



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, November 25, 2013 at 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. **Chairman's Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of Minutes** – October 28, 2013 meeting
8. **Swearing In Ceremony for new BZA Member, Mr. Steve Wilson**
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. **VAR130010:** Don Sigmon, owner of the South Beach Racquet Club, is requesting a variance from Land Management Ordinance Section 16-6-204, Wetland Buffers, to construct a deck expansion within the 20 foot wetland buffer. The property is located at 230 South Sea Pines Drive and is further identified as parcel 1127 on Beaufort County Tax Map 17. *Presented by: Nicole Dixon*

VAR130011: Bill Fishburne, on behalf of Jon Watson, is requesting a variance from Land Management Ordinance Section 16-6-402, Wetland Buffers. The applicant proposes to build a fence and install a grassed lawn in the wetland buffer. The property is located at 56 Hearthwood Drive and is further identified as parcel 226 on Beaufort County Tax Map 14B. *Presented by: Anne Cyran*
11. **Board Business**

12. Staff Report

- a) Waiver Report: Presented by Nicole Dixon
- b) Revisions to the Rules of Procedure

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, October 28, 2013 Meeting
2:30p.m. - Benjamin M. Racusin Council Chambers

DRAFT

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

Board Members Absent: None

Council Members Present: None

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Teri Lewis, LMO Official
Brian Hulbert, Board Attorney
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 welcomed the public and introduced the Board's procedures for conducting the business meeting.

5. Approval of the Revised Agenda

Prior to requesting a motion to approve the revised agenda, Chairman Kristian requested that the staff clarify the two applications for appeal that have postponed from the agenda. Ms. Dixon stated that the Board's review of Application for Appeal APL130004 is postponed to the November 25, 2013 meeting at the applicant's request.

The applicant for Application for Appeal APL130006 has requested that the Board's review be postponed to the January 2014 meeting. A motion for the postponement of APL130004 is required because the application has already been granted one postponement. Chairman Kristian then requested that a motion be made.

Mr. North made a **motion to approve** the postponement of APL130004 as requested by the applicant. This application will be reviewed at the November 25, 2013 meeting. The motion was **seconded** by Mr. Lawrence and **passed** with a vote of 6-0-0. Chairman Kristian then requested that a motion be made to approve the revised agenda.

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

6. Approval of the Minutes

Chairman Kristian requested that a motion be made to approve the minutes of the September 23, 2013 meeting.

Vice Chairman Stanford made a **motion to approve** the minutes of the September 23, 2013 meeting as presented. Mr. Campbell **seconded** the motion and the motion **passed** with a vote of 6-0-0.

7. Unfinished Business

None

8. New Business

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. Chairman Kristian introduced the application and opened the public hearing. Chairman Kristian then requested that the staff make their presentation.

Ms. Nicole Dixon made the presentation on behalf of staff. The staff recommended that the Board of Zoning Appeals *disapprove* the application based on the Findings of Facts and Conclusions of Law stated in the LMO Official Determination and contained in the staff's report.

Ms. Dixon presented an in-depth overhead review of the application including a review of the vicinity map, aerial photo, photos of the site, and the site plan.

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 screen-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.

The applicant claims in the narrative that their property suffers from two primary building restrictions that are outside of their control. The first restriction is 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 second restriction is that the house was constructed twelve feet behind the front setback to preserve a cluster of live oak trees.

Ms. Dixon reviewed the Findings of Fact and Conclusions of Law. Based on these Findings of Fact and Conclusions of Law, the applicant has not met all six of the required criteria.

The Board and Ms. Dixon discussed the definition of open space requirements and the location and condition of a nearby lagoon. At the completion of the staff's presentation, Chairman Kristian requested that the applicants make their presentation.

Mr. Duke Novak and Mrs. Tammy Novak presented statements in support of the application. The applicants discussed their desire to construct a swimming pool within a single story screened-in lanai at the rear of their property. The applicants reviewed the staff's Findings of Fact and Conclusions of Law and stated that they believe the application meets the required criteria.

The Board and the applicants discussed the application. Chairman Kristian and Vice Chairman Stanford stated that the Board is required to follow the laws stated in the Land Management Ordinance with regard to setback requirements. The Board asked the applicants if they have tried to redesign the proposed pool so that it fits within the required setback. The applicants stated that they have tried to redesign the pool to make it fit, but it is not possible.

The applicants introduced Mr. Judd Carstens, their landscape architect, to the Board. Mr. Carstens presented statements regarding the six required criteria, the setback requirements, and the location and condition of the existing lagoon.

At the completion of the applicant's presentation, Chairman Kristian requested public comments and the following were received:

Mrs. Queen Mary Allen Davis stated that the Allen family owns property located on Marshland Road. Mrs. Davis inquired about the application's impact on her family's property. Ms. Dixon stated that the application will have no impact on the Allen family property. Ms. Dixon presented statements regarding the Town's notification requirements to property owners located within 350-ft. of the subject property. At the completion of public comments, Chairman Kristian stated that the public hearing for this application is closed.

Chairman Kristian then invited discussion by the Board. The Board discussed the application. The Board stated their concern that the application does not meet the six required criteria. Following final comments, Chairman Kristian requested that a motion be made.

Vice Chairman Stanford made a **motion** to **disapprove** Application for Variance VAR130009 because the application does not meet the staff's Findings of Fact and Conclusions of Law. The application does not meet the six required criteria. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 6-0-0.

11. **Board Business**

a. Adoption of BZA Schedule of Meetings – 2014

The Board and staff reviewed the BZA's 2014 Meeting Schedule. Chairman Kristian requested that a motion be made to adopt the schedule. Mr. Lawrence made a **motion** to adopt the 2014 Meeting Schedule as presented. Vice Chairman Stanford **seconded** the motion and the motion **passed** with a vote of 6-0-0.

b. Adoption of new procedures for hearing Motions to Dismiss an Appeal

Ms. Dixon reported that a draft set of procedures on Motions to Dismiss an Appeal will be presented to the Board for their consideration on November 25, 2013. The Board will review the draft set of procedures at that time and the public will have an opportunity to present comments. The Board will adopt the final set of procedures on motions to Dismiss an Appeal at their December 16, 2013 meeting.

12. Staff Report

Waiver Report - Ms. Nicole Dixon presented the Waiver Report on behalf of staff.

13. Adjournment

The meeting was adjourned at 3:10p.m.

Submitted By:

Approved By:

Kathleen Carlin
Secretary

Peter Kristian
Chairman



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

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

Case #:	Public Hearing Date:
VAR130010	November 25, 2013

Parcel or Location Data:	Property Owner and Applicant
Address: 230 South Sea Pines Drive Parcel#: R550 017 000 1127 0000 Zoning: PD-1 (Planned Development) – Sea Pines Plantation Acreage: 1.68	Don Sigmon South Beach Racquet Club Inc PO Box 5994 Hilton Head Island, SC 29938

Application Summary:

Don Sigmon, owner of the South Beach Racquet Club, is requesting a variance from Land Management Ordinance (LMO) Section 16-6-204, Wetland Buffers. The applicant is requesting a variance to eliminate approximately 65 linear feet (1300 square feet) of the wetland buffer to make the existing building conforming in order to construct a deck expansion.

Background:

The South Beach Racquet Club was originally constructed in 1971 as two tennis courts and has grown over the years to 13 courts and a pro shop building that was constructed in 1987. Because of the success of the club and a very active tennis membership with numerous members and social events, the club is now wishing to expand the deck to accommodate the members and guests for the social activities.

When the club began planning the deck expansion, they discovered that the freshwater detention lagoon on their property had recently been determined to be a wetland. Several years ago, Sea Pines Community Services Association (CSA) allowed the weir between the lagoon system and Braddock Cove to remain open allowing tidal water intrusion into the freshwater detention lagoon. It was done in order to raise the lagoons depth and population of the fish in the lagoon in response to a request from adjacent property owners. Because of this, the freshwater lagoon has since become salt water and is now classified as a tidal wetland by the U.S. Army Corps of Engineers and the South Carolina Department of Health and Environmental Control (DHEC). This was not a natural environmental change, but a change initiated by CSA.

LMO Section 16-6-204 requires a 20 foot buffer from tidal wetlands. With the buffer now applied to the property, the existing building encroaches into it and is now considered a non-conforming structure even though it was conforming to all requirements when it was originally constructed. According to LMO Section 16-7-301, a non-conforming structure shall not be expanded, enlarged, relocated or redeveloped, in whole or in part, unless the result is to bring the structure into conformance.

Because of these LMO requirements, the applicant is requesting a variance to eliminate approximately 65 linear feet (1300 square feet) of the wetland buffer to make the existing building conforming and allow the deck expansion.

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

Grounds for Variance:

The applicant is requesting a variance to eliminate a portion of the wetland buffer in order to make their existing building conforming and to be able to expand the deck. The applicant states in the narrative that the club has grown over the years and they need to be able to accommodate the members and guests for events. The applicant states that the building was originally built in accordance with all applicable regulations at the time. The Sea Pines CSA opened the weir and allowed salt water tidal intrusion, turning the lagoon into a wetland, which was not the fault of the applicant.

Summary of Facts:

- The applicant seeks a variance from LMO Section 16-6-204, Wetland Buffers.
- The applicant is proposing to eliminate approximately 65 linear feet (1300 square feet) of the wetland buffer in order to make their existing building conforming and construct a deck expansion.

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:

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 October 20, 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 extraordinary because the Sea Pines Plantation Master Plan identifies this tract as a

tennis complex. The Master Plan does not show the lagoon or wetlands on the property.

- The property was developed in 1971, prior to the incorporation of the Town or the adoption of the LMO, with two tennis courts and expanded over the years to 13 courts and a pro shop building. It met all regulations at the time of construction.
- The lagoon was dug as part of the South Beach drainage plan, after the property was developed as a tennis complex.
- The Sea Pines CSA opened the weir at the request of an adjoining property owner to allow salt water tidal intrusion to increase the depth of the lagoons and to increase the population of the fish. This resulted in the lagoons becoming tidal wetlands.

Conclusions of Law:

- This application does meet this variance criteria as set forth in LMO Section 16-3-1906A(1) because there are extraordinary and exceptional conditions that pertain to this particular piece of property.
- The lagoon being changed to a tidal wetland, the way the site was developed in the 1970's and 1980's and the fact that this property is identified in the Sea Pines Master Plan as a tennis complex with no lagoon shown, are all exceptional conditions.

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))

Findings of Fact:

- The Sea Pines Plantation Master Plan identifies this property as a tennis complex.
- The other properties in the vicinity are not developed as a tennis complex.
- The Sea Pines CSA opened the weir at the request of an adjoining property owner to allow salt water tidal intrusion to increase the depth of the lagoons and to increase the population of the fish, which resulted in the lagoons becoming wetlands.
- While the adjoining property also has a lagoon that was part of the South Beach drainage system, that is the property that requested the weir be opened to allow a greater lagoon depth and more fish.

Conclusions of Law:

- This application does meet this variance criteria as set forth in LMO Section 16-3-1906A(2) because there are extraordinary and exceptional conditions pertaining to this property that do not apply to other properties in the vicinity.
- The subject property is the only one in the vicinity that was shown on the Sea Pines Plantation Master Plan to be developed as a tennis complex, that has the need to expand in order to accommodate its members, and whose lagoon was changed to a wetland as a result of the actions by third parties.

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:

- The Sea Pines Plantation Master Plan identifies this tract as a tennis complex. The Master Plan does not show the lagoon or wetlands on the property.
- The property was developed in 1971, prior to the incorporation of the Town or the adoption of the LMO, with two tennis courts and expanded over the years to 13 courts and a pro shop building. It met all regulations at the time of construction.
- The lagoon was dug as part of the South Beach drainage plan, after the property was developed as a tennis complex.

- The Sea Pines CSA opened the weir at the request of an adjoining property owner to allow salt water tidal intrusion to increase the depth of the lagoons and to increase the population of the fish. This resulted in the lagoons becoming wetlands.
- LMO Section 16-6-204, Wetland Buffers, requires a 20 foot buffer from all tidal wetlands.
- LMO Section 16-7-301, states that a non-conforming structure shall not be expanded, enlarged, relocated or redeveloped, in whole or in part, unless the result is to bring the structure into conformance.

Conclusions of Law:

- This application does meet this variance criteria as set forth in LMO Section 16-3-1906A(3) because the application of the LMO does restrict the utilization of the property.
- The lagoon was changed from a freshwater lagoon to a tidal wetland by third parties after the property was developed as a tennis complex. With the application of the LMO and the 20 foot buffer requirement, the existing building is now considered non-conforming and prohibited from expanding to meet the needs of its members.

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 was developed in 1971, prior to the incorporation of the Town or the adoption of the LMO, with two tennis courts and expanded over the years to 13 courts and a pro shop building. It met all regulations at the time of construction.
- The lagoon was dug as part of the South Beach drainage plan, after the property was developed as a tennis complex.
- The Sea Pines CSA opened the weir at the request of an adjoining property owner to allow salt water tidal intrusion to increase the depth of the lagoons and to increase the population of the fish. This resulted in the lagoons now being classified as tidal wetlands.
- Because the lagoon became a wetland, there is now a requirement for a 20 foot buffer, making the existing building non-conforming and unable to expand.
- The Sea Pines CSA submitted a letter (Attachment C) in support of the variance application, stating that they created the hardship on the applicant.

Conclusions of Law:

- This application does meet this variance criteria as set forth in LMO Section 16-3-1906A(4) because this hardship is not the result of the applicant's own actions. The property was developed with a lagoon, not a tidal wetland.
- The applicant is limited with the constraints of the way it was developed in the 1970's and 1980's, needs to expand to meet the needs of its members and guests, and can't because the lagoon was turned into a wetland, not by their own actions, making the building non-conforming and unable to expand.

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 16-6-204, Wetland Buffers, requires a 20 foot buffer from tidal wetlands.
- LMO Section 16-6-201, Statement of Purpose and Intent, describes a wetland buffer as an ecological transition zone from non-wetlands to tidal or freshwater wetlands and that it should provide refuge for critical habitat and wetlands fauna and should also serve as a sediment and storm water control zone to

reduce the impact of development on wetlands.

- The lagoon was dug for drainage purposes and was not considered a wetland until the weir was opened. The lagoon is surrounded by a bulkhead, with no wetlands fauna or habitat. The area of the proposed deck expansion is currently mulch and grass.
- LMO Section 16-7-301, states that a non-conforming structure shall not be expanded, enlarged, relocated or redeveloped, in whole or in part, unless the result is to bring the structure into conformance.

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

Natural Resources Element

3.1 -Water Quality & Quantity - Implications for the Comprehensive Plan

The data collected on the local, regional and national scale suggests that the current development strategies can have a negative impact on water quality. The Town needs to continue to make water quality and quantity a high priority by encouraging water conservation, reducing impervious surfaces, encouraging environmentally sound drainage and flood control practices, as well as sustainably manage stormwater for small and large scale development.

Goal 3.1 - Protect Water Quality and Quantity

- B. The goal is to preserve all blueways (which includes salt marsh, freshwater wetlands, open canals, ditches and open water systems).
- D. The goal is to encourage private property owners to incorporate water quality protection measures into their home and/or development.

Goal 3.3 - Protect Quality of Life through Environmental Preservation

- H. The goal is to enhance, create and maintain vegetated riparian wetland buffers with viewing corridors and windows.

Implementation Strategy 3.1 - Protect Water Quality and Quantity

- E. Require wetland buffers vegetated with native plants for all land-use types.

Land Use Element

8.11 - Goals and Implementation Strategies

- 3. Balance the demand for recreation and the environmental health of the waterways.

Recreation Element

Goal 10.1 - Recreation Needs

- A. Continue to expand the public recreation system by providing adequate facilities to meet the needs of a broad spectrum of the Island population (including visitors) while maintaining sensitivity to the specific needs of the Island.
- B. Participate with local recreation organizations in the development of programs and facilities to meet the needs of the resident and visitor populations of the Island.

Implementation Strategy 10.1 - Recreation Needs

- B. Continue participation with local recreation organizations in the development of programs and facilities to meet the needs of the diverse populations of the Island.

Conclusions of Law:

- This application does meet this variance criteria as set forth in LMO Section 16-3-1906A(5) because

the granting of this variance does not substantially conflict with the purposes of the LMO and the Comprehensive Plan.

- While the expansion of this facility's deck is meeting the needs of the residents and visitors of that area, the health of the waterway also needs to be considered. This application would allow construction within two feet of the edge of the water, which could be a negative impact for the water quality.
- The applicant has stated they will create a berm along the edge of the bulkhead to divert any stormwater runoff from the proposed deck away from the wetland and also agrees to install landscaping in between the bulkhead and proposed deck for water quality protection.
- Although the proposed deck expansion is in conflict with the LMO and Comprehensive Plan, because the applicant agrees to install the berm and landscaping, staff finds the application is not in *substantial* conflict with the purposes of the LMO or Comprehensive Plan.

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 did not receive any letters or phone calls in opposition to the variance application.
- The applicant is wishing to expand the deck to accommodate the needs of the growing membership and guests and social activities of the tennis complex.
- The applicant is proposing to create a berm and install landscaping in between the bulkhead and proposed deck, to divert stormwater away from the wetland and to provide water quality protection, where there is now just grass.

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 will not be a detriment to the adjacent property and the public good.
- The granting of the variance will improve the public good by allowing the needs of the club to be met, and by enhancing the buffer and providing additional water quality protection measures.

Staff Recommendation:

Staff recommends that the Board of Zoning Appeals *approve* the application *with the conditions that a berm be created along the edge of the bulkhead to divert stormwater and landscaping be installed in between the bulkhead and deck to improve water quality protection*, 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

November 6, 2013

DATE

REVIEWED BY:

HC

Heather Colin, AICP
Development Review Administrator

November 6, 2013

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Letter from CSA
- D) Aerial Photo
- E) Site plans
- F) Pictures



Proposed Variance - 230 South Sea Pines Drive

BRADDOCK BLUFF DRIVE

BRADDOCK COVE

WILLETT ROAD

PORTSIDE DRIVE

BEACHSIDE DRIVE

WREN DRIVE

GADWALL ROAD

MERGANSER COURT

PINTAIL COURT

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.

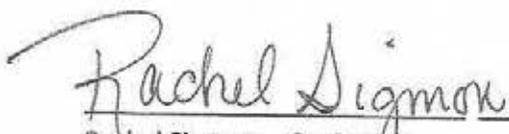
ATTACHMENT B
South Beach Racquet Club, Inc.
230 S. Sea Pines Drive
Hilton Head Island, SC 29938

South Beach Racquet Club, Inc. (SBRC) was originally constructed in 1971 as two tennis courts. The following year, three additional courts and a temporary mobile pro shop were added to serve the needs of the newly planned unit development community to be known as South Beach. The desire was to create a community where the planned parks, open spaces, recreational facilities, etc. formed an atmosphere of group activities and casual social interaction. Since then, SBRC has grown to 13 courts, an attractive pro shop, and a very active tennis membership with numerous member and guest social events. With our success, the deck area is no longer sufficient to accommodate the members and guests for the social activities. So, South Beach Racquet Club began planning for a deck expansion, only to discover that what was created as a fresh water detention lagoon had recently been determined to be wetlands. This determination was a result of actions by third parties. (See letter from CSA, Inc. attached.) Because of this change, the Club will not be able to construct the deck expansion without a variance from Land Management Ordinance Section 16-6-204.

Accordingly, Don and Rachel Sigmon, as owners of South Beach Racquet Club, Inc. are making a request for a variance in accordance with Land Management Ordinance Section 16-6-204, Wetland Buffers, to allow for an expansion of the member's deck adjoining the existing pro shop. Approximately 160 square feet of the new deck will encroach into the setback behind the original detention pond's bulkhead. In support of Section 16-3-1906 *Criteria of Approval of Variances*, a written narrative of all six criteria, including supporting documentation is attached.

We strive to keep South Beach Racquet Club a good example of what Charles Fraser intended when he wrote the 1970 Sea Pines Declaration of Covenants and Restrictions for South Beach and Provisions for the South Beach Owners' Association, Inc., "to create thereon a planned unit development community know as South Beach with permanent parks, playgrounds, open spaces, lakes, boat docks, boat channels, fishing docks, swimming pools, roadways, bike trails, common parks within townhouse areas and other Common Properties for the benefit of the said Community". With the granting of the variance, allowing the expansion of the social area, we anticipate construction during the off-season in order to better serve our community next spring.

Respectfully submitted,


Rachel Sigmon, Co-Owner 9/13/13
Date


Don Sigmon, Co-Owner 9/13/13
Date

ATTACHMENT B

Request for a Zoning Variance



Don and Rachel Sigmon, owners of South Beach Racquet Club, Inc. are making a request for a variance from Land Management Ordinance Section 16-6-204, Wetland Buffers, to allow for an 806 square foot expansion of the member's deck adjoining the existing pro shop. Approximately 160 square feet of the expansion will encroach into the adjacent setback.

In support of Section 16-3-1906 – Criteria of Approval of Variances, we offer the following Findings of Facts:

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

The original tennis pro shop building was built to LMO approved plans in 1987/88. It is situated between a 24" and 42" live oak five feet from the north side of the building, Court One 15 feet to the east, and the wetland setback on the south and west side of the property. Accordingly, the location selected for the deck expansion is the only feasible area. The area selected for the proposed deck addition is excellent because it is directly adjacent and accessible from the existing building, no trees have to be removed, and tennis activity can be observed from the new deck. We have been informed the expansion is now not feasible due to a small encroachment in the setback.

On June 25, 1970, the Sea Pines Declaration of Covenants and Restrictions for South Beach and Provisions for the South Beach Owners' Association, Inc. were approved creating a planned unit development community to be known as South Beach. The desire was to create a community where the planned parks, open spaces, recreational facilities, etc. formed an atmosphere of group activities and casual social interaction. As part of the South Beach planned community, an area of Calibogue Creek was dredged, thus creating the now Braddock Cove, two fresh water detention lagoons were dug (one of which is on the applicants' land) as part of the South Beach drainage plan, and a weir was installed to control the inflow of tidal water intrusion into the fresh water detention lagoons.

The system worked effectively until several years ago when Sea Pines Community Services Associates allowed the weir between the lagoon system and Braddock Cove to remain open. This was done in order to raise the lagoons depth and population of the fish in the lagoon in response to a request from adjoining property owners of the first lagoon. (See accompanying letter from the Sea Pines Community Services Associates) As a result, the fresh water lagoons became salt water. Along with this, the constant tidal change caused enormous erosion along the banks.

Had the changes not been made by a third party, the lagoons today would still be isolated fresh water and the wetland buffet would not be applicable.

ATTACHMENT B

Request for a Zoning Variance



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

Our property is the only commercial property adjoining either of the two lagoons in the PUD of South Beach. The lagoon in question sits entirely on the applicant's land. The other lagoon is owned by CSA and they would not have a need to expand a tennis member's deck anywhere in the area.

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;

When the property was acquired by Charles Fraser from Sea Pines Company in 1986, the lagoon was fresh water and therefore the use of the property was unrestricted, as it was not considered wetlands. In 1987, South Beach Racquet Club constructed six tennis courts and the pro shop. There were no wetlands. It was simply sand, an oak tree, and the fresh water detention lagoon that was nearly empty most of the time.

Accordingly, all of the property could be developed. Our long term intent was to grow and develop the tennis facilities as the need dictated. Our first expansion was the addition to the Pro Shop in 1989. The lagoon was a fresh water detention pond and therefore the addition was approved and built without issue. Now, as a result of the opening of the weir and the fresh water lagoon being allowed to convert to salt water, the applicant cannot continue with his and Charles Fraser's original plans for the tennis facility. And now, the impact is adversely affecting the applicant, along with members, guests, and friends of the club as a considerable amount of the property cannot be utilized due to the buffer restrictions in the Town's regulations. This condition can be relieved by receiving a variance to the setback.

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

Several years ago, Sea Pines Community Services Associates ["SPCSA"], acting for the benefit of just a few, opened the weir that was constructed in the 1970's as a means to prevent the inflow of salt water out of the fresh water detention lagoons. The fact of SPCSA's action is stated in the accompanying letter dated August 28, 2013, from Community Services Associates, Inc. to the Board of Zoning Appeals. In the letter, SPCSA admits to the opening the weir, thus creating this hardship on South Beach Racquet Club as a result. Again, without such actions, the lagoon would now be an isolated fresh water detention pond as originally intended in the 1970 Sea Pines Land Use Covenants and the 1974 Sea Pines Plantation Master Plan as recorded.

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

ATTACHMENT B

Request for a Zoning Variance



Our intent is to fulfill our long term dream of owning and operating a successful tennis club where members, guests, and friends of the community can gather for recreation and social activities as originally drafted in the 1970 Sea Pines Land Use Covenants.

By granting the variance, only 91 square feet of covered area will encroach in the buffer and 69 square feet of open deck will encroach in the buffer. Given that this represents only about 0.0004% of the 102.63 acres of the PUD of South Beach, we do not see a substantial conflict with the Hilton Head Island LMO.

In addition, since this area was originally planned for a deck expansion for observing tennis on courts 1 and 2 and other member activities, no trees and almost no vegetation have to be removed. As opposed to the north side of the building where there is a 24 inch and 42 inch live oak, this is a natural building pad.

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 granting of the variance will allow the property owner to encroach 160 square feet into a wetland buffer that was not originally part of the South Beach Master Plan as recorded in 1974. (See accompanying copy of 1974 Sea Pines Master Plan) As mentioned above, the affected area was a planned and efficiently operating fresh water detention lagoon up until a few years ago when third parties altered the originally intended purpose of the drainage system. Instead of the variance being a substantial detriment to adjacent property or the public good, it will be a benefit to the community by allowing members, guests, and visitors, many of whom live in or near the adjacent property, a place to gather before and after tennis events in one place and/or in the event of rain and storms.

Regarding the character of the district, the proposed member's deck expansion is, in fact, very much in keeping with the original 1974 Sea Pines Master Plan and the planned character of the community by allowing the members and guests an enjoyable place to gather for the numerous tennis socials. The nature of tennis has changed over the last 25 years from a time where members played weekly matches with a few friends and attended two annual member-guest events and one annual club championship; to now where there are eight to ten USTA sanctioned matches per week, ladies' and men's interclub matches weekly, and members planning their own 24 or more player weekend round robins. Accordingly, in the past we only needed additional deck space for more than 12 to 16 players a few times a year. But now, our members and guests are overcrowding our facility on almost a daily basis with their regular after tennis socials of 20 to 50 people. The character of the district is a small community where recreation and family social areas are the central part of the environment. Accordingly, South Beach Racquet Club, along with the expansion of the social area, is and should be a good

ATTACHMENT B

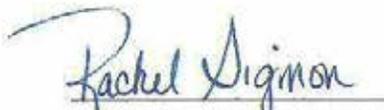
Request for a Zoning Variance



example of what Charles Fraser intended when he wrote the 1970 Sea Pines Land Use Covenants, "to create thereon a planned unit development community know as South Beach with permanent parks, playgrounds, open spaces, lakes, boat docks, boat channels, fishing docks, swimming pools, roadways, bike trails, common parks within townhouse areas and other Common Properties for the benefit of the said Community;"

By approving the variance, we will be able to expand the member's and guest's social deck and truly enhance the character and feel of the community.

Respectfully submitted,


Rachel Sigmon, Co-Owner

10/8/13
Date


Don Sigmon, Co-Owner

10/8/13
Date

ATTACHMENT C



August 28, 2013

Chairman
Board of Zoning Appeals
Hilton Head Island, SC 29928

Subj: Variance Request – Mr. Don Sigmon

Dear Chairman,

I am writing on behalf of Community Services Associates (CSA), Inc. in response to a variance request by Mr. Don Sigmon, who is a Sea Pines Plantation property owner. I am writing in support of the fact the hardship for which a variance is being sought was not caused by Mr. Sigmon but was in fact the result of actions of CSA in response to a request from adjoining property owners. Several years ago CSA left open a weir between Braddock Cove and the lagoon system that connect to Mr. Sigmon's lagoon in order to raise the lagoons depth and as a result raise the population of fish in the lagoon. As a result, Mr. Sigmon's lagoon which had been a fresh water detention lagoon became a salt water tidal wetland.

Please let me know if you require anything else.

Sincerely,

A handwritten signature in cursive script that reads 'Cary Kelley'.

Mr. Cary Kelley
Executive Vice President, CSA





Don Baker, AIA
 10 East Garrison Place
 Hilton Head, SC 29928
 843-363-3663
 843-290-6666
 843-363-6888

squarefeet@adelphia.net
 HHI Bus Lic. # BLN0400739



Improvements to:
 South Beach Racquet Club
 220 South Sea Pines Drive
 Sea Pines Plantation
 Hilton Head Island, SC 29928
 PROP. I.D.: R550 017 000 1127 0000

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Project Number SoBeRaQ
 Issue Date 16 SEPT 2013
 Issuance HHI EZA

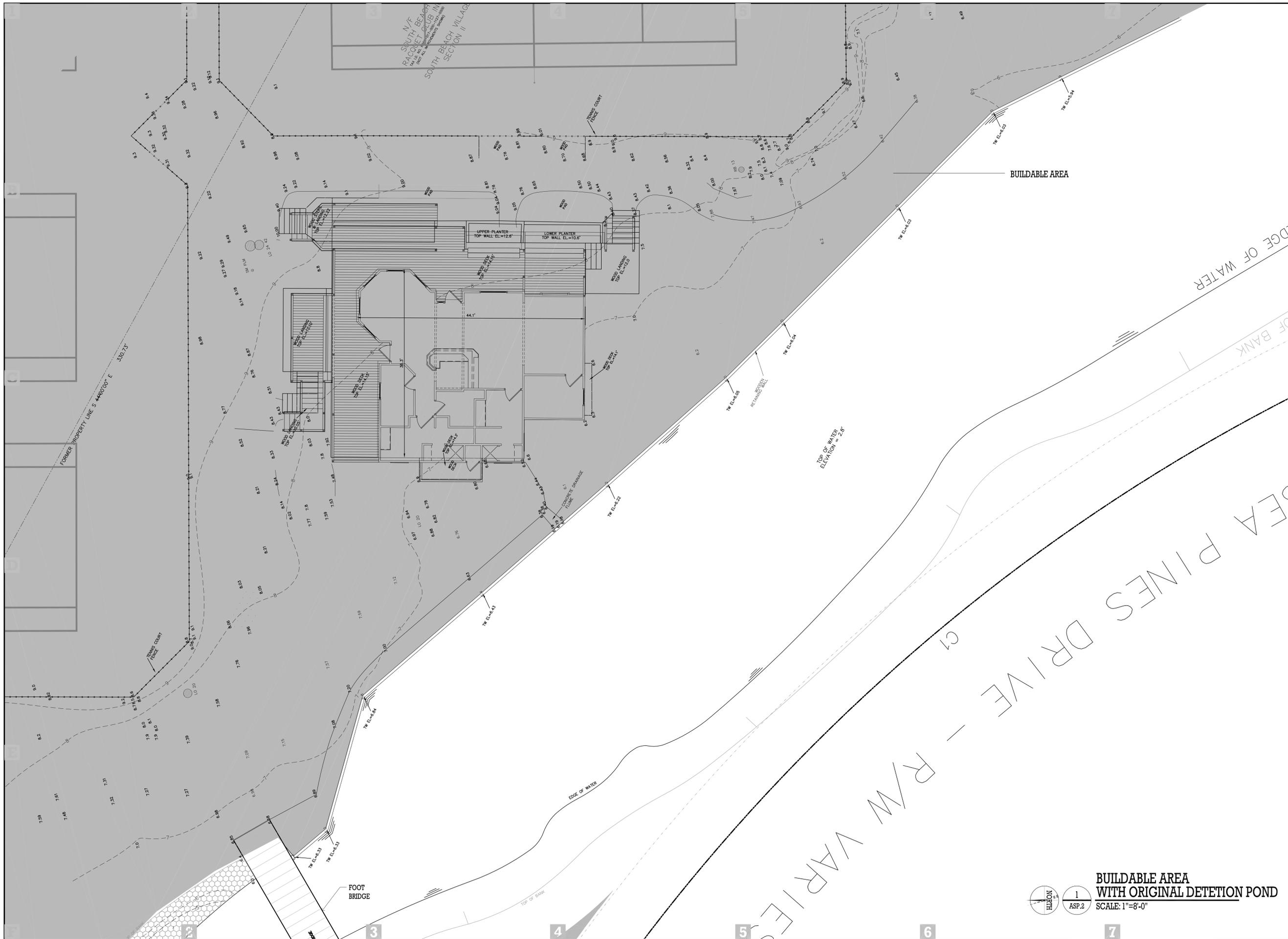
E Drawing History:
 1. 16 SEPT 2013 HHI EZA
 2.
 3.
 4.
 5.

Sheet Title:
 SURVEY/SITE PLAN:
 UPDATED 10 SEPT 2013

ENLARGED AREA:
 SEE SHEETS
 ASP2
 ASP3
 ASP4

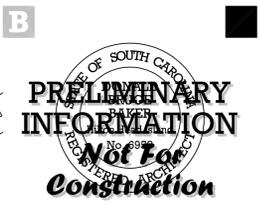
1
 ASP
EXISTING SITE PLAN
 SCALE: 1"=20'-0"

SHEET
ASP. 1



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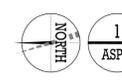
Improvements to:
 South Beach Racquet Club
 220 South Sea Pines Drive
 Sea Pines Plantation
 Hilton Head Island, SC 29928
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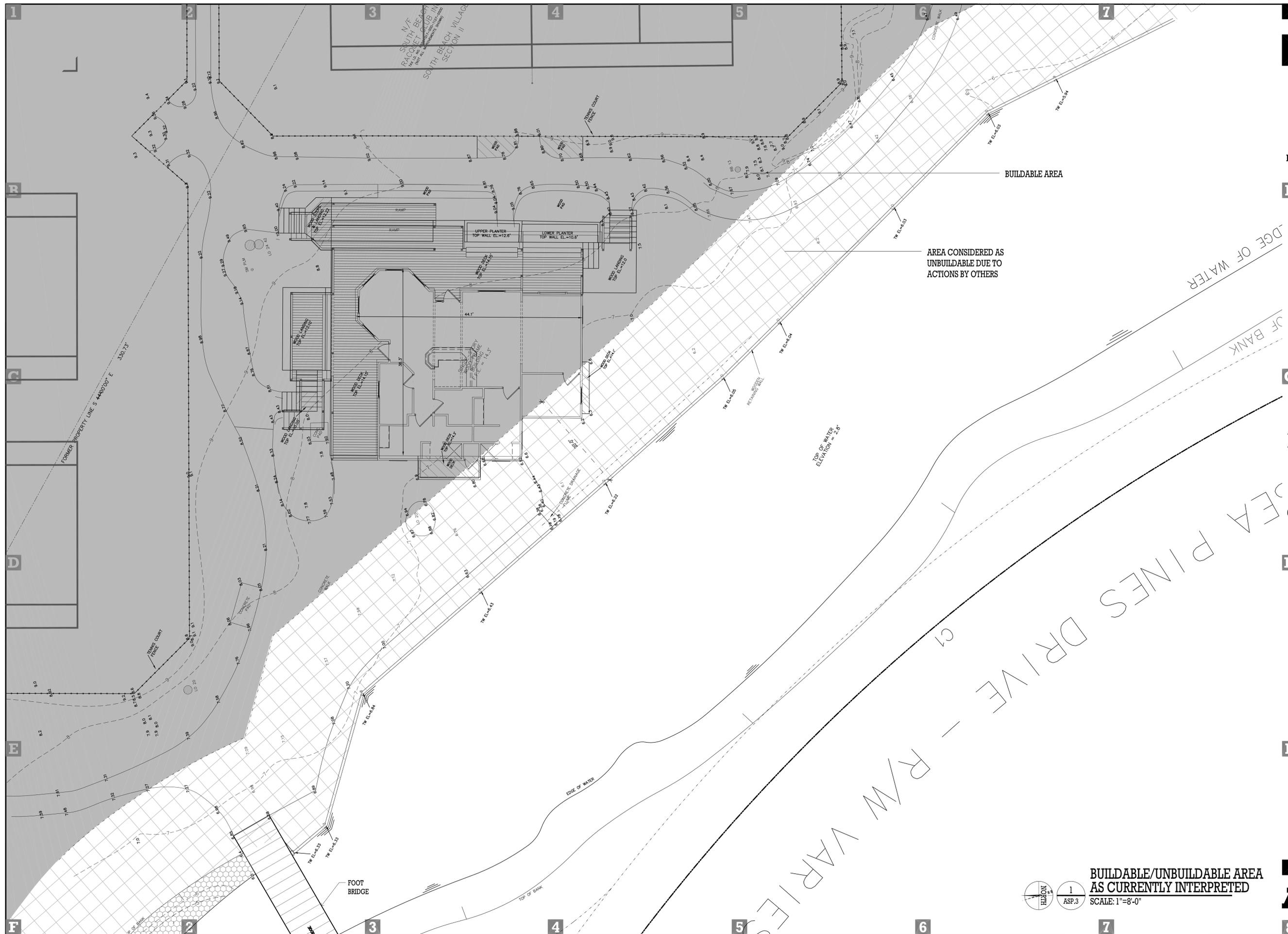
Drawing History:
 1. 16 SEPT 2013 HHI EZA
 2.
 3.
 4.
 5.

Sheet Title:
 BUILDABLE AREA:
 WITH ORIGINAL DETENTION
 POND



**BUILDABLE AREA
 WITH ORIGINAL DETENTION POND**
 SCALE: 1"=8'-0"

SHEET
ASP.2



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Improvements to:
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 PROP. I.D.: R550 017 000 1127 0000

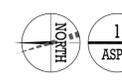
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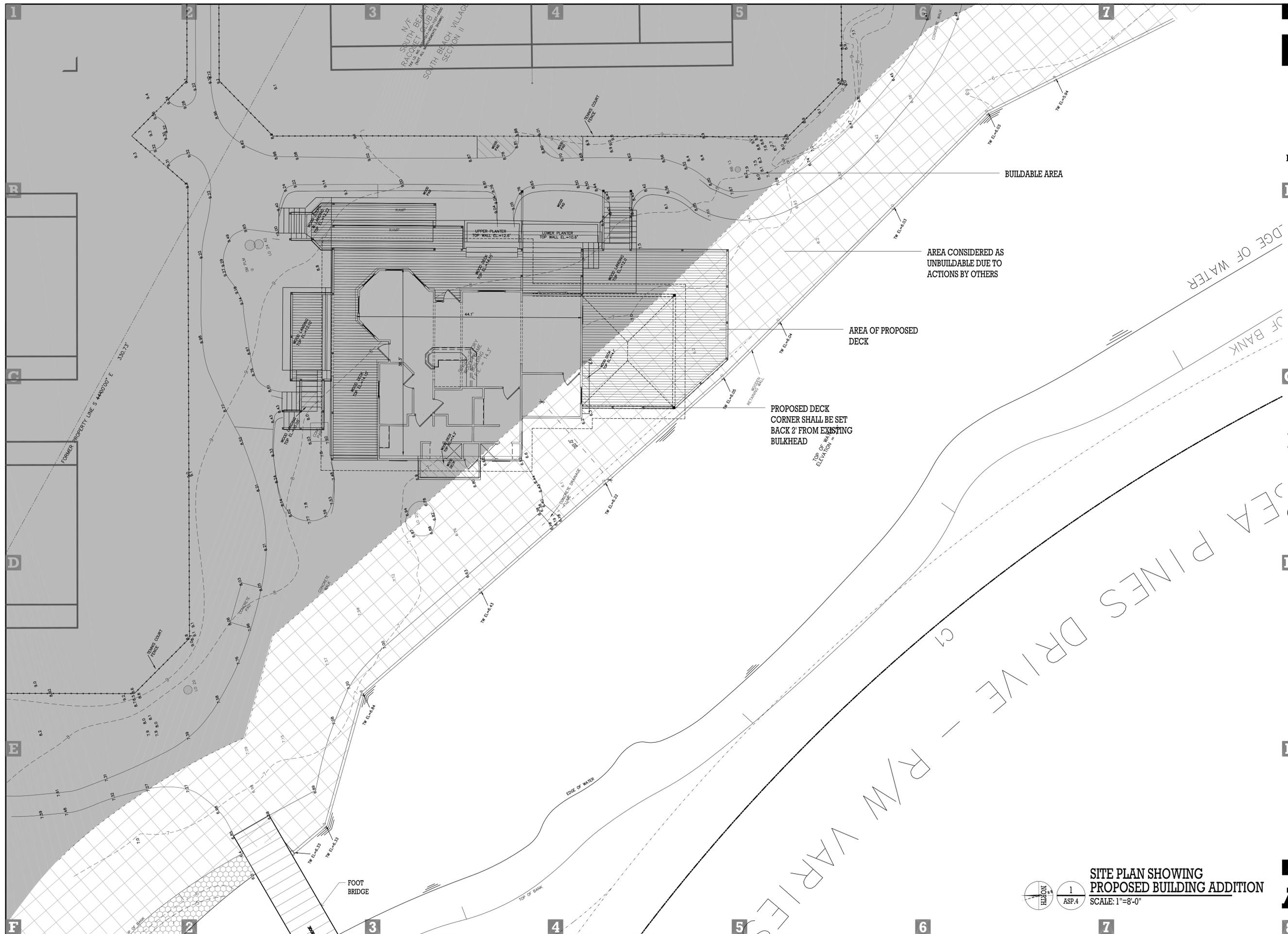
1.	16 SEPT 2013	HHI EZA
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5.		

Sheet Title:
 SITE PLAN SHOWING BUILDABLE AND UNBUILDABLE AREAS



BUILDABLE/UNBUILDABLE AREA AS CURRENTLY INTERPRETED
 SCALE: 1"=8'-0"

SHEET
ASP.3



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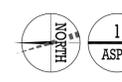
Improvements to:
 South Beach Racquet Club
 220 South Sea Pines Drive
 Sea Pines Plantation
 Hilton Head Island, SC 29928
 PROP. I.D.: R550 017 000 1127 0000

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Drawing History:
 1. 16 SEPT 2013 HHI EZA
 2.
 3.
 4.
 5.

Sheet Title:
 SITE PLAN SHOWING PROPOSED BUILDING ADDITION



SITE PLAN SHOWING PROPOSED BUILDING ADDITION
 SCALE: 1"=8'-0"

SHEET ASP.4

ATTACHMENT F

Request for a Zoning Variance
Pictures at Events



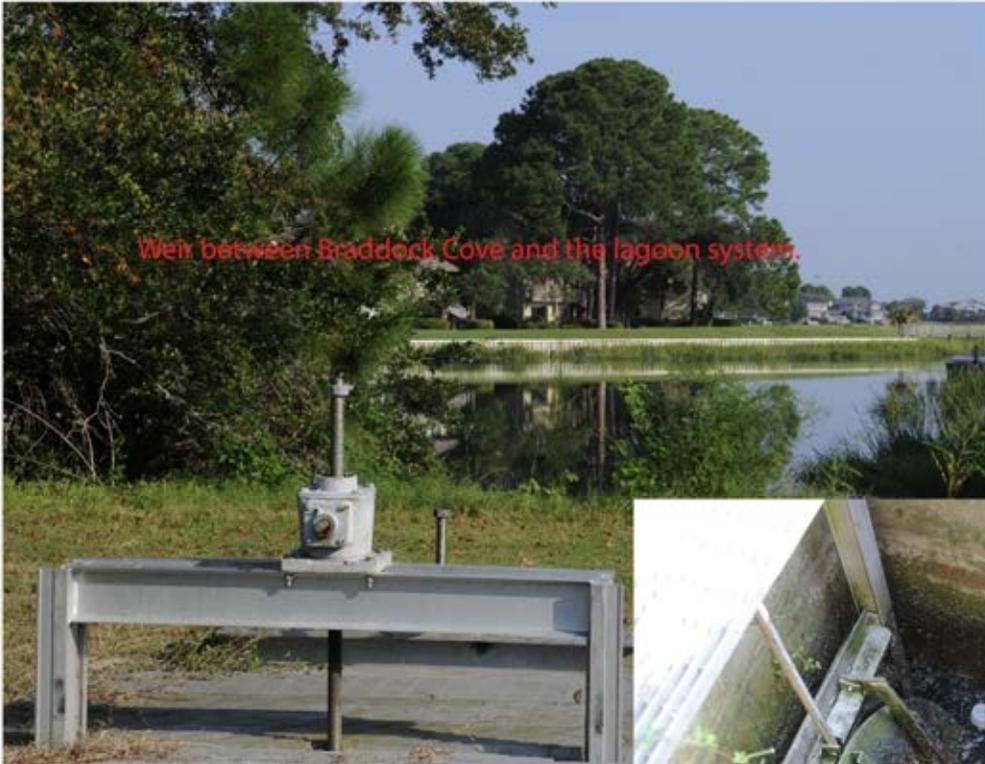
ATTACHMENT F

Request for a Zoning Variance
Live Oak Tree, Building Pad



ATTACHMENT F

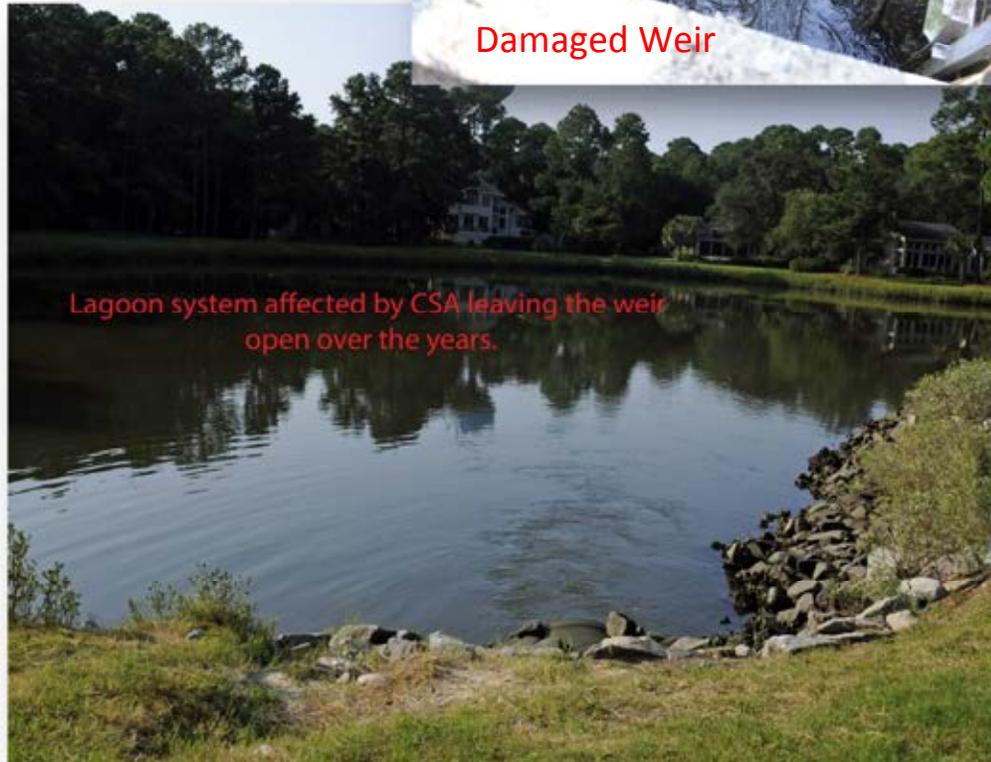
Request for a Zoning Variance Braddock Cove Weir



Weir between Braddock Cove and the lagoon system.



Damaged Weir



Lagoon system affected by CSA leaving the weir open over the years.

ATTACHMENT F

Request for a Zoning Variance
1974 Master Plan



No lagoon appears in
1974 Master Plan



ATTACHMENT F

Request for a Zoning Variance
1984 Schedule of Proposed Uses



**SCHEDULE OF PROPOSED USES
SEA PINES PLANTATION PRELIMINARY MASTER PLAN
Submitted To Hilton Head Island Planning Commission**

Tract No.	Approx. Acres	Existing Uses and Facilities	Proposed Use (See Note 3)	Proposed No. Units	Density Units/Ac
1.	5.05	Parks and recreation	Recreational, as permitted by covenants and deed restrictions	0	nil
2.	20.54	Tennis complex, swimming pool, playgrounds and tennis courts, Harbourmaster's offices and stores, restaurants, boat storage and landing, medical offices	Commercial, residential, recreational, and institutional as permitted by covenants	•	•
3.	4.25	Beach Club, changing rooms, vending machines, picnic area	Commercial, recreational and institutional, as permitted by covenants	0	nil
4.	4.25	None	Residential, as permitted by covenants	2	0.43
5.	6.90	None	Residential	19	2.75
6.	16.91	Restaurants, lounges, marina facilities and offices, retail shops, banks, offices, conference facilities, storage facilities, community service facilities, post office, playground, parking, and residential	Hotel, commercial, residential, recreational and institutional, as permitted by covenants (100 units)	-	-



Preliminary Master Plan April 23, 1984
SEA PINES PLANTATION
Including The Seabrook Planned Unit Development

Sea Pines Plantation, Hilton Head Island, South Carolina

LEGEND

400 0 800
SCALE 1"=400'

Calibogue Sound



**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 #	Address of Development	Public Hearing Date
VAR#130011	56 Hearthwood Drive	November 25, 2013

Parcel Data	Owner	Applicant & Agent
Tax Map ID: Map 14B, Parcel 226 Address: 56 Hearthwood Drive Zoning District: PD-1 (Sea Pines) Overlay District: COR	Jon Watson 2 Trillium Place Orchard Park NY 14127	Bill Fishburne Total Design Concepts, Inc 35 Capital Drive, Suite E Hilton Head Island SC 29926

Application Summary

The Community Development Department received a variance request from Bill Fishburne, on behalf of Jon Watson, for the following Section of the Land Management Ordinance (LMO):

16-6-204, Wetland Buffers

The applicant is requesting the variance to build a fence and install a grassed lawn in the wetland buffer.

Background

The subject parcel is located at 56 Hearthwood Drive in the PD-1 (Sea Pines) Zoning District. As shown on the Vicinity Map (Attachment A), the subject parcel is bounded by: an undeveloped lot on the southwest; an undeveloped lot and open space on the northwest; Hearthwood Drive on the northeast; and a lagoon on the southeast.

The subject parcel was previously undeveloped. A building permit was issued for the house on the subject parcel on January 10, 2013. A building permit was issued for the pool on June 6, 2013. The proposed fence and grassed lawn in the wetland buffer were not approved as part of either permit. Town staff informed the applicant that a variance would be required to build the fence and install a sod lawn in the wetland buffer. The application was submitted on October 11, 2013.

The saltwater lagoon south of the subject parcel was dug between 1965 and 1972, and it was expanded between 1972 and 1979. When construction of the lagoon was complete in 1979, the land adjacent to the lagoon was clear of vegetation. By 1995, the land next to the lagoon was covered with vegetation.

The lagoon is classified as a tidal wetland. In May 2012, the State of South Carolina's Department of Health and Environmental Control's (DHEC) Ocean & Coastal Resource

Management (OCRM) determined that the lagoon's Critical Line – the boundary of the wetland system – on the subject parcel is located between four and 20 feet inland from the edge of the water. (See Attachment D, Site Plan.) In July 2013, the property owner requested a new determination of the Critical Line, and OCRM determined the location of the Critical Line had not changed since May 2012.

Other properties in the vicinity, most of which were developed between 1972 and 1995, have an abrupt transition – a bulkhead, rip-rap or an eroded bank – between the land and the edge of the water. The OCRM Critical Line on these parcels is located at the edge of the water.

Land Management Ordinance Section (LMO) 16-6-204.B requires a 20-foot wetland buffer, measured landward from the Critical Line, on the subject parcel. The wetland buffer is defined as an undeveloped area planted with native wetland vegetation. (When the subject parcel was developed, vegetation was removed from the wetland buffer, in violation of LMO Section 16-6-204.C. To resolve this violation, the wetland buffer must be re-planted per a plan approved by Town staff. Staff has approved a re-planting plan.)

The LMO's wetland buffer standards have been in place since the LMO was enacted in 1986. Some properties in the vicinity were developed prior to the enactment of the LMO and some were developed after the LMO was enacted. Most properties in the vicinity of the subject parcel have wetland buffers that do not conform to the standards of the LMO. The non-conformities include structures built in the buffer, paving in the buffer and sod and non-native vegetation planted in the buffer. The non-conformities that did not pre-date the LMO developed over time: a grassed lawn was installed after a bulkhead was built; or an area was paved without a permit being obtained.

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

Grounds for Variance

The applicant is applying for a variance from LMO Section 16-6-204, Wetland Buffers, to build a fence and install a grassed lawn in the wetland buffer. The applicant states the variance is needed because the configuration of the lot in relation to the adjacent lagoon reduces the buildable area near the pool and limits the location of the proposed 42-inch high open fence enclosure on the south side of the pool.

Summary of Facts

1. Applicant seeks a variance from LMO Section 16-6-204, Wetland Buffers.
2. The applicant is proposing to build a fence and install a grassed lawn in the wetland buffer.

Conclusion of Law

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

Staff Determination

Staff recommends that the Board of Zoning Appeals **disapprove** 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, October 20, 2013, 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 16-3-1906.A.1)

Findings of Fact

1. There is a tidal wetland along the south side of the subject parcel.
2. The location of the OCRM Critical Line, which determines the boundary of the wetland system, was determined based on the location of salt-tolerant vegetation, which is a standard criterion used by OCRM.

Conclusions of Law

1. This application does not meet the variance criteria as set forth in LMO 16-3-1906.A.1.
2. The subject parcel is adjacent to a tidal wetland, but since the OCRM Critical Line was determined using standard criteria, the subject parcel has no extraordinary or exceptional conditions.

Staff Summary of Facts and Conclusions of Law

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

Finding of Fact

1. There are no extraordinary or exceptional conditions on the subject parcel.

Conclusions of Law

1. This application does not meet the variance criteria as set forth in LMO 16-3-

- 1906.A.2.
2. Since there are no extraordinary or exceptional conditions on the subject parcel, this criterion is not applicable to this application.

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 16-3-1906.A.3)

Finding of Fact

1. There are no extraordinary or exceptional conditions on the subject parcel.

Conclusions of Law

1. This application does not meet the variance criteria as set forth in LMO 16-3-1906.A.3.
2. Since there are no extraordinary or exceptional conditions on the subject parcel, this criterion is not applicable to this application.

Staff Summary of Facts and Conclusions of Law

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

Findings of Fact

1. The subject parcel has been developed with a 4,185 square foot house, a 1,457 square foot pool and deck and a 1,426 square foot grassed lawn, which will be enclosed by a fence.
2. The parcel was designed and developed without encroaching into the wetland buffer.
3. The owner is proposing to build a fence in the wetland buffer.
4. The owner is proposing to install a grassed lawn in the wetland buffer.

Conclusions of Law

1. This application does not meet the variance criteria as set forth in LMO 16-3-1906.A.4.
2. Since the application of the LMO to the subject parcel has not limited the reasonable development of the parcel, and since the proposed encroachments into the wetland buffer are requested by the applicant, the hardship is the result of the applicant's own actions.

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 16-3-1906.A.5)

Findings of Fact

1. The Comprehensive Plan addresses the application in the following section:
Natural Resources Element
3.1 -Water Quality & Quantity - Implications for the Comprehensive Plan
The data collected on the local, regional and national scale suggests that the current development strategies can have a negative impact on water quality. The Town needs to continue to make water quality and quantity a high priority by encouraging water conservation, reducing impervious surfaces, encouraging environmentally sound

drainage and flood control practices, as well as sustainably manage stormwater for small and large scale development.

Goal 3.1 - Protect Water Quality and Quantity

- B. The goal is to preserve all blueways (which includes salt marsh, freshwater wetlands, open canals, ditches and open water systems).
- D. The goal is to encourage private property owners to incorporate water quality protection measures into their home and/or development.

Goal 3.3 - Protect Quality of Life through Environmental Preservation

- H. The goal is to enhance, create and maintain vegetated riparian wetland buffers with viewing corridors and windows.
2. The owner is required to replant the entire wetland buffer with native vegetation to mitigate the removal of vegetation from the buffer during construction.
 3. The applicant's narrative states that, if the variance is approved, the owner will replant the wetland buffer – except those areas where the fence and grassed lawn are installed – and install a drainage system in the wetland buffer, which will collect surface water runoff and pump the water to the opposite side of the property, distributing the water via a French drain system. The narrative states this system will not allow any erosion, sedimentation, fertilizers, pesticides or other pollutants to enter the lagoon system.
 4. LMO Section 16-6-201.A, Wetlands – Statement of Purpose and Intent, states that buffers shall serve as an ecological transition zone from non-wetlands to freshwater or tidal wetlands which is an integral portion of the wetlands ecosystem, providing temporary refuge for wetlands fauna during high water episodes, and critical habitat for animals dependent upon but not resident in wetlands. Buffers also serve as a sediment and storm water control zone to reduce the impacts of development upon wetlands and wetland species.
 5. LMO Section 16-6-204.C, Wetlands – Prohibited Activities, states that grassed lawns are specifically prohibited in the wetland buffer area.

Conclusions of Law

1. This application does not meet the variance criteria as set forth in LMO 16-3-1906.A.5.
2. The approval of the application would conflict with the Comprehensive Plan because the reduction of the wetland buffer would conflict with Goal 3.1's directive to encourage water quality protection measures for single family developments and Goal 3.3's directive to maintain wetland buffers.
3. Despite the fact that the property owner will replant the wetland buffer with native vegetation, the approval of the application would still conflict with LMO Section 16-6-204.A because the application proposes to replace that native vegetation with a grassed lawn, which is in direct conflict with LMO Section 16-6-204.C.
4. The approval of the application would be in conflict with LMO Section 16-6-201.A because wetland buffers are integral to the wetlands ecosystem and provide many benefits, including providing critical habitat for animals and refuge for fauna, not just storm water filtration and control.

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 16-3-1906.A.6).

Findings of Fact

1. Staff did not identify any substantial detriment to the adjacent property that would be caused by granting the variance.
2. The reduction of the wetland buffer would be a detriment to the quality of the lagoon’s ecosystem and potentially to its water quality, which would be a detriment to the public good and the character of the district.
3. The subject parcel is one of many that abut the lagoon system.
4. Staff has not received any comments regarding the variance application.

Conclusions of Law

1. This application meets the variance criteria as set forth in LMO 16-3-1906.A.6.
2. Though the loss of the wetland buffer would cause some detriment to the lagoon, granting the variance would not cause a substantial detriment to adjacent property, the public good or the character of the district.

PREPARED BY:

AC

Anne Cyran, AICP
Senior Planner

November 5, 2013

DATE

REVIEWED BY:

ND

Nicole Dixon, CFM
Senior Planner & BZA Coordinator

November 6, 2013

DATE

REVIEWED BY:

HC

Heather Colin, AICP
Development Review Administrator

November 6, 2013

DATE

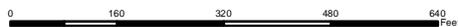
ATTACHMENTS

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



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

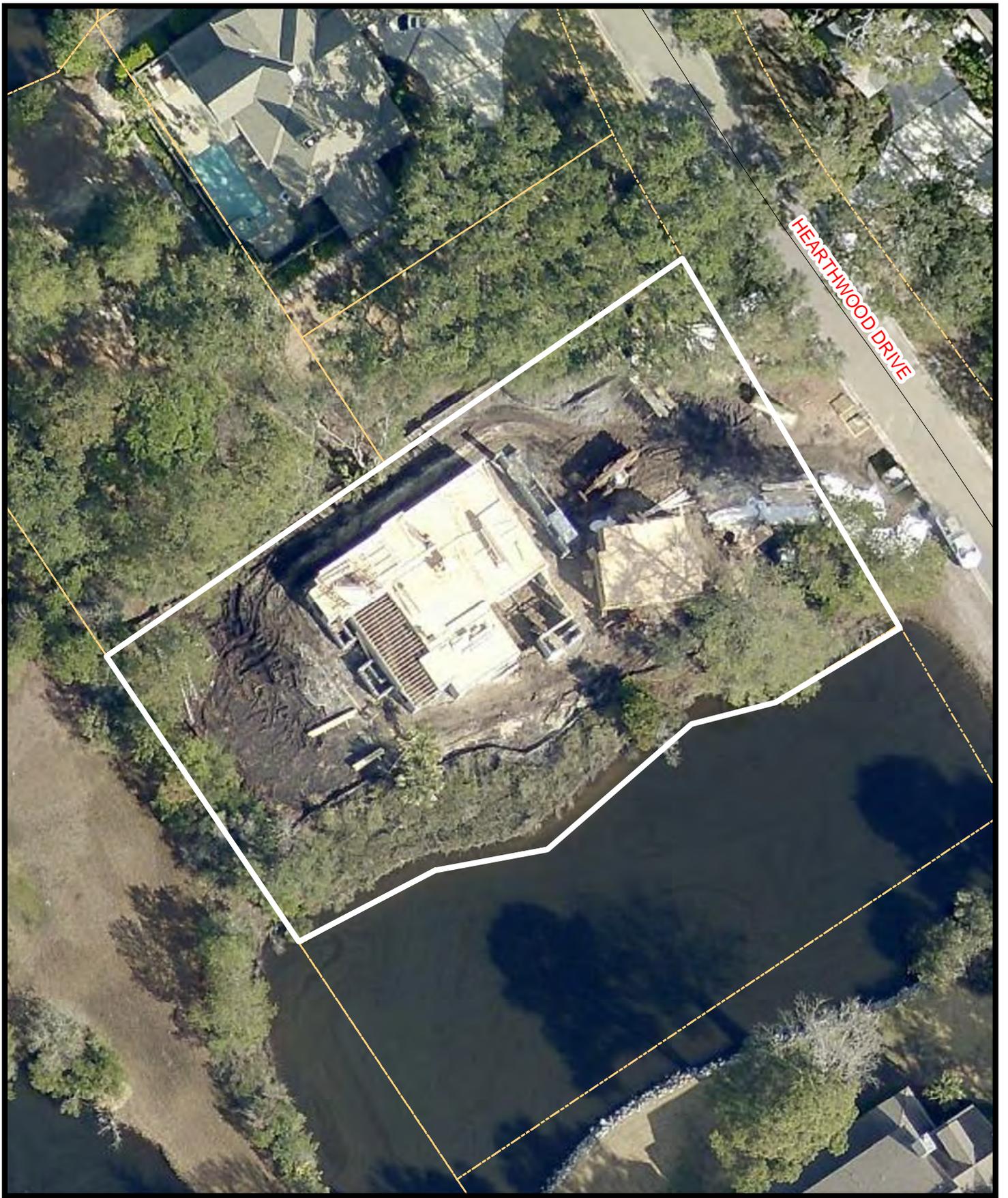
56 Hearthwood Drive
VAR130011
Attachment A - Vicinity Map



1 inch = 286 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.



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

56 Hearthwood Drive
VAR130011

Attachment B: Aerial Photo



1 inch = 39 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.

Narrative For Variance

Re: 56 Hearthwood Drive, Sea Pines Plantation

The Owner is requesting a Variance subject to Section 16-6-204 that would allow for the construction of a pool fence and landscaping within a portion of the 20' Wetlands Buffer.

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

This particular piece of property is unique to the other properties on this lagoon system in that in addition to the 20' Buffer called for in 16-6-204 there is an additional 20' of land area defining the OCRM setback from the edge of the lagoon. See the attached legend and survey of properties throughout this lagoon system showing retaining walls of various construction and manicured landscaping at the water's edge.

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

See the attached legend and survey illustrating existing conditions throughout the entire lagoon system.

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;

The configuration of this lot in relation to the adjacent lagoon, because of the loss of 40' + in the area of the pool limits the owners ability to place a 42" high open fence enclosure supported by three 4' high intermediate brick columns. The owner would also like to sod the area enclosed by the fence at this location. To mitigate for the approval to erect the fence and sod the area adjacent to the pervious pool deck, the owner has proposed a landscape plan (attached) that he feels addresses the standards set forth in Section 16-6-201 and Section 16-6-203 in that surface water runoff will be collected in a drainage system and pumped to the opposite side of the property and distributed via a french drain system thus not allowing any erosion, sedimentation, fertilizers, pesticides or other pollutants to enter this lagoon system. Again, by illustration (see attached legend and survey), the impact of this one lot on this ecosystem is non-existent.

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

The owner by his actions has not altered the in property in any manner prior to the current construction as per the plans approved by the TOHH.

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

The owner believes that by granting this variance and the implementation of his plan that he will not degrade either the water quality of the lagoon system or quality of life and character of the adjacent properites.

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.

Again, by illustration, the implementation of the owner's proposed plan will conform to the existing conditions and character of surrounding properties

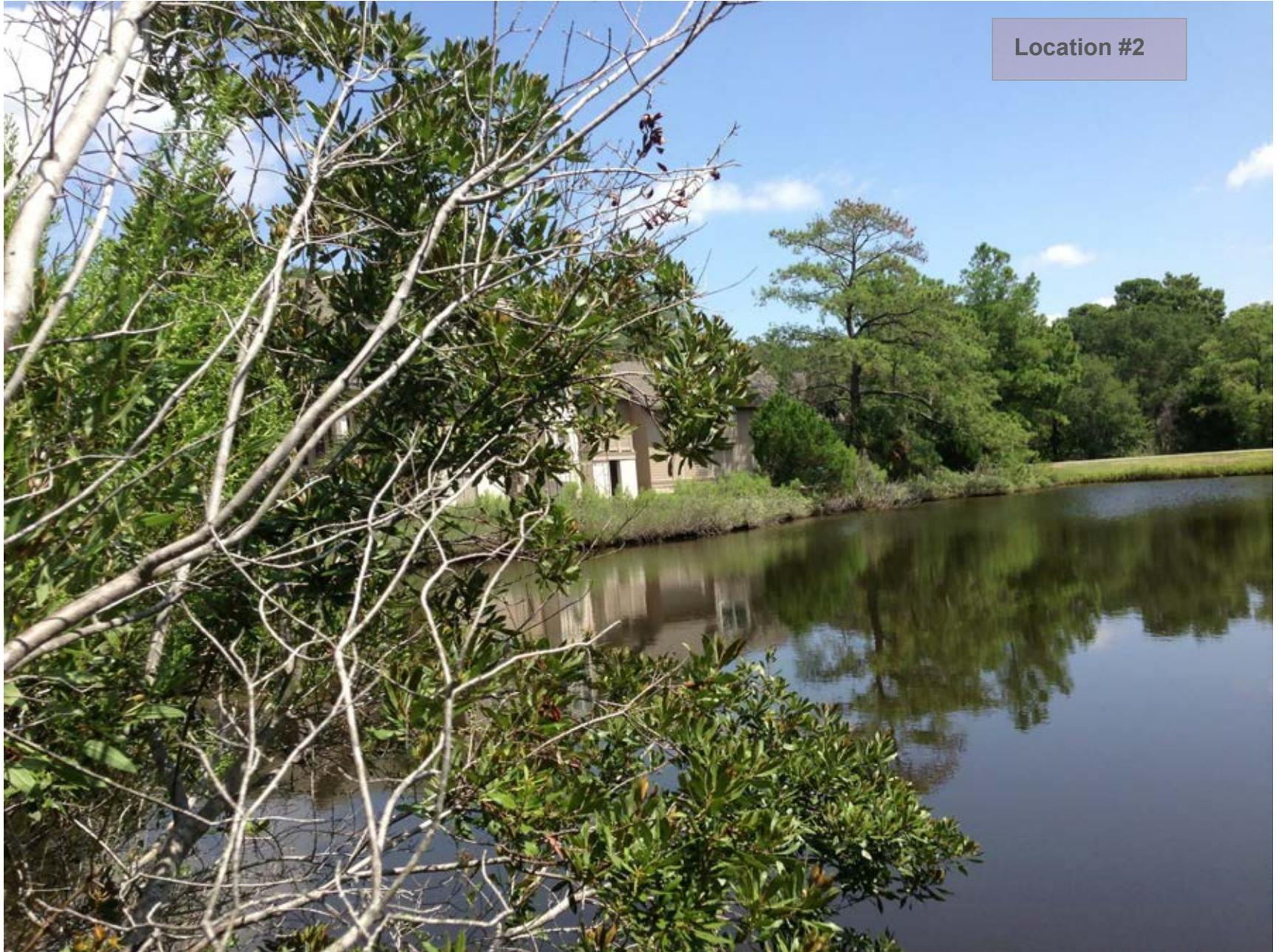


LEGEND

Location #1



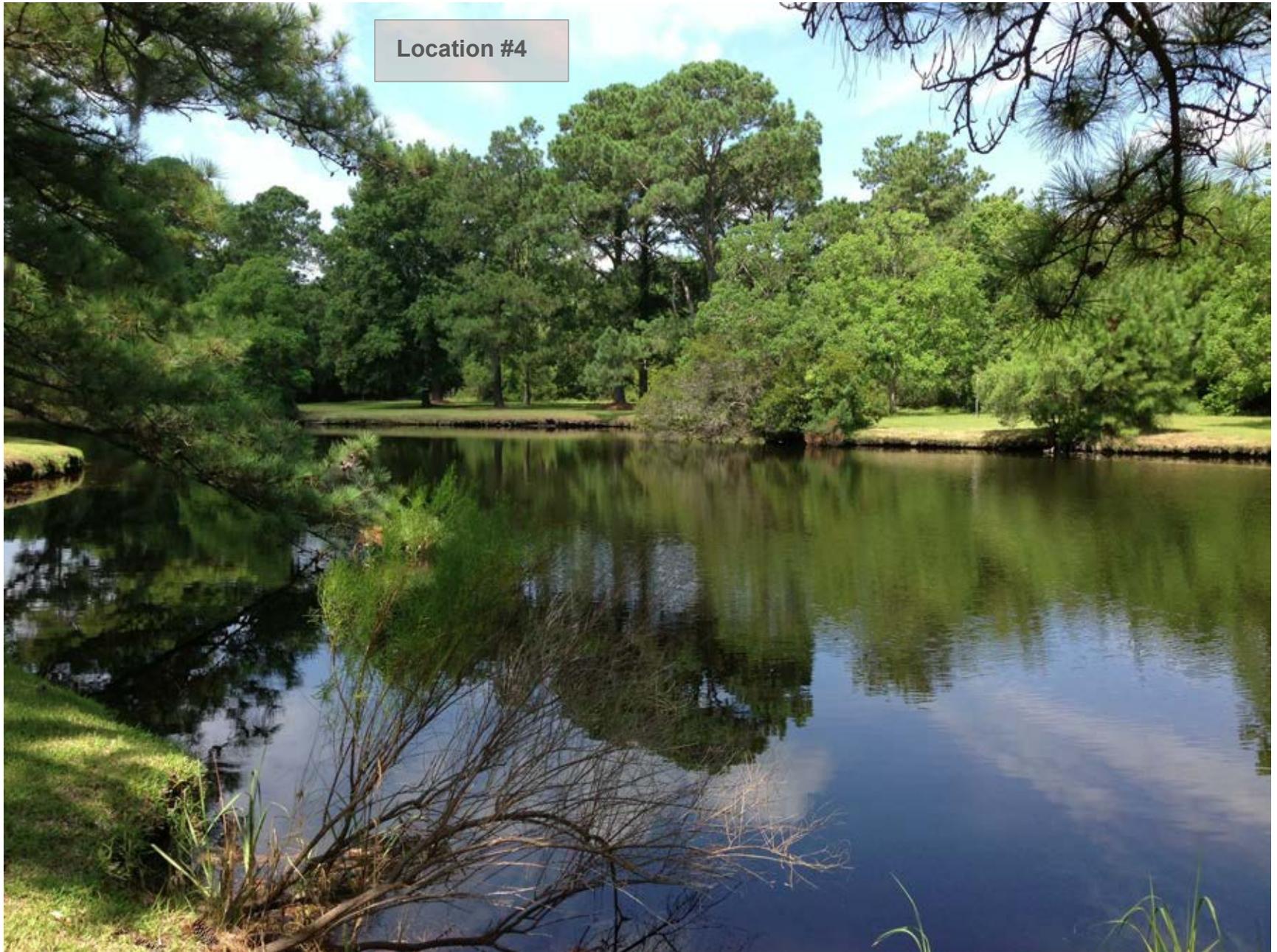
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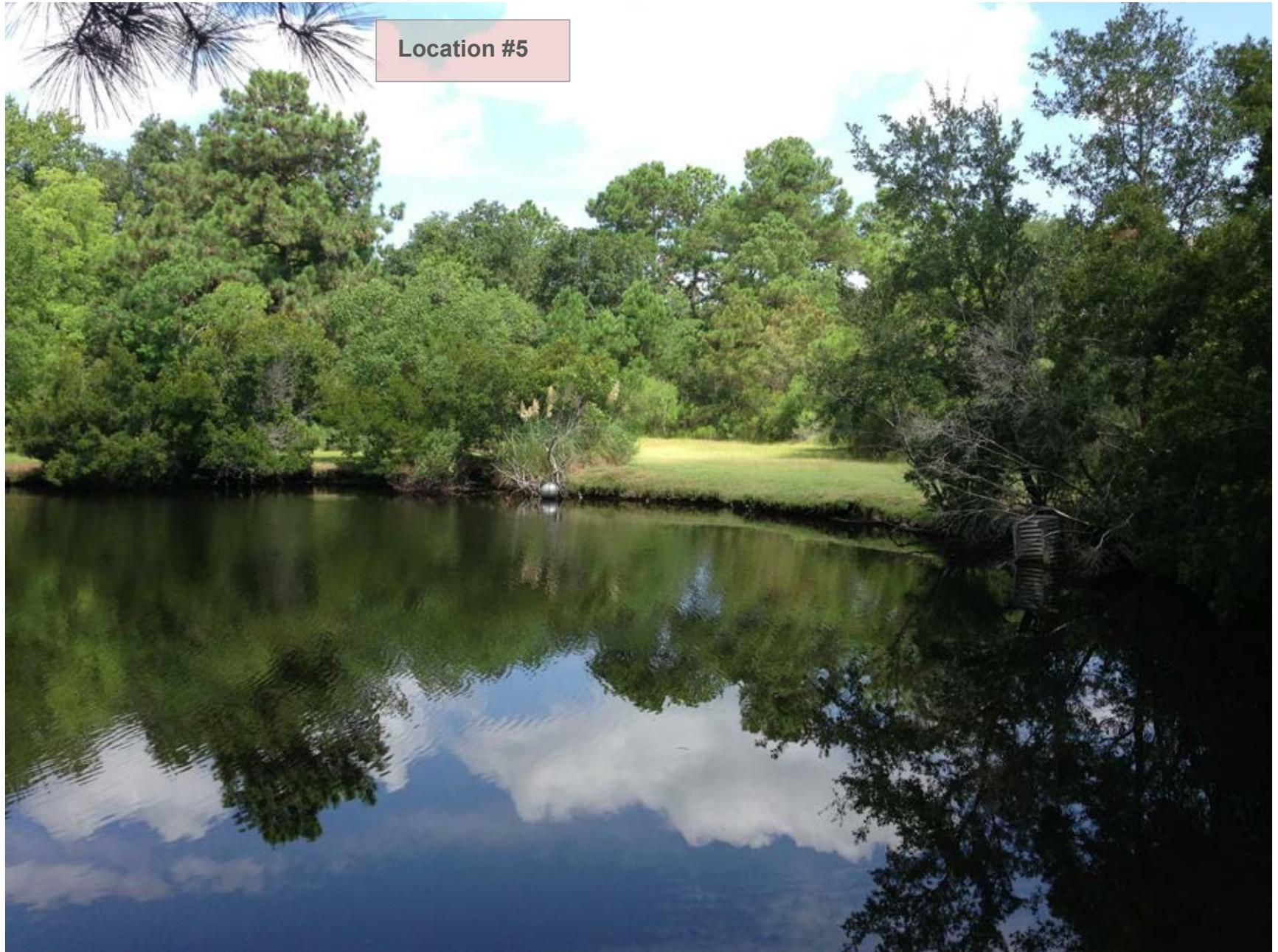
Location #3



Location #4



Location #5





Location #6

Location #7





Location #8

Location #9



Location #10



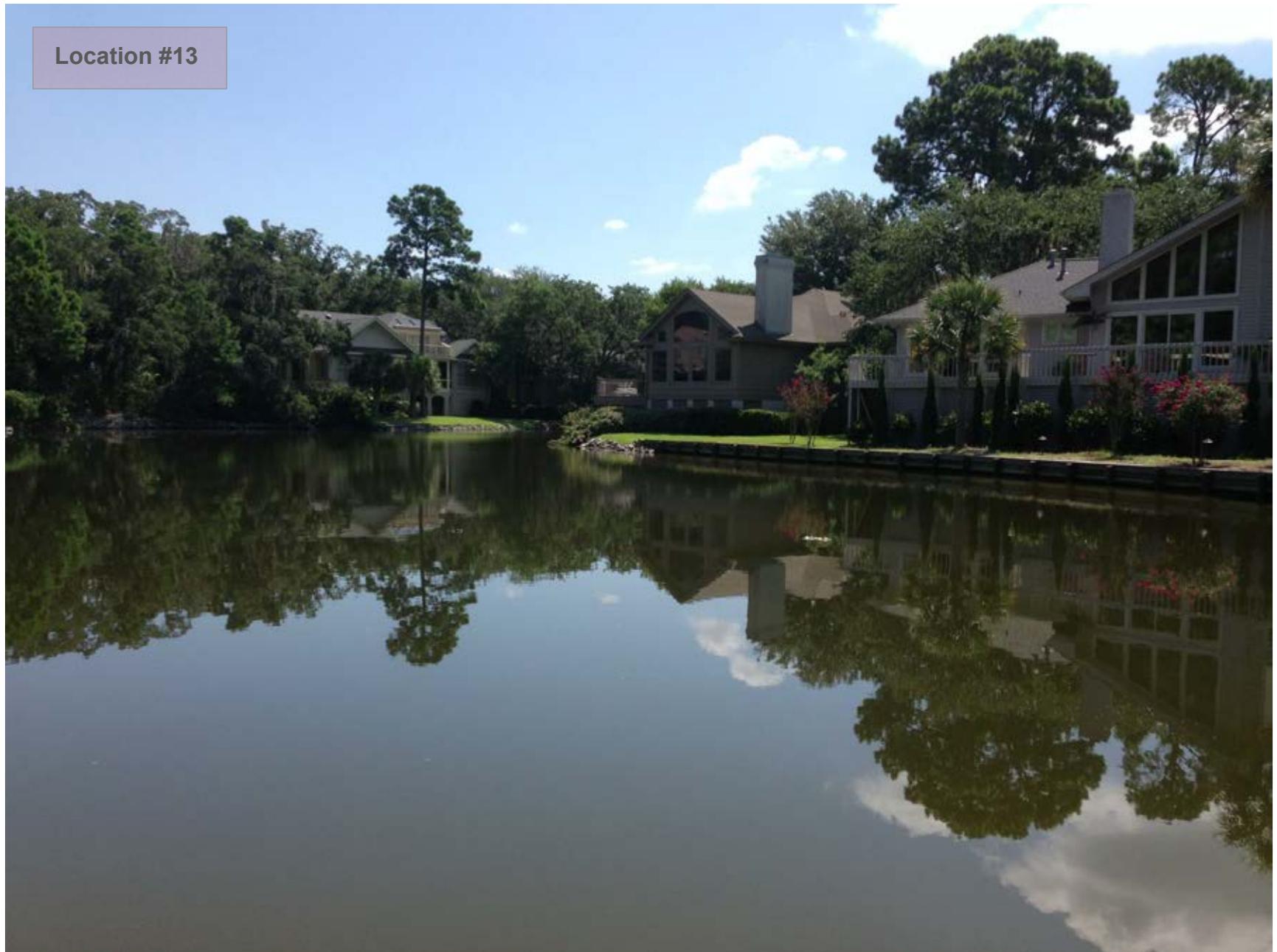
Location #11



Location #12



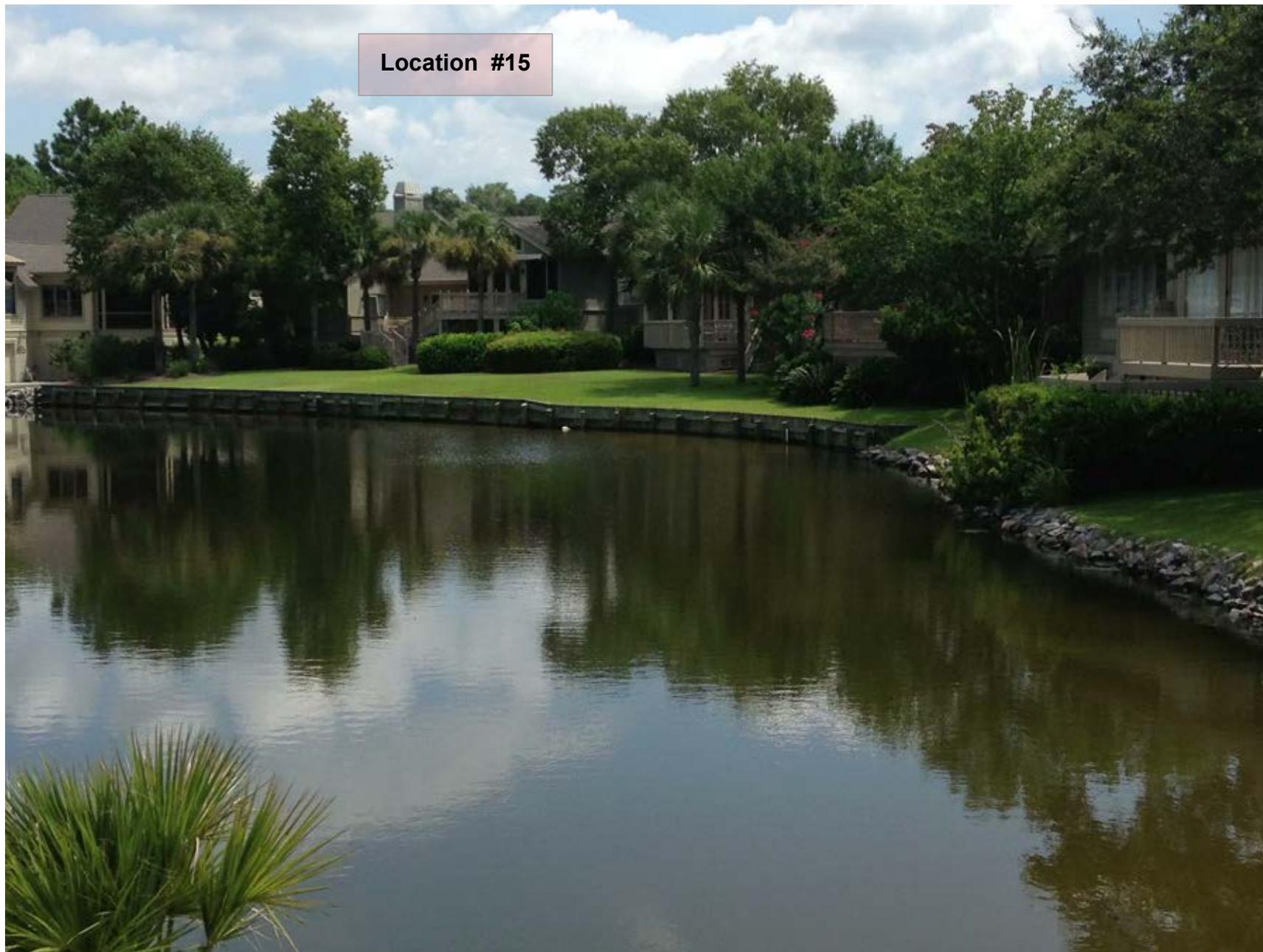
Location #13



Location #14



Location #15

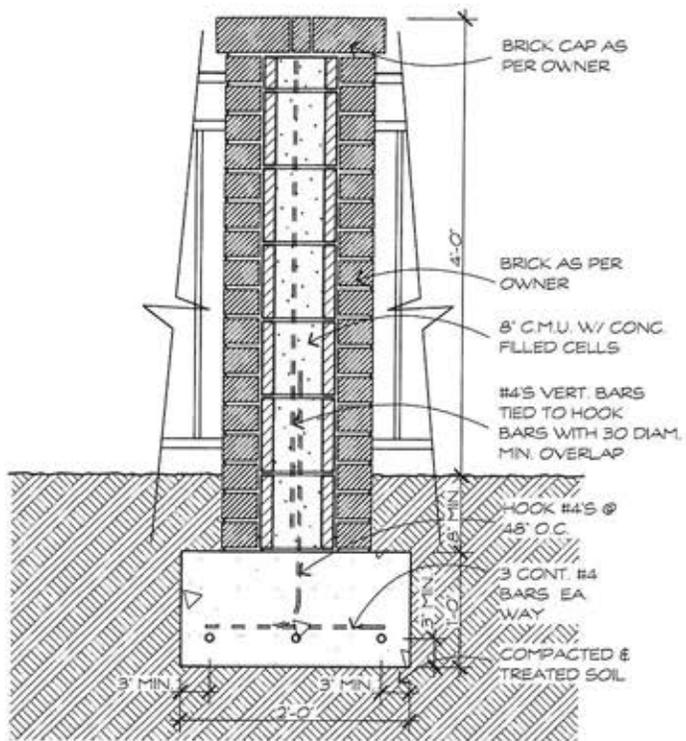


Location #16

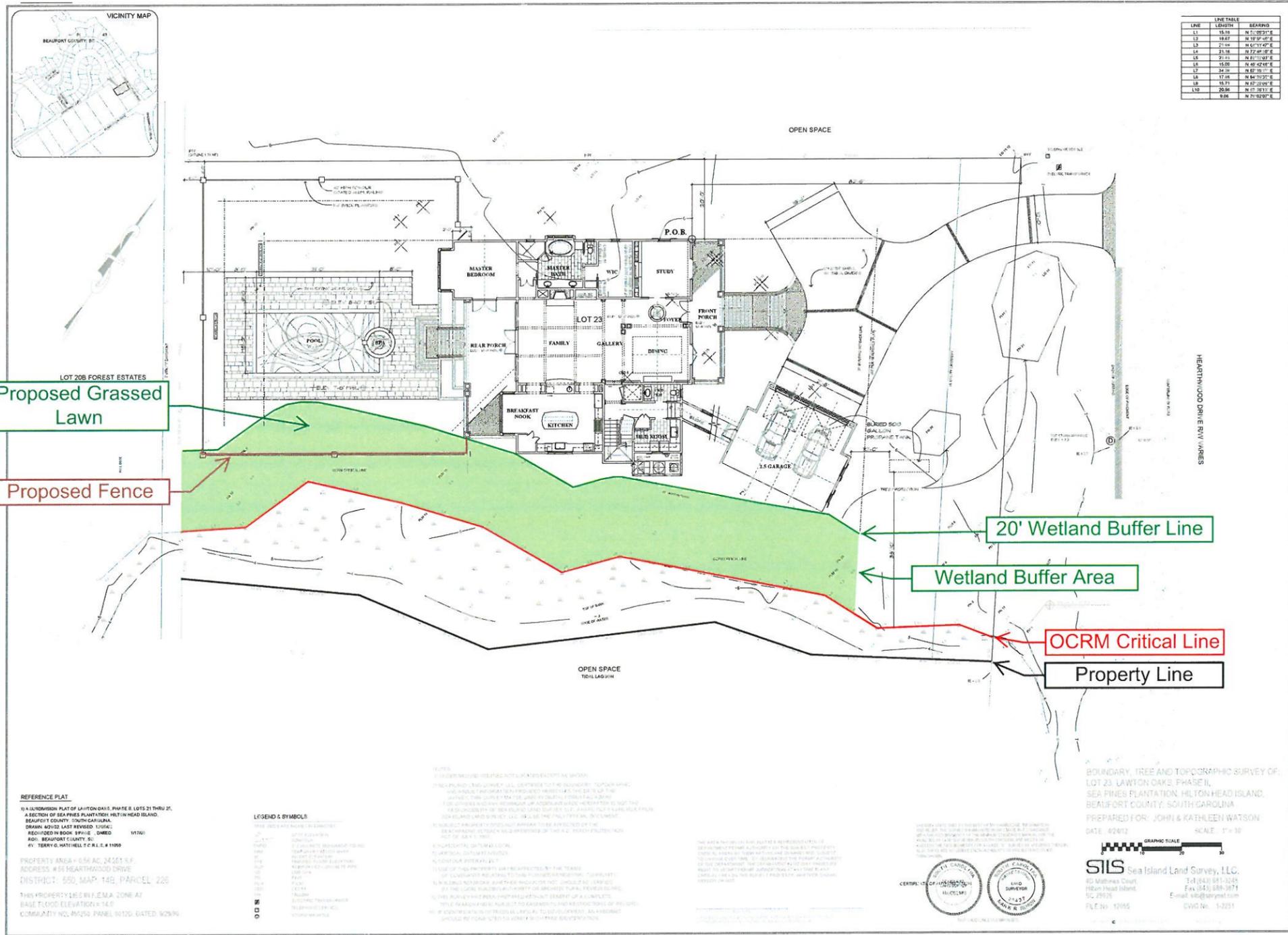




Location #17



VAR130011 Staff Report
Attachment D - Site Plan



VAR130011 Staff Report
Attachment E – Site Photos



VAR130011 Staff Report
Attachment E – Site Photos



VAR130011 Staff Report
Attachment E – Site Photos



VAR130011 Staff Report
Attachment E – Site Photos





TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: November 6, 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.”

The attached is a summary of the administrative waivers that have been granted by staff since the October Board of Zoning Appeals meeting.

Administrative Waivers

October - 2013

1. A project at 1 South Forest Beach Drive (The Beach House): the applicant requested to make improvements to the parking lot and pool area, both of which are currently non-conforming site features. A waiver was granted because the applicant is proposing to make improvements that will bring the site more into compliance with the LMO.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: November 7, 2013
SUBJECT: Revisions to Rules of Procedure

At the September 23, 2013 Board of Zoning Appeals meeting, the Board requested staff to draft revisions to the Rules of Procedure to provide procedures on how the Board shall handle a Motion to Dismiss request. At the direction of Brian Hulbert, Town Attorney, provisions are also proposed for other types of Motions.

The Rules of Procedure, with proposed revisions on pages 3, 17, 18, 19 and 20, are attached for your review and discussion at the November 25, 2013 meeting.

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

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Article I
Purpose and Responsibilities

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

Article II
Authority

Section 1. Authority.

The Town of Hilton Head Island Board of Zoning Appeals is established by Sec. 16-2-301 of the Land Management Ordinance (LMO) of the Town of Hilton Head Island pursuant to the authority of Section 6-29-780, *et seq.*, of the Code of Laws of South Carolina, and hereinafter shall be referred to as the "Board."

Section 2. Territorial Jurisdiction.

Pursuant to Section 16-2-304 of the LMO, the Board shall have jurisdiction over all the lands within the Town. This jurisdiction may be expanded by the Town Council by ordinance and/or by intergovernmental agreement, in accordance with Section 6-29-330 of the Code of Laws of South Carolina.

Article III
Rules of Procedure

Section 1. Rules of Procedure.

These *Rules of Procedure* are adopted by the Board to carry out its powers and responsibilities under SC Code 6-29-780, -790, -800, and -810 and Chapter 2 Article III of the LMO. A portion or section of the *Rules of Procedure* may be suspended by majority vote of the Board to meet particular circumstances. If there is a situation where these *Rules of Procedure* do not specifically apply, then the most recent edition of *Robert's Rules of Order* shall govern the conduct of meetings. An informational chart summarizing types of motions and votes in Robert's Rules of Order is attached.

Section 2. Amendment.

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

Article IV **Board Organization and Duties**

Section 1. Membership.

A. Number and Qualifications. The Board shall consist of seven members appointed by the Town Council. To the extent practicable, the appointed members may include at least one attorney and one design professional (either a registered architect or a registered landscape architect). None of the members shall hold an elected public office or position with the Town of Hilton Head Island or Beaufort County, South Carolina.

B. Length of Terms. Members of the Board shall be appointed annually for three-year terms effective each July 1, with all such terms ending on June 30 of the applicable year, unless a member is appointed to fill a vacancy. Vacancies shall be filled by the Town Council by appointments for the balance of any unexpired terms.

C. Term Limits. No member may serve more than two successive terms, except for extraordinary circumstances where Council believes it to be in the best interest of the community to have a continuation for a specific period of a particular member of the Board. This limitation shall not prevent any person from being appointed to the Board after an absence of one year. Service for a partial term of less than 1½ years shall not constitute a term of service for the purpose of these term limits.

D. Attendance/Absences. Board members are expected to attend all Board meetings. Each member of the Board who has prior knowledge that they will not be able to attend a scheduled Regular Meeting of the board shall notify the Secretary no later than 4:30pm the business day before the meeting. In the case of an emergency, a member shall give the earliest possible notification. The Secretary or Staff shall notify the Chairman in the event that the projected absence(s) will produce a lack of a quorum.

E. Removal. Three (3) absences at Regular or Special Meetings of the Board during one Board year (July 1 through June 30) shall be cause for recommendation by the Chairman to the Town Council to reconsider the appointment of that member. Attendance records may be reviewed annually by the Board in executive session during the 9th month of each Board year.

F. Education. The Code of South Carolina requires a six (6) hour Orientation Program and a three (3) hour/year Continuing Education Program for each Board member.

Section 2. Election of Officers.

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

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

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

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

is not before the Board.”

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

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

Section 3. Secretary—Appointment and Duties.

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

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

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

Section 4. Staff Board Coordinator.

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

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

Article V **Meetings and Quorum**

Section 1. Regular and Special Meetings.

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

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

Section 2. Quorum.

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

Section 3. Conflict of Interest

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

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

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

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

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

Section 1. Media Notices.

The Secretary shall give the notice required by statute or ordinance for all meetings of the Board as per Chapter 3 of the LMO. All Board meetings shall be open to the public and all requirements of the South Carolina Freedom of Information Act [S. C. Code Ann. § 30-4-10, *et seq.* (Supp. 1994)] shall be complied with in the conduct of meetings.

Section 2. Agenda (Order of Business)

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

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

Section 3. Minutes.

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

B. Minimum Contents of Minutes.

1. Kind of meeting (regular or special).
2. Name of the organization.
3. Date and place of the meeting.
4. Presence of the Chairman and Secretary or the names of substitutes.
5. Presence of a quorum.
6. Names of all Board members, Council members, and Staff.
7. Time the meeting was called to order.
8. Whether the minutes of the previous meeting were approved or corrected.
9. All adopted and defeated motions and grounds (facts and conclusions). Withdrawn motions need not be recorded.
10. Name of the maker of the motion and the seconding member.
11. Summary of all presentations and discussions.

12. Motions, including proposed findings and conclusions, must be recorded verbatim.
13. Record the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.
14. The adjournment and the time of adjournment.

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

Section 4. Public Comment.

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

Section 5. Submission Deadline for Regular Meetings.

The deadline for the filing of a complete Application with narrative for Variance or Special Exception or Request for Appeal shall be forty-five (45) calendar days prior to any Regular Meeting of the Board. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion.

Section 6. Meeting Protocol.

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

Section 7. Filing of Application, Fees and Notice.

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

frames and as described in the LMO. Such notice shall include the time and place of the Board meeting at which the Application shall be heard.

Section 8. Motions and Final Decisions.

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

Section 9. Voting.

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

Section 10. Supplemental Submissions/Briefs.

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

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

- A. There shall be no communication in writing, orally, or by e-mail by any Board member with any other Board member or any outside party regarding the substance of any matter before the Board that is or may be brought to a vote other than during a public meeting.
- B. Once a decision has been rendered by the BZA, there shall be no further discussions by any

Board member with staff, applicants or their attorneys or representatives. Any such communications regarding a decision should be made to the Town Attorney.

- C. Communication with staff or outside parties to communicate procedural matters or general positions or opinions of the BZA will be at the discretion of the Chairman or by an affirmative vote of the majority of the Board members. The Chairman or his designee will be responsible for all such written/verbal communications with anyone other than the remainder of the Board members and Staff.
- D. Board members should refrain from discussing an upcoming agenda item with the Applicant, his Attorney, or his Agent, either through written or verbal communication. Board members should refrain from discussing an upcoming agenda item with Staff either through written or verbal communication, except to clarify facts or request additional information. All discussion of the item should take place in the public meeting. This is to avoid the appearance of improper ex parte communications.

Article VII

Procedures for Hearing an Application for a Variance

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

Section 1. Presentation of the Town Staff and Applicant.

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

Section 2. Public Comment.

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

before the Board makes a motion.

Section 3. Vote on Application for Variance.

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

Article VIII

Procedures for Hearing an Application for Special Exception

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

Section 1. Presentation of the Town Staff and Applicant.

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

questions of the Applicant or the Staff as the members deem appropriate.

5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.

Section 2. Public Comment.

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

Section 3. Vote on Application for Special Exception.

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

Article IX **Procedures for Hearing an Appeal**

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

Section 1. Jurisdiction.

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

Section 2. Presentation of the Town Staff and Applicant.

1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for an Appeal. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for an Appeal. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or Staff as the members deem appropriate.
5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.
6. Public comment is not permitted in a case involving an appeal from an Administrator decision.

Section 3. Vote on the Appeal.

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

1. Pursuant to the provisions of Section 16-5-40, *Code of the Town of Hilton Head Island, South Carolina* (1983) and Section 16-7-674(g)(ii), *Code of the Town of Hilton Head Island, South Carolina* (1983), the Board shall:
 - a) Affirm the action of the Administrator from which the Appeal was taken; or,
 - b) Modify the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
 - c) Reverse the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
 - d) Remand the action of the Administrator from which the Appeal was taken for such further proceedings as the Board of Zoning Appeals may deem appropriate.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision.
3. Following the Vote, the Board shall issue a written Notice of Action. The written notice of action shall include the decision as well as the findings of fact and conclusions of law adopted by the Board.

4. The Notice of Action shall be mailed by certified letter to the Appellant and Record Owner of the real property affected by the Appeal, if different from that of the Appellant.
5. The decision of the Board shall be deemed final and applicable upon mailing of the Notice of Action.
6. The certificate of mailing shall be made a part of the board's file on the Appeal.

Article X
Procedures for a Remand

Section 1. Remand.

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

Article XI
Procedure for a Reconsideration Motions

Section 1. Motion for a Reconsideration.

1. The Board may reconsider any decision made under Section 16-3-1804, 16-3-1905, or 16-3-2003 *Action by Board of Zoning Appeals* of the Land Management Ordinance.
2. Any party aggrieved by a decision of the Board, if they desire to do so, is required to file any Petition for Reconsideration by delivering the same to the Administrator within five (5) days from the date of hearing. "Delivered" as referenced in this section, means actual delivery.
3. The Petition for Reconsideration shall be in writing and shall state with particularity the points alleged to have been overlooked or misinterpreted the Board.
4. The Petition for Reconsideration shall be presented to the Board at the next regular scheduled meeting following the filing of the Petition for Reconsideration after compliance with the public notice requirements for a Board Public Meeting per the LMO.
5. Motions:
 - a. A Motion to Grant the Petition for Reconsideration may only be made by a member of the Board who voted on the prevailing side in the original vote.
 - b. The effect of the granting of a Motion for Reconsideration shall be that the Board will review the entire matter as if no previous vote had been taken.
 - c. A Motion to Deny the Petition for Reconsideration may be made by any member of the Board. The effect of a vote denying a Petition for Reconsideration is that the vote shall be considered to be the Board's final action on the matter. A Notice of Action shall be delivered to the Applicant following such vote.
6. Successive Petitions for Reconsideration are prohibited. No matter that has been reconsidered may be reconsidered a second time. The Board may not reconsider a denial of a Petition for Reconsideration.

7. The time for Appeal from any decision of the Board under Section 16-3-1804, Section 16-3-1905 or Section 16-3-2003 of the LMO to Circuit Court shall be stayed by the timely filing of a Petition for Reconsideration and shall run from the receipt of the written Notice of Action Denying the Petition, or the written Notice of Action delivered after the board has Reconsidered the matter, as the case may be.

Section 2. Motion to Dismiss.

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

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

Section 3. Motion for Postponement.

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

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

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

Section 4. Motion for Withdrawal of Application.

The applicant may request a withdrawal of an application prior to the ruling. A Motion for Withdrawal of the Application shall be in writing, stating the reasons for the requested withdrawal,

and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

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

Article XII **Miscellaneous**

Section 1. Postponement.

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

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

Section 2. Withdrawals

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

Section 3. Section 1. Executive Session.

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

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

Permitted reasons should include:

1. Personnel reasons
2. Contracts
3. Legal advice relating to pending, threatened or potential claim
4. Discussion regarding development of security personnel

5. Investigative proceedings regarding allegations of criminal misconduct
6. Economic development (specific criteria in FOIA)
7. Legal advice relating to procedural, conflict of interest, or general issues unrelated to a specific matter before the Board.

Entering and Adjourning an Executive Session:

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

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

~~Section 4.~~ Section 2. Recess.

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

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

Date of Approval:

By: _____
Peter Kristian
Chairman

Attachment for Reference

TYPES OF MOTIONS

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

Restorative Motions or Motions that Bring Back a Question

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

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

TYPES OF VOTES

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