

The Town of Hilton Head Island Regular Town Council Meeting

December 3, 2013

4:00 P.M.

AGENDA

**As a Courtesy to Others Please Turn Off All Mobile Devices During
the Town Council Meeting**

- 1) **Call to Order**
- 2) **Pledge to the Flag**
- 3) **Invocation**
- 4) **FOIA Compliance** – Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
- 5) **Proclamations and Commendations**
 - a. Arbor Day
- 6) **Approval of Minutes**
 - a. Town Council Meeting– November 19, 2013
- 7) **Report of the Town Manager**
 - a. Town Manager’s Items of Interest
- 8) **Reports from Members of Council**
 - a. General Reports from Council
 - b. Report of the Intergovernmental Relations Committee – George Williams, Chairman
 - c. Report of the Personnel Committee – Lee Edwards, Chairman
 - d. Report of the Planning & Development Standards Committee – John McCann, Chairman
 - e. Report of the Public Facilities Committee – Kim Likins, Chairman
 - f. Report of the Public Safety Committee – Marc Grant, Chairman
 - g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member
- 9) **Appearance by Citizens**

10) Unfinished Business

None.

11) New Business

a. First Reading of Proposed Ordinance 2013-22

First Reading of Proposed Ordinance 2013-22 to amend Title 16, the Land Management Ordinance, of the Municipal Code of the Town of Hilton Head Island, South Carolina, by amending Section 16-4-102, the Official Zoning Map, specifically rezoning 8.56 acres identified as Parcels 8, 336 through 342, and 344 through 375 on Beaufort County Tax Map 5 from RM-4, Low Density Residential to RM-8 Residential Moderate Density and providing for severability and an effective date.

b. First Reading of Proposed Ordinance 2013-24

First Reading of Proposed Ordinance 2013-24 to amend Title 16 of the Municipal Code of the Town of Hilton Head Island, South Carolina, the Land Management Ordinance, Chapter 4, Article XIII. this amendment, commonly referred to as the *LMO Amendment to Amend Auto Sales Standards*, as noticed in the Island Packet on August 11, 2013, includes a revision to Chapter 4, Article XIII, Section V, Auto Sales; and providing for severability and an effective date.

c. First Reading of Proposed Ordinance 2013- 20

First Reading of Proposed Ordinance 2013-20 to amend the budget for the Town of Hilton Head Island, South Carolina, for the fiscal year ending June 30, 2013; to provide for the expenditures of certain funds; and to allocate the sources of revenue for the said funds.

d. First Reading of Proposed Ordinance 2013- 19

First Reading of Proposed Ordinance 2013-19 to amend the budget for the Town of Hilton Head Island, South Carolina, for the fiscal year ending June 30, 2014; to provide for the expenditures of certain funds; and to allocate the sources of revenue for the said funds.

e. First Reading of Proposed Ordinance 2013- 17

First Reading of Proposed Ordinance 2013-17 to amend the budget for the Town of Hilton Head Island, South Carolina, for the Fiscal Year ending June 30, 2014; to provide for the budgeted appropriations of prior year encumbrances and for the expenditures of certain funds; and to allocate the sources of revenue for the said funds.

f. First Reading of Proposed Ordinance 2013-18

First Reading of Proposed Ordinance 2013-18 to amend the budget for the Town of Hilton Head Island, South Carolina, for the Fiscal Year ending June 30, 2014; to provide for the budgeted appropriations of prior year budget roll-forwards and the expenditures of certain funds; and to allocate the sources of revenue for the said funds.

g. Consideration of a Resolution – Baygall Sewer Project

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing the execution and delivery of a contract between the Town of Hilton Head Island, South Carolina, and the Hilton Head No. 1 Public Service District relating to the sewer expansion project known as the Barker Field Expansion Pump Station, also known as the Barker Field Area Project including Mitchelville Beach Park connection.

h. First Reading of Proposed Ordinance 2013-27

First Reading of Proposed Ordinance 2013-27 of the Town Of Hilton Head Island, South Carolina, authorizing the execution of a contract for purchase and sale; the execution of a deed for the sale of 0.24 acres of real property located near William Hilton Parkway and the Fresh Market Shoppes to HCP Acquisition, LLC, in exchange for 0.50 acres of real property located near William Hilton Parkway and the Fresh Market Shoppes from HCP Acquisition, LLC; and the granting of an access easement to HCP Acquisition, LLC, pursuant to the authority of S.C. Code Ann. § 5-7-40 (Supp. 2011), and § 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983); and providing for severability and an effective date.

i. Town Manager Review/Compensation

12) Executive Session

- a. Land Acquisition
- b. Legal Matters
- c. Contractual Matters
 - 1) Town Attorney Mid-Term Contract Review
- d. Personnel Matters
 - 1) Town Manager Review/Compensation

13) Adjournment

Proclamation

BY
THE TOWN OF HILTON HEAD ISLAND

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, 2013 is the 141st anniversary of the holiday and Arbor Day is now observed throughout the nation and the world; and

WHEREAS trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource, giving us paper, wood for our homes, fuel for our fires and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal; and

NOW, THEREFORE, I, Drew Laughlin, Mayor of the Town of Hilton Head Island, hereby proclaim that Friday, December 6th, shall be known on Hilton Head Island as

Arbor Day

and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands. Further, I encourage all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

*IN TESTIMONY WHEREOF, I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this **third day of December, two thousand and thirteen.***

Drew A. Laughlin, Mayor

Attest:

Victoria L. Pfannenschmidt, Town Clerk

THE TOWN OF HILTON HEAD ISLAND

REGULAR TOWN COUNCIL MEETING

Date: Tuesday, November 19, 2013

Time: 4:00 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Kim Likins, Marc Grant, John McCann, Lee Edwards, *Council Members*

Present from Town Staff: Steve Riley, *Town Manager*; Greg DeLoach, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Lavarn Lucas, *Fire Chief*; Scott Liggett, *Director of Public Projects and Facilities/Chief Engineer*; Susan Simmons, *Director of Finance*; Jill Foster, *Deputy Director of Community Development*; Jennifer Ray, *Urban Designer*; Brian Hulbert, *Staff Attorney*; Ed Boring, *Deputy Fire Chief- Support Services*; Julian Walls, *Facilities Manager*; Heather Colin, *Development Review Administrator*; Darrin Shoemaker, *Traffic and Transportation Engineer*; Melissa Cope, *Systems Analyst*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Tom Barton, *Island Packet*

1) CALL TO ORDER

Mayor Laughlin called the meeting to order at 4:00 p.m.

2) PLEDGE TO THE FLAG

3) INVOCATION

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

5) Proclamations and Commendations

a. Hilton Head Island High School “Lady Seahawks” Swim Team

Coach Lane and members of the Swim Team were present to accept the commendation.

6) Approval of Minutes

a. Town Council Meeting– November 5, 2013

Mr. Harkins moved to approve. Mr. McCann seconded. The minutes of the November 5, 2013 Town Council were approved by a vote of 6-0-1. Mr. Edwards abstained.

b. Town Council Workshop - November 7, 2013

Mr. Harkins moved to approve. Mr. McCann seconded. The minutes of the November 7, 2013 Town Council Workshop were approved by a vote of 7-0.

c. Town Council Workshop – November 12, 2013

Mr. Harkins moved to approve. Mr. McCann seconded. The minutes of the November 12, 2013 Town Council Workshop were approved by a vote of 7-0.

7) Report of the Town Manager

a. Town Manager's Items of Interest

Mr. Riley reported on some items of interest.

Scott Liggett updated Council on the status of the capsized shrimp boats in Jarvis Creek. Mr. Liggett informed Council five proposals were submitted in response to the RFP for removal which are currently being reviewed and staff will be making a recommendation in the near future. He added that the owners have until December 17, 2013 to respond to the administrative order to remove the boats or be subjected to fines from that point going forward.

8) Reports from Members of Council

a. General Reports from Council

None.

b. Report of the Intergovernmental Relations Committee – George Williams, Chairman

Mr. Williams stated that Representative Andy Patrick and Senator Tom Davis were in attendance at the meeting held on Monday, November 18. He said they briefed the Committee on items they were each working on and issues that would be coming forward in the sessions.

c. Report of the Personnel Committee – Lee Edwards, Chairman

None.

d. Report of the Planning & Development Standards Committee – John McCann, Chairman

None.

e. Report of the Public Facilities Committee – Kim Likins, Chairman

None.

f. Report of the Public Safety Committee – Marc Grant, Chairman

None.

g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member

Mrs. Likins stated the Committee would be meeting on Wednesday, November 20 at 8:30 a.m. She said they planned to review the Coligny Resort District Standards draft they received from the consultant.

9) Appearance by Citizens

Mr. Paul Schlosser addressed Council concerning the Ocean Point renourishment project.

10) Unfinished Business

a. Second Reading of Proposed Ordinance 2013-21

Second Reading of Proposed Ordinance 2013-21 of the Town of Hilton Head, South Carolina, authorizing the execution of a contract for purchase and sale and the execution of a deed for the sale of 1.8 acres of real property located on William Hilton Parkway to William S. Toomer and Mary K. Toomer pursuant to the authority of S.C. Code Ann. § 5-7-40 (Supp. 2011), and § 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983); and providing for severability and an effective date.

Mr. Harkins moved to approve. Mrs. Likins seconded. The motion was approved unanimously by a vote of 7-0.

11) New Business

a. Consideration of a Recommendation – Shelter Cove Community Park

Consideration of a Recommendation that Town Council approve the Conceptual Master Plan for the proposed Shelter Cove Community Park.

Jennifer Ray conducted a detailed presentation of the plan. She explained the OCRM has directed that the dock be a water dependent use. She stated the closest channel to meet that dependence is 890 feet out. She reviewed the plans showing both a 890 foot dock and a 200 foot dock. She said that the Public Facilities Committee approved the conceptual plan with the condition that a shorter dock be pursued. She also reviewed a plan with no dock included if by chance they cannot get one permitted. She noted that the 890 foot dock would be a 1.0 to 1.5 million dollar element within the 4.5 million dollar budget the issue of cost for ongoing maintenance is a concern.

Mr. McCann made a recommendation that Council approve the plan without the pier due to the cost and maintenance issues so they can move forward with design and then complete a study on the need for the pier. Mr. Harkins agreed with Mr. McCann noting there will still be great views without the pier. Mr. Williams stated he felt the pier is a needed component but the 890 feet length is much too long. Mr. Edwards agreed the dock is needed and stated the Town needs to fight the requirement OCRM has placed on the length for the dock.

After further discussion, it was the consensus of Town Council to approve the proposed Shelter Cove Community Park Conceptual Master Plan with the understanding that they fight for a shorter pier of approximately 200 feet as recommended by the Public Facilities Committee. The motion was approved by a vote of 5-2. (Mr. McCann and Mr. Harkins opposed) Mr. Harkins noted the opposition was not to the plan but the return on investment.

b. Consideration of a Resolution – SCDOT/Traffic Safety Improvements/US 278 on Jenkins Island

Consideration of a Resolution calling for the South Carolina Department of Transportation to construct traffic safety improvements via access modifications to US 278 on Jenkins Island.

Mr. Williams moved to approve. Mrs. Likins seconded. Mr. Gary Kubic, Beaufort County Administrator gave a detailed presentation of the proposed modifications. Mr. Riley explained the need for Council to weigh in on the project is that a portion of the proposed improvements are within the Town limits. Numerous representatives and residents spoke in support of the proposal. The motion was unanimously approved by a vote of 7-0.

c. First Reading of Proposed Ordinance 2013-23

First Reading of Proposed Ordinance 2013-23 of the Town of Hilton Head Island, South Carolina, to amend Title 10 of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending Chapter 5 (Franchises), specifically Section 10-5-90; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mr. McCann seconded. After detailed discussion, public comment and input from waste haulers, Mr. Williams moved to amend the agreement to modify the dates as presented to March 1, 2014 and that the increase in the fees would be triggered as outlined in the original contract and should Republic continue past March 1, 2014 to service the multi-family and rental market that they will pay the contract franchise fee. Mrs. Likins seconded. The amendment was approved by a vote of 7-0. The motion as amended was approved by a vote of 7-0.

At 6:02 p.m. Mr. Edwards noted he had a previous commitment and asked to be excused from the meeting.

d. First Reading of Proposed Ordinance 2013-25

First Reading of Proposed Ordinance 2013-25 of the Town of Hilton Head, South Carolina, to amend Title 9 (Health and Sanitation) of the Municipal Code of the Town of Hilton Head Island, South Carolina by amending Chapter 6 (Collection of Solid Waste and Recycling), specifically Section 9-6-10, Section 9-6-20, Section 9-6-40, and Section 9-6-60; and providing for severability and an effective date.

Mr. Williams noted the Section 3. Effective Date within ordinance needed changed from January 1, 2014 to March 1, 2014 and it was agreed that anything else should be conformed to be consistent with Proposed Ordinance 2013-23 as amended. The maker and the seconder of the motion were in agreement. The motion was approved by a vote of 6-0. (As noted above Mr. Edwards had to leave the meeting before this item was addressed so he did not participate in this vote)

e. Town Manager Review/Compensation

Deferred to a future date.

12) Executive Session

Mr. Riley stated he needed an Executive Session for contractual matters pertaining to land acquisition, including a request to lease town-owned land; and legal matters pertaining to potential settlement of ongoing litigation.

At 6:06 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mr. Williams seconded. The motion was unanimously approved by a vote of 6-0.

Mayor Laughlin called the meeting back to order at 6:23 p.m. and stated there was no business as a result of the Executive Session.

13) Adjournment

Mr. Williams moved to adjourn. Mr. Harkins seconded. The motion was unanimously approved by a vote of 6-0. The meeting was adjourned at 6:24 p.m.

Vicki Pfannenschmidt
Executive Assistant/Town Clerk

Approved:

Drew A. Laughlin, Mayor



Items of Interest December 3, 2013

1. Town News

Facilities Management working with the guidance of the Community Development Environmental Planner, has scheduled a large vine removal project along the buffer on Hwy 278 and the recently purchased Heritage Golf property at Port Royal Plantation. The area of operation will be between Union cemetery and Dillon roads. This work will be completed by Jones Brothers Tree Service between December 2-9th. Only understory along the tree line will be removed to provide bucket truck access. Vine removal is necessary due to tree suffocation.

(Contact Julian Walls, Facilities Manager at 342-4587 or julianw@hiltonheadislandsc.gov)

The Town of Hilton Head Island Financial Statements for the period ending September 30, 2013 including the Financial Dashboard were posted on the Town's website on November 19, 2013. You can view them at www.hiltonheadislandsc.gov

(Contact: Susan Simmons, Director of Finance at 843-341-4645 or susans@hiltonheadislandsc.gov)

Fire Inspector Kevin Foudray has been advanced to the position of Senior Fire Inspector. Kevin started with Hilton Head Island Fire Rescue on August 1, 2012. He holds a Bachelor of Science Degree from Pittsburg State University in Construction Engineering Technology. He obtained all of the necessary fire certifications to advance and he also holds certifications in multiple building construction disciplines as well.

(Contact Lavarn Lucas, Fire Chief at (843) 682-5153 or lavarnl@hiltonheadislandsc.gov)

2. Noteworthy Events

- a) Some of the upcoming meetings at Town Hall:
- Planning Commission – December 4, 2013, 9:00 a.m.
 - Planning & Development Standards Committee – December 5, 2013, 3:00 p.m.
 - Design Review Board – December 10, 2013, 1:15 p.m.
 - Town Council Special Meeting – December 10, 2013, 4:00 p.m.
 - Town Council Workshop – December 11, 2013, 4:30 p.m.
 - LMO Rewrite Committee – December 12, 2013, 8:30 a.m.
 - Parks & Recreation Commission, December 12, 2013, 3:30 p.m.
 - Intergovernmental Relations Committee – December 16, 2013, 10:00 a.m.
 - Board of Zoning Appeals – December 16, 2013, 2:30 p.m.
 - Public Projects and Facilities Committee – December 17, 2013, 2:00 p.m.
 - Town Council – December 17, 2013, 4:00 p.m.

(Meetings subject to change and/or cancellation. Please visit the Town of Hilton Head Island website at www.hiltonheadislandsc.gov for meeting agendas.)



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, CM, *Town Manager*
VIA: Teri B. Lewis, AICP, *LMO Official*
FROM: Jayme Lopko, AICP, *Senior Planner*
CC: Charles Cousins, AICP, *Community Development Director*
DATE: November 7, 2013
SUBJECT: ZMA130007 – Beach City Place

Recommendation: The Planning & Development Standards Committee met on November 6th at 3pm to review the attached application for Zoning Map Amendment (ZMA130007) and voted 2-1-0 to recommend to Town Council that the rezoning request be approved, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance.

The Planning Commission met on November 6th at 9am to review the attached application for Zoning Map Amendment (ZMA130007) and voted 6-2-0 to recommend to Town Council that the rezoning request be approved, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance.

Staff recommends Town Council deny the attached application, finding that the application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the Land Management Ordinance.

Summary: A request from Chester C. Williams on behalf of 217 Beach City Road, LLC proposing to amend the Official Zoning Map by changing the zoning designation of the property located at 1-16 and 20-70 Circlewood Drive from the RM-4 (Low Density Residential) zoning district to the RM-8 (Residential Moderate Density). The properties are further identified on Beaufort County Tax Map 5, Parcels 8, 336 through 342, and 344 through 375.

Background: The subject properties are currently platted as a 32 lot single family subdivision with only one lot that has been sold and developed. This lot has been excluded from this rezoning application.

The existing subdivision was approved in June of 2009. Since that time one house has been completed within the subdivision. The subdivision was purchased out of foreclosure with the intent of redeveloping the property into a higher density residential development.

The properties are located within the Airport Overlay Zone Approach Path and Outer Hazard Zone, which places additional restrictions for height and use of the properties. The properties are far enough away from the airport primary surface that the height restrictions will not impact the redevelopment of the properties. Residential uses do not have special restrictions for use under the outer hazard zone regulations.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2013-

PROPOSED ORDINANCE NO. 2013-22

AN ORDINANCE TO AMEND TITLE 16, THE LAND MANAGEMENT ORDINANCE, OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BY AMENDING SECTION 16-4-102, THE OFFICIAL ZONING MAP, SPECIFICALLY REZONING 8.56 ACRES IDENTIFIED AS PARCELS 8, 336 THROUGH 342, AND 344 THROUGH 375 ON BEAUFORT COUNTY TAX MAP 5 FROM RM-4, LOW DENSITY RESIDENTIAL TO RM-8 RESIDENTIAL MODERATE DENSITY AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on July 21, 1998, the Town Council did amend Title 16 of the Municipal Code of the Town of Hilton Head Island by enacting a revised Land Management Ordinance (the "LMO"); and

WHEREAS, the Town Council now finds that, upon further review of application ZMA130007, it is in the public interest that the subject 8.56 acre parcels be rezoned from RM-4 (Low Density Residential) to RM-8 (Residential Moderate Density); and

WHEREAS, this zoning change would be compatible with surrounding land uses and neighborhood character, would not be detrimental to the public health, safety and welfare, and, further, would be in conformance with the Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on November 6, 2013, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning Commission, after consideration of the staff report, public comments, and the criteria set forth in Section 16-3-1505 of the LMO, voted 6-2-0 to recommend to Town Council that the rezoning request be approved, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance; and

WHEREAS, the Planning and Development Standards Committee held a public meeting on November 6, 2013, at which time a presentation was made by staff and an opportunity was given for the public to comment on the rezoning request; and

WHEREAS, the Planning and Development Standards Committee, after consideration of the staff report, public comments, and the criteria set forth in Section 16-3-1505 of the LMO, voted 2-1-0 to recommend to Town Council that the rezoning request be approved, finding that the application is consistent with the Comprehensive Plan and serves to carry out the purposes of the Land Management Ordinance; and

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SC; AND IT IS ORDAINED BY SAID AUTHORITY OF COUNCIL:

Section 1. Amendment. That the official zoning map of the Town of Hilton Head Island, as referenced by Section 16-4-102 of the Land Management Ordinance, be, and the same hereby amended as follows:

The 8.56 acres identified as parcels 8, 336 through 342, and 344 through 375 on Beaufort County Tax Map 5 be rezoned from RM-4, low density residential to RM-8 residential moderate density.

Section 2. Severability. If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____ 2013.

THE TOWN OF HILTON HEAD
ISLAND, SOUTH CAROLINA

Drew Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk

Public Hearing: November 6, 2013

First Reading: December 3, 2013

Second Reading:

Approved as to form:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____



**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
ZONING MAP AMENDMENT**

Application Number	Name of Project	Public Hearing Date
ZMA130007	Beach City Place	November 6, 2013

Parcel Data or Location	Property Owner/ Applicant	Agent
<u>Existing Zoning District:</u> RM-4 <u>Proposed Zoning District:</u> RM-8 <u>Applicable Overlay District(s):</u> Corridor & Airport Overlays <u>Parcel Affected:</u> Beaufort County Tax Map 5 Parcels 8, 336-342, & 344-375	HSSC, LLC 3685 Wheeler Road, Suite 201 Augusta, GA 30909	Chester C. Williams P.O. Box 6028 Hilton Head Island, SC 29938

Application Summary:

A request from Chester C. Williams on behalf of HSSC, LLC proposing to amend the Official Zoning Map by changing the zoning designation of the property located at 1-16 and 20-70 Beach City Road from the RM-4 (Low Density Residential) Zoning District to the RM-8 (Residential Moderate Density) Zoning District. The properties are further identified on Beaufort County Tax Map 5, Parcels 8, 336 through 342, and 344 through 375.

The residential density would increase from 4 units per acre in the RM-4 district to 8 units per acre in the RM-8 zoning district. The number of permitted uses would decrease from the RM-4 to RM-8 district. See Attachment C, Use Table for a complete list of the change in permitted uses. Maximum impervious coverage and permitted commercial density will not change as a result of this rezoning. There are other requirements that will change as a result of this rezoning as well, such as minimum open space and maximum height.

Staff Recommendation:

Staff recommends that the Planning Commission find this application to be inconsistent with the Town's Comprehensive Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official and enclosed herein.

Background:

The applicant is proposing to change the zoning designation of the subject property from RM-4 (Low Density Residential) to the RM-8 (Residential Moderate Density) zoning district.

The subject properties are currently platted as a 32 lot single family subdivision with only one lot that has been sold and developed. This lot has been excluded from this rezoning application.

The properties are located within the Airport Overlay Zone Approach Path and Outer Hazard Zone, which places additional restrictions for height and use of the properties. The height restrictions move outward from the end of the airport primary surface at a rate of one foot upward for every 34 linear feet. The use restrictions are based on the occupant load of proposed use. Residential uses do not have an occupant load that will fall into one of the categories that have use restrictions.

The existing subdivision was approved in June of 2009. Since that time one house has been completed within the subdivision. The subdivision has recently had an Order of Foreclosure issued against the owners of the properties. The applicant states that this rezoning application is an attempt to avoid foreclosure by redeveloping the property into a high density multi-family development.

These properties were the subject of previous rezoning application (ZMA130003) that was withdrawn by the applicant. The previous request was to rezone the properties from RM-4 to RM-12.

Applicant's Grounds for ZMA:

The applicant states in the narrative that the Beach City Place subdivision is a failed single family residential development. The properties have been in default for an extended period of time and an Order of Foreclosure has been rendered against the property owner by the lender. The applicant bought the property at the foreclosure sale on September 3, 2013.

The purpose of this application is to rezone the properties to support the successful redevelopment of the property. The applicant currently has the right to redevelop the property for multi-family residential at a density of 4 units per net acre; however, this scenario is not seen as any more economically viable than the failed single family residential development. The effect of this rezoning will increase the permitted density to 8 units per net acre and reduce the number of permitted uses on the property.

Summary of Facts and Conclusions of Law:

Findings of Facts:

- Notice of the Application was published in the Island Packet on September 29, 2013 as set forth in LMO (Land Management Ordinance) 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.
- A public hearing will be held on November 6, 2013 as set forth in LMO 16-3-1504A.
- The Commission has authority to render their decision reached here in LMO Section 16-3-1504.

Conclusion of Law:

- The application, notice requirements, and public hearing comply with the legal requirements as set forth in LMO 16-3-110, 16-3-111 and 16-3-1504.

*As set forth in **Section 16-3-1505, Zoning Map Amendment Review Criteria**, Planning Staff has based its recommendation on analysis of the following criteria:*

Summary of Facts and Conclusions of Law:

Criteria 1: Consistency (or lack thereof) with the Comprehensive Plan (LMO Section 16-3-1505A):

Findings of Facts:

The Comprehensive Plan addresses this application in the following areas:

Housing

An Implication for the Comprehensive Plan

Although, an increase in the total number of housing units contributes to the economic tax base for the Town, it is important that both the quantity as well as quality of the housing stock is maintained to sustain current and future population and overall property values. As the amount of available land declines for new development, it will be very important to maintain a high quality housing stock on residential properties. In addition, the availability of various housing types is important for the housing market viability to accommodate the diverse needs of the Island's population.

Goal 5.1 – Housing Units and Tenure

- The goal is to monitor availability of housing types and occupancy rates to meet housing demands.

Land Use

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 8.4 - Existing Zoning Allocation

- A. An appropriate mix of land uses to accommodate permanent and seasonal populations and existing market demands is important to sustain the Town’s high quality of life and should be considered when amending the Town’s Official Zoning Map.

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 existing and future populations.

Goal 8.10 - Zoning Changes

- A. The goal is to provide appropriate modifications to the Zoning designations to meet market demands while maintaining the character of the Island.

Implementation Strategy 8.10 - Zoning Changes

- A. Review the appropriate locations of certain land uses in critical areas such as headlands, velocity zones, airport overlay, critical line for storm and the dune accretion zone.
- B. Consider focusing higher intensity land uses in areas with available sewer connections.

Transportation

Goal 9.6 – Air Transportation

- o The goal is to ensure that development surrounding the airport is designed and constructed to minimize the negative impacts of being located near the airport.

Implementation Strategy 9.6 – Air Transportation

- C. Continue to review development proposals within the Airport Hazard Overlay District to ensure the site is designed with the maximum safety possible for the occupants of the site.

1998 Ward One Master Land Use Plan

The Future Land Use Map contained in the 1998 Ward One Master Land Use Plan, an appendix to the Town’s Comprehensive Plan, identifies “Low-Moderate Residential Density Maximum Density 4-8 DU/AC” and “Density Transfer Within Airport Zone” as the desired development type for the subject property.

The Resident Desires in the 1998 Ward One Master Land Use Plan include: General preference to retain low-moderate residential densities, single family in character and Commercial, recreational, or high density residential or resort uses which increase traffic and conflict with low density character should be discouraged.

Conclusions of Law:

- o Staff concludes that this application is compatible with the Housing Element of the Town’s Comprehensive Plan; however, staff further concludes that this application is not compatible with the Land Use and Transportation Elements or 1998 Ward One

- Master Land Use Plan, an Appendix of, the Town's Comprehensive Plan.
- By increasing the permitted density on the property, the development could provide a variety of housing types and occupancies to meet demands.
 - The proposed rezoning to RM-8 would not result in a more appropriate mix of land uses because it would permit fewer uses with a higher residential density.
 - The proposed rezoning will result in an increased number of residential units and place more occupants on a site within the Airport Approach Path. This will increase the number of people affected by the negative impacts of being located near the airport and would not ensure the maximum safety possible for occupants of this site.
 - The proposed rezoning would not be consistent with the 1998 Ward One Master Land Use Plan because the RM-8 district would allow a moderate density residential development in an area that was designated for density to be transferred away from the Airport Approach Path.
 - The proposed rezoning would also impact the character of the neighborhood. The additional residential development would increase traffic and conflict with the low density, single family character of the existing neighborhood by permitting a higher density that would be more conducive to a multi-family development.

Summary of Facts and Conclusions of Law:

Criteria 2: Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood (LMO Section 16-3-1505B):

Findings of Facts:

- LMO Section 16-4-206 describes the purpose of the existing RM-4 zoning district as: *“It is the intent of this residential district to protect and preserve the unique character of Native Islander areas and neighborhoods at densities up to four (4) dwelling units per net acre. This district is used to encourage a variety of residential opportunities.”*
- The subject properties are currently 31 vacant lots, the associated open space, and the infrastructure within a single family subdivision.
- The properties to the northwest and southwest are currently vacant. One of the properties to southwest is developed as single family residential, which is conforming in the RM-4 zoning district. The properties to the northeast are developed as both single family and multi-family residential uses, which are conforming in the RM-4 and WMU zoning districts.
- The property to the southwest is currently a light industrial use, a contractor's office with outdoor storage, which is legally nonconforming to the RM-4 zoning district.

Conclusion of Law:

Staff concludes that the properties subject to the rezoning application are compatible with the present zoning, the conforming uses of nearby property and the character of the neighborhood as set forth in LMO Section 16-3-1505B because the properties are developed as a single family subdivision which is compatible with the surrounding residential character and uses.

Summary of Facts and Conclusions of Law:

Criteria 3: Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment (LMO Section 16-3-1505C):

Findings of Facts:

- LMO Section 16-4-218 describes the purpose of the proposed RM-8 zoning district as: *“It is the intent of this district to allow the development of residential uses up to eight dwelling units per net acre. This district is used to encourage a moderate density neighborhood providing a variety of residential opportunities for residents of the Town.”*
- LMO Section 16-4-401 describes the applicability and regulation of the Airport Overlay District (AZ) as: *“Development activity within this district is subject to regulation primarily to mitigate safety and noise problems; however, land uses within this district also shall be regulated to mitigate their incompatibility with airport operations.”*
 - There would be a smaller number of uses permitted under the RM-8 zoning than RM-4 zoning.
 - Residential uses in the RM-8 would be permitted at a higher density.

Conclusion of Law:

Staff concludes that the affected properties are not suitable for the uses that would be permitted by the proposed rezoning as set forth in LMO Section 16-3-1505C because although the RM-8 district permits fewer uses than the RM-4 district, the RM-8 district would permit a higher density of residential units. The increase in residential units is not suitable or compatible for properties within the Airport Overlay District.

Summary of Facts and Conclusions of Law:

Criteria 4: Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment (LMO Section 16-3-1505D):

Findings of Facts:

- LMO Section 16-4-218 describes the purpose of the existing RM-4 zoning district as: *“It is the intent of this residential district to protect and preserve the unique character of Native Islander areas and neighborhoods at densities up to four (4) dwelling units per net acre. This district is used to encourage a variety of residential opportunities.”*
- LMO Section 16-4-401 describes the applicability of the Airport Overlay District (AZ) as: *“Development activity within this district is subject to regulation primarily to mitigate safety and noise problems; however, land uses within this district also shall be regulated to mitigate their incompatibility with airport operations.”*
- The subject properties are currently 31 vacant lots, the associated open space, and the infrastructure within a single family subdivision.

Conclusion of Law:

Staff concludes that the affected properties are suitable for the uses permitted by the RM-4 zoning district as set forth in LMO Section 16-3-1505D because the properties have been subdivided for single family residential development which is permitted in the RM-4 district.

Summary of Facts and Conclusions of Law:

Criteria 5: Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment (LMO Section 16-3-1505E):

Findings of Fact:

- If the property is rezoned to RM-8, the number of permitted uses will decrease.
- If the property is rezoned to RM-8, the permitted residential density will increase from 4 to 8 units per acre.

Conclusion of Law:

Staff concludes that the marketability of the properties may change as set forth in LMO Section 16-3-1505E.

Summary of Facts and Conclusions of Law:

Criteria 6: Availability of sewer, water and stormwater facilities generally suitable and adequate for the proposed use (LMO Section 16-3-1505F):

Findings of Facts:

- The subject properties are currently served with water and sewer services by Hilton Head Public Service District.
- The subject properties currently have stormwater facilities adequate for the 32 lot single family subdivision.
- A Development Plan Review (DPR) application will be required for any development on the site and water, sewer and stormwater facilities will be addressed at that time.

Conclusion of Law:

Staff concludes that the properties have available water, sewer and stormwater services suitable for the proposed use as set forth in LMO Section 16-3-1505F.

LMO Official Determination

Determination: Staff determines that this application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the LMO as based on the Findings of Fact and Conclusions of Law detailed in this report.

Note: If the proposed amendment is approved by Town Council, such action shall be by ordinance to amend the Official Zoning Map. If it is denied by Town Council, such action shall be by resolution.

PREPARED BY:

JL

Jayne Lopko, AICP
*Senior Planner & Planning Commission Board
Coordinator*

October 17, 2013

DATE

REVIEWED BY:

TBL

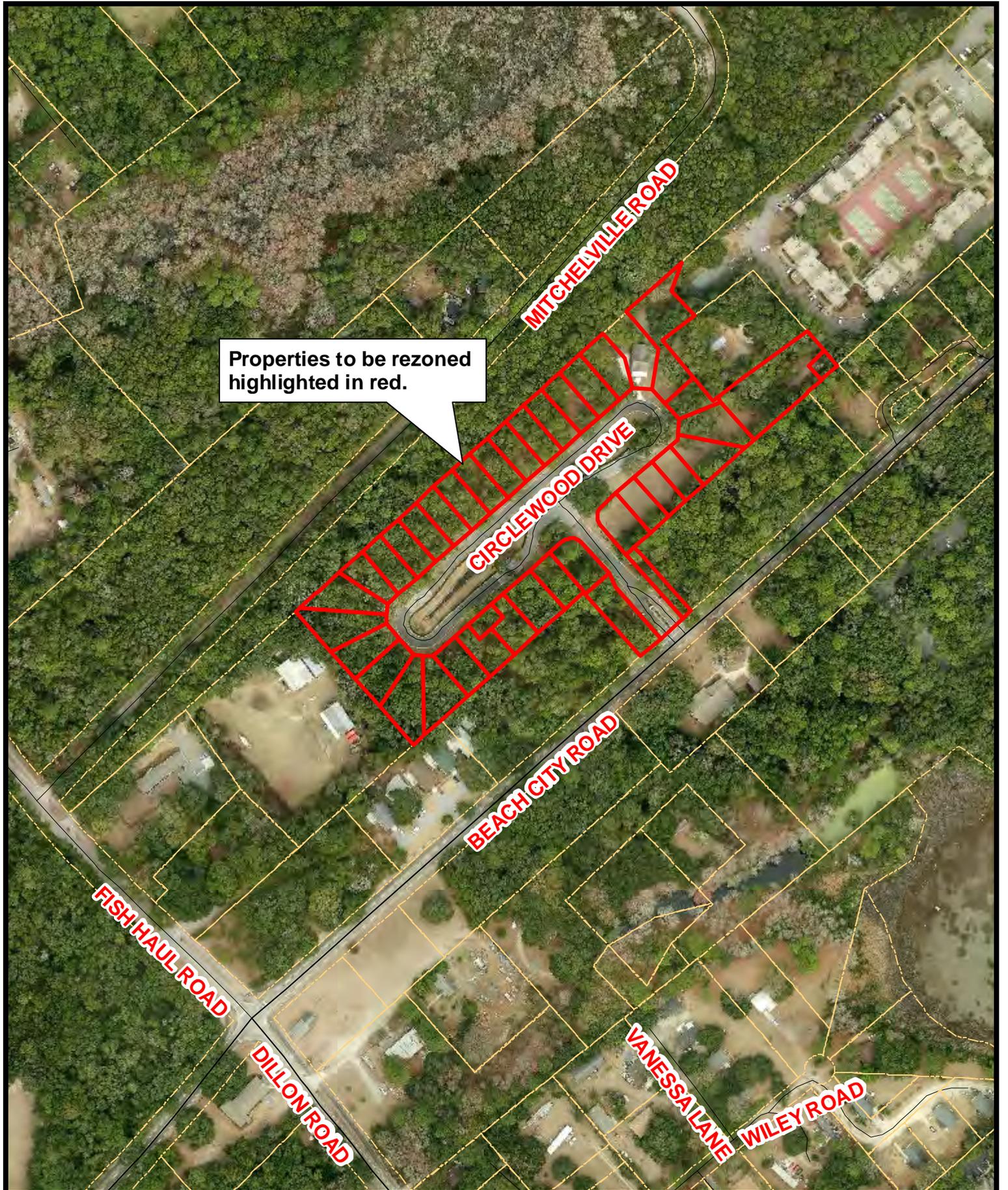
Teri B. Lewis, AICP
LMO Official

October 17, 2013

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Zoning Map
- C) Use Table
- D) Applicant's Narrative
- E) Public Comment Letters



Properties to be rezoned highlighted in red.

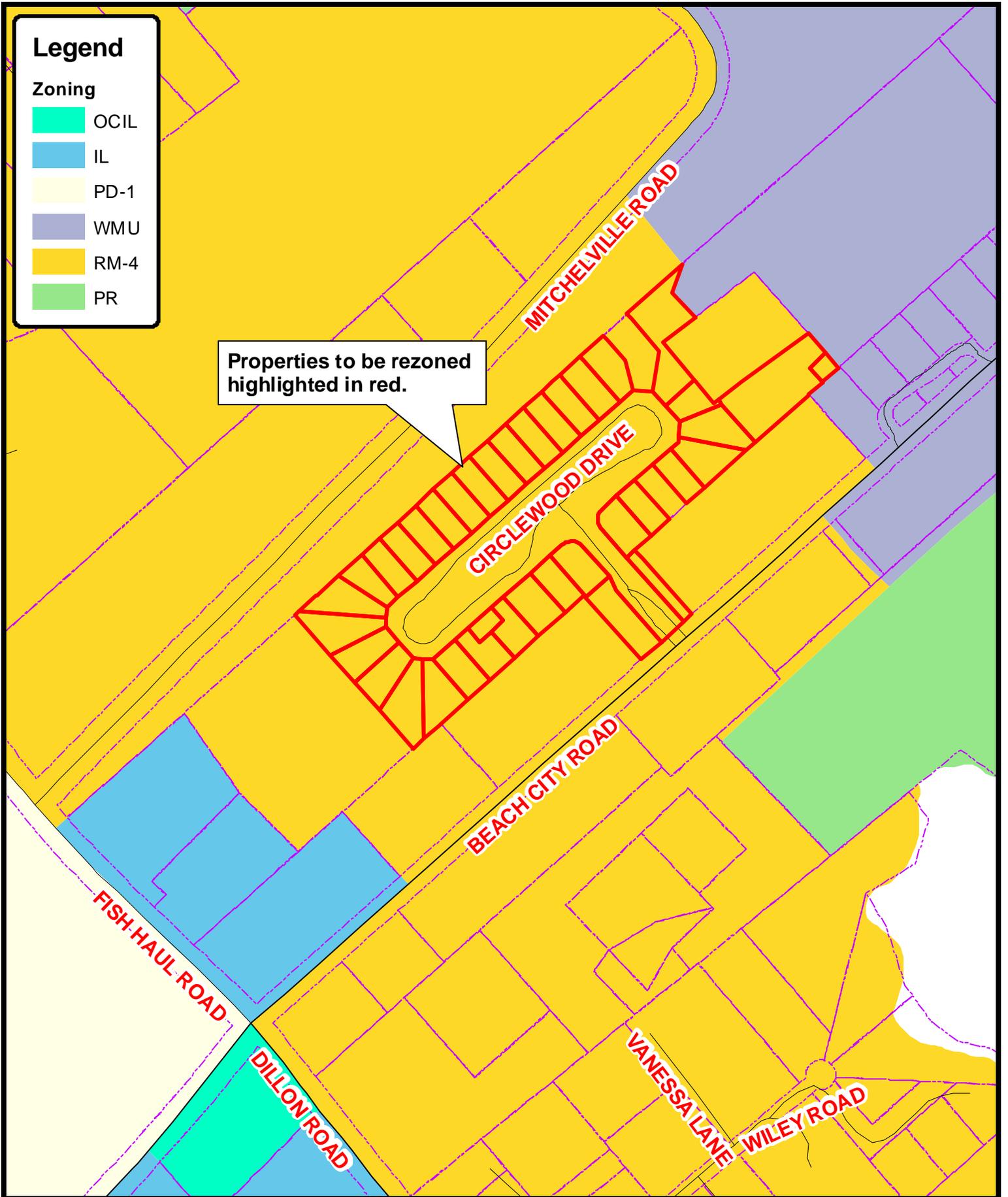


Legend

Zoning

- OCIL
- IL
- PD-1
- WMU
- RM-4
- PR

Properties to be rezoned highlighted in red.



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

Town of Hilton Head Island ZMA130003 - Zoning Map ATTACHMENT B



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 date of completion.

ATTACHMENT C

P = Permitted By Right PC = Permitted With Conditions SE = Special Exception

Specific Use	RM-4	RM-8
Group Living	PC	PC
Single Family	P	P
Multifamily Residential	P	P
Mixed Use		
Manufactured Housing Park	PC	PC
Aviation/Surface Passenger Terminal		
Community Service	P	
Day Care	PC	
Colleges		
Schools, Public or Private	SE	
Government Facilities	PC	PC
Hospitals		
Religious Institutions	PC	PC
Other Institutions	SE	SE
Cemetery	P	SE
Park, Community	SE	
Park, Linear	P	P
Park, Mini	P	P
Park, Neighborhood	P	P
Park, Regional		
Park, Special Use	P	P
Major Utility	SE	
Minor Utility	P	SE
Telecommunications Facility	PC	
Waste Treatment Plant	SE	
Restaurant With Drive-thru		
Restaurant With Seating, High Turnover		
Restaurant With Seating, Low Turnover		
Restaurant Without Seating		
Indoor Recreation		
Indoor Entertainment		
Outdoor Recreation		

ATTACHMENT C

P = Permitted By Right PC = Permitted With Conditions SE = Special Exception

Outdoor Entertainment		
Water Parks		
Health Services Except Hospitals		
Real Estate Sales/Rental		
Other Offices		
Parking, Commercial		
Bed and Breakfast Inn	SE	
Central Reception or Check-in Facility		
Divisible Dwelling Unit		
Hotel or Motel		
Inn	SE	
Interval Occupancy		
RV Park		
Adult Entertainment		
Bank or Financial Institution		
Bicycle Shop (with outdoor storage)		
Community Theater		
Dance Studio		
Convenience Store		
Department or Discount Store		
Funeral Home		
Furniture Store		
Hardware, Paint, Glass, Wallpaper or Flooring Store		
Health Club or Spa		
Kennel, Boarding		
Landscape Nursery		
Liquor Store		
Nightclub or Bar		
Open Air Sales		
Pet Store		
Shopping Center		
Souvenir or T-Shirt Store		
Supermarket		

ATTACHMENT C

P = Permitted By Right PC = Permitted With Conditions SE = Special Exception

Tattoo Facility		
Veterinary Hospital		
Watercraft Sales, Rental or Service		
Other Retail Sales or Service		
Auto Rental		
Auto Repair		
Auto Sales		
Car Wash		
Gas Sales		
Taxicab Service		
Towing Service		
Truck or Trailer Rental		
Aviation Services		
Contractor's Office		
Other Light Industrial Service		
Seafood Processing		
Other Manufacturing and Production		
Limited Manufacturing		
Moving and Storage		
Self-Service Storage		
Warehousing		
Waste Related Service		
Contractor's Materials		
Wholesale Business		
Wholesale Business with Accessory Retail Outlet		
Agriculture	P	
Docking Facility and Boat Ramp		
Marina		
Other Water Oriented Uses		

STATE OF SOUTH CAROLINA) BEFORE THE PLANNING COMMISSION
) OF THE
) TOWN OF HILTON HEAD ISLAND, SC
COUNTY OF BEAUFORT) ZMA 13000__

ATTACHMENT 1
TO
THE ZONING MAP AMENDMENT APPLICATION
OF
HSSC, LLC
REGARDING
8.56 ACRES, BEACH CITY ROAD

This Attachment 1 is part of the Zoning Map Amendment Application (this “Application”) of HSSC, LLC (the “Applicant”), and is submitted by the Applicant to the Planning Commission of the Town of Hilton Head Island (the “Town”) to address the zoning map amendment criteria set forth in Section 16-3-1505 of the Town’s Land Management Ordinance (the “LMO”). This Application seeks approval to amend the Official Zoning Map¹ of the Town by changing the base zoning district applicable to an 8.56 acre tract (the “Property”) located on Beach City Road in the Town of Hilton Head Island, from the currently applicable RM-4 – Low Density Residential District (the “RM-4 District”) to the RM-8 – Residential Moderate Density District (the “RM-8 District”).

I. NARRATIVE – INTRODUCTION

The Applicant is the owner of the Property located at 217 Beach City Road. The Property is comprised of forty (40) separate tax parcels, designated in the Beaufort County property tax records as TMS District 510, Map 5,

¹ See LMO Section 16-4-102.



Parcels 0008, 0336 through 0342, and 0344 through 0375.² The Applicant acquired the Property through foreclosure by way of a deed from the Beaufort County Master in Equity.³

The Property is part of the largely underdeveloped residential area on Beach City Road west of Dillon Road and generally north of the Hilton Head Island Airport. The Applicant is now seeking to amend the Town's Official Zoning Map to move the Property from the RM-4 District to the RM-8 District.

II. NARRATIVE – BACKGROUND

A. THE PROPERTY

The Property is the site of a failed single family residential development known as Beach City Place, which was permitted by the Town and developed as a community of thirty-two (32) small lots to be utilized for single family residences.⁴ One of the lots in Beach City Place was sold for use as a model home prior to the failure of the development, and is the site of an existing single family home.⁵ The Property has a paved entrance road providing access to Beach City Road, a paved oval shaped road known as Circlewood Drive providing access to the individual lots in the development, and completed infrastructure for water, electrical, cable television, and sanitary sewer utilities, and on-site storm water retention.

² The Beach City Place subdivision, shown on the survey included with this Application, contains a total of 8.75 acres. One of the 32 single family lots in the subdivision was previously conveyed out by the prior owner of the Property, and is not included in this Application.

³ As of the time of filing of this Application the Master's Deed conveying the property to the Applicant has been prepared and sent to the Beaufort County Master in Equity for execution and recording. A copy of the recorded Master's Deed will be included in the record of this Application upon receipt.

⁴ See the Town's records on Subdivision Application SUB070008.

⁵ The owner of this single family home constructed a garage which sits, in part, on the Property owned by the Applicant, without the consent of the Applicant or the prior owner of the Property.



The mortgage securing the loan that provided the capital for development of Beach City Place on the Property has been foreclosed, and the Property was sold to the Applicant at a foreclosure sale held on September 3, 2013.⁶ The Applicant is seeking the requested rezoning in order to allow for the redevelopment of the failed single family subdivision as an eight (8) unit per acre residential housing development.

The Property is currently located in the RM-4 District, the COR – Corridor Overlay District, and the AZ – Airport Overlay District (the “Airport Overlay District”). The current base zoning restrictions applicable to the Property under the RM-4 District clearly have not supported successful development of the Property. The purpose of this Application is to rezone the Property to support successful redevelopment of the Property.

B. THE REQUESTED REZONING

The Applicant is requesting that the Official Zoning Map be amended to change the base zoning district of the Property from currently applicable RM-4 District to the RM-8 District.

III. NARRATIVE – CURRENT AND PROPOSED PERMITTED USE AND DENSITY

The base zoning district currently applicable to the Property is the RM-4 District. By-right permitted uses in the RM-4 District are restricted to single family and multifamily residential, community services, cemeteries, certain parks, minor utilities, and agriculture. Conditional and special exception uses in the RM-4 District include group living, manufactured housing park, day care, schools, government facilities, institutions, community park, certain utilities, bed and breakfast, and inn.⁷ The maximum permitted residential density in the RM-4 District is four (4) density units per net acre, non-

⁶ See the records of that certain actions styled *HSSC, LLC as Successor in Interest to Bank of North Carolina v. 217 Beach City Road, LLC, et al.*, Case No. 2010-CP-07-6059 and Case No. 2010-CP-07-6060 in the Court of Common Pleas for the Fourteenth Judicial Circuit.

⁷ See Use Table at LMO Section16-4-1204.



residential development is limited to 6,000 square feet per net acre, and bed and breakfast and inn accommodations are limited to ten (10) rooms per net acre.⁸ The maximum impervious coverage in the RM-4 District is 35%, and the minimum open space requirements are 55% for non-residential development, 16% for major residential subdivisions, and 65% for other residential development.⁹ The maximum height of structures in the RM-4 District is limited to thirty-five (35') feet.¹⁰

Curiously, the by-right, conditional, and special exception uses allowed in the RM-8 District are more restrictive than the uses allowed in the RM-4 District. Specifically, community services, day care, schools, community park, certain utilities, bed and breakfast, inn, and agricultural uses, all allowed in the RM-4 District, are prohibited in the RM-8 District.¹¹ The maximum permitted residential density in the RM-8 District is eight (8) density units per net acre, and non-residential development is limited to 6,000 square feet per net acre.¹² The maximum impervious coverage in the RM-8 District is identical to that allowed in the RM-4 District, and the minimum open space requirements are 14% for major residential subdivisions, and 55% for other development.¹³ The maximum height of structures in the RM-8 District is limited to forty-five (45') feet.¹⁴

⁸ See the Density Standards Table at LMO Section 16-4-1601.

⁹ See the Maximum Impervious Coverage and Minimum Open Space Table at LMO Section 16-4-1606. Note, also that the minimum open space requirements for the RM-4 District also refer to residential development at over 4 units per net acre; however, this provision seems to be a no longer applicable provision from times past when bonus densities were available in the RM-4 District.

¹⁰ See the Maximum Structure Height Table at LMO Section 16-4-1701.

¹¹ Again, see the Use Table at LMO Section 16-4-1204.

¹² Again, see the Density Standards Table at LMO Section 16-4-1601.

¹³ Again, see the Maximum Impervious Coverage and Minimum Open Space Table at LMO Section 16-4-1606.

¹⁴ Again, see the Maximum Structure Height Table at LMO Section 16-4-1701.



The Property is contiguous to a portion of The Spa on Port Royal Sound, an existing multifamily residential development that is located in the WMU District.

Given the RM-4 District limitations, the Applicant currently has the right to redevelop the Property for multifamily residential use, but only at a density of 4 units per net acre; however, as a practical matter, the Applicant sees that redevelopment scenario as no more economically viable than the failed single family development on the Property.¹⁵ Therefore, the Applicant is proposing to amend the Official Zoning Map to rezone the Property to the RM-8 District. The effect of this zoning change will be to reduce the permitted uses on the Property, increase the permitted density on the Property, and change the open space and height requirements applicable to the Property.

IV. NARRATIVE – REZONING CRITERIA

LMO Section 16-3-1505 sets forth the criteria which the Planning Commission is to address in making a recommendation to the Town Council on this rezoning request, as follows:

A. Consistency (or lack thereof) with the Comprehensive Plan.

The **Natural Resources Vision** of the Comprehensive Plan directs the Town to protect Hilton Head Island’s diverse natural resources, which are pivotal to the economic well-being of the community and the high quality of life on the Island.¹⁶ The Applicant is seeking to amend the Official Zoning Map in a manner that will continue the permitted

¹⁵ The only economically viable use of the Property under the existing RM-4 District restrictions that the Applicant can see is to act on the Manufacture Home Placement Approvals issued by the Town on July 12, 2013 to the prior owner of the Property (and assigned to the Applicant), which will allow for the by-right placement of one manufactured home on each of the 31 lots in Beach City Place Subdivision owned by the Applicant.

¹⁶ See the May 4, 2010 Hilton Head Island Comprehensive Plan (the “Comprehensive Plan”), at Page 19.



residential uses on the Property, while restricting non-residential uses.¹⁷ In fact, if the Applicant were to redevelop the Property for multifamily residential use in the RM-8 District, the rezoning will result in an increase of minimum open space from the current 16% to 55%, a three-fold increase in required open space. The Applicant's proposed amendment of the Official Zoning Map will not negatively impact the Town's Natural Resources Vision since the development permitting process mandated by the LMO will fully address any natural resource issues that may arise.

The **Population Vision** of the Comprehensive Plan is to maintain a diverse population in the Town, which is given the opportunity to be well educated, financially secure, and enjoy a high quality of life.¹⁸ The Comprehensive Plan recognizes that the Town will continue to experience significant population growth. Goal 4.2 of the Population Vision of the Comprehensive Plan seeks to create a community that is less dependent on workforce residing on the mainland.¹⁹ Achieving Goal 4.2 will require additional housing for permanent residents of the Town, and approval of this Application will specifically support Goal 4.2 by permitting additional density, and therefore housing units, in a location appropriate for such redevelopment. Implementation Strategy 4.3(D) of the Population Vision of the Comprehensive Plan calls for creating "... incentives for redevelopment that opt for a planned community approach with goals of diversity in housing cost ...".²⁰

The **Housing Vision** of the Comprehensive Plan seeks to promote entrepreneurial housing initiatives that will result in the development of

¹⁷ Again, see the Use Table at LMO Section 16-4-1204.

¹⁸ See the Comprehensive Plan, at Page 32.

¹⁹ See the Comprehensive Plan, at Page 47. According to a study commissioned by the prior owner of the Property and completed earlier this year, over sixty (60%) percent of the people who work on Hilton Head Island do not live on Hilton Head Island, in large measure because they cannot afford the cost of housing on Hilton Head Island

²⁰ See the Comprehensive Plan, at Page 48.



diverse housing types for all income levels, and to support affordable housing initiatives in the region to supplement housing on the Island.²¹ The Comprehensive Plan recognizes that "... the availability of various housing types is important for the housing market viability to accommodate the diverse needs of the Island's population."²²

More specifically, the Comprehensive Plan recognizes the long-term requirements for workforce and affordable housing. The Comprehensive Plan also recognizes the

lack of development incentives, such as increased density, decreased parking, increased height standards, etc., which allow the developer to build more than otherwise allowed by Town regulations and requirements do not exist in current codes and may, when coupled with other barriers, also become a barrier in itself to the construction or availability of affordable housing.²³

This Application will provide flexibility for the redevelopment of the Property and support the Housing Vision of the Comprehensive Plan by providing an opportunity for housing diversity in the Town, without requiring any further incentive for such development activity such as that recognized by the Comprehensive Plan.

Goal 5.1(A) of the Housing Vision of the Comprehensive Plan states, "The goal is to encourage redevelopment of multifamily residential structures to meet market demands and new trends."²⁴ Likewise, Goal 5.2(A) of the Housing Vision of the Comprehensive Plan supports projects that encourage affordable and workforce housing.²⁵ This Application

²¹ See the Comprehensive Plan, at Page 49

²² See the Comprehensive Plan, at Page 53.

²³ See the Comprehensive Plan, at Page 56.

²⁴ See the Comprehensive Plan, at Page 57.

²⁵ See the Comprehensive Plan, also at Page 57.



specifically supports Goals 5.1(A) and 5.2(A) of the Housing Vision of the Comprehensive Plan. The Beach City Place single family development was a financial failure. The Applicant submits that flexibility in zoning to permit additional density will support meeting the market demand for housing variety on Hilton Head Island.

The **Community Facilities Vision** of the Comprehensive Plan is for the Town to provide facilities for the residents and visitors of Hilton Head Island which are maintained at the highest levels of service and efficiency consistent with facilities of a world class community.²⁶ The approval of this Application will not negatively impact the Town's Community Facilities, but rather will provide additional use of the Town's parks located in the Beach City Road and Mitchelville areas by the residents of the Property's development. The basic infrastructure required for redevelopment of the Property, including water and sewer, storm water retention, electric, telephone, and cable television services, and roadways, is already in place, and additional work by the Applicant will be required only to modify the existing infrastructure on the Property for more dense residential use.

The **Economic Development Vision** of the Comprehensive Plan looks to define, foster, and enhance the economic environment that sustains Hilton Head Island's unique way of life.²⁷ In particular, the Comprehensive Plan recognizes that "A sustainable workforce will become essential to the future economic potential of the Island and is essential to support the social economic population mixing that is vital for a vibrant and sustainable economy."²⁸ A sustainable workforce requires housing diversity, and housing diversity involves various levels of density in housing opportunities. As discussed below, the current mix of housing opportunities in the Town is heavily weighted towards the less

²⁶ See the Comprehensive Plan, at Page 59.

²⁷ See the Comprehensive Plan, at Page 88.

²⁸ See the Comprehensive Plan, at Page 91.



dense zoning districts. Approval of this Application will provide a small step in addressing that imbalance and provide additional multifamily housing opportunities for Island residents.

The Applicant's desire to protect and enhance its investment in the Property is a primary reason for this Application. Clearly, putting the Applicant in the best possible position to maintain a successful and attractive residential development is consistent with the Economic Development Vision of the Comprehensive Plan, and is in the best interests of the Town.

The **Transportation Element** of the Comprehensive Plan merits analysis with regard to this Application because the Property is located in the Airport Overlay District, north of the Hilton Head Airport (the "Airport"). The Airport is referred to in several places in the Town's Comprehensive Plan, including the following:

1. Sections 7.5 and 7.6 of the Economic Development Element acknowledge that the Airport is limited in capacity (around 4% of visitors to the Town historically arrive by air), and that the expansion capability of the Airport is limited.²⁹ Figures 7.3 and 7.4 in the Economic Development Element show that both monthly tower operations at the Airport and total passenger arrivals at the Airport seem to have peaked in 2007, and were declining in 2008 and 2009.³⁰
2. Implementation Strategy 8.10(A) in the Land Use Element calls for a review of the appropriate locations of certain land uses in areas such as the Airport Overlay District.³¹

²⁹ See the Comprehensive Plan, at Pages 90 and 91.

³⁰ See the Comprehensive Plan, at Pages 97 and 98.

³¹ See the Comprehensive Plan, at Page 110.



3. Section 9.6 of the Transportation Element discusses the Airport and air transportation. Goal 9.6 of the Transportation Element is to ensure that Airport operations remain safe while providing air travel to the Town, and to ensure that development surrounding the Airport is designed and constructed to minimize the negative impacts of being located near the Airport.³² Goal 9.6 is clearly focused on lands in the vicinity of the Airport, not on the Airport itself. Moreover, Goal 9.6 does not discourage development near the Airport; instead, it seeks to “minimize the negative impacts” on the properties in the vicinity of the Airport. The redevelopment of the Property contemplated by the Application will indeed minimize the negative impacts of the location of the Property.

4. Implementation Strategy 9.6(C) of the Transportation Element calls for review of development proposals within the Airport Overlay District to ensure the site is designed with the maximum safety possible for the occupants of the site.³³ As discussed at length in this Application, increasing density does not decrease safety. Property in the Outer Hazard Zone, or, for that matter, in any part of the Airport Overlay District, is either safe, or it is not safe. If the Outer Hazard Zone is safe, increased density simply means that more people are located in a safe area. If the Outer Hazard Zone is not safe, then in order to be consistent with the Comprehensive Plan and ensure “maximum safety”, no development whatsoever should be permitted in the unsafe areas.³⁴

³² See the Comprehensive Plan, at Page 134.

³³ See the Comprehensive Plan, at Page 138.

³⁴ If “maximum safety” is the Implementation Strategy, and the reader agrees that more density is less safe, one wonders why the existing 32 lot single family residential subdivision development on the Property was permitted in 2009.



The Applicant readily acknowledges that any redevelopment of the Property under the RM-8 District, if the Application is approved, must be undertaken in a manner that will fully and completely comply with the requirements of the Airport Overlay District, thereby assuring compliance with the provisions of the Comprehensive Plan relating to the Airport.

The **Land Use Element** of the Comprehensive Plan seeks a high quality of life by planning for population growth, public and private development and redevelopment, and the proper distribution, location, and intensity of land uses with adequate levels of services while maintaining and protecting the natural resources, residential neighborhoods and overall character of the Town.³⁵ The sustainable workforce identified by the Economic Development Vision of the Comprehensive Plan requires substantial diversity in housing opportunities. In this regard, Table 8.3 of the Land Use Vision of the Comprehensive Plan informs us that just 235.3 acres of the Island's total 19,925.3 acres, less than 1.2%, are in the RM-8 District. Of the 235.3 acres currently dedicated to the RM-8 District on Hilton Head Island, 169.1 acres, or 0.85% of the Island's total acreage, are classified as "Residential".³⁶ This very small percentage of the total acreage of the Town dedicated to moderate density housing explains, in part, the continuing issue of housing unavailability for the Island workforce, except for those in the very high income segments. Approval of this Application will address this imbalance in housing diversity opportunities in a very direct way.

Implementation Strategy 8.4(A) of the Land Use Vision of the Comprehensive Plan is to "Determine if there is an adequate amount and location of current zoning districts through review of existing zoning district classifications."³⁷ This Application will directly address the

³⁵ See the Comprehensive Plan, at Page 100.

³⁶ See the Comprehensive Plan, at Page 104.

³⁷ See the Comprehensive Plan, at Page 110.



paucity of RM-8 District residential acreage in the Town. In addition, Implementation Strategy 8.10(B) of the Economic Development Vision of the Comprehensive Plan is to “Focus higher intensity land uses in areas with available sewer connections.”³⁸ Sanitary sewer service through Hilton Head Public Service District is currently available to Property.

The Applicant notes that both the RM-4 District and the RM-8 District were added to the LMO specifically as a result of the 1998 Ward One Master Land Use Plan (the “Ward One Plan”). The primary reason for the difference between the maximum densities allowed in the RM-4 District as opposed to the RM-8 District, or the RM-12 District, is the availability of adequate infrastructure necessary to support higher density development.³⁹ The Ward One Plan acknowledged that the lower density of the RM-4 District was intended to address the general lack of sanitary sewer service in the Ward One area fifteen years ago, and that bonus densities were to be available if sanitary sewer service was available for tracts of greater than three acres.

Given the history of the Property, the existing infrastructure facilities already serving the Property, and the current imbalance of more dense residential and multifamily housing opportunities on the Island, the requested rezoning will not have an adverse effect on the natural resources, community facilities, or existing development in the area of the Property, and will encourage the orderly redevelopment of the Property, all in accordance with the Comprehensive Plan.

B. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

The current use on the Property is a failed single family residential development, with only one of 32 lots being built out (albeit with an

³⁸ See the Comprehensive Plan, at Page 111.

³⁹ See the purpose statements of the RM-4 District, the RM-8 District, and the RM-12 District in LMO Sections 16-4-206, 16-4-207, and 16-4-208, respectively.



illegally constructed garage) some four years after the subdivision of the Property was approved. The nearby properties to the northeast along Beach City Road include The Spa on Port Royal Sound, a multifamily development established some thirty years ago, another failed single family residential development (Trail Beach Manor), several undeveloped parcels, a single family dwelling,⁴⁰ and Fish Haul Creek Park. Undeveloped parcels front on Beach City Road on both sides of the Property's entrance. Directly across Beach City Road from the Property are an undeveloped parcel, a single family dwelling, a two (2) acre undeveloped parcel, and another single family dwelling. The Golf Cottages at Mitchellville, five single family dwellings now used as dormitory housing for the Junior Players Golf Academy, is located to the southwest of the Property on Beach City Road nearer to the Airport. Also to the southwest of the Property, and adjacent to it, are a veterinary hospital, a kennel, and a former contractor's storage yard, all with access to Fish Haul Road.⁴¹ The Property is bordered on the north by undeveloped parcels fronting on unpaved Mitchellville Road. The existing uses on these nearby properties are a mix of residential and commercial, with one large multifamily development directly to the northeast of the Property.

Given the existing predominately multifamily residential and commercial uses on the various properties in the vicinity of the Property, the Applicant believes the use of the Property for low density single family residential use is less compatible with the present zoning and conforming uses of those nearby properties, and with the character of the neighborhood, than a higher density residential use on the Property would be.

⁴⁰ Most of the properties on Beach City Road to the northeast of the Property are located in the WMU District, which allows residential development at up to twelve (12) density units per acre. The Applicant estimates that the existing density on The Spa property is in excess of twenty (20) units per acre.

⁴¹ The veterinary hospital and the kennel are in the IL – Light Industrial District, and the former contractor's storage yard is in the RM-4 District.



C. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment.

The Property which is the subject of this rezoning request is uniquely suitable for the use permitted by the proposed RM-8 District. The Property is located in a largely underdeveloped area. More specifically, the Property is adjacent to a large multifamily development directly to the northeast in the WMU District, and commercial development directly to the southwest in the IL District. The Property is to the north of the Hilton Head Island Airport, in an area that is more conducive to more dense residential development. The failure of Beach City Place development is a testament to the general unsuitability of the area for low density single family residential development.

The Property has electrical, water, sewer, and storm water retention facilities in place. The Property fronts on Beach City Road, a minor arterial road with good road connections to William Hilton Parkway via Beach City Road or Dillon Road. Nearby properties include only three (3) single family residential uses, one of which is part of the failed development on the Property.

1. The Airport Overlay District

As noted above, the Property is located in the Airport Overlay District, which provides for land use controls and restrictions on properties in the vicinity of the Airport. The Airport Overlay District regulations are in Chapter 4, Article IV of the LMO.

The Airport Overlay District⁴² includes five sub-districts, namely, the Discretionary Noise Level (also referred to as the LDN 60 area), the Significant Noise Level (also referred to as the LDN 65

⁴² See the November 3, 1999 Airport Overlay District Map, which is part of the Town's Official Zoning Map.



area), the Approach Path, the Inner Hazard Zone, and the Outer Hazard Zone. The Property is located wholly within the LDN 60 area and the Approach Path, and partly within the Outer Hazard Zone.⁴³

As explained below, there is nothing in the Airport Overlay District restrictions that prohibits, or even discourages, residential development on the Property at heights up to, and even exceeding, the 45 feet maximum height allowed in the RM-8 District.

2. The Airport Overlay District – LDN 60 Area.

The LDN 60 area includes the entire area within the Airport Overlay District.⁴⁴ The only Airport Overlay District restrictions on lands in the LDN 60 area are that no use of any land or water be made in a manner as (a) to create electrical interference with navigational signals or radio communication between the airport and aircraft, (b) to make it difficult for pilots to distinguish between airport lights and other lights (*i. e.*, colors and patterns), (c) to result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, (d) to create bird strike hazards, or (e) to otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the Airport.⁴⁵

Note there is no prohibition on residential development in the LDN 60 area (indeed, the currently permitted single family residential subdivision on the Property is in the LDN 60 area), though noise mitigation measures are encouraged for all proposed residential development.

⁴³ See the marked up excerpt from the Airport Overlay District Map, which shows the outline of the Property in red, attached to this Attachment 1 as Exhibit A.

⁴⁴ See LMO Section 16-4-402(A)(1). The other four sub-districts in the Airport Overlay District are “subsections of the Discretionary Noise Level.”

⁴⁵ See LMO Section 16-4-403(A).



Note, also, there are no restrictions on height for any proposed development, residential or otherwise, in the LDN 60 area regulations.

3. The Airport Overlay District – The Approach Path.

The Approach Path sub-district of the Airport Overlay District, which generally includes the areas extending out from the north and south ends of the Airport runway, was established to insure that development near the Airport will not pose safety problems due to vertical protrusions. Its main focus is a height limitation that increases as the linear distances from the runway ends increase. Within the Approach Path, no building, structure, utility pole or protrusion of any kind thereof shall be permitted to extend to a height measured from the mean elevation of the airport runway that exceeds the limits established in LMO Section 16-4-402(C)(a). With respect to the north end of the Airport runway, the maximum permitted height increases by a ratio of 1:34 (*i. e.*, for every 34 feet one moves away from the end of the runway, the maximum height increases by 1 foot).

As the more veteran Planning Commissioners will recall, this height limitation has over the last several years been the topic of much discussion as it relates to Beaufort County's tree trimming and removal activities on and in the vicinity of the Airport. As part of one of its tree trimming and removal permit applications to the Town, Beaufort County commissioned the preparation of very detailed plans showing the height limitations of the Approach Path area. Those plans show that by the time one reaches the Property, the height limitations of the Approach Path allow for construction and development on the Property at a height exceeding 80 feet.⁴⁶

⁴⁶ See the Construction Plans for Runway 21 Offsite Tree Obstruction Removal Project at Hilton Head Island Airport (HXD) prepared by Wilbur Smith Associates, Charles F. Stearns, PE, dated June 28, 2011 (the "Wilbur Smith Plans"). A reduced size copy of Page 4 of the Wilbur Smith Plans is attached to this Attachment 1 as Exhibit B. Note the Property is not actually



4. The Airport Overlay District – The Outer Hazard Zone.

The Outer Hazard Zone is an area that demonstrates a higher statistical probability of aircraft accidents occurring.⁴⁷ Restrictions on development in the Outer Hazard Zone are limited to required construction techniques and occupancy loads, and include a prohibition on uses designed to serve children or those with low effective mobility, such as day care centers, hospitals, assisted living facilities, and nursing homes.

There is nothing in the Outer Hazard Zone restriction that prohibits, or even discourages, residential use. Further, as evidenced by the existing single family residential subdivision on the Property, there is nothing in the Outer Hazard Zone restriction that leads one to believe that residential use on the property is incompatible with the operations of the Airport.

5. The South Carolina Airports Act.

Originally enacted in 1962 and amended in 2012, the South Carolina Airports Act is set out in SC Code Section 55-9-10, *et seq.* (the “Airports Act”). Section 55-9-260 of the Airports Act specifically empowers a municipality that has an airport hazard area within its territorial limits to adopt, administer, and enforce, consistent with the Airports Act, zoning regulations for the airport hazard area, including specifying land uses permitted, and regulating and restricting, for the purpose of preventing airport hazards, the heights of structures and trees. SC Code Section 55-9-330 addresses the permitted contents of airport zoning regulations. More particularly, SC Code Section 55-9-330(A) provides

shown on Page 4 of the Wilbur Smith Plans, as it is located further north of the Airport, outside the scope of Page 4 of the Wilbur Smith Plans.

⁴⁷ See LMO Section 16-4-402(A)(5).



All airport zoning regulations adopted pursuant to this chapter shall be reasonable and none shall impose any requirement or restriction which is not necessary to effectuate the purposes of this chapter. [Emphasis added.]

The Airport Act requires that all airport zoning regulations be reasonable, and not impose any requirement or restriction on land uses which is not necessary. The Applicant submits that the Airport Overlay District regulations do exactly that.

At the end of the day, the area past the north end of Airport Runway 21 is either “safe”, or it is “unsafe”. With regard to any land in the vicinity of any airport, safety is not a matter of degree. If the Property is “safe” for single family and multifamily residential development in the RM-4 District, adding additional density cannot make it “unsafe”. The area is either “safe” for residential uses, or it is not.

The fact is, the Property has been zoned for essentially only residential use for almost 14 years, ever since the October 5, 1999 adoption by the Town Council of the amendments to the LMO that implemented the Ward One Plan. Further, the fact is, substantial parcels in the immediate vicinity of the Property have been zoned for up to 12 residential density units per acre for at almost 14 years, again ever since the 1999 implementation of the Ward One Plan.

The Applicant believes that the Property is suitable for the more dense residential uses that would be permitted for the parcel under the RM-8 District if this Application is approved.

D. Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment.

While the RM-4 District allows for a broader spectrum of permitted uses than does the RM-8 District, all of the uses allowed in the RM-8 District are currently allowed on the Property under the RM-4 District



regulations. However, as evidenced by the failed single family residential development currently on the Property, and possibly as a result of the proximity of the Airport, the Applicant in all likelihood would have a difficult time successfully redeveloping the Property for any use at the low density permitted in the RM-4 District. Accordingly, the Applicant believes that the Property is generally unsuitable for the uses permitted under, and more specifically for the density allowed by, the RM-4 District.

E. Marketability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment.

The failure of the Beach City Place development on the Property, and the failure of Trail Beach Manor just northeast of the Property are clear evidence that the marketability of the Property is, at best, challenged by its current classification in the RM-4 District.⁴⁸ In the current Hilton Head Island real estate market, the availability of affordable single family and multifamily rental housing options, particularly in an area where there are not very many single family dwellings, but with existing utilities and transportation access, will likely be very marketable and attractive. In particular, such housing options will be attractive to the Island workforce, and encourage those workers to live on Hilton Head Island, instead of having to drive across the bridges to the mainland every day.

The Applicant believes that the failure of the existing single family residential subdivision on the Property is, at its core, a result of a misplaced belief by the original developer of the Property that they could market the lots in Beach City Place for owner-occupied single family residential development, as opposed to pursuing a rental market strategy.

⁴⁸ As mentioned above, the only practical, economically viable use of the Property under the current RM-4 District regulations, and, by extension, the best way to increase the marketability of the Property under the current RM-4 District regulations, is for the Applicant to act on the 31 Manufactured Home Placement Approvals for the Beach City Place lots issued by the Town on July 12, 2013.

There is clearly a big difference between trying to sell lots located in the Approach Path of the Airport to a purchaser for the construction of a home in which they will live for an extended period of time, as opposed to developing rental units, either single family or multifamily, on the Property which will be occupied by tenants who, if they do not like the location, can move somewhere else at the end of the term of a lease.

The Applicant believes the approval of this Application allow for the redevelopment of the Property in a manner that will facilitate rental units on the Property, and will undoubtedly increase the marketability of the Property. In addition, the Applicant believes that the approval of this Application will not have an adverse effect on the marketability of other properties in the vicinity. Indeed, if the other properties in the area can be made available for more dense development, those properties will very likely dramatically increase in marketability.

F. Availability of sewer, water and storm water facilities generally suitable for the proposed use.

Because the Property was originally permitted and developed as the Beach City Place development, basic sewer, water, and on-site storm water retention facilities serving the Property are in place. Depending upon final design and approval of the redevelopment of the Property for more dense residential use, modifications to the existing sewer, water, and storm water retention facilities may be necessary.

Hilton Head Public Service District currently provides potable water and sanitary sewer service to the Property, and will continue to do so if this Application is approved.

The storm drainage retention system on the Property was approved by the Town as part of the major subdivision approval for the now failed Beach City Place development. Any redevelopment of the Property for more dense residential use will likewise require approval by the Town of the storm water facilities serving the Property.



V. NARRATIVE – CONCLUSION

The Applicant believes the foregoing narrative demonstrates that this Application is in conformance with the LMO and the Town's Comprehensive Plan, and meets the criteria set forth in LMO Section 16-3-1505. Accordingly, the Applicant respectfully requests that the Planning Commission (a) consider this Application and the testimony and supporting documentation which will be entered into the record; (b) find:

1. That this Application and the supporting testimony and documentation establish that the requested zoning map amendment is consistent with the Town's Comprehensive Plan; and

2. That this Application and the supporting testimony and documentation establish that while the current use on the Property is consistent with the present zoning, that current use has failed economically, and the proposed rezoning is also consistent with conforming uses of nearby properties and with the character of the neighborhood around the Property; and

3. That this Application and the supporting testimony and documentation establish that the Property is suitable for the uses permitted by the zoning district that would be made applicable to the Property by the requested zoning map amendment; and

4. That this Application and the supporting testimony and documentation establish that the Property is not economically suitable for the uses permitted by the zoning district that is currently applicable to the Property; and

5. That this Application and the supporting testimony and documentation establish that the marketability of the Property for uses permitted by the zoning district that is currently applicable to the Property will be increased by the approval of the requested zoning map amendment; and

6. That this Application and the supporting testimony and documentation establish that there will be no material change in the



Property's requirements for sewer, water and storm water facilities, and that such services generally suitable and adequate for the existing use of the Property under the requested zoning map amendment are available to the Property; and

(c) Recommend to the Town Council that they approve this Application and the rezoning of the Property to the RM-8 District.

Respectfully submitted on behalf of the Applicant this 20th day of September, 2013.



This signature is an electronic reproduction.

Chester C. Williams, Esquire
Law Office of Chester C. Williams, LLC
17 Executive Park Road, Suite 2
Post Office Box 6028
Hilton Head Island, SC 29938-6028
843-842-5411
843-842-5412 (fax)
Firm@CCWLaw.net



Exhibit A to Attachment 1 (1 Page)



ZMA Application Attachment 2



LAW OFFICE OF
CHESTER C. WILLIAMS, LLC

17 Executive Park Road, Suite 2
Post Office Box 6028
Hilton Head Island, SC 29938-6028
Telephone (843) 842-5411
Telefax (843) 842-5412
Email Firm@CCWLaw.net

Chester C. Williams
ALSO MEMBER LOUISIANA BAR

Thomas A. Gasparini
ALSO MEMBER CALIFORNIA BAR
(Inactive)
ALSO MEMBER OHIO BAR
(Inactive)

_____, 2013

Name
Address
City, State, Zip Code

RE: Zoning Map Amendment Application of HSSC, LLC for 8.56 Acres, Beach City Road – Our File No. 01687-001

Dear Sir or Madam:

As required by Sections 16-3-110 and 16-3-111(C)(1) of the Land Management Ordinance of the Town of Hilton Head Island, you are notified that there will be a public hearing before the Town's Planning Commission on 06 November 2013 at 9:00 A.M. in Town Council Chambers at Town Hall, One Town Center Court, Hilton Head Island, South Carolina on the zoning map amendment application filed by HSSC, LLC for property located on Beach City Road. The property is also known as Beaufort County Tax District 510, Map 5, Parcels 008, 336 through 342, and 344 through 375. The proposed zoning map amendment seeks to rezone the property from the RM-4 – Low Density Residential District to either the RM-8 – Residential Moderate Density District. A copy of a survey showing the property is enclosed. The property is currently located in the RM-4 – Low Density Residential District. Any interested party may appear at the public hearing.

If you require additional information regarding this application, please contact the undersigned at the telephone number on the letterhead above, or contact the Town of Hilton Head Island Planning Staff at (843) 341-4601.

With best regards, we are

Very Truly Yours,

LAW OFFICE OF CHESTER C. WILLIAMS, LLC

Chester C. Williams

CCW/

Enclosure

cc: Dr. Harinderjit Singh
Rand E. Hanna, III, Esq.
Teri B. Lewis, AICP

ZMA Application Attachment 3



SUBDIVISION PLAN OF
BEACH CITY PLACE
 BEACH CITY ROAD, HILTON HEAD ISLAND,
 BEAUFORT COUNTY, SOUTH CAROLINA
 PREPARED FOR: BEACH CITY PLACE, LLC
 DATE: 6/18/09 SCALE: 1" = 40'
 GIS
 4000 Highway 17
 Suite 200
 Beaufort, NC 28520
 Phone: 252-751-1100
 Fax: 252-751-1101
 Email: info@gis.com
 License No. 000001



THE INFORMATION CONTAINED HEREIN IS THE PROPERTY OF GIS AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF GIS.

N/T
 ROSE YOUNG & SADE W. HARRISON
 1000 1/2 ST. AUGUSTINE
 BEAUFORT, NC 28520



NOTES:
 1. UNLESS OTHERWISE NOTED, ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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 30. ALL DIMENSIONS ARE TO THE CENTERLINE UNLESS OTHERWISE NOTED.

AREA	TABLE
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LOT 3	4.00 X 100.00
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LOT 5	4.00 X 100.00
LOT 6	4.00 X 100.00
LOT 7	4.00 X 100.00
LOT 8	4.00 X 100.00
LOT 9	4.00 X 100.00
LOT 10	4.00 X 100.00
LOT 11	4.00 X 100.00
LOT 12	4.00 X 100.00
LOT 13	4.00 X 100.00
LOT 14	4.00 X 100.00
LOT 15	4.00 X 100.00
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AREA	TABLE
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LOT 27	4.00 X 100.00
LOT 28	4.00 X 100.00



N/T
 FURMAN T. JORDAN &
 TERRY W. JORDAN
 1000 1/2 ST. AUGUSTINE
 BEAUFORT, NC 28520

N/T
 GERALDINE WHITE
 1000 1/2 ST. AUGUSTINE
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N/T
 JAMES W. HARRISON
 1000 1/2 ST. AUGUSTINE
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 1000 1/2 ST. AUGUSTINE
 BEAUFORT, NC 28520

N/T
 JAMES W. HARRISON
 1000 1/2 ST. AUGUSTINE
 BEAUFORT, NC 28520

ADDRESS #201 ZEPHYRUS DRIVE
 DISTRICT 516 MAP 5 PARCELS (PARENT)
 THE PROPERTY IS IN E.L.A. (P.M.C.)
 MAP FLOOD ELEVATION 100 MMMA/100 YEAR
 COMMUNITY NO. 000001 PANEL 0000 DATED 03/09



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Chester C. Williams
ALSO MEMBER LOUISIANA BAR

Thomas A. Gasparini
ALSO MEMBER CALIFORNIA BAR
(Inactive)
ALSO MEMBER OHIO BAR
(Inactive)

31 October 2013

Ms. Kathleen Carlin
Planning Commission Secretary
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

**VIA EMAIL TO
KathleenC@hiltonheadislandsc.gov
AND HAND DELIVERED**

RE: Zoning Map Amendment Application ZMA130007 – Our File No.
01713-001

Dear Kathleen:

Enclosed for filing in the record of Zoning Map Amendment Application ZMA130007 and is our First Supplement on behalf of the Applicant. We trust you will distribute this First Supplement to the members of the Planning Commission for their consideration in connection with the public hearing on ZMA130007 to be held on Wednesday, 06 November 2013.

With best regards, we are

Very Truly Yours,

LAW OFFICE OF CHESTER C. WILLIAMS, LLC

Chester C. Williams

CCW/rec
Enclosure

cc: Dr. Harinderjit Singh
Rand E. Hanna, III, Esquire
Teri B. Lewis, AICP
Jayme D. Lopko, AICP

owner of the Property to change the zoning of the Property from RM – 4 Low Density Residential District to RM – 12 Moderate to High Density Residential, Zoning Map Amendment Application ZMA130003 (“ZMA130003”) was reviewed by the Planning Commission at a public hearing held on May 1, 2013, and then forwarded to the Town Council with a recommendation for approval. Despite the Planning Commission’s recommendation for approval of ZMA130003, a Town Staff report opposing, and continuing to recommend denial of, ZMA130003 was submitted to the Planning and Development Standards Committee and to the Town Council. ZMA130003 was later withdrawn by the prior owner of the Property after it lost the Property to foreclosure.

The issues raised by the Staff Report with regard to this Application are the same as those raised by the Town Staff in their review of ZMA130003. The difference with this Application is that the Applicant is now seeking a lower density than that the proposed by ZMA130003.

The Staff Report correctly characterizes the Property as located in the Airport Overlay Zone and in the Outer Hazard Zone.² The Staff Report also correctly identifies the height restriction imposed by the Airport Overlay Zone as a 1:34 increase, measured from the end of the runway primary surface.

The Staff Report also correctly summarizes the marketability history of the Property by acknowledging the existence on the Property of a failed single family residential development. However, the Staff Report incorrectly asserts that the Applicant has stated that this Application is an attempt to avoid foreclosure.³

² The Staff Report fails to mention that only a portion of the Property, about one-third, is located in the Outer Hazard Zone.

³ The fourth paragraph of the Background section of the Staff Report is a verbatim recitation of the fourth paragraph of the Background section of the Staff Report on ZMA130003. While this was an argument advanced by the prior owner of the Property in ZMA130003, it is no longer the case, and the Applicant has made no such statement in connection with this Application, as the Applicant acquired the Property as a result of the foreclosure of the prior owner’s mortgage.



The Applicant notes the attachment to the Staff Report, without comment by the Town Staff, of an email from the South Carolina Aeronautics Commission. The content of that communication is discussed at length below.

III. CONSISTENCY WITH THE COMPREHENSIVE PLAN

The Staff Report identifies the Housing Element, the Land Use Element, the Transportation Element, and the 1998 Ward One Master Land Use Plan (the “Ward One Plan”) of the Town’s May 4, 2010 Comprehensive Plan (the “Comprehensive Plan”) as being relevant to this Application. The Staff Report does not address this Application’s citations to the provisions of the Natural Resources Element, the Population Element, the Community Facilities Element, or the Economic Development Element of the Comprehensive Plan that support the approval of this Application. Since those references to the Comprehensive Plan are not challenged by the Staff Report, the Applicant urges the Planning Commission to accept that those elements of the Comprehensive Plan affirmatively support this Application.

The Staff Report acknowledges that the Housing Element of the Comprehensive Plan supports this Application. Nevertheless, and despite unchallenged support for this Application by five other elements of the Comprehensive Plan, the Staff Report concludes that since (in the view of the Town Staff) this Application is not compatible with the Transportation Element, the Land Use Element, and the 1998 Ward One Master Land Use Plan, this Application is not compatible with the Comprehensive Plan as a whole. The Applicant disagrees.

Consistency with the Comprehensive Plan is not a “black or white” determination; rather, it is a balancing act. The Comprehensive Plan is, by its very nature, a self-conflicting document, with inherent tension between the various elements. For example, it simply is not possible for any application or proposal to completely conform to the goals of the Natural Resources Element and the goals of the Economic Development Element at the same time. Instead, a determination of consistency with the Comprehensive Plan must be based on the application of sound judgment to diverse, competing criteria.



The Applicant submits that a thorough analysis of this Application will result in a determination that, on balance, this Application is in conformance with the Comprehensive Plan

A. THE LAND USE ELEMENT

The Staff Report concludes that “The proposed rezoning to RM-8 would not result in a more appropriate mix of land uses because it would permit fewer uses with a higher residential density.” This conclusion, without any analysis of what mix of uses is “appropriate” assumes that fewer permitted uses, by definition, is a less appropriate mix of land uses.⁴ In this case, the Applicant submits that fewer uses on the Property will result in a more appropriate mix of land uses, since it is clear from its Staff Report that the Town Staff would prefer little or no development near the Airport, and since the purpose of this Application is a modest increase in residential density.

B. THE TRANSPORTATION ELEMENT

The Staff Report concludes, apparently in connection with the Transportation Element of the Comprehensive Plan, that the proposed rezoning and density increase “... would not ensure the maximum safety possible for occupants of this site”. Implementation Strategy 9.6(C) of the Transportation Element calls for review of development proposals within the Airport Overlay District to ensure the site is designed with the maximum safety possible for the occupants of the site.⁵ As discussed at length in the original narrative for this Application, increasing density does not decrease safety. Property in the Outer Hazard Zone, or, for that matter, in any part of the Airport Overlay District, is either safe, or it is not safe. If the Outer Hazard Zone is safe, increased density simply means that more people are located in a safe area. If the Outer Hazard Zone is not safe, then in order to be consistent with the Comprehensive Plan

⁴ The Applicant notes that in the Staff Report on ZMA130003, the Town Staff argued that keeping the permitted uses the same on the Property also would not result in a more appropriate mix of land uses. It seems rather ironic that the logical conclusion (and maybe the only conclusion) to be drawn from the Town Staff’s position on this point is that the only way to provide for a more appropriate mix of land uses is to increase the permitted uses on a tract.

⁵ See the Comprehensive Plan, at Page 138.



and ensure “maximum safety”, no development whatsoever should be permitted in the unsafe areas.⁶ The conclusion that safety precludes the Transportation Element of the Comprehensive Plan supporting this Application is simply an opinion of the Town Staff unsupported by empirical evidence, and rebutted by the existence of a large multi-family residential development directly to the east of the Property in the Airport flight path.⁷

Furthermore, as discussed in the original narrative for this Application, Goal 9.6 – Air Transportation of the Comprehensive Plan also supports this Application. Goal 9.6 is “... to ensure that development surrounding the airport is designed and constructed to minimize the negative impacts of being located near the Airport.” Goal 9.6 is, clearly, focused on lands in the vicinity of the Airport, not on the Airport itself. Moreover, Goal 9.6 does not discourage development near the Airport; instead, it seeks to “minimize the negative impacts” on the properties in the vicinity of the Airport.

C. THE WARD ONE PLAN

With regard to the 1998 Ward One Master Land Use Plan (the “Ward One Plan”), the Applicant notes that both the RM-4 District and the RM-8 District were added to the LMO specifically as a result of the Ward One Plan. The Town Staff Report accurately reports that the Future Land Use Map appended to the Ward One Plan identifies “Low-Moderate Density Maximum Density 4-8 DU/AC” and “Density Transfer Within Airport Zone” as the “desired development type for the subject property.” Despite this clear direction regarding RM-8 density in the Airport area, the Staff Report claims that this Application is not supported by the Ward One Plan. The Staff Report apparently relies on Resident Desires in the Ward One Plan for this conclusion, since the Ward One Plan itself clearly supports this Application. It should come as no surprise to the Planning Commission that residents of an area being master planned, such as Ward One, prefer to keep things just as they are.

⁶ If “maximum safety” is the Implementation Strategy, and the reader agrees that more density is less safe, one wonders why the existing 32 lot single family residential subdivision development on the Property was permitted in 2009.

⁷ The Spa on Port Royal Sound occupies property abutting the Property to the northeast, and has more than 200 units.



The Applicant submits that the Staff Report's reliance in part on the "density transfer within airport zone" reference in the Ward One Master Plan as being applicable to the Property is wholly misplaced, as the Town has never provided for any method to transfer density.

Staff Report also neglects to point out that the Ward One Plan acknowledged that the lower density of the RM-4 District was intended to address the general lack of sanitary sewer service in the Ward One area fifteen years ago, and that bonus densities were to be available if sanitary sewer service was available for tracts of greater than three acres. The Staff Report does acknowledge the current availability of sanitary sewer service for the Property.

IV. SUITABILITY OF THE PROPERTY AFFECTED BY THE AMENDMENT FOR USES PERMITTED BY THE DISTRICT THAT WOULD BE MADE APPLICABLE BY THE PROPOSED AMENDMENT

The Staff Report recognizes that the Property is compatible with the present zoning, the conforming uses of nearby property and the character of the neighborhood, and suitable for the uses permitted by the RM-4 District. Despite the fact that the residential uses in the proposed zoning RM-8 District are the same as in the current RM-4 District, the Staff Report concludes that

the affected properties are not suitable for the uses that would be permitted by the proposed rezoning ... because although the RM-8 district permits fewer uses than the RM-4 district, the RM-8 district would permit a higher density of residential units. The increase in residential units is not suitable or compatible for properties within the Airport Approach Path. [Emphasis added.]

The Staff Report therefore claims that while the currently permitted residential use on the Property is "compatible", moderate density residential use is "not suitable or compatible" for the Property. This argument can only be based upon the safety concerns discussed above. Again, if the Property is not "safe", or "compatible", or "suitable" for eight (8) units per acre (the RM-8 permitted density), how can it be "safe", or "compatible", or "suitable" for four (4) density units per acre?



The Town Staff's position is even more confusing when one considers that the regulations applicable to the Approach Path subdistrict of the Airport Overlay District do not now, and have never, had density limitations. The Town has long been free to provide for density limitations in the Airport Overlay District, but has never done so.

The Applicant also notes that the height restriction for the proposed RM-8 District is forty-five (45) feet. The Airport Overlay Zone, based upon its 1:34 height restriction ratio, would permit development on the Property to be in excess of 80 feet, or almost twice the maximum height permitted by the RM-8 District.

V. MARKETABILITY

The Staff Report determines that "... the marketability of the properties may change as set forth in LMO Section 16-3-1505E." LMO Section 16-3-1505(E) states that marketability is one of the criteria to be considered when reviewing a rezoning application.

In this case, the Staff Report acknowledges the failure of the existing single family residential development on the Property, yet the Staff Report makes no comment on whether the marketability of the Property will be increased by allowing additional density. It should be obvious in these circumstances that the marketability of the Property will be increased with the approval of this Application.

VI. AVAILABILITY OF SEWER, WATER AND STORMWATER FACILITIES GENERALLY SUITABLE AND ADEQUATE FOR THE PROPOSED USE

The Staff Report concedes that this criterion is met by this Application.

VII. THE LMO OFFICIAL'S DETERMINATION

Not surprisingly, given the contents of the Staff Report, and based on a not very comprehensive review of the Comprehensive Plan and with no empirical evidence to support its position, the Town Staff has determined that this Application is inconsistent with the Comprehensive Plan and does not serve to carry out the purposes of the LMO. The Applicant disagrees, and



suggests that the original narrative for this Application contains a much more thorough review of the criteria for a rezoning application, supported by facts.

VIII. DISCUSSION

LMO Section 16-4-208, which was added to the LMO in 1999 as part of the Ward One Plan implementation, states the intent of the RM-8 District:

It is the intent of this district to allow the development of residential uses up to eight dwelling units per net acre. This district is used to encourage a moderate density neighborhood providing a variety of residential opportunities for residents of the Town.

Particularly in connection with the Comprehensive Plan, it is clear that the density proposed by this Application is specifically contemplated for the Ward One and Airport Overlay area, and is particularly suited for the Property, given the admittedly adequate infrastructure available for such development.

Finally, the Applicant suspects that the communication from the South Carolina Aeronautics Commission may be the real basis, or at least a substantial part of the basis, for the LMO Official's Determination and, as such, merited comprehensive, critical review and comment by the Town Staff. For the Applicant's analysis, please see the extensive review of the airport safety issue in the original narrative for this Application.

The Applicant also suspects that the true reason why the South Carolina Aeronautics Commission and the Town Staff oppose this Application is because of their perceived notion that allowing an increase in the density available to the Property may somehow have an adverse impact on future plans to lengthen the Airport's Runway 21 in the direction of the Property. If that is the case, then the Applicant submits that the as yet unapproved and unpermitted plans of another property owner in the vicinity of the Property (Beaufort County),



which may or may not be consistent with the Comprehensive Plan,⁸ and which may never come to pass, is not a proper reason to deny this Application.

The fact is, the Property has been zoned for essentially nothing but residential use for at over 14 years, ever since the October 5, 1999 adoption by the Town Council of the amendments to the LMO that implemented the Ward One Plan. Further, the fact is, substantial parcels in the immediate vicinity of the Property, one adjacent to the Property and under the runway flight path, have been zoned for up to 12 residential density units per acre for over 14 years, again ever since the 1999 implementation of the Ward One Plan.

IX. CONCLUSION

The Applicant continues to believe this Application is in conformance with the LMO and the Town's Comprehensive Plan, and meets the criteria set forth in LMO Section 16-3-1505. Accordingly, the Applicant again respectfully requests that the Planning Commission (a) consider this Application and the testimony and supporting documentation which will be entered into the record; (b) find:

1. That this Application and the supporting testimony and documentation establish that the requested zoning map amendment is consistent with the Town's Comprehensive Plan; and
2. That this Application and the supporting testimony and documentation establish that while the current use on the Property is consistent with the present zoning, that current use has failed economically, and the proposed rezoning is also consistent with conforming uses of nearby properties and with the character of the neighborhood around the Property; and
3. That this Application and the supporting testimony and documentation establish that the Property is suitable for the uses permitted by the zoning district that would be made applicable to the Property by the requested zoning map amendment; and

⁸ See Section 9.6 of the Comprehensive Plan at Pages 129 through 131.



4. That this Application and the supporting testimony and documentation establish that the Property is not economically suitable for the uses permitted by the zoning district that is currently applicable to the Property; and

5. That this Application and the supporting testimony and documentation establish that the marketability of the Property for uses permitted by the zoning district that is currently applicable to the Property will be increased by the approval of the requested zoning map amendment; and

6. That this Application and the supporting testimony and documentation establish that there will be no material change in the Property's requirements for sewer, water and storm water facilities, and that such services generally suitable and adequate for the existing use of the Property under the requested zoning map amendment are available to the Property; and

(c) Recommend to the Town Council that they approve this Application and the rezoning of the Property to the RM-8 District.

Respectfully submitted on behalf of the Applicant this 31st day of October, 2013.



This signature is an electronic reproduction

Chester C. Williams, Esquire
Law Office of Chester C. Williams, LLC
17 Executive Park Road, Suite 2
Post Office Box 6028
Hilton Head Island, SC 29938-6028
843-842-5411
843-842-5412 (fax)
Firm@CCWLaw.net



Public Comments – ZMA130007 Beach City Place

Thank you for sharing this new development regarding the Beach City Place property. While the new rezoning application indicates a lower density (RM-8) than the previous one (RM-12), it is still too dense to be considered compatible with Hilton Head Island Airport, based on SC Aeronautics' current land use compatibility standards. This assumes that each unit will have a maximum permitted occupancy of at least 3 to 4 persons. Any residential land use on that property that permits an occupancy of 25 or more persons per acre will be considered incompatible with the Airport by the SC Aeronautics Commission.

Please recall that this property sits directly under the runway approach, and just outside the current FAA-designated Runway Protection Zone, and very near to the future Runway Protection Zone should the runway be fully extended as per the 2011 Airport Layout Plan. Therefore, the e-mail I had sent Mr. Kubic on March 29, 2013 regarding the RM-12 rezoning application is still relevant to this new proposal. I have attached that e-mail for your reference.

If you have further questions or comments regarding compatible land use around the Airport, I would be happy to discuss them with you.

Also, please note that the FAA project manager for Hilton Head is no longer Parks Preston, but Rusty Nealis. He is cc:ed on this message.

Regards,
Mihir Shah

Mihir P. Shah, PE, AICP
Lead Aviation Planner
South Carolina Aeronautics Commission

March 29, 2013 Email:

Dear Mr. Kubic:

The Federal Aviation Administration has forwarded to us a message from Ms. Teri B. Lewis, LMO Official for the Town of Hilton Head Island, regarding a rezoning application for the property located at Circlewood Drive (also known as Beach Place Subdivision), and located approximately 3,000 feet north of Runway End 21 at Hilton Head Island Airport. The message states that the applicant proposes to rezone the property from the current RM-4 (Low Density Residential) to either RM-12 (Moderate to High Density Residential) or WMU (Waterfront Mixed Use). The SC Aeronautics Commission emphasizes and promotes compatible land use and development around publicly-owned airports in the state, as per our as per new airport-related land use provisions in our agency's revised enabling legislation (Title 55 of the South

Carolina Code of Laws). Ensuring compatible land use around the Airport will protect the investments made and anticipated to be made in the facility.

The proposed rezoning to higher residential densities would be considered by SC Aeronautics to be a land use that is **incompatible** with Hilton Head Island Airport, for the following reasons:

- The proposed rezoning is located just outside the Airport's existing Runway Protection Zone (RPZ) for Runway End 21. As per current FAA guidance, industry research, and typical airport zoning ordinances which regulate land uses outside the RPZ, residential land uses, especially higher-density ones, are to be strongly discouraged in the inner approach area. Concentrations of people in this area pose a major safety and quality of life (noise) risk because of aircraft flying in low proximity to the ground.
- The proposed rezoning would be located at the very edge of the Airport's future Runway End 21 RPZ based on the FAA-approved Airport Layout Plan updated in 2011, which depicts Runway End 21 being extended in the direction of the subject property. Allowing denser residential development would seriously impact the viability of any planned future extension due to incompatible land uses, and could potentially affect grant funding related to that extension.
- SC Aeronautics is currently drafting statewide airport land use policies, specifically airport-compatible land use standards to guide local governments, and land use notification and procedures as required by Section 55-13-5 of the revised Title 55 enabling legislation. Both the land use standards and notification and review procedures will almost certainly consider dense residential developments such as the Circlewood Drive proposal as incompatible.

In summary, SC Aeronautics encourages Beaufort County and the Town of Hilton Head Island to appropriately manage land use around Hilton Head Island Airport, especially considering its recent Airport Layout Plan update showing a planned lengthening of the runway. Moreover, the Airport has and will likely continue to receive FAA and state grant money; as such, the County and the Town are expected to use zoning, building permits, and other land use techniques to protect the public investment in the facility.

Should you have any questions or comments regarding the Airport, please do not hesitate to contact me.

Regards,
Mihir Shah

To: The planning board and Hilton Head city council,
As an Owner of a condo at the SPA at the Port Royal Sound as well as a retired Realtor/Broker I would request that you turn down the rezoning request of going to R 8 from a R 4. My basis of my request is on the Hilton Head charter of your LOM and the past actions of the last LLC owned by the same major investor. It is not the Job of the city to bail out a bad investment or the repurchase of the same property by increasing the density level of the area which you reduced by buying up the land attached to the Mitchellville park explaining that this was to reduce density not increase density.

Moving the zoning to R 8 would double the size of the planned PUD of R 4 for that area. The rezoning causes stress on the city/FAA/County and police force by increasing the density of a Mitchellville park/SPA Beach City Rd area.

Concerned Owner

Shelby & Dorothy Baker
1330 Villa
239 Beach City Rd, 29926

Dear Ms. Lopko,

I am writing in response to a notice I received describing a proposal to change the zoning of a residential area adjacent to Beach City Road. I am always concerned when someone requests a zoning change for the express purpose of suiting his or her own personal interests rather than for the benefit of the town or surrounding community. Nothing in the notice I received indicated a benefit to anyone other than the developer requesting the zoning change. I also did see an explanation of why a development project conforming to the present code was not feasible.

I recommend resisting changing the zoning for the land along Beach City Road unless adequate justification for why this is a necessity and in the best interest of the town is provided. Otherwise there is no point in having a zoning in the first place.

Respectfully,

Robert M. Tyler
239 Beach City Road
Unit #1207

As an owner at the Spa on Port Royal Sound on Beach City Road, I oppose any effort to rezone 217 Beach City Road from RM 4 Low Density Residential to RM 8 Moderate Density Residential.

Rezoning to accommodate a contractors attempt for development, having failed at the original contractual plan for development, is not in the best interests of Hilton Head Island and its' residents. It will have a negative impact on the environment, the existing neighborhood, and

will overly burden the existing infrastructure.

In a neighborhood already impacted by the anticipated expansion of the airport, its' proximity to the water, and the impact of increased population density, I highly question the wisdom and reasoning for another drastic change at this end of the island. Having served on town development committees, I firmly believe that rezoning this parcel of land would not be effective or productive land management.

Respectfully,
Semina De Laurentis
Unit 1305

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure. One of the things we love most about this end of the island is the quiet feel and limited traffic. Having the huge increase described in the rezoning proposal would negatively affect these things.

Respectfully,
Barbera Secrist Schmedes

As owners at The Spa on Port Royal Sound on 239 Beach City Road, we are OPPOSED to efforts to rezone 217 Beach City Road on the grounds that it would change the character of the neighborhood and overly burden the existing infrastructure.

Respectfully,
Tommy Brendel and Audrey Brendel
239 Beach City Road unit 2302

As an owner at The Spa since 2001, I am totally against this rezoning. I hope and pray this does not pass!!

Carol Weaver Hicks

As residents of 239 Beach City Road, unit 2108, we would like to voice our concern and objection to the proposed rezoning of the property at 217 Beach City Road. The rezoning of this property is not consistent with the town's current plan of development for the Mitchellville historic district and should not be allowed.

We would appreciate it if you would pass our objection on to the commission. Thanks very much.

Carolyne and Jim Sakonchick

As owners at The Spa on Port Royal Sound @ 239 Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood. This would be an example of over extending the infrastructure on a small piece of property.

With the expansion of the Mitchelville Freedom Park and the beautiful golf cottages built by the PGA on Beach City Road it is important to monitor the zoning and building requests in the best interest of all involved.

We have been homeowners at The Spa for over 25 years and have seen the growth and development of the Island. However, the effort to rezone 217 would not be in the best interest of our street or neighborhood.

Respectfully,
Frank Bulla & Phil DiRuocco
Villa # 1312

As owners at The Spa On Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure.

The Spa is located in an ideal area which was the main reason we purchased our condo. Too many structures would take away from the integrity of The Spa and the additional traffic would be too much for Beach City Road.

Respectfully,
David and Magdalene Gonzales
Unit 3333

I am writing in opposition to the rezoning of 217 Beach City Rd from R4 to R8. The FAA, SC Aeronautics Commission, Beaufort County Government and the Town of Hilton Head staff have all opposed rezoning above the current R4 level.

Area residents have appeared before the rezoning committee and opposed this as did Baygall. This would have a major negative impact on the Beach City Rd area and on the current residences. This would also place a high number of families in a high risk flight path that is virtually at the end of the runway, especially if the airport is expanded as proposed. I ask that the rezoning of this property be denied.

Gary Runge

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure.

In reality the value of our condo will decrease because of adding that many homes and increase in density. We enjoy the peaceful atmosphere and it won't be like that if this rezoning is permitted.

Respectfully,
George & Terry Ditchcreek
Unit #3129

My wife and I are villa owners at The Spa on Port Royal Sound. We are opposed to the proposed rezoning of the property at 217 Beach City Road because any population density increase would have a negative impact on the existing neighborhood.

Respectfully Yours,
Paul and Cynthia DiBlasi
Villa #3306

As an owner at the Spa on Port Royal Sound on Beach City Road, I oppose any effort to rezone 217 Beach City Road from RM 4 Low Density Residential to RM 8 Moderate Density Residential.

Rezoning to accommodate a contractors attempt for development, having failed at the original contractual plan for development, is not in the best interests of Hilton Head Island and its' residents. It will have a negative impact on the environment, the existing neighborhood, and will overly burden the existing infrastructure.

In a neighborhood already impacted by the anticipated expansion of the airport, its' proximity to the water, and the impact of increased population density, I highly question the wisdom and reasoning for another drastic change at this end of the island. Having served on town development committees, I firmly believe that rezoning this parcel of land would not be effective or productive land management.

Respectfully,
Patience and Dale Rush
1108

As owners at The Spa on Port Royal Sound on Beach City Road, we would oppose any effort to rezone 217 Beach City Road from the current R4 classification on the grounds that it will change the character of the neighborhood and overly burden the existing infrastructure.

The plans for development of Mitchelville, Junior Golf Academy Cottages and alike are in keeping the qualities and secluded area of the island. We respect the owner's interest in developing 217 Beach Road but request that the town keep the zoning within reason for the character of the area on the island.

Respectfully,
Thomas C. and Barbara L. Jostwort

Robbie Marshall
46 S. Main Street
Essex, CT 06426

October 21, 2013

Jayne Lopko, Senior Planner
Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928

Re: **Zoning Map Amendment Application #ZMA130007 of HSSC, LLC for 8.56 Acres, Beach City Rd**

Dear Ms. Lopko and Planning Commission Members,

We received a letter from Attorney Williams regarding the re-zoning of Beach City Road, and as owners at The Spa on Port Royal Sound, are very concerned.

First, (as a former Planning Commissioner and author of the 2000 Plan of Conservation and Development for Old Saybrook, CT), I admire the way Hilton Head Island (HHI) manages its development. HHI accommodates a large, fluctuating population, and incorporates "big box" stores within the natural environment without detracting from the landscape, as they are "hidden" by trees and there are no internally lit signs.

That being said, I believe there is only so much development the island can absorb before it is irrevocably compromised. Please consider the following impacts from re-zoning, increased density, and additional housing units on Beach City Road and Port Royal Sound.

- **Unique character and environmental balance.** The heel of the island's allure is that it is one of the lower density areas; enjoyed for its peaceful, sanctuary atmosphere as opposed to shopping and entertainment. HHI should not lose this alternative setting.
- **Services and taxes.** Housing requires more services and tends to be a *draw* on the general tax fund, unlike businesses and their revenue. There are the annual education costs per student as well as safety and emergency services for example.
- **Quality of life: Traffic, noise, dust.** How do we enjoy the beauty and serenity of Port Royal Sound if there is construction on Beach City Road for an indeterminate amount of time? Construction of new housing is *extremely* disruptive for surrounding residents.
- **Finances.** Construction jeopardizes rental income. The Spa owners have been investing and renovating for vacation rentals and retirement while increasing the property values.
- **Proximity to HHI Airport.** Adding more traffic and structures around the airport may interfere with its safe operation and is not conducive to comfortable living for the intended new housing.
- **Conservation and wildlife:** HHI is in the process of forming a nature preserve south of Beach City Road. Constructing more housing nearby seems inconsistent with this land use purpose and could have negative impacts.

Hilton Head Island has the unique appeal of many modern facilities while still retaining much of a natural setting. I urge you to continue to protect this amazing place and preserve it for our children and grandchildren when you make your recommendation on this application to the Town Council.

Thank you for your considered attention.

Sincerely,



Robbie Marshall



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA~CM, *Town Manager*
VIA: Teri Lewis, AICP, *LMO Official*
CC: Charles Cousins, AICP, *Director of Community Development*
FROM: Anne Cyran, AICP, *Senior Planner*
DATE: November 6, 2013
SUBJECT: Proposed Ordinance No. 2013-24, Auto Sales Standards

Recommendation

The Planning and Development Standards Committee considered the proposed amendment on November 6, 2013 and voted 3-0 to forward the proposed amendment as presented by staff with a recommendation of approval.

The Planning Commission held a public hearing to consider the proposed amendment on November 6, 2013 and voted 8-0 to forward the proposed amendment to Town Council with a recommendation of approval with the condition that sites with auto sales not be located within 200 feet of an existing residential use.

The LMO Committee considered the proposed amendment on September 9, 2013 and voted 2-1 to forward the proposed amendment to the Planning Commission with a recommendation of approval.

Staff recommends that Town Council approve the proposed amendment.

Summary

Staff recommends amending LMO Section 16-4-1305, Auto Sales, to remove the standard that sites where vehicles are sold cannot be located within 1,500 feet of an existing residential use. This amendment will allow new development and redevelopment of sites in the Commercial Center (CC) and Light Industrial (IL) Zoning Districts for a relatively benign retail use.

Background

On August 6, 2013, Town Council approved Resolution #2013-15 which directed staff to pursue an amendment to the LMO to eliminate the distance requirements between an auto sales site and an existing residential use.

This amendment was prompted by a discussion with a property owner whose tenant, an auto repair shop, wants to also sell vehicles but cannot due to the site's proximity to Hilton Head Plantation. The property owner brought to our attention that auto repair and auto sales uses are complementary uses that are frequently offered by the same business. It makes sense to allow some flexibility in Auto Sales use standards so that Auto Sales can be offered along with Auto Repair on appropriate sites.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO.:

PROPOSED ORDINANCE NO.: 2013-24

AN ORDINANCE TO AMEND TITLE 16 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THE LAND MANAGEMENT ORDINANCE, CHAPTER 4, ARTICLE XIII. THIS AMENDMENT, COMMONLY REFERRED TO AS THE *LMO AMENDMENT TO AMEND AUTO SALES STANDARDS*, AS NOTICED IN THE ISLAND PACKET ON AUGUST 11, 2013, INCLUDES A REVISION TO CHAPTER 4, ARTICLE XIII, SECTION V, AUTO SALES; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on July 21, 1998, the Town Council did amend Title 16 of the Municipal Code of the Town of Hilton Head Island by enacting a revised Land Management Ordinance (LMO); and

WHEREAS, the proposed amendments are supported by Town Council's Policy Agenda for 2011 which lists Amending the LMO to Foster Greater Flexibility, Simplicity and Revitalization as a Top Priority; and

WHEREAS, the Land Management Ordinance Committee held a public meeting on September 9, 2013 to discuss the proposed amendment and voted 2-1 to forward the proposed amendment to the Planning Commission with a recommendation of approval; and

WHEREAS, the Planning Commission held a public hearing on November 6, 2013 and voted 8-0 to recommend that Town Council approve the proposed amendment with the condition that sites with auto sales not be located within 200 feet of an existing residential use; and

WHEREAS, the Planning and Development Standards Committee met on November 6, 2013 and voted 3-0 to recommend that Town Council approve the proposed amendment as recommended by staff; and

WHEREAS, Town Council now finds that, upon further review, it is in the public interest to approve the attached revision to Chapter 4 of the Land Management Ordinance.

NOW, THEREFORE BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY SAID AUTHORITY OF COUNCIL:

Section 1. Amendment. That the Land Management Ordinance of the Town of Hilton Head Island, South Carolina, be, and the same hereby is, amended to read as indicated on the attached pages.

NOTE: New text is indicated by a double underline and deleted text is indicated by a ~~strike through~~.

Section 2. Severability. If any sections, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not attest the validity of the remaining portions thereof.

Section 3. Effective Date. This Ordinance shall be effective upon its adoption by the Town Council for the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS _____ DAY OF _____ 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk

Public Hearing: November 6, 2013

First Reading: December 3, 2013

Second Reading:

Approved as to form:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

Staff Explanation

Staff recommends amending LMO Section 16-4-1305, Auto Sales, by removing the standard that sites where vehicles are sold cannot be located within 1,500 feet of an existing residential use. This amendment will allow new development and redevelopment of sites in the CC and IL Zoning Districts for a relatively benign retail use.

LMO Section 16-4-1204, Use Table, limits auto sales to parcels in the Commercial Center (CC) and Light Industrial (IL) Zoning Districts. The other standards for auto sales in LMO Section 16-4-1305 require that sites where vehicles are sold must have direct access to a major or minor arterial and cannot be located within 1,500 feet of an existing auto sales use, which limit the number of sites that meet these standards. The removal of the distance requirement will have a negligible effect on the few residential uses along major and minor arterials that abut parcels in the CC and IL Zoning Districts.

The perceived negative impacts of auto sales are the outdoor storage of merchandise and advertising. The LMO restrictions on site design reduce the visibility of outdoor storage areas, and the LMO restrictions on signs strictly limit outdoor advertising. These restrictions will minimize the negative externalities of auto sales uses.

Sec. 16-4-1305. – Auto Sales

Auto sales are permitted subject to the following standards.

- A. No auto sales site shall exceed 7 acres in size.
- B. The site shall have direct access to a major or minor arterial, as defined in Sec. 16-5-503.
- ~~C. The site is not located within 1,500 feet of an existing residential use.~~
- D. The site is not located within 1,500 feet of an existing auto sales site.



MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, Town Manager

VIA: Susan Simmons, Director of Finance

DATE: November 21, 2013

RE: **First Reading of Proposed Ordinance No. 2013-20**

Recommendation:

Staff recommends Council approve first reading of Proposed Ordinance No. 2013-20 amending fiscal year 2013 General, Capital Projects, Debt Service, and Stormwater (Enterprise) Funds' budgets.

Summary:

This ordinance amends the four budgeted funds for fiscal year 2013 for the changes needed to complete this fiscal year.

Background:

The budget amendment is proposed for the following reasons:

- **General Fund** – The \$295,314 amendment is to decrease the budget for the Heritage and instead report the expenditure funded from hospitality taxes directly in the Hospitality Fund (a Special Revenue Fund). The portion funded by the local accommodations tax remains in the General Fund.
- **Capital Projects Fund** – There are five types of changes included here as follows.
 - The remaining Land acquisitions for the year – \$1,080,115. There is also a \$2,500,000 funding source clarification for Shelter Cove Park as issuance of bonds will not occur until next year. They will be 2014 GO Bonds vs. 2013.
 - Issuance costs and transfer of premium for bonds issued in June 2013 – \$10,667 and \$664,056, respectively. The premium was transferred to the Debt Service Fund to be used for fiscal year 2014 debt service expenditures.
 - Offsetting funding source changes. The Town will change the funding source for several projects from hospitality or tax increment financing (TIF) taxes to the respective bond – hospitality or TIF bond funds. This change is

needed to balance the two sources or expend the final bond proceeds so these accounts can be closed and final arbitration audits completed.

- Decreases in TIF funded projects - \$(1,524,155). In anticipation of TIF funds decreasing as a result of the reassessment, Marshland Roundabout and Mathews Connectivity projects have been delayed. (Subsequent note: The current expectation is that TIF revenues will not decrease as much as anticipated; therefore these projects may be added back in fiscal year 2014 or 2015.)
- Various project budget changes to close the fiscal year - \$(240,186). The Town made the majority of the amendments needed to reflect capital projects' over/under budgets in the Spring in conjunction with the fiscal year 2014 budget development workshops. The largest remaining change reflects lapsing \$291,607 in the recurring parks upgrades project.
- **Debt Service Fund** – The Town transferred the \$664,056 premium earned on the 2013 GO Bond to this fund to be used in fiscal year 2014 for debt service expenditures. The remaining \$5,835 increase reflects changes in administrative costs from the estimate to actual costs.
- **Stormwater Fund** – There are various project budget changes to close fiscal year – net change \$(411). There are also funding source clarifications between current and prior year Stormwater fees and Stormwater bonds (which were not issued).

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-20

AN ORDINANCE TO AMEND THE BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2013; TO PROVIDE FOR THE EXPENDITURES OF CERTAIN FUNDS; AND TO ALLOCATE THE SOURCES OF REVENUE FOR THE SAID FUNDS.

WHEREAS, Section 5-7-260 of the Code of Laws of South Carolina requires that a municipal council act by ordinance to adopt a budget and levy taxes, pursuant to public notice; and

WHEREAS, the Town Council did adopt the budget on June 19, 2012, and

WHEREAS, pursuant to the budget amendment policy as stated in the Town’s annual budget document, the Town Council is desirous of amending the budget so as to provide for the expenditures and certain other commitments from the Fund Balance and other revenue sources, as well as to correct budget appropriations for certain capital projects in the General, Capital Projects, Debt Service, and Stormwater Funds.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:

Section 1 Amendment. The adopted 2013 fiscal year budget is amended to make the following changes as increases and decreases to the funds from prior years and to the projected revenue and expenditure accounts as follows:

General Fund

<u>Account Description</u>	<u>Amount</u>
Revenues:	
Hospitality Fee Transfer	\$ (295,314)
Total Revenues	\$ (295,314)
Expenditures:	
Townwide Grants	10000950
Heritage Classic Foundation	56076 \$ (295,314)
Total Expenditures	\$ (295,314)

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-20

Capital Projects Fund

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
2010A GO Ref. Bond		\$ 941,055
2013A GO Bond		(1,956,204)
2014A GO Bond		2,500,000
Beach Bond		117,210
Beach Fees		(88,035)
Grants		12,826
Hospitality Bond		2,436,460
Hospitality Taxes		(2,540,956)
Property Taxes		(126,130)
Resale of Land		269,987
Sunday Liquor Permit Fees		(141,607)
TIF Bond		120,361
TIF Property Taxes		(1,642,074)
Traffic Impact Fees		87,604
Total Revenues		<u>\$ (9,503)</u>
Expenditures:		
Beach Maintenance		
Beach Management/Monitoring	Beach Bond	\$ 117,210
"	Beach Fees	(115,771)
Dunes Refurbishment	Beach Fees	7,065
Beach Parks	Beach Fees	33,121
Beach Renourishment FY16	Beach Fees	(23,497)
Beach Renourishment Ocean Point	Beach Fees	9,342
		<u>27,470</u>
Existing Facilities/Infrastructure		
Clean up, Maint. of Prop. & Demo of Structures	Property Taxes	(23,002)
Fire Station # 1 Replacement	Hospitality Bond	56
Rehabilitation & Reno of Fixed Cap. Assets	Property Taxes	(51,808)
Security Cameras	Hospitality Bond	(3,334)
Fire Station # 6 Replacement	Hospitality Bond	241,845
"	Hospitality Taxes	(241,845)
Apparatus/Vehicle Replacement	Hospitality Taxes	(18,837)
		<u>(96,925)</u>
Park Development		
Parks Upgrades	Property Taxes	(50,000)
"	Sun. Liq. Permit Fees	(141,607)
Recreation Center Enhancements	Hospitality Bond	302,000
"	Hospitality Taxes	(265,000)
Rowing & Sailing Center	TIF Property Taxes	949
Aquatics Center	Hospitality Bond	16,600
"	Hospitality Taxes	(16,600)
Share Center	2013A GO Bond	(9,139)
"	Grants	12,826
Collier Beach	Beach Fees	1,715
		<u>(148,256)</u>
New Facilities/Infrastructure		
Dispatch Center Equipment Upgrade	Hospitality Bond	(5,000)
F&R Computer System	Hospitality Taxes	(55,668)

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-20

Capital Projects Fund (Cont.)

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Expenditures (Continued):		
New Facilities/Infrastructure (Continued)		
Public Safety Systems Equip. Upgrade	Hospitality Bond	\$ 818
Mobile Computing AVL Upgrade	Hospitality Bond	(8,644)
BCSO with Tenant Upfit	2013A GO Bond	8,221
Fire/Medical (Mobile Repeater)	Hospitality Bond	(3,698)
Sewer Projects	Beach Fees	(10)
58 Shelter Cove Lane-Tenant Upfit (Town Use)	2013A GO Bond	918
Coligny/Pope Ave. Area Initiative	TIF Bond	120,361
"	TIF Property Taxes	(118,828)
		(61,530)
Pathways		
Pathway Rehabilitation	Hospitality Bond	125,000
"	Hospitality Taxes	(125,000)
"	Property Taxes	5,000
Palmetto Bay Road	TIF Property Taxes	(288)
Dunnagan's Alley	TIF Property Taxes	(288)
US 278 (Gardner to Mathews)	TIF Property Taxes	664
"	Traffic Impact Fees	(10,301)
US 278 (Wexford Circle to Fresh Market Shoppes)	Hospitality Bond	(10,602)
Leg O'Mutton	Hospitality Bond	301,096
"	Hospitality Taxes	(296,071)
Pembroke Drive	Hospitality Bond	17,049
"	Hospitality Taxes	(17,049)
Gardner Drive	Hospitality Bond	14,049
"	Hospitality Taxes	(14,049)
US 278 (N. Orleans to Shipyard & Town Hall)	TIF Property Taxes	(128)
US 278 (Fresh Market to Shelter Cove)	Hospitality Bond	64,329
"	Hospitality Taxes	(42,800)
US 278 (Shelter Cove/Chaplin to Mathews N)	Hospitality Bond	32,200
"	Hospitality Taxes	(32,200)
		10,611
Road Improvements		
Directional/Neighborhood Singage	Hospitality Bond	19,250
"	Hospitality Taxes	(19,250)
Mathews Dr./Chaplin Area Connectivity	TIF Property Taxes	(570,065)
Marshland Roundabout	TIF Property Taxes	(954,090)
Leamington/Fresh Market/US 278	Hospitality Bond	151,037
"	Hospitality Taxes	(148,071)
Pedestrian Crosswalks	Hospitality Bond	111,500
"	Hospitality Taxes	(172,038)
"	Property Taxes	(757)

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-20

Capital Projects Fund (Cont.)

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Expenditures (Continued):		
Road Improvements (Continued)		
Traffic Signal Mast Arms	Hospitality Bond	\$ 152,290
"	Hospitality Taxes	(151,972)
Roadway Safety Improvements	Property Taxes	(5,563)
"	Traffic Impact Fees	35,000
Intersection Improvements	Hospitality Bond	84,203
"	Hospitality Taxes	(90,000)
F&R Emergency Access Points	Hospitality Bond	63,283
"	Hospitality Taxes	(63,373)
Lemoyne Avenue Reconstruction	Traffic Impact Fees	62,905
Roadway Resurfacing-Federal Match	Hospitality Bond	771,133
"	Hospitality Taxes	(771,133)
		<u>(1,495,711)</u>
Land Acquisition		
Land Acquisition	2010A GO Ref. Bond	941,055
"	2013A GO Bond	(2,630,927)
"	2014A GO Bond	2,500,000
"	Resale of Land	269,987
		<u>1,080,115</u>
Debt Service/Issue Costs/Misc		
Debt Service/Issue Costs	2013A GO Bond	10,667
		<u>10,667</u>
Transfers		
Transfer to Debt Service Fund	2013A GO Bond	664,056
		<u>664,056</u>
Total Expenditures		<u><u>\$ (9,503)</u></u>

Debt Service

<u>Account Description</u>	<u>Amount</u>
Revenues:	
Property Taxes	\$ 5,835
Transfers In:	
2013A GO Bond	664,056
Total Revenues	<u><u>\$ 664,056</u></u>
Expenditures:	
Administrative	Property Taxes
	\$ 5,835
	<u>5,835</u>
Total Expenditures	<u><u>\$ 5,835</u></u>
Net Change in Fund Balance	<u><u>\$ 664,056</u></u>

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-20

Stormwater Fund

<u>Account Description</u>	<u>Amount</u>
Revenues:	
Stormwater Fees	\$ (961,973)
Stormwater Fees - Prior Year	1,501,963
Stormwater Fee Bonds	(540,401)
Total Revenues	\$ (411)
Expenditures:	
Transfer Out	
Transfer to General Fund	\$ (40,000)
	(40,000)
Personnel	
Personnel	2,063
	2,063
Operating	
Travel	(2,000)
MAP Update	29,492
Cell Phone	(1,200)
Vehicle Fuel	(1,000)
BC SWU Admin Fee	(2,070)
Water Quality Monitoring	1,200
	24,422
Debt Service	
Other Charges	(500)
	(500)
Infrastructure Upgrades & Improvements	
HHP-Bear Creek Outfall	2,840
Wiler's Creek Stabilization	(388)
Tennismaster	10,800
New Orleans @ WHP Drainage Improvements	(286)
Gumtree Road-South Outfall	(266)
Fish Haul Culverts	(3,042)
US278 Flooding (beyond SDCOT funding)	83
Folly Field Rd. Lagoon	10,100
	19,841

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-20
Stormwater Fund (Cont.)

<u>Account Description</u>	<u>Amount</u>
Expenditures (Continued):	
Inventory & Modeling	
Port Royal Plantation	\$ (442)
Spanish Wells	(3,000)
	<hr style="width: 100%; border: 0.5px solid black;"/> (3,442)
 Drainage Maintenance and Repairs	
Hilton Head Plantation	
Seabrook	(1,965)
Indigo Run Plantation PUD	
Pipe Collars, Vac-haul, Ditch Work	257
Long Cove Plantation PUD	
Long Cove General Maint.	(278)
Palmetto Dunes Plantation PUD	
Longboat to Man O War Pipe Cleaning & Inspection	162
Shipyard Plantation PUD	
Ditch Cleaning, Vac-haul, Stabilization	(724)
Cottages Sinkhole & Shipmaster Sinkholes	(4,690)
Trimming Wax Myrtle Overhang Channels/278 Lagoons	4,046
Non-PUD	
County Owned General Maint.	4,763
New Orleans	13,534
Channel Maintenance of Easements	(4,763)
WHP @ Beach City Road Ditch	(180)
Tide Point Easement	(200)
New Orleans-Pipe and Ditch	(15,000)
US 278 Median @ Cental Ave.	(441)
	<hr style="width: 100%; border: 0.5px solid black;"/> (5,479)
 Pump Stations	
Sea Pines Pump Work	6,658
Wexford Generator Permanent Mount	(16,235)
Wexford Pump	12,261
	<hr style="width: 100%; border: 0.5px solid black;"/> 2,684
 Total Expenditures	 <u><u>\$ (411)</u></u>

The effect of this amendment will be to increase the Debt Service Fund to \$16,592,071; decrease the General fund to \$33,410,943, Capital Projects Fund to \$27,754,634, and the Enterprise Fund to \$5,113,516.

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-20

Section 2 Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3 Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island on this _____ day of _____, 2013.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ____ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt
Acting Town Clerk

First Reading: _____
Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member:_____



MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, Town Manager

VIA: Susan Simmons, Director of Finance

DATE: November 21, 2013

RE: **First Reading of Proposed Ordinance No. 2013-19**

Recommendation:

Staff recommends Council approve first reading of Proposed Ordinance No. 2013-19 amending fiscal year 2014 Capital Projects Fund budget.

Summary:

This ordinance amends the current fiscal year 2014 budget for three items.

- **Fire Station #6 increases.** Due to soil issues, the Station #6 budget was increased \$375,000 and Station #2 was decreased \$275,000 (delayed until FY 2015) and F&R Emergency Access Points reduced by \$100,000 (one access point area eliminated). Council previously approved a recommendation for these changes.
- **Beach Monitoring increase.** During the changes to the prior and current year budget during the budget development, one year's monitoring fees were omitted. Also, Town staff has been informed by the State of the potential to save in total costs by completing the monitoring early; however, this creates a need for extra funds in the current year. The total increase for this item is \$170,000. Beach renourishment fees are available for this item.
- **Tax Increment Financing (TIF) increases of \$4,272,232.** TIF estimated revenues have increased because the reassessment did not negatively impact the assessed property values in the TIF district as much as expected and the County increased its millage. Council at its recent annual workshop determined to make some changes in TIF project priorities; these changes are reflected in this budget amendment and described in more detail below.

Background:

The TIF spreadsheet presented to Council at its workshop has been updated to reflect the changes Council desired. The increases based on improved revenue estimates after reassessment will be allocated in this amendment.

The Coligny/Pope project has been divided and reallocated based on Council's direction at the workshop. Two new projects have been added: Office Park/USCB and Heritage Plaza Road Extension. To the extent funds are available with the existing TIF, this amendment proposes adding funds to these projects to initiate the necessary land acquisitions. (Additional funds will be needed in future years to fully fund the projects and will require a TIF extension.) Staff performed a TIF cash flow analysis and determined that the Town could move \$3.6 million of the planned Coligny/Pope fiscal year 2015 budget to fiscal year 2014.)

The Chaplin Linear Park over two years will increase from \$1.3 million to \$2.5 million; however, this amendment decreases the current fiscal year by \$800,000 as construction will not occur until fiscal year 2015.

Other changes are described in the updated spreadsheet which is attached. The changes to the fiscal year 2014 budget are reflected in the ordinance. Proposed changes to fiscal year 2015 become part of the ten year Capital Projects Fund plan and not in the formally adopted budget.

Town of Hilton Head Island
TIF Funds Available to Budget after Reassessment

		<u>Budget Amendment</u>	<u>Balance</u>
Estimated Revenues (after reassessment)	64,311,140	A	64,311,140
TIF Expended through FYE 2013	51,873,940		
Encumbrances FYE 2013	145,023		
Rolls Requested FYE 2013	19,945		
Total Expended and Reserved - FYE 2013	52,038,908		52,038,908
 <u>FY14 Budget</u>			
Chaplin Linear Park	1,300,000	(800,000)	500,000
Rowing and Sailing Center	885,000	300,000	1,185,000
Coligny/Pope	1,991,000	(1,850,000)	141,000
Office Park/USCB		4,050,000	4,050,000
Heritage Plaza Road Extension		2,522,232	2,522,232
Mathews Connectivity		50,000	50,000
Total FY14 Budget	4,176,000	4,272,232	8,448,232
 <u>FY15 Budget</u>			
Chaplin Linear Park		2,000,000	2,000,000
Coligny/Pope	3,624,000	(3,600,000)	24,000
Office Park/USCB			TBD
Heritage Plaza Road Extension			TBD
Mathews Connectivity		650,000	650,000
Mast Arm at Spanish Wells		150,000	150,000
Marshland Roundabout		1,000,000	1,000,000
Total FY15 Budget	3,624,000	200,000	3,824,000
 Estimated Balance to Budget (after reassessment)	 4,472,232	 A	 -

A - These estimates are based on amounts "immediately after reassessment", meaning that the assessments are subject to appeal. Also, FY15 revenues may change due to ATI and growth in assessed values and millage rates.

Potential Projects/Supplements to Projects

Mast Arm at Spanish Wells	150,000	FY15
Rowing and Sailing	300,000	FY14
Mathews Connectivity	700,000	FY15 , except \$50,000 design/permit
Marshland Roundabout	1,000,000	FY15
Coligny/Pope - Heritage Plaza Road Extension	1,122,232	FY14
Chaplin Linear Park	1,200,000	FY15
Total Potential/Supplemental Projects	4,472,232	

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-19

AN ORDINANCE TO AMEND THE BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2014; TO PROVIDE FOR THE EXPENDITURES OF CERTAIN FUNDS; AND TO ALLOCATE THE SOURCES OF REVENUE FOR THE SAID FUNDS.

WHEREAS, Section 5-7-260 of the Code of Laws of South Carolina requires that a municipal council act by ordinance to adopt a budget and levy taxes, pursuant to public notice; and

WHEREAS, the Town Council did adopt the budget on June 18, 2013, and

WHEREAS, pursuant to the budget amendment policy as stated in the Town's annual budget document, the Town Council is desirous of amending the budget so as to provide for the expenditures and certain other commitments from the Fund Balance and other revenue sources, as well as to correct budget appropriations for certain capital projects in the Capital Projects Fund.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:

Section 1 Amendment. The adopted 2014 fiscal year budget is amended to make the following changes as increases and decreases to the funds from prior years and to the projected revenue and expenditure accounts as follows:

Capital Projects Fund

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
Beach Fees		\$ 170,000
Hospitality Bond		-
Hospitality Taxes		-
TIF Property Taxes		4,272,232
Total Revenues		<u>\$ 4,442,232</u>
Expenditures:		
Beach Maintenance		
Beach Management/Monitoring	Beach Fees	\$ 170,000
		170,000
Park Development		
Rowing & Sailing Center	TIF Property Taxes	300,000
Chaplin Linear Park	TIF Property Taxes	(800,000)
		(500,000)
Existing Facilities/Infrastructure		
Fire Station # 2 Replacement	Hospitality Bond	(275,000)
Fire Station # 6 Replacement	Hospitality Bond	275,000
"	Hospitality Taxes	100,000
		100,000
New Facilities/Infrastructure		
Coligny/Pope Ave. Area Initiative	TIF Property Taxes	(1,850,000)
Office Park/USCB	TIF Property Taxes	4,050,000
		2,200,000
Road Improvements		
F&R Emergency Access Points	Hospitality Taxes	(100,000)
Mathews Connectivity	TIF Property Taxes	50,000
Heritage Plaza Road Extension	TIF Property Taxes	2,522,232
		2,472,232
Total Expenditures		<u>\$ 4,442,232</u>

The effect of this amendment will be to increase the Capital Projects Fund to \$25,233,270. The General Fund at \$35,125,434, Debt Service Fund at \$17,050,403, and Enterprise Fund at \$5,152,835 remain unchanged.

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-19

Section 2 Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3 Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island on this _____ day of _____, 2013.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ____ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt
Acting Town Clerk

First Reading: _____
Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member:_____



MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, ICMA-CM, Town Manager

VIA: Susan M. Simmons, CPA, Director of Finance

DATE: November 21, 2013

RE: **First Reading of Proposed Ordinance No. 2013-17**

Recommendation:

Staff recommends that Town Council approve first reading of Proposed Ordinance No. 2013-17 which amends the fiscal year 2014 budget for the encumbrances brought forward from fiscal year 2013.

Summary:

This budget amends the General Fund, Capital Projects Fund and Stormwater (Enterprise) Fund by carrying forward funds from prior years to pay for specific encumbrance items that have already been obligated prior to the beginning of the new fiscal year 2014. These specific encumbrance items can be contracts and/or obligated purchase orders that for various reasons were not paid prior to the end of fiscal year 2013 but are still obligated.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-17

AN ORDINANCE TO AMEND THE BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2014; TO PROVIDE FOR THE BUDGETED APPROPRIATIONS OF PRIOR YEAR ENCUMBRANCES AND FOR THE EXPENDITURES OF CERTAIN FUNDS; AND TO ALLOCATE THE SOURCES OF REVENUE FOR THE SAID FUNDS.

WHEREAS, Section 5-7-260 of the Code of Laws of South Carolina requires that a municipal council act by ordinance to adopt a budget and levy taxes, pursuant to public notice; and

WHEREAS, the Town Council did adopt the budget on June 18, 2013, and

WHEREAS, pursuant to the budget amendment policy as stated in the Town’s annual budget document, the Town Council is desirous of amending the budget so as to provide for the budgeted appropriations of prior year encumbrances and certain other commitments from the Fund Balance and other revenue sources.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:

Section 1 Amendment. The adopted 2014 fiscal year budget is amended to make the following changes as additions to the funds from prior years and to the projected revenue and expenditure accounts as follows:

General Fund

<u>Account Description</u>		<u>Amount</u>
Revenues:		
Funds From Prior Years		\$ 350,727
Hospitality Taxes		10,463
Total Revenues		\$ 361,190
Expenditures:		
Town Wide - Operating	10000920	
Professional Services	53320	\$ 14,000
Lease Payments	54954	524
Finance/Admin. - Operating	11050520	
Professional Services	53320	5,035
IT Services - Operating	11061520	
Maintenance Contracts	53700	32,300
IT Services - Capital	11061540	
Computer Software > \$50,000	55121	175,485

General Fund (Cont.)

<u>Account Description</u>		<u>Amount</u>
Expenditures (Continued):		
Legal/Admin. Support - Operating	11061620	
Record Management	53200	\$ 10,000
PP&F/ Engineering - Operating	11536520	
Closed Loop Traffic Signal Maint.	53180	16,798
Consulting Services Traffic Control	53360	6,600
PP&F/Facilities Mgmt. - Operating	11537020	
Maintenance Contracts	53700	7,525
DRZ - Operating	11585020	
Consulting Services	55350	64,425
F&R/Operating - Operating	12021020	
Professional Services	55320	2,499
F&R Logistics & Maint. - Operating	12023520	
SCBA Repair	54951	2,877
F&R Support Services - Operating	12029520	
Maintenance Contracts	53700	2,400
F&R Support Services - Capital	12029540	
Specialized Equipment	55120	Hospitality Taxes 10,463
BCSO - Operating	12098020	
Office Supplies	54710	1,420
BCSO - Capital	12098040	
Specialized Equipment	55120	3,777
Vehicles	55160	5,062
Total Expenditures		<u>\$ 361,190</u>

Capital Projects Fund

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
2013A GO Bond		\$ 496,820
2014 GO Bond		2,250,000
Beach Fees		728,837
Hospitality Bond		3,585,903
Hospitality Taxes		11,318
Property Taxes		10,182
TIF Property Taxes		145,023
Traffic Impact Fees		122,761
Total Revenues		<u>\$ 7,350,844</u>
Expenditures:		
Beach Maintenance		
Beach Management & Monitoring	Beach Fees	\$ 86,443
Shoreline Management Plan	Beach Fees	16,616
Beach Renourishment FY16	Beach Fees	509,443
Beach Renourishment Ocean Point	Beach Fees	116,335
		<u>728,837</u>
Existing Facilities/Infrastructure		
Fire Station 6 Replacement	Hospitality Bond	3,138,774
Apparatus & Vehicle Replacement	Hospitality Taxes	11,318
		<u>3,150,092</u>
Park Development		
Recreation Center Enhancements	Hospitality Bond	174,893
Rowing & Sailing Center	TIF Property Taxes	38,564
Chaplin Linear Park	TIF Property Taxes	85,686
		<u>299,143</u>
New Facilities/Infrastructure		
Sewer Service Projects	2013A GO Bond	496,820
Coligny/Pope Avenue Area Initiative	TIF Property Taxes	14,791
		<u>511,611</u>
Pathways		
Pathway Rehabilitation	Property Taxes	685
US 278 (Wexford Circle to Fresh Market Shoppes)	Hospitality Bond	20,874
Leg O'Mutton	Hospitality Bond	30,534
Pembroke Drive	Hospitality Bond	1,882
Gardner Drive	Hospitality Bond	52
"	Traffic Impact Fees	1,670
		<u>55,697</u>

Capital Projects Fund (Cont.)

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Expenditures (Continued):		
Road Improvements		
Directional/Neighborhood Signage	Hospitality Bond	\$ 95,748
Mathews Dr./Chaplin Area Connectivity	TIF Property Taxes	5,982
Leamington/Fresh Market/US 278	Hospitality Bond	28,539
Pedestrian Crosswalks	Hospitality Bond	12,342
Roadway Safety Improvements	Property Taxes	9,497
Intersection Improvements	Hospitality Bond	82,265
Lemoyne Ave.	Traffic Impact Fees	121,091
		<u>355,464</u>
Land		
Shelter Cove Park	2014 GO Bond	2,250,000
		<u>2,250,000</u>
Total Expenditures		<u><u>\$ 7,350,844</u></u>

SWU Fund

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
Stormwater Utility Fees		\$ 1,289,753
Total Revenues		<u><u>\$ 1,289,753</u></u>
Expenditures:		
Operating		
Public Education	Stormwater Utility Fees	\$ 19,955
Mapping Update	Stormwater Utility Fees	88,470
Water Quality Monitoring	Stormwater Utility Fees	20,002
		<u>128,427</u>

SWU Fund (Cont.)

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Expenditures (Continued):		
Infrastructure Upgrades & Improvements		
Wiler's Creek Stabilization	Stormwater Utility Fees	1,631
Port Royal Plantation Culvert Upgrade	Stormwater Utility Fees	948
Tennismaster	Stormwater Utility Fees	15,108
Gumtree Road South Outfall	Stormwater Utility Fees	5,167
Myrtle and Hickory Lanes	Stormwater Utility Fees	504,066
Executive Park	Stormwater Utility Fees	28,183
Fish Haul Culverts	Stormwater Utility Fees	474
		<u>555,577</u>
Inventory & Modeling		
Hilton Head Plantation	Stormwater Utility Fees	\$ 180,910
Port Royal Plantation	Stormwater Utility Fees	110,078
Broad Creek/Shelter Cove	Stormwater Utility Fees	10,642
Unaffiliated Watersheds	Stormwater Utility Fees	12,903
		<u>314,533</u>
Drainage Maintenance and Repairs		
<i>Shipyard</i>		
Shipyard Dr Outfall to Port O Call	Stormwater Utility Fees	7,505
		<u>7,505</u>
Pump Stations		
Pump Station Maintenance	Stormwater Utility Fees	3,965
Sea Pines Pump Work	Stormwater Utility Fees	83
Wexford Pump Work	Stormwater Utility Fees	273,322
Wexford Generator Permanent Mount	Stormwater Utility Fees	6,341
		<u>283,711</u>
Total Expenditures		<u><u>\$ 1,289,753</u></u>

The effect of this amendment will be to increase the General Fund to \$34,690,959, Capital Projects Fund to \$18,386,244, and Enterprise Fund to \$4,708,508. The Debt Service Fund remains unchanged at \$17,050,403.

Section 2 Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3 Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island on this _____ day of _____, 2013.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ___DAY OF_____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt
Acting Town Clerk

First Reading: _____
Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member:_____



MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, ICMA-CM, Town Manager

VIA: Susan M. Simmons, CPA, Director of Finance

DATE: November 21, 2013

RE: **First Reading of Proposed Ordinance No. 2013-18**

Recommendation:

Staff recommends that Town Council approve first reading of Proposed Ordinance No. 2013-18 which amends the fiscal year 2014 budget for the requested roll-forwards from fiscal year 2013.

Summary:

This budget ordinance amends the General Fund, Capital Projects Fund and Stormwater (Enterprise) Fund by rolling forward budgeted funds from the prior year that were not encumbered at the end of the fiscal year. A roll-forward item is a budget for a capital improvement or stormwater project or General Fund program or technology project that for various reasons was not started or not completed at June 30, 2013. Staff requested these funds be rolled to complete projects and plans during fiscal year 2014.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-18

AN ORDINANCE TO AMEND THE BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2014; TO PROVIDE FOR THE BUDGETED APPROPRIATIONS OF PRIOR YEAR BUDGET ROLL-FORWARDS AND THE EXPENDITURES OF CERTAIN FUNDS; AND TO ALLOCATE THE SOURCES OF REVENUE FOR THE SAID FUNDS.

WHEREAS, Section 5-7-260 of the Code of Laws of South Carolina requires that a municipal council act by ordinance to adopt a budget and levy taxes, pursuant to public notice; and

WHEREAS, the Town Council did adopt the budget on June 18, 2013, and

WHEREAS, pursuant to the budget amendment policy as stated in the Town's annual budget document, the Town Council is desirous of amending the budget so as to provide for the budgeted appropriations of prior year budget roll-forwards and certain other commitments from the Fund Balance and other revenue sources.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:

Section 1 Amendment. The adopted 2014 fiscal year budget is amended to make the following changes as additions to the funds from prior years and to the projected revenue and expenditure accounts as follows:

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-18

General Fund

<u>Account Description</u>			<u>Amount</u>
Revenues:			
Beach Fees			\$ 16,581
Funds From Prior Years			331,591
Hospitality Taxes			45,000
Sunday Liquor Permit Fees			41,303
Total Revenues			<u><u>\$ 434,475</u></u>
Expenditures:			
Townwide Grants	10000950		
Island Recreation Center-Capital	56030	Sun. Liq. Permit Fees	\$ 41,303 *
Event Mgmt & Hosp. Training	56052		15,133
Municipal Court Operating	11061220		
Consulting Services	53350		5,000
IT Services Operating	11061520		
Computer Software <\$50,000	54400		9,000
IT Services Capital	11061540		
Computer Software = or >\$50,000	55121		153,000
PP&F/Facilities Mgmt. - Operating	11537020		
Beach Park Maintenance	53175	Beach Fees	16,581 *
DRZ Operating	11585020		
Consulting Services	53350		122,889
Printing & Publishing	53410		26,569
F&R Support Services - Capital	12029540		
Specialized Equipment	55120	Hospitality Taxes	<u>45,000 *</u>
Total Expenditures			<u><u>\$ 434,475</u></u>

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-18

Capital Projects Fund

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
2013A GO Bond		\$ 832,417
2014A GO Bond		250,000
Hospitality Bond		417,451
Hospitality Taxes		420,663
Lease		136,000
Property Taxes		138,318
TIF Property Taxes		19,945
Traffic Impact Fees		190,000
Total Revenues		<u><u>\$ 2,404,794</u></u>
Expenditures:		
Existing Facilities/Infrastructure		
Town Hall Renovations	Hospitality Taxes	\$ 240,659
Fire Station 6 Replacement	Hospitality Bond	139,432
		<u>380,091</u>
Park Development		
Recreation Center Enhancements	Hospitality Bond	40,433
Chaplin Linear Park	TIF Property Taxes	19,945
		<u>60,378</u>
New Facilities/Infrastructure		
BCSO-Shelter Cove	2013A GO Bond	22,924
"	Hospitality Bond	20,000
"	Lease	136,000
Sewer Service Projects	2013A GO Bond	700,993
		<u>879,917</u>
Pathways		
Pathway Rehabilitation	Property Taxes	2,500
Pembroke Drive	Hospitality Bond	12,202
"	Traffic Impact Fees	27,000
Gardner Drive	Traffic Impact Fees	23,326
Honey Horn Access Improvements	Hospitality Taxes	180,004
"	Property Taxes	49,817
US 278 (Fresh Market Shoppes to Shelter Cove)	Hospitality Bond	64,329
"	Traffic Impact Fees	79,674
US 278 (Shelter Cove to Mathews North)	Hospitality Bond	32,200
"	Traffic Impact Fees	60,000
		<u>531,052</u>

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-18

Capital Projects Fund (Cont.)

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Expenditures (Continued):		
Road Improvements		
Traffic Signal Mast Arms	Hospitality Bond	\$ 108,855
Roadway Safety Improvements	Property Taxes	5,000
Private (Dirt) Road Acquisition	Property Taxes	81,001
		<u>194,856</u>
Land Acquisition		
Land Acquisition	2014A GO Bond	250,000
		<u>250,000</u>
Other Financing Sources (Uses)		
Cost of Issuance	2013A GO Bond	108,500
		<u>108,500</u>
Total Expenditures		<u><u>\$ 2,404,794</u></u>

SWU Fund

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
Stormwater Utility Fees		\$ 444,327
Total Revenues		<u><u>\$ 444,327</u></u>
Expenditures:		
Infrastructure Upgrades & Improvements		
Tennismaster	Stormwater Utility Fees	\$ 15,941
Jarvis Bypass Channel	Stormwater Utility Fees	28,000
Myrtle and Hickory Lanes	Stormwater Utility Fees	43,916
Executive Park	Stormwater Utility Fees	638
Fish Haul Culverts	Stormwater Utility Fees	2,000
Folly Field	Stormwater Utility Fees	13,765
		<u>104,260</u>

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-18

SWU Fund (Cont.)

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Expenditures (Continued):		
Drainage Maintenance and Repairs		
<i>Hilton Head Plantation</i>		
HHP-Maint.	Stormwater Utility Fees	\$ 15,870
Sweetwater	Stormwater Utility Fees	25,000
<i>Indigo Run Plantation</i>		
Long Reach Hoe Work	Stormwater Utility Fees	20,000
<i>Palmetto Dunes Plantation</i>		
PD-Maint.	Stormwater Utility Fees	15,073
<i>Palmetto Hall Plantation</i>		
PH-Maint.	Stormwater Utility Fees	2,840
<i>Port Royal Plantation</i>		
PR-Maint.	Stormwater Utility Fees	29,957
<i>Shipyard Plantation</i>		
Hamilton/Sands Long Reach Hoe Work	Stormwater Utility Fees	14,900
Shipyard Dr Outfall to Port O Call	Stormwater Utility Fees	15,495
<i>Sea Pines Plantation</i>		
SP-Maint.	Stormwater Utility Fees	639
Greenwood Dr. Ditch	Stormwater Utility Fees	60,000
<i>Wexford Plantation</i>		
Wexford Ditch Work/Powerline Easement	Stormwater Utility Fees	30,000
<i>Non-PUD</i>		
Channel Maint.	Stormwater Utility Fees	20,237
Non-PUD Maint.	Stormwater Utility Fees	11,886
Sea Cloisters	Stormwater Utility Fees	3,152
Northridge-Long Reach Hoe Work	Stormwater Utility Fees	25,000
State Misc.	Stormwater Utility Fees	2,360
Cordillow Pkwy. Channel Work	Stormwater Utility Fees	20,000
		312,409
Pump Stations		
Pump Station Maintenance	Stormwater Utility Fees	14,132
Shipyard Pump Work	Stormwater Utility Fees	3,411
Wexford Gererator Permanent Mount	Stormwater Utility Fees	10,115
		27,658
Total Expenditures		\$ 444,327

The effect of this amendment will be to increase the General Fund to \$35,125,434, Capital Projects Fund to \$20,791,038, and Enterprise Fund to \$5,153,835. The Debt Service Fund remains unchanged at \$17,050,403.

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2013-18

Section 2 Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3 Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island on this _____ day of _____, 2013.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ___ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt
Acting Town Clerk

First Reading: _____
Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO:	Steve Riley, <i>ICMA-CM, Town Manager</i>
FROM:	Shea Farrar, <i>Senior Planner</i>
VIA:	Charles Cousins, <i>AICP, Community Development Director</i>
VIA:	Shawn Colin, <i>AICP, Deputy Director - Community Development</i>
DATE	November 21, 2013
SUBJECT:	Proposed Agreement with Hilton Head Public Service District - Baygall

Recommendation:

Staff recommends that Town Council approve a resolution authorizing an agreement between the Town and Hilton Head #1 Public Service District (HHPSD) for the costs of design, materials and construction of the Baygall Sewer Project, identified in the Town's Capital Improvements Program (CIP) as the "Barker Field Area Project including Mitchelville Beach Park Connection".

Summary:

This Resolution would authorize the Mayor and the Town Manager to:

- Execute and deliver a proposed agreement between the Town and HHPSD to reimburse its costs for the design, materials and construction of a sewer project in the Baygall area, not to exceed \$687,777.00. This proposed agreement is identical to the previous agreements approved by Town Council with the exception of the cost and billing procedures. Billing procedures were changed to accommodate monthly payments.

The project is located in the Baygall area and will make sewer service available to Barker Field and Mitchelville Beach Parks as well as other properties along Fish Haul Road, Baygall Road and Mitchelville Road shown on Attachment "A".

Background:

Previously, the Town entered into agreements with the HHPSD whereby the Town reimbursed the HHPSD for its costs in the design, materials and construction of sewer projects in the Stoney and Chaplin areas. These projects were identified for funding through the Town's CIP as a result of sewer policies adopted by the Town in 2005 to increase sewer availability on the Island. This proposed agreement is, other than the project costs and billing procedures, identical to the prior agreements executed for these projects.

Town Council approved a pump station easement on the Town's Barker Field Expansion Property to facilitate this project in August. When the project is completed, the HHPSD will accept the project for permanent ownership, operation and maintenance.



ONE TOWN CENTER COURT
 HILTON HEAD ISLAND, S.C. 29928
 PHONE (843) 341-4600

Attachment A

Baygall Sewer Project Location Map

November, 2013



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.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTRACT BETWEEN THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND THE HILTON HEAD NO. 1 PUBLIC SERVICE DISTRICT RELATING TO THE SEWER EXPANSION PROJECT KNOWN AS THE BARKER FIELD EXPANSION PUMP STATION, ALSO KNOWN AS THE BARKER FIELD AREA PROJECT INCLUDING MITCHELVILLE BEACH PARK CONNECTION.

WHEREAS, The Town of Hilton Head Island, South Carolina, and the Hilton Head No. 1 Public Service District have reached an Agreement regarding the design and construction of sewerage infrastructure in the Barker Field Expansion area of Hilton Head Island, and for the payment for the cost of the design and construction of a portion of the sewerage infrastructure; and,

WHEREAS, the project is described in the Capital Improvements Plan for Fiscal Year beginning on July 1, 2012, for The Town of Hilton Head Island, South Carolina, as “Barker Field Area Project including Mitchelville Beach Park Connection”; and,

WHEREAS, the Town Council for the Town of Hilton Head Island, South Carolina, has determined that it is in the best interests of the Town to enter into an agreement with and the Hilton Head No. 1 Public Service District regarding the design and construction of the sewerage infrastructure and its payment.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA:

1. The Mayor and Town Manager are hereby authorized to execute and deliver an Agreement with the Hilton Head No. 1 Public Service District regarding the design and construction of sewerage infrastructure in the Barker Field Expansion area of Hilton

Head Island, in the form and substance of the proposed Agreement attached hereto as Exhibit "A".

2. The Town Manager is hereby authorized to take such other and further action as may be necessary to complete the Town's obligations described in the Agreement to be executed by them, which is authorized hereby.

**PASSED AND APPROVED BY THE TOWN COUNCIL THIS _____ DAY
OF _____, 2013.**

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

AN AGREEMENT

BY AND BETWEEN

THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

AND

THE HILTON HEAD NO. 1 PUBLIC SERVICE DISTRICT

DATED: _____, 2013

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) AGREEMENT

This Agreement is made on this _____ day of _____, 2013, by and between Hilton Head No. 1 Public Service District, and the Town of Hilton Head Island, South Carolina.

WITNESSETH

WHEREAS, Hilton Head No. 1 Public Service District provides certain public services within the municipal limits of the Town of Hilton Head Island, South Carolina, including installation and maintenance of sewerage infrastructure; and

WHEREAS, Hilton Head No. 1 Public Service District desires to install and maintain sewerage infrastructure for a project to be known as the “Baygall Sewer Project” on Hilton Head Island (hereinafter, the “Project”), which Project is also described in the Capital Improvements Plan for Fiscal Year beginning on July 1, 2012 for The Town of Hilton Head Island, South Carolina, as “Barker Field Area Project including Mitchelville Beach Park Connection”; and,

WHEREAS, the Town of Hilton Head Island, South Carolina, and the Hilton Head No. 1 Public Service District, in their efforts to improve sewerage conditions in different areas within the Town of Hilton Head Island, have identified the areas encompassed by the Project as being in need of sewerage infrastructure; and,

WHEREAS, the Town of Hilton Head Island, South Carolina, has determined that payment for the Project will come from General Obligation Bonds to be issued by The Town of Hilton Head Island, South Carolina; and,

WHEREAS, the Town of Hilton Head Island, South Carolina, has determined that it is in the best interests of the citizens of Hilton Head Island, South Carolina, to facilitate the installation of the sewerage infrastructure, upon the terms and conditions as set forth herein.

NOW, THEREFORE, for and in consideration of the sum of One Dollar (\$1.00) each to the other in hand paid at and before the execution and delivery of these presents, the receipt and sufficiency whereof is acknowledged by the parties hereto, the Town of Hilton Head Island, South Carolina, and the Hilton Head No. 1 Public Service District, agree as follows:

ARTICLE 1 - DEFINITIONS

1.01 *Agreement:* This Agreement by and between the Town of Hilton Head Island, South Carolina and the Hilton Head No. 1 Public Service District.

1.02 *Contractor:* Any Contractor hired by HHPSD to complete all or any part of the Project, and any sub-contractor hired by any Contractor.

1.03 *HHPSD:* Hilton Head No. 1 Public Service District

1.04 *Plans and Specifications:* The construction plans and specifications for the installation of the sewerage infrastructure for the “Baygall Sewer Project” are entitled “Baygall Sewer” and were prepared by Lowcountry Engineering Consultants, LLC (the “Plans and Specifications”). A copy of the Plans and Specifications for the Project is attached hereto as Exhibit “A”.

1.05 *Project:* The “Baygall Sewer Project,” which is described in Plans and Specifications attached hereto as Exhibit “A”. This Project is described in the Capital Improvements Plan for Fiscal Year beginning on July 1, 2012, for The Town of Hilton

Head Island, South Carolina, as “Barker Field Area Project including Mitchelville Beach Park Connection”.

1.06 *Town:* Town of Hilton Head Island, South Carolina.

ARTICLE 2- CONSTRUCTION OF THE PROJECT

2.01 *Responsibility of the Parties:* The Town and the HHPSD agree that each shall have the responsibilities as are set forth below.

2.02 *Preparation of Plans and Specifications:* HHPSD shall be responsible for the preparation of the Plans and Specifications for the Project.

2.03 *Acquisition of Easements:* HHSPD shall be responsible for insuring that acquisition occurs as to any and all necessary easements from any property owner whose land is touched or otherwise affected by the Project, and HHPSD shall be responsible for insuring as to the preparation and recording of easements and easement plats.

2.04 *Permits:* HHPSD shall be responsible for obtaining all necessary permits from any Federal, State or local authority having jurisdiction over all or any part of the Project. HHPSD shall coordinate a pre-construction conference with all necessary parties.

2.05 *Bid Requirements:* HHPSD shall be responsible for obtaining bids in accordance with appropriately competitive procurement procedures and all applicable law.

2.06 *Construction of Project:* HHPSD shall be responsible for the contracting and management of the Project. The contracting for, and actual construction of, the Project shall be in accordance with the Plans and Specifications for the Project as set forth in Article 1.04 above and Exhibit “A” hereto.

2.07 *Contractors to Have Town Business License:* HHPSD shall require all Contractors working on the Project to have a valid Town of Hilton Head Island Business License.

2.08 *Town Updates:* HHPSD shall provide written updates to the Town of the progress of the Project on a monthly basis via the certifications described in Article 2.12 below.

2.09 *Reimbursement to HHPSD by Town:* The Town shall reimburse HHPSD for the costs of design and construction associated with the Project in the following amounts:

The Town shall reimburse HHPSD up to a maximum of \$687,777.00 Dollars for all design, materials and labor for construction of underground sewer lines described in the Plans and Specifications for the Project.

2.10 *Payment of Costs:* The Town shall reimburse HHPSD for the costs of the design of the underground sewer lines described in the Plans and Specifications for the Project and for the labor and materials used in the completion of the construction of underground sewer lines and infrastructure described in the Plans and Specifications for the Project on a monthly basis.

2.11 *Billing Statements:* HHPSD shall submit its billing statement for the Project to the Town on a monthly basis.

2.12 *Certifications To Be Provided:* HHPSD shall submit the following certifications to the Town along with each billing statement as described in Article 2.11 above:

In conjunction with each monthly billing statement:

(a) *Engineer's Certification:* HHPSD must provide a written certification from the engineer responsible for overseeing and inspecting

the Project that the work being billed for is only the work that is shown and described in the Plans and Specifications for the Project being billed for, and that the Project, and each component thereof, has been completed in conformity with the requirements of the Plans and Specifications.

In conjunction with the completion of construction of the Project:

(b) *HHSPD Certification:* HHPSD must provide its written certification that HHPSD has accepted the Project for permanent ownership, maintenance and operation, and the amounts billed for reimbursement by the Town represents HHPSD's actual costs for the design, materials, labor and construction of the Project.

ARTICLE 3 - PAYMENT FOR THE PROJECT

3.01 *Town's Responsibility:* The Town shall be responsible for the payment of the actual costs incurred by HHPSD for the design, materials, and labor for the construction of the underground sewer lines described in the Plans and Specifications for the Project up to the following amount: \$687,777.00.

3.02 *Town's Obligation Limited:* The Town's obligation to reimburse HHPSD with respect to the construction of the underground sewer lines described in the Plans and Specifications for the Project is limited to the amount set forth in Articles 2.09 and 3.01 above.

3.03 *Payments as Current Expense of Town:* The payment due hereunder for the design and construction of the underground sewer lines described in the Plans and Specifications for the Project constitutes an obligation of the Town payable from annually appropriated revenues of the Town. It is the intent of the parties to this Agreement that the obligation of the Town to pay any money hereunder shall constitute a current expense of the Town and shall not in any way be construed to be a debt of the Town in contravention of any applicable constitutional or statutory limitations

concerning indebtedness of the Town, nor shall anything contained herein constitute a pledge of the general tax revenues, funds, money or credit of the Town.

ARTICLE 4 - INSURANCE

4.01 *Insurance Required:* HHPSD shall not commence the construction of the Project until it has obtained and provided proof thereof to the Town of the following:

(a) *Liability Insurance:* HHPSD has, and shall maintain, liability insurance through the South Carolina Insurance Reserve Fund, or other authorized carrier, in keeping with the requirements of the State of South Carolina under the South Carolina Tort Claims Act S. C. Code Ann. § 15-78-10, *et seq.* (Supp. 2012), or as the same may be thereafter amended.

(b) *Worker's Compensation Insurance:* HHPSD shall maintain in force, during the life of this Agreement, any applicable statutory Worker's Compensation and Employer's Liability Insurance for all of its employees who be engaged in the work related to the Project or performance of any of the obligations of HHPSD described in this Agreement. HHPSD shall similarly require any of its Contractors to maintain in force any applicable statutory Worker's Compensation and Employer's Liability Insurance for all of their employees to be engaged in any of the work related to the Project or performance of any of HHPSD's obligations described in this Agreement.

(c) *Insurance Requirements for Subcontractors:* Any contracts entered into between HHPSD and any Contractors, or by and between any Contractors for this Project shall require that each Contractor carry a

comprehensive general public liability and property damage insurance with a combined bodily injury, death and property damage limits, per occurrence, of ONE MILLION (\$1,000,000.00) DOLLARS, insuring against any and all liability arising out of all or any part of the work described in this Agreement.

4.02 *Town's Insurance:* The Town has, and shall maintain, liability insurance through the South Carolina Insurance Reserve Fund, or other authorized carrier, in keeping with the requirements of the State of South Carolina under the South Carolina Tort Claims Act S. C. Code Ann. § 15-78-10, *et seq.* (Supp. 2012), or as the same may be thereafter amended.

ARTICLE 5 - TERM

5.01 *Term:* The Town and HHPSD agree that this Agreement shall be binding between the parties hereto until the Project is completed and accepted by HHPSD for permanent ownership, maintenance and operation.

ARTICLE 6 - DEFAULT

6.01 *Default:* The Town and HHPSD agree that in the event of a default or breach of any provision or term of this Agreement, the non-defaulting party shall give written notice to the defaulting party of the default or breach. In the event that the defaulting party fails to cure the default or breach within ten (10) days after receipt of the written notice specifying the default or breach, then the non-defaulting party shall be entitled to pursue any remedy at law or in equity against the defaulting party, including, but not limited to, an action for damages or for specific performance of this Agreement;

provided, however, that in no event shall any party to this Agreement be liable for any consequential, special or punitive damages.

6.02 *Attorney's Fees:* If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover its reasonable attorney's fees and any costs incurred as a result of any such dispute, whether incurred before the institution of suit or after the commencement of suit, including appellate proceedings, in addition to any other relief to which the prevailing party is entitled.

ARTICLE 7 - AUTHORITY OF PARTIES

7.01 *Authority of Town:* The Town warrants that its actions in entering into this Agreement are lawful and authorized by all applicable state law and Town ordinances. As is shown by the certified true copy of the Resolution of the Town Council of The Town of Hilton Head Island, South Carolina, attached hereto as Exhibit "B", the execution and delivery of this Agreement and performance of the requirements hereof, has been authorized by the Town.

7.02 *Authority of HHPSD:* HHPSD warrants that its actions in entering into this Agreement are authorized by the applicable covenants and by-laws governing HHPSD, and that it has taken all actions required under any applicable covenants and by-laws as are necessary to authorize the execution and delivery of this Agreement. As is shown by the certified true copy of the Resolution of HHPSD, attached hereto as Exhibit "C", the execution and delivery of this Agreement, and performance of the requirements hereof, has been authorized by HHPSD.

ARTICLE 8 - OWNERSHIP AND MAINTENANCE OF SEWAGE INFRASTRUCTURE

8.01 *HHPSD to Own and Maintain:* Upon completion of the Project, HHPSD shall own and be responsible for the maintenance and upkeep of the infrastructure described in the Plans and Specifications for the Project, along with any expense or costs associated therewith.

ARTICLE 9 - GENERAL PROVISIONS

9.01 *Binding Effect:* This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, if any are permitted hereunder.

9.02 *Amendment, Changes and Modifications:* Except as otherwise provided herein, this Agreement may not be effectively amended, changed, modified or altered without the written consent of the parties.

9.03 *Severability:* In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

9.04 *Execution in Counterparts:* This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

9.05 *Applicable Law:* This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

9.06 *Captions:* The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

9.07 *Plural/Singular:* Where appropriate, the use of the singular herein shall include and be deemed to be the plural, and the use of the plural herein shall be deemed to include the singular.

9.08 *No Third Party Beneficiaries:* The Town and HHPSD hereto affirmatively represent that this Agreement is made solely for the benefit of the parties hereto and their respective successors and assigns and not for the benefit of any third party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

9.09 *Notices:* All notices, applications, requests, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person, or mailed by regular first class mail, postage prepaid (in such case, delivery shall be deemed complete upon mailing), addressed as follows, or to such other place as may be designated in writing by the parties:

To the Town: THE TOWN OF HILTON HEAD ISLAND
Stephen G. Riley, Town Manager
One Town Center Court
Hilton Head Island, SC 29928

With copy to: ALFORD LAW FIRM, LLC
Gregory M. Alford
Post Office Drawer 8008
Hilton Head Island, SC 29938

To the HHPSD: HILTON HEAD NO. 1 PUBLIC SERVICE DISTRICT
c/o Richard Cyr, General Manager
21 Oak Park Plaza
Hilton Head Island, SC 29926

With copy to: Coltrane & Wilkins, LLC
John W. Wilkins
Post Office Box 6808
Hilton Head Island, SC 29938

9.10 *No Waiver:* No failure of any party hereto to exercise any power or right given to such party hereunder, or to insist on strict compliance by any other party to its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of any party's right to thereafter demand strict compliance with the terms of this Agreement.

9.11 *Further Assurances and Corrective Documents:* The Town and HHPSD agree to do, execute, acknowledge, deliver or cause to be done all such further acts as may be reasonably determined to be necessary to carry out this Agreement and give effect to the provisions hereof. The parties agree that each shall, upon request, execute and deliver such other or corrective documents as may be reasonably determined to be necessary to carry out this Agreement and each of the provisions hereof.

IN WITNESS WHEREOF, The Town of Hilton Head Island, South Carolina and Hilton Head No. 1 Public Service District, by and through their duly authorized officers, have set their hands and seals on this _____ day of _____, 2013.

(SIGNATURE PAGES FOLLOW)

WITNESSES:

THE TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA

By: _____
Drew A. Laughlin, Mayor

Attest: _____
Stephen G. Riley, Town Manager

WITNESSES:

HILTON HEAD NO. 1 PUBLIC
SERVICE DISTRICT

By: _____
Richard Cyr, General Manager

Attest: _____
Larry M. Sapp, Finance Manager

EXHIBIT "A"

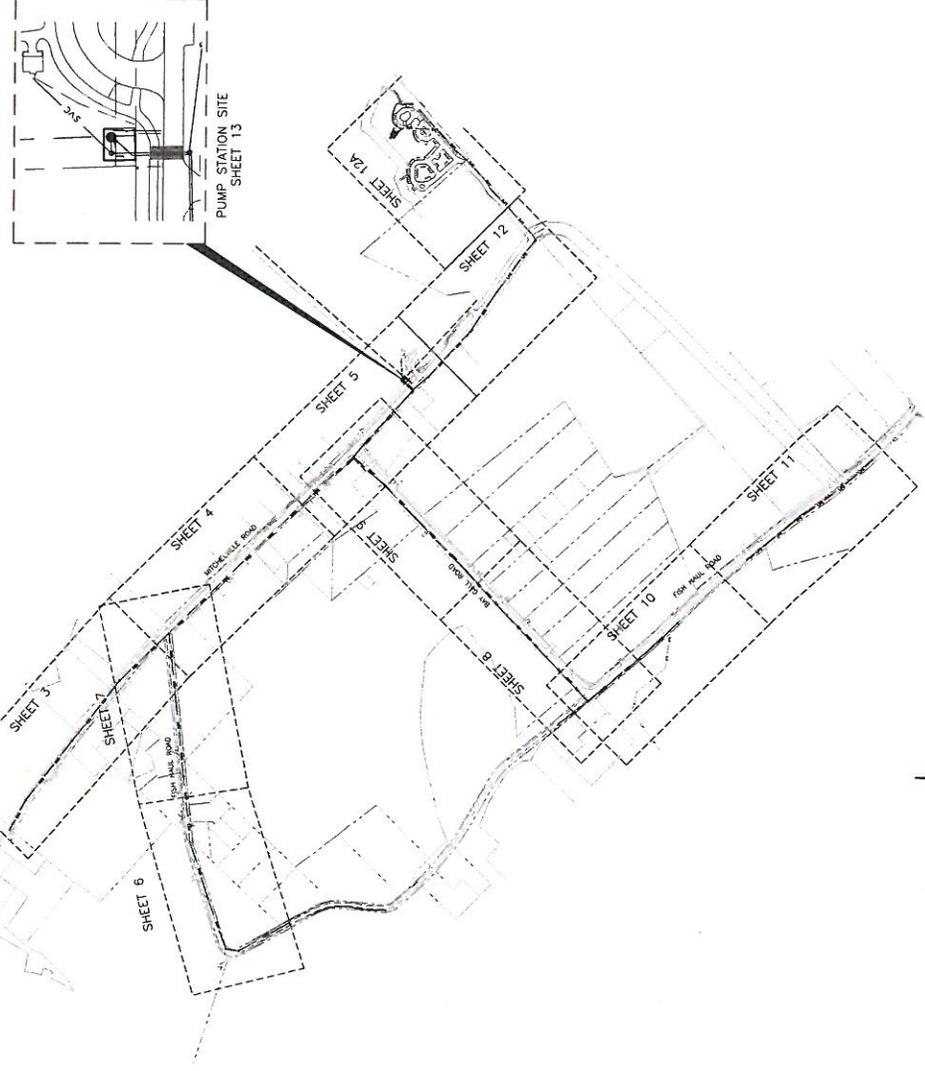
**CONSTRUCTION PLANS AND SPECIFICATIONS FOR
THE BAYGALL SEWER PROJECT**

REV	DESCRIPTION	DATE	BY

REVISIONS

DATE BY

REV



- GENERAL NOTES**
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS OF THE STATE OF SOUTH CAROLINA, LATEST EDITION, UNLESS OTHERWISE SPECIFIED.
 2. UTILITIES SHOWN ARE FROM FIELD SURVEY. ALL UTILITIES NOT SHOWN SHALL BE LOCATED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES OF THE STATE OF SOUTH CAROLINA.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES OF THE STATE OF SOUTH CAROLINA.
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OVERALL LAYOUT AND SHEET INDEX

HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA

DATE	MAY 2013
DESIGNER	P.B.R.
DRAWN	P.A.B.
CHECKED	P.B.R.
SHEET NO.	2

South Carolina 811
Call 811 before you dig

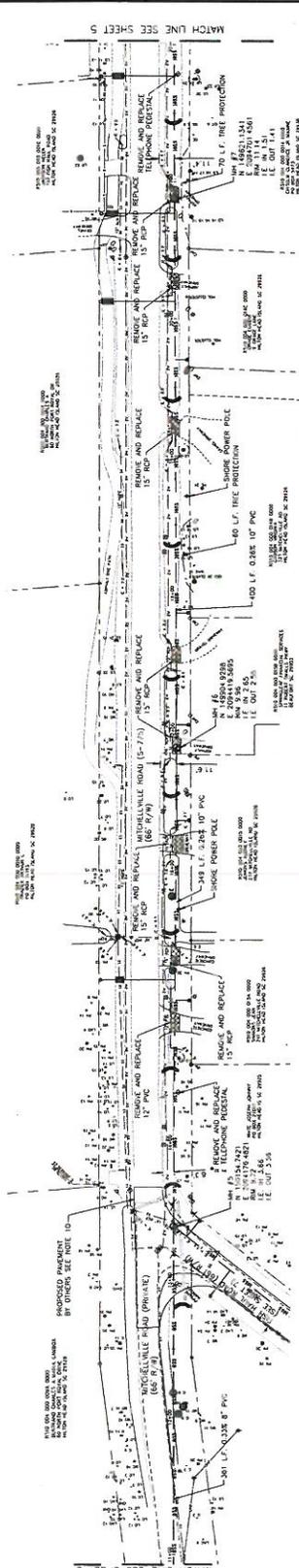


**MITCHELLEVILLE ROAD
PLAN AND PROFILE**

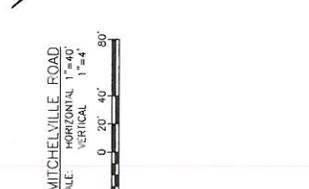
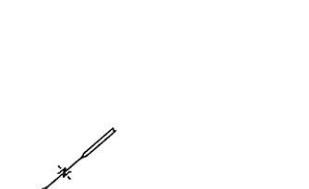
HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA

DATE	MAY 2013
DESIGNED	D.B.M.
CHECKED	D.B.M.
DATE	
PROJECT NO.	4

NO.	DESCRIPTION	DATE	BY



- NOTES:**
1. ALL DIMENSIONS ARE FROM EDGE OF ASPHALT
 2. SEE SHEET 2 FOR GENERAL NOTES
 3. PRIOR TO THE START OF CONSTRUCTION THE CONTRACTOR SHALL LOCATE AND VERIFY THE EXISTING UTILITIES AND RECORD THEM ON THE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE RECORDING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED DURING CONSTRUCTION.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY UTILITIES DAMAGED DURING CONSTRUCTION.
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- MITCHELLEVILLE ROAD
SCALE: HORIZONTAL 1"=40'
VERTICAL 1"=4'**
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South Carolina
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LOWCOUNTRY ENGINEERING CONSULTANTS, LLC

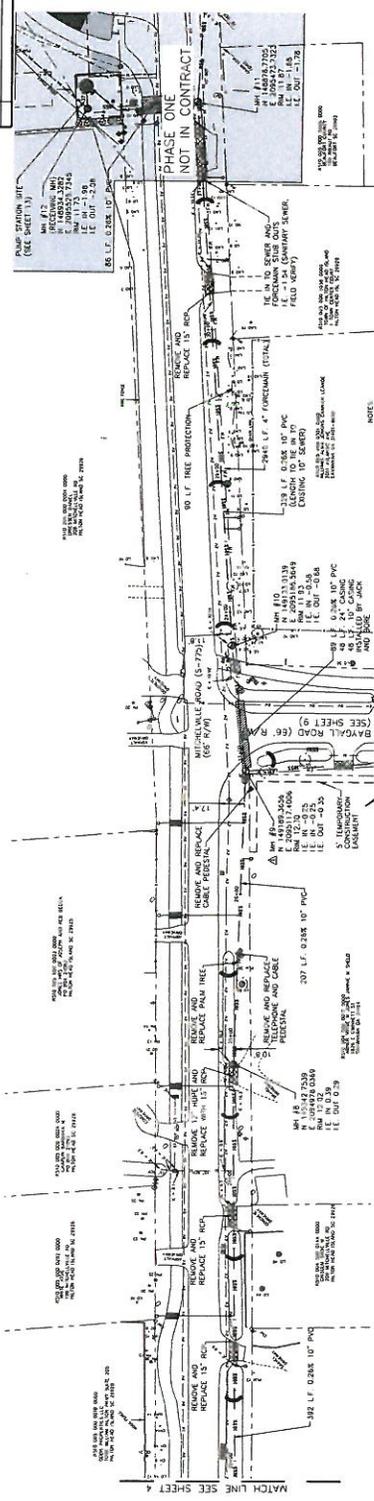
MITCHELLEVILLE ROAD PLAN AND PROFILE

HILTON HEAD PUBLIC SERVICE DISTRICT
 BAYGALL SEWER
 BEAUFORT COUNTY, SOUTH CAROLINA

DATE	NOV 2013	SHEET NO.	9
DESIGNED BY	PKB	CHECKED BY	PKB
DRAWN BY	PKB	DATE	PKB

South Carolina 811
 Call 811 Before You Dig

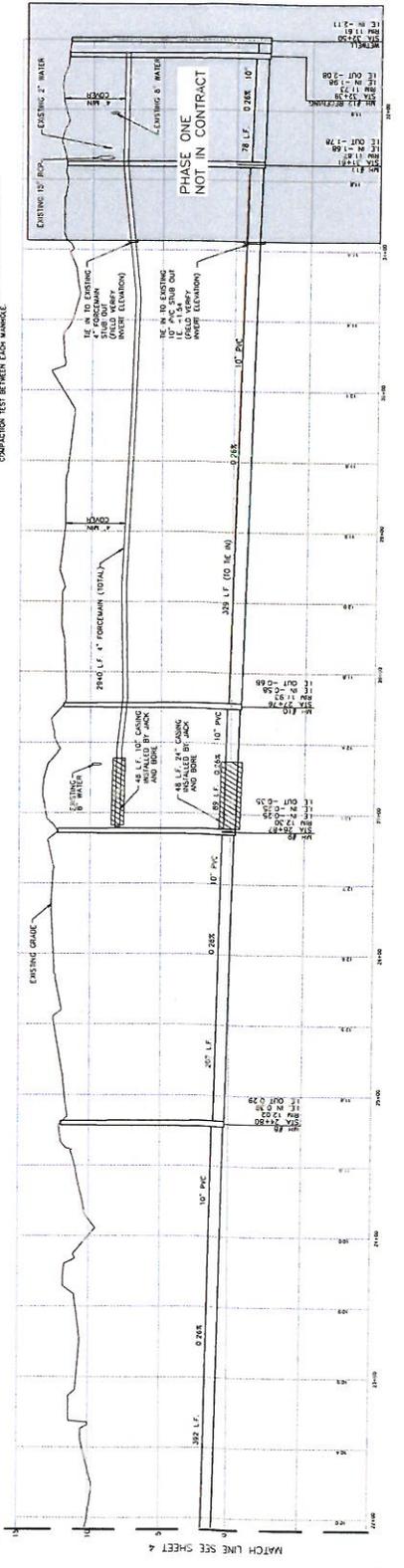
NO.	DESCRIPTION	DATE	BY
1	REVISED PAPER	11/21/13	PKB



- NOTE:**
1. ALL ENCROACHMENTS ARE FROM EDGE OF ASPHALT
 2. SEE SHEET 8 FOR GENERAL NOTES
 3. PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL LOCATE AND VERIFY ALL UTILITIES AND RECORD THE LOCATION OF ALL UTILITIES. THE CONTRACTOR SHALL COORDINATE WITH THE UTILITIES PROVIDER TO VERIFY THE LOCATION OF ALL UTILITIES. THE CONTRACTOR SHALL COORDINATE WITH THE UTILITIES PROVIDER TO VERIFY THE LOCATION OF ALL UTILITIES. THE CONTRACTOR SHALL COORDINATE WITH THE UTILITIES PROVIDER TO VERIFY THE LOCATION OF ALL UTILITIES.



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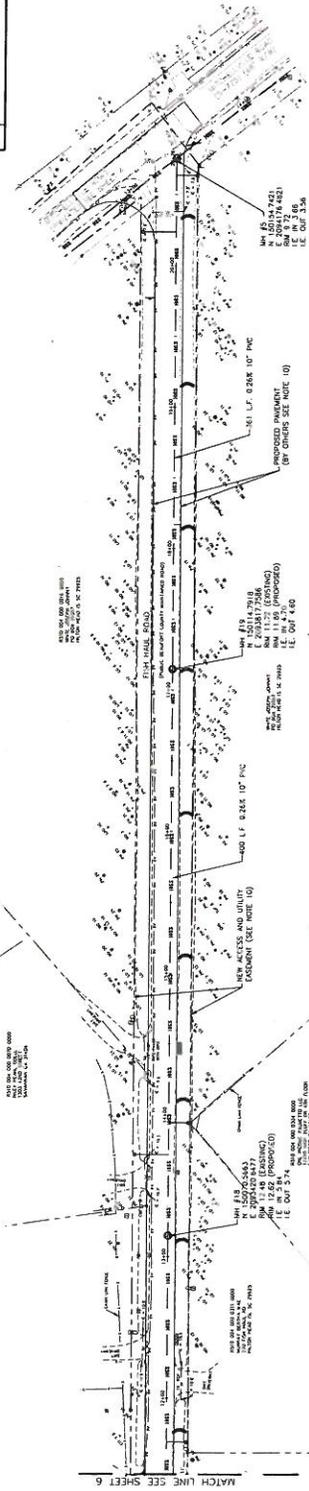


FISH HAUL ROAD PLAN AND PROFILE

HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA

DATE	MAY 2013
DRAWN	P.B.B.
CHECKED	P.B.B.
SCALE	
SHEET NO.	7

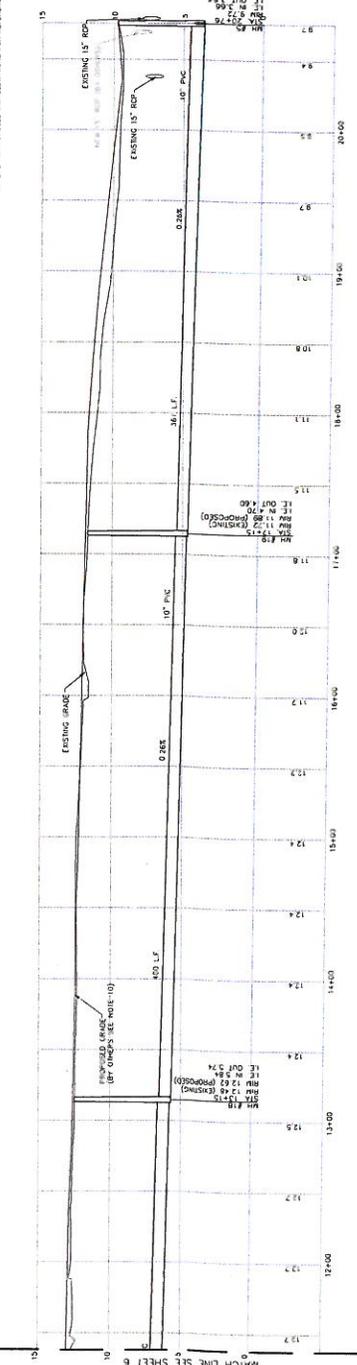
REV.	DESCRIPTION	DATE	BY



- NOTES**
1. ALL DIMENSIONS ARE FROM EDGE OF ASPHALT
 2. SEE SHEET 5 FOR GENERAL NOTES
 3. PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL LOCATE AND MARK ALL EXISTING UTILITIES AND RECORD THEM ON THE PROJECT PLAN. THE CONTRACTOR SHALL VERIFY THE LOCATION AND DEPTH OF ALL EXISTING UTILITIES WITH THE UTILITY PROVIDER BEFORE ANY CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES DUE TO THE CONSTRUCTION AND THE CONTRACTOR SHALL REPAIR OR REPLACE ALL EXISTING UTILITIES AT HIS OWNERS RISK.
 4. ALL SERVICE LINES CROSSING EXISTING ROADS SHALL BE INSTALLED BY JACK AND BLOW TO CONSTRUCTION. THE CONTRACTOR SHALL COORDINATE THE EXACT LOCATION OF SERVICE LINES, LEAST WITH THE HILTON HEAD PUBLIC SERVICE DISTRICT.
 5. GRANT SEWER AND FORCEMAIN PIPE WORK CANNOT BE REPAIRED AND REINSTALLED.
 6. ALL SERVICE LINES SHALL BE INSTALLED BY JACK AND BLOW TO CONSTRUCTION. THE CONTRACTOR SHALL COORDINATE THE EXACT LOCATION OF SERVICE LINES, LEAST WITH THE HILTON HEAD PUBLIC SERVICE DISTRICT.
 7. ALL SERVICE LINES SHALL BE INSTALLED BY JACK AND BLOW TO CONSTRUCTION. THE CONTRACTOR SHALL COORDINATE THE EXACT LOCATION OF SERVICE LINES, LEAST WITH THE HILTON HEAD PUBLIC SERVICE DISTRICT.
 8. ANY SERVICE LINES OBTAINED BY THE PROPOSED CONSTRUCTION SHALL BE REPAIRED OR REPLACED WITH NEW SERVICE LINES.
 9. THE CONTRACTOR SHALL PROVIDE PROTECTION FOR ALL EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES DUE TO THE CONSTRUCTION AND THE CONTRACTOR SHALL REPAIR OR REPLACE ALL EXISTING UTILITIES AT HIS OWNERS RISK.
 10. THE CONTRACTOR SHALL COORDINATE THE INSTALLATION OF THE GRANT SEWER ALONG PROJECT LIMITS AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO EXISTING UTILITIES DUE TO THE CONSTRUCTION AND THE CONTRACTOR SHALL REPAIR OR REPLACE ALL EXISTING UTILITIES AT HIS OWNERS RISK.



- LEGEND**
- EXISTING UTILITIES**
- 4" FLOOR LIGHT
 - 6" ELECTRIC SERVICE
 - 8" ELECTRIC SERVICE
 - 12" ELECTRIC SERVICE
 - 18" ELECTRIC SERVICE
 - 24" ELECTRIC SERVICE
 - 36" ELECTRIC SERVICE
 - 48" ELECTRIC SERVICE
 - 60" ELECTRIC SERVICE
 - 72" ELECTRIC SERVICE
 - 84" ELECTRIC SERVICE
 - 96" ELECTRIC SERVICE
 - 108" ELECTRIC SERVICE
 - 120" ELECTRIC SERVICE
 - 132" ELECTRIC SERVICE
 - 144" ELECTRIC SERVICE
 - 156" ELECTRIC SERVICE
 - 168" ELECTRIC SERVICE
 - 180" ELECTRIC SERVICE
 - 192" ELECTRIC SERVICE
 - 204" ELECTRIC SERVICE
 - 216" ELECTRIC SERVICE
 - 228" ELECTRIC SERVICE
 - 240" ELECTRIC SERVICE
 - 252" ELECTRIC SERVICE
 - 264" ELECTRIC SERVICE
 - 276" ELECTRIC SERVICE
 - 288" ELECTRIC SERVICE
 - 300" ELECTRIC SERVICE
 - 312" ELECTRIC SERVICE
 - 324" ELECTRIC SERVICE
 - 336" ELECTRIC SERVICE
 - 348" ELECTRIC SERVICE
 - 360" ELECTRIC SERVICE
 - 372" ELECTRIC SERVICE
 - 384" ELECTRIC SERVICE
 - 396" ELECTRIC SERVICE
 - 408" ELECTRIC SERVICE
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 - 1968" ELECTRIC SERVICE
 - 1980" ELECTRIC SERVICE
 - 1992" ELECTRIC SERVICE
 - 2004" ELECTRIC SERVICE
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 - 2028" ELECTRIC SERVICE
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South Carolina 811
Call 811 before you dig

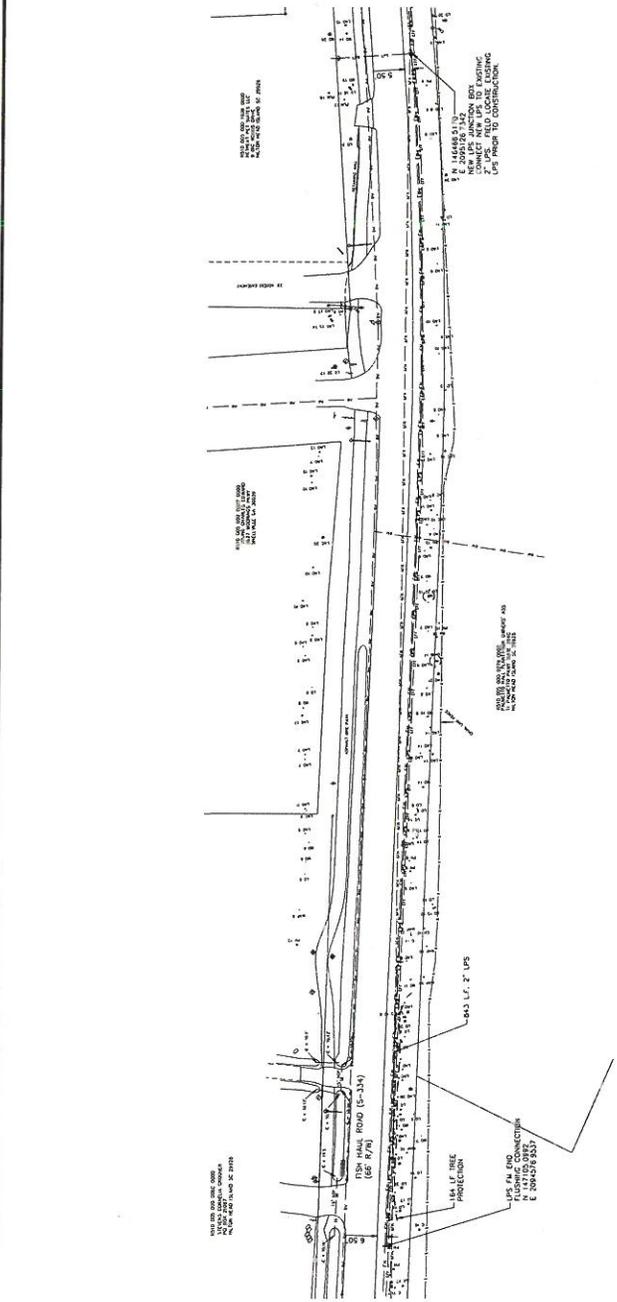
HILTON HEAD PUBLIC SERVICE DISTRICT
 BEAUFORT COUNTY, SOUTH CAROLINA

**FISH HAUL ROAD LPS
 PLAN AND PROFILE**



DATE: MAY, 2013
 DRAWN: P.B.W.
 CHECKED: P.B.W.
 SHEET NO: **11**

NO.	DESCRIPTION	DATE	BY



- EXISTING LINES:**
 - TELEPHONE SERVICE
 - TELEPHONE SERVICE
 - TELEPHONE SERVICE
 - WATER MAIN
 - TELEPHONE SERVICE
 - TELEPHONE SERVICE
 - TELEPHONE SERVICE
 - TELEPHONE SERVICE
 - TELEPHONE SERVICE

- PROPOSED LINES:**
 - 18\"/>

FISH HAUL ROAD LPS
 SCALE: HORIZONTAL 1"=40'
 40' 0' 20' 40' 80'

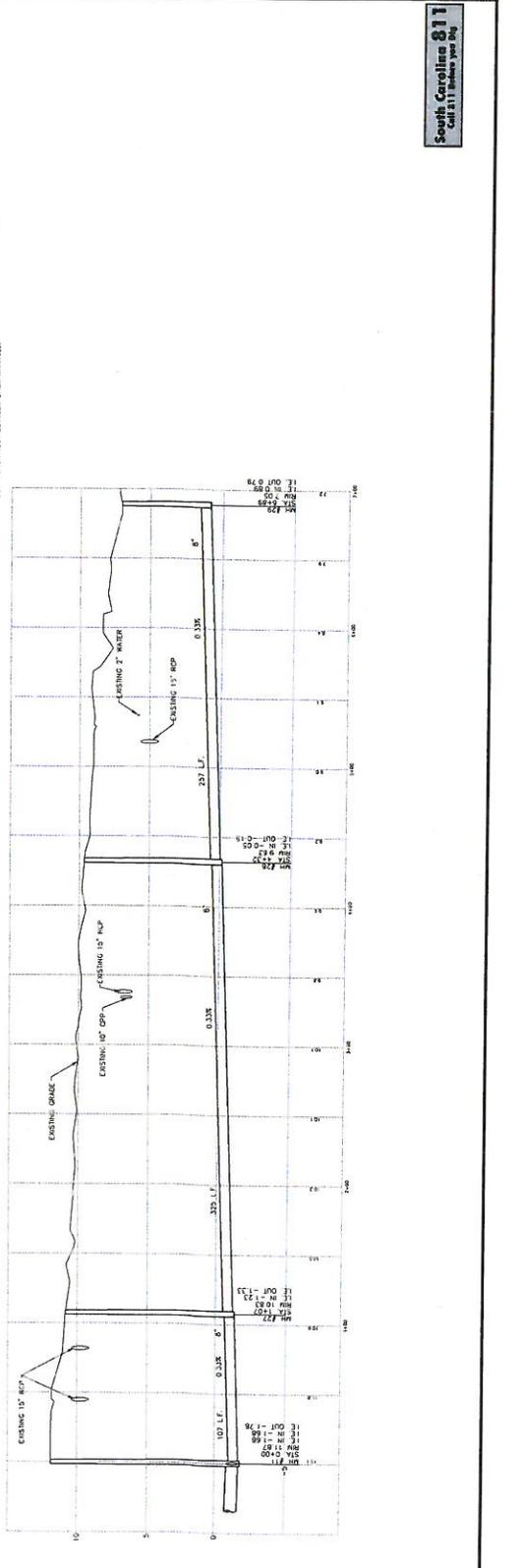
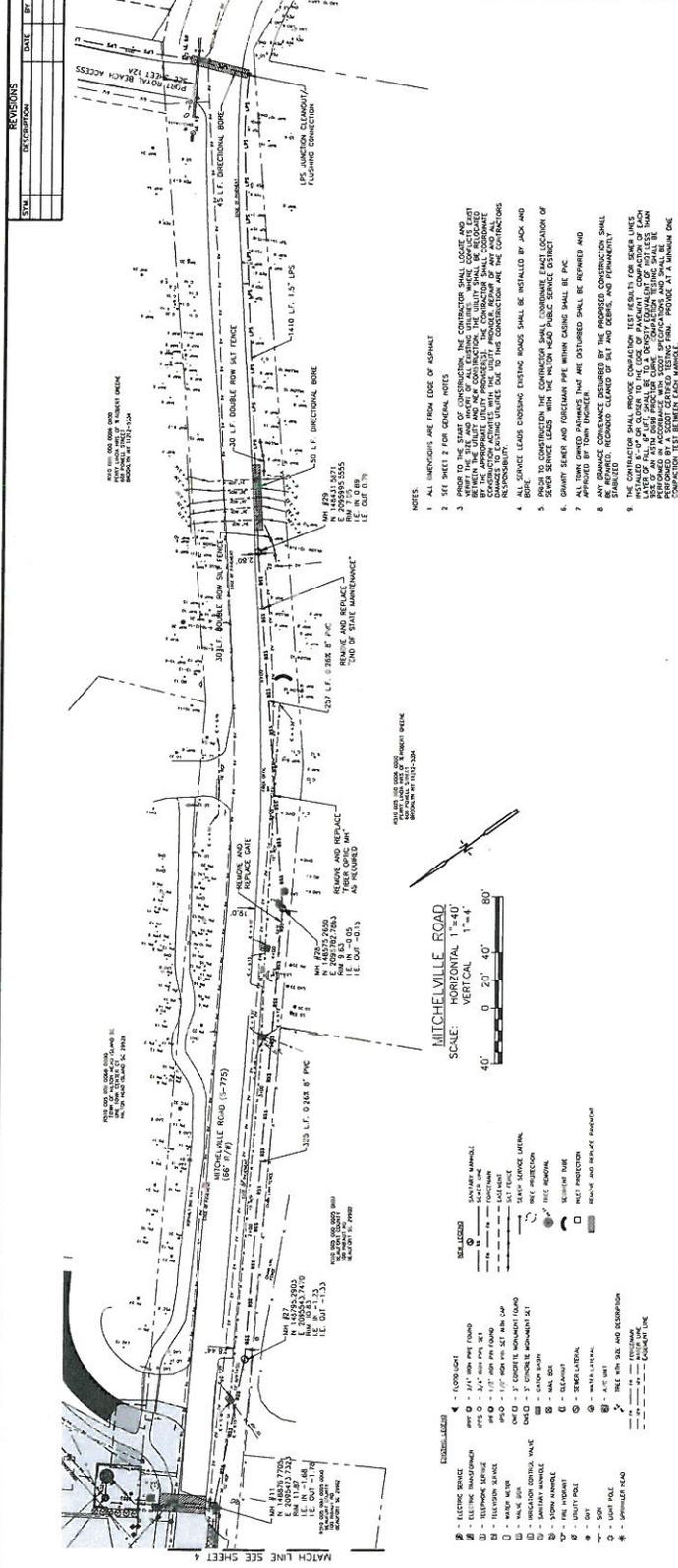
HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA

LOWCOUNTRY
PROJECT MANAGEMENT AND CONSULTANTS, LLC

MITCHELLEVILLE ROAD
PLAN AND PROFILE

REVISIONS

NO.	DATE	DESCRIPTION



- NOTES
- ALL DIMENSIONS ARE FROM EDGE OF ASPHALT.
 - SEE SHEET 7 FOR GENERAL NOTES.
 - CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION, SECTION 706, AND THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION'S STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION, SECTION 706.01.
 - WHERE THE END OF ANY EXISTING UTILITY IS UNKNOWN, THE CONTRACTOR SHALL CONDUCT A FIELD SURVEY TO DETERMINE THE EXISTING UTILITY'S LOCATION AND DEPTH. ALL EXISTING UTILITIES SHALL BE PROTECTED AND MARKED WITH FLAGGING AND SURVEY TAPE. ANY UTILITIES FOUND TO BE DAMAGED OR OBTURATED DURING CONSTRUCTION SHALL BE RESTORED TO ORIGINAL CONDITION OR BETTER.
 - ALL SERVICE LEADS CROSSING EXISTING ROADS SHALL BE INSTALLED BY JACK AND BORE.
 - BEFORE CONSTRUCTION THE CONTRACTOR SHALL OBTAIN THE EXISTENCE LOCATION OF ALL UTILITIES FROM THE CITY OF HILTON HEAD AND THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION.
 - GRANITIC SEWER AND FORCE MAIN PIPE WITH CASTING SHALL BE PCC.
 - ALL TOWN OWNED PATHWAYS THAT ARE OBTURATED SHALL BE REPOSESSED AND APPROVED BY TOWN ENGINEER.
 - ALL EXISTING UTILITIES SHALL BE PROTECTED AND MARKED WITH FLAGGING AND SURVEY TAPE.
 - THE CONTRACTOR SHALL PROVIDE PROTECTION FOR ALL EXISTING UTILITIES AND SHALL BE RESPONSIBLE FOR REPAIRING ANY DAMAGE TO EXISTING UTILITIES. PROTECTION SHALL BE INSTALLED AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
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- LEGEND
- | | | | | | |
|--|-------------------|--|-------------------------------|--|---------------------------------|
| | EXISTING SEWER | | MANHOLE | | STORM SEWER |
| | WATER LATERAL | | STORM SEWER MANHOLE | | WATER LATERAL MANHOLE |
| | UTILITY POLE | | STORM SEWER CATCH BASIN | | WATER LATERAL CATCH BASIN |
| | FIRE HYDRANT | | STORM SEWER CLEANOUT | | WATER LATERAL CLEANOUT |
| | STREET LIGHT POLE | | STORM SEWER MANHOLE COVER | | WATER LATERAL MANHOLE COVER |
| | POWER POLE | | STORM SEWER MANHOLE STRUCTURE | | WATER LATERAL MANHOLE STRUCTURE |

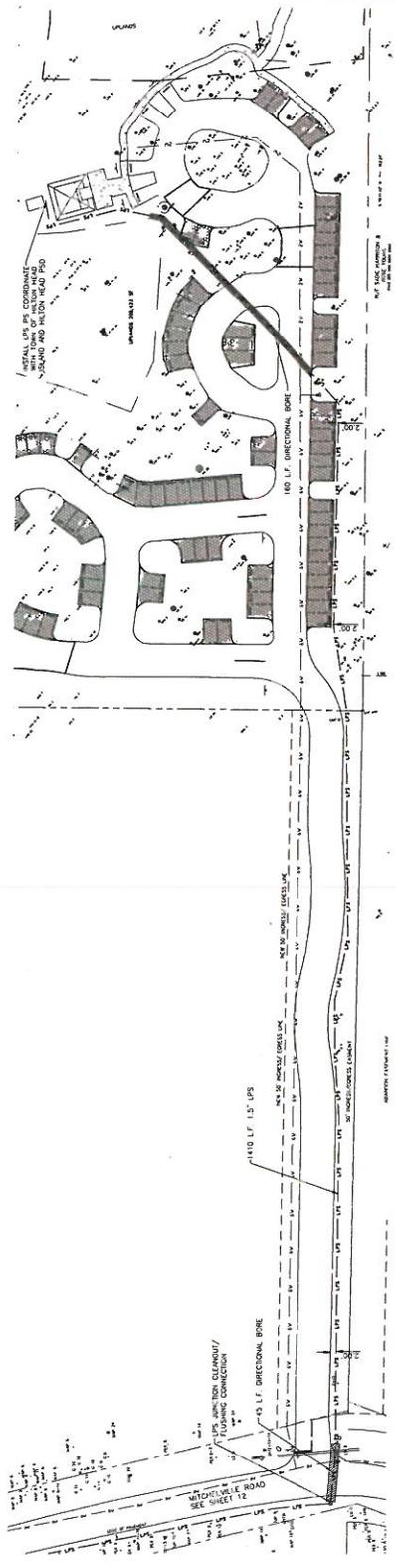


MITCHELLEVILLE BEACH
PARK LPS
LAYOUT

HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA

DATE: MAY 2013
DESIGN: P.A.B.
CHECK: P.A.B.
SHEET NO: 12A

NO.	REVISIONS	DATE	BY



- LEGEND**
- 1 - ELECTRIC SERVICE
 - 2 - ELECTRIC TRANSFORMER
 - 3 - WATER METER
 - 4 - TELEPHONE SERVICE
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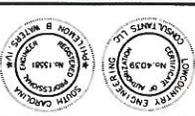
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- NOTES:**
1. ALL DIMENSIONS ARE FROM EDGE OF ASPHALT
 2. SEE SHEET 7 FOR GENERAL NOTES
 3. PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL LOCATE AND MARK ALL EXISTING UTILITIES AND RECORD THEM. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE RECORDING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES.
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South Carolina
Professional Engineer

NO.	REVISIONS	DATE	BY

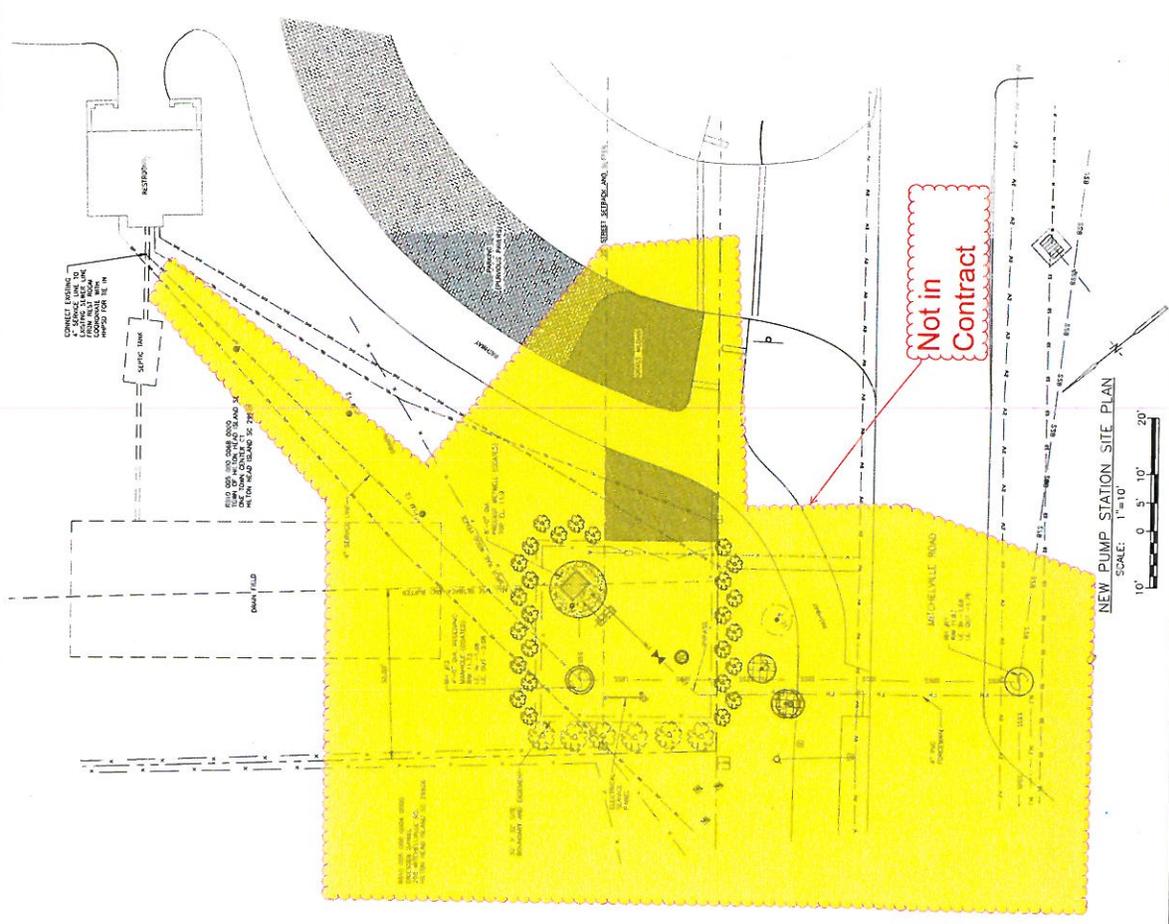


LOWCOUNTRY
ENGINEERING & CONSULTANTS, LLC
3500 W. STATE STREET, SUITE 100
CHARLOTTE, NC 28207
704.366.8800

**NEW PUMP STATION
SITE PLAN**

HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA
DATE: MAY 2013
DRAWN: P.B.R.
CHECKED: P.B.R.
SHEET NO. 13

South Carolina 811
Call it Before you Dig

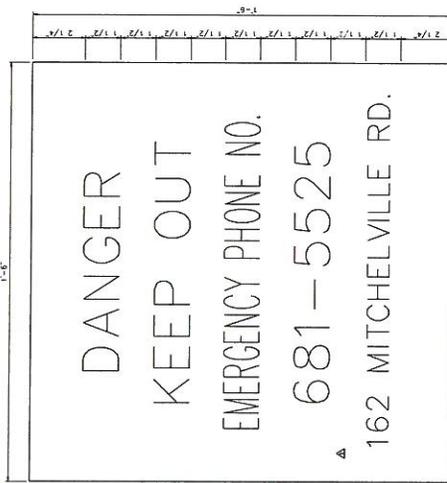
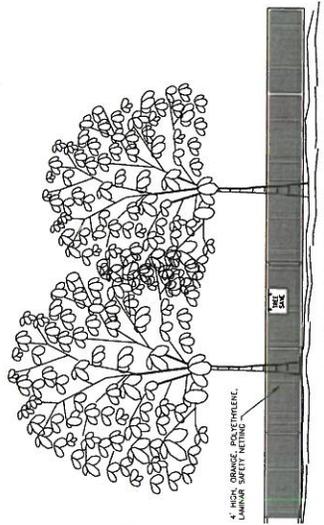


- LEGEND**
- ⊗ - ELECTRIC SERVICE
 - ⊙ - ELECTRIC TRANSFORMER
 - ⊙ - GAS SERVICE
 - ⊙ - TELEPHONE SERVICE
 - - WATER MAIN
 - - VALVE BOX
 - - FIRE HYDRANT
 - - FLOW METER
 - - SEWER MANHOLE
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- NOTES**
1. SEE PLAN FOR ALL DIMENSIONS AND ELEVATIONS.
 2. ALL DIMENSIONS ARE IN FEET AND INCHES.
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
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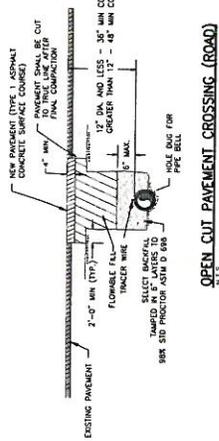
REVISIONS

NO.	DESCRIPTION	DATE	BY
1	ISSUE FOR PERMIT	07/13/23	JK
2	ADDRESS CORRECT		



PUMP STATION SIGN DETAIL
N.T.S.

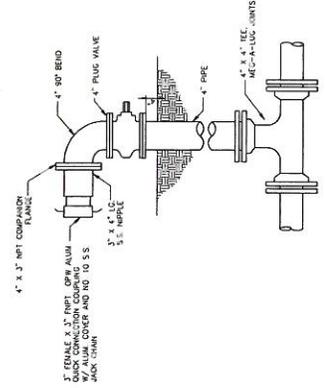
- NOTES**
- CUT MUST BE PATCHED WITHIN 48 HOURS OF CUT.
 - CONTRACTOR MUST BE PERFORMED BY A SCOPED CERTIFIED OPERATOR.
 - OPEN CUT AND PATCH TO BE COMPLETED DURING NORMAL WORK HOURS. COORDINATE WITH SCOT AND INFRA.



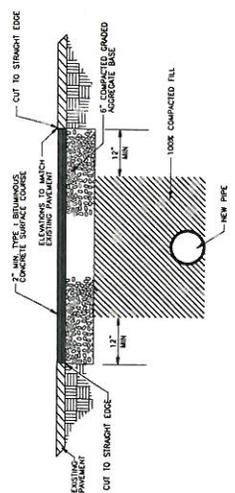
OPEN CUT PAVEMENT CROSSING (ROAD)
N.T.S.

NOTE:

- THE CONTRACTOR SHALL REFER TO THE HILTON HEAD PUBLIC SERVICE DISTRICT'S ADMINISTRATIVE PROCEDURES FOR WATER AND SANITARY CONNECTIONS FOR ADDITIONAL SPECIFICATIONS AND ADDITIONAL PUMP STATION DETAILS.



EMERGENCY PUMPING CONNECTION
N.T.S.

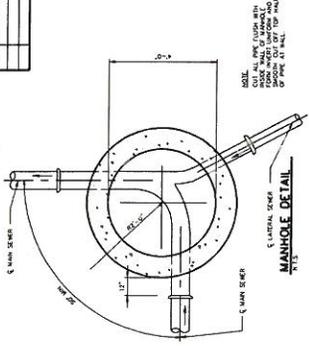


PAVEMENT PATCH DETAIL
ASPHALT DRIVEWAY/PATHWAY CROSSINGS
N.T.S.

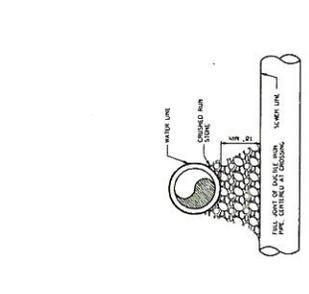
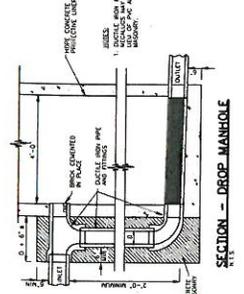
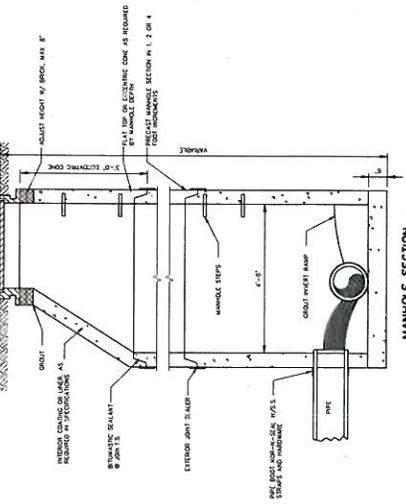
South Carolina 811
Call 811 Before You Dig

CONCRETE PAVEMENT REPLACEMENT AT DRIVEWAY CROSSINGS
N.T.S.

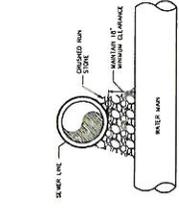
NO.	REVISIONS	DATE	BY



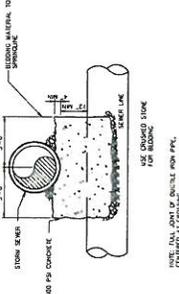
- NOTES:**
1. SEE ALL PIPE, TUBES AND OUTSIDE VENTS.
 2. SEE ALL JOINTS AND GASKETS.
 3. SEE ALL JOINTS AND GASKETS.
 4. SEE ALL JOINTS AND GASKETS.



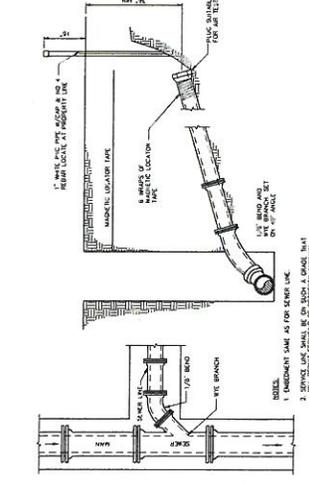
- NOTES:**
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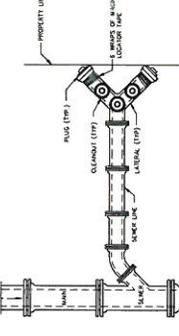
- NOTES:**
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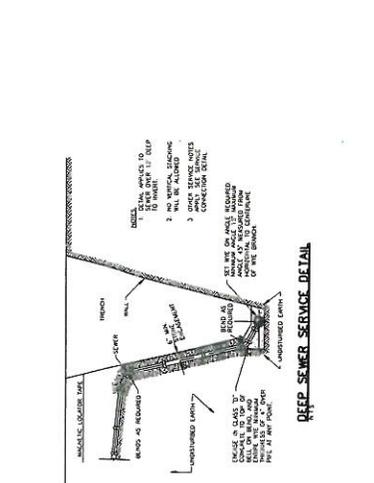
- NOTES:**
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South Carolina 811
 Call 811 before you dig

REV	DESCRIPTION	DATE	BY

REVISIONS



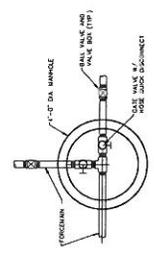
LOWCOUNTRY
ENGINEERING CONSULTANTS
INCORPORATED

SEWER DETAILS

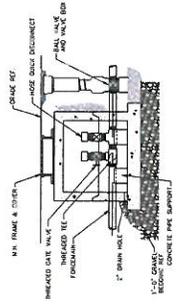
HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA

DATE	MAY 2012
DRAWN	P.A.B.
CHECKED	P.A.B.
SHEET NO.	18

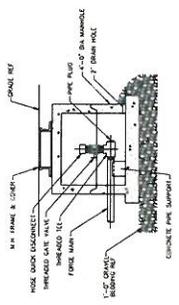
South Carolina 011
Call 811 before you dig.



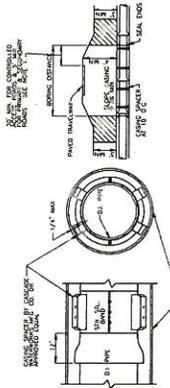
**FORCE MAIN JUNCTION CLEANOUT/
FLUSHING CONNECTION
DETAIL**
N.T.S.



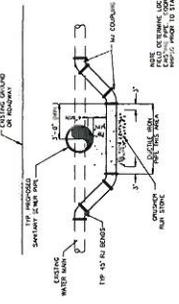
**FORCE MAIN END
FLUSHING CONNECTION
DETAIL**
N.T.S.



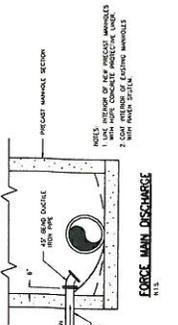
**FORCE MAIN JUNCTION CLEANOUT/
FLUSHING CONNECTION
DETAIL**
N.T.S.



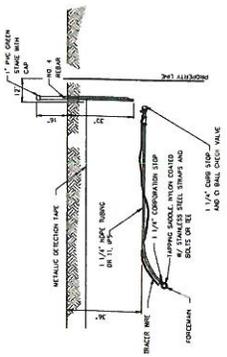
**CARRIER PIPE INSTALLATION IN CASING
DETAIL**
N.T.S.



**SANITARY SEWER WATERLINE CROSSING
DETAIL**
N.T.S.



**FORCE MAIN DISCHARGE
DETAIL**
N.T.S.



**1 1/4\"/> GRINDER PUMP LATERAL DETAIL
N.T.S.**

- ALL SOFTWOOD SPECIES WHICH ARE TO BE PLANTED SHALL BE PLANTED IN AN AREA THAT IS TO BE REVEGETATED TO A SIMILAR TYPE OF VEGETATION TO THE ADJACENT UNDISTURBED AREAS.
- IN THE EVENT OF A RAINFALL EVENT, THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE SOFTWOOD SPECIES FROM DAMAGE TO THE SOFTWOOD SPECIES.
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SEEDBED PREPARATION

- GRADE COMPACTED AREAS AND SPREAD TOPSOIL 3 INCHES DEEP OVER ENTIRE SITE.
- SEED THE SOIL TO A DEPTH OF 4" TO 6" DEPTH.
- SPREAD ALL LARGE ROCKS AND OTHER OBSTRUCTIONS LEAVING SURFACE RELATIVELY SMOOTH AND UNIFORM.
- APPLY PREVENTATIVE LINE, FERTILIZER AND SLOPE PROTECTIVE UNIFORMLY TO PREVENTIVE LINE.
- SEEDING SHALL BE IN THE FOLLOWING ORDER: 1. SEEDING OF SOFTWOOD SPECIES. 2. SEEDING OF GRASS (SEEDED) SWALE.
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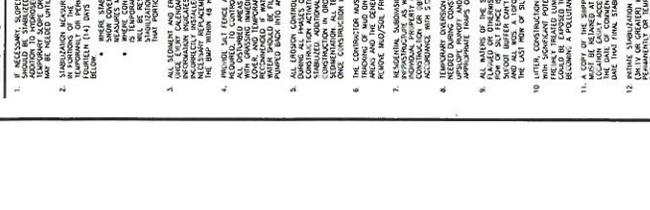
EROSION CONTROL SEQUENCE OF CONSTRUCTION

- GRADING AND CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE SEQUENCE OF CONSTRUCTION LISTED BELOW.
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TEMPORARY GRAVEL CONSTRUCTION ENTRANCE



TEMPORARY CURB INLET PROTECTION DETAIL



TEMPORARY INLET PROTECTION DETAIL



EROSION CONTROL MAT SWALE



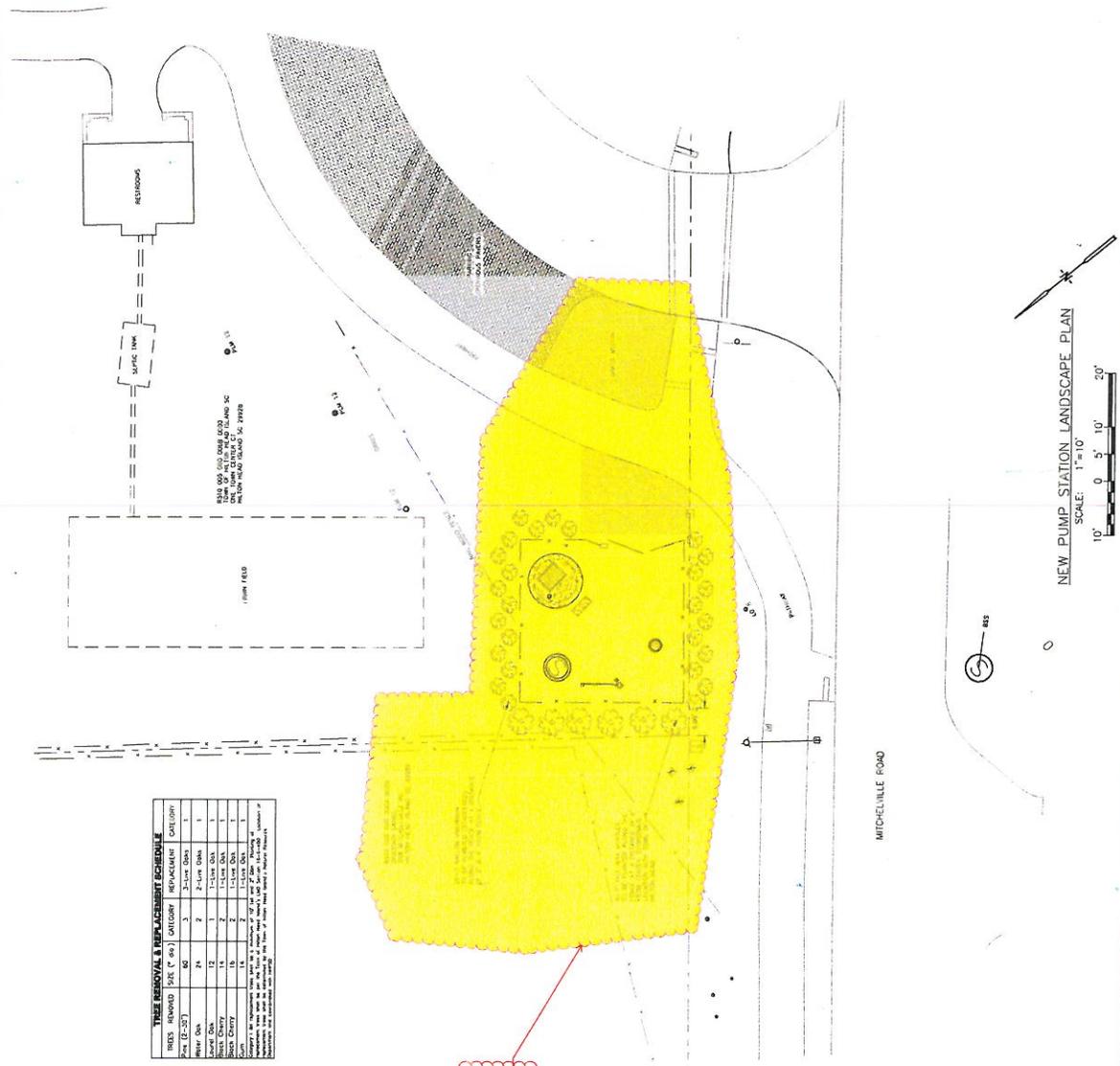
NEW PUMP STATION LANDSCAPE PLAN

HILTON HEAD PUBLIC SERVICE DISTRICT
BAYGALL SEWER
BEAUFORT COUNTY, SOUTH CAROLINA

DATE	MAY 2013
DESIGNED	P.B.B.
DRAWN	P.B.B.
CHECKED	P.B.B.
SCALE	AS SHOWN
SHEET NO.	20

South Carolina 811
Call 811 Before You Dig

NO.	DESCRIPTION	DATE	BY



TREE REMOVAL & REPLACEMENT SCHEDULE

INCHES REMOVED (DIE C" DIA)	CATEGORY	REPLACEMENT	CATEGORY
24" (2-25")	60	3"	2-Love Oaks
18"	24	2"	2-Love Oaks
12"	14	1 1/2"	2-Love Oaks
6"	15	2"	2-Love Oaks

Note: All replacement trees shall be a minimum of 2 1/2" caliper at 4 1/2' height. All trees shall be installed in the same or better soil than the trees to be removed. All trees shall be installed in the same or better soil than the trees to be removed.

Not in Contract

EXHIBIT "B"

**RESOLUTION OF
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA**

EXHIBIT "C"

RESOLUTION OF
HILTON HEAD NO.1 PUBLIC SERVICE DISTRICT



MEMORANDUM

TO: Stephen G. Riley, ICMA-CM, Town Manager

FROM: Jennifer Lyle, PE, Assistant Town Engineer

VIA: Scott Liggett, PE, Director of Public Projects and Facilities / Chief Engineer
Jeff Buckalew, PE, Town Engineer
Mitchell Thoreson, Alford Law Firm

DATE: November 25, 2013

RE: Land Transfer with Hargray to facilitate Capital Roadway Improvement Project at US 278 and Leamington

Recommendation:

Staff recommends that Town Council approve the land transfer transaction between the Town and Hargray as required to facilitate the construction and maintenance of the roadway improvements at the intersection of US 278 (Wm. Hilton Pkwy.) with Leamington, as described in the attached documents from Alford Law Firm.

Summary:

This mutually beneficial transaction entails Hargray transferring 0.50 acres of land containing an existing roadway connection from Hargray to the Fresh Market Shoppes, in exchange for 0.24 acres of Town land containing a drive aisle that is currently utilized as part of the Hargray campus road and parking system. This exchange will provide the Town with land needed to construct and maintain the capital roadway improvements in this vicinity and Hargray with land that it has been using for years. The transaction involves no monetary compensation to either party.

Background:

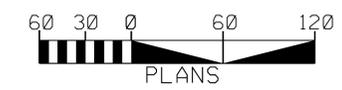
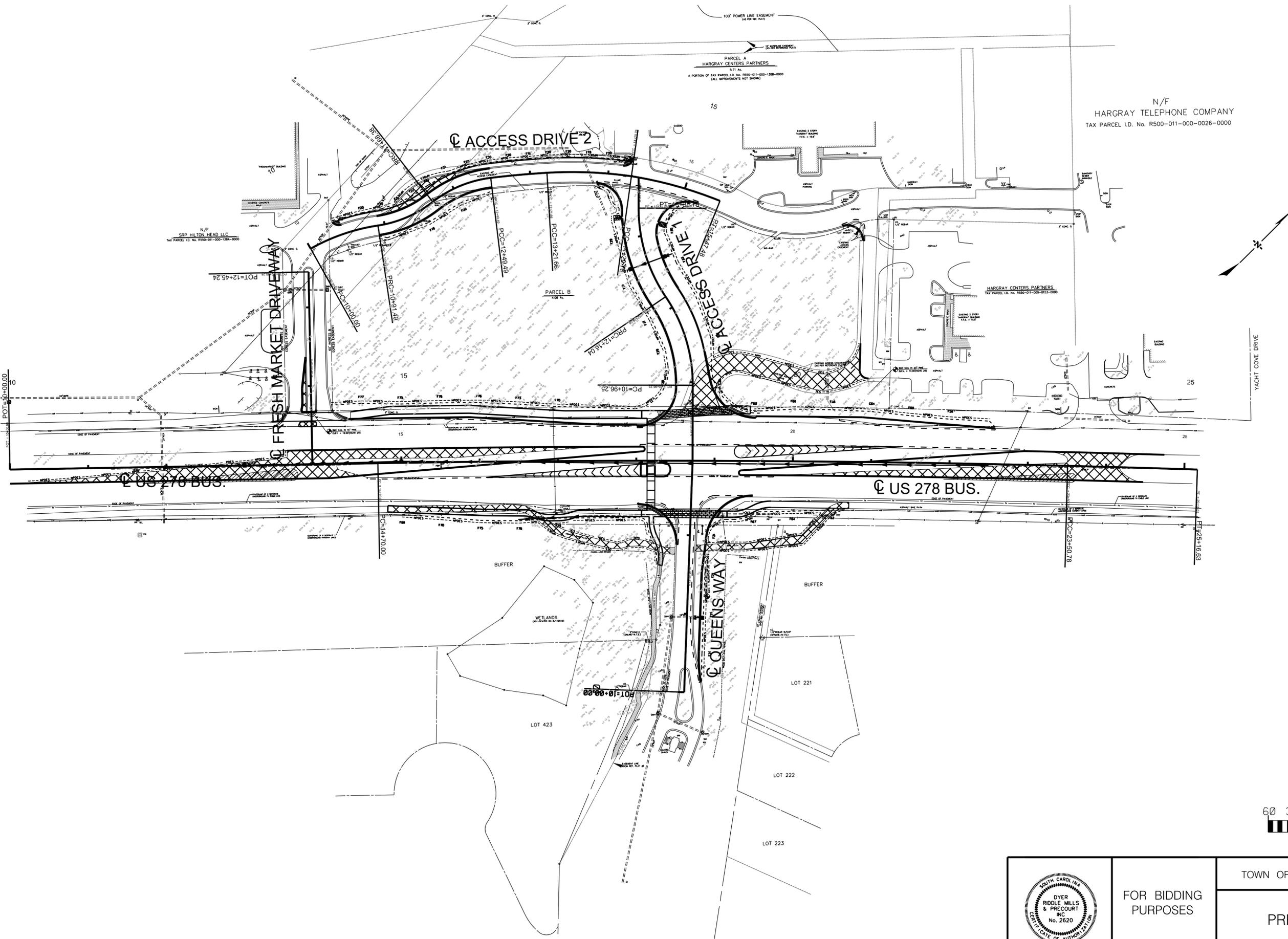
As part of our Capital Improvement Program, Town Council has directed staff to construct a new traffic signal and associative roadway improvements at US 278 and Leamington. The project requires encroachments onto Hargray's property, by connecting a new road across Town property, from the new traffic signal on US 278 to an existing road on Hargray's property. This existing road connects the Hargray campus to the Fresh Market Shoppes. During the course of engineering design and easement negotiations, Hargray offered to exchange lands each desired by the other. Staff recommends this as the most equitable solution to both parties. Attached are two exhibits, the first is a plan depicting the proposed alignments of the roadway improvements associated with the new

signal at US 278 and Leamington and the second is a plat identifying the land areas that are proposed to be exchanged.

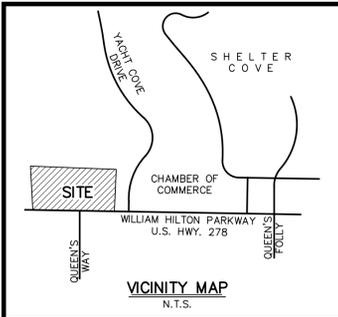
Attachments:

- Plan sheet of proposed roadway alignments at new signalized intersection.
- Plat for conveyance of land between the Town of Hilton Head Island and HCP Acquisition, LLC (Hargravy)
- Ordinance and contract between Town of Hilton Head Island and HCP Acquisition, LLC (Hargray)

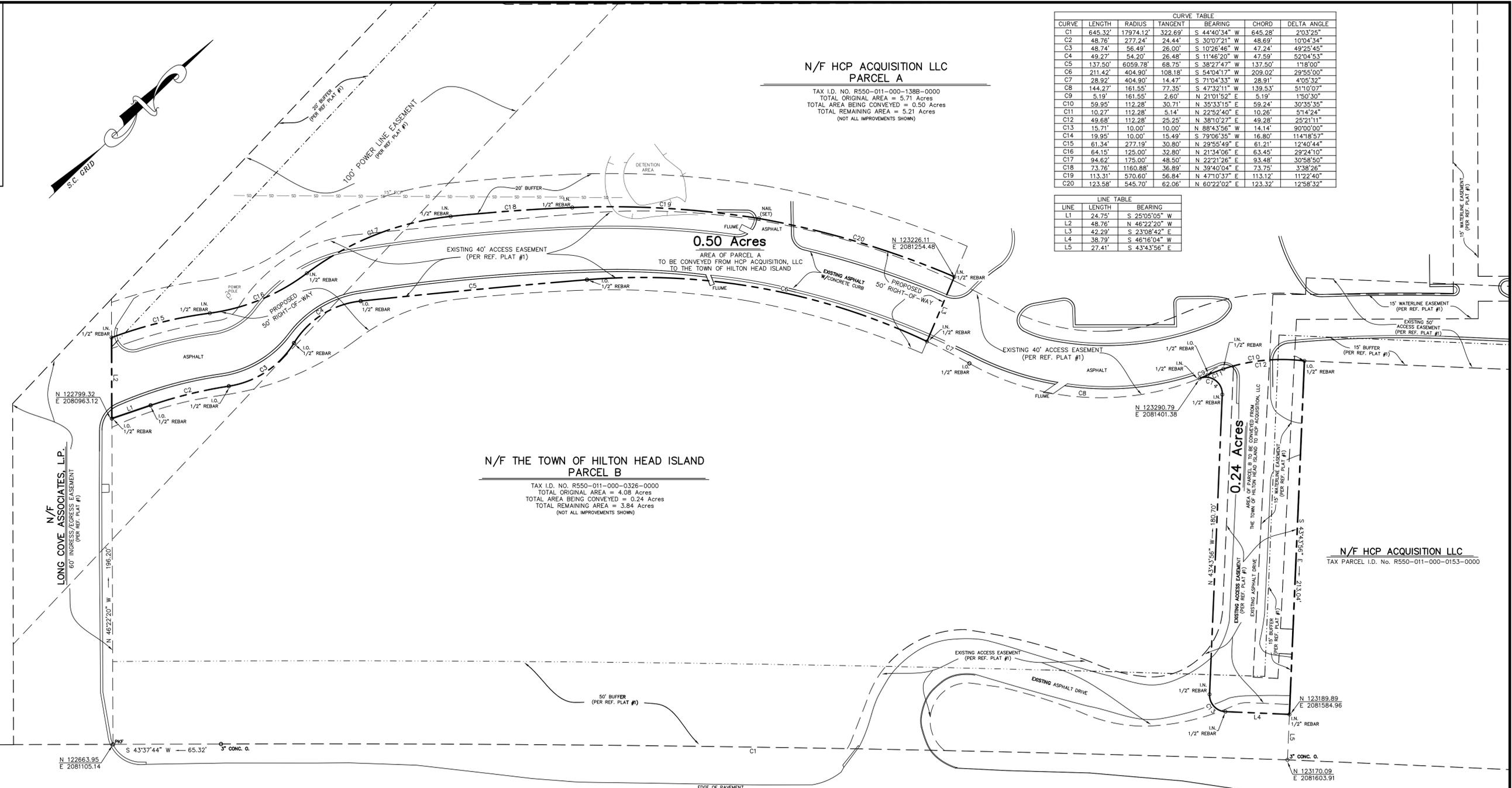
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9/6/2013



	FOR BIDDING PURPOSES	TOWN OF HILTON HEAD ISLAND
		PRE-BID LAYOUT
		SHEET XX



N/F SRP HILTON HEAD LLC
TAX PARCEL I.D. No. R550-011-000-138A-0000



CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	BEARING	CHORD	DELTA ANGLE
C1	645.32'	17974.12'	322.69'	S 44°40'34" W	645.28'	2°03'25"
C2	48.76'	277.24'	24.44'	S 30°27'21" W	48.69'	10°04'34"
C3	48.74'	56.49'	26.00'	S 10°26'46" W	47.24'	49°25'45"
C4	49.27'	54.20'	26.48'	S 11°46'20" W	47.59'	52°04'53"
C5	137.50'	6059.78'	68.75'	S 38°27'47" W	137.50'	1°18'00"
C6	211.42'	404.90'	108.18'	S 54°04'17" W	209.02'	29°55'00"
C7	28.92'	404.90'	14.47'	S 71°04'33" W	28.91'	4°05'32"
C8	144.27'	181.55'	77.35'	S 47°32'11" W	139.53'	5°10'09"
C9	5.19'	181.55'	2.60'	N 21°01'52" E	5.19'	1°50'30"
C10	59.95'	112.28'	30.71'	N 35°33'15" E	59.24'	30°35'35"
C11	10.27'	112.28'	5.14'	N 22°52'40" E	10.26'	5°14'24"
C12	49.68'	112.28'	25.25'	N 38°10'27" E	49.28'	25°21'11"
C13	15.71'	10.00'	10.00'	N 88°43'56" W	14.14'	90°00'00"
C14	19.95'	10.00'	15.49'	S 79°06'35" W	16.80'	1°41'8"57"
C15	81.34'	277.19'	30.80'	N 29°55'49" E	81.21'	1°24'04"
C16	64.15'	125.00'	32.80'	N 21°31'52" E	63.45'	28°24'10"
C17	94.62'	175.00'	48.50'	N 22°21'26" E	93.48'	30°58'50"
C18	73.76'	1160.88'	36.89'	N 39°40'04" E	73.75'	3°38'26"
C19	113.31'	570.60'	56.84'	N 47°10'37" E	113.12'	11°22'40"
C20	123.58'	545.70'	62.06'	N 60°22'02" E	123.32'	12°58'32"

LINE TABLE		
LINE	LENGTH	BEARING
L1	24.75'	S 25°05'05" W
L2	48.76'	N 46°22'20" W
L3	42.29'	S 23°08'42" E
L4	38.79'	S 46°16'04" W
L5	27.41'	S 43°43'56" E

U.S. HIGHWAY 278
WILLIAM HILTON PARKWAY
R/W VARIES

LEGEND:
CONC. O. CONCRETE MONUMENT, OLD (FOUND)
I.O. IRON PIN, OLD (FOUND)
I.N. IRON PIN, NEW (SET)
PKF MAGNETIC NAIL, OLD (FOUND)
N.T.S. NOT TO SCALE
R/W RIGHT-OF-WAY
AC. ACRES

NOTES:
1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO OBVIOUS, APPARENT OR VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.
2) AS OF THE DATE OF THIS SURVEY THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 13-D, COMMUNITY NO. 450250, MAP DATED 9/23/86, BASE ELEVATION 13.0'. FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OR COUNTY BUILDING INSPECTIONS DEPARTMENT.
3) IMPROVEMENTS SHOWN WERE TAKEN FROM REFERENCE PLAT #6.
4) SURVEYING CONSULTANTS CERTIFIES TO THE BOUNDARY, TOPOGRAPHIC AND ASBUILT INFORMATION PROVIDED HEREON AS OF THE DATE OF SURVEY. THIS DOCUMENT IS PROVIDED AS A BASE MAP FOR OTHERS. INFORMATION ADDED AFTER THE DATE OF SURVEY IS NOT THE RESPONSIBILITY OF SURVEYING CONSULTANTS.
5) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A CURRENT TITLE REPORT.

REFERENCE PLATS:
1) A SUBDIVISION PLAT OF PARCELS A & B, HARGRAY CENTER, U.S. HWY 278, BY: DONALD R. COOK, Jr., S.C.P.L.S. No. 19010, DATED: 03/13/03; LATEST REVISION 04/02/03, RECORDED: PB. 93, PG 46.
2) PLAT OF 2.98 ACRE PORTION OF PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: 01/14/88; LATEST REVISION 09/21/93, RECORDED: PB. 48, PG 2.
3) PLAT SHOWING AREAS TO BE ANNEXED INTO LEAMINGTON SECTION BEING A PORTION OF TRACT "K" INVERNESS, PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: 01/22/86, RECORDED: PB. 35, PG 171.
4) LEAMINGTON, PARCEL 24, SECTION BEING A PORTION OF PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: AUGUST 1989, LAST REVISION: 08/08/90, RECORDED: PB. 41, PG 147.
5) PLAT SHOWING INVERNESS PARCEL NO.5, TRACT "K", PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: 09/28/73, RECORDED: PB. 21, PG 141.
6) ASBUILT, TREE & TOPOGRAPHIC SURVEY OF LONG COVE CLUB COMMERCIAL SUBDIVISION, WILLIAM HILTON PARKWAY AND QUEENS WAY R/W, A SECTION OF PALMETTO DUNES RESORT, DATED: 08/10/2012, BY: TERRY G. HATCHELL, S.C.R.L.S. No. 11059.

I the undersigned, as the Owner of Record of parcel R550-011-000-0326-0000 agree to the recording of this plat.

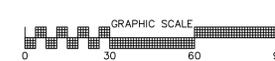
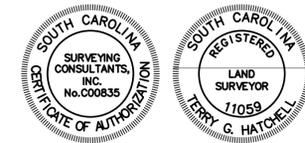
SIGNATURE _____ DATE _____

I the undersigned, as the Owner of Record of parcel R550-011-000-138B-0000 agree to the recording of this plat.

SIGNATURE _____ DATE _____

TOWN OF HILTON HEAD ISLAND LMO
SECTION 16-5-1402 DISCLOSURE STATEMENT
Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes. Local regulations require that certain flood hazard measures be incorporated in the design and construction of structures in these designated areas. Reference shall be made to the development covenants and restrictions of this development and requirements of the Town Building Official. In addition, federal law requires mandatory purchase of flood insurance as a prerequisite to federally insured mortgage financing in these designated flood hazard areas.

PREPARED FOR: THE TOWN OF HILTON HEAD ISLAND contract C-2012



SURVEYING CONSULTANTS
17 Sherington Drive, Suite C, Bluffton, SC 29910
SC Telephone: (843) 815-3304 FAX: (843) 815-3305
GA Telephone: (912) 826-2775
CREW: CBEW CAD: BGL
COPYRIGHT © BY SURVEYING CONSULTANTS

PLAT FOR CONVEYANCE OF LAND BY AND BETWEEN
THE TOWN OF HILTON HEAD ISLAND and HCP ACQUISITION, LLC
WILLIAM HILTON PARKWAY

FORMERLY A PORTION OF
PARCEL A, PIN R550-011-000-138B-0000 and PARCEL B PIN R550-011-000-0326-0000
HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA

SCALE: 1" = 30' DATE: 10/25/2013 JOB NO: SC07072C

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND , SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A CONTRACT FOR PURCHASE AND SALE; THE EXECUTION OF A DEED FOR THE SALE OF 0.24 ACRES OF REAL PROPERTY LOCATED NEAR WILLIAM HILTON PARKWAY AND THE FRESH MARKET SHOPPES TO HCP ACQUISITION, LLC, IN EXCHANGE FOR 0.50 ACRES OF REAL PROPERTY LOCATED NEAR WILLIAM HILTON PARKWAY AND THE FRESH MARKET SHOPPES FROM HCP ACQUISITION, LLC; AND THE GRANTING OF AN ACCESS EASEMENT TO HCP ACQUISITION, LLC, PURSUANT TO THE AUTHORITY OF S.C. CODE ANN. § 5-7-40 (SUPP. 2011), AND § 2-7-20, CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, (1983); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

LEGISLATIVE FINDINGS

WHEREAS, The Town of Hilton Head Island (the “Town”) owns a parcel of real property known as R550-011-000-0326-0000 (the “Town Property”), which is located near William Hilton Parkway and the Fresh Market Shoppes, Hilton Head Island, Beaufort County, South Carolina; and,

WHEREAS, HCP Acquisition, LLC (hereinafter “HCP”) owns a parcel of real property known as R550-011-000-138B-0000 (the “Hargray Property”), which is located adjacent to the Town Property; and,

WHEREAS, in accordance with the terms and conditions set forth in that certain Contract for Purchase and Sale, a copy of which is attached hereto as Exhibit “A” (the “Contract”), the Town has agreed to sell to HCP a portion of the Town Property consisting of approximately 0.24 acres, which portion may be combined with other property owned by HCP known as R550-011-000-0153-0000; and,

WHEREAS, also in accordance with the terms and conditions of the Contract, the Town has agreed to the above sale of property in exchange for HCP conveying title to a portion of the Hargray Property consisting of approximately 0.50 acres, which portion may be combined with the Town Property; and,

WHEREAS, also in accordance with the terms and conditions of the Contract, the Town has agreed to grant an Access Easement to HCP over the 0.50 acre portion of property to be conveyed to the Town; and,

WHEREAS, under the provisions of S.C. Code Ann. § 5-7-40 (SUPP. 2011) and § 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983), the conveyance or granting of an interest in real property owned by the Town of Hilton Head Island must be authorized by Ordinance.

NOW THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AS FOLLOWS:

Section 1. Execution and Performance of Contract.

- (a) The Mayor and Town Manager are hereby authorized to execute and deliver the Contract in a substantially similar form to that attached hereto as Exhibit "A" for the conveyance of Town-owned real property to HCP Acquisition, LLC in exchange for the conveyance of real property owned by HCP Acquisition, LLC to the Town; and
- (b) The Mayor and/or Town Manager are hereby authorized to take such other and further actions as may be necessary to complete the transactions contemplated in the Contract as authorized hereby, including the execution and delivery of the Deed and Access Easement, and all other documents called for in the Contract.

Section 2. Severability.

If any section, phrase, sentence or portion of this Ordinance is, for any reason, held or deemed to be invalid or unconstitutional by any court of competent jurisdiction, then such section, phrase, sentence or portion shall be deemed a separate, distinct and independent provision and shall not affect the remaining portion thereof.

Section 3. Effective Date.

This Ordinance shall become effective upon adoption thereof by the Town Council for the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS ___ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk
First Reading: _____
Second Reading: _____

Approved as to form: _____
Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

Exhibit A

CONTRACT FOR PURCHASE AND SALE OF:

+/- 0.50 Acres and +/- 0.24 Acres

By and Between

The Town of Hilton Head Island, South Carolina,

and

HCP Acquisition, LLC, a Delaware Limited Liability Company

Dated as of: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

SALE AND PURCHASE AGREEMENT

This Agreement (hereinafter the “Agreement”) is made and entered into by and between HCP Acquisition, LLC, a Delaware Limited Liability Company (hereinafter, the “Seller”) and The Town of Hilton Head Island, South Carolina, (hereinafter, the “Purchaser”) on this ____ Day of _____, 2013.

W I T N E S S E T H

1. *Sale and Purchase:* For and in consideration of the Town Property hereinafter described and agreed to be paid to the Seller by the Purchaser, and in further consideration of the full and faithful performance of the covenants, conditions and agreements hereinafter set forth to be performed, fulfilled and observed by the Seller and the Purchaser, and subject to the fulfillment of the Conditions set forth herein, the Seller agrees to sell and the Purchaser agrees to purchase from Seller that certain real property and personal property known as the Hargray Property located on Hilton Head Island, Beaufort County, South Carolina, and which is described herein below. The Plat detailing this transaction is attached hereto as Exhibit “A”.

2. *Hargray Property:* The Hargray Property referred to in this Agreement is defined and described as follows:

(a) The Hargray Real Property referred to in this Agreement is defined and described as follows:

ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Hilton Head Island, Beaufort County, South Carolina, consisting of 0.50 acres, more or less, and shown and described as "0.50 Acres, Area of Parcel A to be Conveyed

from Hargray, Inc. to the Town of Hilton Head Island” on a survey entitled “Plat for Conveyance of Land by and between The Town of Hilton Head Island and Hargray, Inc., William Hilton Parkway”, dated August 6, 2013, prepared by Surveying Consultants, certified by Terry G. Hatchell S.C.R.L.S. No. 11059, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____.

A Portion of Beaufort County TMS#: R550-011-000-138B-0000

This being a portion of the same property conveyed to HCP Acquisition LLC, a Delaware limited liability company, by deed of Hargray Center Partners, a South Carolina general partnership, dated June 29, 2007, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Official Record Book 2601 at Page 1647.

(hereinafter, the “Hargray Real Property”)

(b) *Hargray Intangible Personal Property:* In connection with the Hargray Real Property, Seller may have (i) obtained certain governmental permits and approvals and (ii) obtained certain contractual rights and other intangible assets, which are hereinafter referred to as the “Hargray Intangible Personal Property” and which are described as follows:

- (i) Any and all contract rights, declarant rights, access rights or easements, utility easements, covenant rights burdening other property in favor of the Hargray Real Property, easements, rights with respect to lands or marshlands lying below the S. C. D. H. E. C. - O. C. R. M. Critical Line, development plan approvals, zoning rights or approvals, development permits, utility allocations, State, Federal or Local governmental permits and approvals, S. C. D. H. E. C. - O. C. R. M. Permits; United States Army Corps of Engineers Permits, if any; and,
- (ii) Any and all rights, funds, rights to funds, including deductibles, associated with or related to any pending or previous environmental cleanup affecting the Hargray Real Property, if any.
- (iii) Any and all other rights, contracts, easements, contract rights or governmental or other approvals, regardless of description, which affect, touch or concern the Hargray Real Property in any way, shape or form, regardless of description, if any.

(c) *Definition of the "Hargray Property"*: Both the Hargray Real Property and the Hargray Intangible Personal Property are hereinafter referred to collectively as the "Hargray Property".

3. *Town Property*: The Town Property referred to in this Agreement is defined and described as follows:

(a) The Town Real Property referred to in this Agreement is defined and described as follows:

ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Hilton Head Island, Beaufort County, South Carolina, consisting of 0.24 acres, more or less, and shown and described as "0.24 Acres, Area of Parcel B to be Conveyed from the Town of Hilton Head Island to Hargray, Inc." on a survey entitled "Plat for Conveyance of Land by and between The Town of Hilton Head Island and Hargray, Inc., William Hilton Parkway", dated August 6, 2013, prepared by Surveying Consultants, certified by Terry G. Hatchell S.C.R.L.S. No. 11059, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____.

A Portion of Beaufort County TMS#: R550-011-000-0326-0000

This being a portion of the same property conveyed to the Town of Hilton Head Island, South Carolina by deed of Hargray Center Partners, dated May 13, 2003, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Official Record Book 1765 at Page 995.

(hereinafter, the "Town Real Property")

(b) *Town Intangible Personal Property*: In connection with the Town Real Property, Purchaser may have (i) obtained certain governmental permits and approvals and (ii) obtained certain contractual rights and other intangible assets, which are hereinafter referred to as the "Town Intangible Personal Property" and which are described as follows:

(i) Any and all contract rights, declarant rights, access rights or easements, utility easements, covenant rights burdening other property in favor of the Town

Real Property, easements, rights with respect to lands or marshlands lying below the S. C. D. H. E. C. - O. C. R. M. Critical Line, development plan approvals, zoning rights or approvals, development permits, utility allocations, State, Federal or Local governmental permits and approvals, S. C. D. H. E. C. - O. C. R. M. Permits; United States Army Corps of Engineers Permits, if any; and,

- (ii) Any and all rights, funds, rights to funds, including deductibles, associated with or related to any pending or previous environmental cleanup affecting the Town Real Property, if any.
- (iii) Any and all other rights, contracts, easements, contract rights or governmental or other approvals, regardless of description, which affect, touch or concern the Town Real Property in any way, shape or form, regardless of description, if any.

(c) *Definition of the "Town Property"*: Both the Town Real Property and the Town Intangible Personal Property are hereinafter referred to collectively as the "Town Property".

4. *Current Survey and Acreage Contingency*: Purchaser may, if it so chooses, have prepared at its own cost and expense an updated current boundary and as-built survey or ALTA survey of the Property, prepared for and certified to the Purchaser.

4.01 *Delivery of Documents by Seller*:

- (a) Within ten (10) days of the Effective Date as defined herein, Seller shall deliver or cause to be delivered to Purchaser copies of the following documents:
 - (i) Any existing title insurance policies in the possession of Seller or Seller's attorney insuring title to the Hargray Real Property.
 - (ii) Copies of any documents evidencing utility allocations or capacity or other contracts benefiting the Hargray Real Property.
 - (iii) Any and all documents relating to any rights or obligations which run to or from the Hargray Real Property.
 - (iv) Copies of all engineering studies, wetland delineations, environmental studies, surveys and the like of the Hargray Real Property which are in Seller's possession. Such studies may be given with appropriate disclaimers.

- (v) Copies of any reports, studies or documentation of any type pertaining to any ongoing or previous environmental cleanup affecting the Hargray Real Property.

(b) *Return of Documents:* If this Agreement is terminated for any reason other than Default of Seller, Purchaser shall, within five (5) days following such termination, deliver to Seller all documents and materials relating to the Hargray Property previously delivered to Purchaser by Seller. The return of such documents shall not affect the right of either party to seek legal or equitable remedies as provided under elsewhere in this Agreement.

4.02 *Delivery of Documents by Purchaser:*

(a) Within ten (10) days of the Effective Date as defined herein and upon demand by Seller, Purchaser shall deliver or cause to be delivered to Seller copies of the following documents:

- (i) Any existing title insurance policies in the possession of Purchaser or Purchaser's attorney insuring title to the Town Real Property.
- (ii) Copies of any documents evidencing utility allocations or capacity or other contracts benefiting the Town Real Property.
- (iii) Any and all documents relating to any rights or obligations which run to or from the Town Real Property.
- (iv) Copies of all engineering studies, wetland delineations, environmental studies, surveys and the like of the Town Real Property which are in Purchaser's possession. Such studies may be given with appropriate disclaimers.
- (v) Copies of any reports, studies or documentation of any type pertaining to any ongoing or previous environmental cleanup affecting the Town Real Property.

(b) *Return of Documents:* If this Agreement is terminated for any reason other than Default of Purchaser, Seller shall, within five (5) days following such termination, deliver to Purchaser all documents and materials relating to the Property previously delivered to Seller

by Purchaser. The return of such documents shall not affect the right of either party to seek legal or equitable remedies as provided elsewhere in this Agreement.

5. *Land Swap/Subsequent Road Construction by Purchaser:* The Hargray Property shall be conveyed to the Purchaser in exchange for the Town Property being conveyed to the Seller, with both conveyances to be effectuated by the execution of Deeds in accordance with the provisions of this Agreement at the closing of the transactions contemplated in this Agreement (the "Closing"). Copies of the Deeds to be executed are attached hereto as Exhibit "B". Also in consideration for the land swap, Purchaser shall, within one (1) year of the closing of this transaction, commence construction of a new public roadway as shown on Exhibit "F" hereto. Purchaser agrees to keep open all existing curb cuts and existing median cuts for access to Seller's property(ies), which is/are adjacent to the Hargray Property and Town Property, until the new public roadway as shown on Exhibit "F" and the re-designed road located on the Hargray Property are completed and available for open and unrestricted access to the Purchaser, Seller, and public. These obligations of Purchaser shall survive the Closing and not be subject to the doctrine of merger.

5.01 *Execution of Deeds:* Upon execution of this Agreement, no escrow deposit or similar payment shall be made by Purchaser or Seller with Escrow Agent hereinafter described. At Closing, Seller shall execute a Deed to Purchaser for the Hargray Property and Purchaser shall execute a Deed to Seller for the Town Property in accordance with the terms of this Agreement, which Deeds shall thereafter be recorded in the Office of the Register of Deeds for Beaufort County, South Carolina.

5.02 *Access Easement:* Upon execution of the Deeds by Seller and Purchaser, Purchaser shall also execute (and record in the Office of the Register of Deeds for Beaufort County, South Carolina) an Access Easement granting an access easement for ingress and egress, in favor of the Seller and its

licensees, guests and invitees, over, across, and through the Hargray Property for pedestrian and vehicular travel to and from the various properties which are surrounding and adjacent to the Hargray Property, the terms of which are detailed in the attached Exhibit "C". In connection therewith, Grantor shall be obligated to complete the planning, design, installation, construction, and maintenance of a sidewalk which is five feet (5') in width and which shall run immediately adjacent to the roadway on the Hargray Property, as well as payment for the costs thereof.

5.03 *Temporary Directional Sign:* No later than ninety (90) days after the Effective Date of this Agreement (which time may be extended by mutual written agreement of Seller and Purchaser), Purchaser agrees to install and/or otherwise place one (1) temporary directional traffic sign indicating to motorists and pedestrians the direction of the building complex for Hargray, Inc. in the U.S. Highway 278 right-of-way, which shall be located in reasonable proximity to the building complex for Hargray, Inc. This sign shall remain in place for a continuous time of six (6) months following the installation and/or placement of the sign, at which time the sign shall be removed.

5.04 *Right of Entry to Purchaser:* Seller grants to Purchaser a Right of Entry to permit the Purchaser, its agents, employees, contractors and subcontractors the temporary right to enter upon or across the Hargray Property for the purposes of installing traffic and sediment controls on the Hargray Property, as well as survey and stake various portions of the Hargray Property, in connection with Purchaser's anticipated work in and around the Hargray Property as relates to the Purchaser's "Leamington Intersection Project". This Right of Entry shall become effective upon Seller's execution of this Agreement and shall continue until the Deeds as referenced in Article 5 of this Agreement are executed and recorded, or until termination of this Agreement, whichever shall first occur.

6. *Purchaser's Title:* Seller shall provide Purchaser with good and marketable title to the

Hargray Property by Deed of General Warranty, free and clear of any and all monetary liens and encumbrances. The conveyance by Seller will contain in the Deed a permitted title exception to the rights of others to ingress and egress over the Hargray Property.

(a) *Title Evidence:* Within thirty (30) days after the Effective Date as defined herein, Purchaser may obtain a current ALTA Owner's Title Insurance Commitment (the "Commitment") underwritten on, and issued by, a Title Insurance Company of the Purchaser's choosing (hereinafter, the "Title Company"), by which Commitment the Title Company shall agree to insure fee simple marketable title to the Hargray Real Property in the name of the Purchaser in an amount equal to the then-current market value of the Hargray Real Property. Seller and Purchaser understand and agree that as of the date of the Title Commitment and the Closing Date, fee simple marketable title to the Hargray Property shall be vested in the Seller, and the Commitment shall show and evidence:

- (i) That fee simple, marketable title to the Hargray Real Property is vested in the Seller;
- (ii) That title to the Hargray Real Property is in the condition required by this Article 6. The cost of, or premium associated with, the Commitment, and any Final Policy of Title Insurance issued thereon, shall be the responsibility of and shall be paid for by the Purchaser.

(b) *Objections to Title:* If Purchaser's title examination or the Commitment shall reveal that Seller's title to the Hargray Real Property is subject to any easements, covenants, clouds on or to the title, encroachments, boundary discrepancies, liens, encumbrances, or any other matter affecting title, or Purchaser's proposed use of the Hargray Real Property, then Purchaser shall notify Seller, in writing, of such title defects and Purchaser's objection to the same within five (5) days after the delivery of the Commitment. Upon such notification, the same shall be treated as defect(s) in title ("Title Defects"). Unless Purchaser delivers said

written objections within the said five (5) day period following the delivery of the Commitment, it shall be conclusively deemed that Purchaser has accepted title to the Hargray Real Property in its then-existing condition.

(c) *Seller's Right to Cure:* Seller shall have thirty (30) days from receipt of Purchaser's written notice of any Title Defects to Cure (hereinafter defined), or to cause to be Cured, the Title Defects. Seller agrees to use its best efforts and due diligence in Curing, or in causing to be Cured, the Title Defects. If said thirty (30) day period given Seller to Cure the Title Defects shall extend beyond the Closing Date, and Seller does not Cure, or cause to be Cured, the Title Defects before the Closing Date, then closing shall be held within ten (10) days after Seller delivers written notice to Purchaser that the Title Defects have been Cured. "Cured" as used herein means that a title insurance company authorized to do business in South Carolina and a member of the American Land Title Association will issue a Title Insurance Policy insuring title to the Hargray Real Property at standard rates and with only the standard exceptions.

(d) *Seller's Failure to Cure:* If Seller cannot Cure, or cause to be Cured, the Title Defects within the said thirty (30) day period, or within such longer period to which the Seller and Purchaser may agree in writing, then the Purchaser shall have the option of:

- (i) Closing this transaction in accordance with the terms and conditions hereof, and accepting title to the Hargray Real Property in its then-existing condition by deed, taking exception to such unCured Title Defects, with such additional terms and conditions as are agreed to by the Parties; or,
- (ii) Terminating this Agreement, whereupon Purchaser and Seller shall thereafter be released from any and all further obligations or liabilities to one another arising under or out of this Agreement.

(e) *Subsequent Matters:* The Seller acknowledges that a period of days will elapse

between the delivery of the Commitment as required herein and Closing. Acceptance of the Commitment by the Purchaser shall not be deemed a waiver of any Title Defect arising between the date of delivery of the Commitment and the date of Closing.

- (i) The Purchaser shall notify the Seller of any Title Defects arising subsequent to delivery of the Title Commitment prior to closing.
- (ii) Upon notification to Seller by Purchaser of any Title Defects arising subsequent to delivery of the Title Commitment, the “Cure” provisions of this Article 6 shall become effective.

7. *Seller’s Title:* Purchaser shall provide Seller with good and marketable title to the Town Property by Deed of General Warranty, free and clear of any and all monetary liens and encumbrances.

(a) *Title Evidence:* Within thirty (30) days after the Effective Date as defined herein, Seller may obtain a current ALTA Owner’s Title Insurance Commitment (the “Commitment”) underwritten on, and issued by, a Title Insurance Company of the Seller’s choosing (hereinafter, the “Title Company”), by which Commitment the Title Company shall agree to insure fee simple marketable title to the Town Real Property in the name of the Seller in an amount equal to the then-current market value of the Town Real Property. Purchaser and Seller understand and agree that as of the date of the Title Commitment and the Closing Date, fee simple marketable title to the Town Property shall be vested in the Purchaser, and the Commitment shall show and evidence:

- (i) That fee simple, marketable title to the Town Real Property is vested in the Purchaser;
- (ii) That title to the Town Real Property is in the condition required by this Article 7. The cost of, or premium associated with, the Commitment, and any Final Policy of Title Insurance issued thereon, shall be the responsibility of and shall be paid for by the Seller.

(b) *Objections to Title:* If Seller's title examination or the Commitment shall reveal that Purchaser's title to the Town Real Property is subject to any easements, covenants, clouds on or to the title, encroachments, boundary discrepancies, liens, encumbrances, or any other matter affecting title, or Seller's proposed use of the Town Real Property, then Seller shall notify Purchaser, in writing, of such title defects and Seller's objection to the same within five (5) days after the delivery of the Commitment. Upon such notification, the same shall be treated as defect(s) in title ("Title Defects"). Unless Seller delivers said written objections within the said five (5) day period following the delivery of the Commitment, it shall be conclusively deemed that Seller has accepted title to the Town Real Property in its then-existing condition.

(c) *Purchaser's Right to Cure:* Purchaser shall have thirty (30) days from receipt of Seller's written notice of any Title Defects to Cure (hereinafter defined), or to cause to be Cured, the Title Defects. Purchaser agrees to use its best efforts and due diligence in Curing, or in causing to be Cured, the Title Defects. If said thirty (30) day period given Purchaser to Cure the Title Defects shall extend beyond the Closing Date, and Purchaser does not Cure, or cause to be Cured, the Title Defects before the Closing Date, then closing shall be held within ten (10) days after Purchaser delivers written notice to Seller that the Title Defects have been Cured. "Cured" as used herein means that a title insurance company authorized to do business in South Carolina and a member of the American Land Title Association will issue a Title Insurance Policy insuring title to the Town Real Property at standard rates and with only the standard exceptions.

(d) *Purchaser's Failure to Cure:* If Purchaser cannot Cure, or cause to be Cured, the Title Defects within the said thirty (30) day period, or within such longer period to which the

Seller and Purchaser may agree in writing, then the Seller shall have the option of:

- (i) Closing this transaction in accordance with the terms and conditions hereof, and accepting title to the Town Real Property in its then-existing condition by deed, taking exception to such unCured Title Defects, with such additional terms and conditions as are agreed to by the Parties; or,
- (ii) Terminating this Agreement, whereupon Purchaser and Seller shall thereafter be released from any and all further obligations or liabilities to one another arising under or out of this Agreement.

(e) *Subsequent Matters:* The Purchaser acknowledges that a period of days will elapse between the delivery of the Commitment as required herein and Closing. Acceptance of the Commitment by the Seller shall not be deemed a waiver of any Title Defect arising between the date of delivery of the Commitment and the date of Closing.

- (i) The Seller shall notify the Purchaser of any Title Defects arising subsequent to delivery of the Title Commitment prior to closing.
- (ii) Upon notification to Purchaser by Seller of any Title Defects arising subsequent to delivery of the Title Commitment, the “Cure” provisions of this Article 7 shall become effective.

8. *Closing:* This transaction shall be “Closed” at 10 o’clock A.M. on the Closing Date (hereinafter defined) at the Office of Purchaser’s Attorney, or at such other place as Purchaser and Seller shall mutually agree in writing. At Closing, title to the Hargray Property shall be conveyed from Seller to Purchaser by delivery of the Deed (hereinafter defined) and other documents required herein from Seller to Purchaser. Also at Closing, title to the Town Property shall be conveyed from Purchaser to Seller by delivery of the Deed (hereinafter defined) and other documents required herein from Purchaser to Seller. Subject to fulfillment of all of the Seller’s and Purchaser’s obligations and any conditions hereunder, the Closing, unless otherwise modified or extended by mutual agreement of the Seller and Purchaser in writing, shall occur on or before **thirty (30) days after the Effective Date as defined herein** (the “Closing Date”).

8.01. *Seller's Obligations at Closing:* At Closing, the Seller shall deliver to Purchaser, at Seller's expense, the following Closing Documents:

(a) A Good and sufficient Limited Warranty Deed (the "Deed") so as to convey to Purchaser Fee Simple, Marketable Title to the Hargray Real Property, as provided herein above. The Deed shall be in recordable form, with documentary stamps (if any) affixed, executed by the Seller and duly acknowledged before a Notary Public.

(b) A "Certification by Entity Transferor," certifying that the Seller is not a "foreign person" as that term is used and defined in Section 1445 (f)(3) of the Internal Revenue Code of 1986, as amended.

(c) A mechanic's lien affidavit, duly executed by Seller and acknowledged before a notary public, attesting to the absence, unless otherwise provided for in this Agreement, or unless created by acts of the Purchaser, of any claims of lien or potential lienors and further attesting that there have been no improvements to the Hargray Real Property for ninety (90) days immediately preceding the Closing Date for which the cost thereof remains unpaid.

(d) Seller's/Owner's Affidavit and Indemnity in a form and substance described on Exhibit "D" hereto and incorporated herein by reference.

(e) A South Carolina residency affidavit certifying the address, Residence and Federal Identification Number of Seller to establish the withholding requirements of S. C. Code Ann. § 12-8-580 and SC Revenue Advisory Bulletin #02-6.

(f) Full and complete releases, in recordable form, of any mortgages, liens, claims or other encumbrances to the title of the Hargray Real Property, except as may be otherwise provided in this Agreement.

(g) An Absolute Assignment by Seller to Purchaser of any and all of Seller's rights, privileges, permits, easements, licenses and approvals, if any, which may exist regarding or incidental to the Hargray Property in any way, or the present or future development of the Hargray Property, including but not limited to those set forth herein above, in a form and substance described on Exhibit "E" hereto and incorporated herein by reference.

(h) Such other documents as Purchaser, Purchaser's Attorney or Purchaser's Title Insurance Company may reasonably require or deem as necessary to convey the Hargray Property to the Purchaser in accordance with the terms and provisions of this Agreement.

8.02. *Purchaser's Obligations at Closing:* At Closing, the Purchaser shall deliver to Seller, at Purchaser's expense, the following Closing Documents:

(a) A Good and sufficient General Warranty Deed (the "Deed") so as to convey to

Purchaser Fee Simple, Marketable Title to the Town Real Property, as provided herein above. The Deed shall be in recordable form, with documentary stamps (if any) affixed, executed by the Purchaser and duly acknowledged before a Notary Public.

(b) A “Certification by Entity Transferor,” certifying that the Purchaser is not a “foreign person” as that term is used and defined in Section 1445 (f)(3) of the Internal Revenue Code of 1986, as amended.

(c) A mechanic’s lien affidavit, duly executed by Seller and acknowledged before a notary public, attesting to the absence, unless otherwise provided for in this Agreement, or unless created by acts of the Seller, of any claims of lien or potential lienors and further attesting that there have been no improvements to the Town Real Property for ninety (90) days immediately preceding the Closing Date for which the cost thereof remains unpaid.

(d) A South Carolina residency affidavit certifying the address, Residence and Federal Identification Number of Purchaser to establish the withholding requirements of S. C. Code Ann. § 12-8-580 and SC Revenue Advisory Bulletin #02-6.

(e) Full and complete releases, in recordable form, of any mortgages, liens, claims or other encumbrances to the title of the Town Real Property, except as may be otherwise provided in this Agreement.

(f) Such other documents as Seller, Seller’s Attorney or Seller’s Title Insurance Company may reasonably require or deem as necessary to convey the Town Property to the Seller in accordance with the terms and provisions of this Agreement.

(g) Certified copy of the Resolution of the Town Council authorizing the execution of this Agreement.

(h) Certified copy of the Ordinance of the Town Council authorizing the sale of the Town Property and execution of the above-referenced Closing Documents.

(i) Certified copy of the Minutes of the Town Council meetings wherein the Resolution and Ordinance referenced in Articles 5.1(h) and (i) above were approved.

8.03. *Escrow Agent:* The Escrow Agent shall serve as Closing Agent for all Parties at settlement.

Deposit with the Escrow Agent of the instruments of conveyance and such other documents as are required of either Party under the terms of this Agreement, and/or the Title Company, and/or the Escrow Agent shall be deemed to be a good and sufficient tender of performance in accordance with the terms hereof.

9. *Default by Purchaser:* Except as may be otherwise expressly provided or limited herein with respect to any specific act or omission, if the Purchaser shall default in any of its obligations, covenants, or agreements contained within this Agreement or any of the Exhibits hereto, and shall remain in default after ten (10) day's written notice specifying the default and demanding that the default be cured, then the Seller shall be entitled to either (a) terminate this Agreement by written notice to Purchaser, or (b) pursue any remedy at law or in equity against the Purchaser. The provisions of this Article 9 shall be binding upon the successors and assigns of the Purchaser, and shall survive the Closing of the transaction contemplated herein.

10. *Default by Seller:* Except as may be otherwise expressly provided or limited herein with respect to any specific act or omission, if the Seller shall default in any other obligations, covenants, or agreements contained within this Agreement or any of the Exhibits hereto, and shall remain in default after ten (10) day's written notice specifying the default and demanding that the default be cured, then the Purchaser shall be entitled to either (a) terminate this Agreement by written notice to Purchaser, or (b) in the alternative, pursue any remedy at law or in equity against the Seller. The provisions of this Article 10 shall be binding upon the successors and assigns of the Seller, and shall survive the Closing of the transaction contemplated herein.

11. *Conditions to Purchaser's Obligation to Close:* The obligation of the Purchaser to purchase the Hargray Property from the Seller in exchange for the Town Property is subject to satisfaction, as of the Closing Date, of the following conditions (any of which may be waived, in writing, in whole or in part by Purchaser at or prior to Closing):

- (a) All of the representations and warranties of the Seller set forth herein shall be true on and as of the Closing in all respects, as though such representations and warranties were made at and as of the Closing; and all covenants, agreements and documents required of the Seller in this Agreement shall have been performed, complied with or delivered (as the case may be) in accordance with this Agreement.

(b) The Hargray Property shall not be in material violation of any governmental laws, ordinances, rules or regulations, and there shall be no action, suit or proceeding pending or filed against or affecting the Hargray Property or any portion thereof, or relating to or affecting or arising out of the ownership or development of the Hargray Property or any portion thereof, in any state or federal court or by any federal, state, county or municipal department, commission, board bureau, or agency or other governmental instrumentality.

(c) Approval of the terms of this Agreement by affirmative vote of the Town Council for The Town of Hilton Head Island, South Carolina.

(d) In the event any of the above stated conditions is not satisfied or waived in writing by Purchaser prior to Closing, this Agreement shall terminate on the Option of the Purchaser and neither Party shall have any further obligation or rights with respect to the other.

12. *Conditions to Seller's Obligation to Close:* The obligation of the Seller to sell the Hargray Property to the Purchaser in exchange for the Town Property is subject to satisfaction, as of the Closing Date, of the following conditions (any of which may be waived, in writing, in whole or in part by Seller at or prior to Closing):

(a) All of the representations and warranties of the Purchaser set forth herein shall be true on and as of the Closing in all respects, as though such representations and warranties were made at and as of the Closing; and all covenants, agreements and documents required of the Seller in this Agreement shall have been performed, complied with or delivered (as the case may be) in accordance with this Agreement.

(b) The Town Property shall not be in material violation of any governmental laws, ordinances, rules or regulations, and there shall be no action, suit or proceeding pending or filed against or affecting the Town Property or any portion thereof, or relating to or affecting or arising out of the ownership or development of the Town Property or any portion thereof, in any state or federal court or by any federal, state, county or municipal department, commission, board bureau, or agency or other governmental instrumentality.

(c) In the event any of the above stated conditions is not satisfied or waived in writing by Purchaser prior to Closing, this Agreement shall terminate on the Option of the Seller and neither Party shall have any further obligation or rights with respect to the other.

13. *Representations and Warranties of Seller:* To induce Purchaser to enter into this Agreement and to purchase the Hargray Property in exchange for the Town Property, Seller represents and warrants (which representations and warranties shall survive the Closing) to Purchaser

as follows:

(a) As of the date of this Agreement and as of the date of Closing, Seller will have all requisite legal power and authority to execute and deliver the Deed and other documents to be delivered pursuant to this Agreement. The individual(s) executing this Agreement on behalf of Seller has and as of the date of Closing, will have, express authority and full power on behalf of Seller to enter into and deliver this Agreement and the Deed and other documentation required hereunder.

(b) Other than work or material contracted for by Purchaser, as of the Closing, no work will have been performed or will be in process at the Hargray Property, and no materials will have been delivered to the Hargray Property that might provide the basis for the filing of a Mechanic's, Materialman's or other lien against the Hargray Property or any portion thereof. The requirements set forth in this Article 13 shall be deemed satisfied by Seller's delivery at Closing of an executed copy of the Seller's/Owner's Affidavit and Indemnity attached hereto as Exhibit "D".

(c) Other than is expressly provided for herein, Seller shall not grant any easements, or enter into any covenants or agreements concerning the Hargray Property or title to the Hargray Real Property, or in any other way affect the Hargray Property or title to the Hargray Real Property without the written consent of Purchaser.

(d) To the best of Seller's knowledge, there is no litigation now pending or threatened against the Seller which would materially affect the execution, delivery or enforceability of this Agreement, or the Seller's performance or other obligations hereunder.

14. *Representations and Warranties of Purchaser:* To induce Seller to enter into this Agreement and to sell the Hargray Property in exchange for the Town Property, Purchaser represents and warrants (which representations and warranties shall survive the Closing) to Seller as follows:

(a) As of the date of this Agreement and as of the date of Closing, Purchaser will have all requisite legal power and authority to execute and deliver the Deed and other documents to be delivered pursuant to this Agreement. The individual(s) executing this Agreement on behalf of Purchaser has and as of the date of Closing, will have, express authority and full power on behalf of Purchaser to enter into and deliver this Agreement and the Deed and other documentation required hereunder.

(b) Other than work or material contracted for by Seller, as of the Closing, no work will have been performed or will be in process at the Town Property, and no materials will have been delivered to the Town Property that might provide the basis for the filing of a Mechanic's, Materialman's or other lien against the Town Property or any portion thereof.

(c) Other than is expressly provided for herein, Purchaser shall not grant any easements,

or enter into any covenants or agreements concerning the Town Property or title to the Town Real Property, or in any other way affect the Town Property or title to the Town Real Property without the written consent of Seller.

(d) To the best of Purchaser's knowledge, there is no litigation now pending or threatened against the Purchaser which would materially affect the execution, delivery or enforceability of this Agreement, or the Purchaser's performance or other obligations hereunder.

15. *Brokers:* Seller and Purchaser warrant and represent that no broker, finder, or other person is entitled to a commission, finder's fee or other compensation in connection with this Agreement, and Seller shall indemnify and hold harmless the Purchaser from any and all claims, liabilities, losses, damages, costs and expenses arising from the claim of any broker, finder or other person for such compensation, arising by, under or through Seller.

The obligations under this Article 15 shall survive the Closing.

16. *Effective Date:* The "Effective Date" of this Agreement shall be the date upon which the officials of The Town of Hilton Head Island, South Carolina, execute and deliver this Agreement to Seller.

17. *Possession:* Possession of the Hargray Property shall be delivered to the Purchaser at Closing; provided, however, that Purchaser provides an executed Deed to Seller of the Town Property in accordance with the terms of this Agreement at Closing. Possession of the Town Property shall be delivered to the Seller at Closing; provided, however, that Seller provides an executed Deed to Purchaser of the Hargray Property in accordance with the terms of this Agreement at Closing.

18. *Prorations:* Payment of the following is to be pro-rated between the Seller and the Purchaser as of the Closing Date:

a. Real Property Taxes and Assessments, if any, shall be made on the basis of the current year's tax with due exemptions, if allowed for the said year, with Seller being

responsible for such taxes with respect to the Hargray Property and Purchaser being responsible for such taxes with respect to the Town Property. If Closing occurs on a date when the current year's taxes are not fixed, taxes will be apportioned based upon the prior year's taxes plus ten (10%) per cent. Any tax apportionment based upon an estimate shall be recalculated when the property taxes are finally fixed, and the Seller or Purchaser, as the case may be, shall make payment to the other based upon such recalculation. The provisions of this Article 19(a) shall survive the Closing and delivery of the Deed.

19. *Seller's Closing Costs:* Seller shall be responsible to pay for the Cost of:
- (a) Any documentary stamp expense or taxes which may be payable to the State of South Carolina and/or the County of Beaufort, and any other fees or charges payable by reason of the execution, delivery and recording of the Deeds;
 - (b) As to the Town Property, the cost of any title insurance premium chargeable for the Commitment and any policy of Title Insurance issued therefrom; and,
 - (c) Any other Seller Closing Costs which are customary in Beaufort County, South Carolina.
20. *Purchaser's Closing Costs:* Purchaser shall be responsible to pay the cost of:
- (a) Recording of the Deeds and any Town of Hilton Head Island, South Carolina, Transfer Fee;
 - (b) As to the Hargray Property, the Cost of any title insurance premium chargeable for the Commitment and any policy of Title Insurance issued therefrom; and,
 - (c) Any other Purchaser Closing Costs which are customary in Beaufort County, South Carolina.
21. *Attorney's Fees and Costs:* If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover its reasonable attorney's fees and any costs incurred as a result of any such dispute, whether incurred before the institution of suit or after the commencement of suit, including appellate proceedings, in addition to any other relief to which the prevailing party is entitled.

22. *Right of Inspection, Seller's Right to Cure:* This Agreement is subject to Purchaser's right to enter upon the Hargray Property to inspect the physical conditions of the Hargray Property. Said right of inspection shall include the right of Purchaser, at Purchaser's sole expense, to conduct soil borings, and other tests as may be required for an Environmental Level 1 Study (hereinafter, the "Initial Environmental 1 Study"). If such inspection, or the Environmental Level 1 Study discloses conditions which are unsatisfactory to the Purchaser (which determination shall be made in the Purchaser's sole discretion), Purchaser shall have the option of terminating this Agreement or notifying the Seller of its intent to move forward with the purchase accompanied by an objection to any unsatisfactory conditions. The physical inspection and Environmental Level 1 Study shall be completed within Thirty (30) Days of the Effective Date. The Purchaser shall deliver its notice of termination or intent to move forward with the purchase accompanied by an objection to any unsatisfactory conditions within Thirty-Five (35) days of the Effective Date. Any such notice to move forward with the purchase by Purchaser shall specify the reasons for such objection and include a copy of the Environmental Level 1 Study or any other study or inspection report. The Seller shall have the option, for a period of thirty (30) days from the date of the notification to clean up, cure or cause to be cleaned up or cured the unsatisfactory conditions described in the notification. If said thirty (30) day period given Seller to clean up, cure or cause to be cleaned up or cured the unsatisfactory conditions shall extend beyond the Closing Date, and Seller does not cure or clean up, or cause to be cured or cleaned up, the unsatisfactory conditions before the Closing Date, then closing shall be held within ten (10) days after Seller delivers written notice to Purchaser that the unsatisfactory conditions have been cured or cleaned up.

22.01. *Purchaser's Right to Terminate:* In addition to Purchaser's right to terminate as provided in Article 22, should Seller not exercise its option to clean up, cure or cause to be cleaned up or

cured the unsatisfactory conditions, then Purchaser shall have the right, in its sole discretion to terminate this Agreement. Upon such termination by the Purchaser under either Article 22 or 22.01, neither Party to this Agreement shall have any further obligations or rights hereunder, and no action for specific performance shall lie.

22.02. *Subsequent Matters:* The Seller acknowledges that a period of days will elapse between the delivery of the Initial Environmental 1 Study as required herein and Closing. Acceptance of the Initial Environmental 1 Study by the Purchaser shall not be deemed a waiver of any unsatisfactory environmental or other condition at the Hargray Property arising between the date of delivery of the Initial Environmental 1 Study and the date of Closing, unless such conditions have been caused by acts or omissions of the Purchaser.

(a) The Purchaser shall notify the Seller of the existence of any unsatisfactory conditions on or about the Property arising subsequent to delivery of the initial Environmental Level 1 Study prior to Closing.

(b) Any such notice shall specify the reasons for such determination and include a copy of the Environmental Level 1 Study or any other study or inspection report. Upon Purchaser's submission of the Notice, the "cure" provisions of Article 22 shall apply. Should Seller elect not to cure, the termination provisions of Article 22 shall apply.

(c) Purchaser shall have no right to terminate this Agreement if such unsatisfactory conditions are the result of any act or omission of the Purchaser.

23. *Damage or Risk of Loss for Hargray Property:* The risk of loss or complete or partial destruction of the Hargray Property shall rest with the Seller up to the time that the Closing occurs. If the Hargray Property is damaged, but repairable prior to Closing, Seller has the option of repairing and proceeding. If the Hargray Property is damaged, but un-repairable prior to Closing, this Agreement shall be terminated and neither party shall have any further rights or obligations with respect to the other.

24. *Damage or Risk of Loss for Town Property:* The risk of loss or complete or partial destruction of the Town Property shall rest with the Purchaser up to the time that the Closing occurs. If the Town Property is damaged, but repairable prior to Closing, Purchaser has the option of repairing and proceeding. If the Town Property is damaged, but un-repairable prior to Closing, this Agreement shall be terminated and neither party shall have any further rights or obligations with respect to the other.

25. *Condemnation of Hargray Property:* If, between the date of this Agreement and the Closing, a taking or condemnation of the Hargray Property is threatened, or commenced, Purchaser may elect, in writing, within five (5) days after receipt of notice from Seller of such taking or condemnation, accompanied by information regarding the amount and payment of the condemnation proceeds, to terminate this Agreement or to purchase the Hargray Property without regard to such condemnation. If Purchaser fails to notify Seller of Purchaser's election, Purchaser will be deemed to have elected to proceed with the purchase of the Hargray Property without regard to such taking or condemnation. If Purchaser elects to terminate this Agreement, Purchaser shall notify Seller of such election in writing; this Agreement shall be of no further force and effect; and Seller shall be entitled to receive any condemnation awards payable as a result of such taking or condemnation. If Purchaser elects to purchase the Hargray Property despite such taking or condemnation, Seller shall assign its rights to and Purchaser shall be entitled to receive any condemnation awards payable as a result of such taking or condemnation.

26. *Condemnation of Town Property:* If, between the date of this Agreement and the Closing, a taking or condemnation of the Town Property is threatened, or commenced, Seller may elect, in writing, within five (5) days after receipt of notice from Purchaser of such taking or condemnation, accompanied by information regarding the amount and payment of the condemnation proceeds, to

terminate this Agreement or to purchase the Town Property without regard to such condemnation. If Seller fails to notify Purchaser of Seller's election, Seller will be deemed to have elected to proceed with the purchase of the Town Property without regard to such taking or condemnation. If Seller elects to terminate this Agreement, Seller shall notify Purchaser of such election in writing; this Agreement shall be of no further force and effect; and Purchaser shall be entitled to receive any condemnation awards payable as a result of such taking or condemnation. If Seller elects to purchase the Town Property despite such taking or condemnation, Purchaser shall assign its rights to and Seller shall be entitled to receive any condemnation awards payable as a result of such taking or condemnation.

27. *Escrow Agent:* The "Escrow Agent" shall be Gregory M. Alford, Esq., 18 Executive Park Road Suite 1, Hilton Head Island, SC 29928. If any dispute should arise as to whether Escrow Agent is obligated to deliver any documents which it holds, Escrow Agent shall not be required to make delivery thereof, but, in such event shall hold the same until receipt, by Escrow Agent, of written authorization from Seller and Purchaser directing the disposition of the same. In the absence of such written authorization, Escrow Agent may hold any documents in connection with this transaction in its possession until a final determination of the rights of the Parties by a Court of competent jurisdiction. If such written authorization is not given or proceedings for such determination are not begun and diligently continued, Escrow Agent may institute an appropriate proceeding for leave to place the Escrow Deposit, or any other funds or documents in connection with this transaction in its possession with the Clerk of Court for Beaufort County, South Carolina, pending such determination. Escrow Agent shall not be charged with notice of any fact or circumstance unless and until written notice of the same is received by Escrow Agent. Upon making the delivery of the funds or documents which Escrow Agent may hold in accordance with the provisions of this Article 27,

Escrow Agent shall have no further obligation or liability to Purchaser and Seller, and Purchaser and Seller agree to indemnify and hold Escrow Agent harmless from any such liability.

28. *Conduct Prior to Closing:* From and after the date hereof, Seller shall not, without the prior written approval of the Purchaser, make any alterations or additions to the Hargray Property except as required for maintenance or by law, sell, transfer, encumber, lease or rent all or any part of the Hargray Property or change the status of title to the Hargray Property; or cancel, assign or amend any license or permit or other right held by the Seller with respect to the Hargray Property or any part thereof prior to Closing. From and after the date hereof, Purchaser shall not, without the prior written approval of the Seller, make any alterations or additions to the Town Property except as required for maintenance or by law, sell, transfer, encumber, lease or rent all or any part of the Town Property or change the status of title to the Town Property; or cancel, assign or amend any license or permit or other right held by the Purchaser with respect to the Town Property or any part thereof prior to Closing.

29. *Miscellaneous:*

29.01. *Assignability:* This Agreement may not be assigned by either the Purchaser or the Seller without the express written consent of both parties.

29.02 *Binding Effect:* This Agreement shall inure to the benefit of and shall be binding upon the Seller and Purchaser and their respective successors and assigns.

29.03. *Amendment, Changes and Modifications:* Except as otherwise provided herein, this Agreement may not be effectively amended, changed, modified or altered without the written consent of both parties hereto.

29.04. *Severability:* In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render

unenforceable any other provision hereof.

29.05. *Execution in Counterparts:* This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

29.06. *Applicable Law:* This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

29.07. *Captions:* The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

29.08. *Recording:* The parties hereto may not record this Agreement, or a short form Memorandum thereof, in the Office of the Register of Deeds for Beaufort County, South Carolina.

29.09. *Plural/Singular:* Where appropriate, the use of the singular herein shall include and be deemed to be the plural, and the use of the plural herein shall be deemed to include the singular.

29.10. *No Third Party Beneficiaries:* The Parties hereto affirmatively represent that this Agreement is made solely for the benefit of the parties hereto and their respective successors and assigns and not for the benefit of any third party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

29.11. *Notices:* All notices, applications, requests, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person, or mailed by regular first class mail, postage prepaid (in such case, delivery shall be deemed complete upon mailing), addressed as follows, or to such other place as may be designated in writing by the parties:

To Purchaser: THE TOWN OF HILTON HEAD ISLAND
Stephen G. Riley, Manager
One Town Center Court
Hilton Head Island, SC 29928

With Copy to: Gregory M. Alford, Esq.
Alford Law Firm, LLC
Post Office Drawer 8008
Hilton Head Island, SC 29938-8008

To Seller: HCP Acquisition, LLC
ATTN: General Counsel
856 William Hilton Parkway
P.O. Box 5986
Hilton Head Island, SC 29938

29.12 Further Assurances and Corrective Documents: The Seller and Purchaser agree to do, execute, acknowledge, deliver or cause to be done all such further acts as may be reasonably determined to be necessary to carry out this Agreement and give effect hereto. The Seller and Purchaser agree that each shall, upon request, execute and deliver such other or corrective documents, or any such document as may be reasonably requested by any governmental or regulatory agencies, including but not limited to any such documents relating to any pending or previous environmental cleanup affecting the Real Property, as may be reasonably determined to be necessary, either before or after the Closing. The obligations of the Article 17.12 shall survive the Closing.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the Seller and the Purchaser, have, or have caused their duly authorized officers and representatives to execute this Agreement as of the date and year first above written.

WITNESSES:

**THE TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA**

_____ **By:** _____
Drew Laughlin, Mayor

_____ **Attest:** _____
Stephen G. Riley, Town Manager

HCP ACQUISITION, LLC

_____ **By:** _____

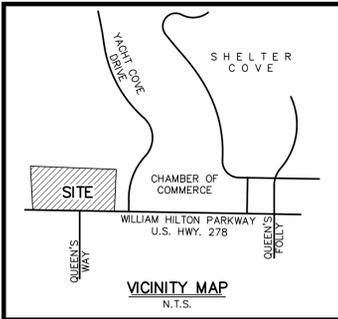
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_____ **Attest:** _____

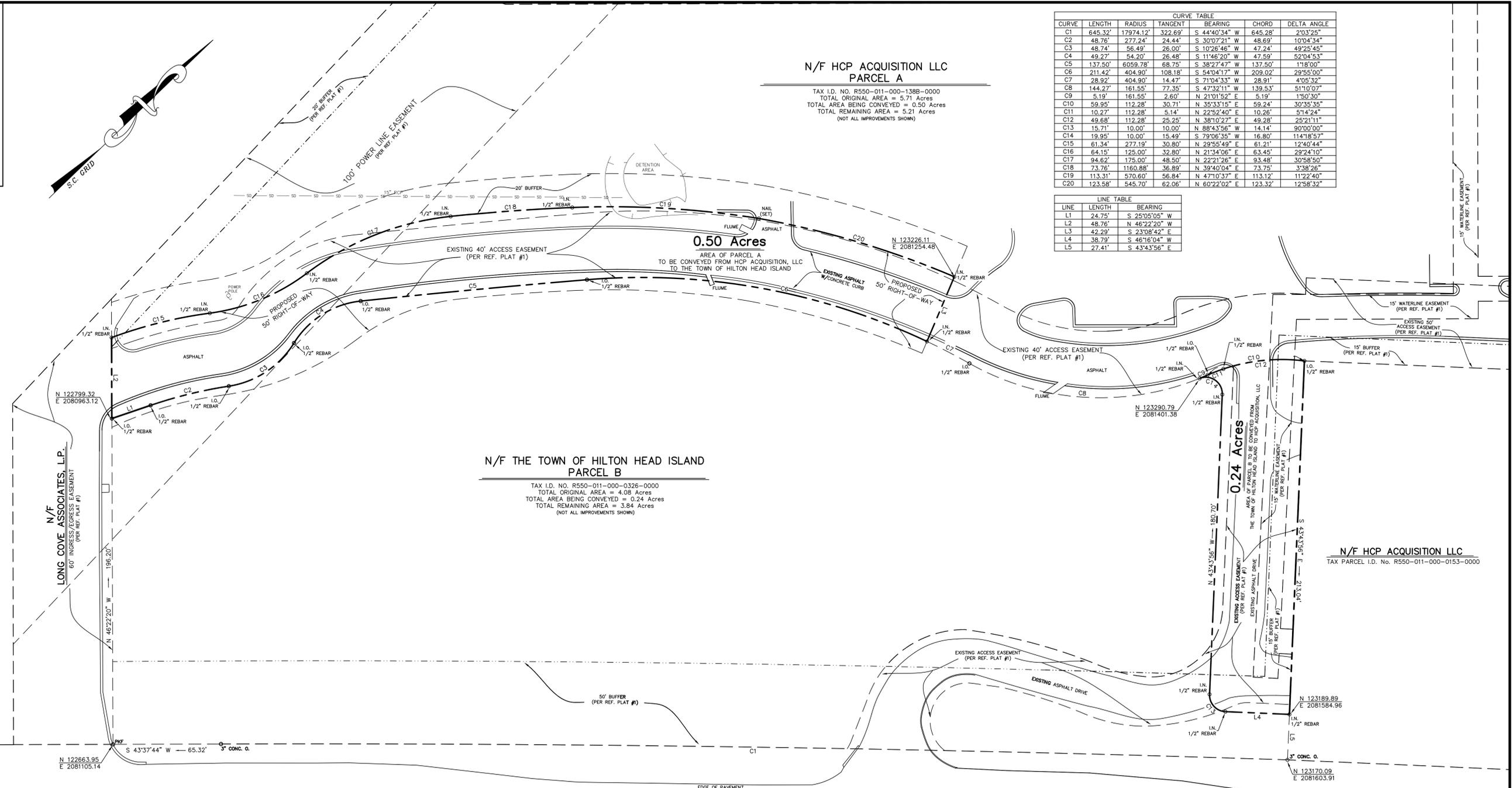
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EXHIBIT "A"

PLAT FOR TRANSACTION



N/F SRP HILTON HEAD LLC
TAX PARCEL I.D. No. R550-011-000-138A-0000



CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	BEARING	CHORD	DELTA ANGLE
C1	645.32'	17974.12'	322.69'	S 44°40'34" W	645.28'	2°03'25"
C2	48.76'	277.24'	24.44'	S 30°27'21" W	48.69'	10°04'34"
C3	48.74'	56.49'	26.00'	S 10°26'46" W	47.24'	49°25'45"
C4	49.27'	54.20'	26.48'	S 11°46'20" W	47.59'	52°04'53"
C5	137.50'	6059.78'	68.75'	S 38°27'47" W	137.50'	1°18'00"
C6	211.42'	404.90'	108.18'	S 54°04'17" W	209.02'	29°55'00"
C7	28.92'	404.90'	14.47'	S 71°04'33" W	28.91'	4°05'32"
C8	144.27'	161.55'	77.35'	S 47°32'11" W	139.53'	5°10'09"
C9	5.19'	161.55'	2.60'	N 21°01'52" E	5.19'	1°50'30"
C10	59.95'	112.28'	30.71'	N 35°33'15" E	59.24'	30°35'35"
C11	10.27'	112.28'	5.14'	N 22°52'40" E	10.26'	5°14'24"
C12	49.68'	112.28'	25.25'	N 38°10'27" E	49.28'	25°21'11"
C13	15.71'	10.00'	10.00'	N 88°43'56" W	14.14'	90°00'00"
C14	19.95'	10.00'	15.49'	S 79°06'35" W	16.80'	114°18'57"
C15	81.34'	277.19'	30.80'	N 29°55'49" E	81.21'	124°04'44"
C16	64.15'	125.00'	32.80'	N 21°31'52" E	63.45'	28°24'10"
C17	94.62'	175.00'	48.50'	N 22°21'26" E	93.48'	30°58'50"
C18	73.76'	1160.88'	36.89'	N 39°40'04" E	73.75'	3°38'26"
C19	113.31'	570.60'	56.84'	N 47°10'37" E	113.12'	11°22'40"
C20	123.58'	545.70'	62.06'	N 60°22'02" E	123.32'	12°58'32"

LINE TABLE		
LINE	LENGTH	BEARING
L1	24.75'	S 25°05'05" W
L2	48.76'	N 46°22'20" E
L3	42.29'	S 23°08'42" E
L4	38.79'	S 46°16'04" W
L5	27.41'	S 43°43'56" E

U.S. HIGHWAY 278
WILLIAM HILTON PARKWAY
R/W VARIES

LEGEND:
CONC. O. CONCRETE MONUMENT, OLD (FOUND)
I.O. IRON PIN, OLD (FOUND)
I.N. IRON PIN, NEW (SET)
PKF MAGNETIC NAIL, OLD (FOUND)
N.T.S. NOT TO SCALE
R/W RIGHT-OF-WAY
AC. ACRES

NOTES:
1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO OBVIOUS, APPARENT OR VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.
2) AS OF THE DATE OF THIS SURVEY THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 13-D, COMMUNITY NO. 450250, MAP DATED 9/23/86, BASE ELEVATION 14.0'. FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OR COUNTY BUILDING INSPECTIONS DEPARTMENT.
3) IMPROVEMENTS SHOWN WERE TAKEN FROM REFERENCE PLAT #6.
4) SURVEYING CONSULTANTS CERTIFIES TO THE BOUNDARY, TOPOGRAPHIC AND ASBULT INFORMATION PROVIDED HEREON AS OF THE DATE OF SURVEY. THIS DOCUMENT IS PROVIDED AS A BASE MAP FOR OTHERS. INFORMATION ADDED AFTER THE DATE OF SURVEY IS NOT THE RESPONSIBILITY OF SURVEYING CONSULTANTS.
5) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A CURRENT TITLE REPORT.

REFERENCE PLATS:
1) A SUBDIVISION PLAT OF PARCELS A & B, HARGRAY CENTER, U.S. HWY 278, BY: DONALD R. COOK, Jr., S.C.P.L.S. No. 19010, DATED: 03/13/03; LATEST REVISION 04/02/03, RECORDED: PB. 93, PG 46.
2) PLAT OF 2.98 ACRE PORTION OF PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: 01/14/88; LATEST REVISION 09/21/93, RECORDED: PB. 48, PG 2.
3) PLAT SHOWING AREAS TO BE ANNEXED INTO LEAMINGTON SECTION BEING A PORTION OF TRACT "K" INVERNESS, PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: 01/22/86, RECORDED: PB. 35, PG 171.
4) LEAMINGTON, PARCEL 24, SECTION BEING A PORTION OF PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: AUGUST 1989, LAST REVISION: 08/08/90, RECORDED: PB. 41, PG 147.
5) PLAT SHOWING INVERNESS PARCEL NO.5, TRACT "K", PALMETTO DUNES RESORT, BY: ROY HUSSEY, Jr., S.C.P.L.S. No. 2373, DATED: 09/28/73, RECORDED: PB. 21, PG 141.
6) ASBULT, TREE & TOPOGRAPHIC SURVEY OF LONG COVE CLUB COMMERCIAL SUBDIVISION, WILLIAM HILTON PARKWAY AND QUEENS WAY R/W, A SECTION OF PALMETTO DUNES RESORT, DATED: 08/10/2012, BY: TERRY G. HATCHELL, S.C.R.L.S. No. 11059.

I the undersigned, as the Owner of Record of parcel R550-011-000-0326-0000 agree to the recording of this plat.

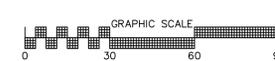
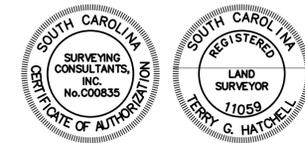
SIGNATURE _____ DATE _____

I the undersigned, as the Owner of Record of parcel R550-011-000-138B-0000 agree to the recording of this plat.

SIGNATURE _____ DATE _____

TOWN OF HILTON HEAD ISLAND LMO
SECTION 16-5-1402 DISCLOSURE STATEMENT
Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes. Local regulations require that certain flood hazard measures be incorporated in the design and construction of structures in these designated areas. Reference shall be made to the development covenants and restrictions of this development and requirements of the Town Building Official. In addition, federal law requires mandatory purchase of flood insurance as a prerequisite to federally insured mortgage financing in these designated flood hazard areas.

PREPARED FOR: THE TOWN OF HILTON HEAD ISLAND contract C-2012



PLAT FOR CONVEYANCE OF LAND BY AND BETWEEN
THE TOWN OF HILTON HEAD ISLAND and HCP ACQUISITION, LLC
WILLIAM HILTON PARKWAY
FORMERLY A PORTION OF
PARCEL A , PIN R550-011-000-138B-0000 and PARCEL B PIN R550-011-000-0326-0000
HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA
SCALE: 1" = 30' DATE: 10/25/2013 JOB NO: SC07072C
SURVEYING CONSULTANTS
17 Sherrington Drive, Suite C, Bluffton, SC 29910
SC Telephone: (843) 815-3304 FAX: (843) 815-3305
GA Telephone: (912) 826-2775
CREATED BY: TERRY G. HATCHELL
CHECKED BY: _____
DATE: _____

EXHIBIT "B"

DEEDS OF CONVEYANCE

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

GENERAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that **HCP ACQUISITION, LLC**, a **Delaware limited liability company** (“Grantor”) in the State aforesaid and in consideration of the sum of **TEN AND 00/100 DOLLARS (\$10.00)** and other valuable consideration to it in hand paid at and before the sealing of these presents by **THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA** (hereinafter collectively referred to as “Grantee”), having an address of One Town Center Court, Hilton Head Island, South Carolina 29928 in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said Grantee, its successors and assigns forever, in the following described property:

ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Hilton Head Island, Beaufort County, South Carolina, consisting of 0.50 acres, more or less, and shown and described as "0.50 Acres, Area of Parcel A to be Conveyed from Hargray, Inc. to the Town of Hilton Head Island” on a survey entitled “Plat for Conveyance of Land by and between The Town of Hilton Head Island and Hargray, Inc., William Hilton Parkway”, dated August 6, 2013, prepared by Surveying Consultants, certified by Terry G. Hatchell S.C.R.L.S. No. 11059, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____.

A Portion of Beaufort County TMS#: R550-011-000-138B-0000

This being a portion of the same property conveyed to HCP Acquisition LLC, a Delaware limited liability company, by deed of Hargray Center Partners, a South Carolina general partnership, dated June 29, 2007, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Official Record Book 2601 at Page 1647.

This Deed was prepared in the law offices of Alford Law Firm, LLC, Post Office Drawer 8008, Hilton Head Island, South Carolina, 29938-8008, by Mitchell J. Thoreson, Esq.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

SUBJECT, however, to the rights of others to access, ingress, and egress over the property described above.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said Grantee, its successors and assigns forever.

AND the said Grantor, other than as set out above, does hereby bind Grantor and Grantor's successors, assigns, executors and administrators, to warrant and forever defend, all and singular, the said Premises unto the said Grantee, the Grantee's successors and assigns, against Grantor and Grantor's successors and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

(SIGNATURES ON FOLLOWING PAGE)

This Deed was prepared in the law offices of Alford Law Firm, LLC, Post Office Drawer 8008, Hilton Head Island, South Carolina, 29938-8008, by Mitchell J. Thoreson, Esq.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said Grantee, its successors and assigns forever.

AND the said Grantor does hereby bind Grantor and Grantor's successors, assigns, executors and administrators, to warrant and forever defend, all and singular, the said Premises unto the said Grantee, the Grantee's successors and assigns, against Grantor and Grantor's successors and assigns and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

(SIGNATURES ON FOLLOWING PAGE)

EXHIBIT "C"

ACCESS EASEMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) **ACCESS EASEMENT**

This Access Easement is made this ____ day of _____, 2013, by and between The Town of Hilton Head Island, South Carolina (hereinafter referred to as the "Grantor"), and HCP Acquisition, LLC, a Delaware Limited Liability Company, having an address of _____ (hereinafter referred to as the "Grantee").

WITNESSETH

WHEREAS, the Grantor and Grantee have entered into that certain Sale and Purchase Agreement (hereinafter, "Agreement"), which contemplates the sale to the Grantor of a 0.50 acre portion of property located on Hilton Head Island, owned by Grantee, and known as Beaufort County Tax Map #: R550-011-000-138B-0000 (hereinafter, the "Property") in exchange for Grantor's conveyance to Grantee of a 0.24 acre portion of property located on Hilton Head Island and owned by Grantor and Grantor's obligation to construct a new access road across its property as more particularly set forth in the Agreement; and,

WHEREAS, contemporaneously with the execution of this Access Easement, the Grantee has executed a Deed conveying the Property to Grantor; and

WHEREAS, the Agreement provides that the Property shall be subject to an access easement for ingress and egress, in favor of the Grantee and its licensees, guests, invitees, successor and assigns, over, across, and through the Property for pedestrian and vehicular travel to and from the various properties which are surrounding and adjacent to the Property; and,

WHEREAS, the Agreement also provides that the Grantor shall at all times provide open, unrestricted access to pedestrians and vehicles traveling in the access easement as granted herein below; and,

WHEREAS, in accordance with the provisions of the Agreement, the Grantor desires to grant the Grantee a perpetual access easement for ingress and egress, in favor of the Grantee and its licensees, guests, invitees, successor and assigns, over, across, and through the Property.

NOW, THEREFORE, know all men by these presents, the Grantor, for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars, and other valuable consideration, has bargained, granted, and sold and by these presents does hereby bargain, grant, and sell to the Grantee, its successors and assigns, a perpetual, non-exclusive access easement for ingress and egress, for pedestrian and vehicular travel on, over and across the following property:

ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Hilton Head Island, Beaufort County, South Carolina, consisting of 0.50 acres, more or less, and shown and described as "0.50 Acres, Area of Parcel A to be Conveyed from Hargray, Inc. to the Town of Hilton Head Island" on a survey entitled "Plat for Conveyance of Land by and between The Town of Hilton Head Island and Hargray, Inc., William Hilton Parkway", dated August 6, 2013, prepared by Surveying Consultants, certified by Terry G. Hatchell S.C.R.L.S. No. 11059, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____.

A Portion of Beaufort County TMS#: R550-011-000-138B-0000

The easement is granted and accepted subject to the following terms:

1. This easement is conveyed subject to all other easements, licenses, and conveyances of record and is subject to the rights herein reserved by the Grantor, its successors and assigns, to utilize its property at any time, in any manner, and for any purpose; provided, however, that such use by the Grantor shall not be inconsistent with nor prevent the full utilization by the Grantee of the rights and

privileges granted herein.

2. Grantee and its licensees, guests and invitees shall not obstruct in any manner the roadway in the easement area and/or the free flow of traffic thereon. Grantee and its licenses, guests and invitees shall utilize this access easement over the roadway and a sidewalk which is five feet (5') in width and which shall run immediately adjacent to the roadway on the Property. Grantor shall be obligated to complete the planning, design, installation, construction, and maintenance of this sidewalk, as well as payment for the costs thereof.

3. In addition to the access easement granted above, Grantor agrees, at all times, to provide open, unrestricted access to pedestrians and vehicles traveling in the access easement as granted herein.

4. Grantor shall have the sole obligation for maintenance and repair of all portions of Grantor's property.

5. This Grant of Easement shall run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns.

6. The WHEREAS clauses are hereby incorporated into this terms document as if fully set forth herein.

To have and to hold, all and singular, the rights, privileges, and easements aforesaid unto the Town, its successors and assigns, forever.

In Witness whereof, the parties hereto have caused the within Access Easement to be executed on this _____ day of _____, 2013.

(SIGNATURE PAGES FOLLOW)

SIGNED SEALED AND DELIVERED

TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA

Signature of 1st Witness

By: Drew A. Laughlin, Mayor

Signature of 2nd Witness (the Notary Public)

Attest: Stephen G. Riley, Town Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public do hereby certify that Drew A. Laughlin and Stephen G. Riley personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this _____ day of _____, 2013.

4) _____(SEAL)

Signature of Notary Public for State of South Carolina

My Commission expires: _____

(affix seal)

EXHIBIT "D"
FORM OF SELLER'S/OWNER'S AFFIDAVIT AND INDEMNITY

SELLER'S/OWNER'S AFFIDAVIT AND INDEMNITY
FIRST AMERICAN TITLE INSURANCE COMPANY ("Title Company")

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Before me personally appeared the undersigned on behalf of **HCP ACQUISITION, LLC**, a Delaware limited liability company (the "Owner"), to me personally known, who, being duly sworn, did say as follows:

The Owner swears that it is the owner of the property more particularly described on Exhibit A attached hereto and made a part hereof by this reference (the "Property").

The Owner, at present, and for a period of 90 days past, has caused no construction, erection, alteration or repairs of any structures or improvements on the Property to be done, other than in the ordinary course, nor has contracted for any material to be delivered to the Property for which charges therefor remain unpaid, other than in the ordinary course. To the best of Owner's knowledge, there are no pending or threatened suits, proceedings, judgments, bankruptcies, liens or executions against Owner or affecting title to the Property, either in the aforesaid county or any other county in the aforesaid state.

The Owner makes no representations or warranties as to any unpaid bills or liens affecting the Property arising from the action or inaction of any predecessor in title to Owner.

To the best of Owner's knowledge, Owner is in present, sole and exclusive possession of the Property, other than the Property's use as a roadway providing ingress and egress to others, and there are no unrecorded leases, options or agreements, written or oral, entitling any other person or entity to possession of, or right to purchase, any part of the Property.

This affidavit is made for the purpose of inducing the Title Company to issue its policy or policies of title insurance upon the Property without exception to claims of materialmen's and laborer's liens and rights of parties in possession (other than such claims and rights shown by the public records, if any). Owner agrees to indemnify and hold the Title Company harmless of and from any and all loss, costs, damage and expense of every kind, including attorney's fees, which the Title Company shall or may incur or become liable for, directly or indirectly, as a result of reliance on the representations made herein, but only to the extent that such materialmen's liens, laborer's liens, or rights of parties in possession are a result of work ordered or contracts entered by the Owner or its authorized agents during its ownership of the Property.

OWNER:
HCP ACQUISITION, LLC, a Delaware limited liability company

By: _____

Its: _____

[NOTARIAL SEAL]

Sworn to and subscribed before me this _____ day of _____, 201____.

My Commission expires: _____

Notary Public: _____

EXHIBIT "A" TO SELLER'S/OWNER'S AFFIDAVIT AND INDEMNITY

ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Hilton Head Island, Beaufort County, South Carolina, consisting of 0.50 acres, more or less, and shown and described as "0.50 Acres, Area of Parcel A to be Conveyed from Hargray, Inc. to the Town of Hilton Head Island" on a survey entitled "Plat for Conveyance of Land by and between The Town of Hilton Head Island and Hargray, Inc., William Hilton Parkway", dated August 6, 2013, prepared by Surveying Consultants, certified by Terry G. Hatchell S.C.R.L.S. No. 11059, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____.

A Portion of Beaufort County TMS#: R550-011-000-138B-0000

This being a portion of the same property conveyed to the Town of Hilton Head Island, South Carolina by deed of Hargray Center Partners, dated May 13, 2003, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Official Record Book 1765 at Page 995.

any way relate to the real property described in Exhibit "A" hereto, if any. It is the express intent of this assignment that any and all rights of any nature which pertain to the real property described on Exhibit "A" hereto are assigned hereby, and that the Assignor shall retain no rights of any description with respect to the real property described on Exhibit "A" hereto.

3. Notwithstanding anything contained herein, this Assignment shall not terminate, revoke or assign any development rights, permits, easements or other interests of Assignor necessary for the use, development and enjoyment of Assignor's lands adjacent to the property described in Exhibit "A" hereto.

4. This Assignment is absolute, unconditional and irrevocable and shall be binding upon and inure to the respective successors and assigns of the parties hereto.

(SIGNATURE PAGES FOLLOW)

In Witness, whereof, the parties hereto have set their hands and seals on this ____ Day of _____, 2013.

WITNESSES:

HCP ACQUISITION, LLC

(signature of witness #1)

By: _____

(signature of witness #2 – the Notary Public)

Its: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

UNIFORM ACKNOWLEDGMENT
S. C. CODE ANN. § 30-5-30 (SUPP. 2008)

I, the undersigned Notary Public do hereby certify that _____, personally appeared before me on this day and duly acknowledged the execution of the foregoing instrument on behalf of HCP Acquisition, LLC.

Sworn to and Subscribed before me
on this ____ Day of _____, 2013.

Notary Public for South Carolina
My Commission Expires: _____

WITNESSES:

**THE TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA**

_____ **By:** _____
Drew Laughlin, Mayor

_____ **Attest:** _____
Stephen G. Riley, Town Manager

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) **UNIFORM ACKNOWLEDGMENT**
) **S. C. CODE ANN. § 30-5-30 (SUPP. 2008)**

I, the undersigned Notary Public do hereby certify that Drew Laughlin and Stephen G. Riley personally appeared before me on this day and duly acknowledged the execution of the foregoing instrument on behalf of The Town of Hilton Head Island, South Carolina.

Sworn to and Subscribed before me
on this _____ Day of _____, 2013.

Notary Public for South Carolina
My Commission Expires: _____

EXHIBIT "A" TO ABSOLUTE ASSIGNMENT

ALL that certain piece, parcel or tract of land situate, lying and being in the Town of Hilton Head Island, Beaufort County, South Carolina, consisting of 0.50 acres, more or less, and shown and described as "0.50 Acres, Area of Parcel A to be Conveyed from Hargray, Inc. to the Town of Hilton Head Island" on a survey entitled "Plat for Conveyance of Land by and between The Town of Hilton Head Island and Hargray, Inc., William Hilton Parkway", dated August 6, 2013, prepared by Surveying Consultants, certified by Terry G. Hatchell S.C.R.L.S. No. 11059, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book _____ at Page _____.

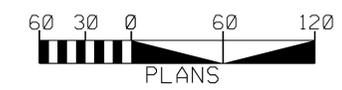
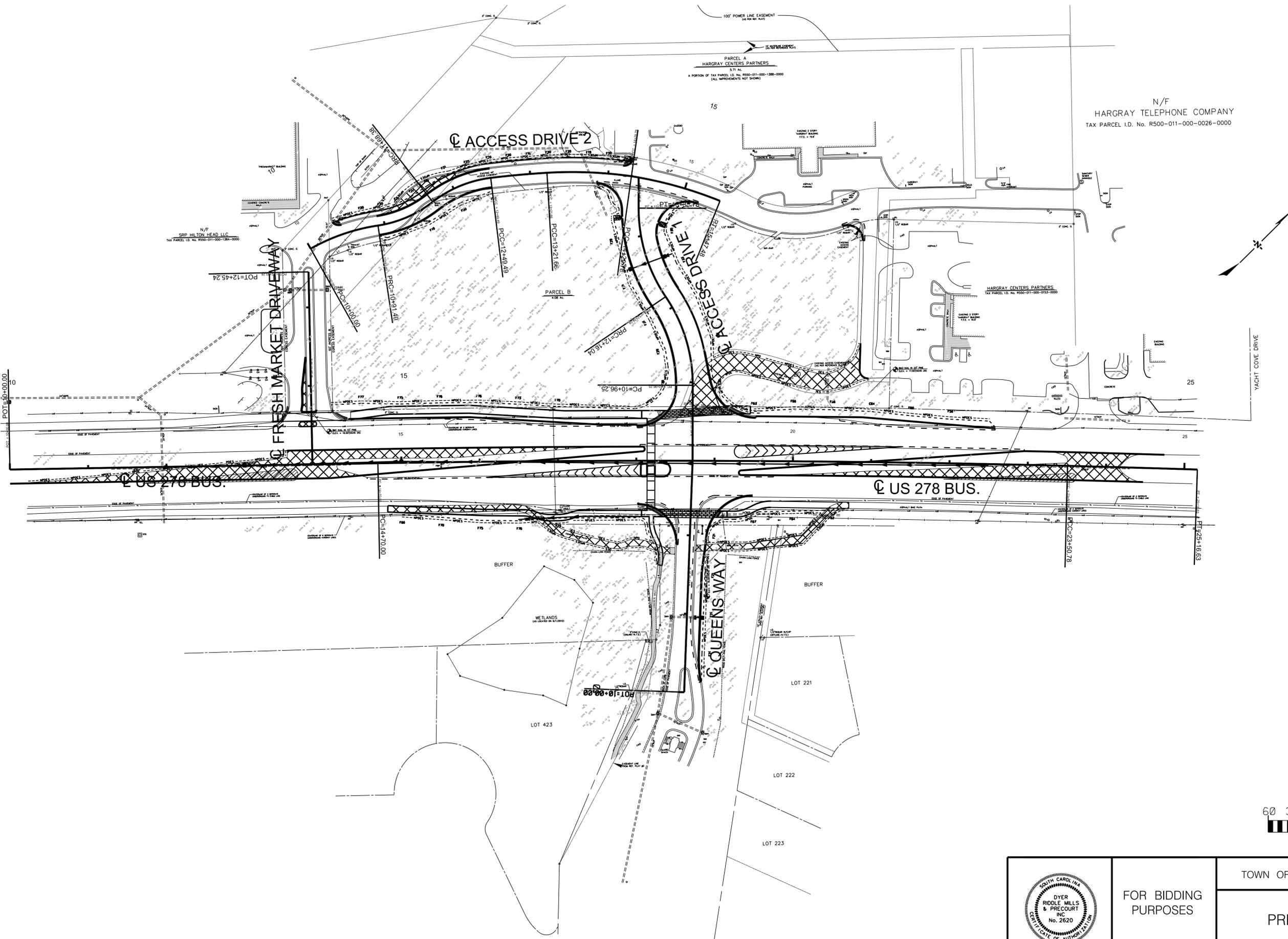
A Portion of Beaufort County TMS#: R550-011-000-138B-0000

This being a portion of the same property conveyed to the Town of Hilton Head Island, South Carolina by deed of Hargray Center Partners, dated May 13, 2003, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Official Record Book 1765 at Page 995.

EXHIBIT "F"

CONSTRUCTION OF NEW ROADWAY

USER: PHutcher
C:\HHH\Leomington\Design\rdy_layout_prebid.dgn
9/6/2013



	FOR BIDDING PURPOSES	TOWN OF HILTON HEAD ISLAND
		PRE-BID LAYOUT
		SHEET XX