



**Town of Hilton Head Island
Board of Zoning Appeals
Regular Meeting
February 22, 2016 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 January 25, 2016
8. **New Business**

PUBLIC HEARING

VAR-2367-2015 - Mike Ruegamer of Group III Design, on behalf of Robert Graves, is requesting a variance from LMO Sections 16-5-102, Adjacent Use Setbacks and 16-5-103, Adjacent Use Buffers, to reduce the adjacent use setback and buffer along one side of the property from a 12.5 foot setback and a 12 foot buffer to a 10 foot setback and buffer. The applicant is requesting the variance to allow the preservation of a protected size magnolia tree and a specimen size water oak tree in conjunction with a plan to construct four homes on the subject property. The property is located on Avocet Road and is identified as Parcel# 245 on Beaufort County Tax Map# 18.

WITHDRAWN

PUBLIC HEARING

VAR-124-2016 - Medardo Cadiz applied for a variance from LMO Section 16-6-102.D, Wetland Protection, to enclose an existing deck that encroaches into a wetland buffer. The property is located in the PD-1 Zoning District (Sea Pines). The property is located at 34 Hearthwood Drive, further identified as Beaufort County parcel R550 014 00B 0207 0000.

Presented by: Anne Cyran

PUBLIC HEARING

VAR-127-2016 - Jennifer Ray, on behalf of the Town of Hilton Head Island, is requesting a variance from LMO Section 16-6-104.F.2.iii, Specimen Tree Protection, to allow impact (soil compaction and paving) within 15 feet of the trunk of two trees rather than removing them. The property is located at 90 Pope Avenue and is identified as Parcels # 235 and 65A on Beaufort County Tax Map# 18.

Presented by: Nicole Dixon

9. **Board Business**

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 January 25, 2016 2:30pm Meeting
Benjamin M. Racusin Council Chambers

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

Board Members Absent: Steve Wilson

Council Members Present: None

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Teri Lewis, LMO Official
Jill Foster, Deputy Director of Community Development
Brian Hulbert, Staff Attorney
Heather Colin, DRZ Administrator
Shawn Colin, Deputy Director of Community Development
Anne Cyran, Senior Planner
Eileen Wilson, Senior Administrative Assistant

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

The agenda was approved as presented.

7. Approval of the Minutes

The minutes of the December 14, 2015 meeting were approved as presented.

8. New Business

APL-2043-2015: Request for Appeal from Taiwan Scott on behalf of Gullah Geechee Catering, LLC. The appellant is appealing staff's determination, dated October 21, 2015, that 15 Marshland Road and 13 Marshland Road do not function together as a single development and therefore the adjacent use setback and buffer requirements are applicable.

Presented by: Teri Lewis

Chairman Sanford stated that this appeal is a complex matter and the Board will be liberal on time but insist we stay on point with the issue that is before the BZA today. Other history does not have much to do with what is before us. I encourage everyone to stay on task on this case before us today. With Appeal cases there is no public comment.

Ms. Lewis stated that with an Appeal, the Appellant will go first since the staff position is we clearly support our position.

Mr. Scott representing Gullah Geechee Catering, LLC thanked the Board members for taking the time to be a part of this Board. Mr. Scott stated "for the record after I present the facts and the board wants to hear rebuttal regarding Town staff's 300+ pages, I am willing and prepared to speak about it."

After carefully reading the LMO, it states that the LMO Official can waive the buffer and setback if they feel that the proposed development and the adjacent development can function as a single development. I have not found criteria for the Official to use in determining this. The burden falls on the applicant to provide information to the Official to justify the waiver. The availability of the waiver appears to be based solely on the Official's decision.

Here are the facts I believe justify the waiver regarding a single functioning development:

- These properties have been used as a mixed use property for over 20 years by the previous owner and now the current owners (The Arnals and myself).
- Both properties have marshfront mixed use zoning. The adjacent owner has advertised the sale of local honey since he purchased the property in 2013. Once my application was filed, the Official removed the signs and threatened to issue fines.
- The adjacent owner has a business license to sell honey to the public.
- The adjacent owner states that they also have an agricultural license to harvest and process honey. The adjacent owner has been selling honey wholesale and retail to the public since they purchased the property.
- The adjacent owner has held bee club functions at which at least 20 cars would utilize my property for parking.
- The adjacent owners have had their personal car parked on my property for over two years.
- The customers that cater their business have to park on my property. The customers that cater their business have to drive over my property.
- The adjacent owners have stood before the DRB on 9/22/2015 have not only stated their support of my business but that we have been working together since they purchased the property in 2013.
- The adjacent owner has stated that the reason they have a home based business and not commercial is for tax and insurance purposes.
- The adjacent owner and I have a reciprocal access easement across each other's property.

Gullah Geechee Catering, LLC has a business license as well to cater to the public. There will be a farmers market on site that will have local vendors displaying native goods and services. Town of Hilton Head Island Official, Heather Colin stated in a meeting held on 9/8/2015 in her office, that I have met the requirements for the waiver. She stated that I would have to provide a copy of the easement agreement. For these very apparent reasons, and facts, the waiver of setback and buffer are justifiable. Staff has not given a justifiable reason not to waive the setback and buffer. Thank you for your time and patience in this matter.

Ms. Lewis, LMO Official stated that the LMO states that the Official may waive the requirement for the adjacent use setback and buffer on determining that the proposed development and the adjacent development function as a single development. After meeting with Mr. Scott, after looking at the proposals for his project, I made the determination that a single family residence and a commercial business would not function as a single development. We do not have criteria in here; we generally use common sense and looking at the project on a case by case basis as to whether they would function as a single development. I let Mr. Scott know that was the determination. We had several discussions about it prior to me sending him the formal determination. We wanted to give him a chance to appeal that determination. The reason you received so much information and some of it was duplicate is because the state code requires we send every piece of information that relates to the file. There was so many pieces of this and so much that had started early on that we did not want to take the chance before the BZA or if it goes further than this to circuit court.

The letter staff wrote to Mr. Scott on 9/2/2015 after he had submitted his minor development plan review application, stated that the wood screen fence surrounding the food truck and the enclosed building encroach into the 30' adjacent use setback from Lot 7. The building and fence enclosure would not have been permitted in the setback area if the building permit applications for these structures were submitted as part of a commercial development instead of residential accessory structures. They do not have to be removed to bring the site into full compliance with the LMO. At that point we thought that Mr. Scott had received a building permit for both the shed and the fence. We went back through our records and talked to members of our building permit staff and we could not find a permit for the fence, only for the shed. So we determined the shed could stay but not the fence and mobile truck.

Part of the issue we had all along, is that despite going through a Pre-Application meeting in 2013, and finding out the rules and regulations, the shed and the fence and the food truck were put up without the appropriate permits. Part of the reason we are here is that a lot of things are going on after the fact. Typically if somebody comes in for a Pre-Application meeting proposing something that would be in a buffer or setback, we would advise they get a variance from the BZA if they didn't feel they could relocate it out of that buffer and setback. That is something that I put into the letter to the BZA that perhaps if Mr. Scott wanted to apply for a variance from this board from the setback requirements, given some of the restraints of the property, we felt that staff could support that.

Mr. North stated to Ms. Lewis: "you have found and determined that this is not a single development – the two parcels viewed together." Ms. Lewis replied "I found that it did not function as a single development."

Comments made by the Arnals:

- We never told Tai we were going to sell our honey over there because quite frankly we don't produce that much honey.
- We made it clear to the Town that we were not working with Mr. Scott and never had any intention to work together.
- We have a few customers a week; I would describe it as hobby bee keeping.
- I did speak at the DRB meeting on 9/22/2015 to state that we did not object to the colors.
- Our concern is the easement is going to be overburdened if a restaurant is going to be allowed to use this and affect our ability to get in and out of our driveway.
- We sent a letter on October 2, 2015 to the Town and by Oct 7 the Town had issued a cease and desist order because no permits are in place for this project. This project was a residential

storage shed built without permits. Mr. Scott started building a commercial kitchen in that facility almost immediately and again we thought the permits were in place.

- We intend to sell our property as a house not as a honey home-based business.
- We have a restaurant being proposed on the other side of us.
- If Mr. Scott wants setbacks waived from the building, the residential storage shed lies within the setback, brick patio lies within the setback, the food truck lies within the setback, and the bike rack lies within the setback.
- The issue is we have a barbeque cooker right on top of our property; we will be living next to a restaurant if this gets permitted the way that it currently is.

Ms. Lewis stated that the Town has setbacks and buffers in place to protect unlike uses from each other. So we look very carefully when we are thinking about waiving those adjacent setback and buffers particularly if we were looking at waiving it between a single family property and a commercial property.

If Mr. Scott came in for the appropriate permits as he showed on that pre-application, there would have been fewer conflicts with the setbacks and buffers or if he had submitted that to us first we would have identified that certain items needed to be moved out of the setbacks and buffers.

Mr. Scott stated for the record, that he met with Town Official Heather Colin and she stated that I meet the criteria for the waiver and to bring in a copy of the deed to verify we have a reciprocal easement. And I want to put that on record. I wish we would have started this off by swearing everybody in because the facts are there in black and white and all I have standing behind me is the truth.

Ms. Heather Colin stated that she did meet with Mr. Scott and we discussed all sorts of different aspects of his development and one of them was whether he would qualify for this waiver. I did tell him to bring in the easement documents that he had and that would be something we would consider. Until I have those documents in front of me and until I know how that development is going to be developed, I do not know what the final interpretation is going to be. I did tell him to bring that information to me and I would review it and I would discuss it with Teri Lewis the LMO Official. And that is what was said.

Chairman Stanford closed the hearing at 3:50 p.m.

Chairman Stanford stated that there is a reason for buffers so that a residential property can have a reasonable separation from a commercial use. To me what I see here is a residential property that has an incidental business which is permitted and taxed as a residential property in contrast to a piece of property that is solely a commercial use with no residential use what so ever and is taxed in the commercial fashion at the 6% rate.

Mr. Cutrer stated that the appellant's argument boils down to whether these two properties should be appropriately treated as a single development. And the two arguments for that are that there is a shared access agreement which seems to imply some sort of joint activity and that the Arnals are operating a commercial business. The facts are that we heard the shared access easement was an unfortunate thing caused by the prior property owner. Subdivision of this land into two parcels and that driveway was sort of lined up with both properties. So in order to use that driveway it came about that a shared access easement that driveway was necessary to simply gain access to the property and I don't see that as having any further meaning in terms of some agreement to conduct joint operations. The second fact is that the Arnals live in a single family house, single family zone,

pay single family taxes and they have an incidental use permitted under the Town's code for this home based business.

Mr. North stated that there is a third point and that is that the people are driving upon the shared access easement and then onto Mr. Scott's property getting out and walking over to the other property for commercial purposes. The waiver that he would receive depends entirely on what you have said correctly, whether it is a single development or not.

These customers of the Arnals, they drive on this shared access and they pull onto Mr. Scott's land and they then get out, leave their cars on his land and go over to the Arnal's property and they make purchases. All of which is for a commercial purchase and a use. And I would submit that that makes it a development. And therefore the waiver should have been granted.

Chairman Stanford stated that before we have a motion and a vote, I would like to express appreciation to everyone for in fact staying on point about this and for the most part, dealing with what is exactly before us and that is whether or not this is a single development.

Mr. Cutrer made a motion to **deny** the application for **APL-2043-2015** appealing staff's determination, dated October 21, 2015, that 15 Marshland Road and 13 Marshland Road do not function together as a single development and therefore the adjacent use setback and buffer requirements are applicable. Mr. White seconded the motion. The motion passes with a vote of 4-2.

Roll: Stanford: for the motion; North: **against** the motion; Cutrer: for the motion; Fingerhut: for the motion; Laudermilch: **against** the motion; White: for the motion

PUBLIC HEARING

VAR-2298-2015: On behalf of Beaufort County, Jon Rembold applied for a variance from LMO Section 16-3-106.E, Airport Overlay (A-O) District, to reduce the adjacent street buffer along the west side of Summit Drive from 75 feet to 20 feet. The applicant is requesting the variance to allow the relocation of the General Aviation Replacement Ramp and the helicopter parking pad, per the Airport Layout Plan in the Hilton Head Island Airport Master Plan and in compliance with FAA requirements.

Ms. Anne Cyran presented the application on behalf of Beaufort County Jon Rembold, Airports Director. Ms. Cyran stated that the staff recommends the Board of Zoning Appeals approve the request with the condition that the street buffer be measured from the property line not the edge of pavement. In the application summary and in the materials submitted by the applicant, the site plan shows that the 20 feet area is measured from the edge of pavement; our street buffers are always measured from the edge of right of way or the property line.

In relocating the apron, it will require the removal of trees in that buffer area. Beaufort County is proposing to reduce that buffer area so that there is no encroachment in there. There is an additional change and that is the relocation of the helicopter pad between the airport rescue & fire fighting facility and Summit Drive. The exact location of the pad has not been determined yet. It will be in the open space in that area but that will also require some clearing of the buffer area.

Chairman Stanford asked if there are any private property owners along Summit Drive and the affected area. Ms. Cyran replied that those areas are owned by the airport.

Ms. Cyran stated that the trees that will be removed from the buffer, will be part of a plan where that if it is determined that those trees must be replaced, they will be replaced with lower vegetation.

Town staff will determine if the 20 foot adjacent street buffer meets the current LMO standards for planting requirements for buffer of that width. There may be additional buffer requirements since it is such a drastic change from 75 feet to 20 feet. That buffer will be increased with low plantings that are more appropriate for use by the airport. Our recommendation is that the BZA approve the request with the condition that the 20 foot street buffer be measured from the property line also known as the edge of right of way on Summit Drive.

Chairman Stanford opened the meeting for public comment.

Mr. Lance Pyle, Port Royal Plantation General Manager stated that the Hilton Head Airport and Port Royal Plantation are neighbors. As a community we request that the BZA takes this into consideration as you evaluate the County's request for a variance. The request if approved, would contribute to an increase in airport noise level in our community. Over the years a number of noise mitigating trees between Port Royal and the airport have been removed for the recycling center, the fire station, and the airport fire & rescue as well as Town offices. The request made by the County if approved, means a loss of existing trees in the airport and the community. In addition, the County plans to develop more hangar space in the area of three acres currently heavily treed land adjacent to the airport fire & rescue facility. Finally, as identified in the master plan, the County has projected future hangar development which requires clearing of an additional 16 acres immediately adjacent to the cul-de-sac at the end of Summit Drive. Most of the 16 acres – 13 of which are owned by the Town means the possibility for another 16 acres to be cleared, in addition to the three which we strongly oppose. The activity of tree removal continues and the source of the noise comes closer to the homes in Port Royal Plantation. The continued removal of trees should be considered in this decision making process while the County is required in some manner to mitigate for the trees they are removing, it does not mitigate to noise that we will receive by those trees being removed. We respectfully request that some of the trees be replaced with noise mitigation by the Board if they so choose to approve this request. We therefore request that the Board upon approval request additional mitigation for noise mitigation along Summit Drive within the 20 foot buffer that they are asking for.

Mr. Fingerhut made a motion based on the Findings of Facts and Conclusions of Law to **approve VAR-2298-2015 with the condition** by staff that the 20 foot street buffer be measured from the property line; and the 20 foot adjacent street buffer be intensely replanted to ameliorate the noise from the airport. Mr. North seconded the motion. The motion **passed** unanimously.

10. Staff Reports

None

11. Adjournment

The meeting was adjourned at 4:20 p.m.

Submitted By:

Approved By:

Eileen Wilson
Sr. Administrative Assistant

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-0124-2016	February 22, 2016	34 Hearthwood Drive

Parcel Information:	Property Owner & Applicant:
<u>Address:</u> 34 Hearthwood Drive <u>Parcel:</u> R550 014 00B 0207 0000 <u>Acreage:</u> 0.31 acres <u>Zoning:</u> PD-1 (Planned Development Mixed Use), Sea Pines	Medardo Cadiz 34 Hearthwood Drive Hilton Head Island SC 29928

Application Summary:

Medardo Cadiz is requesting a variance from Land Management Ordinance (LMO) Section 16-6-102.D, Wetland Protection, to enclose a portion of an existing deck that encroaches into a wetland buffer and to allow a small portion of a new deck to encroach into the wetland buffer.

Staff Recommendation:

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

If the Board of Zoning Appeals approves the application, staff recommends the following condition of approval: The applicant shall replace the existing sod and any non-native plants with wetland vegetation in the buffer per a planting plan approved by Town staff.

Background:

The applicant's house was built in 1997 on a previously undeveloped lot that is adjacent to a tidal lagoon. Tidal lagoons are defined as critical areas by the South Carolina Department of Health and Environmental Control's (DHEC) Office of Coastal Resource Management

(OCRMs). The edge of a critical area – the Critical Line – is delineated by OCRMs. On this parcel, the Critical Line is located at the water’s edge. (See Attachment C – Applicant’s Plans.)

At the time the house was built, the Land Management Ordinance (LMO) required a 20 foot minimum and a 40 foot average wetland buffer between the Critical Line and single family homes. At that time, however, the Planning Department did not review building permits for single-family homes. Because the permit was not reviewed for buffer encroachments, a building permit was issued for the house and deck even though they encroached into the minimum and average wetland buffers in violation of the LMO. Almost half of the homes in the area have similar encroachments.

The LMO requirements for wetland buffers adjacent to single family lots have changed since the house and deck were built. The current LMO requires a 20 foot wetland buffer between the Critical Line and a single family home, accessory structure, and pervious or impervious surface. The 40 foot average buffer is no longer required. The house and deck are considered legally non-conforming because they were built according to plans that were approved in error.

The applicant purchased the home in October 2012. The applicant met with Town staff several times this fall to discuss enclosing a portion of the deck to connect the living and dining rooms. The applicant also proposes to relocate stairs that currently encroach into the wetland buffer to the side of the house, outside of the buffer. In place of the stairs, the applicant wants to create a new deck around an existing screened porch, which would require creating a small encroachment of the new deck into the wetland buffer. Staff informed the applicant that building a structure, such as enclosing a deck and building a new deck, in a wetland buffer is prohibited by LMO Section 16-6-102.D.3.a.iv, Development Within Wetland Buffers – Prohibited Development Activities.

The applicant decided to request a variance to enclose approximately 76 square feet of the deck and build a small portion of a new deck in the wetland buffer.

Applicant’s Grounds for Variance:

The applicant states the variance is required to improve the efficiency and overall utilization of the space in the back of the house. The footprint of the house was pushed to the rear of the lot to preserve a significant cluster of live oak trees to the north. The effect was that the rooms at the back of the house became inefficient, with dead-end living room space not linked to the dining room and kitchen. The applicant states the small encroachment of the new deck in the wetland buffer will allow the applicant to access the existing spa and deck without having to go to the back of the house and through the screened porch.

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. The application was submitted on January 22, 2016 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 January 31, 2016 as set forth in LMO Section 16-2-102.E.2.
3. Notice of the Application was posted on January 29, 2016 as set forth in LMO Section 16-2-102.E.2.
4. Notice of Application was mailed on February 2, 2016 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 31 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 20 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 house was located at the rear of the lot to preserve a significant cluster of live oak trees at the front of the lot.
2. The Town issued a building permit allowing the house and deck to be built in the wetland buffer.

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:

1. A significant cluster of trees on the lot limited the location of the house to the back

- of the lot, near the wetland.
2. The issuance of the building permit allowed the building and deck to be built as legally non-conforming structures.

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. The Sea Pines Architectural Review Board (ARB) guidelines state there must be justification for removing significant trees from single family residential lots.
2. The locations of many single family homes in Sea Pines are selected in order to preserve significant trees.
3. The Community Development Department did not consistently check site plans for wetland buffer encroachments on single family lots until the early 2000s.
4. Town staff found that many single family homes and decks built near a lagoon before the mid-2000s encroach into the wetland buffer and therefore are non-conforming structures.

Conclusions of Law:

Staff concludes that this request **does not meet the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.02 because the extraordinary conditions do generally apply to other properties in the vicinity.

1. Even though the house was located toward the back of the lot to preserve significant trees toward the front of the lot, it is a general practice in Sea Pines to preserve trees.
2. Though the house and deck are non-conforming structures, this is not an extraordinary or exceptional condition for a single family home built near a lagoon in 1997.

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. LMO Section 16-6-102.D requires a 20 foot buffer between the edge of a tidal wetland and any structure on a single family lot.
2. The single family house on the property has been used by the applicant as his primary home for two years.
3. The existing floor plan for the house shows a doorway connecting the dining and living rooms.
4. The spa and deck are currently accessible through the screened porch.
5. The applicant's narrative does not state the wall between the dining room and living room cannot be modified to provide the increased efficiency and flow between rooms that the applicant desires.

Conclusions of Law:

Staff concludes that this request **does not meet the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.03 because:

1. The application of LMO Section 16-6-102.D has not effectively prohibited or unreasonably restricted the use of the property as a single family home.
2. Though the existing floor plan and spa access don't meet the applicant's needs, the applicant has not demonstrated that he has explored alternative options, such as adding a second doorway in the wall between the dining and living rooms.

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. LMO Section 16-6-102.D requires a 20 foot buffer between the edge of a tidal wetland and any structure on a single family lot.
2. LMO Section 16-6-102.A.6 states that one of the purposes of wetland buffers is to allow for the filtration of stormwater runoff before it enters wetlands.
3. The existing deck is a somewhat pervious surface, allowing rainwater to fall though the deck and filter through the wetland buffer.
4. The proposed enclosure will be impervious, reducing the amount of pervious surface in the wetland buffer.
5. The proposed new area of deck will be a new encroachment in the wetland buffer.
6. The proposed enclosure will be located within the footprint of the deck.
7. About half of the properties around the lagoon have an encroachment in the wetland buffer.

Conclusions of Law:

Staff concludes that this request **does not meet the criteria** as set forth in LMO Section 16-2-103.S.4.a.i.04 because:

1. Though the proposed enclosure will not increase the extent of the existing encroachment in the wetland buffer, it will increase the amount of impervious surface in the buffer which is not in accordance with LMO Section 16-2-102.A.6.
2. The proposed portion of new deck will be a new encroachment in the wetland buffer, which is not in accordance with LMO Section 16-2-102.A.6.
3. Enclosing the deck will not be a substantial aesthetic detriment to adjacent properties or the character of the district due to the number of encroachments in the wetland buffer on neighboring properties, but it will be a detriment to the wetland because of the proposed increased impervious surface and encroachment in the buffer.

LMO Official Determination:

Based on the above Findings of Facts and Conclusions, the LMO Official determines that the

request for a variance **should not be granted** to the applicant.

If the Board of Zoning Appeals approves the application, staff recommends the following condition of approval: The applicant shall replace the existing sod and any non-native plants with wetland vegetation in the buffer per a planting plan approved by Town staff.

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.

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

PREPARED BY:

AC
Anne Cyran, AICP, Senior Planner

February 10, 2016
DATE

REVIEWED BY:

ND
Nicole Dixon, CFM, Board Coordinator

February 10, 2016
DATE

REVIEWED BY:

HC
Heather Colin, AICP, Development Review
Administrator

February 10, 2016
DATE

ATTACHMENTS:

- A) Location Map
- B) Applicant's Narrative
- C) Applicant's Plans
- D) Site Photos
- E) Before and After Photos



Subject Parcel:
34 Hearthwood Drive



Town of Hilton Head Island
One Town Center Court
Hilton Head Island, SC 29928
(843) 341-4600

Town of Hilton Head Island

VAR-0124-2016, 34 Hearthwood Drive Deck
Staff Report Attachment A - Location Map

190 95 0 190 Feet



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

VARIANCE APPLICATION
For Cadiz Residence
34 Hearthwood Drive
Seapines, HHI
January 22, 2016

VAR-0124-2016, 34 Hearthwood Drive
Staff Report Attachment B - Applicant's Narrative

Page 1 of 4

January 22, 2016

VARIANCE APPLICATION

**Town Hall Of Hilton Head Island
South Carolina 29928**

Subject Property:

**CADIZ RESIDENCE
34 HEARTHWOOD DRIVE
LAWTON OAKS, SEAPINES
HILTON HEAD ISLAND, SC 29928**

Prepared by Medardo Cadiz, Owner / Architect, AIA
Mobile: 206 412 9828

Documents Provided With This Variance Application:

A. Plans / Drawings / Photos

- Reference Map / Ref A / Ref B / Ref C
- Plan 1: Existing Site Plan
- Plan 2: Proposed Change On The Site Plan
- Plan 3: Existing Floor Plan
- Plan 4: Proposed Change on The Floor Plan
- Photo A: Existing South Elevation
- Photo B: Proposed Change South Elevation

B. Background / Objective

C. Filing Fee: \$250.00 check made payable to Town Of Hilton Head Island

B. Background / Objective

We purchased this property, "as is", in October 2012 as our primary home. We have not done any remodeling. After living in the house for two years, we found the floor plan (main level) to be very inefficient. The living room has a dead end, which does not easily connect to the dining room. The house was built closed to the lagoon to avoid taking down the three main live oak trees at the front. Hence, the space at the back of the house is tight which compromised the open flow and utilization between major spaces, such as the living room, dining room and kitchen.

B.1 Proposed New Enclosed Space

To improve the efficiency, the traffic flow and overall utilization of the space, we propose to link the living room to the dining room by enclosing part of the existing open deck, thereby connecting the dining room to the living room (see plan 2 and plan 4). The new enclosed area will only be 76 sf. **The plan does not go beyond the existing building foot-print.**

B.2 Stair Relocation

In addition, we wish to relocate the existing stair (left side of the existing screened porch) that leads to the back deck (see plan 1). The proposed new location of the stair will be further to the front/side of the house (see plan 2 and plan 4). This will allow us to access the existing deck and spa deck without having to go to the back of the house and through the screened porch. We are improving the utilization and ease of access to the deck area. In place of the old stair, we plan to build a 4.0 ft wide deck, to link the existing deck to the existing spa deck. The width of the deck is within the existing building footprint.

B.3 Meeting With Town Hall: Heather Collins

After two conferences with the Town Hall people, we were informed that part of the existing deck falls beyond the building set-back line by about 8.0 ft. (see plan 2). This is the subject area that we are requesting to obtain a variance.

B.4 LMO (Land Management Ordinance)

- The area on the site where we are making a change is located on the south side, adjacent to the lagoon. Hence, we feel that the section of the LMO that pertains to our plan is in Chapter 16-6: Natural Resource Protection, specifically section "D", Wetland Buffer Standards, sub section "2", Wetland Buffer Width.
- With relation to the LMO, this variance request pertains to the rear lagoon (south facing) elevation of our house.
- The existing deck is 8.0 ft past the Building Set Back Line. However, part of the existing house (the SE corner of the screened porch) is already beyond the Building Set Back Line as well.
- There is the 20 ft. wetland buffer zone that was a concern with the Town Hall which may have an affect on our plan to enclose part of the existing deck. This is subject for review by the Town Hall.
- However, we feel that since we are enclosing only part of the deck and not going beyond the existing building foot print, we do not believe that we are creating any alteration to the existing wetland buffer zone. We plan to employ measure(s) to mitigate, if necessary and required, to ensure that we are not causing any alteration to the existing wetland buffer zone, per requirement on chapter 16-6- 102 (Wetland Protection).

B.5 Copy of Correspondence Mail Notices Of Public Hearing:

As advised by Town Hall, following the submission of the variance application today, January 22, 2016, the Town Hall will furnish us a list of owners of record within 350 ft. of the parcel being considered for the variance, as well as a sample letter. We will then send out the mail notices, by first class mail, fifteen (15) days prior to the Board Of Zoning Appeals meeting on February 22, 2016.

Nothing Follows

VARIANCE APPLICATION

CADIZ RESIDENCE

34 HEARTHWOOD DR
SEAPINES
HILTON HEAD ISLAND 29928

ADDITIONAL INFORMATION

VARIANCE CRITERIA:

1. *There are extra ordinary and exceptional conditions pertaining to the particular piece of property:*

This house was built in 1997 for the Willock family and subsequently bought by the Leach family in 2007. We bought the house, as our retirement home in 2012. We plan to stay here for the next 20 some years.

Please see site plan 1 and 3. The house is sandwich between a group of three very large live oak trees at mid point of the property on the north side and the lagoon on the south side. The design and planning of the building footprint was pushed to the rear so not disturb these large trees. Because of this, the planning of rooms at the back of the house became inefficient, with a dead-end living room space not linked to the dining room and kitchen on the south side. This made the access between spaces difficult and tiresome. With the little adjustment we are asking, this will greatly improve the utilization of the house for us.

2. *These conditions do not generally apply to other properties in the vicinity;*

In our opinion because of the aforementioned large oak trees at mid point of the site, this condition appears to only apply to our site.

3. *Because of this conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and:*

We moved to HHI to retire. We were lucky to find such a nice neighborhood. As we get older, we would hope that the house can become more efficient and easier to serve us. After living and experiencing the house for the past two years, we feel that the back of the house is very inefficient and must be improved. We wish to make this little adjustment so that the utilization of the interior space become easier for us, especially as we get older.

- 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 location will not be harmed by the granting of the Variance.*

In view that we are only asking to enclose portion of the existing deck facing the lagoon, (see plan 4), and that we are not changing the building footprint of the existing structure, or disturbing the existing wetland buffer zone, we strongly believe that the authorization of this variance will have no negative impact, whatsoever, to any adjacent property or the public good.

We look forward to your favorable decision.

Thank you.

Medardo and Lisa Cadiz

VAR-0124-2016, 34 Hearthwood Drive
Staff Report Attachment C - Applicant's Plans

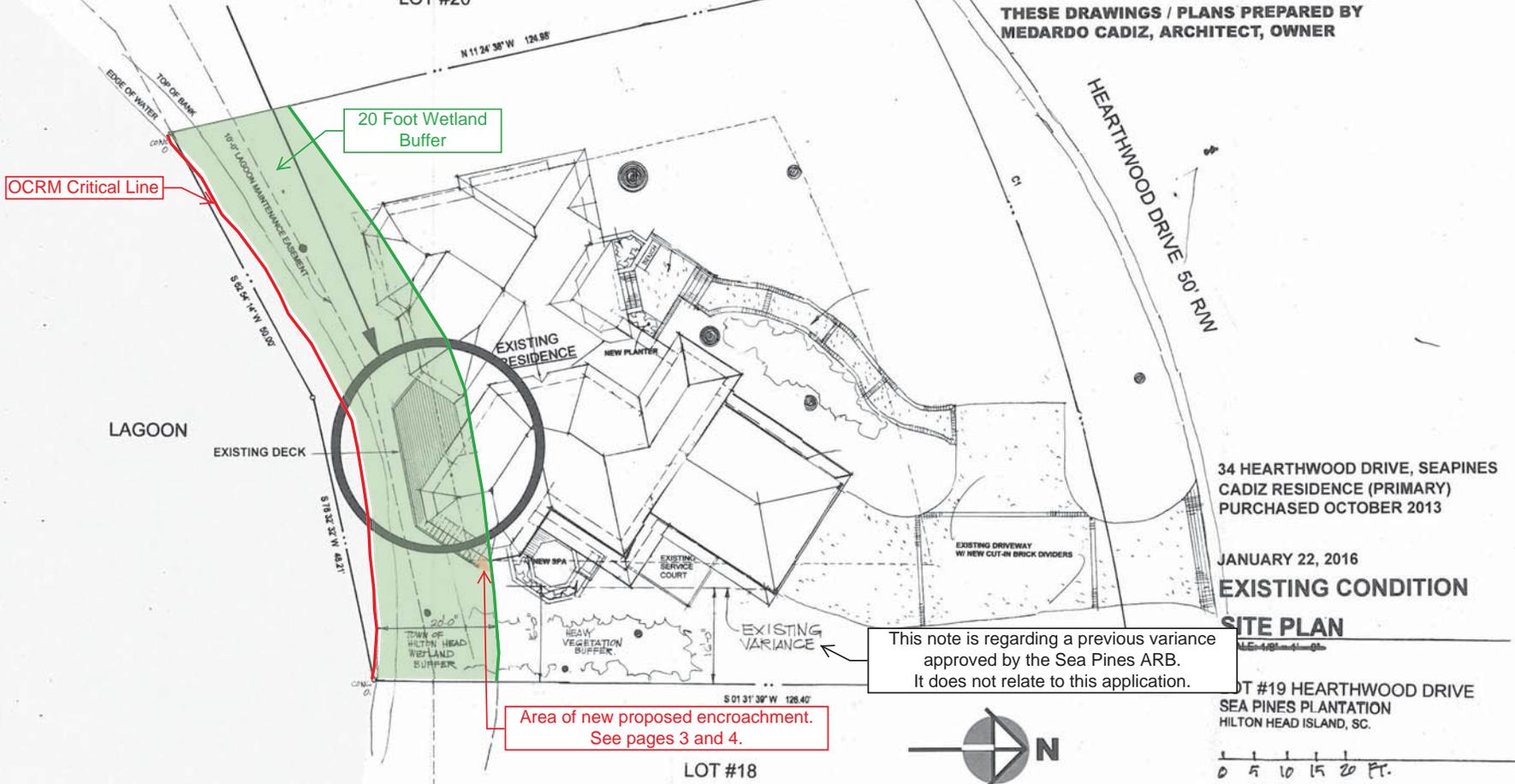
**EXISTING SITE PLAN CONDITION
REMODELING WORKS IN 2008
PREPARED BY ARCHITECT NEIL GORDON**

**MED AND LISA CADIZ PURCHASED
THIS HOME IN OCTOBER 2013**

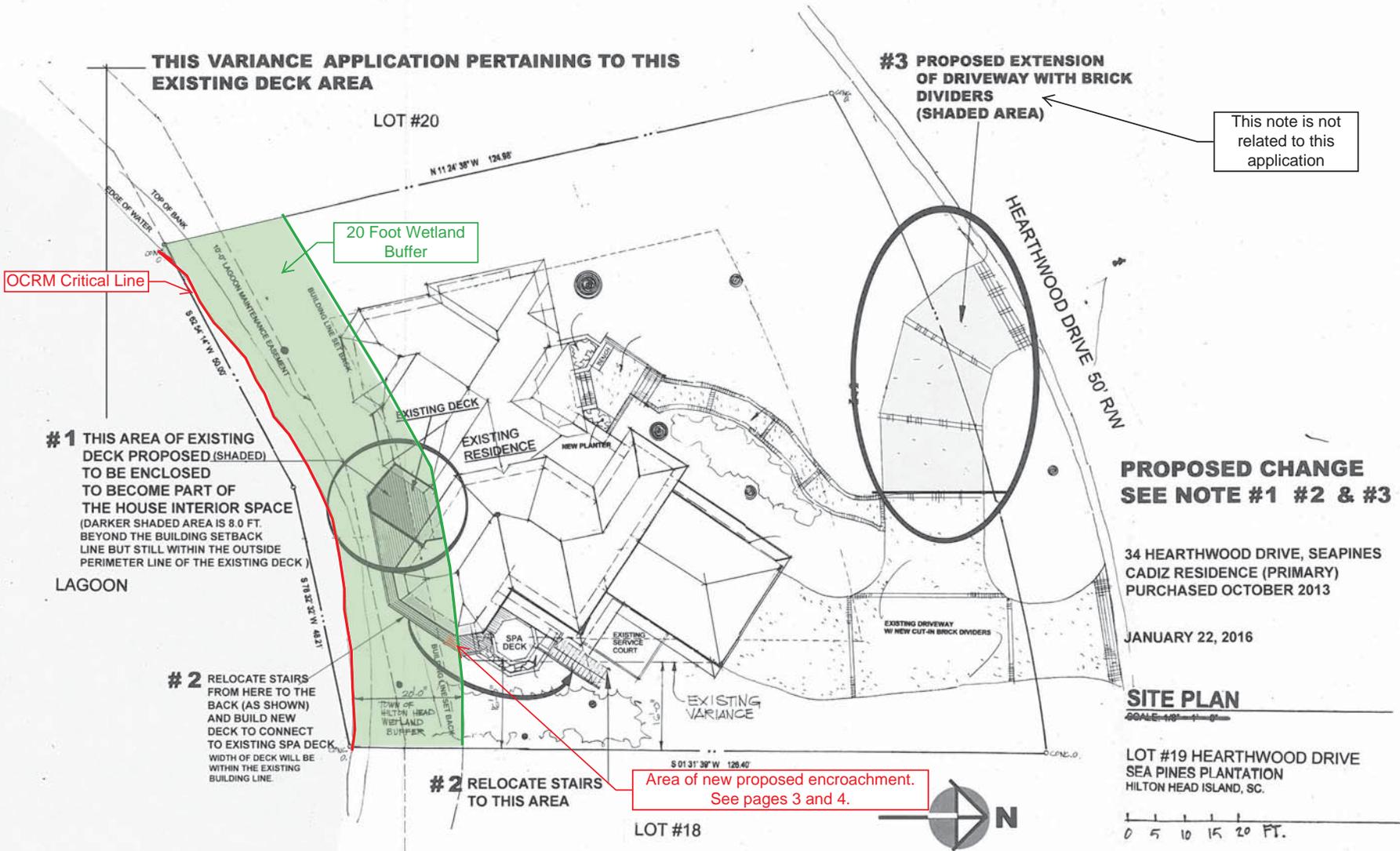
**THESE DRAWINGS / PLANS PREPARED BY
MEDARDO CADIZ, ARCHITECT, OWNER**

**THIS VARIANCE APPLICATION PERTAINING TO THIS
EXISTING DECK AREA**

LOT #20

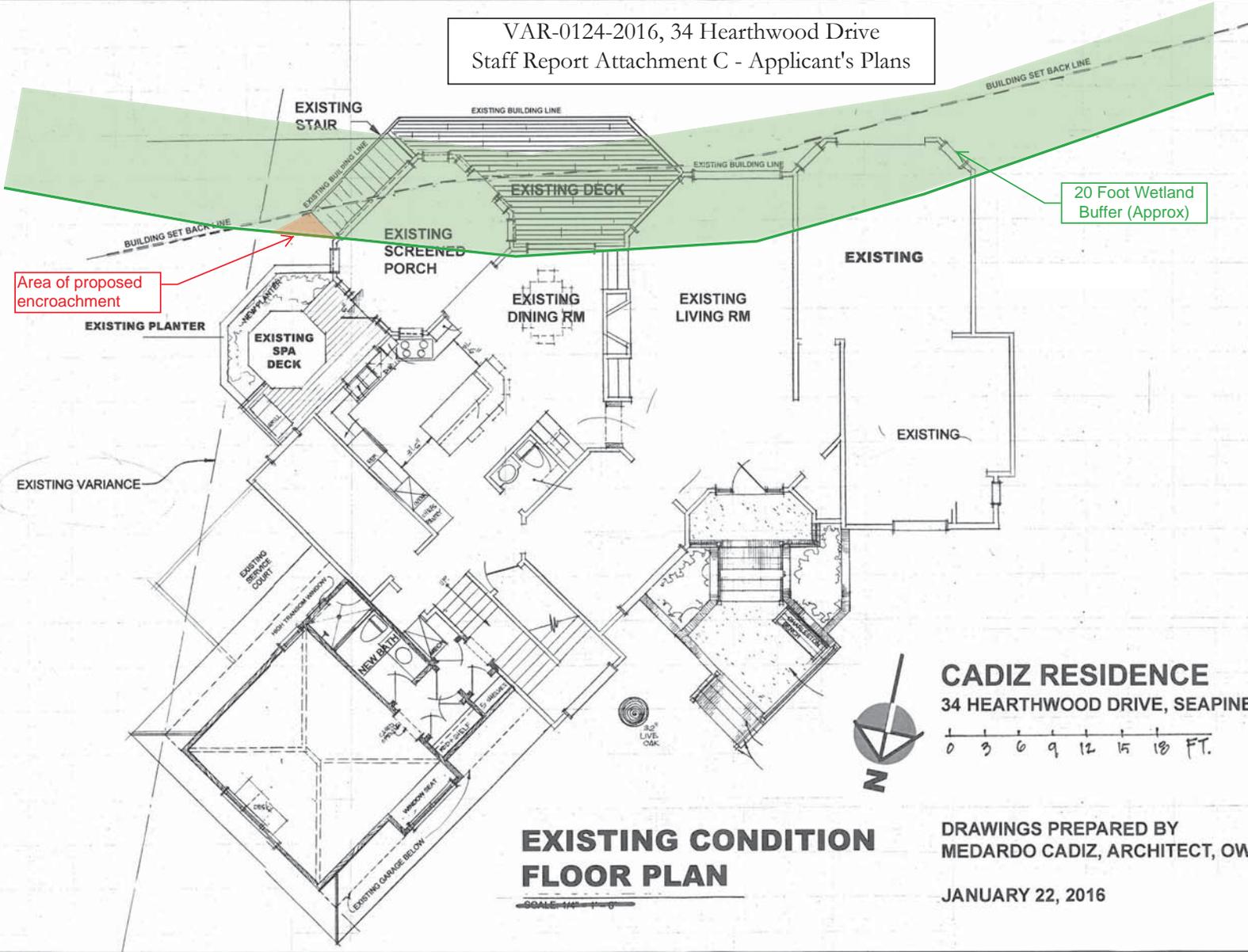


VAR-0124-2016, 34 Hearthwood Drive
Staff Report Attachment C - Applicant's Plans



This note is not related to this application

VAR-0124-2016, 34 Hearthwood Drive
Staff Report Attachment C - Applicant's Plans



EXISTING CONDITION FLOOR PLAN

CADIZ RESIDENCE
34 HEARTHWOOD DRIVE, SEAPINES

0 3 6 9 12 15 18 FT.

DRAWINGS PREPARED BY
MEDARDO CADIZ, ARCHITECT, OWNER

JANUARY 22, 2016

VAR-0124-2016, 34 Hearthwood Drive
 Staff Report Attachment C - Applicant's Plans

#2 RELOCATE THE STAIR IN THIS AREA TO THE BACK, AS SHOWN. THEN BUILD NEW DECK TO CONNECT TO EXISTING DECK AND THE EXISTING SPA DECK. WIDTH OF NEW DECK TO ALIGN WITH EXISTING BUILDING LINE

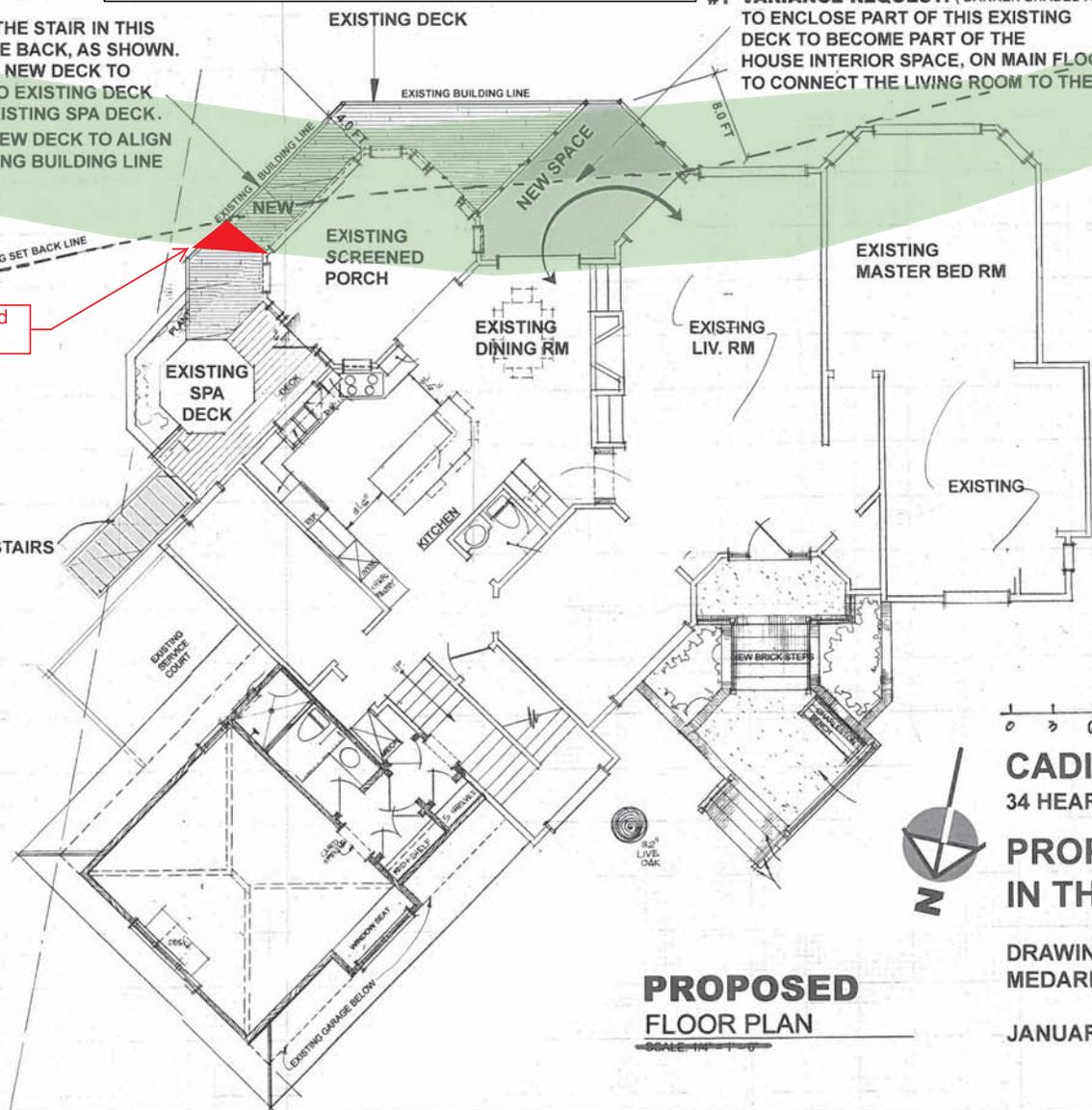
#1 VARIANCE REQUEST: (DARKER SHADED AREA) TO ENCLOSE PART OF THIS EXISTING DECK TO BECOME PART OF THE HOUSE INTERIOR SPACE, ON MAIN FLOOR ONLY, TO CONNECT THE LIVING ROOM TO THE DINING ROOM

20 Foot Wetland Buffer (Approx)

NOTE:
 PROPOSED CHANGES ON THE EXISTING BUILDING ARE THE SHADED AREAS SHOWN

Area of proposed encroachment

#2 RELOCATE STAIRS THIS AREA



PROPOSED FLOOR PLAN
 SCALE: 1/4" = 1'-0"

0 3 6 9 12 15 18 FT.

CADIZ RESIDENCE
 34 HEARTHWOOD DRIVE, SEAPINES

PROPOSED CHANGE SHOWN IN THE SHADED AREAS.

DRAWINGS PREPARED BY
 MEDARDO CADIZ, ARCHITECT, OWNER

JANUARY 22, 2016

VAR-0124-2016, 34 Hearthwood Drive Deck
Staff Report Attachment D - Site Photos



VAR-0124-2016, 34 Hearthwood Drive Deck
Staff Report Attachment D - Site Photos

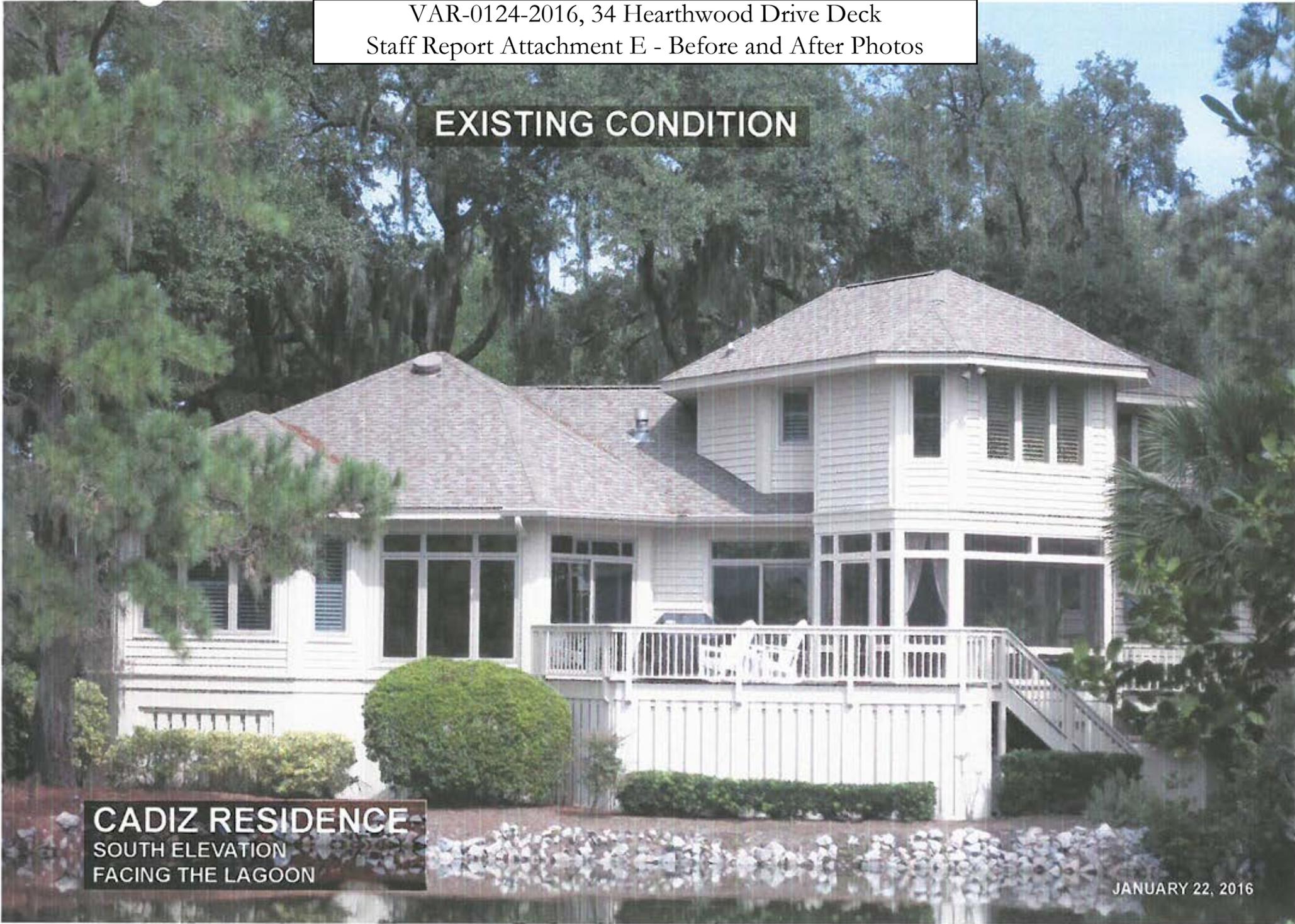


VAR-0124-2016, 34 Hearthwood Drive Deck
Staff Report Attachment E - Before and After Photos

EXISTING CONDITION

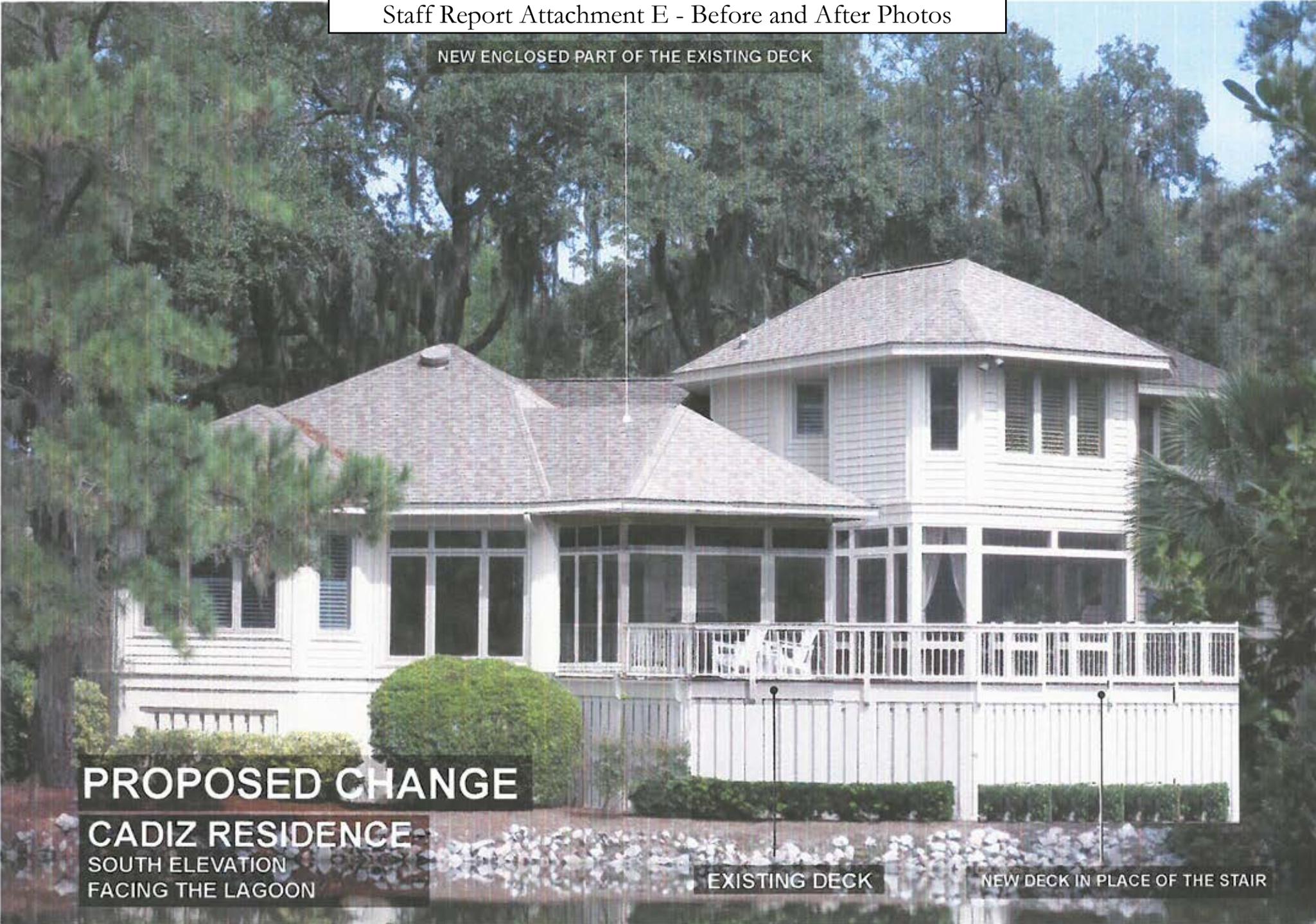
CADIZ RESIDENCE
SOUTH ELEVATION
FACING THE LAGOON

JANUARY 22, 2016



VAR-0124-2016, 34 Hearthwood Drive Deck
Staff Report Attachment E - Before and After Photos

NEW ENCLOSED PART OF THE EXISTING DECK



PROPOSED CHANGE

CADIZ RESIDENCE

SOUTH ELEVATION
FACING THE LAGOON

EXISTING DECK

NEW DECK IN PLACE OF THE STAIR



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:
VAR-000127-2016	February 22, 2016

Parcel or Location Data:	Property Owner	Applicant
Parcels#: R552 018 000 0235 0000 and R552 018 000 065A 0000 Acreage: Parcel 235: 4.28 acres Parcel 65A: 2.06 acres Zoning: CR (Coligny Resort District)	Town of Hilton Head Island One Town Center Court Hilton Head Island, SC 29928	Jennifer Ray Town of Hilton Head Island One Town Center Court Hilton Head Island, SC 29928

Application Summary:

Jennifer Ray, on behalf of the Town of Hilton Head Island, is requesting a variance from LMO Section 16-6-104.F.2.iii, Specimen Tree Protection, to allow impact (soil compaction and paving) within 15 feet of the trunk of two trees rather than removing them.

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 properties where the two trees are located are part of the Coligny Park improvement project. On October 14, 2014, Town Council approved the Conceptual Master Plan for improvements in the Coligny District that focus on roadway and intersection improvements, surface parking, a destination park and playground, a children’s museum, streetscape improvements and pedestrian improvements.

In order to meet the priorities of the master plan, two specimen trees, a double-trunk 27-12” Hickory and a double-trunk 30-36” Live Oak, will be impacted. In lieu of requesting removal of the two trees, staff is requesting a variance to allow impact (soil compaction and paving) within 15 feet of their trunk. LMO Section 16-6-104.F.2.iii, Specimen Tree Protection, does not allow impact within 15 feet

of the trunk of a specimen tree.

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

Grounds for Variance:

According to the applicant, there are about 13 specimen trees located on site for the Coligny Improvement project. The project was designed to avoid impacts to most of these trees. Surface parking was identified as a priority for this project by Town Council. Without impacting the two trees in question, the amount of surface parking would be reduced by three spaces and pedestrian and vehicular access between the beach and the parking lot would not be improved. Staff states they will use all reasonable practices and materials to support the health of the two trees, including the use of pervious pavers.

Summary of Fact:

- 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 January 22, 2016 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 January 31, 2016 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on February 1, 2016 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on February 4, 2016 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 18 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):

Findings of Facts:

- There are many specimen trees located on the site of the Coligny Park improvements.
- Traffic counts were performed specifically for this project. Over 400 pedestrians were counted during the 60-minute PM peak –hour period in June 2014 crossing South Forest Beach Drive from the beach to the parking lot. Parking spaces, not pedestrians, were counted at other Town beach parks during the same period and vacant spaces were found in most parking lots, while Coligny did not have any.
- There are limited opportunities for additional parking within the Coligny district and surface parking is a priority identified by Town Council.

Conclusions of Law:

- Staff concludes that this application does meet 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 high parking demand for the Coligny beach park, preserving the many specimen trees on site, while attempting to meet Town Council’s goal to provide additional parking and a safer pedestrian and vehicle connection between the beach and the parking lot, all make this property extraordinary.

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 Facts:

- There are many specimen trees located on the site of the Coligny Park improvements.
- There are limited opportunities for additional parking within the Coligny district and surface parking is a priority identified by Town Council.
- There aren’t other sites in the vicinity that (1) have the parking demand that the Town has to provide public beach parking, (2) have the need for a safer connection for the vehicular and pedestrian traffic between the beach and the parking lot, and (3) that also have so many specimen trees.

Conclusions of Law:

- Staff concludes that this application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are extraordinary conditions that apply to the subject property that do not generally apply to other properties in the vicinity.
- Preserving the many specimen trees on site, while attempting to meet Town Council's goal to provide additional parking and a safer pedestrian and vehicle connection between the beach and the parking lot, all make this particular property extraordinary and does not generally apply to the 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 Facts:

- LMO Section 16-6-104.F.2 states that specimen trees shall not be cut, removed, pushed over or killed. This section also states that no more than 20 percent of the total area within the drip line of any specimen tree shall be subject to paving or soil compaction, and no paving or soil compaction is allowed within 15 feet of the tree trunk.
- The project was designed to avoid impacts to most of the specimen trees on site.
- There are limited opportunities for additional parking within the Coligny district and surface parking and pedestrian connectivity is a priority identified by Town Council.
- Staff is attempting to preserve the specimen trees; the only other solution would be to request to remove them in order to meet the priority of Town Council.
- For the specimen tree near Nassau Street, staff is requesting the impact because of the location of the proposed sidewalk. It cannot be located outside of the 15 feet of the trunk on the building side because of the close proximity to the building. It cannot be located outside of the 15 feet on the street side because then it would impact proposed parking, and staff is trying to maximize the amount of additional parking per the goals of Town Council.
- For the specimen tree near South Forest Beach Drive, staff is requesting the impact in order to provide public safety. Because there are so many people walking from the beach to the parking lot in that particular location, staff's goal is to provide a traffic signal at the entrance of the beach parking lot on South Forest Beach Drive for pedestrian and vehicular safety. In order to get that permitted by SCDOT (Department of Transportation), the curb cut needs to be realigned with the drive aisle across the street (the Beach House development). In order to do that the specimen tree would need to be removed. Staff does not want to remove the beautiful tree and is proposing to shift the drive aisle over slightly, to preserve the tree but allow some impact within 15 feet of the trunk.

Conclusions of Law:

- Staff concludes that this application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are extraordinary conditions that apply to the subject property that would restrict the utilization of the property.
- Without impacting the two trees in question, the amount of surface parking would be reduced and pedestrian and vehicular access between the beach and the parking lot would not be

improved.

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 Facts:

- The Coligny parking and pedestrian connectivity improvement project is a priority of Town Council and was approved in October 2014 in order to benefit the public good.
- Staff will use all reasonable practices and materials to support the health of the trees including the use of pervious pavers, root feeding, and a root bridge pathway for the tree near Nassau Street.
- The only alternative to allowing the impact within 15 feet of the trunk of the trees would be to request to remove the trees, which also requires variance from the BZA.

Conclusions of Law:

- Staff concludes that this application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance will not be of substantial detriment to adjacent property.
- The variance will actually benefit the public good and the character of the district by providing additional parking, a safer pedestrian and vehicular connection between the beach and the parking lot, and by leaving two specimen trees on site.

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 motion.

PREPARED BY:

ND

Nicole Dixon, CFM, Senior Planner

February 5, 2016

DATE

REVIEWED BY:

HC

Heather Colin, AICP, Development Review
Administrator

February 5, 2016

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Survey and Site Plan for Tree 1
- D) Survey and Site Plan for Tree 2
- E) Coligny Redevelopment Master Plan
- F) Pictures

ATTACHMENT A



VAR-127-2016 Vicinity Map

ATTACHMENT B



TOWN OF HILTON HEAD ISLAND

Department of Community Development

TO: Board of Zoning Appeals
FROM: Jennifer B. Ray, *ASLA, Urban Designer*
VIA: Teri B. Lewis, *LMO Official*
DATE: January 22, 2016
SUBJECT: Variance Request for Coligny Park

On October 14, 2014 Town Council approved the Conceptual Master Plan for improvements in the Coligny District. The Conceptual Master Plan was based on public and Planning Commission input and prepared in conjunction with traffic and parking assessments. Improvements focused on roadway and intersection improvements, surface parking, a destination park and playground, a children's museum, streetscape improvements, and pedestrian improvements.

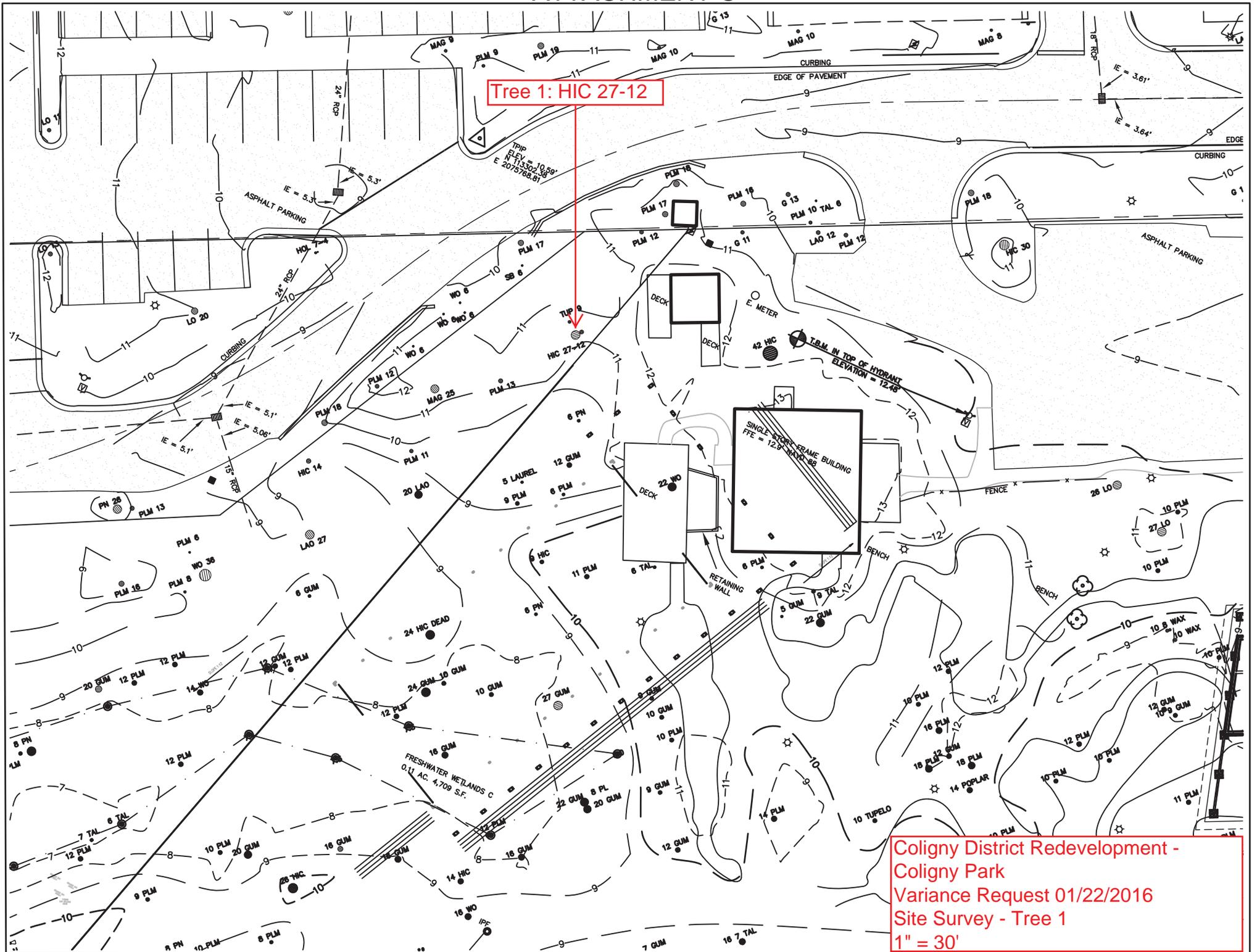
Staff requests a variance from LMO Section 16-6-104.F.2.iii Specimen Tree Protection for the impact (soil compaction and paving) within 15 feet of the tree trunk. In order to meet the priorities of the master plan including roadway and intersection improvements and surface parking, two specimen trees will need to be removed. However in lieu of requesting removal of the trees, staff requests a variance to allow impact within 15' of the trunk.

Staff believes impact to this tree meets the requirements for the variance criteria as stated below:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
 - a. A 27-12" Hickory (Tree 1) and a 30-36" Live Oak (Tree 2) are among many specimen trees located on site. There are limited opportunities for parking within the Coligny district and surface parking is a priority identified by Town Council. Over 400 pedestrians were counted (during the 60-minute PM peak-hour period in June 2014) crossing South Forest Beach Drive from the beach to the parking lot. The two trees limit the amount of parking that can be added and prohibit the relocation of the curb cut on South Forest Beach required to facilitate the large number of pedestrians.
2. These conditions do not generally apply to other properties in the vicinity.
 - a. There aren't other sites in the vicinity with the parking demand of the Town and the significant vehicular and pedestrian interactions between the beach parking and the parking lot that also have specimen trees.
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.

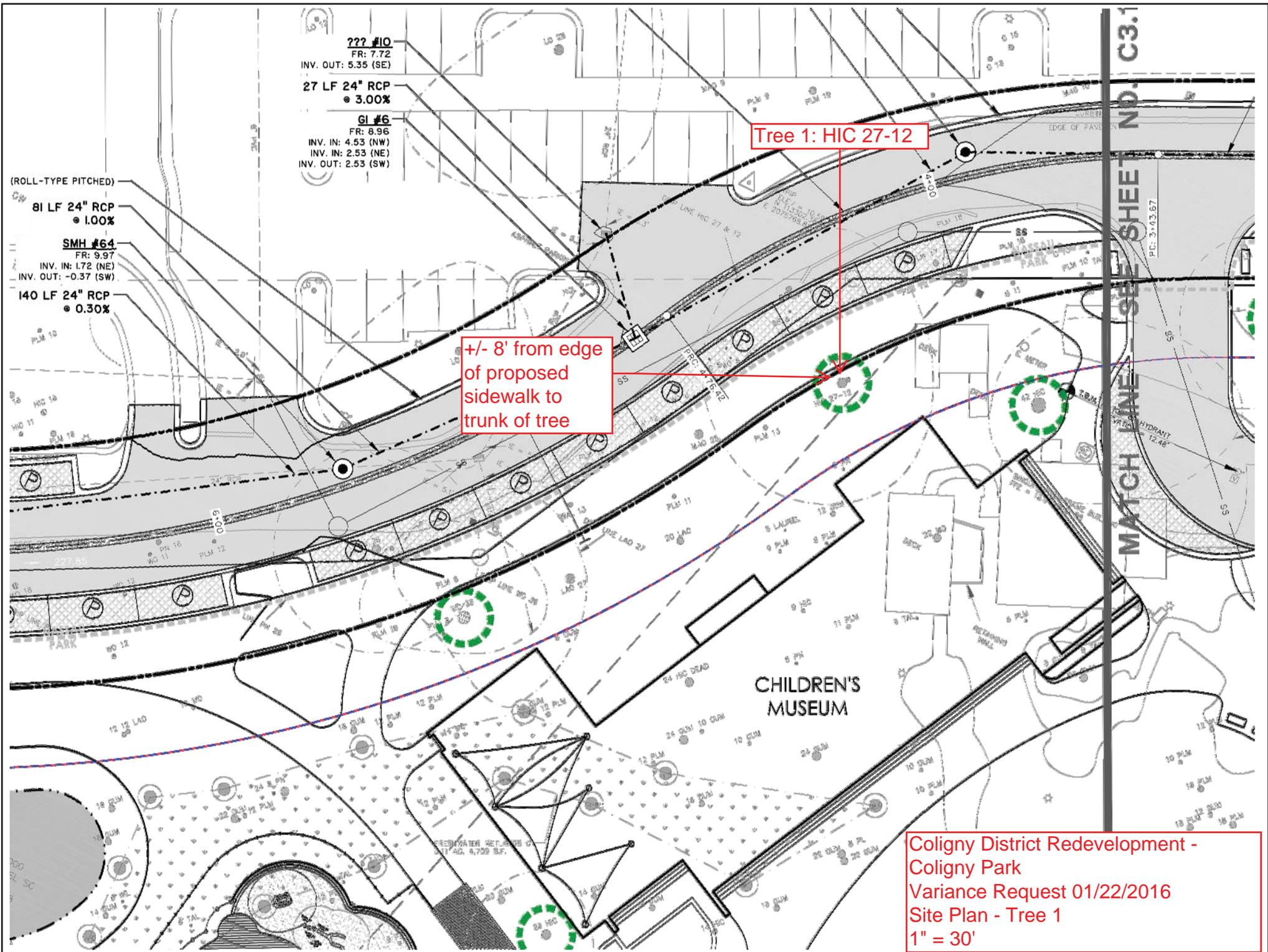
- a. In order to meet the LMO requirements that prohibit impact within 15 feet of the trunk of the two specimen trees identified above, the amount of surface parking would be reduced and pedestrian and vehicular access between the beach and the parking lot would not be improved.
4. The authorization 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.
 - a. Staff will use all reasonable practices and materials to support the health of the trees including the use of pervious pavers.
 - b. The alternative to impacting within 15' of the trunk of the trees would be to request to remove the trees.

ATTACHMENT C



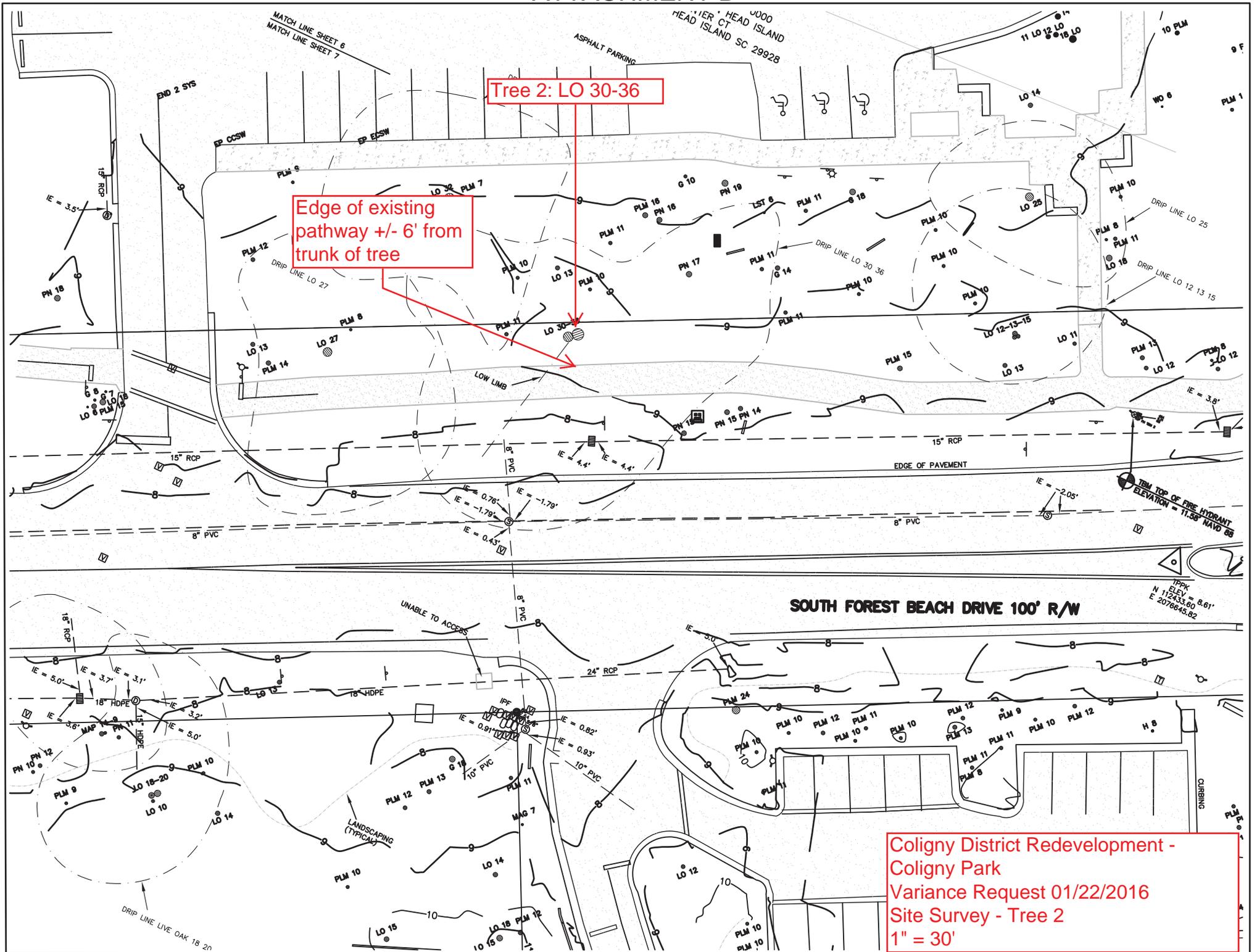
Coligny District Redevelopment -
Coligny Park
Variance Request 01/22/2016
Site Survey - Tree 1
1" = 30'

ATTACHMENT C



Coligny District Redevelopment -
Coligny Park
Variance Request 01/22/2016
Site Plan - Tree 1
1" = 30'

ATTACHMENT D



Tree 2: LO 30-36

Edge of existing pathway +/- 6' from trunk of tree

Coligny District Redevelopment -
Coligny Park
Variance Request 01/22/2016
Site Survey - Tree 2
1" = 30'

JDOO
HEAD ISLAND
HEAD ISLAND SC 29928

SOUTH FOREST BEACH DRIVE 100' R/W

TPK
ELEV = 8.61'
N 112533.60
E 2076645.82

TOP OF FIRE HYDRANT
ELEVATION = 11.55' NAVD 88

MATCH LINE SHEET 6
MATCH LINE SHEET 7

END 2 SYS

ASPHALT PARKING

RP CCSW

RP E1SW

IE = 3.5'

15" RCP

8" PVC

LOW LIMB

6" PVC

IE = 4.4'

IE = -1.79'

IE = 0.43'

15" RCP

EDGE OF PAVEMENT

8" PVC

IE = -2.05'

10 PLM

11 LO 12 LO 15 LO

WO 6

PLM 1

PLM 9

LO 32 PLM 7

PLM 11

PLM 16

PN 16

G 10

PN 19

LST 6

PLM 11

18

PLM 10

LO 25

PLM 10

DRIP LINE LO 25

PLM 8

PLM 11

LO 16

DRIP LINE LO 12 13 15

PLM 12

DRIP LINE LO 27

LO 13

PLM 14

PLM 8

LO 27

PLM 11

LO 13

PLM 10

LO 13

PN 17

PLM 11

G 14

PLM 11

PLM 10

PLM 15

LO 12-13-15

LO 13

LO 11

PLM 13

LO 12

PLM 8

LO 12

PLM 8

LO 12

IE = 3.9'

18" RCP

IE = 5.0'

IE = 3.7'

IE = 3.1'

IE = 5.0'

IE = 3.6'

MAP

PLM 12

PLM 9

LO 18-20

LO 10

LO 14

DRIP LINE LIVE OAK 18 20

UNABLE TO ACCESS

6" PVC

24" RCP

18" HDPE

10" HDPE

10" PVC

PLM 12

PLM 13

G 11

PLM 11

MAG 7

LO 14

LO 15

6" PVC

10" PVC

IE = 0.82'

IE = 0.93'

IE = 0.91'

10" PVC

PLM 12

PLM 13

G 11

PLM 11

MAG 7

LO 14

LO 15

IE = 3.0'

PLM 24

PLM 10

PLM 12

PLM 11

PLM 10

PLM 12

PLM 9

PLM 11

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PLM 11

PLM 10

PLM 12

PLM 10

PLM 12

PLM 10

PLM 10

PLM 12

PLM 11

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PLM 10

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PLM 11

PLM 10

PLM 12

PLM 9

PLM 11

PLM 10

PLM 12

PLM 10

PLM 12

PLM 10

H 8

CURBING

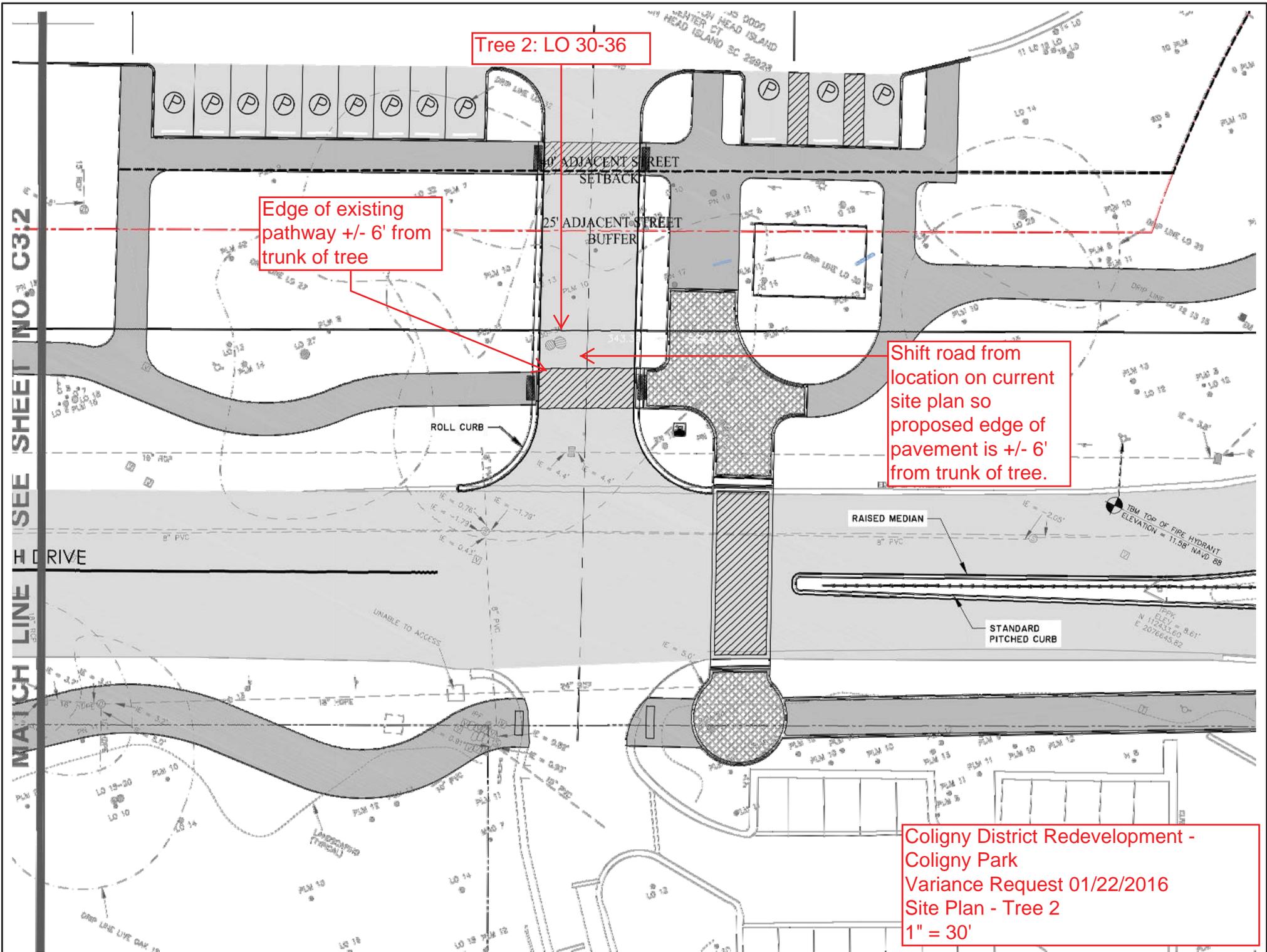
PL 1

PL 2

PL 3

PL 4

ATTACHMENT D



Tree 2: LO 30-36

Edge of existing pathway +/- 6' from trunk of tree

Shift road from location on current site plan so proposed edge of pavement is +/- 6' from trunk of tree.

Coligny District Redevelopment - Coligny Park
Variance Request 01/22/2016
Site Plan - Tree 2
1" = 30'

SEE SHEET NO. C3:2
MATCH LINE

H DRIVE

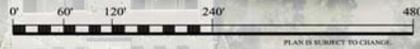
Tree 1: HIC 27-12

ATTACHMENT E



LEGEND	
(A)	COLIGNY DISTRICT GATEWAY • NEW ENTRY MONUMENTATION • ACCENT PAVEMENT • NEW LANDSCAPING • START OF DISTRICT STREETSCAPE
(B)	NASSAU STREET IMPROVEMENTS • ELIMINATES TIGHT CURVES • SCOT ROAD STANDARDS • ENHANCED STREETSCAPE WITH ± 21 ON-STREET PARKING SPACES AND SIDEWALK
(C)	POPE AVENUE IMPROVEMENTS • ENHANCED STREETSCAPE • DEDICATED RIGHT TURN LANE INTO BEACH PARKING LOT AND LEFT TURN LANES ONTO LAGOON RD (NORTH) AND LAGOON RD EXTENSION
(D)	LAGOON ROAD EXTENDED/POPE AVENUE INTERSECTION IMPROVEMENTS • SIGNALIZED INTERSECTION WITH PEDESTRIAN CROSSINGS AND ACTIVATORS • CREATES ALTERNATE TRAFFIC ROUTE - TYING POPE AVE TO TANGLEWOOD
(E)	MULTI-MODAL DROP-OFF / PICKUP • PROVIDES ± 69 NEW ON-STREET PARKING SPACES
(F)	NEW COLIGNY PARK • CENTRAL OPEN SPACE FOR PASSIVE & EVENT USE • OPEN SPACE COULD PROVIDE SEASONAL OVERFLOW PARKING, ± 125 SPACES • VISUALLY CONNECTED TO POPE AVENUE • TIES TO PERIMETER TRAIL NETWORK • ARBOR SWINGS AND AMPLE LANDSCAPING
(G)	BANDSHELL / PAVILION
(H)	RESTROOM / INFORMATION CENTER / MULTI-MODAL SHELTER WITH DROP-OFF
(I)	CHILDREN'S MUSEUM (± 3,500 SF) • LIGHTHOUSE ENTRY • SCREENED PORCH (± 1,500 SF) • FENCED OUTDOOR PLAY AREA WITH SHADE • ADJACENT TO ± 35 SPACE PARKING LOT
(J)	ADVENTURE (DESTINATION) PLAYGROUND • CAPTAIN WILLIAM HICON SHIP PLAY STRUCTURE • SEPARATE SMALL CHILD PLAY AREA WITH TREEHOUSE THEME • WATER AND SAND EXPLORATION AREA • LOWCOUNTRY AND NATURE THEMED • LAGOON OVERLOOKS, INCLUDING PIER • AMPLE SEATING AREAS FOR ALL AGES • FENCED ENCLOSURE
(K)	ENHANCED LAGOON • SURROUNDS PLAY AREAS TO CREATE "ISLAND" • EXERCISE STATIONS ALONG TRAIL SYSTEM • PERIMETER TRAIL SYSTEM WITH AQUATIC AND ENVIRONMENTAL EXPERIENCES
(L)	IMPROVED TOWN BEACH PARKING LOT • STANDARDIZE SPACE WIDTHS TO COMPLY WITH L.M.O. AND IMPROVE CIRCULATION • COLLECT PEDESTRIANS AND DIRECT TO NEW SIGNALIZED SOUTH FOREST BEACH OR POPE AVENUE CROSSINGS • NEW PEDESTRIAN REFUGES AT LAGOON ROAD AND SOUTH FOREST BEACH INTERSECTIONS • PROVIDES ± 426 SPACES • ALIGNS SOUTH FOREST BEACH INGRESS / EGRESS WITH BEACH HOUSE RESORT ENTRY
(M)	SOUTH FOREST BEACH IMPROVEMENTS • SIGNALIZED INTERSECTION AT BEACH HOUSE RESORT / TOWN'S BEACH LOT WITH PEDESTRIAN CROSSINGS AND ACTIVATORS • PEDESTRIAN REFUGE AREAS ON EACH SIDE OF SIGNALIZED INTERSECTION • NEW LEISURE TRAIL ON EAST SIDE OF SOUTH FOREST BEACH DRIVE
(N)	POTENTIAL TOWN SERVICES PARCEL
TOTAL PERMANENT PARKING SPACES ± 553 TEMPORARY GRASS PARKING SPACES ± 125 TOTAL POTENTIAL SURFACE PARKING: ± 678	

Tree 2: LO 30-36



ARCHITECTURE BY:
WATSON TATE SAVORY
Architecture Interiors Planning

ENGINEERING BY:
THOMAS & HUTTON ENGINEERING CO.



COLIGNY DISTRICT REDEVELOPMENT

DRAFT CONCEPTUAL MASTER PLAN

PREPARED FOR:
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA
OCTOBER 1, 2014



PLANNING AND LANDSCAPE ARCHITECTURE BY:
Wood Partners Inc. WPI
*Landscape Architects
Land Planners*

ATTACHMENT F

Coligny District Redevelopment – Coligny Park Variance Request 01/22/2016



View of Tree 1 from Nassau Street

ATTACHMENT F

Coligny District Redevelopment – Coligny Park Variance Request 01/22/2016



View of Tree 2 looking toward Coligny Circle (South Forest Beach to right)



View of Tree 2 looking down South Forest Beach (beach parking lot to right)

ATTACHMENT F

Coligny District Redevelopment – Coligny Park Variance Request 01/22/2016



View of Tree 2 across South Forest Beach (beach parking lot behind)



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Senior Planner*
DATE: February 5, 2016
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 has been one Substitution of Nonconformity for Redevelopment granted by staff since the January 2016 Board of Zoning Appeals meeting.

1. Sea Turtle Marketplace (the redevelopment of Pineland Station)- 430 William Hilton Parkway. Applicant wished to improve the existing access drives to current LMO standards but maintain the same centerline as the existing centerline. Per Section 16-5-105.I, there is a 500 foot separation required between accesses along the same side of a major arterial road. Pursuant to Section 16-5-105.I.8, when the applicant demonstrates that a lot of record would be rendered unusable by the strict application of the standards in this subsection (Sec. 16-5-105.I, Access to Streets) and that the vehicular access point is otherwise optimally located so as to provide acceptable turning radii and minimize adverse impact, the Official may waive the standard. Since they were improving the access drives but keeping them in their same location in order to avoid impacts to existing trees, bike paths, utilities and storm water drainage, the waiver was granted.