



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, November 23, 2020 – 2:30 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. **Roll Call**
4. **Welcome and Introduction to Board Procedures**
5. **Approval of Agenda**
6. **Approval of Minutes**
 - a. October 26, 2020 Regular Meeting
 - b. October 29, 2020 Special Meeting
7. **Citizen Comments**
8. **New Business**
 - a. **Announcement of New Chair Patsy Brison and Election of New Vice Chair**
 - b. **Public Hearing**
VAR-001853-2020 – Request from Richard Ross for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to remain in the adjacent use setback and buffer. The property address is 121 Sandcastle Court with a parcel number of R511 009 000 1153 0000.
 - c. **Public Hearing**
VAR-001854-2020 – Request from Richard Ross for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to remain in the adjacent use setback and buffer. The property address is 127 Sandcastle Court with a parcel number of R511 009 000 1156 0000.
 - d. **Public Hearing**

VAR-001874-2020 – Request from Anne Marie Burke for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to remain in the adjacent use setback and buffer. The property address is 125 Sandcastle Court with a parcel number of R511 009 000 1155 0000.

e. Public Hearing

VAR-001894-2020 – Request from Brian Ritchey for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio to remain and proposed fence to be added in the adjacent use setback and buffer. The property address is 25 Sandcastle Court with a parcel number of R511 009 000 1115 0000.

f. Public Hearing

VAR-001976-2020 – Request from Alexandra Barnum, on behalf of Joseph DeVito, for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio and retaining wall to remain in the adjacent use setback and buffer. The property address is 117 Sandcastle Court with a parcel number of R511 009 000 1151 0000.

g. Public Hearing

VAR-001983-2020 – Request from Jennifer Miotto for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio and retaining wall to remain in the adjacent use setback and buffer. The property address is 27 Sandcastle Court with a parcel number of R511 009 000 1116 0000.

h. Public Hearing

VAR-001985-2020 – Request from Kevin Grandin for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to remain in the adjacent use setback and buffer. The property address is 115 Sandcastle Court with a parcel number of R511 009 000 1150 0000.

i. Hearing

Motion to Reconsider VAR-001875-2020 – Eric Schnider is requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 119 Sandcastle Court.

j. Hearing

Motion to Reconsider VAR-001870-2020 – George F. Zitlaw, Jr. is requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 123 Sandcastle Court.

9. Board Business

10. Staff Report

a. Waiver Report

11. 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 no 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
October 26, 2020 at 1:30 p.m. Virtual Meeting
MEETING MINUTES

Present from the Board: Chairman Jerry Cutrer, Vice Chair Patsy Brison, Robert Johnson, Lisa Laudermilch, Charles Walczak

Absent from the Board: John White (excused), Anna Ponder (excused)

Present from Town Council: Tamara Becker, Glenn Stanford

Present from Town Staff: Nicole Dixon, Development Review Administrator; Cindaia Ervin, Finance Assistant; Josh Gruber, Deputy Town Manager; Teri Lewis, Deputy Community Development Director; Missy Luick, Senior Planner; Teresa Haley, Senior Administrative Assistant

Others Present: Curtis Coltrane, Town Attorney

1. Call to Order

Chairman Cutrer called the meeting to order at 1:30 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 approve the agenda. Vice Chair Brison moved to approve. Ms. Laudermilch seconded. The motion passed by a vote of acclamation.

7. Approval of Minutes

a. Meeting of September 28, 2020

Chairman Cutrer asked for a motion to approve the minutes of the September 28, 2020 meeting. Mr. Walczak moved to approve. Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 5-0-0.

8. Citizen Comments

All public comments received by the Town 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. 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 was taken by the Board on these items.

- 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.

Chairman Cutrer outlined the procedures for the appeal hearing process. Chairman Cutrer invited the appellant to proceed with his presentation. Mr. William Bowen, on behalf of Island Club III Horizontal Property Regime, presented his case as described in the Board's agenda package.

The Board made comments and inquiries regarding: the proposed structure would replace the current storage container in the same location; the container may have been placed in its current location prior to the incorporation of the Town; whether water flows through the drainage ditch; whether the 2009 plat serves as approval of the container by the Town; how the lane is used for public access; whether the plat shows that the unopened lane does not extend to Folly Field Road; the right-of-way is not indicated on the plat; what classifies the unimproved right-of-way as a street per the LMO; whether a variance was granted for the lift station near Folly Field Road that appears to be in a buffer; it appears the lane existed prior to Town incorporation; the County records do not provide more information than it's an unopened lane and drainage easement; whether there is another location on the property that the container can be moved to; both a drainage easement and a street can exist in the same space; the current physical condition of the area does not change what the plat says.

Chairman Cutrer asked Ms. Nicole Dixon to present on behalf of staff. Ms. Dixon presented staff's findings as described in the Board's agenda package. Ms. Dixon noted that she received a telephone call from the Folly Field Property Owners Association, the owner of the subject land, indicating the right-of-way is for a drainage easement and potential future pedestrian access. The Folly Field POA called the Town and Mr. Bowen to ask about Mr. Bowen having their land surveyed.

The Board made additional comments and inquiries regarding: another location on the property that could accommodate the structure; the Town has no record of the storage container being permitted, nor would it be permitted under current regulations; the unopened lane appears to stop at a parcel owned by the Folly Field POA and not be

able to provide access to the beach; the definitions of “street” and “other street”; staff finds that buffer and setback standards are to apply at this location because it is consider other street, however, there is no definition in the LMO for other street, but there is for street; the definition of street requires that the lane be used or intended to be used for vehicular, bicycle, and pedestrian traffic; concern why this is being called a street when it does not meet the definition; whether the lane could accommodate a one-way street; the lane leads to nowhere; the two streets could be connected and provide better access to the beach; the lane does not have to directly connect to the beach; staff finds that if the Board determines this is a street, then a 20’ adjacent street setback and buffer are required; staff finds that if the Board determines this is not a street, then a 20’ adjacent use setback and buffer are required; why the appellant decided to appeal staff’s determination rather than pursue a variance to reduce the buffer requirement; the acreage of the Island Club property as a whole and the individual regimes; concern if the adjacent use setback and buffer apply, then the appellant would have to come back before the Board with another appeal.

Chairman Cutrer asked for rebuttals of the appellant and staff. Following the rebuttals, the Board made closing remarks on the appeal and Chairman Cutrer asked for a motion.

Vice Chair Brison moved to reverse the determination of staff because staff made an error in determining whether a requirement of the LMO was met, based on the following reasons:

Findings of Fact:

- The 20-foot unopened lane does not meet the definition of street in the LMO, because it is not 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 use of the unopened lane is more similar to a drainage easement as defined in the LMO.

Conclusion of Law:

- The required adjacent street setback and buffer does not apply.

Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 4-1-0. (Roll: Brison, Cutrer, Laudermilch, Walczak – for the motion; Johnson – against the motion.)

11. Board Business

a. Review and Adoption of 2021 Meeting Schedule

Ms. Laudermilch moved to approve the 2021 Meeting Schedule as presented. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 5-0-0.

12. Staff Report

- a. Update on LMO amendments recommended by the BZA at the January and July meetings – Ms. Dixon reported that the BZA’s recommendation is under review and if it is determined that amendments are warranted, then they will be part of the 2020 LMO Amendments, which are currently in process.
- b. Waiver Report – The report was included in the Board’s agenda package.

13. Adjournment

The meeting was adjourned at 3:23 p.m.

Submitted by: Teresa Haley, Secretary

Approved: [DATE]

DRAFT



Town of Hilton Head Island
Board of Zoning Appeals Special Meeting

October 29, 2020 at 1:00 p.m. Virtual Meeting

MEETING MINUTES

Present from the Board: Chairman Jerry Cutrer, Vice Chair Patsy Brison, Robert Johnson, Lisa Laudermilch, Charles Walczak

Absent from the Board: Anna Ponder (excused), John White (unexcused)

Present from Town Council: Tamara Becker, Glenn Stanford

Present from Town Staff: Shawn Colin, Community Development Director; Nicole Dixon, Development Review Administrator; Cindaia Ervin, Finance Assistant; Teri Lewis, Deputy Community Development Director; Missy Luick, Senior Planner; Tyler Newman, Senior Planner; Teresa Haley, Senior Administrative Assistant

Others Present: Curtis Coltrane, Town Attorney

1. Call to Order

Chairman Cutrer called the meeting to order at 1:08 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 approve the agenda. Vice Chair Brison moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 5-0-0.

7. Citizen Comments

All public comments received by the Town 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 requests from two citizens to participate by phone.

8. Requests for Postponement Approved by the BZA Chairman – The case listed below was granted a postponement by the BZA Chairman and placed on the agenda to establish an original hearing date for the request. No action was taken by the Board on the item.

- VAR-001894-2020 – 25 Sandcastle Court

9. New Business

a. Public Hearing

VAR-000352-2020 – Request from James Schwamman for a variance from LMO Sections 16-5-102, Setback Standards and 16-5-103, Buffer Standards to allow an existing patio to encroach in the adjacent use setback and buffer. The property is located at 13 Sandcastle Court and has a parcel number of R511 009 000 1109 0000.

b. Public Hearing

VAR-001870-2020 – Request from George F. Zitlaw, Jr. for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall, patio and fence to remain in the adjacent use setback and buffer. The property address is 123 Sandcastle Court with a parcel number of R511 009 000 1154 0000.

c. Public Hearing

VAR-001875-2020 – Request from Eric Schnider for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall, patio and fence to remain in the adjacent use setback and buffer. The property address is 119 Sandcastle Court with a parcel number of R511 009 000 1152 0000.

d. Public Hearing

VAR-001935-2020 – Request from Reza Kajbaf for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall, patio and fence to remain in the adjacent use setback and buffer. The property address is 105 Sandcastle Court with a parcel number of R511 009 000 1145 0000.

Ms. Luick and Mr. Newman presented VAR-000352-2020, VAR-001870-2020, VAR-001875-2020, and VAR-001935-2020 (collectively, the “Applications”) as described in the Staff Reports. Staff presented a global and individual review of the Applications. Staff recommends the Board of Zoning Appeals deny the Applications, based on the Findings of Fact and Conclusions of Law contained in the Staff Reports.

The Board made comments and inquiries to Staff regarding: the lots are bound by the setback and buffer as platted, not by the current LMO regulation; property boundaries as it pertains to open space and the lagoon areas; measurement of the encroachments into the setback and buffer; who is the builder of the patios and other encroachments.

Following the Staff presentation and questions by the Board, Chairman Cutrer asked each applicant to make a presentation.

James Schwamman presented statements regarding VAR-000352-2020 grounds for a variance as described in the Staff Report and answered questions by the Board. Mr. Schwamman thanked Staff for their work and professionalism throughout the process. The Board made comments and inquiries on this application regarding: the builder of the encroachments is the husband of the property manager whose last name is Miotto; a copy of the subdivision plat that lists activities not permitted in the buffer was provided to the

applicant; the applicant claimed he could not read the buffer note on the plat because it was blurry; the applicant had a closing attorney; ignorance of the law does not exempt one from it; discussion about seeking a replat alternative to provide relief to the property owners; the cost of replatting the subdivision could be divided by the 83 lots within the subdivision and decrease costs per property owner.

George F. Zitlaw, Jr. presented statements regarding VAR-001870-2020 grounds for a variance as described in the Staff Report and answered questions by the Board. Mr. Zitlaw, Jr. thanked staff for their work throughout the process. The Board made comments and inquiries on this application regarding: the applicant does not know who did the improvements to the property; the applicant did not know about the buffer when he purchased the property; whether the contractor knew there was a buffer; other than the retaining wall and permeable pavers, the applicant did not explore other options to address the sloping issue that caused debris to flow into the pool; the property is a rental that sleeps approximately 22-23 people; the patio and the wall are encroaching approximately 15ft into the buffer and a 5ft buffer remains; vegetation was previously cleared by the builder.

Eric Schnider presented statements regarding VAR-001875-2020 grounds for a variance as described in the Staff Report and answered questions by the Board. Mr. Schnider thanked Staff for their work throughout the process. The Board made comments and inquiries on this application regarding: the patio was installed prior to the applicant purchasing the property; the prior homeowner had issues with debris flowing into the pool and installed the patio; the applicant was not aware of any violations; there are 6 patios on the northern side and 12 buffer violations in the subdivision; there should be some responsibility on the owners and the builder.

At 3:00 p.m., Mr. Walczak left the meeting and a quorum of the Board remained in effect.

Reza Kajbaf presented statements regarding VAR-001935-2020 grounds for a variance as described in the Staff Report and answered questions by the Board. Mr. Kajbaf thanked Staff for their work throughout the process. The Board made comments and inquiries on this application regarding: it is unclear who owns the green fence in the photographs; the applicant is willing to move the retaining wall and fence and reduce the size of the patio that would result in a reduced buffer width.

Chairman Cutrer opened the hearing for public comments. Richardson LaBruce presented statements on behalf of Hilton Head Beach & Tennis in opposition to application VAR-000352-2020. Richard Ross presented statements in support of the variance applications.

Chairman Cutrer asked Staff for final comments. Staff noted that the current LMO standards for adjacent use setback and buffer would not alleviate the situation for the northern bound properties.

The Board began deliberations and made additional comments and inquiries on the applications regarding: the intended benefit of a buffer to assist with stormwater run-off issues; a vegetated buffer is expected to be naturally vegetated and contain more than only grass; the applicants state the builder of the homes cleared the lots; it was the responsibility

of the builder to recreate the required vegetative buffer upon completion of construction; fences are allowed on or along a common property line; if not on or along a common property line, a fence is required to be behind a setback and buffer; a fence to a certain height is allowed within a setback or buffer; any conditions of approval by adjacent development that requires the Town owned property to be retained as a landscape buffer; the Town owned property is not intended to be a buffer for the Sandcastles by the Sea properties; whether any covenants or deed restrictions apply to the Town owned property.

The question was raised regarding whether the Board shall proceed with voting on the applications today or postpone to the next meeting. Vice Chair Brison moved to proceed with the discussion and vote on each application today. Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Cutrer, Laudermilch – for the motion; Johnson – against the motion.)

Vice Chair Brison moved that the Board of Zoning Appeals deny application VAR-000352-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report, which has been incorporated by reference in today's evidence at the hearing on this matter, with the following changes:

1. Everywhere the phrase appears "staff finds" or "staff concludes", it shall read the "board finds" or "board concludes".

Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 4-0-0. (Roll: Brison, Cutrer, Johnson, Laudermilch – for the motion; none opposed.)

Vice Chair Brison moved that the Board of Zoning Appeals deny application VAR-001870-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report, which has been incorporated by testimony today into evidence at this hearing, with the following exceptions and modifications:

1. Everywhere the phrase appears "staff finds" or "staff concludes", the term the "board finds" or the "board concludes" be inserted in lieu thereof.
2. Delete the Finding in Criteria 4, the bullet point that reads "While there is a heavily vegetated Town owned property behind the property that is currently undeveloped, the property could potentially be developed in the future."

Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Cutrer, Laudermilch – for the motion; Johnson – against the motion.)

Vice Chair Brison moved that the Board of Zoning Appeals deny application VAR-001875-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report, and admitted into evidence at the hearing today, both in testimony and by reference, with the exception of:

1. Changing the phrase everywhere it appears the "staff finds" and "staff concludes" to the phrase the "board finds" and the "board concludes" be inserted in lieu thereof.
2. Remove the phrase bulleted in Criteria 4, "While there is a heavily vegetated Town owned property that is currently undeveloped, the property could potentially be developed in the future."

Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Cutrer, Laudermilch – for the motion; Johnson – against the motion.)

Vice Chair Brison moved that the Board of Zoning Appeals deny application VAR-001935-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report, admitted into evidence by testimony or by reference today, with the following modifications:

1. Everywhere the term the “staff finds” and the “staff concludes” be deleted and the phrase the “board finds” and the “board concludes” be inserted in lieu thereof.
2. Under Criteria 4, the Finding which states “While there is a heavily vegetated Town owned property behind the property that is currently undeveloped, the property could potentially be developed in the future” be deleted.

Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Cutrer, Laudermilch – for the motion; Johnson – against the motion.)

10. Adjournment

The meeting was adjourned at 4:11 p.m.

Submitted by: Teresa Haley, Secretary

Approved: [DATE]



**TOWN OF HILTON HEAD ISLAND
COMMUNITY DEVELOPMENT DEPARTMENT**

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

Case #: VAR-001853-2020	Public Hearing Date: November 23, 2020
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Parcel or Location Data:	Property Owner	Applicant
Address: 121 Sandcastle Court Parcel#: R511 009 000 1153 0000 Zoning: RD (Resort Development District) Overlay: COR (Corridor Overlay District)	Richard Ross 121 Sandcastle Court Hilton Head Island, SC 29928	Richard Ross 121 Sandcastle Court Hilton Head Island, SC 29928

Application Summary:

Request from Richard Ross for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to remain in the adjacent use setback and buffer. The property address is 121 Sandcastle Court with a parcel number of R511 009 000 1153 0000.

Staff Recommendation:

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

Background:

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and single family residential to the north and Adventure Cove, Carrabba's restaurant and an office building to the west.

The subject property, 121 Sandcastle Court, had a Certificate of Occupancy for a new single-family

residence issued in 2018. After the home was constructed and the Certificate of Occupancy was issued, the applicant had a paver patio constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 13'-0" (field measured) in the adjacent use setback and buffer. LMO Section 16-5-102.E allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5' into any setback. While a patio can encroach up to 5' into a setback, it cannot encroach into a buffer. The existing patio even exceeds the allowable setback encroachment.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25' adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5' in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type C Option 1 (25") less densely vegetated buffer or a Type C Option 2 (15") more densely vegetated buffer for single family residential use adjacent to a vacant Resort Development (RD) zoned property. The buffer types and options are explained in Table 16-5-103.F (See Attachment G, Buffer Table). A 30' setback is required along the perimeter of a single family subdivision adjacent to a vacant RD zoned property.

In July 2019, Staff received several complaints about property owners removing vegetation and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10' buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't

think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The applicant is requesting a variance to allow the existing paver patio to remain in the rear adjacent use setback and buffer.

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

Grounds for Variance:

According to the applicant, the relatively small size of his lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. The variance is required in order to prevent the erosion of soil into the swimming pool and other livable space in the home.

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 September 17, 2020 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 November 1, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on November 6, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on November 8, 2020 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The subject property is .07 acres.
- The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property does not contain any unique site features that prohibit development on the lot.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every

square foot of buildable space on the subject property.

- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.
- A three story single-family residence with 3,169 heated square feet, 1,137 unheated square feet, 4 bedrooms, 3.5 bathrooms, and a swimming pool has been constructed at the subject property.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Facts:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The properties directly adjacent to the subject lot both have encroachments in the setback and buffer and have applied for a variance to keep them.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

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 denied 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:

TN.

Tyler Newman
Senior Planner

11/12/2020

DATE

REVIEWED BY:

ND.

Nicole Dixon, AICP, CFM,
Development Review Administrator

11/12/2020

DATE

ATTACHMENTS:

- A) Vicinity Map**
- B) Applicant's Narrative**
- C) Subdivision Plat**
- D) As-Built Survey**
- E) Site Plan**
- F) Site Photos**
- G) Buffer Table**

Attachment A – Vicinity Map

Folly Field Road

Sandcastle Court



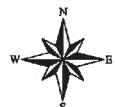
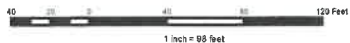
Town of Hilton Head Island

VAR-001853-2020 - 121 Sandcastle Court

October, 2020



TOWN OF HILTON HEAD ISLAND
ONE TOWN CENTER COURT
HILTON HEAD ISLAND, S.C. 29928
PHONE (843) 341-4000
Date Created:
Project - 1809.ecd



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

I am writing this letter to request a variance to seek and obtain relief from the following standards:

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

I Respectfully Request:

- **Reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet.**

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, retaining walls, and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home.

I believe the variance I am requesting meets all the towns criteria for approval.

Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10th of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made.

The naturally existing topography of the backyard was also unusual. The vegetation buffer area towards the rear of the lot was 3 feet higher than the vegetation buffer area against my home. The low point of the buffer rests against the back of my home, and next to the swimming pool. This significant slope of the lot toward my home, during rains, causes a mudslide that deposits eroded dirt into my homes living space and even into my swimming pool located under the house. This created a dangerous situation because our pool water was being contaminated with dirt and mud during heavy rains. It also made it difficult to walk around the back perimeter of my home due to this erosion of land. The only solution that would prevent erosion due to the backyard slope of the land, was to build a small, less than 3 foot, retaining wall. The wall was made of natural stone looking material to blend in with the surrounding vegetation. This wall eliminated both my soil erosion problem and safety issue with contaminated swimming pool water.

The natural stone looking wall we built was small, and under 3 feet in height. The wall was constructed 5 feet from the rear of the property line and encroached 15 feet into the vegetation buffer. The 5 feet of vegetation buffer behind the wall was originally mud, so we came up with a landscaping plan to vegetate these 5 feet. Our plantings not only met but exceeded the towns vegetation buffer requirements.

The installation of our small retaining wall, corrected the topography issue, solved our erosion issue, eliminated a safety hazard in our swimming pool, and created a beautifully landscaped and thriving 5-foot vegetative buffer. Our vegetative buffer contains numerous shrubs, elephant ears, ferns, and numerous other indigenous plantings which blend into the existing environment.

After the retaining wall was built, I was then left with only 15 feet between the back of my home and my retaining wall. The Towns Land Management Ordinance requires the only remaining 15 feet of my backyard to be heavily vegetated. This effectively would render my home with no usable backyard. Because of these conditions, the application of this ordinance to my property would unreasonably restrict the utilization of my property. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 5 feet to regain a small amount of usable backyard in my home.

If a Variance is granted to reduce my vegetative buffer from 20 feet to 5 feet, I will be allowed to lay natural looking stone pavers that blend in with the environment in this 15-foot area. The joints between the stone pavers will allow for both proper drainage and kept earth from flowing into my home and swimming pool under my home. The granting of this Variance will also allow me to enjoy the natural surroundings in my backyard, enjoy viewing the natural wildlife, and create a sense of place and privacy.

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.

Our entire backyard is directly backed up to a heavily treed and vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and Folly Field Road and essentially creates approximately 135 feet of heavily treed and natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and Folly Field road increases to 155 feet. If my requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and have such a negligible impact, that it would not be noticed by the public.

As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

I have attached pictures that show what the natural land looked like in our backyard before and after we made improvements. You can see after our improvements, we prevented unwanted and unsafe land erosion, and at the same time, we created a small area to be able to enjoy the natural vegetation, trees, and wildlife that surround our home. Our improvements created a viewing place for all our surrounding nature and is in harmony with the Islands Character Vision Statement. Our above improvements will truly give us the ability to lose nothing, but see more, and have our property better contribute to the overall beauty and future vision of Hilton Head Island.

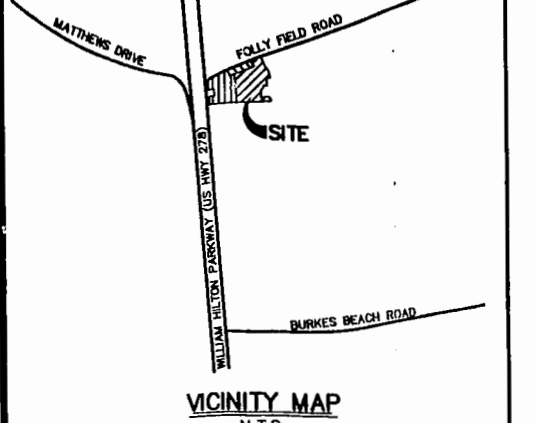
If our Variance is denied, enforcement of this strict vegetation buffer will result in a unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Thank you for your time,



Richard Ross

15035P4D



LINE TABLE with columns for LINE, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision plat.

AREA TABLE with columns for AREA TYPE and AREA. It lists 83 Residential Lots (6,779 Ac), Sandcastle Court R/W (2,313 Ac), and Open Space (1,826 Ac), for a Total Area of 10,918 Acres.

NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF... 2) THIS PROPERTY IS LOCATED IN ZONE A-7... 3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN... 4) LN DENOTES IRON NEW 1/2" REBAR SET... 5) UPON APPROVAL AND RECORDING, PROPERTY CORNERS WILL BE SET... 6) THE ONLY ACTIVITIES PERMITTED BY THE EXTERIOR SUBDIVISION BUFFER AS LABELED ON THIS PLAN SHALL BE THOSE LISTED IN PERMITTED ACTIVITY IN OTHER BUFFER AREAS AS PER THE LMO.

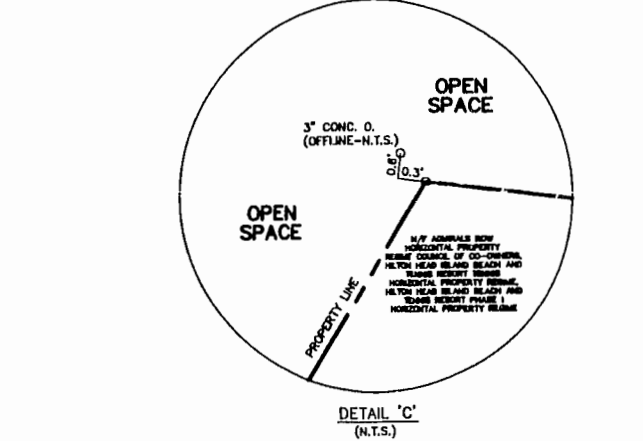
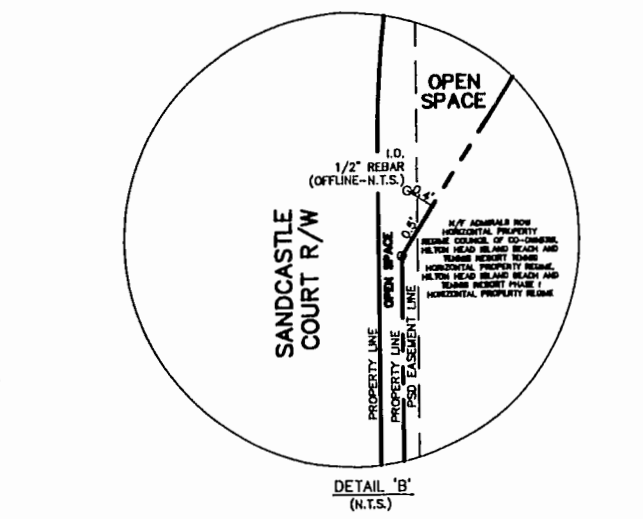
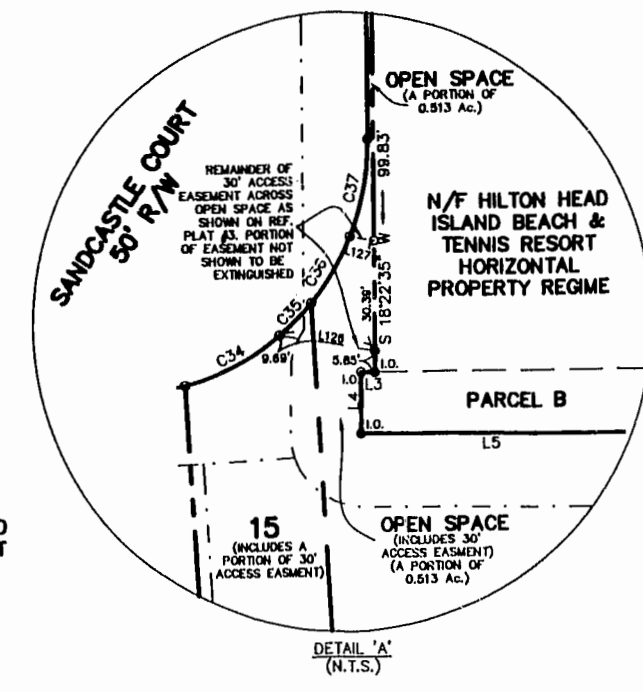
- REFERENCE PLATS: 1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278, DATED: 5/9/2000... 2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC. AND PARCEL B, 0.08 AC. WILLIAM HILTON PARKWAY... 3) 14.28 ACRES COMMERCIAL & MULTI-FAMILY TRACT, A SECTION OF FOLLY FIELD ROAD AREA... 4) BOUNDARY PLAT OF 16.013 AC. TRACT, AT THE INTERSECTION OF FOLLY FIELD ROAD & WILLIAM HILTON PARKWAY...

CRUISE TABLE with columns for DATE, TIME, WIND, WAVE, SWELL, SEA, and DELTA. It contains 17 rows of data.

SPECIAL NOTE: Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plat. SIGNATURE: [Signature] DATE: 5-19-2006

Attachment C - Subdivision Plat



SUBDIVISION CONTROL POINTS (THESE POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION). Table with columns for POINT, E, and N coordinates.

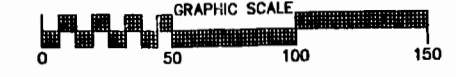
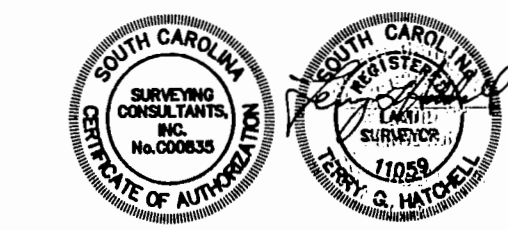
TOWN OF HILTON HEAD ISLAND, SC SUBDIVISION APPROVAL. The Town has found this plan to be in compliance with the Town's Land Management Ordinance and has authorized this approval. Date of approval: 7/9/06. Application Number: 048050002. Certified by: [Signature]. Title: Mgr. Blaz E.

SUBDIVISION PLAT OF SANDCASTLES BY THE SEA FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. SCALE: 1" = 50'. DATE: 6/15/2005. JOB NO: 89319L. REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS.

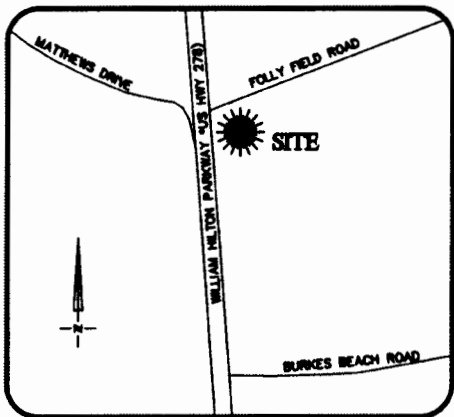
SURVEYING CONSULTANTS logo and contact information: 17 Sherington Drive, Suite C, Bluffton, SC 29910. Telephone: (843) 815-3304. FAX: (843) 815-3305.

PREPARED FOR: STAR FISH INVESTMENTS, LLC. TAX PARCEL I.D. NO. R511-009-000-1099-0000



2983-2017

I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF THE SURVEY SHOWN HEREON 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 B SURVEY AS SPECIFIED THERIN, ALSO THERE ARE NO ENCROACHMENTS, PROJECTIONS, OR SETBACKS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN.



VICINITY MAP
Not To Scale

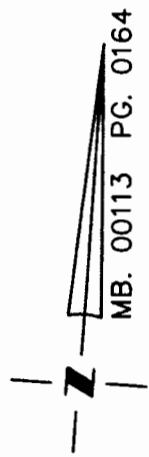
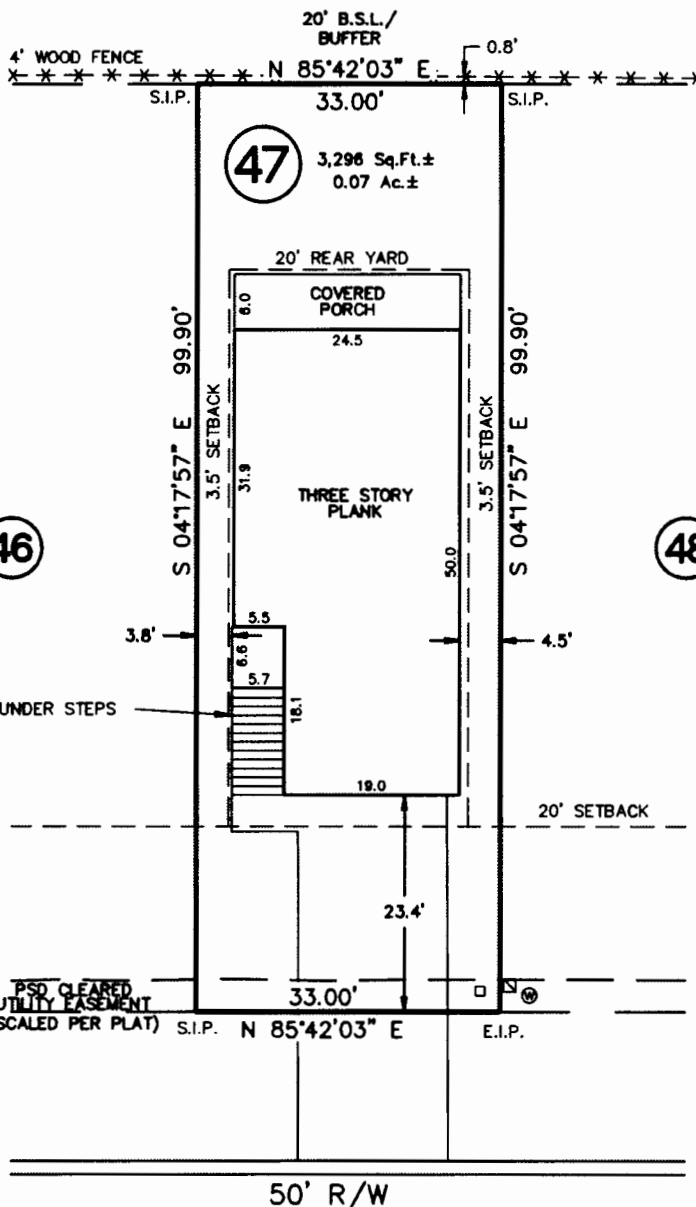
SIGNED Robert L. Arrington
ROBERT L. ARRINGTON, S.C. PLS 1-19889

LEGEND

- | | | | |
|---------|----------------------------|---|----------------|
| E.I.P. | EXISTING IRON PIN | ○ | FIRE HYDRANT |
| E.C.M. | EXISTING CONCRETE MONUMENT | □ | TRANSFORMER |
| S.I.P. | SET IRON PIN | ⊗ | ELECTRIC BOX |
| F.P.E. | FLOOD PROTECTION ELEVATION | □ | CABLE PEDISTAL |
| CLOSURE | EXCEEDS 1 INCH in 10,000' | ⊗ | WATER VALVE |
| --- | PROPERTY LINE | ⊗ | HVAC |
| --- | ADJOINER PROPERTY LINE | | |
| X * X | FENCE LINE | | |
| ○ | CLEAN OUT | | |
| □ | LIGHT POST | | |
| ⊕ | MAN HOLE | | |
| ⊗ | TELEPHONE PEDISTAL | | |
| ⊗ | WATER METER | | |
| CB □ | CATCH BASIN | | |



N/F STAR FISH INVESTMENTS, LLC
TO BE CONVEYED TO
THE TOWN OF HILTON HEAD ISLAND



MB. 00113 PG. 0164

46

48

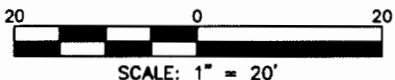
Permit#
2983

#121 SANDCASTLE COURT

TMS: R511-009-000-1153-0000

FLOOD NOTE:
THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 14-D COMMUNITY NO. 450250, MAP DATED 9/28/86. BASE ELEVATION 14.0'. FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OF COUNTY BUILDING INSPECTIONS DEPARTMENT.

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED



PHYSICAL SURVEY
FOR

LOT 47, SANDCASTLES BY THE SEA
Hilton Head Island, Beaufort County, South Carolina

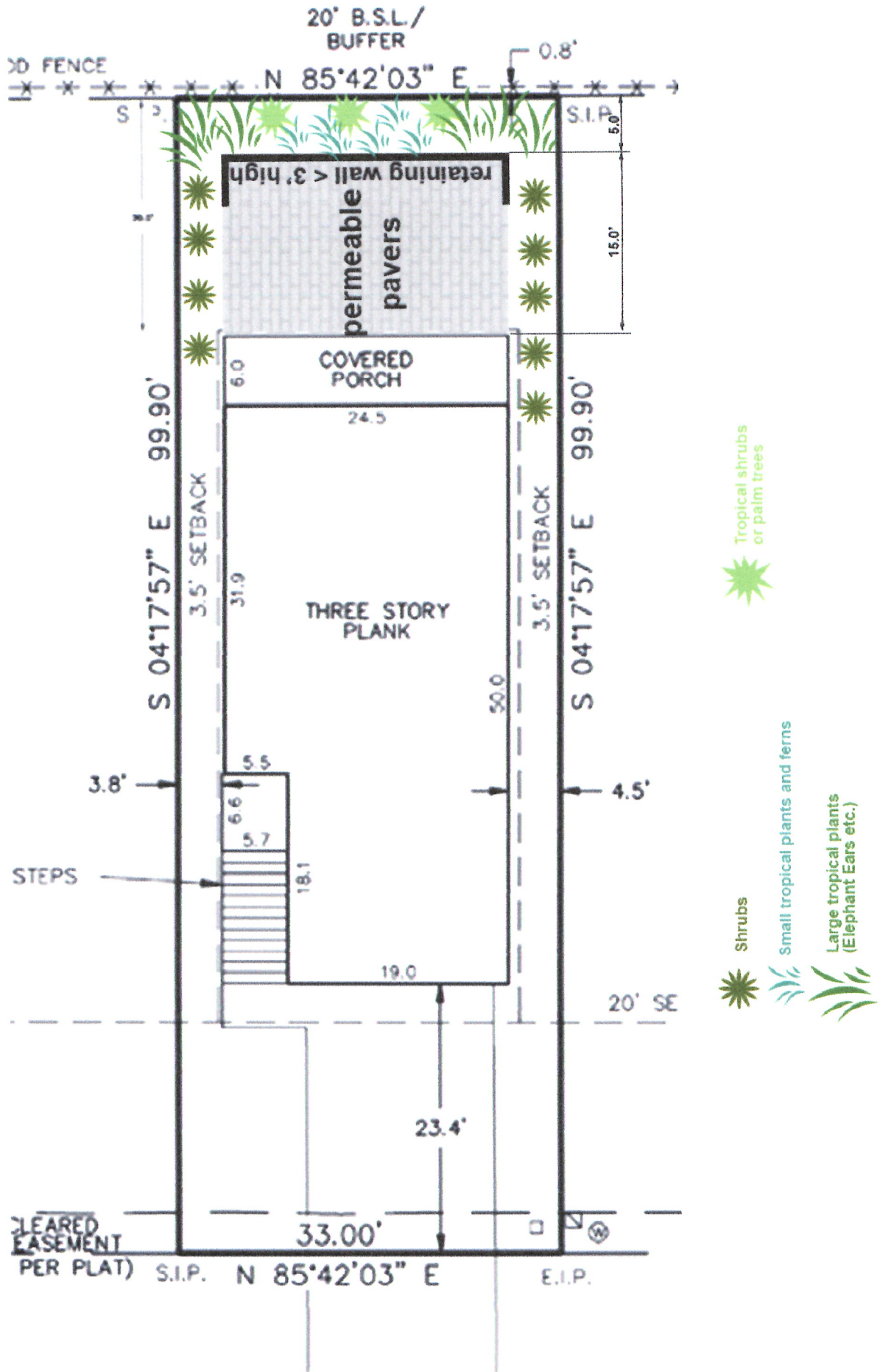
RLA ASSOCIATES, PA
785 KING GEORGE BLVD, SUITE 203
SAVANNAH, GA 31419
PHONE (843) 879-9091
FAX (843) 839-9092

PROPERTY OF: _____
MAP BOOK 00113 PAGE 0164 DEED REFERENCE _____

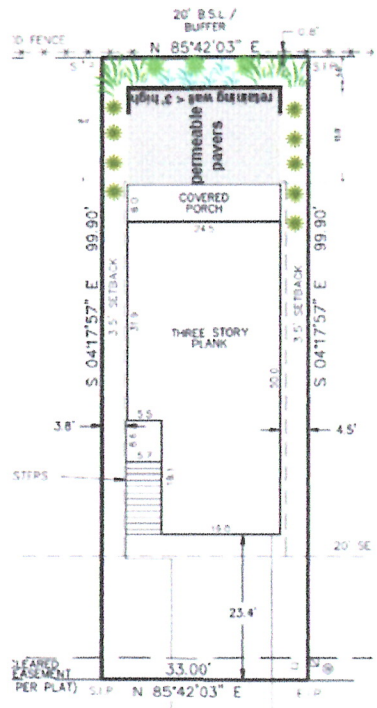
DRAWN BY: ADM

DATE: MARCH 19, 2018

121 Sandcastle Court (lot 47)



121 Sandcastle Court (lot 47)



-  Tropical shrubs or palm trees
-  Shrubs
-  Small tropical plants and ferns
-  Large tropical plants (Elephant Ears etc.)

SCALE
1 inch = 30'0"













Attachment G - Buffer Table

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6, 7</small>		
TYPE A BUFFER		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> • Width: 20 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 3 every 100 linear feet • Evergreen shrubs: 8 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 10 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 4 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
TYPE B BUFFER		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear feet • Evergreen shrubs: 12 every 100 linear feet
TYPE C BUFFER		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6,7}

TYPE D BUFFER		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 30 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width 20 feet • <i>Overstory trees</i> : 6 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear ft • A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen
TYPE E BUFFER		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 50 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity
Option 2	<p>A diagram showing a 100-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 35 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 7 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ($1.5 \times 5 = 7.5$, rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated;
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated; and
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

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

Case #:	Public Hearing Date:
VAR-001854-2020	November 23, 2020

Parcel or Location Data:	Property Owner	Applicant
Address: 127 Sandcastle Court		
Parcel#: R511 009 000 1156 0000	Richard Ross 127 Sandcastle Court Hilton Head Island, SC 29928	Richard Ross 127 Sandcastle Court Hilton Head Island, SC 29928
Zoning: RD (Resort Development District)		
Overlay: COR (Corridor Overlay District)		

Application Summary:

Request from Richard Ross for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to remain in the adjacent use setback and buffer. The property address is 127 Sandcastle Court with a parcel number of R511 009 000 1156 0000.

Staff Recommendation:

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

Background:

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and single family residential to the north and Adventure Cove, Carrabba's restaurant and an office building to the west.

The subject property, 127 Sandcastle Court, had a Certificate of Occupancy for a new single-family

residence issued in 2019. After the home was constructed and the Certificate of Occupancy was issued, the applicant had a paver patio constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 13'-0" (field measured) in the adjacent use setback and buffer. LMO Section 16-5-102.E allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5' into any setback. While a patio can encroach up to 5' into a setback, it cannot encroach into a buffer. The existing patio even exceeds the allowable setback encroachment.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25' adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5' in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type C Option 1 (25") less densely vegetated buffer or a Type C Option 2 (15") more densely vegetated buffer for single family residential use adjacent to a vacant Resort Development (RD) zoned property. The buffer types and options are explained in Table 16-5-103.F (See Attachment G, Buffer Table). A 30' setback is required along the perimeter of a single family subdivision adjacent to a vacant RD zoned property.

In July 2019, Staff received several complaints about property owners removing vegetation and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10' buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't

think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The applicant is requesting a variance to allow the existing paver patio to remain in the rear adjacent use setback and buffer.

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

Grounds for Variance:

According to the applicant, the relatively small size of his lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. The variance is required in order to prevent the erosion of soil into the swimming pool and other livable space in the home.

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 September 17, 2020 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 November 1, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on November 6, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on November 8, 2020 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The subject property is .07 acres.
- The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property does not contain any unique site features that prohibit development on the lot.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every

square foot of buildable space on the subject property.

- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.
- A three story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, and a swimming pool has been constructed at the subject property.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Facts:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The property directly adjacent to the subject lot has encroachments in the setback and buffer and has applied for a variance to keep them.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

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 denied 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:

TN.

Tyler Newman
Senior Planner

11/12/2020

DATE

REVIEWED BY:

ND.

Nicole Dixon, AICP, CFM,
Development Review Administrator

11/12/2020

DATE

ATTACHMENTS:

- A) Vicinity Map**
- B) Applicant's Narrative**
- C) Subdivision Plat**
- D) As-Built Survey**
- E) Site Plan**
- F) Site Photos**
- G) Buffer Table**

Attachment A – Vicinity Map

Folly Field Road

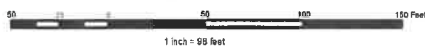
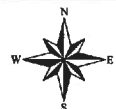
Sandcastle Court



Town of Hilton Head Island

VAR-001854-2020 - 127 Sandcastle Court

October, 2020



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



TOWN OF HILTON HEAD ISLAND
ONE TOWN CENTER COURT
HILTON HEAD ISLAND, S.C. 29923
PHONE (843) 311-1400
Data Created:
Project: map.var

I am writing this letter to request a variance to seek and obtain relief from the following standards:

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

I Respectfully Request:

- **Reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet.**

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, retaining walls, and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home.

I believe the variance I am requesting meets all the towns criteria for approval.

Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10th of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made.

The naturally existing topography of the backyard was also unusual. The vegetation buffer area towards the rear of the lot was 3 feet higher than the vegetation buffer area against my home. The low point of the buffer rests against the back of my home, and next to the swimming pool. This significant slope of the lot toward my home, during rains, causes a mudslide that deposits eroded dirt into my homes living space and even into my swimming pool located under the house. This created a dangerous situation because our pool water was being contaminated with dirt and mud during heavy rains. It also made it difficult to walk around the back perimeter of my home due to this erosion of land. The only solution that would prevent erosion due to the backyard slope of the land, was to build a small, less than 3 foot, retaining wall. The wall was made of natural stone looking material to blend in with the surrounding vegetation. This wall eliminated both my soil erosion problem and safety issue with contaminated swimming pool water.

The natural stone looking wall we built was small, and under 3 feet in height. The wall was constructed 5 feet from the rear of the property line and encroached 15 feet into the vegetation buffer. The 5 feet of vegetation buffer behind the wall was originally mud, so we came up with a landscaping plan to vegetate these 5 feet. Our plantings not only met but exceeded the towns vegetation buffer requirements.

The installation of our small retaining wall, corrected the topography issue, solved our erosion issue, eliminated a safety hazard in our swimming pool, and created a beautifully landscaped and thriving 5-foot vegetative buffer. Our vegetative buffer contains numerous shrubs, elephant ears, ferns, and numerous other indigenous plantings which blend into the existing environment.

After the retaining wall was built, I was then left with only 15 feet between the back of my home and my retaining wall. The Towns Land Management Ordinance requires the only remaining 15 feet of my backyard to be heavily vegetated. This effectively would render my home with no usable backyard. Because of these conditions, the application of this ordinance to my property would unreasonably restrict the utilization of my property. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 5 feet to regain a small amount of usable backyard in my home.

If a Variance is granted to reduce my vegetative buffer from 20 feet to 5 feet, I will be allowed to lay natural looking stone pavers that blend in with the environment in this 15-foot area. The joints between the stone pavers will allow for both proper drainage and kept earth from flowing into my home and swimming pool under my home. The granting of this Variance will also allow me to enjoy the natural surroundings in my backyard, enjoy viewing the natural wildlife, and create a sense of place and privacy.

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.

Our entire backyard is directly backed up to a heavily treed and vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and Folly Field Road and essentially creates approximately 135 feet of heavily treed and natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and Folly Field road increases to 155 feet. If my requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and have such a negligible impact, that it would not be noticed by the public.

As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

I have attached pictures that show what the natural land looked like in our backyard before and after we made improvements. You can see after our improvements, we prevented unwanted and unsafe land erosion, and at the same time, we created a small area to be able to enjoy the natural vegetation, trees, and wildlife that surround our home. Our improvements created a viewing place for all our surrounding nature and is in harmony with the Islands Character Vision Statement. Our above improvements will truly give us the ability to lose nothing, but see more, and have our property better contribute to the overall beauty and future vision of Hilton Head Island.

If our Variance is denied, enforcement of this strict vegetation buffer will result in a unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Thank you for your time,



Richard Ross

15035P4D

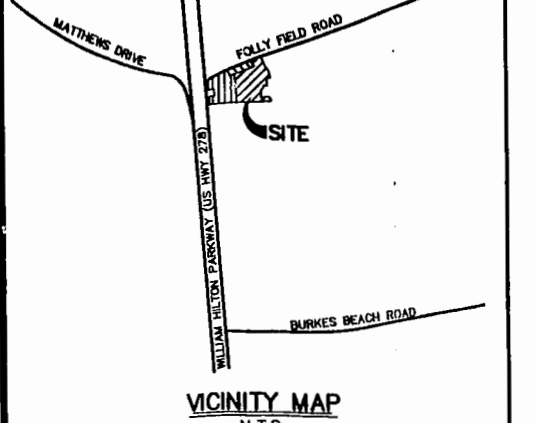


Table with columns: LINE, LENGTH, BEARING, LINE, LENGTH, BEARING. Contains detailed survey data for various lines and bearings.

AREA TABLE
83 RESIDENTIAL LOTS = 6.779 Ac.
SANDCASTLE COURT R/W = 2.313 Ac.
OPEN SPACE = 1.826 Ac.
TOTAL AREA = 10.918 ACRES

NOTES
1) 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...

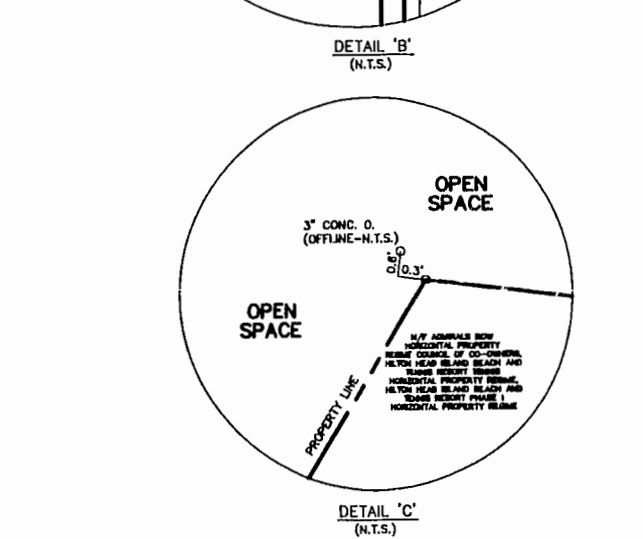
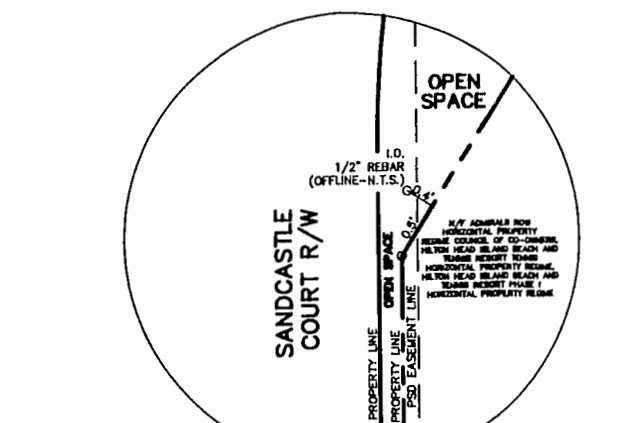
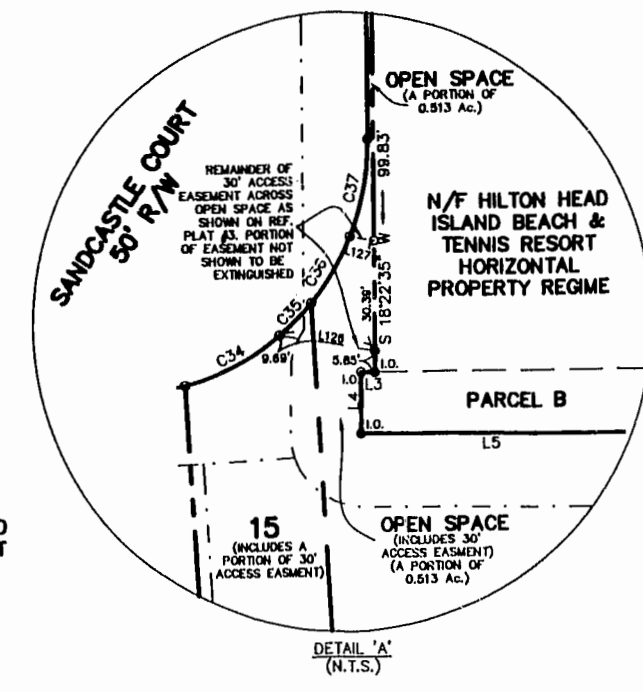
- REFERENCE PLATS
1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278, DATED: 5/9/2000...

Table with columns: BEARING, DISTANCE, BEARING, DISTANCE. Contains specific survey measurements for various points.

SPECIAL NOTE
Some or all areas on this plot are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plot.
Signature: [Handwritten Signature]
Date: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS
(CHECK POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION)
CPT 1 N 134426.47 E 2094162.22
CPT 2 N 134266.35 E 2094174.28

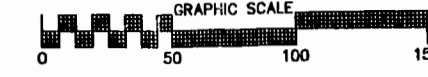
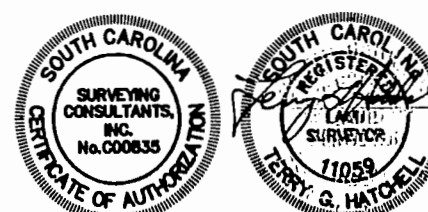
TOWN OF HILTON HEAD ISLAND, SC
SUBDIVISION APPROVAL
Date of approval: 7/9/05
Application Number: 81803002
Certified by: [Signature]

SANDCASTLES
BY THE SEA
FOLLY FIELD ROAD

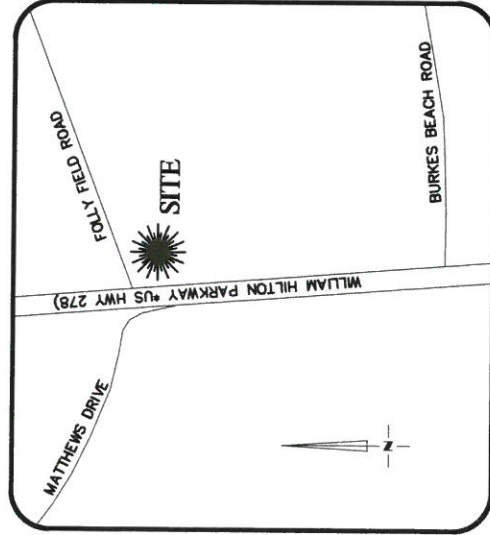
HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA
SCALE: 1" = 50' DATE: 6/15/2005 JOB NO: 89319L
REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS

Logo for SURVEYING CONSULTANTS, INC. with address: 17 Sherington Drive, Suite C, Bluffton, SC 29910. Telephone: (843) 815-3304 FAX: (843) 815-3305

PREPARED FOR: STAR FISH INVESTMENTS, LLC
TAX PARCEL I.D. NO. R510-009-000-1099-0000

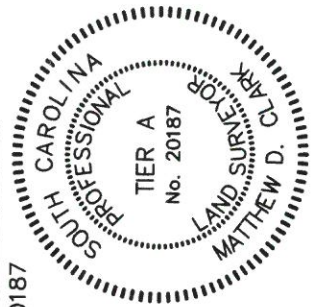


I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

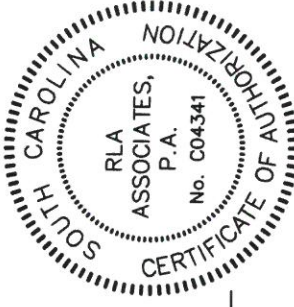


[Handwritten Signature]

SIGNED MATTHEW D. CLARK, SCPLS 20187

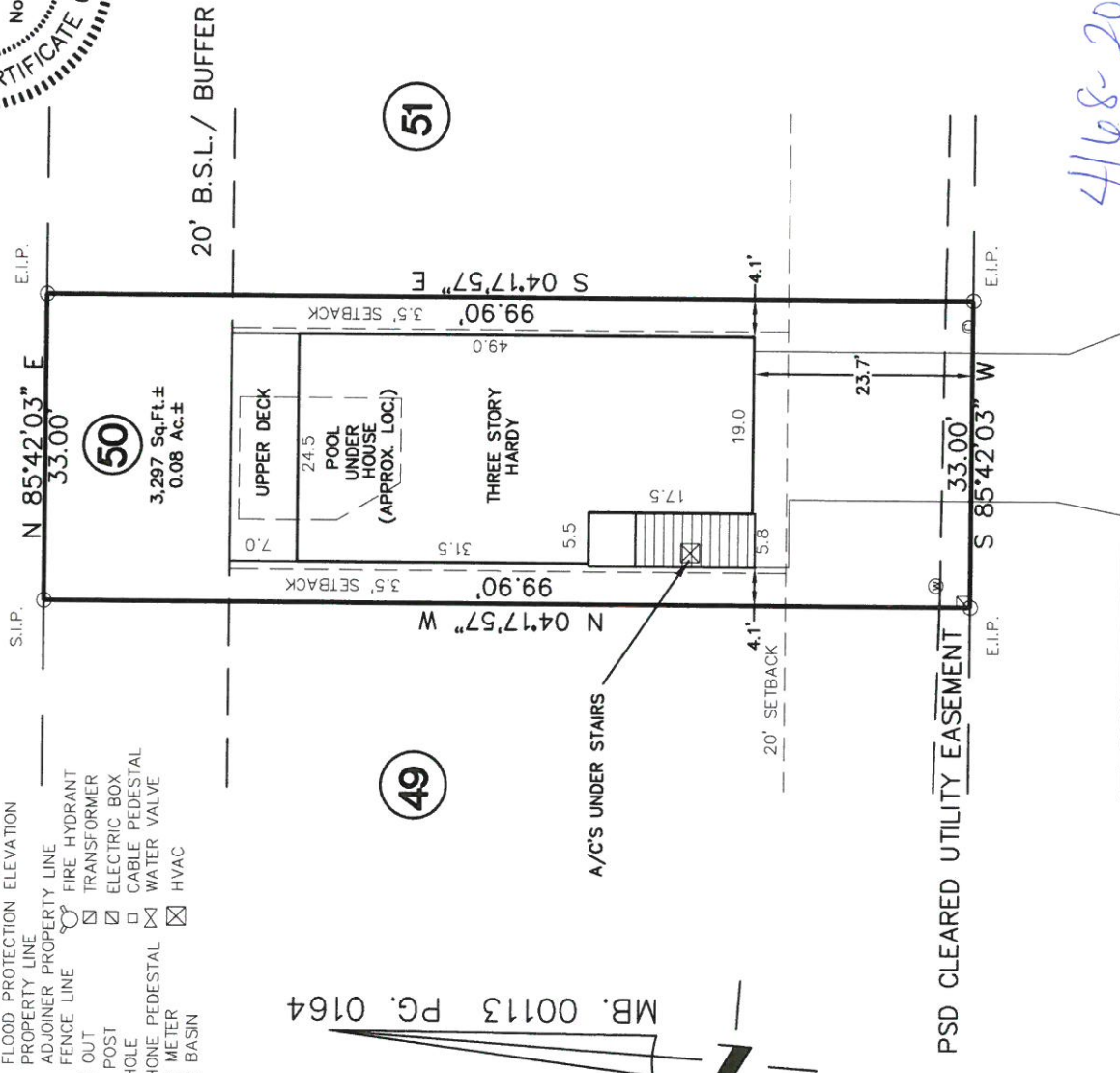


N/F STAR FISH INVESTMENTS, LLC
TO BE CONVEYED TO
THE TOWN OF HILTON HEAD ISLAND



VICINITY MAP
Not To Scale

- LEGEND**
- E.I.P. EXISTING IRON PIN
 - E.C.M. EXISTING CONCRETE MONUMENT
 - S.I.P. SET IRON PIN 5/8" REBAR
 - F.P.E. FLOOD PROTECTION ELEVATION
 - PROPERTY LINE
 - ADJOINER PROPERTY LINE
 - FENCE LINE
 - CLEAN OUT
 - LIGHT POST
 - MAN HOLE
 - TELEPHONE PEDESTAL
 - WATER METER
 - CATCH BASIN
 - CB
 - FIRE HYDRANT
 - ⊠ TRANSFORMER
 - ⊠ ELECTRIC BOX
 - ⊠ CABLE PEDESTAL
 - ⊠ WATER VALVE
 - ⊠ HVAC



4/6/8-2018

#127 SANDCASTLE COURT

50' R/W

TMS: R511-009-000-1156-0000

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED

FLOOD NOTE:
THIS PROPERTY APPEARS TO BE LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 14-D COMMUNITY NO. 450250, MAP DATED 9/29/86. BASE ELEVATION 14.0'



PHYSICAL SURVEY
FOR

RLA ASSOCIATES, PA

110 TRADERS CROSS
BLUFFTON, SC 29909
PHONE (843) 705-8030
FAX (843) 839-9092

LOT 50, SANDCASTLES BY THE SEA

Hilton Head Island, Beaufort County, South Carolina

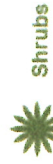
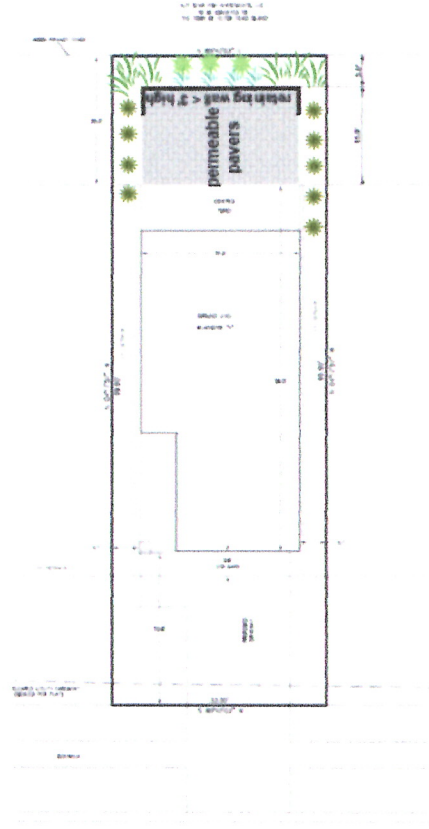
PROPERTY OF: VILLAGE PARK HOMES

MAP BOOK 00113 PAGE 0164 DEED REFERENCE

DRAWN BY: MDC

DATE: MAY 31, 2019

127 Sandcastle Court (lot 50)



Shrubs



Small tropical plants and ferns



Large tropical plants
(Elephant Ears etc.)

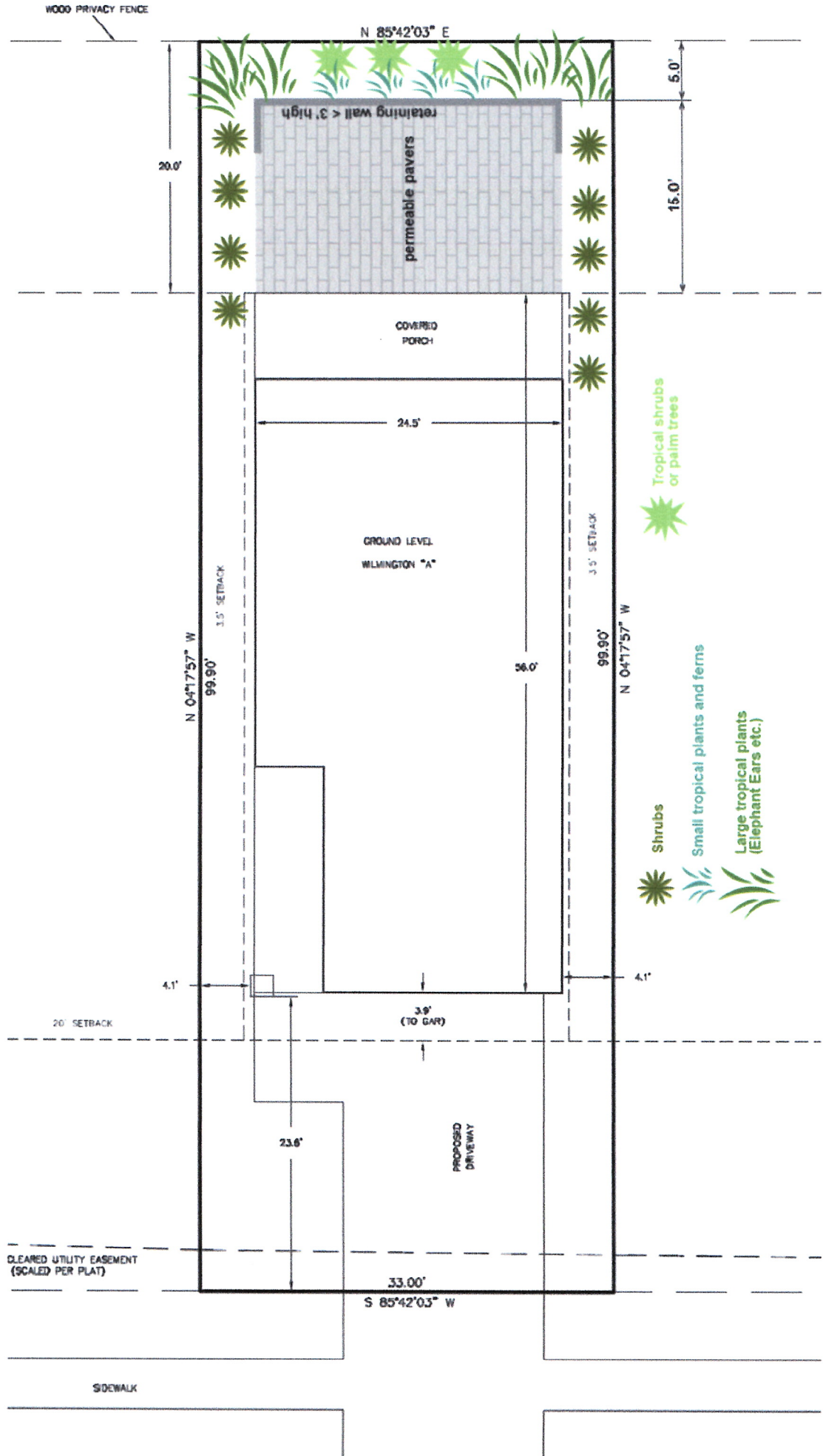


Tropical shrubs
or palm trees

SCALE
1 inch = 30' 0"



127 Sandcastle Court (lot 50)



Attachment F - Site Photos





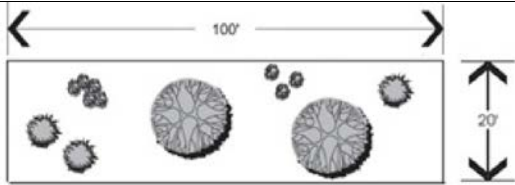

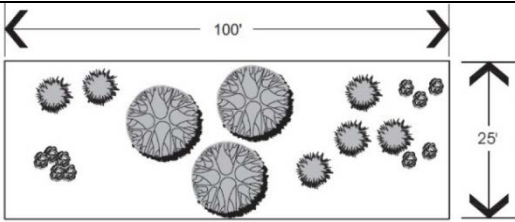
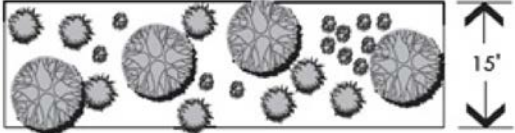
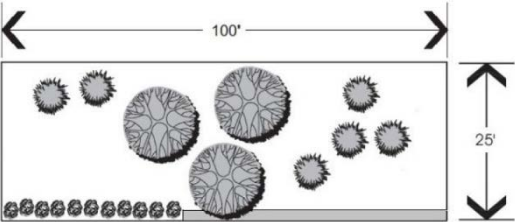
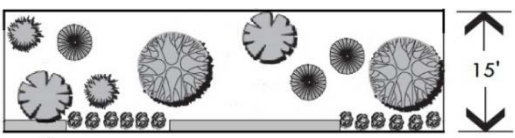




Attachment G- Buffer Table

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6, 7</small>		
TYPE A BUFFER		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> • Width: 20 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 3 every 100 linear feet • Evergreen shrubs: 8 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 10 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 4 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
TYPE B BUFFER		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear feet • Evergreen shrubs: 12 every 100 linear feet
TYPE C BUFFER		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6,7}

TYPE D BUFFER		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A horizontal dimension line at the top indicates 100 feet, and a vertical dimension line on the right indicates 30 feet.</p>	<ul style="list-style-type: none"> • Width: 30 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A horizontal dimension line at the top indicates 100 feet, and a vertical dimension line on the right indicates 20 feet.</p>	<ul style="list-style-type: none"> • Width 20 feet • <i>Overstory trees</i> : 6 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear ft • A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen
TYPE E BUFFER		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A horizontal dimension line at the top indicates 100 feet, and a vertical dimension line on the right indicates 50 feet.</p>	<ul style="list-style-type: none"> • Width: 50 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity
Option 2	<p>A diagram showing a 100-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A horizontal dimension line at the top indicates 100 feet, and a vertical dimension line on the right indicates 35 feet.</p>	<ul style="list-style-type: none"> • Width: 35 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 7 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ($1.5 \times 5 = 7.5$, rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated;
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated; and
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

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

Case #:	Public Hearing Date:
VAR-001874-2020	November 23, 2020

Parcel or Location Data:	Property Owner	Applicant
Address: 125 Sandcastle Court Parcel#: R511 009 000 1155 0000 Zoning: RD (Resort Development District) Overlay: COR (Corridor Overlay District)	Anne Marie Burke 2720 Hermitage Drive Cumming, GA 30041	Anne Marie Burke 2720 Hermitage Drive Cumming, GA 30041

Application Summary:

Request from Anne Marie Burke for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to remain in the adjacent use setback and buffer. The property address is 125 Sandcastle Court with a parcel number of R511 009 000 1155 0000.

Staff Recommendation:

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

Background:

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and single family residential to the north and Adventure Cove, Carrabba's restaurant and an office building to the west.

The subject property, 125 Sandcastle Court, was purchased by the applicant in 2019 and the

Certificate of Occupancy for a new single-family residence was issued in 2019. After the home was constructed and the Certificate of Occupancy was issued, the applicant had a paver patio constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 13'-0" (field measured) in the adjacent use setback and buffer. LMO Section 16-5-102.E allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5' into any setback. While a patio can encroach up to 5' into a setback, it cannot encroach into a buffer. The existing patio even exceeds the allowable setback encroachment.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25' adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5' in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type C Option 1 (25") less densely vegetated buffer or a Type C Option 2 (15") more densely vegetated buffer for single family residential use adjacent to a vacant Resort Development (RD) zoned property. The buffer types and options are explained in Table 16-5-103.F (See Attachment G, Buffer Table). A 30' setback is required along the perimeter of a single family subdivision adjacent to a vacant RD zoned property.

In July 2019, Staff received several complaints about property owners removing vegetation and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10' buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't

think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The applicant is requesting a variance to allow the existing paver patio to remain in the rear adjacent use setback and buffer.

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

Grounds for Variance:

According to the applicant, the relatively small size of his lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. The variance is required in order to prevent the erosion of soil into the swimming pool and other livable space in the home.

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 September 21, 2020 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 November 1, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on November 6, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on November 8, 2020 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The subject property is .07 acres.
- The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property does not contain any unique site features that prohibit development on the lot.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every

square foot of buildable space on the subject property.

- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.
- A three story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, and a swimming pool has been constructed at the subject property.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Facts:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The properties directly adjacent to the subject lot have encroachments in the setback and buffer and have applied for a variance to keep them.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

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 denied 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:

TN.

Tyler Newman
Senior Planner

11/12/2020

DATE

REVIEWED BY:

ND.

Nicole Dixon, AICP, CFM,
Development Review Administrator

11/12/2020

DATE

ATTACHMENTS:

- A) Vicinity Map**
- B) Applicant's Narrative**
- C) Subdivision Plat**
- D) As-Built Survey**
- E) Site Plan**
- F) Site Photos**
- G) Buffer Table**

Attachment A – Vicinity Map

Folly Field Road

Sandcastle Court



TOWN OF HILTON HEAD ISLAND
ONE TOWN CENTER COURT
HILTON HEAD ISLAND, S.C. 29928
PHONE (843) 341-4000
Date Created:
Project: map final

Town of Hilton Head Island
VAR-001874-2020 - 125 Sandcastle Court
October, 2020



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

September 18, 2020

To Whom It May Concern,

I am writing this letter to request a variance to seek and obtain relief from the following standards:

- : Chapter 16-5-102 Setback Standards**
- : Chapter 16-5-103 Buffer Standards**
- : Chapter 16-5-113 Fence and Wall Standards**

I Respectfully Request:

: Reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet.

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, retaining walls and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home.

I believe the variance I am requesting meets all the towns criteria for approval.

Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in the Folly Field or on Hilton Head Island.

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure

roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10th of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small compared to all the other residential lots on Hilton Head Island. Because my lot is exceptionally small in comparison to the other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made.

The naturally existing topography of the backyard was also unusual. The vegetation buffer area towards the rear of the lot was 3 feet higher than the vegetation buffer area against my home. The low point of the buffer rests against the back of my home, and next to the swimming pool. This significant slope of the lot toward my home, during rains, causes a mudslide that deposits eroded dirt into my home's living space and even into my swimming pool located under the house. This created a dangerous situation because our pool water was being contaminated with dirt and mud during heavy rains. It also made it difficult to walk around the back perimeter of my home due to this erosion of land. The only solution that would prevent erosion due to the backyard slope of the land, was to build a small, less than 3 foot, retaining wall. The wall was made of natural stone looking material to blend in with the surrounding vegetation. This wall eliminated both my soil erosion problem and safety issue with contaminated pool water.

The natural stone looking wall we build was small, and under 3 feet in height. The wall was constructed 5 feet from the rear of the property line and encroached 15 feet into the vegetation buffer. The 5 feet of vegetation buffer behind the wall was originally mud, so we came up with a landscaping plan to vegetate these 5 feet. Our plantings met the town's vegetation requirements.

The installation of our small retaining wall, corrected the topography issue, solved our erosion issue, eliminated a safety hazard in our swimming pool, and created a beautifully landscaped and thriving 5-foot vegetative buffer. Our vegetation buffer blends well into the existing environment.

After the retaining wall was built, I was then left with only 15 feet between the back of my home and my retaining wall. The Town's Land Management Ordinance required the only remaining 15 feet of my backyard to be heavily vegetated. This effectively would render my home with no usable backyard. Because of these conditions, the application of this ordinance to my property would unreasonably restrict the utilization of my property. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 5 feet to regain a small amount of usable in my home. If a variance is granted to reduce my vegetative buffer from 20 feet to 5 feet, I will be allowed to lay natural looking stone pavers that blend in with the environment in this 15 foot area. The joints between the stone pavers will allow for both proper drainage and kept earth from flowing into my home and the swimming pool located under my home.

The authorization of the Variance will not be of substantial detriment to adjacent property of the public good, and the character of the zoning district where the property is located will not be harmed by granting the Variance.

Our entire backyard is directly backed up to a heavily treed and vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and Folly Field Road and essentially creates approximately 135 feet of heavily treed and natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and Folly Field Road increases to 155 feet. If my requested variance is approved, the overall vegetated area would be reduced by only 15 feet to approximately 140 feet. The reduction in vegetation is so small and would have negligible if any visible impact, not even being discernable to the public eye.

As far as adjacent property impact, the only property owners that can see my property of proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners all have the same issues as described above and are requesting the same variance as I am requesting.

I have attached pictures that show what the natural land looked like in our backyard before and after we made improvements. You can see after our improvements, we prevented unwanted and unsafe land erosion, and at the same time, created a small area to be able to enjoy the natural vegetation, trees and wildlife that surround our home. Our improvements created a viewing place for all our surrounding nature and is in harmony with the Island's Character Vision Statement. Our above improvements will truly give us

the ability to lose nothing, but see more, and have our property better contribute to the overall beauty and future vision of Hilton Head Island.

If our Variance is denied, enforcement of the strict vegetation buffer will result in an unnecessary hardship for my family, and if a Variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Respectfully Submitted,

Anne Marie Burke

15035P4D

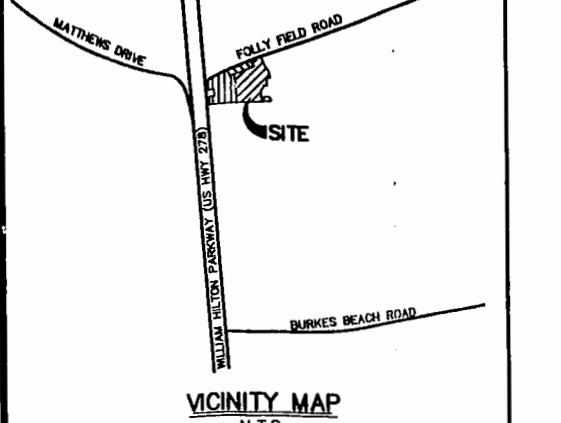


Table with 4 columns: LINE, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision.

AREA TABLE showing 83 Residential Lots (6,779 Ac), Sandcastle Court R/W (2,313 Ac), Open Space (1,826 Ac), and Total Area (10,918 Acres).

- NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE... 2) THIS PROPERTY IS LOCATED IN ZONE A-7... 3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN... 4) L.N. DENOTES IRON NEW 1/2" REBAR SET... 5) UPON APPROVAL AND RECORDING, PROPERTY CORNERS WILL BE SET... 6) THE ONLY ACTIVITIES PERMITTED IN THE EXTERIOR SUBDIVISION BUFFER AS LABELED ON THIS PLAN SHALL BE THOSE LISTED IN PERMITTED ACTIVITY IN OTHER BUFFER AREAS AS PER THE LMO.

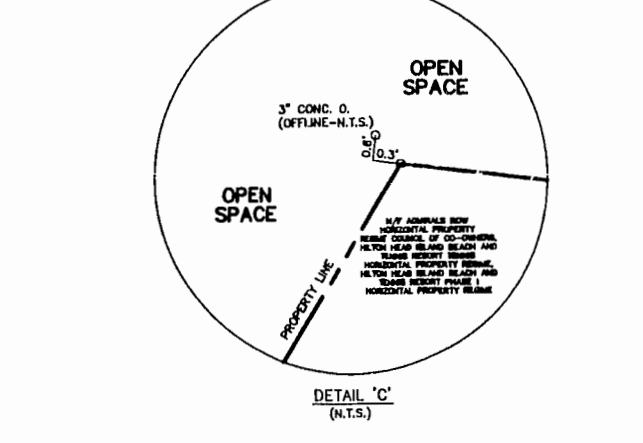
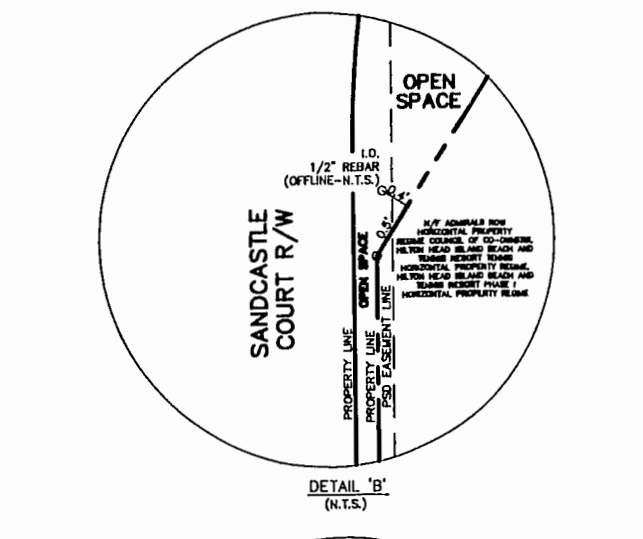
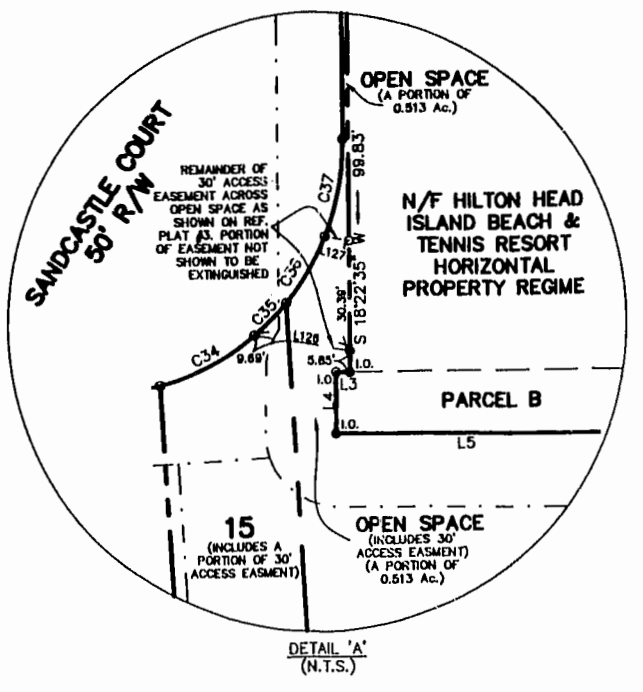
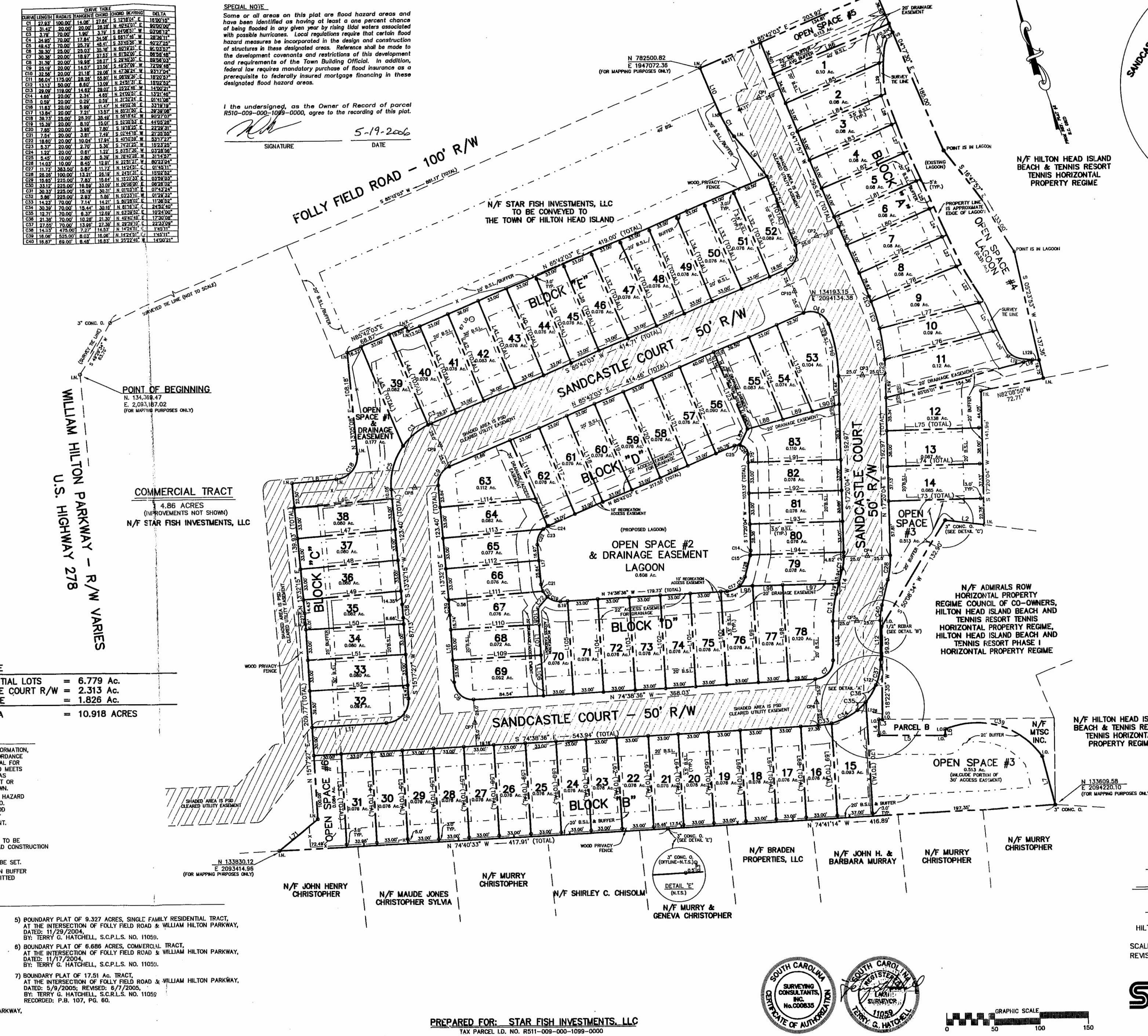
- REFERENCE PLATS: 1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278... 2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC. AND PARCEL B, 0.08 AC. WILLIAM HILTON PARKWAY... 3) 14.28 ACRES COMMERCIAL & MULTI-FAMILY TRACT, A SECTION OF FOLLY FIELD ROAD AREA... 4) BOUNDARY PLAT OF 16.013 AC. TRACT, AT THE INTERSECTION OF FOLLY FIELD ROAD & WILLIAM HILTON PARKWAY...

Table with 4 columns: BEARING, DISTANCE, BEARING, DISTANCE. It lists 170 distance segments for the subdivision.

SPECIAL NOTE: Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plat. SIGNATURE: [Signature] DATE: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS (THREE POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION). Lists points CPT1 through CPT10 with coordinates.

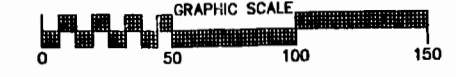
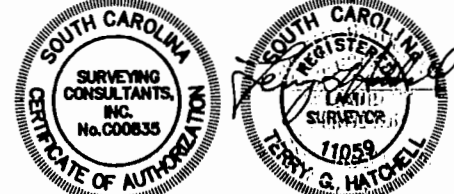
TOWN OF HILTON HEAD ISLAND, SC SUBDIVISION APPROVAL. Date of approval: 7/9/06. Application Number: 81803002. Certified by: [Signature]. Title: Mgr. Blc 2.

SANDCASTLES BY THE SEA FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. SCALE: 1" = 50'. DATE: 6/15/2005. JOB NO: 89319L. REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS.

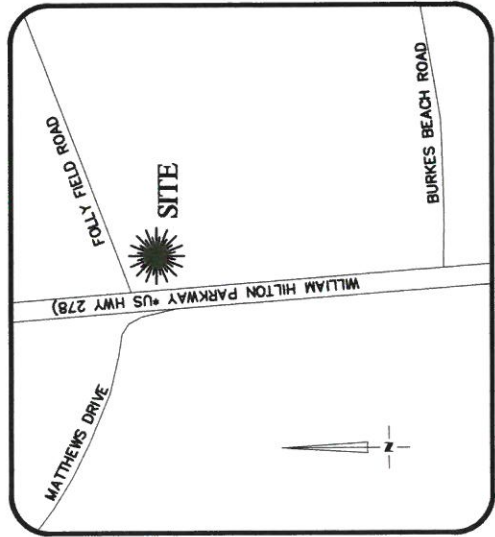
SURVEYING CONSULTANTS logo and contact information: 17 Sherington Drive, Suite C, Bluffton, SC 29910. Telephone: (843) 815-3304. FAX: (843) 815-3305.

PREPARED FOR: STAR FISH INVESTMENTS, LLC. TAX PARCEL I.D. NO. R510-009-000-1099-0000



Attachment D - As Built Survey

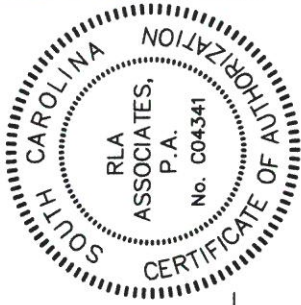
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.



SIGNED MATTHEW D. CLARK, SCPLS 20187

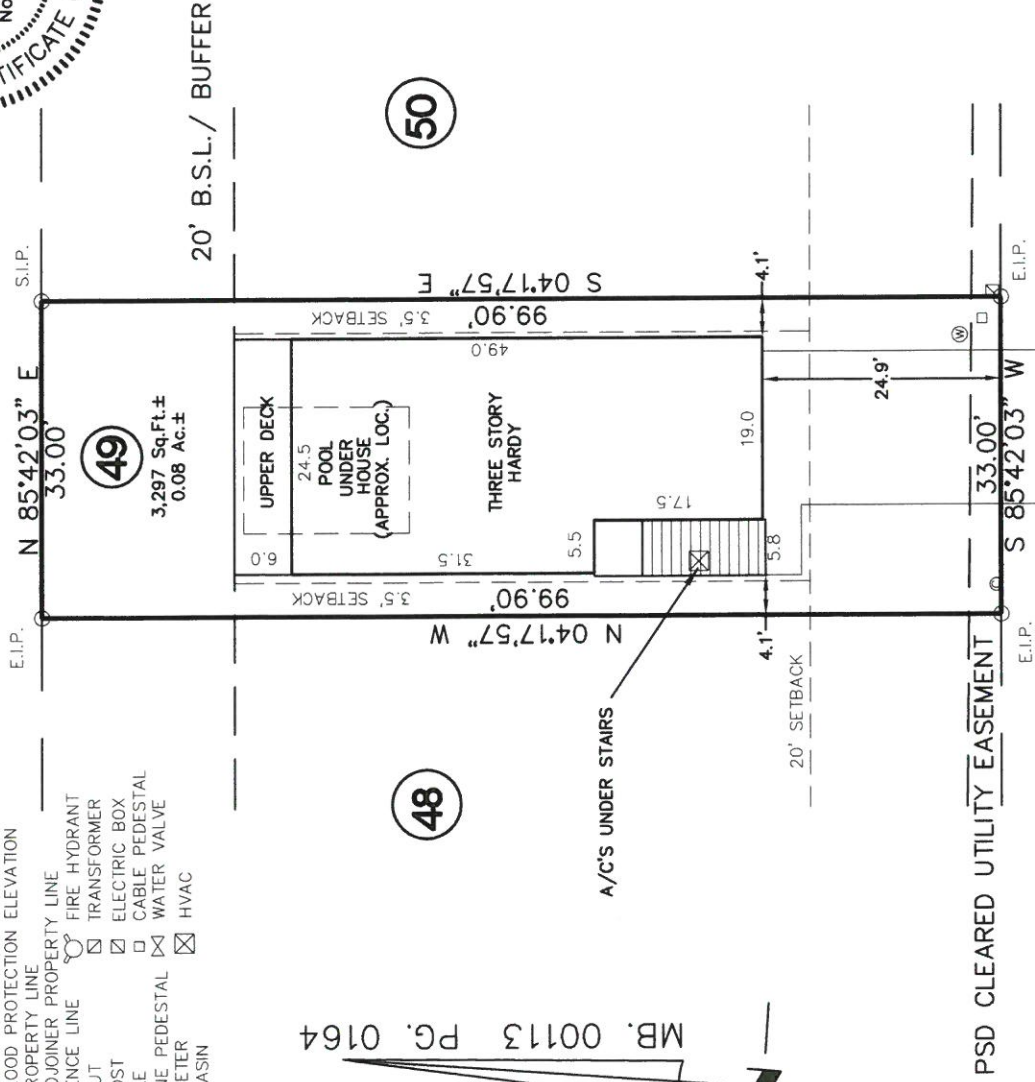


N/F STAR FISH INVESTMENTS, LLC
TO BE CONVEYED TO
THE TOWN OF HILTON HEAD ISLAND



LEGEND

- E.I.P. EXISTING IRON PIN
- E.C.M. EXISTING CONCRETE MONUMENT
- S.I.P. SET IRON PIN 5/8" REBAR
- F.P.E. FLOOD PROTECTION ELEVATION
- PROPERTY LINE
- - - ADJOINER PROPERTY LINE
- x-x- FENCE LINE
- CLEAN OUT
- LIGHT POST
- ⊗ MAN HOLE
- ⊕ TELEPHONE PEDESTAL
- ⊙ WATER METER
- ⊞ CATCH BASIN
- FIRE HYDRANT
- TRANSFORMER
- ELECTRIC BOX
- CABLE PEDESTAL
- ⊗ WATER VALVE
- ⊞ HVAC



#125 SANDCASTLE COURT

50' R/W

TMS: R511-009-000-1155-0000

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED

FLOOD NOTE:
THIS PROPERTY APPEARS TO BE LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 14-D COMMUNITY NO. 450250, MAP DATED 9/29/86. BASE ELEVATION 14.0'.



RLA ASSOCIATES, PA

110 TRADERS CROSS
BLUFFTON, SC 29909
PHONE (843) 705-8030
FAX (843) 839-9092

PHYSICAL SURVEY

FOR

LOT 49, SANDCASTLES BY THE SEA

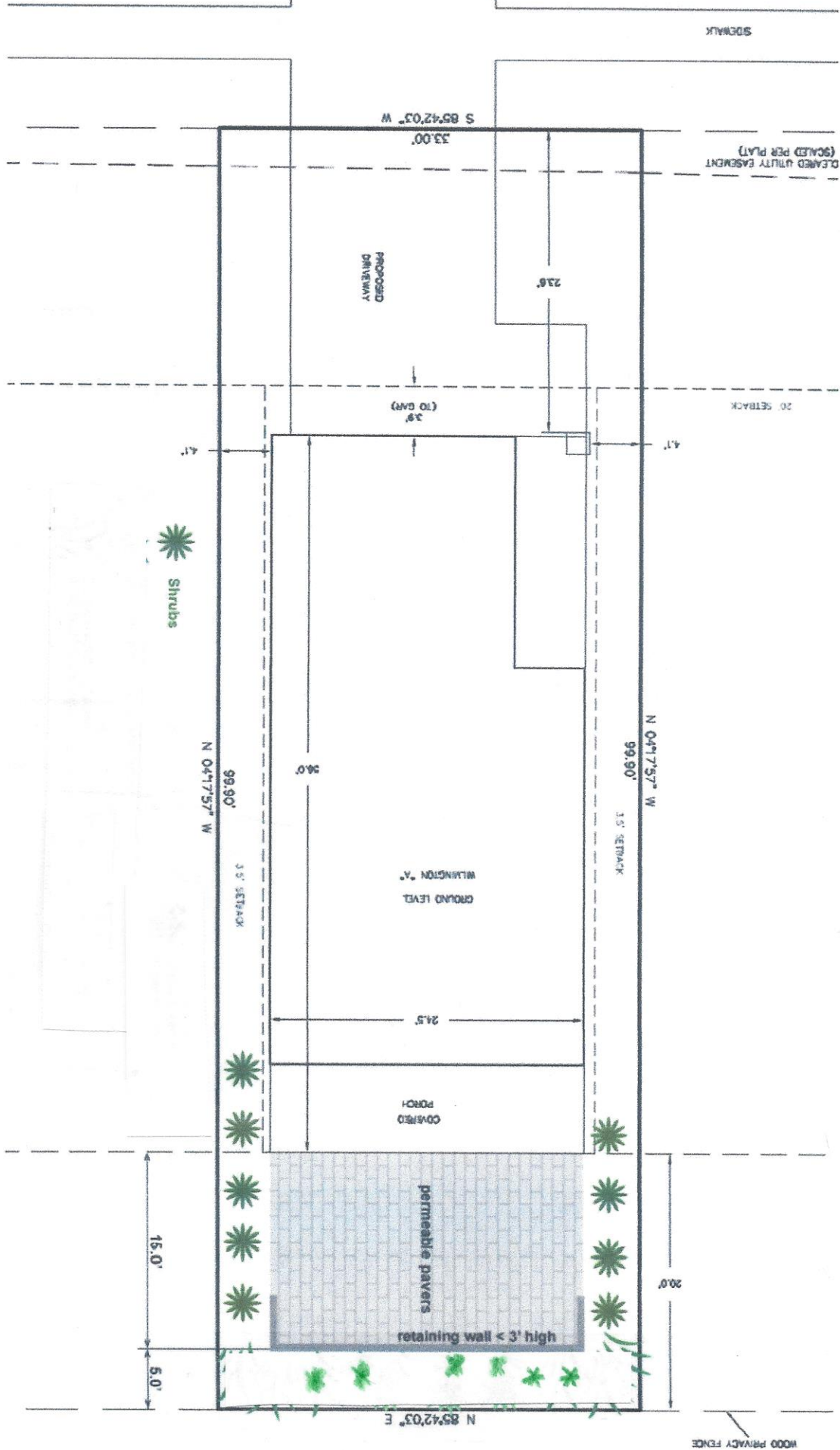
Hilton Head Island, Beaufort County, South Carolina

PROPERTY OF: VILLAGE PARK HOMES

MAP BOOK 00113 PAGE 0164 DEED REFERENCE

DRAWN BY: MDC

DATE: MAY 31, 2019



125 Sandcastle Court (Lot 49)







Attachment G- Buffer Table

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6, 7</small>		
TYPE A BUFFER		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> • Width: 20 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 3 every 100 linear feet • Evergreen shrubs: 8 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 10 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 4 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
TYPE B BUFFER		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear feet • Evergreen shrubs: 12 every 100 linear feet
TYPE C BUFFER		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6,7}

TYPE D BUFFER		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 30 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width 20 feet • <i>Overstory trees</i> : 6 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear ft • A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen
TYPE E BUFFER		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 50 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity
Option 2	<p>A diagram showing a 100-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 35 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 7 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ($1.5 \times 5 = 7.5$, rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated;
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated; and
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



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-001894-2020	November 23, 2020

Parcel or Location Data:	Property Owner and Applicant
<p>Parcel#: R511 009 000 1115 0000 Address: 25 Sandcastle Court Parcel size: 0.09 acres Zoning: RD (Resort Development District) Overlay: COR (Corridor Overlay District)</p>	<p>Brian Ritchey 2808 Dove Street Rolling Meadows, IL 60008</p>

Application Summary:
<p>Request from Brian Ritchey for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio to remain and proposed fence to be added in the adjacent use setback and buffer. The property address is 25 Sandcastle Court with a parcel number of R511 009 000 1115 0000.</p>

Staff Recommendation:
<p>Staff recommends the Board of Zoning Appeals deny the application, based on the Findings of Fact and Conclusions of Law contained in the staff report.</p>

Background:
<p>The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and Folly Field Road to the north and Adventure Cove, Carrabba's restaurant and an office building to the west.</p> <p>The subject property, 25 Sandcastle Ct, was constructed in 2017 and purchased by the current owner</p>

in November of 2017 (See Attachment A, Vicinity Map). After the home was constructed and the Certificate of Occupancy was issued, the owner had an approximate 33' 9" by 10' 4" (field measured) paver patio constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 10' 4" (field measured) in the adjacent use setback and buffer although it tapers to a lesser encroachment length due to the parcel shape. LMO Section 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback. While a patio can encroach up to 5 feet into a setback, it cannot encroach into a buffer. Portions of the existing patio even exceeds the allowable setback encroachment. The applicant is seeking a 15' encroachment into the setback and buffer.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25 foot adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5 feet in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type A Option 1 (20 foot) less densely vegetated buffer or a Type A Option 2 (10 foot) more densely vegetated buffer for single family residential use adjacent to a multifamily residential use. The buffer types and options are explained in Table 16-5-103.F (See Attachment J, Buffer Table). A 20 setback is still required along the perimeter of a single family subdivision adjacent to a multifamily residential use.

In July 2019, Staff received several complaints about property owners removing vegetation in the buffers and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10 foot buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded.

Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The parcel shape is mostly rectangular, but at the rear of the property, the property is angled slightly to follow the edge of the lagoon. Because of the slightly irregular parcel shape, the dimensions of the setback and buffer encroachments are lesser on the south side of the lot and greater on the north side. (See Attachment D, As-Built). The allowable setback encroachments in Table 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback.

The applicant is requesting a 15' variance to allow the existing paver patio to remain and a proposed fence in the rear adjacent use setback and buffer.

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

Grounds for Variance:

According to the applicant, the relatively small size of the lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. According to the applicant, a re-vegetation plan for the buffer has already been approved by the Town in 2018.

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 September 22, 2020 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 November 1, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on November 5, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on November 4, 2020 as set forth in LMO Section 16-2-

102.E.2.

- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- Sandcastles by the Sea is a small lot single-family subdivision that consists of 83 lots.
- Most of the lots within the subdivision range from 0.06-0.13 acres with the majority of the lots around 0.07 acres.
- The majority of the lots within the subdivision were platted with a 20' rear setback and buffer.
- The subject property is mostly rectangular in shape as are the majority of the lots in the subdivision.
- The subject lot is 0.09 acres in size.
- The subject property does not contain any unique site features that prohibit development on the lot.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.
- The subject property is average in shape and size for the subdivision and does not contain any extraordinary or exceptional conditions that prohibit development on the lot.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- There are no extraordinary or exceptional conditions that pertain to this property.

- The majority of lots in the Sandcastles by the Sea subdivision are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.
- The conditions that apply to the subject property also apply to other properties in the vicinity.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary or exceptional conditions that apply to the subject property that do not also generally apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- There are no extraordinary or exceptional conditions that pertain to this property.
- The Sandcastle by the Sea subdivision plat was approved with the 20 foot adjacent use setback and buffer in the rear of the subject property.
- The Sandcastle by the Sea subdivision plat has a note that reads, “The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO”.
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio or retaining wall as permitted activities within a required buffer.
- The subject property is currently developed with a 3-story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 4 bedrooms, 4 bathrooms, garage and a swimming pool.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that apply to the subject property that would prohibit or unreasonably restrict the utilization of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Facts:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The applicant is requesting to keep the existing paver patio which encroaches into the rear setback and buffer.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.
- Staff has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer along the lagoon in between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development. The private covenants prohibit the developer or property owner from seeking the 10 foot buffer option adjacent to the Hilton Head Beach and Tennis Resort development.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance will be of substantial detriment to the adjacent property because the purpose of setback and buffer requirements is to provide visual and spatial separation between developments and mitigate the negative effects between adjacent uses.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.
- While it is not within the Town's purview to enforce private covenants, the Town has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development.

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 not be granted to the applicant because all four of the variance criteria have not been met.

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

November 12, 2020

DATE

REVIEWED BY:

ND

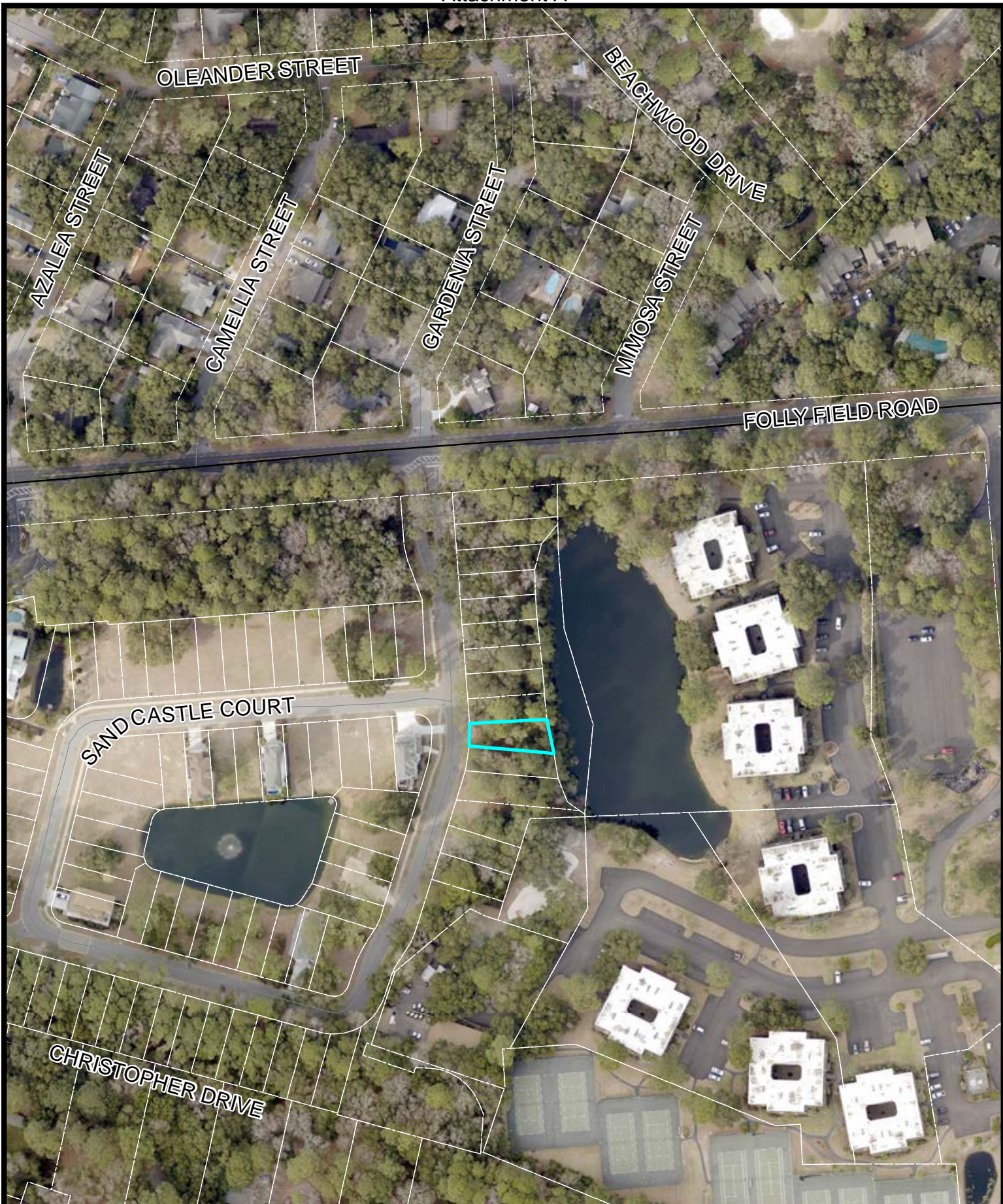
Nicole Dixon, AICP, CFM, Development
Review Administrator

November 12, 2020

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Subdivision Plat
- D) As-built
- E) Site Pictures
- F) Buffer Table



Town of Hilton Head Island

25 Sandcastle Ct.
Attachment A: Vicinity Map



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

175 87.5 0 175 Feet



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

I am writing this letter to request a variance to seek and obtain relief from the following standards

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

I respectfully request reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet.

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, fences, retaining walls, and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and an esthetically pleasing fence of less than 3 feet in height.

I believe the variance I am requesting meets all the towns criteria for approval.

Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10th of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Attachment B

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made.

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.

Our entire backyard is directly backed up to a heavily vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and a pond and essentially creates approximately 135 feet of natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and the pond increases to 155 feet. If my requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and have such a negligible impact, that it would not be noticed by the public.

As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

The variance was already approved in part for my property and current patio should be grandfathered in.

In April of 2018 I had a landscaper accidentally trim off a lot of plants in the buffer. Was then contacted by Rocky Browder of the Town of Hilton Head as those plants are to remain in the buffer. He said I needed to complete a revegetation plan of the area with specific plants that could go in the buffer. This was completed and approved by the Town of Hilton Head. Emails and picture attached. As you can see

Attachment B

from the pictures there is a grassy area that was not replanted as it had previous existed and was not part of the revegetation plan. This area was allowed by the builder to be planted as grass and was not part of the revegetation plan in the buffer. All that was done was that non-permeant and semi porous bricks were put on top of the grass area. These bricks can be taken up at any time and do not change the landscaping that was previously approved in the buffer so the current patio should be grandfathered in.

The current position of the Town Of Hilton Head Island to keep a heavily vegetated buffer in place that essentially backs up to the house is now creating a dangerous area for alligators to hide and ambush my family and children without allowing an adequate escape route while using the pool .

On August 20th 2018 a woman was killed by an alligator attack on Hilton Head Island. The husband is now suing for community for wrongful death and being grossly negligent by not taking adequate steps to prevent the attack.

By the pictures presented in the violation taken by the Town of Hilton Head you can see how dense the vegetation has grown within the buffer in the space of two years. Imagine an alligator hiding within the vegetation buffer right off the pool. There is no way you could see an alligator right before it is ready to attack. You can also see that even with the current patio in place keeping the vegetation down that there is at least some distance that will allow for an escape route to be executed. It is essential to the safety of my family that the buffer be reduced to five feet so a small retaining wall or fence can be put in to keep give my family an escape route from alligator attacks. Enforcing a rule to require a heavily vegetated area that backs up to a pool where children are playing knowing there are alligators in the pond that backs up to the pool would be grossly negligent by the Town of Hilton Head Island. Have enclosed a recent picture of an alligator in the pond taken from my deck. Also can send a video of a large alligator that attacks and eats an animal two houses down from mine. Would you and your family feel safe swimming in a pool knowing the alligators on the island and knowing an alligator is only a couple of steps from encountering you and your family in their own environment in the water?

If our Variance is denied, enforcement of this strict vegetation buffer will result in an unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Thank you for your time,



Brian Ritchey

Re: Sandcastle.

From: Browder Rocky (rockyb@hiltonheadislandsc.gov)

To: brian_ritchey@att.net

Date: Monday, April 16, 2018, 10:29 AM CDT

Thanks Brian, was in the neighborhood when you emailed. All is good!
Thank you for responding to the Town's request in such a quick manner.

Sent from my iPad

On Apr 16, 2018, at 10:59 AM, Brian Ritchey <brian_ritchey@att.net<mailto:brian_ritchey@att.net>> wrote:

Hello Rocky,

All of the plantings have been completed this morning. You should be ready for final inspection. Let me know when complete.

Thank you for your help through this process,

Brian

On Wednesday, March 28, 2018 11:04 AM, Browder Rocky
<rockyb@hiltonheadislandsc.gov<mailto:rockyb@hiltonheadislandsc.gov>> wrote:

Sounds great let me know when it's installed so I can do a final inspection

Get Outlook for Android<<https://aka.ms/ghei36>>

On Tue, Mar 27, 2018 at 3:44 PM -0400, "Brian Ritchey" <brian_ritchey@att.net<mailto:brian_ritchey@att.net>> wrote:

Hello Rocky,

We found Juan Marcos Diaz to handle our revegetation plan at 25 Sandcastle a lot quicker. Does the below work for your approval?

Thank you,

Brian Ritchey

From: Juan Marcos Diaz <eden-lanscaper@hotmail.com<mailto:eden-lanscaper@hotmail.com><mailto:eden-lanscaper@hotmail.com>>

Date: March 26, 2018 at 8:05:33 PM CDT

To: "brian.kuhn@crsil.com<mailto:brian.kuhn@crsil.com><mailto:brian.kuhn@crsil.com>"

<brian.kuhn@crsil.com<mailto:brian.kuhn@crsil.com><mailto:brian.kuhn@crsil.com>>

Subject: Sandcastle.

Hi Brian.

Was thinking to plant 45 grasses 15 grasses for each line, will cost to you 8.00 dlls a piece 1 Gal. or 3 Gal 14.00 dlls each
45x 8 = 360.00

Irrigation adjustemnts 2 new Pop ups sprinklers = 60.00

- Prep site, remove existent roots small roots,planting labor = 250.00

3 Yards of dirt fill hole and make even and smooth area.= 180.00

[cid:84747BAA-65C6-4BC9-89F2-265BA0011110]

[cid:03079EFB-B662-43C9-8B0D-3834565C400D]

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CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
C2	30.33'	228.00'	15.16'	30.31'	N01°03'18"E	74°3'24"

NOTES:

- 1) 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.
- 2) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D., PANEL 0014-D, COMMUNITY NO. 480250, MAP DATED 09/20/1968, BASE ELEVATION 14.0'.
- 3) NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR WETLAND SURVEYS WERE PERFORMED FOR THIS PLAT. THEREFORE THIS PLAT DOES NOT REFLECT THE EXISTENCE OR NONEXISTENCE OF WETLANDS, CONTAMINATION, OR OTHER CONDITIONS WHICH MAY AFFECT THIS PROPERTY.
- 4) 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.

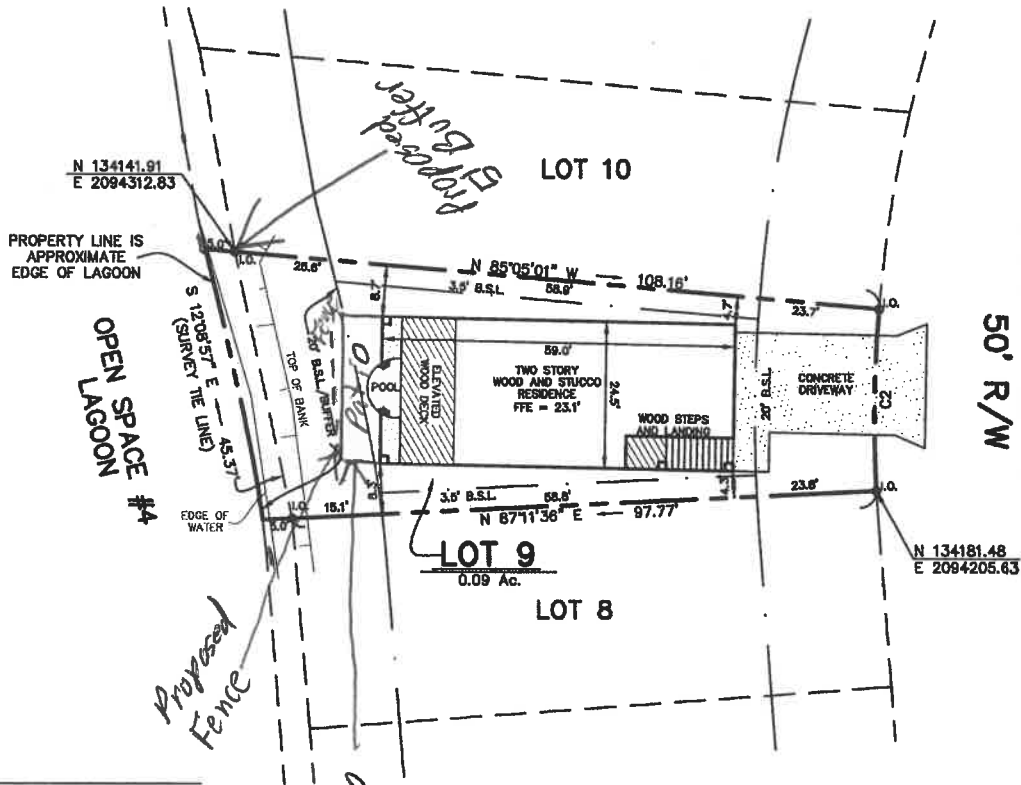
LEGEND:

- I.O. IRON REBAR, OLD (FOUND)
- B.S.L. BUILDING SETBACK LINE

REFERENCE PLAT:

- 1) SUBDIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, DATED: 06/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: P.B. 113, PG. 164, DATE: 5/19/2006.

PREPARED FOR: VILLAGE PARK HOMES

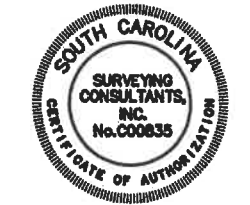


ADDRESS: #25 SANDCASTLE COURT

TAX PARCEL I.D. NO. R511-009-000-1115-0000



ASBUILT
SURVEY
OF
LOT 9
SANDCASTLE
COURT
A PORTION OF
SANDCASTLES
BY THE SEA
HILTON HEAD ISLAND
BEAUFORT COUNTY
SOUTH CAROLINA



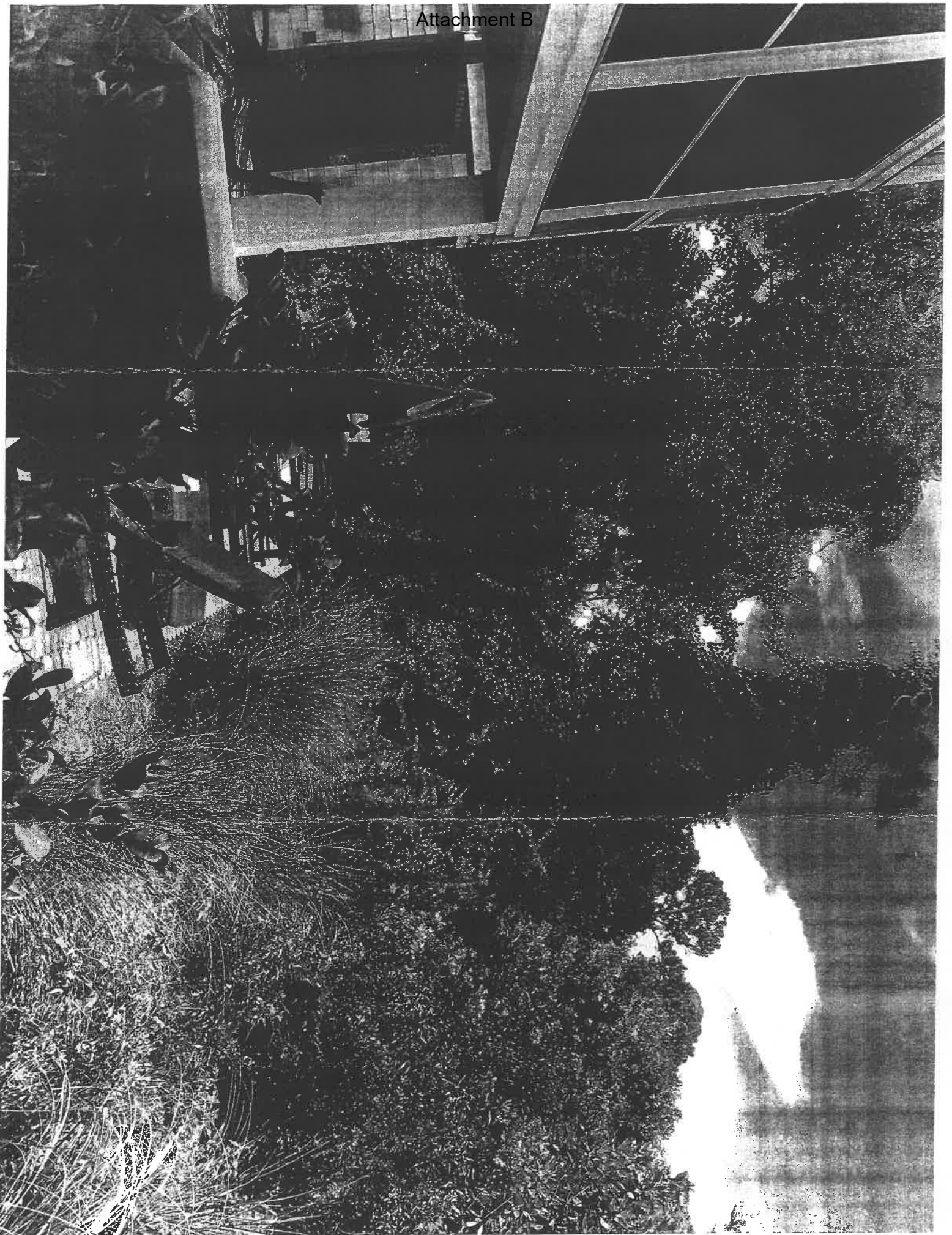
SURVEYING CONSULTANTS
17 Sherington Drive, Suite C
Bluffton, SC 29910
SC TELEPHONE: (843) 815-3304
FAX: (843) 815-3305
CA TELEPHONE: (912) 828-2775
www.SurveyingConsultants.com
Email: SC@SurveyingConsultants.com

SCALE: 1" = 20'
DATE: 11/09/2017
JOB NO: SC170007G

CREW: JME/EPH
CAD: JME/EPH
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Attachment B





Attachment B







15035P4D

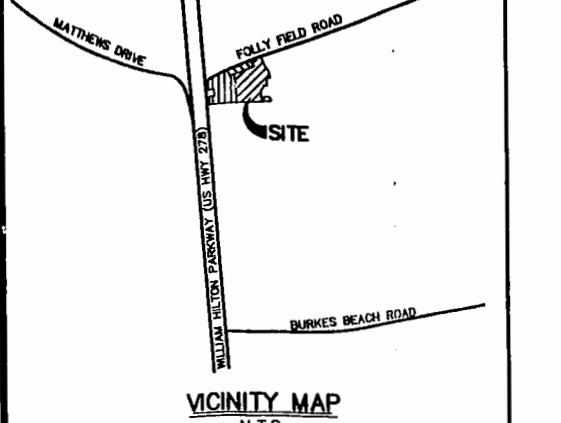


Table with 4 columns: LINE, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision.

AREA TABLE showing 83 Residential Lots (6,779 Ac), Sandcastle Court R/W (2,313 Ac), and Open Space (1,826 Ac), totaling 10,918 Acres.

NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE... 2) THIS PROPERTY IS LOCATED IN ZONE A-7... 3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN...

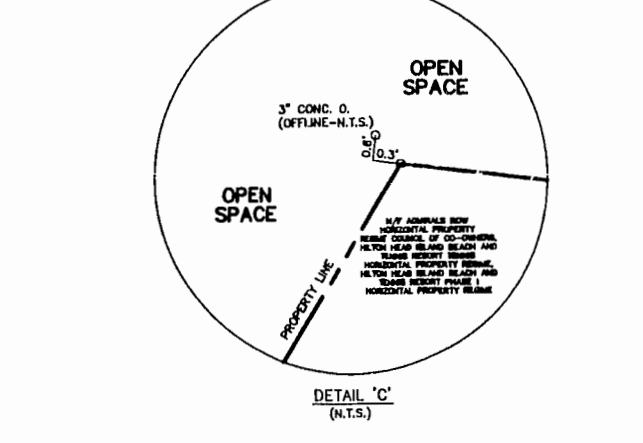
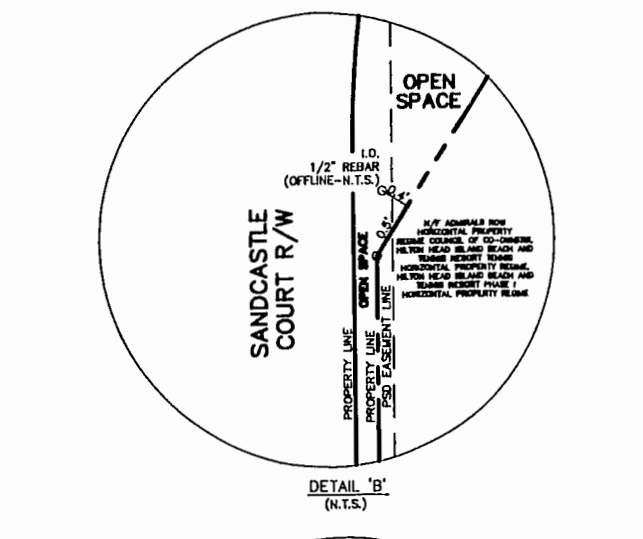
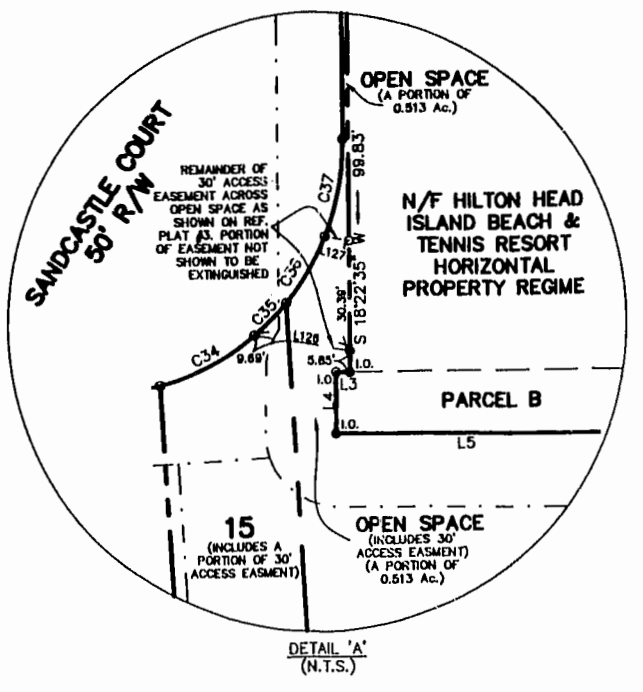
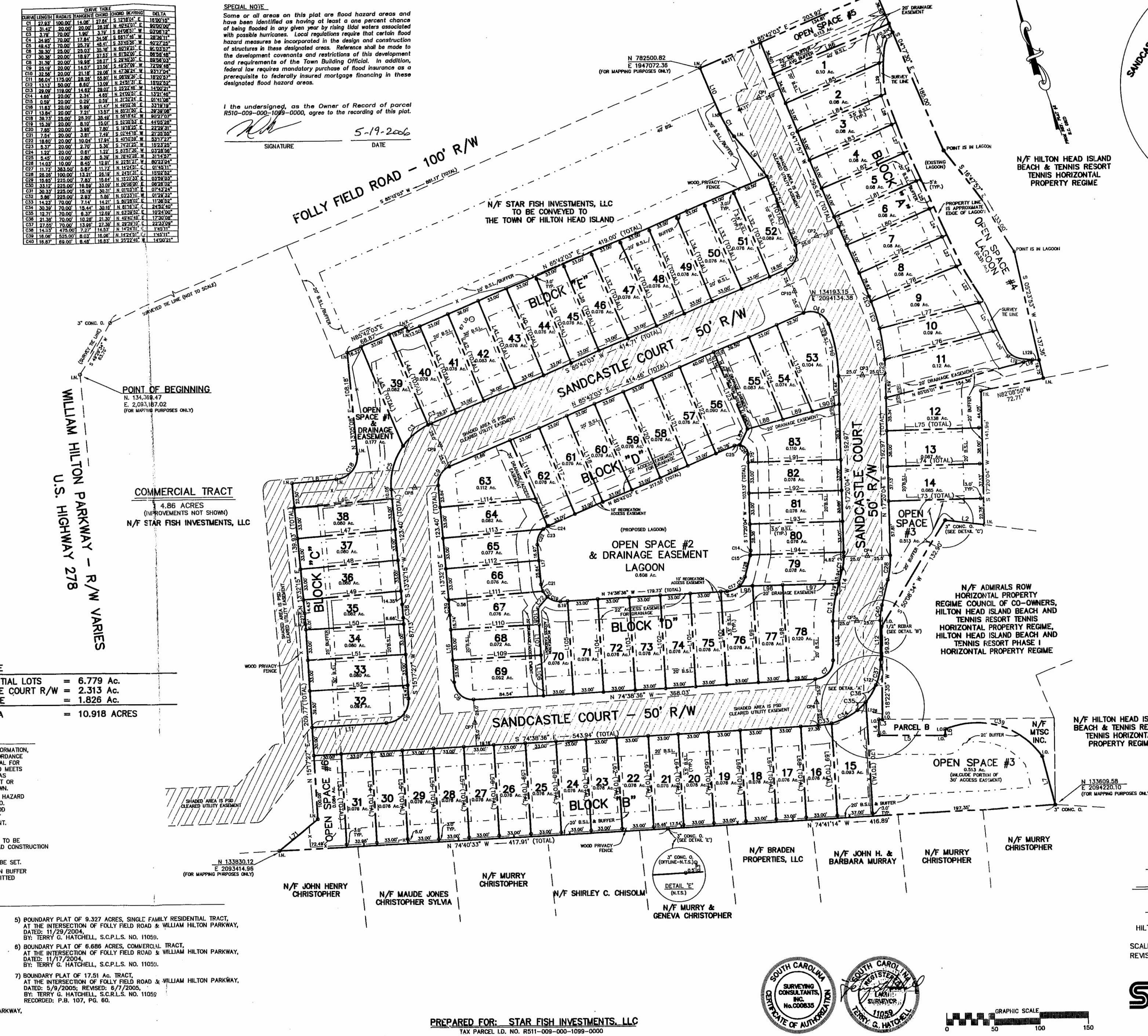
- REFERENCE PLATS: 1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278... 2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC...

Table with 4 columns: CURVE DATA, BEARING, DISTANCE, and DELTA. It lists curve data for various points in the subdivision.

SPECIAL NOTE: Some or all areas on this plot are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plot. SIGNATURE: [Signature] DATE: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS (IN THESE POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION) listing points CPT1 through CPT19 with coordinates.

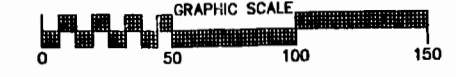
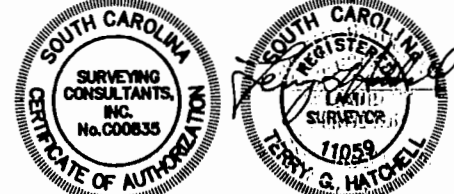
TOWN OF HILTON HEAD ISLAND, SC SUBDIVISION APPROVAL. Date of approval: 7/9/06. Application Number: 81805002. Certified by: [Signature]. Title: Mgr. Blc 2.

SANDCASTLES BY THE SEA FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. SCALE: 1" = 50'. DATE: 6/15/2005. JOB NO: 89319L. REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS.

SURVEYING CONSULTANTS logo and contact information: 17 Sherington Drive, Suite C, Bluffton, SC 29910. Telephone: (843) 815-3304. FAX: (843) 815-3305.

PREPARED FOR: STAR FISH INVESTMENTS, LLC. TAX PARCEL I.D. NO. R510-009-000-1099-0000



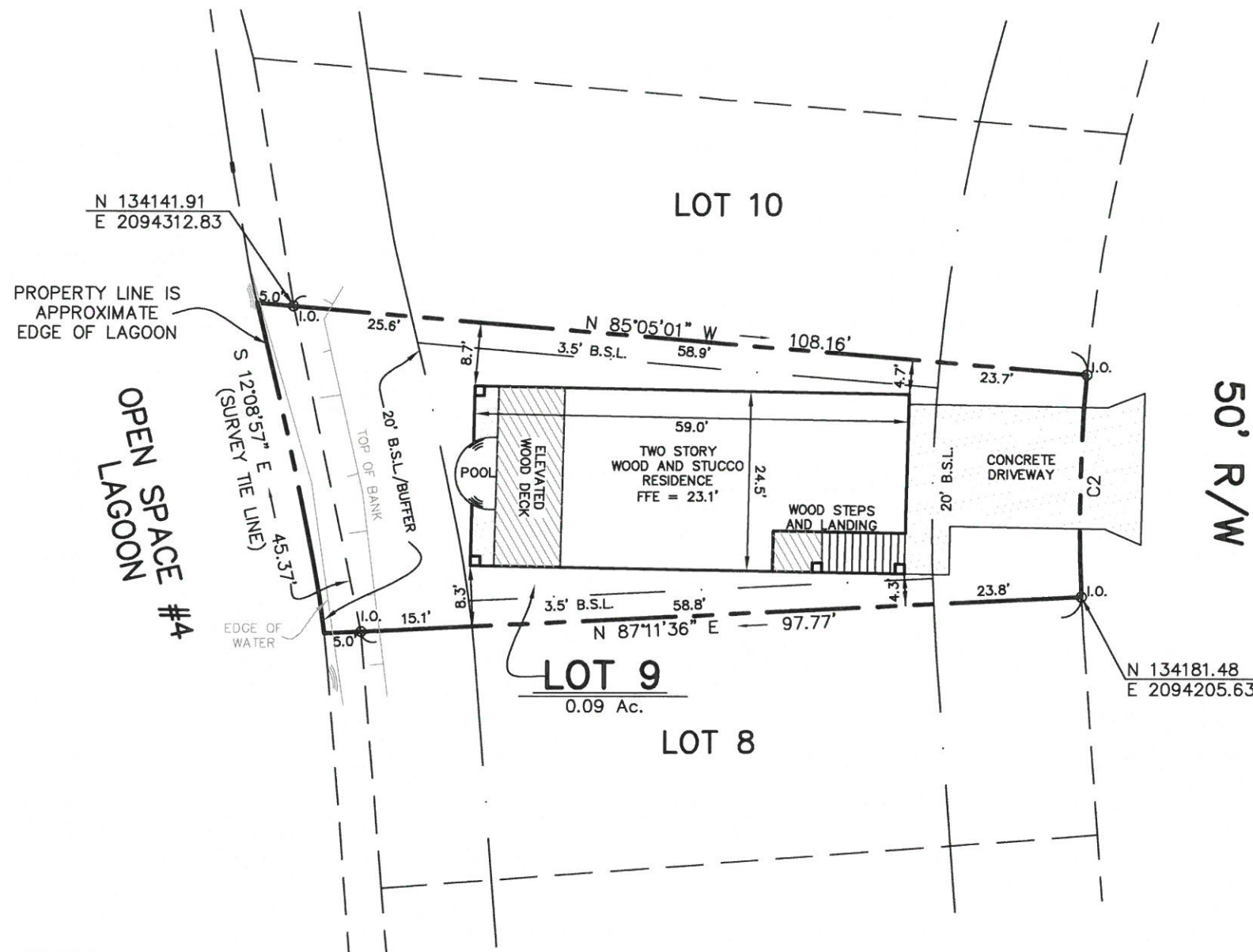


CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	CHORD BEARING	DELTA
C2	30.33'	225.00'	15.19'	30.31'	N01°03'18"E	7°43'24"

- NOTES:
- 1) 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.
 - 2) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D., PANEL 0014-D, COMMUNITY NO. 450250, MAP DATED 09/29/1986, BASE ELEVATION 14.0'.
 - 3) NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR WETLAND SURVEYS WERE PERFORMED FOR THIS PLAT. THEREFORE THIS PLAT DOES NOT REFLECT THE EXISTENCE OR NONEXISTENCE OF WETLANDS, CONTAMINATION, OR OTHER CONDITIONS WHICH MAY AFFECT THIS PROPERTY.
 - 4) 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.

- LEGEND:
- I.O. IRON REBAR, OLD (FOUND)
 - B.S.L. BUILDING SETBACK LINE

- REFERENCE PLAT:
- 1) SUBDIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, DATED: 06/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: P.B. 113, PG. 164, DATE: 5/19/2006.



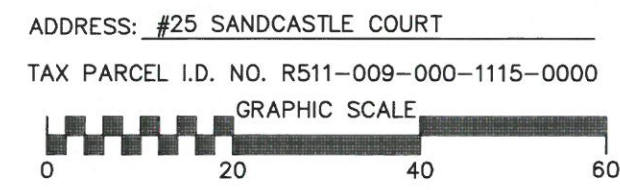
ASBUILT
SURVEY
OF
LOT 9
SANDCASTLE
COURT
A PORTION OF
SANDCASTLES
BY THE SEA
HILTON HEAD ISLAND
BEAUFORT COUNTY
SOUTH CAROLINA



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www.SurveyingConsultants.com
Email: SC@SurveyingConsultants.com

SCALE: 1" = 20'
DATE: 11/09/2017
JOB NO: SC170007G

CREW: JM/EH
CAD: JK
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PREPARED FOR: **VILLAGE PARK HOMES**

15-46-17

Attachment E

VAR-001894-2020
25 Sandcastle Ct
Site Photos taken 11/6/2020



Attachment E

VAR-001894-2020
25 Sandcastle Ct
Site Photos taken 11/6/2020



Attachment E

VAR-001894-2020

25 Sandcastle Ct

Site Photos taken 11/6/2020



Attachment E

VAR-001894-2020
25 Sandcastle Ct
Site Photos taken 11/6/2020



Attachment F

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

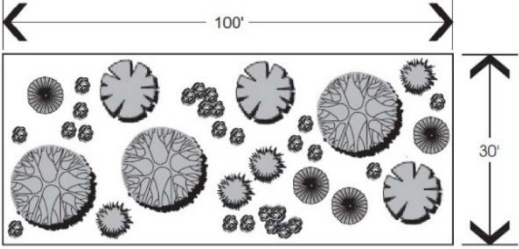
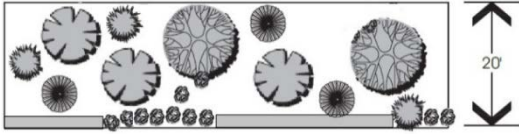
TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6,7</small>		
TYPE A BUFFER		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> • Width: 20 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 3 every 100 linear feet • Evergreen shrubs: 8 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 10 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 4 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
TYPE B BUFFER		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear feet • Evergreen shrubs: 12 every 100 linear feet
TYPE C BUFFER		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

Attachment F

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

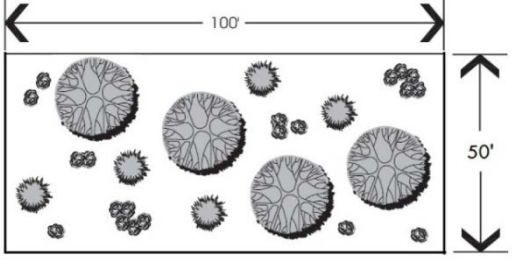
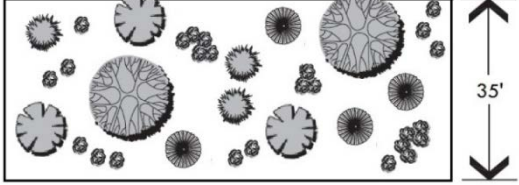
TYPE D BUFFER

The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between *adjacent uses*. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.

Option 1		<ul style="list-style-type: none"> • Width: 30 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen
Option 2		<ul style="list-style-type: none"> • Width 20 feet • <i>Overstory trees</i> : 6 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear ft • A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

TYPE E BUFFER

This buffer provides greater spacing and medium-*density* screening designed to define "green" corridors along major arterials.

Option 1		<ul style="list-style-type: none"> • Width: 50 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity
Option 2		<ul style="list-style-type: none"> • Width: 35 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 7 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen

Attachment F

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ($1.5 \times 5 = 7.5$, rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated;
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated; and
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

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

Case #:	Public Hearing Date:
VAR-001976-2020	November 23, 2020

Parcel or Location Data:	Property Owner	Applicant
Address: 117 Sandcastle Court Parcel#: R511 009 000 1151 0000 Zoning: RD (Resort Development District) Overlay: COR (Corridor Overlay District)	Joseph DeVito 5 Mona Ln Dix Hills, NY 11746	Alexandra Barnum 117 Sandcastle Court Hilton Head Island, SC 29928

Application Summary:

Request from Alexandra Barnum, on behalf of Joseph DeVito, for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio and retaining wall to remain in the adjacent use setback and buffer. The property address is 117 Sandcastle Court with a parcel number of R511 009 000 1151 0000.

Staff Recommendation:

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

Background:

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and Folly Field Road to the north and Adventure Cove, Carrabba's restaurant and an office building to the west.

The subject property, 117 Sandcastle Ct, was constructed in 2017 and purchased by the current owner in May of 2019 (See Attachment A, Vicinity Map). After the home was constructed and the Certificate of Occupancy was issued, the applicant had a paver patio and retaining wall constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 13'-0" (field measured) in the adjacent use setback and buffer. LMO Section 16-5-102.E allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5' into any setback. While a patio can encroach up to 5' into a setback, it cannot encroach into a buffer. The existing patio even exceeds the allowable setback encroachment. The applicant is seeking a 15' encroachment into the setback and buffer.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25' adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5' in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type C Option 1 (25') less densely vegetated buffer or a Type C Option 2 (15') more densely vegetated buffer for single family residential use adjacent to a vacant Resort Development (RD) zoned property. The buffer types and options are explained in Table 16-5-103.F (See Attachment G, Buffer Table). A 30' setback is required along the perimeter of a single family subdivision adjacent to a vacant RD zoned property.

In July 2019, Staff received several complaints about property owners removing vegetation and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10' buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded.

Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The applicant is requesting a 15' variance to allow the existing paver patio to remain in the rear adjacent use setback and buffer.

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

Grounds for Variance:

According to the applicant, the relatively small size of his lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. The variance is required in order to prevent the erosion of soil into the swimming pool and other livable space in the home.

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 September 30, 2020 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 November 1, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on November 5, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on November 7, 2020 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section

16-2-102.C.

- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The subject property is .07 acres.
- The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property does not contain any unique site features that prohibit development on the lot.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every square foot of buildable space on the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.
- A single-family residence with 2,614 heated square feet, 1,050 unheated square feet, 5 bedrooms, 3.5 bathrooms, garage and a swimming pool has been constructed at the subject property.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Facts:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The property directly adjacent to the subject lot has encroachments in the setback and buffer and has applied for a variance to keep them.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory

flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

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 denied 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

11/12/2020

DATE

REVIEWED BY:

ND.

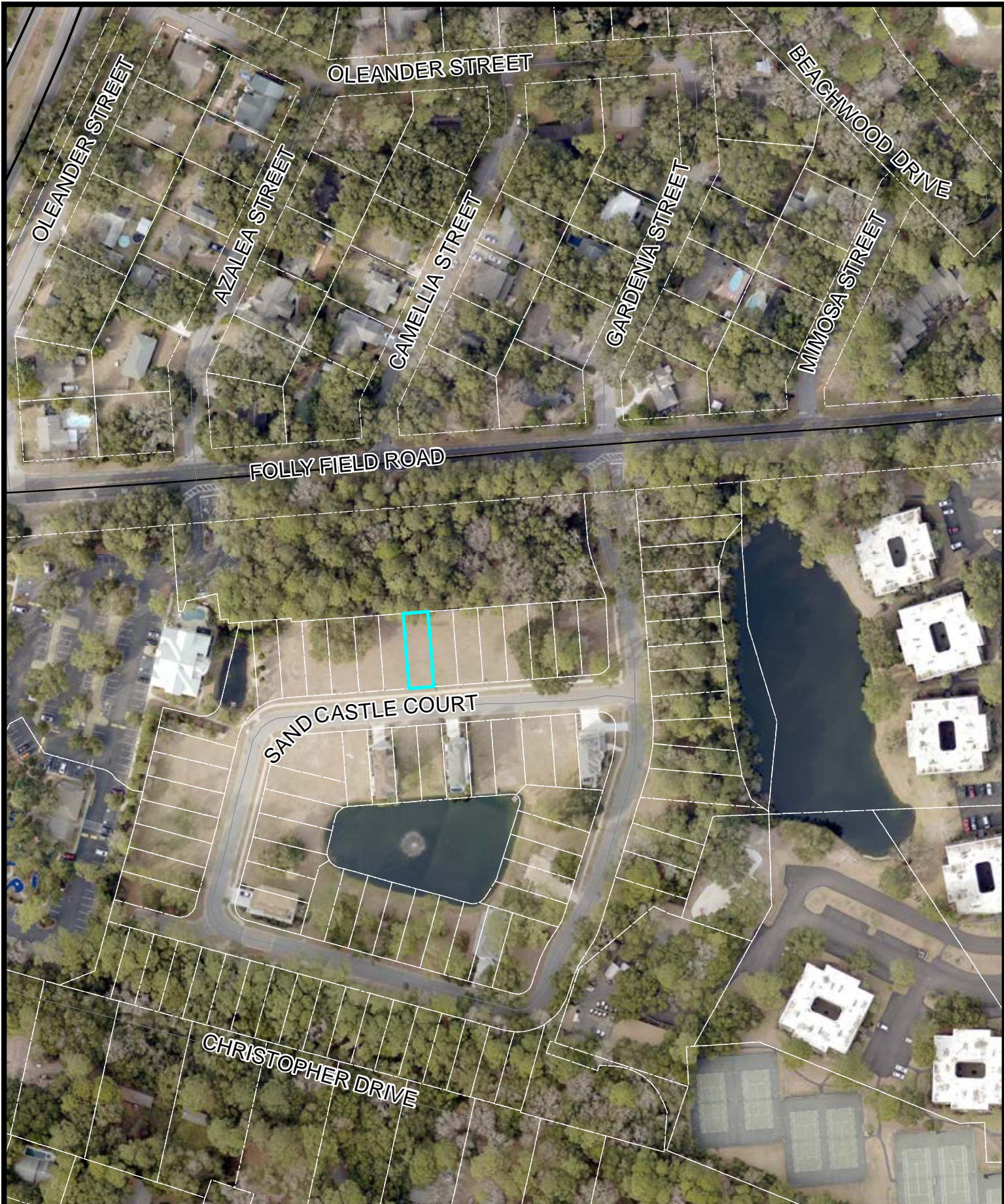
11/12/2020

Nicole Dixon, AICP, CFM,
Development Review Administrator

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Submittal
- C) Subdivision Plat
- D) As-Built Survey
- F) Site Photos
- G) Buffer Table



Town of Hilton Head Island

117 Sandcastle Ct.
Attachment A: Vicinity Map



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

175 87.5 0 175 Feet

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

I am writing this letter to request a variance to seek and obtain relief from the following standards:

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

I Respectfully Request:

- **Reduction of the rear vegetative buffer on my lot from the required 20 feet to 5 feet.**

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, retaining walls, and pavers.

I am requesting a variance to allow 15 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home.

I believe the variance I am requesting meets all the towns criteria for approval.

Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10th of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made.

The naturally existing topography of the backyard was also unusual. The vegetation buffer area towards the rear of the lot was 3 feet higher than the vegetation buffer area against my home. The low point of the buffer rests against the back of my home, and next to the swimming pool. This significant slope of the lot toward my home, during rains, causes a mudslide that deposits eroded dirt into my homes living space and even into my swimming pool located under the house. This created a dangerous situation because our pool water was being contaminated with dirt and mud during heavy rains. It also made it difficult to walk around the back perimeter of my home due to this erosion of land. The only solution that would prevent erosion due to the backyard slope of the land, was to build a small, less than 3 foot, retaining wall. The wall was made of natural stone looking material to blend in with the surrounding vegetation. This wall eliminated both my soil erosion problem and safety issue with contaminated swimming pool water.

The natural stone looking wall I had built was small, and under 3 feet in height. The wall was constructed 5 feet from the rear of the property line and encroached 15 feet into the vegetation buffer. The 5 feet of vegetation buffer behind the wall was originally mud, so we came up with a landscaping plan to vegetate these 5 feet. My plantings not only met but exceeded the towns vegetation buffer requirements.

The installation of my small retaining wall, corrected the topography issue, solved my erosion issue, eliminated a safety hazard in my swimming pool, and created a beautifully landscaped and thriving 5-foot vegetative buffer. My vegetative buffer contains numerous shrubs, ferns, and numerous other indigenous plantings which blend into the existing environment.

After the retaining wall was built, I was then left with only 15 feet between the back of my home and my retaining wall. The Towns Land Management Ordinance requires the only remaining 15 feet of my back yard to be heavily vegetated. This effectively would render my home with no usable backyard. Because of these conditions, the application of this ordinance to my property would unreasonably restrict the utilization of my property. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 5 feet to regain a small amount of usable backyard in my home.

If a Variance is granted to reduce my vegetative buffer from 20 feet to 5 feet, I will be allowed to lay natural looking stone pavers that blend in with the environment in this 15-foot area. The joints between the stone pavers will allow for both proper drainage and kept earth from flowing into my home and swimming pool under my home. The granting of this Variance will also allow me to enjoy the natural surroundings in my backyard, enjoy viewing the natural wildlife, and create a sense of place and privacy.

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.

My entire backyard is directly backed up to a heavily treed and vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of my lot and Folly Field Road and essentially creates approximately 135 feet of heavily treed and natural vegetation. When you add my entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between my home and Folly Field road increases to 155 feet. If my requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and have such a negligible impact, that it would not be noticed by the public.

As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

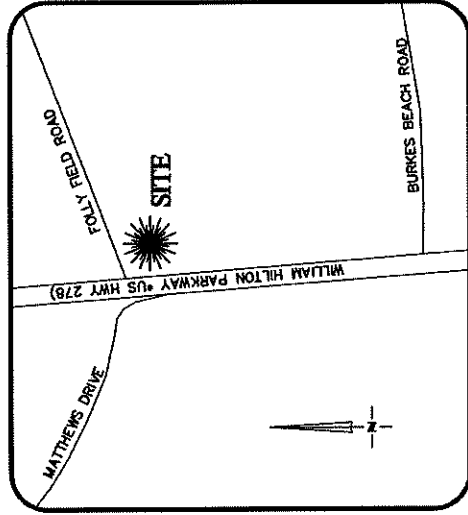
I have attached pictures that show what the natural land looked like in my backyard before and after I made improvements. You can see after my improvements, we prevented unwanted and unsafe land erosion, and at the same time, we created a small area to be able to enjoy the natural vegetation, trees, and wildlife that surround my home. My improvements created a viewing place for all the surrounding nature and is in harmony with the Islands Character Vision Statement. My above improvements will truly give me the ability to lose nothing, but see more, and have my property better contribute to the overall beauty and future vision of Hilton Head Island.

If my Variance is denied, enforcement of this strict vegetation buffer will result in a unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare and safety will not be diminished and substantial justice will be done.

Thank you for your time,

Joseph Devito

I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF THE SURVEY SHOWN HEREON 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 B SURVEY AS SPECIFIED THEREIN, ALSO THERE ARE NO ENCROACHMENTS, PROJECTIONS, OR SETBACKS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN.

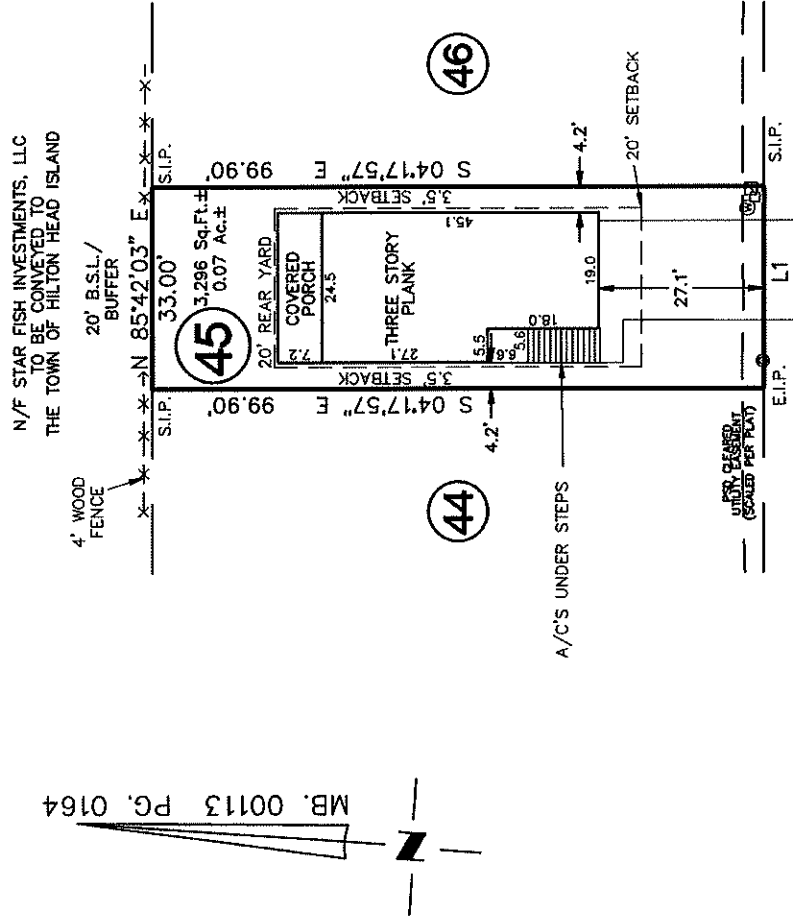
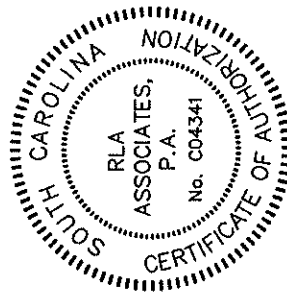
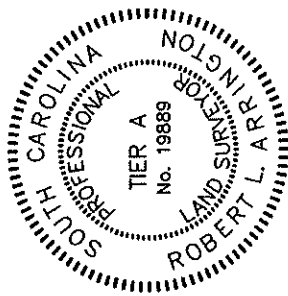


VICINITY MAP
Not To Scale

SIGNED *Robert L. Arrington*
ROBERT L. ARRINGTON, S.C. PLS #19889

LEGEND

- E.I.P. EXISTING IRON PIN
- E.C.M. EXISTING CONCRETE MONUMENT
- S.I.P. SET IRON PIN
- F.P.E. FLOOD PROTECTION ELEVATION EXCEEDS 1 INCH IN 10,000'
- CLOSURE
- ADJOINER PROPERTY LINE
- FENCE LINE
- CLEAN OUT
- LIGHT POST
- MAN HOLE
- TELEPHONE PEDESTAL
- WATER METER
- CATCH BASIN
- FIRE HYDRANT
- TRANSFORMER
- ELECTRIC BOX
- CABLE PEDESTAL
- WATER VALVE
- HVAC



MB. 00113 PG. 0164

LINE TABLE		
LINE	LENGTH	BEARING
L1	33.00	N85°42'03"E

#117 SANDCASTLE COURT

50' R/W

TMS: R511-009-000-1151-0000

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED



RLA ASSOCIATES, PA

785 KING GEORGE BLVD, SUITE 203
SAVANNAH, GA 31419
PHONE (843) 839-9091
FAX (843) 839-9092

PHYSICAL SURVEY

FOR

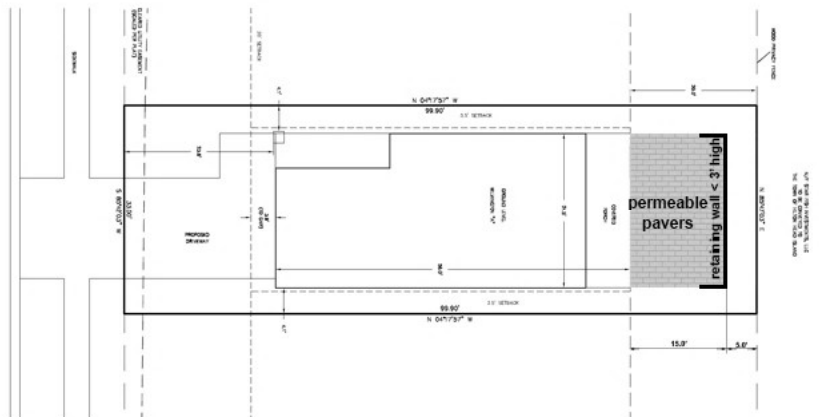
LOT 45, SANDCASTLES BY THE SEA
Hilton Head Island, Beaufort County, South Carolina

PROPERTY OF: _____
MAP BOOK 00113 PAGE 0164 DEED REFERENCE _____

DRAWN BY: ADM DATE: MARCH 19, 2018

FLOOD NOTE:
THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 14-D COMMUNITY NO. 450250, MAP DATED 5/9/86. BASE ELEVATION 14.0'. FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OF COUNTY BUILDING INSPECTIONS DEPARTMENT.

___ Sandcastle Court (lot ___)



SCALE
1 inch = 30'0"











15035P4D

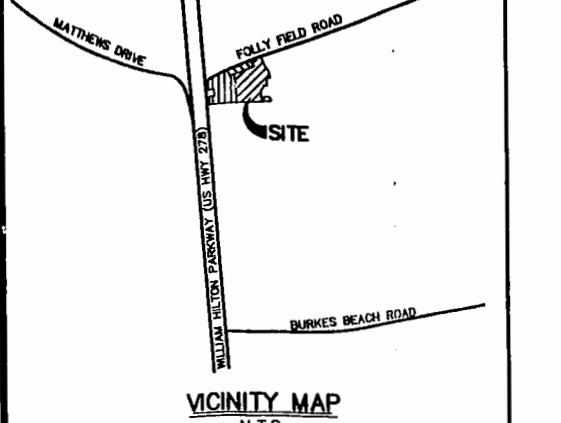


Table with 4 columns: LINE, LENGTH, BEARING, and BEARING. It lists 170 line segments for the subdivision.

AREA TABLE showing 83 Residential Lots (6.779 Ac), Sandcastle Court R/W (2.313 Ac), Open Space (1.826 Ac), and Total Area (10.918 Acres).

NOTES: 1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE... 2) THIS PROPERTY IS LOCATED IN ZONE A-7... 3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN... 4) L.N. DENOTES IRON NEW 1/2" REBAR SET... 5) UPON APPROVAL AND RECORDING, PROPERTY CORNERS WILL BE SET... 6) THE ONLY ACTIVITIES PERMITTED IN THE EXTERIOR SUBDIVISION BUFFER AS LABELED ON THIS PLAN SHALL BE THOSE LISTED IN PERMITTED ACTIVITY IN OTHER BUFFER AREAS AS PER THE LMO.

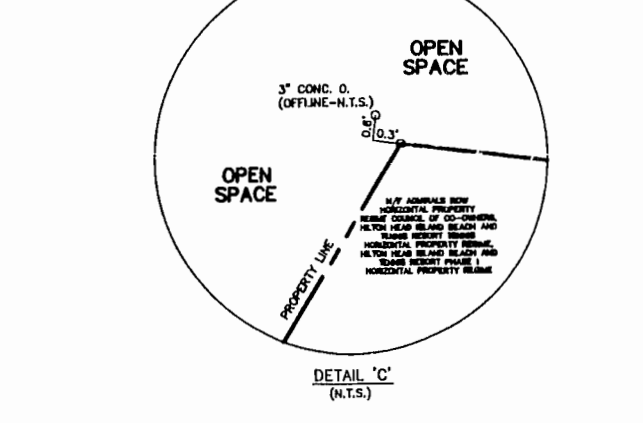
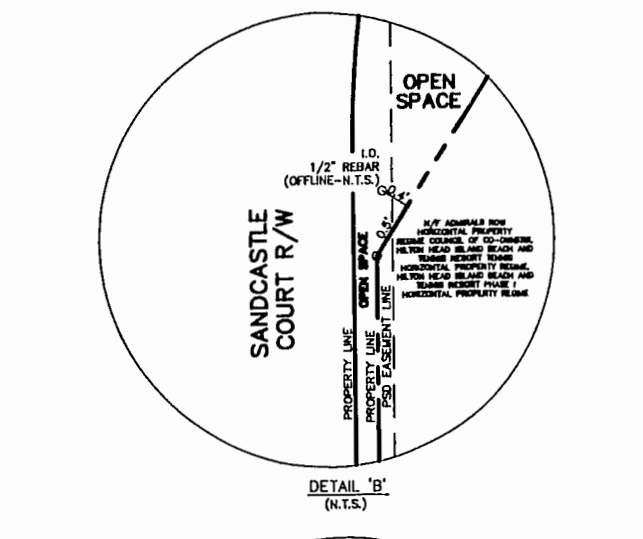
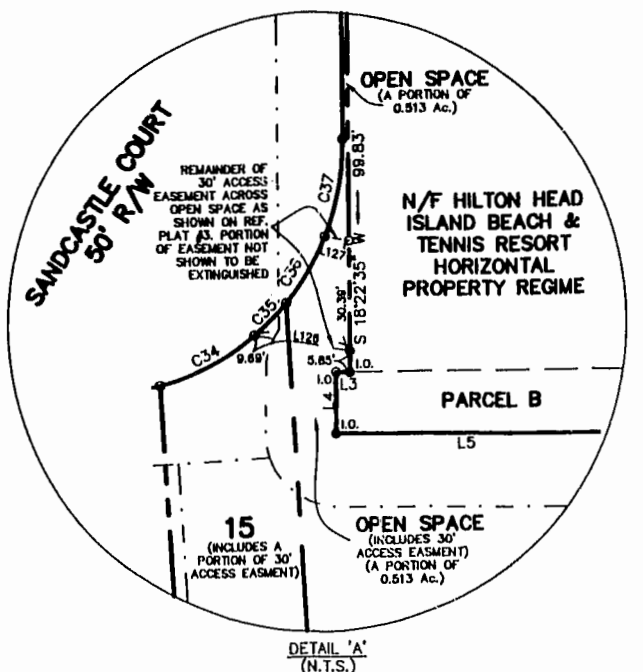
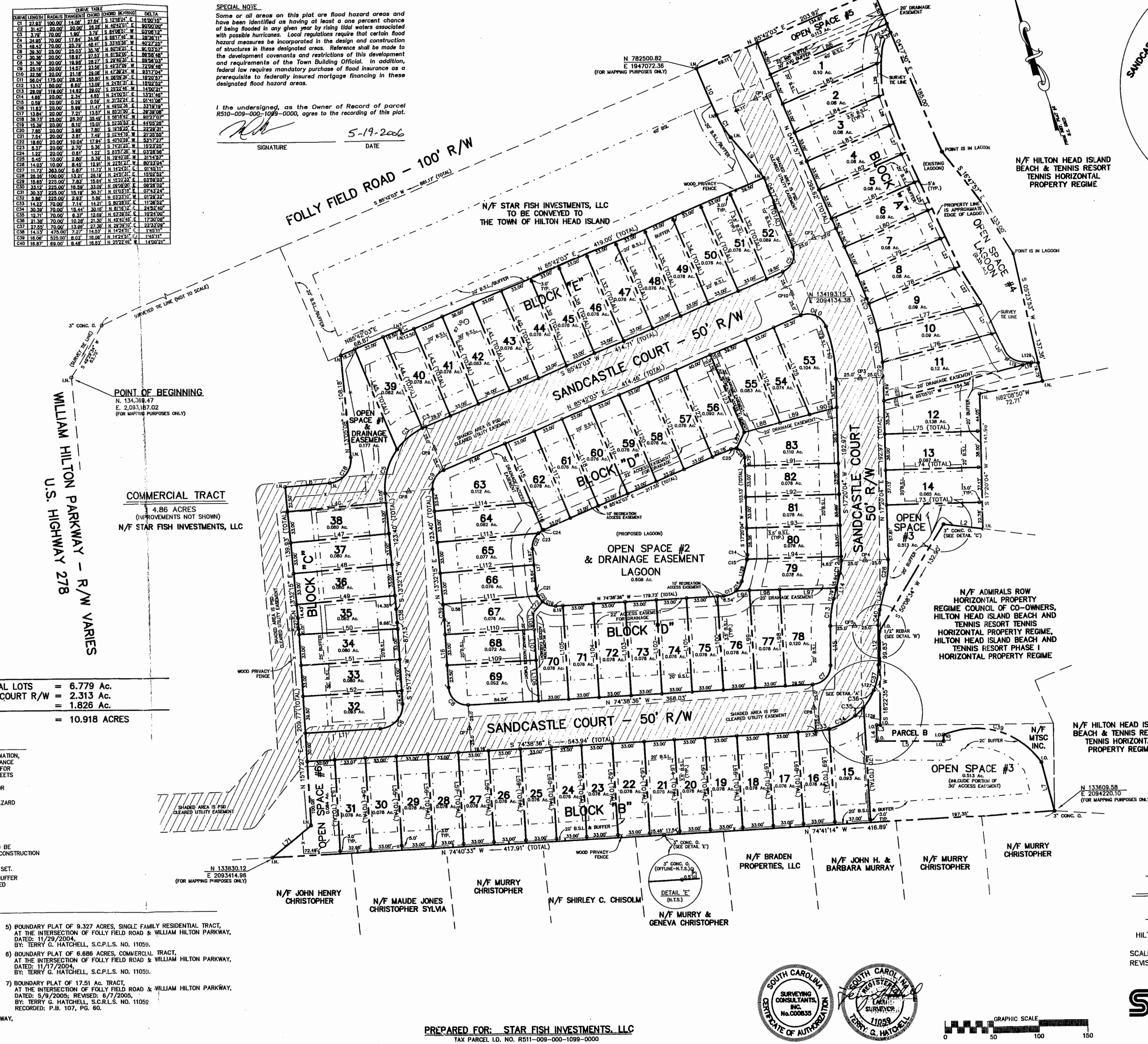
- REFERENCE PLATS: 1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278... 2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC... 3) 14.28 ACRES COMMERCIAL & MULTI-FAMILY TRACT... 4) BOUNDARY PLAT OF 16.013 AC. TRACT... 5) BOUNDARY PLAT OF 9.327 ACRES, SINGLE FAMILY RESIDENTIAL TRACT... 6) BOUNDARY PLAT OF 6.686 ACRES, COMMERCIAL TRACT... 7) BOUNDARY PLAT OF 17.51 AC. TRACT...

Table with 4 columns: BEARING, DISTANCE, BEARING, DISTANCE. It lists 170 line segments for the subdivision.

SPECIAL NOTE: Some or all areas on this plat are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plat. SIGNATURE: [Signature] DATE: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS (THREE POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION). Lists points CPT1 through CPT10 with coordinates.

TOWN OF HILTON HEAD ISLAND, SC SUBDIVISION APPROVAL. The Town has found this plan to be in compliance with the Town's Land Management Ordinance and has authorized this approval.

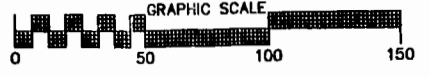
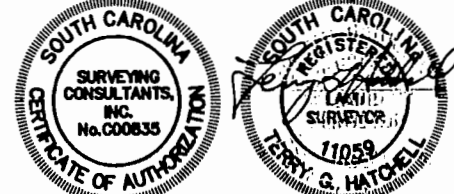
Date of approval: 7/9/06. Application Number: 20040002. Certified by: [Signature]. Title: Mgr. Blc. THIS AFFIDAVIT WILL EXPIRE ON 7/10/07 IN ACCORDANCE WITH LMO SECTION 15.008

SUBDIVISION PLAT OF SANDCASTLES BY THE SEA FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. SCALE: 1" = 50'. DATE: 6/15/2005. JOB NO: 89319L. REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS

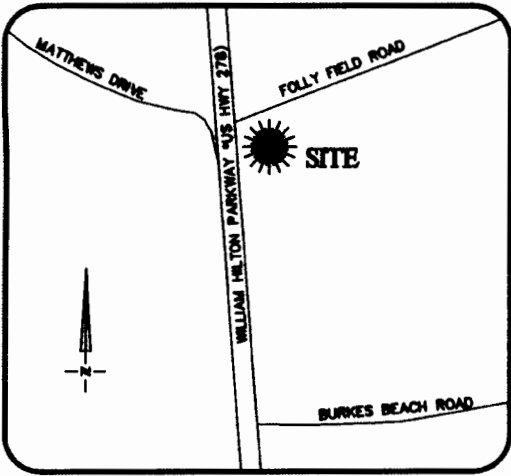
SURVEYING CONSULTANTS logo and contact information: 17 Sherington Drive, Suite C, Bluffton, SC 29910. Telephone: (843) 815-3304. FAX: (843) 815-3305.

PREPARED FOR: STAR FISH INVESTMENTS, LLC. TAX PARCEL I.D. NO. R510-009-000-1099-0000



2974-2017

I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF THE SURVEY SHOWN HEREON 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 B SURVEY AS SPECIFIED THERIN, ALSO THERE ARE NO ENCROACHMENTS, PROJECTIONS, OR SETBACKS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN.

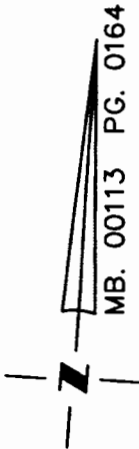
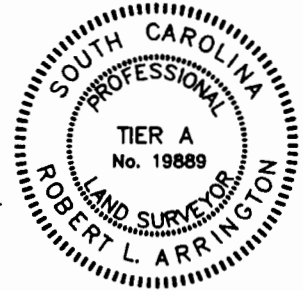


VICINITY MAP
Not To Scale

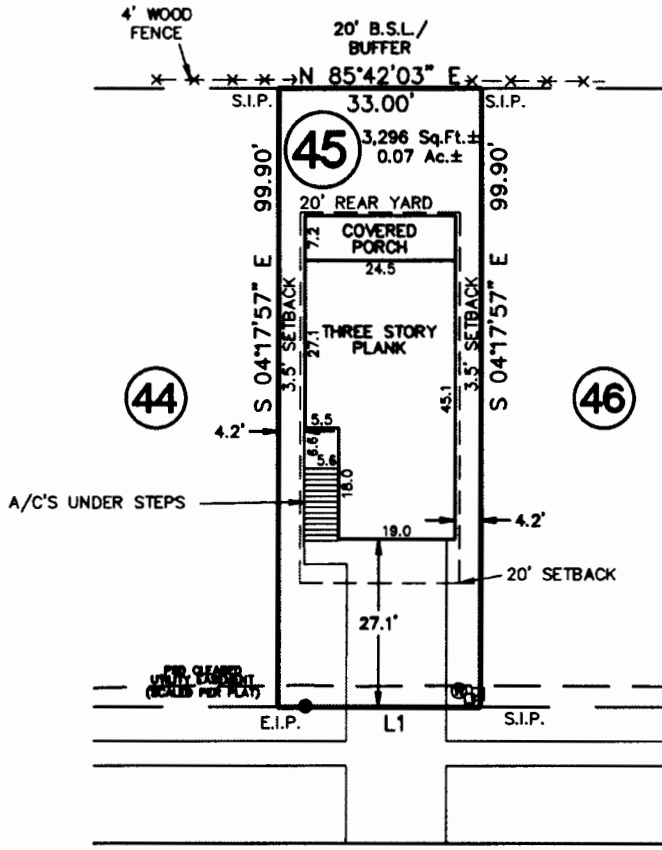
SIGNED Robert L. Arrington
ROBERT L. ARRINGTON, S.C. PLS 1-19889

LEGEND

- E.I.P. EXISTING IRON PIN
- E.C.M. EXISTING CONCRETE MONUMENT
- S.I.P. SET IRON PIN
- F.P.E. FLOOD PROTECTION ELEVATION
- CLOSURE EXCEEDS 1 INCH in 10,000'
- PROPERTY LINE
- ADJOINER PROPERTY LINE
- * * * FENCE LINE
- CLEAN OUT
- LIGHT POST
- ⊕ MAN HOLE
- ⊙ TELEPHONE PEDESTAL
- ⊗ WATER METER
- CB □ CATCH BASIN
- FIRE HYDRANT
- ⊠ TRANSFORMER
- ⊞ ELECTRIC BOX
- CABLE PEDESTAL
- ⊞ WATER VALVE
- ⊞ HVAC



N/F STAR FISH INVESTMENTS, LLC
TO BE CONVEYED TO
THE TOWN OF HILTON HEAD ISLAND



LINE TABLE		
LINE	LENGTH	BEARING
L1	33.00	N85°42'03"E

#117 SANDCASTLE COURT

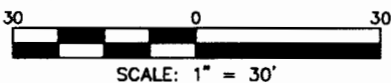
50' R/W

Permit #
2974

TMS: R511-009-000-1151-0000

FLOOD NOTE:
THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 14-D COMMUNITY NO. 450250, MAP DATED 9/28/86. BASE ELEVATION 14.0'. FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OF COUNTY BUILDING INSPECTIONS DEPARTMENT.

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED



PHYSICAL SURVEY
FOR

LOT 45, SANDCASTLES BY THE SEA
Hilton Head Island, Beaufort County, South Carolina

RLA ASSOCIATES, PA
785 KING GEORGE BLVD, SUITE 203
SAVANNAH, GA 31419
PHONE (843) 839-9091
FAX (843) 839-9092

PROPERTY OF: _____
MAP BOOK 00113 PAGE 0164 DEED REFERENCE _____

DRAWN BY: ADM

DATE: MARCH 19, 2018

VAR-001976-2020
117 Sandcastle Ct.
Site Photos taken 11/6/2020

Attachment E



VAR-001976-2020
117 Sandcastle Ct.
Site Photos taken 11/6/2020

Attachment E



VAR-001976-2020
117 Sandcastle Ct.
Site Photos taken 11/6/2020

Attachment E



VAR-001976-2020
117 Sandcastle Ct.
Site Photos taken 11/6/2020

Attachment E



Attachment F

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6,7</small>		
TYPE A BUFFER		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> • Width: 20 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 3 every 100 linear feet • Evergreen shrubs: 8 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 10 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 4 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
TYPE B BUFFER		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear feet • Evergreen shrubs: 12 every 100 linear feet
TYPE C BUFFER		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

Attachment F

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6,7}

TYPE D BUFFER		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1		<ul style="list-style-type: none"> • Width: 30 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen
Option 2		<ul style="list-style-type: none"> • Width 20 feet • <i>Overstory trees</i> : 6 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear ft • A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen
TYPE E BUFFER		
<p>This buffer provides greater spacing and medium-<i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1		<ul style="list-style-type: none"> • Width: 50 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity
Option 2		<ul style="list-style-type: none"> • Width: 35 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 7 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen

Attachment F

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS 1,2,3,4,5,6, 7

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ($1.5 \times 5 = 7.5$, rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated;
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated; and
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



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-001983-2020	November 23, 2020

Parcel or Location Data:	Property Owner and Applicant
<p>Parcel#: R511 009 000 1116 0000 Address: 27 Sandcastle Court Parcel size: 0.09 acres Zoning: RD (Resort Development District) Overlay: COR (Corridor Overlay District)</p>	<p>Jennifer Miotto PO Box 310 Bluffton SC 29910</p>

Application Summary:

Request from Jennifer Miotto for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio and retaining wall to remain in the adjacent use setback and buffer. The property address is 27 Sandcastle Court with a parcel number of R511 009 000 1116 0000.

Staff Recommendation:

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

Background:

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and Folly Field Road to the north and Adventure Cove, Carrabba’s restaurant and an office building to the west.

The subject property, 27 Sandcastle Ct, was constructed in 2016 and purchased by the current owner

in July of 2016 (See Attachment A, Vicinity Map). After the home was constructed and the Certificate of Occupancy was issued, the owner had an approximate 24' 7" by 8' (field measured) paver patio and wall constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 8' (field measured) in the adjacent use setback and buffer although it tapers to a lesser encroachment length due to the parcel shape. LMO Section 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback. While a patio can encroach up to 5 feet into a setback, it cannot encroach into a buffer. Portions of the existing patio even exceeds the allowable setback encroachment. The applicant is seeking an 8' encroachment into the setback and buffer.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25 foot adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5 feet in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type A Option 1 (20 foot) less densely vegetated buffer or a Type A Option 2 (10 foot) more densely vegetated buffer for single family residential use adjacent to a multifamily residential use. The buffer types and options are explained in Table 16-5-103.F (See Attachment J, Buffer Table). A 20 setback is still required along the perimeter of a single family subdivision adjacent to a multifamily residential use.

In July 2019, Staff received several complaints about property owners removing vegetation in the buffers and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10 foot buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded.

Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The parcel shape is mostly rectangular, but at the rear of the property, the property is angled slightly to follow the edge of the lagoon. Because of the slightly irregular parcel shape, the dimensions of the setback and buffer encroachments are lesser on the south side of the lot and greater on the north side. (See Attachment D, As-Built). The allowable setback encroachments in Table 16-5-102.E. allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5 feet into any setback.

The applicant is requesting an 8' variance to allow the existing paver patio and retaining wall to remain in the rear adjacent use setback and buffer.

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

Grounds for Variance:

According to the applicant, the relatively small size of the lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. According to the applicant, a re-vegetation plan for the buffer has already been approved by the Town in 2018.

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 October 1, 2020 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 November 1, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on November 5, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on November 7, 2020 as set forth in LMO Section 16-2-

102.E.2.

- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- Sandcastles by the Sea is a small lot single-family subdivision that consists of 83 lots.
- Most of the lots within the subdivision range from 0.06-0.13 acres with the majority of the lots around 0.07 acres.
- The majority of the lots within the subdivision were platted with a 20' rear setback and buffer.
- The subject property is mostly rectangular in shape as are the majority of the lots in the subdivision.
- The subject lot is 0.09 acres in size.
- The subject property does not contain any unique site features that prohibit development on the lot.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.
- The subject property is average in shape and size for the subdivision and does not contain any extraordinary or exceptional conditions that prohibit development on the lot.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- There are no extraordinary or exceptional conditions that pertain to this property.

- The majority of lots in the Sandcastles by the Sea subdivision are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.
- The conditions that apply to the subject property also apply to other properties in the vicinity.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary or exceptional conditions that apply to the subject property that do not also generally apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- There are no extraordinary or exceptional conditions that pertain to this property.
- The Sandcastle by the Sea subdivision plat was approved with the 20 foot adjacent use setback and buffer in the rear of the subject property.
- The Sandcastle by the Sea subdivision plat has a note that reads, “The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO”.
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio or retaining wall as permitted activities within a required buffer.
- The subject property is currently developed with a 3-story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, garage and a swimming pool.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that apply to the subject property that would prohibit or unreasonably restrict the utilization of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Facts:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The applicant is requesting to keep the existing paver patio which encroaches into the rear setback and buffer.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.
- Staff has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer along the lagoon in between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development. The private covenants prohibit the developer or property owner from seeking the 10 foot buffer option adjacent to the Hilton Head Beach and Tennis Resort development.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance will be of substantial detriment to the adjacent property because the purpose of setback and buffer requirements is to provide visual and spatial separation between developments and mitigate the negative effects between adjacent uses.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.
- While it is not within the Town's purview to enforce private covenants, the Town has been informed that private covenants exist that prohibit disturbance of the 20 foot buffer between the Sandcastles by the Sea subdivision and the Hilton Head Beach and Tennis Resort development.

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 not be granted to the applicant because all four of the variance criteria have not been met.

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

November 12, 2020

DATE

REVIEWED BY:

ND

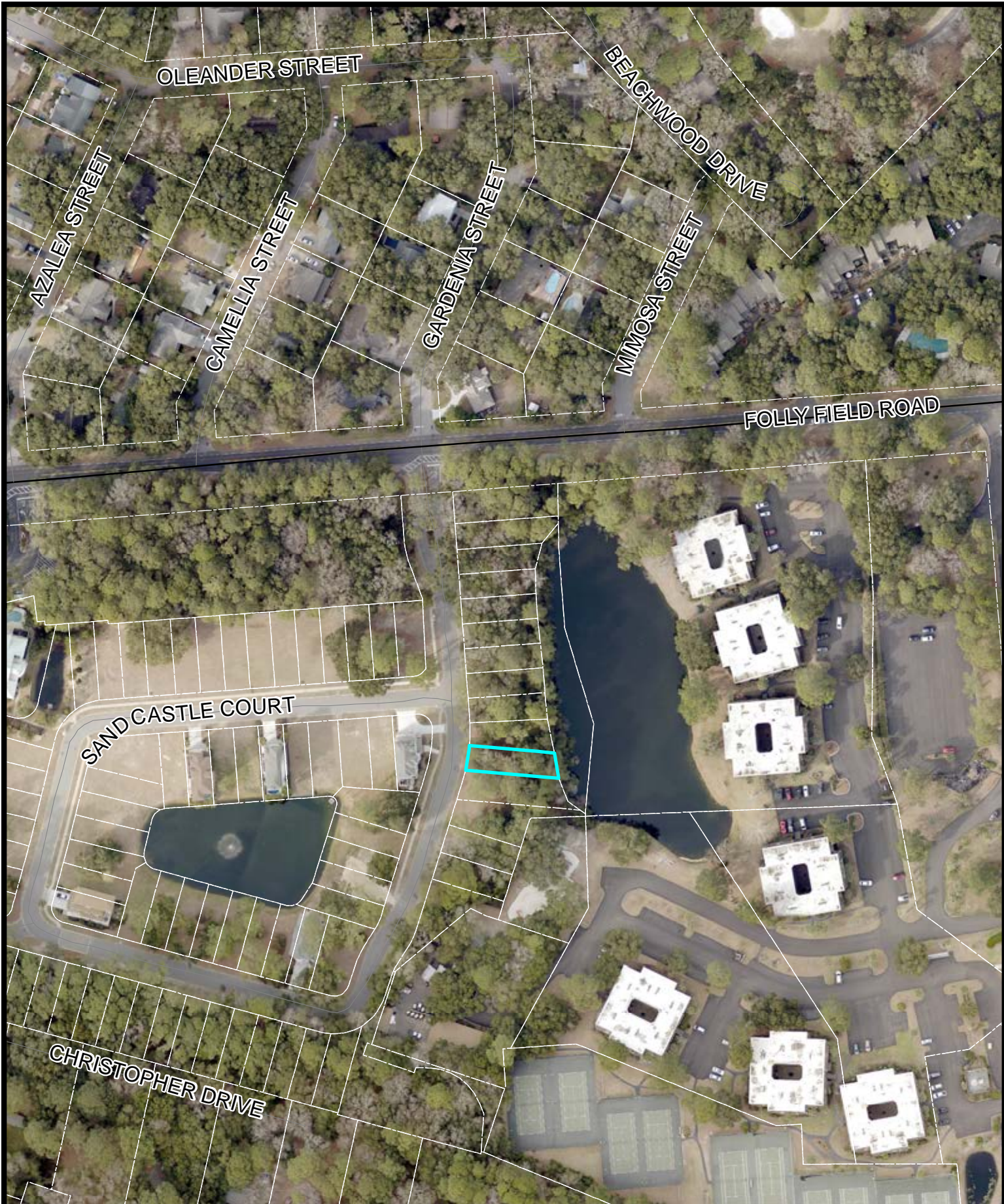
Nicole Dixon, AICP, CFM, Development
Review Administrator

November 12, 2020

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Subdivision Plat
- D) As-built
- E) Site Pictures
- F) Buffer Table



Town of Hilton Head Island

27 Sandcastle Ct.
Attachment A: Vicinity Map



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

175 87.5 0 175 Feet



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

I am writing this letter to request a variance to reduce the rear vegetative buffer on my lot from the required 20 feet to 5 feet.

My single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of my subdivision. In the case of my lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties.

I am requesting a variance to allow 8 feet of the vegetation buffer in my backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home and for safety of our family and our guests from alligators due to the extreme nature of the size of the lot..

The patio is only encroaching on one side as the property line curves further away from the home onto the adjacent property. I believe the variance I am requesting meets all the towns criteria for approval.

Extraordinary and exceptional conditions pertain to my property and do not apply to other properties in Folly Field or on Hilton Head Island.

The Sandcastle by the Sea neighborhood was a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. My lot, which measures much less than 1/10th of an acre, is extraordinary and exceptional compared to all the surrounding lots both in Folly Field and on the entire island. In fact, my lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than my lot. These statistics make my lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because my lot is exceptionally small in comparison to other lots on Hilton Head Island, my buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on my lot, a one-story home could only have ONE bedroom. I am not aware of any other residential lot on HHI, outside my neighborhood, with such a small buildable footprint. The small buildable footprint that I have required me to build a three-story home to get enough square footage to accommodate my family.

Application of the Land Management Ordinance to my piece of property would unreasonably restrict the utilization of the property.

Because the extraordinary and exceptional conditions of my property explained above, I was forced to build the rear of my home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered my entire backyard a vegetation buffer in which no improvements could be made. There is no usable side or front yard space as well. I would like to request a variance to reduce my rear vegetation buffer from 20 feet to 12 feet to regain a small amount of usable backyard in my home that will also serve as safety barrier for our family and guests. If a Variance is granted to reduce my vegetative buffer from 20 feet to 12 feet, I will be allowed to lay natural looking stone pavers that blend in with the environment in this 8-foot area. The joints between the stone pavers will allow for proper drainage.



THIS IS 27 SANDCASTLE AS VIEWED FROM ACROSS THE LAGOON FROM HILTON HEAD BEACH AND TENNIS. THE PATIO CANNOT BE SEEN, NOR CAN THE WALL. YOU CAN SEE THE TREE AND ALL OF THE VEGETATION FROM THE ORIGINAL APPROVED BUFFER PLAN ONLY. THIS PHOTO WAS TAKEN ON SEPTEMBER 30TH, 2020- RIGHT AFTER THE GRASSES HAD BEEN TRIMMED DOWN DUE TO DEAD LEAF ENDS. SO ITS USUALLY EVEN TALLER THAN THIS PHOTO.



27 SANDCASTLE Patio and wall with vegetation behind it. And you can see where we added the three Italian cypress as well as additional shrubs beyond the approved original vegetation plan.



The adjacent property looking towards ours.

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.

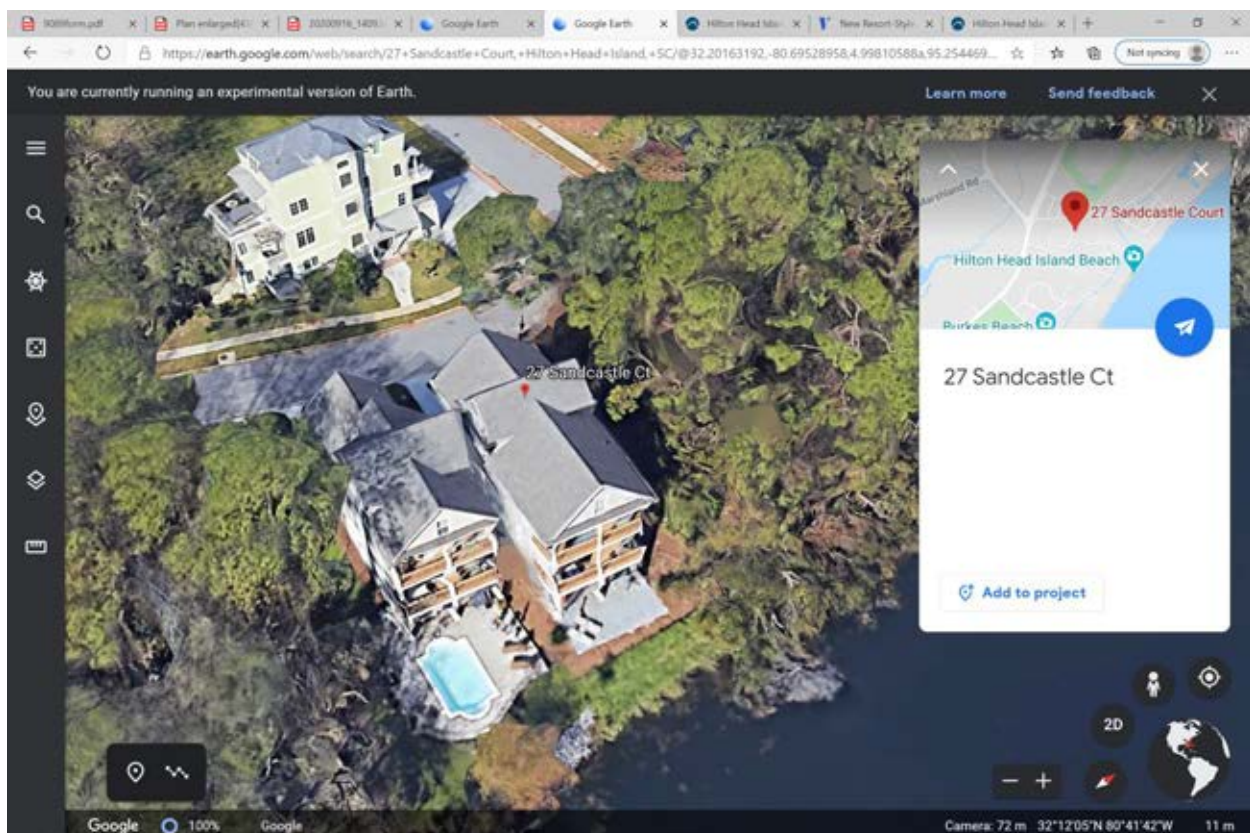
Prior to getting a certificate of occupancy on our home, the builder obtained an approved revegetation landscape plan and this was approved by the town. These plantings were put in place.

There was a grassy area that was not replanted as it had previously existed and was not part of the revegetation plan. This area was allowed by the builder to be planted as grass and was not part of the revegetation plan in the buffer. All that was done after was that permeable and semi porous pavers were put on top of the grass area. These pavers can be taken up at any time and do not change the landscaping that was previously approved in the buffer so we feel the current patio should be grandfathered in.

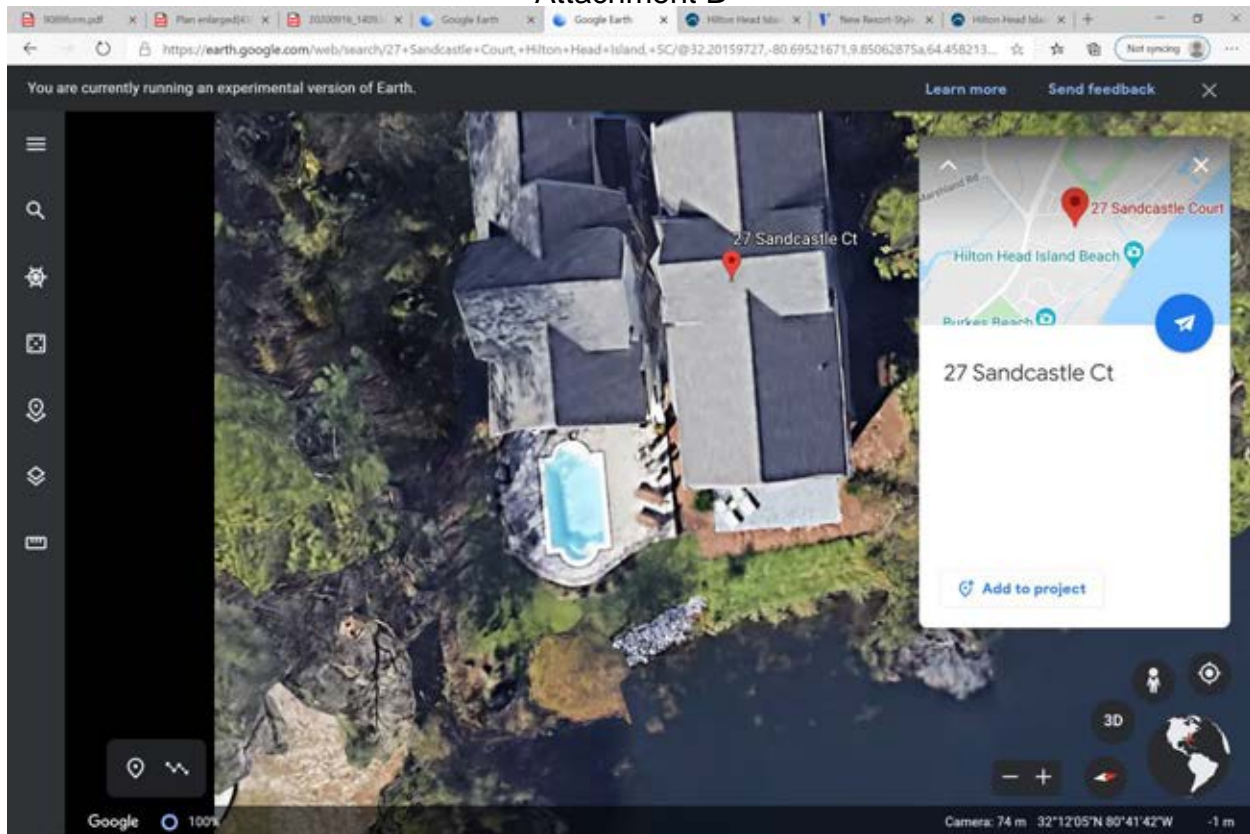
As far as adjacent property impact, the only property owners that can see my property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners have all the same issues as described above and are requesting the same variance I am requesting.

The condo community across the lagoon has absolutely NO VEGETATION buffer at all to the lagoon. Further, the town has already offered a 10 foot variance without us having to go through this application process if we obtain signatures of all owners in the community. If this is acceptable to the town this shows that our current use is not of substantial detriment to any adjacent. I am asking for 2 feet less than that. There will be no visual change or loss of benefit to the town or adjacent properties. As you can see in the photos, the area from the patio to the lagoon is highly vegetated with the plan approved when the home was originally built. Removing the patio and returning it to grass does not improve or increase the vegetation inside the buffer as all of the required plantings have already been put into place.

Further, the adjacent home pictures below (not in violation only due to a property line variation) with the pool outside actually extends beyond our patio and has no significant vegetation on the bank. Once again proving that OUR improvement is not of substantial detriment as it is far less visual than adjacent homes.



Attachment B



The current position of the Town Of Hilton Head Island to keep a heavily vegetated buffer in place that essentially backs up to the house is now creating a dangerous area for alligators to hide and ambush my family and children without allowing an adequate escape route while using the pool .

On August 20th 2018 a woman was killed by an alligator attack on Hilton Head Island. The husband is now suing for community for wrongful death and being grossly negligent by not taking adequate steps to prevent the attack.

By the pictures presented in the violation taken by the Town of Hilton Head you can see how dense the vegetation has grown within the buffer in the space of two years. Imagine an alligator hiding within the vegetation buffer right off the pool. THEY DO. WE see them. We also have photos attached of them coming onto land very close to the pool. There is no way you could see an alligator right before it is ready to attack. You can also see that even with the current patio and low retaining wall that there is at least some distance that will allow for an escape route to be executed. It is essential to the safety of my family and guests that the buffer be reduced to five feet so the small retaining wall can give my family an escape route from alligator attacks. Enforcing a rule to require a heavily vegetated area that backs up to a pool where children are playing knowing there are alligators in the pond that backs up to the pool would be grossly negligent. I have enclosed a recent picture of an alligator in the pond taken from my deck. We also have video of a large alligator that attacks and eats an animal in the yard to the right of my pool. Would you and your family feel safe swimming in a pool or enjoy using your yard as one should be allowed knowing the alligators on the island and knowing an alligator is only a couple of steps from encountering you and your family.

Attachment B

This is an alligator at the base of our vegetation buffer. Most recently it had a nest in the vegetation and frequently comes up onto land here. The seating wall and patio would prevent one from being able to dart out of the water directly into a person or our pool. Unfortunately, we witness so many of the vacationers across the lagoon at Hilton Head Beach and Tennis Condos feeding and taunting them that they immediately come towards our homes when people are outside or they smell food. Unfortunately, relocation will not work as this behavior is constant from the condo guests/residents.



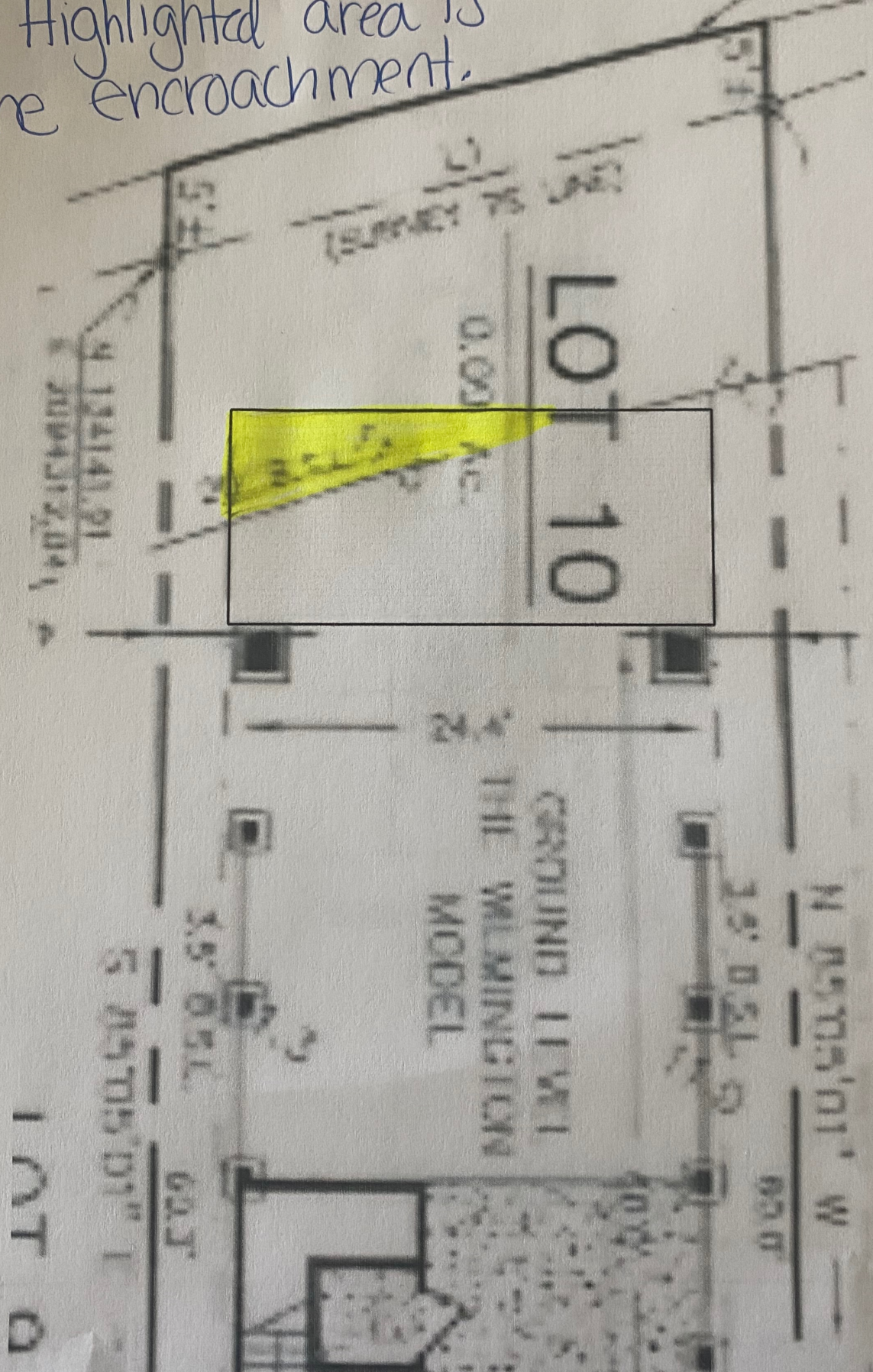
If our Variance is denied, enforcement of this strict vegetation buffer will result in an unnecessary hardship for my family, and if a variance is granted, I feel the spirit of the law will still be observed, public welfare, community beautification and safety will not be diminished and substantial justice will be done.

Thank you for your time,

Jennifer Miotto
OWNER- 27 Sandcastle Ct. Hilton Head Island

LAGOON

Highlighted area is the encroachment.



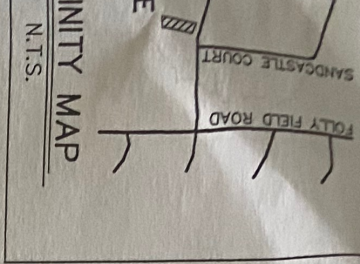
Notes:

Screen Walls Under Covered Lana

Quick Residence
268 Cool Breeze Drive

PORCHMASTERS

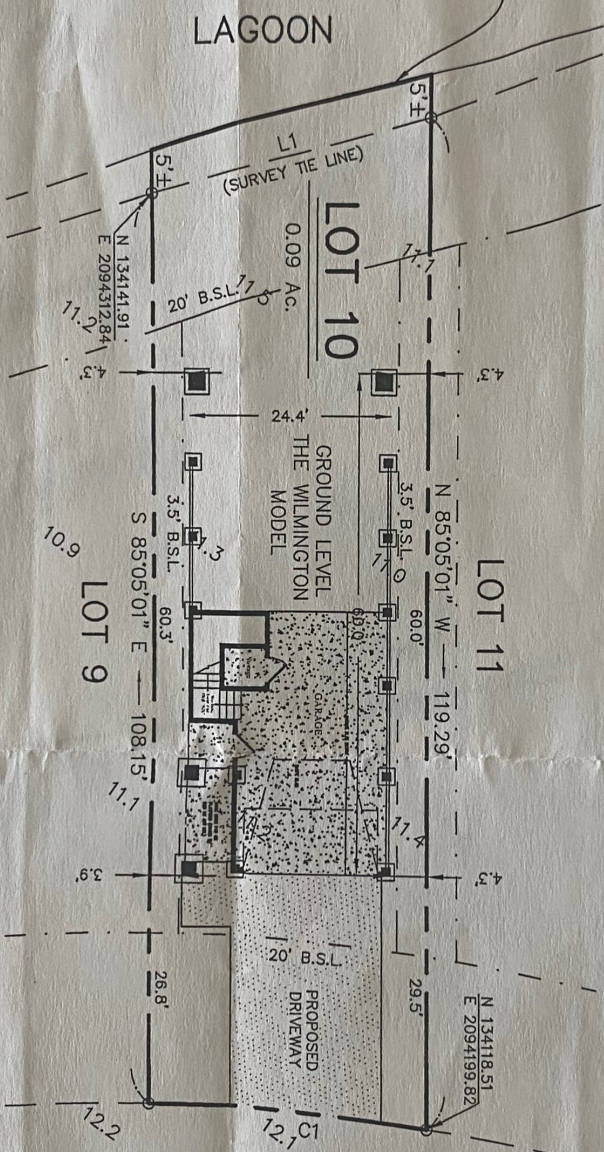




CURVE TABLE		CURVE TABLE		CURVE TABLE		
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	33.12'	225.00'	16.59'	33.09'	N 09°07'59" E	8°26'03"

LINE TABLE	
LINE	BEARING
L1	S 09°51'20" E

N/F
SANDCASTLES BY THE SEA OWNERS ASSOCIATION
 TAX PARCEL I.D. NO. R511 009 000 1194 0000

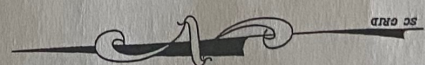


SANDCASTLE COURT
 50' R/W

REFERENCE PLAT:

DIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, DATED: 06/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: P.B. 113, PG. 164, DATE: 5/19/2006.

AREA	Sq.Ft.	PERCENTAGE
PREVIOUS	1,896	48
IMPERVIOUS	2,017	52
TOTAL	3,913	100



NOTES:

- 1) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D., PANEL 0014-D, COMMUNITY NO. 450250, MAP DATED 9/29/86. BASE ELEVATION 14.0'.
- 2) THE PURPOSE OF THIS SITE PLAN IS TO SHOW THE LOCATION OF A PROPOSED NEW RESIDENCE ON THE LOT. THIS IS NOT A BOUNDARY SURVEY AND IS NOT INTENDED FOR RECORDING PURPOSES.
- 3) 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.

ADDRESS: #27 SANDCASTLE COURT
 TAX PARCEL I.D. NO. R511-009-000-1116-0000
 GRAPHIC SCALE

15035P4D

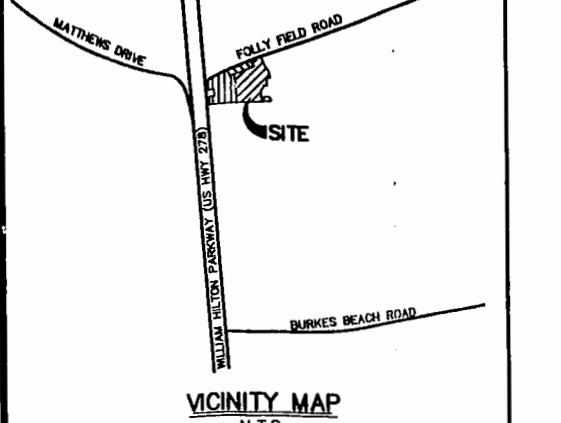


Table with columns: LINE, LENGTH, BEARING, LINE, LENGTH, BEARING. Contains detailed survey data for various lines and bearings.

AREA TABLE
83 RESIDENTIAL LOTS = 6.779 Ac.
SANDCASTLE COURT R/W = 2.313 Ac.
OPEN SPACE = 1.826 Ac.
TOTAL AREA = 10.918 ACRES

NOTES
1) 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...

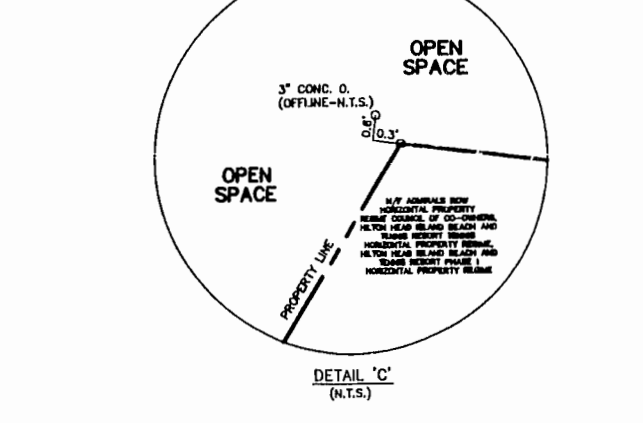
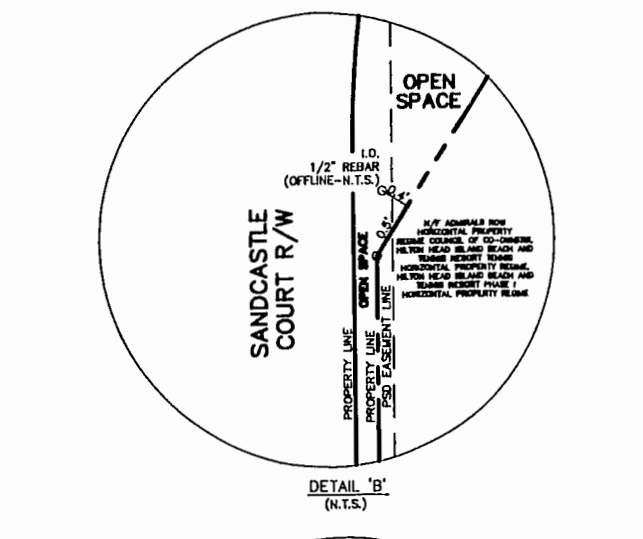
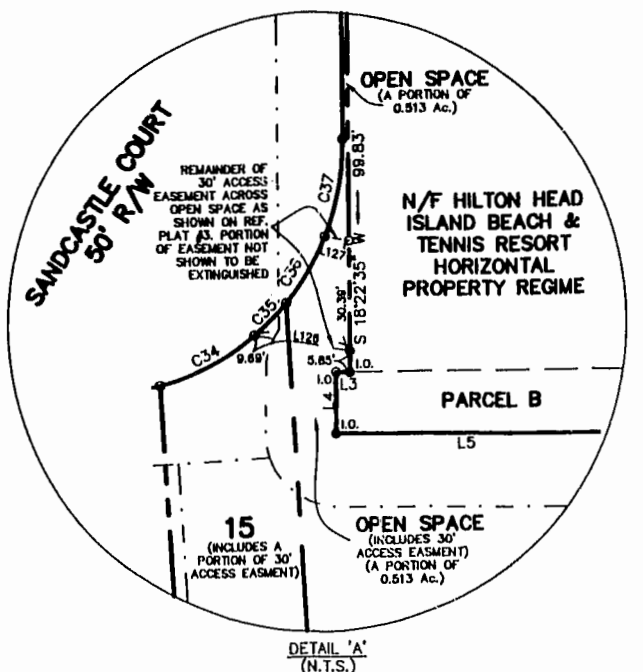
- REFERENCE PLATS
1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278, DATED: 5/9/2000...

Table with columns: CURVE DATA, BEARING, DISTANCE, CHORD BEARING, DELTA. Contains curve data for various points.

SPECIAL NOTE
Some or all areas on this plot are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plot.
Signature: [Handwritten Signature]
Date: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS
(CHECK POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION)
CPT 1 N 134426.47 E 2094162.22
CPT 2 N 134266.35 E 2094174.28

TOWN OF HILTON HEAD ISLAND, SC
SUBDIVISION APPROVAL
Date of approval: 7/9/05
Application Number: S15035002
Certified by: [Signature]
Title: Mgr. Blaz E

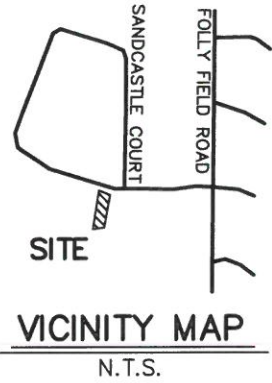
SANDCASTLES
BY THE SEA
FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA
SCALE: 1" = 50' DATE: 6/15/2005 JOB NO: 89319L
REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS

South Carolina Surveying Consultants logo and contact information: 17 Sherington Drive, Suite C, Bluffton, SC 29910

PREPARED FOR: STAR FISH INVESTMENTS, LLC
TAX PARCEL I.D. NO. R510-009-000-1099-0000

0138-14

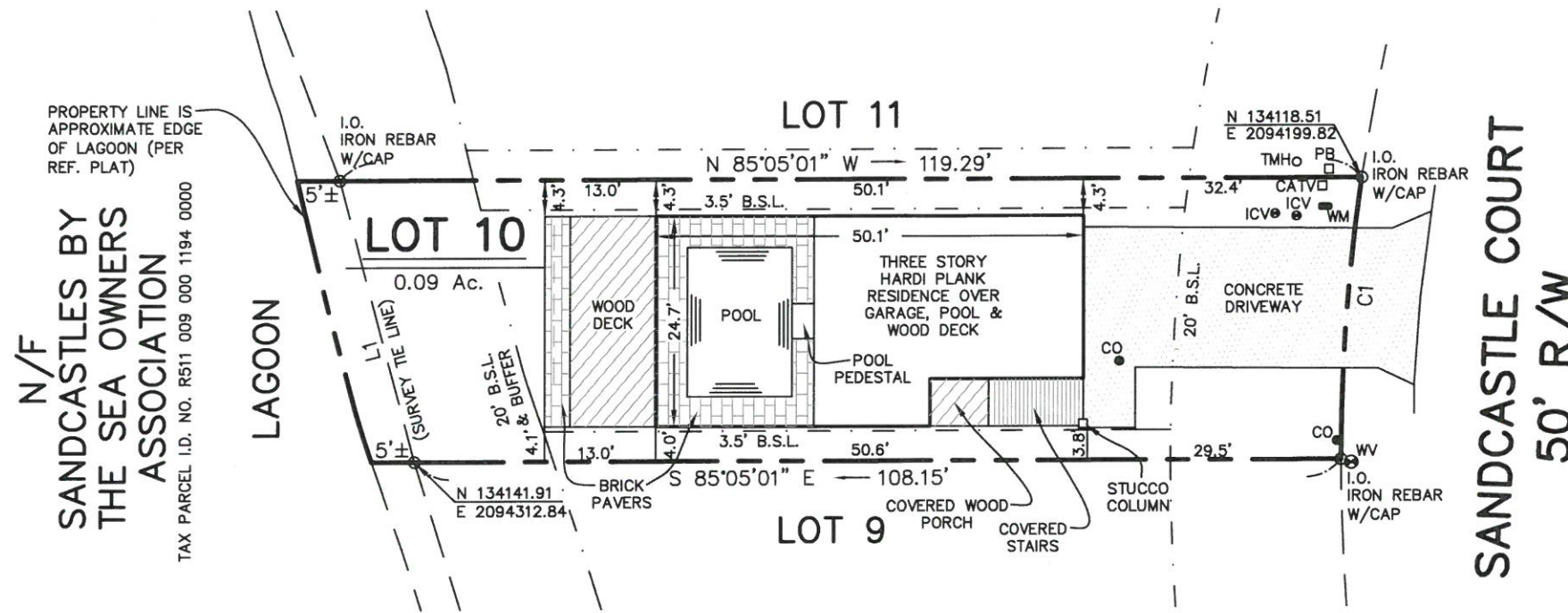


CURVE TABLE						
CURVE	LENGTH	RADIUS	TANGENT	CHORD	BEARING	DELTA
C1	33.12'	225.00'	16.59'	33.09'	N 09°07'59" E	8°26'03"

LINE TABLE		
LINE	LENGTH	BEARING
L1	34.13'	S 09°51'20" E

NOTES:

- 1) 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.
- 2) AS OF THE DATE OF THIS SURVEY THIS LOT IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D., PANEL 0014-D, COMMUNITY NO. 450250, MAP DATED 9/29/86, BASE ELEVATION 14.0'.
- 3) 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.



LEGEND:

- I.O. IRON REBAR, OLD (FOUND)
- CATV CABLE BOX
- CO CLEANOUT
- ICV IRRIGATION CONTROL VALVE
- PB POWER BOX
- TMH TELEPHONE MANHOLE
- WM WATER METER
- WV WATER VALVE

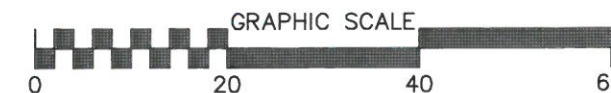
REFERENCE PLAT:

- 1) SUBDIVISION PLAT OF SANDCASTLES BY THE SEA, FOLLY FIELD ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA, DATED: 06/15/2005, LAST REVISED: 05/19/2006, BY: TERRY G. HATCHELL, S.C.R.L.S. NO. 11059, RECORDED: P.B. 113, PG. 164, DATE: 5/19/2006.

PREPARED FOR: VILLAGE PARK HOMES

ADDRESS: #27 SANDCASTLE COURT

TAX PARCEL I.D. NO. R511-009-000-1116-0000



ASBUILT
SURVEY OF
LOT 10
SANDCASTLE COURT

A PORTION OF
SANDCASTLES BY THE SEA

HILTON HEAD ISLAND
BEAUFORT COUNTY
SOUTH CAROLINA



SURVEYING CONSULTANTS

17 Sherington 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

SCALE: 1" = 20'
DATE: 07/22/2016
JOB NO: SC150155F

CREW: JM/EH
CAD: ML
COPYRIGHT © BY SURVEYING CONSULTANTS

VAR-001983-2020
27 Sandcastle Ct
Site Photos Taken 11/6/2020

Attachment E



VAR-001983-2020
27 Sandcastle Ct
Site Photos Taken 11/6/2020

Attachment E



VAR-001983-2020
27 Sandcastle Ct
Site Photos Taken 11/6/2020

Attachment E



VAR-001983-2020
27 Sandcastle Ct
Site Photos Taken 11/6/2020

Attachment E



VAR-001983-2020
27 Sandcastle Ct
Site Photos Taken 11/6/2020

Attachment E



VAR-001983-2020
27 Sandcastle Ct
Site Photos Taken 11/6/2020

Attachment E



Attachment F

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6,7</small>		
TYPE A BUFFER		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> • Width: 20 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 3 every 100 linear feet • Evergreen shrubs: 8 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 10 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 4 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
TYPE B BUFFER		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear feet • Evergreen shrubs: 12 every 100 linear feet
TYPE C BUFFER		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

Attachment F

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

TYPE D BUFFER		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A double-headed arrow above the diagram indicates the 100-foot width, and a vertical double-headed arrow on the right indicates the 30-foot height.</p>	<ul style="list-style-type: none"> • Width: 30 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A vertical double-headed arrow on the right indicates the 20-foot height.</p>	<ul style="list-style-type: none"> • Width 20 feet • <i>Overstory trees</i> : 6 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear ft • A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen
TYPE E BUFFER		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A double-headed arrow above the diagram indicates the 100-foot width, and a vertical double-headed arrow on the right indicates the 50-foot height.</p>	<ul style="list-style-type: none"> • Width: 50 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity
Option 2	<p>A diagram showing a 35-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen is composed of various tree and shrub symbols. A vertical double-headed arrow on the right indicates the 35-foot height.</p>	<ul style="list-style-type: none"> • Width: 35 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 7 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen

Attachment F

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ($1.5 \times 5 = 7.5$, rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated;
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated; and
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

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

Case #: VAR-001985-2020	Public Hearing Date: November 23, 2020
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Parcel or Location Data:	Property Owner	Applicant
Address: 115 Sandcastle Court Parcel#: R511 009 000 1150 0000 Zoning: RD (Resort Development District) Overlay: COR (Corridor Overlay District)	Grand Inn HHI LLC 2016 Long Cove Round Rock, TX 78664	Kevin Grandin 2016 Long Cove Round Rock, TX 78664

Application Summary:

Request from Kevin Grandin for a variance from 15-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow a retaining wall and patio to be constructed in the adjacent use setback and buffer. The property address is 115 Sandcastle Court with a parcel number of R511 009 000 1150 0000.

Staff Recommendation:

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

Background:

The subject property is located in the Sandcastles by the Sea subdivision off Folly Field Road. The subdivision was approved in 2007 (SUB050002). The subdivision is surrounded by the Hilton Head Beach and Tennis Resort (multi-family residential) to the east, single family residential to the south, Town-owned property and single family residential to the north and Adventure Cove, Carrabba's restaurant and an office building to the west.

The subject property, 115 Sandcastle Court, was purchased by the applicant in 2019 and the

Certificate of Occupancy for a new single-family residence was issued in 2019. After the home was constructed and the Certificate of Occupancy was issued, the applicant had a paver patio constructed in the rear of the property, extending from the pool area into the rear adjacent use setback and buffer. The patio encroachment is approximately 8'-0" (field measured) in the adjacent use setback and buffer. LMO Section 16-5-102.E allows for "uncovered porches, stoops, decks, patios, or terraces" to extend up to 5' into any setback. While a patio can encroach up to 5' into a setback, it cannot encroach into a buffer. The existing patio even exceeds the allowable setback encroachment.

The Sandcastles by the Sea subdivision was approved with a 20 foot adjacent use setback and buffer around the perimeter of the subdivision (a 25' adjacent use buffer was approved on the western subdivision perimeter), as shown on the subdivision plat (See Attachment C, Subdivision Plat).

The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff. The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments. Buffer and setback areas frequently overlap, but the standards that apply to these areas are different. For example, uncovered patios are allowed to encroach up to 5' in setbacks, but patios are not allowed in buffers, which are meant to be landscaped or naturally vegetated.

At the time the subdivision was approved, there was not any flexibility in buffer options. With the 2014 LMO re-write, the buffer standards were made more flexible. This type of development would now require either a Type C Option 1 (25') less densely vegetated buffer or a Type C Option 2 (15') more densely vegetated buffer for single family residential use adjacent to a vacant Resort Development (RD) zoned property. The buffer types and options are explained in Table 16-5-103.F (See Attachment G, Buffer Table). A 30' setback is required along the perimeter of a single family subdivision adjacent to a vacant RD zoned property.

In July 2019, Staff received several complaints about property owners removing vegetation and making improvements such as patios within the buffer. Upon a site visit, staff found several violations in the area in which we received complaints about. Violation letters were sent to the property owners notifying them of the violation and providing a deadline to remove the encroachments or apply for a variance.

A representative of the property owners contacted staff after receiving the violation letters and asked if the deadline to remove the encroachments could be extended to November 2019, as the majority of the homes are vacation rentals and it was the middle of the summer season. Staff felt that was reasonable and extended the deadline.

In early fall of 2019, the representatives of the property owners met with staff to discuss their options. One of their requests was to reduce the buffer to the 10' buffer option. Staff informed them that to utilize the reduced buffer option, the entire subdivision plat would need to be revised and recorded. Town Staff had been working with the representatives to pursue a buffer reduction request for the entire subdivision, but it was determined by the representative to be too costly to do and they didn't

think they could get 100% owners consent.

Staff was informed in Spring of 2020 that there were several other properties in this subdivision that had encroachments in the buffer. Staff decided to do a site visit to all of the properties in the subdivision and compiled a list of the violations. In August of 2020 a second violation letter was issued to property owners with a deadline to remove the encroachments and restore the buffers back to a vegetated area by October 1, 2020. The property owners were informed that if they did not adhere to the deadline the Town would place a hold on their parcel making it so that no further building permits could be issued until the violation had been corrected. The property owners were all informed that they also had the option to apply for a variance if they wished to keep the encroachments.

The applicant is requesting a variance to allow the existing paver patio to remain in the rear adjacent use setback and buffer and extend the encroachment to a total of 15’.

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

Grounds for Variance:

According to the applicant, the relatively small size of his lot combined with the setback and buffer requirements of the LMO are extraordinary and exceptional conditions. The variance is required in order to prevent the erosion of soil into the swimming pool and other livable space in the home.

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 October 2, 2020 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 November 1, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on November 6, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on November 8, 2020 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

Conclusions of Law:

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The subject property is .07 acres.
- The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property does not contain any unique site features that prohibit development on the lot.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact:

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every

square foot of buildable space on the subject property.

- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio as a permitted activity within a required buffer.
- A three story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, and a swimming pool has been constructed at the subject property.

Conclusion of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Facts:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- One property directly adjacent to the subject lot has encroachments in the setback and buffer and has applied for a variance to keep them.
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produces very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

Conclusions of Law:

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

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 denied 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:

TN.

Tyler Newman
Senior Planner

11/12/2020

DATE

REVIEWED BY:

ND.

Nicole Dixon, AICP, CFM,
Development Review Administrator

11/12/2020

DATE

ATTACHMENTS:

- A) Vicinity Map**
- B) Applicant's Narrative**
- C) Subdivision Plat**
- D) As-Built Survey**
- E) Site Plan**
- F) Site Photos**
- G) Buffer Table**

Attachment A – Vicinity Map

Folly Field Road

Sandcastle Court



Town of Hilton Head Island
VAR-001985-2020 - 115 Sandcastle Court

October, 2020



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



TOWN OF HILTON HEAD ISLAND
648 TOWN CENTER COURT
HILTON HEAD ISLAND, S.C. 29928
PHONE (843) 341-1600
Date Created:
Project: 1985-2020

We are writing this letter to request a variance to seek and obtain relief from the following standards:

- **Chapter 16-5-102 Setback Standards**
- **Chapter 16-5-103 Buffer Standards**
- **Chapter 16-5-113 Fence and Wall Standards**

We Respectfully Request:

- **Reduction of the rear vegetative buffer on our lot from the required 20 feet to 5 feet.**

Our single-family home is located in the Sandcastles by the Sea neighborhood in Folly Field. The Town of Hilton Head Land Management Ordinance requires an adjacent use buffer along the boundary of our subdivision. In the case of our lot, the buffer is 20 feet from the rear property line. The Town of Hilton Head requires this 20 foot buffer to be a natural vegetated area, and to provide an aesthetic and spatial separation between uses and streets and uses and adjacent properties, and not to have improvements such as patios, retaining walls, and pavers.

We are requesting a variance to allow 15 feet of the vegetation buffer in the backyard to contain improvements of natural looking stone pavers with permeable joints, and a natural looking stone retaining wall of less than 3 feet in height, to prevent erosion of soil into the swimming pool and other livable space in the home.

We believe the variance we are requesting meets all of the town's criteria for approval.

Extraordinary and exceptional conditions pertain to our property and do not apply to other properties in Folly Field or on Hilton Head Island.

The Sandcastle by the Sea neighborhood is a residential planned community first developed back in 2006 by Star Fish Investments LLC. The community was developed into 83 individual buildable lots. All the lots are nearly identical in size and shape, and measure roughly 100 feet long by 33 feet wide, and only average 0.076 acres each. Our lot, which measures much less than 1/10th of an acre, is extraordinary and exceptional compared to all the surrounding lots both in the Folly Field area and on the entire island. In fact, our lot is less than half the size of all the surrounding residential lots in Folly Field. Other residential lots on Hilton Head Island are on the average 5 times larger than our lot. These statistics make our lot unusually small as compared to all the other residential lots on Hilton Head Island.

Because our lot is exceptionally small in comparison to other lots on Hilton Head Island, the buildable footprint is also exceptionally small. In fact, due to easements and setbacks on the lot, the home had to be built utilizing every square foot of buildable space. The home literally had to be built exactly between the required front setback from the street, and the required 20-foot vegetation buffer at the rear of the lot. The buildable footprint is so small on the lots, a one-story home could only have ONE bedroom. We are not aware of any other residential lot on Hilton Head, outside our neighborhood, with such a small buildable footprint. The small buildable footprint that we have required us to build a three-story home to get enough square footage to accommodate our family.

Application of the Land Management Ordinance to our piece of property would unreasonably restrict the utilization of the property.

Because of the extraordinary and exceptional conditions of our property explained above, we were forced to build the rear of the home up against the 20-foot vegetation buffer setback line. The application of the Land Management Ordinance effectively rendered our entire backyard a vegetation buffer in which no improvements could be made.

The naturally existing topography of the backyard is also unusual. The vegetation buffer area towards the rear of the lot is 3 feet higher than the vegetation buffer area against our home. The low point of the buffer rests against the back of our home, butting up to the edge of the swimming pool. This significant slope of the lot toward our home, during rains, causes dirt and debris to flow into the home's living space around the pool and even into the swimming pool located under the house. This creates a dangerous situation because our pool water is being contaminated with dirt and mud during heavy rains. It also makes it difficult to walk around the back perimeter of our home due to the erosion of land. The only solution that would prevent erosion due to the backyard slope of the land is to build a small, less than 3 foot, retaining wall. The wall will be constructed of natural stone / pavers which will blend in with the surrounding vegetation. This wall eliminates both the soil erosion problem and safety issue with contaminated swimming pool water and water under the house.

The natural stone looking wall will be small and subtle - under 3 feet in height. The wall will be constructed 5 feet from the rear of the property line and encroach 15 feet into the vegetation buffer. The 5 feet of vegetation buffer behind the wall was originally mostly mud with little

vegetation, so we came up with a landscaping plan to enhance and vegetate these 5 feet. Our plantings will meet and exceed the town's vegetation buffer requirements.

The installation of our small retaining wall corrects the topography issue, solves our erosion issue, eliminates a safety hazard in our swimming pool, and creates a beautifully landscaped and thriving 5-foot vegetative buffer. Our vegetative buffer will contain numerous shrubs, elephant ears, ferns, and numerous other indigenous plantings (ginger, azalea, gardenia) which blend into the existing environment.

After the retaining wall is built, we then have only 15 feet between the back of our home and the retaining wall. The Towns Land Management Ordinance requires the only remaining 15 feet of my back yard to be heavily vegetated. This effectively would render our home with no usable backyard. Because of these conditions, the application of this ordinance to our property would unreasonably restrict the utilization of our property. We would like to request a variance to reduce our rear vegetation buffer from 20 feet to 5 feet to regain a small amount of usable backyard in our home.

If a Variance is granted to reduce our vegetative buffer from 20 feet to 5 feet, we will be allowed to lay natural looking stone pavers that blend in with the environment in this 15-foot area. The joints between the stone pavers will allow for both proper drainage and keep earth from flowing into the living space and swimming pool under our home. The granting of this Variance will also allow us to enjoy the natural surroundings in our backyard, enjoy viewing the natural wildlife, and create a sense of place and privacy.

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.

Our entire backyard is directly backed up to a heavily treed and vegetated plot of land owned and protected by the Town of Hilton Head. This plot of land is between the rear of our lot and Folly Field Road and essentially creates approximately 135 feet of heavily treed and natural vegetation. When you add our entire backyard of 20 feet as a vegetation buffer, the total amount of trees and natural vegetation between our home and Folly Field road increases to approximately 155 feet. If our requested variance is approved, the overall vegetated area will reduce only 15 feet to approximately 140 feet. The reduction in vegetation is so small and will have such a negligible impact, that it would not be noticed by the public. Anyone traveling on Folly Field Road or on the bike path would not be impacted by this variance due to the Town's large vegetative buffer as well as the privacy fence that sits above our lot and runs along the entire length of the subdivision that borders the road.

As far as adjacent property impact, the only property owners that can see our property or proposed improvements, are all located on the same street in Sandcastles by the Sea. Each of these adjacent owners all have the same issues as described above and are requesting the same variance we are requesting.

We have attached pictures that show what the natural land looked like in our backyard before improvements and a picture of what the improvements we are requesting will look like. You can see after our improvements, we can prevent unwanted and unsafe land erosion, and at the same time, create a small area to be able to enjoy the natural vegetation, trees, and wildlife that surround our home. Our improvements will create a viewing place for all our surrounding nature and is in harmony with the Islands Character Vision Statement. Our above improvements will truly give us the ability to lose nothing, but see more, enjoy the outdoors and have our property better contribute to the overall beauty and future vision of Hilton Head Island.

If our Variance is denied, enforcement of this strict vegetation buffer will result in a unnecessary hardship for our family, and if a variance is granted, we feel the spirit of the law will still be observed, public welfare and safety will not be diminished and we will be creating a more peaceful and beautiful environment in which to enjoy the wonders of the island.

We appreciate you all taking the time to review and consider our variance application!

Sincerely,

Kevin, Martha, Kyle, Ryan and Erica Grandin

15035P4D

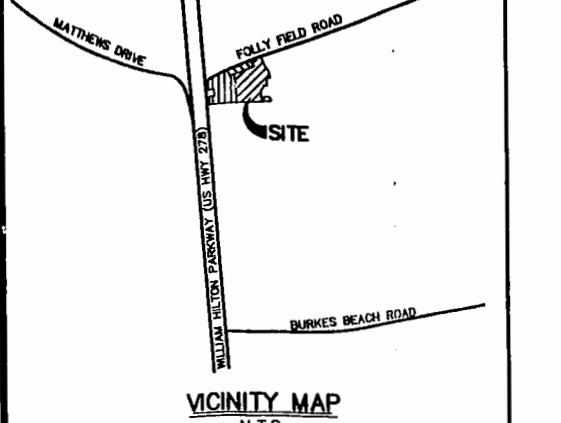


Table with columns: LINE, LENGTH, BEARING, LINE, LENGTH, BEARING. Contains detailed survey data for various lines and bearings.

AREA TABLE
83 RESIDENTIAL LOTS = 6.779 Ac.
SANDCASTLE COURT R/W = 2.313 Ac.
OPEN SPACE = 1.826 Ac.
TOTAL AREA = 10.918 ACRES

- NOTES
1) I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF...
2) THIS PROPERTY IS LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA...
3) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN.

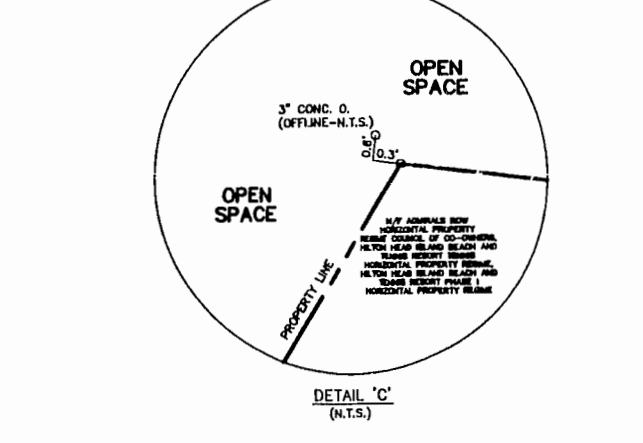
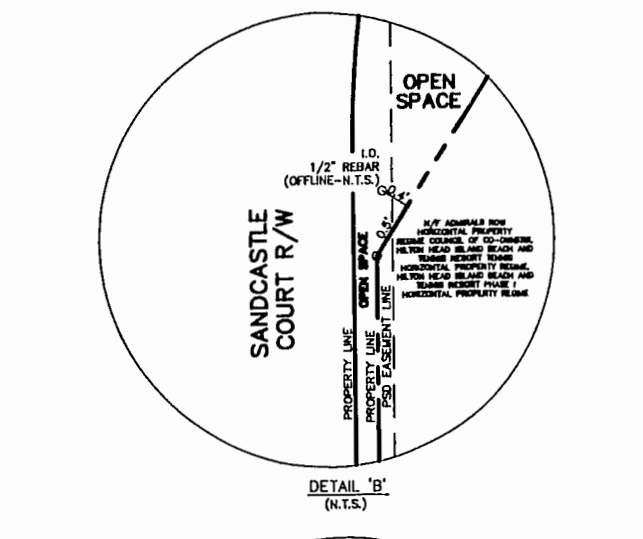
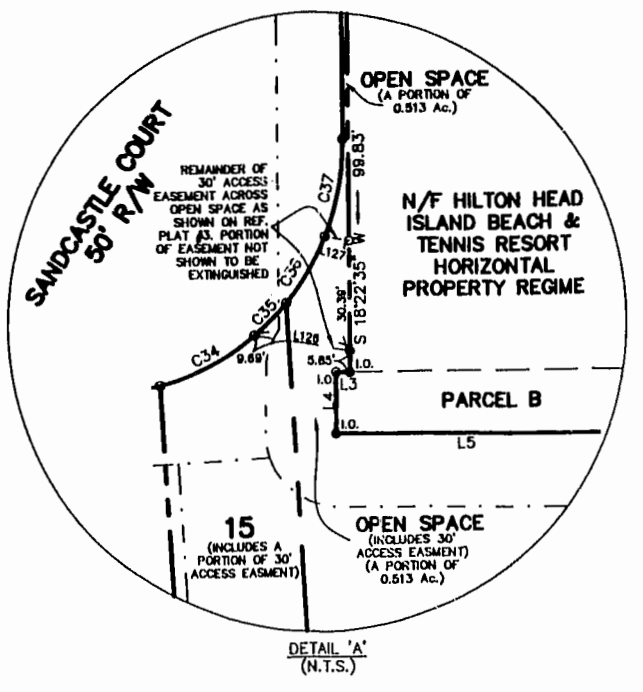
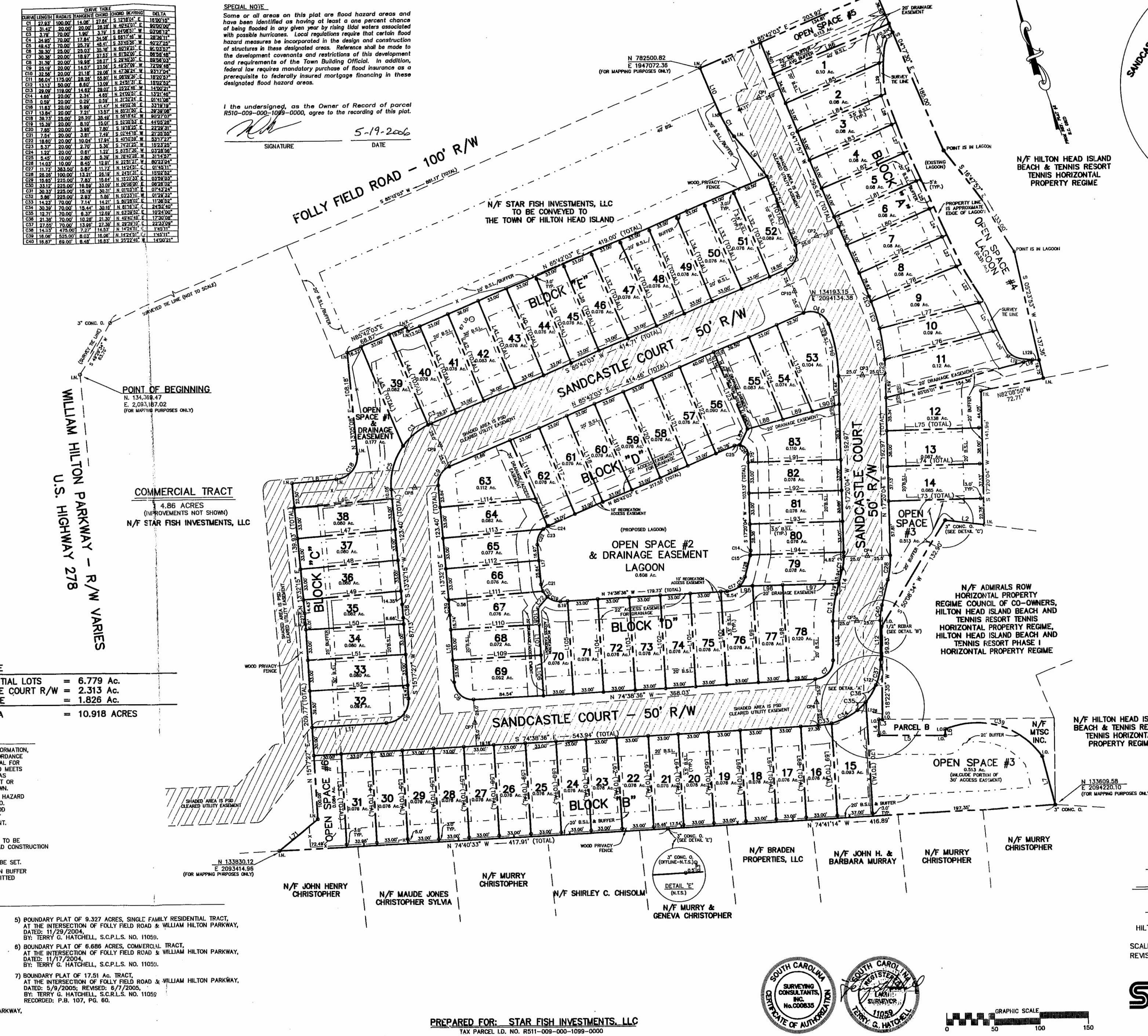
- REFERENCE PLATS
1) ASBUILT SURVEY OF 14.249 AC. TRACT, FOLLY FIELD ROAD & U.S. HIGHWAY 278, DATED: 5/9/2000.
2) ALTA/ACSM LAND TITLE SURVEY OF PARCEL A, 3.26 AC. AND PARCEL B, 0.08 AC. WILLIAM HILTON PARKWAY...

Table with columns: CURVE DATA, BEARING, DISTANCE, BEARING, DISTANCE. Contains curve data for various points.

SPECIAL NOTE
Some or all areas on this plot are flood hazard areas and have been identified as having at least a one percent chance of being flooded in any given year by rising tidal waters associated with possible hurricanes...

I, the undersigned, as the Owner of Record of parcel R510-009-000-1099-0000, agree to the recording of this plot.
Signature: [Handwritten Signature]
Date: 5-19-2006

Attachment C



SUBDIVISION CONTROL POINTS
(CHECK POINTS TO BE SET AFTER FINAL ROADWAY CONSTRUCTION)
CPT 1 N 134426.47 E 2094162.22
CPT 2 N 134266.35 E 2094174.28

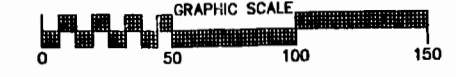
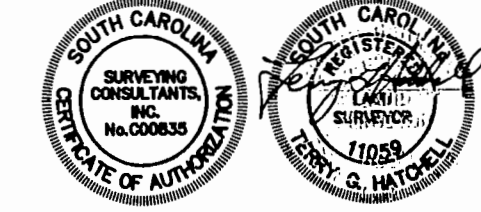
TOWN OF HILTON HEAD ISLAND, SC
SUBDIVISION APPROVAL
Date of approval: 7/9/05
Application Number: S1803002
Certified by: [Signature]
Title: Mgr. Blaz E

SANDCASTLES
BY THE SEA
FOLLY FIELD ROAD

HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA
SCALE: 1" = 50' DATE: 6/15/2005 JOB NO: 89319L
REVISED 05/19/2006 TO SHOW OFFSET PROPERTY CORNERS

SURVEYING CONSULTANTS
17 Sherington Drive, Suite C, Bluffton, SC 29910
Telephone: (843) 815-3304 FAX: (843) 815-3305

PREPARED FOR: STAR FISH INVESTMENTS, LLC
TAX PARCEL I.D. NO. R510-009-000-1099-0000

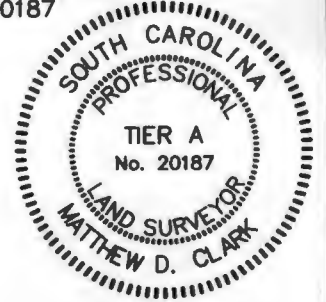


072519

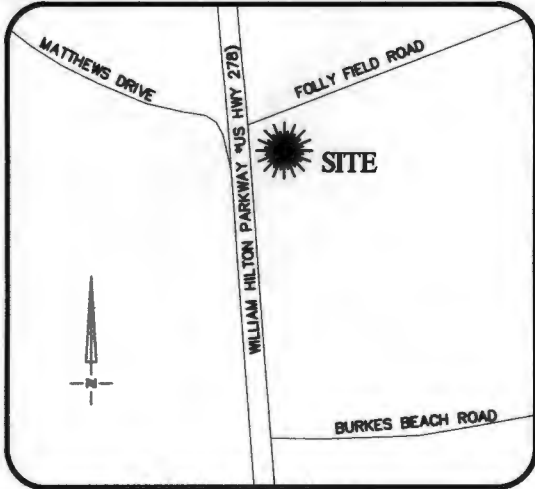
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.



SIGNED MATTHEW D. CLARK, SCPLS 20187



HEIGHT OF ROOF IS 43.7' ABOVE BASE FLOOD ELEVATION

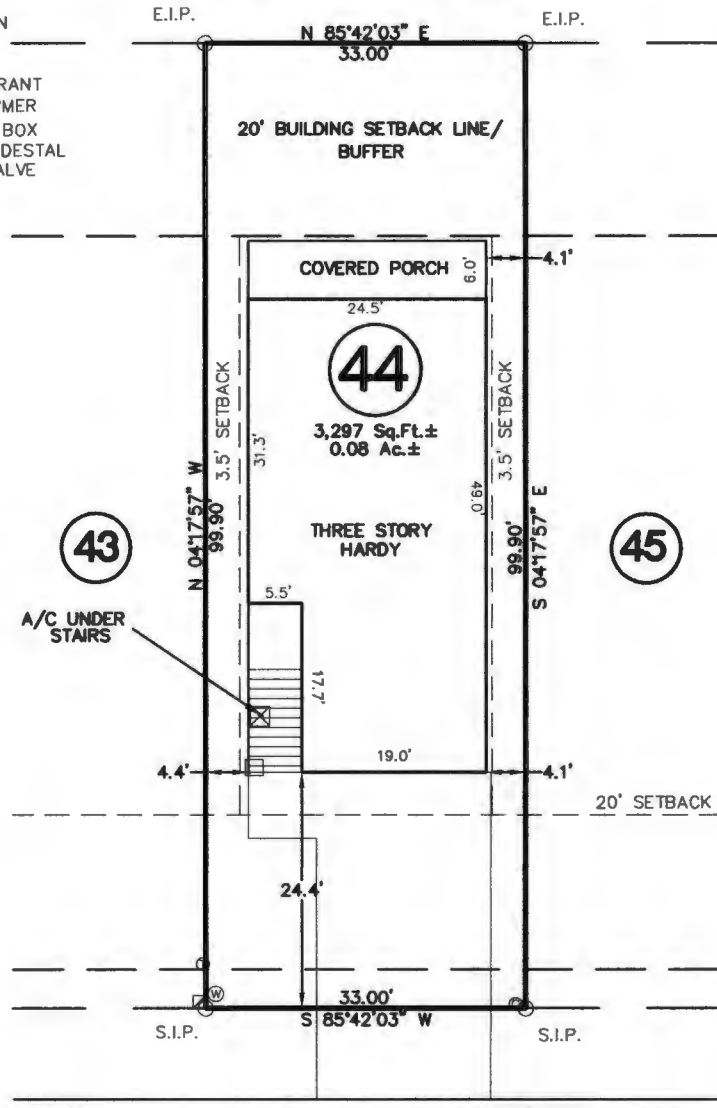


VICINITY MAP
Not To Scale

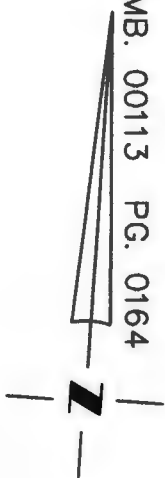
LEGEND

- E.I.P. EXISTING IRON PIN
- E.C.M. EXISTING CONCRETE MONUMENT
- S.I.P. SET IRON PIN 5/8" REBAR
- F.P.E. FLOOD PROTECTION ELEVATION
- PROPERTY LINE
- - - ADJOINER PROPERTY LINE
- X * X FENCE LINE
- CLEAN OUT
- LIGHT POST
- ⊕ MAN HOLE
- ⊕ TELEPHONE PEDESTAL
- ⊕ WATER METER
- CB □ CATCH BASIN
- FIRE HYDRANT
- TRANSFORMER
- ELECTRIC BOX
- CABLE PEDESTAL
- WATER VALVE
- HVAC

N/F STAR FISH INVESTMENTS,LLC
TO BE CONVEYED TO
THE TOWN OF HILTON HEAD ISLAND



MB. 00113 PG. 0164



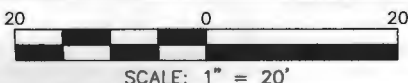
#115 SANDCASTLE COURT

50' R/W

TMS: R511-009-000-1150-0000

THIS PROPERTY MAY BE SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS WHICH MAY BE OF RECORD OR IMPLIED

FLOOD NOTE:
THIS PROPERTY APPEARS TO BE LOCATED IN ZONE A-7, A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY H.U.D. PANEL 14-D COMMUNITY NO. 450250, MAP DATED 9/26/86. BASE ELEVATION 14.0'.



PHYSICAL SURVEY

FOR

LOT 44, SANDCASTLES BY THE SEA
Hilton Head Island, Beaufort County, South Carolina

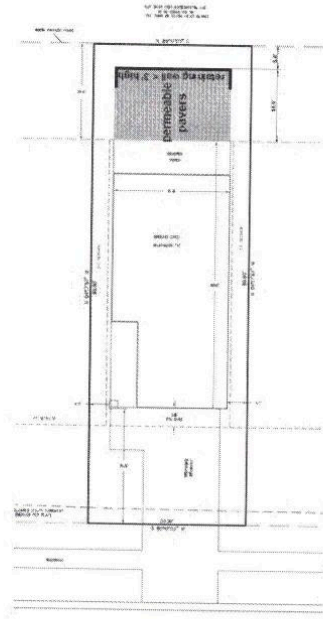
PROPERTY OF: VILLAGE PARK HOMES
MAP BOOK 00113 PAGE 0164 DEED REFERENCE _____

RLA ASSOCIATES, PA
110 TRADERS CROSS
BLUFFTON, SC 29909
PHONE (843) 705-8030
FAX (843) 839-9092

DRAWN BY: MDC

DATE: SEPT. 13, 2019

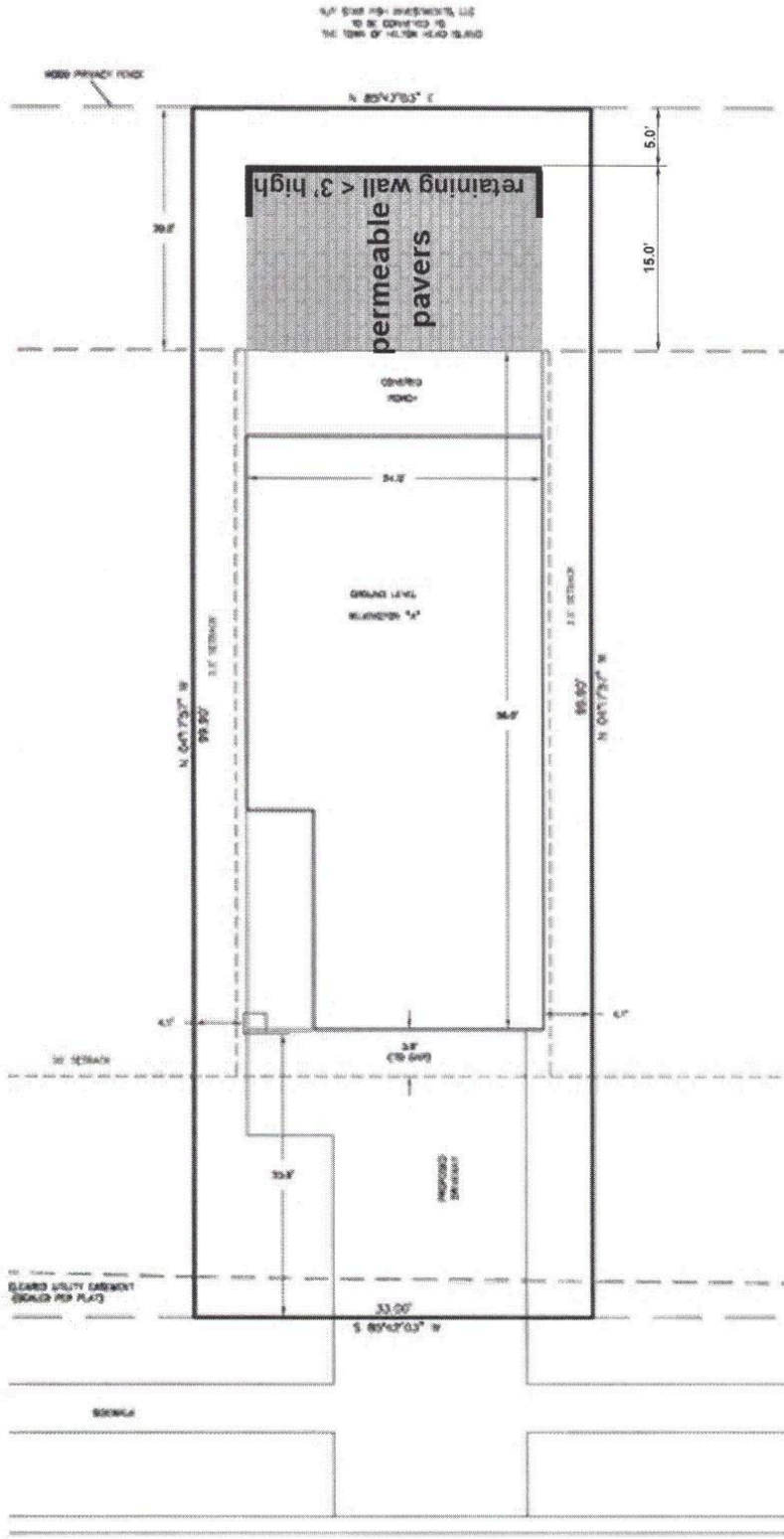
115 Sandcastle Court (lot 44)



SCALE
1 inch = 30'0"



115 Sandcastle Court (lot 44)





Attachment F - Site Photos





Attachment G- Buffer Table

F. Buffer Types

Table 16-5-103.F, Buffer Types, describes the five different buffer types in terms of their function, opacity, width, and planting requirements. Either of the options under a specific buffer type may be used at the option of the *developer / applicant* . If the square footage of an existing building on a site is being increased by more than 50% then the buffers must be brought into compliance with the standards in this table.

TABLE 16-5-103.F: BUFFER TYPES		
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS <small>1,2,3,4,5,6, 7</small>		
TYPE A BUFFER		
This buffer includes low- <i>density</i> screening designed to partially block visual contact and create spatial separation between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent streets</i> with low traffic volumes.		
Option 1		<ul style="list-style-type: none"> • Width: 20 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 3 every 100 linear feet • Evergreen shrubs: 8 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 10 feet • <i>Overstory trees</i> : 2 every 100 linear feet • <i>Understory trees</i> : 4 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
TYPE B BUFFER		
This buffer includes low- to medium- <i>density</i> screening designed to create the impression of spatial separation without significantly interfering with visual contact between <i>adjacent uses</i> or between <i>development</i> and <i>adjacent</i> minor arterials.		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 10 every 100 linear feet
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear feet • Evergreen shrubs: 12 every 100 linear feet
TYPE C BUFFER		
This buffer includes medium- <i>density</i> screening designed to eliminate visual contact at lower levels and create spatial separation between <i>adjacent uses</i> .		
Option 1		<ul style="list-style-type: none"> • Width: 25 feet • <i>Overstory trees</i> : 3 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide
Option 2		<ul style="list-style-type: none"> • Width: 15 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • A solid wall or fence at least 3 feet high or a solid evergreen hedge at least 3 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6,7}

TYPE D BUFFER		
<p>The buffer includes high-density screening designed to eliminate visual contact up to a height of six feet and create a strong spatial separation between <i>adjacent uses</i>. A Type D buffer is required adjacent to all loading areas per Section 16-5-107.H.8.d, Buffering of Loading Areas.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 30-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 30 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 6 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 6 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen
Option 2	<p>A diagram showing a 20-foot wide buffer with a 20-foot high screen of trees and shrubs. The screen consists of a dense arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width 20 feet • <i>Overstory trees</i> : 6 every 100 linear feet • <i>Understory trees</i> : 8 every 100 linear ft • A solid wall or fence at least 6 feet high or a solid evergreen hedge at least 6 feet high and 3 feet wide • At least 50% of all <i>trees</i> must be evergreen
TYPE E BUFFER		
<p>This buffer provides greater spacing and medium- <i>density</i> screening designed to define "green" corridors along major arterials.</p>		
Option 1	<p>A diagram showing a 100-foot wide buffer with a 50-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 50 feet • <i>Overstory trees</i> : 4 every 100 linear feet • <i>Understory trees</i> : 5 every 100 linear feet • Evergreen shrubs: 20 every 100 linear feet and at least 3 feet high at maturity
Option 2	<p>A diagram showing a 100-foot wide buffer with a 35-foot high screen of trees and shrubs. The screen consists of a sparse arrangement of various tree and shrub symbols.</p>	<ul style="list-style-type: none"> • Width: 35 feet • <i>Overstory trees</i> : 5 every 100 linear feet • <i>Understory trees</i> : 7 every 100 linear feet • Evergreen shrubs: 25 every 100 linear feet and at least 3 feet high at maturity • At least 50% of all <i>trees</i> must be evergreen

Attachment G

TABLE 16-5-103.F: BUFFER TYPES
MINIMUM BUFFER WIDTH AND SCREENING REQUIREMENTS ^{1,2,3,4,5,6, 7}

NOTES:

1. Required *overstory trees* shall be distributed and spaced to maximize their future health and effectiveness as buffers. Other required vegetation shall be distributed within the buffer as appropriate to the function of the buffer.
2. Where an *adjacent use* is designed for solar access, *understory trees* may be substituted for *overstory trees*.
3. Fences or walls within an adjacent street or use buffer shall comply with the standards of [Sec. 16-5-113](#), Fence and Wall Standards.
4. A berm may be provided in conjunction with the provision of a hedge, fence, or wall to achieve *height* requirements, provided its side slopes do not exceed a ratio of three horizontal feet to one vertical foot and the width of its top is at least one-half its *height*.
5. If a buffer length is greater or less than 100 linear feet, the planting requirements shall be applied on a proportional basis, rounding up for a requirement that is 0.5 or greater, and down for a requirement that is less than 0.5. (For example, if the buffer length is 150 linear feet, and there is a requirement that 5 *overstory trees* be planted every 100 linear feet, 8 *overstory trees* are required to be planted in the buffer ($1.5 \times 5 = 7.5$, rounded up to 8)).
6. Minimum buffer widths and minimum planting requirements for adjacent street buffers may be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated;
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow *development* of the site to be designed and located in a way that complies with LMO standards.
7. Minimum buffer widths and minimum planting requirements for adjacent use buffers may be reduced by up to 10 percent any district on demonstration to the *Official* that:
 - a. The reduction is consistent with the character of *development* on surrounding *land* ;
 - b. *Development* resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (a) is required to compensate for some unusual aspect of the site or the proposed *development* , or (b) results in improved site conditions for a *development* with *nonconforming site features* ;
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated; and
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Tyler Newman, *Senior Planner*
DATE: November 12, 2020
SUBJECT: VAR-001875-2020 119 Sandcastle Court – Petition for Reconsideration of Approval

On October 29, 2020 variance case VAR-001875-2020 was heard by the Board of Zoning appeals and was denied in a 3-1 vote. On November 5, 2020, staff received the attached Petition for Reconsideration of the denial of Variance application VAR-001875-2020 for 119 Sandcastle Court. Per the BZA's Rules of Procedure, particularly Article IX, Section 1, Motion for Reconsideration, any party aggrieved by a decision of the BZA may file a Petition for Reconsideration within ten days from the date of the hearing. The applicant met this requirement. The Petition, in accordance with the Rules of Procedure, has stated the points the applicant believes were overlooked or misinterpreted by the Board.

At the meeting on November 23, 2020, the Board will review the Petition for Reconsideration and hear from the applicant. The Board will then decide whether or not to grant the Petition for Reconsideration. The Motion to Grant the Petition for Reconsideration may only be made by a member of the Board who voted on the prevailing side (voted to deny) in the original vote. If the Motion for Reconsideration is granted, VAR-001875-2020 will be heard at a future BZA meeting and it will be as though no previous vote had been taken on the application. A Motion to Deny the Petition for Reconsideration is that the vote shall be considered to be the Board's final action on the matter.

Grounds for Petition for Reconsideration, Summary of Facts and Conclusions of Law:

Grounds for Petition:

Applicant feels key facts were overlooked and key points were misinterpreted in the board's decision to deny VAR-001875-2020 at the Board of Zoning Appeals Special Meeting held Thursday, October 29, 2020 – 1:00 p.m.

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 presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

1. The subject property is .07 acres.
2. The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
3. The subject property is rectangular in shape as are the majority of the adjacent properties.
4. The subject property does not contain any unique site features that prohibit development on the lot.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

Key Facts overlooked and misinterpreted by the board

- Construction clearing crews disturbed the natural 20-foot buffer at the rear of the property, not the homeowner. This construction violation is no longer allowed per new ordinances put in place for developing contractors. Under current construction standards the onus is on the contractor to return an adjacent use and set-back buffer to conforming standards and in compliance with the intended storm run-off draining calculations permitted by the Town's development team prior to construction.
- Construction clearing crews removed all the natural vegetation in the buffer, not the homeowner.
- During pre-construction and construction of 119 Sandcastle, an unnatural spoil pile was created at the rear of the property consisting of material graded away from the rest of the Sandcastle subdivision as well as the home's foundation footprint. The spoil pile changed the natural grade of the adjacent use and set-back buffer between the home and the 1.5 acre protected town owned property on opposite side of the buffer.

- The spoil pile left behind by developers in the adjacent use and set-back buffer area is covering up the natural understory flora deep beneath the pile at natural grade. Spoil piles negatively impact the amount of stormwater runoff that would have been minimized by a natural vegetative buffer at natural grade.
- Spoil piles are a common issue on Right of Ways for Pipelines and Powerline crossings. FERC and Environmental State Departments across the country require spoil piles created during clearing and grading activities to be removed immediately following downstream construction activities because of the flooding impacts they cause during heavy rain events.
- Design Development Regulation Conformance representative Brian Eber was not consulted on the specific spoil pile issue site specific to 119 Sandcastle and the adjacent neighbors on the Northern boundary of Sandcastle subdivision. The town's stormwater run-off calculations were based on the effectiveness of permeable pavers holding up over time verses natural vegetation at its natural grade.
- The engineering solution provided by the 20-inch high retaining wall and permeable pavers at 119 Sandcastle return the adjacent use set-back and buffer to natural grade; removing the spoil pile encroachment left behind by developing contractors. It removed the health, safety, and structural integrity hazards caused by rain events flooding the ground level of the home and swimming pool.

New Conclusions of Law for a quorum to re-consider:

- The variance application **does meet** the criteria as set forth in LMO Section 16-2- 103.S.4.a.i.01 because the new findings of fact prove there are extraordinary and exceptional conditions that pertain to this particular property.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

Key Facts overlooked and misinterpreted by the board

- The majority of lots in the Sandcastles by the Sea neighborhood do not have a spoil pile left behind by building contractors that encroached into the rear adjacent use setback and buffer; negatively impacting the intended stormwater runoff draining calculations.

- The ability for Contractors to grossly disturb the natural adjacent use setback and buffer is no longer allowed on the Hilton Head Island. Community development representative Nicole Dixon is on record at the BZA meeting held Thursday, October 29, 2020 stating that un-reclaimed buffer violations left behind by contractors like those at 119 Sandcastle were the impetus for the new ordinance change in construction standards.
- The majority of lots in Folly Field Neighborhood Association and Sandcastle subdivision do not share their entire rear property line buffers with an additional 150 feet of protected Town Owned beautification buffer. See attached pic:



○

- The 1.5 acres was conveyed to the Town of Hilton Head as a quid pro quo in exchange for the original development notice to proceed. The Folly Field Neighborhood Association expects this beautification buffer to stay in place in order to Shield the Sandcastle subdivision from view of the Folly Field Road street traffic.
- The previous quorum substantiated the town's intent to protect this land by removing any language previously submitted under staff findings suggesting the land could be potentially developed in the future. 119 Sandcastle rear property line buffer being shared with this protected property does make it an outlier to other properties in the Folly Field Neighborhood association.

New Conclusions of Law for a quorum to re-consider:

- The variance application **does meet** the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are many extraordinary and exceptional conditions that pertain to this particular property that don't apply to other properties in the Folly Field Neighborhood Association.

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 presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every square foot of buildable space on the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio or retaining wall as permitted activities within a required buffer.
- A three story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, and a swimming pool has been constructed at the subject property.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

Key Facts overlooked and misinterpreted by the board

- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
 - The land developers and building contractors violated the permitted activities allowed in the protected zone, leaving behind a spoil pile that changed the run-off calculations. The homeowners tried to fix it.
- Forcing the homeowners to restore their back yard to the unnatural pitch left behind by the spoil pile will result in negative health, safety, and structural integrity impacts caused by flooding during future heavy rain events.

New Conclusions of Law for a quorum to re-consider:

The variance application **does meet** the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are extraordinary or exceptional conditions pertaining to this property that unreasonably prohibits the use of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Fact presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The properties directly adjacent to the subject lot both have encroachments in the setback and buffer and have applied for a variance to keep them.
- ~~○ While there is a heavily vegetated Town-owned property behind the property that is currently undeveloped, the property could potentially be developed in the future.~~
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produce very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board 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 purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

Key Facts overlooked and misinterpreted by the board

- Visual and spatial separation is not impacted due to an additional 150' of protected town owned property behind 119 Sandcastle.
- The town's stormwater engineer has never performed a site specific survey on the Northern Boundary Sandcastle Development Properties to investigate the improved stormwater impacts the retaining walls provides to the homes on that boundary and the overall subdivision verses the spoil pile encroachment violation left behind by developers.

New Conclusions of Law for a quorum to re-consider:

- The variance application **does meet** the criteria as set forth in *LMO Section 16-2-103.S.4.a.i.04* because there is zero substantial detriment to the protected 1.5 acre lot behind the property.
- The character of the zoning district where the property is located is not harmed by the granting of the Variance.
- The storm water calculations are improved by returning the buffer back to natural grade with a retaining wall.

Applicant's Final Conclusion

The decision made by the board in the BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m did not consider the fact that the homeowners were trying to rectify and mitigate a dangerous spoil pile encroachment left behind by developers and contractors. The retaining walls and permeable pavers returned the space to natural grade and removed many yards of spoil pile material not containing the natural understory flora.

Any corrective action plan administered by the board to simply remove the “violation” created by the homeowner needs to address the fact that original plans for 119 Sandcastle home did allow for it to be “below grade”.

The retaining wall and permeable pavers did not compound the existing violation. The retaining wall and permeable pavers mitigated the existing violation not allowed under current building ordinances.

I respectfully request one of two motions be made by the board:

1. I request a motion from the board to grant my petition for reconsideration of VAR-001875-2020.

Or, as an alternative to a variance:

1. I request a motion to allow the retaining wall and permeable pavers to stay on my property to be grand-fathered in as a legal non-conforming encroachment into the adjacent use set-back and buffer as it corrects the negative impacts of the spoil pile encroachment left behind by contractors; which is no longer allowed under current ordinances for builders.

Thank you for your time,

Eric Schnider



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Tyler Newman, *Senior Planner*
DATE: November 12, 2020
SUBJECT: VAR-001870-2020 123 Sandcastle Court – Petition for Reconsideration of Approval

On October 29, 2020 variance case VAR-001870-2020 was heard by the Board of Zoning appeals and was denied in a 3-1 vote. On November 9, 2020, staff received the attached Petition for Reconsideration of the denial of Variance application VAR-001870-2020 for 123 Sandcastle Court. Per the BZA's Rules of Procedure, particularly Article IX, Section 1, Motion for Reconsideration, any party aggrieved by a decision of the BZA may file a Petition for Reconsideration within ten days from the date of the hearing. The applicant met this requirement. The Petition, in accordance with the Rules of Procedure, has stated the points the applicant believes were overlooked or misinterpreted by the Board.

At the meeting on November 23, 2020, the Board will review the Petition for Reconsideration and hear from the applicant. The Board will then decide whether or not to grant the Petition for Reconsideration. The Motion to Grant the Petition for Reconsideration may only be made by a member of the Board who voted on the prevailing side (voted to deny) in the original vote. If the Motion for Reconsideration is granted, VAR-001870-2020 will be heard at a future BZA meeting and it will be as though no previous vote had been taken on the application. A Motion to Deny the Petition for Reconsideration is that the vote shall be considered to be the Board's final action on the matter.

Grounds for Petition for Reconsideration, Summary of Facts and Conclusions of Law:

Grounds for Petition:

Applicant feels key facts were overlooked and key points were misinterpreted in the board's decision to deny VAR-001870-2020 at the Board of Zoning Appeals Special Meeting held Thursday, October 29, 2020 – 1:00 p.m.

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 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 presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

1. The subject property is .07 acres.
2. The subject property is approximately the same size (.06 - .08 acres) as all of the other properties on the same side of Sandcastle Court as well as the adjacent properties across Sandcastle Court.
3. The subject property is rectangular in shape as are the majority of the adjacent properties.
4. The subject property does not contain any unique site features that prohibit development on the lot.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

Key Facts overlooked and misinterpreted by the board

- Construction clearing crews disturbed the natural 20-foot buffer at the rear of the property, not the homeowner. This construction violation is no longer allowed per new ordinances put in place for developing contractors. Under current construction standards the onus is on the contractor to return an adjacent use and set-back buffer to conforming standards and in compliance with the intended storm run-off draining calculations permitted by the Town's development team prior to construction.
- Construction clearing crews removed all the natural vegetation in the buffer, not the homeowner.
- During pre-construction and construction of 123 Sandcastle, an unnatural spoil pile was created at the rear of the property consisting of material graded away from the rest of the Sandcastle subdivision as well as the home's foundation footprint. The spoil pile changed the natural grade of the adjacent use and set-back buffer between the home and the 1.5 acre protected town owned property on opposite side of the buffer.

- The spoil pile left behind by developers in the adjacent use and set-back buffer area is covering up the natural understory flora deep beneath the pile at natural grade. Spoil piles negatively impact the amount of stormwater runoff that would have been minimized by a natural vegetative buffer at natural grade.
- Spoil piles are a common issue on Right of Ways for Pipelines and Powerline crossings. FERC and Environmental State Departments across the country require spoil piles created during clearing and grading activities to be removed immediately following downstream construction activities because of the flooding impacts they cause during heavy rain events.
- Design Development Regulation Conformance representative Brian Eber was not consulted on the specific spoil pile issue site specific to 123 Sandcastle and the adjacent neighbors on the Northern boundary of Sandcastle subdivision. The town's stormwater run-off calculations were based on the effectiveness of permeable pavers holding up over time verses natural vegetation at its natural grade.
- The engineering solution provided by the retaining wall and permeable pavers at 123 Sandcastle return the adjacent use set-back and buffer to natural grade; removing the spoil pile encroachment left behind by developing contractors. It removed the health, safety, and structural integrity hazards caused by rain events flooding the ground level of the home and swimming pool.

New Conclusions of Law for a quorum to re-consider:

- The variance application **does meet** the criteria as set forth in LMO Section 16-2- 103.S.4.a.i.01 because the new findings of fact prove there are extraordinary and exceptional conditions that pertain to this particular property.

Summary of Facts and Conclusions of Law:

Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):

Findings of Fact presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- The majority of lots in the Sandcastles by the Sea neighborhood are nearly identical in size and shape.
- A 20' adjacent use setback and buffer is applied to all properties located on the perimeter of the subdivision, except those on the Western perimeter which have a 25' adjacent use buffer.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

Key Facts overlooked and misinterpreted by the board

- The majority of lots in the Sandcastles by the Sea neighborhood do not have a spoil pile left behind by building contractors that encroached into the rear adjacent use setback and buffer; negatively impacting the intended stormwater runoff draining calculations.

- The ability for Contractors to grossly disturb the natural adjacent use setback and buffer is no longer allowed on the Hilton Head Island. Community development representative Nicole Dixon is on record at the BZA meeting held Thursday, October 29, 2020 stating that un-reclaimed buffer violations left behind by contractors like those at 123 Sandcastle were the impetus for the new ordinance change in construction standards.
- The majority of lots in Folly Field Neighborhood Association and Sandcastle subdivision do not share their entire rear property line buffers with an additional 150 feet of protected Town Owned beautification buffer. See attached pic:



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- The 1.5 acres was conveyed to the Town of Hilton Head as a quid pro quo in exchange for the original development notice to proceed. The Folly Field Neighborhood Association expects this beautification buffer to stay in place in order to Shield the Sandcastle subdivision from view of the Folly Field Road street traffic.
- The previous quorum substantiated the town's intent to protect this land by removing any language previously submitted under staff findings suggesting the land could be potentially developed in the future. 123 Sandcastle rear property line buffer being shared with this protected property does make it an outlier to other properties in the Folly Field Neighborhood association.

New Conclusions of Law for a quorum to re-consider:

- The variance application **does meet** the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are many extraordinary and exceptional conditions that pertain to this particular property that don't apply to other properties in the Folly Field Neighborhood Association.

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 presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- The original developer of the Sandcastles by the Sea neighborhood chose to utilize nearly every square foot of buildable space on the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood requires a 20' adjacent use setback and buffer in the rear of the subject property.
- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
- LMO Section 16-5-103.J, Development Within Required Buffers, does not list a patio or retaining wall as permitted activities within a required buffer.
- A three story single-family residence with 3,314 heated square feet, 1,137 unheated square feet, 5 bedrooms, 4 bathrooms, and a swimming pool has been constructed at the subject property.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibits the use of the property.

Key Facts overlooked and misinterpreted by the board

- The original subdivision plat for the Sandcastle by the Sea neighborhood has a note that reads, "The only activities permitted in the exterior subdivision buffer as labeled on this plan shall be those listed in permitted activity in other buffer areas as per the LMO".
 - The land developers and building contractors violated the permitted activities allowed in the protected zone, leaving behind a spoil pile that changed the run-off calculations. The homeowners tried to fix it.
- Forcing the homeowners to restore their back yard to the unnatural pitch left behind by the spoil pile will result in negative health, safety, and structural integrity impacts caused by flooding during future heavy rain events.

New Conclusions of Law for a quorum to re-consider:

The variance application **does meet** the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are extraordinary or exceptional conditions pertaining to this property that unreasonably prohibits the use of the property.

Summary of Facts and Conclusions of Law:

Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):

Findings of Fact presented at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Staff has received no letters of opposition to this variance request.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers.
- The purpose of the adjacent use setback standards is to provide separation between structures and property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The properties directly adjacent to the subject lot both have encroachments in the setback and buffer and have applied for a variance to keep them.
- ~~○ While there is a heavily vegetated Town-owned property behind the property that is currently undeveloped, the property could potentially be developed in the future.~~
- The use of hardscape in the buffer area is a modification to the Civil Engineer stormwater runoff calculations for the Sandcastle by the Sea Subdivision. The area that is considered buffers typically produce very little stormwater runoff due to the existing natural understory flora. When this area is disturbed and modified with patio pavers, gravel & sand it drastically changes the amount of stormwater runoff from what was expected to be from a natural vegetative buffer.

Conclusions of Law decided by board at BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m.:

- Board 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 purpose of setback and buffer requirements is to provide visual and spatial separation from the development to the property behind it.
- Due to the number of buffer encroachments and the impacts to the stormwater system Town Engineering staff recommend that this practice not be allowed to continue.

Key Facts overlooked and misinterpreted by the board

- Visual and spatial separation is not impacted due to an additional 150' of protected town owned property behind 123 Sandcastle.
- The town's stormwater engineer has never performed a site specific survey on the Northern Boundary Sandcastle Development Properties to investigate the improved stormwater impacts the retaining walls provides to the homes on that boundary and the overall subdivision verses the spoil pile encroachment violation left behind by developers and builders.

New Conclusions of Law for a quorum to re-consider:

- The variance application **does meet** the criteria as set forth in *LMO Section 16-2-103.S.4.a.i.04* because there is zero substantial detriment to the protected 1.5 acre lot behind the property.
- The character of the zoning district where the property is located is not harmed by the granting of the Variance.
- The storm water calculations are improved by returning the buffer back to natural grade with a retaining wall.

Applicant's Final Conclusion

- The decision made by the board in the BZA special meeting held Thursday, October 29, 2020 – 1:00 p.m. did not consider the fact that the homeowners were trying to rectify and mitigate a dangerous spoil pile encroachment left behind by developers and contractors. The retaining walls and permeable pavers returned the space to natural grade and removed many yards of spoil pile material not containing the natural understory flora.
- Any corrective action plan administered by the board to simply remove the “violation” created by the homeowner needs to address the fact that original plans for 123 Sandcastle home did allow for it to be “below grade”.
- The retaining wall and permeable pavers did not compound the existing violation. The retaining wall and permeable pavers mitigated the existing violation not allowed under current building ordinances.

I respectfully request one of two motions be made by the board:

1. I request a motion from the board to grant my petition for reconsideration of VAR-001870-2020.
Or, as an alternative to a variance:

1. I request a motion to allow the retaining wall and permeable pavers to stay on my property to be grand-fathered in as a legal non-conforming encroachment into the adjacent use set-back and buffer as it corrects the negative impacts of the spoil pile encroachment left behind by builders; which is no longer allowed under current ordinances for builders.

Thank you for your time,

George F. Zitlaw, Jr.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Missy Luick, *Senior Planner*
DATE: November 13, 2020
SUBJECT: Waiver Report

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 October 26, 2020 BZA meeting.

1. **WAIV-002170-2020, Shelter Cove Parking and Pathway Connections Stormwater-** In conjunction with a proposed redevelopment project, a waiver request was submitted to waive peak discharge stormwater requirements. Due to the fact that suitable means of flow into a downstream tidal discharge point is accessible, the waiver was approved.