

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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AUG 21 2013

SC Court of Appeals

APPEAL FROM Horry COUNTY
Court of Common Pleas

J. Michael Baxley
Circuit Court Judge

Case No.: 2012-CP-26-9291

Fayrell Furr and Karole Jensen, Respondents

v.

Horry County Zoning Board of Appeals..... Appellant

**APPELLANT'S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

The Appellant proposes the following be included in the Record on Appeal:

1. Pages 3-48 of the Transcript of the Zoning Board of Appeals Hearing dated November 6, 2012
2. Notice of Appeal dated November 30, 2012
3. Certified Record on Appeal filed December 5, 2012
 - a. Letter dated November 6, 2012, from Alicia Shelley, Horry County Planning & Zoning Department to Fayrell Furr and Karole Jensen
 - b. Order of the Board dated November 5, 2012
 - c. Staff Review Variance Case #2012-10-003
 - d. Resolution No. R-103-10 – Resolution in Support of Mercy Care's Hospice House Project dated September 21, 2010
 - e. Letter from Tom Badurski, Mercy Care to Rennie Mincey, Horry County Planning & Zoning Department
 - f. Letter dated May 3, 2011 from Cynthia Thorpe, Horry County Planning & Zoning Department to Tom Badurski, Mercy Care

- g. Variance Request Location Maps
- h. Photographs
- i. Letter dated October 25, 2012 from Ron Dendy, Manager of Waccamaw River Farms to Horry County Planning and Zoning Department
- j. Letter dated November 2, 2012, from Christine Ellis of Waccamaw Riverkeeper/Winyah Rivers Foundation to Franklin G. Daniels, J.D., LLM, Nexsen Pruet, LLC
- k. Handout - 447.Nursing Homes and 447.1 Definition of Nursing Home
- l. Letter dated October 18, 2012 from Alicia Shelley, Horry County Planning & Zoning Department to Fayrell Furr and Karole Jensen
- m. Letter dated October 18, 2012, from the Horry County Board of Zoning Appeals to the Property Owners
- n. Receipt for appeal application fee
- o. Horry County map
- p. Applicant Submittal, Board of Zoning Appeals Application filed September 20, 2012
- q. Karole Jensen's Supplemental Outline of Issues dated October 5, 2012
- r. Fayrell Furr's Issues dated September 19, 2012
- s. Portion of S.C. Code Ann. §44-7-130
- t. S.C. Code Ann. §§44-71-10, 44-71-20, 44-71-30, 44-71-40, 44-71-50, 44-71-60, and portion of 44-71-65
- u. DHEC Regulation No. 61-16 – Minimum Standards for Licensing Hospitals and Institutional General Infirmaries, Pages 1 and 2
- v. Merriam-Webster Dictionary definition of Hospital
- w. Karole Jensen's report dated September 19, 2012, with attachments: article on Corridor of Death; Accidents on Hwy. 90; Sketch of hospice facility; Myrtle Beach Air contract
- x. Karole Jensen's Supplemental Outline of Issues dated October 6, 2012
- y. Petition in Opposition to Mercy Hospital in Wild Horse Neighborhood dated November, 2012
- z. Mercy Care Submittal including:
 - 1. Affidavit of Dennis L. Gibbs
 - 2. Affidavit of David Levitt
 - 3. Resume of David Levitt
 - 4. Letter from J. T. Pegram, President of Pegram Associates, Inc.
 - 5. E-mails dated October 8, 2012 from Dennis to Sara Faucher

6. Architectural drawings of 1st floor plan and landscape design;
 7. Letter dated October 17, 2012, from Jeffrey D. Solan, Solan Associates, P.C. to Mercy Hospice of Myrtle Beach;
 8. NAICS Code Description;
 9. Memo dated October 6, 2012, to Tom Badurski;
 10. Letter dated October 19, 2012, from David Stone, The Carolinas Center for Hospice and End of Life Care to Sara Jo Faucher, Mercy Care;
 11. Letter from Ricky Gunter, Myrtle Beach Air Medical Transport
 12. E-mails dated October 25, 2012
 13. Letter dated November 2, 2012, from Christine Ellis, Waccamaw Riverkeeper, to Franklin G. Daniels, J.D., Nexsen Pruet
 14. S&ME Phase I Environmental Site Assessment prepared for Mercy Hospice
 15. RHINO Agreement dated November 9, 2011
 16. Letter dated September 30, 2011 from Angelique Crews, Partner Engineering and Science, Inc., to Thomas Badurski, Mercy Hospice
 17. Certificate of Need dated March 23, 2012
 18. Invoice from Total Tree Care & Appraisal, Inc.
 19. Mercy Care Plan of Correction, May 18, 2012, Licensing Inspection
 20. Letter dated September 22, 2010, from Janet Carter, Horry County Planning & Zoning Department to Tom Badurski, Mercy Care
 21. Letter dated from Alan Clemmons to C. Earl Hunter, DHEC
 22. Letter dated May 11, 2011, from Bart A. Haas, Conway Medical Center to Blair H. Davis, CON Development
 23. Letter dated May 13, 2011 from Donna Carrillo, Grand Strand Regional Medical Center to Blair Davis, CON Development
 24. Photographs and Architectural drawing
4. Notice of Motion and Motion to Stay dated December 6, 2012
 5. Answer of the Respondent Horry County Zoning Board of Appeals dated December 19, 2012
 6. Form 4 issued by the Court dated February 5, 2013
 7. Notice of Motion and Motion to Intervene dated February 28, 2013
 8. Pages 3-44 of the Transcript of Record of Motion Hearing before The Honorable J. Michael Baxley dated February 28, 2013
 9. Letter from The Honorable J. Michael Baxley dated March 7, 2013

10. Letter from Emma Ruth Brittain, Esquire, to Gene M. Connell, Jr., Esquire, dated April 4, 2013
11. E-mail dated April 4, 2013 from Judge Baxley's Law Clerk to Emma Ruth Brittain and Gene Connell
12. Order Reversing Horry County Zoning Board of Appeals dated April 24, 2013
13. Notice of Appeal dated May 23, 2013
14. Horry County Code of Ordinances, Chapter 1, General Provisions, Sec. 1-2, Definitions and Rules of Construction
15. Horry County Code of Ordinances, Appendix B, Zoning, Article IV, Definitions
16. Horry County Code of Ordinances, Appendix B, Zoning, Article VII, Commercial Forest/Agricultural District (CFA)

I certify that this designation contains no matter which is irrelevant to this appeal.



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ATTORNEYS FOR APPELLANT
HORRY COUNTY ZONING BOARD
OF APPEALS

August 19, 2013

IN THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

Civil Action No.: 2012-CP-26-09291

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Fayrell Furr and Karole Jensen..... Respondents

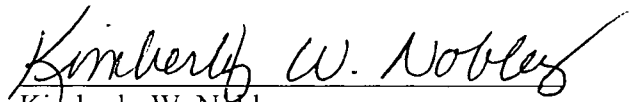
v.

Horry County Zoning Board of Appeals Appellant

PROOF OF SERVICE

I certify that I have served the Appellant Horry County Zoning Board of Appeals' Designation of Matter on Fayrell Furr and Karole Jensen by depositing a copy of it in the United States mail, postage prepaid, on August 19, 2013, addressed to their attorney of record Gene M. Connell, Jr., Esquire, Kelaher, Connell & Connor, P.C., Post Office Drawer 14547, Surfside Beach, South Carolina, 29587.

August 19, 2013



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