

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

Clara Greig and Tana Fileccia-Flagg,

Petitioners,

v.

The Mayor and Aldermen of the City of
Savannah, Seacrest Seven, LLC, 1015 Whitaker,
LLC and Portfolio Holdings, LLC,

Defendants.

Case No. SPCV25-00195

**AMENDMENT TO MOTION FOR EXPEDITED DECLARATORY JUDGMENT
AND REQUEST FOR EMERGENCY MANDATORY INTERLOCUTORY INJUNCTION**

COME NOW Petitioners Clara Greig and Tana Fileccia-Flagg (“Petitioners”), through their undersigned counsel, and file this *Amendment to the Motion for Expedited Declaratory Judgment*, dated February 26, 2025, (the “Motion”), which sought a declaratory judgment that the stay of further proceedings under O.C.G.A. § 36-66-5.1(d) prohibits the issuance of variances, a certificate of appropriateness, special exceptions, and a certificate of occupancy for the subject project, and that any such permits or approvals so issued are void. Terms not defined herein shall have the meaning assigned in the Motion.

This amendment asks this Court to consider an injunction against the City Defendants to enjoin them from granting demolition permits for the demolition of the existing buildings at the site of the proposed development (the “Project”), as explained in detail in **Legal Analysis and Citation of Supporting Authorities, II**, *infra*. The Petitioners ask for a ruling on an emergency basis because the City appears to be preparing to issue such permits.

FACTUAL UPDATES

On April 7, 2025, the day before the scheduled hearing on the Motion, the Non-City Defendants issued a Notice of Abandonment and Motion for Stay abandoning their rezoning applications and requesting a stay of the proceedings, including discovery.

An order reflecting the terms of the notice was finalized by the Petitioners and the City and Non-City Defendants on April 10, 2025 (the “Order of Abandonment”). (Exhibit A). While the Order of Abandonment permits the Non-City Defendants to do work, such as demolition, that is not fully dependent on the Rezoning, the Order is silent of the authority of the City to issue such permits.

Since the Order of Abandonment, the Non-City Defendants have publicly expressed their intentions to move forward with the entire project, as if nothing had transpired in this litigation. The Petitioners’ Counsel has contacted the Non-City Defendants to discuss their intentions but has received no reply.

The City and Non-City Defendants’ present actions appear to reflect pursuit of the exact same project that gave rise to this litigation, which would not be permissible if the Rezoning were reversed, given, among other things, the 60% lot coverage cap in the prior zoning. The original Project, which is being pushed forward, is fully dependent on the Rezoning, the application for which was abandoned. Demolition for a Project that is fully dependent on the Rezoning constitutes work that is fully dependent on the Rezoning and is not permitted under the Order of Abandonment.

On June 26, 2025, the Petitioners’ Counsel sent a letter to the City explaining that granting a demolition permit would be in violation of the stay in place in this case under O.C.G.A. § 36-66-

5.1(d) and that the Order of Abandonment did not affect the effect of the statutory stay on the City's ability to issue the permit. (Exhibit B)]. The Petitioners' Counsel also pointed out that it is against the City's normal practice to issue a demolition permit until the replacement building has received all required approvals, which has not occurred in this case. The letter also cited recent examples of demolitions in Savannah's historic district where this practice was followed.

The City had issued holds on demolition of the buildings by the Non-City Defendants as recently as June 23, 2025. On June 30, 2025, the City withdrew those holds. (Exhibit C-1, Holds as of 6.27.25; Exhibit C-2, Holds as of 7.01.25). As a result, Petitioners anticipate issuance by the City of permits to demolish the existing buildings at the site.

The City's issuance of demolition permits to the Non-City Defendants is neither permissible as a carve-out of the Order of Abandonment nor is it permissible under the statutory stay but rather would be an attempt to help the Non-City Defendants end-run both. The demolition is for purposes of continuing the Project as originally designed, which is dependent on the Rezoning. No alternative proposal has been publicly produced by the Non-City Defendants. The demolition furthers the Rezoning, the sole purpose of which was to allow construction of the Project. The demolition is not for a proposal that complies with the former zoning and its lot coverage rules; it is demolition for purposes of the Project, which does not comply with those rules.

The City's issuance of demolition permits to the Non-City defendants is not permissible under the statutory stay. O.C.G.A. § 36-66-5.1(d) provides a stay of all proceedings in furtherance of the Rezoning. The Notice of Abandonment did not address the actions of the City and does not grant them permission to issue permits. Nor does the stay provided by the Notice of Abandonment affect the statutory stay already in place.

**LEGAL ANALYSIS OF REQUIREMENTS FOR ISSUANCE OF A MANDATORY
INTERLOCUTORY INJUNCTION**

(A) Overview

1. Mandatory Injunctions

Mandatory injunctions in Georgia were prohibited in the past, but the Code Section dealing with mandatory injunctions (Code § 55-110) was expressly repealed by the Civil Practice Act of 1966 (Ga. L. 1966, p. 609 *et seq.*, as amended by Ga. L. 1967, p. 226 *et seq.*).

Mandatory interlocutory injunctions have been applied broadly to property litigation. *Atlanta Country Club, Inc. v. Sanders*, 230 Ga. 146 (1973)(interlocutory mandatory injunction which limited the uses on a road encroaching on plaintiff's property and required defendant to install a lock); *Taylor v. Evans*, 232 Ga. 685 (1974)(interlocutory mandatory injunction requiring removal of gravestones erected without permission of heirs' guardian); *Wheatley Grading Contractors v. DFT Invs., Inc.*, 244 Ga. 663 (1979)(interlocutory mandatory injunction requiring removal of debris blocking road); *American Southern Homes Holdings, LLC et al. v. Erickson*, Case 4:21-CV-0095-CDL Document 108 (District Ct., Middle District, GA 2022)(mandatory interlocutory injunction ordering sale by defendant of land lots to plaintiff).

2. Maintaining the Status Quo

A trial court may issue an interlocutory injunction to maintain the *status quo* until the final hearing if after balancing the relative equities of the parties it determines that they favor the party seeking the injunction. *Bernocchi v. Forcucci*, 279 Ga. 460, 461 (2005). For this *Motion*, the *status quo* is the current state: The existing buildings remain standing. Compare *Matheson v. Dekalb*

County, 257 Ga. 48 (1987)(injunction not deemed necessary because the stop work order preserved the *status quo* pending final determination, even though construction had commenced).

There is a vital necessity for the requested injunction. The injunction is necessary so that this Court can adjudicate the merits of the Petitioners' claims and provide relief before it is too late for such relief to have effect.

An injunction is proper to prevent a party "from being damaged and left without a remedy." *Atlanta Area Broadcasting V. James Brown Enterprises*, 263 Ga. App. 388, 393 (2003). In the case of the Petitioners' interests herein, as explained below, it will be impossible for the buildings to be saved if they are demolished.

In deciding whether to issue an interlocutory injunction, a trial court should consider four factors: (1) whether there is a substantial likelihood that the moving party will prevail on the merits at trial; (2) whether there exists a substantial threat that a moving party will suffer irreparable injury if the injunction is not granted; (3) whether the threatened injury to the moving party outweighs the threat and harm that the injunction may do to the party being enjoined; and (4) whether granting the interlocutory injunction will not disserve the public interest. *Davis v. VCP, LLC*, 297 Ga. 616, 621-22 (2015)(citation omitted).

(B) Petitioners Are Likely to Succeed on the Merits.

The first element for preliminary injunctive relief requires the Court to evaluate whether the Petitioners will likely succeed on the merits of their claims. The Petitioners are likely to win on the merits. The facts and legal discussion in the *Motion* and the facts set forth in this Amendment have shown that the demolition is in furtherance of the rezoning for the project.

The issuance of a demolition permit prior to the approval of the proposal also runs afoul of existing City practice. Making a special carve-out for the Mayor's donors is another example of the manifest abuse of power alleged in the Petition. Equity requires that this situation be treated under the normal rules, whether specifically provided for by law or not.

The Petitioners reiterate that the Order of Abandonment did not grant the City the right to issue demolition permits, which were stayed by O.C.G.A. § 36-66-5.1(d). What the Order of Abandonment expressly did, however, is find as fact and declare that the Non-City Defendants had and did abandon their application for permits for the Project, which is fully dependent on the Rezoning. That is the law of the case. The City and Non-City Defendants' present actions ignore that.

(C) Petitioners Will Suffer Irreparable Injury if Construction of the Demolition Is Permitted To Proceed

The Petitioners will suffer irreparable harm without the Injunction. "An injury is 'irreparable' only if it cannot be undone through monetary remedies." *Ferrero v. Associated Materials Inc.*, 923 F.2d 1441, 1449 (11th Cir. 1991) (citations omitted).

Destruction of the historic structures, including two buildings from the Victorian era will permanently damage the historical integrity of the neighborhood. Once they have been destroyed, there is no turning back.

(D) The Threatened Injury to Petitioners Outweigh Damage to Non-City Defendants

The threatened injury to the Petitioners outweighs whatever damage the proposed injunction may cause the Non-City Defendants.

The Non-City Defendants incur no cost by waiting. In fact, they requested the 90-day stay under the Notice of Abandonment. They cannot now declare urgency.

(E) **Issuance of an Injunction Would Not Hurt, But Rather Would Promote the Public Interest**

The injunction requested by the Petitioners would not be adverse to the public interest. The public interest is furthered by the promotion of responsible development that conforms to the Ordinance and the Order of Abandonment. An active Change.org petition challenging the Project has garnered 899 signatures as of July 1, 2025. The Board of the Victorian Neighborhood Association (“VNA”) supported the proposal, but the Board includes Brad Baugh, owner of one of the Non-City Defendants. The general membership of the VNA was not asked to vote on this matter; thus, the Board decision does not necessarily reflect community views. As a result of the Board taking a position some members opposed, many have signed the Change.org petition. (Exhibit D). Moreover, the City must balance encouragement of development with the goal of following the Zoning Ordinances and zoning procedures established by the State of Georgia, as well as the goal of protecting the Victorian Historic District.

CONCLUSION

WHEREFORE, the Petitioners move this Honorable Court for an Order including declaratory and injunctive relief as follows:

- a. The Court declares that any issuance by the City of a demolition permit for the existing buildings at the Project site is stayed by O.C.G.A. § 36-66-5.1(d).
- b. This Court enjoins the Defendant City of Savannah from issuing any permits for the Project, including a demolition permit, to Non-City Defendants, unless and until the Court renders a

final decision on the issues raised in the *Petition* and unless and until the acts specified in the orders set forth pursuant to such decision have been satisfied.

- c. The Court declares that the Order of Abandonment prevents the Non-City Defendants from taking action to effectuate the original Project that was the subject of the Order of Abandonment.
- d. The Court declares that any application for a demolition permit for the existing buildings at the Project site is stayed by O.C.G.A. § 36-66-5.1(d).
- e. The Court further enjoins the Non-City Defendants from demolishing the existing buildings at the Project site, unless and until the Court renders a final decision on the issues raised in the *Petition* and unless and until the acts specified in the orders set forth pursuant to such decision have been satisfied.

A Proposed Order is attached as Exhibit E.

This 1st day of July, 2026.

Respectfully submitted,

THOMERSON, JONES & EDWARDS P.C.

/s/ Michael J. Thomerson

Michael J. Thomerson (GA Bar No. 706999)

/s/ Andrew B. Jones

Andrew B. Jones (GA Bar No. 802033)

/s/ Michael L. Edwards

Michael L. Edwards (GA Bar No. 240112)

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CERTIFICATE OF SERVICE

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

This 1st day of July, 2025.

Persons served:

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/s/ Andrew B. Jones
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Attorney for Petitioners Clara Greig and
Tana Fileccia-Flagg

EXHIBIT A

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

Clara Greig and Tana Fileccia-Flagg,

Petitioners,

v.

The Mayor and Aldermen of the City of
Savannah, Seacrest Seven, LLC, 1015
Whitaker, LLC and Portfolio Holdings,
LLC,

Defendants.

Case No. SPCV25-00195

**ORDER ON NON-CITY DEFENDANTS' NOTICE OF ABANDONMENT
AND MOTION TO STAY ALL PROCEEDINGS**

The Petitioners filed a *Petition for Judicial Review* (the “Petition”) on February 7, 2025, appealing on numerous grounds two (2) determinations made by the City of Savannah’s City Council (the “City Council”), namely, the January 9, 2025, rezoning of four (4) properties situated on the corner of Whitaker Street and West Park Avenue,¹ and the January 9, 2025, amendment of the Future Land Use Map to reflect the rezoning of the four properties (the “Development”).² The Petitioners then filed a *Motion for Expedited Declaratory Judgment* (the “Petitioners’ Motion”) on March 3, 2025, requesting that the Court declare that:

1. O.C.G.A. § 36-66-5.1(d) stayed the MPC Variances Hearing of February 18, 2025, that the MPC violated the stay, and that the variances issued by the MPC at said hearing are void;³

¹ Chatham County-City of Savannah Metropolitan Planning Commissions (“MPC”) matter 24-005815-ZA (the “Rezoning” or “Zoning Amendment”).

² MPC matter 24-005916-ZA (the “FLUM Amendment”).

³ MPC matter 25-000446-ZA (the “Variances”).

2. O.C.G.A. § 36-66-5.1(d) stays any upcoming hearing by the Historic Preservation Commission (“HPC”) to review an application for a certificate of appropriateness (“COA”) for the Development, and any such COA if issued would be void; and,
3. Any further permits or approvals issued by the City of Savannah that are dependent on the Variances are void.

Petitioners filed an *Amended Petition for Judicial Review* on March 16, 2025. For the purposes of this Order, the Court refers to the Petition and Amended Petition as the Petition.

The Court scheduled the parties to appear on April 8, 2025, at 10:00 a.m. for oral argument on Petitioners’ Motion.⁴ Defendants Seacrest Seven, LLC, 1015 Whitaker, LLC and Portfolio Holdings, LLC (“Non-City Defendants” or “LLCs”) filed their *Notice of Abandonment and Motion to Stay All Proceedings* (the “Non-City Defendants’ Notice”) on April 7, 2025.

The Court has reviewed Non-City Defendants’ Notice. The Court takes notice that therein, Non-City Defendants state that:

The LLCs hereby give notice of the abandonment of the Rezoning and FLUM Amendment Application, the Variances, the COA/Special Exception, and any further permits or approvals issued by the City of Savannah that are fully dependent on the Rezoning and FLUM Amendments and Variances. In doing so, the LLCs do not admit or concede any defect or failure with the Rezoning and FLUM Amendment Application or the other matters alleged in this case. Rather, the LLCs seek to address the procedural concerns raised in the Petition and to streamline and potentially obviate this case [. . .]. Consistent with this abandonment, the LLCs agree to not undertake development actions that are fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception. However, the LLCs reserve the right to proceed with other work related to the project such as demolition of current structures and work related to the underground parking facility (both of which were previously approved and unchallenged).

Non-City Defendants’ Notice further states that:

⁴ Subsequent to that setting, on March 25, 2025, Non-City Defendants filed *Non-Parties Brad Baugh, Reed Dulany, III, Jeff Jepson and David Paddison and Non-City Defendants’ Objection to Non-Party Discovery Requests and Motion for Protective Order Including Stay of All Discovery*, to which Petitioners responded and requested oral argument at the same setting.

This filing moots Petitioners' Motion for Expedited Declaratory Judgment in its entirety, and partially moots the Amended Petition to the extent it seeks any affirmative remedy from the LLCs. The LLCs are currently exploring options to moot this case in its entirety. To allow adequate time for the LLCs to pursue the possible resolution of this case in its entirety, they request a stay of all proceedings in this case for a period of ninety days.

Therefore, the Court now finds that Non-City Defendants hereby have abandoned and do abandon:

1. Their Rezoning and FLUM Amendment Application;
2. The Variances issued in 25-000446-ZA on February 18, 2025; and,
3. Any COA/Special Exception and any further permits or approvals of the LLCs issued by the City of Savannah that are fully dependent on the Rezoning and FLUM Amendments and Variances.⁵

The Court further finds that consistent with this abandonment, the LLCs agree to not undertake development actions that are fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception, although the LLCs are, and continue to be, permitted to: (i) undertake work not fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception, including without limitation demolition of current structures and work related to the underground parking facility; (ii) obtain, or cause to be obtained, permits, certificates, approvals, variances, and special exceptions not fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception.

Finally, Non-City Defendants move the Court for a ninety (90) day stay of all proceedings in the within action, including without limitation discovery.

⁵ No COA/Special Exception has yet been issued, and the Non-City Defendants hereby abandon seeking such.

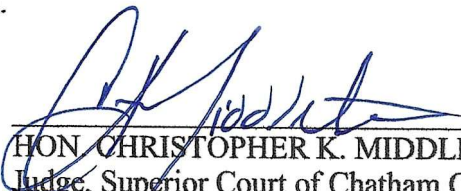
Finding good cause for Non-City Defendants' Notice, the Court ACCEPTS the Notice.

IT IS THEREFORE ORDERED that:

- a. The Rezoning and FLUM Amendment Application stands ABANDONED by the LLCs;
- b. The Variances in 25-000446-ZA on February 18, 2025 stand ABANDONED by the LLCs; and,
- c. Any COA/Special Exception and any further permits or approvals of the LLCs issued by the City of Savannah that are fully dependent on the Rezoning and FLUM Amendments and Variances ARE AND SHALL BE ABANDONED AND NOT SOUGHT.

IT IS FURTHER ORDERED that all proceedings in this matter shall be stayed for a period of ninety (90) days, including without limitation discovery.

SO ORDERED, this 10 day of April, 2025.


HON. CHRISTOPHER K. MIDDLETON
Judge, Superior Court of Chatham County
Eastern Judicial Circuit, State of Georgia

Prepared in part and presented by:
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EXHIBIT B

THOMERSON JONES & EDWARDS P.C.

June 26, 2025

VIA EMAIL

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Re: Clara Greig, et al. v. The Mayor and Aldermen of the City of Savannah, et al., SPCV25-00195-MI – Demolition of Existing Structures

Dear Counsel:

1. In a recent TV interview by WSAV of Mr. Jepson of Evans Construction, he indicated that the office and garage proposal for Whitaker Street and Park Avenue (the “Project”) is moving forward.

2. It is the practice of the City of Savannah that in a historic district, existing structures are not to be demolished until Certificates of Appropriateness (“COAs”) have been granted to the structures that will replace them.¹ The sequential nature of the process has been long recognized. Such COAs have not been granted to the Project. Therefore, demolition is premature.

3. A new proposal, reflecting the abandonment by the non-City Defendants of the rezoning application and zoning variances, has not been presented by the non-City Defendants

¹ See, e.g., MPC Staff Report for 301 Alice Street (a non-contributing building) dated June 14, 2023, p. 2: “Additionally, a Certificate of Appropriateness *must* first be issued for the new construction of the replacement building prior to approval of the demolition.” (emphasis added). Also see MPC Staff Report for 20-24 East Oglethorpe Ave. (non-contributing building), dated February 12, 2025, p. 1: “[The applicant] *would not* demolish the building until a new building permit is approved through the HDBR Part 1 approval process.” (emphasis added).

THOMERSON JONES & EDWARDS P.C.

Mat McCoy
Catherine Bolger
Bates Lovett
June 26, 2025
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for approval. We note that the new proposal, including both the office and garage, would have to comply with the 60% lot coverage under TN-1 zoning.

4. Demolition of all the buildings would not be necessary under a revised proposal. Given the 60% lot coverage restriction, the non-City defendants could, for example, build the office and garage without demolition of the Victorian era structures on Park Avenue.

5. Accordingly, we request that you inform us whether you plan to apply standard practice and deny a permit for any demolition permits filed by Evans Construction or any other party with respect to the Project until such time as a replacement proposal has obtained approvals of all relevant entities, including the Historic Preservation Commission. We sincerely hope that you are not planning to make a special exception for donors to the City Council, especially in light of our clients' existing claims of manifest abuse of power.

6. We also remind you that the City is prevented from engaging in proceedings in furtherance of the rezoning (such as accepting an application for a demolition permit, processing it and issuing a demolition permit) because the stay imposed by O.C.G.A. § 36-66-5.1(d) in the above-referenced action is still in place. The other stay, pursuant to the Notice of Abandonment, does not grant the City permission to violate the stay under O.C.G.A. § 36-66-5.1(d).

7. We also remind you that an appeal to the City of Savannah Zoning Board of Appeals is pending on this matter. Under Section 3.23.3 (c) of the Ordinance, the filing of such an appeal stays all proceedings, including the issuance of permits.²

Respectfully,

Andrew Berrien Jones

Andrew Berrien Jones

Cc: Shawn Kachmar, Esq.
Allan Galis, Esq.
Nick Laybourn, Esq.

² For example, in the case of 336 Barnard Street, building permits were only issued after the ZBA appeals were denied.

EXHIBIT C-1

Description: Construction of two office buildings, the redevelopment of Howard Street, and necessary landscape, infrastructure and grading to serve the development.

Summary

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Sub-Records

Holds

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Existing Holds

Sort Description ▾

Name	Description	Comments	Hold Date	Status
HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	09/14/2023	Active
HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	06/17/2025	Active
HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	09/14/2023	Active
HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	09/14/2023	Active
HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	06/23/2025	Active

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EXHIBIT C-2

Description: Construction of two office buildings, the redevelopment of Howard Street, and necessary landscape, infrastructure and grading to serve the development.

Summary

Locations

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Existing Holds

Sort Description ▾

Name	Description	Comments	Hold Date	Status
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HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	09/14/2023	Inactive
HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	09/14/2023	Inactive
HOLD - Stop Work on Property	Stop Work on Property	Per the City Manager's direction on 9-14-23, no demolition permits shall be submitted for this parcel.	06/23/2025	Inactive

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EXHIBIT D

Oppose Underground Parking Garage in Historic Victorian District



Recent signers:

Patricia Ross • 2 hours ago

Mary Holstein • 3 hours ago

Caroline Sauers • 13 hours ago

Joan Sagan • 15 hours ago

899

Verified signatures

Let's get to 1000 signatures!

Petitions with 1,000+ supporters are 5x more likely to win!

EXHIBIT E

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
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Petition for Judicial Review on March 16, 2025. For the purposes of this Order, the Court refers to the Petition and Amended Petition as the Petition.

The Court scheduled the parties to appear on April 8, 2025, at 10:00 a.m. for oral argument on Petitioners' Motion. One day prior, on April 7, 2025, Defendants Seacrest Seven, LLC, 1015 Whitaker, LLC and Portfolio Holdings, LLC ("Non-City Defendants" or "LLCs") filed their Notice of Abandonment and Motion to Stay All Proceedings.

On April 10, 2025, the Court reviewed the notice and issued an Order on Non-City Defendants' Notice of Abandonment and Motion to Stay All Proceedings (the "Order of Abandonment"), finding that Non-City Defendants thereby abandoned their Rezoning application and FLUM Amendment application; the Variances; and any COA/Special Exception and any further permits or approvals issued by the City of Savannah that are fully dependent on the Rezoning and FLUM Amendments and Variances. The Court noted that no COA/Special Exception has yet been issued, and the Non-City Defendants thereby abandoned seeking such.

The Court further found that consistent with this abandonment, the Non-City Defendants agreed to not undertake development actions that are fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception, although the Non-City Defendants are, and continue to be, permitted to: (i) undertake work not fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception, including without limitation demolition of current structures and work related to the underground parking facility; and (ii) obtain, or cause to be obtained, permits, certificates, approvals, variances, and special exceptions not fully dependent on the Zoning Amendment, the FLUM Amendment, the Variances, or the COA/Special Exception.

Finally, Non-City Defendants moved the Court for a ninety (90) day stay of all proceedings in the within action, including without limitation discovery.

Accordingly, The Court ordered that:

- a. The Rezoning and FLUM Amendment Application stands ABANDONED by the LLCs;
- b. The Variances in 25-000446-ZA on February 18, 2025 stand ABANDONED by the LLCs; and,
- c. Any COA/Special Exception and any further permits or approvals of the LLCs issued by the City of Savannah that are fully dependent on the Rezoning and FLUM Amendments and Variances ARE AND SHALL BE ABANDONED AND NOT SOUGHT.

The Court further ordered that all proceedings in this matter shall be stayed for a period of ninety (90) days, including without limitation discovery.

Since the issuance of the Order of Abandonment, the Non-City Defendants have expressed their intentions to move forward with the entire Project as originally planned, including demolition, notwithstanding the Order on Abandonment. While the Order on Abandonment does not prevent the Non-City Defendants from performing demolition for the Project that is not fully dependent on the Rezoning, the demolition contemplated is for the original Project, which remains the one that was fully dependent on the Rezoning. Further, the Order is silent of the authority of the Defendant City to issue such permits.

On June 26, 2025, the Petitioners' Counsel sent a letter to the City explaining that granting a demolition permit would be in violation of the stay pursuant to O.C.G.A. § 36-66-5.1(d). The letter explained that the Order of Abandonment did not affect the stay of all proceedings in furtherance of the Rezoning under O.C.G.A. § 36-66-5.1(d), which includes the granting of

demolition permits. The Petitioners' Counsel also pointed out that it is against the City's normal practice to issue a demolition permit until the replacement building has received all required approvals, which is not the case here. The letter also cited recent examples of demolitions in Savannah's historic district where such practice was followed.

The City had issued holds on demolition of the buildings by the Non-City Defendants as recently as June 23, 2025. On June 30, 2025 the City withdrew those holds. Petitioner sought an injunction as described herein.

The first element for preliminary injunctive relief requires the Court to evaluate whether the Petitioners will likely succeed on the merits of their claims. The Court finds that Petitioners are likely to win on the merits. The facts and legal discussion in the *Petition*, *Motion* and the facts set forth in this *Amendment* have shown that the demolition is in furtherance of the Rezoning, the purpose of which was to construct the Project.

The Court finds that issuance of a demolition permit prior to the approval of the Project also runs afoul of existing City practices. Equity requires that this situation be treated under the normal rules, whether specifically provided for by law or not.

The Court finds that the Petitioners will suffer irreparable harm without the injunction. Destruction of the existing structures, including two buildings from the Victorian era will permanently damage the historical integrity of the neighborhood.

The Court finds that the threatened injury to the Petitioners outweighs whatever damage the proposed injunction may cause the Non-City Defendants. The Court notes that the Non-City Defendants had requested the 90-day stay under the Notice of Abandonment. They cannot now declare urgency.

The Court finds that the injunction requested by the Petitioners would not be adverse to the public interest. The public interest is furthered by the promotion of responsible development that conforms to the Ordinance. The City must balance encouragement of development with the goal of following the Zoning Ordinances and zoning procedures established by the State of Georgia, as well as the goal of protecting the Victorian Historic District.

IT IS THEREFORE ORDERED that:

- a. The Court declares that any issuance by the City of a demolition permit for the existing buildings at the Project site is stayed by O.C.G.A. § 36-66-5.1(d).
- b. This Court enjoins the Defendant City of Savannah from issuing any permits for the Project, including a demolition permit, to Non-City Defendants, unless and until Court renders a final decision on the issues raised in the *Petition* and until the acts specified in the orders set forth pursuant to such decision have been satisfied.
- c. The Court declares that the Order of Abandonment prevents the Non-City Defendants from taking action to effectuate the original Project that was the subject of the Order of Abandonment.
- d. The Court declares that any application for a demolition permit for the existing buildings at the Project site is stayed by O.C.G.A. § 36-66-5.1(d).
- e. The Court further enjoins the Non-City Defendants from demolishing the existing buildings at the Project site, unless and until Court renders a final decision on the issues raised in the *Petition* and unless and until the acts specified in the orders set forth pursuant to such decision have been satisfied.

SO ORDERED, this__ day of July, 2025.

HON. CHRISTOPHER K. MIDDLETON,
Superior Court of Chatham County
Eastern Judicial Circuit, State of Georgia

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