



Town of Hilton Head Island  
**Board of Zoning Appeals Meeting**  
**Monday, February 28, 2022 – 2:30 p.m.**  
**AGENDA**

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This meeting will be conducted virtually and can be viewed on the [Town of Hilton Head Island Public Meetings Facebook Page](#). A Facebook account is not required to access the meeting livestream.

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 24, 2022 Meeting
7. **Appearance by Citizens**

Citizens who wish to address the Board concerning items on the agenda may do so by contacting the Board Secretary at 843-341-4691 no later than 1:30 p.m. the day of the meeting. Citizens may also submit written comments via the [Town's Open Town Hall Portal](#). The portal will close at 1:30 p.m. the day of the meeting. Comments submitted through the portal will be provided to the Board and made part of the official record.

8. **Unfinished Business – None**
9. **New Business**

- a. **Public Hearing**  
**VAR-002732-2021** – Request from Nathan Sturre of Cranston Engineering Group, P.C, on behalf of Beaufort County for a variance from LMO Section 16-5-103.D, Adjacent Street Buffer, for relief from the adjacent street buffer adjacent to the access easement; Section 16-5-105.J.7.c, Gates, for relief from the requirement that gates be located at least 100 feet from any arterial or collector street; and Section 16-5-107.D.10, Use of Parking Spaces as Electric Vehicle (EV) Charging Station, for relief of the Electric Vehicle charging station requirement which is required for all multifamily and nonresidential development. The property is known as Fords Shell Ring and is located at 273 Squire Pope Road and has a parcel number of R511 003 000 0222 0000. *Presented by Missy Luick*
- b. **Public Hearing**  
**VAR-002853-2021** – Request from John Nicholas Crago for a variance from LMO Section 16-4-102.B.7.c, Use-Specific Conditions for Principal Uses, for proposed screened outside storage of bicycles in the Light Commercial (LC) District where outside

storage of bicycles is not allowed. The property is located at 13 Executive Park Road and has a parcel number of R552 015 000 0087 0000. **WITHDRAWN**

**10. Board Business**

- a. Review of Amendments to the Rules of Procedure

**11. Staff Reports**

- a. Status of Appeals to Circuit Court
- b. Waiver Report

**12. Adjournment**

**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 Meeting

January 24, 2022, at 2:30 p.m. Virtual Meeting

### MEETING MINUTES

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

**Absent from the Board:** None

**Present from Town Council:** Glenn Stanford, Tom Lennox

**Present from Town Staff:** Chris Yates, Interim Community Development Director; Nicole Dixon, Development Review Administrator; Teri Lewis, Deputy Community Development Director; Shari Mendrick, Floodplain Administrator; Teresa Haley, Senior Administrative Assistant

**Others Present:** Curtis Coltrane, Town Attorney

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#### 1. Call to Order

Chair Brison called the meeting to order at 2:30 p.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. **Roll Call** – See as noted above.

#### 4. Welcome and Introduction to Board Procedures

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

#### 5. Approval of Agenda

Chair Brison asked for a motion to approve the agenda as presented. Mr. Kristian moved to approve. Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote 7-0-0.

#### 6. Approval of Minutes

##### a. September 27, 2021, Meeting

Chair Brison asked for a motion to approve the minutes of the September 27, 2021, meeting as presented. Mr. Kristian moved to approve. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 7-0-0.

##### b. November 22, 2021, Meeting

Chair Brison asked for a motion to approve the minutes of the November 22, 2021, meeting as presented. Mr. Fingerhut moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 7-0-0.

## 7. Appearance by Citizens

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall HHI portal. Those comments have been distributed to the Board and made part of the official record for this meeting. Citizens were provided the option to sign up for public comment participation during the meeting by phone. Mr. Barry Johnson requested to speak regarding items 9.a. and 9.b. and he will participate at that time.

## 8. Unfinished Business – None

## 9. New Business

### a. Public Hearing

**VAR-002417-2021** – Request from Chester C. Williams, ESQ on behalf of Beachwalk Hilton Head, LLC for a variance from LMO Section 16-4-102.B.5.b., Use Specific Conditions, to allow an Outdoor Commercial Recreation Use Other Than a Water Park to not have the required direct vehicular access to a minor arterial street. The address subject to this request is 40 Waterside Drive with a parcel number of R552 018 000 202D 0000. *Presented by Nicole Dixon*

Chair Brison opened the Public Hearing.

Ms. Dixon presented the application as described in the Staff Report. She stated Staff recommends the Board of Zoning Appeals approve the application based on the Findings of Fact and Conclusions of Law contained in the Staff Report. She explained the variance criteria in detail.

The Board made comments and inquiries regarding: owner neglect and condition of the building; the reflection in the staff report that the condition of the building contributed to meeting the criteria; definition and differences of a major and minor arterial road; confirmation that Waterside Drive is a private road; clarification of other properties serviced by Waterside Drive; discussion regarding the need for an encroachment permit for use of Waterside Drive; explanations regarding the parking calculations needed; concern and questions regarding the need of a formal report regarding traffic trip calculations and clarification that all findings of fact contribute to meeting criteria.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation.

Mr. Chet Williams noted the applicant holds a right of way easement for Waterside Drive. He pointed out that there is a detailed traffic trip generation report in the applicant narrative within the packet. Mr. Williams stated he would be happy to answer any question from the Board.

The Board made comments and inquiries regarding: the lack of direct testimony or formal documents regarding the traffic impact if the application is approved; concerns expressed that the owners of the property caused the dilapidated, unsafe conditions; an explanation that the current owner needed to acquire all units in order to improve the property; confirmation that the miniature golf course is a short-term to mid-term plan for the property and that the long-term plan is unknown at this time; confirmation that no other uses are planned for the property at this time; confirmation that the access easement is tied to the property and discussion regarding the width of the easement.

Chair Brison asked for public comment. Attorney Barry Johnson spoke on behalf of his clients, Waterside by Spinnaker, LP; Waterside by Spinnaker Owners Association, Inc.; and SDC Properties, Inc., stating they are owners of the property immediately adjacent to the proposed miniature golf course. He said he commented through the public comment portal and all Board members had copies of those comments. Mr. Johnson explained concern on behalf of his clients and requested that his clients be consulted, and their concurrence be obtained regarding their concerns.

Chair Brison incorporated all the evidence, including the staff report, application, documents, and testimony provided during the hearing into the record. Chair Brison closed the public hearing at 3:33 p.m.

The Board made final comments and inquiries regarding: questioning the need for the condition of the property being critical to meeting criteria; confirmation the issues regarding the neighboring properties will be dealt with during the development plan; concern over short-term and long-term issues; discussion of the permitted uses under zoning of property can be done at a future date; affirmation that unnecessary hardship can be found without using the side effects of neglect; suggestions of a condition that the structure to be built is strictly ancillary to miniature golf course use; concern over setting a precedent by using the neglect of property as a criteria; the need to look at the whole of the situation; the quality of evidence in regard to the traffic count; the lack of testimony by traffic engineer or traffic counts; and the lack of a site plan.

Upon the conclusion of discussion, Chair Brison asked for a motion.

Mr. Fingerhut moved that the Board of Zoning Appeals approve the application based on those Findings of Facts and Conclusions of Law contained in the Staff Report with one change: that in items 1, 2, and 3, all reference to the dilapidated or otherwise poor condition to the property be removed. In addition, that there be a condition placed on the variance, that the use of the multi-purpose structure is to be limited to those that are customarily ancillary to a miniature golf course. Mr. Kristian seconded. By way of roll call, the motion passed by a vote of 6-1-0 (Chair Brison against).

#### **b. Public Hearing**

**SER-002416-2021** – Request from Chester C. Williams, ESQ on behalf of Beachwalk Hilton Head, LLC for a special exception to allow an Outdoor Commercial Recreation Use Other Than a Water Park, specifically a miniature golf course, on property zoned Resort Development (RD). The address subject to this request is 40 Waterside Drive with a parcel number of R552 018 000 202D 0000. *Presented by Nicole Dixon*

Chair Brison opened the Public Hearing.

Ms. Dixon presented the application as described in the Staff Report. She stated Staff recommends the Board of Zoning Appeals approve the application based on the Findings of Fact and Conclusions of Law contained in the Staff Report. She explained the variance criteria in detail.

The Board made comments and inquiries regarding: clarification in referencing the *Comprehensive Plan* and *Our Plan* and how provisions are satisfied; acknowledgment that staff will not allow removal of trees within buffers and if any trees are proposed to be removed within the site, mitigation will need to be done; confirmation that trees and buffers will be protected in advance of development; discussion on how creation of a miniature golf course qualifies as

redevelopment; discussion that a miniature golf course does not satisfy workforce housing; and clarification that the Town cannot require site owners to redevelop their properties for workforce housing.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation.

Chet Williams stated he agreed with staff recommendations and was available to answer questions from the Board.

The Board made comments and inquiries regarding the Town Workforce Housing program and if the property in question qualifies for such.

Chair Brison asked for public comment. Attorney Barry Johnson spoke on behalf of his clients Waterside by Spinnaker, LP; Waterside by Spinnaker Owners Association, Inc.; and SDC Properties, Inc., stating they are owners of the property immediately adjacent to the proposed miniature golf course. He reiterated his comments regarding VAR-002417-2021 for this item.

Chair Brison incorporated all the evidence, including the staff report, application, documents, and testimony provided during the hearing into the record. Chair Brison closed the public hearing at 4:35 p.m.

The Board made final comments and inquiries regarding confirmation that the area in question does not qualify for the density bonus provided through the Town Workforce Housing Program.

Upon the conclusion of discussion, Chair Brison asked for a motion.

Mr. Kristian moved that the Board of Zoning Appeals approve the application based on those Findings of Facts and Conclusions of Law contained in the Staff Report. Mr. Fingerhut seconded. By way of roll call, the motion passed by a vote of 6-1-0 (Chair Brison against).

**c. Public Hearing**

**VAR-002732-2021** – Request from Nathan Sturre of Cranston Engineering Group, P.C, on behalf of Beaufort County for a variance from LMO Section 16-5-107.D.10, Use of Parking Spaces as Electric Vehicle (EV) Charging Station, for relief of the Electric Vehicle charging station requirement which is required for all multifamily and nonresidential development. The property is known as Fords Shell Ring and is located at 273 Squire Pope Road and has a parcel number of R511 003 000 0222 0000. **POSTPONED**

Chair Brison noted the above referenced variance has been postponed.

**d. Public Hearing**

**VAR-002850-2021** – Request from Travis Pence with The Wilson Group on behalf of Beaufort County and the Hilton Head Island Airport for a variance from LMO Section 16-3-105.E. Maximum Building Height in the Light Industrial zoning district to allow proposed renovations to the Airport terminal building to exceed the maximum height of 35 feet. The subject property is located at 120 Beach City Road and the parcel number of the property associated with this variance request is R510 008 000 0085 0000. *Presented by Nicole Dixon*

Chair Brison opened the Public Hearing.

Ms. Dixon presented the application as described in the Staff Report. She stated Staff recommends the Board of Zoning Appeals approve the application based on the Findings of Fact and Conclusions of Law contained in the Staff Report. She explained the variance criteria in detail.

The Board made comments and inquiries regarding: the height, elevations, and size of the Airport expansions.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation.

Mr. Travis Pence clarified the parts of the expansion that will be above the height requirements. He explained why they were keeping existing building heights in certain areas noting the need to make sure the expansion complemented the existing building. He stated the only way to achieve that is to maintain roof heights.

The Board made comments and inquiries regarding: projected start dates on the expansions; consideration of future expansions; the number of airlines serviced; and an explanation of the square footage increase in the height of the building.

Chair Brison asked for public comment. There were no requests from the public to give comments by phone on this item.

Chair Brison incorporated all the evidence, including the staff report, application, documents, and testimony provided during the hearing into the record. Chair Brison closed the public hearing at 5:10 p.m.

All Board members commented in support of the application. Upon the conclusion of discussion, Chair Brison asked for a motion.

Mr. Walczak moved that the Board of Zoning Appeals approve the application based on those Findings of Facts and Conclusions of Law contained in the Staff Report. Ms. Laudermilch seconded. By way of roll call, the motion passed by a vote of 7-0-0.

**e. Public Hearing**

**VAR-002853-2021** – Request from John Nicholas Crago for a variance from LMO Section 16-4-102.B.7.c, Use-Specific Conditions for Principal Uses, for proposed screened outside storage of bicycles in the Light Commercial (LC) District where outside storage of bicycles is not allowed. The property is located at 13 Executive Park Road and has a parcel number of R552 015 000 0087 0000. **POSTPONED**

Chair Brison noted the above referenced variance has been postponed.

**10. Board Business - None**

**11. Staff Reports**

**a. Status of Appeals to Circuit Court**

Mr. Curtis Coltrane stated there was nothing new on general matters. He informed the Board that five of the existing appeals, which are regarding the Sandcastles by the Sea neighborhood, are still pending but a negotiation has been ongoing with the Town and the owners. He noted a proposal has been made to the owners and there has not been a response to date. Mr.

Coltrane stated he has been in communication with the attorney representing the owners and they are hopeful the matter will be resolved.

**b. Waiver Report**

Chair Brison stated the report is included in the Board's agenda package. She asked Board members if they had any questions regarding the report. There were none.

Ms. Dixon stated staff was requested by the legal department to hold off on any changes to the Rules of Procedure as they are looking at revising all Rules of Procedures for all Boards, Committees and Commissions so they are consistent. Chair Brison stated she had been in communication with the Town Manager and the Board can proceed with the amendments the Board requested at the February 2021 meeting. Chair Brison asked Mr. Coltrane for his input. Mr. Coltrane stated he was sent proposed language from Ms. Luick and responded earlier this month. He stated his conversation was limited to substance and not timing. Chair Brison stated she is looking forward to the amendments being included on the February 28, 2022, meeting agenda.

**12. Adjournment**

The meeting was adjourned at 5:21 p.m.

**Submitted by:** Vicki Pfannenschmidt, Secretary

**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

## STAFF REPORT VARIANCE

Case #:	Public Hearing Date:
VAR-002732-2021	February 28, 2022

Parcel or Location Data:	Applicant	Property Owners
Parcel#: R511 003 000 0222 0000 Address: 273 Squire Pope Road Parcel size: 6.9 acres Zoning: PR (Parks and Recreation District) Overlay: COD (Corridor Overlay District)	Nathan Sturre Cranston Engineering Group, P.C. 14 Westbury Parkway Ste 202 Bluffton, SC 29910	Beaufort County 100 Ribaut Road Beaufort, SC 29902  Town of Hilton Head Island 1 Town Center Court Hilton Head Island, SC 29928

Application Summary:
Request from Nathan Sturre of Cranston Engineering Group, P.C, on behalf of Beaufort County for a variance from LMO Section 16-5-103.D, Adjacent Street Buffer, for relief from the adjacent street buffer requirement adjacent to the access easement; Section 16-5-105.J.7.c, Gates, for relief from the requirement that gates be located at least 100 feet from any arterial or collector street; and Section 16-5-107.D.10, Use of Parking Spaces as Electric Vehicle (EV) Charging Station, for relief of the Electric Vehicle charging station requirement which is required for all multifamily and nonresidential development. The property is known as Fords Shell Ring and is located at 273 Squire Pope Road and has a parcel number of R511 003 000 0222 0000.

Staff Recommendation:
Staff recommends the Board of Zoning Appeals find this application to be consistent with the Town's Our Plan and does serve to carry out the purposes of the LMO, based on those Findings of Fact and Conclusions of Law as determined by the LMO and enclosed herein. Staff recommends that the Board of Zoning Appeals <b>approve</b> this application.

**Background:**

The subject property, located at 273 Squire Pope Road (a Minor Arterial Road), is on the north end of the island and is adjacent to tidal marsh (See Attachment A, Vicinity Map).

The 6.9 acre heavily wooded waterfront lot was purchased by the Town of Hilton Head Island and Beaufort County in 2003 for the purpose of protecting the two approximately 4,000-year old shell rings resting there. The two rings form a figure eight. The smaller ring was constructed approximately 300 years earlier than the larger ring, which is partially superimposed over the older ring.

In March of 2021, Town Council approved entering into a Joint Ownership and Operating Agreement with the County for operation and maintenance of the site as a passive park. The County will be responsible for all costs related to the planning and construction or repair of capital improvements on the property. The Town will be responsible for general maintenance including mowing and clearing of the trail and the opening and closing of the gate on the property.

The proposed project scope includes access, parking improvements, compacted earthen trails, compacted earthen driveway, gates, fencing and interpretive signage. The intent of the project is to construct the improvements utilizing minimal impact construction methodologies to limit excavation, clearing and overall impact to lessen effects to the natural features of the site. The property is densely treed and benefits from a large tree canopy. The property contains an access easement on the east side of the parcel. The easement will be slightly relocated as part of this project (See Attachment B, Applicant's Narrative, Attachment C, Applicant's Plans and Attachment G, Site Photos).

The applicant is requesting a variance from three sections of the LMO:

- 1) Relief from LMO Section 16-5-103.D, Adjacent Street Buffer, to allow the parking spaces to encroach into the adjacent street buffer adjacent to the access easement. In this case, the drive aisle is an access easement. Access easements are considered Other Streets and while a setback is not required from an access easement for non-single-family development, a Type A buffer is required (See Attachment D, Adjacent Use Buffer Requirements).
- 2) Relief from Section 16-5-105.J.7.c, Gates, from the requirement that gates be located at least 100 feet from any arterial or collector street. Squire Pope Road is a Minor Arterial. Per the project site plan, the location of the gate is 40 feet from Squire Pope road and meets the 40-foot required stacking distance for a gated driveway/entrance per Table 16-5-107.I.1, Minimum Stacking Distance for Drive-Through and Related Uses (See Attachment E, Gates Requirements).
- 3) Relief from Section 16-5-107.D.10, Use of Parking Spaces as Electric Vehicle (EV) Charging Station, to eliminate the required Electric Vehicle charging station which is required for all multifamily and nonresidential development. A park use is considered nonresidential development (See Attachment F, Use of Parking Spaces as Electric Vehicle (EV) Charging Station Requirements).

**Our Plan References:**

This project was subject to Public Project Review for consistency with the Town's Comprehensive Plan. On April 7, 2021, the Planning Commission found that Public Project Review for Fords Shell

Ring Passive Park (PRR-000344-2021) was found to be consistent with the Town's Comprehensive Plan for location, character and extent.

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

**Grounds for Variance:**

According to the applicant, the historic and archaeological significance of the site, existing dense vegetation, and minimal passive park development proposed present extraordinary and exceptional conditions that pertain to the parcel.

**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 January 27, 2022 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 February 6, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on February 11, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on February 7, 2022 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:**

- The subject property contains historic and archeologically significant shell rings.
- The subject property contains tidal wetland on three sides and is densely vegetated with overstory and understory trees and shrubs.
- The subject property contains an access easement.
- The subject property is publicly owned and is planned for development as a passive park.

**Conclusions of Law:**

- This application meets the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are extraordinary and exceptional conditions that pertain to this particular property.
- The historic and archeologically significant shell rings, tidal wetlands on three sides, access easement, and dense vegetation are extraordinary and exceptional conditions.

**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:**

- While there are other properties on Hilton Head Island that contain historic and archeologically significant shell rings, it is very rare.
- While there are other properties in the vicinity located on the tidal wetland, the subject property has the tidal wetland on three sides.

**Conclusion of Law:**

- This application meets the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are 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:**

- The subject property is publicly owned and is planned for development as a passive park.
- The adjacent street buffer requirement adjacent to the access easement where the parking spaces are proposed would unreasonably restrict the utilization of the property by requiring a parking area offset from the access easement. It would require a larger development footprint than what is proposed. The site is currently densely vegetated, and the existing site vegetation

will remain largely undisturbed as a result of the proposed passive park development project per the project site plan.

- The gate requirement that requires that a gate be placed at least 100 feet from an arterial or collector street would unreasonably restrict the utilization of the property as it would increase the development footprint and would result in increased disturbance of the site.
- The electric vehicle (EV) charging station requirement would unreasonably restrict the utilization of the property as it would require that utilities be run to the site where none are proposed which would result in increased disturbance of the site.

**Conclusion of Law:**

- This application meets the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are 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 received no letters of opposition to this variance request at the time this Staff Report was completed.
- The purpose and intent of the buffer standards is to spatially separate development from adjacent streets and adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential adverse impacts (e.g., noise, odor, fumes) from adjacent street traffic, create an attractive streetscape for motorists, allow the location of certain dissimilar land uses adjacent to one another by mitigating potential negative effects between the uses, and provide space for landscaping that can help improve air and water quality and be used to reduce stormwater runoff.
- The proposed project is for development of a passive park and the applicant's plan shows ample vegetation throughout the site.
- The purpose of the mobility, street, and pathway standards is to ensure that development accommodates the safe and efficient movement of motor vehicles, emergency vehicles, bicyclists, and pedestrians within the development and between the development and external transportation systems, neighboring development, and local destination points such as places of employment, schools, parks, and shopping areas. Such multimodal access and circulation is intended to provide transportation options, increase the effectiveness of local service delivery, reduce emergency response times, promote healthy walking and bicycling, contribute to the attractiveness of the development and community, increase opportunities for interaction between neighbors, reduce vehicle miles of travel and travel times, improve air quality, minimize congestion and traffic conflicts, and preserve the safety and capacity of community transportation systems.

- The applicant’s plan shows the proposed gates, planned mobility throughout the site, and proposed minimal parking improvements. The planned passive park use at the site reduces the need for a 100 foot setback from an arterial or collector street for a gated driveway/entrance.
- The purpose of the parking and loading standards is to ensure provision of parking and loading facilities in proportion to the generalized parking and loading demand of the different uses allowed by this Ordinance. The standards in this section are intended to provide for adequate off-street parking and loading while allowing the flexibility needed to accommodate alternative solutions. The standards are also intended to achieve Town policies of supporting development and redevelopment and avoiding excessive paved surface areas.
- The applicant’s plan shows minimal development. The EV charging station would require that utilities be extended to the site and would require subgrade disturbance which could impact trees and vegetation and possible unknown archaeological artifacts.
- The proposed park is planned to be of minimal disturbance to the adjacent tidal wetlands and historic and archaeologically significant shell rings.
- The proposed park will not be of substantial detriment to the adjacent property or the public good as it fits within the overall character of the zoning district.

**Conclusions of Law:**

- This application meets the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance will not be of substantial detriment to the adjacent property or the public good.
- The purpose and intent of the buffer standards are met as the existing densely vegetated site will remain with the proposed passive park development.
- The purpose and intent of the mobility, street, and pathway standards for the gate are met as the safe and efficient movement of modes within the development, neighboring development and external transportation systems has been planned for including the gated access.
- The purpose and intent of the parking and loading standards are met as the parking provided is proportionate to the proposed use.

**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 granted 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:**

ML  
Missy Luick, *Senior Planner*

February 14, 2022  
DATE

**REVIEWED BY:**

ND  
Nicole Dixon, AICP, CFM, *Development Review Program Manager*

February 15, 2022  
DATE

TL  
Teri Lewis, AICP, *Development Services Manager*

February 15, 2022  
DATE

**ATTACHMENTS:**

- A) Vicinity Map
- B) Applicant's Narrative
- C) Applicant's Plans
- D) Adjacent Use Buffer Requirements
- E) Gates Requirements
- F) Use of Parking Spaces as Electric Vehicle (EV) Charging Station Requirements
- G) Site Photos



## Town of Hilton Head Island

**273 Squire Pope Road**  
**Attachment A: Vicinity Map**



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

210 105 0 210 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.





# CRANSTON

CranstonEngineering.com

14 Westbury Park Way, Suite 202  
Bluffton, SC 29910  
843.815.3191

Re: Fords Shell Ring  
Cranston Project No.: 2021-0236  
TMS#: R511 003 000 0222 0000

01/25/2022

## **Variance Application Narrative**

The Fords Shell Ring Park project is a proposed public park located at 273 Squire Pope Road on Hilton Head Island, SC. Proposed work includes access and parking improvements, compacted earth trails, compacted earthen drives and the installation of vehicular gates, split rail fencing and interpretive signage. The intent of the project is to construct the improvements utilizing minimal impact construction methodologies to limit excavation, clearing and overall impact as a result of construction.

Proposed parking and access improvements include a new medium duty asphalt apron in the right of way, one concrete van accessible parking space, and a pervious parking area and drive aisle constructed above existing grade which consists of cast-in-place concrete edge restraints and 8" of mixed rock for water quality storage. The above grade parking area was designed by the Cranston Engineering Group, PC Structural Department to ensure the design will be able to withstand all loadings scenarios including lateral forces and the weight of a fire truck.

Cranston Engineering Group, PC on behalf of the Beaufort County Passive Parks Department is requesting a variance to three (3) Town of Hilton Head LMO requirements as described below.

### *Town of Hilton Head LMO Section 16-5-103.D – Adjacent Street Buffer*

We request relief from the LMO requirement of a Type A adjacent street buffer along the access easement because the buffer is not needed since the drive aisle and the easement are one in the same, are already appropriately buffered from the adjacent wetland edge, and have already been agreed to (and surveyed) by the Town/County/Barnwell's as the location for the Barnwell's access. There is ample vegetation existing onsite buffering the proposed easement which will remain undisturbed as a result of construction. Additionally, there are concerns with providing a safe environment for visitors. As no onsite lighting or cameras are proposed, it is important to maintain visibility in the parking area.

### *Town of Hilton Head LMO Section 16-5-105.J.7.c – Gates*

We request relief from the LMO requirement that gates be located at least 100 feet from any arterial or collector street. It is desired the gates be closer to Squire Pope Road due to sensitivity of habitat and location of existing open space. The proposed double swing gate location is on the 40' Adjacent Street Setback from Squire Pope, approximately 60' from edge of pavement.



# CRANSTON

CranstonEngineering.com

14 Westbury Park Way, Suite 202  
Bluffton, SC 29910  
843.815.3191

## *Town of Hilton Head LMO Section 16-5-107D.10 – Electric Vehicle Charging Station*

We request relief from the LMO requirement of an electric vehicle charging station based on the characteristics of the proposed development and low impact nature of the design. Installation of an electric vehicle charging station would require running utilities to the site, which would contradict the overall intent of the project as a no impact park. Installation of utilities onsite would require excavation which may unearth unknown archaeological artifacts on a project which is aimed at maintaining the integrity of an undisturbed, natural park. All improvements proposed for the site have attempted to minimize subgrade disturbance to the maximum extent practicable.

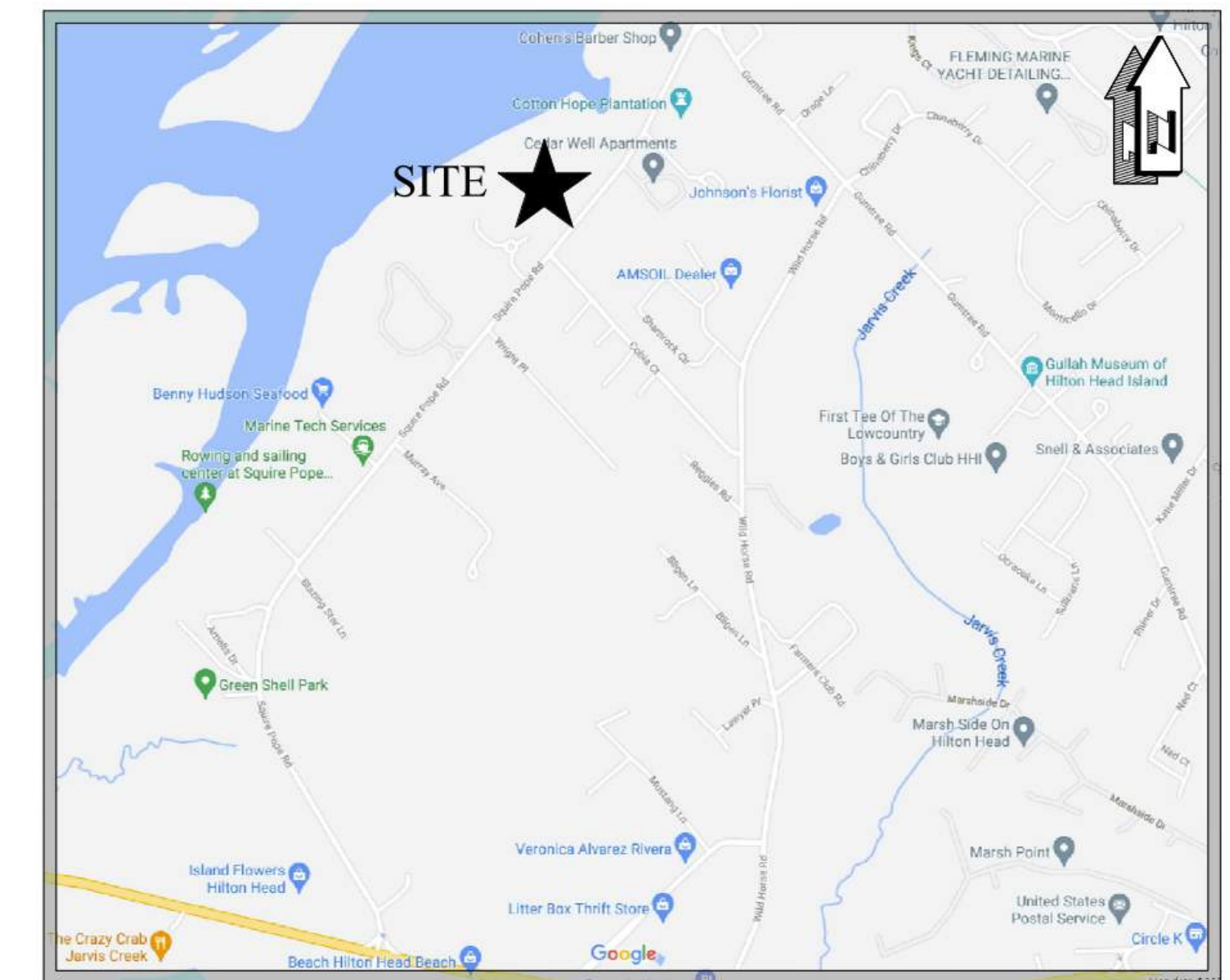
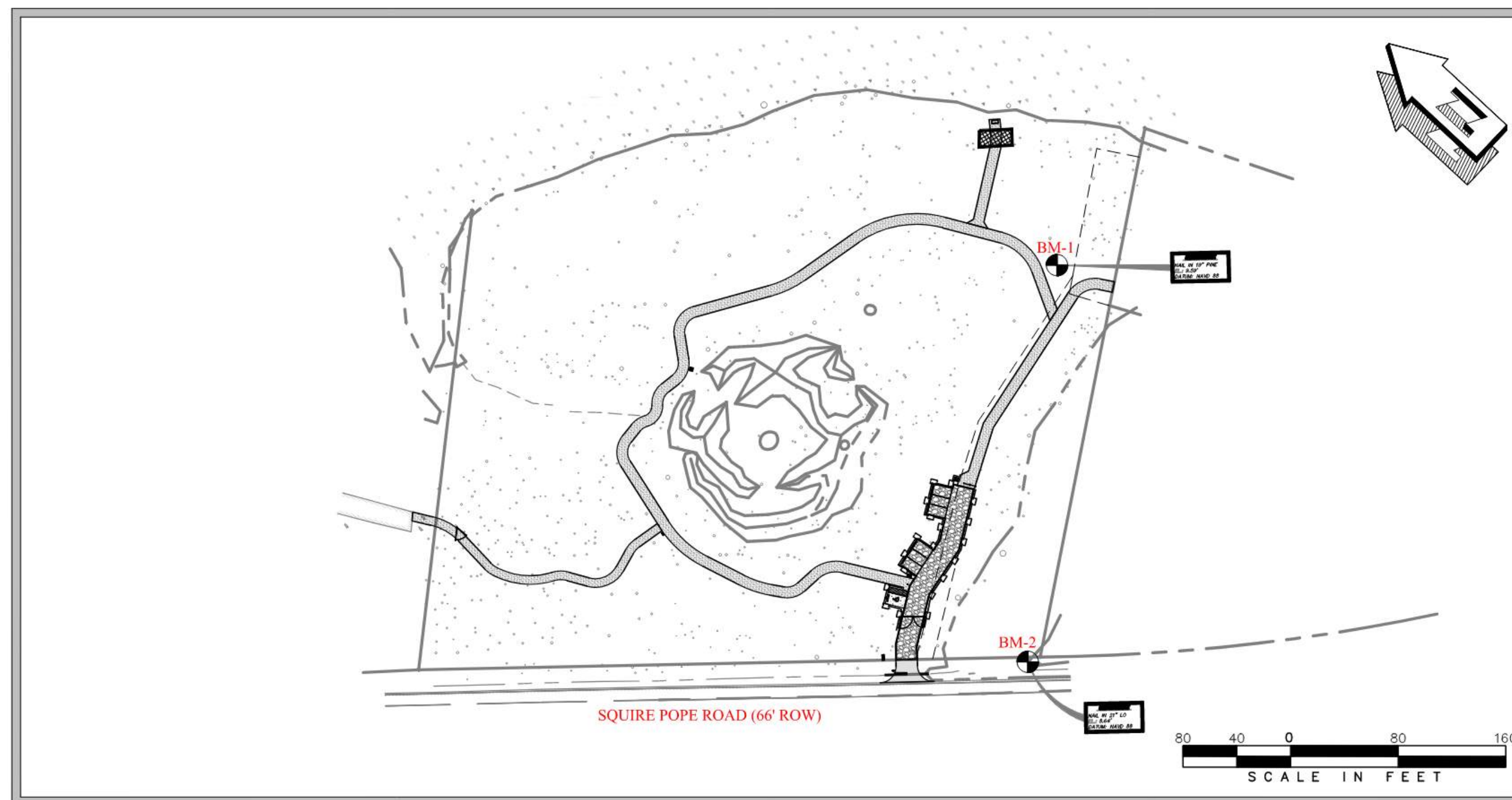


VICINITY MAP  
N.T.S.

# PERMIT PLANS FOR FORDS SHELL RING

PREPARED FOR  
**BEAUFORT COUNTY, SC**

CLIENT ADDRESS  
CLIENT CITY & ZIPCODE



LOCATION MAP  
N.T.S.

**PROJECT DATA:**

1. OWNER/DEVELOPER:  
BEAUFORT COUNTY, SC  
100 RIBAUT ROAD, ROOM 115  
BEAUFORT, SC 29901  
PHONE: 843.255.2152
- 24 HOUR CONTACT:  
NAME: STEFANIE NAGID  
PHONE: 843.255.2152
2. TAX MAP & PARCEL NUMBERS: R511 003 000 0222 0000
3. ZONING DISTRICT: PR
4. OVERLAY DISTRICT: COR
5. EXISTING LAND USE: UNDEVELOPED
6. PROPOSED LAND USE: PUBLIC PARK
7. GROSS SITE ACRES: 6.909 ACRES
8. NET SITE ACRES: 6.909 ACRES
9. ALLOWED TOTAL DENSITY: 6,000 GFA/AC = 41,454 SQUARE FEET
10. EXISTING BUILDING SQUARE FOOTAGE: 0 SQUARE FEET
11. PROPOSED BUILDING SQUARE FOOTAGE: 0 SQUARE FEET
12. TOTAL SQUARE FOOTAGE: 0 SQUARE FEET
13. MAXIMUM BUILDING HEIGHT ALLOWED: 35 FEET
14. PROPOSED BUILDING HEIGHT: N/A
15. MAXIMUM ALLOWED IMPERVIOUS AREA AND PERCENTAGE:  
135,426 SQUARE FEET (45%)  
0 SQUARE FEET (0%)
16. CURRENT IMPERVIOUS AREA AND PERCENTAGE: 0 SQUARE FEET (0%)
17. PROPOSED IMPERVIOUS AREA AND PERCENTAGE:  
288 SQUARE FEET (0.096%) CONCRETE  
4,418 SQUARE FEET (1.47%) GRAVEL  
VARIABLE PER SEC 16-5-107.D.2
18. MINIMUM NUMBER OF PARKING SPACES REQUIRED: VARIABLE PER SEC 16-5-107.D.2
19. EXISTING NUMBER OF PARKING SPACES ON SITE: 0
20. PROPOSED NUMBER OF PARKING SPACES ON SITE: 7
21. NUMBER OF ADA PARKING SPACES REQUIRED: 1
22. PROPOSED ADA PARKING SPACES PROVIDED: 1
23. RECEIVING STREAM: SKULL CREEK
24. ULTIMATE STREAM: PORT ROYAL SOUND
25. WATER QUALITY VOLUME REQUIRED: 588 CF (1.5" OVER IMPERVIOUS AREA)
26. WATER QUALITY VOLUME PROVIDED: 1,184 CF

**Sheet List Table**

Sheet Number	Sheet Title
C1.0	TITLE SHEET
C1.1	GENERAL NOTES & LEGEND
C2.0	EXISTING CONDITIONS SURVEY
C2.1	EXISTING CONDITIONS SURVEY
C3.0	DEMO & SWPP PLAN
C3.1	SWPPP DETAILS
C4.0	SITE IMPROVEMENTS PLAN
C5.0	DRAINAGE & GRADING PLAN
C6.0	SITE DETAILS
C6.1	SITE DETAILS
C7.0	SCDOT ENCROACHMENT PLAN

BENCHMARK DATA		
NAME	DESCRIPTION	ELEVATION
BM-1	NAIL IN 19" PINE	9.59' - (NAVD88)
BM-2	NAIL IN 21" PINE	8.64' - (NAVD88)

BENCHMARK DATA:  
1. COORDINATE SYSTEM IS STATE PLANE NAD 1983.  
2. ALL DISTANCES SHOWN ARE GROUND.

PREPARED BY



**CRANSTON**

01/25/2022



01/25/2022

THE INTENT OF THIS PROJECT IS MINIMIZE IMPACT TO POTENTIALLY SENSITIVE ARCHEOLOGICAL AREAS BY LIMITING EXCAVATIONS TO THE MAXIMUM EXTENT PRACTICABLE. CONTRACTOR SHALL SUBMIT LOW IMPACT DEVELOPMENT CONSTRUCTION PLAN WITH BID FOR REVIEW AND APPROVAL BY BEAUFORT COUNTY, TOWN OF HILTON HEAD AND ENGINEER.

I HAVE PLACED MY SIGNATURE AND SEAL ON THE DESIGN DOCUMENTS SUBMITTED SIGNIFYING THAT I ACCEPT RESPONSIBILITY FOR THE DESIGN OF THE SYSTEM. I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THE DESIGN IS CONSISTENT WITH THE REQUIREMENTS OF TITLE 48, CHAPTER 14 OF THE CODE OF LAWS OF SC, 1976 AS AMENDED, PURSUANT TO REGULATION 72-300 ET SEQ. (IF APPLICABLE), AND IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SCR100000.





NORTH  
SC GRID (NAD 83)

REFERENCES

- 1. PB: 85 PG: 41
- 2. PB: 89 PG: 134
- 3. PB: 42 PG: 34
- 4. PB: 115 PG: 131
- 5. PB: 73 PG: 52
- 6. DB: 1766 PG: 159
- 7. DB: 1683 PG: 131
- 8. DB: 1637 PG: 1065

NOTES

1. THIS PARCEL APPEARS TO LIE IN DUAL FLOOD ZONES, X (0.2% CHANCE) AND AE ELEVATION 8', COMMUNITY 450250, MAP NUMBERS 45013004320 AND 45013004516, EFFECTIVE DATE MARCH 23, 2021.
2. CONTOURS ARE IN ONE FOOT INTERVALS. TREE SIZES SHOWN ARE IN INCHES AT DBH.
3. VERTICAL DATUM IS NAVD 88.
4. HORIZONTAL DATUM IS SOUTH CAROLINA STATE PLANE GRID (NAD 83).
5. THE SUBSURFACE UTILITY INFORMATION SHOWN HEREON IS CONSIDERED A QUALITY LEVEL-B SUE UTILITY INVESTIGATION AS DEFINED IN THE AMERICAN SOCIETY OF CIVIL ENGINEERS DOCUMENT C/ASCE 38-02 AND ENTITLED THE "STANDARD GUIDELINE FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA." UTILITY LINES NOT MEETING THE REQUIREMENTS FOR A QL-B INVESTIGATION WILL BE SHOWN AS QL-C OR A QL-D INVESTIGATED LINE ACCORDING TO THE ASCE 39-02 PROCESS. PRIOR TO CONSTRUCTION OR EXCAVATION, IT IS REQUIRED BY LAW TO CONTACT THE STATE 811 SYSTEM.

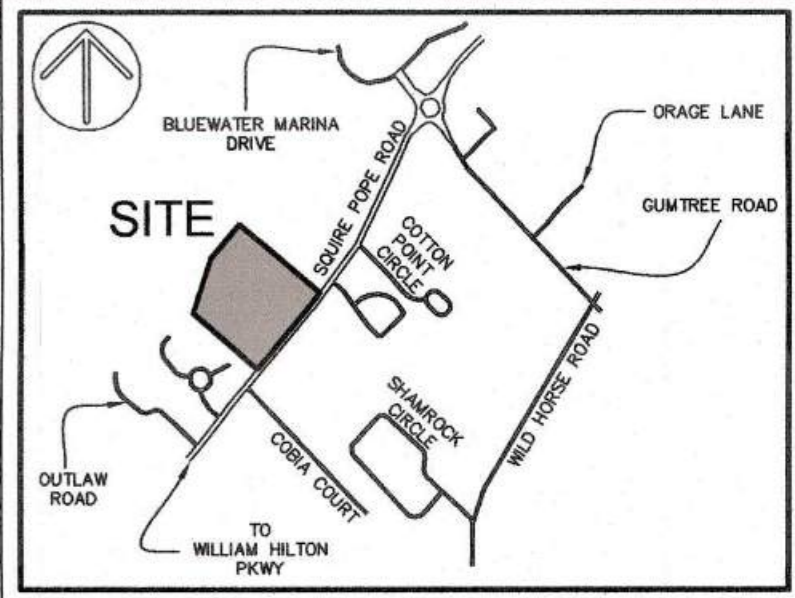
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L2	N10°08'50"E	21.66'
L3	N20°49'46"E	60.03'
L4	N20°22'29"E	38.71'
L5	N14°12'48"E	37.74'
L6	N33°06'45"E	35.60'
L7	N35°55'22"E	39.22'
L8	N23°59'36"E	31.97'
L9	N19°05'15"E	35.74'
L10	N22°40'30"E	36.59'
L11	N31°22'50"E	21.89'
L12	N53°40'11"E	41.96'
L13	N45°15'15"E	35.72'
L14	N58°34'07"E	30.28'
L15	N37°29'51"E	33.67'
L16	N52°07'14"E	33.51'
L17	N45°17'39"E	29.21'
L18	N59°33'24"E	32.38'
L19	N75°13'42"E	25.53'
L20	N57°27'31"E	0.86'
L21	N38°01'20"W	9.61'

"THE AREA SHOWN ON THIS PLAT IS A REPRESENTATION OF DEPARTMENT (SCDHEC OCRM) PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY DELINEATING THE PERMIT AUTHORITY OF SCDHEC OCRM, SCDHEC OCRM IN NO WAY WAIVES ITS RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREON OR NOT."

*Thomas W. Hurley*  
SIGNATURE DATE: 7/1/2021

The critical line shown on this plat is valid for five years from the date of this signature, subject to the cautionary language above.

SURVEY DATA	
TOTAL AREA:	6.909 ACRES
ERROR OF FLOOD CLOSURE:	1 IN 890,573
ERROR OF FIELD CLOSURE:	1 IN 33,225
FIELD WORK COMPLETED ON:	06-16-2021



VICINITY MAP NOT TO SCALE

LEGEND

- ▲ CALC POINT - CORNER NOT SET
- CMF ■ CONC. MONUMENT FOUND
- IPF ● IRON PIPE FOUND
- OCJB ○ CABLE JUNCTION BOX
- FIRE HYDRANT
- JUNCTION BOX
- X12.9 SPOT ELEVATION
- SIGN
- SANITARY SEWER LATERAL OR STUBOUT
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- UNDERGROUND TELEPHONE
- UNDERGROUND WATER LINE
- EDGE OF PAVEMENT
- RIP-RAP

TREE LEGEND

- BG BLACK GUM
- CED CEDAR
- CH CHERRY
- CM CRAPE MYRTLE
- HB HACKBERRY
- LA LAUREL OAK
- LO LIVE OAK
- MAP RED MAPLE
- MAG MAGNOLA
- MUL MULBERRY
- P PINE
- PA PALMETTO
- PEC PECAN
- RO RED OAK
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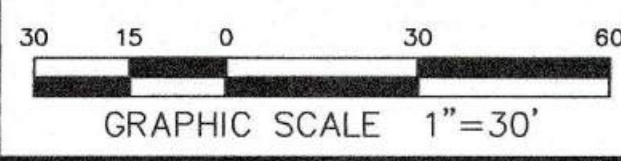
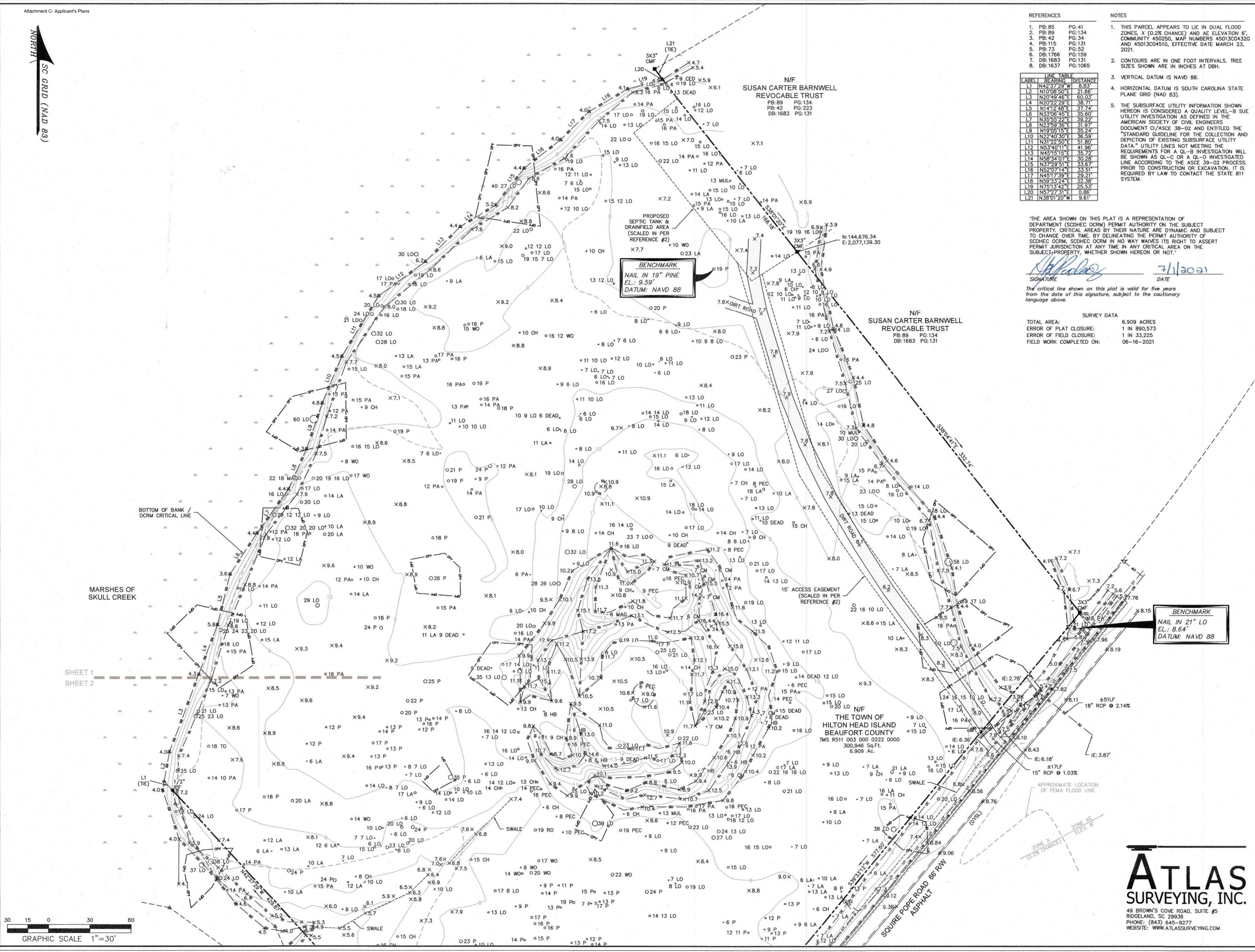
PREPARED FOR:  
**NATHAN STURRE**  
A BOUNDARY, TREE AND TOPOGRAPHIC SURVEY OF  
**273 SQUIRE POPE ROAD  
FORD SHELL RING PARK**  
TAX PARCEL No. R511 003 000 0222 0000  
HILTON HEAD ISLAND  
BEAUFORT COUNTY, SOUTH CAROLINA  
FIELD WORK: LKW  
FIELD CHECK: THW  
DRAWN BY: JHJ  
DATE: 06-17-2021  
SCALE: 1"=30'  
PROJECT No: BFT-21203  
FILE: BFT-21209.T1DWG  
SHEET 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.

*Thomas W. Hurley*  
THOMAS W. HURLEY  
S.C.P.L.S. No. 17599

**ATLAS SURVEYING, INC.**  
49 BROWN'S COVE ROAD, SUITE #5  
RIDGELAND, SC 29936  
PHONE: (843) 645-9277  
WEBSITE: WWW.ATLASSURVEYING.COM



NORTH  
SC GRID (NAD 83)

SHEET 1  
SHEET 2

MARSHES OF SKULL CREEK

BOTTOM OF BANK  
OCRM CRITICAL LINE

APPROXIMATE LOCATION  
OF FEMA FLOOD LINE

N/F  
FULLER FAMILY PROPERTY  
DEVELOPMENT COMPANY LLC.  
PB: 73 PG: 52  
DB: 1637 PG: 1065

SSMH  
RIM: 7.42'  
IE(NE): 0.81'

SSMH  
RIM: 7.42'  
IE(NE): 0.81'

N/F  
THE TOWN OF  
HILTON HEAD ISLAND  
BEAUFORT COUNTY  
TMS R511 003 000 0222 0000  
300,946 Sq.Ft.  
6.909 Ac.

BENCHMARK  
NAIL IN 21" LO  
EL.: 8.64'  
DATUM: NAVD 88

REFERENCES

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NOTES

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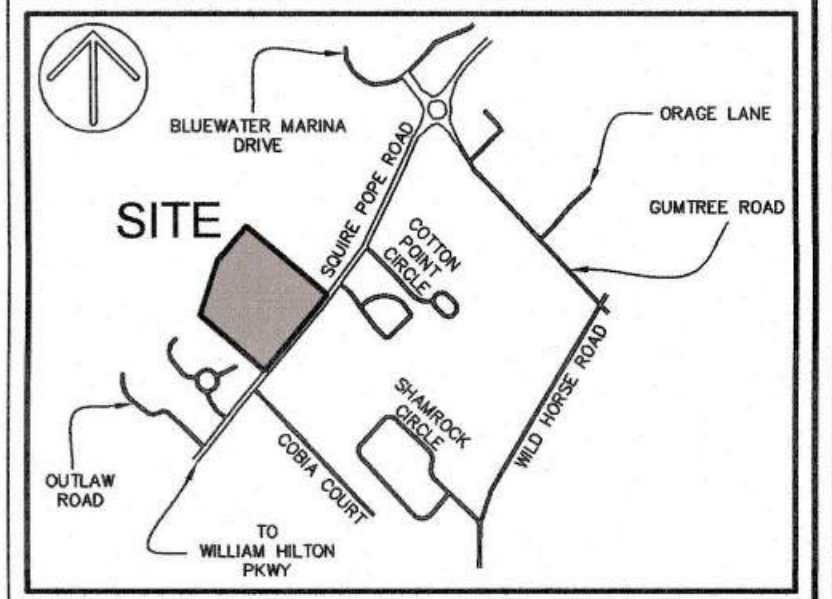
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*[Signature]* 7/1/2021  
SIGNATURE DATE

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ERROR OF FIELD CLOSURE: 1 IN 33,225  
FIELD WORK COMPLETED ON: 06-16-2021



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  - CMF CONC. MONUMENT FOUND
  - IPF IRON PIPE FOUND
  - OCJP CABLE JUNCTION BOX
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  - P PINE
  - PA PALMETTO
  - PEC PECAN
  - RO RED OAK
  - TO TURKEY OAK
  - WO WATER OAK

PREPARED FOR:  
NATHAN STURRE

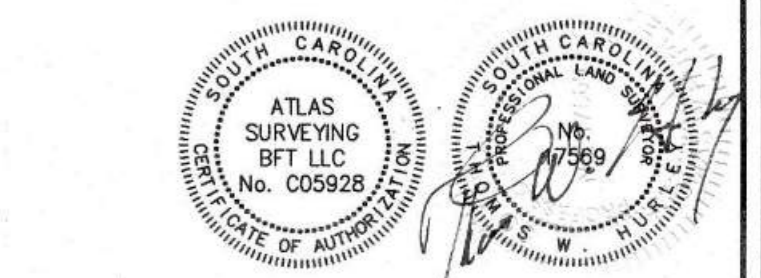
A BOUNDARY, TREE AND TOPOGRAPHIC SURVEY OF

273 SQUIRE POPE ROAD  
FORD SHELL RING PARK

TAX PARCEL NO. R511 003 000 0222 0000

HILTON HEAD ISLAND  
BEAUFORT COUNTY, SOUTH CAROLINA

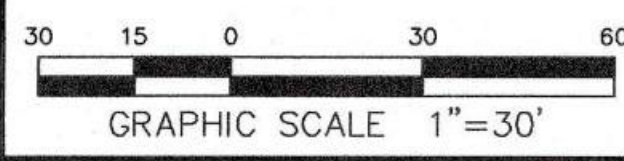
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FIELD CHECK: TWH  
DRAWN BY: JHJ  
DATE: 06-17-2021  
SCALE: 1"=30'  
PROJECT NO.: BFT-21209  
FILE: BFT-21209 T1.DWG  
SHEET 2



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*[Signature]*  
THOMAS W. HURLEY  
S.C.P.L.S. No. 17569

**ATLAS**  
SURVEYING, INC.  
49 BROWN'S COVE ROAD, SUITE #5  
RIDGELAND, SC 29936  
PHONE: (843) 645-9277  
WEBSITE: WWW.ATLASSURVEYING.COM

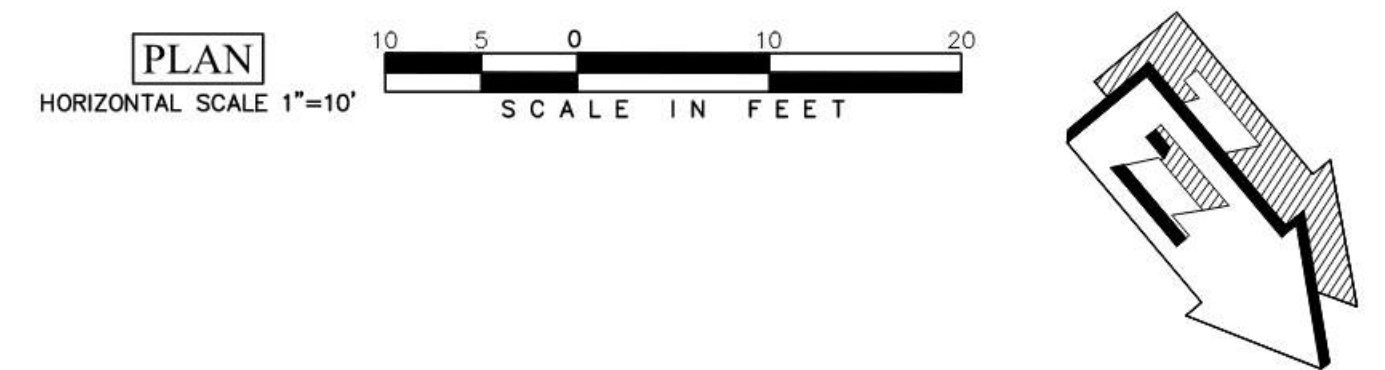
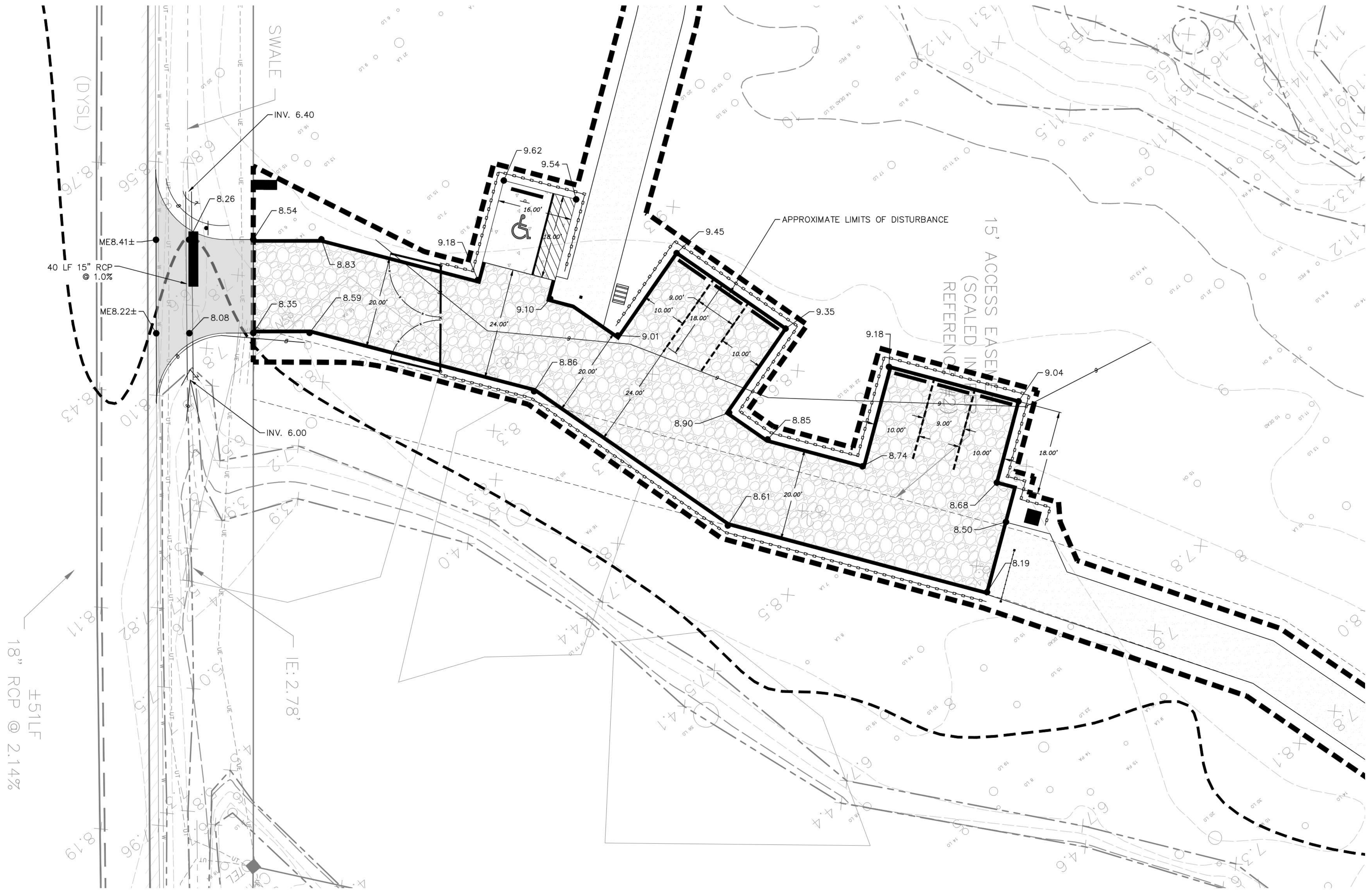




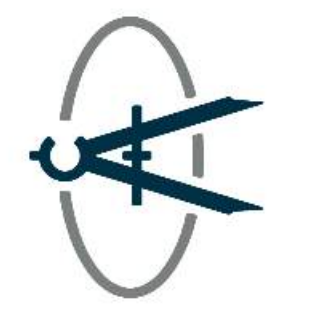








G:\AAA-ACTIVE JOBS\2021-0236\_FORD SHELL RING LID CIVIL DESIGN\AA - DRAWINGS\CIVIL\2021-0236 CIVIL PLAN SET.DWG 1/28/2022 12:02 PM



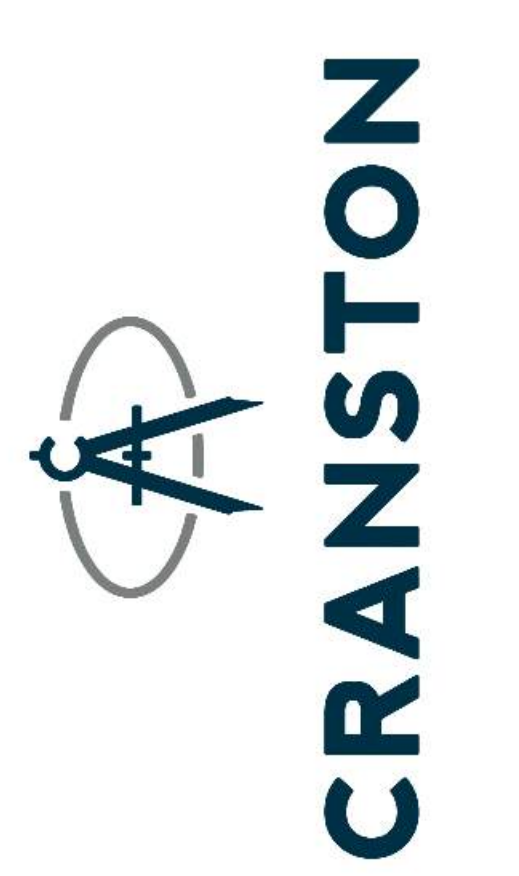
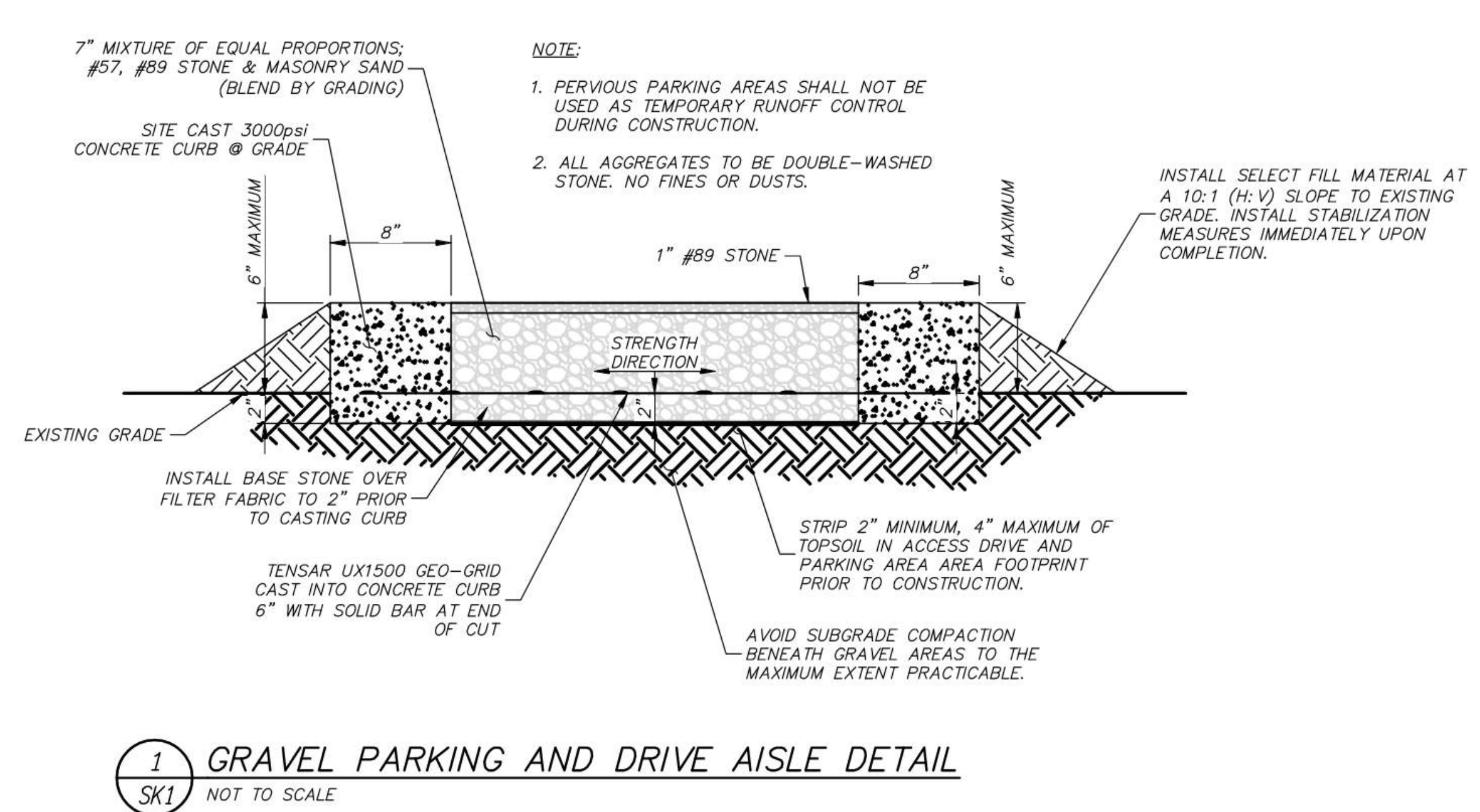
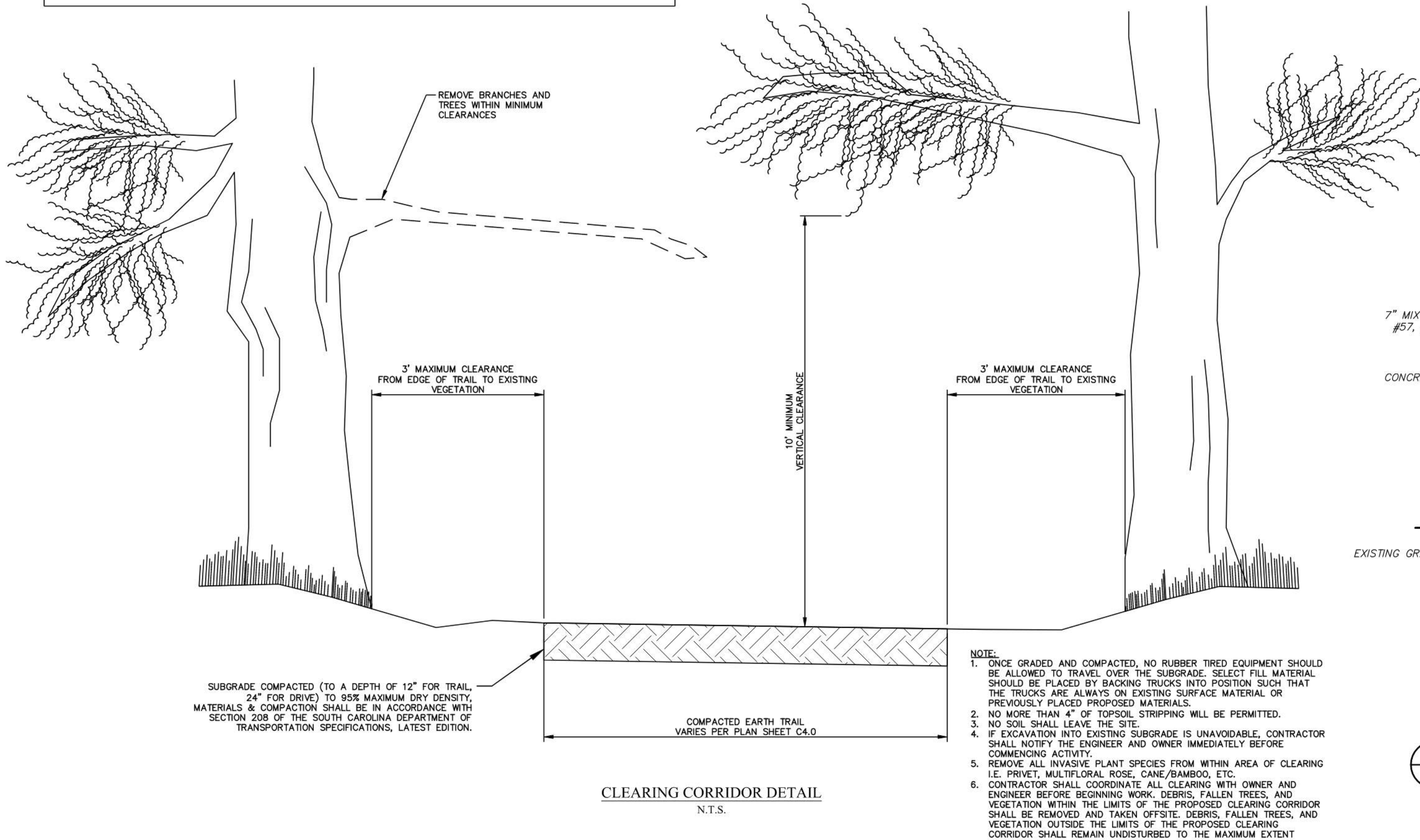
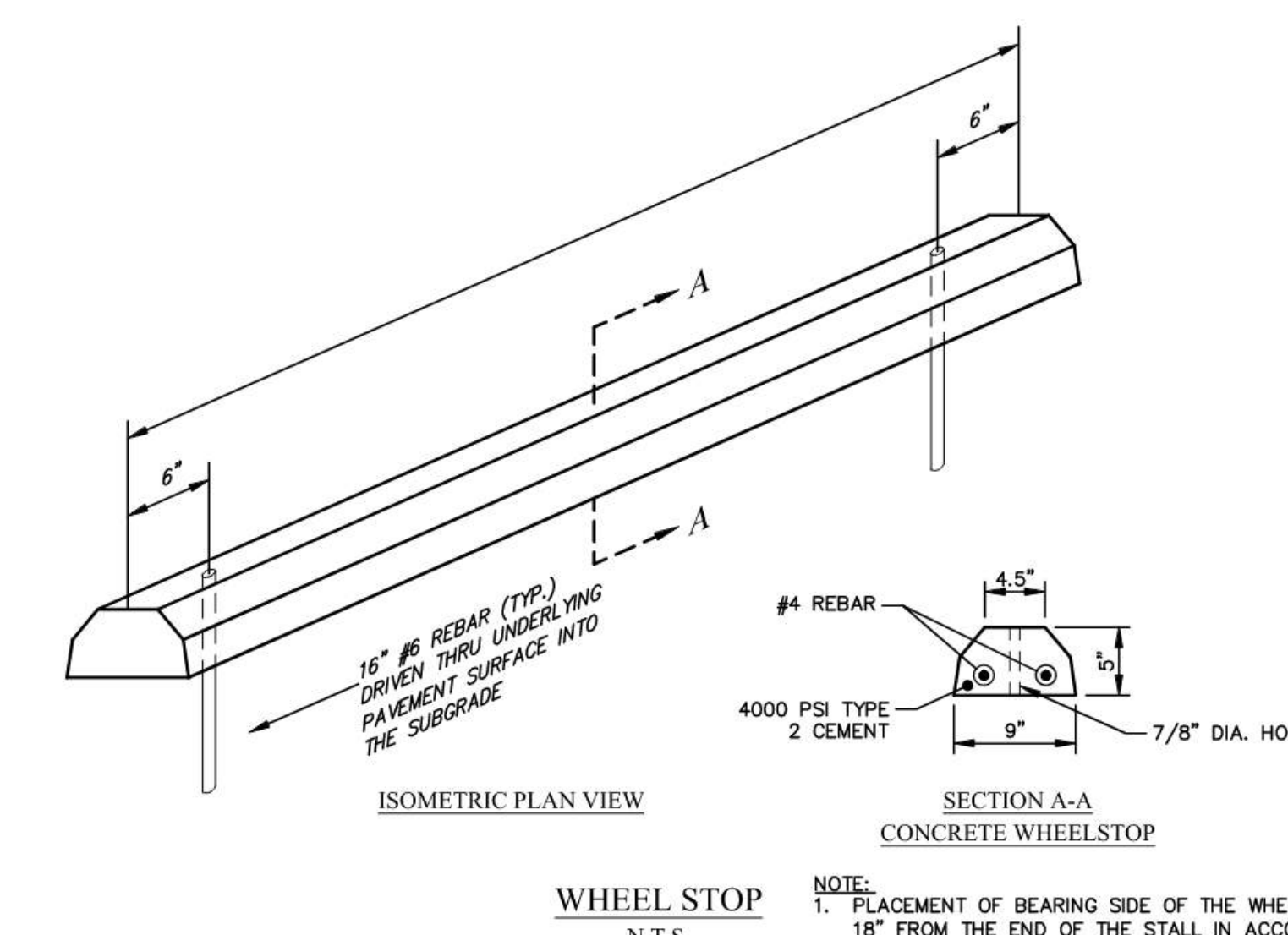
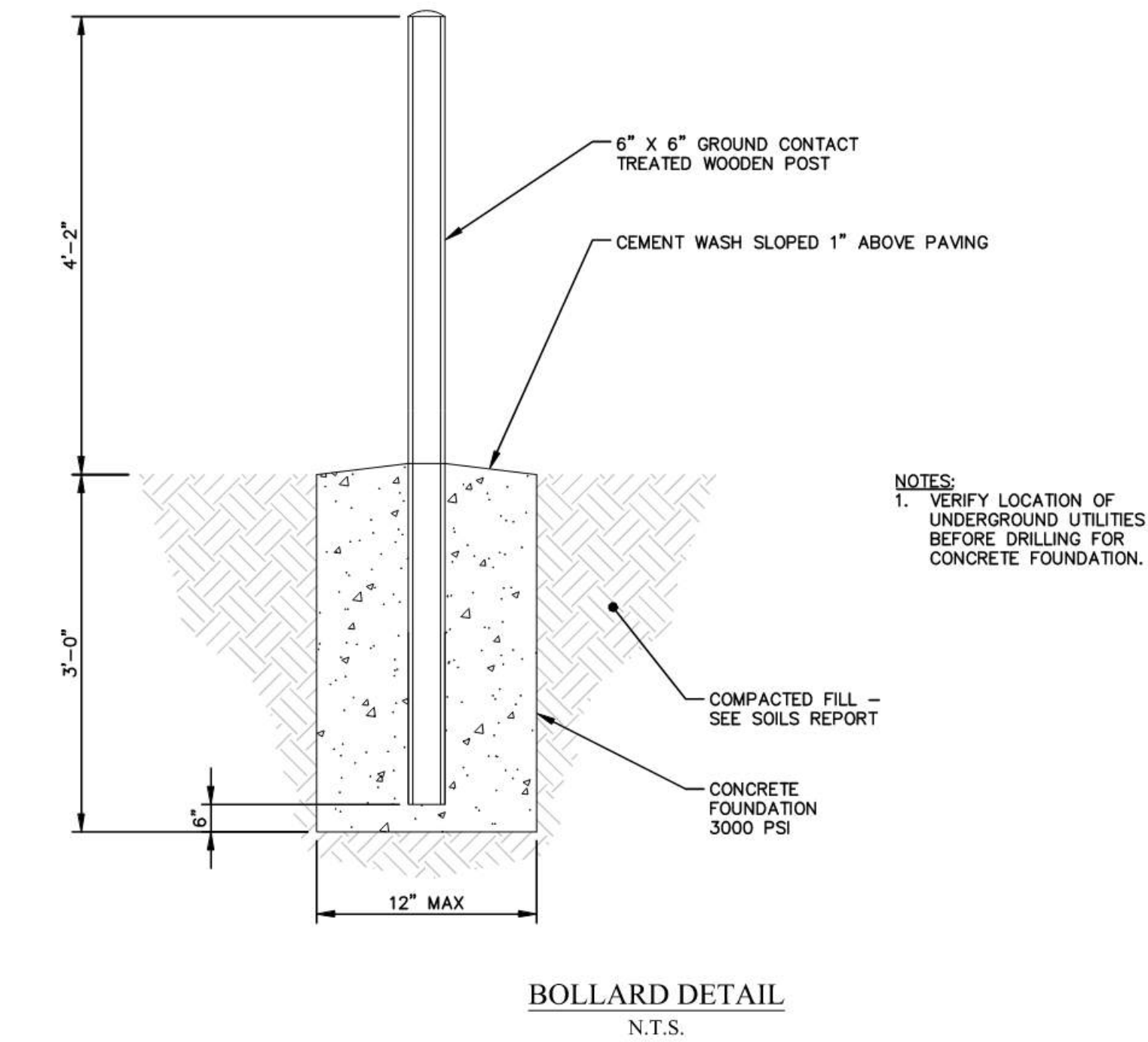
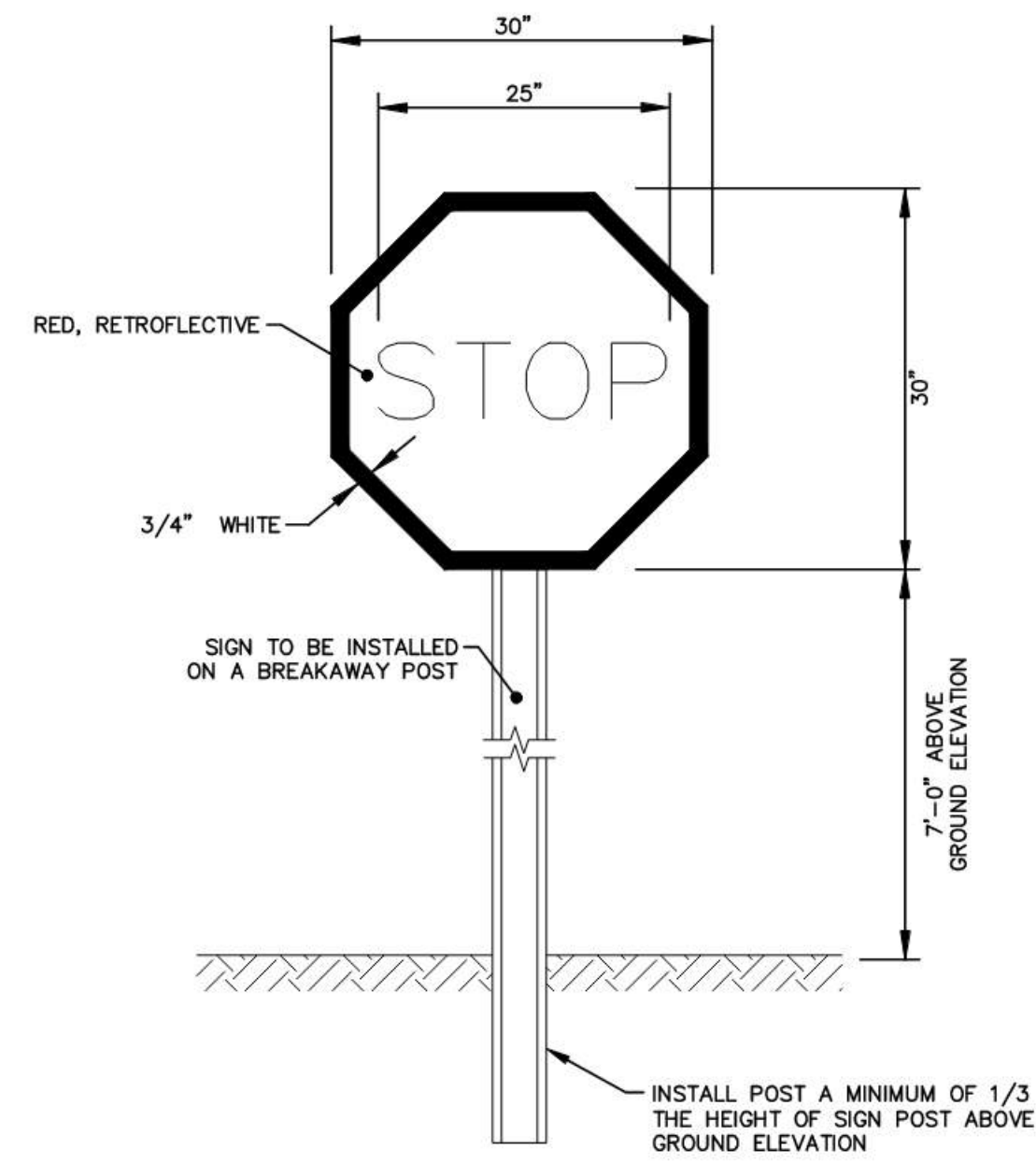
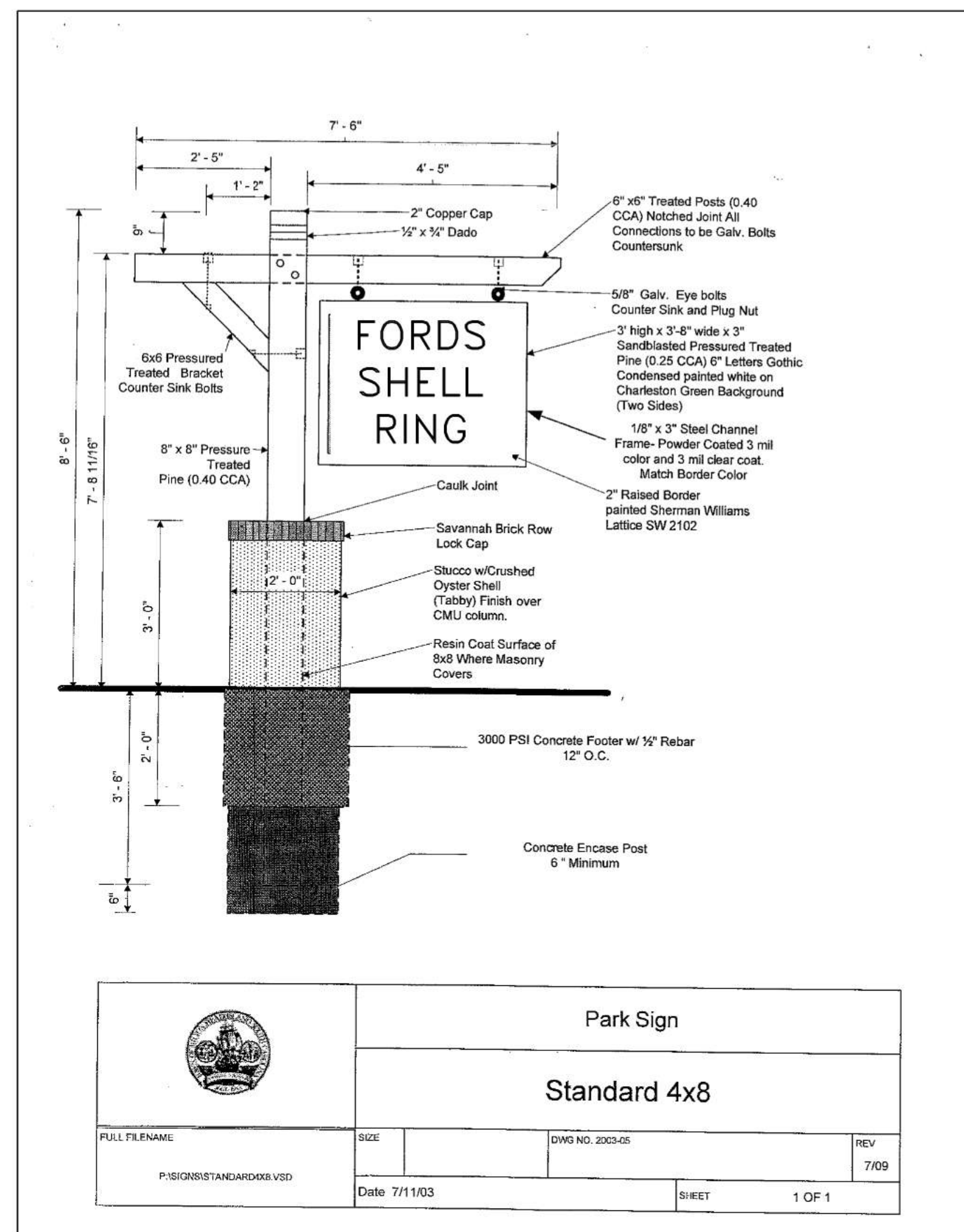
**CRANSTON**



REV #	DATE	DESCRIPTION

FORDS SHELL RING  
DRAINAGE & GRADING PLAN

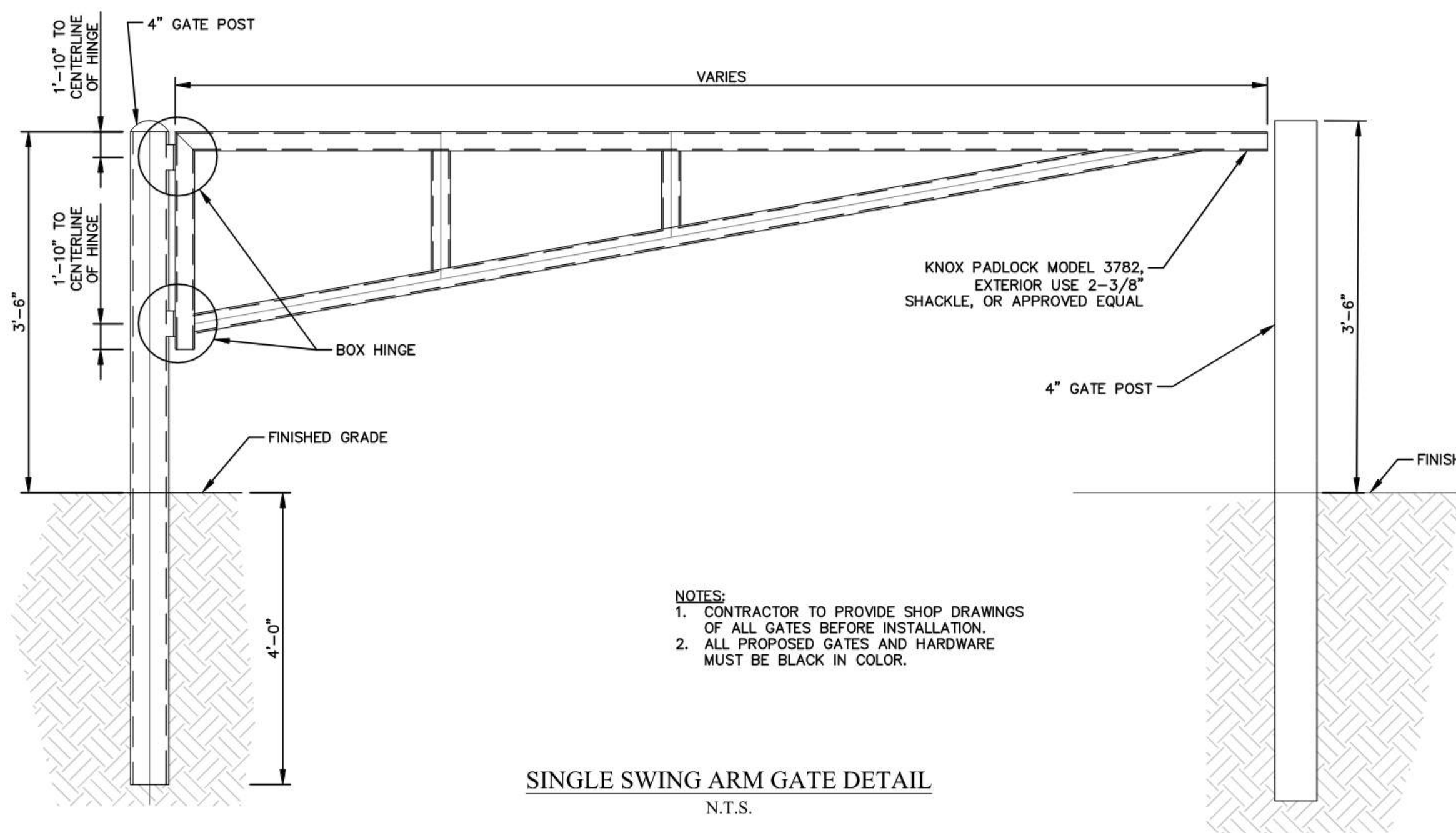
DRAWN BY:	NLS
CHECKED BY:	MER
APPROVED BY:	MER
DATE:	01/25/2022
SCALE:	1" = 10'
JOB No.	2021-0236
DRAWING No.	C5.0



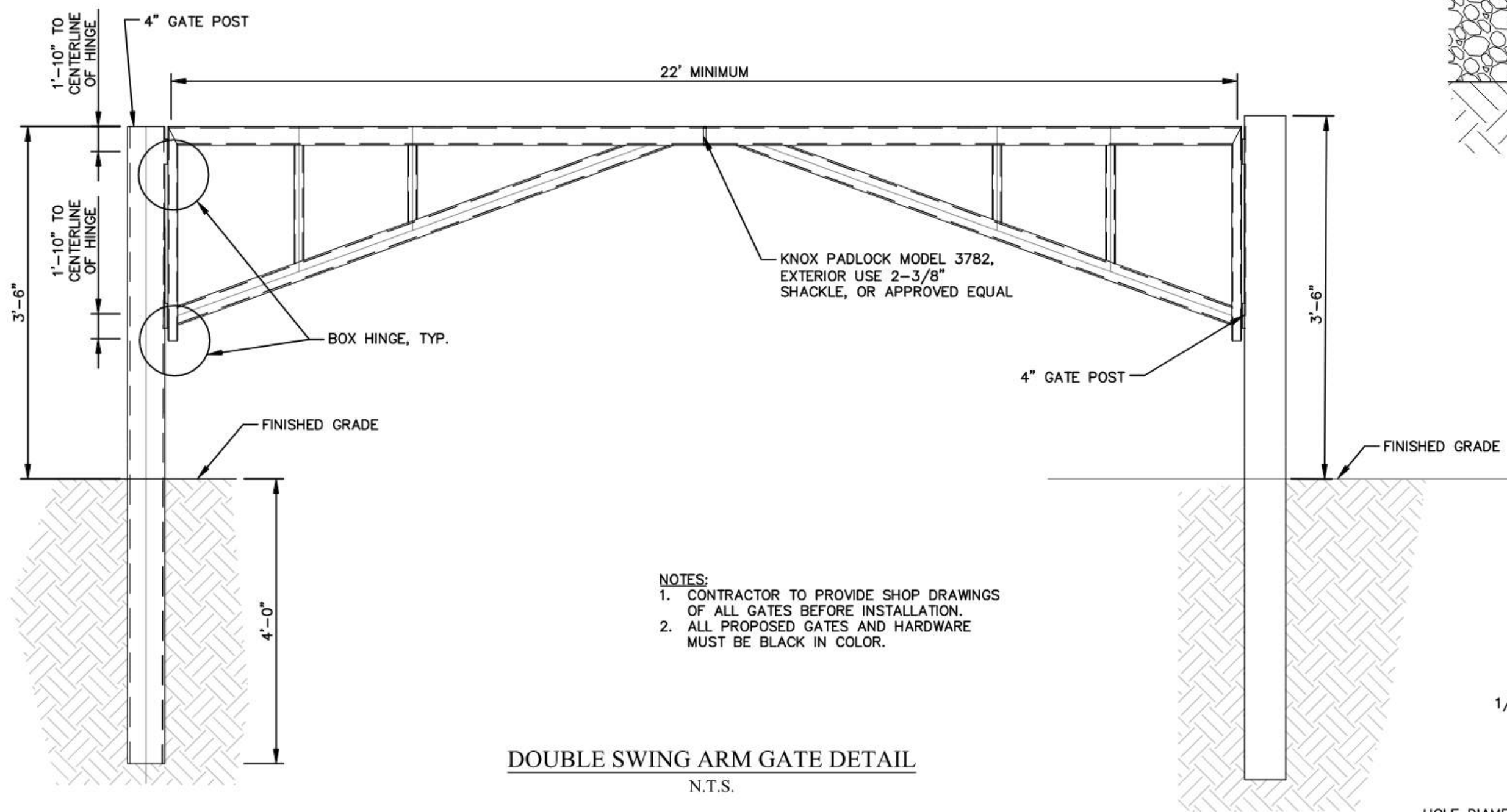
REV #	DATE	DESCRIPTION

FORDS SHELL RING		SITE DETAILS	
DRAWN BY:	NLS	DATE:	01/25/2022
CHECKED BY:	MER	SCALE:	AS SHOWN
APPROVED BY:	MER	JOB No.	2021-0236
DRAWING No.		C6.0	

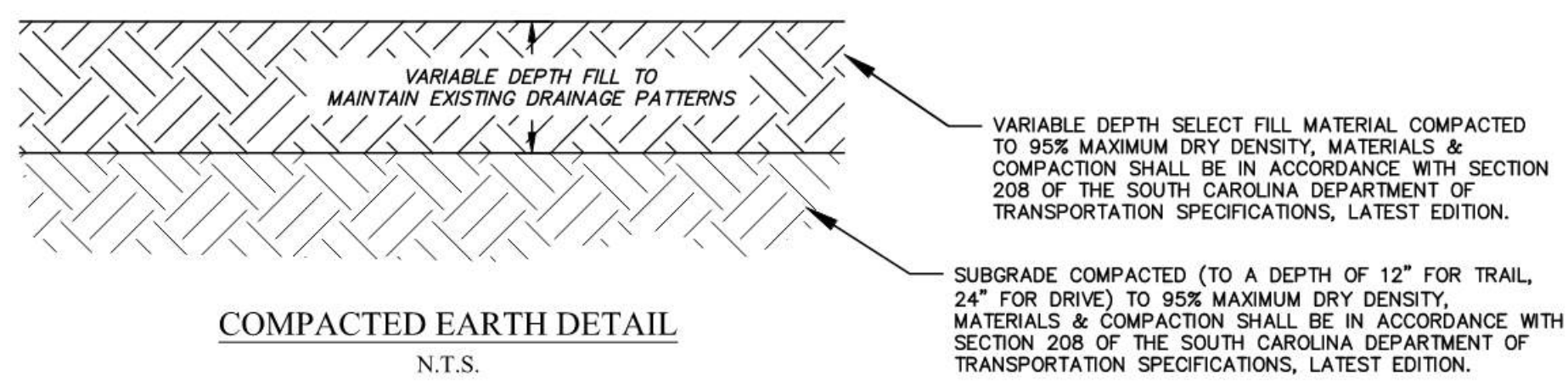
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SINGLE SWING ARM GATE DETAIL  
N.T.S.

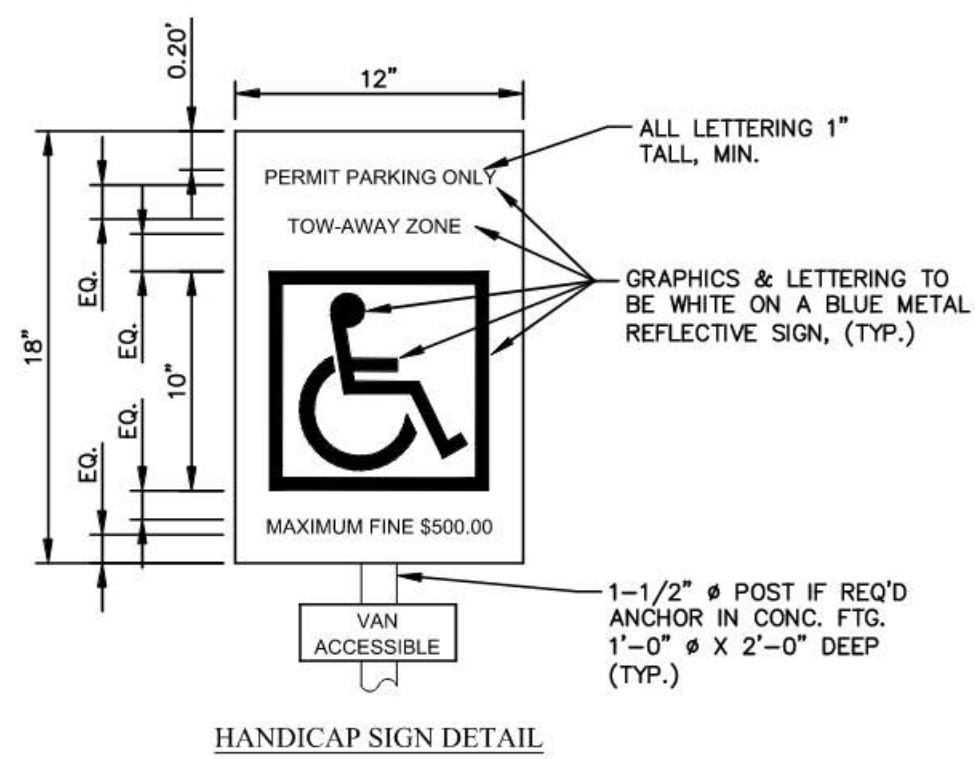


DOUBLE SWING ARM GATE DETAIL  
N.T.S.

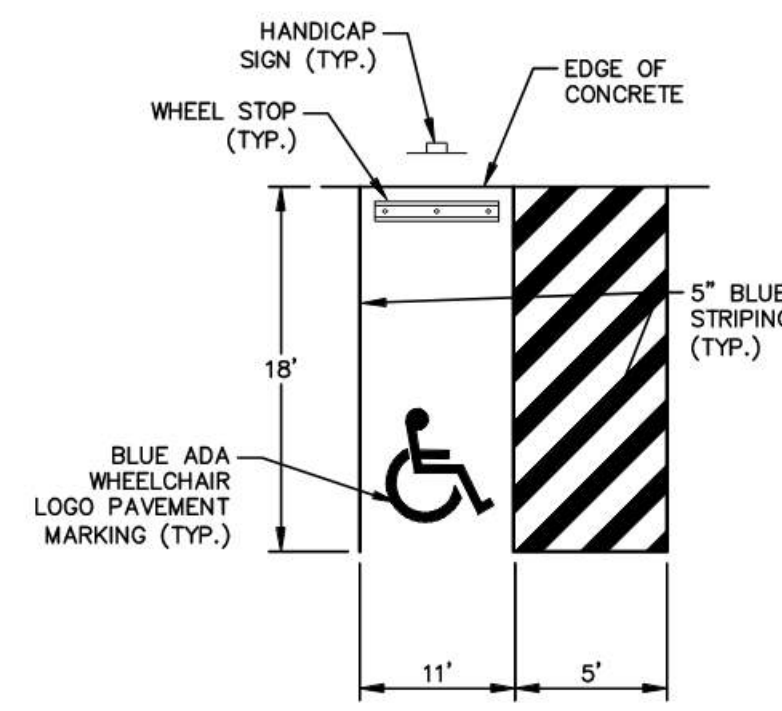


COMPACTED EARTH DETAIL  
N.T.S.

- NOTE:
- ONCE GRADED AND COMPACTED, NO RUBBER Tired EQUIPMENT SHOULD BE ALLOWED TO TRAVEL OVER THE SUBGRADE. SELECT FILL MATERIAL SHOULD BE PLACED BY BACKING TRUCKS INTO POSITION SUCH THAT THE TRUCKS ARE ALWAYS ON EXISTING SURFACE MATERIAL OR PREVIOUSLY PLACED PROPOSED MATERIALS.
  - NO MORE THAN 4" OF TOPSOIL STRIPPING WILL BE PERMITTED.
  - NO SOIL SHALL LEAVE THE SITE.
  - IF EXCAVATION INTO EXISTING SUBGRADE IS UNAVOIDABLE, CONTRACTOR SHALL NOTIFY THE ENGINEER AND OWNER IMMEDIATELY BEFORE COMMENCING ACTIVITY.



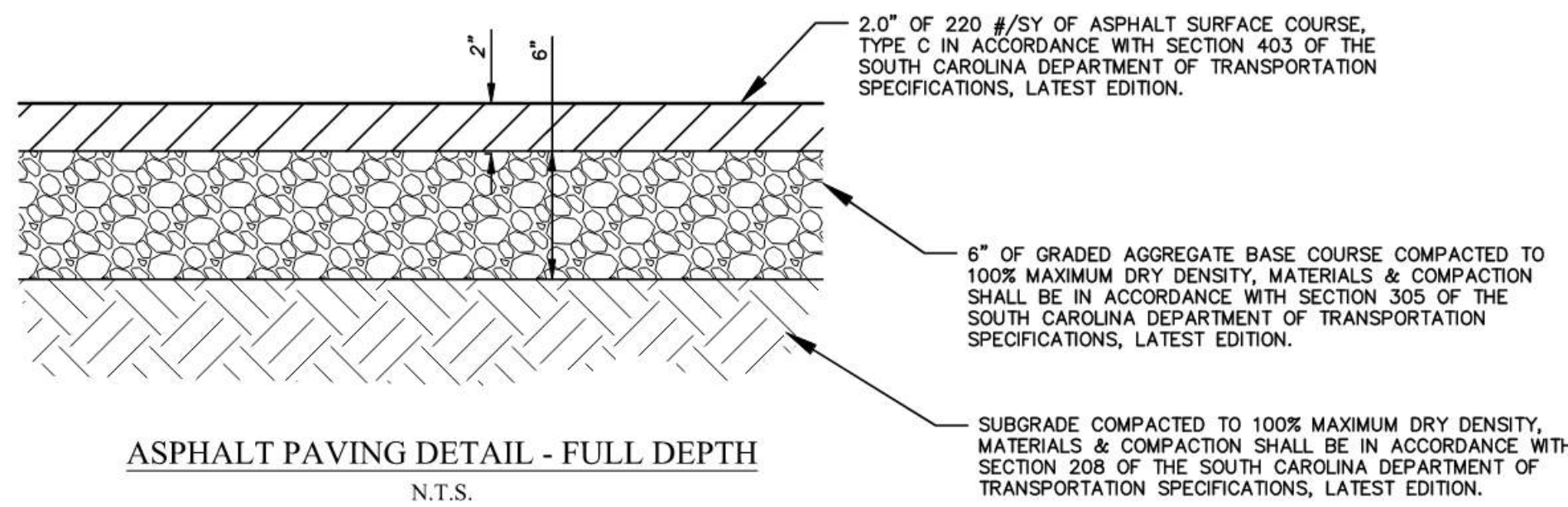
HANDICAP SIGN DETAIL  
N.T.S.



HANDICAP PARKING SPACE PLAN  
N.T.S.

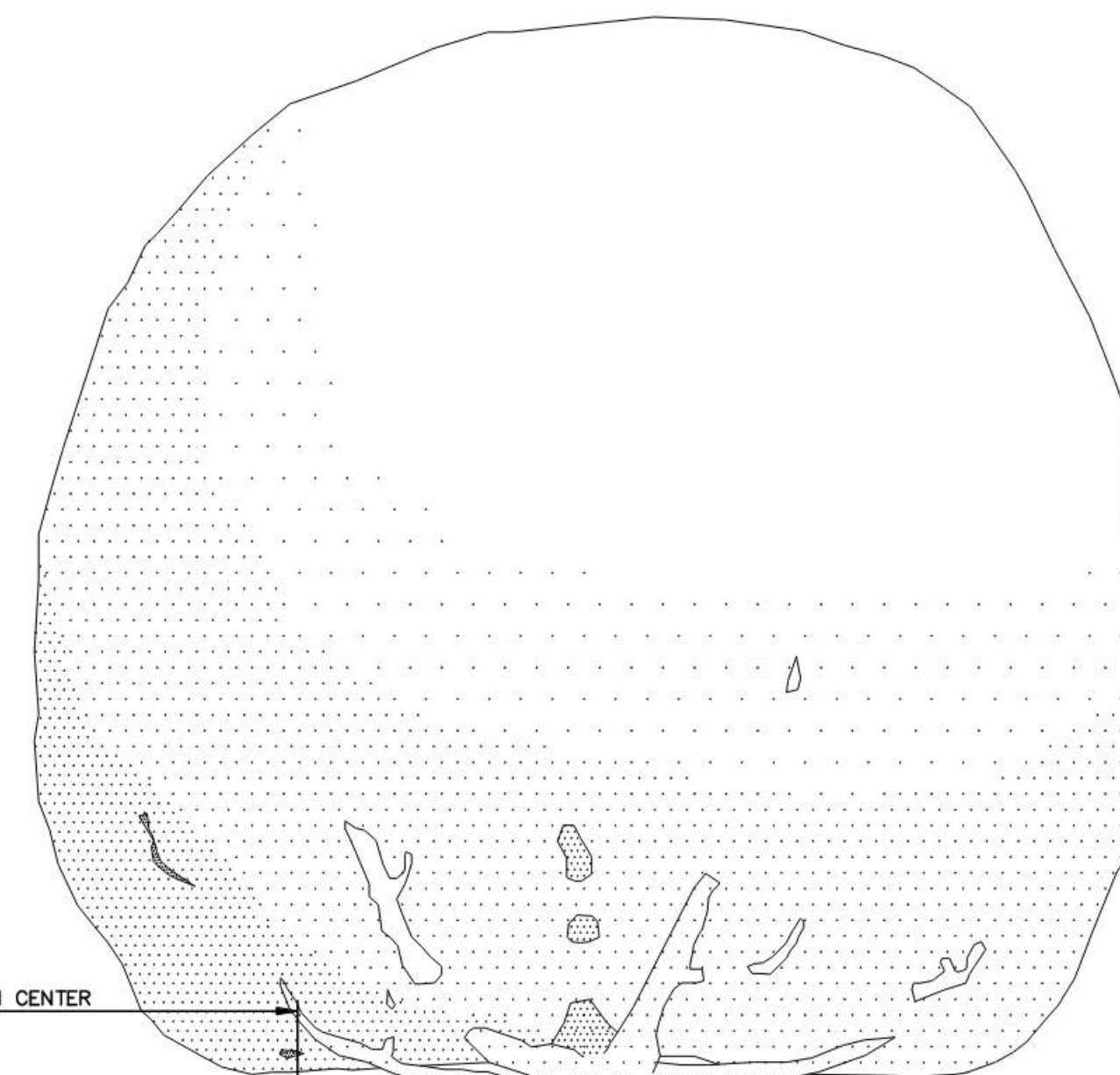
HANDICAP PARKING  
N.T.S.

- NOTE:
- EACH PARKING SPACE DESIGNATED AS ACCESSIBLE FOR THE DISABLED MUST BE MARKED WITH AN APPROPRIATE SIGN, MOUNTED IN CLEAR VIEW FOR MOTORISTS. A HEIGHT OF AT LEAST 60 INCHES, MEASURED FROM THE GROUND TO THE BOTTOM EDGE OF THE SIGN, IS RECOMMENDED.

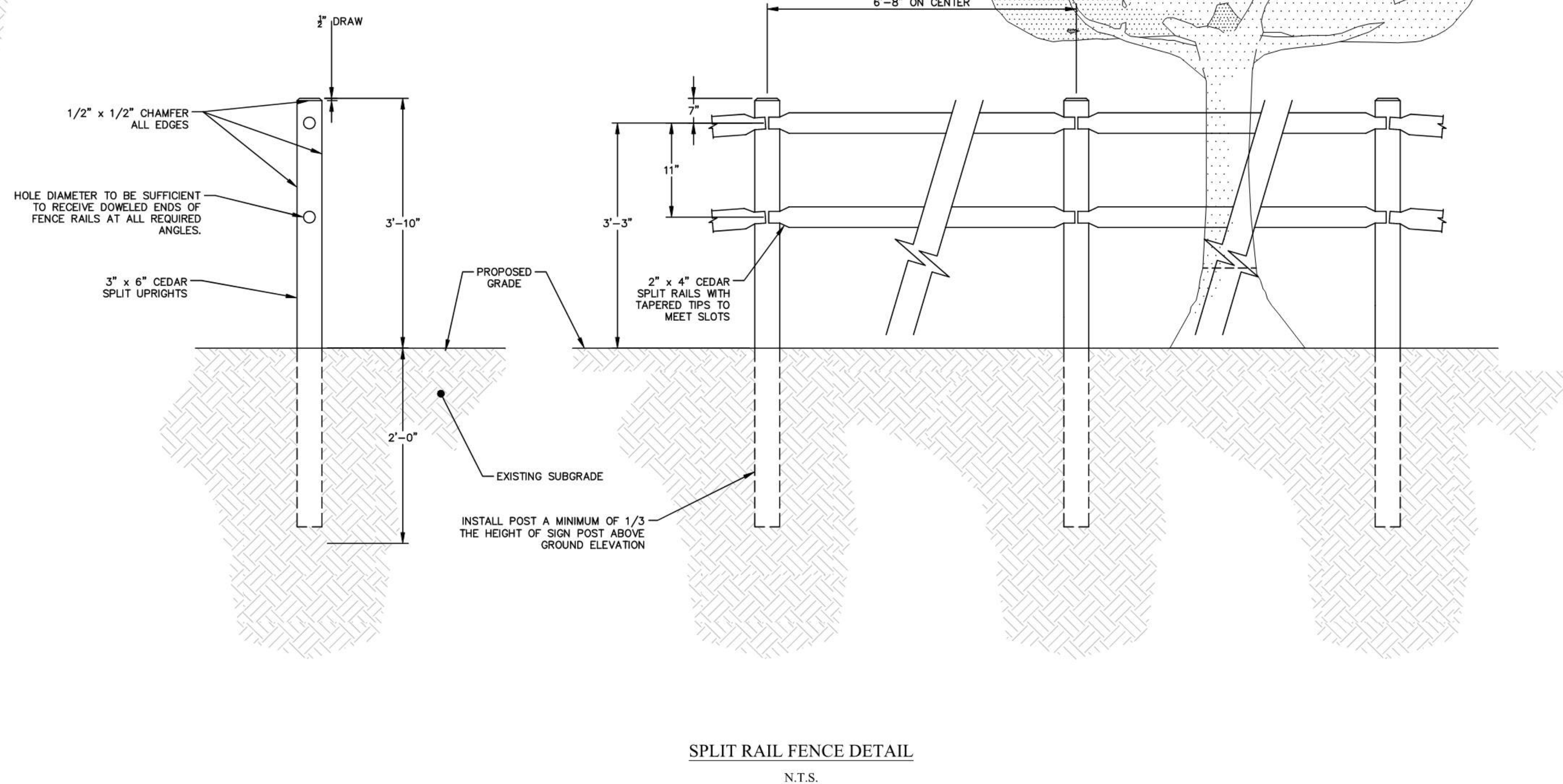


ASPHALT PAVING DETAIL - FULL DEPTH  
N.T.S.

TYPICAL SECTION



TYPICAL ELEVATION



SPLIT RAIL FENCE DETAIL  
N.T.S.



**CRANSTON**



REV #	DATE	DESCRIPTION

FORDS SHELL RING

SITE DETAILS

DRAWN BY:	NLS
CHECKED BY:	MER
APPROVED BY:	MER
DATE:	01/25/2022
SCALE:	AS SHOWN
JOB No.	2021-0236
DRAWING No.	C6.1

SQUIRE POPE ROAD (S-141)

POSTED SPEED LIMIT = 40 MPH  
MINOR ARTERIAL DESIGNATION

SCDOT LOW VOLUME DRIVEWAY

ESTIMATED 1 - 20 TRIPS / DAY  
ESTIMATED 1 - 5 TRIPS / HOUR

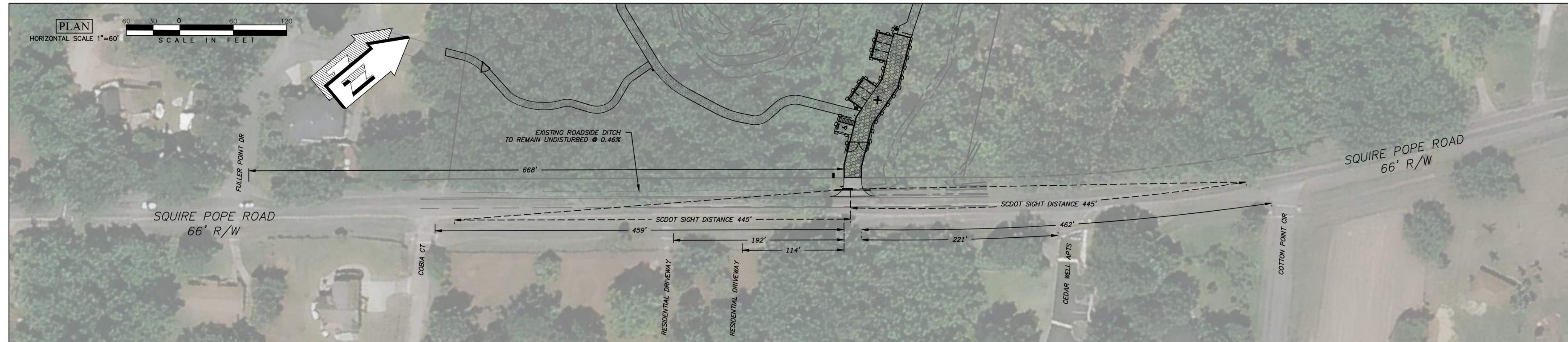
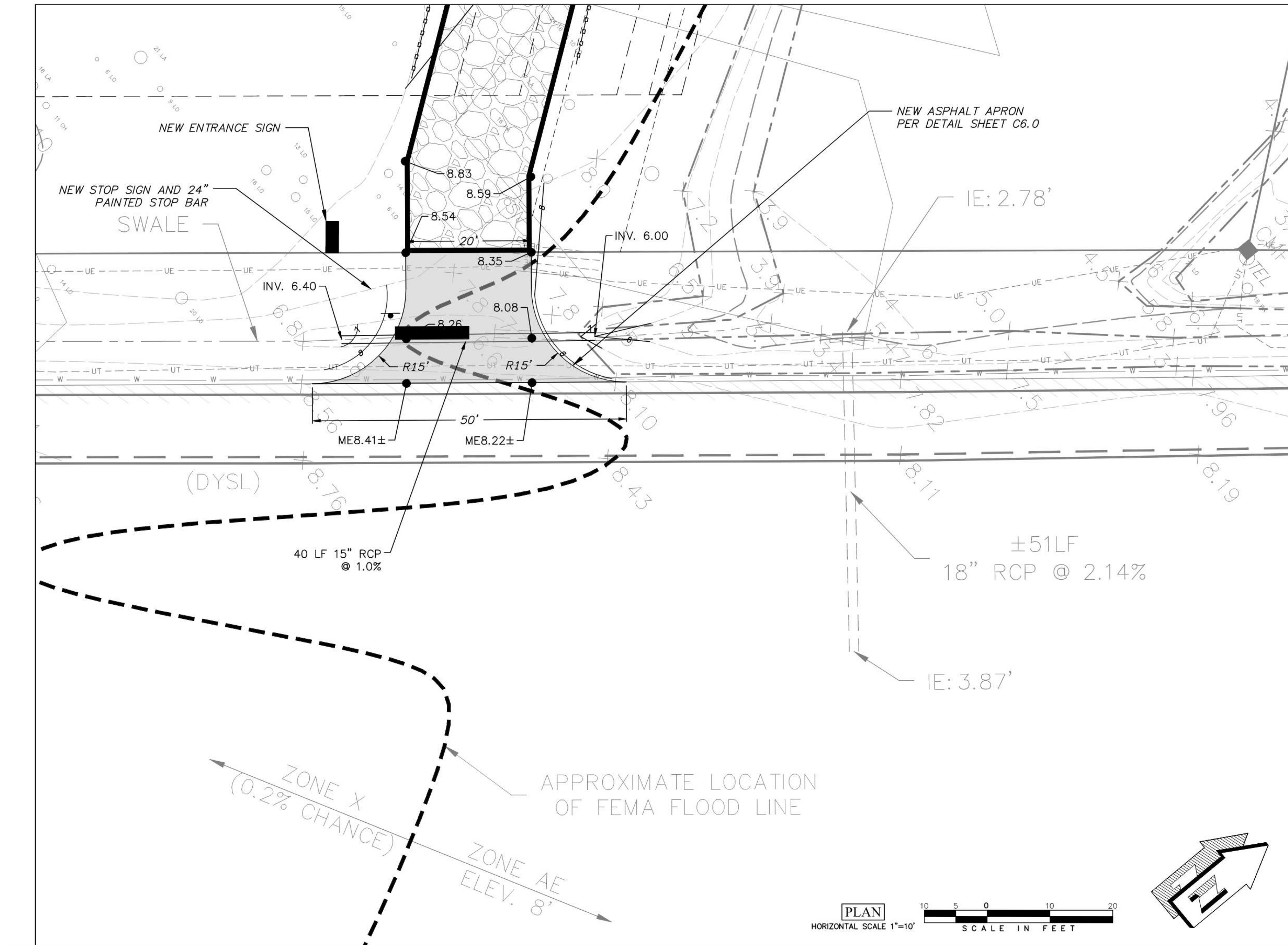
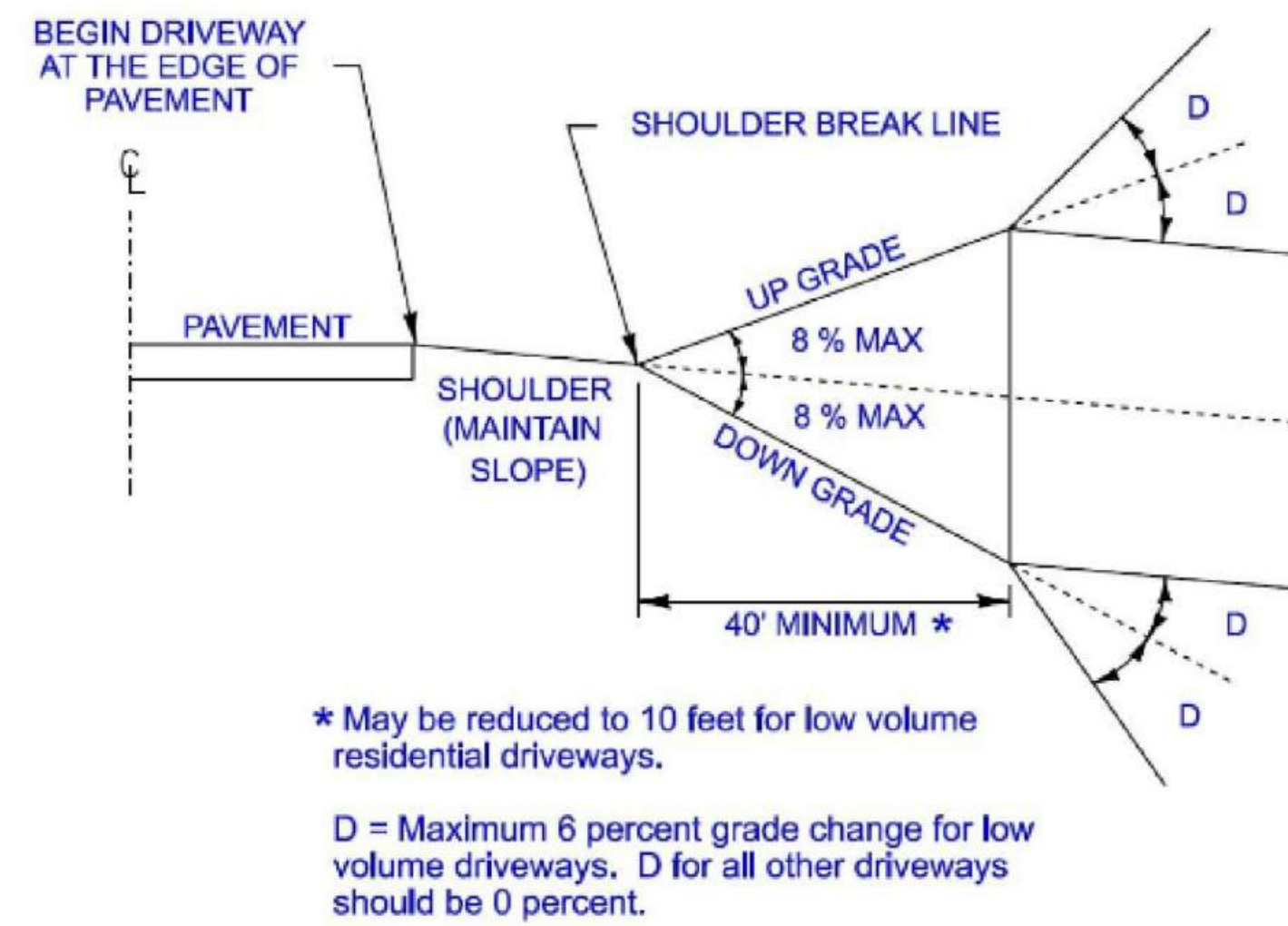
REQUIRED DRIVEWAY WIDTH = 10 - 24 FT  
PROVIDED DRIVEWAY WIDTH = 20 FT

REQUIRED MINIMUM RADIUS RETURN = 15 FT  
PROVIDED RADIUS RETURN = 15 FT

REQUIRED MINIMUM THROAT LENGTH = 30 FT  
PROVIDED THROAT LENGTH = 30 FT +

STOPPING SIGHT DISTANCE

DESIGN VEHICLE = PASSENGER CAR  
INTERSECTION SIGHT DISTANCE = 445 FT  
[FROM SCDOT ARMS MANUAL TABLE 7-12]



**CRANSTON**



REV #	DATE	DESCRIPTION

FORDS SHELL RING

SCDOT ENCROACHMENT PLAN

DRAWN BY:	NLS
CHECKED BY:	MER
APPROVED BY:	MER
DATE:	01/25/2022
SCALE:	AS SHOWN
JOB No.	2021-0236
DRAWING No.	C7.0

**Attachment D - Adjacent Use Buffer Requirements**

**Section 16-5-103. E. Adjacent Use Buffer Requirements**

1. Unless expressly exempted or modified in this subsection, *development* shall provide a buffer along common property lines with adjoining properties that is of the type designated in Table 16-5-103.E, Adjacent Use Buffer Requirements, for the proposed *use* and the classification of the *use* of the *adjacent* property (or zoning of a vacant *adjacent* property). Descriptions and width and screening requirements for the various buffer types are set out in Sec. 16-5-103.F, Buffer Types.

<b>TABLE 16-5-103.E: ADJACENT USE BUFFER REQUIREMENTS<sup>1</sup></b>				
<b>PROPOSED USE<sup>2</sup></b>	<b>REQUIRED BUFFER TYPE<sup>2</sup></b>			
	<b>USE OF ADJACENT DEVELOPED PROPERTY<sup>3</sup></b>			
	<b>SINGLE-FAMILY DWELLING</b>	<b>ALL OTHER RESIDENTIAL USES; COMMERCIAL RECREATION</b>	<b>PUBLIC, CIVIC, INSTITUTIONAL, AND EDUCATION; RESORT ACCOMMODATIONS; OFFICES; COMMERCIAL SERVICES; VEHICLE SALES AND SERVICES; BOAT RAMPS, DOCKING FACILITIES, AND MARINAS; AGRICULTURAL</b>	<b>INDUSTRIAL USES</b>
	<b>ZONING OF ADJACENT VACANT PROPERTY</b>			
	<b>CON, PR, RSF-3, RSF-5, RSF-6, RM-4</b>	<b>RM-8, RM-12</b>	<b>CR, CC, WMU, S, SPC, RD, MS, MV, MF, LC, NC, MED, PD-1</b>	<b>IL</b>
<i>Single-Family</i>	A <sup>4</sup>	A <sup>4</sup>	C <sup>4</sup>	D <sup>4</sup>
<ul style="list-style-type: none"> <li>• All Other Residential <i>Uses</i></li> <li>• Commercial Recreation</li> </ul>	A	n/a	B	D
<ul style="list-style-type: none"> <li>• Public, Civic, Institutional, and Education</li> <li>• Resort Accommodations</li> <li>• Offices</li> <li>• Commercial Services</li> <li>• Vehicle Sales and</li> </ul>	C	B	n/a	A

**Attachment D - Adjacent Use Buffer Requirements**

<b>TABLE 16-5-103.E: ADJACENT USE BUFFER REQUIREMENTS<sup>1</sup></b>				
<b>PROPOSED USE<sup>2</sup></b>	<b>REQUIRED BUFFER TYPE<sup>2</sup></b>			
	<b>USE OF ADJACENT DEVELOPED PROPERTY<sup>3</sup></b>			
	<b>SINGLE-FAMILY DWELLING</b>	<b>ALL OTHER RESIDENTIAL USES; COMMERCIAL RECREATION</b>	<b>PUBLIC, CIVIC, INSTITUTIONAL, AND EDUCATION; RESORT ACCOMMODATIONS; OFFICES; COMMERCIAL SERVICES; VEHICLE SALES AND SERVICES; BOAT RAMPS, DOCKING FACILITIES, AND MARINAS; AGRICULTURAL</b>	<b>INDUSTRIAL USES</b>
	<b>ZONING OF ADJACENT VACANT PROPERTY</b>			
	<b>CON, PR, RSF-3, RSF-5, RSF-6, RM-4</b>	<b>RM-8, RM-12</b>	<b>CR, CC, WMU, S, SPC, RD, MS, MV, MF, LC, NC, MED, PD-1</b>	<b>IL</b>
Services • <i>Boat Ramps, Docking Facilities, or Marinas</i>				
Industrial <i>Uses</i>	D <sup>4</sup>	D	A	n/a

NOTES: n/a = not applicable

1. Descriptions and width and screening requirements for the various buffer types are set out in Sec. 16-5-103.F, Buffer Types.
2. When a shared *access easement* is located along a common property line, any required buffer shall be provided to the interior of the *access easement*. An adjacent use buffer from an easement line is not required for non-single-family properties.
3. See [Sec. 16-10-103](#) for a description or definition of the listed *use* classification and types.
4. Single family subdivision exterior boundary only.

*(Revised 6-6-2017 -[Ordinance 2017-08](#); revised 12-5-2017 -[Ordinance 2017-19](#))*

2.The *Official* may waive the requirement for an adjacent use buffer for non-single family properties on determining that the proposed *development* and the *adjacent development* function as a single *development*. The criteria to determine if the properties will function as a single development may include the recording of a cross-access easement agreement between the two properties.

*(Revised 12-5-2017 -[Ordinance 2017-19](#))*

## Attachment E – Gates Requirements

### Section 16-5-105.J.7 Gates

#### 7. Gates

a. The installation of *gates* across fire apparatus *access* streets shall ensure adequate emergency vehicle *access*. Gates shall have an approved means of emergency operation and the emergency operation shall be maintained as operational at all times.

b. Gates shall have an unobstructed opening of not less than 14 feet in width for one-way traffic and 20 feet in width for two-way traffic.

c. Gates shall be located at least 100 feet from any arterial or collector *street*, and shall comply with the stacking distance standards in Table 16-5-107.I.1, Vehicle Stacking Distance for Drive-Through and Related Uses.

(Revised 8-18-2020 - Ordinance [2020-19](#))

### Section 16-5-105.I.1 Vehicle Stacking Distance for Drive-Through and Related Uses

#### I. Vehicle Stacking Distance for Drive-Through and Related Uses

##### 1. Required Stacking Distance

*Driveways* on which vehicles queue up to *access* a *drive-through* facility or similar service facility, or a drop-off or pick-up zone, shall provide at least the minimum stacking distance behind the facility or zone in accordance with Table 16-5-107.I.1, Minimum Stacking Distance for Drive-Through and Related Uses.

TABLE 16-5-107.I.1: MINIMUM STACKING DISTANCE FOR DRIVE-THROUGH AND RELATED USES		
USE OR ACTIVITY <sup>1</sup>	MINIMUM STACKING DISTANCE	MEASURED FROM
Automated teller machine (ATM)	60 ft	Center of the teller machine
Bank or financial Institution, with <i>drive-through</i> service	60 ft per lane	Center of the teller window
Car wash and auto detailing, automatic	40 ft per bay	Bay entrance
Car wash and auto detailing, self-service	20 ft per bay	Bay entrance
Drug store or pharmacy, with <i>drive-through</i> service	60 ft per lane	Center of the window



**Attachment E – Gates Requirements**

**TABLE 16-5-107.I.1: MINIMUM STACKING DISTANCE FOR DRIVE-THROUGH AND RELATED USES**

USE OR ACTIVITY <sup>1</sup>	MINIMUM STACKING DISTANCE	MEASURED FROM
Dry cleaning or laundry drop-off establishment with <i>drive-through</i> service	60 ft per lane	Center of the window
Gas sales	20 ft	Each end of the outermost gas pump island
Gated <i>driveway</i> /entrance	40 ft	<b><i>Gate</i></b>
<b><i>Nursing home</i></b>	60 ft	Back end of the designated drop-off/pick-up zone
Oil change/lubrication shop	40 ft per bay	Bay entrance
Restaurant, with <i>drive-through</i> service <sup>2</sup>	80 ft	Center of the order box
School, elementary or middle	1,500—2,000 ft	Back end of the designated drop-off/pick-up zone
Other	<i>Uses</i> not specifically listed are determined by the <b><i>Official</i></b> based on standards for comparable <i>uses</i> , or alternatively based on a parking demand study	

NOTES: ft = feet

1. See Chapter 16-4: Use Standards.

2. Restaurants with *drive-through* service shall provide at least 80 feet of stacking distance between the center of the order box and the center of the pick-up window closest to the order box—see Figure 16-5-107.I.1: Stacking Distance for a Drive-Through Restaurant.

Attachment E – Gates Requirements

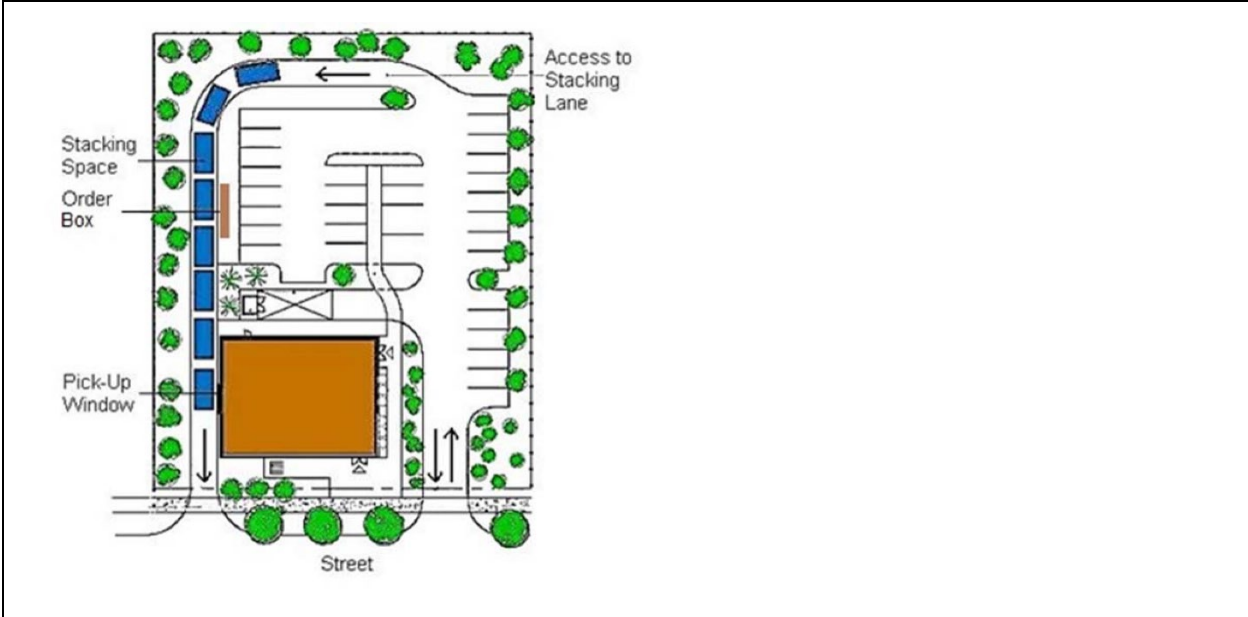


Figure 16-5-107.I.1.: Stacking Distance for a Drive-Through Restaurant

(Revised 4-18-2017 -[Ordinance 2017-05](#))

## **Attachment G – Use of Parking Spaces as Electric Vehicle (EV) Charging Station Requirements**

### **Section 16-5-107.D.10 Use of Parking Spaces as Electric Vehicle (EV) Charging Station**

#### **10. Use of Parking Spaces as Electric Vehicle (EV) Charging Station**

All *multifamily* and nonresidential *development* shall provide one *electric vehicle (EV) charging station* per *site*. If the development requires over 100 parking spaces, the electric vehicle (EV) charging station shall have a sign that states that only electric vehicles being charged can park in that particular parking space. If the square footage of an existing building on a site is being increased by more than 50% then the applicant will be required to provide an EV charging station on site.

VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring

Attachment G Site Photos

Photos taken 2/15/2022





VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



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Attachment G Site Photos  
Photos taken 2/15/2022



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Photos taken 2/15/2022



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Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring

Attachment G Site Photos

Photos taken 2/15/2022



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Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring

Attachment G Site Photos

Photos taken 2/15/2022





VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring

Attachment G Site Photos

Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



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Attachment G Site Photos

Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022



VAR-002732-2021 Fords Shell Ring  
Attachment G Site Photos  
Photos taken 2/15/2022





## TOWN OF HILTON HEAD ISLAND

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### *Community Development Memo*

**TO:** Board of Zoning Appeals  
**FROM:** Missy Luick, Senior Planner  
**VIA:** Josh Gruber, Deputy Town Manager  
**CC:** Shawn Colin, Senior Advisor to the Town Manager  
**DATE:** February 16, 2022  
**SUBJECT:** Consideration of Board of Zoning Appeals Rules of Procedure Amendment

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#### **Recommendation:**

Staff recommends that the BZA consider the proposed amendments to the Rules of Procedure.

#### **Summary:**

At the request of the Board Chair, staff conducted research and drafted proposed amendments to the Rules of Procedure. A summary of amendment topics and staff recommendations follow:

- Best practices for BZA
    - The Municipal Association of South Carolina (MASC) has a guide for BZA Rules of Procedure. (attached)
    - Staff researched the BZA Rules of Procedure documents and/or BZA minutes and packets from the following nearby South Carolina municipalities: Mount Pleasant, Kiawah Island, Town of Bluffton, Isle of Palms and City of Beaufort.
    - Staff found that most of the communities use the MASC guide rules for their BZA with minor modifications. The Town of Hilton Head Island Rules of Procedure is 20 pages long (with 4 pages of board references) while the MASC guide BZA Rules of Procedure is only 4 pages. Staff is not recommending downsizing our Rules document, but we are recommending removal of the references to Robert's Rules.
  - Chairman and Vice-Chairman reference
    - All references to Chairman and Vice-Chairman throughout the Rules of Procedure have been changed to Chair or Vice-Chair to be gender neutral.
  - References to South Carolina Code
    - In numerous places within the Rules, there are references to South Carolina Code. Updates have been recommended to note the most current version. Since the Board should not have to revise its Rules every year to update the current version of the Code, it also includes (As Amended).
-

- Article III, Section 2 Amendment
  - The Chair asked staff to analyze if the Rules amendment process could be streamlined. Staff reviewed the Amendment procedure and is recommending the Rules be amended to mirror the MASC guide amendment language.
- Article IV, Section 1, C. Board Year
  - A definition of Board Year has been added for clarification purposes.
- Article IV, Section 1, F. Education
  - Staff is recommending adding language regarding board training and a deadline for which to turn in required forms
- Article IV, Section 2 Election of Officers; A. Chair- Term and Duties and B. Secretary- Appointment and Duties
  - Staff is recommending changing the Election of Officers to the beginning of the board year. This same language is included in the Chair- Term and Duties section. The appointment of the Secretary will also occur at the beginning of the board year.
- Article V, Section 1, D. Virtual Meetings
  - This was added to give the ability to hold virtual meetings per Town Ordinance (currently under consideration). It is anticipated that the Town Ordinance for virtual meetings will be adopted prior to the approval of these amended Rules.
- Article VI, Section 4 Public Comment- *No change proposed*
  - The Rules of Procedure do not allow public comment on appeals cases.
  - Upon review and per the advice of the Town Attorney, staff is not recommending changing the public comment procedures for appeals cases.
- Article VII, Section 1 (6), Article VIII, Section 1 (6), and Article IX, Section 2 (10) – Administration of Oath
  - Language added to allow sworn testimony under oath for any person giving evidence. (Please note that this applies to a party presenting evidence (i.e. applicants, owners, necessary parties, subpoenaed witnesses, and Town Staff) and public comment does not require testimony under oath.)
- Article VII, Section 2 Public Comment and Article VIII, Section 2 Public Comment-
  - Language changed to allow public comment remotely.
- Article XI, Section 1 Motion for a Reconsideration
  - Based on the MASC Rules of Procedure Guide and the BZA Rules followed by other nearby communities, staff is recommending we change our Motion for a Reconsideration to a Motion for Rehearing.
  - Staff is recommending changing the petition reasoning from “misunderstood, misinterpreted” to “new evidence which could not reasonably have been presented at the hearing...” per the MASC Rules of Procedure guide (minus the word “reasonably” which was struck due to its ambiguity.
  - Staff is recommending changing the filing date for a Petition for Reconsideration (Rehearing) to 10 days from the mailing date of the Notice of Action (NOA) instead of from the hearing date.



**Background:**

Staff has had communications with the BZA Board Chair regarding possible amendments to the BZA Rules of Procedure. The board discussed possible amendments to the Rules of Procedure at the March 22, 2021 meeting. Since then, staff has made monthly reports to the BZA regarding the Rules of Procedure amendment progress.

Attachments: BZA Rules of Procedure Proposed Amendment  
MASC BZA Rules of Procedure

**CURRENT VERSION**

*Board of Zoning Appeals  
Rules of Procedure  
Town of Hilton Head Island*

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# **CURRENT VERSION**

## **Article I** **Purpose and Responsibilities**

The Board of Zoning Appeals exists to provide final administrative decisions for the Town of Hilton Head Island to enforce the zoning ordinance in accordance with State law, subject to an appeal to circuit court by an appropriate interested party. Its main responsibilities include hearing and deciding: (a) appeals from administrative decisions of the Land Management Ordinance (LMO) Administrator and from Planning Commission actions on certain traffic analysis plans; (b) applications for variances from LMO requirements; and (c) applications to permit uses by special exception. The powers of the Board of Zoning Appeals also include remanding a matter to an administrative official if the record is deemed insufficient, issuing subpoenas for witness appearances, and certifying contempt to the circuit court. In exercising these powers, the Board of Zoning Appeals may, in conformity with State law and the LMO, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination of an Administrator, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record.

## **Article II** **Authority**

### **Section 1. Authority.**

The Town of Hilton Head Island Board of Zoning Appeals is established by Appendix A-3 of the Land Management Ordinance (LMO) of the Town of Hilton Head Island pursuant to the authority of Section 6-29-780, *et seq.*, of the Code of Laws of South Carolina, and hereinafter shall be referred to as the "Board."

### **Section 2. Territorial Jurisdiction.**

Pursuant to Appendix A-3.E of the LMO, the Board shall have jurisdiction over all the lands within the Town. This jurisdiction may be expanded by the Town Council by ordinance and/or by intergovernmental agreement, in accordance with Section 6-29-330 of the Code of Laws of South Carolina.

## **Article III** **Rules of Procedure**

### **Section 1. Rules of Procedure.**

These *Rules of Procedure* are adopted by the Board to carry out its powers and responsibilities under SC Code 6-29-780, -790, -800, and -810 and Appendix A-3 of the LMO. A portion or section of the *Rules of Procedure* may be suspended by majority vote of the Board to meet particular circumstances. If there is a situation where these *Rules of Procedure* do not specifically apply, then the most recent edition of *Robert's Rules of Order* shall govern the conduct of meetings. An informational chart summarizing types of motions and votes in Robert's Rules of Order is attached.

## **CURRENT VERSION**

### **Section 2. Amendment.**

These rules may be amended at any time by an affirmative vote of a majority of the members of the Board; provided however, that such amendment(s) shall have first been presented to the entire Board, in writing, at a Regular or Special Meeting preceding the Regular or Special Meeting at which the vote is taken.

### **Article IV** **Board Organization and Duties**

#### **Section 1. Membership.**

- A. Number and Qualifications.** The Board shall consist of seven members appointed by the Town Council. To the extent practicable, the appointed members may include at least one attorney and one design professional (either a registered architect or a registered landscape architect). None of the members shall hold an elected public office or position with the Town of Hilton Head Island or Beaufort County, South Carolina.
- B. Length of Terms.** Members of the Board shall be appointed annually for three-year terms effective each July 1, with all such terms ending on June 30 of the applicable year, unless a member is appointed to fill a vacancy. Vacancies shall be filled by the Town Council by appointments for the balance of any unexpired terms.
- C. Term Limits.** No member may serve more than two successive terms, except for extraordinary circumstances where Council believes it to be in the best interest of the community to have a continuation for a specific period of a particular member of the Board. This limitation shall not prevent any person from being appointed to the Board after an absence of one year. Service for a partial term of less than 1½ years shall not constitute a term of service for the purpose of these term limits.
- D. Attendance/Absences.** Board members are expected to attend all Board meetings. Each member of the Board who has prior knowledge that they will not be able to attend a scheduled Regular Meeting of the board shall notify the Secretary no later than 4:30pm the business day before the meeting. In the case of an emergency, a member shall give the earliest possible notification. The Secretary or Staff shall notify the Chairman in the event that the projected absence(s) will produce a lack of a quorum.
- E. Removal.** Three (3) absences at Regular or Special Meetings of the Board during one Board year (July 1 through June 30) shall be cause for recommendation by the Chairman to the Town Council to reconsider the appointment of that member. Attendance records may be reviewed annually by the Board in executive session during the 9<sup>th</sup> month of each Board year.
- F. Education.** The Code of South Carolina requires a six (6) hour Orientation Program and a three (3) hour/year Continuing Education Program for each Board member.

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### Section 2. Election of Officers.

The officers of the Board shall be a Chairman and a Vice-Chairman for one-year terms beginning on the first meeting in July. They are elected annually by the Board members no later than at the last meeting in July. Neither of these two positions shall be filled by a member beginning his or her first year of service as a Board member. Members that leave the Board and are re-appointed after a period of no more than three years may be elected to an officer position in his or her first year of service. Nominations for the Chairman and Vice-Chairman shall be made from the floor at the meeting.

A majority vote is normally required to elect to office. If no one in an election receives a majority vote, the vote must be repeated until one of them does get a majority.

**A. Chairman – Term and Duties.** The term shall be for one year. At the end of each Board year, the Chairman may be re-elected subject to his/her appointment term. The Chairman shall have the following duties:

1. In consultation with the Staff Board Coordinator, delegate the Secretary to prepare agendas for all meetings;
2. Conduct all meetings and hearings of the Board, meaning that the Chairman—
  - i. Is responsible for maintaining order.
  - ii. Should begin the meeting promptly at the scheduled hour if a quorum is present.
  - iii. Should have a well prepared agenda and abide by it.
  - iv. Should be familiar with the procedural rules of the board.
  - v. Keeps the board working together by explaining procedure clearly and communicating the next business in order.
  - vi. Should “assign” the floor by recognizing those members who wish to speak by calling them by name. No other member may interrupt or call out remarks without being out of order. Private discussion between members while another has the floor is out of order and disruptive members should be reminded of this rule.
  - vii. Should impartially call on members wishing to speak and should give members on both sides of an issue an opportunity to speak.
  - viii. Should remain calm and objective, keeping the meeting moving.
  - ix. Should always confirm that all members understand the motion and that the Secretary has fully recorded the motion.
  - x. Should open debate by saying “Is there any discussion?” The Chairman *must* open all debatable questions to debate.
  - xi. Should recognize members who wish to speak by stating their names.
  - xii. Should be a voting member and vote on all cases before the Board. If the Chairman wishes to make a motion, he/she should pass the gavel to the Vice-Chairman for conducting the meeting.
  - xiii. Should request that a motion with grounds (facts and conclusions) be made by any member. If necessary, may assist the member in formulating the motion. (Complex motions may be brought to the meeting pre-written.)
  - xiv. Should request any member to second the motion.
  - xv. If a motion fails to get a second, should state, “Since there is no second, the motion

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- is not before the Board.”
- xvi. If seconded, should ask the members if there is any discussion of the motion.
  - xvii. Should not allow irrelevant discussion.
  - xviii. At the conclusion of any discussion of a seconded motion, should put the question to a vote by requesting the Secretary to call the role.
  - xix. Should announce the result of the vote.
  - xx. At the conclusion, should adjourn the meeting without motion – “If there is no further business and there is no objection, the meeting will be adjourned. There being no objection, the meeting is adjourned.”
- 3. Act as spokesperson for the Board;
  - 4. Sign documents for the Board. Note, final decisions are signed by the moving member, the Chairman, and the seconding member;
  - 5. Act or designate a Board member to act as liaison with other governmental agencies and Town boards;
  - 6. Assign or delegate tasks to other Board members as may be necessary to perform the Board’s functions;
  - 7. Transmit reports and recommendations to Town Council;
  - 8. Ensure that all business is conducted in accordance with the SC Code, the LMO, and these Rules of Procedure;
  - 9. Cancel a scheduled Board meeting if there are no agenda items; and
  - 10. Perform other duties approved by the Board.

**B. Vice-Chairman.** A Vice-Chairman shall be elected by the Board from among the members in the same manner and for the same term as the Chairman. The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman, and, at such time, the Vice-Chairman shall have the same powers and duties as the Chairman. The Vice-Chairman shall succeed the Chairman, if the office is vacated before the term has expired, to serve the remainder of the unexpired term of the Chairman. A new Vice-Chairman shall be elected at the next regular meeting of the Board. In the absence of both the Chairman and Vice-Chairman, an acting Chairman shall be elected by the members present at a meeting of the Board.

### **Section 3. Secretary—Appointment and Duties.**

During the July meeting of each year, a member of the Town’s Community Development Department shall be appointed by the Board to independently act as the Secretary of the Board. The Secretary will not be eligible to vote or to otherwise participate or deliberate in the proceedings of the Board. The Secretary shall:

- 1. Publish and post notices of all meetings of the Board;
- 2. As delegated by the Chairman, prepare meeting agendas;
- 3. Distribute to each Board member in advance of each meeting--the agenda, prior meeting draft minutes for approval, and all written submissions by staff and applicants on each agenda item, and other relevant materials;
- 4. Record the proceedings of meetings on audio tape and prepare written minutes of meetings



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for approval by the Board at its next regular meeting, recording in the written minutes the attendance of members at each meeting, the attendance of Council members, the attendance of staff, and a detailed summary of all discussions during each meeting;

5. Maintain the Board's notices, correspondence, reports and forms as public records for a period of time consistent with the records retention schedule of the Town of Hilton Head Island;
6. Assist in the preparation and forwarding of all reports and recommendations of the Board; and
7. Maintain each final decision of the Board as a permanent record as required by the SC Code.

### **Section 4. Staff Board Coordinator.**

The Community Development Director shall appoint a member of Staff to assist the Chairman and the Secretary in Board coordination, including:

1. Ensuring all postponed agenda items are rescheduled;
2. Ensuring public notices are accurately written for publication;
3. Ensuring the minutes accurately reflect the actions taken in the meeting;
4. Coordinating with pertinent staff on submittal of agenda items to the Secretary for distribution to the Board;
5. Scheduling mandatory training sessions for the Board;
6. Ensuring the Board's Rules of Procedure remain updated;
7. Attending all Board meetings and resolving any questions or requests by the Board; and
8. Assisting the Secretary in the efficient running of the public meetings.

## **Article V** **Meetings and Quorum**

### **Section 1. Regular and Special Meetings.**

- A. Meeting Schedule.** An annual schedule of regular meetings and work sessions of the Board shall be adopted, published and posted at the Town Government Center in late Fall of each year for the next calendar year. Unless rescheduled by a vote of the Board, meetings shall be held at the time and place stated in notices. Meetings shall be open to the public.
- B. Regular Meetings.** Regular Meetings of the Board shall be held on the fourth Monday of each month or such other date as determined by the Chairman or with input from Staff. Notification of all Applications for Appeal, Variance and Special Exception scheduled and any other matters for consideration at each regular meeting of the Board will be in accord with the public notice requirements of the SC Code as implemented by the Town's LMO.
- C. Special Meetings.** Special Meetings of the board may be called at any time by the Chairman or requested by the Staff. At least forty eight (48) hours public notice shall be provided for any Special Meeting of the board including the time, place and particular agenda item(s) scheduled for consideration consistent with the notice requirements of the SC Code as implemented by the Town's LMO.

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**D. Cancellation of Meetings.** Whenever there is no business scheduled for any Regular or Special Meeting of the Board, the Chairman or Staff may cancel such Regular Meeting by giving notice to all members of the Board, as well as the public, no less than twenty-four (24) hours prior, whenever possible, to the time set for any such Regular Meeting.

### **Section 2. Quorum.**

A majority of the Board shall constitute a quorum for the conduct of business. The Secretary will notify the Chairman in the event projected absences will result in the lack of a quorum. If a quorum is established, then a member leaves, the quorum is no longer present. In the absence of a quorum, no further business requiring a vote shall be transacted and any such business shall be postponed to the next meeting.

### **Section 3. Conflict of Interest**

At a minimum, South Carolina law regarding conflicts of interest [S. C. Code Ann. § 8-13-10, *et seq.*, (Supp. 1994)] shall control Board members' actions. In addition, any member of the Board who believes that he or she has or may have a conflict of interest of any nature on any matter before the Board shall, prior to the case at the Regular or Special Meeting at which such matter may be heard or considered by the Board:

1. Prepare a written Potential Conflict of Interest Form describing the matter requiring action or decisions and the nature of his/her potential conflict of interest with respect to the action or decision;
2. File the Potential Conflict of Interest Form with the Secretary; and,
3. Provide a copy of the Potential Conflict of Interest Form to the Chairman.

Upon receipt of a Potential Conflict of Interest Form from any member of the Board, as required in section II (J)(A), *supra.*, the Chairman shall cause the Potential Conflict of Interest form to be recorded in the minutes and shall require that the member filing such Potential Conflict of Interest Form be excused from any votes, deliberations, and any other actions on the matter on which the potential conflict of interest or conflict of interest exists.

Any Board member so disqualified shall leave the dais while the disqualifying matter is being considered and refrain from deliberating or voting on the question.

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## **Article VI** **Meeting Administration, Public Comment,** **Notices, Fees, Voting Supplemental Submissions/Briefs**

### **Section 1. Media Notices.**

The Secretary shall give the notice required by statute or ordinance for all meetings of the Board as per Section 16-2-102.E of the LMO. All Board meetings shall be open to the public and all requirements of the South Carolina Freedom of Information Act [S. C. Code Ann. § 30-4-10, *et seq.* (Supp. 1994)] shall be complied with in the conduct of meetings.

### **Section 2. Agenda (Order of Business)**

A written agenda shall be furnished by the Secretary to each member of the Board and media. An agenda may be changed at the related meeting by a majority vote of the members present. Public Hearing items should be so noted with each pertinent item. Generally, the agenda should contain:

1. Call to Order;
2. Roll Call;
3. Freedom of Information Act Compliance;
4. Use of Cellular Telephones or Other Electronic Sound Emitting Devices Prohibited;
5. Review of Meeting Protocol as described within, including Citizen Participation;
6. Approval of Agenda;
7. Approval of Minutes of Previous Meeting
8. Old Business;
9. New Business;
10. Board Business;
11. Staff Reports;
12. Adjournment.

### **Section 3. Minutes.**

**A. Meetings.** Minutes of meetings is governed by the Code of South Carolina (30-4-70 through 30-4-90). Minutes of each Board meeting shall be recorded by the Secretary and approved at the next available meeting after their preparation. Final approved Minutes shall be available on microfilm for previous years, and may be posted on the Town's Web site for public information.

#### **B. Minimum Contents of Minutes.**

1. Kind of meeting (regular or special).
2. Name of the organization.
3. Date and place of the meeting.
4. Presence of the Chairman and Secretary or the names of substitutes.
5. Presence of a quorum.
6. Names of all Board members, Council members, and Staff.

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7. Time the meeting was called to order.
8. Whether the minutes of the previous meeting were approved or corrected.
9. All adopted and defeated motions and grounds (facts and conclusions). Withdrawn motions need not be recorded.
10. Name of the maker of the motion and the seconding member.
11. Summary of all presentations and discussions.
12. Motions, including proposed findings and conclusions, must be recorded verbatim.
13. Record the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.
14. The adjournment and the time of adjournment.

**D. Lack of Quorum.** If there is lack of a quorum of the Board, minutes may be recorded but shall include a statement in the header of each page indicating that a quorum was not present and the minutes are not official. Such minutes shall not be approved by the Board at a later meeting. (There are different quorums, depending on the agenda item.)

### **Section 4. Public Comment.**

In the case of a Variance or Special Exception application, at the conclusion of presentations by Staff and the Applicant, the Chairman will open the public hearing. The Chairman may set a time limit for all public comments and may determine the order of the comments. The Chairman will recognize citizens to comment and request that they sign up to speak at the podium. Each person will have the opportunity to speak for three (3) minutes. At the conclusion of the public comment, the Chairman will close the public hearing. Staff and/or the Applicant may request that the Chairman allow additional clarification after the public comments. Public comment is not permitted in a case involving an appeal from an Administrator decision.

### **Section 5. Submission Deadline for Regular Meetings.**

The deadline for the filing of a complete Application with narrative for Variance or Special Exception or Request for Appeal shall be thirty (30) calendar days prior to any Regular Meeting of the Board. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion.

### **Section 6. Meeting Protocol.**

The Chairman will review the protocol at the start of each meeting. The meeting protocol includes further information about the following: speaker sign-up sheet, length of time for speakers, the order of presentation, and the opening and closing of a public hearing. The speaker sign-up sheet will be placed at the podium for speakers to sign when they come up to speak.

### **Section 7. Filing of Application, Fees and Notice.**

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All Applications and Appeals scheduled for review by the Board shall be filed by the interested property owner(s) or by a property owner aggrieved by an Administrator's decision, or by a representative with a written certification of authority by such property owner. All Applications and Appeals shall satisfy all fees and notice requirements in accord with the provisions outlined in the LMO. In any case where the owner of record of the real property affected by any Application for Special Exception or Application for Variance, or his/her certified representative, is not the Applicant, the Applicant shall serve notice of the Application to the contiguous owner(s) of record within the time frames and as described in the LMO. Such notice shall include the time and place of the Board meeting at which the Application shall be heard.

### **Section 8. Motions and Final Decisions.**

A Motion by a Board member is the procedure leading to a final decision by the Board when the Motion is seconded by another Board member and adopted by a vote of a quorum of the Board. A Motion is to be made to describe the proposed decision with findings and conclusions to support the Motion. If the Motion is seconded and adopted by the Board, the final decision, contained in a Notice of Action, must be in writing and be permanently filed in the office of the Board as a public record. The final decision must include findings and conclusions and be delivered to parties of interest by certified mail.

### **Section 9. Voting.**

1. A Board member must be present at the beginning of each case to be permitted to discuss and vote on the case. If a Board member that was absent at the beginning of the hearing establishes requisite knowledge of the case, the member may be permitted to discuss and vote on the case by a majority vote of the Board.
2. All members of the Board, including the Chairman, shall be voting members, and shall be entitled to vote on any issue before the Board unless disqualified by law.
3. For Appeals from Administrator's decision, a majority vote of the entire Board shall be necessary, thus requiring at least 4 affirmative votes to pass a motion.
4. A simple majority of a quorum shall be required to conduct all other Board business including a decision on an Application for Variance or Special Exception.

### **Section 10. Supplemental Submissions/Briefs.**

Any supplemental written submission or legal brief must be delivered [One (1) hard copy or one (1) copy sent via e-mail] to the Secretary of the Board no later than 8:00am four business days before the public meeting day in order for the Secretary to distribute such submission to each Board member by the close of business that day. Town Staff, or the opposing party, has two business days after receipt of the supplemental submission to respond in writing. This excludes any business days when the Town is closed. The Board reserves the right to require or permit later written submissions or briefs and/or proposed findings of fact and conclusions of law to be submitted by the Appellant, Applicant for Variance or Special Exception, or Town Staff. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion. Any written or oral information sent directly to any Board member shall be

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disregarded and promptly turned over to the Chairman through the Secretary of the Board.

### **Section 11. Communication Among Board Members or With an Outside Party.**

- A. There shall be no communication in writing, orally, or by e-mail by any Board member with any other Board member or any outside party regarding the substance of any matter before the Board that is or may be brought to a vote other than during a public meeting.
- B. Once a decision has been rendered by the BZA, there shall be no further discussions by any Board member with staff, applicants or their attorneys or representatives. Any such communications regarding a decision should be made to the Town Attorney.
- C. Communication with staff or outside parties to communicate procedural matters or general positions or opinions of the BZA will be at the discretion of the Chairman or by an affirmative vote of the majority of the Board members. The Chairman or his designee will be responsible for all such written/verbal communications with anyone other than the remainder of the Board members and Staff.
- D. Board members should refrain from discussing an upcoming agenda item with the Applicant, his Attorney, or his Agent, either through written or verbal communication. Board members should refrain from discussing an upcoming agenda item with Staff either through written or verbal communication, except to clarify facts or request additional information. All discussion of the item should take place in the public meeting. This is to avoid the appearance of improper ex parte communications.

### **Article VII**

#### **Procedures for Hearing an Application for a Variance**

The following procedures shall be applicable in the presentation of a Request for a Variance.

### **Section 1. Presentation of the Town Staff and Applicant.**

- 1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Variance. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
- 2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Variance. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
- 3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
- 4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or Staff as the members deem appropriate.
- 5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the

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Circuit Court having jurisdiction over such matters.

### **Section 2. Public Comment.**

1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the sign up sheet. Each person will have the opportunity to speak for three (3) minutes.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the Board makes a motion.

### **Section 3. Vote on Application for Variance.**

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Variance.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.
3. Pursuant to the provisions of the LMO the Board shall approve the Application for Variance, approve the Application for Variance with conditions or modifications; or, deny the Application for Variance.
4. Following the vote, the Staff shall prepare a written Notice of Action. The written notice of action shall include decision of the Board as well as the findings of fact and conclusions of law adopted by the Board with respect to the Application for Variance.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Variance, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Variance.

## **Article VIII**

### **Procedures for Hearing an Application for Special Exception**

The following procedures shall be applicable in the presentation of an Application for Special Exception:

#### **Section 1. Presentation of the Town Staff and Applicant.**

1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Special Exception. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to

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- questioning from the Board of Zoning Appeals.
2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Special Exception. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
  3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
  4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or the Staff as the members deem appropriate.
  5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.

### **Section 2. Public Comment.**

1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the sign up sheet. Each person will have the opportunity to speak for three (3) minutes.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the board makes a motion.

### **Section 3. Vote on Application for Special Exception.**

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Special Exception.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.
3. Pursuant to the provisions of the LMO, the Board shall approve the Application for Special Exception, approve the Application for Special Exception with conditions as stated in the LMO or deny the Application for Special Exception.
4. Following the vote, the staff shall prepare a written Notice of Action. The written notice of action shall include the decision of the Board as well as the findings of fact and conclusions of law adopted by the board with respect to the Application for Special Exception.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Special Exception, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Special Exception.



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### **Article IX** **Procedures for Hearing an Appeal**

The following procedures shall be applicable in the presentation of an Appeal from a decision of any Administrator:

#### **Section 1. Jurisdiction.**

Once an appeal has been taken from any final decision of Administrator, the jurisdiction of the Administrator, from which the appeal was taken, shall cease.

#### **Section 2. Presentation of the Appellant, Town Staff and Other Necessary Parties.**

1. The Appellant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Appellant believes supports the Appeal. During the presentation by the Appellant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Appellant's time may be extended if the Appellant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Appeal. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
3. Where the Appellant is someone other than the Property Owner of the Property that is the subject of the Appeal, the Property Owner or their Agent shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Property Owner believes supports the position of the Property Owner with respect to the Appeal. During the presentation by the Property Owner or their Agent, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Property Owner's time may be extended if the Property Owner is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
4. Where the Appellant is someone other than the Holder of the Permit or Approval or their Agent for the Property that is the subject of the Appeal, the Holder of the Permit or Approval or their Agent shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that he/she believes supports their position with respect to the Appeal. During the presentation by the Holder of the Permit or Approval or their Agent, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Holder of the Permit or Approval or their Agent's time may be extended if he/she is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
5. The Chairman may allow a maximum of five (5) minutes each for all parties to present any desired rebuttal.
6. Following the presentation, the Board of Zoning Appeals may ask such additional

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questions of the Appellant, Property Owner, Holder of the Permit or Approval or their Agent or Staff as the members deem appropriate.

7. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.
8. Public comment is not permitted in a case involving an appeal from an Administrator decision.
9. All parties shall be subject to the submittal requirements as set forth in Article 6, Section 10 of the Rules of the Procedure.

### **Section 3. Vote on the Appeal.**

Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Appeal.

1. Pursuant to the provisions of Section 16-2-103.T.4.d of the LMO, the Board shall:
  - a) Affirm the action of the Administrator from which the Appeal was taken; or,
  - b) Modify the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
  - c) Reverse the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
  - d) Remand the action of the Administrator from which the Appeal was taken for such further proceedings as the Board of Zoning Appeals may deem appropriate.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision.
3. Following the Vote, the Board shall issue a written Notice of Action. The written notice of action shall include the decision as well as the findings of fact and conclusions of law adopted by the Board.
4. The Notice of Action shall be mailed by certified letter to the Appellant and Record Owner of the real property affected by the Appeal, if different from that of the Appellant.
5. The decision of the Board shall be deemed final and applicable upon mailing of the Notice of Action.
6. The certificate of mailing shall be made a part of the board's file on the Appeal.

## **Article X** **Procedures for a Remand**

### **Section 1. Remand.**

1. A member of the Board may move for a remand at any time, subject to review and determination by the Board. The motion shall specifically set forth factual and/or legal grounds that cause the record to be insufficient.

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2. If a remand is granted, the Town and the Applicant shall obtain and present all additional information needed to render the record sufficient as detailed in the motion for the remand.

### **Article XI** **Motions**

#### **Section 1. Motion for a Reconsideration.**

1. The Board may reconsider any decision made under Section 16-2-103.E.3.d, 16-2-103.S.3.d or 16-2-103.T.4.d of the Land Management Ordinance.
2. Any party aggrieved by a decision of the Board, if they desire to do so, is required to file any Petition for Reconsideration by delivering the same to the Administrator within ten (10) days from the date of hearing. "Delivered" as referenced in this section, means actual delivery.
3. The Petition for Reconsideration shall be in writing and shall state with particularity the points alleged to have been overlooked or misinterpreted the Board.
4. The Petition for Reconsideration shall be presented to the Board at the next regular scheduled meeting following the filing of the Petition for Reconsideration after compliance with the public notice requirements for a Board Public Meeting per the LMO.
5. Motions:
  - a. A Motion to Grant the Petition for Reconsideration may only be made by a member of the Board who voted on the prevailing side in the original vote.
  - b. The effect of the granting of a Motion for Reconsideration shall be that the Board will review the entire matter as if no previous vote had been taken.
  - c. A Motion to Deny the Petition for Reconsideration may be made by any member of the Board. The effect of a vote denying a Petition for Reconsideration is that the vote shall be considered to be the Board's final action on the matter. A Notice of Action shall be delivered to the Applicant following such vote.
6. Successive Petitions for Reconsideration are prohibited. No matter that has been reconsidered may be reconsidered a second time. The Board may not reconsider a denial of a Petition for Reconsideration.

#### **Section 2. Motion to Dismiss.**

Any interested party to a matter pending before the BZA may file a Motion to Dismiss the pending matter. The purpose of a Motion to Dismiss is to seek dismissal of the matter prior to the hearing on the merits of the pending matter.

1. A Motion to Dismiss may assert matters relating to procedure or jurisdiction including:
  - a. Failure to comply with requirements of the LMO,
  - b. Lack of jurisdiction,
  - c. Standing,
  - d. Other matters not relating to the merits of the matter.
2. A Motion to Dismiss shall be in writing, and be filed and served in accordance with Article

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VI, Section 10, Supplemental Submissions/Briefs.

3. A Motion to Dismiss may be supported by briefs of the law, affidavits or other matters pertinent to the Motion.
4. Any interested party may file briefs and other materials in response to the Motion, in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.
5. The Motion to Dismiss will be normally heard at the same meeting as the related appeal; however, the Chairman or Vice Chairman, in the absence of the Chairman, upon request, in his sole discretion, may permit the motion to be heard at an earlier meeting.

### **Section 3. Motion for Postponement.**

The Town, the Applicant or a Member of the Board may request a postponement of an application at any time, subject to the review and determination of the Board.

The Chairman or Vice Chairman, in the absence of the Chairman, may for good cause grant one postponement request for a period of up to three months from the month of the original hearing date. Any subsequent postponement requests shall be discussed and voted on by the Board

A Motion for Postponement shall be in writing, stating the reasons for the requested postponement, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

### **Section 4. Motion for Withdrawal of Application.**

The applicant may request a withdrawal of an application prior to the ruling. A Motion for Withdrawal of the Application shall be in writing, stating the reasons for the requested withdrawal, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

The Board shall have the opportunity to discuss the reasons for the application being withdrawn; unless the project has been abandoned. In the absence of the applicant, if the withdrawal is questioned by the Board, the case will be postponed to the next meeting.

## **Article XII** **Miscellaneous**

### **Section 1. Executive Session.**

If a member determines after reviewing the applicable cases that they would benefit from the advice of legal counsel in Executive Session they shall contact the Chairman or his designee. The Chairman will determine if an Executive Session is warranted. If the Chairman decides that the membership would benefit from an Executive Session, they will inform the Board's Secretary of the request. The Chairman's decision can be overridden by a majority vote of the Board taken at a regular or special meeting of the BZA.

Executive Session is a meeting at which the proceedings are secret. A member can be punished under disciplinary procedure if he violates the secrecy of an executive session. Anyone else permitted to

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be present is honor-bound not to divulge anything that occurred.

Permitted reasons should include:

1. Personnel reasons
2. Contracts
3. Legal advice relating to pending, threatened or potential claim
4. Discussion regarding development of security personnel
5. Investigative proceedings regarding allegations of criminal misconduct
6. Economic development (specific criteria in FOIA)
7. Legal advice relating to procedural, conflict of interest, or general issues unrelated to a specific matter before the Board.

Entering and Adjourning an Executive Session:

1. A motion to close the current meeting and go into executive session is made and passed by a majority vote;
2. Chairman must announce the specific purpose of the executive session;
3. No formal action may be taken in executive session except to:
  - a. Adjourn
  - b. Return to public session

The Board can request attendance by non-members as they deem appropriate.

### **Section 2. Recess.**

A recess shall be declared as deemed appropriate by the Chairman or by majority vote of the members present at the meeting. No discussion of the agenda item shall be conducted by Board members during the recess.

**For the Board of Zoning Appeals  
Town of Hilton Head Island, South Carolina**

Date of Approval: January 27, 2020

By: \_\_\_\_\_  
Jerry W. Cutrer  
Chairman

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### Attachment for Reference

#### TYPES OF MOTIONS

<b>Main Motions</b>	<b>A main motion is defined as a proposal that certain action is taken or an opinion be expressed by the group.</b> The words to use are: "I Move."
<b>Secondary Motions</b>	<b>A secondary motion is one which can be made <i>while</i> the main motion is on the floor and <i>before</i> it has been decided.</b> Secondary motions are divided into three classes which relate to their use in parliamentary procedure. Those classes are: <ul style="list-style-type: none"><li>○ Subsidiary motions</li><li>○ Privileged motions</li><li>○ Incidental motions</li></ul>
<b>Subsidiary Motions</b>	<b>Subsidiary motions relate directly to the motion on the floor. They may change the words, send it to a committee, delay it, etc.</b> They are designed to expedite business by disposing of the pending motion other than by adopting or rejecting it. <i>Subsidiary motions are the class of motions most frequently used in meetings.</i> These motions have rank (order of precedence of motions) among themselves. A motion of higher rank can be made while a motion of lower rank is on the floor. The lower rank motion "yields" to the higher rank motion. (Motion to postpone has higher rank than the motion to commit and takes precedence. If motion to postpone is adopted, the main motion and the motion to commit are postponed until the next meeting.)
<b>Privileged Motions</b>	<b>Privileged motions are motions of an emergency nature,</b> such as to recess or adjourn. They do not relate to the motion on the floor but to the welfare of the group. They are of high rank and must be handled before any other business that may be pending.
<b>Incidental Motion</b>	<b>Incidental motions are procedural.</b> They deal with process, such as enforcing proper procedure, correcting errors, verifying votes, etc. When introduced, they must be decided before business can resume.
<b>Amending Motion</b>	General consent can be used with amendments to motions if the Chairman feels the group will accept the amendment. "If there is no objection, the motion is so amended." <i>Restate the motion.</i>
<b>Motions Commit</b>	Have precedence over the motion to amend. <b>More than one motion can be on the floor but only one question.</b> All pending motions must relate to the main motion on the floor. No new business may be introduced.
<b>Point of Order</b>	Motion used if a board member feels the Chairman is failing to operate within the rules.

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### Restorative Motions or Motions that Bring Back a Question

<b>Restorative Motion</b>	<p><b>Allows a group to change its mind.</b></p> <ul style="list-style-type: none"> <li>○ They are a separate category because of their contradiction to the parliamentary rule that once a question has been decided it cannot be brought up again at the same meeting.</li> <li>○ Within limits, members have the right to rethink a situation if they feel their decision has been made too quickly or without enough information.</li> <li>○ The two most commonly used restorative motions are: <i>Rescind</i> and <i>Reconsider</i>.</li> </ul>
<b>Rescind</b>	<p><b>Rescind is the motion to use to quash or nullify a previously adopted motion.</b> It may strike out an entire motion, resolution, bylaw, etc.</p> <ul style="list-style-type: none"> <li>○ Rescind is <i>not in order</i> when any action has already been taken as a result of the vote, such as any kind of contract when the other party has been notified.</li> <li>○ It must be seconded.</li> <li>○ It requires a <i>two-thirds</i> vote unless <i>notice has been given</i> at the previous meeting, either verbally or in writing. If notice has been given, the motion requires only a <i>majority</i> vote.</li> </ul>
<b>Reconsider</b>	<p><b>Reconsider is the motion which allows a group to reconsider the vote on a motion.</b> It enables a majority of the members, within a limited time, to bring back a motion for further consideration after it has been acted upon. Its purpose is to prevent hasty or ill-advised action.</p> <ul style="list-style-type: none"> <li>○ Reconsider has special rules to prevent its abuse by a disgruntled minority, since it allows a question already decided to be brought up again.</li> <li>○ Rules limit who can make the motion. <b>It can only be made by someone who voted on the prevailing (winning) side.</b></li> <li>○ <b>It has a time limit. It must be made on the same day that the vote to be reconsidered was taken.</b></li> <li>○ It requires a second.</li> <li>○ It may be debated and it opens up the motion to which it is applied to debate.</li> <li>○ It requires only a majority vote.</li> <li>○ It may be made and seconded while other business is pending because of its time limit. However, it is not debated and voted on until the business on the floor is completed.</li> <li>○ All action that might come out of the original motion is stopped at the time that reconsider is made and seconded. This is the main value of the motion, and it should be made as quickly as the situation calling for it is recognized.</li> </ul>
<b>Amend a Motion</b>	<p><b>Change the wording to make it clearer, more complete, or more acceptable before the motion is voted upon.</b> The amendment must be germane to the motion on the floor to be in order. Adoption of the amendment does not adopt the motion. If the group votes “no” on the amendment, the motion is on the floor in its original wording.</p>
<b>Amend an Amendment</b>	<p>First amendment is called the primary and the amendment to the amendment is the secondary amendment. Only two amendments may be pending at any time. First vote on the amendment to the amendment (secondary), then vote on the</p>



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	original amendment (primary), then vote on the main motion. Amendments require a majority vote.
<b>Friendly Amendments</b>	Change in wording to enhance the original motion – can be changed by general consent.
<b>Hostile Amendments</b>	Gives a different meaning to a motion and may defeat the intent of the main motion.
<b>To Commit or Refer a Motion</b>	Sends the question to a small group (committee) to be studied and put into proper form for the group to consider. Motion includes specific directions as to where the question ought to go (what committee). Motion can be applied to any main motion with any amendments that may be pending. It must be seconded, it can be debated, and requires a majority vote.
<b>Postpone</b>	<b>Delays action on a question until later in the same meeting or until the next meeting.</b> <i>A motion cannot be postponed further than the next regular meeting.</i> Can be applied to all main motions, it must be seconded, it can be debated, it can be amended (as to time of the postponement), it requires a majority vote. Motion is called up automatically when the time to which it was postponed arrives (place under Unfinished Business on agenda of next meeting).
<b>Limit Debate</b>	<b>Motion to exercise special control over debate</b> – reducing the number and length of speeches allowed. Used with any motion, must be seconded, is not debatable, can be amended (but only as to the length of speeches or when the vote will be taken), requires 2/3 vote, vote must be taken by show of hands or a rising vote in a large group. (Need a timekeeper and timer if speeches have a time limit.)
<b>Previous Question</b>	<b>The motion used to cut off debate and to bring the group to an immediate vote on the pending motion. (Call the question for an immediate vote).</b> Previous question can be ruled out of order if the motion is debatable and has not received debate. Motion requires 2/3 vote (by show of hands or standing vote). Not debatable.
<b>Postpone Indefinitely</b>	Lowest-ranked subsidiary motion is used to kill a main motion. It avoids a direct vote on the question on the floor. Shouldn't be used.
<b>Lay on the Table</b>	Highest-ranked subsidiary motion. Cannot be amended or debated. It is out of order when used to “kill or avoid dealing with a measure”. <b>Was designed as a courtesy motion to allow a group to set aside a question for something more important, such as arrival of a speaker.</b>
<b>Withdraw a Motion</b>	<b>Permission to withdraw a motion allows a member who realizes he has made a hasty or ill-advised motion to withdraw it with the consent of the group.</b> This device saves time in disposing of the motion. The presiding officer usually handles the request by use of general consent.
<b>Dilatory Tactics</b>	A dilatory tactic is the misuse of parliamentary procedure to deliberately delay or prevent action in a meeting. It is the duty of the presiding officer to prevent a dissident minority from misusing legitimate forms of motions to obstruct business. Such motions should be ruled out of order or those members engaged in such game playing should not be recognized.

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### TYPES OF VOTES

<b>Majority Vote</b>	<ul style="list-style-type: none"><li>• <b>More than half of the votes cast.</b></li><li>• The minority has the right to be heard, but once a decision has been reached by a majority of the members present and voting, the minority must then respect and abide by the decision.</li></ul>
<b>Silence is Consent</b>	Those members who do not vote, agree to go along with the decision of the majority by their silence.
<b>Two-thirds Vote</b>	<b>A two-thirds vote is necessary whenever you are limiting or taking away the rights of members or whenever you are changing something that has already been decided.</b> A two-thirds vote has at least twice as many votes on the winning side as on the losing side. A show of hands should be taken for <i>all</i> motions requiring a <i>two-thirds vote</i> . If a motion requires a two-thirds vote, the Chairman should inform the group of that.
<b>General Consent</b>	<b>Is an informal agreement of the group, the method in which action is taken without a formal vote or on occasion without a motion.</b> The Chairman initiates the procedure to expedite business. Usually done to approve and correct the minutes. <ul style="list-style-type: none"><li>• The presiding officer always pauses after asking if there is any objection. If there is <i>any</i> objection, the matter is put to a vote in the usual way.</li><li>• A member may object because he feels it is important to have a formal vote and dispel any suspicion of railroading.</li></ul>
<b>Tie Vote</b>	Is a <i>lost</i> vote because a majority was not obtained. The <i>Chairman is not compelled to break a tie</i> . While the Chairman has a right to vote as a member, it is recommended he not vote unless the vote is by ballot. He may also vote in cases where the vote would change the result. The Chairman should appear impartial.

**PROPOSED VERSION**

*Board of Zoning Appeals  
Rules of Procedure  
Town of Hilton Head Island  
Proposed Amendment*

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# PROPOSED VERSION

## Article I Purpose and Responsibilities

The Board of Zoning Appeals exists to provide final administrative decisions for the Town of Hilton Head Island to enforce the zoning ordinance in accordance with State law, subject to an appeal to circuit court by an appropriate interested party. Its main responsibilities include hearing and deciding: (a) appeals from administrative decisions of the Land Management Ordinance (LMO) Administrator and from Planning Commission actions on certain traffic analysis plans; (b) applications for variances from LMO requirements; and (c) applications to permit uses by special exception. The powers of the Board of Zoning Appeals also include remanding a matter to an administrative official if the record is deemed insufficient, issuing subpoenas for witness appearances, and certifying contempt to the circuit court. In exercising these powers, the Board of Zoning Appeals may, in conformity with State law and the LMO, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination of an Administrator, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record.

## Article II Authority

### Section 1. Authority.

The Town of Hilton Head Island Board of Zoning Appeals is established by Appendix A-3 of the Land Management Ordinance (LMO) of the Town of Hilton Head Island pursuant to the authority of S.C. Code Ann. § 6-29-780, *et seq.* (Supp. 2021, As Amended), and hereinafter shall be referred to as the "Board."

### Section 2. Territorial Jurisdiction.

Pursuant to Appendix A-3.E of the LMO, the Board shall have jurisdiction over all the lands within the Town. This jurisdiction may be expanded by the Town Council by ordinance and/or by intergovernmental agreement, in accordance with S.C. Code § 6-29-330 (Supp. 2021, As Amended) of the Code of Laws of South Carolina.

## Article III Rules of Procedure

### Section 1. Rules of Procedure.

These *Rules of Procedure* are adopted by the Board to carry out its powers and responsibilities under S.C. Code Ann. §§ 6-29-780, 6-29-790, 6-29-800, and 6-29-810 (Supp. 2021, As Amended) and Appendix A-3 of the LMO. A portion or section of the *Rules of Procedure* may be suspended by majority vote of the Board to meet particular circumstances. If there is a situation where these *Rules of Procedure* do not specifically apply, then the most recent edition of *Robert's Rules of Order* shall govern the conduct of meetings.

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### **Section 2. Amendment.**

These rules may be amended at any regular meeting of the board by majority vote of the members of the board at least seven days after the written amendment is delivered to all members.

~~time by an affirmative vote of a majority of the members of the Board; provided however, that such amendment(s) shall have first been presented to the entire Board, in writing, at a Regular or Special Meeting preceding the Regular or Special Meeting at which the vote is taken.~~

### **Article IV** **Board Organization and Duties**

#### **Section 1. Membership.**

- A. Number and Qualifications.** The Board shall consist of seven members appointed by the Town Council. To the extent practicable, the appointed members may include at least one attorney and one design professional (either a registered architect or a registered landscape architect). None of the members shall hold an elected public office or position with the Town of Hilton Head Island or Beaufort County, South Carolina.
- B. Length of Terms.** Members of the Board shall be appointed annually for three-year terms effective each July 1, with all such terms ending on June 30 of the applicable year, unless a member is appointed to fill a vacancy. Vacancies shall be filled by the Town Council by appointments for the balance of any unexpired terms.
- C. Board Year.** A board year is July 1 through July 30.
- D. Term Limits.** No member may serve more than two successive terms, except for extraordinary circumstances where Council believes it to be in the best interest of the community to have a continuation for a specific period of a particular member of the Board. This limitation shall not prevent any person from being appointed to the Board after an absence of one year. Service for a partial term of less than 1½ years shall not constitute a term of service for the purpose of these term limits.
- E. Attendance/Absences.** Board members are expected to attend all Board meetings. Each member of the Board who has prior knowledge that they will not be able to attend a scheduled Regular Meeting of the board shall notify the Secretary no later than 4:30pm the business day before the meeting. In the case of an emergency, a member shall give the earliest possible notification. The Secretary or Staff shall notify the Chair in the event that the projected absence(s) will produce a lack of a quorum.
- F. Removal.** Three (3) absences at Regular or Special Meetings of the Board during one Board year (July 1 through June 30) shall be cause for recommendation by the Chair to the Town Council to reconsider the appointment of that member. Attendance records may be reviewed annually by the Board in executive session during the 9<sup>th</sup> month of each Board year.

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**G. Education.** The S.C. Code Ann. § 6-29-1340 (Supp. 2021, As Amended) requires a six (6) hour Orientation Program and a three (3) hour Continuing Education Program per year for each Board member. **Board members shall complete the orientation training and continuing education and submit the required forms to the Secretary no later than June 1 each year.**

### **Section 2. Election of Officers.**

The officers of the Board shall be a Chair and a Vice-Chair serving one-board year terms. They are elected annually by the Board members at the beginning of each Board year. Neither of these two positions shall be filled by a member beginning his or her first year of service as a Board member. Members that leave the Board and are re-appointed after a period of no more than three years may be elected to an officer position in his or her first year of service. Nominations for the Chair and Vice-Chair shall be made from the floor at the meeting.

A majority vote is normally required to elect to office. If no one in an election receives a majority vote, the vote must be repeated until one of them does get a majority.

**A. Chair – Term and Duties.** The term shall be for one year. At the beginning of each Board year, the Chair may be re-elected subject to his/her appointment term. The Chair shall have the following duties:

1. In consultation with the Staff Board Coordinator, delegate the Secretary to prepare agendas for all meetings;
2. Conduct all meetings and hearings of the Board, meaning that the Chair—
  - i. Is responsible for maintaining order.
  - ii. Should begin the meeting promptly at the scheduled hour if a quorum is present.
  - iii. Should have a well prepared agenda and abide by it.
  - iv. Should be familiar with the procedural rules of the board.
  - v. Keeps the board working together by explaining procedure clearly and communicating the next business in order.
  - vi. Should “assign” the floor by recognizing those members who wish to speak by calling them by name. No other member may interrupt or call out remarks without being out of order. Private discussion between members while another has the floor is out of order and disruptive members should be reminded of this rule.
  - vii. Should impartially call on members wishing to speak and should give members on both sides of an issue an opportunity to speak.
  - viii. Should remain calm and objective, keeping the meeting moving.
  - ix. Should always confirm that all members understand the motion and that the Secretary has fully recorded the motion.
  - x. Should open debate by saying “Is there any discussion?” The Chair *must* open all debatable questions to debate.
  - xi. Should recognize members who wish to speak by stating their names.
  - xii. Should be a voting member and vote on all cases before the Board. If the Chair wishes to make a motion, he/she should pass the gavel to the Vice-Chair for



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- conducting the meeting.
  - xiii. Should request that a motion with grounds (facts and conclusions) be made by any member. If necessary, may assist the member in formulating the motion. (Complex motions may be brought to the meeting pre-written.)
  - xiv. Should request any member to second the motion.
  - xv. If a motion fails to get a second, should state, “Since there is no second, the motion is not before the Board.”
  - xvi. If seconded, should ask the members if there is any discussion of the motion.
  - xvii. Should not allow irrelevant discussion.
  - xviii. At the conclusion of any discussion of a seconded motion, should put the question to a vote by requesting the Secretary to call the role.
  - xix. Should announce the result of the vote.
  - xx. At the conclusion, should adjourn the meeting without motion – “If there is no further business and there is no objection, the meeting will be adjourned. There being no objection, the meeting is adjourned.”
3. Act as spokesperson for the Board;
  4. Sign documents for the Board. Note, final decisions are signed by the moving member, the Chair, and the seconding member;
  5. Act or designate a Board member to act as liaison with other governmental agencies and Town boards;
  6. Assign or delegate tasks to other Board members as may be necessary to perform the Board’s functions;
  7. Transmit reports and recommendations to Town Council;
  8. Ensure that all business is conducted in accordance with the S.C. Code Ann. § 6-29-790 (Supp. 2021,As Amended),, the LMO, and these Rules of Procedure;
  9. Cancel a scheduled Board meeting if there are no agenda items; and
  10. Perform other duties approved by the Board.

**B. Vice-Chair.** A Vice-Chair shall be elected by the Board from among the members in the same manner and for the same term as the Chair. The Vice-Chair shall serve as Acting Chair in the absence of the Chair, and, at such time, the Vice-Chair shall have the same powers and duties as the Chair. The Vice-Chair shall succeed the Chair, if the office is vacated before the term has expired, to serve the remainder of the unexpired term of the Chair. A new Vice-Chair shall be elected at the next regular meeting of the Board. In the absence of both the Chair and Vice-Chair, an acting Chair shall be elected by the members present at a meeting of the Board.

### **Section 3. Secretary—Appointment and Duties.**

With the advice and consent of the Town’s Community Development Director, at the beginning of the board year the Board shall annually appoint or reappoint a member of the Town’s Community Development Department staff to independently act as the Secretary of the Board. The Secretary will not be eligible to vote or to otherwise participate or deliberate in the proceedings of the Board. The Secretary shall:

1. Publish and post notices of all meetings of the Board;

## **PROPOSED VERSION**

2. As delegated by the Chair, prepare meeting agendas;
3. Distribute to each Board member in advance of each meeting--the agenda, prior meeting draft minutes for approval, and all written submissions by staff and applicants on each agenda item, and other relevant materials;
4. Record the proceedings of meetings on audio tape and prepare written minutes of meetings for approval by the Board at its next regular meeting, recording in the written minutes the attendance of members at each meeting, the attendance of Council members, the attendance of staff, and a detailed summary of all discussions during each meeting;
5. Maintain the Board's notices, correspondence, reports and forms as public records for a period of time consistent with the records retention schedule of the Town of Hilton Head Island;
6. Assist in the preparation and forwarding of all reports and recommendations of the Board; and
7. Maintain each final decision of the Board as a permanent record as required by the S.C. Code Ann. § 6-29-790 (Supp. 2021, As Amended).

### **Section 4. Staff Board Coordinator.**

The Community Development Director shall appoint a member of Staff to assist the Chair and the Secretary in Board coordination, including:

1. Ensuring all postponed agenda items are rescheduled;
2. Ensuring public notices are accurately written for publication;
3. Ensuring the minutes accurately reflect the actions taken in the meeting;
4. Coordinating with pertinent staff on submittal of agenda items to the Secretary for distribution to the Board;
5. Scheduling mandatory training sessions for the Board;
6. Ensuring the Board's Rules of Procedure remain updated;
7. Attending all Board meetings and resolving any questions or requests by the Board; and
8. Assisting the Secretary in the efficient running of the public meetings.

## **Article V** **Meetings and Quorum**

### **Section 1. Regular and Special Meetings.**

**A. Meeting Schedule.** An annual schedule of regular meetings and work sessions of the Board shall be adopted, published and posted at the Town Government Center in late Fall of each year for the next calendar year. Unless rescheduled by a vote of the Board, meetings shall be held at the time and place stated in notices. Meetings shall be open to the public.

**B. Regular Meetings.** Regular Meetings of the Board shall be held on the fourth Monday of each month or such other date as determined by the Chair or with input from Staff. Notification of all Applications for Appeal, Variance and Special Exception scheduled and any other matters for consideration at each regular meeting of the Board will be in accord with the public notice requirements of **S.C. Code Ann. § 6-29-790 (Supp. 2021, As Amended) and S. C. Code Ann.**

## PROPOSED VERSION

§ 30-4-10, *et seq.* (Supp. 2021, As Amended), as implemented by the Town's LMO.

- C. Special Meetings.** Special Meetings of the board may be called at any time by the Chair or requested by the Staff. At least forty eight (48) hours public notice shall be provided for any Special Meeting of the board including the time, place and particular agenda item(s) scheduled for consideration consistent with the notice requirements of S.C. Code Ann. § 6-29-790 (Supp. 2021, As Amended) and S. C. Code Ann. § 30-4-10, *et seq.* (Supp. 2021, As Amended), as implemented by the Town's LMO.
- D. Virtual Meetings.** Meetings of the Board can be conducted virtually under the authority of, and procedure described in Town Code: § 2-5-10, *et seq.*, *Municipal Code of the Town of Hilton Head Island, South Carolina* (1983, As Amended).
- E. Cancellation of Meetings.** Whenever there is no business scheduled for any Regular or Special Meeting of the Board, the Chair or Staff may cancel such Regular Meeting by giving notice to all members of the Board, as well as the public, no less than twenty-four (24) hours prior, whenever possible, to the time set for any such Regular Meeting.

### Section 2. Quorum.

A majority of the Board shall constitute a quorum for the conduct of business. The Secretary will notify the Chair in the event projected absences will result in the lack of a quorum. If a quorum is established, then a member leaves, the quorum is no longer present. In the absence of a quorum, no further business requiring a vote shall be transacted and any such business shall be postponed to the next meeting.

### Section 3. Conflict of Interest

At a minimum, South Carolina law regarding conflicts of interest S. C. Code Ann. § 8-13-10, *et seq.* (Supp. 2021, As Amended) shall control Board members' actions. In addition, any member of the Board who believes that he or she has or may have a conflict of interest of any nature on any matter before the Board shall, prior to the case at the Regular or Special Meeting at which such matter may be heard or considered by the Board:

1. Prepare a written Potential Conflict of Interest Form describing the matter requiring action or decisions and the nature of his/her potential conflict of interest with respect to the action or decision;
2. File the Potential Conflict of Interest Form with the Secretary; and,
3. Provide a copy of the Potential Conflict of Interest Form to the Chair.

Upon receipt of a Potential Conflict of Interest Form from any member of the Board, as required in section II (J)(A), *supra.*, the Chair shall cause the Potential Conflict of Interest form to be recorded in

## **PROPOSED VERSION**

the minutes and shall require that the member filing such Potential Conflict of Interest Form be excused from any votes, deliberations, and any other actions on the matter on which the potential conflict of interest or conflict of interest exists.

Any Board member so disqualified shall leave the dais while the disqualifying matter is being considered and refrain from deliberating or voting on the question.

### **Article VI** **Meeting Administration, Public Comment,** **Notices, Fees, Voting Supplemental Submissions/Briefs**

#### **Section 1. Media Notices.**

The Secretary shall give the notice required by statute or ordinance for all meetings of the Board as per Section 16-2-102.E of the LMO. All Board meetings shall be open to the public and all requirements of the South Carolina Freedom of Information Act S. C. Code Ann. § 30-4-10, *et seq.* (Supp. 2021, As Amended) shall be complied with in the conduct of meetings.

#### **Section 2. Agenda (Order of Business)**

A written agenda shall be furnished by the Secretary to each member of the Board and media. An agenda may be changed at the related meeting by a majority vote of the members present. Public Hearing items should be so noted with each pertinent item. Generally, the agenda should contain:

1. Call to Order;
2. Roll Call;
3. Freedom of Information Act Compliance;
4. Use of Cellular Telephones or Other Electronic Sound Emitting Devices Prohibited;
5. Review of Meeting Protocol as described within, including Citizen Participation;
6. Approval of Agenda;
7. Approval of Minutes of Previous Meeting
8. Old Business;
9. New Business;
10. Board Business;
11. Staff Reports;
12. Adjournment.

#### **Section 3. Minutes.**

**A. Meetings.** Conduct of meetings is governed by the S.C. Code Ann. §§ 30-4-70 through 30-4-90 (Supp. 2021, As Amended). Minutes of each Board meeting shall be recorded by the Secretary and approved at the next available meeting after their preparation. Final approved Minutes shall be available on microfilm for previous years, and may be posted on the Town's Web site for public information.

## **PROPOSED VERSION**

### **B. Minimum Contents of Minutes.**

1. Kind of meeting (regular or special).
2. Name of the organization.
3. Date and place of the meeting.
4. Presence of the Chair and Secretary or the names of substitutes.
5. Presence of a quorum.
6. Names of all Board members, Council members, and Staff.
7. Time the meeting was called to order.
8. Whether the minutes of the previous meeting were approved or corrected.
9. All adopted and defeated motions and grounds (facts and conclusions). Withdrawn motions need not be recorded.
10. Name of the maker of the motion and the seconding member.
11. Summary of all presentations and discussions.
12. Motions, including proposed findings and conclusions, must be recorded verbatim.
13. Record the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.
14. The adjournment and the time of adjournment.

**F. Lack of Quorum.** If there is lack of a quorum of the Board, minutes may be recorded but shall include a statement in the header of each page indicating that a quorum was not present and the minutes are not official. Such minutes shall not be approved by the Board at a later meeting. (There are different quorums, depending on the agenda item.)

### **Section 4. Public Comment.**

In the case of a Variance or Special Exception application, at the conclusion of presentations by Staff and the Applicant, the Chair will open the public hearing. The Chair may set a time limit for all public comments and may determine the order of the comments. The Chair will recognize citizens to comment and request that they sign up to speak at the podium. Each person will have the opportunity to speak for three (3) minutes. At the conclusion of the public comment, the Chair will close the public hearing. Staff and/or the Applicant may request that the Chair allow additional clarification after the public comments. Public comment is not permitted in a case involving an appeal from an Administrator decision.

### **Section 5. Submission Deadline for Regular Meetings.**

The deadline for the filing of a complete Application with narrative for Variance or Special Exception or Request for Appeal shall be thirty (30) calendar days prior to any Regular Meeting of the Board. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion.

### **Section 6. Meeting Protocol.**

The Chair will review the protocol at the start of each meeting. The meeting protocol includes further

## **PROPOSED VERSION**

information about the following: speaker sign-up sheet, length of time for speakers, the order of presentation, and the opening and closing of a public hearing. The speaker sign-up sheet will be placed at the podium for speakers to sign when they come up to speak.

### **Section 7. Filing of Application, Fees and Notice.**

All Applications and Appeals scheduled for review by the Board shall be filed by the interested property owner(s) or by a property owner aggrieved by an Administrator's decision, or by a representative with a written certification of authority by such property owner. All Applications and Appeals shall satisfy all fees and notice requirements in accord with the provisions outlined in the LMO. In any case where the owner of record of the real property affected by any Application for Special Exception or Application for Variance, or his/her certified representative, is not the Applicant, the Applicant shall serve notice of the Application to the contiguous owner(s) of record within the time frames and as described in the LMO. Such notice shall include the time and place of the Board meeting at which the Application shall be heard.

### **Section 8. Motions and Final Decisions.**

A Motion by a Board member is the procedure leading to a final decision by the Board when the Motion is seconded by another Board member and adopted by a vote of a quorum of the Board. A Motion is to be made to describe the proposed decision with findings and conclusions to support the Motion. If the Motion is seconded and adopted by the Board, the final decision, contained in a Notice of Action, must be in writing and be permanently filed in the office of the Board as a public record. The final decision must include findings and conclusions and be delivered to parties of interest by certified mail.

### **Section 9. Voting.**

1. A Board member must be present at the beginning of each case to be permitted to discuss and vote on the case. If a Board member that was absent at the beginning of the hearing establishes requisite knowledge of the case, the member may be permitted to discuss and vote on the case by a majority vote of the Board.
2. All members of the Board, including the Chair, shall be voting members, and shall be entitled to vote on any issue before the Board unless disqualified by law.
3. For Appeals from Administrator's decision, a majority vote of the entire Board shall be necessary, thus requiring at least 4 affirmative votes to pass a motion.
4. A simple majority of a quorum shall be required to conduct all other Board business including a decision on an Application for Variance or Special Exception.

### **Section 10. Supplemental Submissions/Briefs.**

Any supplemental written submission or legal brief must be delivered [One (1) hard copy or one (1) copy sent via e-mail] to the Secretary of the Board no later than 8:00am four business days before the public meeting day in order for the Secretary to distribute such submission to each Board

## **PROPOSED VERSION**

member by the close of business that day. Town Staff, or the opposing party, has two business days after receipt of the supplemental submission to respond in writing. This excludes any business days when the Town is closed. The Board reserves the right to require or permit later written submissions or briefs and/or proposed findings of fact and conclusions of law to be submitted by the Appellant, Applicant for Variance or Special Exception, or Town Staff. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion. Any written or oral information sent directly to any Board member shall be disregarded and promptly turned over to the Chair through the Secretary of the Board.

### **Section 11. Communication Among Board Members or With an Outside Party.**

- A. There shall be no communication in writing, orally, or by e-mail by any Board member with any other Board member or any outside party regarding the substance of any matter before the Board that is or may be brought to a vote other than during a public meeting.
- B. Once a decision has been rendered by the BZA, there shall be no further discussions by any Board member with staff, applicants or their attorneys or representatives. Any such communications regarding a decision should be made to the Town Attorney.
- C. Communication with staff or outside parties to communicate procedural matters or general positions or opinions of the BZA will be at the discretion of the Chair or by an affirmative vote of the majority of the Board members. The Chair or his designee will be responsible for all such written/verbal communications with anyone other than the remainder of the Board members and Staff.
- D. Board members should refrain from discussing an upcoming agenda item with the Applicant, his Attorney, or his Agent, either through written or verbal communication. Board members should refrain from discussing an upcoming agenda item with Staff either through written or verbal communication, except to clarify facts or request additional information. All discussion of the item should take place in the public meeting. This is to avoid the appearance of improper ex parte communications.

### **Article VII**

#### **Procedures for Hearing an Application for a Variance**

The following procedures shall be applicable in the presentation of a Request for a Variance.

#### **Section 1. Presentation of the Town Staff and Applicant.**

- 1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Variance. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chair, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
- 2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Variance. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask

## **PROPOSED VERSION**

such questions as they deem appropriate. At the discretion of the Chair, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.

3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or Staff as the members deem appropriate.
5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.
6. Any party who presents evidence shall be administered the following oath by the chair, "Do you swear or affirm the testimony you are about to give shall be the truth and nothing but the truth?" Once the affiant answers in the affirmative, they may present testimony. Oaths may be given collectively at the onset of hearings to all prospective witnesses.

### **Section 2. Public Comment.**

1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the signup sheet. Each person will have the opportunity to speak for three (3) minutes. Alternatively, should the meeting be conducted entirely or in part remotely, the Chair shall follow the same procedure, minus the podium.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the Board makes a motion.

### **Section 3. Vote on Application for Variance.**

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Variance.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.
3. Pursuant to the provisions of the LMO the Board shall approve the Application for Variance, approve the Application for Variance with conditions or modifications; or, deny the Application for Variance.
4. Following the vote, the Staff shall prepare a written Notice of Action. The written notice of action shall include decision of the Board as well as the findings of fact and conclusions of law adopted by the Board with respect to the Application for Variance.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Variance, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Variance.

## **Article VIII**



## **PROPOSED VERSION**

### **Procedures for Hearing an Application for Special Exception**

The following procedures shall be applicable in the presentation of an Application for Special Exception:

#### **Section 1. Presentation of the Town Staff and Applicant.**

1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Special Exception. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chair, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Special Exception. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chair, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or the Staff as the members deem appropriate.
5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.
6. **Any party who presents evidence shall be administered the following oath by the chair, "Do you swear or affirm the testimony you are about to give shall be the truth and nothing but the truth?" Once the affiant answers in the affirmative, they may present testimony. Oaths may be given collectively at the onset of hearings to all prospective witnesses.**

#### **Section 2. Public Comment.**

1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the signup sheet. Each person will have the opportunity to speak for three (3) minutes. Alternatively, should the meeting be conducted entirely or in part remotely, the Chair shall follow the same procedure, minus the podium.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the board makes a motion.

#### **Section 3. Vote on Application for Special Exception.**

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Special Exception.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.

## **PROPOSED VERSION**

3. Pursuant to the provisions of the LMO, the Board shall approve the Application for Special Exception, approve the Application for Special Exception with conditions as stated in the LMO or deny the Application for Special Exception.
4. Following the vote, the staff shall prepare a written Notice of Action. The written notice of action shall include the decision of the Board as well as the findings of fact and conclusions of law adopted by the board with respect to the Application for Special Exception.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Special Exception, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Special Exception.

### **Article IX** **Procedures for Hearing an Appeal**

The following procedures shall be applicable in the presentation of an Appeal from a decision of any Administrator:

#### **Section 1. Jurisdiction.**

Once an appeal has been taken from any final decision of Administrator, the jurisdiction of the Administrator, from which the appeal was taken, shall cease.

#### **Section 2. Presentation of the Appellant, Town Staff and Other Necessary Parties.**

1. The Appellant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Appellant believes supports the Appeal. During the presentation by the Appellant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chair, the Appellant's time may be extended if the Appellant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Appeal. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chair, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
3. Where the Appellant is someone other than the Property Owner of the Property that is the subject of the Appeal, the Property Owner or their Agent shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Property Owner believes supports the position of the Property Owner with respect to the Appeal. During the presentation by the Property Owner or their Agent, members of the Board of Zoning Appeals

## PROPOSED VERSION

may ask such questions as they deem appropriate. At the discretion of the Chair, the Property Owner's time may be extended if the Property Owner is unable to complete the presentation due to questioning from the Board of Zoning Appeals.

4. Where the Appellant is someone other than the Holder of the Permit or Approval or their Agent for the Property that is the subject of the Appeal, the Holder of the Permit or Approval or their Agent shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that he/she believes supports their position with respect to the Appeal. During the presentation by the Holder of the Permit or Approval or their Agent, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chair, the Holder of the Permit or Approval or their Agent's time may be extended if he/she is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
5. The Chair may allow a maximum of five (5) minutes each for all parties to present any desired rebuttal.
6. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Appellant, Property Owner, Holder of the Permit or Approval or their Agent or Staff as the members deem appropriate.
7. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.
8. Public comment is not permitted in a case involving an appeal from an Administrator decision.
9. All parties shall be subject to the submittal requirements as set forth in Article 6, Section 10 of the Rules of the Procedure.
10. Any party who presents evidence shall be administered the following oath by the chair, "Do you swear or affirm the testimony you are about to give shall be the truth and nothing but the truth?" Once the affiant answers in the affirmative, they may present testimony. Oaths may be given collectively at the onset of hearings to all prospective witnesses.

### Section 3. Vote on the Appeal.

Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Appeal.

1. Pursuant to the provisions of Section 16-2-103.T.4.d of the LMO, the Board shall:
  - a) Affirm the action of the Administrator from which the Appeal was taken; or,
  - b) Modify the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
  - c) Reverse the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
  - d) Remand the action of the Administrator from which the Appeal was taken for such further proceedings as the Board of Zoning Appeals may deem appropriate.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision.

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3. Following the Vote, the Board shall issue a written Notice of Action. The written notice of action shall include the decision as well as the findings of fact and conclusions of law adopted by the Board.
4. The Notice of Action shall be mailed by certified letter to the Appellant and Record Owner of the real property affected by the Appeal, if different from that of the Appellant.
5. The decision of the Board shall be deemed final and applicable upon mailing of the Notice of Action.
6. The certificate of mailing shall be made a part of the board's file on the Appeal.

### **Article X** **Procedures for a Remand**

#### **Section 1. Remand.**

1. A member of the Board may move for a remand at any time, subject to review and determination by the Board. The motion shall specifically set forth factual and/or legal grounds that cause the record to be insufficient.
2. If a remand is granted, the Town and the Applicant shall obtain and present all additional information needed to render the record sufficient as detailed in the motion for the remand.

### **Article XI** **Motions**

#### **Section 1. Motion for Rehearing.**

1. The Board may rehear any decision made under Section 16-2-103.E.3.d, 16-2-103.S.3.d or 16-2-103.T.4.d of the Land Management Ordinance.
2. Any party aggrieved by a decision of the Board, may file a Petition for Rehearing by delivery of the Petition for Rehearing to the Administrator within ten (10) days from the date of the mailing of the Notice of Action. As used in this section "delivery" means actual delivery.
3. The Petition for Rehearingshall be in writing and shall be accompanied by new evidence which could not have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.
4. The Petition for Rehearingshall be presented to the Board at the next regular scheduled meeting following the filing of the Petition for Rehearing after compliance with the public notice requirements for a Board Public Meeting per the LMO.
5. Motions:
  - a. A Motion to Grant the Petition for Rehearingmay only be made by a member of the Board who voted on the prevailing side in the original vote.
  - b. The effect of the granting of a Motion for **Rehearingshall** be that the Board will review the entire matter as if no previous vote had been taken.

## **PROPOSED VERSION**

- c. A Motion to Deny the Petition for **Rehearing** may be made by any member of the Board. The effect of a vote denying a Petition for **Rehearing** is that the vote shall be considered to be the Board's final action on the matter. A Notice of Action shall be delivered to the Applicant following such vote.
6. Successive Petitions for **Rehearing** are prohibited. No matter that has been reheard may be reheard a second time. The Board may not reconsider a denial of a Petition for **Rehearing**.

### **Section 2. Motion to Dismiss.**

Any interested party to a matter pending before the BZA may file a Motion to Dismiss the pending matter. The purpose of a Motion to Dismiss is to seek dismissal of the matter prior to the hearing on the merits of the pending matter.

1. A Motion to Dismiss may assert matters relating to procedure or jurisdiction including:
  - a. Failure to comply with requirements of the LMO,
  - b. Lack of jurisdiction,
  - c. Standing,
  - d. Other matters not relating to the merits of the matter.
2. A Motion to Dismiss shall be in writing, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.
3. A Motion to Dismiss may be supported by briefs of the law, affidavits or other matters pertinent to the Motion.
4. Any interested party may file briefs and other materials in response to the Motion, in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.
5. The Motion to Dismiss will be normally heard at the same meeting as the related appeal; however, the Chair or Vice Chair, in the absence of the Chair, upon request, in his sole discretion, may permit the motion to be heard at an earlier meeting.

### **Section 3. Motion for Postponement.**

The Town, the Applicant or a Member of the Board may request a postponement of an application at any time, subject to the review and determination of the Board.

The Chair or Vice Chair, in the absence of the Chair, may for good cause grant one postponement request for a period of up to three months from the month of the original hearing date. Any subsequent postponement requests shall be discussed and voted on by the Board

A Motion for Postponement shall be in writing, stating the reasons for the requested postponement, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

### **Section 4. Motion for Withdrawal of Application.**

The applicant may request a withdrawal of an application prior to the ruling. A Motion for Withdrawal of the Application shall be in writing, stating the reasons for the requested withdrawal, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

## **PROPOSED VERSION**

The Board shall have the opportunity to discuss the reasons for the application being withdrawn; unless the project has been abandoned. In the absence of the applicant, if the withdrawal is questioned by the Board, the case will be postponed to the next meeting.

### **Article XII** **Miscellaneous**

#### **Section 1. Executive Session.**

If a member determines after reviewing the applicable cases that they would benefit from the advice of legal counsel in Executive Session they shall contact the Chair or his designee. The Chair will determine if an Executive Session is warranted. If the Chair decides that the membership would benefit from an Executive Session, they will inform the Board's Secretary of the request. The Chair's decision can be overridden by a majority vote of the Board taken at a regular or special meeting of the BZA.

Executive Session is a meeting at which the proceedings are secret. A member can be punished under disciplinary procedure if he violates the secrecy of an executive session. Anyone else permitted to be present is honor-bound not to divulge anything that occurred.

Permitted reasons should include:

1. Personnel reasons
2. Contracts
3. Legal advice relating to pending, threatened or potential claim
4. Discussion regarding development of security personnel
5. Investigative proceedings regarding allegations of criminal misconduct
6. Economic development (specific criteria in FOIA)
7. Legal advice relating to procedural, conflict of interest, or general issues unrelated to a specific matter before the Board.

Entering and Adjourning an Executive Session:

1. A motion to close the current meeting and go into executive session is made and passed by a majority vote;
2. Chair must announce the specific purpose of the executive session;
3. No formal action may be taken in executive session except to:
  - a. Adjourn
  - b. Return to public session

The Board can request attendance by non-members as they deem appropriate.

#### **Section 2. Recess.**

A recess shall be declared as deemed appropriate by the Chair or by majority vote of the members

**PROPOSED VERSION**

present at the meeting. No discussion of the agenda item shall be conducted by Board members during the recess.

**For the Board of Zoning Appeals  
Town of Hilton Head Island, South Carolina**

Date of Approval:

By: \_\_\_\_\_  
Patsy Brison  
Chair

The background of the entire page is a light blue, semi-transparent map of a city grid, showing streets and building footprints. A solid dark blue horizontal band runs across the middle of the page, containing the title text.

2018

**Comprehensive Planning Guide  
for Local Governments**



# Appendix D

## Board of Zoning Appeals Rules of Procedure

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### Article I Organization

**Section 1. Rules.** These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the City/Town/County Board of Zoning Appeals with \_\_\_\_ members appointed by council.

**Section 2. Officers.** The officers of the board shall be a chairman and vice chairman elected for one year terms at the first meeting of the board in each calendar year. The board shall appoint a member of the staff as secretary of the board.

**Section 3. Chairman.** The chairman shall be a voting member of the board and shall:

- a. Call meetings of the board;
- b. Preside at meetings and hearings; and swear in witnesses;
- c. Act as spokesperson for the board;
- d. Sign documents for the board;
- e. Have orders of the board served on parties; and
- f. Perform other duties approved by the board.

**Section 4. Vice Chairman.** The vice chairman shall exercise the duties of the chairman in the absence, disability or disqualification of the chairman. In the absence of the chairman and vice chairman, an acting chairman shall be elected by the members present.

**Section 5. Secretary.** The secretary shall:

- a. Provide and publish notice of appeals and meetings;
- b. Assist the chairman in preparation of agenda;
- c. Properly post property involved in appeals for variances or special exceptions.
- d. Keep recordings and minutes of meetings and hearings;
- e. Maintain board records as public records;
- f. Serve board decisions on parties;
- g. Attend to board correspondence; and
- h. Perform other duties normally carried out by a secretary.

### Article II Meetings

**Section 1. Time and Place.** An annual schedule of regular meetings shall be adopted, published and posted at the designated town office in December of each year. Special meetings may be called by the chairman upon 24 hours notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices and shall be open to the public.

**Section 2. Agenda.** A written agenda shall be furnished by the secretary to each member of the board and the news media and shall be posted at least five days prior to each regular meeting and at least 24 hours prior to a special meeting. Items may be removed from the agenda or postponed at a meeting by majority vote.

**Section 3. Quorum.** A majority of the members of the board shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting.

**Section 4. Rules of Order.** Robert's Rules of Order Newly Revised, 10<sup>th</sup> Edition, shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

### **Article III Appeals Procedure**

**Section 1. Form of Appeal.** Appeals from administrative decisions, applications for variances and applications for special exceptions shall be filed on forms approved by the board and provided to applicants by the secretary. The board may require additional information deemed necessary. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

**Section 2. Time for Appeal.** An appeal from an administrative decision must be filed within 15 days after the decision becomes a matter of public record by denial or issuance of a permit or the filing of a written decision in the office of the zoning administrator. An appeal shall be filed by delivery of the approved appeal form to the secretary of the board who shall notify the official appealed from.

**Section 3. Calendar.** Appeals and applications shall be marked with the date of receipt and placed on the hearing calendar in the order in which received. Appeals shall be heard in the order on the calendar unless otherwise set by the board for good cause shown.

**Section 4. Withdrawal of Appeal.** Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the board. An appeal from an administrative decision which is withdrawn may not be refiled after the 15 day time for appeal has expired. Withdrawn applications for variances and special

exceptions may be refiled after six months and shall be placed on the calendar according to the date refiled.

**Section 5. Continuances.** The board may continue an appeal or application hearing one time for good cause shown.

**Section 6. Notice.** Public notice of a hearing of the board shall be published in a local newspaper and posted on or adjacent to the property affected at least 15 days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected.

## **Article IV Hearing Procedure**

**Section 1. Appearances.** The applicant or any party in interest may appear in person or by agent or attorney. The board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

**Section 2. Witnesses.** Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena requested at least 10 days prior to a hearing and signed by the chairman. The board may call its own witnesses when deemed appropriate.

**Section 3. Cross-examination.** No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses will not be allowed.

**Section 4. Evidence.** Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chairman will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

**Section 5. Conduct of Hearing.** The normal order of hearing, subject to modification by the chairman, shall be

- a. statement of matter to be heard (chairman or secretary);
- b. presentation by applicant (10-minute limit);
- c. presentation by official appealed (10-minute limit); or
- d. presentation by opponents (10-minute limit);
- e. rebuttal by applicant (5-minute limit);
- f. unsworn public comment, when appropriate;
- g. the board may question participants at any point in the hearing; and
- h. matters in which additional time is granted may be moved to end of the agenda.

**Section 6. Disposition.** The board may deliberate and make final disposition of a matter by majority vote of members present and qualified to vote; provided not less than a quorum are qualified to vote. The vote may be taken at the same or a subsequent meeting. A member may not vote on a matter which he or she has not heard. Deliberating and voting shall be done in public.

**Section 7. Form of Order.** An order shall be issued disposing of a matter by granting or denying relief with such conditions may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in an order.

**Section 8. Service of Order.** The secretary shall deliver a copy of an order to each party in interest by certified mail immediately upon execution of the order by the chairman.

**Section 9. Rehearing.** The board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within 15 days after delivery of the order accompanied by new evidence which could not reasonably have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome.

## **Article V Records**

**Section 1. Minutes.** The secretary shall record all meetings and hearings of the board on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the board at the next regular meeting. Minutes shall be maintained as public records.

**Section 2. Orders and Documents.** The secretary shall assist in the preparation and service of all orders of the board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as public records.

## **Article VI Amendment and Adoption**

**Section 1. Amendment.** These rules may be amended at any regular meeting of the board by majority vote of the members of the board at least seven days after the written amendment is delivered to all members.

**Section 2. Adoption.** These rules were adopted by vote of a majority of the members of the board at a regular public meeting on\_\_\_\_\_.

Attest \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman



## **TOWN OF HILTON HEAD ISLAND**

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### *Board of Zoning Appeals Memo*

**TO:** Board of Zoning Appeals  
**FROM:** Missy Luick, Senior Planner  
**DATE:** February 16, 2022  
**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 meeting 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.”

Two waivers have been granted by staff since the January 24, 2022, BZA meeting.

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- 1 WAIV-000148-2022 – 55 Wilborn Road, Hilton Head Island Middle School**– An administrative waiver from the parking requirements was submitted for the redevelopment of the Hilton Head Island Middle School property located at 55 Wilborn Road, in conjunction with DPR-002568-2021. Parking waiver requests are considered pursuant to LMO Section 16-5-107.D.1. When the applicant demonstrates that they meet the requirements for a parking reduction, then the Official may waive the standard. The applicant is requesting a 9% parking space reduction (21 spaces) for the site. The current site is nonconforming related to required parking with only 144 existing parking spaces (212 required). The proposed project requires 236 parking spaces, and the applicant is proposing 215 parking spaces. The applicant has added 5 additional bicycle parking spaces (for a total of 12 bicycle parking spaces). The LMO allows a parking reduction of up to 15% in the MS district. Because the applicant met all the required criteria for the parking reduction, the waiver was approved.
  
- 2 WAIV-000323-2022 – 120 Beach City Road, Airport**- An administrative waiver for substitution of nonconformities for redevelopment was submitted for the airport expansion project for the Hilton Head Island Airport located at 120 Beach City Road, in conjunction with DPR-001863-2021. The request is a waiver from the parking standards as the existing parking lot is considered a non-conforming site feature. The existing parking lot was designed in the 1990's to preserve trees and natural vegetation and to use the naturally landscaped areas as stormwater infiltration, therefore the resulting parking space sizes, drive aisles and landscape medians do not fully meet the current LMO requirements. Pursuant to Land Management Ordinance (LMO) Section 16-7-101.F, Substitution of Nonconformities for Redevelopment, when the applicant demonstrates that a nonconforming site can be redeveloped meeting the requirements of LMO Section 16-7-101. F, then the Official may waive the standard. Because the applicant met all the required criteria for the parking reduction, the waiver was approved.