THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Appellate Case No. 2023-000435

The Cottages at Garden City Beach, LP, .....Appellant,

v.

Murrells Inlet-Garden City Fire District, .....Respondent,

# RECORD ON APPEAL

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Myrtle Beach, South Carolina
October 3, 2023

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| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY<br>Cottages at Garden City Beach, LP,<br>Appellant,<br>vs.<br>Murrells Inlet Garden City Fire District,<br>Respondent. | IN THE COURT OF COMMON PLEAS<br>FIFTEENTH JUDICIAL CIRCUIT<br>C/A NO.: 2022-CP-26-02575<br><br>**ORDER** |

This appeal came before the court on November 29, 2022, via Web Ex. For the reasons set forth below, the decision of the Murrells Inlet Garden City Fire District is AFFIRMED.

The enabling legislation for the MIGC empowers the entity to impose a fee on new construction of 1% for single family residences and 2% for commercial construction. Swells Cottages is a residential neighborhood which, upon completion, will consist of 221 detached residences. These units will be both constructed and managed by The Cottages as rental units. The Cottages appeals MIGC's decision imposing a 2% fee.

The decision of the MIGC must be affirmed unless substantial rights of the appellant have been prejudiced because the decision was affected by an error of law, was clearly erroneous in view of the substantial evidence in the record, or the decision was arbitrary, capricious, or characterized by an abuse of discretion. Peake v. S.C. Dep't of Motor Vehicles, 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007).

The Cottages looks at the individual units constructed within the development and argues that each individual unit meets the definition of a "single family residence" in that they are freestanding structures, each with their own separate means of ingress and egress, to be inhabited solely as residences, and not for any business use. The MIGC looks at the development as a whole

and categorizes the entire development as "commercial construction" in that the owner of the development rents out all of the units, provides communal amenities and parking, and the units do not occupy individual lots.

While both sides make compelling arguments, under the applicable standard of review, this court finds the decision of the MIGC was not arbitrary or capricious or an abuse of discretion. I further find it is supported by the substantial evidence in the record and not controlled by an error of law. The decision of the MIGC is therefore AFFIRMED.

IT IS SO ORDERED.

Kristi F. Curtis
Presiding Judge, 15th Judicial Circuit

December ___, 2022
Sumter, South Carolina



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Horry Common Pleas

**Case Caption:** Cottages At Garden City Beach LP VS Murrells Inlet Garden City Fire District

**Case Number:** 2022CP2602575

**Type:** Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

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|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY<br>The Cottages at Garden City Beach, LP,<br>Appellant,<br>vs.<br>Murrells Inlet-Garden City Fire District,<br>Respondent. | FOR THE FIFTEENTH JUDICIAL CIRCUIT<br>IN THE COURT OF COMMON PLEAS<br>CASE NO.: 2022-CP-26-02575<br>**Order Denying Appellant's Motion for Reconsideration** |

*General Discussion*

The matter is before the Court on Appellant The Cottages at Garden City Beach, LP's Motion for Reconsideration claiming the Court incorrectly ruled Respondent Murrells Inlet-Garden City Fire District's (MIGC) order assessing a 2% impact fee against Appellant in the present case was not affected by an error of law; it was not clearly erroneous in view of the substantial evidence in the record, nor was it arbitrary, capricious, or characterized by an abuse of discretion. *Peake v. S.C. Dep't of Motor Vehicles,* 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007).

Respondent MIGC is a state administrative agency. *S.C. Code Ann. § 4-23-20.* The findings of an administrative agency are presumed correct and will be set aside only if unsupported by substantial evidence. *Kearse v. State Health & Human Servs. Fin. Comm'n,* 318 S.C. 198, 200, 456 S.E.2d 892, 893 (1995); *South Carolina Dep't of Motor Vehicles v. Nelson,* 364 S.C. 514, 519, 613 S.E.2d 544, 547 (Ct.App.2005); *Broughton v. South of the Border,* 336 S.C. 488, 496, 520 S.E.2d 634, 637 (Ct.App.1999). "A court cannot substitute its judgment for that of an agency as to the weight of the evidence on questions of fact unless the agency's

findings are clearly erroneous in view of the reliable probative and substantial evidence on the whole record." *Summersell,* 334 S.C. at 363, 513 S.E.2d at 622; see also *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 466 S.E.2d 357 (1996). "Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action." *Nelson,* 364 S.C. at 519, 613 S.E.2d at 547; see also *Palmetto Alliance, Inc. v. South Carolina Public Serv. Comm'n*, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984) (declaring substantial evidence is something less than weight of evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence). The circuit court essentially sits as an appellate court in reviewing an administrative agency's final decision for alleged errors. *Kiawah Resort Assocs. v. South Carolina Tax Comm'n,* 318 S.C. 502, 458 S.E.2d 542 (1995).

MIGC presented substantial evidence to show the entire Swells Cottages' commercial development was all "commercial construction." The evidence shows all 221 dwelling places in the Swells Cottages' development are located on a single 25 acre tract of land. The Swells Cottages development does not contain any single family residential lots. Appellant rents out all of the units. Appellant owns and provides commercial communal amenities to all dwelling places located on the 25 acre tract. Some individual dwelling places share general parking areas. Appellant manages commercial rentals of the dwelling places through an on-site commercial rental/business office.

*Specific Issues Raised by Appellant*



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The Court makes the following findings in response to the specific issues mentioned in Appellant's Motion to Reconsider:

1. **EFFECT OF MIGC'S FIRE IMPACT FEE MANUAL**

MIGC's Fire Impact Fee Manual does not control the application of Act 272 of 1985. The allocation of a 2% fee versus a 1% fee is mandated by Act 272 of 1985. MIGC does not have the authority to limit or rewrite the standards of Act 272 of 1985. That act mandates: " The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction." *Act 272 of 1985.*

Although MIGC's manual does not control *Act 272 of 1985's* mandate, MIGC's manual expressly states: "Residential structures shall be single or multi-family structures *not constructed for commercial use...*" (emphasis added). MIGC contends Appellant's claims in connection with MIGC's manual are based on an incorrect attempt to conflate "structure" and "construction." MIGC contends the phrase "not constructed for commercial use" expresses MIGC's position that the owners' underlying purpose for the construction controls the determination of Act 272 of 1985's tax assessment allocation. While other developers may seek profits from their construction, their underlying purpose is to construct single family residences to be sold or rented to individuals on individual single family residential lots. However, in the present case, Appellant's underlying purpose was found to be to construct commercial rental dwellings and commercial amenities on a single 25 acre tract. MIGC's finding that Appellant's

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construction of the 221 dwellings at the Swells Cottages was commercial construction within the meaning of Act 272 of 1985 was reasonable in light of the facts of the present case. MIGC's determination was not an error of law, was not clearly erroneous in view of the substantial evidence in the record, or was not arbitrary, capricious, or characterized by an abuse of discretion. *Peake v. S.C. Dep't of Motor Vehicles,* 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007).

Appellant cites the case of *Alltel Commc'ns, Inc. v. S.C. Dep't of Revenue,* 399 S.C. 313, 731 S.E.2d 869, (2012) to support its claim that ambiguities in tax statutes must be resolved in favor of the taxpayer. MIGC contends that case is distinguishable from the present case. See *Mead v. Beaufort Cnty. Assessor,* 419 S.C. 125, 139, 796 S.E.2d 165, 173 (Ct. App. 2016). *Alltel Communications*, 399 S.C. at 321, 731 S.E.2d at 873, holds that the enforcement of tax statutes should be construed in favor of the taxpayer if the statutes are ambiguous. However, *Centex Int'l, Inc. v. S.C. Dep't of Revenue,* 406 S.C. 132, 139, 750 S.E.2d 65, 69 (2013) clarifies that decision by holding statutes regarding tax credits or exemptions should construed against the taxpayer if the statutes are ambiguous. In the present case Appellant is seeking the equivalent of a partial exemption from the 2% impact fee. Appellant's assessment allocation claim is most closely akin to a homestead exemption and the cases concerning tax exemptions control the present case if there were any ambiguity in Act 272 of 1985. *Id.* Further, the presumption of the correctness of MIGC's determination as a state administrative agency has not been overcome by Appellant in light of the language in the statute

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and the evidence in the record of the present appeal. See *Mead v. Beaufort Cnty. Assessor,* 419 S.C. 125, 140, 796 S.E.2d 165, 173 (Ct. App. 2016).

**2. EFFECT OF SALES VS. RENTALS OF DWELLING UNITS**

a) Appellant cites *Cmty. Servs. Assocs., Inc. v. Wall,* 421 S.C. 575, 585, 808 S.E.2d 831, 836 (Ct. App. 2017) and *Kinard v. Richardson,* 407 S.C. 247, 754 S.E.2d 888 (Ct. App. 2014) and claims the fact that these residences are rented instead of owned does not render them commercial. The Court disagrees. The two cases cited by Appellant are not applicable to the present appeal. Those cases construe specific restrictive covenants that contain written restrictions that are different from Act 272 of 1985.

b) In *Community Services,* the court found that use of a portion of a residential structure for a "bed and breakfast" did not violate the residential requirements of the applicable restrictive covenants because the covenant in question permitted owners of single family dwelling with a guest suite to stay in a guest suite themselves while renting out the remaining space.

c) In *Kinard,* the court found a violation of the single family residence restriction because the property owners used a portion of their lot to board horses for third parties.

**3. THE NATURE OF THE CONSTRUCTION DOES NOT CONTROL**

a) Appellant claims the nature of the construction of the dwellings controls the interpretation of Act 272 of 1985. MIGC contends there is nothing in the language of that act that indicates the legislature's intent to classify the tax allocation based on the nature of the construction of the structures.

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Further, the general inclusion of "all commercial construction" in the allocation of the 2% impact fee suggests that if the dwelling is not a single family residence as defined by the tax codes, it is included in the catch all provision for "commercial construction." The Court agrees with MIGC. The primary purpose in interpreting statutes is to ascertain and effectuate the intent of the legislature. *Denman v. City of Columbia,* 387 S.C. 131, 138, 691 S.E.2d 465, 468 (2010). If the legislature had intended to classify the impact fee on dwellings based solely on the nature of the construction as found in the International Building Code, it could have easily done so. See *Lewis v. Gaddy,* 254 S.C. 66, 173 S.E.2d 376 (1970).

b) Using the definitions found in the State's tax statutes, a homestead exemption's definition of a legal residence is consistent with MIGC's determination the Appellant's dwellings are not single family residences. See *S.C. Code Ann. § 12-43-220* and *S.C. Code Ann. Regs. 117-1800 (Definition of Legal Residence. For property tax purposes the term "Legal Residence" shall mean the permanent home or dwelling place owned by a person and occupied by the owner thereof and where he or she is domiciled.)* In the present case, the owner of the 221 dwelling places is a single corporation. The tenants are not the owners. The structures are not built on single family residential lots. Appellant would not be entitled to claim homestead exemptions for their use of the dwelling places. See *S.C. Code Ann. § 12-43-220.* The owner does not live in any of the dwelling places. The owner uses its 25 acre tract solely for commercial profits.

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## 4. HORRY COUNTY'S DEFINITIONS

MIGC contends Horry County's definitions and permits for the nature of a dwelling's construction do not apply and they do not govern the Court's interpretation of Act 272 of 1985's category for commercial construction. The Court agrees. For example, Horry County's zoning ordinance specifically excludes Appellant's development from single family residential zoning districts. The zoning use of property in a single family residential zoning district is controlled by § 505 of the current Horry County Zoning Code. § 505 states a single family residential district only permits one principal building on a single family residential lot. *§ 505 Horry County Code of Zoning Ordinances.*

## 5. UNIFORM TAX ALLOCATION ON REAL PROPERTY

a) Appellant's claim that the structures in the Swells Cottages are in the same class as other developments selling single family residences. The Court disagrees. Real property taxes focus on the use of the lot or tract. As stated above, Appellant's use of its tract is a commercial use. There are not any single family residential lots in the Swells Cottages development. The 221 dwelling places in the Swells Cottages are all located on Appellant's 25 acre tract of land. Appellant rents out all of the units, provides a commercial rental office, commercial amenities, and common parking areas for its tenants.

## 6. SUBSEQUENT CHANGES IN MIGC'S MANUAL.

a) Appellant has requested the Court to supplement the record with MIGC's Revised Impact Fee Administration Manual. MIGC contends that any

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revisions to its Impact Fee Administration Manual do not affect the Court's decision to affirm MIGC's decision. The Court agrees. As stated above MIGC does not mandate or limit the allocation of 2% assessment fees versus 1% fees under Act 272 of 1985. The legislature mandates the allocation of 2% assessment fees versus 1% fees under Act 275 of 1985. Further, MIGC's revisions to its manual do not conflict with its position on Appellant's commercial construction allocation. MIGC's manual revisions clarify the decision MIGC's board made in the present appeal. See *Eagle Container Co., LLC v. Cnty. of Newberry,* 379 S.C. 564, 567, 666 S.E.2d 892, 894 (2008) *(subsequent amendment had no effect on the proper use classification).*

The Court finds MIGC's board's determination that the structures in the Swells Cottages were "commercial construction" under Act 272 of 1985 is reasonable. MIGC's determination was not affected by an error of law, it was not clearly erroneous in view of the substantial evidence in the record. MIGC's determination that the structures in the Swells Cottages were classified as commercial construction was not arbitrary, capricious, or characterized by an abuse of discretion.

**NOW THEREFORE,** Appellant's Motion for Reconsideration is denied and Appellant's appeal is hereby dismissed with prejudice.

*(Judge Kristi F. Curtis' signature on following page.)*

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Horry Common Pleas

**Case Caption:** Cottages At Garden City Beach LP VS Murrells Inlet Garden City Fire District

**Case Number:** 2022CP2602575

**Type:** Order/Other

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

Electronically signed on 2023-02-10 16:20:24 page 9 of 9

# Murrells Inlet-Garden City Fire District

PO Box 648, 3641 Hwy. 17 Bus.
Murrells Inlet, SC 29576
PH (843) 651-5143

Gene Connell, Chairman
J. R. Haney, Fire Chief

March 28, 2022

The Board of Directors of the Murrells Inlet – Garden City Fire District voted 5 – 0 to deny the request of Sands Building Group/Garden City Cottages for a refund of impact fees paid. The Board asserts that the proper fees were collected in the amount of 2% on the Sands Building Group/Garden City Cottages project located in the District.

3-28-22
Date

Gene Connell
Chairman

ALAN WILSON
ATTORNEY GENERAL

December 16, 2021

Gene M. Connell, Jr.
Murrells Inlet-Garden City Fire District
PO Box 648
Murrells Inlet, SC 29576

Dear Mr. Connell:

As chairman of the Murrells Inlet-Garden City Fire District ("Fire District"), you are requesting an opinion of this Office regarding the charging of a fire impact fee. The Fire District is authorized to impose a fire impact fee on all new construction and additions. The fee is 1% of the cost of construction of single-family residences and 2% of the cost of construction of condominiums and townhouses, high rise buildings and all commercial construction.

According to the information you provided, the Swells Cottages neighborhood is being built by a corporation and will consist of 221 detached single-family houses. Each house will be one or two stories and have its own separate means of egress.

The houses will not be sold to the public. Instead, they will be managed professionally and rented. You are seeking an opinion as to whether Swells Cottages should be charged the 2% fire impact fee because the buildings "appear to be commercial construction, i.e., they are being rented as if they were apartments."

## LAW/ANALYSIS

Although this Office is not authorized to make factual findings,[1] we can provide you with the applicable law. To provide some background, the Fire District has been empowered by the Legislature to impose impact fees:

> In addition to the powers and duties provided for the governing body of the Murrells Inlet-Garden City Fire District in Georgetown and Horry Counties by Act 876 of 1966, the Board may impose, one time only, an impact fee on all buildings under construction on

[1] See Op. S.C. Atty. Gen., 1989 WL 406130 (April 3, 1989) ("[b]ecause this Office does not have the authority of a court or other fact-finding body, we are not able, in a legal opinion, to adjudicate or investigate factual questions."

> the effective date of this act and all new construction and all new additions. The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction. The fees must be used to purchase and maintain fire fighting equipment.

1985 S.C. Acts 272. Neither "single family residences" nor "commercial construction" is defined by Act 272.

To provide "guidance for the consistent and equitable collection of Fire Impact Fees," the Fire District established the Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual ("Manual") (Jan. 1, 2020), §1.0. In its Definitions section, the Manual states:

> Definitions for terms found in this manual relative to occupancy or construction practices shall be consistent with the definitions found in the edition of the International Building and Fire Code in use by either the Georgetown County Building Department, Georgetown County, SC, or the Horry County Code Enforcement Department, Conway, SC, within their respective jurisdictions except where said definitions may conflict with the definition herein contained. Where said definitions do conflict with the definitions herein contained, then the definition herein contained will control.

Id., §5.0.

The Manual provides that "Residential Structures shall be single or multi-family structures not constructed for commercial use . . . Id., §6.1. It also provides the meaning of "Commercial Structures:"

> A new building or structure, as defined by the currently adopted edition of the International Building Code as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential ...

Id., §6.2.

We will examine the International Building Code ("IBC"), because the Manual relies on its definitions regarding occupancy and use. The IBC "is a model code that provides minimum requirements to safeguard the public health, safety and general welfare of the occupants of new and existing buildings and structures." Preface, International Building Code (2021). It "applies to all occupancies, including one- and two-family dwellings and townhouses that are not within

the scope of the IRC [International Residential Code]." Id. According to the IBC, a "dwelling" is "a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes." Id., §202. A "dwelling unit" is "a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." Id.

In the IBC, buildings and structures are classified by occupancy and use. See Id., §301.1. "Occupancy classification is the formal designation of the primary purpose of the building, structure or portion thereof." Id., §302.1. "Structures shall be classified into one or more of the occupancy groups specified in this section based on the nature of the hazards and risks to building occupants generally associated with the intended purpose of the building or structure." Id. The occupancy groups are Assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Mercantile, Residential, Storage, and Utility and Miscellaneous. Id., §302.1.

Because only the Business and Residential occupancy groups could potentially apply to your question, we will limit our discussion to them. "Business Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts." Id., §304.1. "Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code." Id., §310.1.

Residential Group R contains four classifications. Residential Group R-1 is comprised of "occupancies containing sleeping units where the occupants are primarily transient in nature," such as hotels and motels. Id., §310.2. Residential Group R-2 contains "sleeping units or more than two dwelling units where the occupants are primarily permanent in nature," including apartment houses and dormitories. Id., §310.3. Residential Group R-3 is "where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I," such as buildings that do not contain more than two dwelling units and care facilities providing accommodations for five or fewer persons receiving care. Id., §310.4. Residential Group R-4 is comprised of "buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive custodial care," including alcohol and drug centers and assisted living facilities. Id., §310.5.

We will also review the International Residential Code ("IRC"), because the IBC, in particular its Residential Group, is not applicable to buildings and structures that are within the IRC's scope. The IRC applies to the construction of "detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress . . ." International Residential Code (2018), §101.2. A "dwelling" is defined as "any

building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes." Id., §202. "Dwelling unit" means "a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." Id.

In order to answer your question, we must consider the meaning of "single family residence" in Act 272. A detached one-family dwelling not more than three stories with a separate means of egress is considered residential and is regulated by the International Residential Code. Although the definitions are slightly different, both the IRC and the IBC agree that a dwelling can be used, rented, leased, let or hired out to be occupied for living purposes. Furthermore, a house meeting this description does not fit within any of the IBC's occupancy groups and therefore does not appear to be a "commercial structure" as defined by the Manual. Accordingly, it is our opinion that a detached single-family house not more than three stories with a separate means of egress can be rented or leased to be occupied for living purposes, without it constituting commercial use. We believe that it should be charged the one percent impact fee as a single family residence.

## CONCLUSION

Based on 1985 S.C. Acts 272, the Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual (Jan. 1, 2020), the International Business Code (2021), and the International Residential Code (2018), it is our opinion that a detached single-family house not more than three stories with a separate means of egress that is rented or leased to be occupied for living purposes should be charged the one percent impact fee as a single family residence.

Sincerely,

Elinor V. Lister

Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY<br>The Cottages at Garden City Beach, LP,<br>Plaintiff,<br>vs.<br>Murrells Inlet-Garden City Fire District,<br>Defendant. | FOR THE FIFTEENTH JUDICIAL CIRCUIT<br>IN THE COURT OF COMMON PLEAS<br>CASE NO.: 2022-CP-26-02575<br><br>**RECORD ON APPEAL** |

ELECTRONICALLY FILED - 2022 May 17 10:53 AM - HORRY - COMMON PLEAS - CASE#2022CP2602575

ELECTRONICALLY FILED - 2022 May 17 10:53 AM - HORRY - COMMON PLEAS - CASE#2022CP2602575

STATE OF SOUTH CAROLINA
HORRY COUNTY

IMPACT HEARING

AUGUST 23, 2021

THE SWELLS COTTAGES,

vs.

MURRELLS INLET-GARDEN CITY FIRE DISTRICT,

Defendant.

---

TIME: 6 PM

LOCATION: MURRELLS INLET-GARDEN CITY FIRE DISTRICT
MURRELLS INLET, SOUTH CAROLINA

REPORTED BY: RONDA K. BLANTON, RPR
CLARK & ASSOCIATES, INC.
CHARLESTON, SC 29422
843-762-6294
WWW.CLARK-ASSOCIATES.COM

A P P E A R A N C E S

ON BEHALF OF THE SWELLS COTTAGES:

THE BELLAMY LAW FIRM
BY: DAVID B. MILLER, ESQ.
ZACH CROWL, ESQ.
1000 29th Avenue North
Myrtle Beach, SC 2957

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P R O C E E D I N G S

CHAIRMAN CONNELL: This is the August 23 Murrells Inlet Emergency Fire District Board of Directors meeting. It's now 6 o'clock.

* * *

CHAIRMAN CONNELL: Normally we have a meeting with all sorts of other things; but 'cause we've got a lot of issues, we're going to let you guys go first.

I understand you all have a motion based on the Murrells Inlet-Garden City Fire District Fire Impact Fee Administration Manual and that you're here to talk to us about that.

MR. MILLER: Yes.

CHAIRMAN CONNELL: And you have a court reporter here. So what we'll need to do, then, is after you make your presentation, if anybody has a question about what they are asking or ask any question, you'll have to identify yourselves so she can type your name. Okay? Unfortunately, she knows my name.

MR. MILLER: All too well.

CHAIRMAN CONNELL: Yeah, too well.

So what we'll do first is, whatever presentation they're going to give to us, these

are the board members, these right here.

Whatever presentation you're going to give to us, if you want to go ahead and do that and take any questions; and we're not going to make any decision until we have an executive session at a later point in the evening.

So whatever decision we make will be in writing, and we'll let you know afterwards.

MR. MILLER: Okay.

CHAIRMAN CONNELL: The manual provides that -- Section 8, I think it is, provides that you can dispute or question any impact fee collected and that we are to resolve that and that you can then appeal that.

It does not say what the time limit is. That would probably be 30 days, like any other appeal to the Circuit Court, if that's the case.

MR. MILLER: Okay.

CHAIRMAN CONNELL: Do all board members, do you all have any questions about what we're going to do? We're going to make a presentation, and then we're going to go to executive session.

BOARD MEMBER: I have one. John

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McGhan, who's another board member, he is on --

CHAIRMAN CONNELL: Oh, he's on here. Okay.

BOARD MEMBER: He's up there.

MR. MCGHAN: I'm here. I'm on the remote.

CHAIRMAN CONNELL: Okay. Okay. Great.

BOARD MEMBER: I just wanted you to know.

CHAIRMAN CONNELL: So there is one. You ready to go?

MR. MILLER: Yeah. We're ready. Do prefer if I stand up or --

CHAIRMAN CONNELL: No. This is very informal. Do what you want.

MR. MILLER: And I hope y'all can hear me with this mask. I'll try to do my best just -- just when we got used to not wearing them. Right. Had to put them back on.

My name is David Miller. I practice at The Bellamy Law Firm in Myrtle Beach. This is Zach Crowl, and Zach practices with me. He's been with me three plus years now.

We have with us the gentlemen who

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are the developers of this project, Mr. Joe Morrison of Myrtle Beach, Mr. David Wilks of Myrtle Beach, and my long-time friend Mr. Buddy Hucks who lives out on Garden City Beach.

The issue that we have is whether a project that's being developed should pay a 1 percent single-family residence fee, impact fee, or a 2 percent commercial fee. That's it. That's what we're here to talk about, and we're going to work through this as quickly as we can.

I want to tell you, first, that I was interested to read some of the history of the Fire District, that it got started in 1966. We've got a old beach house on Garden City since 1957; and so starting when I was 6 years old, I've been watching the Fire Department.

And so before we start talking about money, I'm a fan. All right. I know we got to talk about money, but just know that.

And Gene grabbed this. (Indicating.) This is a rendering of -- here of what's going to be The Swells Cottages, and it's a single-family residential neighborhood. Looks like a lot of neighborhoods that we're seeing around here these days. There's another one



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right behind it that's already in existence.

This is up at Tupelo Bay. This is Tupelo Bay. (Indicating.) You can see a little bit of the golf course right over here. It's on the west side of Highway 17 right there in that area, and construction has just recently begun; and some of the site work is already underway there.

There are 221 of these that make up that -- that neighborhood. And this is a really great picture of -- of what they look like. And the gentleman that's on video, I'm sorry; but these are in your booklet, if you got one of the booklets. So I just wanted to point out a couple of them.

This is a great picture of what it's going to look like in each of these different styles of the residences that they have; and then we blew up one big one, just one of the representative houses, just to demonstrate the fact that they're each a standalone unit, that these are not connected. There's no party walls. There's no common entrances.

Also in your booklet, you'll notice there is a floor plan in there. And I included

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that floor plan, one, because they're, kind of, cool; and I wanted you to see them. But, secondly, there's one kitchen. There's one living area. It is a single-family residence, and the one kitchen is a big deal.

When we get to the part of this presentation where we're grinding through the building codes, that becomes important, that there's a single egress. There's no party walls. A standalone single-family residence with a single kitchen for a single family, and that becomes important in y'all's decision.

These cottages are permitted already; and we submitted under the International Residential Code for that permitting, not the IBC, the International Building Code. They were submitted under the -- they were required to be submitted under the residential code, and the permits that are issued -- they're in your booklet -- say "residential" because that's what they are.

The District, however, has indicated that they want to charge 2 percent on this. Okay. So that's what we're here to work out is we need to understand if there's something

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we missed, 'cause I hope we didn't. But it appears to us that it absolutely, not just should be, but that it actually must be done at 1 percent.

In that booklet are or is the evidence, and the court reporter over here has the evidence; and we've written our position down [Exhibit No. 01]. And all that becomes part of the record, as Gene says, in case we have to go up on appeal. That will only happen if y'all disagree with it us, of course. So we hope we don't have to do that.

And in there the evidence consists of the pictures, an affidavit of Mr. Joe Morrison who's sitting right here; and Joe has affirmed that these are, in fact, single-family. There is no resident -- I'm sorry. There's no commercial use allowed in here. So if we find somebody selling hamburgers out the door, that's going to be a violation. We're going to stop them. They are for residential use only.

And he affirms that they were -- each one has its own residential building permit issued. There's 221 building permits that will be issued. We got the first batch just the other

day; right? Week before last, I think.

MR. MORRISON: Uh-huh.

MR. MILLER: And what we agreed to do was to pay in the 2 percent, and we worked this out with Chairman Connell; and half of that money is being held until we figure this out, and then the other half y'all are able to go ahead and get into your budget and get to working on it. But they are separately permitted, designed, and built as single-family residences.

You've got a letter in your -- in your booklet from the architect, Mr. Greg Huttie; and he explains how the IRC and the IBC work together in this.

It's, kind of, a default into the IRC and that he has worked through that and gives some examples of why it doesn't fit into any of the commercial designations. If it don't fit any of the commercials, then you're residential. We're going to go into that in some detail.

Also we had the zoning changed to residential to accommodate this; and then, lastly, in your book I've got some other structures from around the District that I think are helpful so y'all understand in making this

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decision.

I don't think there's any dispute that -- that these are separate living quarters where people live. There's no business activity going on in them.

My understanding is that the District takes the position of commercial because they're rented instead of sold. So, whereas, countless others of these are being built in the community right now and being sold, those are being taxed at 1 percent. The only difference is these are rented that I can tell.

If I'm missing something, please let me know; but I could find no other difference in that these are being rented instead of sold, and so they're tagged as commercial. I think that's incorrect, and I think the South Carolina -- and actually the law across the nation will support that.

So I'm going to dig into it.

CHAIRMAN CONNELL: So let me ask this question. How much are you renting them for?

MR. MILLER: Joe, what's the rent going to be?

MR. MORRISON: Average is about 1.56, 1.70 a foot.

CHAIRMAN CONNELL: Which is how much for this?

MR. MORRISON: $1600.

MR. MILLER: A month?

MR. MORRISON: Yeah.

CHAIRMAN CONNELL: And then are you going to have a property manager?

MR. MORRISON: Yes. It's professionally managed now.

CHAIRMAN CONNELL: And you're going to have written leases; right?

MR. MORRISON: Uh-huh.

CHAIRMAN CONNELL: They're not for sale. You got a clubhouse?

MR. MORRISON: Uh-huh.

MR. MILLER: You have to answer yes or no so that court reporter can take it down.

MR. MORRISON: Yes.

CHAIRMAN CONNELL: So you're going to rent them -- you can't buy them; right?

MR. MORRISON: Correct.

CHAIRMAN CONNELL: Thank you, sir.

MR. MILLER: Okay. So that to



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follow that line of questioning up. So the use will be the same. There will be people living in there instead of having to pay and paying the bank every month, they're just going to pay these guys every month. So the use in there is going to be the same.

This District exists pursuant to the enabling legislation that the South Carolina General Assembly set out. And I went to pull that out, curious as to how specific it would be; and I was surprised.

Usually they're very broad, but this one says that the fee is 1 percent of cost of construction of single-family residences. That's what it says. So that's what came down to y'all from the legislature.

CHAIRMAN CONNELL: What about the rest of it?

MR. MILLER: Well, I'm going to get to that.

So if it's -- if it's a single-family residence, then the fee is 1 percent. It's 2 percent of the cost of construction of condominiums and town houses, which these are not; high-rise buildings, which these are not;

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and all commercial construction, which I understand the District says this is.

Okay. So what I want to do is go through and try to find out how is this, in your opinion, commercial and point out some things that I think you may disagree with that. So your manual is -- is what comes up next.

And it -- it -- Section 3, it recites what I just read to you. The fire impact fee of 1 percent of the cost of single-family residences. It incorporates the International Building and International Residential Codes into it. So we can look to those for instructions, and we're going to do that.

At Section 6.1 is where -- it's laid out in a little bit different way. At 6.1 it says, "Residential structures shall be single- or multi-family structures not constructed for commercial use." So it's, kind of, an in the negative. If it's not for commercial use, then it's residential.

Then under "commercial structures," y'all have gone through and listed right out of the International Building Code almost the list that commercial is an assembly of business and

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educational, factory, industrial, high hazard, institutional, commercial use residential for --

CHAIRMAN CONNELL: What does that mean?

MR. MILLER: Well, that term "commercial use residential" is not in the IBC or the IRC. That's a term that exists only in this document. It's different than what the enabling legislation allows; but looking at it and going through these documents, we'll talk about what could that mean? What could "commercial use residential" mean?

For example, people reside short-term in those long-term stay hotels. All right. Those are not a single-family residence. That would be a -- an example of a commercial use residential. Okay. We don't fit any of those, and they're itemized; and we're going to come to those in just a second.

CHAIRMAN CONNELL: So let me ask you. If you call them apartments, would they be commercial?

MR. MILLER: No.

CHAIRMAN CONNELL: You don't think so?

MR. MILLER: They're not, and it's affirmed in the affidavit of Mr. Huttie that's in your evidence packet that the closest one is apartments; but they are definitely not apartments.

And when we went through the zoning and the permitting and did all those things, we had to demonstrate those things. And so we had to rule out all the commercial so that the default is into the residential, which then defaults into the 1 percent. Okay. So that's what we believe the proper reading is.

This is the -- a portion of the IBC, the business code; and this dictates what's commercial. Section 3.10 is the one, and it starts off at the very top of it; and it says that the commercial is a structure for sleeping purposes when not regulated by the IRC.

So, again, it defaults out. So it's a commercial sleeping. If it's not, falls within the IRC. That's why I keep saying that Mr. Morrison in his affidavit has laid out that these are IRC; and our architect, Mr. Huttie, has laid out that they are IRC. Therefore, they're not commercial.

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This goes through pages of -- well, what is? Well, boarding houses, hotels, motels, apartments, live/work. It gets pretty specific. Things are sort of difficult with the mask on. Convents, dormitories, fraternities, congregate living facilities. And it goes on for several pages about those types of facilities that we all recognize when you see them. They are not a single-family dwelling. They're something else. It's a commercial enterprise that's going on.

We do not fit into any of those. If we had, we would have had to have designed, submitted, and permitted these under the IBC; and that's not what happened.

I put in -- if you look at your Tab 8 in the back of your book, there is -- there's some law that I want to tell you that'll hopefully help you, and y'all can question Gene about it when y'all go into executive committee because he's supposed to know all of it.

And this has come up in the law when, in a subdivision, or a lot of times in a condominium, people weekly rent; and there's weekly rentals going on. Then you've got full-time residents living right there, and they don't

like it; and there's restrictions in the zoning, and there's restrictions in the covenants or the declaration or the master deed that say no commercial use. No commercial use is allowed here.

And that's gone up through the court systems to say, "Can you have weekly rentals?" Because that's a commercial use. Even though they're residing in there, you're renting it on a short-term basis. These are long-term now. These are not short-term rentals. These are long-term, and so it's gone up through the courts.

And the courts have said, "No. It's still residential. Whether it's rented or whether it's sold is not the question to be asked." And so this carries down to this board. The fact that they're rented instead of sold does not transform them from being what they are. It, kind of, looks like a duck analysis. They are single-family residentials.

Moreover, these -- these houses that I've shown here are two houses over on the beach front on Garden City. Everybody knows what's going on over there. These two examples

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that I pulled each sleep 30. 30.

I called the builders, and we checked with the Treasurer's Department about what fee they're charged. 1 percent. A house with 12 bedrooms that sleeps 30 or more people is a single-family residence, and this is not under the argument that we're here for today. And I don't think you can harmonize those.

These houses are available for rent 52 weeks a year. We looked up the realty company online and checked with them, and I'd like you to do the same. They are 52 weeks of the year available for short-term rent, and yet these are taxed at the 1 percent single-family residential level.

So, again, you can't take the fact that we rent and say that changes everything. It doesn't. The fundamental analysis is what's going inside this single unit? And the fact is that somebody's residing in it.

There is law in South Carolina that a taxing authority, which y'all are, you have the ability to levy these impact fees, must treat similarly-situated taxpayers the same. You have to. You can't treat people different that are in

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the same classifications.

So if you're going to classify that full-time short-term rentals can be a 1 percent, then you can't say the fact that we long-term rent doesn't.

Now, with that, I will take any questions.

BOARD MEMBER: I'd like to ask, the two properties that you mentioned at Garden City. Obviously, we know there's been a lot of construction in that area. What year were these properties built?

MR. MILLER: The first one you see hasn't been finished yet.

MR. CROWL: My understanding is 2019 and 2020.

BOARD MEMBER: 2020?

MR. CROWL: Yes.

MR. MILLER: Yeah. That one -- one of them's not finished.

MR. CROWL: Yes. It's the Garden building.

MR. MILLER: I'm sorry. I think the 1311, which was the Charles house, this one is still under construction.

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BOARD MEMBER: That's the South Waccamaw Drive? South Waccamaw?

MR. MILLER: 1311 South Waccamaw.

BOARD MEMBER: What about the second one?

MR. MILLER: And the second one, I think that one is already finished and CO'd; and this 13-bedroom sleeps 30. So I looked at my -- I called the builders, talked to them, found out what they paid and verified how those were treated.

CHAIRMAN CONNELL: So here's where I'm having trouble. Help me understand this.

And 2 percent of the cost of construction of condominiums and town houses, high-rise buildings, and all commercial construction. I mean, these are for lease; right?

MR. MILLER: They are for -- they are for long-term rent.

CHAIRMAN CONNELL: Long-term rent.

MR. MILLER: Absolutely.

CHAIRMAN CONNELL: You got a property manager. It's not a -- it is single-family. You're right about that, but how does it



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not fit that "and all commercial construction"?

MR. MILLER: Well, because what you're reading refers you to the IBC.

CHAIRMAN CONNELL: I'm looking at the statute.

MR. MILLER: Okay. Well, the statute goes over -- and y'all have it in your manual -- which references and incorporates the IBC and the IRC; and then that's the analysis I just went through.

It's a default analysis. There's a -- a specific list of what the IBC controls, and that is all commercial construction. All commercial construction is controlled by the IBC. You got to have a different contractor's license. It's got to meet different standards, different fire codes, I'm sure. All those things.

This is not that. This is IRC, and so it's defined as residential. The County of Horry has permitted it as residential, not commercial; and the zoning was changed to residential, not commercial so --

CHAIRMAN CONNELL: But it is a commercial enterprise. I mean, you're making money by leasing them; right?

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MR. MILLER: Well, I would say that these folks right here, it made them some money too. They just took it out on the front end.

These folks have chosen to rent instead of taking all the money out of the front end. This is no more a commercial enterprise than the track home subdivisions that are going in every corner of our community. They're making money. It's not a --

CHAIRMAN CONNELL: What's the cost of the total build-out? Do you know?

MR. MILLER: Of the units themselves?

CHAIRMAN CONNELL: Whatever y'all understand with 220 units.

MR. MILLER: 18 million.

CHAIRMAN CONNELL: All right. And so our 2 percent is about $360,000?

MR. MILLER: These are round numbers, but I'm looking at Joe if I'm wrong.

MR. MORRISON: Yeah. Round numbers.

MR. MILLER: So the cost of building the units is about 18. 2 percent would be about 360.



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CHAIRMAN CONNELL: So you want to pay 180?

MR. MILLER: We want to pay what we owe.

CHAIRMAN CONNELL: 180?

MR. MILLER: Yes.

CHAIRMAN CONNELL: Questions from board members?

MEMBER MCGHAN: This is John McGhan. I've got one.

The reference to properties on South Waccamaw, did Georgetown County not change their ordinance a couple years back that you can only have as many bedrooms as vehicles that you can put in the driveway?

MR. MILLER: I -- again, I've got an old family beach house out there and Mr. Hucks, who's here, lives out there also; and we can tell you that parking during rental season has been a problem.

MEMBER MCGHAN: I just asked, but these -- but -- and then Mr. Hucks knows which house I'm referring to. There's a big box down there on South Waccamaw right there, the guard shack. They were worried about condotels being

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houses.

And if I'm not -- I could be incorrect, but I believe the county changed their ordinance that you can only have as many bedrooms in a house as vehicles that you can put in the driveway to alleviate that. Not how many people it sleeps, but how many vehicles go to the bedroom.

MR. MILLER: Okay. And these two are 13 bedrooms. I believe both of these that I've used for examples are -- coincidentally, they're each 13 bedrooms. There's ten. I think one's as high as 15, I think is the highest one out there; but that one's been built for a little while.

As I said, one of these is still under construction. They just finished driving the piles, and so it's a 13-bedroom that is just recently permitted; and it is in Georgetown County.

MEMBER WALSH: Okay. Pat Walsh. There are no property lines here; right?

MR. MILLER: Correct.

MEMBER WALSH: So it's one piece of property owned by the builder?

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MR. MILLER: Correct. That's correct. So it's a little bit technical. You got to go into your documents and into your building codes and track it back out, but we've done all of that. The architect did all of that.

And the evidence that's in your book and the evidence that's been taken by the court reporter confirms that under the incorporated codes, this is residential. And, again, my favorite argument is it looks like a duck because it is. It's single-family.

Thank y'all for a time. We appreciate it. Again, we're fans of what y'all do.

CHAIRMAN CONNELL: I think Steven wants to --

MR. SELLERS: Yeah, my name is Steven Sellers. I'm a citizen from Murrells Inlet-Garden City. I'm in the commercial business. I think y'all found a great loophole.

It is residential, architect and everything; but it is a commercial enterprise. You have to get a business license to rent it. How much profit are you going to make from renting to these people? And how much land did

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you disturb doing it in acreage? And is it an LLC or a business?

I mean, these are people's individual houses on the beach that are owned individually. They rent their house out. Exactly. Are you not putting a parking lot in, roads, highways, infrastructure that you have there? I just wanted to make sure that was clear. It is residential.

MR. MILLER: Thank you.

MR. SELLERS: But it's going to be a commercial enterprise.

MR. MILLER: Thank you for your input.

Madam Court Reporter, I think this information was input from a citizen.

And, again, just like the many production home communities that we're seeing now, yes, all those things go into a development.

MR. SELLERS: That's right.

MR. MILLER: Just like every one of them.

MR. SELLERS: They're a single owned by an individual. That's like if I open a storage unit down the road, it's got to be

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commercial. I'm renting it, but it's got to be commercial. That's just like if that boat was sitting in your yard, it's residential; but once it goes into a lot --

MR. MILLER: Yeah. Thank you, again. But, of course, the building code says that would be residential -- would be commercial. That's the difference.

CHAIRMAN CONNELL: All right. So you're going to mark the book as an exhibit for the court reporter? Is that what you plan on doing?

MR. MILLER: We've given her one and marked all those.

CHAIRMAN CONNELL: How about the statute? Is that -- can you --

MR. MILLER: Well, they're the law. I haven't put them in, but I'll be happy to.

Do you got a clean set of -- we don't have the whole IRC and IBC -- are --

CHAIRMAN CONNELL: No. I was interested in the enabling statute. Do you have that in there? It says 1 and 2 percent?

MR. MILLER: Got a clean one? Mine's got highlights on it.

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MR. CROWL: Clean one. I have one highlight on mine.

MR. MILLER: I'm going to put in the -- that's not it. The legislation with a note that the highlighting is mine [Exhibit No. 02].

CHAIRMAN CONNELL: Do you have a copy of the Fire Impact Administration Manual to put in the record too as No. 03? Do you guys have one of those?

MR. MILLER: Yeah. Ours is paid -- it ends on page 11 kind of abruptly. If the ones that are online, that's where they end. Is that how yours ends?

CHAIRMAN CONNELL: Yeah.

MR. MILLER: Okay. Just wanted to make sure we had a complete copy.

CHAIRMAN CONNELL: The Fire Inspector has a question too.

FIRE INSPECTOR: Mr. Chairman, Tom Zimpleman. I want to see if I can clarify a couple things that were mentioned.

You say that -- a few times that they're built out of the IRC so they have to be considered residential. Town houses are built



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out of the IRC. They are residential, but it clearly states in that -- in the resolution that town houses are charged at the 2 percent also.

And then on the fact of the house that you're talking about that were paid -- or charged the 1 percent fee, we never see anything on those houses.

Georgetown County has a copy of our manual, and they are supposed to go by our manual. So if they knew that was a commercial business, it should have been charged 2 percent, I believe; but we did not submit fees for those buildings because they built them as residential, and we don't -- we don't review plans or anything for things like that.

That's all I got.

MR. MILLER: Thank you. And it is -- when they're specifically in the enabling legislation and your manual where it says 2 percent for town houses, for multi-family then, of course, that --

FIRE INSPECTOR: The commercial says property.

MR. MILLER: So the goal is to figure out, well, what is residential? The

answer is, well, it's everything that is not commercial.

FIRE INSPECTOR: And commercial's definition is seen for profit, which I believe these houses are.

MR. MILLER: Yeah. No. No, it's not.

FIRE INSPECTOR: That's the Webster's.

FIRE CHIEF: John Haney, Fire Chief.

If something was listed as an apartment, where would that fall under? Is that under the IBC is what you mentioned?

UNIDENTIFIED VOICE: An apartment would be under the IBC. Town houses are under the IRC.

UNIDENTIFIED VOICE: Under The Swells Cottages website, they actually list these as apartment homes; is that correct?

UNIDENTIFIED VOICE: Yes.

UNIDENTIFIED VOICE: Okay. Is that how you would phrase these properties is the apartment home?

MR. MILLER: That would be

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inconsistent with the IBC definition of an apartment. An apartment's got to have corridors and common ingress and egress, and it's spelled out in there.

CHAIRMAN CONNELL: Put that in the record, if you want as Exhibit No. 04. Isn't that y'all's?

MR. MILLER: Joe, is this our website?

MR. MORRISON: Yep.

MR. MILLER: Exhibit No. 04.

So an apartment is specifically defined, and we don't have the features that create an apartment; and the architect, Greg Huttie, in his letter in your binder specifically addressed is it an apartment?

Because that -- we thought, kind of, the closest thing. And so he -- he did that and -- and he explains in there that it is not. Because it just doesn't meet the checklist of criteria, in particular, common ingress and egress, you know, like an apartment where you could walk down the hall and go in your door.

MEMBER WALSH: Do you have a minimum rental time or term?



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MR. MILLER: They're annual rentals; correct? Yeah, they're annual rentals.

MEMBER WALSH: Annual.

CHAIRMAN CONNELL: Okay. Anything else? All right. So you got Exhibits No. 01 through No. 04; right? Do you have a copy of the manual?

MR. CROWL: I don't have a clean copy.

CHAIRMAN CONNELL: We could give you -- could y'all give a printed copy of the manual with the signatures on it, and then you can -- do you have time to do that now so we can give it to the --

UNIDENTIFIED VOICE: Yes, sir.

MR. MILLER: Thank you.

CHAIRMAN CONNELL: Anything else you want to offer?

MR. MILLER: Okay. We hope that's sufficient.

CHAIRMAN CONNELL: Okay. So we'll give you a written decision after we talk and come to a conclusion.

MR. MILLER: Okay. Thank you all.

CHAIRMAN CONNELL: Thank you for



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coming.

MEMBER WALSH: Thank you for coming.

(Hearing concluded at 6:35 p.m.)

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CERTIFICATE OF REPORTER
STATE OF SOUTH CAROLINA
COUNTY OF HORRY

I, Ronda K. Blanton, a Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing hearing was taken at the time and location therein stated; that the statements of the members, attorneys, and the public made at the time of the hearing were recorded stenographically by me and were thereafter transcribed by computer-aided transcription; that the foregoing is a full, complete, and true record of the statements of the members, attorneys, and the public at the time of the hearing.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal on September 15, 2021, at Myrtle Beach, Horry County, South Carolina.

Ronda K. Blanton
NCRA REGISTERED PROFESSIONAL REPORTER, RPR
Notary Public,
State of South Carolina at Large
My Commission expires:
May 15, 2028.

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| STATE OF SOUTH CAROLINA | COURT OF COMMON PLEAS |
| COUNTY OF HORRY | 2022-CP-26-02575 |
| The Cottages at Garden City Beach, LP | ) |
| Appellant | ) TRANSCRIPT OF RECORD |
| -vs- | ) |
| | ) November 29, 2022 |
| Murrells Inlet-Garden City Fire District | ) |
| Respondent | ) |
| | ) Conway, South Carolina |
| | ) (Via WebEx) |

B E F O R E:

The Honorable Kristi F. Curtis, Judge

A P P E A R A N C E S:

David B. Miller, Esquire
Zachary J. Crowl, Esquire
Attorneys for the Appellant

Michael W. Battle, Esquire
Attorney for the Respondent

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

THE COURT: All right. So No. 16 on our docket, this is Cottages at Garden City Beach v. Murrells Inlet-Garden City Fire District. I understand this is a dispute between whether Cottages should have to pay a one percent cost of construction as a single family residence, or a two percent cost of construction as commercial property.

This is an appeal from a prior determination by the -- I guess it was by the Murrells Inlet-Garden City Fire Department, or somebody.

MR. BATTLE: It's a district.

THE COURT: Okay.

MR. BATTLE: It's the Murrells Inlet-Garden City Fire District. It's created by Legislative Act 272.

THE COURT: I'm hearing you, Mr. Battle.

MR. BATTLE: Good.

THE COURT: And so I see that you appeared in front of that body. They did make the determination that it was commercial, and this is an appeal from that. And, sir, you're Mr. -- is it Crowl?

MR. CROWL: Yes, Your Honor. I'm here with co-counsel, David Miller, and we represent The Cottages.

THE COURT: Okay. I'm glad to hear from you.

MR. MILLER: Okay, thank you, Your Honor. I'm David Miller. It's nice to meet you. Welcome to the independent republic of Horry. Y'all just went through my opening comments, so I'm going to skip down a little bit. Procedurally, you are correct, we appeared before the MIGC board and presented our evidence and put it into and created the record that is before you. After that, we were informed that they were electing not to decide.

Not understanding that, we went through some gyrations and had a second hearing. And again, there was no decision, and the MIGC board opted instead to send the matter to the attorney general's office for an opinion. They did so, and that opinion was rendered, finding that the one percent impact fee was the appropriate fee under the documents.

We were called for another hearing, which I attended, wherein I expected them to honor that AG opinion, but instead they voted to keep the money. And so that is what precipitated this appeal and what brings us to you.

The issue, you're correct, is whether -- whether this is residential or commercial, and the word single family residential is used frequently. But the term multi-family residential also appears

in some of MIGC's documents, and I'll show those to you in just a minute.

If I could, I wanted to start with a quick slideshow. I think it will be helpful to Your Honor if you can take a look at the community we're talking about here. Mr. Crowl will click that on for me because I don't know how to. Here we go. All right. So you should be able to see my pointer on there where I'm circling here.

This is the community we're talking about. It is -- this is Highway 17 that runs along out here. And back -- as you go toward the ocean, that is Surfside Beach. There's a water tower over there, so just to orient the Court. This is, you know, a short distance off of the ocean right on Business Highway 17 here. It consists of 221 stand-alone residences. Here's a different look at them.

As you can see, some are elevated, whereas this one is not. The ones that are elevated have parking underneath. The ones that are on the ground have either street side -- I'll go back one. There are a few. You see a couple of cars parked right here. There are a couple of parking areas. Here's one, for those that are not elevated and have their own parking. Here's another view of a courtyard area

there, and that's one of them isolated.

Looking inside, what you see is a house where people live because that's what it is. These are long-term rentals; they are not short term, and people live in these. They -- looking at -- I heard the comment earlier about some familiarity with the -- what constitutes commercial activity in short-term rentals. These are long term.

So, you know, the courts looked to what do people do there? They sleep, they bathe, they cook, they eat. This week they showed reruns of the Carolina Clemson game, gather and spend time together.

THE COURT: Bask in the glory of it.

MR. MILLER: While we can. So the issue then, Your Honor, is whether this is residential, or whether this is commercial. And the issue is ---

THE COURT: There's no doubt if this was -- if these houses were individually owned by anybody off the street, there really would be no argument that they were anything other than single family residence. Does it matter that all these are owned, I guess, as a block by a commercial entity that is going to now manage them, and I guess, you know, accept the rent and do all the other things that a management company does?

MR. MILLER: No, ma'am, it doesn't. So there's a few things at play here. One of the most critical of which is that the MIGC undertook to create and adopt a Murrells Inlet-Garden City Fire District fire impact fee administration manual. So this manual was adopted and put out for the public, dealing solely with fire impact fee administration.

And what they have done is undertaken to refine the grant of authority that was given to them by the General Assembly. And they have laid out for us what constitutes the different types of classifications. There's only two; one percent or two percent.

What they have chosen to do is utilize the International Building Code definitions as binding upon it. That was their choice. They could have chosen any definition they wanted. But what they did choose was deference to the IBC, International Building Code, which incorporates the IRC, the International Residential Code. And so that was done by them. And if Mr. Crowl will turn my slideshow back on, I'll give you a quick look at that.

So the permits are issued one by one for each of the cottages. There's not a blanket permit issued by Horry County for that. And this is one of the sample permits, and of course, I've highlighted

the good stuff. It says residential permit at the top.

And then down in the middle toward the right, it says new SFR, single family residential. So that the county of Horry, of which this fire district is a division, and I think that's very important, the county of Horry has already decided that it is residential SFR. Those words are in there in the permit.

And then -- I'm going to come to another document, which is the certificate of occupancy that's issued upon completion of the construction. And again, it's a residential permit, and occupancy type is residential, so that the county has already decided.

Your Honor, I need to tell you that this certificate of occupancy is not in the record because they hadn't finished building them yet when we created the record. So this document did not exist at that time. I spoke with my friend, Mr. Battle, about this, and we agreed that I would move at this time to supplement the record with a subsequently created evidence. So, Your Honor, we would ask that this be added to the record.

THE COURT: Mr. Battle, any objection, sir?

MR. BATTLE: Well, no.

THE COURT: Go right ahead, Mr. Miller.

MR. MILLER: Thank you. So, Your Honor, coming to the manual, adopted specifically by MIGC for this reason. Here, they undertake to tell us what's residential and what's construction. Residential says, it's everything that's not commercial, basically, and the commercial adopts the International Building Code. That language you see that follows that is a quote out of the International Building Code.

Now, the International Building Code, we have introduced into the record, but I don't have it on my slideshow. But what we do have are the affidavits of the owner and the affidavit of the architect. The owner is Mr. Joe Morrison, one of a group, and Mr. Greg Huddy is the architect.

And both of them have confirmed in the record that the International Residential Code governs, that the buildings were designed pursuant to it, they were permitted pursuant to it, and they were CO'ed pursuant to it. They incorporated all of the fire rating requirements for residences, which is a higher standard, into these buildings and that the residential code controls.

I believe that's conclusive of the issue that -- what I've read in Mr. Battle's submittal to the Court, and I know, Your Honor, you seem to do a really

good job of reading all these things, is that well, let's go fishing in a sea of definitions and see what other definitions we can find for residential and single family residential.

They cite to Lindbloom, the latest book of development definitions, the South Carolina Abandoned Buildings Revitalization Act, the South Carolina Resilience Revolving Fund Act, Landlord Tenant Act, office of comptroller of the currency, and on and on. But that's not what the MIGC adopted in their manual. It is for the purpose -- according to them, the purpose of the manual is for the consistent and equitable collection of fire impact fees.

So it's got to be consistent, as all taxing authorities are required to do. And I think -- I'm sure you know that, Your Honor, that when they're going to tax somebody, you've got to do it evenhandedly.

We have put into the record that other communities, such as the surge of tract home communities that are, I think, throughout the state, but primarily in Horry County. Those are the national builders, such as Beazer Homes and D.R. Horton and those. You know what I'm talking about. Those are for-profit developments. They're not doing those in a not-for-profit setting. They're developing those

communities, and they're indistinguishable. I'm going to go back up to my very first slide. See this community right behind ours back here?

THE COURT: Yes, sir.

MR. MILLER: That's one of these tract home subdivisions, and we've done the research on that, and they're all governed by the one percent fee because they take their money on the front end through a sale instead of on the back end through rentals. The tenant either pays the bank or pays the landlord. There's no difference.

But I gather, as you already know from your earlier comments, the court looks to what's going on inside. Those cases that you were referring to of whether short-term rentals equals commercial activity, and it is, therefore, prohibited, let's say by a private restriction, restricting the use to residential or a zoning for commercial, the court looks to what's going on inside, not how you got it paid for, or how you make your monthly payment, or where you make your monthly payment. Again ---

THE COURT: As to this, Mr. Miller, assuming I agree with you that these are single family residences and this is a residential use, this -- I really struggle with the standard of review here because it's about

the most deferential standard that we have, is it not? But, basically, it's got to be arbitrary, capricious, without any basis whatsoever.

Some of the language in the Court of Appeals decisions basically says, even if we look at the same thing, and we come up with a completely different answer, and we don't agree with your logic in any way, shape or form, if there's any evidence whatsoever to support it, that the decision is going to stand.

MR. MILLER: Thank you, Your Honor. The part of your authority here, that I'm looking at, is their decision is clearly erroneous in view of the substantial evidence, and I'm taking that language out of the *Peake v. South Carolina Department of Motor Vehicles* for an administrative review by the circuit court. And I don't believe there is a dispute between Mr. Battle and myself as to what that standard is. I think we both recite it in our briefs, and I think we both recite it almost verbatim.

What we're saying here is when you accept the manual that they adopted, it takes the result that I'm advancing. It is clearly erroneous in view of the substantial evidence for the board to have voted otherwise, and that their own definition says that the IBC/IRC control, those clearly dictate that this

is residential and not commercial. It excludes commercial in order to reach residential. That is absolutely clear.

And that when you look at those things and the fact that Horry County, who is the parent municipality of this district, has already concluded that it is residential, that they weren't even at liberty to change that decision. So we think, Your Honor, that it is -- it is within your ability to do this.

THE COURT. Thank you.

MR. MILLER: I've got some other slides that I'm not going to show you, but I'll just tell you, they are from the owner and the architect, and they confirm what I'm saying about how the IRC and the IBC apply, and no opposing evidence was submitted. The only documents in the record are our documents. So, yeah, we think you have the ability and ---

THE COURT: I think you made the point at the hearing that some of the beach houses in Garden City are rented, they're owned by individuals.

MR. MILLER: They are.

THE COURT: They're rented out 52 weeks out of the year through various, I guess, entities.

MR. MILLER: They use property managers,

rental management companies to do it. What's interesting about that, to me, they -- the occupancy is 30. I don't have 30 family members that I'd want to go to the beach with for the week, but that's how they rent these things.

THE COURT: I promise you, I don't.

MR. MILLER: So, you know, the issue as it was framed at that time was does renting make it commercial? That's what we've been confronted with throughout the entirety of this dispute, is that renting it makes it commercial. And so we put that evidence in to show that it does not.

THE COURT: I guess what I took away from it, and Mr. Battle can correct me if I'm wrong, that it wasn't so much that you're renting it out. It was that this is like a commercial entity that has now bought up a tract of land, has now built these single family residences, and that they are now going to manage this entire block of residences, I guess, for a management fee.

And it was more the -- correct me if I'm wrong, Mr. Battle. It seemed it was more that they had -- it was this big commercial entity, that it bought this big tract of land and built 200 and some odd units and was going to continue to manage it as rentals.

MR. MILLER: I'll finish up with that and -- because again, the tract home developments are indistinguishable, only they sell them and take their money on the front end. It is a for-profit enterprise, to be sure. They're some of the biggest companies we've got.

But as to those houses out there on the beach, those were built for the purpose of short-term rentals. They are managed by a hired rental management company in this fire district. That's either Dunes Realty or Garden City Realty, typically. And they manage and rent those things short term for profit for the life of the structure. Those are treated as one percents. Yet, we're not; we're treated as two. And if you got to tax, you got to tax evenhandedly. So that is the purpose for what -- that evidence we went in, and we think it's compelling.

THE COURT: Thank you, Mr. Miller. Mr. Battle.

MR. BATTLE: Thank you, Your Honor.

THE COURT: First, let me ask, are we looking at the same standard of review, clearly erroneous in view of the substantial evidence on the record?

MR. BATTLE: That is correct. I believe

this is a state district, and this is an administrative-type proceeding, as opposed to board zoning on appeals or construction board by municipality.

THE COURT: Okay.

MR. BATTLE: I think you hit the nail on the head. Excuse me. I'm having some echo problems. It may be -- David, if you would mute yours.

THE COURT: I think we were doing okay while you were -- while you had the headset on, but try it again. Let me see if we're still echoing.

MR. BATTLE: Yeah.

THE COURT: We're still echoing. I think you were doing okay when you had the headset on. You want to try it now?

MR. BATTLE: Seems like I'm off the thing, but if you can hear me, then that may be ---

THE COURT: We can hear you fine and no echo. You're great.

MR. BATTLE: Let's see if I can join the webinar without ---

THE COURT: Can you hear me, because we're hearing you perfectly fine?

MR. BATTLE: Well, I can't see you, is my problem.

THE COURT: Okay, gotcha.

MR. BATTLE: And I wanted to share something on my screen, but I may not -- there we go. Now we're good. Okay.

THE COURT: Okay.

MR. BATTLE: There's a lot of -- there's a lot of confusion about the words. I think you hit the nail on the head when you said if it was a single lot and it was rented, that we wouldn't be here today. But this is a 25-acre tract, and there are 221 cottages on this tract. If I could share my screen with you for a second, with your permission, I would ---

THE COURT: Sure.

MR. BATTLE: So this is what it looks like, the project. And if you'll notice, you have over here where my pointer is, you have an amenity center office and main kiosk. And then you have a swimming pool and a clubhouse, and all of these sorts of things over here. You have all these houses that do not have independent ingress to either Woodlawn or U.S. Highway 17.

This is basically a takeoff on the old cottages thing that's coming back again. Actually, they were hotels at one time. But here, these people are saying these are constructed under the code. The problem is we're talking about commercial use,

and he's talking about commercial construction.

The code and the manual that he's referring to is talking about -- it says in our -- in 6-1 that he put up, it says, this lot is single family residences, not constructed for commercial use. Now, he says that the use is by the person -- the tenant actually owned it. I'm saying that it's constructed for the use by the property owner, and the property owner is constructing these things for commercial uses.

If you look at the commercial use, and commercial is not defined in IRC or in the IBC that I could find, and I looked at it. It's online. WebEx -- Westlaw actually has the IRC that you can address, and it doesn't have either single family residence or commercial use defined.

And so you look at it and you say, okay, what is the purpose -- what is the owner's purpose for constructing this property? And it's to make a profit. And if you look at the dictionary definition of commercial, it is intended for a profit or for business. And then the use is his use for the property. It's not for the use of the tenant, but the person who is doing it, for his use.

He talks about the tract homes. Well, these tract homes are sold, an individual surveyed lots,

and they are -- such as that they are paid by the person who is purchasing it. Or, if I don't know who's -- actually, there's no evidence as to who actually pays it. Well, there's the D.R. Horton crowd, or the individual homeowner. But I'm sure it's the individual homeowner, is the one that ultimately picks up the cost in order for D.R. Horton to make a profit on it.

So that's a different type of situation that you have here, where the only person paying these impact fees is the owner, and the owner is a corporation, and he's got a single tract of land, and this single tract of land is clearly developed for profit. And these structures, the use of them by the owner, not the tenants but by the owner, is for commercial uses for generating a profit by -- in the form of rentals.

This involves construction of a statute. And if you look at what the General Assembly says, how you would go about constructing a statute, it says -- and if you don't mind, I'm going to read you the quote from *Sparks v. Palmetto Hardwood*, at 406 S.C. 124, 750 S.E. 2d. 61. It says, "A statute as a whole must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. In interpreting a statute, the language

of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose."

The purpose of this statute is to raise money to help this fire district pay for much needed equipment to fight fires in the cottages, as well as other places within the district. It is not -- the statute is not for the purpose of how you provide for the safety or construction of these particular structures. It is solely for how you assess a fire impact fee.

And the situation where they're not guiding you on how to build these residences, or saying what the residence is or not what the residence is, it's how the -- who should pay and how much should they pay. And that gets to the underlying purpose behind these types of statutes and how the burden of impact fees and how the burden of taxes in general -- and the cases in South Carolina talk about impact fees being similar to taxes and close to that same sort of idea of the government raising money to pay for services.

The services being provided would be provided the same. So it's not a situation where one person is getting more firefighting equipment or something that another district is. They're

all getting the same equipment, so it's not based on the delivery of services. It's based on the ability to pay principles, and this is a common principle in taxing and in impact fees. And I've talked about that in ---

THE COURT: Well, Mr. Battle, isn't it true though -- I mean, who's ultimately going to bear the battle -- going to bear the burden of this is the folks who have to pay higher rent now to live in the same single family residence? You know, obviously, if they rented it from an individual owner who only had to pay the one percent, now they're going to be renting it from somebody who had to pay the two percent, aren't they going to eventually bear the burden of this cost?

MR. BATTLE: I think they're going to bear the burden of what the market will bear. I don't think the two percent -- it's not like a quid pro quo, and they're out of it. It's more of a situation where Mr. Miller's client, Swells Cottages, are going to be charging what the market will bear to rent these properties, and that's going to be ongoing for years and years to come.

If I was doing it on the basis of I'm selling you a house, I'm going to fold that cost into the house, the sale, and then we're going to be done,

and I don't have to pay anymore, and you don't have to pay anymore. But here, we have a situation where you're renting the property, and it's the profit being produced over a long period of time. That's how I would distinguish it.

With regard to whether it's commercial or residential, I do agree with the notion of both Horry County, and the manual itself clearly makes these -- this particular development not a single family residential development. It could not be zoned as a single family residential development.

If you look at the zoning for Horry County, which Mr. Miller says controls or should control, a single family residence is defined, and single family residential is a single lot and a single house with one family owning the lot and the house. Here, we have one lot and 221 people living there and a single owner owning all 221 houses.

It goes to another analogous situation where when you look for -- apply for your taxes, and you try to get the four percent versus the six percent writing, and the tax law starting at 12-37-10 and then going to Section 12-43-220, if you have more than five acres, and you have structures on that five acres, you cannot obtain the four percent rating for single family

residence. You have to pay the full six percent.

Here, you have a 25-acre tract, and I don't think they would qualify, and I don't think they would attempt to qualify for a single family rating and a four percent tax on all of these pieces of property. You have -- if you want to look at definitions and talk about the -- it says, I'm fishing in a sea of definitions.

What you have to do when you look at a term, and it would -- and I would submit that the terms that are used in this statute and in the manual are somewhat ambiguous, and I would submit that it is a finding of fact by the board. And I would submit that the evidence -- him saying that there was no evidence submitted, the evidence -- there's no requirement that evidence has to be submitted by one party or the other.

It's, what does the record support? And we put in a 48-page transcript of the record. They asked Mr. Miller, and he had his person, Mr. Morrison, come in and testify. These properties are constructed for rental purposes. They are constructed -- and he did not talk about, but you can look at the properties and see that they are constructed with amenities, a clubhouse, a rental management place and a property manager.

So the issue is that -- the notion is whether this is a single family residence. The statute says residence; it doesn't say residential construction. It actually uses the word residence, and that's the reason I went to and looked for definitions of single family residence. And there's one situation that they cite the case of the Kinard case, it's cited in the brief, where they talk about the restrictive covenants.

Well, in restrictive covenants, because there are restrictions on the free use of land, they are to be constricted, most strictly, against the use of the land, being limiting the use of the land. But even in the Kinard case, you had a person who had a five-acre tract, and this person was saying that the neighbors were saying that by using part of that tract to rent out horses and board horses and charge for that, you lose your single family residential classification, and you're in violation of the ordinances.

Here, we have a piece of property that has all of these commercial ventures on it that are maybe not owned by the individual -- none of the individual tenants own anything, that are part of another thing that he's claiming is a single family residential. He could not get it zoned single family residential;

it's zoned ME-3. And under the Horry County Code -- and he would not be -- if it was a restrictive covenant, he would not be able to claim single family residential exhibits -- single family residence exemption.

And the question is, does the single family residence qualify him for the one percent as opposed to the all other constructive uses or construction -- commercial construction? And if you -- again, I don't want to repeat myself. I apologize. But if you go to the notion of how do you define what is commercial? Commercial means it's for a profit. And if construction is there, if it's construction for profit, that would be, you know, the situation where you get into the single lot versus the individual lot, and that sort of quagmire.

But here, you don't have that because here you have a situation where you have all of these properties located on a single tract. And if you look at the tax code when it talks about real property taxes, they talk about the fact that 12-37-10 says, South Carolina Tax Code includes the land in its determination of how the property is classified. And you -- and I did talk to you about the fact that over five acres in a single tract does not qualify you for that four percent single family residential area.

And then I've shown you with the -- quickly the -- what is on the property, how it's designed and how it's used, and it gets us back to the ability to pay it. What I'd like to do at this time is to point out, if I could, the policies and the arguments that were made in the Appellant's brief. He talks about -- in there, it says, MIGC improperly seeks to impose a two percent based solely on the fact that these residences are rented rather than owned.

We're talking about the owner, being a single person, who has created this development for that reason. As I indicated before, that's not correct.

The next thing is, we're talking about there are no issues of fact because there's nothing in the record that was submitted by MIGC. You'll find it is related to ask him questions, and all of the facts that you need to know that they based their decision on was based on the testimony and the submission of the Appellants.

THE COURT: If this was an apartment complex, it would no doubt be the two percent?

MR. BATTLE: No question. No question if it was a townhouse complex it would be there. And if it's something commercial for, you know -- what you have here is the -- they want to allow these people

to be able to raise money to get into their -- actually buy the fire equipment to help suppress fires.

And again, I would repeat -- and I apologize, but I'm going to repeat myself. IBC and IRC does not define single family residence. It talks about dwelling units, structures, but a residence includes the land under the South Carolina Tax Code, and I would submit it does under the impact fees too.

You do have -- they're claiming that a structure governed by the international -- if it's governed by the International Residential Code, then it's not commercial. That's simply not correct. It's talking about the use of it and whether that's being used for commercial rent. There have been cases, and I can't argue with the cases, that individual lots being rented out don't constitute a commercial use. But when you have this type of development, that crosses the line and crosses the boundary into commercial uses.

And the residential code also, when referring to two-family dwellings, those clearly would be not qualified, and they don't get the single family residence exemption, or the one percent treatment.

And I've talked about the fact that they claim that these are indistinguishable from other groups

that have single family treatments, tract houses and that sort of stuff. And there's a big difference in that one is sold in the lot, which is part of the residence, is single, individual and owned by the person, and there's a one-time payment.

I'd like to talk for a minute, if I could, about the -- where I disagree with the attorney general's opinion. First thing is, she notes -- the attorney general is not allowed to make findings of fact, and so, therefore, there are no findings of fact. She's trying to interpret the statutes.

But where she gets confused, in my opinion, is that the -- she talks about commercial use as if it was a commercial structure, and that's not the case. IBC and IRC do not deal with commercial uses; they deal with commercial structures.

THE COURT: But, of course, I mean, they sought the opinion of the attorney general's office for that purpose, to see how the attorney general interprets ---

MR. BATTLE: And it is -- having worked in that office when I first started law school, they're wrong. And I have -- it's just an attorney's opinion. It's not necessarily a core opinion, and it's certainly not binding on you. You're entitled to, and should,

make your own independent judgment. This is just an assistant attorney general.

I don't know what her -- how much experience she has. But based on her opinion, and how she's interpreted this statute, I would disagree with her, respectfully. I disagree with -- and I would say that this is not binding in any stretch of the imagination, any more than another circuit judge's opinion would be binding on you. You have -- you make your own independent judgment.

She confuses structure with use, and it's the owner who is using the property. The tenant is simply living there, and it's not the use that the tenant makes; it's the use that the owner makes of the property. And here, the use that the owner makes is he's renting out 221 cottages.

And I suppose that the biggest thing that I find that throws this opinion off and should throw it out, is she makes the determination that these structures, these cottages, have independent means of ingress. And if you look at the brief, that's not the case. You have common parking. They have to walk out. You've seen the picture where they have these common greens. They have to walk out to a common parking lot, get in their car, go through other parking

lots and other areas.

And if you look at the combination cases, that is not an independent means of ingress. The ingress is shared ingress and egress. Therefore, when she says it is our opinion that a detached single family house is not more than three stories, and whether those garages make it three stories or not, I'm not sure, with a separate means of ingress, can be rented and leased to or occupied for living purposes without it constituting a commercial use.

These are not separate egresses; these are shared egresses. Shared with the -- a common parking lot. They don't even have the situation where they come and have direct access to Highway 17 or Woodlawn.

So for those reasons, I think that the -- if you look at the common sense, what the purpose of the statute is, it's not a construction, it's not a building code statute. It's a statute to raise impact fees for money to pay for the fire equipment that's needed to service these houses, and it is based on the common tax principle of the ability to pay.

And a person who is making a profit, a consistent profit, over such a large amount of pieces of property with commercial uses and commercial structures located on the property, has a better ability

to pay than if I were to buy a house, mortgage myself to the hilt and put my family in there, and I'm not making any money on the property. My ability to pay is not nearly as great as the person who is doing it with the ability to make a profit on it and rent it out and charge whatever I can -- the market will bear.

THE COURT: Well, the impact on the -- it doesn't take any greater fire equipment, or any greater fire personnel, to fight fire in this neighborhood than any other single family residential neighborhood, would it?

MR. BATTLE: I think it does, and I'll explain why. If you look at the pictures -- and let me put this thing back up. Are you seeing this thing here?

THE COURT: Yes, sir.

MR. BATTLE: Our trucks can't get in here to fight this property. They have to have extended hoses to be able to get these lots on these interiors. And so we're going to have to upgrade and upfit our structure -- I mean, our fire equipment to be able to service all these things. Because you see these ones in the interior, we can't get a fire hose to these things. There's no road there. There's no way that

we can get there, unless we try to cross a village green or a community garden.

And so we -- you know, it's going to take an upgrade in equipment to be able to reach a lot of these houses, and they're also located close together. That may or may not make a difference, but it certainly creates a difficult access for us to be able to get to these cottages to put out a fire simply because they don't have any access. They don't have an independent means of ingress.

THE COURT: Thank you, Mr. Battle. Mr. Miller, anything that you want to say in reply?

MR. MILLER: If I could very briefly, Your Honor, and I'm not going to belabor it.

THE COURT: Sure.

MR. MILLER: The, you know -- I hear Mr. Battle, and I see in his brief where he has recited to various ways of looking at this. The tragedy for him is that none of those are what his client chose. His client chose to adopt a manual that tells us the answer to this question, and it does tell us the answer. I'm not going to pull it back up but under -- I'm still looking at Mike's screen.

MR. BATTLE: I'm trying to get it down. I'm not sure I can get it down.

MR. MILLER: Thank you. Your Honor, under -- under the terms of the manual, it says residential structures. Residential structure shall be single or multi-family structures. That's in -- I don't know if I'm on your screen or not, but that's in their manual. So to say you can't have more than one house or one family residing on a single lot is absolutely contrary to what his client adopted. His client adopted the IRC and IBC.

They didn't talk about use; they didn't talk about construction. What they've said is if it's governed by the IBC, then it's commercial. If it's governed by the IRC, then it's residential. And there is no dispute in this record that we are governed by the IRC. It's in the affidavit of Mr. Joe Morrison. And the architect, who's an expert, has got it in his affidavit as well.

So, I understand that there's some appeal to some of those arguments, but our courts have said look to the use that's going on inside the four walls. What are you doing in there? Well, we're not selling cheeseburgers out the door; we're living in there. And his client undertook to adopt this manual, and I believe that that is the substantial evidence that Your Honor is required to look to.

And in applying it, if you look at the attorney general's opinion, it gave the step-by-step analysis of the manual through its adoption of the codes to the correct conclusion. We hang our hat on that, Your Honor. We are confident that that is the answer to this question.

THE COURT: Thank you, all. I'm going to take a good look at it before I issue my ruling, and I will notify you by e-mail.

MR. BATTLE: Thank you, Judge.

MR. MILLER: Thank you, Your Honor.

THE COURT: Thank you, all.

(End of Transcript of Record)

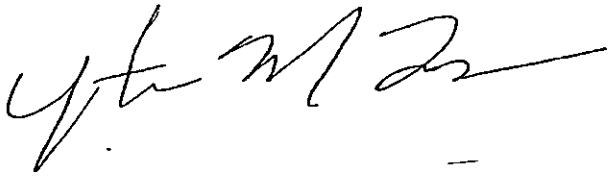
**CERTIFICATE OF REPORTER**

State of South Carolina )
County of Horry )

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Circuit Court for Horry County, South Carolina, on the 29th of November, 2022, via WebEx.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 15, 2023



Yvestre Torres
Circuit Court Reporter

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M. EDWIN HINDS, JR.
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August 18, 2021

Murrells Inlet – Garden City Fire District Board of Directors
Station 76
3641 Hwy 17 Business
Murrells Inlet, S.C. 29576

Re: Swells Cottages Fire Impact Fee

Dear Board Members,

We greatly appreciate you taking the time to review and consider our request regarding the Swells Cottages neighborhood under development in the Murrells Inlet – Garden City Fire District. As you may know, the Board has thus far charged each new home in Swells Cottages a fire impact fee of 2% of the cost of construction as "Commercial Construction". We respectfully request that the Board review the enclosed materials and determine that each house in Swells Cottages must be charged a fire impact fee of 1% of the cost of construction as a "Single Family Residence". We will further detail our request during the Board of Directors Meeting on August 23, 2021.

## I. Swells Cottages

As depicted in our first exhibit, Swells Cottages is a residential neighborhood which will consist of 221 detached single family residences. Each house is one or two stories with its own separate means of egress. Exhibit 2 provides an example of a house in Swells Cottages. The residents who live in these homes will have spaces for living, sleeping, eating, cooking, and bathing. Exhibit 3 shows the floor plans of each house design as well as a look inside the home. As noted in the Affidavit of the Owner of the Swells Cottages neighborhood, attached as Exhibit 4, it has always been the intent that the Swells Cottages houses would serve as single family residences and nothing else.

## II. Fire Impact Fee Standard

In 1985, the General Assembly of South Carolina granted the Murrells Inlet – Garden City Fire District authority to impose a fire impact fee on all new construction. That enabling legislation is very specific in its language:

> The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction.[1]

In accordance with the enabling legislation, the Fire Impact Fee Administration Manual states:

> A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction or in such amount as may set forth elsewhere herein.[2]

This is the standard by which the Board must impose the fire impact fees. This standard cannot be expanded or modified as enabling legislation prescribes the parameters of conferred authority.[3] In order to be valid, local government enactments and regulations must be authorized by the enabling act, at least, where they are enacted pursuant to the authority conferred by such act, and they can be no broader than the statutory grant of power.[4] Thus, a single family residence can only be charged a 1% fire impact fee.

## III. The Swells Cottages Homes are Single Family Residences

The South Carolina Supreme Court has explained that "Single-family residential use involves the act of residing in a single-family dwelling."[5] As explained above, the intent of the Swells Cottages neighborhood is to provide homes to single families. The fact that each home in the Swells Cottages neighborhood is a single family residence has been further substantiated by the architect of this community, the International Residential Code, and various governmental approvals such as residential building permits and a rezoning ordinance.

Gregory Huddy of C3 Studio, LLC is the architect of the Swells Cottages community. Attached as Exhibit 5 is a letter Mr. Huddy wrote to this Board which addresses the residential nature of the homes in Swells Cottages. Mr. Huddy highlights several important factors which demonstrate that these houses are single family residences.

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[1] S. 639, S.C. Gen Assemb. 106th Sess. (1985-1986).
[2] Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual, Rev. 1, Jan. 1, 2020, Sec. 3.0.
[3] Riverwoods, LLC v. Cty. of Charleston, 349 S.C. 378, 386, 563 S.E.2d 651, 656 (2002).
[4] Richland Cty. v. S.C. Dep't of Revenue, 422 S.C. 292, 311, 811 S.E.2d 758, 768 (2018).
[5] Kinard v. Richardson, 407 S.C. 247, 265, 754 S.E.2d 888, 898 (Ct. App. 2014).

First, Mr. Huddy notes that the 221 dwellings were submitted for permitting under the International Residential Code. This was based on the fact that detached one- and two-family dwellings not more than three stories above grade plane with a separate means of egress and their accessory structures are an exception to the International Building Code and shall comply with the International Residential Code. The Swells Cottages homes are residential.

Mr. Huddy also notes that Horry County has likewise defined these homes as residential. This is evidenced by the fact that the single family homes in Swells Cottages have each received separate Residential Building Permits issued by the County and attached as Exhibit 6. It is particularly instructive that each Permit lists the Description of the Work as "New Single Family Residential".

Finally, Mr. Huddy raises the point that the neighborhood has been rezoned a Multi-Residential District. Prior to the development of this community, the area was zoned Highway Commercial. Our client went before the Horry County Council to rezone the area for the specific purpose of building single family detached residences. The Zoning Ordinance and supporting documents are attached as Exhibit 7.

## IV. The Swells Cottages Homes are not Commercial Structures

Further supporting the residential nature of these homes is that they are not used for commercial purposes. No commercial activity is being operated out of these single family homes. On the contrary, these homes will only be utilized for the sole purpose of residential use.

The fact that these residences are rented instead of owned does not render them commercial. Courts in numerous jurisdictions have considered whether rentals should be categorized as residential or commercial. This question is typically analyzed in the context of whether short term rentals violate covenants restricting lots to residential purposes and prohibiting commercial use. Such terms have regularly been interpreted to designate the character of the use of the property.[6] South Carolina has analyzed this question by looking at the use of the property and in one such case the South Carolina Court of Appeals stated that it was undisputed that short term rentals did not violate the requirement that all lots shall be used for residential purpose.[7]

[6] See Erthal v. May, 223 N.C. App. 373, 736 S.E.2d 514 (2012); Russell v. Donaldson, 222 N.C. App. 702, 731 S.E.2d 535 (2012) (citing Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n v. Acord, 219 So. 3d 111 (Fla. Dist. Ct. App. 2017).
[7] Cmty. Servs. Assocs. v. Wall, 421 S.C. 575, 585, 808 S.E.2d 831, 836 (Ct. App. 2017).

The South Carolina Court of Appeals holding is consistent with courts from the majority of other jurisdictions which have uniformly held that covenants prohibiting business and commercial use of property do not bar short term rentals.[8] The critical question in these cases has been whether the renters are using the property for ordinary living purposes such as eating, sleeping, and engaging in recreation normally incident thereto.[9] The residents of the Swells Cottages homes will rent these properties long term to use them solely for residential purposes.

## V. Swells Cottages Homes Must be Assessed the Same Impact Fee as Like Structures

According to South Carolina law, the General Assembly may classify property for tax purposes according to its use so long as the tax imposed is uniform on the same class of property.[10] All members belonging to this class must be treated alike for taxation purposes.[11]

Numerous rental-only properties in the Murrells Inlet – Garden City Fire District have been charged a single family residence impact fee. Two examples are located at 1311 S. Waccamaw Drive, Garden City and 1465 S. Waccamaw Drive, Garden City. The rental listings for these two properties are attached as Exhibit 8. These buildings operate as short term rentals and have more rooms accommodating more occupants than the Swells Cottages homes. If these buildings are charged the single family residence fire impact fee, the Swells Cottages houses must also be charged the single family residence fire impact fee.

We appreciate your thorough review of these materials and look forward to discussing in further detail with you on August 23, 2021.

Very truly yours,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

David B. Miller
Zachary J. Crowl

[8] Russell, 731 S.E. 2d 535, 538-39 (2012) (citing Yogman v. Parrott, 325 Ore. 358, 937 P.2d 1019, 1021 (Or. 1997); Silsby v. Belch, 2008 ME 104, 952 A.2d 218, 222 (Me. 2008); Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569, 571, 580 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n, 219 So. 3d 111, 114 (Fla. Dist. Ct. App. 2017) (citing cases from Kentucky, Colorado, Washington, New Mexico, North Carolina, Alabama, Indiana, Virginia, Maryland, Missouri, Idaho, Oregon, Ohio, Tennessee, and Texas).
[9] Id.
[10] Holzwasser v. Brady, 262 S.C. 481, 488, 205 S.E.2d 701, 704 (1974).
[11] Id.

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# TYBEE

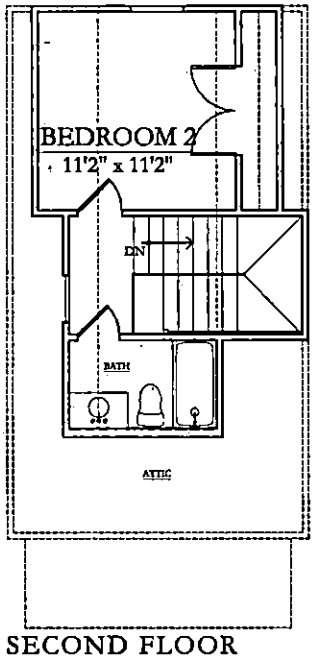
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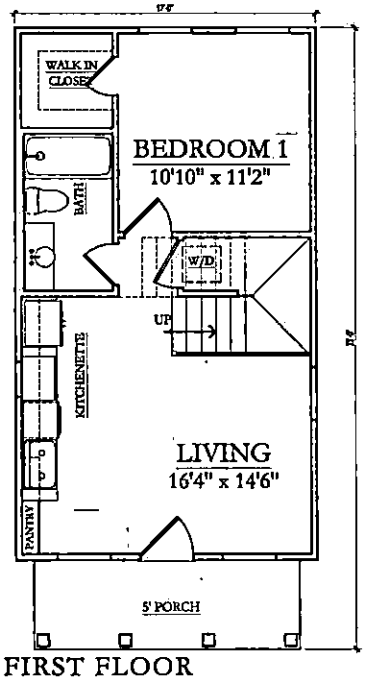
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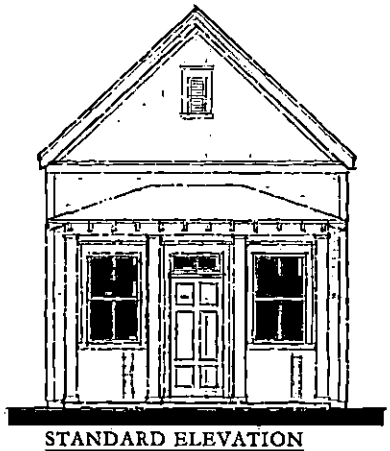
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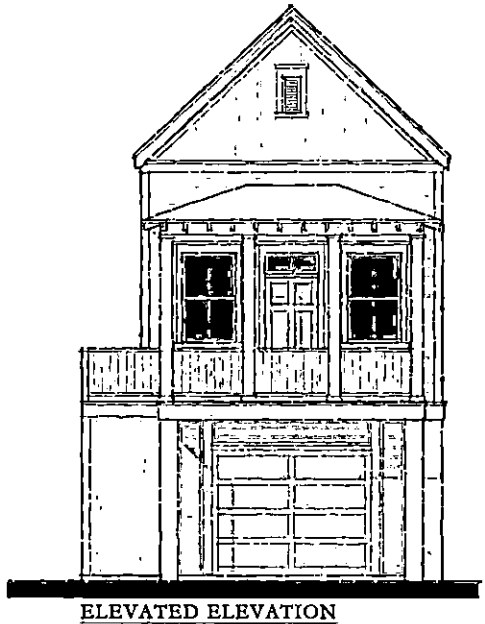

SECOND FLOOR




FIRST FLOOR



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

# SWELLS COTTAGES

PLANS & ELEVATIONS

C3 Studio LLC
133 W. Jackson Ave.
Knoxville · TN 37902
865-309-4461
www. C3StudioLLC.com

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# MASONBORO

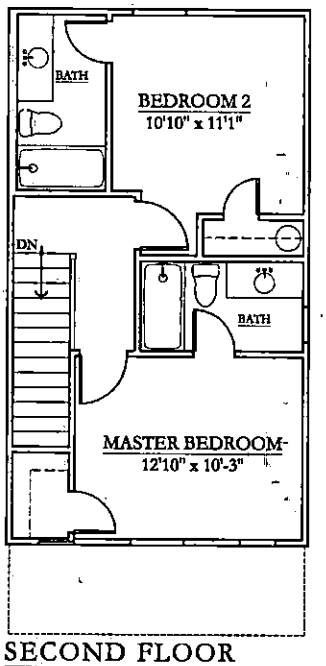
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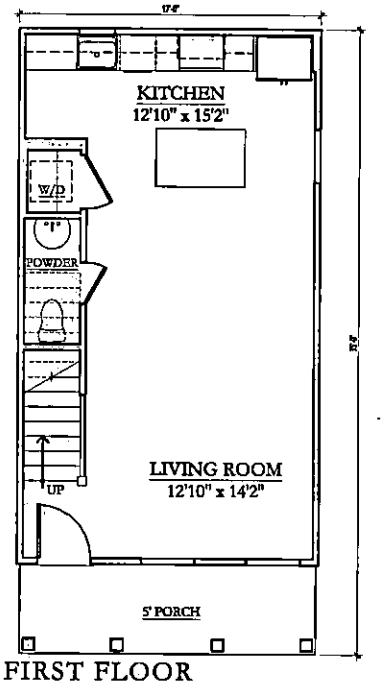
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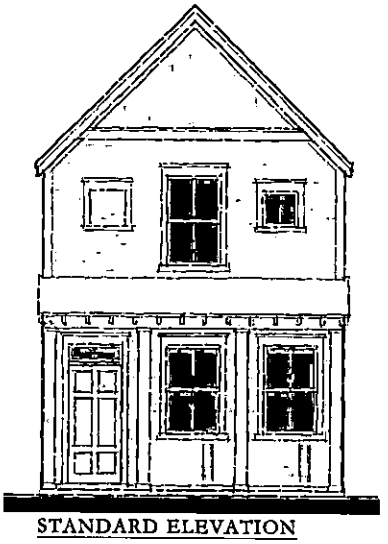
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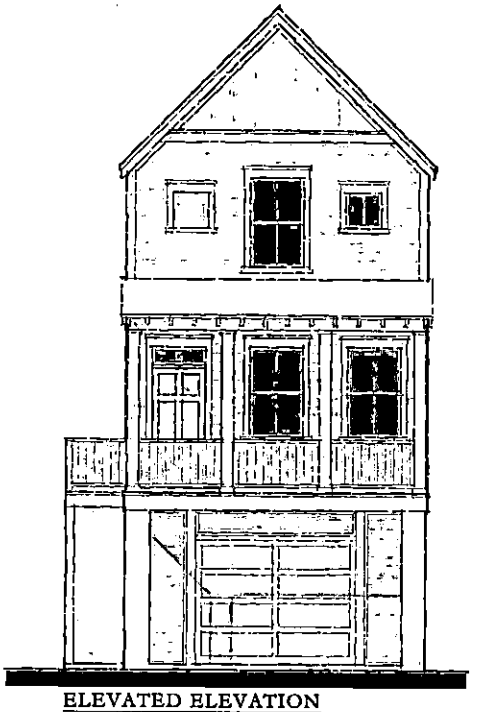

SECOND FLOOR




FIRST FLOOR



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

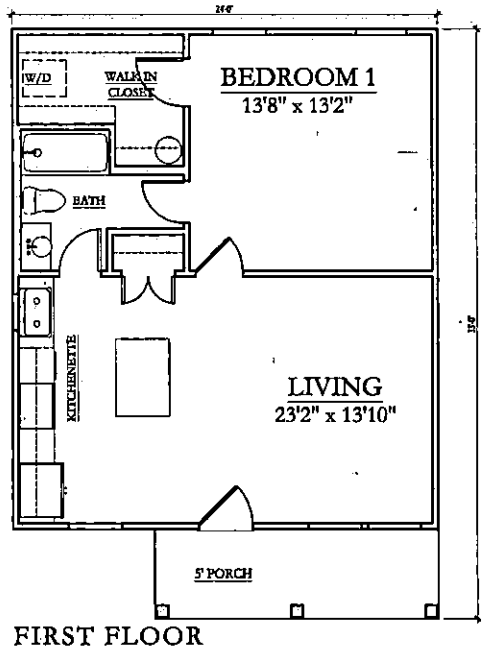
# SWELLS COTTAGES

PLANS & ELEVATIONS



C3 Studio LLC
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FIRST FLOOR

# AMELIA

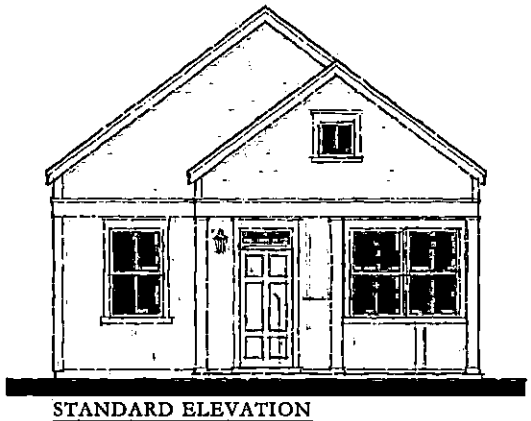
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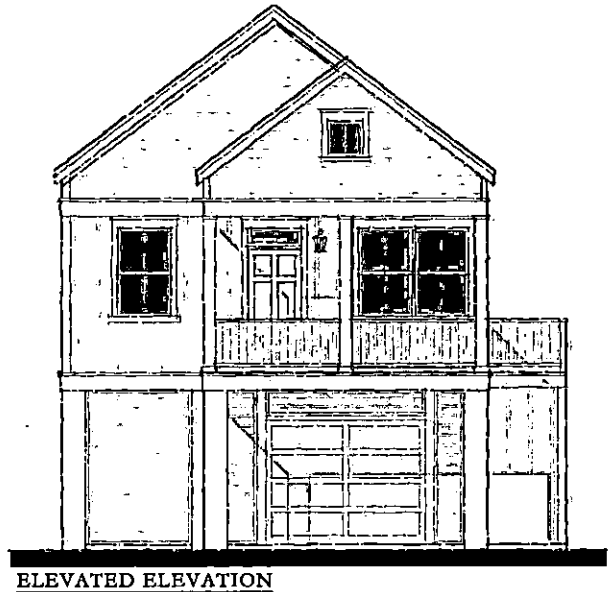
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STANDARD ELEVATION



ELEVATED ELEVATION

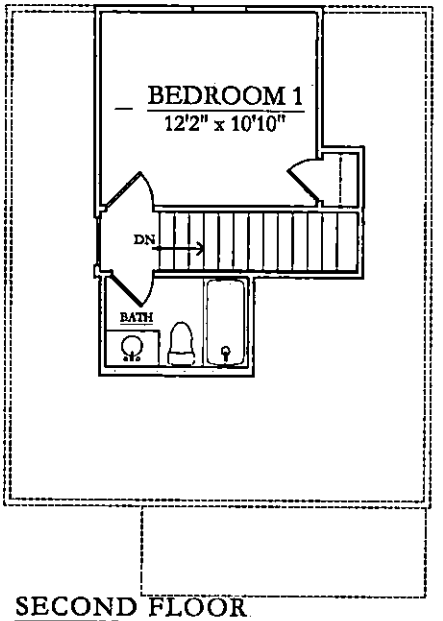
Not For Construction

# SWELLS COTTAGES

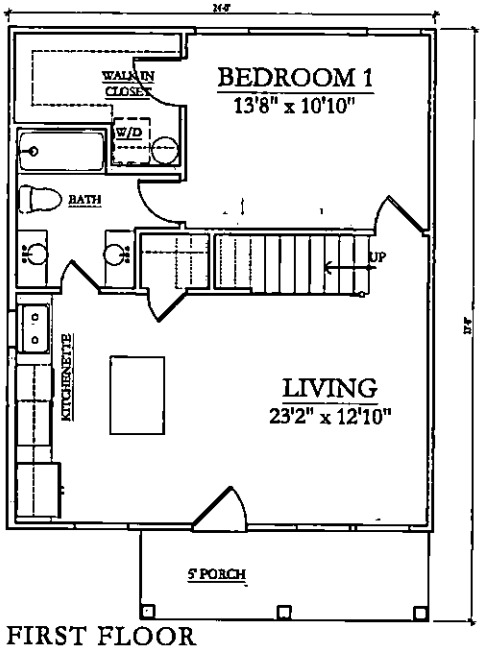
PLANS & ELEVATIONS

C3 Studio LLC
133 W. Jackson Ave.
Knoxville · TN 37902
865-309-4461
www. C3StudioLLC.com

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SECOND FLOOR




FIRST FLOOR

## SIMONS

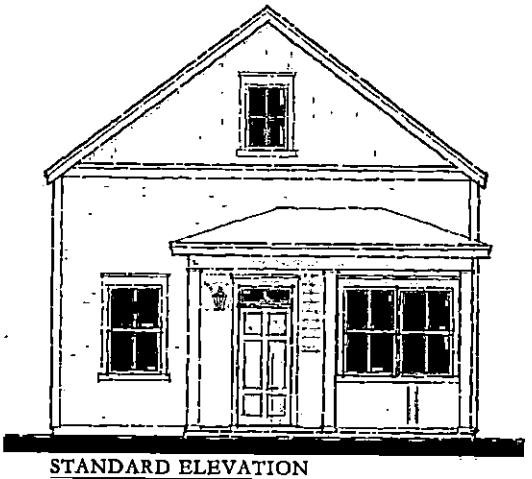
### 2 BR / 2 BA

**AREA**

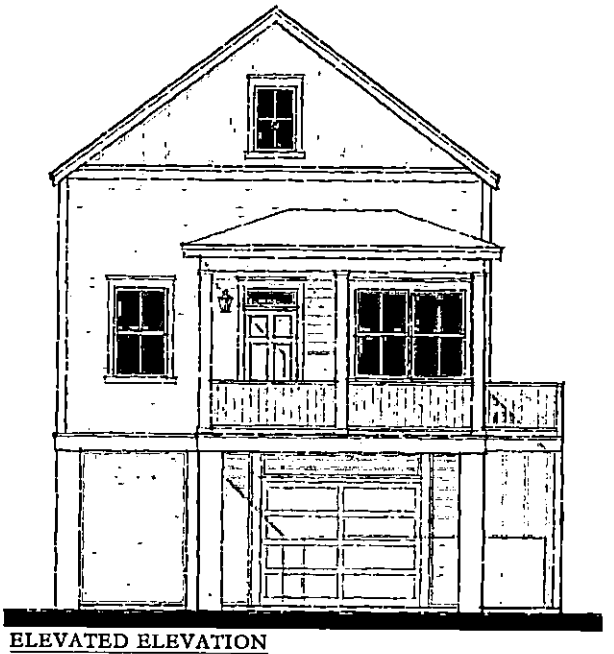
| | | |
|---|---|---|
| HEATED 1st: | 672 | sq. ft. |
| LOFT: | 209 | sq. ft. |
| PORCH: | 80 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 24'0" |
| DEPTH: | 28'0" |
| CEILING 1st. | 9'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

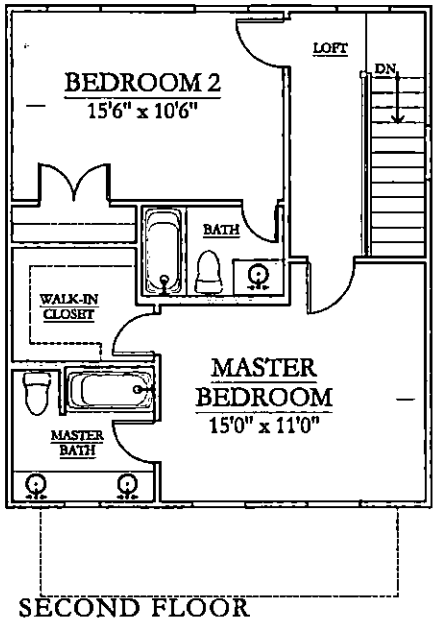
Not For Construction

# SWELLS COTTAGES

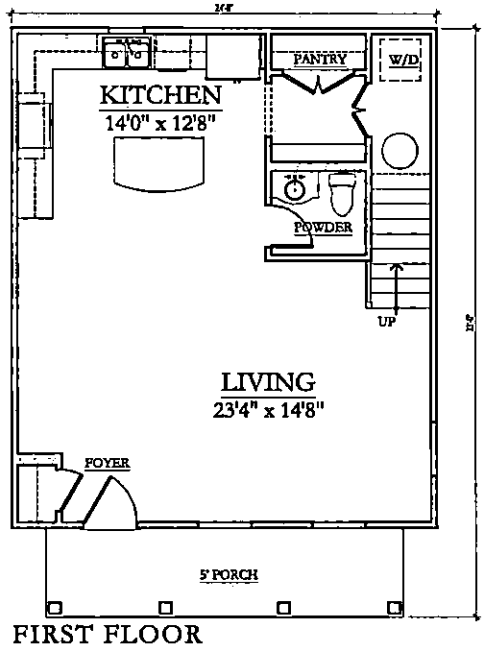
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SECOND FLOOR




FIRST FLOOR

# EDISTO

## 2 BR / 2.5 BA

**AREA**

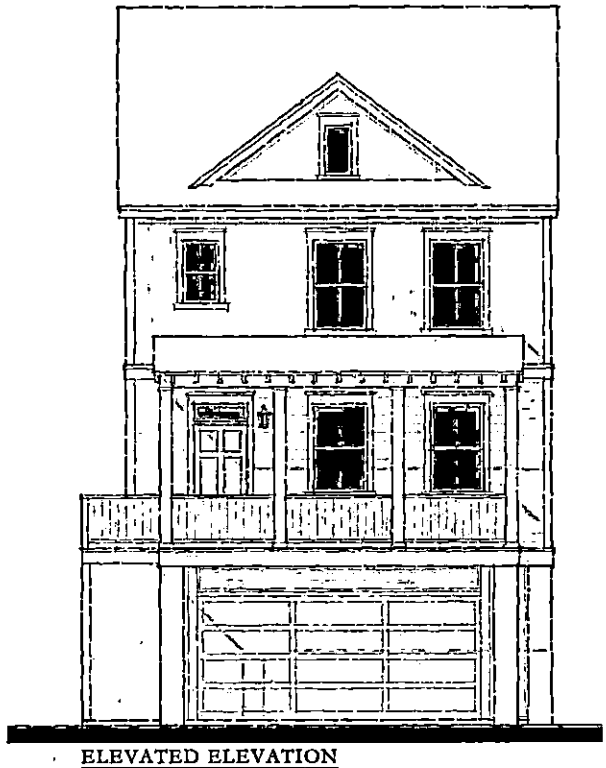
| | | |
|---|---|---|
| HEATED 1st: | 672 | sq. ft. |
| HEATED 2nd: | 621 | sq. ft. |
| TOTAL HEATED: | 1,293 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| PORCH: | 24'0" |
| DEPTH: | 28'0" |
| CEILING 1st. | 9'0" |
| CEILING 2nd. | 8'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

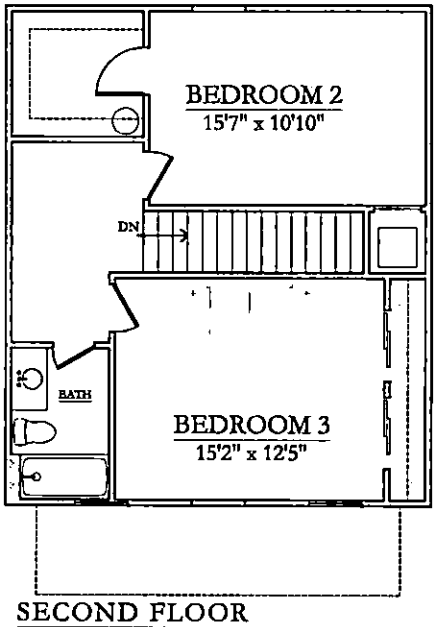
# SWELLS COTTAGES

PLANS & ELEVATIONS

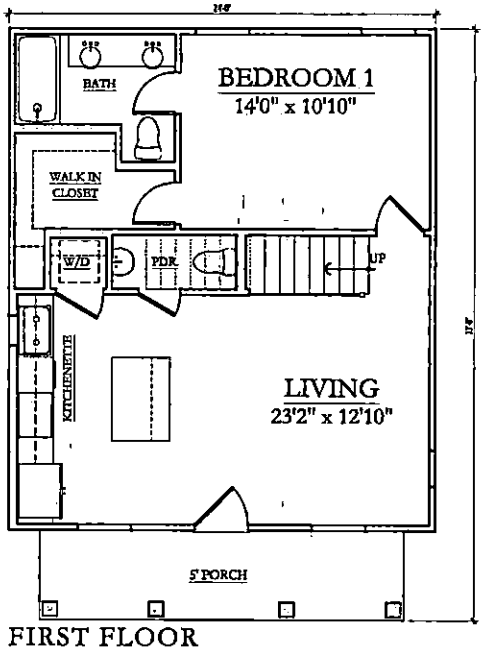


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SECOND FLOOR




FIRST FLOOR

## PAMPLICO

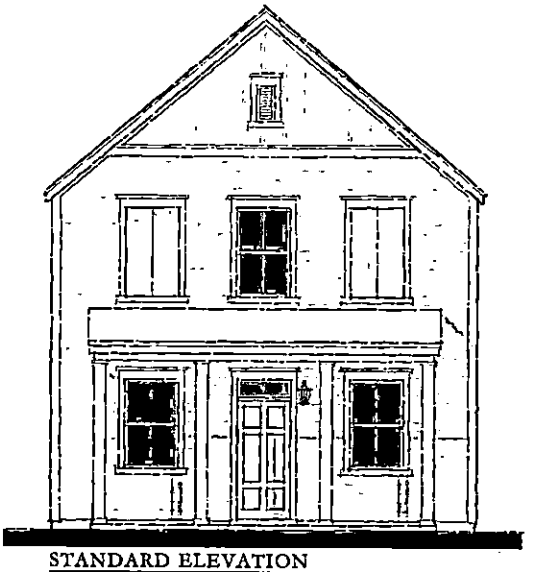
### 3 BR / 2.5 BA

**AREA**

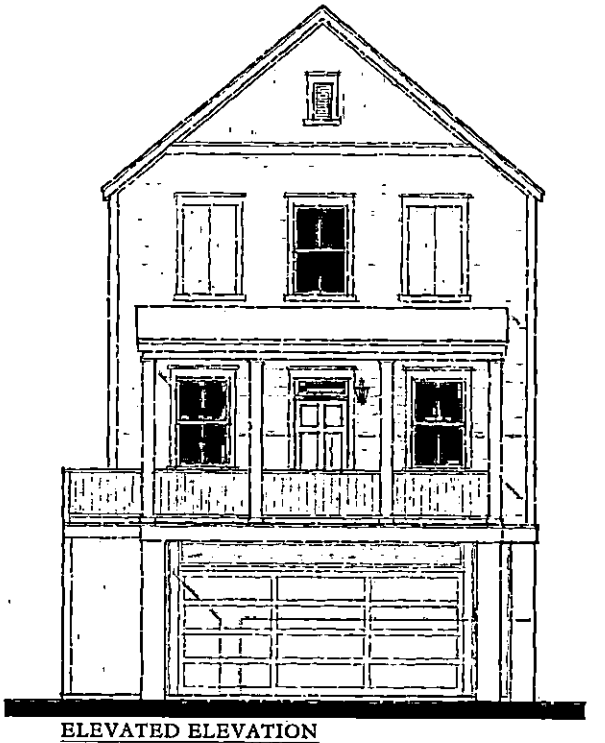
| | | |
|---|---|---|
| HEATED 1st: | 672 | sq. ft. |
| HEATED 2nd: | 616 | sq. ft. |
| TOTAL HEATED: | 1288 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 24'0" |
| DEPTH: | 28'0" |
| CEILING 1st. | 9'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

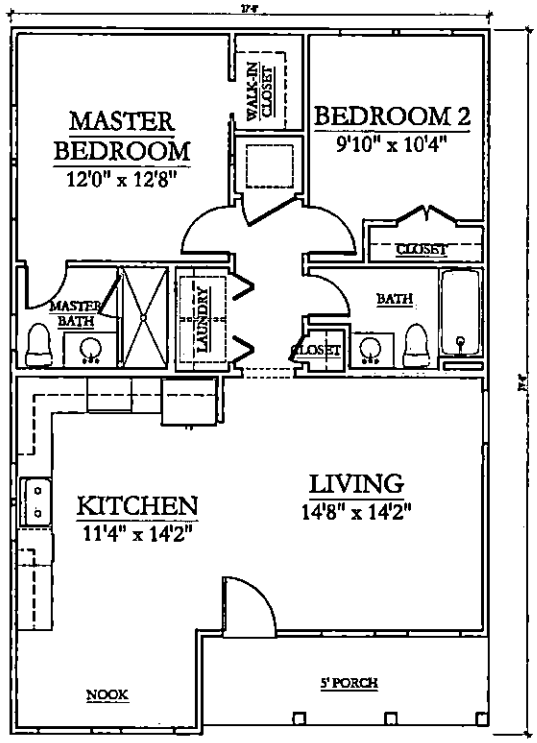
Not For Construction

# SWELLS COTTAGES

PLANS & ELEVATIONS

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FIRST FLOOR

# SAPELO

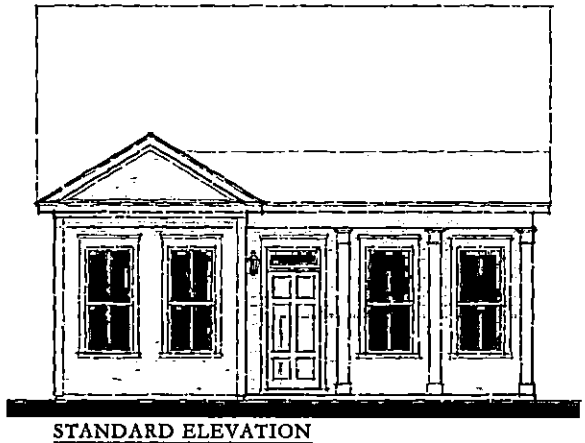
## 2 BR / 2 BA

**AREA**

| | | |
|---|---|---|
| TOTAL HEATED: | 978 | sq. ft. |
| FRONT PORCH: | 81 | sq. ft. |
| TOTAL UNDER ROOF: | 1,059 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 27'0" |
| DEPTH: | 39'6" |
| CEILING 1st. | 10'0" |



STANDARD ELEVATION

Not For Construction

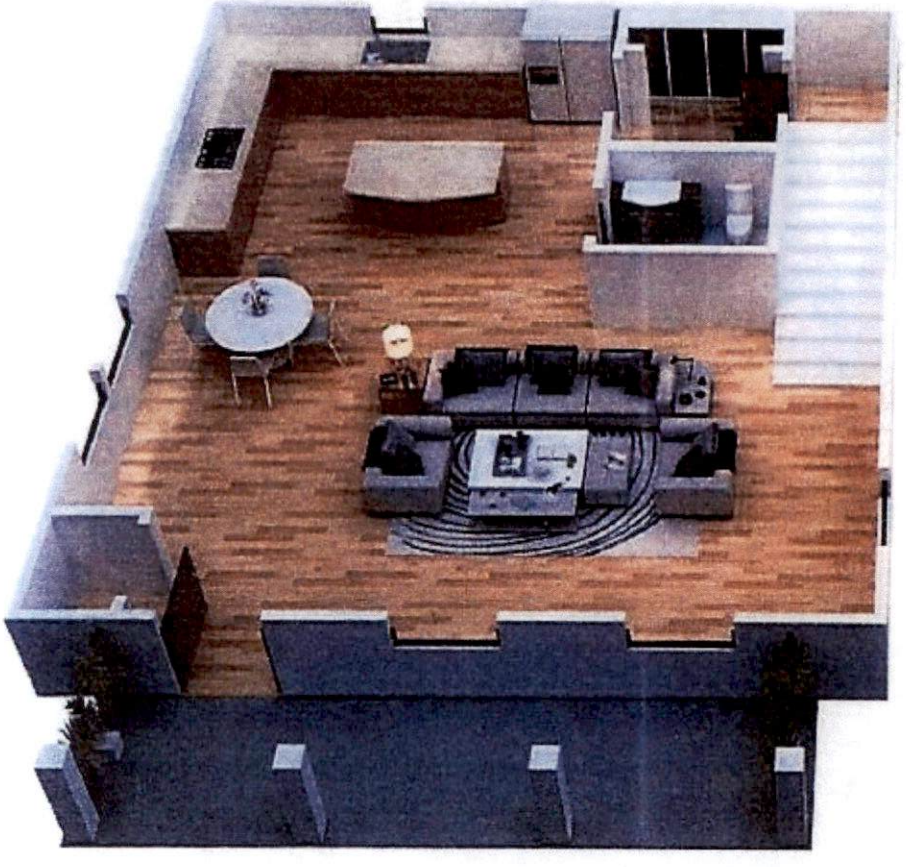
# SWELLS COTTAGES

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STATE OF SOUTH CAROLINA )
)
COUNTY OF HORRY )

AFFIDAVIT OF THE COTTAGES AT GARDEN CITY BEACH, LP

PERSONALLY appeared before me, John N. Morrison, on behalf of The Cottages at Garden City Beach, LP, who first being duly sworn, alleges and says:

1. My name is John N. Morrison, and I am authorized to testify on behalf of The Cottages at Garden City Beach, LP to the matters set forth in this affidavit.

2. The Cottages at Garden City Beach, LP is the owner of the Swells Cottages neighborhood under development in Garden City, South Carolina.

3. I am familiar with the Swells Cottages neighborhood and the Fire Impact Fee assessed by the Murrells Inlet – Garden City Fire District on the homes in the Swells Cottages neighborhood.

4. The Swells Cottages development is a residential community which will consist of 221 single family detached houses, internal sidewalks, and community gardens.

5. It has always been the intent of The Cottages at Garden City Beach, LP that the homes in Swells Cottages would serve as single family residences and nothing else. If a resident is found to be conducting any commercial activity inside the home, including but not limited to:
   - Assembly activity;
   - Business activity;
   - Educational activity;
   - Factory Industrial activity;
   - High Hazard activity;
   - Institutional activity;
   - Mercantile activity;
   - Storage activity; or
   - Maintenance activity

   discovery of such activity will be a violation of the residential only requirement.

6. The houses in this neighborhood are strictly residential and conducting any kind of business in the homes is expressly prohibited.

7. There will not be any commercial activity conducted in any of these homes.

8. The homes are designed for and occupied by only one family.

9. Each house is being separately submitted for permitting to Horry County as a single family residence.

10. Horry County has already issued Residential Building Permits on the houses which have been submitted.

11. Each house has been specifically designed in accordance with the International Residential Code and single family fire resistance requirements.

12. The homes have a separate means of egress and no roof, wall, or floor in common with any other dwelling.

13. Each home is one or two stories and includes one to three bedrooms, one to two and a half bathrooms, one kitchen, and a living room.

14. The sole purpose of each house being built in the Swells Cottages neighborhood is to provide a home for a single family.

The Cottages at Garden City Beach, LP, a Delaware Limited Partnership

By: The Cottages at Garden City Beach GP, LLC, a Delaware Limited Liability Company, its General Partner

By: Garden City Cottages Holdings, LP, a Delaware Limited Partnership, its Sole Member

By: Cottage Holdings II, LLC, a South Carolina Limited Liability Company, its General Partner

By: _____
John N. Morrison, Authorized Member

August 18th, 2021

Sworn to before me this 18th

day of August, 2021

Shaun M Doyle (LS)
Notary Public for South Carolina

SHAUN M. DOYLE
Notary Public, State of South Carolina
My Commission Expires 6/19/2029

My Commission Expires: 6/19/2029

C3 Studio, LLC
CREATE | COLLABORATE | CONSTRUCT

Aug. 11, 2021

Murrells Inlet – Garden City Fire District
3641 Highway 17 Business
Murrells Inlet, SC 29576

**RE: Swells Cottages**

To whom it may concern:

The Swells Cottages project is composed of 221 detached residential dwelling units (houses) that are independent living facilities including spaces for living, sleeping, eating, cooking and sanitation just like any other residences. In addition to the 221 cottages, there are several permanent ancillary structures that are part of this residential neighborhood. These structures include a mail kiosk, maintenance shed, storage sheds,and neighborhood amenities.

According to the 2018 International Building Code, detached one- and two-family dwellings & townhouses not more than three stories above grade plane with a separate means of egress and their accessory structures are an exception to the 2018 International Building Code and shall comply with the 2018 International Residential Code. Based on this occupancy classification, all 221 dwelling units were submitted for permitting under the requirements of the 2018 International Residential Code (rather than the International Building Code). Each individual dwelling unit has been submitted for permitting as under the scope of the 2018 International Residential Code requirements. In addition to being individually submitted for permitting as detached single family dwelling to the county, the neighborhood has been zoned a MRD, a multi-residential district.

Under the IRC and in dwellings without sprinklers, exterior walls are required to meet the requirements specified in Table R302.1(1), which states that any wall element or projections that is equal to or greater than 5 feet fire separation distance can have a 0 hours fire-resistance rating. The Swells neighborhood was specifically designed to meet or exceed those minimum requirements. If in any case, those requirements are not met, the minimum fire-resistance rating would need to be increased to 1 hour. Ultimately, regardless of the distance between the units, the residential occupancy classification does not change according to the IRC.

The residential occupancy classification does not change based on terms defining ownership like 'apartment' or 'condo'; they're based solely on whether they meet the scope of the IRC or IBC. A dwelling is defined as a dwelling, even if it's rented, leased, or hired out. As mentioned before, these are detached single family residential cottages that are designed for and occupied by not more than one family with a separate means of egress and having no roof, wall or floor in common with any other dwelling unit. By the virtue of these characteristics, the occupancy of these structures are detached one-family dwellings. If there's any question if these are considered apartments under the code, in order to be classified as R-2 occupancy (an apartment) they'd need to be three or more dwelling units in a single structure.

C3 Studio, LLC

CREATE | COLLABORATE | CONSTRUCT

Please adjust the impact fee to reflect the fact that these are residential structures.

Sincerely,

Gregory Huddy

Principal

Horry County
Committed to Excellence

# Permit

*Permit NO.* **RES-06-21-130527**
*Permit Type:* **Residential Permit**
*Work Classification:* ***New***
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 104 Grovewood Way Number: 1<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 1 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 978 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 1,059.00 | **Unheated Sq Ft:** 81 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $76,521.61 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

Author[illegible] YHR

7/29/2021
Date

Horry County

# Permit

*Permit NO.* **RES-06-21-130519**
*Permit Type:* **Residential Permit**
*Work Classification:* ***New***
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 108 Grovewood Way Number: 2<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 2 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 978 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 1,059.00 | **Unheated Sq Ft:** 81 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $76,521.61 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

| Issued By: Horry County, SC | Authorized Signature | 7/29/2021<br>Date |
|---|---|---|

# Permit

*Permit NO.* **RES-06-21-130366**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 116 Grovewood Way Number: 3<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 3 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 672 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 752.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $55,846.50 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E/CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW, DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County SC — Authorized Signature — Date: 7/29/2021

Horry County
Community Excellence

# Permit

*Permit NO.* **RES-06-21-130572**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 112 Grovewood Way Number: 4<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 4 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 918 | **Garage Sq Ft:** 0 | **Stories:** 2 | **Units:** 1.00 |
| **Total Sq Ft:** 998.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $70,227.52 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

Authorized Signature

7/29/2021
Date

Horry County
SOUTH CAROLINA
Connected and Resilient

# Permit

*Permit NO:* **RES-07-21-131667**
*Permit Type:* **Residential Permit**
*Work Classification:* ***New***
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 120 Grovewood Way Number: 5<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 5 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 1288 | **Garage Sq Ft:** 775 | **Stories:** 3 | **Units:** 1.00 |
| **Total Sq Ft:** 2,165.00 | **Unheated Sq Ft:** 877 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $111,255.77 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER: | ☐ | ☐ |

Issued By: Horry County, SC

Authorized [signature]

7/29/2021
Date

Horry County
SOUTH CAROLINA
Where to Be Positive

# Permit

*Permit NO.* **RES-07-21-131731**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 124 Grovewood Way Number: 6<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 6 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 918 | **Garage Sq Ft:** 0 | **Stories:** 2 | **Units:** 1.00 |
| **Total Sq Ft:** 998.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $70,227.52 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

CSS

Authorized Signature

7/29/2021
Date

Horry County Government

Planning Department
www.horrycounty.org

Horry County Government & Justice Center
1301 Second Avenue
Conway, South Carolina 29526
Phone 843.915.5340 || Fax 843.915.6340

November 22, 2019

David Wilkes
1[redacted]48th Ave N
Myrtle Beach SC 29577

Dear Sir/Madam,

This is to confirm that the Horry County Council, at its regularly scheduled meeting on November 5, 2019, approved rezoning request number 2019-01-008. The property identified by PIN 46200000929 is hereby rezoned from Highway Commercial (HC) to Multi-Residential Three (MRD3) on the official Horry County Zoning Maps.

The ordinance number for the rezoning request is 38-19. Attached is the official document determining the rezoning.

I hope the information provided is sufficient for your records. If you need further assistance, please do not hesitate to call me at (843) 915-5340.

Sincerely,

*Susi Miller* | Administrative Assistant
**Horry County Government**
Planning & Zoning
1301 2nd Ave., Suite 1D09, Conway, South Carolina 29526
Tel: (843) 915-7907 | Fax: (843) 915-6341 | millersu@horrycounty.org
www.horrycounty.org

Attachment

Cc: Myrtlewood Realty Associates

COUNTY OF HORRY )
)
STATE OF SOUTH CAROLINA )

**Ordinance 38-19**

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE A PORTION OF PIN 46200000929 FROM HIGHWAY COMMERCIAL (HC) TO MULTI-RESIDENTIAL DISTRICT THREE (MRD3)**

**WHEREAS**, Ordinance Number 1-87 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone a portion of the property from Highway Commercial (HC) to Multi-Residential District (MRD3) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request:

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

1) **Amendment of Official Zoning Maps of Horry County:**
Parcel(s) of land identified by PIN 46200000929 and currently zoned Highway Commercial (HC) is herewith rezoned to Multi-Residential District (MRD3).

2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.

4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this 5th day of November, 2019.

**HORRY COUNTY COUNCIL**

Johnny Gardner, Chairman

Harold G. Worley, District 1
Dennis DiSabato, District 3
Tyler Servant, District 5
Orton Bellamy, District 7
W. Paul Prince, District 9
Al Allen, District 11
Bill Howard, District 2
Gary Loftus, District 4
Cam Crawford, District 6
Johnny Vaught, District 8
Danny Hardee, District 10

Attest:
Patricia S. Hartley, Clerk to Council

First Reading: October 1, 2019
Second Reading: October 15, 2019
Third Reading: November 5, 2019

**Deed BK: 4258 PG: 1944 Doctype: 057**
**11/06/2019 at 02:38:26 PM, 1 OF 12**

**Marion D. Foxworth III**
**HORRY COUNTY, SC REGISTRAR OF DEEDS**

#2019-01-008 David Wilkes and Joe Morrison agents for Myrtlewood Realty Associates

# Rezoning Review Sheet

## PROPERTY INFORMATION

| | | | |
|---|---|---|---|
| **Applicant** | David Wilkes and Joe Morrison (Energov # 044076) | **Rezoning Request #** | 2019-01-008 |
| **PIN #** | 46200000929 (Portion) | **County Council District #** | 5-Servant |
| **Site Location** | On Hwy 17 between Woodland Dr and William Buckland Blvd in Garden City | **Staff Recommendation** | Approval |
| | | **PC Recommendation** | Approval 6:1 |
| **Property Owner Contact** | Myrtlewood Realty Associates | **Size (in acres) of Request** | 25.54 (portion) |

**Date Advertised:** 1/17/19 **Date Posted:** 1/8/19 **# Property Owners Notified:** 96 **Date Notification Mailed:** 1/17/19 **Report Date:** 1/17/19 **BY:** LSM

## ZONING DISTRICTS

| | |
|---|---|
| **Current Zoning** | HC/PDD/MSF6 |
| **Proposed Zoning** | MRD3 |
| **Proposed Use** | Single Family Detached In-common |

## LOCATION INFORMATION

| | | ADJACENT PROPERTIES | | |
|---|---|---|---|---|
| **Flood and Wetland Information** | Zone X | SF6 | CFA | CFA |
| **Public Health & Safety (EMS/fire) in miles** | 2.03 | MSF6 | Subject Property | PDD |
| **Utilities** | Public | HC | HC | HC |
| **Character of the Area** | Commercial, Residential, and Educational | | | |

## COMMENTS

**Comprehensive Plan District:** Urban Corridors and Urban Communities

**Overlay/Area Plan:** Hwy 17 BUS S Overlay/Garden City Area

**Discussion:** The applicant is requesting to rezone a portion of the parcel to allow for 221 single family detached units in common. The project has a gross density of **8.65 du/ac**, net density of **11.8 du/ac** and will incorporate three sustainable development criteria. 1. Increased open space, 2. Internal Sidewalks, and Community gardens. The project proposes two points of access, one onto Woodland Dr. and the other onto William Buckland Blvd. External sidewalks will be required along Hwy 17, Woodland Dr. and William Buckland Blvd.

The Tupelo Bay PDD was originally approved (Ord 61-04) for 800 multi-family units. A gross project density of **4.85 du/ac** and a net density of **8.69 du/ac**. The approved master plan has a developed area density of **15 du/ac.** Oceanside Village has an existing, gross density of **6.8 du/ac** (969 units total).

Planning Commission requested the applicants hold a community meeting. The community meeting was held on 5/10. Community concerns included density, stormwater, traffic and property values.

**/Public Comment: 2/7/2019:** Deferred in order to allow addition of acreage to meet the density requirements. **5/2/2019** Martin Dawsey recused. Dennis Permenter spoke in opposition of the request. His concerns were stormwater and density. John Jobson spoke in favor of the request, stating that he feels this is a good fit for the area. David Strattenger, Joe Morrison, David Wilkes and Buddy Hucks were present to address questions and concerns.

## TRANSPORTATION INFORMATION

| | | | |
|---|---|---|---|
| **Daily Trips based on existing use / Max Daily Trips based on current zoning** | 0 / 4,000 | **Existing Road Conditions** | S Hwy 17 Bus, Federal, Paved, Divided, 4 Lanes |
| **Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning)** | 1,768 / 1,768 | **Rd, Station, Traffic AADT (2017) % Road Capacity** | S Hwy 17 BUS, Station (108) 25,400 AADT 79% |
| **Proposed Improvements** | Engineers are currently working on a traffic study to address traffic concern and stormwater models for the site adhering to the required 50% reduction on the drainage area flowing northeast with the county required 20% reduction on the flows going southeast. | | |

## DIMENSIONAL STANDARDS

|  | Requested | Current | Adjacent | Adjacent | Adjacent | Adjacent |
|---|---|---|---|---|---|---|
| | MRD3 | HC/PDD/MSF6 | PDD (Tupelo Bay Golf Villas) | CFA (Res/Comm) | SF6 | MSF6 |
| **Min. Lot Size** (in square feet) | In-Common | 10,000/NA/6,000 | None | 21,780/43,560 | 6,000 | 6,000 |
| **Front Setback** | 25' Exterior | 50'/25'/20' | 25' | 25'/60' | 20' | 20' |
| **Side Setback** | 25' Exterior | 10'/25'/10' | 25' | 10'/25' | 10' | 10' |
| **Rear Setback** | 25' Exterior | 15'/25'/15' | 25' | 15'/40' | 15' | 15' |
| **Bldg. Height** | 40' | 120'/None/35' | None | 35'/35' | 35' | 35' |

752. - Multi-Residential District (MRD).

The Multi-Residential (MRD) District is intended to provide opportunities for rural, suburban and urban density mixed-residential developments consistent with the objectives of the Horry County Comprehensive Plan. The MRD district encourages the design of a more complete and sustainable environment consistent with the needs of the rural, suburban and urban areas of the County through the application of imaginative approaches to community design that allow and support mixed residential uses, design flexibility, pedestrian-oriented development, interconnectivity, and sensitivity to the needs of the public, economy and natural environment.

*Administrative Procedures.* Any request to establish a MRD Zoning District shall follow the procedures set forth in Article XIII of the ordinance. In presenting requests for rezoning, the applicant must indicate the desired residential mix, gross and net density, and proposed number of units in order for the request to be complete. Additionally, any request incorporating the Sustainable Development Standards listed in Section (BELOW) must attach an addendum to the rezoning packet that clearly describes how sustainability shall be accomplished. Failure to provide the requested information will result in rezoning requests not being presented to the planning commission.

*General Provisions .*

A. *Location* . A MRD district may be permitted throughout the county provided it meets the standards established herein.

B. Permitted Uses. The following uses shall be permitted subject to any requirement contained herein:

1. Single-family detached dwellings, except mobile homes;
2. Duplex dwellings;
3. Semi-detached dwellings;
4. Patio homes;
5. Quadruplex;
6. Townhomes;
7. Multi-family dwellings;
8. Reserved.
9. In-Common development incorporating any of the above uses;
10. Golf courses, provided the areas designated for golf courses shall not be used to calculate densities or impervious surface ratios;
11. Accessory uses; and
12. Churches, synagogues, temples, and other places of worship subject to the provisions of Article 12.

C. *Accessory living quarters.* Accessory living quarters, within an existing dwelling or in a separate structure, are permissible provided:

1. The accessory living quarters meets all setback requirements for the parcel.
2. The primary dwelling unit shall be owner-occupied.
3. The accessory living quarters shall have a bathroom and cooking facilities.
4. The accessory living quarters, if within the primary dwelling unit, may have a separate entrance.
5. The construction of the accessory living quarters, within existing structures, shall not alter the appearance or character of the structure. When detached from the primary dwelling

unit, no less than twenty (20) feet or applicable zoning district setbacks shall separate it and;

6. Adequate off-street parking is provided per Article XI.

D. *Special exceptions.* Owing to their potential negative impact on the community, the board of zoning appeals may approve the following uses as a special exception.

1. Offices subject to the following conditions:

   a. That the special exception complies with all applicable development standards.

   b. That the special exception will be in substantial harmony with the area in which it is to be located.

   c. That the special exception will not be injurious to adjoining property.

   d. That the special exception will contribute to the economic vitality and promote the general welfare of the community.

   e. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

   f. In granting a special exception, the board of zoning appeals may impose such reasonable and additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the proposed special exception.

2. Bed and breakfast establishments (B&B) subject to the following conditions:

   a. That the special exception complies with all applicable development standards.

   b. That the special exception will be in substantial harmony with the area in which it is to be located.

   c. That the special exception will not be injurious to adjoining property.

   d. That the special exception will contribute to the economic vitality and promote the general welfare of the community.

   e. That the special exception will not discourage or negate the use of surrounding property for uses(s) permitted by right.

   f. In granting a special exception, the board of zoning appeals may impose such reasonable and additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the proposed special exception.

E. *Dimensional Standards.* The following dimensional standards shall apply to permitted uses:

Table 1: MRD District Yard and Height Standards

| Use | Setbacks | | | | Building Separation [4] | Maximum Height |
|---|---|---|---|---|---|---|
| | Front | Side | Rear | Corner | | |
| Single and duplex dwellings, patio homes, quadruplex, townhomes and zero or developments | 25' (1)(2) | 10 (1)(3) | 15' (1) | 15' | 20' | 40' |
| Tiny homes | NA | NA | NA | NA | NA | 25' (no more |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | | | | than 2 stories high) |
| Multi-family | 30' (1)(2) | 20' (1) | 25' (1) | 30' | 20' | Rural: 45' Suburban: 65' Urban: 120' |

1. A 5' reduction in the setback is allowed for projects meeting two (2) sustainable development criteria.
2. A 10' reduction in the setback is allowed for projects meeting three (3) sustainable development criteria.
3. No side yard setback is required where common walls are located.
4. A 10' reduction in the building separation for projects meeting two (2) sustainable development criteria.

F. *Development standards.* The standards enumerated below establish the criteria by which a request to rezone property to the MRD district shall be evaluated. The standards follow the generally accepted densities associated with rural, suburban and urban type land uses described in the Land Use Element of the Envision 2025 Comprehensive Plan and the Future Land Use Map of Horry County. These districts and their associated densities are detailed in Table 2. Table 3 lists the Standard Density and Area Requirements for each district. Requests to rezone to MRD in any area of the county shall adhere to the Land Use Districts of the Future Land Use Map.

Table 2: Future Land Use District Density Characteristics

| Land Use District | Rural Density | Suburban Density | Urban Density |
|---|---|---|---|
| Conservation/Preservation | | | |
| Rural Areas | X | | |
| Rural Communities | X | | |
| Rural Corridors | X | | |
| Transitional Growth Areas | X | X | |
| Suburban Corridors | X | X | |

| | | | |
|---|---|---|---|
| Urban Communities | | X | X |
| Urban Corridors | | X | X |
| Economic Activity Centers | | X | X |

1. *Rural density (MRD-1) development requirements* . Rural density areas support three (3) or fewer units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are incorporated into the development. Lot or unit area requirements shall adhere to the standards shown in Table 3.
2. *Suburban density (MRD-2) development requirements.* Suburban density is herein defined as no greater than six (6) units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are utilized. Lot or unit area requirements shall adhere to the standards shown in Table 3.
3. *Urban density (MRD-3) development requirements.* Urban density is herein defined as no greater than fifteen (15) units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are utilized. Lot or unit area requirements shall adhere to the standards shown in Table 3.

Table 3: MRD Standard Density and Area Requirements

| | | Standard Development Area Requirements (in square feet) | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Maximum Gross Density | Single Family | Duplex | Semi-detached | Patio Home | Townhome | Multi-family | Tiny Home * |
| MRD-1 | 3 du/ac | 14,520 ** | 10,000 | 5,000 * | NA | NA | NA | 1,200 |
| MRD-2 | 6 du/ac | 7,000 ** | 9,000 | 4,500 | 6,000 | 1 (acres) | 1.5 (acres) | 1,200 |
| MRD-3 | 15 du/ac | 6,000 ** | 8,000 | 4,000 | 4,000 | .75 (acres) | 1 (acres) | 1,200 |

* Tiny home lots are not required to meet the minimum frontage requirements in the Horry County Land Development Regulations. 1.5 parking spaces are required per home, and

parking may be provided anywhere in the development, either on individual or shared lots, or a separate parking area.

** Minimum lot size required for a rezoning request.

G. *Sustainable development standards.* A thirty (30) percent increase in the allowable gross density shall be granted when three (3) or more of the sustainable development standards below are implemented. Table 4 lists the density and area requirements for requests meeting the sustainable development standards. In no instance shall meeting the requirements of one standard be applicable to the requirements of another. The requested density increase shall in no way decrease the sustainability of the proposal and the Standards listed herein. In order to qualify for a thirty (30) percent maximum density increase, proposed developments shall meet three (3) or more of the following criteria.

1. Site design: Each counts as one (1) standard:

   a. Twenty (20) percent of the gross acreage shall remain in a natural vegetated state post-development and owned in common. This increase is in addition to the buffer and landscape requirements in section 527, and any existing wetlands, marshes, swamps, lakes or ponds. Required open space per Article 4 of the land development regulations shall not count towards this increase;

   b. All residential lots shall abut active or passive recreational open space as defined by the open space requirements in Article 4 of the land development regulations on at least one (1) side. A road internal to the development may separate lots from the open space. Sidewalks more than four and one-half (4½) feet in width shall count as recreational open space so long as such walkways are adjacent, or located directly across the street, to all residential lots. Easements for ponds, lakes and wetlands shall not count as recreational open space.

2. Recreational space: A one hundred (100) percent increase in the required active recreational open space as defined by the open space requirements, article 4, section 6-2 (B) of the land development regulations. Only fifty (50) percent of said increase shall count towards the site design requirements listed in 1a and 1b above if utilizing these standards.

3. Design with trees: Conduct a pre-development tree inventory and keep thirty (30) percent of the canopy tree inventory post-development. Pre-development canopies shall cover at least seventy-five (75) percent of the proposed rezoning. If canopy trees have not reached a mature height, the thirty (30) percent requirement shall be applied using the median diameter at breast height (dbh) calculation. The requirement shall be met when eighty (80) percent of the specimens to be kept are greater than the median dbh. Said trees shall be owned in common and kept in perpetuity unless doing so directly imposes a threat on the health, safety or general welfare of the public or personal property.

4. Community gardening: A one thousand (1,000) square foot plot for every twenty-five (25) units. If less than twenty-five (25) units are proposed, one (1) one thousand (1,000) square foot plot shall suffice. The community garden shall be centrally located and accessible from all proposed residential units. Community gardens shall adhere to the standards of the American Community Gardening Association publication titled "Starting a Community Garden." The publication is available at the planning department. Said garden/s shall be owned in common and kept in perpetuity. Maintenance shall be the responsibility of the common ownership.

Table 4: MRD Sustainable Density and Area Requirements

| | | Sustainable Development Area Requirements (in square feet) |
|---|---|---|

| | Maximum Gross Density | Single Family | Duplex | Semi-detached | Patio Home | Townhome | Multi-family | Tiny Home * |
|---|---|---|---|---|---|---|---|---|
| MRD-1 | 4 du/ac | 7,000 | 8,000 | 4,000 | 5,000 | 0.75 (acres) | 1 (acres) | 1,200 |
| MRD-2 | 8 du/ac | 5,000 | 7,000 | 3,500 | 3,500 | 0.5 (acres) | 0.75 (acres) | 1,200 |
| MRD-3 | 20 du/ac | 5,000 | 5,000 | 2,500 | 2,500 | 0.25 (acres) | 0.5 (acres) | 1,200 |

* Tiny home lots are not required to meet the minimum frontage requirements in the Horry County Land Development Regulations. 1.5 parking spaces are required per home, and parking may be provided anywhere in the development, either on individual or shared lots, or a separate parking area.

H. *Administrative procedures.*

1. Rezoning requests using the sustainable development standards or tiny home standards shall submit an addendum to the application for rezoning. For sustainable development standards, the addendum must specify which of the above standards shall be used upon approval of the rezoning request and the expected density increase as a percentage increase in the gross density. The addendum shall be forwarded with the rezoning packet to the planning commission and county council.
2. A conceptual/general site plan shall be submitted with the rezoning application. The site plan shall include the following;
   a. Sheet size not to exceed 30"x42";
   b. Drawn to a scale no smaller than 1"=200';
   c. Proposed project name;
   d. Owner of the property and/or developer;
   e. Adjacent property owners and land use;
   f. Proposed rights-of-way and lot layout compliant with the requirements of articles 3, 4 and 7 of the land development regulations;
   g. Adjacent driveway, roadway, and curb-cut locations;
   h. Table summarizing project acreage, gross and net density, number of lots, minimum lot area in square feet and minimum lot dimensions;
   i. North arrow, written and graphic scales, and a location map; showing the relationship with the surrounding area;
   j. Tract boundaries and total land area;
   k. Existing and proposed land uses throughout the development;
   l. Existing road rights-of-way and easements;

m. Note regarding the intent to supply water (wells) and sewer (septic);

n. Zoning classification;

o. County parcel identification number of the proposed development.

3. Any request to establish a MRD zoning district shall follow the procedures set forth in article XIII of this ordinance. In presenting requests for rezoning, the applicant must indicate the density desired for the property in order for the request to be complete. The requested density should be expressed as units per acre. Failure to provide a requested density will result in rezoning requests not being presented to the planning commission. All applications to rezone to MRD with a density higher than seven (7) units per acre should attach one (1) of the following:

   a. Wetlands verification letter from the corps of engineers;

   b. Certified wetlands delineation map;

   c. Preliminary jurisdictional determination letter from the corps of engineers; or

   d. Preliminary wetlands assessment prepared by a qualified wetlands consultant.

4. *Minor Changes:* Minor changes in MRD conceptual plans may be approved by the Zoning Administrator, provided that such changes:

   a. Do not increase the density;

   b. Do not change the outside (exterior) boundaries;

   c. Do not change any use; however as an example, a change from multifamily residential to single-family residential shall be considered a minor change provided densities are not increased.

   d. Do not significantly change the exterior appearance from those shown on any plans which may be submitted or presented by the developers.

   e. Minor changes may include, but are not limited to: minor shifting of the location of buildings, parking, shifting of entrances and internal roadways to resolve regulatory permitting issues, utility easements, parks, or other public open spaces, or other features of the plan.

All other changes or modifications not enumerated above shall constitute a major change and will require a full rezoning action.

l. *Development review.* The approved sustainable development standards shall be noted or clearly drawn on all plans submitted for review by the planning department with the county ordinance number clearly marked. Final development review approval shall not be granted until all standards have been met in accordance with the approved rezoning.

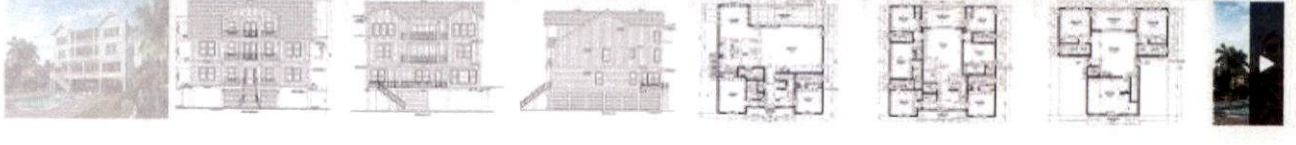
(Ord. No. 46-08, § 2, 4-22-08; Ord. No. 42-16, § 4, 7-12-16; Ord. No. 28-17, § 1, 4-18-17; Ord. No. 78-17, § 5, 9-19-17)

# Y'ALL HAVE FUN, 1311 S. WACCAMAW DRIVE, GARDEN CITY, SC 29576

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Pool

## Accommodations

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Queen 4

Bunk 2

Sleeps 30

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## Addendum to the Letter to the Murrells Inlet-Garden City Fire District Board

The Swells Cottages are classified as Single Family Residential by the International Building Code, the International Residential Code, and Horry County Permitting and Zoning. The Murrells Inlet-Garden City Fire District Manual also classifies the Swells Cottages as Single Family Residential through reference and incorporation of the International Building Code and its definitions which specifically exclude structures governed by the International Residential Code. There is no factual dispute that the Swells Cottages are governed by the International Residential Code. Therefore, the Swells Cottages must be residential. This Addendum provides a step by step analysis leading to this conclusion.

In determining whether a new structure should be charged 1% of the cost of construction or 2% of the cost of construction, several sources must be considered:

| **Enabling Legislation – S. 639, S.C. Gen Assemb. 106th Sess. (1985-1986)** |
| --- |
| **"The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction."** |

↓

| **Fire Impact Fee Administration Manual Section 3.0 – Power to Collect Fire Impact Fees** |
| --- |
| **"A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction…"** |

↓

| **Fire Impact Fee Administration Manual Section 6.1 – Residential Structures** |
| --- |
| **"Residential structures shall be single or multi-family structures not constructed for commercial use… shall… be charged a fire impact fee of 1.0 percent of the value of construction."** |

↓

| Fire Impact Fee Administration Manual Section 6.2 – Commercial Structures |
| --- |
| **"A new building or structure, as defined by the currently adopted edition of the *International Building Code* as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential... shall... be charged a fire impact fee of 2.0 percent of the value of construction."** |

Although the language of the Enabling Legislation and the Manual is not identical, it is clear that if a structure is commercial under the International Building Code, then it is commercial for the assessment of impact fees. If, however, the International Building Code refers a structure to the International Residential Code, it is not commercial.

| International Building Code Section 310 |
| --- |
| **"Residential Group R includes... the use of a building or structure... for sleeping purposes... when not regulated by the International Residential Code."** |



| International Residential Code Section 101.2 |
| --- |
| **"The provisions of this code shall apply to the construction... and occupancy... of detached one- and two-family dwellings."** |

If governed by the International Residential Code, then a structure is not commercial by definition. There is no factual dispute that the single family dwellings of the Swells Cottages are designed, permitted, built, and regulated in accordance with the International Residential Code. This is demonstrated by the Affidavit of the Owner of the Swells Cottages, the Letter from the Architect of the Swells Cottages, the Horry County Permits and Zoning, as well as the International Building Code and the International Residential Code. Since the Manual expressly defers to the classifications of the International Building Code which specifically exclude structures regulated by the International Residential Code, such as the Swells Cottages, then the Swells Cottages must be residential.

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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE FIFTEENTH JUDICIAL CIRCUIT<br>C/A NUMBER: 2022-CP-26-_____ |
| The Cottages at Garden City Beach LP,<br>Appellant,<br><br>v.<br><br>Murrells Inlet-Garden City Fire District,<br>Respondent. | ) | **NOTICE OF APPEAL** |

Notice is hereby given that The Cottages at Garden City Beach, LP does hereby appeal the final decision of the Murrells Inlet-Garden City Fire District dated March 28, 2022 and received March 28, 2022.

## Parties and Counsel

**Appellant**
The Cottages at Garden City Beach, LP
9654 N. Kings Highway, Ste. C-2
Myrtle Beach, SC 29572
(843)839-4634
joe@sandscompanies.com

**Respondent/Agency Appealed From**
Murrells Inlet-Garden City Fire District
PO Box 648
3641 Hwy 17 Bus.
Murrells Inlet, SC 29576
(843)651-5143
Chairman: Gene Connell

**Counsel for Appellant**
BELLAMY, RUTENBERG, COPELAND, EPPS, GRAVELY & BOWERS, P.A.
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Zachary J. Crowl, SC Bar #103617
Post Office Box 357
Myrtle Beach, South Carolina 29578-0357
(843)448-2400
zcrowl@bellamylaw.com

**Counsel for Respondent**
No Counsel at this time.

## Enclosures

Enclosed with this Notice of Appeal is a copy of the agency's final decision which is the subject of the appeal and the request for transcript dated April 12, 2022.

## Summary of Dispute

This is a dispute over impact fees assessed to single family residences in Murrells Inlet, South Carolina.

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The Cottages at Garden City Beach, LP appeals the decision of the Board of Directors of the Murrells Inlet-Garden City Fire District (hereinafter "MIGC Fire District") regarding the impact fee charged to the Swells Cottages built by Appellant. This appeal is brought because the decision of the Board of Directors is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.

The authority to impose a fire impact fee on all new construction was granted to the MIGC Fire District by the General Assembly of South Carolina in 1985. The enabling legislation states that the fee is one percent of the cost of construction for single family residences and two percent for commercial construction. The MIGC Fire District adopted a Fire Impact Fee Manual which includes the same impact fee structure as the enabling legislation: single family residences – one percent; commercial construction – two percent. The Manual classifies the type of construction through reference and incorporation of the International Building Code which specifically excludes structures regulated by the International Residential Code, such as the Swells Cottages.

The Swells Cottages are single family residences which must be charged an impact fee of only one percent of the cost of construction in accordance with the Fire Impact Fee Manual. To date, the Board of Directors of the MIGC Fire District has charged Appellant two percent of the cost of construction of the Swells Cottages under the incorrect determination that these homes constitute commercial construction. Appellant has paid the two percent impact fee based on the agreement of the parties that fees paid above one percent will be held in escrow until the resolution of this matter. These funds are still being held in escrow. The Appellant must be refunded the fees paid over and above one percent of the construction costs.

On August 23, 2021, Appellant presented its arguments to the Board of Directors of the MIGC Fire District during a Board of Directors Meeting. After this meeting, the Board of Directors sought and then rejected an Opinion from the Office of the Attorney General of South Carolina on this matter. The Attorney General's Office concluded that the Swells Cottages should be charged the one percent impact fee as single family residences.

Seven months after Appellant presented its position to the Board of Directors, the Board voted 5 – 0 to deny the request of the Appellant for a refund of impact fees paid and asserted that the fees collected should be in the amount of two percent of the cost of construction. Appellant received written notice of the Board's decision on March 28, 2022.

[Signature block on following page]

BELLAMY, RUTENBERG, COPELAND,
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David B. Miller, SC Bar #10296
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Myrtle Beach, South Carolina
April 22, 2022

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# Murrells Inlet-Garden City Fire District

PO Box 648, 3641 Hwy. 17 Bus.
Murrells Inlet, SC 29576
PH (843) 651-5143

Gene Connell, Chairman
J. R. Haney, Fire Chief

March 28, 2022

The Board of Directors of the Murrells Inlet – Garden City Fire District voted 5 – 0 to deny the request of Sands Building Group/Garden City Cottages for a refund of impact fees paid. The Board asserts that the proper fees were collected in the amount of 2% on the Sands Building Group/Garden City Cottages project located in the District.

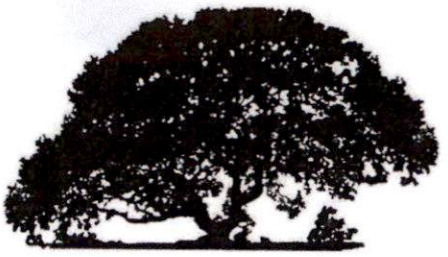
3-28-22
Date

Gene Connell
Chairman

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HOWELL V. BELLAMY, JR.
EDWARD B. BOWERS, JR.*
M. EDWIN HINDS, JR.
DAVID B. MILLER+
C. WINFIELD JOHNSON, III
DOUGLAS M. ZAYICEK
MARTIN C. DAWSEY*
ROBERT S. SHELTON+
HOWELL V. BELLAMY, III
GEORGE W. REDMAN, III + ** ++
BENJAMIN A. BARODY + **

* LLM TAXATION
** LICENSED IN SC & NC
+ CERTIFIED MEDIATOR
++ CERTIFIED ARBITRATOR



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*Writer's Direct Dial: 843-282-5356*
*Email: PMoore@BellamyLaw.com*

April 12, 2022

**Via Electronic and U.S. Mail** production@clark-associates.com

Clark & Associates, Inc.
PO Box 12189
Charleston, SC 29422

Re: The Swells Cottages
Hearing: 8/23/2021
Location: Murrells Inlet/Garden City Fire District, Station 76 Headquarters
Your Job Number: 45681

To Whom it May Concern:

I hope you are doing well. Please accept this letter as our official request for the Sealed Transcript with reference to the above. Kindly include your invoice and it will be paid promptly.

Very truly yours,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

Patricia T. Moore
Legal Assistant

:ptm
Copy: Gene Connell, Esq. (via email: gconnell@classactlaw.net)

| | |
|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY<br>The Cottages at Garden City Beach, LP,<br>Appellant,<br>vs.<br>Murrells Inlet-Garden City Fire District,<br>Respondent. | FOR THE FIFTEENTH JUDICIAL CIRCUIT<br>IN THE COURT OF COMMON PLEAS<br>CASE NO.: 2022-CP-26-02575<br>**1st Memorandum of Respondent Murrells Inlet-Garden City Fire District In Opposition to the Appeal** |

## *STATEMENT OF ISSUE*

How should the amount of Respondent's fire impact fees on Appellant's "cottages" be determined under Act #272 of 1985?

## *STATEMENT OF THE APPEAL*

Appellant is appealing an order dated March 28, 2022, by Board of Directors of the Murrells Inlet-Garden City Fire District. The Board's order denied Appellant's request for a refund of impact fees previously paid. The Board determined that the fees collected in the amount of 2% of the costs of construction of 221 "cottages" in the Swells Cottages' project were proper. In opposition, Appellant claims the proper impact fees should have been 1% of the costs of construction of those "cottages."

## *STANDARD OF REVIEW*

"The South Carolina Administrative Procedures Act establishes the "substantial evidence" rule as the standard for judicial review of a decision of an administrative agency. *Lark v. Bi–Lo, Inc.,* 276 S.C. 130, 133, 276 S.E.2d 304, 305 (1981). The appellate court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact but may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings or conclusions are affected by an error of law, clearly erroneous in view of the substantial evidence in the record, or are arbitrary, capricious, or characterized by an abuse of discretion. *Peake v. S.C. Dep't of Motor Vehicles,* 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007); *Sanders v. S.C. Dep't of Motor Vehicles,* 431 S.C. 374, 382, 848 S.E.2d 768, 772–73 (2020).

## *DISCUSSION*

Appellant and Respondent dispute how the fire impact fee created by Act #272 of 1985 (Act) should be interpreted and assessed in connection with Appellant's real estate development, The Swells Cottages. The pertinent part of the act states:

> SECTION 1. In addition to the powers and duties provided for the governing body of the Murrell's Inlet-Garden City Fire District in Georgetown and Horry counties by Act 876 of 1966, the Board may impose, one time only, an impact fee on all buildings under construction on the effective date of this act and all new construction

> and all new additions. The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction. The fees must be used to purchase and maintain fire-fighting equipment. *Act # 272 of 1985.*

The Act creates different burdens for property owners' payment of the fire impact fee. Property owners of single family residences pay 1% of the costs of construction. Property owners of condominiums and townhouses, high rise buildings, and all commercial construction pay 2% of the costs of construction. Appellant claims its 221 cottages in the development should be classified as "single family residences" triggering the 1% of the costs of construction provision in the Act. Respondent contends Appellant's cottages do not qualify as single family residences and those cottages should be assessed in the amount of 2% of the cost of construction. of construction. The phrase "single family residence" is not defined in the Act. Respondent contends that because only single family residences qualify for the 1% impact fee, the main issue in dispute is the meaning of "single family residence" as it is used in the Act.

Appellant in the present case has attempted to use an uncommon or rare permutations of the meaning of "single family residence" in order to qualify for a lower fire impact fee. Respondent contends that Appellant's definition of "single family residence" runs afoul of state or federal laws or counter to court decisions.

See Lindbloom, Carl G.. *The Latest Illustrated Book of Development Definitions* (p. xxii). Taylor and Francis. Kindle Edition.

When faced with an undefined statutory term, the Court must interpret the term in accord with its usual and customary meaning. *Strother v. Lexington County Recreation Comm'n,* 332 S.C. 54, 504 S.E.2d 117 (1998). Courts should consider not merely the language of the particular clause being construed, but the undefined word and its meaning in conjunction with the purpose of the whole statute and the policy of the law. *Whitner v. State,* 328 S.C. 1, 492 S.E.2d 777 (1997); *Branch v. City of Myrtle Beach,* 340 S.C. 405, 409–10, 532 S.E.2d 289, 292 (2000)

Statutes, as a whole, must receive practical, reasonable, and fair interpretation, consonant with the purpose, design, and policy of lawmakers.' " *Peake v. S.C. Dep't of Motor Vehicles,* 375 S.C. 589, 599, 654 S.E.2d 284, 289 (Ct.App.2007) (quoting *Collins Music Co., Inc. v. IGT,* 365 S.C. 544, 550, 619 S.E.2d 1, 3 (Ct.App.2005). *Toyota Distributors, LLC v. Jim Hudson Superstore, Inc.*, 387 S.C. 508, 514, 693 S.E.2d 33, 36 (Ct. App. 2010). The Court will not read the statute to effect an absurd result. *Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville,* 369 S.C. 498, 505, 632 S.E.2d 864, 868 (2006). The cardinal rule of statutory construction is for the Court to ascertain and effectuate the intent and purpose of the legislature. *Lester v. South Carolina Workers' Compensation Comm'n*, 334 S.C. 557, 514 S.E.2d 751 (1999).

The purpose of an impact fee is to fairly distribute the capital improvement costs of growth and development among those who are generating the need for the improvements. See *J.K. Const., Inc. v. W. Carolina Reg'l Sewer Auth.*, 336 S.C. 162, 172, 519 S.E.2d 561, 566 (1999); Roger K. Dahlstrom, *Development Impact Fees: A Review of Contemporary Techniques for Calculation, Data Collection, and Documentation*, 15 N. Ill. U.L.Rev. 557 (1995). Two fundamental principles have emerged on how to distribute the tax burden of an impact fee. Those principles are: 1) the benefits principle, and 2) the ability-to-pay-principle. The benefits principle suggests that people should pay taxes based on the benefits they receive from the government. The ability-to-pay principle states that taxes should be levied on people according to how well they can carry the burden. That means people who can afford to pay more taxes (i.e., usually people who have more money) should be taxed higher than people can't afford to pay as much. The idea behind this is that the sacrifice taxpayers make should be equal, regardless of wealth and income.

Respondent contends the legislature intended to distribute the tax burden of Respondent's impact fees based on the ability to pay principle for two reasons. First, the benefits of the fire district impact fee are equally distributed among all property owners. The district responds to all fires notwithstanding the kind of the property that may be on fire. Second, the character of the classes of properties

listed in the Act appear to assign the 2% fee to properties more closely related to traditional income producing commercial properties such as condominiums and townhouses, high rise buildings, and all commercial construction. The 1% fee appears to be assigned to traditional non income producing residences typically owned by single families.

Applying the ability to pay principle, Respondent contends Appellant's cottages in question should not be classified as "single family residences" under the Act. Appellant's development is a commercial venture designed and constructed to create a profit for the Appellant. Appellant's development is not subdivided into individual lots with each cottage located on a separate lot. All of Appellant's 221 cottages are contained on a single undivided 25 acre parcel of land. The cottages are advertised and marketed as apartments that are rented for commercial profits on 12 month annual leases. Accesses to the cottages are from multi-spaced parking lots owned by Appellant. Through a series of side roads from the common parking lots the cottages' tenants access US Highway 17 Business. Appellant's Swells Cottages development advertises common amenities for the cottages such as a community pool, common areas and a main office.

Respondent contends Appellant's ability to pay Respondent's fire impact fee from its profit producing properties is greater than a single family homeowner. In other words, Appellant can carry the 2% burden of the fire impact fee on its

income producing cottages much better than most single family homeowners who rely on their non income producing residences solely for shelter.

Respondent contends Appellant's claim that the International Residential Code and the International Building Code control the meaning of "single family residence" as used in the Act is incorrect. Those building codes only address the methods and means of construction in the fields of engineering, architectural, construction and environmental concerns. Those building codes are to be used for definitions encompassing those fields. See Lindbloom, Carl G.. The Latest Illustrated Book of Development Definitions (p. xxii). Taylor and Francis. Kindle Edition.. Those building codes were never intended to determine how to distribute the tax burden of fire impact fees. South Carolina's statutory uses associated with single family residences including Act #272 of 1985 do not use the International Residential Code or the International Building Code as their references for "single family residences."

*The International Residential Code for One- and Two-Family Dwellings* is a series of regulations that establishes minimum standards for how homes are built. ICC IRC-2021. *The International Building Code* (IBC) is the foundation of the complete Family of International Codes. It is an essential tool to preserve public health and safety that provides safeguards from hazards associated with the built environment. It addresses design and installation of innovative materials that meet

or exceed public health and safety goals. See International Code Council – Overview. https://www.iccsafe.org/products-and-services/i-codes/2018-i-codes/ibc/

Appellant incorrectly claims that the Murrells Inlet - Garden City Fire District Fire Impact Fee Administration Manual (Jan. 1, 2020), adopts the definitions of the International Business Code (2021 ), and the International Residential Code (2018) to define "single family residence" under the Act. Respondent's manual states its use of terms shall be consistent with the definitions found in the edition of the International Building and Fire Code relative to occupancy or construction practices. Occupancy or construction practices do not determine the application of the tax burden of a fire impact fee. Respondent's manual expressly states residential structures shall be single or multi-family structures not constructed for commercial use.

With all due respect, the S.C. Attorney General's opinion, authored by Assistant Attorney General Elinor V. Lister does not accurately address how the impact fees for Appellant's development are to be determined. For the reasons stated above, Ms. Lister's use of building codes to support her conclusion that a detached single-family house not more than three stories with a separate means of egress that is rented or leased to be occupied for living purposes should be charged the one percent impact fee as a single family residence is incorrect. In addition,

her conclusion is inconsistent with other SC statutory definitions of "single family residence" in connection with other benefit/burden distribution programs.

The *South Carolina Abandoned Buildings Revitalization Act* declared that the construction of a single-family residence is not an income producing purpose. *S.C. Code Ann. § 12-67-130.* In the present case, the sole purpose for the construction of Appellant's cottages is to produce income for the Appellant. The *South Carolina Resilience Revolving Fund* act states "Primary single-family residence" means a single detached dwelling that is occupied as the main home by the owners for the majority of the year. *S.C. Code Ann. § 48-62-310.* In the present case, Appellant's cottages are not occupied by their owners. The owner's tenants occupy them.

In other statutory fields, *The South Carolina Landlord and Tenant Act* contains the following definition:

> (14) "single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence *if it has direct access to a street or thoroughfare* (emphasis added) .... *S.C. Code Ann. § 27-40-210.*

Respondent contends the tenants in Appellants cottages do not have direct access to a street. In real property law , the term "access" denotes the right vested in the owner of land which adjoins a road or other highway to go and return from his own land to the highway without obstruction. *Black's Law Dictionary (5th ed.*

*1979).* In S.C. condemnation cases, direct access does not mean intermittent access through side roads. See *Hardin v. S.C. Dep't of Transp.,* 371 S.C. 598, 602, 641 S.E.2d 437, 440 (2007)(No private driveway has direct access to the highway. Instead, private driveways exit onto side roads which have intermittent access to the highway). As shown in the photographs, Appellant's tenants only have intermittent access through common parking areas that feed into side roads that lead to a public street.

Based on *The South Carolina Landlord and Tenant Act*, Respondent contends the Assistant Attorney General's conclusion that egress as defined in the International Residential Code makes Appellant's cottages "single family residences" under the Act is an incorrect statutory interpretation. Egress as used in building codes is another word for "exit," and it is used in those codes to refer to the means by which somebody can exit a building. For example, a fire escape is defined as a "means of egress" because that's how somebody can get out of a building if there was an emergency. Most states and townships have building codes that require means of egress on each floor; sometimes including a finished basement. Egress does not equal access under the Act in the present case.

Respondent further contends the Assistant Attorney General's opinion is not consistent with the Horry County Zoning Ordinance's zoning treatment of single family residences. The previous Horry County zoning code states: "Single-family

residence—separately built means a noncommercial dwelling that is occupied exclusively by one (1) family and not part of a residential subdivision development." *Horry County Ordinances Sec. 17.7-27. – Definitions.* In the present case, Appellant's cottages should not be defined as single family residences under the County's previous zoning ordinance because they are commercial income producing cottages . *Id.*

The zoning district for Appellant's development was changed from a Highway Commercial zoning district to a MRD-3 zoning district to accommodate Appellant. Although MRD-3 does allow some single family residences, Appellant's development would not be allowed to be built in a single family residential zoning district in Horry County. The zoning use of property in a single family residential zoning district is controlled by § 505 of the current Horry County Zoning Code. That section provides the following limitation:

> 505. - One principal building on a single family residential lot.
>
> Only one (1) principal building and its customary accessory buildings may hereafter be erected on any single-family residential lot unless otherwise specified in Section 619. The connection of two (2) buildings by means of an open porch, breezeway, carport, or other such open structure, with or without a roof, shall not make them one (1) building.

The only permitted zoning use allowed in an Horry County single family residential zoning district is one principal building on a single family residential lot. *§505 Zoning Code.* Appellant's cottages do not qualify as single family

residences under the Horry County zoning code. Appellant is placing 221 principal buildings on a single parcel. For that reason Appellant's zoning district was changed from Highway Commercial to Multi-Family Residential -3 – not Single Family Residential.

Respondent requests the Court to consider that Act #272 of 1985 expressly includes "commercial construction" in its uses that qualify for the 2% impact fee. Commercial construction is a phrase that is commonly used in the banking business to differentiate between commercial construction loans and residential construction loans. See *Office of the Comptroller of the Currency (OCC) Acquisition, Development, and Construction Lending, 2013 WL 4628579, at *2.*[1] The OCC defines loans to developments containing 5 or more apartments to be commercial real estate loans where the primary source of repayment is from rental income associated with the property. *12 C.F.R. § 373.14* Respondent contends that Appellant's construction of 221 cottages on commercial real estate for income producing purposes constitutes "commercial construction" for purposes of Act #272 of 1985.

[1] The Office of the Comptroller of the Currency (OCC) charters, regulates, and supervises all national banks and federal savings associations as well as federal branches and agencies of foreign banks. The OCC is an independent bureau of the U.S. Department of the Treasury and is led by the Comptroller of the Currency. A bank's commercial construction lending activities can encompass a wide variety of projects ranging from apartment, condominium, and office buildings, to shopping centers and hotels. Construction Lending, 1995 WL 903077, at *3.

## *CONCLUSION*

Respondent Murrells Inlet-Garden City Fire District respectfully requests that The Board of Directors of the Murrells Inlet-Garden City Fire District's order dated March 28, 2022 be affirmed and that the appeal of The Cottages at Garden City Beach LP, be dismissed.

May 26, 2022

*s/Michael W Battle*
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| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE FIFTEENTH JUDICIAL CIRCUIT<br>C/A NUMBER: 2022-CP-26-02575 |
| The Cottages at Garden City Beach LP,<br>Appellant,<br><br>v.<br><br>Murrells Inlet-Garden City Fire District,<br>Respondent. | ) | **Brief of Appellant,**<br>**The Cottages at Garden City Beach, LP** |

## CASE SUMMARY

This is an appeal from a decision of the Murrells Inlet-Garden City Fire District (MIGC) issued on March 28, 2022.[1] MIGC is authorized by the General Assembly to impose impact fees on new construction. The enabling legislation basically empowers MIGC to impose a fee of one percent (1%) for single family residences and two percent (2%) for commercial construction. The Appellant, The Cottages at Garden City Beach, LP (hereinafter "The Cottages") is developing a residential community known as Swells Cottages, consisting entirely of detached single family residences. MIGC seeks to improperly impose a two percent (2%) fee based solely on the fact that these residences are rented rather than owned.

MIGC referred this matter to the South Carolina Attorney General seeking an Opinion toward resolving this Matter. The Attorney General's Opinion found in favor of the Appellant. Despite the Attorney General's Opinion, the MIGC Board voted in favor of awarding itself more money.

[1] The Final Decision of the MIGC is attached hereto as Exhibit 1.

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## STANDARD OF REVIEW

The only facts included in the Record on Appeal in this case are those submitted by The Cottages. Respondent put forth no evidence in this Record. Accordingly, there exist no issues of fact in this matter.

The review of this Court is governed by the standard by which the Court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings or conclusions are affected by an error of law, clearly erroneous in view of the substantial evidence in the record, or arbitrary, capricious, or characterized by an abuse of discretion. Peake v. S.C. Dep't of Motor Vehicles, 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007); Sanders v. S.C. Dep't of Motor Vehicles, 431 S.C. 374, 382, 848 S.E.2d 768, 772–73 (2020). As there exist no issues of fact for the Court's consideration, the standard regarding substitution of the Court's judgment for that of the agency as to the weight of the evidence on questions of fact is inapplicable.

## DISCUSSION

Swells Cottages is a residential neighborhood which will ultimately consist of 221 detached single family residences. Each house is one or two stories with its own separate means of ingress and egress.[2] The residents who live in these homes will have spaces for living, sleeping, eating, cooking, and bathing.[3] It has always been the intent of The Cottages that the Swells Cottages houses would serve as single family residences and nothing else.[4] In fact, the Swells Cottages are restricted to prohibit commercial use.[5]

[2] R. Ex. 5 – Letter to the MIGC Board Exs. 1, 2, & 3: Pictures of the Swells Cottages Neighborhood, Picture of a Home in Swells Cottages, and Floor Plans and Interior of the Homes.
[3] Id.
[4] R. Ex. 5 – Letter to the MIGC Board Ex. 4: Affidavit of the Owner of Swells Cottages.
[5] Id.

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In 1985, the General Assembly of South Carolina granted MIGC authority to impose a fire impact fee on all new construction. That enabling legislation is very specific in its language:

> The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction.
>
> S. 639, S.C. Gen. Assemb. 106th Sess. (1985-1986).

In implementing the enabling legislation, MIGC adopted a Fire Impact Fee Administration Manual which states:

> A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction or in such amount as may set forth elsewhere herein.[6]

This is the standard by which the Board must impose the fire impact fees. This standard cannot be expanded or modified as enabling legislation prescribes the parameters of conferred authority. Riverwoods, LLC v. Cty. of Charleston, 349 S.C. 378, 386, 563 S.E.2d 651, 656 (2002). In order to be valid, local government enactments and regulations must be authorized by the enabling act, at least, where they are enacted pursuant to the authority conferred by such act, and they can be no broader than the statutory grant of power. Richland Cty. v. S.C. Dep't of Revenue, 422 S.C. 292, 311, 811 S.E.2d 758, 768 (2018). Therefore, by enabling definition, a single family residence can only be charged a 1% fire impact fee.

Article 5.0 of the Fire Impact Fee Administration Manual captioned "Definitions" specifically adopts definitions as are found in the International Building and Fire Code, which in turn, references and incorporates the International Residential Code.[7] The definitions as to

[6] R. Ex. 3 – Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual, Rev. 1, Jan. 1, 2020, Art. 3.0

[7] Id. at Art. 5.0.

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"residential' versus "commercial" construction as recited therein are instrumental to resolution of this case.

Determining whether a new structure should be charged 1% of the cost of construction or 2% of the cost of construction requires a stepped analysis. We are required to consider:

- The General Assembly Enabling Legislation;
- The MIGC Fire Impact Fee Administration Manual;
- The International Building Code; and
- The International Residential Code.

| **Enabling Legislation – S. 639, S.C. Gen Assemb. 106th Sess. (1985-1986)** |
|---|
| "The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction." |



| **Fire Impact Fee Administration Manual Section 3.0 – Power to Collect Fire Impact Fees** |
|---|
| "A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction…" |



| **Fire Impact Fee Administration Manual Section 6.1 – Residential Structures** |
| --- |
| "Residential structures shall be single or multi-family structures not constructed for commercial use… shall… be charged a fire impact fee of 1.0 percent of the value of construction." |

| **Fire Impact Fee Administration Manual Section 6.2 – Commercial Structures** |
| --- |
| "A new building or structure, as defined by the currently adopted edition of the *International Building Code* as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential… shall… be charged a fire impact fee of 2.0 percent of the value of construction." |

The language of the Enabling Legislation, the Administration Manual, the International Building Code, and the International Residential Code make it clear that if the International Building Code classifies a structure as governed by the International Residential Code, then it is not commercial. Article 310 of the International Building Code governs. This Article identifies certain "sleeping purpose" structures such as Hotels and Apartments which are obviously commercial.

| **International Building Code Section 310** |
| --- |
| "Residential Group R includes… the use of a building or structure… for sleeping purposes… when not regulated by the International Residential Code." |



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| **International Residential Code Section 101.2** |
| --- |
| "The provisions of this code shall apply to the construction… and occupancy… of detached one- and two-family dwellings." |

If governed by the International Residential Code, then a structure is not commercial by definition. There is no factual dispute that the single family dwellings of the Swells Cottages are designed, permitted, built, and regulated in accordance with the International Residential Code. Since the Manual expressly defers to the classifications of the International Building Code which specifically exclude structures regulated by the International Residential Code, such as the Swells Cottages, then the Swells Cottages can only be residential.

The South Carolina Supreme Court has explained that "Single-family residential use involves the act of residing in a single-family dwelling." Kinard v. Richardson, 407 S.C. 247, 265, 754 S.E.2d 888, 898 (Ct. App. 2014). As explained above, the intent of the Swells Cottages neighborhood is to provide homes to single families. The fact that each home in the Swells Cottages neighborhood is a single family residence has been further substantiated through the Affidavit of the owner and letter of the architect of this community, the International Residential Code, and various governmental approvals such as residential building permits and a rezoning ordinance.

John Morrison of The Cottages, executed an affidavit in connection with this matter to assure the MIGC Board of Directors that the Swells Cottages are in fact single family detached houses.[8] In his affidavit, Mr. Morrison explains that it has always been the intent of the owner

[8] R. Ex. 5 – Letter to the MIGC Board Ex. 4: Affidavit of the Owner of Swells Cottages.

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that the homes in Swells Cottages would serve as single family residences and that any commercial activity conducted in the homes will be a violation of the residential only requirement.[9] Mr. Morrison affirmed that each house has been specifically designed in accordance with the International Residential Code and single family fire resistance requirements.[10] Not one of the homes has a roof, wall, or floor in common with any other dwelling.[11]

Gregory Huddy of C3 Studio, LLC is the architect of the Swells Cottages community. Mr. Huddy wrote a letter to MIGC which addresses the residential nature of the homes in Swells Cottages.[12] Mr. Huddy highlights several important factors which demonstrate that these houses are single family residences.

Mr. Huddy notes that each of the 221 dwellings were separately submitted for single family residence permitting under the International Residential Code.[13] This was based on the fact that detached one- and two-family dwellings not more than three stories above grade plane with a separate means of egress and their accessory structures are an exception to the International Building Code and shall comply with the International Residential Code.[14] The Swells Cottages homes are single family residential.

Horry County has likewise defined these homes as residential. This is evidenced by the fact that the single family homes in Swells Cottages have each received separate Residential

[9] Id.
[10] Id.
[11] Id.
[12] R. Ex. 5 – Letter to the MIGC Board Ex. 5: Letter from the Architect.
[13] Id.
[14] Id.

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Building Permits issued by the County.[15] It is particularly instructive that each Permit lists the Description of the Work as "New Single Family Residential".

The neighborhood has been rezoned a Multi-Residential District. Prior to the development of this community, the area was zoned Highway Commercial. The Cottages went before the Horry County Council to rezone the area for the specific purpose of building single family detached residences.[16]

Further supporting the residential nature of these homes is that they are not used for commercial purposes. No commercial activity is being operated out of these single family homes. On the contrary, these homes can only be utilized for the sole purpose of residential use.

The fact that these residences are rented instead of owned does not render them commercial. Courts in numerous jurisdictions have considered whether rentals should be categorized as residential or commercial. This question is typically analyzed in the context of whether short term rentals violate covenants restricting lots to residential purposes and prohibiting commercial use. Such terms have regularly been interpreted to designate the character of the use of the property. See Erthal v. May, 223 N.C. App. 373, 736 S.E.2d 514 (2012); Russell v. Donaldson, 222 N.C. App. 702, 731 S.E.2d 535 (2012) (citing Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n v. Acord, 219 So. 3d 111 (Fla. Dist. Ct. App. 2017). South Carolina has analyzed this question by looking at the use of the property and in one such case the South Carolina Court of Appeals stated that it was undisputed that short term rentals did not violate the

[15] R. Ex. 5 – Letter to the MIGC Board Ex. 6: Horry County Residential Building Permits.
[16] R. Ex. 5 – Letter to the MIGC Board Ex. 7: Zoning Ordinance and Supporting Documents.

requirement that all lots shall be used for residential purpose. Cmty. Servs. Assocs. v. Wall, 421 S.C. 575, 585, 808 S.E.2d 831, 836 (Ct. App. 2017).

The South Carolina Court of Appeals holding is consistent with courts from the majority of other jurisdictions which have uniformly held that covenants prohibiting business and commercial use of property do not bar short term rentals. Russell, 731 S.E. 2d 535, 538-39 (2012) (citing Yogman v. Parrott, 325 Ore. 358, 937 P.2d 1019, 1021 (Or. 1997); Silsby v. Belch, 2008 ME 104, 952 A.2d 218, 222 (Me. 2008); Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569, 571, 580 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n, 219 So. 3d 111, 114 (Fla. Dist. Ct. App. 2017) (citing cases from Kentucky, Colorado, Washington, New Mexico, North Carolina, Alabama, Indiana, Virginia, Maryland, Missouri, Idaho, Oregon, Ohio, Tennessee, and Texas). The critical question in these cases has been whether the renters are using the property for ordinary living purposes such as eating, sleeping, and engaging in recreation normally incident thereto. Id. The residents of the Swells Cottages homes will rent these properties long term to use them solely for residential purposes.

According to South Carolina law, the General Assembly may classify property for tax purposes according to its use so long as the tax imposed is uniform on the same class of property. Holzwasser v. Brady, 262 S.C. 481, 488, 205 S.E.2d 701, 704 (1974). All members belonging to this class must be treated alike for taxation purposes. Id.

The Cottages have demonstrated that other indistinguishable structures have been charged 1% of the cost of construction. Numerous rental-only properties in the MIGC district have been charged a single family residence impact fee. Two examples are located at 1311 S.



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Waccamaw Drive, Garden City and 1465 S. Waccamaw Drive, Garden City.[17] These buildings operate as short term rentals and have more rooms accommodating more occupants than the Swells Cottages homes. Similarly, countless Tract Home subdivisions have been built by National Builders within the MIGC district and have been charged the 1% fee. If these buildings are charged the single family residence fire impact fee, the Swells Cottages must also be charged the single family residence fire impact fee.

## CONCLUSION

Following the August 23, 2021 Hearing before the MIGC Board of Directors, the Board referred the matter to the South Carolina Attorney General's Office. On December 16, 2021 the Attorney General issued its Opinion finding in favor of Appellants. A copy of the Attorney General Opinion is attached hereto as it was not included in the Record on Appeal.[18] In essence, the Attorney General strictly followed the stepped analysis controlling resolution of this issue. Despite the finding of the Attorney General, the MIGC Board later convened and voted in favor of awarding itself more money.

Based upon the foregoing, Appellant respectfully requests that this Court find in accordance with the South Carolina Attorney General's Office and overturn the Order of MIGC to award itself additional money. The mandated impact fee for the Swells Cottages Community is 1%.

[Signature block on following page]

[17] R. Ex. 5 – Letter to the MIGC Board Ex. 8: Rental Listings of Like Properties.
[18] Op. S.C. Atty. Gen., 2021 WL 6104712 (Dec. 16, 2021).

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Myrtle Beach, South Carolina
June 23, 2022

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# Murrells Inlet-Garden City Fire District

PO Box 648, 3641 Hwy. 17 Bus.
Murrells Inlet, SC 29576
PH (843) 651-5143

Gene Connell, Chairman
J. R. Haney, Fire Chief

March 28, 2022

The Board of Directors of the Murrells Inlet – Garden City Fire District voted 5 – 0 to deny the request of Sands Building Group/Garden City Cottages for a refund of impact fees paid. The Board asserts that the proper fees were collected in the amount of 2% on the Sands Building Group/Garden City Cottages project located in the District.

3-28-22
Date

Gene Connell
Chairman

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ALAN WILSON
ATTORNEY GENERAL

December 16, 2021

Gene M. Connell, Jr.
Murrells Inlet-Garden City Fire District
PO Box 648
Murrells Inlet, SC 29576

Dear Mr. Connell:

As chairman of the Murrells Inlet-Garden City Fire District ("Fire District"), you are requesting an opinion of this Office regarding the charging of a fire impact fee. The Fire District is authorized to impose a fire impact fee on all new construction and additions. The fee is 1% of the cost of construction of single-family residences and 2% of the cost of construction of condominiums and townhouses, high rise buildings and all commercial construction.

According to the information you provided, the Swells Cottages neighborhood is being built by a corporation and will consist of 221 detached single-family houses. Each house will be one or two stories and have its own separate means of egress.

The houses will not be sold to the public. Instead, they will be managed professionally and rented. You are seeking an opinion as to whether Swells Cottages should be charged the 2% fire impact fee because the buildings "appear to be commercial construction, i.e., they are being rented as if they were apartments."

## LAW/ANALYSIS

Although this Office is not authorized to make factual findings,[1] we can provide you with the applicable law. To provide some background, the Fire District has been empowered by the Legislature to impose impact fees:

> In addition to the powers and duties provided for the governing body of the Murrells Inlet-Garden City Fire District in Georgetown and Horry Counties by Act 876 of 1966, the Board may impose, one time only, an impact fee on all buildings under construction on

[1] See Op. S.C. Atty. Gen., 1989 WL 406130 (April 3, 1989) ("[b]ecause this Office does not have the authority of a court or other fact-finding body, we are not able, in a legal opinion, to adjudicate or investigate factual questions."

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> the effective date of this act and all new construction and all new additions. The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction. The fees must be used to purchase and maintain fire fighting equipment.

1985 S.C. Acts 272. Neither "single family residences" nor "commercial construction" is defined by Act 272.

To provide "guidance for the consistent and equitable collection of Fire Impact Fees," the Fire District established the Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual ("Manual") (Jan. 1, 2020), §1.0. In its Definitions section, the Manual states:

> Definitions for terms found in this manual relative to occupancy or construction practices shall be consistent with the definitions found in the edition of the International Building and Fire Code in use by either the Georgetown County Building Department, Georgetown County, SC, or the Horry County Code Enforcement Department, Conway, SC, within their respective jurisdictions except where said definitions may conflict with the definition herein contained. Where said definitions do conflict with the definitions herein contained, then the definition herein contained will control.

Id., §5.0.

The Manual provides that "Residential Structures shall be single or multi-family structures not constructed for commercial use . . . Id., §6.1. It also provides the meaning of "Commercial Structures:"

> A new building or structure, as defined by the currently adopted edition of the International Building Code as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential ...

Id., §6.2.

We will examine the International Building Code ("IBC"), because the Manual relies on its definitions regarding occupancy and use. The IBC "is a model code that provides minimum requirements to safeguard the public health, safety and general welfare of the occupants of new and existing buildings and structures." Preface, International Building Code (2021). It "applies to all occupancies, including one- and two-family dwellings and townhouses that are not within

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the scope of the IRC [International Residential Code]." Id. According to the IBC, a "dwelling" is "a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes." Id., §202. A "dwelling unit" is "a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." Id.

In the IBC, buildings and structures are classified by occupancy and use. See Id., §301.1. "Occupancy classification is the formal designation of the primary purpose of the building, structure or portion thereof." Id., §302.1. "Structures shall be classified into one or more of the occupancy groups specified in this section based on the nature of the hazards and risks to building occupants generally associated with the intended purpose of the building or structure." Id. The occupancy groups are Assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Mercantile, Residential, Storage, and Utility and Miscellaneous. Id., §302.1.

Because only the Business and Residential occupancy groups could potentially apply to your question, we will limit our discussion to them. "Business Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts." Id., §304.1. "Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code." Id., §310.1.

Residential Group R contains four classifications. Residential Group R-1 is comprised of "occupancies containing sleeping units where the occupants are primarily transient in nature," such as hotels and motels. Id., §310.2. Residential Group R-2 contains "sleeping units or more than two dwelling units where the occupants are primarily permanent in nature," including apartment houses and dormitories. Id., §310.3. Residential Group R-3 is "where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I," such as buildings that do not contain more than two dwelling units and care facilities providing accommodations for five or fewer persons receiving care. Id., §310.4. Residential Group R-4 is comprised of "buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive custodial care," including alcohol and drug centers and assisted living facilities. Id., §310.5.

We will also review the International Residential Code ("IRC"), because the IBC, in particular its Residential Group, is not applicable to buildings and structures that are within the IRC's scope. The IRC applies to the construction of "detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress . . ." International Residential Code (2018), §101.2. A "dwelling" is defined as "any

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building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes." Id., §202. "Dwelling unit" means "a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." Id.

In order to answer your question, we must consider the meaning of "single family residence" in Act 272. A detached one-family dwelling not more than three stories with a separate means of egress is considered residential and is regulated by the International Residential Code. Although the definitions are slightly different, both the IRC and the IBC agree that a dwelling can be used, rented, leased, let or hired out to be occupied for living purposes. Furthermore, a house meeting this description does not fit within any of the IBC's occupancy groups and therefore does not appear to be a "commercial structure" as defined by the Manual. Accordingly, it is our opinion that a detached single-family house not more than three stories with a separate means of egress can be rented or leased to be occupied for living purposes, without it constituting commercial use. We believe that it should be charged the one percent impact fee as a single family residence.

## CONCLUSION

Based on 1985 S.C. Acts 272, the Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual (Jan. 1, 2020), the International Business Code (2021), and the International Residential Code (2018), it is our opinion that a detached single-family house not more than three stories with a separate means of egress that is rented or leased to be occupied for living purposes should be charged the one percent impact fee as a single family residence.

Sincerely,

Elinor V. Lister

Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General

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| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY | ) | IN THE COURT OF COMMON PLEAS<br>FOR THE FIFTEENTH JUDICIAL CIRCUIT<br>C/A NUMBER: 2022-CP-26-02575 |
| The Cottages at Garden City Beach LP,<br>Appellant,<br><br>v.<br><br>Murrells Inlet-Garden City Fire District,<br>Respondent. | ) | **Appellant's Motion to Reconsider Pursuant to Rule 59(e), SCRCP & to Supplement the Record** |

Appellant, The Cottages at Garden City Beach LP (hereinafter "Cottages"), moves the Court pursuant to Rule 59(e), SCRCP, for reconsideration of the Court's Order Affirming the Decision of the Murrells Inlet-Garden City Fire District (hereinafter "MIGC") to impose a 2% fire impact fee on the cost of construction of the Swells Cottages. The Cottages further move the Court to supplement the record with newly discovered evidence of MIGC's Revised Fire Impact Fee Administration Manual. The Cottages request the Court supplement the record; withdraw or vacate the Order; and issue an Order which overturns the decision of MIGC. In the alternative, Cottages request the Court specifically consider and rule upon all issues and arguments raised by Cottages in order to preserve them for further review.

The Cottages request the Court reconsider its Order on the grounds that it believes the Court overlooked or misapprehended important issues of law and to preserve for appellate review certain issues raised by Cottages which the Court's Order does not address. Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) ("A party *may* wish to file [a Rule 59(e) motion] when she believes the court has misunderstood, failed to fully

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consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.").

The Cottages raised the following issues which the Court's Order does not reference or address:

1. MIGC implemented a Fire Impact Fee Manual which defines "commercial structures" and "residential structures". The Manual expressly defers "commercial structures" to the classifications of the International Building Code which specifically exclude structures regulated by the International Residential Code. This is the standard by which the Board must impose the fire impact fees. Using this standard, the Swells Cottages homes are residential. Even assuming this standard is ambiguous, any substantial doubt in the application of the 2% impact fee must be resolved in favor of the Cottages. See Alltel Communications, Inc. v. South Carolina Dept. of Revenue, 399 S.C. 313, 321, 731 S.E.2d 869, 873 (2012);

2. According to South Carolina law, the fact that these residences are rented instead of owned does not render them commercial. South Carolina courts have analyzed this question by looking at the use of the property. Cmty. Servs. Assocs. v. Wall, 421 S.C. 575, 585, 808 S.E.2d 831, 836 (Ct. App. 2017). Single family residential use involves the act of residing in a single family dwelling. Kinard v. Richardson, 407 S.C. 247, 265, 754 S.E.2d 888, 898 (Ct. App. 2014). The Swells Cottages homes are utilized for the sole purpose of residential use;

3. Horry County has already defined the homes as residential. Each home in Swells Cottages has received a separate Residential Building Permit and a Residential Certificate of Occupancy. The decision of MIGC is in direct opposition to governmental approvals of the County within which it functions; and

4. South Carolina law requires that taxes imposed upon properties of the same class must be uniform. Holzwasser v. Brady, 262 S.C. 481, 488, 205 S.E.2d 701, 704 (1974). The Cottages have demonstrated that other indistinguishable structures have been charged 1% of the cost of construction. If these buildings are charged the single family residence fire impact fee, the Swells Cottages must also be charged the single family residence fire impact fee.

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The Cottages request the Court supplement the record with the recently discovered Revised MIGC Fire Impact Fee Administration Manual attached hereto as Exhibit A and incorporated herein by reference. The previous Manual by which impact fees were imposed has been amended in several respects, including the following particulars:

1. "Single-Family Residences" as defined in the Definitions Section and again defined in the Section specifically entitled "Single-Family Residences" are now required to be "located on deeded individual lots" and are not "to generate recurring income." These requirements were absent from the previous Manual.

2. "Commercial Structures" as defined in the Definitions Section and again in the Section specifically entitled "Commercial Structures" no longer defers to the International Building Code to define these structures.

3. The Definitions Section of the previous Manual stated that the terms in the Manual shall be consistent with the International Building Code. This is no longer included. In fact, all references to the International Building Code have been removed from the Manual.

In accordance with South Carolina Supreme Court Order 2015-09-10-01 Re: Civil Motions Pilot Program, a supporting memorandum of law is not included as a full explanation of the Motion is contained within the Motion and a memorandum would serve no useful purpose. I hereby certify that consultation with opposing counsel prior to filing this Motion would serve no useful purpose. This certification is made in satisfaction of Rule 11(a), SCRCP.

**WHEREFORE**, the Cottages respectfully request that this Honorable Court:

a. Supplement the Record with the newly discovered Revised MIGC Fire Impact Fee Administration Manual;

b. Reconsider its Order Affirming the decision of MIGC;

c. Withdraw or vacate the Order; and

d. Issue an Order overturning the decision of MIGC.

e. In the alternative, Cottages request the Court specifically consider and rule upon all issues and arguments raised by Cottages in order to preserve them for further review.

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# Murrells Inlet – Garden City Fire District
# Fire Impact Fee Administration Manual

Recommended Approval

J. R. Haney, Fire Chief

Approved by the Board of Directors, Murrells Inlet – Garden City Fire District

August 22, 2022

Gene Connell

Kay Benton

Elizabeth Ward

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## 1.0 Purpose

This manual provides guidance for the consistent and equitable collection of Fire Impact Fees for the Murrells Inlet-Garden City Fire District by the Fire District, Georgetown County Building Department, and Horry County Code Enforcement Department personnel.

## 2.0 The Murrells Inlet-Garden City Fire District Fire Impact Fees

Many fire departments have direct ties to an established local government that assumes the responsibility for ensuring that fire protection is provided. State laws delegate certain responsibilities to governing bodies which, in turn, delegate emergency powers and certain powers of fire code enforcement to the fire official. This government umbrella often establishes a means for providing operational and capital funding but sometimes provides only essentials such as enabling legislation and a contract with an established fire department.

Upon its establishment by referendum pursuant to statutory authority in 1966, the Murrells Inlet-Garden City Fire District has operated in sections of both Horry and Georgetown Counties in South Carolina, but without control or supervision by either county. In the department's early years, it was far less expensive than it is now to purchase and maintain firefighting equipment, and the income generated by the statutorily authorized tax millage of the district could easily support such costs. The growth rate at the time was modest, and the area was primarily restaurants, small businesses, single-family homes, and vacation cottages. In the mid-1980s, the type of construction began to change to taller high-density residential structures and expanded commercial structures such as malls and shopping centers, and the amount of new construction in the fire district began to grow at a faster rate than before. The need for new fire apparatus, firefighting equipment, and its associated costs grew at a rate faster than the income generated by the statutorily authorized tax millage could support. In 1985 the South Carolina Legislature, recognizing the financial hardship by reason of rapid growth, expanded the powers of the fire district by granting the district's Board of Directors the power to impose fire impact fees.

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With a fire impact fee, those most directly responsible for the district's growth and the consequential need for additional firefighting equipment, the developers, and builders, bear a proportional share of the cost of providing fire protection services. As sound economic practices go, this cost is passed on to the consumer. Each construction project pays its fair share for the fire apparatus and firefighting equipment.

## 3.0 Power to Collect Fire Impact Fees

Murrells Inlet-Garden City Fire District is granted the statutory authority to impose and collect fire impact fees on all new construction and all new additions as of and following June 6, 1985, as set forth in (Act #272) Joint Acts and Resolutions of the General Assembly of the State of South Carolina of 1985. A fire impact fee of one percent of the cost of construction of single-family residences and two percent of the cost of construction of condominiums and townhouses, high-rise buildings, and all commercial construction or in such amount as may be set forth elsewhere herein. Fire impact fees are payable to the Administrative Assistant or their designee at the headquarters station of the Murrells Inlet-Garden City Fire District and by previous agreement, on behalf of the fire district at the Georgetown County Building Department, Georgetown, South Carolina, and at the Horry County Code Enforcement Department, Conway, South Carolina. Fire impact fees collected by these departments are, by agreement, remitted by the respective county treasurers to the fire district on a regular basis.

## 4.0 The Murrells Inlet-Garden City Fire District Service Area

As defined by statute, the Murrells Inlet-Garden City Fire District's statutory service area is those parts of Georgetown and Horry Counties within an area bounded by Huntington Beach State Park and Brookgreen Gardens to the south, the Waccamaw River and Collins Creek to the west. The north boundaries include Blackmoor on Hwy 707, Santee Cooper transmission lines on Hwy 17 Bypass, and Melody Ln. on Hwy 17 Bus. And N. Waccamaw Dr. East boundaries go to the Atlantic Ocean.

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## 5.0 Definitions

**Additional Construction:** Any expansion, upfit, or renovation made to an existing building or applicable structure as outlined herein

**Building or Applicable Structure:** Any proposed, new, or existing building, structure or system for the purpose of occupancy, storage, shelter or fire protection, portable or fixed, residential or commercial, or any permanent building, structure, or system of value that is ancillary to such building or structure except as specifically exempted by the respective county from needing a permit

**Expansion:** Modifications made to an existing building or applicable structure that increase any of its overall dimensions

**Fire Impact Fee:** A fee levied by governmental authority on all new construction in the Murrells Inlet-Garden City Fire District, as outlined in section 6.0 of this manual, to purchase and maintain firefighting equipment for the district

**Renovations:** Modifications made to an existing building or applicable structure that renew or alter its interior and/or exterior appearance with minimal structural work

**Repair-in-kind:** Work performed on an existing building or applicable structure to replace failed or damaged systems or components with similar systems or components of comparable value to those originally installed and for which a Fire Impact Fee has already been paid.

**Single-Family Residences:** Single-family residences shall be single-family, unattached dwellings located on deeded individual lots that are established for such family dwelling, and they are not constructed for commercial use or to generate recurring income.

**Commercial Structures:** Condominiums and townhomes, high-rise buildings, and all commercial construction.

**Commercial Construction:** Commercial construction means the act of building any structure, or that part of any structure, that is not a single-family residence, as defined herein, or any permanent building, applicable structure, or system of value that is ancillary to any such structure.

**System of Value:** Includes fire protection systems such as sprinklers, fire alarms, hood systems, and other like protection systems.

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**Upfit:** Modifications to all or part of a partially completed building or applicable structure that are to be on a building permit subsequent to any completed building permit(s) for original construction and which will render such building or applicable structure or part thereof suitable for occupancy, storage, or shelter.

## 6.0 Determination of Fire Impact Fees

Fire Impact fees are collected on all new construction in the Murrells Inlet-Garden City Fire District. The term "new Construction" shall include any building or structure suitable for occupancy, storage, or shelter, portable or fixed, residential, or commercial, constructed, fabricated, or erected on or after June 6, 1985.

The fire impact fee is based on the cost of construction as declared by the owner or general contractor or as calculated by a method generally practiced and approved for use by the building official. Fire impact fees shall be collected on the cost of construction of the building or structure. Structures that are to be fabricated to a level of completion that is less than suitable for occupancy, storage, or shelter which are, for the purpose of determination of fire impact fees, deemed to be "partially completed" (e.g., an un-leased or unsold bay or unit in a mall or strip mall that is not finished upon completion of construction of the mall or strip mall and thereafter completed for the occupancy, storage, or shelter of a tenant or owner pursuant to a subsequent building permit), shall be charged a fire impact fee only upon the cost of the new construction. The cost of any upfitting that has been undertaken to render the building or structure suitable for occupancy, storage, or shelter shall cumulatively be added to the cost of the original construction of the building or structure. The total of all fire impact fees assessed and collected shall be based on the total cost of the initial construction and the cost of the new construction, with credit granted for any fire impact fee previously paid and evidenced by a written receipt for payment.

A structure hereinafter referred to as a "permanent structure of value" shall mean any porch, outbuilding, swimming pool, fire protection system, or other construction that increases the completed or assessed value of the property. Such structures are those that are of such cost or technical complexity as to require a building permit from the respective county to construct.

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### 6.1 Single-Family Residences

Single-family residences shall be single-family, unattached dwellings located on deeded individual lots that are established for such family dwelling, and they are not constructed for commercial use or to generate recurring income. Single-family residences shall, at the time of permitting for construction, be charged a fire impact fee of 1.0 percent of the value of construction. Any permanent structure or system of value that is ancillary to any such single-family residence shall, at the time of permitting for construction, be charged a fire impact fee of 1.0 percent of the value of such construction.

### 6.2 Commercial Structures

Condominiums and townhomes, high-rise buildings, and all commercial construction shall, at the time of permitting for construction, be charged a fire impact fee of 2.0 percent of the value of construction. Commercial construction means the act of building any structure, or that part of any structure, that is not a single-family residence, as defined herein, or any permanent building, applicable structure, or system of value that is ancillary to any such structure.

### 6.3 Renovations

Any renovations or repairs, not determined to be additional construction, to a completed building that are to be done on a building permit and which, in the opinion of the building official and/or the assessor, significantly increases its assessed value shall be charged a fire impact fee of 0.2 percent of the value of construction. As an example, a new tenant plans to move into a previously occupied retail bay in a strip mall and desires to renovate the space to suit his business. A fire impact fee had been paid on the original construction, but the new finishes and fixtures in the space will affect the value of the building, so a fire impact fee of 0.2 percent is to be collected.

### 6.4 Repairs-in-kind

Any completed building that has been charged and has paid a fire impact fee having suffered damages due to a natural disaster or calamity may undergo repairs-in-kind on a building permit without the assessment and collection of an additional fire impact fee. Repairs-in-kind under such circumstances are not subject to the assessment and collection of an additional fire impact fee by reason of the fact that such repairs-in-kind are, or are being, undertaken for repairing a part of the building or structure of value for which a fire impact fee has previously been paid.

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### 6.5 Upfit of Incomplete or Uncompleted Buildings and Tenant Spaces

Any building erected to a level of completion specified as "incomplete" or "upfit to suit tenant" in the original plans and which is approved as such by the building official may be completed on a building permit, but the fire impact fee of 2.0 percent must be collected on the scope of work, as this is not a renovation, but an upfit for completion. The space includes no interior partitions and only minimal electrical wiring, but it has been completed to a level specified in approved drawings. If the upfit work to prepare this space for a tenant is to be performed under a new building permit, then a fire impact fee of 2.0 percent is to be collected.

### 6.6 Relocation of Mobile Homes and other Portable Structures

A mobile home or other portable structure for which a fire impact fee has already been paid may be moved by the original owner to another location in the fire district without additional assessment of a fire impact fee. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee for presentation to the appropriate county permitting authority at the time of application for a building permit to erect or place said mobile home or portable structure or pay the full fire impact fee.

### 6.7 Replacement of Mobile Homes and Modular Homes

If a fire impact fee has been paid for a mobile or modular home and the original owner is replacing it with another one of greater value, then the fire impact fee already paid on the old home may be applied as a credit toward the fire impact fee on the new home. These requests may be processed only at the Murrells Inlet-Garden City Fire District business office during regular business office hours. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee with the balance due and will be issued a receipt for full payment for presentation to the appropriate county permitting authority at the time of application for a building permit.

## 7.0 Appeals of Fire Impact Fees

Use of this manual by Horry County Code Enforcement, Georgetown County Building Department, and Murrells Inlet-Garden City Fire District personnel ensures the fair and equitable computation and collection of fire impact fees. Because the Horry County Code Enforcement Department and the Georgetown County Building Department are collecting these fees only on behalf of the Murrells Inlet-

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Garden City Fire District, any questions or disputes about fire impact fees collected at those locations shall be directed to the Administrative Assistant at the Murrells Inlet-Garden City Fire District headquarters. The Administrative Assistant, Fire Marshal, or Fire Chief, as necessary, shall make every attempt to resolve the fee in question.

Fire impact fee disputes that remain unresolved will next be referred to the Murrells Inlet-Garden City Fire District Board of Directors for resolution. The requestor will be required to appear before the Board either at a regularly scheduled meeting or a special meeting called for the purpose of the appeal, at the sole discretion of the Chairman of the Board, to present the case in person.

Any appeal of a decision regarding fire impact fees by the Board of Directors shall be made through appropriate legal action directly to the Court of Common Pleas for the Fifteenth Judicial Circuit, State of South Carolina.

## 8.0 Murrells Inlet-Garden City Fire District Fire Impact Fee Rate Schedule

Except where provided elsewhere herein, the following fire impact fees rate schedule shall apply.

### 8.1 Single-Family Residences

Single-family residences and their ancillary structures built or upfit shall be charged a fire impact fee of 1.0 percent of the cost of construction.

### 8.2 Commercial Structures

Condominiums and townhomes, high-rise buildings, and all commercial construction and their ancillary structures shall, at the time of permitting for construction, be charged a fire impact fee of 2.0 percent of the value of construction.

### 8.3 Interior and Exterior Renovations

Interior and exterior renovation made to existing buildings and ancillary structures in all occupancies shall be charged a fire impact fee of 0.2 percent of the cost of construction.

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| STATE OF SOUTH CAROLINA<br>COUNTY OF HORRY<br>The Cottages at Garden City Beach, LP,<br>Appellant,<br>vs.<br>Murrells Inlet-Garden City Fire District,<br>Respondent. | FOR THE FIFTEENTH JUDICIAL CIRCUIT<br>IN THE COURT OF COMMON PLEAS<br>CASE NO.: 2022-CP-26-02575<br><br>**Murrells Inlet-Garden City Fire District Response to Motion for Reconsideration** |

## *General Discussion*

Respondent Murrells Inlet-Garden City Fire District (MGIC) opposes Appellant The Cottages at Garden City Beach, LP's Motion for Reconsideration on the grounds the Court correctly ruled MGIC's order in the present appeal was not affected by an error of law; it was not clearly erroneous in view of the substantial evidence in the record, nor was it arbitrary, capricious, or characterized by an abuse of discretion. *Peake v. S.C. Dep't of Motor Vehicles,* 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007). MGIC correctly determined that the Swells Cottages were "commercial construction" under Act 272 of 1985.

MGIC is a state administrative agency. *S.C. Code Ann. § 4-23-20.* The findings of an administrative agency are presumed correct and will be set aside only if unsupported by substantial evidence. *Kearse v. State Health & Human Servs. Fin. Comm'n*, 318 S.C. 198, 200, 456 S.E.2d 892, 893 (1995); *South Carolina Dep't of Motor Vehicles v. Nelson*, 364 S.C. 514, 519, 613 S.E.2d 544, 547 (Ct.App.2005); *Broughton v. South of the Border,* 336 S.C. 488, 496, 520 S.E.2d 634, 637 (Ct.App.1999). "A court cannot substitute its judgment for that of an agency as to the weight of the evidence on questions of fact unless the agency's findings are clearly

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erroneous in view of the reliable probative and substantial evidence on the whole record." *Summersell,* 334 S.C. at 363, 513 S.E.2d at 622; see also *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 466 S.E.2d 357 (1996). "Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action." *Nelson,* 364 S.C. at 519, 613 S.E.2d at 547; see also *Palmetto Alliance, Inc. v. South Carolina Public Serv. Comm'n*, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984) (declaring substantial evidence is something less than weight of evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence). The circuit court essentially sits as an appellate court in reviewing an administrative agency's final decision for alleged errors. *Kiawah Resort Assocs. v. South Carolina Tax Comm'n,* 318 S.C. 502, 458 S.E.2d 542 (1995).

As noted by the Court, substantial evidence was presented to show the entire Swells Cottages' commercial development was all "commercial construction." All 221 dwelling places are located on a single 25 acre tract of land. The Swells Cottages development does not contain any single family residential lots. The owner/developer rents out all of the units. The owner/developer owns and provides commercial communal amenities to all dwelling places. Some individual dwelling places share general parking areas. The owner/developer manages commercial rentals of the dwelling places through an on-site commercial rental/business office.

*Specific Issues Raised By Appellant*

MGIC submits the following in response to the specific issues mentioned in Appellant's Motion to Reconsider:

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1. MGIC's Fire Impact Fee Manual does not control the application of Act 272 of 1985. The allocation of a 2% fee versus a 1% fee is mandated by Act 272 of 1985. MGIC does not have the authority to limit or rewrite the standards of Act 272 of 1985. That act contains the following: " The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction." *Act 272 of 1985.*

In addition, MGIC's manual expressly states: "Residential structures shall be single or multi-family structures *not constructed for commercial use...* " (emphasis added). MGIC contends Appellant's claims are based on an incorrect attempt to conflate "structure" and "construction." MGIC contends the phrase "not constructed for commercial use" expresses MGIC's position that the owners' underlying purpose for the construction controls the determination of Act 272 of 1985's tax assessment allocation. While other developers may seek profits from their construction, their underlying purpose is to construct single family residences to be sold or rented to individuals on individual single family residential lots.

MGIC determined that Appellant's housing project was commercial construction within the meaning of Act 272 of 1985. The Court properly found MGIC's determination was not an error of law, was not clearly erroneous in view of the substantial evidence in the record, or was not arbitrary, capricious, or characterized by an abuse of discretion. *Peake v. S.C. Dep't of Motor Vehicles,* 375 S.C. 589, 594, 654 S.E.2d 284, 287 (Ct. App. 2007).

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Appellant cites the case of *Alltel Commc'ns, Inc. v. S.C. Dep't of Revenue,* 399 S.C. 313, 731 S.E.2d 869, (2012) to support its claim that ambiguities in tax statutes must be resolved in favor of the taxpayer. MGIC contends that case is distinguishable from the present case. See *Mead v. Beaufort Cnty. Assessor,* 419 S.C. 125, 139, 796 S.E.2d 165, 173 (Ct. App. 2016). *Alltel Communications*, 399 S.C. at 321, 731 S.E.2d at 873, holds that the enforcement of tax statutes should be construed in favor of the taxpayer if the statutes are ambiguous. However, *Centex Int'l, Inc. v. S.C. Dep't of Revenue,* 406 S.C. 132, 139, 750 S.E.2d 65, 69 (2013) clarifies that decision by holding statutes regarding tax credits or exemptions should construed against the taxpayer if the statutes are ambiguous. Because the specific issue in this case has to do with an assessment allocation category most closely akin to a homestead exemption, the cases concerning tax exemptions would control the present case if there were any ambiguity in Act 272 of 1985. Further, the presumption of the correctness of MGIC's determination as a state administrative agency has not been overcome by Appellant in light of the language in the statute and the evidence in the record of the present appeal. See *Mead v. Beaufort Cnty. Assessor,* 419 S.C. 125, 140, 796 S.E.2d 165, 173 (Ct. App. 2016).

2. Appellant claims that the construction of single family dwellings solely for rental purposes is exempted from the category of commercial construction contained in Act 272 of 1985. MGIC contends there is nothing in the language of that act that indicates the legislature's intent to exempt construction of single family structures from the act's category of commercial construction. The primary purpose in

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interpreting statutes is to ascertain and effectuate the intent of the legislature. *Denman v. City of Columbia,* 387 S.C. 131, 138, 691 S.E.2d 465, 468 (2010). If the legislature had intended to exempt all single family structures from the general category of commercial construction it could easily done so. See *Lewis v. Gaddy,* 254 S.C. 66, 173 S.E.2d 376 (1970).

If the Court were to consider other tax statutes for guidance of legislative intent, the tax procedures for claiming certain legal residence classifications is most closely related to the classifications used in Act 272 of 1985. See *S.C. Code Ann. § 12-43-220* and *S.C. Code Ann. Regs. 117-1800 (Definition of Legal Residence. For property tax purposes the term "Legal Residence" shall mean the permanent home or dwelling place owned by a person and occupied by the owner thereof and where he or she is domiciled.)* In the present appeal, the owner of the 221 dwelling places is a single corporation. The tenants are not the owners. The structures are not built on single family residential lots. Appellant is not entitled to claim homestead exemptions for their use of the dwelling places. See *S.C. Code Ann. § 12-43-220.* The owner does not live in any of the dwelling places. The owner uses the dwelling places solely for commercial purposes.

The two cases cited by Appellant in paragraph 2 are not applicable to the present appeal. Those cases construe specific restrictive covenants that contain written restrictions that are different from Act 272 of 1985.

3. Contrary to Appellant's claim in paragraph 3, MGIC contends Horry County's definition of the type of structure built does not govern the Court's interpretation of Act 272 of 1985's category commercial construction. Further, Horry County's

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zoning ordinance specifically excludes Appellant's project from single family residential zoning districts. The zoning use of property in a single family residential zoning district is controlled by § 505 of the current Horry County Zoning Code. § 505 states a single family residential district only permits one principal building on a single family residential lot. *§ 505 Horry County Code of Zoning Ordinances.*

4. Appellant's claim that the structures in the Swells Cottages are in the same class as other developments selling structures on single family residential lots is incorrect. As stated above, there are not any single family residential lots in the Swells Cottages development. The 221 dwelling places in the Swells Cottages are all located on Appellant's 25 acre tract of land. Appellant rents out all of the units, provides a commercial rental office, commercial amenities, and common parking areas for its tenants.

Appellant has requested the Court to supplement the record with MGIC's Revised Impact Fee Administration Manual. MGIC contends that any revisions to its Impact Fee Administration Manual do not affect the Court's decision to affirm MGIC's decision. As stated above MGIC does not mandate or limit the allocation of 2% assessment fees versus 1% fees under Act 275 of 1985. The legislature mandates the allocation of 2% assessment fees versus 1% fees under Act 275 of 1985. Further, MGIC's revisions to its manual do not conflict with its position on Appellant's commercial construction. MGIC's manual revisions are consistent with the decision it made in the present appeal. See *Eagle Container Co., LLC v. Cnty. of Newberry,* 379 S.C. 564, 567, 666 S.E.2d 892, 894 (2008) *(subsequent amendment had no effect on the proper use classification).*

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*Conclusion*

Appellant's Motion for Reconsideration should be denied for the reasons stated above. The Court correctly ruled MGIC's determination that the structures in the Swells Cottages were "commercial construction" under Act 272 of 1985 was reasonable. MGIC's determination was not affected by an error of law, it was not clearly erroneous in view of the substantial evidence in the record. MGIC's determination that the structures in the Swells Cottages were classified as commercial construction was not arbitrary, capricious, or characterized by an abuse of discretion.

December 20, 2022

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# THE SWELLS COTTAGES

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DAVID B. MILLER+
C. WINFIELD JOHNSON, III
[illegible]LAS M. ZAYICEK
[illegible]TIN C. DAWSEY*
ROBERT S. SHELTON+
HOWELL V. BELLAMY, III
GEORGE W. REDMAN, III+ ** ++

* LLM TAXATION
** LICENSED IN SC & NC
+ CERTIFIED MEDIATOR
++ CERTIFIED ARBITRATOR



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August 18, 2021

Murrells Inlet – Garden City Fire District Board of Directors
Station 76
3641 Hwy 17 Business
Murrells Inlet, S.C. 29576

Re: Swells Cottages Fire Impact Fee

Dear Board Members,

We greatly appreciate you taking the time to review and consider our request regarding the Swells Cottages neighborhood under development in the Murrells Inlet – Garden City Fire District. As you may know, the Board has thus far charged each new home in Swells Cottages a fire impact fee of 2% of the cost of construction as "Commercial Construction". We respectfully request that the Board review the enclosed materials and determine that each house in Swells Cottages must be charged a fire impact fee of 1% of the cost of construction as a "Single Family Residence". We will further detail our request during the Board of Directors Meeting on August 23, 2021.

## I. Swells Cottages

As depicted in our first exhibit, Swells Cottages is a residential neighborhood which will consist of 221 detached single family residences. Each house is one or two stories with its own separate means of egress. Exhibit 2 provides an example of a house in Swells Cottages. The residents who live in these homes will have spaces for living, sleeping, eating, cooking, and bathing. Exhibit 3 shows the floor plans of each house design as well as a look inside the home. As noted in the Affidavit of the Owner of the Swells Cottages neighborhood, attached as Exhibit 4, it has always been the intent that the Swells Cottages houses would serve as single family residences and nothing else.

## II. Fire Impact Fee Standard

In 1985, the General Assembly of South Carolina granted the Murrells Inlet – Garden City Fire District authority to impose a fire impact fee on all new construction. That enabling legislation is very specific in its language:

> The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction.[1]

In accordance with the enabling legislation, the Fire Impact Fee Administration Manual states:

> A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction or in such amount as may set forth elsewhere herein.[2]

This is the standard by which the Board must impose the fire impact fees. This standard cannot be expanded or modified as enabling legislation prescribes the parameters of conferred authority.[3] In order to be valid, local government enactments and regulations must be authorized by the enabling act, at least, where they are enacted pursuant to the authority conferred by such act, and they can be no broader than the statutory grant of power.[4] Thus, a single family residence can only be charged a 1% fire impact fee.

## III. The Swells Cottages Homes are Single Family Residences

The South Carolina Supreme Court has explained that "Single-family residential use involves the act of residing in a single-family dwelling."[5] As explained above, the intent of the Swells Cottages neighborhood is to provide homes to single families. The fact that each home in the Swells Cottages neighborhood is a single family residence has been further substantiated by the architect of this community, the International Residential Code, and various governmental approvals such as residential building permits and a rezoning ordinance.

Gregory Huddy of C3 Studio, LLC is the architect of the Swells Cottages community. Attached as Exhibit 5 is a letter Mr. Huddy wrote to this Board which addresses the residential nature of the homes in Swells Cottages. Mr. Huddy highlights several important factors which demonstrate that these houses are single family residences.

---

[1] S. 639, S.C. Gen Assemb. 106th Sess. (1985-1986).
[2] Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual, Rev. 1, Jan. 1, 2020, Sec. 3.0.
[3] Riverwoods, LLC v. Cty. of Charleston, 349 S.C. 378, 386, 563 S.E.2d 651, 656 (2002).
[4] Richland Cty. v. S.C. Dep't of Revenue, 422 S.C. 292, 311, 811 S.E.2d 758, 768 (2018).
[5] Kinard v. Richardson, 407 S.C. 247, 265, 754 S.E.2d 888, 898 (Ct. App. 2014).

First, Mr. Huddy notes that the 221 dwellings were submitted for permitting under the International Residential Code. This was based on the fact that detached one- and two-family dwellings not more than three stories above grade plane with a separate means of egress and their accessory structures are an exception to the International Building Code and shall comply with the International Residential Code. The Swells Cottages homes are residential.

Mr. Huddy also notes that Horry County has likewise defined these homes as residential. This is evidenced by the fact that the single family homes in Swells Cottages have each received separate Residential Building Permits issued by the County and attached as Exhibit 6. It is particularly instructive that each Permit lists the Description of the Work as "New Single Family Residential".

Finally, Mr. Huddy raises the point that the neighborhood has been rezoned a Multi-Residential District. Prior to the development of this community, the area was zoned Highway Commercial. Our client went before the Horry County Council to rezone the area for the specific purpose of building single family detached residences. The Zoning Ordinance and supporting documents are attached as Exhibit 7.

## IV. The Swells Cottages Homes are not Commercial Structures

Further supporting the residential nature of these homes is that they are not used for commercial purposes. No commercial activity is being operated out of these single family homes. On the contrary, these homes will only be utilized for the sole purpose of residential use.

The fact that these residences are rented instead of owned does not render them commercial. Courts in numerous jurisdictions have considered whether rentals should be categorized as residential or commercial. This question is typically analyzed in the context of whether short term rentals violate covenants restricting lots to residential purposes and prohibiting commercial use. Such terms have regularly been interpreted to designate the character of the use of the property.[6] South Carolina has analyzed this question by looking at the use of the property and in one such case the South Carolina Court of Appeals stated that it was undisputed that short term rentals did not violate the requirement that all lots shall be used for residential purpose.[7]

[6] See Erthal v. May, 223 N.C. App. 373, 736 S.E.2d 514 (2012); Russell v. Donaldson, 222 N.C. App. 702, 731 S.E.2d 535 (2012) (citing Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n v. Acord, 219 So. 3d 111 (Fla. Dist. Ct. App. 2017).
[7] Cmty. Servs. Assocs. v. Wall, 421 S.C. 575, 585, 808 S.E.2d 831, 836 (Ct. App. 2017).

The South Carolina Court of Appeals holding is consistent with courts from the majority of other jurisdictions which have uniformly held that covenants prohibiting business and commercial use of property do not bar short term rentals.[8] The critical question in these cases has been whether the renters are using the property for ordinary living purposes such as eating, sleeping, and engaging in recreation normally incident thereto.[9] The residents of the Swells Cottages homes will rent these properties long term to use them solely for residential purposes.

## V. Swells Cottages Homes Must be Assessed the Same Impact Fee as Like Structures

According to South Carolina law, the General Assembly may classify property for tax purposes according to its use so long as the tax imposed is uniform on the same class of property.[10] All members belonging to this class must be treated alike for taxation purposes.[11]

Numerous rental-only properties in the Murrells Inlet – Garden City Fire District have been charged a single family residence impact fee. Two examples are located at 1311 S. Waccamaw Drive, Garden City and 1465 S. Waccamaw Drive, Garden City. The rental listings for these two properties are attached as Exhibit 8. These buildings operate as short term rentals and have more rooms accommodating more occupants than the Swells Cottages homes. If these buildings are charged the single family residence fire impact fee, the Swells Cottages houses must also be charged the single family residence fire impact fee.

We appreciate your thorough review of these materials and look forward to discussing in further detail with you on August 23, 2021.

Very truly yours,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

David B. Miller
Zachary J. Crowl

[8] Russell, 731 S.E. 2d 535, 538-39 (2012) (citing Yogman v. Parrott, 325 Ore. 358, 937 P.2d 1019, 1021 (Or. 1997); Silsby v. Belch, 2008 ME 104, 952 A.2d 218, 222 (Me. 2008); Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569, 571, 580 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n, 219 So. 3d 111, 114 (Fla. Dist. Ct. App. 2017) (citing cases from Kentucky, Colorado, Washington, New Mexico, North Carolina, Alabama, Indiana, Virginia, Maryland, Missouri, Idaho, Oregon, Ohio, Tennessee, and Texas).
[9] Id.
[10] Holzwasser v. Brady, 262 S.C. 481, 488, 205 S.E.2d 701, 704 (1974).
[11] Id.

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Affidavit of the Owner of Swells Cottages.....4

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Horry County Residential Building Permits.....6

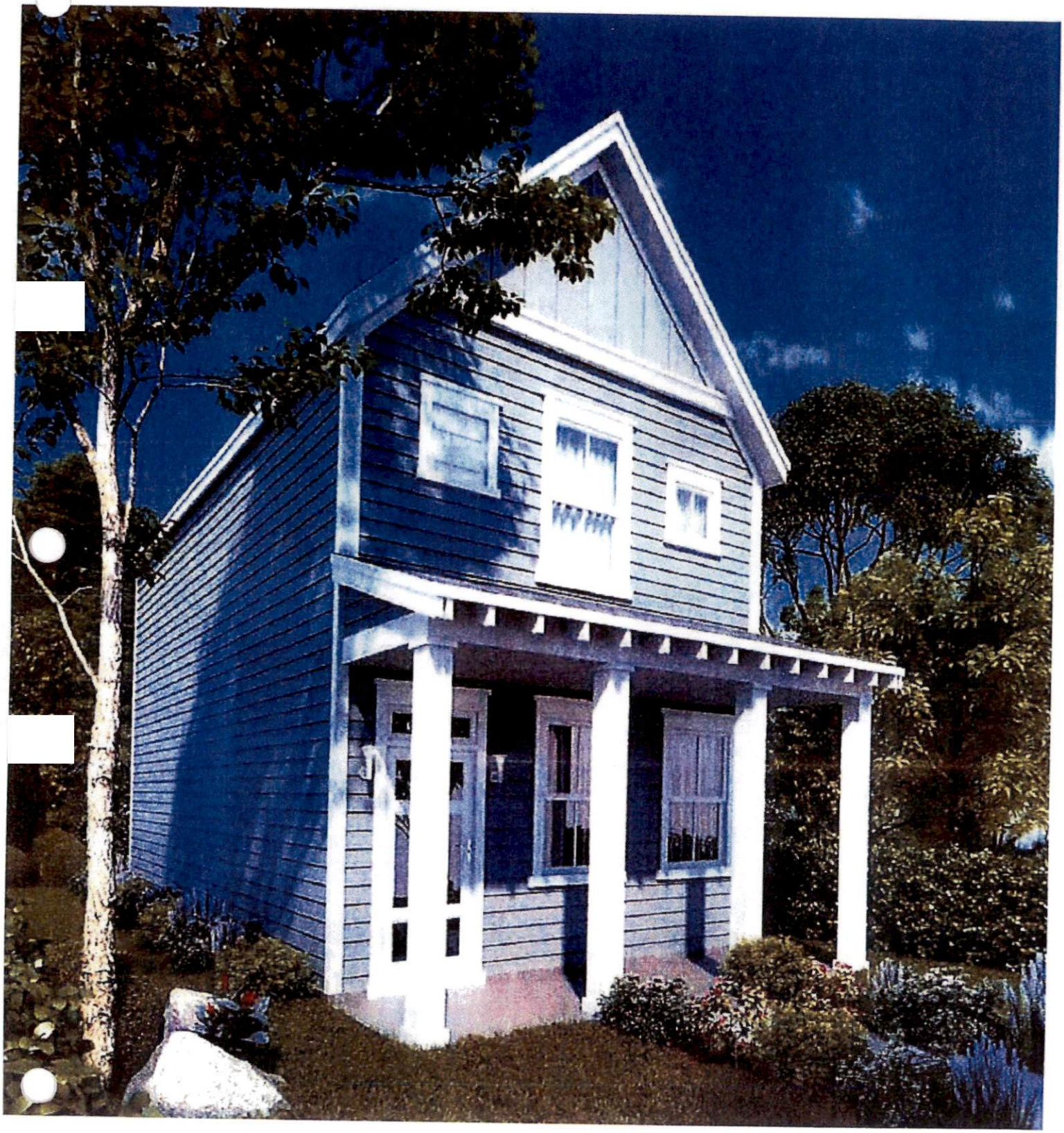
Zoning Ordinance and Supporting Documents.....7

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205





# TYBEE

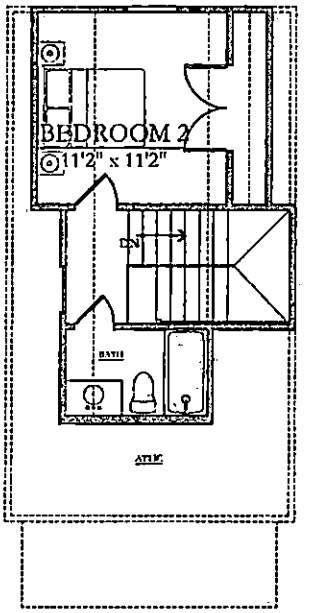
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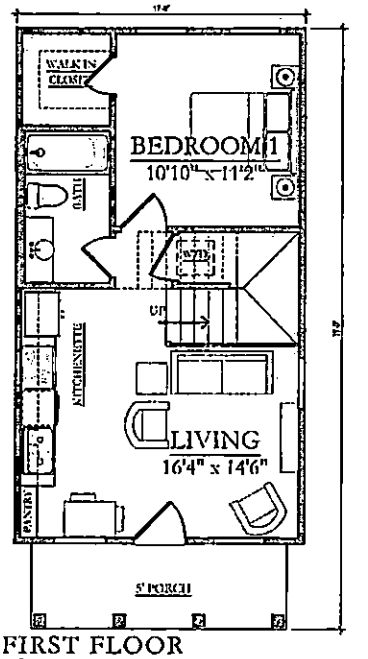
| | | |
|---|---|---|
| HEATED 1st: | 510 | sq. ft. |
| HEATED 2nd: | 247 | sq. ft. |
| TOTAL HEATED: | 757 | sq. ft. |
| PORCH: | 75 | sq. ft. |

**DIMENSIONS**

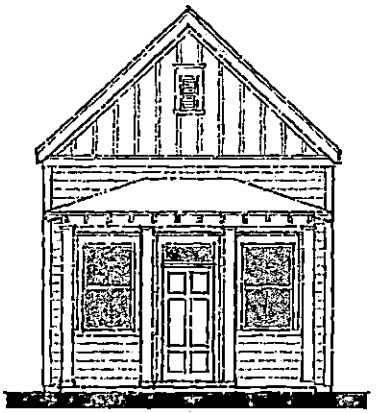
| | |
|---|---|
| WIDTH: | 17'0" |
| DEPTH: | 30'0" |
| CEILING 1st. | 9'0" |



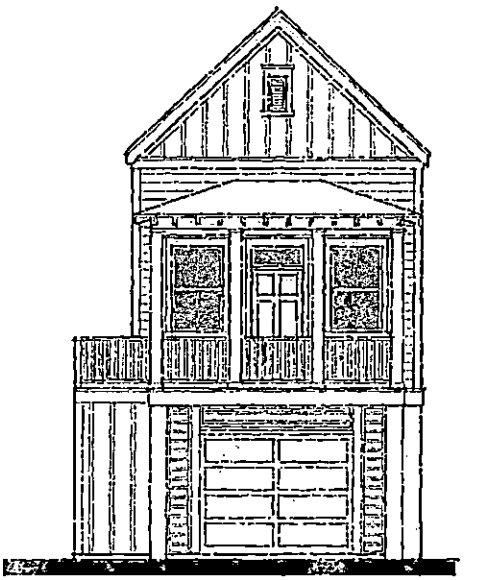

SECOND FLOOR




FIRST FLOOR



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

# SWELLS COTTAGES



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# MASONBORO

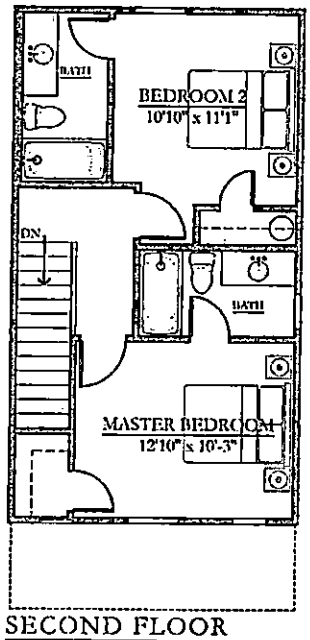
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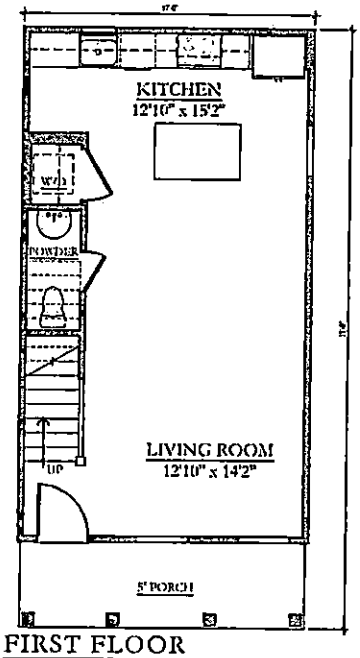
| | | |
|---|---|---|
| HEATED 1st: | 510 | sq. ft. |
| HEATED 2nd: | 472 | sq. ft. |
| TOTAL HEATED: | 982 | sq. ft. |

**DIMENSIONS**

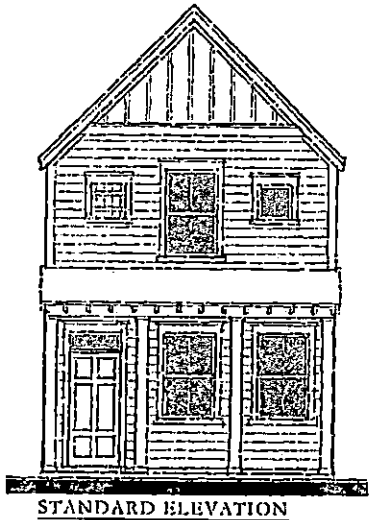
| | |
|---|---|
| WIDTH: | 17'0" |
| DEPTH: | 30'0" |
| CEILING 1st. | 10'0" |
| CEILING 2nd. | 9'0" |



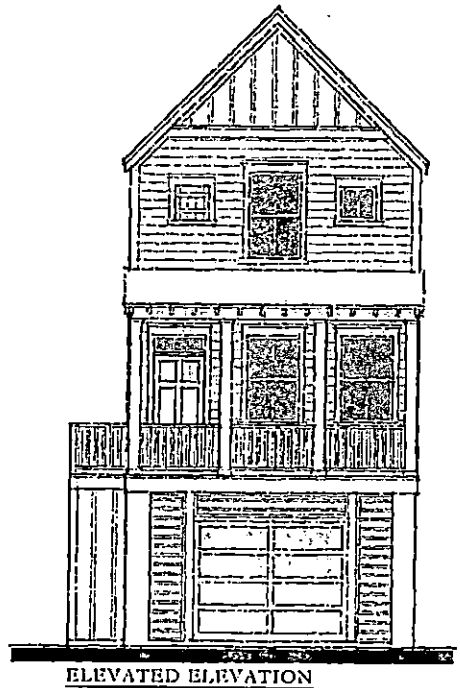

SECOND FLOOR




FIRST FLOOR



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

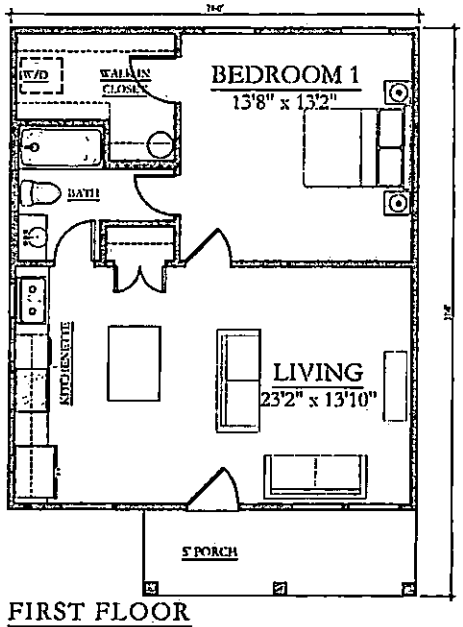
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FIRST FLOOR

# AMELIA

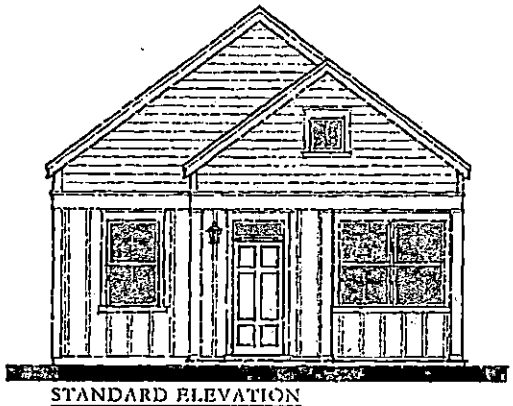
## 1 BR / 1 BA

**AREA**

| | | |
|---|---|---|
| HEATED 1st: | 672 | sq. ft. |
| PORCH: | 80 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 24'0" |
| DEPTH: | 28'0" |
| CEILING 1st. | 9'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

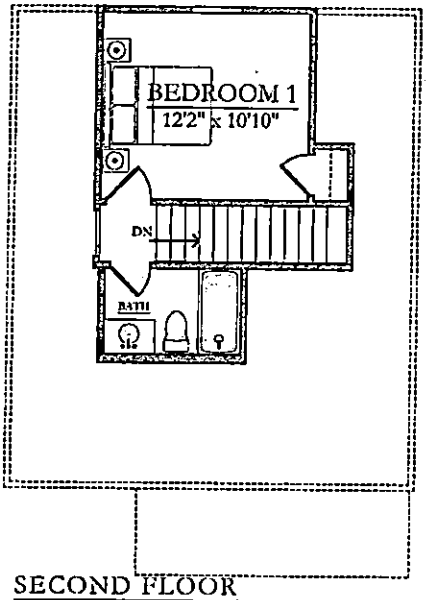
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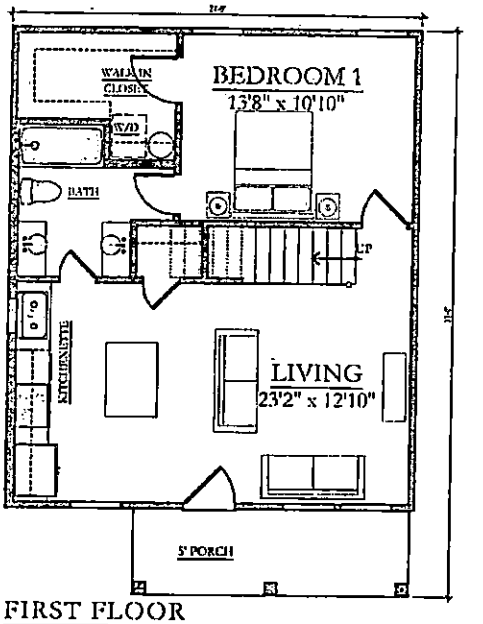
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SECOND FLOOR




FIRST FLOOR

## SIMONS

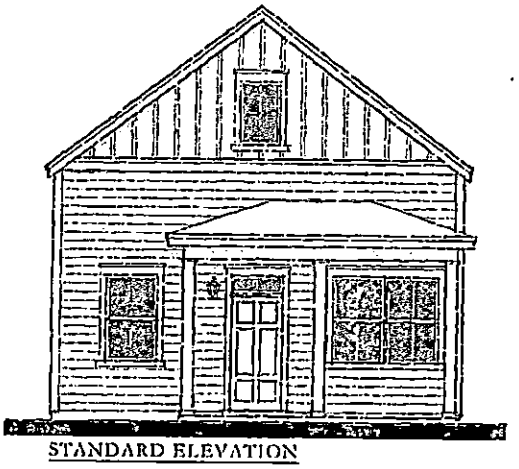
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**REA**

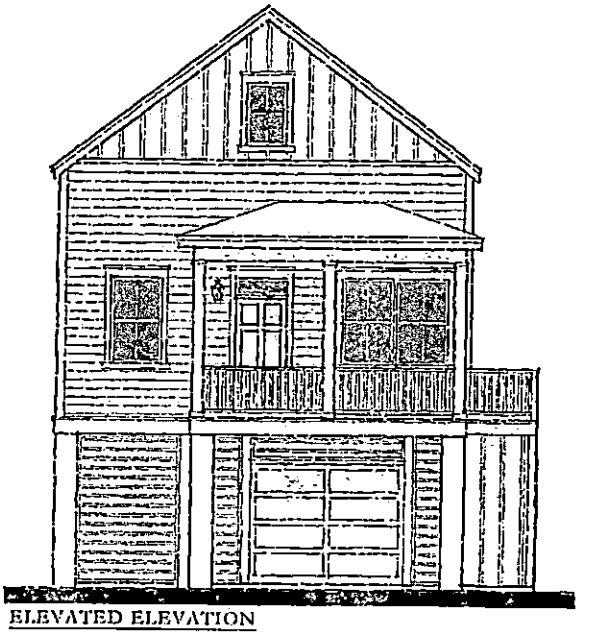
| | | |
|---|---|---|
| EATED 1st: | 672 | sq. ft. |
| LOFT: | 209 | sq. ft. |
| PORCH: | 80 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 24'0" |
| DEPTH: | 28'0" |
| CEILING 1st. | 9'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

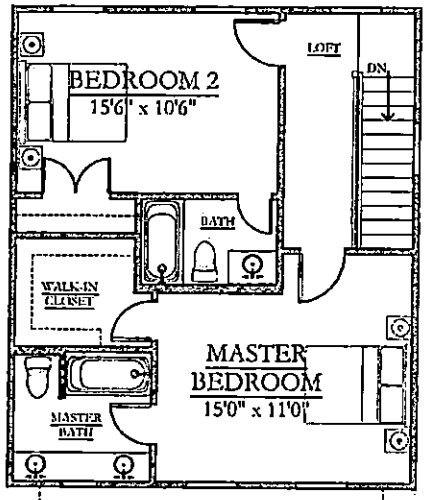
Not For Construction

# SWELLS COTTAGES 11

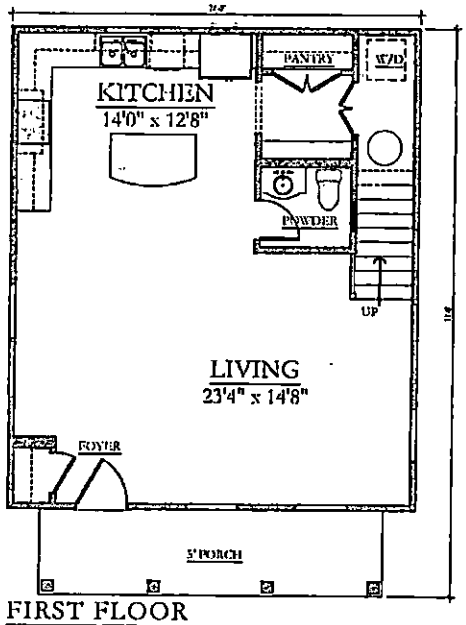
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SECOND FLOOR




FIRST FLOOR

# EDISTO

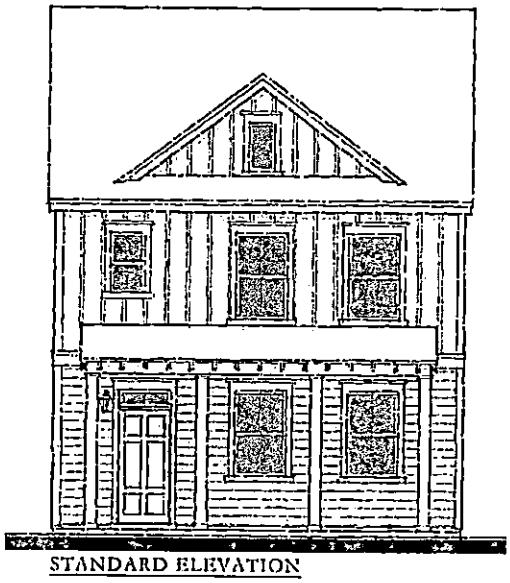
## 2 BR / 2.5 BA

**AREA**

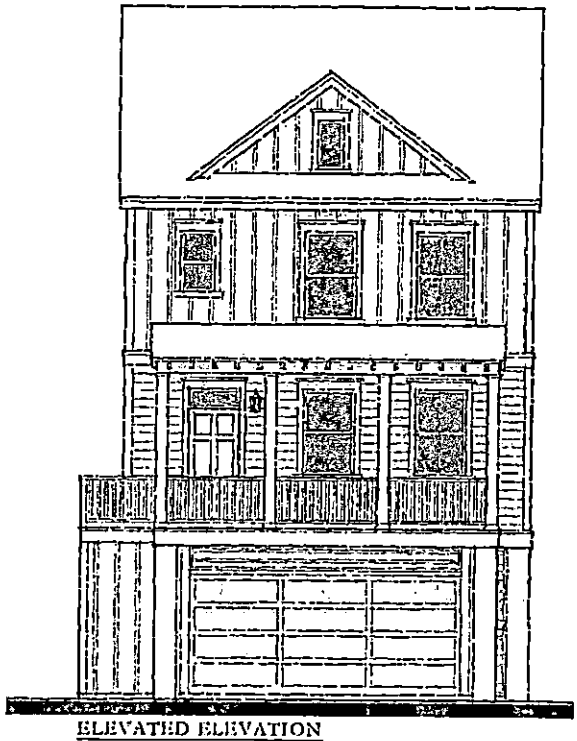
| | | |
|---|---|---|
| HEATED 1st: | 672 | sq. ft. |
| HEATED 2nd: | 621 | sq. ft. |
| TOTAL HEATED: | 1,293 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| PORCH: | 240" |
| DEPTH: | 280" |
| CEILING 1st. | 90" |
| CEILING 2nd. | 80" |



STANDARD ELEVATION



ELEVATED ELEVATION

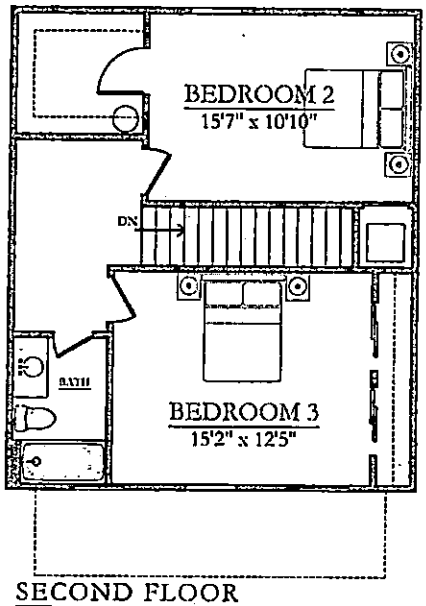
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# SWELLS COTTAGES 312

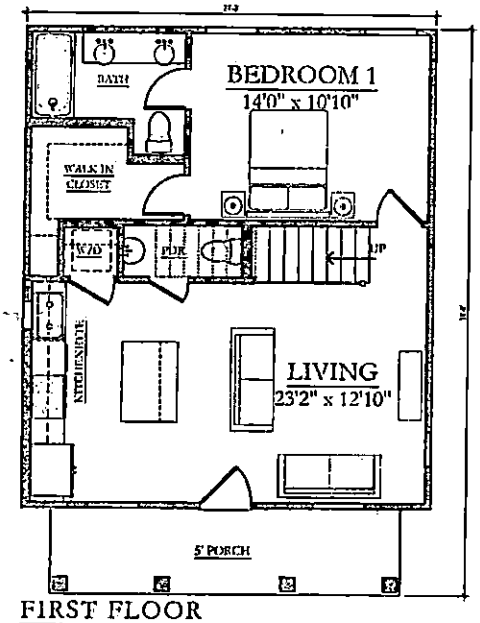
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SECOND FLOOR




FIRST FLOOR

# PAMPLICO

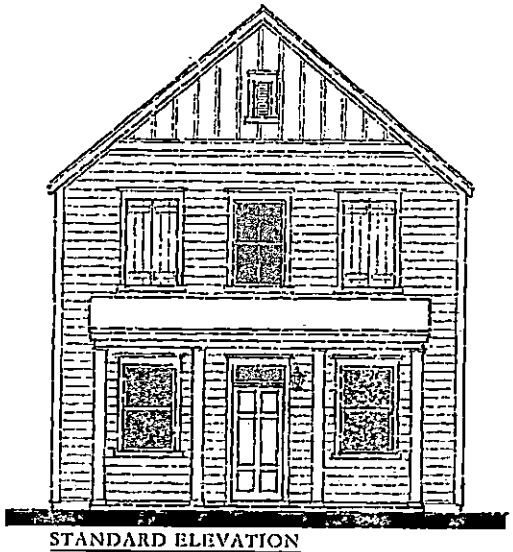
## 3 BR / 2.5 BA

**AREA**

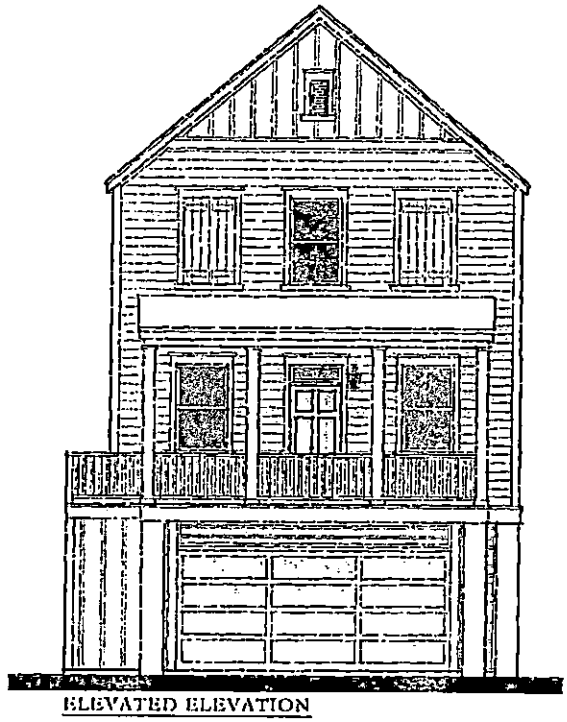
| | | |
|---|---|---|
| HEATED 1st: | 672 | sq. ft. |
| HEATED 2nd: | 616 | sq. ft. |
| TOTAL HEATED: | 1288 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 24'0" |
| DEPTH: | 28'0" |
| CEILING 1st. | 9'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

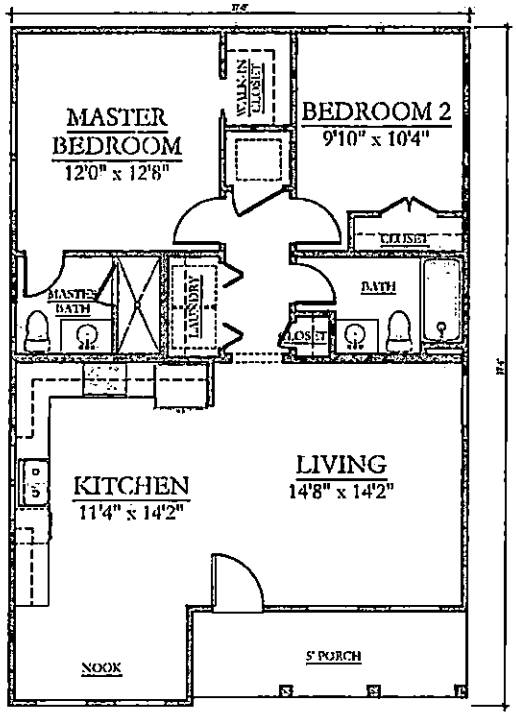
# SWELLS COTTAGES



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FIRST FLOOR

## SAPELO

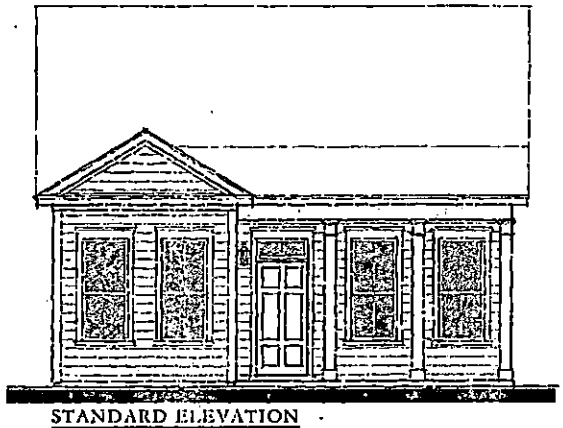
### 2 BR / 2 BA

**AREA**

| | | |
|---|---|---|
| TOTAL HEATED: | 978 | sq. ft. |
| FRONT PORCH: | 81 | sq. ft. |
| TOTAL UNDER ROOF: | 1,059 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 27'0" |
| DEPTH: | 39'6" |
| CEILING Ist. | 10'0" |



STANDARD ELEVATION

Not For Construction

# SWELLS COTTAGES



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STATE OF SOUTH CAROLINA )
)
COUNTY OF HORRY )

AFFIDAVIT OF THE COTTAGES AT GARDEN CITY BEACH, LP

PERSONALLY appeared before me, John N. Morrison, on behalf of The Cottages at Garden City Beach, LP, who first being duly sworn, alleges and says:

1. My name is John N. Morrison, and I am authorized to testify on behalf of The Cottages at Garden City Beach, LP to the matters set forth in this affidavit.

2. The Cottages at Garden City Beach, LP is the owner of the Swells Cottages neighborhood under development in Garden City, South Carolina.

3. I am familiar with the Swells Cottages neighborhood and the Fire Impact Fee assessed by the Murrells Inlet – Garden City Fire District on the homes in the Swells Cottages neighborhood.

4. The Swells Cottages development is a residential community which will consist of 221 single family detached houses, internal sidewalks, and community gardens.

5. It has always been the intent of The Cottages at Garden City Beach, LP that the homes in Swells Cottages would serve as single family residences and nothing else. If a resident is found to be conducting any commercial activity inside the home, including but not limited to:
   - Assembly activity;
   - Business activity;
   - Educational activity;
   - Factory Industrial activity;
   - High Hazard activity;
   - Institutional activity;
   - Mercantile activity;
   - Storage activity; or
   - Maintenance activity

   discovery of such activity will be a violation of the residential only requirement.

6. The houses in this neighborhood are strictly residential and conducting any kind of business in the homes is expressly prohibited.

7. There will not be any commercial activity conducted in any of these homes.

8. The homes are designed for and occupied by only one family.

9. Each house is being separately submitted for permitting to Horry County as a single family residence.

10. Horry County has already issued Residential Building Permits on the houses which have been submitted.

11. Each house has been specifically designed in accordance with the International Residential Code and single family fire resistance requirements.

12. The homes have a separate means of egress and no roof, wall, or floor in common with any other dwelling.

13. Each home is one or two stories and includes one to three bedrooms, one to two and a half bathrooms, one kitchen, and a living room.

14. The sole purpose of each house being built in the Swells Cottages neighborhood is to provide a home for a single family.

The Cottages at Garden City Beach, LP, a Delaware Limited Partnership

By: The Cottages at Garden City Beach GP, LLC, a Delaware Limited Liability Company, its General Partner

By: Garden City Cottages Holdings, LP, a Delaware Limited Partnership, its Sole Member

By: Cottage Holdings II, LLC, a South Carolina Limited Liability Company, its General Partner

By: _____
John N. Morrison, Authorized Member

August 18th, 2021

Sworn to before me this 18th

day of August, 2021

_____ (LS)
Notary Public for South Carolina

SHAUN M. DOYLE
Notary Public, State of South Carolina
My Commission Expires 6/19/2029

My Commission Expires: 6/19/2029

C3 Studio, LLC
CREATE | COLLABORATE | CONSTRUCT

Aug. 11, 2021

Murrells Inlet – Garden City Fire District
3641 Highway 17 Business
Murrells Inlet, SC 29576

**RE: Swells Cottages**

To whom it may concern:

The Swells Cottages project is composed of 221 detached residential dwelling units (houses) that are independent living facilities including spaces for living, sleeping, eating, cooking and sanitation just like any other residences. In addition to the 221 cottages, there are several permanent ancillary structures that are part of this residential neighborhood. These structures include a mail kiosk, maintenance shed, storage sheds,and neighborhood amenities.

According to the 2018 International Building Code, detached one- and two-family dwellings & townhouses not more than three stories above grade plane with a separate means of egress and their accessory structures are an exception to the 2018 International Building Code and shall comply with the 2018 International Residential Code. Based on this occupancy classification, all 221 dwelling units were submitted for permitting under the requirements of the 2018 International Residential Code (rather than the International Building Code). Each individual dwelling unit has been submitted for permitting as under the scope of the 2018 International Residential Code requirements. In addition to being individually submitted for permitting as detached single family dwelling to the county, the neighborhood has been zoned a MRD, a multi-residential district.

Under the IRC and in dwellings without sprinklers, exterior walls are required to meet the requirements specified in Table R302.1(1), which states that any wall element or projections that is equal to or greater than 5 feet fire separation distance can have a 0 hours fire-resistance rating. The Swells neighborhood was specifically designed to meet or exceed those minimum requirements. If in any case, those requirements are not met, the minimum fire-resistance rating would need to be increased to 1 hour. Ultimately, regardless of the distance between the units, the residential occupancy classification does not change according to the IRC.

The residential occupancy classification does not change based on terms defining ownership like 'apartment' or 'condo'; they're based solely on whether they meet the scope of the IRC or IBC. A dwelling is defined as a dwelling, even if it's rented, leased, or hired out. As mentioned before, these are detached single family residential cottages that are designed for and occupied by not more than one family with a separate means of egress and having no roof, wall or floor in common with any other dwelling unit. By the virtue of these characteristics, the occupancy of these structures are detached one-family dwellings. If there's any question if these are considered apartments under the code, in order to be classified as R-2 occupancy (an apartment) they'd need to be three or more dwelling units in a single structure.

C3 Studio, LLC

CREATE | COLLABORATE | CONSTRUCT

Please adjust the impact fee to reflect the fact that these are residential structures.

Sincerely,

Gregory Huddy
Principal

Horry County

# Permit

*Permit NO.* **RES-06-21-130527**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 104 Grovewood Way Number: 1<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 1 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 978 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 1,059.00 | **Unheated Sq Ft:** 81 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $76,521.61 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

Author[illegible]

7/29/2021
Date

Horry County

# Permit

*Permit NO.* **RES-06-21-130519**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 108 Grovewood Way Number: 2<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 2 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 978 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 1,059.00 | **Unheated Sq Ft:** 81 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $76,521.61 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

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Horry County

# Permit

*Permit NO.* **RES-06-21-130366**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 116 Grovewood Way Number: 3<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 3 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & Inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 672 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 752.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $55,846.50 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW, DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County SC — Authorized Signature — 7/29/2021 Date

Horry County

# Permit

*Permit NO.* **RES-06-21-130572**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 112 Grovewood Way Number: 4<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 4 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 918 | **Garage Sq Ft:** 0 | **Stories:** 2 | **Units:** 1.00 |
| **Total Sq Ft:** 998.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $70,227.52 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

Authorized Signature

7/29/2021
Date

Horry County

# Permit

*Permit NO.* **RES-07-21-131667**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 120 Grovewood Way Number: 5<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 5 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 46Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 1288 | **Garage Sq Ft:** 775 | **Stories:** 3 | **Units:** 1.00 |
| **Total Sq Ft:** 2,165.00 | **Unheated Sq Ft:** 877 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $111,255.77 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER: | ☐ | ☐ |

Issued By: Horry County, SC

Authorized

7/29/2021
Date

# Permit

*Permit NO.* **RES-07-21-131731**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 124 Grovewood Way Number: 6<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 6 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone.** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 918 | **Garage Sq Ft:** 0 | **Stories:** 2 | **Units:** 1.00 |
| **Total Sq Ft:** 998.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $70,227.52 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

Authorized Signature

7/29/2021
Date

Horry County Government

Planning Department
www.horrycounty.org

Horry County Government & Justice Center
1301 Second Avenue
Conway, South Carolina 29526
Phone 843.915.5340 || Fax 843.915.6340

November 22, 2019

David Wilkes
1[redacted] 48th Ave N
Myrtle Beach SC 29577

Dear Sir/Madam,

This is to confirm that the Horry County Council, at its regularly scheduled meeting on November 5, 2019, approved rezoning request number 2019-01-008. The property identified by PIN 46200000929 is hereby rezoned from Highway Commercial (HC) to Multi-Residential Three (MRD3) on the official Horry County Zoning Maps.

The ordinance number for the rezoning request is 38-19. Attached is the official document determining the rezoning.

I hope the information provided is sufficient for your records. If you need further assistance, please do not hesitate to call me at (843) 915-5340.

Sincerely,

Susi Miller | Administrative Assistant
**Horry County Government**
Planning & Zoning
1301 2nd Ave., Suite 1D09, Conway, South Carolina 29526
Tel: (843) 915-7907 | Fax: (843) 915-6341 | millersu@horrycounty.org
www.horrycounty.org

Attachment

Cc: Myrtlewood Realty Associates

COUNTY OF HORRY )
)
STATE OF SOUTH CAROLINA )

Ordinance 38-19

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE A PORTION OF PIN 46200000929 FROM HIGHWAY COMMERCIAL (HC) TO MULTI-RESIDENTIAL DISTRICT THREE (MRD3)**

**WHEREAS**, Ordinance Number 1-87 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone a portion of the property from Highway Commercial (HC) to Multi-Residential District (MRD3) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request:

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

1) **Amendment of Official Zoning Maps of Horry County:**
Parcel(s) of land identified by PIN 46200000929 and currently zoned Highway Commercial (HC) is herewith rezoned to Multi-Residential District (MRD3).

2) **Severability:** If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

3) **Conflict with Preceding Ordinances:** If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.

4) **Effective Date:** This Ordinance shall become effective on Third Reading.

**AND IT IS SO ORDAINED, ENACTED AND ORDERED** this 5th day of November, 2019.

HORRY COUNTY COUNCIL

Johnny Gardner, Chairman

Harold G. Worley, District 1
Dennis DiSabato, District 3
Tyler Servant, District 5
Orton Bellamy, District 7
W. Paul Prince, District 9
Al Allen, District 11
Bill Howard, District 2
Gary Loftus, District 4
Cam Crawford, District 6
Johnny Vaught, District 8
Danny Hardee, District 10

Attest:
Patricia S. Hartley, Clerk to Council

First Reading: October 1, 2019
Second Reading: October 15, 2019
Third Reading: November 5, 2019

Deed BK: 4258 PG: 1944 Doctype: 057
11/06/2019 at 02:38:26 PM, 1 OF 12

Marion D. Foxworth III
HORRY COUNTY, SC REGISTRAR OF DEEDS

#2019-01-008 David Wilkes and Joe Morrison agents for Myrtlewood Really Associates

# Rezoning Review Sheet

## PROPERTY INFORMATION

| | | | |
|---|---|---|---|
| Applicant | David Wilkes and Joe Morrison (Energov # 044076) | Rezoning Request # | 2019-01-008 |
| PIN # | 46200000929 (Portion) | County Council District # | 5-Servant |
| Site Location | On Hwy 17 between Woodland Dr and William Buckland Blvd in Garden City | Staff Recommendation | Approval |
| Property Owner Contact | Myrtlewood Realty Associates | PC Recommendation | Approval 6:1 |
| | | Size (in acres) of Request | 25.54 (portion) |

## ZONING DISTRICTS

| | |
|---|---|
| Current Zoning | HC/PDD/MSF6 |
| Proposed Zoning | MRD3 |
| Proposed Use | Single Family Detached In-common |

## LOCATION INFORMATION / ADJACENT PROPERTIES

| | | | | |
|---|---|---|---|---|
| Flood and Wetland Information | Zone X | SF6 | CFA | CFA |
| Public Health & Safety (EMS/fire) in miles | 2.03 | MSF6 | Subject Property | PDD |
| Utilities | Public | HC | HC | HC |
| Character of the Area | Commercial, Residential, and Educational | | | |

## COMMENTS

**Comprehensive Plan District:** Urban Corridors and Urban Communities

**Overlay/Area Plan:** Hwy 17 BUS S Overlay/Garden City Area

**Discussion:** The applicant is requesting to rezone a portion of the parcel to allow for 221 single family detached units in common. The project has a gross density of 8.65 du/ac, net density of 11.8 du/ac and will incorporate three sustainable development criteria. 1. Increased open space, 2. Internal Sidewalks, and Community gardens. The project proposes two points of access; one onto Woodland Dr. and the other onto William Buckland Blvd. External sidewalks will be required along Hwy 17, Woodland Dr. and William Buckland Blvd.

The Tupelo Bay PDD was originally approved (Ord 61-04) for 800 multi-family units. A gross project density of 4.65 du/ac and a net density of 8.69 du/ac. The approved master plan has a developed area density of 15 du/ac. Oceanside Village has an existing, gross density of 6.8 du/ac (969 units total).

Planning Commission requested the applicants hold a community meeting. The community meeting was held on 5/10. Community concerns included density, stormwater, traffic and property values

**/Public Comment: 2/7/2019:** Deferred in order to allow addition of acreage to meet the density requirements. 5/2/2019 Martin Dawsey recused. Dennis Pementer spoke in opposition of the request. His concerns were stormwater and density. John Jobson spoke in favor of the request, stating that he feels this is a good fit for the area. David Strattenger, Joe Morrison, David Wilkes and Buddy Hucks were present to address questions and concerns.

## TRANSPORTATION INFORMATION

| | | | |
|---|---|---|---|
| Daily Trips based on existing use / Max Daily Trips based on current zoning | 0 / 4,000 | Existing Road Conditions | S Hwy 17 Bus, Federal, Paved, Divided, 4 Lanes |
| Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning | 1,768 / 1,768 | Rd, Station, Traffic AADT (2017) % Road Capacity | S Hwy 17 BUS, Station (108) 25,400 AADT 79% |
| Proposed Improvements | Engineers are currently working on a traffic study to address traffic concern and stormwater models for the site adhering to the required 50% reduction on the drainage area flowing northeast with the county required 20% reduction on the flows going southeast. | | |

## DIMENSIONAL STANDARDS

| | Requested | Current | Adjacent | Adjacent | Adjacent | Adjacent |
|---|---|---|---|---|---|---|
| | MRD3 | HC/PDD/MSF6 | PDD (Tupelo Bay Golf Villas) | CFA (Res/Comm) | SF6 | MSF6 |
| Min. Lot Size (in square feet) | In-Common | 10,000/MAS 000 | None | 21,780/43,560 | 6,000 | 6,000 |
| Front Setback | 25' Exterior | 50'/25'/20' | 25' | 25'/60' | 20' | 20' |
| Side Setback | 25' Exterior | 10'/25'/10' | 25' | 10'/25' | 10' | 10' |
| Rear Setback | 25' Exterior | 15'/25'/15' | 25' | 15'/40' | 15' | 15' |
| Bldg. Height | 40' | 120'/None/35' | None | 35'/35' | 35' | 35' |

Date Advertised: 1/17/19 Date Posted: 1/8/19 # Property Owners Notified: 96 Date Notification Mailed: 1/17/19 Report Date: 1/17/19 BY: LSM

752. - Multi-Residential District (MRD).

The Multi-Residential (MRD) District is intended to provide opportunities for rural, suburban and urban density mixed-residential developments consistent with the objectives of the Horry County Comprehensive Plan. The MRD district encourages the design of a more complete and sustainable environment consistent with the needs of the rural, suburban and urban areas of the County through the application of imaginative approaches to community design that allow and support mixed residential uses, design flexibility, pedestrian-oriented development, interconnectivity, and sensitivity to the needs of the public, economy and natural environment.

*Administrative Procedures.* Any request to establish a MRD Zoning District shall follow the procedures set forth in Article XIII of the ordinance. In presenting requests for rezoning, the applicant must indicate the desired residential mix, gross and net density, and proposed number of units in order for the request to be complete. Additionally, any request incorporating the Sustainable Development Standards listed in Section (BELOW) must attach an addendum to the rezoning packet that clearly describes how sustainability shall be accomplished. Failure to provide the requested information will result in rezoning requests not being presented to the planning commission.

*General Provisions* .

A. *Location* . A MRD district may be permitted throughout the county provided it meets the standards established herein.

B. Permitted Uses. The following uses shall be permitted subject to any requirement contained herein:

1. Single-family detached dwellings, except mobile homes;
2. Duplex dwellings;
3. Semi-detached dwellings;
4. Patio homes;
5. Quadruplex;
6. Townhomes;
7. Multi-family dwellings;
8. Reserved.
9. In-Common development incorporating any of the above uses;
10. Golf courses, provided the areas designated for golf courses shall not be used to calculate densities or impervious surface ratios;
11. Accessory uses; and
12. Churches, synagogues, temples, and other places of worship subject to the provisions of Article 12.

C. *Accessory living quarters.* Accessory living quarters, within an existing dwelling or in a separate structure, are permissible provided:

1. The accessory living quarters meets all setback requirements for the parcel.
2. The primary dwelling unit shall be owner-occupied.
3. The accessory living quarters shall have a bathroom and cooking facilities.
4. The accessory living quarters, if within the primary dwelling unit, may have a separate entrance.
5. The construction of the accessory living quarters, within existing structures, shall not alter the appearance or character of the structure. When detached from the primary dwelling

unit, no less than twenty (20) feet or applicable zoning district setbacks shall separate it and;

6. Adequate off-street parking is provided per Article XI.

D. *Special exceptions.* Owing to their potential negative impact on the community, the board of zoning appeals may approve the following uses as a special exception.

1. Offices subject to the following conditions:

   a. That the special exception complies with all applicable development standards.

   b. That the special exception will be in substantial harmony with the area in which it is to be located.

   c. That the special exception will not be injurious to adjoining property.

   d. That the special exception will contribute to the economic vitality and promote the general welfare of the community.

   e. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

   f. In granting a special exception, the board of zoning appeals may impose such reasonable and additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the proposed special exception.

2. Bed and breakfast establishments (B&B) subject to the following conditions:

   a. That the special exception complies with all applicable development standards.

   b. That the special exception will be in substantial harmony with the area in which it is to be located.

   c. That the special exception will not be injurious to adjoining property.

   d. That the special exception will contribute to the economic vitality and promote the general welfare of the community.

   e. That the special exception will not discourage or negate the use of surrounding property for uses(s) permitted by right.

   f. In granting a special exception, the board of zoning appeals may impose such reasonable and additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the proposed special exception.

E. *Dimensional Standards.* The following dimensional standards shall apply to permitted uses:

Table 1: MRD District Yard and Height Standards

| Use | Setbacks | | | | Building Separation [4] | Maximum Height |
|---|---|---|---|---|---|---|
| | Front | Side | Rear | Corner | | |
| Single and duplex dwellings, patio homes, quadruplex, townhomes and zero or developments | 25' (1)(2) | 10 (1)(3) | 15' (1) | 15' | 20' | 40' |
| Tiny homes | NA | NA | NA | NA | NA | 25' (no more |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | | | | than 2 stories high) |
| Multi-family | 30' (1)(2) | 20' (1) | 25' (1) | 30' | 20' | Rural: 45' Suburban: 65' Urban: 120' |

1. A 5' reduction in the setback is allowed for projects meeting two (2) sustainable development criteria.
2. A 10' reduction in the setback is allowed for projects meeting three (3) sustainable development criteria.
3. No side yard setback is required where common walls are located.
4. A 10' reduction in the building separation for projects meeting two (2) sustainable development criteria.

F. *Development standards.* The standards enumerated below establish the criteria by which a request to rezone property to the MRD district shall be evaluated. The standards follow the generally accepted densities associated with rural, suburban and urban type land uses described in the Land Use Element of the Envision 2025 Comprehensive Plan and the Future Land Use Map of Horry County. These districts and their associated densities are detailed in Table 2. Table 3 lists the Standard Density and Area Requirements for each district. Requests to rezone to MRD in any area of the county shall adhere to the Land Use Districts of the Future Land Use Map.

Table 2: Future Land Use District Density Characteristics

| Land Use District | Rural Density | Suburban Density | Urban Density |
|---|---|---|---|
| Conservation/Preservation | | | |
| Rural Areas | X | | |
| Rural Communities | X | | |
| Rural Corridors | X | | |
| Transitional Growth Areas | X | X | |
| Suburban Corridors | X | X | |

| | | | |
|---|---|---|---|
| Urban Communities | | X | X |
| Urban Corridors | | X | X |
| Economic Activity Centers | | X | X |

1. *Rural density (MRD-1) development requirements*. Rural density areas support three (3) or fewer units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are incorporated into the development. Lot or unit area requirements shall adhere to the standards shown in Table 3.
2. *Suburban density (MRD-2) development requirements*. Suburban density is herein defined as no greater than six (6) units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are utilized. Lot or unit area requirements shall adhere to the standards shown in Table 3.
3. *Urban density (MRD-3) development requirements*. Urban density is herein defined as no greater than fifteen (15) units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are utilized. Lot or unit area requirements shall adhere to the standards shown in Table 3.

Table 3: MRD Standard Density and Area Requirements

| | | Standard Development Area Requirements (in square feet) | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Maximum Gross Density | Single Family | Duplex | Semi-detached | Patio Home | Townhome | Multi-family | Tiny Home * |
| MRD-1 | 3 du/ac | 14,520 ** | 10,000 | 5,000 * | NA | NA | NA | 1,200 |
| MRD-2 | 6 du/ac | 7,000 ** | 9,000 | 4,500 | 6,000 | 1 (acres) | 1.5 (acres) | 1,200 |
| MRD-3 | 15 du/ac | 6,000 ** | 8,000 | 4,000 | 4,000 | .75 (acres) | 1 (acres) | 1,200 |

* Tiny home lots are not required to meet the minimum frontage requirements in the Horry County Land Development Regulations. 1.5 parking spaces are required per home, and

parking may be provided anywhere in the development, either on individual or shared lots, or a separate parking area.

** Minimum lot size required for a rezoning request.

G. *Sustainable development standards.* A thirty (30) percent increase in the allowable gross density shall be granted when three (3) or more of the sustainable development standards below are implemented. Table 4 lists the density and area requirements for requests meeting the sustainable development standards. In no instance shall meeting the requirements of one standard be applicable to the requirements of another. The requested density increase shall in no way decrease the sustainability of the proposal and the Standards listed herein. In order to qualify for a thirty (30) percent maximum density increase, proposed developments shall meet three (3) or more of the following criteria.

1. Site design: Each counts as one (1) standard:

   a. Twenty (20) percent of the gross acreage shall remain in a natural vegetated state post-development and owned in common. This increase is in addition to the buffer and landscape requirements in section 527, and any existing wetlands, marshes, swamps, lakes or ponds. Required open space per Article 4 of the land development regulations shall not count towards this increase;

   b. All residential lots shall abut active or passive recreational open space as defined by the open space requirements in Article 4 of the land development regulations on at least one (1) side. A road internal to the development may separate lots from the open space. Sidewalks more than four and one-half (4½) feet in width shall count as recreational open space so long as such walkways are adjacent, or located directly across the street, to all residential lots. Easements for ponds, lakes and wetlands shall not count as recreational open space.

2. Recreational space: A one hundred (100) percent increase in the required active recreational open space as defined by the open space requirements, article 4, section 6-2 (B) of the land development regulations. Only fifty (50) percent of said increase shall count towards the site design requirements listed in 1a and 1b above if utilizing these standards.

3. Design with trees: Conduct a pre-development tree inventory and keep thirty (30) percent of the canopy tree inventory post-development. Pre-development canopies shall cover at least seventy-five (75) percent of the proposed rezoning. If canopy trees have not reached a mature height, the thirty (30) percent requirement shall be applied using the median diameter at breast height (dbh) calculation. The requirement shall be met when eighty (80) percent of the specimens to be kept are greater than the median dbh. Said trees shall be owned in common and kept in perpetuity unless doing so directly imposes a threat on the health, safety or general welfare of the public or personal property.

4. Community gardening: A one thousand (1,000) square foot plot for every twenty-five (25) units. If less than twenty-five (25) units are proposed, one (1) one thousand (1,000) square foot plot shall suffice. The community garden shall be centrally located and accessible from all proposed residential units. Community gardens shall adhere to the standards of the American Community Gardening Association publication titled "Starting a Community Garden." The publication is available at the planning department. Said garden/s shall be owned in common and kept in perpetuity. Maintenance shall be the responsibility of the common ownership.

Table 4: MRD Sustainable Density and Area Requirements

| | | Sustainable Development Area Requirements (in square feet) |
|---|---|---|

| | Maximum Gross Density | Single Family | Duplex | Semi-detached | Patio Home | Townhome | Multi-family | Tiny Home * |
|---|---|---|---|---|---|---|---|---|
| MRD-1 | 4 du/ac | 7,000 | 8,000 | 4,000 | 5,000 | 0.75 (acres) | 1 (acres) | 1,200 |
| MRD-2 | 8 du/ac | 5,000 | 7,000 | 3,500 | 3,500 | 0.5 (acres) | 0.75 (acres) | 1,200 |
| MRD-3 | 20 du/ac | 5,000 | 5,000 | 2,500 | 2,500 | 0.25 (acres) | 0.5 (acres) | 1,200 |

* Tiny home lots are not required to meet the minimum frontage requirements in the Horry County Land Development Regulations. 1.5 parking spaces are required per home, and parking may be provided anywhere in the development, either on individual or shared lots, or a separate parking area.

H. *Administrative procedures.*

1. Rezoning requests using the sustainable development standards or tiny home standards shall submit an addendum to the application for rezoning. For sustainable development standards, the addendum must specify which of the above standards shall be used upon approval of the rezoning request and the expected density increase as a percentage increase in the gross density. The addendum shall be forwarded with the rezoning packet to the planning commission and county council.
2. A conceptual/general site plan shall be submitted with the rezoning application. The site plan shall include the following;
   a. Sheet size not to exceed 30"x42";
   b. Drawn to a scale no smaller than 1"=200';
   c. Proposed project name;
   d. Owner of the property and/or developer;
   e. Adjacent property owners and land use;
   f. Proposed rights-of-way and lot layout compliant with the requirements of articles 3, 4 and 7 of the land development regulations;
   g. Adjacent driveway, roadway, and curb-cut locations;
   h. Table summarizing project acreage, gross and net density, number of lots, minimum lot area in square feet and minimum lot dimensions;
   i. North arrow, written and graphic scales, and a location map; showing the relationship with the surrounding area;
   j. Tract boundaries and total land area;
   k. Existing and proposed land uses throughout the development;
   l. Existing road rights-of-way and easements;

m. Note regarding the intent to supply water (wells) and sewer (septic);

n. Zoning classification;

o. County parcel identification number of the proposed development.

3. Any request to establish a MRD zoning district shall follow the procedures set forth in article XIII of this ordinance. In presenting requests for rezoning, the applicant must indicate the density desired for the property in order for the request to be complete. The requested density should be expressed as units per acre. Failure to provide a requested density will result in rezoning requests not being presented to the planning commission. All applications to rezone to MRD with a density higher than seven (7) units per acre should attach one (1) of the following:

a. Wetlands verification letter from the corps of engineers;

b. Certified wetlands delineation map;

c. Preliminary jurisdictional determination letter from the corps of engineers; or

d. Preliminary wetlands assessment prepared by a qualified wetlands consultant.

4. *Minor Changes:* Minor changes in MRD conceptual plans may be approved by the Zoning Administrator, provided that such changes:

a. Do not increase the density;

b. Do not change the outside (exterior) boundaries;

c. Do not change any use; however as an example, a change from multifamily residential to single-family residential shall be considered a minor change provided densities are not increased.

d. Do not significantly change the exterior appearance from those shown on any plans which may be submitted or presented by the developers.

e. Minor changes may include, but are not limited to: minor shifting of the location of buildings, parking, shifting of entrances and internal roadways to resolve regulatory permitting issues, utility easements, parks, or other public open spaces, or other features of the plan.

All other changes or modifications not enumerated above shall constitute a major change and will require a full rezoning action.

l. *Development review.* The approved sustainable development standards shall be noted or clearly drawn on all plans submitted for review by the planning department with the county ordinance number clearly marked. Final development review approval shall not be granted until all standards have been met in accordance with the approved rezoning.

(Ord. No. 46-08, § 2, 4-22-08; Ord. No. 42-16, § 4, 7-12-16; Ord. No. 28-17, § 1, 4-18-17; Ord. No. 78-17, § 5, 9-19-17)

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## Featured Amenities

Oceanfront

Pool

## Accommodations

King 7

Queen 4

Bunk 2

Sleeps 30

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SUBMIT

## Featured Amenities

Oceanfront

Pool

## Accommodations

King *7*

Queen *4*

Bunk *2*

Sleeps *30*

GET DIRECTIONS

Session 106 - (1985-1986)

S*0639 (Rat #0203, Act #0272 of 1985) Joint Resolution, By W.W. Doar and J.M. Long

A Joint Resolution to empower the governing body of the Murrell's Inlet-Garden City Fire District in Georgetown and Horry Counties to impose impact fees on buildings under construction on the effective date of this Act and all new construction and additions, to be used for purchase and maintenance of fire fighting equipment.-amended title

| | | |
|---|---|---|
| 05/15/85 | Senate | Intd. & placed on loc. & uncontested cal. w/o referenc SJ-2101 |
| 05/16/85 | Senate | Read second time SJ-2132 |
| 05/17/85 | Senate | Read third time and sent to House SJ-2151 |
| 05/21/85 | House | Introduced, read first time, placed on calendar without reference HJ-3300 |
| 05/22/85 | House | Debate adjourned until Tuesday, May 28, 1985 HJ-3417 |
| 05/28/85 | House | Amended HJ-3529 |
| 05/28/85 | House | Read second time HJ-3530 |
| 05/29/85 | House | Read third time HJ-3604 |
| 05/29/85 | House | Returned HJ-3604 |
| 05/30/85 | Senate | Concurred in House amendment and enrolled SJ-2396 |
| 06/03/85 | | Ratified R 203 |
| 06/06/85 | | Signed By Governor |
| 06/06/85 | | Effective date 06/06/85 |
| 06/06/85 | | Act No. 272 |
| 06/19/85 | | Copies available |





**South Carolina General Assembly**
106th Session, 1985-1986

**Bill 639**

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Current Status

Bill Number: 639
Ratification Number: 203
Act Number: 272
Introducing Body: Senate
Subject: Murrell's Inlet-Garden City Fire District in Georgetown and Horry counties to impose

View additional legislative information at the LPITS web site.

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(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

(A272, R203, S639)

A JOINT RESOLUTION TO EMPOWER THE GOVERNING BODY OF THE MURRELL'S INLET-GARDEN CITY FIRE DISTRICT IN GEORGETOWN AND HORRY COUNTIES TO IMPOSE IMPACT FEES ON BUILDINGS UNDER CONSTRUCTION ON THE EFFECTIVE DATE OF THIS ACT AND ALL NEW CONSTRUCTION AND ADDITIONS, TO BE USED FOR PURCHASE AND MAINTENANCE OF FIRE FIGHTING EQUIPMENT.

Be it enacted by the General Assembly of the State of South Carolina:

Construction fee

SECTION 1. In addition to the powers and duties provided for the governing body of the Murrell's Inlet-Garden City Fire District in Georgetown and Horry counties by Act 876 of 1966, the Board may impose, one time only, an impact fee on all buildings under construction on the effective date of this act and all new construction and all new additions. The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction. The fees must be used to purchase and maintain fire fighting equipment.

Time effective

SECTION 2. This act shall take effect upon approval by the Governor.

# Murrells Inlet – Garden City Fire District
# Fire Impact Fee Administration Manual

Recommended Approval

Norman L. Knight Jr., Fire Chief

Approved by the Board of Directors, Murrells Inlet – Garden City Fire District

January 27, 2020

Gene Connell

Pat Walsh

Kay Benton

Steven Sellers

Elizabeth Ward



EXHIBIT
3
8/23/21 BB
PENGAD 800-631-6989

## 1.0 Purpose

This manual provides guidance for the consistent and equitable collection of Fire Impact Fees for the Murrells Inlet-Garden City Fire District by the Fire District, Georgetown County Building Department, and Horry County Code Enforcement Department personnel.

## 2.0 The Murrells Inlet-Garden City Fire District Fire Impact Fees

Many fire departments have direct ties to an established local government who assumes the responsibility for ensuring that fire protection is provided. State laws delegate certain responsibilities to governing bodies which, in turn, delegate emergency powers and certain powers of fire code enforcement to the fire official. This government umbrella often establishes a means for providing operational and capital funding, but sometimes provides only essentials such as, enabling legislation and a contract with an established fire department.

Upon its establishment by referendum pursuant to statutory authority in 1966, the Murrells Inlet-Garden City Fire District has operated in sections of both Horry and Georgetown Counties in South Carolina, but without control or supervision by either county. In the early years of the department, it was far less expensive than it is now to purchase and maintain firefighting equipment, and the income generated by the statutorily authorized tax millage of the district was easily able to support such costs. The growth rate at the time was modest and the area was mostly restaurants, small businesses, single family home, and vacation cottages. In the mid 1980's, the type of construction began to change to taller high-density residential structures and expanded commercial structures such as malls and shopping centers, and the amount of new construction in the fire district began to grow at a faster rate than before. The need for new fire apparatus, firefighting equipment and its associated costs grew at a rate faster than the income generated by the statutorily authorized tax millage could support. In 1985 the South Carolina Legislature, recognizing the financial hardship by reason of rapid growth, expanded the powers of the fire district by granting the district's Board of Directors the power to impose fire impact fees.

With a fire impact fee, those most directly responsible for the district's growth and the consequential

need for additional firefighting equipment, the developers and builders, bear a proportional share of the cost of providing fire protection services. This cost, as sound economic practices go, is then passed on to the consumer. Each construction project pays its fair share for the fire apparatus and firefighting equipment.

## 3.0 Power to Collect Fire Impact Fees

Murrells Inlet-Garden City Fire District is granted the statutory authority to impose and collect fire impact fees on all new construction and all new additions as of and following June 6, 1985, as set forth in (Act #272) Joint Acts and Resolutions of the General Assembly of the State of South Carolina of 1985. A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction or in such amount as may be set forth elsewhere herein. Fire impact fees are payable to the Administrative Assistant or his/her designee at the headquarters station of the Murrells Inlet-Garden City Fire District and by previous agreement, on behalf of the fire district at the Georgetown County Building Department, Georgetown, South Carolina, and at the Horry County Code Enforcement Department, Conway, South Carolina. Fire impact fees collected by these departments are, by agreement, remitted by the respective county treasures to the fire district on a regular basis.

## 4.0 The Murrells Inlet-Garden City Fire District Service Area

As defined by statute, the Murrells Inlet-Garden City Fire District's statutory service area is those parts of Georgetown and Horry Counties within an area bounded by Huntington Beach State Park and Brookgreen Gardens to the south, the Waccamaw River and Collins Creek to the west. The north boundaries include Blackmoor on Hwy 707, Santee Cooper transmission lines on Hwy 17 Bypass and Melody Ln. on Hey 17 Bus. And N. Waccamaw Dr. East boundaries go to the Atlantic Ocean.

## 5.0 Definitions

Definitions for terms found in this manual relative to occupancy or construction practices shall be consistent with the definitions found in the edition of the *International Building and Fire Code* in use by either the Georgetown County Building Department, Georgetown County, SC, or the Horry County Code Enforcement Department, Conway, SC, within their respective jurisdictions except where said definitions may conflict with the definition herein contained. Where said definitions do conflict with the definitions herein contained, then the definition herein contained will control. Definitions for terms utilized herein and not specifically set forth elsewhere herein are as follows:

**Additional Construction:** Any expansion, upfit, or renovation made to an existing building or applicable structure as outlined herein.

**Building or Applicable Structure:** Any proposed, new, or existing building or structure for the purpose of occupancy, storage, or shelter, portable or fixer, residential or commercial, or any permanent building or structure of value that is ancillary to such building or structure except as specifically exempted by the current edition of the *International Building Code* adopted by the respective county from needing a permit.

**Expansion:** Modifications made to an existing building or applicable structure that increase any of its overall dimensions.

**Fire Impact Fee:** A fee levied by governmental authority on all new construction in the Murrells Inlet-Garden City Fire District, as outlined in section 6.0 of this manual, to purchase and maintain firefighting equipment for the district.

**Renovations:** Modifications made to an existing building or applicable structure that renew or alter its interior and/or exterior appearance with minimal structural work.

**Repair-in-kind:** Work performed on an existing building or applicable structure to replace failed or damaged systems or components with similar systems or components of comparable value to those originally installed and for which a Fire Impact Fee has already been paid.

**Upfit:** Modifications to all or part of a partially completed building or applicable structure that are to be on a building permit subsequent to any completed building permit(s) for original construction and which will render such building or applicable structure or part thereof suitable for occupancy, storage, or shelter.

## 6.0 Determination of Fire Impact Fees

Fire Impact fees are collected on all new construction in the Murrells Inlet-Garden City Fire District. The term "new Construction" shall include any building or structure suitable for occupancy, storage, or shelter, portable or fixed, residential or commercial, constructed, fabricated, or erected on or after June 6, 1985.

The fire impact fee is based on the cost of construction as declared by the owner or general contractor, or as calculated by a method generally practiced and approved for use by the building official. Fire impact fees shall be collected on the cost of construction of the building or structure. Structures that are to be fabricated to a level of completion that is less than suitable for occupancy, storage, or shelter which are, for the purpose of determination of fire impact fees, deemed to be "partially completed" (e.g. an un-leased or unsold bay or unit in a mall or strip mall that is not finished upon completion of construction of the mall or strip mall and thereafter completed for the occupancy, storage, or shelter of a tenant or owner pursuant to a subsequent building permit), shall be charged a fire impact fee only upon the cost of the new construction. The cost of any upfitting that has been undertaken to render the building or structure suitable for occupancy, storage, or shelter shall cumulatively be added to the cost of the original construction of the building or structure and the total of all fire impact fees assessed and collected shall be based on the total cost of the initial construction and the cost of the new construction with credit granted for any fire impact fee previously paid and evidenced by written receipt for payment.

A structure hereinafter referred to as a "permanent structure of value" shall mean any porch, outbuilding, swimming pool, or other construction that increases the completed or assessed value of the

property. Such structures are those that, per Section 105 of the currently adopted edition of the *International Building Code* used by the respective county building official, are of such cost or technical complexity as to require a building permit to construct.

### 6.1 Residential Structures

Residential structures shall be single or multi-family structures not constructed for commercial use, or any permanent structure of value that is ancillary to any such residential structure shall, at the time of permitting for construction, be charged a fire impact fee of 1.0 percent of the value of construction.

### 6.2 Commercial Structures

A new building or structure, as defined by the currently adopted edition of the *International Building Code* as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential; or any permanent building or applicable structure of value that is ancillary to any such structure shall, at the time of permitting for construction, be charged a fire impact fee of 2.0 percent of the value of construction.

### 6.3 Renovations

Any renovations or repairs, not determined to be additional construction, to a completed building that are to be done on a building permit and which, in the opinion of the building official and/or the assessor, significantly increases its assessed value shall be charged a fire impact fee of 0.2 percent of the value of construction. As an example, a new tenant plans to move into a previously occupied retail bay in a strip mall, and desires to renovate the space to suit his business. A fire impact fee had been paid on the original construction, but the new finishes and fixtures in the space will affect the value of the building, so a fire impact fee of 0.2 percent is to be collected.

### 6.4 Repairs-in-kind

Any completed building that has been charged and has paid a fire impact fee having suffered damages as a result of a natural disaster or calamity may undergo repairs-in-kind on a building permit without the assessment and collection of an additional fire impact fee. Repairs-in-kind under such circumstances are not subject to the assessment and collection of an additional fire impact fee by reason of the fact that such repairs-in-kind are, or are being, undertaken for repairing a part of the building or structure of value for which a fire impact fee has previously been paid.

### 6.5 Upfit of Incomplete or Uncompleted Buildings and Tenant Spaces

Any building erected to a level of completion specified as "incomplete" or "upfit to suit tenant" in the original plans and which is approved as such by the building official, may be completed on a building permit, but the fire impact fee 2.0 percent must be collected on the scope of work, as this is not a renovation, but an upfit for completion. The space includes no interior partitions and only minimal electrical wiring, but it has been completed to a level specified in approved drawings. If the upfit work to make this space ready for a tenant is to be performed under a new building permit, then a fire impact fee of 2.0 percent is to be collected.

### 6.6 Relocation of Mobile Homes and other Portable Structures

A mobile home or other portable structure for which a fire impact fee has already been paid may be moved by the original owner to another location in the fire district without additional assessment of a fire impact fee. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee for presentation to the appropriate county permitting authority at the time of application for a building permit to erect or place said mobile home or portable structure, or pay the full fire impact fee.

### 6.7 Replacement of Mobile Homes and Modular Homes

If a fire impact fee has been paid for a mobile or modular home and the original owner is replacing it with another one of greater value, then the fire impact fee already paid on the old home may be applied as a credit toward the fire impact fee on the new home. These requests may be processed only at the Murrells Inlet-Garden City Fire District business office during regular business office hours. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee with the balance due and will be issued a receipt for full payment for presentation to the appropriate county permitting authority at the time of application for a building permit.

### 6.8 Churches, Synagogues, Places of Worship and other buildings and applicable structures built for non-profit and not-for-profit organizations

Buildings or applicable structures built or upfit for the purpose of public worship, assembly, or other used by a religious community, parish, local church, or charitable organization holding the title to the property; including educational buildings, fellowship halls, and ancillary structures; shall be charged a fire impact fee of 0.2 percent of the value of construction.

### 6.9 Construction or Upfit of Governmental and Quasi-governmental buildings and Applicable Structures

Buildings and applicable structures built or upfit for use by state and local governmental and quasi-governmental agencies shall be charged a fire impact fee of 2.0 percent of the value of construction. Buildings and applicable structures built for use by federal governmental agencies where the federal government shall hold title to the property shall not be charged a fire impact fee.

## 7.0 Adjustment of Fire Impact Fees

Fire impact fees on a case-by-case basis may be adjusted in the sole opinion and determination of the Board of Directors for special circumstances determined by the Board of Directors to be with merit. Any such requests shall be made in writing to the Board of Directors of the Murrells Inlet-Garden City Fire District. At the sole discretion of the Board, the requestor may be required to appear before the Board at a regularly scheduled meeting to present such request in person.

Requests for adjustment of fire impact fees should be received by the Board of Directors at least two calendar months in advance of the anticipated date of application for a building permit. All other requests for adjustment shall be accompanied by a receipt as proof of payment of the full fire impact fee due and, if approved by the Board of Directors, shall result in reimbursement of the difference from the Fire District.

If approved in advance by the Board of Directors, the adjusted fire impact fee shall be paid directly to the Administrative Assistant at the Fire District headquarters and the Fire District shall issue to the requestor a receipt therefor following which the requestor shall present said receipt to the respective county building office when making application for a building permit. The respective county building office, upon being presented with said receipt, may process and approve, if applicable, the requestor's application for a building permit without the necessity of collecting any additional fire impact fee.

## 8.0 Appeals of Fire Impact Fees

Use of this manual by Horry County Code Enforcement, Georgetown County Building Department, and Murrells Inlet-Garden City Fire District personnel ensures the fair and equitable computation and collection of fire impact fees. Because the Horry County Code Enforcement Department and the Georgetown County Building Department are collecting these fees only on behalf of the Murrells Inlet-Garden City Fire District, any questions or dispute about fire impact fees collected at those locations

shall be directed to the Administrative Assistant at the Murrells Inlet-Garden City Fire District headquarters. The Administrative Assistant, Fire Marshal, or Chief Officer, as necessary, shall make every attempt to resolve the fee in question.

Fire impact fee disputes that remain unresolved will next be referred to the Murrells Inlet-Garden City Fire District Board of Directors for resolution. The requestor will be required to appear before the Board either at a regular scheduled meeting or a special meeting called for the purpose of the appeal, at the sole discretion of the Chairman of the Board, to present the case in person.

Any appeal of a decision regarding fire impact fees by the Board of Directors shall be made through appropriate legal action directly to the Court of Common Pleas for the Fifteenth Judicial Circuit, State of South Carolina.

## 9.0 Murrells Inlet-Garden City Fire District Fire Impact Fee Rate Schedule

Except where provided elsewhere herein, the following fire impact fees rate schedule shall apply.

### 9.1 Residential Structures

Residential structures and their ancillary structures built or upfit shall be charged a fire impact fee of 1.0 percent of the cost of construction.

### 9.2 Commercial Structures

Commercial structures and their ancillary structures guilt or upfit shall be charged a fire impact fee of 2.0 percent of the cost of construction.

### 9.3 Churches and Non-profits

Buildings and ancillary structures built or upfit for the purpose of public worship, assembly, or other use by a religious community or non-profit shall be charged a fire impact fee of 0.2 percent of the cost of construction.

### 9.4 Governmental and Quasi-Governmental Agencies

Buildings and ancillary structures built or upfit for local and state governmental agencies shall be charged a fire impact fee of 2.0 percent of the cost of construction. Buildings and ancillary structures built or upfit for federal governmental agencies shall not be charged a fire impact fee.

### 9.5 Interior and Exterior Renovations

Interior and exterior renovation made to existing buildings and ancillary structures in all occupancies shall be charged a fire impact fee of 0.2 percent of the cost of construction, except where the federal government holds the title to the building, in which case no fire impact fee shall be charged.

Sands COMPANIES

# Swells Cottage Apartment Homes



**ADDRESS:**
1501 Flatwood Street
Murrells Inlet, SC 29576
Website Coming Soon

**TYPE:** Leased Cottage Apartment Homes

**UNITS:** 221

**STATUS:** Under Development

EXHIBIT
4
8/23/21 RB
PENGAD 800-631-6989

**HIGHLIGHTS:**
Your charming cottage at Swells is a masterful blend of the best ideals in both luxury home living and leasing. Each spacious one- and two-story detached cottage features front porches framed in Southern charm, exteriors painted in a pretty palette of beach-inspired shades, and standout, high-end interior finishes. The Swells community offers stress-free living, with amenities like a pool and clubhouse, fitness center, parks, lush gardens, and a residential lounge complete with a bistro and kitchen area, shuffle board and games. And you'll love Swells' location, with the beautiful Tupelo Bay golf course practically in your backyard and only minutes away from the sands of Myrtle Beach, ranked one of the top beaches in the United States, and 60 miles of beachfront that runs from Little River close to

Privacy - Terms

# Murrells Inlet-Garden City Fire District

PO Box 648, 3641 Hwy. 17 Bus.
Murrells Inlet, SC 29576
PH (843) 651-5143

Gene Connell, Chairman
J. R. Haney, Fire Chief

March 28, 2022

The Board of Directors of the Murrells Inlet – Garden City Fire District voted 5 – 0 to deny the request of Sands Building Group/Garden City Cottages for a refund of impact fees paid. The Board asserts that the proper fees were collected in the amount of 2% on the Sands Building Group/Garden City Cottages project located in the District.

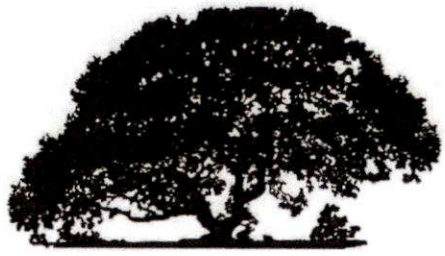
3-28-22
Date

Gene Connell
Chairman

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HOWELL V. BELLAMY, JR.
EDWARD B. BOWERS, JR.*
M. EDWIN HINDS, JR.
DAVID B. MILLER+
C. WINFIELD JOHNSON, III
DOUGLAS M. ZAYICEK
MARTIN C. DAWSEY*
ROBERT S. SHELTON+
HOWELL V. BELLAMY, III
GEORGE W. REDMAN, III+ ** ++
BENJAMIN A. BARODY+ **

* LLM TAXATION
** LICENSED IN SC & NC
+ CERTIFIED MEDIATOR
++ CERTIFIED ARBITRATOR



# THE BELLAMY LAW FIRM

OFFICES IN MYRTLE BEACH & PAWLEYS ISLAND

WWW.BELLAMYLAW.COM

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LAUREN BREARLEY BENTON
JON CRAIG HOWELL, JR.
ZACHARY J. CROWL**
BRICE A. BERTSCHIN

RETIRED:
JOHN K. RUTENBERG (1939-2012)
JOHN E. COPELAND
CLAUDE M. EPPS, JR.
DAVID R. GRAVELY
JILL F. GRIFFITH
BRADLEY D. KING

1000 29TH AVENUE NORTH • P.O. BOX 357 • MYRTLE BEACH, SC 29578
TELEPHONE (843) 448-2400 • FACSIMILE (843) 448-3022

*Writer's Direct Dial: 843-282-5356*
*Email: PMoore@BellamyLaw.com*

April 12, 2022

**Via Electronic and U.S. Mail** production@clark-associates.com

Clark & Associates, Inc.
PO Box 12189
Charleston, SC 29422

Re: The Swells Cottages
Hearing: 8/23/2021
Location: Murrells Inlet/Garden City Fire District, Station 76 Headquarters
Your Job Number: 45681

To Whom it May Concern:

I hope you are doing well. Please accept this letter as our official request for the Sealed Transcript with reference to the above. Kindly include your invoice and it will be paid promptly.

Very truly yours,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

Patricia T. Moore
Legal Assistant

:ptm
Copy: Gene Connell, Esq. (via email: gconnell@classactlaw.net)



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TELEPHONE (843) 448-2400 • FACSIMILE (843) 448-3022

*Writer's Direct Dial: 843-916-7168*
*Email: DMiller@BellamyLaw.com*

August 27, 2021

Received 8/27/21 12:42pm
Barbara Taylor
Administrative Assistant

**VIA HAND DELIVERY**

Murrells Inlet – Garden City Fire District
Attn: Norman L. Knight, Jr., Fire Chief

Dear Chief Knight:

I hope this letter finds you well. I represent Sands Building Group and The Cottages at Garden City Beach, LP as regards planned development within your fire district. You may be aware that an issue has arisen as to whether the correct Impact Fee should be 1% or 2%. We look forward to working through that issue.

In the meanwhile, and in order to mitigate delay losses, we need to proceed to pull permits and commence construction. As you may know, each residential structure within the project is separately permitted. I contacted Chairman Gene Connell to inquire as to procedures for paying in the Impact Fees under protest. Per that discussion, I am forwarding this letter, together with the fee payment marked "Impact Fees – Paid Under Protest". As I understand it, these fees will be segregated and held pending final resolution of our issues. Depending on how long it takes, there may be successive-like payments as this project progresses.

Again, we look forward to working through this matter. Should you have any questions or comments, please feel free to give me a call.



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Very truly yours,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

David B. Miller
Zachary J. Crowl

DBM:ptm
Enclosure as noted

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are the board members, these right here.

Whatever presentation you're going to give to us, if you want to go ahead and do that and take any questions; and we're not going to make any decision until we have an executive session at a later point in the evening.

So whatever decision we make will be in writing, and we'll let you know afterwards.

MR. MILLER: Okay.

CHAIRMAN CONNELL: The manual provides that -- Section 8, I think it is, provides that you can dispute or question any impact fee collected and that we are to resolve that and that you can then appeal that.

It does not say what the time limit is. That would probably be 30 days, like any other appeal to the Circuit Court, if that's the case.

MR. MILLER: Okay.

CHAIRMAN CONNELL: Do all board members, do you all have any questions about what we're going to do? We're going to make a presentation, and then we're going to go to executive session.

BOARD MEMBER: I have one. John



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MR. MILLER: They're annual rentals; correct? Yeah, they're annual rentals.

MEMBER WALSH: Annual.

CHAIRMAN CONNELL: Okay. Anything else? All right. So you got Exhibits No. 01 through No. 04; right? Do you have a copy of the manual?

MR. CROWL: I don't have a clean copy.

CHAIRMAN CONNELL: We could give you -- could y'all give a printed copy of the manual with the signatures on it, and then you can -- do you have time to do that now so we can give it to the --

UNIDENTIFIED VOICE: Yes, sir.

MR. MILLER: Thank you.

CHAIRMAN CONNELL: Anything else you want to offer?

MR. MILLER: Okay. We hope that's sufficient.

CHAIRMAN CONNELL: Okay? So we'll give you a written decision after we talk and come to a conclusion.

MR. MILLER: Okay. Thank you all.

CHAIRMAN CONNELL: Thank you for



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# Murrells Inlet – Garden City Fire District
# Fire Impact Fee Administration Manual

Recommended Approval

_____
Norman L. Knight Jr., Fire Chief

Approved by the Board of Directors, Murrells Inlet – Garden City Fire District

January 27, 2020

| | |
|---|---|
| Gene Connell | Pat Walsh |
| Kay Benton | Steven Sellers |
| Elizabeth Ward | |

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## 1.0 Purpose

This manual provides guidance for the consistent and equitable collection of Fire Impact Fees for the Murrells Inlet-Garden City Fire District by the Fire District, Georgetown County Building Department, and Horry County Code Enforcement Department personnel.

## 2.0 The Murrells Inlet-Garden City Fire District Fire Impact Fees

Many fire departments have direct ties to an established local government who assumes the responsibility for ensuring that fire protection is provided. State laws delegate certain responsibilities to governing bodies which, in turn, delegate emergency powers and certain powers of fire code enforcement to the fire official. This government umbrella often establishes a means for providing operational and capital funding, but sometimes provides only essentials such as, enabling legislation and a contract with an established fire department.

Upon its establishment by referendum pursuant to statutory authority in 1966, the Murrells Inlet-Garden City Fire District has operated in sections of both Horry and Georgetown Counties in South Carolina, but without control or supervision by either county. In the early years of the department, it was far less expensive than it is now to purchase and maintain firefighting equipment, and the income generated by the statutorily authorized tax millage of the district was easily able to support such costs. The growth rate at the time was modest and the area was mostly restaurants, small businesses, single family home, and vacation cottages. In the mid 1980's, the type of construction began to change to taller high-density residential structures and expanded commercial structures such as malls and shopping centers, and the amount of new construction in the fire district began to grow at a faster rate than before. The need for new fire apparatus, firefighting equipment and its associated costs grew at a rate faster than the income generated by the statutorily authorized tax millage could support. In 1985 the South Carolina Legislature, recognizing the financial hardship by reason of rapid growth, expanded the powers of the fire district by granting the district's Board of Directors the power to impose fire impact fees.

With a fire impact fee, those most directly responsible for the district's growth and the consequential

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need for additional firefighting equipment, the developers and builders, bear a proportional share of the cost of providing fire protection services. This cost, as sound economic practices go, is then passed on to the consumer. Each construction project pays its fair share for the fire apparatus and firefighting equipment.

## 3.0 Power to Collect Fire Impact Fees

Murrells Inlet-Garden City Fire District is granted the statutory authority to impose and collect fire impact fees on all new construction and all new additions as of and following June 6, 1985, as set forth in (Act #272) Joint Acts and Resolutions of the General Assembly of the State of South Carolina of 1985. A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction or in such amount as may be set forth elsewhere herein. Fire impact fees are payable to the Administrative Assistant or his/her designee at the headquarters station of the Murrells Inlet-Garden City Fire District and by previous agreement, on behalf of the fire district at the Georgetown County Building Department, Georgetown, South Carolina, and at the Horry County Code Enforcement Department, Conway, South Carolina. Fire impact fees collected by these departments are, by agreement, remitted by the respective county treasures to the fire district on a regular basis.

## 4.0 The Murrells Inlet-Garden City Fire District Service Area

As defined by statute, the Murrells Inlet-Garden City Fire District's statutory service area is those parts of Georgetown and Horry Counties within an area bounded by Huntington Beach State Park and Brookgreen Gardens to the south, the Waccamaw River and Collins Creek to the west. The north boundaries include Blackmoor on Hwy 707, Santee Cooper transmission lines on Hwy 17 Bypass and Melody Ln. on Hey 17 Bus. And N. Waccamaw Dr. East boundaries go to the Atlantic Ocean.

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## 5.0 Definitions

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**Upfit:** Modifications to all or part of a partially completed building or applicable structure that are to be on a building permit subsequent to any completed building permit(s) for original construction and which will render such building or applicable structure or part thereof suitable for occupancy, storage, or shelter.

## 6.0 Determination of Fire Impact Fees

Fire Impact fees are collected on all new construction in the Murrells Inlet-Garden City Fire District. The term "new Construction" shall include any building or structure suitable for occupancy, storage, or shelter, portable or fixed, residential or commercial, constructed, fabricated, or erected on or after June 6, 1985.

The fire impact fee is based on the cost of construction as declared by the owner or general contractor, or as calculated by a method generally practiced and approved for use by the building official. Fire impact fees shall be collected on the cost of construction of the building or structure. Structures that are to be fabricated to a level of completion that is less than suitable for occupancy, storage, or shelter which are, for the purpose of determination of fire impact fees, deemed to be "partially completed" (e.g. an un-leased or unsold bay or unit in a mall or strip mall that is not finished upon completion of construction of the mall or strip mall and thereafter completed for the occupancy, storage, or shelter of a tenant or owner pursuant to a subsequent building permit), shall be charged a fire impact fee only upon the cost of the new construction. The cost of any upfitting that has been undertaken to render the building or structure suitable for occupancy, storage, or shelter shall cumulatively be added to the cost of the original construction of the building or structure and the total of all fire impact fees assessed and collected shall be based on the total cost of the initial construction and the cost of the new construction with credit granted for any fire impact fee previously paid and evidenced by written receipt for payment.

A structure hereinafter referred to as a "permanent structure of value" shall mean any porch, outbuilding, swimming pool, or other construction that increases the completed or assessed value of the

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property. Such structures are those that, per Section 105 of the currently adopted edition of the *International Building Code* used by the respective county building official, are of such cost or technical complexity as to require a building permit to construct.

## 6.1 Residential Structures

Residential structures shall be single or multi-family structures not constructed for commercial use; or any permanent structure of value that is ancillary to any such residential structure shall, at the time of permitting for construction, be charged a fire impact fee of 1.0 percent of the value of construction.

## 6.2 Commercial Structures

A new building or structure, as defined by the currently adopted edition of the *International Building Code* as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential; or any permanent building or applicable structure of value that is ancillary to any such structure shall, at the time of permitting for construction, be charged a fire impact fee of 2.0 percent of the value of construction.

## 6.3 Renovations

Any renovations or repairs, not determined to be additional construction, to a completed building that are to be done on a building permit and which, in the opinion of the building official and/or the assessor, significantly increases its assessed value shall be charged a fire impact fee of 0.2 percent of the value of construction. As an example, a new tenant plans to move into a previously occupied retail bay in a strip mall, and desires to renovate the space to suit his business. A fire impact fee had been paid on the original construction, but the new finishes and fixtures in the space will affect the value of the building, so a fire impact fee of 0.2 percent is to be collected.

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## 6.4 Repairs-in-kind

Any completed building that has been charged and has paid a fire impact fee having suffered damages as a result of a natural disaster or calamity may undergo repairs-in-kind on a building permit without the assessment and collection of an additional fire impact fee. Repairs-in-kind under such circumstances are not subject to the assessment and collection of an additional fire impact fee by reason of the fact that such repairs-in-kind are, or are being, undertaken for repairing a part of the building or structure of value for which a fire impact fee has previously been paid.

## 6.5 Upfit of Incomplete or Uncompleted Buildings and Tenant Spaces

Any building erected to a level of completion specified as "incomplete" or "upfit to suit tenant" in the original plans and which is approved as such by the building official, may be completed on a building permit, but the fire impact fee 2.0 percent must be collected on the scope of work, as this is not a renovation, but an upfit for completion. The space includes no interior partitions and only minimal electrical wiring, but it has been completed to a level specified in approved drawings. If the upfit work to make this space ready for a tenant is to be performed under a new building permit, then a fire impact fee of 2.0 percent is to be collected.

## 6.6 Relocation of Mobile Homes and other Portable Structures

A mobile home or other portable structure for which a fire impact fee has already been paid may be moved by the original owner to another location in the fire district without additional assessment of a fire impact fee. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee for presentation to the appropriate county permitting authority at the time of application for a building permit to erect or place said mobile home or portable structure, or pay the full fire impact fee.

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### 6.7 Replacement of Mobile Homes and Modular Homes

If a fire impact fee has been paid for a mobile or modular home and the original owner is replacing it with another one of greater value, then the fire impact fee already paid on the old home may be applied as a credit toward the fire impact fee on the new home. These requests may be processed only at the Murrells Inlet-Garden City Fire District business office during regular business office hours. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee with the balance due and will be issued a receipt for full payment for presentation to the appropriate county permitting authority at the time of application for a building permit.

### 6.8 Churches, Synagogues, Places of Worship and other buildings and applicable structures built for non-profit and not-for-profit organizations

Buildings or applicable structures built or upfit for the purpose of public worship, assembly, or other used by a religious community, parish, local church, or charitable organization holding the title to the property; including educational buildings, fellowship halls, and ancillary structures; shall be charged a fire impact fee of 0.2 percent of the value of construction.

### 6.9 Construction or Upfit of Governmental and Quasi-governmental buildings and Applicable Structures

Buildings and applicable structures built or upfit for use by state and local governmental and quasi-governmental agencies shall be charged a fire impact fee of 2.0 percent of the value of construction. Buildings and applicable structures built for use by federal governmental agencies where the federal government shall hold title to the property shall not be charged a fire impact fee.

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## 7.0 Adjustment of Fire Impact Fees

Fire impact fees on a case-by-case basis may be adjusted in the sole opinion and determination of the Board of Directors for special circumstances determined by the Board of Directors to be with merit. Any such requests shall be made in writing to the Board of Directors of the Murrells Inlet-Garden City Fire District. At the sole discretion of the Board, the requestor may be required to appear before the Board at a regularly scheduled meeting to present such request in person.

Requests for adjustment of fire impact fees should be received by the Board of Directors at least two calendar months in advance of the anticipated date of application for a building permit. All other requests for adjustment shall be accompanied by a receipt as proof of payment of the full fire impact fee due and, if approved by the Board of Directors, shall result in reimbursement of the difference from the Fire District.

If approved in advance by the Board of Directors, the adjusted fire impact fee shall be paid directly to the Administrative Assistant at the Fire District headquarters and the Fire District shall issue to the requestor a receipt therefor following which the requestor shall present said receipt to the respective county building office when making application for a building permit. The respective county building office, upon being presented with said receipt, may process and approve, if applicable, the requestor's application for a building permit without the necessity of collecting any additional fire impact fee.

## 8.0 Appeals of Fire Impact Fees

Use of this manual by Horry County Code Enforcement, Georgetown County Building Department, and Murrells Inlet-Garden City Fire District personnel ensures the fair and equitable computation and collection of fire impact fees. Because the Horry County Code Enforcement Department and the Georgetown County Building Department are collecting these fees only on behalf of the Murrells Inlet-Garden City Fire District, any questions or dispute about fire impact fees collected at those locations

shall be directed to the Administrative Assistant at the Murrells Inlet-Garden City Fire District headquarters. The Administrative Assistant, Fire Marshal, or Chief Officer, as necessary, shall make every attempt to resolve the fee in question.

Fire impact fee disputes that remain unresolved will next be referred to the Murrells Inlet-Garden City Fire District Board of Directors for resolution. The requestor will be required to appear before the Board either at a regular scheduled meeting or a special meeting called for the purpose of the appeal, at the sole discretion of the Chairman of the Board, to present the case in person.

Any appeal of a decision regarding fire impact fees by the Board of Directors shall be made through appropriate legal action directly to the Court of Common Pleas for the Fifteenth Judicial Circuit, State of South Carolina.



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## 9.0 Murrells Inlet-Garden City Fire District Fire Impact Fee Rate Schedule

Except where provided elsewhere herein, the following fire impact fees rate schedule shall apply.

### 9.1 Residential Structures

Residential structures and their ancillary structures built or upfit shall be charged a fire impact fee of 1.0 percent of the cost of construction.

### 9.2 Commercial Structures

Commercial structures and their ancillary structures built or upfit shall be charged a fire impact fee of 2.0 percent of the cost of construction.

### 9.3 Churches and Non-profits

Buildings and ancillary structures built or upfit for the purpose of public worship, assembly, or other use by a religious community or non-profit shall be charged a fire impact fee of 0.2 percent of the cost of construction.

### 9.4 Governmental and Quasi-Governmental Agencies

Buildings and ancillary structures built or upfit for local and state governmental agencies shall be charged a fire impact fee of 2.0 percent of the cost of construction. Buildings and ancillary structures built or upfit for federal governmental agencies shall not be charged a fire impact fee.

### 9.5 Interior and Exterior Renovations

Interior and exterior renovation made to existing buildings and ancillary structures in all occupancies shall be charged a fire impact fee of 0.2 percent of the cost of construction, except where the federal government holds the title to the building, in which case no fire impact fee shall be charged.

| | MODEL | ELEVATION | ORIENTATION | House # | Street Name | Fire Impact Fee (Actual Construction Value) |
|---|---|---|---|---|---|---|
| | | | | | | Residential FEEs |
| 1 | SAPELO | Slab | Mirrored | 104 | Grovewood Way | $1,530.43 |
| 2 | SAPELO | Slab | Mirrored | 108 | Grovewood Way | $1,530.43 |
| 3 | AMELIA | Slab | Standard | 116 | Grovewood Way | $1,116.93 |
| 4 | SIMONS | Slab | Mirrored | 112 | Grovewood Way | $1,404.55 |
| 5 | PAMPLICO | Elevated Front | Standard | 120 | Grovewood Way | $2,225.12 |
| 6 | SIMONS | Slab | Standard | 124 | Grovewood Way | $1,404.55 |
| 7 | TYBEE | Elevated Front | Mirrored | 130 | Grovewood Way | $1,842.52 |
| 8 | HATTERAS | Slab | Standard | 134 | Grovewood Way | $1,478.94 |
| 9 | MASONBORO II | Elevated Front | Mirrored | 138 | Grovewood Way | $2,046.45 |
| 10 | AMELIA | Slab | Standard | 142 | Grovewood Way | $1,116.93 |
| 11 | TYBEE | Elevated Front | Mirrored | 146 | Grovewood Way | $1,842.52 |
| 12 | SIMONS | Slab | Standard | 154 | Grovewood Way | $1,404.55 |
| 13 | MASONBORO II | Elevated Front | Mirrored | 150 | Grovewood Way | $2,046.45 |
| 14 | MASONBORO II | Elevated Front | Standard | 162 | Grovewood Way | $2,046.45 |
| 15 | EDISTO | Slab | Standard | 166 | Grovewood Way | $1,692.54 |
| 16 | TYBEE | Elevated Front | Standard | 170 | Grovewood Way | $1,842.52 |
| 17 | SIMONS | Slab | Standard | 174 | Grovewood Way | $1,404.55 |
| 18 | MASONBORO II | Elevated Front | Standard | 178 | Grovewood Way | $2,046.45 |
| 19 | AMELIA | Slab | Standard | 182 | Grovewood Way | $1,116.93 |
| 20 | TYBEE | Elevated Front | Standard | 186 | Grovewood Way | $2,046.45 |
| 21 | SIMONS | Slab | Standard | 190 | Grovewood Way | $1,404.55 |
| 22 | TYBEE | Elevated Front | Standard | 194 | Grovewood Way | $1,842.52 |
| 23 | HATTERAS | Slab | Mirrored | 202 | Grovewood Way | $1,478.94 |
| 24 | MASONBORO II | Elevated Front | Standard | 198 | Grovewood Way | $2,046.45 |
| 25 | PAMPLICO | Slab | Standard | 179 | Grovewood Way | $1,624.53 |
| 26 | AMELIA | Slab | Standard | 171 | Grovewood Way | $1,116.93 |
| 27 | SIMONS | Slab | Standard | 163 | Grovewood Way | $1,404.55 |
| 28 | SAPELO | Slab | Standard | 155 | Grovewood Way | $1,530.43 |
| 29 | SANIBEL | Slab | Mirrored | 147 | Grovewood Way | $1,685.14 |
| 30 | SAPELO | Slab | Mirrored | 139 | Grovewood Way | $1,530.43 |
| 31 | SIMONS | Slab | Mirrored | 143 | Grovewood Way | $1,404.55 |
| 32 | AMELIA | Slab | Standard | 151 | Grovewood Way | $1,116.93 |
| 33 | SIMONS | Slab | Standard | 159 | Grovewood Way | $1,404.55 |
| 34 | TYBEE | Slab | Mirrored | 167 | Grovewood Way | $1,341.80 |
| 35 | SAPELO | Slab | Standard | 175 | Grovewood Way | $1,530.40 |
| 36 | PAMPLICO | Elevated Front | Standard | 1485 | Southern Oaks Drive | $2,225.12 |
| 37 | PAMPLICO | Elevated Front | Standard | 1482 | Southern Oaks Drive | $2,225.12 |
| 38 | TYBEE | Side Porch | Standard | 1478 | Southern Oaks drive | $1,371.80 |
| 39 | MASONBORO II | Side Porch | Mirrored | 823 | Shelburne Court | $1,556.04 |
| 40 | SAPELO | Slab | Mirrored | 819 | Shelburne Court | $1,530.43 |
| 41 | SAPELO | Slab | Mirrored | 815 | Shelburne Court | $1,530.43 |
| 42 | SAPELO | Slab | Standard | 809 | Shelburne Court | $1,530.43 |
| 43 | PAMPLICO | Elevated Front | Standard | 805 | Shelburne Court | $2,225.12 |
| 44 | SIMONS | Elevated Front | Mirrored | 801 | Shelburne Court | $1,958.72 |
| 45 | AMELIA | Elevated Front | Standard | 800 | Shelburne Court | $1,656.79 |
| 46 | PAMPLICO | Elevated Front | Mirrored | 804 | Shelburne Court | $2,225.12 |
| 47 | MASONBORO II | Slab | Standard | 808 | Shelburne Court | $1,506.04 |
| 48 | TYBEE | Slab | Standard | 816 | Shelburne Court | $1,341.80 |
| 49 | MASONBORO II | Slab | Mirrored | 818 | Shelburne Court | $1,506.04 |
| 50 | SIMONS | Slab | Mirrored | 820 | Shelburne Court | $1,404.55 |
| 51 | MASONBORO II | Elevated Front | Standard | 1511 | Flatwood Street | $2,046.45 |
| 52 | TYBEE | Elevated Front | Standard | 1515 | Flatwood Street | $1,842.52 |
| 53 | MASONBORO II | Elevated Front | Standard | 1519 | Flatwood Street | $2,046.45 |
| 54 | SIMONS | Slab | Standard | 1604 | Manville Place | $1,404.55 |
| 55 | SAPELO | Slab | Mirrored | 1608 | Manville Place | $1,530.43 |
| 56 | MASONBORO II | Slab | Mirrored | 1612 | Manville Place | $1,506.04 |
| 57 | AMELIA | Slab | Standard | 1620 | Manville Place | $1,116.93 |
| 58 | SAPELO | Slab | Mirrored | 1616 | Manville Place | $1,530.43 |
| 59 | MASONBORO II | Slab | Standard | 1617 | Manville Place | $1,506.04 |
| 60 | SANIBEL | Slab | Mirrored | 1627 | Manville Place | $1,685.14 |
| 61 | SAPELO | Slab | Standard | 1628 | Manville Place | $1,530.43 |
| 62 | SANIBEL | Slab | Mirrored | 1632 | Manville Place | $1,685.14 |
| 63 | SAPELO | Slab | Mirrored | 1001 | Peak Place | $1,530.43 |
| 64 | TYBEE | Slab | Standard | 1005 | Peak Place | $1,341.80 |
| 65 | SAPELO | Slab | Standard | 1009 | Peak Place | $1,530.43 |
| 114 | MASONBORO II | Elevated Front | Mirrored | 915 | Elwick Place | $2,046.45 |
| 115 | TYBEE | Elevated Front | Mirrored | 909 | Elwick Place | $1,842.52 |
| 116 | PAMPLICO | Elevated Front | Mirrored | 905 | Elwick Place | $2,225.12 |
| 117 | MASONBORO II | Elevated Front | Mirrored | 901 | Elwick Place | $2,046.45 |
| 118 | PAMPLICO | Elevated Front | Standard | 1471 | Southern Oaks Drive | $2,225.12 |



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|---|---|---|---|---|---|---|
| 119 | AMELIA | Elevated Front | Mirrored | 1475 | Southern Oaks Drive | $1,656.79 |
| 120 | TYBEE | Elevated Front | Standard | 1479 | Southern Oaks Drive | $1,842.52 |
| 121 | SAPELO | Slab | Standard | 701 | Southfield Drive | $1,530.43 |
| 5130 | PAMPLICO | Elevated Front | Standard | 1483 | Southern Oaks Drive | $2,225.12 |
| 313 | EDISTO | Elevated Front | Standard | 700 | Southfield Drive | $2,307.30 |
| 5 | PAMPLICO | Elevated Front | Mirrored | 1491 | Southern Oaks Drive | $2,225.12 |
| 146 | AMELIA | Elevated Front | Standard | 1487 | Southern Oaks Drive | $1,656.79 |
| 137 | MASONBORO II | Slab | Standard | 724 | Southfield Drive | $1,506.04 |
| 138 | TYBEE | Slab | Standard | 251 | Grovewood Way | $1,341.80 |
| 139 | MASONBORO II | Slab | Mirrored | 247 | Grovewood Way | $1,506.04 |
| 5140 | TYBEE | Slab | Mirrored | 243 | Grovewood Way | $1,341.80 |
| 141 | MASONBORO II | Slab | Standard | 239 | Grovewood Way | $1,506.04 |
| 5142 | TYBEE | Slab | Mirrored | 235 | Grovewood Way | $1,341.80 |
| 5143 | AMELIA | Slab | Standard | 221 | Grovewood Way | $1,116.93 |
| 144 | MASONBORO II | Slab | Standard | 217 | Grovewood Way | $1,506.04 |
| 147 | MASONBORO II | Elevated Front | Standard | 220 | Grovewood Way | $2,046.45 |
| 5148 | HATTERAS | Slab | Standard | 224 | Grovewood Way | $1,478.94 |
| 149 | TYBEE | Elevated Front | Standard | 228 | Grovewood Way | $1,842.52 |
| 5150 | AMELIA | Slab | Standard | 232 | Grovewood Way | $1,116.93 |
| 151 | MASONBORO II | Elevated Front | Standard | 236 | Grovewood Way | $2,046.45 |
| 5152 | SIMONS | Slab | Mirrored | 240 | Grovewood Way | $1,404.55 |
| 153 | MASONBORO II | Slab | Standard | 244 | Grovewood Way | $1,506.04 |
| 154 | TYBEE | Slab | Standard | 248 | Grovewood Way | $1,341.80 |
| 155 | SAPELO | Slab | Standard | 252 | Grovewood Way | $1,530.43 |
| 156 | SAPELO | Slab | Mirrored | 276 | Grovewood Way | $1,530.43 |
| 157 | MASONBORO II | Slab | Standard | 272 | Grovewood Way | $1,506.04 |
| 158 | TYBEE | Slab | Mirrored | 268 | Grovewood Way | $1,341.80 |
| 159 | PAMPLICO | Slab | Standard | 264 | Grovewood Way | $1,624.53 |
| 160 | EDISTO | Elevated Front | Mirrored | 280 | Grovewood Way | $2,307.30 |
| 5161 | AMELIA | Slab | Standard | 284 | Grovewood Way | $1,116.93 |
| 162 | PAMPLICO | Elevated Front | Mirrored | 288 | Grovewood Way | $2,225.12 |
| 5163 | SIMONS | Slab | Standard | 292 | Grovewood Way | $1,404.55 |
| 164 | TYBEE | Elevated Front | Mirrored | 296 | Grovewood Way | $1,842.52 |
| 5165 | AMELIA | Slab | Standard | 300 | Grovewood Way | $1,116.93 |
| 166 | MASONBORO II | Elevated Front | Mirrored | 304 | Grovewood Way | $2,046.45 |
| 5167 | SIMONS | Slab | Mirrored | 308 | Grovewood Way | $1,404.55 |
| 168 | TYBEE | Elevated Front | Mirrored | 312 | Grovewood Way | $1,842.52 |
| 5169 | PAMPLICO | Elevated Front | Standard | 1207 | Pennecamp Drive | $2,225.12 |
| 70 | SIMONS | Slab | Standard | 1203 | Pennecamp Drive | $1,404.55 |
| 1 | MASONBORO II | Slab | Standard | 297 | Grovewood Way | $1,506.04 |
| 172 | TYBEE | Slab | Mirrored | 293 | Grovewood Way | $1,341.80 |
| 173 | MASONBORO II | Slab | Standard | 289 | Grovewood Way | $1,506.04 |
| 5174 | EDISTO | Slab | Standard | 281 | Grovewood Way | $1,692.54 |
| 175 | MASONBORO II | Slab | Standard | 265 | Grovewood Way | $1,506.04 |
| 5176 | TYBEE | Slab | Mirrored | 269 | Grovewood Way | $1,341.80 |
| 177 | MASONBORO II | Slab | Standard | 273 | Grovewood Way | $1,506.04 |
| 178 | TYBEE | Slab | Mirrored | 740 | Grovewood Way | $1,341.80 |
| 192 | AMELIA | Elevated Rear | Standard | 428 | Pub Drive | $1,656.79 |
| 5193 | SIMONS | Elevated Rear | Standard | 424 | Pub Drive | $1,958.72 |
| 194 | AMELIA | Elevated Rear | Standard | 420 | Pub Drive | $1,656.79 |
| 195 | PAMPLICO | Elevated Rear | Mirrored | 416 | Pub Drive | $2,225.12 |
| 5196 | SIMONS | Elevated Rear | Standard | 412 | Pub Drive | $1,958.72 |
| 197 | PAMPLICO | Elevated Rear | Mirrored | 408 | Pub Drive | $2,225.12 |
| 5198 | SIMONS | Elevated Rear | Standard | 404 | Pub Drive | $1,958.72 |
| 199 | SANIBEL | Slab | Mirrored | 400 | Pub Drive | $1,685.14 |
| 5200 | HATTERAS | Slab | Mirrored | 580 | Landale Street | $1,478.94 |
| 5201 | PAMPLICO | Slab | Mirrored | 568 | Landale Street | $1,624.53 |
| 202 | SAPELO | Slab | Standard | 560 | Landale Street | $1,530.43 |
| 203 | SAPELO | Slab | Standard | 552 | Landale Street | $1,530.43 |
| 204 | SANIBEL | Slab | Mirrored | 544 | Landale Street | $1,685.14 |
| 205 | SAPELO | Slab | Mirrored | 532 | Landale Street | $1,530.43 |
| 5206 | HATTERAS | Slab | Standard | 524 | Landale Street | $1,478.94 |
| 207 | TYBEE | Elevated Front | Standard | 520 | Landale Street | $1,842.52 |
| 208 | MASONBORO II | Elevated Front | Standard | 528 | Landale Street | $2,046.45 |
| 5209 | PAMPLICO | Elevated Front | Standard | 536 | Landale Street | $2,225.12 |
| 210 | MASONBORO II | Elevated Front | Standard | 540 | Landale Street | $2,046.45 |
| 211 | TYBEE | Elevated Front | Standard | 548 | Landale Street | $1,842.52 |
| 212 | MASONBORO II | Elevated Front | Standard | 556 | Landale Street | $2,046.45 |
| 213 | TYBEE | Elevated Front | Standard | 564 | Landale Street | $1,842.52 |
| 214 | MASONBORO II | Elevated Front | Standard | 572 | Landale Street | $2,046.45 |
| 5215 | PAMPLICO | Elevated Front | Standard | 576 | Landale Street | $2,225.12 |
| 216 | SAPELO | Slab | Standard | 555 | Landale Street | $1,530.43 |
| 117 | SANIBEL | Slab | Mirrored | 547 | Landale Street | $1,685.14 |
| 218 | SAPELO | Slab | Standard | 539 | Landale Street | $1,530.43 |
| 219 | SANIBEL | Slab | Mirrored | 527 | Landale Street | $1,685.14 |
| 220 | SAPELO | Slab | Mirrored | 1200 | Pennecamp Drive | $1,530.43 |
| 221 | MASONBORO II | Slab | Mirrored | 1208 | Pennecamp Drive | $1,506.04 |
| 66 | SAPELO | Slab | Mirrored | 1008 | Peak Place | $1,530.43 |



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|---|---|---|---|---|---|---|
| 67 | SAPELO | Slab | Mirrored | 1004 | Peak Place | $1,530.43 |
| 68 | MASONBORO II | Slab | Standard | 1000 | Peak Place | $1,506.04 |
| 69 | MASONBORO II | Slab | Standard | 1101 | Allure Court | $1,506.04 |
| 70 | SAPELO II | Slab | Standard | 1105 | Allure Court | $1,530.43 |
| 71 | SAPELO | Slab | Standard | 1109 | Allure Court | $1,530.43 |
| 72 | SAPELO | Slab | Mirrored | 1108 | Allure Court | $1,530.43 |
| 73 | SAPELO | Slab | Mirrored | 1104 | Allure Court | $1,530.43 |
| 74 | TYBEE | Slab | Standard | 1100 | Allure Court | $1,341.80 |
| 75 | AMELIA | Slab | Standard | 1110 | Allure Court | $1,116.93 |
| 76 | TYBEE | Slab | Mirrored | 1106 | Allure Court | $1,341.80 |
| 77 | MASONBORO II | Slab | Standard | 1102 | Allure Court | $1,506.04 |
| 78 | TYBEE | Elevated Front | Standard | 1440 | Southern Oaks Drive | $1,842.52 |
| 79 | MASONBORO II | Elevated Front | Standard | 1436 | Southern Oaks Drive | $2,046.45 |
| 80 | EDISTO | Elevated Front | Standard | 1430 | Southern Oaks Drive | $2,307.30 |
| 81 | TYBEE | Elevated Front | Standard | 1422 | Southern Oaks Drive | $1,842.52 |
| 82 | MASONBORO II | Elevated Front | Standard | 1418 | Southern Oaks Drive | $2,046.45 |
| 83 | TYBEE | Elevated Front | Standard | 1414 | Southern Oaks Drive | $1,842.52 |
| 84 | PAMPLICO | Elevated Front | Standard | 1408 | Southern Oaks Drive | $2,225.12 |
| 85 | AMELIA | Elevated Front | Mirrored | 1400 | Southern Oaks Drive | $1,656.79 |
| 86 | SIMONS | Slab | Standard | 753 | Southfield Drive | $1,404.55 |
| 87 | MASONBORO II | Slab | Standard | 751 | Southfield Drive | $1,506.04 |
| 88 | TYBEE | Slab | Standard | 761 | Southfield Drive | $1,341.80 |
| 89 | SIMONS | Slab | Standard | 773 | Southfield Drive | $1,404.55 |
| 90 | PAMPLICO | Slab | Mirrored | 765 | Southfield Drive | $1,624.53 |
| 91 | MASONBORO II | Slab | Mirrored | 769 | Southfield Drive | $1,506.04 |
| 92 | SAPELO | Slab | Standard | 1401 | Southern Oaks Drive | $1,530.43 |
| 93 | PAMPLICO | Elevated Front | Mirrored | 1407 | Southern Oaks Drive | $2,225.12 |
| 94 | EDISTO | Elevated Front | Mirrored | 1415 | Southern Oaks Drive | $2,307.30 |
| 95 | SIMONS | Elevated Front | Mirrored | 1423 | Southern Oaks Drive | $1,958.72 |
| 96 | PAMPLICO | Elevated Front | Mirrored | 1431 | Southern Oaks Drive | $2,225.12 |
| 97 | AMELIA | Elevated Front | Standard | 1435 | Southern Oaks Drive | $1,656.79 |
| 98 | MASONBORO II | Slab | Mirrored | 1443 | Southern Oaks Drive | $1,506.04 |
| 99 | TYBEE | Slab | Standard | 1439 | Southern Oaks Drive | $1,341.80 |
| 100 | MASONBORO II | Slab | Standard | 1433 | Southern Oaks Drive | $1,506.04 |
| 101 | SAPELO | Slab | Mirrored | 1427 | Southern Oaks Drive | $1,530.43 |
| 102 | MASONBORO II | Slab | Standard | 1419 | Southern Oaks Drive | $1,506.04 |
| 103 | TYBEE | Slab | Standard | 1411 | Southern Oaks Drive | $1,341.80 |
| 104 | MASONBORO II | Slab | Standard | 1403 | Southern Oaks Drive | $1,506.04 |
| 105 | TYBEE | Side Porch | Mirrored | 737 | Southfield Drive | $1,371.80 |
| 106 | MASONBORO II | Side Porch | Standard | 723 | Southfield Drive | $1,556.04 |
| 107 | TYBEE | Slab | Standard | 727 | Southfield Drive | $1,341.80 |
| 108 | MASONBORO II | Slab | Mirrored | 928 | Elwick Place | $1,506.04 |
| 109 | TYBEE | Slab | Standard | 924 | Elwick Place | $1,341.80 |
| 110 | SAPELO | Slab | Standard | 920 | Elwick Place | $1,530.43 |
| 111 | TYBEE | Slab | Standard | 919 | Elwick Place | $1,341.80 |
| 112 | MASONBORO II | Slab | Mirrored | 923 | Elwick Place | $1,506.04 |
| 113 | TYBEE | Slab | Mirrored | 1455 | Southern Oaks Drive | $1,341.80 |
| 114 | AMELIA | Slab | Mirrored | 900 | Elwick Place | $1,116.93 |
| 123 | TYBEE | Slab | Standard | 904 | Elwick Place | $1,341.80 |
| 124 | MASONBORO II | Slab | Mirrored | 908 | Elwick Place | $1,506.04 |
| 125 | TYBEE | Slab | Standard | 916 | Elwick Place | $1,341.80 |
| 126 | TYBEE | Elevated Front | Mirrored | 719 | Southfield Drive | $1,842.52 |
| 127 | MASONBORO II | Elevated Front | Mirrored | 715 | Southfield Drive | $2,046.45 |
| 128 | TYBEE | Elevated Front | Mirrored | 709 | Southfield Drive | $1,842.52 |
| 129 | MASONBORO II | Elevated Front | Mirrored | 705 | Southfield Drive | $2,046.45 |
| 132 | MASONBORO II | Slab | Standard | 704 | Southfield Drive | $1,506.04 |
| 133 | TYBEE | Slab | Standard | 708 | Southfield Drive | $1,341.80 |
| 134 | SAPELO | Slab | Mirrored | 712 | Southfield Drive | $1,530.43 |
| 135 | PAMPLICO | Slab | Mirrored | 716 | Southfield Drive | $1,624.53 |
| 136 | AMELIA | Slab | Standard | 720 | Southfield Drive | $1,116.93 |
| 179 | AMELIA | Slab | Mirrored | 738 | Southfield Drive | $1,116.93 |
| 180 | PAMPLICO | Slab | Standard | 742 | Southfield Drive | $1,624.53 |
| 181 | SAPELO | Slab | Standard | 746 | Southfield Drive | $1,530.43 |
| 182 | TYBEE | Slab | Mirrored | 750 | Southfield Drive | $1,341.80 |
| 183 | MASONBORO II | Slab | Mirrored | 754 | Southfield Drive | $1,506.04 |
| 184 | PAMPLICO | Elevated Front | Mirrored | 1219 | Pennecamp Drive | $2,225.12 |
| 185 | SIMONS | Elevated Front | Standard | 1215 | Pennecamp Drive | $1,958.72 |
| 186 | SANIBEL | Slab | Standard | 1218 | Pennecamp Drive | $1,685.14 |
| 187 | SAPELO | Slab | Mirrored | 770 | Southfield Drive | $1,530.43 |
| 188 | SANIBEL | Slab | Standard | 774 | Southfield Drive | $1,685.14 |
| 189 | SAPELO | Slab | Mirrored | 778 | Southfield Drive | $1,530.43 |
| 190 | SANIBEL | Slab | Standard | 782 | Southfield Drive | $1,685.14 |
| 191 | SAPELO | Slab | Mirrored | 786 | Southfield Drive | $1,530.43 |

Total Single Family Fire Impact Fee $363,314.81

1/2 To Be Refunded

$ 181,657.41



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# THE SWELLS COTTAGES

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* LLM TAXATION
** LICENSED IN SC & NC
+ CERTIFIED MEDIATOR
** CERTIFIED ARBITRATOR



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August 18, 2021

Murrells Inlet – Garden City Fire District Board of Directors
Station 76
3641 Hwy 17 Business
Murrells Inlet, S.C. 29576

Re: Swells Cottages Fire Impact Fee

Dear Board Members,

We greatly appreciate you taking the time to review and consider our request regarding the Swells Cottages neighborhood under development in the Murrells Inlet – Garden City Fire District. As you may know, the Board has thus far charged each new home in Swells Cottages a fire impact fee of 2% of the cost of construction as "Commercial Construction". We respectfully request that the Board review the enclosed materials and determine that each house in Swells Cottages must be charged a fire impact fee of 1% of the cost of construction as a "Single Family Residence". We will further detail our request during the Board of Directors Meeting on August 23, 2021.

## I. Swells Cottages

As depicted in our first exhibit, Swells Cottages is a residential neighborhood which will consist of 221 detached single family residences. Each house is one or two stories with its own separate means of egress. Exhibit 2 provides an example of a house in Swells Cottages. The residents who live in these homes will have spaces for living, sleeping, eating, cooking, and bathing. Exhibit 3 shows the floor plans of each house design as well as a look inside the home. As noted in the Affidavit of the Owner of the Swells Cottages neighborhood, attached as Exhibit 4, it has always been the intent that the Swells Cottages houses would serve as single family residences and nothing else.



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## II. Fire Impact Fee Standard

In 1985, the General Assembly of South Carolina granted the Murrells Inlet – Garden City Fire District authority to impose a fire impact fee on all new construction. That enabling legislation is very specific in its language:

> The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction.[1]

In accordance with the enabling legislation, the Fire Impact Fee Administration Manual states:

> A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction or in such amount as may set forth elsewhere herein.[2]

This is the standard by which the Board must impose the fire impact fees. This standard cannot be expanded or modified as enabling legislation prescribes the parameters of conferred authority.[3] In order to be valid, local government enactments and regulations must be authorized by the enabling act, at least, where they are enacted pursuant to the authority conferred by such act, and they can be no broader than the statutory grant of power.[4] Thus, a single family residence can only be charged a 1% fire impact fee.

## III. The Swells Cottages Homes are Single Family Residences

The South Carolina Supreme Court has explained that "Single-family residential use involves the act of residing in a single-family dwelling."[5] As explained above, the intent of the Swells Cottages neighborhood is to provide homes to single families. The fact that each home in the Swells Cottages neighborhood is a single family residence has been further substantiated by the architect of this community, the International Residential Code, and various governmental approvals such as residential building permits and a rezoning ordinance.

Gregory Huddy of C3 Studio, LLC is the architect of the Swells Cottages community. Attached as Exhibit 5 is a letter Mr. Huddy wrote to this Board which addresses the residential nature of the homes in Swells Cottages. Mr. Huddy highlights several important factors which demonstrate that these houses are single family residences.

---

[1] S. 639, S.C. Gen Assemb. 106th Sess. (1985-1986).
[2] Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual, Rev. 1, Jan. 1, 2020, Sec. 3.0.
[3] Riverwoods, LLC v. Cty. of Charleston, 349 S.C. 378, 386, 563 S.E.2d 651, 656 (2002).
[4] Richland Cty. v. S.C. Dep't of Revenue, 422 S.C. 292, 311, 811 S.E.2d 758, 768 (2018).
[5] Kinard v. Richardson, 407 S.C. 247, 265, 754 S.E.2d 888, 898 (Ct. App. 2014).

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First, Mr. Huddy notes that the 221 dwellings were submitted for permitting under the International Residential Code. This was based on the fact that detached one- and two-family dwellings not more than three stories above grade plane with a separate means of egress and their accessory structures are an exception to the International Building Code and shall comply with the International Residential Code. The Swells Cottages homes are residential.

Mr. Huddy also notes that Horry County has likewise defined these homes as residential. This is evidenced by the fact that the single family homes in Swells Cottages have each received separate Residential Building Permits issued by the County and attached as Exhibit 6. It is particularly instructive that each Permit lists the Description of the Work as "New Single Family Residential".

Finally, Mr. Huddy raises the point that the neighborhood has been rezoned a Multi-Residential District. Prior to the development of this community, the area was zoned Highway Commercial. Our client went before the Horry County Council to rezone the area for the specific purpose of building single family detached residences. The Zoning Ordinance and supporting documents are attached as Exhibit 7.

## IV. The Swells Cottages Homes are not Commercial Structures

Further supporting the residential nature of these homes is that they are not used for commercial purposes. No commercial activity is being operated out of these single family homes. On the contrary, these homes will only be utilized for the sole purpose of residential use.

The fact that these residences are rented instead of owned does not render them commercial. Courts in numerous jurisdictions have considered whether rentals should be categorized as residential or commercial. This question is typically analyzed in the context of whether short term rentals violate covenants restricting lots to residential purposes and prohibiting commercial use. Such terms have regularly been interpreted to designate the character of the use of the property.[6] South Carolina has analyzed this question by looking at the use of the property and in one such case the South Carolina Court of Appeals stated that it was undisputed that short term rentals did not violate the requirement that all lots shall be used for residential purpose.[7]

[6] See Erthal v. May, 223 N.C. App. 373, 736 S.E.2d 514 (2012); Russell v. Donaldson, 222 N.C. App. 702, 731 S.E.2d 535 (2012) (citing Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n v. Acord, 219 So. 3d 111 (Fla. Dist. Ct. App. 2017).
[7] Cmty. Servs. Assocs. v. Wall, 421 S.C. 575, 585, 808 S.E.2d 831, 836 (Ct. App. 2017).

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The South Carolina Court of Appeals holding is consistent with courts from the majority of other jurisdictions which have uniformly held that covenants prohibiting business and commercial use of property do not bar short term rentals.[8] The critical question in these cases has been whether the renters are using the property for ordinary living purposes such as eating, sleeping, and engaging in recreation normally incident thereto.[9] The residents of the Swells Cottages homes will rent these properties long term to use them solely for residential purposes.

## V. Swells Cottages Homes Must be Assessed the Same Impact Fee as Like Structures

According to South Carolina law, the General Assembly may classify property for tax purposes according to its use so long as the tax imposed is uniform on the same class of property.[10] All members belonging to this class must be treated alike for taxation purposes.[11]

Numerous rental-only properties in the Murrells Inlet – Garden City Fire District have been charged a single family residence impact fee. Two examples are located at 1311 S. Waccamaw Drive, Garden City and 1465 S. Waccamaw Drive, Garden City. The rental listings for these two properties are attached as Exhibit 8. These buildings operate as short term rentals and have more rooms accommodating more occupants than the Swells Cottages homes. If these buildings are charged the single family residence fire impact fee, the Swells Cottages houses must also be charged the single family residence fire impact fee.

We appreciate your thorough review of these materials and look forward to discussing in further detail with you on August 23, 2021.

Very truly yours,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

David B. Miller
Zachary J. Crowl

[8] Russell, 731 S.E. 2d 535, 538-39 (2012) (citing Yogman v. Parrott, 325 Ore. 358, 937 P.2d 1019, 1021 (Or. 1997); Silsby v. Belch, 2008 ME 104, 952 A.2d 218, 222 (Me. 2008); Slaby v. Mt. River Estates Residential Ass'n, 100 So. 3d 569, 571, 580 (Ala. Civ. App. 2012)); Santa Monica Beach Prop. Owners Ass'n, 219 So. 3d 111, 114 (Fla. Dist. Ct. App. 2017) (citing cases from Kentucky, Colorado, Washington, New Mexico, North Carolina, Alabama, Indiana, Virginia, Maryland, Missouri, Idaho, Oregon, Ohio, Tennessee, and Texas).
[9] Id.
[10] Holzwasser v. Brady, 262 S.C. 481, 488, 205 S.E.2d 701, 704 (1974).
[11] Id.

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Affidavit of the Owner of Swells Cottages.....4

Letter from the Architect.....5

Horry County Residential Building Permits.....6

Zoning Ordinance and Supporting Documents.....7

Rental Listings of Like Properties.....8

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# 1

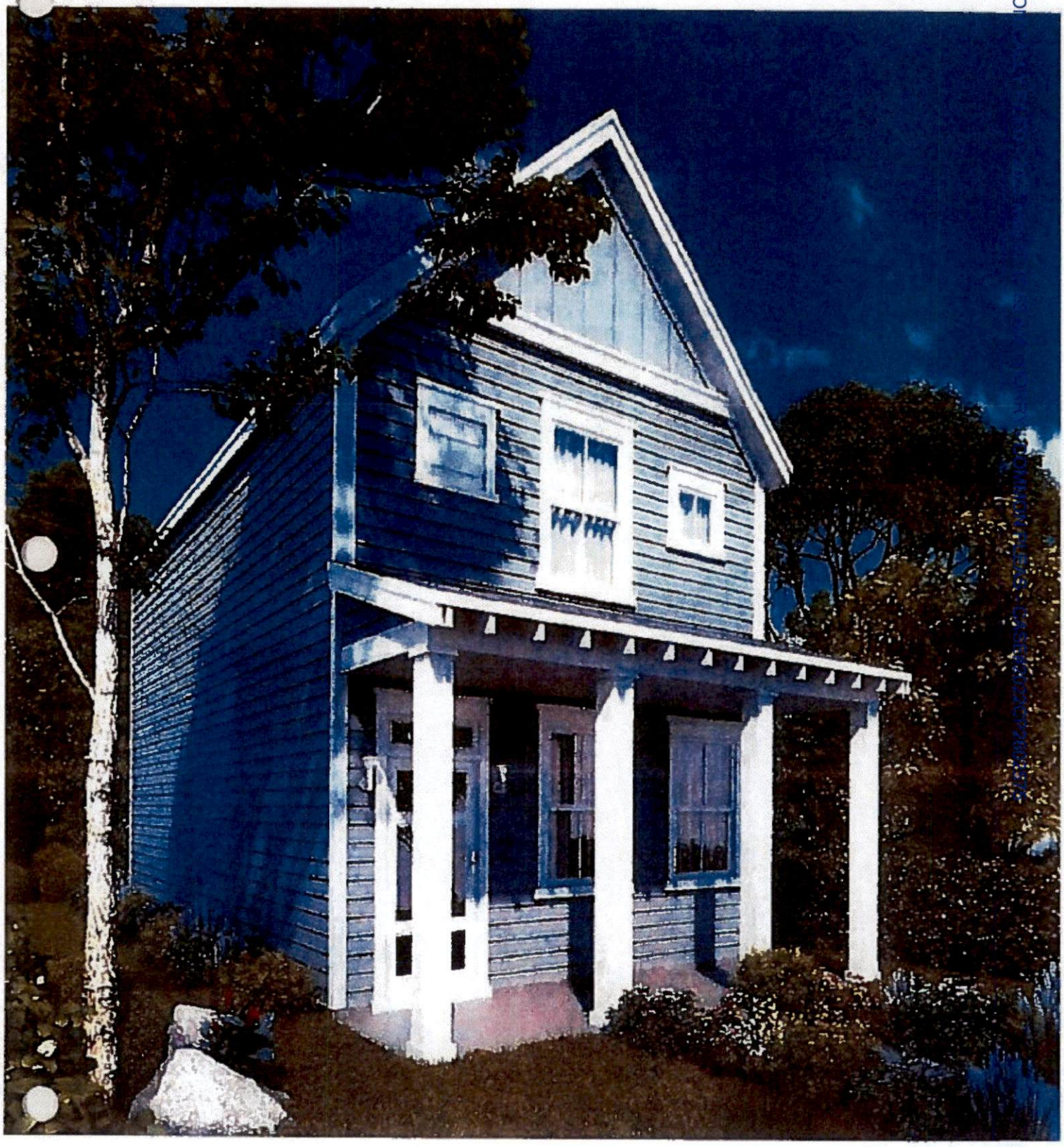


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ELECTRONIC





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# TYBEE

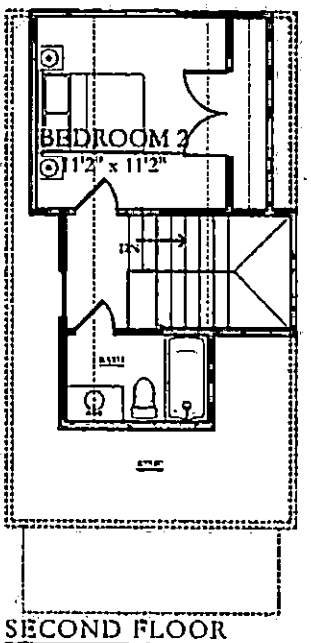
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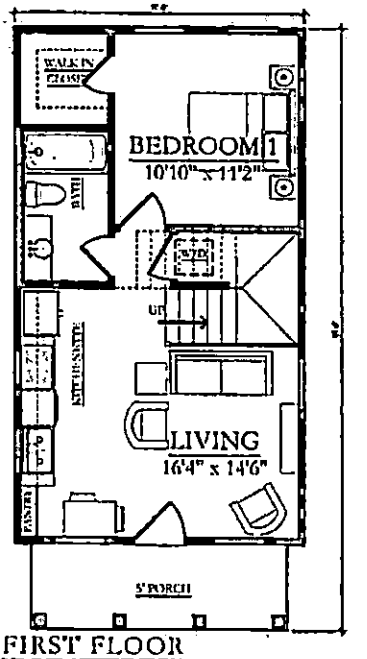
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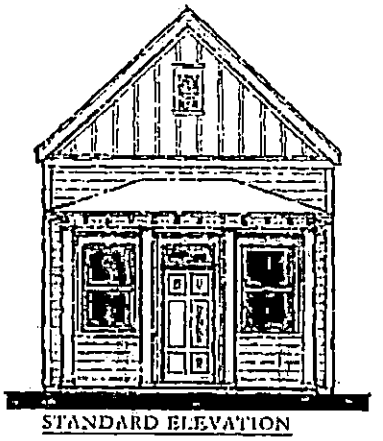
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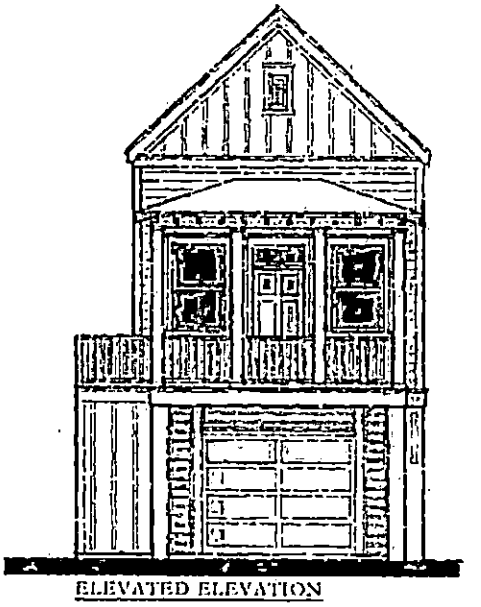

SECOND FLOOR




FIRST FLOOR



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

# SWELLS COTTAGES

286

PLANS & ELEVATIONS

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# MASONBORO

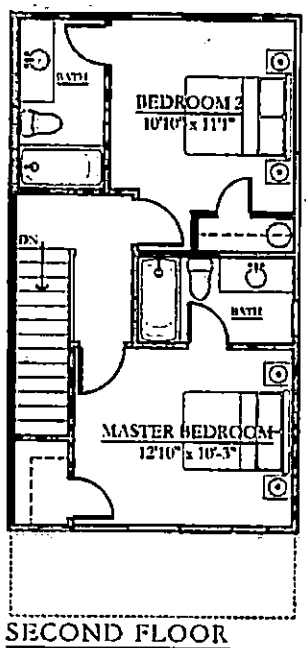
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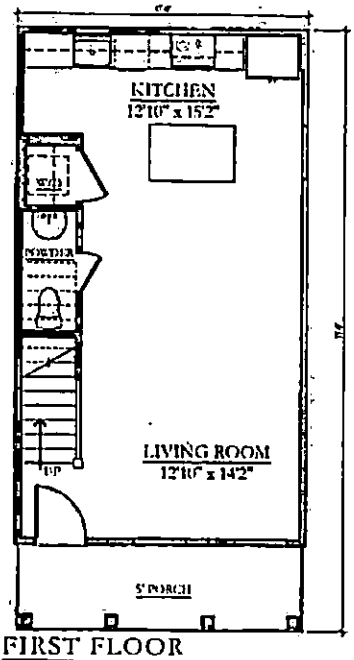
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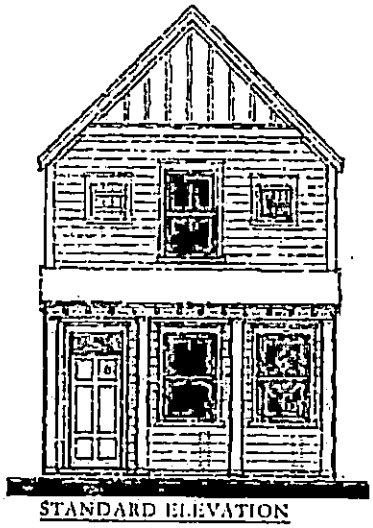
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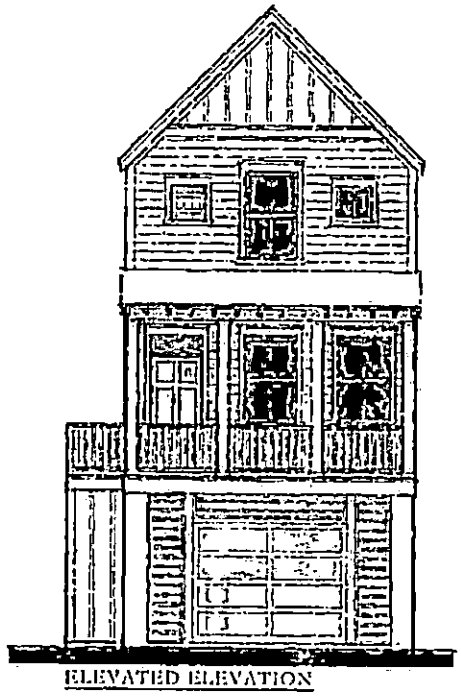

SECOND FLOOR




FIRST FLOOR



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

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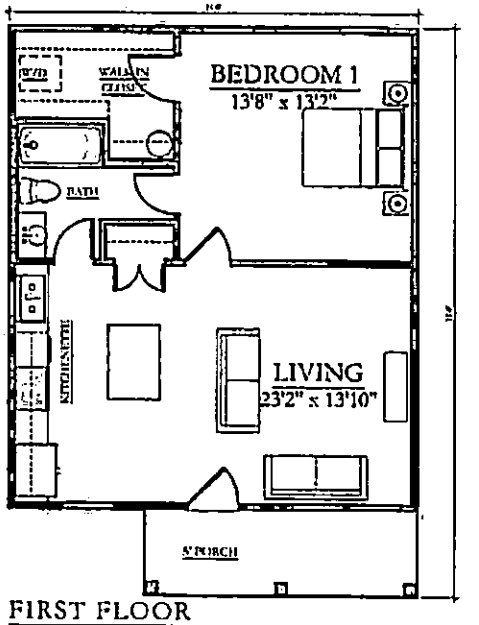
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FIRST FLOOR

## AMELIA

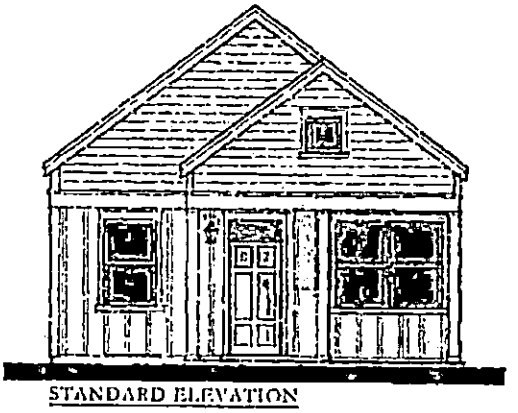
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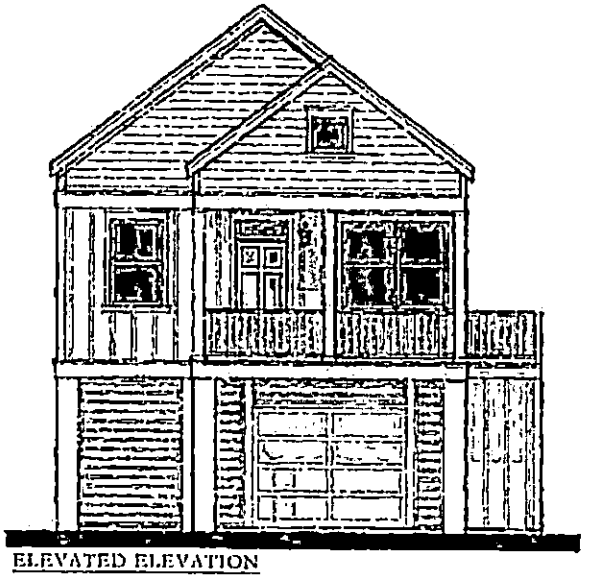
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STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

# SWELLS COTTAGES

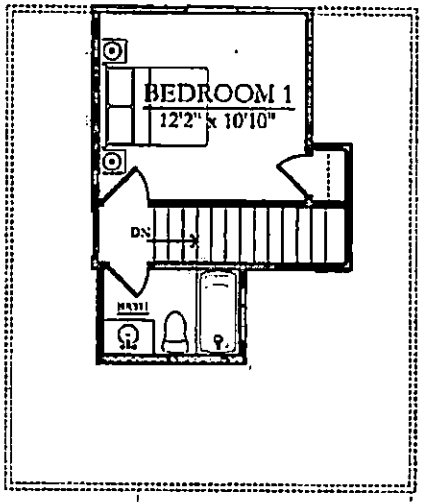
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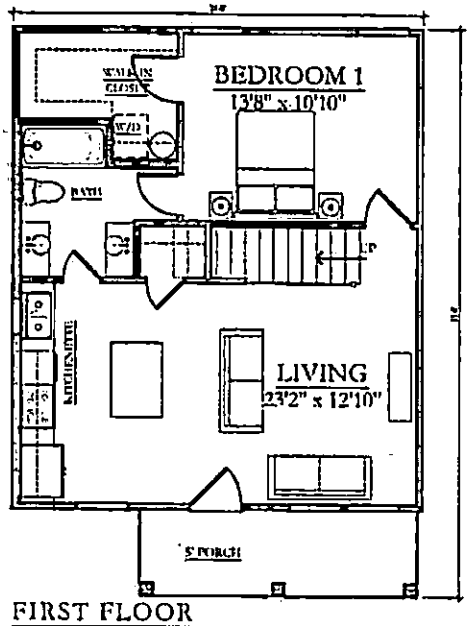
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SECOND FLOOR




FIRST FLOOR

## SIMONS

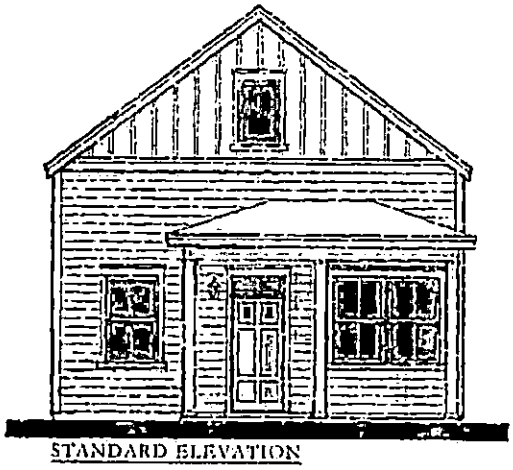
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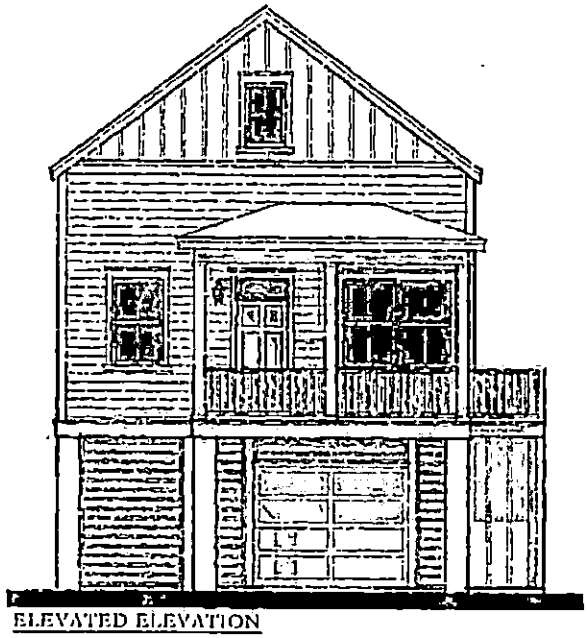
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| | |
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| CEILING 1st. | 9'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

# SWELLS COTTAGES

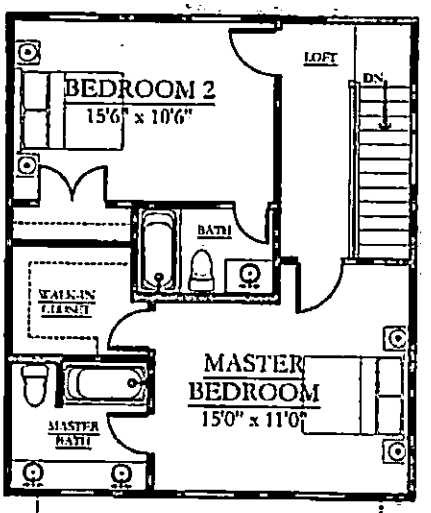
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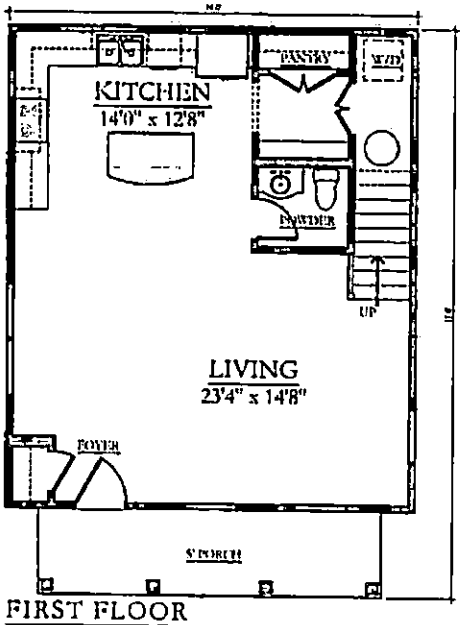
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SECOND FLOOR




FIRST FLOOR

## EDISTO

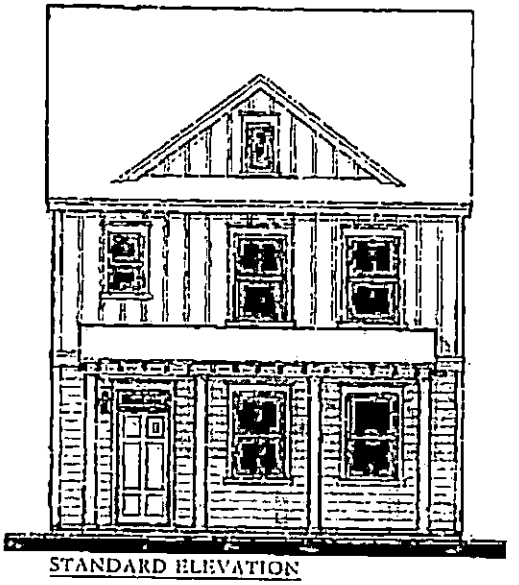
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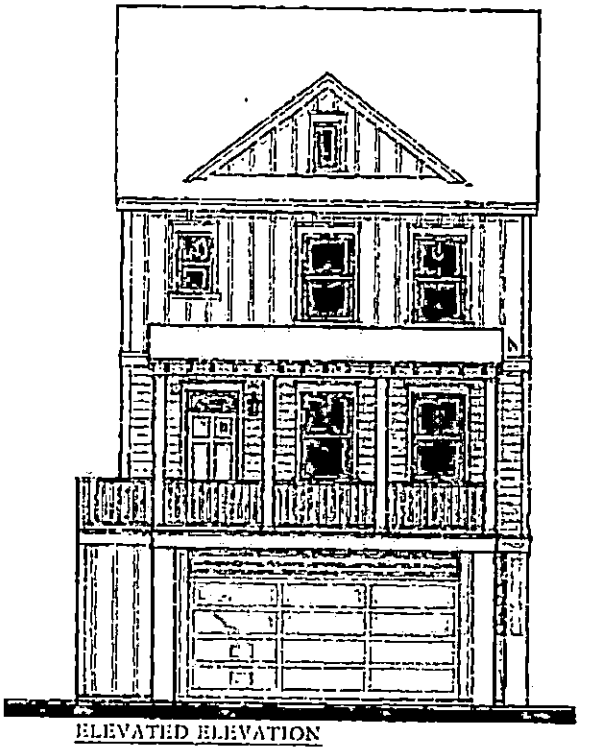
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| TOTAL HEATED: | 1,293 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| PORCH: | 240" |
| DEPTH: | 280" |
| CEILING 1st. | 90" |
| CEILING 2nd. | 80" |



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

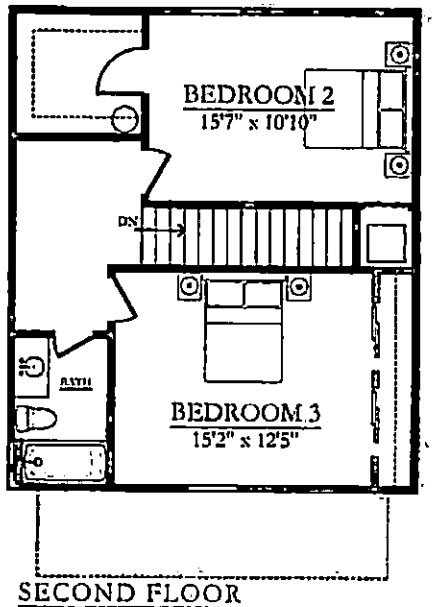
# SWELLS COTTAGES 290

PLANS & ELEVATIONS

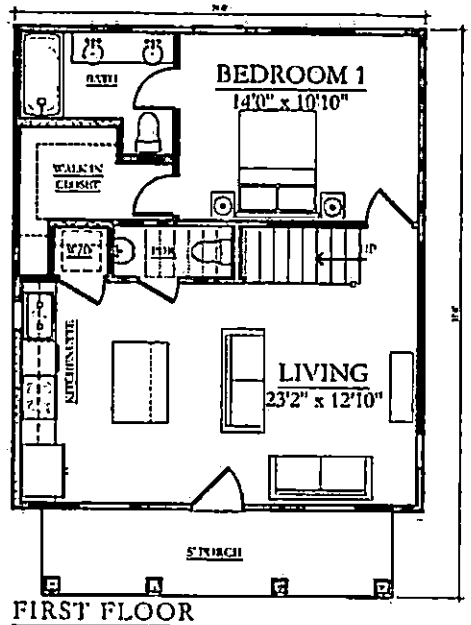
C3 Studio LLC
133 W. Jackson Ave.
Knoxville · TN 37902
865-309-4461
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SECOND FLOOR




FIRST FLOOR

## PAMPLICO

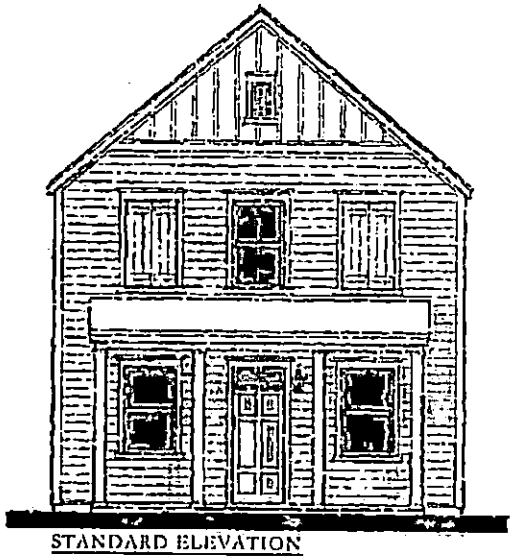
### 3 BR / 2.5 BA

**AREA**

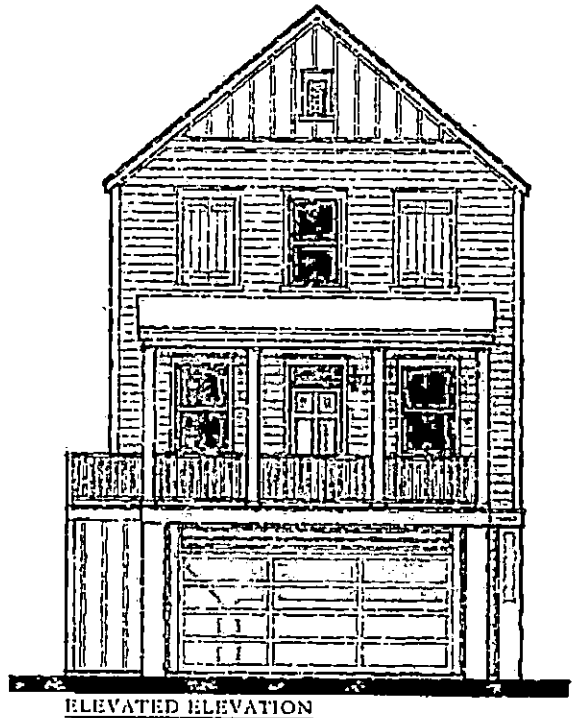
| | | |
|---|---|---|
| HEATED 1st: | 672 | sq. ft. |
| HEATED 2nd: | 616 | sq. ft. |
| TOTAL HEATED: | 1288 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 24'0" |
| DEPTH: | 28'0" |
| CEILING 1st. | 9'0" |



STANDARD ELEVATION



ELEVATED ELEVATION

Not For Construction

# SWELLS COTTAGES

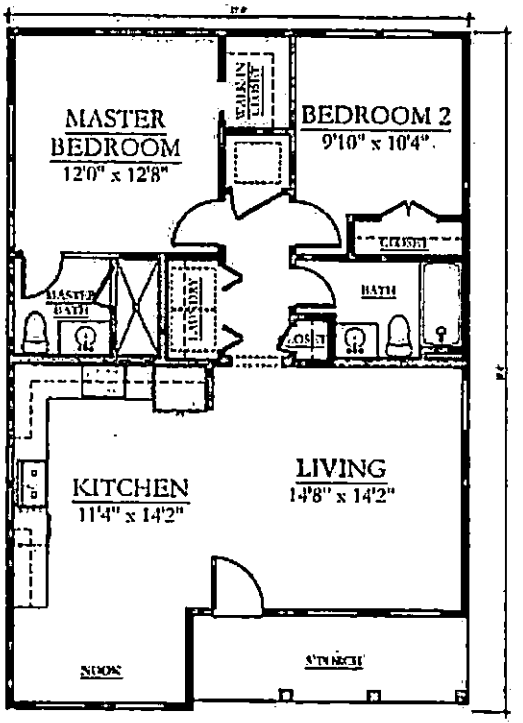
PLANS & ELEVATIONS



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FIRST FLOOR

## SAPELO

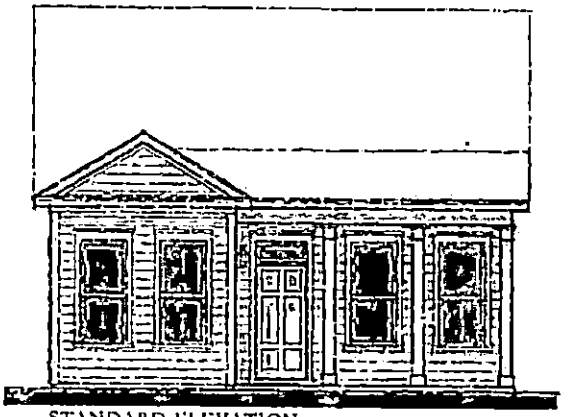
### 2 BR / 2 BA

**AREA**

| | | |
|---|---|---|
| TOTAL HEATED: | 978 | sq. ft. |
| FRONT PORCH: | 81 | sq. ft. |
| TOTAL UNDER ROOF: | 1,059 | sq. ft. |

**DIMENSIONS**

| | |
|---|---|
| WIDTH: | 27'0" |
| DEPTH: | 39'6" |
| CEILING Ht. | 12'0" |



STANDARD ELEVATION

Not For Construction

# SWELLS COTTAGES

292

PLANS & ELEVATIONS

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# 4

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STATE OF SOUTH CAROLINA )
)
COUNTY OF HORRY )

AFFIDAVIT OF THE COTTAGES AT GARDEN CITY BEACH, LP

PERSONALLY appeared before me, John N. Morrison, on behalf of The Cottages at Garden City Beach, LP, who first being duly sworn, alleges and says:

1. My name is John N. Morrison, and I am authorized to testify on behalf of The Cottages at Garden City Beach, LP to the matters set forth in this affidavit.

2. The Cottages at Garden City Beach, LP is the owner of the Swells Cottages neighborhood under development in Garden City, South Carolina.

3. I am familiar with the Swells Cottages neighborhood and the Fire Impact Fee assessed by the Murrells Inlet – Garden City Fire District on the homes in the Swells Cottages neighborhood.

4. The Swells Cottages development is a residential community which will consist of 221 single family detached houses, internal sidewalks, and community gardens.

5. It has always been the intent of The Cottages at Garden City Beach, LP that the homes in Swells Cottages would serve as single family residences and nothing else. If a resident is found to be conducting any commercial activity inside the home, including but not limited to:
   - Assembly activity;
   - Business activity;
   - Educational activity;
   - Factory Industrial activity;
   - High Hazard activity;
   - Institutional activity;
   - Mercantile activity;
   - Storage activity; or
   - Maintenance activity

   discovery of such activity will be a violation of the residential only requirement.

6. The houses in this neighborhood are strictly residential and conducting any kind of business in the homes is expressly prohibited.

7. There will not be any commercial activity conducted in any of these homes.

8. The homes are designed for and occupied by only one family.

9. Each house is being separately submitted for permitting to Horry County as a single family residence.

10. Horry County has already issued Residential Building Permits on the houses which have been submitted.

11. Each house has been specifically designed in accordance with the International Residential Code and single family fire resistance requirements.

12. The homes have a separate means of egress and no roof, wall, or floor in common with any other dwelling.

13. Each home is one or two stories and includes one to three bedrooms, one to two and a half bathrooms, one kitchen, and a living room.

14. The sole purpose of each house being built in the Swells Cottages neighborhood is to provide a home for a single family.

The Cottages at Garden City Beach, LP, a Delaware Limited Partnership

By: The Cottages at Garden City Beach GP, LLC, a Delaware Limited Liability Company, its General Partner

By: Garden City Cottages Holdings, LP, a Delaware Limited Partnership, its Sole Member

By: Cottage Holdings II, LLC, a South Carolina Limited Liability Company, its General Partner

By: _____
John N. Morrison, Authorized Member

August 18th, 2021

Sworn to before me this 18th

day of August, 2021

Shaun M Doyle (LS)
Notary Public for South Carolina

SHAUN M. DOYLE
Notary Public, State of South Carolina
My Commission Expires 6/19/2029

My Commission Expires: 6/19/2029



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C3 Studio, LLC
CREATE | COLLABORATE | CONSTRUCT

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Aug. 11, 2021

Murrells Inlet – Garden City Fire District
3641 Highway 17 Business
Murrells Inlet, SC 29576

**RE: Swells Cottages**

To whom it may concern:

The Swells Cottages project is composed of 221 detached residential dwelling units (houses) that are independent living facilities including spaces for living, sleeping, eating, cooking and sanitation just like any other residences. In addition to the 221 cottages, there are several permanent ancillary structures that are part of this residential neighborhood. These structures include a mail kiosk, maintenance shed, storage sheds,and neighborhood amenities.

According to the 2018 International Building Code, detached one- and two-family dwellings & townhouses not more than three stories above grade plane with a separate means of egress and their accessory structures are an exception to the 2018 International Building Code and shall comply with the 2018 International Residential Code. Based on this occupancy classification, all 221 dwelling units were submitted for permitting under the requirements of the 2018 International Residential Code (rather than the International Building Code). Each individual dwelling unit has been submitted for permitting as under the scope of the 2018 International Residential Code requirements. In addition to being individually submitted for permitting as detached single family dwelling to the county, the neighborhood has been zoned a MRD, a multi-residential district.

Under the IRC and in dwellings without sprinklers, exterior walls are required to meet the requirements specified in Table R302.1(1), which states that any wall element or projections that is equal to or greater than 5 feet fire separation distance can have a 0 hours fire-resistance rating. The Swells neighborhood was specifically designed to meet or exceed those minimum requirements. If in any case, those requirements are not met, the minimum fire-resistance rating would need to be increased to 1 hour. Ultimately, regardless of the distance between the units, the residential occupancy classification does not change according to the IRC.

The residential occupancy classification does not change based on terms defining ownership like 'apartment' or 'condo'; they're based solely on whether they meet the scope of the IRC or IBC. A dwelling is defined as a dwelling, even if it's rented, leased, or hired out. As mentioned before, these are detached single family residential cottages that are designed for and occupied by not more than one family with a separate means of egress and having no roof, wall or floor in common with any other dwelling unit. By the virtue of these characteristics, the occupancy of these structures are detached one-family dwellings. If there's any question if these are considered apartments under the code, in order to be classified as R-2 occupancy (an apartment) they'd need to be three or more dwelling units in a single structure.

Please adjust the impact fee to reflect the fact that these are residential structures.

Sincerely,

Gregory Huddy
Principal

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Horry County
Committed to Excellence

# Permit

*Permit NO.* **RES-06-21-130527**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 104 Grovewood Way Number: 1<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 1 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations.

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 978 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 1,059.00 | **Unheated Sq Ft:** 81 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $76,521.61 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC  Author[illegible]  7/29/2021 Date



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Horry County

# Permit

*Permit NO.* **RES-06-21-130519**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 108 Grovewood Way Number: 2<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 2 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 978 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 1,059.00 | **Unheated Sq Ft:** 81 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $76,521.61 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

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Horry County

# Permit

*Permit NO.* **RES-06-21-130366**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project | | | |
|---|---|---|---|---|
| 116 Grovewood Way Number: 3<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 3 | Block: | District: 610 | Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 672 | **Garage Sq Ft:** 0 | **Stories:** 1 | **Units:** 1.00 |
| **Total Sq Ft:** 752.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $55,846.50 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW, DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

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Horry County
Connected to Excellence

# Permit

Permit NO. RES-06-21-130572
Permit Type: Residential Permit
Work Classification: New
For Inspections call : 843-915-5090 office

| Project Address | Parcel Number/Project |
|---|---|
| 112 Grovewood Way Number: 4<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 4 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| Front Setback: 25 | Left Setback: 25 | Zone: MRD3 | Description of Work: NEW SFR | |
| Rear Setback: 25 | Right Setback: 25 | Flood Zone: X | Fireplaces: | |
| Mean Roof Height: 40 | Heated Sq Feet: 918 | Garage Sq Ft: 0 | Stories: 2 | Units: 1.00 |
| Total Sq Ft: 998.00 | Unheated Sq Ft: 80 | Carport Sq Ft: 0 | Connection: Sewer | Value: $70,227.52 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

Authorized Signature

7/29/2021
Date

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Horry County

# Permit

*Permit NO.* **RES-07-21-131667**
*Permit Type:* **Residential Permit**
*Work Classification:* **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 120 Grovewood Way Number: 5<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>48200001024<br>Lot: 5 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County. This is subject to the following conditions, restrictions and limitations;

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected.

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone:** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 1288 | **Garage Sq Ft:** 775 | **Stories:** 3 | **Units:** 1.00 |
| **Total Sq Ft:** 2,165.00 | **Unheated Sq Ft:** 877 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $111,255.77 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER: | ☐ | ☐ |

Issued By: Horry County, SC

Authorized [signature]

7/29/2021
Date

# Permit

Permit NO. **RES-07-21-131731**
Permit Type: **Residential Permit**
Work Classification: **New**
**For Inspections call : 843-915-5090 office**

| Project Address | Parcel Number/Project |
|---|---|
| 124 Grovewood Way Number: 6<br>Murrells Inlet, SC 29576 | SWELLS COTTAGES<br>46200001024<br>Lot: 6 Block: District: 610 Sticker#: |

| Owner Information | Address | Phone | Cell |
|---|---|---|---|
| COTTAGES AT GARDEN CITY BEACH LP | 1203 48Th Ave N<br>MYRTLE BEACH, SC 29577 | | |

| Mobile Home Owner Info | Address | Phone | Cell |
|---|---|---|---|
| | | | |

| Contractor(s) | Phone | Cell Phone | Contractor Type |
|---|---|---|---|
| SANDS BUILDING GROUP | 843-712-2800 | | Contractor |

The use of the building(s) and/or land as shown above conforms to the requirments of the zoning ordinance of Horry County This is subject to the following conditions, restrictions and limitations:

Mobile homes have 15 days from passed inspection to have their underpinning installed & inspected

| | | | | |
|---|---|---|---|---|
| **Front Setback:** 25 | **Left Setback:** 25 | **Zone.** MRD3 | **Description of Work:** NEW SFR | |
| **Rear Setback:** 25 | **Right Setback:** 25 | **Flood Zone:** X | **Fireplaces:** | |
| **Mean Roof Height:** 40 | **Heated Sq Feet:** 918 | **Garage Sq Ft:** 0 | **Stories:** 2 | **Units:** 1.00 |
| **Total Sq Ft:** 998.00 | **Unheated Sq Ft:** 80 | **Carport Sq Ft:** 0 | **Connection:** Sewer | **Value:** $70,227.52 |

| INSPECTED FOR: | P | I | | P | I |
|---|---|---|---|---|---|
| TEMPORARY SERVICE | ☐ | ☐ | INSULATION | ☐ | ☐ |
| SLAB PLUMBING | ☐ | ☐ | FINAL | ☐ | ☐ |
| FOUNDATION | ☐ | ☐ | FINAL FIRE | ☐ | ☐ |
| SLAB / POLYWIRE | ☐ | ☐ | E / CERT | ☐ | ☐ |
| PILASTER | ☐ | ☐ | CERTIFICATE OF OCCUPANCY | ☐ | ☐ |
| BOND BEAM | ☐ | ☐ | EROSION & SEDIMENT CONTROL | ☐ | ☐ |
| FOUNDATION SURVEY | ☐ | ☐ | METER SERVICE | ☐ | ☐ |
| NAILING | ☐ | ☐ | CHANGE OF SERVICE | ☐ | ☐ |
| TUB INSULATION | ☐ | ☐ | MOBILE HOME | ☐ | ☐ |
| WINDOW / DOOR FLASHING | ☐ | ☐ | MOBILE HOME UNDERPINNING | ☐ | ☐ |
| BRICK FLASHING | ☐ | ☐ | POOL GROUNDING | ☐ | ☐ |
| ROUGH FRAMING | ☐ | ☐ | DECK GROUNDING | ☐ | ☐ |
| ROUGH ELECTRICAL | ☐ | ☐ | ZONING | ☐ | ☐ |
| ROUGH MECHANICAL | ☐ | ☐ | PARKING | ☐ | ☐ |
| ROUGH PLUMBING | ☐ | ☐ | LANDSCAPING | ☐ | ☐ |
| ROUGH FIRE | ☐ | ☐ | OTHER | ☐ | ☐ |

Issued By: Horry County, SC

CS

Authorized Signature

7/29/2021
Date

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Horry County Government

Planning Department
www.horrycounty.org

Horry County Government & Justice Center
1301 Second Avenue
Conway, South Carolina 29526
Phone 843.915.5340 || Fax 843.915.6340

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November 22, 2019

David Wilkes
1[redacted] 48th Ave N
Myrtle Beach SC 29577

Dear Sir/Madam,

This is to confirm that the Horry County Council, at its regularly scheduled meeting on November 5, 2019, approved rezoning request number 2019-01-008. The property identified by PIN 46200000929 is hereby rezoned from Highway Commercial (HC) to Multi-Residential Three (MRD3) on the official Horry County Zoning Maps.

The ordinance number for the rezoning request is 38-19. Attached is the official document determining the rezoning.

I hope the information provided is sufficient for your records. If you need further assistance, please do not hesitate to call me at (843) 915-5340.

Sincerely,

*Susi Miller* | Administrative Assistant
**Horry County Government**
Planning & Zoning
1301 2nd Ave., Suite 1D09, Conway, South Carolina 29526
Tel: (843) 915-7907 | Fax: (843) 915-6341 | millersu@horrycounty.org
www.horrycounty.org

Attachment

Cc: Myrtlewood Realty Associates

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COUNTY OF HORRY )
)
STATE OF SOUTH CAROLINA )

Ordinance 38-19

**AN ORDINANCE TO APPROVE THE REQUEST TO AMEND THE OFFICIAL ZONING MAPS FOR HORRY COUNTY, SOUTH CAROLINA, SO AS TO REZONE A PORTION OF PIN 46200000929 FROM HIGHWAY COMMERCIAL (HC) TO MULTI-RESIDENTIAL DISTRICT THREE (MRD3)**

**WHEREAS**, Ordinance Number 1-87 authorizes Horry County Council to periodically amend the Official Zoning Maps for Horry County; and,

**WHEREAS**, a request has been filed to amend the maps for the above mentioned parcel of land; and,

**WHEREAS**, Horry County Council finds that the present zoning is not appropriate for the above mentioned parcel(s) of land; and,

**WHEREAS**, Horry County Council finds that the request to rezone a portion of the property from Highway Commercial (HC) to Multi-Residential District (MRD3) is in compliance with the Comprehensive Plan and the good of the public welfare and is a reasonable request:

**NOW THEREFORE** by the power and authority granted to the Horry County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

1) Amendment of Official Zoning Maps of Horry County:
Parcel(s) of land identified by PIN 46200000929 and currently zoned Highway Commercial (HC) is herewith rezoned to Multi-Residential District (MRD3).

2) Severability: If a Section, Sub-section, or part of this Ordinance shall be deemed or found to conflict with a provision of South Carolina law, or other pre-emptive legal principle, then that Section, Sub-section or part of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

3) Conflict with Preceding Ordinances: If a Section, Sub-section or provision of this Ordinance shall conflict with the provisions of a Section, Sub-section or part of a preceding Ordinance of Horry County, then the preceding Section, Sub-section or part shall be deemed repealed and no longer in effect.

4) Effective Date: This Ordinance shall become effective on Third Reading.

AND IT IS SO ORDAINED, ENACTED AND ORDERED this 5th day of November, 2019.

HORRY COUNTY COUNCIL

Johnny Gardner, Chairman

Harold G. Worley, District 1
Dennis DiSabato, District 3
Tyler Servant, District 5
Orton Bellamy, District 7
W. Paul Prince, District 9
Al Allen, District 11
Bill Howard, District 2
Gary Loftus, District 4
Cam Crawford, District 6
Johnny Vaught, District 8
Danny Hardee, District 10

Attest:
Patricia S. Hartley, Clerk to Council

First Reading: October 1, 2019
Second Reading: October 15, 2019
Third Reading: November 5, 2019

Deed BK: 4258 PG: 1944 Doctype: 057
11/06/2019 at 02:38:26 PM, 1 OF 12

Marion D. Foxworth III
HORRY COUNTY, SC REGISTRAR OF DEEDS

#2019-01-008 David Wilkes and Joe Morrison agents for Myrtlewood Really Associates

# Rezoning Review Sheet

## PROPERTY INFORMATION

| | | | |
|---|---|---|---|
| Applicant | David Wilkes and Joe Morrison (Energov # 044076) | Rezoning Request # | 2019-01-008 |
| PIN # | 46200000929 (Portion) | County Council District # | 5-Selvant |
| Site Location | On Hwy 17 between Woodland Dr and William Buckland Blvd in Garden City | Staff Recommendation | Approval |
| | | PC Recommendation | Approval 6:1 |
| Property Owner Contact | Myrtlewood Realty Associates | Size (in acres) of Request | 25.54 (portion) |

## ZONING DISTRICTS

| | |
|---|---|
| Current Zoning | HC/PDD/MSF6 |
| Proposed Zoning | MRD3 |
| Proposed Use | Single Family Detached In-common |

## LOCATION INFORMATION

| | |
|---|---|
| Flood and Wetland Information | Zone X |
| Public Health & Safety (EMS/fire) in miles | 2.03 |
| Utilities | Public |
| Character of the Area | Commercial, Residential, and Educational |

## ADJACENT PROPERTIES

| | | | |
|---|---|---|---|
| SF6 | CFA | CFA |
| MSF6 | (Subject Property) | PDD |
| HC | HC | HC |

## COMMENTS

Comprehensive Plan District: Urban Corridors and Urban Communities

Overlay/Area Plan: Hwy 17 BUS S Overlay/Garden City Area

Discussion: The applicant is requesting to rezone a portion of the parcel to allow for 221 single family detached units in common. The project has a gross density of 8.65 du/ac, net density of 11.8 du/ac and will incorporate three sustainable development criteria, 1; increased open space, 2; Internal Sidewalks, and Community gardens. The project proposes two points of access; one onto Woodland Dr. and the other onto William Buckland Blvd. External sidewalks will be required along Hwy 17, Woodland Dr. and William Buckland Blvd.

The Tupelo Bay PDD was originally approved (Ord 61-04) for 800 multi-family units. A gross project density of 4.85 du/ac and a net density of 8.69 du/ac. The approved master plan has a developed area density of 15 du/ac. Oceanside Village has an existing, gross density of 6.8 du/ac (959 units total).

Planning Commission requested the applicants hold a community meeting The community meeting was held on 5/10. Community concerns included density, stormwater, traffic and property values

/Public Comment: 2/7/2019: Deferred in order to allow addition of acreage to meet the density requirements. 5/2/2019 Martin Dawsey recused. Dennis Poimenter spoke in opposition of the request. His concerns were stormwater and density. John Jobson spoke in favor of the request, stating that he feels this is a good fit for the area. David Strattenger, Joe Morrison, David Wilkes and Buddy Hucks were present to address questions and concerns.

## TRANSPORTATION INFORMATION

| | | | |
|---|---|---|---|
| Daily Trips based on existing use / Max Daily Trips based on current zoning | 0 / 4,000 | Existing Road Conditions | S Hwy 17 Bus, Federal, Paved, Divided, 4 Lanes |
| Projected Daily Trips based on proposed use / Max Daily Trips based on proposed zoning | 1,768 / 1,768 | Rd, Station, Traffic AADT (2017) % Road Capacity | S Hwy 17 BUS, Station (108) 25,400 AADT 79% |
| Proposed Improvements | Engineers are currently working on a traffic study to address traffic concern and stormwater models for the site adhering to the required 50% reduction on the drainage area flowing northeast with the county required 20% reduction on the flows going southeast. | | |

## DIMENSIONAL STANDARDS

| | Requested | Current | Adjacent | Adjacent | Adjacent | Adjacent |
|---|---|---|---|---|---|---|
| | MRD3 | HC/PDD/MSF6 | PDD (Tupelo Bay Golf Villas) | CFA (Res/Comm) | SF6 | MSF6 |
| Min. Lot Size (in square feet) | In-Common | 10,000/NAG 000 | None | 21,780/43,560 | 6,000 | 6,000 |
| Front Setback | 25' Exterior | 50'/25'/20' | 25' | 25'/60' | 20' | 20' |
| Side Setback | 25' Exterior | 10'/25'/10' | 25' | 10'/25' | 10' | 10' |
| Rear Setback | 25' Exterior | 15'/25'/15' | 25' | 15'/40' | 15' | 15' |
| Bldg. Height | 40' | 120'/None/35' | 311 None | 35'/35' | 35' | 35' |

Date Advertised: 1/17/19 Date Posted: 1/8/19 # Property Owners Notified: 86 Date Notification Mailed: 1/17/19 Report Date: 1/17/19 BY: LSM

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752. - Multi-Residential District (MRD).

The Multi-Residential (MRD) District is intended to provide opportunities for rural, suburban and urban density mixed-residential developments consistent with the objectives of the Horry County Comprehensive Plan. The MRD district encourages the design of a more complete and sustainable environment consistent with the needs of the rural, suburban and urban areas of the County through the application of imaginative approaches to community design that allow and support mixed residential uses, design flexibility, pedestrian-oriented development, interconnectivity, and sensitivity to the needs of the public, economy and natural environment.

*Administrative Procedures.* Any request to establish a MRD Zoning District shall follow the procedures set forth in Article XIII of the ordinance. In presenting requests for rezoning, the applicant must indicate the desired residential mix, gross and net density, and proposed number of units in order for the request to be complete. Additionally, any request incorporating the Sustainable Development Standards listed in Section (BELOW) must attach an addendum to the rezoning packet that clearly describes how sustainability shall be accomplished. Failure to provide the requested information will result in rezoning requests not being presented to the planning commission.

*General Provisions* .

A. *Location* . A MRD district may be permitted throughout the county provided it meets the standards established herein.

B. Permitted Uses. The following uses shall be permitted subject to any requirement contained herein:

1. Single-family detached dwellings, except mobile homes;
2. Duplex dwellings;
3. Semi-detached dwellings;
4. Patio homes;
5. Quadruplex;
6. Townhomes;
7. Multi-family dwellings;
8. Reserved.
9. In-Common development incorporating any of the above uses;
10. Golf courses, provided the areas designated for golf courses shall not be used to calculate densities or impervious surface ratios;
11. Accessory uses; and
12. Churches, synagogues, temples, and other places of worship subject to the provisions of Article 12.

C. *Accessory living quarters.* Accessory living quarters, within an existing dwelling or in a separate structure, are permissible provided:

1. The accessory living quarters meets all setback requirements for the parcel.
2. The primary dwelling unit shall be owner-occupied.
3. The accessory living quarters shall have a bathroom and cooking facilities.
4. The accessory living quarters, if within the primary dwelling unit, may have a separate entrance.
5. The construction of the accessory living quarters, within existing structures, shall not alter the appearance or character of the structure. When detached from the primary dwelling

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unit, no less than twenty (20) feet or applicable zoning district setbacks shall separate it and;

6. Adequate off-street parking is provided per Article XI.

D. *Special exceptions.* Owing to their potential negative impact on the community, the board of zoning appeals may approve the following uses as a special exception.

1. Offices subject to the following conditions:

a. That the special exception complies with all applicable development standards.

b. That the special exception will be in substantial harmony with the area in which it is to be located.

c. That the special exception will not be injurious to adjoining property.

d. That the special exception will contribute to the economic vitality and promote the general welfare of the community.

e. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

f. In granting a special exception, the board of zoning appeals may impose such reasonable and additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the proposed special exception.

2. Bed and breakfast establishments (B&B) subject to the following conditions:

a. That the special exception complies with all applicable development standards.

b. That the special exception will be in substantial harmony with the area in which it is to be located.

c. That the special exception will not be injurious to adjoining property.

d. That the special exception will contribute to the economic vitality and promote the general welfare of the community.

e. That the special exception will not discourage or negate the use of surrounding property for uses(s) permitted by right.

f. In granting a special exception, the board of zoning appeals may impose such reasonable and additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the proposed special exception.

E. *Dimensional Standards.* The following dimensional standards shall apply to permitted uses:

Table 1: MRD District Yard and Height Standards

| Use | Setbacks | | | | Building Separation [4] | Maximum Height |
|---|---|---|---|---|---|---|
| | Front | Side | Rear | Corner | | |
| Single and duplex dwellings, patio homes, quadruplex, townhomes and zero or developments | 25' (1)(2) | 10 (1)(3) | 15' (1) | 15' | 20' | 40' |
| Tiny homes | NA | NA | NA | NA | NA | 25' (no more |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | | | | than 2 stories high) |
| Multi-family | 30' (1)(2) | 20' (1) | 25' (1) | 30' | 20' | Rural: 45' Suburban: 65' Urban: 120' |

1. A 5' reduction in the setback is allowed for projects meeting two (2) sustainable development criteria.
2. A 10' reduction in the setback is allowed for projects meeting three (3) sustainable development criteria.
3. No side yard setback is required where common walls are located.
4. A 10' reduction in the building separation for projects meeting two (2) sustainable development criteria.

F. *Development standards.* The standards enumerated below establish the criteria by which a request to rezone property to the MRD district shall be evaluated. The standards follow the generally accepted densities associated with rural, suburban and urban type land uses described in the Land Use Element of the Envision 2025 Comprehensive Plan and the Future Land Use Map of Horry County. These districts and their associated densities are detailed in Table 2. Table 3 lists the Standard Density and Area Requirements for each district. Requests to rezone to MRD in any area of the county shall adhere to the Land Use Districts of the Future Land Use Map.

Table 2: Future Land Use District Density Characteristics

| Land Use District | Rural Density | Suburban Density | Urban Density |
|---|---|---|---|
| Conservation/Preservation | | | |
| Rural Areas | X | | |
| Rural Communities | X | | |
| Rural Corridors | X | | |
| Transitional Growth Areas | X | X | |
| Suburban Corridors | X | X | |



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| | | | |
|---|---|---|---|
| Urban Communities | | X | X |
| Urban Corridors | | X | X |
| Economic Activity Centers | | X | X |

1. *Rural density (MRD-1) development requirements* . Rural density areas support three (3) or fewer units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are incorporated into the development. Lot or unit area requirements shall adhere to the standards shown in Table 3.
2. *Suburban density (MRD-2) development requirements.* Suburban density is herein defined as no greater than six (6) units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are utilized. Lot or unit area requirements shall adhere to the standards shown in Table 3.
3. *Urban density (MRD-3) development requirements.* Urban density is herein defined as no greater than fifteen (15) units per acre. An exception to this density is permissible when three (3) or more sustainable development standards listed in section 752(G) are utilized. Lot or unit area requirements shall adhere to the standards shown in Table 3.

Table 3: MRD Standard Density and Area Requirements

| | | Standard Development Area Requirements (in square feet) | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Maximum Gross Density | Single Family | Duplex | Semi-detached | Patio Home | Townhome | Multi-family | Tiny Home * |
| MRD-1 | 3 du/ac | 14,520 ** | 10,000 | 5,000 * | NA | NA | NA | 1,200 |
| MRD-2 | 6 du/ac | 7,000 ** | 9,000 | 4,500 | 6,000 | 1 (acres) | 1.5 (acres) | 1,200 |
| MRD-3 | 15 du/ac | 6,000 ** | 8,000 | 4,000 | 4,000 | .75 (acres) | 1 (acres) | 1,200 |

* Tiny home lots are not required to meet the minimum frontage requirements in the Horry County Land Development Regulations. 1.5 parking spaces are required per home, and

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parking may be provided anywhere in the development, either on individual or shared lots, or a separate parking area.

** Minimum lot size required for a rezoning request.

G. *Sustainable development standards.* A thirty (30) percent increase in the allowable gross density shall be granted when three (3) or more of the sustainable development standards below are implemented. Table 4 lists the density and area requirements for requests meeting the sustainable development standards. In no instance shall meeting the requirements of one standard be applicable to the requirements of another. The requested density increase shall in no way decrease the sustainability of the proposal and the Standards listed herein. In order to qualify for a thirty (30) percent maximum density increase, proposed developments shall meet three (3) or more of the following criteria.

1. Site design: Each counts as one (1) standard:

   a. Twenty (20) percent of the gross acreage shall remain in a natural vegetated state post-development and owned in common. This increase is in addition to the buffer and landscape requirements in section 527, and any existing wetlands, marshes, swamps, lakes or ponds. Required open space per Article 4 of the land development regulations shall not count towards this increase;

   b. All residential lots shall abut active or passive recreational open space as defined by the open space requirements in Article 4 of the land development regulations on at least one (1) side. A road internal to the development may separate lots from the open space. Sidewalks more than four and one-half (4½) feet in width shall count as recreational open space so long as such walkways are adjacent, or located directly across the street, to all residential lots. Easements for ponds, lakes and wetlands shall not count as recreational open space.

2. Recreational space: A one hundred (100) percent increase in the required active recreational open space as defined by the open space requirements, article 4, section 6-2 (B) of the land development regulations. Only fifty (50) percent of said increase shall count towards the site design requirements listed in 1a and 1b above if utilizing these standards.

3. Design with trees: Conduct a pre-development tree inventory and keep thirty (30) percent of the canopy tree inventory post-development. Pre-development canopies shall cover at least seventy-five (75) percent of the proposed rezoning. If canopy trees have not reached a mature height, the thirty (30) percent requirement shall be applied using the median diameter at breast height (dbh) calculation. The requirement shall be met when eighty (80) percent of the specimens to be kept are greater than the median dbh. Said trees shall be owned in common and kept in perpetuity unless doing so directly imposes a threat on the health, safety or general welfare of the public or personal property.

4. Community gardening: A one thousand (1,000) square foot plot for every twenty-five (25) units. If less than twenty-five (25) units are proposed, one (1) one thousand (1,000) square foot plot shall suffice. The community garden shall be centrally located and accessible from all proposed residential units. Community gardens shall adhere to the standards of the American Community Gardening Association publication titled "Starting a Community Garden." The publication is available at the planning department. Said garden/s shall be owned in common and kept in perpetuity. Maintenance shall be the responsibility of the common ownership.

Table 4: MRD Sustainable Density and Area Requirements

| | | Sustainable Development Area Requirements (in square feet) |
|---|---|---|

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| | Maximum Gross Density | Single Family | Duplex | Semi-detached | Patio Home | Townhome | Multi-family | Tiny Home * |
|---|---|---|---|---|---|---|---|---|
| MRD-1 | 4 du/ac | 7,000 | 8,000 | 4,000 | 5,000 | 0.75 (acres) | 1 (acres) | 1,200 |
| MRD-2 | 8 du/ac | 5,000 | 7,000 | 3,500 | 3,500 | 0.5 (acres) | 0.75 (acres) | 1,200 |
| MRD-3 | 20 du/ac | 5,000 | 5,000 | 2,500 | 2,500 | 0.25 (acres) | 0.5 (acres) | 1,200 |

* Tiny home lots are not required to meet the minimum frontage requirements in the Horry County Land Development Regulations. 1.5 parking spaces are required per home, and parking may be provided anywhere in the development, either on individual or shared lots, or a separate parking area.

H. *Administrative procedures.*

1. Rezoning requests using the sustainable development standards or tiny home standards shall submit an addendum to the application for rezoning. For sustainable development standards, the addendum must specify which of the above standards shall be used upon approval of the rezoning request and the expected density increase as a percentage increase in the gross density. The addendum shall be forwarded with the rezoning packet to the planning commission and county council.
2. A conceptual/general site plan shall be submitted with the rezoning application. The site plan shall include the following;
   a. Sheet size not to exceed 30"x42";
   b. Drawn to a scale no smaller than 1"=200';
   c. Proposed project name;
   d. Owner of the property and/or developer;
   e. Adjacent property owners and land use;
   f. Proposed rights-of-way and lot layout compliant with the requirements of articles 3, 4 and 7 of the land development regulations;
   g. Adjacent driveway, roadway, and curb-cut locations;
   h. Table summarizing project acreage, gross and net density, number of lots, minimum lot area in square feet and minimum lot dimensions;
   i. North arrow, written and graphic scales, and a location map; showing the relationship with the surrounding area;
   j. Tract boundaries and total land area;
   k. Existing and proposed land uses throughout the development;
   l. Existing road rights-of-way and easements;

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m. Note regarding the intent to supply water (wells) and sewer (septic);

n. Zoning classification;

o. County parcel identification number of the proposed development.

3. Any request to establish a MRD zoning district shall follow the procedures set forth in article XIII of this ordinance. In presenting requests for rezoning, the applicant must indicate the density desired for the property in order for the request to be complete. The requested density should be expressed as units per acre. Failure to provide a requested density will result in rezoning requests not being presented to the planning commission. All applications to rezone to MRD with a density higher than seven (7) units per acre should attach one (1) of the following:

   a. Wetlands verification letter from the corps of engineers;

   b. Certified wetlands delineation map;

   c. Preliminary jurisdictional determination letter from the corps of engineers; or

   d. Preliminary wetlands assessment prepared by a qualified wetlands consultant.

4. *Minor Changes:* Minor changes in MRD conceptual plans may be approved by the Zoning Administrator, provided that such changes:

   a. Do not increase the density;

   b. Do not change the outside (exterior) boundaries;

   c. Do not change any use; however as an example, a change from multifamily residential to single-family residential shall be considered a minor change provided densities are not increased.

   d. Do not significantly change the exterior appearance from those shown on any plans which may be submitted or presented by the developers.

   e. Minor changes may include, but are not limited to: minor shifting of the location of buildings, parking, shifting of entrances and internal roadways to resolve regulatory permitting issues, utility easements, parks, or other public open spaces, or other features of the plan.

All other changes or modifications not enumerated above shall constitute a major change and will require a full rezoning action.

l. *Development review.* The approved sustainable development standards shall be noted or clearly drawn on all plans submitted for review by the planning department with the county ordinance number clearly marked. Final development review approval shall not be granted until all standards have been met in accordance with the approved rezoning.

(Ord. No. 46-08, § 2, 4-22-08; Ord. No. 42-16, § 4, 7-12-16; Ord. No. 28-17, § 1, 4-18-17; Ord. No. 78-17, § 5, 9-19-17)



# Y'ALL HAVE FUN, 1311 S. WACCAMAW DRIVE, GARDEN CITY, SC 29576

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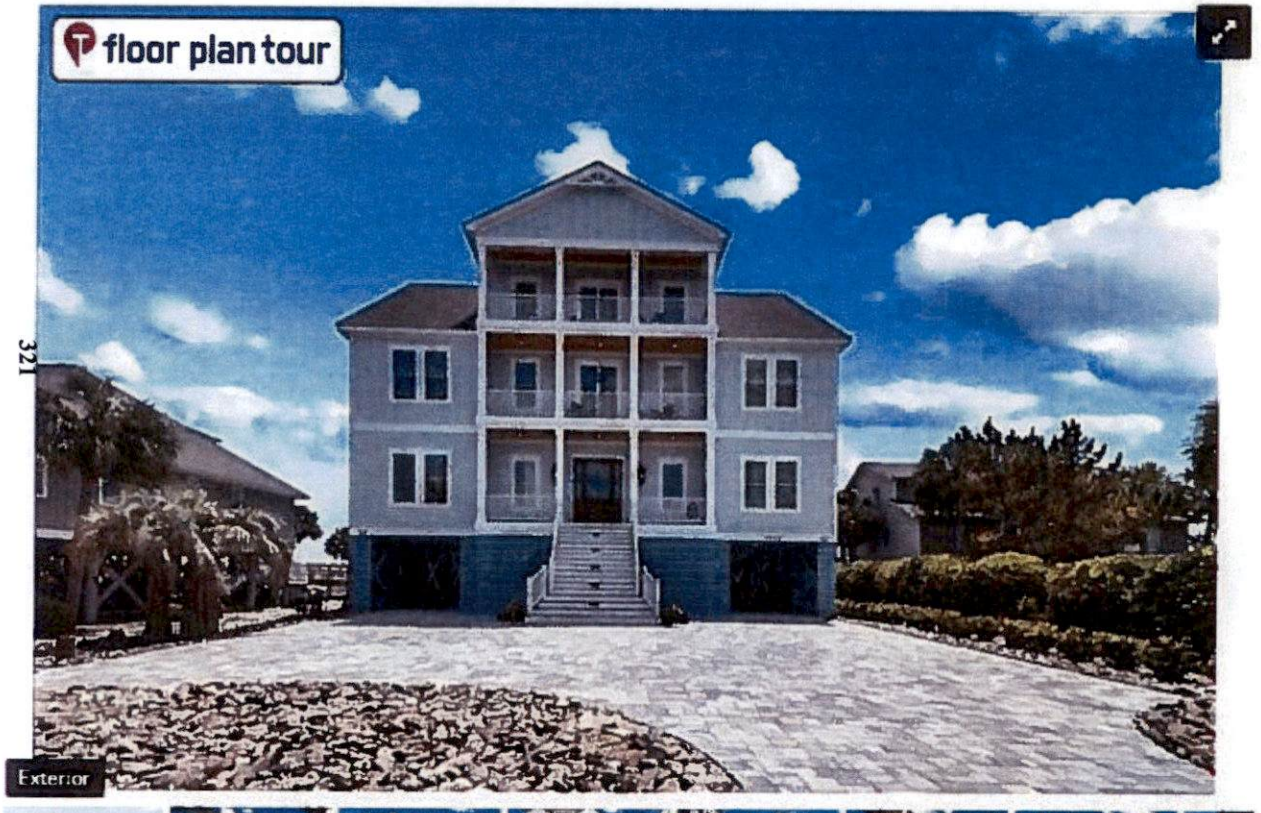
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**Addendum to the Letter to the Murrells Inlet-Garden City Fire District Board**

The Swells Cottages are classified as Single Family Residential by the International Building Code, the International Residential Code, and Horry County Permitting and Zoning. The Murrells Inlet-Garden City Fire District Manual also classifies the Swells Cottages as Single Family Residential through reference and incorporation of the International Building Code and its definitions which specifically exclude structures governed by the International Residential Code. There is no factual dispute that the Swells Cottages are governed by the International Residential Code. Therefore, the Swells Cottages must be residential. This Addendum provides a step by step analysis leading to this conclusion.

In determining whether a new structure should be charged 1% of the cost of construction or 2% of the cost of construction, several sources must be considered:

| **Enabling Legislation – S. 639, S.C. Gen Assemb. 106th Sess. (1985-1986)** |
| --- |
| **"The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction."** |



| **Fire Impact Fee Administration Manual Section 3.0 – Power to Collect Fire Impact Fees** |
| --- |
| **"A fire impact fee of one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums, high rise buildings, and all commercial construction..."** |



| **Fire Impact Fee Administration Manual Section 6.1 – Residential Structures** |
| --- |
| **"Residential structures shall be single or multi-family structures not constructed for commercial use... shall... be charged a fire impact fee of 1.0 percent of the value of construction."** |



| Fire Impact Fee Administration Manual Section 6.2 – Commercial Structures |
| --- |
| **"A new building or structure, as defined by the currently adopted edition of the *International Building Code* as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential... shall... be charged a fire impact fee of 2.0 percent of the value of construction."** |

Although the language of the Enabling Legislation and the Manual is not identical, it is clear that if a structure is commercial under the International Building Code, then it is commercial for the assessment of impact fees. If, however, the International Building Code refers a structure to the International Residential Code, it is not commercial.

| International Building Code Section 310 |
| --- |
| **"Residential Group R includes... the use of a building or structure... for sleeping purposes... when not regulated by the International Residential Code."** |



| International Residential Code Section 101.2 |
| --- |
| **"The provisions of this code shall apply to the construction... and occupancy... of detached one- and two-family dwellings."** |

If governed by the International Residential Code, then a structure is not commercial by definition. There is no factual dispute that the single family dwellings of the Swells Cottages are designed, permitted, built, and regulated in accordance with the International Residential Code. This is demonstrated by the Affidavit of the Owner of the Swells Cottages, the Letter from the Architect of the Swells Cottages, the Horry County Permits and Zoning, as well as the International Building Code and the International Residential Code. Since the Manual expressly defers to the classifications of the International Building Code which specifically exclude structures regulated by the International Residential Code, such as the Swells Cottages, then the Swells Cottages must be residential.



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# Murrells Inlet-Garden City Fire District

PO Box 648, 3641 Hwy. 17 Bus.
Murrells Inlet, SC 29576
PH (843) 651-5143

Gene Connell, Chairman
J. R. Haney, Fire Chief

March 28, 2022

The Board of Directors of the Murrells Inlet – Garden City Fire District voted 5 – 0 to deny the request of Sands Building Group/Garden City Cottages for a refund of impact fees paid. The Board asserts that the proper fees were collected in the amount of 2% on the Sands Building Group/Garden City Cottages project located in the District.

3-28-22
Date

Gene Connell
Chairman

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ALAN WILSON
ATTORNEY GENERAL

December 16, 2021

Gene M. Connell, Jr.
Murrells Inlet-Garden City Fire District
PO Box 648
Murrells Inlet, SC 29576

Dear Mr. Connell:

As chairman of the Murrells Inlet-Garden City Fire District ("Fire District"), you are requesting an opinion of this Office regarding the charging of a fire impact fee. The Fire District is authorized to impose a fire impact fee on all new construction and additions. The fee is 1% of the cost of construction of single-family residences and 2% of the cost of construction of condominiums and townhouses, high rise buildings and all commercial construction.

According to the information you provided, the Swells Cottages neighborhood is being built by a corporation and will consist of 221 detached single-family houses. Each house will be one or two stories and have its own separate means of egress.

The houses will not be sold to the public. Instead, they will be managed professionally and rented. You are seeking an opinion as to whether Swells Cottages should be charged the 2% fire impact fee because the buildings "appear to be commercial construction, i.e., they are being rented as if they were apartments."

## LAW/ANALYSIS

Although this Office is not authorized to make factual findings,[1] we can provide you with the applicable law. To provide some background, the Fire District has been empowered by the Legislature to impose impact fees:

> In addition to the powers and duties provided for the governing body of the Murrells Inlet-Garden City Fire District in Georgetown and Horry Counties by Act 876 of 1966, the Board may impose, one time only, an impact fee on all buildings under construction on

[1] See Op. S.C. Atty. Gen., 1989 WL 406130 (April 3, 1989) ("[b]ecause this Office does not have the authority of a court or other fact-finding body, we are not able, in a legal opinion, to adjudicate or investigate factual questions."

> the effective date of this act and all new construction and all new additions. The fee is one percent of the cost of construction of single family residences and two percent of the cost of construction of condominiums and townhouses, high rise buildings, and all commercial construction. The fees must be used to purchase and maintain fire fighting equipment.

1985 S.C. Acts 272. Neither "single family residences" nor "commercial construction" is defined by Act 272.

To provide "guidance for the consistent and equitable collection of Fire Impact Fees," the Fire District established the Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual ("Manual") (Jan. 1, 2020), §1.0. In its Definitions section, the Manual states:

> Definitions for terms found in this manual relative to occupancy or construction practices shall be consistent with the definitions found in the edition of the International Building and Fire Code in use by either the Georgetown County Building Department, Georgetown County, SC, or the Horry County Code Enforcement Department, Conway, SC, within their respective jurisdictions except where said definitions may conflict with the definition herein contained. Where said definitions do conflict with the definitions herein contained, then the definition herein contained will control.

Id., §5.0.

The Manual provides that "Residential Structures shall be single or multi-family structures not constructed for commercial use . . . Id., §6.1. It also provides the meaning of "Commercial Structures:"

> A new building or structure, as defined by the currently adopted edition of the International Building Code as an assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Commercial Use Residential, Storage, or Utility and Miscellaneous or other uses not specifically listed as Residential ...

Id., §6.2.

We will examine the International Building Code ("IBC"), because the Manual relies on its definitions regarding occupancy and use. The IBC "is a model code that provides minimum requirements to safeguard the public health, safety and general welfare of the occupants of new and existing buildings and structures." Preface, International Building Code (2021). It "applies to all occupancies, including one- and two-family dwellings and townhouses that are not within



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the scope of the IRC [International Residential Code]." Id. According to the IBC, a "dwelling" is "a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes." Id., §202. A "dwelling unit" is "a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." Id.

In the IBC, buildings and structures are classified by occupancy and use. See Id., §301.1. "Occupancy classification is the formal designation of the primary purpose of the building, structure or portion thereof." Id., §302.1. "Structures shall be classified into one or more of the occupancy groups specified in this section based on the nature of the hazards and risks to building occupants generally associated with the intended purpose of the building or structure." Id. The occupancy groups are Assembly, Business, Educational, Factory and Industrial, High Hazard, Institutional, Mercantile, Residential, Storage, and Utility and Miscellaneous. Id., §302.1.

Because only the Business and Residential occupancy groups could potentially apply to your question, we will limit our discussion to them. "Business Group B occupancy includes, among others, the use of a building or structure, or a portion thereof, for office, professional or service-type transactions, including storage of records and accounts." Id., §304.1. "Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the International Residential Code." Id., §310.1.

Residential Group R contains four classifications. Residential Group R-1 is comprised of "occupancies containing sleeping units where the occupants are primarily transient in nature," such as hotels and motels. Id., §310.2. Residential Group R-2 contains "sleeping units or more than two dwelling units where the occupants are primarily permanent in nature," including apartment houses and dormitories. Id., §310.3. Residential Group R-3 is "where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I," such as buildings that do not contain more than two dwelling units and care facilities providing accommodations for five or fewer persons receiving care. Id., §310.4. Residential Group R-4 is comprised of "buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive custodial care," including alcohol and drug centers and assisted living facilities. Id., §310.5.

We will also review the International Residential Code ("IRC"), because the IBC, in particular its Residential Group, is not applicable to buildings and structures that are within the IRC's scope. The IRC applies to the construction of "detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress . . ." International Residential Code (2018), §101.2. A "dwelling" is defined as "any

building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes." Id., §202. "Dwelling unit" means "a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation." Id.

In order to answer your question, we must consider the meaning of "single family residence" in Act 272. A detached one-family dwelling not more than three stories with a separate means of egress is considered residential and is regulated by the International Residential Code. Although the definitions are slightly different, both the IRC and the IBC agree that a dwelling can be used, rented, leased, let or hired out to be occupied for living purposes. Furthermore, a house meeting this description does not fit within any of the IBC's occupancy groups and therefore does not appear to be a "commercial structure" as defined by the Manual. Accordingly, it is our opinion that a detached single-family house not more than three stories with a separate means of egress can be rented or leased to be occupied for living purposes, without it constituting commercial use. We believe that it should be charged the one percent impact fee as a single family residence.

## CONCLUSION

Based on 1985 S.C. Acts 272, the Murrells Inlet – Garden City Fire District Fire Impact Fee Administration Manual (Jan. 1, 2020), the International Business Code (2021), and the International Residential Code (2018), it is our opinion that a detached single-family house not more than three stories with a separate means of egress that is rented or leased to be occupied for living purposes should be charged the one percent impact fee as a single family residence.

Sincerely,

Elinor V. Lister

Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General



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# Murrells Inlet – Garden City Fire District
# Fire Impact Fee Administration Manual

Recommended Approval

J. K. Haney, Fire Chief

Approved by the Board of Directors, Murrells Inlet – Garden City Fire District

August 22, 2022

Gene Connell

Kay Benton

Elizabeth Ward

Pat Walsh

John Magann

Alison Burns

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## 1.0 Purpose

This manual provides guidance for the consistent and equitable collection of Fire Impact Fees for the Murrells Inlet-Garden City Fire District by the Fire District, Georgetown County Building Department, and Horry County Code Enforcement Department personnel.

## 2.0 The Murrells Inlet-Garden City Fire District Fire Impact Fees

Many fire departments have direct ties to an established local government that assumes the responsibility for ensuring that fire protection is provided. State laws delegate certain responsibilities to governing bodies which, in turn, delegate emergency powers and certain powers of fire code enforcement to the fire official. This government umbrella often establishes a means for providing operational and capital funding but sometimes provides only essentials such as enabling legislation and a contract with an established fire department.

Upon its establishment by referendum pursuant to statutory authority in 1966, the Murrells Inlet-Garden City Fire District has operated in sections of both Horry and Georgetown Counties in South Carolina, but without control or supervision by either county. In the department's early years, it was far less expensive than it is now to purchase and maintain firefighting equipment, and the income generated by the statutorily authorized tax millage of the district could easily support such costs. The growth rate at the time was modest, and the area was primarily restaurants, small businesses, single-family homes, and vacation cottages. In the mid-1980s, the type of construction began to change to taller high-density residential structures and expanded commercial structures such as malls and shopping centers, and the amount of new construction in the fire district began to grow at a faster rate than before. The need for new fire apparatus, firefighting equipment, and its associated costs grew at a rate faster than the income generated by the statutorily authorized tax millage could support. In 1985 the South Carolina Legislature, recognizing the financial hardship by reason of rapid growth, expanded the powers of the fire district by granting the district's Board of Directors the power to impose fire impact fees.

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With a fire impact fee, those most directly responsible for the district's growth and the consequential need for additional firefighting equipment, the developers, and builders, bear a proportional share of the cost of providing fire protection services. As sound economic practices go, this cost is passed on to the consumer. Each construction project pays its fair share for the fire apparatus and firefighting equipment.

## 3.0 Power to Collect Fire Impact Fees

Murrells Inlet-Garden City Fire District is granted the statutory authority to impose and collect fire impact fees on all new construction and all new additions as of and following June 6, 1985, as set forth in (Act #272) Joint Acts and Resolutions of the General Assembly of the State of South Carolina of 1985. A fire impact fee of one percent of the cost of construction of single-family residences and two percent of the cost of construction of condominiums and townhouses, high-rise buildings, and all commercial construction or in such amount as may be set forth elsewhere herein. Fire impact fees are payable to the Administrative Assistant or their designee at the headquarters station of the Murrells Inlet-Garden City Fire District and by previous agreement, on behalf of the fire district at the Georgetown County Building Department, Georgetown, South Carolina, and at the Horry County Code Enforcement Department, Conway, South Carolina. Fire impact fees collected by these departments are, by agreement, remitted by the respective county treasurers to the fire district on a regular basis.

## 4.0 The Murrells Inlet-Garden City Fire District Service Area

As defined by statute, the Murrells Inlet-Garden City Fire District's statutory service area is those parts of Georgetown and Horry Counties within an area bounded by Huntington Beach State Park and Brookgreen Gardens to the south, the Waccamaw River and Collins Creek to the west. The north boundaries include Blackmoor on Hwy 707, Santee Cooper transmission lines on Hwy 17 Bypass, and Melody Ln. on Hwy 17 Bus. And N. Waccamaw Dr. East boundaries go to the Atlantic Ocean.

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## 5.0 Definitions

**Additional Construction:** Any expansion, upfit, or renovation made to an existing building or applicable structure as outlined herein

**Building or Applicable Structure:** Any proposed, new, or existing building, structure or system for the purpose of occupancy, storage, shelter or fire protection, portable or fixed, residential or commercial, or any permanent building, structure, or system of value that is ancillary to such building or structure except as specifically exempted by the respective county from needing a permit

**Expansion:** Modifications made to an existing building or applicable structure that increase any of its overall dimensions

**Fire Impact Fee:** A fee levied by governmental authority on all new construction in the Murrells Inlet-Garden City Fire District, as outlined in section 6.0 of this manual, to purchase and maintain firefighting equipment for the district

**Renovations:** Modifications made to an existing building or applicable structure that renew or alter its interior and/or exterior appearance with minimal structural work

**Repair-in-kind:** Work performed on an existing building or applicable structure to replace failed or damaged systems or components with similar systems or components of comparable value to those originally installed and for which a Fire Impact Fee has already been paid.

**Single-Family Residences:** Single-family residences shall be single-family, unattached dwellings located on deeded individual lots that are established for such family dwelling, and they are not constructed for commercial use or to generate recurring income.

**Commercial Structures:** Condominiums and townhomes, high-rise buildings, and all commercial construction.

**Commercial Construction:** Commercial construction means the act of building any structure, or that part of any structure, that is not a single-family residence, as defined herein, or any permanent building, applicable structure, or system of value that is ancillary to any such structure.

**System of Value:** Includes fire protection systems such as sprinklers, fire alarms, hood systems, and other like protection systems.

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**Upfit:** Modifications to all or part of a partially completed building or applicable structure that are to be on a building permit subsequent to any completed building permit(s) for original construction and which will render such building or applicable structure or part thereof suitable for occupancy, storage, or shelter.

## 6.0 Determination of Fire Impact Fees

Fire Impact fees are collected on all new construction in the Murrells Inlet-Garden City Fire District. The term "new Construction" shall include any building or structure suitable for occupancy, storage, or shelter, portable or fixed, residential, or commercial, constructed, fabricated, or erected on or after June 6, 1985.

The fire impact fee is based on the cost of construction as declared by the owner or general contractor or as calculated by a method generally practiced and approved for use by the building official. Fire impact fees shall be collected on the cost of construction of the building or structure. Structures that are to be fabricated to a level of completion that is less than suitable for occupancy, storage, or shelter which are, for the purpose of determination of fire impact fees, deemed to be "partially completed" (e.g., an un-leased or unsold bay or unit in a mall or strip mall that is not finished upon completion of construction of the mall or strip mall and thereafter completed for the occupancy, storage, or shelter of a tenant or owner pursuant to a subsequent building permit), shall be charged a fire impact fee only upon the cost of the new construction. The cost of any upfitting that has been undertaken to render the building or structure suitable for occupancy, storage, or shelter shall cumulatively be added to the cost of the original construction of the building or structure. The total of all fire impact fees assessed and collected shall be based on the total cost of the initial construction and the cost of the new construction, with credit granted for any fire impact fee previously paid and evidenced by a written receipt for payment.

A structure hereinafter referred to as a "permanent structure of value" shall mean any porch, outbuilding, swimming pool, fire protection system, or other construction that increases the completed or assessed value of the property. Such structures are those that are of such cost or technical complexity as to require a building permit from the respective county to construct.

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### 6.1 Single-Family Residences

Single-family residences shall be single-family, unattached dwellings located on deeded individual lots that are established for such family dwelling, and they are not constructed for commercial use or to generate recurring income. Single-family residences shall, at the time of permitting for construction, be charged a fire impact fee of 1.0 percent of the value of construction. Any permanent structure or system of value that is ancillary to any such single-family residence shall, at the time of permitting for construction, be charged a fire impact fee of 1.0 percent of the value of such construction.

### 6.2 Commercial Structures

Condominiums and townhomes, high-rise buildings, and all commercial construction shall, at the time of permitting for construction, be charged a fire impact fee of 2.0 percent of the value of construction. Commercial construction means the act of building any structure, or that part of any structure, that is not a single-family residence, as defined herein, or any permanent building, applicable structure, or system of value that is ancillary to any such structure.

### 6.3 Renovations

Any renovations or repairs, not determined to be additional construction, to a completed building that are to be done on a building permit and which, in the opinion of the building official and/or the assessor, significantly increases its assessed value shall be charged a fire impact fee of 0.2 percent of the value of construction. As an example, a new tenant plans to move into a previously occupied retail bay in a strip mall and desires to renovate the space to suit his business. A fire impact fee had been paid on the original construction, but the new finishes and fixtures in the space will affect the value of the building, so a fire impact fee of 0.2 percent is to be collected.

### 6.4 Repairs-in-kind

Any completed building that has been charged and has paid a fire impact fee having suffered damages due to a natural disaster or calamity may undergo repairs-in-kind on a building permit without the assessment and collection of an additional fire impact fee. Repairs-in-kind under such circumstances are not subject to the assessment and collection of an additional fire impact fee by reason of the fact that such repairs-in-kind are, or are being, undertaken for repairing a part of the building or structure of value for which a fire impact fee has previously been paid.

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### 6.5 Upfit of Incomplete or Uncompleted Buildings and Tenant Spaces

Any building erected to a level of completion specified as "incomplete" or "upfit to suit tenant" in the original plans and which is approved as such by the building official may be completed on a building permit, but the fire impact fee of 2.0 percent must be collected on the scope of work, as this is not a renovation, but an upfit for completion. The space includes no interior partitions and only minimal electrical wiring, but it has been completed to a level specified in approved drawings. If the upfit work to prepare this space for a tenant is to be performed under a new building permit, then a fire impact fee of 2.0 percent is to be collected.

### 6.6 Relocation of Mobile Homes and other Portable Structures

A mobile home or other portable structure for which a fire impact fee has already been paid may be moved by the original owner to another location in the fire district without additional assessment of a fire impact fee. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee for presentation to the appropriate county permitting authority at the time of application for a building permit to erect or place said mobile home or portable structure or pay the full fire impact fee.

### 6.7 Replacement of Mobile Homes and Modular Homes

If a fire impact fee has been paid for a mobile or modular home and the original owner is replacing it with another one of greater value, then the fire impact fee already paid on the old home may be applied as a credit toward the fire impact fee on the new home. These requests may be processed only at the Murrells Inlet-Garden City Fire District business office during regular business office hours. The owner must produce the original receipt evidencing the payment of any currently due fire impact fee with the balance due and will be issued a receipt for full payment for presentation to the appropriate county permitting authority at the time of application for a building permit.

## 7.0 Appeals of Fire Impact Fees

Use of this manual by Horry County Code Enforcement, Georgetown County Building Department, and Murrells Inlet-Garden City Fire District personnel ensures the fair and equitable computation and collection of fire impact fees. Because the Horry County Code Enforcement Department and the Georgetown County Building Department are collecting these fees only on behalf of the Murrells Inlet-

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Garden City Fire District, any questions or disputes about fire impact fees collected at those locations shall be directed to the Administrative Assistant at the Murrells Inlet-Garden City Fire District headquarters. The Administrative Assistant, Fire Marshal, or Fire Chief, as necessary, shall make every attempt to resolve the fee in question.

Fire impact fee disputes that remain unresolved will next be referred to the Murrells Inlet-Garden City Fire District Board of Directors for resolution. The requestor will be required to appear before the Board either at a regularly scheduled meeting or a special meeting called for the purpose of the appeal, at the sole discretion of the Chairman of the Board, to present the case in person.

Any appeal of a decision regarding fire impact fees by the Board of Directors shall be made through appropriate legal action directly to the Court of Common Pleas for the Fifteenth Judicial Circuit, State of South Carolina.

## 8.0 Murrells Inlet-Garden City Fire District Fire Impact Fee Rate Schedule

Except where provided elsewhere herein, the following fire impact fees rate schedule shall apply.

### 8.1 Single-Family Residences

Single-family residences and their ancillary structures built or upfit shall be charged a fire impact fee of 1.0 percent of the cost of construction.

### 8.2 Commercial Structures

Condominiums and townhomes, high-rise buildings, and all commercial construction and their ancillary structures shall, at the time of permitting for construction, be charged a fire impact fee of 2.0 percent of the value of construction.

### 8.3 Interior and Exterior Renovations

Interior and exterior renovation made to existing buildings and ancillary structures in all occupancies shall be charged a fire impact fee of 0.2 percent of the cost of construction.

# Certificate of Occupancy

## County of Horry

## Department of Code Enforcement

**CO Inspection Date: 02/25/2022**

| | | | |
|---|---|---|---|
| **Owner** | COTTAGES AT GARDEN CITY BEACH LP | **Permit No.** | RES-06-21-130527 |
| **Project** | SWELLS COTTAGES | **Permit Type** | Residential Permit |
| **Address** | 104 Grovewood Way #1<br>Murrells Inlet, SC 29576 | **Work Class** | New |
| **Contractor** | SANDS BUILDING GROUP | **Occ. Load** | |
| **Sprinklers Provided** | | **Sprinklers Required** | |
| **Occupancy Type** | Residential | **Construction Type** | Wood |

**This certificate is issued pursuant to the requirements of the edition of the applicable Building Code currently in force, certifying that at the time of issuance the inspection and review process has been performed in accordance with the various ordinances of the County regulating building construction or use, and the structure is approved for occupancy at this time.**

| Brian Kenny | 02/25/2022 | 338 James T. Smith | 02/25/2022 |
|---|---|---|---|
| Building Inspector | Date | Building Official | Date |

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM HORRY COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

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Appellate Case No. 2023-000435

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The Cottages at Garden City Beach, LP, .....Appellant,

v.

Murrells Inlet-Garden City Fire District, .....Respondent,

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**CERTIFICATE OF COUNSEL**

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I certify that the Record on Appeal contains all materials proposed to be included by any of the parties and not any other material.

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Myrtle Beach, South Carolina
October 3, 2023

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