

IN THE SUPREME COURT OF ALABAMA

Ex parte
DAVID F. DEL VECCHIO; PEGGY R. DEL VECCHIO;
MICHAEL DEL VECCHIO; WILLIAM P. NOVACK;
TARA NOVACK; and ANTHONY KEITH,
Petitioners

In re:
DAVID F. DEL VECCHIO, et al.,
Appellants
v.
BOARD OF COMMISSIONERS OF
THE CITY OF DOTHAN, ALABAMA, et al.,
Appellees

On Appeal from the Houston County Circuit Court
(CV-2023-900255)

On Petition for Writ of Certiorari to the Alabama Court of Civil Appeals
(CL-2025-0262)

PETITION FOR WRIT OF CERTIORARI

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PROCEDURAL BACKGROUND

Petitioners sought judicial review (via petition for common law writ of certiorari and claims for procedural due process violations) in circuit court of the Board of Commissioners of the City of Dothan, Alabama's¹ July 5, 2023 approval of "the proposed expansion to the facility boundary of the Dothan Landfill . . . to approximately 506 acres." C. 1067-212.² Petitioners alleged that the Board's approval of this "facility boundary" exceeded its statutory authority under Ala. Code 1975, § 22-27-48 and failed to comply with the procedural requirements applicable to the siting of "new solid waste management facilit[ies]" under Ala. Code 1975, § 22-27-48.1 and due process requirements under Ala. Const. 2022 , Art. I, § 13 and U.S. Const. amend. XIV, § 1. See Ex parte Forest Manor, Inc., 739 So. 2d 20, 22-24 (Ala. 1998) (the omission of statutorily required information in a notice of hearing violates the due process rights of affected individuals). The circuit court granted the Board's motion for summary

¹ Hereinafter referred to as "the Board."

² Unless otherwise noted, all references herein to Ala. Code 1975, §§ 22-27-2, 22-27-48, and 22-27-48.1 refer to the provisions in effect on the date of the Board's decision – July 5, 2023. See supra p. 4.

judgment and denied Petitioners' cross-motion for summary judgment. C. 1734.

The Court of Civil Appeals affirmed the circuit court's judgment on August 29, 2025. See Exhibit A. The Court held that the Board's July 5, 2023 approval of the 506-acre "facility boundary" did not exceed the Board's statutory authority and created a "modified existing solid waste management site" the approval of which is subject to the procedural requirements in Ala. Code 1975, § 22-27-48, rather than a "new solid waste management facility" the approval of which is subject to the procedural requirements in Ala. Code 1975, § 22-27-48.1. Petitioners filed an application for rehearing on September 10, 2025, which the Court overruled on October 17, 2025. Exhibit B. Petitioners' Application for Rehearing included a Statement of Facts, a verbatim copy of which appears at Exhibit C.³

³ The undersigned verifies that Exhibit C is a verbatim copy of the "Statement of Facts" presented in Petitioners' Application for Rehearing. Ala. R. App. P. 39(a)(1)(C).

GROUND FOR ISSUANCE OF WRIT

The basis of this petition for the writ is that material questions requiring decision are ones of first impression in the appellate courts of Alabama and were incorrectly decided. The issues are whether the appellate court erred in holding that

(1) The provisions of Ala. Code 1975, §§ 22-27-2(10), 22-27-2(37), 22-27-48 and 22-27-48.1 authorize the Board to approve a 506-acre “facility boundary” rather than the site of a specific “solid waste management facility;”

(2) The provisions of Ala. Code 1975, §§ 22-27-2(10), 22-27-2(37), 22-27-48 and 22-27-48.1 authorize the Board to approve a 506-acre “facility boundary” that includes hundreds of acres that do not include solid waste disposal areas, and contiguous land, structures, and other appurtenances used for the disposal of solid waste; and

(3) the proposed 20.5-acre municipal solid waste disposal area (and contiguous land, structures and other appurtenances used for the disposal of solid waste) and the proposed 14.1-acre construction and demolition solid waste disposal area (and contiguous land, structures and other

appurtenances used for the disposal of solid waste) in the 506-acre “facility boundary” approved by the Board are a “modified existing solid waste management site” the approval of which may be made by the Board in accordance with the procedures in Ala. Code 1975, § 22-27-48.

The resolution of these questions could affect any of the 176 municipal, industrial, and construction/demolition solid waste management facilities⁴ presently operating in 84 local governing body jurisdictions within the State of Alabama.⁵

ARGUMENT

When determining the meaning of a statute, this Court “looks to the plain meaning of the words as written by the legislature.” DeKalb Cty. LP Gas Co. v. Suburban Gas, Inc., 729 So. 2d 270, 275 (Ala. 1998). Under our plain-meaning approach:

““Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used a court is bound to interpret that language to mean exactly what it says. If the language of the statute is unambiguous, then there is no room for judicial

⁴ See Solid Waste Disposal in Alabama (ADEM, 2008) at <https://adem.alabama.gov/sites/default/files/legacyfiles/programs/land/landforms/SWDispAL.pdf>.

⁵ See Ala. Admin. Code r. 335-13-9–Appendix A-3.

construction and the clearly expressed intent of the legislature must be given effect.’”

729 So. 2d at 275 (quoting Blue Cross & Blue Shield v. Nielsen, 714 So. 2d 293, 296 (Ala. 1998), quoting in turn IMED Corp. v. Systems Eng’g Assocs., 602 So. 2d 344, 346 (Ala. 1992)). This approach is mandated by the separation-of-powers principles enshrined in the Alabama Constitution. “To the end that the government of the State of Alabama may be a government of laws and not of individuals, . . . the judicial branch may not exercise the legislative or executive power.” Ala. Const. 1901, Art. III, § 42 [now Ala. Const. 2022, Art. III, § 42]. Adhering to the plain meaning of a statute ensures that this Court complies with its constitutional mandate and discharges its duty of saying what the law is without overstepping its role and legislating from the bench. To stray from the plain meaning of a statute would be to “turn this Court into a legislative body, and doing that, of course, would be utterly inconsistent with the doctrine of separation of powers.” DeKalb Cty. LP Gas Co., 729 So. 2d at 276.

Wright v. City of Millbrook, 304 So. 3d 202, 204-05 (Ala. 2020). “When this Court interprets a statute, it is charged with doing so fairly, giving full effect to the statutory intent as represented in the words enacted by the legislature -- no more and no less.” Id. at 205.

It is presumed that the legislature knows the ordinary rules of grammar and that the grammatical reading of a statute gives its correct sense. 73 Am. Jur. 2d Statutes § 123 (2025). See Antonin Scalia & Bryan

A. Garner, Reading Law: The Interpretation of Legal Texts 17 (Thompson/West 2012) (“Words are to be given the meaning that proper grammar and usage would assign them”). “Because ‘[w]ords are to be given the meaning that proper grammar and usage would assign them,’ the ‘rules of grammar govern’ statutory interpretation ‘unless they contradict legislative intent or purpose.’” Nielsen v. Preap, 586 U.S. 392, 407-08, 139 S. Ct. 954, 965 (2019).

“Further, when determining legislative intent from the language used in a statute, a court may explain the language, but it may not detract from or add to the statute.” Anderson Realty Grp., LLC v. King, 385 So. 3d 1001, 1002 (Ala. 2023).

“‘When a statute includes an explicit definition, the [courts] must follow that definition,’ even if it varies from a term’s ordinary meaning.” Tanzin v. Tanvir, 592 U.S. 43, 47, 141 S. Ct. 486, 490 (2020) (quoting Digital Realty Trust, Inc. v. Somers, 583 U. S. 149, 160, 138 S. Ct. 767, 776 (2018), quoting in turn Burgess v. United States, 553 U. S. 124, 130, 128 S. Ct. 1572, 1577 (2008)). Accord, 73 Am. Jur. 2d Statutes § 128 (2025).

In its August 29, 2025 opinion, the Court of Civil Appeals held that the Board’s July 5, 2023 approval of the 506-acre “facility boundary” is an approval of a “modified existing solid waste management site” which is subject to the procedural requirements in § 22-27-48, not an approval of “new solid waste management facility” which is subject to the procedural requirements in § 22-27-48.1. The fundamental principles of statutory interpretation described above foreclose the Court’s reading of Ala. Code 1975, §§ 22-27-2(10), -27-2(37), -27-48 and -27-48.1. Cf. Wright, 304 So. 3d at 205 (fundamental principles of statutory interpretation foreclose the City’s interpretation of “outdoor recreational land” in Article 2 of the recreational-use statutes).

Sections 22-27-48 and 22-27-48.1 plainly authorizes local governing bodies to approve a modified existing solid waste management site (i.e., the site of a “modified existing solid waste management facility”) and new solid waste management site (i.e., the site of a “new solid waste management facility”). A “solid waste management facility” is defined as including “any . . . other facility, the purpose of which is the . . . disposal . . . of materials from solid waste.” Section 22-27-2(37). A “facility” is

defined as “[a]ll contiguous land, structures, and other appurtenances used for the . . . disposal of solid waste . . . including, but not limited to, waste disposal areas and waste disposed therein.” Section 22-27-2(10). These plain and unambiguous statutory definitions are binding on the Court.

I. The Court incorrectly concluded that the Board’s approval of the 506-acre “facility boundary” is statutorily authorized.

The Court incorrectly concluded that the Board’s approval of the 506-acre “facility boundary” is statutorily authorized for two reasons.

First, the statutory definitions of the terms “solid waste management facility” and “facility” plainly exclude contiguous land, structures, and other appurtenances unless those lands, structures, and other appurtenances are “used for the . . . disposal of solid waste.”⁶ This construction is consistent with the grammatical structure of these definitions. The phrase “used for the . . . disposal of solid waste” is a participial phrase that functions as an adjective to describe each of the

⁶ The Court’s reliance on § 22-27-2(33) (definition of “sanitary landfill”) is misplaced because that term does not appear in § 22-27-48 or § 22-27-48.1.

three nouns in the antecedent compound noun phrase – “land, structures, and other appurtenances.” See Bryan A. Garner, Garner’s Modern English Usage 1231 (5th ed. 2022) (A participial phrase is “[a] phrase consisting of a participle and a modifier or complement and functioning as an adjective. • The phrase may appear before or after the subject.”); United States v. Hendrickson, 949 F.3d 95, 98-99 (3rd Cir. 2020) (the past participle “used” in the phrase “phone or other device used by a user of a commercial mobile service . . . in connection with such service” introduces a participial phrase that serves as an adjective to describe a type of device). Most of the land included in the 506-acre “facility boundary” approved by the Board is not used (or proposed to be used) for the disposal of solid waste and is not part of any “facility” or “solid waste management facility” that the Board is authorized to approve under Ala. Code 1975, §§ 22-27-48 or 22-27-48.1. Thus, the Board exceeded its statutory authority when it approved a 506-acre “facility boundary” that includes hundreds of acres of land that are not part of a solid waste management facility.

Second, the Board is only authorized to approve a new or modified existing solid waste management site (i.e., site of a new or modified

existing “solid waste management facility”). The Board approved what it describes as a “facility boundary,” not a specific new or modified existing solid waste management site. The Board exceeded its statutory authority when it approved the 506-acre “facility boundary” rather than a specific new or modified existing solid waste management site (i.e., a site of a new or modified existing “solid waste management facility”) as required by § 22-27-48(b). Cf. Lewis v. Ala. Dep’t of Env’tl. Mgmt., 363 So. 3d 1008 (Ala. Civ. App. 2021) (the Board exceeded its statutory authority when it approved a 522-acre “facility boundary” rather than approve an “application for a modified permit for a facility” as required by Act No. 2006-534, § 1, Ala. Acts 2006 (eff. July 1, 2006)).

II. The Court incorrectly concluded that the Board’s approval of the 506-acre “facility boundary” modified the existing 78-acre solid waste management site.

The Court incorrectly concluded that the Board’s approval of the 506-acre “facility boundary” is an approval of a “modified existing solid waste management site” for three reasons.

First, the Court incorrectly holds that the 506-acre facility boundary “modifies” the existing 78-acre solid waste management facility site.

In MCI Telecomms. Corp. v. AT&T Co., 512 U.S. 218, 114 S. Ct. 2223 (1994), the Court had occasion to address the meaning of the term “modify.” The Court said:

The dispute between the parties turns on the meaning of the phrase “modify any requirement” in § 203(b)(2). Petitioners argue that it gives the Commission authority to make even basic and fundamental changes in the scheme created by that section. We disagree. The word “modify” -- like a number of other English words employing the root “mod-” (deriving from the Latin word for “measure”), such as “moderate,” “modulate,” “modest,” and “modicum,” -- has a connotation of increment or limitation. Virtually every dictionary we are aware of says that “to modify” means to change moderately or in minor fashion. See, e.g., Random House Dictionary of the English Language 1236 (2d ed. 1987) (“to change somewhat the form or qualities of; alter partially; amend”); Webster’s Third New International Dictionary 1452 (1976) (“to make minor changes in the form or structure of: alter without transforming”); 9 Oxford English Dictionary 952 (2d ed. 1989) (“to make partial changes in; to change (an object) in respect of some of its qualities; to alter or vary without radical transformation”); Black’s Law Dictionary 1004 (6th ed. 1990) (“to alter; to change in incidental or subordinate features; enlarge; extend; amend; limit; reduce”).

Id. at 225, 114 S. Ct. at 2229. Accord, Biden v. Nebraska, 600 U.S. 477, 494-95, 143 S. Ct. 2355, 2368-69 (2023); *Modify*, Random House Webster’s Unabridged Dictionary 1236 (Second ed. 2001) (“to change somewhat the form and qualities of; alter partially; amend”); *Modify*,

M e r r i a m - W e b s t e r . c o m D i c t i o n a r y ,
<https://www.merriam-webster.com/dictionary> (last visited Sept. 7, 2025)
("to make minor changes in"); *Modify*, Oxford English Dictionary,
<https://www.oed.com> (last visited Sept. 7, 2025) ("To make partial or
minor changes to; to alter (an object) in respect of some of its qualities,
now typically so as to improve it; to cause to vary without radical
transformation"); *Modify*, Black's Law Dictionary (12th ed. 2024) ("to
make somewhat different, to make small changes to (something) by way
of improvement, suitability, or effectiveness").

The 506-acre "facility boundary" increases the solid waste management site substantially (569.2%). This increase is not a minor alteration to the existing 78-acre solid waste management site and does not "modify" the existing 78-acre solid waste management site boundary

as that term is ordinarily understood.⁷ Rather, it represents a radical transformation in the size of the existing “facility boundary.”

Second, the proposed (new) 14.1-acre construction and demolition waste disposal area (and contiguous land, structures, and other appurtenances used for the disposal of solid waste) is a “facility” and “solid waste management facility” as those terms are statutorily and plainly defined. This proposed facility, located within the 506-acre “facility boundary” approved by the Board, is not sited adjacent to and does not “modify” the existing 78-acre solid waste management site as that term is ordinarily understood. It represents more than a minor increase (361.5%) in the existing construction and demolition waste disposal acreage located within the 506-acre “facility boundary” approved by the Board. It is physically separated from the existing 78-acre facility site by lands that are not used (or proposed to be used) for the disposal of solid

⁷ In Act No. 2023-290, §1, Acts of Ala. 2023 (eff. Aug. 1, 2023) (now codified at Ala. Code 1975, § 22-27-48(e)(3)b.), the Legislature amended Ala. Code 1975, § 22-27-48 to require that the addition of acreage to the area of a solid waste management facility’s boundary in an amount greater than 50 percent of the facility’s existing boundary as specified in a resolution adopted by the local governing body shall be subject to the requirements for the approval of an affected local government provided in Section 22-27-48.1.

waste. It does not alter the disposal area or the land, structures, and other appurtenances of the existing 78-acre solid waste management facility site in any way. It is a proposed solid waste management facility that did not exist prior to May 24, 2017.⁸ Accordingly, the proposed 14.1-acre facility does not “modify” the existing 78-acre solid waste management site as the Court held. Rather, it is a new solid waste management facility the approval of which is subject to the procedural requirements of Ala. Code 1975, § 22-27-48.1. The Board and City of Dothan, Alabama failed to comply with those procedural requirements.

Third, the proposed (new) 20.5-acre municipal solid waste disposal area (and contiguous land, structures, and other appurtenances used for the disposal of solid waste) is a “facility” and “solid waste management facility” as those terms are statutorily and plainly defined. This proposed facility, located within the 506-acre “facility boundary” approved by the Board, is to be sited adjacent to the site of the existing 78-acre solid waste management site, but does not “modify” the existing 78-acre solid waste management site as that term is ordinarily understood. It represents

⁸ The effective date of Ala. Code 1975, § 22-27-48.1 (as amended by Act No. 2017-366).

more than a minor increase (41.2%) in the existing municipal solid waste disposal acreage to be located within the 506-acre “facility boundary” approved by the Board. It does not alter the disposal area or the land, structures, and other appurtenances of the existing 78-acre solid waste management facility in any way. It is a proposed solid waste management facility that did not exist prior to May 24, 2017.⁹ Accordingly, the 20.5-acre facility does not “modify” the existing 78-acre solid waste management site as the Court held. Rather, it is a new solid waste management facility the approval of which is subject to the procedural requirements of Ala. Code 1975, § 22-27-48.1. The Board and City failed to comply with those procedural requirements.

CONCLUSION

Petitioners respectfully request that after a preliminary examination, the writ of certiorari be granted and that this Court proceed under its rules to review the matters complained of, and to reverse the judgment of the Court of Civil Appeals, and grant such other relief to which Petitioners may be entitled.

⁹ See supra note 8.

Respectfully submitted,

s/ David A. Ludder

David A. Ludder

Attorney for Petitioners

EXHIBIT A

Rel: August 29, 2025

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 229-0650), of any typographical or other errors, in order that corrections may be made before the opinion is published in Southern Reporter.

ALABAMA COURT OF CIVIL APPEALS

SPECIAL TERM, 2025

CL-2025-0262

David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, Tara Novack, and Anthony Keith

v.

**Board of Commissioners of the City of Dothan
and City of Dothan**

**Appeal from Houston Circuit Court
(CV-23-900255)**

MOORE, Presiding Judge.

David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, Tara Novack, and Anthony Keith ("the landowners") commenced a civil action in the Houston Circuit Court ("the circuit court"), seeking judicial review of the decision of the Board of

Commissioners of the City of Dothan ("the Board") and the City of Dothan ("the City") approving the expansion of the City of Dothan Sanitary Landfill ("the landfill"). The parties filed cross-motions for a summary judgment. In its final judgment, the circuit court granted the City and the Board's motion for a summary judgment and denied the landowners' motion. The landowners timely appealed.

Background

In 2013, the Alabama Department of Environmental Management ("ADEM") reissued Solid Waste Disposal Facility Permit No. 35-06 ("the permit") authorizing the City to operate the landfill. In 2014, the Board approved an application to expand the landfill from 78 acres to approximately 536 acres. In 2019, ADEM modified the permit to increase the overall size of the landfill to 522.19 acres. In Lewis v. Alabama Department of Environmental Management, 363 So. 3d 1008 (Ala. Civ. App. 2021), this court determined that ADEM had improperly modified the permit. As a result, the 2019 modification to the permit was vacated, and ADEM subsequently ordered that no further solid-waste disposal would be allowed in the expanded areas of the landfill.

On March 31, 2023, Tommy Wright, the director of the City's Public Works Department, issued a memorandum to Mark Saliba, the mayor of the City, and the Board, attaching an application to increase the size of the landfill from 78 acres to 522.19 acres. The application indicated that the existing landfill contained a municipal solid-waste-disposal area of 53.6 acres and an existing inactive construction and demolition waste-disposal area of 4.0 acres. The application proposed increasing the municipal solid-waste-disposal area by 20.5 acres and adding 14.1 acres for an active construction and demolition waste-disposal area. The application was later amended to reduce the proposed expansion of the landfill to 506.67 acres.

On April 4, 2023, the Board adopted a resolution initiating the process of approving the proposed expansion of the landfill. On April 5, 2023, Wright sent a letter to property owners living near the proposed expanded landfill notifying them of the proposal. The letter informed the property owners that a public-comment period would run from April 5, 2023, to June 12, 2023; that a public-awareness meeting would be held on May 8, 2023; and that a public hearing would occur on June 12, 2023.

The letter included the place and time for the meeting and the hearing.

The letter stated:

"After considering all written comments, the public hearing record, the requirements of [the Alabama Solid Wastes and Recyclable Materials Management Act], the criteria described in Alabama Code § 22-27-48(c), and all other applicable regulations, the [Board] will decide whether to grant Host Government Approval for the proposed modification and expansion."

The City circulated a similar notice on its Web site on April 5, 2023, and in the Dothan Eagle, a local newspaper, on April 7, 2023. On May 10, 2023, the City published another notice of the public hearing scheduled for June 12, 2023.

The City received written comments from the public, including from Tara Novack and William Novack. The City conducted the public-awareness meeting and the public hearing as scheduled. At the public hearing, the City informed the audience that it would receive public comments regarding the proposed expansion and would consider those comments "in the context of the criteria described in [Ala. Code 1975, § 22-27-48(c)]," a part of the Solid Wastes and Recyclable Materials Management Act ("the SWRMMA"), Ala. Code 1975, § 22-27-1 et seq. The version of Ala. Code 1975, § 22-27-48(c), then in effect provided:

"In determining whether to approve a new solid waste management site or a modified existing solid waste management site, the governing body shall consider each of the following criteria:

"(1) The consistency of the proposal with the jurisdiction's solid waste management need as identified in its plan.

"(2) The relationship of the proposal to local planned or existing development or the absence thereof, to major transportation arteries, and to existing state primary and secondary roads.

"(3) The location of a proposed facility in relationship to existing industries in the state that generate large volumes of solid waste, or the relationship to the areas projected for development of industries that will generate solid waste.

"(4) Costs and availability of public services, facilities and improvements required to support a proposed facility and protect public health, safety, and the environment.

"(5) The impact of a proposed facility on public safety and provisions made to minimize the impact on public health and safety.

"(6) The social and economic impacts of a proposed facility on the affected community, including changes in property values, and social or community perception."¹

¹See generally "The Governing Statute" section of this opinion, infra, and note 4, infra.

The City listed those criteria at the public hearing. Counsel for the landowners appeared at the hearing and raised objections to the proposed expansion of the landfill based on the above criteria. Michael Del Vecchio, David Del Vecchio, and Anthony Keith also appeared and objected to the expansion of the landfill. Following the hearing, the City published written responses to the public comments that had been made before and during the hearing.

On June 30, 2023, Wright issued a memorandum to the mayor of the City and the members of the Board, two of whom had attended the public hearing, requesting approval of the proposed expansion. On July 5, 2023, the Board met at a public hearing and adopted a resolution approving the expansion; that resolution provided:

"WHEREAS, the City of Dothan proposes to expand the facility boundary of the Dothan Landfill ... to approximately 506 acres; and

"WHEREAS, the City of Dothan issued a publication in the Dothan Eagle newspaper on April 7, 2023, to provide notice of a public awareness meeting to be held on May 8, 2023, to inform the public regarding the proposed expansion of the Dothan Landfill, the permit application, and the process for reviewing the permit application and submitting public comments to the City of Dothan; and

"WHEREAS, the City of Dothan issued a publication in the Dothan Eagle newspaper on May 10 and May 17, 2023, to

provide notice of a public hearing to be held on June 12, 2023, to accept public comment concerning the proposed facility expansion; and

"WHEREAS, a public awareness meeting was held on May 8, 2023, to inform the public regarding the proposed expansion of the Dothan Landfill, the permit application, and the process for reviewing the permit application and submitting public comments to the City of Dothan; and

"WHEREAS, a public hearing was held on June 12, 2023, to accept public comment concerning the proposed facility expansion; and

"WHEREAS, all comments received during the public comment period were considered by the [Board] and a written response to each comment has been prepared and considered by the [Board]; and

"WHEREAS, in determining whether to recommend approval of the proposed facility expansion for the Dothan Landfill, the [Board] shall consider each of the six (6) factors, as shown in Alabama Code [1975,] § 22-27-48(c); and

"WHEREAS, the six (6) aforementioned factors include: consistency with the solid waste management need as identified in the Solid Waste Management Plan; relationship to local planned or existing development, to major transportation arteries, and to existing state primary and secondary roads; location of existing industries that generate large volumes of solid waste or the development of industries that will generate solid waste costs; and availability of public services, facilities, and improvements to support and protect public health, safety, and the environment; minimization of impacts to public health and safety; and, social and economic impacts on the affected community.

"NOW, THEREFORE, BE IT RESOLVED by the Board ... as follows:

"Section 1. That after due consideration and review of the permit application and the information provided in response to the public awareness meeting and the public hearing, the City of Dothan finds that the proposed expansion to the facility boundary of the Dothan Landfill ... to approximately 506 acres satisfies each of the six (6) factors enumerated in Alabama Code [1975,] § 22-27-28(c) and hereby approves the same."

On June 26, 2023, before the resolution passed, the landowners filed in the circuit court a complaint for declaratory and injunctive relief to prevent the consideration of the application to expand the landfill. After the resolution passed, the landowners amended their complaint three times. The complaint, as last amended, contained, among other claims for relief, a petition for the common-law writ of certiorari to review the approval of the expansion of the landfill and a request for a judgment declaring that the Board's decision to approve the expansion of the landfill was void because it had been reached in a manner that violated the state and federal procedural-due-process rights of the landowners to adequate notice of the proposed expansion.²

²The City and the Board did not contest that the landowners had standing to maintain the underlying civil action, but the landowners presented evidence showing that they each satisfied the elements of standing. Because that evidence is undisputed, we conclude that the

On March 31, 2024, the City and the Board filed a motion for a summary judgment, arguing that there was no genuine issue of material fact as to (1) whether § 22-27-48 governed the procedure for approving the application for the expansion of the landfill, (2) whether the City and the Board had fulfilled their obligations under § 22-27-48, and (3) whether the City and the Board had provided the landowners and the area residents with due notice as required by the United States and Alabama Constitutions. The landowners responded by filing their own motion for a summary judgment, asserting that Ala. Code 1975, § 22-27-48.1, governed the application procedure and that they had not been provided sufficient notice of the details of the approval process. The circuit court held a hearing on the summary-judgment motions on February 24, 2025. On March 5, 2025, the circuit court granted the City and the Board's motion for a summary judgment and denied the landowners' motion.

landowners had standing and that the circuit court had jurisdiction over the case. See generally Keith v. LeFleur, 256 So. 3d 1206 (Ala. Civ. App. 2018).

Issues

The landowners argue that the City and the Board acted without statutory authority or in violation of statutory authority in approving the expansion of the landfill. The landowners also argue that the City and the Board violated their due-process rights by failing to provide them with adequate notice of the criteria that would be used when determining whether to approve the application to expand the landfill.³ The landowners contend that this court should reverse the judgment and render a judgment in their favor.

The Governing Statute

We first address the question whether § 22-27-48 or § 22-27-48.1 applied to the approval of the expansion of the landfill. The circuit court impliedly determined that § 22-27-48 applied. Because the issue involves a question of law, our review is de novo. See Burnett v. Burnett, 88 So. 3d 887, 888 (Ala. Civ. App. 2011).

³The landowners also claimed in two counts of their third amended complaint that the resolution approving the expansion of the landfill was void because it was adopted by biased decision makers in violation of due process, but the landowners concede that the summary judgment is due to be affirmed as to that claim.

Since it was originally enacted in 1989, see Ala. Acts 1989, Act No. 89-824, § 22-27-48 has provided that a local governing body shares authority with ADEM over the permitting of new solid-waste-management sites and the permitting for the modification of existing solid-waste-management sites. As originally written, § 22-27-48(a) provided that ADEM could not consider issuing a permit for a new solid-waste-management site or for the modification of a permit for an existing solid-waste-management site "unless such application has received approval by the affected unit of local government having an approved plan." That statute has also provided that, "[i]n determining whether to recommend approval of the proposed issuance of or modification of a new or existing solid waste management site, the governing body shall consider [the six criteria set forth in § 22-27-48(c)]."

In 2017, the legislature amended § 22-27-48 and added a new statute, § 22-27-48.1. See Ala. Acts 2017, Act No. 2017-366. As revised by the 2017 amendment, § 22-27-48 provided, in pertinent part:

"(b) [ADEM] may not consider an application for a new facility unless the application has received approval pursuant to [§] 22-27-48.1[, Ala. Code 1975,] by the affected local governing body. [ADEM] may not consider an application for a modified permit for a facility unless such application has

received approval pursuant to this section by the affected local governing body.

"(c) In determining whether to recommend approval of the proposed issuance of or modification of a new or existing solid waste management site, the governing body shall consider each of the following [six] criteria [set forth in § 22-27-48(c)]"

Section 22-27-48.1 provided, in pertinent part:

"(a) This section applies to the siting of any new solid waste management facility, as defined in [Ala. Code 1975, §] 22-27-2.

"(b) The governing body of a county or municipality shall make a discretionary decision to approve or disapprove the siting of a new solid waste management facility in accordance with this section."

Section 22-27-48 established the procedures for local governing bodies to follow when approving the modification of an existing solid-waste-management site. Section § 22-27-48.1, on the other hand, established the procedures for local governing bodies to follow when approving the siting of a new solid-waste-management facility.

In Lewis, supra, this court considered whether ADEM had properly modified a permit to allow an expansion of the landfill. We began our analysis by agreeing with the plaintiffs in that case, a different group of landowners, that the second sentence of § 22-27-48(b) "unambiguously

provide[d] that ADEM may not consider an application for modification of a permit for an existing sanitary landfill unless it first obtains the approval of the permit application by the affected local governing body." 363 So. 3d at 1012. This court said: "[T]he second sentence of § 22-27-48(b) directs that ADEM may not consider an application to modify a permit unless that same application has already been approved by the affected local governing body." Id. at 1013. Because the Board had not approved the modification application submitted to ADEM, this court held that the permit allowing the expansion of the landfill was invalid because it had been issued without statutory authority. The Lewis court treated the proposed expansion of the landfill as a modification of the existing landfill governed by § 22-27-48 and not as the siting of a new solid-waste-management facility governed by § 22-27-48.1.

In 2022, following our decision in Lewis, the legislature amended § 22-27-48. See Ala. Acts 2022, Act No. 2022-338. The 2022 amendment provided, in pertinent part:

"(b) [ADEM] may not consider a permit application for a new facility unless the solid waste management site has received approval pursuant to [§] 22-27-48.1 by the affected local governing body. [ADEM] may not consider an application for a modified permit for a facility unless the solid

waste management site has received approval pursuant to this section by the affected local governing body.

"(c) In determining whether to approve a new solid waste management site or a modified existing solid waste management site, the governing body shall consider each of the following [six] criteria [set forth in § 22-27-48(c)]"

It was this version of § 22-27-48 that was in effect when the Board approved the proposed expansion of the landfill on July 5, 2023.⁴ From this point forward, all references in this opinion to § 22-27-48 are to the 2022 version.

The legislative history of § 22-27-48 reveals that it has consistently governed the power and duty of a local governing body to approve of a modification to an existing solid-waste-management site. The 2022 amendment did not remove that authority; it only altered the procedure for how the local governing body exercised that authority. Before 2022, the local governing body had to approve an application to modify the permit for an existing solid-waste-management facility; pursuant to the 2022 amendment, the local governing body only had to approve the "modified existing solid waste management site." § 22-27-48(c). On the

⁴The legislature amended § 22-27-48 again effective August 1, 2023, see Ala. Acts 2023, Act No. 2023-290, but that amendment does not apply to this case. See State Home Builders Licensure Bd. v. Grzelak, 705 So. 2d 406, 409 (Ala. Civ. App. 1997).

other hand, § 22-27-48.1, by its plain terms, applies only to "the siting of any new solid waste management facility," which does not include a modified existing solid-waste-management site. See IMED Corp. v. Systems Eng'g Assocs. Corp., 602 So. 2d 344, 346 (Ala.1992) ("Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning").

The landowners make a tortuous argument that § 22-27-48.1 should have applied in this case because the proposed expansion established a "new" 20.5-acre municipal solid-waste-disposal site and created a "new" construction and demolition waste-disposal site. The layout of the existing landfill showed four municipal solid-waste-disposal "cells," designated L-1, L-2, L-3, and L-4, and a fifth "cell," L-5, containing the inactive construction and demolition waste. The layout of the proposed expanded landfill included three additional municipal solid-waste-disposal cells -- L-5, L-6, and L-7 -- located immediately adjacent to the four existing cells, and an additional cell for disposal of construction and demolition waste. The landowners maintain that the added cells should be treated as new solid-waste-disposal sites subject to approval under § 22-27-48.1.

Section 22-27-48.1 applies only to the "siting of any new solid waste management facility," not to the modification of an existing solid-waste-management facility. The landfill is an existing solid-waste-management facility. By statutory definition, a "facility" consists of

"[a]ll contiguous land, structures, and other appurtenances used for the processing, treatment, storage, or disposal of solid waste, or the recovery of recyclable materials from solid waste, whether or not authorized or permitted, including, but not limited to, waste disposal areas and waste disposed therein."

Ala. Code 1975, § 22-27-2(10). By this definition, when an existing landfill expands, all the land used for disposal of solid waste within its expanded territory is considered part of the original landfill, now designated as a "modified existing solid waste management site." Accordingly, in this case, the proposed additional disposal cells would not be considered "new" solid-waste-management facilities, independent from the landfill; the additional cells would be properly classified as part of the landfill, a modified existing solid-waste-management site subject to approval pursuant to § 22-27-48.

The circuit court did not err in determining that § 22-27-48 applied to this case. The landfill was an existing solid-waste-management site within the meaning of the SWRMMA, see § 22-27-2(33) & (36) (defining

"sanitary landfill" and "solid waste management," respectively), that could be modified only with the approval of the Board pursuant to § 22-27-48.

Certiorari Review

Section 22-27-48 did not provide for a right to appeal the decision approving the expansion of a landfill. A common-law petition for the writ of certiorari is an appropriate remedy to review the quasi-judicial decisions of a municipality when the legislature has not provided a right to appeal or other means of judicial review. See, e.g., Fox v. City of Huntsville, 9 So. 3d 1229, 1232 (Ala. 2008). In certiorari proceedings, a circuit court is confined to a review of the certified record of the administrative proceedings below. See Nashville, Chattanooga & St. Louis Ry. Co. v. Town of Boaz, 226 Ala. 441, 443, 147 So. 195, 196 (1933). The office of the writ is to correct legal errors apparent on the face of the record affecting the jurisdiction of the administrative tribunal and the legality of its proceedings. See G.W. v. Dale Cnty. Dep't of Hum. Res., 939 So. 2d 931, 934 n.4 (Ala. Civ. App. 2006). "This court's scope of appellate review is the same as that of the circuit court." Colbert Cnty. Bd. of Educ. v. Johnson, 652 So. 2d 274, 276 (Ala. Civ. App. 1994).

Section 22-27-48(e) provided:

"Any decision by the local governing body of a proposed modification of an existing solid waste management site or the proposal to contract for any services described in the solid waste management plan shall be made in a public meeting only after public notice of such application or proposal and an opportunity for public comment is provided."

Section 22-27-48(f) provided, in pertinent part: "Within 90 days of receiving a proposal, the local governing body shall either approve or deny the modification, setting forth the reasons therefor." The evidence submitted by the parties in support of their respective summary-judgment motions shows that the Board approved the expansion of the landfill at a public hearing on July 5, 2023, by a majority vote. The resolution approving the landfill sets forth the reasons for the approval. We do not detect any jurisdictional or other legal errors on the face of the administrative record. The administrative record indicates that the City and the Board followed the procedures set forth in § 22-27-48 and that they considered the appropriate statutory criteria when approving the expansion of the landfill, which necessarily included the approval of the description of the modified landfill. The landowners argue at length that the City and the Board did not comply with § 22-27-48.1, but, as we have

determined, that statute did not apply. For those reasons, the circuit court did not err in denying the petition for the writ of certiorari.

Notice

Finally, the landowners argue that the City and the Board did not provide them with sufficient notice to meet the minimal requirements of due process. Specifically, they maintain that the notices did not explain in detail that the criteria set forth in § 22-27-48(c) would be considered in the decision-making process without describing the criteria.

In Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950), the United States Supreme Court said:

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."

"[N]otice must be of such nature as reasonably to convey the required information ... and it must afford a reasonable time for those interested to make their appearance" Id.; see also Pettiway v. Wexford Health Sources, Inc., 327 So. 3d 1168, 1171 (Ala. Civ. App. 2020); Taylor v. Huntsville City Bd. of Educ., 143 So. 3d 219, 228 (Ala. Civ. App. 2013). The operative test is that "'the notice as published must reasonably apprise any interested person of the issues involved in the proceeding.'"

North Alabama Express, Inc. v. United States, 585 F.2d 783, 787 (5th Cir. 1978) (citation omitted).

The landowners, who all resided near the proposed expanded landfill, were interested parties with a right to the requisite notice of the approval proceedings undertaken by the City and the Board. See Brown's Ferry Waste Disposal Ctr., Inc. v. Trent, 611 So. 2d 226 (Ala. 1992). Section 22-27-48(f) provided that, before approving a modified existing solid-waste-management site, a local governing body must provide notice, including

"at a minimum a description of the proposed action to be considered and its relevance to and consistency with the local solid waste management plan, and [the notice] shall identify a contact person from whom interested persons can obtain additional information and can review copies of both the local plan and the proposal to be considered."

The landowners received notice of every proceeding involved in the approval process. The landowners do not argue that the notices failed to comply with § 22-27-48(f).⁵ They contend, however, that the notices were not sufficient to meet the minimum requirements of due process because

⁵The landowners argue that the City and the Board did not comply with the notice requirements set forth in § 22-27-48.1, which are more specific, but, again, that statute did not apply in this case.

they did not track the language of § 22-27-48(c) or otherwise specify the criteria that would be considered during the approval process.

The notices all stated that the Board would consider "the criteria described in Alabama Code § 22-27-48(c)" when deciding whether to approve the expansion of the landfill, but they did not elaborate on the criteria. The landowners claim that they were not provided sufficient notice of the criteria to enable them to formulate objections to the proposal based on those criteria. However, counsel for the landowners appeared at the public hearing and raised objections to the expansion of the landfill based specifically on the criteria set forth in § 22-27-48(c). The record also shows that the landowners individually lodged objections to the expansion of the landfill based on at least one of the six criteria contained in § 22-27-48(c). The landowners do not explain what additional objections they could have raised if the notices had listed the criteria. We believe that the inclusion in the notices that the approval process would include consideration of the criteria contained in § 22-27-48(c) sufficiently informed the landowners of the issues involved so that they were afforded an opportunity to make their objections known.

Due process requires that a governmental entity must afford an affected party a sufficient opportunity to be heard and to object to proposed governmental action. Carter v. City of Haleyville, 669 So. 2d 812, 817 (Ala. 1995). The notices provided to the landowners fulfilled that purpose, so the City and the Board did not violate the due-process rights of the landowners.

Conclusion

For the foregoing reasons, we affirm the circuit court's judgment.

AFFIRMED.

Edwards, Hanson, Fridy, and Bowden, JJ., concur.

EXHIBIT B

The Alabama Court of Civil Appeals



SETH P. RHODEBECK
CLERK

300 DEXTER AVENUE
MONTGOMERY, ALABAMA 36104-3741
TELEPHONE 334-229-0733

LYNN DEVAUGHN
ASSISTANT CLERK

October 17, 2025

CL-2025-0262

David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, William P. Novack, Tara Novack, and Anthony Keith v. Board of Commissioners of the City of Dothan and City of Dothan (Appeal from Houston Circuit Court: CV-23-900255).

NOTICE

You are hereby notified that the following action was taken in the above cause by the Court of Civil Appeals:

Application for Rehearing Overruled. No opinion written on rehearing.

Moore, P.J., and Edwards, Hanson, Fridy, and Bowden, JJ., concur.

A handwritten signature in dark ink, appearing to read "S.P. Rhodebeck", is written over a light gray circular stamp that contains the text "CLERK".

Seth P. Rhodebeck, Clerk

EXHIBIT C

PETITIONERS' STATEMENT OF FACTS

Landowners submit that the following are the material undisputed facts related to the landowners' petition for common law certiorari challenge to the Board's approval of the 506-acre "facility boundary," many of which were not recited in the Court's decision:

The City of Dothan operates an existing 78-acre municipal solid waste management facility (including a 55-acre waste disposal area and contiguous land, structures, and other appurtenances used for the disposal of solid waste) which was re-permitted by ADEM on October 21, 2013 and May 6, 2019. C. 1229-46; C. 1432-48.

On March 31, 2023, Tommy Wright, Public Works Director of the City of Dothan, Alabama, submitted a memorandum to Mark Saliba, Mayor of the City, and the Board, submitting to the Board an "Application for Major Modification of the Dothan Landfill." C. 199-204. Attached to the memorandum is a draft ADEM permit application which shows a proposed facility size of 522.19 acres; an existing municipal solid waste disposal area of 53.6 acres; an existing (inactive) construction and demolition disposal area of 4.0 acres; a proposed municipal solid waste

disposal area of 20.5 acres; and a proposed construction and demolition waste disposal area of 14.1 acres. C. 203-04.

The March 31, 2023 application includes the following statements:

In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (“ASWRMMA”), as well as Alabama Code §§ 22-27-48 and 22-27-48.1, this application for approval from the governing body of the City of Dothan (the “City”) includes all of the information required to be submitted under Alabama law. As specified in Alabama Code § 22-27-28.1(c) [sic: 22-27-48.1(c)] regarding the siting of a new solid waste management facility, this application includes the following information:

(1) A written document addressing each of the criteria described in subsection (c) of Section 22-27-48.

* * *

C. 199 (underscoring added).

At its April 4, 2023 meeting, the Board adopted Resolution No. 2023-119. C. 205-14; 215-22. The Board acknowledged the City’s proposal to expand the facility boundary of the Dothan Landfill to approximately 522 acres. C. 215. Resolution No. 2013-119 approved a “public awareness meeting scheduled for May 8, 2023, at Andrew Belle Recreational Center,” C. 215, but did not approve a time for the scheduled public awareness meeting. C. 205-22.

David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio, and Kara Del Vecchio are owners of property adjacent to the approximately 522-acre facility boundary proposed by the City. C. 223; C. 238; C. 543. The Boundary Survey of the Dothan Landfill identifies their properties as adjoining the landfill property. C. 898; C. 550.

On April 5, 2023, Tommy J. Wright, Public Works Director for the City, sent a notice to David F. Del Vecchio, Peggy R. Del Vecchio, Michael Del Vecchio and Kara Del Vecchio stating that the City made a request to the Board that it grant approval “regarding a proposed modification and expansion of the Solid Waste Facility Permit” for the Dothan Landfill. C. 228-31. A similar notice was posted on the City’s website on April 5, 2023, C. 232-33, and published in the *Dothan Eagle* on April 7, 2023. C. 234-35. None of these notices contain a description of the criteria the Board will consider, as provided in subsection (c) of Section 22-27-48, in determining whether to approve or disapprove the site of a new solid waste management facility. They only make reference to “the criteria described in Alabama Code § 22-27-48(c) . . .” C. 229, 231, 232, 234. There is no evidence in the administrative record of the proceedings culminating in

the Board's July 5, 2023 approval of the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres that the Board sent notices to adjacent property owners not more than ten days after April 4, 2023 that an application for local approval of the site of a new solid waste management facility was received by the Board.

On April 7, 2023, notice was published in the *Dothan Eagle* announcing a public awareness meeting to be held on May 8, 2023 "regarding a proposed modification and expansion of the Solid Waste Facility Permit" for the Dothan Landfill. C. 234-35. This was the only notice of the May 8, 2023 public awareness meeting published in a newspaper. There is no evidence in the administrative record of the proceedings culminating in the Board's July 5, 2023 approval of the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres that the City published a notice of the May 8, 2023 public awareness meeting in a newspaper on a second day during the week following publication of the April 7, 2023 notice in the *Dothan Eagle*.

On April 25, 2023, R. Daniel Wells, Chief Operating Officer of CDG, Inc. and principal engineer for the solid waste management facility

proposed by the City, authored a memorandum styled “Addendum No. 1” identifying revisions to the Operations Manual and Permit Plans supporting the City’s permit application to ADEM. C. 236-44; C. 541-49. Included with Addendum No. 1 is an updated adjacent land owner map and list of land owners, C. 238-41; C. 543-46; a revised ADEM Form 439 (Solid Waste Application), C. 242-43; C. 547-48; a revised Boundary Survey of Dothan Landfill (revised April 24, 2023), C. 898; C. 550; a revised Facility Layout (revised April 25, 2023), C. 899; C. 551; and a revised Waste Disposal Layout (revised April 25, 2023). C. 900; C. 552.

The revised ADEM Form 439 (Solid Waste Application) shows a proposed “facility size” of 506.67 acres, an existing municipal solid waste disposal area of 53.6 acres, an existing inactive construction and demolition disposal area of 4.0 acres, a proposed municipal solid waste disposal area of 20.5 acres, and a proposed construction and demolition waste disposal area of 14.1 acres. C. 243; C. 548.

The Boundary Survey of Dothan Landfill shows a 207.342-acre parcel of land east of Ennis Road (designated as “New Parcel 1”) and a 298.330-acre parcel of land west of Ennis Road (designated as “New Parcel

2”). C. 898; C. 550. The aggregate acreage of these two parcels is approximately 506 acres.

The Facility Layout and Waste Disposal Layout do not depict any proposed new or modified existing solid waste management facilities or lands, structures, or other appurtenances used for the disposal of solid waste in the 207.342-acre parcel of land east of Ennis Road. C. 899; C. 551; C. 900; C. 552.

The Facility Layout and Waste Disposal Layout depict four existing municipal solid waste disposal cells in the 298.330-acre parcel of land west of Ennis Road: L-1 (10.1 acres), L-2 (9.6 acre), L-3 (15.0 acres) and L-4 (15.0 acres). C. 899; C. 551; C. 900; C. 552. The aggregate acreage of Cells L-1, L-2, L-3, and L-4 is 49.7 acres. The Facility Layout and Waste Disposal Layout depict one inactive construction and demolition waste disposal cell in the 298.330-acre parcel of land west of Ennis Road: Cell L-5 (3.9 acres). C. 899; C. 551; C. 900; C. 552. The aggregate acreage of Cells L-1, L-2, L-3, L-4 and L-5 is 53.6 acres. These Cells, together with contiguous lands, structures, and other appurtenances used for the disposal of solid waste, comprise the 78-acre solid waste management

facility re-permitted by ADEM in 2013 and 2019. This 78-acre solid waste management facility came into existence before May 24, 2017.

The Facility Layout and Waste Disposal Layout depict an “existing inactive” municipal solid waste disposal cell in the 298.330-acre parcel of land west of Ennis Road: L-6 (8.3 acres); and two “future” municipal solid waste disposal cells in the 298.330-acre parcel of land west of Ennis Road: L-7 (7.1 acres) and L-8 (5.1 acres). C. 899; C. 551; C. 900; C. 552. The aggregate acreage of Cells L-6, L-7, and L-8 is 20.5 acres. The Facility Layout and Waste Disposal Layout depict a proposed 14.1-acre construction and demolition waste disposal area in the 298.330-acre parcel of land west of Ennis Road. These disposal areas did not come into existence before May 24, 2017. C. 1527 (Defs.’ Resp. to Pls.’ Second Req. for Admis. No. 17 (“Defendants admit that the 14.1-acre construction and demolition solid waste landfill unit was not in use as a construction and demolition solid waste landfill unit prior to May 24, 2017”) and No. 15 (Defs.’ Resp. to Pls.’ Second Req. for Admis. No. 15 (“Defendants admit that the 20.5-acre municipal solid waste landfill unit was not in use as a municipal solid waste landfill unit prior to May 24, 2017”). There is no

evidence in the administrative record of the proceedings culminating in the Board's July 5, 2023 approval of the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres that these proposed disposal areas modify the existing 78-acre solid waste management facility. There is no evidence in the administrative record of the proceedings culminating in the Board's July 5, 2023 approval of the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres that the existing 78-acre municipal solid waste management facility is proposed to be modified.

The Facility Layout depicts a number of areas in the 298.330-acre parcel of land west of Ennis Road that do not include any proposed new or modified existing solid waste management facilities, or lands, structures, or other appurtenances used for the disposal of solid waste. These areas include those designated as "Delineated Wetland," "100' Wetland Buffer," "100' Waste Buffer," "100' APCO Easement," two "Closed Landfill[s]," and an "Active Borrow Material Area." C. 899; C. 551.

On May 10, 2023, the City published notice in the *Dothan Eagle* that a public hearing would be held on June 12, 2023 "on the [City's] request

for Host Government Approval.” C. 911-12. This was the only notice of the public hearing published in a newspaper not less than 30 days before, and not more than 45 days before, the June 12, 2023 hearing date. The notice does not contain a description of the criteria the Board will consider, as provided in subsection (c) of Section 22-27-48, in determining whether to approve or disapprove the site of a new solid waste management facility or a description of the relevance of the Board’s approval of the site of a modified existing solid waste management facility to, and consistency with, the local solid waste management plan. The notice only makes reference to “the criteria described in Alabama Code § 22-27-48(c) . . .” C. 911. As a result of the absence of any description of the criteria to be considered by the Board, several of the landowners averred that they were ill-prepared to present meaningful comments to the Board before the close of the comment period on June 12, 2023. C. 1109; C. 1206-08.

On June 12, 2023, a public hearing was held on the City’s “application for local government approval to modify its existing Solid Waste Disposal Facility permit for the City of Dothan Sanitary Landfill.”

C. 468-512; C. 917-61. The hearing was conducted by Tommy J. Wright, Director of the City's Public Works Department; Bart Barefoot, Assistant Director of the City's Public Works Department; Steven Burgess, Manager of the Environmental Services Division of the City's Public Works Department; and R. Daniel Wells, Chief Operating Officer of CDG, Inc. C. 469, 471, 475; C. 918, 920, 924. Five of the six landowners attended the June 12, 2023 public hearing. They expected and wanted the hearing to be conducted by the Board, not City officials, so that the Board members could hear their concerns first hand and observe their credibility and distress. C. 1109-10; C. 1206-08 & 1211; C. 1373-74. The record of attendees at the public hearing demonstrates that only one Board member – David Crutchfield – was present at the public hearing. C. 962-64; C. 998-1002. A transcript of the hearing was provided to Board members as part of a packet of information for the Board's July 5, 2023 regular meeting. C. 468-512. There is no evidence in the administrative record of the proceedings culminating in the Board's July 5, 2023 approval of the expansion of the facility boundary of the Dothan Landfill to approximately 506 acres that the Board held a public hearing on the City's request for

approval of the siting of a new or modified existing solid waste management facility.

On June 30, 2023, Tommy Wright, Public Works Director of the City of Dothan, Alabama, authored a memorandum to Mark Saliba, Mayor of the City, and the Board, submitting to the Board an “Application for Major Modification of the Dothan Landfill.” C. 538-40. The June 30, 2023 application includes the following statements:

In accordance with the Alabama Solid Waste and Recyclable Materials Management Act (“ASWRMMA”), as well as Alabama Code §§ 22-27-48 and 22-27-48.1, this application for approval from the governing body of the City of Dothan (the “City”) includes all of the information required to be submitted under Alabama law. As specified in Alabama Code § 22-27-28.1(c) [sic: 22-27-48.1(c)] regarding the siting of a new solid waste management facility, this application includes the following information:

(1) A written document addressing each of the criteria described in subsection (c) of Section 22-27-48.

* * *

C. 538 (underscoring added).

On July 5, 2023, the Board adopted Resolution 2023-210 without any discussion. C. 652-656; <https://www.youtube.com/watch?v=XEmyV-6pcR0> (video). Resolution No. 2023-210 approved “the proposed

expansion to the facility boundary of the Dothan Landfill . . . to approximately 506 acres . . .” C. 657-58. It did not approve the site of a new or modified existing solid waste management facility. Id. Specifically, the Resolution did not approve the site of the proposed 14.1-acre construction and demolition waste disposal area and any contiguous lands, structures, and other appurtenances used for the disposal of solid waste; and did not approve the site of the proposed 20.5-acre municipal solid waste disposal area and any contiguous lands, structures, and other appurtenances used for the disposal of solid waste. Id.

CERTIFICATE OF COMPLIANCE

This Petition complies with the word limit of Ala. R. App. P. 32(b)(2) and 39(d) because, excluding the parts of the Petition exempted, this Petition contains 3,000 words as computed by the word count function in Word Perfect 2021.

This Petition complies with the font type and size requirements of Ala. R. App. P. 32(a)(7) because it uses Century Schoolbook 14 throughout.

Done this 28th day of October, 2025.

s/ David A. Ludder
David A. Ludder
Attorney for Petitioners

CERTIFICATE OF SERVICE

I, David A. Ludder, hereby certify that I have served a copy of the foregoing Petitioners' Petition for Writ of Certiorari on each counsel of record for Appellees by electronic service, as authorized by Ala. R. App. P. 57(h)(5) as follows:

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Done this 28th day of October, 2025.

s/ David A. Ludder
David A. Ludder
Attorney for Petitioners