner thanked Charlie Walker for his support and also let everyone know of the accident that happened to Joni Holcombe's son. Charles extended his sympathy to Joni and asked that everyone remember her in his or her prayers. The Commissioner said he did not know how long Joni would be out but we would try to keep things going until she could return.

The meeting adjourned with no further comments.

Exhibit “F”

ROBERT C. NORMAN, JR.
H. J. STRICKLAND, JR.
CATER C. THOMPSON
THOMAS W. JOYCE
BRANDON A. OREN
CALLIE DICKSON BRYAN
EUGENE S. HATCHER, JR.
J. PATRICK GOFF
CHRISTOPHER J. ARNOLD
COLLIER W. MCKENZIE
R. MATTHEW SHOEMAKER
CANON B. HILL
ANDREW L. DAVIDSON
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RUFUS D. SAMS III
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EMERITUS COUNSEL
CHARLES M. CORK, JR.
HUBERT C. LOVEIN, JR.

C. BAXTER JONES
1895-1968
CHARLES M. CORK
1908-1982

February 11, 2022

Via mail and email:
David Mecklin
Avery Jackson
Tisinger Vance, P.C.
100 Wagon Yard Plaza
Carrollton, GA 30117

Re: Application for Rezoning
Applicant: Solid Solutions One, LLC
Project Name: Vindicator Environmental & Industrial Park

Dear David and Avery:

The purpose of this letter is to advise you of our legal opinion and position, and we specifically reserve this position for Solid Solutions One, LLC and this zoning application, that the Haralson County Zoning Ordinance currently in effect is legally invalid and unenforceable specifically including with respect to the property that is the subject this application for rezoning. Therefore, Solid Solutions One, LLC when it filed this application for rezoning back in September, 2021 had then and has now a vested legal right to use the 2047 acres which is the subject of the zoning application for the purposes described in that application without a requirement for zoning or other approval by the Board of Commissioners.

Georgia law is well-settled, and there are a number of cases on this legal subject including a recent federal court decision, a copy of which I enclose this decision contains a good summary of the Georgia law and court decisions on this subject and their application under similar facts. *Brantley County Development, Partners, LLC v Brantley County, Georgia et al*, United States District Court for the Southern District of Georgia, Judge Lisa Godbey Wood, Case 5:19-cv00109-LGW-BWC, (See pages 34-39); dated and docketed May 14, 2021. Applicable Georgia Court decisions upon which we base this legal position and also cited in that decision include but are not limited to, *Newton County v East Georgia Land & Dev. Co., LLC*, 764 S.E. 2d 830, 831 (Ga. 2014); *Foskey v Kirkland*, 147 S.E. 2d 310, 312 (Ga. 1966); *Tilley Properties*, 401 S.E. 2d 527, 261, (Ga. 1991) followed in *Southern States – Bartow County, Inc. v Riverwood Farm Property Owners Ass'n, Inc.*, 797 S.E. 2d 468, 300 Ga. 609 (Ga. 2017); *City of Flovilla v McElheney*, 246 Ga. 552 (1980). These decisions hold that where a Zoning

Exhibit "F" to Complaint

Ordinance adopted by a local government attempts to incorporate by reference a set of maps, as the Haralson County Zoning Ordinance does here in Section 50-28 those zoning maps must have been adopted and incorporated at the same time as the official adoption of the Zoning Ordinance in which they purport to be incorporated. For a zoning map to be officially identified and incorporated in and as part of a Zoning Ordinance it "must be apparent from documents or records thereof that the map was identical to the one which was incorporated by reference into the Zoning Ordinance." To demonstrate that a map or maps which purport to be an official zoning map(s) establishing districts and zoning classifications in the County, the map(s) must have been in existence and identified and adopted as such at the same time and in conjunction of the adoption of the Zoning Ordinance, through minutes, an Ordinance, a resolution or the like reflecting the adoption of the zoning maps with and as part of the Zoning Ordinance.

Section 50-28 of the Zoning Ordinance makes reference to zoning maps, which of course are necessary to identify various zoning districts and district boundaries and are thus a critical part of any Zoning Ordinance. That Section requires such maps will be titled "Official Zoning Maps, Haralson County, Georgia" and "certified by the zoning administrator". Thus, the Zoning Ordinance itself requires that the zoning maps which the Ordinance references and purports to incorporate were required at the time of the Ordinance to be certified by the Haralson County zoning administrator.

In our Georgia Open Records Act Request dated January 3, 2022, we asked for the County to produce any such minutes, resolutions, ordinances, certifications, or any other documents that reflect or refer to official adoption by the Haralson County Board of Commissioners of the "Official Zoning Maps, Haralson County, Georgia" establishing the zoning districts in the County, as referenced in Section 50-28 of the Haralson County Zoning Ordinance. No such minutes, ordinances, resolutions, zoning administrator certifications, or any other documents were produced in response to that records request, to establish that the maps currently used by the zoning administrator are the official zoning maps for Haralson County adopted at the time of the Zoning Ordinance. The documents produced by the County include minutes from a September 1, 1998 Commission meeting where the Chairman "signed an Ordinance adopting zoning laws for Haralson County". There is no mention of any zoning maps in those minutes, or any Resolution or a similar official adoption of the Zoning Ordinance with any zoning maps. It appears from the documents certain amendments to the Zoning Ordinance were adopted after 1998 and before 2004. The minutes referencing those amendment again make no reference to zoning maps. At a Commission meeting on December 7, 2004 the County Commission Chairman "signed an Amendment to the Haralson County Zoning Ordinance that corrected a number of pen and ink changes to the basic document." Again, there is no reference whatsoever in those minutes to any zoning maps or adoption of any zoning maps. The documents produced included a copy of that 2004 Amended Zoning Ordinance, which contains Section 50-28 referenced above, but there is no certification or any other document adopting, referencing, or certifying any zoning maps in conjunction with that Ordinance.

The Georgia Open Records Act request we submitted specifically asked for "any and all records or documents reflecting the certification of the "Official Zoning Maps, Haralson County, Georgia" which were shown to Joe Fowler on Wednesday are maps or the "Official Zoning Maps, Haralson County, Georgia" by the Haralson County Zoning Administrator as stated in

Section 50-28 in the Haralson County Zoning Ordinance.” No such certification document has been produced by the County in response to that very specific request, or after we made a further request this week for any such written certification. We inspected the actual maps produced by the County at the County Commission office and there is no certificate or certification of any nature on or attached to those maps in any form. Instead, an offer was made for the zoning director to provide a current certification to us that those are the official County zoning maps, however, the required certification is a certification by the Zoning Administrator contemporaneous with the official adoption of the 1998 Ordinance or the 2004 Ordinance certifying in accordance with the Ordinance itself the “Official Zoning Maps, Haralson County, Georgia” establishing the zoning districts in the County and certifying those were the maps in existence, approved and adopted by the County Commission at that time and incorporated into the Zoning Ordinance.

Accordingly, it is the position of Solid Solutions One, LLC that the current Zoning Ordinance of Haralson County does not legally incorporate any maps constituting the “Official Zoning Maps, Haralson County, Georgia”, and accordingly that Zoning Ordinance is legally invalid and unenforceable with respect to the subject property and its intended uses by Solid Solutions One, LLC. We assert this position only after a diligent investigation for relevant documents and careful research of applicable law. The January 3, 2022 Open Records Act request was directed at obtaining all such potentially relevant documents. Productions of those documents did not occur until late January and our requested review of the maps in Ms. Wade’s office occurred earlier this week.

Solid Solutions One, LLC and its team intend to participate in the public hearing scheduled for Tuesday February 15, but reserving and not waiving this legal position with respect to the Zoning Ordinance. Please confirm that public hearing will move forward, and please let us know as soon as reasonably possible your and the County’s position with respect to the matters raised in this letter.

You will see that copies of this letter are also being sent to Ms. Wade, for purposes of including this letter in the official zoning application record, and to the members of the Board of Commissioners to ensure the record is properly perfected.

Thank you for your consideration.

Yours very truly,



Robert C. Norman

Enclosure

RCN/trl

Cc: Glenda Wade, Zoning Director (via mail and email)
Commissioner Ronald J. Ridley (ronnieridley@haralsoncountyga.gov)
Commissioner David Tarpley (dtarpley888@charter.net)
Commissioner Jamie Brown (commissionerjamiebennett@gmail.com)
Commissioner John Daniel (johndaniel@haralsoncountyga.gov)
Commissioner Ryan Farmer (ryanfarmer@haralsoncountyga.gov)
Alison Palmer (alison.palmer@haralsoncountyga.gov)

Exhibit “G”

HARTLEY, ROWE & FOWLER, P.C.

ATTORNEYS AT LAW

JOSEPH H. FOWLER

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EMAIL: JFOWLER@HRFLEGAL.COM

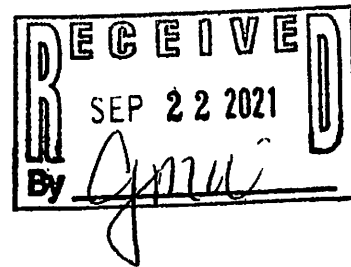
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September 20, 2021

Via Fed Ex:
Haralson Board of Commissioners
Commissioner Ronald J. Ridley
Commissioner David Tarpley
Commissioner Jamie Brown
Commissioner John Daniel
Commissioner Ryan Farmer
155 Van Wert Street
Buchanan, Georgia 30113

c/o Glenda M. Wade, Haralson County Zoning Director
4266 Georgia Hwy. 120
Buchanan, Georgia 30113



Re: *Application for Rezoning*
Applicant – Solid Solutions One, LLC
Project Name – Vindicator Environmental & Industrial Park

HARALSON CO. DEPT. OF PERMITS

Dear Commissioners:

Introduction

This letter is being provided to each of you on behalf of the above-named Applicant in accordance with Georgia law, which requires an Applicant for rezoning to make you aware of the principles of Georgia constitutional and decisional law governing your decision with respect to this application for rezoning. The application for rezoning and proposed Project and Project Site which are the subject of the rezoning application are explained in detail in the Letter of Intent dated August 30, 2021 and the extensive facts, information, and professional studies supporting the rezoning application contained in the application Binders that have been provided to you. We will not repeat again in this letter the explanation of the Project and Project Site contained in the Letter of Intent or all of the reasons supporting your approval of this application.

We understand this proposed Project will likely create a degree of opposition from residents in the County. Nevertheless, we respectfully submit all of the facts and information submitted in support of this rezoning request provide ample support and justification for

approval of the requested rezoning, so that this important economic development project in County may proceed forward. To borrow from a recent quote by a United States Senator, "It is when emotions are high that fairness and the facts are most in jeopardy". We hope and trust that will not be the case here. Facts are stubborn things, even when numbers of people attempt to deny them. In contrast to the facts and professional evaluations and conclusions presented by this Applicant in of support the application to rezone, contentions made by some in opposition to the Project are based on and will continue to be based on unsubstantiated and generalized fears, inaccurate and misleading information, questionable sources, and scare tactics. Under Georgia law, your consideration and determination of this request for rezoning must be based upon reasonable objective criteria and the relevant facts, and not on generalized fears, speculation, or contentions not supported by the objective facts. *Fulton County v Bartenfeld*, 257 Ga. 766, 769-770 (1988); *Hixon v Walker County*, 266 Ga. 642 (1996).

Applicable Georgia Law and Constitutional Requirements

As you are aware "zoning" is an exercise of the "police power" to oversee local land uses in accordance with the requirements of the Georgia Zoning Procedures Act, provisions of the Georgia Constitution that protect private property rights, and applicable decisions of the Georgia Appellate Courts. Because Zoning Ordinances restrict a property owner's right to freely use its property for any lawful purpose, zoning ordinances are in derogation of common law property rights protections. Therefore, the law requires strict construction of zoning ordinances against a local government's exercise of zoning authority to deny a request for rezoning of property for different beneficial uses, and a construction of the zoning ordinance requirements in favor of a landowner or prospective landowner seeking rezoning of land or other land use approvals. *DeKalb County v Post Apartment Homes, LP*, 234 Ga App 409 (1998); *Cherokee County v Martin*, 253 Ga App 395 (2002). Due process principles require a local government to consider a zoning application "in light of the character of the land in question and the impact of the zoning decision upon the property owner's rights". *Sellers v Cherokee County*, 254 Ga 496, 497 (1985). Georgia law further requires that a local government has a duty and obligation to work with property owners to allow then the highest and best use of their property. *Dekalb County v Flynn*, 243 Ga 679, 681 (1979). This Applicant has assembled these lands within the Project Site through binding purchase agreements and stands in the shoes of those current property owners under Georgia law. *Henry County v Tim Jones Properties, Inc.* 273 Ga 190 (2000); *Gifford-Hill & Co v Harrison*, 229 Ga 260, 263 (1972). The property rights of those owners also will be impacted by your decision of this application for rezoning.

A zoning ordinance and its application to a particular property may not infringe upon constitutional guarantees of the state and federal Constitutions by unnecessarily or unreasonably restricting property rights. *Gradous v Richmond County Board of Commissioners*, 256 Ga App 469, 470 (1996); *Barrett v Hamby*, 235 Ga App 262 (1975). The current zoning classification of property pursuant to a local zoning Ordinance and zoning Map, and as here a local government decision on a request to change a zoning classification to allow beneficial development of this land for a higher and better use than its current use, unconstitutionally infringes on private property rights and are invalid if the current zoning classification and denial of a rezoning request will cause a significant detriment or damage to the property owner that is not justified by overriding benefits to the public. To establish significant detriment, it is not necessary under

controlling Georgia law that the land be totally useless for purposes allowed by its current zoning classification (for example, growing trees), but instead, significant detriment is shown by facts which demonstrate a reduction in economic viability of a property and a decrease in land value if the property remains under its current zoning classification, as compared to the feasible use and value of the property if rezoned to allow a proposed higher and better use. *City of McDonough v Tusk Partners*, 268 Ga App 693, 695-296 (1997); *Candler & Assoc., Inc. v City of Roswell*, 253 Ga 621 (1988); *Dekalb County v Dobson*, 267 Ga 624 (1997).

These fundamental zoning law principles were summarized in the *Barrett v Hamby* decision as follows;

“[Z]oning is subject to the constitutional prohibition against taking private property without just compensation.... As the individual's right to the unfettered use of his property confronts the police power under which zoning is done, the balance the law strikes is that a zoning classification may only be justified if it bears a substantial relation to the public health, safety, morality or general welfare. Lacking such justification, the zoning may be set aside as arbitrary or unreasonable. As these critical interests are balanced, if the zoning regulation results in relatively little gain or benefit to the public while inflicting serious injury or loss on the owner, such regulation is confiscatory and void. Moreover, we specifically rule that for such unlawful confiscation to occur, requiring that the zoning be voided, it is not necessary that the property be totally useless for the purposes classified. It suffices to void [the current zoning classification] that the damage to the owner is significant and is not justified by the benefit to the public.”

Based on these legal standards, we respectfully submit the land which is the subject of this application for rezoning should be rezoned to the I-2, I-1, and General Commercial zoning classifications proposed in the application for the assembled lands that constitute the Project Site and explained in the Letter of Intent. The extensive facts and studies provided in support of the application demonstrate beyond any reasonable dispute that the proposed Project and the Project Site satisfy and are consistent with all criteria in the County's Zoning Ordinance for the requested rezoning and development of this land as proposed by this Applicant. Limiting the use of this land for growing trees, which is the only economically feasible use of the property under the current Agriculture/forestry zoning classification based on professional studies and evaluations included in the rezoning application materials, will cause the destruction of the primary economic usefulness and viability of that land and deprive this Applicant of what clearly is its highest and best use for development of this land for the proposed Project and development uses. Denying the requested rezoning will cause significant detriment to Applicant, and to the land itself and its future beneficial use, and will deprive Haralson County and its cities and citizens of the significant economic development benefits afforded by this Project discussed in the Letter of Intent and the Economic Impact Study submitted with the application in the Binder materials. Limiting this land to its current Agriculture/forestry zoning classification and its current limited use for growing trees is not necessary to and will not substantially benefit the public interest or the future interests of Haralson County, but will instead deprive the County and its citizens of a valuable economic development project in the County and associated revenues to the County. The facts supporting that conclusion are amply demonstrated by the facts of the Project and the professional studies presented to you in the rezoning application materials.

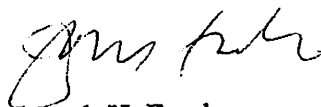
Conclusion

In conclusion, we respectfully submit on behalf of the Applicant that restricting the subject land to the current Agriculture/forestry zoning classification by denial of this request to rezone the subject property would be an unconstitutional decision and action by this Board of Commissioners. A decision by this Commission to deny the requested rezoning would be lacking a reasonable and rational basis, arbitrary, unconstitutional, and constitute a taking of this land for which Applicant has binding property rights in violation of the above-referenced constitutional requirements and Georgia decisional law. Denial of the requested rezoning would prevent an economically viable and more beneficial use of the land for this development project which is unquestionably its highest and best use. Moreover, a denial of the requested rezoning would not substantially advance relevant interests of the County or its citizens including those in the vicinity of the subject land.¹

Again, this letter is being given to afford the Board of Commissioners an opportunity to rezone the subject land to a constitutional zoning classification as requested, to allow this Project to proceed forward subject to applicable additional permitting and development requirements. We hope and trust on behalf of the Applicant that this Board will follow the demonstrated facts and follow the principles of Georgia law discussed in this letter, and therefore approve the requested rezoning.

Respectfully,

HARTLEY, ROWE & FOWLER, P.C.



Joseph H. Fowler

JHF/rs

Cc: David Mecklin (via email and mail)

¹ Applicant reserves the right to make any and all additional arguments available under the facts and applicable Georgia law, including but not limited to challenging the validity of the Zoning Ordinance and/or Maps if applicable based upon hereafter determined facts.

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

SOLID SOLUTIONS ONE, LLC

Plaintiff,

v.

HARALSON COUNTY, GEORGIA;
by and through its Chairman and Members of the
HARALSON COUNTY BOARD OF
COMMISSIONERS; RONALD J. RIDLEY,
DAVID TARPLEY, JAMIE BROWN,
JOHN DANIEL, AND RYAN FARMER, in their
official capacities as elected Members of the
Board of Commissioners of HARALSON
COUNTY, GEORGIA.

Defendants.

CIVIL ACTION NO. _____

VERIFICATION

Before me, an officer authorized by law to administer oaths, came W.L. "Tee" Stribling, who being duly sworn deposes and states on oath that the allegations, statements, and contentions in the within Complaint for Declaratory Judgment, Temporary Restraining Order, and Preliminary and Permanent Injunctive Relief are true and correct.

This 23rd day of February, 2022.



W.L. "TEE" STRIBLING

Sworn to and subscribed before me
this 23rd day of February, 2022.



NOTARY PUBLIC

