



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, August 22, 2022 – 2:30 p.m.
AGENDA

The Board of Zoning Appeals meeting will be held in-person at Town Hall in the Benjamin M. Racusin Council Chambers.

1. Call to Order

2. FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

3. Roll Call

4. Swearing In Ceremony of Reappointed Board Member Robert Johnson – *Performed by Josh Gruber, Deputy Town Manager*

5. Welcome and Introduction to Board Procedures

6. Approval of Agenda

7. Approval of Minutes

a. July 25, 2022 Meeting

8. Appearance by Citizens

Citizens may submit written comments via the [Town's Open Town Hall Portal](#). The portal will close at 4:30 p.m. on Friday, August 19, 2022. Comments submitted through the portal will be provided to the Board of Zoning Appeals and made part of the official record.

9. Unfinished Business – None

10. New Business

a. Public Hearing

VAR-001890-2022 – Request from Kathleen Duncan of J.K. Tiller Associates, Inc., on behalf of Louise Miller Cohen, for a variance from LMO Section 16-5-102.D, Adjacent Use Setbacks to allow two outbuildings and a manufactured office building to encroach within the setbacks. The property is known as the Gullah Museum of Hilton Head Island and is located at 12 Georgianna Drive, with a parcel number of R510 003 000 0048 0000. *Presented by Michael Connolly.*

11. Board Business

12. Staff Reports

a. Status of Appeals to Circuit Court

b. Status of LMO Amendments

13. Adjournment

Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.



Town of Hilton Head Island
Board of Zoning Appeals Meeting

July 25, 2022, at 2:30 p.m.

Benjamin M. Racusin Council Chambers

MEETING MINUTES

Present from the Board: Chair Patsy Brison, Vice Chair Anna Ponder, David Fingerhut, Peter Kristian, Kay Bayless

Absent from the Board: Charles Walczak, Robert Johnson (excused)

Present from Town Council:

Present from Town Staff: Josh Gruber, Deputy Town Manager; Nicole Dixon, Development Review Program Manager; Shea Farrar, Senior Planner; Michael Connolly, Senior Planner; Trey Lowe, Planner; Aaron Black, Facilities Manager; Teresa Haley, Community Development Coordinator; Karen Knox, Senior Administrative Assistant

1. Call to Order

Chair Brison called the meeting to order at 2:30 p.m.

2. FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

3. Roll Call – See as noted above.

4. Swearing In Ceremony of Reappointed Board Member Anna Ponder and New Board Member Kathryn Bayless

Joshua Gruber, Deputy Town Manager swore in reappointed Board Member Anna Ponder and new member Kathryn Bayless.

5. Welcome and Introduction to Board Procedures

Chair Brison welcomed all in attendance and introduced the Board's procedures for conducting the meeting.

6. Approval of Agenda

Chair Brison asked for a motion to approve the agenda as presented. Mr. Kristian moved to approve. Vice Chair Ponder seconded. By way of roll call, the motion passed with a vote of 5-0-0.

7. Approval of Minutes

a. June 27, 2022, Meeting

Chair Brison asked for a motion to approve the minutes of the June 27, 2022, meeting. Mr. Fingerhut moved to approve. Mr. Kristian seconded. By way of roll call, the motion passed with a vote of 4-0-0. Ms. Bayless abstained as she was not a member of the Committee at the time.

8. Appearance by Citizens

No comments were received via the Open Town Hall HHI portal.

9. Unfinished Business – None

10. New Business

a. Election of Officers for the July 1, 2022 – June 30, 2023, Term

Chair Brison asked for a motion to nominate a board member to serve as Chair for the new term. Mr. Kristian moved to nominate Ms. Brison as Chair. Dr. Ponder seconded. The motion passed with a vote of 4-0-1. Ms. Brison abstained.

Chair Brison asked for a motion to nominate a board member to serve as Vice Chair for the new term. Mr. Kristian moved to nominate Dr. Ponder as Vice Chair. Mr. Fingerhut seconded. The motion passed with a vote of 4-0-1. Dr. Ponder abstained.

Chair Brison asked for a motion to nominate Karen Knox to serve as Secretary for the new term. Dr. Ponder moved to nominate Karen Knox as Secretary. Mr. Kristian seconded. The motion passed with a vote of 5-0-0.

b. APL-001469-2022 – Request for Appeal from Jason Bullock of Island Cruisers Bike Rentals.

The appellant is appealing staff's determination, dated May 19, 2022, that the outside storage of bicycles for the Hilton Head Bicycle Company located at 112 Arrow Road, is a legal non-conforming use.

Chair Brison outlined the procedures for the appeal hearing process. Chair Brison invited the Appellant to proceed with his presentation. Mr. Jason Bullock on behalf of Island Cruisers Bike Rentals presented his case as described in the Board's Agenda Package.

The Board made comments and inquiries about where in the LMO it talks about ownership interest changing and having that affect a non-conforming use.

Chair Brison asked Ms. Nicole Dixon to present on behalf of staff. Ms. Dixon stated Jason Bullock of Island Cruisers Bike Rentals is appealing staff's determination under date of May 19, 2022, that the outside storage of bicycles for the Hilton Head Bicycle Company located at 112 Arrow Road is a legal nonconforming use. Ms. Dixon gave an in-depth history and timeline which led to staff's determination that the outside storage of bicycles for the Hilton Head Bicycle Company located at 112 Arrow Road, is a legal non-conforming use. Based on recent site visits, the outdoor storage of bicycles is behind the building and not visible from Arrow Road. Staff, based on recommendations from the Board of Zoning Appeals, added having outdoor storage of bicycles be permitted in the LC Zoning District to the list of proposed LMO amendments. We have a list of LMO Amendments that are going to go through the review and adoption process shortly, which includes this amendment. Should the amendment be approved, bicycle shops with outdoor storage will be permitted in the LC Zoning District.

The Board made additional comments and inquiries regarding the relevant rules about ownership; the number of complaints that were made against other businesses and if they were made by the same individual; whether there are any provisions that address change in ownership; whether fencing or screening is considered a site feature.

Chair Brison asked the Property Owner, Jim Hall to present. Mr. Hall stated we are here today because of LMO 16-4-102 requiring that a bicycle shop comply with certain conditions. Hilton Head Bicycle is located in the LC District and the Ordinance states that outdoor storage of bicycles is not allowed in this district. Bikes being stored behind fences and screened from public view shouldn't be a problem. The purpose of this Hearing is to decide an Appeal filed by Mr. Bullock. He is appealing the letter to me from the Town dated May 19th and requesting that the Town reverse its decision and not allow Hilton Head Bicycle Company to store bikes outside. Mr. Hall provided the Board with a Spreadsheet entitled "Bike Companies – Compliance Spreadsheet" which is a copy of the tracking form that the Town has been using in meeting with Mr. Bullock on a regular basis that lists the 34 bike shops, the status of their compliance and the Code Enforcement actions that have been taken. This document will be marked Exhibit "A" and made part of the official record. Mr. Bullock didn't follow the rules for his Appeal, including not putting in the required Code Citation, not providing any basis for his appeal, materially misrepresenting statements and throwing wild guesses about new companies being formed. The Appeal should be denied simply on these grounds. I have been advised the Town ruled correctly in allowing the legal non-conformity as detailed in the letter from Shawn Colin to the Hilton Head Bicycle Company on May 19, 2022. Mr. Hall presented the Board with an email exchange under date of January 28, 2020, between the Town and Mr. Bullock. This document will be marked Exhibit "B" and made part of the official record. Mr. Hall stated this email exchange initiates with Mr. Bullock asking the Town about him ending one LLC and starting a new LLC and whether the legal non-conforming variance he has at 3 Pensacola Place goes with the land or with the business entity. The response back from the Town is the Variance goes with the land. Mr. Bullock has benefited from the exact same thing that we are here today to try and not allow for me. Mr. Hall concluded by stating bike shops are here for a reason and we are here to send a message to the Town – this war on the bike shops and this harassment is too much. Mr. Hall also mentioned that one bike shop, Coastal Bikes went out of business. The campaign that has been conducted for two years by one individual in an effort to damage his competitors and weaponize the Town against them needs to be stopped. After Mr. Hall's presentation, he answered questions posed to him by the Board.

Ms. Nicole Dixon stated there is no presentation by the holder of the permit or their Agent for the property.

Chair Brison asked if the Appellant had a rebuttal. Mr. Bullock stated he is not on a campaign to hurt anyone, reduce trade or eliminate competition. I am simply here to have everyone follow the LMO consistently. Mr. Bullock stated he has no idea who Coastal Bikes is. If they went out of business, I am very sorry for that, but have no idea who they are. The Board had no questions for the Appellant.

Staff had no rebuttal for the Appellant.

Chair Brison asked the Property Owner, Mr. Hall for his rebuttal and instructed Mr. Hall this rebuttal is in response solely to Mr. Bullock's rebuttal, not to introduce new evidence into the record. Mr. Hall stated there are photographs taken by Mr. Bullock of Coastal Bikes so when he says he doesn't know who they are it is hard to believe. In Mr. Bullock's rebuttal he still has yet to say any relevant LMO that has to do with the change of business ownership. There were no questions from the Board on Mr. Hall's rebuttal.

Chair Brison stated there is no public comment on an Appeal Case. At this time the Chair would enter into the record the evidence. Included in the record that the Board received the

following documents: letter to the Board of Zoning Appeals dated May 31, 2022, from Island Cruisers Bike Rentals consisting of 9 pages signed by Jason Bullock on behalf of Island Cruisers Bike Rentals. In addition to the record furnished to the Board includes May 19, 2022, letter to James E. Hall, Owner Hilton Head Bicycle Company from Town of Hilton Head Island signed by Shawn Colin, Assistant Town Manager, Community Development, LMO Official; and letter dated December 1, 2021, to Teri Lewis, Deputy Community Development Director Town of Hilton Head Island from Hilton Head Bicycle Company signed by James E. Hall, Owner. In addition to that, the other documents produced in evidence today by Mr. Hall are Exhibit "A", entitled Bike Companies-Compliance Spreadsheet which is a document he received from the Town of Hilton Head Island in response to a FOIA request. In addition, Mr. Hall produced Exhibit "B" which is an email chain starting under date of April 28, 2022, from Teri Lewis to Missy Luick. Also, as part of the record the testimony provided by witnesses today. Chair Brison asked if there were any objections to any of those items or testimony being entered into the record. Hearing none, The Chair incorporates all that evidence into the record. The Hearing is now closed on this matter. The Board will enter into discussion prior to considering a motion and vote on the case. The Board has as part of its process form Motions for matters which come before it and we have a form entitled Appeal Motion which Board Members can use in their discussion and subsequently in making a Motion on this matter.

The Board made closing remarks on the appeal. Mr. Kristian stated bike use is an absolute necessity on Hilton Head Island and it is enjoyed by family and individuals all the time. All the folks that supply that service should be commended. Obviously, it is a competitive business and requires a lot of work and effort to keep the public safe and happy. I indicated at the last BZA meeting that I felt the LMO was being weaponized, and I continue to have that belief. The staff time that has gone into this, the amount of time many of you have spent defending yourselves, it is a cost you should not have to endure. The email exchange that Mr. Hall provided is quite telling where it indicates to Mr. Bullock that the Variance runs with the land. We are arguing exactly the opposite here today. This is troubling as well. Mr. Bullock was granted a variance legitimately by the BZA and he argues against others from getting the same consideration. Ms. Bayless stated she adopts the same comments that Mr. Kristian has made. Secondly, there is only one conclusion to draw as to whether a non-conforming use runs with the land and not the business. The LMO is clear in my opinion that the use is with the property and not with the business entity. Mr. Fingerhut echoed the comments of his colleagues and stated the Town staff made the correct decision. Dr. Ponder stated in 2020 as a Board we asked the Town to reconsider this matter of outdoor storage in certain districts on the Island. I think there is no one on this Board who is not supportive of the amazing work that you do as businesses. Most would like to support strong enterprise on this Island for residents, tourists. I would like to reiterate strong support and encouragement for the Town to take this up. It has been two years and we are here for the third time listening to much of the same words and sentiments. I would truly like to encourage some serious consideration from the Town to 1) consider the residents and the businesses involved and 2) to think about this Board and what we were asked to consider in these matters. I would like to see Town Council get to this issue as quickly as possible, so we are not here again. Nothing here today has persuaded me to disagree with how Town Staff has ruled here. Chair Brison stated she has looked at the relevant Chapter regarding non-conformities in the LMO to see if there was any language regarding ownership and have not found any. During the testimony of Ms. Dixon today we went through the entire Chapter to look for that language and I asked her questions regarding specific sub-sections within that LMO because that is the crux of the matter – whether there was an error in the interpretation of the language regarding non-conformities in the LMO. I have not heard any

testimony or seen any documents which would show that the ownership of the business controls the question about non-conforming use. Chair Brison stated that she was disturbed that the staff member, Shawn Colin who wrote the letter under date of May 19, 2022, indicating the Town's formal determination that outside bicycle storage at 112 Arrow Road is a legal nonconforming use was not present at the meeting and noted it would be helpful in the future for the staff member who makes the decision to be here for our proceedings. Chair Brison appreciated Ms. Dixon's testimony and expertise but indicated Ms. Dixon did not make this determination. I join the Vice Chair to ask the Town Council and the Planning Commission to consider addressing this Sub-Section regarding outdoor storage for bicycle shops and move it along as quickly as possible. Chair Brison asked for a motion.

Mr. Kristian moved to affirm the decision and the interpretation made by Staff on this matter based on the Findings of Fact and conclusion of law included in the staff's representation as indicated in Staff's letter under date of May 19, 2022. Dr. Ponder seconded. By way of roll call, the motion passed with a vote of 5-0-0.

11. Board Business –

Chair Brison asked for a motion to thank Ms. Teresa Haley for her service to the Board of Zoning Appeals with our grateful thanks and congratulations and best wishes on her promotion. Mr. Fingerhut moved to approve. Mr. Kristian seconded. The motion passed with a vote of 5-0-0. The entire board thanked Ms. Haley for her kindness and dedication to the Board over the past 6 years.

12. Staff Reports

a. Status of Appeals to Circuit Court

Mr. Coltrane was not in attendance to report on the item.

b. Status of LMO Amendments

Ms. Dixon noted she will be presenting the list of potential LMO Amendments to the Public Planning Committee on August 4, 2022, for their support in the prioritization of the list. We have it separated into several different tiers. We will move the first tier which we have called Tier 1A forward after we get the support from that meeting. In Tier 1A is the Amendment to include outdoor storage bicycles and the LC Zoning District. Ms. Dixon noted it is going to the Public Planning Committee first to make sure we have our prioritization correct in what their needs and goals are. It is not going to them for any action. It will then be put on the LMO Committee Agenda and then Planning Commission for Public Hearing. The Board noted that with all the Committees it must go before it will be several months. Ms. Dixon noted that staff didn't have it on hold or not take it forward for any reason. When we started bringing forth our first set two years ago, Covid happened, things got put on hold, we had higher priorities we were given to take forward, management shifted and changed, and we are dealing with circumstances out of our control. Chair Brison respectfully requested that this goes straight to the LMO Committee of the Planning Commission and bypass the Town Council's Public Planning Committee as it is high time, we did this. Chair Brison asked for a motion from the Board to direct the Chair to write a letter to the Mayor and the Town Manager to make that request on this specific issue. Mr. Kristian moved to approve. Ms. Bayless seconded. The motion passed with a vote of 5-0-0.

c. Waiver Report

Ms. Dixon noted that based on the Board's concern over the last several years regarding the number of waivers that had been issued, it has been the direction of our upper management to no longer have staff grant waivers. We are no longer reviewing or taking them through any type of process. You will no longer receive a Waiver Report. The provisions in the non-conforming section in Chapter 7 do allow for substitution of non-conformities for redevelopment – those were not considered Waivers and we will continue to review those. I wanted to see if it was at the Board's recommendation or request that you still receive a report at your meeting on those requests that we do review and approve or deny. Ms. Dixon advised staff is currently advising Applicants to come to the BZA for variances from those sections of the LMO where it currently says you need to get a Waiver. Mr. Kristian inquired how much increased activity will that place on the BZA's agenda if staff is not making those judgment calls. Ms. Dixon advised it all depends on what types of application or requests we receive, and which ones comes to fruition with going for a Variance. Ms. Dixon stated included in the LMO Amendments in Tier 1A is the removal of all staff granted Waivers. Any section in the LMO that suggests that you can get a Waiver from staff will be stricken through. Ms. Dixon said it is of the opinion of upper management that Waivers are not legal. Rather it being at staff's discretion to waive requirements in the LMO, it is more appropriate for it to come to the BZA as a Variance. This has not gone through the process yet but is on our list. Mr. Kristian said he does not want to be listening to things that could easily be determine by staff and if staff can make a decision in a lot less time than bringing it to the BZA it will set these people back and burden them. Dr. Ponder stated this is not the best possible course of action. Chair Brison echoed the concern expressed by two other Board members and questioned why the Town is deciding to not do this – until the LMO has been amended because in effect the Town is ignoring compliance with the LMO by not pursuing Waivers unless the Town has been given a legal opinion. The Chair entertained a motion to prepare a letter to the Town Manager and the Mayor and request that the LMO Section regarding Waivers proceed until there is an Amendment. Mr. Kristian moved to approve. Ms. Bayless seconded. The motion passed with a vote of 5-0-0.

13. Adjournment

With no other business before the Board, the meeting was adjourned at 4:35 p.m.

Submitted by: Karen Knox, Secretary

Approved: [DATE]



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:
VAR-001890-2022	Aug. 22, 2022

Parcel Data:	Applicant and Owner:
Parcel#: R510 003 000 0048 0000 Address: 12 Georgianna Drive Parcel size: 1.57 acres Zoning: RM-4 (Low to Moderate Density Residential District) Overlay: Corridor Overlay District, Historic Neighborhoods Overlay District	Applicant: Kathleen Duncan of J.K. Tiller Associates, Inc 181 Bluffton Road, Ste. F203 Bluffton, SC 29910 Owner: Dr. Louise Miller Cohen 3 Farmers Club Road Hilton Head Island, SC 29926

Application Summary:

Request for a variance from the Land Management Ordinance (LMO) Section 16-5-102.D, Adjacent Use Setbacks to allow a manufactured office building and two outhouse buildings to encroach within the adjacent use setbacks. The property is known as the Gullah Museum of Hilton Head.

Staff Recommendations:

1. Staff recommends the Board of Zoning Appeals find the request as it relates to the proposed manufactured office building to be inconsistent with the Town's Our Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official and enclosed herein. Staff recommends that the Board of Zoning Appeals ***deny this portion of the application.***
2. Staff recommends the Board of Zoning Appeals find the request as it relates to the proposed two outhouse buildings to be consistent with the Town's Our Plan and does serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of

Law as determined by the LMO official and enclosed herein. Staff recommends that the Board of Zoning Appeals ***approve this portion of the application with the following conditions:***

- a. The applicant submit an application for, and receive approval through the Development Plan Review process.
- b. The applicant submit an application for, and receive approval from the Design Review Board prior to any development.
- c. The proposed outhouse buildings would only be developed at the locations shown on the survey (see Exhibit D).
- d. Any ramp and deck proposed to access the outhouse buildings would not encroach in the adjacent use setback.
- e. A landscape plan will be required for the buffer along the property line to screen the proposed outhouse buildings from view as part of the Development Plan Review application.

Background:

The subject property is located on the island's north end, is adjacent to the Chinaberry and Hanahan subdivisions, and is accessed from Gum Tree Road. (See Exhibit A.) The property is located in the Low to Moderate Density Residential (RM-4) Zoning District in the Squire Pope Historic Neighborhood and resides within the Corridor Overlay. The property is used for Community Services and is classified as "Public, Civic, Institutional and Educational Uses" per Section 16-10-103.B.2. The property is known as the Gullah Museum of Hilton Head. The owner, Dr. Ms. Louise Cohen, founded the Museum to provide context and understanding of Gullah culture and revive, restore and preserve the Hilton Head Island Gullah history.

The 1.57-acre property is currently developed with a storage unit, a shed, a trailer, a stage, a single-story house (the Little Blue House), two historic homes (the Gray House and the Red House), a fence, port-o-let, two manufactured homes, and a driveway. Per 16-5-102.D, a 30-foot setback is required for Community Services use adjacent to single family residential use. Multiple encroachments exist in the property's adjacent use setbacks and are listed below. See Exhibit B for current adjacent setback encroachments.

1. The Gray House and the Red House both encroach in the 30-foot adjacent use setback. The Gray House is located 2.4 feet away from the adjacent property line.
2. A storage unit is located 9.8 feet from the adjacent property line.
3. The Little Blue House is 16.5 feet from an adjacent property.
4. A port-o-let is located on the property and is connected to a sewer lateral. The port-o-let is 15 feet away (half the required distance) from an adjacent property line.
5. A manufactured home is located 7.3 feet, 10.8 feet, and 13.9 feet away from the adjacent property lines.
6. The second manufactured home is located 15.8 feet away from one adjacent property and 12.5 feet from another adjacent property. The manufactured home also encroaches into the adjacent street setback from Gum Tree Road.

The applicant proposes to place three additional structures that would encroach into the adjacent use setbacks: one manufactured office building (12'x32') and two outhouse buildings (7'x10'), approximate in size.

In early 2022, Town Staff had conversations with representatives from the Museum about further developing the property as there is a need to improve and expand on the current facilities to better accomplish their mission. An informal pre-application was held in March, with a formal pre-application following later in March.

Based on these conversations, the museum representatives indicated they would like to phase in site improvements as resources become available. The improvements proposed include the following:

Structure Additions/Changes

- a. Construct replica of the “Big Gullah House” for use as a visitor center/ gift shop
- b. Add 7'x10' outhouse with handicap ramp near “Small Gullah House”
- c. Remove existing manufactured home and add 16'x40' manufactured office space
- d. Remove rented storage container and replace with 10'x16' manufactured unit

Site Improvements

- a. Add wrought iron fence along front and sides of property line
- b. Add vehicular security gate at property entrance
- c. Add handicap accessible parking spots
- d. Improve driveway loop
- e. Add contemplation garden near Great Dane Trailer
- f. Provide walkway to all structures (except the existing Red and Grey house)
- g. Add pedestrian access near Great Dane Trailer to connect to Town of Hilton Head Pathway and Boys and Girls club
- h. Add picnic tables throughout the site

During the pre-application meeting, the Museum representatives were informed the proposed encroachments would require a variance from the BZA. Town Staff encouraged them to adjust the layout of the site to meet LMO requirements. The applicant explained they do not want to change the layout of their site as it was developed to be similar to the Gullah traditional family compound site, with a cultural space under a Live Oak tree for gathering and structures on the perimeter of the site. The applicant decided to pursue a variance.

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

Grounds for Variance:

According to the applicant, if the 30' setback requirement is enforced for the proposed office, the location of the structure would either limit access to make improvements to other buildings on the property, impact the trees on the property, prohibit the location of the future “Big House”, or require the relocation/ shifting of Georgianna Drive.

With respect to the two proposed outhouse buildings, the applicant has stated the owner would incur additional and undue costs to extend the sewer to the interior of the property to reach 30' inward of the property boundary. Additionally, they need to provide an accessible ramp, that will further encroach on the usable space at the interior of the property that will need to be utilized for vehicular and pedestrian access and parking improvements.

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:

- The Variance Application was submitted on Jul. 22, 2022 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 Jul. 28, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on Aug. 4, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on Aug. 4, 2022 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 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:

- The property is 1.57 acres in size.

- There is a specimen Live Oak in the middle of the property.
- A sewer lateral exists at the location of the proposed two outhouse buildings, which provides use for a port-o-let currently onsite.
- The existing port-o-let encroaches into the adjacent use setback 15 feet.
- The site is one of the few remaining Gullah Geechee properties in the community, which has been passed down through the family and has taken the family compound development pattern as a result.

Conclusion of Law:

- This application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are extraordinary or exceptional conditions that apply to this 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:

- There are no other properties in the vicinity on the Island that serve as a museum to relive and teach Gullah history.
- There are no other properties on the Island that have developed over time as a family compound with a large tree and central gathering space, with structures located on the perimeter of the site.

Conclusion of Law:

- This application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are extraordinary and exceptional conditions that apply to the subject property that do not also 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:

- The site contains a specimen-sized Live Oak tree in the middle of the property.
- There is a boat and a stage currently under the Live Oak, see Exhibit D.
- Per Section 16-5-102.D, there is a 30 foot setback adjacent to residential use.
- There is an existing sewer lateral on the property and extending it 15 feet would cause hardship on the applicant.

- There are existing structures on site that currently encroach into the adjacent use setbacks and buffers.

Conclusions of Law:

- As it pertains to the proposed manufactured office building, this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because the extraordinary and exceptional conditions that apply to the subject property do not prohibit or unreasonably restrict the utilization of the property. While there is a specimen tree on site, it does not prohibit the placement of the manufactured office building. It can be located elsewhere on site that is not within a setback.
- With respect to the proposed two outhouse buildings, this application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because the extraordinary conditions do restrict the use of the property. The location of the proposed outhouse buildings are restricted to where the sewer service exists. To extend the sewer lateral would create a hardship on the applicant.

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:

- Section 16-5-102.B, “The purpose of the adjacent street and use setback standards in this section is to provide separation between structures and adjacent street rights-of-way and property lines. Such separation is intended to maintain and protect the Town’s Island character, ensure protection from street traffic, and facilitate adequate air circulation and light between structures and the street, and between structures in adjacent developments.”
- The site is adjacent to single family residential uses.
- The proposed manufactured office building would be located in close proximity to an adjacent single family dwelling.
- The proposed outhouse buildings would be located in an area of an existing port-o-let, which has not caused a detriment to the adjacent property or neighborhood thus far.

Conclusions of Law:

- The proposed manufactured office building does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance could cause substantial detriment to the adjacent property or the public good as it would be a new encroachment into the adjacent setback.
- The proposed outhouse buildings 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 the adjacent property or public good.

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LMO Official Determination:

Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance allowing the proposed manufactured office building should be denied, and that the proposed two outhouse buildings be approved as shown on the survey included in this variance application with the following conditions:

- a. The applicant submit an application for, and receive approval through the Development Plan Review process.
- b. The applicant submit an application for, and receive approval from the Design Review Board prior to any development.
- c. The proposed outhouse buildings would only be developed at the locations shown on the survey (see Exhibit D).
- d. Any ramp and deck proposed to access the outhouse buildings would not encroach in the adjacent use setback.
- e. A landscape plan will be required for the buffer along the property line to screen the proposed outhouse buildings from view as part of the Development Plan Review application.

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



Michael Connolly
Senior Planner

Aug. 9, 2022

DATE

REVIEWED BY:



Nicole Dixon, AICP, CFM, *Development
Review Program Manager*

Aug. 10, 2022

DATE

REVIEWED BY:



Shawn Colin, AICP,
*Assistant Town Manager – Community
Development*

Aug. 12, 2022

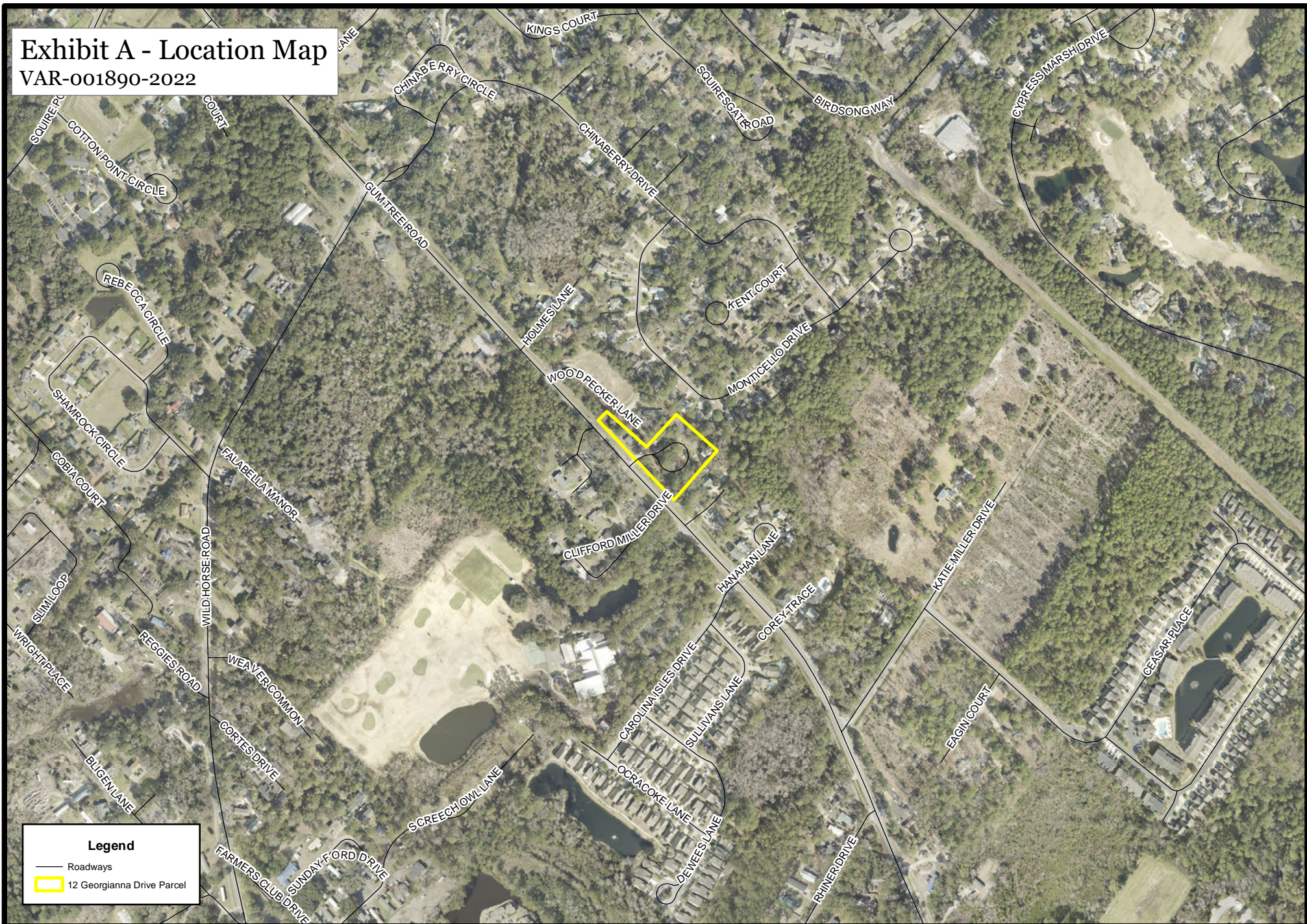
DATE

ATTACHMENTS:

- A) Location Map
- B) Map of Encroachments
- C) Applicant's Narrative
- D) Proposed Site Plan
- E) Site Pictures

Exhibit A - Location Map

VAR-001890-2022



Legend

— Roadways

12 Georgianna Drive Parcel



Town of Hilton Head Island

Exhibit A: 12 Georgianna Drive

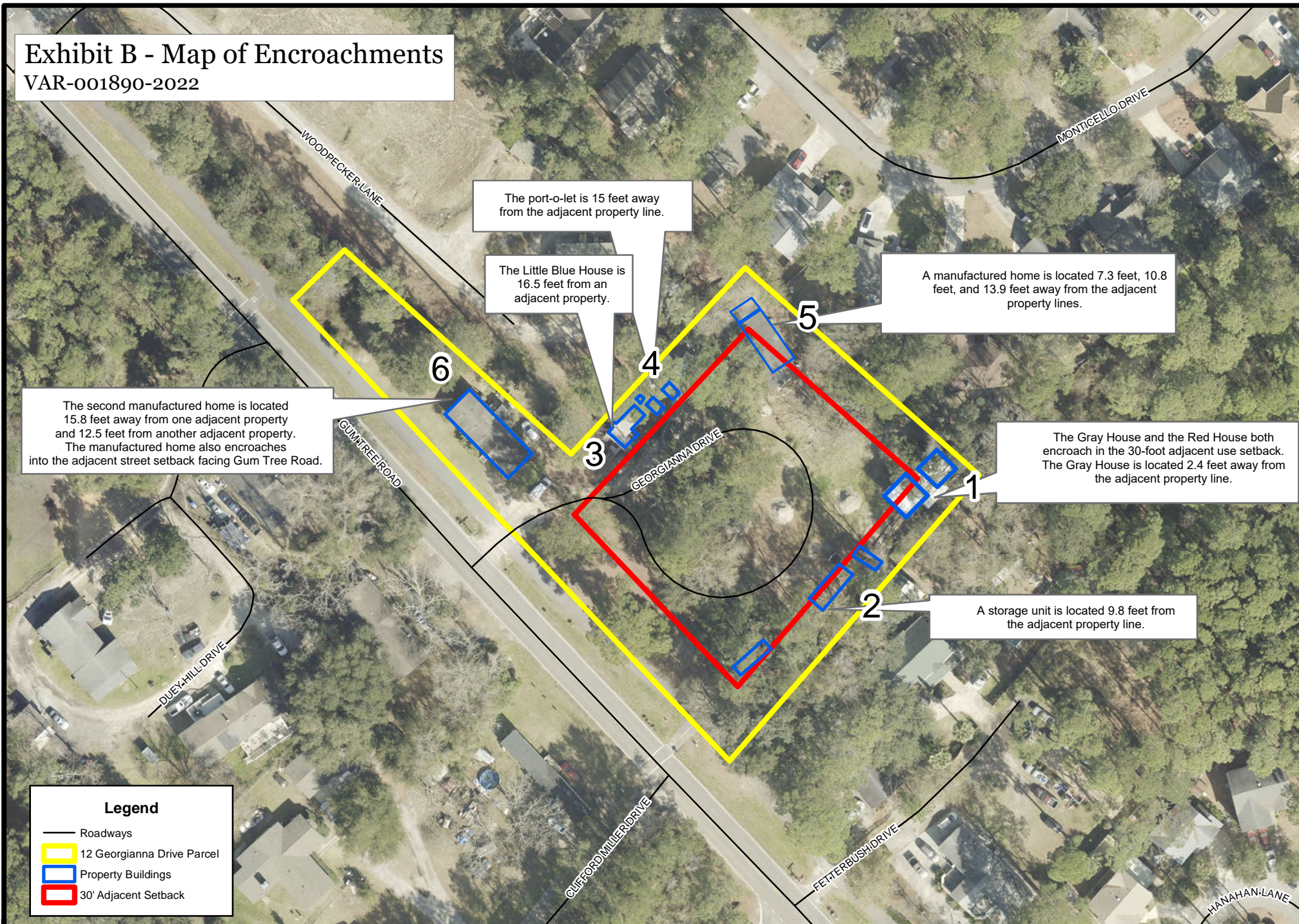


This information on this map has been compiled from a variety of sources and is intended to be used only as a guide. It is provided without any warranty or representation as to the accuracy or completeness of the data shown. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion or for any losses arising from the use of the map.

Scale: 1 inch = 1 mile

Exhibit B - Map of Encroachments

VAR-001890-2022



Legend

- Roadways
- 12 Georgianna Drive Parcel
- Property Buildings
- 30' Adjacent Setback



Exhibit C - Applicant's Narrative

VAR-001890-2022



VARIANCE APPLICATION NARRATIVE

7/22/2022

The Gullah Museum of Hilton Head Island, 12 Georgianna Drive, Hilton Head Island, SC29926, R510 003 000 0048 0000

1. INTRODUCTION

This Attachment is the Narrative that is part of the Application for Variance (this "AFV"), as per LMO Sec. 16-2-103.S., filed on behalf of Ms. Louise Miller Cohen, Founder of the Gullah Museum of Hilton Head Island, in connection with Phase 1 proposed structures to be located at her property at 12 Georgianna Drive, Hilton Head Island. The proposed structures, as located on Exhibit B, consist of:

- A. 2 outhouse buildings, approximately 7'x10', each with a shed roof and a raised deck and ramp.
- B. 1 manufactured building, approximately 12'x32',

Founded by Ms. Louise Miller Cohen in 2003, the Gullah Museum provides a location that has serves the community, providing context and understanding of Gullah culture's influence on Hilton Head Island. The museum seeks to revive, restore, and preserve the Hilton Head Island Gullah history. The 1.57-acre property offers a living testimony and picture of the way of life for the Gullah Geechee people. The property is host to daily tours as well as large events celebrating their culture and community.

2. THE PROPERTY

The site is located at 12 Georgianna Drive and is located near the Boys and Girls Club. Attached is a proposed phase 1 conceptual master plan for the 1.57-acre Gullah Museum Site. The site is zoned RM-4 and is used for community services. The survey (Exhibit A) shows that site has two manufactured homes, the Great Dane Trailer/Rena's House, Little Blue (also referred to as "Small Gullah House"), the Migrant houses (noted as the Gray House and the Red House on the survey), a storage unit, an approx. 10' wide dirt loop road called Georgiana Drive with unimproved parking areas, a small stage, and bateau boat exhibit. Additionally on the property, but not shown on the survey is one port-o-let unit behind Little Blue and a temporary tent used as the reception space to great guests (not shown on the survey,

The site developed in a manner similar to the Gullah Geechee traditional family compound site. There is a central space under a specimen live oak for gathering. The informal dirt drive wraps around the central gathering space providing access to structures located along the perimeter of the site.

The configuration of the site works well for showing their development pattern, but also works well for sequencing their tours. Additionally, the configuration is also quite functional as it pertains to their large events they have been hosting. One of their most recent events was host to over 1,000 guests. The central gathering space, informal drive, and structures along the perimeter allow for optimal use of the site.

The Gullah Museum has cast a vision for the property that includes improving the structural soundness of the Migrant Houses, rebuilding a replica of the Big Blue House that was formally located across the street, making pedestrian and vehicular access improvements throughout the site, and improving site security through fences and gates. Due to funding constraints, site improvements must be phased in over time.

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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Currently, the greatest need for the Gullah Museum includes an improved office space and guest reception space. The docent meets with a handful of pre-scheduled guests under a temporary tent that sits in the central gathering space. The tent does not offer the proper conditioned space that is needed for this type of use. Additionally, guests are asked to use a Port-o-let (which is currently located approximately 15' from the property line near Little Blue). The Port-o-let is neither in keeping with the traditional development pattern, nor does it adequately serve the needs for the events that are held on property.

The Gullah Museum faces several challenges as they seek to make site improvements that best communicate their story to the community. First, they have limited funds by which to make site improvements, so implementation of their site improvements must be phased. In order to have access for necessary future improvements, they must keep certain areas open for staging materials and operating equipment. Additionally, they must keep a minimum distance of 10' from adjacent existing structures for fire protection. Additionally, there are several significant and specimen trees located on the property. With the LMO required 30' side setback, there is simply insufficient space to place these structures and future structures that won't impact trees, require relocating existing infrastructure, cut off access to future /renovation work, or significantly limit the use of the property.

Also affecting the site is water run-off. While town has plans to improve stormwater along Gum Tree Road, this site receives runoff from adjacent properties and the site is frequently wet. Due to the frequency of this occurrence, the Owner would prefer to raise the structures to limit the impact of the intermittent inundation of stormwater.

3. THE LAND MANAGEMENT ORDINANCE

The Town of Hilton Head adopted the LMO by ordinance approved on October 7, 2014 and most recently amended March 16, 2021. Among other things, the LMO provides for certain adjacent setbacks where a use will be community services and the adjacent use is single-family dwelling, as here. As per Table 16-5-102.D of the LMO, there is a 30' setback requirement. If that 30' setback requirement is enforced, it will cost the owner significant funds to relocate infrastructure and it will limit the use of the site.

For the proposed outhouses, the owner would incur additional and undue costs to extend the sewer to the interior of the property to reach 30' inward of the property boundary. Additionally, because they need to provide an accessible ramp, that will further encroach on the usable space at the interior of the property that will need to be utilized for vehicular and pedestrian access and parking improvements.

If the 30' setback requirement is enforced for the proposed office; the location of the structure would either limit access to make improvement to other buildings on the property, impact the trees on the property, prohibit the location of the future "Big House", require the relocation/ shifting of Georgianna Drive.

The LMO Appendix D.19, establishes the procedure for an application for a variance permit. The application has been filed on July 22, 2022, pursuant to Section LMO Section 16-2-103.S.

The Application has been filed on the proper form (Section 16-2-102.C.2) and the appropriate fee has been tendered. The applicant therefor requests the Town of Hilton Head planning staff review the Application and forward the same to the BZA for public hearing and consideration by the BZA at this August 2022 meeting.

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4. THE VARIANCE REQUEST

The Applicant requests the BZA grant a Variance Permit pursuant to the LMO for the specific relief as follows: The Applicant requests a variance 10' from the 30' adjacent use setback to allow the following structures to be placed 20' from the adjacent property line:

- a. (2) 7' x 10' Outhouses with handicap ramp near "Little Blue"
- b. (1) Office building (12'x32') in a manufactured unit

As is noted above, without the Variance, The Gullah Museum will incur additional undue costs to extend sewer to the interior of the property, limit the ability to make future improvements, risk damaging the trees, and potentially require significant and costly infrastructure changes that would alter the character of the site.

The staff and BZA shall be guided in their consideration of this Application by the Variance Permit Review Standards set forth in the LMO Section 16-2-103.S.4.a. Thereunder, the Application shall be approved on a finding the Applicant demonstrates all of the following standards are met.

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- b. These conditions do not generally apply to other properties in the vicinity;
- c. Because of these conditions, the application of the Town of Hilton Head Land Management Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- d. 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.

Responding to each of the standards, the Application shows:

- a. This site is one of the few remaining vestiges of the Gullah Geechee community. It has been passed down through the family and has taken this development pattern as a result. This site is intended to show how the people lived. It is intended to show the family compound development type through the architecture and the placement of the structures.
Due to the unusual configuration of the property, portions of the 1.57 acres are unusable for locating structures due to the significant setbacks.
The existing specimen and significant trees impact significant areas of the property.
- b. In 2021, the Town recognized the need to allow the family compound development type for the Gullah Geechee community. This development is an invitation to the community to meet and learn about the Gullah Geechee community here on Hilton Head. This is not like any other civic use on Hilton Head. It is a stand alone and unique asset to the island.
- c. As mentioned previously, pushing the new structures to the interior of the property would not only be out of character, but it would limit access to make the necessary improvements to the property. The access road needs to be widened. An accessible pathway system needs to circulate to the structures. The Migrant Houses need to be rehabilitated and there needs to be an area to set materials and move equipment. The client would like to rebuild the Big House that was across the street to this property to further tell the story. Moving these structures to the interior of the property would limit the ability to provide vendor spaces, kid zone and adequate gathering space for large events.



- d. Because the port-o-let is located approximately 15' from the property line, the Owner is proposing an improvement to the property. The proposed Outhouses will be safer and be more in keeping with the character of the museum and Hilton Head Island and be more aesthetically pleasing to the neighbor. The proposed office is a small one-story unit. It will not be visible from Gum Tree Road, the adjacent neighbor has a wooden privacy fence that blocks the view of the proposed location for the office.

5. THE AUTHORITY AND POWER OF THE Board of Zoning Appeals (BZA)

Section 16-2-103.S.3.d of the LMO grant the BZA the power and duty to hold public hearings concerning, and then hear and decide, Applications for Variance Permits. Following a public hearing properly noticed, the BZA shall consider and vote to approve, approve with conditions, or disapprove, an Application for Variance Permit

6. CONCLUSION

The Application has demonstrated through the Application for Variance, attached Narrative and or oral argument, that it would be appropriate for the BZA to issue the requested 10' adjacent use setback variance to allow for the proposed minimal structures to be located 20' from the property line, as necessary for the continued use of The Gullah Museum site.

The Applicant reserves the right to submit additional materials, documents, and information to the BZA in connection with this application.

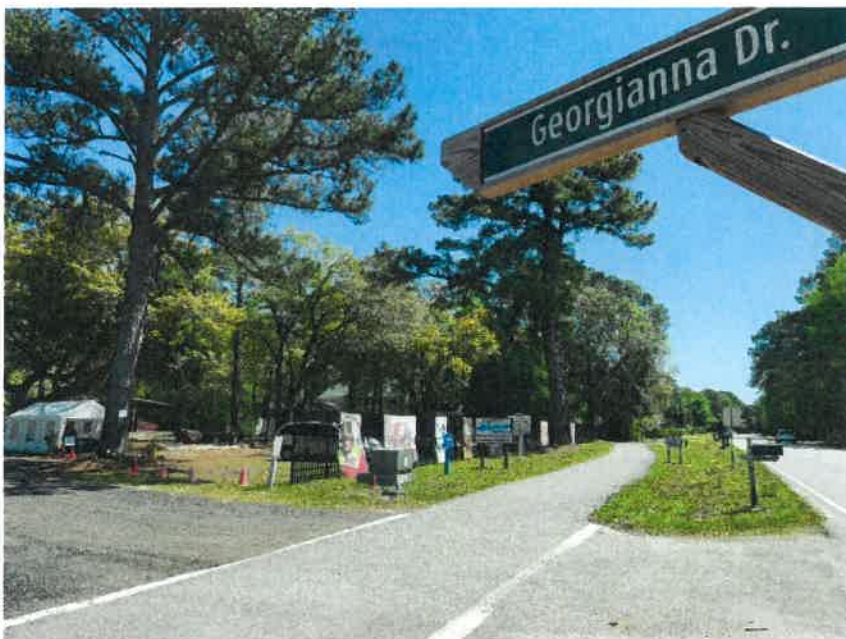
Respectfully submitted on behalf of the Owner on July 22, 2022

Kathleen Duncan, PLA
J.K. Tiller Associates, Inc.



EXISTING CONDITIONS

Entrance



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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Existing Structure – Manufactured Home to remain



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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Existing Structure – Little Blue House



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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Existing Structure – Migrant Houses

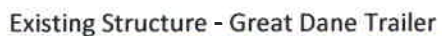


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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Existing Structure – Manufactured Home to be removed



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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Existing Structure – Shed



Asphaltic Road



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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Asphaltic Road



Dirt and Grass Drive Loop and Parking



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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE



Dirt and Grass Drive Loop



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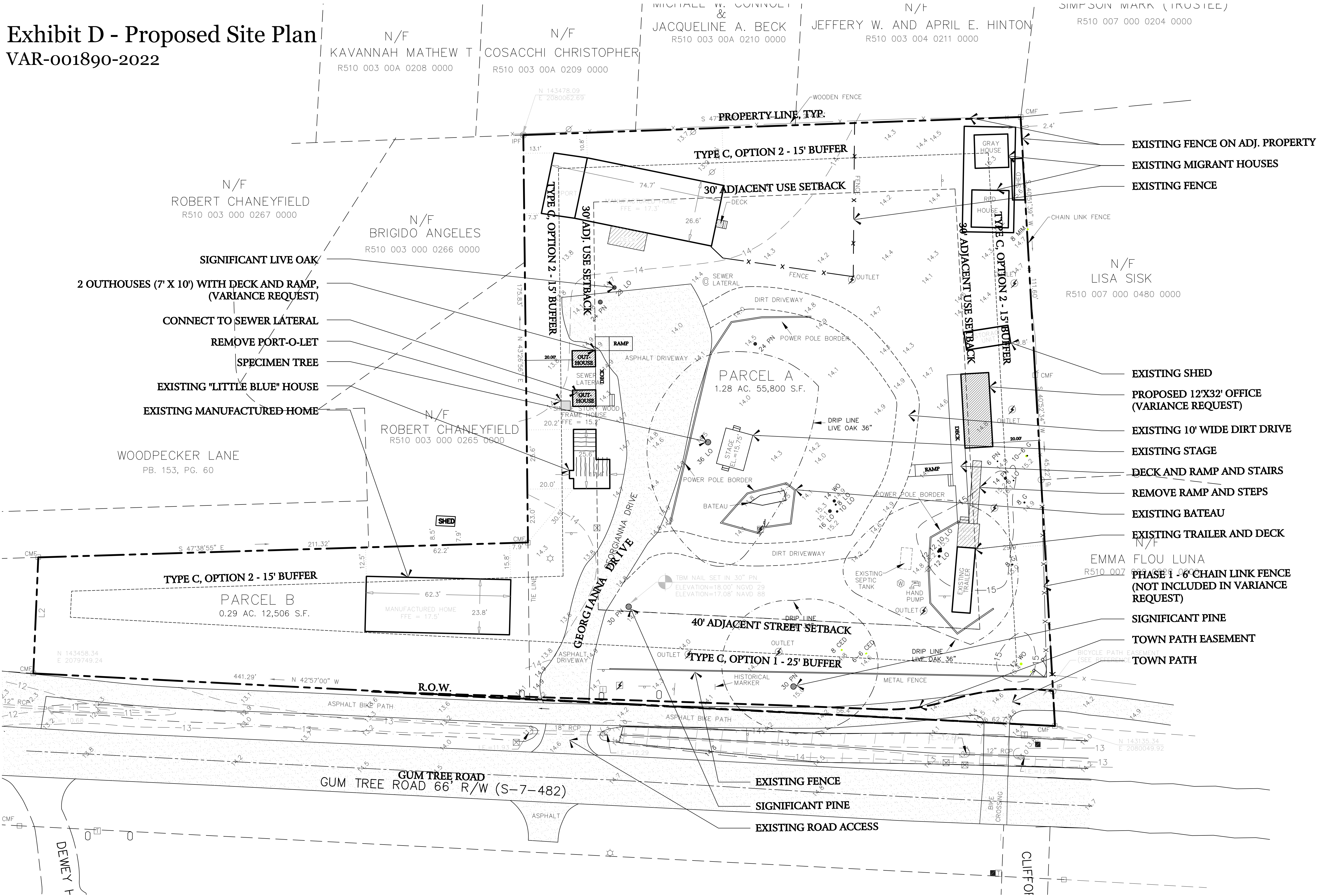
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COMPREHENSIVE LAND PLANNING ■ LANDSCAPE ARCHITECTURE

Exhibit D - Proposed Site Plan
VAR-001890-2022



PHASE 1

1. LOCATE 12'X32' MANUFACTURED UNIT *
2. REMOVE PORT-O-LET
3. PLACE (2) OUTHOUSES (7'X10') *
4. CHAIN LINK SECURITY FENCE 1' OFF EASTERN PROPERTY BOUNDARY

NOTE:
* VARIANCE REQUEST

FUTURE PHASES

1. MIGRANT HOUSES RENOVATION
2. BIG GULLAH HOUSE RECONSTRUCTION
3. DRIVEWAY AND PARKING IMPROVEMENTS
4. OYSTER SHELL PATHWAYS
5. SECURITY GATE
6. FENCE ALONG WESTERN PROPERTY BOUNDARY

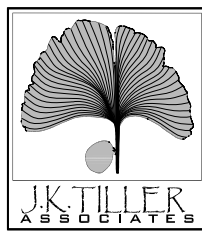
DEVELOPMENT SUMMARY

ZONING DISTRICT:	RM-4
OVERLAY DISTRICT:	COR
USE OF PROPERTY:	COMMUNITY SERVICES
GROSS SITE ACRES:	1.57 AC.

PREPARED FOR:
LOUISE COHEN

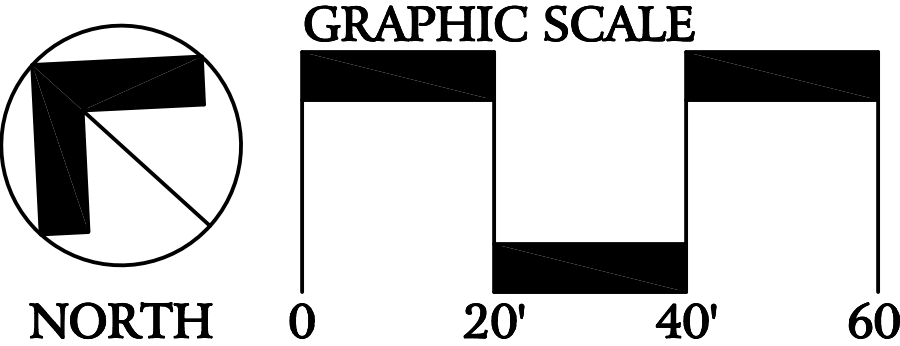
PREPARED BY:

J. K. TILLER ASSOCIATES, INC.



LAND PLANNING LANDSCAPE ARCHITECTURE
TEN PINCKNEY COLONY ROAD SUITE 101 BLUFFTON, SC 29909
Voice 843.815.4800 jktiller@jktiller.com Fax 843.815.4802

THE GULLAH MUSEUM OF HILTON HEAD ISLAND
CONCEPTUAL PLAN
HILTON HEAD ISLAND, SOUTH CAROLINA
JULY 22, 2022



THIS IS A CONCEPTUAL PLAN AND IS SUBJECT TO CHANGE. ALL SURVEY INFORMATION AND SITE BOUNDARIES WERE COMPILED FROM A VARIETY OF UNVERIFIED SOURCES AT VARIOUS TIMES AND AS SUCH ARE INTENDED TO BE USED ONLY AS A GUIDE. ALL PROPERTY LINES, TRACT DIMENSIONS AND NARRATIVE DESCRIPTIONS ARE FOR GRAPHIC REPRESENTATION ONLY, AS AN AID TO SITE LOCATION AND POTENTIAL LAND USE, AND ARE NOT LEGAL REPRESENTATIONS AS TO FUTURE USES OR LOCATIONS. J. K. TILLER ASSOCIATES, INC. ASSUMES NO LIABILITY FOR ITS ACCURACY OR STATE OF COMPLETION, OR FOR ANY DECISIONS (REQUIRING ACCURACY) WHICH THE USER MAY MAKE BASED ON THIS INFORMATION.

JKT Job Number: 200406-03

Attachment E – Site Pictures

VAR-001890-2022

Date taken: Aug. 7, 2022







