



**Town of Hilton Head Island**  
**Board of Zoning Appeals Meeting**  
**Monday, December 16, 2013 at 2:30p.m**  
**Benjamin M. Racusin Council Chambers**  
**REVISED AGENDA**

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**1. Call to Order**

**2. Roll Call**

**3. Freedom of Information Act Compliance**

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

**4. Wireless Telephone Usage**

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

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

**6. Approval of Agenda**

**7. Approval of Minutes – November 25, 2013 Meeting**

**8. Unfinished Business**  
**None**

**9. New Business**

**Public Hearing**

**VAR130012:** Tim Wright is requesting variances from Land Management Ordinance Section 16-5-704, Minimum Required Setback Area, and Section 16-5-806, Required Buffers. The applicant proposes to: build a street adjacent to an existing lift station and eliminate the adjacent street setback and buffer area between the street and the lift station; to build a street adjacent to the property line of five adjacent parcels and eliminate the adjacent street setback and buffer area between the street and those parcels; and to build an RV and boat storage area surrounded by a drive aisle that would encroach into the adjacent use setback and buffer areas next to four adjacent parcels. One parcel is located at 330 Spanish Wells Road. The other parcels are not addressed. The parcels are further identified as parcels 147, 147B, 438 and 440 on Beaufort County Tax Map 7.

*Presented by: Anne Cyran*

**Hearing**

**APL130008:** Request from Brad Wainwright. The appellant is appealing the Town's decision on October 23, 2013 to issue approval of a minor zoning map amendment to change the land use designation on a portion of parcel 60 on Tax Map 3 from 'Open Space' to 'Open Space/Telecommunication Facilities'. *Presented by: Teri Lewis*

**10. Board Business**

- a) Revisions to Rules of Procedure

**11. Staff Report**

- a) Waiver Report – *Presented by: Nicole Dixon*

**12. Adjournment**

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

**TOWN OF HILTON HEAD ISLAND**  
**Board of Zoning Appeals**  
**Minutes of the Monday, November 25, 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, and Steve Wilson

Board Members Absent: Michael Lawrence and P. Jeffrey North

Council Members Present: George Williams

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator  
Brian Hulbert, Board Attorney  
Rocky Browder, Environmental Planner  
Teri Lewis, LMO Official  
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 Agenda**

Ms. Dixon reported that Application for Appeal APL130004 is withdrawn from Unfinished Business. The applicant and staff were successful in resolving the issues associated with this application for appeal. Chairman Kristian requested that a motion be made to approve the agenda as amended.

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

**6. Approval of the Minutes**

Chairman Kristian requested that a **motion** be made to **approve** the minutes of the October 28, 2013 meeting.

Vice Chairman Stanford made a **motion** to **approve** the minutes of the October 28, 2013 meeting as presented. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 4-0-1 (Mr. Wilson abstained from the vote).

**7. Swearing in Ceremony for new BZA Member, Mr. Steve Wilson**

Brian Hulbert, Staff Attorney, performed the swearing-in ceremony for Mr. Steve Wilson on behalf of staff. Chairman Kristian welcomed Mr. Wilson and thanked him for his service to the Board of Zoning Appeals and to the community.

**8. Unfinished Business**

None

**9. New Business**

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

Ms. Nicole Dixon made the presentation on behalf of staff. Ms. Dixon presented an in-depth overhead review of the application including the vicinity map, aerial photo, and site plan. Staff recommended that the Board *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, where there is now just grass.

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 environment 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.

Ms. Dixon reviewed the Findings of Fact and Conclusions of Law contained in the staff's report. At the completion of staff's presentation, Chairman Kristian requested that the applicant make his presentation.

Mr. Don Baker, Square Feet Architects, presented brief statements in support of the application. Following these statements, Chairman Kristian requested public comments and none were received. Chairman Kristian then closed the public hearing for the application. The Board discussed the application including the staff's recommended conditions. Following their discussion, Chairman Kristian requested that a motion be made.

Vice Chairman Stanford made a **motion to approve** application for variance VAR130010 with the condition that the width of the buffer be reduced to zero within the prescribed areas on the plan subject to the conditions imposed by staff for the creation of a berm with appropriate landscaping. The application is consistent with the Findings of Fact and Conclusions of Law stated in the staff's report. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 5-0-0.

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

Ms. Anne Cyran made the presentation on behalf of staff. Ms. Cyran presented an in-depth overhead review of the application including a vicinity map, aerial photo, and site plan. The staff recommended that the Board *disapprove* the application based on the Findings of Facts and Conclusions of Law contained in the staff's report.

The subject parcel is located at 56 Hearthwood Drive in the PD-1 (Sea Pines) Zoning District. The 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-ft. inland from the edge of the water. 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 band – 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-ft. 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. The 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.

Ms. Cyran reviewed the Findings of Fact and Conclusions of Law contained in the staff's report. Mr. Rocky Browder presented additional statements regarding the bulkhead on behalf of the Natural Resources Department. Following the staff's presentation, Chairman Kristian requested that the applicant make his presentation.

Mr. Bill Fishburne, Total Design Concepts, presented statements in support of the application on behalf of Mr. Jon Watson, property owner. Mr. Fishburne presented an overhead review of the project including several photos of the site. The applicant reviewed the staff's Findings of Fact and Conclusions of Law. The applicant stated that he believes the application meets the required criteria and should be approved.

Following the applicant's presentation, Chairman Kristian requested public comments and none were received. Chairman Kristian then closed the public hearing for the application.

The Board discussed the application including the bulkhead and OCRM line. Vice Chairman Stanford stated that the Board is required to follow the law in making their determination on the application. Following the Board's discussion, Chairman Kristian requested that a motion be made.

Mr. Fingerhut made a **motion** to affirm the staff's recommendation to **disapprove** application for variance, VAR130011, based on the Findings of Fact and Conclusions of Law contained in the staff's report. Vice Chairman Stanford **seconded** the motion and the motion **passed** with a vote of 5-0-0.

**10. Board Business**

**Adoption of new procedures for hearing Motions to Dismiss an Appeal**

Ms. Dixon presented the staff's draft set of procedures on Motions to Dismiss an Appeal to the Board for their consideration. Ms. Dixon requested that the Board members review the draft set of procedures in preparation for their approval at the next Board meeting. The Board will adopt the final set of procedures on Motions to Dismiss an Appeal on December 16, 2013. Chairman Kristian stated that the Board will accept public comments on the draft procedures on December 16, 2013.

**11. Staff Report**

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

**12. 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

**STAFF REPORT  
VARIANCE**

Case #	Name of Development	Public Hearing Date
VAR#130012	The Reserve at Old House Creek	December 16, 2013

Parcel Data	Owner Parcel 147B	Owner & Applicant Parcels 147 & 440
Tax Map ID: Map 7, Parcels 147B, 147 & 440 Address: 330 Spanish Wells Road and non-addressed parcels Zoning District: IL (Light Industrial) Overlay District: COR (Corridor Overlay District)	Town of Hilton Head Island One Town Center Court Hilton Head Island SC 29928	Tim Wright The Paddocks, LLC PO Box 2210 Bluffton SC 29910

**Application Summary**

The Community Development Department received a request for a variance from Tim Wright for the following Sections of the Land Management Ordinance (LMO):

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

The applicant proposes to construct a new street adjacent to an existing lift station which would eliminate the adjacent street setback and buffer area between the new street right of way and the lift station. The applicant proposes to build a new street adjacent to the property line of four adjacent parcels which would eliminate the adjacent street setback and buffer area between the street and the parcels. The applicant proposes to build an RV and boat storage area that would encroach into the adjacent use setback and buffer areas next to four adjacent parcels.

**Background**

One parcel is located at 330 Spanish Wells Road. The parcels are located in the IL (Light Industrial) Zoning District, however, the owner has submitted an application to rezone the parcels to the RM-4 (Low Density Residential) Zoning District.

As shown on the Vicinity Map (Attachment A), parcel 147B is bound by Spanish Wells Road to the southeast, High Tide Carpet Cleaning and Rainbow International to the northeast, an

undeveloped parcel to the northwest, and a furniture warehouse to the southwest.

Parcel 147 is bound by: six undeveloped parcels used for storage to the southeast; an undeveloped parcel used as a driveway to the northeast; eight parcels to the northwest, one of which is developed with a single family house and two of which are used for storage; and an undeveloped parcel (Parcel 440) to the southwest.

Parcel 440 is bound by: a portion of Spanish Wells Business Center II and an undeveloped parcel used for storage to the east; a portion of Spanish Wells Business Center II to the south; two undeveloped parcels to the west; and an undeveloped parcel to the north.

Tim Wright approached Town staff in April 2012 with a conceptual plan to develop a major single family subdivision on Old House Creek. The proposed development would combine five undeveloped parcels, two parcels covered by a power line easement and power lines, a parcel that serves as an access road, and a Town-owned parcel, Parcel 147B.

The Hilton Head Public Service District recently built a 2,025 square foot lift station in the eastern corner of Parcel 147B. A drainage ditch runs from the front to the back of Parcel 147B and cuts off the western third of the parcel from the rest of the parcel. Also, a 10 foot utility easement runs along three sides of the parcel.

A power line easement and power lines owned by Santee Cooper cover Parcels 147 and 440. Parcel 147 currently is an unimproved access road.

### **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 16-5-704, Minimum Required Setback Area, and Section 16-5-806, Required Buffers to: build a street adjacent to an existing lift station and eliminate the adjacent street setback and buffer area between the street and the lift station; to build a street adjacent to the property line of four adjacent parcels and eliminate the adjacent street setback and buffer area between the street and those parcels; and to build an RV and boat storage area surrounded by a drive aisle that would encroach into the adjacent use setback and buffer areas next to four adjacent parcels. The applicant states the variance is needed to develop the streets and a boat and RV storage area for a proposed single family residential subdivision.

#### **Summary of Facts**

1. Applicant seeks a variance from LMO Section 16-5-704, Minimum Required Setback Area and Section 16-5-806, Required Buffers.
2. The applicant is proposing to: build a street adjacent to an existing lift station and eliminate the adjacent street setback and buffer area between the street and the lift station; to build a street adjacent to the property line of four adjacent parcels and eliminate the adjacent street setback and buffer area between the street and those parcels; and to build an RV and boat storage area surrounded by a drive aisle that would encroach into the adjacent use setback and buffer areas next to four adjacent parcels.

**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 **approve** the application based on the Findings of Facts and Conclusions of Law.

**Staff Summary of Facts and Conclusions of Law**

**Summary of Facts**

1. Application was submitted as set forth in LMO Section 16-3-1903.
2. Notice of the Application was published in the Island Packet on Sunday, November 10, 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**

**Parcel 147B**

1. There is a 2,025 square foot lift station in the eastern corner of the parcel.
2. A ditch that runs from the front to the back of the parcel cuts off the western third of the parcel from the rest of the parcel.
3. Ten foot wide utility easements run along the northeastern, southeastern and southwestern sides of the parcel.

**Parcel 147**

4. The parcel is almost 2,400 feet long but only 50 feet wide.
5. Most of the parcel is used as an access road.

**Parcel 440**

6. The parcel is 115 feet wide by 285 feet long.

**Conclusions of Law**

**Parcel 147B**

1. The parcel has a reduced buildable area due to a lift station, a ditch and utility easements being located on the parcel.

**Parcel 147**

2. The parcel is exceptionally long and narrow and is mostly covered by an access road.

**Parcel 440**

3. The parcel is exceptionally narrow.
4. This application meets the variance criteria as set forth in LMO 16-3-1906.A.1 because all three parcels have 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)*

**Findings of Fact**

**Parcel 147B**

1. There are no other parcels in the vicinity with a lift station, a ditch and utility easements along three sides of the parcel.

**Parcel 147**

2. None of the other narrow parcels in the vicinity are used as an access road.

**Parcel 440**

3. None of the other rectangular parcels in the area are as narrow as this parcel.

**Conclusions of Law**

1. This application meets the variance criteria as set forth in LMO 16-3-1906.A.2.
2. The conditions on the subject parcels do not generally apply to other properties in the vicinity.

**Staff Summary of Facts and Conclusions of Law**

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

**Findings of Fact**

**Parcel 147B**

1. The combination of the ditch, the lift station and the 10 foot utility easements along three sides of the parcel reduces the buildable area from a 310 foot by 260 foot (77,500 square feet) rectangle to a more narrow 310 foot by 170 foot (53,700 square feet) rectangle.

**Parcel 147**

2. Due to its shape, the only practical use for the parcel is as a street.
3. An improved street would need to be constructed within a 50 foot right-of-way, which is the same width as the parcel.

**Parcel 440**

4. When the adjacent use setbacks and buffers are applied to the parcel, the buildable area is reduced to 75 feet by 265 feet.

**Conclusions of Law**

- 1. This application meets the variance criteria as set forth in LMO 16-3-1906.A.3.
- 2. Due to the utilities and ditch on Parcel 147B and the shapes of Parcel 147 and Parcel 440, the application of the required setbacks and buffers would unreasonably restrict development on these parcels.

**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**

**Parcel 147B**

- 1. The location of the ditch and the lift station and the location of the utility easements were not decided by the applicant.

**Parcel 147**

- 2. The size and shape of the parcel were not decided by the applicant.

**Parcel 440**

- 3. The size and shape of the parcel were not decided by the applicant.

**Conclusions of Law**

- 1. This application meets the variance criteria as set forth in LMO 16-3-1906.A.4.
- 2. The applicant did not create the limitations on the subject parcels.

**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 this application in the following areas:

**Community Facilities**

6.5 Utilities - Implications for the Comprehensive Plan

Cooperative use of utility easements, primarily Santee Cooper's power line easement, should be considered.

Goal 6.5 Utilities

H. The goal is to improve the utility and cooperative use of publicly owned easements on the Island.

6.5 Utilities Implementation Strategy

M. Coordinate with Santee Cooper and other easement holders to explore the use of such easements for such uses as wildlife corridors, roadway connections and parking.

- 2. LMO Section 16-5-701 states, "The function of a setback is to provide separation between structures and property lines or between structures and the street right-of-way line. Setbacks facilitate adequate air circulation and light by allowing natural areas to separate developments."
- 3. LMO Section 16-5-801 states, "A. The function of buffer areas is to provide aesthetically acceptable visual and spatial separation between adjacent land uses. B. The purpose of buffer areas is to enable the juxtaposition of land uses of different types, thereby accommodating the developer, the adjacent land owners and the public's interest in a visually attractive environment. To minimize any negative effects

that a land use will impose on its neighbors, buffers shall be provided between uses and adjacent to public streets.”

4. A 45 foot by 20 foot portion of a lift station would encroach into the adjacent street setback and buffer of the proposed street on Parcel 147B.
5. Encroachments in the adjacent street setback and buffer are prohibited by the LMO.
6. The encroachment is for a utility that benefits the neighborhood.
7. The adjacent street setback and buffer of the proposed road in Parcel 147 would be eliminated adjacent to four parcels.
8. The 20 foot adjacent street setback and buffer are required by LMO 16-5-704 and 16-5-806.
9. The parcels adjacent to the proposed street are covered by the power line easement on Parcel 147 and they are used for storage.
10. A fence will be built on the edge of Parcel 147 adjacent to these parcels to provide a visual separation between the parcels. The fence will be reviewed and approved by the Design Review Board.
11. The proposed drive aisle around Parcel 440 would encroach into the adjacent use buffers of adjacent parcels.
12. The 20 foot adjacent use buffer is required by LMO 16-5-806.
13. A fence will be built around Parcel 440 to protect the stored boats and RVs. The fence will be reviewed and approved by the Design Review Board.
14. The fence will shield the view of Parcel 440 from surrounding parcels.

#### **Conclusions of Law**

1. This application meets the variance criteria as set forth in LMO 16-3-1906.A.5.
2. This variance would allow the new road to go through the buffer area along the property line; however this area is also a Santee Cooper utility easement. The proposed use of the road within the easement is consistent because it allows for the cooperative use of a publicly owned easement for a roadway connection.

#### **Parcel 147B**

3. Given the benefits the lift station provides to the neighborhood, the elimination of the adjacent street setback and buffer in that area is relatively inconsequential.

#### **Parcel 147**

4. Since a fence will be installed along the property line of Parcel 147, the lack of an adjacent street setback and buffer should not be a detriment to the four adjacent parcels.

#### **Parcel 440**

5. Since a fence will be installed along the sides of Parcel 440, the encroachment of the drive aisle into the adjacent use buffer should not be a detriment to the adjacent parcels.

#### **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. 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. There is no evidence that granting the variance would be a substantial detriment to adjacent property, the public good or the character of the district.

**PREPARED BY:**

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

November 26, 2013  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

ND  
\_\_\_\_\_  
Nicole Dixon, CFM  
*Senior Planner & BZA Coordinator*

November 26, 2013  
\_\_\_\_\_  
DATE

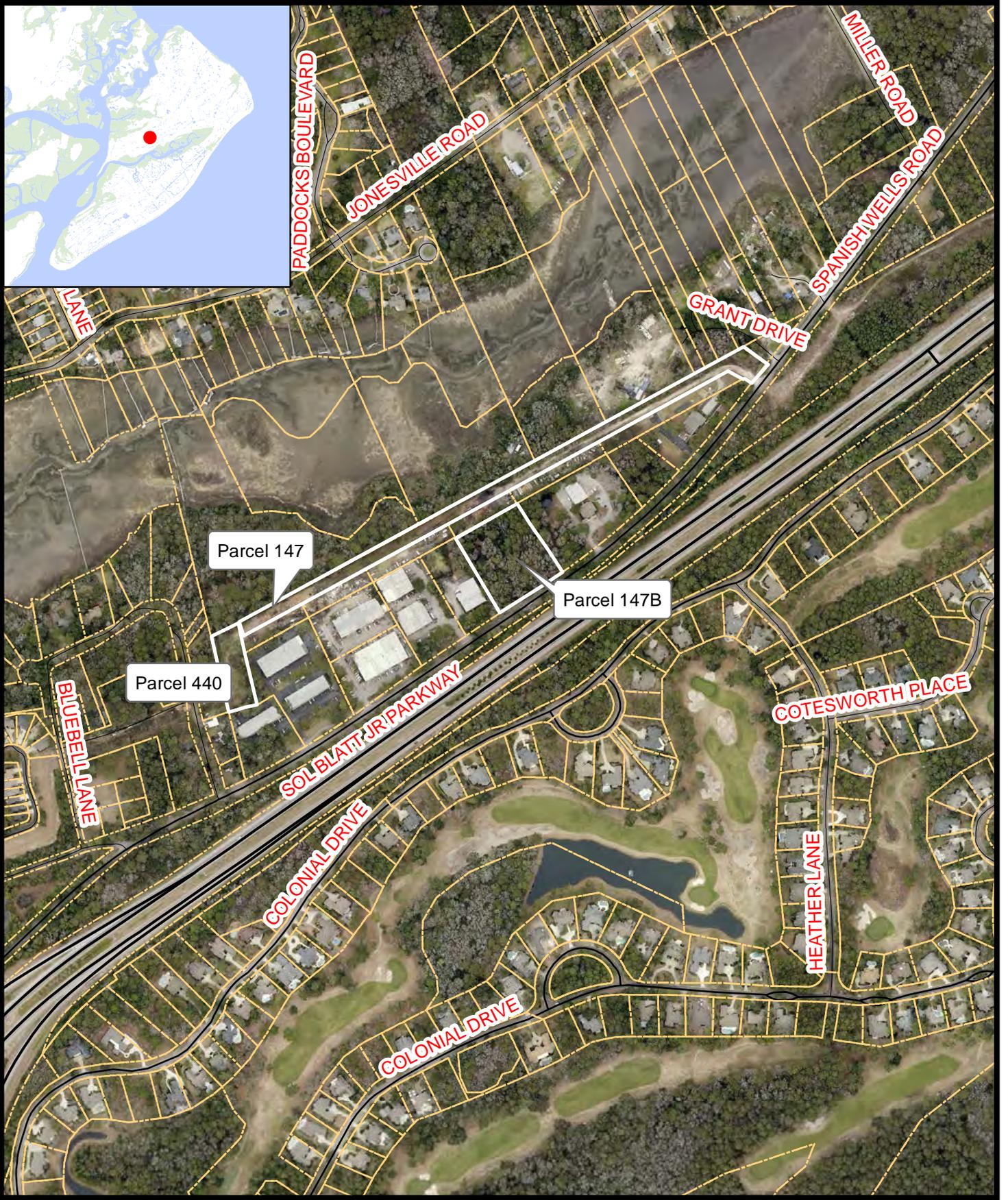
**REVIEWED BY:**

HC  
\_\_\_\_\_  
Heather Colin, AICP  
*Development Review Administrator*

November 26, 2013  
\_\_\_\_\_  
DATE

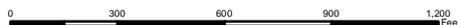
**ATTACHMENTS**

- A) Vicinity Map
- B) Aerial Photo of Parcel 147B
- C) Aerial Photo of Parcel 147
- D) Aerial Photo of Parcel 440
- E) Applicant's Submittal
- F) Site Plan



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

The Reserve at Old House Creek  
 VAR130012  
 Attachment A - Vicinity Map



1 inch = 535 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.



Parcel 147B

SPANISH WELLS ROAD

SOL BLATT JR PARKWAY

SOL BLATT JR PARKWAY



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

### The Reserve at Old House Creek VAR130012

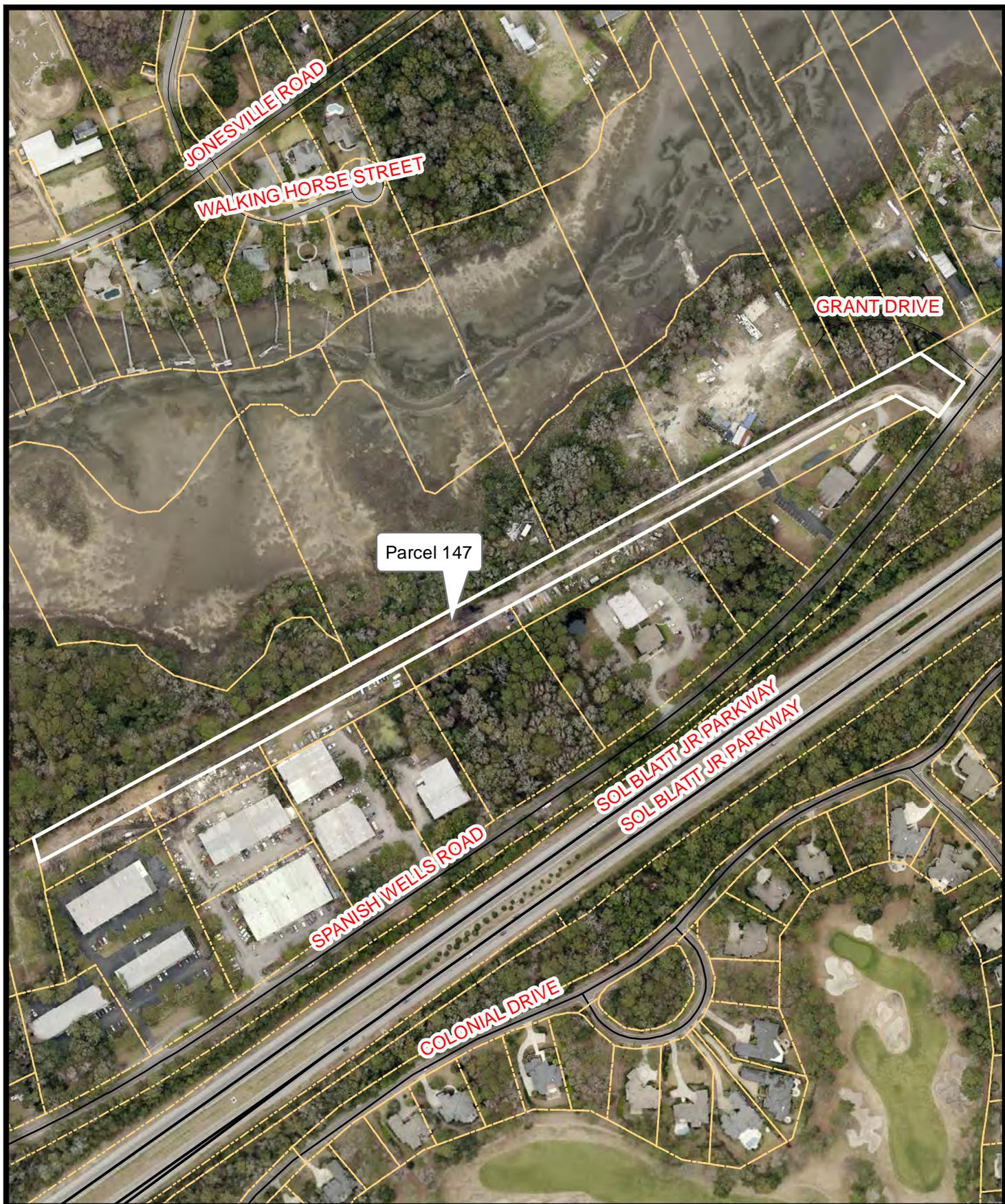
Attachment B - Aerial Photo of Parcel 147B



1 inch = 94 feet



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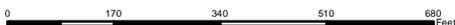
Parcel 147



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

### The Reserve at Old House Creek VAR130012

Attachment C - Aerial Photo of Parcel 147



1 inch = 305 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.



Parcel 440

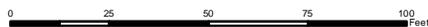
BLUEBELL LANE



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

### The Reserve at Old House Creek VAR130012

Attachment D - Aerial Photo of Parcel 440



1 inch = 48 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.

## Paddocks, LLC

P.O. Box 2210- Bluffton, SC 29910 / 843.645.4446 / TW81551@aol.com

Re: Variance Request for Parcel R510 000 147B 0000

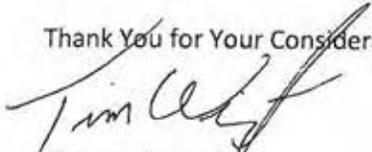
The Paddocks, LLC formally requests a twenty foot(20') set-back variance, in order to delete the 20' set-back requirement at a forty five foot(45') by forty five foot(45') parcel containing a pump lift station owned by Hilton Head Public Service District No. 1(HHPSD)

By omitting the 20' set-back requirement it will allow a proposed fifty foot(50') right-of-way entrance road to a proposed single family development, formally named "The Reserve on Old House Creek".

With the proposed thirty foot(30') drainage and the newly installed HHPSD lift station, but without the 20' set-back variance(which allows the proposed 50' entrance right-of-way to adjoin the south western forty five foot(45') boundary line) We will be required to eliminate three(3) single family home lots within the 2.40 acre parcel. Also, by allowing the 20' variance, a large amount of trees could be saved in the entrance right-of-way. If the 20' variance is not allowed, the six(6) model homes planned will not work-out in the thirty nine(39) lot proposed single lot development.

By granting the 20' variance, the proposed development's lots and 50' entrance right-of-way will not interfere with the adjacent commercial development, a required forty foot(40') set-back on the northern boundary, the 0.80 acre open space area to the south west of the 30' drainage easement , nor the single family lots.

Thank You for Your Consideration,



Tim Wright, Owner

## Paddocks, LLC

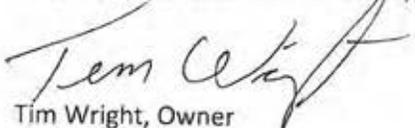
P.O. Box 2210- Bluffton, SC 29910 / 843.645.4446 / TW81551@aol.com

**Re: Variance Request for R510 007 000 147B 0000**

### **A. Required Findings**

1. The Parcel 510 007 000 147B 0000 is currently owned by the Town of HHI. Hilton Head Public Service District No. 1 has currently constructed a sewer pump station in the North East corner of this 2.40 acre parcel, which utilizes 0.05 acres of the tract- a forty five foot by forty five foot(45'x45') section. Also within the 2.40 acres is a 20 by 30 foot(20'x30') re-locatable access easement to the right-of-way of Spanish Wells Road.
2. No conditions apply to the other properties in the vicinity.
3. By not allowing to eliminate the required twenty foot(20') setback along the Northwestern forty five foot(45') boundary of the lift station, would force the proposed fifty foot(50') entrance right-of-way to the single family home development to move twenty feet(20') closer to a proposed thirty foot(30') drainage easement from Spanish Wells Road to the marsh at Old House Creek. This would eliminate three(3) of the six(6) lots used for model single family homes, which the developer has planned for the thirty nine(39) lot development formally named The Reserve on Old House Creek. Allowing the variance will save a large number of trees within the entrance street.
- 4 No.
5. Allowing the 20' setback variance would allow construction of 39+/- single family homes in this section of the Ward 1 Community.
6. The proposed entrance street will have 40' setback to the Northern boundary of the Spanish Wells Commercial Park. A 0.80 acre open space area, and a 30' drainage easement will be to the South of the proposed street and single family lots. This proposed single family home development would surely upgrade the proposed surrounding commercial development and Ward 1 Area.

Thank You for Your Consideration,

  
Tim Wright, Owner

## Paddocks, LLC

P.O. Box 2210- Bluffton, SC 29910 / 843.645.4446 / TW81551@aol.com

The Paddocks, LLC formally requests a twenty foot(20') set-back variance, to delete the twenty foot(20') set-back requirement along a one thousand two hundred fifteen foot(1,215') long by fifty foot(50') wide section of a one hundred fifteen foot(115') wide Central Electric power line easement('right-of-way'). Adjacent to the rear of Spanish Wells Business Park, on Spanish Wells Road.

Currently, sixty five foot(65') of the 'eastern part' of the 'right-of-way' is being used as a storage area for the existing business', in the business park.

By omitting the twenty foot(20') set-back requirement, it will eliminate the need to remove a large number of trees(with in the 'right-of-way') in order to construct a fifty foot(50') wide entrance street into the proposed 'single family home' development - formally named "The Reserve on Old House Creek" Subdivision.

The property which will house the proposed street is owned by The Paddocks, LLC. Central Electric has agreed to allow the construction of the proposed street along the 1,215' by 50' section of the 'western part' of the 'right-of-way'.

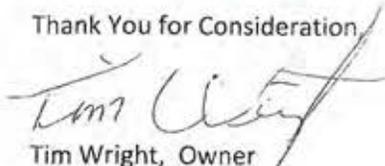
At present, fifty foot(50') of the 'northern part' of the 'right-of-way' is being used to access the existing American Cell Tower.

The existing power line and power poles run on the outside of the proposed fifty foot(50') wide entrance street. Therefore, no poles or power line will be disturbed nor effected by the construction of the proposed street.

This variance will allow The Paddocks, LLC to commence development of a 39+ lot 'single family home' subdivision, on twenty eight point three hundred seventy one(28.371) acre tract aligning the "Old House Creek".

VAR → Remove Setback / Buffer

Thank You for Consideration

  
Tim Wright, Owner

## Paddocks, LLC

P.O. Box 2210- Bluffton, SC 29910 / 843.645.4446 / TW81551@aol.com

Re: Variance Request for R510 007 000 0147

### A. Required Findings

1. The parcel R510 007 000 0147 is owned by The Paddocks, LLC. Central Electric Coop has a one hundred foot(100') 'right-of-way' through the parcel. Central Electric requirement and restriction allows for construction of a roadway in the current fifty foot(50') western section of power line 'right-of-way'. Currently, there is a dirt/gravel road, which was constructed in 1996 by then Jarvis Creek, LLC and now known as The Paddocks, LLC. The construction to build the roadway from Spanish Wells Road to Blue Bell Lane was done with written and recorded consent dated May 5th, 1996.

2. No conditions apply to the other properties in the vicinity.

3. By not allowing to eliminate the required twenty foot(20') setback along the eastern boundary, would force the proposed street to move 20' into the development. Hence, requiring the removal of a significant amount of specimen trees within the 20' by 1,215+/- section of the proposed entrance into the 'single family' development.

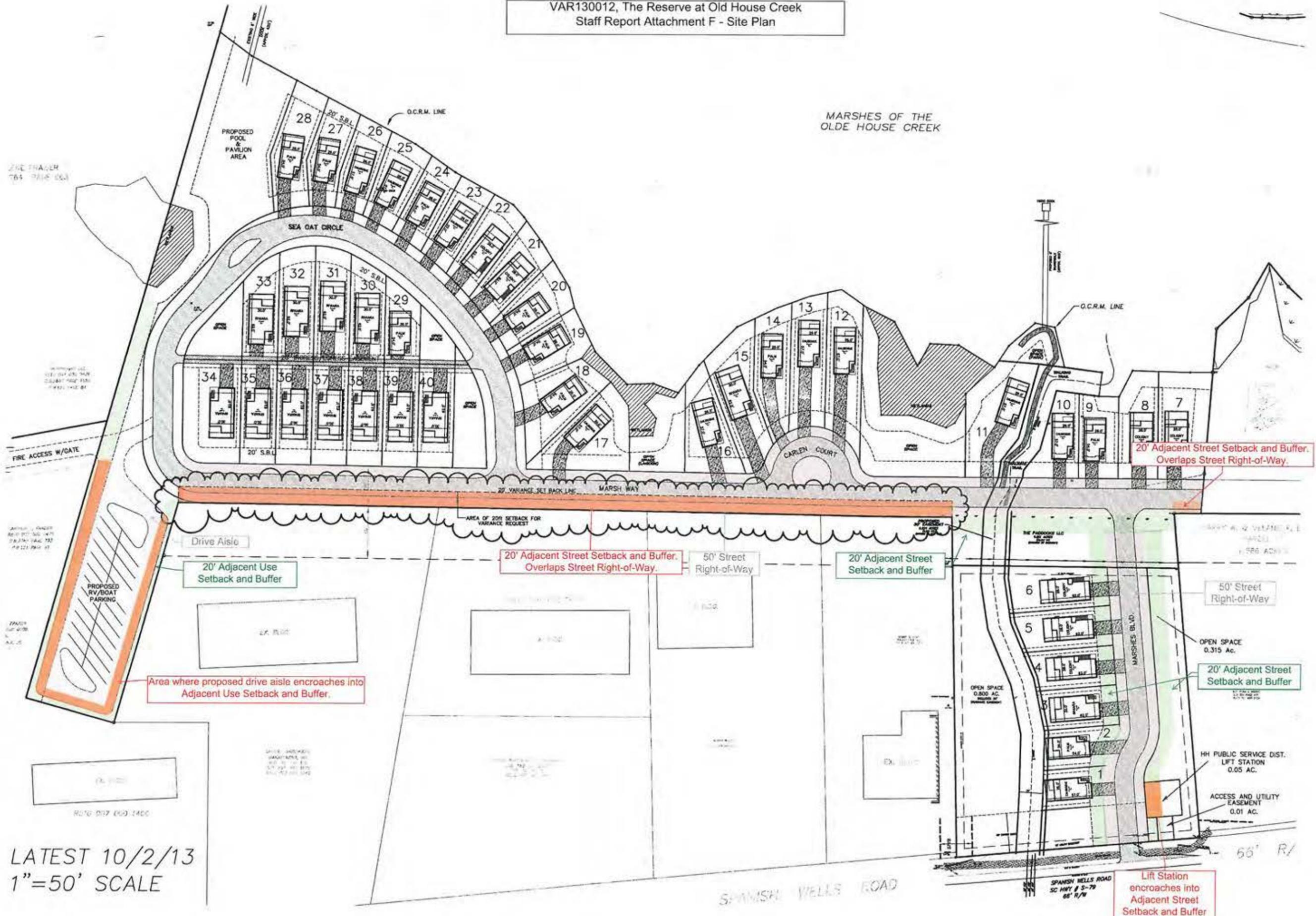
4. No

5. By allowing the 20' setback variance, would allow construction of 39 +/- 'single family' homes in this section of the Ward I community.

6. At present, the proposed development is surrounded by the marshes of Old House Creek(to the North), Blue Bell Lane Mobile Homes Park(to the South), Spanish Wells Commercial Park(to the Southeast) and Warehouse & Equipment Storage Area(along the power line 'right-of-way').

This proposed 'single family' home development would surely upgrade the surrounding properties in the Ward I area.

VAR130012, The Reserve at Old House Creek  
Staff Report Attachment F - Site Plan



LATEST 10/2/13  
1"=50' SCALE

Area where proposed drive aisle encroaches into Adjacent Use Setback and Buffer.

20' Adjacent Street Setback and Buffer. Overlaps Street Right-of-Way.

20' Adjacent Street Setback and Buffer. Overlaps Street Right-of-Way.

Lift Station encroaches into Adjacent Street Setback and Buffer



## TOWN OF HILTON HEAD ISLAND

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### *Community Development Department*

**TO:** Board of Zoning Appeals  
**VIA:** Nicole Dixon, *Senior Planner and Board Coordinator*  
**FROM:** Teri Lewis, *LMO Official*  
**DATE:** November 6, 2013  
**SUBJECT:** Appeal 130008

---

Staff has received an appeal from Brad Wainwright regarding the October 23, 2013 approval of an administrative rezoning for a portion of parcel 60 as identified on Beaufort County Tax Map 3. The land use on the subject parcel was previously designated as 'Open Space'; the rezoning changed the land use designation to 'Open Space/Telecommunications Facilities'. Staff made the decision to approve the request for a minor zoning map amendment (in conformance with Land Management Ordinance (LMO) Section 16-3-1707.A.3) after determining that the amendment had the support of the affected property owners. The referenced LMO section requires that the applicant send a letter to all property owners within 100 feet of the property proposed for a telecommunications facility; five property owners were determined to be located within 100 feet of the subject property. Upon notification, two property owners responded in favor of the request, two property owners responded opposed to the request and one property owner did not respond. Property owners were notified that if they chose not to respond to the notification they would be considered not opposed to (or in favor of) the request. With three out of five property owners in favor of the request, staff made the determination that a majority of the property owners supported the request to change the land use designation from 'Open Space' to 'Open Space/Telecommunications Facilities'.

The appellant is appealing the Town's decision to issue the minor zoning map amendment on the grounds that (1) the LMO lacks a definition as to who is an 'affected' property owner and (2) it is illegal for the Administrator to rezone restricted open space via a minor amendment.

Per the Code of Laws of South Carolina, specifically 6-29-800.B, upon receipt of an appeal staff is required to immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken. The record as attached consists of the following documents: Appeal Application, Appellants Narrative, Survey indicating the property owners the appellant believes should be considered 'affected property owners', Approval of Minor Zoning Map Amendment ZMA130005, copy of LMO Section 16-3-1707.A, sample notification letter, responses from the affected property owners within 100 feet of the subject property and the ZMA130005 file.

Staff reserves the right to submit additional documents.

If you have any questions, please contact Teri Lewis at 341-4698 or [teril@hiltonheadislandsc.gov](mailto:teril@hiltonheadislandsc.gov).



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

FOR OFFICIAL USE ONLY

Date Received: 11/04/13  
Accepted by: JC  
App. #: APL APL 13008  
Meeting Date: \_\_\_\_\_

Applicant/Agent Name: Brad Wainwright Company: —  
Mailing Address: 28 White Tail Deer Lane City: Hilton Head Island State: SC Zip: 29926  
Telephone: 843 342 7902 Fax: — E-mail: bradwainwright@aol.com

### APPEAL (APL) SUBMITTAL REQUIREMENTS

**If you are interested in submitting your appeal electronically please call 843-341-4757 for more information.**

The following items must be attached in order for this application to be complete:

- A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any LMO Section numbers relied upon; **and** a statement of the specific decision requested of the review body.
- Any other documentation used to support the facts surrounding the decision.
- Filing Fee - \$100.00 cash or check made payable to the Town of Hilton Head Island.

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

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

Applicant/Agent Signature: BR Wainwright Date: 11-4-2013

Appeal of Minor Zoning Map Amendment (ZMA 130005)

On October 23, 2013, an administrative rezoning occurred per the attached October 23, 2013 letter from Jayme Lopko. Parcel ID: A portion of Beaufort County Tax Map R510 003 000 0060 0000, adding telecommunications facility to open space.

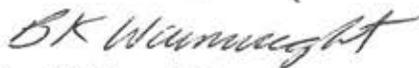
The Land Management Ordinance (LMO) Section 16-3-1707.A.3 does reference notification of real property within 100 feet of the parcel under consideration. LMO also states if the change does not have the support of the affected property owners, the request for a minor amendment will be denied. The LMO does not define "affected" property owners. It **does not** state that being 100 feet from the parcel is a condition for being included as an "affected" property owner.

Seven property owners on White Tail Deer Lane and two property owners from Dolphin Head Drive object to this project. The last name of the nine property owners opposed includes: Angelo, Kaplan, Argent, Moss, Premo, Genzer, Brower, Wahl and Wainwright. Survey information provided by the Town of Hilton Head is attached which lists the owners of the property and shows their relative proximity to the project. Each property referenced is within 350 feet of the subject parcel. Some are as close as 100 feet. The landscape view of these nine property owners will be permanently changed from natural open space to "open space/telecommunications" if this project is approved.

The decision to add "telecommunications facilities" as permitted use by a minor amendment is appealed. This appeal is based on the lack of definition in the LMO as to who is an "affected" property owner. The nine property owners listed above do not support this project and considered themselves "affected" by this potential project. The present view of natural open space will be permanently changed if this project is approved. Also, the property owners have discussed that their property value may be affected due to the close proximity to a cell tower and cell tower compound.

The applicant also questions the legality of an "Administrator" to rezone restricted open space via a minor amendment.

Thank you for your consideration to this appeal.



Brad Wainwright  
28 White Tail Deer Lane  
Hilton Head Island, SC 29926

Dated November 4, 2013

**RAW LAND SURVEY**  
 WHITE TAIL DEER LANE  
 PINELAND S/D HILTON HEAD

**FOR CROWN CASTLE**  
 SITE: DOLPHIN HEAD  
 BUN: 813914  
 ADDRESS: WHITE TAIL DEER LANE  
 HILTON HEAD ISLAND, S.C. 29926  
 BEAUFORT COUNTY

**CROWN CASTLE**  
 3525 TOMMISON WAY, SUITE 300, CHARLOTTE, NC 28277  
 NATIONAL SURVEY SERVICES COORDINATION BY:

**GEOLINE SURVEYING, INC.**  
 13420 NW 12th Terrace, Suite A, Alachua, FL 32015  
 (904) 418-0500 FAX (904) 482-8986  
 WWW.GEOLINEINC.COM

SURVEY WORK PERFORMED BY:

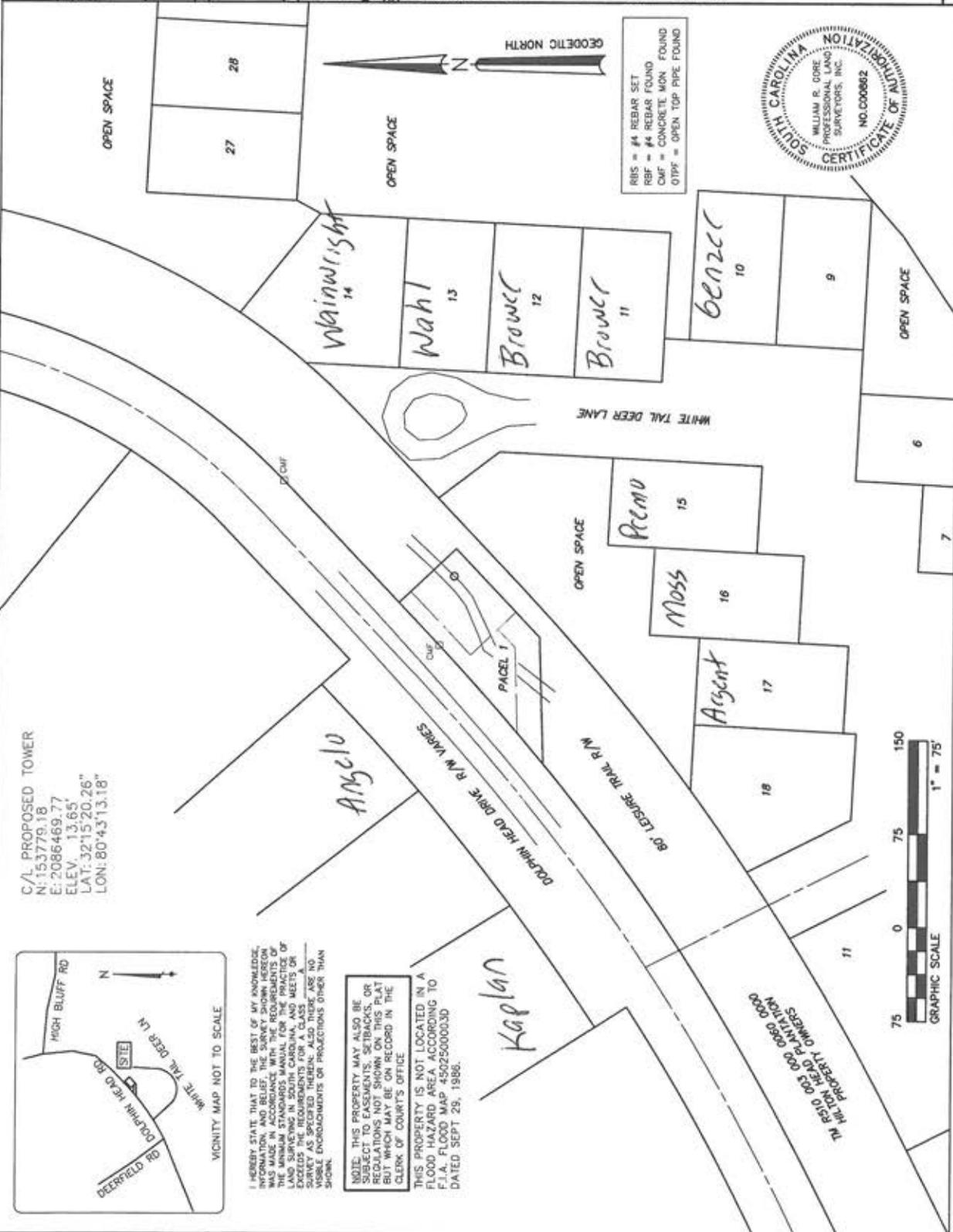
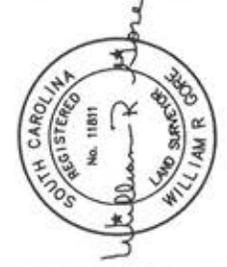
**William R. Gore**  
 PROFESSIONAL LAND SURVEYORS, INC.  
 804 CENTRAL AVE AUGUSTA, GEORGIA, 30904  
 TEL: (706) 736-8774 FAX: (706) 736-8549  
 DRAWN BY: WILLIAM R. GORE

- SURVEYOR'S NOTES**
1. BASIS OF BEARING DECEMBER NORTH
  2. NO SURFACE INVESTIGATION WAS PERFORMED TO LOCATE UNDERGROUND UTILITIES UTILITIES SHOWN HEREON ARE LIMITED TO AND ARE PER OBSERVED EVIDENCE ONLY.
  3. THIS SURVEY DOES NOT REPRESENT A BOUNDARY SURVEY OF THE PARENT PARCEL.
  4. ALL VISIBLE TOWER EQUIPMENT AND IMPROVEMENTS ARE CONTAINED WITHIN THE DESCRIBED AREA EXCEPT AS NOTED.

**SURVEYOR'S CERTIFICATION**  
 I HEREBY CERTIFY TO CROWN CASTLE AND OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

WILLIAM R. GORE PROFESSIONAL LAND SURVEYING  
*William R. Gore*  
 WILLIAM R. GORE  
 LAND SURVEYOR - S.C. 11811

Date: 04-02-2013



I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, BELIEF AND FAITHFUL OPINION, THE SURVEY HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS ALL REQUIREMENTS FOR A CLASS SURVEY AS SET FORTH IN SAID MANUAL. I HAVE ALSO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

**NOTE:** THIS PROPERTY MAY ALSO BE SUBJECT TO EASEMENTS, SETBACKS, OR REGULATIONS NOT SHOWN ON THIS PLAT BUT WHICH MAY BE ON RECORD IN THE CLERK OF COURT'S OFFICE.

THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA ACCORDING TO F.I.A. FLOOD MAP 4502500003D DATED SEPT 29, 1986.



RIBS = #4 REBAR SET  
 RBF = #4 REBAR FOUND  
 CMF = CONCRETE MON FOUND  
 OTRF = OPEN TOP PIPE FOUND

TM 810 025 000 0960 0000  
 HILTON HEAD PLAT 11811  
 PROJECTT OWNERS



# TOWN OF HILTON HEAD ISLAND

## Community Development Department

**TO:** Hilton Head Plantation Master Plan File  
**FROM:** Jayme Lopko, AICP, *Senior Planner*  
**DATE:** October 23, 2013  
**SUBJECT:** Minor Zoning Map Amendment (ZMA130005)

---

The Town has reviewed the criteria of Section 16-3-1707.A.3 *Minor Amendments* of the Land Management Ordinance and has approved an administrative rezoning to add "telecommunications facilities" as a permitted use on the property further described below.

### Parcel and Zoning Information

**Parcel ID:** A portion of Beaufort County Tax Map R510 003 000 0060 0000  
(subdivided out but has not received a new parcel ID)

**Existing Zoning:** PD-1, Planned Development

**Proposed Zoning:** PD-1, Planned Development

**Existing Land Use Designation:** Open Space

**Proposed Land Use Designation:** Open Space/Telecommunications Facilities

### Background Information

The subject property is open space according to the approved master plan. Telecommunications Facilities are being added as a permitted use as these two uses can coexist. The location for the proposed telecommunications facility will provide enhanced residential services.

Staff determined that the request is approved based on compliance to:

LMO Section 16-3-1707.A.3 *Change in land use designation of any non-single family residential use to allow a telecommunications facility.*

- a. *The applicant requesting such a change shall send a written notification to all property owners within 100 feet of the subject parcel at their last known address, the record of ownership and last known address being that which is currently on file at the Beaufort County Assessor's Office. In cases where the owners of record of real property within 100 feet of the parcel under consideration are part of a condominium or*

*time-share development, the applicant shall also notify the regime/association manager. The notification shall be sent by first class mail no less than 30 calendar days prior to the scheduled Design Review Board (DRB) meeting. The written notification shall be approved by the Administrator prior to being mailed, and the notification shall state that all comments about the proposed amendment shall be directed to the Administrator. The applicant shall submit to the Administrator not less than 7 calendar days prior to the DRB meeting an affidavit of compliance with the notice requirement including a list of all owners to which a notice was mailed.*

- b. The applicant requesting such a change shall submit to the Administrator written consent from the PUD property owners' association.*
- c. If the Administrator determines that the change does not have the support of the affected property owners, the request for a minor amendment will be denied. The applicant may then propose to rezone the Official Zoning Map as described in Chapter 3, Article XV [Amendments to Zoning Map].*

Five property owners were determined to be located within 100 feet of the subject parcel. Upon notification, two property owners responded in favor of the request, two property owners responded opposed to the request, and one property owner did not respond. Property owners were notified that if they choose not to respond to the notification, they would be considered not opposed to (or in favor of) the request. With three out of five property owners in favor of the request, the Administrator determines that a majority of the affected property owners support the request.

Although this information was not considered in the determination, staff received 316 emails in support of the request and 17 emails opposed to the request (one containing a petition with 57 signatures). Staff is also aware that the Property Owner's Association for Hilton Head Plantation took a resident survey in 2012 that resulted in a response of 84% that would not object to a cell tower in Hilton Head Plantation.

### **Sec. 16-3-1707. – Minor Amendments**

- A. The following minor amendments to PUD master plans listed in Sec. 16-4-209, Sec. 16-4-604 or associated master plan text shall be reviewed and, if appropriate, approved by the Administrator:
1. Changes which result in a decrease in assigned density or intensity for a specific parcel, either residential or nonresidential.
  2. Change in land use designation from multifamily to single family or a change from any other use to open space/passive recreation.
  3. Change in land use designation of any non-single family residential use to allow a telecommunications facility.
    - a. The applicant requesting such a change shall send a written notification to all property owners within 100 feet of the subject parcel at their last known address, the record of ownership and last known address being that which is currently on file at the Beaufort County Assessor's Office. In cases where the owners of record of real property within 100 feet of the parcel under consideration are part of a condominium or time-share development, the applicant shall also notify the regime/association manager. The notification shall be sent by first class mail no less than 30 calendar days prior to the scheduled Design Review Board (DRB) meeting. The written notification shall be approved by the Administrator prior to being mailed, and the notification shall state that all comments about the proposed amendment shall be directed to the Administrator. The applicant shall submit to the Administrator not less than 7 calendar days prior to the DRB meeting an affidavit of compliance with the notice requirement including a list of all owners to which a notice was mailed.
    - b. The applicant requesting such a change shall submit to the Administrator written consent from the PUD property owners' association.
    - c. If the Administrator determines that the change does not have the support of the affected property owners, the request for a minor amendment will be denied. The applicant may then propose to rezone the Official Zoning Map as described in Chapter 3, Article XV [Amendments to Zoning Map].

September 20, 2013

RE: Notice of Zoning Map Amendment Application

Dear Property Owner:

Pursuant to the Town of Hilton Head Island's Land Management Ordinance, Section 16-3-171A.3, you are hereby notified and invited to comment upon application ZMA130005.

ZMA130005: An application to amend the Land Management Ordinance Section 16-4-102, the Official Zoning Map, by amending the Hilton Head Plantation Master Plan to add Telecommunications Facilities as a permitted use on property located at 68 Dolphin Head Drive.

Documents related to the proposed amendment are available for public inspection between 8:00am and 4:30pm, Monday through Friday, at the Information Center, located at One Town Center Court, Hilton Head Island. If you have questions regarding this case, please contact Jayme Lopko at 341-4695.

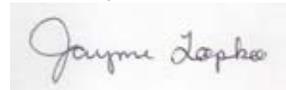
Comments regarding this application are to be sent via email or mail by Tuesday October 22, 2013 to:

Jayme Lopko  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
[jaymel@hiltonheadislandsc.gov](mailto:jaymel@hiltonheadislandsc.gov)

By not responding to this notification, you will be considered in support of or not opposed to this application.

**If you have already responded to this application, your comments are already part of the record and you do not need to respond again.**

Sincerely,



Jayme Lopko, AICP  
Senior Planner

**LETTERS FROM PROPERTY OWNERS WITHIN 100 FEET OF THE SUBJECT PROPERTY**

---

Dear Ms. Lopko:

I am opposed to the request to install a Telecommunications Facilities as permitted use on the property located at 68 Dolphin Head Drive, reference Case # DR 130032 as communicated in an 8/9/2013 memo from Mr. Terry Thomas of EMEGC.

The proposed use violates "open space" restrictions. The property that was conveyed to the Hilton Head Property Owners Association (HHPPOA) as open space states that property is restricted to "Open Space and no other use whatever". This was addressed by Mr. Chester Williams in his March 22, 2013 letter to Shea Farrar. I assume you have a copy of this correspondence.

Easement rights of HHPPOA was also addressed in Mr. Williams March 22, 2013 (page 3). My understanding is the HHPPOA does not have the right under the Amended POA Covenants to dedicate or transfer any easements to any person or entity other than a "public or private utility" . I do not believe that either EMEGC or Crown Castle International are private or public utilities.

The subject property is owned by the property owners of Hilton Head Plantation (HHPPOA). The proposed use of this property has not been approved by a vote of the property owners.

Some other items I have noticed with the documentation process includes : Mr. Peter Kristian signed as owner on the affidavit of ownership. It seems to me that the owner should be indicated as HHPPOA with Mr. Kristian signing as General Manager, not owner. Also, the certified letter I received from EMEGC on the public hearing date failed to mention comments could be sent via email or mail and that by not responding to this notification, you will be considered in support of or not opposed to this application.

Please consider this email my opposition to this project in the event I cannot attend the September 10, 2013 Public Hearing.

Regards,  
Barry Moss

---

My wife and I would like to go on record opposing the construction of the 140' monopine communication tower located at 68 Dolphin Head Drive. We feel that the tower would devalue our property Lot 10 directly across Dolphin Head Drive. Let's face it Hilton Head Plantation is a gated residential area. Commercial enterprises should not be allowed. Michael and Muriel Angelo

---

Jayme- Please consider this email Hilton Head Plantation POA's Official support for the Cell tower/Monopine project planned for the area between White Tail Deer Lane and Dolphin Head Drive in Hilton Head Plantation.

Peter Kristian, GM

---

Jayme,

I want you to know that I am a resident of a house on Dolphin Head Drive very close to the location of the cell tower to be installed to improve our cell phone reception and I am strongly IN FAVOR of the tower's installation. I have been walking out into my driveway in order to get acceptable phone reception and am eager to have the new cell phone tower in place to improve my communications no only with family members in other states, but also with local callers. But even more important than improving my personal

cell phone service, I think it is imperative to have this new cell phone tower to improve the quality of phone service for all the residents in Hilton Head Plantation, which in turn will enhance the value of our homes.

The objections I have heard based on both appearance and detriment to our health seem ludicrous. We won't see the tower way above the trees, and I don't believe the allegations that our health will be impacted by proximity to the tower.

Thank you for hearing my opinion and my ENDORSEMENT of the cell phone tower at 68 Dolphin Head Drive in Hilton Head Plantation.

Mary-Stuart Alderman

---

Ms. Lopko,

I am one of the neighboring property owners who has received the Notice of Zoning Map Amendment Application ZMA130005, regarding the addition of Telecommunications Facilities as a permitted use on property located at 68 Dolphin Head Drive. For eleven years, I have owned and lived in the home at 67 Dolphin Head Drive, which is directly across Dolphin Head Drive from the proposed site. I wish to express my full, strong support for the Amendment, and also for the subsequent construction of the proposed telecommunications tower as soon as possible. The reasons for my support are as follows:

- 1) Wireless voice and data reception is intermittent at best through much of Hilton Head Plantation, including my neighborhood. That is simply unacceptable in a community where most families require good reception for family communications, business, and emergencies. Reliable reception is no longer an optional part of life today - it is a necessity. This is a quality of life issue, and communities without decent reception will not fare well in the coming years.
- 2) I have attended the meetings where studies have presented the best technologies and optimal tower sizes and locations for Hilton Head Plantation. The studies and conclusions seem well-reasoned and credible to me, so I believe the proposed location on Dolphin Head Drive will provide the most benefit to me and my neighbors throughout this part of the Island.
- 3) In my view, the visual impact of the tower and facilities will be minimal. The angled views toward the top of the tower will be effectively screened by the thick tree cover on all sides. It is the ground level views that will be of most concern, and I am convinced that the equipment enclosure, the landscaping, and the access drive will be completed in a way that will effectively mitigate any significant view concerns.
- 4) I have researched health and safety issues related to cell towers and telecommunications equipment, and I do not believe that the health and safety of the site's closest neighbors, including my family, will be affected.
- 5) Property values are always of concern when changes are made in a community. In my opinion, any negative impact caused by the physical presence of a tower in this location will be very minimal, if any. Conversely, the positive property value impact of much improved voice and data reception will be significant, I believe.

6) In sum, this Amendment and the proposed improvements are for the common good of the citizens of Hilton Head Plantation and Hilton Head Island. I hope that decisions on this Amendment will be based not only upon the minimal impacts to immediate neighbors, but rather upon the need to improve this essential service for the common good of the broader community.

Thank you for accepting my comments. Could you please acknowledge receipt of this email, so I can know it has been received?

John D. Alderman



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

<b>FOR OFFICIAL USE ONLY</b>	
Date Received:	_____
Accepted by:	_____
App. #: ZMA	_____
Meeting Date:	_____

Applicant/Agent Name: Terry Thomas Company: E.M. Enterprises General Contractors, Inc.  
 Mailing Address: 3615 E Lake Ave City: Tampa State: FL Zip: 33610  
 Telephone: 813-241-9000 Fax: 813-241-9001 E-mail: terry.thomas@emegc.com

Project Name: Hilton Head Plantation Project Address: 68 Dolphin Head Dr. Hilton Head Island, SC  
 Parcel Number [PIN]: R5 1 0 0 0 3 0 0 0 0 0 6 0 0 0 0 0  
 Zoning District: \_\_\_\_\_ Overlay District(s): \_\_\_\_\_ Requested District: \_\_\_\_\_  
 PD-1 Existing Land Use: Open Space PD-1 Proposed Land Use: Open Space/Telecommunications

**ZONING MAP AMENDMENT (ZMA) SUBMITTAL REQUIREMENTS**

Digital Submissions may be accepted via e-mail by calling 843-341-4757. The following items must be attached in order for this application to be complete:

- Affidavit of Ownership and Hold Harmless Permission to Enter Property
- A narrative that explains the reason(s) for the rezoning request and how the request meets the criteria of LMO Section 16-3-1505. Review Criteria.
- A copy of correspondence providing notice of a public hearing to all land owners of record within three hundred and fifty (350) feet on all sides of the parcel(s) being considered for the zoning map amendment. Such notice shall be mailed by first class mail thirty days (30) prior to the Planning Commission meeting per LMO Section 16-3-111C. Mailed Notice. A sample letter can be obtained at the time of submittal. Also provide a list of owners of record to receive notification. The Town can assist in providing this listing by calling 843-341-4757.
- \_\_\_\_\_ Where applicable, a copy of correspondence requesting written comments from the appropriate property owners' association regarding the requested amendment per LMO Section 16-3-1502.B. The Town can assist in providing this information by calling 843-341-4757.
- A boundary map prepared and sealed by a registered land surveyor. Submit an 11X17 inch (or smaller) reproducible copy of the plan.
- Filing Fee - \$500 cash or check made payable to the Town of Hilton Head Island

Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If yes, a copy of the private covenants and/or restrictions must be submitted with this application.  YES  NO

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

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

Terry Thomas  
 SIGNATURE

8-6-13  
 DATE



August 6, 2013

Town of Hilton Head Island  
Community Development Department

Re: Crown Castle International -Application for Stealth Monopine Tower  
Telecommunications Site Development, 68 Dolphin Head Dr., Hilton Head Island, SC

Our application is for a stealth monopine 140' in height. Crown Castle International will be the owner of the tower and Verizon Wireless is the anchor tenant with the need to provide improved service in the designated search area. The tower is centered at coordinates 32° 15' 20.26" N 80° 43' 13.18" W. The tower height needed by Verizon Wireless is 140' as communicated by their RF Engineer. There are no existing towers in the search area and there are no tall structures of adequate height therefore there are no collocation possibilities.

The proposed location was chosen because it is at the center of the search area; it is zoned "Open Space" and is not adjacent to residentially zoned properties. We are asking to change the zoning designation from "Open Space" to "Open Space/ Telecommunications" The current use of the parent tract is a recreational trail and mostly wooded with tall pines. The proposed tower will be designed with a 33' fall radius so as not to interfere with any surrounding structures. The monopine is designed to accommodate up to four cell carriers including Verizon Wireless. A landscape buffer will be installed to help the facility blend into the surroundings. We intend to fully comply with all sections of the code regarding this site development application.

Sincerely,

Terry Thomas  
Site Development Manager  
E.M. Enterprises General Contractors, Inc.  
3615 E. Lake Ave.  
Tampa, Fl 33610  
office (813)470-7773  
Cell (727)254-7458  
fax (813)241-9001  
[terry.thomas@emege.com](mailto:terry.thomas@emege.com)



# **TOWN OF HILTON HEAD ISLAND**

*Community Development Department*

**TO:** Board of Zoning Appeals  
**FROM:** Nicole Dixon, CFM, *Senior Planner*  
**DATE:** December 2, 2013  
**SUBJECT:** Revisions to Rules of Procedures

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At the November 25, 2013 Board of Zoning Appeals meeting, staff presented the revisions to the Rules of Procedure, which included procedures on how the Board shall handle a Motion to Dismiss request and other types of motions. The Board informed staff that they would email any comments to me. I only received comments back from Mr. Glen Stanford, which have been included in the attached document.

*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 9<sup>th</sup> month of each Board year.

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

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

1. A Motion to Dismiss may assert matters relating to procedure or jurisdiction, including 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, in his sole discretion, may permit the motion to be heard at an earlier meeting.

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

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

The Chairman or Vice Chairman, in the absence of the Chairman, may for good cause grant one postponement request for a period of up to three months from the 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

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

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

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

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

## TYPES OF VOTES

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



# **TOWN OF HILTON HEAD ISLAND**

*Community Development Department*

**TO:** Board of Zoning Appeals  
**FROM:** Nicole Dixon, CFM, *Senior Planner*  
**DATE:** December 2, 2013  
**SUBJECT:** Administrative Waivers

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

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

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

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

There have been no administrative waivers granted by staff since the November Board of Zoning Appeals meeting.