



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, August 27, 2012 2:30p.m
Benjamin M. Racusin Council Chambers
AGENDA

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 – Regular Meeting of July 23, 2012

8. Unfinished Business

None

9. New Business

Public Meeting

APL120001: Request for Appeal from Thomas C. Taylor. The appellant is appealing the Town's decision (made on August 4, 2011) that the parking supply at Broad Creek Marina is in compliance with the Land Management Ordinance (LMO). *Presented by: Teri Lewis*

Public Hearing

VAR120002: Request for variance from LMO Section 16-6-402, Preservation of Trees and Native Vegetation. Cary Corbitt, with Sea Pines Resort, is requesting a variance to remove two specimen trees at Harbour Town Golf Links in order to alleviate shade problems on two greens of the golf course. The property is located at 11 Lighthouse Lane, and is further identified as Parcel 304 on Beaufort County Tax Map 17. *Presented by: Nicole Dixon*

VAR120003: Trey Griffin with Wood + Partners, on behalf of Building Innovations LLC, is requesting a variance from Land Management Ordinance Sections 16-5-704, Minimum Required Setback Area, and 16-5-806, Required Buffers, to allow grading in the adjacent use and street buffers for drainage and to allow encroachments in the adjacent use setbacks and buffers for parking, a staircase and a service yard. The subject parcel is located at 34 New Orleans Road and is further identified as parcel 69 on Beaufort County Tax Map 15C. *Presented by: Anne Cyran*

10. Board Business

Report on Continuing Education for the Board of Zoning Appeals – Mr. Glenn Stanford

11. Staff Report

Waiver Report – Presented by Nicole Dixon

12. Adjournment

Please note that a quorum of Town Council may result if four or more Town Council members attend this meeting.

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TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the Monday, July 23, 2012 Meeting
2:30p.m. - Benjamin M. Racusin Council Chambers

DRAFT

Board Members Present: Chairman Roger DeCaigny, Vice Chairman Peter Kristian,
Alan Brenner, Irvin Campbell, Michael Lawrence, and
Glenn Stanford

Board Members Absent: Stephen Murphy, Excused

Council Members Present: Bill Ferguson

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Jill Foster, Deputy Director, Community Development Department
Kathleen Carlin, Secretary

1. Call to Order

Chairman DeCaigny called the meeting to order at 2:30p.m.

2. Roll Call

3. Freedom of Information Act Compliance

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and Town of Hilton Head Island requirements.

4. Introduction to Board Procedures

Chairman DeCaigny stated the Board's procedures for conducting the business meeting.

5. Approval of the Agenda

Vice Chairman Kristian made a **motion** to **approve** the agenda as presented. Mr. Stanford **seconded** the motion and the motion **passed** with a vote of 6-0-0.

6. Approval of the Minutes

Vice Chairman Kristian made a **motion** to **approve** the minutes of the April 23, 2012 meeting as presented. Mr. Brenner **seconded** the motion and the motion **passed** with a vote of 6-0-0.

7. Swearing in Ceremony for New BZA Member and Returning BZA Member

Mayor Drew Laughlin performed the swearing in ceremony for new BZA member, Mr. Irvin Campbell and returning BZA member, Mr. Michael Lawrence. Mayor Laughlin stated his appreciation to Mr. Campbell and to Mr. Lawrence for their service to the Board of Zoning Appeals and to the community.

Mr. Stephen Murphy, who is absent from today's meeting, will be re-sworn in as a returning Board member sometime prior to the August 27, 2012 meeting.

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2 **8. Unfinished Business**

3 None
4

5 **9. New Business**

6 **Public Meeting**

7 **APL120001**: Request for Appeal from Thomas C. Taylor. The appellant is appealing the
8 Town's decision (made on August 4, 2011) that the parking supply at Broad Creek Marina is in
9 compliance with the Land Management Ordinance (LMO).
10

11 Chairman DeCaigny reported that the review of Application for Appeal APL120001 is
12 postponed to August 27, 2012 at 2:30p.m.
13

14 **10. Board Business**

15 a) Nomination and Election of Officers for the new term, July 1, 2012 – June 30, 1013

16 Vice Chairman Kristian made a **motion** to **nominate** Mr. Roger DeCaigny to serve another
17 term as Chairman to the Board of Zoning Appeals, July 1, 2012 – June 30, 2013. Mr. Brenner
18 seconded the nomination. There were no additional nominations for the office of Chairman.
19 Mr. DeCaigny accepted the nomination and was **elected** to serve as Chairman for the new term
20 by a vote of 6-0-0.
21

22 Mr. Michael Lawrence made a **motion** to **nominate** Mr. Peter Kristian to serve another term as
23 Vice Chairman to the Board of Zoning Appeals, July 1, 2012 – June 30, 2013. Mr. Stanford
24 **seconded** the nomination. There were no additional nominations for the office of Vice
25 Chairman. Mr. Kristian accepted the nomination and was **elected** to serve as Vice Chairman for
26 the new term by a vote of 6-0-0.
27

28 b) Appointment of Secretary to the Board of Zoning Appeals July 1, 2012 – June 30, 2013

29 Vice Chairman Kristian made a **motion** to appoint Ms. Kathleen Carlin to serve as Secretary to
30 the Board of Zoning Appeals for the new term, July 1, 2012 – June 30, 2013. Mr. Brenner
31 **seconded** the motion and the motion **passed** by a vote of 6-0-0.
32

33 c) Board of Zoning Appeals - Continuing Education Materials – Mr. Stanford stated his
34 concern with the limited availability of relevant continuing education materials for the Board of
35 Zoning Appeals. Mr. Stanford requested that the Board consider other sources for relevant
36 educational materials such as the new Land Management Ordinance, case studies of zoning
37 issues in South Carolina, the appeals process based on the LMO, and a study of the cases
38 presented to the Board of Zoning Appeals over the past five years. Vice Chairman Kristian and
39 the other Board members agreed that this is a great idea.
40

41 Following the Board's discussion on this issue, Chairman DeCaigny requested that Mr.
42 Standard continue his research into relevant topics that would be appropriate for review by the
43 Board. Vice Chairman Kristian made a **motion** to **appoint** Mr. Stanford to serve in this
44 capacity. Mr. Lawrence **seconded** the motion and the motion **passed** by a vote of 6-0-0. Mr.
45 Stanford will present his findings on this issue to the Board on August 27, 2012.
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11. Staff Report

- a) Ms. Dixon presented the staff’s Waiver Report to the Board.
- b) Ms. Dixon stated that mandated training will be provided by staff in Conference Room 3 following the business meeting.

12. Adjournment

The meeting was adjourned at 2:50p.m.

Submitted By:

Approved By:

Kathleen Carlin
Secretary

Roger DeCaigny
Chairman

DRAFT



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
VIA: Nicole Dixon, CFM, *Senior Planner and Board Coordinator*
FROM: Teri Lewis, *LMO Official*
DATE: July 31, 2012
SUBJECT: Appeal 120001

Staff has received an appeal from Thomas C. Taylor regarding the March 19, 2012 letter stating that the decision regarding the parking supply at Broad Creek Marina was made in August 2011 and further affirmed in September 2011 and therefore the appeal period is over. The appellant is appealing the Town's decision (made on August 4, 2011) that the parking supply at Broad Creek Marina is in compliance with the Land Management Ordinance (LMO) and is asking that the Board reverse the decision of the LMO Official and find that the parking supply at Broad Creek Marina is not in compliance with the LMO.

The record as attached consists of the following documents: Appeal Application, Appellant's Narrative, Determination Letter titled Exhibit A, Letter from the Appellant to the LMO Official titled Exhibit B, Broad Creek Marina Zip Line DPR Narrative titled Exhibit C, Broad Creek Marina Zip Line DPR Parking Calculations titled Exhibit D, Letter from the Appellant to Anne Cyran titled Exhibit E, Letter from Anne Cyran to the Appellant titled Exhibit F, Letter from the Appellant to Charles Cousins titled Exhibit G and a Letter from the Appellant to the LMO Official titled Exhibit H.

Staff is not submitting any documents at this time because we believe the submitted appeal is improper; the applicant should have appealed the decision that the appeal period related to the August 2011 determination was over. Staff reserves the right to submit additional documents.

If you have any questions, please contact Teri Lewis at 341-4698 or teril@hiltonheadislandsc.gov.

CERTIFIED CIRCUIT
COURT MEDIATOR
ALSO ADMITTED
GEORGIA BAR

LAW OFFICE OF
THOMAS C. TAYLOR, LLC
22 BOW CIRCLE
SUITE A
HILTON HEAD ISLAND, SC 29928
TELEPHONE 843-785-5050
TELECOPIER 843-785-5030
www.thomastaylorlaw.com • tom@thomastaylorlaw.com

MAILING ADDRESS
P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938

March 28, 2012

Via Hand-Delivery

Ms. Teri B. Lewis
LMO Official
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

Re: Appeal of Administrative Determination Regarding Parking at Broad Creek Marina

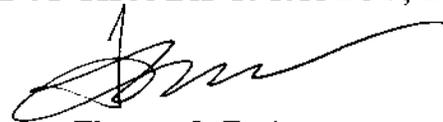
Dear Ms. Lewis:

I am pleased to deliver to you herewith for filing with the Town's Board of Zoning Appeals, my appeal regarding the Administrative determination made in your letter of March 19, 2012 to me. Also enclosed is my check for \$100.00 payable to the Town for the required fee for this appeal.

I ask that you and Chairman DeCaigny note that my initial letter of Complaint dated February 2, 2012, was quite clear in explaining that I was filing the Complaint as a citizen of the Town who uses the parking at Broad Creek Marina regularly. As such, I am clearly entitled to the protection of the appeal process set forth in Section 16-3-2001 of the LMO, and this Notice of Appeal is being filed in clear compliance with all of the requirements of the Town's ordinances.

Please let me know if you or the BZA require any further information. I look forward to seeing you on May 21, 2012 for the BZA meeting.

Cordially yours,
LAW OFFICE OF THOMAS C. TAYLOR, LLC



Thomas C. Taylor

TCT/dpt
Enclosure(s)



Town of Hilton Head Island
 Community Development Department
 One Town Center Court
 Hilton Head Island, SC 29928
 Phone: 843-341-4757 Fax: 843-842-8908
www.hiltonheadislandsc.gov

FOR OFFICIAL USE ONLY	
Date Received:	_____
Accepted by:	_____
App. #: APL	_____
Meeting Date:	_____

Applicant/Agent Name: Thomas C. Taylor Company: _____
 Mailing Address: P.O. Box 5550 City: Hilton Head Is. State: SC Zip: 29938
 Telephone: 785-5050 Fax: 785-5030 E-mail: tom@thomastaylorlaw.com

APPEAL (APL) SUBMITTAL REQUIREMENTS

- Digital Submissions may be accepted via e-mail by calling 843-341-4757.** The following items must be attached in order for this application to be complete:
- A detailed narrative stating the Town Official or Body the made the decision, the date of the decision you are appealing, the decision you are appealing, the basis for your right to appeal, the grounds of the appeal, and citing any LMO Section numbers relied upon; **and** a statement of the specific decision requested of the Board of Zoning Appeals.
 - Any other documentation used to support the facts surrounding the decision.
 - Filing Fee - \$100.00 cash or check made payable to the Town of Hilton Head Island.

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

Applicant/Agent Signature:  Date: March 28, 2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
)
)
_____)

**BEFORE THE BOARD OF ZONING
APPEALS OF THE TOWN OF HILTON
HEAD ISLAND, SOUTH CAROLINA**

REQUEST FOR APPEAL

NARRATIVE

This Narrative is part of the Request For Appeal (this “Appeal”) filed on behalf of Thomas C. Taylor personally in connection with a decision or determination (the “Decision”) made by Teri B. Lewis, AICP, LMO Administrator for the Town of Hilton Head Island (the “Town”), purporting to interpret or construe provisions of the Town’s Land Management Ordinance (the “LMO”) regarding the required parking for the new “Zip Line” attraction being constructed at the Broad Creek Marina and earlier approved by the Town per application XDPR 110016.

The Decision, which relates to the August 4, 2011 Notice of Action on Expedited Development Review Application No. 110016 finding that the parking spaces currently existing at Broad Creek Marina are in compliance with the Land Management Ordinance, is set forth in the March 19, 2012 letter from Ms. Lewis to the undersigned Thomas C. Taylor. A copy of that letter, along with the Taylor letter of Complaint dated February 2, 2012, are attached to this Narrative as Exhibits A and B.

This appeal seeks relief from the Decision by Ms. Lewis that “the parking supply at Broad Creek Marina is in compliance with the Land Management Ordinance [LMO] and therefore no additional action is necessary from the Town at this time per LMO Section 16-8-103.C.”

This Appeal presents both questions of correct findings of fact and conclusions of law.

BACKGROUND

Truitt Rabun Associates, as the representative of Broad Creek Marina, made an application to the Town for “expedited approval” of a “Broad Creek Marina Eco Tourism Park” on or about June 10, 2011. It was assigned project number 110016. As part of the application, Broad Creek Marina in the DPR Narrative submitted June 10, 2011, represented to the Town that there then existed at Broad Creek Marina 139 parking spaces that “will accommodate the existing uses and the proposed zip line tour.” (See page 5 of Exhibit C attached hereto.) Broad Creek Marina further represented to the Town that under the LMO, only 128 parking spaces were actually required. To buttress those calculations, the applicant attached a “Broad Creek Marina Zip Line & Eco –Tourism Park DPR Parking Calculations” summary (also dated June 10, 2011 and attached hereto as Exhibit D). According to that document, the “existing” Water Sports and Tours operating at Broad Creek Marina generated “100 persons” during the day and thus supposedly required under the LMO calculations, only 34 allocated parking spaces of the 139 spaces that were then supposedly available. This was a gross under-calculation of usage. And, unfortunately, neither the DPR Parking Calculations nor the DPR Narrative advised the Town that Broad Creek Marina was contractually obligated, per a 99 year lease agreement, to provide fifty (50) of its 139 spaces to J & W Corporation of Greenwood, effectively leaving the Applicant with 89 existing spaces BEFORE any additional parking requirements were created by the proposed Zip Line.

On August 4, 2011, the Town issued a permit to Broad Creek Marina to proceed with construction of the new Eco Park, including the Zip Line. No mention of parking or increased spaces was included in the Town’s approval.

On August 26, 2011, the undersigned contacted the Town on behalf of the lessee of 50 of the supposedly available 139 parking spaces at Broad Creek Marina, J & W Corporation of Greenwood, and advised the Town of the 99 year lease and its dedication of the 50 parking spaces to J & W. The letter, a copy of which is attached as Exhibit E, also advised the Town as follows:

- a. That there were not actually 139 spaces currently available;
- b. That the “parking calculations” presented to the Town were very understated, and provided the Town with the actual numbers from J & W, which were of an average of 200 people per day on J & W’s ferry boats; and,
- c. That the other two current water based operations, the dolphin watch cruises and the kayak rentals, probably drew another 200 persons per day on average.

The August 26, 2011 letter requested the Town investigate the parking situation, make its own calculations, deduct the dedicated 50 spaces leased to J & W, and determine the amount of spaces actually required under the LMO for parking at Broad Creek Marina with the addition of the proposed Zip Line.

On August 30, 2011, the Town responded to the Taylor letter of August 26, 2011, ignored the request to perform a count of the existing spaces and a calculation of the actual spaces required under the LMO pursuant to the actual usage of the existing businesses, and instead, advised that on several occasions, a staff member had “noticed many available parking spaces on site.” Further, the Town’s representative ignored the factual information provided by one of the main businesses at Broad Creek Marina, J & W Corporation, as to actual numbers of current visitors, declined to undertake any type of independent analysis or even examination of the actual LMO requirements and instead referred to the “DPR Parking Calculations” prepared by the applicant’s representative and submitted on June 10, 2011, stating that “I determined that a sufficient number of spaces are available to support the all (sic) existing activities and the proposed zip line tour. (Please refer to the attached document summarizing the parking requirement.)” See attached Exhibit F.

On August 31, 2011, J & W’s counsel made one more good faith effort to raise the red flag to the Town as to the Broad Creek Marina parking situation, via a letter to Charles Cousins, once again asking that the Town fulfill its duty to undertake an analysis of the actual usage being made of all the businesses operating at Broad Creek Marina, “deduct the 50 spaces allocated to J & W by the lease, and then determine the appropriateness of the existing spaces and the

appropriateness of the request for the new business (the zip line).” See attached Exhibit G. By that letter, J & W also made a formal request under the South Carolina Freedom of Information Act, for copies of all documents relating to the Town’s review and analysis of the application by Broad Creek Marina for the Eco Park, to include the parking calculations (if any) actually performed by a Town staff member.

The Town responded by letter dated September 16, 2011, advised that the Town had conducted an investigation and advised that “as previously determined on August 4, 2011 as evidenced by the Notice of Action issued for XPDR 110016 [Broad Creek Marina Zip Line] the parking supply at Broad Creek Marina is in compliance with the Land Management Ordinance [LMO] and therefore no additional action is necessary from the Town at this time per LMO Section 16-8-103.C.” See Exhibit H. That responsive letter did not address the issue of actual usage, did not address the issue of the 50 leased spaces, did not address the issue of what additional spaces were required under the LMO for the additional parking demand to be generated by the opening of the Zip Line, and ignored the Freedom of Information Act request. Construing the Town’s letter as a continuing bad faith refusal to perform the required parking analysis, and believing there to be no reason to waste precious time lodging an appeal when the Town clearly had no intention of undertaking any serious investigation of the parking situation, J & W filed suit in the Beaufort County Court of Common Pleas seeking a Writ of Mandamus compelling the Town to perform its administrative duties. Discovery proceeds in that case.

On February 2, 2012, the undersigned filed a personal Complaint with the Town pursuant to LMO Section 16-8-103. See Exhibit B. On March 19, 2012, the Town denied the Complaint. See Exhibit A. This appeal follows within 14 days of the denial dated March 19, 2012.

GROUNDS FOR APPEAL

The LMO requires that each development of land on Hilton Head provide certain minimum parking spaces for anticipated usage. LMO Section 16-5-1201. It is a violation of the LMO to use or attempt to use land or a building in any way not consistent with the requirements of the LMO. Section 16-8-102. It is further a violation of 16-8-102 to erect a building or other structure in any way not consistent with the requirements of the LMO.

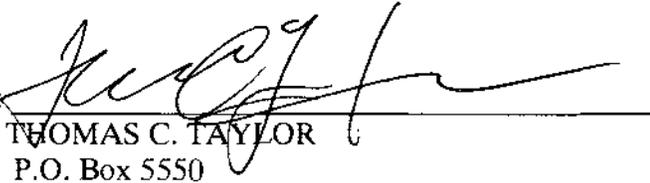
A simple review of the letters attached to this Appeal show that the Town has willfully and without reason failed to follow the requirements of the LMO regarding the required parking spaces for the proposed new Zip Line project at the Broad Creek Marina. For more than six months, the Town has been aware of the undisputed fact that the applicant's representation as to available parking spaces were inflated by 50 spaces—the 50 that Broad Creek Marina is contractually obligated to provide to J & W Corporation of Greenwood. In addition, J & W, which has been in operation at the Marina for more than 20 years, has provided the Town with uncontradicted figures showing that the actual usage of the existing “water sports and tours” at Broad Creek Marina is, on average, around 400 persons per day during the peak summer season, as opposed to the “100” persons suggested by the developer's representative in its parking space calculations submitted with the proposal to the Town for expedited approval. As best the evidence shows at this point, the Town has never performed any type of independent analysis whatsoever of the current parking situation nor the anticipated future parking increases to be necessitated by the Zip Line opening. Absolutely no data such as a shared parking analysis or other appropriate standards has been submitted, and thus the Administrator may not rely upon such under Section 16-5-1210.

The Town of Hilton Head Island must enforce its ordinances in a fair and uniform manner, free of discrimination or favoritism. It may not choose to enforce its parking space requirements under the LMO in some instances, but not others. Nor may it do so in considering some new projects but not others. I respectfully ask the Board of Zoning Appeals pursuant to Section 16-3-2003 (B) and/or (C), to either reverse or modify the action of the Administrator in declining to perform an independent analysis of the current situation and future needs, and to direct the LMO Administrator to undertake a bona fide analysis of current business activity at Broad Creek Marina, the current number of parking spaces available, and determine a good faith projection of the increased usage once the Zip Line is open. Once that information is gathered, the Administrator should be directed to independently evaluate and determine the number of additional parking spaces, if any, which shall be required prior to the opening of the Zip Line attraction.

CONCLUSION

The Town of Hilton Head Island, for reasons that cannot be reasonably explained, has failed to undertake a legitimate analysis of the current and future parking requirements at Broad Creek Marina. A Complaint having been filed on February 2, 2012 by the undersigned, and the Town having declined to undertake a good faith investigation and analysis of the situation, the Board of Zoning Appeals should exercise its authority under Section 16-3-2003 to step in to the shoes of the Administrator and see that the proper, required investigation and analysis is performed. To do less risks creating a totally unworkable parking situation at Broad Creek Marina when the full tourist season arrives.

LAW OFFICE OF THOMAS C. TAYLOR, LLC

By: 
THOMAS C. TAYLOR
P.O. Box 5550
Hilton Head Isl., SC 29938
Telephone: (843)785-5050
Facsimile: (843)785-5030
Email: tom@thomastaylorlaw.com

Hilton Head Island, South Carolina
March 28th 2012

Exhibit A

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

www.hiltonheadislandsc.gov

Drew A. Laughlin
Mayor

Kenneth S. Heitzke
Mayor ProTem

Council Members

Wm. Lee Edwards
Willie (Bill) Ferguson
William D. Harkins
Kimberly W. Likons
George W. Williams, Jr.

Stephen G. Riley
Town Manager

March 19, 2012

Mr. Thomas C. Taylor
Law Office of Thomas C. Taylor, LLC
22 Bow Circle
Suite A
Hilton Head Island, SC 29928

Dear Mr. Taylor:

This letter is in response to your correspondence dated February 2, 2012 related to the Broad Creek Marina zip line project. I apologize for the delay in my response – I was under the impression that you were trying to work out a compromise with the owner of Broad Creek Marina so I delayed responding while that was in the works. I understand that effort has fallen through which is why I am providing this response now. As I stated to you in my response on September 16, 2011, the Town (as previously determined on August 4, 2011 as evidenced by the Notice of Action issued for XPDR110016 - Broad Creek Marina Zip Line) has already determined that the parking supply at Broad Creek Marina is in compliance with the Land Management Ordinance [LMO] and therefore no additional action is necessary from the Town at this time per LMO Section 16-8-103-C.

I am simply re-affirming a determination that was made back in August 2011 so at this time there is no recourse to appeal. The appeal period is already over.

Sincerely,



Teri B. Lewis
LMO Official

cc: XDPR110016 file
Charles Cousins
Steve Riley
Gregg Alford

Exhibit B

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

22 BOW CIRCLE
SUITE A
HILTON HEAD ISLAND, SC 29928

TELEPHONE 843-785-5050
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MAILING ADDRESS
P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938

CERTIFIED CIRCUIT
COURT MEDIATOR

ALSO ADMITTED
GEORGIA BAR

February 2, 2012

Via US Mail

Ms. Teri B. Lewis
LMO Official
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

**Re: Applicant: Broad Creek Marina (Zip Line)
XDPR 110016**

Dear Ms. Lewis:

As a resident of Hilton Head and a frequent visitor to Broad Creek Marina for business, I am very concerned about the current lack of available parking at Broad Creek Marina and believe that if the "zip line" project currently under construction is opened, the increased parking demand will make an already bad situation, much worse. I believe the projected parking numbers given to the Town by the project planners are dramatically understated, especially in light of the 50 spaces that are leased to J & W Corporation of Greenwood, by the owner of the Marina, who I believe is the developer of the zip line. And as I think the Town knows, the actual daily use of the varied water sports and tours already operating on the premises is probably more like 400 persons rather than the 100 stated by the project planners.

Pursuant to LMO Section 16-8-103, I hereby personally make this formal Complaint that the parking spaces being permitted to serve the Broad Creek Marina "Zip Line" are at variance with the requirements of the LMO relating to parking. See Section 16-5-1209. I incorporate by reference my earlier letter to Ms. Cyran written on behalf of the J & W Corporation of Greenwood and the allegations set forth therein as to the actual number of guests at BCM for the different current activities. Specifically Section 16-5-1209 requires one space for every 3 persons that the facilities are designed to accommodate when fully utilized..." As noted in my letter to Ms. Cyran, I believe that number is more like 400 than the 100 set forth by the developer's representative.

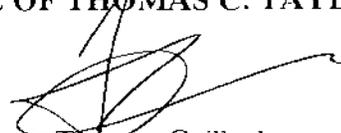
Ms. Teri B. Lewis
February 2, 2012
Page 2

I ask that the Town follow its ordinance, properly record this Complaint, and immediately investigate to determine the validity of the charge and take whatever action is necessary to assure compliance with this Title. It seems to me that the only reasonable way to properly investigate would be to undertake an analysis of the actual usage being made of all the businesses operating at Broad Creek Marina, deduct the 50 spaces allocated to J & W by the long term lease that the Town is aware of, and then determine the appropriateness of the existing spaces and the appropriateness of the request for the new business (the zip line). Anything less than an analysis of the actual numbers based on reports by the businesses, would be, in my opinion, less than the LMO requires.

Thank you for your assistance. Please let me know if there is anything I can do to assist in your investigation. I can and will provide you with numbers from J & W's activities at the Marina. I look forward to hearing from you.

Finally, please send me a copy of the appeal "application form" noted in Section 16-3-2004 of the Ordinance, and advise me of the amount of the "appropriate fee" as supposedly required by Section 16-3-105, if your reply to this Complaint is that the Town believes the parking situation at Broad Creek Marina with the addition of the zip line, is within the requirements of the LMO. Thank you again.

Cordially yours,
LAW OFFICE OF THOMAS C. TAYLOR, LLC



Thomas C. Taylor

TCT/dpt
Attachment
cc: Greg Alford, Esq.

BROAD CREEK MARINA
ECO TOURISM PARK ZIP LINE CANOPY TOUR
DPR NARRATIVE
June 10, 2011

Applicant: Broad Creek Marina of Hilton Head, LLC

Site Location: 15.4 +/- Acres, 18 Simmons Road, Hilton Head Island, SC

Project Number: DR110012

PINs:

- R510 011 000 007F 0000 - 6.53 Acre Broad Creek Marina Site
- R510 011 000 0006 0000 - 3.85 Acre Broad Creek Marina Village Lots
- R510 011 000 0183 0000 - 1.72 Acre Broad Creek Marina Village Parking Easement & R/W
- R510 011 000 0379 0000 - 2.38 Acre Broad Creek Marina Village Open Space 1
- R510 011 000 0380 0000 - 0.51 Acre Broad Creek Marina Village Open Space 2
- R510 011 000 0381 0000 - 0.04 Acre Broad Creek Marina Village Open Space 3
- R510 011 000 0382 0000 - 0.10 Acre Broad Creek Marina Village Lot 1
- R510 011 000 0383 0000 - 0.10 Acre Broad Creek Marina Village Lot 2
- R510 011 000 0384 0000 - 0.10 Acre Broad Creek Marina Village Lot 3

Note: PINs total 15.33 Acres

Zoning: Waterfront Mixed-Use (WMU) / Corridor Overlay District (COR)

Agent for the Applicant: Truitt Rabun / Truitt Rabun Associates, Inc.

BACKGROUND

Broad Creek Eco-Tourism Park is conceived to create a low impact waterfront oriented park, offering several of the world's most popular adventure and recreational activities that are not on HHI at this time. This is an expansion of the existing waterfront mixed-use activities at Broad Creek Marina and capitalizes on the natural beauty of the area while offering eco-friendly, family-friendly and team-building appeal.

A zip line canopy tour is planned for the initial adventure activity at the Eco-Tourism Park. Zip line canopy tours are extremely popular around the world and are now at resorts in Maui, Costa Rica, Utah's Olympic Park/Park City, Golden Gate Bridge, and Heavenly, CA/Tahoe among hundreds of others. In the Southeast, successful zip lines can be found in the Blue Ridge Mountains, the U.S. Olympic training center/Charlotte and in the Atlanta area.

This adventure is designed for a participant to enjoy the aerial beauty of the site's trees and views of the Broad Creek beyond, as well as the thrill of the experience. The participant is attached by harness to a pulley and propelled by gravity to traverse the tree canopy from the top to the bottom of various platform stations on a suspended cable.

The zip line will share the existing Calibogue Cruises and kayak tour ticketing/storage building for it's ticketing and storage needs. The cruises and kayak tours will remain in operation. If there is proven success with the zip line, then the potential for other

activities increases, including activities such as an outdoor dining and entertainment pavilion, a ropes course, bungee jump, climbing wall and new ticketing/storage facilities.

The Broad Creek Eco Tourism Park encompasses the unsold portion of adjacent Broad Creek Marina Village residential subdivision property. Lots 1, 2 and 3 on the right side of the entry are the only properties that have been sold. The owners of these lots have given the Applicant permission to change the POA to allow any type of commercial development.

While Broad Creek Marina Village will be utilized for a portion of the Eco Tourism Park, the Applicant requests the underlying subdivision plat and future use remain in-place in case the site is converted back to residential subdivision use in the future. In the meantime, since the Broad Creek Marina Village and Broad Creek Marina properties will be treated as one property, it is the Applicant's understanding that the adjacent use buffers and setbacks between the Village and Marina properties will not be in effect. Should the Broad Creek Marina Village property be converted back to a residential subdivision, the adjacent use buffers and setbacks will go back into effect.

DPR Pre-Application Meeting and Subsequent DPR Application Requirements Meeting:

On January 3, 2011, the Applicant and Applicant's design consultants met with Town staff for the zip line DPR Pre-Application (PAPP100016) review. Designs proceeded following the staff's Pre-Application comments and by May the Applicant requested a meeting with Town staff to review the requirements for the zip line DPR Application. That meeting was held May 10, 2011. This DPR Application addresses comments received during that meeting.

Engineering Pre-Design Conference with Town Engineer:

The Engineering Pre-Design Conference was also held May 10, 2011. A subsequent meeting was held June 3, 2011 to review construction access stabilization options. This DPR Application addresses comments received during those meetings.

DRB Approvals:

The DRB reviewed the Broad Creek Marina Eco-Tourism Park Zip Line Conceptual Plans on February 22, 2011. The Conceptual Application was "Approved with Specific Conditions", with the Notice dated February 22, 2011.

The Final DRB Application, dated June 10, 2011 has been submitted simultaneously with this DPR Application submittal.

LMO Text Amendment:

After the DPR Pre-Application review meeting (January 3, 2011), Town staff confirmed that the proposed adventure facilities, including the zip line, will be in the Outdoor Recreation use category and that the LMO does not permit Outdoor Recreation as a use in the Waterfront Mixed-Use (WMU) district. Following that determination the Town staff has marshaled an LMO text amendment request through the Planning Commission's LMO Committee; the Planning Commission; and, the Town Council's Planning and Development Standards Committee. At present, the P&DS Committee Report has been presented to Town Council and the text amendment is scheduled for First and Second Readings with adoption at the July 5, 2011 meeting.

Therefore, DBR and DPR approvals are subject to the Town's adoption of the proposed LMO text amendment.

DPR REQUIREMENTS

The following addresses DPR Application Requirements and Staff comments based on the DPR Review Submittal Requirements mark-up received at the review meeting of May 10, 2011. Items are listed in the order of the Town's Application Requirements document.

Written Narrative:

This DPR Narrative is included in the Application submittal, dated June 10, 2011.

Landscape & Site Lighting Plans:

The Eco Tourism Park landscape will be unstructured and natural reflecting the informal character of the marina and the natural forests. Shaded areas and areas under tree canopies that are disturbed during construction will be mulched with shredded native tree bark and left to be covered with natural leaf litter over time. Areas subject to bright sun will be repaired with coastal Bermudagrass to control erosion and left to naturalize over time. Marsh buffers will be clearly delineated with interpretive signage and protected from intrusion. Selective pruning of buffer understory to open views to Broad Creek in more heavily used areas will be coordinated with Town staff.

The zip line tour will start at Platform A across from the existing Up the Creek Pub. The tour has eight sections culminating at Tower J. The site's existing picnic benches will be used to accommodate waiting zip line tour participants.

In addition to the zip line, this Application includes replacing with gravel the worn grass area where boats park for service adjacent to the dry stack storage shop. This area is already screened from Simmons Road with shrubs and trees. Existing shrubs against the building and clustered in the worn grass (ligustrum, viburnum, oleander, one crape myrtle) will be transplanted to increase the Simmons Road screen. These transplanted shrubs will be temporarily irrigated with above the ground soakers or by extending the existing drip irrigation. See attached "Site Development Plan", "Site Plan B-B" (Sheet 4 of 6).

No additional irrigation or additional site lighting is proposed.

The concept is to change as little as possible while providing for the zip line tour facilities.

Boundary Survey (with updated tree survey and OCRM critical line):

See attached Boundary, Tree, Topographic & Asbuilt Survey (2 Sheets) (Rev. May 2, 2011 / Andrews & Burgess).

Site Development Plan:

The purpose of the Broad Creek Marina zip line to provide participants the opportunity to enjoy the aerial beauty of the site's trees and views of the Broad Creek beyond, as well as the thrill of the experience, lends itself to conformity with the goals the Hilton Head

Island Design Guide. Most important, the success of the zip line depends in part on the participant's discovery of and encountering the site's natural canopy environment.

To that end, after the January 3, 2011, DPR Pre-Application review meeting, on January 24, 2011 and March 9, 2011, Signature Research (the design/build contractor for the zip line); the Applicant; the Applicant's land planner, certified arborist, engineer and land surveyor met on-site with Town staff members to site the zip line route. Platforms were located in the field, their locations surveyed and included on the Site Development Plan.

The zip line design calls for:

- Careful placement of ten (10) zip line Platforms (labeled A through J) to minimize impact to the forest's trees and the tree canopy with minimal tree removal and careful pruning of limbs as preliminarily determined in the field.
- Zip line tour route starting at Platform A and culminating at Platform J.
- One-pole and two-pole platforms ranging from approximately twenty seven-feet (27') to seventy-five (75') in height.
- Platforms consisting of treated utility poles to support the zip line, with the zip line accessed by a treated timber structure of stair-steps and landings. The support poles will be guyed. The treated utility poles and timber step/platform structures will be paint-stained to blend into the surrounding forests.
- Platform plans submitted for the Building Permit will be certified by a SC licensed structural engineer according to Town requirements.
- All tree removal and limb pruning will be under the supervision of a Town approved certified arborist and all work will be Town staff reviewed and approved on-site during construction.

In addition to the zip line, this Application includes replacing with gravel the worn grass area where boats park for service adjacent to the dry stack storage shop. (See Landscape & Site Lighting Plans, above.)

Erosion control consists of strategically placed sediment tubes downstream of the construction sites for the zip line platforms, and at all curb inlets on Broad Creek Way. The locations of the sediment tubes are coordinated with the locations of the tree protection fencing and both are shown on the site development and erosion control plans.

After review with the office of the Town Engineer, it was agreed that more damage would be done in installing and removing "stabilized construction access" roadbeds than to not install them for the very limited amount of access involved in the construction of the zip line. Instead it was agreed that sediment tubes will be placed at all curb inlets on Broad Creek Way where eight construction access points are provided to the zip line platform sites. There is one additional access point off the existing parking area west of the dry-stack storage building. The Town will maintain the right to require 12' wide by 30' long "gravel stabilized construction access" points, if in the Town's opinion there is too much earth being tracked on adjacent roads due to the construction.

The zip line tour does not required additions or modifications to the existing site sanitary sewer system, potable water system, power or telephone service. Existing fire hydrants should be adequate to cover any fire protection requirements for the platforms.

See attached "Zip Line Canopy Tour Site Development Plan" and "Sediment & Erosion Control & Grading Plan".

Parking Calculations and Traffic Generation Projections:

Parking Calculations:

The attached DPR Parking Calculations indicate Broad Creek Marina's existing parking spaces will accommodate the existing uses and the proposed zip line tour. The Applicant will delay construction of the previously approved and not yet built Building #2 dry stack storage (98 boats) (DPR 040030) as long as parking is required for the Eco Tourism Park activities or additional parking is provided.

In summary, using LMO Chapter 5, Sec. 16-5-1208 Required Off-Street Parking:

139	Existing Broad Creek Marina Parking Spaces
<u>128</u>	<u>Spaces Required (peak demand which is during the day)</u>
11	Excess Spaces (8% of Total Spaces)

Traffic Generation Projections:

Traffic generated by the zip line will not require traffic improvements (for example a traffic lane at the Broad Creek Way access onto Marshland Road). However, in order to conceptually assess the potential impacts of future adventure and recreational activities at Broad Creek Marina, at the Town Traffic Engineer's request, traffic generation projections have been prepared for Phase I Uses (the existing Broad Creek Marina uses with the zip line tour added) and for Conceptual Future Uses. The Applicant will prepare more detailed traffic studies for the impact of future uses, if warranted at the time. Until that time, any estimates on future uses are only conceptually speculative at best. See the attached Traffic Generation Projections (June 10, 2011 / SRS Engineering).

Impervious Surface and Open Space Calculations:

The impervious surface coverage and open space calculations are calculated as a percentage of the base area for the site, which is 654,764 SF (15.032 acres). The total base area is the same as the "Project Uplands". With the exception of lands within the critical area, there are no wetlands on the site. The total base area ("Project Uplands") is determined as follows:

Total Property	676,628 SF	15.533 Acres
Less Lots 1, 2, 3	13,230 SF	0.303 Acres
<u>Less Critical Area</u>	<u>8,634 SF</u>	<u>0.198 Acres</u>
Base Area	654,764 SF	15.032 Acres

The Broad Creek Eco Tourism Park encompasses the unsold portion of adjacent Broad Creek Marina Village residential subdivision property. Lots 1, 2 and 3, totaling 0.303 acres, on the right side of the entry are the only properties that have been sold, therefore are not included in the impervious surface calculations.

The 15.533 acre total property area includes 0.198 acres within the critical area, which is also not included in the impervious coverage calculations.

See attached Boundary, Tree, Topographic & Asbuilt Survey.

A zoning variance granted April 28, 2008 (VAR # 080003) allowed the dry-stack storage shop to encroach on the setback from a Town staff requested connection road's 50' R/W.

The variance also removed the need for a 50' R/W for the connection since the connection is internal to the marina site's parking and simply serves as parking access to two roads each with 50' R/W's (Simmons Road on the east and Broad Creek Way on the west). Since the Tree, Topographic & Asbuilt Survey still indicates a 50' R/W for the connector (albeit not fully aligned with the connector), reference is made to this variance on the attached Site Development Plan, Post Construction Impervious Coverage Plan and Post Construction Open Space Plan. The Post Construction Open Space Plan calculations do not include the 50' R/W for the connector. With the Town's permission, the Applicant would like to have this 50' R/W removed from the survey.

Impervious Coverage:

Post-zip line construction, the impervious surface coverage is 25% of the base area. See attached Post Construction Impervious Coverage Plan.

Open Space:

Post-zip line construction, the open space is 72% of the base area. See attached Post Construction Open Space Plan.

Setback and Buffer Areas:

Since the Broad Creek Marina Village and Broad Creek Marina properties will be treated as one property, the adjacent use buffers and setbacks between the Village and Marina properties will not be in effect. Should the Broad Creek Marina Village property be converted back to a residential subdivision, the adjacent use buffers and setbacks will go back into effect.

See the Impervious Surface and Open Space Calculations narrative above for an interpretation the effect of the zoning variance granted April 28, 2008 (VAR # 080003) on the setback to the marina parking lot connector's 50' R/W shown on the Tree, Topographic & Asbuilt Survey.

The zip line canopy tour's construction (platforms and zip line corridors) is clear of all remaining setbacks and buffers, including the Broad Creek marsh wetland buffers.

FEMA Flood Zone Information:

According to FIRM Community Panel Number 450250 0007 D, the project site is within the following three flood zones:

- Zone C
- Zone A7 Elevation 14
- Zone A7 Elevation 15

The zip line canopy tour does not incorporate habitable space, therefore is not subject to FEMA construction rules.

Tree Protection:

The zip line canopy tour is designed to minimize impact on the site's trees and tree canopy. To that end, after the January 3, 2011, DPR Pre-Application review meeting, on January 24, 2011 and March 9, 2011, Signature Research (the design/build contractor for the zip line); the Applicant; the Applicant's land planner, certified arborist, engineer and land surveyor met on-site with Town staff members to site the zip line route. Platforms

were located in the field, their locations surveyed and included on the Site Development Plan.

All tree removal and limb pruning will be under the supervision of a Town approved certified arborist and all work will be Town staff reviewed and approved on-site during construction. Note the locations for tree protection fencing were determined in the field and these locations are coordinated with the location of sediment tubes placed in the platform construction areas.

See attached "Site Development Plan", "Tree Protection, Pruning & Removal Plan" (Sheet 5 of 6). This plan lists the trees to be removed by LMO category, with species and sizes DHB. Per Town staff, due to the nature of the zip line construction, Tree Tally's are not required for this DPR Application.

OCRM Approvals:

Critical Line:

The Broad Creek Marina's critical line was re-surveyed for the current Tree, Topographic & Asbuilt Survey and the delineation approved by SCDHEC-OCRM March 15, 2011. The survey carries OCRM's stamp. This delineation expires three years hence on March 15, 2014.

Stormwater Permit:

In a letter received by Andrews & Burgess on April 28, 2011, SCDHEC-OCRM determined that a Plan Modification received by OCRM January 28, 2011 will be considered minor and will not require a formal modification of the Stormwater Permit. See attached SCDHEC Stormwater NOI / NOI Submittal Plans / SCDHEC-OCRM Stormwater Permit letter to Andrews & Burgess, dated April 28, 2011.

Wetlands Determination Letter:

A freshwater wetland assessment prepared by Newkirk Environmental Consultants indicates that "the project site does not contain area(s) that would be, at the time of the investigation, identified as freshwater wetlands". See attached Freshwater Wetlands Assessment (May 31, 2011 / Newkirk Environmental Consultants)

For additional copies of the enclosures or other information, please contact:

Truitt Rabun
Truitt Rabun Associates
P 843.342.7777
F 843.342.7701
C 843.384.2270
trabun@trabunassociates.com

Enclosures (PDF file format):

- DRB Submittal Form
- DRB Narrative (June 10, 2011)
- DPR Parking Calculations (June 10, 2011)
- Zip Line Canopy Tour Site Development Plan (June 10, 2011 / TRA)
 - Title Sheet (Sheet 1 of 6)
 - Site Plan (Sheet 2 of 6)

- Site Plan A-A (Sheet 3 of 6)
- Site Plan B-B (Sheet 4 of 6)
- Tree Protection, Pruning & Removal Plan (Sheet 5 of 6)
- Details (Sheet 6 of 6)
- Zip Course Layout & Site Plan (10 Sheets) (April 4, 2011 / Signature Research)
- Sediment & Erosion Control & Grading Plan (1 Sheet) (June 3, 2011 / Andrews & Burgess)
- Boundary, Tree, Topographic & Asbuilt Survey (2 Sheets) (Rev. May 2, 2011 / Andrews & Burgess)
- Traffic Generation Projections (June 10, 2011 / SRS Engineering)
- Post Construction Impervious Coverage Plan (June 10, 2011 / TRA)
- Post Construction Open Space Plan (June 10, 2011 / TRA)
- SCDHEC Stormwater NOI / NOI Submittal Plans / SCDHEC-OCRM Stormwater Permit letter to Andrews & Burgess, dated April 28, 2011.
- Freshwater Wetlands Assessment (May 31, 2011 / Newkirk Environmental Consultants)

Enclosures (submitted by hand delivery)

- Application Fee Check for \$100

**BROAD CREEK MARINA
ZIP LINE & ECO-TOURISM PARK
DPR PARKING CALCULATIONS**

June 10, 2011

Note the Applicant will delay construction of the previously approved and not yet built Building #2 dry stack storage (98 boats) (DPR 040030) as long as parking is required for the Eco-Tourism Park activities. Conceptual Future Phases call for the previously permitted Ship's Store (DPR 040030) to be replaced by the proposed Waterfront Open Air Restaurant.

PARKING REQUIREMENTS & UTILIZATION PER LMO:

Use	Square Feet, Slips/Racks, or Number of Persons at Peak Capacity	LMO Chapter 5, Sec. 16-5-1208 Required Off-Street Parking (*with estimates for uses not covered)	Parking Requirement & Utilization (Spaces)				
			Total	% Day	Day Spaces	% Night	Night Spaces
Phase 1							
Marina Wet Slips	46 Slips	1 Space / 3 Slips	15	100%	15	5%	2
Building #1 Boat Storage	200 Racks + 3,200 SF Repair w/ 5 Workers	1 Space / 5 Boats + *1 Space / Boat Repair Worker	40	100%	40	5%	4
			5	100%	5	0%	0
Up the Creek Pub & Grill	1,955 SF Gross Kitchen, Interior Dining & Deck + 510 SF Office	1 Space / 100 SF Gross Floor Area + 1 Space / 350 SF Office	20	50%	11	100%	22
			2				
Water Sports & Tours	100 Persons + Existing 1,010 SF Ticketing/Storage	1 Space / 3 Persons + 1 Space / 200 SF	34	100%	34	0%	0
			5				
Zip Line/ Canopy Tour	50 Persons (Ticketing/Storage shared with Water Sports & Tours)	1 Space / 3 Persons	17	100%	17	50%	9
Phase 1 Total	-	-	138	N/A	128	N/A	39
Conceptual Future Phases							
Ropes Course	30 Persons	1 Space / 3 Persons	10	100%	10	50%	5
Bungee Jump Course	30 Persons	1 Space / 3 Persons	10	100%	10	50%	5
Rock Climbing Wall	30 Persons	1 Space / 3 Persons	10	100%	10	50%	5
Open Air Restaurant	1,050 SF Kitchen, etc. + 4,100 SF Dining = 5,150 SF Gross	1 Space / 100 SF Gross Floor Area	52	50%	26	100%	52
Ticketing, Storage, etc.	3,000 SF	1 Space / 200 SF	15	100%	15	50%	8
Concept. Future Total	-	-	97	N/A	71	N/A	75
Phases 1 & Conceptual Future Phases							
Phase 1 Total	-	-	138	-	128	-	39
Concept. Future Total	-	-	97	-	71	-	75
Overall Total	-	-	235	N/A	199	N/A	114

Exhibit E

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

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P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938

CERTIFIED CIRCUIT
COURT MEDIATOR

ALSO ADMITTED
GEORGIA BAR

August 26, 2011

Via Hand Delivery

Ms. Anne Cyran
Senior Planner—DRZ
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

Re: Applicant: Broad Creek Marina (Zip Line)
XDPR 110016

Dear Ms. Cyran:

I represent J & W Corporation of Greenwood, which is a party to a 99 year lease agreement with Hilton Head Island Marina, LP, the predecessor in interest to Broad Creek Marina of Hilton Head, LLC. J & W operates a large, busy ferry boat operation, serving both the public, tourists and Daufuskie residents, from Broad Creek Marina pursuant to the terms and conditions of the aforesaid Lease Agreement, recorded at PB 654, P 228 in the RMC office. As part of the Lease Agreement, J & W is to be provided with a minimum of 50 parking spaces by the Landlord, Broad Creek Marina. Because J & W's business has grown, J & W has also leased from Charlie Simmons a portion of the Fish Camp parking lot, and we routinely park our "overflow" guests and Daufuskie residents in that area.

The purpose of my letter today is to advise the Town that J & W is very concerned about the impact to the current parking situation that the new "zip line" attraction will cause. Because of this concern, Wick Scurry, President of J & W, asked me to review the plans and bring to your attention some serious potential misunderstandings about parking numbers. J & W is supportive of any legitimate business expansion that will assist Broad Creek, but it appears to J & W that there is a miscommunication or misunderstanding by the Town as to the parking issue.

First, J & W does not believe there are actually 139 parking spaces currently available, as is represented in the June 10, 2011 Broad Creek Marina Zip Line & Eco-Tourism Park DPR Parking Calculations submitted by SRS. And critically important, the representation as to the number of persons using the "Water Sports and Tours" is very understated. J & W alone has been moving approximately 200 people per day on our ferry boats. We believe that the Dolphin Cruise business probably averages at least a 100 people per day during the summer, and the Water Dog kayak service, probably another 100 people per day. We do not have a good feel for the numbers of the Jet Ski Rental operation, but I am sure a representative from the Town could

easily gather that information. In sum, the average summer numbers for the lumped together "Water Sports & Tours" is probably more like 400 than 100 per day.

Although the specific calculations for the Up The Creek Pub & Grill may be accurate on a square foot basis, we also have observed a higher usage than can be served by the 22 spaces supposedly it justifies. We routinely observe overflow parking from the Pub moving to our privately leased lot near the Fish Camp.

I think the only legitimate way the Town can truly evaluate the parking situation at Broad Creek is to verify the numbers I have approximated, and then analyze the usage, with a reduction of the 50 spaces that are dedicated to J & W's usage and legally are our spaces. Looking at those numbers, we do not believe there are currently sufficient parking spaces under the LMO, and the addition of further cars for the zip line/canopy tours attraction will only exacerbate the situation.

I ask that the Town investigate this situation, make its own calculations as to currently available and required LMO parking, and reconsider the requirements the Town will impose on Broad Creek Marina to provide parking for the increased level of cars once the zip line/canopy tour is open. If the Town does not undertake this analysis, I am afraid that a bad parking situation is going to be made worse, thereby impacting the ability of all businesses at Broad Creek Marina to function at an optimal standard.

On behalf of J & W, I thank you for your consideration of this request and ask that you contact me if you have any questions. We are glad to share with the Town any information we have concerning numbers of visitors and ferry boat riders over the year.

Cordially yours,
Law Office of Thomas C. Taylor, LLC



Thomas C. Taylor

Cc: Heather Colin, Development Review Administrator

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, SC 29928
(843) 341-4600 Fax (843) 842-7228
<http://www.hiltonheadislandsc.gov>

August 30, 2011

Thomas Taylor
Law Office of Thomas Taylor, LLC
Sent to tom@thomastaylorlaw.com

Re: XDPR110016 Broad Creek Marina Zip Line Project

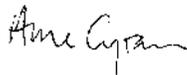
Dear Mr. Taylor:

This is a response to your letter dated August 26, 2011 regarding the effect of the proposed zip line on the available parking supply at Broad Creek Marina. Your letter states that your client, J&W Corporation of Greenville, SC, claimed that there is currently a lack of available parking at Broad Creek Marina and that there will not be enough parking spaces available once the zip line is open for use. I have investigated these concerns:

- On several visits to the site over the past five months, I have noticed many available parking spaces on site. The gravel spaces on the side of the city storage building are usually half empty.
- I reviewed the Town's Code Enforcement Division records for this area and found no violations or complaints regarding overcrowded or illegal parking.
- I contacted Johnnie Fisher, the Town's Fire Marshal, who was not aware of any emergency access problems or concerns in this area.
- The review of the Expedited Development Plan Review (XDPR) application for this project included an analysis of the parking space requirements for all of the uses on this site. Under the current zoning, the number of spaces are available to support the all uses on the site and the proposed zip line. Please refer to the attached document for details on the parking requirements.

Please contact me at (843) 341-4697 or anne@hiltonheadislandsc.gov if your client has further concerns.

Sincerely,



Anne Cyran, AICP
Senior Planner

cc: File

Roger Freedman, Broad Creek Marina

Exhibit G

CERTIFIED CIRCUIT
COURT MEDIATOR

ALSO ADMITTED
GEORGIA BAR

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

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P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938

August 31, 2011

Via US Mail and E-Mail Attachment

Mr. Charles Cousins
Director of Community Development
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

**Re: Applicant: Broad Creek Marina (Zip Line)
XDPR 110016**

Dear Charles:

I represent J & W Corporation of Greenwood and Wick Scurry, its owner. I am writing today in follow up to my letter August 26, 2011 to Anne Cyran, to make a Freedom of Information Act request, and to lodge an official complaint with the Town of Hilton Head as to the above referenced project, and specifically, as to its parking plan.

As you can see from the attached copy of my letter to Ms. Cyran, J & W is very concerned about the current lack of available parking at Broad Creek Marina and believes that if the "zip line" project is opened, its increased parking demand will make an already bad situation, much worse. As my letter indicates, we believe the projected parking numbers given to the Town by the project planners are dramatically understated, especially in light of the 50 spaces that are leased to J & W from the existing spaces. And as noted to Ms. Cyran, we believe the actual use of the varied water sports and tours already operating on the premises are probably more like 400 persons rather than the 100 stated by the project planners.

When I wrote Ms. Cyran, I pointed out this problem with the project developer's numbers versus the actual usage, and suggested that the Town should perform its own investigation as to the true numbers to avoid a serious problem once the attraction opens. In reply, by letter dated August 30, 2011, Ms. Cyran basically said she has not observed any parking problems, and that the Town's Code Enforcement division does not report any problems. Then she provided me with a copy of the development application "analysis" that I was questioning, and stated that "I determined that a sufficient number of spaces are available to support the all (sic) existing activities and the proposed zip line tour." Needless to say, I do not find that response to meet either the letter or spirit of the Town's responsibilities under the LMO. Thus, this letter.

Mr. Charles Cousins
Page 2
August 31, 2011

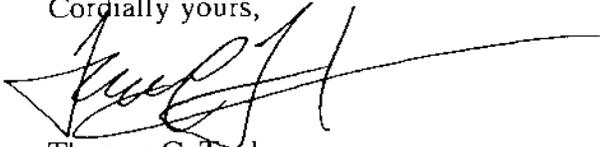
On behalf of J & W, pursuant to LMO Section 16-8-103, I hereby make this formal Complaint that the parking spaces being permitted to serve the Broad Creek Marina "Zip Line" are at variance with the requirements of the LMO relating to parking. See Section 16-5-1209. I incorporate by reference my earlier letter to Ms. Cyran and the allegations set forth therein as to the actual number of guests at BCM for the different current activities. Specifically Section 16-5-1209 requires "one space for every 3 persons that the facilities are designed to accommodate when fully utilized..." As noted in my letter to Ms. Cyran, we believe that number is more like 400 than the 100 set forth by the developer's representative.

I ask that the Town follow its ordinance, properly record this Complaint, and immediately investigate to determine the validity of the charge and take whatever action is necessary to assure compliance with this Title. That may include, in the proper circumstances, issuance of a stop order. It seems to me that the only reasonable way to properly investigate would be to undertake an analysis of the actual usage being made of all the businesses operating at Broad Creek Marina, deduct the 50 spaces allocated to J & W by the lease, and then determine the appropriateness of the existing spaces and the appropriateness of the request for the new business (the zip line). Anything less than an analysis of the actual numbers based on reports by the businesses, would be, in my opinion, less than the LMO requires.

I ask that you also consider this letter a formal request pursuant to the South Carolina Freedom of Information Act, for copies of any and all documents that refer to, relate to, or otherwise evidence any work or actions the Town undertook to review, verify or analyze the parking calculations set forth in the June 10, 2011 "DPR Parking Calculations" document attached to Ms. Cyran's letter to me dated August 30, 2011. Further, I ask for copies of all documents that refer to, relate to, or otherwise evidence the professional work undertaken by Ms. Cyran or anyone else in her department, upon which she relied in determining "that a sufficient number of spaces are available to support the all existing activities and the proposed zip line tour." (See Cyran letter of August 30, 2011 to the undersigned.)

Thank you for your assistance. On behalf of J & W, I stand ready to assist the Town in any appropriate way with its investigation, and we will gladly share our actual ferry boarding numbers with a representative of the Town.

Cordially yours,



Thomas C. Taylor

TCT/dpt
Attachment

cc: Steve Riley, Town Manager
Greg Alford, Esq.

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928

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Drew A. Laughlin
Mayor

Kenneth S. Heitzke
Mayor ProTem

Council Members

Wm. Lee Edwards
Willie (Bill) Ferguson
William D. Harkins
Kimberly W. Likins
George W. Williams, Jr.

Stephen G. Riley
Town Manager

September 16, 2011

Mr. Thomas C. Taylor
Law Office of Thomas C. Taylor, LLC
22 Bow Circle
Suite A
Hilton Head Island, SC 29928

Dear Mr. Taylor:

This letter is in response to your correspondence to Charles Cousins dated August 31, 2011 which filed a written complaint with the Town regarding parking at Broad Creek Marina. As the Administrator, I recorded the complaint and immediately [with the assistance of other staff members] conducted an investigation to determine the validity of the charge.

As previously determined on August 4, 2011 as evidenced by the Notice of Action issued for XPDR110016 [Broad Creek Marina Zip Line] the parking supply at Broad Creek Marina is in compliance with the Land Management Ordinance [LMO] and therefore no additional action is necessary from the Town at this time per LMO Section 16-8-103.C.

Sincerely,



Teri B. Lewis
LMO Official

cc: XDPR110016 file
Charles Cousins
Steve Riley
Gregg Alford



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

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

Case #:	Public Hearing Date:
VAR120002	August 27, 2012

Parcel or Location Data:	Property Owner & Applicant
Address: 11 Lighthouse Lane Parcel#: R550 017 000 0304 0000 Zoning: PD-1 (Planned Development) – Sea Pines Plantation Project Name: Harbour Town Golf Links	Cary Corbitt Sea Pines Resort, LLC PO Box 7000 Hilton Head Island, SC 29938

Application Summary:

Cary Corbitt, with Sea Pines Resort, is requesting a variance from LMO Section 16-6-402, Preservation of Trees and Native Vegetation, to remove a specimen tree at the Harbour Town Golf Links in order to alleviate shade problems on the 1st green of the golf course. The Harbour Town Golf Links is located at 11 Lighthouse Lane, and is further identified as Parcel 304 on Beaufort County Tax Map 17.

Applicant’s Grounds and Background for Variance, Summary of Facts and Conclusions of Law:

Grounds for Variance:

The applicant is requesting a variance to remove a specimen tree in order to alleviate ongoing shading problems on the 1st green of the Harbour Town Golf Links course. The applicant states that over the last ten years they have repeatedly trimmed, pruned and cut back the tree to allow sunlight to pass through, but the tree continues to grow taller and wider. The applicant states that the shade is destroying the green and prohibiting the turf to grow. They are concerned with the condition of the green as this is one of the most well-known courses on the island and when vacation golfers see the course on TV, they expect the greens to be in tournament condition when they play the course. The applicant states that pruning would not meet the goal of addressing the shading issue and that it would leave the tree looking bad and not aesthetically pleasing.

Summary of Facts:

- The applicant seeks a variance from LMO Section 16-6-402, Preservation of Trees and Native Vegetation.
- The applicant is proposing to remove a specimen tree in order to alleviate shading problems on the 1st green of the golf course.

Conclusion of Law:

- Applicant may seek a variance from the requested LMO section as set forth in 16-3-1901.

Staff Summary of Facts and Conclusions of Law:
<p>Summary of Facts:</p> <ul style="list-style-type: none"> ○ Application was submitted as set forth in LMO Section 16-3-1903. ○ Notice of the Application was published in the Island Packet on July 22, 2012 as set forth in LMO Sections 16-3-110 and 16-3-111. ○ Notice of the Application was posted and mailed as set forth in LMO Sections 16-3-110 and 16-3-111. ○ The Board has authority to render the decision reached here under LMO Section 16-3-1905. <p>Conclusions of Law:</p> <ul style="list-style-type: none"> ○ The application is in compliance with the submittal requirements established in LMO Section 16-3-1903. ○ The application and notice requirements comply with the legal requirements established in LMO Sections 16-3-110 and 16-3-111. ○ The applicant submitted an affidavit stating they met the mailed notice requirements as set forth in LMO Section 16-3-111.

As provided in Section 16-3-1906, Criteria for Approval of Variances, 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.

Staff Summary of Facts and Conclusions of Law:
<p><i>Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property. (LMO Section 16-3-1906A(1))</i></p> <p>Finding of Fact:</p> <ul style="list-style-type: none"> ○ Considering the property is a golf course, it is not unusually shaped nor does it contain any exceptional conditions. <p>Conclusion of Law:</p> <ul style="list-style-type: none"> ○ This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(1) because there are no extraordinary or exceptional conditions that pertain to this particular piece of property.

Staff Summary of Facts and Conclusions of Law:
<p><i>Criteria 2: These conditions do not generally apply to other properties in the vicinity. (LMO Section 16-3-1906A(2))</i></p> <p>Finding of Fact:</p> <ul style="list-style-type: none"> ○ There are no extraordinary or exceptional conditions pertaining to the subject property. ○ The property is similar to other golf courses in the area. <p>Conclusion of Law:</p> <ul style="list-style-type: none"> ○ This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(2) because there are no extraordinary or exceptional conditions pertaining to this property that do not apply to other properties in the vicinity.

Staff Summary of Facts and Conclusions of Law:

Criteria 3: Because of these conditions, the application of the LMO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. (LMO Section 16-3-1906A(3))

Findings of Fact:

- There are no extraordinary or exceptional conditions pertaining to the subject property.
- The tree has been growing on the golf course for many years and has not been hindering the operation of the golf course.
- LMO Section 16-6-402, Preservation of Trees and Native Vegetation, states that specimen trees may not be removed unless they are hazardous.
- There is a 39 inch Live Oak tree on the 1st green which is specimen in size pursuant to LMO Section 16-6-408.
- Routine and seasonal pruning of trees is permitted pursuant to LMO Section 16-3-402.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(3) because the application of the LMO does not restrict the utilization of the property.
- The specimen tree subject to this application is not hazardous.
- The preservation of the specimen tree is not causing an unnecessary hardship or restricting the use of the property because the applicant can continue to prune the tree to allow sunlight on the green, as they have in the past.

Staff Summary of Facts and Conclusions of Law:

Criteria 4: This hardship is not the result of the applicant's own actions. (LMO Section 16-3-1906A(4)).

Findings of Fact:

- This is a result of the applicant's own actions.
- Routine and seasonal pruning of trees is permitted pursuant to LMO Section 16-3-402.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(4) because this hardship is the result of the applicant's own actions.
- The preservation of the specimen tree is not causing an unnecessary hardship because the applicant can continue to prune the tree to allow sunlight on the green, as they have in the past.

Staff Summary of Facts and Conclusions of Law:

Criteria 5: Granting of the variance does not substantially conflict with the Comprehensive Plan and the purposes of the LMO. (LMO Section 16-3-1906A(5))

Findings of Fact:

- LMO Section 16-6-402, Preservation of Trees and Native Vegetation, states that specimen trees may not be removed unless they are hazardous. But this section also states that if preservation of a specimen tree causes unnecessary hardship, the applicant may apply for a variance from this section.
- Routine and seasonal pruning of trees is permitted pursuant to LMO Section 16-3-402.

The Comprehensive Plan addresses the proposed variance in the following sections:

Natural Resources Element

3.3 Implication from Positive Impacts of Environmental Preservation on Quality of Life

- The preservation of natural resources includes thoughtful planning techniques and sustainable land-use practices. The Town needs to maintain healthy beaches and creeks, invest in well-planned green space

and protect mature tree canopies in order to enhance and support mental and physical health, economic vitality and a high quality of life.

Economic Development Element

7.4 Key Island Economic Assets and Capabilities

- Unparalleled natural assets in the form of 13 miles of pristine beaches, green spaces, parks, trees and waterways which have been maintained and protected by both early restrictive covenants and a Town governance process focused on the need to protect and preserve these natural assets. These natural assets not only make the Island environmentally pleasing, but also are key tangible assets of Hilton Head Island’s economy in attracting and retaining residents and visitors alike.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(5) because the granting of this variance does substantially conflict with the purposes of the LMO and the Comprehensive Plan.
- The preservation of the specimen tree is not causing an unnecessary hardship because the applicant can continue to prune the tree to allow sunlight on the green, as they have in the past.
- Trees, especially those with mature canopies, enhance the quality of life for the Town’s residents and attract visitors and therefore should be retained to preserve the economic vitality they provide.

Staff Summary of Facts and Conclusions of Law:

Criteria 6: The authorization of the variance will not be of substantial detriment of adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance. (LMO Section 16-3-1906A(6)).

Findings of Fact:

- The applicant is proposing to remove one specimen tree in order to alleviate shading problems on the golf course green in order to discontinue pruning them.
- There are other large trees in the vicinity.

Conclusions of Law:

- This application does meet this variance criteria as set forth in LMO Section 16-3-1906A(6) because the granting of this variance to remove one specimen tree will not be a detriment to the adjacent property and the public good.

Staff Recommendation:

Staff recommends that the Board of Zoning Appeals *disapprove* the application based on those Findings of Facts and Conclusions of Law as stated in the LMO Official Determination and this staff report.

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 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:

ND

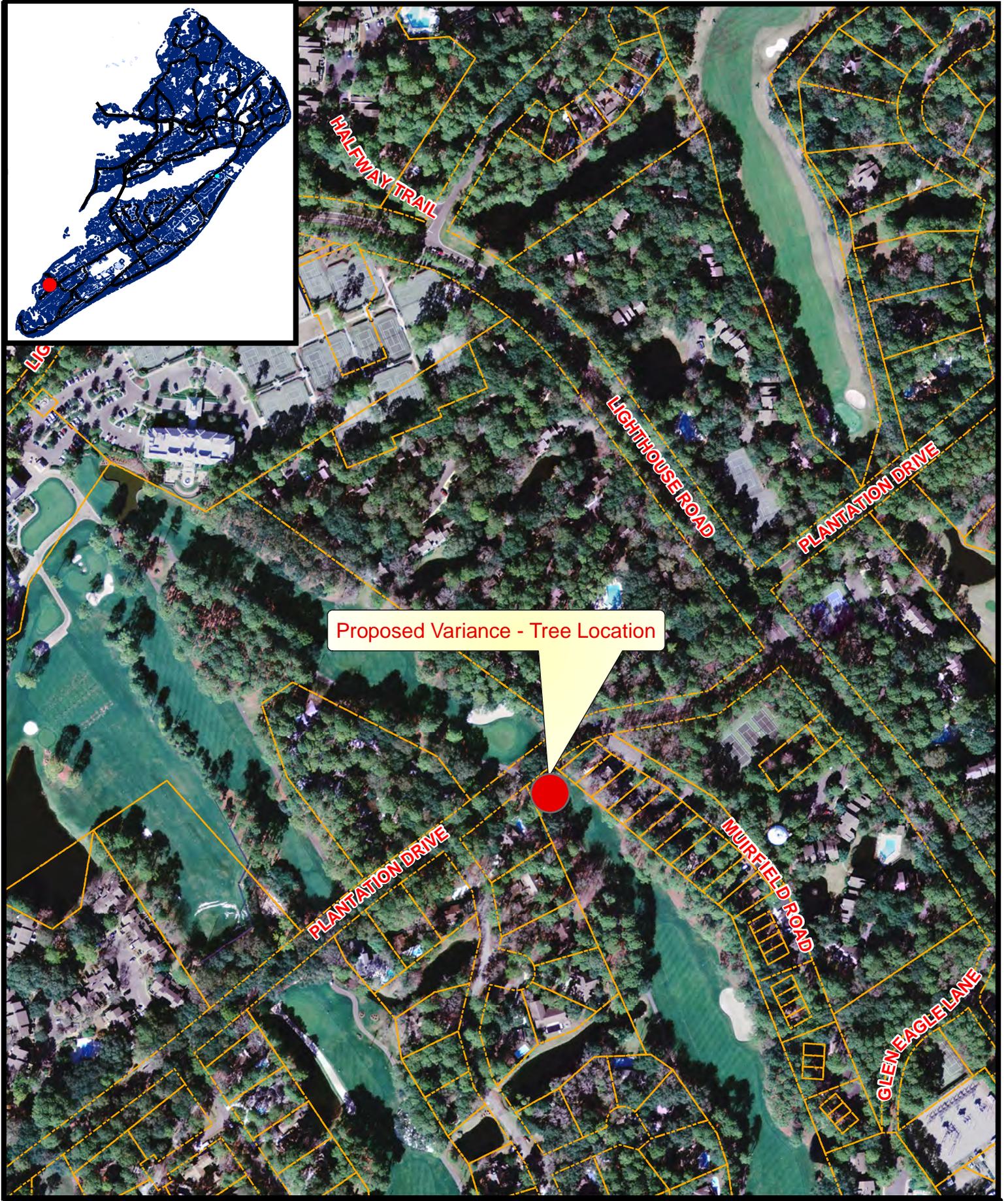
Nicole Dixon, CFM
Senior Planner & BZA Coordinator

July 30, 2012

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Letter of support
- D) Plan showing tree location
- E) Pictures



Proposed Variance - Tree Location


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

Town of Hilton Head Island
ATTACHMENT A
Vicinity Map



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.

Mullane Associates
Tree Consultants

P.O. Box 22828
Hilton Head Island, SC 29925
Phone: 843-816-4461
Fax: 843-757-8514
E-mail: Treenetwks@aol.com

June 26, 2012

Board of Zoning Appeals

Per the Variance Supplemental Applications

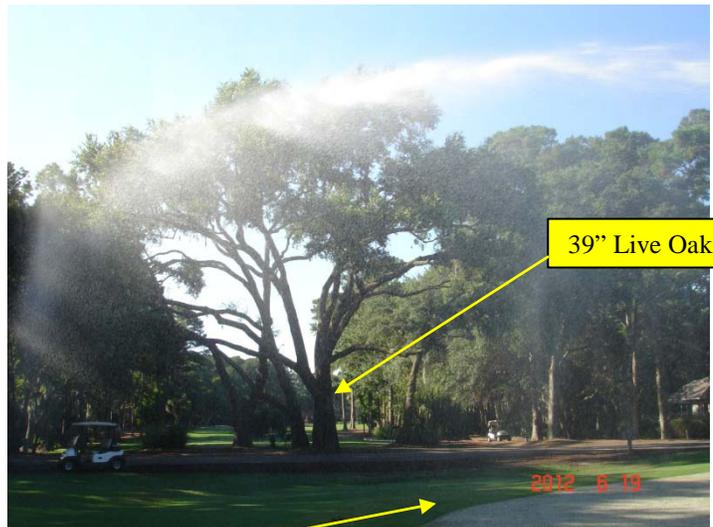
RE: Specimen tree at Harbour Town Golf Links

Describe completely and specifically the requested variance: Sea Pines Company is requesting a variance to LMO Sec. 16-6-402, Preservation of Trees and Native Vegetation for the removal a specimen tree at Harbour Town Golf Links. After discussions with Rocky Browder, Harbour Town Golf staff and Sea Pines staff regarding shade problems on the 1st Green at Harbour Town Golf Links it was decided that the best course of action to correct this ongoing problem was to request the removal a specimen tree. Sea Pines Company requests the removal of a 39” Live Oak shading the 1st Green.

Explain briefly why the variance is requested:

39” Live Oak shading 1st Green: This tree stands at the back of the 2nd Tee across Plantation Road. The tree stands within 2’ of the road and is one of three Live Oaks in this cluster of trees. Over the course of the last ten years the tree has repeatedly been trimmed, cut back and pruned to allow sunlight to pass through to the 1st Green. The tree is about 50’ tall and the early morning shade extends all the way onto the Green. This is especially true in the winter months when the sun is lower. The 1st Green has been totally renovated in the last month largely due to this shade problem. Golfers are using a temporary Green as the new Green grows in. This is not a good way for vacationers to begin their Harbour Town Golf experience.

We have done all we can do to alleviate the shade problem. The tree continues to grow taller and wider so the problem will be ongoing if something is not done now. We have reached the point where virtually all arboricultural practices have been applied. The unnecessary hardship that the tree causes has resulted in the request to remove the tree.



New 1st Green & shade issues

In reference to how and why the requested variance meets all of the criteria of LMO, Section 16-3-1806, and Criteria for approval for variances:

1. *In reference: to extraordinary and exceptional conditions pertaining to the property.*

The 39" Live Oak is damaging the 1st Green that it shades. When preparing and managing a golf course a majority of the time and expense invested is directed toward the putting surfaces. The greens are the most critical and difficult to maintain for the golf staff. The condition is extraordinary due to the popularity of the course being the most well-known course on the island. In addition, vacation golfers see the course on TV and expect the greens to be in tournament condition when they play the course. It is an exceptional problem because it is a putting surface which requires as much direct sunlight as possible to grow turf at a growing height of 1/8".

2. *In reference to: conditions do generally apply to other properties in the vicinity.*

Because of the special conditions of growing grass on a golf course, especially a putting surface, nearby homeowners would not experience similar issues or conditions. When it comes to putting greens we are limited to the type of turf grasses that can be used. This is especially true when meeting the demands of the PGA tour and professional golfers. The tree canopy presents a challenge to the entire golf course.

3. *In reference: these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

More than any other item, because of the restrictions that are placed upon us concerning tree removal we are unreasonably restricted from utilizing the putting surface "as it was intended" to be used. The tree canopy caused by the Live Oak prevents sunlight from penetrating the surface preventing healthy turf from forming and effectively prohibiting the use of this part of the property as was intended.

4. *In reference: it is not the result of the applicant's own actions.*

Trees grow taller and wider each year. We have attempted to reduce the impact using various arboricultural practices on this tree but have run out of options.

5. *In reference: granting the variance does not substantially conflict with the Comprehensive Plan and the purposes of the Land Management Ordinance.*

Only the Board can determine what may be a substantial conflict with the LMO. Sea Pines has always followed and respected the Town's goal to protect trees.

We feel that we have followed the pruning guidelines of the Town's and national tree care standards in respect to this tree. We have exhausted all pruning practices available. We feel that we have proven unnecessary hardship with this tree. We do not feel that granting the variance conflicts with Comprehensive Plan or LMO. Removing the specimen tree is the only option remaining to alleviate the problems.

6. *In reference: the authorization of the variance will not be of substantial detriment to the adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance.*

The Live Oak on the 1st Green is in a cluster of Live Oak trees and would not be missed by anyone. The removal of this tree will have no impact on the character of Sea Pines. In fact, the improvement once removed will have an enormous impact on the golf course appearance and condition.

Sea Pines, Harbour Town golf staff and me appreciate your consideration for the removal of this tree. We all have a long history of working with the Town staff regarding tree preservation. We have been instrumental in the preservation and saving of hundreds of thousands of trees on the island. We would be glad to meet with Town staff or Board members to discuss the removal of these trees.

Respectfully submitted,



Gary R. Mullane, ASCA
Registered Consulting Arborist

ATTACHMENT C



*Bland Cooper, CGCS
Agronomist, Competitions*

AGRONOMY TOURNAMENT PREPARATION
Interim Visit
RBC Heritage
Harbour Town Golf Links, Hilton Head Island, South Carolina
2013

Report Date: July 9, 2012

To: Jonathan Wright, Golf Course Superintendent

From: Bland Cooper

Copy:

Tim Finchem
Andy Pazder
Cal Roth
Tyler Dennis
Paul Vermeulen
Mark Russell
Slugger White
Steve Carman

Jim Furyk
Paul Goydos
Davis Love III
Steve Stricker
Torrey Gane
Steve Wilmot, Tournament Director
Advance Book

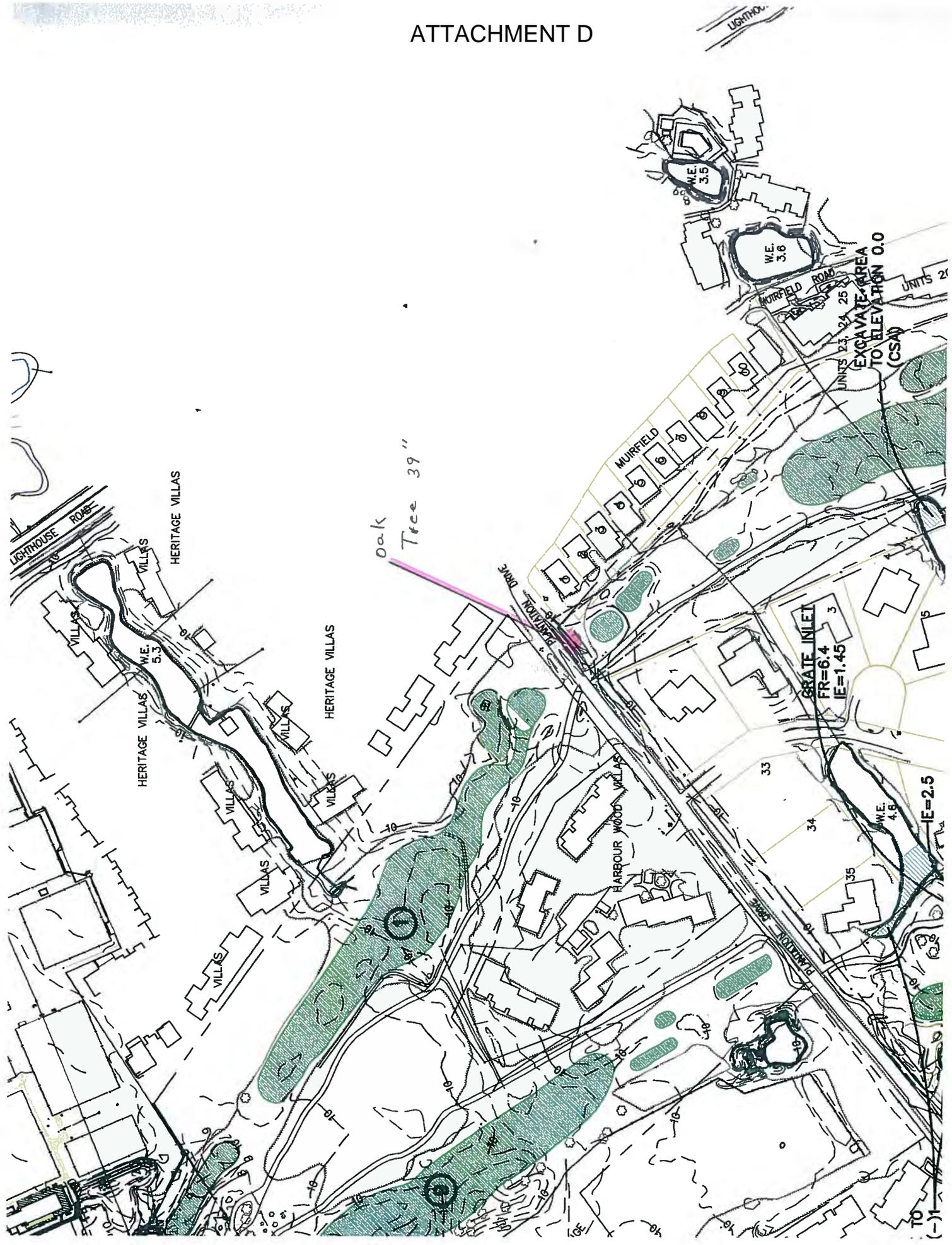
Dear Jonathan:

Thank you once again for spending the day with me during this recent visit to Sea Pines. The purpose of this visit was to review several improvements and changes to the course since this year's **RBC Heritage**. While most of the improvements are from an agronomic perspective, several architectural changes have been/are being made based on input from Golf Course Architect Pete Dye. The following pages include a pictorial of these changes/improvements.

Repairing and Re-grassing of #1 Green

Over the past two seasons, the back right portion of #1 green progressively settled to the point of prohibiting surface drainage, thereby causing significant turf thinning during the winter and spring months. As a result, the sod was removed along with 3 inches of the organic layer to ensure that only the underlying mix was present. Second, the repair was made and additional mix taken from the nursery green (which is of identical age and physical properties) was used to return the surface to grade, ensuring a 1.5% fall from this area to the green's edge. After proper compaction and final floating, pre-plant fertility was applied, which consisted of 25 lbs. lime per 1,000 ft², 8-3-5 Nature

ATTACHMENT D









**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 #	Name of Development	Public Hearing Date
VAR120003	34 New Orleans Road	August 27, 2012

Parcel Data	Owner	Applicant
Tax Map: 15C, Parcel 69 Address: 34 New Orleans Road Zoning District: CC (Commercial Center) Overlay District: COR (Corridor Overlay)	Building Innovations LLC 354 Abbey Glen Way Hardeeville SC 29927	Trey Griffin Wood + Partners 8 Lafayette Place Hilton Head SC 29926

Application Summary

The Community Development Department has received an application for a variance from Trey Griffin on behalf of Building Innovations LLC for the following Sections of the Land Management Ordinance (LMO):

- 16-5-704, Minimum Required Setback Area
- 16-5-806, Required Buffers

The applicant is requesting a variance to:

1. Allow grading in both adjacent use buffers and the William Hilton Parkway and New Orleans Road adjacent street buffers for drainage;
2. Allow the parking spaces and a pedestrian plaza to encroach into both adjacent use buffers;
3. Allow two light posts to encroach into both the adjacent use setback and buffer areas;
4. Allow an encroachment of the building's roof in the west adjacent use setback and buffer; and
5. Allow encroachments of the building's exterior staircase, a gravel path and a utility yard in the east adjacent use setback and buffer.

Background

The subject parcel is located at 34 New Orleans Road and is in the CC Zoning District. As shown on the Vicinity Map (Attachment A), the subject parcel is bounded by: William Hilton Parkway on the north; the Hickey Wellness Center on the east; Orleans Centre on the west; and New Orleans Road on the south.

The 0.5 acre parcel is currently undeveloped. The owner wants to build a 3,500 square foot design selection center, where customers would chose building materials such as cabinets, tile,

lighting fixtures, etc.

The applicant attended a pre-application meeting with Town staff in March 2012. The submitted plans showed the ends of the parking spaces encroaching into both of the adjacent use buffers, and staff recommended either re-designing the site or applying for a variance.

After discussing building and site design requirements with staff in subsequent meetings, the applicant re-designed the site plan to minimize the encroachments into the adjacent use setbacks and buffers and to minimize the amount of grading proposed in the adjacent use and adjacent street buffers.

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

Grounds for Variance

The applicant is applying for a variance from LMO Sections 16-5-704, Minimum Required Setback Area and 16-5-806, Required Buffers, to allow grading in the adjacent use and adjacent street buffers and to allow encroachments into the adjacent use setbacks and buffers. The applicant states the variances are needed to allow proper drainage, to meet LMO standards for drive aisle and parking space dimensions and to meet International Building Code building accessibility requirements.

Summary of Facts

1. The applicant seeks a variance from LMO Section 16-5-704, Minimum Required Setback Area.
2. The applicant is proposing to build parking spaces, walkways, a roof overhang, light fixtures, a gravel pathway, a staircase and a service yard that encroach into the adjacent use setbacks to build a new design selection center.
3. The applicant seeks a variance from LMO Section 16-5-806, Required Buffers.
4. The applicant is proposing to grade in the adjacent street and adjacent use buffers to allow proper site drainage.

Conclusion of Law

1. Applicant may seek a variance from the requested LMO sections as set forth in LMO Section 16-3-1901.

Staff Determination

Staff recommends that the Board of Zoning Appeals **approve** the application based on the Findings of Facts and Conclusions of Law.

Staff Summary of Facts and Conclusions of Law

Summary of Facts

1. Application was submitted as set forth in LMO Section 16-3-1903.
2. Notice of the Application was published in the Island Packet on Sunday, July 22, 2012, as set forth in LMO Sections 16-3-110 and 16-3-111.
3. Notice of the Application was posted as set forth in LMO Sections 16-3-110 and 16-3-111.
4. Notice of the Application met the mailing criteria in LMO Sections 16-3-110 and 16-3-111.
5. Staff received an affidavit of compliance from the applicant as set forth in LMO

Section 16-3-111.

6. The Board has authority to render the decision reached here under LMO Section 16-3-1905.

Conclusions of Law

1. The application is in compliance with the submittal requirements established in LMO Section 16-3-1903.
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 Section 16-3-1906, Criteria for Approval of Variances, staff has based its recommendation on analysis of the following criteria:

Staff Summary of Facts and Conclusions of Law

Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property. (LMO 16-3-1906A(1))

Findings of Fact

1. The subject parcel is about 0.5 acre in size.
2. Most commercial parcels are at least 1.0 acre in size.
3. The parcel is subject to setbacks and buffers from two adjacent arterial streets, one of which is a major arterial which requires a substantially larger setback. The setback and minimum buffer from William Hilton Parkway is 50 feet. The average buffer from William Hilton Parkway is 60 feet. The minimum buffer from New Orleans Road is 25 feet. The average buffer from New Orleans Road is 30 Feet. The setback from New Orleans Road is 40 feet.
4. Most commercial parcels are subject to only one adjacent street setback and buffer.
5. The setbacks and buffers reduce the parcel’s buildable area to about 7,500 square feet or 37% of the size of the parcel.

Conclusions of Law

1. This application meets the variance criteria as set forth in LMO 16-3-1906A(1).
2. The subject parcel is at least half the size of an average commercial parcel.
3. The subject parcel is subject to two adjacent street setbacks and buffers, which considerably reduces the parcel’s buildable area.

Staff Summary of Facts and Conclusions of Law

Criteria 2: These conditions do not generally apply to other properties in the vicinity. (LMO 16-3-1906A(2))

Findings of Fact

1. The subject parcel is about 0.5 acre in size.
2. Most parcels in the vicinity are between 0.7 and 1.75 acres in size.
3. The parcel is subject to setbacks and buffers from two adjacent arterial streets.
4. The parcels adjacent to the subject parcel are also subject to setbacks and buffers from two adjacent arterial streets.
5. Most of the parcels adjacent to the subject parcel were developed between 1979 and 1986, prior to the adoption of the LMO in 1987. Most of the parcels in the vicinity

do not meet the site design standards of the current LMO and have non-conforming site features, such as an inadequate number of parking spaces, drive aisles that are too narrow, parking spaces and structures encroaching into setbacks and buffers, too much impervious surface, etc.

6. The proposed development is a 3,500 square foot, two-story building.
7. Parcels of similar size in the vicinity contain buildings from 3,900 to 5,800 square feet in size.

Conclusions of Law

1. This application meets the variance criteria as set forth in LMO 16-3-1906A(2).
2. The subject parcel is smaller than most commercial parcels in the vicinity.
3. Though other parcels in the vicinity are also subject to two adjacent street setbacks and buffers, those parcels were developed prior to the LMO and don't meet current LMO standards for site design.
4. The proposed building is considerably smaller than similar buildings in the vicinity.

Staff Summary of Facts and Conclusions of Law

Criteria 3: Because of these conditions, the application of the LMO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. (LMO 16-3-1906A(3))

Findings of Fact:

1. Per LMO Section 16-5-704, Minimum Required Setback Area, for this parcel, a 50 foot setback is required from William Hilton Parkway, a 40 foot setback is required from New Orleans Road and a 20 foot setback is required on either side of the parcel.
2. Per LMO Section 16-5-806, Required Buffers, for this parcel, a 50 foot minimum and a 60 foot average buffer is required from William Hilton Parkway, a 25 foot minimum and a 30 foot average buffer is required from New Orleans Road and a 20 foot buffer is required on either side of the parcel.
3. The parcel is 0.5 acre in size, which is smaller than most commercial parcels.
4. The design standards in LMO Sections 16-5-704 and 16-5-806 would reduce the buildable area of the parcel from 20,000 square feet to 7,500 square feet or 37% of the parcel.

Conclusions of Law:

1. This application meets the variance criteria as set forth in LMO 16-3-1906A(3).
2. The LMO site design standards have unreasonably reduced the buildable area of an already small parcel.

Staff Summary of Facts and Conclusions of Law

Criteria 4: This hardship is not the result of the applicant's own actions. (LMO 16-3-1906A(4)).

Findings of Fact:

1. The applicant reduced the size of the proposed building from 3,600 to 3,500 square feet.
2. Staff advised the applicant to apply for a variance to allow the parking spaces to encroach into the adjacent use buffers instead of applying for a variance to allow the drive aisle to be narrower than required. Given the small size of the site, the Town's Traffic & Transportation Engineer recommended that the applicant use the required

- 24 foot wide drive aisle if possible.
3. The applicant discussed alternate drainage plans with staff to avoid grading in the buffers. The Town's Assistant Engineer recommends the proposed drainage plan as the most effective and least invasive option.
 4. The applicant is proposing to use pervious pavers in the drive aisle, parking spaces and walkways to reduce the amount of stormwater runoff from the site which will reduce the depth of grading required in the adjacent street and adjacent use buffers.
 5. The applicant worked with the Town's Environmental Planner to locate the proposed grading in areas that will disturb as few of the existing trees and vegetation as possible.

Conclusions of Law:

1. This application meets the variance criteria as set forth in LMO 16-3-1906A(4).
2. The applicant modified the building and the site design to reduce the need for additional variances.
3. The applicant worked with Town staff to determine the best and least invasive site design.

Staff Summary of Facts and Conclusions of Law

Criteria 5: Granting of the variance does not substantially conflict with the Comprehensive Plan and the purposes of the LMO. (LMO 16-3-1906A(5))

Finding of Fact:

The LMO speaks to the proposed variance in the following sections:

LMO Section 16-5-701

The function of a setback is to provide separation between structures and property lines or between structures and the street right-of-way line. Setbacks facilitate adequate air circulation and light by allowing natural areas to separate developments.

LMO Section 16-5-801(B)

The purpose of buffer areas is to enable the juxtaposition of land uses of different types, thereby accommodating the developer, the adjacent land owners and the public's interest in a visually attractive environment. To minimize any negative effects that a land use will impose on its neighbors, buffers shall be provided between uses and adjacent to public streets.

The Comprehensive Plan speaks to the proposed variance as follows:

Natural Resources Element

3.3 Implication - Positive Impacts of Environmental Preservation on Quality of Life

The preservation of natural resources includes thoughtful planning techniques and sustainable land-use practices. The Town needs to maintain healthy beaches and creeks, invest in well-planned green space and protect mature tree canopies in order to enhance and support mental and physical health, economic vitality and a high quality of life.

Cultural Resources Element

2.5 Goals for Community Character

A. The goal is to preserve and enhance the natural and physical environments that reflect the character of the Island.

2.5 Implementation Strategy for Community Character

- G. The following components should be used to protect Island Character:
 - v. Design structures appropriate for their use and neighborhood.
 - x. Coordinate and harmonize the design of structures, parking and site amenities.

Conclusions of Law:

This application meets the variance criteria as set forth in LMO 16-3-1906-A(5) because it does not substantially conflict with the Natural Resources and Cultural Resources Elements of the Comprehensive Plan or with the purposes in the LMO for setbacks and buffers based on the following:

- The variance will allow for the development of the property in a well planned manner that is appropriate for the character of the neighborhood.
- The variance will allow improvements that have been designed to minimize the impact that the development has on natural resources and adjacent properties through the use of additional stormwater measures and increased buffer plantings for mitigation of the encroachments.

Staff Summary of Facts and Conclusions of Law

Criteria 6: The authorization of the variance will not be of substantial detriment of adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance. (LMO 16-3-1906A(6)).

Findings of Fact:

1. The proposed grading in the adjacent use and adjacent street buffers and the proposed encroachments into the adjacent use setbacks and buffers should not have an effect on adjacent properties.
2. Staff has not received comments from the public regarding this application.

Conclusions of Law:

1. This application meets the variance criteria as set forth in LMO 16-3-1906A(6).
2. There is no evidence that the granting of this variance will be a substantial detriment to adjacent properties or the public good. There is no evidence that the character of the district would be harmed by the granting of this variance.

PREPARED BY:

AC

Anne Cyran, AICP
Senior Planner

August 1, 2012

DATE

REVIEWED BY:

Nicole Dixon, CFA
Senior Planner & BZA Coordinator

DATE

ATTACHMENTS

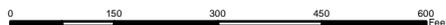
- A. Vicinity Map
- B. Aerial Photo
- C. Applicant's Narrative
- D. Site Plans
- E. Photos



Town of Hilton Head Island
 One Town Center Court
 Hilton Head Island, SC 29928
 (843) 341-6000

34 New Orleans Road
 VAR120003

Attachment A - Vicinity Map



1 inch = 276 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.



Orleans Centre

Hickey Wellness Center

Subject Parcel

NEW ORLEANS ROAD

Orleans Plaza

WILLIAM HILTON PARKWAY



Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928
(843) 341-6000

34 New Orleans Road
VAR120003

Attachment B - Aerial Photo



1 inch = 63 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.

Project Narrative for Variance Request

Project Name:

Building Innovations Selection Center
36 New Orleans Rd
Hilton Head Island, SC
Parcel R552 015 00C 0069 0000

Project Description

This project proposes construction of a new building and associated parking on lot 22 New Orleans Road and is zoned Commercial Center (CC). This lot is one of the last remaining undeveloped lots with similar uses on either side along New Orleans Road. The parcel is currently undeveloped and approximately .455 ac in size. The parcel is wooded consisting primarily of pines, sweet gums and a few water oaks. No specimen trees or wetlands are found on site.

The proposed building will serve as a design selections center where homeowners, designers and builders can go to see kitchen cabinets, tile, lighting fixtures, plumbing fixtures and other building materials. The building will have an approximate footprint of 2,300 SF and have two stories (2,300 sf 1st floor/ 1,200 sf 2nd floor). The finish floor elevation will be elevated to meet flood requirements (elev. 14.0). The average elevation of the lot is between elevation 7 .0 - 8.0 and it is anticipated that the driveway and parking areas will need to be partially filled (max 3' as allowed by the LMO) in order to reduce the amount of ramps or stairs required for building access. The proposed structure lies centered within the buildable foot print of the site as defined by adjacent use buffers. Access to the site is through a central drive isle with parking stalls on each side. Access is centered to minimize the influence from adjacent property curb cuts and to limit encroachment into adjacent use buffers and setbacks.

There are several hardships related to development of this parcel. Because of the size of the lot and frontage onto both a Major arterial (50' minimum/ 60' average) and Minor arterial (25' minimum/ 30' average) buffer and setback requirements begin to restrict reasonable use of the lot and minimize actual buildable area. Adjacent use buffer requirements (20') also impact useable area and once applied reduce the buildable lot area to 37% of the lot (63% non-buildable). Because of this, building placement and site access is centralized to limit encroachment into adjacent buffers. Grading is proposed within buffers in order to move water around the development to the existing storm drainage ditch along New Orleans Road. Pervious pavement has been proposed to minimize storm water requirements and reduce grading needs. Alternate methods for storm water management and grading of the site such as underground storage have been explored but deemed not feasible because of concerns over a perched water table which would limit ability of the site to infiltrate. Underground storage would also require the site to be raised further to allow for the depth of the chambers. This would exceed the maximum fill allowed for development (3') based on LMO standards. The additional fill would also impact the ability to move water from the adjacent properties (Lots 12 & 19) which drain onto this site as well as run-off from Highway 278 and require further grading into the buffers. The proposed drainage system provides the least amount of impact. Additional landscape buffer materials will be provided to offset any proposed encroachment. Grading within the buffers is proposed to work closely with the existing grades to minimize tree and vegetation removal. Site Plan Exhibits A & B as well as several project images have been provided as a reference.

The following information describes the LMO sections for which Variances are requested and reasons the deviations from the LMO meets or exceeds the standard for which a Variance can be granted.

LMO Sections for which the Variances are requested:

Section 16-5-704 Minimum Required Setback Area

1. Adjacent Use Setbacks

Section 16-5-806 Required Buffers

1. Adjacent Use Buffers
2. Adjacent Street Buffers

For both section 16-5-704 & 16-5-806 the specific variance requests are for encroachment of site elements into:

1. Adjacent Use Buffers (Grading)
2. Adjacent Street Buffers (Grading)
3. Adjacent Use Setbacks (Exit Stair and Area of Refuge, Partial Service Yard, Parking, Courtyard/Sidewalk area, Lighting & Partial Roof Overhang)

Criteria for Granting the Variance Requests:

Responses to Section 16-5-704 and 16-5-806, Criteria for Approval of Variances

- 1. there are extraordinary and exceptional conditions pertaining to the particular piece of property; and**

This lot was originally platted well prior to current LMO standards. The width of this lot (96.5') is too narrow once the current LMO Adjacent Use Buffer and Adjacent Use Setbacks of 20' are applied to each side of the property (56.5' of buildable area). LMO standard parking dimensions require a 60' overall dimension (18' parking stalls each side of a 24' drive aisle) exceeding the 56.5' of buildable area and impacts the ability to provide proper grading and drainage of the site. The setbacks also impact the ability for constructing a reasonable size building without minor encroachment into the adjacent use setbacks. A shared parking agreement was pursued with adjacent property owners to allow for buffer reductions but was unsuccessful. Because of this parking configuration is restricted to a standard pull in parking lot.

- 2. these conditions do not generally apply to other properties in the vicinity; and**

A majority of the lots within this area, along New Orleans Road, have already been built on and would be considered non-conforming development based on current LMO standards. The proposed encroachment into adjacent buffers and setbacks is consistent with adjacent properties as indicated on site plan exhibit.

- 3. because of these conditions, the application of the ordinance to the particular piece**

of property would effectively prohibit or unreasonably restrict the utilization of the property; and

To comply with the ordinance on buffer and setback requirements, the parking lot configuration would have to be modified to a single sided parking lot layout reducing parking counts to (3) spaces (based on providing 1 van accessible space). This would reduce allowable building density well below current zoning standards and make it impossible to support the proposed building use.

4. is not the result of the applicant's own actions; and

This property was originally platted prior to current LMO standards and prior to this owner purchasing the property. The physical limitations of the property from buffer and setback standards would limit any business that could be located on the property and has historically been a detriment to development of this parcel.

5. granting of the variance does not substantially conflict with the Comprehensive Plan and the purposes of this Land Management Ordinance; and

The proposed development does not conflict with the Comprehensive Plan and the purposes of the LMO. The Community Character and Land Use sections of the Comprehensive Plan encourage the Town to promote more flexibility in LMO standards and encourage good architectural design. Some general policies that might apply to this variance are:

Cultural Resources

Community Character:

Protect Island Character by:

- *Demonstrate the fundamental principles of good architectural design*
- *Coordinate and harmonize the design of structures, parking and site amenities*
- *Provide continuity of design on all facades of the building*
- *Conceal visually undesirable utilities and equipment*

Land Use:

Build-out

Implications for the Comprehensive Plan

“Because of the anticipation of build-out, creative redevelopment policies and alternatives to traditional zoning and land development regulations should be a focus for all land use policies and regulations.”

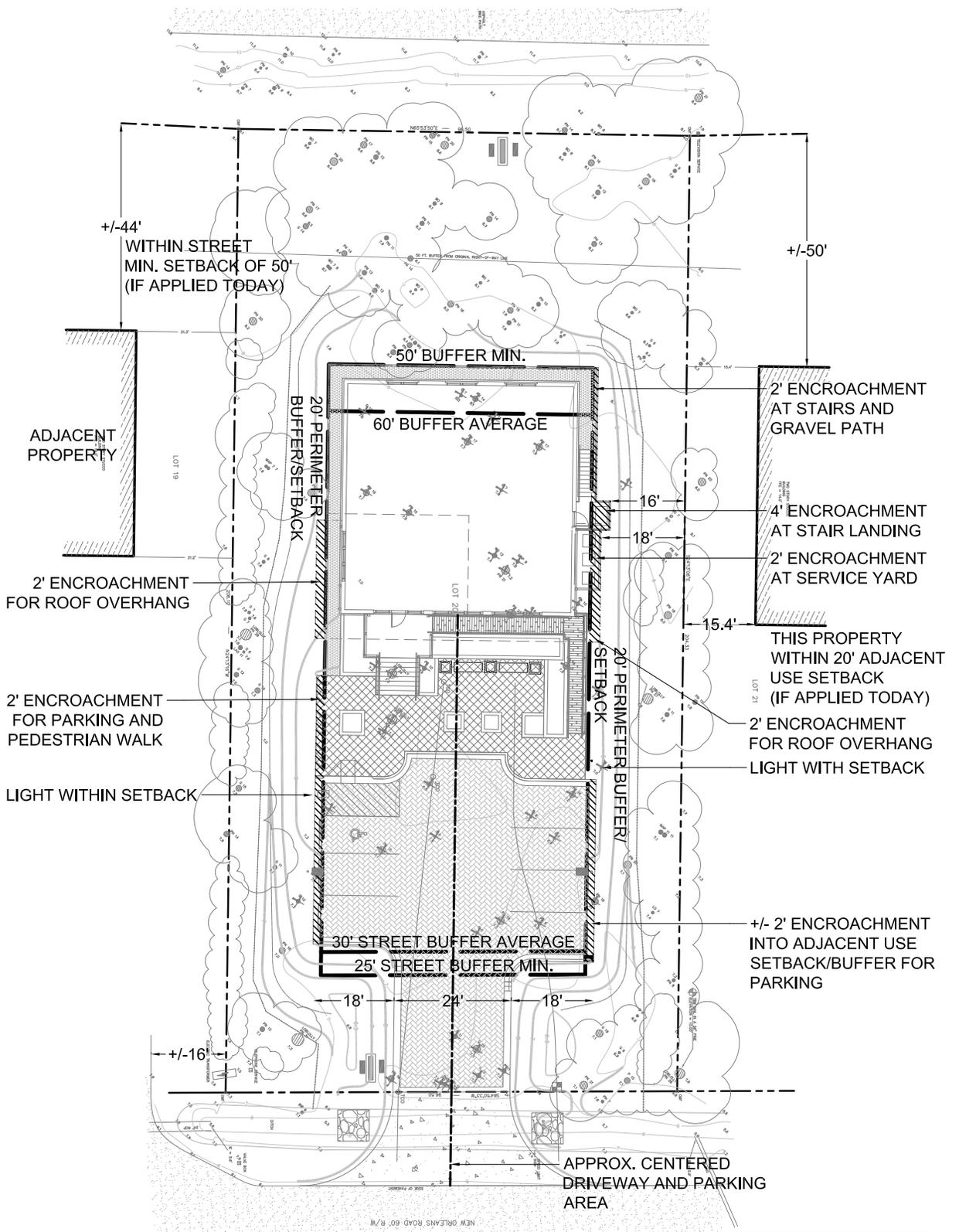
This proposed will not adversely affect the community. The plan meets allowable density and has the required parking per current LMO standards. The proposed development is consistent in use to other commercial developments along New Orleans Road while site development and architectural character exceed the principles of good design and maintain island character. The proposed development includes the use of permeable materials as compared to standard asphalt paving at adjacent properties and provides buffer planting to mitigate any proposed encroachment. Roof overhangs wrap the building in order to provide continuity of design while decorative service yard fencing conceals undesirable equipment.

6. the authorization of the variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance.

The proposed building and parking are in character with the uses on the adjacent properties. The use of a portion of the buffers and setbacks for the items proposed will not be a detriment to the adjacent properties. The proposed encroachments are similar in character to the surrounding properties as identified on plan exhibits. The adjacent properties would be classified as non-conformities if current LMO requirements were applied to those developments for similar encroachments into buffers. Additional landscape materials are proposed within both adjacent use buffers as well as the street buffer to mitigate removal of some existing vegetation. Although adjacent properties are of compatible uses, additional landscape material within the buffers will provide enhanced screening.



Scale 1" = 10'
PLAN IS CONCEPTUAL AND SUBJECT TO CHANGE.



ADJACENT PROPERTY

2' ENCROACHMENT FOR ROOF OVERHANG

2' ENCROACHMENT FOR PARKING AND PEDESTRIAN WALK

LIGHT WITHIN SETBACK

50' BUFFER MIN.

60' BUFFER AVERAGE

20' PERIMETER BUFFER/SETBACK

20' PERIMETER BUFFER/SETBACK

30' STREET BUFFER AVERAGE

25' STREET BUFFER MIN.

+/-50'

2' ENCROACHMENT AT STAIRS AND GRAVEL PATH

4' ENCROACHMENT AT STAIR LANDING
2' ENCROACHMENT AT SERVICE YARD

THIS PROPERTY WITHIN 20' ADJACENT USE SETBACK (IF APPLIED TODAY)

2' ENCROACHMENT FOR ROOF OVERHANG
LIGHT WITH SETBACK

+/- 2' ENCROACHMENT INTO ADJACENT USE SETBACK/BUFFER FOR PARKING

APPROX. CENTERED DRIVEWAY AND PARKING AREA

LIGHTING LEGEND	
	SIGN LIGHT
	SCONCE LIGHT
	GROUND MOUNT PER MANUFACTURERS RECOMMENDATION COORDINATE WITH OWNER FOR SWITCHING PREFERENCE
	AREA LIGHT
	POLE LIGHT

LEGEND/PAVEMENT SCHEDULE	
	TREES TO BE REMOVED
	6" CONCRETE BROOM FINISH - SEE ENGINEERS PLANS
	PERMEABLE PAVER PREVIOUSLY WATERBOD PERMEABLE PAVER BY LOGICANTY PAVERS REVERSEWALK STYLE STONE CLOUD BLEND 8 1/2" X 8 1/2" X 1 1/2" PROVIDE WHITE PAVERS FOR PARKING STRIPES AND BLUE PAVERS FOR HOV SYMBOL AND STRIPES
	DECORATIVE GRAVEL PER ALA 6" PERMA PERMEABLE PAVERS BY LOGICANTY PAVERS REVERSEWALK STYLE OLD SAVANNAH BLEND 8 1/2" X 8 1/2" X 1 1/2" PROVIDE BORDER SQUARES WITH EDGES
	ADA COMPLIANT TRICK TRANSCEND GRAVEL PATH OR EQUAL
	DECORATIVE GRAVEL MULCH 2" OF 1/4" TO 1/2" RIVER PEBBLE - "SPRINGS MIX" OR EQUIVALENT OVER 2" OF 3/4" OF #1 STONE WITH FILTER FABRIC AND 4x6" TRIMMER EDGE REFRANT

SITE DATA	
TAX MAP/PARCEL ID	A-7 (14.0')
TAX MAP/PARCEL ID	R 502 000 0000 0000
FEMA FLOOD ZONE	A-1 (14.0')
SITE AC.	.45 ACRES (19,800 SF)
BUILDING SF	3,600 SF
PARKING REQUIRED (1 PER 600 SF (3,600 SF / 600))	+6 SPACES
PARKING PROVIDED	+7 SPACES
OPEN SPACE REQUIRED (25% NON RESIDENTIAL)	+11 AC (4,191 SF)
OPEN SPACE PROVIDED	+21 AC (11,134 SF)
STREET BUFFER (HUY 718)	REQ 50' SHOWN 50'
AVERAGE	60' 85.45'
STREET BUFFER (NEW ORLEANS RD)	REQ 25' SHOWN 25'
AVG.	30' 18'

Wood Partners Inc. WPI
Landscape Architecture
10000 Highway 100, Suite 100
Hilton Head Island, SC 29928

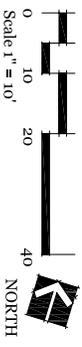
SHEET NUMBER
A

DATE: 07-13-2012
PROJECT NUMBER: 01-12006
SHEET TITLE: Variance

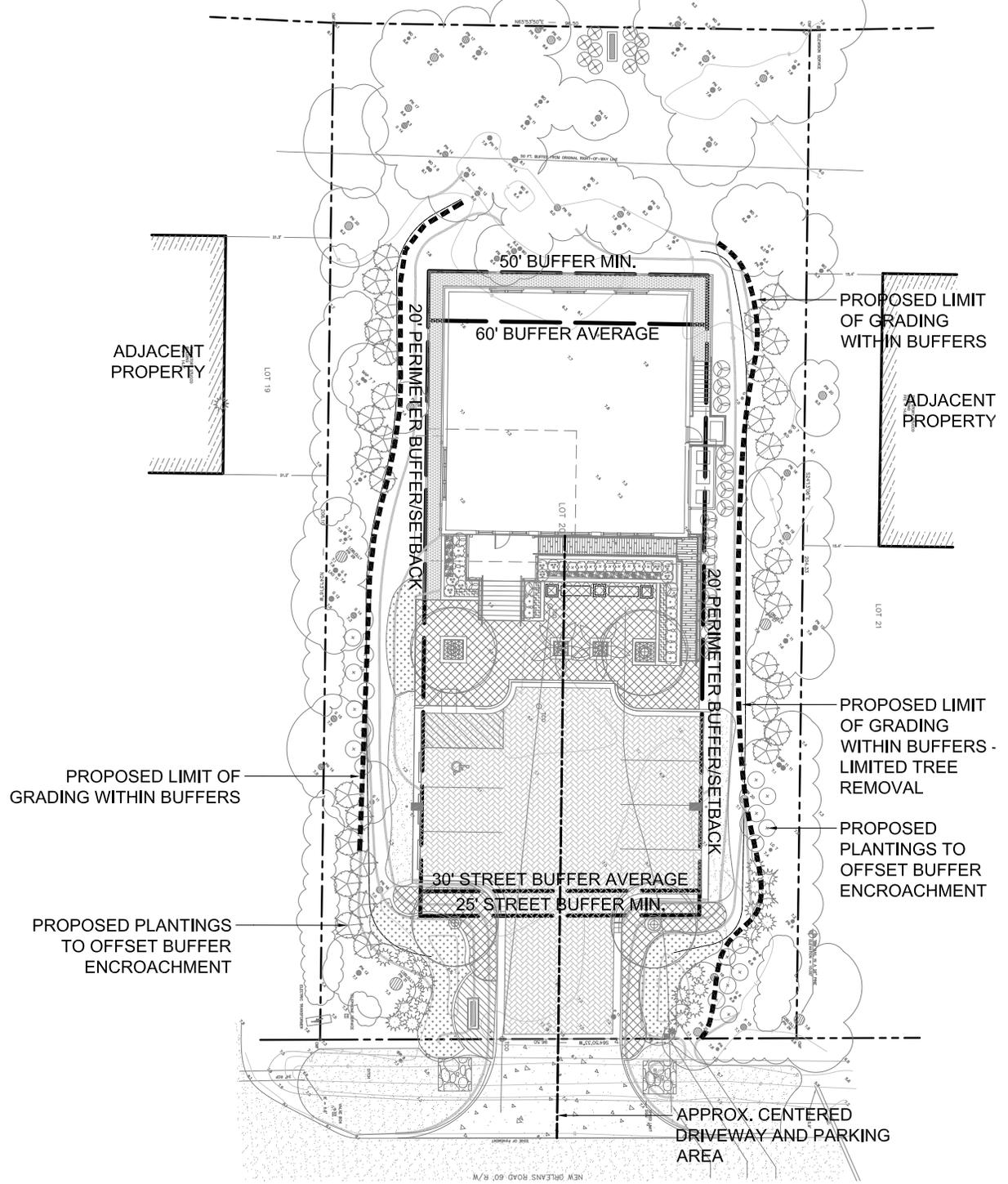
NO.	REVISION	DATE

VARIANCE EXHIBIT A
(ADJACENT USE SETBACKS)
for
Building Innovations Selection Center
36 New Orleans Road
Hilton Head Island, South Carolina

Building Innovatins, LLC.
14 New Orleans Rd, Suite 7
Hilton Head Island, SC 29928



PLAN IS CONCEPTUAL AND SUBJECT TO CHANGE.



PLANT SCHEDULE:

TREES

QUAN	ABBRV	BOTANICAL/COMMON NAME	HEIGHT	SPREAD	CONT.	SPACING	NOTES
2	SABP	Sabal Palmetto Cabbage Palm	16'	-		AS SHOWN	Matched, full pots Hurricane Cut SMOOTH TRUNK
4	ULPA	Ulmus parvifolia 'ALLEE' Allee Elm	14-16'	6-8'		AS SHOWN	3 1/2" CAL. MIN. SPECIMEN

SHRUBS

QUAN	ABBRV	BOTANICAL/COMMON NAME	HEIGHT	SPREAD	CONT.	SPACING	NOTES
10	AZAE	Azalea x 'Roblin' Azalea	18"-24"	12"-18"	CONT.	AS SHOWN	Matched, full pots
10	BUXB	Buxus sempervirens Boxwood	18-24"	10-16"	CONT.	AS SHOWN	Full To Ground Matched
19	CALA	Callisarpa americana American Beautyberry	24-36"	18-24"	CONT.	AS SHOWN	Full, Healthy
4	CASA	Ceanothus americanus 'Tule Tide' Tule Tide Ceanothus	24-36"	18-24"	CONT.	AS SHOWN	Full, Healthy
12	DIEV	Dianthus vegeta White African Iris	18-24"	10-12"	CONT.	AS SHOWN	Full, Healthy
15	ILEG	Ilex glabra Holly	18-24"	12-18"	CONT.	AS SHOWN	Full, Healthy
10	MISA	Miscanthus sinensis 'Adagio' Adagio Maiden Grass	16-18"	10-12"	CONT.	AS SHOWN	Full Clump
33	MYRC	Myrica carifera Wax Myrtle	24-36"	24-36"	CONT.	AS SHOWN	Full, Healthy
21	SERR	Sereia repens 'cinerea' Silver Saw Palmetto	22-24"	-	CONT.	AS SHOWN	Full, Healthy

GROUNDCOVERS

QUAN	ABBRV	BOTANICAL/COMMON NAME	HEIGHT	SPREAD	CONT.	SPACING	NOTES
39	ANNL	Annuis/Perennials	-	-	1 GAL.	12" O.C.	To Be Selected By LA
41	JUNC	Juniperus chinensis 'Pencil' Pencil Juniper	8-12"	12-18"	1 GAL.	36" O.C.	Full Pot
38	OPHU	Ophiopogon japonicus Mondo Grass	6-10"	6-10"	1 GAL.	12" O.C.	Full Pot
79	OSHC	Osmanthus cinnamomea Cinnamon Fern	12-18"	8-12"	1 GAL.	30" O.C.	Full Clump
12	ROBO	Rosa rugosa 'Prostrata' Creeping Rosemary	12-18"	12-18"	1 GAL.	30" O.C.	Full, Healthy
25	TULV	Tulbaghia violacea Society Garlic	12-18"	8-12"	1 GAL.	24" O.C.	Full Pot
340 SF	BOD	Stenotaphrum secundatum St. Augustine Grass	-	-			
3616 SF	MULCH	Pine straw Mulch					Spread to 3" depth

Wood Partners Inc.
Landscape Architecture
WPI

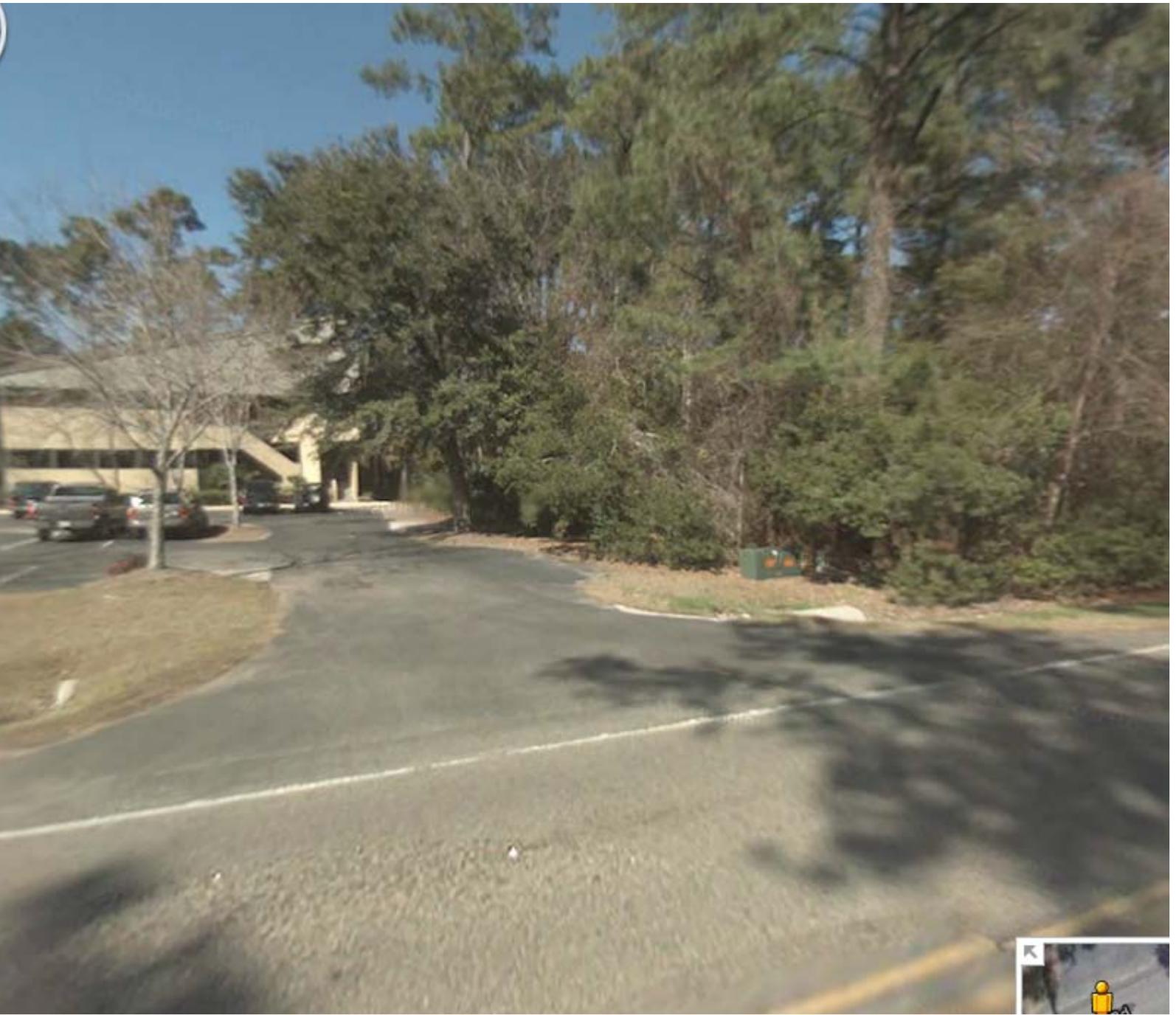
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B

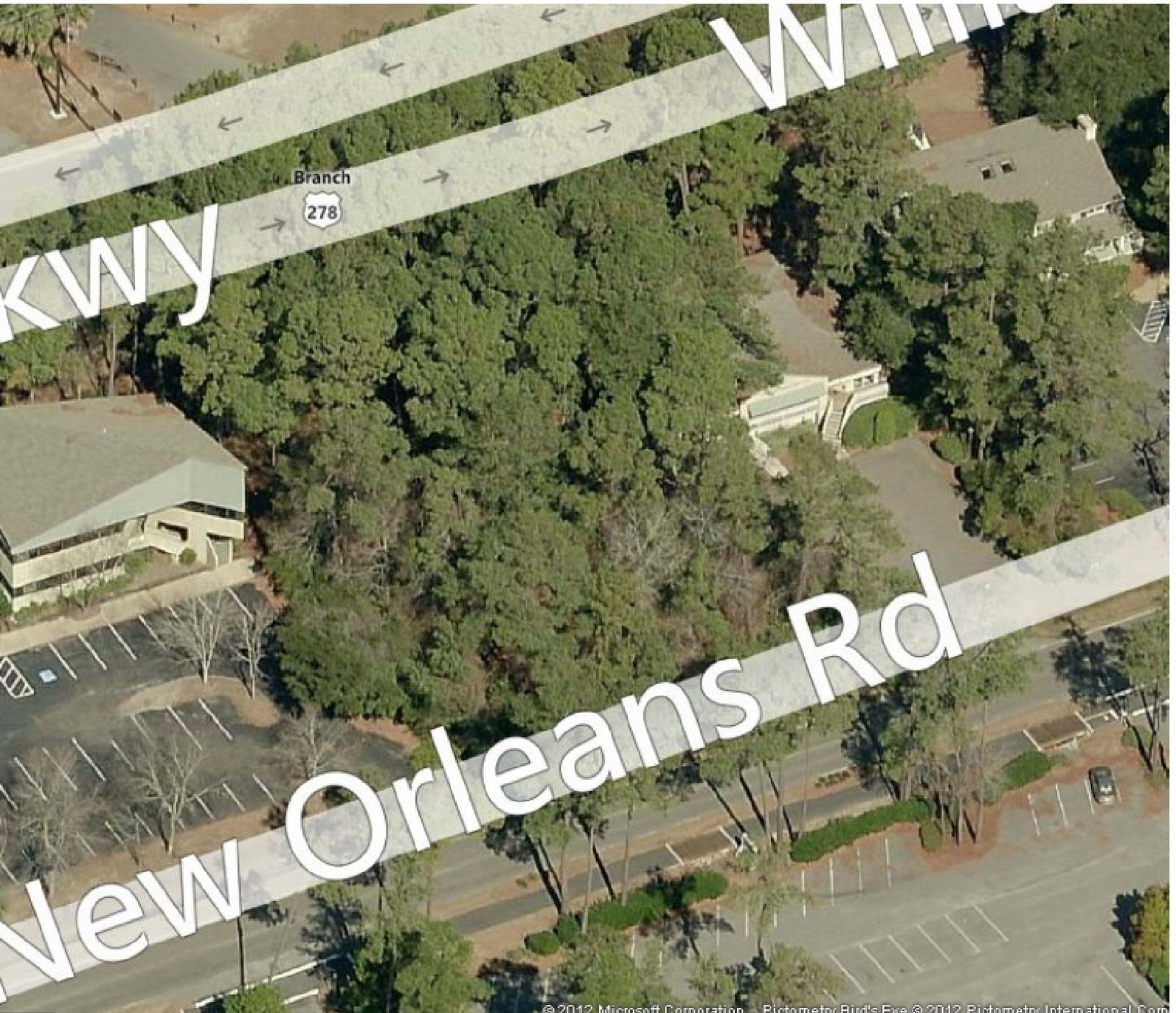
DATE: 07-13-2012
PROJECT NUMBER: 01-12006
SHEET TITLE: Buffer Exhibit B

NO.	REVISION	DATE	BY
1	ISSUED FOR PERMIT		

VARIANCE EXHIBIT B
(ADJACENT USE BUFFERS)
for
Building Innovations Selection Center
36 New Orleans Road
Hilton Head Island, South Carolina

Building Innovatins, LLC.
14 New Orleans Rd, Suite 7
Hilton Head Island, SC 29928







TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: July 31, 2012
SUBJECT: Administrative Waivers

The Board of Zoning Appeals (BZA) requested that staff keep them informed of administrative waivers that are granted by staff based on the provisions in Section 16-7-106 of the Land Management Ordinance (LMO). This memo will be distributed every month at the regular BZA meetings and will be discussed under staff reports on the agenda. Even if there have been no waivers for the month, a memo will be included in the packet to inform the BZA members of that.

The following language is contained in Section 16-7-106 Waiver by Administrator which gives the Administrator the power to grant waivers for existing nonconforming structures and site features.

“The Administrator may waive any provision of Article III or IV dealing with nonconforming structures and site features, respectively, upon a determination that:

- A. The proposed expansion, enlargement or extension does not encroach further into any required buffers or setbacks or increase the impervious area; and
- B. The proposed expansion, enlargement, or extension does not occupy a greater footprint than the existing nonconforming site feature or structure; and
- C. The proposed expansion, enlargement, or extension does not result in an increase in density greater than allowed per Sec. 16-4-1501, or the existing density, whichever is greater; and
- D. The applicant agrees to eliminate nonconformities or provide site enhancements that the Administrator determines are feasible in scope and brings the site into substantial conformance with the provisions of this Title (e.g. meeting buffer, impervious area and open space requirements); and
- E. The proposed expansion, enlargement or extension would not have a significant adverse impact on surrounding properties or the public health, safety and welfare; and
- F. If an applicant requests to relocate a nonconforming structure on the same site, they must bring the structure into conformance to the extent deemed practicable by the Administrator.”

There were no waivers granted by staff since the July Board of Zoning Appeals meeting.