



**Town of Hilton Head Island
Board of Zoning Appeals
Regular Meeting
Monday, September 28, 2015 2:30 p.m.
Benjamin M. Racusin Council Chambers
REVISED 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 August 24, 2015**
8. **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. *Presented by: Anne Cyran*
9. **Board Business**
 - a. Approval of 2016 Meeting Schedule
 - b. Discussion of motion template
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 August 24, 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, Lisa Laudermilch
and Jerry Cutrer

Board Members Absent: None

Council Members Present: None

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Brian Hulbert, Staff Attorney
Teri Lewis, LMO Official
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

Mr. Fingerhut made a **motion** to **approve** the agenda as presented. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 7-0-0.

7. Approval of the Minutes

Mr. Wilson made a **motion** to **approve** the minutes of the July 27, 2015 meeting as presented. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 6-0-1. Chairman Stanford abstained from the vote due to his absence from the meeting.

8. Unfinished Business

Public Hearing

VAR-001204-2015:

Greg Francese of Cuda Company Real Estate, on behalf of property owner, Charles Lasky, is requesting a variance from Land Management Ordinance Section 16-6-102.D, Wetland Buffer

Standards, in order to construct a patio and dock within the 20 foot tidal wetland buffer. The property is located at 8 Queens Way and is further identified as parcel 301 on Beaufort County Tax Map 16A. Chairman Stanford introduced the Unfinished Business item, opened the public hearing, and requested that the staff make their presentation.

Ms. Nicole Dixon made the presentation on behalf of staff. At the BZA meeting held on July 27, 2015, the Board heard application for variance, VAR-001204-2015, for 8 Queens Way for a proposed patio addition and dock within the wetland buffer. Following the Board's discussions with the staff and the applicant, the Board decided to table this item until the August 24, 2015 meeting so that the applicant had time to work with staff to revise the plans to propose something with less impact to the wetland buffer. The applicant has worked with the staff, as well as the Leamington ARB, and has come up with a plan that removes the original patio addition request and just proposes a 5-foot wide pervious paver pathway from the existing patio to the proposed 12-foot wide by 6-foot long dock.

Ms. Dixon presented an in-depth overhead review of the revised project including the narrative, site plan, photos of the pathway pavers, and an aerial view of the site. Ms. Dixon stated that the staff's recommendation of denial has not changed since the initial review because the Findings of Fact and Conclusions of Law for the variance criteria remain the same.

The staff does acknowledge that the applicant did their best to minimize the disturbance of the wetland buffer. Should the BZA decide to approve the application for variance, staff recommends that there be a condition that the remaining portions of the wetland buffer, where there is currently sod, be planted with wetland vegetation. Ms. Dixon stated that the Leamington ARB has reviewed and approved the revised project. At the Board's request, Ms. Dixon presented an in-depth review of the Findings of Fact and Conclusions of Law. Following the staff's presentation, Chairman Stanford requested that the applicant make his presentation.

Mr. Greg Francese, with Cuda Company Real Estate, presented statements in support of the application on behalf of the property owner. Mr. Francese presented the revisions made to the project and stated that the main reason for the request for variance is one of safety. The applicant would like to provide a safe pathway to the new dock. Following the applicant's presentation, Chairman Stanford requested public comments and the following were received:

Chester C. Williams, Esq., presented general statements in support of the application for variance. Following public comments, Chairman Stanford that that the public hearing is closed.

The Board discussed several issues including the non-conforming site feature and difficulties complying with the LMO. Vice Chairman North requested input from Brian Hulbert, Staff Attorney, regarding the applicant's need to meet all four criteria, particularly unnecessary hardship. The BZA discussed the restrictions imposed upon them by the LMO. Following final comments by the Board, Chairman Stanford requested that a motion be made.

Mr. Wilson made a **motion to approve** application for Variance, VAR-001204-2015, with the condition recommended by the staff that the remaining portions of the wetland buffer, where there is currently sod, be planted with wetland vegetation. Chairman Stanford stated that the maker of the motion must find that there are extraordinary circumstances to recommend approval of the application (against the staff's recommendation for denial.)

Ms. Dixon reported that the Rules of Procedure state that if the maker of the motion is making a motion to go against the staff's recommendation, they must state the Findings of Fact and Conclusions of Law in support of the motion. Brian Hulbert, Staff Attorney, stated that, in accordance with town law and state law, the maker of the motion must support the findings of unnecessary hardship.

Ms. Dixon suggested that the Board take a five-minute break so that the maker of the motion can gather his thoughts and develop the Findings of Fact and Conclusions of Law in support of his motion. Chairman Stanford agreed and called a five-minute recess in the proceedings at that time.

Following the five-minute recess, Chairman Stanford called the meeting back to order. Mr. Wilson stated that after additional consideration, he would like to **withdraw** his **motion to approve** application for variance, VAR-001204-2015. Chairman Stanford then requested that another motion be made.

Mr. Fingerhut made a **motion to deny** application of variance, VAR001204-2015, based on 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 6-1-0. Mr. Wilson was opposed to the motion.

9. New Business

Hearing

Motion to Reconsider VAR-001055-2015:

Jack Qualey, on behalf of the owners of 22 Bradley Circle, is requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variances for 22 Bradley Circle. Chairman Stanford introduced the Motion to Reconsider and requested that Mr. Qualey make his presentation to the Board.

Mr. Qualey presented background statements regarding application for variance, VAR-001055-2015, that was heard by the BZA on July 27, 2015. The applicant is requesting a variance from Land Management Ordinance Sections 16-5-102.C, Adjacent Street Setback Requirements, 16-5-102.D Adjacent Use Setback Requirements, 16-5-103.D, Adjacent Street Buffer Requirements and 16-5-103.E, Adjacent Use Buffer Requirements in order to construct four single family homes within the existing adjacent use and adjacent street setbacks and setback angles and the adjacent use and adjacent street buffers.

Mr. Qualey reviewed the more specific site plans and the elevations showing the requested variances in detail. Mr. Qualey discussed the points that he believes were overlooked or misinterpreted by the Board in reaching their decision on this application on July 27, 2015. Mr. Qualey discussed the three variances from the LMO that are being sought by the applicant. Following Mr. Qualey's presentation, Chairman Stanford requested that the staff make their presentation.

Ms. Lewis presented background details regarding the application for variance. The subject parcel located at 22 Bradley Circle was rezoned from the RM-8 (Residential Moderate Density) district to the RD (Resort Development) zoning district on October 7, 2014 as part of the LMO rewrite process. This district has a maximum height of 75' and a maximum density of 16 dwelling units per acre.

The property owner is proposing to subdivide the property into 4 single family lots for the purpose of renting them out as resort homes. The property is currently occupied by a single family home; this residence will be demolished before the four new homes are built. The property to the south contains Marriott's Surf Watch timeshare development, the property to the north and west contains single family homes and the property to the east contains five single family lots.

The applicant would like to reduce the adjacent use setback from 27 ft. to 15 ft. They would like to reduce the setback angle from 60 degrees to 75 degrees. The request for the reduction in setback angle is for three sides except for the tidal marsh side.

Ms. Lewis stated that on July 31, 2015, the staff received Mr. Qualey's Motion for Reconsideration of the denial of Variance application, VAR-001055-2015, for 22 Bradley Circle. Per the BZA's Rules of Procedure, particularly Article IX, Section 1, Motion for Reconsideration, any party aggrieved by a decision of the BZA may file a Motion for Reconsideration within five days from the date of the hearing. The applicant met this requirement. The Motion, in accordance with the Rules of Procedure, has stated the points the applicant believes were overlooked or misinterpreted by the Board at the July 27, 2015 meeting.

Ms. Lewis stated that a Motion to Grant the Motion for Reconsideration may only be made by a member of the Board who voted on the prevailing side (voted to deny) in the original vote. If the Motion for Reconsideration is granted, application for variance VAR 1055-2015, will be heard at the September 28, 2015 BZA meeting. It will be as though no previous vote had been taken on the application.

(Mr. Steve Wilson excused himself from the meeting at 3:25p.m.)

Ms. Lewis stated that a Motion to Deny the Motion for Reconsideration may be made by any member of the Board. The effect of a vote denying a Motion for Reconsideration is that the vote shall be considered to be the Board's final action on the matter. Following final comments by the Board, Chairman Stanford asked the Board if anyone has a motion to reconsider the Board's previous decision to deny the requested variances for 22 Bradley Circle.

Mr. Cutrer stated that although he is not eligible to make a motion today because he voted against the motion at the previous meeting, he would like to recommend that the Board reconsider their motion to deny the requested variances based on the presentations provided by Mr. Qualey. Chairman Stanford thanked Mr. Cutrer for his comments and asked if an eligible member of the Board would like to make a motion to support the applicant's request for reconsideration of the motion. No motion was made by the Board to support reconsideration of the motion.

Chairman Stanford then asked if any member of the Board would like to make a motion to deny the request for reconsideration of the motion. No motion was made by the Board to deny the request for reconsideration of the motion. Chairman Stanford stated that since no motion was made by the Board, the applicant's Motion for Reconsideration has **failed**.

10. Board Business

None

11. Staff Reports

A waiver report was provided to the Board.

12. Adjournment

The meeting was adjourned at 3:35p.m.

Submitted By:

Approved By:

Kathleen Carlin
Secretary

Glenn Stanford
Chairman

DRAFT



TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

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

Case #:	Public Hearing Date:	Development Name:
VAR-1586-2015	September 28, 2015	Graves Warehouse Redevelopment

Parcel Data	Property Owner	Applicant & Agent
Address: 17 Dunnagan's Alley Parcel: R550 015 000 0213 0000 Zoning: SPC (Sea Pines Circle District)	Robert Graves P.O. Box 5818 Hilton Head, SC 29938	Sam McCleskey P.O. Box 7125 Hilton Head, SC 29938

Application Summary:

Sam McCleskey, on behalf of Robert Graves, is requesting a variance from Land Management Ordinance (LMO) 16-5-102, Setback Standards, and 16-5-103, Buffer Standards, to allow the encroachment of a new outdoor seating area into the adjacent street setback and buffer. See Attachment D, Redesigned 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.

Staff Recommendation:

Staff recommends the Board of Zoning Appeals **approve** the application.

Background:

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. See Attachment E – Original Site Plan. 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.

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

Grounds for Variance:

The applicant states a variance is required from LMO 16-5-102 and 16-5-103 to redevelop the property without negatively impacting the nearby live oak tree. The applicant states that covered outdoor seating is very desirable for restaurants and many restaurants have added such seating areas in recent years. The applicant is trying to redevelop the property by improving its appearance and desirability, to attract new tenants and new business to that area.

Summary of Facts:

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

Conclusion of Law:

1. 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:

1. Application was submitted on August 25, 2015 as set forth in LMO Section 16-2-102.C and Appendix D-23.
2. Notice of the Application was published in the Island Packet on September 6, 2015 as set forth in LMO Section 16-2-102.E.2.

3. Notice of the Application was posted on September 4, 2015 as set forth in LMO Section 16-2-102.E.2.
4. Notice of Application was mailed on September 4, 2015 as set forth in LMO Section 16-2-102.E.2.
5. The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

1. The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
2. The application was submitted 33 days prior to the meeting, therefore meeting the 30 day deadline required in the LMO.
3. Notice of application was published 22 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
4. Notice of application was posted 24 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
5. Notice of application was mailed 24 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
6. 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):

Findings of Fact:

1. The open space on this property is limited to the area between the building and the drive aisle.
2. A large live oak tree is adjacent to the drive aisle shared by the subject parcel and the adjacent parcel.

Conclusions of Law:

1. The lack of open space on the property limits opportunities to redevelop the property.
2. The location of the tree limits the possibility of relocating the drive aisle away from the building.
3. 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.

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:

1. Other sites in the area have open space in front of and around the buildings.
2. There is one other site in the area with a significant live oak tree. The building and a row of parking surround the tree.

Conclusions of Law:

1. Other properties in the area have open space around the building to allow easier redevelopment of the site.
2. Although there is another site in the area with a live oak tree, the tree is not located adjacent to a drive aisle.
3. 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.

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:

1. The building, which was developed in the early 1970s, is mostly vacant.
2. The building is more likely to be effectively utilized when the building and site are redeveloped.
3. The LMO prohibits covered structures like the one proposed from being located in adjacent street setbacks and buffers.
4. The area where a covered structure could be built is limited to the area between the building and the drive aisle.
5. Based on staff's comments, the applicant redesigned the site plan to avoid negatively impacting the nearby live oak.

Conclusions of Law:

1. The building cannot be reasonably utilized without redeveloping the building and site.
2. The site's non-conforming features limit possibilities to redevelop the site while still meeting LMO standards.
3. The applicant made a reasonable effort to limit the effects of redevelopment on a large tree nearby by proposing to relocate the covered outdoor seating area to wrap around the building, into the adjacent street setback and buffer.
4. 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 the subject property would effectively prohibit or unreasonably restrict the utilization of the property.

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):

Findings of Fact:

1. Staff found no evidence that the authorization of the variance will be of substantial detriment to the adjacent property or the public good.

2. Staff found no evidence that the character of the zoning district will be harmed by the granting of the variance.
3. Staff has not received public comments regarding the application.

Conclusion of Law:

1. Staff concludes that this request **meets the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.04 because staff can find no evidence that the encroachment of the outdoor seating area into the adjacent street setback and buffer will be of substantial detriment to adjacent property, the public good, or the character of the zoning district.

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 **approved**.

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:

AC

 Anne Cyran, AICP, Senior Planner

September 14, 2015

 DATE

REVIEWED BY:

ND

 Nicole Dixon, CFM, Board Coordinator

September 16, 2015

 DATE

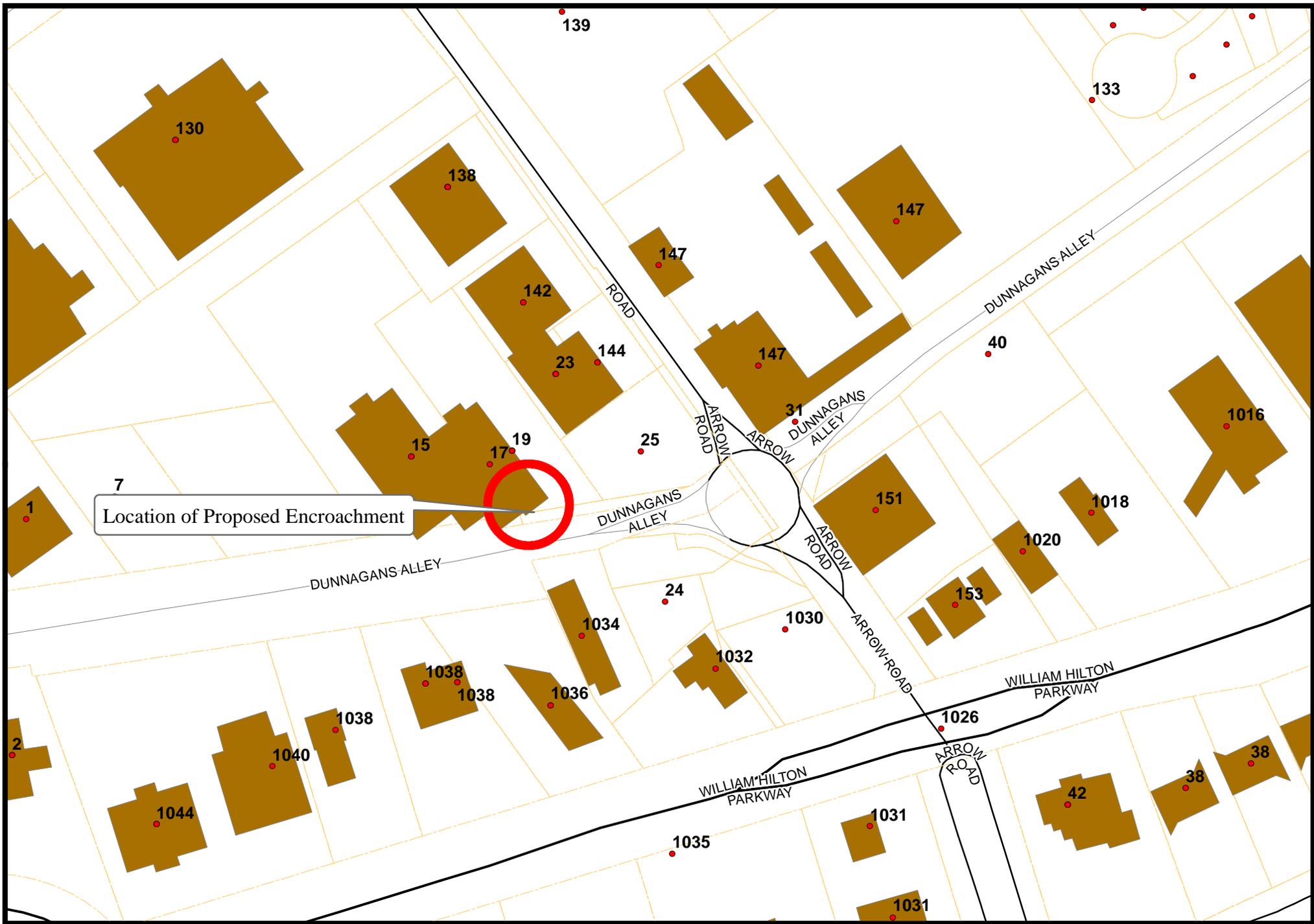
REVIEWED BY:

HC
Heather Colin, AICP, Development Review
Administrator

September 15, 2015
DATE

ATTACHMENTS:

- A) Location Map
- B) Aerial Photo
- C) Applicant's Narrative
- D) Revised Site Plan
- E) Original Site Plan
- F) Photos



Location of Proposed Encroachment

VAR-1586-2015 Graves Warehouse Redevelopment
 Attachment A - Location Map



The information on this map has been compiled from a variety of sources and is intended for informational purposes only. It is provided without warranty or representation as to the accuracy or completeness of the data shown. The Town of Belton Head Island assumes no liability for its accuracy or for any consequences that may result from its use.



Location of Proposed Encroachment

VAR-1586-2015 Graves Warehouse Redevelopment Attachment B - Aerial Photo



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PROJECT NARRATIVE
GRAVES WAREHOUSE
Dunnigan's Alley
Hilton Head Island, SC

Variance Request

The applicant is requesting a variance from the LMO's Design and Performance Standards:

Section 16-5-102.C: Adjacent Street Setbacks

NARRATIVE

Background:

The Graves Warehouse was originally constructed in the early 1970's along with other buildings in the area, prior to the adoption of the Town LMO. The existing building is non-conforming in that it encroaches into the street buffer and setback along Dunnigan's Alley.

A few years ago, the Town of Hilton Head made improvements in the area, constructing a new park and traffic circle with a planned a "walking district" for the existing buildings in the area.

The existing property parking area shares a drive aisle with the Town owned parking lot constructed in the location of the former Island Theatre.

The Owner wishes to remodel the building for use as a Shopping Center, add exterior improvements to improve the appearance and provide a covered walkway for tenants. His plan includes establishing the corner space facing Dunnigan's Alley as a restaurant with covered outdoor seating to improve the exterior appearance, and curb appeal in the walking district. This will require reconfiguration of the existing entry drive to a one way, 14 ft. wide drive aisle.

There is a large live oak tree beside the drive aisle, adjacent to the entry to the Town parking lot which fixes the curb on one side of the entry drive and restricts the location and width of the new, proposed drive aisle.

Variance Criteria:

01 There are extraordinary and exceptional conditions pertaining to the particular piece of property

The existing building is non-conforming in that it encroaches into the setback and buffer along Dunnigan's Alley.

The applicant is proposing to improve the existing building as a Shopping Center with a restaurant located in the most visible location, at the corner of Dunnigan's Alley and the entry drive. In order to make the building more attractive and user friendly, he would like to add covered walkways and a covered seating area for the restaurant which will also serve as a focal point in the walking district. The logical place for this feature is at the corner, facing Dunnigan's Alley.

The live oak tree located across the drive aisle beside the Town owned lot restricts the available width for the drive aisle and covered restaurant seating. In order to prevent damage to the tree, the applicant is proposing to leave the curb of the existing drive aisle beside the tree as the edge for the new entry. Since this restricts the area for seating, he is proposing to wrap the seating around the corner of the Graves Building on the side facing Dunnigan's Alley, encroaching into the setback area.

The logical place to locate the restaurant and exterior seating is the corner of the building on the side facing Dunnigan's Alley and the available area is restricted by the proximity of the live oak tree.

This variance is requested to allow an encroachment into the setback in order to prevent damage to the tree.

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

Although other nearby properties were constructed around the same time as the Graves Warehouse, none appear to have the type of existing encroachment, proximity to the Dunnigan's Alley drive, or impact from the oak tree as Graves Warehouse and are not affected by this variance.

03 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:

Outdoor seating is very desirable for restaurants and many existing businesses have added patios and covered exterior seating areas in recent years. The applicant is trying to redevelop an underperforming property by improving its appearance and desirability, to attract new tenants and new business in the area.

If seating is not allowed on the side facing Dunnigan's Alley, only limited exterior seating can be placed on the side facing the parking lot due to the location of the oak tree.

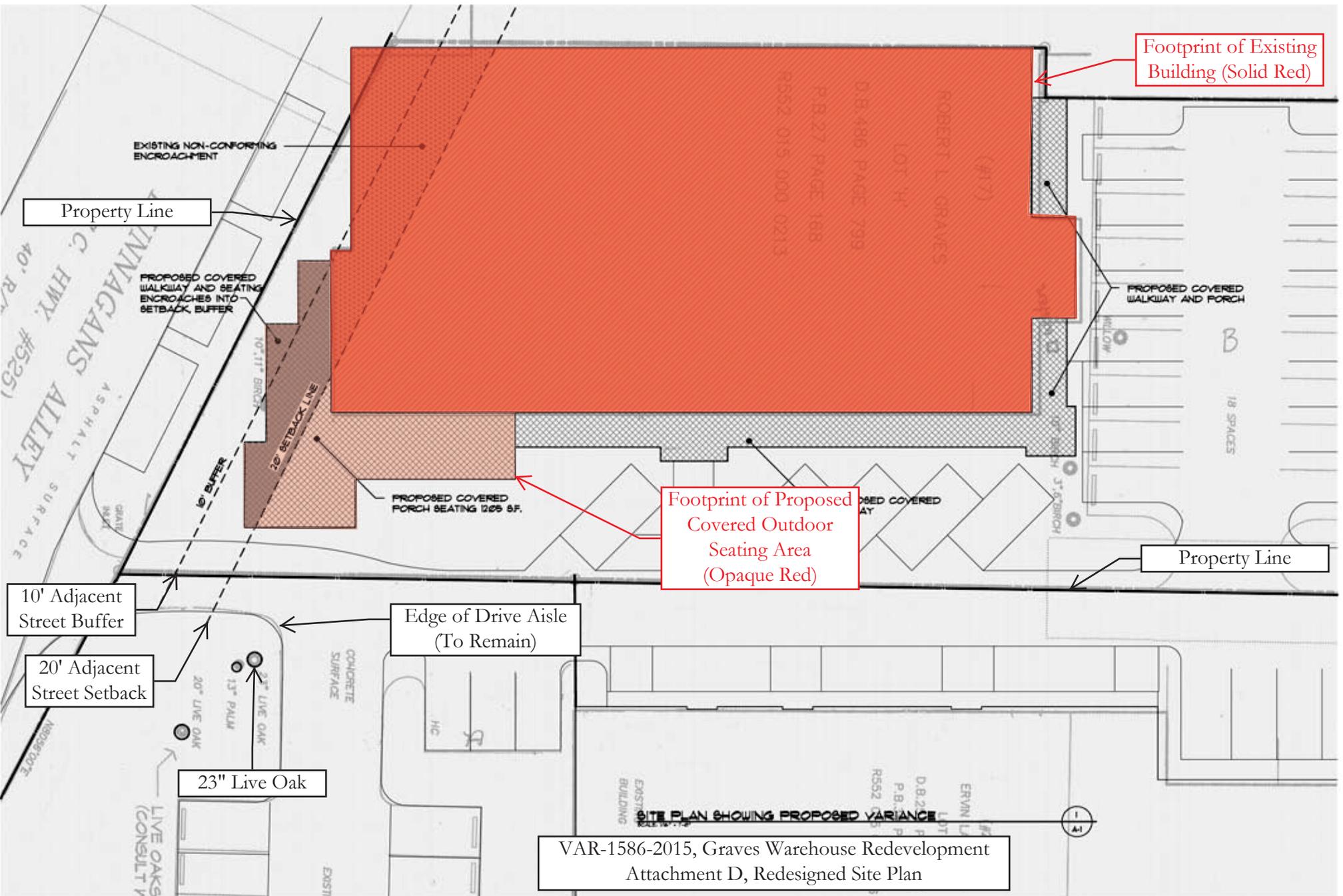
The building appearance from Dunnigan's Alley would remain flat and less attractive than it would be if the proposed seating is allowed to wrap around the corner.

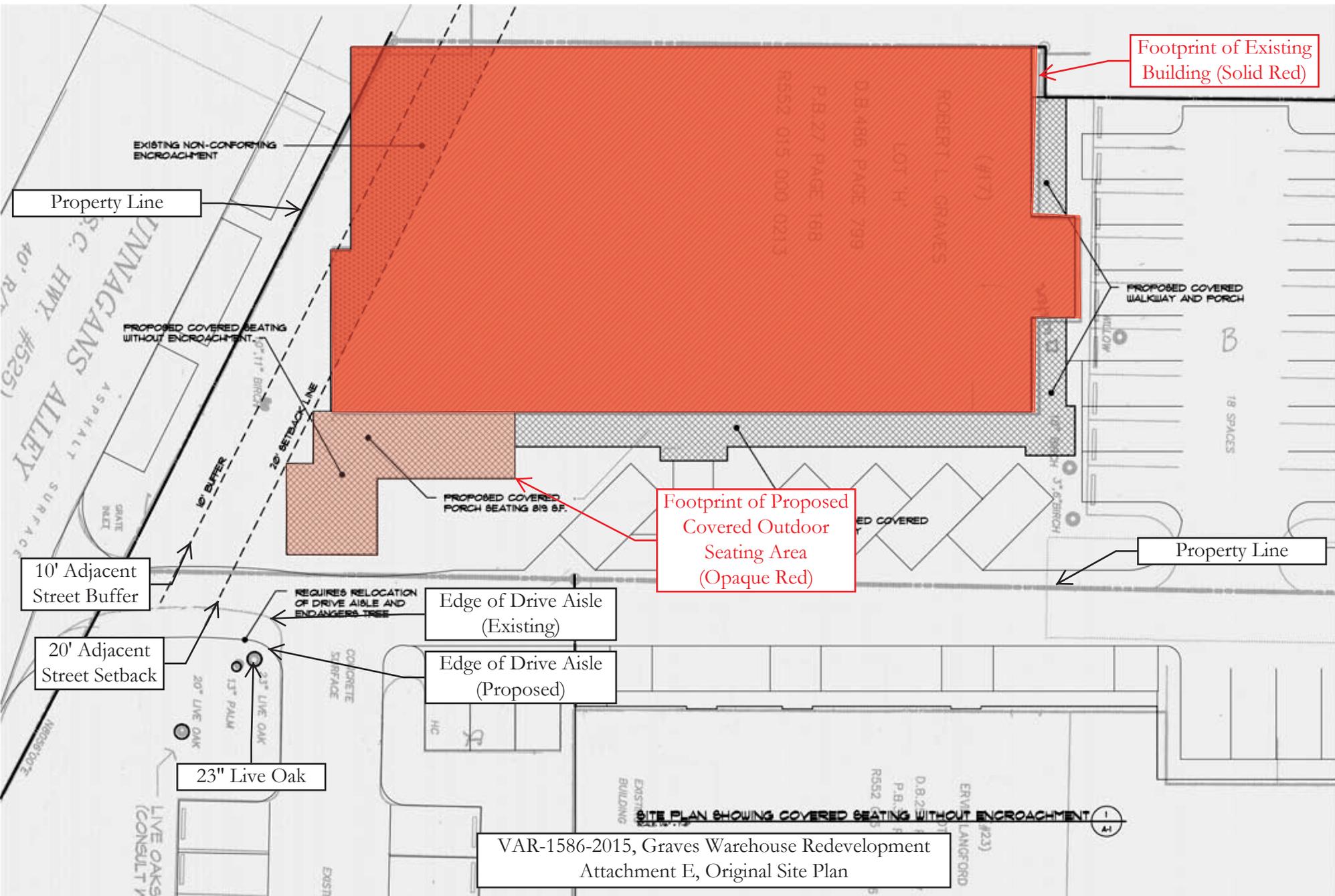
Application of the Ordinance would prohibit use of the site for seating and restrict improvement and curb appeal along Dunnigan's Alley thus making the restaurant location less desirable and the shopping center less visible from the street.

04 The authorization of the variance will not be of substantial detriment to the 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.

Authorization of the variance will not be of substantial detriment to the property or public good, but will improve the character and appearance of the streetscape and bring new tenants into this underperforming area.

The building appearance will be improved and the remaining buffer area will be improved and landscaped in accordance with the Street buffer requirements of the LMO.





VAR-1586-2015, Graves Warehouse Redevelopment
Attachment E, Original Site Plan



ICE / WAREHO
843.422.29
TRY.COM

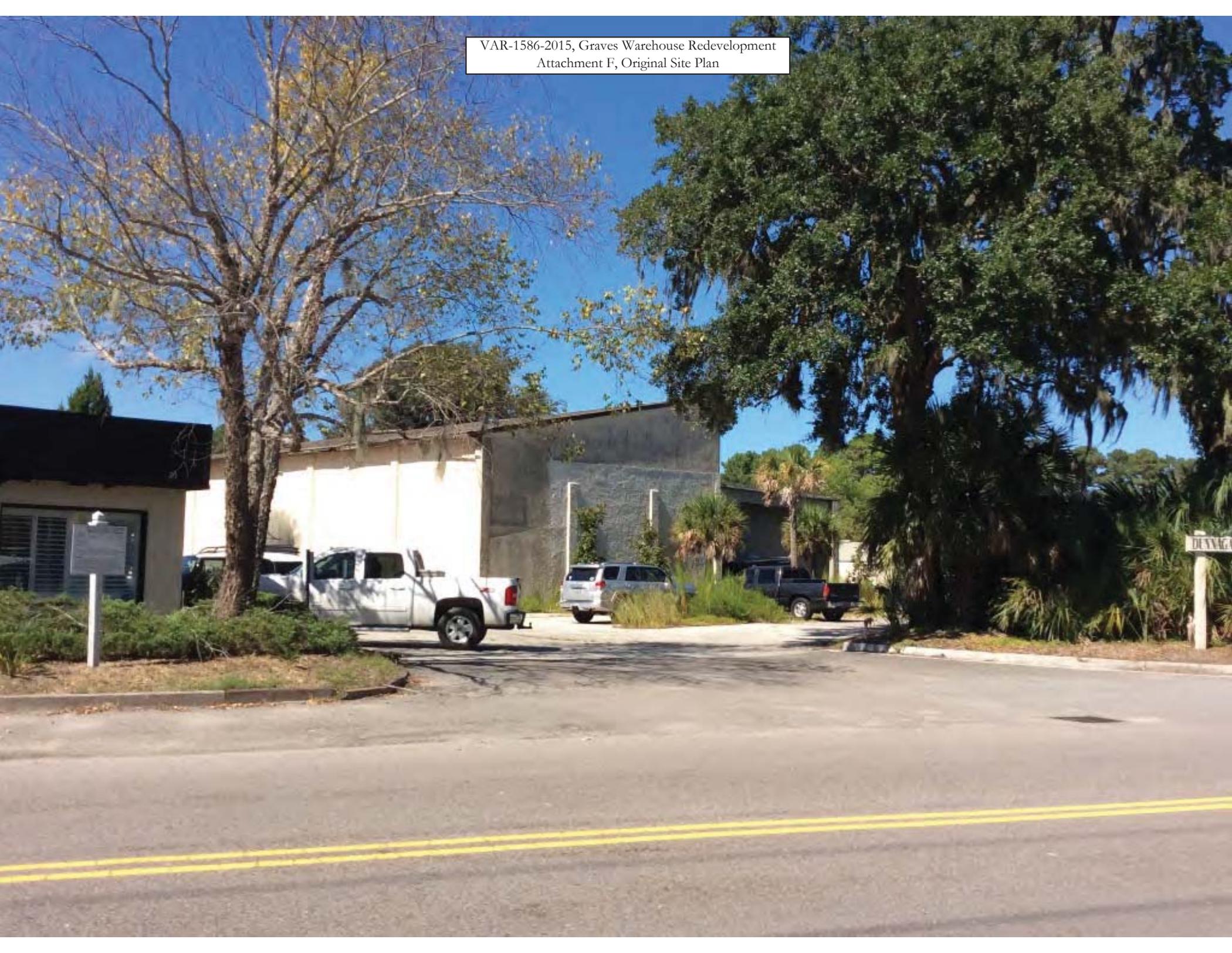
FOR LEASE BY OWNER
RETAIL / WAREHOUSE
9,800 SQ. FT.
WILL SUB-DIVIDE
843-341-3288
843-422-2888

RETAIL / WAREHOUSE
9,800 SQ. FT.
WILL SUB-DIVIDE
843-341-3288
843-422-2888

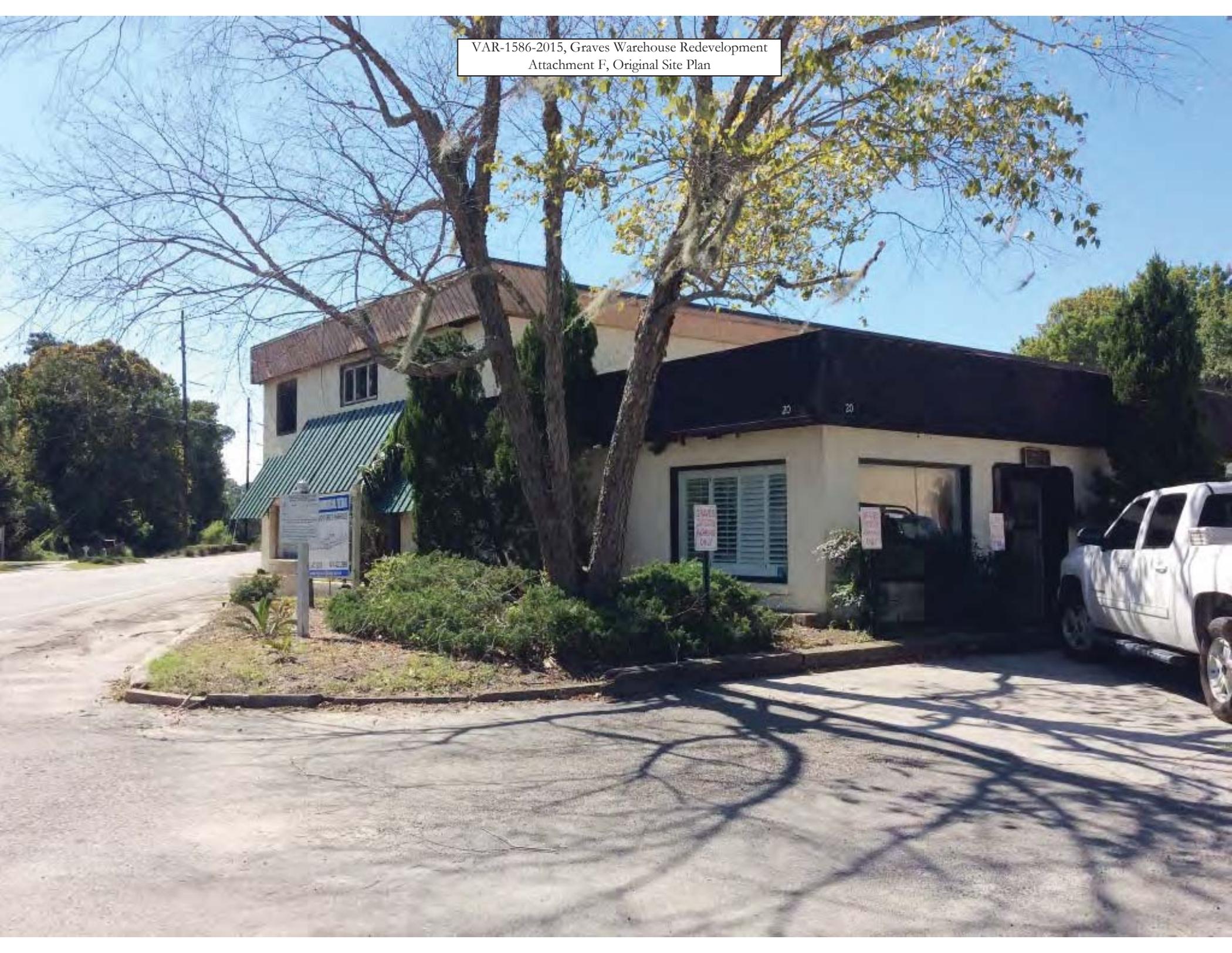


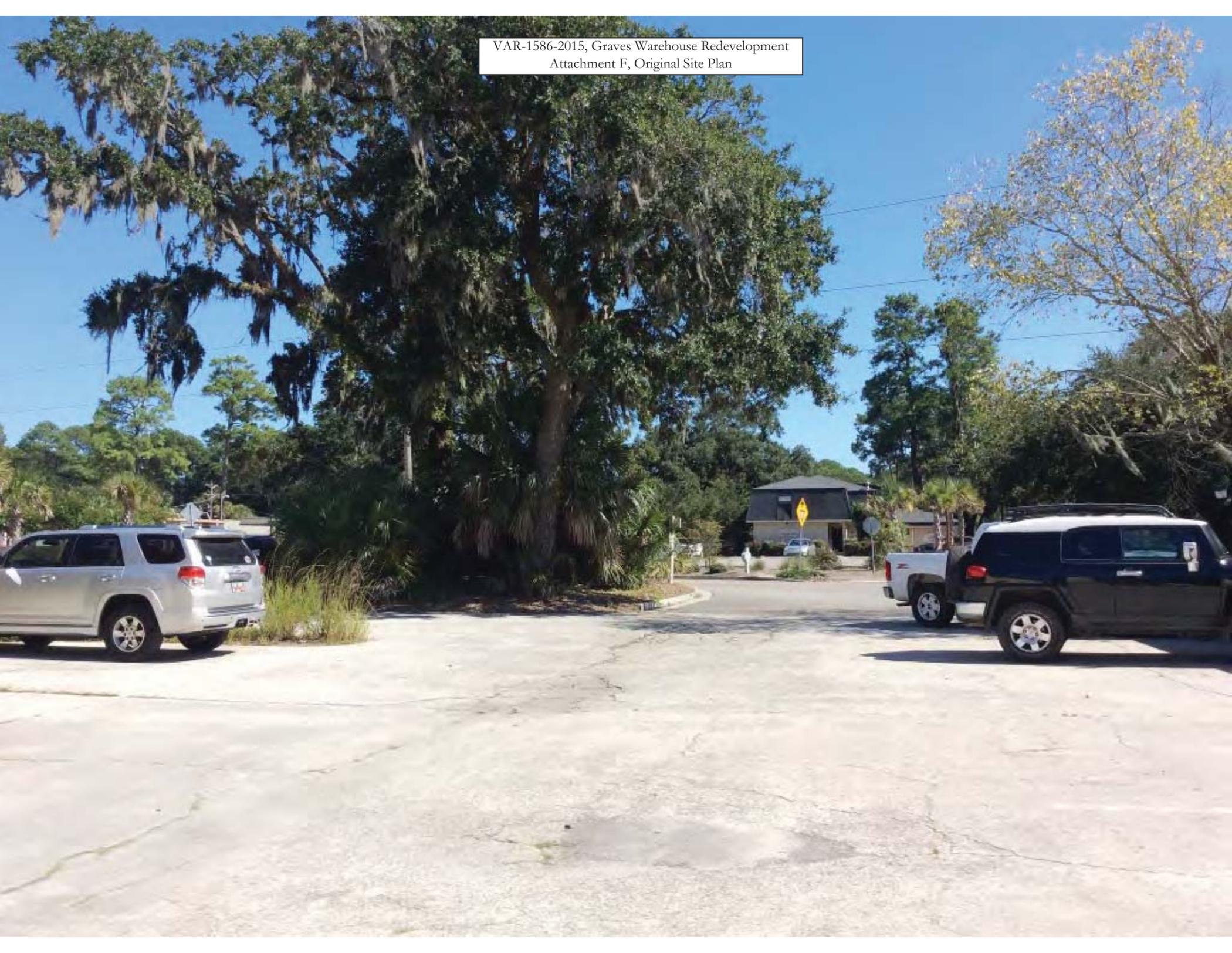
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VAR-1586-2015, Graves Warehouse Redevelopment
Attachment F, Original Site Plan



VAR-1586-2015, Graves Warehouse Redevelopment
Attachment F, Original Site Plan







TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: September 16, 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.”

There have not been any Substitutions of Nonconformities for Redevelopment granted by staff since the August 2015 Board of Zoning Appeals meeting.