



**The Town of Hilton Head Island**  
**Board of Zoning Appeals Special Meeting**  
**Tuesday, May 3, 2011**  
**10:00a.m. (please note special time)**  
**Benjamin M. Racusin Council Chambers**  
**AGENDA**

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As a Courtesy to Others Please Turn Off All Cell Phones and Pagers during the Meeting.

**1. Call to Order**

**2. Roll Call**

**3. Freedom of Information Act Compliance**

Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.

**4. Wireless Telephone Usage**

Please turn off all wireless telephones so as not to interrupt the meeting.

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

**6. Approval of Agenda**

**7. Approval of Minutes – March 28, 2011 Meeting**

**8. Unfinished Business**

None

**9. New Business**

Public Hearing

**SER110003:**

Will Wang is requesting a special exception to operate an eating establishment with a drive-thru in the Commercial Center (CC) Zoning District. The subject parcel is located at 4 Southwood Park Drive and is further identified as parcel 233B on Beaufort County Tax Map 8. *Presented by: Anne Cyran*

**10. Board Business**

**11. Staff Report**

**12. Adjournment**



1 Ms. Dixon stated that the staff was notified last Friday, March 25<sup>th</sup>, that the appellant would  
2 like to request a postponement of both APL100010 and APL100007. Chairman DeCaigny  
3 reported that he received a conference call from Mr. Williams and Mr. Mogil last Friday,  
4 March 25<sup>th</sup> requesting the postponement of both appeals. Chairman DeCaigny informed the  
5 parties that they should appear before the Board on Monday, March 28<sup>th</sup>, to make this request.  
6 Chairman DeCaigny then requested statements from the two attorneys.  
7

8 Chester C. Williams, Esq., and Michael Mogil, Esq., presented statements in support of the  
9 request for postponement until end of June 2011. Mr. Williams presented comments regarding  
10 the extension of the Tolling Agreement until June 30<sup>th</sup>. The request extension was approved  
11 by Planning Commission Chairman Al Vadnais. Following final comments, the Board  
12 requested a response from staff on the request for postponement.  
13

14 Curtis Coltrane, Esq., stated that he spoke with Mr. Williams and Mr. Mogil on Friday, March  
15 25<sup>th</sup> concerning this matter. The Town is prepared to go forward today; however, staff  
16 recommends that the matter be postponed to a time concurrent with the Planning  
17 Commission's review of the application. The staff has no objection to allowing the appellant's  
18 time to work their issues out.  
19

20 Brian Hulbert, Staff Attorney, presented statements regarding the applicant's request for a  
21 continuance on these two appeals. The Board discussed the deadline requirement and the fact  
22 that the applicant did not follow the correct procedure for a 15-day notice requirement. The  
23 appellant will need to show good cause for any additional postponement requests. In this case,  
24 the notice requirement would need to be received no later than Wednesday, June 15<sup>th</sup> for the  
25 Monday, July 25, 2011 meeting. Following final discussion, Chairman DeCaigny requested  
26 that a motion be made for the request for postponement of APL100007 and APL100010.  
27

28 Mr. Qualey made a **motion** that the Board **accept** the postponement of these two appeals  
29 regarding the Edgewater/Ephesians' dispute regarding the permits to extend the time period for  
30 the appeals to be heard through our meeting in July. And, if any further extension of the time  
31 for hearing of these appeals is requested, the request must be made to the Chairman of the BZA  
32 not later than Wednesday, June 15<sup>th</sup> and the Chairman will have the authority to extend the  
33 time on adequate cause shown, if shown by June 15<sup>th</sup>, if not, we will have to hear these two  
34 matters at our July meeting. Vice Chairman Kristian **seconded** the motion and the motion  
35 **passed** with a vote of 6-0-0.  
36  
37

## 38 7. **NEW BUSINESS**

39 *(Mr. Brenner recused himself from review of the following application due to a personal*  
40 *association with the applicant. A Conflict of Interest Form was completed by Mr. Brenner and*  
41 *attached to the record.)*  
42

### 43 **Public Hearing**

44 **SER110002:** Request for Special Exception for an Other Retail Service use in the  
45 Office/Institutional Low Density (OL) Zoning District. Mark R. Sertl of S & C 278  
46 Associates, Inc. is proposing to operate a cellular phone service business in an existing  
47 building at the subject location. The property is located at 3 Regency Parkway, and is further  
48 identified as Parcel 155A on Beaufort County Tax Map 11.

1  
2 Ms. Nicole Dixon made the presentation on behalf of staff. The staff recommended that the  
3 Board **approve** the application based on the Findings of Fact and Conclusions of Law  
4 contained in the Staff's Report dated March 28, 2011.  
5

6 Mr. Mark Sertl is requesting special exception approval for an Other Retail Service use in the  
7 OL Zoning District per the requirements of LMO Section 16-4-1204, Use Table. The applicant  
8 states in the narrative that the business will operate in an existing vacant building. The  
9 applicant believes the proposed use will be compatible with surrounding uses because all  
10 activities will take place in the building and the proposed use will not generate noise, glare,  
11 smoke, dust, odor, fumes, water pollution or general nuisance.  
12

13 The applicant is proposing to operate a cellular phone service business in a vacant building,  
14 formerly known as Ronnie's Bakery. There is gas station/convenience store also located on  
15 the subject property. The property is surrounded by a hotel, a restaurant, a bank and the South  
16 Island Square shopping center across William Hilton Parkway.  
17

18 Ms. Dixon reviewed the application including the vicinity map and required Findings of Fact  
19 and Conclusions of law. Based on the Findings and Conclusions of law, the LMO Official  
20 determines that the request for a special exception should be granted to the applicant for the  
21 proposed cellular phone service business in the OL Zoning District because it is in  
22 conformance with the Comprehensive Plan and the Land Management Ordinance. This  
23 completed the staff's presentation. Following final comments by the Board, Chairman  
24 DeCaigny requested that a motion be made.  
25

26 Vice Chairman Kristian made a **motion** to **approve** Request for Special Exception,  
27 SER110002, based on the Findings of Fact and Conclusions of Law contained in the staff's  
28 report and presented today. Mr. Qualey **seconded** the motion and the motion **passed** with a  
29 vote of 5-0-0.  
30

31 **8. BOARD BUSINESS**

32 None  
33

34 **9. STAFF REPORT**

- 35 a. Waiver Report - Ms. Dixon stated that there are no new waivers to report this month.  
36 b. Ms. Dixon distributed copies of two new LMO Amendments recently passed by Town  
37 Council. Staff requested that the Board members insert these new amendments into their  
38 Land Management Ordinances.  
39

40 **10. ADJOURNMENT**

41 The meeting was adjourned at 3:15p.m.  
42  
43

44 Submitted By:

Approved By:

45  
46 \_\_\_\_\_  
47 Kathleen Carlin  
48 Board Secretary

45  
46 \_\_\_\_\_  
47 Roger DeCaigny  
48 Chairman



**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  
SPECIAL EXCEPTION**

Case #	Name of Development	Public Hearing Date
SER110003	Dunkin' Donuts	May 3, 2011

Parcel Data	Owner	Applicant
<b>Address:</b> 4 Southwood Park Drive <b>Parcel #:</b> R510 008 000 233B 0000 <b>Zoning:</b> Commercial Center (CC), Corridor Overlay (COR)	Richard Gray Laser LLC 20 Sam's Point Road Beaufort SC 29907	Chi Wang Wang, Inc 2427 Boundary Street Beaufort SC 29906

**Application Summary**

Chi Wang is proposing to operate an Eating Establishment with a Drive-Thru in the Commercial Center (CC) Zoning District, which requires special exception approval per Land Management Ordinance (LMO) Section 16-4-1204, Use Table.

**Background**

In March, the applicant asked staff about the requirements for opening a Dunkin' Donuts restaurant with a drive-thru in the existing, partially occupied building at 4 Southwood Park Drive. Staff informed the applicant that the use would require a special exception. The building was formerly occupied by a bank and has an existing drive-thru lane. A law firm currently occupies one suite within the building; the restaurant would occupy the remaining space. The property is bounded by Southwood Park Drive to the north, a shopping center on the west, a two tenant building on the east and Sandalwood Terrace on the south.

**Applicant's Grounds for Special Exception, Summary of Facts and Conclusions of Law**

**Grounds for a Special Exception**

The applicant is requesting special exception approval to operate an eating establishment with a drive-thru in the Commercial Center (CC) Zoning District per the requirements of LMO Section 16-4-1204, Use Table. The applicant states in the narrative that the business will operate in an existing building and that no structural changes are required to accommodate the use. The applicant believes the proposed use will be compatible with surrounding uses because all activities will take place in the building and the proposed use will not generate noise, glare, smoke, dust, odor, fumes, water pollution or general nuisance.

**Summary of Facts**

The applicant seeks a special exception as set forth in LMO Section 16-3-1801.

**Conclusion of Law**

The applicant may seek a special exception for the proposed use as set forth in LMO Section 16-3-1801.

**LMO Official Summary of Facts and Conclusions of Law**

**Summary of Facts**

1. The application was submitted as set forth in LMO Section 16-3-1802.
2. Notice of the Application was published in the Island Packet on April 3, 2011 as set forth in LMO Sections 16-3-110 and 16-3-111.
3. Notice of the Application was posted and mailed as set forth in LMO Sections 16-3-110 and 16-3-111.
4. The applicant submitted an affidavit stating he met the mailed notice requirements as set forth in LMO Section 16-3-111.
5. The Board has authority to render the decision reached here under LMO Section 16-3-1804.

**Conclusions of Law**

1. The application is in compliance with the submittal requirements established in LMO Section 16-3-1802.
2. The application and notice requirements comply with the legal requirements established in LMO Sections 16-3-110 and 16-3-111.

*As provided in LMO Section 16-3-1805, Special Exception Review Criteria, the BZA shall approve an application for use by special exception if and only if the applicant shall demonstrate that the proposed use and any associated development will be consistent with the following criteria.*

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 1: It will be in accordance with the Comprehensive Plan (LMO Section 16-3-1805.A):*

**Findings of Fact**

The Comprehensive Plan addresses this application in the following areas:

**Economic Development Element:**

1. **Section 7.5 – Potential Risks for Future Economy with Comprehensive Plan Implications**  
“Flexibility” (where reasonable people may disagree but must find a solution) in the application of historic regulation and ordinance was called for to improve existing nonconformities and future redevelopment.
2. **Section 7.6 – Potential Strategies with Implication for Comprehensive Plan**  
Identify and prioritize areas in need of redevelopment, including any obsolete or run down commercial buildings. Incentivize the development of flexibility of streamlining in regulation of density caps, setbacks (and other controls) that enable a qualitative, principle based, asset revitalization that enhances the Island’s positive legacies.

**Land Use Element:**

3. **Section 8.2 – Implication for Comprehensive Plan in Building Permit Trends**  
Redevelopment of our existing built environment and infill development should be a focus for the future development of our community, while the Town has entered a more mature level of development.
4. **Land Use Goal 8.10 – Zoning Changes**  
A. The goal is to provide appropriate modifications to the Zoning designations to meet market demands while maintaining the character of the Island.
5. **Implementation Strategy 8.6 – Build-out**  
A. Consider flexibility within the Land Management Ordinance to address future development and redevelopment needs.

**Conclusions of Law**

1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(A).
2. Granting a special exception for this use would facilitate reuse of an existing site and provide flexibility to encourage redevelopment, while preserving the existing character of the district.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 2: It will be consistent with the ‘character and purpose’ statement of the applicable district (LMO Section 16-3-1805.B):*

**Findings of Fact**

1. Per LMO Section 16-4-217, “The purpose of the Commercial Center District is to provide for moderate to high intensity commercial development, especially office and general retail development.”
2. The proposed use is a high intensity commercial use, which is a use that generates a high volume of traffic.

**Conclusions of Law**

1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(B).
2. The proposed use will be consistent with the character and purpose statement of the CC Zoning District because the proposed use will be a restaurant that will generate a high volume of traffic.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 3: It will be compatible with the existing uses adjacent to and near the property (LMO Section 16-3-1805.C):*

**Finding of Fact**

1. The existing nearby uses are two eating establishments, indoor recreation, an auto repair shop, a multi-family housing development, an appliance store and two thrift shops.

**Conclusions of Law**

- 1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(C).
- 2. The proposed use is compatible with the existing uses adjacent to and near the property because it will be a high intensity use in an area of other high intensity uses.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 4: It will not be hazardous, detrimental or disturbing to present surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution or general nuisance (LMO Section 16-3-1805.D):*

**Finding of Fact**

- 1. The applicant proposes to operate an Eating Establishment, which will not produce any exterior noise, smoke, dust, odor, fumes, water pollution or general nuisance.
- 2. The site layout and lack of screening at the back property line is such that vehicles' headlights will shine into the windows of the adjacent residences at Sandalwood Terrace.
- 3. If the use is approved, a high volume of traffic will drive through this site, making the headlights' glare a nuisance to Sandalwood Terrace residents.
- 4. A solid fence would prevent the headlights' glare from disturbing the neighboring residents.

**Conclusions of Law**

- 1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(D).
- 2. With the installation of a solid wood fence, the proposed use will not be hazardous, detrimental or disturbing to surrounding land uses.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 5: It will not otherwise adversely affect the development of the general neighborhood or of the district in which the use is proposed (LMO Section 16-3-1805.E):*

**Findings of Fact**

- 1. Per LMO Section 16-4-1204, the proposed use is categorized as an Eating Establishment with Drive-Thru use, which is permitted in the CC Zoning District with special exception approval.
- 2. The site is already developed with a drive-thru and there are no alterations proposed to the site or the building to accommodate the proposed use.

**Conclusions of Law**

- 1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(E).
- 2. The proposed use will not adversely affect the development of the general neighborhood or of the district in which the use is proposed because the business will be located within an existing building and the use will not produce any external impacts.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 6: It will be consistent with existing and planned pedestrian and vehicular circulation adjacent to and*

*near the property (LMO Section 16-3-1805.F):*

**Finding of Fact**

1. The subject property is located on Southwood Park Drive where there is an existing curb cut, a drive aisle and parking spaces.

**Conclusions of Law**

1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(F).
2. The proposed use will be consistent with the existing circulation adjacent to and near the property because the current site has the appropriate infrastructure for vehicular circulation and no changes are proposed to the site.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 7: It will have adequate water and sewer supply, storm water facilities, waste disposal and other public services (LMO Section 16-3-1805.G):*

**Findings of Fact**

1. Hilton Head Public Service District provides water and sewer services to the subject parcel.
2. The proposed use will operate in an existing building on a developed site that has adequate storm water facilities and other public services in place.

**Conclusions of Law**

1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(G).
2. The proposed use will have adequate water and sewer supply, storm water facilities, waste disposal and other public services because the subject property is already served with these utilities.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 8: It will be developed in a way that will preserve and incorporate any important natural features that are a part of the site (LMO Section 16-3-1805.H):*

**Findings of Fact**

1. The proposed use will be located in an existing building on a developed site.
2. The applicant has no plans to alter the site.

**Conclusions of Law**

1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(H).
2. The proposed use will preserve any important natural features that are a part of the site because no alterations are proposed to the existing site.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 9: It will conform to any specific criteria or conditions specified for that use by special exception in the applicable district or for the proposed use, as set forth in Chapter 4 of this Title (LMO Section 16-3-1805.I):*

**Finding of Fact**

- 1. There are no specific criteria or conditions specified for an Eating Establishment with a Drive-Thru in Chapter 4 of the LMO.

**Conclusions of Law**

- 1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(I).
- 2. The proposed use is not required to conform to any specific criteria or conditions.

**LMO Official Summary of Facts and Conclusions of Law**

*Criteria 10: It will not be contrary to the public health, safety and welfare, provided that a denial based exclusively on this language shall include explicit findings regarding the way in which granting the special exception would be contrary to the public health, safety and welfare (LMO Section 16-3-1805.J):*

**Findings of Fact**

- 1. Staff does not have any findings of facts to show that the proposed use will be contrary to the public health, safety or welfare.
- 2. Staff received one comment regarding this application. The manager of Sandalwood Terrace expressed concern about the headlights from vehicles shining into the windows of neighboring apartments.

**Conclusions of Law**

- 1. Staff concludes that this application meets the criteria as set forth in LMO Section 16-3-1805(J).
- 2. The proposed use will not be contrary to the public health, safety or welfare because no evidence was produced to demonstrate that the proposed use will be detrimental. The only comment received by staff would be addressed by requiring the installation of a solid wood fence along the back property line.

**LMO Official Determination**

**Based on the above Findings and Conclusions of law, the LMO Official determines that the request for a special exception should be granted to the applicant for the proposed eating establishment with a drive-thru in the CC Zoning District because it is in conformance with the Comprehensive Plan and the Land Management Ordinance.**

**Staff Recommendation**

**Determination:** Staff recommends the Board of Zoning Appeals **approve** the application based on the above Findings of Fact and Conclusions of Law. Staff recommends adding a condition that a solid wood fence be installed along the back property line to prevent vehicles' headlights from becoming a nuisance to the neighboring residences.

**BZA Determination and Motion**

The "powers" of the BZA over special exceptions are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may "permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance..." 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 III 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.

**PREPARED BY:**

AC

\_\_\_\_\_  
Anne Cyran, AICP  
*Senior Planner*

April 18, 2011

\_\_\_\_\_  
DATE

**REVIEWED BY:**

ND

\_\_\_\_\_  
Nicole Dixon  
*Senior Planner & BZA Board Coordinator*

April 18, 2011

\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- A) Vicinity Map
- B) Aerial Photo
- C) Applicant's Narrative
- D) Photos
- E) Site Plan



Subject Parcel



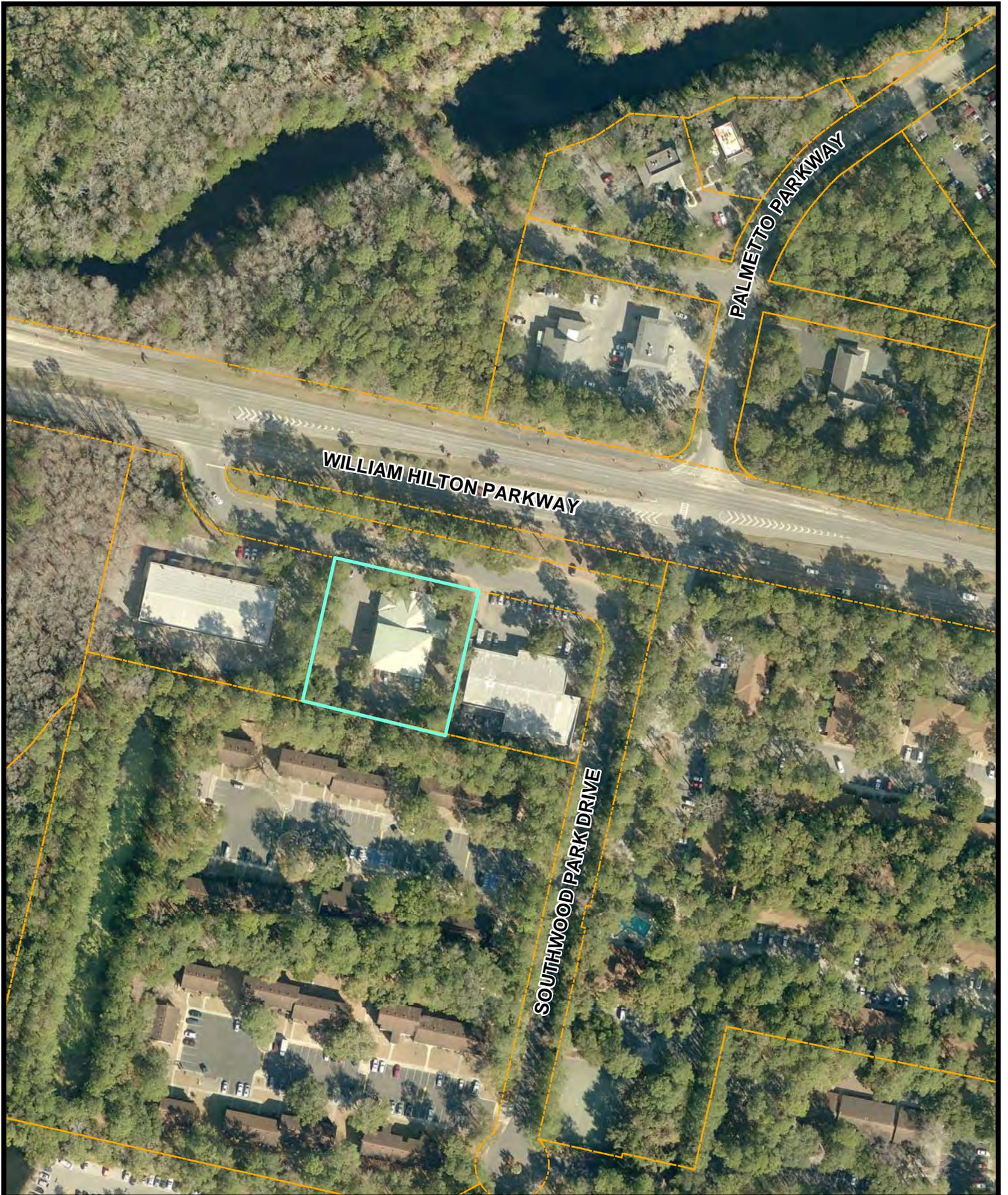
TOWN OF HILTON HEAD ISLAND  
 ONE TOWN CENTER COURT  
 HILTON HEAD ISLAND, S.C. 29928  
 PHONE (843) 341-6000

SER110003 Dunkin Donuts  
 Vicinity Map  
 Attachment A



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.





TOWN OF HILTON HEAD ISLAND  
ONE TOWN CENTER COURT  
HILTON HEAD ISLAND, S.C. 29928  
PHONE (843) 341-6000

SER110003 Dunkin Donuts  
Aerial Photo  
Attachment B



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March 22, 2011

Town of Hilton Head Island  
Community Development Department  
One Town Center Court  
Hilton Head Island, SC 29928  
Attn: Debbie

Dear Donna:

Please accept this letter as the narrative required under the Special Exception Submittal Requirements.

We are requesting approval to utilize the former bank space with existing drive-thru, located at 4 Southwood Park on Hilton Head Island for a Dunkin Donuts with a drive-thru (which may include the Baskin Robbins Ice-cream co-brand).

We were advised that since the existing drive thru will be used for food sales, rather than a bank, approval for special exception is required. No structural changes will be necessary to accommodate the use. Over fifty percent (50%) of Dunkin Donut sales are attributable to the drive-thru customers thus having a drive-thru is a mandatory requirement to opening a new Dunkin Store.

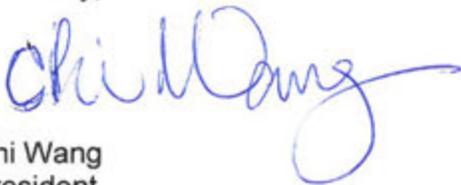
As you know, Dunkin Donuts is a commercial use that would be consistent with other businesses in the immediate vicinity and the CC zoning. Starbucks at Pineland Station (two properties east) was also a bank conversion and appears to have no negative impact on the area.

Because the property is accessed from Southwood, we do not anticipate any impact on the traffic on William Hilton Parkway although traffic will increase on Southwood Park which has no intersecting streets and overall very light traffic.

We will be utilizing approximately 3,000 sf of the 4,500 square feet leased as the restaurant. The balance of the space (1,500 sf) will be used as corporate office space for Wang, Inc, the Dunkin franchisee. Dunkin corporate will not allow a larger store.

We believe that this use meets with all of the criteria of the LMO criteria and are happy to provide any additional information that would be useful in your analysis of the exception. We look forward to working together to bring Dunkin Donuts to the island.

Sincerely,



Chi Wang  
President  
Wang, Inc.  
(215) 962-4304

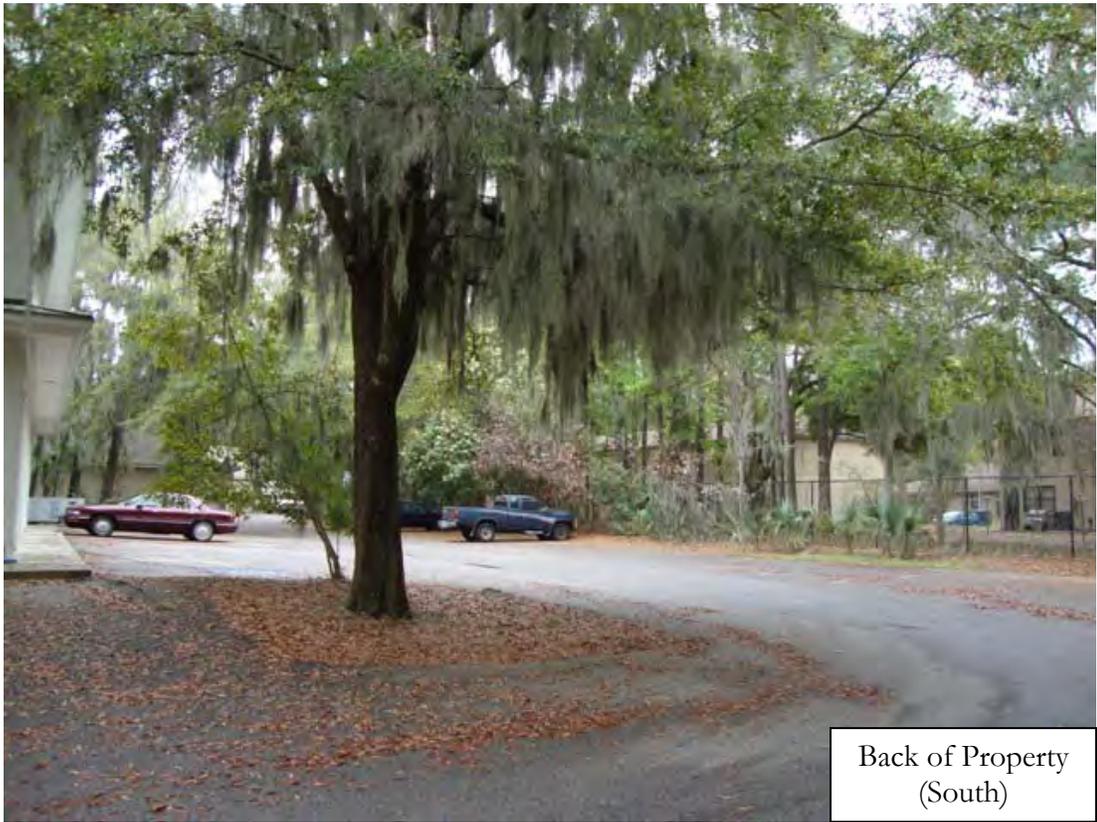
SER110003 Dunkin' Donuts  
Attachment D – Photos



Front of Property  
(North)



Side of Property  
(West)



Back of Property  
(South)



Back of Property  
(Fence)



Side of Property  
(East)

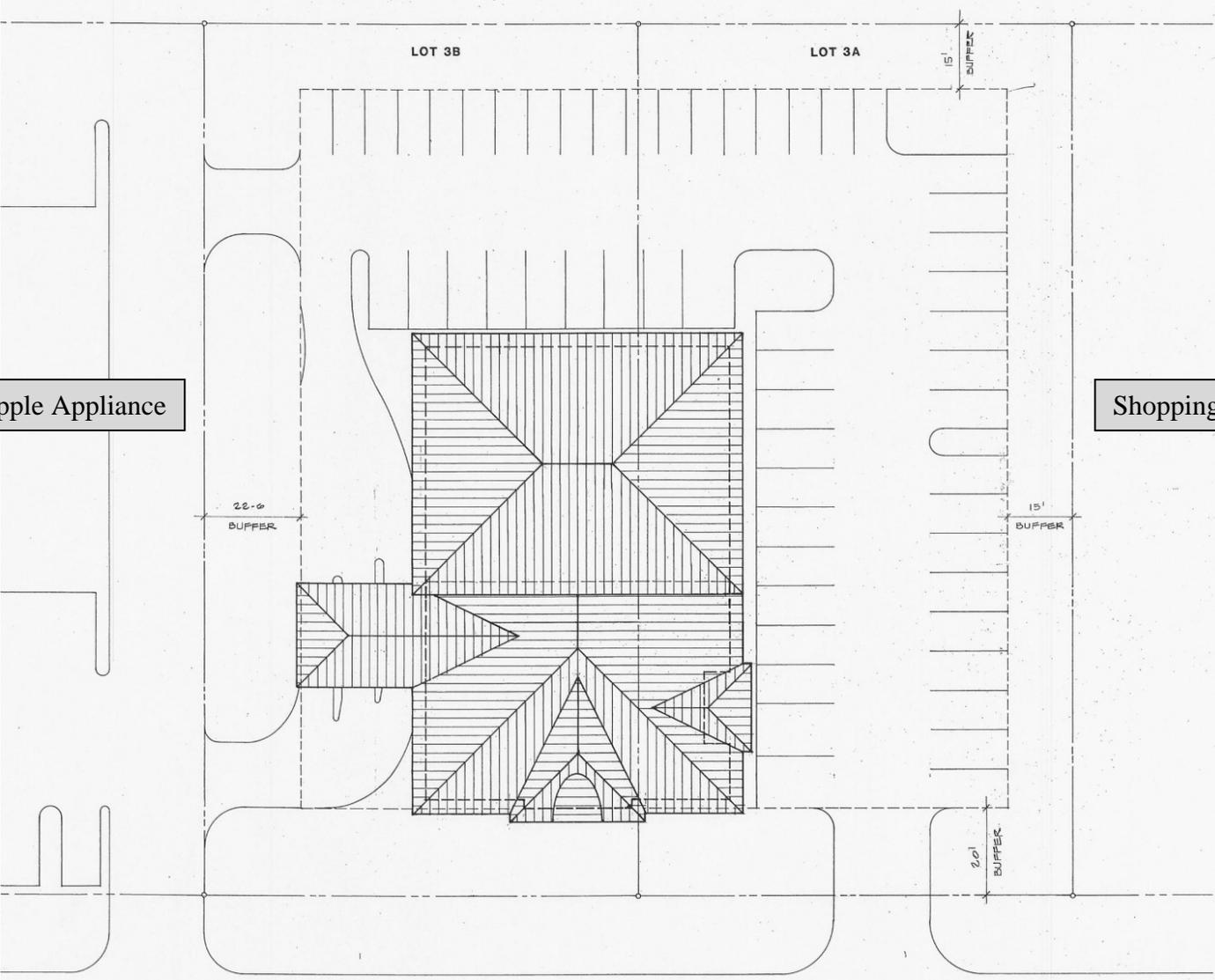
SER110003 Dunkin' Donuts  
Attachment E – Site Plan

Sandalwood Terrace

Apple Appliance

Shopping Center

Southwood Park Drive



SITE PLAN  
1/16 : 1-0

