



Town of Hilton Head Island  
**Board of Zoning Appeals Meeting**  
**Monday, February 22, 2021 – 2:30 p.m.**  
**AGENDA**

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In accordance with the Town of Hilton Head Island Municipal Code Section 2-5-15, this meeting is being conducted virtually and can be viewed live on the Town's Public Meeting Facebook Page at <https://www.facebook.com/townofhiltonheadislandmeetings/>. Following the meeting, the video record will be made available on the Town's website at <https://www.hiltonheadislandsc.gov/>.

1. **Call to Order**
2. **FOIA Compliance** – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.
3. **Roll Call**
4. **Welcome and Introduction to Board Procedures**
5. **Approval of Agenda**
6. **Approval of Minutes**
  - a. January 28, 2021 Special Meeting
7. **Appearance by Citizens**
8. **Unfinished Business – None**
9. **New Business**
  - a. **Public Hearing**  
**VAR-001875-2020** – Request from Eric Schnider for a variance from LMO Section 16-5-102, Setback Standards, and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 119 Sandcastle Court with a parcel number of R511 009 000 1152 0000.
  - b. **Public Hearing**  
**VAR-001870-2020** – Request from George F. Zitlaw, Jr. for a variance from LMO Section 16-5-102, Setback Standards, and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 123 Sandcastle Court with a parcel number of R511 009 000 1154 0000.

**c. Public Hearing**

**VAR-001894-2020** – Request from Brian Ritchey for a variance from LMO Section 16-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio to remain and proposed fence to be added in the adjacent use setback and buffer. The property address is 25 Sandcastle Court with a parcel number of R511 009 000 1115 0000.

**d. Public Hearing**

**VAR-001983-2020** – Request from Jennifer Miotto for a variance from LMO Section 16-5-102, Setback Standards and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 27 Sandcastle Court with a parcel number of R511 009 000 1116 0000.

**10. Board Business**

**11. Staff Reports**

- a. Waiver Report

**12. Adjournment**

Public comments concerning agenda items can be submitted electronically via the Open Town Hall HHI portal at <https://hiltonheadislandsc.gov/opentownhall/>. The portal will close 2 hours before the meeting. Public comments submitted through the portal will be provided to the Board for review and made part of the official record. Citizens who wish to comment on agenda items during the meeting by phone must contact the Board Secretary at 843-341-4691 no later than 2 hours before the meeting.

**Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.**



Town of Hilton Head Island  
**Board of Zoning Appeals Special Meeting**  
January 28, 2021 at 9:00 a.m. Virtual Meeting  
**MEETING MINUTES**

**Present from the Board:** Chair Patsy Brison, Vice Chair Anna Ponder, Robert Johnson, Lisa Laudermilch, Charles Walczak, John White, David Fingerhut

**Absent from the Board:** None

**Present from Town Council:** None

**Present from Town Staff:** Nicole Dixon, Development Review Administrator; Missy Luick, Senior Planner; Shea Farrar, Landscape/Urban Design Associate; Diane Busch, Staff Attorney; Rene Phillips, Website Administrator; Teresa Haley, Senior Administrative Assistant; Vicki Pfannenschmidt, Temporary Administrative Assistant

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**1. Call to Order**

Chair Brison called the meeting to order at 9:02 a.m.

**2. FOIA Compliance** – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

**3. Swearing in Ceremony for New Board Member David Fingerhut**

Diane Busch, Staff Attorney administered the oath of Office to Mr. Fingerhut.

**4. Roll Call** – See as noted above.

**5. Welcome and Introduction to Board Procedures**

Chair Brison welcomed all in attendance and introduced the Board's procedures for conducting the meeting.

**6. Approval of Agenda**

Chair Brison asked if staff had any changes to the agenda.

Ms. Luick stated yes. She informed the Board that APL-002275-2020 - The request for appeal from Leslie Ford, on behalf of Cedar Woods Property Owners Association has been withdrawn by the applicant and asked that it be removed from the agenda.

Chair Brison asked if there were any changes from the Board to the agenda. There were none.

Chair Brison asked for a motion to amend the agenda to remove the appeal stated above. Mr. Walczak moved to approve. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 6-0-1. (Mr. Johnson abstained due to technical difficulties.)

Chair Brison asked for a motion to approve the agenda as amended. Mr. Fingerhut moved to approve. Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 6-0-1. (Mr. Johnson abstained due to technical difficulties.)

## **7. Approval of Minutes**

### **a. December 14, 2020 Regular Meeting**

Chair Brison asked for a motion to approve the minutes of the December 14, 2020 regular meeting as presented. Ms. Laudermilch moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 5-0-2. (Mr. Fingerhut abstained because he was not present at the subject meeting. Mr. Johnson abstained due to technical difficulties.)

## **8. Appearance by Citizens**

There were no comments submitted on the Open Town Hall Portal for this particular meeting. Citizens were provided the opportunity to sign up for public comment participation by phone during the meeting. There were no requests from citizens to participate by phone.

## **9. Unfinished Business – None**

## **10. New Business**

- a. APL-002548-2020** – Request for Appeal from Daniel Ben-Yisrael, on behalf of The Parker Companies LLC. The appellant is appealing staff's determination dated December 3, 2020, regarding potential signage for the proposed Parker's Kitchen at 430 William Hilton Parkway, Parcel E, of the Sea Turtle Marketplace.

Chair Brison outlined the procedures for the appeal hearing process. Chair Brison invited the appellant to proceed with his presentation. Mr. Daniel Ben-Yisrael, on behalf of The Parker Companies LLC, presented his case as described in the Board's agenda package.

The Board made comments and inquiries regarding: inclusion of the parcel in the Sea Turtle Marketplace; questioned how exclusive signage rights were received from the seller; access to the property through Sea Turtle Marketplace; dimensions of signage requested; square footage of the parcel and improved area; whether the proposed signage would be single sided or double sided; what would the other businesses utilize for signage; and clarification of what other signage would be on the storefront and canopy.

Chair Brison asked Ms. Nicole Dixon to present on behalf of staff. Ms. Dixon presented staff's finding as described in the Board's agenda package. Ms. Dixon stated that the signage in place is a part of the Sea Turtle Marketplace signage system and the size was determined and approved due to the size of the entire Marketplace. She noted that if the property is considered a standalone parcel, it does not qualify for the size of sign that now exists on the property and it would be much smaller. Ms. Dixon added that even if the previous property owner granted exclusive rights to The Parkers Companies LLC, they would still have to follow the LMO guidelines.

The Board made additional comments and inquiries regarding: clarification as to whether the parcel is part of the Sea Turtle Marketplace and what printed content can be on the sign; and if there are any precedents that would align with this request.

Chair Brison asked for rebuttals of the appellant and staff. Following the rebuttals, the Board made closing remarks on the appeal and Chair Brison asked for a motion.

Mr. Walczak moved to affirm the Staff determination. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 7-0-0.

## **11. Board Business**

Chair Brison informed she would be presenting the annual report to Town Council at its regularly scheduled meeting on February 12, 2021. She stated she and Ms. Luick will be working on such and would be sending a draft to all Board members for comments or suggestions.

Chair Brison stated that Ms. Busch and Ms. Luick are working on suggestions and compiling some best practices from other jurisdictions regarding Rules of Procedure. She said they would be getting back with the Board to review such and determine if there are any recommendations for amendments.

## **12. Staff Reports**

### **a. Update on proposed LMO amendments that address waivers issued by Staff**

Ms. Dixon reported that the list for LMO amendments is ready for research and staff will be working to bring it forward in a few months. She reported, as requested by the Board, staff reviewed the list of waivers granted previously to see if there was a need for changes in the LMO. She reviewed the process for waivers adopted by Town Council to encourage redevelopment. After discussion, it was decided that staff would include verbiage in the summary of the waiver regarding what is being done, why it is occurring and what the applicant is doing to improve the property. Ms. Dixon stated going forward those items would be included. It was also agreed staff would provide a list of waivers to the Board annually.

### **b. Update on Board Training – Ms. Luick stated Staff is looking at options for the annual Board Training this year. She said Ms. Busch is working on a presentation for a more legal based training and would be coming forward with it in the future. She reminded them of the MASC training session on How to Conduct Effective Meetings, noting it could be done again. Ms. Luick said if there were requests to please let them know. She reminded them they need three hours of Board Training and needs to be completed by June 30, 2021. Chair Brison asked that staff forward the link to the MASC website so Board Members can review the training offered.**

### **c. Waiver Report – The report was included in the Board’s agenda package.**

### **d. Update on Pending Appeals to Circuit Court – Ms. Busch stated this required legal advice and pursuant to S.C. Code 30-4-70 advised that the Board moved to Executive Session to discuss this matter.**

### **13. Executive Session**

Mr. Fingerhut moved pursuant to S.C. Code 30-4-70 (a) (2) for receipt of legal advice related to pending appeals filed with Circuit Court concerning the variance applications of certain property owners of Sandcastles by the Sea subdivision. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 7-0-0.

### **14. Possible action by the BZA as a result of Executive Session**

The Board returned to open session at 11:30 a.m. (Dr. Ponder and Mr. Johnson did not return.) Chair Bison stated there is no action to be taken as a result of Executive Session.

### **15. Adjournment**

The meeting was adjourned at 11:31 a.m.

**Submitted by:** Vicki Pfannenschmidt

**Approved:** [DATE]

DRAFT



**TOWN OF HILTON HEAD ISLAND  
COMMUNITY DEVELOPMENT DEPARTMENT**

One Town Center Court	Hilton Head Island, SC 29928	843-341-4757	FAX 843-842-8908
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**STAFF REPORT  
VARIANCE**

<b>Case #:</b> VAR-001875-2020	<b>Public Hearing Date:</b> February 22, 2021
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<b>Parcel or Location Data:</b>	<b>Property Owner</b>	<b>Applicant</b>
Address: 119 Sandcastle Court  Parcel#: R511 009 000 1152 0000  Zoning: RD (Resort Development District)  Overlay: COR (Corridor Overlay District)	Eric Schnider 119 Sandcastle Court Hilton Head Island, SC 29928	Eric Schnider 119 Sandcastle Court Hilton Head Island, SC 29928

**Application Summary:**

Request from Eric Schnider for a variance from LMO Section 16-5-102, Setback Standards, and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 119 Sandcastle Court with a parcel number of R511 009 000 1152 0000.

**Staff Recommendation:**

Staff recommends the Board of Zoning Appeals **deny** the application based on the Findings of Fact and Conclusions of Law contained in the staff report.

**Background:**

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and single family residential to the north and Adventure Cove, Carrabba’s restaurant and an office building to the west.

The subject property, 119 Sandcastle Ct, was constructed in 2018 and purchased by the current owner in July of 2020. After the home was constructed and the Certificate of Occupancy was issued, the previous owner had a paver patio and stone retaining wall constructed in the rear of the property, extending from the

pool area into the rear adjacent use setback and buffer.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25' adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5' in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type A Option 1 (20') less densely vegetated buffer or a Type A Option 2 (10') more densely vegetated buffer for single family residential use adjacent to a multifamily residential use. The buffer types and options are explained in Table 16-5-103.F (See Attachment G, Buffer Table). A 20' setback is still required along the perimeter of a single family subdivision adjacent to a multifamily residential use.

In July 2019, Staff received several complaints about property owners removing vegetation and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10' buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The applicant is requesting a variance to allow the existing paver patio to remain in the rear adjacent



use setback and buffer.

**Applicant's Grounds for Variance, Summary of Facts and Conclusions of Law:**

**Grounds for Variance:**

According to the applicant, the relatively small size of his lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. The variance is required in order to prevent the erosion of soil into the swimming pool and other livable space in the home.

**Summary of Fact:**

- The applicant seeks a variance as set forth in LMO Section 16-2-103.S.

**Conclusion of Law:**

- The applicant may seek a variance as set forth in LMO Section 16-2-103.S.

**Summary of Facts and Conclusions of Law:**

**Summary of Facts:**

- Application was submitted on September 21, 2020 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on October 4, 2020 and January 31, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on October 7, 2020 and February 5, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on October 11, 2020 and February 5, 2021 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.
- On October 29, 2020 variance case VAR-001875-2020 was heard by the Board of Zoning Appeals and was denied in a 3-1 vote.
- On November 9, 2020, staff received a Petition for Reconsideration of the denial of Variance application VAR-001875-2020 for 123 Sandcastle Court.
- On November 23, 2020 the Petition for Reconsideration was heard by the Board of Zoning Appeals and was approved in a 3-1 vote.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):*

**Findings of Fact:**

- The subject property is .07 acres.
- The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property does not contain any unique site features that prohibit development on the lot.

**Conclusion of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):*

**Findings of Fact:**

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

**Conclusion of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO Section 16-2-103.S.4.a.i.03):*

**Findings of Fact:**

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every square foot of buildable space on the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a

permitted activity within a required buffer.

- A three story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, and a swimming pool has been constructed at the subject property.

**Conclusion of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):*

**Findings of Facts:**

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The properties directly adjacent to the subject lot both have encroachments in the setback and buffer and have applied for a variance to keep them.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

**Conclusions of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

**LMO Official Determination:**

**Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance should be denied to the applicant.**

**BZA Determination and Motion:**

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board makes and explains in writing ..." their decisions based on certain findings or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the motion.**

**PREPARED BY:**

TN  
\_\_\_\_\_  
Tyler Newman  
Senior Planner

2/15/2021  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

ND  
\_\_\_\_\_  
Nicole Dixon, AICP, CFM,  
Development Review Administrator

2/15/2021  
\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- A) Vicinity Map**
- B) Applicant's Narrative**
- C) Subdivision Plat**
- D) As-Built Survey**
- E) Site Plans**
- F) Site Photos**
- G) Buffer Table**

# Attachment A – Vicinity Map

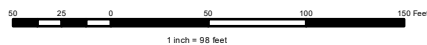
Folly Field Road

Sandcastle Court



TOWN OF HILTON HEAD ISLAND  
ONE TOWN CENTER COURT  
HILTON HEAD ISLAND, S.C. 29928  
PHONE (843) 341-4600

Town of Hilton Head Island  
VAR-001875-2020 - 119 Sandcastle Court  
October, 2020



The information on this map has been compiled from a variety of sources and is intended to be used only as a guide. It is provided without any warranty or representation as to the accuracy or completeness of the data shown. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion or for any losses arising from the use of the map.

**I am writing this letter to request a variance to seek and obtain relief from the following standards:**

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

**I Respectfully Request:**

- **Reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet.**

In July 2020 my wife and I purchased our single-family primary home, located in the Sandcastles by the Sea neighborhood in Folly Field. After we purchased the home we were made aware the Town of Hilton Head Land Management Ordinance which requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, retaining walls, and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to retain improvements made by previous owners which include natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home.

I believe the variance I am requesting meets all the towns criteria for approval.

**Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.**

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10<sup>th</sup> of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots

on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required the original owners to build a three-story home to get enough square footage to accommodate their family.

**Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.**

Because the extraordinary and exceptional conditions of my property explained above, the previous owners were forced to build the rear of their home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered their entire backyard a vegetation buffer in which no improvements could be made.

The naturally existing topography of the backyard was also unusual. The vegetation buffer area towards the rear of the lot was 3 feet higher than the vegetation buffer area against my home. The low point of the buffer rests against the back of my home, and next to the swimming pool. This significant slope of the lot toward my home, during rains, causes a mudslide that deposits eroded dirt into my homes living space and even into my swimming pool located under the house. This created a dangerous situation because our pool water was being contaminated with dirt and mud during heavy rains. It also made it difficult to walk around the back perimeter of my home due to this erosion of land. The only solution that would prevent erosion due to the backyard slope of the land, was to build a small, less than 3 foot, retaining wall. The wall was made of natural stone looking material to blend in with the surrounding vegetation. This wall eliminated both my soil erosion problem and safety issue with contaminated swimming pool water.

The natural stone looking wall the previous owners built was small, and under 3 feet in height. The wall was constructed 5 feet from the rear of the property line and encroached 15 feet into the vegetation buffer. The 5 feet of vegetation buffer behind the wall was originally mud, so they came up with a landscaping plan to vegetate those 5 feet. The plantings not only met but exceeded the towns vegetation buffer requirements.

The installation of our small retaining wall, corrected the topography issue, solved our erosion issue, eliminated a safety hazard in our swimming pool, and created a beautifully landscaped and thriving 5-foot vegetative buffer. Our vegetative buffer contains numerous shrubs, elephant ears, ferns, and numerous other indigenous plantings which blend into the existing environment.

After the retaining wall was built, I was then left with only 15 feet between the back of my home and my retaining wall. The Towns Land Management Ordinance requires the only remaining 15 feet of my back yard to be heavily vegetated. This effectively would render my home with no usable backyard. Because of these conditions, the application of this ordinance to my property would unreasonably restrict the

utilization of my property. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 5 feet to regain a small amount of usable backyard in my home.

If a Variance is granted to reduce my vegetative buffer from 20 feet to 5 feet, I will be allowed to leave the natural looking stone pavers that blend in with the environment in this 15-foot area. The joints between the stone pavers will allow for both proper drainage and keep earth from flowing into my home and swimming pool under my home. The granting of this Variance will also allow me to enjoy the natural surroundings in my backyard, enjoy viewing the natural wildlife, and create a sense of place and privacy.

**The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.**

Our entire backyard is directly backed up to a heavily treed and vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and Folly Field Road and essentially creates approximately 135 feet of heavily treed and natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and Folly Field road increases to 155 feet. If my requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and have such a negligible impact, that it would not be noticed by the public.

As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

The improvements added by previous owners of 119 Sandcastle have effectively prevented unwanted and unsafe land erosion, and at the same time, created a small area to be able to enjoy the natural vegetation, trees, and wildlife that surround our home. The improvements created a viewing place for all our surrounding nature and is in harmony with the Islands Character Vision Statement. The improvements will truly give us the ability to lose nothing, but see more, and have our property better contribute to the overall beauty and future vision of Hilton Head Island.

If our Variance is denied, enforcement of this strict vegetation buffer will result in a unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Thank you for your time,



Eric Schnider



15035P4D

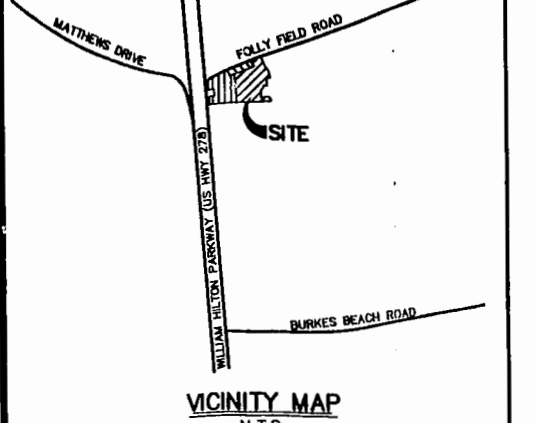


Table with 4 columns: LINE, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision plat.

AREA TABLE showing 83 Residential Lots (6.779 Ac), Sandcastle Court R/W (2.313 Ac), Open Space (1.826 Ac), and Total Area (10.918 Acres).

NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE... 2) THIS PROPERTY IS LOCATED IN ZONE A-7... 3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN... 4) L.N. DENOTES IRON NEW 1/2" REBAR SET... 5) UPON APPROVAL AND RECORDING, PROPERTY CORNERS WILL BE SET... 6) THE ONLY ACTIVITIES PERMITTED IN THE EXTERIOR SUBDIVISION BUFFER AS LABELED ON THIS PLAN SHALL BE THOSE LISTED IN PERMITTED ACTIVITY IN OTHER BUFFER AREAS AS PER THE LMO.

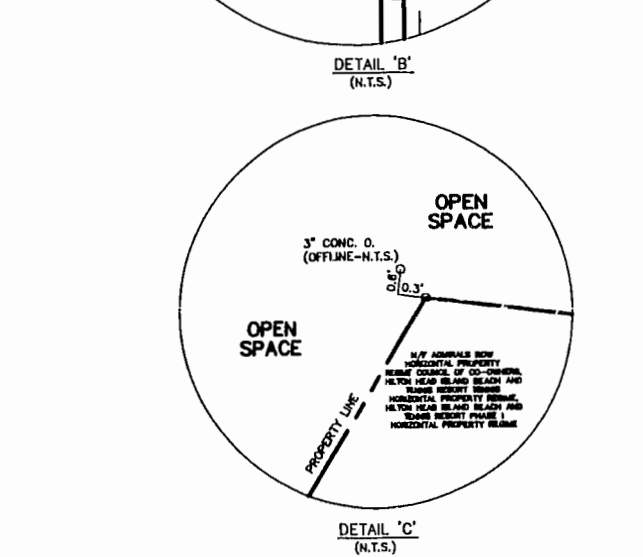
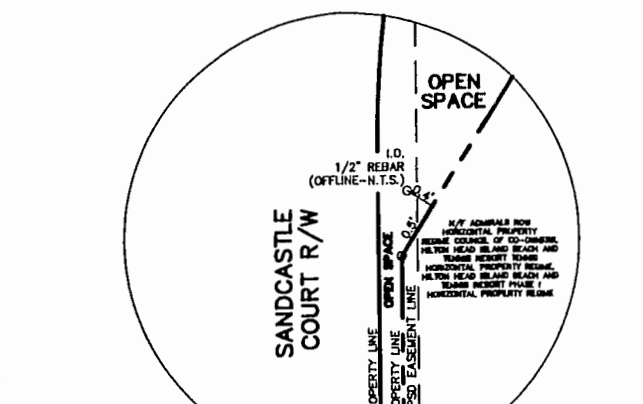
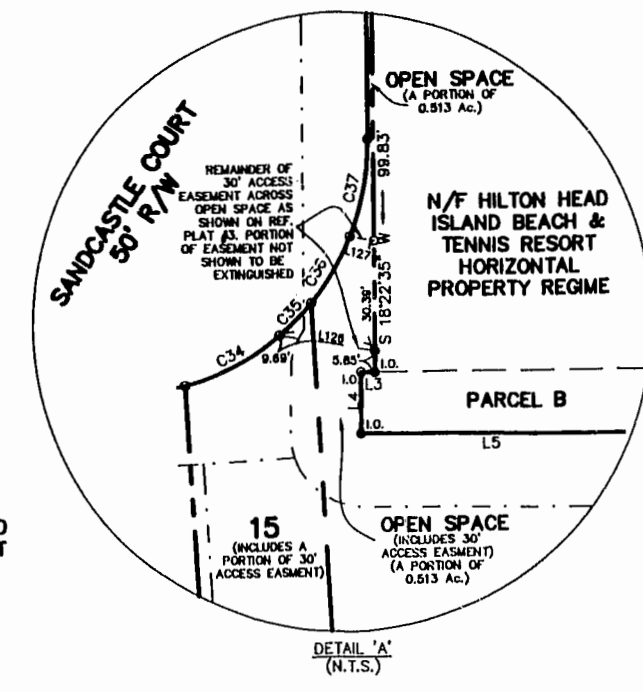
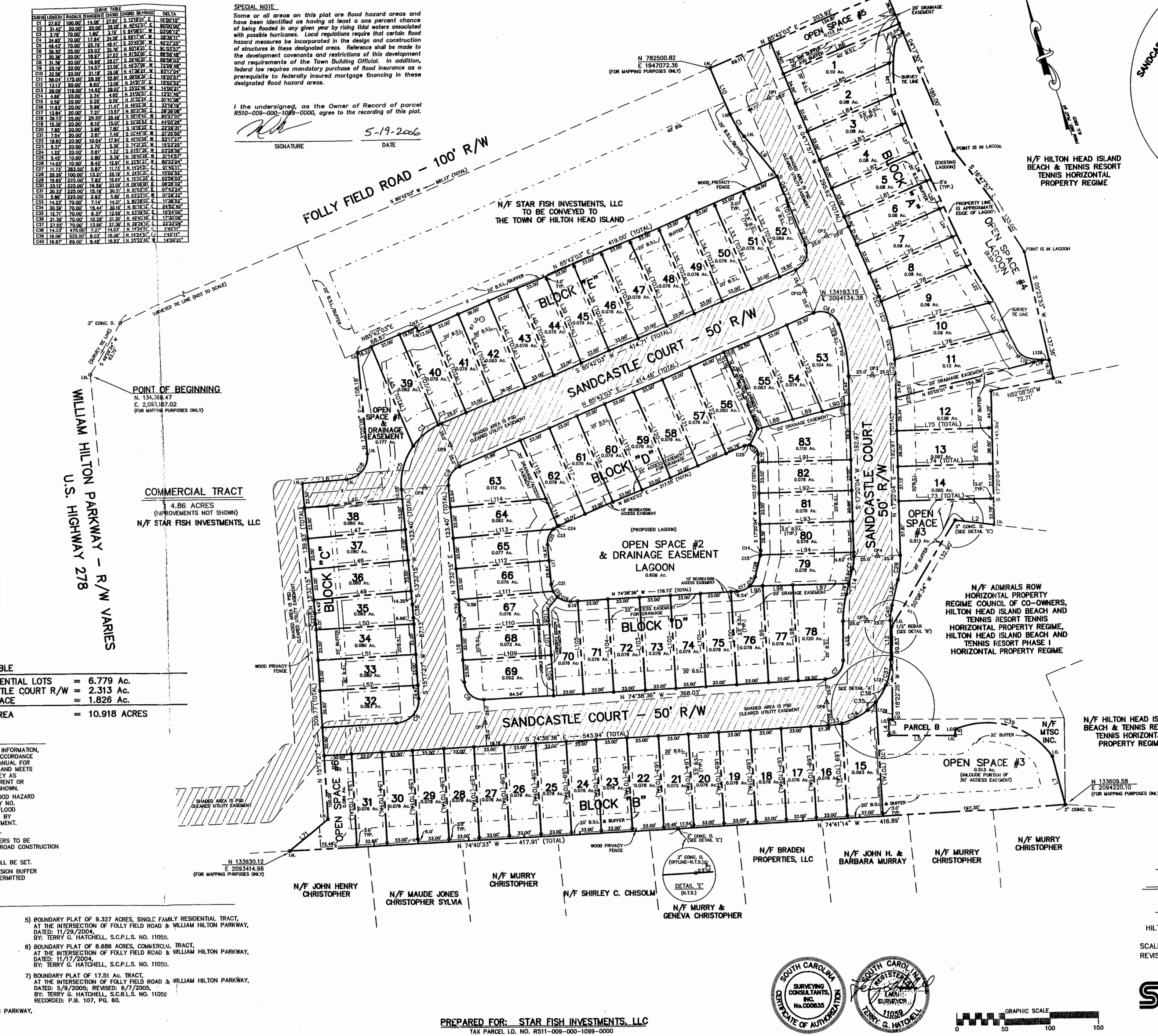
- REFERENCE PLATS: 1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278, DATED: 5/9/2000... 2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC. AND PARCEL B, 0.08 AC. WILLIAM HILTON PARKWAY... 3) 14.28 ACRES COMMERCIAL & MULTI-FAMILY TRACT, A SECTION OF FOLLY FIELD ROAD AREA... 4) BOUNDARY PLAT OF 16.013 AC. TRACT, AT THE INTERSECTION OF FOLLY FIELD ROAD & WILLIAM HILTON PARKWAY...

Table with 4 columns: BEARING, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision plat.

SPECIAL NOTE: Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plat. SIGNATURE: [Signature] DATE: 5-19-2006

Attachment C - Subdivision Plat



SUBDIVISION CONTROL POINTS (THREE POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION) listing coordinates for points CP1 through CP19.

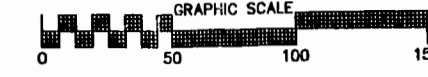
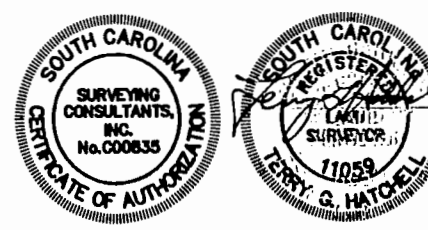
TOWN OF HILTON HEAD ISLAND, SC SUBDIVISION APPROVAL. Date of approval: 7/9/05. Application Number: 81805002. Certified by: [Signature]. Title: [Signature]. THIS AFFIDAVIT WILL EXPIRE ON 7/10/07 IN ACCORDANCE WITH L&O SECTION 15-3008

SUBDIVISION PLAT OF SANDCASTLES BY THE SEA FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. SCALE: 1" = 50'. DATE: 6/15/2005. JOB NO: 89319L. REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS

Logo for SURVEYING CONSULTANTS, 17 Sherington Drive, Suite C, Bluffton, SC 29910. Telephone: (843) 815-3304. FAX: (843) 815-3305.

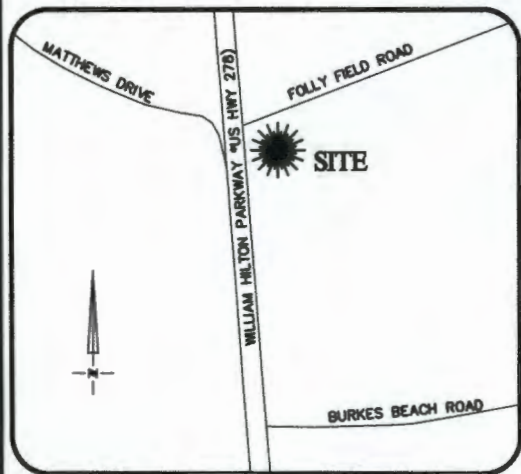
PREPARED FOR: STAR FISH INVESTMENTS, LLC. TAX PARCEL I.D. NO. R510-009-000-1099-0000



1906-18

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

SIGNED *Thomas W. Hurley*  
 THOMAS W. HURLEY, S.C. PLS L-17569



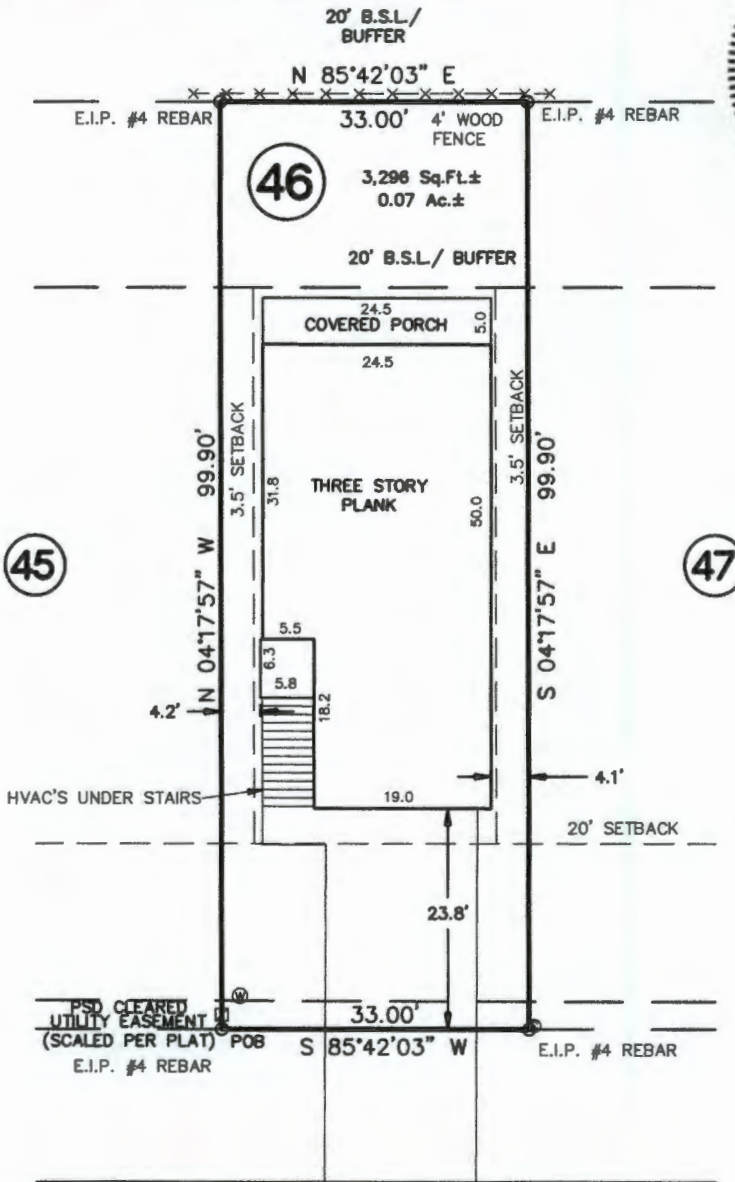
VICINITY MAP  
 Not To Scale

**LEGEND**

- E.I.P. EXISTING IRON PIN
- E.C.M. EXISTING CONCRETE MONUMENT
- S.I.P. SET IRON PIN
- F.P.E. FLOOD PROTECTION ELEVATION
- CLOSURE EXCEEDS 1 INCH in 100,000'
- — — — — PROPERTY LINE
- - - - - ADJOINER PROPERTY LINE
- X-X-X FENCE LINE
- FIRE HYDRANT
- TRANSFORMER
- CLEAN OUT
- ELECTRIC BOX
- LIGHT POST
- CABLE PEDESTAL
- MAN HOLE
- WATER VALVE
- TELEPHONE PEDESTAL
- HVAC
- WATER METER
- CB CATCH BASIN



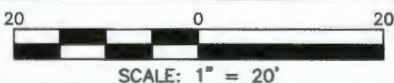
N/F STAR FISH INVESTMENTS, LLC  
 TO BE CONVEYED TO  
 THE TOWN OF HILTON HEAD ISLAND



50' R/W  
**#119 SANDCASTLE COURT**

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED

FLOOD NOTE:  
 THIS PROPERTY IS LOCATED IN FLOOD ZONE A-7 WITH A BASE FLOOD ELEVATION OF 14 FEET AS SHOWN ON COMMUNITY - PANEL NO. 45025000140 DATED SEPTEMBER 29, 1986.



**PHYSICAL SURVEY**  
 FOR

LOT 46, SANDCASTLES BY THE SEA  
 Hilton Head Island, Beaufort County, South Carolina

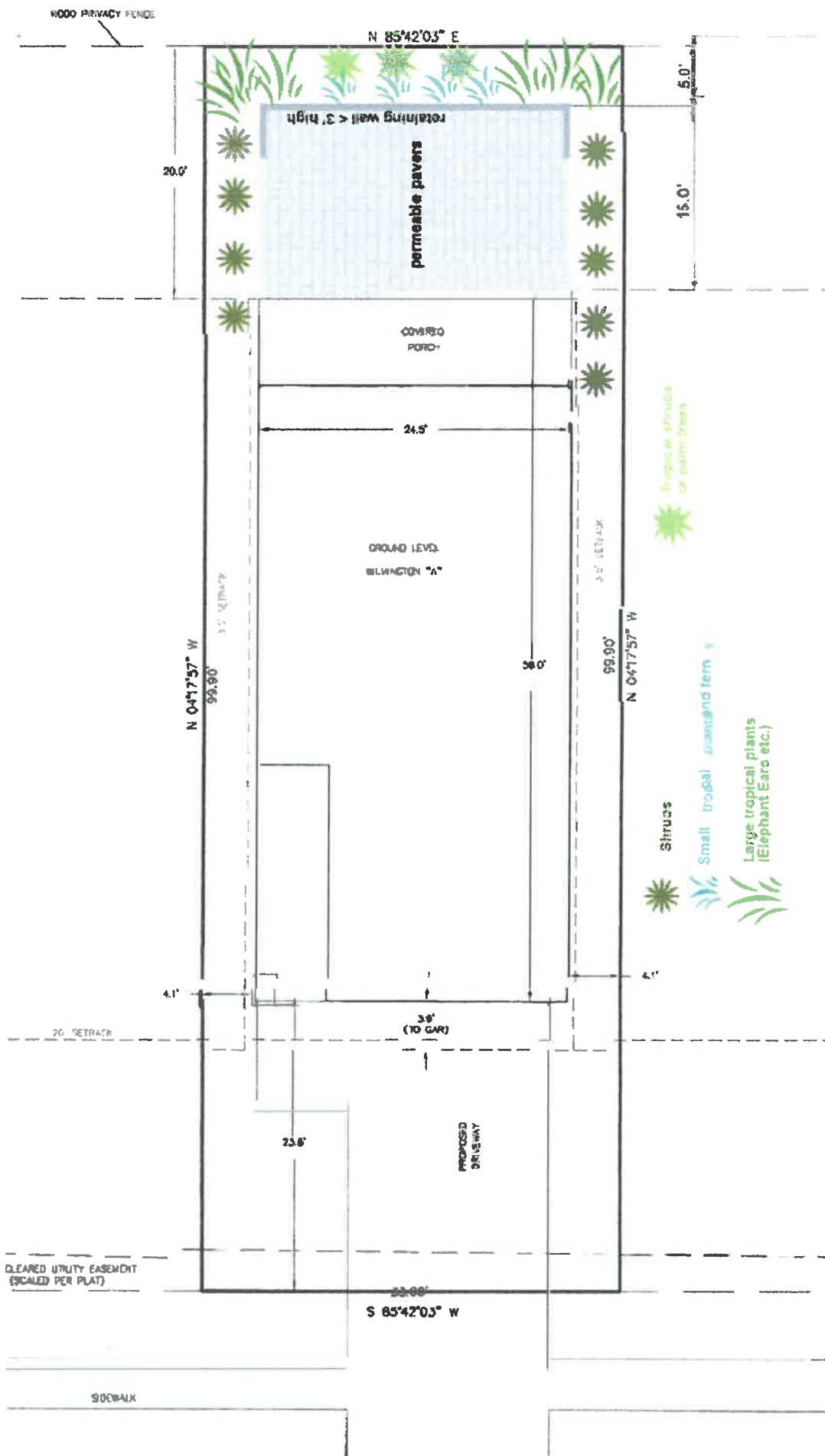
**RLA ASSOCIATES, PA**  
 785 KING GEORGE BLVD, SUITE 203  
 SAVANNAH, GA 31419  
 PHONE (843) 839-9091  
 FAX (843) 839-9092

PROPERTY OF: \_\_\_\_\_  
 MAP BOOK 00113 PAGE 0164 DEED REFERENCE \_\_\_\_\_

DRAWN BY: JKM DATE: DECEMBER 11, 2018

N/F STAR FISH INVESTMENTS, LLC  
 TO BE CONVEYED TO  
 THE TOWN OF HILTON HEAD ISLAND

119 Sandcastle Court (lot 47)



# 119 Sandcastle Court (lot 47)



Shrubs



Small tropical plants and ferns



Large tropical plants  
(Elephant Ears etc.)

SCALE  
1 inch = 30'0"











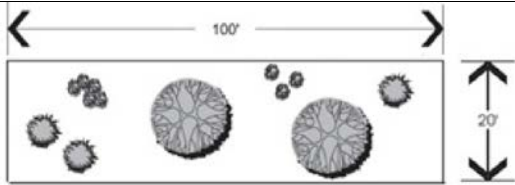

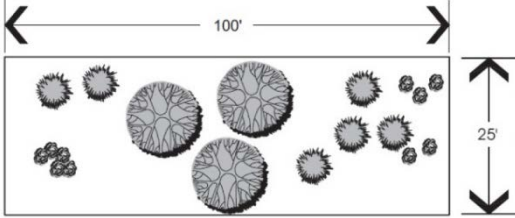
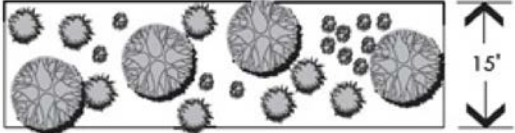
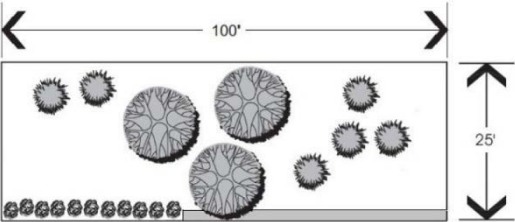
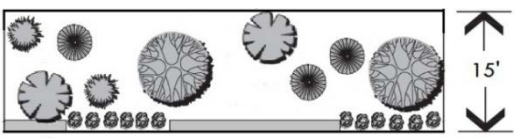




## Attachment G - Buffer Table

### F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6, 7</small>		
<b>TYPE A BUFFER</b>		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 20 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 3 every 100 linear feet</li> <li>• Evergreen shrubs: 8 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 10 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 4 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
<b>TYPE B BUFFER</b>		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 8 every 100 linear feet</li> <li>• Evergreen shrubs: 12 every 100 linear feet</li> </ul>
<b>TYPE C BUFFER</b>		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 5 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>

Attachment J

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6,7</sup>

<b>TYPE D BUFFER</b>		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 30 feet</li> <li>• <i>Overstory trees</i> : 5 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width 20 feet</li> <li>• <i>Overstory trees</i> : 6 every 100 linear feet</li> <li>• <i>Understory trees</i> : 8 every 100 linear ft</li> <li>• A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>
<b>TYPE E BUFFER</b>		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 50 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 5 every 100 linear feet</li> <li>• Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity</li> </ul>
Option 2	<p>A diagram showing a 100-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 35 feet</li> <li>• <i>Overstory trees</i> : 5 every 100 linear feet</li> <li>• <i>Understory trees</i> : 7 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>

Attachment J

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6, 7</sup>

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ( $1.5 \times 5 = 7.5$ , rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
  - a. The reduction is consistent with the character of *development* on surrounding *land* ;
  - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
  - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
  - d. The reduction will not pose a danger to the public health or safety;
  - e. Any adverse impacts directly attributable to the reduction are mitigated;
  - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
  - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
  - a. The reduction is consistent with the character of *development* on surrounding *land* ;
  - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
  - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
  - d. The reduction will not pose a danger to the public health or safety;
  - e. Any adverse impacts directly attributable to the reduction are mitigated; and
  - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



**TOWN OF HILTON HEAD ISLAND  
COMMUNITY DEVELOPMENT DEPARTMENT**

One Town Center Court	Hilton Head Island, SC 29928	843-341-4757	FAX 843-842-8908
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**STAFF REPORT  
VARIANCE**

<b>Case #:</b> VAR-001870-2020	<b>Public Hearing Date:</b> February 22, 2021
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<b>Parcel or Location Data:</b>	<b>Property Owner</b>	<b>Applicant</b>
Address: 123 Sandcastle Court  Parcel#: R511 009 000 1154 0000  Zoning: RD (Resort Development District)  Overlay: COR (Corridor Overlay District)	G&B Squared LLC 123 Sandcastle Court Hilton Head Island, SC 29928	George F. Zitlaw, Jr. 28 Arthur Avenue Greenville, SC 29605

**Application Summary:**

Request from George F. Zitlaw, Jr. for a variance from LMO Section 16-5-102, Setback Standards, and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 123 Sandcastle Court with a parcel number of R511 009 000 1154 0000.

**Staff Recommendation:**

Staff recommends the Board of Zoning Appeals **deny** the application based on the Findings of Fact and Conclusions of Law contained in the staff report.

**Background:**

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and single family residential to the north and Adventure Cove, Carrabba’s restaurant and an office building to the west.

The subject property, 123 Sandcastle Court, was purchased by the applicant in 2017 and the Certificate of Occupancy for a new single-family residence was issued in 2018. After the home was constructed and the Certificate of Occupancy was issued, the applicant had a paver patio and stone retaining wall constructed in

the rear of the property, extending from the pool area into the rear adjacent use setback and buffer.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25' adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5' in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type A Option 1 (20') less densely vegetated buffer or a Type A Option 2 (10') more densely vegetated buffer for single family residential use adjacent to a multifamily residential use. The buffer types and options are explained in Table 16-5-103.F (See Attachment G, Buffer Table). A 20' setback is still required along the perimeter of a single family subdivision adjacent to a multifamily residential use.

In July 2019, Staff received several complaints about property owners removing vegetation and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10' buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The applicant is requesting a variance to allow the existing paver patio to remain in the rear adjacent use setback and buffer.

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**Applicant's Grounds for Variance, Summary of Facts and Conclusions of Law:****Grounds for Variance:**

According to the applicant, the relatively small size of his lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. The variance is required in order to prevent the erosion of soil into the swimming pool and other livable space in the home.

**Summary of Fact:**

- The applicant seeks a variance as set forth in LMO Section 16-2-103.S.

**Conclusion of Law:**

- The applicant may seek a variance as set forth in LMO Section 16-2-103.S.

**Summary of Facts and Conclusions of Law:****Summary of Facts:**

- Application was submitted on September 18, 2020 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on October 4, 2020 and January 31, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on October 7, 2020 and February 5, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on October 11, 2020 and February 5, 2021 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.
- On October 29, 2020 variance case VAR-001870-2020 was heard by the Board of Zoning Appeals and was denied in a 3-1 vote.
- On November 9, 2020, staff received a Petition for Reconsideration of the denial of Variance application VAR-001870-2020 for 123 Sandcastle Court.
- On November 23, 2020 the Petition for Reconsideration was heard by the Board of Zoning Appeals and was approved in a 3-1 vote.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):*

**Findings of Fact:**

- The subject property is .07 acres.
- The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property does not contain any unique site features that prohibit development on the lot.

**Conclusion of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):*

**Findings of Fact:**

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

**Conclusion of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO Section 16-2-103.S.4.a.i.03):*

**Findings of Fact:**

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every square foot of buildable space on the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.



- A three story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 4 bedrooms, 4 bathrooms, and a swimming pool has been constructed at the subject property.

**Conclusion of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):*

**Findings of Facts:**

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The properties directly adjacent to the subject lot both have encroachments in the setback and buffer and have applied for a variance to keep them.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

**Conclusions of Law:**

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

**LMO Official Determination:**

**Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance should be denied to the applicant.**

**BZA Determination and Motion:**

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the

board makes and explains in writing ...” their decisions based on certain findings or “may remand a matter to an administrative official, upon motion by a party or the board’s own motion, if the board determines the record is insufficient for review.”

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the motion.**

**PREPARED BY:**

TN  
\_\_\_\_\_  
Tyler Newman  
Senior Planner

2/15/2021  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

ND  
\_\_\_\_\_  
Nicole Dixon, AICP, CFM,  
Development Review Administrator

2/15/2021  
\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- A) Vicinity Map**
- B) Applicant’s Narrative**
- C) Subdivision Plat**
- D) As-Built Survey**
- E) Site Plan**
- F) Site Photos**
- G) Buffer Table**



**Attachment A – Vicinity Map**

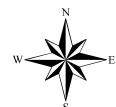
**Folly Field Road**

**Sandcastle Court**



TOWN OF HILTON HEAD ISLAND  
ONE TOWN CENTER COURT  
HILTON HEAD ISLAND, S.C. 29928  
PHONE (843) 341-4600

**Town of Hilton Head Island**  
**VAR-001870-2020 - 123 Sandcastle Court**  
October, 2020



The information on this map has been compiled from a variety of sources and is intended to be used only as a guide. It is provided without any warranty or representation as to the accuracy or completeness of the data shown. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion or for any losses arising from the use of the map.

## Attachment B - Applicant's Narrative

### **I am writing this letter to request a variance to seek and obtain relief from the following standards:**

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

### **I Respectfully Request:**

- **Reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet:**

My single-family home 123 Sandcastle Ct. is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, retaining walls, and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home.

I believe the variance I am requesting meets all the towns criteria for approval.

### **Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.**

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10<sup>th</sup> of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

**Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.**

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made.

The naturally existing topography of the backyard was also unusual. The vegetation buffer area towards the rear of the lot was 3 feet higher than the vegetation buffer area against my home. The low point of the buffer rests against the back of my home, and next to the swimming pool. This significant slope of the lot toward my home, during rains, causes a mudslide that deposits eroded dirt into my homes living space and even into my swimming pool located under the house. This created a dangerous situation because our pool water was being contaminated with dirt and mud during heavy rains. It also made it difficult to walk around the back perimeter of my home due to this erosion of land. The only solution that would prevent erosion due to the backyard slope of the land, was to build a small, less than 3 foot, retaining wall. The wall was made of natural stone looking material to blend in with the surrounding vegetation. This wall eliminated both my soil erosion problem and safety issue with contaminated swimming pool water.

The natural stone looking wall we built was small, and under 3 feet in height. The wall was constructed 5 feet 10 inches from the rear of the property line and encroached 15 feet into the vegetation buffer. The 5 feet of vegetation buffer behind the wall was originally mud, so we came up with a landscaping plan to vegetate these 5 feet. Our plantings not only met but exceeded the towns vegetation buffer requirements.

The installation of our small retaining wall, corrected the topography issue, solved our erosion issue, eliminated a safety hazard in our swimming pool, and created a beautifully landscaped and thriving 5-foot vegetative buffer. Our vegetative buffer contains numerous shrubs, elephant ears, ferns, and numerous other indigenous plantings which blend into the existing environment.

After the retaining wall was built, I was then left with only 15 feet between the back of my home and my retaining wall. The Towns Land Management Ordinance requires the only remaining 15 feet of my backyard to be heavily vegetated. This effectively would render my home with no usable backyard. Because of these conditions, the application of this ordinance to my property would unreasonably restrict the utilization of my property. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 5 feet to regain a small amount of usable backyard in my home.

If a Variance is granted to reduce my vegetative buffer from 20 feet to 5 feet, I will be allowed to lay natural looking stone pavers that blend in with the environment in this 15-foot area. The joints between the stone pavers will allow for both proper drainage and kept earth from flowing into my home and swimming pool under my home. The granting of this Variance will also allow me to enjoy the natural surroundings in my backyard, enjoy viewing the natural wildlife, and create a sense of place and privacy.

**The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.**

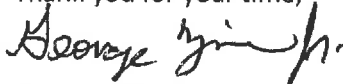
Our entire backyard is directly backed up to a heavily treed and vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and Folly Field Road and essentially creates approximately 135 feet of heavily treed and natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and Folly Field road increases to 155 feet. If my requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and have such a negligible impact, that it would not be noticed by the public.

As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

I have attached pictures that show what the natural land looked like in our backyard after we made improvements. You can see after our improvements, we prevented unwanted and unsafe land erosion, and at the same time, we created a small area to be able to enjoy the natural vegetation, trees, and wildlife that surround our home. Our improvements created a viewing place for all our surrounding nature and is in harmony with the Islands Character Vision Statement. Our above improvements will truly give us the ability to lose nothing, but see more, and have our property better contribute to the overall beauty and future vision of Hilton Head Island.

If our Variance is denied, enforcement of this strict vegetation buffer will result in a unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Thank you for your time,



George Zitlaw, Jr.

15035P4D

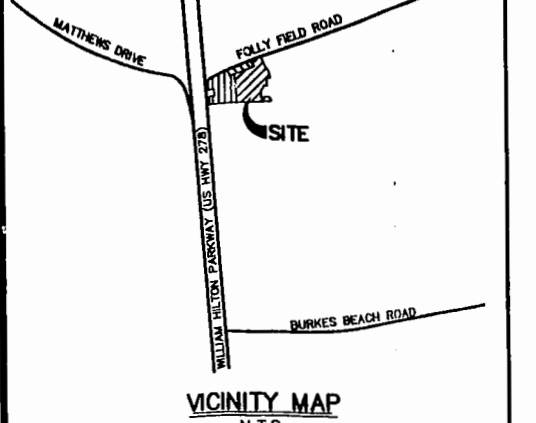


Table with 4 columns: LINE, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision plat.

AREA TABLE showing 83 Residential Lots (6.779 Ac), Sandcastle Court R/W (2.313 Ac), Open Space (1.826 Ac), and Total Area (10.918 Acres).

NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE... 2) THIS PROPERTY IS LOCATED IN ZONE A-7... 3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN... 4) L.N. DENOTES IRON NEW 1/2" REBAR SET... 5) UPON APPROVAL AND RECORDING, PROPERTY CORNERS WILL BE SET... 6) THE ONLY ACTIVITIES PERMITTED IN THE EXTERIOR SUBDIVISION BUFFER AS LABELED ON THIS PLAN SHALL BE THOSE LISTED IN PERMITTED ACTIVITY IN OTHER BUFFER AREAS AS PER THE LMO.

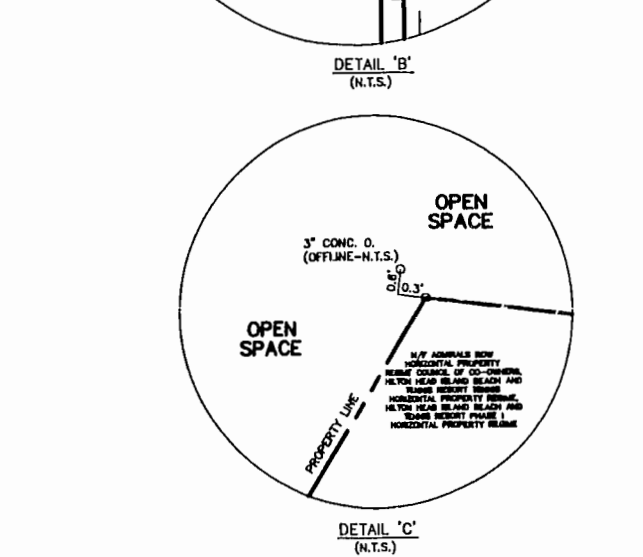
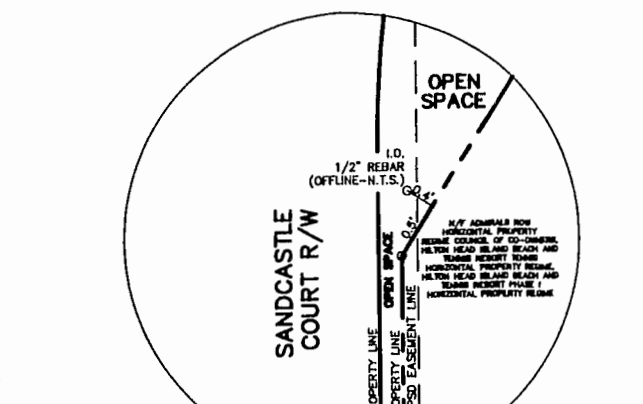
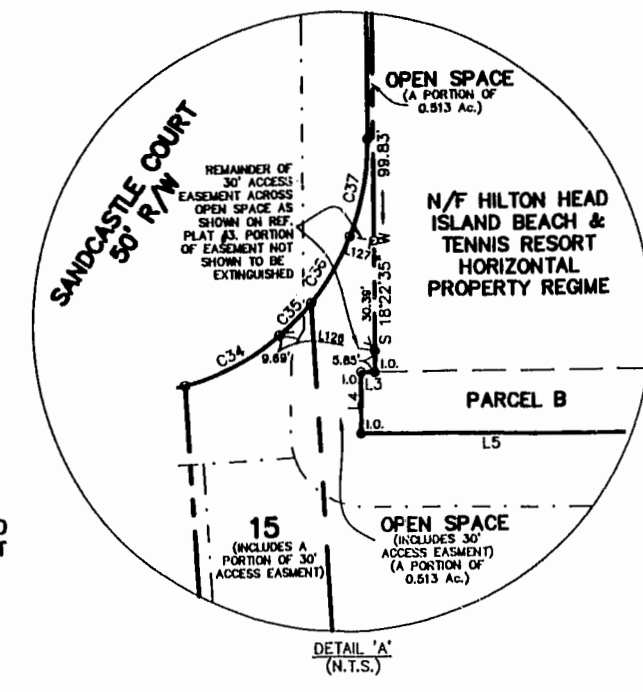
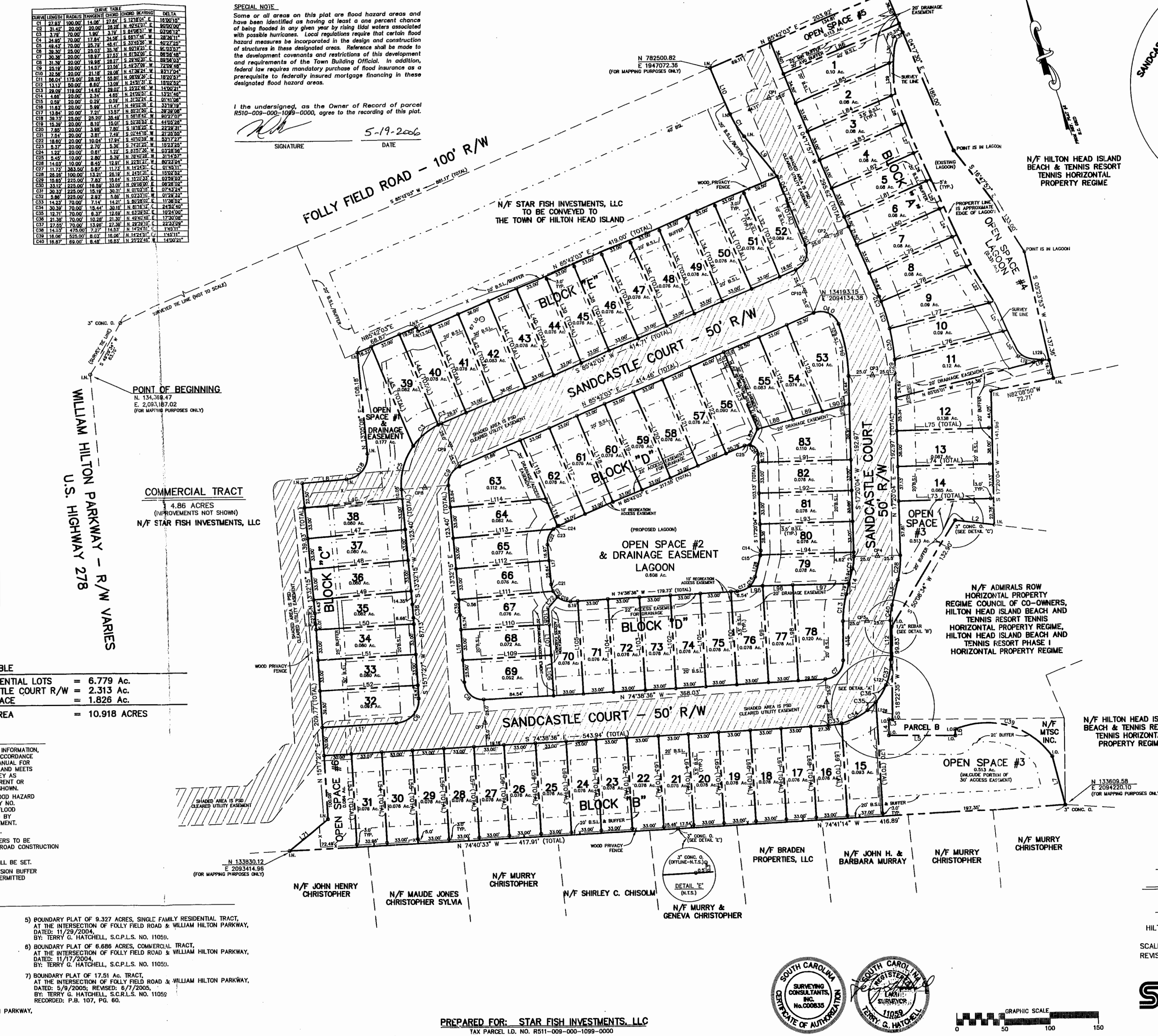
- REFERENCE PLATS: 1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278, DATED: 5/9/2000... 2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC. AND PARCEL B, 0.08 AC. WILLIAM HILTON PARKWAY... 3) 14.28 ACRES COMMERCIAL & MULTI-FAMILY TRACT, A SECTION OF FOLLY FIELD ROAD AREA... 4) BOUNDARY PLAT OF 16.013 AC. TRACT, AT THE INTERSECTION OF FOLLY FIELD ROAD & WILLIAM HILTON PARKWAY...

Table with 4 columns: BEARING, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision plat.

SPECIAL NOTE: Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plat. SIGNATURE: [Signature] DATE: 5-19-2006

Attachment C - Subdivision Plat



SUBDIVISION CONTROL POINTS (THREE POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION) listing coordinates for points CP1 through CP19.

TOWN OF HILTON HEAD ISLAND, SC SUBDIVISION APPROVAL. Date of approval: 7/9/06. Application Number: 81805002. Certified by: [Signature]. Title: Mgr. Blaz E.

SANDCASTLES BY THE SEA FOLLY FIELD ROAD

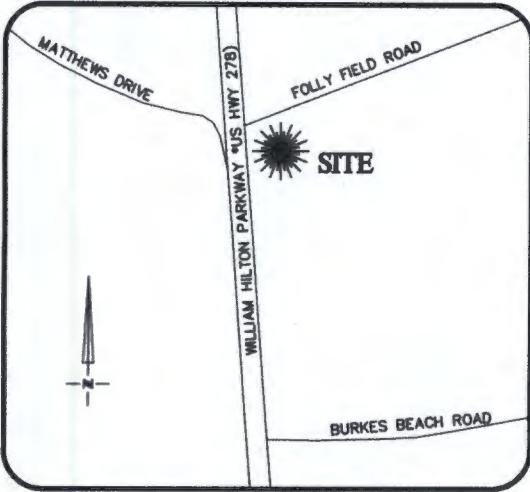
HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. SCALE: 1" = 50'. DATE: 6/15/2005. JOB NO: 89319L. REVISED 05/19/2006: TO SHOW OFFSET PROPERTY CORNERS.

Logos for South Carolina Surveying Consultants and Terry G. Hatchell, S.C.P.L.S. No. 11059. Includes a graphic scale from 0 to 150 feet.

PREPARED FOR: STAR FISH INVESTMENTS, LLC. TAX PARCEL I.D. NO. R510-009-000-1099-0000



I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.



VICINITY MAP  
Not To Scale

SIGNED

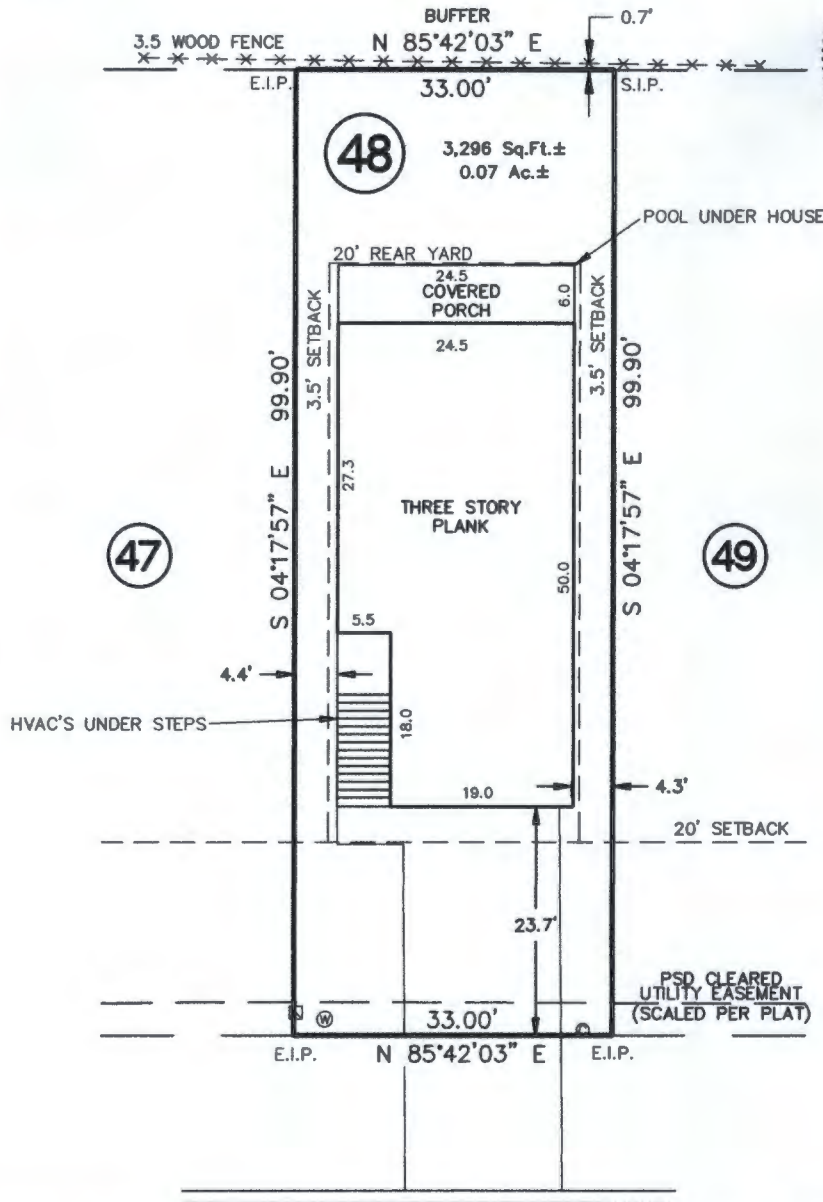
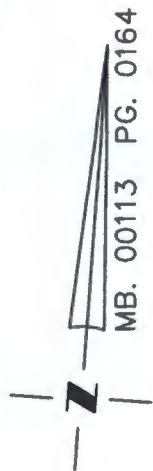
ROBERT L. ARRINGTON, S.C. PLS L-19889

LEGEND

- E.I.P. EXISTING IRON PIN
- E.C.M. EXISTING CONCRETE MONUMENT
- S.I.P. SET IRON PIN
- F.P.E. FLOOD PROTECTION ELEVATION
- CLOSURE EXCEEDS 1 INCH in 10,000'
- PROPERTY LINE
- ADJOINER PROPERTY LINE
- FENCE LINE
- CLEAN OUT
- LIGHT POST
- MAN HOLE
- TELEPHONE PEDESTAL
- WATER METER
- CATCH BASIN
- FIRE HYDRANT
- TRANSFORMER
- ELECTRIC BOX
- CABLE PEDESTAL
- WATER VALVE
- HVAC



N/F STAR FISH INVESTMENTS, LLC  
TO BE CONVEYED TO  
THE TOWN OF HILTON HEAD ISLAND



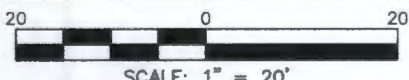
# #123 SANDCASTLE COURT

50' R/W

TMS: R511-009-000-1154-0000

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED

FLOOD NOTE:  
THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 14-D COMMUNITY NO. 450250, MAP DATED 7/20/86. BASE ELEVATION 14.0'. FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OF COUNTY BUILDING INSPECTIONS DEPARTMENT.



## PHYSICAL SURVEY

FOR

LOT 48, SANDCASTLES BY THE SEA

Hilton Head Island, Beaufort County, South Carolina

PROPERTY OF: \_\_\_\_\_  
MAP BOOK 00113 PAGE 0164 DEED REFERENCE \_\_\_\_\_

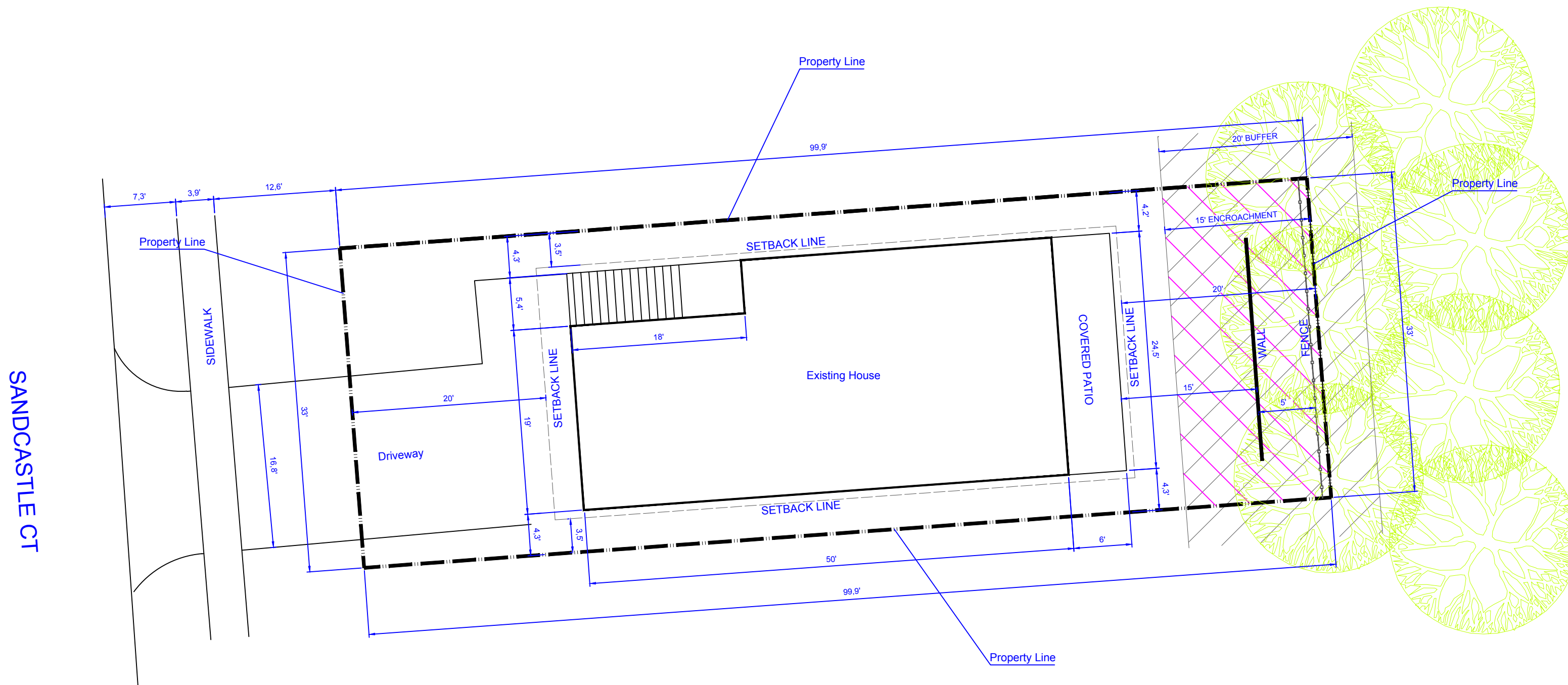
**RLA ASSOCIATES, PA**

785 KING GEORGE BLVD, SUITE 203  
SAVANNAH, GA 31419  
PHONE (843) 879-9091  
FAX (843) 839-9092

DRAWN BY: ADM

DATE: JUNE 18, 2018

# Attachment E - Site Plan



PIN: R511 009 000 1154 0000 0'  
AIN: 12952023  
Status: A  
TAG: 510  
Area Code: 505Acre: 0.08  
Res Sq Ft: 3,333  
Com Sq Ft: 0  
Bldgs: 1

0' 5' 10' 20'  
Graphic Scale

123 SANDCASTLE CT  
Hilton Head Island, SC 29928  
SCALE: 1"=30'



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123













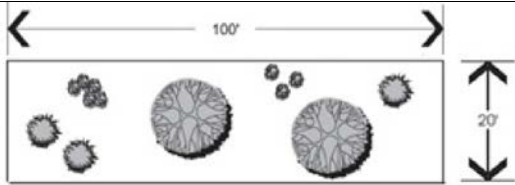

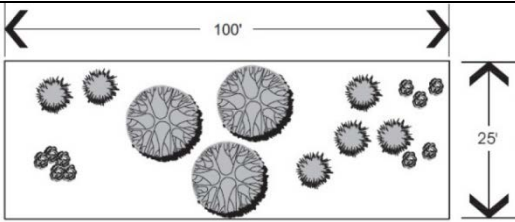
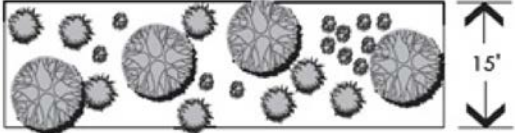
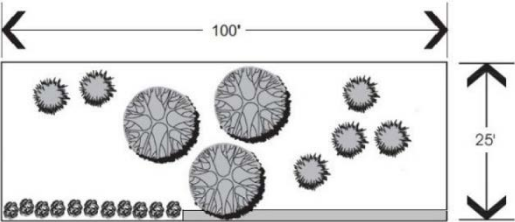
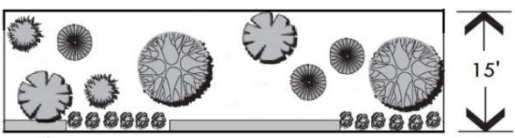




## Attachment G - Buffer Table

### F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6, 7</small>		
<b>TYPE A BUFFER</b>		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 20 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 3 every 100 linear feet</li> <li>• Evergreen shrubs: 8 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 10 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 4 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
<b>TYPE B BUFFER</b>		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 8 every 100 linear feet</li> <li>• Evergreen shrubs: 12 every 100 linear feet</li> </ul>
<b>TYPE C BUFFER</b>		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 5 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>

Attachment J

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6,7</sup>

<b>TYPE D BUFFER</b>		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 30 feet</li> <li>• <i>Overstory trees</i> : 5 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width 20 feet</li> <li>• <i>Overstory trees</i> : 6 every 100 linear feet</li> <li>• <i>Understory trees</i> : 8 every 100 linear ft</li> <li>• A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>
<b>TYPE E BUFFER</b>		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 50 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 5 every 100 linear feet</li> <li>• Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity</li> </ul>
Option 2	<p>A diagram showing a 100-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 35 feet</li> <li>• <i>Overstory trees</i> : 5 every 100 linear feet</li> <li>• <i>Understory trees</i> : 7 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>

Attachment J

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6, 7</sup>

NOTES:	
1.	Required <i>overstory trees</i> shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2.	Where an <i>adjacent use</i> is designed for solar access, <i>understory trees</i> may be substituted for <i>overstory trees</i> .
3.	Fences or walls within an adjacent street or use buffer shall comply with the standards of <a href="#">Sec. 16-5-113</a> , Fence and Wall Standards.
4.	A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve <i>height</i> requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its <i>height</i> .
5.	If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 <i>overstory trees</i> be planted every 100 linear feet, 8 <i>overstory trees</i> are required to be planted in the buffer (1.5 x 5 = 7.5, rounded up to 8)).
6.	Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the <i>Official</i> that: <ol style="list-style-type: none"> <li>a. The reduction is consistent with the character of <i>development</i> on surrounding <i>land</i> ;</li> <li>b. <i>Development</i> resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;</li> <li>c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed <i>development</i> , or (b) results in improved site conditions for a <i>development</i> with <i>nonconforming site features</i> ;</li> <li>d. The reduction will not pose a danger to the public health or safety;</li> <li>e. Any adverse impacts directly attributable to the reduction are mitigated;</li> <li>f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and</li> <li>g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow <i>development</i> of the site to be designed and located in a way that complies with LMO standards.</li> </ol>
7.	Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the <i>Official</i> that: <ol style="list-style-type: none"> <li>a. The reduction is consistent with the character of <i>development</i> on surrounding <i>land</i> ;</li> <li>b. <i>Development</i> resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;</li> <li>c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed <i>development</i> , or (b) results in improved site conditions for a <i>development</i> with <i>nonconforming site features</i> ;</li> <li>d. The reduction will not pose a danger to the public health or safety;</li> <li>e. Any adverse impacts directly attributable to the reduction are mitigated; and</li> <li>f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.</li> </ol>



# TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court | Hilton Head Island, SC 29928 | 843-341-4757 | FAX 843-842-8908

## STAFF REPORT VARIANCE

Case #:	Public Hearing Date:
VAR-001894-2020	February 22, 2021

Parcel or Location Data:	Property Owner and Applicant
<p>Parcel#: R511 009 000 1115 0000  Address: 25 Sandcastle Court  Parcel size: 0.09 acres  Zoning: RD (Resort Development District)  Overlay: COR (Corridor Overlay District)</p>	<p>Brian Ritchey  2808 Dove Street  Rolling Meadows, IL 60008</p>

Application Summary:
<p>Request from Brian Ritchey for a variance from 16-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio to remain and proposed fence to be added in the adjacent use setback and buffer. The property address is 25 Sandcastle Court with a parcel number of R511 009 000 1115 0000.</p>

Staff Recommendation:
<p>Staff recommends the Board of Zoning Appeals <b>deny</b> the application, based on the Findings of Fact and Conclusions of Law contained in the staff report.</p>

Background:
<p>The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and Folly Field Road to the north and Adventure Cove, Carrabba's restaurant and an office building to the west.</p> <p>The subject property, 25 Sandcastle Ct, was constructed in 2017 and purchased by the current owner</p>

in November of 2017 (See Attachment A, Vicinity Map). After the home was constructed and the Certificate of Occupancy was issued, the owner had an approximate 33' 9" by 10' 4" (field measured) paver patio constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 10' 4" (field measured) in the adjacent use setback and buffer although it tapers to a lesser encroachment length due to the parcel shape. LMO Section 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback. While a patio can encroach up to 5 feet into a setback, it cannot encroach into a buffer. Portions of the existing patio even exceeds the allowable setback encroachment. The applicant is seeking a 15' encroachment into the setback and buffer.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25 foot adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5 feet in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type A Option 1 (20 foot) less densely vegetated buffer or a Type A Option 2 (10 foot) more densely vegetated buffer for single family residential use adjacent to a multifamily residential use. The buffer types and options are explained in Table 16-5-103.F (See Attachment J, Buffer Table). A 20 setback is still required along the perimeter of a single family subdivision adjacent to a multifamily residential use.

In July 2019, Staff received several complaints about property owners removing vegetation in the buffers and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, some representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10 foot buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised

and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The parcel shape is mostly rectangular, but at the rear of the property, the property is angled slightly to follow the edge of the lagoon. Because of the slightly irregular parcel shape, the dimensions of the setback and buffer encroachments are lesser on the south side of the lot and greater on the north side. (See Attachment D, As-Built). The allowable setback encroachments in Table 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback.

The applicant is requesting a 15' variance to allow the existing paver patio to remain and a proposed fence in the rear adjacent use setback and buffer. Staff field measured the existing patio encroachment in the adjacent use setback and buffer to be 10'4".

#### **Applicant's Grounds for Variance, Summary of Facts and Conclusions of Law:**

##### **Grounds for Variance:**

According to the applicant, the relatively small size of the lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. According to the applicant, a re-vegetation plan for the buffer has already been approved by the Town in 2018.

##### **Summary of Fact:**

- The applicant seeks a variance as set forth in LMO Section 16-2-103.S.

##### **Conclusion of Law:**

- The applicant may seek a variance as set forth in LMO Section 16-2-103.S.

#### **Summary of Facts and Conclusions of Law:**

##### **Summary of Facts:**

- Application was submitted on September 22, 2020 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on January 31, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on February 5, 2021 as set forth in LMO Section 16-2-102.E.2.



- Notice of Application was mailed on February 5, 2021 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):*

**Findings of Fact:**

- Sandcastles by the Sea is a small lot single-family subdivision that consists of 83 lots.
- Most of the lots within the subdivision range from 0.06-0.13 acres with the majority of the lots around 0.07 acres.
- The majority of the lots within the subdivision were platted with a 20' rear setback and buffer.
- The subject property is mostly rectangular in shape as are the majority of the lots in the subdivision.
- The subject lot is 0.09 acres in size.
- The subject property does not contain any unique site features that prohibit development on the lot.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.
- The subject property is average in shape and size for the subdivision and does not contain any extraordinary or exceptional conditions that prohibit development on the lot.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):*

**Findings of Fact:**

- There are no extraordinary or exceptional conditions that pertain to this property.
- The majority of lots in the Sandcastles by the Sea subdivision are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.
- The conditions that apply to the subject property also apply to other properties in the vicinity.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary or exceptional conditions that apply to the subject property that do not also generally apply to other properties in the vicinity.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO Section 16-2-103.S.4.a.i.03):*

**Findings of Fact:**

- There are no extraordinary or exceptional conditions that pertain to this property.
- The Sandcastle by the Sea subdivision plat was approved with the 20 foot adjacent use setback and buffer in the rear of the subject property.
- The Sandcastle by the Sea subdivision plat has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.
- The subject property is currently developed with a 3-story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 4 bedrooms, 4 bathrooms, garage and a swimming pool.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that apply to the subject property that would prohibit or unreasonably restrict the utilization of the property.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):*

**Findings of Facts:**

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The applicant is requesting to keep the existing paver patio which encroaches into the rear setback and buffer and add a proposed fence in the adjacent use setback and buffer.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.
- Staff has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer along the lagoon in between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development. The private covenants prohibit the developer or property owner from seeking the 10 foot buffer option adjacent to the Hilton Head Beach and Tennis Resort development.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance will be of substantial detriment to the adjacent property because the purpose of setback and buffer requirements is to provide visual and spatial separation between developments and mitigate the negative effects between adjacent uses.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.
- While it is not within the Town's purview to enforce private covenants, the Town has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development.

**LMO Official Determination:**

**Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance should not be granted to the applicant because all four of the variance criteria have not been met.**

**BZA Determination and Motion:**

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board makes and explains in writing ..." their decisions based on certain findings or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the motion.**

**PREPARED BY:**

ML  
\_\_\_\_\_  
Missy Luick, *Senior Planner*

February 15, 2021  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

ND  
\_\_\_\_\_  
Nicole Dixon, AICP, CFM, *Development Review Administrator*

February 15, 2021  
\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- A) Vicinity Map
- B) Applicant's Narrative
- C) Subdivision Plat
- D) As-built
- E) Site Pictures
- F) Buffer Table



# Town of Hilton Head Island

25 Sandcastle Ct.  
Attachment A: Vicinity Map



Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4600

175 87.5 0 175 Feet



This information has been compiled from a variety of unverified general sources at various times and as such is intended to be used only as a guide. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion.

**I am writing this letter to request a variance to seek and obtain relief from the following standards**

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

**I respectfully request reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet.**

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, fences, retaining walls, and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and an esthetically pleasing fence of less than 3 feet in height.

I believe the variance I am requesting meets all the towns criteria for approval.

**Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.**

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10<sup>th</sup> of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

## Attachment B

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

**Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.**

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made.

**The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.**

Our entire backyard is directly backed up to a heavily vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and a pond and essentially creates approximately 135 feet of natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and the pond increases to 155 feet. If my requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and have such a negligible impact, that it would not be noticed by the public.

As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

**The variance was already approved in part for my property and current patio should be grandfathered in.**

In April of 2018 I had a landscaper accidentally trim off a lot of plants in the buffer. Was then contacted by Rocky Browder of the Town of Hilton Head as those plants are to remain in the buffer. He said I needed to complete a revegetation plan of the area with specific plants that could go in the buffer. This was completed and approved by the Town of Hilton Head. Emails and picture attached. As you can see

## Attachment B

from the pictures there is a grassy area that was not replanted as it had previous existed and was not part of the revegetation plan. This area was allowed by the builder to be planted as grass and was not part of the revegetation plan in the buffer. All that was done was that non-permeant and semi porous bricks were put on top of the grass area. These bricks can be taken up at any time and do not change the landscaping that was previously approved in the buffer so the current patio should be grandfathered in.

**The current position of the Town Of Hilton Head Island to keep a heavily vegetated buffer in place that essentially backs up to the house is now creating a dangerous area for alligators to hide and ambush my family and children without allowing an adequate escape route while using the pool .**

On August 20<sup>th</sup> 2018 a woman was killed by an alligator attack on Hilton Head Island. The husband is now suing for community for wrongful death and being grossly negligent by not taking adequate steps to prevent the attack.

By the pictures presented in the violation taken by the Town of Hilton Head you can see how dense the vegetation has grown within the buffer in the space of two years. Imagine an alligator hiding within the vegetation buffer right off the pool. There is no way you could see an alligator right before it is ready to attack. You can also see that even with the current patio in place keeping the vegetation down that there is at least some distance that will allow for an escape route to be executed. It is essential to the safety of my family that the buffer be reduced to five feet so a small retaining wall or fence can be put in to keep give my family an escape route from alligator attacks. Enforcing a rule to require a heavily vegetated area that backs up to a pool where children are playing knowing there are alligators in the pond that backs up to the pool would be grossly negligent by the Town of Hilton Head Island. Have enclosed a recent picture of an alligator in the pond taken from my deck. Also can send a video of a large alligator that attacks and eats an animal two houses down from mine. Would you and your family feel safe swimming in a pool knowing the alligators on the island and knowing an alligator is only a couple of steps from encountering you and your family in their own environment in the water?

If our Variance is denied, enforcement of this strict vegetation buffer will result in an unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Thank you for your time,



Brian Ritchey



Re: Sandcastle.

---

From: Browder Rocky (rockyb@hiltonheadislandsc.gov)

To: brian\_ritchey@att.net

Date: Monday, April 16, 2018, 10:29 AM CDT

---

Thanks Brian, was in the neighborhood when you emailed. All is good!  
Thank you for responding to the Town's request in such a quick manner.

Sent from my iPad

On Apr 16, 2018, at 10:59 AM, Brian Ritchey <brian\_ritchey@att.net<mailto:brian\_ritchey@att.net>> wrote:

Hello Rocky,

All of the plantings have been completed this morning. You should be ready for final inspection. Let me know when complete.

Thank you for your help through this process,

Brian

On Wednesday, March 28, 2018 11:04 AM, Browder Rocky  
<rockyb@hiltonheadislandsc.gov<mailto:rockyb@hiltonheadislandsc.gov>> wrote:

Sounds great let me know when it's installed so I can do a final inspection

Get Outlook for Android<<https://aka.ms/ghei36>>

On Tue, Mar 27, 2018 at 3:44 PM -0400, "Brian Ritchey" <brian\_ritchey@att.net<mailto:brian\_ritchey@att.net>> wrote:

Hello Rocky,

We found Juan Marcos Diaz to handle our revegetation plan at 25 Sandcastle a lot quicker. Does the below work for your approval?

Thank you,

Brian Ritchey

From: Juan Marcos Diaz <eden-lanscaper@hotmail.com<mailto:eden-lanscaper@hotmail.com><mailto:eden-lanscaper@hotmail.com>>

Date: March 26, 2018 at 8:05:33 PM CDT

To: "brian.kuhn@crsil.com<mailto:brian.kuhn@crsil.com><mailto:brian.kuhn@crsil.com>"

<brian.kuhn@crsil.com<mailto:brian.kuhn@crsil.com><mailto:brian.kuhn@crsil.com>>

Subject: Sandcastle.

Hi Brian.

Was thinking to plant 45 grasses 15 grasses for each line, will cost to you 8.00 dlls a piece 1 Gal. or 3 Gal 14.00 dlls each  
45x 8 = 360.00

Irrigation adjustemnts 2 new Pop ups sprinklers = 60.00

- Prep site, remove existent roots small roots,planting labor = 250.00

3 Yards of dirt fill hole and make even and smooth area.= 180.00

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[cid:03079EFB-B662-43C9-8B0D-3834565C400D]

**Disclaimer**

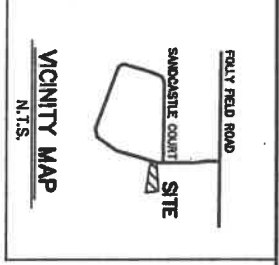
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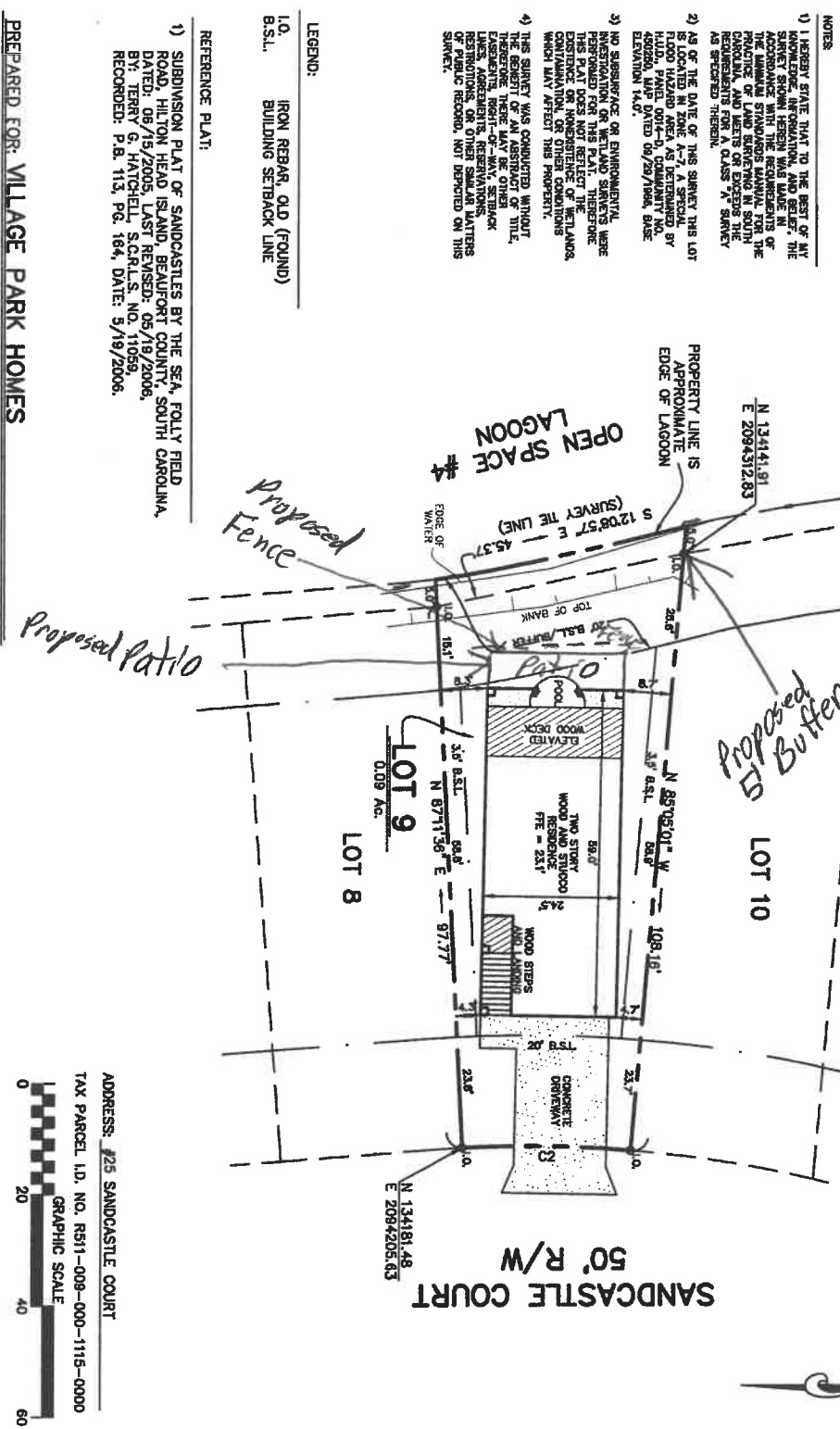


CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
CC	34.3'	224.0'	15.1'	30.3'	N105°19'	74°54'

PROPERTY LINE IS APPROXIMATE EDGE OF LAGOON

PROPERTY LINE IS APPROXIMATE EDGE OF LAGOON

PROPERTY LINE IS APPROXIMATE EDGE OF LAGOON



NOTES:

- 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH 6 OF ARTICLE II OF THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.
- 2) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7. A SPECIAL BY-LAW, PASSED BY THE COUNTY BOARD OF HEALTH AND PLANNING, DATED 08/29/1984, BASE ELEVATION 14.0'.
- 3) NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR WELL-LAND SURVEYS WERE PERFORMED FOR THIS PLAT. THEREFORE, THE EXISTENCE OR NON-EXISTENCE OF UTILITIES, CONTAMINATION, OR OTHER CONDITIONS WHICH MAY AFFECT THIS PROPERTY.
- 4) THIS SURVEY WAS CONDUCTED WITHOUT THE ASSISTANCE OF AN ASSISTANT OF TITLE, THEREFORE THERE MAY BE OTHER LIENS, AGREEMENTS, RESERVATIONS, RESTRICTIONS, OR OTHER SIMILAR MATTERS OF PUBLIC RECORD, NOT DEPICTED ON THIS SURVEY.

LEGEND:

1.0. B.S.L. IRON REBAR OLD (FOUND)

BUILDING SETBACK LINE

REFERENCE PLAT:

1) SUBDIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA DATED: 08/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.S.L.S. NO. 11059, RECORDED: P.B. 113, PG. 184, DATE: 5/19/2006.

PREPARED FOR: VILLAGE PARK HOMES

ADDRESS: #25 SANDCASTLE COURT

TAX PARCEL I.D. NO. R511-009-000-1115-0000

GRAPHIC SCALE

0 20 40 60

ASBUILT SURVEY OF LOT 9 SANDCASTLE COURT

A PORTION OF SANDCASTLES BY THE SEA

HILTON HEAD ISLAND BEAUFORT COUNTY SOUTH CAROLINA

SURVEYING CONSULTANTS

17 Sheraton Drive, Suite C  
Bluffton, SC 29910  
SC TELEPHONE: (843) 816-3804  
FAX: (843) 815-8305  
GA TELEPHONE: (912) 828-2776  
www.SurveyingConsultants.com  
Email: SC@SurveyingConsultants.com

SCALE: 1" = 20'

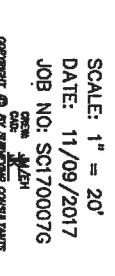
DATE: 11/09/2017

JOB NO: SC170007G

CREATED: M/21

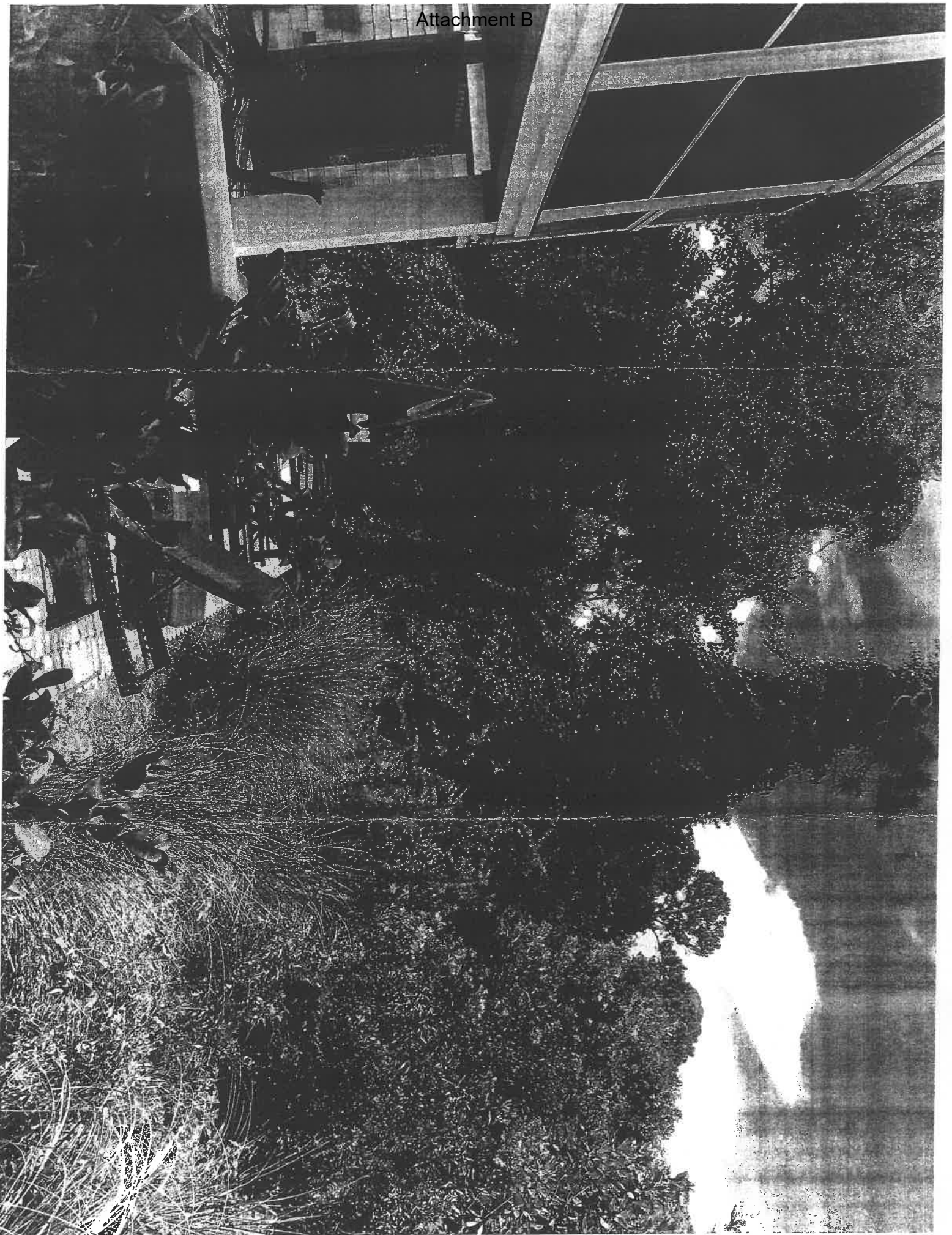
DATE: 11/09/2017

CONCEPT BY SURVEYING CONSULTANTS



Attachment B





Attachment B









15035P4D

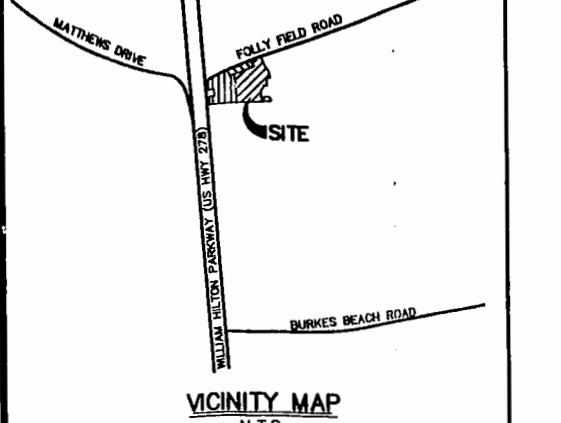


Table with 4 columns: LINE, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision.

AREA TABLE showing 83 Residential Lots (6,779 Ac), Sandcastle Court R/W (2,313 Ac), Open Space (1,826 Ac), and Total Area (10,918 Acres).

NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE... 2) THIS PROPERTY IS LOCATED IN ZONE A-7... 3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN... 4) L.N. DENOTES IRON NEW 1/2" REBAR SET...

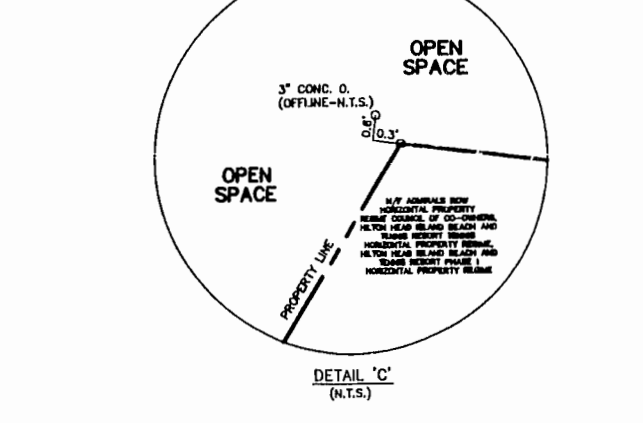
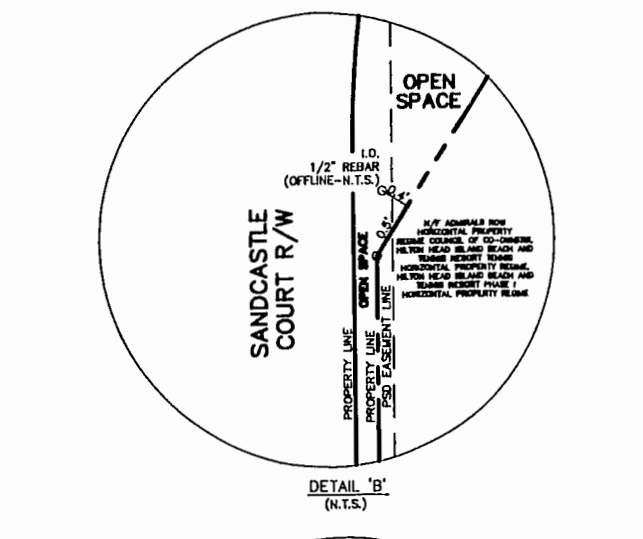
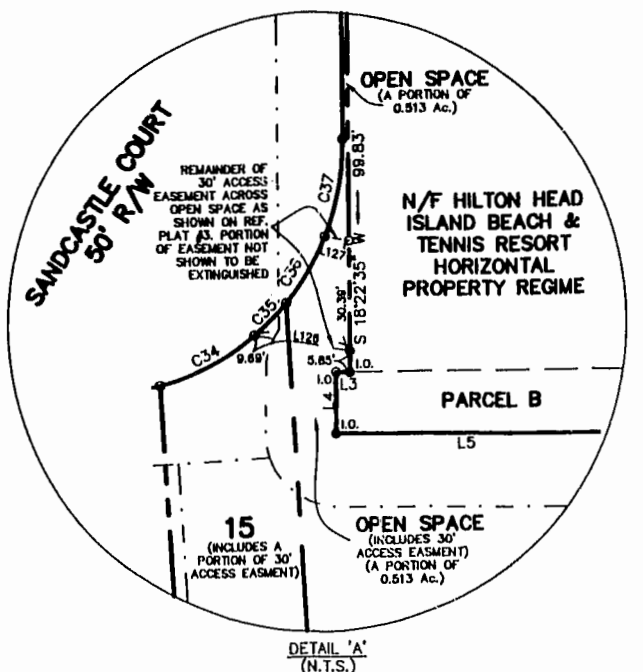
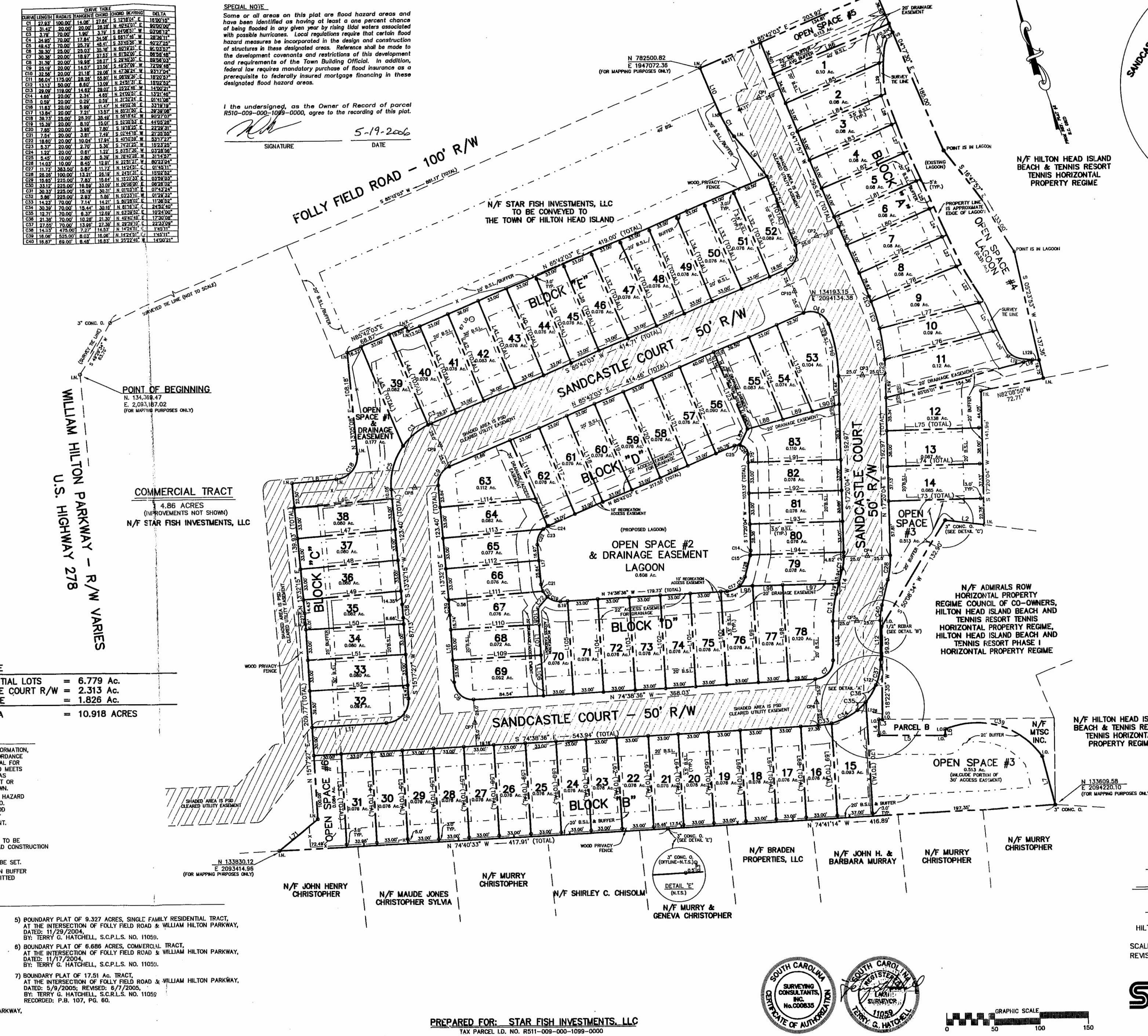
- REFERENCE PLATS: 1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278... 2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A... 3) 14.28 ACRES COMMERCIAL & MULTI-FAMILY TRACT... 4) BOUNDARY PLAT OF 16.013 AC. TRACT...

Table with 5 columns: BEARING, DISTANCE, BEARING, DISTANCE, BEARING. It lists 170 line segments for the subdivision.

SPECIAL NOTE: Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plat. SIGNATURE: [Signature] DATE: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS (EASEMENT POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION) listing points CPT1 through CPT19 with coordinates.

TOWN OF HILTON HEAD ISLAND, SC SUBDIVISION APPROVAL. The Town has found this plan to be in compliance with the Town's Land Management Ordinance and has authorized this approval.

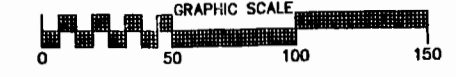
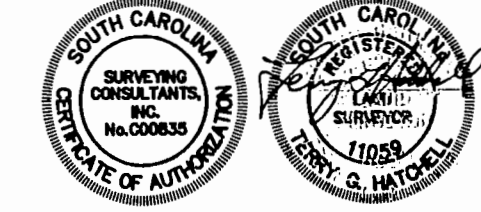
Date of approval: 7/9/06. Application Number: 81803002. Certified by: [Signature]. Title: Mgr. Blc 2.

THIS AFFIDAVIT WILL EXPIRE ON 7/10/07. IN ACCORDANCE WITH L&O SECTION 15.008 SUBDIVISION PLAT OF SANDCASTLES BY THE SEA FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. SCALE: 1" = 50'. DATE: 6/15/2005. JOB NO: 89319L. REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS

Logo for SURVEYING CONSULTANTS, 17 Sherington Drive, Suite C, Bluffton, SC 29910. Telephone: (843) 815-3304. FAX: (843) 815-3305.

PREPARED FOR: STAR FISH INVESTMENTS, LLC. TAX PARCEL I.D. NO. R510-009-000-1099-0000



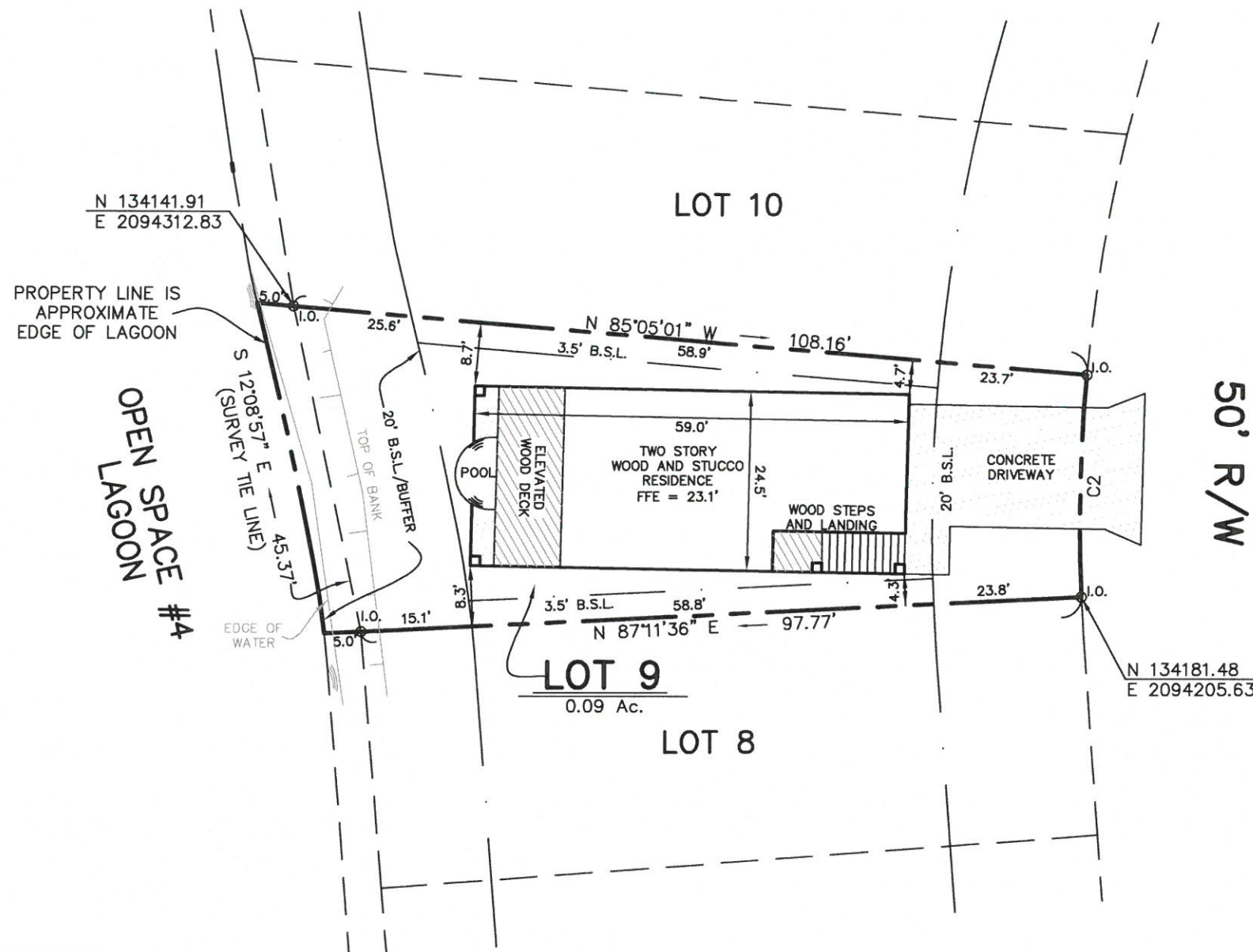


CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
C2	30.33'	225.00'	15.19'	30.31'	N01°03'18"E	7°43'24"

- NOTES:
- 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.
  - 2) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D., PANEL 0014-D, COMMUNITY NO. 450250, MAP DATED 09/29/1986, BASE ELEVATION 14.0'.
  - 3) NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR WETLAND SURVEYS WERE PERFORMED FOR THIS PLAT. THEREFORE THIS PLAT DOES NOT REFLECT THE EXISTENCE OR NONEXISTENCE OF WETLANDS, CONTAMINATION, OR OTHER CONDITIONS WHICH MAY AFFECT THIS PROPERTY.
  - 4) THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE, THEREFORE THERE MAY BE OTHER EASEMENTS, RIGHT-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, RESTRICTIONS, OR OTHER SIMILAR MATTERS OF PUBLIC RECORD, NOT DEPICTED ON THIS SURVEY.

- LEGEND:
- I.O. IRON REBAR, OLD (FOUND)
  - B.S.L. BUILDING SETBACK LINE

- REFERENCE PLAT:
- 1) SUBDIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, DATED: 06/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: P.B. 113, PG. 164, DATE: 5/19/2006.



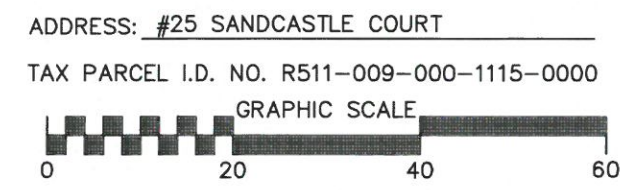
ASBUILT  
SURVEY  
OF  
**LOT 9**  
**SANDCASTLE**  
**COURT**  
A PORTION OF  
**SANDCASTLES**  
**BY THE SEA**  
HILTON HEAD ISLAND  
BEAUFORT COUNTY  
SOUTH CAROLINA



**SURVEYING CONSULTANTS**  
17 Sherington Drive, Suite C  
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www.SurveyingConsultants.com  
Email: SC@SurveyingConsultants.com

SCALE: 1" = 20'  
DATE: 11/09/2017  
JOB NO: SC170007G

CREW: JM/EH  
CAD: JK  
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PREPARED FOR: **VILLAGE PARK HOMES**

15-46-17

Attachment E

VAR-001894-2020

25 Sandcastle Ct

Site Photos taken 11/6/2020



Attachment E

VAR-001894-2020

25 Sandcastle Ct

Site Photos taken 11/6/2020



Attachment E

VAR-001894-2020

25 Sandcastle Ct

Site Photos taken 11/6/2020



Attachment E

VAR-001894-2020

25 Sandcastle Ct

Site Photos taken 11/6/2020



Attachment F

**F. Buffer Types**

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6,7</small>		
<b>TYPE A BUFFER</b>		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 20 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 3 every 100 linear feet</li> <li>• Evergreen shrubs: 8 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 10 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 4 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
<b>TYPE B BUFFER</b>		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 8 every 100 linear feet</li> <li>• Evergreen shrubs: 12 every 100 linear feet</li> </ul>
<b>TYPE C BUFFER</b>		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 5 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>

Attachment F

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6,7</sup>

<b>TYPE D BUFFER</b>		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer area. The height of the screening is indicated as 30 feet. The screening consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 30 feet</li> <li>• <b>Overstory trees</b> : 5 every 100 linear feet</li> <li>• <b>Understory trees</b> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity</li> <li>• At least 50% of all <b>trees</b> must be evergreen</li> </ul>
Option 2	<p>A diagram showing a 20-foot wide buffer area. The height of the screening is indicated as 20 feet. The screening consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width 20 feet</li> <li>• <b>Overstory trees</b> : 6 every 100 linear feet</li> <li>• <b>Understory trees</b> : 8 every 100 linear ft</li> <li>• A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide</li> <li>• At least 50% of all <b>trees</b> must be evergreen</li> </ul>
<b>TYPE E BUFFER</b>		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer area. The height of the screening is indicated as 50 feet. The screening consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 50 feet</li> <li>• <b>Overstory trees</b> : 4 every 100 linear feet</li> <li>• <b>Understory trees</b> : 5 every 100 linear feet</li> <li>• Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity</li> </ul>
Option 2	<p>A diagram showing a 35-foot wide buffer area. The height of the screening is indicated as 35 feet. The screening consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> <li>• Width: 35 feet</li> <li>• <b>Overstory trees</b> : 5 every 100 linear feet</li> <li>• <b>Understory trees</b> : 7 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity</li> <li>• At least 50% of all <b>trees</b> must be evergreen</li> </ul>



Attachment F

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6, 7</sup>

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ( $1.5 \times 5 = 7.5$ , rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
  - a. The reduction is consistent with the character of *development* on surrounding *land* ;
  - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
  - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
  - d. The reduction will not pose a danger to the public health or safety;
  - e. Any adverse impacts directly attributable to the reduction are mitigated;
  - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
  - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
  - a. The reduction is consistent with the character of *development* on surrounding *land* ;
  - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
  - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
  - d. The reduction will not pose a danger to the public health or safety;
  - e. Any adverse impacts directly attributable to the reduction are mitigated; and
  - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



# TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court | Hilton Head Island, SC 29928 | 843-341-4757 | FAX 843-842-8908

## STAFF REPORT VARIANCE

Case #:	Public Hearing Date:
VAR-001983-2020	February 22, 2021

Parcel or Location Data:	Property Owner and Applicant
<p>Parcel#: R511 009 000 1116 0000  Address: 27 Sandcastle Court  Parcel size: 0.09 acres  Zoning: RD (Resort Development District)  Overlay: COR (Corridor Overlay District)</p>	<p>Jennifer Miotto  PO Box 310  Bluffton SC 29910</p>

Application Summary:
<p>Request from Jennifer Miotto for a variance from LMO Section 16-5-102, Setback Standards and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 27 Sandcastle Court with a parcel number of R511 009 000 1116 0000.</p>

Staff Recommendation:
<p>Staff recommends the Board of Zoning Appeals <b>deny</b> the application, based on the Findings of Fact and Conclusions of Law contained in the staff report.</p>

Background:
<p>The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and Folly Field Road to the north and Adventure Cove, Carrabba’s restaurant and an office building to the west.</p> <p>The subject property, 27 Sandcastle Ct, was constructed in 2016 and purchased by the current owner in July of 2016 (See Attachment A, Vicinity Map). After the home was constructed and the Certificate</p>

of Occupancy was issued, the owner had an approximate 24' 7" by 8' (field measured) paver patio and wall constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 8' (field measured) in the adjacent use setback and buffer although it tapers to a lesser encroachment length due to the parcel shape. LMO Section 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback. While a patio can encroach up to 5 feet into a setback, it cannot encroach into a buffer. Portions of the existing patio even exceeds the allowable setback encroachment. The applicant is seeking an 8' encroachment into the setback and buffer.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25 foot adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5 feet in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type A Option 1 (20 foot) less densely vegetated buffer or a Type A Option 2 (10 foot) more densely vegetated buffer for single family residential use adjacent to a multifamily residential use. The buffer types and options are explained in Table 16-5-103.F (See Attachment J, Buffer Table). A 20 setback is still required along the perimeter of a single family subdivision adjacent to a multifamily residential use.

In July 2019, Staff received several complaints about property owners removing vegetation in the buffers and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10 foot buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the

entire subdivision, but it was determined by the representative to be too costly to do and they didn't think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The parcel shape is mostly rectangular, but at the rear of the property, the property is angled slightly to follow the edge of the lagoon. Because of the slightly irregular parcel shape, the dimensions of the setback and buffer encroachments are lesser on the south side of the lot and greater on the north side. (See Attachment D, As-Built). The allowable setback encroachments in Table 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback.

The applicant is requesting an 8' variance to allow the existing paver patio to remain in the rear adjacent use setback and buffer.

#### **Applicant's Grounds for Variance, Summary of Facts and Conclusions of Law:**

##### **Grounds for Variance:**

According to the applicant, the relatively small size of the lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. According to the applicant, a re-vegetation plan for the buffer has already been approved by the Town in 2018.

##### **Summary of Fact:**

- The applicant seeks a variance as set forth in LMO Section 16-2-103.S.

##### **Conclusion of Law:**

- The applicant may seek a variance as set forth in LMO Section 16-2-103.S.

#### **Summary of Facts and Conclusions of Law:**

##### **Summary of Facts:**

- Application was submitted on October 1, 2020 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on January 31, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on February 5, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on February 5, 2021 as set forth in LMO Section 16-2-102.E.2.

- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):*

**Findings of Fact:**

- Sandcastles by the Sea is a small lot single-family subdivision that consists of 83 lots.
- Most of the lots within the subdivision range from 0.06-0.13 acres with the majority of the lots around 0.07 acres.
- The majority of the lots within the subdivision were platted with a 20’ rear setback and buffer.
- The subject property is mostly rectangular in shape as are the majority of the lots in the subdivision.
- The subject lot is 0.09 acres in size.
- The subject property does not contain any unique site features that prohibit development on the lot.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.
- The subject property is average in shape and size for the subdivision and does not contain any extraordinary or exceptional conditions that prohibit development on the lot.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):*

**Findings of Fact:**

- There are no extraordinary or exceptional conditions that pertain to this property.
- The majority of lots in the Sandcastles by the Sea subdivision are nearly identical in size and

shape.

- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.
- The conditions that apply to the subject property also apply to other properties in the vicinity.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary or exceptional conditions that apply to the subject property that do not also generally apply to other properties in the vicinity.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO Section 16-2-103.S.4.a.i.03):*

**Findings of Fact:**

- There are no extraordinary or exceptional conditions that pertain to this property.
- The Sandcastle by the Sea subdivision plat was approved with the 20 foot adjacent use setback and buffer in the rear of the subject property.
- The Sandcastle by the Sea subdivision plat has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.
- The subject property is currently developed with a 3-story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, garage and a swimming pool.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that apply to the subject property that would prohibit or unreasonably restrict the utilization of the property.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):*

**Findings of Facts:**

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The applicant is requesting to keep the existing paver patio which encroaches into the rear setback and buffer.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.
- Staff has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer along the lagoon in between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development. The private covenants prohibit the developer or property owner from seeking the 10 foot buffer option adjacent to the Hilton Head Beach and Tennis Resort development.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance will be of substantial detriment to the adjacent property because the purpose of setback and buffer requirements is to provide visual and spatial separation between developments and mitigate the negative effects between adjacent uses.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.
- While it is not within the Town's purview to enforce private covenants, the Town has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development.

**LMO Official Determination:**

**Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance should not be granted to the applicant because all four of the variance criteria have not been met.**

**BZA Determination and Motion:**

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board makes and explains in writing ..." their decisions based on certain findings or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the motion.**

**PREPARED BY:**

ML  
\_\_\_\_\_  
Missy Luick, Senior Planner

February 15, 2021  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

ND  
\_\_\_\_\_  
Nicole Dixon, AICP, CFM, Development  
Review Administrator

February 15, 2021  
\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- A) Vicinity Map
- B) Applicant's Narrative
- C) Subdivision Plat
- D) As-built
- E) Site Pictures
- F) Buffer Table





# Town of Hilton Head Island

27 Sandcastle Ct.  
Attachment A: Vicinity Map



Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4600

175 87.5 0 175 Feet



This information has been compiled from a variety of unverified general sources at various times and as such is intended to be used only as a guide. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion.

**I am writing this letter to request a variance to reduce the rear vegetative buffer on my lot from the required 20 feet to 5 feet.**

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties.

I am requesting a variance to allow 8 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home and for safety of our family and our guests from alligators due to the extreme nature of the size of the lot..

The patio is only encroaching on one side as the property line curves further away from the home onto the adjacent property. I believe the variance I am requesting meets all the towns criteria for approval.

**Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.**

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10<sup>th</sup> of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

**Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.**

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made. There is no usable side or front yard space as well. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 12 feet to regain a small amount of usable backyard in my home that will also serve as safety barrier for our family and guests. If a Variance is granted to reduce my vegetative buffer from 20 feet to 12 feet, I will be allowed to lay natural looking stone pavers that blend in with the environment in this 8-foot area. The joints between the stone pavers will allow for proper drainage.



**THIS IS 27 SANDCASTLE AS VIEWED FROM ACROSS THE LAGOON FROM HILTON HEAD BEACH AND TENNIS. THE PATIO CANNOT BE SEEN, NOR CAN THE WALL. YOU CAN SEE THE TREE AND ALL OF THE VEGETATION FROM THE ORIGINAL APPROVED BUFFER PLAN ONLY. THIS PHOTO WAS TAKEN ON SEPTEMBER 30<sup>TH</sup>, 2020- RIGHT AFTER THE GRASSES HAD BEEN TRIMMED DOWN DUE TO DEAD LEAF ENDS. SO ITS USUALLY EVEN TALLER THAN THIS PHOTO.**



**27 SANDCASTLE Patio and wall with vegetation behind it. And you can see where we added the three Italian cypress as well as additional shrubs beyond the approved original vegetation plan.**



**The adjacent property looking towards ours.**

**The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.**

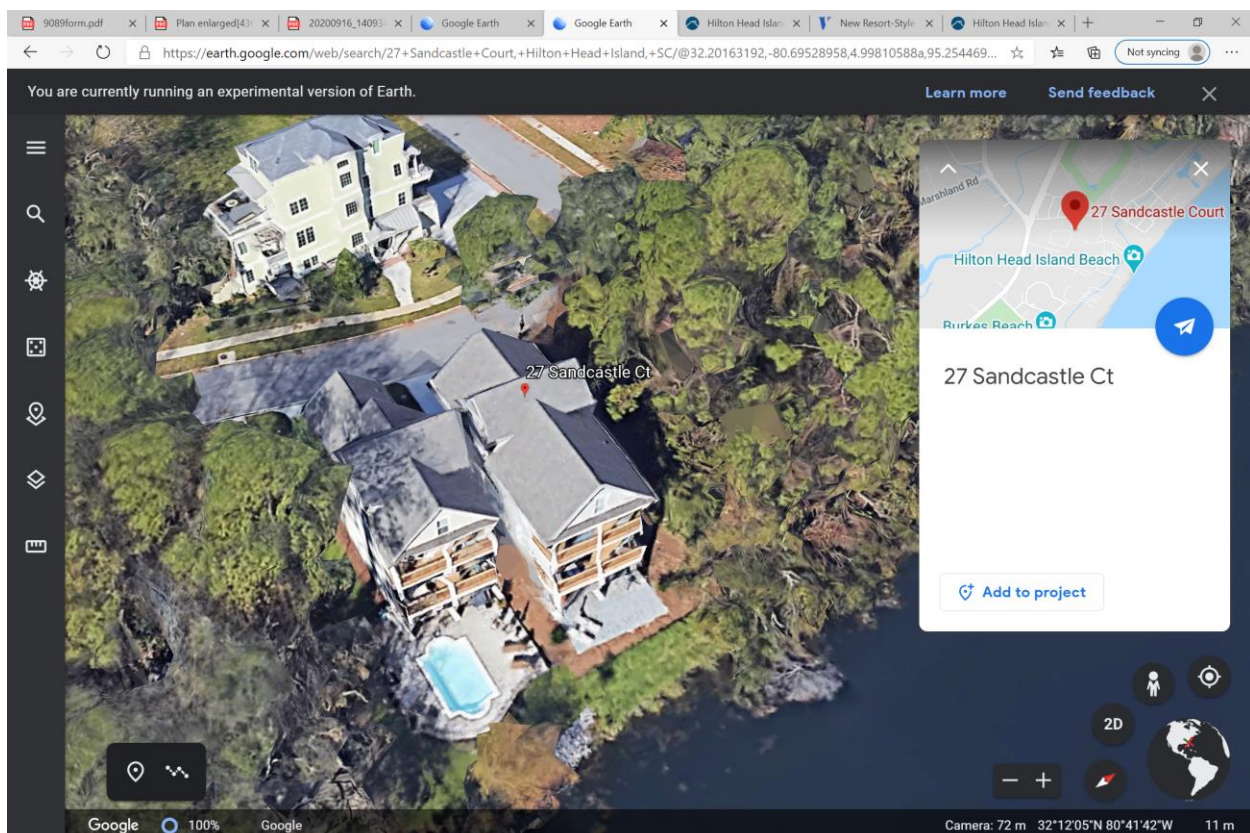
Prior to getting a certificate of occupancy on our home, the builder obtained an approved revegetation landscape plan and this was approved by the town. These plantings were put in place.

There was a grassy area that was not replanted as it had previously existed and was not part of the revegetation plan. This area was allowed by the builder to be planted as grass and was not part of the revegetation plan in the buffer. All that was done after was that permeable and semi porous pavers were put on top of the grass area. These pavers can be taken up at any time and do not change the landscaping that was previously approved in the buffer so we feel the current patio should be grandfathered in.

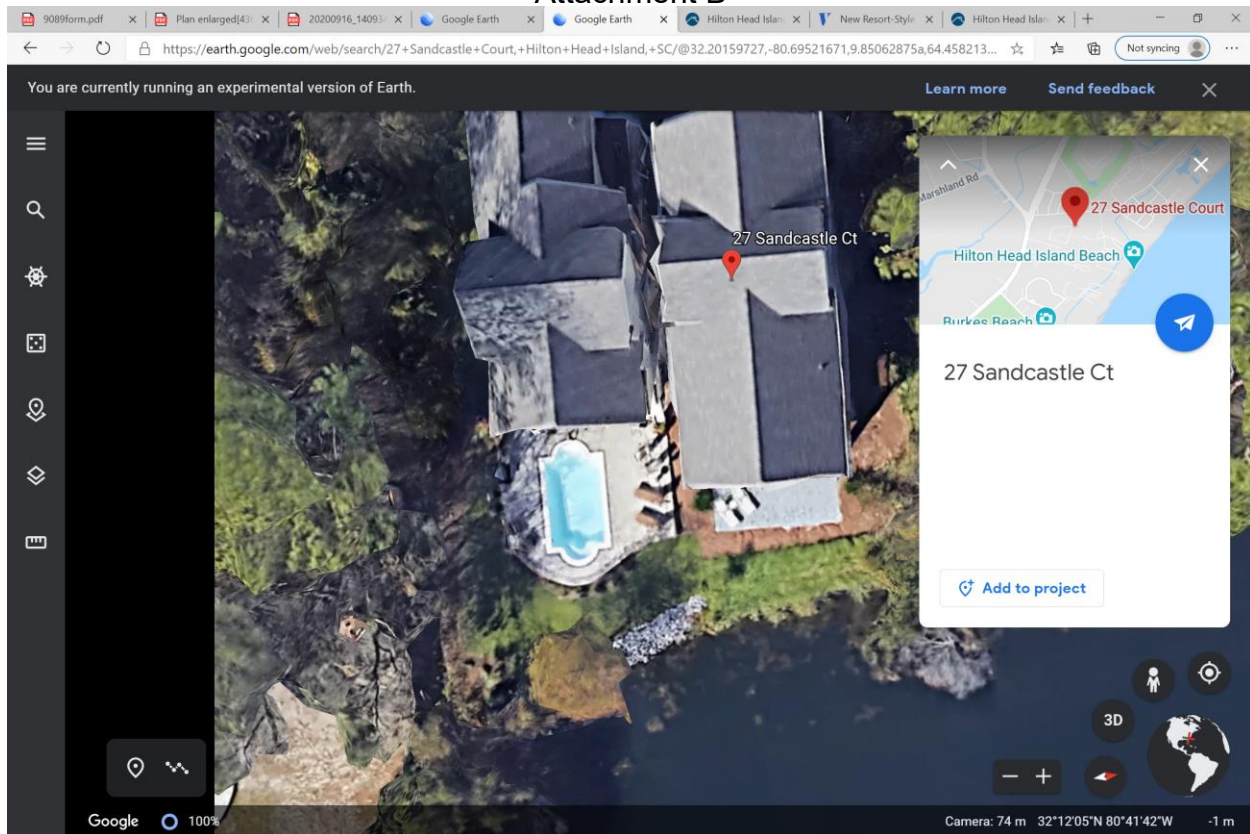
As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

The condo community across the lagoon has absolutely NO VEGETATION buffer at all to the lagoon. Further, the town has already offered a 10 foot variance without us having to go through this application process if we obtain signatures of all owners in the community. If this is acceptable to the town this shows that our current use is not of substantial detriment to any adjacent. I am asking for 2 feet less than that. There will be no visual change or loss of benefit to the town or adjacent properties. As you can see in the photos, the area from the patio to the lagoon is highly vegetated with the plan approved when the home was originally built. Removing the patio and returning it to grass does not improve or increase the vegetation inside the buffer as all of the required plantings have already been put into place.

Further, the adjacent home pictures below (not in violation only due to a property line variation ) with the pool outside actually extends beyond our patio and has no significant vegetation on the bank. Once again proving that OUR improvement is not of substantial detriment as it is far less visual than adjacent homes.



## Attachment B



**The current position of the Town Of Hilton Head Island to keep a heavily vegetated buffer in place that essentially backs up to the house is now creating a dangerous area for alligators to hide and ambush my family and children without allowing an adequate escape route while using the pool .**

On August 20<sup>th</sup> 2018 a woman was killed by an alligator attack on Hilton Head Island. The husband is now suing for community for wrongful death and being grossly negligent by not taking adequate steps to prevent the attack.

By the pictures presented in the violation taken by the Town of Hilton Head you can see how dense the vegetation has grown within the buffer in the space of two years. Imagine an alligator hiding within the vegetation buffer right off the pool. THEY DO. WE see them. We also have photos attached of them coming onto land very close to the pool. There is no way you could see an alligator right before it is ready to attack. You can also see that even with the current patio and low retaining wall that there is at least some distance that will allow for an escape route to be executed. It is essential to the safety of my family and guests that the buffer be reduced to five feet so the small retaining wall can give my family an escape route from alligator attacks. Enforcing a rule to require a heavily vegetated area that backs up to a pool where children are playing knowing there are alligators in the pond that backs up to the pool would be grossly negligent. I have enclosed a recent picture of an alligator in the pond taken from my deck. We also have video of a large alligator that attacks and eats an animal in the yard to the right of my pool. Would you and your family feel safe swimming in a pool or enjoy using your yard as one should be allowed knowing the alligators on the island and knowing an alligator is only a couple of steps from encountering you and your family.

## Attachment B

This is an alligator at the base of our vegetation buffer. Most recently it had a nest in the vegetation and frequently comes up onto land here. The seating wall and patio would prevent one from being able to dart out of the water directly into a person or our pool. Unfortunately, we witness so many of the vacationers across the lagoon at Hilton Head Beach and Tennis Condos feeding and taunting them that they immediately come towards our homes when people are outside or they smell food. Unfortunately, relocation will not work as this behavior is constant from the condo guests/residents.



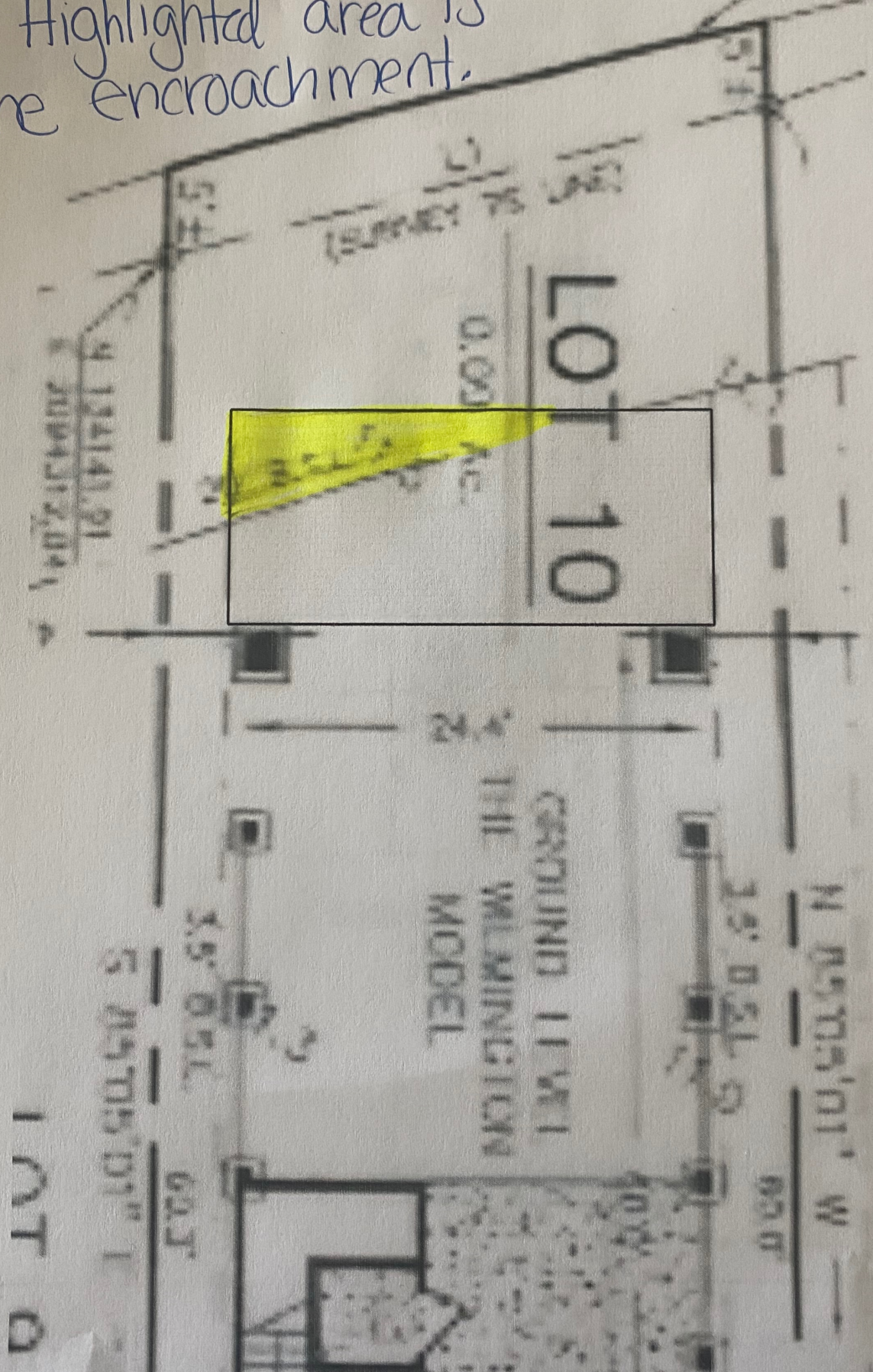
If our Variance is denied, enforcement of this strict vegetation buffer will result in an unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare, community beautification and safety will not be diminished and substantial justice will be done.

Thank you for your time,

Jennifer Miotto  
OWNER- 27 Sandcastle Ct. Hilton Head Island

LAGOON

Highlighted area is the encroachment.

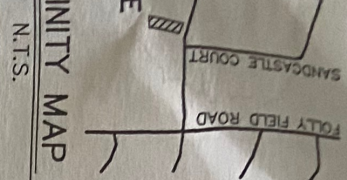


Notes:

Screen Walls Under Covered Lana

Quick Residence  
268 Cool Breeze Drive



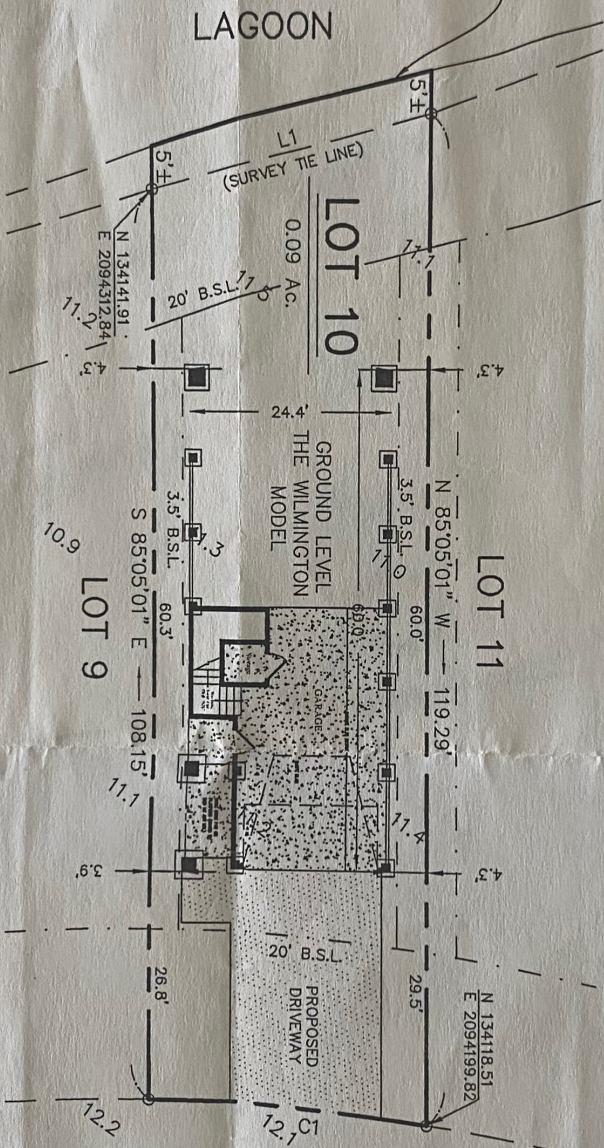


CURVE TABLE		CURVE TABLE		CURVE TABLE		
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	33.12'	225.00'	16.59'	33.09'	N 09°07'59" E	8°26'03"

LINE TABLE	
LINE	BEARING
L1	S 09°51'20" E

N/F  
**SANDCASTLES BY THE SEA OWNERS ASSOCIATION**  
 TAX PARCEL I.D. NO. R511 009 000 1194 0000



**SANDCASTLE COURT**  
 50' R/W

REFERENCE PLAT:

DIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, DATED: 06/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: P.B. 113, PG. 164, DATE: 5/19/2006.

WILMINGTON FLOOR PLANS, GROUND LEVEL PLAN, DATED: 07/15/2015, VILLAGE PARK HOMES

AREA	Sq.Ft.	PERCENTAGE
PREVIOUS	1,896	48
IMPERVIOUS	2,017	52
TOTAL	3,913	100

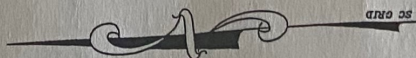
NOTES:

- 1) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D., PANEL 0014-D, COMMUNITY NO. 450250, MAP DATED 9/29/86. BASE ELEVATION 14.0'.
- 2) THE PURPOSE OF THIS SITE PLAN IS TO SHOW THE LOCATION OF A PROPOSED NEW RESIDENCE ON THE LOT. THIS IS NOT A BOUNDARY SURVEY AND IS NOT INTENDED FOR RECORDING PURPOSES.
- 3) THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THEREFORE THERE MAY BE OTHER EASEMENTS, RIGHT-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, RESTRICTIONS, OR OTHER SIMILAR MATTERS OF PUBLIC RECORD, NOT DEPICTED ON THIS SURVEY.

ADDRESS: #27 SANDCASTLE COURT

TAX PARCEL I.D. NO. R511-009-000-1116-0000

GRAPHIC SCALE



15035P4D

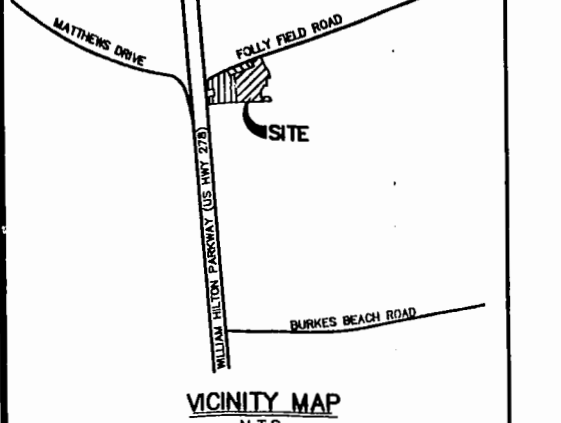


Table with columns: LINE, LENGTH, BEARING, LINE, LENGTH, BEARING. Contains detailed survey data for various lines and bearings.

AREA TABLE
83 RESIDENTIAL LOTS = 6.779 Ac.
SANDCASTLE COURT R/W = 2.313 Ac.
OPEN SPACE = 1.826 Ac.
TOTAL AREA = 10.918 ACRES

- NOTES
1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF...
2) THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA...
3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN.

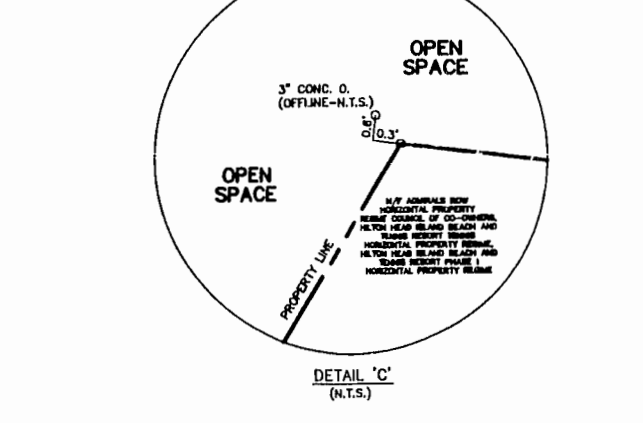
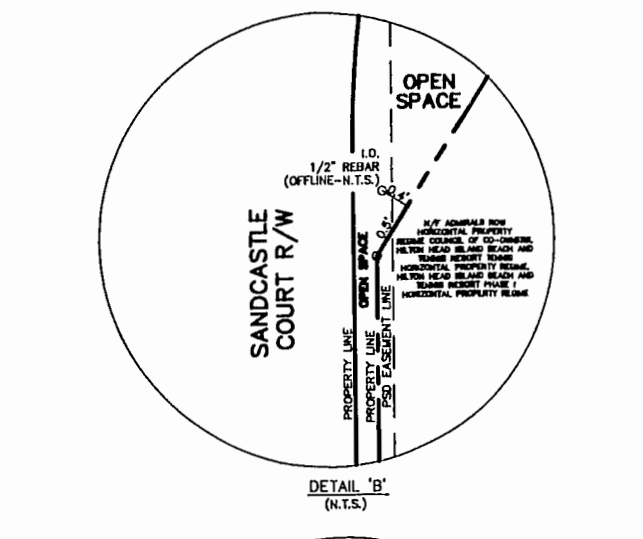
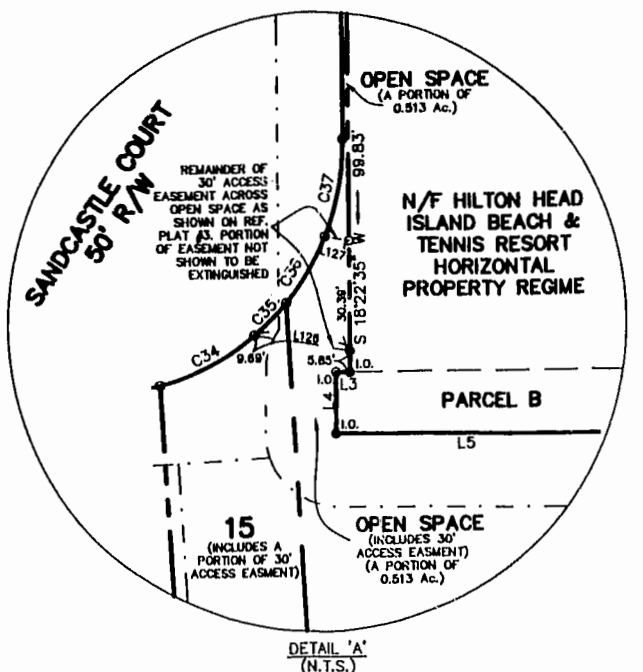
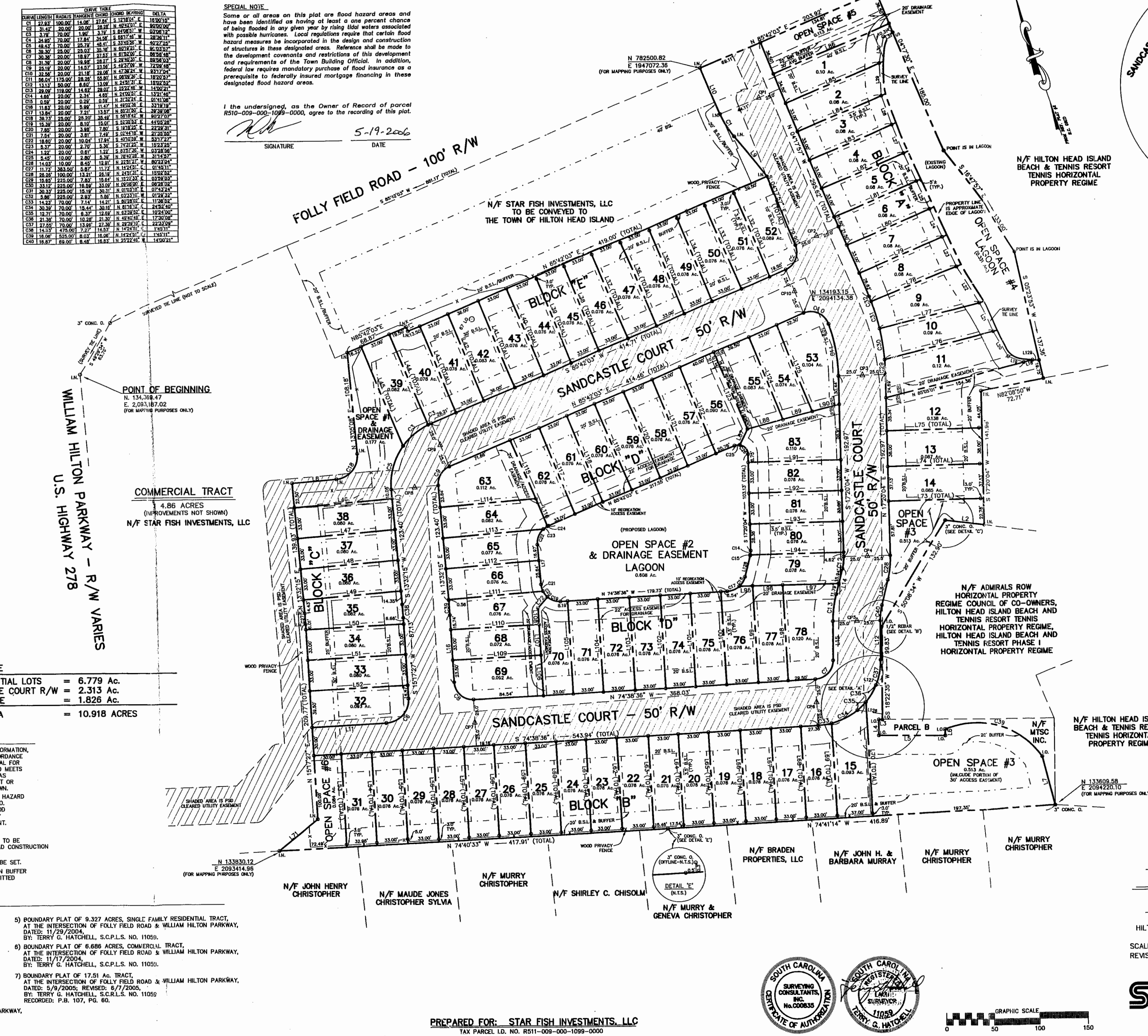
- REFERENCE PLATS
1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278, DATED: 5/9/2000.
2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC. AND PARCEL B, 0.08 AC. WILLIAM HILTON PARKWAY...

Table with columns: CURVE DATA, BEARING, DISTANCE, CHORD BEARING, DELTA. Contains curve data for various points.

SPECIAL NOTE
Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plat.
Signature: [Handwritten Signature]
Date: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS
(CHECK POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION)
CPI 1 N 134426.47 E 2094162.22
CPI 2 N 134266.35 E 2094174.28

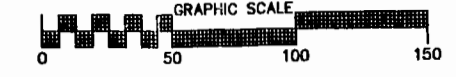
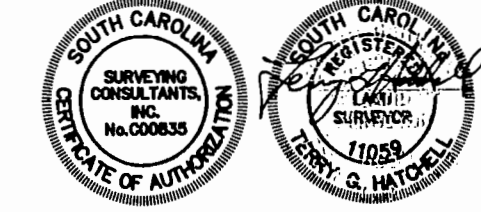
TOWN OF HILTON HEAD ISLAND, SC
SUBDIVISION APPROVAL
Date of approval: 7/9/05
Application Number: 81805002
Certified by: [Signature]
Title: [Signature]

SANDCASTLES
BY THE SEA
FOLLY FIELD ROAD

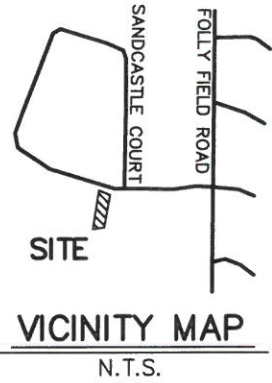
HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA
SCALE: 1" = 50' DATE: 6/15/2005 JOB NO: 89319L
REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS

SURVEYING CONSULTANTS
17 Sherington Drive, Suite C, Bluffton, SC 29910
Telephone: (843) 815-3304 FAX: (843) 815-3305

PREPARED FOR: STAR FISH INVESTMENTS, LLC
TAX PARCEL I.D. NO. R510-009-000-1099-0000



0138-14

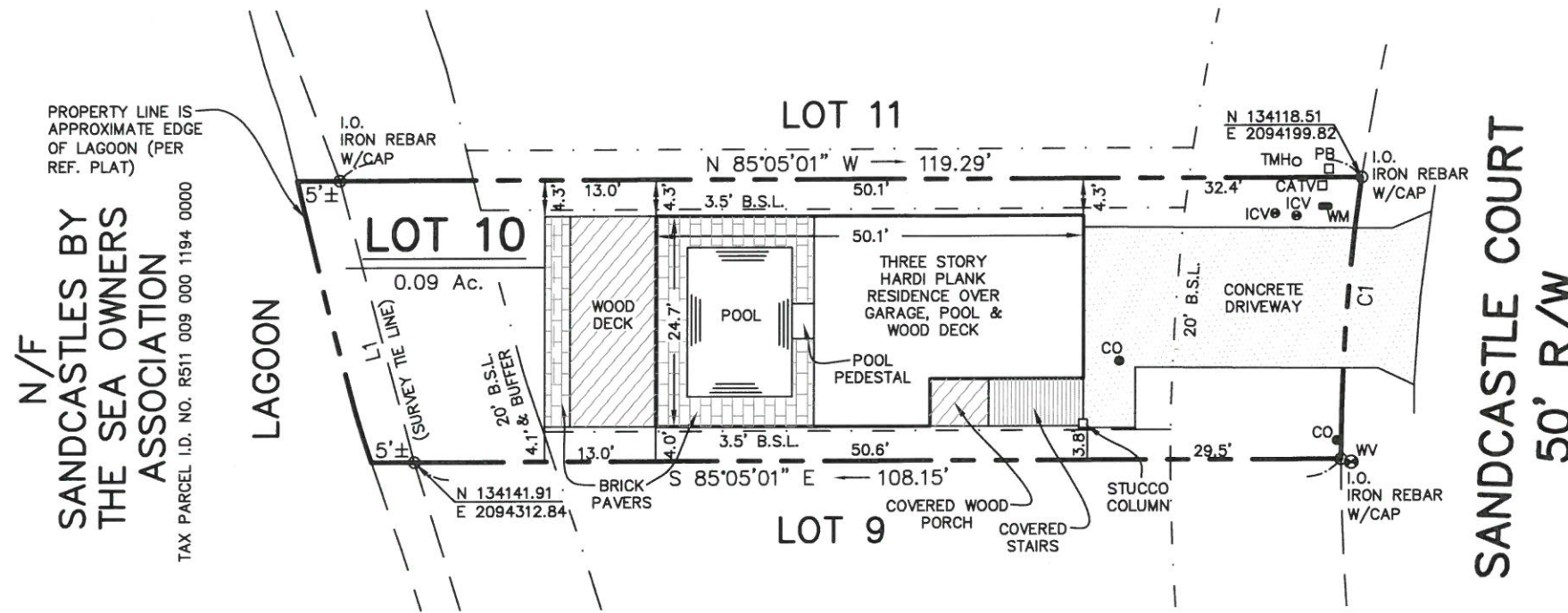


CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	33.12'	225.00'	16.59'	33.09'	N 09°07'59" E	8°26'03"

LINE TABLE		
LINE	LENGTH	BEARING
L1	34.13'	S 09°51'20" E

NOTES:

- 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO OBVIOUS, APPARENT OR VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.
- 2) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D., PANEL 0014-D, COMMUNITY NO. 450250, MAP DATED 9/29/86, BASE ELEVATION 14.0'.
- 3) THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE, THEREFORE THERE MAY BE OTHER EASEMENTS, RIGHT-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, RESTRICTIONS, OR OTHER SIMILAR MATTERS OF PUBLIC RECORD, NOT DEPICTED ON THIS SURVEY.



LEGEND:

- I.O. IRON REBAR, OLD (FOUND)
- CATV CABLE BOX
- CO CLEANOUT
- ICV IRRIGATION CONTROL VALVE
- PB POWER BOX
- TMH TELEPHONE MANHOLE
- WM WATER METER
- WV WATER VALVE

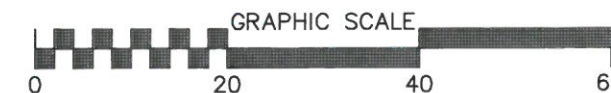
REFERENCE PLAT:

- 1) SUBDIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, DATED: 06/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: P.B. 113, PG. 164, DATE: 5/19/2006.

PREPARED FOR: VILLAGE PARK HOMES

ADDRESS: #27 SANDCASTLE COURT

TAX PARCEL I.D. NO. R511-009-000-1116-0000



ASBUILT  
SURVEY OF  
**LOT 10**  
**SANDCASTLE COURT**

A PORTION OF  
**SANDCASTLES BY THE SEA**

HILTON HEAD ISLAND  
BEAUFORT COUNTY  
SOUTH CAROLINA



**SURVEYING CONSULTANTS**

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SCALE: 1" = 20'  
DATE: 07/22/2016  
JOB NO: SC150155F

CREW: JM/EH  
CAD: ML  
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VAR-001983-2020  
27 Sandcastle Ct  
Site Photos Taken 11/6/2020

Attachment E



VAR-001983-2020  
27 Sandcastle Ct  
Site Photos Taken 11/6/2020

Attachment E



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VAR-001983-2020  
27 Sandcastle Ct  
Site Photos Taken 11/6/2020

Attachment E



Attachment F

**F. Buffer Types**

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6,7</small>		
<b>TYPE A BUFFER</b>		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 20 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 3 every 100 linear feet</li> <li>• Evergreen shrubs: 8 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 10 feet</li> <li>• <i>Overstory trees</i> : 2 every 100 linear feet</li> <li>• <i>Understory trees</i> : 4 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
<b>TYPE B BUFFER</b>		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 10 every 100 linear feet</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 8 every 100 linear feet</li> <li>• Evergreen shrubs: 12 every 100 linear feet</li> </ul>
<b>TYPE C BUFFER</b>		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> <li>• Width: 25 feet</li> <li>• <i>Overstory trees</i> : 3 every 100 linear feet</li> <li>• <i>Understory trees</i> : 5 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> </ul>
Option 2		<ul style="list-style-type: none"> <li>• Width: 15 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>

Attachment F

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6,7</sup>

<b>TYPE D BUFFER</b>		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A double-headed arrow at the top indicates the 100-foot width, and a vertical double-headed arrow on the right indicates the 30-foot height.</p>	<ul style="list-style-type: none"> <li>• Width: 30 feet</li> <li>• <i>Overstory trees</i> : 5 every 100 linear feet</li> <li>• <i>Understory trees</i> : 6 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A vertical double-headed arrow on the right indicates the 20-foot height.</p>	<ul style="list-style-type: none"> <li>• Width 20 feet</li> <li>• <i>Overstory trees</i> : 6 every 100 linear feet</li> <li>• <i>Understory trees</i> : 8 every 100 linear ft</li> <li>• A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>
<b>TYPE E BUFFER</b>		
<p>This buffer provides greater spacing and medium-<i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A double-headed arrow at the top indicates the 100-foot width, and a vertical double-headed arrow on the right indicates the 50-foot height.</p>	<ul style="list-style-type: none"> <li>• Width: 50 feet</li> <li>• <i>Overstory trees</i> : 4 every 100 linear feet</li> <li>• <i>Understory trees</i> : 5 every 100 linear feet</li> <li>• Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity</li> </ul>
Option 2	<p>A diagram showing a 35-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A vertical double-headed arrow on the right indicates the 35-foot height.</p>	<ul style="list-style-type: none"> <li>• Width: 35 feet</li> <li>• <i>Overstory trees</i> : 5 every 100 linear feet</li> <li>• <i>Understory trees</i> : 7 every 100 linear feet</li> <li>• Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity</li> <li>• At least 50% of all <i>trees</i> must be evergreen</li> </ul>

Attachment F

**TABLE 16-5-103.F: BUFFER TYPES**  
**MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS** <sup>1,2,3,4,5,6, 7</sup>

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ( $1.5 \times 5 = 7.5$ , rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
  - a. The reduction is consistent with the character of *development* on surrounding *land* ;
  - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
  - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
  - d. The reduction will not pose a danger to the public health or safety;
  - e. Any adverse impacts directly attributable to the reduction are mitigated;
  - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
  - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
  - a. The reduction is consistent with the character of *development* on surrounding *land* ;
  - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
  - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
  - d. The reduction will not pose a danger to the public health or safety;
  - e. Any adverse impacts directly attributable to the reduction are mitigated; and
  - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



# TOWN OF HILTON HEAD ISLAND

## Community Development Department

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**TO:** Board of Zoning Appeals  
**FROM:** Missy Luick, *Senior Planner*  
**DATE:** February 15, 2021  
**SUBJECT:** Waiver Report

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The BZA requested that staff keep them informed of substitutions of nonconformities for redevelopment that are granted by staff. A memo is distributed every month at the regular BZA meetings and is discussed under staff reports on the agenda.

The following language is contained in Section 16-7-101.F, Substitutions of Nonconformities for Redevelopment, which gives the Administrator the power to grant such substitutions for existing nonconforming structures and site features.

### LMO Section 16-7-101.F:

“To provide flexibility and encourage redevelopment of sites with nonconforming features or structures, the Official is authorized to approve a Development Plan for such sites if the proposed development:

1. Will not include any new development that increases the amount of encroachment into any required buffer or setback;
2. Will not increase the impervious cover on the site over the maximum allowed for the district or the existing impervious cover, whichever is greater;
3. Will not result in a density in excess of what is allowed under this Ordinance, or the existing density, whichever is greater;
4. Will lessen the extent of existing nonconforming site features to the greatest extent possible;
5. Will not have an adverse impact on the public health, safety or welfare; and
6. Will lessen the extent of nonconformities related to any existing nonconforming structure on the site to the greatest extent possible.”

There has been one waiver granted by staff since the January 28, 2021 BZA meeting.

1. **WAIV-000019-2021-2020, 17 Jacana Street** – A waiver application was received to replace a fence of the same height and footprint as the existing fence- which was damaged. Current regulations allow a fence up to 4 feet tall in the adjacent street setback and buffer. The request was to keep the 6 foot tall fence in the adjacent street setback and buffer. The replacement fence did not increase the amount of encroachment into the setback and buffer and because the applicant agreed to plant additional vegetation in the adjacent street setback and buffer to soften the appearance of the fence and bring the site more into conformance with the LMO, the waiver was granted.