

Zoning dispute heads

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WALHALLA — North Fairview residents filed a lawsuit against Oconee County on Wednesday claiming that their rights were harmed and violated

by the way county officials and outside parties influenced the outcome of a zoning decision.

The 17-page filing calls on the court to declare "null and void" two ordinances dealing with the North Fairview and

North Cane Creek rezoning petitions that were given final approval by County Council in January.

Named as defendants along with Oconee County are County Administrator Scott Moulder,

Councilmen Paul Corbell and Reg Dexter, Advocates for Quality Development, Inc. and the group's president, Jim Codner, AQD members Gary Owens and Chuck Smith, Planning Commission member Andrea Heller

to court

and Planning Director Art Holbrooks.

Attorney Roberta Barton filed the lawsuit on behalf of Jean Jennings and David and Michelle McMahan.

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Barton relies on emails obtained by Jennings and the McMahans from the county through a Freedom of Information Act request to help build her case.

Barton alleges that the emails show a pattern of ex parte communications between the defendants that predetermined a detrimental decision by the county against her clients.

"The South Carolina Supreme Court held that ex parte communications does not constitute grounds for reversal unless there is a showing of partiality or prejudice," Barton states in the lawsuit.

Barton claims Corbell demonstrated partiality against her clients by referring to them in the emails to other council members and staff as "inmates." She said Corbell also characterized her clients' concerns

as "a set up with usual cast," and that he twice in emails implied that her clients were "not intelligent nor reasonable" when it comes to the zoning issue.

Barton claims Dexter demonstrated partiality when he approached Jennings during a break at a council meeting Aug. 17, 2010, "and started berating her."

Barton states that the confrontation between Dexter and the 74-year-old Jennings was so intense that "both Councilmember Wayne McCall and a member of the audience, Becky Balenger, interceded in an effort to protect Jennings from Dexter's verbal assault."

Barton alleges that had Corbell and Dexter recused themselves because of their partiality, the outcome of the zoning decision would have favored her clients.

The lawsuit goes on to declare that the Agricul-

tural Residential District category imposed on Jennings and the McMahans should be declared null and void because it violates the state's Right to Farm Act.

Furthermore, she charges that the actions of the defendants rise to the level of a "civil conspiracy," caused "intentional infliction of emotional distress," led to the "defamation" of her clients and produced "verbal assault" against Jennings.

Barton also seeks special damages, general damages and punitive damages against the defendants on behalf of her clients.

The local attorney also asked the court to reserve her right to obtain evidence withheld by the county that might be contained in emails that have not been released.

The lawsuit seeks a jury trial.