



**Town of Hilton Head Island
Board of Zoning Appeals
Regular Meeting
October 26, 2015 2:30 p.m.
Benjamin M. Racusin Council Chambers
AGENDA**

1. **Call to Order**
2. **Pledge of Allegiance to the Flag**
3. **Roll Call**
4. **Freedom of Information Act Compliance**
Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of the Minutes – Regular Meeting September 28, 2015**
8. **New Business**
Public Hearing
VAR-001830-2015: John P. Qualey, Jr. is requesting a variance from Land Management Ordinance Section 16-5-102.D, Adjacent Use Setback Requirements, in order to construct a single family home within the adjacent use setback. The property is located at 22 Bradley Circle and is further identified as parcel 22U on Beaufort County Tax Map 8. *Presented by: Nicole Dixon*
9. **Board Business**
Discussion on considering abolishing the option for a Motion to Reconsider from the BZA's Rules of Procedure.
10. **Staff Reports**
Waiver Report
11. **Adjournment**

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

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the September 28, 2015 2:30pm Meeting **DRAFT**
Benjamin M. Racusin Council Chambers

Board Members Present: Chairman Glenn Stanford, Vice Chairman Jeffrey North,
David Fingerhut, Steve Wilson, John White, and Lisa Laudermilch

Board Members Absent: Jerry Cutrer

Council Members Present: None

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Anne Cyran, Senior Planner
Heather Colin, Development Review Administrator
Kathleen Carlin, Secretary

1. Call to Order

2. Pledge of Allegiance to the Flag

3. Roll Call

4. Freedom of Information Act Compliance

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

5. Welcome and Introduction to Board Procedures

Chairman Stanford welcomed the public and introduced the Board's procedures for conducting the business meeting.

6. Approval of Agenda

Chairman Stanford stated that he would like to change the review order of today's agenda items. The Board will first discuss and vote on the motion template that appears under Board Business. The Board will also review and approve the 2016 Meeting Schedule. The Board will then hear New Business application VAR-1586-2014.

Mr. Fingerhut made a **motion** to **approve** the agenda as amended. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 6-0-0.

7. Approval of the Minutes

Mr. Fingerhut made a **motion** to **approve** the minutes of the August 24, 2015 meeting as presented. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 6-0-0.

8. Board Business

a. Approval of 2016 Meeting Schedule

The Board adopted the BZA's 2016 Meeting Schedule as submitted by the staff.

b. Discussion of motion template

9. New Business

Public Hearing

VAR-1586-2015: Sam McCleskey, on behalf of Robert Graves, is requesting a variance from Land Management Ordinance Sections 16-5-102 and 16-5-103 to allow the encroachment of a new outdoor seating area into an adjacent street setback and buffer. The subject property is located at 17 Dunnagan's Alley, further identified as Beaufort County Tax Map parcel number R552 015 000 0213 0000. Chairman Stanford introduced the application, opened the public hearing, and requested that staff make their presentation.

Ms. Anne Cyran made the presentation on behalf of staff. The staff recommended that the Board of Zoning Appeals approve application VAR-1586-2015 based on the Findings of Fact and Conclusions of Law contained in the staff's report. Ms. Cyran presented an in-depth overhead review of the application including an aerial photo and revised site plan.

The property owner plans to redevelop the existing warehouse and office building into a shopping center. The new tenants would include a restaurant with a covered outdoor seating area near Dunnagan's Alley. The architect is proposing wood columns with a metal roof, though the final design of the covering hasn't been approved.

Structures with roofs, such as the proposed outdoor seating area covering, are not allowed in the adjacent street setback per LMO 16-5-102.F. Structures with roofs are also prohibited in the adjacent street buffer per LMO 16-5-103.J. If the variance is approved, the applicant will continue through the site development review process, including Design Review Board review, a Minor Development Plan Review, and building plan review.

The existing building and site were developed in the early 1970s, prior to the adoption of the LMO. The building is located in the southwest corner of the site, and it encroaches into the adjacent street setback and buffer. There is a small area of open space between the building and the drive aisle. The remainder of the site is developed with drive aisles and parking. The property shares a portion of the drive aisle with the adjacent Town-owned property. The drive aisle is located between the building and a 23-inch DBH (Diameter at Breast Height) live oak tree on the adjacent property.

The applicant met with staff to discuss how to redevelop the building and site so they are brought into compliance with the LMO to the greatest extent practicable. The applicant initially designed the outdoor seating area so that it would not encroach into the adjacent street setback or buffer. The site plan shows the existing drive aisle moved away from the building to create room for the seating area. The drive aisle would be moved closer to the live oak on the adjacent Town-owned property.

Though the tree is not specimen size, it is significant in size and healthy. It is also one of the few large trees in the area. The drive aisle is currently located six feet from the tree's trunk. The site plan proposes to move the edge of the drive aisle to within two feet of the trunk, exposing it to greater risk

of being struck by a vehicle. The plan would also increase the amount of pavement under the tree's canopy; this would reduce the surface area for water, oxygen, and nutrients to reach the tree's roots.

Staff discussed with the applicant how the relocation of the drive aisle would negatively impact the health of the live oak. The applicant agreed that they want to preserve the tree. The applicant stated that the limited space between the drive aisle and the building would unreasonably restrict the proposed outdoor seating area, which is essential to the restaurant.

The applicant then redesigned the site plan to wrap the outdoor seating area around the front corner of the building, leaving the drive aisle in its current location. Staff reviewed the revised site plan and determined that it will redevelop the site without negatively impacting the nearby live oak and while bringing it into compliance with LMO to the greatest extent practicable. Following the staff's presentation, Chairman Stanford requested that the applicant make his presentation.

Mr. Sam McCleskey, architect, presented statements in support of the application. The Board complimented the proposed improvements to the site. The Board and Mr. McCleskey discussed safety issues related to the location of the outdoor seating. Following the applicant's statements Chairman Stanford requested public comments and none were received. Chairman Stanford then closed the public hearing portion of the meeting. Following final comments by the Board, Chairman Stanford requested that a motion be made.

Mr. Fingerhut made a **motion** to **approve** application VAR-1586-2015 as submitted based on the Findings of Fact and Conclusions of Law contained in the staff's report. Vice Chairman North **seconded** the motion and the motion **passed** with a vote of 6-0-0.

10. Staff Reports

Ms. Dixon presented the Waiver Report to the Board

12. Adjournment

The meeting was adjourned at 3:00p.m.

Submitted By:

Kathleen Carlin
Secretary

Approved By:

Glenn Stanford
Chairman



TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court

Hilton Head Island, SC 29928

843-341-4757

FAX 843-842-8908

STAFF REPORT VARIANCE

Case #:	Public Hearing Date:	Development Name:
VAR-001830-2015	October 26, 2015	22 Bradley Circle Subdivision

Parcel Data:	Property Owner:	Applicant & Agent
<u>Address:</u> 22 Bradley Circle <u>Parcel:</u> R510 008 000 022U 0000 <u>Acreage:</u> .916 gross acres, .499 net acres <u>Zoning:</u> RD (Resort Development)	Christopher Abreu 70 Somersby Way Farmington, CT 06032	John P. Qualey, Jr. P.O. Box 10 Hilton Head Island, SC 29938

Application Summary:

John P. Qualey, Jr., on behalf of Christopher Abreu, is requesting a variance from Land Management Ordinance (LMO) Section 16-5-102.D, Adjacent Use Setback Requirements, in order to construct a single family home within the adjacent use setback.

Staff Recommendation:

Staff recommends the Board of Zoning Appeals **approve** the application based on the Findings of Fact and Conclusions of Law contained in the staff report.

Background:

The applicant previously submitted an application for variance from LMO Sections 16-5-102.C, Adjacent Street Setback Requirements, 16-5-102.D, Adjacent Use Setback Requirements, and 16-5-103.D, Adjacent Street Buffer Requirements, in order to subdivide the property into 4 single family lots. The application was presented at the July 27, 2015 Board of Zoning Appeals meeting with a staff recommendation for approval. The Board denied the application for variance.

The applicant has since substantially revised the plans and is now proposing to subdivide the property into 3 single family lots with attached homes. There will be open space on both sides of the project. The applicant worked with staff on the design to try to meet all LMO

requirements.

The only variance they are currently seeking is from the adjacent use setback on the side of the project that is adjacent to the Marriott Surf Watch timeshare development. The LMO requires a 27 foot setback for single family residential use adjacent to a resort accommodations use. The applicant is requesting the setback be reduced to 15 feet.

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

Grounds for Variance:

The applicant states in their narrative that there are exceptional conditions pertaining to this particular piece of property. Being located adjacent to a resort accommodations use which requires a greater setback than being between two single family uses, being bound by wetlands and having an access easement running through the property all have reduced the buildable area of the property. A variance is required because the applicant would like to reduce the adjacent use setback on the south side of the property. The required adjacent use setback on the south side is 30'. Per Note 5 under Table 16-5-102.D, the required adjacent use setback of 30' may be reduced by 10% to 27' if the applicant meets six conditions. Staff has determined that the applicant meets the conditions necessary to receive the reduction in the adjacent use setback. The property owner states that the application of the 27' adjacent use setback on the south side of the property will require the homes to be fully attached, not allowing any views or breezes in between the homes. The applicant is seeking a variance to reduce the required adjacent use setback from 27' to 15' so that they can construct attached homes at the ground level, but then detach them for the levels above the garage to be more harmonious with the existing homes in the neighborhood.

Summary of Facts:

- The applicant seeks a variance as set forth in LMO Section 16-2-103.S.

Conclusion of Law:

- The applicant may seek a variance as set forth in LMO Section 16-2-103.S.

Summary of Facts and Conclusions of Law:

Summary of Facts:

- Application was submitted on September 25, 2015 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on October 4, 2015 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on October 5, 2015 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on October 7, 2015 as set forth in LMO Section 16-2-102.E.2.

- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application was submitted 31 days prior to the meeting, therefore meeting the 30 day deadline required in the LMO.
- Notice of application was published 22 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was posted 21 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was mailed 19 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.

Summary of Facts and Conclusions of Law:

Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):

Finding of Fact:

- The subject property is bound on the south side by the Marriott Surf Watch project which is classified in the LMO as Resort Accommodations, on the north side by Terra Bella Trace, an access easement which runs through the property, and on the east side by wetlands. There are setback and buffer requirements for each of these conditions.

Conclusions of Law:

- Staff concludes that this request **meets the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are extraordinary and exceptional conditions that pertain to this particular property.
- The location of the subject property adjacent to a Resort Accommodations use creates an exceptional condition because the difference in use types requires that a greater adjacent use setback be provided on the portion of the property that borders the Surf Watch property.
- The property has to meet the typical adjacent street setback and buffer from Bradley Circle, but since the Terra Bella Trace access easement runs through the property, the applicant also has to meet that adjacent street setback and buffer requirement.
- The tidal wetland on the east side of the property further restricts the developable

land because there are buffer requirements from it.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- The subject property is bound on the south side by the Marriott Surf Watch project which is classified in the LMO as Resort Accommodations, on the north side by Terra Bella Trace, an access easement which runs through the property, and on the east side by wetlands. There are setback and buffer requirements for each of these conditions.
- The majority of the adjacent and nearby parcels are developed as single family homes. The required adjacent use setback between two single family uses if it is in a different subdivision is 20 feet. The subject property is the only one in the near vicinity that is adjacent to a resort accommodations use, requiring a greater adjacent use setback.

Conclusions of Law:

- Staff concludes that this request **meets the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.02 because these conditions do not generally apply to other properties in the vicinity. While there are some parcels that are either bound by a wetland or have an access easement running through it, most of the properties in the vicinity are not restricted by all three conditions listed above.
- With the exception of the Surf Watch project, the remaining parcels are all developed with single family uses. This means that their setback is 10' less than what is required for the subject property.
- Many of the properties in this area are only bound by a single street; additionally those other properties are also surrounded by single- family, rather than resort accommodations uses.

Summary of Facts and Conclusions of Law:

Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO Section 16-2-103.S.4.a.i.03):

Findings of Fact:

- Because the subject property is bound by the Marriott Surf Watch, Terra Bella Trace - an access easement which runs through the property, and wetlands, the setback and buffer requirements for each of these conditions greatly restricts the developable area of the lot.
- If the applicant were to comply with all of the required setback and buffers, they would be forced to construct fully attached dwellings, not allowing any views or

breezes in between the homes, as opposed to the semi-detached dwellings that are proposed. The variance would allow the homes to be attached at the ground level, but then detach them for the levels above the garage to be more harmonious with the existing homes in the neighborhood.

Conclusions of Law:

- Staff concludes that this request **meets the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.03 because the application of this Ordinance to the subject property would unreasonably restrict the utilization of the property compared to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Finding of Fact:

- Staff found no evidence that reducing the adjacent use setback by 12 feet would have a negative effect on adjacent property.

Conclusions of Law:

- Staff concludes that this request **meets the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.04.
- The reduced setback should have no effect on the adjacent property or the public good, and the character of the zoning district will not be affected by granting the variance.

LMO Official Determination:

Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance **should be granted** to the applicant.

BZA Determination and Motion:

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board makes and explains in writing ..." their decisions based on certain findings or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings

of fact and conclusions of law.

The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the determination.

PREPARED BY:

ND

Nicole Dixon, CFM, Senior Planner

10/05/15

DATE

REVIEWED BY:

TL

Teri Lewis, AICP, LMO Official

10/08/15

DATE

REVIEWED BY:

HC

Heather Colin, AICP, Development Review
Administrator

10/08/15

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Proposed Site Plan

ATTACHMENT A



VAR-001830-2015 Vicinity Map

ATTACHMENT B

NARRATIVE FOR VARIANCE APPLICATION

22 BRADLEY CIRCLE, TOWN OF HILTON HEAD ISLAND, SC

TAX MAP NO.: R510-008-000-022U-0000

September 21, 2015 (revised Oct. 6, 2015)

The Applicant owns 22 Bradley Circle, which is known as “Revised Lot 3” and which contains 0.916 acres, of which 0.417 is “Wetlands” as shown on the plat of the property recorded in Plat Book 93 at Page 182. The Applicant is proposing to subdivide the property into 3 single family resort lots, upon which single family homes will be constructed, and 2 outside parcels, which are open space/common area for use by the owners of the 3 homes. The LMO requires a 27’ setback along the South property line, which is the Marriott SurfWatch property line, because such setback is required where a Single Family use abuts a Resort Accommodations use.

The application of such 27’ setback line to this property would result in the three (3) dwellings being built as completely attached units, which the Applicant can build without any variances. However, the Applicant seeks a Variance allowing a 15’ side setback along such South property line, so the Applicant will be able to construct partially detached dwellings, which will: (a) be more in harmony with the existing detached homes in the neighborhood; and (b) allow views and breezes between the dwellings, as requested by neighbors who live across the street on Bradley Circle. Photographs of other homes in the neighborhood will be provided to the BZA to demonstrate that the detached homes which the Applicant will be allowed to build if the Variance is granted are architecturally similar to other nearby homes.

The closest building on the Surfwatch property is approximately 50’ from the property line, so the buildings on the two properties will be at least 65’ apart. In addition, the area along the Surfwatch property line is heavily landscaped with mature plant materials, and the existing single family home on the property is 20’ from the property line, so the variance will result in a setback which is only 5’ different from what exists now.

Variance Request. A Variance may be granted by the Board of Zoning Appeals if it concludes that the strict enforcement of any appropriate dimensional, development, design or performance set forth in the LMO would result in unnecessary hardship to the applicant.

The Applicant requests a Variance from the following Section of the LMO:

LMO Section 16-5-102.D Side Setback along South property line of the property.

In this case, the Applicant requests a Variance from the cited LMO Section, because:

A. There are extraordinary and exceptional conditions pertaining to the Applicant’s property, including the following: (a) it is bounded on the South side by the Marriott SurfWatch timeshare project, which is a Resort Accommodations use and which would otherwise require a 30’ setback (less 10% if approved by the Zoning Official), whereas the other single family use homes in the neighborhood require a setback which is 10’ less than the subject property because the setback between two single family uses is just 20’; (b) it is bounded on the East side by wetlands, which results in additional buffers and setbacks which further restrict development of the site; and (c) it is bounded on the North side by a 25’ wide

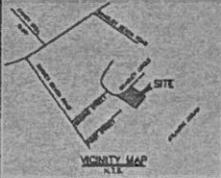
ATTACHMENT B

access easement, which has also reduced the amount of developable land for the Applicant's intended project because new LMO provisions require the setback to be measured from the access easement, not from the property line.

B. These conditions do not generally apply to other properties in the vicinity. *There are no other properties in the vicinity which have such adjoining uses and conditions that adversely affect development of the sites.*

C. Because of these conditions, the application of this Ordinance to this particular property will effectively prohibit or unreasonably restrict the utilization of the property. *The application of this Ordinance would unreasonably restrict Applicant's utilization of the property, because the imposition of the 27' setback from the Marriott SurfWatch Resort Accommodations use will result in completely attached dwellings being built in the project, which will be less attractive and less harmonious with the neighborhood than Applicants' proposal to construct dwellings that are attached only at the first level. Applicant's position is that the optimum utilization of the property is as 3 partially detached homes and that the Ordinance would unreasonably restrict development of the property as 3 completely attached homes.*

D. The authorization of the Variances will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variances. *The Variance will not be of substantial detriment to adjacent property, because the only adjacent property affected by the Variance is the Marriott SurfWatch timeshare project, and the closest SurfWatch building is approximately 50' from the property line. The SurfWatch building is screened from the Applicant's property by abundant and mature landscaping, as will be demonstrated by photographs to be submitted by the Applicant to the BZA. There is no detriment to the public good, nor will the character of the zoning district (Resort Development District) be harmed by the granting of the Variance to reduce the side setback/buffer distance to 15' between the Applicant's property and the SurfWatch project, particularly in view of the fact that there will be more than 65' between the vertical improvements on the two adjoining properties.*



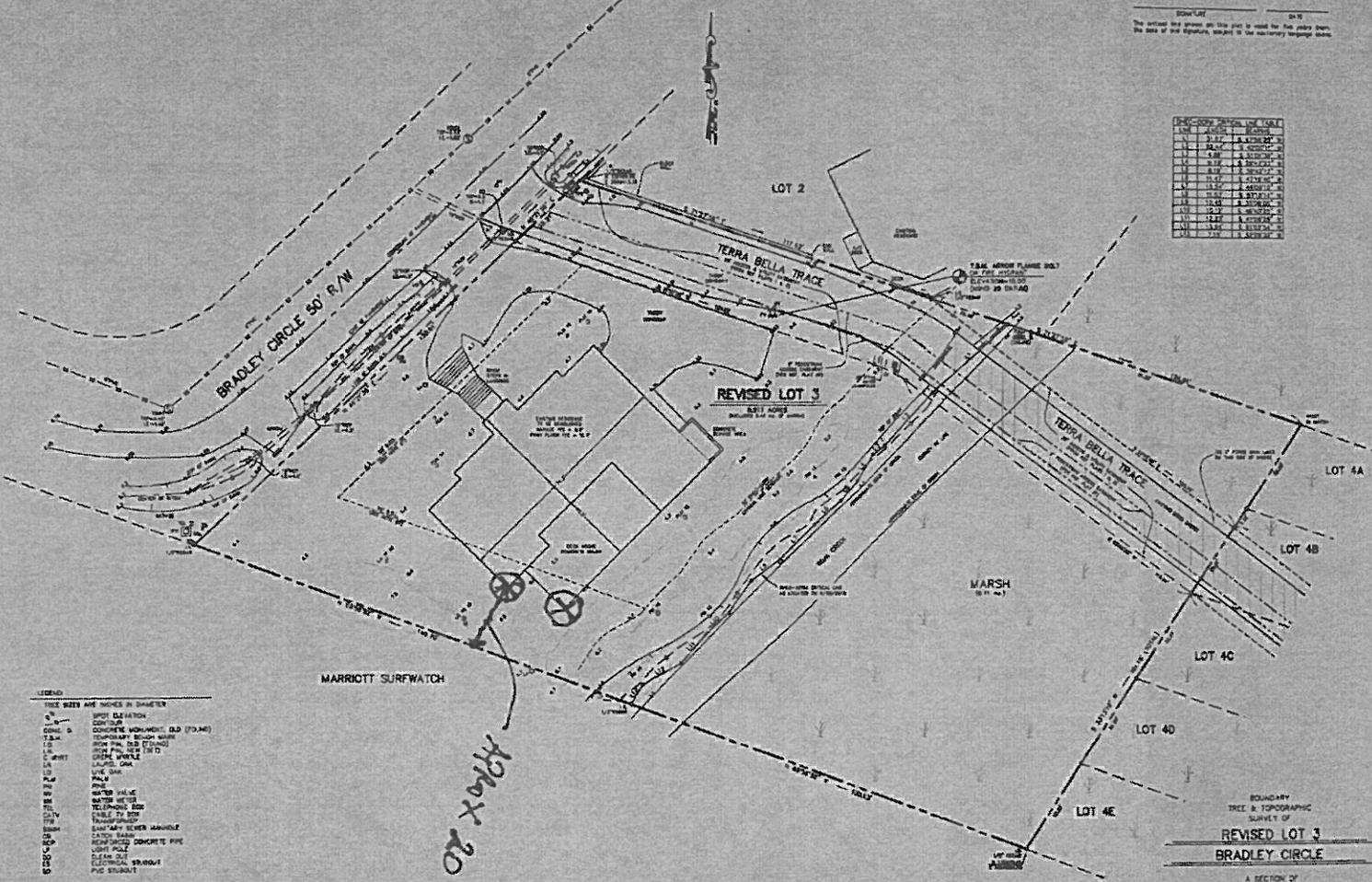
TOWN OF HILTON HEAD ISLAND (MS SECTION 8-1-10) BUILDING STATEMENT

Table with columns: CURVE, LENGTH, BEARS, WIDTH, CHORD, BEARING, BEG. CURVE

GENERAL NOTE: THE AREA SHOWN ON THIS PLAN IS A REPRESENTATION OF THE PROPERTY...

SCALE: 1" = 40'

Table with columns: LINE, BEARING, DISTANCE, POINT

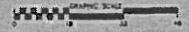


LEGEND: TABLE listing symbols for spot elevation, concrete monument, etc.

- NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE... 2) PER REFERRED PLAN... 3) BUILDING SETBACKS... 4) UNDERGROUND UTILITIES... 5) SURVEYING CONSULTANTS... 6) THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF AN ABSTRACT... 7) ALL SETBACK BUILDING SETBACK LINE PER TOWN OF HILTON HEAD...

REFERENCE PLATS: 1) BOUNDARY RECONFIGURATION SURVEY OF LOTS 2 & 4, BRADLEY CIRCLE, CHAPLIN COMMUNITY... 2) LOTS 3 & 4, JOSEPHINE BRADSHAW'S SUBDIVISION...

PREPARED FOR: CHRISTOPHER ARBIE & CHRISTINE C. ARBIE



BOUNDARY TREE & TOPOGRAPHIC SURVEY OF REVISED LOT 3 BRADLEY CIRCLE A SECTION OF CHAPLIN COMMUNITY HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA

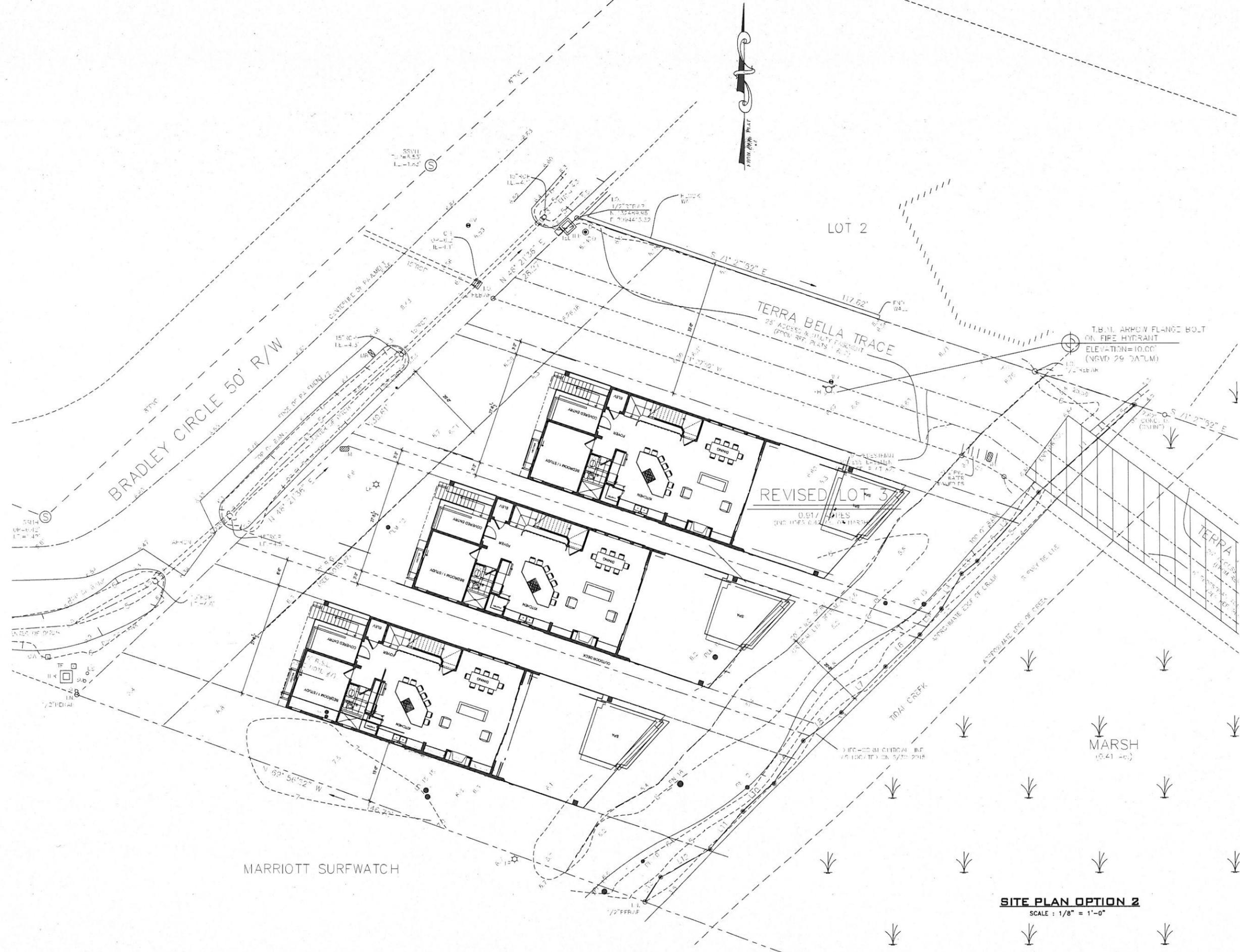
SCALE: 1/8" = 1'-0" DATE: 06/30/2015 JOB NO. SC0791700



SURVEYING CONSULTANTS

17 Northpark Drive, Suite G, Beaufort, NC 28520

ATTACHMENT C



LOT 22 BRADLEY CIRCLE, HILTON HEAD ISLAND SC
TRANSCON IND. LLC

No.	Description	Date

Project Number	22 B
Date	09-15-15
Drawn By	Author
Checked By	Checker



Project Number: 22 B
Date: 09-15-15
Drawn By: Author
Checked By: Checker

C-1
Scale: 1/8" = 1'-0"

9/23/2015 2:21:03 PM

SITE PLAN OPTION 2
SCALE: 1/8" = 1'-0"

Autodesk Revit
F:\ALEX PROJECTS\BRADUJ22
BRADLEY CIRCLE\22 BRADLEY
CIRCLE ARCHITECTURAL
PROJECT\09-15-15
SITE PLAN OPTION 2

ATTACHMENT C



FRONT ELEVATION SETBACK LINE -75 DEGREE OPTION 2

SCALE : 3/16" = 1'-0"

LOT 22 BRADLEY CIRCLE, HILTON HEAD ISLAND SC
TRANSCON IND. LLC

No.	Description	Date

Project Number 22 B
Date 09-15-15
Drawn By Author
Checked By Checker

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TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: October 12, 2015
SUBJECT: Substitutions of Nonconformities for Redevelopment

The Board of Zoning Appeals (BZA) requested that staff keep them informed of substitutions of nonconformities for redevelopment that are granted by staff. A memo is distributed every month at the regular BZA meetings and is discussed under staff reports on the agenda. Even if there have been no waivers for the month, a memo will be included in the packet to inform the BZA members.

The following language is contained in Section 16-7-101.F, Substitutions of Nonconformities for Redevelopment, which gives the Administrator the power to grant such substitutions for existing nonconforming structures and site features.

LMO Section 16-7-101.F:

“To provide flexibility and encourage redevelopment of sites with nonconforming features or structures, the Official is authorized to approve a Development Plan for such sites if the proposed development:

1. Will not include any new development that increases the amount of encroachment into any required buffer or setback;
2. Will not increase the impervious cover on the site over the maximum allowed for the district or the existing impervious cover, whichever is greater;
3. Will not result in a density in excess of what is allowed under this Ordinance, or the existing density, whichever is greater;
4. Will lessen the extent of existing nonconforming site features to the greatest extent possible;
5. Will not have an adverse impact on the public health, safety or welfare; and
6. Will lessen the extent of nonconformities related to any existing nonconforming structure on the site to the greatest extent possible.”

Below is a summary of the Substitutions of Nonconformities for Redevelopment that have been granted by staff since the September 2015 Board of Zoning Appeals meeting.

September – 2015

1. A project in Sea Pines (Ocean Course Improvements): the applicant requested to rehabilitate the existing golf course to improve playability. The property is currently nonconforming to the Wetland Buffer Standards that are provided in the Land Management Ordinance (LMO) as the existing lagoons do not have adequate buffers adjacent to them. Because the applicant is going to work with Rocky Browder, the Town’s Environmental Planner, on finding buffer areas that will be logical for golf course operation to be environmentally enhanced throughout the project, bringing it more into compliance with the LMO, the waiver was granted.