

REPORT ON DERRICK POND PROPERTY

A review of the history, status and issues surrounding the use of the parcel owned by School District Five of Lexington and Richland Counties



- ▶ **Dr. Melton and current school board want to know the facts about this property.**
- ▶ **The history of the property acquisition**
- ▶ **Any issues impeding use of the Property by District Five**
- ▶ **Report the facts surrounding this property to the Public**
- ▶ **Develop authoritative information for Administration and Board**

THE ASSIGNMENT



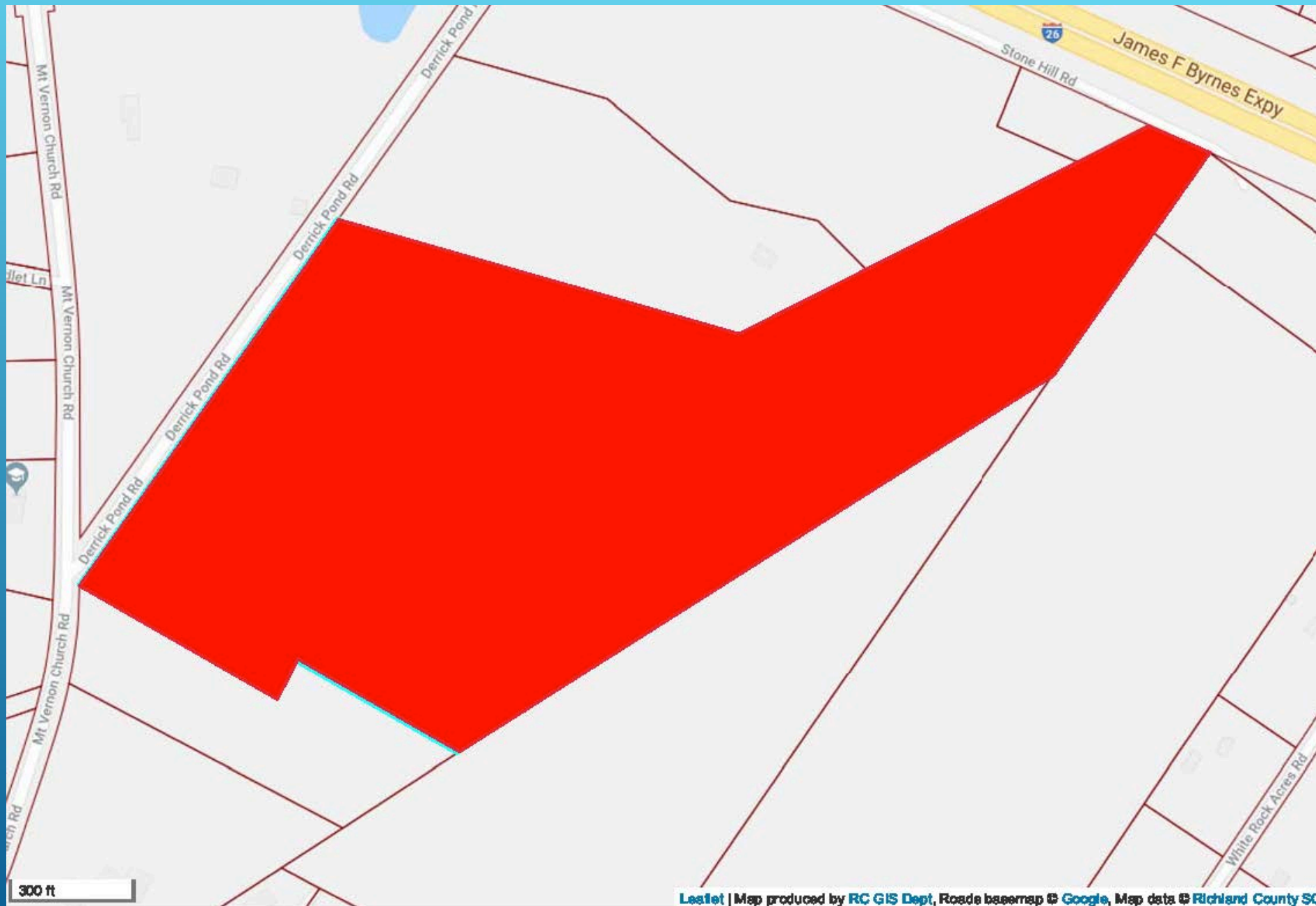
- ▶ Reviewed files relating to the property
- ▶ Interviewed individuals involved with initial purchase and decisions
- ▶ Interviewed state and local government officials
- ▶ Reviewed land use rules and their history
- ▶ Interviewed due diligence professionals
- ▶ Reviewed Board Minutes and Packets from 2009 - 2012

THE PROCESS



THE PROPERTY

47.39 acre tract



MONTGOMERY WILLARD, LLC
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FOR SALE

Derrick Pond Road, Chapin, SC

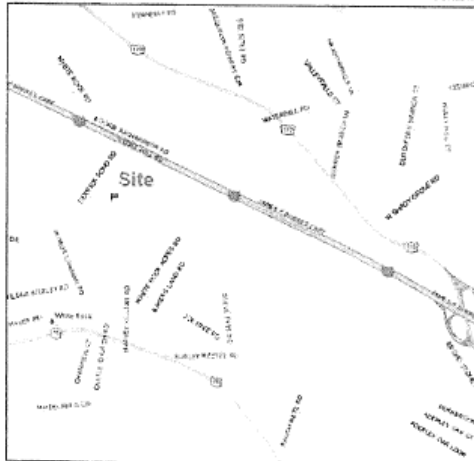


- 47.42 Acre tract
- Price: \$830,000
- Rapidly growing area
- Located just minutes from new Food Lion anchored retail center
- Three miles from I-26's Peak Exit
- Less than one mile from New School District 5 Site

For more information please contact:

George Meetze
803.255.8630

GMeetze@wilsonkibler.com



1111 Laurel Street, Columbia, SC 29201 803.778.8500 fax 803.252.4323 www.wilsonkibler.com
Independently Owned and Operated All listings are found on our website through LoopNet

The information contained herein was obtained from sources believed reliable. However, Grubbs & Ellis, Wilson Kibler, Inc., makes no guarantee, warranties or representations as to the correctness or accuracy thereof. The presentation of this property is subject to errors, omissions, changes of price or withdrawal of sale at any time without notice.

LOCAL PRESENCE GLOBAL REACH

FOR SALE AD

district five
OF LEXINGTON & RICHLAND COUNTIES



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MAP BLOW UP

district five
OF LEXINGTON & RICHLAND COUNTIES



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- ▶ **April 12, 2010 – School District Five enters Contract to purchase 47.42 acres pending due diligence. Dr. Berg signs contract**
- ▶ **Previously district had looked at Site another location. This contract substituted earnest money for that parcel.**
- ▶ **This appears to have been approved by the Board on a 6-0 vote (Gantt abstained) on April 12, 2010.**
- ▶ **Purchase price \$592,750.00 (\$12,500/acre)(Original asking price was \$830,000)**
- ▶ **120 day due diligence period**
- ▶ **District Real Estate Agent Pendleton Grove / Colliers Keenan**

TIMELINE OF PROPERTY PURCHASE



APRIL 12 MINUTES

SCHOOL DISTRICT FIVE
OF
LEXINGTON AND RICHLAND COUNTIES
Meeting of April 12, 2010

	B A U M G A R D N E R	H U T C H I S O N	F E R R E L L	G A N T T	H A M M O N D	S L O O P	W H I T E
8. M. Hutchison S. Hammond Approve that the administration can move forward on the contractual matter	X	X	X	AB	X	X	X
9. M. Ferrell S. Baumgardner Approve the textbook adoption recommendations (Exhibit D)	X	X	X	X	X	X	X
10. M. Ferrell S. Hammond Approve second reading of the FY 2010-11 capital budget in the amount of \$12,994,971 (Exhibit E)	X	X	X	X	X	X	X
11. M. Hammond S. Baumgardner Approve the resolution commending the Arbor Day committee of Irmo and the Town of Irmo (Exhibit F)	X	X	X	X	X	X	X
12. M. Ferrell S. Baumgardner Adjourn at 9:45 p.m.	X	X	X	X	X	X	X

A = Absent
AB = Abstain
N = No
X = Yes

8. M. Hutchison

S. Hammond

X

X

X

AB

X

X

X

Approve that the administration can move forward on the contractual matter

J 12:03P

803 476 8207

BUS-410-0207



Commercial Real Estate Services
1101 South Street, Suite 400
Post Office Box 10000
Columbia, South Carolina 29211-0000
Telephone: (803) 554-0000
Facsimile: (803) 554-0001
www.collierskeenan.com

AGREEMENT TO SELL AND BUY

This Agreement, entered into this 13th day of April, 2010, by and between Owner of Record hereinafter called the Seller, and Lexington/Richland School District 5 hereinafter called the Buyer.

WITNESSETH: That for and in consideration of the sum of Ten Thousand and No/100 (\$10,000.00) Dollars, to be applied as part of the cash portion of the purchase price, and the conditions and terms hereinafter recited, the Seller agrees to sell and the Buyer agrees to buy the following described property:

All that certain piece, parcel or lot of land together with improvements thereon, situate, lying and being in the State of South Carolina, County of Richland, consisting of approximately 47.42 acres located on Derrick Pond Road and being further defined in the Real Estate Atlas of Richland County on Page 01600, in Block 98, as Lot 02 and 11.

Upon the further payment of approximately Four Hundred Forty Thousand Four Hundred Ninety and No/100 (\$440,440.00) Five Hundred Fifty Two Thousand Seven Hundred Fifty and No/100 (\$552,750.00) Dollars, making a total purchase price of approximately Five Thousand Four Hundred Ninety and No/100 (\$5,440,440.00) Five Hundred Ninety Two Thousand Seven Hundred Fifty and No/100 (\$5,552,750.00) Dollars.

Buyer shall have one hundred twenty (120) days from the last execution of this Agreement to perform certain due diligence items on the subject property including but not limited to environmental audit, survey, soil borings and approval by its Board. If for any reason Buyer elects not to purchase the property during the due diligence period, it may so notify Seller in writing, at which time this Agreement shall become null and void and all earnest monies shall be returned to Buyer.

Seller and Buyer expressly acknowledge that the Real Estate Brokers, neither Wilson Kibler nor Colliers Keenan Inc. have not made an independent investigation or determination with respect to the existence or nonexistence of asbestos, PCB transformers or other toxic, hazardous or contaminated substances, and/or underground tanks in, on, or about the property. Any such investigation or determination shall be the responsibility of Seller and/or Buyer, and Broker shall not be held responsible therefore. This paragraph shall survive the closing and shall not be merged with or into delivery of the warranty deed or other closing documents.

The Seller hereby covenants and agrees to convey the above described property to the Buyer, his heirs or assigns in fee by proper deed, with covenant of general limited warranty, free from all defects and encumbrances, except such as are herein agreed to be assumed. Seller shall pay for preparation of deed and for all statutory deed recording fees.

The above described property shall be conveyed subject to applicable zoning ordinances and valid recorded easements, restrictions and covenants provided the foregoing do not make the title unmarketable or prohibit Buyer from using the property for such purposes, if any, which may be specified under Special Conditions hereinbelow.

Upon tender of such deed at the time before provided, the Buyer agrees to comply fully with the terms of this Agreement.

J 12:03P

1:00P LKSLB

803 476 8207

BUS-410-0207

Upon failure of the Buyer to comply with the terms of this Agreement, within the stipulated time, the Seller to have the right to retain the amount this day paid as sole liquidated damages.

The earnest money paid under this Agreement shall be held by Colliers Keenan Inc., as Escrow Agent, and settlement and all payments under this Agreement shall be made through the said Colliers Keenan Inc. Colliers Keenan Inc. does not guarantee payment of check or checks accepted as earnest money.

The parties understand that in the event of any controversy regarding the earnest money, the Escrow Agent holding the earnest money deposit will not disburse it to either party until both parties have executed an agreement authorizing the disbursement or until a court of competent jurisdiction has directed a disbursement, in which event, the Escrow Agent may recover all of its court costs and reasonable attorney fees from the non-prevailing party.

Seller and Buyer acknowledge that the Escrow Agent is acting solely at their request and for their convenience and that Escrow Agent shall not be liable to either of the parties for any action or omission on its part taken or made in good faith and not in disregard of this Agreement, but shall be liable only for its own gross negligence, bad faith, fraud, or willful misconduct.

Any deed stamps shall be split evenly between Buyer and Seller. All taxes, rents, water rents, paving assessments and interest to be paid to date of completion of sale. However, all applicable rollback taxes, if any, shall be paid by Buyer. Hazard insurance to be provided or renewed at the option of buyer.

This sale and purchase to be completed within thirty (30) days of the expiration of the Due Diligence Period.

The Seller herein agrees to pay a real estate commission equal to ten (10%) percent of the purchase price at closing. Said commission to be divided equally between Colliers Keenan and Grubb & Ellis/Wilson Kibler.

This Agreement is binding upon ourselves, our heirs, executors, administrators, successors or assigns.

It is understood that this written Agreement constitutes the entire contract between the parties hereto.

BOTH BUYER AND SELLER ACKNOWLEDGE RECEIVING, READING AND UNDERSTANDING THE SOUTH CAROLINA REAL ESTATE COMMISSION'S AGENCY DISCLOSURE FORMS.

Witness our Hands and Seals in triplicate the day and year first above written.

Accepted this 21st day of April, 2010.

In the presence of:

SELLER: Owner of Record

By: Cole Blaine Graham,

By: Brenda A. Crooks

BUYER: Lexington/Richland School District 5

By: Herbert M. Berg

By: _____

EXECUTED
CONTRACT

 **district five**
OF LEXINGTON & RICHLAND COUNTIES



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Due Diligence Completed

Boundary Survey

Phase One Environmental Study

Wetland Delineation and Verification

Traffic Engineering Study

Geotechnical Survey and Report

Schematic Offsite Sewer Layout

At least Partial Appraisal

TIMELINE OF PROPERTY PURCHASE



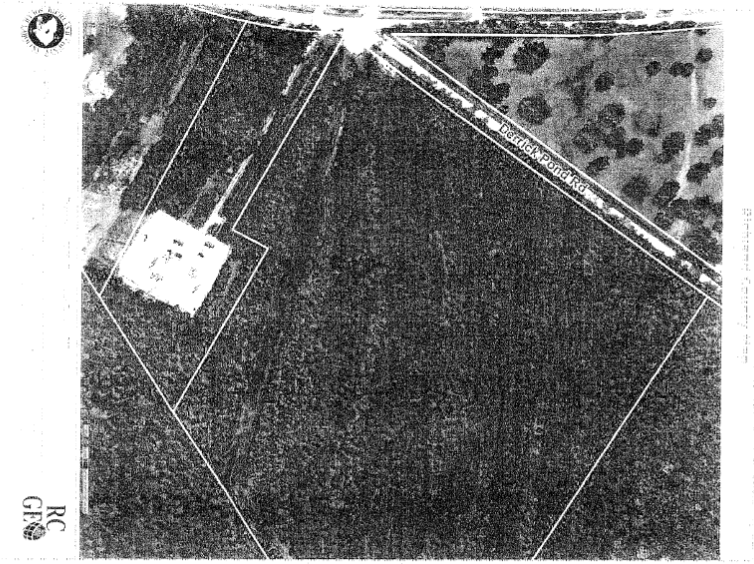
MEMORANDUM

DUE DILIGENCE SERVICES:

- Boundary Survey
 - Two Properties Make up Parcel
 - Total 47.4 Acres
 - Bounded on West by Derrick Pond Road
 - Bounded on North, South, Southeast by Various Properties
 - Small Northeast Corner bounded by I-26.
 - SCE&G Transmission Line Right of Way along South Property Line
- Phase One Environmental Study
 - No Evidence of Recognized Environmental Conditions
- Wetland Delineation and Verification
 - Palmetto Environmental Indicated no Wetlands
 - Verified by Corps of Engineers
- Traffic Engineering Study
 - Road Widening / Right Turn Deceleration Lane(s) per Traffic Study and SCDOT Coordination.
 - Met with The Derricks to the north to inquire about obtaining additional property for the widened driveway section. They seemed amicable to the idea of a land swap near the school access point to Mount Vernon Church in order for the District to get proper access and avoid the conflict with the Central Elec. Coop transmission pole.
 - We have yet to meet with SCE&G to the south to discuss property acquisition from their substation site.
 - We have contacted Kerry Scott with Santee Cooper again to inquire on their input on proximity to the transmission pole on the subject property and waiting to hear back from them
- Soil Borings / Geotechnical Report
 - Some Partially Weathered Rock Encountered
 - Design Cut and Fill of Foundations and Utilities will Take This Into Account
 - Conventional Shallow Footings for Building
- Schematic Offsite Sewer Layout
 - Identified Property Owners Affected
 - Have met with Mrs. Monts to the north of the subject property and she offered to grant a sewer easement for \$2500.00 on her property. She also stated she may want any hardwood cut from her property but would let Buddy Price know for sure. Buddy is trying to contact a Mr. Francis Smith to the north of Mrs. Monts to discuss easement acquisition on his property. He was out of town last week and

expected to return this week. We are scheduling a meeting with Mr. Paul Clifton, developer of Westcott Ridge subdivision on the north side of I-26 to discuss routing the sewer through their property for early next week. Mr. Clifton and his son Brian have been out of town for the last two weeks but we have spoken over the phone on a couple of occasions and they seem to indicate they are willing to cooperate.

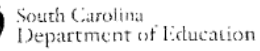
- Allowed for Gravity System
- Must Bore Under I-26 – we have requested a site visit from SCDOT Richland County maintenance to look at bore locations with respect to the abandoned frontage road and are waiting for the meeting date to be finalized.



 **district five**
OF LEXINGTON & RICHLAND COUNTIES



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August 27, 2013

Dr. Herbert Berg
Superintendent
Lexington/Richland School District Five
1020 Dutch Fork Road
Irmo, South Carolina 29063

Re: School Site Approval #32-79
Elementary School, Grades 5K-5
Lexington/Richland County School District Five

Dear Dr. Berg:

Attached is an executed copy of acceptance of the above referenced site consisting of 47± acres located on Derrick Pond Road off of Mt. Vernon Church Road in Rich and County.

Please note that the Office of School Facilities joins S.C. Department of Transportation (SCDOT) in recommending that the elementary school project architects and engineers work closely with SCDOT on this project and that final plans be conditioned upon the outcome of the Traffic Impact Analysis Study required by Richland County.

We would like to remind you that prior to purchasing a specific site, you may want to be certain of the extent and cost of required road improvements. Road improvements can add substantially to the overall site improvement costs.

Sincerely,

John B. Kent, Acting Director
Office of School Facilities

ԱՅԿ:քյԻ
Attachment

cc: Mr. Scott Carlen
Manager of Facility Services

College of Saint Elizabeth, 177 Clarendon Street, Suite 200, Cranston, RI 02910
Telephone: 401/54-4310, Fax: 401/54-8857, E-mail: jibson@csel.edu

1429 Senate Street Columbia, SC 29201 Phone 803.734.8500 Fax 803.734.3389 Web www.ed.sc.gov

FORM 12 APPLICATION FOR APPROVAL OF PROPERTY ACQUISITION

[illegible]

10/24/10 - 10/25/10
 Philip Kint 6/24/10 Herbert H. Berg
 Office of School Activities Home Instruction
 10/24/10 - 10/25/10
 Philip Kint 6/27/10 Philip Kint 6/27/10

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

ACCEPTANCE OF THE REFERENCE SITE



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DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
65A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO
ATTENTION OF

July 13, 2010

Regulatory Division

Chris Lake
Palmetto Environmental Consulting, Inc.
1801 Charleston Highway, Suite B-3
Cayce, South Carolina 2903

SUBJECT: SAC 2010-658-6JF, Richland County

Dear Mr. Lake:

This is in response to your letter of May 28, 2010, requesting a wetland determination, on behalf of Lexington/Richland School District 5, for 47.39 acre tract located south of I-26, east of Derrick Pond Road and north of Dutch Fork Road, Richland County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by Walter F. Wilson Jr. (PLS# 17231), dated June 15, 2010, and entitled "Lexington Richland District 5".

Based on a review of aerial photography and soil survey information, it has been determined that the referenced property does not contain any wetland areas or other waters of the United States and, as such, Department of the Army authorization will not be required for mechanized land clearing, excavation, or the placement of dredged or fill material on this site.

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. For the purposes of 33 CFR 331.2, this is considered to be an approved jurisdictional determination.

In future correspondence concerning this matter, please refer to SAC 2010-658-6JF. If you have any questions concerning this matter, please contact Kristin Riegel at 803-253-3903.

Respectfully,

RD-NW RIEGEL
RD-NW BOWLES

Brice McKay
Chief, Northwest Branch

Enclosure:
Basis for Jurisdiction

SCANNED

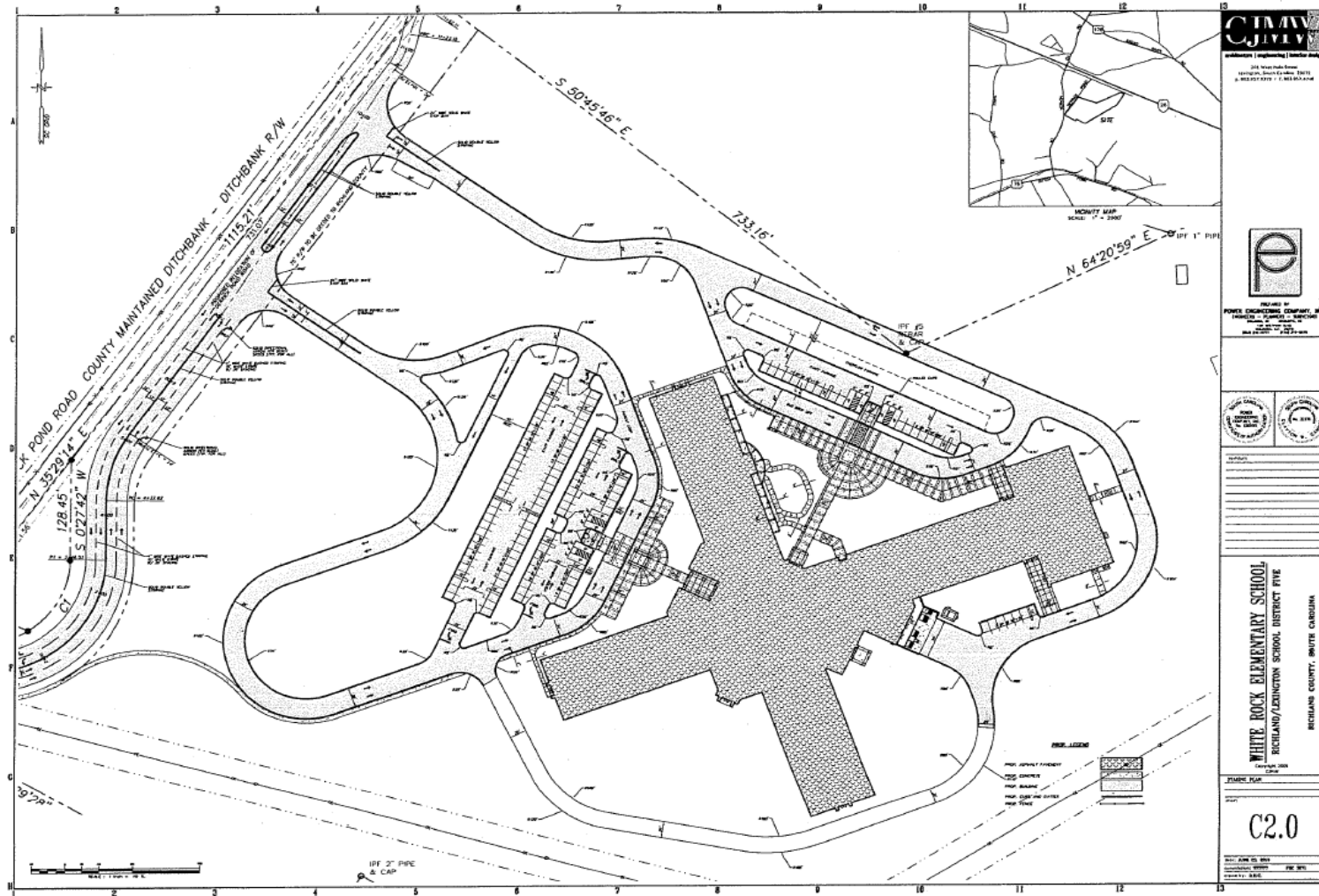
CORPS OF ENGINEERS APPROVAL

 **district five**
OF LEXINGTON & RICHLAND COUNTIES



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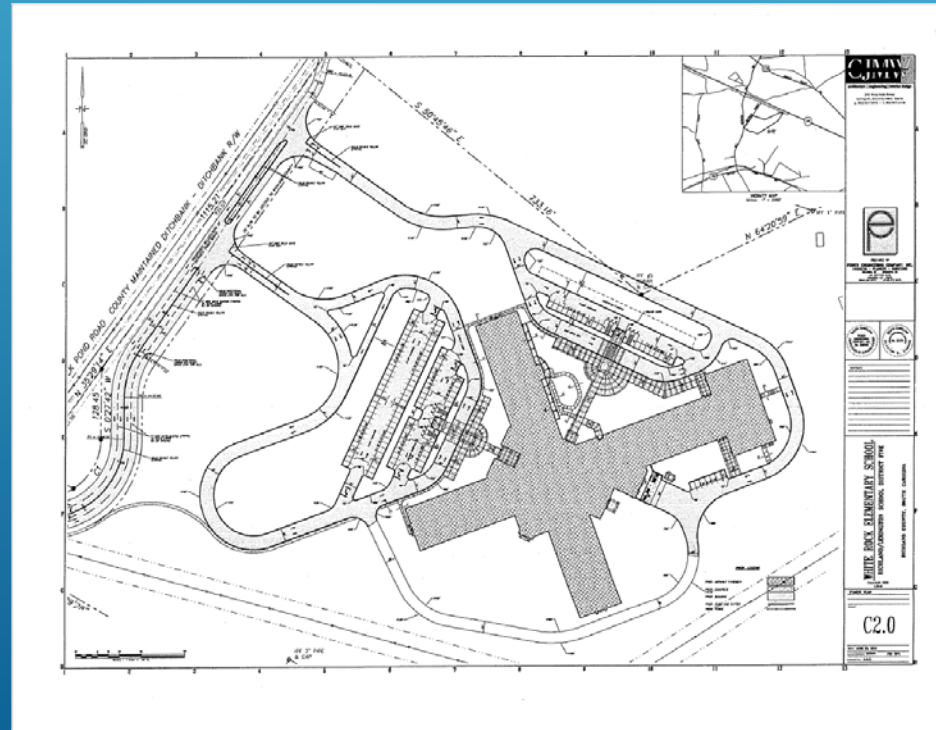
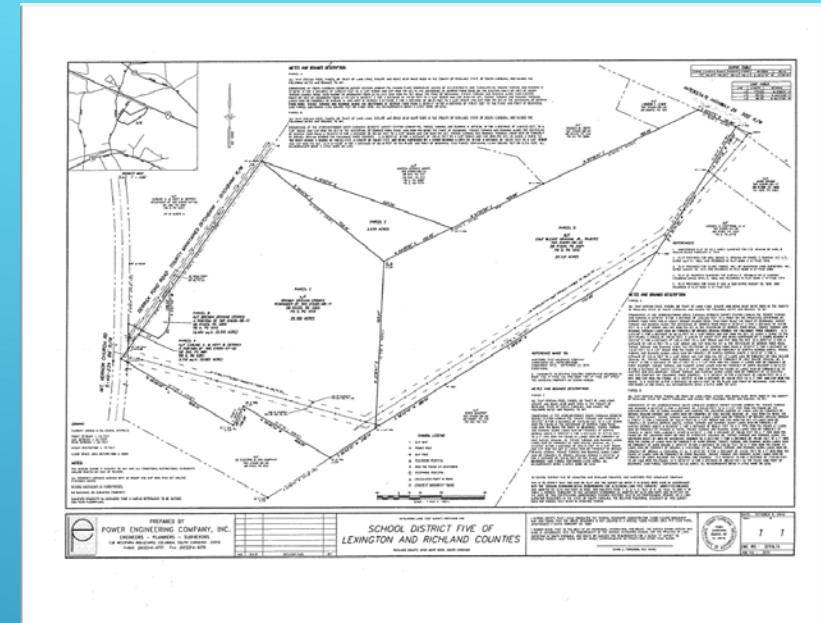
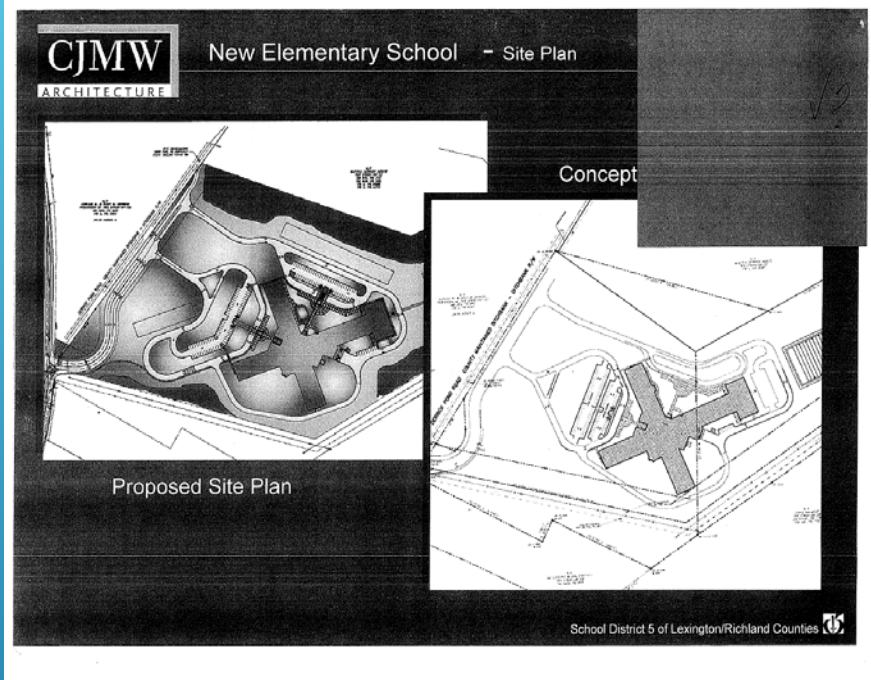
DRAFT SITE PLAN



district five
OF LEXINGTON & RICHLAND COUNTIES



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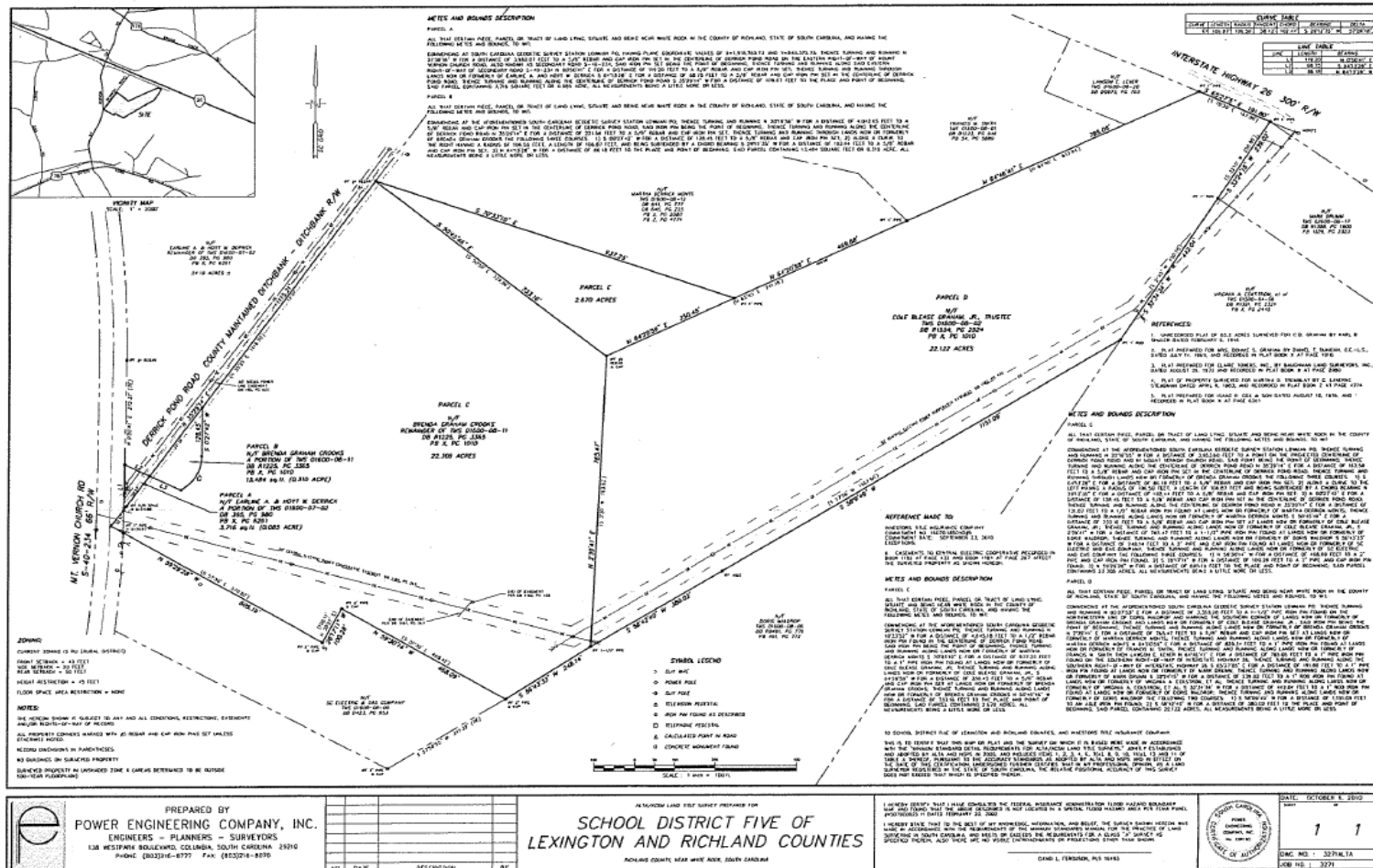
DRAFT SITE PLAN

district five
OF LEXINGTON & RICHLAND COUNTIES

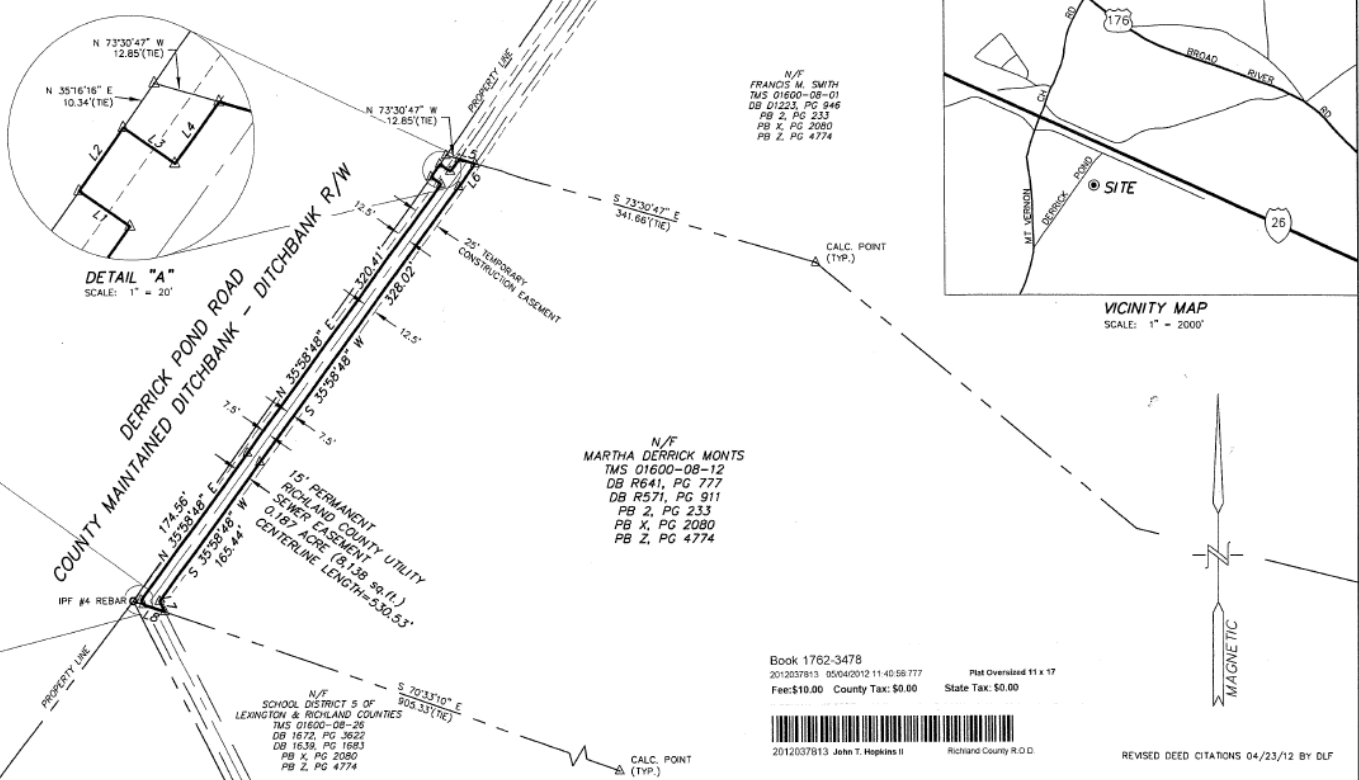


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The image shows the logo for District Five of Lexington & Richland Counties, which consists of a stylized 'd5' followed by the text 'district five' and 'OF LEXINGTON & RICHLAND COUNTIES'. Below this is the logo for Montgomery Willard, LLC, featuring a palm tree icon and the text 'MONTGOMERY WILLARD, LLC' and 'Legal excellence to advance your business goals'.



LINE TABLE		
LINE	LENGTH	BEARING
L1	11.92	N 54°43'44" W
L2	15.00	N 35°16'16" E
L3	12.06	S 54°43'44" E
L4	14.56	N 35°40'34" E
L5	15.88	S 73°30'47" E
L6	27.25	S 35°40'34" W
L7	11.12	S 26°34'13" E
L8	21.60	N 70°33'10" W
L9	4.69	N 26°34'13" W



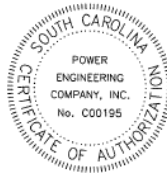


PREPARED BY
VER ENGINEERING COMPANY, INC.
ENGINEERS - PLANNERS - SURVEYORS
WESTPARK BLVD. COLUMBIA, SOUTH CAROLINA 29210
PH: (803)216-8777 FAX: (803)216-8070

EASEMENT EXHIBIT PREPARED FOR

LEXINGTON AND RICHLAND COUNTY SCHOOL DISTRICT 5

RICHLAND COUNTY, NEAR WHITE ROCK, SOUTH CAROLINA



DATE: MARCH 8, 2012
PROJECT: 3271
DRAWING: SS-ESMT-2

THE HEREON SHOWN IS SUBJECT TO ANY AND ALL CONDITIONS, RESTRICTIONS, EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

Walter F. Wilson, Jr.
WALTER F. WILSON, JR., SCPLS 17231



SCALE: 1 inch = 100 ft.

UTILITY EASEMENTS ACQUIRED



district five

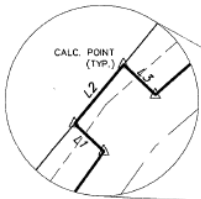
OF LEXINGTON & RICHLAND COUNTIES



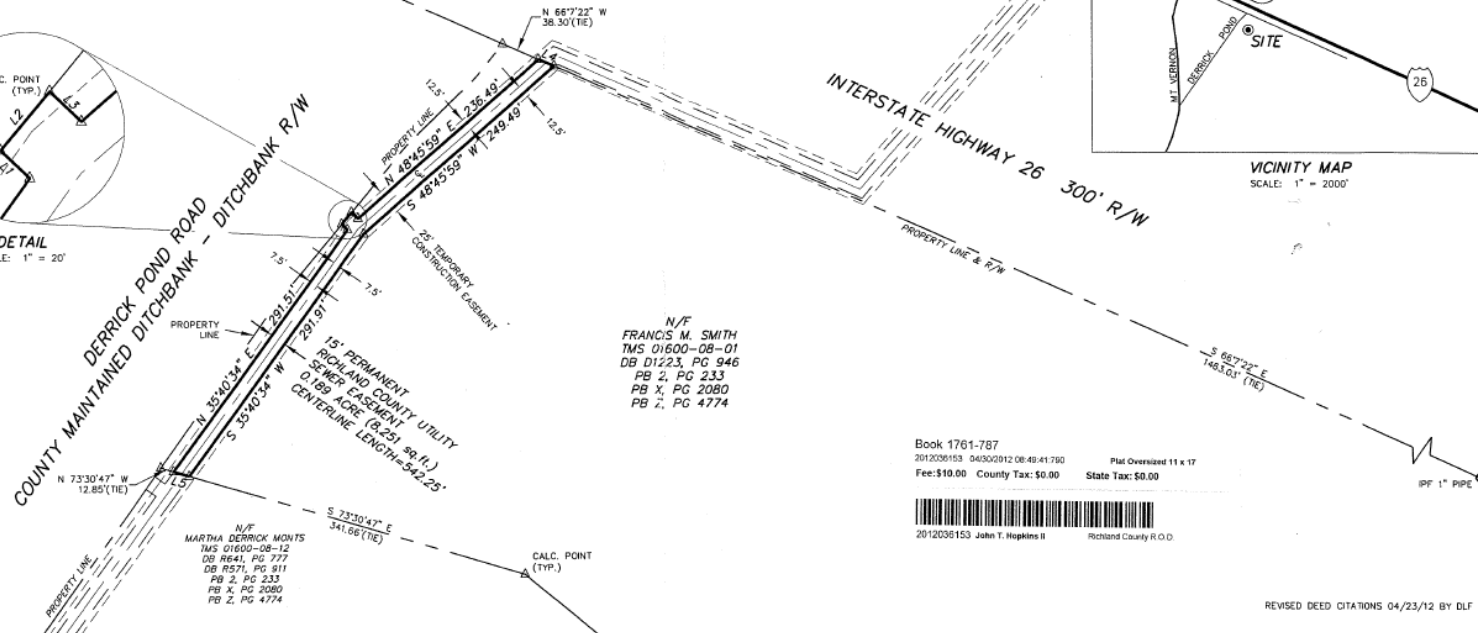
MONTGOMERY WILLARD, LLC

Legal excellence to advance your business goals

LINE TABLE		
LINE	LENGTH	BEARING
L1	7.84	N 46°0'24" W
L2	15.05	N 39°33'39" E
L3	8.59	N 46°0'24" W
L4	16.54	S 66°7'22" E
L5	15.88	N 73°30'47" W



DETAIL
SCALE: 1" = 20'



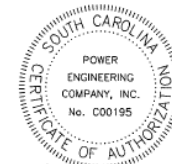
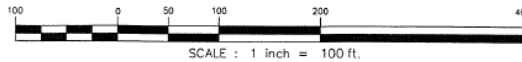
Book 1761-787
2012036153 04/03/2012 08:48:41.790
Fee: \$19.00 County Tax: \$0.00 State Tax: \$0.00
Plat Oversized 11 x 17
2012036153 John T. Hopkins II Richland County R.O.D.



PREPARED BY
VER ENGINEERING COMPANY, INC.
ENGINEERS - PLANNERS - SURVEYORS
WESTPARK BLVD. COLUMBIA, SOUTH CAROLINA 29210
PH: (803)216-8777 FAX: (803)216-8070

THE HEREON SHOWN IS SUBJECT TO ANY AND ALL CONDITIONS, RESTRICTIONS, EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

Walter F. Wilson, Jr.
WALTER F. WILSON, JR., SCPLS 17231



DATE: MARCH 8, 2012
PROJECT: 3271
DRAWING: SS-ESMT-1

EASEMENT PLAT

district five
OF LEXINGTON & RICHLAND COUNTIES



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- ▶ **July 13, 2010, Army Corp of engineers issues written determination that the referenced property “does not contain any wetland areas or other waters of the United States and, as such, Department of the Army Authorization will not be required for mechanized land clearing, excavation, or the placement of dredged or fill material on this site.**
- ▶ **August 9, 2010 Keith McAlister sends memo to Superintendent Berg “The administration recommends to purchase the parcel of land identified . . . For construction of a new elementary school. The agreed upon purchase price is \$582,750.00**
- ▶ **August 9, 2010 Board unanimously approves purchase 5-0 (Gantt, Hammond absent)**
- ▶ **Office of School Facilities approves site for school on August 27, 2010.**
- ▶ **Property closes in escrow October 14, 2010 (Parcels B,C and D). Disbursed upon plat recording and approval October 18, 2010.**
- ▶ **Parcel E not closed in October due to title issues**
- ▶ **November 8, 2010 – Administration recommends approval to proceed with site adaptation for Elementary school at Derrick’s Pond. Board Unanimously tables the proposal.**
- ▶ **December 13, 2010 – Board approves request of sellers to bring condemnation action to obtain Parcel E of Derrick Pond Property (2.67 acres) Vote 4-2 (Hammond abstains)**

TIMELINE OF PROPERTY PURCHASE



ADMINISTRATION RECOMMENDS CLOSING

MEMORANDUM

August 9, 2010

To: Dr. Herb Berg,
Superintendent, Lexington-Richland School District Five

From: Keith McAlister
Director, New Design and Construction

Re: Property Purchase of Derrick Pond Road

The administration recommends to purchase the parcel of land identified in the Real Estate Atlas of Richland County on Page 01600, in Block 8, as Lot 02 and 11 (on Derrick Pond Road) for construction of a new elementary school. The agreed upon purchase price is \$582,750.00.



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AUGUST 9, 2010 BOARD APPROVES PURCHASE

SCHOOL DISTRICT FIVE
OF
LEXINGTON AND RICHLAND COUNTIES
Meeting of August 9, 2010

		B A U M G A R D N E R	F E R R E L L	G A N T T	H A M M O N D	S L O O P	W A T S O N	W H I T E
1. M. Baumgardner	S. Watson	X	X	A	A	X	X	A
Enter executive session to consider the following: 2a) personnel matters; 2b) legal matter: facilities (s); 2c) legal briefing; Act 388; 2d) selected employment items (Exhibit A); 2e) contractual matter: land; 2f) contractual matter: services; and 2g) contractual matter: new construction								
2. M. Baumgardner	S. Watson	X	X	A	A	X	X	X
Approve the agenda								
3. M. Watson	S. Baumgardner	X	X	A	A	X	X	A
Approve the consent agenda (approval of the minutes of the June 14, 2010 board meeting, the June 29, 2010 special-called board meeting and the July 12, 2010 board workshop meeting)								
4. M. Baumgardner	S. Watson	X	X	A	A	X	X	X
Approve the selected employment items with the exception of #22 and #96 (Exhibit A)								
5. M. White	S. Baumgardner	X	X	A	A	X	X	X
Approve the contractual matter: land								
6. M. White	S. Baumgardner	X	X	A	A	X	X	X
Approve the resolutions for the sale of bonds (one authorizes the sale of bonds to finance the district's 8% capital budget funds and the other authorizes the sale of additional bonds to support on-going work related to the district's bond referendum) (Exhibit B)								
7. M. Watson	S. Baumgardner	X	X	A	A	X	X	X
Schedule a special-called meeting on August 23 to solely discuss the CATE Center, new high school and the Alternative Academy at 6 p.m.								

A = Absent
AB = Abstain
N = No
X = Yes

5. M. White S. Baumgardner
Approve the contractual matter: land

X	X	A	A	X	X	X
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 **district five**
OF LEXINGTON & RICHLAND COUNTIES

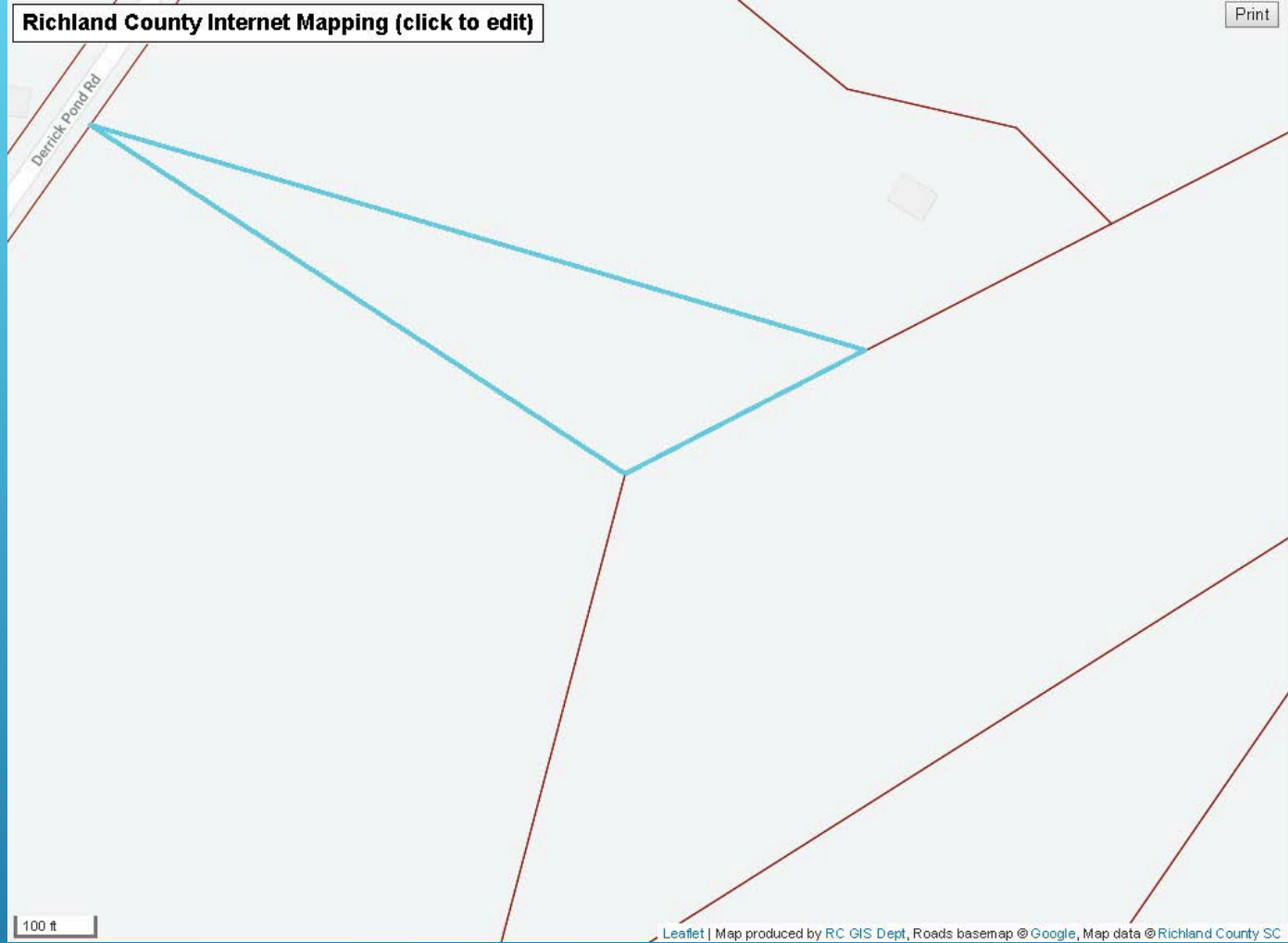


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- ▶ During due diligence title work raised questions about Parcel E ownership.
- ▶ Parcel E was 2.67 acres of total
- ▶ Amendment to Contract withheld pro-rata price funds from Closing of parcels B, C & D with escrow agreement
 - ▶ Sellers requested condemnation in lieu of filing quiet title action.
 - ▶ If Board declined condemnation request, Sellers were to bring quiet title action
 - ▶ Quiet title action may have taken years – if site were to be used needed to be accomplished quickly
 - ▶ Ultimately, condemnation was not necessary because Parties reached an agreement and all executed appropriate deeds.
- ▶ After title issue was resolved Parcel E was purchased on March 21, 2011
- ▶ In addition to land cost, District expended additional fees and costs \$6,760.20 to resolve this problem.

PARCEL E ISSUE





PARCEL E

October 14, 2010

School District Five of Lexington
and Richland Counties
1020 Dutch Fork Road
Ballentine, SC 29202

Ladies/Gentlemen:

This letter is written pursuant to Section 5 a. of that certain Amendment to "Agreement to Sell & Buy" dated April 21, 2010 between Cole Blease Graham, Jr., as Trustee and Brenda Crooks and School District Five of Lexington and Richland Counties (the "Amendment") to request that School District Five of Lexington and Richland Counties undertake an action to condemn that certain 2.67 acre, more or less, tract of land in Richland County, South Carolina as shown as Parcel E on Exhibit B of the aforesaid Amendment.

Thank you for your consideration.

Sincerely,

Brenda G. Crooks
Brenda G. Crooks

October 26, 2010

School District Five of Lexington
and Richland Counties
1020 Dutch Fork Road
Ballentine, SC 29202

Ladies/Gentlemen:

This letter is written pursuant to Section 5 a. of that certain Amendment to "Agreement to Sell & Buy" dated April 21, 2010 between Cole Blease Graham, Jr., as Trustee and Brenda Crooks and School District Five of Lexington and Richland Counties (the "Amendment") to request that School District Five of Lexington and Richland Counties undertake an action to condemn that certain 2.67 acre, more or less, tract of land in Richland County, South Carolina as shown as Parcel E on Exhibit B of the aforesaid Amendment.

Thank you for your consideration.

Sincerely,

Cole Blease Graham, Jr.
Cole Blease Graham, Jr.

 **district five**
OF LEXINGTON & RICHLAND COUNTIES



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OCTOBER 14 AND 26 LETTERS

DECEMBER 13, 2010 MINUTES

SCHOOL DISTRICT FIVE OF LEXINGTON AND RICHLAND COUNTIES

Meeting of December 13, 2010

	B A U M G A R D N E R	G A N T	H A M M O N D	M U R P H Y	T U R N E R	W A T S O N	W H I T E
M. Murphy S. Watson Amend to withdraw the minutes of the November 19, 2010 special-called meeting	X	X	X	X	X	X	X
M. Watson S. Baumgardner Approve the minutes of the November 19, 2010 special-called meeting							
Motion withdrawn							
M. Baumgardner S. White Approve the minutes of the November 19, 2010 special-called meeting							
M. Murphy S. Hammond Amend that we go back and not approve until we have listened to the tapes	No	No	X	X	X	No	No
Vote on the motion	X	X	No	No	No	X	X
4. M. Watson S. Baumgardner The Board not grant the request of an employee to be heard by the Board in connection with a grievance	X	X	X	X	X	X	X
5. M. Watson S. White Approve the request of the sellers of the property, and in consideration of the options before the District pursuant to the Amendment to the Contract to purchase the property, I move that the School District bring a condemnation action to obtain the remaining 2.67 acres known as Parcel E of the Derrick Pond Road property	X	X	AB	No	No	X	X

A = Absent
AB = Abstain
N = No
X = Yes

5. M. Watson

S. White

Approve the request of the sellers of the property, and in consideration of the options before the District pursuant to the Amendment to the Contract to purchase the property, I move that the School District bring a condemnation action to obtain the remaining 2.67 acres known as Parcel E of the Derrick Pond Road property

X X AB No No X X

 **district five**
OF LEXINGTON & RICHLAND COUNTIES



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- ▶ **12/9/2010 Richland County Development Review team meeting with D5 engineering firm. County requests easement information on Derrick Pond Road**
- ▶ **At request, Counsel does additional title research to answer questions looking for Right of Way in chain of title**
- ▶ **12/20/2010 D5 Engineer met with Richland County Planning**
 - ▶ **County still asking for information on Ownership.**
 - ▶ **County advised D5 to keep Derrick Pond Road as a private access of Mt. Vernon Church road and provide a new access easement to Ms. Monts to the north; instead of dedicating to County.**
 - ▶ **D5 Engineers perform additional work to confirm acceptable access**

DERRICK POND ROAD ACCESS ISSUE





DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Post Office Box 192 • 2020 Hampton Street • Columbia, S.C. 29202
Zoning & Land Development: (803) 576-2180 • Zoning Fax: (803) 576-2182

January 5, 2011

School District 5 of Lexington & Richland Counties
Attn: Keith McAlister
1020 Dutch Fork Road
Irmo, SC 29063

RE: New Elementary School – Derrick Pond Road
RCF # SP-10-119
TMS # 01600-08-02; 11

Dear Mr. McAlister:

Please be advised the civil plans entitled "New Elementary School – School District Five of Lexington and Richland Counties", dated 10/29/10 with no revisions, were denied at the Development Review Team meeting on December 9, 2010.

Reason for denial is as follows:

- 1) School does not meet the Special Requirement in Section 26-151(b)(64) Richland County Land Development Code for schools located in the RU (Rural) zoning district: Primary access shall be provided from a collector or a thoroughfare road.

If you have any further questions or concerns, please feel free to contact me at (803) 576-2188 or hastvh@rcgov.us.

Sincerely,

Hope Hasty
Land Development Administrator

Cc: Clay Cannon, Power Engineering
Miranda Spivey, Fire Marshal
William Simon, Engineer II – Development
Alfreda Tindal, Addressing Coordinator
Quinton Epps, Floodplain Coordinator
Anna Almeida, Planning Director
Geonard Price, Zoning Administrator

DENIAL LETTER

 **district five**
OF LEXINGTON & RICHLAND COUNTIES



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- ▶ **12/30/2010 SCDOT advises that “this portion of Derrick Pond Road was removed from the State Highway System on 2-19-1981.**
- ▶ **01/05/2011 Richland County advises that DRT denied new Elementary School Plans because access was not from a collector or thoroughfare road.**
- ▶ **Plans were revised to create 4 options to solve problem. Option A was the Land Swap and access issue, other options included Appeal, rezoning and relocating Derrick Pond Road.**
- ▶ **2/2/2011 Keith McAlister signed Appeal documents to Appeal the DRT decision to the Board of Zoning Appeals.**
- ▶ **2/16/2011 Zoning Hearing Set for 4/6/2011**

DERRICK POND ROAD ACCESS ISSUE



- ▶ **2/18/2011 D5 Representative Buddy Price, D5 engineer and attorney met at Derrick's Home about land swap closing.**
- ▶ **2/21/2011 Mr. Derrick called Buddy Price and advised they did not want to do the land swap as agreed. He asserted that he felt that the access road to the School would de-value the property.**
- ▶ **3/22/2011 New Superintendent Dr. Hefner gets call from Derrick's son James Upchurch. He asserts that the Derricks were "bullied by attorney and Buddy Price to sign document", they will fight every effort to build the school. District is to have no more contact with his Parents.**
 - ▶ District later received a letter stating that Derrick's "are officially withdrawing our former offer that was signed on August 26, 2010" although this was a contract that they couldn't withdraw
 - ▶ Not going to honor agreement to swap property.
 - ▶ Would oppose any future alterations of Derrick Pond Road or their property.

DERRICK POND ROAD ACCESS ISSUE



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- ▶ **BOZA Appeal hearing postponed to May 4, 2011 and then to June 1, 2011.**
- ▶ **5/11/2011 D5 Attorney requested further delay of BOZA hearing as it was still working on alternatives**
- ▶ **Keith McAlister notifies D5 attorney to ask that the hearing be continued until further notice from D5**
- ▶ **No hearing took place, no breach of contract or other action was filed against Derricks.**

DERRICK POND ROAD ACCESS ISSUE



- ▶ **District Contracted with Mr. and Mrs. Derrick for a swap to increase frontage on Mt. Vernon Church road so that access would be available to a collector road.**
- ▶ **This would have made entry off of Mt. Vernon Church road and would have helped address requirements for a school in a Rural zoning district which ultimately presented a problem with Derrick Pond Road.**
 - ▶ **Richland County Code Chapter 26, Article VI 26-151 (now 67) (d) “Primary access shall be provided from a collector or thoroughfare road”**

LAND SWAP CONTRACT



309-0084

CONTRACT TO TRANSFER REAL PROPERTY RICHLAND COUNTY

Hoyt W. Derrick & Earline A. Derrick, ("Derricks") and School District Five of Lexington & Richland Counties ("District") agree convey certain properties to the other under the terms as follows and to be more fully drafted in deed transfer documents.

1. After the District's purchase of TMS # 01600-08-011 from Brenda Graham Crooks, the District will convey approximately .31 acres of the Crooks property to the Derricks in exchange for a conveyance from the Derricks to the District of approximately .08 acres of TMS # 01600-07-002. The sketch attached "Exhibit A" reflects the parties understanding of the basic location of the parcels to be transferred.

2. The District will obtain a survey of the shaded areas on Exhibit A for purpose of delineating the areas to be transferred pursuant to this Agreement in deed transfer documents. Surveyors engaged by the District will be given access to the subject properties for the purpose of obtaining the survey information required.

DERRICKS: DATE: 8-26-10

DISTRICT: DATE: 9/3/2010

Hoyt W. Derrick
Hoyt W. Derrick

Earline A. Derrick
Earline A. Derrick

SCHOOL DISTRICT FIVE OF LEXINGTON
& RICHLAND COUNTIES

BY: [Signature]
ITS: CFO

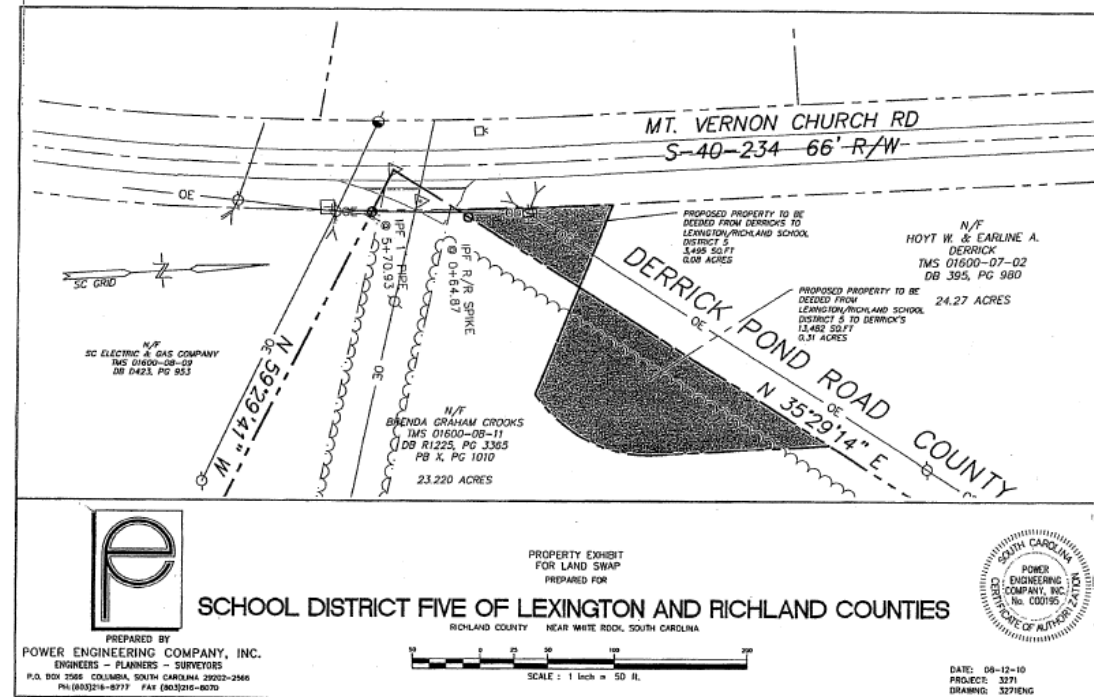


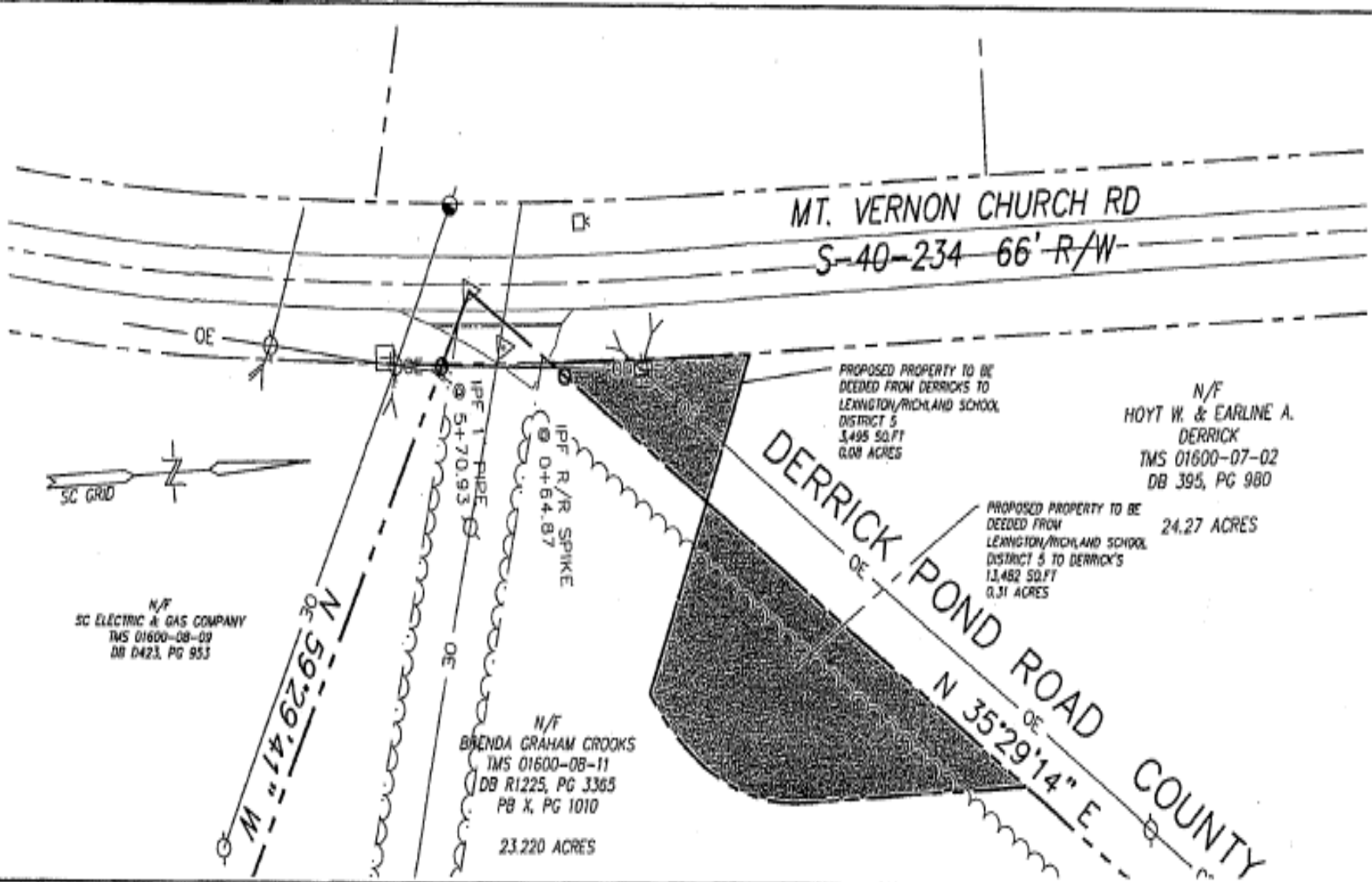
EXHIBIT A

CONTRACT TO TRANSFER

district five
OF LEXINGTON & RICHLAND COUNTIES



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DERRICK POND ROAD MAP

district five
OF LEXINGTON & RICHLAND COUNTIES



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- ▶ **April 25, 2011, Board Moves to appoint a special committee to investigate the claims of misrepresentation in connection with Parcel E and for the purpose of inducing the breach of the contract to swap property**

TIMELINE



SCHOOL DISTRICT FIVE
OF
LEXINGTON AND RICHLAND COUNTIES

Meeting of April 25, 2011

		B A U M G A R D N E R	G A N T T	H A M M O N D	M U R P H Y	T U R N E R	W A T S O N	W H I T E
1. M. Watson	S. Baumgardner	X	X	X	X	X	X	A
Enter executive session to consider the following: 2a) selected employment items (Exhibit A) and 2b) contract reappointments (Exhibit B)								
2. M. Watson	S. Baumgardner	X	X	X	X	X	X	X
Support Mr. Gantt as he seeks position of treasurer for the South Carolina School Boards Association								
3. M. Watson	S. Baumgardner	X	X	X	X	X	X	X
Approve the agenda with one change (move item 16 schedule an electronic school board meeting demo on May 9, 2011 at 5:00 p.m. to 11b)								
4. M. Watson	S. Baumgardner	X	X	X	X	X	X	X
Approve the minutes of March 28, 2011 board meeting								
5. M. Watson	S. Turner							
Approve the minutes of the April 4, 2011 special-called board meeting								
M. Murphy	S. Turner	No	No	No	X	No	No	No
Amend to include the wording in my letter in the official minutes								
		X	X	X	No	X	X	X
Vote on original motion								
6. M. White	S. Watson	X	X	X	AB	X	X	X
The chairman shall be authorized to seat a special committee of the Board of Lexington-Richland District 5 Trustees for the purpose of working with legal counsel to investigate the misrepresentations reported by Mr. Tom Crooks' family in connection with the purchase of the 2.7 acres for the Chapin elementary school site, as well as to investigate the circumstances surrounding the purchase of								

A = Absent
AB = Abstain
N = No
X = Yes

APRIL 25, 2011 MINUTES

6. M. White

S. Watson

X X X AB X X X

The chairman shall be authorized to seat a special committee of the Board of Lexington-Richland District 5 Trustees for the purpose of working with legal counsel to investigate the misrepresentations reported by Mr. Tom Crooks' family in connection with the purchase of the 2.7 acres for the Chapin elementary school site, as well as to investigate the circumstances surrounding the purchase of

SCHOOL DISTRICT FIVE
OF
LEXINGTON AND RICHLAND COUNTIES

Meeting of April 25, 2011

	B A U M G A R D N E R	G A N T T	H A M M O N D	M U R P H Y	T U R N E R	W A T S O N	W H I T E
property from Mr. and Mrs. Derrick and whether or not any individual has made misrepresentations for the purpose of inducing any person to breach their contractual obligations to the District, and, if so, to recommend appropriate action to the full Board.							
7. M. Baumgardner S. White Approve to award to the lowest responsible, responsive bidder for the early site package at the new high school/CATE Center to Palmetto Grading and Drainage, Inc. at \$8,800,000 (Exhibit E)	X	X	X	No	X	X	X
8. M. Watson S. Baumgard Schedule an electronic school board meeting demo on May 9, 2011 at 5:00 p.m.	X	X	X	X	X	X	X
9. M. Baumgardner S. Watson Approve the selected employment items (Exhibit A) and the contract reappointments (Exhibit B)	X	X	X	X	X	X	X
10. M. Watson S. Baumgardner Approve second reading of proposed revisions to board policy JICDA-R "Code of Conduct" (Exhibit F)	X	X	X	X	X	X	X
11. M. Watson S. Baumgardner Approve second reading of the capital budget for 2011-2012 (Exhibit G)							
M. White S. Baumgardner Amend to give the superintendent and staff the discretion for variances on individual line items to the greater of 10% of the budgeted amount or \$50,000, whichever is greater	X	X	X	No	X	X	X
M. Murphy S. Hammond I move that District 5 incorporate into the budget, along with other camera equipment being purchased, the appropriate	No	No	X	X	No	No	No

A = Absent
AB = Abstain
N = No
X = Yes

Motion passed 6-0 (Murphy Abstaining)

The chairman shall be authorized to seat a special committee of the Board of Lexington-Richland District 5 Trustees for the purpose of working with legal counsel to investigate the misrepresentations reported by Mr. Tom Crooks' family in connection with the purchase of the 2.7 acres for the Chapin elementary school site, as well as to investigate the circumstances surrounding the purchase of property from Mr. and Mrs. Derrick and whether or not any individual has made misrepresentations for the purpose of inducing any person to breach their contractual obligations to the District, and if so, to recommend appropriate action to the full Board.



APRIL 25, 2011 MINUTES

- ▶ The April 25, 2011 Committee appears not to have convened or rendered a report.
- ▶ After the Board tabled proceeding with the site adapt on November 8, 2010, no further Board Action was taken on the construction of a school on the site.
- ▶ The Administration terminated the appeal of Richland County staff's decision in May 2011.

FOLLOW UP ACTIONS



- ▶ **Reapply for Approval with revised plans that comply with County requirements and build a school on the site.**
- ▶ **Investigate using the site for another district facility.**
- ▶ **Apply to rezone property to eliminate special requirements.**
- ▶ **Acquire / Swap additional property to have access from Mt. Vernon Church Road**
- ▶ **Sell property. Likely that value materially exceeds purchase price.**

FUTURE OPTIONS



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