IN THE STATE OF SOUTH CAROLINA

VOLUME 1

IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Larry B. Hyman, Jr.
The Honorable Benjamin H. Culbertson

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SC Court of Appeals

Appellate Case No.: 2018-001221
Civil Action No.: 2016-CP-26-02377

In Re: Venture Engineering, agent for DT LLC .....Respondent

vs.

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

RECORD ON APPEAL

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INDEX

I.	ORDERS	PAGE NO.
1.	Order Denying Respondent's Motion to Reconsider dated June 12, 2018	8
2.	Order Granting Appellant's Motion for Costs dated June 12, 2018	11
3.	Order Reversing May 11, 2015 and March 14, 2016 Orders of the Horry County Zoning Board of Appeal dated April 5, 2018	13
4.	Order Denying Respondent's Motion to Strike dated October 13, 2016, in *In Re: Venture Engineering, agent for DT, LLC v. Horry County Zoning Board of Appeals*	42
5.	Order Denying Respondent's Motion to Strike dated October 12, 2016, in *Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC v. Horry County Zoning Board of Appeals*	44
6.	Order to Consolidate Actions dated October 12, 2016	51
7.	Order of the Horry County Board of Zoning Appeals dated March 14, 2016	54
8.	Order of the Horry County Board of Zoning Appeals dated May 11, 2015	58
9.	Order of the Horry County Board of Zoning Appeals dated March 9, 2015, mailed on April 14, 2015, and received on April 16, 2015	61

II.	JUDGMENTS	
1.	Form 4 Judgment dated May 31, 2018	65
2.	Form 4 Judgment granting continuance of Plaintiff's Motion to Consolidate and Defendant's Motion to Strike dated August 3, 2016	68
3.	Form 4 Judgement staying Defendant Horry County Zoning Board of Appeals Motion to Strike pending rezoning variance dated January 27, 2016	70
4.	Form 4 Judgment granting continuance dated January 5, 2016	72

III.	PLEADINGS	
1.	Pleadings in the *Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC v. Horry County Zoning Board of Appeals, Civil Action No.: 2015-CP-26-3791*	
	a. Notice of Appeal of Order of Horry County Board of Zoning Appeals dated May 21, 2015 and Exhibit:	75

i. Exhibit A – Order of the Board dated May 11, 2015 58

b. Answer and Return to Notice of Appeal of Order of Horry County Board of Zoning Appeals dated June 18, 2015 76

c. [Second] Notice of Appeal filed December 4, 2015 80
i. Exhibit A – Proof of ADR 90
ii. Exhibit B – Order of the Board dated May 11, 2015 58
iii. Exhibit C – Application for Annual Business License 91
iv. Exhibit D – Application for Annual Business License 92
v. Exhibit E – December 3, 2014, Letter to Willard D. Hanna, Jr. 93
vi. Exhibit F – Transcript of Zoning Board of Appeals February 9, 2015 94
vii. Exhibit F-1
1. Letter dated December 19, 2014 to Ronald Gilkerson 134
2. Letter dated October 11, 2014 to Timothy Eleazer 136
3. Maps 138
4. Horry County Zoning App/Comp-Certification Inquiry 140
5. Application for Annual Business License 142
viii. Exhibit G – Transcript of Zoning Board of Appeals March 9, 2015 143
ix. Exhibit G-1 –Thompkins & Associates, Inc. Invoices 221
x. Exhibit G-2 – Thompkins & Associates, Inc. Handwritten list of work performed 266
xi. Exhibit G-3 – Letter dated February 13, 2015, to Ronald Gilkerson 298
xii. Exhibit G-4 – Letter dated March 4, 2015, to Ronald Gilkerson 299
xiii. Exhibit G-5 – Thompkins & Associates, Inc. Invoice No. 14749 300
xiv. Exhibit H – Transcript of Zoning Board of Appeals dated April 13, 2015 301
xv. Exhibit H1 – Affidavit of Roland Meyer 311
xvi. Exhibit I – Order of the Board of Zoning Appeals dated March 9, 2015 61
xvii. Exhibit J – Affidavit of Roland Meyer 312
xviii. Exhibit K – Letter dated April 22, 2015 from Robert Shelton to Arrigo Carotti, Esquire and Emma Ruth Brittain, Esquire 313
xix. Exhibit L – Transcript of Zoning Board of Appeals dated May 11, 2015 316

d. Answer and Return to Notice of Appeal Filed December 4, 2015, dated December 28, 2015 and Attachments: 344
i. Defendant's Motion to Strike and Disallow the Second Notice of Appeal and Exhibits Filed by Plaintiff on December 4, 2015 366
ii. Answer and Return to Notice of Appeal of Order of Horry County Board of Zoning Appeals dated June 18, 2015 76

2. Pleadings in the *In Re: Venture Engineering, agent for DT, LLC v. Horry County Zoning Board of Appeals, Civil Action No.: 2016-CP-26-02377*
a. Notice of Appeal of Order of Horry County Board of Zoning Appeals dated April 14, 2016, and Exhibits: 349

i. Exhibit A – Proof of ADR 90
ii. Exhibit B – Order of the Board dated May 11, 2015 58
iii. Exhibit C – Application for Annual Business License 91
iv. Exhibit D – Application for Annual Business License 92
v. Exhibit E – December 3, 2014, Letter to Willard D. Hanna, Jr. 93
vi. Exhibit F – Transcript of Zoning Board of Appeals February 9, 2015 94
vii. Exhibit F-1
1. Letter dated December 19, 2014 to Ronald C. Gilkerson 134
2. Letter of October 11, 2014 to Timothy Eleazer 136
3. Maps 138
4. Horry County Zoning App/Comp-Certification Inquiry 140
5. Application for Annual Business License 142
viii. Exhibit G – Transcript of Zoning Board of Appeals March 9, 2015 143
ix. Exhibit G-1 –Thompkins & Associates, Inc. Invoices 221
x. Exhibit G-2 – Thompkins & Associates, Inc. Handwritten list of work performed 266
xi. Exhibit G-3 – Letter dated February 13, 2015 to Ron Gilkerson 298
xii. Exhibit G-4 – Letter dated March 4, 2015 to Ron Gilkerson 299
xiii. Exhibit G-5 – Thompkins & Associates, Inc. Invoice No. 14749 300
xiv. Exhibit H – Transcript of Zoning Board of Appeals dated April 13, 2015 301
xv. Exhibit I – Order of the Board of Zoning Appeals dated March 9, 2015 61
xvi. Exhibit J – Affidavit of Roland Meyer 312
xvii. Exhibit K – Letter dated April 22, 2015 from Robert Shelton to Arrigo Carotti, Esquire and Emma Ruth Brittain, Esquire 313
xviii. Exhibit L – Transcript of Zoning Board of Appeals dated May 11, 2015 316
xix. Exhibit M – Order of the Board of Zoning Appeals dated March 14, 2016 54
xx. Exhibit N – Joint Motion of Plaintiff and Defendant for Scheduling Order 385

b. Answer and Return of Respondent Horry County Zoning Board of Appeals dated May 26, 2016 359

IV. MOTIONS

1. Motions in the *Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC v. Horry County Zoning Board of Appeals, Civil Action No.: 2015-CP-26-3791*

a. Defendant Horry County's Motion to Strike and Disallow the Second Notice of Appeal and Exhibits Filed by Plaintiff on December 4, 2015, dated December 28, 2015 366

i. Defendant Horry County's Memorandum in Support of its Motion to Strike and

Disallow the Second Notice of Appeal and Exhibits Filed by Plaintiff on December 4, 2015dated August 16, 2016 369

ii. Plaintiff's Response to Defendant's Motion to Strike dated January 18, 2016 376

b. Joint Motion of Plaintiff and Defendant for Scheduling Order dated March 4, 2016 385

c. Appellant's Notice of Motion and Motion to Consolidate Actions dated June 6, 2016 388

i. Respondent Horry County's Response to Appellant's Motion to Consolidate dated July 12, 2016 390

ii. Appellants' Reply to Respondent's Response to Motion to Consolidate Actions dated August 16, 2016 394

2. Motions *In Re: Venture Engineering, agent for DT, LLC v. Horry County Zoning Board of Appeals, Civil Action No.: 2016-CP-26-02377*

a. Horry County's Motion to Strike Portion of Appellant's Appeal Pursuant to SCRCP 12(f) dated May 26, 2016 398

i. Appellant's Response to Respondent's Motion to Strike dated June 15, 2016 400

ii. Horry County's Memorandum in Support of Respondent's Motion to Strike Portion of Appellant's Appeal Pursuant to SCRCP 12(f) dated September 9, 2016 401

b. Appellant's Notice of Motion and Motion to Consolidate Actions dated June 6, 2016 388

i. Horry County's Response to Motion to Consolidate dated July 12, 2016... 410

ii. Appellants' Reply to Respondent's Response to Motion to Consolidate Actions dated August 16, 2016 394

c. Respondent Horry County Zoning Board of Appeals Notice of Motion and Motion to Reconsider Pursuant to Rule 59(e) SCRCP dated April 16, 2018 414

i. Appellant's Reply to Respondent's Motion to Reconsider dated May 15, 2018 and Exhibits 417

a. Order Denying respondent's Motion to Strike 44

b. Order to Consolidate Actions dated October 12, 2016 51

d. Appellant's Motion for Costs and Affidavit of Costs dated April 16, 2018 420

V. TRANSCRIPTS/RECORDS

1. Transcript of Hearing held May 31, 2018 424

2. Transcript of Hearing held January 5, 2017 435

3. Transcript of Zoning Board of Appeals hearing held March 14, 2016 483

4. Transcript of Zoning Board of Appeals hearing held May 11, 2015 316

5. Transcript of Zoning Board of Appeals hearing held April 13, 2015 301

6. Transcript of Zoning Board of Appeals hearing held March 9, 2015 143

7. Transcript of Zoning Board of Appeals hearing held February 9, 2015 94

VI. OTHER MATERIALS

1. Certified Record on Appeal filed May 20, 2016, in *DT, LLC v. Horry County Zoning Board of Appeals, Civil Action No.: 2016-CP-26-02377* 498
   a. Letter dated March 15, 2016 from Alicia Shelley to Steve Powell 499
   b. Order of the Board dated March 14, 2016 54
   c. Letter from Mrs. Margaret A. Williams 500
   d. Photographs 501
   e. Minutes of March 14, 2016 504
   f. Case 2016-02-015 515
   g. Variance Review Sheet 516
   h. Location Map 518
   i. Photographs of Site 520
   j. Applicant Submittal 523
   k. Zoning Board of Appeals Application 524
   l. Letter dated February 5, 2016, from Venture Engineering to Ms. Rennie Mincey 526
   m. Site Plan 530
   n. Letter of February 19, 2016 to Steve Powell 531
   o. February 19, 2016 Notice of Hearing 532
   p. Attachment- Notice of Appeal and Exhibits made a part of the Record 534
      i. Notice of Appeal and Exhibits 535
      ii. Exhibit A – Proof of ADR 90
      iii. Exhibit B – Order of the Board of Zoning Appeals dated May 11, 2015 58
      iv. Exhibit C – Application for Annual Business License 91
      v. Exhibit D – Application for Annual Business License 92
      vi. Exhibit E – Letter dated December 3, 2014 to Willard D. Hanna, Jr. 93

vii. Exhibit F – Transcript of the Zoning Board of Appeals February 9, 2015, Meeting 94
viii. Exhibit F1
1. Letter dated December 19, 2014 to Ronald C. Gilkerson 134
2. Letter of October 11, 2014 to Timothy Eleazer 136
3. Maps 138
4. Horry County Zoning App/Comp-Certification Inquiry 140
5. Application for Annual Business License 142
ix. Exhibit G – Transcript of the Zoning Board of Appeals March 9, 2015, Meeting 143
x. Exhibit G1 – Thompkins & Associates, Inc. Invoices 221
xi. Exhibit G2 – Thompkins & Associates, Inc. handwritten list of work performed 266
xii. Exhibit G3 – Letter dated February 13, 2015, to Ronald Gilkerson 298
xiii. Exhibit G4 – Letter dated March 4, 2015, to Ronald Gilkerson 299
xiv. Exhibit G5 – Invoice from Thompkins & Associates, Inc. 300
xv. Exhibit H – Transcript of the Zoning Board of Appeals April 13, 2015, Meeting 301
xvi. Exhibit H1 – Affidavit of Roland Meyer 311
xvii. Exhibit I – Order of the Board of Zoning Appeals dated March 9, 2015 61
xviii. Exhibit J – Affidavit of Roland Meyer 312
xix. Exhibit K – Letter dated April 22, 2015 from Robert Shelton to Arrigo Carotti, Esquire and Emma Ruth Brittain, Esquire 313
xx. Exhibit L – Transcript of Zoning Board of Appeals dated May 11, 2015 316

2. Certified Record on Appeal dated and filed June 11, 2015, in *Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC v. Horry County Zoning Board of Appeals* 536
a. Letter dated May 12, 2015 from Alicia Shelly to Rob Shelton, Bellamy Law Firm 537
b. Order of the Board dated May 11, 2015 58
c. Minutes of May 11, 2015 538
d. Letter dated April 14, 2015 from Alicia Shelley to Rob Shelton, Bellamy Law Firm 546
e. Order of the Board dated March 9, 2015 61
f. Minutes of April 13, 2015 547
g. Minutes of March 9, 2015 555
h. Minutes of February 9, 2015 566
i. Case #2015-01-008- Appeal Review Sheet 575
j. Horry County Zoning App/Comp Certification Inquiry 576
k. Location Maps 577
l. Photographs 579
m. Letter from Mrs. Margaret A. Williams 584
n. Applicant Submittal 585
o. Application 586
p. Photographs 588

q. Letter of December 19, 2014 to Ronald Gilkerson 134
r. Letter of February 13, 2015 to Ronald Gilkerson 298
s. Letter of October 11, 2014 to Timothy M. Eleazer 136
t. Letter of March 4, 2015 to Ronald Gilkerson 299
u. Thompkins & Associates, Inc. Invoices 221
v. Thompkins & Associates, Inc. handwritten list of work performed 266
w. Letter dated February 18, 2015 to Bellamy Law Firm 592
x. Letter dated January 16, 2015 to Bellamy Law Firm 593
y. January 16, 2015 Notice of Hearing 594

3. Horry County Code of Ordinances, No. 67-88, 4-18-89, 20 §401.5 596

4. Horry County Code of Ordinances, §717 596

VII. CERTIFICATE OF COUNSEL 599

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-02377
In re: Venture Engineering, agent for DT LLC,	)	
Appellant,	)	
v.	)	**ORDER DENYING RESPONDENT'S MOTION TO RECONSIDER**
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

This case is a consolidation of two appeals filed by Appellants, Dennis Thompkins-Bellamy Law Firm, agent for DT LLC ("Appellant Thompkins-Bellamy"), and Venture Engineering, agent for DT LLC ("Appellant Venture"). Both appeals arise out of identical facts regarding Respondent's, Horry County Zoning Board of Appeals ("the Board"), disallowance of Appellant's business' right to receive loads of C&D and/or concrete materials from outside sources.

On January 5, 2017, this Court heard both appeals. After thorough review of the Record, South Carolina case law, and oral arguments made by counsel at the hearing, the Court reversed Respondent's May 11, 2015 and March 14, 2016 Orders and set forth the basis for such reversal fully in its Order of April 6, 2018. On April 16, 2016, Respondent filed a Motion to Reconsider the April 6, 2018 Order pursuant to SCRCP Rule 59(e).

Respondent's Motion to Reconsider was heard on May 31, 2018. Robert S. Shelton, Esq. appeared as counsel for the Appellant and Matthew Magee, Esquire appeared as counsel for the Respondent.

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Respondent brought its reconsideration motion alleging the Court "failed to give the requisite deference to the factual determinations of the Board and reviewed and considered certain evidence outside the requisite records on appeal." (Respondent's Motion, Page 2) In that regard, Respondent alleges the Court substituted its own judgment for the judgment of the Board. Respondent's position in this regard is incorrect. On December 29, 2015, Respondent filed a Motion to Strike the very evidence of which it now again complains. A hearing on Respondent's Motion to Strike was heard on August 4, 2016 and, subsequently, Circuit Court Judge Larry B. Hyman, Jr. denied Respondent's Motion. The Order Denying Respondent's Motion to Strike was filed October 13, 2016. Moreover, I conducted my own legal analysis of the record and fully considered and addressed the specifics of each appeal both during the Hearing on this consolidated matter and in the April 6, 2018 Order.

Respondent also alleged the Court erred in granting Appellant's Motion to Consolidate. The Order of Circuit Court Judge Larry B. Hyman, Jr. consolidating the actions in this matter was filed October 13, 2016. I have reviewed the Order consolidating these two appeals and find it to be appropriate in this case. Judge Hyman property addressed the relevant considerations and correctly consolidated these matters pursuant to Rule 42 of the South Carolina Rules of Civil Procedure.

Respondent specifically limited its Motion to Reconsider to the two issues raised therein. Those issues have been fully addressed by this Honorable Court, and therefore, Respondent's Motion is hereby Denied.

IT IS SO ORDERED.

The Honorable Benjamin H. Culbertson
Fifteenth Judicial Circuit

Conway, South Carolina
June ____, 2018

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Horry Common Pleas

Case Caption: Venture Engineering , plaintiff, et al VS Horry County Zoning Board of Appeals

Case Number: 2016CP2602377

Type: Order/Other

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-02377
In re: Venture Engineering, agent for DT LLC,	)	
Appellant,	)	
v.	)	**ORDER GRANTING APPELLANT'S MOTION FOR COSTS**
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

This matter was before the court pursuant to the Appellant's April 16, 2018 filing of a Motion for Costs pursuant to Rule 54(d) of the *South Carolina Rules of Civil Procedure*; South Carolina Code Ann. §§ 15-37-10 *et seq.* (1976); and South Carolina Code Ann. § 6-29-840 (A). Appellant's motion was heard on May 31, 2018. Robert S. Shelton, Esquire, appeared as counsel for the Appellant and Matthew Magee, Esquire, appeared as counsel for the Respondent.

After careful consideration of the filings, conducting a hearing, and review of the applicable law, I find the costs stated in Appellant's Motion for Costs are reasonable and necessarily incurred in this action. Therefore Appellant's Motion is granted in the amount of $567.07.

IT IS SO ORDERED.

The Honorable Benjamin H. Culbertson
Fifteenth Judicial Circuit

Conway, South Carolina
June ____, 2018

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Horry Common Pleas

Case Caption: Venture Engineering , plaintiff, et al VS Horry County Zoning Board of Appeals

Case Number: 2016CP2602377

Type: Order/Costs

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-02377
In re: Venture Engineering, agent for DT LLC,	)	
Appellant,	)	**ORDER REVERSING MAY 11, 2015 AND MARCH 14, 2016 ORDERS OF THE HORRY COUNTY ZONING BOARD OF APPEALS**
v.	)	
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

This case is a consolidation of two appeals filed by Appellants, Dennis Thompkins-Bellamy Law Firm, agent for DT LLC ("Appellant Thompkins-Bellamy"), and Venture Engineering, agent for DT LLC ("Appellant Venture").[1] Both appeals arise out of identical facts regarding the Horry County Zoning Board of Appeals'[2] abrupt disallowance of Appellants' business' right to receive loads of construction and demolition ("C&D") and/or concrete materials from outside sources.

On January 5, 2017, this Court heard both appeals. Present at the January 5, 2017 hearing was counsel for Appellants, Robert S. Shelton, Esquire, and counsel for Respondent, Emma Ruth Brittain, Esquire and Janet Carter, Esquire. After thorough review of the Record, South Carolina case law, and oral arguments made by counsel at the January 5, 2017 hearing, the

[1] Appellant Thompkins-Bellamy filed its appeal of Respondent's May 11, 2015 Order on May 22, 2015 (hereinafter "Appeal I"). Appeal I was identified as Civil Action No. 2015-CP-26-3791. Appellant Venture filed its appeal of Respondent's March 14, 2016 Order on April 14, 2016 (hereinafter, "Appeal II"). Appeal II was identified as Civil Action No. 2016-CP-26-2377. Both appeals are now consolidated under Civil Action No. 2016-CP-26-2377.

[2] Respondent, Horry County Zoning Board of Appeals, will hereinafter be referred to as "Respondent" or "the Board".

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Court hereby **REVERSES** Respondent's May 11, 2015 and March 14, 2016 Orders. The basis for the Court's decision is set forth hereinbelow.

FACTS

The following is a summary of the background and facts in this matter, as shown in the certified record on appeal:

1. Appellants are the owners of real property (hereinafter, "Property") identified by PIN 418-10-02-0022 and 418-11-01-0002, which is located at 310 Piling Road in the Myrtle Beach area of Horry County. See March 14, 2016 Order of the Board, p. 1; ROA p. 00002. Though the property was not zoned when Appellants' family business began operations in 1981, it is currently zoned as Limited Industrial (LI). See December 3, 2014 letter from Horry County Zoning Administrator Rennie Mincey; ROA p. 00063.

2. Appellants own and operate Thompkins & Associates, Inc. (hereinafter, "Thompkins"), which has been located and operated on the Property since 1981. See Application for Annual Business License ID No. 2576; ROA p. 00059. This was six (6) years prior to the enactment of the Horry County Zoning Ordinance. See February 9, 2015 Board Meeting Transcript, p. 14; ROA p. 00078.

3. Thompkins is in a business requiring heavy construction equipment because it has, since 1981, operated a concrete and demolition material recycling (hereinafter "C&D") and concrete transfer business on site. See February 9, 2015 Board Meeting Transcript, pp. 13-15, 19-20; See also March 9, 2015 Board Meeting Transcript, pp. 5-10, 12-16, 34-35, 55, 62; ROA pp. 00077-00079, 00083-00084, 00120-00125, 00127-00131, 00149-00150, 00170, 00177. The heavy equipment required by Appellant's business has historically been employed for the purpose of facilitating Appellant's C&D facility at this property.

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Since Thompkins began operating in 1981, the C&D division of its business has crushed, processed, and/or recycled both: (1) C&D material from Thompkins' own demolition projects; and, (2) C&D material received from outside sources. See Id.

4. In 1987, Horry County enacted its first Zoning Ordinance, and, in 2007, Thompkins was required to apply for a business license in order to continue operating in its new zoning district. See February 9, 2015 Board Meeting Transcript, pp. 14-16; ROA pp. 00078-00080. The Zoning Administrator at that time, Roland Meyer (hereinafter "former Zoning Administrator Meyer") issued business license ID number 2576 to Thompkins for its "Construction Heavy Equipment." See Application for Annual Business License ID No. 2576; ROA p. 00059. Former Zoning Administrator Meyer also approved "C&D Recycling and Transfer Concrete, Recycling and Processing" as an accessory use to Thompkins' "Construction Heavy Equipment" business and issued business license ID number 23387 to Thompkins for its C&D business. See Application for Annual Business License ID No. 23387; ROA p. 00061.

5. At all times from 1981 until the actions of Horry County about which the Thompkins complain in these consolidated appeals, the Thompkins family business has operated its C&D business by crushing, processing, and/or repurposing both: (1) C&D material from its own demolition projects and (2) C&D waste material received from haulers who deliver materials from demolition jobs completed by outside sources. See February 9, 2015 Board Meeting Transcript, pp. 13-15, 19-20; See also March 9, 2015 Board Meeting Transcript, pp. 5-10, 12-16, 34-35, 55, 62; ROA pp. 00077-00079, 00083-00084, 00120-000125, 00127-00131, 00149-00150, 00170, 00177.

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

6. These C&D materials, from both internal and external sources have, since 1981, been repurposed by a crushing process by Thompkins as base material which is then sold back into the local construction industry as a base material, rather than burdening the infrastructure and life-span of the landfill on Highway 90 in Conway. See February 9, 2015 Board Meeting Transcript p. 15; ROA p. 00079.

7. On or about late 2014, Appellants considered accepting local businessman John Taylor as an investor in the Thompkins business. Id. at 13, 17; March 9, 2015 Board Meeting Transcript, pp. 34-35; ROA p. 00077, 00081, 00149-00150. As part of his due diligence before making an investment in Thompkins, Mr. Taylor requested a zoning compliance letter from the current Horry County Zoning Administrator, Rennie Mincey (hereinafter, "Zoning Administrator Mincey"), to ensure Thompkins was complying with the county's zoning requirements. See February 9, 2015 Board Meeting Transcript, p. 17; See generally December 3, 2014 letter from Horry County Zoning Administrator Rennie Mincey; ROA p. 00081, 00063.

8. In response to Mr. Taylor's request, On December 3, 2014, Zoning Administrator Mincey signed a letter addressed to Mr. Taylor's attorney which summarizes former Zoning Administrator Meyer's approval of Thompkins for "Construction and Heavy Equipment" with an accessory use of "C&D Recycling and Transfer Concrete, Recycling and Processing." See December 3, 2014 letter from Horry County Zoning Administrator Rennie Mincey; ROA p. 00063. In her letter, Zoning Administrator Mincey specified that Thompkins may continue its accessory use of C&D Recycling and Transfer Concrete, Recycling and Processing as long as the approved "Construction Heavy Equipment" business continues operating. Id. The letter made no mention of whether

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP260377

Thompkins may accept loads of materials from outside sources for recycling purposes. Id.

9. Shortly after receiving a copy of Zoning Administrator Mincey's December 3, 2014 zoning compliance letter, Appellant Thompkins-Bellamy was verbally informed that pursuant to Ms. Mincey's decision, the receiving of loads of C&D or concrete materials from outside sources was not in compliance with Thompkins' accessory use business license issued in 2007. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy, pp. 4-5; April 14, 2016 Notice of Appeal by Appellant Venture, p. 3. This was the first instance in which Appellant Thompkins-Bellamy had ever been informed Horry County had taken the position receiving outside loads of C&D recycling materials was not in compliance with Appellant's business license and/or zoning. Id.

10. Appellant Thompkins-Bellamy appealed Zoning Administrator Mincey's decision to the Board on or about January 8, 2015. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy, p. 5.

11. On February 9, 2015, the Board first heard Appellant Thompkins-Bellamy's appeal. February 9, 2015 Board Meeting Transcript, pp. 2-3; ROA pp. 00066-00067. In regard to Appellant Thompkins-Bellamy, the sole issue for the Board to determine at the February 9, 2015 Board Meeting was whether to overturn the Zoning Administrator's decision that Thompkins' "C&D waste and concrete transfer business is not approved to accept commercial loads of C&D concrete materials for processing from other contractors." Id. at 2-6; ROA pp. 00066-00070.

12. During the February 9, 2015 Board Meeting, the Board acknowledged Thompkins' C&D waste and concrete transfer business was approved in 2007 as an accessory use to the

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP260237

already existing construction heavy equipment business that has been located on the Property since 1981. Id. at 2-3; ROA 00066-00067. The Board, including Zoning Administrator Mincey, also acknowledged that Thompkins' primary business was heavy equipment, and when the decision was made to allow recycling, "it was the product of what Mr. Thompkins was already doing with demolitions and other such things and other business that was approved on that location." Id. at 6; ROA p. 00070.

13. At the February 9, 2015 Board Meeting, the Zoning Administrator acknowledged that to her knowledge there have been no nuisance complaints about Thompkins' business operations. Id. at 7; ROA p. 00071.

14. At the February 9, 2016 Board Meeting, the Board was particularly interested in whether Thompkins' business had been taking in outside materials prior to recycling being approved as an accessory use to its heavy construction equipment business in 2007. Id. at 8; ROA p. 00072.

15. At the February 9, 2016 Hearing, Rob Shelton, Dennis Thompkins, Danny Allen, and Harold Nye spoke on behalf of the Appellant Thompkins-Bellamy and their testimony is included in the Board transcript of record. See Id. at 9-12, 13-21, 26-30, 34-36; ROA pp. 00073-00076, 00077-00085, 00090-00094, 00098-00100.

16. All testimony at the February 9, 2016 Hearing indicated Thompkins had been taking in outside loads of C&D materials for recycling since operations began in 1981. See Id. at 9, 13-20; ROA pp. 00073, 00077-00084. Specifically, Danny Allen testified that he had been hauling materials to Appellant for years and he did not understand why Appellant would not be able to operate in the same manner Appellant had been for years. Id. at 19-20; ROA p. 00083-00084. Mr. Allen also testified that he had been involved in "several,

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

several projects all over Myrtle Beach" and listed examples as the AVX Corporation, the Myrtle Square Mall, and several motels. Id. at 19; ROA p. 00083.

17. Despite the aforementioned testimony, the Board chose to defer its decision for thirty (30) days and requested Appellant provide the Board with additional information at its next meeting in order to demonstrate whether Thompkins had been receiving outside loads for C&D Recycling and Transfer Concrete, Recycling and Processing prior to the issuance of its accessory business license in 2007. Id. at 34-35, 37-38; ROA pp. 00098-00099, 00101-00102. To that end, the Board told Appellant Thompkins-Bellamy that what it wanted "[wa]s the assurance that the operation has been ongoing and that the evidence is there [demonstrating that Thompkins had been taking in outside loads prior to the issuance of its business license in 2007.]"[3] Id. at 34-35; ROA p. 00098-00099.

18. On March 9, 2015, Appellant Thompkins-Bellamy's appeal of Ms. Mincey's decision was before the Board for the second time. See March 9, 2015 Board Meeting Transcript, p. 2; ROA p. 00117. Prior to the March 9, 2015 meeting, Appellant Thompkins-Bellamy provided the Board with the documentation it requested, inclusive of One Hundred and Thirty-Eight (138) load tickets from November and December of 2006, all of which were clearly from outside contractors, thus evidencing the fact that Thompkins had been receiving outside loads for many years prior to 2007. Id. at 2, 6-9; ROA pp. 00117, 00121-00124. Each of these load tickets bears a scale stamp from which the weight of

[3] "We need to be comfortable that indeed the facility has been operating just as you say it has since 2007. And those steel tickets and any discourse you've had with its operation would go a long way to just making sure that the process has been transparent and they've had no problems with it." February 9, 2015 Board Meeting Transcript, Bo Ives – Chairman, p. 37; ROA p. 00101.

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

each load was determined. Id. at 7-8; ROA pp. 00122-00123. Appellant also explained the scale is regularly inspected by the Department of Agriculture. Id.

19. Similar to the February 9, 2015 Board Meeting, all testimony at the March 9, 2015 Board Meeting, as well as evidence produced by Appellant Thompkins-Bellamy, indicated that Thompkins had been accepting outside loads of C&D materials prior to the issuance of its business license in 2007. See Id. at 5-10, 12-16, 34-35, 55, 62; ROA pp. 00120-00125, 00127-00131, 00149-00150, 00170, 00177.

20. Specifically, Ronald Gilkerson, who explained he had been in the construction on demolition recycling business for over twenty (20) years, spoke on behalf of the Appellant and stated that Thompkins has done C&D for years without any compliance issues or complaints. Id. at 34, 55, 62; ROA pp. 00149, 00170, 00177.

21. However, again, despite overwhelming testimony and/or evidence that answered the Board's question at the previous February 9, 2015 Board Meeting, the Board chose to defer its decision for thirty days in order to consult with its legal representative(s). Id. at 70, 76-77; ROA pp. 00185, 00191-00192.

22. On April 13, 2015, Appellant Thompkins-Bellamy's appeal was before the Board for a third time. See April 13, 2015 Board Meeting Transcript, p. 2; ROA p. 00281. At the April 13, 2015 Board meeting, counsel for Appellant presented the Board an Affidavit from Former Zoning Administrator Meyer stating he would not have felt uncomfortable, in 2007, the time at which he issued the business license, (when he was the Zoning Administrator), in permitting Thompkins to receive outside loads for C&D Recycling and Transfer Concrete, Recycling and Processing purposes. Id. at 3; ROA p. 00282. Specifically, Mr. Meyer's Affidavit states, "[G]iven all the information with regard to the

history of this particular property, I would have not felt uncomfortable in 2007, as the then Zoning Administrator, in permitting C&D Recyling under the zoning ordinance requirements for this particular zoning district at that time, by Thompkins and Associates, whose principle use is C&D Recycling, to accept C&D materials from outside companies, had I been asked to do so." Affidavit of Roland Meyer; ROA p. 00297.

23. At the April 13, 2015 Board Meeting, the Board overruled Zoning Administrator Mincey's finding that Thompkins could not accept outside loads for C&D recycling by a 5 to 3 vote. See April 13, 2015 Board Meeting Transcript pp. 8-9; ROA pp. 00287-00288. In doing so, the Board found that "[a]n acceptable accessory use of [Thompkins'] property may be acceptance of outside commercial loads of 'Recovered Materials' as a 'Recovered Materials Processing Facility' as defined, respectively, by S.C. Code, Subsections 44-96-40(34) and (35)." Under this Solid Waste Management Act of 1991 (S.C. Code, Subsection 44-96-40). Id. SCDHEC issued Thompkins and Associates a letter of concurrence to continue to operate a C&D Recovered Materials Processing Facility at the subject property. See December 19, 2014 Letter from DHEC to Ronald C. Gilkerson; ROA pp. 00106-00107. In this letter, it specifically defines the operating requirements of this facility and includes a description of acceptable recycled items to be clean dimensional lumber, clean brush pallets, sheetrock, metal, concrete and asphalt, cardboard, shingles and yard waste. Id. In following with this SCDHEC letter of concurrence for the Recovered Materials Processing Facility at the subject property, it is important to note that this type of facility does not require a solid waste permit, and as previous recycling operations extending back to the accessory use approval in 2007, Thompkins and Associates was operating in compliance with this general statute set forth

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

in 1991, as stated in the SCDHEC letter dated February 13, 2015. See February 13, 2015 Letter from DHEC to Ronald C. Gilkerson; ROA p. 00274. The Board's Order is dated March 9, 2015, but was not received by Appellant until April 16, 2015. See March 9, 2015 Order of Board of Zoning Appeals; ROA pp. 00293-00295.

24. Shortly after the Board overturned Zoning Administrator Mincey's decision, Appellant Thompkins-Bellamy was informed an individual from the Solid Waste Authority was contacting members of the Board in an effort to persuade the Board members to reconsider their votes. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy, p. 6; April 14, 2016 Notice of Appeal by Appellant Venture, p. 7. Appellant's attorney addressed this concern by way of a letter addressed to counsel for Horry County. See April 22, 2015 Letter from Appellant's agent, Bellamy Law Firm to Horry County Attorney Arrigo Carotti and outside counsel for Horry County Emma Ruth Brittain; ROA pp. 00299-00301. Subsequently, Appellant was informed by Horry County Planning Director Janet Carter, Esq. the Board was going to move to reconsider their vote overturning Zoning Administrator Mincey's decision at their May 11, 2015 Board meeting. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy, p. 6, April 14, 2016 Notice of Appeal by Appellant Venture, pp. 7-8, See May 11, 2015 Board Meeting Transcript, p. 3; ROA p. 00305.

25. At the Board's May 11, 2015 meeting, the Board moved to reconsider its vote. See May 11, 2015 Board Meeting Transcript, pp. 2-3; ROA pp. 00304-00305. Although Appellant Thompkins-Bellamy's appeal of Zoning Administrator Mincey's decision was not

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ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

published on the meeting roster, nor publicized in any way prior to the meeting,[4] numerous persons who claimed to reside nearby the Property were present at the meeting and voiced complaints about Thompkins' business. Id. at 7-8, 10-11, 13-14, 16, 18; ROA pp. 00309-00310, 00312-00313, 00315-00316, 00318, 00320. These persons' complaints were predominantly limited to testimony indicating they were told Thompkins was going to begin taking in and recycling compost/trash, which Thompkins had never done and did not seek to do. Id. No photographic, documentary, or other evidence was provided to the Board at this meeting.

26. After allowing testimony from these persons, the Board took another vote as to whether uphold or overturn Zoning Administrator Mincey's findings. Id. at 26-27; ROA pp. 00328-00329. On this vote, and in direct contrast to their decision at the April 13, 2015 Board meeting, the Board unanimously upheld Zoning Administrator Mincey's decision, prohibiting Thompkins from receiving outside loads of materials for C&D Recycling and Transfer Concrete, Recycling and Processing under its business license. Id. The Board provided no basis for its abrupt decision to move to take another vote as to whether to uphold or overturn Zoning Administrator Mincey's findings. See May 11, 2015 Board Meeting Transcript; ROA pp. 00303-00330. Further, the Board never provided any basis for its ultimate decision to uphold Administrator Mincey's decision that Thompkins could not take in outside loads of C&D materials. Id.

27. Prior to the proceedings before the Board, Appellant Thompkins-Bellamy had never received any complaints regarding its business, nor had Appellant ever been instructed

[4] The Chairman of the Board, Bo Ives, admitted that the Board did not advertise that the Thompkins issue would be taken up at the May 11, 2015 meeting. See May 11, 2015 Board Meeting Transcript, p. 14; ROA p. 00316.

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

the county was of the opinion Thompkins was not in compliance with its business license. February 9, 2015 Board Meeting Transcript, pp. 13, 16-17; March 9, 2015 Board Meeting Transcript, pp. 34, 55, 62; March 14, 2016 Board Meeting Transcript, pp. 53-54; ROA pp. 00077, 00080-00081, 00149, 00170, 00177.

28. Appellant Thompkins-Bellamy filed his Notice of Appeal regarding the Board's May 11, 2015 Order on May 22, 2015. See May 22, 2015 Notice of Appeal by Appellant Thompkins-Bellamy. Prior to setting forth specific grounds on appeal to this Court, Appellant requested pre-litigation mediation pursuant to S.C. Code § 6-29-820(B)(2) in an attempt to resolve the matter in good faith. Id. Pre-litigation mediation was conducted on November 4, 2015 and resulted in an impasse. See Proof of ADR, Docket No. 2015-CP-26-3791; ROA p. 00053.

29. Following the above-described events, counsel for Appellant Thompkins-Bellamy appeared in court on January 27, 2016 in order to defend against Motions filed by Horry County. April 14, 2016 Notice of Appeal by Appellant Venture, p. 8.

30. At court prior to the January 27, 2016 hearing, counsel for Appellant Thompkins-Bellamy discussed this matter at length with counsel for Horry County, and the two parties agreed to stay the matter to allow Appellant an opportunity to petition the county for a variance. Id.

31. Thereafter, on February 5, 2016 Venture Engineering filed a petition for a variance on behalf of Appellant. Id.

32. The Zoning Board of Appeals heard Appellant Venture's request for a variance on March 14, 2016. Id.

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

33. At the hearing of the request for variance, counsel for Appellant Venture introduced as evidence the documents in the Record for Appeal I. Id.

34. The Zoning Board of Appeals ruled against Appellant Venture and did not grant a variance, as indicated in the Board's Order dated March 14, 2016. Id.; See also March 14, 2016 Order of Zoning Board of Appeals; ROA pp. 0002-0005..

35. Thereafter, on April 14, 2016, Appellant Venture filed Appeal II with this Court. April 14, 2016 Notice of Appeal by Appellant Venture.

PROCEDURAL HISTORY

Appellant Thompkins-Bellamy filed its appeal of the Board's May 11, 2015 decision on May 22, 2015 ("Appeal I"), pursuant to South Carolina Code Annotated Section 6-29-820(B)(2). South Carolina Code Annotated Section 6-29-820(B)(2) provides that an appellant may file a notice of appeal with the Circuit Court accompanied by a request for pre-litigation mediation. Therefore, Appellant Thompkins-Bellamy and Respondent sought to resolve Appeal I through pre-litigation mediation on November 4, 2015. This mediation was unsuccessful. Thus, on December 4, 2015, counsel for Appellant Thompkins-Bellamy filed a more detailed Notice of Appeal, pursuant to South Carolina Code Annotated Section 6-29-825(F).

In another attempt to resolve Appeal I, at counsel for Respondent's suggestion, Appellant Venture sought a variance from the Board as described in detail hereinabove. However, the Board denied the variance by Order dated March 14, 2016. Thus, Appellant Venture filed Appeal II on April 14, 2016.

On December 29, 2015, Respondent filed a Motion to Strike Appeal I as being untimely filed, or, in the alternative, to strike several of the exhibits attached by Appellant Thompkins-Bellamy in Appeal I. This Court denied Respondent's Motion to Strike, holding that Appellant

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

Thompkins-Bellamy's Notice of Appeal in Appeal I was timely filed pursuant to South Carolina Code Annotated Sections 6-29-820 and 6-29-825, and that the exhibits Respondent sought to exclude were appropriately included by Appellant Thompkins-Bellamy.

On June 7, 2016, Appellants moved this Court for an Order consolidating Appeals I and II, as both appeals are based upon identical facts which affect the same Property. This Court granted Appellants' Motion to Consolidate by Order dated October 13, 2016. Therefore, both appeals were before this Court at the January 5, 2017 hearing.

At the January 5, 2017 hearing counsel for Respondent argued that each appeal should be analyzed under a different standard of review. The Court disagrees. Both appeals concern orders issued by a municipal board. Therefore, the Court is obligated to apply the same standard of review to both appeals, as set forth hereinbelow.[5]

STANDARD OF REVIEW

The standard of review for an appeal of a zoning board's decision is set forth in South Carolina Code 6-29-840 and articulated in South Carolina common law. On appeal, findings of fact of a zoning board shall be treated in the same manner as findings of fact by a jury, and the court may not take additional evidence. S.C. Code Ann. § 6-29-840; See Wyndham Enterprises, LLC v. City of North Augusta, 401 S.C. 144, 148, 735 S.E.2d 659, 661 (Ct. App. 2012). "In determining the questions presented by the appeal, the court must determine only whether the [Board's] decision is correct as a matter of law." Id. However, the Court may overturn a municipal zoning board's decision if it is "arbitrary, capricious, has no reasonable relation to a

[5] While the same standard of review applies to both appeals before this Court, the Court acknowledges that in deciding each matter before it, the Board had to apply an independent legal analysis. Therefore, the Court shall also independently analyze the facts in this matter in light of the relevant law the Board was to consider when issuing each Order that has been appealed by Appellants.

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lawful purpose, or if the board has abused its discretion." Wyndham, 401 S.C. at 148, 735 S.E.2d at 661 citing (Restaurant Row Assocs. V. Horry Cnty., 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999)).[6]

RELEVANT LAW

Appeal I – Accessory Use and Vested Rights

Appeal I concerns the Board's actions in upholding Zoning Administrator Mincey's decision that while Thompkins' C&D recycling business was approved in 2007 as an appropriate "accessory use" to its construction heavy equipment business, Thompkins is not allowed to take in outside loads of C&D recycling materials. Therefore, the Board's review of the Zoning Administrator's decision was limited only to whether the already approved "accessory use" of a C&D recycling business could properly be limited to include only recycling loads of C&D procured by Thompkins, rather than outside sources.

Section 401.5 of the Horry County, South Carolina Code of Ordinances (the "Horry County Code") defines "accessory use" as a "use of land or of a building, or portion thereof, which is customarily incidental and subordinate to the principal use of the land or building." Section 401.5 of the Horry County Code further states that "[a]ccessory uses must be located on the same lot with the principal use." Section 468 of the Horry County Code mirrors this language, providing that a "principal use" of property is the "primary purpose for which a lot is occupied and/or used[;]" whereas, an "accessory use" is a "use customarily incidental, appropriate, and subordinate to the principal use of land and located on the same lot therewith." South Carolina courts have held that an accessory use "must be one 'so necessary or commonly

[6] "Arbitrary" means "depending on individual discretion…rather than fixed rules, procedures, or law[.]" BLACK'S LAW DICTIONARY 100 (7th ed. 1999). "Capricious" means "contrary to the evidence or established rules of law." Id. at 203.

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

to be expected that it cannot be supposed that the ordinance was intended to prevent it.'" Whaley v. Dorchester County Zoning Bd. of Appeals, 337 S.C. 568, 579, 524 S.E.2d 404, 410 (S.C. 1999) (quoting Borough of Northvale v. Blundo, 85 N.J.Super. 56, 203 A.2d 721, 723 (1964)).

Nothing in the Horry County Code or South Carolina common law indicates that the taking in of outside loads of C&D materials would not comply with the already approved accessory use of running a C&D recycling business. Noteworthy, however, is South Carolina law regarding a landowner's vested rights in the use of his property. The South Carolina Supreme Court has held that a "landowner acquires a vested right to continue a nonconforming use already in existence at the time of a zoning ordinance absent a showing the continuance of the use constitutes a detriment to the public health, safety, or welfare." Whaley, 337 S.C. at 578-79, 524 S.E.2d at 410-11 (citing Daniels v. City of Goose Creek, 314 S.C. 494, 431 S.E.2d 256 (Ct. App. 1993)).

Appeal II – Variance

Appeal II concerns the Board's denial of a variance to Thompkins, which Thompkins sought as a suggested remedy[7] to the Board's previous actions in upholding Zoning Administrator Mincey's decision that Thompkins was not allowed to take in outside loads of C&D materials as part of its Horry County approved C&D recycling business. Therefore, in its

[7] As previously outlined herein, counsel for the Board suggested to counsel for Appellant Thompkins-Bellamy that Appeal I may be resolved by Appellant seeking and obtaining a variance from the Board.

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

February 5, 2016 petition for variance, Thompkins sought a variance from Sections 1202(A)(2),[8] 1202(A)(5),[9] and 1202(A)(7)(c&d)[10] of the Horry County Code.

Section 469 of the Horry County Code defines a "variance" as a "modification of the strict terms of this ordinance granted by the Board of Zoning Appeals where such modification will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not as a result of any action on the part of the property owner, a literal enforcement of this ordinance would result in unnecessary and undue hardship." Pursuant to Section 1404(B) of the Horry County Code, the Board may grant a variance where:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

See also S.C. Code Ann. § 6-29-800 (setting forth the same standards for granting of a variance).

"Variance applicants are not required to prove that without the variance there exists no feasible conforming use for the property in question in order to show unnecessary hardship." Restaurant Row Assocs. V. Horry Cnty., 335 S.C. 209, 217, 516 S.E.2d 442, 446 (1999). The

[8] Horry County Code, Section 1202(A)(2) requires asphalt, concrete, and aggregate processing facilities to be separated from residential properties by a minimum of 500 feet.
[9] Horry County Code, Section 1202(A)(5) requires that all asphalt and concrete batch plants be located in fully enclosed structures.
[10] Horry County Code, Section 1202(A)(7)(c) requires enhanced landscaping/buffering between asphalt, concrete, and aggregate processing facilities and residential properties. Section 1202(A)(7)(c) has been amended since the variance request such that subsection (d) has been eliminated and subsection (c) now includes the former contents of subsection (d).

South Carolina Supreme Court has upheld variances where there were feasible conforming uses of the property. Id. While claims of unnecessary hardship under section three in Section 1404(B) of the Horry County Code cannot be based upon conditions created by the property owner, where property was owned prior to the creation of a zoning ordinance, this rule does not apply. See Id.

Additional Law Relevant to Both Appeals – Takings

In both Appeals, Appellants assert that if the Board's decisions are upheld, such limitation against Thompkins' use of the Property will constitute a taking under the South Carolina Constitution. The Fifth Amendment to the United States Constitution prohibits the taking of private property for public use without just compensation. The Takings Clause is applied to the States through the Fourteenth Amendment and the application of a general zoning law to a particular property "effects a taking if the ordinance does not substantially advance legitimate [governmental] interests or denies and owner economically viable use of his land." Whaley, 337 S.C. at 578, 524 S.E.2d at 409.[11] "Inverse condemnation is a cause of action by a property owner against a governmental entity to recover the value of property that has been effectively 'taken' by the governmental entity, although not through the process of eminent domain." Carolina Chloride v. Richland County, 394 S.C. 154, 170, 714 S.E.2d 869, 877 (2011) (internal citations omitted). Therefore, inverse condemnation may result from "government-imposed limitations on the use of private property." Id. A party must prove a regulatory version of inverse condemnation by demonstrating "an affirmative, aggressive, and positive act by the government entity that caused the alleged damage to the [party's] property." Id.

[11] Article I, Section 13 of the South Carolina Constitution also prohibits the taking of private property without just compensation.

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ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After review of the aforementioned facts, South Carolina law, and oral arguments made by counsel at the January 5, 2017 hearing, this Court hereby makes the following findings of fact and conclusions of law:

Appeal I

1. Thompkins began business operations requiring heavy construction equipment, C&D recycling, and concrete transfer in 1981, at which time the Property was not zoned. See February 9, 2015 Board Meeting Transcript, pp. 13-15, 19-20; See also March 9, 2015 Board Meeting Transcript, pp. 5-10, 12-16, 34-35, 55, 62; ROA pp. 00077-00079, 00083-00084, 00120-00125, 00127-00131, 00149-00150, 00170-00177.
2. Since it first began operations, Thompkins' C&D division of its business has crushed, processed, and/or recycled both: (1) C&D material from Thompkins' own demolition projects and (2) C&D material received from outside sources. Id.
3. In 1987, Horry County enacted its first Zoning Ordinance, and, in 2007, Thompkins was required to apply for a business license in order to continue operating in its new zoning district. See February 9, 2015 Board Meeting Transcript, pp. 14-16; ROA pp. 00078-00080.
4. In 2007, Horry County's then Zoning Administrator, Roland Meyer, issued business license ID number 2576 to Thompkins for its "Construction Heavy Equipment" business. Commensurate therewith, former Zoning Administrator Meyer also issued business license ID number 23387 to Thompkins, approving of "C&D Recycling and Transfer Concrete, Recycling and Processing" as an accessory use to Thompkins "Construction

Heavy Equipment" business. See Applications for Annual Business License ID Nos. 2576 and 23387; ROA pp. 00059, 00061.

5. At no time since 1981 have their been any complaints issued against Thompkins' business by residents, the county, nor any agency with regulatory control over their operation. See February 9, 2015 Board Meeting Transcript, p. 7; March 9, 2015 Board Meeting Transcript, pp. 34, 55, 62; ROA pp. 00071, 00149, 00170, 00177.

6. In 2014, a potential investor in Thompkins' business sought to ensure that the business was in compliance with the Horry County Code. See February 9, 2015 Board Meeting Transcript, pp. 13, 17, March 9, 2015 Board Meeting Transcript, pp. 34-35; ROA pp. 00077, 00081, 00149, 00150. Therefore, Thompkins requested a zoning compliance letter from current Zoning Administrator Mincey. See February 9, 2015 Board Meeting Transcript, p. 17; See generally December 3, 2014 letter from Horry County Zoning Administrator Rennie Mincey; ROA pp. 00081, 00063.

7. On December 3, 2014, Zoning Administrator Mincey signed a letter addressed to the investor's attorney, which contains only a summary of former Zoning Administrator Meyer's approval of Thompkins' business as "Construction Heavy Equipment" with an accessory use of "C&D Recycling and Transfer Concrete, Recycling and Processing." See December 3, 2014 letter from Horry County Zoning Administrator Rennie Mincey; ROA p. 00063. However, shortly after receiving a copy of this letter, Thompkins was verbally informed that Zoning Administrator Mincey had decided that, under its accessory use business license, Thompkins could not take in outside loads of C&D materials for recycling. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy, pp. 4-5; April 14, 2016 Notice of Appeal by Appellant Venture, p. 3.

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ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

8. Prior to this verbal decision from Zoning Administrator Mincey, Thompkins had never been informed of or made aware that accepting outside loads of C&D materials was non-compliant with its accessory use business license. Id.

9. On or about January 8, 2015, Thompkins appealed Zoning Administrator Mincey's decision that Thompkins could not accept outside loads of C&D materials as part of its accessory use business license to the Board. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy p. 5.

10. Thompkins' appeal was before the Board at three consecutive monthly meetings on February 9, 2015, March 9, 2015, and April 13, 2015, respectively. See February 9, 2015, March 9, 2015, and April 13, 2015 Board Meeting Transcripts; ROA pp. 00065-00104, 00116-00193, 00280-00289. At each of these meetings, the sole issue for the Board's determination was whether to overturn the Zoning Administrator's decision that Thompkins' "C&D waste and concrete transfer business is not approved to accept commercial loads of C&D concrete materials for processing from other contractors." See February 9, 2015 Board Meeting Transcript, p. 2; ROA p. 00066.

11. Testimony and evidence in the record indicate both the Board and Zoning Administrator Mincey were aware that when the accessory use business license was issued in 2007, which allowed C&D recycling, "it was the product of what Mr. Thompkins was already doing with demolitions and other such things and other business that was approved on that location." Id. at 6; ROA p. 00070.

12. The Record in this matter indicates all testimony at the February 9, 2015 hearing demonstrated Thompkins had been taking in outside loads of C&D materials prior to the issuance of its business licenses in 2007. Id. at 9, 13-20; ROA pp. 00073, 00077-00084.

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ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

Despite this testimony and the Board's own acknowledgements, the Board indicated they would feel more comfortable in overturning Zoning Administrator Mincey's decision if they had evidence, such as load tickets, demonstrating Thompkins had been taking in outside loads of material prior to the issuance of the business licenses in 2007. Id. at 37; ROA p. 00101. For that reason, the Board delayed their decision for thirty (30) days. Id. at 37-38; ROA pp. 00101-00102.

13. Prior to the March 9, 2015 Board Meeting, Thompkins produced to the Board the exact evidence it requested, in the form of 138 load tickets from November and December of 2006, all of which were clearly from outside contractors, demonstrating that Thompkins had been receiving outside loads prior to 2007. See March 9, 2015 Board Meeting Transcript, pp. 2, 6-9; ROA pp. 00117, 00121-00124. The Court finds this evidence to be credible, as each of the load tickets bears a scale stamp from which the weight of each load was determined. Id. at 7-8; ROA 00122-0123. Further, Appellant explained to the Board that the scale is regularly inspected by the Department of Agriculture. Id.

14. At the March 9, 2015 Board Meeting, similar to the February 9, 2015 Board Meeting, all testimony supported the fact that Thompkins had been accepting outside loads of C&D materials since it began its operations in 1981 and had never received a complaint regarding their operations. March 9, 2015 Board Meeting Transcript, pp. 5-10, 12-16, 34-35, 55, 62; ROA pp. 00120-00125, 00127-00131, 00149-00150, 00170, 00177. However, the Board against deferred its decision for thirty (30) days. Id. at 70, 76-77; ROA pp. 00185, 00191-00192.

15. At the April 13, 2015 Board Meeting, Thompkins, in an effort to further assure the Board that taking in outside loads of C&D was compliant with its accessory use business license

provided the Board with an Affidavit from former Zoning Administrator Meyer, who had issued the license. April 13, 2015 Board Meeting Transcript, p. 3; ROA p. 00282. In Meyer's Affidavit, Meyer states he would not have been uncomfortable approving of Thompkins taking in outside loads of C&D materials for recycling as part of its accessory use business license when he issued the license in 2007. Affidavit of Roland Meyer; ROA p. 00297.

16. At the April 13, 2015 Board Meeting, the Board voted to overturn Zoning Administrator Mincey's decision that Thompkins could not accept outside loads for C&D recycling and found that "[a]n acceptable accessory use of [Thompkins'] property may be acceptance of outside commercial loads of 'Recovered Materials' as a 'Recovered Materials Processing Facility." April 13, 2015 Board Meeting Transcript pp. 8-9; ROA pp. 00287-00288.

17. However, between April and May of 2015, Thompkins was informed an individual from Solid Waste Authority was contacting members of the Board in an effort to persuade the Board members to reconsider their votes. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy, p. 6; April 14, 2016 Notice of Appeal by Appellant Venture, p. 7. Appellant Thompkins-Bellamy's attorney addressed this concern in a letter to counsel for Horry County. See April 22, 2015 Letter from Appellant's Agent, Bellamy Law Firm to Horry County Attorney Arrigo Carotti and outside counsel for Horry County Emma Ruth Brittain; ROA pp. 00299-00301. Subsequently, Appellant was informed by Horry County Planning Director, Janet Carter, Esq. the Board was going to move to reconsider its vote overturning Zoning Administrator Mincey's decision at their May 11, 2015 Board Meeting. December 4, 2015 Notice of Appeal by Appellant Thompkins-Bellamy, p. 6; April 14, 2016 Notice of Appeal by Appellant Venture, pp. 7-8.

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

18. At the Board's May 11, 2015 meeting, the Board moved to reconsider its vote. See May 11, 2015 Board Meeting Transcript, pp. 2-3; ROA pp. 00304-00305. Although Appellant Thompkins-Bellamy's appeal of Zoning Administrator Mincey's decision was admittedly not published on the meeting roster, nor publicized in any way prior to the meeting, numerous persons who claimed to reside nearby the Property were present at the meeting and voiced unsubstantiated complaints about Thompkins' business. Id. at 7-8, 10-11, 13-14, 16, 18 ROA pp. 00309-00310, 00312-00313, 00315-00316, 00318, 00320. These persons' complaints strongly suggest to the Court that, between April and May 2015, someone told residents near the Property that Thompkins was going to begin taking in and recycling compost/trash, which Thompkins had never done and did not seek to do. Id.

19. After allowing testimony from these persons, the Board took another vote as to whether uphold or overturn Zoning Administrator Mincey's findings. Id. 26-27; ROA pp. 00328-00329. On this vote, and in direct contrast to their decision at the April 13, 2015 Board meeting, the Board unanimously upheld Zoning Administrator Mincey's decision, prohibiting Thompkins from receiving outside loads of materials for C&D Recycling and Transfer Concrete, Recycling and Processing under its business license. Id. The Board issued a written decision confirming its re-vote on May 11, 2015. See May 11, 2015 Order; ROA pp. 00055-00057.

20. The Court hereby finds that Board's May 11, 2015 Order was incorrect as a matter of law and **REVERSES** the Board's May 11, 2015 Order based upon the following grounds:

    a. There is no legal basis for Zoning Administrator Mincey's decision, and the Board's subsequent upholding of such decision, that the acceptance of outside

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loads of C&D materials would not comply with Horry County's approved accessory use of the Property as a "C&D Recycling and Transfer Concrete, Recycling and Processing" business. Thompkins business license already allows Thompkins to operate a C&D recycling business. Neither Zoning Administrator Mincey, nor the Board provided any legal basis for making a distinction between C&D recycling of Thompkins' own demolition project materials or those materials received from outside sources. Further, the Court's subsequent review of the Horry County Code and South Carolina law reveals no evidence of any such distinction.

b. The Board indicated that in order for it to feel comfortable overturning Zoning Adminstrator Mincey's decision, it would need evidence that Thompkins had been taking in outside materials for C&D recycling prior to the issuance of its business license in 2007. To that end, Thompkins produced overwhelming, credible evidence and testimony that it had done so. After receiving this evidence and hearing this testimony, the Board voted to overturn Zoning Administrator Mincey's decision during its April 13, 2015 Board Meeting.

c. The evidence in the record strongly indicates that something occurred between April and May 2015 that changed the minds of the Board, as they abruptly decided to reconsider their previous Order reversing Zoning Administrator Mincey's decision, conducted a re-vote, and subsequently upheld Zoning Administrator Mincey's decision during their May 11, 2015 meeting. This re-vote was conducted without providing Thompkins with any basis for the Board's decision to reconsider its previous decision, without publishing that the

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ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

Thompkins matter was before the Board on May 11, 2015, and without providing any legal basis for the Board's ultimate decision to uphold Zoning Administrator Mincey's decision. The existence of this unknown occurrence is further supported by testimony by numerous persons at the May 11, 2015 Board Meeting that they were told Thompkins was going to begin functioning as a trash/compost recycling facility.[12]

d. Therefore, the Court finds that the Board's May 11, 2015 Order upholding Zoning Administrator Mincey's decision is arbitrary, capricious, and had no reasonable relation to a lawful purpose.

e. The Court further finds that irrespective of an accessory use analysis, pursuant to South Carolina law, Thompkins has a vested right to continue to accept outside loads of C&D materials, something which they were doing prior to the enactment of a zoning ordinance. See Whaley, 337 S.C. at 578-79, 524 S.E.2d at 410-11 (citing Daniels v. City of Goose Creek, 314 S.C. 494, 431 S.E.2d 256 (Ct. App. 1993)) (holding that a "landowner acquires a vested right to continue a nonconforming use already in existence at the time of a zoning ordinance absent a showing the continuance of the use constitutes a detriment to the public health, safety, or welfare.").

f. The Court also acknowledges that the May 11, 2015 Order of the Board adversely affects Thompkins' interest in the Property and its ability to operate its business thereon. As such, if the May 11, 2015 Order was upheld, Thompkins may have a

[12] The Court notes the fact that these persons showed up at the May 11, 2015 Board Meeting to testify about Thompkins when the Thompkins matter was not even on the Board's meeting agenda.

/mac

potential claim for regulatory inverse condemnation. See Carolina Chloride, 394 S.C. 154, 170, 714 S.E.2d 869, 877 (holding that inverse condemnation may result from "government-imposed limitations on the use of private property" and a party may prove a regulatory version of inverse condemnation by demonstrating "an affirmative, aggressive, and positive act by the government entity that caused the alleged damage to the [party's] property.").

Appeal II

21. Although, unnecessary in light of the Court's holding regarding Appeal I, pursuant to the aforementioned facts and law, the Court further finds the Board's March 14, 2016 Order was incorrect as a matter of law and **REVERSES** the Board's March 14, 2016 Order based upon the following grounds:

    a. Thompkins has been operating its business, inclusive of the receiving of outside loads of C&D materials, since before Horry County enacted zoning regarding the Property. Thompkins has received no complaints from residential neighboring residents since it began its operations in 1981. As a result, the Board did not comply with the law in denying a variance to Thompkins. Rather, the overwhelming testimony and evidence in record indicates that the Board had strong reason to conclude that there are extraordinary and exceptional conditions pertaining to the Property; that because of these conditions, the application of the zoning ordinance would effectively prohibit or unreasonably restrict the utilization of the property, as it has been used since 1981; and that the authorization of the variance would not be of substantial detriment to the adjacent property or to the public good, and the character of the district would not be

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

harmed by the granting of a variance, as is indicated by the complete lack of complaints from neighboring residents during Thompkins operations since 1981.

b. Therefore, the Court finds that the Board's March 14, 2016 Order denying a variance to Thompkins is arbitrary, capricious, and had no reasonable relation to a lawful purpose.

c. The Court further finds that irrespective of Thompkins' request for a variance, pursuant to South Carolina law, Thompkins has a vested right to continue to accept outside loads of C&D materials, something which they were doing prior to the enactment of a zoning ordinance. See Whaley, 337 S.C. at 578-79, 524 S.E.2d at 410-11 (citing Daniels v. City of Goose Creek, 314 S.C. 494, 431 S.E.2d 256 (Ct. App. 1993)) (holding that a "landowner acquires a vested right to continue a nonconforming use already in existence at the time of a zoning ordinance absent a showing the continuance of the use constitutes a detriment to the public health, safety, or welfare.").

d. The Court also acknowledges that the March 14, 2016 Order of the Board adversely affects Thompkins' interest in the Property and its ability to operate its business thereon. As such, if the March 14, 2016 Order was upheld, Thompkins may have a potential claim for regulatory inverse condemnation. See Carolina Chloride, 394 S.C. 154, 170, 714 S.E.2d 869, 877 (holding that inverse condemnation may result from "government-imposed limitations on the use of private property" and a party may prove a regulatory version of inverse condemnation by demonstrating "an affirmative, aggressive, and positive act by the government entity that caused the alleged damage to the [party's] property.").

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

Therefore, based upon the foregoing, Respondent's May 11, 2015 Order and March 14, 2016 Order are hereby **REVERSED.**

IT IS SO ORDERED.

The Honorable Benjamin H. Culbertson
Fifteen Judicial Circuit

April 5, 2018
~~Conway~~, South Carolina
Georgetown,

ELECTRONICALLY FILED - 2018 Apr 06 10:10 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-2377
In re: Venture Engineering, agent for DT, LLC,	)	
Appellant,	)	
vs.	)	**ORDER DENYING RESPONDENT'S MOTION TO STRIKE**
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

2016 OCT 17 PM 0:16
HORRY COUNTY
MELANIE BEERY BE COURT

This matter is before the Court on brief by agreement of counsel, pursuant to the Motion to Strike filed by Respondent on or about May 26, 2016. In its Motion, Respondent alleges Appellant Venture's Notice of Appeal, filed December 4, 2015, ("Notice") should be stricken, or, in the alternative, several enumerated paragraphs in Appellant's Motion should be stricken. Alternatively, Respondent argues in its Motion that Appellant's matter could be remanded to the Zoning Board of Appeals for rehearing. Appellant is being represented by Robert S. Shelton, Esq. of the Bellamy Law Firm, and Respondent is being represented by Emma Ruth Brittain, Esq. of the Thomas and Brittain Law Firm.

Having fully considered the Record as presented to the Court by Respondent, Respondent's Motion, and Appellant's Response in Opposition to Respondent's Motion, the Motion to Strike is hereby **DENIED**.

This matter is an appeal of a denial of a variance by the Horry County Zoning Board of Appeals and involves a piece of property also involved in 2015-CP-26-3791, which is an appeal from a decision of the Horry County Zoning Administrator. In the earlier matter, Respondent also argued the Appeal was untimely. That is not an issue in the present matter.

As to the exhibits to which Respondent takes exception, the Record as provided by the County under S.C. Code Ann. Section 6-29-830 includes all the documentation to which Respondent objects. Moreover, it is clear that all of the exhibits objected to by Respondent have either been created by the Respondent or have been in its possession since prior to the hearing from which the present Appeal derives.

Thus, after thorough review of Respondent's Motion and Appellant's Response, this Court agrees with Appellant's arguments that the Appeal is both appropriate and timely and that the exhibits are properly included in the Record before the Court, as they were clearly considered by the Board in rendering its decision below.

THEREFORE, for the foregoing reasons, Respondent's Motion to Strike is hereby **DENIED**.

IT IS SO ORDERED.

The Honorable Larry B. Hyman, Jr.
Fifteenth Judicial Circuit

Conway, South Carolina

~~September~~ 10-13-16, 2016

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO. 2015-CP-26-3791
Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC, Appellant, v. Horry County Zoning Board of Appeals, Respondent.	)	**ORDER DENYING RESPONDENT'S MOTION TO STRIKE**

2016 OCT 13 PM 1:37

This matter is before the Court by Motion to Strike from Respondent, filed on December 29, 2015. In its Motion, Respondent alleges that Appellant Thompkins' Notice of Appeal, filed December 4, 2015 ("Notice"), should be stricken, or, in the alternative, several of the exhibits filed therewith should be disallowed. The County first alleges the Notice was untimely filed and secondly that several of the exhibits to the Notice were not included in the clerk's certified record filed with the court and should, thus, be stricken. On January 19, 2016, Appellant filed a Response to Respondent's Motion to Strike, arguing first, that Appellant Thompkins' Notice was timely filed under South Carolina statutory law, and second, that the exhibits Respondent alleges should be excluded from the Record on Appeal were all provided to and/or considered by the Horry County Zoning Board of Appeals (hereinafter, the "Board" or the "County") in administrative proceedings, the result of which Appellant now appeals. After thorough review of the Record, Respondent's Motion to Strike and Appellants' Response in opposition, the Court will now address each of the issues herein below in finding Respondent's Motion is hereby **DENIED.**

Timeliness

With regard to the timeliness of the filing of the Notice, the Local Government Planning Act ("the Act"), S.C. Code Ann. § 6-29-310 *et sec*, controls. The Act specifically addresses the time-frames required in appeals from zoning boards of appeals. While the County recites only specific sections of the Act in its Motion, several of the sections not cited by the County make clear Appellant's Notice was timely. The Act, in §§ 6-29-820 and 6-29-825, provides as follows:

> **§ 6-29-820. Appeal from zoning board of appeals to circuit court; pre-litigation mediation; filing requirements.**
>
> (A) A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by **filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law**. The appeal must be filed within thirty days after the decision of the board is mailed.
>
> (B) A property owner whose land is the subject of a decision of the board of appeals may appeal **either**:
>
> (1) as provided in subsection (A); **or**
>
> (2) **by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-825.**
>
> Any notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is postmarked.
>
> (C) Any filing of an appeal from a particular board of appeals decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a).
>
> (Emphasis added.)
>
> **§ 6-29-825. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.**
>
> (A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in

accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the board of appeals.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

In the present matter, the County's Order was received by Appellant on May 15, 2015. Thereafter, on May 22, 2015, Appellant filed an appeal as provided in § 6-29-820(B)(2). Pursuant to § 6-29-820 of the Act, an interested party may ***either*** file a "petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law" ***or***, should the party seek pre-litigation mediation, that party may file "a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation."

Pursuant to Appellant's notice and request, mediation in this matter was held November 4, 2015 at the offices of Karl A. Folkens in Florence, South Carolina. However, the mediation was not successful. As such, Appellant, on December 4, 2015 filed a Notice of Appeal pursuant to § 6-29-825(F), setting forth, with specificity, the grounds for appeal and reversal of the County's decision. This second Notice was timely pursuant to the clear text of § 6-29-825(F), which provides a thirty (30) day time-frame within which the notice must be filed following the report of impasse by the mediator. It is this Notice which the County seeks to have stricken by the present Motion, despite the clear framework set forth in the Act.

Because the aforementioned dates are not in dispute, and are clearly set forth in the Clerk's file before the court, the Act makes it clear Appellant's Notice was filed in a timely manner. Therefore, the Court hereby **DENIES** Respondent's Motion to Strike Appellant's Notice as untimely filed.

Exhibits

Second, its Motion to Strike, the County seeks the exclusion of certain documents included as exhibits in the Notice, which have been described by Appellant as follows:

1. Exhibit C (application for business license dated 3/25/15);
2. Exhibit D (application for business license dated 11/12/14);

3. Exhibit E (letter from current Zoning Administrator Rennie Mincey regarding zoning conformance of property);

4. Exhibit G-5 (Thompkins & Associates invoice to City of Myrtle Beach);

5. Exhibit H-1 (Affidavit of Roland Meyer);

6. Exhibit J (Affidavit of Roland Meyer);

7. Exhibit K (letter from counsel for Appellant to counsel for Horry County and the Horry County Solid Waste Authority regarding concerns of inappropriate communications between Horry County and the Solid Waste Authority staff and board members); and,

8. Exhibit F-1 (aerial photographs and Horry County Zoning App. Comp Certification Inquiry dated 4/24/14).

Again, much guidance is found in the Act itself, which, at § 6-29-800(B), provides:

> (B) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. The appeal must be taken within a reasonable time, as provided by the zoning ordinance or rules of the board, or both, by filing with the officer from whom the appeal is taken and with the board of appeals notice of appeal specifying the grounds for the appeal. If no time limit is provided, the appeal must be taken within thirty days from the date the appealing party has received actual notice of the action from which the appeal is taken. **The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken.**
>
> (Emphasis added.)

In its Response to the Respondent's Motion to Strike, Appellant argues that the above-referenced section of the Act offers valuable guidance to the Court as to several of the exhibits to which the County objects. Appellant states the following in regard to the Exhibits that Respondent has objected to:

1. Exhibits C and D are business license application forms printed directly from the County's computer system and provided to Appellant by the County. They are

creations of the County and are clearly in the County's possession, in the County's file on the Thompkins matter, and were, pursuant to § 6-29-800(B) required to have been provided to the Board upon the filing of the appeal from the Zoning Administrator.

2. Exhibit E is a letter regarding the zoning conformance of this property. This letter was written by the current Zoning Administrator for Horry County, Rennie Mincey, and is therefore also a creation of the County, clearly in the County's possession, in the County's file on the Thompkins matter, and was, pursuant to § 6-29-800(B) required to have been provided to the Board upon the filing of the appeal from the Zoning Administrator.

3. The aerial images of the Thompkins property included with Exhibit F-1 were produced by the County and projected at the Board meetings to allow the Board members to familiarize themselves with the Thompkins property. These, too, are creations of the County and are clearly in the County's possession, in the County's file on the Thompkins matter, and were, pursuant to § 6-29-800(B) provided to the Board upon the filing of the appeal from the Zoning Administrator.

4. Exhibits H-1 and J are copies of the affidavit provided by the former Zoning Administrator, Roland Meyer. This affidavit was provided to the County, as is made clear in the transcript of the Board meetings addressing the Thompkins appeal, where counsel for Appellant discussed this affidavit at length on the record and the Board clearly took the affidavit into consideration in making its decision. In point of fact, the current Zoning Administrator addressed the Thompkins perceived disagreement as to hers and Meyers' interpretation of "accessory use" in the transcript. This

document, too, was in the Board's possession and should have been included in the clerk's certified record filed with the court.

5. Exhibit K is a letter sent by counsel for the Thompkins to Horry County as well as the Solid Waste Authority. This letter outlines concerns regarding allegations of inappropriate communication taking place between these respective agencies and their Boards. The letter was specifically addressed of record at the May 11, 2015 Zoning Board of Appeals meeting.

After review of Respondent's Motion and Appellant's Response, the Court agrees with Appellant's argument that the exhibits which the County seeks to exclude are in the County's possession, were clearly considered by the Board, and should have been included in the clerk's (an employee of the County) certified record to the court, pursuant to the Act. Accordingly, the Court **DENIES** the County's Motion to exclude the aforementioned exhibits from the court's consideration in the present appeal.

THEREFORE, for the foregoing reasons, Respondent's Motion to Strike is **DENIED**.

IT IS SO ORDERED.

The Honorable Larry B. Hyman, Jr.
Fifteenth Judicial Circuit

Conway, South Carolina

~~August~~ 10-12-16, 2016

STATE OF SOUTH CAROLINA COUNTY OF HORRY	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO. 2015-CP-26-3791
Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC, Appellant, v. Horry County Zoning Board of Appeals, Respondent.	
In re: Venture Engineering, Agent for DT, LLC, Appellant, v. Horry County Zoning Board of Appeals, Respondent.	Civil Action No. 2016-CP-26-2377 **ORDER TO CONSOLIDATE ACTIONS**

2016 OCT 13 PM 1:37

On June 7, 2016, Appellants, Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC (hereinafter "Appellant Thompkins") and Venture Engineering, agent for DT, LLC (hereinafter "Appellant Venture"), moved for an Order consolidating the above-captioned cases, pursuant to Rule 42 of the South Carolina Rules of Civil Procedure ("SCRCP"). The basis for Appellants' Motion is that the above-captioned cases involve common questions of law and fact. On July 12, 2016, Respondent filed a Response to Appellants' Motion, arguing against consolidation on the basis that the two above-captioned lawsuits involve separate and distinct legal analysis. On August 16, 2016, Appellants' filed a Reply to Respondent's Response.

This Court has broad discretion to consolidate cases. Keels v. Pierce, 315 S.C. 339, 342, 433 S.E.2d 902, 904 (Ct. App. 1993). South Carolina Rule of Civil Procedure 42(a) states:

> When actions involving a common question of law **or** fact are pending before the court, it may order a joint hearing or trial of **any or all matters** in issue in the action; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.[1]

(emphasis added). South Carolina courts have found that under a consolidation order, "the parties and the pleadings are not merged, and each action retains its own identity." Keels, 315 S.C. at 342, 433 S.E.2d at 904. Thus, pursuant to Rule 42, SCRCP, and South Carolina common law, when more than one legal issue arises out of the same set of facts, consolidation allows the Court to jointly hear those facts, while still providing the Court with the ability to analyze each claim separately. See Keels, 315 S.C. at 342, 433 S.E.2d at 904.

The annotation to Rule 42, SCRCP further provides guidance regarding the reasoning for consolidation by stating, in pertinent part, that "consolidation for trial can save much time and cost, as when all claims arise out of one auto accident, or several claims are based upon identical contracts." Therefore, consolidation is appropriate where two or more cases share a common questions of fact *or* law because it is timelier and less expensive to try the cases together than apart.

Pursuant to the aforementioned South Carolina statutory and common law, and after a review of the pleadings in the above-referenced matters, I find, in the interest of judicial economy and in order to prevent a multiplicity of suits, that the above-referenced cases should be consolidated. Both of the above-captioned cases arise from the same common nucleus of

[1] Similarly, Rule 214 of the South Carolina Appellate Court Rules provides the Appellate Court with discretion to consolidate cases where the same question is involved in two or more appeals in different cases.

operative facts and involve legal analysis regarding whether Appellants' business should be allowed to receive loads of C&D and/or concrete materials from outside sources. The Court may conduct a separate legal analysis for each of the issues on appeal, where such separate legal analysis is needed. Therefore, I hereby order the matters should be and are hereby consolidated.

IT IS SO ORDERED.

The Honorable Larry B. Hyman, Jr.
Fifteenth Judicial Circuit

Conway, South Carolina
~~August~~ ____. 2016
10-12-16

STATE OF SOUTH CAROLINA	)	**BEFORE THE BOARD OF ZONING APPEALS**
	)	
COUNTY OF HORRY	)	Case No.: 2016-02-015
In re: Venture Engineering, agent for DT LLC	)	**ORDER OF THE BOARD**

Hearing was held before this Board on March 14, 2016, pursuant to the request of the applicants for variances from Article XII, Section 1202(A) regarding the requirements for a concrete recycling/aggregate processing business. The property is identified by PIN 418-10-02-0022 and 418-11-01-0002 and is zoned Limited Industrial (LI). It is located at 310 Piling Road in the Myrtle Beach area of Horry County. The applicants have requested the following variances from the requirements:

Required Sect. 1202 (A) (2) Separation from Residential:	500' (min)
Requested Sect. 1202 (A) (2) Separation from Residential:	0'
Variance of:	500' (100%)
Required Sect. 1202 9 (A)(7) (c&d)Landscaping/Buffering:	Enhanced
Requested Sect. 1202 9 (A)(7) (c&d) Landscaping/Buffering:	Use Existing
Required Sect. 1202 (A)(5) Processing Plants:	Aggregate processing plants must be in fully enclosed structures

The applicants and the zoning administrator were given the opportunity to offer witnesses and exhibits and to make argument for the record. A public hearing was held and all interested parties were invited to comment before the Board.

Under the South Carolina Code of Laws 6-29-800 (A) (2), a variance from the requirements of the Zoning Ordinance may only be granted in an individual case of unnecessary hardship upon the following findings: (a) extraordinary and exceptional conditions pertaining to the property at issue; (b) the extraordinary and exceptional conditions do not generally apply to other property in the vicinity; (c) because of the extraordinary and exceptional conditions,

application of the ordinance to the property, would, in effect prohibit or unreasonably restrict the property owner's utilization of the property; (d) authorization of a variance will not be of a substantial detriment to adjacent property or the public good or harm to the character of the zoning district; and (e) a variance may not be granted which in effect, would establish a use not otherwise permitted in the zoning district or physically extend a non-conforming use. The statute also provides that the fact that the property may be utilized more profitably if a variance is granted is not grounds for a variance.

FINDINGS OF FACT

1. The property is identified by PIN 418-10-02-0022 and 418-11-01-0002 and is zoned Limited Industrial (LI). It is located at 310 Piling Road in the Myrtle Beach area of Horry County.

2. Thompkins & Associates Inc. construction and heavy equipment business was approved to operate on this property prior to zoning.

3. In 2007 a certificate of zoning compliance was issued for C & D recycling and transfer as an accessory use to the existing construction and heavy equipment business. Therefore, the site is not permitted to receive and process material from other contractors.

4. The property owners are proposing to utilize the site for concrete recycling/aggregate processing and to receive and process material from other contractors.

5. A rezoning of the property to MA3 (Heavy/Intense Manufacturing and Industrial District) is required to allow the proposed use of the property. Should the zoning of the property be amended to MA3 on the official zoning maps, the proposed use is also subject to section 1202. Article XII, Sect. 1202(A)(2) states all proposed plant sites shall be located a minimum of 500 feet from any residentially used or zoned lot, whether said lot is located within the unincorporated county or a municipal jurisdiction. The site abuts residentially zoned and used property to the south. The applicant is seeking a variance from the 500' spacing requirement.

6. Article XII, Sect. 1202(A)(5) states all processing plants under this section shall be located in fully enclosed structures. The applicant is seeking a variance from this requirement.

7. Article XII, Section 1202(A)(7)(c&d) requires the site to be screened through enhanced buffers if the site is located within 1,000 ' of a residentially used or zoned property. The enhanced buffer is required to be around the entire work area with opening provided for approved entrances. The enhanced buffer shall consist of either a 100' wide buffer with twice the landscaping material as required by the supplemental planting in buffer areas or a 10' wall, berm or combination in addition to the landscape buffer requirements of section 527. The applicant is seeking a variance from this requirement.

CONCLUSIONS OF LAW

The Board finds that the request does not meet the criteria set forth in Horry County Code § 1404 (B) and S.C. Code Ann. §6-29-800. Therefore, the variance is denied.

AND IT IS SO ORDERED, this 14th day of March, 2016.

Bo Ives, Chairman

Anita Moran

Alan Sipe

John Brown

Marion Shaw

Ace Parker

William Livingston

Paul Benik

Michael Fowler

ATTEST:

Alicia Shelley, Secretary

STATE OF SOUTH CAROLINA)	**BEFORE THE BOARD OF ZONING APPEALS**
)	
COUNTY OF HORRY)	Case No.: 2015-01-008
In re: Dennis Thompkins - Bellamy) Law Firm, agent for DT, LLC)	**ORDER OF THE BOARD**

Hearing was held before this Board on May 11, 2015, when the board voted to reconsider this case following a decision made on April 13, 2015, pursuant to the request of the applicant for appeal of the Zoning Administrator's decision that C & D Waste & Concrete Transfer business on this site is not approved to accept commercial loads of C & D concrete materials for processing from other contractors. The property is identified by TMS #172-00-03-033 (PIN 41810020022) and is located at 310 Piling Road in the Myrtle Beach area of Horry County. The property is zoned Limited Industrial (LI). Article XIV, Section 1402 of the Zoning Ordinance states, "[t]he concurring vote of a majority of the members present at a meeting of the Board of Appeals shall he necessary to reverse any order, requirement, decision or determination of the Zoning Administrator...." The applicant is appealing the Zoning Administrator's decision regarding that C & D Waste & Concrete Transfer business on this site is not approved to accept commercial loads of C & D concrete materials for processing from other contractors and is asking the Board to reverse the determination of the Zoning Administrator.

The applicant and the zoning administrator were given the opportunity to offer witnesses and exhibits and to make argument for the record. A public hearing was held and all interested parties were invited to comment before the Board.

Under the South Carolina Code of Laws 6-29-800 (B), an appeal may be requested provided the following requirements are met: Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the ... county. The

appeal must taken within a reasonable time, as provided by the zoning ordinance or rules of the board, or both, by filing with the officer from whom the appeal is taken and with the board of appeals notice of appeal specifying the grounds for the appeal. If no time limit is provided, the appeal must be taken within thirty days from the date the appealing party has received actual notice of the action from which the appeal is taken. The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken.

FINDINGS OF FACT

1. The property is identified by TMS #172-00-03-033 (PIN 418100200221) and is located at 310 Piling Road in the Myrtle Beach area of Horry County. The property is zoned Limited Industrial (LI).

2. According to the Horry County Business License records, business license ID #23387 described as Recycle C & D Waste & Concrete Transfer is in the business name of Thompkins & Associates, Inc. and located on the property identified by TMS #172-00-03-033. This business was approved in 2007 as an accessory use to the existing construction heavy equipment business that was located on the site in 1981. According to the Horry County Business License records, the business described as Construction Heavy Equipment and identified by ID #2576 is also in the business name of Thompkins & Associates Inc.

3. The approved C & D Waste & Concrete Transfer business may continue as an accessory use to the Construction Heavy Equipment business approved on the site. Should the approved Construction Heavy Equipment business use cease operation at this location, the recycling use will no longer be allowed on this site.

4. The Zoning Administrator has determined that the C & D waste & concrete transfer use on this site is approved as an accessory use to a construction and heavy equipment business that was approved on the site prior to zoning of the property and is not permitted to receive and process materials from other contractors.

PROPOSED ORDER/CONDITIONS

Pursuant to Section 1402 of the Zoning Ordinance "{t}he concurring vote of a majority of the members present at a meeting of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator..." Therefore, the Chairman should ask the Board if there is a motion to reverse the determination of the Zoning Administrator in this case. Unless such a motion is made, seconded and concurred upon by a majority of the members present, the determination will stand.

The Board upholds the decision of the Zoning Administrator.

AND IT IS SO ORDERED, this 11th day of May, 2015.

Bo Ives, Chairman

Anita Moran

Alan Sipe

John Brown

Marion Shaw

Ace Parker, Vice Chairman

William Livingston

Paul Benik

Michael Fowler

ATTEST:

Alicia Shelley, Secretary

STATE OF SOUTH CAROLINA)	**BEFORE THE BOARD OF ZONING APPEALS**
)	
COUNTY OF HORRY)	Case No.: 2015-01-008
In re: Dennis Thompkins - Bellamy) Law Firm, agent for DT LLC)	**ORDER OF THE BOARD**

Hearing was held before this Board on March 9, 2015, pursuant to the request of the applicant for appeal of the Zoning Administrator's decision that C & D Waste & Concrete Transfer business on this site is not approved to accept commercial loads of C & D concrete materials for processing from other contractors. The property is identified by TMS #172-00-03-033 (PIN 41810020022) and is located at 310 Piling Road in the Myrtle Beach area of Horry County. The property is zoned Limited Industrial (LI). Article XIV, Section 1402 of the Zoning Ordinance states, "[t]he concurring vote of a majority of the members present at a meeting of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator...." The applicant is appealing the Zoning Administrator's decision regarding that C & D Waste & Concrete Transfer business on this site is not approved to accept commercial loads of C & D concrete materials for processing from other contractors and is asking the Board to reverse the determination of the Zoning Administrator.

The applicant and the zoning administrator were given the opportunity to offer witnesses and exhibits and to make argument for the record. A public hearing was held and all interested parties were invited to comment before the Board.

Under the South Carolina Code of Laws 6-29-800 (B), an appeal may be requested provided the following requirements are met: Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the ... county. The appeal must taken within a reasonable time, as provided by the zoning ordinance or rules of

the board, or both, by filing with the officer from whom the appeal is taken and with the board of appeals notice of appeal specifying the grounds for the appeal. If no time limit is provided, the appeal must be taken within thirty days from the date the appealing party has received actual notice of the action from which the appeal is taken. The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken.

FINDINGS OF FACT

1. The property is identified by TMS #172-00-03-033 (PIN 41810020022) and is located at 310 Piling Road in the Myrtle Beach area of Horry County. The property is zoned Limited Industrial (LI).

2. According to the Horry County Business License records, business license ID #23387 described as Recycle C & D Waste & Concrete Transfer is in the business name of Thompkins & Associates, Inc, and located on the property identified by TMS #172-00-03-033. This business was approved in 2007 as an accessory use to the existing construction heavy equipment business that was located on the site in 1981. According to the Horry County Business License records, the business described as Construction Heavy Equipment and identified by ID #2576 is also in the business name of Thompkins & Associates Inc.

3. The approved C & D Waste & Concrete Transfer business may continue as an accessory use to the Construction Heavy Equipment business approved on the site. Should the approved Construction Heavy Equipment business use cease operation at this location, the recycling use will no longer be allowed on this site.

4. The Zoning Administrator has determined that the C & D waste & concrete transfer use on this site is approved as an accessory use to a construction and heavy equipment business that was approved on the site prior to zoning of the property and is not permitted to receive and process materials from other contractors.

PROPOSED ORDER/CONDITIONS

Pursuant to Section 1402 of the Zoning Ordinance "{t}he concurring vote of a majority of the members present at a meeting of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator..." Therefore, the Chairman should ask the Board if there is a motion to reverse the determination of the Zoning Administrator in this case. Unless such a motion is made, seconded and concurred upon by a majority of the members present, the determination will stand.

The Board finds an acceptable accessory use of the applicant's property may be the acceptance of outside commercial loads of 'Recovered Materials' as a 'Recovered Materials

Processing Facility,' as defined, respectively, by S.C. Code Subsections 44-96-40(34) and (35).

AND IT IS SO ORDERED, this 9th day of March, 2015.

Bo Ives, Chairman

Anita Moran

Alan Sipe

John Brown

Marion Shaw

Ace Parker, Vice Chairman

William Livingston

Paul Benik

Michael Fowler

ATTEST:

Alicia Shelley, Secretary

Horry County Government

PLANNING AND ZONING
www.horrycounty.org

1301 Second Avenue
Conway, South Carolina 29526
Phone 843.915.5340 || Fax 843.915.6340

April 14, 2015

Rob Shelton
Bellamy Law Firm
1000 29th Avenue North
Myrtle Beach, SC 29577

91 7199 9991 7032 0064 3410

re: **Case #2015-01-008**

Dear Applicant(s):

This is to confirm that the Horry County Zoning Board of Appeals, at its regularly scheduled meeting on April 13, 2015 approved your request (s) for a variance, special exception reconsideration or appeal.

Attached you will find the board order pertaining to your request.

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

Sincerely,

Alicia Shelley

Alicia Shelley
Board Secretary

Attachment

cc: Dennis Thompkins
246 Greenleaf Circle
Myrtle Beach, SC 29579

91 7199 9991 7032 0064 3403

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2016CP2602377

Venture Engineering Dennis Thompkins Bellamy Law Firm	**DT LLC**	**Horry County Zoning Board of Appeals**	

PLAINTIFF(S) **DEFENDANT(S)**

Submitted by: Clerk Of Court

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

Appellant's Motion/Costs is GRANTED.
Respondent's Motion/Reconsider is DENIED.
Attorney Robert S. Shelton is to prepare a formal order.

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

	2148	5/31/2018
Circuit Court Judge	**Judge Code**	**Date**

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 2/17)

ELECTRONICALLY FILED - 2018 May 31 11:34 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Robert S. Shelton PO Box 357 Myrtle Beach, SC 29578-0357

Wesley Adair Covington 41 Gasparilla Cir Murrells Inlet, SC 29576
Emma Ruth Brittain PO Box 1290 Myrtle Beach, SC 29578

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter : Grace Hurley

Renee N. Elvis - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

ELECTRONICALLY FILED - 2018 May 31 11:34 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 May 31 11:34 AM - HORRY - COMMON PLEAS - CASE#2016CP2602377

Horry Common Pleas

Case Caption: Venture Engineering , plaintiff, et al VS Horry County Zoning Board of Appeals

Case Number: 2016CP2602377

Type: Order/Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2603791

Dennis Thompkins Bellamy Law Firm	DT LLC	Horry County Zoning Board Of Appeals	

PLAINTIFF(S) | DEFENDANT(S)

Submitted by: Clerk of Court

Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

FILED
HORRY COUNTY
2015 AUG -4 PM 1:46
MARIE HUGGINS-WARD
CLERK OF COURT

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

Plaintiff's Motion to Consolidate is CONTINUED to the next available term of Non-Jury Court.
Defendant's Motion to Strike is CONTINUED to the next available term of Non-Jury Court.

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed

such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge	2152 **Judge Code**	8/3/2016 **Date**

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Robert S. Shelton PO Box 357 Myrtle Beach, SC 29578-0357	**Emma Ruth Brittain** PO Box 1290 Myrtle Beach, SC 29578
ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**
Court Reporter	**Melanie Huggins-Ward - Clerk of Court**

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

#19
1-27-16

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2603791

PLAINTIFF(S)	DEFENDANT(S)
Dennis Thompkins Bellamy DT LLC Law Firm	Horry County Zoning Board Of Appeals
Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court.

ORDER INFORMATION

Defendant Horry County Zoning Board of Appeals Motion to Strike is STAYED pending rezoning variance request.

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
n/a	n/a	n/a

If applicable, describe the property, including tax map information and address, referenced in the order:

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge Steven H. John	2129 **Judge Code**	1/27/2016 **Date**

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Robert S. Shelton PO Box 357 Myrtle Beach, SC 29578-0357	**Emma Ruth Brittain** PO Box 1290 Myrtle Beach, SC 29578
ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**
Court Reporter Dixie Eubank	**Melanie Huggins-Ward - Clerk of Court**

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

#1

1-5-16

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2015CP2603791

PLAINTIFF(S)	DEFENDANT(S)
Dennis Thompkins Bellamy DT LLC Law Firm	Horry County Zoning Board Of Appeals
Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

2016 JAN -5 PM 3:46

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

Plaintiff Dennis Thompkins Zoning Board Appeal-CONTINUED SEE ATTACHED EMAIL

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
n/a	n/a	n/a

If applicable, describe the property, including tax map information and address, referenced in the order:

CPFORM4Cm
SCCA SCRCP Form 4C (Revised 3/2013)

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge J. Derham Cole	2053	1/5/2016
	Judge Code	**Date**

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on, to attorneys of record or to parties (when appearing pro se) as follows:

Robert S. Shelton PO Box 357 Myrtle Beach, SC 29578-0357	Emma Ruth Brittain PO Box 1290 Myrtle Beach, SC 29578
ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**
Court Reporter: Linda Moffitt	**Melanie Huggins-Ward - Clerk of Court**

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

1-5.16
01
9:30

Johnson, Linda

From:	Richardson, Nicole M. <NRichardson@bellamylaw.com>
Sent:	Monday, January 04, 2016 11:07 AM
To:	Johnson, Linda
Cc:	Emma Ruth Brittain Esq. (erbrittain@myrlaw.com); Kim Nobles (knobles@myrlaw.com); Rob Shelton
Subject:	Dennis Thompkins, Bellamy Law Firm, agent for DT, LLC v. Horry County Zoning Board of Appeals (2015-CP-26-3791)

Sent on Behalf of Robert S. Shelton, Esq.

Dear Linda:

Please let this email correspondence confirm that we have spoken about the above-referenced matter currently scheduled to be heard tomorrow at 9:30 a.m. before Judge Cole. Ms. Brittain, on behalf of Horry County, filed a motion on December 29, 2015. The Thompkins have not been provided with the ten (10) days notice of this motion. Emma Ruth Brittain and I have conferred and are in agreement that should this hearing go forward without the motion being heard, it would cause an unnecessary appellate delay for each of our clients. Accordingly, Ms. Brittain and I respectfully request this hearing be continued until the week of January 18, 2016. Both Ms. Brittain and I remain optimistic as to a potential resolution of this matter prior to that term of court. We would very much appreciate return correspondence as to the status of tomorrow's hearing or the continuance thereof.

Of course, please do not hesitate to contact my office should you need anything further.

With kindest personal regards, I remain,

Robert S. Shelton, Esq.

THE BELLAMY LAW FIRM

Nicole M. Richardson
Legal Assistant to Howell V. Bellamy, Jr., and Robert S. Shelton
Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A.
1000 29th Avenue North (29577)
Post Office Box 357
Myrtle Beach, SC 29578-0357
Direct Dial: (843) 282-5380
Fax: 843-448-3022
www.BellamyLaw.com

Motion to Strike
file 12.29.15

The information in this email is confidential, may be legally privileged, and is solely for the intended recipient. Access to this email by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copy, distribution, or any action taken or omitted to be taken in reliance on it is prohibited and may be unlawful. This communication is from a debt collector, and any information obtained will be used to affect collection of the debt.

All e-mail correspondence to and from this address may be subject to public disclosure under the South Carolina Freedom of Information Act (FOIA). This correspondence is intended exclusively for the individual or

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	Civil Action No: 2015-CP-26-3791
COUNTY OF HORRY	)	
In re: Dennis Thompkins - Bellamy Law Firm, agent for DT, LLC)		**NOTICE OF APPEAL OF ORDER OF HORRY COUNTY BOARD OF ZONING APPEALS**
	)	**(Case No.: 2015-01-008)**
Applicant.	)	
	)	

2015 MAY 22 AM 9:58 CLERK OF COURT HORRY COUNTY

Pursuant to S.C. Code § 6-29-820(B)(2), Applicant Dennis Thompkins - Bellamy Law Firm, agent for DT, LLC, appeals the decision of the Horry County Board of Zoning Appeals (the "Order"), which was postmarked May 13, 2015. The Order is attached hereto and incorporated herein by reference as Exhibit A.

REQUEST FOR PRE-LITIGATION MEDIATION

Pursuant to S.C. Code § 6-29-825, Applicant and property owner Dennis Thompkins - Bellamy Law Firm, agent for DT, LLC hereby requests pre-litigation mediation of this matter in accordance with the South Carolina Circuit Court Alternative Dispute Resolution Rules and S.C. Code § 6-29-825.

Robert S. Shelton, Esq., SCB #68543
BELLAMY, RUTENBERG, COPELAND, EPPS, GRAVELY & BOWERS, P.A.
1000 29th Avenue North
Myrtle Beach, SC 29577
(843) 448-2400
Attorneys for Appellant

Myrtle Beach, South Carolina

May 21, 2015.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2015-CP-26-3791
Dennis Thompkins – Bellamy Law firm, agent for DT, LLC	)	
Plaintiff,	)	**ANSWER AND RETURN TO NOTICE OF APPEAL OF ORDER OF HORRY COUNTY BOARD OF ZONING APPEALS (NON-JURY)**
vs.	)	
Horry County Zoning Board of Appeals,	)	
Defendant.	)	

2015 JUN 18 PM 4:49
ELAINE HUGGINS-WARD
CLERK OF COURT
HORRY COUNTY

The Defendant/Respondent, Horry County Zoning Board of Appeals (hereinafter referred to as "Horry County" or "Respondent"), by way of Motion to Strike and Return to the Notice of Appeal of Plaintiff/Applicant (hereinafter referred to as "Petitioner") Dennis Thompkins-Bellamy Law firm, agent for DT, LLC, alleges and states as follows to this Honorable Court:

FOR A FIRST DEFENSE

1. Each and every allegation of the Petitioner's Notice of Appeal not hereinafter admitted, modified or explained is denied and strict proof demanded thereof.

2. Respondent admits that Petitioner appeals the May 11, 2015, Order of the Horry County Zoning Board of Appeals attached to the Notice of Appeal and that said Petitioner requests pre-litigation mediation; in further response thereto, Respondent incorporates the alleged statutory provisions.

FOR A SECOND DEFENSE
Failure to State a Claim Under Rule 12(b)(6) SCRCP

3. Respondent Horry County realleges the allegations of Paragraphs 1 through 3 above as fully as if set forth herein verbatim.

4. Petitioner's Notice of Appeal fails to state a claim for which relief may be granted and therefore should be dismissed pursuant to Rule 12(b)(6) SCRCP.

FOR A THIRD CAUSE OF ACTION

5. Respondent Horry County incorporates the allegations of Paragraphs 1-5 above as fully as if set forth herein verbatim.

6. The Zoning Board's decision in this matter should be affirmed because it is neither arbitrary nor capricious, it is reasonably related to a lawful purpose, and the Board has not abused its discretion in its decision in this matter.

FOR A FOURTH CAUSE OF ACTION

7. Respondent Horry County incorporates the allegations of Paragraphs 1-7 above as fully as if set forth herein verbatim.

8. The Zoning Board's decision in this matter should be affirmed because it is supported by the record evidence.

FOR A FIFTH CAUSE OF ACTION

9. Respondent Horry County incorporates the allegations of Paragraphs 1-9 above as fully as if set forth herein verbatim.

10. To the extent Petitioner's claims were not brought before the Horry County Zoning Board of Appeals, or set forth as error in the Notice of Appeal, such claims and attachments are not properly before this Court and should be stricken.

FOR A SIXTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

11. Horry County incorporates the allegations of Paragraphs 1-11 above as fully as if set forth herein verbatim.

12. Petitioner's claims involve action of an administration and judicial or quasi-

judicial nature by Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(2)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

13. Petitioner's claims involve action of enforcement of an ordinance of the County of Horry, a body politic and corporate of the Statute of South Carolina, by Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(4) (Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

14. Petitioner's claims involve the exercise of discretion and judgment by reason of which Respondent, a board appointed by Horry County, South Carolina, a body politic and corporate, is immune from liability pursuant to S.C. Code Ann. § 15-78-60(5)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

15. Petitioner's claims involve the licensing powers and functions of Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(12)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

16. Petitioner's claims involve the regulatory inspection powers and functions of Respondent of property for compliance with code compliance, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. §§ 15-78-60 (13) (Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

WHEREFORE, having fully answered the allegations of the Notice of Appeal, Horry County requests that judgment be entered in its favor affirming the decision of the Horry County Zoning Board of Appeals, and that the action be dismissed and for such other and further relief as the Court may deem just and proper.

THOMAS & BRITTAIN, P.A.

By: Emma Ruth Brittain

Emma Ruth Brittain
S.C. Bar #5298
P.O. Box 1290
Myrtle Beach, SC 29578
Phone: (843) 692-2628
Fax: (843) 692-0928
Attorneys for the Defendant Horry County
Zoning Board of Appeals

June 18, 2015
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2015-CP-26-3791
In re: Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC,	)	
Appellant,	)	
v.	)	**NOTICE OF APPEAL (PRIORITY MATTER PURSUANT TO S.C. Code Ann. § 6-29-820)**
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

2015 DEC -4 PM 2:46

Pursuant to S.C. Code § 6-29-825(F), Appellant Dennis Thompkins - Bellamy Law Firm, agent for DT, LLC hereby appeals the Order of the Horry County Board of Zoning Appeals (hereinafter "the Board") which was entered on May 11, 2015 in the case of In re: Dennis Thompkins - Bellamy Law Firm, agent for DT, LLC, Case No. 2015-01-008.

Appellant first filed his Notice of Appeal with this Court on May 22, 2015. Prior to setting forth specific grounds on appeal to this Court, Appellant requested pre-litigation mediation pursuant to S.C. Code § 6-29-820(B)(2) in an attempt to resolve the matter in good faith. Pre-litigation mediation was conducted on November 4, 2015 and resulted in an impasse. A copy of the mediator's Proof of ADR report, filed on November 4, 2015, is attached hereto and incorporated herein as "Exhibit A."

Therefore, Appellant now appeals the Board's May 11, 2015 Order, attached hereto and incorporated herein as "Exhibit B," based upon the following enumerated and otherwise stated grounds:

1. Appellant is the owner of property (hereinafter, "Property") identified by TMS #172-00-03-033 (PIN 41810020022), which is located at 310 Piling Road in the Myrtle Beach area of Horry County. Though the property was not zoned when Appellant's family business began operations in 1981, it is currently zoned as Limited Industrial (LI).

2. Appellant owns and operates Thompkins & Associates, Inc. (hereinafter, "Thompkins"), which has been located and operated on the Property since 1981. This was six (6) years prior to the enactment of the Horry County Zoning Ordinance.

3. Thompkins is in a business requiring heavy construction equipment because it has, since 1981, operated a Construction & Demolition ("C&D") and Concrete Transfer business on site. The heavy equipment required by Appellant's business has historically been employed for the purpose of facilitating Appellant's C&D facility at this property. Since Thompkins began operating in 1981, the C&D division of its business has crushed, processed, and/or recycled both: (1) C&D material from Thompkins' own demolition projects; and, (2) C&D material received from outside sources.

4. In 1987, Horry County enacted its first Zoning Ordinance, and, in 2007, Thompkins was required to apply for a business license in order to continue operating in its new zoning district. The Zoning Administrator at that time, Roland Meyer (hereinafter "former Zoning Administrator Meyer") issued business license ID number 2576, attached hereto and incorporated herein as Exhibit "C," to Thompkins for its "Construction Heavy Equipment." Former Zoning Administrator Meyer also approved "C&D Recycling and Transfer Concrete, Recycling and Processing" as an accessory use to Thompkins' "Construction Heavy Equipment" business and issued business license ID number 23387, attached hereto and incorporated herein as Exhibit "D," to Thompkins for its C&D business.

5. At all times since 1981, the Thompkins family business has operated its C&D business by crushing, processing, and/or repurposing both: (1) C&D material from its own demolition projects and (2) C&D waste material received from haulers who deliver materials from demolition jobs completed by outside sources.

6. These C&D materials, from both internal and external sources have, since 1981, been repurposed by a crushing process by Thompkins as base material which is then sold back into the local construction industry as a base material, rather than burdening the infrastructure of life-span of the landfill on Highway 90 in Conway.

7. On or about late 2014, Appellant considered accepting an investor for Thompkins named John Taylor. As part of his due diligence before making an investment in

Thompkins, Mr. Taylor requested a zoning compliance letter from the current Horry County Zoning Administrator, Rennie Mincey (hereinafter, "Zoning Administrator Mincey"), to ensure Thompkins was complying with the county's zoning requirements.

8. In response to Mr. Taylor's request, On December 3, 2014, Zoning Administrator Mincey signed a letter addressed to Mr. Taylor's attorney which summarizes former Zoning Adminstrator Meyer's approval of Thompkins for "Construction and Heavy Equipment" with an accessory use of "C&D Recycling and Transfer Concrete, Recycling and Processing." In her letter, Zoning Administrator Mincey specified that Thompkins may continue its accessory use of C&D Recycling and Transfer Concrete, Recycling and Processing as long as the approved "Construction Heavy Equipment" business continues operating. The letter made no mention of whether Thompkins may accept loads of materials from outside sources for recycling purposes. A copy of this letter is attached hereto and incorporated herein as "Exhibit E."

9. Shortly after receiving a copy of Zoning Administrator Mincey's December 3, 2014 zoning compliance letter, Appellant was verbally informed that pursuant to Ms. Mincey's decision, the receiving of loads of C&D or concrete materials from outside sources was not in compliance with Thompkins' accessory use business license issued in 2007. This was the first instance in which Appellant had ever been informed Horry

County was of the opinion receiving outside loads of C&D recycling materials was not in compliance with Appellant's business license and/or zoning.

10. Appellant appealed Zoning Administrator Mincey's decision to the Board on or about January 8, 2015.

11. On February 9, 2015, the Board first heard Appellant's appeal. At this meeting Dennis Thompkins, Danny Allen, and Harold Blye spoke on behalf of the Appellant and their testimony is included in the Board transcript of record attached hereto and incorporated herein as Exhibit "F." Specifically, Danny Allen testified that he had been hauling materials to Appellant for years and he did not understand why Appellant would not be able to operate in the same manner Appellant had been for years. However, the Board chose to defer its decision for thirty (30) days and requested Appellant provide the Board with additional information at its next meeting in order to demonstrate whether Thompkins had been receiving outside loads for C&D Recycling and Transfer Concrete, Recycling and Processing prior to the issuance of its accessory business license in 2007.

12. On March 9, 2015, Appellant's appeal of Ms. Mincey's decision was before the Board for the second time. At this meeting, Ronald Gilkerson spoke on behalf of the Appellant and his testimony is included in the Board transcript of record attached hereto and incorporated herein as Exhibit "G," Also at the March 9, 2015 meeting, Appellant provided the Board with the documentation it requested, evidencing the fact

that Thompkins had been receiving outside loads for many years prior to 2007. Again, the Board chose to defer its decision for thirty days in order to consult with its legal representative(s).

13. On April 13, 2015, Appellant's appeal was before the Board for a third time. At the April 13, 2015 Board meeting, counsel for Appellant presented the Board an affidavit from Former Zoning Administrator Meyer stating he would not have felt uncomfortable, in 2007 (when he was the Zoning Administrator), in permitting Thompkins to receive outside loads for C&D Recycling and Transfer Concrete, Recycling and Processing purposes. At this meeting, the Board overruled Zoning Adminsitrator Mincey's finding that Thompkins could not accept outside loads for C&D recycling by a 5 to 3 vote. In doing so, the Board found that "[a]n acceptable accessory use of [Thompkins'] property may be acceptance of outside commercial loads of 'Recovered Materials' as a 'Recovered Materials Processing Facility' as defined, respectively, by S.C. Code, Subsections 44-96-40(34) and (35)." Under this Solid Waste Management Act of 1991 (S.C. Code, Subsection 44-96-40), SCDHEC issued Thompkins and Associates a letter of concurrence to continue to operate a C&D Recovered Materials Processing Facility at the subject property, which is attached hereto and incorporated herein as "Exhibit F-1." In this letter, it specifically defines the operating requirements of this facility and includes a description of acceptable recycled items to be clean dimentional lumber, clean brush pallets,

sheetrock, metal, concrete and asphalt, cardboard, shingles and yard waste. In following with this SCDHEC letter of concurrence for the Recovered Materials Processing Facility at the subject property, it is important to note that this type of facility does not require a solid waste permit, and as previous recycling operations extending back to the accessory use approval in 2007, Thompkins and Associates was operating in compliance with this general statute set forth in 1991as stated in the SCDHEC letter dated February 13, 2015 and attached hereto and incorporated herein as "Exhibit G-3." A copy of the transcript of the April 13, 2015 Board meeting is attached hereto and incorporated herein as "Exhibit H." A copy of the Board's Order, which is dated March 9, 2015, but was not received by Appellant until April 16, 2015 is attached hereto and incorporated herein as "Exhibit I." Further, a copy of Former Zoning Administrator Meyer's affidavit is attached hereto and incorporated herein as "Exhibit J."

14. Shortly after the Board overturned Zoning Administrator Mincey's decision, Appellant was informed an individual from the Solid Waste Authority was contacting members of the Board in an effort to persuade the Board members to reconsider their votes. Appellant's attorney addressed this concern by way of a letter addressed to counsel for Horry County, which is attached hereto and incorporated herein as "Exhibit K." Subsequently, Appellant was informed the Board was going to move

to reconsider their vote overturning Zoning Administrator Mincey's decision at their May 11, 2015 Board meeting.

15. At the Board's May 11, 2015 meeting, the Board moved to reconsider its vote. Although Appellant's appeal of Zoning Administrator Mincey's decision was not published on the meeting roster, nor publicized in any way prior to the meeting, numerous persons who claimed to reside nearby the Property were present at the meeting and voiced unfounded complaints about Thompkins' business. After allowing testimony from these persons, the Board took another vote as to whether uphold or overturn Zoning Administrator Mincey's findings. On this vote, and in direct contrast to their decision at the April 13, 2015 Board meeting, the Board unanimously upheld Zoning Administrator Mincey's decision, prohibiting Thompkins from receiving outside loads of materials for C&D Recycling and Transfer Concrete, Recycling and Processing under its business license. A copy of the May 11, 2015 Board meeting transcript is attached hereto and incorporated herein as "Exhibit L."

16. Prior to the proceedings before the Board, Appellant had never received any complaints regarding its business, nor had Appellant ever been instructed the county was of the opinion Thompkins was not in compliance with its business license.

17. Appellant has a substantial interest in the May 11, 2015 Order of the Board, as it adversely affects its interest in the subject property and its ability to operate its business thereon.

18. The Order of the Board was arbitrary and contrary to law, as is set forth in the record. Appellant enjoyed both grandfathered status in the operation of its business as well as vested rights therein as evidenced by the County's issuance of its business license and its many years of consistent operation without citation or complaint by Horry County or any government entity.

19. Moreover, Appellant's business operations, having pre-dated the commencement of the Horry County Zoning, indicates Appellant enjoyed a vested right prior to the adoption of the Zoning Ordinance. Appellant adamantly denies this use is non-conforming, and asserts as an additional ground to overturn the Zoning Board of Appeals decision and that of Zoning Administrator Mincey are arbitrary and capricious as evidenced by the record and the affidavit of Zoning Administrator Meyer. However, should the court determine Appellant's operations to be non-conforming, they are a legal, non-conforming use in which Appellant has a vested right to continue such use. It is also important to note the recycling/transfer operation of "recovered materials" was in compliance with the Solid Waste Management Act of 1991 before and after the 2007 issuance of the approved zoning.

20. Should the Court uphold the Zoning Board of Appeals' decision, Appellant will suffer a taking under Article I, §13 of the South Carolina Constitution and be entitled to just compensation. Additionally, should the Court uphold the Zoning Board of Appeal's decision, the County should be equitably estopped from enforcing the Zoning Board

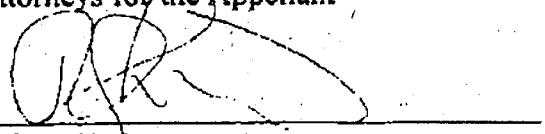
of Appeal's decision due to Appellant's reliance upon and substantial change in its position to conflicting interpretations by County Zoning Administrators as to the permitted uses under the license issued by Horry County.

Appellant hereby gives notice of its reservation of all rights to pursue an action before a jury or otherwise for damages resulting from the action of the Board to reconsider its initial decision to overturn Zoning Administrator Mincey's findings at the April 13, 2015 Board Meeting.

Appellant relies upon all documents in possession of Horry County related to this matter including, but not limited to, all information disseminated to the Zoning Board of Appeals members by Horry County staff. Appellant further reserves the right to supplement this appeal with and rely upon at the hearing thereof, such memoranda of law as Appellant may elect to submit prior to or at the hearing on this matter.

Respectfully submitted,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.
Post Office Box 357
Myrtle Beach, SC 29578-0357
843-448-2400
Attorneys for the Appellant



Rob S. Shelton

Myrtle Beach, South Carolina

December __, 2015

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

CIRCUIT COURT

DENNIS THOMPKINS - BELLAMY LAW FIRM, AGENT FOR DT, LLC V. HORRY COUNTY ZONING BOARD OF APPEALS

Docket No. 2015-CP-26-3791

PROOF OF ADR

1. Alternative Dispute Resolution (ADR) was conducted in the form of: **Mediation.**

2. The neutral was: **Karl A. Folkens.**

3. The ADR was conducted on **November 4, 2015.**

4. As a result of ADR, this case should be considered (please check one):

_____ Fully Settled by Consent Judgment or a Voluntary Dismissal to be filed by the parties.

_____ Partially Settled, with agreement of the parties on the following issues:

__X__ At an impasse.

_____ In need of further ADR. I ____ am / ____ am not willing to mediate this case further. I recommend that ADR resume as of:

_____ Continued to (Date):

5. Plaintiff __X__ was/ _____ were not present.
Defendants __X__ were/ _____ were not present (through representatives).

6. Other participants were:

__X__ Lawyer for Plaintiff: *Robert S. Shelton, Esq.*
__X__ Lawyer for Defendants: *Emma Ruth Brittain, Esq., and Wesley A. Convington, Esq. Representative for insurance carrier.*
_____ Guardian ad Litem:
_____ Experts:
__X__ Others: *John E. Taylor, III, Plaintiff's interested party; Janet Carter, Esq., and Rennie Mincey, Plaintiffs Representatives*

7. Choice of the mediator was by:
__X__ Stipulation
_____ Court Order

8. The total number of hours spent in ADR was: **2.9** hours.

9. Further comments of the neutral: *None.*

November 4, 2015

KARL A. FOLKENS, Mediator
P. O. Box 6139, Florence, SC 29502-6139
(843) 665-0100; FAX (843) 665-0500

MA15-290

EXHIBIT A

BUS205 APPLICATION FOR ANNUAL BUSINESS LICENSE 3/25/2015
SIRATTJ 14:59:48
ENQUIRY Bus ID# 000002576

Name of Business THOMPKINS & ASSOCIATES INC Ownership CORPORATION
Mailing Address 310 PILING DRIVE Business Phone# 8432363060
-Y MYRTLE BEACH State SC Zip 29579 - 0000 Cell Phone# 0000000000
imary SIC 1629 Desc CONSTRUCTION HEAVY EQUIPMENT Fax# 0000000000
E-Mail

Location - # 00310 Direction Street PILING Suffix DR
City MYRTLE BEACH State SC Zip 29579 - 0000
Phone# 0000000000 Cell Phone# 0000000000 Fax# 0000000000
Resident/Non-Resident Business R (R/N)
Corporation Name THOMPKINS & ASSOCIATES INC Federal ID#
Corporate Contact THOMPKINS, ARTHUR JR
State Retail License# 0026222089 State Contractor Lic# 14383 Group# 000
License Owner SS#
License Owner SS#
Located in a Municipality? N Which one?
Date business was Established 1/01/1981 Date Closed
Do you intend to sell fireworks? N Safety License# 0000000000
District# 000 Tax map number of property Home Office N (Y/N)
Property Owner

CMD/24 - List Options

EXHIBIT C

BUS205
SWAINC

APPLICATION FOR ANNUAL BUSINESS LICENSE

11/12/2014
08:20:26
Bus ID# 000023387

Name of Business THO
Mailing Address 310
City MYRTLE BEACH
Primary SIC 5093 **De**
E-Mail
Location - # 00310 **D**
City MYRTLE BEAC
Phone# 0000000000
Resident/Non-Res
Corporation Name THO
Corporate Contact
State Retail License
License Owner
License Owner
Located in a Municip
Date business was Es
Do you intend to sel
District# 000 **Tax ma**
Proper

CMD/3 to Exit **CMD/8 to Flag** **CMD/6 to Add**

11/12/14
Complete description of acct is
C&D Recycling and transfer
Concrete, recycling and processing

EXHIBIT D

Horry County Government

Planning and Zoning
www.horrycounty.org

Horry County
Committed to Excellence

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

December 3, 2014

Willard D. Hanna, Jr.
Attorney At law
1661 Glenns Bay Road
Myrtle Beach, SC 29575

Re: Zoning Confirmation
Business ID# 23387
TMS# 172-00-03-033

Dear Mr. Hanna:

The property identified by tax map number 172-00-03-033 is currently zoned Limited Industrial (LI) on the Horry County Zoning Maps. I am not aware of any of any outstanding zoning complaints on this property.

According to the Horry County Business License records, business license ID # 23387 described as Recycle C & D Waste & Concrete Transfer is in the business name of Thompkins & Associates, Inc. and located on the property identified by TMS# 172-00-03-033. This business was approved in 2007 as an accessory use to the existing construction heavy equipment business that was located on the site in 1981. According to the Horry County Business License records, the business described as Construction Heavy Equipment and identified by ID # 2576 is also in the business name of Thompkins & Associates Inc.

The approved C & D Waste & Concrete Transfer business may continue as an accessory use to the Construction Heavy Equipment business approved on the site. Should the approved Construction Heavy Equipment business use cease operation at this location, the recycling use will no longer be allowed on this site.

Please be aware that a certificate of zoning compliance is issued in conjunction with a building permit. Compliance is determined in accordance with the zoning regulations in affect at that time. Pursuant to Section 1403 of the Zoning Ordinance all determinations by staff are subject to appeal to the Zoning Board of Appeals by any person aggrieved.

If I may be of further assistance, please advise.

Sincerely,

Rennie Mincey
Zoning Administrator

EXHIBIT E

ZONING BOARD OF APPEALS
FEBRUARY 9, 2015

PRESENT WERE THE FOLLOWING BOARD MEMBERS:

BO IVES-CHAIRMAN
PAUL BENIK
MIKE FOWLER
WILLIAM LIVINGSTON
ANITA MORAN
ACE PARKER
ALAN SIPE
JOHN BROWN
RENNIE MINCEY
JANET CARTER
THOMAS ROTH
DAVID SCHWERD
STEVIE BROWN
ALICIA SHELLEY
WES COVINGTON
JERRY MABRY

COPY
HORRY COUNTY
2015 JUN 25 PM 1:15
CLERK OF COURT

**THIS IS AN OFFICIAL TRANSCRIPT. THE UNAUTHORIZED COPYING OR DISTRIBUTION OF THIS DOCUMENT IS DEEMED TO BE CONVERSION OF AN ASSET BELONGING TO THE COURT REPORTER. ANY AND ALL COPIES OF TRANSCRIPTS MUST BE OBTAINED THROUGH THE COURT REPORTER.

EXHIBIT F

Jerry S. Mabry
1607 Magnolia Drive
N. Myrtle Beach, SC 29582
(843) 249-2831

DENNIS THOMPKINS ..... PAGE 9
DANNY ALLEN ..... PAGE 19
WAYNE GRISSETT ..... PAGE 21
HAROLD NYE ..... PAGE 27

MR. IVES: I BELIEVE WE HAVE SOME OLD BUSINESS.

MS. MINCEY: THIS IS AN APPEAL. UNDER OLD BUSINESS, YOU HAVE CASE NUMBER 2015-01-008. THE APPLICANT IS DT, LLC, DENNIS THOMPKINS, BELLAMY LAW FIRM, AGENT. THE SITE LOCATION IS 310 PILING ROAD, MYRTLE BEACH. THE APPLICANT IS APPEALING THE ZONING ADMINISTRATOR'S DECISION THAT THE C&D WASTE AND CONCRETE TRANSFER BUSINESS ON THIS SITE IS NOT APPROVED TO ACCEPT COMMERCIAL LOADS OF C&D CONCRETE MATERIALS FOR PROCESSING FROM OTHER CONTRACTORS. ACCORDING TO THE HORRY COUNTY BUSINESS LICENSE RECORDS, BUSINESS LICENSE ID#23387 DESCRIBED AS RECYCLE C&D WASTE AND CONCRETE TRANSFER IS IN THE BUSINESS NAME OF THOMPKINS & ASSOCIATES, INC. AND LOCATED ON THE PROPERTY IDENTIFIED BY TMS# 172-00-03-033, WHICH IS THE PROPERTY IN QUESTION. THIS

BUSINESS WAS APPROVED IN 2007 AS AN ACCESSORY USE TO THE ALREADY EXISTING CONSTRUCTION HEAVY EQUIPMENT BUSINESS THAT WAS LOCATED ON THE SITE SINCE 1981. ACCORDING TO THE HORRY COUNTY BUSINESS LICENSE RECORDS, THE BUSINESS DESCRIBED AS CONSTRUCTION HEAVY EQUIPMENT AND IDENTIFIED BY ID# 2576 IS ALSO IN THE BUSINESS NAME OF THOMPKINS & ASSOCIATES, INC. THE APPROVED C&D WASTE AND CONCRETE TRANSFER BUSINESS MAY CONTINUE AS AN ACCESSORY USE TO THE CONSTRUCTION HEAVY EQUIPMENT BUSINESS APPROVED ON THE SITE. SHOULD THE APPROVED CONSTRUCTION HEAVY EQUIPMENT BUSINESS USE CEASE OPERATION AT THIS LOCATION, THE RECYCLING USE WILL NO LONGER BE ALLOWED ON THIS SITE.

THE ZONING ADMINISTRATOR HAS DETERMINED THAT THE C&D WASTE AND CONCRETE TRANSFER USE ON THIS SITE IS APPROVED AS AN ACCESSORY USE TO A CONSTRUCTION AND HEAVY EQUIPMENT BUSINESS THAT WAS APPROVED ON THE SITE PRIOR TO ZONING OF THE PROPERTY AND IS NOT PERMITTED TO RECEIVE AND PROCESS MATERIALS FROM OTHER CONTRACTORS.

PURSUANT TO SECTION 1402 OF THE ZONING ORDIN-

ANCE THE CONCURRING VOTE OF A MAJORITY OF THE MEMBERS PRESENT AT A MEETING OF THE BOARD OF APPEALS SHALL BE NECESSARY TO REVERSE ANY ORDER, REQUIREMENT, DECISION OR DETERMINATION OF THE ZONING ADMINISTRATOR. THEREFORE, THE CHAIRMAN SHOULD ASK THE BOARD IF THERE IS A MOTION TO REVERSE THE DETERMINATION OF THE ZONING ADMINISTRATOR IN THIS CASE. UNLESS SUCH A MOTION IS MADE, SECONDED AND CONCURRED UPON BY A MAJORITY OF THE MEMBERS PRESENT, THE DETERMINATION WILL STAND. ONE OTHER THING IS THAT THE DECISION THAT WAS MADE IN THIS CASE WAS BASED ON A ZONING COMPLIANCE THAT WAS ISSUED IN 2007 BEFORE THIS C&D WAS ZONED UNDER THE CONDITIONAL REQUIREMENTS THAT WAS LISTED ON THE ZONING COMPLIANCE WAS THAT IT WAS AN ACCESSORY USE TO AN EXISTING BUSINESS. THAT THE ZONING ADMINISTRATOR AT THAT TIME AND ANOTHER STAFF PERSON VERIFIED THAT WAS THE INTENT AND THIS WOULD BE CONSIDERED AS AN ACCESSORY USE AND THAT WAS THE REASON THAT STAFF'S DETERMINATION HAS BEEN MADE THAT AS LONG AS THE PRIMARY USE CONTINUES, THEN THIS WOULD BE A USE SERVICE DUE TO THE CONSTRUCTION AND HEAVY EQUIPMENT

BUSINESS THAT WAS APPROVED ON THE SITE PRIOR TO ZONING OF THE PROPERTY, BUT IT'S NOT PERMITTED TO RECEIVE AND PROCESS MATERIALS FROM OTHER CONTRACTORS, ONLY FROM THAT CONTRACTOR THEMSELVES.

MR. IVES: AND I UNDERSTAND, MS. MINCEY, FROM TALKING TO MS. CARTER OVER HERE, THE APPLICANT IS INTERESTED IN PUTTING HIS PROPERTY UP FOR SALE. IS THAT THE REASON THAT THIS HAS BEEN RENEWED FOR REVIEW?

MS. MINCEY: WHEN WE WERE APPROACHED, SOMEONE WANTED TO BUY THE PROPERTY FOR THIS USE, YES.

MR. IVES: AND THIS IS HOW THIS CAME UNDER SCRUNITY?

MS. MINCEY: YES.

MR. IVES: AND YOU'RE BASING YOUR DECISION THAT THE ACCESSORY USE, SINCE IT WAS AN ACCESSORY USE, IT HAD TO BE ACCESSORY TO THE BUSINESS THAT WAS ON THE SITE AND YOU'RE DETERMINING THAT THE C&D OFFSITE IS OUTSIDE OF THAT PRIMARY BUSINESS, IS THAT CORRECT?

MS. MINCEY: YES. THE PRIMARY BUSINESS WAS DESCRIBED BY MR. THOMPKINS OF THOMPKINS & ASSOCIATES AS A BUSINESS AS A HEAVY CONSTRUCTION CONTRACTOR THAT DEALT IN HEAVY

EQUIPMENT OR THEY HAVE BRIDGE PRODUCTS, CONCRETE MATERIALS AND OTHER SUCH THINGS. SO, AT THAT TIME, WHEN THIS DECISION WAS MADE TO ALLOW THE RECYCLING, IT WAS THE PRODUCT OF WHAT MR. THOMPKINS WAS ALREADY DOING WITH DEMOLITIONS AND OTHER SUCH THINGS AND OTHER BUSINESS THAT WAS APPROVED ON THAT LOCATION.

MR. IVES: AND IT WAS PRIOR TO ZONING. SO, BASICALLY, THE NON-CONFORMING USE WAS ALLOWED BECAUSE IT WAS CONTINUING THE SAME?

MS. MINCEY: YEAH. BECAUSE THE EQUIPMENT BUSINESS WAS APPROVED ON THE SITE PRIOR TO ZONING. BUT THE ORIGINAL BUSINESS, AND WHICH THIS IS AN ACCESSORY USE, WAS APPROVED PRIOR TO ZONING. RECYCLING USE WAS APPROVED AS AN ACCESSORY USE IN 2007, WHICH WAS AFTER ZONING.

MR. IVES: THAT WAS THE RECYCLING PORTION IN 2007? YOU DON'T KNOW ABOUT ANY OF THE OTHER ACTIVITIES BEYOND 2007?

MS. MINCEY: NO. IT WAS CONSTRUCTION HEAVY EQUIPMENT BUSINESS THAT WAS IDENTIFIED BY THOMPKINS & ASSOCIATES AND THAT IT WAS A RECYCLING WASTE PLANT AND WAS AN ACCESSORY USE TO THAT BUSINESS. IT WAS ALREADY

ESTABLISHED PRIOR TO ZONING.

MR. IVES: COUNTY COUNCIL HAVE QUITE A BIT OF TESTIMONY COMING UP WITH NEW REQUIREMENTS THAT PLANNING AND ZONING HAD BEEN DEFAULTED ON C&D WASTE AND CONCRETE TRANSFER. TO YOUR KNOWLEDGE, HAVE ANY RESIDENTS MADE ANY NUISANCE COMPLAINTS ABOUT THE OPERATING OF THIS BUSINESS?

MS. MINCEY: TO MY KNOWLEDGE, NO, SIR.

MR. IVES: IS THE APPLICANT PRESENT?

MR. THOMPKINS: YES.

MR. IVES: WOULD YOU COME FORWARD.

MR. BENIK: MR. CHAIRMAN, MAY I ASK MS. MINCEY A QUESTION PLEASE?

MR. IVES: YES.

MR. BENIK: JUST AGAIN, TO GET IT IN LAYMEN'S TERMS, THIS WAS AN ACCESSORY USE THAT WAS APPROVED FOR THE RECYCLING OF THE CONCRETE MATERIAL THAT THEY WERE RECYCLING? THAT WAS AN ACCESSORY USE?

MS. MINCEY: YES. IN 2007 THERE WAS AN APPROVED ACCESSORY USE.

MR. BENIK: FOR HIS DEMOLITION MATERIALS ONLY?

MS. MINCEY: YES. IN 2007, THAT WAS APPROVED.

MR. BENIK: FOR HIS DEMOLITION MATERIALS?

MS. MINCEY: THAT'S WHEN STAFF'S DETERMINATION WAS MADE AT THAT TIME, YES.

MR. BENIK: NOW THEY ARE TAKING OR THEY'RE ASKING TO MAKE IT ... TO TAKE OTHER OUTSIDE CONTRACTORS?

MS. MINCEY: YES. TO PROCESS MATERIALS FROM OTHER CONTRACTORS.

MR. BENIK: OKAY. THAT'S IN AD ... THEY STILL HAVE HEAVY EQUIPMENT? IS THERE HEAVY EQUIPMENT?

MS. MINCEY: THEIR BUSINESS LICENSES ARE STILL CURRENTLY ACTIVE.

MR. BENIK: THANK YOU.

MR. IVES: ANYONE ELSE HAVE A QUESTION?

MR. BROWN: HAVE THEY BEEN TAKING MATERIALS FROM OTHER COMPANIES THE WHOLE TIME SINCE 2007 OR IS THIS SOMETHING JUST RECENT?

MS. MINCEY: STAFF IS NOT AWARE OF HOW THAT PROCESS WAS GOING OTHER THAN THE FACT OF WHAT OUR INTENT WAS FOR HOW IT WAS TO BE CONDUCTED. I CAN'T ANSWER THAT.

MR. IVES: THANK YOU, MR. BROWN. DOES ANYONE ELSE HAVE A QUESTION? IS THE APPLICANT PRESENT? PLEASE COME FORWARD.

DENNIS THOMPKINS, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q WOULD YOU STATE YOUR NAME AND ADDRESS FOR THE RECORD?

A DENNIS THOMPKINS, 246 GREENLEAF CIRCLE, MYRTLE BEACH, SOUTH CAROLINA.

Q THANK YOU, MR. THOMPKINS.

A FIRST OF ALL, THE PROPERTY IS NOT FOR SALE. THAT WAS A MISTAKE. I SOLD A BUNCH OF EQUIPMENT THAT WE HAD. ECONOMY WAS SO BAD IT JUST COULDN'T SUPPORT IT. WE'VE BEEN RUNNING C&D FOR QUITE A WHILE, FOR THE PAST (INAUDIBLE). I DON'T KNOW HOW THAT GOT IN, SIR. AT THE TIME MY FATHER WAS RUNNING THIS OUTFIT AND HE'S NO LONGER THERE. I DON'T KNOW WHAT (INAUDIBLE). I WAS IN THE FIELD WORKING. (INAUDIBLE). I DIDN'T KNOW WE WEREN'T SUPPOSED TO BE DOING OUTSIDE WORK. IT WAS A SURPRISE TO ME. (INAUDIBLE).

Q HOW ABOUT DHEC? DID YOU APPROACH DHEC TO GET YOUR PERMITS THROUGH DHEC FOR THIS OPERATION?

A YES.

Q CAN YOU PROVIDE THOSE COPIES?

A THEY'RE NOT WITH ME.

Q BECAUSE THAT WOULD BE PROOF THAT YOU'VE BEEN OPERATING IN THAT CAPACITY AND THAT WOULD SUBSTANTIATE YOUR APPLICATION THAT IT'S BEEN ONGOING. HOW FAR BACK DO YOUR PERMITS GO WITH DHEC?

A I CAN'T ANSWER THAT. I'D HATE TO SAY WITHOUT LOOKING AT THE PAPERWORK.

Q AS I UNDERSTAND IT, YOU WOULDN'T NEED A PERMIT FROM DHEC IF IT WAS DONE EXACTLY AS AN ACCESSORY USE. BY BRINGING IN OTHER WASTE, YOU WOULD NEED A PERMIT FOR THAT AS WELL IS MY UNDERSTANDING. THAT WOULD HELP THE APPLICATION TREMENDOUSLY FOR US TO HAVE THE PROOF OF THOSE APPLICATIONS AND THE PERMITS RECEIVED FOR IT. MS. MINCEY, WERE WE SUCCESSFUL WITH GETTING THE REPLY FROM DHEC THAT YOU INQUIRED OF THEM?

MS. MINCEY: I DON'T HAVE ANY DHEC INFORMATION THAT I CAN PROVIDE. WES MAYBE CAN ANSWER ANY QUESTIONS IF YOU HAVE ANY, BUT I DON'T HAVE ANY OF THAT INFORMATION AT THIS TIME.

MR. IVES: MR. COVINGTON, HAVE YOU HAD AN OPPORTUNITY TO GET IN TOUCH WITH DHEC? I'VE BEEN BACK AND FORTH WITH THE SITE.

MR. COVINGTON: I HAVE NOT, MR. CHAIRMAN. THE ONLY THING I KNOW WAS IN THE SOLID WASTE PACKET THAT THIS WAS AN ACTIVITY THAT WAS TAKING PLACE AND THERE WAS NO OUTSIDE LOADS FROM ANY OUTSIDE ZONED COMPANY. THEY WOULD NOT BE REQUIRED THE PERMIT AS A SOLID TRANSFER STATION. THEY WERE TAKING OUTSIDE LOADS WITHOUT A DHEC PERMIT. IN FACT HAS SAID HE HAD THE PERMITS, BUT WE HAVEN'T SEEN THEM. AND WE DON'T HAVE ANY WAY OF KNOWING HOW THEY GOT THE DETERMINATION OF CONSISTENCY WITH HORRY COUNTY ZONING OR WITH HORRY COUNTY SOLID WASTE.

MR. IVES: TYPICALLY DHEC WOULD BE CONSULTING WITH THE COUNTY TO MAKE SURE THE PERMITS WERE THERE?

MR. COVINGTON: YES.

MR. IVES: AND GETTING THE CERTIFICATION DONE?

MR. COVINGTON: YES.

MR. IVES: YOUR FILE, MS. MINCEY, DOESN'T HAVE ANY COMMUNICATION WITH DHEC OR CONFIRMATION FROM DHEC TO GET THAT.

MS. MINCEY: I DON'T HAVE ANY INFORMATION FROM DHEC AT THIS TIME, NO.

Q SO, THERE'S AN OPEN QUESTION TO US ABOUT

DHEC'S INVOLVEMENT IN THAT AND THAT WOULD REALLY NAIL YOUR APPLICATION IF YOU PROVIDED THE EVIDENCE OF THE PERMIT THAT YOU HAVE THE EVIDENCE THAT YOU'VE BEEN OPERATING WITHIN THE LAW WITHIN THE STATE AND WE WOULD UNDERSTAND THAT THE ACCESSORY USE WOULDN'T NECESSARILY APPLY BECAUSE YOU WOULD HAVE DHEC'S AUTHORIZATION TO ACCEPT ADDITIONAL WASTE. THAT WOULD REALLY TERRIFICALLY HELP YOU OUT IF YOU HAD THAT.

A I'LL GET YOU THAT.

Q IF WE DEFERRED THIS FOR THIRTY DAYS SO THAT YOU COULD PROVIDE THAT EVIDENCE, WOULD YOU BE HAPPY WITH THAT? I THINK IT WOULD MAKE YOUR CASE STRONGER AND IT WOULD MAKE US FEEL EASIER ABOUT KNOWING THAT YOU HAVE MADE THOSE APPLICATIONS AND RECEIVED THOSE PERMITS. THAT WILL ENABLE US TO UNDERSTAND THAT IF AN ACTIVITY HAD BEEN IN PROCESS BEFORE ZONING, AND THEREFORE, WE WOULD NOT HAVE TO BE RULING IT ON SOMETHING THAT WOULD BE CONTRARY TO WHAT OUR ZONING REQUIRES.

A OKAY.

Q I MAKE A MOTION THAT WE DEFER THIS ... MR. BELLAMY, DO YOU HAVE SOMETHING YOU WANT TO

... MR. SHELTON.

MR. SHELTON: COULD I HAVE JUST A MOMENT?

OFF THE RECORD

MR. IVES: PLEASE. MR. SHELTON, IF YOU WILL IDENTIFY YOURSELF AND GIVE YOUR ADDRESS FOR THE RECORD PLEASE.

MR. SHELTON: I'M ROB SHELTON OF THE BELLAMY LAW FIRM AND WE REPRESENT MR. THOMPKINS. I'D LIKE TO MAKE A STATEMENT THAT WITH ALL THE ACTIVITY GOING ON, WE'VE NEVER HAD A COMPLAINT FROM THE NEIGHBORS. THERE ARE NEIGHBORS IN THE AUDIENCE. IT'S A CLEAN OPERATION AND HAS BEEN AND ALWAYS WILL BE. THE ONLY REASON WE ASKED FOR THAT IS BECAUSE MR. THOMPKINS IS BRINGING IN A NEW PARTNER. BASED ON THAT, HE PLANS TO HAVE NEW EQUIPMENT WHICH WILL HELP WITH ALL THAT AND IT'S A MAJOR EXPENDITURE. BASED ON THAT ALLIANCE, HE SOLD HIS EQUIPMENT. HE AUCTIONED IT OFF BECAUSE THE NEW PARTNER WANTS TO BRING IN NEW EQUIPMENT AND IF IT DOESN'T GO THROUGH, HE'S JUST GOTTA SIT THERE LIKE IT NEVER HAPPENED. THIS IS A THIRTY-FIVE YEAR OLD BUSINESS. WHAT HE'S DOING BENEFITS HORRY COUNTY TREMENDOUSLY. HE'S TAKING ALL THOSE TRUCKS

THAT ARE LOADED WITH HEAVY ASPHALT AND CONCRETE OFF THE INTERSECTION OF 501 AND FORESTBROOK. IT'S OFF OF 501 ALTOGETHER. THIS IS BACK THERE OFF OF WACCAMAW BOULEVARD, WHICH IF YOU DIDN'T KNOW WHAT WAS GOING ON BACK THERE, IF YOU DIDN'T KNOW TO DRIVE BACK THERE AND LOOK, YOU WOULD NEVER KNOW HE'S RECYCLING BACK THERE. IT DISAPPEARS. (INAUDIBLE). IN ADDITION, OUT HERE IS THE PERFECT SITE FOR WHAT HE'S DOING NOW (INAUDIBLE) AND HAS BEEN SINCE `04 HIMSELF TO THIS SITE FROM DEMOLITION PRODUCTS THAT HAD NOTHING TO DO WITH THOMPKINS. THOMPKINS HAS BEEN DOING THIS SINCE 1981 BUT WHEN IT CAME TIME FOR HIM TO GET A PERMIT IN 2007, THEY TOLD EVERYONE AT THE TIME ... WHAT EVERYBODY AT THE COUNTY WHAT HE WAS DOING, ASKED THEM WHAT IT COST TO GET A PERMIT AND WROTE A CHECK FOR THAT AMOUNT AND THEY GOT A PERMIT THAT SAYS WHAT IT SAYS. MR. THOMPKINS DID NOT ISSUE THAT PERMIT. (INAUDIBLE). HE DIDN'T KNOW WHAT AN ACCESSORY USE WAS. WE STILL HAVE SOME DEBATE HERE TONIGHT ABOUT WHAT ACCESSORY USE IS. IT IS TRUE THAT PRIMARIES BENEFITTED FROM THAT RECYCLING.

EVERYONE WHO WAS IN CONSTRUCTION DEMOLITION IN HORRY COUNTY BENEFITTED FROM THAT RECYCLING. IT WAS AN ACCESSORY USE IN THE ENTIRE CONSTRUCTION INDUSTRY. ALWAYS HAS BEEN. IT WAS A BENEFIT FOR CONSTRUCTION BUSINESS AND NEVER (INAUDIBLE). HE HAS EMPLOYED AT LEAST SEVENTY-FIVE PEOPLE AT A TIME (INAUDIBLE) AND WE'RE JUST ASKING YOU TO ALLOW HIM TO CONTINUE TO DO WHAT HE HAS ALWAYS DONE AND I'LL BE HAPPY TO HAVE HIM TELL YOU THAT AT LEAST HE HIMSELF SINCE `04 HAS BEEN BRINGING IN MATERIALS FOR RE-PUR-POSING AND SAVING THE HIGHWAYS FROM ALL THESE HEAVY TRUCKS COMING DOWN 501, ALL THE WAY OUT TO HIGHWAY 90 AND GOING BACK TO MYRTLE BEACH. THEY COULD HOP ON 31 IN ORDER TO SERVICE THESE PROJECTS. IT MAKES PERFECT SENSE TO TAKE IN THIS OLD DEBRIS, RECYCLE IT, CRUSH IT AND THEN TAKE IT BACK OUT AND USE IT ON NEW CONSTRUCTION. (INAUDIBLE). AND IF THERE WAS A PROBLEM OUT THERE, MARION FOXWORTH WOULD BE AWARE OF IT. THIS IS HIS DISTRICT. IF THERE WAS A PROBLEM OUT THERE, STAFF WOULD HAVE SAID, WE'VE GOT (INAUDIBLE). THEY HAVE NEVER SAID ANYTHING LIKE THAT (INAUDIBLE) THAT

THERE WAS A PROBLEM OUT THERE. I HAVE NEVER BEEN INVOLVED WITH A MORE HONORABLE COMPANY THAN MR. THOMPKINS. I'VE NEVER SEEN A SITUATION WHERE SOMEONE WHO IS CRUSHING CONCRETE ON SITE COMES TO A SITUATION LIKE THIS AND HIS NEIGHBORS WHO LIVE IN THE IMMEDIATE AREA NOT SHOW THEIR SUPPORT. THAT JUST DOESN'T HAPPEN. THE NEIGHBORS ARE USUALLY THE ONES WHO BRING IT BEFORE THIS BOARD AND THAT'S NOT THE CASE HERE. THEY LOVE MR. THOMPKINS. THEY'RE GOOD NEIGHBORS. THEY'VE ALWAYS BEEN GOOD NEIGHBORS. (INAUDIBLE). SO, I THINK IT WOULD BE A MISTAKE TO DEFER. I THINK IF YOU WANT TO HEAR FROM MR. ALLEN, HE CAN GIVE TESTIMONY (INAUDIBLE) THAT IT HAS BEEN ONGOING (INAUDIBLE) THIS SINCE 2004. THIS WAS ACTUALLY BEFORE ZONING REQUIRED HIM. YOU DON'T NEED A DHEC PERMIT. ALL YOU NEED IS A CONCURRENCE FOR AN OPERATIONAL PLAN. (INAUDIBLE). YOU KNOW, THEY HAD PROMISED TO SHOW UP AND INSPECT YOU. (INAUDIBLE). (INAUDIBLE). THEY HAVE NEVER SHOWN UP. THEY NEVER DID. HE HAS NEVER BEEN CITED BY THEM, EVER. NO ONE HAS 'CAUSE THEY RUN A CLEAN OPERATION. NO ONE HAS CITED THEM. NO ONE

HAS COMPLAINED ABOUT IT. WHEN THEY NEEDED A PERMIT WHEN HIS BUSINESS LICENSE CAME UP, BUT HE SAID, "HERE'S WHAT WE'VE BEEN DOING ALL THESE YEARS. HOW MUCH IS IT GONNA COST US?" WRITE A CHECK FOR THE FULL AMOUNT. INAUDIBLE). HORRY COUNTY HAS BEEN A CUSTOMER. THE CITY OF MYRTLE BEACH HAS BEEN A CUSTOMER. (INAUDIBLE) THE CITY OF MYRTLE BEACH. THIS IS NOT A NEW ... WE'RE NOT DOING ANYTHING NEW HERE. IT'S EXACTLY WHAT HE'S ALWAYS DONE SINCE 1981 AND IT WOULD NEVER HAVE BECOME AN ISSUE IF HE WEREN'T CONSIDERING TAKING IN A PARTNER. THAT'S IT. OR HE'S SELLING THE PROPERTY. HE'S NOT SELLING THE PROPERTY. HE'S JUST CONSIDERING TAKING IN A PARTNER. AND HIS PARTNER ASKED THE QUESTION AND WE FIND OUT THE CURRENT ZONING ADMINISTRATOR DISAGREES WITH THE POSITION OF THE PAST ZONING ADMINISTRATOR, BOTH IN THE BUSINESS OFFICES OF THE STATE. IT'S NOT BECAUSE OF ANYTHING MR. THOMPKINS SAID ABOUT TAKING OUTSIDE LOADS. (INAUDIBLE). THEY'RE NOT GONNA SAY THEY'RE NOT TAKING ANY OUTSIDE LOADS BECAUSE THAT'S A VALUABLE PART OF WHAT THEY'VE ALWAYS DONE.

BUT THEY WERE BEING TOLD (INAUDIBLE). THEY WOULD HAVE BEEN HERE IN 2007. IF THEY WOULD HAVE KNOWN THAT WAS HOW IT WOULD HAVE BEEN INTERPRETED AND IT WOULD HAVE TAKEN AWAY THEIR EMPLOYEES ADVANTAGES, THEY WOULD HAVE COME BEFORE THIS BODY IN 2007 AND SAID, "WHOA, THAT'S NOT WHAT WE UNDERSTOOD WHEN WE APPLIED FOR A PERMIT. WE'VE ALWAYS TAKEN IN OUTSIDE LOADS. NEVER WITH A COMPLAINT." THAT'S A VALUABLE SERVICE FOR EVERYBODY IN THE CONSTRUCTION INDUSTRY THAT WE PROVIDE FOR EVERYBODY IN THE COUNTY AND A VALUABLE SERVICE TO THE THOMPKINS FAMILY BUSINESS. SO, IT WOULD HAVE BEEN CORRECTED IN 2007 IF THAT HAD EVER BEEN MADE CLEAR. (INAUDIBLE) THE BELLAMY LAW FIRM (INAUDIBLE). (INAUDIBLE). NOW, IT'S 2015 AND IT'S THE FIRST TIME THAT MR. THOMPKINS KNEW ANYTHING ABOUT THIS.

MR. CHAIRMAN, WE'D LIKE TO GET MR. ALLEN TO COME FORWARD AND SPEAK TO THE BOARD.

MR. IVES: ANYONE WHO HAS MADE AN ATTEMPT TO BE HERE TONIGHT SHOULD BE GIVEN THE OPPORTUNITY. ANYONE WHO WISHES TO SPEAK ON THIS APPLICATION. DOES ANY MEMBER OF THE BOARD

HAVE A QUESTION FOR MR. SHELTON? THANK YOU, MR. SHELTON.

DANNY ALLEN, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q IF YOU WOULD GIVE US YOUR NAME AND ADDRESS FOR THE RECORD PLEASE.

A DANNY ALLEN, 3850 DANNY ROAD, LORIS, SOUTH CAROLINA.

Q WHAT WOULD YOU LIKE TO TELL US ABOUT THIS APPLICATION?

A WE'VE BEEN HAULING FOR THE THOMPKINS FOR YEARS. WE'VE BEEN INVOLVED IN SEVERAL, SEVERAL PROJECTS ALL OVER MYRTLE BEACH. MATTER OF FACT, WE'VE GOT A BIG PROJECT GOING ON NOW AT AVX CORPORATION. WE'VE BEEN INVOLVED IN MYRTLE SQUARE MALL. WE'VE DONE SEVERAL MOTELS AT THE BEACH AS FAR AS DEMO. IF YOU TAKE OUR FACILITY AWAY, THE WAY I SEE IT, (INAUDIBLE) WE'VE GOT A PROJECT THAT'S TAKING THIRTEEN THOUSAND TONS OF CONCRETE ON IT, IT TAKES US, THE PROJECT WE'RE INVOLVED IN NOW, WE'VE GOT TO HAUL IT OUT OF THE BEACH SOMEWHERE. SO, THAT'S GONNA PUT THIRTEEN THOUSAND TONS OF CONCRETE COMING THROUGH

CONWAY AND ON TO MYRTLE BEACH. WHEREAS, IF IT WAS JUST HAULED TO HIS YARD IT COULD BE CRUSHED. LIKE THEY SAID, WE PROCESS IT AND REUSE IT. I DON'T SEE WHAT THE ARGUMENT IS FOR US NOT TO BE ABLE TO KEEP HIM THERE DOING SOMETHING THAT HE'S BEEN DOING FOR YEARS.

MR. IVES: THANK YOU, MR. ALLEN. DOES ANY MEMBER OF THE BOARD HAVE ANY QUESTIONS OF MR. ALLEN? THANK YOU FOR YOUR TESTIMONY, SIR. WOULD ANYONE ELSE LIKE TO SPEAK FOR OR AGAINST THIS APPLICATION? MR. SHELTON.

MR. SHELTON: (INAUDIBLE). AS LONG AS HE WAS HAVING THE RECYCLED MATERIAL (INAUDIBLE). HE HAS TO RECYCLE AT LEAST SEVENTY-FIVE PERCENT OF THE MATERIAL THAT HE TAKES IN. HE'S BEEN THERE SINCE 1981 DOING THIS.

MR. BROWN: MR. THOMPKINS, CAN I GET YOU TO COME BACK?

MR. THOMPKINS COMING BACK BEFORE THE BOARD.

MR. BROWN: I'VE JUST GOT A QUESTION. ARE YOU THE ONLY ONE IN HORRY COUNTY THAT RECYCLES OR IS THERE ANY OTHER PLANT THAT DOES THAT ON CONCRETE?

MR. THOMPKINS: I THINK THERE'S ANOTHER ONE. I'M NOT COMPLETELY SURE. I THINK THIS GUY

OPENED ONE IN THE RED HILL SECTION. I'M NOT SURE. I DON'T KNOW IF ANYBODY'S GOT (INAUDIBLE).

MR. BROWN: YOU RECYCLE THE CONCRETE. WHAT IS IT USED FOR? IS IT USED FOR ROADS?

MR. THOMPKINS: ROAD FACE MATERIAL. AGGREGATES.

MR. BROWN: HOW MUCH DO YOU ACTUALLY HAVE TO BURY. HOW MUCH WASTE DO YOU HAVE (INAUDIBLE).

MR. THOMPKINS: THAT'S JOB SPECIFIC. YOU KNOW, IF YOU TEAR DOWN A BEACH HOUSE, YOU GOT A LOAD OF WOOD. IF YOU TEARING DOWN A CONDO, YOU GOT A LOAD OF CONCRETE.

MR. BROWN: YOU RECYCLE THAT?

MR. THOMPKINS: NO. WE HAUL THE WOOD AND STUFF. ANYTHING YOU CAN'T RECYCLE GOES TO (INAUDIBLE).

MR. IVES: ANYONE ELSE LIKE TO SPEAK FOR OR AGAINST?

WAYNE GRISSETT, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

A WAYNE GRISSETT, 337 (INAUDIBLE) BOULEVARD, MYRTLE BEACH, SOUTH CAROLINA.

Q YES, SIR. WHAT WOULD YOU LIKE US TO KNOW ABOUT THIS?

A WHAT I WANT TO KNOW IS WHY DID HE NEED TO RECYCLE. IT'S RIGHT BEHIND MY HOUSE AND I WANT TO KNOW WHY THEY NEED TO RECYCLE?

Q THAT'S A GOOD QUESTION, SIR. BASICALLY MR. ALLEN WAS TALKING ABOUT HOW HE USES THE FACILITY. WHEN THEY'RE DOING DEMOLITION OF LARGE PROJECTS, THEY NEED A PLACE TO TAKE LARGE CONCRETE AND OTHER PIECES OF MATERIAL AND HAVE IT BROKEN DOWN AND MADE INTO OTHER USEFUL PRODUCTS. SO, THAT'S ONE REASON THEY DO IT. THEY BASICALLY DO CRUSHING THERE AS I UNDERSTAND. SO, THIS IS CONSTRUCTION DEMOLITION DEBRIS THAT'S BROUGHT THERE AND IT'S MADE INTO PROCESS IS WHAT MY UNDERSTANDING IS.

A I BEEN KNOWING MR. THOMPKINS A LONG TIME. I KNOWED HIS FATHER `FORE I KNOWED HIM. WHAT I'M CONCERNED ABOUT IS THEY GET TO GRINDING THAT OLD DRY CEMENT AND LIME AND STUFF AND THE WIND GET TO BLOWING ... IF YOU COULD KEEP IT DOWN, I MEAN, I COULD AGREE WITH YOU. BUT

WHEN YOU GET TO GRINDING THAT OLD DRY HARD CEMENT AND THE WIND GET TO BLOWING AND IT'S ALL OVER PEOPLE'S HOUSES BACK THERE. THAT'S WHAT I'M CONCERNED ABOUT. I'M RIGHT BEHIND YOU. (INAUDIBLE). THAT'S MY CONCERN.

Q YES, SIR. AS A RESIDENT, YOU'RE CONCERNED ABOUT WHAT'S HAPPENING THERE.

MR. BENIK: I HAVE A QUESTION FOR THE GENTLEMAN WHO WAS JUST UP HERE.

MR. IVES: MR. GRISSETT, WOULD YOU COME BACK UP. MR. BENIK HAS A QUESTION FOR YOU.

MR. BENIK: YOU WANT TO GO FIRST, ACE?

MR. PARKER: YES. MR. GRISSETT, YOU LIVE THERE PRESENTLY BEHIND THERE NOW?

A YES.

MR. PARKER: THEY'VE BEEN DOING THIS FOR YEARS, CORRECT?

A YES.

MR. PARKER: HAS THAT BEEN A PROBLEM BEFORE?

A I DON'T KNOW 'BOUT (INAUDIBLE). THEY BEEN BACK THERE DOING ALL KIND OF WORK. (INAUDIBLE).

MR. PARKER: MY UNDERSTANDING IS THEY'VE BEEN BACK THERE CRUSHING FOR YEARS AND YOU WERE CONCERNED ABOUT DUST?

A (INAUDIBLE). RECYCLING FOR YEARS. THAT DUST BEEN BLOWING FOR YEARS.

MR. PARKER: BUT HAS THAT BEEN AN ISSUE PRESENTLY OR IN THE PAST?

A I DIDN'T KNOW THEY DOING RECYCLING BACK THERE IN THE BACK.

MR. PARKER: YOU UNDERSTAND THAT THEY HAVE BEEN DOING GRINDING FOR SOME YEARS OF CONCRETE?

A THEY BEEN GRINDING (INAUDIBLE) I KNOW WHAT RECYCLING IS (INAUDIBLE) FOR YEARS.

MR. PARKER: WHAT I'M INTERESTED IN IS THE ACTUAL GRINDING OF THE CONCRETE. YOU MADE MENTION OF THE DUST ON THE HOUSES. HAS THAT BEEN AN ISSUE IN THE PAST?

A NO, NOT WHAT THEY BEEN DOING BACK THERE.

MR. PARKER: THANK YOU, SIR.

Q IF YOU'LL HOLD UP JUST A MOMENT. MR. BENIK HAS A QUESTION FOR YOU.

MR. BENIK: I HAD TO FIGURE OUT WHERE THIS WAS. I UNDERSTAND. I THINK YOU AS NEIGHBORS ... THERE WERE SEVERAL OPERATIONS GOING ON THERE IN THE PAST. IT WAS THE HART/MARIETTA AND THEN THERE WAS THE CONCRETE PLANT. WASN'T THERE A CONCRETE PLANT BACK THERE

WHERE THERE WAS A LOT ... THEY WERE ... THEY WERE DRIVING ... THIS WAS BACK DURING THE PEAK OF THEIR DEVELOPMENT IF I'M CORRECT. WHAT WAS HAPPENING WAS ALL THOSE TRUCKS AND ALL THAT NOISE, IT WAS JUST DISTURBING THE NEIGHBORHOOD. NOW, THAT PLANT IS SHUT DOWN, RIGHT?

A YEAH, THAT ONE IS.

MR. BENIK: NOW, SINCE IT'S SHUT DOWN, HAS THERE BEEN ANY PROBLEMS WITH MR. THOMPKINS OPERATION THAT YOU KNOW OF?

A THEY NOTHING BACK THERE.

MR. BENIK: EXCEPT HIM?

A HE'S DONE GOT MOST EVERYTHING OUT OF THERE.

MR. BENIK: IN OTHER WORDS, YOU DON'T KNOW WHETHER IT CAME ... WHETHER HE CONTRIBUTED TO THE CONCRETE ... THE CONCRETE PLANT WAS ISSUED, IF I'M NOT MISTAKEN, AND HE COULD HAVE CONTRIBUTED TO IT OR NOT AS FAR AS YOU'RE CONCERNED?

A THAT'S RIGHT.

MR. BENIK: AND YOU SAID THAT IF HE ... AND I THINK YOU SAID IF HE KEPT THE DUST ... WELL, I WANT TO GET HIM BACK UP THERE. BUT IF HE KEPT THE DUST ... THE DUST AND THE NOISE IS

THE SAME THING?

A WELL, I DON'T WORRY ABOUT THE DUST. EVERYBODY ... I MEAN, I AIN'T WORRYING ABOUT THE NOISE. THAT DUST GIT IN YOUR HOUSE, YOU CAN'T GIT IT OUT.

MR. BENIK: I UNDERSTAND THAT. I UNDERSTAND THAT. THAT ... I MEAN ... OKAY.

MR. IVES: THANK YOU, SIR. WE APPRECIATE YOUR COMMENTS. MR. THOMPKINS, I WANT TO GIVE YOU AN OPPORTUNITY TO ADDRESS WHAT MR. GRISSETT HAD TO SAY ABOUT THE PARTICULAR ...

MR. THOMPKINS: WELL, I TALKED TO ANOTHER NEIGHBOR WHO HAD THE SAME CONCERN AND I ASSURED HIM THAT WOULD NOT BE A PROBLEM IN THE FUTURE.

MR. IVES: HOW CAN YOU KEEP IT DOWN?

MR. THOMPKINS: WELL, TWO WAYS. THE NEW CRUSHERS HAVE WATER HOOKED UP TO THEM AND IT SPRAYS MATERIAL AS YOU CRUSH IT. HART/MARIETTA WAS RIGHT BESIDE US AND THEY USED TO KEEP WATER ON THE ROAD. I GAVE `EM AN EASEMENT TO USE THE ROAD IN EXCHANGE FOR USING THEIR WELL WATER AND THEY RUN A NICE SPRINKLER SYSTEM AND IT LASTED ABOUT A MONTH AND SOMEBODY CAME BY AND STOLE IT. I HAD TO

REPLACE ALL THAT AT MY EXPENSE. I'M ASSUMING I NEEDED TO DO THAT TO KEEP THE NEIGHBORS HAPPY. WE ALWAYS TRIED TO BE GOOD NEIGHBORS (INAUDIBLE).

MR. IVES: SO, YOU INTENDED TO KEEP THE WATER PRESSURE THERE AND KEEP IT AS WELL IF THEY CAN KEEP THE PARTICULARS DOWN?

MR. THOMPKINS: YES.

MR. IVES: TERRIFIC. THANK YOU.

MR. BENIK: ONE MORE QUESTION. MR. THOMPKINS, YOU KNOW ... IT'S BEEN ... I THINK ... IT'S BEEN IN THE PAPERS AND SEVERAL ... YOU KNOW, A WHILE BACK ABOUT THE CONCRETE PLANT AND EVERYTHING. SO, WHAT YOU'RE SAYING IS THAT YOU CAN KEEP THAT DUST DOWN SO WE DON'T ... SO THEY DON'T HAVE A ... SO THE NEIGHBORHOOD DOESN'T HAVE A PROBLEM WITH THE RESIDENTS?

MR. THOMPKINS: YES.

MR. IVES: THANK YOU, SIR. WOULD ANYONE ELSE WISH TO SPEAK EITHER FOR OR AGAINST THIS APPLICATION? PLEASE COME FORWARD.

HAROLD NYE, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q STATE YOUR NAME AND ADDRESS FOR THE RECORD.

A MY NAME IS HAROLD NYE, 452 (INAUDIBLE) BOULEVARD, MYRTLE BEACH.

Q WHAT WOULD YOU LIKE TO TELL THE BOARD?

MR. BENIK: MR. CHAIRMAN, COULD WE HAVE A FIVE MINUTE RECESS?

MR. IVES: LET'S LET THIS GENTLEMAN SPEAK AND THEN WE CAN.

A I'D LIKE TO SAY TO THE BOARD THAT THE THOMPKINS FAMILY HAS BEEN A VERY, VERY, VERY DECENT NEIGHBOR. WE HAVE CREATED A CEMETERY OUT IN OUR AREA THAT THE COUNTY DOESN'T MAINTAIN AN ACCESS ROAD TO IT. MR. THOMPKINS AND HIS MATERIALS WERE FILLING IN THOSE POT-HOLES AND GRADING THAT ROAD. IT HAS BEEN A VERY, VERY PLEASING THOUGHT TO THE COMMUNITY AS A WHOLE. I'VE BEEN OUT THERE NOW MAYBE NINETEEN YEARS GOING ON TWENTY YEARS AND I HAVE NEVER HAD ANY COMPLAINTS FROM (INAUDIBLE). IT HAS ALWAYS BEEN AN ISSUE AND I DON'T SEE WHAT COULD BE A PROBLEM AND NOT ALLOW HIM AND HIS FATHER TO CONTINUE. ESPECIALLY WITH HIS SAYING HE'LL KEEP THE DUST DOWN. THERE WERE QUESTIONS HERE ABOUT CONCRETE TRUCKS. YES, THEY WERE A PROBLEM AND THEY WERE A PROBLEM ON MY ROAD BASICALLY.

MR. BENIK: Y'ALL WERE PART OF THE COMMUNITY OUT THERE?

A YES. THEY WERE COMPLAINING TO RON MCNEIL BASICALLY. TIGHT FITTING ON A PIPE MAKING PLANT DOWN THERE, CONCRETE COMPANY DOWN THERE AND THE TRUCKS WERE JUST AWFUL. IT WASN'T HIS.

MR. IVES: THANK YOU VERY MUCH FOR YOUR TESTIMONY. ANY QUESTIONS?

MR. PARKER: YOU'RE A REVEREND DOWN THERE?

A YES, SIR.

MR. IVES: THANK YOU, SIR. THERE'S BEEN A REQUEST FOR A FIVE MINUTE BREAK SO WE'LL TAKE ONE.

OFF THE RECORD

MR. IVES: HAS EVERYONE IN THE AUDIENCE WHO'D LIKE TO SPEAK FOR OR AGAINST THIS ACTION SPOKEN? MR. SHELTON.

MR. SHELTON: JUST A COUPLE MORE THINGS. I'D LIKE TO ASK THE ZONING ADMINISTRATOR, MS. MINCEY, IF SHE'S HAD ANYTHING FROM DHEC ABOUT THIS (INAUDIBLE). AT THE SAME TIME WHEN WE CAME TO THE COUNTY TO MAKE SURE WE WERE OKAY TO PULL OUR LICENSE AND WERE COMPLYING AND RESEARCHING THIS PARTNERSHIP, WE WROTE TO

DHEC AND DID THE SAME THING. I HAVE JUST GIVEN MS. MINCEY A COPY OF A LETTER FROM DHEC THAT IS INDICATING THE PERFORMANCE CERTIFICATIONS THAT SAID WHAT YOU'VE BEEN DOING HERE ON THIS PROPERTY IS FINE WITH OUR STATUTE BECAUSE IT HAD SEVENTY-FIVE, TWENTY-FIVE EXCEPTION UNDER THE STATUTE AS OUTLINED IN THAT LETTER THAT WE RECEIVED ON DECEMBER 19TH 2014. I JUST WANT TO MAKE YOU ALL ARE AWARE OF THAT.

MR. IVES: WHAT DO YOU HAVE THAT EVIDENCES THAT SINCE 2007 THAT SOMEWHERE DHEC APPROVED?

MR. SHELTON: WE DIDN'T KNOW WE WERE GOING TO BE RESPONSIBLE FOR BRINGING DHEC APPROVAL HERE BECAUSE (INAUDIBLE) WAS CONTINGENT UPON US GETTING A BUSINESS LICENSE RE-APPROVED OR FULLY REAFFIRMED AS TO WHETHER ...

MR. IVES: THE ACCOUNT SAYS THAT SINCE THIS HAS BEEN IN EXISTENCE AND IN OPERATION PRIOR TO ZONING AND THAT HELPS FOLKS ON THIS BOARD UNDERSTAND THAT IT HAS BEEN A CONTINUOUS OPERATION PRIOR TO ZONING AND THAT GIVES US THE COMFORT WE HAVE TO OVERRULE OUR ZONING ADMINISTRATOR. WE DON'T LIKE TO DO THAT ON A CASUAL BASIS. WE LIKE TO MAKE SURE THERE'S A

SOUND REASON FOR DOING SO. AT THE SAME TIME, THE ZONING ADMINISTRATOR DOESN'T WANT TO MAKE A DECISION THAT HAS COMPLEXITY TO IT. SHE LIKES IT TO MAKE SURE THAT IT FITS IN EASILY WITH THE ZONING AS SHE READS IT. AND THIS DOES NOT. SHE GAVE ME THE LETTER YOU JUST PROVIDED AND I NEED MORE TIME TO STUDY THIS. BUT IT DOES ANSWER BASICALLY WHAT YOU HAD TOLD US. IT'S A CONCURRENCE OF OPERATION PLAN FOR THOMPKINS & ASSOCIATES. IT IS DATED DECEMBER 14TH AND IT IS ADDRESSED TO MR. RONALD GILKINSON WITH THOMPKINS & ASSOCIATES. AND IT DOES TALK ABOUT A RECOVERED MATERIAL PROCESSING FACILITY, WHICH ISN'T QUITE WHAT IS STATED HERE AS AN ACCESSORY USE THAT WAS ALLOWED. SO, IT'S MORE COMPLICATED THAN I CAN MAKE AN ASSESSMENT RIGHT NOW. THAT'S WHY I'M GONNA ASK THAT YOU WILL DEFER THIS FOR THIRTY DAYS SO THAT YOU CAN COMPLY OF RECORD OR PROVIDE US A RECORD FROM 2007 AND LET US KNOW THAT THERE HAS BEEN RAPPORT WITH DHEC AND THEY'RE AWARE OF YOUR OPERATIONS SO THAT WE CAN MAKE A RECORD BY CONTINUOUSLY OPERATING THE FACILITY. MR. BENIK.

MR. BENIK: CAN I MAKE A SUGGESTION?

MR. IVES: YOU MAY.

MR. BENIK: LOOKING AT THE TIME, I THINK WE NEED TO GO INTO EXECUTIVE SESSION.

MR. IVES: IT WOULD BE HELPFUL IF YOU WANT TO HAVE ANY CONFERENCE WITH MR. COVINGTON ON THIS. WE HAVE JUST BEEN PROVIDED THIS LETTER, WHICH REFERS TO THE CONCURRENCE OF OPERATIONAL PLAN FOR THOMPKINS & ASSOCIATES. IT DOES REFER TO RECOVERABLE MATERIALS FOR A PROCESSING FACILITY. IT DOES OUTLINE THE REQUIREMENTS FOR A RECOVERABLE MATERIALS FOR A PROCESSING FACILITY AND IT DOES, INDEED, REFER TO THE SEVENTY-FIVE PERCENT MATERIALS RECEIVED THAT MR. SHELTON IS REFERRING TO. IF ANY OF YOU WOULD LIKE TO UNDERSTAND BETTER WHAT THIS REFERS TO, CERTAINLY IT IS WITHIN OUR PURVIEW TO CALL FOR AN EXECUTIVE SESSION AND BE ABLE TO CONFER WITH MR. COVINGTON AND OUR STAFF ON THIS LETTER. IF YOU'D LIKE TO DO THAT, I'D LIKE A MOTION.

MR. BENIK: YES.

MR. IVES: THERE'S BEEN A MOTION FOR US TO GO INTO EXECUTIVE SESSION. I'D GONNA ASK THAT YOU ALLOW US TO GO INTO EXECUTIVE SESSION SO WE CAN CONFER AND ALLOW YOU ALSO TO CONFER

OUT IN THE HALL IF YOU WILL AND WHEN WE COME BACK, MAYBE WE CAN COME UP WITH A PLAN OF HOW WE CAN PROCEED FROM THIS POINT.

OFF THE RECORD

MR. IVES: THERE'S BEEN A MOTION TO GO INTO EXECUTIVE SESSION. IS THERE A SECOND?

MR. BROWN: SECOND.

MR. IVES: ALL IN FAVOR AYE?

ALL MEMBERS: AYE.

OFF THE RECORD

MR. IVES: IS THERE A MOTION THAT WE COME OUT OF EXECUTIVE SESSION?

MR. SIPE: SO MOVED.

MR. SINGLETON: SECOND.

MR. IVES: ALL IN FAVOR AYE?

ALL MEMBERS: AYES.

MR. IVES: WE'RE OFFICIALLY OUT OF EXECUTIVE SESSION. IS THERE ANY STATEMENT? MR. COVINGTON, IF YOU'LL MAKE THE STATEMENT FROM THE EXECUTIVE SESSION.

MR. COVINGTON: THE ZONING BOARD WENT INTO EXECUTIVE SESSION FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND THEY MADE NO DECISION.

MR. IVES: THANK YOU, SIR. IF THE APPLICANT

WILL COME FORWARD PLEASE. MR. SHELTON, ARE YOU GOING TO BE MAKING THE STATEMENT FOR THE APPLICANT OR IS THE APPLICANT MAKING THE REPRESENTATION?

MR. SHELTON: I WILL.

MR. IVES: PLEASE.

MR. SHELTON: WE'RE TRYING TO WRAP OUR MIND AROUND HOW TO ASSURE YOU THAT WE HAVE BEEN IN COMPLIANCE WITH DHEC, EXCEPTION: WE WON'T NEED TO GET A PERMIT FROM DHEC. IF WE CAN SHOW THIS BOARD WITH THE DHEC'S STATUTE THAT EXISTED IN THAT LETTER THAT I JUST GAVE YOU ACTUALLY SAYS AND SHOW THIS BOARD THAT WE HAVE MET THE SEVENTY-FIVE PERCENT PROCESSING THROUGH OUR OWN FIELD TICKETS AT OUR OFFICE WITHIN A TIME THAT'S FAIR. I WOULD ASK THIS BOARD APPROVE OUR REQUEST BASED ON THAT CONDITION RATHER THAN DEFER IT. LET US MEET THAT REQUIREMENT AND CONTINUE TO DO WHAT WE'VE ALWAYS BEEN DOING.

MR. IVES: THAT'S A REASONABLE PROPOSAL, BUT WE NEED ADDITIONAL TIME OURSELVES. THERE'S NO ANIMOSITY HERE. WE'RE NOT OPPOSED TO THE APPLICATION BEING MADE. WHAT WE WANT IS THE ASSURANCE THAT THE OPERATION HAS BEEN ONGOING

AND THAT THE EVIDENCE IS THERE AND THOSE FIELD TICKETS AND THE CERTIFICATION THAT IT WASN'T REQUIRED WOULD CERTAINLY GO A LONG WAY TO SATISFYING US. AT THE SAME TIME, WE NEED TO UNDERSTAND HOW A RECOVERED MATERIALS PROCESSING FACILITY FITS IN WITH WHAT'S BEEN SAID AND MAKE SURE THEY ARE CONGRUENT AND NOT SEPARATE ACTIVITIES.

MR. SHELTON: I CAN PROVIDE YOU WITH THE TICKETS.

MR. IVES: THAT'S WHAT WE'RE HOPING YOU CAN DO, MR. SHELTON. AND I THINK WE NEED ADDITIONAL TIME OF THIRTY DAYS SINCE THAT'S OUR NEXT MEETING TIME TO BE ABLE TO HAVE THE INFORMATION PROVIDED TO US AND THEN THERE'S DISCOVERABLE TIME TO CLOSE IN THE GAP OF WHAT ISN'T PRESENT TONIGHT.

MR. SHELTON: WHAT IF WE VOTE ON IT AND APPROVE IT TONIGHT WITH THE CONDITIONS THAT I SATISFY MS. CARTER AND MS. MINCEY THAT WHAT WE REPRESENTED HERE TONIGHT ABOUT WHAT THE ACT SAYS AND WHAT OUR FIELD TICKETS SHOW ARE CONSISTENT WITH WHAT WE'VE EXPLAINED. WE ARE EXEMPT UNDER THE ACT.

MR. IVES: MR. SHELTON, IF YOU CAN EXPLAIN TO

ME WHY THIRTY DAYS WOULD BE AN IMPEDIMENT.

MR. SHELTON: BECAUSE IF IT'S ON US, IT'S NOT GONNA BE THIRTY DAYS. I COULD GET THE TICKETS TOGETHER AND PROVIDE IT TO MS. MINCEY AND IT WOULD BE A LOT SOONER THAN THIRTY DAYS. THIS PARTNER CAN GET THE NEW EQUIPMENT IN AND GET GOING WITHIN ANOTHER THIRTY DAYS. WE FIRST WROTE DHEC IN NOVEMBER LOOKING FOR THESE APPROVALS BEFORE THE MEETING WITH MS. MINCEY SINCE THEN. NOW, HERE WE ARE, IT'S FEBRUARY AND WE'RE STILL NOT ABLE TO BRING IN THIS NEW EQUIPMENT AND GET THIS BUSINESS BACK INTO PLAY THAT'S BEEN THERE FOR THIRTY-FOUR YEARS.

MR. IVES: IF THAT HAD BEEN HERE TONIGHT, I THINK WE WOULD HAVE BEEN MORE WILLING TO DO THAT. WE NEED MORE TIME TO RESEARCH THIS FROM OUR PROSPECTIVE AND UNDERSTAND WHAT THE MEANING IS OF WHAT A RE-PROCESSING FACILITY MEANS. I'M NOT QUITE SURE WHAT THAT MEANS.

MR. SHELTON: THAT IS A DEFINED TERM IN THAT ACT. IT'S IN VOCABULARY TERMS IN THE BEGINNING OF THE ACT.

MR. IVES: AND I'M NOT DOUBTING IT. JUST WITH THE MATERIAL PROVIDED TO US. WE NEED TIME TO

REVIEW IT BEFORE WE DECIDE. AND I THINK MAKING THAT DECISION BEFORE WE HAVE THAT INFORMATION, IT'S JUST UNCOMFORTABLE TO MAKE A DECISION BEFORE THE INFORMATION. I'M NOT UNDERSTANDING OF THIS LETTER THAT WE'VE BEEN PROVIDED. IF I HAD SEEN THIS SOONER AND HAVE HAD AN OPPORTUNITY TO UNDERSTAND THE COMPLEX-ITIES THAT THIS REPRESENTS, IT WOULD HAVE BEEN EASIER. JUST TO GET THIS THIS EVENING, WE HAVEN'T HAD TIME TO DIGEST THIS. IT ISN'T JUST MR. COVINGTON AND MS. CARTER AND MS. MINCEY NEEDING TO BE SATISFIED. WE NEED TO UNDERSTAND EXACTLY WHAT IS IN THIS APPLICA-TION. WE NEED TO BE COMFORTABLE THAT INDEED THE FACILITY HAS BEEN OPERATING JUST AS YOU SAY IT HAS SINCE 2007. AND THOSE STEEL TICKETS AND ANY DISCOURSE YOU'VE HAD WITH ITS OPERATION WOULD GO A LONG WAY TO JUST MAKING SURE THAT THE PROCESS HAS BEEN TRANSPARENT AND THEY'VE HAD NO PROBLEMS WITH IT. I APPRECIATE YOUR DILIGENCE IN WANTING TO GET THIS DONE AND WANTING TO GET THIS DONE THIS EVENING. WE'RE WANTING TO GET THIS DONE BUT WE NEED THIRTY DAYS. IS THERE A MOTION THAT WE DEFER THE REQUESTED APPEAL ON THE ZONING

ADMINISTRATOR'S DECISION OF THE C&D WASTE AND CONCRETE TRANSFER BUSINESS ON THE SITE NOT APPROVED TO ACCEPT COMMERCIAL LOADS OF C&D CONCRETE MATERIALS FOR PROCESSING FROM OTHER CONSTRUCTORS. THAT IT BE DEFERRED FOR THIRTY DAYS. DO I HAVE A MOTION?

MR. BENIK: MOTION TO DEFER.

MR. IVES: MOTION TO DEFER FOR THIRTY DAYS. IS THERE A SECOND?

MS. MORANT: SECOND.

MR. IVES: ANY FURTHER DISCUSSION? CALL FOR THE VOTE. MR. BENIK?

MR. BENIK: YES.

MR. BROWN: YES.

MR. SINGLETON: YES.

MS. MORANT: YES.

MR. IVES: YES.

MR. SIPE: YES.

MR. FOWLER: YES.

MR. PARKER: YES.

MR. IVES: THANK YOU ALL VERY MUCH. AGAIN, THERE'S NO ANIMOSITY HERE. YOU'VE HAD TESTIMONY FROM PEOPLE HERE WHO SAID THEY'VE HAD NO PROBLEMS AND MR. THOMPKINS HAS SAID THAT ANY PROBLEMS WILL BE ADDRESSED. SO, WE WOULD

JUST LIKE TO HAVE THE INFORMATION THAT HAS BEEN REFERRED TO PROVIDED AND AN OPPORTUNITY TO REVIEW IT. THANK YOU ALL VERY MUCH AND WE LOOK FORWARD TO SEEING YOU NEXT MONTH.

STATE OF SOUTH CAROLINA

CERTIFICATE

COUNTY OF HORRY.

I, JERRY S. MABRY, A NOTARY PUBLIC AND VERBATIM REPORTER, IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE WITNESSES IN THIS HEARING WERE DULY SWORN PRIOR TO THE TAKING OF THIS AND THAT THE FOREGOING THIRTY-NINE (39) PAGES CONSTITUTE A TRUE AND ACCURATE TRANSCRIPT OF THE EVIDENCE AS GIVEN BY SAID WITNESSES AND AS TAKEN DOWN AND TRANSCRIBED BY ME. I FURTHER CERTIFY THAT THE PERSONS WERE PRESENT AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NOT OF COUNSEL FOR, NOR IN THE EMPLOY OF ANY OF THE PARTIES TO THIS ACTION, NOR AM I INTERESTED EITHER DIRECTLY OR INDIRECTLY IN THE RESULTS THEREOF.

I FURTHER CERTIFY THAT I AM NOT RELATED BY BLOOD OR MARRIAGE TO ANY OF THE PARTIES TO THIS ACTION.

THIS THE 18TH DAY OF JUNE, 2015.

JERRY S. MABRY, NOTARY PUBLIC
AND VERBATIM REPORTER

MY COMMISSION EXPIRES:
DECEMBER 3, 2022.

D H E C

PROMOTE PROTECT PROSPER

Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

December 19, 2014

Mr. Ronald C. Gilkerson
Thompkins and Associates, Inc.
310 Piling Drive
Myrtle Beach, SC 29579

RE: Concurrence of Operational Plan for
Thompkins and Associates, Inc.
Recovered Materials Processing Facility
310 Piling Drive, Myrtle Beach, SC 29579

Dear Mr. Gilkerson:

The Department has reviewed your December 4, 2014 proposal to operate a recovered materials processing facility for recyclables and is providing this letter with updated reporting requirements. The recycled items include clean dimensional lumber, clean brush, pallets, sheetrock, metal, concrete and asphalt, cardboard, shingles, and yard waste materials. Based upon the proposal, the Department concurs with the plan to operate this facility under the **Solid Waste Policy and Management Act of 1991 as amended, S.C. Code § 44-96-40.** The specific requirements for recovered materials processing facilities are covered in the following definitions:

> **"Recovered Materials Processing Facility"** means a facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials. The term does not include a solid waste processing facility; however, solid waste generated by a recovered materials processing facility is subject to all applicable laws and regulations relating to the solid waste. The term does not include facilities, which thermally treat solid waste principally for volume reduction or for reduction of contaminants. **Records must be kept documenting the amount by weight of materials that are received at the facility and used, reused, or recycled or transferred to another site for use, reuse, or recycling. Records must also be kept which clearly document the location of final disposition of the materials. Records must be made available for inspection by department personnel upon request.**
>
> **"Recovered materials"** means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. **At least seventy-five percent by weight of the materials received during the previous calendar year must be used, reused, recycled, or transferred to a different site for use, reuse, or recycling in order to qualify as a recovered material.**

Based upon the seventy-five percent recovery rate stated in the definition above, the Department requires recovered materials processing facilities to maintain records that reflect the following categories: the total solid waste received in tons, total recovered materials by type extracted from the solid waste (in tons), the total recovered materials shipped from the facility for sale, use, reuse, or recycling (in tons), and the total residual solid waste that is disposed of in a landfill (in tons). These records should reflect daily, weekly, monthly, and yearly totals by category and these records must be made available to the Department upon request.

The Department requests that you **submit an annual report by January 15th each year** reflecting the previous calendar year's records by category. Please mail the report to Marty Lindler at SCDHEC, Bureau of Land and Waste Management, Division of Compliance and Enforcement, 2600 Bull Street, Columbia, SC 29201.

Please be advised that additional permits may be required for your facility before you begin operations. Based upon your plan, you will likely need stormwater permits from the Bureau of Water – contact Jill Stewart at 803-898-0439. If you have a stationary crusher or grinder at the facility, you will likely need a permit from the Bureau of Air Quality – contact Elizabeth Basil at 803-898-4126. Finally, if you intend to grind shingles, you must consult with the Asbestos Section in the Bureau of Air Quality – contact Robin Mack at 803-898-4270.

If you should have any questions, please contact me at (803) 898-1374.

Sincerely,

Timothy M. Eleazer

Timothy M. Eleazer
Mining and Solid Waste Permitting Section
Division of Mining and Solid Waste Management
Bureau of Land and Waste Management

TME/tme

cc: Mr. Marty Lindler, Manager, Solid and Hazardous Waste Compliance
Ms. Katherine Mann, Pee Dee Region BEHS Myrtle Beach
Mr. Sean Torrens, Pee Dee Region BEHS Myrtle Beach
BLWM File No. 023134

October 11, 2014

Mr. Timothy M. Eleazer
Mining and Solid Waste Permitting
Division of Mining and Solid Waste Management
Bureau of Land and Waste Management
2600 Bull Street
Columbia, SC 29201

RE: Operational Plan for Thompkins and Associates, Inc.
310 Piling Drive
Myrtle Beach, SC 29579

Dear Mr. Eleazer:

Thompkins and Associates, Inc. has been operating at the subject property as a Demolition, Sheet Piling Construction and recycling business in Myrtle Beach and the surrounding area since 1989. As a part of their operation at this facility, a concrete recycling facility has been operational for the past 15 years which produces different sized product to sell to local contractors as a beneficial re-use material. As an extension of Thompkins and Associates, Inc. services, we will propose to use a total of approximately 7.15 acres of industrial property in which approximately 5.04 acres will be used for a Recovered Materials Processing Facility for the recycling of demolition and other C&D waste materials at this facility (*SEE ATTACHED SITE PLAN*).

The land use jurisdiction is Horry County and the property at 310 Piling Drive is currently zoned Light Industrial (LI). The 5.04 acre Recovered Materials Processing Facility parcel of property (TMS 1720003033) located on the attached Site Plan includes a large gravel work area, an office, shop, scale and a dry storage material handling structure. The 2.11 acre parcel is contiguous with the 5.04 acre parcel and includes parking and entrance areas in front of the existing office along Piling Drive. The 5.04 acre parcel has a an approved "Accessory Use" provision that will allow C&D Recycling and Transfer of C&D materials within the existing LI zoning at this site (*SEE ATTACHED HORRY COUNTY ZONING CERTIFICATION).* The current Thompkins and Associates, Inc. business license description for this facility includes C&D Recycling and Transfer along with Concrete Recycling (*SEE ATTACHED BUSINESS LICENSE DESCRIPTION).*

This facility is intended to service local C&D Hauling Companies, local Construction and Demolition Contractors and other businesses interested in the recycling and beneficial re-use of C&D materials in the Myrtle Beach and surrounding area. We will accept mixed C&D material at our facility Monday through Friday from the hours of 7 AM to 5 PM and 7 AM to 12 noon on Saturday. All in-coming materials will be weighed for verification and reporting purposes. Also, all weights for segregated

recycled materials will be maintained to ensure that the 75% by weight recovery rate is achieved for all products including products sold for re-use. Any residual non-recycled material will be reloaded and transported to the Hwy. 908 C&D Landfill located at 135 Floyd Road in Gresham, SC (Permit # LF2-00005).

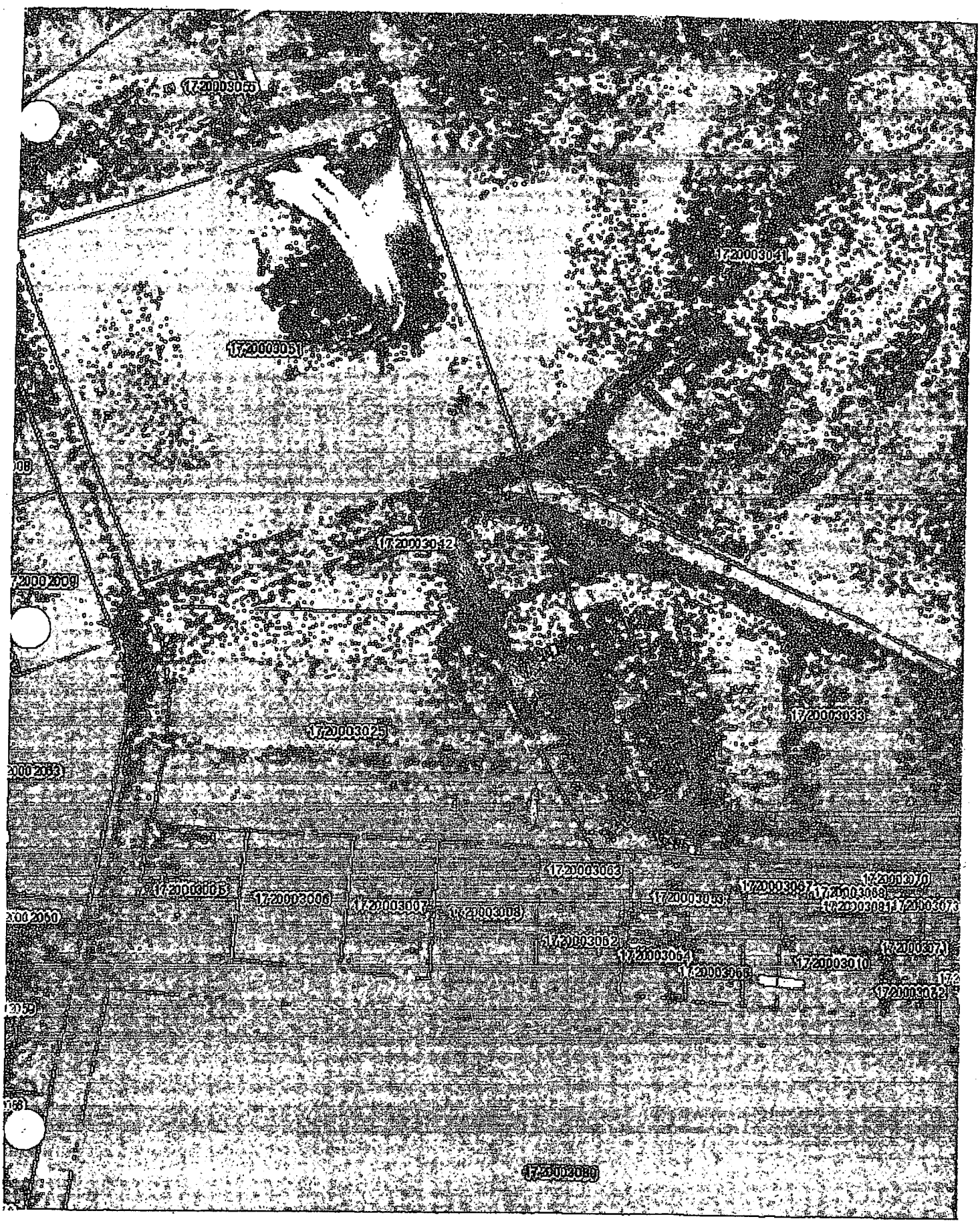
Materials to be recycled or sorted will include but not be limited to clean dimensional lumber, clean brush, pallets, sheetrock, metal, concrete and asphalt, cardboard, shingles, and yard waste materials. Any remaining material (NON-RECYCLABLE) will remain on-site no longer than 48 hours before it is loaded on a transport truck or large container for disposal at the Hwy. 908 facility. No mixed or unsorted C&D material will remain on the ground in our staging area longer than 24 hours from receipt of the waste. No municipal solid waste (MSW) will be accepted at this facility. Any unacceptable materials identified in mixed loads of C&D will be separated and placed in an empty open top container stored at our facility for proper disposal at an alternate site.

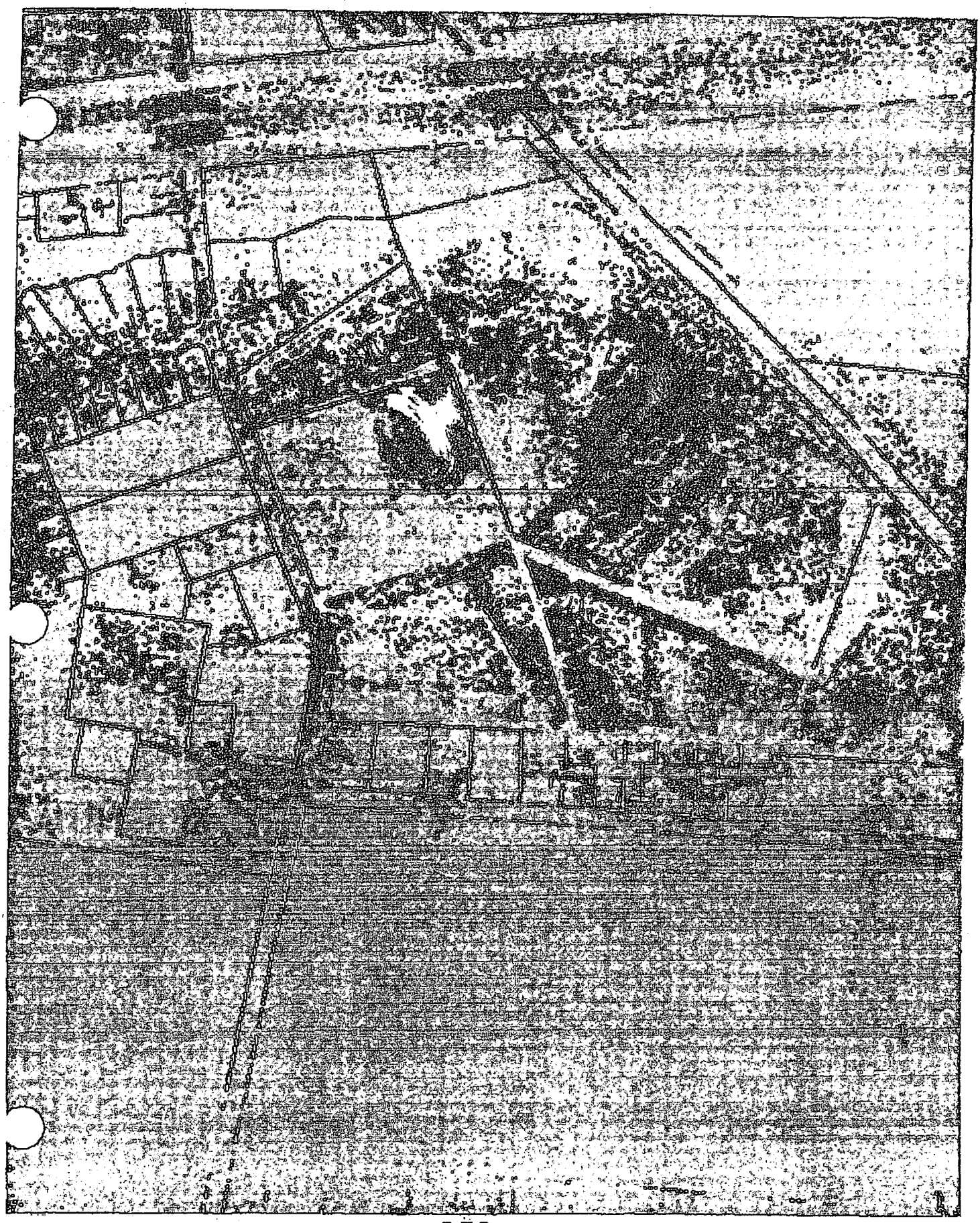
The facility is a fully functioning facility with all-weather driveways and operational infrastructure immediately available. Only minor site construction preparation will be made to the mixed C&D drop off area to better accommodate in-coming trucks. Also, our facility will include proper signage to ensure that truck flow, drop-off and pick-up area areas all easily identified at our Recovered Materials Processing Site. The property setbacks are 20 feet from property lines and will be maintained at the facility. The site has existing stormwater retention ponds and associated drainage ditches that controls run off for the entire facility. The facility is fenced and has lockable gates to deny access when the facility is closed. All existing trees and vegetation will remain intact at the facility.

We are very excited to provide this C&D recycling service to this area of Mrytle Beach and its surrounding community. We are driven and passionate about C&D recycling, reclamation, and creating new opportunities through beneficial re-use and waste diversion.

Sincerely,

Ronald C. Gilkerson
Thompkins and Associates, Inc.


17-20003055
17-20003041
17-20003051
17-20003042
17-20003033
17-20003025
17-20003063
17-20003065
17-20003006
17-20003007
17-20003062
17-20003064
17-20003010



COMP40S

4/24/14 HORRY COUNTY ZONING APP/COMP CERTIFICATION INQUIRY

11:50:16 RCMINCEY

PROJECT NAME: PROJECT #: 00000000

DATE: 3/20/2007 TMS: 172 00 03 033 SEQ: 001

ZONE: LI SET BACKS: F: 05000 B: 02500 R: 02000 L: 02000

MIN. LOT SIZE: 0000 RESIDENT BLDGS: 0000 BUSINESS BLDGS: 0000

TYPE: 177 TYPE DESCRIPTION: BUS LIC TOT ACRE:

BUILDINGS: 000 DISTANCE BETWEEN: 000 STORIES: 000 HGHT: 000 UNITS: 000

ROOMING UNITS: 000 PARKING: 0000 STREET FRONTAGE:

SQUARE FOOTAGE: ZONING ADMIN: VICKI STONE

LAST NAME: THOMPKINS FIRST NAME: ARTHUR

APPL TYPE: OWNER APPL PHONE: 843)236-3060

ADDR: 310 PILING DR MH STICKER# 000000

CTY: MYRTLE BEACH ST: SC ZIP: 29579

MH LOCATION ADDR:

IF DIFFERENT: CTY: ST: ZIP: 00000

CONDITIONS: BUS NAME:THOMPKINS & ASSOC. INC. BUS OWNER:ARTHUR THOMPKINS
TYPE OF BUS:C&D RECYCLING AND TRANSFER. THIS IS AN ACCESSORY

CMD5: TMS LIST CMD7:EXIT CMD10:CONDITIONS

CMD6 NAME LIST CMD9 for PREV

COMP40S

4/24/14 HORRY COUNTY ZONING APP/COMP CERTIFICATION INQUIRY

11:50:16 RCMINCEY

PROJECT NA

DATE: 3/2 CMD/7 to Exit

ZONE: LI

MIN. LOT S BUS NAME:THOMPKINS & ASSOC. INC. BUS OWNER:ARTHUR THOMPKINS

TYPE: 177 TYPE OF BUS:C&D RECYCLING AND TRANSFER. THIS IS AN ACCESSORY

BUILDINGS: USE TO AN EXISTING BUS. THIS IS A PERMITTED USE PER ROLAND

ROOMING UN MEYER AND CAROL COLEMAN.

SQUARE FOO

LAST NAME

APPL TYPE

ADDR: 310

CTY: MYRT

MH LOCATI

IF DIFFER

CONDITIONS

CMD5: TM

CMD6 NAM

BUS205
SWAINC

APPLICATION FOR ANNUAL BUSINESS LICENSE

11/12/2014
08:20:26
Bus ID# 000023387

Name of Business THO
Mailing Address 310
City MYRTLE BEACH
Primary SIC 5093 De
E-Mail
Location - # 00310 D
City MYRTLE BEAC
Phone# 0000000000
Resident/Non-Res
Corporation Name THO
Corporate Contact
State Retail License
License Owner
License Owner
Located in a Municip
Date business was Es
Do you intend to sel
District# 000 Tax ma
Proper

CMD/3 to Exit CMD/8 to Flag CMD/6 to Add

11/12/14
Complete description of acct is
C&D Recycling and transfer
Concrete, recycling and processing

ZONING BOARD OF APPEALS
MARCH 9, 2015

PRESENT WERE THE FOLLOWING BOARD MEMBERS:

BO IVES-CHAIRMAN
PAUL BENIK
MARION SHAW
WILLIAM LIVINGSTON
ANITA MORAN
ALAN SIPE
JOHN BROWN
RENNIE MINCEY
JANET CARTER
DAVID SCHWERD
ALICIA SHELLEY
WES COVINGTON
JERRY MABRY

HORRY COUNTY
2015 JUN 25 PM 4:35
CLERK OF COURT

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EXHIBIT G

MABRY COURT REPORTING
Verbatim Reporters

Jerry S. Mabry
1607 Magnolia Drive
N. Myrtle Beach, SC 29582
(843) 249-2831

JANICE DOWD .... PAGE 28
RICHARD GILKERSON ..... PAGE 33
RUBIN DIAL, JR. ..... PAGE 41

MR. IVES: OLD BUSINESS, MS. MINCEY.

MS. MINCEY: UNDER OLD BUSINESS WE HAVE CASE NUMBER 2015-01-008, DT, LLC, DENNIS THOMPKINS, ROB SHELTON OF THE BELLAMY LAW FIRM, AGENT. HIS REQUEST WAS DEFERRED AT THE LAST MEETING, WHICH IS AN APPEAL. IT WAS DEFERRED FOR THIRTY DAYS TO GIVE THE APPLICANT TIME TO BRING INFORMATION WHICH WAS NEEDED FOR THIS HEARING TO APPEAL THE ZONING ADMINISTRATOR'S DECISION THAT C&D WASTE AND CONCRETE TRANSFER BUSINESS ON THE SITE OF 310 PILING DRIVE, MYRTLE BEACH IS NOT APPROVED TO ACCEPT CONCRETE MATERIALS FROM OTHER CONTRACTORS.

MR. IVES: THANK YOU, MS. MINCEY. THE APPLICANT DID PROVIDE ADDITIONAL MATERIALS. HAS THAT MATERIAL REVISED YOUR STANCE?

MS. MINCEY: NO, SIR.

MR. IVES: THANK YOU VERY MUCH, MS. MINCEY. IS THE APPLICANT PRESENT?

MR. SHELTON: EXCUSE ME, BUT I HAVE LARANGITIS. I'LL SPEAK INTO THE MICROPHONE.
MR. IVES: THERE'S NO REASON TO SWEAR YOU IN, BUT WOULD YOU PLEASE IDENTIFY YOURSELF AND YOUR ADDRESS FOR OUR RECORD.
MR. SHELTON: I'M ROB SHELTON FROM THE BELLAMY LAW FIRM. 1000 29TH AVENUE, MYRTLE BEACH, SOUTH CAROLINA. I REPRESENT THOMPKINS & ASSOCIATES AND C&D WASTE.
MR. IVES: WHAT WOULD YOU LIKE US TO KNOW ABOUT YOUR APPLICATION?
MR. SHELTON: WELL, I BELIEVE RATHER THAN REITERATE OUR LENGTHY CONVERSATION LAST MONTH, I BELIEVE I WAS LEFT WITH A LAUNDRY LIST OF ITEMS AND WE WENT THROUGH THE RECORDS OF THE COMPANY AND I BELIEVE WE HAVE PROVIDED EVERYTHING THAT THIS BOARD ASKED US TO PROVIDE AND I'M HERE TO REQUEST (INAUDIBLE). IF THERE'S ANYTHING I CAN EXPLAIN OR YOU HAVE ANY QUESTIONS.
MR. IVES: WELL, MR. SHELTON, FOR ME, I HEARD ALMOST TWO APPLICATIONS LAST MONTH AND I WANT TO HEAR A UNIFIED PRESENTATION. SO, IF YOU WOULD SUMMARIZE THE POINTS THAT YOU'D LIKE TO BRING TO OUR ATTENTION OF EITHER TWO

DIFFERENT APPLICATIONS. SO, I WAS CONFUSED. THAT'S WHY WE WANTED TO HAVE MORE TIME TO UNDERSTAND WHAT THE APPLICATION ENTAILED.

MR. SHELTON: THE CURRENT INTERPRETATION FROM THE ZONING ADMINISTRATOR ONLY BECAME AN ISSUE IN 2007, WHICH WAS UNDER A DIFFERENT ZONING ADMINISTRATOR IN THAT OUTSIDE LOADS ARE NOT ALLOWED TO BE BROUGHT TO THE THOMPKINS & ASSOCIATES PROPERTY TO BE RECYCLED OR REUSED DESPITE THE FACT THAT PROPERTY IS LOCAL TO DEMOLITION PROJECTS THAT PRODUCE THOSE C&D LOADS SUCH THAT THOSE TRUCKS NEED NOT TRAVEL TWENTY MORE MILES ON TO A LANDFILL WHEN THOSE LOADS COULD BE RECYCLED LOCALLY TO THE DEMOLITION ITSELF AND BE RE-PURPOSED RIGHT BACK INTO THE CONSTRUCTION INDUSTRY AGAIN LOCALLY. THE CURRENT INTERPRETATION OF THE ZONING ADMINISTRATOR IS THAT OUTSIDE LOADS ARE NOT PERMITTED. IN OTHER WORDS, LOADS FOR THOMPKINS & ASSOCIATES COULD GO OUT AND DEMOLISH A BUILDING AND THEY CAN BRING THOSE IN, BUT THEY COULDN'T BRING IN OUTSIDE LOADS. WHAT WE WERE TRYING TO EXPLAIN TO THIS BOARD WAS IN 2007 WHEN THEY WERE REQUIRED BECAUSE THERE WAS A ZONING CHANGE (INAUDIBLE) TO

APPLY FOR THIS PERMIT, THEY HAD ALWAYS BEEN ACCEPTING OUTSIDE LOADS. SO, WHEN THEY CAME IN AND SPOKE TO THE THEN ZONING ADMINISTRATOR, THEY ASKED HOW MUCH THE PERMIT WOULD COST AND WROTE THE CHECK FOR THAT. THEY PRINTED OUT A PERMIT AND THEY THEN TOLD THE THEN ZONING ADMINISTRATOR WHAT THEIR BUSINESS WAS AND ALWAYS HAD BEEN AND THEY ISSUED A PERMIT, ZONING DID, BY THE PRIOR ZONING ADMINISTRATOR. SO, IF THERE'S ANY MISUNDERSTANDING AS TO WHAT THE BUSINESS WAS THEY WERE CONDUCTING ON THAT SITE, SINCE TIME IN MEMORIAL, IT WOULD (INAUDIBLE) ZONING ADMINISTRATOR BE A MISCOMMUNICATION, THEN CERTAINLY MR. THOMPKINS AND HIS FAMILY, ONE WHO THIS BOARD WILL AFFECT THEIR FAMILY'S BUSINESS, NEVER WOULD HAVE REPRESENTED TO THE COUNTY THAT THEY WERE TAKING IN OUTSIDE LOADS. THAT'S A VERY LARGE PART OF THEIR BUSINESS AND ALWAYS HAD BEEN. IT WAS THEIR GOALS TO RECYCLE THIS CONSTRUCTION DEBRIS SUCH THAT THEY COULD RE-PURPOSE IT RATHER THAN FILLING UP THE LANDFILL. SO, THIS BOARD LAST MONTH HAD QUESTIONS ABOUT HOW WE COULD PROVE THAT WE HAD BEEN ACCEPTING OUTSIDE

LOADS ALONG AND ALONG AND IT WASN'T SOMETHING NEW. SO, WHAT WE PRODUCED TO YOU WAS A SERIES OF LOAD TICKETS FROM 2006, WHICH WAS THE YEAR PRIOR TO THE ISSUANCE OF THIS PERMIT. WHEN EVERYTHING SAID THE ISP OR THE DISPOSAL IS AN OUTSIDE LOAD COMING IN. AND THIS WAS BEFORE THE BOARD IS 2006. I ALSO HAVE THE FIRST QUARTER OF 2007 UP HERE IF YOU WANT TO TAKE THE TIME TO SCAN, BUT I HAVE THE ORIGINAL LOAD TICKETS FROM 2007. ALL OF THESE ARE PRIOR TO THE ISSUANCE OF THAT PERMIT. I ALSO HAVE SOME FROM 2006. I ALSO PRODUCED TO YOU A LEDGER THAT HAS BEEN KEPT BY THOMPKINS & ASSOCIATES FROM 2006. THIS IS THE ENTIRE YEAR OF 2006. YOU HAVE A COPY OF EVERYTHING IN YOUR PACKET. BUT EVERYTHING HIGHLIGHTED IN YELLOW IN THIS BOOK IS AN OUTSIDE LOAD FROM AN OUTSIDE CONTRACTOR COMING INTO THE THOMPKINS & ASSOCIATES SUCH THAT THAT MATERIAL CAN BE RECYCLED AND PROCESSED INTO CONSTRUCTION MATERIAL THAT CAN BE SOLD BACK INTO THE CONSTRUCTION BUSINESS RATHER THAN HAULING IT TO THE LANDFILL AND HAVING NOT BE RECYCLED. THAT'S WHAT THEY HAD ALWAYS BEEN DOING. THAT'S WHAT THEY WERE

DOING WHEN THEY APPLIED FOR THEIR PERMITS. IF THERE IS AN INTERPRETATION OF THAT PERMIT THAT THE COUNTY, NOT THE APPLICANT, WAS ISSUED BACK IN 2007, IT IS INCONSISTENT WITH WHAT THEY HAD ALWAYS BEEN DOING ON THIS PROPERTY. THAT ISN'T THE FAULT OF THE PROPERTY OWNER. THE PROPERTY OWNER HAS DONE THE SAME BUSINESS ALONG AND ALONG. THEY'RE NOT CHANGING ANYTHING OUT THERE. SO, ALL WE'RE ASKING THIS BOARD TO DO IS AFFIRM WHAT THEY HAVE ALWAYS BEEN DOING AND IT'S STILL PERMISSIBLE NOW THAT ZONING HAS ZONED THAT AREA OUT THERE AND THEY'RE DON'T HAVE TO GET A BUILDING PERMIT WITHOUT ISSUING A PERMIT (INAUDIBLE) IN THE NATION AND BEING INCORRECTLY INTERPRETED TODAY. THEY COULD BE UNDER THE GENERAL GRANDFATHER STATUTE AND HAVE BEEN DOING THIS ALL ALONG SINCE 1981. IT IS PHENOMENAL THAT THE APPLICANT'S WIFE WAS ABLE TO FIND THESE ORIGINAL LOAD TICKETS BECAUSE THIS ISN'T SOMETHING THAT MOST COMPANIES WOULD SAVE FOR MANY, MANY YEARS. BUT WE HAVE FOUND THEM AND THESE I'LL POINT OUT TO YOU. I'VE PROVIDED YOU WITH PHOTO-GRAPHS. THEY ALL HAVE A TIME STAMP ON THEM

WHEN THEY WERE CLOCKED INTO THE CLERK OF COURT'S OFFICE. THAT STAMP IS DONE BY A MACHINE THAT IS ATTACHED TO A COMPUTER BY A SCALE THAT THE TRUCKS PULL UP ON AND WEIGHS THE TRUCKS. TAKE THAT TICKET ON THE SCALES AND IT CLOCKS IT WHEN IT WAS DONE AND HOW MUCH IT WEIGHED. THAT MACHINE IS RANDOMLY AND WITHOUT ANNOUNCEMENT INSPECTED BY THE SOUTH CAROLINA DEPARTMENT OF AGRICULTURE AND THAT'S DONE ON A REGULAR BASIS. WE HAVE TO BE ABLE TO SHARE THOSE RECORDS TO BE ABLE TO PROVE THOSE RECORDS ARE TRUE AND CORRECT. THESE ARE NOT UNDER THEIR CONTROLS. THESE ARE AUTHENTIC LOADS WITH THE DATES. THE APPLICATION FOR THE LICENSE HAS NOW BEEN INTERPRETED DIFFERENTLY THAN IT WAS ALL ALONG. ALL WE'RE ASKING THIS BOARD TO DO IS TREAT THE THOMPKINS FAIRLY. THEY HAVE BEEN DOING A GOOD SERVICE FOR THIS COMMUNITY FOR MANY, MANY, MANY YEARS. WHEN THEY WERE REQUIRED TO GO DOWN THERE AND GET A PERMIT, THEY PAID FOR IT. THEY'VE NEVER BEEN LATE PAYING FOR IT AND THEY TOLD 'EM WHAT IT WAS THEY WERE DOING AND NOW, THE PERMIT THEY WERE ISSUED BY THE COUNTY, THIS IS BEING INTER-

PRETED BY A DIFFERENT ZONING ADMINISTRATOR AS BEING SOMETHING OTHER THAN WHAT THEY INDICATED FROM THE BEGINNING. WE'RE ASKING THIS BOARD TO CORRECT THAT WRONG AND ALLOW THE THOMPKINS TO CONTINUE THEIR FAMILY BUSINESS AND KEEP DOING GOOD BUSINESS IN HORRY COUNTY AND KEEPING THE TRUCKS OFF THE ROAD AND RECYCLE THE CONSTRUCTION DEBRIS LIKE THEY'VE BEEN DOING ALL ALONG.

MR. IVES: I THINK OUR CONFUSION WAS THE LETTER THAT YOU SUPPLIED FROM DHEC. WE WERE CURIOUS HOW DHEC WOULD (INAUDIBLE), BUT IT CONFUSED US BECAUSE IT REFERRED TO RECOVERED MATERIALS PROCESSING FACILITY AND I THINK THAT'S WHAT CONFUSED US. THE LETTER APPLIED TO ACTIVITIES THAT WERE OUTSIDE OF WHAT MR. THOMPKINS TOLD US HE COULD DO. SO, ARE YOU TELLING US THAT GOING FORWARD THE INTENTION IS TO DO MERELY WHAT MR. THOMPKINS HAS BEEN DOING SINCE 2006?

MR. SHELTON: MR. THOMPKINS INTENDS TO CONTINUE TO TRY TO GET THE JOB. THEY DID MOST OF THE TEARING DOWN A VAST MAJORITY OF MYRTLE SQUARE MALL FOR INSTANCE. SO, EVER SINCE HE BROUGHT IN THE MATERIAL AS HE HAS

ALWAYS, AS HIS DADDY DID BEFORE HIM, BROUGHT IN A LOT OF OTHER CONTRACTORS TO BRING IN THEIR MATERIALS AS WELL TO RECYCLE AS WELL. AS DHEC WOULD TELL YOU, AS LONG AS WE'RE ONLY RECYCLING SEVENTY-FIVE PERCENT OF IT, WE CAN DO THAT WITHOUT ANY PERMIT. NOW, DHEC CAN INSPECT ANY FACILITY (INAUDIBLE). WHAT HE INTENDS TO DO GOING FORWARD IS CONTINUE TO TAKE IN CONSTRUCTION DEMOLITION DEBRIS FROM HIS JOBS AND OUTSIDE CONTRACTORS, RECYCLE AS MUCH AS PERMISSIBLE UNDER THE LAW AND RE-PURPOSE IT AND SELL IT BACK OUT INTO THE CONSTRUCTION INDUSTRY, ANYTHING HE CAN AND HE HAS TO TAKE TO THE LANDFILL AS EVERYONE ELSE DOES.

MR. IVES: THE INTENTION IS NOT ANY OTHER PROCESSING EXCEPT CONCRETE CRUSHING AND THAT IS IT?

MR. SHELTON: CONCRETE CRUSHING AND DEMOLITION DEBRIS.

MR. IVES: ALSO WE HAVE A LETTER FROM DHEC SINCE OUR LAST MEETING WHICH IS TALKING ABOUT THE FACILITY AS LONG AS IT MEETS OR EXCEEDS THE SEVENTY-FIVE PERCENT BY WAY OF RECOVERY REQUIREMENTS AND THAT, I'M ASSUMING, THEY'RE

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ABLE TO ACCOMMODATE?

MR. SHELTON: THEY ARE AND THEY HAVE TO PROVE THAT TO DHEC ON AN ONGOING BASIS. THAT'S SOMETHING THAT DHEC MONITORS.

MR. IVES: AND THE THIRD DHEC LETTER YOU'VE SUPPLIED US SEEKS TO SUPPLY ... TO CLARIFY. THE DEPARTMENT DOES NOT RESTRICT LAND USE JURISDICTION ON A PIECE OF PROPERTY BASICALLY BECAUSE THAT'S THE COUNTY'S JOB.

MR. SHELTON: I ASKED FOR THAT LETTER IF YOU WONDER WHY THAT LETTER EXISTS. IF YOU'LL TURN TO THAT SECOND LETTER ONCE MORE. IN THAT SECOND LETTER, THE PERSON WHO HANDLED THAT LETTER USED THE WORD "SOLELY" AND IT STRUCK ME AS ODD BECAUSE THAT'S OBVIOUSLY AN ERROR IN THEIR DICTATION OR SOMETHING OF THAT SORT, THE WAY THEY PUT IT TOGETHER. THAT'S NOT TRUE. WELL, IT IS TRUE. BUT IT'S NOT LIMITED TO THE PROPERTY THAT ONLY HAS ONE USE. THAT IS FACTUALLY CORRECT, BUT IF IT IS SOLELY DOING THIS THAT IT WOULD REQUIRE A PERMIT. BUT IF THEY'RE DOING THESE OTHER THINGS ON THE PROPERTY IT STILL DOESN'T REQUIRE A PERMIT. SO, I ASKED FOR A FOLLOW UP LETTER WHICH IS VERIFYING THAT, WHICH IS

WHY THEY WROTE THAT THIRD LETTER TELLING US THEY'RE NOT CONCERNED AT ALL WITH WHAT'S (INAUDIBLE). IF THERE'S A TWENTY-FIVE PERCENT RATIO, THEY'RE SATISFIED (INAUDIBLE).

MR. IVES: THE INTERPRETATION THAT THE ZONING ADMINISTRATOR HAS MADE THAT YOU'RE QUESTIONING IS THE DETERMINATION THAT IT'S AN ACCESSORY USE.

MR. SHELTON: IT'S NOT SO MUCH AN ACCESSORY USE BUT IF IT CAUSES AN ACCESSORY USE THAT MEANS YOU CAN'T BRING IN OUTSIDE LOADS. THE CONCRETE AND CONSTRUCTION DEMOLITION DEBRIS RECYCLING PORTION OF WHAT THOMPKINS & ASSOCIATES DO, AND IT'S ALWAYS BEEN A LARGE PORTION OF WHAT THEY DO, WHEN THEY FIRST CAME IN AND APPLIED FOR THEIR LICENSE BECAUSE THEY WERE NOW REQUIRED TO DO SO, THEY TOLD THE THEN ZONING ADMINISTRATOR WHAT IT IS THEY DO. AND THE LICENSE WAS WRITTEN FOR CONSTRUCTION AND HEAVY EQUIPMENT WITH AN ACCESSORY USE OF C&D RECYCLING. MR. THOMPKINS HAD NO WAY OF KNOWING WHAT THAT MEANS AND IT IS OBVIOUS THAT THERE IS A DISTINCTION BETWEEN INTERPRETATIONS OF WHAT THAT MEANS OR WE WOULDN'T BE HERE TODAY. THE PRIOR ZONING ADMINISTRATOR

HAD NO ISSUE WITH THEM CONTINUING TO DO WHAT THEY HAD ALWAYS DONE UNDER THE PERMIT THE WAY DHEC HAD WRITTEN IT, BUT THE NEW ZONING ADMINISTRATOR INTERPRETED IT DIFFERENTLY. SO, IF THE ZONING ADMINISTRATORS THEMSELVES CAN AGREE ON EXACTLY WHAT THAT MEANS, HOW ARE WE SUPPOSED TO KNOW. IT'S NOT A VERY CLEAR CASE. THE DEFINITION OF ACCESSORY USE IS (INAUDIBLE) THAT MR. THOMPKINS. THAT'S WHAT THE ZONING ORDINANCE SAYS. WHAT IT DOES IS COMPLEMENTARY TO THE REST OF WHAT WE'RE DOING OUT THERE. IF WE DIDN'T HAVE THE CONSTRUCTION AND HEAVY EQUIPMENT OUT THERE, WE COULDN'T USE THE RECYCLING AND IF WE DIDN'T HAVE THE RECYCLING OUT THERE, WE COULDN'T USE THE CONSTRUCTION AND HEAVY EQUIPMENT TO HAUL THE STUFF BACK OUT INTO THE BUSINESS COMMUNITY SO IT CAN BE PUT IN NEW CONSTRUCTION BUSINESS. THEY ARE COMPLEMENTARY OF ONE ANOTHER. THAT'S NOT A VERY GOOD DEFINITION, BUT IT'S A COMPLIMENTARY USE OF A PRIMARY ENTITY. WE DIDN'T GET (INAUDIBLE) OUT THERE. DENNIS THOMPKINS SIGNATURE OR HIS DADDY'S SIGNATURE WHERE HE ELECTED WHAT HIS PRIMARY OR SECONDARY OR EXCEPTIONAL USE OR ANY WORK

THAT HE DID.

MR. IVES: GETTING HIS BUSINESS LICENSE WAS WHAT SHE WAS KEYING ON IN HER DECISION.

MR. SHELTON: HE DID WRITE A BUSINESS LICENSE. MR. ROWLAND MEYER WROTE HIS BUSINESS LICENSE AND PRINTED IT OUT. ALL HE HAD TO DO WAS TELL ROWLAND MEYER, THE THEN ZONING ADMINISTRATOR WHAT HE WAS DOING AND WHAT HE HAD ALWAYS BEEN DOING OUT THERE. HE SAID, "WHERE DO I SIGN AND HOW MUCH DO I MAKE THIS CHECK OUT FOR?" THAT'S ALL HE COULD DO. I CANNOT DO ... MR. THOMPKINS CANNOT ISSUE A BUSINESS LICENSE. HE CAN'T DRAFT ONE. HE CAN'T FILL IT OUT. THAT'S THE ZONING ADMINISTRATOR'S JOB. HE TOLD ROWLAND MEYER WHAT HE WAS DOING AND WHAT THEY HAD ALWAYS DONE AND ROWLAND MEYER SAID, "HERE'S WHERE YOU SIGN AND HERE'S THE AMOUNT YOU NEED TO MAKE THE CHECK OUT FOR." ROWLAND MEYER PRINTED OUT THE LICENSE AND HANDED IT TO HIM. OBVIOUSLY WITH THE UNDERSTANDING THAT YOU CAN SEE FROM YOUR PACKAGES, AND ALONG AND ALONG FOR YEARS THOMPKINS HAD BEEN ACCEPTING OUTSIDE LOADS. THEY'VE DONE THIS FOR THE CITY OF MYRTLE BEACH. THEY'VE DONE THIS ON MANY, MANY

PROJECTS AND THEY'VE DONE IT EVERY YEAR THEY'VE BEEN IN BUSINESS. THEY DIDN'T CHANGE ANYTHING WHEN THEY GOT THAT BUSINESS LICENSE. THEY DON'T WANT TO CHANGE ANYTHING NOW. ACCEPTING OUTSIDE LOADS AND RECYCLING THIS MATERIAL GETS IT BACK IN THE CONSTRUCTION INDUSTRY OUT THERE ON RON MCNAIR BOULEVARD. IT'S VERY BENEFICIAL TO HORRY COUNTY SUCH THAT THEN IT DOESN'T HAVE TO BE HAULED ALL THE WAY DOWN 501, PAST ALL THOSE BAD INTER-SECTIONS ON 501 AND ALL THE WAY UP HIGHWAY 90, PUT IN A LANDFILL TO SIT IN A LANDFILL THAT IS (INAUDIBLE) AND OUGHT NOT TO BE ACCEPTING CEMENT MATERIALS ANY WAY. THESE MATERIALS CAN BE RECYCLED OUT THERE ON RON MCNAIR BOULEVARD RIGHT OUT OF THE FRONT DOOR OF MYRTLE BEACH. THAT'S FOR EVERYBODY. THAT'S WHY THOMPKINS & ASSOCIATES HAVE A FAMILY BUSINESS BECAUSE IT IS SO HELPFUL TO EVERYBODY. THE CONTRACTORS THAT BRING THE MATERIAL IN ARE HAPPY BECAUSE HE DOESN'T HAVE TO DRIVE ALL THE WAY OUT HIGHWAY 90. HE'D HAVE TO PAY FOR A TRUCK ALL THE WAY OUT THERE. THE GUYS THAT HATE THE INTERSECTIONS ALONG THE WAY BRING PUBLIC PROTEST TRYING TO

GET DOT TO APPROVE THEM OUGHT TO BE HAPPY BECAUSE THE TRUCKS ARE OFF THE ROAD. AND THERE ARE CONTRACTORS BRINGING THEIR MATERIALS OUT THERE BECAUSE THEY DON'T HAVE TO TRAVEL FAR TO GET THERE. AND (INAUDIBLE) ARE COST EFFECTIVE COMPARED TO NOT RECYCLED MATERIALS AND THEY'RE RIGHT IN THEIR BACK-YARD. SO, EVERYBODY WINS. THE ONLY REASON WE'RE HERE IS BECAUSE WE HAVE ONE ZONING ADMINISTRATOR THAT ISSUED A LICENSE KNOWING WHAT THE THOMPKINS HAD ALWAYS BEEN DOING OUT THERE BEFORE THEY CAME IN THERE WITH THEIR ZONING AND THEN THEY HAVE ANOTHER ZONING ADMINISTRATOR NOW, YEARS LATER, THAT INTER-PRETS THAT FIRST LICENSE DIFFERENTLY FROM WHAT IT WAS INTENDED TO BE. THE THOMPKINS AREN'T CHANGING ANYTHING. THEY'RE JUST DOING WHAT THEY'VE ALWAYS DONE. IT'S OF GREAT BENEFIT TO HORRY COUNTY. YOU OUGHT NOT TO SHUT DOWN THIS FAMILY BUSINESS JUST BECAUSE THE NEW ZONING ADMINISTRATOR OBVIOUSLY DIS-AGREES ON WHAT ACCESSORY USE IS.

MR. IVES: THE APPLICANT CAME TO THE ZONING ADMINISTRATOR. SHE DIDN'T CHOOSE TO GO AFTER HIM. MR. THOMPKINS, HE CAME IN AND REQUESTED

HIS OPERATION AS AN ACCESSORY USE.

MR. SHELTON: BECAUSE SOMEONE WAS INTERESTED IN BUYING INTO THIS FAMILY, AS ANY DUE DILIGENCE REASONABLE PERSON WOULD DO, WOULD LOOK INTO THOSE SORTS OF THINGS BEFORE THEY INVESTED IN THE BUSINESS.

MR. IVES: (INAUDIBLE). MR. THOMPKINS TOLD US THAT HE HAD SOLD HIS EQUIPMENT AND THAT IMPLIED TO (INAUDIBLE) OPERATION.

MR. SHELTON: NOT AT ALL. HE SOLD HIS EQUIPMENT BECAUSE HE HAD A DEAL WHERE SOMEBODY WAS BUYING IN AND WANTED TO BRING IN BRAND NEW EQUIPMENT INSTEAD OF OLD EQUIPMENT. ALL HE DID WAS AUCTION OFF HIS OLD EQUIPMENT AND BRING IN NEW WHILE THE GUY THAT WAS BUYING IN CAME IN AND SAID, (INAUDIBLE) LET'S MAKE SURE (INAUDIBLE) AND FOUND OUT THAT HE HAD AND THE NEW ZONING ADMINISTRATOR DOESN'T READ THE PERMIT TO SAY WHAT IT WAS ALWAYS INTENDED TO SAY. HAD WE NOT HAD THIS ISSUE BACK IN THE FALL OR WINTER OF LAST YEAR, THERE WOULD BE NEW EQUIPMENT THERE RIGHT NOW, BUT THE INVESTORS WERE LOOKING TO BUY INTO A FAMILY COMPANY AREN'T ABOUT TO SHELL OUT SEVERAL HUNDRED THOUSAND DOLLARS TO REPLACE THIS

EQUIPMENT UNTIL THEY'RE SURE THAT THEY'RE ACTUALLY ABLE TO OPERATE THIS FAMILY BUSINESS.

MR. IVES: THERE IS ANOTHER FACTOR WHICH THIS OUTFIT IS INTERESTED IN HAVING A DECISION MADE HERE BECAUSE CRAFT ZONING WOULD REQUIRE CONCRETE CRUSHING TO OCCUR INSIDE THE FACILITY TO KEEP PARTICULATES FROM COMING IN THE AIR.

MR. SHELTON: IF I WAS COMING BEFORE THE COUNTY TODAY FOR A NEW APPLICATION TO START A NEW BUSINESS, THAT WOULD BE TRUE AND IT IS A VERY EXPENSIVE CONCEPT AND IT WON'T WORK. IT CANNOT WORK. EVERYBODY KNOWS THAT WHICH IS WHY THE REQUIREMENT IS IN BECAUSE BUILDING THE STRUCTURE IS PROHIBITIVE, BUT MAINTAINING IT IS EVEN WORSE. BECAUSE THERE ARE VERY STRICT REQUIREMENTS ON THE AIR FILTRATION WITHIN THE BUILDING. IT IS ABSOLUTELY COST PROHIBITIVE AND IT SERVES A VERY DIFFERENCE TO PREVENT ANY NEW CONCRETE CRUSHING OF ANY KIND ANYWHERE IN THE COUNTY. THAT'S NOT WHAT WE'RE DOING. THAT'S NOT WHAT WE'RE HERE ASKING FOR. THIS IS NOT A NEW COMPANY. THIS IS NOT A NEW USE OF THIS PROPERTY. IT'S

EXACTLY WHAT'S BEEN GOING ON THERE FOREVER SINCE THERE WAS ANY ZONING APPLICABLE TO WHATEVER WAS CONTRARY. AND BEFORE THAT, AN ORDINANCE THAT WOULD REQUIRE DUE CLOSURE, WHICHEVER PASSED IN 2009. THEY'VE BEEN DOING THIS SINCE 1981. THERE'S A LETTER FROM A NEIGHBOR THAT SAYS, "EVERYONE WINS." IT'S A NEIGHBOR WHO SAYS ... I'M NOT FAMILIAR WITH MS. WILLIAMS AND (INAUDIBLE) WILL GIVE YOU A BACK STORY ON HER LETTER. SHE IS CONCERNED ABOUT HAVING THAT "FENCE NOT THERE." WELL, IT WASN'T FAIR. IN FACT THERE IS A FENCE THERE ALL THE WAY ALONG THAT PROPERTY EXCEPT IN THE PORTION WHERE MS. WILLIAMS HOUSE IS. AND THAT IS BECAUSE MS. WILLIAMS HUSBAND, A FEW YEARS AGO, CAME TO MR. THOMPKINS AND SAID, "LOOK, WE'VE GOT THIS TREE ..." AND MR. WILLIAMS WAS HERE LAST MEETING. HE DIDN'T SPEAK, BUT HE WAS HERE LAST MEETING AND MR. WILLIAMS CAME TO MR. THOMPKINS AND SAID, "WE'VE GOT THIS PINE TREE IN THE FRONT OF THE HOUSE. IT'S A DANGER AND I WANT TO HAVE IT TAKEN DOWN." MR. THOMPKINS SAID, "OKAY." AND HE SAID, "I DON'T WANT THE TRUCKS GOING THROUGH MY PROPERTY WHERE MY HOUSE IS. CAN I

TAKE SOME OF THAT FENCE DOWN AND LET THE TRUCKS BRING THAT CONCRETE THROUGH YOUR PROPERTY?" MR. THOMPKINS SAID, "SURE." AND SO, MR. WILLIAMS TOOK THE FENCE DOWN, GOT THE PINE TREE DOWN AND PULLED IT OFF OF MR. THOMPKINS' PROPERTY AND MR. THOMPKINS HAVING ASKED HIM MANY TIMES IN THE PAST FEW YEARS, BUT HE HAS YET TO PUT UP THAT FENCE. MR. THOMPKINS DOESN'T HAVE IT. MR. WILLIAMS HAS IT PRESUMABLY OR IT'S BEEN DONE AWAY WITH. WE DON'T KNOW. BUT I'VE TALKED WITH THE INVESTORS AND THEY WISH TO CONTINUE THIS FAMILY BUSINESS WITH ADJUSTMENTS AND THEY'RE MORE THAN HAPPY TO PUT THIS FENCE BACK UP EVEN THOUGH MR. WILLIAMS IS THE ONE THAT WANTED IT TAKEN DOWN. WE'LL BUY A NEW FENCE. IT'S NOT AN ISSUE. WE'LL BE HAPPY TO DO THAT.

MR. IVES: SHE'S ALSO CONCERNED WITH THE SMELL AND THE PARTICULANTS. SHE SAYS SHE'S BEEN HAVING TO ENDURE THE DUST AND SMELL FOR YEARS. SO, NOT EVERYONE IS PLEASED. THERE ARE PEOPLE IN CLOSE PROXIMITY WHO ARE CONCERNED ABOUT THIS OPERATION.

MR. SHELTON: MS. WILLIAMS AND EVERYONE ON THE

STREET WHO MAY HAVE POTHOLES IN THEIR STREET OR DRIVEWAY (INAUDIBLE) AND ALL THEY DO IS CALL THE THOMPKINS AND THOMPKINS SENDS A FRONT END LOADER BEFORE THE SUN SETS ON THAT DAY AND FIXES THE DRIVEWAY OR FIXES THE STREET, WHATEVER. THEY TAKE CARE OF THE CEMETERY AS HE TESTIFIED LAST MEETING. THE THOMPKINS ARE GOOD NEIGHBORS IS ALL THEY COULD ASK FOR. THEY ALWAYS HAVE BEEN AND THEY'RE NOT GONNA STOP NOW.

MR. IVES: THANK YOU, MR. SHELTON. IS THERE ANYONE ON THE BOARD WHO WOULD LIKE TO ASK A QUESTION?

MR. BENIK: I DON'T WANT TO SOUND LIKE THE EPA, DEPARTMENT OF ENERGY, BUT YOU MENTIONED THAT WE CAN'T ... IT'S NOT POSSIBLE ... IT'S NOT ECONOMICALLY FEASIBLE FOR THEM TO COMPLY WITH THE ZONING CODES NOW. THAT THEY HAVE TO BE CRUSHED INSIDE A BUILDING. WHAT I'M SAYING IS IF ... IF A ... I MEAN, I DECLINE ... WELL, LET ME GET TO MY STATEMENT. YOU MENTIONED THE FILTRATION SYSTEMS IN THE AIR. YOU'RE SAYING THIS ... WHO PUT THESE ... THESE ... THESE CODES IN PLACE?

MR. SHELTON: HORRY COUNTY.

MR. BENIK: HORRY COUNTY PUT THESE IN PLACE. OKAY. YOU'RE SAYING AND YOU MADE THE COMMENT THAT IT'S DESIGNED TO KEEP THIS FROM HAPPENING.

MR. SHELTON: THAT CERTAINLY IS HOW THIS APPEARS FROM PEOPLE WHO DO THIS FOR A LIVING BECAUSE ... AND I'M NOT FAULTING HORRY COUNTY. I THINK WE HAVE A GOOD COUNCIL. THEY TRY TO DO THE RIGHT THING. I WORK THROUGHOUT THE STATE AND I'VE SEEN .., I CAN TELL YOU MANY, MANY COUNCILS WHO DON'T. THIS COUNCIL TRIES. HERE'S WHAT I SEE THE PROBLEM TO BE: THERE ARE ROGUE PROCESSORS WHO DON'T HAVE (INAUDIBLE) OR WHO HAVE NEVER COMPLIED WITH ANY OF THE ORDINANCES AND THEY'VE PRESENTED PROBLEMS FOR YEARS AND COUNTY ZONING STAFF HAVE THEIR HANDS FULL WITH IT. THEY END UP IN LAWSUITS WITH THEM, IN PUBLIC BATTLES WITH THEM AND I UNDERSTAND THAT IF IT IS TO THE BENEFIT OF THE STAFF TO MINIMIZE THE NUMBER OF THESE PERMITTED OPERATIONS. WE'RE NOT TALKING ABOUT A ROGUE OPERATOR HERE. WE'RE TALKING ABOUT THE THOMPKINS IN THEIR LINE HAVE ALWAYS DONE EVERYTHING TO COMPLY WITH HORRY COUNTY AND HAVE NEVER BEEN

LATE PAYING ON THEIR PERMIT OR THEIR TAX OR ANYTHING ELSE. THEY'RE GOOD NEIGHBORS AND THEY'VE DONE EVERYTHING THEY CAN AND THIS ISN'T A NEW APPLICATION. THAT'S THE WHOLE POINT. THEY GOT THE PERMIT WHEN IT WAS REQUIRED OF THEM TO GET IT. THEY HAVEN'T CHANGED THE WAY THEY'RE DOING THINGS AT ALL. THEY'RE BEEN DOING THE SAME THING FOR DECADES. AND NOW, BECAUSE SOMEONE IS LOOKING TO BUY INTO THE COMPANY, WE'RE GONNA KILL A FAMILY BUSINESS BECAUSE OF A DIFFERENCE OF OPINION WITH THE ZONING ADMINISTRATORS AS TO WHAT THE PERMIT SAID WHEN IT ISSUED BY THE THEN ZONING ADMINISTRATOR.

MR. BENIK: WELL, WHAT I UNDERSTAND, WE'RE DEALING WITH A LIFELONG FAMILY IN HORRY COUNTY?

MR. SHELTON: ABSOLUTELY.

MR. BENIK: THEY HAVE OWNED THE BUSINESS FOR MANY YEARS AND THEY WANT ... AND THEY HAVE A RIGHT TO CONTINUE ON IN THEIR BUSINESS AND I UNDERSTAND THAT FULLY. BUT, AT THE SAME TIME ... BUT, AT THE SAME TIME, WE DON'T KNOW WHO THESE PEOPLE ARE YOU'RE ASKING US ... YOU'RE ASKING US TO CONTINUE ... TO OVERRULE THE

ZONING ADMINISTRATOR PLUS SO THAT WE DON'T HAVE TO FOLLOW THE NEW ORDINANCES OF THE NEW CODE OF WHAT YOU'RE INQUIRING ABOUT THE CLOSURE. THAT'S WHAT WE'RE GIVING UP WHEN WE ALLOW IT TO CONTINUE, THESE OTHER QUESTIONS COME IN. IF MR. THOMPKINS WAS GONNA BE HERE FOREVER AND HE'S BEEN DOING IT FOREVER, AND IT DOESN'T SEEM THAT ANYBODY IS HAVING A PROBLEM WITH IT, BUT, YOU KNOW, MR. THOMPKINS IS NOT GONNA BE HERE.

MR. SHELTON: WELL, FIRST OF ALL, THE PEOPLE WHO ARE BUYING INTO THIS ARE GOOD HORRY COUNTY BUSINESS PEOPLE. THEY'VE NEVER HAD ANY PROBLEM WITH ANYBODY. SECONDLY, THIS IS NO DIFFERENT IF THE ISSUE IS, WHO'S THE OWNER AND WHO'S BUYING IT, THE ISSUE IS THE DIS-AGREEMENT BETWEEN THE ZONING ADMINISTRATORS AS TO WHAT THE BUSINESS LICENSE IS (INAUDIBLE) AND THERE'S ANOTHER DISAGREEMENT BETWEEN THE ZONING ADMINISTRATORS, NONE OF THAT WOULD MATTER AT ALL. YOU CAN SELL A FIFTY PERCENT SHARE OF YOUR FAMILY BUSINESS AND IT WOULD NEVER RAISE THE IRE OF THE COUNTY AT ALL IF ONLY BECAUSE YOU HAVE A DIS-AGREEMENT BETWEEN ZONING ADMINISTRATORS AS TO

(INAUDIBLE).

MR. BENIK: I UNDERSTAND. AND YOU'RE ASKING US TO OVERRULE THAT ZONING ADMINISTRATOR AND WHEN WE DO THAT ... WHEN WE DO THAT, THEY CONTINUE WITHOUT (INAUDIBLE). WITHOUT IMPOSING THE NEW REGULATIONS AND THAT FOLLOWS THE LAND FOREVER.

MR. SHELTON: OR UNTIL THEY VIOLATE HORRY COUNTY ORDINANCES IN SOME REGARD.

MR. BENIK: RIGHT.

MR. SHELTON: AND IF THEY DO, WHOEVER BUYS THIS BUSINESS WILL BE HELD TO THE SAME STANDARD.

MR. BENIK: I'M NOT TALKING ABOUT THE NEW STANDARDS OR REGULATIONS FOR THE NEW LAW (INAUDIBLE).

MR. SHELTON: AS WOULD ANY OTHER APPROVED BUSINESS IN THE COUNTY. IF I OWN AN LLC AND I SELL THE ENTITY TO YOU, YOU'RE STILL GONNA BE OBLIGATED TO UPHOLD ALL OF THE HORRY COUNTY ORDINANCES AND IF YOU MESS UP, YOU'RE GONNA GET THE IRE OF HORRY COUNTY. BUT IF I HAVE A VALID LICENSE AND YOU BUY FIFTY PERCENT OF MY BUSINESS, YOU GET THE BENEFIT OF THAT VALID LICENSE AS WELL. WE HAVE A

VALID LICENSE AND WE HAVEN'T CHANGED WHAT WE'RE DOING. THIS IS AN OLD FAMILY BUSINESS AND IT'S NOT MR. THOMPKINS AND HIS WIFE'S FAULT THAT THE PRIOR ZONING ADMINISTRATOR TYPED OUT HIS BUSINESS LICENSE THE WAY HE DID. THEY'RE NOT CHANGING WHAT THEY'RE DOING OUT THERE AND ANYONE WHO BUYS INTO THIS BUSINESS WILL BE OBLIGATED TO RUN IT TO THE SAME STANDARDS DHEC WILL IMPOSE. SAME STANDARDS THAT HORRY COUNTY WILL IMPOSE (INAUDIBLE). I'M NOT GONNA ASK MY CLIENT TO GIVE YOU PRECISE DETAILS OF THEIR BUSINESS TRANSACTIONS. I COULDN'T DO THAT. BUT, MR. THOMPKINS IS NOT GETTING OUT OF THE BUSINESS. MR. THOMPKINS DOESN'T WANT TO GET OUT OF HIS FAMILY'S BUSINESS. HE'S VERY MUCH INVOLVED AS LONG AS HE FEELS COMFORTABLE WORKING HONESTLY. BUT WHOMEVER BUYS THIS, THAT'S WHAT YOU'RE GETTING WHEN YOU BUY INTO IT. YOU'RE GETTING THE BENEFIT OF THE GOODWILL AND THE REPUTATION AND THE BUSINESS LICENSE AND THE DEPARTMENT'S APPROVAL. ALL OF THAT IS PART OF THE EXISTING ENTERPRISE BEFORE YOU CAN GET INTERESTED IN BUYING INTO IT. SO, OF COURSE, THEY SHOULD HAVE THAT. IF THIS WERE

A NEW APPLICANT THAT CAME TO ME AND SAID, "WE BOUGHT THIS PIECE OF PROPERTY AND WE WANT TO DO RECYCLING ON IT." I'D SAY, "WELL, THEN YOU'RE GONNA HAVE TO BUILD A STRUCTURE." SO, UNLESS YOU HAVE FIVE YEARS WORTH OF VERY, VERY VALUABLE CONTRACTS ALREADY LINED UP, YOU BETTER LOOK AT THIS LONG AND HARD AS A BUSINESS BECAUSE IT'S A VERY COSTLY ENDEAVOR. AND I DON'T BLAME THE COUNTY FOR PUTTING THEM (INAUDIBLE), BUT THEY HAVE DRAMATICALLY REDUCED THE LIKELIHOOD THAT ANYONE WILL EVER DO THAT. YOU DON'T SEE ANY NEW C&D RECYCLING BUSINESS GOING UP ESPECIALLY NOT NEAR RESIDENCES. NOT ANYWHERE IN THE COUNTY.

MR. IVES: MR. BENIK, I HOPE THAT ANSWERS YOUR QUESTION. DOES ANYONE ELSE HAVE ANY QUESTIONS FOR MR. SHELTON? MR. SHELTON, WE APPRECIATE YOUR TESTIMONY HERE THIS EVENING. IS THERE ANYONE ELSE WHO WOULD LIKE TO SPEAK FOR OR AGAINST? MR. SHELTON, MR. LIVINGSTON WAS ASKING IF YOU HAVE ANY ADDITIONAL TICKETS OTHER THAN YOUR TESTIMONY?

MR. SHELTON: I HAVE THE ORIGINALS, WHICH I HAVEN'T SCANNED, BUT I'LL LET YOU HAVE THEM.

MR. IVES: IN ADDITION TO WHAT YOU'VE

TESTIFIED TO?

MR. SHAW: THE ONES THAT'S NOT IN THERE?

MR. SHELTON: I HAVE THE ONES FROM THE FIRST QUARTER OF 2007 THAT PRE-DATE THE LICENSE. I HAVE THE ONES ALSO FOR 2006 AND I HAVEN'T TAKEN THE TIME TO SCAN ALL OF THEM. MRS. THOMPKINS, SR. HAS THEM STAPLED. IT WAS VERY TIME CONSUMING. I'LL GET THEM RIGHT TO YOU.

MR. IVES: THANK YOU, MR. SHAW. YOU MAY APPROACH, MA'AM. I'M SORRY.

JANICE DOWD, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q WOULD YOU GIVE US YOUR NAME AND ADDRESS FOR THE RECORD PLEASE.

A JANICE DOWD. MY ADDRESS IS 421 LONG LEAF BOULEVARD. AS A MATTER OF FACT I'M DIRECTLY ACROSS FROM MR. THOMPKINS (INAUDIBLE). IT'S ACROSS FROM ME.

Q WHAT WOULD YOU LIKE US TO KNOW?

A WELL, I CAME HERE TONIGHT BECAUSE FEAR IS LIKE A LITTLE BIT MORE. THERE ARE A COUPLE OF THINGS THAT I'VE HEARD THAT I'M TOTALLY CONFUSED ABOUT. THE FIRST THING IS THE COUNTY POLICY NOW THAT YOU HAVE TO HAVE AN

ENCLOSURE IF YOU ARE ...

Q CRUSHING CONCRETE.

A CRUSHING CONCRETE. YES, THAT'S ONE. AND I KNOW WHY (INAUDIBLE) AND I'M CERTAINLY HAPPY THAT IS A PART OF THE NEW ORDINANCE OF WHATEVER YOU CALL IT. I'VE HEARD YOUR STAND AND I'VE KNOWN ALL THE THOMPKINS FOR THIRTY YEARS. AND HE HAS HAD THIS BUSINESS AND HE WAS A GOOD NEIGHBOR TO ALL OF US. I HAVE CONCERNS FROM HEARING TONIGHT THAT THERE IS A POSSIBLE PARTNERSHIP AND THE LANGUAGE OF THIS PAPER, YOU KNOW, OF RECYCLING. WELL, I COULD RECYCLE ANYTHING. I COULD RECYCLE PLASTIC. I COULD RECYCLE CONCRETE. I COULD RECYCLE METALS. I COULD RECYCLE WHATEVER IF THERE ARE NO SPECIFICS AND I JUST ... I'M NOT COMFORTABLE WITH A BLANK RECYCLING WORKS. I'M JUST NOT COMFORTABLE WITH THAT.

Q THAT'S WHY WE ASK (INAUDIBLE) BECAUSE THAT WAS THE DHEC LETTER WHICH WAS THEIR RESOURCE RECOVERY ALLOWING A NUMBER OF MATERIALS THAT CAN BE PROCESSED AND CALLING IT A PROCESSING FACILITY CAN GO BEYOND WHAT MR. THOMPKINS TOLD US HE WAS DOING THERE. (INAUDIBLE) CLARIFICATION ON IT.

A THAT'S WHY I'M HERE TONIGHT 'CAUSE I WANT TO HAVE CLARIFICATION ON IT. I HAVE A BACK-GROUND IN SCIENCE AND I JUST DON'T LIKE HEALTH-WISE FOR ONE LIKE THE PARTICULATES THAT ARE LEFT IN THE ATMOSPHERE. WE ARE A REAL SMALL COMMUNITY AND WE HAVE HAD AN ASPHALT PLANT, WHICH IS NOW AN ASPHALT RECYCLING PLANT. WE'VE HAD ROCKS CRUSHING, CONCRETE CRUSHING AND SMALL CHILDREN AND ELDERLY PEOPLE LIVE IN THE COMMUNITY. THAT STUFF IS NOT GOOD. IT IS NOT GOOD. AND I'M NOT DOWNING A FAMILY BUSINESS. I'M NOT. I'M ALL FOR FAMILY BUSINESSES. I'M JUST CONCERNED ABOUT THE WELFARE OF THE PEOPLE HERE IN MY COMMUNITY, ESPECIALLY THE SMALL CHILDREN AND THE OLD PEOPLE. AND I'M IN THAT GROUP OF ELDERLY AT THIS POINT.

Q THANK YOU, MA'AM. WE APPRECIATE YOU COMING. SO YOU UNDERSTAND THE SITUATION HERE, WE'RE CAN'T PLACE CONDITIONS. WHAT WE CAN EITHER DO IS UPHOLD THE DECISION OF THE ZONING ADMINISTRATOR IS MAKING OR DETERMINE THAT THE APPLICANT IS CORRECT AND SHE'S IN ERROR IN HER INTERPRETATION OF THE PERMIT. THAT'S ALL WE'RE HERE TO DETERMINE. THANK YOU FOR

LETTING US KNOW AS A NEIGHBOR. IS THERE ANYONE ELSE HERE WHO'D LIKE TO SPEAK EITHER FOR OR AGAINST THIS APPLICATION?

MS. MINCEY: MR. IVES, IF THERE'S NO ONE ELSE, I CERTAINLY HAVE SOMETHING I'D LIKE TO SAY.

MR. IVES: PLEASE.

MS. MINCEY: FIRST OF ALL, I'D LIKE TO MAKE IT VERY CLEAR THAT THERE IS NO DISAGREEMENT BETWEEN MYSELF AND THE PRIOR ZONING ADMINISTRATOR. THAT HAS NOTHING TO DO WITH THIS REQUEST AT ALL. THERE IS NO DISAGREEMENT ON THAT MATTER AS MR. SHELTON CITED. THE ZONING COMPLIANCE THAT WAS ISSUED AT THE TIME THAT WE ALLOWED A BUSINESS LICENSE FOR C&D RECYCLING IN COMING IN COMPLIANCE WHICH SPECIFICALLY SAID THIS WAS AN ACCESSORY USE TO AN EXISTING BUSINESS. AN ACCESSORY USE BY OUR DEFINITION IS A USE THAT IS INCIDENTAL AND SUBORDINATE TO THE PRINCIPAL USE OF THE LAND OR BUILDING AND SERVE AS ACCESSORY USES ARE TO BE LOCATED ALONG WITH THE PRIMARY USE. AT THAT TIME THAT USE WAS FOR CONSTRUCTION (INAUDIBLE) OWNED AND OPERATED BY THOMPKINS & ASSOCIATES. SO, WITHOUT IT BEING AN ACCESSORY USE TO THAT BUSINESS, IT COULD NOT

HAVE BEEN EVEN PERMITTED BECAUSE THE ZONING DISTRICT WOULD NOT HAVE ALLOWED IT IN THE LONG USE FIRST OF ALL. BUT CLEARLY FROM THE ZONING COMPLIANCE, IT IS AN ACCESSORY USE. AGAIN, THAT HELPED STAFF MAKE THE DECISION WHEN WE WERE APPROACHED. THAT IT MAY CONTINUE AS AN ACCESSORY USE OF CONSTRUCTION AND HEAVY EQUIPMENT AND ALSO THAT IT WAS DOING THE PURPOSE TO RECEIVE AND PROCESS MATERIALS FROM HIS BUSINESS AND NOT FOR OUT-SIDE CONTRACTORS. AND AGAIN, THERE IS NO DISAGREEMENT FROM THE PREVIOUS ZONING ADMIN-ISTRATOR. THAT HAS NOTHING TO DO WITH THIS REQUEST AT ALL.

MR. IVES: THANK YOU, MS. MINCEY. APPRECIATE THE CLARIFICATION. MR. SHELTON?

MR. SHELTON: WHEN THIS FAMILY BUSINESS STARTED, THERE WAS NO ZONING. THIS IS WHAT THEY'VE ALWAYS DONE. THEY'VE NEVER CHANGED THEIR BUSINESS MODEL. THEY'VE NEVER CHANGED THEIR BUSINESS AND THEY DON'T INTEND TO STOP NOW. SO, WHEN THEY CAME TO ROWLAND MEYER AND THEY TOLD HIM WHAT THEY DID WHEN THEY WERE REQUIRED TO GET A PERMIT, HE PLUGGED IT INTO HIS COMPUTER AND PRINTED OUT A BUSINESS

PERMIT. THEY HAD NO CONTROL OVER WHAT WAS DONE AND HOW IT WOULD BE INTERPRETED BY ANY ZONING ADMINISTRATOR. THEY'RE NOT CHANGING A THING. AS TO THE CONCERN ABOUT THE RECYCLING, RON GILKERSON IS A SPECIALIST IN THE FIELD (INAUDIBLE) AND CANNOT BE RECYCLED. (INAUDIBLE) AS TO THE CONCERN ABOUT THE DUST, THE MACHINE THAT HE USES TO RECYCLE THE (INAUDIBLE) MATERIALS IS WATER INJECTED. SO, IT DOESN'T STIR UP DUST INTO THE AIR. IT'S REQUIRED. IT'S A SAFE WAY TO DO IT. BUT, AS TO THE ACTUAL RECYCLED MATERIALS, MR. GILKERSON CAN ADDRESS EXACTLY WHAT IT IS WE ARE PERMITTED TO RECYCLE UNDER THE DHEC REGULATIONS.

RONALD GILKERSON, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q IF YOU WOULD GIVE YOUR NAME AND ADDRESS FOR THE RECORD PLEASE.

A RONALD GILKERSON, 601 BUCKINGHAM LANE, MYRTLE BEACH.

Q WHAT WOULD YOU LIKE US TO KNOW ON THIS APPLICATION?

A MR. IVES, BOARD MEMBERS, I'M RON GILKERSON.

I REPRESENT MR. THOMPKINS AND MR. JOHN TAYLOR, WHO IS POTENTIAL PARTNER IN THIS BUSINESS. I'M HERE TO GIVE YOU JUST A LITTLE BIT OF INFORMATION ABOUT CONSTRUCTION DEMOLITION IN GENERAL. I'VE BEEN IN THE (INAUDIBLE) RECYCLING BUSINESS FOR OVER TWENTY YEARS. ACTUALLY I RAN A CONSTRUCTION DEMOLITION RECYCLING CENTER OFF (INAUDIBLE) AVENUE IN THE CITY LIMITS OF MYRTLE BEACH FOR FOUR YEARS. THAT FACILITY WAS DOING EXACTLY WHAT MR. THOMPKINS HAS DONE FOR YEARS AND YEARS AT THIS FACILITY. AND WE WORKED VERY CLOSE IN HARMONY WITH THE BUSINESSES AROUND US AND WE NEVER HAD ANY COMPLIANCE ISSUES OR ANY COMPLAINTS. THAT'S DEPENDENT UPON HOW WELL THE OPERATION IS RUN OBVIOUSLY, BUT THE THINGS THAT ROB INDICATED CLEARLY IS THAT THE ROCK CRUSHERS AND CONCRETE CRUSHERS ON THE DRAW MECHANISM, WHICH IS WHERE THE CONCRETE GETS LOADED AND THE MATERIALS GET CRUSHED, IT HAS WATER MISTERS ON IT TO KEEP THE DUST SUPPRESSED. THE JETS ON THE MATERIALS ALSO HAS MISTERS ON IT TO SUPPRESS THE DUST. SO, AS THAT COMES OFF THE CONVEYOR AND HITS THE GROUND, THERE'S NO DUST. WE WERE A TESTAMENT

TO THAT IN THE CITY LIMITS OF MYRTLE BEACH FOR YEARS AND YEARS OPERATING A FACILITY WHICH TOOK BETWEEN THREE AND FOUR HUNDRED TONS OF MIXED CONSTRUCTION DEBRIS A DAY. AND THIS FACILITY, IN MY OPINION, IS MUCH MORE CONDUCIVE TO THIS TYPE OF ACTIVITY BECAUSE THERE'S MORE ROOM. NOT TO SAY ANYTHING THAT MR. THOMPKINS HAS NOT AS A PART OF HIS FAMILY BUSINESS, BUT HE'S BEEN DOING THIS YEARS AGO, EVEN BEFORE I EVEN THOUGHT ABOUT DOING IT. HE'S BEEN LEADING THIS EFFORT OF DOING RECYCLING IN THIS AREA AND HE'S REALLY RECOG-NIZED BY DHEC. A COUPLE OF POTENTIAL ISSUES OR QUESTIONS. I THINK MR. IVES HAD A QUESTION ABOUT HIS COMPLIANCE. YOU KNOW, WE'VE GOT A NEW PARTNER IN HERE IN MR. JOHN TAYLOR AND HOW DO WE KNOW THEY'RE GONNA OPERATE AS WELL AS MR. THOMPKINS OPERATED FOR MANY YEARS UP THERE. WELL, MR. THOMPKINS IS STILL GONNA BE ASSOCIATED WITH THIS BUSINESS MOVING FORWARD, BUT THAT'S ONE OF THE REASONS WHY ... YOU CAN SEE THEIR PACKET ON DECEMBER 19TH OF LAST YEAR, WE GOT A CONCURRENCE LETTER FROM DHEC. WE DID NOT ... WE WERE NOT REQUIRED TO, BUT WE SUBMITTED AN OPERATIONS

PLAN ON BEHALF OF MR. THOMPKINS THAT JUST SAID, "LOOK, AS WE MOVE FORWARD, THESE ARE THE THINGS WE'RE GONNA DO AND THIS IS HOW WE'RE GONNA OPERATE. WE'LL OVERSEE MIXED CONSTRUCTION AND DEMOLITION MATERIALS" WHICH, IF ANYBODY KNOWS, NEW CONSTRUCTION, WE'VE GOT A RESURGENCE OF THAT NOW IN HORRY COUNTY AND THERE'S A LOT OF OPEN-TOPPED CONTAINERS THAT ARE GOING STRAIGHT UP 501 TO HORRY COUNTY'S LANDFILL UP HIGHWAY 90. THOSE MIXED CONTAINERS, AS THIS LADY HAD MENTIONED, HAVE A MIX OF MATERIALS, BUT THOSE MATERIALS ARE INERT. IN OTHER WORDS, THEY JUST DON'T BREAK DOWN. CONCRETE OBVIOUSLY, CLEAN WOOD PRODUCTS, YOU KNOW, VINYL SIDING, ROOFING MATERIAL AND THINGS OF THAT NATURE. IT'S BASICALLY CONSTRUCTION DEMOLITION MATERIAL. AS THAT MATERIAL COMES IN, AS IT HAS BEEN IN THE PAST, IT WILL HIT THE GROUND. IT WILL BE DEPOSITED IN CONCRETE BINS BASED ON THE SEGREGATION OF THE MATERIALS WE WANT TO GO AFTER. ANY OF THE MATERIALS THAT DON'T HAVE AN ECONOMIC BENEFIT TO BE RECYCLED, FOR INSTANCE, VINYL SIDING OR SOME PLASTIC MATERIALS SHE HAD MENTIONED, WE COULD LOAD

THEM BACK UP ON A TRUCK AND THEN THEY WOULD ACTUALLY BE DEPOSED OF PROPERLY IN AN APPROPRIATE LANDFILL. WE'RE ONLY AFTER THE PRODUCTS THAT HAVE ECONOMIC BENEFIT. ONE OF THE REASONS WHY DHEC YEARS AGO STARTED THIS GENERAL STATUTE. THAT GENERAL STATUTE WAS PUT INTO PLACE WITH A HIGH DEMAND. THE HIGH DEMAND IS SEVENTY-FIVE PERCENT BY WAY OF RECYCLING. THERE IS NOBODY IN THIS COUNTY THAT IS DOING THAT FOR CONSTRUCTION DEMOLITION. MR. THOMPKINS, YOU KNOW, WAS A PIONEER, IN MY OPINION, IN THIS WHOLE ENTIRE AREA DOING THE THINGS THAT ARE REQUIRED BY THAT GENERAL STATUTE. YOU NEED THE RECORDS THAT ARE REQUIRED BY DHEC TO PROVE THAT HE IS DOING SEVENTY-FIVE PERCENT RECYCLING. IN MY OPINION, OTHER THAN THE FACILITY I CREATED IN MYRTLE BEACH IN THEIR JURISDICTION, THIS IS THE ONLY ONE PERMISSIBLE, IN MY OPINION, TO PERFORM THIS HIGH QUALITY TASK RELATED TO THE BENEFIT OF THE COMMUNITY AND IT'S A FANTASTIC FACILITY MOVING FORWARD. GETTING BACK TO THE COMPLIANCE OF THE THINGS. HOW DO YOU ALL KNOW THAT MR. THOMPKINS MOVING FORWARD AND MR. TAYLOR ARE GOING TO OPERATE AS WELL, IF

Testimony of Ronald Gilkerson

NOT BETTER, THAN MR. THOMPKINS HAS IN THE PAST. IT IS THE REASON WHY THIS LETTER WAS SUBMITTED. WE GOT CONCURRENCE ON DECEMBER 19TH. WHAT WE'VE DONE IS, UNDER THE SAME GENERAL STATUTES, SEVENTY-FIVE PERCENT RECYCLING BY WEIGHT. WE'VE ASKED DHEC TO COME IN. WE'VE SAID, "THIS IS THE WAY WE'RE GONNA OPERATE. WE'RE JUST A CONTINUATION OF THAT EXISTING FACILITY. WE WANT TO OPERATE HERE. WE WANT YOU TO COME AND INSPECT US. WE WANT TO PROVIDE YOU THE WEIGHT TICKETS THAT MR. THOMPKINS HAS KEPT FOR YOU AND WE WANT TO RECYCLE AND WE WANT YOU GUYS TO COME IN AND WE WANT YOU TO COME IN TO OUR FACILITY AND IT'S GONNA BE A STATE OF THE ART FACILITY." AS WE'VE SAID IN OUR REPRESENTATION, THE ONLY REASON WHY WE'RE PASSING THE BATON AND SHIFTING GEARS A LITTLE BIT IS BECAUSE WE WANT TO INTEGRATE NEW TECHNOLOGY INTO THIS FACILITY THAT WILL PROVIDE MORE OF THE SAFEGUARDS WITH RESPECT TO DUST CONTROL. WITH RESPECT TO SEPARATING NEW MATERIALS WITH ECONOMIC BENEFIT INTO THE APPROPRIATE BINS AND GET IT RECYCLED AND GET IT MOVED ON TO WHEREVER OUR OUT-SOURCE IS. IT IS OF EXTREME

BENEFIT TO THIS COMMUNITY AND IT IS A MUCH NEEDED BENEFIT FOR CONSTRUCTION DEMOLITION WASTE AND THAT IS THE SOLE REASON AND PURPOSE LIKE DHEC HAS SAID, "NO PERMIT IS NECESSARY. WE'RE GONNA COME OUT AND WE'RE GONNA CHECK YOUR FACILITY. WE EXPECT YOU TO PERFORM THIS ACTIVITY AT A HIGH LEVEL BECAUSE IT'S GOOD FOR THE COMMUNITY. IT'S GOOD TO SAVE ON THE LIFE SPAN OF THE LANDFILL OUT HERE WHERE HORRY COUNTY IS FACING MANY CHALLENGES ON THE CAPACITY OF THE LANDFILL." WE'RE REMOVING SEVENTY-FIVE PERCENT OF THIS MATERIAL BEFORE IT GETS TO THE LANDFILL. THAT'S A GREAT THING. THAT'S A GREAT BENEFIT AND I'M HERE, JUST AGAIN, I GUESS, AS A TECHNICAL RESOURCE. I'LL BE MORE THAN HAPPY TO ANSWER ANY QUESTIONS.

MR. BENIK: MR. GILKERSON, EXPLAIN WHY ... I'D LIKE TO KNOW BECAUSE OF WHAT WE'RE ASKING TO OVERRULE AND WE'RE GONNA OVERRULE DHEC, THE REGULATIONS AND (INAUDIBLE) OF EXISTING. WE'RE MAKING THEM EXEMPT FOR THE REGULATIONS IF WE ... THE NEW REGULATIONS IF WE OVERRULE THE ZONING ADMINISTRATOR. THIS WILL NOT WORK. THE PROGRAM THAT Y'ALL ARE PROPOSING

WILL NOT WORK AND MEET THE NEW REGULATIONS. THE ENCLOSURE IS WHAT I'M TALKING ABOUT. THAT'S WHAT I'M REFERRING TO. I JUST WANT TO HEAR WHAT YOU THINK ABOUT IT.

MR. GILKERSON: THERE'S NO OTHER ORDINANCE THAT I'M AWARE OF IN THE STATE OF SOUTH CAROLINA OR NORTH CAROLINA, WHICH I MAINLY WORK IN THOSE TWO STATES, CRUSHING OR REPROCESSING IN A BUILDING. KNOWING DHEC'S ENGINEERS LIKE I DO, ALL THE PERMITTING I'VE DONE IN MY MANY YEARS OF EXPERIENCE, MAKES IT ALMOST IMPOSSIBLE TO GET AIR QUALITY PERMITS TO CRUSH OR REPROCESS IN A BUILDING. SO, I UNDERSTAND THEY HAVE JOBS. THEY'VE SET THE ORDINANCES FOR FUTURE BUSINESSES TO MEET, BUT AGAIN, ONE OF THE REASONS I WAS ATTRACTED TO THIS FACILITY WAS OF THE C&D RECYCLING TRANSFER, REPROCESSING, VERBIAGE THAT THEY HAVE IN THE BUSINESS LICENSE, WHICH DOESN'T EXIST IN THIS COUNTY AS I KNOW IT AND MR. THOMPKINS HAS BEEN OPERATING VERY SUCCESSFULLY PRIOR TO THIS NEW ORDINANCE. SO, THAT'S ONE OF THE REASONS WHY WE WERE SO INTO SEEING IF WE COULD OFFER (INAUDIBLE).

MR. BENIK: YOU'RE SAYING YOU COULDN'T GIVE

THE AIR QUALITY INSIDE THE BUILDING BECAUSE THE OPERATION ITSELF PRODUCES AN AIR QUALITY THAT NOT (INAUDIBLE) TO OTHER CONDITIONS.

MR. GILKERSON: WELL, YOU'VE GOT ALL KIND OF CONDITIONS WITH ... FOR INSTANCE, YOU'RE BASICALLY OPERATING A ROCK CRUSHER SYSTEM THAT IS ENGINE DRIVEN SO YOU DON'T HAVE JUST THE ADMISSIONS OF, YOU KNOW, THE CONCRETE AND THE CONVEYANCE OF THESE MATERIALS THROUGHOUT THE BUILDING. BUT YOU ALSO HAVE ABSOLUTE EMISSIONS FROM THE DIESEL DRIVEN ENGINES AND THINGS OF THAT NATURE. SO, I'M NOT SAYING IT'S ABSOLUTELY IMPOSSIBLE, BUT IT'S AN EXTREME CHALLENGE.

MR. IVES: THANK YOU, MR. BENIK. (INAUDIBLE). ANY OTHER QUESTIONS? THANK YOU SO MUCH FOR STEPPING UP AND CLARIFYING THE APPLICATION FOR US.

RUBIN DIAL, JUNIOR, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q WOULD YOU STATE YOUR NAME AND ADDRESS FOR THE RECORD.

A MY NAME IS RUBIN DIAL, JUNIOR, 421 RON MCNAIR BOULEVARD, MYRTLE BEACH, SOUTH CAROLINA.

Q THANK YOU, SIR.

A I KIND OF HAVE A COUPLE QUESTIONS. WE ALSO HAVE A SCHOOL OUT THERE AND THOSE TRUCKS COME UP AND DOWN THE ROAD, WHICH WE HAVE LOTS OF PROBLEMS WITH AND WE WOULD LIKE, IF ANY WAY, IF YOU DO GRANT THEM THIS PERMIT OR WHATEVER IT IS, SOME CONTROL OR SOMETHING OVER THE WAY THOSE TRUCKS MOVE UP AND DOWN THE ROAD. AND I TELL YOU, WE HAVE CHILDREN OUT THERE. WE HAVE OLDER PEOPLE OUT THERE, YOU KNOW, OUR YOUNG MEN. YOU KNOW, HAVE SIDEWALKS OR STUFF LIKE THAT. AND WE NEED SOME PROTECTION OUT THERE. WE'VE BEEN OUT THERE OVER THIRTY YEARS. THAT'S OUR HOME, THAT'S OUR INVESTMENT AND ALL. I'M NOT INTERESTED IN GOING ANYWHERE ELSE. AND WE APPRECIATE IT IF YOU LOOK AFTER THAT COMMUNITY. THAT'S ALL I HAVE TO SAY.

MR. IVES: THANK YOU VERY MUCH, SIR. DOES ANYONE ELSE WISH TO SPEAK FOR OR AGAINST THIS APPLICATION? NOT HAVING ANY MORE INPUT, MR. SIPE.

MR. SIPE: MS. MINCEY, THE LICENSE WAS ISSUED FOR THIS IN 2007, IS THAT CORRECT?

MS. MINCEY: THAT'S CORRECT. FOR THE

RECYCLING PART OF THE BUSINESS, YES.

MR. SIPE: DOES THAT LICENSE SPECIFICALLY STATE AND DEFINE THERE IS AN ACCESSORY USE AND IF SO, WHAT IS THE VERDICT OF THAT?

MS. MINCEY: THE BUSINESS LICENSE, I DON'T HAVE A COPY OF THAT. I DON'T BELIEVE THERE IS A LICENSE THAT DEFINES TO USE IT IN THAT WAY. THEY GO BY (INAUDIBLE). SO, THE BUSINESS LICENSE, IT SAYS ... I DON'T ACTUALLY HAVE A COPY OF IT WITH ME. PROBABLY NOT BECAUSE THAT'S NOT THE WAY THE CODES WORK AND ARE LAID OUT, BUT I'M TALKING ABOUT THE ZONING COMPLIANCE THAT WAS ISSUED FROM THE ZONING DEPARTMENT, BUT I READ EARLIER THAT WAS FROM THE ZONING COMPLIANCE FOR THE ISSUANCE OF THE BUSINESS LICENSE BECAUSE THE BUSINESS LICENSE DEPARTMENT REQUIRES COMPLIANCE WITH ZONING PRIOR TO GIVING THEM THEIR FINAL APPROVAL OF A LICENSE, BUT AGAIN, I DON'T BELIEVE THEIR A BUSINESS LICENSE INDICATES AN ACCESSORY USE AND I DON'T HAVE THAT IN MY HAND. BUT PROBABLY NOT.

MR. SIPE: SO, THE ZONING APPROVAL DOCUMENTS DOESN'T ADDRESS ACCESSORY USE IN THE (INAUDIBLE).

MS. MINCEY: YES, IT DOES.
MR. SIPE: IS THAT STRICTLY AN INTERNAL DOCUMENT OR DOES THAT STAY IN THE COUNTY OR DOES THE APPLICANT WHEN HE GOES TO APPLY FOR HIS BUSINESS LICENSE DOES HE GET COPIES OF THIS APPROVAL THAT DISCUSSES ACCESSORY USES?
MS. MINCEY: THE NORMAL PROCESS TODAY WOULD BE TO COME IN THE ZONING OFFICE AND GET THE ZONING COMPLIANCE AND THEN YOU WOULD ACTUALLY SIGN THE PAPERWORK AND WE KEEP A COPY, OF COURSE, IN OUR OFFICE AND LEAVE TWO COPIES FOR THE APPLICANT. ONE FOR THEM TO KEEP AND ONE FOR THE BUSINESS LICENSE DEPARTMENT. SO, IN SOME FASHION OR ANOTHER, THEY WOULD LEAVE WITH THAT COPY IN THEIR HANDS.
MR. SIPE: AND YOU FEEL LIKE THIS WAS DONE BY THE FORMER ADMINISTRATOR?
MS. MINCEY: I WASN'T THERE SO I COULDN'T SAY THAT IS EXACTLY WHAT HAPPENED BUT I HAVE A COPY HERE OF THE ZONING COMPLIANCE.
MR. SIPE: THAT WAS ISSUED IN 2007?
MS. MINCEY: THAT WAS ISSUED IN 2007, YES.
MR. SIPE: AND IT ADDRESSES ACCESSORY USE?
MS. MINCEY: IT SAYS THAT THIS IS AN ACCESSORY. LET ME READ IT TO YOU. IT SAYS,

"BUSINESS NAME, THOMPKINS & ASSOCIATES, INC. BUSINESS OWNER, ARTHUR THOMPKINS. TYPE OF BUSINESS, C&D RECYCLE AND TRANSFER." THIS IS AN ACCESSORY USE TO AN EXISTING BUSINESS. THIS IS A PERMIT AND IT STATES FROM ROWLAND MEYER AND CAROL COLEMAN, THE TWO PERSONS WHO AUTHORIZED THE ISSUANCE OF THIS ZONING COMPLIANCE AT THAT TIME. AGAIN, YOU KNOW, THE FACT IS THAT, YES, THE ORIGINAL BUSINESS WAS THERE PRIOR TO ZONING AND IT WAS SUBMITTED FROM 1981. WE DIDN'T HAVE A BUSINESS LICENSE HERE PROBABLY UNTIL ABOUT 2000, BUT IT WAS 2007 BEFORE THE BUSINESS LICENSE WAS ISSUED FOR C&D RECYCLING. AS PART OF AN ACCESSORY USE TO THE BUSINESS THAT HAD BEEN ESTABLISHED THERE PRIOR TO ZONING.

MR. SIPE: THANK YOU.

MR. IVES: THANK YOU, MS. MINCEY. ANY OTHER QUESTIONS?

MR. SINGLETON: THESE TICKETS IN 2006, THAT WAS BEFORE THEY GOT A LICENSE? WOULDN'T IT BE GRAND FATHERED?

MR. IVES: MS. MINCEY, CAN YOU ADDRESS THAT QUESTION?

MS. MINCEY: THOSE ARE ON THE RECORDS THAT I

HAD TO LOOK AT. FOR SOME REASON IN 2007 IN THAT ERA ... THAT DATE WAS MARCH 20TH. I DON'T KNOW WHAT INSTIGATED THE APPLICANT TO COME IN AT THAT TIME TO GET THE BUSINESS RECYCLE LICENSE. I CAN'T SAY WHAT HAPPENED BEFORE 2007, BUT THIS DID NOT SAY ANYTHING ABOUT IT WAS GRAND FATHERED. IT SAYS IT WAS ISSUED FOR A SPECIAL USE ON MARCH OF 2007, MARCH 20TH.

MR. SINGLETON: CAN IT BE GRAND FATHERED BECAUSE IT'S A YEAR BEFORE HE GOT THE LICENSE?

MR. IVES: MR. COVINGTON, CAN YOU ADD ANYTHING TO THAT DISCUSSION?

MR. COVINGTON: MR. CHAIRMAN, I WAS GONNA GO BACK TO MR. SIPE'S QUESTION ABOUT THE BUSINESS LICENSING. THE COUNTY BUSINESS LICENSE ORDINANCE REQUIRES EACH CLASS OF ACTIVITY CONDUCTED AT A LOCATION TO HAVE AN INDIVIDUAL TYPE LICENSE. THEY WOULD HAVE GONE BY SIC CODES. THAT'S WHY MS. MINCEY WASN'T ABLE TO ANSWER YOUR QUESTION WITH REGARDS TO BUSINESS LICENSING AND WHAT THOSE DOCUMENTS WILL TELL YOU. THE ONLY THING SHE HAS TO GO BY WOULD BE THE LAND USE IMPROVE-

MENTS.

MR. IVES: THANK YOU, SIR. MR. BENIK.

MR. BENIK: HERE'S WHAT I WANT TO ASK. AGAIN, YOU'RE ASKING US TO OVERRULE THE ZONING ADMINISTRATOR'S DECISION. IF WE DON'T OVER-RULE THE ZONING ADMINISTRATOR'S DECISION, THE APPLICANT CAN STILL COME BACK FOR A VARIANCE, BUT THAT WOULD REQUIRE A RE-ZONING AND THAT WOULD BE SOMETHING THAT COUNCIL WOULD TAKE UP AND NOT THIS BOARD? I'M NOT TRYING TO AVOID WHAT WE'RE SUPPOSED TO DO, BUT ...

MR. IVES: AGAIN, THE ONLY DECISION BEFORE US THIS EVENING THAT WE HAVE TO MAKE IS WHETHER TO UPHOLD THE ZONING ADMINISTRATOR'S DECISION.

MR. BENIK: THAT'S WHAT I'M SAYING. IF WE WERE NOT TO OVERTURN IT ...

MR. IVES: THEY COULD STILL CRUSH ANYTHING THAT THE FIRM WAS RESPONSIBLE FOR.

MR. BENIK: THAT'S NOT WHAT I'M SAYING. THAT'S NOT MY POINT. THEY COULD STILL COME BACK TO PLANNING AND ZONING FOR A VARIANCE BUT IT WOULD HAVE TO GO BACK ... AND THEN IN ORDER TO GET THE VARIANCE, THE PROPERTY WOULD HAVE TO BE RE-ZONED. AND THAT WOULD BE SOME-

THING THAT WOULD BE OUT OF OUR ...

MR. IVES: THAT WOULD BE OUT OF OUR JURISDICTION. YOU COULD ALLOW USES TO OCCUR ON SITE THAT THE ORDINANCE DOESN'T ALLOW.

MR. BENIK: RIGHT. THAT'S RIGHT. THEY COULD GO BACK AND MAKE THE DECISION FOR IT TO BE RE-ZONED.

MR. IVES: CORRECT. THAT'S NOT HAPPENING. MR. SINGLETON.

MR. SINGLETON: CAN IT BE GRAND FATHERED BECAUSE THEY GOT TICKETS BEFORE THEY WERE LICENSED?

MR. COVINGTON: I DON'T BELIEVE SO. AND THE RECOMMENDATION I WAS GONNA MAKE TO THE BOARD WOULD BE THAT THERE SEEMS TO BE SOME CONFUSION AS TO AS WHETHER WE'RE DEALING WITH A C&D TRANSFER BUSINESS OR A RECOVERED MATERIALS PROCESSING FACILITY. SO, IF THE BOARD DOES REACH A POINT IN TIME TONIGHT WHERE A MOTION IS MADE, I WOULD SUGGEST CLARIFICATION WITHIN ITS MOTION TO STATE WHETHER WE'RE TALKING ABOUT A RECOVERY OF MATERIALS PROCESSING FACILITY OR A C&D TRANSFER BUSINESS.

MR. IVES: THANK YOU, MR. COVINGTON. ANY

OTHER BOARD MEMBERS HAVE QUESTIONS? MR. GILKERSON. PLEASE.

MR. GILKERSON: I CAN ANSWER THAT CLEARLY.

MR. IVES: PLEASE.

MR. GILKERSON: A TRANSFER BUSINESS DOES REQUIRE A PERMIT OF DHEC AS A TRANSFER REPROCESSING FACILITY. TRANSFER BY THAT DEFINITION MEANS TO BRING THAT SOLID WASTE MATERIAL AND PUT IT ON THE GROUND AND BASICALLY DO THOSE SEPARATIONS OR SEGREGATION. YOU LOAD IT BACK ON A TRUCK AND SEND IT TO AN APPROPRIATE LANDFILL. TYPICALLY, AS I ALWAYS ... A MAJORITY OF THE TIME TYPICALLY THAT'S A FACILITY WHERE A LOT OF THE SMALLER TRUCKS ARE COMING IN AND THEY TIP THE GARBAGE ON THE FLOOR AND THEY PUSH IT INTO A MUCH LARGER TRUCK SO THEY COULD TRANSPORT IT MUCH FURTHER TO THE RECEIVING LANDFILL. THE REASON WHY THIS RECOVERED MATERIALS RECLAMATION FACILITY HAS BEEN NOT PERMITTED BY DHEC, ALTHOUGH INSPECTED BUT NOT PERMITTED, IS BECAUSE IT IS A C&D RECYCLING CENTER. THE MIXED MATERIALS ARE BROUGHT IN, PLACED ON A PAD AND THEY'RE SEPARATED. CLEAN WOOD HERE, SHEETROCK THERE, ROOFING MATERIAL HERE,

CONCRETE HERE. THEN THE PROCESSING STARTS. THE MATERIALS THEN GET SHIFTED AROUND, PROCESSED, WHATEVER HAPPENS ON THE SITE, HAPPENS. THEY GO TO THE OUT SOURCING MECHANISM, WHICH COULD BE ... CLEAN WOOD, FOR INSTANCE, COULD GO TO A BOILER IN GEORGETOWN, AND COULD BE USED AS BOILER WOOD RATHER THAN BURYING IT IN A LANDFILL. THE PLAIN CONCRETE CAN GET CRUSHED AND USED AS A CRUSHED MATERIAL FOR ROADBEDS. SHEETROCK MATERIALS COULD BE MOVED TO AGRICULTURAL MARKETS WHERE THEY GET PUSHED TO A LANDFILL AND SHEETROCK IN THE LANDFILL CREATES METHANE GAS AND LEACHING. THERE ARE A LOT OF DIFFERENT ECONOMIES MATERIALS TO SCALE HERE THAT ARE NOTHING BUT A BENEFIT WHEN THEY'RE REUSED. SO, TRANSFER STATION IS NOT EVEN CLOSE. THIS IS A MATERIAL RECLAMATION FACILITY BECAUSE WE ARE MEETING OR EXCEEDING THE SEVENTY-FIVE PERCENT RULE.

MR. IVES: I'D LIKE TO ASK A QUESTION ABOUT A TRANSFER STATION. WHEN YOU LOOK AT THE PLAT HERE AND YOU SEE HOW CLOSE IN PROXIMITY IT IS TO THE RAILROAD SITE, THE PROPERTY GOES RIGHT UP TO THE RAILROAD. IT IS A CONCERN BECAUSE

AS FAR AS DHEC IS CONCERNED, THEY DON'T HAVE A PROBLEM WITH TRANSFER FACILITIES BECAUSE THEY DON'T HAVE JURISDICTION OVER TRANSFER FACILITIES. ONLY OUR ZONING AND DEVELOPMENT RULES HAVE REGULATIONS IN REGARDS TO TRANSFER FACILITIES AND RIGHT NOW THE ONLY THING STOPPING IT FROM BECOMING A TRANSFER STATION IS THE ZONING. SO, OUR CONCERN WOULD BE THAT WE WOULD BE OPENING UP THE ENVELOP BY ALLOWING THIS USE TO CONTINUE WITH THE INTERPRETATION THAT THE APPLICANT HAS WITH OUR ZONING ADMINISTRATOR. SITTING HERE, THIS IS OVER OUR PAY GRADE. WE'RE JUST HERE TO AFFIRM WHETHER OR NOT THE ZONING ADMINISTRATOR HAS MADE A PROPER DECISION. IT'S OUTSIDE OF OUR PAY GRADE TO MAKE DECISIONS ABOUT IMPACTS TO RESIDENTS, PARTICULATES, HOW IT'S HANDLED AND THE POTENTIAL FOR IT TO BE TRANSPORT ... TO BE BECOME A TRANSFER STATION. I SEE THAT AS A HUGE CHANGE FROM HOW THAT SITE IS CURRENTLY USED AND THE ONLY THING STOPPING IT IS THE ZONING.

MR. GILKERSON: AND THAT'S A VERY, VERY GOOD POINT. BY INSPECTION, FOR INSTANCE, DHEC HAS THE COMPLIANCE JURISDICTION ON ODOR, NOISE.

MR. IVES: BUT IN THEIR LETTER THEY SAY THEY DON'T HAVE. THEY DON'T HAVE JURISDICTION BECAUSE THE LAND IS CONCERNED AND BECAUSE IT'S A MATERIALS PROCESSING CENTER, THEY DON'T INSPECT.

MR. GILKERSON: NO, THEY STILL INSPECT.

MR. IVES: SO, THAT MAKES IT LOOK LIKE THERE'S NO EYES ON THE CENTER.

MR. GILKERSON: ABSOLUTELY THEY HAVE AN INSPECTION PROGRAM. AND JUST SO THE BOARD IS AWARE, THERE ARE TWO FACILITIES IN THIS COUNTY. ONE IS TIM LEE, THE DISPOSAL. HE HAS A SEVENTY-FIVE PERCENT BY RULE THAT HE OPERATES JUST AROUND THE CORNER FROM MR. THOMPKINS. THERE'S ANOTHER ONE, EASY DUMP, THAT'S JUST ACROSS 501 BASICALLY AND JUST BEHIND UPS. YOU ALL KNOW WHERE THAT IS. THEY ALSO ARE ON THIS SEVENTY-FIVE PERCENT BY RULE GENERAL STATUTE FOR C&D. THEY BRING IN THEIR LOADS AND THEY PUT IT ON THE GROUND. THEY DO SOME SEPARATION. THEY LOAD IT BACK UP AND TAKE THE RESIDUALS TO A LANDFILL. IT WOULDN'T BE THE SAME TO THIS FACILITY BUT THIS IS BECAUSE BOTH FACILITIES ARE VERY, VERY EXTREMELY SMALL. MY POINT IS, THEY GET

INSPECTIONS, UNANNOUNCED INSPECTIONS FROM DHEC ALL THE TIME. IF WE HAD HAD AN AIR QUALITY SECTION OR A DUST EMISSIONS ... THEY GOT WATER QUALITY. THEY GOT SOLID WASTE. ANY AND ALL OF THE NUANCES AS SOME ORDINANCES DEFINE IT. DHEC HAS JURISDICTION OVER IT AT THIS FACILITY AND THEY WILL INSPECT. AS FAR AS TRANSFER FACILITIES GO, SOLID WASTE TRANSFER FACILITIES, DHEC REQUIRES A SOLID WASTE PERMIT FOR THAT. WE COULD NEVER BRING C&D IN THERE OFF THE RAIL SPUR AND PUT IT ON THE GROUND AND LOAD IT BACK ON THE RAIL AND SEND IT. WE'RE TALKING ABOUT A TOTALLY DIFFERENT SOLID WASTE PERMITTED DHEC FACILITY THAN WHAT WE'RE SPEAKING ABOUT HERE TONIGHT.

MR. IVES: BUT WE'RE ONLY DECIDING WHETHER OR NOT THE ZONING ADMINISTRATOR'S DEFINITION IS ... BUT YOU'RE RIGHT FOR THE TOPIC HERE. WE'RE NOT ABLE AS WE'RE SITTING HERE THIS EVENING TO PLACE CONDITIONS ON THIS OPERATION. SO, THE CONCERN THAT'S SITTING HERE IS THAT IF WE DETERMINE THAT THE ZONING ADMINISTRATOR IS IN ERROR IN INTERPRETING WHAT AN ACCESSORY USE IS, WE'RE OPENING PANDORA'S BOX FOR ALL KINDS OF ACTIVITIES BECAUSE ACCORDING

TO DHEC IT'S A MATERIAL PROCESSING CENTER, WHICH CAN PROCESS A NUMBER OF ITEMS. SOME OF WHICH DON'T FIT IN WITH HISTORICAL PROSPECTIVE OF MR. THOMPKINS.

MR. GILKERSON: ALL I CAN SAY IS IT'S CONSTRUCTION DEMOLITION. WE'LL BE MORE THAN HAPPY TO DEFINE IMPORTING AND EXPORTING LOADS FOR YOU ALL TO NEGATE ANY CONCERN WITH RESPECT TO ANY OTHER PRODUCTS THAT ARE OUT THERE WAVING IN THE WIND. WE'RE ONLY CONCERNED ABOUT CONSTRUCTION AND DEMOLITION PER THIS GENERAL STATUTE. THAT'S ALL WE'RE ASKING.

MR. IVES: I DON'T KNOW HOW TO CODIFY WHAT YOU'VE JUST TOLD US. BUT, OBVIOUSLY THAT'S THE PROBLEM WE HAVE HERE THIS EVENING. LACK OF DEFINITION ABOUT THE PURPOSE OF INITIALLY (INAUDIBLE). IF WE ALLOW THE MISINTERPRETATION ACCORDING TO OUR ZONING ADMINISTRATION, IT'S LOOSEY/GOOSEY AND ANYTHING GOES BECAUSE OF LACK OF DEFINITION.

MR. GILKERSON: I BEG TO DIFFER. ONLY ON THIS ... ONLY ON THE STANCE THAT YOU ALL WITH THIS BOARD OR THIS COUNTY IS NOT OPENING THE FLOOD GATES FOR THIS TO REPEAT ITSELF TIME AND TIME

AGAIN. THIS IS THE ONLY FACILITY THAT I'M AWARE OF IN HORRY COUNTY JURISDICTION THAT SAYS IN THE BUSINESS LICENSE THAT SAYS, "C&D TRANSFER." THIS IS A PERMANENT USE BY ROWLAND AND CAROL COLEMAN. THE EXACT LANGUAGE SAYS, "C&D RECYCLING AND TRANSFER CONCRETE RECYCLING AND PROCESSING." THAT DOES NOT EXIST ANYWHERE ELSE IN THIS COUNTY AND THAT'S THE REASON WHY WE'RE BEFORE YOU ALL TODAY. BECAUSE WE'RE NOT TRYING TO RE-INVENT THE WHEEL. HE JUST WANTS TO CONTINUE TO DO WHAT HE HAS BEEN DOING FOR MANY, MANY YEARS. WE ONLY WANT TO DO IT WITHIN THE CONFINES OF CONSTRUCTION AND DEMOLITION MATERIAL, WHICH IS INERT. I'M TALKING ABOUT CONCERNS AND ENVIRONMENTAL CONDITIONS AND ALL THESE OTHER THINGS THAT COME AROUND WITH OTHER POTENTIAL SOLID WASTE. THAT'S OUR DEFINITION. WE'RE GONNA LIVE WITHIN THAT ZONE. THAT'S ALL WE'RE PLANNING ON DOING. AND TO THE BEST OF MY KNOWLEDGE AND RENNIE CAN SPEAK TO IT MUCH MORE THAN I CAN, THIS IS THE ONLY FACILITY THAT CARRIES THIS BUSINESS LICENSE THAT IS ACTIVE THAT I'M AWARE OF IN THIS COUNTY. SO, IF THIS BOARD THIS EVENING

VOTED TO ALLOW MR. THOMPKINS TO CONTINUE TO DO WHAT HE'S DONE FOR MANY, MANY YEARS, THIS BISCUIT CANNOT BE (INAUDIBLE) IN MY OPINION.

MR. BENIK: MR. CHAIRMAN.

MR. IVES: MR. BENIK.

MR. BENIK: AGAIN, THE BUSINESS THAT WE'RE TALKING ABOUT HOW IS THE OPERATION? WE'RE DEALING WITH THAT THIRD PARTY DELIVERY, RIGHT? WE'RE DEALING WITH ... THAT WHICH IS DROPPED FOR RECYCLING, THE C&D MATERIAL? BUT THE DROPPING OF THE RECYCLING C&D MATERIAL THAT ISSUE OF THE C&D MATERIAL THAT IS NOT COMING FROM MR. THOMPKINS TRUCKS OR DELIVERIES. YOU MENTIONED LEE DISPOSAL. LET'S USE THEM FOR EXAMPLE. YOU SAID THEY'RE RIGHT AROUND THE CORNER?

MR. GILKERSON: CORRECT.

MR. BENIK: I KNOW THEM. I DON'T KNOW THEM BUT I USE ONE OF THEIR DUMPSTERS FOR OUR CHURCH AND I UNDERSTAND THEN. SO, I'M FOLLOWING YOU NOW. BUT THEY HAVE THEIR OWN TRUCKS AND THEY DO ALL THE PICK UP AND DELIVERY. ARE THEY NOT ... ARE THEY RECYCLING OTHER PEOPLES?

MR. GILKERSON: THAT'S FOR THEM TO ANSWER.

MR. BENIK: I DON'T KNOW, BUT TO DISTINGUISH, LET'S JUST SAY THEY WERE JUST DOING THEIR STUFF, THE DIFFERENCE BETWEEN THEM AND YOU AND WHAT MR. THOMPKINS IS DOING, HE'S DOING HIS AND SOMEBODY ELSE'S?

MR. GILKERSON: THAT IS CORRECT, YES.

MR. BENIK: FOR INSTANCE, AND ... AND ... AND THE INITIAL ZONING BY MR. MEYER OR WHATEVER BUT THERE WAS EQUIPMENT THERE AND THERE WAS A MISUNDERSTANDING ABOUT WHAT WAS WRITTEN AND THE WAY IT SAYS ... I DON'T MEAN A MISUNDERSTANDING ... THERE'S SOME CONFUSION LET'S JUST SAY WHAT WAS ... ABOUT WHAT HE WAS DOING AND WHAT HE WAS ISSUED ARE TWO DIFFERENT THINGS.

MR. GILKERSON: I DON'T THINK THERE WAS ANY CONFUSION. THE HEAVY EQUIPMENT PORTION OF MR. THOMPKINS' BUSINESS WAS THAT HEAVY EQUIPMENT WAS NEEDED TO DO C&D RECYCLING, CRUSHING, PROCESSING EVERYTHING THAT WAS MENTIONED IN THIS BUSINESS LICENSE. HEAVY EQUIPMENT IS NEEDED EVERY SINGLE DAY. HE SOLD HIS EQUIPMENT JUST RECENTLY TO ALLOW FOR NEW, MORE INNOVATIVE EQUIPMENT TO COME TO THE YARD.

MR. BENIK: BUT, YOU'RE NOT GOING TO BE DOING ANY OF YOUR OWN TRUCKS. YOU'RE TAKING AS MUCH OF THIS ... YOU'RE TAKING MOST OF THIS ... IS MOST OF THIS ALL THIRD PARTY?

MR. GILKERSON: WELL, IT'S A COMBINATION OF IT.

MR. BENIK: HOW MUCH OF IT DO YOU ANTICIPATE THAT IS DIRECTLY COMING OFF OF YOUR TRUCKS OR YOUR DEMOLITION? DO YOU HAVE ANY IDEA?

MR. GILKERSON: WE DON'T BECAUSE WE HAVEN'T DONE THE NEXT DEMOLITION JOB YET SO WE DON'T KNOW.

MR. BENIK: SO, Y'ALL DO DEMOLITION JOBS AND YOU DO HAVE EQUIPMENT AND HAVE TRUCKS WHERE YOU GO?

MR. GILKERSON: YES, SIR.

MR. BENIK: SO YOU ACTUALLY DO THE DEMOLITION?

MR. GILKERSON: YES, SIR.

MR. BENIK: THANK YOU.

MR. IVES: DOES ANYONE ELSE HAVE A QUESTION? MR. SIPE.

MR. SIPE: SIR, THE DOCUMENT YOU READ FROM JUST A FEW MINUTES AGO, WAS THAT THE BUSINESS LICENSE?

MR. GILKERSON: YES, SIR.

MR. SIPE: MAY I LOOK AT IT?

MR. GILKERSON: YOU SURE CAN.

BOARD PASSING BUSINESS LICENSE.

MR. IVES: ANY OTHER QUESTIONS OF MR. GILKERSON?

MR. GILKERSON: MR. CHAIRMAN, I'D LIKE TO MENTION ONE OTHER THING. IF THE BOARD SO CHOOSES, WE COULD HAVE DHEC DEFINE CONSTRUCTION DEMOLITION BY CODE AND WE WOULD ABIDE BY THAT CODE.

MR. IVES: WE NEED SOMETHING THAT HELPS US WITH THE TRANSPARENCY OF YOUR OPERATION. OUR CONCERN IS THAT IF WE OVERRIDE OUR ZONING ADMINISTRATOR AND SHE'S TRIED TO USE A DEFINITION THAT IS WORKABLE FOR THIS DEPARTMENT. IT'S AN ACCESSORY USE AND HER CONCLUSION IS LOGICAL. IT'S AN ACCESSORY TO THE EXISTING BUSINESS LICENSE. HER LOGIC IS CLEAR AND WE CAN UNDERSTAND IT. WE CAN'T UNDERSTAND EXACTLY WHAT HAS PROCEEDED IT BECAUSE WE CAN'T GET OUR HEADS AROUND IT. WHEN WE READ HOW DHEC DEFINES PROCESSING, IT'S TOO WIDE OPEN. THERE ARE TOO MANY OTHER ACTIVITIES GOING ON HERE. THIS IS AN AVENUE ... THIS IS A FLIGHT GAME. WE NEED SOME WAY TO HAVE A

PERFECT UNDERSTANDING OF WHAT TYPES OF ACTIVITIES ARE TO OCCUR SO THAT EVERYONE IS CLEAR.

MR. GILKERSON: THERE'S A LETTER IN THERE THAT SHOULD BE ATTACHED TO THE DHEC LETTER OF CONCURRENCE FOR DECEMBER 19, 2014, WHICH IS OUR LETTER OF OPERATIONS TO DHEC DESCRIBING OUR OPERATION, BUT IT STATES IN THERE WHAT WE'LL ACCEPT, WHAT WE'LL REPROCESS AND HOW WE MOVE THE MATERIAL FROM FRONT TO BACK. AND THAT'S IN THERE. WE PROVIDED THAT TO RENNIE AND MS. COLEMAN.

MR. IVES: THIS IS DATED OCTOBER OF 2014.

MR. GILKERSON: WOULD IT HELP IF I READ THAT?

MR. IVES: I'D LIKE MR. COVINGTON TO TAKE A LOOK AT THIS LETTER. AS HE WAS ADVISING THE BOARD, HE WAS STATING THAT THERE OUGHT TO BE SOME WAY THAT WE CAN CONSTRUCT SOME LANGUAGE. I DON'T KNOW IF WE HAVE THE ABILITY TO SET CONDITIONS HERE. WE EITHER UPHOLD HER DECISION OR DETERMINE HER DECISION WAS IN ERROR. WE DON'T HAVE A CHANCE HERE TO DRAFT CONDITIONS, BUT IT WOULD BE TERRIFIC IF THERE WAS SOME VEHICLE WHERE WE COME TO AN UNDERSTANDING OF EXACTLY WHAT THIS OPERATION IS.

THE COUNTY ACTUALLY IS IN NEED OF A CRUSHING MATERIALS FACILITY FOR ROADBED CONSTRUCTION. WE'RE NOT EXACTLY ... WE'RE NOT COMPLICIT IN THIS BECAUSE THE COUNTY IS USING THE MATERIALS THAT COME OUT OF THE FACILITY. WE'RE NOT SAYING IT'S NOT SOMETHING THE COMMUNITY NEEDS, BUT WE ARE CONCERNED ABOUT FOLKS WHO LIVE NEARBY ... I'M SURE MR. THOMPKINS ... FOLKS THAT LIVE NEARBY OF THE OTHER OPERATIONS. THEY WERE VERY RESPECTFUL OF THAT NEIGHBORHOOD AND WE DON'T WANT TO ENURE TO CONDITIONS THAT ARE JUST UNLIVEABLE. THAT'S ONE REASON WHY OUR ORDINANCE IS SO STRICT. IT WAS ALL THEY COULD GET. THE PEOPLE WHO ARE SO CONCERNED ABOUT WHAT COMES OUT OF THESE PLANTS. WHAT YOU DESCRIBED HERE THIS EVENING WHEN YOU USE A WATER PROCESS TO WATER DOWN, IT MAKES PERFECT SENSE. THAT CERTAINLY IS A FINE WAY TO KEEP PARTICULATES FROM GOING THROUGH. BUT THOSE ARE ALL ABOVE WHAT THE ZONING BOARD OF APPEALS CAN DO. I'M NOT SURE WHAT WE CAN DO HERE, BUT IT WOULD BE TERRIFIC IF WE COULD COME UP WITH SOME MEANS THAT THERE IS AN UNDERSTANDING OF EXACTLY WHAT THIS OPERATION WOULD BE. YOU

UNDERSTAND WHAT IT IS. WE UNDERSTAND WHAT IT IS. IT'S CODIFIED SOMEWHERE AND THERE'S NO ROOM FOR ANY MORE MISCONCEPTION OF WHAT'S BEEN APPROVED AND WHAT SHOULD BE APPROVED.

MR. GILKERSON: I GUESS, IN CONCLUSION, AND AGAIN, I REALLY HATE TO BEAT A DEAD HORSE, BUT IN THE LANGUAGE THAT WAS PROVIDED TO MR. THOMPKINS WITH RESPECT TO THAT BUSINESS LICENSE THAT YOU HAVE BEFORE YOU, HE CAN DO EXACTLY WHAT HE'S BEEN DOING FOR MULTIPLE YEARS. MOVING FORWARD BEYOND THE MARCH 20, 2007, HE WAS JUST CONTINUING TO DO THE THINGS THAT WERE IN HIS BUSINESS LICENSE. VERY CLEAR, VERY CLEAR. AND I DON'T AGAIN THINK THERE'S ANY EXPOSURE HERE TO THIS BOARD TO ACKNOWLEDGE WHAT WE'RE AFTER HERE THIS EVENING. THE NEIGHBORS AND EVERYBODY ELSE IN THAT COMMUNITY AND WE ALL SAID WE COULD DO IT, WE ALL CAME TO HER THAT COMMERCIAL LOADS WERE BEING TAKEN INTO THAT FACILITY AND IT'S NEVER BEEN A COMPLIANT. THERE'S BEEN NO COMPLAINTS THAT ONE WAY TRUCKS WERE BACKING OUT INTO RON MCNAIR BOULEVARD. IT WAS A VERY, VERY CAREFULLY RUN FACILITY AND IT WILL CONTINUE TO BE ESPECIALLY WITH DHEC'S OVER-

SIGHT. SO, THAT'S ALL WE'RE AFTER THIS EVENING. WE APPRECIATE YOUR LISTENING TO US TONIGHT. I'M HERE FOR ADDITIONAL QUESTIONS.

MR. IVES: MR. BENIK.

MR. BENIK: THERE IS NOTHING ... AND I PROBABLY SHOULD DIRECT IT TO MS. RENNIE. THE ... HE CAN OPERATE RIGHT NOW AS LONG AS LONG AS SEVENTY-FIVE ... HE CAN CONTINUE HIS OPERATION AS LONG AS ... RIGHT NOW AS LONG AS IT'S ALL HIS STUFF?

MR. GILKERSON: NO COMMERCIAL LOADS.

MR. BENIK: NO, SIR, I'M GONNA USE MY UNDERSTANDING. NO THIRD PARTY LOADS?

MR. GILKERSON: NO THIRD PARTY LOADS.

MR. BENIK: ALRIGHT. IF THAT'S THE CASE, OKAY. I'M CONCERNED ABOUT THE GENTLEMAN'S BUSINESS THAT THEY CAN KEEP DOING IT. I UNDERSTAND, BUT Y'ALL ... Y'ALL ... Y'ALL ARE GIVING US ... YOU KNOW, WE'RE TRYING TO UNDERSTAND THIS. WHAT YOU'RE ASKING US IS, AGAIN, I HATE TO REPEAT MYSELF, BUT TO OVERTURN THE ZONING ADMINISTRATOR'S DECISION. THERE IS ANOTHER AVENUE, YOU KNOW. IF WE, YOU KNOW ... YOU KNOW ... LET ME ASK YOU THIS: WOULD Y'ALL BE WILLING TO LET US DEFER

OR TABLE THIS THING AND GIVE YOU AN OPPORTUNITY TO COME BACK, IF THAT'S THE CORRECT TERMINOLOGY I'M USING, BUT TO TABLE THIS OR DEFER IT FOR YOU TO COME BACK AND SEEK LIKE A RE-ZONING OF THE PROPERTY AND THEN COME BEFORE US FOR A VARIANCE FOR THE BUILDING? I KNOW IT TAKES TIME. I UNDERSTAND THAT.

MR. GILKERSON: I'D LIKE TO SPEAK WITH MR. TAYLOR AND MR. THOMPKINS, BUT THERE'S NO ECONOMY OF SCALE OUT THERE THAT WILL MAKE THIS BUSINESS PLAN WORK BY RE-ZONING. EVEN IF WE WERE SUCCESSFUL TO THE NEW HEAVY INDUSTRIAL CLASSIFICATION AND PUT THIS IN A NEW BUILDING, IT COULDN'T WORK.

MR. BENIK: THAT'S NOT ... WHAT I SAID WAS FOR YOU TO GET ...GET US ... I'M TRYING TO AVOID US OVERRULING THE ZONING ADMINISTRATOR. THAT'S IMPORTANT TO ME. SEEK THE OTHER METHOD ... ANOTHER POSSIBLE AVENUE OF RE-ZONING IT. THEN COME TO US FOR A VARIANCE BECAUSE WHAT YOU'RE EXPLAINING MAKES A LOT OF SENSE ABOUT THE WATER AND EVERYTHING WHERE WE MAY GIVE YOU THE VARIANCE. YOU MAY EARN THE VARIANCE OF NOT HAVING (INAUDIBLE). THAT'S ALL I'M ASKING. IS THAT A FEASIBLE THING FOR

YOU?

MR. GILKERSON: I DON'T KNOW. I NEED TO CONFER BACK HERE. MY REPLY TO THAT IS THAT YOU WOULD PUT AN ADDITIONAL BURDEN ...

MR. IVES: YOU'RE (INAUDIBLE) TO A BABY.

MR. BENIK: PUTTING IT BACK ON COUNCIL.

MR. GILKERSON: IT WOULD PUT ADDITIONAL TIME AND BURDEN ON US.

MR. BENIK: LOOK, I UNDERSTAND THAT. I UNDERSTAND THAT AND THAT'S IMPORTANT AND AT THE SAME TIME, THE ZONING ADMINISTRATOR'S DECISION IS IMPORTANT TO ME.

MR. IVES: THANK YOU, MR. GILKERSON. I'M GONNA ASK MS. CARTER IF YOU WOULD WEIGH IN. DO YOU SEE A WAY TO ADMINISTRATIVELY CODIFY WHAT ACTIVITIES WOULD OCCUR OUT THERE SO THERE'S CLARITY ON BOTH ENDS, THE OPERATOR AND THE COUNTY?

MS. CARTER: WELL, WE'D HAVE TO WORK ON OUR ORDER A BIT. IF THE BOARD WERE TO DETERMINE THAT THE ZONING ADMINISTRATOR SHOULD BE OVERTURNED THEN THE BOARD COULD CERTIFY SPECIFY IN ITS ORDER IT'S OWN DECISION AS TO WHAT THIS PROPERTY IS ABOUT TO DO AND IS A LEGAL NON-CONFORMING USE. THAT'D TAKE A LITTLE

TIME TO CRAFT. DON'T KNOW THAT I COULD DO IT SITTING RIGHT HERE TONIGHT, BUT BASICALLY THE BOARD WOULD BE SUBSTITUTING ITS DECISION FOR MS. MINCEY'S.

MR. IVES: SO, WE DO HAVE AN OPPORTUNITY WHERE WE COULD STATE CONDITIONS AND THOSE CONDITIONS WOULD SET WHAT THE NON-CONFORMING USE COULD BE?

MS. CARTER: WELL, I DON'T THINK THAT WE COULD SET CONDITIONS BECAUSE WHAT YOU WOULD BE DOING IS SAYING MS. MINCEY IS WRONG. THIS WAS A LEGAL NON-CONFORMING RECYCLING AND TRANSFER STATION THAT ENGAGED IN THE FOLLOWING AND SHALL BE ALLOWED TO CONTINUE ENGAGING IN THE FOLLOWING BUT MAY NOT EXPAND BEYOND THESE PARAMETERS OR SOMETHING TO THAT EXTENT.

MR. SHELTON: MR. CHAIRMAN, IF I MAY.

MR. IVES: I'LL LET MR. SHELTON COMMENT ON THAT.

MR. SHELTON: I HAVE A COMMENT ON THAT.

MS. CARTER: I WAS JUST LOOKING OVER THAT.

MR. SHELTON: IF YOU'LL LOOK AT THE SECOND PAGE. I'M HANDING OUT COPIES OF THAT OCTOBER LETTER. THE FIRST PARAGRAPH ON THE SECOND

PAGE PRETTY WELL OUTLINES WHAT MATERIAL. (MR. SHELTON TURNING HIS BACK TO MICROPHONE AND HANDING OUT PAPERS TO BOARD. ALL (INAUDIBLE).

MR. IVES: AND IT'S THE SECOND PARAGRAPH ON PAGE 2, MATERIALS TO BE RECYCLED?

MR. SHELTON: THE LAST PARAGRAPH ON THE FIRST PAGE TALKS ABOUT HOURS OF OPERATION. AGAIN TURNING BACK TO MICROPHONE AND TALKING TO THE CHAIRMAN. ALL (INAUDIBLE).

MR. IVES: THAT WOULD CERTAINLY GO IN GOOD FAITH. THAT GOES A GREAT DEAL TO PROVIDING THE CLARITY THAT WE SEEK. WE ALSO WANT TO DO SOMETHING TO ADDRESS THE CITIZENS CONCERNS THAT LIVE CLOSE BY.

MR. SHELTON: WELL, IN OUR ORDER WE HAVE REPRESENTED TO THE BOARD AND THE BOARD HAS RELIED ON OUR REPRESENTATION (INAUDIBLE) AND THAT WE WILL CONTINUE TO SUPPRESS THE DUST WITH THE MISTERS OF THE WATER AND WE WILL REBUILD THE FENCE THAT MR. WILLIAMS TOOK DOWN FROM MR. THOMPKINS PROPERTY AND THIS IS CONCERN FOR THE PROPERTY AND TO GET MS. DOWD'S CONCERNS RESOLVED. THIS IS A RECORDED MEETING, SO WAS LAST MONTH. YOU ARE WELCOME

ON BEHALF OF THIS APPLICANT TO TAKE ANYTHING THAT WE REPRESENTED TO YOU TO INCORPORATE INTO YOUR ORDER. WE WOULDN'T MISLEAD THIS BOARD EVER. WE CERTAINLY DO INTEND TO BE GOOD NEIGHBORS. THAT'S WHAT WE'VE BEEN TRYING TO DO ALL ALONG.

MR. IVES: I THINK ALL WE'VE INTENDED TO DO THIS AND I THINK YOU'VE BEEN WORKING ON THIS AS WELL. JUST ON A DIFFERENT TRACK OF CLARITY. ALL WE WANT HERE IS TO UNDERSTAND EXACTLY WHAT WE MEAN. I THINK WE'RE MAKING SOME GROUND HERE. MS. CARTER, YOU'VE HAD AN OPPORTUNITY TO REVIEW THIS PARAGRAPH AND YOU JUST HEARD MR. SHELTON SUGGEST WE COULD ALSO PROVIDE CLARITY ABOUT THE SUPPRESSION OF DUST WITH MISTERS AND WATER. THAT WOULD ALSO BE SOMETHING THAT WOULD BE CONSTRUCTIVE TO AN ORDER. WHAT ELSE WOULD YOU LIKE TO SEE FOR US TO CONSIDER AS A CLARITY IN THIS? YOU WOULD HAVE TO ADMINISTER IN THIS. I KNOW IT'S AWKWARD, BUT YOU HAVE TO ADMINISTER IT. I HAVE TO BE CLEAR THAT YOUR STAFF WOULD HAVE ENOUGH CLUES TO ADDRESS THIS.

MS. CARTER: WELL, I'M TRYING TO FIGURE OUT HERE MYSELF. IF THE BOARD SAYS MS. MINCEY IS

WRONG, THIS IS NOT AN ACCESSORY USE AND THAT NO THIRD PARTY HAULERS CAN BRING MATERIAL TO THE SITE, THEN WHAT THE BOARD SIGNING WOULD BE ... I DON'T KNOW. I'M TRYING TO ... I'M DEBATING WITH MYSELF WOULD IT BE AN ACCESSORY USE DEFINED DIFFERENTLY IF WE CALL IT A LEGAL NON-CONFORMING USE. I'M NOT EXACTLY SURE WHAT WE'D CALL IT. I WOULD JUST NEED A LITTLE BIT MORE TIME THAN SITTING HERE TONIGHT TO PUT THAT ORDER TOGETHER.

MR. IVES: MR. COVINGTON, WHAT ...

MS. CARTER: I WOULD NEED TO CONFER WITH MR. COVINGTON AS WELL. HE MAY HAVE LEGAL CONCERNS THAT NEED TO BE ADDRESSED IN THE ORDER.

MR. COVINGTON: MR. CHAIRMAN, I WOULD PREFER THAT WE DISCUSS THIS IN EXECUTIVE SESSION IF THE BOARD IS SEEKING LEGAL ADVICE.

MR. BENIK: MOTION TO GO INTO EXECUTIVE SESSION.

MR. IVES: A MOTION HAS BEEN MADE. IS THERE A SECOND?

UNKNOWN: SECOND.

MR. IVES: MOTION HAS BEEN MADE AND SECONDED THAT WE GO INTO EXECUTIVE SESSION.

OFF THE RECORD

MR. IVES: THANK YOU VERY MUCH FOR YOUR COOPERATION TO ALLOW US TO DELIBERATE FURTHER. I WILL ASK FOR A MOTION THAT WE COME OUT OF EXECUTIVE SESSION.

MR. BENIK: SO MOVE.

MR. IVES: IS THERE A SECOND?

MR. SINGLETON: SECOND.

MR. IVES: ALL IN FAVOR?

ALL BOARD: AYES.

MR. IVES: MR. COVINGTON, IF YOU'LL READ INTO THE ORDER THAT WE DID NOT CONDUCT ANY BUSINESS OR TAKE VOTES.

MR. COVINGTON: YES, MR. CHAIRMAN. WE WENT INTO THE EXECUTIVE SESSION FOR THE PURPOSE OF RECEIVING LEGAL ADVICE AND NO DECISIONS WERE MADE.

MR. IVES: THANK YOU, SIR. WE DID DELIBERATE ON HOW WE MIGHT CONSIDER ALTERNATIVES TO SIMPLY VOTING UP OR DOWN ON THE ZONING ADMINISTRATOR. WE COULD NOT REACH A CONCLUSION THAT WE COULD ADMINISTRATIVELY DO SO. AND IT OCCURS TO US THERE ARE TWO AVENUES. ONE IS TO ALLOW ANOTHER THIRTY DAYS FOR THE APPLICANT TO CONSIDER ALTERNATIVES.

WHETHER THEY WANT TO APPLY FOR A VARIANCE IN LIEU OF ASKING US TO OVERTURN THE ZONING ADMINISTRATOR. IF WE COULD LOOK AT A VARIANCE, WE COULD ACTUALLY CONSTRUCT CONDITIONS UNDER WHICH A PROPOSED ACTIVITY MIGHT OCCUR. THAT'S ONE ALTERNATIVE. THE OTHER ALTERNATIVE WOULD BE FOR US TO DELIBERATE TONIGHT. AND I DON'T KNOW, MR. SHELTON, IF YOUR APPLICANT IS READY TO MAKE A DECISION. HAVE YOU HAD AN OPPORTUNITY TO DISCUSS WHAT YOUR ALTERNATIVES MIGHT BE BEFORE US?

MR. SHELTON: NOT THAT SELECTION OF ALTERNATIVES.

MR. IVES: DO YOU HAVE ANOTHER ALTERNATIVE FOR US TO CONSIDER?

MR. SHELTON: I DO NOT. GIVEN THAT THERE IS TWO MONTHS WORTH OF TESTIMONY AND MOST OF IT SWORN FROM AN OFFICER OF THE COURT BEFORE THIS BOARD ALREADY AND THERE IS NOT ONE SHRED, EVEN OF THE PEOPLE WHO GOT UP TO TESTIFY AS A COMPLAINT. THERE IS EVIDENCE BEFORE THIS BOARD AND EVEN THE ZONING ADMINISTRATOR THAT WOULD SUGGEST THAT THE SWORN TESTIMONY GIVEN TO THE BOARD OF THE APPLICANT HIMSELF THAT HE IS DOING EXACTLY

WHAT HE SAID HE'S BEEN DOING SINCE PRIOR TO THERE BEING ZONING. IN FACT THAT'S WHAT THE ZONING ADMINISTRATOR SAID. COULD THIS BOARD NOT SIMPLY RECOGNIZE THAT WHEN ALL THE WEIGHT OF THE EVIDENCE SHOWS THIS HAS BEEN GOING ON SINCE BEFORE THERE WAS ZONING AND THIS CAN BE GRAND FATHERED. I MEAN, MANY, MANY YEARS, MR. LIVINGSTON, PRIOR TO APPLYING FOR THE PERMIT. BEFORE THERE WAS EVEN ZONING ON THIS PROPERTY AT ALL, THIS IS WHAT WAS GOING ON.

MR. IVES: IT GOES BEYOND THIS BOARDS' AUTHORITY TO DO THAT BECAUSE THAT WOULD BE ALLOWING A USE THAT OTHERWISE WOULDN'T BE ALLOWED UNDER THE ORDINANCE, WHICH WE UNDER-STATE. WE ARE NOT ALLOWED TO DO THAT.

MR. SHELTON: I UNDERSTAND THAT YOU'RE NOT COMFORTABLE AT THIS MOMENT WITH THE SITUATION THAT (INAUDIBLE) CONDITIONS, BUT MS. CARTER, COULD WE NOT STIPULATE THAT THE LETTER THAT I HANDED YOU THAT WAS WRITTEN BY US IN OCTOBER SETS FORTH WHAT IS PERMITTED TO BE AND WHAT THIS PROPERTY IS USED FOR UNDER THIS DECISION OF THE BOARD? THAT WAS A STIPULATION OF FACT AND FINDING BY THE APPLICANT?

MR. IVES: MS. CARTER, IS THERE A WAY TO

RESPOND TO THAT QUESTION?

MS. CARTER: YOU KNOW, GIVING IT SOME THOUGHT AND TRYING TO FIGURE OUT WHAT WAS THE BOARD'S PREROGATIVE HOW TO DRAFT SUCH AN ORDER AND I DON'T KNOW IF I CAN BECAUSE WE'RE TALKING ABOUT A DECISION MADE IN 2007. AS I SAID, WE'RE NOT REALLY TALKING ABOUT WHAT THESE FOLKS ARE GOING TO BE DOING GOING FORWARD. SO, I CAN'T REWRITE HISTORY SITTING HERE.

MR. SHELTON: BUT IN THE BEGINNING OF EVERY ORDER THERE ARE SEVERAL WHEREAS CLAUSES. WHY COULD WE NOT SIMPLY SAY THAT AS AN OFFICER OF THE COURT REPRESENTATIVE OF THOMPKINS & ASSOCIATES, APPLICANT, ROBERT SHELTON, ESQUIRE, STIPULATED FOR THE RECORD THAT THE CONDITIONS SET FORTH IN HIS CLIENT'S LETTER DATED OCTOBER, SUCH AND SUCH, ARE ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "A". SET FORTH WHAT CAN BE RECEIVED AND OPERATED AT THE SITE. SOMETHING AS SIMPLE AS THAT. AND AS PART OF THE ORDER, IF WE DEVIATE FROM IT IN ANY WAY, HORRY COUNTY CAN ENFORCE US. THAT COULD BE A STIPULATION. WE'RE NOT OPPOSED TO THAT.

MS. CARTER: I WOULD LOVE TO LOOK AT THE TWO

PARTS OF THE ZONING ADMINISTRATOR'S DECISION, WHICH IS THAT THIS IS AN ACCESSORY USE TO THE HEAVY EQUIPMENT CONSTRUCTION BUSINESS AND THAT THE ... BY ACCESSORY USE THAT MEANS THAT NO THIRD PARTY LOADS CAN BE BROUGHT TO THE SITE. THAT'S WHAT IT MEANT IN 2007 ACCORDING TO THE ZONING ADMINISTRATOR'S DETERMINATION. I JUST DON'T KNOW HOW I CAN GO BACK AND REWRITE WHAT WAS MEANT AND WHAT WAS HAPPENING IN 2007. THAT'S MY CONCERN. THAT'S WHY I SAID I DON'T THINK I CAN SIT HERE TONIGHT AND WRITE AN ORDER FOR THAT. I DON'T KNOW IF I EVER COULD. BUT I'M CERTAINLY ... I UNDERSTAND WHAT YOU'RE SAYING. I MEAN, I'LL DO WHATEVER THIS BOARD CHOOSES. I CAN WRITE THE BEST ORDER I CAN WRITE. I'M SURE I CAN GET SOME HELP FROM MR. COVINGTON IF THE BOARD GOES THAT WAY. SO, I'LL DO THE BEST I CAN IF THAT'S WHAT THE BOARD DOES. THAT'S ALL I CAN TELL YOU.

MR. SHELTON: WHETHER OR NOT THE TERM 'ACCESSORY USE' HAS EVER BEEN DEFINED TO THE THOMPKINS. CERTAINLY NOT IN 1981 AND CERTAINLY NOT IN 2007. IT'S STILL NOT ENTIRELY CLEAR BECAUSE AS MR. GILKERSON HAS

Testimony of Robert Shelton

EXPLAINED, THE ONLY CONSTRUCTION AND HEAVY EQUIPMENT ON THIS PROPERTY WAS APPARENTLY THERE AS AN ACCESSORY TO THE C&D. THAT'S HOW YOU DEFINE IT, NOT THE OTHER WAY AROUND. SOMEBODY GOT IT WRONG AND MR. THOMPKINS DIDN'T ISSUE THIS LICENSE. SO I THINK IT EXISTED. EVERYTHING THAT MR. THOMPKINS HAD AND HAS GONE THROUGH THE RECORDS AND (INAUDIBLE). THE DHEC COMPLIANCE LETTER AND WE JUST GOT A THIRD ONE JUST TO CLARIFY THE SECOND ONE. WE'VE DONE EVERY SINGLE THING WE CAN DO TO SHOW ALL THE EVIDENCE BEFORE THIS BOARD WHICH SHOWS THAT THIS C&D RECYCLING BUSINESS WAS WHAT WAS GOING ON ON THIS SITE LONG BEFORE THERE WAS ZONING. LONG BEFORE THERE WAS A BUSINESS LICENSE. SO, THEN, THERE'S A QUESTION ABOUT WHAT CAN HAPPEN. WE'RE GOING TO STIPULATE FOR THE RECORD ACCORDING TO MR. GILKERSON'S LETTER IN OCTOBER FROM DHEC AS TO WHAT IT IS WE'RE DOING THERE. WITH PRETTY GOOD SPECIFICITY EVEN THOUGH MR. GILKERSON HAD NO IDEA WHO WROTE THAT. IT REVEALED ITS PURPOSE SOME MONTHS LATER. BUT IT'S VERY, VERY SPECIFIC. SO, WE CAN CERTAINLY SAY WHEREAS ALL THE

EVIDENCE BEFORE THIS BOARD. THERE'S NO EVIDENCE BEFORE THIS BOARD THAT SUGGESTS THAT THIS WAS NOT GOING ON BEFORE THERE WAS EVER ZONING. (INAUDIBLE). WHEREAS, ALL THE EVIDENCE BEFORE THIS BOARD INDICATES THAT LONG BEFORE IT WAS LICENSED, THEY WERE GIVEN A PERMIT. THIS WAS GOING ON LONG BEFORE THIS ON THIS PROPERTY. AND WHEREAS, THE APPLICANT HAS STIPULATED TO WHAT TAKES PLACE ON THAT PROPERTY AS STATED IN THE LETTER THAT MR. GILKERSON RECEIVED IN OCTOBER. SO, IF THIS BOARD FINDS THAT THE DECISION OF THE ZONING ADMINISTRATOR MUST BE CLARIFIED AND SET FORTH, AND THIS PROPERTY CAN BE USED FOR THESE PURPOSES AND THEN SPELL IT OUT. I MEAN, I DON'T THINK IT'S OFFENSIVE TO ROWLAND MEYER OR RENNIE MINCEY. I THINK IT'S JUST AN AFFIRMATION OF THE TRUTH. THAT'S WHAT THIS PROPERTY HAS ALWAYS BEEN USED FOR, WITHOUT INCIDENT. I'M NOT ASKING FOR SOMETHING NEW. IF YOU'LL GIVE ME A MOMENT TO SPEAK TO THE PROPERTY OWNERS.

MR. IVES: WHAT WE'LL DO IS WE'LL TAKE A RECESS ON YOUR APPLICATION. WE'LL TAKE THE NEXT APPLICATION AND IT WILL GIVE YOU TIME TO

COMMISERATE WITH YOUR CLIENTS AND WHEN YOU'RE READY TO COME OUT, WE'LL TAKE YOUR CASE. SO, WE'LL RECESS THIS CASE AND GIVE YOU TIME TO DISCUSS THE ALTERNATIVES AND MS. MINCEY, I'LL ASK YOU FOR THE NEXT CASE.

OFF THE RECORD FOR THIS CASE.

MR. SHELTON, TO MY KNOWLEDGE, NEVER CAME BACK. THEREFORE, I ASSUME THEY DEFERRED IT FOR ANOTHER THIRTY DAYS.

STATE OF SOUTH CAROLINA

CERTIFICATE

COUNTY OF HORRY.

I, JERRY S. MABRY, A NOTARY PUBLIC AND VERBATIM REPORTER, IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE WITNESSES IN THIS HEARING WERE DULY SWORN PRIOR TO THE TAKING OF THIS AND THAT THE FOREGOING SEVENTY-SEVEN (77) PAGES CONSTITUTE A TRUE AND ACCURATE TRANSCRIPT OF THE EVIDENCE AS GIVEN BY SAID WITNESSES AND AS TAKEN DOWN AND TRANSCRIBED BY ME. I FURTHER CERTIFY THAT THE PERSONS WERE PRESENT AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NOT OF COUNSEL FOR, NOR IN THE EMPLOY OF ANY OF THE PARTIES TO THIS ACTION, NOR AM I INTERESTED EITHER DIRECTLY OR INDIRECTLY IN THE RESULTS THEREOF.

I FURTHER CERTIFY THAT I AM NOT RELATED BY BLOOD OR MARRIAGE TO ANY OF THE PARTIES TO THIS ACTION.

THIS THE 22ND DAY OF JUNE, 2015.

JERRY S. MABRY, NOTARY PUBLIC
AND VERBATIM REPORTER

MY COMMISSION EXPIRES:
DECEMBER 3, 2022.

MABRY COURT REPORTING
Verbatim Reporters

Jerry S. Mabry
1607 Magnolia Drive
N. Myrtle Beach, SC 29582

#14765

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY TS DATE 10-30-06
NAME L Dean Weaver
ADDRESS Wac Potter Project
CASH | C.O.D. | CHARGE | ON ACCT. | PAID OUT
DISPOSAL 18 11
~~1259 LD 02156 PM 10 20 06~~
34820 LD 03107 PM 10 30 06
RECEIVED BY JOSEPH BROWN

All claims and returned goods MUST be accompanied by this bill.

20277 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY TS DATE 10.30.06
NAME L Dean Weaver
ADDRESS Wac Potter Project
CASH | C.O.D. | CHARGE | ON ACCT. | PAID OUT
Disp 23 93
34820
02650 LD 03155 PM 10 30 06
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#14904

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MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 36 DATE 12-11-06
NAME B+N
ADDRESS Shop
CASH | C.O.D. | CHARGE | ON ACCT. | PAID OUT
Disp 11 37
14760
RECEIVED BY

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20881 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

EXHIBIT G-1

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY [illegible] DATE 12-11-06
NAME [illegible]
ADDRESS [illegible] Lake
CASH | C.O.D. | CHARGE | ON ACCT. | PAID OUT
Disp 1.96
17880
12:03 LB 01:09 PM 12-11-06
RECEIVED BY [illegible]

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20872 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

17180

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY TS DATE 11-9-06
NAME L Dean Weaver
ADDRESS Waccamaw Pottery
CASH | C.O.D. | CHARGE | ON ACCT. | PAID OUT
Disp 22.03
34820
78080 LB 01:38 PM 11 09 06
RECEIVED BY JOSEPH BROWN

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20378 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY L Dean Weaver DATE 11-9-06
NAME [illegible]
ADDRESS [illegible]
CASH | C.O.D. | CHARGE | ON ACCT. | PAID OUT
Disp 19.19
75140 LB 02:34 PM 11 09 06
[illegible] LB 03:43 PM 11 09 06
RECEIVED BY JOSEPH BROWN

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20383 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY DATE 11-9-06
NAME L Dean Weaver
ADDRESS Waccamaw Pottery
CASH | C.O.D. | CHARGE | ON ACCT. | PAID OUT
Disp 16.39
35660
[illegible] LB 03:57 PM 11 09 06
RECEIVED BY JOSEPH BROWN

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20385 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

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SOLD BY 4 DATE 12-5-06
NAME Trebor
ADDRESS Berkshire

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1323
		17880		
		44340 LA 12:57 PM 12 05 06		

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THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
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(843) 236-3060

SOLD BY 2 DATE 12-6-06
NAME Trebor
ADDRESS Barefoot

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		Two
		17980		
		32180 LA 04:13 PM 12 06 06		

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20770 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

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THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
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(843) 236-3060

SOLD BY 1 DATE 12-18-06
NAME Trebor
ADDRESS Hennenbar

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1026
		[illegible] PM 12 18 06		
		17760		
		Rallen		

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310 Piling Drive
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(843) 236-3060

SOLD BY 2 DATE 12-12-06
NAME Trebor
ADDRESS Kisskadee

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1068
		17980		
		[illegible]		

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20892 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14953

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

03-6753

SOLD BY | DATE 12-22-06
NAME Stone Brick & Mason
ADDRESS Martin Point

CASH	C.O.D.	CHARGE	ON ACCT.
		31580 LB 10:29 AM 12 22 06	
		Sand 4.93	
		Disp	
		21720 LB 10:36 AM 12 22 06	
		5.00	
		Pd Chk	
		1.60	
		$24.65	

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21085 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

241-3815 Eddie

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive #14955
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY Eddie Bogett | DATE 12-5-06
NAME [redacted] Southern Ave
ADDRESS Green Lake

CASH	C.O.D.	CHARGE	ON ACCT.
		32500 LB 06:00 PM 12 05 06	
		[redacted] Sand 7.13	
		Disp	
		19240 LB 06:13 PM 12 05 06	
		E Bogett	

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20716 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14855

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-28-06
NAME Southern Disposal
ADDRESS Green Lake

CASH	C.O.D.	CHARGE	ON ACCT.
		Disp	6.22
		18200	
		30640 LB 12:29 PM 12 28 06	
		E Bogett	

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21125 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14837

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-06
NAME May Smith Const
ADDRESS Hemmerstone

QUAN.	STOCK #	DESCRIPTION	PRICE	AMOUNT
		Disp	11	75
		21360		
		54860 LB 11:25 AM 12 01 06		

RECEIVED BY

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20658 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-06
NAME May Smith Const
ADDRESS Hemmerstone

QUAN.	STOCK #	DESCRIPTION	PRICE	AMOUNT
		Disp	13	24
		21360 LB 10:10 AM 12 01 06		
		52040 LB 10:02 AM 12 01 06		

RECEIVED BY

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20653 NEBS To Reorder: 800-225-6380 or nebs.com

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#14938

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY [illegible] DATE 12-11-06
NAME R. H. Moore
ADDRESS [illegible]

CASH	C.O.D.	CHARGE	ON ACCT.
			Jan

P150 2094

25,800

[illegible]720 LR 04155 PM 12 11 06

RECEIVED BY [illegible]

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20878 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

E 14344

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY PS | DATE 11-28-06
NAME PSL
ADDRESS 44th Ave MB SC
CASH | SOLD | CHARGE | ON ACCT. | PAID
DISP 16.31
59220 LR 01:11 PM 11 28 06
26600

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20566 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY PS | DATE 11-28-06
NAME PSL
ADDRESS 54 Fel
CASH | SOLD | CHARGE | ON ACCT. | PAID
DISP 4.38
34240 LR 05:48 PM 11 28 06
25480

RECEIVED BY

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20580 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14873

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 8 DATE 12-4-06
NAME Hardwicks
ADDRESS 5th Ave MB

CASH	C.O.D.	CHARGE	ON ACCT.	
	Disp		13	03
	25240			
	81200 12 06:46 PM 12 04 06			

RECEIVED BY Earnest Summerville

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20679 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 2 DATE 12-7-06
NAME Hardwick's
ADDRESS 5th Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
	Disp		23	87
	30360			
	78100 12 02:11 PM 12 07 06			

RECEIVED BY

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20811 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 2 DATE 12-7-06
NAME Hardwick's
ADDRESS 5th Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
	Disp		14	82
	30360			
	78100 LB 05:25 PM 12 07 06			

RECEIVED BY

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20838 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 2 DATE 11-29-06

NAME Hardwicks Land

ADDRESS Dargan + 27th Ave S

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Disp		18 86
	30360		
	66080 LE 05:50 PM 11 29 06		

RECEIVED BY Ben S.

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20617 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

#14873

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 8 DATE 11-27-06
NAME Hardwicks Landscape
ADDRESS 34th Ave MB SC

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
Disp.				13.31
25240				
51980 LB 03:58 PM 11 27 06				

RECEIVED BY Ernest

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20547 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY HL2 DATE 11-28-06
NAME Hardwicks
ADDRESS Dargan Job - 6th Ave N

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
Disp				22.14
30360				
74641 LB 02:15 PM 11-28-06				

RECEIVED BY Ben S.

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20570 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY HL2 DATE 11-28-06
NAME Hardwicks Landscaping
ADDRESS Dargan Job 6th Ave N

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
Disp				18.05
30360				
64460 LB 05:44 PM 11 28 06				

RECEIVED BY Ben S.

All claims and returned goods MUST be accompanied by this bill.

20579 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY HL2 DATE 11-29-06
NAME Hardwicks Landscaping
ADDRESS 5th Ave N. - Dargan Job

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
Disposal				12.31
[illegible] LB 11:59 AM 11 29 06				
F.W. 30360				

RECEIVED BY Ben S.

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20594 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14919

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-19-06
NAME Haddock
ADDRESS Moss Creek

QUAN.	DESCRIPTION	PRICE	ON ACCT.
	Disp	8	9
	14000		
	20380 LB 09:55 AM 12 14 06		

RECEIVED BY

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20948 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

#14919

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 1-12-07
NAME J. Haddock
ADDRESS Zoned

QUAN.	DESCRIPTION	PRICE	ON ACCT.
	Disp	7	94
	29620 LB 12:18 PM 01 12 07		
	13940		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

21421 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

#14519

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 11-20-06
NAME Haddock
ADDRESS Hawleys Island

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT	
				Disp	7 94
				13746	
				29420 LB 09:51 AM 11 20 06	

RECEIVED BY

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20503 NEBS To Reorder: 800-225-5380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
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(843) 236-3060

SOLD BY | DATE 11-20-06
NAME Haddock
ADDRESS Hawleys Island

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT	
				Disp	990
				13746	
				29540 LB 05:00 PM 11 20 06	

RECEIVED BY

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20518 NEBS To Reorder: 800-225-5380 or nebs.com

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THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 11-17-06
NAME Haddock Paving
ADDRESS Pawleys Island

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
		Disposal		7.86
		22490 LB 08:57 AM 1 17 06		
		E.N. 13,740		

RECEIVED BY

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20490 NEBS To Reorder: 800-225-6380 or nebs.com

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(843) 236-3060

SOLD BY | DATE 11-17-06
NAME Haddock Paving
ADDRESS Pawleys Island

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
		Disp		9 57
		13740		
		22490 LB 11:46 AM 1 17 06		

RECEIVED BY

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20493 NEBS To Reorder: 800-225-6380 or nebs.com

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THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 11-17-06
NAME Haddock Paving
ADDRESS Pawleys Island

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
		Disp		10 97
		13740		
		22490 LB 02:55 PM 1 17 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20498 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

#14519

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 11-6-06
NAME Haddock Pharmacy
ADDRESS Rosewood

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT	
				10.	94
		13740			
		35020 LS 04:43 PM 11 06 06			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20358 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY Red | DATE 11-6-06
NAME Haddock
ADDRESS Rosewood

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT	
		Disp		10	12
		13740			
		33960 LS 01:03 PM 11 06 06			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20345 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY KBOOL DATE 12-13-06
NAME Earthworks
ADDRESS 30th Ave

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
		Disp		15 94
		23680		
		53560 LB 06:10 PM 12 12 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20945 NEBS To Reorder: 800-225-6380 or nebs.com *Thank You*

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY KBOOL DATE 12-14-06
NAME Earthworks
ADDRESS 30th Ave

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
		Disp		8 16
		23680		
		40000 LB 09:44 AM 12 14 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20947 NEBS To Reorder: 800-225-6380 or nebs.com *Thank You*

#14916

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY KBool DATE 12-12-06
NAME Earthworks
ADDRESS 30th Ave N.

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1463
		23680		
		2940 LB 09140 AM 12 12 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20884 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY Blue DATE 12-12-06
NAME Earthworks
ADDRESS Caribbean Towers

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		349
		13620 LB 10147 AM 12 12 06		
		40500 LB 10135 AM 12 12 06		

RECEIVED BY Ricky Davis

All claims and returned goods MUST be accompanied by this bill.

20886 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY KBool DATE 12-13-06
NAME Earthworks
ADDRESS 30th Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1262
		23680		
		[illegible]		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20937 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY KBool DATE 12-13-06
NAME Earthworks
ADDRESS 30th Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1559
		23680		
		[illegible]		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20942 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14820

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY Pickup DATE 11-20-06
NAME Caldwell Pool
ADDRESS Yard
CASH | SOLD | CHARGE | ON ACCT.

Disp			63
4880 LP 03:21 PM 11 20 06			
5140 LP 03:12 PM 11 20 06			

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.
20514 NEBS To Reorder: 800-225-6380 or nebs.com
Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY Pickup DATE 11-20-06
NAME Caldwell Pool
ADDRESS Yard
CASH | SOLD | CHARGE | ON ACCT.

Disp			47
4880			
5920 LP 04:37 PM 11 20 06			

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.
20517 NEBS To Reorder: 800-225-6380 or nebs.com
Thank You

#14821

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 45 DATE 11-20-06
NAME Burroughs & Chapin
ADDRESS Bob Hassenplug

CASH	C.O.D.	CHARGE	ON ACCT.	
	Disp			5 52
	23380 LB 10:45 AM 11 20 06			
	12340 LB 10:55 AM 11 20 06			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20504 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 45 DATE 11-20-06
NAME Burroughs & Chapin
ADDRESS Bob Hassenplug

CASH	C.O.D.	CHARGE	ON ACCT.	
	Disp			6 63
	12340			
	25600 LB 11:27 AM 11 20 06			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20507 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 45 DATE 11-20-06
NAME Burroughs & Chapin
ADDRESS Bob Hassenplug

CASH	C.O.D.	CHARGE	ON ACCT.	
	Disp			5 52
	24280 LB 12:27 PM 11 20 06			
	12,340			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20512 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 45 DATE 11-20-06
NAME Burroughs & Chapin
ADDRESS Bob Hassenplug

CASH	C.O.D.	CHARGE	ON ACCT.	
	Disp			6 41
	12340			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20515 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	CHARGE	CHARGE ON ACCT.	C.O.D.	PAID OUT	ON ACCT.
	Disp			28	81
	38960				
	~~40929 LB 04:54 PM 12 07 06~~				
	40681 LB 04:55 PM 12 07 06				
	96580				

RECEIVED BY Jessie Tindal

All claims and returned goods MUST be accompanied by this bill.

20834 NEBS To Reorder: 800-225-6380 or nebs.com *Thank You*

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	CHARGE	CHARGE ON ACCT.	C.O.D.	PAID OUT	ON ACCT.
	Disp			23	41
	36740				
	~~40960 LB 05:13 PM 12 07 06~~				
	~~40681 LB 05:13 PM 12 07 06~~				
	83560				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20836 NEBS To Reorder: 800-225-6380 or nebs.com *Thank You*

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 29 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
Disp			23	48
35320				
40680 LB 03:39 PM 12 07 06				
41600 LB 03:40 PM 12 07 06				
82280				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20824 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
Disp			23	48
36740				
41040 LB 03:48 PM 12 07 06				
42660 LB 03:49 PM 12 07 06				
83700				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20826 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 28 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
Disp			19	22
35520				
38280 LB 03:50 PM 12 07 06				
39960 LB 03:51 PM 12 07 06				
73960				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20827 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 29 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
Disp			25	69
35320				
40160 LB 04:35 PM 12 07 06				
46540 LB 04:35 PM 12 07 06				
81700				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20832 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
		Disp		29 36
		36740		
		44540 LB 12:26 PM 12 07 06		
		51220 LB 12:26 PM 12 07 06		
		95460		

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.
20798 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 18 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
		Disp		29 08
		36620		
		40500 LB 12:44 PM 12 07 06		
		44280 LB 12:45 PM 12 07 06		
		84780		

RECEIVED BY J.C.W
All claims and returned goods MUST be accompanied by this bill.
20804 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 28 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
		Disp		30 34
		35520		
		36480 LB 01:06 PM 12 07 06		
		84200		

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.
20808 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

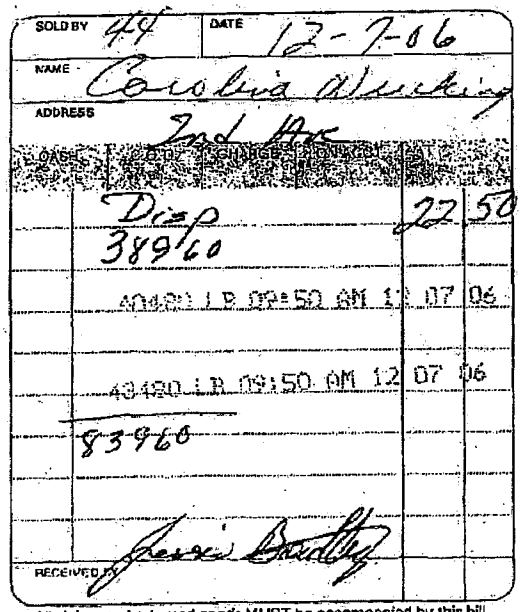
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

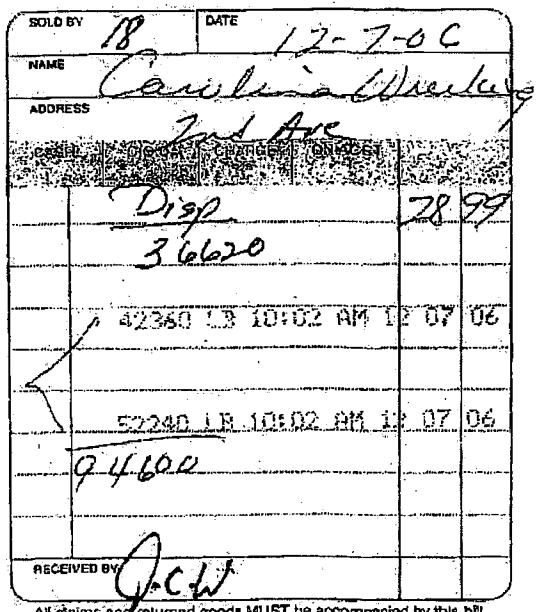
CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
		Disp		27 30
		38960		
		44480 LB 23:12 PM 12 07 06		
		52280 LB 23:13 PM 12 07 06		
		93560		

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.
20820 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

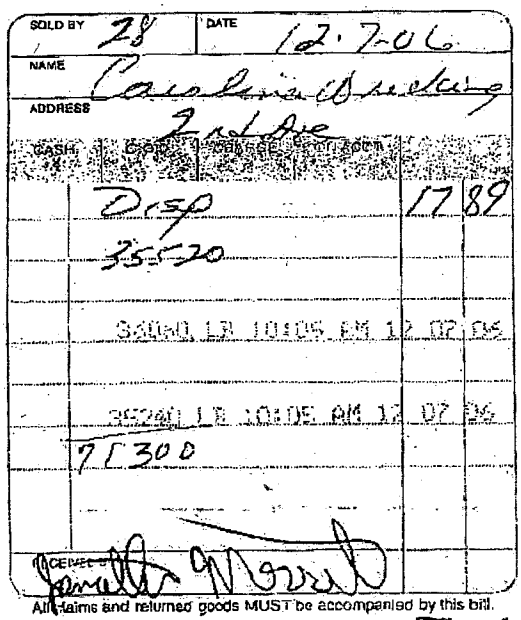
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 49 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT. | AMT.
Disp 22 50
38960
43420 LB 09:50 AM 12 07 06
83960
RECEIVED BY Jessie Bartley
All claims and returned goods MUST be accompanied by this bill.
20782 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

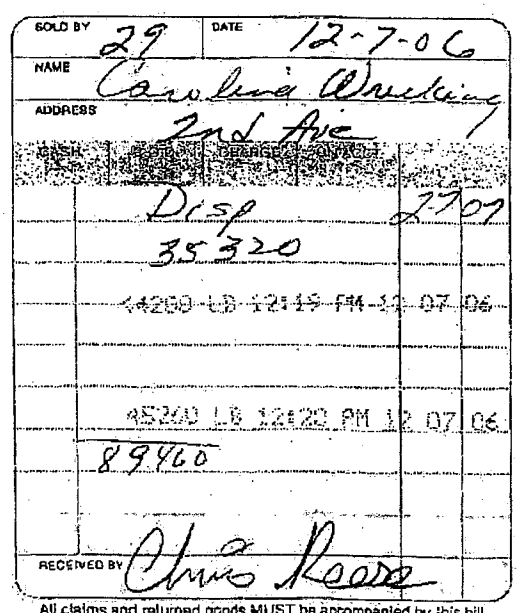
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 18 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT. | AMT.
Disp 28 99
36620
42360 LB 10:02 AM 12 07 06
52240 LB 10:02 AM 12 07 06
94600
RECEIVED BY J.C.W.
All claims and returned goods MUST be accompanied by this bill.
20783 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 28 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT. | AMT.
Disp 17 89
35320
34240 LB 10:05 AM 12 07 06
35240 LB 10:05 AM 12 07 06
70300
RECEIVED BY Jonathan Worrell
All claims and returned goods MUST be accompanied by this bill.
20784 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 29 DATE 12-7-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT. | AMT.
Disp 27 07
35320
44200 LB 12:15 PM 12 07 06
45240 LB 12:20 PM 12 07 06
89460
RECEIVED BY Chris Reese
All claims and returned goods MUST be accompanied by this bill.
20797 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 28 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp	29 44	
		47960 LB 05:48 PM 12 06	06	
		47960 LB 05:49 PM 12 06	06	
		94340		
		EW 35520		

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.

20779 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp	24 57	
		38960		
		39460 LB 05:42 PM 12 06	06	
		~~39460 LB 05:42 PM 12 06~~	~~06~~	
		88100		

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.

20778 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp	29 34	
		36740		
		46460 LB 05:58 PM 12 06	06	
		53020 LB 05:58 PM 12 06	06	
		95420		

RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.

20780 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

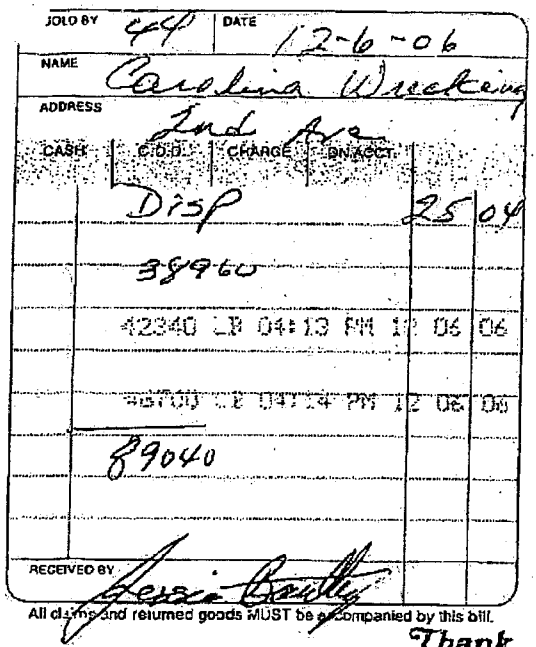
SOLD BY 18 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp	28 48	
		46960 LB 06:10 PM 12 06	06	
		50460 LB 06:10 PM 12 06	06	
		93980		
		EW 36620		

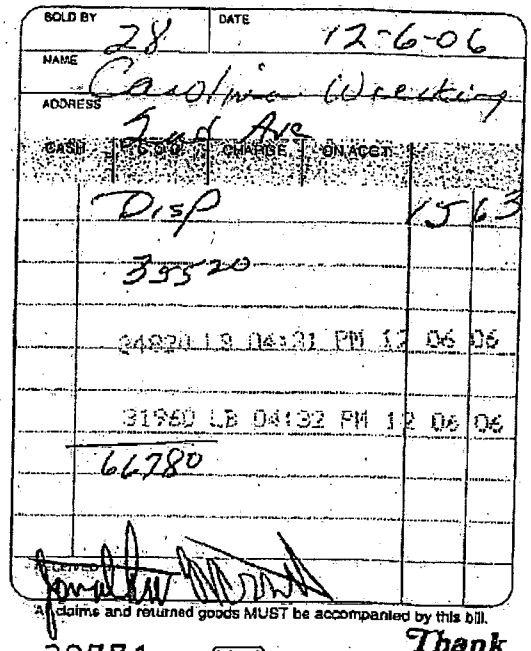
RECEIVED BY C.O.D.
All claims and returned goods MUST be accompanied by this bill.

20781 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

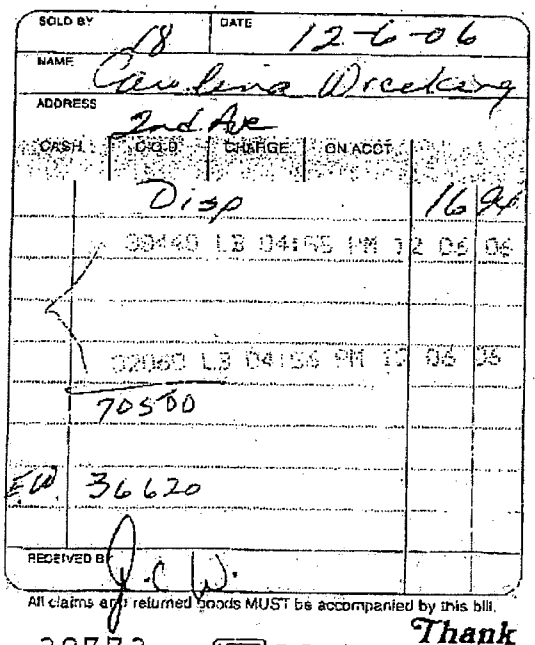
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 44 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
Disp 25 04
38960
12340 LB 04:13 PM 12 06 06
89040
RECEIVED BY Jessica Bentley
All claims and returned goods MUST be accompanied by this bill.
20769 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

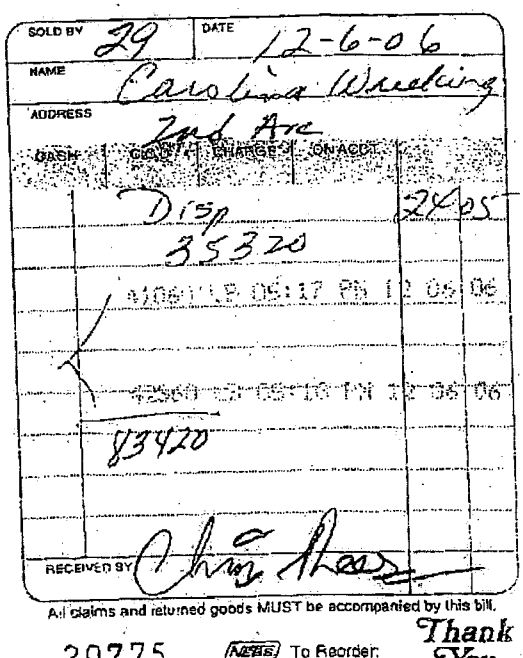
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 28 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
Disp 15 63
35520
24820 LB 04:31 PM 12 06 06
31960 LB 04:32 PM 12 06 06
66780
All claims and returned goods MUST be accompanied by this bill.
20771 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 18 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
Disp 16 96
39140 LB 04:55 PM 12 06 06
32060 LB 04:56 PM 12 06 06
70500
EW 36620
RECEIVED BY J.C.W.
All claims and returned goods MUST be accompanied by this bill.
20773 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 29 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
Disp 24 05
35320
41061 LB 05:17 PM 12 06 06
43560 LB 05:18 PM 12 06 06
83420
RECEIVED BY
All claims and returned goods MUST be accompanied by this bill.
20775 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 28 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
				Disp
				35520
				40260 LB 03:19 PM 12 06 06
				32960 LB 03:19 PM 12 06 06
				72220

RECEIVED BY Jonathan Merrett

All claims and returned goods MUST be accompanied by this bill.

20762 To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 29 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
				Disp
				35320
				37560 LB 03:36 PM 12 06 06
				45400 LB 03:37 PM 12 06 06
				84960

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20764 To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 18 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
				Disp
				36620
				40220 LB 03:44 PM 12 06 06
				41780 LB 03:46 PM 12 06 06
				82000

RECEIVED BY J.C.W.

All claims and returned goods MUST be accompanied by this bill.

20766 To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
				Disp. 36740
				31220 LB 03:53 PM 12 06 06
				32440 LB 03:54 PM 12 06 06
				64020

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20768 To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 18 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
	Disp			11 56
	36620			
	32480 LB 02:22 PM 12 06 06			
	27280 LB 02:22 PM 12 06 06			
	59760			

RECEIVED BY J. C. W.

All claims and returned goods MUST be accompanied by this bill.

20755 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
	Disp			29 13
	38960			
	65400 LB 03:15 PM 12 06 06			
	51920 LB 03:15 PM 12 06 06			
	97220			

RECEIVED BY Jessi Bradley

All claims and returned goods MUST be accompanied by this bill.

20761 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
	Disp			26 07
	36720			
	39480 LB 02:32 PM 12 06 06			
	49680 LB 02:32 PM 12 06 06			
	86880			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20758 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 29 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	AMOUNT
	Disp			22 62
	35320			
	37480 LB 01:24 PM 12 06 06			
	43080 LB 01:24 PM 12 06 06			
	80560			

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20752 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1934
		38960		
		30500 LB 12:20 PM 12 06 06		
		33140 LB 12:20 PM 12 06 06		
		71640		

RECEIVED BY Jesse Bouldin

All claims and returned goods MUST be accompanied by this bill.

20742 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 18 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		2470
		36620		
		38860 LB 12:40 PM 12 06 06		
		47160 LB 12:40 PM 12 06 06		
		86020		

RECEIVED BY J.C.W

All claims and returned goods MUST be accompanied by this bill.

20745 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 28 DATE 12-06-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1639
		35520		
		38860 LB 12:56 PM 12 06 06		
		32780 LB 12:56 PM 12 06 06		
		71160		

RECEIVED BY Jonathan Merritt

All claims and returned goods MUST be accompanied by this bill.

20747 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		2559
		38960		
		43760 LB 01:13 PM 12 06 06		
		46380 LB 01:13 PM 12 06 06		
		90140		

RECEIVED BY Jesse Bouldin

All claims and returned goods MUST be accompanied by this bill.

20750 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 18 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.		
		Disp		16	78
		36620			
		30200 LB 11:41 AM 12 06			06
		39980 LB 11:42 AM 12 06			06
		70180			

RECEIVED BY J.C.W.

All claims and returned goods MUST be accompanied by this bill.

20734 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 28 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.		
		Disp		16	13
		35320			
		35320 LB 11:45 AM 12 06			06
		32460 LB 11:45 AM 12 06			06
		67780			

RECEIVED BY Jonathan Merritt

All claims and returned goods MUST be accompanied by this bill.

20735 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 29 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.		
		Disp		23	54
		35320			
		39540 LB 11:54 AM 12 06			06
		[illegible]			
		81700			

RECEIVED BY [signature]

All claims and returned goods MUST be accompanied by this bill.

20736 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.		
		Disp		17	54
		36740			
		34680 LB 12:03 PM 12 06			06
		33340 LB 12:03 PM 12 06			06
		71820			

RECEIVED BY [signature]

All claims and returned goods MUST be accompanied by this bill.

20737 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
			Disp	18 94
			36740	
			36540 LB 09:46 AM 12 06 06	
			38080 LB 09:46 AM 12 06 06	
			74620	

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20721 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
			Disp	21 63
			38960	
			41920 LB 09:57 AM 12 06 06	
			40300 LB 09:57 AM 12 06 06	
			82220	

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20724 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

HOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 28 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
			Disp	16 05
			35530	
			36960 LB 10:02 AM 12 06 06	
			38760 LB 10:02 AM 12 06 06	
			67620	

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20727 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

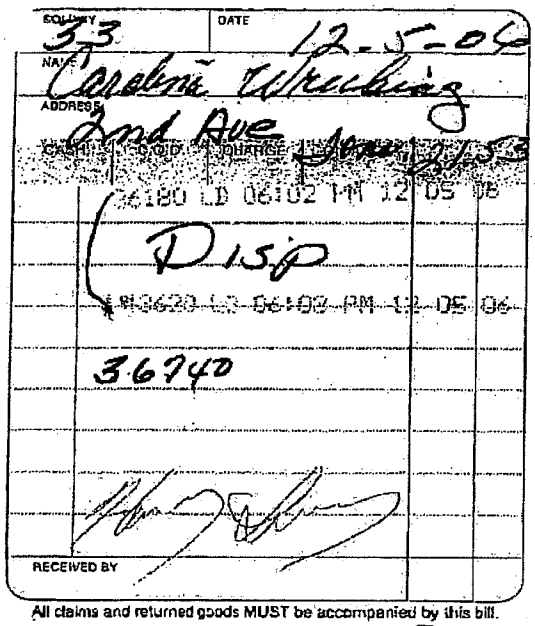
CASH	C.O.D.	CHARGE	ON ACCT.	
			Disp	12 56
			38960	
			37080 LB 11:07 AM 12 06 06	
			37080 LB 11:09 AM 12 06 06	
			74080	

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20729 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

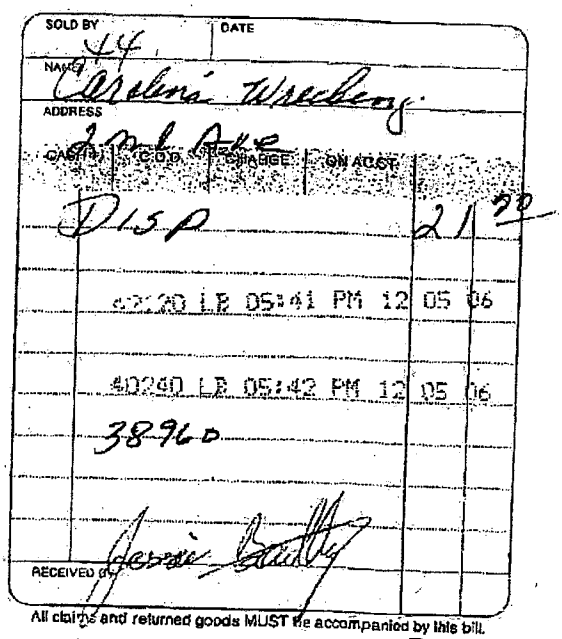
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 33 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
36180 LD 06:02 PM 12 05 06
Disp
36740
RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20717 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

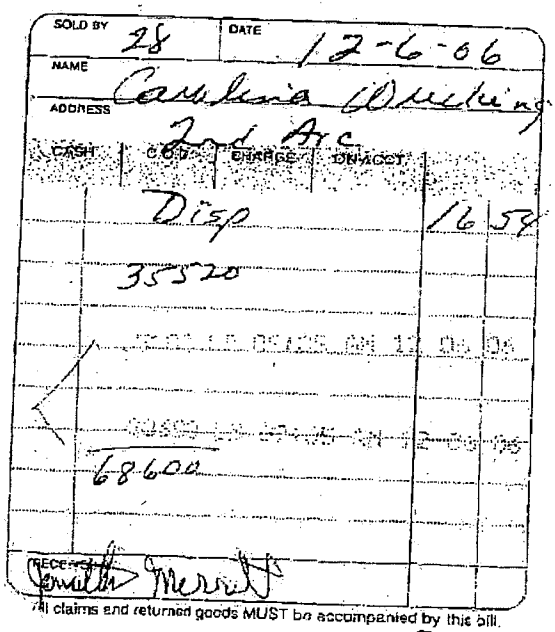
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 44 DATE
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
Disp 21 29
40230 LB 05:41 PM 12 05 06
40240 LB 05:42 PM 12 05 06
38960
RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20713 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

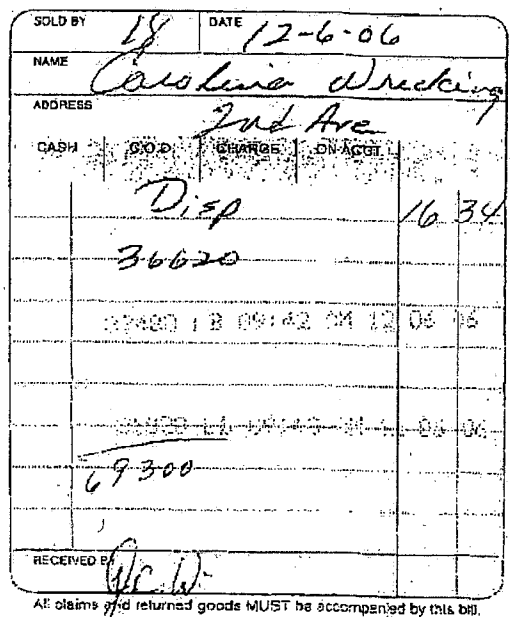
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 28 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
Disp 16 54
35520
68600
RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20718 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

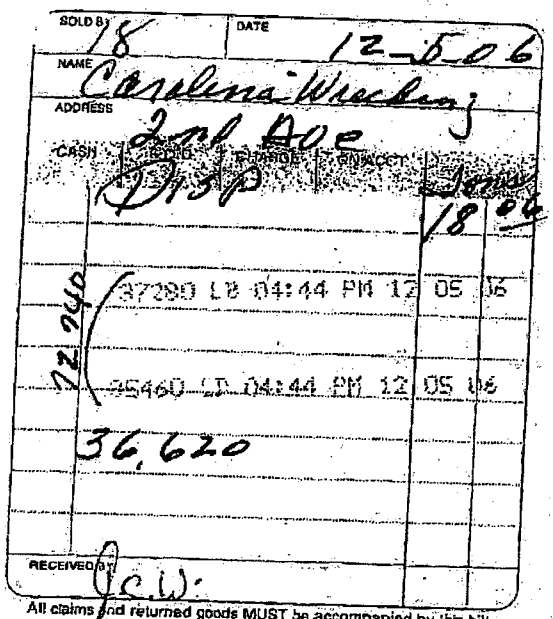
THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 18 DATE 12-6-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH | C.O.D. | CHARGE | ON ACCT.
Disp 16 34
36620
69300
RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

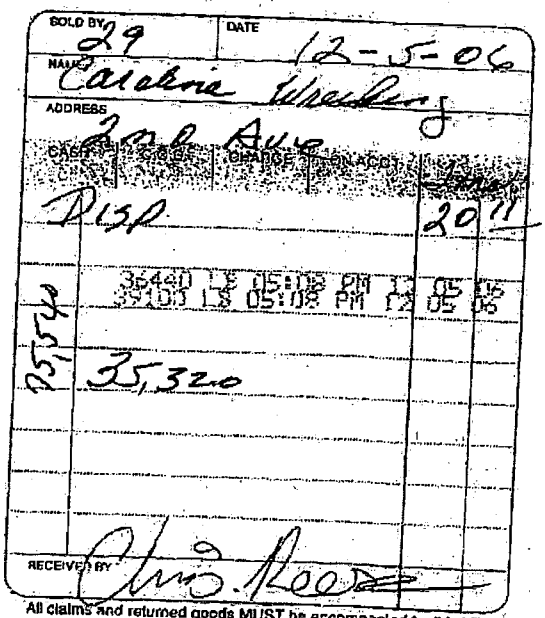
20720 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 18 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH C.O.D. CHARGE ON ACCT. JOB NO.
Disp 18 04
37280 LB 04:44 PM 12 05 06
12,240
35460 LB 04:44 PM 12 05 06
36,620
RECEIVED BY J.C.W.
All claims and returned goods MUST be accompanied by this bill.

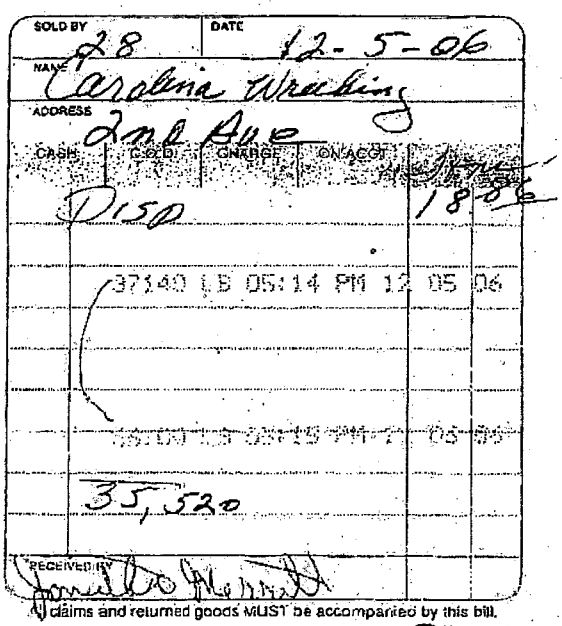
20705 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 29 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH C.O.D. CHARGE ON ACCT. JOB NO.
Disp 20 11
36440 LB 05:08 PM 12 05 06
37103 LB 05:08 PM 12 05 06
25,54
35,320
RECEIVED BY Chris Rood
All claims and returned goods MUST be accompanied by this bill.

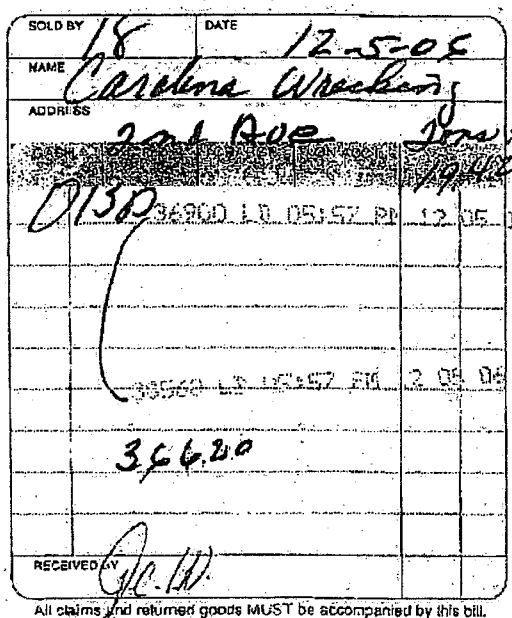
20708 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 28 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH C.O.D. CHARGE ON ACCT. JOB NO.
Disp 18 06
37140 LB 05:14 PM 12 05 06
35,320
RECEIVED BY Donald Merritt
All claims and returned goods MUST be accompanied by this bill.

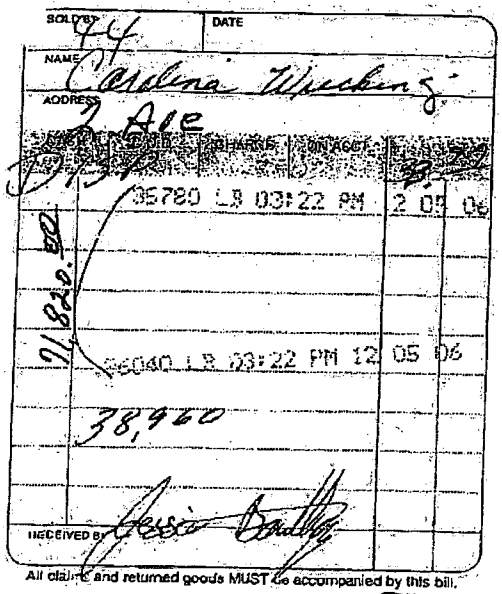
20709 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060


SOLD BY 18 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave
CASH C.O.D. CHARGE ON ACCT. JOB NO.
Disp 19 02
36900 LB 05:57 PM 12 05 06
36,620
RECEIVED BY J.C.W.
All claims and returned goods MUST be accompanied by this bill.

20715 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

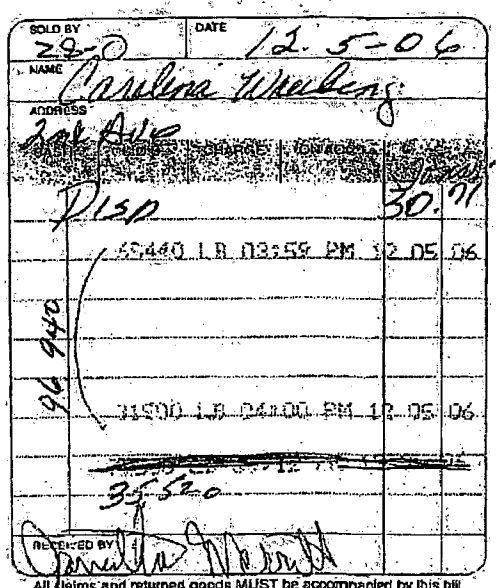


All claims and returned goods MUST be accompanied by this bill.

20694 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

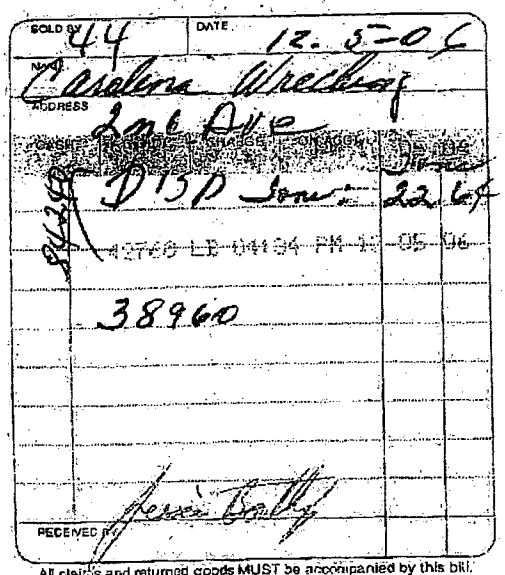


All claims and returned goods MUST be accompanied by this bill.

20698 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

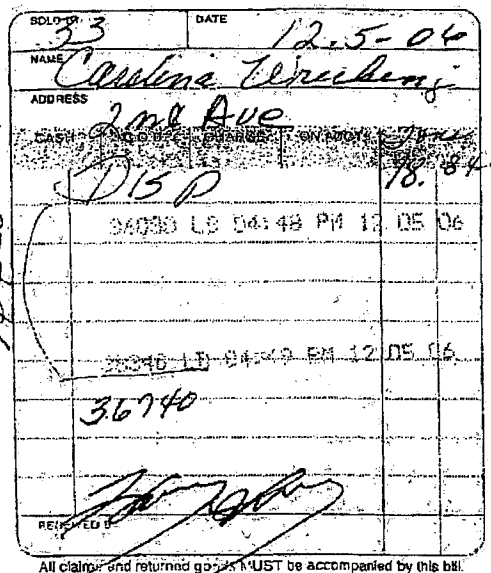


All claims and returned goods MUST be accompanied by this bill.

20703 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

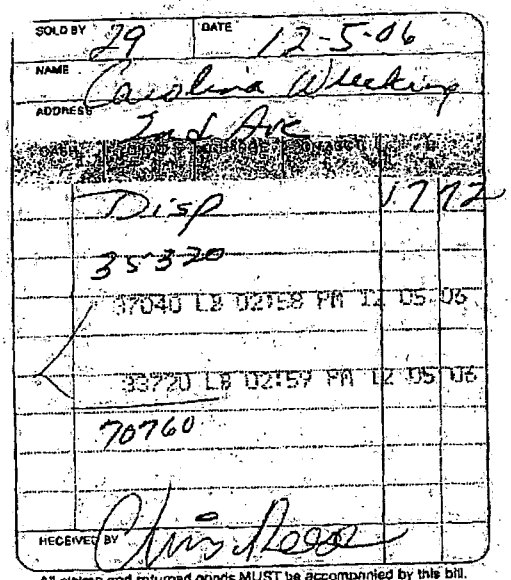


All claims and returned goods MUST be accompanied by this bill.

20706 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

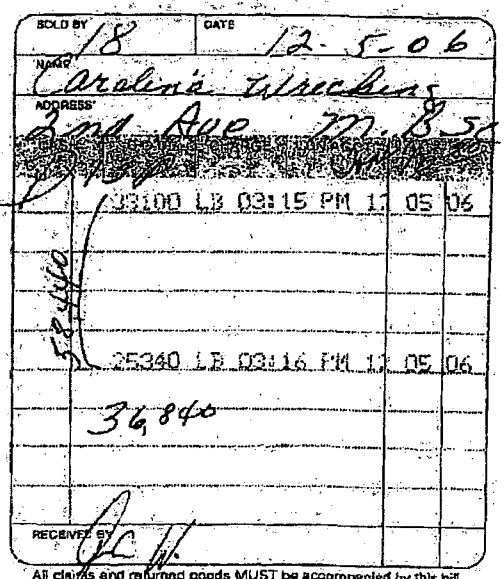


All claims and returned goods MUST be accompanied by this bill.

20691 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

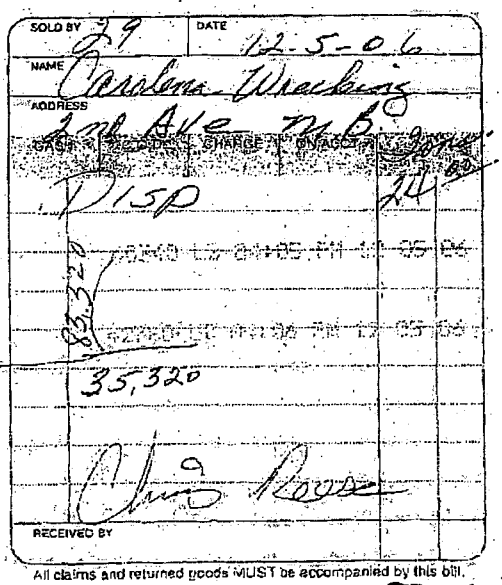


All claims and returned goods MUST be accompanied by this bill.

20693 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

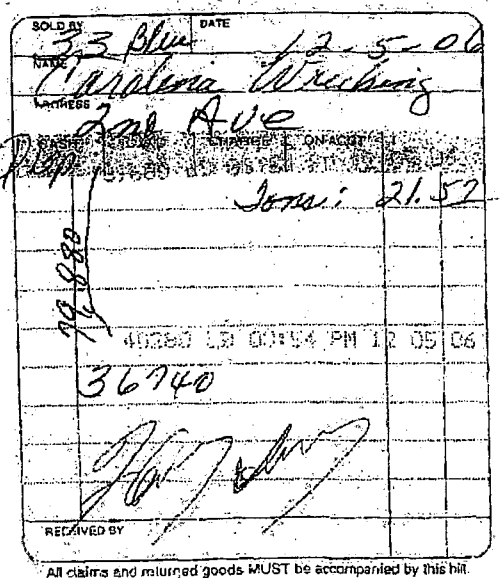


All claims and returned goods MUST be accompanied by this bill.

20699 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060



All claims and returned goods MUST be accompanied by this bill.

20697 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

#14885

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 29 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
Disp				1958
35320				
38000 LB 12:17 PM 12 05 06				
38480 LB 12:17 PM 12 05 06				
74480				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20682 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 44 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
Disp				1932
38960				
39080 LB 12:24 PM 12 05 06				
38520 LB 12:25 PM 12 05 06				
77600				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20683 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 18 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

CASH	C.O.D.	CHARGE	ON ACCT.	
Disp				1994
36800				
[illegible]				
[illegible]				
76920				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20685 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 33 DATE 12-5-06
NAME Carolina Wrecking
ADDRESS 2nd Ave

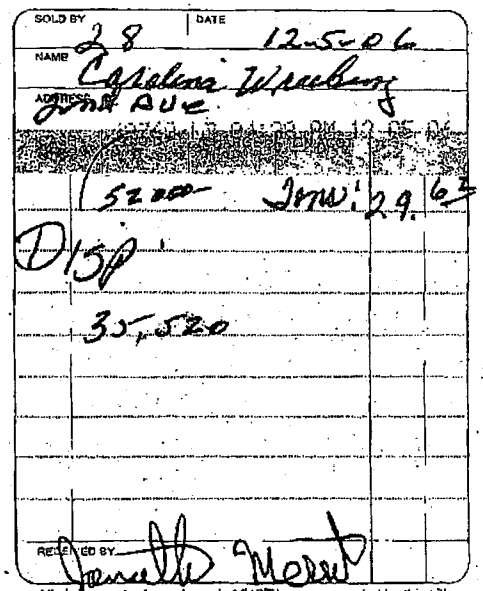
CASH	C.O.D.	CHARGE	ON ACCT.	
Disp				18 72
36740				
[illegible]				
39020 LB 12:48 PM 12 05 06				
74280				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20689 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
210 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3960


SOLD BY 38 DATE 12-5-06
NAME Catalina Wrenberg
ADDRESS 3rd Ave
1 52.00 Jaw 29.62
Disp
35.520
RECEIVED BY Jeanette Moore

All claims and returned goods MUST be accompanied by this bill.

20704

NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 710 DATE 12-14-06
NAME City of MB
ADDRESS York

CASH	C.O.D.	CHARGE	ON ACCT.	
		D.P	1734	
		23980		
		52260 LP 12:29 PM 12 14 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20958 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 710 DATE 12-14-06
NAME City of MB
ADDRESS York

CASH	C.O.D.	CHARGE	ON ACCT.	
		D.P	14	14
		23980		
		52260 LP 03:19 PM 12 14 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20970 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

HOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 710 DATE 12-14-06
NAME City of MB
ADDRESS York

CASH	C.O.D.	CHARGE	ON ACCT.	
		D.P	1407	
		23980		
		52260 LP 04:11 PM 12 14 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20972 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14707

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 710 DATE 12-13-06
NAME City of MB
ADDRESS Yard

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1065
		23980		
		45280 LO 11:55 AM 12 13 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20925 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 710 DATE 12-13-06
NAME City of MB
ADDRESS Yard

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1304
		23980		
		50040 LO 12:44 PM 12 13 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20927 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 710 DATE 12-13-06
NAME City of MB
ADDRESS Yard

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1459
		23980		
		[illegible]		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20930 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 710 DATE 12-13-06
NAME City of MB
ADDRESS Yard

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1578
		23980		
		55340 LO 03:46 PM 12 13 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20935 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

#14849

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 579 DATE 11-27-06
NAME City of MB
ADDRESS 42nd & 10th Ave

CASH	PAID OUT	CHARGE	ON ACCOUNT	AMOUNT
		Disp		9 87
		23760		
		45310 LE 10:46 AM 11 27 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20533 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 23[illegible] 3060

SOLD BY 579 DATE 11-27-06
NAME City of MB
ADDRESS 42nd & 10th Ave

CASH	PAID OUT	CHARGE	ON ACCOUNT	AMOUNT
		Disp		10 68
		23760		
		45120 LE 12:10 PM 11 27 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20539 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 23[illegible] 3060

SOLD BY 579 DATE 11-27-06
NAME City of N. Beach
ADDRESS 42nd & 10th Ave

CASH	PAID OUT	CHARGE	ON ACCOUNT	AMOUNT
		Disp		10
		23,760		
		43790 LE 01:02 PM 11 27 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20540 NEBS To Reorder: 800-225-6380 or nebs.com **Thank You**

#14948

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-21-06
NAME Lee Disp. Service
ADDRESS Hardrock Theme

CASH	CHARGE	ON ACCT.	MDSE. RET.	PAID OUT	AMOUNT
				Disp.	20.95

31840 LB 08:19 AM 12 21 06

73740 LB 08:09 AM 12 21 06

RECEIVED BY T. Lee

All claims and returned goods MUST be accompanied by this bill.

21060 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-21-06
NAME Lee Disp. Service
ADDRESS Hardrock Theme

CASH	CHARGE	ON ACCT.	MDSE. RET.	PAID OUT	AMOUNT
				Disp	21.95

31840

75340 LB 08:44 AM 12 21 06

RECEIVED BY T. Lee

All claims and returned goods MUST be accompanied by this bill.

21062 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-21-06
NAME Lee Disp Service
ADDRESS Hardrock Theme Park

CASH	CHARGE	ON ACCT.	MDSE. RET.	PAID OUT	AMOUNT
				Disps	13.33

31840

78500 LB 09:29 AM 12 21 06

RECEIVED BY T. Lee

All claims and returned goods MUST be accompanied by this bill.

21064 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-21-06
NAME Lee Disp Serv.
ADDRESS Hardrock Theme Park

CASH	CHARGE	ON ACCT.	MDSE. RET.	PAID OUT	AMOUNT
				Disp	13.74

31840

59320 LB 10:38 AM 12 21 06

RECEIVED BY T. Lee

All claims and returned goods MUST be accompanied by this bill.

21068 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-19-06

NAME Lee Disposal Serv.

ADDRESS Hardeeville, [illegible]

QUAN.	CLASS	DESCRIPTION	CHARGE	ON ACCT.	AMOUNT
		Disp			13 54
		30540 LR 01:52 PM 12 19 06			
		30540 LR 01:41 PM 12 19 06			

RECEIVED BY Marcella

All claims and returned goods MUST be accompanied by this bill.

21037 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

#14947

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-15-06
NAME Lee Disposal Service
ADDRESS Hardrock Stone Park

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
DISP				13 [illegible]
58000 LB 02:57 PM 12 15 06				
31940 LB 03:10 PM 12 15 06				
T-Cut				

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20999 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-20-06
NAME Lee Disp Serv
ADDRESS Hardrock Stone Park

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
Disp				21 59
33540				
76720 LB 01:59 PM 12 20 06				

RECEIVED BY Mallas

All claims and returned goods MUST be accompanied by this bill.

21052 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-20-06
NAME Lee Disp. Serv.
ADDRESS Hardrock Stone Park

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
Disp				18 47
33540				

RECEIVED BY Mallas

All claims and returned goods MUST be accompanied by this bill.

21046 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-20-06
NAME Lee Disposal Serv
ADDRESS Hardrock Stone Park

CASH	C.O.D.	CHARGE	ON ACCT.	PAID OUT
Disp				16 56
33540				

RECEIVED BY Mallas

All claims and returned goods MUST be accompanied by this bill.

21045 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 4 DATE 12-27-06

NAME E Z Dump

ADDRESS Eagles Burrow

CASH | CHARGE | ON ACCT. | MDSE. RET'D | PAID OUT

Disp (Mixed) 9.32

30680 $25

47320 LB 02:42 PM 12 27 06

RECEIVED BY Les Brown

All claims and returned goods MUST be accompanied by this bill.

21103 To Reorder: 800-225-6380 or nebs.com

Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-29-06
NAME E Z Dump
ADDRESS
CASH | C.O.D. | CHARGE | ON ACCT.

DISP 12 48

56020 LB 02:42 PM 12 29 06
31,060

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

21145 To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-22-06
NAME E-Z Dump
ADDRESS Surfside Beach Hwy
CASH | C.O.D. | CHARGE | ON ACCT.

DISP Jose 12 58

31659 LB 11:05 AM 12 22 06

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

21088 To Reorder: 800-225-6380 or nebs.com **Thank You**

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY	DATE
1	12-12-06

NAME: E Z Dump

ADDRESS: Briarlake

CASH	PAID OUT	CHARGE	ON ACCT.	
	Disp			195
	31060			
	70140 LB 02:16 PM 12 12 06			

RECEIVED BY: Les Brown

All claims and returned goods MUST be accompanied by this bill.

20905 NEBS To Reorder: 800-225-6380 or nebs.com

Thank You

178

264

#14802

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 2 | DATE 11-28-06
NAME E Z Dump
ADDRESS 213 76th Ave N.

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		14 08
		30600		
		58760 LD 05:06 PM 11 28 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20575 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY | DATE 12-4-06
NAME E Z Dump
ADDRESS 510 Reddy River Rd

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		953
		~~16540 LD 02:40 PM 12 04 06~~		
		39600 LD 02:10 PM 12 04 06		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20673 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

#14986

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 4 | DATE 12-4-06
NAME EZ Dump
ADDRESS Pitman-Conder City

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1740
		31380		

RECEIVED BY Les Brown

All claims and returned goods MUST be accompanied by this bill.

20678 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

THOMPKINS & ASSOCIATES, INC.
310 Piling Drive
MYRTLE BEACH, S.C. 29579
(843) 236-3060

SOLD BY 2 | DATE 12-12-06
NAME EZ Dump
ADDRESS D&D Concrete-Cardinal

CASH	C.O.D.	CHARGE	ON ACCT.	
		Disp		1759
		30600		

RECEIVED BY

All claims and returned goods MUST be accompanied by this bill.

20900 NEBS To Reorder: 800-225-6380 or nebs.com Thank You

2006

			Tons
1-10-06	Allison	103.98 Tons Big Stone 221.80 Tons Big Stone	13851
1-10-06	C L Benton	125.81 Tons Base	13852
1-10-06	Truckers	66.74 Tons Disp	13853
1-10-06	R L Causey	20.76 Tons Disp	13854
1-10-06	R&R Trucking	106.64 Tons PS7	13855
1-10-06	R&R Trucking	42.16 Tons Base	13856
1-10-06	Patrick MHP	7.63 Tons Base	13857
1-10-06	Groundworks	18.43 Tons PS7	13858
1-10-06	Hardwicke's	19.41 Tons Disp	13859
1-10-06	B+N	19.56 Tons Base	13860
1-10-06	D+S Sitework	12.77 Tons PS7	13861
1-10-06	Waccamaw Regrading	22.02 Tons Bigstone	13862
1-10-06	Southern Disposal	4.30 Tons Disp	13863
1-10-06	J E Lillquist	12.76 Tons PS7	13864
1-10-06	Everette Brown	18.41 Tons Bigstone	13865
1-10-06	Haddock Paving	16.75 Tons PS7	13866
1-10-06	E Z Dump	3.93 Tons Disp	13867
1-10-06	Bo Turbeville	11.24 Tons Base	13868
1-10-06	Bay Service	7.65 Tons PS7	13869
1-10-06	Bay Service	7.52 Tons PS7	13870
1-10-06	Lowe's Concrete	2.70 Tons Dry	13871
1-10-06	Southern Land & Water	18.30 Tons PS7	13872
1-10-06	Alexis Trucking	19.80 Tons Base	13873
1-10-06	Donald Martin	34.64 Tons PS7 18.66 Tons Base	13874
1-11-06	Alexis Trucking	21.48 Tons Base	13875
1-11-06	Alexis Trucking	16.01 Tons Disp	13876
1-11-06	Bay Service	6.04 Tons Big Stone	13877
1-11-06	Wards way	39.81 Tons Screenings 8.26 Tons PS7	13878
1-11-06	Wards way	20.99 Tons Screenings	13879
1-4-06	Carribean Oceanfront Dev.	Demo of Carribean Bahama 4 3 Residential Family Units	13880
1-13-06	Mike Hardee	140.27 Tons Cog.	west 13881
1-13-06	M R Smith	42.15 Tons Cog.	west 13882

EXHIBIT C266

1-13-06	HCPW PO 170308	11.92 Tons Cog	West 13883
1-13-06	Marvin Chestnut	22.48 Tons Cog	West 13884
1-13-06	Alfred Ermanis	4.05 Tons Cog	West 13885
1-16-06	Caldwell Pool	5.57 Tons Base	13886
1-16-06	Caldwell Pool	1.66 Tons Dirt	13887
1-16-06	Hucks Pool	9.51 Tons Disp	13888
1-16-06	Allen's SCRAP METAL	9.88 Tons PST	13889
1-16-06	AO Hudec	32.68 Tons Bigstone	13890
1-16-06	C.L Benton + Son	133.35 Tons Base	13891
1-16-06	CL Benton + Son	66.85 Tons Bigstone	13892
1-16-06	Haddock	31.31 Tons PST	13893
1-16-06	J.E Lillquist	66.96 Tons Base 16.50 Tons Bigstone	13894
1-16-06	R&R Trucking	128.89 Tons PST	13895
1-16-06	Hardwick's	22.63 Tons PST 38.85 Tons Bigstone	13896
1-16-06	Markley Land	56.64 Tons Base	13897
1-16-06	Palmetto Paving	18.79 Tons Bigstone 12.62 Tons PST	13898
1-16-06	Earthworks	15.54 Tons Bigstone 84.67 Tons Base	13899
1-16-06	Trebor	40.13 Tons Disp 76.37 Tons PST	13900
1-16-06	Trebor	24.80 Tons Base	13901
1-16-06	RH Moore	28.03 Tons Dirt	1390
1-16-06	RH Moore	299.64 Tons PST	1390
1-16-06	Allison Trucking	577.03 Tons Base	139
1-16-06	M B C+D Rigsby	195.80 Tons Disp	13
1-16-06	RL Causey	36.01 Tons Disp 169.00 Tons PST	13
1-16-06	RL Causey	55.15 Tons Base	139
1-16-06	L E Wilson	21.06 Tons PST	139
1-16-06	Hanco	4.73 Tons Base	139
1-16-06	Neat Steps	32.85 Tons PST	139
1-16-06	Blanton Site Work	37.82 Tons Bigstone	139
1-6-06	John Burgstiner, Inc.	Partial Billing for rental of 2001 Hitachi	13
1-2-06	Prince Developers	Demo of House at 2015 NE Old Hwy	139
1-2-06	R B Const	Disposal of 2-8000 gal capacity fuel tanks from Gas Stop Store @ Parkwood Blvd	139

1-4-06	Baldwin Cons	Orig. w/ Contract for Sheet Piling at Caliana Resort	13915 99
1-4-06	Bishopville Petro	Sheeting at 544 Conway Well Point System & De watering	13916 28
1-23-06	Trebor	65.57 Tons Disp	13917
1-23-06	Trebor	120.05 Tons Base	13918
1-23-06	R L Causey	284.69 Tons Disp	13919
1-23-06	Ground works	121.04 Tons Disp	13920
1-23-06	Earthworks	471.04 Tons Base	13921 4
1-23-06	J E Lillquist Trucking	11.84 Tons Base	13922
1-23-06	Site Concepts	78.27 Tons Big Stone	13923
1-23-06	Hardwick Landscape	15.11 Tons Big Stone	13924
1-23-06	C L Benton	18.97 Tons Big Stone	13925
1-23-06	Caldwell Pools	5.89 Tons Big Stone	13926
1-23-06	C & H Trucking	13.45 Tons #57	13927
1-23-06	A O Hardee	91.30 Tons Big Stone	13928
1-23-06	A B C Clearing	21.54 Tons Base	13929
1-23-06	D & S	20.31 Tons Cog.	13930
1-23-06	R & M Marine	23.49 Tons #57	13931
1-23-06	R H Moore	11.76 Tons Disp	13932
1-23-06	Palmetto Paving	22.34 Tons Base 35.22 Tons Big Stone	13933
1-23-06	R & R Trucking	20.04 Tons Cog. 19.44 Tons #57 16.95 Tons Big Stone	13934
1-23-06	Barber Excavating	118.97 Tons Disp	13935
1-23-06	Wards Way	10.43 Tons Screenings	13936
1-23-06	Wendell Watts	2.57 Tons Screenings	13937
1-23-06	Wendell Watts	4.79 Tons Screenings	13938
1-23-06	Southern Land & Water	22.77 Tons Base	13939
1-3-06	Michael Goodson Const.	Fuel Tanks - Horry Co. Schools	13940
1-5-06	Lock Smith Farms	7.98 Tons Base	13942
1-23-06	Wendell Watts	4.74 Tons Screenings	13943
1-24-06	T E Chestnut	57.15 Tons Big Stone	13944
1-23-06	Fitts & Goodwin	Sheet Piling at Yamaguchi at Manning, S.C. & Change Order	13940
1-4-06	Bill Barber Excavating	118.05 Tons Disp	13945
1-24-06	Michael Meadows Land	18.66 Tons Disp	13946

1-24-06	Wendell Watts	4.32 Tons Base	13947	VS
1-27-06	Mike Harden	104.94 Tons Cag. West	13948	55
1-27-06	Haddock Paving	67.13 Tons Cag West	13949	35.
1-27-06	C L Benton	19.47 Tons Cag West	13950	10
1-27-06	H C P W Pol 703288	19.16 Tons Cag. West	13951	10(
1-27-06	A B C Clearing	193.23 Tons Cag West	13952	101
1-27-06	T R Browning Const	32.32 Tons Cag West	13953	1(
1-30-06	Trebor	117.76 Tons Dry	13954	58.
1-30-06	Trebor	16.28 Tons Base 55.01 Tons Big Stone	13955	5 1.
1-30-06	Earthworks	100.48 Tons Big Stone	13956	137
1-30-06	Earthworks	233.75 Tons Drop	13957	116.
1-30-06	J E Lillquist	12.95 Tons Screenings 49.06 Tons Base	13958	613
1-30-06	Sticks + Stones	10.81 Tons Drop	13959	5
1-30-06	Southern ~~Bagging~~ Rigging	22.90 Tons Base	13960	24
1-30-06	R L Causey	68.56 Tons Big Stone 49.15 Tons Big Stone	13961	93
1-30-06	R & R Trucking	19.96 Tons Cag. 166.60 Tons Base	13962	24
1-30-06	Dean Weaver	83.57 Tons Big Stone	13963	4
1-30-06	M R Smith	15.90 Tons Big Stone	13964	2(
1-30-06	Palmetto Paving	18.60 Tons Big Stone	13965	2
1-30-06	Honco	63.38 Tons Base	13966	6(
1-30-06	Ground Works	21.03 Tons Dry	13967	10
1-30-06	Allison	22.75 Tons Big Stone	13968	3(
1-30-06	A C Harden	19.26 Tons Big Stone	13969	26
1-30-06	A B C Clearing	20.01 Tons Big Stone	13970	27
1-30-06	Hardwick	18.79 Tons Big Stone	13971	25
1-30-06	D + L Site work	19.02 Tons Big Stone	13972	25
1-30-06	C L Benton	20.15 Tons Big Stone	13973	27
1-30-06	Mike Harden	43.36 Tons Cag.	13974	22
1-30-06	Mitchell Chestnut	45.98 Tons Cag	13975	24(
1-30-06	Carolina Refractories	4.59 Tons Cag	13976	2
1-30-06	Mitchell Chestnut	60.38 Tons Cag.	13977	3(
1-30-06	A A A Custom Concrete	56.81 Tons Cag.	13978	29

1-30-06	Wendell Watts	4.89 Tons Base	13979	
1-30-06	Wendell Watts	9.35 Tons Base	13980	
1-30-06	Ray Coleman	38 Pilings 35' Long Treated Wood Installed at 603 N. Waukegan Dr. Garden City	13981	13
1-6-06	Billy Prescott	Demo & Removal of Debris from Golf Course at 12th Ave & Dean Blvd, MB	13982	1
2-1-06	Southern Land & Water	10.20 Base	13983	1
2-1-06	Strand Capital Group	Demolition of Holiday House at 35 Ree Ave N	13984	45
2-1-06	Vernon Cost	1st Draw on My Little Sq Dump	13985	10
2-6-06	R&R Trucking	66.85 Tons Big Stone 147.58 Tons Base	13986	21
2-6-06	Hardwicks	20.93 Tons Big Stone	13987	2
2-6-06	Hardwicks	199.63 Tons Disp	13988	
2-6-06	Hardwicks	20.01 Tons Broken Asphalt	13989	
2-6-06	Hughes Pool	46.16 Tons Disp	13990	4
2-6-06	EZ Dump	35.20 Tons Disp	13991	
2-6-06	Allison	20.06 Tons Big Stone	13992	2
2-6-06	AO Hardee	20.35 Tons Big Stone	13993	
2-6-06	Dean Weaver	81.92 Tons Big Stone	13994	1
2-6-06	Earthworks	22.20 Tons Base	13995	
2-6-06	Site Concepts	80.96 Tons Big Stone	13996	1
2-6-06	Haddock	6.13 Tons Disp	13997	
2-6-06	Lewis Concrete	4.16 Tons Screenings	13998	
2-6-06	Trekor	14.72 Tons Base	13999	1
2-6-06	Southern Asphalt	19.17 Tons Big Stone	14000	2
2-13-06	Earthworks	15.14 Tons Base	14001	1
2-13-06	Earthworks	237.68 Tons Disp	14002	11
2-13-06	Site Concepts	37.55 Tons Big Stone	14003	5
2-13-06	Site Concepts	160.35 Tons Big Asphalt	14004	8
2-13-06	Hardwicks	22.56 Tons Disp	14005	11
2-13-06	Hardwicks	111.13 Tons Base	14006	11
2-13-06	R&R Trucking	81.79 Tons Base	14007	8
2-13-06	CL Benton & Son	18.83 Tons Big Stone	14008	2
2-13-06	J.E. Lilly Co.	21.31 Tons Base	14009	2
2-13-06	Caldwell Pools	8.21 Tons Screenings	14010	8

2-13-06	Allison & Son	14.79 Big Stone	140
2-13-06	A.D Harden PO 199018	15.15 Tons Big Stone	14
2-13-06	Johnston Landscaping	16.14 Tons Base	14
2-13-06	Haddock	5.17 Tons Base	14
2-13-06	Haddock	63.26 Tons Disp	14
2-13-06	R L Causey	70.29 Tons Big Stone	14
2-13-06	R.L Causey	100.56 Tons Disp	14
2-13-06	Trebor	8.70 Tons Disp	14
2-13-06	J. Chuzie Vercer	147.81 Tons Base	14
2-20-06	Starwood Nursery PO 126 A9	23.08 Tons Disp	140
2-14-06	Vercer Const	Draw off 2 on Big Hc Sq. Mill	14
2-14-06	Donald Martin	19.68 Tons Base	14
2-14-06	Alexis Trucking	31.20 Tons Disp	14
2-14-06	Alexis Trucking	16.63 Tons Screenings	14
2-20-06	Site Concepts	24.81 Tons Big Asphalt	14
2-20-06	Hardwick's Land	44.47 Tons Base	14
2-20-06	R C Causey	7.38 Tons Disp	14
2-20-06	Caldwell Pools	3.90 Tons Screenings	14
2-20-06	HCPW PO177495	392.30 Tons Base	14
2-20-06	Eugene Hicks	11.57 Tons Base	14
2-20-06	Johnston Landscaping Johnston	50.63 Tons Base	14
2-20-06	Jimmy Johnson	12.18 Tons Base	14
2-20-06	R&R Trucking	47.89 Tons B.S Stone 78.70 Tons Base	14
2-20-06	Trebor	15.00 Tons Disp	140
2-20-06	Trebor	258.33 Tons Base	1403
2-20-06	Anderson Const	7.96 Tons Disp	1403
2-20-06	Carolina Wrecking	263.01 Tons Disp	1403
2-20-06	Earthworks	22.58 Tons Disp	1403
2-20-06	Lowe's Concrete	10.89 Tons Screenings	1403
2-20-06	Southern Disp	6.50 Tons Disp	1401
2-20-06	Absolute Tree Service	5.04 Tons Coquina	140
2-20-06	Screenings C. Lristian Church	209.01 Tons Scr...	

2-20-06 Ralph Simms Auto	12.15 Tons Base	14043
2-20-06 William Depp	.79 Tons Base	14044
2-20-06 Jet Port Warehouse	44.27 Tons Base	14045
2-20-06 Aynor Const.	141.76 Tons Base	14046
2-20-06 Blanton Site work	156.46 Tons Base 85.54 Tons Big Stone	14047
2-21-06 Tommy Smith	Demolition of Sandy Beach Units	14048
~~2-23~~ 2-27-06 EMJ Corp	Furnish & Install Piling at Pot Smart at Coastal Mall	14049
2-27-06 Earthworks	53.12 Tons Big Stone	14050
2-27-06 Allison & Son	53.73 Tons Big Stone	14051
2-27-06 E2 Dump	34.41 Tons Disp	14052
2-27-06 Ray Emanuel	59.35 Tons Disp	14053
2-27-06 Hardwick's Lands.	44.19 Tons Base	14054
2-27-06 TW Hunt	47.54 Tons Big Stone	14055
2-27-06 Ricky's Landscaping	6.42 Tons Base	14056
2-27-06 RLK Trucking	320.95 Tons Big Stone	14057
2-27-06 Timmy Johnson Paving	9.42 Tons Big Stone 23.85 Tons Base	14058
2-27-06 RL Causey	83.26 Tons Disp	14059
2-27-06 Trebor	77.32 Tons Disp	14060
2-27-06 Tracked	25.08 Tons Big Stone 15.07 Tons Base	14061
2-27-06 Site Concepts	1120.21 Tons Big Asphalt	14062
2-27-06 Site Concepts	58.52 Tons Big Stone	14063
2-27-06 Hucks Pool 177495	10.56 Tons Disp	14064
2-27-06 HCPW PO 177495	530.60 Tons Base	14065
2-27-06 Carolina Wrecking	167.38 Tons Disp	14066
2-27-06 Wendell Watts	3.50 Tons Screening	14067
2-27-06 Wendell Watts	4.72 Tons Screening	14068
2-27-06 McCall Bros.	6.02 Tons Disp	14069
2-27-06 Blanton Site work	20.38 Tons Big Stone	14070
2-27-06 Blanton Site work	18.85 Tons Big Stone	14071
2-27-06 ~~Southern Land & Water~~	Wardsway 1870 Tons Screening	14072
2-27-06 Myers Transport	20.33 Tons Big Stone	14073
2-27-06 Landmark Const	Winged Contract #2 Changes	14074

3-13-06	ABC Clearing	11.23 Tons Big Stone		141
3-13-06	Everett Brown	193.91 Tons Big Stone		141
3-13-06	R.L. Causey	46.82 Tons Disp.		141
3-13-06	Trebor	27.60 Tons Disp.		141
3-13-06	Patrick M&P	2.28 Tons Base		141
		119.15 Tons Cag.		
3-13-06	Ronald Hancock	18.74 Tons Big Stone		141
3-13-06	James Coats	16.98 Tons Base		141
3-13-06	Carolina Earthgrading	48.48 Tons Base		141
3-13-06	James Coats	4.05 Tons Base		141
3-13-06	DP Paving	142.18 Tons Disp.		141
3-13-06	Anderson Const.	42.91 Tons Cag.	West	141
3-13-06	Carolina Refractories	4.69 Tons Cag.	West	141
3-13-06	Lonnie Chestnut	34.98 Tons Cag.	West	141
		160'D 2-27 Sheeting @ $200 per L.F.		
3-13-06	Baide	Installed at Pacific Point, NMB		13
		Rental of Vib Hammer For		
3-17-06	Dragon Const.	Anderson Engineering		14
3-17-06	Jeffcat Warehouses	43.93 Tons Base		14
3-17-06	Next Step	20.84 Tons Base		14
3-20-06	L. Dean Weaver	64.09 Tons Big Stone		13
3-20-06	Trebor	36.47 Tons Disp.		1
3-20-06	Ricky's Landscaping	66.87 Tons Base		1
3-20-06	R&R Trucking	80.76 Tons Base		1
3-20-06	Eugene Hucks	18.85 Tons Disp.		1
3-20-06	Haddock	12.30 Tons Disp.		13
3-20-06	Earthworks	18.77 Tons Big Stone		1
3-20-06	Earthworks	8.25 Tons Disp.		1
3-20-06	R.L. Causey	31.37 Tons Disp.		1
3-20-06	A.O. Harden	38.73 Tons Big Stone		14
3-20-06	Everett Brown	20.17 Tons Big Stone		14
3-20-06	Wendell Watts	19.96 Tons Screenings		14
3-20-06	Site Concepts	35.02 Tons Big Stone		1
3-20-06	J. Johnson Grading	8.32 Tons Base		1
3-20-06	Patrick M&P	2.33 Tons Base		1

Final Draw 1-24-06 original Contract for Concrete

3-20-06	Superior Const.	Piling at Cherry Grove Village ATF Num B change order	14139
3-20-06	Greg Hunt	706 34th N. Ocean Blvd. NB, S.C. Furnish & Install 15.5 Yds 30' Long (Wood Treated) & 1 Test Pile 40'	14140
3-27-06	Trebor	22.54 Tons Disp	14141
3-27-06	Earth Works	16.20 Tons Big Stone	14142
3-27-06	L. Dean Weaver	33.53 Tons Big Stone	14143
3-27-06	ABC Clearing	54.75 Tons Big Stone	14144
3-27-06	Wendell Watts	24.45 Tons Screenings	14145
3-27-06	Derrick Spivey	66.18 Tons Disp	14146
3-27-06	Southern Asphalt	39.41 Tons Big Stone	14147
3-27-06	Coldwell Pools	50.06 Tons Big Stone	14148
3-27-06	A O Hardee	77.92 Tons Big Stone	14149
3-27-06	RH Moore	68.83 Tons Disp	14150
3-27-06	RL Causey	60.65 Tons Big Stone	14151
3-27-06	Hardwicks Land.	22.02 Tons Base	14152
3-27-06	Hardwicks Land	8.26 Tons Disp	14153
3-27-06	Lowe's Concrete	5.18 Tons Screening	14154
3-27-06	Lowe's Concrete	1.76 Tons Disp	14155
3-27-06	Concrete Plus	20.31 Tons Base	14156
3-27-06	Alexis Trucking	18.95 Tons Screenings	14157
3-27-06	Next Step	10.06 Tons Base	14158
3-27-06	Bay Service	10.00 Tons Disp	14159
3-27-06	D&D Lawn Care	18.98 Tons Base	14160
3-27-06	Vereen Const	Draw #3	14161
3-27-06	Campbell Landscap	22.36 Tons Base	14162
3-29-06	HCPW 170308	19.94 Tons Cog. West	14163
3-29-06	Mike Hardee	31.13 Tons Cog. West	14164
3-29-06	Campbell Landscaping	33.00 Tons Base 16.34 Tons Screenings	14165
3-29-06	Blanton Sitework	38.80 Tons Big Stone	14166
3-29-06	Bay Service	7.98 Tons Disp	14167
3-30-06	John Bergstrom Inc.	12 days rental of Pile Hammer @ 233333 2 months at 7,000.00, 23 days @ 233333 plus Tax Less payment	14168
4-3-06	Eugene Hucks	52.24 Tons Disp	14169
4-3-06	Southern Dispose	7.81 Tons Disp	14170

4-3-06 R&R Trucking	63.51 Tons Base	1417
4-3-06 Caldwell Pools	8.32 Tons Screening	1417
4-3-06 Caldwell Pools	135.33 Tons Base	1417
4-3-06 Treher	8.13 Tons Disp	1417
4-3-06 Ricky's Landscaping	10.34 Tons Screening	1417
4-3-06 Earthworks	230.94 Tons Disp	1417
4-3-06 Jason White	19.70 Tons Big Stone	1417
4-3-06 Terry Bowen Sr.	60.79 Tons Disp	1417
4-3-06 Haddock	7.92 Tons Disp	1417
4-3-06 Donald Martin	21.55 Tons Base	1418
4-3-06 Wade Lott	16.28 Tons Big Stone	1418
4-3-06 Southern Asphalt	19.78 Tons Big Stone	1418
4-3-06 Patrick's MHP	8.30 Tons Base	1418
4-3-06 Lillquist Trucking	20.93 Tons Base	1418
4-3-06 Low Land Const	19.01 Tons Base	1418
4-3-06 Dargan	29.93 Tons Disp	1418
4-3-06 Everette Brown	20.32 Tons Base	1418
4-3-06 Hardwick's	18.93 Tons Big Stone	1418
4-3-06 Allison & Sons	87.57 Tons Big Stone	1418
4-3-06 ABC Clearing	Rental of Steel Manhole Box From 3/1/06 To 4/3/06	1418
4-3-06 P Mining	15.18 Tons Big Stone	1419
4-10-06 RL Trucking	179.82 Tons Base	1419
4-10-06 Allison Trucking	41.43 Tons Big Stone	141
4-10-06 Wendell Watts	1895 Tons Big Stone	141
4-10-06 Hanco	56.53 Tons Base	14
4-10-06 Eugene Hucks	26.61 Tons Disp	14
4-10-06 Truitt Hardwick	52.41 Tons Disp	14
4-10-06 Truitt Hardwick	24.78 Tons Base	14
4-10-06 Patrick MHP	7.33 Tons Base	14
4-10-06 Earthworks	18.24 Tons Big Stone	1
4-10-06 L Dean Weaver	229.81 Tons Big Stone	1
4-10-06 Donald Richardson	36.09 Tons Big Stone	

4-10-06 T.W. Hunt	99.34 Tons Big Stone	142
4-10-06 Dargan	28.91 Tons Disp	142
4-10-06 City of M.B.	142.70 Tons Big Stone	142
4-10-06 B&N	114.74 Tons Base	142
4-10-06 B&N	22.42 Tons Screening	142
4-10-06 D&S Sitework	103.21 Tons Base	14
4-10-06 Southern Disposal	14.63 Tons Disp	14
4-10-06 Ground Works	23.39 Tons Disp	14
4-10-06 Wade Lott	30.11 Tons Big Stone	14
4-10-06 PSI	20.11 Tons Big Stone	14
4-10-06 Next Step	10.67 Tons Base	14
4-10-06 Steve's Automotive	20.21 Tons Base	14
4-10-06 Campbell Land.	11.62 Tons Screenings 6.31 Tons Base	14
4-10-06 Hicks Pool	6.73 Tons Disp	14
4-13-06 Wendell Watts	15.14 Tons Base	14
4-13-06 Blanton Sitework	34.73 Tons Big Stone	14
4-13-06 Blanton Sitework	22.86 Tons Big Stone	14
4-13-06 Bull Dozer Service	5.24 Tons Base	14
4-13-06 Campbell Const	16.07 Tons Base 14.45 Tons Screenings	142
4-13-06 Campbell Const	6.50 Tons Disp	14
4-13-06 Ci Ci's Pizza	6.82 Tons Disp	14
4-17-06 Allison Trucking	42.11 Tons Big Stone	14
4-17-06 B&N	9.72 Tons Base	14
4-17-06 Caldwell Pools	5.77 Tons Screenings	14
4-17-06 Dargan Po 19168	49.59 Tons Disp	14
4-17-06 D&S Sitework	21.80 Tons Base	142
4-17-06 Earth works	16.66 Tons Big Stone	142
4-17-06 Haddock	22.39 Tons Disp	142
4-17-06 Haddock	20.46 Tons Big Stone	14
4-17-06 Eugene Hicks	17.45 Tons Base	14
4-17-06 Hardwick's	29.33 Tons Disp	14
4-17-06 J. Johnson	17.66 Tons Big Stone	14

4-17-06	Lillquist Trucking	10.26 Tons Disp	1423
4-17-06	R & L Trucking	13.77 Tons Base	14236
4-17-06	RH Moore	9.99 Tons Disp	14237
4-17-06	Trebor	35.67 Tons Disp	14238
4-17-06	L Dean Weaver	152.03 Tons Big Stone	1423
4-17-06	RL Causey	79.18 Tons Big Stone	14240
4-17-06	R.L. Causey	87.08 Tons Disp	14241
4-17-06	Wendell Watts	45.23 Tons screenings 67.79 Tons Base Material	1424
4-20-06	Meca of Florence	Original Contract for Wall Paint at Autry Mills, NC. Additional fee of $500 for Location change & re installation	1424
4-20-06	Meca of Florence	Wall Paint System Installation for Tent Burial at North East Country Store at Delco, N.C.	14
4-20-06	Yeseca Const	Drawdown Myrtle Sq Mall	14
4-24-06	Campbell Landscaping	14.27 Tons Disp	142
4-24-06	Campbell Landscaping	25.87 Tons Screenings 11.23 Tons Base 39.93 Tons Big Stone	142
4-24-06	Site Concepts	434.81 Tons Big Asphalt (Not crushed)	142
4-24-06	Trebor	158.80 Tons Disp	142
4-24-06	R & L Trucking	129.63 Tons Base	142
4-24-06	R L Causey	72.50 Tons Disposal	142
4-24-06	RL Causey	37.44 Tons Big Stone	142
4-24-06	L Dean Weaver	135.99 Tons Big Stone	142
4-24-06	Wendell Watts	8.20 Tons Big Stone	142
4-24-06	Southern Asphalt	19.40 Tons Big Stone	142
4-24-06	Low Land Const	15.76 Tons Big Stone	142
4-24-06	Jimmy Johnson	23.43 Tons Base	142
4-24-06	Next Step	12.03 Tons Disp	142
4-24-06	Hucks Pool	10.00 Tons Disp	142
4-24-06	Haddock	3.82 Tons Disp	142
4-24-06	Earthworks	16.41 Tons Big Stone	142
4-24-06	D & S Site work	21.97 Tons Base Cty	142
4-24-06	Norstrum Const	Norton Res. Garden City 29 Wood piling 35' = 1015 LF @ 10.33 2 Wood Piling 45' = 50 LF @ 10.84 22-25' Wood piling stored on yard	1424
~~4-27-06~~			
4-27-06	Donald Martin	52.21 Tons Base	1426
4-27-06	Sellers Const	19.84 Tons Big Stone	1426

		Base 9.05 Tons	J.
5-1-06	Campbell Landscaping	48.96 Tons Screenings	14
5-1-06	R L Causey	123.11 Tons Big Stone	14
5-1-06	Site Concepts	25.66 Tons Big Asphalt	14
5-1-06	M B C & D Recycling	403.45 Tons Disp.	14.
5-1-06	R & R Trucking	34.87 Tons Big Asphalt 42.07 Tons Base Material	14.
5-1-06	Hardwicke	7.34 Tons Disp	14.
5-1-06	Trebor	14.41 Tons Disp	14.
5-1-06	Eugene Hucks	33.49 Tons Base	14.
5-3-06	Baiden + Assoc.	Dec 05- Apr -06 @ 255 per week Rental on shoring at Holiday Sands	14.
5-8-06	Trebor	62.37 Tons Disp	14
5-8-06	Trebor	10.62 Tons Base	14.
5-8-06	Paving Services	31.81 Tons Big Stone	142
5-8-06	L Dean Weaver	30.89 Tons Big Stone	14
5-8-06	Lillquist	191.41 Tons Big Stone	14
5-8-06	Site Concepts	88.85 Tons Big Stone	14
5-8-06	T W Hunt	23.74 Tons Big Stone	14
5-8-06	R & R Trucking	19.92 Tons Big Asphalt	1
5-8-06	Hardwick's Land	11.38 Tons Base	1
5-8-06	J Johnson Grading	15.16 Tons Base	1
5-8-06	Southern Disposal	4.84 Tons Disp	1
5-8-06	Carolina Wrecking	3.89 Tons Big Stone 17.89 Disp.	14
5-8-06	Carolina Wrecking	16.17 Disp (Not Clean)	14
5-8-06	D+S Sitework	64.27 Tons Base	14
5-8-06	Carolina Earth Grading	16.43 Tons Big Stone	1
5-8-06	Carolina Earth Grading	15.67 Tons Big Stone	14
5-8-06	Carolina Earth Grading	15.09 Tons Big Stone	14
5-8-06	Sellers Const	30.91 Tons Big Stone	1
5-8-06	Campbell Landscaping	18.98 Tons Screenings 8.51 Tons Base	1
5-8-06	General Pool	5.64 Tons Base	1
5-8-06	General Pool	5.41 Tons Base	1
5-8-06	General Pool	5.09 Tons Base	14
5-8-06	General Pool	5.16 Tons Base	1

		41st and Hwy 17 B.	
5-8-06	Tommy Smith	Demolition of Isle of Palms	142
5-11-06	Sellers Const	67.33 Tons Big Stone	142
5-15-06	Carolina Wrecking	764.58 Tons Disp	143
5-15-06	Trebor	92.43 Tons Disp	143
5-15-06	T W Hunt	78.80 Tons Big Stone 258.32 Tons Base	143
5-15-06	Site Concepts	37.55 Tons Big Stone	14
5-15-06	Jimmy Johnson	15.64 Tons Big Stone	14
5-15-06	R+R Trucking	18.58 Tons Base	14
5-15-06	Haddock Paving	17.34 Tons Disp	14
5-15-06	Haddock Paving	9.30 Tons Base	14
5-15-06	Earthworks	31.28 Tons Big Stone	14
5-15-06	PSI	35.71 Tons Big stone	14
5-15-06	City of Myrtle Beach	33.06 Tons Disp	14
5-15-06	R L Causey	574.78 Tons Big Stone	14
5-15-06	Lowe's Concrete	2.62 Tons Disp	14
5-15-06	Hardwicke's	81.27 Tons Big Stone	14
5-15-06	General Pool	4.35 Tons Base	14
5-15-06	Ground work	18.01 Tons Disp	14
5-15-06	Wendell Watts	4.92 Tons Screenings	14
5-15-06	Donald Martin	4085 Tons Base	1
5-15-06	Donald Martin	3785 Tons Base	1
5-15-06	Campbells Landscape	12.92 Tons Screenings	1
5-15-06	Campbells Landscape	3.81 Tons Disp	14
5-11-06	Bay Services	6.70 Tons Disp	1
5-16-06	Bri-Darva Landsc.	4.87 Tons Base	1
5-22-06	Eugene Rucks	28.77 Tons Disp	1
5-22-06	Allison	177.21 Tons Big Stone	
5-22-06	B+N	45.63 Tons Base	
5-22-06	Caldwell Pools	4.30 Tons Disp	
5-22-06	Campbell Landscape	3.74 Tons Disp	
5-22-06	Carolina Wrecking	872.63 Tons Disp	1
5-22-06	D+S	35.00 Tons Big Stone	1

5-22-06 Earthworks	30.87 Tons Big Stone	14330
5-22-06 Earthworks	37.80 Tons Disp	N331
5-22-06 Haddock	2.97 Tons Disp	14332
5-22-06 Haddock	79.21 Tons Base	1433
5-22-06 Hucks Pool	6.33 Tons Disp	143
5-22-06 R+R	79.87 Tons Base	1433
5-22-06 Trebor	21.80 Tons Disp	1433
5-22-06 Wendell Watts	11.95 Tons Base	143
5-22-06 Lillquist Trucking	21.72 Tons Base	143
5-22-06 Goodson	18.79 Tons Big Stone	143
5-22-06 Donald Martin	99.42 Tons Base	143
5-22-06 R L Causey	66.97 Tons Disp	143
5-22-06 R L Causey	275.09 Tons Big Stone	N
5-25-06 United Contractors	Rental of 416 Fiber Base Hammer & 416 Power Pack	14
5-30-06 Haddock	11.08 Tons Disp	143
5-30-06 Earth works	64.5 Tons Base Material	14
5-30-06 Site Concepts	23.33 Tons Big Asphalt	14
5-30-06 Carolina Wrecking	838.30 Tons Disp	14
5-30-06 Jimmy Johnson	7.24 Tons Disp	14
5-30-06 Eugene Hucks	39.32 Tons Disp	14
5-30-06 R+R Trucking	21.08 Tons Base	143
5-30-06 Hucks Pool	4.68 Tons Disp	143
5-30-06 R.L Causey	37.82 Tons Big Stone	143
5-30-06 Southern Asphalt	32.47 Tons Big Stone	143
5-30-06 Trebor	14.77 Tons Big Stone	143
5-30-06 Trebor	80.35 Tons Disp 10.65 Tons Big Stone	14
5-30-06 Wendell Watts	87.29 Tons Base	14
5-30-06 JE Lillquist	21.40 Tons Base	14
5-30-06 Donald Martin	727.93 Tons Base	143
5-30-06 Next Step	28.87 Tons Base	143
5-30-06 Jason White	24.77 Tons Big Stone	143
5-30-06 Wm Barber	62.58 Tons Disp	143

5-30-06 Jason White	28.15 Tons Big Stone	1436
5-30-06 Donald Martin	40.58 Tons Base	1436
5-30-06 Bay Service	5.53 Tons Disp	1436
5-30-06 Misner Marine Const	2 weeks rental of Crane in May	1436
6-5-06 RL Causey	131.58 Tons Disp	1436
6-5-06 RL Causey	239.33 Tons Big Stone	1436
6-5-06 Lillquist	81.29 Tons Screenings 149.90 Tons Base	1431
6-5-06 R&R Trucking	120.03 Tons Base	1436
6-5-06 RH Moore	241.97 Tons Disp	1437
6-5-06 Trebor	91.36 Tons Disp	1437
6-5-06 Wendell Watts	150.86 Tons Base	143
6-5-06 TW Hunt	65.70 Tons Big Stone	143
6-5-06 Stalvey Const	2.90 Tons Disp	143
6-5-06 Patrick MHP	2.81 Tons Screenings	143
6-5-06 Haddock	6.63 Tons Disp	143
6-5-06 Next Step	9.45 Tons Coquina 21.297 Tons Base	143
6-5-06 Seiters Const	15.53 Tons Big Stone	143
6-8-06 Wm. Barber	49.95 Tons Disp	143
6-8-06 Yeracaris Const	Drawn #5 on Myrtle Sq. Mall	143
6-12-06 Trebor	140.78 Tons Disp	143
6-12-06 Trebor	44.30 Tons Big Stone	143
6-7-06 Meco	Well Point System at Hope Mills Pit Nr Car Stop	143
6-12-06 RL Causey	41.38 Tons Disp	143
6-12-06 RL Causey	73.15 Tons Big Stone	143
6-12-06 City of M.B.	109.83 Tons Disp	143
6-12-06 D&S Site Work	6.56 Tons Disp	143
6-12-06 D&S Site Work	49.81 Tons Big Stone	143
6-12-06 A-1 Pool (Caldwell)	4.63 Tons Disp	143
6-12-06 Allison Trucking	15.11 Tons Disp	143
6-12-06 Ricky's Landscape	1.74 Tons Disp	143
6-12-06 RH Moore	377.84 Tons Disp	143
6-12-06 P&F	17.49 Tons Big Stone	143

6-12-06	T W Hunt	40.51 Big Stone	1439
6-12-06	Haddock	12.53 Disposal Fee	1439
6-12-06	Earthworks	32.77 Disposal Fee	1439
6-12-06	Roose Veit Bellamy	5.28 Tons Base	1439
6-12-06	Horticultural Consult	3.46 Tons Base	1439
6-12-06	Dargan	Hauling Concrete Rubble (8) Lds. @ 75.00 Disp. Fees 24 Tons @ 5.00 from Long Bay	1439
6-12-06	O'Cean Keys	Building #3 86-9" X 14" Auger cast Piling	1440
6-16-06	Horticultural Consult	4.05 Tons Base	1440
6-19-06	Trebor	31.40 Tons Disp	1440
6-19-06	Trebor	31.02 Tons Base	1440
6-19-06	Eugene Hucks	15.22 Tons Base	1440
6-19-06	R+L Trucking	54.70 Tons Base	1440
6-19-06	R.L. Causey	176.08 Tons Big Stone	1440
6-19-06	R.L. Causey	660.73 Tons Disp	1440
6-19-06	Alexis Trucking	20.20 Tons Base	1441
6-19-06	M.K. Brown	56.67 Tons Disp 32.89 Tons Base 40.93 Tons Big Stone 41.98 Tons Screenings	1441
6-19-06	Lillquist		1441
6-19-06	Hardwick	11.84 Tons Disp	1441
6-19-06	T W Hunt	24.70 Tons Big Stone	1441
6-19-06	Earthworks	71.80 Tons Disp	1441
6-19-06	City of M.B	69.22 Tons Disp	1441
6-19-06	Caldwell Pool	13.66 Tons Big Stone	1441
6-19-06	B+N Comp.	40.70 Tons Base	1441
6-19-06	Bay Service	4.10 Tons Disp	1441
6-6-06	Wade Cott	Demolition of Conway Hosp. Parking Lot	1441
6-13-06	Pink House Sq. Partners	Demolition of Hawaiian Caverns Project	1441
6-21-06	Duplies Land.	21.97 Tons Base	1442
6-21-06	Vereen Const	Draw #6 on Myrtle Sq. Mall Job	1442
6-21-06	Donald Martin Trucking	22.85 Tons Base	1442
6-26-06	Big Dog Const	mixed Disp from Demo at Voided - 1442 Comfort Motel - 6th Ave & Chester Replaced by 1442	
6-26-06	Big Dog Const	Disposal Fee at 5th Ave & Beaver	1443
6-26-06	Trebor	50.60 Tons Base	1443

6-26-06	City of M.B.	51.18 Big Stone	144
6-26-06	Trebor	31.10 Tons Disp	144
6-26-06	RL Causey	11.93 Tons Disp	144
6-26-06	E Z Dump	8.46 Tons Disp	144
6-26-06	Earth works	14.55 Tons Disp	144
6-26-06	Earth works	11.80 Tons Base	144
6-26-06	B+N	3.84 Tons Base	144
6-26-06	B+N	31.01 Tons Disp	144
6-26-06	General Pool	5.10 Tons Base	144
7-10-06	Next Step	46.12 Tons Disp	144
7-10-06	Southern Const	19.62 Tons Disp	144
7-10-06	Donald Martin	17.20 Tons Base	144
7-10-06	Jason White	51.38 Tons Big Stone	144
7-10-06	Trebor	48.04 Tons Big Stone	144
7-10-06	Trebor	28.42 Tons Disp	14
7-10-06	C+L Const.	20.78 Tons Base	14
7-10-06	Lillquist Trunk	61.26 Tons Screenings	14
7-10-06	Lowland Const	17.77 Tons Big Stone	14
7-10-06	Hardwick Land	10.93 Tons Disp	14
7-10-06	Earth works	21.77 Tons Base	14
7-10-06	Earth works	37.51 Tons Big Stone	14
7-10-06	City of MB	155.26 Tons Big Stone	14
7-10-06	B+N Comp.	47.33 Tons Disp	14
7-10-06	Michael Meadows	10.38 Tons Disp	14
7-10-06	Next Step	19.43 Tons Disp	14
7-10-06	Richardson Land	3.60 Tons Big Stone	14
7-10-06	Horticultural Consult	3.45 Tons Screening	14
7-10-06	Hoy's Trucking	63.81 Tons Big Stone	14
7-10	Hoy's Trucking	17.97 Ton Big Stone	14
7-10-06	Hoy's Trucking	17.38 Tons Big Stone	14
7-10-06	Pat Williams	21.45 Tons Base	14
7-10-06	Worley Const	21.34 Tons Big Stone	14

6-30-06 Big Dog Demo	315.07 Disp at Comet Motel	14458
7-14-06 Horticultural Consult.	1.28 Tons Base	14459
7-14-06 Pamela Mew	9.48 Tons Cog.	14460
7-14-06 ABC Clearing	19.57 Tons Big Stone	14461
7-17-06 Trebor	51.88 Tons Disp	14462
7-17-06 Lillquist	78.64 Tons Base	14463
7-17-06 Lillquist	69.63 Tons Screenings	14464
7-17-06 E-Z Dump	22.09 Tons Disp	14465
7-17-06 R+R Trucking	175.20 Tons Base	14466
7-17-06 R. L. Causey	70.06 Tons Disp	14467
7-17-06 R. L. Causey	96.45 Tons Big Stone	14468
7-17-06 Caldwell Pools	10.84 Tons Base	14469
7-17-06 MB C&D Recycling	173.94 Tons Disp	14470
7-17-06 Hardwicke's Land	31.20 Tons Disp	14471
7-17-06 Site Concepts	17.85 Tons Big Stone	14472
7-17-06 RH Moore	25.78 Tons Disp	14473
7-17-06 Palmetto Paving	37.70 Tons Bigstone	14474
7-17-06 Waccamaw Metal Recyc	10.33 Tons Big Stone	14475
7-13-06 Hay Construction	Installation of Piling at Coastal Carolina Univ.	14476
7-20-06 Caldwell Pools	3 hrs for Loader @ 70 per hr.	14477
7-17-06 Flagship Const	Demolition of property at 206 Yaupon, MB.	14478
7-24-06 R. L. Causey D+S Sitework	48.72 Tons Bigstone	14479
7-24-06 ~~Ricky's Landscaping~~	42.26 Tons Big Stone	14480
7-24-06 D+S Site work	3.03 Tons Disp	14481
7-24-06 E Z Dump	14.72 Tons Disp	14482
7-24-06 Hardwicke Landscap	40.63 Tons Disp	14483
7-24-06 Hucks Pool	13.57 Tons Disp	14484
7-24-06 JE Lillquist	29.48 Tons Screening	14485
7-24-06 Ricky's Lands.	35.77 Tons Disp	14486
7-24-06 R+R Trucking	237.17 Tons Base	14487
7-24-06 Wendell Watts	20.68 Tons Screenings	14488
7-24-06 L. Dean Weaver	195.68 Tons Bigstone	14489

7-24-06	Sticks & Stones	3.58 Tons Disp	14490
7-24-06	Lowe's Concrete	2.39 Tons Disp	14491
7-24-06	Trebor	7.39 Tons Disp	14492
7-24-06	Herndon, Inc.	8.22 Tons Disp	14493
7-24-06	Herndon, Inc	11.09 Tons Bigstone	14494
7-24-06	James Burke	2.49 Tons Cg	14495
7-27-06	Misener Marine	Rent on Land for storage June July Aug @ 350 per mo.	14496
7-27-06	Blanton Site work	42.21 Tons Big Stone	14497
7-31-06	Trebor	37.94 Tons Base	14498
7-31-06	Trebor	38.13 Tons Disp	14499
7-31-06	Caldwell Pools	5.00 Tons Base	14500
7-31-06	R L Causey	12.33 Tons Big Stone	14501
7-31-06	Site Concepts	124.35 Tons Big Stone	14502
7-31-06	City of M B	56.25 Tons Disp	14503
7-31-06	D+S Sitework	20.29 Tons Base	14504
7-31-06	L. Dean Weaver	34.09 Tons Disp	14505
7-31-06	R+R Trucking	19.23 Tons Base	14506
7-31-06	Jimmy Johnson	38.42 Tons Bigstone	14507
7-31-06	Groundworks	39.48 Tons Disp	14508
7-31-06	Hardwick's Land	59.14 Tons Disp	14509
7-31-06	Earthworks	23.69 Tons Disp 87.64 Tons Base	14510
8-7-06	Lillquist	121.30 Tons Screenings 10.34 Tons Bigstone	14511
8-7-06	R+R Trucking	91.98 Tons Base	14512
8-7-06	Mid Atlantic Drain	52.62 Tons Base	14513
8-7-06	Trebor	5.50 Tons Disp	14514
8-7-06	Caldwell Pools	1.00 Tons Disp	14515
8-7-06	Low Land Const	14.01 Tons Base	14516
8-7-06	R.L. Causey	25.53 Tons Disp	14517
8-7-06	Wacca mow Recycling	7.75 Tons Cg	14518
8-7-06	T. Hardwicks Land.	91.01 Tons Disp	14519
8-7-06	D+S Sitework	21.94 Tons Base	14520
8-7-06	E-Z Dump	21.11 Tons Disp	14521

8-7-06	Wendell Watts	15.13 Tons Base	14522
8-7-06	Wendell Watts	19.64 Tons Base	14523
8-7-06	Donald Martin	46.61 Tons Disp	14524
8-11-06	Wards Way	96.42 Tons Screenings	14525
8-11-06	ABC Clearing	13.62 Tons Big Stone	14526
8-11-06	Vereen Const.	Draw #7 on Mall Job	14527
8-14-06	MR Smith	123.81 Tons Disp	14528
8-14-06	Site Concepts	43.12 Tons Site Concepts Big Stone	14529
8-14-06	Stalvey Const	44.15 Tons Disp	14530
8-14-06	Worley	68.46 Tons Big Stone	14531
8-14-06	Lillquist	22.50 Tons Base 20.10 Tons Screenings	14532
8-14-06	Mauldin Land	11.88 Tons Base	14533
8-14-06	M B C & D Recycle	83.03 Tons Disp	14534
8-14-06	Haddock	5.60 Tons Disp	14535
8-14-06	Hardwork Land.	46.88 Tons Disp	14536
8-14-06	D+S Sitework	7.23 Tons Big Stone	14537
8-14-06	R+R Trucking	55.26 Tons Base	14538
8-14-06	Trebor	90.35 Tons Base	14539
8-14-06	Trebor	169.09 Tons Disp	14540
8-14-06	MAD Po 21187	95.56 Tons Base	14541
8-14-06	R L Causey	22.23 Tons Disp	14542
8-14-06	Donald Martin	88.37 Tons Disp	14543
8-8-06	Welch Const	Installation of 24" x 15' PE 27 sheet Piling at Friends Bapt Ch in Conway	14544
8-21-06	Albert Farlow	84.24 Tons Base	14545
8-21-06	A.O. Hardee PO 124916	218.40 Tons Disp	14546
8-21-06	A.O. Hardee PO 124916 #14	80.23 Tons Big Stone	14547
8-21-06	Caldwell Pools	7.53 Tons Big Stone	14548
8-21-06	City of M.B.	26.55 Tons Disp	14549
8-21-06	D+S Sitework	59.47 Tons Base	14550
8-21-06	Earthwork	7.37 Tons Disp	14551
8-21-06	EZ Dump	22.75 Tons Disp	14552

8-21-06	Hardwick's	20.00 Tons Base 15.57 Tons Big Stone	1455
8-21-06	Jimmy Johnson Pav.	15.31 Tons Big Stone	1455
8-21-06	Lillquist Trucking	49.62 Tons Screenings	1455
8-21-06	MAD	123.66 Tons Base	145.
8-21-06	RL Causey	4.35 Tons Disp	145.
8-21-06	R&R Trucking	87.43 Tons Base	145
8-21-06	Trehor	72.95 Tons Disp	145
8-21-06	Pat Williams	106.89 Tons Base	1456
8-23-06	Causey Plumbing	7.80 Tons Base	1456
8-23-06	Kevin Shelley Const	19.65 Tons Base	145
8-23-06	Albert Furlow	21.53 Tons Base	145
8-28-06	Trehor	5.55 Tons Disp	145
8-28-06	Trehor	16.04 Tons Base	145
8-28-06	The Cutting Edge	4.56 Tons Base	145
8-28-06	Groundwork	14.86 Tons Big Stone	14:
8-28-06	Groundwork	225.78 Tons Disp	14.
8-28-06	R&R	244.90 Tons Base	14.
8-28-06	Lillquist Truck	180.97 Tons Base	14.
8-28-06	Lillquist Truck	178.30 Tons Screenings	14.
8-28-06	EZ Dump	128.78 Tons Disp	14.
8-28-06	L Deam Weaver	96.48 Tons Big Stone	14
8-28-06	Earthworks	63.67 Tons Base	14
8-28-06	Eugene Hucks	8.93 Tons Base	14
8-28-06	Worley Trucking	19.31 Tons Big Stone	14
8-28-06	City of MB	59.47 Tons Disp	14
8-28-06	Palmetto Paving	34.19 Tons Big Stone	14
8-28-06	B&N	14.83 Tons Disp	14
8-28-06	B&N	4.03 Tons Base	14
8-28-06	Albert Furlough	136.25 Tons Base	1
8-28-06	MAD	71.70 Tons Base	1
8-28-06	Jason White	16.21 Tons Big Stone	1
8-29-06	Timothy Verrea	12 hrs use of Low Boy To get CDL	1

8-29-06 Dennis Smith	Item #1 on Contract Demolition of Lands Fac 6 Story Bldg.	14586
9-5-06 R&R Trucking	24.82 Tons Base	14587
9-5-06 Trebor	71.71 Tons Disp	14588
9-5-06 R.L. Causey	69.23 Tons Disp	14589
9-5-06 R.L. Causey	18.70 Big Stone	14590
9-5-06 M B C+D Recycle	83.64 Tons Disp	14591
9-5-06 Elvis Services	9.69 Tons Disp	14592
9-5-06 Waccamaw Metal Recyc	5.18 Tons Cog	14593
9-5-06 Ground Works	16.67 Tons Disp	14594
9-5-06 Albert (Fac/Loughlin+Sons)	87.86 Tons Base	14595
9-5-06 Earthworks	21.42 Tons Base	14596
9-5-06 Hardwicks Land	559.19 Tons Disp	14597
9-5-06 D+L Sitework	36.04 Tons Big Stone	14598
9-5-06 Worley	18.55 Tons Big Stone	14599
9-6-06 Horticultural Consult	3.67 Tons Base	14600
9-6-06 Herndon	21.17 Tons Disp	14601
9-6-06 Richardson Land	6.82 Tons Big Stone	14602
9-11-06 A O Herdec 12+946+1+941	169.07 Tons Big Stone	14603
9-11-06 Trebor	29.85 Tons Base 62.74 Tons Big Stone	14604
9-11-06 Trebor	65.76 Tons Disp	14605
9-11-06 Worley Trucking	32.68 Tons Big Stone	14606
9-11-06 R+R Trucking	37.88 Tons Base	14607
9-11-06 MAD P 21187	96.27 Tons Base	14608
9-11-06 Hardwicks	53.79 Tons Big Stone	14609
9-11-06 Hardwicks	28.92 Tons Disp	14610
9-11-06 PST	15.32 Tons Big Stone	14611
9-11-06 JE Lillquist	80.49 Tons Screenings	14612
9-11-06 JE Lillquist	25.66 Tons Base	14613
9-11-06 Haddock	31.71 Tons Base	14614
9-11-06 Earth Works	81.95 Tons Base	14615
9-11-06 D+S Site Work	23.47 Tons Disp	14616
9-11-06 B+N	10.63 Tons Base	14617
9-18-06 Next Step	7.96 Tons Disp	14618

9-18-06	RL Causey	76.32 Tons Disp
9-18-06	R+R Trucking	221.02 Tons Base
9-18-06	Trebor	43.97 Tons Disp
9-18-06	Ricky's Landscaping	15.04 Tons Disp
9-18-06	MAD	122.41 Tons Base
9-18-06	Low Land Const	22.04 Tons Screenings
9-18-06	J. E. Lillquist	20.99 Tons Screenings 21.41 Tons Base
9-18-06	Johnston Landscaping	15.74 Tons Base
9-18-06	Earth works	32.73 Tons Big Stone
9-18-06	City of MB	12.69 Tons Disp
9-18-06	Haddock	6.47 Tons Disp
9-18-06	Hardwicks Land.	10.97 Tons Disp
9-18-06	RBC	61.33 Tons Big Stone
9-18-06	Home Solutions	.82 Tons Disp Furnish & Install 35' Piling 35' Long at Garden City
9-19-06	Harry Cook	
9-25-06	E2 Dump	206.00 Tons Base
9-25-06	Barber Excavating	83.67 Tons Disp
9-25-06	Haddock	18.26 Tons Disp
9-25-06	Mike Hardee	39.58 Tons Disp
9-25-06	Low Land Const	6178.99 Tons Screenings
9-25-06	MAD	126.54 Tons Base
9-25-06	Trebor	37.40 Tons Disp
9-25-06	Trebor	95.38 Tons Big Stone
9-25-06	R+R Trucking	123.66 Tons Base
9-25-06	RL Causey	12.45 Tons Disp
9-25-06	B+N	5.59 Tons Disp
9-25-06	Hardwicks	34.78 Tons Big Stone
9-25-06	Hardwicks	15.44 Tons Disp
9-25-06	KD Const	56.74 Tons Disp
9-25-06	Jimmy Johnson	4.83 Tons Disp
9-25-06	AO Hardee	38.83 Tons Big Stone
9-25-06	Earth works	30.86 Tons Big Stone 40.66 Tons Base

		37.42 Tons Big Stone	
9-25-06	D+S Sitework	42.54 Tons Base	1465
9-25-06	Caldwell Pools	16.32 Tons Base	1465
9-25-06	City of MB	51.09 Tons Disp	1465
9-25-06	MB C+D Recycle	61.42 Tons Disp	1465
9-25-06	Allen's Scrap Metal	44.37 Tons Screenings	1465
9-25-06	Waccamaw Metal Recyc.	15.72 Tons Big Stone	146
9-26-06	Jason White	15.70 Tons Big Stone	146
9-25-06	ABC Clearing	19.56 Tons Big Stone	146
9-25-06	George's Trucking	38.00 Tons Base	1465
9-27-06	Vireon Const.	Closing Circling Accretion Ag. Hwy 544 Mall Job	1466
9-28-06	Bay Service	5.02 Tons Disp.	1466
10-2-06	MAD	127.98 Tons Base	1461
10-2-06	Low Land Const	9.05 Tons Base 79.93 Tons Screenings	1466
10-2-06	R.L. Causey	7.18 Tons Disp	1466
10-2-06	J.E Lillquist	62.60 Tons Screenings	1466
10-2-06	Earthworks	22.39 Tons Base	1466
10-2-06	Earthworks	8.04 Tons Disp	1466
10-2-06	D+S Sitework	90.86 Tons Base	1466
10-2-06	A.A Herdon PO175026	35.10 Tons Big Stone	146
10-2-06	City of MB	29.21 Tons Disp	146
10-2-06	Ground works	18.96 Tons Disp	1467
10-2-06	~~Ground works~~ PSI	36.16 Tons Big Stone	1467
10-2-06	R+R Trucking	64.35 Tons Base	1462
10-2-06	Haddock	9.89 Tons Screenings	1467
10-2-06	Haddock	3.31 Tons Disp	1467
10-2-06	Hardwick	18.37 Tons Big Stone	146
10-2-06	Hardwick	58.81 Tons Disp	146
9-27-06	Ocean Kings	original Contract; Less 150ft Pdrig @ the park Add on moving 4466 from Beaufort to Little River and back	146
9-27-06	AWI, Inc.	Four Tropical Tracks, 151 TSD Bucket Blvd on skid Black 42 pcs Wood Pdrig 40' Long, 15 pcs Wood Pdrig 30' Long at $10 per foot	146
10-6-06	Concrete Express	38.14 Tons Big Stone	14
10-6-06	Hunters Ridge	53.63 Tons Big Stone	14
10-9-06	Palmetto Paving	52.32 Tons Screenings	14

10-9-06	Haddock Pav.	45.36 Tons Disp	1468
10-9-06	R+R Trucking	217.01 Tons Base	1468
10-9-06	R.L Causey	50.44 Tons Big Stone	1468
10-9-06	R.L Causey	62.73 Tons Disp	1468
10-9-06	Trebor	32.77 Tons Disp	1468
10-9-06	Trebor	34.74 Tons Big Stone	1468
10-9-06	Worley Trucking	109.92 Tons Big Stone	1468
10-9-06	Earth works	77.06 Tons Base	1469
10-9-06	Earth works	7.86 Tons Disp	1469
10-9-06	City of MB	31.33 Tons Disp	1469
10-9-06	D+S Site work	14.48 Tons Big Stone	1469
10-9-06	EZ Dump	46.32 Tons Disp	1469
10-9-06	~~Disp~~ Hardwick	16.63 Tons Big Stone	1469
10-9-06	MAD	120.03 Tons Base	1469
10-9-06	Boich + Assoc.	Rental on Sheeting at Holiday Sand for May, June, July, Aug, Sept & Oct 2006	1469
10-9-06	City of MB	Demolition & removal of debris from Coral Reef	1469
10-16-06	Trebor	53.04 Tons Disp	1469
10-16-06	Palmetto Paving AC/BC	521.08 Tons Screenings 92.28 Tons Base	1470
10-16-06	MAD	117.88 Tons Base	1470
10-16-06	R L Causey	91.58 Tons Disp	1470
10-16-06	L Dean Weaver	94.15 Tons Disp	1470
10-16-06	E & Brown	21.00 Tons Big Stone	1470
10-16-06	Haddock	9.11 Tons Disp	1470
10-16-06	Worley Trucking	39.94 Tons Big Stone	1470
10-16-06	Lillquist	136.61 Tons Base 7.75 Tons Screenings	1470
10-16-06	EZ Dump	49.48 Tons Base	1470
10-16-06	EZ Dump	63.67 Tons Disp	1470
10-16-06	Earthworks	19.84 Tons Base	1470
10-16-06	Caldwell	14.93 Tons Disp	1470
10-16-06	A.D. Hardee	18.92 Tons Big Stone	1470
10-16-06	B+N	5.72 Tons Disp	1470
10-11-06	Dixie Fert.	113.69 Tons Base	1470

10-16-06	Blanton Sitework	16.33 Tons Big Stone	14715
10-16-06	Campbell Landscape	4.08 Tons Disp.	14716
10-16-06	Campbell Landscape	16.35 Tons Disp	14717
10-23-06	Dixie Turf	95.35 Tons Base 23.54 Tons Screenings	14719
10-23-06	Trebor	11.31 Tons Big Stone	14720
10-23-06	Trebor	8.64 Tons Disp	14721
10-20-06	Blanton Sitework	17.82 Tons Big Stone	14718
10-23-06	RL Causey	24.19 Tons Disp	14722
10-23-06	Lillquist	30.37 Tons Base 18.60 Tons Screenings	14723
10-23-06	Haddock	6.78 Tons Disp	14724
10-23-06	Worley Trucking	16.19 Tons Big Stone	14725
10-23-06	Southern Disp.	12.65 Tons Disp	14726
10-23-06	R & R Trucking	4.68 Tons P.57 176.52 Tons Base	14727
10-23-06	Paving Services	34.32 Tons Big Stone	14728
10-23-06	E-Z Dump	46.71 Tons Disp	14729
10-25-06	Lloyd Benton	Batteries & Welding on Motor Home	14730
10-26-06	ABC Seamless Gutter	57.18 Tons Base	14731
10-27-06	United Body Shop	56.50 Tons Screenings	14732
10-27-06	B & C Clearing	18.65 Tons Big Stone	14733
10-30-06	Trebor	8.60 Tons Big Stone	14734
10-30-06	Trebor	82.00 Tons Disp	14735
10-30-06	Luke Wofford	18.72 Tons Disp	14736
10-30-06	Licky's Landscape	15.78 Tons Disp	14737
10-30-06	RL Causey	16.53 Tons Disp	14738
10-30-06	Paving Services	68.18 Tons Big Stone	14739
10-30-06	MAD	251.41 Tons Base	14740
10-30-06	Lowland Const	14.30 Tons Big Stone 205.94 Tons Base	14741
10-30-06	Haddock	87.75 Tons Disp 75.04 Tons Base	14742
10-30-06	Lillquist	134.93 Tons Screenings	14743
10-30-06	Haddock	8.08 Tons Disp	14744
10-30-06	E-Z Dump	19.94 Tons Disp	14745
10-30-06	Earthworks	19.11 Tons Base	14746

10-30-06	D+S Sitework	38.56 Tons Base	147
10-30-06	B+N	20.89 Tons Disp	147
10-30-06	City of Myrtle Beach	Demolition of Rio Grande Motel on 21st St. S.	147
10-30-06	Nations Homes	Original Contract + Additional Footage on Riding of Mathison Lane	147
10-31-06	Kevin Shelley Const	15.34 Tons Big Stone	147
11-2-06	Steele's Trucking	38.06 Tons Big Stone	1475
11-2-06	Donald Martin	66.08 Tons Base	147
11-2-06	Strand Bricklaying Mason	13.20 Tons Disp	1475
11-6-06	Trebor	28.03 Tons Big Stone	147
11-6-06	Trebor	73.61 Tons Disp	147
11-6-06	MAD	132.67 Tons Base	147
11-6-06	Caldwell Pools	17.44 Tons Base	147
11-6-06	Lowland Const	189.58 Tons Base	14
11-6-06	R+R	298.91 Tons Base	14
11-6-06	Haddock	13.75 Tons Disp	147
11-6-06	Hardwick	19.31 Tons Big Stone	1476
11-6-06	Hardwick	22.85 Tons Disp	147
11-6-06	Earthworks	4.27 Tons Disp	1476
11-6-06	L Dean Wear II	42.12 Tons Disp	1476
11-6-06	B+N Comp.	6.06 Tons Base	14761
11-6-06	Blanton Sitework	18.39 Tons Big Stone	1476
11-6-06	Dixie Turf	25.20 Tons Screenings	1476
11-6-06	Elvis Services	11.50 Tons Big Stone	14761
11-6-06	Ricky Martin	11.08 Tons Disp	1477
11-6-06	Waccamaw Metal	5.41 Tons Base	1477
11-9-06	Lee Disposal Serv	30.88 Tons Disp	147
11-9-06	East Coast Marine	4.29 Tons PST	147
11-13-06	MHD	51.90 Tons Base	147
11-13-06	Trebor	24.58 Tons Disp	1471
11-13-06	R L Causey	27.05 Tons Disp	147
11-13-06	Timmy's Backhoe	17.20 Tons PST	1477
11-13-06	Timmy's Backhoe	17.05 Tons Big Rock	1477

11-13-06	E Z Dump	80.22 Tons Disp	14779
11-13-06	L Dean Weaver	60.16 Tons Disp?	14780
11-13-06	Site Concepts	37.51 Tons Big Stone	14781
11-13-06	R & L Trucking	34.89 Tons RS7 144.21 Tons Base	14782
11-13-06	Lowland Const	300.73 Tons Base	14783
11-13-06	Lillquist	37.41 Tons RS7	14784
11-13-06	Hardwick	10.06 Tons Disp	14785
11-13-06	J. Johnson	6.77 Tons Base	14786
11-13-06	Haddock Pav.	20.76 Tons Disp	14787
11-13-06	Dargan	3.91 Tons Disp	14788
11-13-06	D & S Sitework	21.51 Tons Base	14789
11-13-06	B & N Comp.	86.2 Tons Disp	14790
11-13-06	East Coast Marine	4.45 Tons RS7	14791
11-13-06	Light House Const	8.93 Tons RS7	14792
11-13-06	Donald Martin	151.94 Tons Base Mat.	14793
11-13-06	Dixie Tur.	47.19 Tons Screenings 467.93 Tons Base	14794
11-17-06	Eddins Electric	23.10 Tons Big Stone	14795
11-17-06	Mike's Landscaping	102.42 Tons Disp. Fee	14796
11-17-06	All American Climbers	400 Tons Base Material	14797
11-17-06	All American Climbers	3.21 Tons Big Stone	14798
11-17-06	East Coast Marine	5.96 Tons RS7	14799
11-20-06	Eddins Electric	71.14 Tons Big Stone	14800
11-20-06	Haddock Pav.	18.40 Tons Disp	14801
11-20-06	MAD	10.452 Tons Base	14802
11-20-06	E Z Dump	38.67 Tons Disp	14803
11-20-06	Trebor	5.99 Tons Big Stone	14804
11-20-06	Low land Const	425.28 Tons Base	14805
11-20-06	Lillquist	21.63 Tons Screenings	14806
11-20-06	Lowe's Conc.	5.34 Tons Base	14807
11-20-06	D & S Site work	41.54 Tons Base	14808
11-20-06	B & N	8.99 Tons Disp	14809
11-20-06	Donald Martin	425.3 Tons RS7 450.00 Tons Base	14810

11-20-06	R&R	28.82 Tons Disp	1481
11-20-06	R+R	104.13 Tons PST 149.89 Tons Base	1481
11-21-06	Baiden	Rental on Shooting at Holiday Sands for Nov-06	1481
11-21-06	Eldine Electric	63.65 Tons Big Stone	1481
11-27-06	Donald Martin	28.17 Tons PST	1481
11-27-06	M.A.D	24.59 Tons Base 9.93 Tons Screenings	1481
11-27-06	Lillquist	48.56 Tons Base	1481
11-27-06	Hardwicks	38.75 Tons Big Stone	1481
11-27-06	Haddock	17.64 Tons Disp	1481
11-27-06	Coldwell Pool	1.10 Tons Disp	1482
11-27-06	Bunyan Co + Chapin	24.73 Tons Disp	1482
11-27-06	Trebor	11.48 Tons Disp	1482
11-27-06	Worley Const	19.02 Tons Big Stone	1482
11-27-06	Geotechnics Inc	Rental of Load Test Jack @ Waterview on Palma Furnish & Install 48 pcs 16" p	1482
11-28-06	Ray Coleman	36" Wood Piling at Long Bay Estates	1482
12-1-06	Hardee + Pride Const.	16.75 Tons Big Stone	1482
12-1-06	East Coast Marine	3.75 Tons PST	1482
12-1-06	Jason White	38.79 Tons Big Stone	1482
12-4-06	R+R	89.06 Tons Base 34.93 Tons PST	1482
12-4-06	Duke Enterprises	293.58 Tons Base 20.28 Tons PST	1483
12-4-06	Trebor	64.70 Tons PST 10.98 Tons Base	1483
12-4-06	Trebor	52.68 Tons Disp	1483
12-4-06	M.A.D	123.96 Tons Base	1483
12-4-06	R+H Moore	60.97 Tons PST	1483
12-4-06	R+H Moore	395.05 Tons Disp	1483
12-4-06	Carolina Wrecking	533.28 Tons Disp	1483
12-4-06	Mary Smith	24.95 Tons Disp	1483
12-4-06	Mary Smith	31.55 Tons PST	1483
12-4-06	Donald Martin	33.65 Tons PST	1484
12-4-06	Derrick Spivey	41.01 Tons Base	1484
12-4-06	Site Concepts	84.73 Tons Big Stone	1484
12-4-06	B+N	15.91 Tons Disp	1484

12-04-06	PSI	20.92 Tons Big Stone	1484
12-4-06	PSI	20.69 Tons Disp	1484
12-4-06	Lillquist	8.18 Tons PS7 21.51 Tons Base	1484
12-4-06	L. Dean Weaver	89.52 Tons Big Stone	1484
12-4-06	Lowland Const	41.64 Tons Big Stone 83.07 Tons Base	1484
12-4-06	Boggs Paving	150.38 Tons Base	1484
12-4-06	City of MB	30.56 Tons Disp	1484
12-4-06	Hardwick	84.73 Tons Disp	1485
12-4-06	Earthworks	109.52 Tons Base	1485
12-4-06	E Z Dump	14.08 Tons Disp	1485
12-4-06	Joshua Clardy	15.35 Tons Big Stone	1485
12-6-06	ABC Clearing	16.55 Tons Big Stone	1485
12-11-06	Southern Disposal	7.13 Tons Disp	1485
12-11-06	E Z Dump	26.93 Tons Disp 17.25 Tons Big Stone 64.23 Tons Base	1485
12-11-06	Earthworks	119.06 Tons Big Stone	1485
12-11-06	Site Concepts	53.61 Tons PS7	1485
12-11-06	RH Moore	3.10 Tons PS7	1486
12-11-06	Waccamaw Metal	6.68 Tons Base	1486
12-11-06	B & N	43.49 Tons Disp	1486
12-11-06	B & N	123.99 Tons Base	1486
12-11-06	Mid Atlantic Drain	135.262 Tons Disp 71.38 Tons Base	1486
12-11-06	Carolina Wrecking	350.60 Tons Screenings 143.54 Tons Base	1486
12-11-06	Lowland Const	50.71 Tons Screenings	1486
12-11-06	Lillquist	9.00 Tons Big Stone 19.53 Tons PS7	1486
12-11-06	D & L	17.75 Tons Big Stone	1486
12-11-06	R & R	103.23 Tons Base	1486
12-11-06	R & R	30.33 Tons Disp 62.23 Tons PS7 8.72 Tons Big Stone	1487
12-11-06	Trebor	51.72 Tons Disp	1487
12-11-06	Trebor	12.05 Tons Big Stone	1487
12-11-06	Hardwicks	21.57 Tons Base	1487
12-11-06	Hardwicks		
12-11-06	Jerrick Spivey		

12-11-06	Duke Enterprises	27.29 Tons Base	14875
12-11-06	Donald Martin	324.28 Tons Base	14876
12-11-06	Lee Disposal	13.83 Tons Disp	14877
12-11-06	Homewood Metal	16.35 Tons Big Stone	14878
12-11-06	Uni Tech	12.31 Tons Base	14883
12-11-06	Blanton Site work	47.59 Tons Big Stone	14886
12-11-06	Uni Tech	7.21 Tons Base	14881
12-11-06	Dow AN	6.43 Tons #57	14882
12-11-06	Lee Disp	13.66 Tons Disp	14884
12-11-06	A.L. Causey	20.92 Tons Big Stone	14885
12-11-06	Carolina Wrecking	29.62 Tons Disp	14886
12-12-06	Ocean Keys	Move Backhoe 11/6/06 7 Hrs at $70 Move Backhoe 12/30/06 4 Hrs at $70	14887
12-12-06	Baiden	Dewatering Sheeting at Holiday Sands	14888
12-15-06	Lewis Services	19.11 Tons Big Stone	14888
12-15-06	Next Step	45.53 Tons Disp	14889
12-15-06	Tommy Martin Concrete	2.78 Tons Disp	14890
12-15-06	Quality Landscaping	3.18 Tons Cog.	14891
12-15-06	Waterway Maint.	12.10 Tons Big Stone	14892
12-15-06	Quality Landscaping	2.82 Tons Screenings	14893
12-15-06	Sellers Const	69.14 Tons Big Stone	14894
12-15-06	Strand Brick & Mason	14.25 Tons #57	14895
12-15-06	Tommy Martin Concrete	27.34 Tons Disp	14896
12-15-06	Dillon Electric	35.33 Tons Big Stone	14897
12-15-06	Andrew Lewis	9.22 Tons Cog.	14898
12-15-06	Strand Brick & Mason	17.67 Tons Disp	14899
12-15-06	Strand Brick & Mason	13.54 Tons #57	14900
12-15-06	Waccamaw Metal	14.78 Tons #57	14901
1-8-07	Allen's Scrap Metal	31.15 Tons Screenings	14902
1-8-07	Allison Trucking	177.73 Tons Big Stone	14903
1-8-07	B & N	11.37 Tons Disp	14904
1-8-07	M.H. Brown	493.81 Tons #57	
1-8-07	Burroughs & Chapin	578.65 Tons #57 118.54 Tons #57	14905

D H E C

PROMOTE PROTECT PROSPER

W. Marshall Taylor Jr., Acting Director

Promoting and protecting the health of the public and the environment

February 13, 2015

Mr. Ronald C. Gilkerson
Thompkins and Associates, Inc.
310 Piling Drive
Myrtle Beach, SC 29579

RE: **Response to February 10, 2015 E-mail for**
Thompkins and Associates, Inc.
Recovered Materials Processing Facility
310 Piling Drive, Myrtle Beach, SC 29579

Dear Mr. Gilkerson:

Our Office has received and reviewed your February 10, 2015 e-mail concerning the recent discussions with Horry County Zoning Board of Appeals related to the operation of a recovered materials processing facility for recyclables at the 310 Piling Drive, Myrtle Beach, SC 29579 site.

The Department's current position is the **Solid Waste Policy and Management Act of 1991 as amended, S.C. Code § 44-96-40** does not require a solid waste permit be issued for a facility engaged solely in the recycling, storage, processing, and resale or reuse of recovered materials. This is the same position that the Department would have applied to sites of this type in 2007.

The Department requires recovered materials processing facilities to maintain records that documents that the facility meets or exceeds the seventy-five percent by weight recovery rate requirement.

If you should have any questions, please contact Timothy M. Eleazer of my staff at (803) 898-1374.

Sincerely,

Joan F. Litton

Joan F. Litton, Manager
Mining and Solid Waste Permitting Section
Division of Mining and Solid Waste Management
Bureau of Land and Waste Management

JFL/TME/tme

cc: Marty Lindler, Manager-DHEC, Solid and Hazardous Waste Compliance Section
Katherine Mann / Sean Torrens, Pee Dee Region - BEHS Myrtle Beach
Bureau File No. 020736

D H E C

PROMOTE PROTECT PROSPER

W. Marshall Taylor Jr., Acting Director

Promoting and protecting the health of the public and the environment

March 4, 2015

Mr. Ronald C. Gilkerson
Thompkins and Associates, Inc.
310 Piling Drive
Myrtle Beach, SC 29579

RE: Response to February 26, 2015 E-mail for
Thompkins and Associates, Inc.
Recovered Materials Processing Facility
310 Piling Drive, Myrtle Beach, SC 29579

Dear Mr. Gilkerson:

Our Office has received and reviewed your February 26, 2015 e-mail concerning the recent discussions with Horry County Zoning Board of Appeals related to the operation of a recovered materials processing facility for recyclables at the 310 Piling Drive, Myrtle Beach, SC 29579 site.

To clarify our position, the Department does not restrict land use jurisdiction at a piece of property. Our primary purpose is to address proper solid waste disposal and promote responsible recycling, which protects the public from harm. It is not our intent to restrict other uses at a property. Mixed uses on the property have no bearing on the allowance to be able to perform C&D Recycling as long as the 75% by weight rule is maintained.

If you should have any questions, please contact Timothy M. Eleazer of my staff at (803) 898-1374.

Sincerely,

Jean F. Litton

Jean F. Litton, Manager
Mining and Solid Waste Permitting Section
Division of Mining and Solid Waste Management
Bureau of Land and Waste Management

JFL/TME/tmc

cc: Marty Lindler, Manager-DHEC, Solid and Hazardous Waste Compliance Section
Katherine Mann / Sean Torrens, Pee Dee Region - BEHS Myrtle Beach
Bureau File No. 020736

THOMPKINS & ASSOCIATES, INC.
310 PILING DRIVE
MYRTLE BEACH, SC 29577

Voice: 843-236-2030
Fax: 843-236-9540

Invoice

Invoice Number:
14749

Invoice Date:
Oct 30, 2006

Page:
1

Sold To:
CITY OF MYRTLE BEACH
ATTN: FREDDIE FINELLI & BRUCE Beachcraft
P.O. BOX 2468
MYRTLE BEACH, SC 29578

Ship To

Customer ID	Customer PO	Payment Terms	
CITYME		Net 30 Days	
Sales Rep	**Shipping Method**	**Ship Date**	**Due Date**
			11/29/06

Quantity	Item	Description	Unit Price	Extension
		DEMOLITION OF RIO GRANDE MOTEL ON N. 27TH ST 100%COMPLETE		50,000.00

Paid 1-12-07 Ck#14815

Subtotal	50,000.00
Sales Tax	
Total Invoice Amount	50,000.00
Payment/Credit Applied	
TOTAL	$50,000.00

Check/Credit Memo No.

1 1/2 % SERVICE CHARGE ON ALL BALANCES OVER 3

EXHIBIT G-5

ZONING BOARD OF APPEALS
APRIL 13, 2015

PRESENT WERE THE FOLLOWING BOARD MEMBERS:

BO IVES-CHAIRMAN
PAUL BENIK
MIKE FOWLER
WILLIAM LIVINGSTON
ANITA MORAN
ACE PARKER
JOHN BROWN
MARION SHAW
RENNIE MINCEY
JANET CARTER
CAROL COLEMAN
DAVID SCHWERD
ALICIA SHELLEY
WES COVINGTON
JERRY MABRY

COPY

HORRY COUNTY
2015 JUN 25 PM 1:00
MELANIE HUGGINS-WARD
CLERK OF COURT

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EXHIBIT H

MABRY COURT REPORTING
Verbatim Reporters

Jerry S. Mabry
1607 Magnolia Drive
N. Myrtle Beach, SC 29582
(843) 249-2831

MR. IVES: I BELIEVE WE HAVE SOME OLD BUSINESS.

MS. MINCEY: UNDER OLD BUSINESS, YOU HAVE CASE NUMBER 2015-01-008. THIS IS AN APPEAL THAT WAS DEFERRED FROM YOUR LAST MEETING.

MR. IVES: THANK YOU, MA'AM. IS THE APPLICANT PRESENT? MR. SHELTON. PLEASE GIVE US YOUR NAME AND ADDRESS FOR THE RECORD.

MR. SHELTON: OF COURSE. MY NAME IS ROB SHELTON WITH THE BELLAMY LAW FIRM, 1000 29TH AVENUE, MYRTLE BEACH, SOUTH CAROLINA.

MR. IVES: THANK YOU, MR. SHELTON. WE GAVE YOU TIME TO MAKE A MOTION TO SEE IF YOU WANTED TO MODIFY THAT APPLICATION. HOW WOULD YOU LIKE TO PRESENT YOUR APPLICATION AT THIS POINT?

MR. SHELTON: WELL, WE HAVE BEEN DEFERRED TWICE NOW AND A GREAT DEAL OF INFORMATION HAS BEEN REQUESTED OF US, WHICH I BELIEVE WE'VE PROVIDED EVERYTHING WE COULD. WE'VE SUGGESTED LANGUAGE FOR AN ORDER. WE HAVE SUGGESTED THAT IT BE BY CONSENT SUCH THAT THE ZBA WOULD HAVE THE ABILITY TO ALLOW US TO SUBMIT TO SOME CONDITIONS, WHICH IN A SPECIAL EXCEPTION OR A VARIANCE THE ZBA COULD IMPOSE,

BUT IN THIS SETTING WITH AN APPEAL, IT'S NOT CUSTOMARY. SO, WE SUGGESTED A CONSENT ORDER AND HAD SUGGESTED LANGUAGE TO MR. COVINGTON. WE TALKED WITH MR. COVINGTON JUST PRIOR TO THE MEETING AND HE SAID THAT HE WOULD PREFER TO GIVE THAT LANGUAGE TO THE BOARD INSTEAD OF ENTERING INTO A CONSENT ORDER. THAT'S FINE WITH US EITHER WAY. IT'S FINE WITH US, BUT THE BOTTOM LINE IS ... WE HAVE ALSO PRODUCED TO THE COUNTY ... WE JUST GOT AN AFFIDAVIT FROM ROLAND MEYER, WHO WAS THE ZONING ADMINISTRATOR WHEN THIS PARTICULAR BUSINESS LICENSE WAS ISSUED AND HIS AFFIDAVIT INDICATES THAT AT THAT TIME HE WOULD NOT HAVE HAD AN OBJECTION TO THE THOMPKINS HAVING RECEIVED C&D RECYCLED MATERIALS AND RECEIVING THOSE FROM OUTSIDE CONTRACTORS AT THEIR SITE, WHICH THEY'VE BEEN DOING AND THEN TODAY MY CLIENT INDICATED THAT HE HAS RECOVERED DOCUMENTS FROM AS EARLY AS 1997 AND 2003, MAKING IT OBVIOUS THAT THEY HAD RECEIVED AND HAVE BEEN PROCESSING THEM THERE FOR MANY, MANY YEARS. THEY HAVEN'T RETAINED THEIR RECORDS ALL THE WAY BACK TO 1981, BUT THEY DIDN'T KNOW THEY WOULD EVER BE CALLED FOR

AND, YOU KNOW, GET A LOAD TICKET FROM EVERY TRUCK THAT COMES IN. EVERY TRUCK THAT COMES IN STAYS OFF THE COUNTY ROADS AND THEIR MATERIALS STAY OUT OF THE COUNTY LANDFILLS. SO, THEY DIDN'T KNOW THEY WERE GONNA HAVE TO GO AND DIG ALL THIS STUFF UP. I'VE SHARED THEM WITH CAROL COLEMAN AND WES COVINGTON, ALL THE DOCUMENTS FROM 1997 AND 2003 SHOWING THEY HAVE BEEN TAKING LOADS OF OUTSIDE MATERIAL ALL ALONG. THEY COULDN'T HAVE SUPPORTED THIS BUSINESS IF THEY HAD NOT BEEN. SO, ALL WE'RE ASKING IS GIVE THEM WHAT THEY HAVE BEEN DOING WHEN THEIR LICENSE WAS ISSUED. THE ZONING ADMINISTRATOR WHO WAS IN CHARGE AT THE TIME INDICATED HE WOULDN'T HAVE A PROBLEM WITH IT AND THEY'RE CONTINUING TO DO THAT AND WANT TO CONTINUE TO DO. SO, THAT'S WHAT WE'VE ASKED YOU FOR. WE'VE BEEN HERE TWICE AND THE BOARD HAS JUSTIFIABLY ASKED US FOR CERTAIN INFORMATION AND I THINK WE HAVE PROVIDED EVERYTHING WE'VE BEEN ASKED FOR. AND AS TO ANY OF THE ISSUES WITH DHEC, WE'VE PROVIDED DHEC THOSE. WE'VE PROVIDED THREE DIFFERENT LETTERS FROM DHEC AND IT SUGGESTED TO THE ATTORNEY FOR THE ZONING

BOARD OF APPEALS, TO MR. COVINGTON, THAT WOULD INCLUDE LANGUAGE IN THAT WE ARE STILL GOING TO REMAIN RESPONSIBLE FOR ALL THE REGULATIONS AND LAWS OTHER THAN THE ONES WE'RE DISCUSSING IN THE ORDER. SO, IF DHEC, AT ANY POINT, HAS ANY ISSUE WITH ANYTHING THAT WE'RE DOING, WHICH THEY NEVER HAVE HAD, THEY CAN ENFORCE THEIR LAWS. SO, THE ZBA DOESN'T, I DON'T BELIEVE, NEED TO WORRY ABOUT COVERING DHEC ON THIS. DHEC HAS A VERY GOOD ENFORCEMENT ARM AND IF THEY FEEL THAT ANYBODY IS DOING SOMETHING WRONG, SOMETHING THEY'RE NOT PLEASED WITH, THEY CAN COME DOWN ON 'EM. THERE ARE PLENTY OF PEOPLE IN HORRY COUNTY WHO CAN TELL YOU THAT. THEY'RE NEVER HAD A PROBLEM WITH ANYTHING WE'VE BEEN DOING. SO, WE DON'T ALTER IT AS MUCH AS WE'VE PRODUCED INFORMATION FOR THE BOARD AND WE'RE TRYING TO ACCOMMODATE THEM AND HOPE THAT WE HAVE MADE IT CLEAR THAT PLENTY OF TESTIMONY ALREADY IN THE RECORD FROM THE LAST TWO MEETINGS AND DOCUMENTS IN THE RECORDS FROM THE LAST TWO MEETINGS BACK UP EVERYTHING I'VE SAID TO YOU THIS EVENING. SO, ESSENTIALLY THAT'S EXACTLY WHERE WE ARE. WE'RE HOPING WE'LL BE ABLE TO

USE THE INITIAL APPLICATION AND THE APPEALS SAYS TO CONTINUE TO DO WHAT WE BELIEVE WE WERE PERMITTED TO DO ALL ALONG AND WE'VE BEEN TAKING IN THE OUTSIDE LOADS SINCE 1981. SO, WE'VE NEVER BEEN ... WE'VE NEVER BEEN NOT TAKING IN THESE OUTSIDE MATERIALS AND IF WE'RE FORCED TO ONLY RECYCLE OUR OWN MATERIALS GOING FORWARD, WE'LL BE OUT OF THE BUSINESS. THAT'S HOW WE COME BEFORE YOU TONIGHT.

MR. IVES: THANK YOU VERY MUCH. IS THERE ANYTHING FURTHER YOU'D LIKE TO PRESENT TO THE BOARD BEFORE WE MAKE A DECISION ON IT?

MR. SHELTON: JUST THAT I'M AVAILABLE FOR QUESTIONS IF YOU HAVE THEM.

MR. IVES: DOES ANY MEMBER OF THE BOARD HAVE A QUESTION FOR MR. SHELTON? THANK YOU, SIR. MS. CARTER, IS SHE PRESENT? SHE'S NOT HERE. I WANTED TO GIVE HER AN OPPORTUNITY TO SAY ANYTHING SHE MIGHT WANT TO SAY. WE ASKED HER AT OUR LAST MEETING IF SHE WOULD LOOK AT ... IF THERE WAS A WAY WE COULD RENDER A DECISION AND AT THE SAME TIME PUT CONDITIONS ON THE CLARIFICATIONS TO THAT ORDER. AND SUBSE-QUENTLY, SHE HAS TOLD ME THAT SHE DOES NOT

FIND A WAY THAT WE COULD DO THAT. SO, WE DO HAVE A COMMUNICATION FROM MR. SHELTON THAT HE COULD ADD THAT HE THINKS HIS CLIENTS COULD LIVE TO. MR. COVINGTON HAS PREPARED A CONFIDENTIAL COMMUNICATION TO US WITH A STATEMENT THAT HE IS SUGGESTING THAT WE LOOK AT. I'M GOING TO CALL A BRIEF RECESS FOR AN EXECUTIVE SESSION SO OUR BOARD CAN MEET WITH OUR ATTORNEY TO HAVE A BRIEF DISCUSSION OFF THE RECORD. I WILL ASK THAT ALL PERSONS HERE PLEASE ADJOURN TO THE LOBBY AND THAT WILL GIVE OUR BOARD MEMBERS AN OPPORTUNITY TO TALK WITH OUR ATTORNEY. SO, IF YOU DON'T MIND ADJOURNING NOW FOR OUR EXECUTIVE SESSION. WE'LL ASK FOR A MOTION THAT WE GO INTO AN EXECUTIVE SESSION.

MR. BENIK: SO MOVED.

MR. IVES: IS THERE A SECOND?

MR. PARKER: SECOND.

MR. IVES: ALL IN FAVOR AYE.

ALL BOARD MEMBERS: AYE.

OFF THE RECORD

BACK ON THE RECORD

MR. IVES: DO I HAVE A MOTION THAT WE GO BACK INTO OUR REGULAR SESSION?

MR. BENIK: SO MOVED.
MR. IVES: DO I HAVE A SECOND?
MR. PARKER: SECOND.
MR. IVES: ANY DISCUSSION? ALL IN FAVOR AYE?
ALL BOARD MEMBERS: AYE.
MR. IVES: OPPOSED. WE ARE OUT OF EXECUTIVE SESSION. THANK YOU SO MUCH FOR ALLOWING US TO HAVE THAT TIME WITH OUR ATTORNEY TO COME TO A RESOLUTION ON THE MOTION THAT WE'LL BE MAKING THIS EVENING. I'LL READ IT TO YOU. THE MOTION SAYS THAT THE BOARD FINDS AN ACCEPTABLE ACCESSORY USE OF THE APPLICANT'S PROPERTY MAY BE ACCEPTANCE OF OUTSIDE COMMERCIAL LOADS OF RECOVERABLE MATERIALS AS A RECOVERED MATERIALS PROCESSING FACILITY AS DEFINED RESPECTIVELY BY SC CODE, SUBSECTION 44-96-40(34) AND (35). IS THERE A SECOND TO THAT MOTION?
MR. BROWN: SECOND.
MR. IVES: A MOTION HAS BEEN MADE AND SECONDED. I'LL BEGIN WITH MR. PARKER. YES, WOULD BE IN FAVOR OF THIS RESOLUTION AND NO WOULD BE TO DENY. I'M SORRY. MR. SHAW.
MR. SHAW: YES.
MR. PARKER: YES.

MR. FOWLER: YES.

MR. IVES: NO.

MS. MORANT: NO.

MR. SINGLETON: YES.

MR. BROWN: YES.

MR. BENIK: NO.

MR. IVES: THE MOTION WAS AFFIRMED. THE APPLICATION HAS BEEN RENDERED SUCH THAT THE ZONING ADMINISTRATOR'S DECISION HAS BEEN OVERTURNED. MS. CARTER, SHOULD THERE BE A FURTHER DECLARATION FOR THAT EFFECT?

MS. CARTER: NO.

MR. IVES: ACCEPTING THIS MOTION BASICALLY DETERMINES THAT THE DECISION HAS BEEN RENDERED. THIS OPTION HAS BEEN PLACED IN LIEU OF THIS SECTION AS DEFINED AS WHAT WAS READ OUT.

MR. SHELTON: THANK YOU.

MR. IVES: YOU'RE WELCOME, MR. SHELTON. GOOD LUCK.

STATE OF SOUTH CAROLINA

CERTIFICATE

COUNTY OF HORRY.

I, JERRY S. MABRY, A NOTARY PUBLIC AND VERBATIM REPORTER, IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE WITNESSES IN THIS HEARING WERE DULY SWORN PRIOR TO THE TAKING OF THIS AND THAT THE FOREGOING NINE (9) PAGES CONSTITUTE A TRUE AND ACCURATE TRANSCRIPT OF THE EVIDENCE AS GIVEN BY SAID WITNESSES AND AS TAKEN DOWN AND TRANSCRIBED BY ME. I FURTHER CERTIFY THAT THE PERSONS WERE PRESENT AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NOT OF COUNSEL FOR, NOR IN THE EMPLOY OF ANY OF THE PARTIES TO THIS ACTION, NOR AM I INTERESTED EITHER DIRECTLY OR INDIRECTLY IN THE RESULTS THEREOF.

I FURTHER CERTIFY THAT I AM NOT RELATED BY BLOOD OR MARRIAGE TO ANY OF THE PARTIES TO THIS ACTION.

THIS THE 22ND DAY OF JUNE, 2015.

JERRY S. MABRY, NOTARY PUBLIC
AND VERBATIM REPORTER

MY COMMISSION EXPIRES:
DECEMBER 3, 2022.

Jerry S. Mabry
1607 Magnolia Drive
N. Myrtle Beach, SC 29582
(843) 249-2831

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

BEFORE THE BOARD OF ZONING APPEALS
Case No.: 2015-01-008

In re: Dennis Thompkins - Bellamy) Law Firm, agent for DT LLC)

AFFIDAVIT OF ROLAND MEYER

PERSONALLY appeared before me, Roland Meyer, who first being duly sworn, deposes and states the following:

I, Roland Meyer, respect the decision of the current Horry County Zoning Administrator, Rennie Mincey, as I believe it is her responsibility to make these decisions. However, given all the information with regard to the history of this particular property, I would have not felt uncomfortable in 2007, as the then Zoning Administrator, in permitting C&D Recycling under the zoning ordinance requirements for this particular zoning district at that time, by Thompkins and Associates, whose principal use is C&D Recycling, to accept C&D materials from outside companies, had I been asked to do so.

FURTHER Affiant saith not.

Roland Meyer

SWORN to and subscribed before me
this 10th day of April, 2015

Nicole M Richardson (L.S.)
Notary Public for South Carolina
My Commission expires: 8/25/24

EXHIBIT H-1

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

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My Commission expires: 8/23/24

EXHIBIT J

HOWELL V. BELLAMY, JR.
EDWARD B. BOWERS, JR.*
BRADLEY D. KINO
M. EDWIN HINDS, JR.
DAVID B. MILLER**
WINFIELD JOHNSON, III
DOUGLAS M. ZAYICEK
MARTIN C. DAWSEY*
ROBERT S. SHELTON**

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

THE BELLAMY LAW FIRM

HOWELL V. BELLAMY, III
ASHLEY P. MORRISON
GEORGE W. REDMAN, III ***
BENJAMIN A. BARODDY ** ***
PHILLIP H. ALBEROTTI* ***
HAYES K. STANTON ** ***
KARA I. KEITH

RETIRED:
CLAUDE M. EPPS, JR.
JOHN E. COPELAND
DAVID R. GRAVELY
JILL F. GRIFFITH
JOHN K. RUTENBERG (1939-2012)

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April 22, 2015

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Emma Ruth Brittain, Esq.
Thomas & Brittain, P.A.
P.O. Box 1290
Myrtle Beach, SC 29578
Attorney for the Horry County Solid Waste Authority

Re: Dennis Thompkins
Our file no. 30175-92973

Dear Arrigo and Emma Ruth;

I am writing to inform you of a situation of which I have been made aware. As you know, the ZBA, at its most recent meeting, approved my clients' request overruling the decision of the Zoning Administrator. Sometime thereafter, upon information and belief, Solid Waste board member Pam Creech began contacting individual members of the ZBA. I am told her goal was to encourage members who voted in favor of our appeal to move at the next regularly scheduled ZBA meeting to reconsider the vote such that the board could then deny our appeal. Horry County has been aware since at least December that my clients have pursued this appeal in order to complete a transaction under which a new investor

EXHIBIT K

would invest money into this company. Accordingly, at the very least, I believe Ms. Creech's actions, if proven as described herein, to be clear tortious interference with a contractual relationship, and her alleged communications with the ZBA member meets the standard for civil conspiracy. Inasmuch as Solid Waste is in direct competition with my client, there could in fact be much more egregious charges.

At any rate, I am now told Ms. Creech has successfully convinced one of the ZBA members to move to reconsider his vote at the next meeting. I am also informed she succeeded in this endeavor by telling that board member my client intends to receive concrete from North Carolina at this facility. Mark my words, my client has never taken materials from outside South Carolina and never will. This is a convenience facility, not a landfill. There is no viable economic model that would suggest taking materials from another state would be profitable or well-advised. My client has no intention to ever receive materials from outside South Carolina. At any rate, I am writing you to put Horry County and the Solid Waste Authority on notice that I believe these actions are highly inappropriate, if not illegal, and my client has instructed me to take all possible legal action to protect this long-established family business.

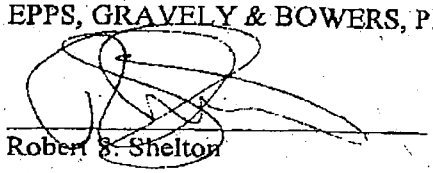
Additionally, I have today received an email from Janet Carter, the Planning Director and Attorney for the I&R Committee, indicating the chair of the ZBA has informed her a ZBA board member indeed intends to move to reconsider his vote at the May 11, 2015 meeting of ZBA. I am, at the very least, curious whether the ZBA has held a publically noticed meeting satisfying the Freedom of Information Act requirements for such a meeting, and whether minutes were taken at that meeting, and whether the public was invited to attend. I am at a loss to determine how the chair of the committee would know a member possesses such an intent had there been no meeting.

Finally, I note to you, as I have in person, this facility has never received one complaint. DHEC has never had a problem with this facility. The Department of Agriculture, which inspects my clients' scales, has never had a problem with this facility. And Horry County has never received any complaints about this facility. For a board member appointed by elected officials of Horry County to take actions as have been described to me against a family business that has operated since 1981 without complaint is at the very least reprehensible. Horry County should be working to assist long-standing, well operating businesses within the county, not to try and drive this family-owned enterprise out of business. I believe this is highly improper, and my client has strongly indicated an unwillingness to merely roll-over and be treated in this manner. Of course please do not hesitate to contact me should you have any questions.

With kindest personal regards, I remain

Yours very truly,

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



Robert S. Shelton

RSS:

ZONING BOARD OF APPEALS

MAY 11, 2015

PRESENT WERE THE FOLLOWING BOARD MEMBERS:

BO IVES-CHAIRMAN
PAUL BENIK
MIKE FOWLER
ALAN SIPE
ANITA MORAN
JOHN BROWN
MARION SHAW
RENNIE MINCEY
JANET CARTER
CAROL COLEMAN
DAVID SCHWERD
ALICIA SHELLEY
WES COVINGTON
JERRY MABRY

COPY
HORRY COUNTY
2015 JUN 25 PM 1:
MELANIE HUGGINS-HARD
CLERK OF COURT

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EXHIBIT L

MABRY COURT REPORTING
Verbatim Reporters

Jerry S. Mabry
1607 Magnolia Drive
N. Myrtle Beach, SC 29582

Discussion by the Board Members

DEBORAH BEECHAM ..... PAGE 7
LINDA DENISON ..... PAGE 10
FRED GRISSETT ..... PAGE 12
JOHN EASTER, JR. ..... PAGE 14
SIBYL ANDERSON ..... PAGE 16
HAROLD BLYTHE ..... PAGE 19

MR. BROWN: I'D LIKE TO MAKE A MOTION THAT WE RECONSIDER CASE NUMBER 2015-01-008, BELLAMY LAW FIRM, AGENT FOR DENNIS THOMPKINS.

MR. IVES: MR. BROWN HAS MADE A MOTION THAT WE RECONSIDER A PAST ACTION TAKEN AT OUR LAST MEETING. WHAT IT IS IS TO RESET THE POINT THAT WE HAD TAKEN ON A VOTE IN THE MATTER AS IT PREVAILS. IS THERE A SECOND FOR THE MOTION OF RECONSIDERATION?

MR. BENIK: SECOND.

MR. IVES: MOTION HAS BEEN MADE AND SECONDED. AGAIN, MR. BENIK, STARTING WITH YOU, A VOTE FOR THE MOTION OF RECONSIDERATION.

MR. BENIK: YES.

MS. MORANT: YES.

MR. IVES: YES.

MR. SIPE: YES.

MR. FOWLER: YES.
MR. SHAW: YES.
MR. IVES: WELCOME. AGAIN, THE MOTION HAS BEEN TAKEN AND IT'S BEEN AFFIRMED. I WILL ASK THE APPLICANT IF HE'LL COME FORWARD PLEASE. MR. SHELTON, THANK YOU FOR COMING. I DID ASK MS. CARTER TO CALL YOU ONCE I WAS APPRISED OF THE POSSIBILITY THAT WE WOULD RECONSIDER THIS CASE SO THAT YOU COULD BE HERE THIS EVENING AND I WANT TO GIVE YOU THE OPPORTUNITY TO GIVE US ANY ADDITIONAL STATEMENTS YOU WOULD LIKE TO ON THIS CASE.
MR. SHELTON: I HAVE A QUESTION FOR YOU. ARE YOU GOING TO SCHEDULE THIS AND DO PUBLIC NOTICE FOR THE NEXT MEETING?
MR. IVES: WE'RE GOING TO DISCUSS THAT WITH YOU AND WITH THOSE WHO ARE IN ATTENDANCE OR HAVE AN INTEREST IN THIS CASE BEFORE WE MAKE THAT DETERMINATION. SO, THE MOTION HAS BEEN MADE TO RECONSIDER AND WE HAVEN'T DISCUSSED TIMING YET. SO, THE FLOOR IS YOURS TO MAKE ANY ADDITIONAL COMMENTS THAT YOU WISH.
MR. SHELTON: I WOULD JUST LIKE TO SAY, WE HAVE BEEN BEFORE THIS BOARD THREE TIMES, WE HAVE, THIS IS THE FOURTH TIME. WE'VE

PROVIDED, I BELIEVE, THIS BOARD WITH EVERY-
THING THAT'S BEEN ASKED OF US, INCLUDING LIV
TESTIMONY FROM PEOPLE WHO CONFIRM THAT WE
HAVE IN FACT BEEN IN THIS BUSINESS, IN THIS
LOCATION SINCE 1981. I READ IN THE NEWSPAPE
LAST WEEK IN A COMMENT ABOUT THERE BEING SOM
NEW BUSINESS ON THIS SAME ROAD AND THAT WOULI
BE COMPETITION WITH THE LANDFILL AND I'VE
HEARD A LOT OF SCUTTLEBUTT ABOUT PEOPLE
TALKING TO PEOPLE ON DIFFERENT BOARDS AND
TRYING TO REVERSE THE DECISION OF THIS BOARD.
I DON'T THINK THAT'S APPROPRIATE. I ASSUME
THAT'S WHY YOU HAD A MEETING WITH THE BOARD'S
ATTORNEYS BEFORE THIS MEETING. I WROTE THE
ATTORNEYS ABOUT THAT. I THINK THAT WOULD BE
HIGHLY INAPPROPRIATE AT THIS JUNCTURE OF THIS
BOARD TO NOW SHUT DOWN THOMPKINS CONSTRUCTION
AFTER HAVING BEEN THERE SINCE 1981 AND HAS
WORKED SO DILIGENTLY TO PROVE THAT TO THIS
BOARD OVER THE COURSE OF TWO DEFERRALS FOR
THE MEETINGS OF THIS BOARD. THERE IS A
CONTRACT FOR INVESTMENT THAT THIS BOARD AND
THIS COUNTY IS AWARE OF AND THIS IS INTER-
FERING WITH IT DIRECTLY AND A VERY SERIOUS
TWIST. THIS IS A FAMILY BUSINESS AND THIS IS

A DISADVANTAGE AND THEY'RE ABOUT TO BE SHUT DOWN IF THIS BOARD'S DECISION IS REVERSED. SO, IF THERE'S ANYTHING MORE FROM MR. THOMPKINS OR IF YOU REQUIRE ANYTHING ME, I'L BE HAPPY TO PROVIDE IT TO YOU AS BEST WE CAN BUT I THINK WE HAVE RESPONDED TO EVERYTHING THAT HAS BEEN ASKED OF US OF THIS BOARD.

MR. IVES: IF I MIGHT, FOR THE BENEFIT OF THOSE WHO WEREN'T HERE FOR OUR PREVIOUS MEETINGS TO GIVE A SUMMARY OF WHAT OUR STATUS IS. ON BEHALF OF THE APPLICANT, YOU'RE MAKING THE CASE THAT THE OPERATION HAS BEEN IN EXISTENCE PRIOR TO ZONING AND WHAT YOU'RE ASKING FOR IS TO BE ABLE TO CONTINUE TO DO THE BUSINESS AS IT WAS OPERATING PRIOR TO 2007. AN APPLICATION WAS MADE TO THE ZONING ADMINISTRATOR TO MAKE A DECISION ABOUT THE OPERATION BECAUSE THE APPLICANT WAS CONSIDERING TAKING ON PARTNERS. AND HER DETERMINATION WAS THAT THE C&D WASTE AND CONCRETE TRANSFER USE ON THIS SITE IS APPROVED ON AN ACCESSORY USE TO A CONSTRUC-TION AND HEAVY EQUIPMENT BUSINESS THAT WAS APPROVED ON THE SITE PRIOR TO ZONING ON THE PROPERTY AND IS NOT PERMITTED TO RECEIVE AND

PROCESS MATERIALS FROM OTHER CONTRACTORS. AND THAT WAS BASICALLY THE DECISION THAT'S BEING APPEALED ON. HAVE I SUMMARIZED IT TO YOUR SATISFACTION?

MR. SHELTON: YOU HAVE.

MR. IVES: SO THAT EVERYONE IS AWARE OF WHAT WE DISCUSSED PREVIOUSLY AND WHAT WAS DETERMINED AT OUR LAST MEETING, WE READ A STATEMENT THAT BASICALLY STATES, "THAT THE BOARD FINDS AN ACCEPTABLE ACCESSORY USE OF THE APPLICANT'S PROPERTY MAY BE THE ACCEPTANCE OF OUTSIDE COMMERCIAL LOADS OF RECOVERED MATERIALS AS A RECOVERY PROCESSING FACILITY AS DEFINED RESPECTIVELY BY SC CODES, SUBSECTION 44-96-40(34) AND (35)." I DO HAVE A QUESTION FOR YOU. WHAT IF THAT WERE MODIFIED TO INCLUDE DEMONSTRATION OF COMPLIANCE BY SUBMITTING A REPORT TO THE ZBA AT LEAST ANNUALLY OF SATISFACTION OF THAT CODE?

MR. SHELTON: THAT WOULD BE FINE, SIR. I WOULD RECOMMEND THAT TO MY CLIENTS. I HAVEN'T DISCUSSED THAT WITH THEM BUT I'D BE GLAD TO.

MR. IVES: SO YOU WOULD NOT HAVE A PROBLEM WITH THAT BEING ADDED TO THE LANGUAGE IF A

BOARD MEMBER WERE ASK FOR AN AMENDMENT?

MR. SHELTON: I WOULD NOT. I WOULD NEED TO CONFER WITH MY CLIENTS.

MR. IVES: DO YOU HAVE ANYTHING ELSE THAT YOU'D LIKE US TO BE AWARE OF?

MR. SHELTON: I'D JUST LIKE TO POINT OUT THAT YOU'RE AWARE OF THE AFFIDAVIT OF THE ZONING ADMINISTRATOR AT THE TIME THIS PERMIT WAS ISSUED AND HIS AFFIDAVIT IS SWORN UNDER OATH INDICATING THAT HE WOULD NOT OPPOSE OUTSIDE LOADS UNDER THAT PERMIT THAT HE ISSUED. (INAUDIBLE).

MR. IVES: ANYTHING ELSE YOU'RE LIKE US TO KNOW?

MR. SHELTON: NO.

MR. IVES: THANK YOU, MR. SHELTON. IS THERE ANYONE ELSE HERE PRESENT WHO WOULD LIKE TO SPEAK EITHER FOR OR AGAINST THIS APPLICATION? NOT HEARING ANYONE, WE'LL CLOSE PUBLIC COMMENT. IF YOU'D LIKE TO SPEAK, MA'AM, IF YOU WOULD COME FORWARD.

DEBORAH BEECHAM, HAVING BEEN DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q WOULD YOU GIVE YOUR NAME AND ADDRESS FOR THE

RECORD?

A DEBORAH BEECHAM (INAUDIBLE). I'M KIND OF LOST IN ALL THIS. ALL I KNOW I'VE BEEN TOLD THAT A TRASH FACILITY IS GOING UP. OUR CHURCH IS OVER THERE AND OUR SCHOOL IS OVER THERE. THEY'RE STARTING TO BUILD THE AREA UP. WE DON'T WANT THAT. WE JUST PLAIN DON'T WANT IT.

Q WHAT CAN YOU TELL US ABOUT WHAT YOU'VE EXPERIENCED CURRENTLY FROM THAT SITE?

A WELL, THERE'S TRASH OVER THERE NOW. I'M TALKING ABOUT THE NOISE. LIKE I SAY, WE HAVE A CHURCH THERE. THERE'S TWO CHURCHES THERE AND THERE'S A SCHOOL THERE. THERE ARE FAMILIES OVER THERE. THERE ARE CHILDREN OVER THERE AND WE DON'T WANT THE NOISE AND THE TRUCKS. WE DON'T WANT THAT.

MR. IVES: ARE THERE ANY QUESTIONS FROM THE BOARD OF MS. BEECHAM?

MR. BROWN: YES, I JUST HAVE ONE. HOW LONG HAS THE BUSINESS BEEN GOING ON CONSISTENTLY SINCE 1981 OR HAS THERE BEEN A LAPSE WHEN NOTHING HAS BEEN GOING ON THERE?

A I WOULD SAY MAYBE TWO OR THREE YEARS, BUT I RECALL A LOT OF NOISE WHEN THAT OTHER PLACE

WAS OVER THERE, WHATEVER IT WAS. THE SHAKIN NOISE, THE SITE DUST. THAT'S IRRITATING. LIKE I SAY, WE HAVE FAMILY OVER THERE AND TH CHURCH.

MR. BROWN: WHAT ABOUT THIS BUSINESS, HAS IT BEEN OPERATING?

A I DON'T THINK THERE'S ANY BUSINESS OVER THERE. I MEAN, THE LAST TIME I WAS OVER THERE IN THAT AREA, THAT LOT IS CLEANED OFF.

MR. BROWN: HOW LONG HAS IT BEEN CLEANED OFF? THAT'S WHAT I'M ASKING?

A SEE, THAT'S WHAT I DON'T KNOW. I WAS OVER THERE ABOUT A MONTH AGO FOR A COOKOUT AND THAT'S WHEN I NOTICED THAT IT WAS GONE. I KNEW I GUESS IT WAS MR. THOMPKINS OR THOMPSON, I KNEW HIM. HE GAVE ME SOME STUFF TO DO A ROAD WITH AND I DIDN'T REALLY KNOW HE WAS SICK AND GONE. I DIDN'T GET OVER THERE IN THAT OTHER PART. I'M IN CHURCH OVER THERE. IT'S GOT FAMILIES OVER THERE. WE HAVE GATHERINGS OVER THERE AT TIMES. I DIDN'T KNOW 'TIL ABOUT A MONTH AGO.

MR. IVES: THANK YOU, MS. BEECHAM. ANYONE ELSE HAVE A QUESTION? COME FORWARD, MA'AM.

LINDA G. DENISON, HAVING BEEN DULY SWORN TESTIFIE AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q PLEASE GIVE US YOUR NAME AND ADDRESS FOR THE RECORD.

A MY NAME IS LINDA G. DENISON. I LIVE AT (INAUDIBLE) NEAR RON MCNAIR BOULEVARD. WHEN I FIRST MOVED OUT THERE TEN YEARS AGO, IT WA A NICE QUIET COMMUNITY. WHEN THE CEMENT PLANT WAS THERE, IT KEPT US UP ALL NIGHT 'CAUSE THEY ROLL ALL NIGHT, THE TRUCKS DID. LIKE, YOU WANT ME TO JUST SAY IT? WE GOT A CHURCH. WE GOT OUR CHILDREN. WE GOT OUR ANIMALS. ALL THE TRASH THEY GONNA BRING OUT THERE, THE ANIMALS WILL TEAR IT UP. (INAUDIBLE). WE GOT A NICE COMMUNITY. RIDE BICYCLES AND ENJOY THE COMMUNITY. I DON'T THINK WE NEED THAT TRASH OUT THERE.

MR. IVES: THANK YOU, MS. DENISON. DOES ANYONE ON THE BOARD HAVE A QUESTION?

MR. SHAW: HOW DID YOU KNOW TO COME TO THIS MEETING TONIGHT?

A SOMEONE CALLED ME AND TOLD ME ABOUT THE MEETING AND I RUSHED OVER HERE TO THE MEETING. I DIDN'T KNOW ANYTHING ABOUT IT.

MR. SHAW: AND NOBODY TOLD YOU? JUST BY A PHONE CALL?

A BY A PHONE CALL.

MR. SIPE: I HAVE A QUESTION YOU. YOU AND THE OTHER LADY SAID THAT YOU'VE HEARD THAT TRASH IS GONNA COME OUT THERE AS IF THIS WAS GOING TO BE A LANDFILL. CAN YOU EXPOUND A LITTLE BIT ON EXACTLY WHAT IT IS THAT YOU THINK IS COMING TO THAT PROPERTY?

A I DON'T KNOW. I WOULD LIKE TO KNOW IF IT IS A LANDFILL `CAUSE I WENT TO A LANDFILL ON INTERNATIONAL DRIVE TO TAKE SOME FURNITURE ONE TIME. THAT'S LIKE ANY OTHER ... I MEAN, I STILL DON'T WANT IT OUT THERE. WE GOT TRASH. PEOPLE COME PICK UP OUR TRASH EVERY TUESDAY. SO, I DON'T SEE WHY WE NEED DUMPSTERS, LANDFILL OUT THERE. WE DEAL WITH THE (INAUDIBLE). I DEAL WITH ALL KIND OF STUFF ALL NIGHT LONG. TELL THE TRUTH.

MR. SIPE: SO, THE PROPERTY IN QUESTION, HAS THERE NOT BEEN ANY OPERATIONS WITH TRUCKS COMING AND GOING ...

A WHEN THE CEMENT PLANT WAS THERE BEFORE THEY CLOSED DOWN. THEY WAS HAULING CEMENT AT NIGHT.

MR. SIPE: WHEN DID THEY CLOSE DOWN?

A I WANT TO SAY MAYBE THREE, FOUR YEARS AGO. I'M NOT QUITE SURE.

MR. SIPE: AND SO, ESSENTIALLY THERE'S BEEN N(ACTIVITY OUT THERE SINCE THAT TIME?

A NO ACTIVITY EXCEPT SCHOOL. LIKE I SAY, THEY GOT THE SCHOOL OUT THERE WHEN I COME AND VISIT AND I'M THE TYPE PERSON THAT I GET UP ALL TIME OF NIGHT, ALL TIME OF NIGHT. I DON'T APPROVE ANYTHING HE WANT TO PUT OUT THERE. THEY CALL IN SECURITY GUARD. I'M GONNA CALL THE POLICE.

MR. SIPE: SO, THAT'S A GOOD THING.

A I SEE AT THE SCHOOL HOUSE (INAUDIBLE) AT THE SCHOOL HOUSE. I CALL THE POLICE `CAUSE I DON'T LIKE (INAUDIBLE) `CAUSE I LIKE A NICE COMMUNITY THAT I CAN LIVE IN AND ENJOY.

MR. SIPE: THANK YOU.

MR. IVES: ANY OTHER QUESTIONS OF MS. DENISON? THANK YOU, MA'AM. IS THERE ANYONE ELSE WHO WANTS TO SPEAK FOR OR AGAINST THE APPLICATION? IF YOU'LL PLEASE COME FORWARD, SIR.

FRED GRISSETT, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.
A FRED GRISSETT, 337 GRISSETT BOULEVARD.
Q MR. GRISSETT, WHAT WOULD YOU LIKE US TO KNOW?
A I BEEN TRYING TO FIGURE OUT WHAT KIND OF TRASH THEY TALKING ABOUT PUTTING OUT THERE. THIS RIGHT ABOVE MY HOUSE. THEY USED TO BE SOME GAS TANKS THERE. THEY MOVED `EM OUT `CAUSE PEOPLE COME IN THERE ALL THE TIME (INAUDIBLE). THEY STOPPED PEOPLE FROM COMING IN THERE AND DUMPING TO CLEAN IT UP. JUST FOR I COME INTO THE CHURCH, THEY ALL (INAUDIBLE). IT'S BEEN THERE TWO YEARS. SOMEBODY DUMPED A TRUCK LOAD OF (INAUDIBLE) ON THE SIDE OF THE ROAD AND IT STILL THERE. WE KEEP THAT CLEAN WHAT'S IN THERE NOW. (INAUDIBLE)..... AND THEY KNOW RIGHT THEN THEY DOING THAT. (INAUDIBLE) AND WE NEED HELP. I'M A DEACON IN THE CHURCH AND THEY (INAUDIBLE) AND THE PEOPLE OUT THERE (INAUDIBLE) WHAT CAN I DO? DO WE PAY TAX? WE NEED HELP AND WE DON'T NEED NO MORE TRASH. THAT'S WHAT I'M SAYING.
MR. IVES: DOES ANYONE HAVE ANY QUESTIONS?
MR. SHAW: YES, SIR. (INAUDIBLE).

A I WAS (INAUDIBLE) BUT I DIDN'T GET A LETTER.

MR. SHAW: THANK YOU. OKAY, SIR.

MR. IVES: WE DID NOT ADVERTISE THAT WE WERE GOING TO TAKE THIS UP TONIGHT. THAT'S WHY YOU DIDN'T RECEIVE ANY NOTICE LIKE YOU USUALLY DO. WE'LL BE TALKING ABOUT THAT TOO. THANK YOU, SIR, FOR YOUR TESTIMONY. WOULD ANYONE ELSE LIKE TO SPEAK FOR OR AGAINST? COME FORWARD PLEASE.

JOHN EASTER, JR., HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES:

Q WOULD YOU GIVE YOUR NAME AND ADDRESS FOR THE RECORD?

A JOHN EASTER, JR., 127 CARTER CIRCLE. WE WORRIED ABOUT THE TRASH BUT THAT'S NOT ALL WE WORRYING 'BOUT. I PLAN ON BUILDING MY DREAM HOME OUT THERE. DO YOU THINK I WANT THAT TRASH OUT THERE. I DON'T WANT TO SMELL THAT TRASH ALL NIGHT LONG. YOU BRING TRASH OUT, BUT WHEN YOU BRING THAT TRASH, YOU GONNA BRING THE SCENT. WHICH ONE OF THEM WANT TO BUILD THAT CYCLE OUT THERE DON'T LIVE CLOSE TO IT. NARY A ONE OF THEM. THEY AIN'T GONNA WORRY ABOUT IT. THEY GONNA RIDE OFF, BRING

THAT TRASH OUT THERE AND THEY GONNA LEAVE AN GET THEIR MONEY. SO THAT'S WHY I'M AGAINST IT. I WANT TO BUILD MY DREAM HOME OUT THERE AND I DON'T WANT THAT TRASH OUT THERE. SMEL IT ALL NIGHT LONG.

MR. IVES: THANK YOU, SIR. MR. SIPE.

MR. SIPE: CAN YOU PUT THE SLIDE BACK UP THERE. SO YOU LIVE SOMEWHERE IN THAT VICINITY OF THE PROPERTY WE SEE UP THERE?

A (INAUDIBLE). (INAUDIBLE). IT LESS THAN A HALF A MILE FROM THERE.

MR. SIPE: SO, YOU'RE FAMILIAR WITH THE PROPERTY?

A OH, YEAH. I BEEN THERE SINCE 1980.

MR. SIPE: SO, YOU SEE DAILY WHAT GOES ON OUT THERE ON THAT PROPERTY?

A YES, SIR.

MR. SIPE: ARE TRUCKS COMING AND GOING FROM THAT PROPERTY DAILY?

A NO, SIR.

MR. SIPE: HOW LONG HAS IT BEEN SINCE THAT TYPE OF ACTIVITY TOOK PLACE?

A I KNOW PEOPLE THAT USED TO WORK FOR MR. THOMPSON `CAUSE (INAUDIBLE) FOR A LIVING AND I AIN'T SEEN NO REAL ACTIVITY IN THE LAST

FOUR OR FIVE YEARS OUT THERE.

MR. SIPE: THANK YOU VERY MUCH.

A THANK YOU.

MR. IVES: ANYONE LIKE TO SPEAK FOR OR AGAINST? COME ON UP, MA'AM.

SIBYL ANDERSON, HAVING BEEN DULY SWORN TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES: ....

Q STATE YOUR NAME AND ADDRESS FOR THE RECORD PLEASE.

A SIBYL ANDERSON, 321 CRYSTAL MCCALLY STREET.

Q WHAT WOULD YOU LIKE US TO KNOW?

A I AM SO AGAINST THE TRASH DUMPSTERS, LANDFILL OR WHATEVER IT MAY BE, THEY PLAN ON PUTTING OUT THERE BECAUSE RIGHT NOW THE DUMP TRUCKS USED TO COME IN RIGHT IN OUR BACK YARD. SO, YOU WANT TO PUT DUMPSTERS, USE IT FOR A TRASH BIN OR LANDFILL OR WHATEVER IT MAY BE ... I MEAN, LIKE IN THE SUMMER TIME IT'S GONNA BE AN AWFUL SMELL. RIGHT NOW WE DON'T HAVE ANIMALS OUT THERE. YOU GONNA HAVE PEOPLE THAT JUST COME, AND LIKE MR. GRISSETT SAID, THEY DUMP TRASH ON THE SIDE AND ALL TYPES ANIMALS COMES OUT AND COME IN THE YARD. I JUST DON'T WANT IT. MY FATHER IS EIGHTY-FIVE

YEARS OLD AND OUR NEIGHBOR, SHE'S IN HER NINETIES, ALMOST A HUNDRED YEARS OLD. I MEAN, WE JUST DON'T WANT IT. I WAS BORN AND RAISED THERE ALL MY LIFE AND WE'VE LIVED OFF TO OURSELVES. NO, WE'RE NOT ... WE DON'T HAVE MILLION DOLLAR HOMES. WE'RE NOT LIKE THOSE IN PLANTATION POINT BUT WHAT WE HAVE IS CHERISHED. WE DON'T WANT IT OUT THERE.

Q HOME SWEET HOME IS HOME SWEET HOME, ISN'T IT?

A RIGHT. EXACTLY RIGHT.

MR. IVES: IS THERE ANYONE WHO WOULD LIKE TO ASK A QUESTION. MR. SIPE.

MR. SIPE: YES, MA'AM. I WANT TO ASK YOU THE SAME QUESTION I ASKED THE GENTLEMAN WHO WAS JUST UP HERE. OBVIOUSLY YOU LIVE VERY CLOSE TO THIS PROPERTY THAT IS ON SPRING?

A YES, SIR.

MR. SIPE: AND YOU'VE OBSERVED THE ACTIVITY THAT'S TAKEN PLACE ON THAT PROPERTY PROBABLY ON A DAILY BASIS. WHAT TYPE OF ACTIVITY HAS BEEN TAKING PLACE ON THE PROPERTY IN RECENT TIMES?

A WELL, I HADN'T SEEN OR HEARD ANYTHING FOR THE PAST COUPLE OF YEARS SINCE THE DUMP TRUCKS (INAUDIBLE) WAS BACK THERE. THE DUST WAS AN

ISSUE AND THEY WOULD OPERATE AT NIGHT WITH LOUD NOISES LIKE MS. DENISON SAID. WELL, IT'S RIGHT NEAR MY ROOM AND MY MOTHER, SHE PASSED TWO YEARS AGO, (INAUDIBLE) I'M PRETTY SURE YOU FOLKS KNOW, AND LIKE I SAID, MY FATHER, HE'S EIGHTY-FIVE YEARS OLD AND IT USED TO KEEP HER UP AT NIGHT AND LIKE I SAID, TO EACH HIS OWN, BUT IT'S LIKE, YOU KNOW, TO KEEP HIS FAMILY BUSINESS, BUT WHY DOES IT HAVE TO BE HERE? I'M JUST AGAINST IT.

MR. SIPE: SO, YOU HAVEN'T OBSERVED ANY OF THE DUST AND TRUCKS AND THINGS ASSOCIATED WITH ACTIVITY OUT THERE IN RECENT YEARS, IS THAT CORRECT?

A THAT'S CORRECT.

MR. SIPE: THANK YOU VERY MUCH.

MR. IVES: DOES ANYONE ELSE HAVE ANY QUESTIONS? ONE MORE QUESTION, MS. ANDERSON.

MR. SHAW: THIS WASN'T SCHEDULED TO BE ON THE AGENDA TONIGHT. HOW DID YOU KNOW TO BE HERE?

A MY COUSIN, DEBORAH.

MR. SHAW: CALLED YOU?

A NO. SHE CAME BY THE HOUSE.

MR. SHAW: DID SHE COME BY TODAY?

A NO. THAT WAS SUNDAY AFTERNOON.

MR. IVES: THANK YOU VERY MUCH. IF YOU WOULD COME FORWARD, SIR.

HAROLD BLYTHE, HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY MR. IVES?

Q GIVE US YOUR NAME AND ADDRESS FOR THE RECORD.

A HAROLD BLYTHE, 452 RON MCNAIR BOULEVARD.

Q WHAT WOULD YOU LIKE US TO KNOW, SIR?

A I WOULD LIKE TO KNOW WHAT THIS SUBSCRIPTION IS ABOUT.

Q THE APPLICANT HAS TOLD US THAT THEY'D LIKE TO RESTORE THE ACTIVITY THEY'VE BEEN DOING SINCE 2007, WHICH IS BASICALLY THEY WORK AS A DEMOLITION CONTRACTOR AND THEY BROUGHT MATERIALS TO THAT SITE AND PULVERIZED IT THERE AND THEN SHIP IT OFF. THAT'S WHAT WE UNDERSTAND THEY WISH TO CONTINUE DOING. WHAT THEY'VE ASKED US IS IF THEY CAN HAVE CONTRACTORS OTHER THAN THEMSELVES TO PULVERIZE AND SHIP THE MATERIAL OFF OR SHOULD IT JUST BE LIMITED TO LOADS THEY BRING IN FROM THEIR OWN CONTRACTS.

A ARE WE TALKING ABOUT TRASH OR ARE WE TALKING ABOUT ...

Q C&D IS CONSTRUCTION DEMOLITION. WE'RE

TALKING ABOUT CONCRETE. WE'RE TALKING ABOUT MATERIALS THAT WOULD BE COMING OFF CONSTRUCTION SITES WHERE THEY'RE DEMOLISHING STRUCTURES.

A YEAH, BUT ARE WE TALKING ABOUT TRASH ITSELF OR ARE WE TALKING ABOUT CONCRETE OR DEMOLITION?

Q THE RECOVERED MATERIALS PROCESSING FACILITY THAT WE'VE TALKED ABOUT IN THE LANGUAGE, IT WOULD HAVE THE OPPORTUNITY TO PROCESS SEVENTY-FIVE PERCENT OF THE MATERIALS RECYCABLES AND TAKE IT OFF SITE AFTER IT'S BEEN PULVERIZED. SO, WHAT THEY WANT TO BE ABLE TO DO ON THAT SITE IS TO BRING MATERIALS IN THERE AND CRUSH THEM.

A OKAY. I'M UNDERSTANDING. TRASH IS TRASH AND I HAVE THE UNDERSTANDING THAT DEMOLITION (INAUDIBLE) OR WHATEVER IT'S DEMOLITION. WHEN I CONSIDER TRASH THAT THEY COLLECTED AT THE CITY DUMP. THAT'S WHAT I'M CONSIDERING.

Q THE SOLID WASTE AUTHORITY COLLECTS BOTH MUNICIPAL SOLID WASTE, WHICH IS THE TRASH YOU PUT OUT ON THE CURB AS WELL AS CONSTRUCTION DEMOLITION DEBRIS. THEY TAKE BOTH AND BURY THEM IN THE LANDFILL.

A THAT'S WHAT I'M TRYING TO FIND OUT ALL ALONG CONSTRUCTION DEMOLITION OR TRASH.

Q THIS FACILITY SUPPOSEDLY, THE OPERATOR IS TELLING US, IS THAT HE'S BEEN IN CONSTRUCTION DEMOLITION BUSINESS AND HE WISHES TO BE ABLE TO BRING HIS LOADS, TAKE `EM AND PULVERIZE IT AND HE ALSO WISHES TO TAKE LOADS OF OTHER DEMOLITION CONTRACTORS AND THEY'RE REQUIRED BY RECOVERED MATERIALS PROCESSING LAW THAT SEVENTY-FIVE PERCENT IS TO BE RECYCLED. THEY WOULD USE THE PULVERIZED MATERIALS AND USE IT FOR ROADBED MATERIALS OR OTHER CONSTRUCTION ACTIVITIES.

A SO, DISREGARDING THE TRASH, (INAUDIBLE). WE ...

Q HE'S NOT INCLUDING MUNICIPAL SOLID WASTE IN HIS REQUEST.

A THAT'S WHAT I'M TRYING TO FIND. IS THAT WHAT HE'S ...

Q THIS IS NOT COMMON TRASH. THIS IS CONSTRUCTION AND DEMOLITION DEBRIS.

A THAT'S ALL I WANTED.

Q THANK YOU, SIR. WE APPRECIATE YOUR TESTIMONY.

MR. IVES: DOES ANYONE HAVE A QUESTION FOR US?

IS THERE ANYONE ELSE WHO WISHES TO SPEAK FOR OR AGAINST THIS APPLICATION? MR. SHELTON, I'LL ASK YOU TO COME UP AGAIN IF YOU WOULD PLEASE. A COUPLE OF THINGS CAME OUT IN THE TESTIMONY FROM THESE CITIZENS WHO LIVE CLOSE BY ABOUT THE NIGHT ACTIVITY. DO YOU KNOW WHAT THE APPLICANTS PLANS ARE FOR HOURS OF OPERATION?

MR. SHELTON: THERE IS A NOISE ORDINANCE OUT THERE.

MR. IVES: SO, THEY WOULD COMPLY WITH THE NOISE ORDINANCE?

MR. SHELTON: AND THE COUNTY. THEY'VE DONE THIS AND THEY ALWAYS WILL. THAT'S WHY YOU'VE NEVER RECEIVED A COMPLAINT ABOUT THEM.

MR. IVES: DO YOU HAVE ANYTHING ELSE YOU WOULD LIKE TO SAY HAVING HEARD THEIR TESTIMONY?

MR. SHELTON: I WOULD JUST LIKE TO SAY THAT WE HAVE BEEN SELLING LOADS OF MATERIALS AS WE'VE TOLD THIS BOARD. HE SOLD OFF HIS EQUIPMENT WHEN HE HAD INVESTORS COMING IN AND WE HAVEN'T BEEN PULVERIZING ANYTHING AT NIGHT. WE HAVE BEEN SELLING OFF LOADS RECENTLY AND IF YOU NEED THEM, WE HAVE THE LOAD TICKETS HERE AND I WOULD BE MORE THAN HAPPY TO LET

YOU TAKE A LOOK AT THEM.

MR. IVES: SO, THEY'VE BEEN SELLING THE LOADS SINCE ...

MR. SHELTON: WE HAVE SOLD LOADS. WE HAVE A STOCKPILE OF MATERIALS AND WE'RE CONTINUING TO SELL IT. WE WON'T BE ABLE TO PULVERIZE AGAIN UNTIL WE GET THE NEW EQUIPMENT DEPENDENT UPON THIS BOARD'S APPROVAL.

MR. IVES: THE OTHER QUESTION I HAVE FOR YOU IS WHETHER TO MAKE THE DECISION BY THE BOARD AS TO THE DETERMINATION THIS EVENING OR WAIT THIRTY DAYS? WHAT WOULD YOU LIKE US TO DO?

MR. SHELTON: WE WOULD LIKE RESOLUTION TO THIS WITH FINALITY SO THAT WE CAN KNOW WHAT OUR PLANS ARE AS TO WHAT OUR FUTURE IS, ONE WAY OR ANOTHER.

MR. IVES: THANK YOU, SIR.

MR. SHELTON: I'VE TALKED WITH MY CLIENTS AND THEY SAY THE CONDITION IS FINE.

MR. IVES: THE CONDITION IS FINE.

MR. SHELTON: WE HAVE TO SEND ANNUAL COMPLIANCE VERIFICATIONS TO DHEC. SO, THAT WOULD NOT BE A DIFFICULT MATTER (INAUDIBLE) TO THE ZONING ADMINISTRATOR TO (INAUDIBLE).

MR. IVES: ANY ADDITIONAL QUESTIONS OF THE

BOARD FOR MR. SHELTON? THANK YOU VERY MUCH, MR. SHELTON. WE HAVE CLOSED PUBLIC COMMENT AND NOW I'LL WOULD BE WILLING TO HEAR A MOTION FOR US TO DEFER OR AMEND OR CONSIDER UP OR DOWN THE DETERMINATION OF THE ZONING ADMINISTRATOR'S DETERMINATION. IS THERE A MOTION TO DEFER? NOT HEARING ONE. IS THERE A MOTION TO AMEND? I WOULD LIKE TO AMEND THI MOTION TO INCLUDE THAT THE BOARD FINDS AN ACCEPTABLE ACCESSORY USE OF THE APPLICANT'S PROPERTY FOR THE ACCEPTANCE OF OUTSIDE COMMERCIAL LOADS OF RECOVERED MATERIALS AS A RECOVERED MATERIALS PROCESSING FACILITY AS DEFINED RESPECTIVELY BY SC CODE SUBSECTION 44-96-40(34) AND (35) AND BY SUBMITTING A REPORT DEMONSTRATING THE COMPLIANCE TO THE ZONING ADMINISTRATOR AT LEAST ANNUALLY. IS THERE A SECOND TO THAT MOTION?

MR. BROWN: I SECOND.

MR. IVES: MOTION HAS BEEN MADE AND SECONDED. IS THERE ANY FURTHER DISCUSSION OF THAT MOTION?

MR. BENIK: QUESTION. WE'RE NOT CHANGING THE ORDER THAT WAS RECONSIDERED? THE ONLY WORDING THAT'S CHANGED IN WHAT WE'RE DOING

HERE IS THE REPORT ON AN ANNUAL BASIS TO THE ZONING ADMINISTRATOR? IS THAT CORRECT?

MR. IVES: THAT'S CORRECT.

MR. BENIK: EVERYTHING ELSE REMAINS EXACTLY THE SAME?

MR IVES: THAT IS CORRECT. A YES VOTE IS TO OVERTURN THIS ZONING ADMINISTRATOR WITH THIS LANGUAGE BEING INSERTED AS TO WHAT WE FIND ACCEPTABLE. AND A NO VOTE WOULD BE TO BASICALLY HAVE THE ZONING ADMINISTRATOR'S DECISION REMAIN STANDING.

MR. BENIK: AND THIS IS JUST A VOTE ON THE AMENDMENT?

MR. IVES: NO, SIR. THIS IS A VOTE ON ... TO BASICALLY REPLACE THE PRIOR MOTION.

MR. COVINGTON: IF THE BOARD COULD VOTE SEPARATELY ON THAT AMENDMENT, I THINK IT WOULD HELP CLARIFY THE RECORD.

MR. IVES: MR. COVINGTON, WE'LL DO THAT. MR. BENIK, THAT'S A GOOD QUESTION. THE ANSWER WOULD BE THAT WE WOULD TAKE UP THE AMENDMENT FIRST.

MR. BENIK: SO, THE MOTION BEFORE THE BOARD IS THE AMENDMENT TO ...

MR. IVES: AMENDING THE LANGUAGE TO SUBMIT A

REPORT. SO A YES WOULD BE TO SUPPORT THE AMENDED LANGUAGE. IS THERE ANY FURTHER DISCUSSION?

MR. SHAW: (INAUDIBLE) AMENDED LANGUAGE?

MR. IVES: BY SUBMITTING A REPORT DEMONSTRATING COMPLIANCE TO THE ZONING ADMINISTRATOR AT LEAST ANNUALLY. IT FOLLOWS THE CITATION OF THE SC CODE REFERRING TO A RECOVERED MATERIALS PROCESSING FACILITY.

MR. SHAW: THANK YOU, SIR.

MR. IVES: ANY FURTHER DISCUSSION? MR. BENIK, I'LL BEGIN WITH YOU.

MR. BENIK: NO.

MR. BROWN: YES.

MS. MORANT: NO.

MR. IVES: YES.

MR. SIPE: NO.

MR. FOWLER: YES.

MR. SHAW: NO.

MR. IVES: MS. MABRY, I'LL ASK FOR YOU TO ...

MS. MABRY: FOUR TO THREE. NOS.

MR. IVES: NEXT I'LL ASK FOR A MOTION TO ...

MR. COVINGTON: MR. CHAIRMAN, AT THIS POINT IN TIME, YOU STILL HAVE A MOTION ON THE TABLE FROM THE LAST MEETING. THERE'S A MOTION AS

IT WAS VOTED ON LAST MONTH.

MR. IVES: AS IT WAS VOTED ON LAST TIME. SO, THIS IS THE SAME WORDING WITHOUT ANY AMENDMENT. IS THERE A MOTION? DON'T NEED A MOTION BECAUSE IT WAS BASICALLY RESET THE POINT. IS THERE FURTHER DISCUSSION OF THIS MOTION? NOT HEARING ANY, WE'LL BEGIN WITH MR. BENIK. A YES MEANS THE BOARD HAS FOUND AN ACCEPTABLE ACCESSORY USE AND CAN ACCEPT OUTSIDE COMMERCIAL LOADS. NO WOULD BE TO HAVE THE ZONING ADMINISTRATOR'S DECISION TO BE UPHELD.

MR. BENIK: NO.

MR. BROWN: NO.

MS. MORAN: NO.

MR. IVES: NO.

MR. SIPE: NO.

MR. FOWLER: NO.

MR. SHAW: NO.

MR. IVES: MR. SHELTON, THE VOTE IS THAT THE ZONING ADMINISTRATOR'S DECISION HAS BEEN UPHELD.

STATE OF SOUTH CAROLINA

CERTIFICATE

COUNTY OF HORRY.

I, JERRY S. MABRY, A NOTARY PUBLIC AND VERBATIM REPORTER, IN AND FOR THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE WITNESSES IN THIS HEARING WERE DULY SWORN PRIOR TO THE TAKING OF THIS AND THAT THE FOREGOING TWENTY-SEVEN (27) PAGES CONSTITUTE A TRUE AND ACCURATE TRANSCRIPT OF THE EVIDENCE AS GIVEN BY SAID WITNESSES AND AS TAKEN DOWN AND TRANSCRIBED BY ME. I FURTHER CERTIFY THAT THE PERSONS WERE PRESENT AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NOT OF COUNSEL FOR, NOR IN THE EMPLOY OF ANY OF THE PARTIES TO THIS ACTION, NOR AM I INTERESTED EITHER DIRECTLY OR INDIRECTLY IN THE RESULTS THEREOF.

I FURTHER CERTIFY THAT I AM NOT RELATED BY BLOOD OR MARRIAGE TO ANY OF THE PARTIES TO THIS ACTION.

THIS THE 25TH DAY OF JUNE, 2015.

JERRY S. MABRY, NOTARY PUBLIC
AND VERBATIM REPORTER

MY COMMISSION EXPIRES:
DECEMBER 3, 2022.

Jerry S. Mabry
1607 Magnolia Drive
N. Myrtle Beach, SC 29582
(843) 249-2831

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2015-CP-26-3791
Dennis Thompkins – Bellamy Law firm, agent for DT, LLC	)	
Plaintiff,	)	**ANSWER AND RETURN TO NOTICE OF APPEAL FILED DECEMBER 4, 2015**
vs.	)	
Horry County Zoning Board of Appeals,	)	
Defendant.	)	

HORRY COUNTY
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CLERK OF COURT

By way of return to the Second Notice of Appeal filed December 4, 2015, the Defendant/Respondent, Horry County Zoning Board of Appeals (hereinafter referred to as "Horry County" or "Respondent"), incorporates the Defendant's Motion to Strike and Disallow the Second Notice of Appeal and Exhibits Filed by Plaintiff on December 4, 2015, and filed with the Court on December 29, 2015, (Attachment "A") and the Answer and Return to Notice of Appeal of Order of Horry County Board of Zoning Appeals (Non-Jury) filed June 18, 2015, (Attachment "B") with the Court.

The Answer and Return to Notice of Appeal of Order of Horry County Board of Zoning Appeals (Non-Jury) filed June 18, 2015, seeks affirmance of the Order of the Horry County Board of Zoning Appeals dated May 11, 2015. based on the following defenses:

FOR A FIRST DEFENSE

1. Each and every allegation of the Petitioner's Notice of Appeal not hereinafter admitted, modified or explained is denied and strict proof demanded thereof.

2. Respondent admits that Petitioner appeals the May 11, 2015, Order of the Horry County Zoning Board of Appeals attached to the Notice of Appeal and that said Petitioner

requests pre-litigation mediation; in further response thereto, Respondent incorporates the alleged statutory provisions and further responds that pre-litigation or mediation has been held and was not successful in resolving this appeal.

FOR A SECOND DEFENSE
Failure to State a Claim Under Rule 12(b)(6) SCRCP

3. Respondent Horry County realleges the allegations of Paragraphs 1 through 2 above as fully as if set forth herein verbatim.

4. Petitioner's Notice of Appeal fails to state a claim for which relief may be granted and therefore should be dismissed pursuant to Rule 12(b)(6) SCRCP.

FOR A THIRD CAUSE OF ACTION

5. Respondent Horry County incorporates the allegations of Paragraphs 1 through 4 above as fully as if set forth herein verbatim.

6. The Zoning Board's decision in this matter should be affirmed because it is neither arbitrary nor capricious, it is reasonably related to a lawful purpose, and the Board has not abused its discretion in its decision in this matter.

FOR A FOURTH CAUSE OF ACTION

7. Respondent Horry County incorporates the allegations of Paragraphs 1 through 6 above as fully as if set forth herein verbatim.

8. The Zoning Board's decision in this matter should be affirmed because it is supported by the record evidence.

FOR A FIFTH CAUSE OF ACTION

9. Respondent Horry County incorporates the allegations of Paragraphs 1 through 8 above as fully as if set forth herein verbatim.

10. To the extent Petitioner's claims were not brought before the Horry County

Zoning Board of Appeals, or set forth as error in the Notice of Appeal, such claims and attachments are not properly before this Court and should be stricken.

FOR A SIXTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

11. Horry County incorporates the allegations of Paragraphs 1 through 10 above as fully as if set forth herein verbatim.

12. Petitioner's claims involve action of an administration and judicial or quasi-judicial nature by Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(2)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR A SEVENTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

13. Horry County incorporates the allegations of Paragraphs 1 through 12 above as fully as if set forth herein verbatim.

14. Petitioner's claims involve action of enforcement of an ordinance of the County of Horry, a body politic and corporate of the Statute of South Carolina, by Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(4) (Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR AN EIGHTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

15. Horry County incorporates the allegations of Paragraphs 1 through 14 above as fully as if set forth herein verbatim.

16. Petitioner's claims involve the exercise of discretion and judgment by reason of which Respondent, a board appointed by Horry County, South Carolina, a body politic and corporate, is immune from liability pursuant to S.C. Code Ann. § 15-78-60(5)(Rev. 2005) and

said immunity is pled as a complete and affirmative defense hereto.

FOR A NINTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

17. Horry County incorporates the allegations of Paragraphs 1 through 16 above as fully as if set forth herein verbatim.

18. Petitioner's claims involve the licensing powers and functions of Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(12)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR A TENTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

19. Horry County incorporates the allegations of Paragraphs 1 through 18 above as fully as if set forth herein verbatim.

20. Petitioner's claims involve the regulatory inspection powers and functions of Respondent of property for compliance with code compliance, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. §§ 15-78-60 (13) (Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

WHEREFORE, having fully answered the allegations of the Notice of Appeal filed December 4, 2015, Horry County requests that judgment be entered in its favor affirming the decision of the Horry County Zoning Board of Appeals, and that the action be dismissed and for such other and further relief as the Court may deem just and proper.

THOMAS & BRITTAIN, P.A.

By: Emma Ruth Brittain

Emma Ruth Brittain
S.C. Bar #5298
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Myrtle Beach, SC 29578
Phone: (843) 692-2628

December 28, 2015

Myrtle Beach, South Carolina

Fax: (843) 692-0928
Attorneys for the Defendant Horry County
Zoning Board of Appeals

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO. 2016-CP-26-2317
In re: Venture Engineering, agent for DT LLC, Appellant, v. Horry County Zoning Board of Appeals, Respondent.	)	**NOTICE OF APPEAL OF ORDER OF HORRY COUNTY BOARD OF ZONING APPEALS (Case No.: 2016-02-015) (PRIORITY MATTER PURSUANT TO S.C. Code Ann. § 6-29-820)**

Pursuant to S.C. Code §6-29-820, Appellant Venture Engineering, agent for DT LLC hereby appeals the Order of the Horry County Board of Zoning Appeals (hereinafter "the Board") which was entered on March 14, 2016 in the case of In re: Venture Engineering, agent for DT LLC, Case No. 2016-02-015.

Appellant appeals the Board's March 14, 2016 Order, attached hereto and incorporated herein as "Exhibit M," based upon the following enumerated and otherwise stated grounds:

1. DT, LLC (hereinafter, "Appellant") is the owner of real property (hereinafter, "Property") identified by PIN 418-10-02-0022 and 418-11-01-0002, which is located at 310 Piling Road in the Myrtle Beach area of Horry County. Though the property was not zoned when Appellant's family business began operations in 1981, it is currently zoned as Limited Industrial (LI).
2. Appellant owns and operates Thompkins & Associates, Inc. (hereinafter, "Thompkins"), which has been located and operated on the Property since 1981. This was six (6) years prior to the enactment of the Horry County Zoning Ordinance.

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3. Thompkins is in a business requiring heavy construction equipment because it has, since 1981, operated a Construction & Demolition ("C&D") and Concrete Transfer business on site. The heavy equipment required by Appellant's business has historically been employed for the purpose of facilitating Appellant's C&D facility at this property. Since Thompkins began operating in 1981, the C&D division of its business has crushed, processed, and/or recycled both: (1) C&D material from Thompkins' own demolition projects; and, (2) C&D material received from outside sources.

4. In 1987, Horry County enacted its first Zoning Ordinance, and, in 2007, Thompkins was required to apply for a business license in order to continue operating in its new zoning district. The Zoning Administrator at that time, Roland Meyer (hereinafter "former Zoning Administrator Meyer") issued business license ID number 2576, attached hereto and incorporated herein as "Exhibit C," to Thompkins for its "Construction Heavy Equipment." Former Zoning Administrator Meyer also approved "C&D Recycling and Transfer Concrete, Recycling and Processing" as an accessory use to Thompkins' "Construction Heavy Equipment" business and issued business license ID number 23387, attached hereto and incorporated herein as "Exhibit D," to Thompkins for its C&D business.

5. At all times since 1981, the Thompkins family business has operated its C&D business by crushing, processing, and/or repurposing both: (1) C&D material from its own demolition projects and (2) C&D waste material received from haulers who deliver materials from demolition jobs completed by outside sources.

6. These C&D materials, from both internal and external sources have, since 1981, been repurposed by a crushing process by Thompkins as base material which is then sold back into

the local construction industry as a base material, rather than burdening the infrastructure of life-span of the landfill on Highway 90 in Conway.

7. On or about late 2014, Appellant considered accepting an investor for Thompkins named John Taylor. As part of his due diligence before making an investment in Thompkins, Mr. Taylor requested a zoning compliance letter from the current Horry County Zoning Administrator, Rennie Mincey (hereinafter, "Zoning Administrator Mincey"), to ensure Thompkins was complying with the county's zoning requirements.

8. In response to Mr. Taylor's request, On December 3, 2014, Zoning Administrator Mincey signed a letter addressed to Mr. Taylor's attorney which summarizes former Zoning Adminstrator Meyer's approval of Thompkins for "Construction and Heavy Equipment" with an accessory use of "C&D Recycling and Transfer Concrete, Recycling and Processing." In her letter, Zoning Administrator Mincey specified that Thompkins may continue its accessory use of C&D Recycling and Transfer Concrete, Recycling and Processing as long as the approved "Construction Heavy Equipment" business continues operating. The letter made no mention of whether Thompkins may accept loads of materials from outside sources for recycling purposes. A copy of this letter is attached hereto and incorporated herein as "Exhibit E."

9. Shortly after receiving a copy of Zoning Administrator Mincey's December 3, 2014 zoning compliance letter, Appellant was verbally informed that pursuant to Ms. Mincey's decision, the receiving of loads of C&D or concrete materials from outside sources was not in compliance with Thompkins' accessory use business license issued in 2007. This was the first instance in which Appellant had ever been informed Horry County was of the opinion receiving outside loads of C&D recycling materials was not in compliance with Appellant's business license and/or zoning.

10. Appellant appealed Zoning Administrator Mincey's decision to the Board on or about January 8, 2015.

11. On February 9, 2015, the Board first heard Appellant's appeal. At this meeting Dennis Thompkins, Danny Allen, and Harold Blye spoke on behalf of the Appellant and their testimony is included in the Board transcript of record attached hereto and incorporated herein as Exhibit "F." Specifically, Danny Allen testified that he had been hauling materials to Appellant for years and he did not understand why Appellant would not be able to operate in the same manner Appellant had been for years. However, the Board chose to defer its decision for thirty (30) days and requested Appellant provide the Board with additional information at its next meeting in order to demonstrate whether Thompkins had been receiving outside loads for C&D Recycling and Transfer Concrete, Recycling and Processing prior to the issuance of its accessory business license in 2007.

12. On March 9, 2015, Appellant's appeal of Ms. Mincey's decision was before the Board for the second time. At this meeting, Ronald Gilkerson spoke on behalf of the Appellant and his testimony is included in the Board transcript of record attached hereto and incorporated herein as Exhibit "G," Also at the March 9, 2015 meeting, Appellant provided the Board with the documentation it requested, evidencing the fact that Thompkins had been receiving outside loads for many years prior to 2007. Again, the Board chose to defer its decision for thirty days in order to consult with its legal representative(s).

13. On April 13, 2015, Appellant's appeal was before the Board for a third time. At the April 13, 2015 Board meeting, counsel for Appellant presented the Board an affidavit from Former Zoning Administrator Meyer stating he would not have felt uncomfortable, in 2007 (when he was the Zoning Administrator), in permitting Thompkins to receive outside loads for C&D

Recycling and Transfer Concrete, Recycling and Processing purposes. At this meeting, the Board overruled Zoning Adminsitrator Mincey's finding that Thompkins could not accept outside loads for C&D recycling by a 5 to 3 vote. In doing so, the Board found that "[a]n acceptable accessory use of [Thompkins'] property may be acceptance of outside commercial loads of 'Recovered Materials' as a 'Recovered Materials Processing Facility' as defined, respectively, by S.C. Code, Subsections 44-96-40(34) and (35)." Under this Solid Waste Management Act of 1991 (S.C. Code, Subsection 44-96-40), SCDHEC issued Thompkins and Associates a letter of concurrence to continue to operate a C&D Recovered Materials Processing Facility at the subject property, which is attached hereto and incorporated herein as "Exhibit F-1." In this letter, it specifically defines the operating requirements of this facility and includes a description of acceptable recycled items to be clean dimentional lumber, clean brush pallets, sheetrock, metal, concrete and asphalt, cardboard, shingles and yard waste. In following with this SCDHEC letter of concurrence for the Recovered Materials Processing Facility at the subject property, it is important to note that this type of facility does not require a solid waste permit, and as previous recycling operations extending back to the accessory use approval in 2007, Thompkins and Associates was operating in compliance with this general statute set forth in 1991as stated in the SCDHEC letter dated February 13, 2015 and attached hereto and incorporated herein as "Exhibit G-3." A copy of the transcript of the April 13, 2015 Board meeting is attached hereto and incorporated herein as "Exhibit H." A copy of the Board's Order, which is dated March 9, 2015, but was not received by Appellant until April 16, 2015 is attached hereto and incorporated herein as "Exhibit I." Further, a copy of Former Zoning Administrator Meyer's affidavit is attached hereto and incorporated herein as "Exhibit J."

14. Shortly after the Board overturned Zoning Administrator Mincey's decision, Appellant was informed an individual from the Solid Waste Authority was contacting members of the Board in an effort to persuade the Board members to reconsider their votes. Appellant's attorney addressed this concern by way of a letter addressed to counsel for Horry County, which is attached hereto and incorporated herein as "Exhibit K." Subsequently, Appellant was informed the Board was going to move to reconsider their vote overturning Zoning Administrator Mincey's decision at their May 11, 2015 Board meeting.

15. At the Board's May 11, 2015 meeting, the Board moved to reconsider its vote. Although Appellant's appeal of Zoning Administrator Mincey's decision was not published on the meeting roster, nor publicized in any way prior to the meeting, numerous persons who claimed to reside nearby the Property were present at the meeting and voiced unfounded complaints about Thompkins' business. After allowing testimony from these persons, the Board took another vote as to whether uphold or overturn Zoning Administrator Mincey's findings. On this vote, and in direct contrast to their decision at the April 13, 2015 Board meeting, the Board unanimously upheld Zoning Administrator Mincey's decision, prohibiting Thompkins from receiving outside loads of materials for C&D Recycling and Transfer Concrete, Recycling and Processing under its business license. A copy of the May 11, 2015 Board meeting transcript is attached hereto and incorporated herein as "Exhibit L."

16. Prior to the proceedings before the Board, Appellant had never received any complaints regarding its business, nor had Appellant ever been instructed the county was of the opinion Thompkins was not in compliance with its business license.

17. Appellant filed his Notice of Appeal regarding the Board's May 11, 2015 Order, attached hereto and incorporated herein as "Exhibit B," on May 22, 2015. Prior to setting forth specific grounds

on appeal to this Court, Appellant requested pre-litigation mediation pursuant to S.C. Code § 6-29-820(B)(2) in an attempt to resolve the matter in good faith. Pre-litigation mediation was conducted on November 4, 2015 and resulted in an impasse. A copy of the mediator's Proof of ADR report, filed on November 4, 2015, is attached hereto and incorporated herein as "Exhibit A."

18. Appellant has a substantial interest in the May 11, 2015 Order of the Board, as it adversely affects its interest in the subject property and its ability to operate its business thereon.

19. The Order of the Board was arbitrary and contrary to law, as is set forth in the record. Appellant enjoyed both grandfathered status in the operation of its business as well as vested rights therein as evidenced by the County's issuance of its business license and its many years of consistent operation without citation or complaint by Horry County or any government entity.

20. Moreover, Appellant's business operations, having pre-dated the commencement of the Horry County Zoning, indicates Appellant enjoyed a vested right prior to the adoption of the Zoning Ordinance. Appellant adamantly denies this use is non-conforming, and asserts as an additional ground to overturn the Zoning Board of Appeals decision and that of Zoning Administrator Mincey are arbitrary and capricious as evidenced by the record and the affidavit of Zoning Administrator Meyer. However, should the court determine Appellant's operations to be non-conforming, they are a legal, non-conforming use in which Appellant has a vested right to continue such use. It is also important to note the recycling/transfer operation of "recovered materials" was in compliance with the Solid Waste Management Act of 1991 before and after the 2007 issuance of the approved zoning.

21. Should the Court uphold the Zoning Board of Appeals' decision, Appellant will suffer a taking under Article I, §13 of the South Carolina Constitution and be entitled to just compensation.

Additionally, should the Court uphold the Zoning Board of Appeal's decision, the County should be equitably estopped from enforcing the Zoning Board of Appeal's decision due to Appellant's reliance upon and substantial change in its position to conflicting interpretations by County Zoning Administrators as to the permitted uses under the license issued by Horry County.

22. Following the above-described events, counsel for Appellant appeared in court on January 27, 2016 anticipating defending against Motions filed by Horry County.

23. At court, counsel for Appellant discussed this matter at length with counsel for Horry County, and the two parties agreed to stay the matter to allow Appellant an opportunity to petition the county for a variance. The Consent Order staying the matter is attached hereto and incorporated herein by reference as "Exhibit N."

24. Thereafter, on February 5, 2016 Venture Engineering, filed a petition for a variance on behalf of Appellant.

25. The Zoning Board of Appeals heard Appellant's request for a variance on March 14, 2016.

26. At the hearing of the request for variance, counsel for Appellant introduced as evidence the documents attached hereto and incorporated herein by reference as Exhibits A through L.

27. The Zoning Board of Appeals ruled against Appellant and did not grant a variance, as indicated in the Board's Order dated March 14, 2016, which is attached hereto and incorporated herein by reference as "Exhibit M."

28. Appellant has a substantial interest in the March 14, 2016 Order of the Board, as it adversely affects its interest in the subject property and its ability to operate its business thereon.

29. The March 14, 2016 Order of the Board was arbitrary and contrary to law, as is set forth in the record. Appellant enjoyed both grandfathered status in the operation of its business as well as vested rights therein as evidenced by the County's issuance of its business license and its many

years of consistent operation without citation or complaint by Horry County or any government entity.

30. Moreover, Appellant's business operations, having pre-dated the commencement of the Horry County Zoning, indicates Appellant enjoyed a vested right prior to the adoption of the Zoning Ordinance. Appellant adamantly denies this use is non-conforming, and asserts as an additional ground to overturn the Zoning Board of Appeals decision is arbitrary and capricious as evidenced by the record and the affidavit of Zoning Administrator Meyer. However, should the court determine Appellant's operations to be non-conforming, they are a legal, non-conforming use in which Appellant has a vested right to continue such use. It is also important to note the recycling/transfer operation of "recovered materials" was in compliance with the Solid Waste Management Act of 1991 before and after the 2007 issuance of the approved zoning.

31. Should the Court uphold the Zoning Board of Appeals' decision, Appellant will suffer a taking under Article I, §13 of the South Carolina Constitution and be entitled to just compensation. Additionally, should the Court uphold the Zoning Board of Appeal's decision, the County should be equitably estopped from enforcing the Zoning Board of Appeal's decision due to Appellant's reliance upon and substantial change in its position to conflicting interpretations by County Zoning Administrators as to the permitted uses under the license issued by Horry County.

Appellant hereby gives notice of its reservation of all rights to pursue an action before a jury or otherwise for damages resulting from the action of the Board.

Appellant relies upon all documents in possession of Horry County related to this matter including, but not limited to, all information disseminated to the Zoning Board of Appeals members by Horry County staff. Appellant further reserves the right to supplement this appeal with and rely upon

at the hearing thereof, such memoranda of law as Appellant may elect to submit prior to or at the hearing on this matter.

Respectfully submitted,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.
Post Office Box 357
Myrtle Beach, SC 29578-0357
843-448-2400
Attorneys for Venture Engineering, agent for DT LLC, Appellant
Attorneys for DT LLC, Appellant

Robert S. Shelton, SCB #68543

Myrtle Beach, South Carolina
April 14, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2016-CP-26-2377
In re: Venture Engineering, agent for DT, LLC,	)	
Appellant,	)	**ANSWER AND RETURN OF RESPONDENT HORRY COUNTY ZONING BOARD OF APPEALS**
vs.	)	
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

2016 JUN -1 PM 1:54

By way of return to the Notice of Appeal filed April 14, 2016, and served on Horry County on April 26, 2016, the Defendant/Respondent, Horry County Zoning Board of Appeals (hereinafter "Horry County" or "Respondent"), and subject to its Motion to Strike, responds to Respondent's Appeal and seeks affirmance of the Order of the Horry County Board of Zoning Appeals dated March 14, 2016, in this matter.

FOR A FIRST DEFENSE

1. Each and every allegation of the Appellant's Notice of Appeal ("Appeal") not hereinafter admitted, modified or explained is denied and strict proof demanded thereof.

2. Respondent admits the allegations of the first sentence of Paragraph 1 of the Appeal. Respondent further admits that the property was not zoned in 1981, is currently zoned Limited Industrial, and that Thompkins & Associates, Inc. operated a construction and heavy equipment business on the property prior to zoning, which C & D operations ceased at some point in time, and deny that C & D operations have been continuous since 1981 upon information and belief.

3. Respondent is without knowledge or information sufficient to form an opinion or

belief as to the truth of the allegations of Paragraphs 2 and 3 of the Appeal and therefore denies same, and incorporates its response set forth in Paragraph 2 above.

4. Respondent admits so much of Paragraph 4 of the Appeal as alleges that Horry County enacted its initial Zoning Ordinance in 1987; in response to the remaining allegations thereof, Respondent craves reference to the documents referenced in said paragraph to the extent they are properly part of the Record on Appeal.

5. Respondent denies the allegations of Paragraphs 5 and 6 of the Appeal.

6. This Defendant is without knowledge or information as to Paragraph 7 of the Appeal except as to allegations a request was made for a zoning compliance letter from Horry County Zoning Administrator Rennie Mincey.

7. In response to and by way of Motion to Strike filed with the Court, Respondent has moved the Court to strike the allegations of Paragraph 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Appeal, on the grounds that these allegations are the subject of and virtually verbatim to the allegations contained in a pending appeal before this Court, styled: In re: Dennis Thompkins – Bellamy Law Firm, agent for DT, LLC v. Horry County Zoning Board of Appeals, C.A. No. 2015-CP-26-3791, to which a Return has been filed by Respondent, and which allegations are not properly an issue in this appeal.

8. Respondent admits so much of Paragraph 24 of the Appeal as alleges that Venture Engineering filed a variance petition on behalf of Appellant on February 5, 2016.

9. Respondent admits the allegations of Paragraph 25 of the Appeal.

10. Respondent denies the allegations of Paragraph 26 of the Appeal, and further alleges that documents unrelated to the instant appeal should be stricken and are not property before the Court, including Appellant's documents labeled "Exhibits A through".

11. Respondent admits the allegations of Paragraph 27 of the Appeal that Appellant failed to prove grounds for a variance as reflected in the Board's Order dated March 14, 2016.

12. Respondent denies the allegations of Paragraphs 28, 29, 30 and 31of the Appeal and the following unnumbered paragraphs thereto.

FOR A SECOND DEFENSE

Failure to State a Claim Under Rule 12(b)(6) SCRCP

13. Respondent Horry County realleges the allegations of Paragraphs 1 through 22 above as fully as if set forth herein verbatim.

14. Petitioner's Notice of Appeal fails to state a claim for which relief may be granted and therefore should be dismissed pursuant to Rule 12(b)(6) SCRCP.

FOR A THIRD CAUSE OF ACTION

15. Respondent Horry County incorporates the allegations of Paragraphs 1 through 24 above as fully as if set forth herein verbatim.

16. The Zoning Board's decision in this matter should be affirmed because it is neither arbitrary nor capricious, it is reasonably related to a lawful purpose, and the Board has not abused its discretion in its decision in this matter.

FOR A FOURTH CAUSE OF ACTION

17. Respondent Horry County incorporates the allegations of Paragraphs 1 through 26 above as fully as if set forth herein verbatim.

18. The Zoning Board's decision in this matter should be affirmed because it is supported by the record evidence.

FOR A FIFTH CAUSE OF ACTION

19. Respondent Horry County incorporates the allegations of Paragraphs 1 through 28 above as fully as if set forth herein verbatim.

20. To the extent Petitioner's claims were not brought before the Horry County Zoning Board of Appeals, or set forth as error in the Notice of Appeal, such claims and attachments are not properly before this Court and should be stricken.

FOR A SIXTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

21. Horry County incorporates the allegations of Paragraphs 1 through 30 above as fully as if set forth herein verbatim.

22. Petitioner's claims involve action of an administration and judicial or quasi-judicial nature by Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(2)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR A SEVENTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

23. Horry County incorporates the allegations of Paragraphs 1 through 32 above as fully as if set forth herein verbatim.

24. Petitioner's claims involve action of enforcement of an ordinance of the County of Horry, a body politic and corporate of the Statute of South Carolina, by Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(4) (Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR AN EIGHTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

25. Horry County incorporates the allegations of Paragraphs 1 through 34 above as fully as if set forth herein verbatim.

26. Petitioner's claims involve the exercise of discretion and judgment by reason of which Respondent, a board appointed by Horry County, South Carolina, a body politic and

corporate, is immune from liability pursuant to S.C. Code Ann. § 15-78-60(5)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR A NINTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

27. Horry County incorporates the allegations of Paragraphs 1 through 36 above as fully as if set forth herein verbatim.

28. Petitioner's claims involve the licensing powers and functions of Respondent, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. § 15-78-60(12)(Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR A TENTH AND AFFIRMATIVE DEFENSE
(Tort Claims Act)

29. Horry County incorporates the allegations of Paragraphs 1 through 38 above as fully as if set forth herein verbatim.

30. Petitioner's claims involve the regulatory inspection powers and functions of Respondent of property for compliance with code compliance, by reason of which this Respondent is immune from liability pursuant to S.C. Code Ann. §§ 15-78-60 (13) (Rev. 2005) and said immunity is pled as a complete and affirmative defense hereto.

FOR AN ELEVENTH AND AFFIRMATIVE DEFENSE
(Res Judicata)

31. Appellant's claims are barred by the doctrine of res judicata, which is pled as a complete and affirmative defense hereto.

FOR A TWELFTH AND AFFIRMATIVE DEFENSE
(Collateral Estoppel)

32. Appellant's claims are barred by the doctrine of collateral estoppel, which is pled as a complete and affirmative defense hereto.

FOR A THIRTEENTH AND AFFIRMATIVE DEFENSE
(Waiver)

33. Appellant's claims are barred by the doctrine of waiver, which is pled as a complete and affirmative defense hereto.

FOR A FOURTEENTH AND AFFIRMATIVE DEFENSE
(Laches)

34. Appellant's claims are barred by the doctrine of laches, which is pled as a complete and affirmative defense hereto.

FOR A FIFTEENTH AND AFFIRMATIVE DEFENSE

35. Appellant's claims, or a portion thereof, are the subject of another appeal, and therefore are not properly before the Court in the instant appeal.

FOR A SIXTEENTH AND AFFIRMATIVE DEFENSE

36. To the extent Appellant's grounds of Appeal exceed the scope of review contained in S.C. Code Ann. §6-29-840 (Supp. 2015), said claims should be denied and the Board's Decision affirmed.

WHEREFORE, having fully answered the allegations of the Notice of Appeal, Horry County requests that judgment be entered in its favor affirming the decision of the Horry County Zoning Board of Appeals, and that the action be dismissed and for such other and further relief as the Court may deem just and proper.

THOMAS & BRITTAIN, P.A.

By: Emma Ruth Brittain

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Attorneys for the Defendant Horry County Zoning Board of Appeals

May 26, 2016
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2015-CP-26-3791
Dennis Thompkins – Bellamy Law firm, agent for DT, LLC	)	
Plaintiff,	)	
vs.	)	**DEFENDANT'S MOTION TO STRIKE AND DISALLOW THE SECOND NOTICE OF APPEAL AND EXHIBITS FILED BY PLAINTIFF ON DECEMBER 4, 2015**
Horry County Zoning Board of Appeals,	)	
Defendant.	)	

FILED IN HORRY COUNTY
2015 DEC 29 PM 1:44
CLERK OF COURT

Defendant Horry County Zoning Board of Appeals ("Zoning Board") hereby moves before this Honorable Court to strike and disallow the Second Notice of Appeal and exhibits attached thereto filed by Plaintiff on December 4, 2015, on the grounds that: (1) the filing is untimely under the governing statutes; and (2) the second appeal filing contains documents that were not considered by the Zoning Board and, therefore, are not part of the "duly certified copy of the proceedings held before the Horry County Zoning Board." Accordingly, these documents are not part of the Certified Record on Appeal filed by the Zoning Board Secretary on June 11, 2015, and the filing of the documents and the second appeal notice is not in accordance with the following statutes which specifically provide:

(a) South Carolina Code Ann. § 6-29-830(A) (Supp. 2015) (emphasis added) provides:

> Upon the filing of an appeal with a petition as provided in Section 6-29-820(A) or Section 6-29-825(F), the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and **within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the board of appeals, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.**

(b) South Carolina Code Ann. § 6-29-820(A) (Supp. 2015) (emphasis added) provides:

> A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. **The appeal must be filed within thirty days after the decision of the board is mailed.**

(c) South Carolina Code Ann. § 6-29-840(A) (Supp. 2015) (emphasis added) provides:

> [t]he findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court **may not take additional evidence.**

Plaintiff's December 4, 2015, filing is inconsistent with the statutes governing the contents of the Certified Record on Appeal and therefore should be stricken and disallowed.

South Carolina appellate courts have uniformly disallowed the supplementation of the record on appeal in zoning board appeals to the circuit court such as has occurred in the case at hand. In the instant matter, Plaintiff's initial appeal document was filed on May 22, 2015. No further filing is appropriate or timely. The Second Notice of Appeal was filed on December 4, 2015, some six and a half months later.

In *Massey*, the South Carolina Court of Appeals held that the circuit court erred in allowing the record on appeal to be supplemented with testimony that was not presented at the zoning board hearing. *Massey v. Cty. of Greenville Bd. of Zoning Adjustments*, 341 S.C. 193, 532 S.E.2d 885 (Ct. App. 2000). The Court of Appeals held in *Austin v. Board of Zoning Appeals*, that the circuit court did not abuse its discretion in refusing to supplement the record on appeal, explaining,

> [w]hen reviewing a [b]oard decision, the circuit court sits as an appellate court. Its review is strictly limited to the facts and arguments raised to the [b]oard below.

362 S.C. 29, 38, 606 S.E.2d 209, 214 (Ct. App. 2004). In *Austin*, the Plaintiff sought to supplement the record with an additional plat. *Id.* at 39. The Plaintiff contended that the plat

was admitted into evidence at the zoning board hearing, but was not included in the record on appeal by mistake. *Id.* The Plaintiff pointed to the transcript of the hearing where a board member "asked a member of the Town's Planning Staff whether she provided the Board a copy of a plat she had just referenced . . . ." *Id.* The Court, however, could not discern from the reference in the transcript that the additional plat was introduced into the record or relied on by the zoning board. *Id.* Accordingly, the Court upheld the circuit court's order denying the Plaintiff's motion to supplement the record. *Id.* at 40.

In this case, the following Exhibits attached to Plaintiff's December 4, 2015, Notice of Appeal are not a part of the Record on Appeal of the Horry County Zoning Board of Appeal: Exhibits C, D, E, G-5, H-1, J, K, and part of exhibit F-1 (aerial photographs and Horry County Zoning App. Comp Certification Inquiry dated 4/24/14). Pursuant to State statute and the governing case law, because this Court's review is limited to the evidence presented to the Zoning Board at the hearings, Plaintiff's "exhibits" which were not considered by the Zoning Board and thus not made a part of the Certified Record on Appeal to this Court should not be considered in this Court's appellate review. Moreover, the December 4, 2015, Notice of Appeal containing these Exhibits is untimely under South Carolina Code Ann. §§ 6-29-820(A), 6-296-830(A) (Supp. 2015). Accordingly, Defendant Horry County respectfully requests that the Court disallow these documents and strike the filing of the Second Notice of Appeal from the record.

THOMAS & BRITTAIN, P.A.

By: Emma Ruth Brittain

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December 28, 2015
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2015-CP-26-3791

Dennis Thompkins – Bellamy Law firm, agent for DT, LLC

Plaintiff,

vs.

Horry County Zoning Board of Appeals,

Defendant.

DEFENDANT'S MEMORANDUM IN SUPPORT OF ITS MOTION TO STRIKE AND DISALLOW THE SECOND NOTICE OF APPEAL AND EXHIBITS FILED BY PLAINTIFF ON DECEMBER 4, 2015

I. INTRODUCTION

Defendant ("Respondent") Horry County Zoning Board of Appeals ("Zoning Board") filed its Motion to Strike and Disallow the Second Notice of Appeal and Exhibits attached thereto filed by Plaintiff ("Appellant" or "Thompkins") on December 4, 2015, on the grounds that: (1) Appellant's filing of a "Second Notice of Appeal" is neither timely nor allowed under the governing statutes, i.e., South Carolina Code Ann. §§ 6-29-820(A) and 6-29-830(A) and (Supp. 2015); and (2) Appellant's filing of documents that are not part of the duly certified record of the proceedings, certified by the Zoning Board as required by statute, fails to comply with South Carolina Code Ann. §§ 6-29-830 and 6-29-840, which set forth the requirements for the filing of an appeal and the provision of a duly certified copy of the proceedings held before the Zoning Board. Significantly, § 6-29-840 requires that the Court's determination of the appeal be based on the record certified by the Zoning Board of Appeals and that "the court may not take additional evidence."[1] Appellant, however, has filed with the Court a purported "Notice of Appeal" that contains documents that were not part of the Record certified according to

[1] If the Court finds that the record is insufficient, it may remand the matter to the Zoning Board of Appeals for rehearing. South Carolina Code Ann. § 6-29-840(A) (Supp. 2015).

statute. Because these documents are not part of the Certified Record on Appeal filed by the Zoning Board Secretary on June 11, 2015, and the filing of these documents and the "Second Appeal" notice are not in accordance with the governing statutes, both the "Second Notice of Appeal" and its attached documents, that are not included in the Certified Record on Appeal, should be stricken from the record.

II. FACTUAL BACKGROUND

In the instant action, Appellant Thompkins appealed the decision of the Horry County Zoning Administrator, Ms. Rennie Mincey, in which the Zoning Board of Appeals found that Appellant's proposed operation of a C&D waste and concrete transfer business on the site with a construction and heavy equipment business would be allowed as an "accessory use" only and therefore Appellant was not allowed to accept commercial loads of C&D concrete materials from other contracts for processing. The reasoning behind Ms. Mincey's finding is that the C&D recycling on the parcel that occurred in the past had been approved as an "accessory use" in 2007. The recycling was found to be accessory to the existing construction heavy equipment business that had operated on the site. Ms. Mincey noted that "should the approved construction heavy equipment business cease operation at the location, the recycling use would no longer be allowed on the site." Accordingly, Ms. Mincey determined that the C&D waste and concrete use on the site was approved as an "accessory use" to a construction use only. Appellant, however, contended that he should be allowed to accept construction demolition debris and waste from outside sources for heavy grinding and crushing, thereby proposing a rezoning of the property to MA3 (Heavy/Intense Manufacturing and Industrial District). The site is immediately adjacent to the historic Myrtle Beach Pine Island neighborhood.

Multiple hearings were held in this matter in which much testimony was taken, including

testimony from neighborhood residents as to the impact of a change in zoning on adjacent residential property owners who live in the Pine Island neighborhood. Hearings open to the public were held on February 9, 2015; March 9, 2015; April 13, 2015; and May 11, 2015. In the February 9, 2015, meeting following the presentation of testimony and evidence, the Zoning Board deferred its decision for thirty days. At the March 9, 2015, meeting, additional testimony was taken, and the decision was again deferred. On April 13, 2015, the Board voted to overturn the decision of the Zoning Administrator. The action was not final, however, until approval of the minutes of the meeting which was scheduled for May 11, 2015. On May 11, 2015, a motion was made to reconsider the Zoning Board's previous action (overturning the decision of the Zoning Administrator), and the Motion to Reconsider passed, thereby leaving in effect the determination of the Horry County Zoning Administrator denying the use of Appellant's property for accepting and processing/crushing concrete and other construction debris from outside contractors.

The Certified Record on Appeal was filed by the Clerk to the Zoning Appeals in accordance with South Carolina Code Ann. §§ 6-29-820(A) and 6-29-830(A) (Supp. 2015) with the Horry County Clerk of Court's office on June 11, 2015. Horry County filed its Return on June 18, 2015. Pre-litigation mediation occurred on November 4, 2015, and was unsuccessful.

On December 4, 2015, Appellant filed a document entitled "Notice of Appeal of Order of Horry County Board of Zoning Appeals" which contains additional materials beyond the scope of the Certified Record filed by the Zoning Board of Appeals. On December 29, 2015, counsel for Horry County moved to strike and disallow the alleged "Second Appeal" and the additional materials that had been submitted outside the scope of the official Certified Transcript of Record filed by the Zoning Board of Appeals in accordance with South Carolina Code § 6-29-840(A)

(Supp 2015).[2]

III. LEGAL ARGUMENT

The South Carolina legislature specifically defined the contents of and the method of filing a record on appeal involving the appeal of proceedings such as the instant matter before the Horry County Zoning Board of Appeals, as follows:

(a) South Carolina Code Ann. § 6-29-830(A) (Supp. 2015) (emphasis added) provides:

> Upon the filing of an appeal with a petition as provided in Section 6-29-820(A) or Section 6-29-825(F), the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and **within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the board of appeals, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.**

(b) South Carolina Code Ann. § 6-29-820(A) (Supp. 2015) (emphasis added) provides:

> A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. **The appeal must be filed within thirty days after the decision of the board is mailed.**

(c) South Carolina Code Ann. § 6-29-840(A) (Supp. 2015) (emphasis added) provides:

> At the next term of the circuit court or in chambers, upon ten days' notice to the parties, the presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. **The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing.** In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law.

Appellant's filing of the alleged "Second Notice of Appeal" and documents not within the "duly certified copy of the proceedings held before the Board of Appeals" fails to comply

[2] Out of caution, Horry County filed an Answer/Return to the "Second Appeal."

with the statutory requirements governing the content of the Certified Record on Appeal and, therefore, these items should be stricken and disallowed by the Court. The governing statutory provisions clearly state that the appropriate action to be taken, by the Court, should it determine that the Certified Record is insufficient for review, is to remand the matter to the Zoning Board of Appeals for rehearing. South Carolina Code Ann. § 6-29-840(A) (Supp. 2015).

South Carolina appellate courts have been unequivalent in its rulings uniformly disallowing the supplementation of the record on appeal in zoning board appeals to the circuit court such as Appellant has attempted to do in the instant matter. In the instant matter, Appellant's initial appeal document was filed on May 22, 2015. No further filing is appropriate or timely. Appellant, however, filed a "Second Notice of Appeal" some six and a half months (6½ months) later on December 4, 2015.[3]

In *Massey v. Cty. of Greenville Bd. of Zoning Adjustments*, 341 S.C. 193, 532 S.E.2d 885 (Ct. App. 2000), the South Carolina Court of Appeals held that the circuit court erred in allowing the record on appeal to be supplemented with testimony that was not presented at the zoning board hearing. *Massey v. Cty. of Greenville Bd. of Zoning Adjustments*, 341 S.C. 193, 532 S.E.2d 885 (Ct. App. 2000). The Court of Appeals held in *Austin v. Board of Zoning Appeals*, that the circuit court did not abuse its discretion in refusing to supplement the record on appeal, explaining,

> [w]hen reviewing a [b]oard decision, the circuit court sits as an appellate court. Its review is strictly limited to the facts and arguments raised to the [b]oard below.

362 S.C. 29, 38, 606 S.E.2d 209, 214 (Ct. App. 2004). In *Austin*, the Plaintiff sought to supplement the record with an additional plat. *Id.* at 39. The Plaintiff contended that the plat

[3] It is noted that, if the Court disallows the "Second Notice of Appeal" the effect would also disallow the attachments to the "Appeal" document that are not part of the Certified Record.

was admitted into evidence at the zoning board hearing, but was not included in the record on appeal by mistake. *Id.* The Plaintiff pointed to the transcript of the hearing where a board member "asked a member of the Town's Planning Staff whether she provided the Board a copy of a plat she had just referenced . . . ." *Id.* The Court, however, could not discern from the reference in the transcript that the additional plat was introduced into the record or relied on by the zoning board. *Id.* Accordingly, the Court upheld the circuit court's order denying the Plaintiff's motion to supplement the record. *Id.* at 40.

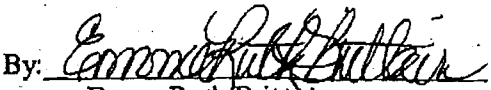
In this case, the following Exhibits attached to Appellant's December 4, 2015, Notice of Appeal are not a part of the Record on Appeal of the Horry County Zoning Board of Appeal: Exhibits C, D, E, G-5, H-1, J, K, and part of exhibit F-1 (aerial photographs and Horry County Zoning App. Comp Certification Inquiry dated 4/24/14). Pursuant to State statute and the governing case law, which limit this Court's review to the evidence presented to the Zoning Board at the hearings, Appellant's "exhibits" which were not considered by the Zoning Board and thus not made a part of the Certified Record on Appeal to this Court, should not be considered in this Court's appellate review. Moreover, the December 4, 2015, Notice of Appeal containing these Exhibits is untimely under South Carolina Code Ann. §§ 6-29-820(A), 6-296-830(A) (Supp. 2015).

IV. CONCLUSION

Based on the above, Respondent Horry County Zoning Board of Appeals respectfully submits that Appellant's filing of documents outside of the duly certified Record on Appeal and untimely filing of a "Second Notice of Appeal" should be stricken from the record.

Respectfully submitted,

THOMAS & BRITTAIN, P.A.

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Attorneys for the Defendant Horry County
Zoning Board of Appeals

August 16, 2016
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2015-CP-26-3791
In re: Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC,	)	
Plaintiff,	)	
v.	)	**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO STRIKE**
Horry County Zoning Board of Appeals,	)	
Defendant.	)	

Plaintiff Dennis Thompkins - Bellamy Law firm, agent for DT, LLC (hereinafter, "Thompkins") hereby responds to Defendant Horry County Zoning Board of Appeal's (hereinafter "the Board" or "the County") Motion to Strike and Disallow the Second Notice Appeal and Exhibits which the County filed on December 29, 2015. In its Motion, the County alleges the Thompkins Notice of Appeal filed December 4, 2015 ("Notice") should be stricken, or, in the alternative, several of the exhibits filed therewith should be disallowed. The County first alleges the Notice was untimely filed and secondly that several of the exhibits to the Notice were not included in the clerk's certified record filed with the court.

Timeliness

With regard to the timeliness of the filing of the Notice, the Local Government Planning Act ("the Act"), S.C. Code Ann. § 6-29-310 *et sec*, controls. The Act specifically addresses the County's misunderstanding of the time-frames required in appeals from zoning boards of appeals. While the County recites only specific sections of the Act in its Motion, several of the sections not cited by the County make clear the Thompkins Notice was in fact timely. The Act, in §§ 6-29-820 and 6-29-825,

provides as follows:

§ 6-29-820. Appeal from zoning board of appeals to circuit court; pre-litigation mediation; filing requirements.

(A) A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by **filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law.** The appeal must be filed within thirty days after the decision of the board is mailed.

(B) A property owner whose land is the subject of a decision of the board of appeals may appeal **either**:

(1) as provided in subsection (A); **or**

(2) **by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-825.**

Any notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is postmarked.

(C) Any filing of an appeal from a particular board of appeals decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a).

(Emphasis added.)

§ 6-29-825. Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit Court Alternative Dispute Resolution Rules and this section. A person who is not the owner of the property may petition to intervene as a party, and this motion must be granted if the person has a substantial interest in the decision of the board of appeals.

(B) The property owner or his representative, any other person claiming an ownership interest in the property or his representative, and any other person who has been granted leave to intervene pursuant to subsection (A) or his representative must be notified and have the opportunity to attend the mediation. The governmental entity must be represented by at least one person for purposes of mediation.

(C) Within five working days of a successful mediation, the mediator must provide

the parties with a signed copy of the written mediation agreement.

(D) Before the terms of a mediation settlement may take effect, the mediation settlement must be approved by:

(1) the local legislative governing body in public session; and

(2) the circuit court as provided in subsection (G).

(E) Any land use or other change agreed to in mediation which affects existing law is effective only as to the real property which is the subject of the mediation, and a settlement agreement sets no precedent as to other parcels of real property.

(F) If mediation is not successful or if the mediated settlement is not approved by the local legislative governing body, a property owner may appeal by filing a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The petition must be filed with the circuit court within thirty days of:

(1) the report of an impasse as provided in the South Carolina Circuit Court Alternative Dispute Resolution Rules; or

(2) the failure to approve the settlement by the local governing body.

(G) The circuit court judge must approve the settlement if the settlement has a rational basis in accordance with the standards of this chapter. If the mediated settlement is not approved by the court, the judge must schedule a hearing for the parties to present evidence and must issue a written opinion containing findings of law and fact. A party may appeal from the decision:

(1) in the same manner as provided by law for appeals from other judgments of the circuit court; or

(2) by filing an appeal pursuant to subsection (F).

In the present matter, the County's Order was received May 15, 2015. Thereafter, on May 22, 2015, Thompkins filed an appeal as provided in § 6-29-820(B)(2). Pursuant to § 6-29-820 of the Act, an interested party may ***either*** file a "petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law" ***or***, should the party seek pre-litigation mediation, that party may file "a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation."

Pursuant to the Thompkins notice and request, mediation in this matter was held November

4, 2015 at the offices of Karl A. Folkens in Florence, South Carolina. However, the mediation was not successful. As such, Thompkins, on December 4, 2015 filed a Notice of Appeal pursuant to § 6-29-825(F), setting forth, with specificity, the grounds for appeal and reversal of the County's decision. This second Notice was timely pursuant to the clear text of § 6-29-825(F), which provides a thirty (30) day time-frame within which the notice must be filed following the report of impasse by the mediator. It is this Notice which the County seeks to have stricken by the present Motion, despite the clear framework set forth in the Act.

Insofar as the dates set forth in this memorandum are not in dispute, are clearly set forth in the Clerk's file before the court, and the Act makes clear Thompkins' Notice was filed in a timely manner, Thompkins respectfully requests this court deny the County's Motion to Strike.

Exhibits

The County seeks the exclusion of the following documents included as exhibits in the Notice:

1. Exhibit C (application for business license dated 3/25/15);
2. Exhibit D (application for business license dated 11/12/14);
3. Exhibit E (letter from current Zoning Administrator Rennie Mincey regarding zoning conformance of property);
4. Exhibit G-5 (Thompkins & Associates invoice to City of Myrtle Beach);
5. Exhibit H-1 (Affidavit of Roland Meyer);
6. Exhibit J (Affidavit of Roland Meyer);
7. Exhibit K (letter from counsel for Thompkins to counsel for Horry County and the Horry County Solid Waste Authority regarding concerns of inappropriate

communications between Horry County and the Solid Waste Authority staff and board members); and,

8. Exhibit F-1 (aerial photographs and Horry County Zoning App. Comp Certification Inquiry dated 4/24/14).

Again, much guidance is found in the Act itself, which, at § 6-29-800(B), provides:

> (B) Appeals to the board may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality or county. The appeal must be taken within a reasonable time, as provided by the zoning ordinance or rules of the board, or both, by filing with the officer from whom the appeal is taken and with the board of appeals notice of appeal specifying the grounds for the appeal. If no time limit is provided, the appeal must be taken within thirty days from the date the appealing party has received actual notice of the action from which the appeal is taken. **The officer from whom the appeal is taken immediately must transmit to the board all the papers constituting the record upon which the action appealed from was taken.**

(Emphasis added.)

This section of the Act offers valuable guidance to the court as to several of the exhibits to which the County objects. To wit:

Exhibits C and D are business license application forms printed directly from the County's computer system and provided to Thompkins by the County. They are creations of the County and are clearly in the County's possession, in the County's file on the Thompkins matter, and were, pursuant to § 6-29-800(B) required to have been provided to the Board upon the filing of the appeal from the Zoning Administrator. For the County to now claim the Court is foreclosed from considering these documents as evidence which the transcript makes clear was considered by the Board, is capricious and contrary to the dictates of the Act.

Exhibit E is a letter regarding the zoning conformance of this property. This letter was

written by the current Zoning Administrator for Horry County, Rennie Mincey, and is therefore also a creation of the County, clearly in the County's possession, in the County's file on the Thompkins matter, and was, pursuant to § 6-29-800(B) required to have been provided to the Board upon the filing of the appeal from the Zoning Administrator. For the County to now claim the Court is foreclosed from considering this document as evidence which the transcript makes clear was considered by the Board, is capricious and contrary to the dictates of the Act.

Likewise, the aerial images of the Thompkins property included with Exhibit F-1 were produced by the County and projected at the Board meetings to allow the Board members to familiarize themselves with the Thompkins property. These, too, are creations of the County and are clearly in the County's possession, in the County's file on the Thompkins matter, and were, pursuant to § 6-29-800(B) provided to the Board upon the filing of the appeal from the Zoning Administrator. For the County to now claim the Court is foreclosed from considering these documents as evidence which the transcript makes clear was considered by the Board, is yet another in a series of capricious actions taken by the County in this matter and contrary to the dictates of the Act.

Exhibits H-1 and J are copies of the affidavit provided by the former Zoning Administrator, Roland Meyer. This affidavit was provided to the County, as evidenced by the April 13, 2015 email, attached hereto and incorporated herein by reference as Exhibit A. Moreover, counsel for Thompkins, as is clear in the transcript of the Board meetings addressing the Thompkins appeal, discussed this affidavit at length on the record and the Board clearly took the affidavit into consideration in making its decision. In point of fact, the current Zoning Administrator addressed the Thompkins perceived disagreement as to hers and Meyers' interpretation of "accessory use" in the transcript. Clearly, this document, too, was in the Board's possession and should have been

included in the clerk's certified record filed with the court. For the County to now claim the Court is foreclosed from considering this document as evidence is yet another capricious action taken by the County in this matter and contrary to the dictates of the Act.

Lastly, Exhibit K is a letter sent by counsel for the Thompkins to Horry County as well as the Solid Waste Authority. This letter outlines concerns regarding allegations of inappropriate communication taking place between these respective agencies and their Boards. Furthermore, the Board in this matter was made specifically aware of this letter, had the opportunity to discuss the letter with its counsel, and this letter was specifically addressed of record at the May 11, 2015 Zoning Board of Appeals meeting. For the County to now claim the Court is foreclosed from considering this document as evidence which the transcript makes clear was considered by the Board, is yet another capricious action taken by the County in this matter and contrary to the dictates of the Act.

Accordingly, Thompkins respectfully requests, as to these exhibits, the Court deny the County's Motion to exclude them from the court's consideration in the present appeal. Should the court decline to include these exhibits, Thompkins would respectfully request the court remand the matter to the Board for rehearing pursuant to § 6-29-840(A) of the Act, which reads as follows:

> (A) At the next term of the circuit court or in chambers, upon ten days' notice to the parties, the presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. **In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing.** In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law. In the event that the decision of the board is reversed by the circuit court, the board is charged with the costs, and the costs must be paid by the governing authority which established the board of appeals.

(Emphasis added.)

The exhibits which the County seeks to exclude are in the County's possession, were clearly considered by the Board and should have been included in the clerk's (an employee of the County) certified record to the court, pursuant to the Act. To deprive the court of the opportunity to consider these documents would be one additional capricious act by the County against Thompkins in this matter.

Respectfully submitted,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.
Post Office Box 357
Myrtle Beach, SC 29578-0357
843-448-2400
Attorneys for the Plaintiff

Robert S. Shelton

Myrtle Beach, South Carolina

January 18, 2016

Richardson, Nicole M.

From:	Richardson, Nicole M.
Sent:	Monday, April 13, 2015 4:16 PM
To:	Carol Coleman (colemanc@horrycounty.org); Wes Covington (covingtw@horrycounty.org); Janet Carter (carterj@horrycounty.org)
Cc:	Shelton, Robert S.
Subject:	Affidavit of Roland Meyer
Attachments:	Affidavit of Roland Meyer-Executed.pdf

Pursuant to Mr. Shelton's request, attached please find a copy of Mr. Meyer's executed affidavit.

THE BELLAMY LAW FIRM

Nicole M. Richardson
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EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	Civil Action No. 2015-CP-26-3791
Dennis Thompkins – Bellamy Law firm, agent for DT, LLC	)	
Plaintiff,	)	**JOINT MOTION OF PLAINTIFF AND DEFENDANT FOR SCHEDULING ORDER**
vs.	)	
Horry County Zoning Board of Appeals,	)	
Defendant.	)	

FILED
HORRY COUNTY
2016 MAR -4 AM 11:55
JANICE HUGGINS-WARD
CLERK OF COURT

NOW, THEREFORE, ON JOINT MOTION of counsel for Plaintiff and Defendant, the parties to this action consent to and hereby tender a proposed Scheduling Order to the Court for consideration for the purpose of scheduling an extension of approximately six (6) months for the hearing on the appeal.

WHEREAS, A Notice of Appeal of Order of Horry County Board of Zoning Appeals was filed with the Circuit Court on May 22, 2015, and the Defendant's Answer and Return to Notice of Appeal of Order of Horry County Board of Zoning Appeals was filed on June 18, 2015;

WHEREAS, mediation in the case was held on November 4, 2015;

WHEREAS, a second Notice of Appeal was filed with the Court on December 4, 2015; the Defendant's Motion to Strike and Disallow the Second Notice of Appeal and Exhibits Filed by Plaintiff on December 4, 2015 was filed with the Court on December 29, 2015; and the Defendant's Answer and Return to Second Notice of Appeal filed December 4, 2015, was filed with the Court on January 4, 2016;

WHEREAS, the motion and appeal hearing were rescheduled for February 1, 2016, but have been continued;

1 of 3

WHEREAS, Plaintiff wishes to pursue other zoning options that may result in resolving the instant matter and;

WHEREAS, Defendant consents to the provisions of the instant Scheduling Order to allow Plaintiff time to pursue such options;

WHEREAS, it appears to the Parties six (6) months is a reasonable period of time for Plaintiff to pursue such other options as it has available under the Horry County Zoning Code; and

WHEREAS, this Scheduling Order will assist in the efficient management of this action and will allow the parties to explore possible resolution of the matter and allow the Defendant time to seek other avenues of relief; Plaintiff and Defendant propose the following schedule:

1. Any and all motions must be heard on or before July 1, 2016; and

2. The hearing on the appeal is to be heard on or after July 18, 2016.

IT IS SO ORDERED.

The Honorable Steven H. John
Presiding Judge

Dated this 14th day of ~~February~~ March, 2016

Conway S.C.

WE SO MOVE AND CONSENT:

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

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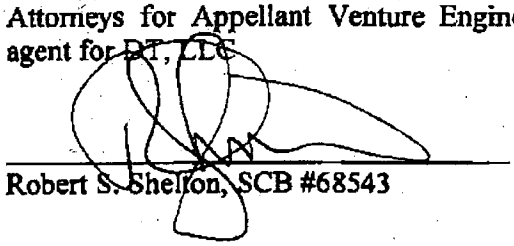
STATE OF SOUTH CAROLINA COUNTY OF HORRY	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC, Appellant, vs. Horry County Zoning Board of Appeals, Respondent.	Civil Action No. 2015-CP-26-3791
In re: Venture Engineering, agent for DT, LLC, Appellant, vs. Horry County Zoning Board of Appeals, Respondent.	Civil Action No. 2016-CP-26-2377 **NOTICE OF MOTION AND MOTION TO CONSOLIDATE ACTIONS**

TO: EMMA RUTH BRITTAIN, ESQ. ATTORNEY FOR RESPONDENT

YOU WILL PLEASE TAKE NOTICE that Appellants, Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC and Venture Engineering, agent for DT, LLC, by and through their undersigned attorneys, will move before the Presiding Judge of the Fifteenth Judicial Circuit for an Order consolidating the above-referenced Actions. This Motion is made pursuant to Rule 42 of the *South Carolina Rules of Civil Procedure*, and is based upon both of the above-referenced actions involving common questions of law and fact.

Therefore, Appellants, Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC and Venture Engineering, agent for DT, LLC, hereby move pursuant to the applicable *South Carolina Rules of Civil Procedure* for an Order consolidating the above-referenced Actions.

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Attorneys for Appellant Venture Engineering, agent for DT, LLC



Robert S. Shelton, SCB #68543

Myrtle Beach, South Carolina
June 6, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2015-CP-26-3791

Dennis Thompkins – Bellamy Law firm, agent for DT, LLC

Appellant,

vs.

Horry County Zoning Board of Appeals,

Respondent.

RESPONDENT HORRY COUNTY'S RESPONSE TO APPELLANT'S MOTION TO CONSOLIDATE

YOU WILL PLEASE TAKE NOTICE that Respondent, Horry County Zoning Board of Appeals ("Horry County"), by and through its undersigned attorneys, opposes the motion of Appellant Dennis Thompkins-Bellamy law Firm, Agent for DT, LLC ("DT/Venture"), to consolidate the instant action with the action of *In Re: Venture Engineering, Agent for DT, LLC, vs. Horry County Zoning Board of Appeals*. The basis for Horry County's position is that the two above-referenced actions involve separate and different applications for different kinds of zoning action which do not, by virtue of South Carolina statutory law, involve common questions of law and fact, and which, by virtue of State statutory law, involve different legal analysis on appeal.

In particular, the instant action, filed on May 22, 2015, involves the appeal of a decision of the Horry County Zoning Board of Appeals denying DT's appeal of the Zoning Administrator's decision that the site of DT's C&D Waste & Concrete Transfer business is not allowed to accept commercial loads of C&D concrete materials for processing from other contractors because of the applicable zoning of the site. DT appealed the Zoning Administrator's decision pursuant to South Carolina Code Ann. § 6-29-800(B) (Supp. 2015)

which "allows an appeal to the zoning board of any person agreed by decision of any officer, department, board, or bureau of the . . . county." Specifically, the Zoning Administrator determined that the C&D waste and concrete transfer use on the subject site is approved as an "accessory use" to construction and heavy equipment business only and that the site is not permitted to receive and process materials from other contractors under the provisions of Horry County's zoning ordinance.

The authority of the Board of Appeals to hear the appeal of the instant action was pursuant to S.C. Code Ann. § 6-29-800(A)(1) (Supp. 2016):

> The board of appeals has the following powers:
>
> (1) to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance . . . .

By contrast, in the case of *In Re: Venture Engineering, Agent for DT, LLC, vs. Horry County Zoning Board of Appeals ("DT/Venture")*, which hearing involved a completely different hearing and a completely different application (and agent) by DT, Horry County was presented with a request from Appellant Venture Engineering for a variance from the requirements of the Horry County Zoning Ordinance. The applicable law relating to variance appeals is governed by a different South Carolina statutory code section distinct and different from the section applicable to the DT action.

The Zoning Board of Appeals has power to hear variance requests pursuant to South Carolina Code Ann. § 6-29-800(A)(2) (Supp. 2016) which provides:

> (2) to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:
>
> (a) there are extraordinary and exceptional conditions pertaining to the

particular piece of property;

(b) these conditions do not generally apply to other property in the vicinity;

(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

(i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

(ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

In particular, in regard to variance requests, specific findings must be made as to five factors set forth above in § 6-29-800(A)(2) (Supp. 2016), the factors do not apply to the appeal in the instant action.

The Court's scope of review is set forth in South Carolina Code § 6-29-840 (Supp. 2016), which provides, in pertinent part:

> The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing. In determining the questions presented by the appeal, the court must determine only

whether the decision of the board is correct as a matter of law.

In summary, the instant action involves an appeal of the Horry County Zoning Appeals' decision regarding use on the subject parcel; the DT/Venture appeal, however, involves different facts; a different board hearing, exhibits and record on appeal; and a different application of law to facts. The two actions are separate and distinct, occurred at different points in time, and contain different governing requirements for review. Accordingly, based on the above, it is respectfully submitted that Appellant's Motion to Consolidate should be denied.

Respectfully submitted,

THOMAS & BRITTAIN, P.A.

By: Emma Ruth Brittain

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July 12, 2016
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF HORRY	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO. 2015-CP-26-3791
Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC, Appellant, v. Horry County Zoning Board of Appeals, Respondent.	
In re: Venture Engineering, Agent for DT, LLC, Appellant, v. Horry County Zoning Board of Appeals, Respondent.	Civil Action No. 2016-CP-26-2377 **APPELLANTS' REPLY TO RESPONDENT'S RESPONSE TO MOTION TO CONSOLIDATE ACTIONS**

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On June 7, 2016, Appellants, Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC (hereinafter "Appellant Thompkins") and Venture Engineering, agent for DT, LLC (hereinafter Appellant Venture"), moved for an Order consolidating the above-captioned cases, pursuant to Rule 42 of the South Carolina Rules of Civil Procedure ("SCRCP"). The basis for Appellants' Motion was that the above-captioned cases involve common questions of law and fact. On July 12, 2016, Respondent, Horry County Zoning Board of Appeals (hereinafter, the "ZBA" or "Respondent"), filed a Response to Appellants' Motion, arguing against consolidation on the basis that the two above-captioned lawsuits require separate and distinct legal analysis.

Appellant now files this Reply to Respondent's Response to Appellant's Motion to Consolidate the above-captioned cases for the reasons set forth herein below.

The Court has broad discretion to consolidate cases. Keels v. Pierce, 315 S.C. 339, 342, 433 S.E.2d 902, 904 (Ct. App. 1993). South Carolina Rule of Civil Procedure 42(a) states:

> When actions involving a common question of law **or** fact are pending before the court, it may order a joint hearing or trial of **any or all matters** in issue in the action; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.[1]

(emphasis added). South Carolina courts have found that under a consolidation order, "the parties and the pleadings are not merged, and each action retains its own identity." Keels, 315 S.C. at 342, 433 S.E.2d at 904. Thus, pursuant to Rule 42, SCRCP, and South Carolina common law, when more than one legal issue arises out of the same set of facts, consolidation allows the Court to jointly hear those facts, while still providing the Court with the ability to analyze each claim separately. See Keels, 315 S.C. at 342, 433 S.E.2d at 904.

The annotation to Rule 42, SCRCP, provides guidance regarding the reasoning for consolidation by stating, in pertinent part, that "consolidation for trial can save much time and cost, as when all claims arise out of one auto accident, or several claims are based upon identical contracts." Therefore, consolidation is appropriate where two or more cases share a common questions of fact *or* law because it is timelier and less expensive to try the cases together than apart.

The aforementioned South Carolina statutory and common law is directly applicable to the consolidation of the above-captioned cases. A review of the pleadings in both cases reveals

[1] Similarly, Rule 214 of the South Carolina Appellate Court Rules provides the Appellate Court with discretion to consolidate cases where the same question is involved in two or more appeals in different cases.

that they arise from an identical nucleus of fact regarding the ZBA's abrupt disallowance of Appellants' business' right to receive loads of C&D and/or concrete materials from outside sources. In fact, the first twenty-one (21) paragraphs of Appellant's Notice of Appeal in C/A 2016-CP-26-2377 (hereainafter, "Appeal II") reiterate the same fact pattern as contained in Appellant's entire Notice of Appeal in C/A 2015-CP-26-3791 (hereinafter, "Appeal I"). While Respondent is correct in stating that: (1) Appeal I involves the appeal of a decision of the ZBA, which disallowed Appellants' business from the receipt C&D and/or concrete materials from outside sources and (2) Appeal II concerns the ZBA's denial of a variance to Appellant Venture, what Respondent fails to acknowledge is that both of these ZBA decisions concern the identical factual premise and have the identical factual result – that Appellants' business can no longer receive outside loads of C&D material, despite the fact that it had been doing so since its operations began in 1981.[2] Thus, in the interest of judicial economy and efficiency, it is clear that the cases need to be consolidated.

Respondent spends the majority of its Response to Appellants' Motion to Consolidate arguing that the cases should not be consolidated because an appeal of a ZBA decision requires a separate legal analysis from an appeal of the ZBA's denial of a variance request. However, even if the Court needs to conduct a separate legal analysis for the issue in Appeal I and the issue in Appeal II, under Rule 42(a), SCRCP, following consolidation, the cases retain their own identity, allowing the Court to hear the facts of Appeal I and II jointly, while retaining the ability to analyze each legal issue separately, as needed.

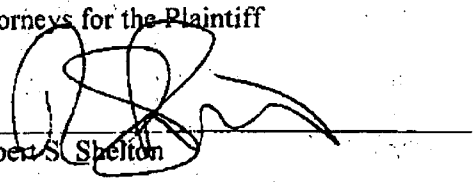
[2] Noteworthy, it was counsel for the ZBA who suggested to Appellants' counsel that Appellant Thompkins pursue a variance with Horry County in order to moot the need for Appeal I and to resolve the matter.

Therefore, because both of the above-captioned cases arise from the same common nucleus of operative facts and involve legal analysis regarding whether Appellants' business should be allowed to receive loads of C&D and/or concrete materials from outside sources, Appellants

respectfully request that the Court grant Appellants' Motion to Consolidate.

Respectfully submitted,

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Attorneys for the Plaintiff



Robert S. Shelton

Myrtle Beach, South Carolina

August 10, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2016-CP-26-2377
In re: Venture Engineering, agent for DT LLC	)	
Appellant,	)	**RESPONDENT'S MOTION TO STRIKE PORTION OF APPELLANT'S APPEAL PURSUANT TO S.C.R.C.P. 12(f)**
v.	)	
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

2016 JUN -1 PM 1:54

Defendant Horry County Zoning Board of Appeals ("Zoning Board") hereby moves before this Honorable Court, pursuant to S.C.R.C.P. 12(f), to strike all allegations outside of the scope of the Order of the Horry County Zoning Board of Appeals dated March 14, 2016, which is the Order appealed from in this appeal. Appellant's appeal contains allegations relative to a prior appeal, which is currently filed in this Court, and which allegations are outside of the scope of the instant Appeal. Specifically, paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and documents labeled "Exhibits A through L" and attached to Appellant's appeal should be stricken.

Additionally, pursuant to S.C. Code Ann. §6-29-830 (A) (Supp. 2015), the Board of Appeals is responsible for filing "a duly certified copy of the proceedings held before the board of appeals, including a transcript of the evidence heard before the board, if any and the decision of the Board including its findings of fact and conclusions". Moreover, pursuant to S.C. Code Ann. §6-29-840(A) (Supp. 2015), "The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence.

In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing."

Additionally, paragraph 14 pled by Plaintiff, is beyond the record scope, as well as immaterial, false and without evidentiary support. Therefore it should be stricken.

Accordingly, Defendant Horry County respectfully requests that the Court strike the paragraphs enumerated herein based on the governing statutory law as to the scope of the hearing that is the basis of the instant appeal.

THOMAS & BRITTAIN, P.A.

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-2377
In re: Venture Engineering, agent for DT, LLC,	)	
Appellant,	)	
vs.	)	**APPELLANT'S RESPONSE TO RESPONDENT'S MOTION TO STRIKE**
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

Appellant Venture Engineering, agent for DT, LLC hereby responds to Respondent Horry County Zoning Board of Appeal's Motion to Strike Portion of Appellant's Appeal Pursuant to S.C. R.C.P 12(f). Every allegation to which the Respondent objects to in its Motion to Strike is contained in the record on appeal. Furthermore, at the time of the variance request hearing, no objections were made by Respondent regarding anything contained in the record on appeal.

Respectfully submitted,

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June 15, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2016-CP-26-2377

Venture Engineering, Agent for DT LLC

Appellant,

vs.

Horry County Zoning Board of Appeals,

Respondent.

MEMORANDUM IN SUPPORT OF RESPONDENT'S MOTION TO STRIKE PORTION OF APPELLANT'S APPEAL PURSUANT TO S.C.R.C.P. 12(f)

2016 SEP 13 AM 8:59

I. INTRODUCTION

Defendant ("Respondent") Horry County Zoning Board of Appeals ("Zoning Board") filed its Motion to Strike portions of Venture Engineering, Agent for DT LLC's ("Appellant" or "DT/Venture") appeal pursuant to S.C.R.C.P. 12(f) on June 1, 2016, on the grounds that: (1) Appellant's appeal contains allegations relative to a prior and pending appeal separate and distinct from the pending action; and (2) Appellant has filed documents with the instant appeal that are not part of the duly certified record of the proceedings, certified by the Zoning Board as required by statute in this matter. Because the inclusion of these portions of Appellant's appeal, as further delineated herein, fail to comply with South Carolina Code Ann. §§ 6-29-830 and 6-29-840 (Supp. 2015), which set forth the requirements for the filing of an appeal and the provision of a duly certified copy of the proceedings held before the Zoning Board, Respondent's Motion to Strike should be granted.

Specifically, paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Appellant's appeal in the instant action involve actions taken, pertinent to and part of the record in a prior appeal *Dennis Thompkins-Bellamy Law Firm, agent for DT, LLC v. Horry County Zoning Board of Appeals decision of the Horry County Zoning Administrator*

("DT/Thompkins"). The allegations contained within these paragraphs are the subject of, and virtually verbatim, to the allegations contained in the DT/Thompkins appeal and are not an issue in this appeal related to variance requests. In the instant action Appellant has also filed exhibit documents A-L which are not part of the Zoning Board's Certified Record on Appeal in this matter.

Significantly, S.C. Code Ann. § 6-29-840 (Supp. 2015) requires that the Court's determination of the appeal be based on the record certified by the Zoning Board of Appeals and that "the court may not take additional evidence."[1] Appellant, however, has filed with the Court documents that were not part of the Record certified according to statute. Because these documents are not part of the Certified Record on Appeal filed by the Zoning Board Secretary on May 20, 2016, and the filing of these documents are not in accordance with the governing statutes, the required documents and paragraphs should be stricken.

II. FACTUAL BACKGROUND

The instant action was filed on April 14, 2016, following an earlier action *Dennis Thompkins – Bellamy Law firm, agent for DT LLC vs. Horry County Zoning Board of Appeals* ("DT/Thompkins"). In the instant action, Appellant DT/Venture requested a variance from the requirements of the Horry County Zoning Ordinance. The applicable law relating to variance appeals is governed by a South Carolina statutory code section separate and distinct from the code section and caselaw applicable to the first action and appeal.

A hearing in the instant action was held before the Horry County Zoning Board of Appeals on March 14, 2016, concerning Appellant's variance request, followed by an Order of the same date, March 14, 2016. In the Zoning Board hearing in the instant matter, Appellant

[1] If the Court finds that the record is insufficient, it may remand the matter to the Zoning Board of Appeals for rehearing. South Carolina Code Ann. § 6-29-840(A) (Supp. 2015).

DT/Venture requested variances from three requirements of the Horry County Zoning Code. The requests, in effect, would have resulted in a major reclassification of the property from being zoned Limited Industrial ("LI") to being zoned MA3 (Heavy/Intense Manufacturing and Industrial District), a change which would have been required in order to allow Appellant's proposed use of the property if the variances were approved. In effect, the zoning variances requested were: (1) a variance from the required set-back from the Pine Island Residential District from 500 feet (minimum) to 0 feet (i.e., 100% variance request and elimination of any set back requirement); (2) a variance from the required set-back requirement relating to landscaping/buffering from "Enhanced" to the use of the existing landscaping/buffering (adjacent to a neighborhood); and (3) a variance from Horry County Code Section 1202(A)(5) relating to processing plants which requires that "aggregate processing plants must be in fully enclosed structures," the effect of which would completely waive the requirement for DT/Venture to use an enclosed structure (to enclose the particulates generated by crushing) for the concrete crushing business (which would release particulates into the air impacting the surrounding neighborhood). After hearing testimony and considering the impact on the Pine Island neighborhood adjacent to the site, the Horry County Zoning Board of Appeals denied all three (3) variance requests. DT/Venture filed an appeal on April 14, 2016, attempting to incorporate the findings of the Zoning Board of Appeals and testimony contained in the earlier and separate DT/Thompkins appeal which did not relate to variance requests. Horry County filed its Return on June 1, 2016.

As a matter of background, the appeal in the case *Dennis Thompkins – Bellamy Law firm, agent for DT LLC vs. Horry County Zoning Board of Appeals* ("DT/Thompkins") involves a decision of the Horry County Zoning Administrator, Rennie Mincey, that was appealed to the

Horry County Zoning Board of Appeals on January 8, 2015, and ultimately followed by an appeal to this Court on May 22, 2015. The factual chronology of this appeal reflects that the appeal involves hearings before the Horry County Zoning Board of Appeals on February 9, 2015; March 9, 2015; April 13, 2015; and May 11, 2015. DT/Thompkins appealed Zoning Administrator Mincey's determination that Appellant's C&D waste and concrete transfer business was not approved to accept commercial loads of C&D concrete materials from other contractors for processing, i.e., that it was not an "approved use" for the site under the Horry County Zoning Code. Zoning Administrator Mincey's decision was based on the fact that the recycling of C&D on the parcel that had been approved in 2007 was limited to recycling of concrete materials that qualified only as an "accessory use" to the existing construction and heavy equipment business (i.e., materials generated by Appellant in the course of its business). Ms. Mincey determined that because the C&D waste and concrete recycling use was approved as an accessory use only to the construction and heavy equipment business of Appellant, that outside loads of such waste materials from other contractors was not an allowed use under Horry County's Zoning Code.

The Zoning Board of Appeals issued its Order denying the appeal on May 11, 2015. An appeal of the Zoning Board's Order was filed on May 22, 2015, followed by a Return filed by Horry County on June 18, 2015. The duly certified Transcript of Record was prepared by Alicia Shelley, Secretary to the Horry County Board of Zoning Appeals, setting forth all documents and transcripts relevant to the appeal, as required by South Carolina Code Ann. § 6-29-920 (Supp. 2015), and filed with the Horry County Clerk of Court on June 11, 2015.

Multiple hearings were held in this matter in which much testimony was taken, including testimony from neighborhood residents as to the impact of a change in zoning on adjacent

residential property owners who live in the Pine Island neighborhood. Hearings open to the public were held on February 9, 2015; March 9, 2015; April 13, 2015; and May 11, 2015. In the February 9, 2015, meeting following the presentation of testimony and evidence, the Zoning Board deferred its decision for thirty days. At the March 9, 2015, meeting, additional testimony was taken, and the decision was again deferred. On April 13, 2015, the Board voted to overturn the decision of the Zoning Administrator. The action was not final, however, until approval of the minutes of the meeting which was scheduled for May 11, 2015. On May 11, 2015, a motion was made to reconsider the Zoning Board's previous action (overturning the decision of the Zoning Administrator), and the Motion to Reconsider passed, thereby leaving in effect the determination of the Horry County Zoning Administrator denying the use of Appellant's property for accepting and processing/crushing concrete and other construction debris from outside contractors.

DT/Venture filed a "Notice of Appeal of Order of Horry County Board of Zoning Appeals" on April 14, 2016, which contains references to the findings of the Horry County Zoning Board of Appeals in the DT/Thompkins case and additional materials which are beyond the scope of the Certified Record filed by the Zoning Board of Appeals. On June 1, 2016, counsel for Horry County moved to strike portions of the Appellant's Appeal and the additional materials that had been submitted outside the scope of the official Certified Transcript of Record filed by the Zoning Board of Appeals in accordance with South Carolina Code § 6-29-840(A) (Supp. 2015).[2]

The Certified Record on Appeal was filed by the Clerk to the Zoning Appeals in accordance with South Carolina Code Ann. §§ 6-29-820(A) and 6-29-830(A) (Supp. 2015) with the Horry County Clerk of Court's office on June 11, 2015. Horry County filed its Return on

[2] Out of caution, Horry County filed an Answer/Return to the "Second Appeal."

June 18, 2015. Pre-litigation mediation occurred on November 4, 2015, and was unsuccessful.

III. LEGAL ARGUMENT

The South Carolina legislature specifically defined the contents of and the method of filing a record on appeal involving the appeal of proceedings such as the instant matter before the Horry County Zoning Board of Appeals, as follows:

(a) South Carolina Code Ann. § 6-29-830(A) (Supp. 2015) (emphasis added) provides:

> Upon the filing of an appeal with a petition as provided in Section 6-29-820(A) or Section 6-29-825(F), the clerk of the circuit court must give immediate notice of the appeal to the secretary of the board and **within thirty days from the time of the notice, the board must file with the clerk a duly certified copy of the proceedings held before the board of appeals, including a transcript of the evidence heard before the board, if any, and the decision of the board including its findings of fact and conclusions.**

(b) South Carolina Code Ann. § 6-29-820(A) (Supp. 2015) (emphasis added) provides:

> A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. **The appeal must be filed within thirty days after the decision of the board is mailed.**

(c) South Carolina Code Ann. § 6-29-840(A) (Supp. 2015) (emphasis added) provides:

> At the next term of the circuit court or in chambers, upon ten days' notice to the parties, the presiding judge of the circuit court of the county must proceed to hear and pass upon the appeal on the certified record of the board proceedings. **The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing.** In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law.

Appellant's filing of the alleged Notice of Appeal and documents not within the "duly certified copy of the proceedings held before the Board of Appeals" fails to comply with the statutory requirements governing the content of the Certified Record on Appeal and, therefore,

these items should be stricken and disallowed by the Court. The governing statutory provisions clearly state that the appropriate action to be taken by the Court, should it determine that the Certified Record is insufficient for review, is to remand the matter to the Zoning Board of Appeals for rehearing. South Carolina Code Ann. § 6-29-840(A) (Supp. 2015).

South Carolina appellate courts have been unequivalent in its rulings uniformly disallowing the supplementation of the record on appeal in zoning board appeals to the circuit court such as Appellant has attempted to do in the instant matter. In *Massey v. Cty. of Greenville Bd. of Zoning Adjustments*, 341 S.C. 193, 532 S.E.2d 885 (Ct. App. 2000), the South Carolina Court of Appeals held that the circuit court erred in allowing the record on appeal to be supplemented with testimony that was not presented at the zoning board hearing. *Massey v. Cty. of Greenville Bd. of Zoning Adjustments*, 341 S.C. 193, 532 S.E.2d 885 (Ct. App. 2000). The Court of Appeals held in *Austin v. Board of Zoning Appeals*, that the circuit court did not abuse its discretion in refusing to supplement the record on appeal, explaining:

> [w]hen reviewing a [b]oard decision, the circuit court sits as an appellate court. Its review is strictly limited to the facts and arguments raised to the [b]oard below.

362 S.C. 29, 38, 606 S.E.2d 209, 214 (Ct. App. 2004). In *Austin*, the Plaintiff sought to supplement the record with an additional plat. *Id.* at 39. The Plaintiff contended that the plat was admitted into evidence at the zoning board hearing, but was not included in the record on appeal by mistake. *Id.* The Plaintiff pointed to the transcript of the hearing where a board member "asked a member of the Town's Planning Staff whether she provided the Board a copy of a plat she had just referenced . . . ." *Id.* The Court, however, could not discern from the reference in the transcript that the additional plat was introduced into the record or relied on by the zoning board. *Id.* Accordingly, the Court upheld the circuit court's order denying the

Plaintiff's motion to supplement the record. *Id.* at 40.

In this case, Exhibits A-L attached to Appellant's April 14, 2016, Notice of Appeal are not an appropriate part of the Record on Appeal of the Horry County Zoning Board of Appeals. Additionally, Appellant attempts to circumvent the statutory scope of review by including paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 in its appeal, which relate solely to the DT/Thompkins action, and are not relevant to the instant appeal. Pursuant to State statute and the governing case law, which limit this Court's review to the evidence presented to the Zoning Board at hearing at issue,, Appellant's "exhibits" which were not considered by the Zoning Board and thus not made a part of the Certified Record on Appeal to this Court in this matter, should not be considered in this Court's appellate review. Similarly, the referenced paragraphs in Appellant's appeal relating to another pending appeal should be stricken.

IV. CONCLUSION

Based on the above, Respondent Horry County Zoning Board of Appeals respectfully submits that Appellant's filing of documents outside of the duly certified Record on Appeal and matters outside the record referenced in Paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 and Exhibit documents A-L of the Appellant's appeal should he stricken from the record.

Respectfully submitted,

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September 9, 2016
Myrtle Beach, South Carolina

Attorneys for the Defendant Horry County
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FILED
HORRY COUNTY
2016 JUL 14 PM 3:27
MELANIE HUGGINS-WARD
CLERK OF COURT

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY) CIVIL ACTION NO.: 2016-CP-26-2377

Venture Engineering, Agent for DT LLC

Appellant,

vs.

Horry County Zoning Board of Appeals,

Respondent.

RESPONDENT HORRY COUNTY'S RESPONSE TO APPELLANT'S MOTION TO CONSOLIDATE

YOU WILL PLEASE TAKE NOTICE that Respondent, Horry County Zoning Board of Appeals ("Horry County"), by and through its undersigned attorneys, opposes the motion of Appellant Venture Engineering, Agent for DT LLC ("DT/Venture"), to consolidate the instant action with the action of *In Re: Dennis Thompkins – Bellamy Law firm, agent for DT, LLC vs. Horry County Zoning Board of Appeals ("DT")*. The basis for Horry County's position is that the two above-referenced actions involve separate and different applications for different kinds of zoning action which, by virtue of the Horry County Zoning Ordinance do not involve common questions of law and fact, and which, by virtue of South Carolina statutory law, do not involve common questions of law analysis on appeal.

In particular, the instant action, filed on April 14, 2016, involves a request from Appellant DT/Venture Engineering for a variance from the requirements of the Horry County Zoning Ordinance. The applicable law relating to variance appeals is governed by a South Carolina statutory code section distinct and different from the section applicable to the DT action. The Zoning Board of Appeals has power to hear variance requests pursuant to South Carolina Code Ann. § 6-29-800(A)(2) (Supp. 2016) which authorize the Board may:

(2) to hear and decide appeals for variance from the requirements of the zoning

ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may he granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

(a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;

(b) these conditions do not generally apply to other property in the vicinity;

(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(d) the authorization of a variance will not he of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

(i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

(ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

In particular, in regard to variance requests, specific findings must be made as to five factors set forth above in § 6-29-800(A)(2) (Supp. 2016), which factors apply to the appeal in the instant action but, significantly, do not apply to *In Re: Dennis Thompkins – Bellamy Law firm, agent for DT, LLC vs. Horry County Zoning Board of Appeals ("DT")* case.

By contrast, the DT case involved a hearing of a different nature and a completely

different Application (and agent) by DT. The DT/Venture case involves an appeal of a decision of the Horry County Zoning Board of Appeals denying DT/Venture's request for a variance. The DT case, however, is an appeal of the Zoning Administrator's decision that the site of DT's C&D Waste & Concrete Transfer business is not allowed to accept commercial loads of C&D concrete materials for processing from other contractors because of the applicable zoning of the site.[1] Specifically, the Zoning Administrator determined that the C&D waste and concrete transfer use on the subject site is approved as an "accessory use" to construction and heavy equipment business only and that the site is not permitted to receive and process materials from other contractors under the provisions of Horry County's zoning ordinance. Such factual and the applicable legal analysis is neither relevant nor appropriate to the instant action.[2]

The Court's scope of review is set forth in South Carolina Code § 6-29-840 (Supp. 2016), which provides, in pertinent part:

> The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. In the event the judge determines that the certified record is insufficient for review, the matter may be remanded to the zoning board of appeals for rehearing. In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law.

In summary, the DT/Venture action involves different facts; a different board hearing, different exhibits, a different record on appeal; and a different application of South Carolina statutory law to facts pertaining to a variance request. The DT appeal, however, involves an appeal of the Horry County Zoning Appeals' decision regarding use of the subject parcel. The

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[1] DT appealed the Zoning Administrator's decision pursuant to South Carolina Code Ann. § 6-29-800(B) (Supp. 2015) which "allows an appeal to the zoning board of any person agreed by decision of any officer, department, board, or bureau of the . . . county."

[2] The authority of the Board of Appeals to hear the appeal of the DT action was pursuant to S.C. Code Ann. § 6-29-800(A)(1) (Supp. 2016):

> The board of appeals has the following powers:
> (1) to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance . . . .

two actions are separate and distinct, involve hearings which occurred at different points in time requesting different relief and containing different records of reviews along with different governing requirements for review. Accordingly, based on the above, it is respectfully submitted that Appellant's Motion to Consolidate should be denied.

Respectfully submitted,

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July 12, 2016
Myrtle Beach, South Carolina

ELECTRONICALLY FILED - 2018 Apr 16 5:22 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	CIVIL ACTION NO.: 2016-CP-26-2377

Venture Engineering, Agent for DT LLC

Appellant,

vs.

Horry County Zoning Board of Appeals,

Respondent.

RESPONDENT HORRY COUNTY ZONING BOARD OF APPEALS NOTICE OF MOTION AND MOTION TO RECONSIDER PURSUANT TO RULE 59(e) SCRCP

TO: APPELLANT AND THEIR ATTORNEY ROBERT S. SHELTON, ESQUIRE:

Please take notice that the Respondent, Horry County Zoning Board of Appeals, by and through its undersigned attorneys, bereby respectfully move pursuant to Rule 59(e), SCRCP for this Court to alter or amend its Order, entered April 6, 2018 (the "Subject Order"). Specifically, Respondent requests that this Court reconsider its reversal of the Horry County Zoning Board of Appeals' Orders, dated May 11, 2015 ("Appealed Order I")[1], and March 14, 2016 (Appealed Order II"), respectively, as set forth more fully hercin bclow.

This case is a consolidation of two appeals filed by Appellants, as follows: (a) *Dennis Thompkins – Bellamy Law firm, agent for DT LLC vs. Horry County Zoning Board of Appeals,* Civil Action No.: 2015-CP-26-3791, involving the Zoning Board of Appeal's Order I ("Appeal I"); and (b) *Venture Engineering, Agent for DT LLC v. Horry County Zoning Board of Appeals,* Civil Action No.: 2016-CP-26-2377, involving the Zoning Board of Appeal's Order II ("Appeal II").

[1] Order I was a reconsideration of an earlier decision rendered on April 13, 2015.

In Appeal I, the Appellant claimed that the Zoning Board of Appeals erred in its determination that under the Horry County Zoning Code, the Appellant could not accept commercial loads of C&D concrete materials for processing from other contractors. In Appeal II, the Appellant claimed that the Zoning Board of Appeals erred in its refusal to issue a variance under the Horry County Zoning Code.

In connection with its review of Appeal I and Appeal II, this Court failed to give the requisite deference to the factual determinations of the Board and reviewed and considered certain evidence outside the requisite records on appeal. In so doing, this Court impermissibly substituted its own judgment for that of the Board. Pursuant to S.C. Code Ann. § 6-29-840 a reviewing court "may not take additional evidence"; should the Court determine that the certified record in the first appeal is insufficient for review, it may remand the matter to the Zoning Board of Appeals for rehearing. S.C. Code Ann. § 6-29-840(A) (Supp. 2015). As set forth in S.C. Code Ann. § 6-29-840(A): "in determining the questions presented by the appeal, the Court must determine only whether the decision of the Board is correct as a matter of law."

> It is a well settled proposition of zoning law that a court will not substitute its judgment for the judgment of the board. The court may not feel that the decision of the board was the best that could have been rendered under the circumstances. It may thoroughly disagree with the reasoning by which the board reached its decision. It may feel that the decision of the board was a substandard piece of logic and thinking. None the less, the court will not set aside the board's view of the matter just to inject its own ideas into the picture of things.

Furr v. Horry County Zoning Bd. of Appeals, 411 S.C. 178, 183, 767 S.E.2d 221, 224 (Ct. App. 2014) (quoting *Restaurant Row Assocs. v. Horry County*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999)).

In addition, Respondent contends that this Court erred in granting the Appellant's Motion to Consolidate Appeal I and Appeal II. Because the appeals of the two cases involved separate and

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distinct zoning actions, they are each governed by differing applicable law, which, by definition of the applicable Horry County Zoning Ordinances and South Carolina statutory law, require separate and distinct factual analyses. They, thus, cannot involve common questions of fact. The differences in the two appeals are significant and warranted separate and distinct analysis.

For the reasons set forth above, Respondent would respectfully request that this Court reconsider and alter and amend the Subject Order.

Respectfully submitted,

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April 16, 2018

Myrtle Beach, South Carolina

ELECTRONICALLY FILED - 2018 Apr 16 5:22 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-02377
In re: Venture Engineering, agent for DT LLC,	)	
Appellant,	)	**APPELLANT'S REPLY TO RESPONDENT'S MOTION TO RECONSIDER**
v.	)	
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

This case is a consolidation of two appeals filed by Appellants, Dennis Thompkins-Bellamy Law Firm, agent for DT LLC ("Appellant Thompkins-Bellamy"), and Venture Engineering, agent for DT LLC ("Appellant Venture").[1] Both appeals arise out of identical facts regarding Respondent's, Horry County Zoning Board of Appeals ("the Board"), abrupt disallowance of Appellant's business' right to receive loads of C&D and/or concrete materials from outside sources.

On January 5, 2017, this Court heard both appeals. After thorough review of the Record, South Carolina case law, and oral arguments made by counsel at the hearing, the Court reversed Respondent's May 11, 2015 and March 14, 2016 Orders and set forth the basis for such reversal fully in its Order of April 6, 2018. On April 16, 2016, Respondent filed a Motion to Reconsider the April 6, 2018 Order pursuant to SCRCP Rule 59(e).

[1] Appellant Thompkins-Bellamy filed its appeal of Respondent's May 11, 2015 Order on May 22, 2015 (hereinafter "Appeal I"). Appeal I was identified as Civil Action No. 2015-CP-26-3791. Appellant Venture filed its appeal of Respondent's March 14, 2016 Order on April 14, 2016 (hereinafter, "Appeal II"). Appeal II was identified as Civil Action No. 2016-CP-26-2377. Both matters were consolidated under 2016-CP-26-2377.

ELECTRONICALLY FILED - 2018 May 15 1:48 PM - HORRY - COMMON PLEAS - CASE#2016CP260377

ELECTRONICALLY FILED - 2018 May 15 1:48 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

In its Motion to Reconsider, Respondent alleges the Court erred in two (2) ways. Each of Respondent's assertions of error is addressed individually as follows:

First, Respondent claims the Court "failed to give the requisite deference to the factual determinations of the Board and reviewed and considered certain evidence outside the requisite records on appeal." (Respondent's Motion, Page 2) In that regard, Respondent alleges the Court substituted its own judgment for the judgment of the Board. Respondent's position in this regard is incorrect. On December 29, 2015, Respondent filed a Motion to Strike the very evidence of which it now again complains. A hearing on Respondent's Motion to Strike was heard on August 4, 2016 and subsequently Judge Larry B. Hyman, Jr. denied Respondent's Motion to Strike. The Order Denying Respondent's Motion to Strike was filed October 13, 2016. (Attached hereto and incorporated herein by reference as "**Exhibit A.**") To wit, this Honorable Court conducted its own legal analysis of the Board's Certified Record and fully considered and addressed the specifics of each appeal both during the Hearing on this consolidated matter and in its April 6, 2018 Order.[2]

Second, Respondent alleges the Court erred in granting Appellant's Motion to Consolidate. The Order of Circuit Court Judge Larry B. Hyman, Jr. consolidating the actions in this matter was filed October 13, 2016. (Attached hereto and incorporated herein by reference as "**Exhibit B.**") The Clerk of Court records reflect Respondent filed no motion asking the Court to reconsider the consolidation until its attempt to present that argument in the current Motion which was filed more than eighteen months later. Respondent's argument seeking reconsideration of the consolidation of the actions is untimely and should not be considered. Moreover, the Order of consolidation was

[2] Of import, the only items considered at the Hearing which were not already in the record certified by the BZA were the two orders of Judge Hyman (denying Respondent's Motion to Strike and Consolidating Actions) which post-dated the BZA hearings. Respondent did not move to reconsider the Order Denying its Motion to Strike, and does not complain about that Order in the present Motion.

entered by Circuit Court Judge Hyman, and reconsideration of that Order by another Circuit Court Judge would be inappropriate.

Respondent specifically limited its Motion to Reconsider to "the reasons set forth above." (Respondent's Motion, Page 3) The two issues raised in Respondent's Motion having been fully addressed by this Honorable Court, Appellant requests Respondent's Motion be Denied.

Respectfully Submitted,

BELLAMY, RUTENBERG, COPELAND, EPPS, GRAVELY & BOWERS, P.A.
P.O. Box 357
Myrtle Beach, SC 29578
(843) 448-2400
Attorneys for Appellant

s/Robert S. Shelton
Robert S. Shelton
SC Bar No.: 68543

Myrtle Beach, South Carolina
May 15, 2018

ELECTRONICALLY FILED - 2018 May 15 1:48 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-02377
In re: Venture Engineering, agent for DT LLC,	)	
Appellant,	)	
v.	)	**APPELLANT'S MOTION FOR COSTS**
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

TO: EMMA RUTH BRITTAIN, ESQ., AS COUNSEL FOR RESPONDENT

PLEASE TAKE NOTICE that Appellant, Venture Engineering, agent for DT LLC, by and though its undersigned counsel, will move before the Court of Common Pleas in the Fifteenth Judicial Circuit of South Carolina, for an award of costs incurred as referenced in the attached Affidavit of Costs and pursuant to Rule 54(d) of the *South Carolina Rules of Civil Procedure*; South Carolina Code Ann. §§ 15-37-10 *et seq.* (1976); and South Carolina Code Ann. § 6-29-840 (A).

Respectfully Submitted,

BELLAMY, RUTENBERG, COPELAND, EPPS, GRAVELY & BOWERS, P.A.
P.O. Box 357
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(843) 448-2400
Attorneys for Appellant

s/Robert S. Shelton
Robert S. Shelton
SC Bar No.: 68543

ELECTRONICALLY FILED - 2018 Apr 16 3:54 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

Myrtle Beach, South Carolina
April 16, 2018

ELECTRONICALLY FILED - 2018 Apr 16 3:54 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

ELECTRONICALLY FILED - 2018 Apr 16 3:54 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	CIVIL ACTION NO. 2016-CP-26-02377
In re: Venture Engineering, agent for DT LLC,	)	
Appellant,	)	
v.	)	**AFFIDAVIT OF COSTS**
Horry County Zoning Board of Appeals,	)	
Respondent.	)	

AFFIDAVIT OF COSTS

PERSONALLY APPEARED BEFORE ME, Robert S. Shelton, who being duly sworn, does hereby state and affirm as follows, having actual knowledge of all matters set forth herein:

1. I am a licensed attorney and have actively practiced law in the State of South Carolina for more than seventeen (17) years, and have extensive experience involving litigation and collection matters.

2. I am the attorney of record for Appellant, and I am familiar with all matters surrounding this action.

3. Throughout the course of this litigation, costs have been accumulated in the amount of $567.07.

4. The costs are broken down as follows:

$ 375.00 for filing fees (Appeals and Motions)
$ 136.50 for hearing transcript
$ 55.57 for FedEx
$ 567.07 total costs

5. The costs stated herein are correct and were necessarily incurred in this action.

6. I have reviewed the law applicable to the granting of costs and am of the opinion the Appellant is entitled to recovery of reasonable costs in the amount of $567.07

Robert S. Shelton, Esq.

SWORN to before me this 16th day of April, 2018.

Notary Public for South Carolina

My Commission Expires: 8/25/24

ELECTRONICALLY FILED - 2018 Apr 16 3:54 PM - HORRY - COMMON PLEAS - CASE#2016CP2602377

Transcript of hearing regarding Horry County's Motion to Reconsider and Venture Engineering's Motion for Costs

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS	
COUNTY OF HORRY)	20 16-CP-26-0 2377	
Venture Engineering, et al.,	)	
Plaintiffs,	)	Transcript of Record
vs	)	May 31, 20 18
Horry County Zoning Board of Appeals,	)	
Defendant.	)	

B E F O R E:

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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

Robert S. Shelton, Esquire
Attorney for Plaintiffs

Matthew R. Magee, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

(There were no exhibits marked during the hearing.)

(On the record, May 31, 2018.)

THE COURT: All right. Next I have 2016-CP-26-2377, Venture Engineering and others versus Horry County Zoning Board of Appeals. According to my roster the matter is before the Court on a motion for costs and a motion to reconsider. Please give the court reporter your name and who you represent.

MR. SHELTON: Thank you, Your Honor. My name is Rob Shelton and I represent the Appellant.

THE COURT: All right.

MR. MAGEE: My name is Matt Magee. I'm with the law firm of Thomas and Brittain, here on behalf of Emma Ruth Brittain for Horry County Board of Zoning.

THE COURT: And please spell your last name.

MR. MAGEE: M-A-G-E-E.

THE COURT: All right. I guess we'll do the motion to reconsider first?

MR. SHELTON: That's fine.

THE COURT: All right. And that would be, Mr. Magee, your motion?

MR. MAGEE: Yes, Your Honor.

THE COURT: All right.

MR. MAGEE: May it please the Court? I'm happy to go into a recitation of the procedural posture of this case, but I don't know that it's necessary.

THE COURT: Yeah.

MR. MAGEE: Maybe I'll just highlight essentially how we got here. This is essentially and a, and a consolidation of two appeals from the Horry County Board of Zoning relative to the Appellant's client, essentially, that was reversed by the Circuit Court, Judge Hyman by means of his order. We are asking for reconsideration believing that the trial court utilized the wrong standard of review or more specifically that it substituted its judgment for that of the Board of Zoning Appeals.

Now, implicit in that argument we have to take a look at two what I'll call interlocutory orders, one dealing with a motion to strike and one dealing with a motion to consolidate the two appeals themselves. Both of those orders previous to the final order were entered by Judge Hyman and directly impact the review or the standard of review, I should say. In other words, it is our position that the trial court improperly included in the record of appeal material that had not been considered by the Zoning Board, and in so doing it by definition reviewed that material that had not been considered, and substituted its judgment for the Board improperly. So essentially what we're doing with our motion to reconsider is asking this Court to go back and reconsider the two interlocutory orders as well as the final order to give us the relief that we seek. We have been instructed by

our client that depending on the outcome of this particular motion to proceed with, with an appeal and that will certainly come up in terms of the, the motion for costs, but the standard we think is, is incredibly clear and the deference that's owed to the Zoning Board is, is, is really as high as, as, as there is. The -- a court cannot substitute its judgment for the judgment of a zoning board. The case law in Furr v. Horry County Zoning Board of Appeals at 767 S.E.2d 221, even goes so far as to say that the court may not feel that the decision of the board was the best or that could have been rendered under -- that could have been rendered under the circumstances and it may even thoroughly disagree with the reasoning by which the board reached its decision, but it will not set aside the board's view of the matter just to inject its own ideas into the, into the picture of the, of the determination.

In the present case, Your Honor, in the order that was the final order that was entered April 6th, 2018, on page 24 of 29 the Circuit Court says that the order was incorrect as a matter of law, but if you go through the, the basis for the Court's decisions they're all basically factual views of the way that the Zoning Board, you know, reached the wrong determination. There's nowhere in either the application of the law itself or the interpretation of that law, there's no error alleged. It is simply that the Board took the wrong

view of the facts, and we believe that by viewing this improper evidence in the record and improperly consolidating the facts of these two matters that are, you know, independent and should have been reviewed separately that the Court came to the wrong conclusion. So we'd ask this Court to go back and apply the correct standard based on the facts and the law.

THE COURT: All right. Thank you.

MR. SHELTON: Your Honor, the -- both of these arguments in, in the motion that's before the Court now have been raised years ago to Judge Hyman. Judge Hyman was asked to strike evidence. There were -- if you recall, there were two separate proceedings originally, one which we initiated of our own volition on behalf of the property owner was an appeal of a Zoning Administrator's decision to the Board of Zoning Appeals, and in that one that's the one where we had the, the delay at the meeting and continued to the next one, delayed at the meeting, continued to the next one, delayed at the meeting. We finally got the Board voted to overrule the Zoning Administrator, and then at the next meeting the Board reversed itself by reconsidering its vote. We, we went forward with that appeal, had a mediation and were in front of a judge ready to start when we were encouraged to take a step back to try and globally settle this and apply for a variance by the County. So we applied for a variance. We continued that proceeding and applied for a variance. We went through

the same procedure only this time the Board of Zoning Appeals was -- had had enough obviously of this whole conversation and just shut us down right away. We consolidated both of those. It's the exact same evidence in both of those. It's the same facts. The -- all of the facts were prior to -- that went into the Board's decision were prior to the original Zoning Administrator's decision, and that was in 2014, in December of 2014 the then Zoning Administrator, Rennie Mincey, issued the letter that precipitated our appeal. So it's not anything different. The, the only thing that was before Your Honor in the hearing of this matter in 2017 that wasn't before the Board were the two orders of Larry Hyman. Those were on appeal. Judge Hyman ruled that these two matters should be consolidated, and then also the County, Emma Ruth Brittain and Janet Carter filed a motion to strike evidence that they didn't believe was appropriate. Judge Hyman heard that, and he ruled against them and filed an order saying, "No, that evidence stays in and these two are consolidated," two separate orders, neither of which was there a motion to reconsider over at all. There was, there was no post-motion of either of those. Whether the County believes they're interlocutory or not, those were the orders of Circuit Court Judge Larry B. Hyman, Jr., and they were not challenged by the County.

We then came in front of the Court in 2017 and had an

extensive hearing on all of the details of both of those. Your Honor had a great deal of time, and put forth a great deal of effort in analyzing what you will recall is a tremendous record. This is just our notice of appeal, and it -- and although it took a long time, it is a voluminous record, understandably so, and Your Honor executed this year in 2018 an order also like the Board of Zoning Appeals had originally done reversing the Zoning Administrator's decision and reversing the denial of the variance that came subsequent to that Zoning Administrator's decision.

We believe that these questions have been answered by Judge Larry Human. We believe that these questions are improper because Your Honor had the full record before you which was the certified record. In these instances we don't, we don't have a, a, a Plaintiff's record and submissions and a Defendant's records and submissions. We have a certified record which is certified by the County of Horry which created the Board of Zoning Appeals. It's their certified record that is before the Court. It is appropriate for the Court to have relied on all of it, and it would be inappropriate for the Court to alter or amend its order.

THE COURT: All right. Anything in reply?

MR. MAGEE: Briefly, Your Honor. The -- again, the -- Judge Hyman's orders as to consolidation and, and the motion to strike are interlocutory and wouldn't necessarily --

couldn't have been appealed at that time, but we are asking for reconsideration of those matters now as a part and parcel of our belief that the outcome of those orders which we obviously believe were, were made in error at the time, but the outcome of those orders resulted in this Court's misapplication of the proper standard of review, and I would strenuously disagree that it is the County's certified record on appeal. The materials included were objected to when they were put in, and they were not considered by the Board of Zoning Appeals at the time the decision was made. Therefore, they were improper to be considered in an appeal of those determinations.

THE COURT: All right. All right. I'm going to deny the motion to reconsider. I'm going to let my prior order stand in the case.

All right. Motion for costs.

MR. SHELTON: Thank you, Your Honor. In that same act that gave us the right to appeal to you, in Section 6-29-840 (A), which is the South Carolina Comprehensive Local Government Enabling Act of 1994, I believe, there -- the, the -- that subsection A is the paragraph that explains how an appeal from the Board of Zoning Appeals will be handled at the Circuit Court level. The last sentence of that section says [as read], "In the event the decision of the Board is reversed by the Circuit Court, the Board is charged with the costs, and

the costs must be paid by the governing authority which established the Board of Appeals." In this case that would be Horry County. We followed that rule very closely and applied only for costs. We have itemized them and filed an affidavit of them. There's filing fees, hearing transcripts and one FedEx, a total of $567.07. Attorney's fees were not included in this at all, and considering that it's been going on since 2014 they are vastly greater than the $567 in costs, but that is what we seek today pursuant to that rule, Your Honor.

THE COURT: All right.

MR. MAGEE: Your Honor, we don't challenge the interpretation of the statute to award those costs and we don't challenge the, the figures that are submitted by affidavit, but we would ask that that order be stayed pending the outcome of any appeal.

THE COURT: All right.

All right. I'll grant the motion for costs in the amount of $567.07. I'd ask, Mr. Shelton, if you would prepare an order on both of these issues and then we'll have it clear for appeal.

MR. SHELTON: Yes, Your Honor. Thank you.

MR. MAGEE: Thank you, Your Honor.

THE COURT: All right. Thank you.

(Adjourned.)

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the Hearing held in the case of Venture Engineering, et al. versus Horry County Zoning Board of Appeals, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on May 31, 2018.

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

Grace L. Hurley, CVR-CM-M
Official Reporter

August 19, 2018.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY)

Venture Engineering, et al.,	)	2016-CP-26-02377
Plaintiffs,	)	
vs.	)	
Horry County Zoning Board of Appeals,	)	
Defendant.	)	
Dennis Thompkins, Bellamy Law Firm Agent for DT LLC,	)	2015-CP-26-3791
Plaintiffs,	)	
vs.	)	
Horry County Zoning Board of Appeals,	)	
Defendant.	)	

Transcript of Record
January 5, 2017

B E F O R E:

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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

Robert S. Shelton, Esquire
Attorney for Plaintiffs

Emma Ruth Brittain, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

(There were no exhibits marked during the hearing.)

(On the record, January 5, 2017.)

THE COURT: All right. Next is 2016-CP-26-2377, Venture Engineering and others versus Horry County Board -- Zoning Board of Appeals. The matter is before the Court on an appeal from the Horry County Zoning Board. Please give the court reporter your name and who you represent.

MR. SHELTON: Thank you, Your Honor. I'm Rob Shelton with the Bellamy Law Firm, and for the record, I represent the Appellants. This is actually a consolidated case. The other matter that was not listed in your reading was 2015-CP-26-3791, which is Dennis Thompkins, Bellamy Law Firm agent for DT LLC versus Horry County Zoning Board of Appeals. These are -- the first matter, just for the procedural posture, Your Honor --

THE COURT: Excuse me. Those -- these cases have been consolidated by court order?

MR. SHELTON: By order of Judge Hyman. Yes, Your Honor.

THE COURT: Okay.

MR. SHELTON: And the first matter is an appeal of the decision of Rennie Mincey, who is the Horry County Zoning Administrator. The second matter is an appeal from the Zoning Board of Appeals of the denial of a variance. They affect the exact same property and the exact same facts, but we, we, we applied for a variance because we were in this same posture

roughly a year ago, and it was suggested to us that might be a more appropriate method to go forward. So we stayed what we had originally done, did that, got denied and then moved to consolidate the two.

THE COURT: I got you.

MR. SHELTON: So that's where we are now.

THE COURT: All right.

MR. SHELTON: This involves a piece --

THE COURT: Hold for a second. Let me get her on the record.

MS. BRITTAIN: Good morning, Your Honor. Emma Ruth Brittain with Thomas and Brittain, PA, for Horry County. Along with me is Janet Carter, who is an attorney, but is also -- works for Horry County and with the zoning department.

THE COURT: Okay.

MS. BRITTAIN: And we represent the Board of Zoning Appeals.

THE COURT: All right.

MR. SHELTON: This -- Your Honor, and Your Honor, and I have and I'll give your -- give opposing counsel a copy, a memo and a copy of exhibits that we have already entered into the record except there are two new exhibits being the orders of Judge Hyman.

THE COURT: Okay.

MR. SHELTON: So everything else is already in the

record.

MS. BRITTAIN: Is this a new memo?

MR. SHELTON: It's the exact memo you already have with the exact exhibit numbers except now it adds the exhibits of Judge Hyman's orders and the procedural posture.

MS. BRITTAIN: All right. And I'd like to point out at this point, Your Honor, the orders have consolidated cases that require two different standards of review. One's a variance appeal and the other is a, a Zoning Board decision denial appeal which we preserve those issues for appeal and by, you know, entering into this argument today we do not raise any right to appeal the decision to consolidate the two different types of zonings.

THE COURT: I'm totally confused. I don't know what's going on.

MR. SHELTON: Obviously going to the Court of Appeals no matter what Your Honor decides.

THE COURT: Yeah. I mean, I have no idea what's -- are you -- I don't understand. You're saying I've got two different standards?

MS. BRITTAIN: There were two hearings. Yes, sir. You do. There are two different statutory standards at play in this now consolidated case.

THE COURT: All right. Well, then I -- let's don't commingle them. Let's do one and then let me do the other

because this is just going to get confusing.

MS. BRITTAIN: Yes, sir.

THE COURT: All right.

MR. SHELTON: They're already consolidated, Your Honor. My, my point in handing you that notebook was that those exhibits are the same exhibits that are already of record. It's just for your ease of reference.

THE COURT: Okay.

MR. SHELTON: But I'll explain the two as we proceed. This appeal from the Zoning Board of Appeals involves a piece of property in Horry County. It's, it's off of Forestbrook Road by the Ron McNair area that has historically been owned by the Thompkins family, who are here today. Dennis Thompkins is currently in charge of this property, and this property has been used historically without objection or dispute as construction heavy equipment, although that's not well defined by Horry County. The construction and heavy equipment that has been present on this property, the record will reflect upon Your Honor's review, that was necessary because at this property Mr. Thompkins and prior to him his father used this property for C and D Recycling, construction and demolition recycling. So for instance, when the Myrtle Square Mall was torn down, the materials from the mall were brought to this property, separated, and as the testimony will reflect, and we recognize this is a closed record. So I won't -- I endeavor

not to speak outside of it at all, but the testimony reflects clearly that those materials are separated, the materials that can be produced into a new product such as asphalt and concrete are then pulverized, made into a new base product and sold back into the construction industry, used for roads or what have you, and the other materials are taken to the landfill. That has been what has been taking place on this property under construction and heavy equipment since 1981 according to the testimony of Ms. Rennie Mincey, who is the Zoning Administrator for Horry County, when she presented this to the Zoning Board of Appeals on the very first appeal February 9th of 2015.

In about December or so of 2014, Mr. Thompkins had a potential investor who is interested in buying into this company, not buying the real estate but buying into this company, and John Taylor was his name. He's another Horry County businessman. Mr. Taylor did his due diligence before paying his money to do that, but once they had all their agreements in place Mr. Thompkins auctioned off his old equipment because Mr. Taylor was going to bring in new equipment. Part of Mr. Taylor's due diligence was to go to Rennie Mincey and to Ms. Carter and the zoning office of Horry County and make sure that this was in compliance with zoning before he bought into this company. Rennie Mincey issued a letter, which is in the record, and in her letter did not say

that this was not in compliance. That is your Exhibit E, did not say that this was not in compliance, did not address that at all in that Exhibit E.

Thereafter, however, in conversations with Ms. Mincey she verbally told Mr. Thompkins and Mr. Taylor and their expert witness, Ron Gilkerson [spelled phonetically], who does this type of work all over the country, that while they could, indeed, continue to use this property the way they had always used it, that would only be acceptable for the loads of debris that they bring themselves to their own site. So if they were the ones demolishing a motel at the beach, they could bring in that material, but they could not accept material from other contractors who are doing that demolition and recovery work. That's the first time Mr. Thompkins had ever heard that according to the record. So what, what she essentially was saying was, "You, you have to generate all of your own work and all of your own debris in order to satisfy your business needs," which would not work for their business model, never had. I should tell you in 1981 there was no zoning ordinance. This predated all zoning. In 2007 the Thompkins were required to get a business license and that is in your Exhibit C and D. That business license was issued by the prior Zoning Administrator, Roland Meyer. Roland Meyer -- well, they were told somehow you have to come in and get this business license and they did and they went in and told Mr. Meyer what they

were doing. He filled out the business license. The Thompkins cannot fill out a business license. It's generated by County employees only. I can't go in and fill out mine either, and he generated this business license and they wrote the check and paid him for what it cost and moved forward. This business license says that they are construction heavy equipment with an accessory use of C and D recycling, construction and demolition recycling.

So Ms. Mincey's position is that if, as I understand it, and I'm sure Ms. Brittain will correct me if I don't understand her position perfectly, but Ms. Mincey's position is that if the C and D material comes from another contractor it's not accessory to the construction heavy equipment. They have to be complementary uses. Our position is that that is absolutely incorrect. The C and D material, regardless of its origin, is what necessitates the construction and heavy equipment. We wouldn't have any use for construction and heavy equipment on any of these properties were it not for the C and D materials. That's exactly what we've always done since 1981, and I should also note, Your Honor, we have never had a complaint. We are governed by DHEC. We are governed by the Department of Agriculture. They come and, and measure our scales and make sure that we're weighing things appropriately. We're governed by Horry County. We've never had, since 1981, never one complaint and Rennie Mincey says

that in the record. She acknowledges to Bo Ives, who's the chairman of the Zoning Board of Appeals, that, "We've never received a complaint from them at all." No neighbors have complained about us. No government entity has complained about us. Horry County has never cited us for anything. We have been perfectly good neighbors all along.

So our position is we have vested rights before there was zoning, and when we were given that 2007 business license our vested rights were acknowledged by the County. Roland Meyer also, as your Exhibit K -- I'm sorry, not K.

THE COURT: Well, how is the property zoned now?

MR. SHELTON: Limited industrial.

THE COURT: Okay.

MR. SHELTON: So that would permit --

THE COURT: And is there, is there a separate zoning for the heavy equipment?

MR. SHELTON: No, Your Honor.

THE COURT: Okay.

MR. SHELTON: As, as I understand it, and of course, I'm not the Zoning Administrator but no, Your Honor. You can, you can have heavy equipment in a limited industrial site.

THE COURT: Okay.

MR. SHELTON: What has happened, just for your edification, and I -- this is why I wanted to talk to you earlier because I know this is a lot of information at one

time to digest, but what has happened is since the 2007 business license was issued Horry County passed a supplement to their zoning ordinance that said you can -- you can -- if I open up a new site right now I can do C and D recycling, but it has to be indoors. So I have to build what would normally be in most instances a very large aluminum sided structure and have the C and D recycling indoors, and that is very expensive and somewhat cost prohibitive, but what makes it more cost prohibitive is the OSHA requirement that then I have to have a particulate, microscopic particulate filtration system which is exceedingly expensive if I'm going to have people indoors in a concrete pulverizing facility. So and I don't know Horry County's motives at the time, but it, it seems apparent that they were simply trying to stop these facilities from ever opening up again in the County because they certainly made it cost prohibitive. It's cheaper to haul an entire truckload of, of C and D material all the way to Highway 90 from Ocean Boulevard than it would be to pay what the dipping fee would be or tipping fee would be with that type of a facility required.

THE COURT: Well, I guess your argument is is that it's grandfathered in?

MR. SHELTON: It's grandfathered, and it's a taking. If it's not grandfathered.

THE COURT: But -- okay. But, but let me back up. If

this was a sale 100 percent with Mr. Taylor coming in and not just purchasing into a partnership, Mr. Taylor was buying it outright, would that do away with the grandfather classification if he was --

MR. SHELTON: I argue it would not first of all because he wasn't buying -- first of all, he wasn't buying the real estate. He was buying the business.

THE COURT: The business.

MR. SHELTON: The business had a license. When you buy a business you get that license. It's part of the goodwill of that business. That license in our argument gave him the right to continue doing that which he had always done. He not only --

THE COURT: Well, that's what I'm saying. Mr. Taylor has not always done this. I guess my, my question is I'm trying to find out if -- is there a distinction between Mr. Taylor buying this outright from Mr. Thompkins or by virtue him buying in partially and becoming a partner create an exception for him that would not be available to anyone else that was coming in as a purchaser or a new business developer or whatever?

MR. SHELTON: With all due respect, Your Honor, I really don't think that is critical at this point because Mr. Taylor never did buy in.

THE COURT: I see. Okay.

MR. SHELTON: We got this opinion -- I'm sorry. Did you --

MS. BRITTAIN: Well, all of this dialogue about Mr. Taylor is not really part of the record but he would only step into the shoes if Mr. Thompkins could do what he could do.

THE COURT: Okay. But he didn't buy it, and so it's out the window?

MR. SHELTON: He -- I was just giving you background.

THE COURT: Okay. I apologize.

MR. SHELTON: He did not buy in, I assume as a result of all of this hoopla.

THE COURT: All this. I got you.

MR. SHELTON: But at the -- at any rate so Mr. Thompkins has a full ownership as he has always had. Whatever ownership he had he still has.

THE COURT: I see.

MR. SHELTON: Our argument is that not only did he have grandfathered status, but he had vested rights. His vested rights were acknowledged when that business license was issued. He also -- it, it, it -- we also argue that if this was not any longer because of the 2013 ordinance supplement a conforming use, as it was not enclosed in a structure, it was a legal nonconforming use and he was continuing to do exactly what he was doing. We've also pled for the County to be equitably estopped, and here's why. There is a -- an

affidavit in your record there which is under Exhibit I that is from Roland Meyer. Roland Meyer was the Zoning Administrator who issued the business license in 2007, and he signed, I apologize. It's Exhibit J. He signed an affidavit explaining that he would at the time that license was issued while he was the Zoning Administrator not have felt uncomfortable in allowing Mr. Thompkins to have accepted materials from other contractors. So what we have here is a conflict between Zoning Administrator Roland Meyer and Zoning Administrator Rennie Mincey, their separate and independent interpretations of the vested rights Mr. Thompkins has. That's an error. It is arbitrary and capricious for Rennie Mincey to say that Mr. Thompkins cannot continue to do that which he has always done when it's clear that Mr. Meyer, who was the Zoning Administrator at the time of the issuance of the business license, makes very clear that he would not have opposed that, that he wouldn't have felt uncomfortable with that. So it is a clear error on Rennie Mincey's part, the Zoning Administrator, and therefore, an error on the Zoning Board of Appeals' part in denying the variance, the two separate matters, same error to not recognize the grandfathered status and vested rights that Mr. Thompkins already had having never received a complaint, and just for Your Honor's procedural posture information, we first went to the Zoning Board of Appeals appealing the Administrator

Mincey's decision February 19th, 2015. We argued at length at that hearing and were asked to come back in 30 days. They wanted to defer it because they wanted us to bring more information. So we brought more information. There are load tickets and ledgers included in your packet under Exhibits G-1 and G-2 and those are the documents they wanted to show that prior to 2007 we had been accepting outside loads. If you look at G-1 and G-2 you'll see Mrs. Thompkins, by the grace of God, happens to have saved many, many, many records and was able to come up with those records, and we've presented them to the Zoning Board of Appeals.

So we went back to the Zoning Board of Appeals March 9th, 2015. They deferred us again for another 30 days because they wanted to speak to Wes Covington, who's the County attorney representing the Zoning Board of Appeals and, and get legal advice and that is reflected in the record.

We went back to the Zoning Board of Appeals April 13, 2015, and at that hearing they finally overruled Rennie Mincey's decision and said Mr. Thompkins can accept loads from outside contractors and specifically stated in their order, which is in the record, that the acceptance of outside materials from contractors not associated with Thompkins was an acceptable use of this property under its zoning. So there's where we were. To add to the arbitrary and capricious nature of this entire situation, that night my client began

receiving phone calls from friends of his saying, "There are members of the Horry County Solid Waste Authority Board contacting members of the Horry County Zoning Board of Appeals."

MS. BRITTAIN: Your Honor, I'm going to object to this. There is no evidence of this. It's preposterous.

THE COURT: All right. Let him -- let him --

MR. SHELTON: Your Honor, Exhibit K --

THE COURT: Where is that in the record? Exhibit K.

MR. SHELTON: -- is a letter I wrote to Arrigo Carotti and Emma Ruth Brittain on April 22nd, 2015, informing them that we had been told by several people that members of the Zoning -- of the Solid Waste Authority Board, which Emma Ruth also represents them, were contacting the Zoning Board of Appeals' members, two completely separate entities, both associated with Horry County, asking them to reconsider the vote because here's the way the Robert's Rules of Order work. If you vote in favor of overruling the Zoning Administrator at the April hearing, at the May hearing before the minutes of the April hearing are approved you can move to reconsider your own vote and that's exactly what happened. When we got back on May 11th, 2015, there was a motion made to reconsider the vote overruling Rennie Mincey's zoning administrative decision and it --

MS. BRITTAIN: Your Honor, if he wants to get into this,

I object.

THE COURT: All right. Well --

MS. BRITTAIN: His, his own client tried to influence the decision through indirect means.

MR. SHELTON: This is, this is the procedural posture.

THE COURT: Excuse me. All right. Hold for a second. Are you saying that that did not happen? You did not have anybody --

MS. BRITTAIN: I'm saying what he's alleged in that letter, to the best of my knowledge, did not happen in terms of what he has put in that exhibit in this record.

THE COURT: So you're saying that nobody from --

MS. BRITTAIN: Nobody from the --

THE COURT: -- what was the other --

MS. BRITTAIN: -- Solid Waste Authority attempted to influence this matter. His --

THE COURT: Nobody contacted -- from that agency --

MS. BRITTAIN: His --

THE COURT: -- contacted the Board of Zoning Appeals?

MS. BRITTAIN: Someone -- no, sir. Someone --

THE COURT: All right.

MS. BRITTAIN: -- his client tried to contact someone on the Solid Waste Board to have them sit in the hearing because they had a former connection with the Zoning Board. So if there was any attempt to influence, it was --

THE COURT: Well, I don't know.

MR. SHELTON: Your Honor, at that -- first of all, all I was doing was giving Your Honor a procedural posture, but secondly --

THE COURT: Well, I think it does make a big difference if you're saying, I mean, and I've got to find out who's being honest with the Court here. Did somebody from the -- from the Waste Management Agency contact the Board of Zoning Appeals?

MR. SHELTON: We don't have -- because there's no lawsuit other than the appeal of a Zoning Administrator's decision and the appeal of a denial of a variance, we don't have the ability for discovery. That's one of the possible opportunities Your Honor has because one of the things that the Local Government Planning Act permits Your Honor to do should you determine that this record is not complete enough to make a competent decision is remand this back to the Zoning Board of Appeals and you can order discovery and we can get to the bottom of this. We would be thrilled with that because --

MS. BRITTAIN: Your Honor, I do not see where it says you can order discovery. It says you can send the matter back to the Board.

THE COURT: Well, it sounds like to me one side or the other either somebody is creating evidence that does not exist or somebody's lying about evidence that does exist and says it's not, and I don't know who's telling the truth and who's

being honest with the Court.

MR. SHELTON: Well, Your Honor, I would just point to logic. Why after success in front of the Zoning Board of Appeals when we have gotten the Zoning Administrator's decision overruled and Mr. Thompkins is now allowed to continue doing what he's done since 1981 would Mr. Thompkins or someone on his behalf try to influence anyone else. We've won. We're done. We walked outside of the Horry County Courthouse that day downstairs outside that atrium. Mr. Thompkins lit a cigar. We hugged each other. Everybody was happy. There's no need for him to influence anybody or attempt to at that point. We've won.

THE COURT: All right.

MR. SHELTON: He can continue to do what he's been doing. No one on his behalf at that point would have tried to do anything, and I'm not suggesting they would have prior to that either, but certainly not after we had won, but it's quite interesting that a month later on May 11 there's a unanimous decision to reverse that decision from April and --

THE COURT: And they just say that, that we're going to reconsider? There's no -- they don't have to give a basis or a reason as to why they reconsider?

MR. SHELTON: They don't. They don't, and they didn't notice that this was going to be on that meeting. It is not listed on that agenda. The, the public was not notified of

this issue on that meeting, and ironically, I assume the County didn't have any nefarious intent with this, but ironically, at that May meeting where they reconsidered the vote, a host of neighbors showed up to testify against the Thompkins. I don't how they heard about it because it wasn't publicized. The meeting was, but the agenda didn't include this issue.

THE COURT: Okay.

MR. SHELTON: So they showed up and said, and you can read the transcript for yourself, the May 2015 transcript, they said, "We don't want decomposing trash and a landfill in our neighborhood." Well, there's no decomposing trash.

THE COURT: Well, how did it even come back up? I mean, what did they say? "We just decide we want to readdress this issue?"

MR. SHELTON: They don't have to address it at all. All they have to do, if, if, if in the April meeting --

THE COURT: But I mean, what did they do in this case?

MR. SHELTON: Here's what they did. The -- one person who was in the April meeting and voted for the reversal of Rennie Mincey's decision in the May meeting, prior to the approval of the minutes of the April meeting, made a motion to reconsider his vote from the April meeting, that you don't have to give a, a --

THE COURT: And he didn't give any reason for it?

MR. SHELTON: No. None whatsoever.

THE COURT: Okay.

MR. SHELTON: And it was unanimous right across the Board. In two minutes it was done and we were shut down. So our position is the arbitrary and capricious nature of the original decision has been a theme throughout this entire situation. To this day Mr. Thompkins isn't operating over there because he hasn't spent the hundreds of thousands of dollars to buy his new equipment because he doesn't know that he's going to be allowed to operate. It's not a good business decision on his part to go into that investment. After all of that took place, we came here --

MS. BRITTAIN: May I comment, Your Honor, on the reconsideration?

THE COURT: No. I'm going to give you an opportunity to argue against it when, when you present yours.

MS. BRITTAIN: All right. Yes, sir.

THE COURT: You can go ahead at that time.

MR. SHELTON: After all of that --

THE COURT: But we do need to go ahead and start moving this along.

MR. SHELTON: I'm trying.

THE COURT: I know you said it was going to take a long --

MR. SHELTON: I'm trying.

THE COURT: -- time but let's say this is the Court of Appeals and you've got the red light on that says you've got about five more minutes.

MR. SHELTON: I -- I'm just giving you the rest of the procedural history. After all of that, we met here coming to this hearing in December of last year and agreed or discussed the potential to do a variance instead. So we, we stayed everything and applied for the variance. The variance was immediately shut down by the Zoning Board of Appeals. There, there has still to this day never been a citation to the Thompkins. There's never been a complaint about the Thompkins. They've never had any problem with the Department of Agriculture, who routinely inspects them, the DHEC, who routinely inspects them. They never had a problem with anybody. They've been doing this since 1981 by Rennie Mincey's own testimony, and they've had their business license since 2007. So to deny them the right to continue, this is like a stop work order is what it essentially is. They didn't sell anything. They were just doing due diligence in trying to get a zoning compliance letter before the potential investor put his money on the table. So to stop them and give them a stop work order never having inspected them or made a complaint or made a citation is arbitrary and capricious, and obviously Dennis Thompkins has a substantial interest in this business. It is his life's work. This is a family business

since 1981 that we're just shutting down because Rennie Mincey disagrees with Roland Meyer.

THE COURT: Well, let me ask you this. You sought a variance as to light industrial zoning ordinance?

MR. SHELTON: In -- within limited industrial you can build a, a concrete -- a C and D recycling facility that has to be enclosed.

THE COURT: Okay. So as we stand here limited industrial requires the enclosure?

MR. SHELTON: Yes, sir.

THE COURT: And that's what you were seeking a variance from?

MR. SHELTON: Yes, Your Honor.

THE COURT: All right. And that came about when?

MR. SHELTON: The variance request was filed --

THE COURT: No. No. The, the, the requirement that you have to have an enclosed.

MR. SHELTON: I believe it was 2013, but I would defer to Janet Carter.

THE COURT: Okay.

MR. SHELTON: She's the planning director for the County.

THE COURT: So limited, limited industrial did not require it. He operated the way he's operated, then limited industrial changed the requirements of that zoning ordinance to require it.

MR. SHELTON: Exactly.
THE COURT: I see.
MR. SHELTON: And that was after his business license and --
THE COURT: Yeah.
MR. SHELTON: -- and this business license was 27 years or so after he had started operating.
THE COURT: I got you.
MR. SHELTON: There was no zoning at all when he started.
THE COURT: All right. I got you. So I guess the big question is are you required to get a variance of a zoning ordinance when the zoning ordinance is amended after you've got your business license?
MR. SHELTON: I don't think we were required. We were trying to resolve this.
THE COURT: Right.
MR. SHELTON: I was trying everything I could do.
THE COURT: I understand what you're saying.
MR. SHELTON: It's my -- historically it's my position to work with the County when possible.
THE COURT: Right.
MR. SHELTON: And I don't think Ms. Carter would contradict that. I have definitely worked with the County in many, many cases. So we, we believe and continue to believe we didn't need a variance at all.

THE COURT: Exactly.

MR. SHELTON: But if that were to make it easier for the County staff for us to continue doing what we'd always been doing, we were willing to go that route. We tried it. We were flatly shut down and now we're before you.

THE COURT: I see. Okay. All right. Ms. Brittain.

MS. BRITTAIN: Thank you, Your Honor. I'm going to try to clear up a lot of the, the loose ends, but I'd like to just start with the frame of reference of the case in terms of how the findings of the Zoning Board are to be reviewed. The standard of the review is well established, several cases from Horry County, Restaurant Row Associates being one of the early ones that I was involved in where the Court said [as read], "We have summarized the standard of review in zoning appeals as follows: it is a well-settled proposition of zoning law that a court will not substitute its judgment for the judgment of the Board. The court may not feel that the decision of the Board was the best and could have been rendered under -- that could have been rendered under the circumstances and it may thoroughly disagree with the reasoning by which the Board reached its decision. It may feel the decision was a substandard piece of logic in thinking. Nonetheless, the court will not set aside the Board's view of the matter just to inject its own idea into the picture of things." Recently the Supreme Court withdrew

-- well, there was an appeal of a -- a Court of Appeals' decision in Fayrell Furr versus Horry County Zoning Board of Appeals. Again, the Supreme Court, the Court of Appeals quoted the Restaurant Row Associates standard. This was in the past year that -- or last year when it -- also went up to the Court of Appeals and the -- I mean, to the Supreme Court. The Supreme Court after hearing oral argument said that cert had been improvidently granted and let the Court of Appeals' decision stand, and I'd also point out the Clear Channel case involving the City of Myrtle Beach talking about the standard of review. The standard of review is that the Zoning Board's opinion is entitled to great deference, similar to the findings of fact of a jury. I think efforts to undermine the Board by making accusations of improper wrongdoing are completely unsubstantiated in this record.

THE COURT: So you're saying it never happened?

MS. BRITTAIN: I'm -- to my knowledge, Your Honor --

THE COURT: No. Not to your knowledge. I mean --

MS. BRITTAIN: -- it did not happen. Now, the -- they are public --

THE COURT: Okay. It's one thing to say to my knowledge because you might not have personal knowledge.

MS. BRITTAIN: Right.

THE COURT: But obviously something happened between April and May.

MS. BRITTAIN: But they're public bodies. It is a county board and citizens of Horry County are interested in what's going on in the community and there was this --

THE COURT: But how did they --

MS. BRITTAIN: -- this use, this business was located on Piling Road adjacent to a historical minority community, and when people -- word spread and people got upset. In the final hearing that was held people did show up and they talked about trucks rumbling down the road, dust, breathing particulates.

THE COURT: But I mean, he was just doing what he'd always done.

MS. BRITTAIN: No, sir. He wasn't. He had stopped -- he had sold his equipment. He had stopped the business. There are three references in the record, and Rob will not deny that he had sold off most of his equipment by the time --

MR. SHELTON: Your Honor, as I've already explained to the Court --

THE COURT: Yeah.

MR. SHELTON: -- he, he was anticipating taking on as a partner --

THE COURT: Taking on a partner who was bringing in new --

MR. SHELTON: -- who was bringing in new equipment which the testimony in the record reflects was improved equipment and very little particulate would come from it at all. We

could -- it could be operated outdoor in a much more healthy manner.

THE COURT: And I, I understand that.

MR. SHELTON: He, he, he thought he was just moving right along with this intake of a partner. He didn't think --

THE COURT: I understand.

MR. SHELTON: -- he was walking into a stop order.

THE COURT: I understand

MS. BRITTAIN: All right. So what we have here is that Ms. Mincey made her decision that the only thing that had been approved was the accessory use for the property where Mr. Thompkins could crush and recycle his own or, or product generated by his own operations. That is in the official records of the County. That is the only use that has ever been allowed in the official record records of the County.

THE COURT: So the County says that he never took on additional debris prior to this Ms. Mincey?

MS. BRITTAIN: We didn't know about it if we did. Nobody, nobody who testified for the County knew about it if he did. It was not allowed, and that the fact that it was an accessory use only was never changed in any record of the County. Roland Meyer did not agree -- did not disagree with Ms. Mincey when he issued the accessory use in 2007. He easily could have not have put that prohibition on there or that restriction or limitation. Accessory use has a defined

meaning like, you know, incidental to the use -- the owner's use of the property. So they said you can do this incidental to your work. It didn't say you could go out and, and let everybody else bring their trucks in and crush this stuff and, you know, affect the neighborhood that way, but we will allow the incidental use by your particular business, and that is in the Zoning Administrator's determination that went to the Board and the Board took this seriously. They had four meetings on the initial request, and it was because they were struggling with it. They were struggling with the fact that the Thompkins had been in the community a long time, Mr. Arthur had. They were cognizant of that, but they also looked at the situation out there.

MR. SHELTON: Your Honor, as long as we're going to be insistent that everything we say is something that's in the record, the Board struggling with it is not in the record.

MS. BRITTAIN: Well, I think that's well illustrated by the four meetings.

MR. SHELTON: It's, it's something you interpret from the record but it's not in the record.

MS. BRITTAIN: By the questions, and they -- and the -- they were -- if you look at the, the record you will see that the Board was striving to do the right thing. There was a motion to reconsider. Ms. Carter called Mr. Shelton personally to give him notice that a request had been made for

reconsideration pursuant to the rules of the Zoning Board. The --

THE COURT: The request by whom?

MS. BRITTAIN: A Zoning Board member.

THE COURT: And that was put on the agenda for the --

MS. BRITTAIN: And then it was put on the published agenda. Yes, sir.

MR. SHELTON: No. Your Honor, the published agenda is in the record. There was -- it, it was not --

THE COURT: Well, that's what I've gotta' find. It's either on there. It's -- somebody --

MS. BRITTAIN: All right. No, sir. It was not on the published agenda but a call was made because the motion can be made at the meeting for the reconsideration under the, the rules of procedure.

THE COURT: All right. All right. Go ahead.

MS. BRITTAIN: All right. In terms of the findings of the Zoning Board of Appeals, they had four findings of fact, every one of them supported by the record. It's undisputed that the only use of that related to this crushing of the, the concrete approved in 2007 was an accessory use and that did not change. So the Board ruled the approved C and D waste and concrete transfer business may continue as an accessory use to the construction heavy equipment business approved on the site. Should the approved construction heavy equipment

business use cease operation at this location the recycling use will no longer be allowed on this site. That's in accordance with the meaning of accessory use in the use that was approved in 2007 and is fully supported by the record evidence in Ms. Mincey's determination. Following this hearing there was the application for a variance. Variances are governed by a different set of standards, and they're set forth in the Board's order, which is in the record. In the Board's order, they note that the hearing was held and that this is a light industrial classification under which Mr. Thompkins' business was operating and that the applicants had requested certain variance requests, made variance requests from the LI Zone requirements. In effect, these were requests that would be applicable to a heavy industrial type zone right here in this neighborhood. Basically, under the LI Zone there was a required separation of 500 feet from the residential area. The requested variance was 500 feet or 100 percent. In the LI Zone the required landscaping buffering is an enhanced category of buffering. The requested buffering variance, they wanted to use what they had. They did not want to enhance it, and then the code also required that processing plants be in fully enclosed structures, and again, they wanted a variance from that. They -- there was an opportunity to hear testimony from witnesses. There were exhibits, and all of this is in the record.

There are factors set forth in South Carolina Code 6-29-800(A) which grant -- which govern the granting of a variance, and these are also set forth in the Zoning Board's order. If we look at the findings of fact set forth by the Board denying the variance, they are all supported by the record evidence. They go back to the fact of the 2007 zoning compliance which only allowed -- the certificate only allowed the accessory use. They reference the fact that to rezone the property the MA3, which is what was requested in this variance request, that meant that it would turn the area into a heavy intense manufacturing and industrial district, and the variances that they request was to go from -- to totally delete the required setback. They wanted a 100 percent variance from the required setback. The Board determined that was not appropriate, this is in a neighborhood, there are school children, there are elderly people, there's a church, school buses, kids running around. There was testimony in the record --

THE COURT: But I mean, he had been operating without the setback and all of that for quite some time. I know there's a difference opinion as to whether or not he ceased operation or whether or not he was just awaiting to get new equipment, lost an investor, but since he got his business license in 2007 had there been the setback or had there been an enforcement of --

MS. BRITTAIN: But, Your Honor, the distinction is he's asking to not just do his own, which at the time of this

hearing was non-existent if you look at the record saying that several -- I think there are three references where they said the equipment had been sold, but they want to go from one person's use to allowing everybody else in the world to haul in here, to, to allow outside use. They want to expand.

THE COURT: Okay. And he's saying -- but I mean, their argument is he's been doing that all along. Your argument is he's never done that before.

MS. BRITTAIN: The County had no knowledge of which we are aware or have found in any record that shows that that accessory use was ever lifted or that the County knew that there was non-compliance.

THE COURT: I understand. Okay.

MS. BRITTAIN: And it is back in the woods somewhat over by a railroad track, but to -- I will say to you that based on what I've seen in the record and my discussions with the County officials who are making this decision they don't have that knowledge. They asked for proof over and over and --

THE COURT: And he's saying it's in the record. I hadn't looked at the record.

MS. BRITTAIN: And what, what you look at it doesn't --

THE COURT: He's saying that there's an abundance of testimony that Mr. Thompkins' wife brought the records that she maintained that show that they were taking in debris from other --

MS. BRITTAIN: She did not testify, Your Honor. The bulk of the --

THE COURT: Oh, you're saying it's not in the record. Okay.

MS. BRITTAIN: I'm saying it's not. I mean, the, the record -- they've took -- yes, sir.

THE COURT: Well, I mean, this is easy to figure out. I'm going to look at the record, and I'm going to find out that either you're saying -- you're correct and there's nothing in there or he's correct and there is something in there, and I, I just don't know which one of you to believe until I read the record.

MR. SHELTON: Your Honor, it -- Your Honor --

MS. BRITTAIN: There are records --

THE COURT: So we'll leave it at that. No, no. We'll leave it at that and I'll make that decision.

MS. BRITTAIN: All right.

THE COURT: I'll read the record.

MS. BRITTAIN: His wife did not testify.

THE COURT: Well, I -- that's not the question.

MS. BRITTAIN: All right.

THE COURT: He's saying that there is an abundance of testimony given that showed this had been going on for quite some time.

MR. SHELTON: Well, there, there's documentation. If you

turn to G-1, tab G-1 --

THE COURT: I'm not going to do it right now. I'm just going to find out which one of you all is being honest with the Court.

MS. BRITTAIN: May I say one --

MR. SHELTON: I just, I just want to explain to the Court how to understand what you're seeing at G-1.

THE COURT: You'll get an opportunity to respond.

MR. SHELTON: Okay.

MS. BRITTAIN: May I say one thing, Your Honor?

THE COURT: Right.

MS. BRITTAIN: He presented no testimony from any knowledgeable witness about what those records meant. He just handed them up. Most of the record testimony is Mr. Shelton testifying to the Board if you look at the later hearings.

THE COURT: Well, there's either something in there that shows that he was taking in business from other customers and the Board ignored that or the Board found it not credible or you're correct and the Board never knew it and there was never any evidence that presented it, and I don't know which one is the situation until I review the record.

MS. BRITTAIN: All right. Yes, Your Honor, and I'm -- what I'm saying is the staff was unaware of any other use during that time period. The staff was unaware.

THE COURT: Well, what about the Board at the time they

made their decision? Were they aware?

MS. BRITTAIN: The Board --

THE COURT: That's what he's saying is that that was presented to the Board and they knew at the time they made their decision because Mr. Thompkins' wife brought in all of this stuff and he presented it to the Board saying, "This is where I've been doing this forever."

MS. BRITTAIN: Your Honor, I, I, I will admit that Mr. Shelton kept saying that he was doing it all the time. The wife did not testify. There, there's very little personal testimony of what actually went on over the years in this record.

THE COURT: Okay. So even though the staff didn't have personal knowledge, the Board at the time it issued its decision knew that Mr. Thompkins was --

MS. BRITTAIN: Intending that it had been --

THE COURT: -- that it, it happened. Yeah.

MS. BRITTAIN: Yes, sir.

THE COURT: Okay.

MS. BRITTAIN: They were aware of that contention and they rejected it based on what they had before them.

THE COURT: Okay. That's a big difference than saying they had no knowledge of it.

MS. BRITTAIN: No, sir. I thought -- I misunderstood. I thought you were asking me if I knew whether the County knew

--

THE COURT: All right.

MS. BRITTAIN: -- those operations were going on. So I apologize for that.

THE COURT: All right. Go ahead.

MS. BRITTAIN: I apologize. I'm going to summarize, Your Honor, because I feel like I've been around in circles on some of these issues.

THE COURT: Right.

MS. BRITTAIN: And, and I know this, this -- it's a complicated situation especially with the consolidation of these cases but --

THE COURT: It's really not that complicated. Either it's something that's been going on, and quite frankly, it was grandfathered in and they made a decision and then for whatever reason there was some illegal contact with the Board and out of the blue they changed their decision or else the Board did what it legitimately could do and this stuff, if it was going on before, they had no idea of it and --

MS. BRITTAIN: And, and Your Honor --

THE COURT: -- the question I've got is why -- what happened between April and May to change their minds.

MS. BRITTAIN: And our position, you know, the grandfathered -- if it was truly grandfathered that should have been mentioned in 2007 when they were limited to

accessory use on the permit that they were -- the, the authorizations that they were given. So --

THE COURT: But still, what happened between April and May? Why did they flip flop?

MS. BRITTAIN: I think if you look at the, the four hearings you'll see it was -- the Board was having trouble getting a consensus and making a decision. I really can't say anything outside the record, but Board members were having difficulty making up their minds on what was the appropriate --

THE COURT: But come May they definitively had their mind made up --

MS. BRITTAIN: Yes, sir. They did.

THE COURT: -- and said that's it.

MS. BRITTAIN: They did.

THE COURT: April they had their mind made up, "This is it, we're allowing it."

MS. BRITTAIN: And, and they decided to go with the Zoning Administrator's determination, which was no different than the paperwork that the County had issued in 2007.

THE COURT: All right.

MS. BRITTAIN: Your Honor, we do have a number of different memoranda in the record which probably will explain some of this in a much more articulate form than trying to respond --

THE COURT: All right.

MS. BRITTAIN: -- point by point in the manner we've done today, if you wish to take note of that.

In light of what's been argued before the Court, Your Honor, we would respectfully submit that the Zoning Administrator made a determination that's consistent with the record of the County's actions, that the Board carefully considered that recommendation and that the Board's decisions in both instances are supported by clear and substantial record evidence, that it's a decision consistent with prior official conduct of County officials and it's consistent with what is best for that neighborhood in the vicinity of this parcel of property. Thank you, Your Honor.

THE COURT: Okay. But I know they're arguing that the decision's arbitrary and capricious.

MS. BRITTAIN: Yes, sir.

THE COURT: And I just want to make sure I'm viewing this on the same standard. Is it the Board of Zoning Appeals' position, "April, we made a decision based upon this presentation. May, without any additional influence or any additional information we changed our decision because we made the wrong decision in April and that there was nothing between April and May that altered our decision." We just went back and reviewed what we did in April.

MS. BRITTAIN: No, sir. There was a hearing, in the last

meeting where the final vote was taken --

THE COURT: In May.

MS. BRITTAIN: That -- yes, sir. They had a hearing. They had testimony.

THE COURT: From whom?

MS. BRITTAIN: And they did have citizens, as I recall, who came and testified.

THE COURT: Okay. And how did the citizens get --

MR. SHELTON: Your Honor, in May they did not. I'll read Your Honor that, that the first --

THE COURT: Well, I mean, I guess that's the question I'm having. How did the citizens if it was not on a published agenda how did citizens know about the meeting?

MR. SHELTON: The first thing that happened at the May meeting, Your Honor, Mr. Brown opened the meeting, according to the actual transcript provided by the County, Exhibit L in your folder, Mr. Brown said, "I'd like to make a motion to reconsider." Mr. Ives said, "He's made a motion. Do I have a second." Mr. Benik said, "Second." Then they went through the Board, yes, yes, yes, yes, yes, yes, yes, done. That was the opening of the May meeting.

THE COURT: So there was no additional testimony prior to that decision?

MR. SHELTON: Not -- no. That was how the meeting started.

THE COURT: Okay.

MR. SHELTON: According to the official record, Exhibit L in your notebook, which I have provided to the County as well, the record they provided to us.

THE COURT: All right.

MS. BRITTAIN: May 11, 2015?

MR. SHELTON: May 11, 2015.

MS. BRITTAIN: But Your Honor, they made a motion to reconsider and then they had Deborah Beecham, Linda Dennison, Fred Grissette, John Easter, Jr., Sybil Anderson and Harrell Blythe who all came and spoke to the Board.

MR. SHELTON: After we had already been shut down.

THE COURT: Okay. That was at -- they spoke after they changed their vote or prior to the vote?

MR. SHELTON: Their motion to reconsider is on page. They started on page seven and 10 and 12 and 14 with no notice of the meeting, but miraculously somehow thought we were putting a landfill out there. So I don't know who knocked on their doors and filled their ears, but they got them there, but it was too late already. We had already been shut down.

THE COURT: So was the vote taken before they spoke or after they spoke?

MS. BRITTAIN: There are two votes, Your Honor. There's a motion to reconsider, which has to be done before they'd open it up again.

THE COURT: Okay.

MS. BRITTAIN: That's not the decisive vote on the variance. It --

THE COURT: Okay. So the -- what he was talking about is a vote to reconsider.

MS. BRITTAIN: Yes, sir.

THE COURT: And then they open it and take more testimony.

MS. BRITTAIN: Yes, sir.

THE COURT: And then they decide whether to change --

MS. BRITTAIN: Yes, sir.

THE COURT: Okay.

MR. SHELTON: Which is exactly what we're complaining about.

THE COURT: Right.

MR. SHELTON: It's, it's that same arbitrary, capricious -- I don't want to say fraudulent but somebody behind the scenes is working against us.

THE COURT: But I mean, they couldn't --

MR. SHELTON: This was not a noticed agenda item.

THE COURT: And I understand. I understand that, but they can't reconsider until they take a vote --

MR. SHELTON: That's right.

THE COURT: -- to reconsider.

MR. SHELTON: That's right.

THE COURT: So what are you saying that they should have done if, if the -- if it provides that they can reconsider a prior vote, then what should they have done that they did not do?

MR. SHELTON: They should have published this as an agenda item. They should have noticed the neighborhood. Something is amiss. I mean, it's, it's the, the same standard that's been going on, which is what I wanted to bring to Your Honor's attention, Ms., Ms. Brittain keeps going back to this incidental to as the, as the definition of accessory use. That's fine. We don't disagree with that. It is incidental to having construction and heavy equipment to have something for the construction and heavy equipment to do. We -- that's what we had always done, C and D recycling, which is what Roland Meyer's affidavit indicates he was not uncomfortable with when he issued our business license. What we have here is a disagreement between the former Zoning Administrator, Roland Meyer, the current Zoning Administrator, Rennie Mincey, as to what an accessory use means. We don't care whether -- and you know, when Mr. Thompkins went in in 2007 to pay for a business license that Mr. Meyer filled out and Mr. Thompkins doesn't have the ability to fill out, he didn't know what C and D recycling was going to be listed as or what is an accessory use or how would the Zoning Administrator define it. All he knew was what he had always been doing out there. So

that's what he told Mr. Meyer. Mr. Meyer issued him a business license saying, "You can have your construction and heavy equipment," which is what we always had out there, "as long as it's complementary to what you're, what you're doing with it," and it -- how can it not be? You know, we're bringing in this recycling, and lastly, Your Honor, I wanted to make sure I point this out to you. Do you have any opposition to this?

MS. BRITTAIN: What is this?

MR. SHELTON: It's, it's your tax map from your client.

MS. BRITTAIN: Is that in the record?

MR. SHELTON: It's at F-1, but it's not in color. I just want to use this as a demonstrative exhibit for, for His Honor's sake.

MS. BRITTAIN: That would be up to Your Honor.

THE COURT: Okay.

MR. SHELTON: It's in F-1.

THE COURT: All right. What is it?

MR. SHELTON: It's in black and white though. This is and you can object if you disagree with it, Ms. Carter. This is the property that we're talking about. This is the old Martin Marietta site. This is our property. This is our property. This is our property. This is our property and this is Ron McNair Boulevard. This is the neighborhood. This is where the C and D recycling has always taken place. So to

characterize it as adjacent to a, a neighborhood or adjacent to a church is simply not accurate, I mean, geographically not accurate. We've operated there since 1981 without complaints. There's testimony in the record that we're the ones who filled the potholes. We're the ones who fixed the graveyard. We're the ones who helped people with their -- keep their ditches clean. You know, Mr. Thompkins did that for his neighbors for many, many years. It's in the record.

THE COURT: All right.

MR. SHELTON: So the neighborhood complaints did not manifest until this miraculous May 2015 meeting. The entire decision from the beginning was arbitrary and capricious and the manner in which the Thompkins have been dealt with by the County there, thereafter has been arbitrary and capricious.

THE COURT: All right. We're going to do this. I'm going to take the matter under advisement. I want both sides to submit proposed orders that cites in the record your findings of fact to support your position in the order because this is just too much for me to do right here. I'm going to have to look back through the record and all of that, I agree with you, but it makes more sense to do it this way than just clearly straight on briefs. I'm glad you got to argue it because there's definitely -- we're going to look through the record, and there's definitely been -- I won't say misleading, but I don't know that somebody's -- well, let's just leave it

at that. So go ahead, submit your proposed orders. How long do you all need to do that?

MR. SHELTON: I have an order drafted, but if you want records -- cites to the record, 14 days?

THE COURT: Okay.

MS. BRITTAIN: Your Honor, could we say 20? I'm -- have protection for --

THE COURT: Okay.

MS. BRITTAIN: -- part of that.

THE COURT: All right. Under advisement, proposed orders to be submitted in 20 days.

MS. BRITTAIN: Thank you, Your Honor.

MR. SHELTON: Thank you, Your Honor, very much.

THE COURT: All right. Thank you. Now, let me ask you this, I know there's a record on -- this does not contain the entire record on appeal?

MR. SHELTON: No. The record on appeal is 330 pages.

THE COURT: Okay.

MR. SHELTON: This is the County's -- but this is the exhibits that we pulled from it.

THE COURT: Okay. Well, I'll need the -- I'm going to hold on to that file then. Okay?

(Adjourned.)

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the Hearing held in the case of Venture Engineering, et al. versus Horry County Zoning Board of Appeals and Dennis Thompkins, Bellamy Law Firm Agent for DT LLC versus Horry County Zoning Board of Appeals, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on January 5, 2017.

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

_____

Grace L. Hurley, CVR-CM-M

Official Reporter

January 18, 2017.