

**IN THE SUPREME COURT OF MISSISSIPPI  
NO. 2008-CA-01763**

**DR. CHARLES HALL, JANET H. CLARK,  
BEATRICE LANGSTON BERRY, KATE SHARP,  
BELINDA BOOZER, WILLIAM MURPHY,  
CAROL MURPHY, STEVE HANNEKE, MARY ELLEN  
MARTIN, MARY S. GODBOLD, BOOBBY J. STOKES,  
KEVIN CAMP, GARY E. PAYNE, MARIA ROSA  
GUTIERREZ, DENISE MICHELLE WILSON,  
MARY BISHOFF, JOHN AUSTIN EVANS, MEL EVANS,  
TED FRENCH, ESTHER FRENCH, LARRY STOWE,  
PAIGE STOWE, and KIM H. LOPER Individually and as  
Landowners, Residents, Taxpayers, and Interested Citizens  
of the City of Ridgeland, Mississippi, and for and on behalf  
of those similarly situated persons comprising Z.O.N.E.,  
(Zoning Ordinances Need Enforcement)**

**APPELLANTS/CROSS-APPELLEES**

**VS.**

**THE CITY OF RIDGELAND, MISSISSIPPI**

**APPELLEE**

**AND**

**MADISON COUNTY LAND COMPANY  
LLC, SOUTHERN FARM BUREAU BROKERAGE  
COMPANY, INC., BAILEY-MADISON, LLC,  
200 RENAISSANCE, LLC, RENAISSANCE AT  
COLONY PARK, LLC, AND 100 RENAISSANCE, LLC**

**APPELLEES/CROSS-APPELLANTS**

**Appeal From The Circuit Court, Madison County, Mississippi  
Trial Court No. CI2007-0401-R**

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**APPELLEE'S BRIEF**

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### **CERTIFICATE OF INTERESTED PARTIES**

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. Dr. Charles Hall, Appellant/Cross-Appellee
2. Janet H. Clark, Appellant/Cross-Appellee
3. Beatrice Langston Berry, Appellant/Cross-Appellee
4. Kate Sharp, Appellant/Cross-Appellee
5. Belinda Boozer, Appellant/Cross-Appellee
6. William Murphy, Appellant/Cross-Appellee
7. Carol Murphy, Appellant/Cross-Appellee
8. Steve Hanneke, Appellant/Cross-Appellee
9. Mary Ellen Martin, Appellant/Cross-Appellee
10. Mary S. Godbold, Appellant/Cross-Appellee
11. Bobby J. Stokes, Appellant/Cross-Appellee
12. Kevin Camp, Appellant/Cross-Appellee
13. Gary E. Payne, Appellant/Cross-Appellee
14. Maria Rosa Gutierrez, Appellant/Cross-Appellee
15. Denise Michelle Wilson, Appellant/Cross-Appellee
16. Mary Bishoff, Appellant/Cross-Appellee
17. John Austin Evans, Appellant/Cross-Appellee
18. Mel Evans, Appellant/Cross-Appellee
19. Ted French, Appellant/Cross-Appellee
20. Esther French, Appellant/Cross-Appellee
21. Larry Stowe, Appellant/Cross-Appellee

22. Paige Stowe, Appellant/Cross-Appellee
23. Kim Loper, Appellant/Cross-Appellee
24. Steven H. Smith, attorney for Appellants/Cross-Appellees
25. James H. Gabriel, Jerry L. Mills, Pyle, Mills, Dye & Pittman, Attorney(s) for the City of Ridgeland, Mississippi, Appellee/Cross-Appellant
26. James A. Peden, Jr., Stennett, Wilkinson & Peden, P.A., Attorney(s) for Appellees/Cross-Appellants
27. Glenn G. Taylor, D. James Blackwood, Lindsey M. Turk, Copeland, Cook, Taylor & Bush, P.A., Attorneys for Appellees/Cross-Appellants
28. Hon. Samac Richardson, Circuit Judge of Madison County
29. H.C. "Buster" Bailey, Jr.
30. James L. Barksdale
31. Madison County Land Company, LLC, Appellee/Cross-Appellant
32. Southern Farm Bureau Brokerage Company, LLC, Appellee/Cross-Appellant
33. Bailey-Madison, LLC, Appellee/Cross-Appellant
34. 200 Renaissance, LLC, Appellee/Cross-Appellant
35. Renaissance At Colony Park, LLC, Appellee/Cross-Appellant
36. 100 Renaissance, LLC, Appellee/Cross-Appellant
37. Lawson Hester, Esq.
38. Rod Ward, Esq.
39. Mayor Gene McGee, City of Ridgeland
40. Alderman Gerald Steen
41. Alderman Ken Heard
42. Alderman Scott Jones

43. Alderman Larry Roberts

44. Alderman Kevin Holder

45. Alderman Linda Davis

46. Alderman Chuck Gauti

THIS, the 28th day of July, 2009.



Jerry L. Mills

Pyle, Mills, Dye and Pittman

800 Avery Blvd

Ridgeland, Ms.

ATTORNEY FOR THE CITY OF RIDGELAND, MISSISSIPPI

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## **ARGUMENT**

This case involves a matter to which careful attention has been given. A group of Ridgeland citizens voiced concerns over the propriety of permitting the construction of a multi-story office building. Many others favored the proposed building and offered public support. The consideration of the factual and legal issues involved was anything but routine. Unusual time and effort was devoted to public hearings allowing all interested parties<sup>1</sup> to have an opportunity to be heard on the relevant issues.

The City's elected officials, on both sides of the issue, spent countless hours reviewing the questions involved, hearing the evidence, considering reasonable interpretations of the City's ordinances and finally voting. In the end the elected officials determined that the use should be granted.

Though Ridgeland's ordinance makes it clear that a "conditional use" and "special exception" have the same meaning in the ordinance, this writer would observe that the use of the term "special exception" took on unfortunate, non-technical connotations falsely leading many of the objectors to believe that a request was being made to allow construction not permitted by the City's zoning ordinance. An organization was formed – Z.O.N.E. (Zoning Ordinances Need Enforcement) which frequently asserted building height was limited to 4 stories in the zone where the building was constructed. While the passion of the opponents is appreciated, such a statement is not factually correct. The Ridgeland Ordinance provides for greater height as a conditional use.<sup>2</sup> A conditional use is appropriate and permitted without rezoning

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<sup>1</sup> Regardless of what this Court ultimately determines on the standing issues raised, the City of Ridgeland allowed anyone remotely interested to be heard.

<sup>2</sup> In fact no zone in Ridgeland allows as a first permitted use, any building over four stories.

when "with certain restrictions and conditions" the use would promote the public health, safety, morals or general welfare of the City and would not adversely affect adjacent properties". Section 21, Ridgeland Zoning Ordinance.

Though there was sharply divided opinion on the subject, the record certainly supports the finding made by the Board of Aldermen. The proposed building (now largely constructed) is surrounded by the top end commercial development in the state. It is a part of planned development of the absolute highest quality. It is located on a busy Interstate Highway. Both lay and expert testimony clearly supports the actions of the City. The decision of the Mayor and Board should be sustained.

Because the brief of the Bailey Companies addresses each of the pertinent legal issues, doing so here would amount to little more than repetition. That brief discusses the legal authorities applicable to the matter before the Court. In order to avoid repetition, the City of Ridgeland joins the brief of the Bailey Companies. Ridgeland urges this Court to affirm the Circuit Court and the Mayor and Board of Aldermen on the direct appeal.

The cross appeal raises issues of substantial importance to all government bodies having zoning powers. Guidance from this Court on the issues raised on the cross appeal would certainly be helpful. Ridgeland submits that the brief of the Cross-Appellant correctly sets out the law and to the extent permitted, joins in that portion of the brief.

In closing, this is an issue of monumental importance to the City of Ridgeland. The brevity of this brief should in no way diminish Ridgeland's deep concern with this

matter. Brevity is occasioned solely because of the excellent brief<sup>3</sup> of the Bailey Companies and an expectation this Court does not want, nor need mere repetition of what has been so well presented.

Respectfully submitted,

City of Ridgeland, Mississippi

By: 

Jerry L. Mills, Attorney for Appellees

Of Counsel:

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<sup>3</sup> Some 66 pages by permission of this Court.



### **CERTIFICATE OF SERVICE**

I, the undersigned Jerry L. Mills, of counsel for City of Ridgeland, Appellees, do hereby certify that I have this day sent by United States mail, postage prepaid, a true and exact copy of the foregoing Brief to

James A. Peden, Jr., Esq.  
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Honorable Samac S. Richardson  
Post Office Box 1662  
Canton, MS 39046

IN WITNESS WHEREOF, I have affixed my signature on this, the 28th day  
of July, 2009.

A handwritten signature in black ink, appearing to read "Jerry L. Mills", written over a horizontal line.

Jerry L. Mills