



The Town of Hilton Head Island
Board of Zoning Appeals Regular Meeting
Monday, July 22, 2019 – 2:30 p.m.
Benjamin M. Racusin Council Chambers
AGENDA

As a courtesy to others please turn off / silence ALL mobile devices during the meeting. Thank you.

1. **Call to Order**
2. **Pledge of Allegiance**
3. **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.
4. **Roll Call**
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of Minutes** – None
8. **Unfinished Business**
9. **New Business**
 - a. **Public Hearing**
VAR-001373-2019 – Request from Greg Goldberg with Spanish Wells Club for a variance from LMO Sections 16-5-102, Setback Standards and 16-5-113, Fence and Wall Standards to construct a tennis court and 9' high fence within the adjacent street setback. The property address is 1 Brams Point Rd with a parcel number of R510 010 000 046F 0000. *Presented by Missy Luick*
10. **Board Business**
 - a. Review and adoption of revised amendments to the Rules of Procedure
11. **Staff Report**
 - a. Update on Board Training Schedule
 - b. Waiver Report
12. **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 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-001373-2019	July 22, 2019

Parcel or Location Data:	Property Owner	Applicant
Parcel#: R510 010 000 046F 0000 Zoning: PD-1 (Planned Development Mixed Use District) Overlay: COR (Corridor Overlay District)	Spanish Wells Club 1 Brams Point Rd Hilton Head Island, SC 29926	Greg Goldberg Spanish Wells Club PO Box 23663 Hilton Head Island, SC 29926

Application Summary:

Greg Goldberg, on behalf of the Spanish Wells Club, is requesting variances from LMO Sections 16-5-102, Setback Standards, and 16-5-113, Fence and Wall Standards to construct a tennis court and 9' high fence within the adjacent street setback. The property is located at 1 Brams Point Road and is within the Corridor Overlay District for Spanish Wells Road.

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 lot subject to this application is owned by Spanish Wells Club and is independent of the Spanish Wells Property Owners Association. The property is located along Spanish Wells Road and is currently developed as a golf, tennis and social club.

There are 4 existing tennis courts on the site along with golf facilities including a driving range. The applicant desires to build a 5th tennis court on the site to be able to host "USTA (United States Tennis Association) sanctioned" matches. According to the applicant, tennis courts are typically oriented in a

north/south manner. Upon examining tennis court placement throughout the island based on aerial imagery, staff found that a super-majority of existing tennis courts are built with a north/south orientation.

The applicant explored several location alternatives for the 5th tennis court, but there were issues identified for each one. West of the existing tennis courts are 3 specimen size trees that would need to be removed. South and east of the courts is the existing driving range. The area selected for the proposed 5th tennis court offers the least amount of impact to existing specimen trees and other existing improvements and infrastructure while complying with other LMO requirements. The applicant is proposing buffer landscape improvements (Type B, Option 2) along Spanish Wells Road which will soften the appearance of the 9' fence for the public as well as Spanish Wells residents.

Immediately east of the existing tennis courts where the new 5th court is proposed, the street right-of-way changes from Brams Point Road to Spanish Wells Road (a minor arterial) which changes the adjacent street setback from 20' to 40' and the adjacent street buffer changes from Buffer Type A to Buffer Type B.

Fences up to 4' in height are allowed in adjacent street setbacks per LMO Section 16-5-102.E. The variance request is to allow an additional 5' in height to the fence and applied windscreens in the adjacent street setback. The tennis court itself is also proposed to be located within the adjacent street setback. The variance request is to allow for a grade-level, permeable surface tennis court.

The applicant has explored several options for the additional tennis court and is requesting a variance because the proposed site cannot meet all LMO requirements.

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

Grounds for Variance:

According to the applicant, in order to meet the increased demand for tennis facilities a 5th tennis court and associated 9' court perimeter fence is proposed within the adjacent street setback due to site constraints with existing and planned future development. The applicant states in their narrative the location of the proposed tennis court was chosen due to the least amount of impact to existing improvements and infrastructure because of the existing specimen trees, existing golf infrastructure and possible future security gate relocation and associated required emergency vehicle drive-around.

In order to install the tennis court and fence meeting LMO requirements, the applicant would have to remove specimen trees, encroach on or cut-off golf infrastructure or disturb areas needed for possible future gate relocation. The applicant has worked with Town staff to minimize the impact of the proposed tennis court and fence, to preserve trees on site, and to avoid any encroachments on the golf infrastructure. The new fence and tennis court will be hidden within existing vegetation and with the addition of screening plants in areas where needed within the buffer.

According to the applicant, the fence height of 9' is requested in order to function for its purpose of retaining tennis balls on the court and out of the road right-of-way.

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 June 21, 2019 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 June 30, 2019 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on July 2, 2019 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on July 3, 2019 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 32 days prior to the meeting, therefore meeting the 30 day deadline required in the LMO.
- Notice of application was published 23 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was posted 22 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was mailed 19 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The property is currently developed with tennis courts and golf course infrastructure such as cart paths, bunkers, greens and a driving range.
- The area of the property not currently developed with recreation facilities contains specimen and significant sized 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.01 because there are extraordinary and exceptional conditions that pertain to this particular property.
- Specimen-sized trees and existing tennis and golf course infrastructure are considered extraordinary and exceptional conditions.

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:

- While there may be other properties in the vicinity that contain specimen trees, there are no other properties in this vicinity containing specimen trees and developed with tennis and golf infrastructure.

Conclusion 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 the extraordinary conditions only apply to the property subject to this application and do not generally apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- Per LMO Section 16-5-113.C, Fence and Wall Standards, fences are only allowed up to four feet in height if they are located within an adjacent street setback.
- Per LMO Section 16-5-102.C, Adjacent Street Setbacks, there is a 40 foot setback adjacent to Spanish Wells Road, a Minor Arterial Road and a 20 foot setback adjacent to Brams Point Road, an Other Street.
- Per LMO Section 16-5-102.E, Allowable Setback Encroachments, a fence is allowed within an adjacent street setback if it is less than 4 feet in height.
- The fence needs to be 9 feet in height in order to serve its purpose of retaining tennis balls within the court.
- The tennis court and accompanying fence cannot be located behind the setback for the entire length because it would disturb the existing golf infrastructure.
- There are specimen and significant-sized trees that would need to be removed in order to add an additional tennis court in any remaining LMO compliant buildable area of the site.

Conclusion 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 the extraordinary conditions do prohibit and unreasonably restrict the property from having an additional tennis court and fence installed.
- The applicant would rather request a variance to encroach in the setback than to request a variance to remove specimen trees.

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 fence cannot be located behind the setback for the entire length because it would disturb the existing golf infrastructure and destroy specimen and significant-sized trees.
- The applicant is hoping to preserve the trees on site and to take advantage of the existing vegetation concentrated in the project area adjacent to the road to provide screening that will hide the tennis court and fence from the road, golfers and residents.
- The applicant is proposing landscaping improvements in the adjacent street buffer area in need of plantings to soften the view of the fence and tennis court.
- Staff did not received any letters of opposition to this request.
- Stall could not identify any reasons the request would be detrimental to the adjacent property or public good.

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 and will in fact benefit the adjacent property and the public good.
- The variance will allow the tennis court and fence to be located in a way that will avoid disturbing or removing specimen-sized trees.
- The variance will allow the construction of the fence at the height needed in order to function for its purpose of retaining tennis balls on the court and out of the road right-of-way.

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:

ML

Missy Luick, Senior Planner

July 3, 2019

DATE

REVIEWED BY:

ND

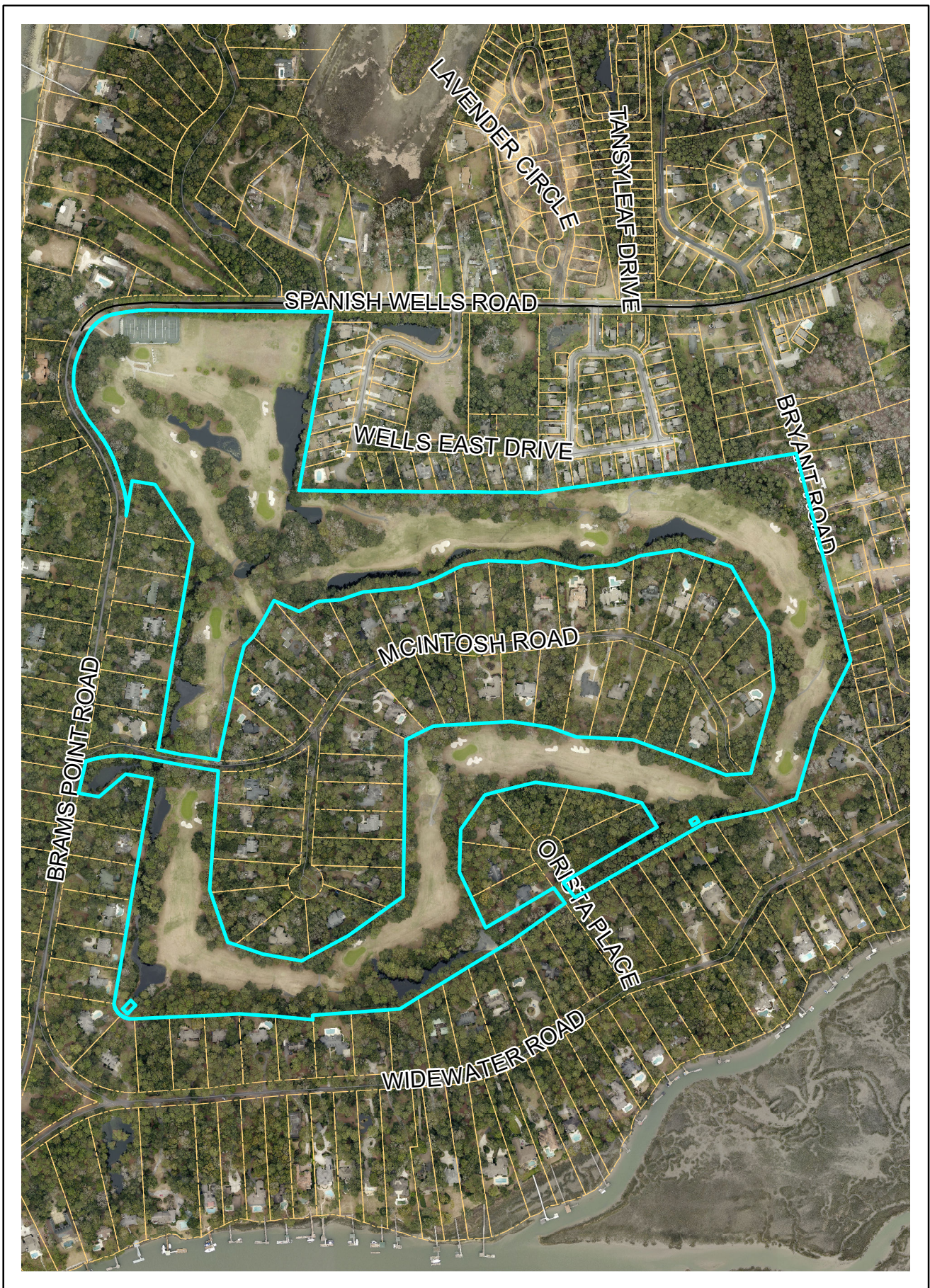
Nicole Dixon, CFM, Development Review
Administrator

July 3, 2019

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Project Area
- D) Site Plans
- E) Pictures



VAR-001373-2019
ATTACHMENT A - Vicinity Map

Attachment B Applicants Narrative

TOWN OF HILTON HEAD ISLAND
BOARD OF ZONING APPEALS
ONE TOWN CENTER COURT
HILTON HEAD ISLAND, SC 29928

June 20, 2019

RE: VARIANCE SUBMITTAL FOR A TENNIS COURT AND FENCE AT SPANISH WELLS CLUB

TO WHOM IT MAY CONCERN;

On behalf of the Spanish Wells Club the members of The Board of Managers, hereby apply for a variance to the Town of Hilton Head LMO Section 16-5-102 and 16-5-103 to construct a tennis court and 9' high chain link green fencing around the court, within the Club's property limits and with minor encroachment into the 40' street setback by approximately 24 feet to the north and within the 25 foot type B buffer zone by approximately 9 feet, again to the north.

The reasons for this request are as follows:

The request is being submitted in order to make improvements to The Spanish Wells Club, a small private Golf, Tennis and Social Club, located within the limits of Spanish Wells Plantation at the far western end of Spanish Wells Road.

Spanish Wells Club is a not for profit facility and a separate entity from the Spanish Wells Plantation. The Club is not exclusive and provides membership to about 200 local and Spanish Wells Plantation residents. Being a resident of The Plantation does not include membership to The Club.

The Club has found that in order to better serve our active tennis community and be able to hold sanctioned USTA matches we need to add a 5th tennis court.

Our variance request is for a grade level, permeable surface, Har Tru tennis court and a 9-foot-high perimeter chain link fence.

The original land plan was done by Mr. Clyde Johnston in and around February 2005 and was ultimately approved by the Town and constructed accordingly did not include a 5th court and the potential location options to add a 5th tennis court are very limited. As a Board, we have looked at all the feasible options and have concluded that the option we are presenting is overall the best.

Attachment B Applicants Narrative

The following statements will help identify our request for the variance.

1. To better serve our active tennis community and be able to better facilitate USTA sanctioned matches we would like to add a 5th court.
2. For the court to be USTA sanctioned, it needs to be oriented in “true” north/south orientation.
3. If we are to not line up the back (north side) of the new court with the existing 4 courts, the entire new south edge of the court will impede the golf driving range to the point that the driving range will become unusable.
4. If the court is to be built to the west of the existing facility, it will eventually be in the way of the Spanish Wells Plantation’s tentative plans for adding a security gate and required emergency vehicle drive-around by a new gate. If this becomes the case, the court will have to be relocated.
5. Building the court in the north /south orientation behind the existing courts will displace the driving range and shorten the distance to the Spanish Wells East neighborhood houses; to mitigate this condition, a tall fence/netting will have to be installed. This will not only impact the neighborhood esthetically, but due to the height required (+/- 60 feet), will present a dangerous obstacle to birds.
6. The above conditions do not currently apply to other adjacent properties, since there is none in the vicinity. Furthermore, even though the proposed court location will be in the setback and buffer zones, there is existing vegetation and landscaping that will not be touched by the construction, will be preserved as is and if it is deemed necessary, additional plantings will be provided.
7. The preliminary documents submitted have been shared with the immediate adjacent neighbors within 350’, as well as the SW/POA; all parties are in agreement that long term for the financial viability of the Club and the overall future planning of the Plantation, the proposed court location is the most advantageous, especially since there will be no impact to the public or the neighbors.
8. Table 16-5-102.E Allowable Setback Encroachments: allows a 4’ high fence. Therefore, our request is for 5’ additional height fence for the width of the courts.
9. Table 16-5-103.F Buffer Types: B buffer option 2, allows for a reduced 15’ buffer with increased landscaping of which almost all is existing.
10. Building the court to the west of the existing courts would require an impact on (2) existing specimen live oak trees.

STATE OF SOUTH CAROLINA)
)
)
)
)
COUNTY OF BEAUFORT)

**BEFORE THE BOARD OF ZONING
APPEALS OF THE TOWN OF HILTON
HEAD ISLAND, SOUTH CAROLINA**

**VARIANCE APPLICATION
NO. VAR-001373-2019**

SUPPLEMENTAL NARRATIVE

TO THE VARIANCE APPLICATION OF

SPANISH WELLS CLUB, INC.

I. INTRODUCTION and BACKGROUND

This Supplemental Narrative is part of the Variance Application (this “Application”) filed by Spanish Wells Club, Inc. (the “Club”) in connection with the proposed construction of a tennis court on the Club’s property.

The Club is a nonprofit corporation¹ established in 1970, located at 1 Brams Point Road that owns certain recreational amenities in Spanish Wells Plantation, including a golf course, tennis courts, a swimming pool, a recreational dock, and a clubhouse containing meeting and office space, a golf and tennis pro shop, and a small grill, which it operates for the benefit of its members.

Prior to 2005, the Club was primarily a golf club, with only two tennis courts which were located generally to the north of the clubhouse and parking area, on the right side of Brams Point Road when entering Spanish Wells Plantation. In 2005, because of increasing interest in tennis, the Club received approval from the Town for Development Plan Review Application DPR040034, which permitted the construction of four new tennis courts which are now located on the left side just inside the entrance to Spanish Wells Plantation,

¹ While the Club is a nonprofit corporation, it is not an Internal Revenue Code Section 501(c)(3) entity.



between the right-of-way of Brams Point Road and the Club's golf driving range.²

The tennis activities sponsored and promoted by the Club since 2005 have continued to increase, as has the Club's member's interest in tennis, to the point where the existing four tennis courts are now in high demand by Club members. The Club members now regularly participate in USTA league play; however, the format of play for many of the USTA league events requires the use of five tennis courts, which makes scheduling home matches at the Club problematic.

In order to meet the growing demand for tennis at the Club, the Club now wishes to construct a fifth tennis court. Finding the optimal location for a new tennis court has proven difficult. Because tennis at the Club is an outdoor activity, the orientation of a tennis court is an important factor in determining its location. In order to minimize having to play looking directly into the sun in the morning or evening, tennis courts are generally aligned on a north-south axis. That orientation requirement, taken together with the location of the Club's golf driving range facilities, has resulted in the Club seeking a variance from the adjacent street setback requirements of the Town's Land Management Ordinance (the "LMO") by way of this Application.³

II. VARIANCES

The Board of Zoning Appeals (the "BZA") may grant a variance from the strict enforcement of any appropriate dimensional, development, design, or performance standard in the LMO if the BZA concludes that strict enforcement would result in unnecessary hardship, following the criteria set out in LMO Section 16-2-103.S.4.a.i.

² Upon the Club's construction of the four existing tennis courts in 2005, the two original tennis courts were closed and removed.

³ The Application, as originally submitted, seeks variances from the LMO's adjacent street setback requirements and also the LMO's adjacent street buffer requirements; however, the landscape plan now included with the Application materials demonstrates that the Club can meet the LMO's adjacent street buffer requirements for a Type B buffer with the addition of the proposed fifth tennis court. See LMO Section 16-5-103.



III. SPANISH WELLS ROAD AND BRAMS POINT ROAD

As Spanish Wells Road crosses into Spanish Wells Plantation, it becomes Brams Point Road. Under LMO Section 16-5-105.B.3, Spanish Wells Road is a minor arterial street. Brams Point Road, on the other hand, is not an arterial street.

A minor arterial road, such as Spanish Wells Road, should be able to accommodate up to 25,000 average daily traffic trips, while a subcollector street, such as Brams Point Road, is intended to accommodate up to 4,000 average daily traffic trips. And, while the actual traffic utilizing the area of Spanish Wells Road and Brams Point Road as one either approaches or leaves Spanish Wells Plantation is, for all intents and purposes, exactly the same, the LMO's roadway hierarchy classification for the two streets is quite different when it comes to the LMO's required adjacent street setback.

Where Brams Point Road is the adjacent street, the LMO requires a setback of twenty (20') feet in depth and an A type buffer, which can be either ten (10') feet or twenty (20') feet, depending on the density of screening plantings; however, where Spanish Wells Road is the adjacent street, the LMO requires a setback of forty (40') feet in depth and a B type buffer, which can be either fifteen (15') feet or twenty-five (25') feet, depending on the density of screening plantings.

IV. THE CLUB'S TENNIS COURTS

The Club's four existing tennis courts constructed in 2005 were sited to meet the LMO's requirements for the adjacent street setback and adjacent street buffer along the right-of-way of Brams Point Road. The site development plans approved by the Town show a setback and buffer of twenty (20') feet along the right-of-way of Brams Point Road where the four tennis courts are located.

The optimal location for the Club's proposed fifth tennis court is to site the new court directly in line with, and to the east of, the four existing tennis courts, which will have the least possible impact on the Club's golf driving range. However, the proposed fifth tennis court cannot be lined up with the existing tennis courts and still comply with the LMO's setback requirements



because the adjacent street at the optimal location for the fifth tennis court is Spanish Wells Road, and not Brams Point Road.

In order to comply with the LMO's adjacent street setback requirements, the proposed fifth tennis court would have to be set back twenty (20') feet further from the right-of-way of Spanish Wells Road than the existing tennis courts are set back from the right-of-way of Brams Point Road. That additional twenty (20') feet would be a material, adverse encroachment into the Club's golf driving range area, substantially reducing the ability of the Club's golf members to utilize the driving range.

V. SETBACKS

The LMO's stated purpose for an adjacent street setback is

to provide separation between structures and adjacent street rights-of-way and property lines [which] 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 street⁴

VI. THE REQUESTED VARIANCE

The Club is seeking a variance from the LMO's adjacent street setback requirements in order to allow the development of the Club's proposed fifth tennis court twenty (20') feet off the right-of-way of Spanish Wells Road, in line with the existing tennis courts. The requested variance will reduce the adjacent street setback along the right-of-way of Spanish Wells road from forty (40') feet to twenty (20') feet.

VII. VARIANCE CRITERIA

The Club submits that this Application and its request meet the criteria for granting the requested variance as follows:

⁴ See LMO Section 16-5-102.B.



A. There are extraordinary and exceptional conditions pertaining to the Club's property

The Club's property, as currently developed, coupled with the differing adjacent street setback requirements depending on whether the adjacent street is Spanish Wells Road or Brams Point Road, and with the location of several specimen live oak trees in the vicinity of the existing tennis courts on the Club's property, presents extraordinary and exceptional conditions for the location of a fifth tennis court on the Club's property.

The dimensional requirements for the continued operation of the Club's golf driving range facility and the existence of several specimen live oak trees located generally to the west of the existing tennis courts severely limit the possible location for the proposed fifth tennis court on the Club's property.

The Club submits that the existing conditions on the Club's property justify a finding by the BZA of extraordinary and exceptional conditions sufficient to warrant the granting of the requested variance.

B. These conditions do not generally apply to other properties in the vicinity

The conditions existing on the Club's property clearly do not generally apply to other properties in the vicinity of the Club. There are no other properties in the vicinity of the Club on which golf and tennis recreational facilities are located; nor are there any other properties in the vicinity of the Club that must deal with or accommodate differing adjacent street setback requirements.

C. Because of these conditions, the application of the LMO's adjacent street setback requirements to a portion of the Club's property would unreasonably restrict the utilization of the Club's property

Because of the LMO's adjacent street setback requirements along the right-of-way of Spanish Wells Road and the specimen live oak trees located generally to the west of the existing tennis courts, absent the requested variance, the Club will be unable to move forward with the



proposed fifth tennis court without effectively shutting down its golf driving range facility.

The purpose of the Club and the utilization of its property is to provide recreational opportunities to its members. The addition of the proposed fifth tennis court will greatly expand those opportunities; however, that expansion of recreational tennis opportunities cannot come at the cost of a decrease in the golf facilities available to the Club's members. The Club therefore submits that without the requested variance, it is unreasonably restricted in the utilization of its property for the benefit of its members.

D. The authorization of the requested variance will not be of substantial detriment to adjacent property or the public good, and the character of the Spanish Wells PD-1 zoning district where the Club's property is located will not be harmed by the granting of the requested variance

Considering that the Club's use of its property is for recreational use and open space, the existing substantial landscaped buffer on the Club's property along the right-of-way of Spanish Wells Road, which will be further enhanced as a result of the LMO's adjacent street buffer requirements if the proposed fifth tennis court is added to the Club's property, and that the only vertical structure to be located along the right-of-way of Spanish Wells Road with the construction of the proposed fifth tennis court will be the fence surrounding the tennis court, the Club submits that the granting of the requested variance will not be of substantial detriment to any adjacent properties or the public good, and that the character of the Spanish Wells Plantation PD-1 zoning district will not be harmed.

The Club further submits that the LMO's purpose for an adjacent street buffer along the right-of-way of Spanish Wells Road in the area of the proposed new tennis court will still be served upon the granting of the requested variance, as tennis courts are an integral part of the Town's Island character, and there will continue to be adequate air circulation and light between the new tennis court and Spanish Wells Road.



VIII. CONCLUSION

The criteria for the BZA's granting of a variance are subjective determinations that require the application of sound judgment on the part of the members of the BZA, taking into account the actual conditions on the property in question.

Here, the Club is constrained in its possible location for a proposed fifth tennis court, which will be an important addition to the Club's recreational amenities. The Club is located at the very end of Spanish Wells Road, and anyone who drives past the new tennis court, if it is developed with the requested variance, will be either coming from or going to a residence located in Spanish Wells Plantation or the Club itself.

The Club submits that this Application meets the criteria for the granting of the requested variance, and asks that the BZA consider this Application, the record of this matter, and the testimony and materials to be introduced into the record of this Application at the hearing, and find that this Application meets the criteria for the granting of a variance under LMO Section 16-2-103.S.4.a.i, and grant the requested variance.

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

Respectfully submitted on behalf of the Club on 12th July 2019.



1373-2019



100 ft

Spanish Wells Club

Existing Conditions showing court location and adjacent surroundings



Spanish Wells Club

Existing Conditions showing court location and adjacent surroundings



Attachment C Project Area



WELLS
EAST
PRIVATELY
OWNED

SPANISH WELLS CLUB

SROA
CARMINES
KOLB

SASSAFRAS LANE

NAZARENE ROAD

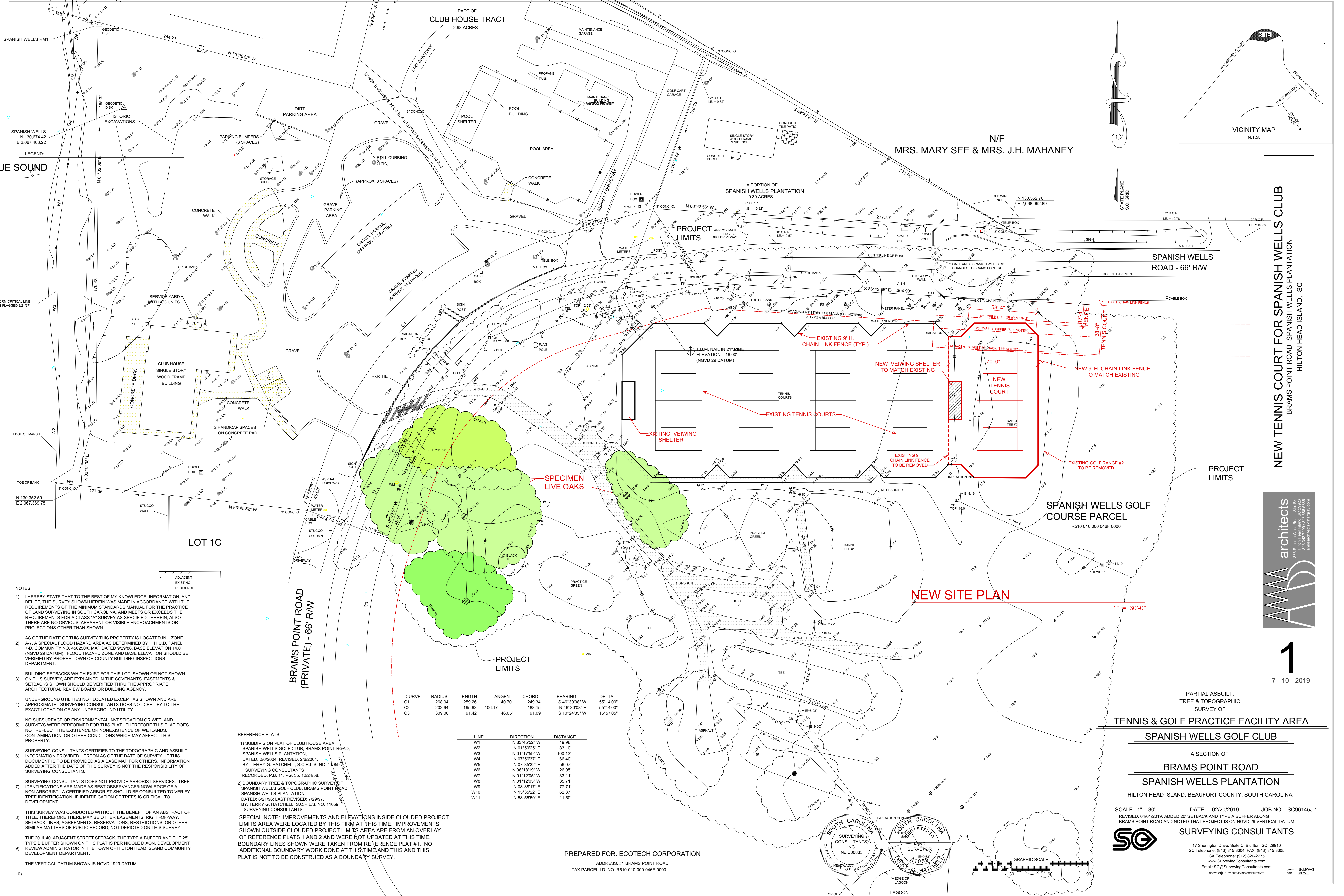
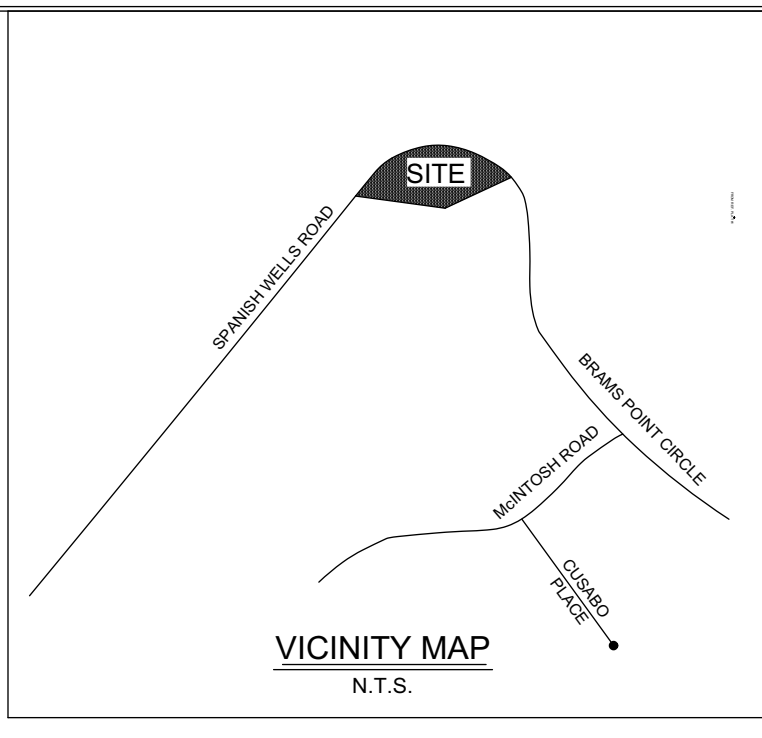
SPANISH POINTE DRIVE

WELLS EAST DRIVE

DRIVE WAY

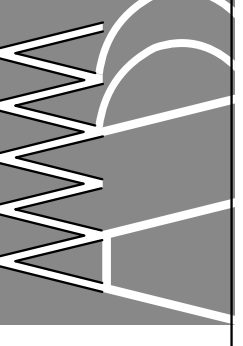
CARPATH

POINT ROAD



NEW TENNIS COURT FOR SPANISH WELLS CLUB
BRAMS POINT ROAD, SPANISH WELLS PLANTATION
HILTON HEAD ISLAND, SC

architects



1
7 - 10 - 2019

PARTIAL ASBLUIT, TREE & TOPOGRAPHIC SURVEY OF
TENNIS & GOLF PRACTICE FACILITY AREA
SPANISH WELLS GOLF CLUB

A SECTION OF
BRAMS POINT ROAD
SPANISH WELLS PLANTATION
HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA

SCALE: 1" = 30'
DATE: 02/20/2019
JOB NO: SC96145J.1
REVISED: 04/01/2019; ADDED 20' SETBACK AND TYPE A BUFFER ALONG BRAMS POINT ROAD AND NOTED THAT PROJECT IS ON NGVD 29 VERTICAL DATUM

SURVEYING CONSULTANTS

17 Sherrington Drive, Suite C, Bluffton, SC 29919
SC Telephone: (843) 815-3304 FAX: (843) 815-3305
GA Telephone: (912) 826-2775
www.SurveyingConsultants.com
Email: SC@SurveyingConsultants.com
CREW: JMM/MS
DATE: 2/20/19

PREPARED FOR: ECOTECH CORPORATION
ADDRESS: #1 BRAMS POINT ROAD
TAX PARCEL I.D. NO. R510-010-000-046F-0000

BOGUE SOUND

- NOTES**
- I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO OBVIOUS, APPARENT OR VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.
 - AS OF THE DATE OF THIS SURVEY THIS PROPERTY IS LOCATED IN ZONE A-2; A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY 1:1 H.L.D. PANEL Z-D, COMMUNITY NO. 450250X, MAP DATED 9/23/86, BASE ELEVATION 14.0' (NGVD 29 DATUM). FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OR COUNTY BUILDING INSPECTIONS DEPARTMENT.
 - BUILDING SETBACKS WHICH EXIST FOR THIS LOT, SHOWN OR NOT SHOWN ON THIS SURVEY, ARE EXPLAINED IN THE COVENANTS, EASEMENTS & SETBACKS SHOWN SHOULD BE VERIFIED THRU THE APPROPRIATE ARCHITECTURAL REVIEW BOARD OR BUILDING AGENCY.
 - UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN AND ARE APPROXIMATE. SURVEYING CONSULTANTS DOES NOT CERTIFY TO THE EXACT LOCATION OF ANY UNDERGROUND UTILITY.
 - NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR WETLAND SURVEYS WERE PERFORMED FOR THIS PLAN. THEREFORE THIS PLAN DOES NOT REFLECT THE EXISTENCE OR NONEXISTENCE OF WETLANDS, CONTAMINATION, OR OTHER CONDITIONS WHICH MAY AFFECT THIS PROPERTY.
 - SURVEYING CONSULTANTS CERTIFIES TO THE TOPOGRAPHIC AND ASBLUIT INFORMATION PROVIDED HEREON AS OF THE DATE OF SURVEY. IF THIS DOCUMENT IS TO BE PROVIDED AS A BASE MAP FOR OTHERS, INFORMATION ADDED AFTER THE DATE OF THIS SURVEY IS NOT THE RESPONSIBILITY OF SURVEYING CONSULTANTS.
 - SURVEYING CONSULTANTS DOES NOT PROVIDE ARBORIST SERVICES. TREE IDENTIFICATIONS ARE MADE AS BEST OBSERVANCE KNOWLEDGE OF A NON-ARBORIST. A CERTIFIED ARBORIST SHOULD BE CONSULTED TO VERIFY TREE IDENTIFICATION, IF IDENTIFICATION OF TREES IS CRITICAL TO DEVELOPMENT.
 - THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE. THEREFORE THERE MAY BE OTHER EASEMENTS, RIGHT-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, RESTRICTIONS, OR OTHER SIMILAR MATTERS OF PUBLIC RECORD, NOT DEPICTED ON THIS SURVEY.
 - THE 20' & 40' ADJACENT STREET SETBACK, THE TYPE A BUFFER AND THE 25' TYPE B BUFFER SHOWN ON THIS PLAN IS PER NICOLE DIXON, DEVELOPMENT REVIEW ADMINISTRATOR IN THE TOWN OF PILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT.
 - THE VERTICAL DATUM SHOWN IS NGVD 1929 DATUM.

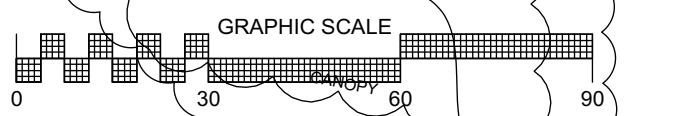
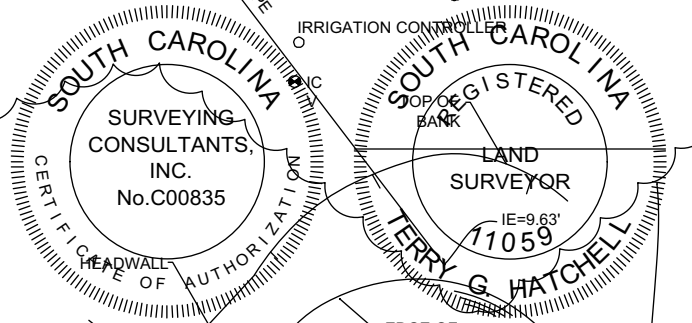
REFERENCE PLATS:

- SUBDIVISION PLAT OF CLUB HOUSE AREA, SPANISH WELLS GOLF CLUB, BRAMS POINT ROAD, SPANISH WELLS PLANTATION, DATED: 2/6/2004, REVISED: 2/6/2004, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, SURVEYING CONSULTANTS RECORDED: P.B. 11, PG. 35, 12/24/08.
- BOUNDARY TREE & TOPOGRAPHIC SURVEY OF SPANISH WELLS GOLF CLUB, BRAMS POINT ROAD, SPANISH WELLS PLANTATION, DATED: 6/21/06, LAST REVISED: 7/29/07, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, SURVEYING CONSULTANTS

SPECIAL NOTE: IMPROVEMENTS AND ELEVATIONS INSIDE CLOUDED PROJECT LIMITS AREA WERE LOCATED BY THIS FIRM AT THIS TIME. IMPROVEMENTS SHOWN OUTSIDE CLOUDED PROJECT LIMITS AREA ARE FROM AN OVERLAY OF REFERENCE PLATS 1 AND 2 AND WERE NOT UPDATED AT THIS TIME. BOUNDARY LINES SHOWN WERE TAKEN FROM REFERENCE PLAT #1. NO ADDITIONAL BOUNDARY WORK DONE AT THIS TIME AND THIS AND THIS PLAT IS NOT TO BE CONSTRUED AS A BOUNDARY SURVEY.

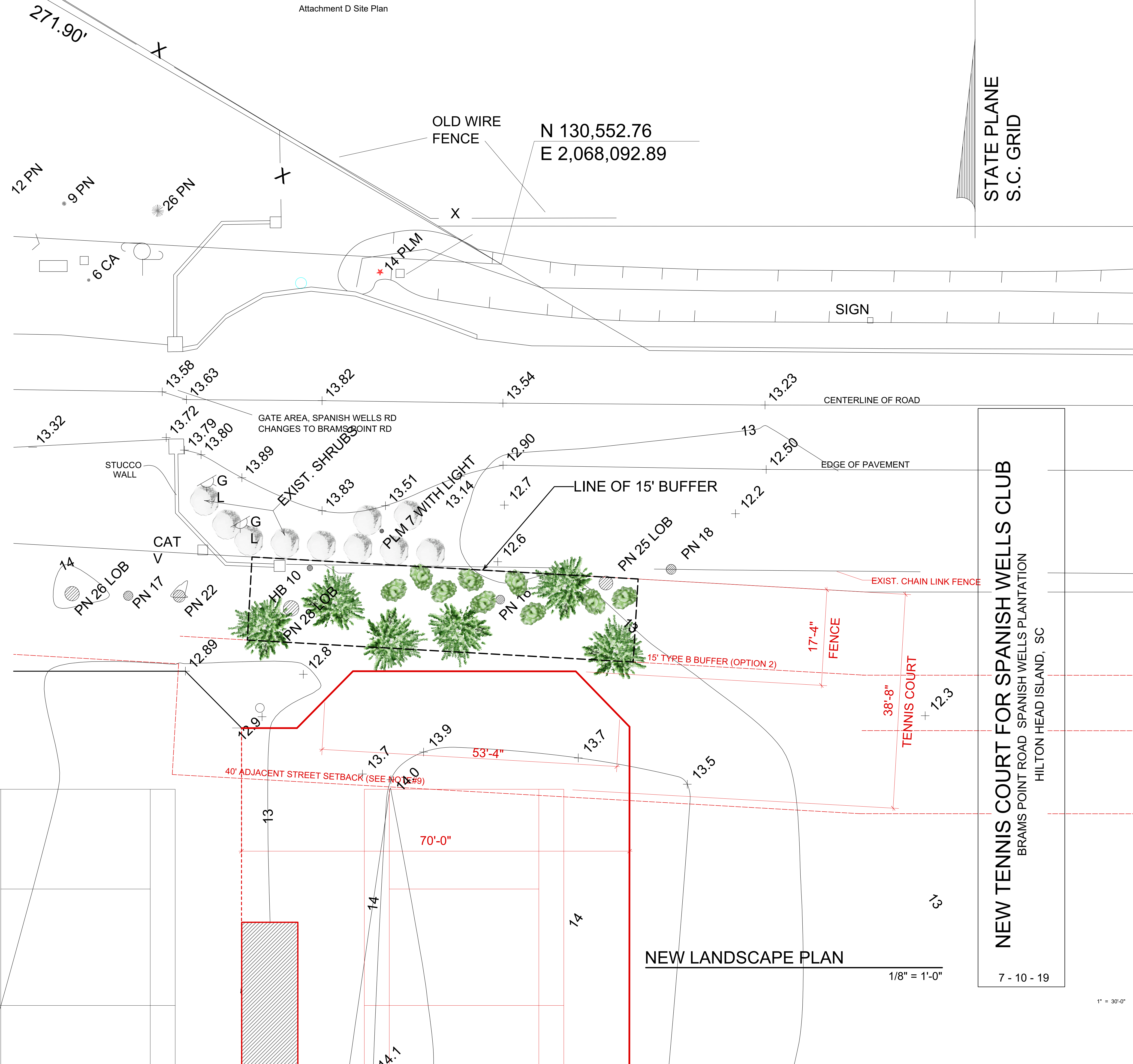
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	268.94'	259.26'	140.70'	249.34'	S 48°30'08" W	55°14'00"
C2	202.94'	195.63'	106.17'	188.15'	N 46°30'08" E	55°14'00"
C3	309.00'	91.42'	46.05'	91.09'	S 10°24'35" W	16°57'05"

LINE	DIRECTION	DISTANCE
W1	N 83°45'22" W	19.98'
W2	N 01°50'25" E	83.10'
W3	N 01°17'59" W	100.13'
W4	N 07°56'37" E	66.40'
W5	N 07°39'32" E	56.07'
W6	N 06°18'19" W	26.95'
W7	N 01°12'05" W	33.11'
W8	N 01°12'05" W	35.71'
W9	N 08°38'17" E	77.71'
W10	N 15°35'22" E	62.37'
W11	N 58°55'05" E	11.50'



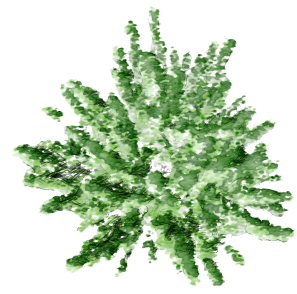
STATE PLANE
S.C. GRID

N 130,552.76
E 2,068,092.89



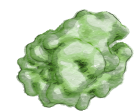
PLANT LIST

NEW UNDERSTORY TREES



6 - CREPE MYRTLE
LAGERSTROEMIA INDICA
(MINIMUM HGT. = 6'-0")

NEW EVERGREEN SHRUBS



9 - LUGUTRUM
LUGUTRUM VULGARE

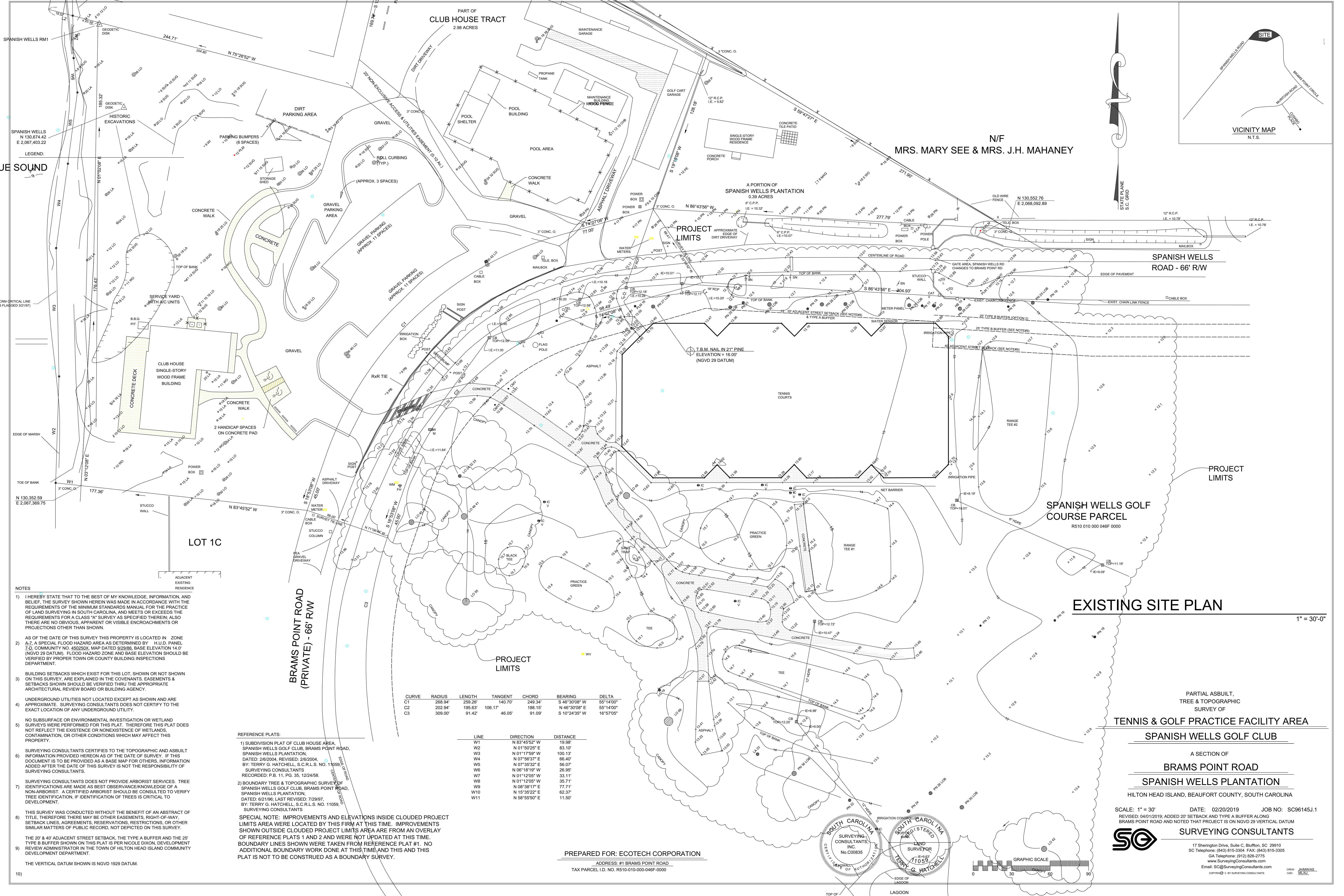
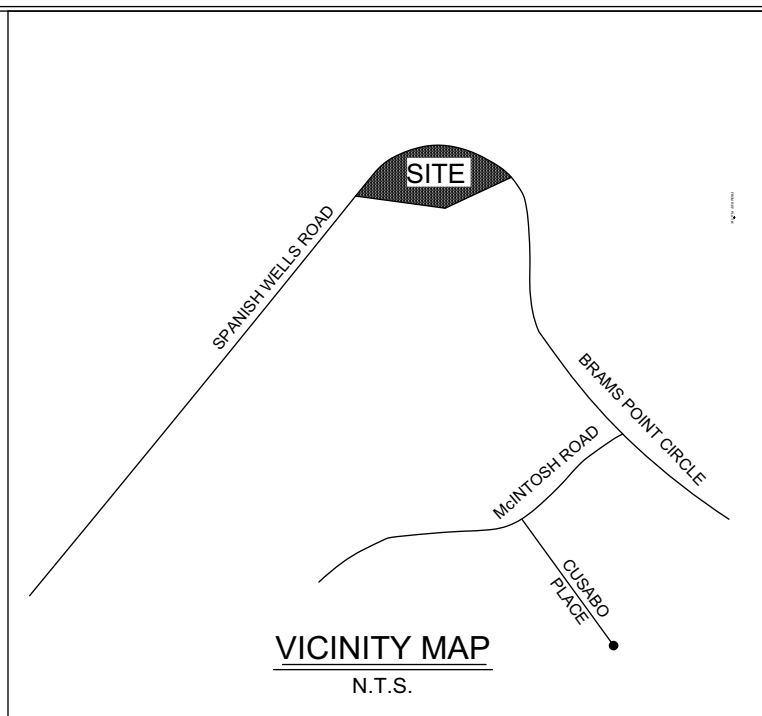
NOTE:
NEW PLANT SIZES PER TOWN OF HILTON HEAD L.M.O.

NEW LANDSCAPE PLAN

1/8" = 1'-0"

NEW TENNIS COURT FOR SPANISH WELLS CLUB
BRAMS POINT ROAD SPANISH WELLS PLANTATION
HILTON HEAD ISLAND, SC

7 - 10 - 19



BOGUE SOUND

LEGEND:

OCRM CRITICAL LINE (AS FLAGGED 3/21/97)

N 130,352.59
E 2,067,369.75

NOTES

- 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF...
2) AS OF THE DATE OF THIS SURVEY THIS PROPERTY IS LOCATED IN ZONE A-2...
3) BUILDING SETBACKS WHICH EXIST FOR THIS LOT, SHOWN OR NOT SHOWN ON THIS SURVEY...
4) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN AND ARE APPROXIMATE...
5) NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR WETLAND SURVEYS WERE PERFORMED FOR THIS PLAN...
6) SURVEYING CONSULTANTS CERTIFIES TO THE TOPOGRAPHIC AND ASBLUIT INFORMATION PROVIDED HEREON AS OF THE DATE OF SURVEY...
7) SURVEYING CONSULTANTS DOES NOT PROVIDE ARBORIST SERVICES...
8) THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE...
9) THE 20' & 40' ADJACENT STREET SETBACK, THE TYPE A BUFFER AND THE 25' TYPE B BUFFER SHOWN ON THIS PLAN IS PER NICOLE DIXON...
10) THE VERTICAL DATUM SHOWN IS NGVD 1929 DATUM.

LOT 1C

BRAMS POINT ROAD (PRIVATE) - 66' RW

PROJECT LIMITS

Table with columns: CURVE, RADIUS, LENGTH, TANGENT, CHORD, BEARING, DELTA. Contains data for curves C1, C2, and C3.

Table with columns: LINE, DIRECTION, DISTANCE. Lists boundary lines W1 through W11.

REFERENCE PLATS:

- 1) SUBDIVISION PLAT OF CLUB HOUSE AREA, SPANISH WELLS GOLF CLUB, BRAMS POINT ROAD, SPANISH WELLS PLANTATION...
2) BOUNDARY TREE & TOPOGRAPHIC SURVEY OF SPANISH WELLS GOLF CLUB, BRAMS POINT ROAD, SPANISH WELLS PLANTATION...

SPECIAL NOTE: IMPROVEMENTS AND ELEVATIONS INSIDE CLOUDED PROJECT LIMITS AREA WERE LOCATED BY THIS FIRM AT THIS TIME...

PREPARED FOR: ECOTECH CORPORATION
ADDRESS: #1 BRAMS POINT ROAD
TAX PARCEL I.D. NO. R510-010-000-046F-0000

N/F
MRS. MARY SEE & MRS. J.H. MAHANEY

SPANISH WELLS ROAD - 66' RW

SPANISH WELLS GOLF COURSE PARCEL
R510 010 000 046F 0000

EXISTING SITE PLAN

1" = 30'-0"

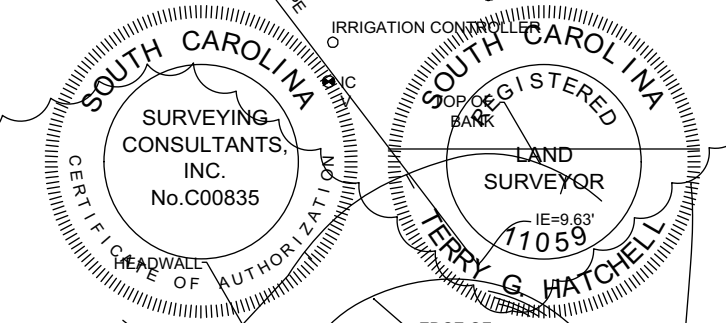
PARTIAL ASBLUIT, TREE & TOPOGRAPHIC SURVEY OF TENNIS & GOLF PRACTICE FACILITY AREA SPANISH WELLS GOLF CLUB

A SECTION OF BRAMS POINT ROAD SPANISH WELLS PLANTATION HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA

SCALE: 1" = 30' DATE: 02/20/2019 JOB NO: SC96145J.1



17 Sharrington Drive, Suite C, Bluffton, SC 29910
SC Telephone: (843) 815-3304 FAX: (843) 815-3305
GA Telephone: (912) 826-2775
www.SurveyingConsultants.com
Email: SC@SurveyingConsultants.com



DATE: 02/20/2019

Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos



Attachment E Site Photos





TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Nicole Dixon, CFM, *Development Review Administrator*
DATE: July 12, 2019
SUBJECT: Revisions to Rules of Procedure

At the July 15, 2019 BZA meeting, the Board will review and discuss amendments to the Rules of Procedure as presented by Staff. If the Motion passes to make the suggested revisions, the attached version of the Rules of Procedure will be adopted at the July 22nd BZA meeting.

In the attached document, revisions have been made to:

- Article IV, Section 2.A.2.iv, on page 6
- Article IX, Section 2, Title on page 16
- Article IX, Section 2, Paragraphs 4 and 6 on page 17

*Board of Zoning Appeals
Rules of Procedure
Town of Hilton Head Island*

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Article I
Purpose and Responsibilities

The Board of Zoning Appeals exists to provide final administrative decisions for the Town of Hilton Head Island to enforce the zoning ordinance in accordance with State law, subject to an appeal to circuit court by an appropriate interested party. Its main responsibilities include hearing and deciding: (a) appeals from administrative decisions of the Land Management Ordinance (LMO) Administrator and from Planning Commission actions on certain traffic analysis plans; (b) applications for variances from LMO requirements; and (c) applications to permit uses by special exception. The powers of the Board of Zoning Appeals also include remanding a matter to an administrative official if the record is deemed insufficient, issuing subpoenas for witness appearances, and certifying contempt to the circuit court. In exercising these powers, the Board of Zoning Appeals may, in conformity with State law and the LMO, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination of an Administrator, and to that end, has all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit. All final decisions and orders of the Board must be in writing and be permanently filed in the office of the Board as a public record.

Article II
Authority

Section 1. Authority.

The Town of Hilton Head Island Board of Zoning Appeals is established by Appendix A-3 of the Land Management Ordinance (LMO) of the Town of Hilton Head Island pursuant to the authority of Section 6-29-780, *et seq.*, of the Code of Laws of South Carolina, and hereinafter shall be referred to as the "Board."

Section 2. Territorial Jurisdiction.

Pursuant to Appendix A-3.E of the LMO, the Board shall have jurisdiction over all the lands within the Town. This jurisdiction may be expanded by the Town Council by ordinance and/or by intergovernmental agreement, in accordance with Section 6-29-330 of the Code of Laws of South Carolina.

Article III
Rules of Procedure

Section 1. Rules of Procedure.

These *Rules of Procedure* are adopted by the Board to carry out its powers and responsibilities under SC Code 6-29-780, -790, -800, and -810 and Appendix A-3 of the LMO. A portion or section of the *Rules of Procedure* may be suspended by majority vote of the Board to meet particular circumstances. If there is a situation where these *Rules of Procedure* do not specifically apply, then the most recent edition of *Robert's Rules of Order* shall govern the conduct of meetings.

An informational chart summarizing types of motions and votes in Robert's Rules of Order is attached.
Section 2. Amendment.

These rules may be amended at any time by an affirmative vote of a majority of the members of the Board; provided however, that such amendment(s) shall have first been presented to the entire Board, in writing, at a Regular or Special Meeting preceding the Regular or Special Meeting at which the vote is taken.

Article IV **Board Organization and Duties**

Section 1. Membership.

- A. Number and Qualifications.** The Board shall consist of seven members appointed by the Town Council. To the extent practicable, the appointed members may include at least one attorney and one design professional (either a registered architect or a registered landscape architect). None of the members shall hold an elected public office or position with the Town of Hilton Head Island or Beaufort County, South Carolina.
- B. Length of Terms.** Members of the Board shall be appointed annually for three-year terms effective each July 1, with all such terms ending on June 30 of the applicable year, unless a member is appointed to fill a vacancy. Vacancies shall be filled by the Town Council by appointments for the balance of any unexpired terms.
- C. Term Limits.** No member may serve more than two successive terms, except for extraordinary circumstances where Council believes it to be in the best interest of the community to have a continuation for a specific period of a particular member of the Board. This limitation shall not prevent any person from being appointed to the Board after an absence of one year. Service for a partial term of less than 1½ years shall not constitute a term of service for the purpose of these term limits.
- D. Attendance/Absences.** Board members are expected to attend all Board meetings. Each member of the Board who has prior knowledge that they will not be able to attend a scheduled Regular Meeting of the board shall notify the Secretary no later than 4:30pm the business day before the meeting. In the case of an emergency, a member shall give the earliest possible notification. The Secretary or Staff shall notify the Chairman in the event that the projected absence(s) will produce a lack of a quorum.
- E. Removal.** Three (3) absences at Regular or Special Meetings of the Board during one Board year (July 1 through June 30) shall be cause for recommendation by the Chairman to the Town Council to reconsider the appointment of that member. Attendance records may be reviewed annually by the Board in executive session during the 9th month of each Board year.
- F. Education.** The Code of South Carolina requires a six (6) hour Orientation Program and a three (3) hour/year Continuing Education Program for each Board member.

Section 2. Election of Officers.

The officers of the Board shall be a Chairman and a Vice-Chairman for one-year terms beginning on the first meeting in July. They are elected annually by the Board members no later than at the last meeting in July. Neither of these two positions shall be filled by a member beginning his or her first year of service as a Board member. Members that leave the Board and are re-appointed after a period of no more than three years may be elected to an officer position in his or her first year of service. Nominations for the Chairman and Vice-Chairman shall be made from the floor at the meeting.

A majority vote is normally required to elect to office. If no one in an election receives a majority vote, the vote must be repeated until one of them does get a majority.

A. Chairman – Term and Duties. The term shall be for one year. At the end of each Board year, the Chairman may be re-elected subject to his/her appointment term. The Chairman shall have the following duties:

1. In consultation with the Staff Board Coordinator, delegate the Secretary to prepare agendas for all meetings;
2. Conduct all meetings and hearings of the Board, meaning that the Chairman—
 - i. Is responsible for maintaining order.
 - ii. Should begin the meeting promptly at the scheduled hour if a quorum is present.
 - iii. Should have a well prepared agenda and abide by it.
 - iv. Should be familiar with the procedural rules of the bylaws board.
 - v. Keeps the board working together by explaining procedure clearly and communicating the next business in order.
 - vi. Should “assign” the floor by recognizing those members who wish to speak by calling them by name. No other member may interrupt or call out remarks without being out of order. Private discussion between members while another has the floor is out of order and disruptive members should be reminded of this rule.
 - vii. Should impartially call on members wishing to speak and should give members on both sides of an issue an opportunity to speak.
 - viii. Should remain calm and objective, keeping the meeting moving.
 - ix. Should always confirm that all members understand the motion and that the Secretary has fully recorded the motion.
 - x. Should open debate by saying “Is there any discussion?” The Chairman *must* open all debatable questions to debate.
 - xi. Should recognize members who wish to speak by stating their names.
 - xii. Should be a voting member and vote on all cases before the Board. If the Chairman wishes to make a motion, he/she should pass the gavel to the Vice-Chairman for conducting the meeting.
 - xiii. Should request that a motion with grounds (facts and conclusions) be made by any member. If necessary, may assist the member in formulating the motion. (Complex motions may be brought to the meeting pre-written.)

- xiv. Should request any member to second the motion.
 - xv. If a motion fails to get a second, should state, “Since there is no second, the motion is not before the Board.”
 - xvi. If seconded, should ask the members if there is any discussion of the motion.
 - xvii. Should not allow irrelevant discussion.
 - xviii. At the conclusion of any discussion of a seconded motion, should put the question to a vote by requesting the Secretary to call the roll.
 - xix. Should announce the result of the vote.
 - xx. At the conclusion, should adjourn the meeting without motion – “If there is no further business and there is no objection, the meeting will be adjourned. There being no objection, the meeting is adjourned.”
3. Act as spokesperson for the Board;
 4. Sign documents for the Board. Note, final decisions are signed by the moving member, the Chairman, and the seconding member;
 5. Act or designate a Board member to act as liaison with other governmental agencies and Town boards;
 6. Assign or delegate tasks to other Board members as may be necessary to perform the Board’s functions;
 7. Transmit reports and recommendations to Town Council;
 8. Ensure that all business is conducted in accordance with the SC Code, the LMO, and these Rules of Procedure;
 9. Cancel a scheduled Board meeting if there are no agenda items; and
 10. Perform other duties approved by the Board.

B. Vice-Chairman. A Vice-Chairman shall be elected by the Board from among the members in the same manner and for the same term as the Chairman. The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman, and, at such time, the Vice-Chairman shall have the same powers and duties as the Chairman. The Vice-Chairman shall succeed the Chairman, if the office is vacated before the term has expired, to serve the remainder of the unexpired term of the Chairman. A new Vice-Chairman shall be elected at the next regular meeting of the Board. In the absence of both the Chairman and Vice-Chairman, an acting Chairman shall be elected by the members present at a meeting of the Board.

Section 3. Secretary—Appointment and Duties.

During the July meeting of each year, a member of the Town’s Community Development Department shall be appointed by the Board to independently act as the Secretary of the Board. The Secretary will not be eligible to vote or to otherwise participate or deliberate in the proceedings of the Board. The Secretary shall:

1. Publish and post notices of all meetings of the Board;
2. As delegated by the Chairman, prepare meeting agendas;
3. Distribute to each Board member in advance of each meeting--the agenda, prior meeting draft minutes for approval, and all written submissions by staff and applicants on each agenda item, and other relevant materials;

4. Record the proceedings of meetings on audio tape and prepare written minutes of meetings for approval by the Board at its next regular meeting, recording in the written minutes the attendance of members at each meeting, the attendance of Council members, the attendance of staff, and a detailed summary of all discussions during each meeting;
5. Maintain the Board's notices, correspondence, reports and forms as public records for a period of time consistent with the records retention schedule of the Town of Hilton Head Island;
6. Assist in the preparation and forwarding of all reports and recommendations of the Board; and
7. Maintain each final decision of the Board as a permanent record as required by the SC Code.

Section 4. Staff Board Coordinator.

The Community Development Director shall appoint a member of Staff to assist the Chairman and the Secretary in Board coordination, including:

1. Ensuring all postponed agenda items are rescheduled;
2. Ensuring public notices are accurately written for publication;
3. Ensuring the minutes accurately reflect the actions taken in the meeting;
4. Coordinating with pertinent staff on submittal of agenda items to the Secretary for distribution to the Board;
5. Scheduling mandatory training sessions for the Board;
6. Ensuring the Board's Rules of Procedure remain updated;
7. Attending all Board meetings and resolving any questions or requests by the Board; and
8. Assisting the Secretary in the efficient running of the public meetings.

Article V **Meetings and Quorum**

Section 1. Regular and Special Meetings.

- A. Meeting Schedule.** An annual schedule of regular meetings and work sessions of the Board shall be adopted, published and posted at the Town Government Center in late Fall of each year for the next calendar year. Unless rescheduled by a vote of the Board, meetings shall be held at the time and place stated in notices. Meetings shall be open to the public.
- B. Regular Meetings.** Regular Meetings of the Board shall be held on the fourth Monday of each month or such other date as determined by the Chairman or with input from Staff. Notification of all Applications for Appeal, Variance and Special Exception scheduled and any other matters for consideration at each regular meeting of the Board will be in accord with the public notice requirements of the SC Code as implemented by the Town's LMO.
- C. Special Meetings.** Special Meetings of the board may be called at any time by the Chairman or requested by the Staff. At least forty eight (48) hours public notice shall be provided for any

Special Meeting of the board including the time, place and particular agenda item(s) scheduled for consideration consistent with the notice requirements of the SC Code as implemented by the Town's LMO.

- D. Cancellation of Meetings.** Whenever there is no business scheduled for any Regular or Special Meeting of the Board, the Chairman or Staff may cancel such Regular Meeting by giving notice to all members of the Board, as well as the public, no less than twenty-four (24) hours prior, whenever possible, to the time set for any such Regular Meeting.

Section 2. Quorum.

A majority of the Board shall constitute a quorum for the conduct of business. The Secretary will notify the Chairman in the event projected absences will result in the lack of a quorum. If a quorum is established, then a member leaves, the quorum is no longer present. In the absence of a quorum, no further business requiring a vote shall be transacted and any such business shall be postponed to the next meeting.

Section 3. Conflict of Interest

At a minimum, South Carolina law regarding conflicts of interest [S. C. Code Ann. § 8-13-10, *et seq.*, (Supp. 1994)] shall control Board members' actions. In addition, any member of the Board who believes that he or she has or may have a conflict of interest of any nature on any matter before the Board shall, prior to the case at the Regular or Special Meeting at which such matter may be heard or considered by the Board:

1. Prepare a written Potential Conflict of Interest Form describing the matter requiring action or decisions and the nature of his/her potential conflict of interest with respect to the action or decision;
2. File the Potential Conflict of Interest Form with the Secretary; and,
3. Provide a copy of the Potential Conflict of Interest Form to the Chairman.

Upon receipt of a Potential Conflict of Interest Form from any member of the Board, as required in section II (J)(A), *supra.*, the Chairman shall cause the Potential Conflict of Interest form to be recorded in the minutes and shall require that the member filing such Potential Conflict of Interest Form be excused from any votes, deliberations, and any other actions on the matter on which the potential conflict of interest or conflict of interest exists.

Any Board member so disqualified shall leave the dais while the disqualifying matter is being considered and refrain from deliberating or voting on the question.

Article VI
Meeting Administration, Public Comment,
Notices, Fees, Voting Supplemental Submissions/Briefs

Section 1. Media Notices.

The Secretary shall give the notice required by statute or ordinance for all meetings of the Board as per Section 16-2-102.E of the LMO. All Board meetings shall be open to the public and all requirements of the South Carolina Freedom of Information Act [S. C. Code Ann. § 30-4-10, *et seq.* (Supp. 1994)] shall be complied with in the conduct of meetings.

Section 2. Agenda (Order of Business)

A written agenda shall be furnished by the Secretary to each member of the Board and media. An agenda may be changed at the related meeting by a majority vote of the members present. Public Hearing items should be so noted with each pertinent item. Generally, the agenda should contain:

1. Call to Order;
2. Roll Call;
3. Freedom of Information Act Compliance;
4. Use of Cellular Telephones or Other Electronic Sound Emitting Devices Prohibited;
5. Review of Meeting Protocol as described within, including Citizen Participation;
6. Approval of Agenda;
7. Approval of Minutes of Previous Meeting
8. Old Business;
9. New Business;
10. Board Business;
11. Staff Reports;
12. Adjournment.

Section 3. Minutes.

A. Meetings. Minutes of meetings is governed by the Code of South Carolina (30-4-70 through 30-4-90). Minutes of each Board meeting shall be recorded by the Secretary and approved at the next available meeting after their preparation. Final approved Minutes shall be available on microfilm for previous years, and may be posted on the Town's Web site for public information.

B. Minimum Contents of Minutes.

1. Kind of meeting (regular or special).
2. Name of the organization.
3. Date and place of the meeting.
4. Presence of the Chairman and Secretary or the names of substitutes.
5. Presence of a quorum.
6. Names of all Board members, Council members, and Staff.

7. Time the meeting was called to order.
8. Whether the minutes of the previous meeting were approved or corrected.
9. All adopted and defeated motions and grounds (facts and conclusions). Withdrawn motions need not be recorded.
10. Name of the maker of the motion and the seconding member.
11. Summary of all presentations and discussions.
12. Motions, including proposed findings and conclusions, must be recorded verbatim.
13. Record the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.
14. The adjournment and the time of adjournment.

C. Lack of Quorum. If there is lack of a quorum of the Board, minutes may be recorded but shall include a statement in the header of each page indicating that a quorum was not present and the minutes are not official. Such minutes shall not be approved by the Board at a later meeting. (There are different quorums, depending on the agenda item.)

Section 4. Public Comment.

In the case of a Variance or Special Exception application, at the conclusion of presentations by Staff and the Applicant, the Chairman will open the public hearing. The Chairman may set a time limit for all public comments and may determine the order of the comments. The Chairman will recognize citizens to comment and request that they sign up to speak at the podium. Each person will have the opportunity to speak for three (3) minutes. At the conclusion of the public comment, the Chairman will close the public hearing. Staff and/or the Applicant may request that the Chairman allow additional clarification after the public comments. Public comment is not permitted in a case involving an appeal from an Administrator decision.

Section 5. Submission Deadline for Regular Meetings.

The deadline for the filing of a complete Application with narrative for Variance or Special Exception or Request for Appeal shall be thirty (30) calendar days prior to any Regular Meeting of the Board. Any submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion.

Section 6. Meeting Protocol.

The Chairman will review the protocol at the start of each meeting. The meeting protocol includes further information about the following: speaker sign-up sheet, length of time for speakers, the order of presentation, and the opening and closing of a public hearing. The speaker sign-up sheet will be placed at the podium for speakers to sign when they come up to speak.

Section 7. Filing of Application, Fees and Notice.

All Applications and Appeals scheduled for review by the Board shall be filed by the interested property owner(s) or by a property owner aggrieved by an Administrator's decision, or by a representative with a written certification of authority by such property owner. All Applications and Appeals shall satisfy all fees and notice requirements in accord with the provisions outlined in the LMO. In any case where the owner of record of the real property affected by any Application for Special Exception or Application for Variance, or his/her certified representative, is not the Applicant, the Applicant shall serve notice of the Application to the contiguous owner(s) of record within the time frames and as described in the LMO. Such notice shall include the time and place of the Board meeting at which the Application shall be heard.

Section 8. Motions and Final Decisions.

A Motion by a Board member is the procedure leading to a final decision by the Board when the Motion is seconded by another Board member and adopted by a vote of a quorum of the Board. A Motion is to be made to describe the proposed decision with findings and conclusions to support the Motion. If the Motion is seconded and adopted by the Board, the final decision, contained in a Notice of Action, must be in writing and be permanently filed in the office of the Board as a public record. The final decision must include findings and conclusions and be delivered to parties of interest by certified mail.

Section 9. Voting.

1. A Board member must be present at the beginning of each case to be permitted to discuss and vote on the case. If a Board member that was absent at the beginning of the hearing establishes requisite knowledge of the case, the member may be permitted to discuss and vote on the case by a majority vote of the Board.
2. All members of the Board, including the Chairman, shall be voting members, and shall be entitled to vote on any issue before the Board unless disqualified by law.
3. For Appeals from Administrator's decision, a majority vote of the entire Board shall be necessary, thus requiring at least 4 affirmative votes to pass a motion.
4. A simple majority of a quorum shall be required to conduct all other Board business including a decision on an Application for Variance or Special Exception.

Section 10. Supplemental Submissions/Briefs.

Any supplemental written submission or legal brief must be delivered [One (1) hard copy or one (1) copy sent via e-mail] to the Secretary of the Board no later than 8:00am four business days before the public meeting day in order for the Secretary to distribute such submission to each Board member by the close of business that day. Town Staff, or the opposing party, has two business days after receipt of the supplemental submission to respond in writing. This excludes any business days when the Town is closed. The Board reserves the right to require or permit later written submissions or briefs and/or proposed findings of fact and conclusions of law to be submitted by the Appellant, Applicant for Variance or Special Exception, or Town Staff. Any

submission or brief containing any citation to an opinion of a court must include a complete copy of the cited opinion. Any written or oral information sent directly to any Board member shall be disregarded and promptly turned over to the Chairman through the Secretary of the Board.

Section 11. Communication Among Board Members or With an Outside Party.

- A. There shall be no communication in writing, orally, or by e-mail by any Board member with any other Board member or any outside party regarding the substance of any matter before the Board that is or may be brought to a vote other than during a public meeting.
- B. Once a decision has been rendered by the BZA, there shall be no further discussions by any Board member with staff, applicants or their attorneys or representatives. Any such communications regarding a decision should be made to the Town Attorney.
- C. Communication with staff or outside parties to communicate procedural matters or general positions or opinions of the BZA will be at the discretion of the Chairman or by an affirmative vote of the majority of the Board members. The Chairman or his designee will be responsible for all such written/verbal communications with anyone other than the remainder of the Board members and Staff.
- D. Board members should refrain from discussing an upcoming agenda item with the Applicant, his Attorney, or his Agent, either through written or verbal communication. Board members should refrain from discussing an upcoming agenda item with Staff either through written or verbal communication, except to clarify facts or request additional information. All discussion of the item should take place in the public meeting. This is to avoid the appearance of improper ex parte communications.

Article VII

Procedures for Hearing an Application for a Variance

The following procedures shall be applicable in the presentation of a Request for a Variance.

Section 1. Presentation of the Town Staff and Applicant.

- 1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Variance. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
- 2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Variance. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.

3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or Staff as the members deem appropriate.
5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.

Section 2. Public Comment.

1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the sign up sheet. Each person will have the opportunity to speak for three (3) minutes.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the Board makes a motion.

Section 3. Vote on Application for Variance.

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Variance.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.
3. Pursuant to the provisions of the LMO the Board shall approve the Application for Variance, approve the Application for Variance with conditions or modifications; or, deny the Application for Variance.
4. Following the vote, the Staff shall prepare a written Notice of Action. The written notice of action shall include decision of the Board as well as the findings of fact and conclusions of law adopted by the Board with respect to the Application for Variance.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Variance, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Variance.

Article VIII
Procedures for Hearing an Application for Special Exception

The following procedures shall be applicable in the presentation of an Application for Special Exception:

Section 1. Presentation of the Town Staff and Applicant.

1. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Application for a Special Exception. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. The Applicant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Applicant believes supports the Application for a Special Exception. During the presentation by the Applicant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Applicant's time may be extended if the Applicant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
3. The Staff shall have a maximum of five (5) minutes to present any desired rebuttal.
4. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Applicant or the Staff as the members deem appropriate.
5. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.

Section 2. Public Comment.

1. The Chair will call on interested citizens and request that they come to the podium, state their name for the record and place their name on the sign up sheet. Each person will have the opportunity to speak for three (3) minutes.
2. The Applicant and/or Town Staff shall clarify any information presented by the public before the board makes a motion.

Section 3. Vote on Application for Special Exception.

1. Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Application for Special Exception.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision and appropriate references to the relevant criteria of the LMO.
3. Pursuant to the provisions of the LMO, the Board shall approve the Application for Special Exception, approve the Application for Special Exception with conditions as stated in the LMO or deny the Application for Special Exception.

4. Following the vote, the staff shall prepare a written Notice of Action. The written notice of action shall include the decision of the Board as well as the findings of fact and conclusions of law adopted by the board with respect to the Application for Special Exception.
5. The Notice of Action shall be mailed by certified letter to the Applicant and record owner of the real property affected by the Application for Special Exception, if different from that of the Applicant.
6. The decision of the board shall be deemed final and applicable upon mailing of the Notice of Action.
7. The certificate of mailing shall be made a part of the board's file on the Application for Special Exception.

Article IX

Procedures for Hearing an Appeal

The following procedures shall be applicable in the presentation of an Appeal from a decision of any Administrator:

Section 1. Jurisdiction.

Once an appeal has been taken from any final decision of Administrator, the jurisdiction of the Administrator, from which the appeal was taken, shall cease.

Section 2. Presentation of the Appellant, Town Staff and ~~Interested~~ Other Necessary Parties.

1. The Appellant shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Appellant believes supports the Appeal. During the presentation by the Appellant, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Appellant's time may be extended if the Appellant is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
2. Staff shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Staff believes support the position of Staff with respect to the Appeal. During the presentation by Staff, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, Staff's time may be extended if the Staff is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
3. Where the Appellant is someone other than the Property Owner of the Property that is the subject of the Appeal, the Property Owner or their Agent shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that the Property Owner believes supports the position of the Property Owner with respect to the Appeal. During the presentation by the Property Owner or their Agent, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Property Owner's time may be extended if the Property Owner is unable to complete the presentation due to questioning from the Board of Zoning Appeals.

4. Where the Appellant is someone other than the Holder of the Permit or Approval or their Agent ~~of for~~ the Property that is the subject of the Appeal, the Holder of the Permit or Approval or their Agent shall have a maximum of twenty (20) minutes to present the facts and applicable legal principles that he/she ~~the Holder of the Permit or Approval~~ believes supports ~~the~~ their position of the Holder of the Permit or Approval with respect to the Appeal. During the presentation by the Holder of the Permit or Approval or their Agent, members of the Board of Zoning Appeals may ask such questions as they deem appropriate. At the discretion of the Chairman, the Holder of the Permit or Approval's or their Agent's time may be extended if he/she ~~the Holder of the Permit or Approval~~ is unable to complete the presentation due to questioning from the Board of Zoning Appeals.
5. The Chairman may allow a maximum of five (5) minutes each for all parties to present any desired rebuttal.
6. Following the presentation, the Board of Zoning Appeals may ask such additional questions of the Appellant, Property Owner, Holder of the Permit or Approval or their Agent or Staff as the members deem appropriate.
7. The Board may subpoena witnesses and in the case of contempt may certify such fact to the Circuit Court having jurisdiction over such matters.
8. Public comment is not permitted in a case involving an appeal from an Administrator decision.
9. All parties shall be subject to the submittal requirements as set forth in Article 6, Section 10 of the Rules of the Procedure.

Section 3. Vote on the Appeal.

Following the presentation by all parties as set forth above, the Board, upon a Motion duly made and seconded, shall vote on the Appeal.

1. Pursuant to the provisions of Section 16-2-103.T.4.d of the LMO, the Board shall:
 - a) Affirm the action of the Administrator from which the Appeal was taken; or,
 - b) Modify the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
 - c) Reverse the action of the Administrator from which the Appeal was taken, and to that end, the Board of Zoning Appeals shall have all of the powers of the Administrator from which the Appeal was taken, and may issue a permit, or direct that a permit be issued; or,
 - d) Remand the action of the Administrator from which the Appeal was taken for such further proceedings as the Board of Zoning Appeals may deem appropriate.
2. The Motion shall contain, at a minimum, a finding of those facts which the member making the Motion deems material to the decision.
3. Following the Vote, the Board shall issue a written Notice of Action. The written notice of action shall include the decision as well as the findings of fact and conclusions of law adopted by the Board.

4. The Notice of Action shall be mailed by certified letter to the Appellant and Record Owner of the real property affected by the Appeal, if different from that of the Appellant.
5. The decision of the Board shall be deemed final and applicable upon mailing of the Notice of Action.
6. The certificate of mailing shall be made a part of the board's file on the Appeal.

Article X **Procedures for a Remand**

Section 1. Remand.

1. A member of the Board may move for a remand at any time, subject to review and determination by the Board. The motion shall specifically set forth factual and/or legal grounds that cause the record to be insufficient.
2. If a remand is granted, the Town and the Applicant shall obtain and present all additional information needed to render the record sufficient as detailed in the motion for the remand.

Article XI **Motions**

Section 1. Motion for a Reconsideration.

1. The Board may reconsider any decision made under Section 16-2-103.E.3.d, 16-2-103.S.3.d or 16-2-103.T.4.d of the Land Management Ordinance.
2. Any party aggrieved by a decision of the Board, if they desire to do so, is required to file any Petition for Reconsideration by delivering the same to the Administrator within ten (10) days from the date of hearing. "Delivered" as referenced in this section, means actual delivery.
3. The Petition for Reconsideration shall be in writing and shall state with particularity the points alleged to have been overlooked or misinterpreted the Board.
4. The Petition for Reconsideration shall be presented to the Board at the next regular scheduled meeting following the filing of the Petition for Reconsideration after compliance with the public notice requirements for a Board Public Meeting per the LMO.
5. Motions:
 - a. A Motion to Grant the Petition for Reconsideration may only be made by a member of the Board who voted on the prevailing side in the original vote.
 - b. The effect of the granting of a Motion for Reconsideration shall be that the Board will review the entire matter as if no previous vote had been taken.
 - c. A Motion to Deny the Petition for Reconsideration may be made by any member of the Board. The effect of a vote denying a Petition for Reconsideration is that the vote shall be considered to be the Board's final action on the matter. A Notice of Action shall be delivered to the Applicant following such vote.

6. Successive Petitions for Reconsideration are prohibited. No matter that has been reconsidered may be reconsidered a second time. The Board may not reconsider a denial of a Petition for Reconsideration.

Section 2. Motion to Dismiss.

Any interested party to a matter pending before the BZA may file a Motion to Dismiss the pending matter. The purpose of a Motion to Dismiss is to seek dismissal of the matter prior to the hearing on the merits of the pending matter.

1. A Motion to Dismiss may assert matters relating to procedure or jurisdiction including:
 - a. Failure to comply with requirements of the LMO,
 - b. Lack of jurisdiction,
 - c. Standing,
 - d. Other matters not relating to the merits of the matter.
2. A Motion to Dismiss shall be in writing, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.
3. A Motion to Dismiss may be supported by briefs of the law, affidavits or other matters pertinent to the Motion.
4. Any interested party may file briefs and other materials in response to the Motion, in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.
5. The Motion to Dismiss will be normally heard at the same meeting as the related appeal; however, the Chairman or Vice Chairman, in the absence of the Chairman, upon request, in his sole discretion, may permit the motion to be heard at an earlier meeting.

Section 3. Motion for Postponement.

The Town, the Applicant or a Member of the Board may request a postponement of an application at any time, subject to the review and determination of the Board.

The Chairman or Vice Chairman, in the absence of the Chairman, may for good cause grant one postponement request for a period of up to three months from the original hearing date. Any subsequent postponement requests shall be discussed and voted on by the Board

A Motion for Postponement shall be in writing, stating the reasons for the requested postponement, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

Section 4. Motion for Withdrawal of Application.

The applicant may request a withdrawal of an application prior to the ruling. A Motion for Withdrawal of the Application shall be in writing, stating the reasons for the requested withdrawal, and be filed and served in accordance with Article VI, Section 10, Supplemental Submissions/Briefs.

The Board shall have the opportunity to discuss the reasons for the application being withdrawn; unless the project has been abandoned. In the absence of the applicant, if the withdrawal is questioned by the Board, the case will be postponed to the next meeting.

Article XII **Miscellaneous**

Section 1. Executive Session.

If a member determines after reviewing the applicable cases that they would benefit from the advice of legal counsel in Executive Session they shall contact the Chairman or his designee. The Chairman will determine if an Executive Session is warranted. If the Chairman decides that the membership would benefit from an Executive Session, they will inform the Board's Secretary of the request. The Chairman's decision can be overridden by a majority vote of the Board taken at a regular or special meeting of the BZA.

Executive Session is a meeting at which the proceedings are secret. A member can be punished under disciplinary procedure if he violates the secrecy of an executive session. Anyone else permitted to be present is honor-bound not to divulge anything that occurred.

Permitted reasons should include:

1. Personnel reasons
2. Contracts
3. Legal advice relating to pending, threatened or potential claim
4. Discussion regarding development of security personnel
5. Investigative proceedings regarding allegations of criminal misconduct
6. Economic development (specific criteria in FOIA)
7. Legal advice relating to procedural, conflict of interest, or general issues unrelated to a specific matter before the Board.

Entering and Adjourning an Executive Session:

1. A motion to close the current meeting and go into executive session is made and passed by a majority vote;
2. Chairman must announce the specific purpose of the executive session;
3. No formal action may be taken in executive session except to:
 - a. Adjourn
 - b. Return to public session

The Board can request attendance by non-members as they deem appropriate.

Section 2. Recess.

A recess shall be declared as deemed appropriate by the Chairman or by majority vote of the members present at the meeting. No discussion of the agenda item shall be conducted by Board members during the recess.

**For the Board of Zoning Appeals
Town of Hilton Head Island, South Carolina**

Date of Approval: June 24, 2019

By: _____
David Fingerhut
Chairman

Attachment for Reference

TYPES OF MOTIONS

Main Motions	A main motion is defined as a proposal that certain action is taken or an opinion be expressed by the group. The words to use are: “I Move.”
Secondary Motions	A secondary motion is one which can be made <i>while</i> the main motion is on the floor and <i>before</i> it has been decided. Secondary motions are divided into three classes which relate to their use in parliamentary procedure. Those classes are: <ul style="list-style-type: none"> ○ Subsidiary motions ○ Privileged motions ○ Incidental motions
Subsidiary Motions	Subsidiary motions relate directly to the motion on the floor. They may change the words, send it to a committee, delay it, etc. They are designed to expedite business by disposing of the pending motion other than by adopting or rejecting it. <i>Subsidiary motions are the class of motions most frequently used in meetings.</i> These motions have rank (order of precedence of motions) among themselves. A motion of higher rank can be made while a motion of lower rank is on the floor. The lower rank motion “yields” to the higher rank motion. (Motion to postpone has higher rank than the motion to commit and takes precedence. If motion to postpone is adopted, the main motion and the motion to commit are postponed until the next meeting.)
Privileged Motions	Privileged motions are motions of an emergency nature, such as to recess or adjourn. They do not relate to the motion on the floor but to the welfare of the group. They are of high rank and must be handled before any other business that may be pending.
Incidental Motion	Incidental motions are procedural. They deal with process, such as enforcing proper procedure, correcting errors, verifying votes, etc. When introduced, they must be decided before business can resume.
Amending Motion	General consent can be used with amendments to motions if the Chairman feels the group will accept the amendment. “If there is no objection, the motion is so amended.” <i>Restate the motion.</i>
Motions Commit	Have precedence over the motion to amend. More than one motion can be on the floor but only one question. All pending motions must relate to the main motion on the floor. No new business may be introduced.
Point of Order	Motion used if a board member feels the Chairman is failing to operate within the rules.

Restorative Motions or Motions that Bring Back a Question

Restorative Motion	<p>Allows a group to change its mind.</p> <ul style="list-style-type: none"> ○ They are a separate category because of their contradiction to the parliamentary rule that once a question has been decided it cannot be brought up again at the same meeting. ○ Within limits, members have the right to rethink a situation if they feel their decision has been made too quickly or without enough information. ○ The two most commonly used restorative motions are: <i>Rescind</i> and <i>Reconsider</i>.
Rescind	<p>Rescind is the motion to use to quash or nullify a previously adopted motion. It may strike out an entire motion, resolution, bylaw, etc.</p> <ul style="list-style-type: none"> ○ Rescind is <i>not in order</i> when any action has already been taken as a result of the vote, such as any kind of contract when the other party has been notified. ○ It must be seconded. ○ It requires a <i>two-thirds</i> vote unless <i>notice has been given</i> at the previous meeting, either verbally or in writing. If notice has been given, the motion requires only a <i>majority</i> vote.
Reconsider	<p>Reconsider is the motion which allows a group to reconsider the vote on a motion. It enables a majority of the members, within a limited time, to bring back a motion for further consideration after it has been acted upon. Its purpose is to prevent hasty or ill-advised action.</p> <ul style="list-style-type: none"> ○ Reconsider has special rules to prevent its abuse by a disgruntled minority, since it allows a question already decided to be brought up again. ○ Rules limit who can make the motion. It can only be made by someone who voted on the prevailing (winning) side. ○ It has a time limit. It must be made on the same day that the vote to be reconsidered was taken. ○ It requires a second. ○ It may be debated and it opens up the motion to which it is applied to debate. ○ It requires only a majority vote. ○ It may be made and seconded while other business is pending because of its time limit. However, it is not debated and voted on until the business on the floor is completed. ○ All action that might come out of the original motion is stopped at the time that reconsider is made and seconded. This is the main value of the motion, and it should be made as quickly as the situation calling for it is recognized.
Amend a Motion	<p>Change the wording to make it clearer, more complete, or more acceptable before the motion is voted upon. The amendment must be germane to the motion on the floor to be in order. Adoption of the amendment does not adopt the motion. If the group votes “no” on the amendment, the motion is on the floor in its original wording.</p>
Amend an Amendment	<p>First amendment is called the primary and the amendment to the amendment is the secondary amendment. Only two amendments may be pending at any time.</p>

	First vote on the amendment to the amendment (secondary), then vote on the original amendment (primary), then vote on the main motion. Amendments require a majority vote.
Friendly Amendments	Change in wording to enhance the original motion – can be changed by general consent.
Hostile Amendments	Gives a different meaning to a motion and may defeat the intent of the main motion.
To Commit or Refer a Motion	Sends the question to a small group (committee) to be studied and put into proper form for the group to consider. Motion includes specific directions as to where the question ought to go (what committee). Motion can be applied to any main motion with any amendments that may be pending. It must be seconded, it can be debated, and requires a majority vote.
Postpone	Delays action on a question until later in the same meeting or until the next meeting. <i>A motion cannot be postponed further than the next regular meeting.</i> Can be applied to all main motions, it must be seconded, it can be debated, it can be amended (as to time of the postponement), it requires a majority vote. Motion is called up automatically when the time to which it was postponed arrives (place under Unfinished Business on agenda of next meeting).
Limit Debate	Motion to exercise special control over debate – reducing the number and length of speeches allowed. Used with any motion, must be seconded, is not debatable, can be amended (but only as to the length of speeches or when the vote will be taken), requires 2/3 vote, vote must be taken by show of hands or a rising vote in a large group. (Need a timekeeper and timer if speeches have a time limit.)
Previous Question	The motion used to cut off debate and to bring the group to an immediate vote on the pending motion. (Call the question for an immediate vote). Previous question can be ruled out of order if the motion is debatable and has not received debate. Motion requires 2/3 vote (by show of hands or standing vote). Not debatable.
Postpone Indefinitely	Lowest-ranked subsidiary motion is used to kill a main motion. It avoids a direct vote on the question on the floor. Shouldn't be used.
Lay on the Table	Highest-ranked subsidiary motion. Cannot be amended or debated. It is out of order when used to “kill or avoid dealing with a measure”. Was designed as a courtesy motion to allow a group to set aside a question for something more important, such as arrival of a speaker.
Withdraw a Motion	Permission to withdraw a motion allows a member who realizes he has made a hasty or ill-advised motion to withdraw it with the consent of the group. This device saves time in disposing of the motion. The presiding officer usually handles the request by use of general consent.
Dilatory Tactics	A dilatory tactic is the misuse of parliamentary procedure to deliberately delay or prevent action in a meeting. It is the duty of the presiding officer to prevent a dissident minority from misusing legitimate forms of motions to obstruct business. Such motions should be ruled out of order or those members engaged in such game playing should not be recognized.

TYPES OF VOTES

Majority Vote	<ul style="list-style-type: none"> • More than half of the votes cast. • The minority has the right to be heard, but once a decision has been reached by a majority of the members present and voting, the minority must then respect and abide by the decision.
Silence is Consent	Those members who do not vote, agree to go along with the decision of the majority by their silence.
Two-thirds Vote	A two-thirds vote is necessary whenever you are limiting or taking away the rights of members or whenever you are changing something that has already been decided. A two-thirds vote has at least twice as many votes on the winning side as on the losing side. A show of hands should be taken for <i>all</i> motions requiring a <i>two-thirds vote</i> . If a motion requires a two-thirds vote, the Chairman should inform the group of that.
General Consent	<p>Is an informal agreement of the group, the method in which action is taken without a formal vote or on occasion without a motion. The Chairman initiates the procedure to expedite business. Usually done to approve and correct the minutes.</p> <ul style="list-style-type: none"> • The presiding officer always pauses after asking if there is any objection. If there is <i>any</i> objection, the matter is put to a vote in the usual way. • A member may object because he feels it is important to have a formal vote and dispel any suspicion of railroading.
Tie Vote	Is a <i>lost</i> vote because a majority was not obtained. The <i>Chairman is not compelled to break a tie</i> . While the Chairman has a right to vote as a member, it is recommended he not vote unless the vote is by ballot. He may also vote in cases where the vote would change the result. The Chairman should appear impartial.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Missy Luick, *Senior Planner*
DATE: July 12, 2019
SUBJECT: Substitutions of Nonconformities for Redevelopment

The 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.

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

LMO Section 16-7-101.F:

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

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

There have not been any Substitutions of Nonconformities for Redevelopment that have been granted by staff since the June 24, 2019 Board of Zoning Appeals meeting.