



Town of Hilton Head Island  
**Board of Zoning Appeals Meeting**  
**Monday, October 26, 2020 – 1:30 p.m.**  
**AGENDA**

---

In accordance with the Town of Hilton Head Island Municipal Code Section 2-5-15, this meeting is being conducted virtually and can be viewed live on the Town's Public Meeting Facebook Page at <https://www.facebook.com/townofhiltonheadislandmeetings/>. Following the meeting, the video record will be made available on the Town's website at <https://www.hiltonheadislandsc.gov/>.

**1. Call to Order**

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

**3. Pledge of Allegiance**

**4. Roll Call**

**5. Welcome and Introduction to Board Procedures**

**6. Approval of Agenda**

**7. Approval of Minutes**

a. Meeting of September 28, 2020

**8. Citizen Comments**

**9. Requests for Postponement Approved by the BZA Chairman** – The cases listed below have been granted a postponement by the BZA Chairman and placed on the agenda to establish an original hearing date for the request. No action will be taken by the Board at this time.

- VAR-001853-2020 – 121 Sandcastle Court
- VAR-001854-2020 – 127 Sandcastle Court
- VAR-001874-2020 – 125 Sandcastle Court

**10. New Business**

a. **APL-000760-2020** – Request for Appeal from William M. Bowen, P.A. on behalf of Island Club III Horizontal Property Regime. The appellant is appealing staff's determination, dated March 24, 2020, that an unimproved right-of-way off of Folly Field Road, currently functioning as a drainage easement and pedestrian access to the beach, is classified as a street and does require an adjacent street setback and buffer from it.

**11. Board Business**

a. Review and Adoption of 2021 Meeting Schedule

## 12. Staff Report

- a. Update on LMO amendments recommended by the BZA at the January and July meetings
- b. Waiver Report

## 13. Adjournment

Public comments concerning agenda items can be submitted electronically via the Open Town Hall HHI portal at <https://hiltonheadislandsc.gov/opentownhall/>. The portal will close 2 hours before the meeting. All comments submitted through the portal will be provided to the Board for review and made part of the official record. Citizens who wish to comment on agenda items during the meeting by phone must contact the Board Secretary at 843-341-4684 not later than 12:00 p.m. the day of the meeting.

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



Town of Hilton Head Island  
**Board of Zoning Appeals Meeting**  
September 28, 2020 at 2:30 p.m. Virtual Meeting  
**MEETING MINUTES**

**Present from the Board:** Chairman Jerry Cutrer, Vice Chair Patsy Brison, Robert Johnson, Lisa Laudermilch, Anna Ponder, Charles Walczak, John White

**Absent from the Board:** None

**Present from Town Council:** David Ames, Tamara Becker, Glenn Stanford

**Present from Town Staff:** Nicole Dixon, Development Review Administrator; Teri Lewis, Deputy Director of Community Development; Missy Luick, Senior Planner; Stephen Ryan, Staff Attorney; Teresa Haley, Senior Administrative Assistant

---

**1. Call to Order**

Chairman Cutrer called the meeting to order at 2:30 p.m.

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

**3. Pledge of Allegiance**

**4. Roll Call** – See as noted above.

**5. Welcome and Introduction to Board Procedures**

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

**6. Approval of Agenda**

Chairman Cutrer asked for a motion to amend the agenda to add a discussion of the October 2020 meeting schedule under New Business. Vice Chair Brison made a motion to add a discussion of the October 2020 meeting schedule under New Business and a status of the Board's request for LMO amendments based on action taken at the January and July meetings under Staff Report. Mr. Johnson seconded. By way of roll call, the motion passed with a vote of 7-0-0. Vice Chair Brison moved to approve the agenda as amended. Mr. White seconded. By way of roll call, the motion passed with a vote of 7-0-0.

**7. Approval of Minutes**

**a. Special Meeting of August 31, 2020**

Chairman Cutrer asked for a motion to approve the minutes of the August 31, 2020 special meeting. Mr. Walczak moved to approve. Vice Chair Brison seconded. By way of roll call, the motion passed with a vote of 7-0-0.

## 8. Citizen Comments

All public comments received by Staff were provided to the Board for review and made a part of the official record. Citizens were provided the opportunity to sign up for public comment participation by phone during the meeting. There were no requests from citizens to participate by phone.

## 9. Unfinished Business

- a. **VAR-001461-2020** – Request from Michael Liker for a variance from LMO Section 16-3-106.H.4.b., Forest Beach Neighborhood Character Overlay (FB-NC-O) District for a proposed driveway to be built parallel within the adjacent use buffer and exceeding the 24 foot width maximum. The property address is 3 Alder Lane with a parcel number of R550 015 00A 0075 0000.

Chairman Cutrer explained that since this application was presented at the last meeting, there is not a need to have a complete rehearing. However, Staff and the applicant will have the opportunity to make comments. Ms. Luick presented a summary of the application, the outcome of the last meeting, and an update on the status of the Marriott approval to remove a portion of the wall in order for the driveway to be access directly. Staff's recommendation remains that the Board of Zoning Appeals deny the application, based on the Findings of Fact and Conclusions of Law contained in the Staff Report. The applicant presented statements regarding the grounds for the variance and answered the Board's questions. The applicant indicated the Marriott has given him verbal approval for the portion of the wall to be removed.

The Board made comments and inquiries to Staff regarding: show the site plan highlighting the variance area and the outline of the driveway as currently proposed; whether a building permit can be issued if a conditional variance is granted; whether site preparation can begin if a condition variance is granted; the width of the existing curb cut; safety concerns for pedestrians and vehicles crossing the multi-use pathway; the legal status of Alder Lane; whether records indicate curb cut access was granted for this property; concern the Marriott approval was given verbally and nothing is in writing; whether the SC Code allows the Board to legally accept hearsay testimony; what the terms of a conditional variance can be; fill is considered development and cannot be added to a site without a permit.

The Board made comments and inquiries to the applicant regarding: the current status of the Marriott approval to remove a portion of the wall; the applicant's expectation regarding timing of final Marriott approval; the initial work that would be able to be done if a building permit is issued upon a conditional variance; how long the initial work would take before construct begins and the driveway would have to be staked out; the house could be designed differently to meet all LMO requirements.

Vice Chair Brison moved that the Board of Zoning Appeals deny the variance application, based on the Findings of Fact and Conclusions of Law contained in the Staff Report, with the following modifications:

*Criteria 4:* The authorization of the variance will be of substantial detriment to the adjacent property or the public good, and the character of the zoning district where the property is located will be harmed by the granting of the variance.

Additional Findings of Facts:

- The variance would be contrary to the requirements of the Forest Beach Neighborhood Character Overlay District.
- The provisions of the LMO Section 16-2-103.S.4.c the fact that the property may be utilized more profitably should the variance be granted may not be considered as grounds for a variance.

Amended and restated Conclusions of Law:

- The Board of Zoning Appeals concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the proposed variance will be a substantial detriment to the adjacent property, the public good, and the character of the zoning district where the property is located.

Chairman Cutrer asked for a second to the motion and no second was received. Therefore, the motion died due to lack of a second.

*At 3:37 p.m., Mr. White left the meeting and a quorum of the Board remained in effect.*

Following the failed motion, the Board continued discussions about the implications of approval and denial of the variance; various ways in which the house could be redesigned and the driveway could be reconfigured to meet LMO requirements; concerns for granting a variance without Marriott written approval to remove the wall and setting a bad precedent. The Board expressed sympathy to the applicant's timeline to construct the home and noted the optimal solution is for the Marriott to proceed with approval of the wall removal to allow straight in access of the driveway, and therefore, eliminating the need for a variance. Following the discussion, Chairman Cutrer asked for a motion.

Dr. Ponder moved that the Board of Zoning Appeals deny the application based on the Findings of Fact and Conclusions of Law contained in the Staff Report. Mr. Johnson seconded. By way of roll call, the motion passed with a vote of 6-0-0. (Roll: Brison, Cutrer, Johnson, Laudermilch, Ponder, Walczak – for the motion; none opposed.)

## 10. New Business

*At 4:11 p.m., Dr. Ponder left the meeting and a quorum of the Board remained in effect.*

### a. Discussion of the October Meeting Schedule

Due to the number of applications for the October meeting, Chairman Cutrer asked the Board Members to consider (i) moving the October 26 regular meeting time earlier to 1:30 p.m. to hear two applications and (ii) holding a special meeting on October 29 to hear the five remaining applications which have similar requests.

Vice Chair Brison made a motion to move the October 26, 2020 regular meeting time to 1:30 p.m. Mr. Walczak seconded. The motion passed with a vote of 5-0-0.

Vice Chair Brison made a motion to schedule a special meeting for October 29, 2020 at 1:00 p.m. to hear the remaining applications. Mr. Walczak seconded. The motion passed with a vote of 5-0-0.

## 11. Staff Report

- a. Waiver Report – The report was included in the Board’s agenda package.
- b. Update on LMO amendments recommended by the BZA at the January and July meetings – Ms. Dixon reported that Staff is reviewing the waivers in question and if it is determined that amendments are warranted based on that review, then it will be included in the 2020 LMO Amendments list. Chairman Cutrer requested this report be placed on one of the October meeting agendas.

**12. Adjournment**

The meeting was adjourned at 4:16 p.m.

**Submitted by:** Teresa Haley, Secretary

**Approved:** [DATE]

DRAFT



# TOWN OF HILTON HEAD ISLAND

---

## *Community Development Department*

**TO:** Board of Zoning Appeals  
**VIA:** Teri B. Lewis, AICP, *Deputy Director of Community Development*  
**FROM:** Nicole Dixon, AICP, CFM, *Development Review Administrator*  
**DATE:** October 9, 2020  
**SUBJECT:** APL-000760-2020

---

William M. Bowen, on behalf of Island Club III Horizontal Property Regime, is appealing staff's determination, dated March 24, 2020, that an unimproved right-of-way, currently functioning as a drainage easement and pedestrian access to the beach, is classified as a street.

Per the Code of Laws of South Carolina, specifically 6-29-800.B, upon receipt of an appeal, staff is required to immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken. The record as attached consists of the following documents:

- Attachment A - Appellant Submittal
- Attachment B - Staff Determination Letter
- Attachment C - Determination Request

Staff reserves the right to submit additional documents.

This appeal application was originally sent to the BZA in April 2020, but due to the Covid 19 Pandemic and at the request of the appellant, the appeal was postponed until the October meeting.

Please contact me at (843) 341-4686 or at [nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov) if you have any questions.

ATTACHMENT A

**WILLIAM M. BOWEN, P. A.**  
ATTORNEY AT LAW  
POST OFFICE DRAWER 6128  
HILTON HEAD ISLAND, SOUTH CAROLINA 29938  
[E-MAIL: WILBOWBB@HARGRAY.COM](mailto:WILBOWBB@HARGRAY.COM)  
(NOT FOR CONFIDENTIAL COMMUNICATIONS)

52 New Orleans Road, Suite 202  
Hilton Head Island, SC 29928

Telephone 843/842-5000  
Facsimile 843/686-5990

April 6, 2020  
File No.: 20-020

**VIA Email [nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov) and U.S. Mail**

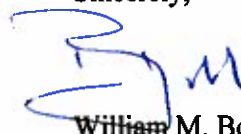
Nicole Dixon  
Town of Hilton Head Island  
Community Development Department  
One Town Center Court  
Hilton Head Island, SC 29928

RE: Appeal of March 23, 2020 finding that a Lane was an "Other Street"

Dear Nicole:

Thank you for your heads up on the filing deadline for an appeal on the above. As you suggested, I am sending the appeal attached as an email. A hard copy of the appeal, this letter and my check for \$100.00 follows by US Mail. Your advice as to the next step will be appreciated.

Sincerely,



William M. Bowen

WMB/jf

Enclosures

Cc: Ken Pfeifle





Town of Hilton Head Island  
Community Development Department  
One Town Center Court  
Hilton Head Island, SC 29928  
Phone: 843-341-4757 Fax: 843-842-8908  
[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)

FOR OFFICIAL USE ONLY	
Date Received:	_____
Accepted by:	_____
App. # APL	_____
Meeting Date:	_____

Applicant/Agent Name: William M. Bowen Company: Island Club III Horizontal Property Regime  
Mailing Address: PO Drawer 6128 City: Hilton Head Island State: SC Zip: 29938  
Telephone: 843-842- Fax: 843-605-4782 E-mail: bill@williambowenlaw.com

**APPEAL (APL) SUBMITTAL REQUIREMENTS**

**If you are interested in submitting your appeal electronically please call 843-341-4757 for more information.**

The following items must be attached in order for this application to be complete:

\_\_\_\_\_ A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any LMO Section numbers relied upon; **and** a statement of the specific decision requested of the review body.

\_\_\_\_\_ Any other documentation used to support the facts surrounding the decision.

\_\_\_\_\_ Filing Fee - \$100.00 cash or check made payable to the Town of Hilton Head Island.

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

Applicant/Agent Signature:  Date: April 2, 2020

ATTACHMENT A

ISLAND CLUB REGIME III )  
APPELLANT )  
V. )  
)  
TOWN OF HILTON HEAD ISLAND ) APPEAL FROM DECISION OF DEVELOPMENT  
DEVELOPMENT REVIEW ) REVIEW ADMINISTRATION OF MARCH 24, 2020  
ADMINISTRATION )  
RESPONDENT )  
\_\_\_\_\_)

**STATEMENT OF FACTS**

During the latter part of December, Appellant submitted an application for a building permit to construct a building to replace an aging and detreating storage container in the same space and location the where the container had been prior to the incorporation of the Town. See **Exhibit A**, which is a photograph of the container and brief description of the structure to replace the container. The application was denied based on the design of the replacement building. After several meetings with the Town, Appellant was of the impression it had resolved the design issues, only to be told the area marked as Lane was really a street requiring a 20 foot setback for the replacement structure. There is no other area within the property of Regime III available for the placement of the structure. The replacement building serves an indispensable need for storage of appliances and materials necessary for maintenance of the units of the Regime. On March 24, 2020, the Development Review Administrator (“Administrator”), issued a Ruling denying Appellants request for a variance of a 20-foot setback requirement from an area reflected as a “Lane” and a Drainage Easement on the Plat attached, on the grounds the Lane was in fact an “Other Street”.

Appellant’s position is the area in question was reflected on a Plat prepared in October 29, 2009 as a “Lane” (“Lane”), a copy of which is attached as **EXHIBIT I**. On a Plat prepared by and recorded for Respondent in August of 2015, a copy of which is attached as **EXHIBIT II**, the Lane was re-designated as a drainage easement and therefore should no longer be a Lane. Additionally, the physical condition of the Lane fails to meet any of generally accepted the statutory or judicial criteria for a “Street” or even that of the Town’s Land Management Ordinance. The Lane is a rectangular shaped lot of land measuring approximately 20 by 420 feet, unimproved, not “used primarily for carrying vehicular, bicycle, and pedestrian traffic and providing a principal means of access to butting property”. In spite of this, Respondent based its decision the Lane was an “Other Street”.

A Street is defined in the LMO as "an existing or planned public right-of-way or private easement used or intended to be used primarily for carrying vehicular, bicycle, and pedestrian traffic and providing a principal means of access to butting property." The platted lane does meet the definition of a street, as it is existing right-of way that is intended to be used for access.

## ATTACHMENT A

LMO Section 16-5-102, Setback Standards, requires a 20 foot setback from an "Other Street". As the platted lane does not meet the classification of a Major or Minor Arterial Road, it is classified as an "Other Street."

### ARGUMENT

Respondent's finding is erroneous and contrary to the facts and the law for the following reasons:

1. There is no basis in fact, nor law, nor the English language to classify the Lane as "Other Street" simply because it fails to meet the requirement that it is not "an existing or planned public right-of-way or private easement used or intended to be used primarily for carrying vehicular, bicycle, and pedestrian traffic and providing a principal means of access to butting property." A determination that a Lane is another street is arbitrary, capricious, and whimsical, and constitutes an abuse of authority.
2. The decision of the Administrator is tantamount to inverse condemnation which occurs from the government's physical appropriation of private property, or it may result from government-imposed limitations on the use of private property. See *Byrd v. City of Hartsville*, 365 S.C. 650, 656, 620 S.E.2d 76, 79 (2005). In essence, inverse condemnation is a governmental taking absent an eminent domain proceeding. *Id.* Successful inverse condemnation actions require a plaintiff to establish the government committed an affirmative, aggressive, and positive act causing damage to the plaintiff's property. *WRB Ltd. P'ship v. County of Lexington*, 369 S.C. 30, 32, 630 S.E.2d 479, 481 (2006).
3. Respondent's finding is an absolute contrary of the disfavor of restrictions widely held historical view of the court decisions that society's best interests are advanced by encouraging the free and unrestricted use of land. See, *Hamilton v. CCM, Inc.*, 274 S.C. 152, 263 S.E.2d 378 (1980); *Edwards v. Surratt*, 228 S.C. 512, 90 S.E.2d 906 (1956). See also, *Knox v. \*\*292 Scott*, 62 N.C.App. 732, 303 S.E.2d 422 (1983). Courts tend to strictly interpret restrictive covenants and resolve any doubt or ambiguities in a covenant on the presumption of free and unrestricted use. *Edwards v. Surratt, supra.*
4. A review of the plat attached as **Exhibit IIa** ( an enlarged section of **Exhibit II**) clearly reveals the Lane cannot support vehicular or pedestrian entering Folly Field Road as 125 feet south west of the edge of pavement of Folly Field an existing drainage ditch 8 to 20 feet deep has been constructed cutting through and across the Lane. This can also be seen by the photograph attached as **Exhibit III** of the portion

## ATTACHMENT A

of the Lane where it touches Folly Field Road or by an inspection of that portion of the Lane where it meets Folly Field Road. The south west end of the Lane terminates at a junction where it meets property owned by others and at a street or other public thoroughfare.

5. **South Carolina Code of Laws Section 56-5-430** entitled "Street defined; highway defined." States "The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel is a "street" or "highway."

6. **The Random House Dictionary of the English Language, The Unabridged Edition**, defines Lane as:

- 1) A narrow way or passage between hedges, fences, walls or houses.
- 2) Any narrow or well defined passage, track, channel, or course.
- 3) A fixed route pursued by ocean steamers or airplanes
- 4) A part of a highway wide enough to accommodate one vehicle
- 5) (In a running or swimming race) the marked-off space or path within which a competitor must remain during the course of a race

6. **The definition Found in "Merriam Webster's Official Dictionary,"** of a Lane is

1: a narrow passageway between fences or hedges

2: a relatively narrow way or track: such as

- A: an ocean route used by or prescribed for ships
- B: a strip of roadway for a single line of vehicles
- C: air lane
- D: any of several parallel courses on a track or swimming pool in which a competitor must stay during a race
- E: an unmarked lengthwise division of a playing area which defines the playing zone of a particular player
- F: a narrow hardwood surface having pins at one end and a gutter along each side that is used in bowling
- G: A free throw Lane

7. **Black's Law Dictionary** defines a street as "An urban way or thoroughfare, a road or public way in a city, town, or village, generally paved, and lined or intended to be lined by houses on each side. *See* U. S. v. Bain, 24 Fed. Cas. 943; *Brace v. New York Cent. R. Co.*, 27 X. Y. 271; *In re Woolsey*, 95 N. Y. 13S; *Debolt v. Carter*, 31 Ind. 307; *Theobold v. Railway Co.*, 00 Miss. 279, 6 South. 230, 4 L. R. A. 735, 14 Am. St. Rep. 504.

ATTACHMENT A

**CONCLUSION**

For reasons stated above, Appellant request the decision of the Administrator be reversed and the Lane be identified as an Easement.

April 6, 2020  
Hilton Head Island South Carolina

William M. Bowen, P.A.

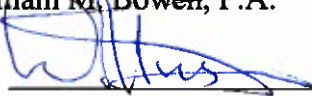
By:   
William M. Bowen, SC Bar No. 794  
Attorney for the Appellant  
P.O. Drawer 6128  
Hilton Head Island, SC 29938  
843-842-5000  
[wilbowbb@hargray.com](mailto:wilbowbb@hargray.com)

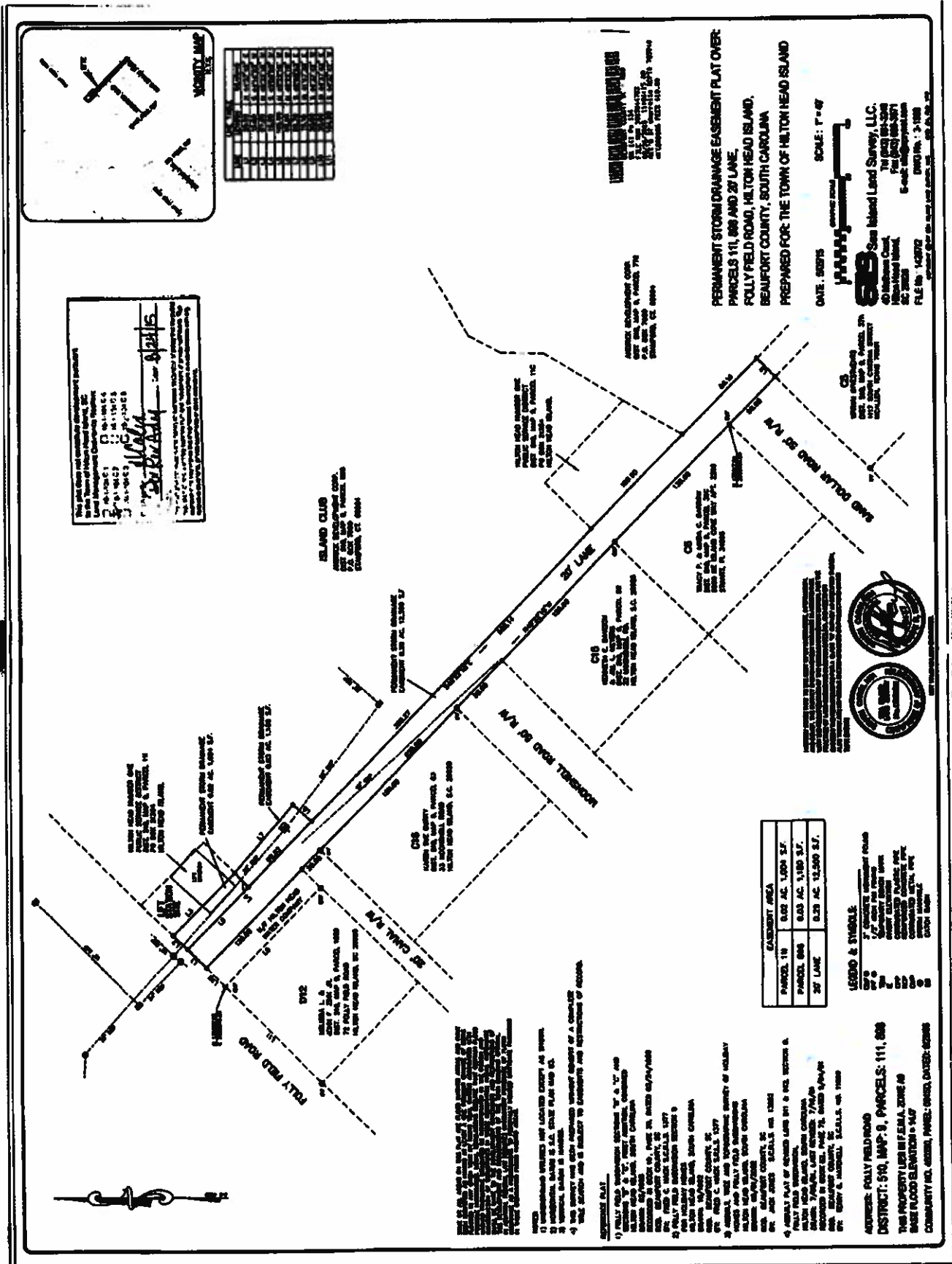


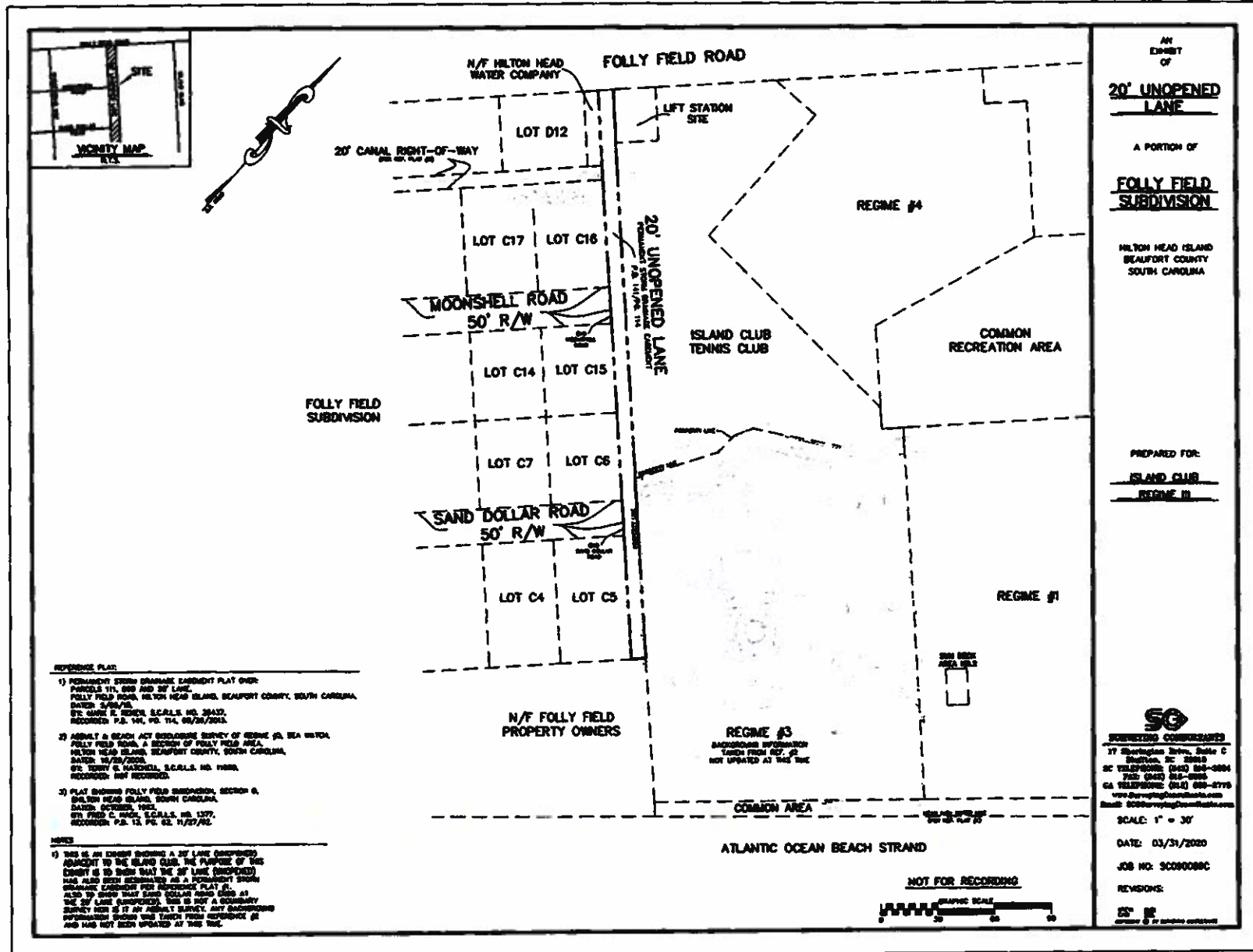


EXHIBIT A

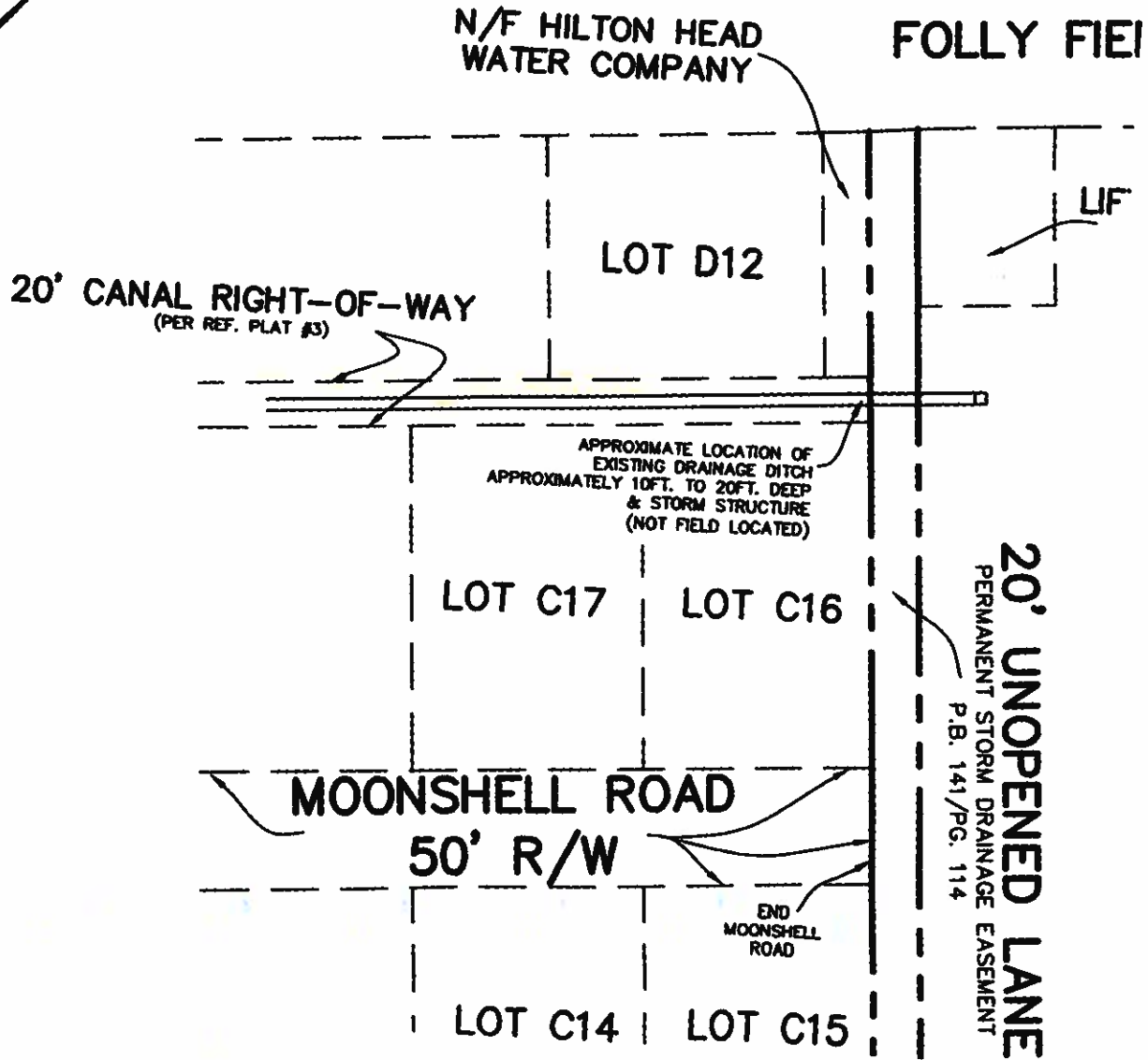
ATTACHMENT A

PICTURE 1; 8'x20' STORAGE CONTAINER TO BE REPLACED WITH STORAGE SHED. PAINTED THE SAME COLOR AS SHADOW BOX GATE TO THE LEFT OF CONTAINER.









ATTACHMENT A

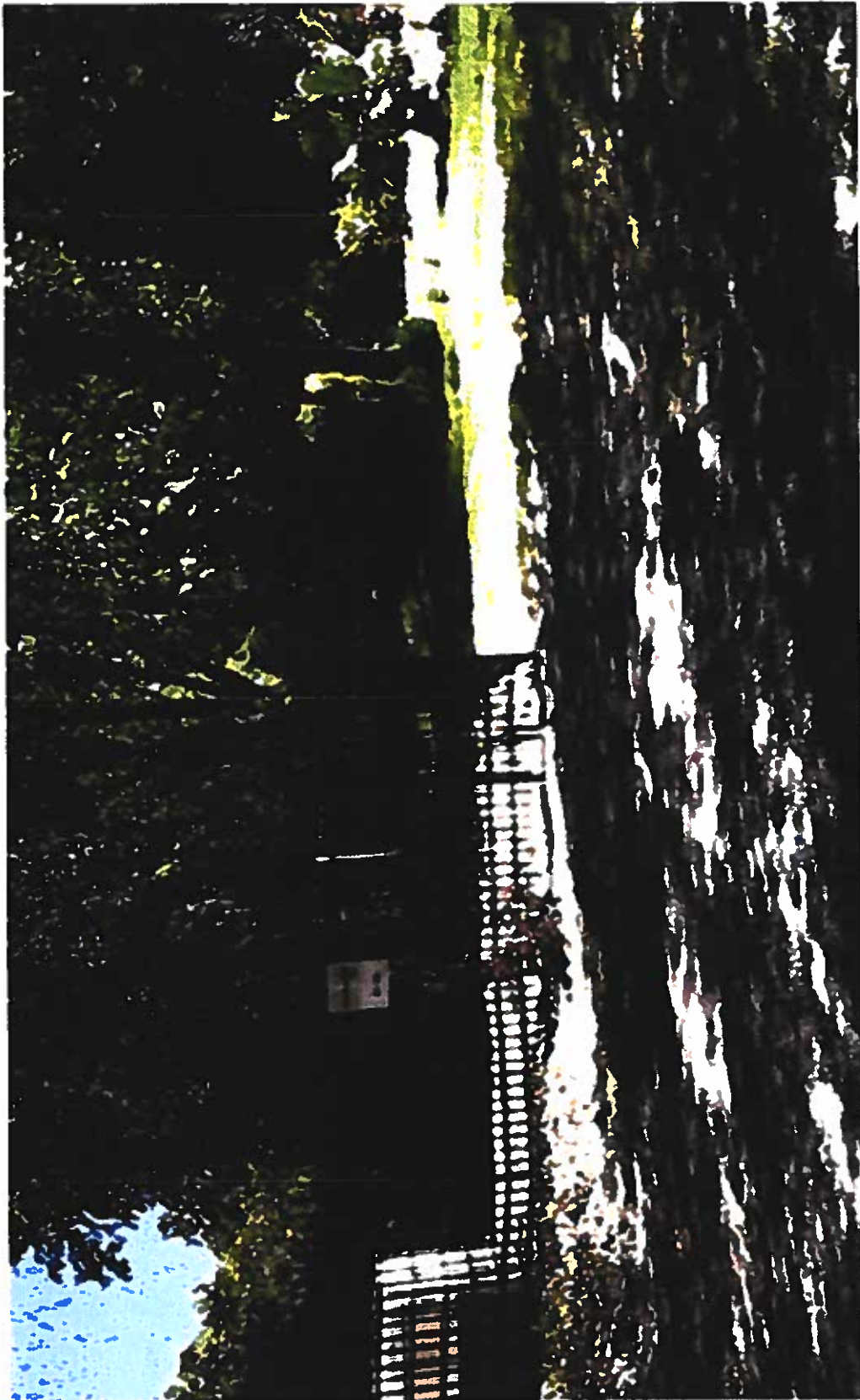


EXHIBIT III

ATTACHMENT B

**TOWN OF HILTON HEAD ISLAND**

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

www.hiltonheadislandsc.gov

John J. McCann  
Mayor

**Via E-mail**

William D. Harkins  
Mayor ProTem

March 24, 2020

\_\_\_\_\_  
Council Members

David Ames  
Tamara Becker  
Marc A. Grant  
Thomas W. Lennox  
Glenn Stanford

Mr. William M. Bowen  
PO Drawer 6128  
Hilton Head Island, SC 29938

Dear Mr. Bowen:

\_\_\_\_\_  
Stephen G. Riley  
Town Manager

This letter is in response to your request for a determination related to a proposed storage shed for the Island Club development. You have asked for a determination regarding the requirement of setback and buffers adjacent to an unimproved right-of-way, currently functioning as a drainage easement and pedestrian access to the beach. The property is located at 85 Folly Field Road, identified as Parcel 776 on Beaufort County Tax Map 9 and is zoned RD (Resort Development).

In December, 2019 the Town received a Minor Development Plan Review application for the proposed storage shed. After review of the application, staff informed the applicant that the shed shown on the site plan needed to be moved as it was being proposed in the setback and buffer required from the street adjacent to the subject property. A shed is considered a structure, which is not permitted within a setback or buffer. The applicant questioned whether that was in fact a street as it is labeled as a 20 foot lane on the plat, but it is not improved and functions as a drainage easement and pedestrian access to the beach.

A street is defined in the LMO (Land Management Ordinance) as “an existing or planned public right-of-way or private easement used or intended to be used primarily for carrying vehicular, bicycle, and pedestrian traffic and providing a principal means of access to abutting property.” The platted lane does meet the definition of a street, as it is existing right-of-way that is intended to be used for access.

LMO Section 16-5-102, Setback Standards, requires a 20 foot setback from an “Other Street”. As the platted lane does not meet the classification of a Major or Minor Arterial Road, it is classified as an “Other Street”. LMO Section 16-5-103, Buffer Standards, requires a Type A buffer (option 1 is 20 feet, option 2 is 10 feet) from an “Other Street”. An applicant can choose the option they prefer. Specific planting requirements need to be met in order to use option 2.

The LMO provides the flexibility for an applicant to reduce setback and buffer requirements if specific criteria are met through the waiver process outlined in the tables in LMO Sections 16-5-102.C and 16-5-103.D, which is reviewed by staff. The applicant may also apply for a variance to reduce or eliminate setback and buffer requirements as outlined in LMO Section

## ATTACHMENT B

16-2-103.S; this process requires review and approval by the BZA (Board of Zoning Appeals). I have included applications for both of these processes for your convenience.

Should you wish to appeal this determination to the BZA, you must file an appeal application within 14 calendar days of receipt of this determination. I have included this application as well.

Should you have any other questions or concerns, please contact me at (843) 341-4686 or [nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov).

Sincerely,



Nicole Dixon, AICP, CFM  
Development Review Administrator

Cc: Teri Lewis, Deputy Director of Community Development

ATTACHMENT C

**WILLIAM M. BOWEN, P. A.**  
ATTORNEY AT LAW  
POST OFFICE DRAWER 6128  
HILTON HEAD ISLAND, SOUTH CAROLINA 29938  
E-MAIL: WILBOWBB@HARGRAY.COM  
(NOT FOR CONFIDENTIAL COMMUNICATIONS)

52 New Orleans Road, Suite 202  
Hilton Head Island, SC 29928

Telephone 843/842-5000  
Facsimile 843/686-5990

March 20, 2020  
File No.: 20-020

Town of Hilton Head Island  
Community Development Department  
One Town Center Court  
Hilton Head Island, SC 29928

RE: Written Interpretation Request- DPR/ SUB # 002494-209 Parcel R510-009-000-0775-0000

To Whom It May Concern:

Please find enclosed our Written Interpretation Request signed by William M. Bowen on March 20, 2020, with attached memorandum.

If you have any questions or concerns, please do not hesitate to contact us.

Sincerely,  
  
Jennifer Frischen  
Legal Assistant to William M. Bowen





ATTACHMENT C  
**Town of Hilton Head Island**  
 Community Development Department  
 One Town Center Court  
 Hilton Head Island, SC 29928  
 Phone: 843-341-4757 Fax: 843-842-8908  
 www.hiltonheadislandsc.gov

<b>FOR OFFICIAL USE ONLY</b>
Date Received: _____
Accepted by: _____

DPR/SUB # 002494-209 Parcel Number [PIN]: R510 009 000 0775 0000  
 Project Name: Island Club Project Address: 34 Folly Field rd  
 Applicant/Agent Name: William M. Bowen Company: William M. Bowen P.A  
 Mailing Address: P.O. Boxer 16188, 29938 City: Hilton Head Isl State: SC Zip: 29928  
 Telephone: 843-842-5000 Fax: \_\_\_\_\_ E-mail: Bill@williambowenlaw.com  
 Zoning District: \_\_\_\_\_ Overlay District(s): \_\_\_\_\_

## WRITTEN INTERPRETATION REQUEST

Applications may be submitted only by persons with a direct interest in the matter requested for interpretation (e.g., landowner or contract purchaser of a relevant property, applicant for or holder of an affected permit).

The following items must be attached in order for this application to be complete:

- \_\_\_\_\_ A statement detailing the applicant's direct interest in the matter requested for interpretation.
- \_\_\_\_\_ Check which of the following type of interpretation is being applied for and provide a narrative detailing the request :
  - \_\_\_\_\_ **LMO Section 16-2-103.R.4.a - Zoning Map Boundaries** - Interpretation of zoning district boundaries on the Official Zoning Map.
  - \_\_\_\_\_ **LMO Section 16-2-103.R.4.b - Unspecified Uses** - Interpretation of whether an unspecified use is similar to a use or is prohibited in a zoning district.
  - \_\_\_\_\_ **LMO Section 16-2-103.R.4.c - Text Provisions** - Interpretation of text provisions and their application.

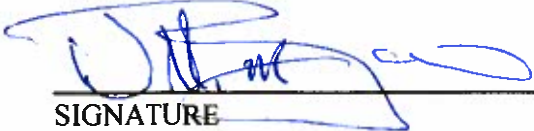
*Note: Further documentation may be required upon review of the application.*

*Please see Attached*

Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If yes, a copy of the private covenants and/or restrictions must be submitted with this application.  YES  NO

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

  
 SIGNATURE

March 20, 2020  
 DATE

# MEMO

FROM: William M. Bowen  
TO: Board of Zoning Appeals  
DATE: March 20, 2020  
RE: Ruling of Community Development Department attached

The applicant is the attorney for the Island Club and requests a written request of the following finding of The Town of Hilton Head Community Development Department with respect to the setback requirement as set forth below. The applicant makes this request as it appears as such is required prior to an appeal to the Board of Zoning Appeals.

On March 13, 220 The Town of Hilton Head Community Development Department by email issued the following ruling from which the applicant intends to appeal.

Street is defined as "An existing or planned public *right-of-way* or private easement used or intended to be used primarily for carrying vehicular, bicycle, and pedestrian traffic and providing a principal means of *access* to *abutting* property."

So, the 20' Lane meets the definition of a street as it is existing right-of-way that is intended to be used for access to the beach, and it also happens to have a drainage easement encumbering it. The 20' Lane has the capacity to function both as a drainage easement and a street.

Please advise if a further written request is required for appeal purposes and provide such.

WILLIAM M. BOWEN, P. A.  
ATTORNEY AT LAW  
CERTIFIED CIRCUIT COURT MEDIATOR  
MAILING ADDRESS:  
POST OFFICE DRAWER 6128  
HILTON HEAD ISLAND, SOUTH CAROLINA 29938  
E-MAIL: WILBOWBB@HARGRAY.COM  
(NOT FOR CONFIDENTIAL COMMUNICATIONS)



The Town of Hilton Head Island  
**Board of Zoning Appeals**  
**2021 Meeting Schedule**

BZA Powers and Duties	Application Procedure
<p>The Board of Zoning Appeals has the following powers:</p> <ul style="list-style-type: none"> <li>A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of Title 16 of the Municipal Code, Land Management Ordinance.</li> <li>B. To hear and decide requests for variance from the Design and Performance Standards of the Land Management Ordinance.</li> <li>C. To review and take action on applications for uses by special exception; and</li> <li>D. To review and take action on appeals of Planning Commission action on certain traffic analysis plans.</li> </ul>	<p>Applications for Variance and Special Exception must be completed and submitted not later than 30 days prior to the meeting at which the application will be considered. In addition, Applications for Appeal must be filed not later than 14 days from the date of the decision being appealed.</p> <p>An Application Check-In Conference is required for all applications to determine whether the application meets the minimum requirements for acceptance. Application Check-In Conferences must be scheduled by appointment with the Community Development Department staff.</p>

<u>BZA PUBLIC MEETING DATE</u>	<u>APPLICATION DEADLINE</u>
January 25, 2021 .....	*December 24, 2020
February 22, 2021 .....	January 22, 2021
March 22, 2021.....	February 19, 2021
April 26, 2021.....	March 26, 2021
May 24, 2021 .....	April 23, 2021
June 28, 2021.....	May 28, 2021
July 26, 2021.....	June 25, 2021
August 23, 2021.....	July 23, 2021
September 27, 2021.....	August 27, 2021
October 25, 2021.....	September 24, 2021
November 22, 2021.....	October 22, 2021
**December 13, 2021.....	November 12, 2021
<p><i>*The application deadline is Thursday, December 24, 2020 because Town Hall will be closed on Friday, December 25, 2020 in observance of Christmas Day.</i></p> <p><i>**The December meeting is moved to the second Monday of the month due to the Holidays.</i></p>	

Regular meetings are generally held on the 4<sup>th</sup> Monday of each month at 2:30 p.m. in Benjamin M. Racusin Council Chambers, subject to change with notice.





# TOWN OF HILTON HEAD ISLAND

## Community Development Department

**TO:** Board of Zoning Appeals  
**FROM:** Missy Luick, *Senior Planner*  
**DATE:** October 16, 2020  
**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 has been one waiver that has been granted by staff since the September 28, 2020 BZA meeting.

1. **WAIV-001932-2020, 59 New Orleans Road, Chronic Golf-** In conjunction with a proposed redevelopment project, a waiver request was submitted because the existing site contains parking lot features that are nonconforming. Due to the fact that the existing site is currently nonconforming, the renovations will not increase any nonconformity and the re-development will be bringing the parking lot more into conformance with the LMO with the addition of some of the required landscape medians, wheel stops, repaving and restriping of the parking lot, increasing access width to the site to 20' and delineating ADA spaces, the waiver was approved.