



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, September 23, at 2:30p.m
Benjamin M. Racusin Council Chambers
REVISED AGENDA

1. Call to Order

2. Roll Call

3. Freedom of Information Act Compliance

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

4. Wireless Telephone Usage

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

6. Chairman's Welcome and Introduction to Board Procedures

7. Approval of Agenda

8. Approval of Minutes – July 22, 2013

9. Unfinished Business

None

10. New Business

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

SER130002: Paige Grisette is requesting special exception approval from Land Management Ordinance Section 16-4-1204, Use Table, to allow a kennel and boarding in the Commercial Center (CC) Zoning District. The property is located at 77 Arrow Road and is further identified as parcel 842 on Beaufort County Tax Map 14. *Presented by: Nicole Dixon*

VAR130007: Roger Freedman is requesting a variance from Land Management Ordinance Sections 16-5-704, Minimum Required Setback Area, 16-5-806, Required Buffers, and 16-5-809, Permitted Activity in Other Buffer Areas, to allow an aerial ropes course to be located in the adjacent use setback and buffer. The property is called Zip Line Hilton Head, located at 33 Broad Creek Marina Way and is further identified as parcel 379 on Beaufort County Tax Map 11. *Presented by: Nicole Dixon*

Motion to dismiss appeal filed by Curtis L. Coltrane on behalf of Alethea W. Jackson and David Jackson

11. Board Business

12. Staff Report

a) Waiver Report: Presented by Nicole Dixon

13. Adjournment

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

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the Monday, July 22, 2013 Meeting
2:30p.m. - Benjamin M. Racusin Council Chambers

DRAFT

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

Board Members Absent: Stephen Murphy

Council Members Present: Mayor Drew A. Laughlin, Bill Harkins, George Williams and John McCann

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Brian Hulbert, Board Attorney
Charles Cousins, Director of Community Development
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. Swearing in of Continuing and New Board Members – Mr. Peter Kristian, Mr. David Fingerhut and Mr. P. Jeffrey North

Mayor Drew Laughlin performed the swearing in ceremony for continuing Board member, Mr. Peter Kristian, and new Board members, Mr. David Fingerhut and Mr. P. Jeffrey North. Mayor Laughlin expressed his appreciation to Mr. Kristian, Mr. Fingerhut, and Mr. North for their service to the Board of Zoning Appeals and to the community.

5. Introduction to Board Procedures

Chairman Kristian stated that the Board's meeting procedures will be reviewed following the approval of the agenda and the draft minutes of the June 24, 2013 meeting.

6. Approval of the Agenda

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

7. Approval of the Minutes

Vice Chairman Stanford made a **motion** to **approve** the minutes of the June 24, 2013 meeting as presented. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 4-0-2.

8. Unfinished Business

None

9. Executive Session to discuss legal matters

Chairman Kristian requested that a motion be made for the Board to go into an Executive Session. The purpose of the Executive Session is to discuss legal issues associated with the Motion to Dismiss submitted by Sea Pines, LLC, and to receive legal advice from Brian Hulbert, Board Attorney.

Vice Chairman Stanford made a **motion** that the Board should go into an Executive Session to discuss legal issues associated with the Motion to Dismiss the Appeal and to receive legal advice from Brian Hulbert, Board Attorney. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 6-0-0.

The Board called a recess and went into Executive Session at 2:40p.m. The Executive Session ended at 3:10p.m. Chairman Kristian requested that a motion be made to reconvene the meeting at 3:10p.m.

Vice Chairman Stanford made a **motion** for the Board to reconvene their meeting at 3:10p.m. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 6-0-0. Chairman Kristian reported to those in attendance that the Board received legal advice in the Executive Session from Brian Hulbert, Board Attorney and no decisions were made.

10. New Business

a) Motion to dismiss appeal of Sea Pines Resort, LLC

Chairman Kristian stated that the Board will break this New Business issue down into several parts. The first issue to be considered is whether there is an objection to hearing the motion before the Board today. Chairman Kristian recognized the presence of Mrs. Susan Ehmke, the appellant, and requested that she present statements to the Board.

Mrs. Susan Ehmke prefaced her statements by requesting that Board member, Mr. Michael Lawrence, recuse himself from the discussion. Mrs. Ehmke stated that she believes that Mr. Lawrence has a professional conflict of interest due to his professional association with Sea Pines Resort, LLC.

Chairman Kristian asked Mr. Lawrence if he felt that he should recuse himself from the discussion. Mr. Lawrence stated that he believes he has no conflict of interest in this matter. Mr. Lawrence stated that he has discussed his association with Sea Pines Resort with his own legal counsel and with staff. Mr. Lawrence stated that he believes that he has no professional conflict of interest in deciding this matter.

Chairman Kristian then requested that Mrs. Ehmke state her reasons for believing that the Board should not hear the Motion to Dismiss Appeal of Sea Pines Resort, LLC, determination. Mrs. Ehmke stated that there is no provision in the South Carolina Code or in the Land Management Ordinance (LMO) that permits the Board of Zoning Appeals to hear a motion to dismiss. Mrs. Ehmke stated that the LMO does not provide for the submission of any motion to the Board of Zoning Appeals. The Board is without the authority required to hear the Motion to Dismiss filed by Sea Pines Resort, LLC. Mrs. Ehmke further stated that questions regarding the appellant's standing should be addressed

by the Board at the August 26, 2013 meeting as originally scheduled. Mrs. Ehmke stated that the appellant has followed all of the required rules and regulations set forth by the LMO in the filing of the application for appeal.

Chairman Kristian thanked Mrs. Ehmke for her comments and requested that statements be made by a representative of Sea Pines Resort, LLC.

Andy Gowder, Esquire, legal representative for Sea Pines Resort, LLC, presented statements on behalf of his client. Mr. Gowder stated that fundamentally the Board of Zoning Appeals can and should make a determination whether it has jurisdiction on any appeal. If the Board of Zoning Appeals can on its own decide to dismiss an appeal, surely it can also hear a motion to do so. Mr. Gowder stated that the merits of this case may not be well founded. Mr. Gowder stated that it is within the Board's jurisdiction to determine their own jurisdiction and to determine whether or not the appellant has any standing at all to raise an appeal.

After hearing both sides of this issue and receiving comments from the Board, Chairman Kristian requested that a motion be made on whether to proceed today on the Motion to Dismiss the Appeal.

Vice Chairman Stanford made a **motion** that the Board of Zoning Appeals should proceed today on hearing the Motion to Dismiss the Appeal. The Board of Zoning Appeals **has the power** and the **authority** to hear a Motion to Dismiss as this is an inherent power of the Board of Zoning Appeals. Mr. North **seconded** the motion and the motion **passed** with a vote of 6-0-0. Chairman Kristian stated that the Board will **hear** the Motion to Dismiss the Appeal.

Chairman Kristian then stated that the next item to be discussed by the Board is the untimely receipt of documents from the appellant. The Board received a number of documents today that, according to the Rules of Procedure, are out of order due to their late submission. Chairman Kristian stated that the Board will review the documents provided today from Mrs. Ehmke without giving any veracity to their contents.

Chairman Kristian stated that the Board will now consider the issue of standing. Chairman Kristian requested that Mrs. Ehmke present statements to the Board regarding who the applicant is on the appeal.

Mrs. Ehmke stated that her name appears on the application for appeal; however, there are actually a total of 26 applicants involved in the appeal. Mrs. Ehmke stated that the application for appeal was filed under the direction of staff with Mrs. Ehmke shown as agent for other applicants. The Board and Mrs. Ehmke discussed her appointment as agent.

Vice Chairman Stanford stated that the documents showing that Mrs. Ehmke was appointed as agent for other property owners were received by the Board after the date the application was filed. Mrs. Ehmke stated that this statement is incorrect and does not apply to all of the other property owners involved in this case.

Following this discussion, Chairman Kristian requested statements from the staff and none were received. Chairman Kristian then invited a response to Mrs. Ehmke's statements from Mr. Gowder, legal representative for Sea Pines Resort, LLC.

Mr. Gowder stated that there is only one appellant for this application and that is Mrs. Susan Ehmke. There is no provision in the ordinances for filing an appeal by an agent. The agent provision comes from a different section of the LMO and does not apply in this case. There is no agent involved in the process and no one else has signed a notice of appeal. Mr. Gowder stated that under the statute there is nothing indicating that Mrs. Ehmke has been appointed as agent for other property owners in this case.

Mrs. Ehmke stated her objection to Mr. Gowder's statements regarding the appointment of agent. It is incorrect to state that there is no provision for multiple appellants under one appeal. Mrs. Ehmke stated that there is no provision for hearing this motion in the BZA section of the LMO. Mrs. Ehmke stated that she followed the staff's advice for filing the application for appeal showing her as agent.

Mr. Gowder presented legal statements regarding the staff's involvement in this issue. If an ordinance or rule is clear on its face, and a Town official makes an error in its interpretation, the person who received the information is not entitled to rely on it. Mr. Gowder presented legal comments with regard to Standing Laws.

Mr. North presented legal statements regarding the Board's Rules of Procedure, Section VII, Filing of Legal Fees and Notice. Vice Chairman Kristian stated that the Board is trying to determine whether there is some type of written authority that Mrs. Ehmke is relying on in this matter. The question before the Board is whether Mrs. Ehmke is the sole appellant, or is this situation broader than that. Following a brief discussion, Chairman Kristian requested that a motion on this issue be made.

Vice Chairman Stanford made a **motion** to **deny** the appeal by the persons listed other than Mrs. Susan Ehmke. The motion is made on the grounds that only Mrs. Ehmke signed the application for appeal. There was no written authority on her behalf at the time it was filed to support any agency or representation of those other purported appellants. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 6-0-0.

Chairman Kristian stated that the Board will now consider the actual motion that is before them. The Board will now hear from both sides of this issue. There will be no public comment as this is a consideration of a motion by the Board. Chairman Kristian invited Mr. Gowder to present statements in support of his position on this issue.

Mr. Gowder stated that Mrs. Ehmke has failed to demonstrate in her application that she has standing based on either statutory or constitutional standing. Mrs. Ehmke states that she is not relaying on constitutional standing - only on statutory standing. Mr. Gowder stated that, in accordance with the LMO, the only people who can appeal are the people living within 350-feet or outside of 350-feet who are affected by the action. Mrs. Ehmke does not live within 350-feet of the site. In fact, Mrs. Ehmke lives several miles from the site, so the question becomes, is Mrs. Ehmke affected to the point that she can bring an appeal before the Board of Zoning Appeals. Mr. Gowder presented statements regarding case law of South Carolina with regard to the specificity of the level of harm that has to be applied to someone in order to be able to claim standing. Mr. Gowder stated that Mrs. Ehmke has not met this standing.

Mrs. Ehmke has claimed that she is harmed by a reduction in the number of available

parking spaces at the Sea Pines Resort. Mrs. Ehmke's standing is not sufficient to raise an appeal because Mrs. Ehmke is not harmed any more or any less than any other resident of Sea Pines by the reduction in parking spaces at the Sea Pines Resort.

The covenants state that the requirement is 50 parking spaces and the total parking available parking spaces is 158 (three times the requirement). Mr. Gowder stated that Mrs. Ehmke does not agree with the decision made by staff, which is her right. However, there is no constitutional or jurisdictional standard sufficient to support this appeal.

The Board discussed the appellant's position on this issue. The Board discussed statutory standing and constitutional standing. Does Mrs. Ehmke have a particularized injury that she can only address by appealing this matter, or is it an objective that she has that may be shared by others more generally. The Board and Mr. Gowder discussed a similar legal case in Sea Pines that was decided previously. Following this discussion, Chairman Kristian invited Mrs. Ehmke to present additional comments.

Mrs. Ehmke presented statements regarding the issue of constitutional standing. Mrs. Ehmke stated that her position is jurisdictional rather than constitutional. The Planning Commission made the determination that the use of the Sea Pines Resort building will be changed to an active park. Mrs. Ehmke stated that she is adversely affected by her residence being located two or three miles from the site. Mrs. Ehmke stated that her standing is based on the statute and not on constitution. Mrs. Ehmke stated that she would have to drive to the beach club and compete for a more limited number of parking spaces under this determination than if the Sea Pines Resort were a commercial enterprise.

Mrs. Ehmke stated that she is injured by the need to compete for fewer available parking spots. Mrs. Ehmke stated that her argument is with the statute (LMO) rather than with staff's decision on this issue. Mrs. Ehmke stated that the staff's determination was incorrectly made.

The Board discussed the location of Mrs. Ehmke's property in relationship to other properties in Sea Pines. Mr. Gowder stated that Mrs. Ehmke's perceived injury in this matter is not sufficient to constitute a basis for standing.

Mrs. Ehmke presented additional statements in opposition to the LMO. The issue is not that she doesn't like the decision made by staff; the determination is against the LMO. As a result of that determination, Mrs. Ehmke has become an aggrieved person due to the reduction in available parking spaces. Following final comments, Chairman Kristian stated that the input portion of the meeting is closed.

Chairman Kristian invited discussion by the Board members regarding the issue of dismissing the appeal based on the lack of standing.

Vice Chairman Stanford stated that he does not see where there has been proof of specific harm beyond the general interest of those who are entitled access to the Beach Club.

Mr. North presented statements regarding the threshold level of Mrs. Ehmke's standing. Mr. North stated that looking at the LMO, looking at the words 'aggrieved affected by a decision', Mrs. Ehmke clearly has standing. If she can ultimately win her application for appeal a month from now is another matter altogether. However, from a threshold

standpoint, of whether she has standing to bring this claim, she has satisfied that.

Mr. Fingerhut stated his agreement with the statements presented by Mr. North. Mr. Fingerhut stated that the Land Management Ordinance sets forth a very low threshold for an aggrieved party. Mr. Fingerhut presented comments with regard to similar legal cases provided to the Board. Mr. Fingerhut also presented statements as to the distinction between constitutional standing and statutory standing. The LMO's use of the word 'may' presents a very low threshold. Following final comments by the Board, Chairman Kristian requested that a motion be made.

Mr. North made a **motion** that the Board should **deny** the Motion to Dismiss. Mr. Fingerhut **seconded** the motion. Prior to a vote being taken on the motion, Brian Hulbert, Board Attorney, requested that Mr. North clarify his motion by including additional information. Mr. North restated his motion as follows: The Board should **deny** the Motion to Dismiss specifically as to Mrs. Susan Ehmke's appeal to this Board. Mr. Fingerhut **seconded** the restated motion. The motion **failed** with a vote of 3-2-1, Mr. Lawrence stated that he *abstained* from the motion. Based on the failure of this motion, Chairman Kristian requested that a second motion be made.

Vice Chairman Stanford made a **motion** that the Board should **grant** the Motion to Dismiss the Appeal based on the fact that Mrs. Ehmke has failed to state any specific harm beyond that of the general population permitted to use the Sea Pines Beach Club. Mr. Campbell **seconded** the **motion** and the motion **passed** with a vote of 4-2-0. Mr. North and Mr. Fingerhut were **opposed** to the motion.

Chairman Kristian stated that this concludes the matter and the Application for Appeal will not appear on the August 26, 2013 agenda.

11. Board Business

None

12. Staff Report

- a) Waiver Report - Ms. Nicole Dixon presented the Waiver Report on behalf of staff.
- b) Board Training - The staff's training on Wetlands Preservation is canceled due to today's lengthy business meeting. The training will be rescheduled.

13. Adjournment

The meeting was adjourned at 3:50p.m.

Submitted By:

Approved By:

Kathleen Carlin
Secretary

Peter Kristian
Chairman



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
VIA: Nicole Dixon, *Senior Planner and Board Coordinator*
FROM: Teri Lewis, *LMO Official*
DATE: July 26, 2013
SUBJECT: Appeal 130004

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

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, Correspondence between Town staff and Bonnie Fisher, Correspondence from the Floors to Go Director of Marketing, Before and After photographs, Photographs of another flooring store, Photographs of other nearby storefronts and Sign Determination from Teri B. Lewis. Please note that all photographs were submitted by the appellant

Staff reserves the right to submit additional documents.

If you have any questions, please contact Teri Lewis at 341-4698 or 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

FOR OFFICIAL USE ONLY	
Date Received:	6-26-13
Accepted by:	SW
App. #: APL	130004
Meeting Date:	

Applicant/Agent Name: Bonnie & Steve Fisher Company: Floors To Go
Mailing Address: P.O. Box 7787 City: Hilton Head State: SC Zip: 29928
Telephone: 843-681-4925 Fax: 843-681-4624 E-mail: bonnie.fisher@hiltonheadsc.gov

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: Bonnie Fisher Date: 6/24/13



July 19, 2013

Re: Request for Appeal

Formal Determination letter received July 16, 2013 stating that Floors To Go window treatment are signs. Letter attached.

This letter is to ask for an appeal of the Town Of Hilton Head Island's decision to have us (Floors to Go) remove our window treatments/sun protectors from our front windows at 123 Mathews Drive on Hilton Head Island. After talking to Anne Cyran, AICP, and her conferring with Teri Lewis, the decision was made to have us remove the treatments. This decision was made and emailed to me on May 20th and we were given until May 13th to take them down. I am enclosing a copy of all emails pertaining to the decision.

We (Floors To Go) are appealing on the basis that our beautiful window treatments are just that, window treatments. They are not signs. They were sold to us, and were very expensive, as window treatments and sun protectors. They stick to the windows and you can see out just as you would with any window treatments. They do not block the view at all. Our corporate company in Naples Florida came up with this idea to beautify our store fronts and it has worked everywhere. According to them no one has ever complained about them.

We have been trying very hard to make our building look attractive and to change the image that the area has had for some time. Everyone says

how beautiful the building looks and how this area needs more businesses like ours. If we have to remove them we will be forced to make our windows look cheap by putting posters and sale signs which we do not want to do. We have an upscale showroom and do not want to cheapen it in any way. I have enclosed before and after photos of the store front as well as pictures of other stores so you can see the difference and how our store front really makes a difference. I should hope the Town of Hilton Head Island would want all businesses to look up scale.

Thank you,

Steve and Bonnie Fisher
Floors To Go
123 Mathews Drive
Hilton Head Island, SC 29926
843-681-4925
Fax: 843-681-4924
bonnie.ftg@hargray.com

Bonnie Fisher

From: Cyran Anne [annec@hiltonheadislandsc.gov]
Sent: Thursday, May 30, 2013 11:03 AM
To: Bonnie
Cc: Lewis Teri; Garcia Jonathan
Subject: RE: Town of Hilton Head Island Sign Regulations

Bonnie,

Though these window treatments keep the sun out, they are also considered window signs because they picture the type of products that Floors to Go sells. The Town policy is that any sign that is either physically on a window or is located within three feet of a window is considered a window sign. I'll be sure to check Stein Mart to ensure they are meeting the same requirements. We are also working with other businesses to change their window signs to comply with the Land Management Ordinance. We strive to be as equitable as possible in our enforcement of the Town's ordinances.

Sincerely,

Anne Cyran, AICP
 Senior Planner
 Town of Hilton Head Island
 (843) 341-4697

From: Bonnie [mailto:bonnie.ftg@hargray.com]
Sent: Wednesday, May 29, 2013 8:48 PM
To: Cyran Anne
Subject: Re: Town of Hilton Head Island Sign Regulations

Anne, honestly they are window treatments to keep the sun out. They are room scenes but not our products. They are generic products. Nothing that we carry. They are not signs at all. I am responding to you guys in hopes that you will see that it would be very unfair to make us remove them. If you look at other stores for instance Steinmart, they have displays in their windows that are exactly what they are selling. What is the difference? Ours are even different from theirs. I am just trying to figure why some stores are allowed to advertise in their windows when we are only trying to cover our windows in an attractive way. I am very disappointed in your handling of this matter. I guess is the Town of Hilton Head really does not have small businesses in their best interest as we were warned. It makes me really sad.

Sincerely,
 Bonnie Fisher
 Floors To Go

----- Original Message -----

From: Cyran Anne
To: Bonnie Fisher
Cc: Lewis Teri ; Garcia Jonathan
Sent: Wednesday, May 29, 2013 7:26 PM
Subject: RE: Town of Hilton Head Island Sign Regulations

Bonnie,

6/24/2013

I conferred with Teri Lewis, the LMO Official, who confirmed that these are window signs since they picture the products offered by Floors-to-Go.

Please ensure these are removed no later than Thursday, June 13.

Sincerely,

Anne Cyran, AICP
Senior Planner
Town of Hilton Head Island
(843) 341-4697

From: Bonnie Fisher [<mailto:bonnie.ftg@hargray.com>]
Sent: Monday, May 20, 2013 3:38 PM
To: Cyran Anne
Subject: RE: Town of Hilton Head Island Sign Regulations

Anne, thank you so much for getting back. I kind of figured that you didn't get it. That happens sometimes with emails. It makes you wonder where they really go lol. I look forward to hearing back from you soon.

Thanks again for your help. I hope you have a blessed week.

Bonnie Fisher
Floors To Go

From: Cyran Anne [<mailto:annec@hiltonheadislandsc.gov>]
Sent: Monday, May 20, 2013 3:24 PM
To: Bonnie Fisher
Subject: RE: Town of Hilton Head Island Sign Regulations

Bonnie,

I hadn't received the email you sent on May 16, so thank you for re-sending it.

Teri Lewis, the LMO Official, is reviewing this matter. I will respond as soon as I receive her determination.

Sincerely,

Anne Cyran, AICP
Senior Planner
Town of Hilton Head Island
(843) 341-4697

From: Bonnie Fisher [<mailto:bonnie.ftg@hargray.com>]
Sent: Friday, May 17, 2013 1:09 PM
To: Cyran Anne
Subject: FW: Town of Hilton Head Island Sign Regulations

Hello Anne, I have not heard back from you so I just want to make sure that you did receive this email. Hope you have a very blessed weekend.

Bonnie Fisher
 Floors To Go

From: Bonnie Fisher [<mailto:bonnie.ftg@hargray.com>]
Sent: Thursday, May 16, 2013 11:28 AM
To: 'stacie'
Subject: RE: Town of Hilton Head Island Sign Regulations

Hello Anne, this email was just forwarded to me. I apologize for any misconfusion. The window coverings are not signs at all. They are window treatments. They were ordered as window treatments and sun protectors for your windows. I hope this will clear things up. If you need the name and phone number of the company we bought them from I will be happy to give it to you. They can verify that they are window treatments. All we are trying to do is to make this section of Mathews Drive look more appealing to everyone. You know it has not looked so good for some time. People that aren't even our customers comment on how nice it is to see the building look good after the previous tenants moved out.

Thank you so much,
 Bonnie Fisher
 Floors To Go

From: stacie [<mailto:stacie.ftg@hargray.com>]
Sent: Thursday, May 16, 2013 11:06 AM
To: 'Bonnie'
Subject: FW: Town of Hilton Head Island Sign Regulations
Importance: High

Email from Town of Hilton Head Island.

From: Cyran Anne [<mailto:annec@hiltonheadislandsc.gov>]
Sent: Thursday, May 09, 2013 9:20 AM
To: Stacie.ftg@hargray.com
Cc: Garcia Jonathan
Subject: Town of Hilton Head Island Sign Regulations

Good morning Stacie,

I just left a voicemail for you regarding the window signs at Floors to Go. The Town of Hilton Head Island Land Management Ordinance (LMO) regulates the use of commercial signs on the island. LMO Section 16-5-1322.P (attached) states that window signs cannot exceed four square feet in size and that the window signs cannot cover more than 25% of the total area of glass on that side of the building. Since the Floors to Go window signs do not conform to either of these standards, they are considered prohibited and must be removed no later than Friday, May 17.

The sign maker who installed the signs has been informed of this section of the ordinance.

Please contact me if you have any questions.

Sincerely,

Anne Cyran, AICP
Senior Planner
Town of Hilton Head Island
(843) 341-4697

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Floors To Go by High Tide

Attn: Bonnie Fisher

123 Matthews Drive

Hilton Head Island, SC 29926

Dear Bonnie,

Thank you for sending the "before and after" photos of the exterior of your business. The new window fashion tint has made a dramatic improvement to your store front and I'm sure the surrounding community is thankful you've beautified a section of their town. The business that was there before you didn't seem to have the sense of fashion and style as you do.

This has been one of the most successful programs we've launched from corporate and many of our store owners across the country are using this fashion tint to beautify their businesses and communities as well.

Great job!

Sincerely,

Bill Wilson

Director of Marketing - Floors To Go

Before



After



Before



After



Before



Money

WE BUY
GOLD
GUNS

DIAMONDS

ROLEX
WATCHES

ELECTRONICS

POWER
TOOLS

PAVING SUPPLY ONLY

After



After

Floor To Go

HARDWOOD LAMINATE

PARKING FOR Floor To Go

Floor To Go



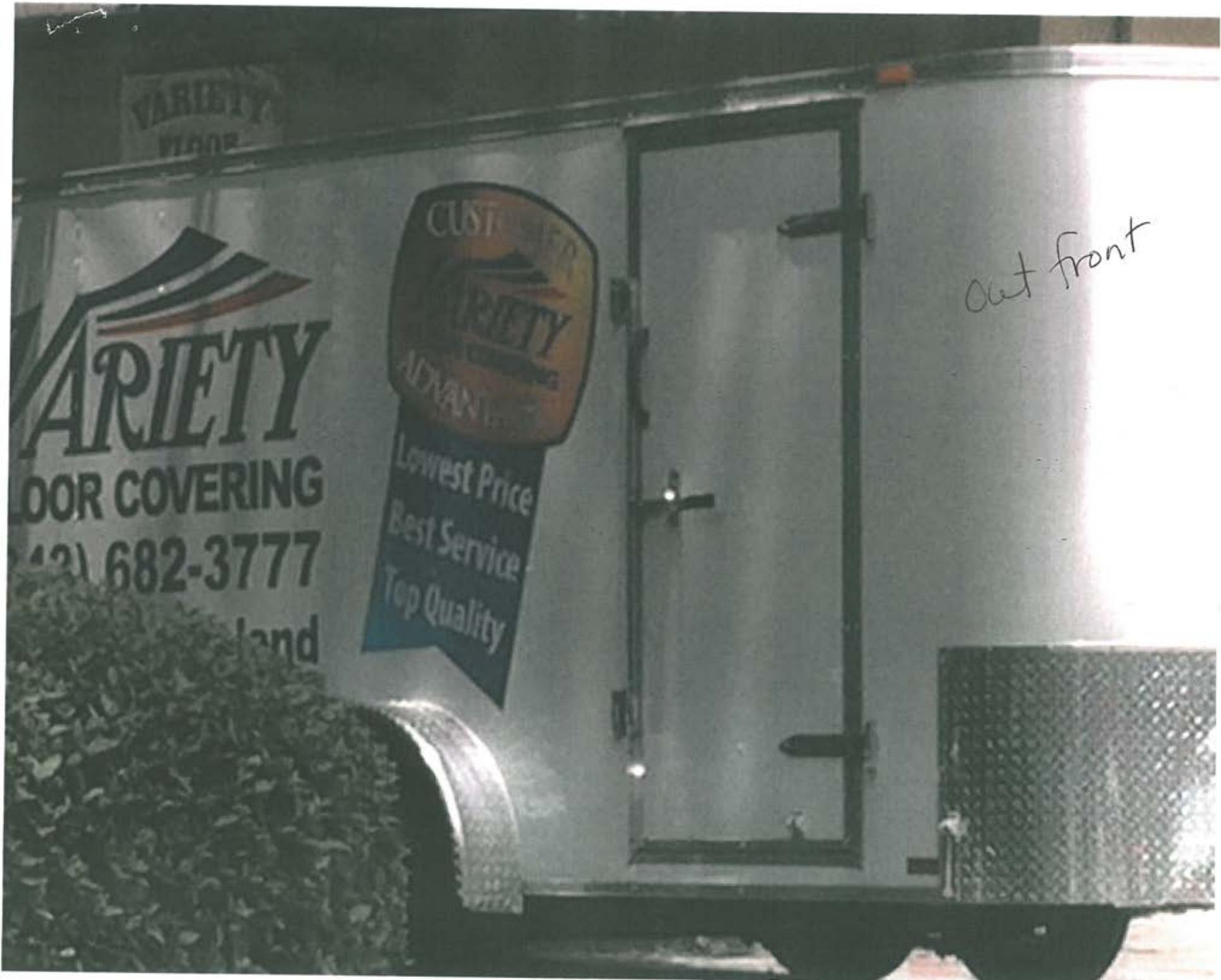


VARIETY
FLOOR

VARIETY
FLOOR COVERING
(42) 682-3777
land

CUSTOMER
VARIETY
ADVANTAGE
Lowest Price
Best Service
Top Quality

Out front



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COVERING**

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TOWN OF HILTON HEAD ISLAND

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Mayor

Kenneth S. Heitzke
Mayor Pro Tem

Council Members

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Willie (Bill) Ferguson
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Kimberly W. Likins
George W. Williams, Jr.

Stephen G. Riley
Town Manager

Sent via e-mail

July 16, 2013

Ms. Bonnie Fisher
Floors to Go
123 Mathews Drive
Hilton Head Island, SC 29925

Dear Ms. Fisher:

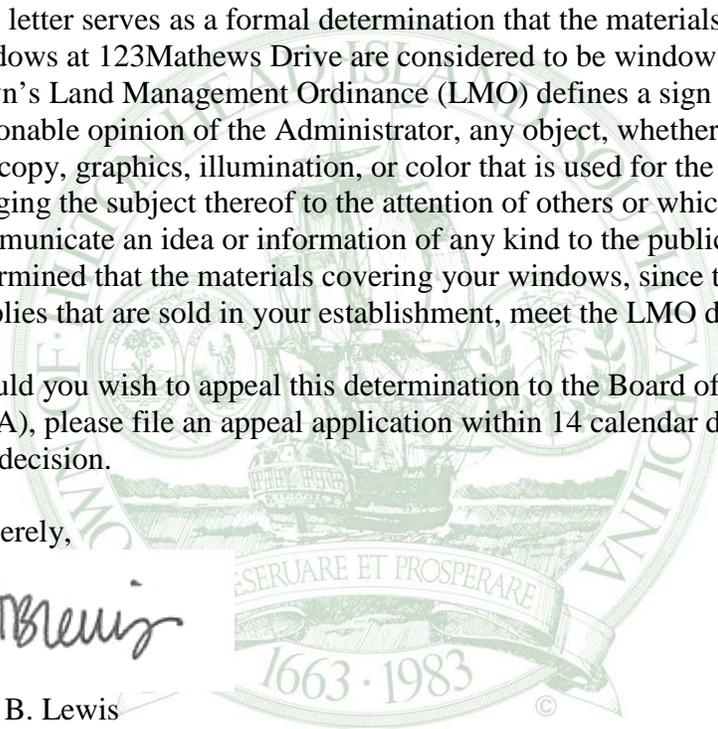
This letter serves as a formal determination that the materials covering your windows at 123 Mathews Drive are considered to be window signs. The Town's Land Management Ordinance (LMO) defines a sign as: in the reasonable opinion of the Administrator, any object, whether or not it contains any copy, graphics, illumination, or color that is used for the purpose of bringing the subject thereof to the attention of others or which is used to communicate an idea or information of any kind to the public. Staff has determined that the materials covering your windows, since they illustrate supplies that are sold in your establishment, meet the LMO definition of sign.

Should you wish to appeal this determination to the Board of Zoning Appeals (BZA), please file an appeal application within 14 calendar days of receipt of this decision.

Sincerely,



Teri B. Lewis
LMO Official





TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court | Hilton Head Island, SC 29928 | 843-341-4757 | FAX 843-842-8908

STAFF REPORT SPECIAL EXCEPTION

Case #	Name of Development	Public Hearing Date
SER130002	Red Rover Inn	September 23, 2013

Parcel Data	Owner	Applicant
Parcel Name: 77 Arrow Road Tax Map ID: Map 14, Parcel 842 Address: 77 Arrow Road Zoning District: CC Overlay District: COR	Carolina Child Care Property, LLC 1801 Highway 72 By-Pass N E Greenwood SC 29649	Paige Grisette 1 New Orleans Road Suite F Hilton Head Island SC 29928

Application Summary
Paige Grisette is requesting a special exception to operate a kennel and boarding facility in the Commercial Center (CC) Zoning District, which requires special exception approval per Land Management Ordinance (LMO) Section 16-4-1204, Use Table.

Background
<p>The subject parcel is located at 77 Arrow Road in the CC Zoning District. As shown on the Vicinity Aerial Photo (Attachment A), the subject parcel is bound by: an undeveloped lot on the northwest; Arrow Road on the southwest; a power line easement on the northeast; and Precision Auto on the southeast.</p> <p>The subject parcel was developed in 1983 and contains a 7,668 square foot building with associated parking. The property was previously used as a children’s day care facility. A fenced-in area behind the building was used as a playground.</p> <p>In August, the applicant asked staff about the requirements for operation of a kennel and boarding facility in an existing, unoccupied building at 77 Arrow Road. Staff informed the applicant that these uses would require a special exception.</p>

Applicant’s Grounds for Special Exception, Summary of Facts and Conclusion
<p>Grounds for Special Exception</p> <p>The applicant is requesting special exception approval to operate a kennel and boarding facility in the Commercial Center (CC) Zoning District per the requirement of LMO 16-4-</p>

1204, Use Table. The applicant states in the narrative that the business will operate in the existing building and that no site changes will be required to accommodate the uses. The applicant states the proposed uses will be compatible with surrounding uses because the subject parcel is located between an undeveloped parcel and an auto repair shop and because the utility easement separates the back of the property from Wexford Plantation. The applicant states the proposed uses will not be a nuisance to neighboring properties because the negative effects of the uses will be minimized by keeping the dogs indoors at most times and by bagging and disposing of all waste.

Summary of Facts

1. The applicant seeks a special exception as set forth in LMO 16-3-1801.
2. The applicant is proposing to operate a kennel and boarding facility in the Commercial Center (CC) Zoning District.

Conclusion

1. The applicant may seek a special exception from the requested LMO Section as set forth in LMO 16-3-1801.

Staff Summary of Facts and Conclusions

Summary of Facts

1. The application was submitted as set forth in LMO 16-3-1802.
2. Notice of the Application was published in the Island Packet on August 18, 2013 as set forth in LMO 16-3-110 and 16-3-111.
3. Notice of the Application was posted and mailed as set forth in LMO 16-3-110 and 16-3-111.
4. The applicant submitted an affidavit stating she met the mailed notice requirements as set forth in LMO 16-3-11.
5. The Board has authority to render the decision reached here under LMO 16-3-1804.

Conclusions

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

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

Staff Summary of Facts and Conclusions

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

Findings of Fact:

Goal 8.1 - Existing Land Use

- A. The goal is to have an appropriate mix of land uses to meet the needs of existing and future populations.

Goal 8.5 – Land Use Per Capita

- A. The goal is to have an appropriate mix and availability of land uses to meet the needs of the existing and future populations.

Goal 8.6 – Build-Out

- B. The goal is to consider developing regulations and requirements to maintain the Island Character and meet the needs of the community as it approaches build out.

Goal 8.10 – Zoning Changes

- A. Consider focusing higher intensity land uses in areas with available sewer connections.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.A.
2. This application would allow other retail sales and service uses within a commercial corridor bringing a mixture of land uses to meet the needs of the population.
3. This application would allow moderate intensity uses to be located where a sewer connection has already been established and where it would meet the needs of the surrounding community.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

1. The purpose statement of the Commercial Center (CC) Zoning District is to “provide for moderate to high intensity commercial development...”
2. The proposed uses will be moderate intensity commercial uses.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.B.
2. The proposed uses will be moderate intensity commercial uses in a district meant for moderate to high intensity commercial development.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

1. The proposed uses are a kennel and boarding facility.
2. The existing uses adjacent to and near the subject parcel include an auto repair shop, a shopping center, offices, a florist and two vacation rental laundry and service facilities.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.C.
2. The proposed business will involve commercial uses located in an area with a variety of commercial and office uses.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

1. The applicant stated the dogs will be kept inside the building except to occasionally use the fenced area behind the building.
2. The applicant stated all waste will be bagged and thrown away.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.D.
2. The applicant will make reasonable efforts to limit any nuisance caused by these uses to neighboring properties.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

1. The applicant does not propose any changes to the building or site.
2. The applicant stated the dogs will be kept inside the building except to occasionally use the fenced area behind the building.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.E.
2. The addition of this business should have a minimal effect on the neighborhood since the site will not be changed and the dogs will spend most of their time indoors.

Staff Summary of Facts and Conclusions

Criteria 6: It will be consistent with existing and planned pedestrian and vehicular circulation adjacent to and near the property (LMO 16-3-1805.F).

Findings of Fact:

1. The site is developed with two curb cuts on Arrow Road, a drive aisle through the site and a pedestrian pathway behind the site.
2. The applicant proposes no changes to the site.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.F.
2. The property will remain consistent with the existing and planned pedestrian and vehicular circulation in the area.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

1. The site is developed with storm water facilities.
2. The building already has adequate water and sewer supplies.
3. The applicant will hire a company to provide waste disposal services.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.G.
2. The applicant will contract waste disposal services to supplement the existing water, sewer and storm water facilities.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

1. The site is developed with an adjacent street setback and buffer and adjacent use setbacks and buffers, which contain trees and other vegetation.
2. The applicant proposes no changes to the site.

Conclusions:

1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.H.
2. The applicant will maintain the site as it has been developed, which will preserve the natural features on the site.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

1. LMO 16-4-1332 states kennels and boarding facilities are permitted in the CC Zoning District subject to the following standards:
 - a. All kennels and runs and other areas where animals are to be kept must be located within the building and suitably insulated to prevent noise from reaching neighboring properties.

- b. There shall be no objectionable odors generated by the use detectable from neighboring properties.
- 2. The applicant stated the dogs will be kept inside the building except to occasionally use the fenced area behind the building.
- 3. The applicant stated all waste will be bagged and thrown away.

Conclusions:

- 1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.I.
- 2. The applicant will ensure these criteria are met by keeping the animals inside at most times and by disposing of their waste promptly.

Staff Summary of Facts and Conclusions

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

Findings of Fact:

- 1. The proposed kennel and boarding facility would be subject to the provisions of all Town ordinances.

Conclusions:

- 1. Staff concludes that this application meets the criteria as set forth in LMO 16-3-1805.J.
- 2. The proposed kennel and boarding facility will not be contrary to the public health, safety and welfare because it will be held to the same standards as other kennels and boarding facilities in the area.

Staff Recommendation

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

BZA Determination and Motion

The "powers" of the BZA over special exceptions are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may "permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance..." or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article III and the Rules of Procedure for the BZA. A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

PREPARED BY:

AC

Anne Cyran, AICP
Senior Planner

August 28, 2013

REVIEWED BY:

ND

Nicole Dixon, CFM
Senior Planner & Board Coordinator

August 30, 2013

DATE

ATTACHMENTS:

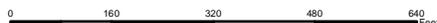
- A) Vicinity Aerial Photo
- B) Site Aerial Photo
- C) Applicant's Narrative
- D) Site Photos



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

Red Rover Inn, 77 Arrow Road
SER130002

Attachment A - Vicinity Aerial Photo



1 inch = 301 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.



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Red Rover Inn, 77 Arrow Road SER130002

Attachment B - Site Aerial Photo



1 inch = 57 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.

Special Exception Criteria Narrative
77 Arrow Road

77 Arrow Road is an existing, stand-alone building which housed The Sunshine House, a children's day care; it has been empty for about a year-and-a-half. This is a request to the Town of Hilton Head Island to utilize the existing space for a dog daycare/boarding/training facility. The following addresses special exception criteria:

- A. The requested daycare/boarding/training facility is in accordance with the Comprehensive Plan for the Town of Hilton Head Island. Several years ago, the town council approved an amendment to the LMO allowing kenneling and boarding in the CC District with a special exception because they recognized a need for this service on the south end of the island. There is a large population of full and part time dog-owning residents as well as hundreds of south-end tourists who bring their dogs and are in need of day care and/or boarding.
- B. The requested daycare/boarding/training facility is consistent with the "character and purpose" statement of the District. A kennel/boarding facility, All About Pets, has been open since 2006. This location, 77 Arrow Road, is located further north and, as such, has less impact in terms of noise and traffic within this compact area.
- C. The requested daycare/boarding/training facility is compatible with the existing uses adjacent to and near the property. It is a stand-alone property. The acre lot is wooded with a creek running behind it, a bike/running path beyond that and the Wexford Golf Course beyond that. On one side of the building, there is nothing but trees. On the other side is Precision Auto. The other businesses closest to the facility are across Arrow Road in Cypress Square.
- D. The requested daycare/boarding/training facility will not be hazardous, detrimental or disturbing to present surround land uses due to noise, glare, smoke, dust, odor, fumes, water pollution or general nuisance. As a stand alone building, any impact on the few neighboring businesses is minimized. The fenced-pens are located in the back of the property which is surrounded by woods, a creek and the back parking lot. Any and all solid pet waste will be "bagged" and deposited in lid-tight containers. A bacteria-killing cleaning product, Wyze-Wash, will be utilized inside and out on a daily basis.
- E. As the area around 77 Arrow Road is fully developed, the requested daycare/boarding/training facility will not otherwise adversely affect the development of the general neighborhood or of the District.
- F. There is no planned change to the building's drive way, parking area or the outdoor "play" space. As such, the requested daycare/boarding/training facility is consistent with existing pedestrian and vehicular circulation adjacent to and near the property.

G. Public water and sewage is provided by SIPSD and waste disposal services will be renewed.

H. 77 Arrow Road is an existing building and developed in a way that preserves and incorporates natural features that are part of the site. There are no structural changes planned.

I. The requested daycare/boarding/training facility will conform to specific criteria or conditions specified by special exception in the District. To that end,

*All kennels will be located within the building which is suitably insulated to prevent noise from reaching neighboring properties, all of which operate only M-F, 9-5. There are pens in the back of the building; these will be used for daytime play only.

*There shall be no objectionable odors generated by the use detectable from neighboring properties.

J. For all the reasons stated in A-I, the requested daycare/boarding/training facility will not be contrary to the public health, safety or welfare.

SER130002, Red Rover Inn
Staff Report Attachment D – Site Photos

Front of Building



Front/Right Side of Building & Drive Aisle



SER130002, Red Rover Inn
Staff Report Attachment D – Site Photos

Back/Right Side of Building & Drive Aisle



Parking Lot Behind Building



SER130002, Red Rover Inn
Staff Report Attachment D – Site Photos

Back/Left Side of Building & Fenced Enclosures



Fenced Enclosures





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

One Town Center Court

Hilton Head Island, SC 29928

843-341-4757

FAX 843-842-8908

**STAFF REPORT
VARIANCE**

Case #:	Public Hearing Date:
VAR130007	September 23, 2013

Parcel or Location Data:	Property Owner & Applicant
Project Name: ZipLine Hilton Head Address: 33 Broad Creek Marina Way Parcel#: R510 011 000 0379 0000 Zoning: WMU (Water Front Mixed Use)	Roger Freedman Broad Creek Marina of Hilton Head LLC PO Box 21584 Hilton Head Island, SC 29925

Application Summary:

Roger Freedman is requesting a variance from Land Management Ordinance Sections 16-5-704, Minimum Required Setback Area, 16-5-806, Required Buffers, and 16-5-809, Permitted Activity in Other Buffer Areas, to allow an aerial ropes course to be located in the adjacent use setback and buffer.

Background:

The subject parcel along with a few surrounding properties are developed as ZipLine Hilton Head. It is surrounded by Town-owned property, the Broad Creek Marina Boat Storage Facility, Indigo Run and the waters of Broad Creek.

The project was developed and launched in the spring of 2012, and since has had approximately 17,000 people take the 2 hour zipline tour. The owner is now wishing to expand the project to include an aerial ropes course through the trees, which would be located in the adjacent use setback and buffer adjacent to Town-owned property.

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

Grounds for Variance:

Roger Freedman is requesting a variance from Land Management Ordinance Sections 16-5-704, Minimum Required Setback Area, 16-5-806, Required Buffers, and 16-5-809, Permitted Activity in Other Buffer Areas, to allow an aerial ropes course in the trees to be located in the adjacent use setback and buffer. The buffer, which is adjacent to the Town-owned property, would need to be utilized as part of the aerial ropes course so that it is not compact and uncomfortable for the participants. He states that not being able to build the course in the buffer would diminish the quality and capacity of the course.

Summary of Facts:

- The applicant seeks a variance from LMO Sections 16-5-704, Minimum Required Setback Area, 16-5-806, Required Buffers, and 16-5-809, Permitted Activity in Other Buffer Areas, to construct an aerial ropes course in the adjacent use setback and buffer next to Town owned property.

Conclusions of Law:

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

Staff Summary of Facts and Conclusions of Law:

Summary of Facts:

- Application was submitted as set forth in LMO Section 16-3-1903.
- Notice of the Application was published in the Island Packet on August 18, 2013 as set forth in LMO Sections 16-3-110 and 16-3-111.
- Notice of the Application was posted and mailed as set forth in LMO Sections 16-3-110 and 16-3-111.
- The Board has authority to render the decision reached here under LMO Section 16-3-1905.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-3-1903.
- The application and notice requirements comply with the legal requirements established in LMO Sections 16-3-110 and 16-3-111.
- The applicant submitted an affidavit stating they met the mailed notice requirements as set forth in LMO Section 16-3-111.

As provided in Section 16-3-1906, Criteria for Approval of Variances, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.

Staff Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The property is currently developed with a zipline course.
- The zipline development is approximately 8.5 acres and rectangular in size.
- There are no wetlands located within the developable area of the property.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(1) because there are no extraordinary or exceptional conditions pertaining to this property.
- The zipline development is large in size and doesn't contain any wetlands or other extraordinary features.

Staff Summary of Facts and Conclusions of Law:

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

Finding of Fact:

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

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(2) because there are no extraordinary or exceptional conditions pertaining to this property that do not apply to other properties in the vicinity.
- The zipline development is large in size and doesn't contain any wetlands or other extraordinary features.

Staff Summary of Facts and Conclusions of Law:

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

Finding of Fact:

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

Conclusion of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(3) because there are no extraordinary or exceptional conditions pertaining to this property that prohibit or restrict the utilization of the property.

Staff Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The property is currently developed with a zipline course.
- The applicant is wishing to expand the development to add an aerial ropes course through the trees within the adjacent use setback and buffer.

Conclusions of Law:

- This application does not meet this variance criteria as set forth in LMO Section 16-3-1906A(4) because there is no hardship.
- The applicant developed the land a certain way and if there is no room for expansion that is the result of his own actions.

Staff Summary of Facts and Conclusions of Law:

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

Findings of Fact:

The LMO:

- Section 16-5-701, Purpose and Function of Setbacks, states the function of a setback is to provide separation between structures and property lines and to facilitate adequate air circulation and light by allowing natural areas to separate developments.
- Section 16-5-801, Purpose and Function of Buffers, states the function of buffer areas is to provide aesthetically acceptable visual and spatial separation between adjacent land uses. The purpose of a buffer is to minimize any negative effects that a land use will impose on its neighbors.
- Section 16-5-809, Permitted Activity in Other Buffer Areas, states what activities are allowed in

- buffers, such as driveway access and utility lines, if they cross perpendicular to the buffer.
- The applicant has stated that no landscaping or tree removal is necessary for the aerial ropes course to be located through the trees in the buffer.

The Comprehensive Plan:

Natural Resources Element

Implication for the Comprehensive Plan:

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

Goals - 3.3 Protect Quality of Life through Environmental Preservation

- D. The goal is to preserve open space (including improvement and enhancement of existing).
- F. The goal is to encourage the preservation and/or enhancement of wildlife habitat on all town properties.

Conclusions of Law:

- This application does meet this variance criteria as set forth in LMO Section 16-3-1906A(5) because the variance does not substantially conflict with the Comprehensive Plan and purposes of the LMO.
- Because there is no proposed tree/vegetation removal in the buffer, and the applicant is just requesting a variance to allow this type of activity in the buffer, staff does not believe the variance request is a substantial conflict with the purposes of LMO.
- Because there is no proposed tree removal, tree trimming, or vegetation removal from the buffer, the mature tree canopy, the open spaces areas, and the wildlife habitat are all being preserved; therefore, this application is not in substantial conflict with Comprehensive Plan.

Staff Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- Staff has not received any opposition or comments regarding this variance request.
- The Town has issued a letter to the applicant stating they are not opposed to the aerial ropes course in the buffer adjacent to Town property because the applicant stated there would be no disturbance to or removal of trees or understory vegetation for the proposed project.

Conclusion of Law:

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

Staff Recommendation:

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

BZA Determination and Motion:

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board

makes and explains in writing ...” their decisions based on certain findings or “may remand a matter to an administrative official, upon motion by a party or the board’s own motion, if the board determines the record is insufficient for review.”

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article III and the Rules of Procedure for the BZA. A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

PREPARED BY:

ND

Nicole Dixon, CFM
Senior Planner & BZA Coordinator

September 3, 2013

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant’s Narrative
- C) Site Plan
- D) Pictures of Sample Ropes Course
- E) Letter from Town of Hilton Head



Proposed Variance - Zip Line


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

Town of Hilton Head Island
ATTACHMENT A
 Vicinity Map



This information has been compiled from a variety of unverified general sources at various times and as such is intended to be used only as a guide. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion.

ATTACHMENT B

To: Zoning Boarding of Appeals
From: Broad Creek Marina / ZipLine Hilton Head
Date: August 2, 2013
Re: Request for Variance

This document is in 3 sections: 1) LMO buffer requirements 2) Responses to the 6 variance criteria 3) Outline of our project and how it meets the desired strategic goals of Vision 2025 including increasing tourism.

LMO Section 16-5-801

A. The function of buffer is to provide aesthetically acceptable visual and spatial separation between adjacent land uses.

B. The purpose of the buffer area is to enable the juxtaposition of land uses of different types, thereby accommodating the developer, the adjacent land owner and the public 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 public streets.

Response to the 6 Variance Criteria

The applicant meets all of the 6 Variance Criteria as answered in the statements below:

- a. There are only 9 parcels with the designation WMU which is the only zoning district which permits outdoor recreation with conditions. Of the 9 parcels, this is probably the only parcel which has the space and parking available to have this activity. It also adjacent to property owned by the Town of Hilton Head.
- b. This is the only property on Hilton Head Island that has become a new and unique tourist attraction.

Continued...

ATTACHMENT B

- c. There is only a narrow strip of land on this property with sufficient trees to build our project, a “state of the art” Aerial Tree Challenge course. Not being able to use the buffer would reduce the quality and capacity of the Aerial Tree Challenge course. Since one of the core values of our community as stated in Vision 2025 is: “We strive for excellence in everything we plan, build and do,” not allowing a variance would unreasonably restrict the developer and the Town from achieving their respective objectives.
- d. We are requesting the variance. We have not built in the buffer.
- e. Granting the variance is facilitating many Town objectives in trying to achieve those goals stated in Vision 2025.
- f. The building of the Aerial Tree Challenge course will not be a detriment to the property next door and is consistent with permitted activities in this zoning district.

Continued...

ATTACHMENT B

Our Project

In June, 2011, the Town changed the LMO to include outdoor recreation within the waterfront mixed use. The Town recognized that the creation of ZipLine Hilton Head was keeping with the goals of Vision 2025 to develop more eco-tourism on the Island.

Since its launch in April 2012, over 17,000 people have taken the 2 hour zipline tour through the trees which clearly demonstrates that ZipLine Hilton Head is a strategic asset as well as a tourist attraction and destination.

Broad Creek Marina, where ZipLine Hilton Head is located, is now planning the next phase of development. We have the opportunity and space to provide more unique eco-tourism recreational activities that are popular globally and meet the Vision 2025 goals.

We want to build another strong tourist attraction: an outdoor Aerial Tree Challenge course through the trees, offered at the San Diego Zoo and other major tourism centers, which unequivocally fits the Town's mission (see attached "Tree-mendous" article). This tree top adventure is a self-guided experience offering a range of ability levels for children, the less athletic and the tree top daredevil.

Based on the expertise of two design consultants who surveyed our property (one did the "Tree-mendous" course, the other the San Diego Zoo project), it is necessary to build parts of this state-of-the-art course in the buffer. They have said that not being able to build in the buffer would diminish the quality and capacity of the course. The course would be more compact and not as comfortable for participants. It also would not offer as many challenges for adventure seekers.

Continued...

ATTACHMENT B

EXECUTIVE SUMMARY

CIVIC PLEDGE AND CORE VALUES

Civic Pledge: “We will preserve Hilton Head Island’s identity by protecting the island’s unique qualities and its appeal to residents, visitors and businesses and by holding all policies, programs and initiatives to the principles embraced in our core values.”

Core Values:

1. We protect the natural beauty, environmental resources and unique sense of place of our Sea Island.
2. We embrace living in harmony with nature.
3. We sustain our community’s prosperity by broadening and deepening our economy.
4. We strive for excellence in everything we plan, build and do.
5. We cherish our history, the arts, cultural diversity and the pursuit of meaningful experiences.
6. We are a hospitable, open and friendly community.
7. We provide a serene, safe and healthy living environment for all.
8. We work together and volunteer for the greater good of the community.

VISION 2025

In the year 2025: “Hilton Head Island is recognized as the most extraordinary and desirable resort, residential, retirement and business community on the east coast due, in large measure, to its commitment to preserve its barrier island as a natural sanctuary for future generations.”

VISION 2025 ELEMENTS AND STRATEGIC THEMES

Through the efforts of an engaged citizenry, its town government and businesses, a newly revitalized and sustainable Island has emerged; where Hilton Head Island has become known as *the* East Coast resort, residential, retirement and business friendly destination because it excels in the following *Vision Elements*:

1. **Environmental and Community Planning Leadership:** Hilton Head Island is known for its leadership in environmental preservation and resource conservation practices in all aspects of the community.
2. **Resort, Residential and Retirement Sanctuary, a Refuge from the Commonplace:** Hilton Head Island is known as the number one family-oriented resort destination, residential and retirement sanctuary on the east coast.
3. **Proactive Governance:** Hilton Head Island’s governance culture is proactive, business friendly and customer focused.
4. **Sensitive Economic Diversification:** Hilton Head Island’s prosperity is being sustained through constant broadening and deepening of its economy and in ways that are consistent with its core values.
5. **Revitalization:** Hilton Head Island’s revitalization of buildings and infrastructure has been institutionalized and is ongoing.

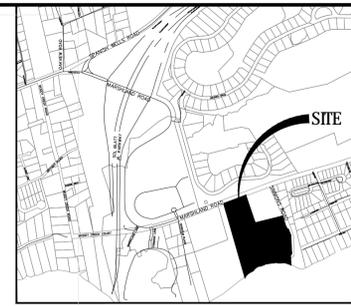
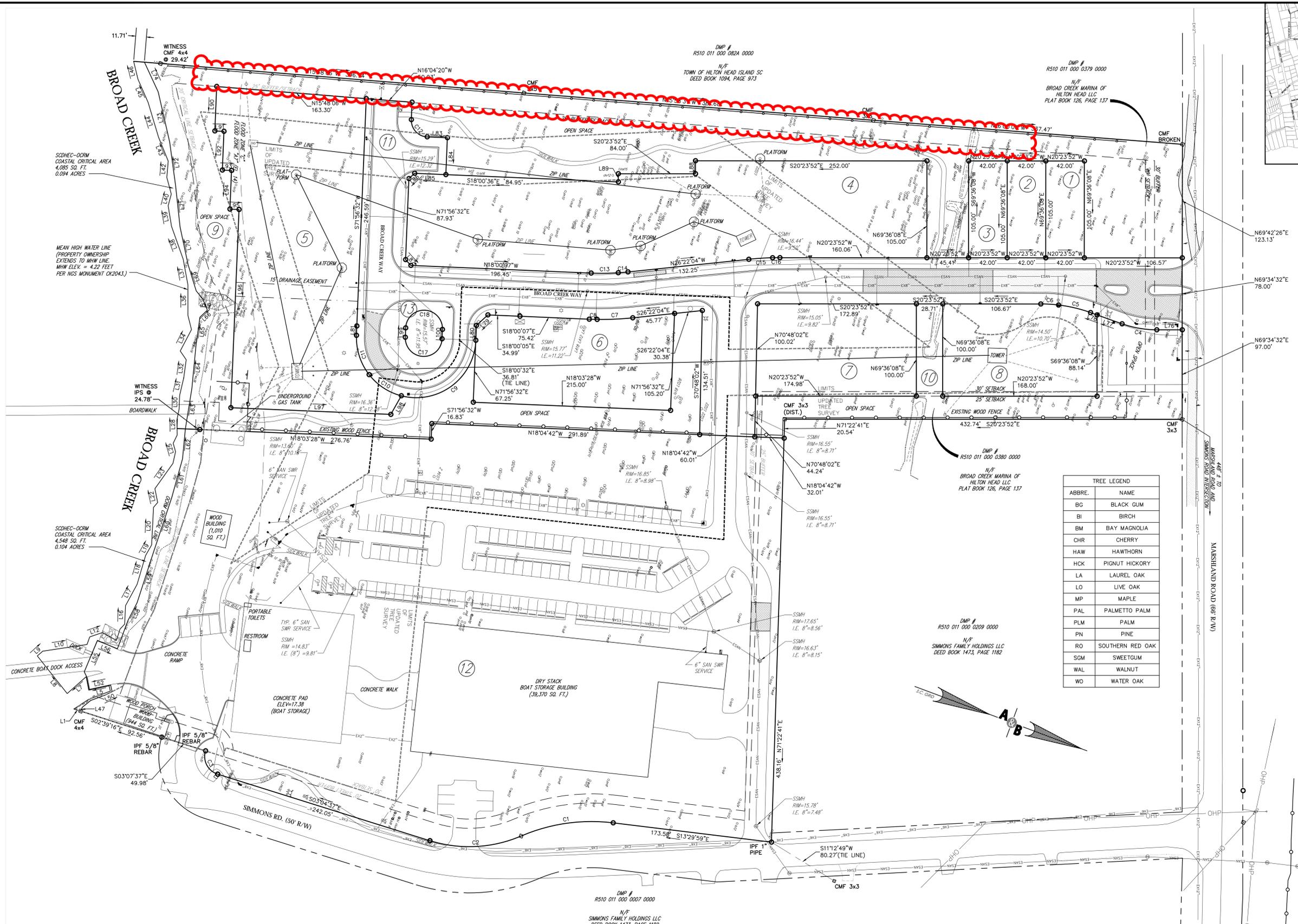
ATTACHMENT B

- Collection of accommodations tax from all short-term rental units included those listed in on-line sources such as VRBO.com.
4. Improve vehicle access and road system:
 - Encourage the widening of I-95 and I-26 and expand Highway 278 to Hilton Head Island;
 - Continue improvements to secondary road systems and parallel connectors on the Island;
 - Explore public transportation alternatives to reduce car traffic on the Island.
 5. Create destination village centers:
 - Mixed-use centers with civic open spaces;
 - Community gathering spaces.
 6. Create new attractions capitalizing as strengths and natural environment:
 - Consider the historic Mitchellville concept;
 - Aspen Institute, Anderson Ranch, medical/health/wellness offerings;
 - Gullah cultural offerings and other historic attractions;
 - New destination events in shoulder/off-season months.
 7. Improve and maintain marinas, waterways and water access:
 - Identify, support and implement long-term dredging solution for harbors and waterways;
 - Improve water-based recreational facilities to allow access for sailing, rowing, kayaking, regattas, etc.
 8. Implement community-wide sustainable programs:
 - Become a leader in sustainability and recognized as the “green island”;
 - Recycling programs, energy conservation, renewable energy, water conservation, etc.
 9. Re-implement and energize the “Island Ambassador” program:
 - Involve the Hospitality industry and Business community;
 - Encourage participation from all Island residents;
 - Focus on improving welcoming spirit and hospitable environment;
 - Highlight strengths, national resources, history and culture.
 10. Improve technology, wireless networks and fiber-optic connections throughout the Island.

D. Decline in Visitors:

Visitation and visitor spending has experienced a decline in recent years. This trend is a major concern for the future of the Island. The decline has been caused by:

- Aging infrastructure and resort facilities
- Lack of well-funded, well-organized marketing message
- Newer, trendier competitive destinations
- Limited new guest experiences
- Difficult vehicle access on peak arrival/departure periods
- Lack of great gathering places
- Decline in welcoming, hospitable atmosphere



LOT # 1
BROAD CREEK MARINA VILLAGE S/D
DMP # R510 011 000 0382 0000
4,410 SQ. FT. / 0.101 ACRES

LOT # 2
BROAD CREEK MARINA VILLAGE S/D
DMP # R510 011 000 0383 0000
4,410 SQ. FT. / 0.101 ACRES

LOT # 3
BROAD CREEK MARINA VILLAGE S/D
DMP # R510 011 000 0384 0000
4,410 SQ. FT. / 0.101 ACRES

LOT # 4
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0006 0000
58,359 SQ. FT. / 1.334 ACRES

LOT # 5
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0006 0000
50,252 SQ. FT. / 1.154 ACRES

LOT # 6
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0006 0000
20,754 SQ. FT. / 0.476 ACRES

LOT # 7
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0006 0000
17,393 SQ. FT. / 0.399 ACRES

LOT # 8
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0006 0000
16,558 SQ. FT. / 0.380 ACRES

LOT # 9
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0379 0000
104,818 SQ. FT. / 2.406 ACRES

LOT # 10
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0380 0000
22,191 SQ. FT. / 0.509 ACRES

LOT # 11
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0183 0000
74,943 SQ. FT. / 1.720 ACRES

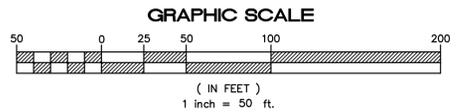
LOT # 12
BROAD CREEK MARINA OF HILTON HEAD LLC
DMP # R510 011 000 0007 0000
287,834 SQ. FT. / 6.608 ACRES

TREE LEGEND

ABBRE.	NAME
BG	BLACK GUM
BI	BIRCH
BM	BAY MAGNOLIA
CHR	CHERRY
HAW	HAWTHORN
HCK	PIGNOT HICKORY
LA	LAUREL OAK
LO	LIVE OAK
MP	MAPLE
PAL	PALMETTO PALM
PLM	PALM
PN	PINE
RO	SOUTHERN RED OAK
SGM	SWEETGUM
WAL	WALNUT
WO	WATER OAK

ACREAGE TABLE

AREA	SQUARE FEET	ACRES
UPLANDS	667,995	15.335
CRITICAL	8,633	0.198
TOTAL	676,628	15.533



LEGEND:

- CMF CONCRETE MONUMENT FOUND
- IPF IRON PIN FOUND
- IPS IRON PIN SET
- Fire Hydrant symbol FIRE HYDRANT
- Light Pole symbol LIGHT POLE
- Power Pole symbol POWER POLE
- OHP OVERHEAD POWER LINE
- GUY WIRE symbol GUY WIRE

NOTES:
 1. BEARINGS ARE BASED ON SC STATE PLANE COORDINATE SYSTEM.
 2. FIELD WORK COMPLETED OCTOBER 02, 2010.
 3. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 450250 0007 D DATED DECEMBER 18, 1986, SUBJECT PROPERTY APPEARS TO LIE WITHIN FLOOD ZONE "C" (AREA OF MINIMAL FLOODING) AND FLOODZONE "A7" (ELEV. = 14').
 4. ALL UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE LOCATIONS BASED ON ABOVE GROUND FEATURES AND DESIGN PLANS.
 5. ALL PROPERTY CORNERS ARE 1/2" REBAR SET UNLESS NOTED OTHERWISE.
 6. CRITICAL LINE TAKEN FROM PLAT BOOK 118, PAGE 109 AND PLAT BOOK 126, PAGE 137.

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

NOTE:
 TREE SURVEY WAS UPDATED WITHIN THE LIMITS-OF-WORK ON 04/02/12.

PLAN REVISIONS

NO.	DESCRIPTION	DATE	BY
1	INCREASED TREE SURVEY AREA	05/02/11	AK
2			
3			
4			
5			
6			
7			
8			

THE DESIGNS AND IDEAS PRESENTED IN THESE DRAWINGS ARE THE COPYRIGHTED PROPERTY OF ANDREWS & BURGESS, INC. THE USE OR REPRODUCTION OF THESE DRAWINGS WITHOUT WRITTEN CONSENT IS PROHIBITED.

Andrews & Burgess Inc.
 Engineering & Surveying

40A Shanklin Road
 Beaufort, SC 29906
 843.466.0369
 Fax 843.466.9766

BOUNDARY, TREE AND ASBUILT SURVEY
 Prepared For
BROAD CREEK MARINA OF HILTON HEAD, LLC

BROAD CREEK MARINA VILLAGE TOWN OF HILTON HEAD ISLAND BEAUFORT COUNTY, SC

Date Drawn: 02/11/11
 Last Revised: 04/05/12
 Drawn By: N. Ridley
 Engineer: G. Burgess

SHEET #:
1 of 2
JOB: 110002



Tree-mendous

Adventure Awaits at Sandy Spring's New Aerial Park

By Stephanie McGill | Photography by Walter P. Calahan

Walking through a forest of trees that shelters an aerial park above my head, I feel like a member of the Swiss Family Robinson clan, marooned on a secluded jungle island. Ropes dangle from 50

feet up. Zip lines hang like hammocks between trees. An occasional "whoop" floats down from the green canopy—a call to join in the adventure above. [Who can resist such an invitation?](#)



Top: Each ropes course ends with a thrilling—and cooling—zip-line ride. **Above, middle:** Alec Boyle side steps. **Above:** Matthew Allen walks the plank.



"It is one of the biggest aerial forest parks in the world ..."



Top: Soshana Bandlur walks away from the central deck on the green trail. **Above:** Instructor Chad Henry helps Brooke Alden with her safety hook.

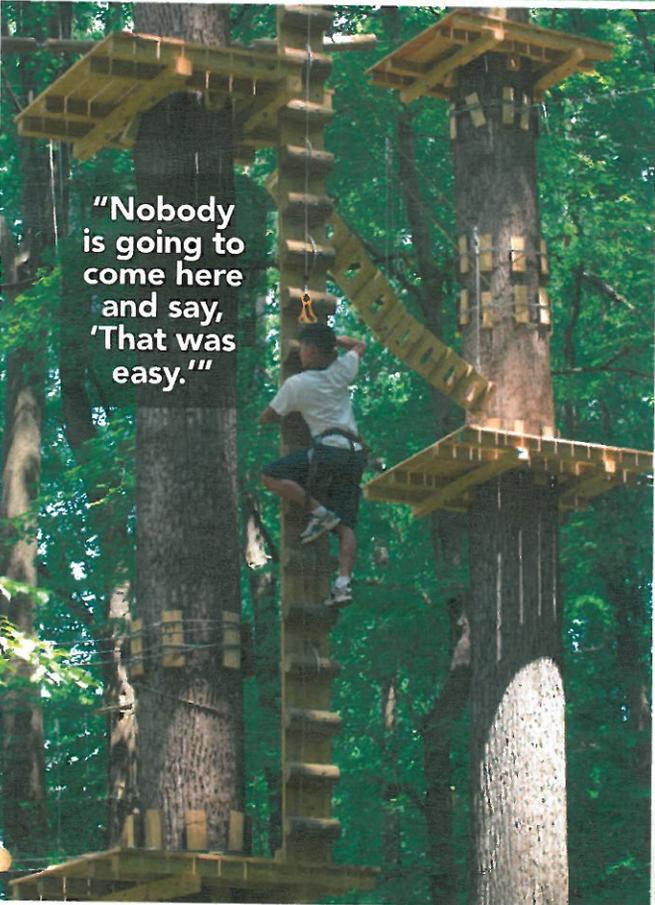
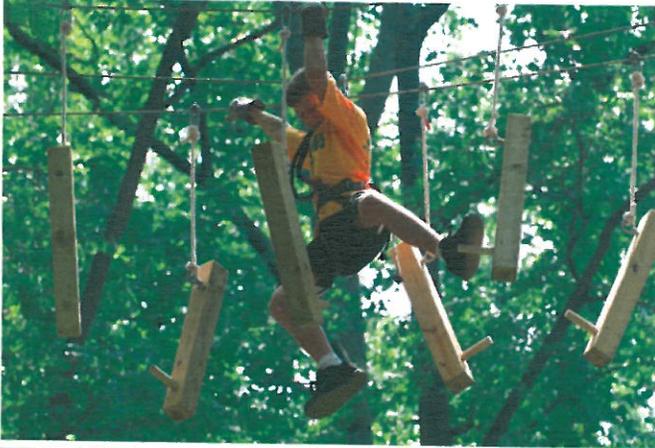
Apparently, not many. Since the North American introduction of this sport that is the stuff of childhood fantasies, rope climbing has become more and more popular, attracting experienced climbers and land-lovers alike. The Sandy Spring chapter of this story—the recent construction of the largest aerial forest adventure park in North America on the grounds of Sandy Spring Friends School—actually began in Switzerland. Bahman Azarm was there attending a school reunion with his family when his daughter, who had never cared much for outdoor sports, discovered an unlikely passion in the land of ski slopes: rope climbing. The story winds up from there. Azarm's Connecticut-based construction company, Outdoor Ventures, started building obstacle ropes courses on the East Coast, and it recently completed its most ambitious project yet: the five-acre aerial

adventure park owned and operated by Sandy Spring Friends School, which opened in late July. Ben Samuels, park manager, sits beneath a white canopy about two hundred feet away from the aerial park and explains that Sandy Spring Friends School's Adventure Park imitates some of the finest aerial parks in Germany, Switzerland and France. It is actually a ropes course hybrid; aerial parks lack the traditional structure of ropes courses, giving climbers greater freedom and opportunity for self-exploration. The Sandy Spring Adventure Park offers 10 ropes obstacle courses—from low to high ropes—and is distinguished as one of the few North American ropes parks designed and built by Bahman Azarm's Outdoor Ventures. "It is one of the biggest aerial forest parks in the world," Samuels says.

Such an enthralling attraction resides in a quiet spot, one owned by the Quaker community at Sandy Spring Friends School. For Bill Mena, director of auxiliary programs at the school, the aerial park is an environmentally friendly use of the forest that gives students an opportunity to practice the traditional Quaker principles of peace, integrity

and stewardship. In many communities—from private and public schools to businesses and behavioral treatment facilities—rope climbing has gained a reputation as a character-building sport. "For corporate team building, it's really about communication and building trust," Samuels says. "It's like the trust fall."

When Samuels, a leather-tanned man in his mid-thirties, speaks about the park, his eyes light with excitement and his voice quickens with enthusiasm. He has been climbing since he was 15, feeding his appetite for outdoor adventure and his love for protecting the environment, and he now might be considered a ropes obstacle course expert. He points out that, contrary to popular belief, aerial parks are designed to preserve the integrity of wooded areas—and not to destroy them. Rather than drill cable holes into the trees, builders at The Sandy Spring Adventure Park wrapped cables around the trees, and they cut down harmful vines that were fettered around trunks, strangling trees' growth. Gerhard Komenda, one of only a few bio-dynamic foresters in the world, consulted with builders on the safest way to construct the park without harming the forest.



"Nobody is going to come here and say, 'That was easy.'"

IN THE SWING OF THINGS

Before venturing on the course, Samuels instructs me on routine safety procedures. Each climber is equipped with a harness, two lanyard clips and a zip line pulley. "The main safety rule in the park is to always stay clipped in," Samuels says. Standard procedure dictates that before climbers ascend to the upper levels, such as the blue or the black diamond levels, they must first complete the yellow or green course. Sandy Spring Adventure Park will soon be the first to install German-manufactured locks that prevent climbers from un-clipping both lanyards at once.

Obstacles vary in difficulty on each course, according to level. Beginners on the yellow course, the easiest in the park, are confronted with 12 obstacles constructed of logs, planks and barrels. On any other East Coast ropes course, yellow would be considered a challenge—but not at Sandy Spring Adventure Park. Here, the most difficult course is the double black diamond, whose highest platform sits at 50 feet above the ground. Those brave enough to attempt this course find themselves balancing on wooden discs that hang from the bottom of ropes and scaling up nets on all fours. According to Samuels, so far only a few people have been able to complete the double black diamond course. "You're really going to be challenged," Samuels says about the high-wire course. "Nobody is going to come here and say, 'That was easy.'"

Embarking on the green course for my first climb, I am informed that for beginners, this is an "adventurous" move. As I begin the course by groping my way up the bars on a wooden ladder, I repeat to myself the instructions: "Click—hook the first lanyard onto the marked red point on the cables. Then—click—repeat this step with the second lanyard, and don't look down." So I look around me instead. I'm standing next to tulip poplars, oaks and maples whose tops

touch the sky as wispy clouds weave in and out from behind clusters of sun-kissed green leaves. Peaceful yet exhilarating, this grand view gives me the illusion that I'm on top of the world when in reality, I'm standing stiffly on a lumber platform.

Though the course might have you hanging onto your lanyards for dear life, you're safe as long as your harness is secure and your lanyards are clipped onto the red tape marked along the cables. Samuels admits, however, that like all sports, rope climbing comes with its own inherent risks. "We take a lot of risks in our lives for granted," he says. "People die from their cars, and rope climbing is the same as a lot of life-and-death situations." Statistically, someone who pioneers his or her way through a ropes course is choosing a safer route than an athlete who plays school sports on a regular basis. When Samuels tells me these things, he speaks as an experienced climber who admits he isn't afraid of climbing even the highest obstacle in the park. But it's difficult to disengage from doubt and fear when you're not accustomed to heights and stand suspended on a wooden log 30 feet from the ground.

Unlike many ropes courses, Sandy Spring Adventure Park allows climbers to conquer the course without hands-on supervision from an instructor. Samuels explains that an unguided ropes course allows climbers to grapple their way down through nets and across tightropes using their own mental strength. But there's always a safety net below: attentive park staffers who wait to rescue any climber who loses his or her nerve.

A zip line marks the end of the course, carrying me to solid ground where a

group of middle school girls wait to take their turns in the heights. What awaits them is an adventure taken straight from the pages of a childhood storybook, one whose end never satisfies you and only leaves you thirsting for more. Later as I drive away from the park, I grip my steering wheel with renewed self-confidence as along the roadside I pass telephone cables that slope in like zip lines. They seem to be calling to me. "Turn around," they seem to cry. "The adventure is back there!" 📍



Facing page, top: Alec Boyle has the blue trail pegged. Facing page, bottom: The more challenging trails have multiple levels that reach very high into the trees. Above: Each ropes course presents different obstacles.

Join the High-Wire Act

Where: Sandy Spring Friends School, 16923 Norwood Road, Sandy Spring. Entrance to Sandy Spring Adventure Park is through the green gates between the main school entrance and the Park Police property.

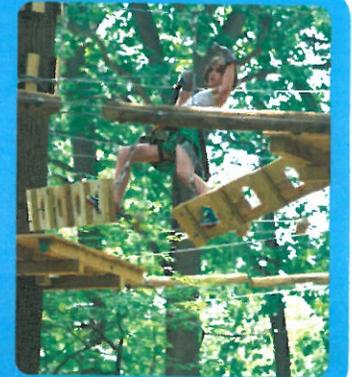
When: Open daily through Sept. 10, and then Saturdays and Sundays only from Sept. 11 through Nov. 30. Hours are 9 a.m. to 8 p.m., weather and daylight permitting. Tickets are valid for 3 hours, and ticket sales end at 6 p.m.

Course requirements: For ages 8 and up and individuals weighing no more than 275 lbs.

Clothing: Wear well-fitting attire that won't tangle in cables or ropes, and tie back long hair. Sneakers or hiking shoes are required.

Tickets: Individual and group admission prices are available. For groups of 15 or more, call to make advance reservations.

More information: Visit www.sandyspringadventurepark.org or call 240-389-4FUN.



ATTACHMENT E

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, SC 29928

(843) 341-4600 Fax (843) 842-7228

<http://www.hiltonheadislandsc.gov>

VIA E-MAIL

September 3, 2013

Mr. Roger Freedman
Broad Creek Marina of Hilton Head LLC
PO Box 21584
Hilton Head Island, SC 29925

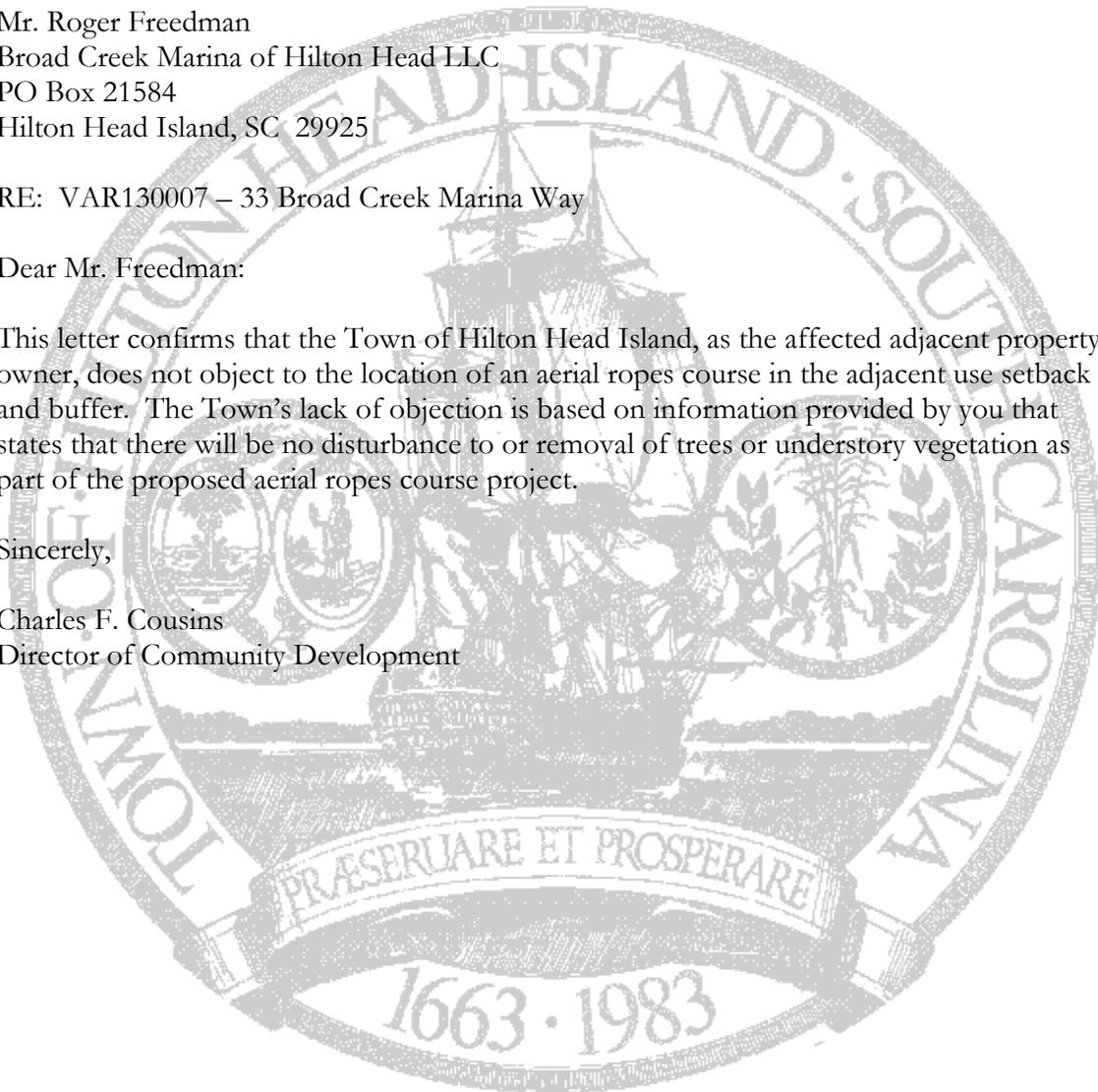
RE: VAR130007 – 33 Broad Creek Marina Way

Dear Mr. Freedman:

This letter confirms that the Town of Hilton Head Island, as the affected adjacent property owner, does not object to the location of an aerial ropes course in the adjacent use setback and buffer. The Town's lack of objection is based on information provided by you that states that there will be no disturbance to or removal of trees or understory vegetation as part of the proposed aerial ropes course project.

Sincerely,

Charles F. Cousins
Director of Community Development





HULL BARRETT

A T T O R N E Y S

AUGUSTA AIKEN EVANS

R.E. HANNA III

- LICENSED IN GEORGIA AND SOUTH CAROLINA

RHANNA@HULLBARRETT.COM

September 13, 2013

Via E-mail and U.S. Mail

Ms. Teri B. Lewis
Town of Hilton Head Island
One Town Center
Hilton Head Island, SC 29928
(TeriL@hiltonheadislandsc.gov)

Re: BZA Appeal of Alethea W. Jackson and David Jackson

Dear Ms. Lewis:

Enclosed please find a Notice of Motion and Motion to Dismiss by HSSC, LLC in the referenced matter. Please file this Motion with the Town of Hilton Head Board of Zoning Appeals. I would appreciate you placing this matter on the agenda for the Board's meeting on September 23, 2013. By copy of this letter, I am serving the Applicants through their counsel. Please let me know if you have any question.

Sincerely,

R.E. Hanna, III

Enclosures

Cc: Via E-mail and U.S. Mail

Curtis L. Coltrane, Esq.
COLTRANE & WILKINS, LLC
Post Office Drawer 6808 (Mailing)
Hilton Head Island, SC 29938
(curtis@coltraneandwilkins.com)

WWW.HULLBARRETT.COM

HULL BARRETT, PC, 111 PARK AVENUE, S.W., AIKEN, SOUTH CAROLINA 29801

TELEPHONE: (803) 648-4213 FAX: (803) 648-2601

MAILING ADDRESS: POST OFFICE BOX 517, AIKEN, SOUTH CAROLINA 29802-0517

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN RE:

APPLICATION OF 217 BEACH CITY
ROAD, LLC FOR PERMITS TO PLACE
MOBILE HOMES ON PROPERTY ON
BEACH CITY ROAD

BEFORE THE TOWN OF HILTON
HEAD ISLAND
BOARD OF ZONING APPEALS

HSSC, LLC'S
NOTICE OF MOTION AND
MOTION TO DISMISS

APPEAL NO. 130006

TO THE APPLICANTS IN THE REFERENCED MATTER:

PLEASE TAKE NOTICE that HSSC, LLC, a Georgia limited liability company (successor in interest to 217 Beach City Road, LLC by virtue of a foreclosure sale conducted by the Beaufort County Master-in-Equity on September 3, 2013) ("Owner"), by and through its undersigned counsel, on September 23, 2013, at 2:30 p.m., or at such other time and at such place as the Board of Zoning Appeals will move for an order dismissing Appeal No. 13006 filed by Curtis L. Coltrane on behalf of Alethea W. Jackson and David Jackson. This Motion is based upon the pleadings and papers of this appeal, any applicable law and ordinances of the Town of Hilton Head Island, Beaufort County, and the State of South Carolina. More specifically, this motion is based upon the following grounds.

First, the Appeal should be dismissed on the grounds that the action of Donna Horsman in issuing the Manufactured Home Placement Approvals was a ministerial act rather than a decision, interpretation, or determination. See Town of Hilton Head Island Land Management Ordinance Section 16-3-2001. The proper forum for challenging such an action is in the Beaufort County Court of Common Pleas. The placement of manufactured homes on the premises has been the subject of a case in said Court bearing Civil Action No. 13-CP-07-1437. Applicants moved said Court for an injunction prohibiting the placement of manufactured homes on the

subject premises, and the Court DENIED Applicants' motion. A copy of said Order is attached hereto.

Second, even if the Board of Zoning Appeals was the proper forum for considering this Appeal, the Appeal was not been timely made under the Town of Hilton Head Island Land Management Ordinance Section 16-3-2002.

Owner reserves the right to supplement this motion.

Accordingly, Owner is entitled to an order of the Town of Hilton Head Island Board of Zoning Appeals dismissing the subject Application.

OWNER SO MOVES.

[SIGNATURES ON FOLLOWING PAGE]

HULL BARRETT, PC
111 PARK AVE., SW
AIKEN, SC 29801
(803) 648-4213



R.E. Hanna, III
South Carolina Bar No. 066457
T. Paul Timmerman
South Carolina Bar No. 69452
Attorneys for Owner

Aiken, South Carolina
September 13, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO. 13-CP-07-1437

DAVID JACKSON and ALETHEA JACKSON,)
)

Plaintiffs,)

v.)

217 BEACH CITY ROAD, LLC; and)
BANK OF NORTH CAROLINA,)
Successor to Beach First National Bank,)

Defendants.)

2013 SEP 11 AM 10:59
BEAUFORT COUNTY, S.C.
CLERK OF COURT

ORDER

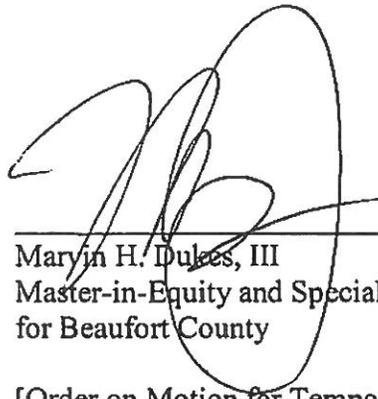
Plaintiffs' Motion for Temporary Injunction came on for hearing on September 5, 2013, at which time argument was presented by counsel for Plaintiffs and Defendant 217 Beach City Road, LLC. Plaintiffs' motion seeks an injunction barring Defendant 217 Beach City Road, LLC from "moving, placing, erecting, [leasing] or otherwise using any mobile home or house trailer onto" the property described in the motion, and preventing it from "attempting to establish any use other than detached single family residences in or on" the property. Plaintiff's motion is based upon its argument that 217 Beach City Road, LLC was contractually required to file Declaration of Covenants, Conditions, and Restrictions governing the use of the property.

After consideration of the evidence presented by the parties, the pleadings of record in this matter, and the arguments of counsel presented at the hearing, the Court finds that the Plaintiffs' motion should be denied. Accordingly, the Court hereby DENIES Plaintiffs' motion.

1 of 2



This 10 day of September, 2013.



Maryin H. Dulles, III
Master-in-Equity and Special Circuit Judge
for Beaufort County

[Order on Motion for Temporary Injunction]

13-1437

2 



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: August 30, 2013
SUBJECT: Administrative Waivers

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

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

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

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

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

Administrative Waivers

August - 2013

1. A project at 2 Lagoon Road (Kangaroo): the applicant requested to place a dumpster in an existing parking space which is currently non-conforming due to the fact that it is within the adjacent use setback and buffer. A waiver was granted because the applicant is proposing to make improvements that will bring the site more into compliance with the LMO.
2. A project at 85 Pope Avenue (Kangaroo): the applicant requested to make improvements to the property and existing parking lot, which is considered a nonconforming site feature, as part of the redevelopment project. A waiver was granted because the applicant is proposing to make improvements that will bring the site more into compliance with the LMO.