



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, September 28, 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. **Pledge of Allegiance**
4. **Roll Call**
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of Minutes**
 - a. Special Meeting of August 31, 2020
8. **Citizen Comments**
9. **Unfinished Business**
 - a. **VAR-001461-2020** – Request from Michael Liker for a variance from LMO Section 16-3-106.H.4.b., Forest Beach Neighborhood Character Overlay (FB-NC-O) District for a proposed driveway to be built parallel within the adjacent use buffer and exceeding the 24 foot width maximum. The property address is 3 Alder Lane with a parcel number of R550 015 00A 0075 0000. *Note: The public hearing was opened and closed during the Board of Zoning Appeals meeting on Monday, August 31, 2020.*
10. **New Business – None**
11. **Staff Report**
 - a. Waiver Report
12. **Adjournment**

Public comments concerning agenda items can be submitted electronically via the Town's Virtual Town Hall public comment portal at <https://hiltonheadislandsc.gov/opentownhall/>. The portal will close at Noon on September 25, 2020. Citizens may also call 843-341-4684 to sign up for public

comment participation during the meeting by phone. The public comment period will close at Noon on September 25, 2020. All comments will be provided to the Board for review and made part of the official record.

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 Special Meeting
August 31, 2020 at 9:00 a.m. Virtual Meeting
MEETING MINUTES

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

Absent from the Board: None

Present from Town Council: Glenn Stanford

Present from Town Staff: Nicole Dixon, Development Review Administrator; Josh Gruber, Assistant Town Manager; Teri Lewis, Deputy Director of Community Development; Missy Luick, Senior Planner; Tyler Newman, Senior Planner; Stephen Ryan, Staff Attorney; Eileen Wilson, Senior Administrative Assistant; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chairman Cutrer called the meeting to order at 9:00 a.m.

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

3. Roll Call – See as noted above.

4. Welcome and Introduction to Board Procedures

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

5. Approval of Agenda

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

6. Approval of Minutes

a. Special Meeting of July 29, 2020

Chairman Cutrer asked for a motion to approve the minutes of the July 29, 2020 special meeting. Vice Chair Brison moved to approve. Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 7-0-0.

7. Citizen Comments

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

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

- **VAR-001529-2020** – Request from Bruce Goff for a variance from LMO Sections 16-5-102, Setback Standards and 16-5-103, Buffer Standards for a proposed home to be built in the required adjacent street setback and buffer from the access easement. The property address is 102 North Forest Beach Drive with a parcel number of R550 015 00A 0707 0000.

9. New Business

a. Public Hearing

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

Chairman Cutrer asked Missy Luick to present on behalf of Staff. Ms. Luick presented the application as described in the Staff Report. 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.

The Board made comments and inquiries to Staff regarding: Alder Lane is defined as a drive aisle, not a street; 24 ft of width within the buffer is permitted provided it runs perpendicular to or from the adjacent street right-of-way; an additional 13 ft of width to run parallel to the buffer is being requested; the applicant has requested permission from Marriott to modify the concrete wall to provide straight in/out access to the property; Marriott is in receipt of the applicant's request and has not approved or denied the request at this time; if Marriott grants permission to the applicant to modify the wall, then a variance is not required; if the house is reconfigured it could meet the LMO requirements and not need a variance; waivers have not been granted in connection with the property; the variance request contains two parts – for a proposed driveway to be built parallel within the adjacent use buffer and exceed the 24 ft width maximum by 13 ft; the two letters received from the Forest Beach Owners' Association; concern Alder Lane is being used by vehicles when there is a pedestrian pathway; concern for the legal right to access the curb cut on Alder Lane; special conditional use permit granted in the 1990s for some lots; concern for restricting utilization of the property; the LMO requires 5 parking spaces based on the proposed square footage of the home; the home square footage is around 4,072 plus exterior decking around 450 sq. ft; Staff and the applicant discussed alternative reconfigurations of the home and the owners prefer the proposed design; the proposed driveway would go right up to the property line.

Chairman Cutrer asked if the applicant would like to make a presentation. The applicant presented statements regarding the grounds for the variance and answered the Board's questions.

The Board made additional comments and inquiries to the applicant regarding: whether others use the drive aisle to access their property; the local Marriott has said adjacent lots have a separate gate and code to access Alder Lane; why reconfiguring the driveway does not work for the property owner; if there is straight in access of the driveway then it would

eliminate the need for a variance; the applicant contacted the Marriott on July 8, 2020 to request permission to modify the concrete wall; the Marriott is looking into the request and has not provided a timeframe to respond to the request; the applicant's timeline for permitting and construction; if a portion of the concrete wall was removed, then the driveway would be a width of 23 ft; the site plan does not appear to be complete; concern for trees outside of the property proposed to be removed; this appears to be a self-imposed hardship; possibility of granting the variance with the condition that if the Marriott permits the applicant to remove a portion of the wall then the variance is rescinded; the applicant is continuing to pursue permission from the Marriott to take down a portion of the concrete wall; concern for the legally permitted width of the curb cut; this property sits within an overlay district and therefore the intent is to have extra requirements; an affirmative decision by Marriott would provide an easier and better design; consideration of tabling the application until a decision is provided by Marriott.

Chairman Cutrer opened the hearing for public comments and none were received at this time. Following the discussion, Chairman Cutrer asked for a motion.

Mr. Johnson moved that the Board of Zoning Appeals postpone the decision on the application to the next Board of Zoning Appeals meeting in September. Vice Chair Brison seconded. By way of roll call, the motion passed with a vote of 7-0-0.

10. Staff Report

- a. Waiver Report – The report was included in the Board's agenda package.

11. Adjournment

The meeting was adjourned at 10:38 a.m.

Submitted by: Teresa Haley, Secretary

Approved: [DATE]



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Missy Luick, *Senior Planner*
DATE: September 18, 2020
SUBJECT: VAR-001461-2020

The Board of Zoning Appeals held a public hearing regarding VAR-001461-2020 on August 31, 2020, which is a request from Michael Liker for a variance from LMO Section 16-3-106.H.4.b., Forest Beach Neighborhood Character Overlay (FB-NC-O) District for a proposed driveway to be built parallel within the adjacent use buffer and exceeding the 24 foot width maximum for a property located at 3 Alder Lane.

The Board voted at that meeting to postpone the decision on the application until the next Board of Zoning Appeals Meeting in September. Therefore, the item is included on the September 28, 2020 meeting agenda under Unfinished Business.

The Variance Staff Report and associated attachments are included in this packet again for your convenience.

Attachments: VAR-001461-2020 Staff Report and Attachments



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-001461-2020 | August 31, 2020 |

| Parcel or Location Data: | Property Owner | Applicant |
|--|---|--|
| Parcel#: R550 015 00A 0075 0000 Address: 3 Alder Lane Parcel size: 0.195 acres Zoning: RS-5 (Residential Single Family District-5) Overlay: Forest Beach Neighborhood Character Overlay District | Ryan Michael Sabo 12910 Harbor Dr Woodbridge, VA 22192 | Michael Liker 4 Alder Lane Hilton Head Island, SC 29928 |

Application Summary:

Michael Liker, on behalf of the property owner, is requesting a variance from LMO Section 16-3-106.H.4.b., Forest Beach Neighborhood Character Overlay (FB-NC-O) District for a proposed driveway to be built parallel within the adjacent use buffer and exceeding the 24 foot width maximum. The property is located at 3 Alder Lane and is within the Forest Beach Neighborhood Character Overlay District.

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 Forest Beach Neighborhood Character Overlay District. The property is located at 3 Alder Lane, which is accessed through the Marriott Grande Ocean property. According to historical aerial imagery, a concrete wall was constructed in the Alder Lane right-of-way sometime between 1986 and 1999. Also according to historical aerial imagery during that time period, it appears that Alder Lane was removed from the right-of-way and replaced with a multi-use pathway. Alder Lane, which now functions as a named drive aisle, is incorporated as part of the Marriott

Grande Ocean development.

According to the applicant, the concrete wall is under Marriott ownership and control. The concrete wall runs in front of the subject property. The north end of the subject property has a break in the concrete wall, which according to the applicant, is where the former home's driveway was located. The applicant has stated that requests to Marriott Real Estate Division regarding removing the wall for more direct driveway access have been made, but no outcome has been determined. The proposed house plans utilize the existing driveway curb cut which, due to the home design, necessitates the driveway make a 90 degree turn and run parallel within the front adjacent use buffer. The Land Management Ordinance allows driveways to run perpendicular through the buffer, but not parallel. Additionally, the driveway exceeds the 24 foot width maximum. This property does not have an adjacent street buffer as Alder Lane is a multi-use pathway and drive aisle and not a street. The property has 3 sides and a rear adjacent use buffer.

According to building division records, there was a house on the lot that was demolished in March 2009. According to the applicant, the former home utilized the driveway location that is currently proposed. The applicant is requesting a variance to allow construction of a driveway parallel within the adjacent use buffer exceeding the 24 foot width maximum.

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

Grounds for Variance:

According to the applicant's narrative, the current buffer standards of the Land Management Ordinance and the existence of a concrete block wall make it difficult to build a driveway access to the house that they plan to construct on the subject property.

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 July 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 August 9, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on August 12, 2020 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on August 10, 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 was submitted 41 days prior to the meeting, therefore meeting the 30 day deadline required in the LMO.
- Notice of application was published 21 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was posted 18 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- Notice of application was mailed 20 days prior to the meeting, therefore meeting the 15 day deadline required in the LMO.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

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

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- The subject lot is 0.195 acres in size. The subject lot is 85 feet wide adjacent to Alder Lane.
- The subject lot has a concrete wall owned by the Marriott that is approximately 56 feet long that runs along Alder Lane in front of the property which restricts direct access to the Alder Lane drive aisle.
- The subject lot was previously developed with a single family home which was demolished in 2009 which had driveway access to Alder Lane in the current proposed driveway location.

Conclusions of Law:

- Staff concludes that this application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are extraordinary and exceptional conditions that pertain to this particular property.
- The concrete wall in front of the lot limits restricts access to Alder Lane and limits development of 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:

- The subject property has a concrete wall located in front of the property within the Alder Lane right-of-way (contains a multi-use pathway) which restricts access to the Alder Lane drive aisle.
- This wall applies to very few other properties in the vicinity (the neighboring property at 4 Alder Lane also has the same concrete wall in front of their home).

Conclusion of Law:

- Staff concludes that this application does meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are extraordinary or exceptional conditions that apply to the subject property that do not generally apply to other properties in the vicinity.

Summary of Facts and Conclusions of Law:

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

Findings of Fact:

- Per LMO Section 16-3-106.4.a.iii the required side adjacent use setback for a single family residence is 10 feet.
- Per LMO Section 16-3-106.H.4.b.i the required adjacent use buffer is 10 feet which applies to all 4 sides of the subject property.
- Per LMO Section 16-3-106.H.4.b.ii properties located in the Forest Beach Neighborhood Character Overlay (FB-NC-O) District may not have a driveway width of more than 24 feet within a buffer.
- Per LMO Section 16-5-103.J.1.a driveway access is allowed within the buffer provided it runs approximately perpendicular to/from the adjacent street right-of-way.
- Due to the size of the proposed home, 5 parking spaces are required, which as designed, requires 3 garage bays and necessitates that the driveway in the buffer be wider than the maximum 24 feet to accommodate access into the third garage bay.
- Due to the concrete wall limiting driveway access to the street, the proposed driveway runs parallel within the buffer.
- The home could be reduced in size or driveway access redesigned so that it meets all LMO requirements.

Conclusion of Law:

- Staff concludes that this application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because while there are extraordinary or exceptional conditions that pertain to this property, the home design could be altered to provide access from the north side of the home which would eliminate the driveway in the front adjacent use buffer.

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 in opposition to this variance request.
- The variance approval would allow removal of trees and vegetation from the required buffer which could have a negative effect on the neighborhood

Conclusions of Law:

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

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

August 18, 2020

DATE

REVIEWED BY:

ND

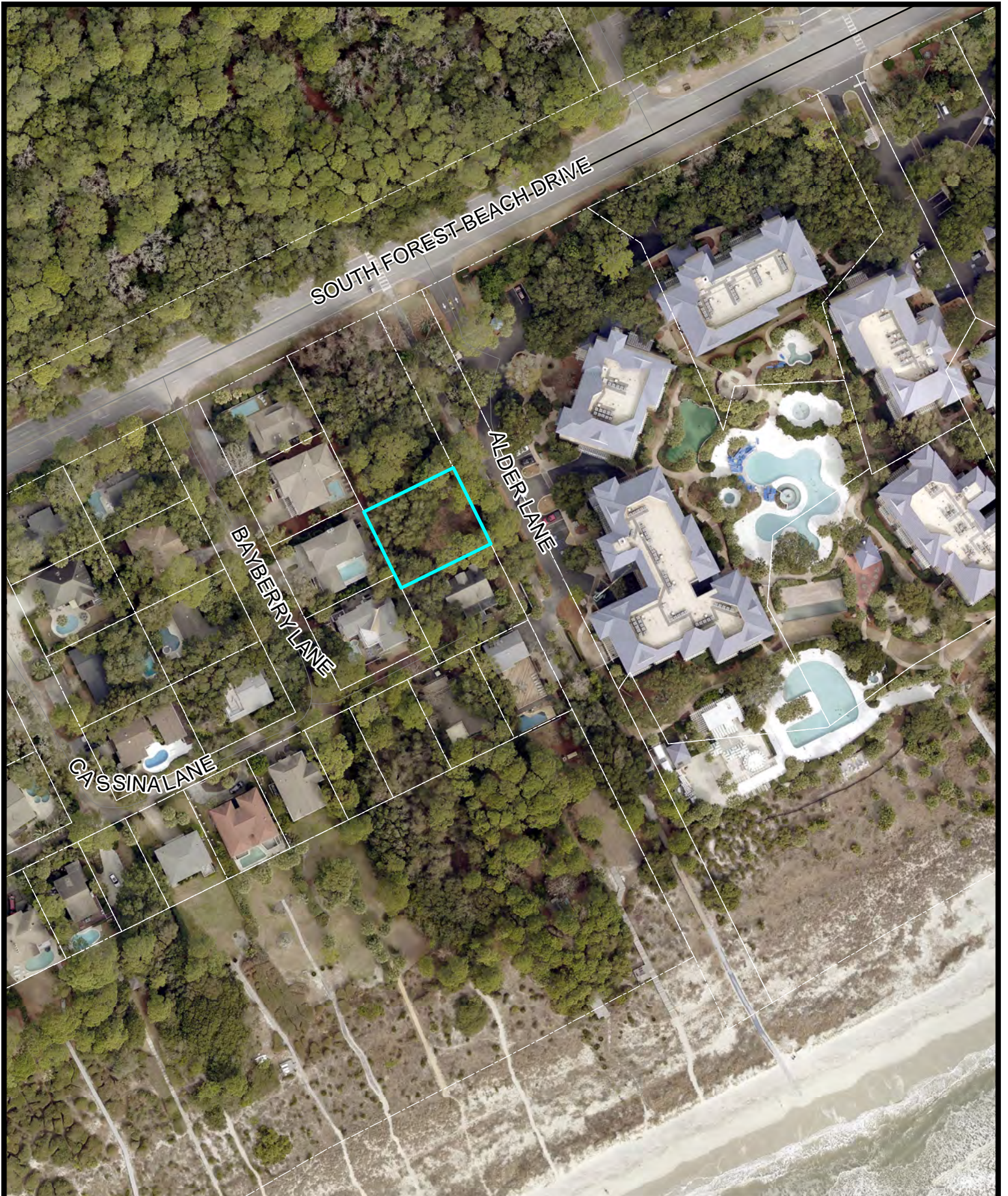
Nicole Dixon, AICP, CFM, Development
Review Administrator

August 19, 2020

DATE

ATTACHMENTS:

- A) Vicinity Map
- B) Applicant's Narrative
- C) Proposed Home Site Plan
- D) Site Photos
- E) Historic Imagery



Town of Hilton Head Island

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

3 Alder Lane
Attachment A: Vicinity Map



130 65 0 130 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.

Attachment B- Applicants Narrative

VAR-
1461-2020

Michael Liker Construction
4 Alder Lane
Hilton Head Island 29928

To whom it my concern, I am requesting a variance on behalf of Kim and Ryan Sabo
3 Alder Lane, the request is to use the existing curb cut which is located at the Marriot Grand Ocean
The variance will create a small offset to main garage approach. To achieve a straight line to garage
doors would require removal of a CMU wall which is owned by the Marriot. All driveway materials will
be pervious in nature.

Sincerely,
Michael Liker
843-718-8816

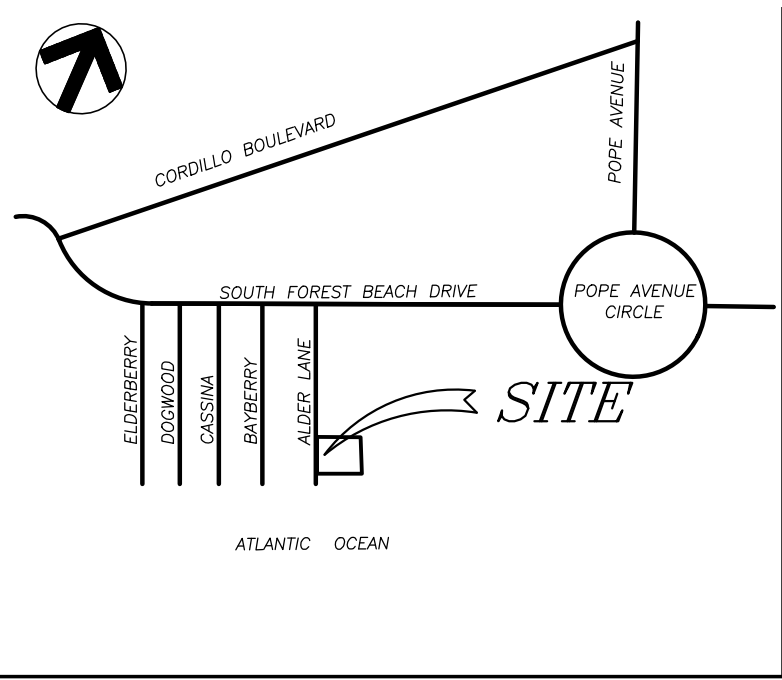
Attachment B- Applicants Narrative

The following Variance request for 3 Alder Lane, Hilton Head Island SC

1. The extraordinary and exceptional conditions pertaining to this particular property
 1. The access to this particular lot is through the Marriott Grande Ocean, which contains a CMU block wall which runs the front of the property with a curb cut located at the far end of the parcel, limiting accessibility.
2. These conditions do not apply to other properties in the vicinity, the property contains a concrete block wall which limits access to property.
3. Because of these conditions the Sabo's would like to request a Variance to connect existing curb cut into new proposed gravel driveway pad, and increasing pad size by 7'-33/4" for overall driveway measuring 24'x31'3 3/4" for accessing the 3rd garage bay for required 5 car parking.
4. A Variance in this circumstance would be the least impact to surrounding area and vegetation, and would also have zero impact to
5. general public safety, as the property is along the Alder Lane public beach access

Sincerely,

Michael Liker



VICINITY MAP - N.T.S.

LOT 10

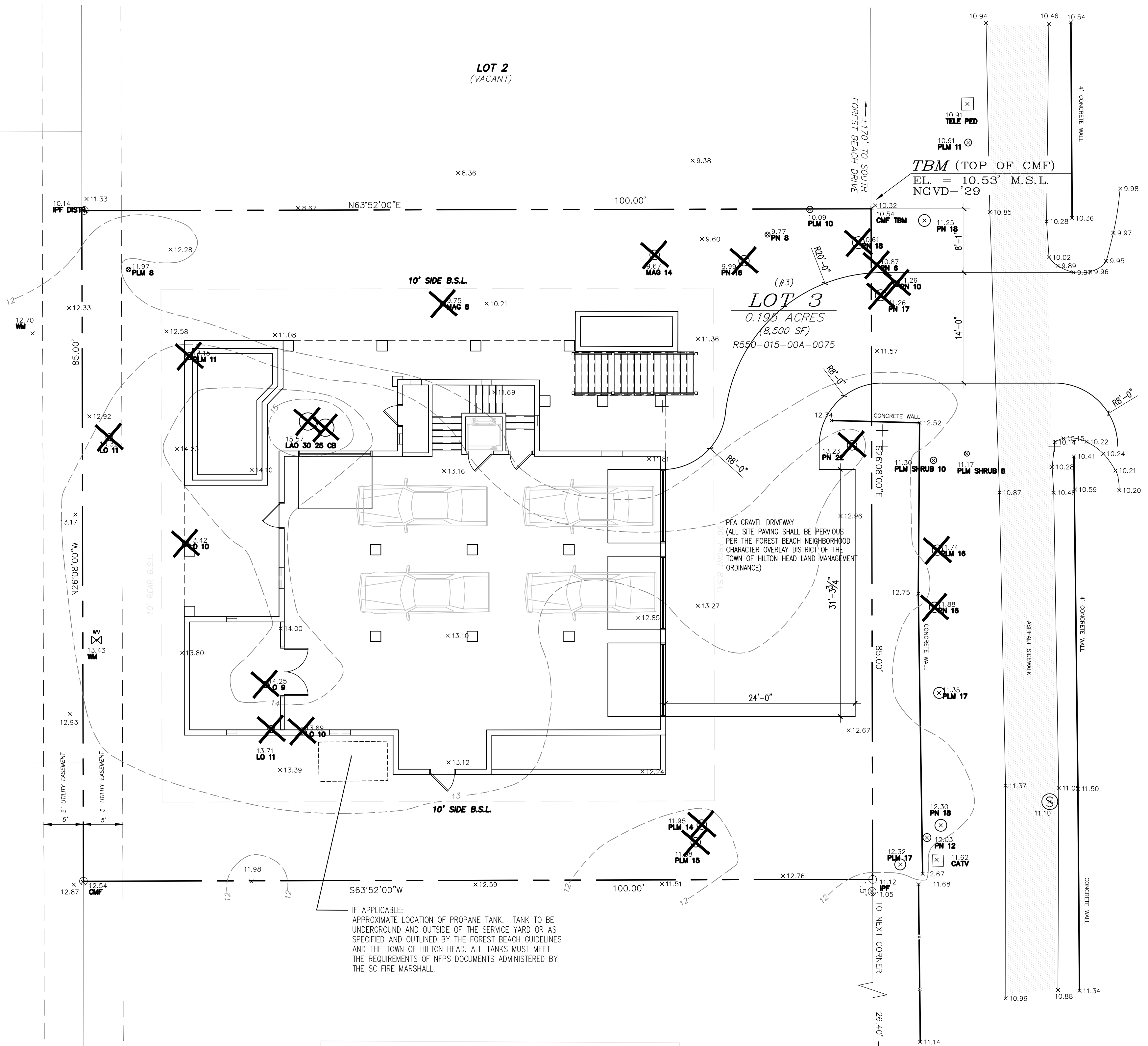
LOT 2
(VACANT)

LOT 9
TWO STORY, STUCCO
FLR. ELEV = 14.48'

LOT 8

LOT 4
TWO STORY, STUCCO
FLR. ELEV = 12.56'

LOT 3
0.198 ACRES
(8,500 SF)
R550-015-00A-0075



IF APPLICABLE:
APPROXIMATE LOCATION OF PROPANE TANK. TANK TO BE UNDERGROUND AND OUTSIDE OF THE SERVICE YARD OR AS SPECIFIED AND OUTLINED BY THE FOREST BEACH GUIDELINES AND THE TOWN OF HILTON HEAD. ALL TANKS MUST MEET THE REQUIREMENTS OF NFPA DOCUMENTS ADMINISTERED BY THE SC FIRE MARSHALL.

LEGEND

| | |
|-----------|-------------------------|
| BG | BLACK GUM |
| B.S.L. | BUILDING SETBACK LINE |
| CATV | CABLE TELEVISION |
| CB | COMMON BASE |
| CMF | CONCRETE MONUMENT FOUND |
| ELEC. BOX | ELECTRIC BOX |
| DIST | DISTURBED |
| IPF | IRON PIN (OLD) FOUND |
| IPS | IRON PIN (NEW) SET |
| LAO | LAUREL OAK |
| LO | LIVE OAK |
| MAG | MAGNOLIA |
| PALM | PALMETTO |
| PN | PINE |
| --- | --- |

- NOTES:**
1. THIS LOT LIES IN ZONE "A-7", B.F.E.=14.0' PER F.I.R.M. PANEL 0013-D, COMMUNITY No. 450250, REVISED: 09/29/86.
 2. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY THE SURVEYOR; NO INVESTIGATIONS FOR EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS HAVE BEEN MADE THAT AN APPROPRIATE AND

REFERENCE PLAT:
A SUBDIVISION PLAT LAWTON BEACH SUB. No. 1 SOUTH FOREST BEACH

LABEL DESCRIPTIONS (TYP.)

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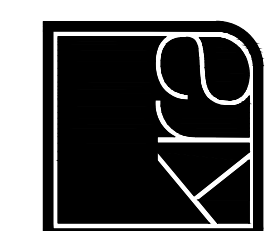
PREPARED FOR: KIM SABO

LAWTON
S
HILTON HEAD
SC
DA
JOB

"I HEREBY STATE THAT 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 MAPLINES (M) SURVEY drawing and its reproductions are the property of the Architects and may not be reproduced, published, or used in any way with out the written permission of the Architects. DISPROPORTIONATE TO PROPORTION OTHER THAN SHOWN."

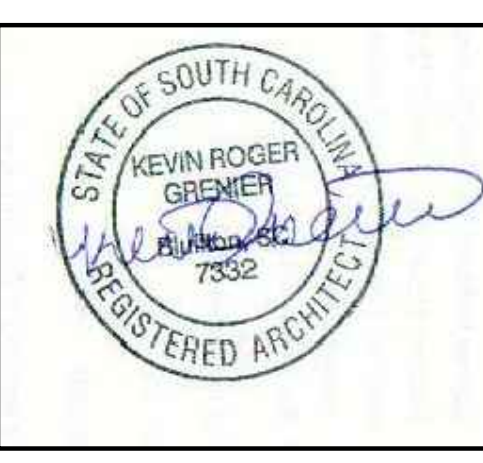
SABO RESIDENCE
SOUTH FOREST BEACH
LOT 3 ALDER LANE
HILTON HEAD ISLAND, SC

Beaufort County



KRA architecture + design

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KRA architecture + design
7 Johnson Way - PO Box 2047
Bluffton, SC 29910



Stamped By:
Drawn By: **KRG**
Checked By: **KRG**
Date: **04.23.20**

Revisions

| | | |
|---|---------------|----------|
| 1 | TOWN COMMENTS | 06.15.20 |
| | | |
| | | |
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Project No: **19124**
File Name:
Drawing Title:

SITE PLAN

Sheet No. **AS1.0**

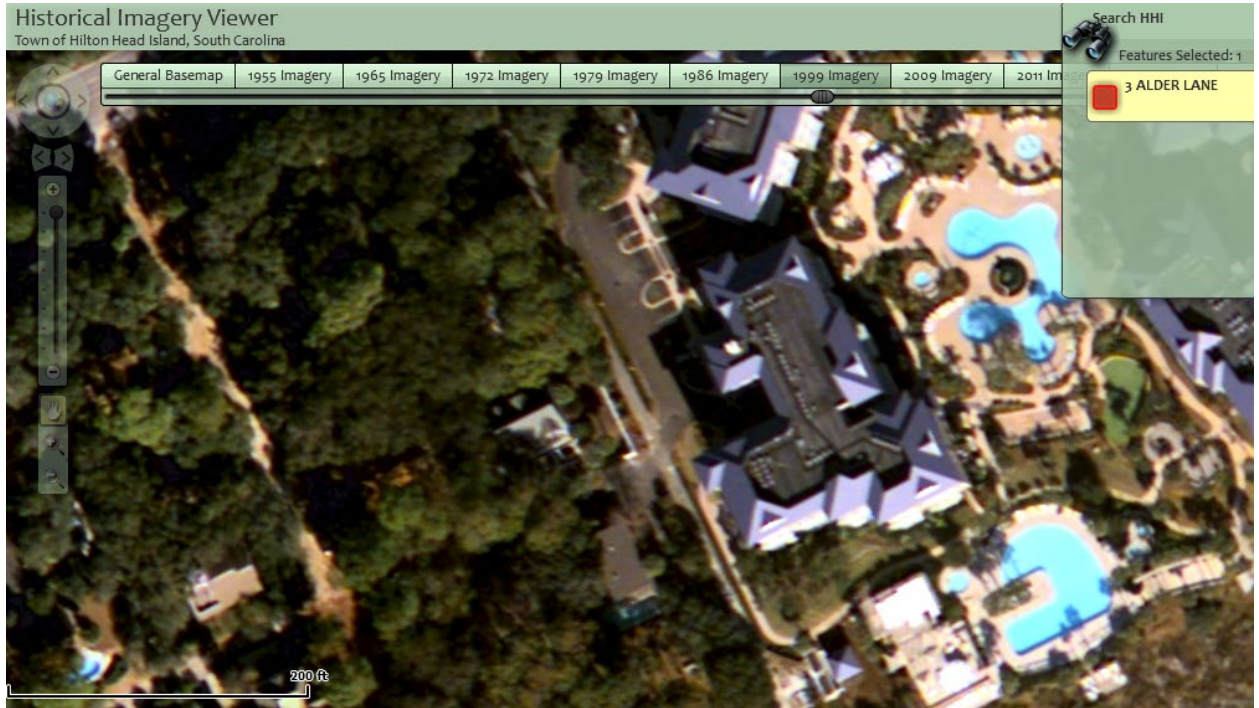
Scale:

VAR-001461-2020 Attachment E
3 Alder Lane Historic Imagery

1986



1999





TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Missy Luick, *Senior Planner*
DATE: September 18, 2020
SUBJECT: Substitutions of Nonconformities for Redevelopment

The BZA requested that staff keep them informed of substitutions of nonconformities for redevelopment that are granted by staff. A memo is distributed every month at the regular BZA meetings and is discussed under staff reports on the agenda.

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

LMO Section 16-7-101.F:

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

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

There have been no waivers that have been granted by staff since the August 31, 2020 BZA meeting.