

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Circuit Court Judge

CASE NO. 2020-CP-26-00785
APPELLATE CASE NO. 2021-001074

ANI CREATION, INC. d/b/a Rasta; ANI CREATION, INC. d/b/a Wacky T's;
BLUE SMOKE, LLC d/b/a Doctor Vape; BLUE SMOKE, LLC d/b/a Blue Smoke
Vape Shop; ABNME, LLC d/b/a Best for Less; KORETZKY, LLC d/b/a Grasshopper;
RED HOT SHOPPE, INC.; E.T. SPORTSWEAR, INC. d/b/a Pacific Beachwear;
MYRTLE BEACH GENERAL STORE, LLC; I AM IT, INC. d/b/a T-Shirt King;
and BLUE BAY RETAIL, INC. d/b/a Surf's Up, Petitioners,

Appellants

vs.

CITY OF MYRTLE BEACH BOARD OF ZONING APPEALS and KEN MAY,
ZONING ADMINISTRATOR FOR CITY OF MYRTLE BEACH, Respondents,

Respondents

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellants propose the following to be included in the Record on Appeal:

1. Order Denying Motion to Reconsider September 16, 2021
2. Form 4 Order Denying Motion to Reconsider September 8, 2021
3. Transcript of Record September 8, 2021
4. COMB Response to Motion for Reconsideration May 5, 2021

5. Motion for Reconsideration April 30, 2021
6. Order Denying Appeal and Affirming Order of City of Myrtle Beach Board of Zoning Appeals April 22, 2021
7. Form 4 Order Granting Motion to Reconsider March 2, 2021
8. Transcript of Record March 1, 2021
9. Notice of Filing Exhibits March 1, 2021
 - Exhibit 1 Article 18 (OBEOD Section 1807)
 - Exhibit 2 OBEOD Overlay Map
 - Exhibit 3 Hearing Transcript before Board of Zoning Appeals 10-2-2019
 - Exhibit 4 Opinion and Order of USDC Judge Lydon 8-17-2020
 - Exhibit 5 Order of Board of Zoning Appeals 1-16-2020
 - Exhibit 6 Affidavit of Carl Sivertsen 12-18-2018
 - Exhibit 7a List of Smoke Shops, Beachwear Stores, Gas Stations, etc.
 - Exhibit 7b Photos Smoke Shops Bordering Overlay
 - Exhibit 7c Photos Beachwear Stores Outside Overlay
 - Exhibit 7d Photos Beachwear Stores Outside Overlay
 - Exhibit 7e Photos Gas Stations Outside Overlay
 - Exhibit 7f Photos Advertisement Coastal Grand Mall
 - Exhibit 7g Photos Plaintiffs' Businesses
 - Exhibit 8 Ken May Deposition 8-27-20
10. Form 4 Order Motion/Reconsider Resolved January 25, 2021
11. Consent Motion to Rescind Order and Continue Hearing January 22, 2021
12. Motion for Reconsideration October 22, 2020
13. Order on Appeal October 16, 2020
14. Form 4 Order September 10, 2020 Affirming Order of Board of Zoning Appeals
15. Brief of Appellants (Circuit Court) September 10, 2020
16. Deposition of Kenneth May August 27, 2020 (Exhibit #8 above)
17. Notice of Appeal and Petition to Circuit Court January 31, 2020
18. Order of Board of Zoning Appeals for the City of Myrtle Beach January 16, 2020
19. Order of Judge Lydon (USDC Case No. 4:18-cv-03517) August 17, 2020
20. Order of Judge Harwell (USDC Case No. 4:18-cv-03517) January 15, 2019

21. City of Myrtle Beach Ordinance 2017-23 -- 2nd Reading, August 14, 2018
22. City of Myrtle Beach Ordinance 2017-23 – 1st Reading, May 9, 2017
23. Appeal Review Sheet Request No. 19-11 (Grasshopper)
24. Appeal Review Sheet Request No. 19-12 (Wacky T's)
25. Appeal Review Sheet Request No. 19-13 (Rasta Mon)
26. Appeal Review Sheet Request No. 19-14 (Best for Less)
27. Appeal Review Sheet Request No. 19-15 (Surf's Up)
28. Appeal Review Sheet Request No. 19-16 (Blue Smoke Vape Shop)
29. Appeal Review Sheet Request No. 19-17 (T-Shirt Kings)
30. Appeal Review Sheet Request No. 19-18 (Pacific Beachwear)
31. Appeal Review Sheet Request No. 19-19 (Red Hot Shoppe)
32. Letter June 3, 2019 from Zoning Administrator to Grasshopper
33. Letter June 3, 2019 from Zoning Administrator to Wacky T's
34. Letter June 3, 2019 from Zoning Administrator to Rasta Mon
35. Letter June 3, 2019 from Zoning Administrator to Best for Less
36. Letter June 11, 2019 from Zoning Administrator to Surf's Up
37. Letter June 11, 2019 from Zoning Administrator to Blue Smoke Vape Shop
38. Letter June 20, 2019 from Zoning Administrator to T-shirt Kings/I am It Inc.
39. Letter June 20, 2019 from Zoning Administrator to Pacific Beachwear/ET Sportswear
40. Letter June 19, 2019 from Zoning Administrator to Red Hot Shoppe

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

KELAHER, CONNELL & CONNOR, P.C.



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January 12, 2022

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