IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

No. 23-0369

DOUGLAS S. ROCKWELL and CAROL ROCKWELL,

Plaintiffs Below, Petitioners

v.

JEFFERSON COUNTY BOARD OF ZONING APPEALS
And RIPPON ENERGY FACILITY, LLC,

Defendants Below, Respondents.

On appeal from the
Circuit Court of Jefferson County,
Presiding Judge David M. Hammer
Civil Action No. 22-C-141

PETITIONERS' REPLY BRIEF

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I. TABLE OF CONTENTS

II. TABLE OF AUTHORITIES

CASES

STATUTES AND REGULATIONS

OTHER AUTHORITIES

III. STATEMENT REGARDING ORAL ARGUMENT AND DECISION

Petitioners requested oral argument in the Petitioners' Brief pursuant to Rule 20 of the West Virginia Rules of Appellate Procedure. W. Va. R. App. P. 20(2) and (4). Upon review of the briefs filed by the Respondents, the Petitioners renew their request for oral argument. The Circuit Court of Jefferson County (the "Circuit Court") erred in its Order Denying Petition for Writ of Certiorari and Complaint for Declaratory Judgment and Affirming the Decision of the Board of Zoning Appeals (the "Order") because the Order contradicted other orders entered in other civil actions pending in the court. This matter impacts the general public because it involves the application of land use law impacting members of the general public and their property interests.

IV. ARGUMENT

Come now, the Petitioners Douglas S. Rockwell and Carol Rockwell and in accordance with this Court's Order entered on November 7, 2023, file this Petitioners' Reply Brief this 28th day of November, 2023.

A. Standard of Review

The Respondents in this matter incorrectly assert that this Court should review the Order under an abuse of discretion standard based upon the Circuit Court having ruled on Petitioners' Writ of Certiorari. The Respondents argue that abuse of discretion applies in reviewing a circuit court's certiorari judgment in accordance with *Jefferson Orchards Inc. v. Jefferson County Board of Zoning Appeals, et al.*. 225 W. Va. 416, 693 S.E.2d 781 (2010). However, this appeal is distinguishable. Here, the Petitioners are appealing the Circuit Court's outright refusal to rule on the merits of the Petition and ultimate dismissal of the Petition upon Rippon Energy Facility, LLC ("Rippon")'s motion to dismiss.

B. Clarification of mistaken factual representations.

At the outset, the Petitioners seek to clarify mistaken impressions that have been set forth by the Respondents. The Petitioners do not lack grounds to file the civil actions that they have commenced since the Jefferson County Planning Commission (the "Planning Commission") endeavored in late 2019 to codify zoning provisions relating to the development of commercial scale solar energy facilities. The Petitioners have prevailed in some of these matters through settlement agreements and one order of the Circuit Court, the appeal of which this Court dismissed. This includes one instance wherein counsel for the Jefferson County Board of Zoning Appeals ("BZA") put on the record that he agreed with the Petitioners' analysis of that process by which the BZA was to consider a Conditional Use Permit ("CUP") (i.e., considering both the goals and recommendations of the Envision Jefferson 2035 Comprehensive Plan (the "Comprehensive Plan"). Any insinuation that these civil actions were prosecuted in bad faith is incorrect.

Petitioners are instead citizens who will be directly affected by the actions of the Jefferson County Commission ("JC Commission"), the Planning Commission and the BZA (collectively, the "County Entities") relating to the development of commercial scale solar energy facilities. Contrary to Rippon's claim that its proposed development is in the "general vicinity" of the Petitioners, the proposed development would actually **surround the Petitioners' residence on three sides**. *See* Rippon Response at p. 12; *see* Jt. App. at 982; *see also* Jt. App. at 753, 889 and 904; *see also* discussion below at p. 10.

C. The validity of Section 8.20 of the Zoning Ordinance was never expressly raised below.

The Respondents argue in their respective Response Briefs that the validity of Section 8.20 of the Jefferson County Zoning and Land Development Ordinance (the "Zoning Ordinance") (the "Third STA") is a principal issue in this appeal. BZA Response at pp. 8-9. The issue of the validity

of the Third STA was not raised by the Petitioners before the BZA because the BZA lacked jurisdiction and authority to address that issue. Thus, the Petition for a Writ of Certiorari to the Circuit Court did not address this issue. However, inasmuch as the BZA apparently now wishes to raise the issue of the validity of the Third STA, the Petitioners will address the same.

The Petitioners assert that the Third STA was invalid at the time of its adoption with respect to the CUP process in the Rural zoning district outside of the Urban Growth Boundary ("UGB") and the Preferred Growth Area ("PGA").

W. Va. Code § 8A-7-8(a) governs amendments to a zoning ordinance made by the applicable governing body, here the JC Commission, as follows:

> (a) **Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan.** If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

Id. (Emphasis added).

Jefferson County's adopted comprehensive plan (the "JC Plan") contains goals, objectives and recommendations, and they are defined in the JC Plan as follows:

> ***Goals*** are general guidelines that broadly describe what the community wishes to achieve over the period of the Comprehensive Plan. Goals are generally bigger in scope than objectives.
>
> ***Objectives*** are the types of actions or activities that are recommended in order to attain the goals.
>
> ***Recommendations*** are implementation strategies that are specific steps that would be undertaken to achieve the goals and objectives. They can involve regulatory processes or actions that provide a means for the goals and objectives to be achieved.

> *Goals and Objectives are what a community wishes to achieve. Recommendations are implementation strategies of how a community looks to achieve them.*

Jt. App. at 1029 (JC Plan at p. 14) (italics and bold in the original).

The BZA claims that the JC Plan was amended in compliance with an agreed order entered in the Third Suit[1], and because the amendment to the Zoning Ordinance authorized the construction of solar energy facilities in accordance with that amended JC Plan, the Third STA was validly adopted. BZA Response at p. 9.

The Third Suit challenged the validity of the proposed amendments made by the Planning Commission to the JC Plan and sought to enjoin further action thereon by the JC Commission. Jt. App. at 986. Ultimately, by an Agreed Order Dissolving Injunction entered on March 31, 2022, in the Third Suit, the JC Commission, the Planning Commission and Mr. Rockwell agreed that "[a]s adopted, the JC Plan would allow Solar Energy Facilities as a Principal Permitted Use ["PPU"] in any zoning district within the Urban Growth Boundary ["UGB"] and the Preferred Growth Area ["PGA"] and would permit such Solar Energy Facilities outside of the Urban Growth Boundary and the Preferred Growth Area by the Conditional Use Permit process in the Rural District." Jt. App. at 986-87. This was not the end of the agreement contained in the Third Suit Order (the "Plan Order"). Mr. Rockwell, the Planning Commission and the JC Commission further agreed in the Plan Order as follows:

> The parties acknowledge and agree that among the General Standards to be considered in approving or denying a Conditional Use Permit is that "[t]he proposed use is compatible with the goals of the adopted [JC Plan]." The parties further acknowledge and agree that page 77 of the JC Plan, Agricultural and Rural Economy Recommendations (Goal 8), paragraph 5. b. provides as follows: "Amend local land use regulations to permit non-agriculturally related commercial uses by the Conditional Use Permit (CUP) process in the Rural zone **if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to**

[1] Jefferson County Civil Action Number 22-C-6 brought by Mr. Rockwell against the Planning Commission and the JC Commission.

public health, safety and welfare, and if the use helps to preserve farmland and open space and continue agricultural opportunities."

Jt. App. at 987 (Emphasis added).

There were actually two agreements contained within the Plan Order. First, the agreement which the BZA recognized: that Solar Energy Facilities would process as a PPU inside of the UGB and the PGA, and by a CUP process outside of the UGB and PGA in the Rural zoning district.

The second agreement acknowledged that in reviewing a CUP for a non-residential use, such as a Solar Energy Facility, in the Rural zoning district outside of the UGB and PGA, the JC Plan requires that that review must consider "if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety and welfare, and if the use helps to preserve farmland and open space and continue agricultural opportunities." Jt. App. at 987. In order for the Third STA to be consistent with the JC Plan as the JC Plan was amended in accordance with the first agreement in the Plan Order, the Planning Commission and the JC Commission agreed and acknowledged that the mandatory requirements of Recommendation 5.b. must be part of the CUP evaluation in order for the Third STA to be consistent with the JC Plan. Jt. App. at 986-87. As stated in Recommendation 5.b., these considerations were required to have been part of the CUP process, by an amendment to the Zoning Ordinance, i.e., the Third STA, but they were not.

Although the Third STA incorporated the criteria established under Article 6 of the Zoning Ordinance where the Solar Energy Facility[2] was required to process as a conditional use, the Third

[2] Solar Energy Facility is defined in the Zoning Ordinance to mean: "A facility that generates electricity from sunlight by utilization of photovoltaic (PV) technology and distributes the generated electrical power. On-site components of the facility may include solar panels and other accessory components including, without limitation, Essential Utility Equipment, transformers, inverters, cabling, electrical lines, substations, and other improvements necessary to support generation, collection, storage, and transmission of electrical power." Jt. App. at 1311.

STA failed to include the application for the CUP to contain, nor did it require the BZA to consider, "if the use is agriculturally and rurally compatible in scale and intensity" and "if the use helps to preserve farmland and open space and continue agricultural opportunities," two of the three JC Plan requirements where the Zoning Ordinance is amended to permit non-agriculturally related commercial uses by the CUP process in the Rural zoning district. Jt. App. at 1092; 1378. The BZA argues that the language of this further agreement "does not contain any requirements for the inclusion of language in any subsequent Solar Text Amendment." BZA Response at p. 9.

In evaluating a CUP, the Third STA incorporates Section 6.3A1 of the Zoning Ordinance which provides for the BZA to consider whether the "proposed use is compatible with the goals of the adopted Comprehensive Plan." Jt. App. at 1364. The goals of the JC Plan are too abstract. As noted in the JC Plan itself, the goals are simply "general guidelines that broadly describe what the community wishes to achieve" through its comprehensive plan. Jt. App. at 1029. Recommendation 5.b. is nondiscretionary. One can refer to the provisions of the Plan Order in the Third Suit as an agreement, or, at a minimum, an acknowledgement of what the JC Plan requires. The Planning Commission and JC Commission acknowledged and agreed that the JC Plan required that any amendment addressing a CUP for a non-agriculturally related commercial use in the Rural zoning district must contain the nondiscretionary elements of Recommendation 5.b. By this agreement or acknowledgment, the Planning Commission and JC Commission agreed that without this 5.b language, the Third STA could not be consistent with the JC Plan.

While your Petitioners recognize that this Honorable Court has held that "[t]he comprehensive plan was never intended to replace definite, specific guidelines" but "instead it was to lay the groundwork for the future enactment of zoning laws"[3], here the County agreed and

[3] *Singer v. Davenport*, 164 W. Va. 665, 668, 264 S.E.2d 637, 640 (1980).

acknowledged that the JC Plan required that any amendment to the Zoning Ordinance to permit non-agriculturally related commercial uses by the CUP process in the Rural district must take into consideration the 5.b language in order for that amendment to be consistent with the JC Plan.

As more fully set forth above, the Court should find that at the time of its adoption by the County the Third STA, with respect to Solar Energy Facilities in the Rural zoning district outside of the UGB and the PGA fails to meet the requirements of W. Va. Code § 8A-7-8(a), and is not consistent with the JC Plan. As such, the Third STA should be struck down and held for naught.

D. The Third Suit settlement agreement is binding because the true parties in interest thereto were parties to that suit, and the BZA subsequently agreed to be bound by that settlement agreement during a hearing in the Fourth Suit[4].

Rippon repeatedly and falsely asserts that the "alleged" or "purported" settlement agreement (the "Agreement") was not before the court below. The Agreement was raised in paragraph 35 of the Petitioners' Petition for Writ of Certiorari. The Agreement is referenced on page 6 and elsewhere in the Order. Further, the Agreement is referenced throughout the Respondent Jefferson County Board of Zoning Appeals' Response Brief. Finally, Mr. Rohrbaugh made representations regarding the Agreement and the County Entities' understanding of the proper interpretation of the zoning regimen and the Third STA during a hearing in the Fourth Suit which said representations were relied on by Mr. Rockwell in agreeing to dismissal, without prejudice, in that case.

The JC Commission and Planning Commission were parties to the Third Suit and the Agreement. These parties have rulemaking authority over the Zoning Ordinance and the ultimate issuance of a Solar Energy Facility CUP. The Respondents argue that the BZA was not a party to the Third Suit and therefore is not bound by the Agreement. However, the BZA was a party to the

[4] Jefferson County Civil Action Number 22-C-81 brought by Mr. Rockwell against the County Entities.

Fourth Suit, and in the Fourth Suit, County Entities obtained voluntary dismissal, without prejudice, of that civil action by representing to the Circuit Court and Mr. Rockwell (petitioner therein) that, after passage of the Zoning Ordinance amendment adding Section 8.20, the proper analysis of a CUP under Section 8.20 required as a matter of law consideration of the provisions of Article 6, including Section 6.3, the Zoning Ordinance as a whole, the JC Plan, and the various Goals and Recommendations contained therein. That Order found as follows:

> Whereupon the Court proceeded to hear the arguments of counsel for each of the parties, which centered around the language contained within the New STA which requires that "[p]rojects which will occur on properties located outside of the UGB/PGA areas as delineated on the Future Land Use Guide shall process a Conditional Use in accordance with Article 6 [of the Zoning Ordinance.]" Section 6.3 A. of the Zoning Ordinance requires, *inter alia*, that in considering each Conditional Use Permit ("CUP") request, "[t]he following General Standards shall be considered in approving or denying the CUP: 1. The proposed use is compatible with the goals of the adopted Comprehensive Plan." After hearing concerns raised by Mr. Rockwell that the recommendations as contained within the Comprehensive Plan, in particular the Agricultural and Rural Economy Recommendations on page 77 *et seq.* thereof, were differentiated from the "goals" of the Comprehensive Plan, the Court inquired of counsel for the County as to his position as respects these concerns and was advised by Attorney Rohrbaugh that "…. the Board of Zoning Appeals must look at the recommendations. They go hand in hand with the goals….The recommendations are the strategy for implementing the goals." The Court further inquired of Attorney Rohrbaugh as to whether "the way you implement the goals must be consistent with the recommendations" to which Attorney Rohrbaugh responded that he "agreed" with that statement. All parties agreed and **the Court does find the "definition of a recommendation is that it is the strategy for implementing goals, and therefore, when a Board of Zoning Appeals looks at goals they have to do so in conjunction with these recommendations."** Accordingly, all parties agreed that **when considering an application for a CUP, under Section 6.3 as to the compatibility with the goals of the Comprehensive Plan, the BZA shall do so in conjunction with the recommendations of the Comprehensive Plan.**

Jt. App. at 191-92 (Emphasis added). The Fourth Suit Order reflects an admission by the BZA, a party to that suit, that the BZA must consider the recommendations of the JC Plan when looking at the goals of the JC Plan. Mr. Rockwell agreed, without prejudice, to dismiss the Fourth Suit wholly in reliance upon Mr. Rohrbaugh's representations.

E. The Agreement acknowledged and agreed to by the County Entities was breached; or else the BZA would have denied Rippon's CUP.

The BZA did not analyze the goals and recommendations of the JC Plan in evaluating Rippon's CUP in violation of the Agreement. If it had, it would have denied the CUP.

As previously agreed by Mr. Rockwell, the Planning Commission and the JC Commission, the "General Standards to be considered in approving or denying a [CUP] is that '[t]he proposed use is compatible with the goals of the [JC Plan].'" Jt. App. at 987. Specifically, the JC Plan provides that a CUP for a non-agriculturally related commercial use being processed in the Rural zoning district should only be permitted if "the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety and welfare, and if the use helps to preserve farmland and open space and continue agricultural opportunities." Jt. App. at 1092 (JC Plan at p. 77).

Rippon's development plan, on its face, is not agriculturally or rurally compatible in scale and intensity, and it does not promote farmland, open space, or continued agricultural opportunities. As stated in Petitioners' Verified Petition for Writ of Certiorari and in the record below, Rippon's project will contain 215,000 solar panels. Petition at ¶ 15, Jt. App. at 15; *see also* Jt. App. at 75. This large number of panels can by no means be compatible in scale with the agricultural and rural environment. Also, the record clearly demonstrates that Rippon's development fails on compatibility with the rural environment as to intensity due to the high percentage of parcels used. Jt. App. at 119-120. ("It fails basically on intensity. . . If you look at Page 4 and 5 of their submission, except for [the] parcel where they're put in a substation, the percentage of usage of these parcels is beginning with Parcel 1, 80%, 91%, 95%, 94%, 96% and 73%; simple mathematical calculation based on parcel size and project area.").

Additionally, Rippon argues that the testimony below demonstrated that the BZA considered scale and intensity, noting that there were conclusory statements by BZA members that expressly stated such. Rippon Response at p. 32. These conclusory statements primarily focus on the notion that the project is compatible in scale and intensity to the rural environment because "parcels will still be maintained as farmland once the facility is decommissioned in thirty years." Rippon Response at p. 32; Jt. App. at 146-47. However, Rippon's CUP will not expire in thirty years, and there is no evidence in the record that the solar energy facility will be decommissioned in thirty years or that these 215,000 panels would not simply be replaced in thirty years with another 215,000 solar panels.

Further, the BZA argued that the photovoltaic arrays will only encompass 32.7% of the total project acreage, which meets the standards of the Comprehensive Plan requiring that the non-agricultural uses in the Rural zoning district are limited to "a small portion of rural property" encompassing the proposed project. BZA Response at p. 18-19. However, while this number may seem relatively small at first blush, the record clearly demonstrates that only a small percentage of the acreage encompassing the proposed project contains solar panels or other infrastructure related to the solar energy facility. A large portion of the acreage (on parcels not contiguous to the parcels on which the 215,000 photovoltaic arrays would be installed) was included in this proposed project and the related CUP application solely in order to significantly decrease the percentage of acreage covered by the photovoltaic arrays. A map of the proposed Solar Energy Facility from [Rippon's] Concept Plan, on page 753 of the Joint Appendix (*see also* Joint Appendix 889 and 904), clearly depicts a very high density of solar arrays on the portion of the proposed project acreage surrounding the Rockwell residential property on three sides. Again, this is the same Rockwell residential property that Rippon has repeatedly asserted is in the "general vicinity" of its proposed

development. That map also depicts several of the project parcels (within red boundary lines) with no depicted development whatsoever. In the middle right of this map are two (2) sections shaded red and a yellow dot. Between the red shaded areas and to the left of the yellow dot is the Rockwell residential property, surrounded by what is clearly depicted as a very large scale and very high density solar energy facility. *See* Jt. App. at 753. The only other designated area of photovoltaic array installation is a much smaller area in the lower left of the map, with several parcels related to the development between them showing no installations whatsoever.

Rippon's proposed solar energy facility is an electricity generating facility, the development and operation of which has no relation whatsoever to the preservation of farmland and open space or the continuation of agricultural opportunities in the Rural zoning district of Jefferson County, West Virginia. The proposed development and use of this land by Rippon in this manner does not make it farmland or open space, and any opportunities created by this development are not agricultural by their very nature.

Clearly, the BZA did not analyze the goals and recommendations of the JC Plan in evaluating Rippon's CUP in violation of the Agreement. The proposed development is antithetical to those goals and recommendations, and the CUP clearly should have been denied.

F. The Respondents continue to erroneously analyze the interplay between Sections 6.3A and 8.20.

Respondents reiterate the Circuit Court's conclusion that under West Virginia law, Section 8.20, being the more specific provision, controls over Section 6.3A, being the more general provision. Rippon Response at p. 20.; BZA Response at p. 13. Rippon also reiterates that Article 8 expressly states that when any other standard found in the Zoning Ordinance is in conflict with Article 8, then Article 8 shall apply. Rippon Response at p. 20. Petitioners agree that West Virginia law is clear regarding specific statutes/ordinances controlling over general statutes/ordinances.

However, Section 8.20 specifically states that solar energy facilities "shall process as a Conditional Use in accordance with Article 6." Jt. App. at 1379 (Zoning Ordinance at p. 105). Thus, the allegedly more specific provision itself provides that the allegedly more general provision controls, at least as to the processing of a CUP. Furthermore, the primacy clause of Article 8 is limited by the introductory phrase "[u]nless otherwise noted. . ." Jt. App. at 1367 (Zoning Ordinance at p. 95). Specifically, Section 8.20's reference to Article 6 is exactly what is meant by "unless otherwise noted."

Additionally, Respondents fail to address Petitioners' assertion that Section 8.20 and Section 6.3A are not conflicting provisions. Petitioners agree that Section 8.20 clearly has precedent over any other conflicting provision. However, the language of Section 6.3A requiring a consideration of scale and intensity does not conflict with Section 8.20 because 8.20 does not mention scale and intensity. The Circuit Court concluded that "by absence of a metric for scale and intensity in Section 8.20, no density metric from another section of the Zoning Ordinance may be imputed to a CUP application for a Solar Energy Facility without violating Article 8's primacy." Jt. App. at 1006. This is clear error; such was never the intention of the legislative bodies enacting the Jefferson County Zoning Ordinances and specifically Article 8 thereof. In addition to the "primacy clause," Article 8 also contains the following language "**[t]he standards found in this Article are not inclusive. Additional standards may be located within the County's other Ordinances and Regulations**." Jt. App. at 1367 (Zoning Ordinance at p. 95) (emphasis added). By that logic, *any* provision mentioned in Article 6 but not included in Article 8 would not be able to be considered, which would render Section 8.20's requirement that Article 6 be applied when processing a "Conditional Use" under Section 8.20 meaningless.

> Our rules of statutory construction do not permit us to disregard a statute without legislative direction to do so. To the contrary, "it is always presumed that the

> legislature will not enact a meaningless or useless statute." Syl. Pt. 4, *State ex rel. Hardesty v. Aracoma*, 147 W.Va. 645, 129 S.E.2d 921 (1963). . . "It is not for this Court to arbitrarily read into [a statute] that which it does not say. Just as courts are not to eliminate through judicial interpretation words that were purposely included, we are obliged not to add to statutes something the Legislature purposely omitted." *Banker v. Banker*, 196 W.Va. 535, 546-47, 474 S.E.2d 465, 476-77 (1996) (citing *Bullman v. D & R Lumber Co.*, 195 W.Va. 129, 464 S.E.2d 771 (1995). Similarly, "[a] statute, or an administrative rule, may not, under the guise of 'interpretation,' be modified, revised, amended or rewritten." Syl. Pt. 1, *Consumer Advocate Div. v. Public Serv. Comm'n*, 182 W.Va. 152, 386 S.E.2d 650 (1989).

Barber v. Camden Clark Mem. Hosp. Corp., 240 W. Va. 663, 671, 815 S.E.2d 474, 482 (2018).

Furthermore, Respondents contend that this argument is irrelevant because the record demonstrates several instances when the BZA did consider scale and intensity. The Respondents cite several instances in which the BZA supposedly considered scale and intensity. However, each of those instances are simply general, conclusory opinions that that proposed use is compatible to scale and intensity of the rural environment.

In the Rural zoning district, Solar Energy Facility development under Section 8.20 requires a CUP, and Section 8.20 expressly includes all provisions of Article 6 in that analysis. There can be no conflict because these are the express requirements of Section 8.20. Article 6's requirements are incorporated by reference as they pertain to the analysis and approval of a CUP in a Rural zoning district. In turn, and as acknowledged and agreed to by the County Entities by and through their counsel, Mr. Rohrbaugh during the hearing in the Fourth Suit, Section 8.20 requires compliance with the Comprehensive Plan and its goals, including, but not limited to, "maintaining productive farmland soils and the rural character and economy of the County by reducing the conversion of farmland to non-agricultural based uses." Jt. App. at 1087.

For the foregoing reasons the requirements of Article 6 and Section 8.20 do not conflict nor should Article 6 be superseded by Section 8.20. Instead, they are two provisions of the entire

Zoning Ordinance that the BZA is required by the express provisions of Section 8.20 to consider in evaluating a CUP application for a Solar Energy Facility under Section 8.20.

V. CONCLUSION

For the foregoing reasons, the Petitioners respectfully renew their request for the entry herein of an Order or Decision, setting aside the Order entered in the Circuit Court below and appealed from herein, finding and determining that the amended Section 8.20 was not properly enacted and striking it down, finding and determining that the CUP issued to Rippon was improvidently granted and rescinding it, awarding Petitioners their costs incurred herein, including attorney fees, and providing for such other and further relief as this Court deems just and proper.

Respectfully submitted, this Twenty-Eighth day of November, 2023.

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