

# Upstate Update

NUMBER 45  
JUNE  
2003

*Upstate Forever's Monthly Bulletin on Important Issues and Events in the Upstate*



*Upstate Forever* was the beneficiary of a special event at Mast General Store in Greenville on June 7. We received 10 per cent of all sales made that day at the store! Mast General almost broke its single day record, as hundreds of people, including many *Upstate Forever* members, came to the store to shop. On June 17, Mast General presented us with a check for \$2,702.00!

We deeply appreciate the generous support of Mast's founders Faye and John Cooper and all the wonderful people associated with the store. Also, many thanks to the *Upstate Forever* members who participated in the event.



## 1. Legislative Update.

In recent Upstate Updates, we have summarized several important bills relating to land use and conservation pending this year in the South Carolina General Assembly and Congress. The state legislative session has been adjourned and will resume in January, while the Congressional session continues.

Here is an update on several of the bills we have been following:

### **South Carolina Land Use Dispute Resolution Act Signed Into Law.\***

For many years, a debate has raged in South Carolina over efforts by "private property rights" advocates to enact legislation that would change the definition of what constitutes a "taking" under State law and make it considerably easier for landowners and developers to pre-

\* The description of this new law is reprinted with permission from an article on land use regulation in South Carolina, which was written by *Upstate Forever* Executive Director Brad Wyche and will soon be published in the Southeastern Environmental Law Journal.

*Promoting sensible growth and protecting special places in the Upstate*

vail in actions based on traditional zoning and land development ordinances. Those efforts have been consistently thwarted by a strong coalition of state agencies, local governments and environmental organizations fearful that the legislation would discourage, if not paralyze, planning and regulatory programs throughout the State.

As the 2002 session of the General Assembly began, it appeared that yet another battle would take place, but this time the property rights advocates disarmed and accepted a compromise that has been incorporated in a new law called the South Carolina Land Use Dispute Resolution Act (LUDRA). The most notable fact about LUDRA is that it does not change the definition of a “taking,” deferring that question to the judicial branch. Rather, the focus is on improving and expediting the process for adjudicating takings claims by landowners.

LURDA amends the CPA by allowing a property owner whose land is the subject of a decision by the board of zoning appeals, board of architectural review or planning commission to file a notice of appeal with the circuit court, accompanied by “a request for pre-litigation mediation.” The request must be granted, and the government entity must be represented at the mediation. A non-owner may be granted leave to intervene in the mediation if the person has a “substantial interest” in the decision of the local entity.

Mediation is an informal process in which a third-party mediator facilitates face-to-face settlement discussions between the parties. The mediator has no authority but seeks to guide the parties toward a resolution of the dispute on their own terms. Mediation has proved to be a highly effective and relatively inexpensive way of resolving disputes. The parties to a dispute can—and often do—jointly agree to mediate a dispute, but LURDA goes a step further and gives landowners the right to compel a mediation with the government. Obviously, the General Assembly hopes that landowners will exercise this right and that mediation will become the principal means for resolving landowner claims against local governments.

If the dispute is resolved through mediation, the settlement must be approved by both the local legislative governing body and the circuit court before it can become effective. LURDA makes it clear that a settlement applies only to the property in question and has no precedential value.

If (1) the case is not mediated, (2) the mediation is not successful or (3) the settlement reached in the mediation is not approved, the resident presiding judge must hear the case at the next term of court. LURDA makes no change in the scope of judicial review of the local entity's decision, but it does give the landowner the right to include in the appeal claims that are beyond the subject matter jurisdiction of the local entity, "such as, but not limited to a determination of the amount of damages due for an unconstitutional taking," and to have those claims resolved by a jury.

LURDA also establishes new educational requirements for local government planning and zoning officials and employees. Unless exempted, each appointed planning commissioner and each member of the board of zoning appeals and board of architectural review and every planning professional, zoning administrator and zoning official must attend a minimum of six hours of orientation following the initial date of appointment or employment and thereafter must attend at least three hours of continuing education each year. A new state advisory committee is established to compile and distribute a list of approved programs and to administer the program.

The Act can be read in its entirety at [http://www.lptr.state.sc.us/sess115\\_2003-2004/bills/204.htm](http://www.lptr.state.sc.us/sess115_2003-2004/bills/204.htm)

### **"Hog Bill" Resting until Next Session.**

This bill essentially prevents counties from regulating hog, chicken and cattle farms in unzoned areas more stringently than the state. The

bill was passed by the House of Representatives and sent to the Senate Judiciary Committee, where it was amended to delete the reference to hog farms. The bill did not reach the full Senate before adjournment, so it will be poised for additional action next year.

The entire bill can be read online at:  
[http://www.lptr.state.sc.us/sess115\\_2003-2004/bills/3555.htm](http://www.lptr.state.sc.us/sess115_2003-2004/bills/3555.htm)

## **Finally! Minimum Acreage Requirements for New Schools Eliminated.**

This legislation has taken several forms in a number of bills. The original bill, the "South Carolina Neighborhood and Community Schools Act," placed a maximum on the number of students a school could have (different caps for elementary, middle, and high school), and it removed the minimum acreage requirements for new schools. *Upstate Forever* strongly supported both initiatives. There were many legislative twists and turns, but the bottom line is a new law that removes the minimum acreage requirements! The Governor is expected to sign it any day.

Thank you to all of our members and supporters who contacted their representatives and senators about this important legislation. The removal of the minimum acreage requirements will make it easier for local school districts to find land for new schools in existing communities instead of being forced to build in remote locations. During the 2004 session, we will continue to advocate for a bill that limits student population sizes.

## **2. Another Anderson County Precinct Votes for Zoning.**

Anderson County continues to make progress with its community-based petition zoning program. More than 80 per cent of the voters in

Centerville-A Precinct passed a referendum to implement zoning in their area.

This program represents democracy at its best because it allows citizens to decide whether or not they want zoning. After a petition for zoning is submitted by at least 15 per cent of the voters in a precinct, the County Planning Commission hosts a series of public meetings for the purpose of preparing a zoning map for the area. A referendum is then held and, if it passes, the zoning map is presented to County Council for review and approval.

Centerville-A becomes the thirteenth precinct in Anderson County to approve zoning since the county began its community-based zoning initiative in 1999. Today, approximately 25 per cent of the county (including the municipalities) is now zoned.

### ***3. State of the Upstate's Air - Not Good!***

Three of the four worst counties in South Carolina for ozone pollution are in the Upstate. According to the American Lung Association's 2003 Air Quality Report, Spartanburg County had the worst, with Anderson (2), Pickens (4), Cherokee (8) and Oconee County (11) not far behind. Greenville County was unranked due to inadequate data, but there is little doubt it would have been near the top. The report was based on data from the 1999-2001 time period.

Ozone is a highly reactive form of oxygen that helps protect the earth from the sun's ultraviolet rays when it's in the upper atmosphere, but high levels near the earth's surface can be hazardous to health. Ozone is "good up high, and bad down low." When it's "down low" at high levels, it can act as a respiratory irritant and can be especially troublesome to children, senior citizens, and people with respiratory diseases such as asthma. High temperatures, automobile exhaust, and industrial emissions all contribute to higher ozone levels.

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Here is the data from the American Lung Association report:

STATE OF THE AIR 2003: SOUTH CAROLINA											
<i>Report from the American Lung Association</i>											
County	Grade	Wgt. Avg.	Orange Days	Red Days	Purple Days	Years in Previous Reports					
						(1998-2000)		(1997-1999)		(1996-1998)	
						Grade	Wgt. Avg.	Grade	Wgt. Avg.	Grade	Wgt. Avg.
ABBEVILLE	F	4.3	13	0	0	F	8.3	F	7.3	F	4.7
AIKEN	F	5.3	16	0	0	F	12	F	10.7	F	11
ANDERSON	F	9.3	25	2	0	F	14	F	14.3	F	10.2
BARNWELL	F	4.7	14	0	0	F	8.3	F	7.3	F	5.3
BERKELEY	C	1.3	4	0	0	D	2.3	C	1.7	C	1.3
CHARLESTON	C	2	6	0	0	D	2.3	D	2.3	C	2
CHEROKEE	F	4.7	14	0	0	F	9.5	F	9.8	F	7.5
CHESTER	F	6.2	17	1	0	F	11	F	12.3	F	7.8
COLLETON	B	0.7	2	0	0	D	2.3	C	2	*	*
DARLINGTON	F	5.3	16	0	0	F	7.7	F	7.7	F	4.3
EDGEFIELD	D	2.3	7	0	0	F	7.2	F	6.8	F	5.2
GREENVILLE	*	*	*	*	*	*	*	*	*	*	*
OCONEE	D	2.7	8	0	0	F	5.3	F	4.7	D	3
PICKENS	F	6.3	19	0	0	F	6	F	6	F	4
RICHLAND	F	9	27	0	0	F	12.3	F	11.7	F	8.7
SPARTANBURG	F	9.5	27	1	0	F	10.5	F	9.5	F	7.2
UNION	C	1.8	4	1	0	F	4.2	F	4.2	D	3
WILLIAMSBURG	B	0.3	1	0	0	B	0.3	B	0.3	A	0
YORK	D	2.3	7	0	0	F	4.3	F	5	D	3

For more on the report, visit this website: <http://lungaction.org/reports/stateoftheair2003.html>

Leaders in Anderson, Greenville, and Spartanburg Counties have pledged to work together to bring the Upstate into compliance with the federal 8-hour ozone standard three years ahead of schedule. In exchange for this commitment, the U.S. Environmental Protection Agency (EPA) has agreed to defer making any official "non-attainment" designation of the Upstate. Such a designation, which could have come as early as April, 2004, would make it much more difficult to receive approval for industrial growth and road-building projects in the region - a terrifying scenario to Upstate business leaders.

The Upstate is only the second region in the country to pursue this so-called "early action plan" for coming into compliance with the ozone standard. Several critical milestones must be achieved by specific

deadlines. The first two have been met: The "Early Action Compact" was signed at the end of last year, and the counties recently submitted the Early Action Compact (EAC) Milestone - June 2003 Progress Report, a non-binding list of air quality strategies designed to reduce ozone levels and improve air quality in the Upstate. The report was submitted to the South Carolina Department of Health and Environmental Control, which will in turn submit a list of air quality control measures being considered by all South Carolina counties to the EPA.

You can access the full report and related information at this website:

[http://www.greenvillecounty.org/County\\_Administrator/Air\\_Quality.asp](http://www.greenvillecounty.org/County_Administrator/Air_Quality.asp)

#### ***4. Keep Greenville County Beautiful Group Seeks National Certification.***

Greenville County has begun the challenging certification process to become an affiliate of Keep America Beautiful (KAB), a grassroots organization dedicated to improving community environments through initiatives led by alliances of citizens, business, and government.

An initial planning meeting was held on June 6 in which organizational and administrative structure was discussed. Participants included representatives of law enforcement, Greenville County and several of its municipalities, the Greenville Council of Garden Clubs, ***Upstate Forever***, and concerned citizens. Teams of volunteers were formed to undertake various tasks required for certification, including a litter index, in which sites are surveyed throughout the county to determine their conditions. This will not only help identify the positive and negative locations throughout the county, but will also serve to monitor the success of Keep Greenville County Beautiful, as the same sites will be reevaluated next year to determine progress in the beautification effort. This countywide effort will require a great deal of volunteer

support, and we hope that many *Upstate Forever* members will lend a hand!

Palmetto Pride provided Greenville County's registration fee, but the program is currently seeking corporate sponsors and donors. The group is seeking volunteers, board members, and others interested in becoming involved with the organization.

Anderson County already has a successful KAB affiliate program, described by Sarah Robinson of Keep South Carolina Beautiful (KSCB) as "a phenomenal organization". The City of Spartanburg is currently working with KSCB to reinstate their affiliation, and Pickens County is actively investigating the possibility of creating a chapter. The combined efforts of all these city and county groups will help keep the Upstate Beautiful!

Anyone interested in participating in the Litter Index, please contact Erin Knight at *Upstate Forever*, (864) 250-0500 or [eknight@upstateforever.org](mailto:eknight@upstateforever.org). Other questions or volunteer interests should be directed to Wendy McNatt, Recycling Education Specialist for Greenville County, at 234-5781 or 297-8558.

## 5. *Support Local Farmers!*

At a time when many children think lettuce and carrots come wrapped in plastic from the supermarket rather than from the earth, it's more important than ever to try to buy fresh produce directly from those who grow it. By purchasing fruits and vegetables directly from farmer's markets and produce stands—or growing your own—you will likely:

- Reduce wasteful packaging
- Reduce the pollution and energy needed to transport food long distances
- Receive fresher, more nutritious food, which may have less of

the chemical preservatives often used to help food make its long journey

- Encourage children to make a more direct link between agricultural practices, growers and what we eat
- Help local farmers stay economically afloat as they struggle against the formidable forces of corporate-owned mega farms and agri-businesses
- Eat fruits and vegetables when they are in season locally, enriching appreciation for the flavorful glory of each in turn, while reinforcing the natural rhythms of Earth's bounty
- Be reminded that this planet must sustain us all.

To locate a farmer's market near you, follow this link and click on the map of South Carolina <http://www.ams.usda.gov/farmersmarkets/map.htm>

## ***6. Three Upstate Landmarks Added To National Register of Historic Places.***

On April 18, 2003, the Director of the National Parks Service announced that sites in Pickens, Spartanburg, and Union Counties had been added to the National Register of Historic Places.

*Liberty Colored High School*, Town of Liberty, Pickens County - Constructed in 1937 for African-American students, the existing brick school building replaced a frame structure that had been destroyed by fire. The new building had large, well lit classrooms and an auditorium and was a significant improvement in facilities for African-American students in Pickens County. The building was constructed with assistance from the Works Progress Administration, a relief agency established during the Great Depression in 1935 and later renamed the Works Projects Administration. The school served students in the towns of Norris, Central, Clemson, and the rural areas surrounding them. The building is located at the junction of Highway 93 and Rosewood Street in Liberty.

*American Legion Building*, City of Spartanburg, Spartanburg County - This Colonial Revival style is constructed of granite from a nearby quarry in Pacolet. It was built by the Works Progress Administration with assistance from the American Legion, which provided the materials, engineering, and some of the necessary equipment. The building was designed by Lockwood, Greene & Company, an internationally recognized engineering firm. It has served as a meeting place for American Legion Post 28 and as a center for other community programs and activities since its completion in 1937. The building also serves as the new Spartanburg headquarters of the Fifth Battalion, Second Brigade of the South Carolina State Guard.

*McWhirter House*, Town of Jonesville, Union County - The McWhirter House, located at 415 South Pacolet Street, was constructed in 1909 for prominent local merchant James McWhirter and his wife, Hattie Fripp McWhirter. The house was designed by Joseph Cunningham of Greenville and features neo-classical characteristics, and a full-height porch. McWhirter House still serves as a private residence.

For a listing of other recent additions to the National Register by state, visit the following website:

<http://www.setonresourcecenter.com/Register/2003/Apr/02/16083B.pdf>

## 7. Upcoming Events.

**Affordable Housing in the Upstate: Building for the Future** - September 16, Palmetto Expo Center, Greenville. One-day conference presented by Upstate Forever and the Greenville Home Builders Association. For more information, contact our office by phone at (864) 250-0500, or by email at [info@upstateforever.org](mailto:info@upstateforever.org)

**TrailLink 2003: Designing for the Future** - June 26-29, Providence, Rhode Island. Rails-to-Trails Conservancy's International Trails and Greenways Conference <http://www.railtrails.org/traillink2003>

**Institute of Transportation Engineers Annual Meeting** - August 24-27, Seattle, Washington. <http://www.ite.org/AnnualMeeting/>

**Rail-Volution 2003** - September 11-14, Atlanta, Georgia. A national conference to explore how transit and land use can work hand-in-hand to shape the best and brightest of livable communities. <http://www.railvolution.com/>

## 8. Lots o' Links.

**Greenville-Spartanburg-Anderson Ranks Thirteenth Among Country's Top 50 Allergy Capitals.** The Asthma and Allergy Foundation of America has identified the nation's top 50 "Allergy Capitals" based on pollen levels and antihistamine prescription rates. Atlanta, the Upstate, Charlotte, Greensboro, and Raleigh-Durham, all neighbors along the I-85 corridor, ranked among the top fifteen. <http://www.allergyactionplan.com/topcapitals.html>

**The Attack on Smart Growth - Two Perspectives.** Chris Fiscelli of the Reason Institute, a conservative public policy think tank, believes that linking health and community design is just a "silly attempt at social engineering." <http://www.rppi.org/smartgrowthtypes.html>

For a rebuttal by Dr. Howard Frumkin, a medical doctor as well as professor and chairman of environmental and occupational health at Emory University, follow the link to this website: [http://www2.ocregister.com/ocrweb/ocr/article.do?id=40544&section=COMMENTARY&subsection=COMMENTARY\\_COLUMNS&year=2003&month=5&day=25](http://www2.ocregister.com/ocrweb/ocr/article.do?id=40544&section=COMMENTARY&subsection=COMMENTARY_COLUMNS&year=2003&month=5&day=25)

**Greenprint Georgia.** The Greenprint Georgia program is helping local governments protect their critical natural and cultural resources and build enduring, prosperous communities. [http://www.tpl.org/tier3\\_cdl.cfm?content\\_item\\_id=11350&folder\\_id=2306](http://www.tpl.org/tier3_cdl.cfm?content_item_id=11350&folder_id=2306)

**What Would Jesus Drive?** Rev. Jim Ball is driving his Toyota Prius, a fuel-efficient hybrid automobile, from Austin, Texas to Washington, D.C. on an educational campaign about transportation choices. <http://www.whatwouldjesusdrive.org/>

**Invasive Species Website.** Invasive species can be non-native plants, animals or other organisms whose introduction causes or is likely to cause economic or environmental harm or harm to humans. (Think kudzu and fire ants.) This website is loaded with information about their impacts and organizations with an interest in eradicating or controlling them. <http://invasivespecies.gov/>

**The SUV of the Future According to Doonesbury.** For a smile, see Gary Trudeau's rendering of the Bradley, the ultimate SUV. [http://www.doonesbury.com/strip/dailydose/index.html?uc\\_full\\_date=20030525](http://www.doonesbury.com/strip/dailydose/index.html?uc_full_date=20030525)

**Personal Rapid Transit - Is It Coming of Age?** Personal Rapid Transit (PRT) may be the next big thing in transportation. The prototype is slightly smaller than a Volkswagon Beetle and runs on tracks elevated 16 feet above street level. [http://www.citistates.com/2003\\_05\\_01\\_archive.html#200348412](http://www.citistates.com/2003_05_01_archive.html#200348412)

## 9. Quote of the Month.

"[Greenville County Council Chair Phyllis] Henderson said Greenville County shouldn't be looking at new roads when it can't take care of the roads it has."

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