

1981 WL 158151 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 17, 1981

*1 Edgar L. Dyer, III, Esquire
Attorney at Law
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Myrtle Beach, South Carolina 29577

Dear Mr. Dyer:

With apologies for the delay, I am writing in response to your request for an opinion from this Office concerning whether or not a county planning commission is authorized to review and approve the location of water and sewer utilities placed by special purpose districts. There appears to be language contained in [Section 6-7-570, CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended, which would vest in a county planning commission certain authority with respect to special purpose districts as follows:

Whenever the planning commission shall have adopted a comprehensive plan, no new . . . , public utility, whether publicly or privately owned, shall be constructed or authorized in the political jurisdiction of the governing authority or authorities establishing said planning commission until the location, character and extent thereof shall have been approved by the commission. . . . But if authorization . . . of the proposed public . . . utility within such jurisdiction does not, under the law, fall within the province of the local planning commission's governing authority or authorities, then the governmental entity having such jurisdiction shall request approval by the local planning commission. In case of the disapproval by the local planning commission, it shall communicate its reasons to its governing authority or authorities with recommended actions to be taken. Failure of the planning commission to act within sixty days from and after the date of official submission to it shall be deemed approval. See also, [§ 6-7-340\(2\)\(c\), CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended.

Whether or not a county planning commission can require a special purpose district to alter proposed water and sewer lines pursuant to this provision is a question which is not free from doubt [cf., [§ 6-7-830, CODE OF LAWS OF SOUTH CAROLINA, 1976 \(Cum.Supp.\)](#)] and can be definitively resolved only by a court of competent jurisdiction acting pursuant to [Sections 15-53-10, et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended, the Uniform Declaratory Judgments Act.

Finally, a county council has been granted no additional powers with respect to special purpose districts by the provisions of [Section 6-7-10 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended, or by Act No. 283 of 1975, the 'home rule' legislation. [§ 4-9-80, CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended; cf., [§§ 6-11-275, 6-11-276 and 6-11-410 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976](#), as amended.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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