



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, October 28, 2013 at 2:30p.m
Benjamin M. Racusin Council Chambers
REVISED 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.

6. Chairman's Welcome and Introduction to Board Procedures

7. Approval of Agenda

8. Approval of Minutes – September 22, 2013 meeting

9. Unfinished Business

APL130004: Request for Appeal from Bonnie and Steve Fisher. The appellant is appealing the Town's decision (made on July 16, 2013) that the materials covering the windows at 123 Mathews Drive are considered to be signs. *Presented by: Teri Lewis*

10. New Business

APL130006: Request from Curtis L. Coltrane on behalf of Alethea W. Jackson and David Jackson. The appellant is appealing the Town's action on June 12, 2013 to permit 217 Beach City Road, LLC to place manufactured homes on the lots lying within the 32 lot single family subdivision known as Beach City Place. *Presented by: Teri Lewis This application has been postponed until the January 2014 meeting at the applicant's request.*

VAR130009: Duke and Tammy Novak are requesting a variance from Land Management Ordinance Section 16-5-205, Subdivision Miscellaneous Standards, to construct a swimming pool and screened-in lanai within the 5' internal property line setback. The property is located at 30 Peregrine Drive and is further identified as parcel 343 on Beaufort County Tax Map 11. *Presented by: Nicole Dixon*

11. Board Business

Adoption of BZA Schedule of Meetings – 2014

12. Staff Report

a) Waiver Report: Presented by Nicole Dixon

13. Adjournment

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

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the Monday, September 23, 2013 Meeting
2:30p.m. - Benjamin M. Racusin Council Chambers

DRAFT

Board Members Present: Chairman Peter Kristian, Vice Chairman Glenn Stanford, Irv Campbell, David Fingerhut, and P. Jeffrey North

Board Members Absent: Michael Lawrence

Council Members Present: Lee Edwards and Bill Harkins

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Teri Lewis, LMO Official
Brian Hulbert, Board Attorney
Charles Cousins, Director of Community Development
Heather Colin, Development Review Administrator
Kathleen Carlin, Secretary

1. Call to Order

Chairman Kristian 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 Kristian sadly reported that the Board of Zoning Appeals has lost one of its members. Mr. Stephen Murphy, who had been a Board member since July 2009, passed away suddenly on August 24, 2013 at his Connecticut home. Mr. Murphy's participation and contributions to the Town's Board of Zoning Appeals will be greatly missed.

Chairman Kristian then presented an introduction to the Board's procedures for conducting the business meeting. Today's agenda has been revised to include a motion to dismiss Application for Appeal APL130006 (scheduled for review on October 28, 2013.) Following this introduction, Chairman Kristian requested that a motion be made to approve the agenda.

5. Approval of the Agenda

Vice Chairman Stanford made a **motion** to **approve** the agenda as **revised**. Mr. Campbell **seconded** the motion and the motion **passed** with a vote of 5-0-0.

6. Approval of the Minutes

Vice Chairman Stanford made a **motion** to **approve** the minutes of the July 22, 2013 meeting as presented. Mr. Campbell **seconded** the motion and the motion **passed** with a vote of 5-0-0.

7. Unfinished Business

None

8. New Business

A) **APL130004**: Request for Appeal from Bonnie and Steve Fisher. The appellant is appealing the Town's decision (made on July 16, 2013) that the materials covering the windows at 123 Mathews Drive are considered to be signs. Chairman Kristian introduced the application and requested that staff make their presentation.

Ms. Teri Lewis made the presentation on behalf of staff. The staff has received an appeal from Steve and Bonnie Fisher regarding the July 16, 2013 letter stating that the materials covering the windows at 123 Mathews Drive are considered to be window signs. The appellants are appealing the Town's decision that these materials are considered to be signs and are asking that the Board reverse the decision of the Land Management Ordinance (LMO) Official and find that the materials are not signs and therefore can remain.

Ms. Lewis presented an in-depth overhead review of the application including correspondence between Town staff and Mrs. Bonnie Fisher, correspondence from the Floors to Go Director of Marketing, and Before and After photographs of the site. The Board and staff discussed the definition of a sign as defined by the LMO. At the completion of the staff's presentation, Chairman Kristian requested that the applicants make their presentation.

Mr. Steve Fisher and Mrs. Bonnie Fisher presented statements in support of the application. Mr. and Mrs. Fisher stated that they are the business owners of Floors to Go. They are appealing the Town's decision because they believe the graphic displays are window treatments and sun protectors rather than signs. The Board and the applicants discussed a couple of issues including the size and the intent of the window signs and the requirements of the LMO's Sign Ordinance.

Vice Chairman Stanford stated that the Board of Zoning Appeals is required to follow the LMO. Vice Chairman Stanford and other Board members recommended that the applicant work with the Town staff to find some middle ground. The size of the signs needs to be reduced to a size that is compliant with the LMO (no more than 25% of the window size.) The applicants stated that they will work with staff in an effort to redesign the signs. At the completion of the Board's discussion, Chairman Kristian requested that a motion be made.

Mr. Stanford made a **motion** to **remand** Application for Appeal APL130004 to staff and the appellant in an effort to bring the size of the signs into conformance with the LMO's Sign Ordinance. The application will return to the BZA on October 28, 2013. Mr. North **seconded** the motion and the motion **passed** with a vote of 5-0-0.

B) SER130002: Paige Grisette is requesting special exception approval from Land Management Ordinance Section 16-4-1204, Use Table, to allow a kennel and boarding in the Commercial Center (CC) Zoning District. The property is located at 77 Arrow Road and is further identified as parcel 842 on Beaufort County Tax Map 14. Chairman Kristian introduced the application and opened the public hearing. Chairman Kristian then requested that staff make their presentation.

Ms. Nicole Dixon made the presentation on behalf of Ms. Anne Cyran, case manager. The staff recommended that the Board *approve* Application for Special Exception, SER130002, based on the Findings of Fact and Conclusions of Law contained in the staff's report.

Ms. Dixon presented an in-depth overhead review of the application including an aerial photo of the vicinity and an aerial photo of the site. The subject parcel is located at 77 Arrow Road in the CC Zoning District. The parcel is bound by an undeveloped lot on the northwest; Arrow Road on the southwest; a power line easement on the northeast; and Precision Auto on the southeast.

The subject parcel was developed in 1983 and contains a 7,668 square foot building with associated parking. The property was previously used as a children's day care facility. A fenced-in area behind the building was used as a playground. In August, the applicant asked the staff about the requirements for operation of a kennel and boarding facility in an existing, unoccupied building at 77 Arrow Road. The staff informed the applicant that these uses would require a special exception. Ms. Dixon reviewed the Findings of Fact and Conclusions of Law contained in the staff's report. Following the staff's presentation, Chairman Kristian requested that the applicant make her presentation.

Ms. Paige Grisette presented statements in support of her application. The Board and the applicant discussed several issues including the indoor/outdoor containment of the dogs. They also discussed concerns with noise and the need to buffer the area against noise. At the completion of the applicant's presentation, Chairman Kristian requested public statements and the following were received in opposition to the application:

Westin Newton, Esq., legal representative, for Wexford Homeowners Association; Ms. Susan Fishel, General Manager, Wexford; Mr. Tom Wirth, resident; Mr. Mike Levine, resident; Ms. Penny Cozzi, resident; Mrs. Laura Levine, resident; and Mr. Alan Gragano, resident. All public comments were in opposition to the application due to concerns with noise nuisance and negative impacts on Wexford's property values. Following all public comments, Chairman Kristian stated that the public hearing for this application is closed.

Chairman Kristian requested additional information from the staff regarding their interpretation of the word "kept". Ms. Dixon stated that this word is interpreted to mean where the animals sleep or are housed indoors. The Board and staff discussed a couple of other issues including the location of the pathway in relationship to the property line.

The Board and staff also discussed the Findings of Fact and Conclusions of Law, particularly with regard to the application's compliance with Criteria # 3 and Criteria # 4. The Board asked the staff if they could place a condition on their approval of the application. Ms.

Dixon stated that conditions may not be placed on a special exception application.

Brian Hulbert, Staff Attorney, stated that he agrees with Ms. Dixon that conditions may not be placed on a special exception application. Town staff does not have the manpower or the expertise to enforce conditions that are placed on a special exception application.

As part of the discussion, the Board asked Ms. Grisette if she would be willing to work to buffer the property against noise nuisance. Ms. Grisette stated that she would be willing to work to buffer the noise. A couple of Board members stated their concern with the noise issue as well as the application's lack of compliance with Criteria # 3 and Criteria # 4. Following final discussion by the Board, Chairman Kristian requested that a motion be made.

Vice Chairman Stanford made a **motion to deny** Application for Special Exception, SER130002 on the grounds that the application violates Criteria # 3 & Criteria # 4 and presents detrimental disturbance to surrounding lands. Vice Chairman Stanford stated the application is in violation of LMO Section 6-4-1332, which prohibits kennels with outdoor runs. There was no second to the motion and the motion **failed**. Chairman Kristian then requested that a second motion be made.

Mr. North made a **motion to approve** Application for Special Exception, SER130002. Mr. Campbell **seconded** the motion. Chairman Kristian stated that he would not be in favor of the motion because of being sympathetic to the concerns of the residential neighborhood. Chairman Kristian stated that his approval of the application would be contingent on the placement of conditions that would be enforceable by the Town. In the absence of those conditions, he would not be in favor of the motion. Mr. Campbell presented statements in support of the motion due to the location of other boarding facilities operating in close proximity to residential neighborhoods.

Following final discussion by the Board, the motion to **approve** Application SER130002 **passed** with a vote of 3-2-0.

C) VAR130007: Roger Freedman is requesting a variance from Land Management Ordinance Sections 16-5-704, Minimum Required Setback Area, 16-5-806, Required Buffers, and 16-5-809, Permitted Activity in Other Buffer Areas, to allow an aerial ropes course to be located in the adjacent use setback and buffer. The property is called Zip Line Hilton Head, located at 33 Broad Creek Marina Way and is further identified as parcel 379 on Beaufort County Tax Map 11. Chairman Kristian introduced the application and opened the public hearing. Chairman Kristian then requested that staff make their presentation.

Ms. Nicole Dixon made the presentation on behalf of staff. Staff recommended that application VAR130007 be *denied* because the application does not meet all six of the required criteria. Ms. Dixon presented an in-depth overhead review of the application including an aerial photo of the site and a complete review of the project.

The subject parcel along with a few surrounding properties are developed as Zip Line Hilton Head. It is surrounded by Town-owned property, the Broad Creek Marina Boat Storage Facility, Indigo Run and the waters of Broad Creek. The project was developed and launched in the spring of 2012, and since has had approximately 17,000 people take the 2 hour zipline tour.

The owner now wishes to expand the project to include an aerial ropes course through the trees, which would be located in the adjacent use setback and buffer adjacent to Town-owned property. Ms. Dixon reviewed the Findings of Fact and Conclusions of Law contained in the staff's report. The Board and staff discussed several issues including the location of the project in the buffer, the definition of a buffer, and the purpose of a buffer. The project is not listed as a permitted activity in the buffer. Ms. Dixon discussed the fact that even though the application does not meet all six variance criteria, the Town did provide a letter to the applicant stating they did not object to the application as an adjacent property owner. Following the staff's presentation, Chairman Kristian requested that the applicant make his presentation.

Mr. Roger Freedman, property owner, presented statements in support of the application. Mr. Freedman presented a brief history of the existing site and his desire to add an aerial ropes course to the property. The Board and the applicant discussed the intent of the project and the unique size of the property. Mr. Freedman stated that he believes his application fits the intent of the Land Management Ordinance. Following the applicant's presentation, Chairman Kristian requested public comments and none were received. Chairman Kristian stated that the public hearing for this application is closed.

The Board discussed the Findings of Fact and Conclusions of Law contained in the staff's report. The Board discussed the Town's goal of promoting business on Hilton Head Island. The Board stated that the application causes no harm to adjacent property owners. It is located on a very narrow parcel of land and enforcement of the buffer seems unreasonable in this case. Following final comments by the Board, Chairman Kristian requested that a motion be made.

Mr. North made a **motion** to **approve** Application for Variance VAR130007 based on the following Findings of Fact and Conclusions of Law:

Criteria # 1 – We find that because of the configuration and location of the parcel, there are extraordinary and exceptional conditions pertaining to the particular piece of property.

Criteria # 2 – Because of the uniqueness of the parcel, these conditions do not generally apply to other properties in the vicinity.

Criteria # 3 – We find that the application of the LMO to this particular piece of property would affectively prohibit or unreasonably restrict the applicant's utilization of the property.

Criteria # 4 – We find this hardship is not the result of the applicant's own actions.

Criteria # 5 & # 6 – We agree with the staff's Findings of Fact and Conclusions of Law.

Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 5-0-0. Mr. Roger Freedman expressed his appreciation to the Board and to staff for their professional assistance with this application.

D) Motion to dismiss appeal filed by Curtis L. Coltrane on behalf of Alethea W.

Jackson and David Jackson regarding **Application for Appeal APL130006** (scheduled for review on October 28, 2013.)

Chairman Kristian introduced the motion to dismiss Application for Appeal AP130006 filed by Curtis Coltrane on behalf of his clients, Mr. and Mrs. David Jackson (scheduled for review on October 28, 2013.)

Rand E. Hanna, III, Esquire, presented opening statements on behalf of the applicant and its successor and title, HSSC, LLC. Mr. Hanna stated that he represents Dr. Singh, an investor in 217 Beach City Road, LLC. Dr. Singh and other investors were the owners of this project prior to September 2013. Mr. Hanna presented a brief history of the project. 217 Beach City Road, LLC, was formed in January 2009.

Dr. Singh was one of several passive investors in the company. Other investors in the project included the White sisters of Hilton Head Island. Beach City Place was originally approved for 32 single-family building lots along with associate common areas on approximately 8.25 acres. Mr. Hanna presented details regarding the bankruptcy status and subsequent law suit filed against the company by Mrs. Alethea White, one of the White sisters. Mr. Hanna also discussed the restrictive covenants associated with the property. Mr. Hanna stated that the draft covenants for this property were never finalized or timely filed.

Mr. Hanna stated that his client would like to place a manufactured home on Lot # 1, Beach City Place, located at 2 Circlewood Drive. Mr. Hanna stated that his client would like to work with the White sisters on an agreeable solution to development of this property. Mr. Hanna stated that there are no provisions in the Town's Land Management Ordinance that would prohibit the placement of a manufactured home or other factory built housing on Lot # 1 of Beach City Place (or on any other subdivided lot in Beach City Place.)

The Board and Mr. Hanna discussed several issues including the correspondence from the Town, the zoning district RM-4, and the lack of recorded covenants for the property. The Board and Mr. Hanna also discussed the intent and timeliness of the application for appeal. Vice Chairman Stanford and Mr. Hanna discussed the grounds for the application for appeal.

Mr. Hanna requested that the Board dismiss this appeal on two grounds: (1) the letter and the approvals are ministerial acts rather than an interpretation or determination of the Administrator; and (2) the appeal was filed in an untimely manner.

Following Mr. Hanna's presentation, Chairman Kristian invited Curtis Coltrane, Esq. to make his presentation to the Board

Curtis Coltrane, Esq., presented statements on behalf of his clients, Alethea W. and David Jackson. Mr. and Mrs. Jackson are property owners of Lot # 8, Beach City Road, Beach City Place Subdivision. Mr. Coltrane stated that his clients object to the Board's consideration of the motion to dismiss filed by HSSC, LLC. This objection is because there is no authority in either the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 or the Land Management Ordinance of the Town of Hilton Head Island, or the Board of Zoning Appeals' Rules of Procedure for filing to allow this.

The Board should, therefore, decline to hear it or rule on it.

Mr. Coltrane stated that he disagrees with many of the statements and interpretations presented by Mr. Hanna. Mr. Coltrane and the Board discussed the Board's authority in determining this application. Mr. Coltrane presented statements regarding due process. Mr. Coltrane presented statements with regard to the timelines of the application. Chairman Kristian and Mr. Coltrane discussed a couple of issues including if the application was properly filed. The Board and Mr. Coltrane discussed the lack of a process in deciding this matter.

It is unfair to his client. It denies people due process because they do not know what to do.

Mr. North presented statements with regard to the administrative law side of the discussion and material issue of facts.

Chester C. Williams, Esq., also presented statements in support of Application for Appeal APL130006. Mr. Williams and the Board discussed the Board's ability to hear a motion to dismiss.

Mr. Williams reviewed his conversation with Ms. Donna Horsman, Planning Assistant, on June 11, 2013. Mr. Williams stated that at that time he requested a written determination by the LMO Official that there are no provisions in the Town's LMO that would prohibit the placement of a manufactured home or other factory built housing on Lot # 1 of Beach City Place.

Mr. Williams and the Board discussed the notification issue and the timeliness of the appeal. Mr. Williams stated that there is no requirement for notification to surrounding property owners in this matter. It is a constructive notice issue only.

Mr. Coltrane stated that this is not a constructive notice issue. Mr. Coltrane presented statements regard to the notification issue. 14-days from the date of receipt by the Town.

Brian Hulbert, Board Attorney, presented statements regarding the Board's authority. Inherent in their ability to hear the case, the Board needs to use its own judgment to decide whether to hear a motion to dismiss or not. Mr. Hulbert stated that he agrees with the movers of this position. The other issue before the Board is more difficult that is regarding the restrictive covenants. Mr. Hulbert discussed the issue of restrictive covenants and the notification issue to Mr. and Mrs. Jackson.

Mr. Hulbert and Chairman Kristian discussed the issue of covenants and the substance of the issues. The Town does not have the authority to decide covenants on private land. The issue is very complex and difficult to understand. The Board discussed the circuit courts action in this matter (which is not a final determination). The Board, Mr. Williams and Mr. Coltrane discussed the Town's code for manufactured homes and restrictive covenants. At the completion of the discussion, Chairman Kristian requested that a motion be made.

Vice Chairman Stanford made a **motion** that the motion to dismiss be **denied** on the grounds that: (1) this board has the authority to act on motions to dismiss; and (2) the appeal was timely filed. Mr. North **seconded** the motion and the motion **passed** with a vote of 5-0-0.

Chairman Kristian requested that staff develop draft procedures to hear motions to Dismiss an Appeal. The draft procedures should be brought to the Board for consideration as soon as they are available.

9. Staff Report

None

10. Adjournment

The meeting was adjourned at 5:30p.m.

Submitted By:

Approved By:

Kathleen Carlin
Secretary

Peter Kristian
Chairman

DRAFT



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

One Town Center Court

Hilton Head Island, SC 29928

843-341-4757

FAX 843-842-8908

**STAFF REPORT
VARIANCE**

| Case #: | Public Hearing Date: |
|----------------|-----------------------------|
| VAR130009 | October 28, 2013 |

| Parcel or Location Data: | Property Owner & Applicant |
|--|--|
| Address: 30 Peregrine Drive Parcel#: R510 011 000 0343 0000 Acreage: .14 acres Zoning: RM-4 (Low to Moderate Density Residential) | Duke and Tammy Novak 30 Peregrine Drive Hilton Head Island, SC 29926 |

Application Summary:

Duke and Tammy Novak are requesting a variance from Land Management Ordinance Section 16-5-205, Subdivision Miscellaneous Standards, to construct a swimming pool and screened-in lanai within the 5 foot internal property line setback.

Background:

The subject parcel is located in the Peregrine Point subdivision off of Marshland Road. The subdivision was approved in 2004 and the house was constructed in March 2005.

The current owner of the property is now wishing to construct a swimming pool and deck within a screened-in lanai in the rear of the property. Because the house is already built, there is limited buildable area left on the property. The applicant is proposing to construct the pool and lanai within the 5 foot internal property line setback and right up to the rear property line.

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

Grounds for Variance:

Duke and Tammy Novak are requesting a variance from Land Management Ordinance Section 16-5-205, Subdivision Miscellaneous Standards, to construct a swimming pool and screened-in lanai within the 5 foot internal property line setback. The applicant claims in the narrative that their property suffers from two primary building restrictions that are outside of their control. The first being that the original developer of the project designed the subdivision so that acreage was taken from their lot to be used for open space requirements. The applicant states the second restriction is that the house was constructed twelve feet behind the front setback to preserve a cluster of live oak trees.

Summary of Facts:

- The applicant seeks a variance from LMO Section 16-5-205, Subdivision Miscellaneous Standards, to construct a swimming pool and screened-in lanai within the 5 foot internal property line setback.

Conclusions of Law:

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

Staff Summary of Facts and Conclusions of Law:

Summary of Facts:

- Application was submitted as set forth in LMO Section 16-3-1903.
- Notice of the Application was published in the Island Packet on September 22, 2013 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.

Conclusions of Law:

- 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:

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

Findings of Fact:

- The property is currently developed with a single family home.
- The property is approximately .14 acres and rectangular in size.
- There are no wetlands or other significant natural features on the property.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(1) because the property is a typical subdivision lot that doesn't contain any wetlands or other extraordinary features.
- There are no extraordinary or exceptional conditions pertaining to this property.

Staff Summary of Facts and Conclusions of Law:

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

Finding of Fact:

- There are no extraordinary or exceptional conditions that pertain to the subject property.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(2) because the property is a typical subdivision lot that doesn't contain any wetlands or other extraordinary features.
- 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))

Finding of Fact:

- There are no extraordinary or exceptional conditions that pertain to the subject property.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(3) because the property is a typical subdivision lot, with an existing house, that doesn't contain any wetlands or other extraordinary features.
- There are no extraordinary or exceptional conditions pertaining to this property that prohibit or restrict the utilization of the property.

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:

- The property is currently developed with a single family home.
- The applicant is wishing to construct a swimming pool and screened-in lanai within the 5 foot internal property line setback and right up to the rear property line.
- The applicant states they don't have space on their property to build a pool and lanai. They claim they have hardship due to (1) acreage being taken away from their lot to meet open space requirements and (2) the house being constructed towards the rear of the lot to preserve trees in the front.
- The developer designed the layout of the subdivision to meet LMO subdivision regulations, including required open space, setbacks and lot configuration.
- The Peregrine Point subdivision is zoned RM-4 which requires 16% minimum open space for major residential subdivisions. Open space is described in LMO Section 16-5-301 as all areas not utilized for single family lots, rights-of-way, commercial buildings, multifamily buildings, parking, or loading areas. It also states open space in a major residential subdivision is also known as common open space since it is available for all residents of the development to enjoy.
- The house is not setback any further than any other house in the vicinity, as illustrated on the attached aerial (Attachment C) and attached photos (Attachment D). All of the houses seem to generally line up.
- During a site visit, staff found the cluster of small oak trees to be located within the adjacent street setback and buffer, where the house would not have been able to be built.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(4) because there is no hardship.

- Because the lot was designed with open space behind it is not a hardship on the applicant. There are other homes in this subdivision with open space behind them. The layout of the subdivision was designed that way to meet major subdivision regulations.
- The house was constructed in the same general line as other properties in the vicinity, and therefore not a hardship for the applicant.
- The house was not constructed further back on the lot to preserve the trees because the trees are located within the setback and buffer anyway, and therefore the trees do not create a hardship for the applicant because the house could not have been built within the setback and buffer.
- The applicant purchased the property after the subdivision was designed and approved, knowing the size of the property and what the restrictions were.

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:

The LMO:

- The applicant is wishing to construct a swimming pool and screened-in lanai within the 5 foot internal property line setback and right up to the rear property line.
- Section 16-5-205, Miscellaneous Standards, states all lots divided for single family detached homes shall include a 5-foot setback along all internal property lines.
- Section 16-5-701, Purpose and Function, states that 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.

The Comprehensive Plan:

- The Comprehensive Plan does not speak to the specific site design issues in this application.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(5) because the variance does conflict with the purposes of the LMO.
- The applicant is proposing to construct a swimming pool and screened-in lanai right up to the property line, leaving no separation between the structure and the property line, which is in conflict with the purpose and function of a setback.

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:

- Staff has not received any opposition or comments regarding this variance request.
- The proposed swimming pool and screened-in lanai would be in the rear of the property, built up to the property line, abutting common open space and not another single family residence.
- Common open space should be available for all residents of the development to enjoy.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(6) because the granting of this variance will be a substantial detriment to the adjacent property and the public good.
- Should the variance be granted, it would allow construction right up to the edge of the common open space and may impact the enjoyment of those using the open space in the development.

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

October 14, 2013

 DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Aerial Photo
- D) Pictures
- E) As-built
- F) Proposed Site Plan
- G) Subdivision Plat



Proposed Variance - 30 Peregrine Drive


 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.

ATTACHMENT B

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

September 5, 2013

Dear Board of Zoning Appeals member,

This proposal letter is to request and substantiate the grant of a Variance for the residence at 30 Peregrine Drive on Hilton Head Island. The Variance requested is relatively minor, and as it will be shown below, clearly meets all of the parameters set forth in the LMO SECTION 16-3-1906 Criteria for Approval of Variances.

Sections Requesting Variance

The property owners are seeking a variance from LMO Section 16-5-205-A:

Subdivisions shall comply with all applicable design and performance standards of this Title. Setback and buffer standards shall apply to the perimeter of all subdivisions. **Additionally, all lots divided for single family detached homes shall include a 5-foot setback along all internal property lines.** A side setback may be reduced to less than 5 feet as long as the resultant setback combined with the adjacent lot is at least 10 feet wide and shown on the plat to be recorded.

The Variance only pertains to the 5 foot setback along the internal property lines for single family detached homes, and in the case of 30 Peregrine Point Drive, the 5-foot rear building setback line.

Why Variance Requested

The Variance is requested so that the property owners may construct an at-grade swimming pool (12'-6" x 27') within a single story screened-in lanai for privacy.

The property suffers from two primary building restrictions due to the construction decisions of the developer and that were out of the control of the current owners. First, the property owners have discovered that during the construction and planning of their community, the developer utilized additional acreage at the rear of the lot to satisfy community open space requirements. Second, the home was built an additional 12' rearward from the front building setback line to preserve a cluster of live oak trees on the property between the home and the roadway. The homeowners seek relief from these difficulties and have full support from the Board of Directors for the Peregrine Point Home Owners Association and adjacent Peregrine Point property owners.

The small lanai would be a single story, screened-in structure for privacy, not impacting the views of neighboring properties. Built upon the rear property line, the lanai would feature additional foundation plantings utilizing native plant material to soften the exterior and blend with the existing open space vegetation. Since most homes in Peregrine Point are three story

ATTACHMENT B

structures, the low profile lanai will not be obtrusive, especially at the rear of the residence. In addition to the existing community perimeter fence, the rear property line of 30 Peregrine Drive resides in excess of the minimum required setback for adjacent residential properties, thus not impacting the property owners on Allen Road.

How meets criteria of LMO Section 16-3-1906

For clarity, each criterion for variance review will be addressed individually.

Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The property has exceptional conditions impacting the rear buildable area due to two actions outside the current owners control. The first is the front building setback distance and the second is the allocation of the open space requirement for the development.

The home was constructed in excess of 12' rearward of the required front building setback line (LMO Section 16-5-704-B) to preserve a cluster of live oaks on the property between the front of the home and Peregrine Point Drive. The action sought to align with LMO Section 16-6-402; preserving existing trees and native vegetation, especially a significant species such as the live oak. By shifting the home rearward, the developer minimized the buildable area at the rear of the property.

The rearward shift of the home would not be hardship if the rear property line had not been established to provide for community open space at the rear of the lot. The developer sought to meet community open space requirements in LMO Section 16-4-1606, requiring 16% minimum open space for major residential subdivision (6 lots or more).

The combination of the rearward shift of the lot to preserve the live oak cluster at the front of the lot and the developer's actions to meet community open space requirements placed a restriction on the buildable actions for the property owners, restrictions that they are seeking a 5-foot relief from.

Criteria 2: These conditions do not generally apply to other properties in the vicinity.

The lots in the vicinity do not have the same restrictions as the property in question. Lots adjacent to the north contain property lines which extend to the community perimeter boundary, providing a larger buildable area footprint. The lots to the south are built at the front building setback line and back onto open space in the form of a lagoon. In both instances, the properties have either flexibility within the buildable footprint of the lot or have a dedicated open space feature, ie lagoon.

Criteria 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.

As outlined, the owners seek a reprieve from rear setback line found in LMO Section 16-5-205-A, the 5-foot internal setback on single family detached lots within a subdivision. The existing buildable area at the rear of the house limits the ability for the owner to utilize their property, either for additions to improve the value of the home or for privacy due to community open space requirements. The owners do not wish to impact the community open space or the required perimeter buffer for the development, only the 5-foot internal setback.

ATTACHMENT B

Criteria 4: Is not the result of the applicant's own actions.

As stated in the request for variance, the property owners seek a reprieve from internal setback requirements to improve their property only due to the construction activities of the developer. These construction activities took place prior to the current owners involvement with the property.

Criteria 5: Granting of the variance does not substantially conflict with the Comprehensive Plan and the purposes of the Land Management Ordinance.

The property falls within a single family residential subdivision within a RM 4 zoning district, and no actions sought conflict with this designation. The property supports the purpose of the LMO as a document to direct planning, construction and uses for "the support of the Town's Comprehensive Plan and to protect, promote and improve the public health, safety, morals, convenience, order, appearance, prosperity and general welfare" (LMO Section 16-1-103). The variance sought applies to a small portion of setback requirements (internal setbacks for single family subdivided lots), while supporting the buffer and setback requirements for the community as a whole.

Criteria 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 authorization of the variance will not be a detriment to adjacent properties or the character of the district due. Adjacent property owners within the Peregrine Point subdivision will not be negatively impacted by the construction of a single story lanai and are in support of the owners. The property owners adjacent to the Peregrine Point community will not be impacted as the variance will not impact the requirements of LMO Section 16-5-704 regarding minimum setback requirements between residential developments (in this case, 20' setback with a 75°). The developments along Marshland Road contain single family homes with lanais, thus making the construction sought by the property owners in line with other residences within the zoning district.

Attached Supporting Documents

Photographs and diagrams are attached.

Thank you for your time and consideration.

Respectfully submitted,
Duke & Tammy Novak, Petitioner
30 Peregrine Point Drive
Hilton Head Island, SC 29926
843-422-2702
(E-mail)

ATTACHMENT C



ATTACHMENT D



Looking at the subject property and towards the left

ATTACHMENT D



Looking at the subject house and to the right

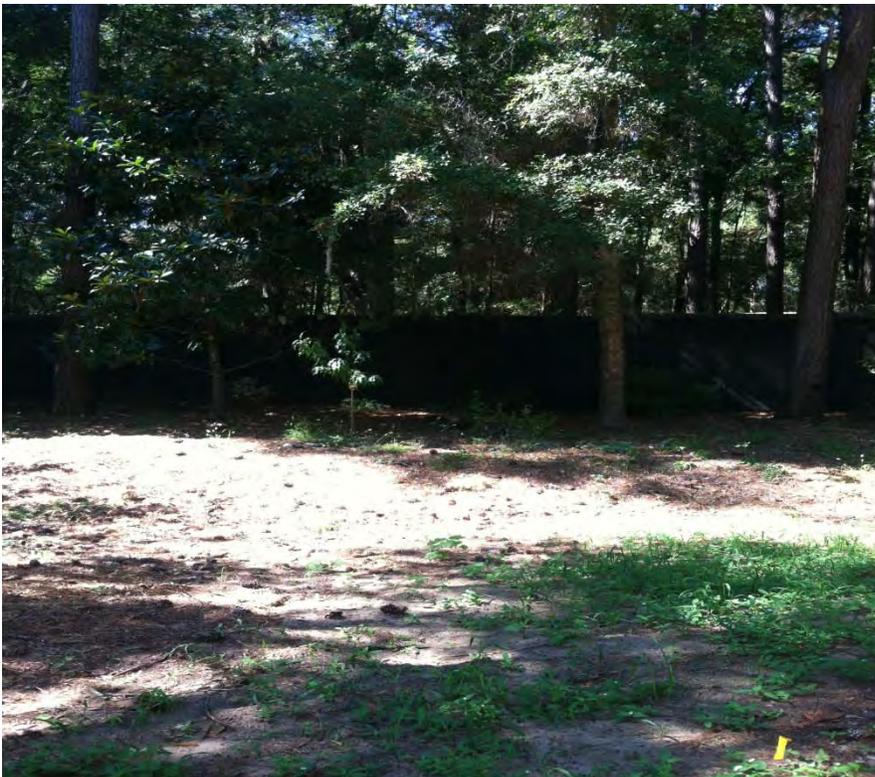


Looking at house rear & to right

ATTACHMENT D



Looking at rear to the left



Looking at the open space behind the house

ATTACHMENT E



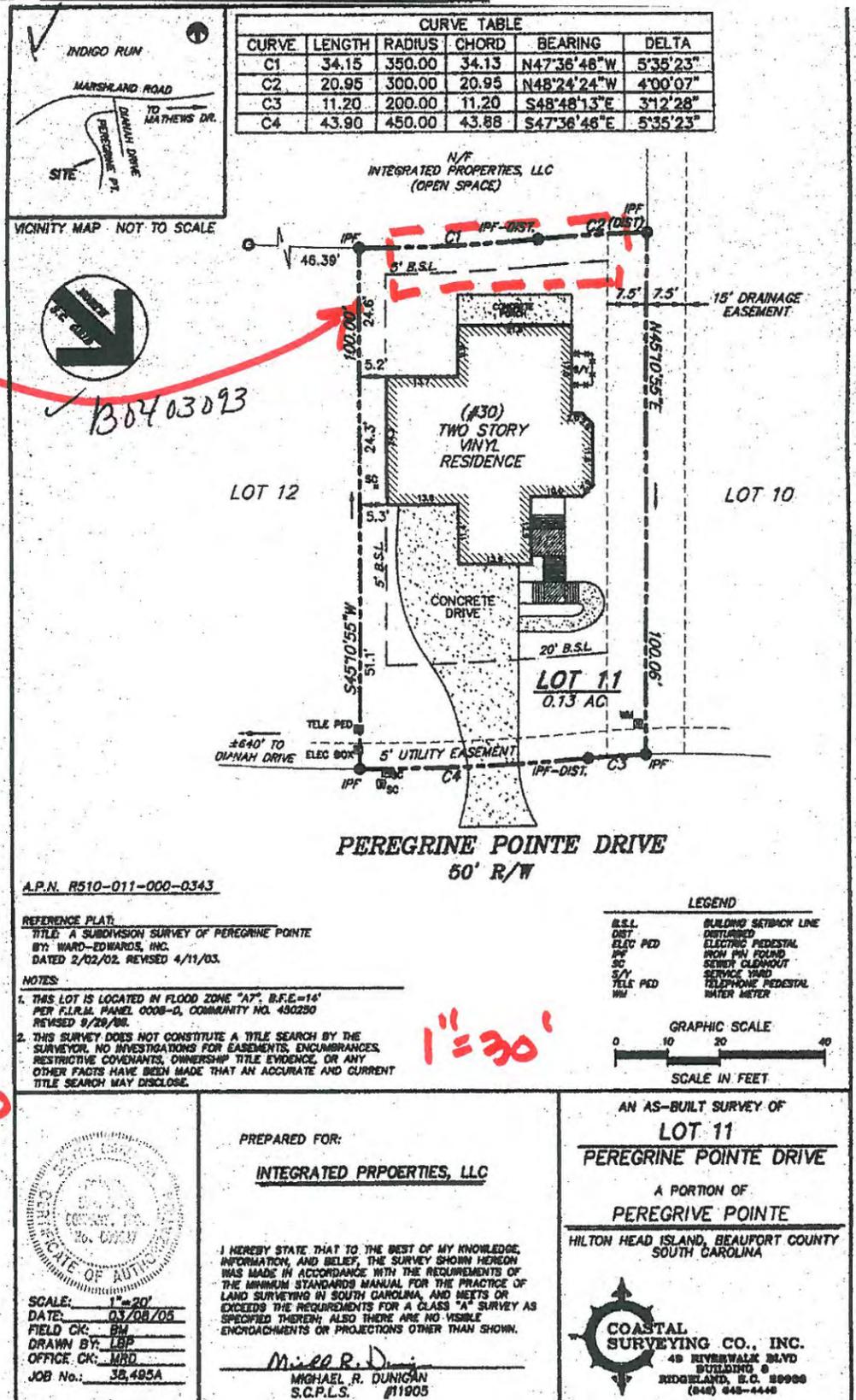
PEREGRINE POINT SUBDIVISION

30 PEREGRINE POINT DRIVE

COMMUNITY OPEN SPACE

ADJACENT RESIDENTIAL ON ALLEN ROAD

REQUESTED VARIANCE
 5 FOOT REAR SETBACK FOR SINGLE FAMILY LOTS WITHIN A SUBDIVISION



SITE PLAN FOR 30 PEREGRINE POINT
 PIN: R510 011 000 0343 0000

SCALE: 1"=20'
 DATE: 03/08/05
 FIELD CK: BM
 DRAWN BY: LBP
 OFFICE CK: MBD
 JOB No.: 38,495A

PREPARED FOR:
INTEGRATED PROPERTIES, LLC

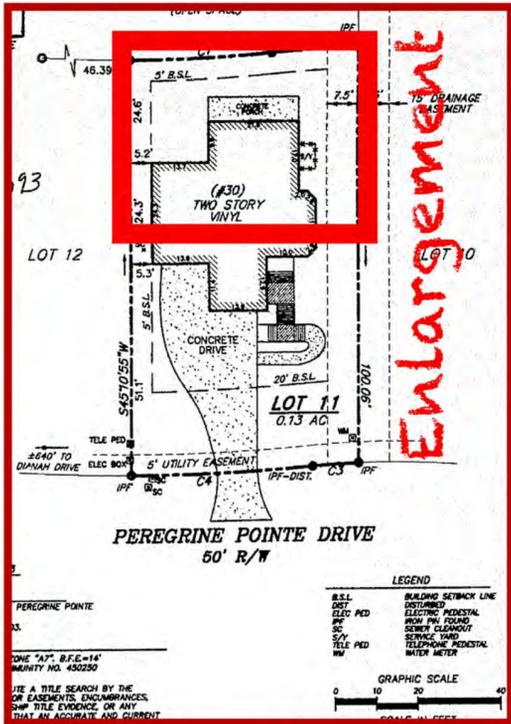
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED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

Michael R. Dungan
 MICHAEL R. DUNIGAN
 S.C.P.L.S. #11905

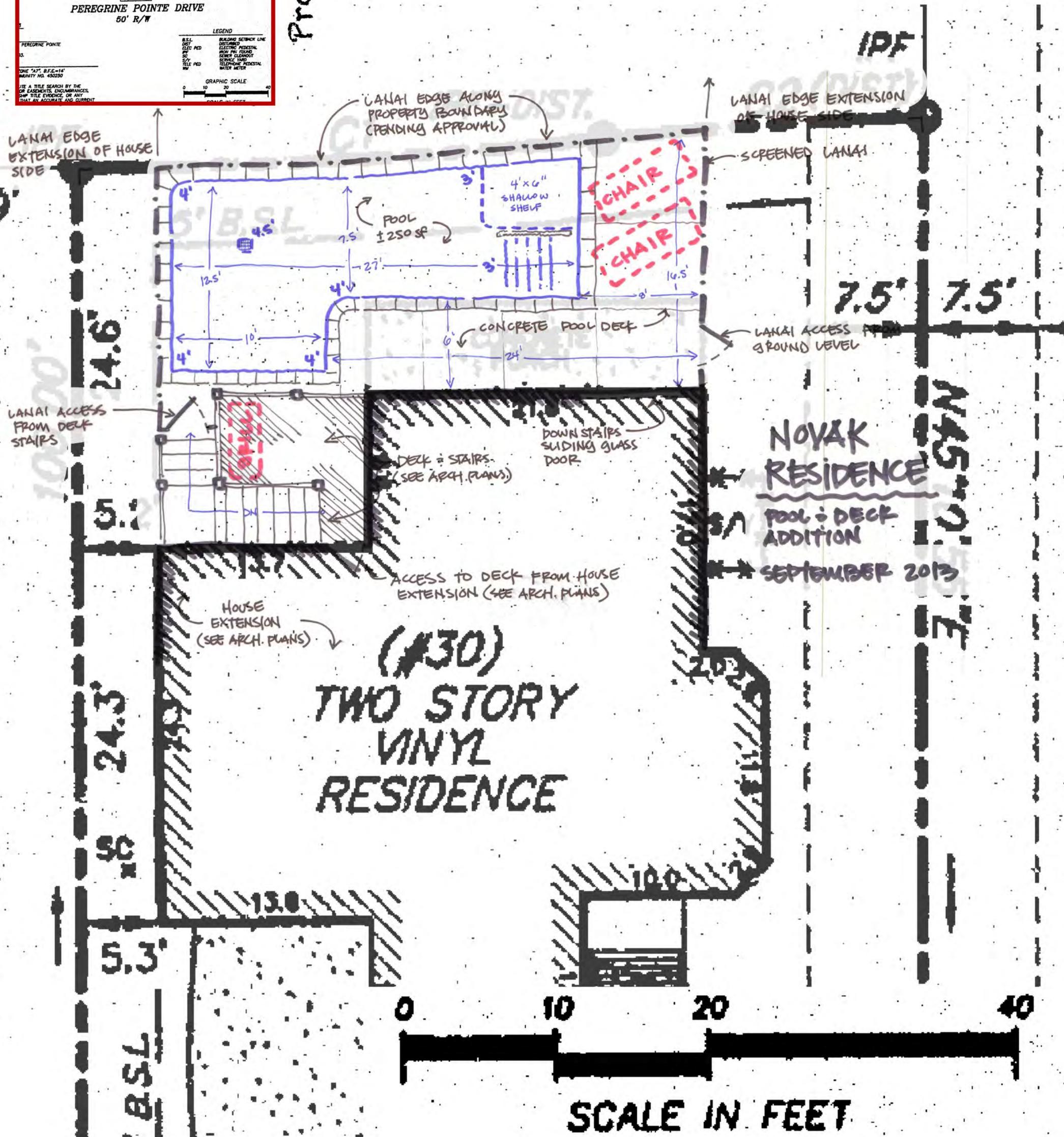
AN AS-BUILT SURVEY OF
LOT 11
 PEREGRINE POINTE DRIVE
 A PORTION OF
 PEREGRINE POINTE
 HILTON HEAD ISLAND, BEAUFORT COUNTY
 SOUTH CAROLINA

COASTAL SURVEYING CO., INC.
 49 RIVERWALK BLVD
 BUILDING 8
 RIDGELAND, S.C. 29908
 (843) 648-4448

Novak Residence Lanai & Pool Expansion September 2013



Property Plan

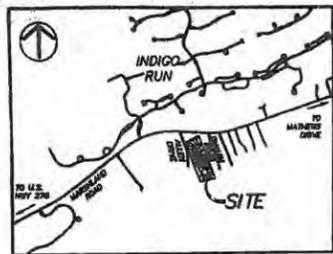


ATTACHMENT G

Subdivision Approval

Construction Details

Road Profiles



VICINITY MAP NOT TO SCALE

| CURVE | RADIUS | TANGENT | LENGTH | BEARING | CHORD | DELTA |
|-------|---------|---------|--------|-------------|--------|-----------|
| C1 | 200.00' | 11.72' | 23.42' | S83°37'21"W | 23.41' | 8°42'36" |
| C2 | 73.00' | 8.20' | 16.32' | N89°45'02"W | 16.29' | 12°48'39" |
| C3 | 73.00' | 17.93' | 35.28' | S70°00'01"W | 34.93' | 27°41'16" |
| C4 | 73.00' | 20.80' | 40.52' | S40°15'20"W | 40.00' | 31°48'08" |
| C5 | 73.00' | 20.80' | 40.52' | S08°27'15"W | 40.00' | 31°48'08" |
| C6 | 73.00' | 1.76' | 3.53' | S08°49'51"E | 3.53' | 2°17'05" |
| C7 | 200.00' | 18.53' | 36.99' | S20°52'48"W | 36.90' | 10°35'09" |
| C8 | 200.00' | 20.10' | 40.07' | S09°50'52"W | 40.00' | 11°28'42" |
| C9 | 200.00' | 29.15' | 57.89' | S04°11'01"E | 57.69' | 16°35'04" |
| C10 | 200.00' | 17.17' | 34.26' | S17°22'58"E | 34.21' | 9°48'50" |
| C11 | 200.00' | 18.72' | 37.34' | S27°38'16"E | 37.28' | 10°41'46" |
| C12 | 200.00' | 24.94' | 49.82' | S40°05'34"E | 48.49' | 14°12'50" |
| C13 | 200.00' | 5.60' | 11.20' | S48°48'13"E | 11.20' | 3°12'28" |
| C14 | 450.00' | 21.97' | 43.90' | N47°36'46"W | 43.88' | 5°35'23" |
| C15 | 450.00' | 32.89' | 65.68' | N40°38'17"W | 65.60' | 8°21'35" |
| C16 | 450.00' | 29.43' | 58.79' | N32°42'57"W | 58.74' | 7°29'05" |
| C17 | 450.00' | 15.80' | 31.50' | N26°56'34"W | 31.89' | 4°03'42" |
| C18 | 65.80' | 30.28' | 56.69' | S38°39'36"E | 54.94' | 49°35'22" |
| C19 | 65.50' | 31.70' | 59.14' | S13°59'57"E | 57.15' | 51°43'44" |
| C20 | 65.50' | 15.21' | 29.90' | S52°56'55"E | 29.64' | 28°09'12" |
| C21 | 65.50' | 16.99' | 33.25' | S04°31'39"E | 32.90' | 29°05'18" |
| C22 | 65.50' | 14.78' | 29.03' | N72°12'01"E | 28.79' | 25°23'24" |
| C23 | 60.00' | 10.53' | 21.06' | N89°05'42"E | 21.55' | 20°41'11" |
| C24 | 500.00' | 24.46' | 48.68' | N25°52'56"W | 48.66' | 5°34'43" |
| C25 | 500.00' | 24.38' | 48.74' | N31°27'52"W | 48.72' | 5°35'08" |
| C26 | 500.00' | 15.03' | 30.04' | N35°58'42"W | 30.04' | 3°26'33" |
| C27 | 500.00' | 15.01' | 30.01' | N39°25'08"W | 30.00' | 3°26'18" |
| C28 | 500.00' | 21.98' | 43.89' | N43°39'09"W | 43.87' | 5°01'44" |
| C29 | 500.00' | 18.59' | 37.01' | N48°17'14"W | 37.00' | 4°14'26" |
| C30 | 150.00' | 10.67' | 21.02' | S46°20'15"E | 21.29' | 8°08'24" |
| C31 | 150.00' | 26.42' | 52.30' | S32°16'43"E | 52.04' | 19°58'40" |
| C32 | 150.00' | 39.55' | 78.08' | S07°22'39"E | 77.20' | 29°49'29" |
| C33 | 150.00' | 50.17' | 99.82' | S28°01'37"W | 99.15' | 36°39'03" |
| C34 | 150.00' | 32.01' | 63.96' | S56°31'49"W | 62.60' | 24°05'20" |
| C35 | 50.01' | 10.67' | 21.02' | S56°32'35"W | 20.87' | 24°04'50" |
| C36 | 50.01' | 18.72' | 32.27' | S26°01'10"W | 31.71' | 36°58'00" |
| C37 | 50.01' | 13.31' | 26.02' | S07°22'09"E | 25.73' | 29°48'38" |
| C38 | 50.00' | 8.81' | 17.45' | S32°18'18"E | 17.36' | 19°59'35" |
| C39 | 60.00' | 3.58' | 7.10' | S48°20'15"E | 7.10' | 8°08'24" |
| C40 | 600.00' | 4.80' | 9.80' | N49°56'23"W | 9.80' | 0°26'08" |
| C41 | 600.00' | 17.31' | 34.61' | N47°49'10"W | 34.60' | 3°18'17" |
| C42 | 600.00' | 25.74' | 51.44' | N43°42'40"W | 51.42' | 4°54'44" |
| C43 | 350.00' | 22.32' | 44.58' | N25°10'03"W | 44.55' | 7°17'50" |
| C44 | 350.00' | 25.71' | 51.32' | N33°01'02"W | 51.28' | 8°24'07" |
| C45 | 350.00' | 23.25' | 46.45' | N41°01'05"W | 46.39' | 7°36'07" |
| C46 | 350.00' | 17.09' | 34.15' | N47°36'46"W | 34.13' | 5°35'23" |
| C47 | 300.00' | 10.48' | 20.95' | S48°24'24"E | 20.95' | 4°00'07" |

| LINE | LENGTH | BEARING | LINE | LENGTH | BEARING |
|------|--------|-------------|------|--------|-------------|
| L1 | 30.07 | S21°31'08"E | L26 | 4.68 | S21°32'16"E |
| L2 | 25.08 | N21°31'08"W | L27 | 20.00 | N68°26'20"E |
| L3 | 24.89 | N21°31'08"W | L28 | 29.03 | N68°28'52"E |
| L4 | 10.74 | S21°31'08"E | L29 | 50.00' | S21°31'08"E |
| L5 | 4.96 | S21°31'08"E | L30 | 50.00' | N68°28'52"E |
| L6 | 2.46 | S21°31'08"E | L31 | 50.00' | S21°31'08"E |
| L7 | 5.55 | N22°17'23"W | L32 | 8.32 | N64°33'32"E |
| L8 | 20.24 | N22°17'23"W | L33 | 7.25 | S28°27'24"W |
| L9 | 36.55 | S08°28'52"W | L34 | 37.95 | S28°27'24"W |
| L10 | 18.13 | S22°17'23"E | L35 | 33.63 | N81°54'24"W |
| L11 | 12.67 | S22°17'23"E | L36 | 24.39 | S01°01'08"W |
| L12 | 21.02 | N59°30'19"E | L37 | 28.35 | S45°10'55"W |
| L13 | 10.69 | N78°03'47"E | L38 | 25.23 | N82°48'53"W |
| L14 | 11.11 | --- | L39 | 36.16 | S01°01'08"W |
| L15 | 18.82 | S80°33'42"E | L40 | 25.94 | S80°03'57"W |
| L16 | 20.52 | N79°15'46"E | L41 | 4.34 | S80°03'57"W |
| L17 | 19.52 | N60°21'38"W | L42 | 55.67 | S78°43'05"W |
| L18 | 3.70 | N21°31'08"W | L43 | 31.59 | S78°43'05"W |
| L19 | 6.39 | N09°32'19"E | L44 | 17.40 | S89°47'42"W |
| L20 | 15.01 | N44°28'31"W | L45 | 15.17 | N44°28'31"W |
| L21 | 7.79 | N22°17'23"W | L46 | 2.52 | S87°10'21"W |
| L22 | 30.27 | N68°38'29"E | L47 | 31.35 | S87°10'21"W |
| L23 | 31.19 | S88°35'00"W | L48 | 29.15 | S74°03'09"W |
| L24 | 7.79 | S22°16'28"E | L49 | 2.37 | S74°03'09"W |
| L25 | 23.00 | S22°16'28"E | L50 | 29.89 | S69°06'39"W |
| | | | L51 | 34.82 | S51°37'21"W |

REFERENCES:

1. A BOUNDARY & SUBDIVISION PLAT OF LOT "B", PARCEL 2 A SECTION OF THE ESTATE OF DIANA SINGLETON. DATE: 5/3/00, LAST REVISED: 8/5/00 BY: ANTOINE VNEI, S.C.R.L.S. No. 9064
2. A TREE & TOPOGRAPHIC SURVEY OF A 7.35 ACRE TRACT OFF OF MARSHLAND ROAD. DATED: 1/2/01 BY: MAX W. THOMAS III, S.C.R.L.S. No. 14531
3. AN EASEMENT PLAT OF 50' ACCESS EASEMENT & RIGHT OF WAY, 0.42 ACRE DIANA DRIVE. DATE: 10/09/01, LAST REVISED: 10/10/01 BY: DONALD R. COOK, JR., S.C.R.L.S. No. 19010 RECORDED IN: PB. 83, PG. 48, DATED: 10/23/01

NOTES:

1. PREPARED FOR INTEGRATED PROPERTIES, LLC
2. THIS AREA APPEARS TO LIE IN FLOOD ZONE A-7, (MIN. EL.: 14.0'), PER FIRM PANEL No. 8-D, COMMUNITY No. 450250, DATED 8/29/88.
3. PROPERTY CORNERS ARE SET WITH 5/8" IRON REBAR PINS, UNLESS OTHERWISE NOTED.

LEGEND:

- CONC. D. CONCRETE MONUMENT FOUND
- REB. REBAR FOUND
- B.S.L. BUILDING SETBACK LINE

ACREAGE SUMMARY

| AREA | ACRES |
|--------------------------------|-------|
| RIGHT-OF-WAY | 1.26 |
| CRITICAL AREA | 0.10 |
| COMMON RECREATIONAL OPEN SPACE | 0.39 |
| LIFT STATION | 0.06 |
| OPEN SPACE | 0.80 |
| LOT ACREAGE (29 LOTS) | 4.74 |
| TOTAL | 7.35 |

REVISIONS:
1. 04/10/01 GENERAL REVISION

DATE OF APPROVAL: 11/29/04
SUBDIVISION NUMBER: SUB020007
DRAWN BY: M. BROWN
CHECKED BY: Planner

DATE: 11/29/04
SCALE: 1"=40'

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.

DATE: 11/29/04
DONALD R. COOK, JR.
S.C.P.L.S. No. 19010

WARD EDWARDS, INC.
Engineering, Planning, Surveying, Construction Management

WARD EDWARDS, INC.
No. C00152

WARD EDWARDS, INC.
No. C00152

A SUBDIVISION SURVEY OF
PEREGRINE POINTE
OFF MARSHLAND ROAD

TAX PARCEL No. 510-11-22A
HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA

REVISIONS:
1. 04/10/01 GENERAL REVISION

FIELD CHECK: MSH
OFFICE CHECK: DRC
DRAWN BY: LAM
DATE: 12/02/02
SCALE: 1"=40'

PROJECT No.: PDR-001
PROJECT NAME: PDR001
FILE: PDR001SD1.dwg

TOWN OF HILTON HEAD ISLAND

BOARD OF ZONING APPEALS

2014 Public Meeting Schedule

| BZA Powers and Duties | Application Procedure |
|--|---|
| <p>The Board of Zoning Appeals has the following powers:</p> <p>A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of Title 16 of the Municipal Code, Land Management Ordinance.</p> <p>B. To hear and decide requests for variance from the Design and Performance Standards of the Land Management Ordinance.</p> <p>C. To review and take action on applications for uses by special exception; and</p> <p>D. To review and take action on appeals of Planning Commission action on certain traffic analysis plans.</p> | <p>Applications for Variance and Special Exception must be completed and submitted not later than 45 days prior to the meeting at which the application will be considered. In addition, Applications for Appeal must be filed not later than 14 days from the date of the decision being appealed.</p> <p>An Application Check-In Conference is required for all applications to determine whether the application meets the minimum requirements for acceptance. Application Check-In Conferences must be scheduled by appointment with the Community Development Department staff.</p> |

| <u>BZA PUBLIC MEETING DATE</u> | <u>APPLICATION DEADLINE</u> |
|--|-----------------------------|
| January 27, 2014 | December 13, 2013 |
| February 24, 2014 | January 10, 2014 |
| March 24, 2014..... | February 7, 2014 |
| April 28, 2014..... | March 14, 2014 |
| *May 19, 2014 | April 4, 2014 |
| June 23, 2014..... | May 9, 2014 |
| July 28, 2014..... | June 13, 2014 |
| August 25, 2014..... | July 11, 2014 |
| September 22, 2014..... | August 8, 2014 |
| October 27, 2014..... | September 12, 2014 |
| November 24, 2014..... | October 10, 2014 |
| December 15, 2014..... | October 31, 2013 |
| <p>* May 19th is the third Monday of the month due to the Memorial Day Holiday</p> <p>* December 15th is the third Monday of the month due to the Holidays</p> | |

Regular meetings are held on the 4th Monday of each month at 2:30pm in Council Chambers.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: October 11, 2013
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 have been no waivers granted by staff since the September Board of Zoning Appeals meeting.