



Town of Hilton Head Island  
**Board of Zoning Appeals**  
**Special Meeting**  
**Thursday, January 28, 2021 – 9:00 a.m.**  
**AGENDA**

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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 Facebook Page at <https://www.facebook.com/TownofHiltonHeadIslandSC/>. 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. **Swearing in Ceremony for New Board Member David Fingerhut** – *Performed by Diane Busch, Staff Attorney*
4. **Roll Call**
5. **Welcome and Introduction to Board Procedures**
6. **Approval of Agenda**
7. **Approval of Minutes**
  - a. December 14, 2020 Regular Meeting
8. **Appearance by Citizens**
9. **Unfinished Business – None**
10. **New Business**
  - a. **APL-002275-2020** – Request for Appeal from Leslie Ford, on behalf of Cedar Woods Property Owners Association. The appellant is appealing staff's denial of a tree relocation request in the open space behind 16 Song Sparrow Lane, sent to applicant on November 9, 2020.
  - b. **APL-002548-2020** – Request for Appeal from Daniel Ben-Yisrael, on behalf of The Parker Companies LLC. The appellant is appealing staff's determination dated December 3, 2020, regarding potential signage for the proposed Parker's Kitchen at 430 William Hilton Parkway, Parcel E, of the Sea Turtle Marketplace.

## **11. Board Business**

## **12. Staff Reports**

- a. Update on proposed LMO amendments that address waivers issued by Staff
- b. Update on Board Training
- c. Waiver Report
- d. Update on Pending Appeals to Circuit Court

## **13. Executive Session**

- a. **Legal Matters:** Receipt of legal advice related to pending appeals filed with Circuit Court concerning the variance applications of certain property owners of Sandcastles by the Sea subdivision.

## **14. Possible action by the BZA as a result of Executive Session**

## **15. 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 at 4:30 p.m. on Wednesday, January 27, 2021. Public 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. on Wednesday, January 27, 2021.

**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**  
December 14, 2020 at 2:30 p.m. Virtual Meeting  
**MEETING MINUTES**

**Present from the Board:** Chair Patsy Brison, Lisa Laudermilch, Charles Walczak, John White

**Absent from the Board:** Vice Chair Anna Ponder (excused), Robert Johnson (excused)

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

**Present from Town Staff:** Nicole Dixon, Development Review Administrator; Brian Eber, NPDES 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

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**1. Call to Order**

Chair Brison called the meeting to order at 2:31 p.m.

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

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

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

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

**5. Approval of Agenda**

Chair Brison asked for a motion to approve the agenda as presented. Ms. Laudermilch moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 4-0-0.

**6. Approval of Minutes**

**a. November 23, 2020 Regular Meeting**

Chair Brison asked for a motion to approve the minutes of the November 23, 2020 regular meeting as presented. Mr. White moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 4-0-0.

**7. Citizen Comments**

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall portal. All comments received via the portal were provided to the Board for review and made a part of the official record. Citizens were also provided the option to sign up for public comment participation by phone during the meeting. There were no requests 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 was taken by the Board on the item.

- APL-002275-2020 – Request for Appeal from Leslie Ford, on behalf of Cedar Woods Property Owners Association. The appellant is appealing staff's denial of a tree removal request in the open space behind 16 Song Sparrow Lane, sent to applicant on November 9, 2020.

## **9. New Business**

### **a. Public Hearing**

**VAR-001977-2020** – Request from Bruce Gray 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 fence to remain in the adjacent use setback and buffer. The property address is 11 Sandcastle Court with a parcel number of R511 009 000 1108 0000.

Chair Brison opened the public hearing for VAR-001977-2020.

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. Without objection, the Staff Report and presentation was incorporated by reference as part of the record. The Board had no questions for Staff at this time.

Following the Staff presentation, Chair Brison asked the applicant to make a presentation. Bruce Gray made a presentation regarding the grounds for variance application VAR-001977-2020, and answered questions by the Board. The Board discussed the application at length with the applicant, including: the applicant had the home built on the lot; the applicant indicated there was no flexibility to have the home constructed closer to the front property line in order to have adequate space for a rear patio; the term "vicinity" is subject to interpretation; generally a vicinity map shows the home location in relationship to the area; vicinity in this case means the Sandcastles by the Sea subdivision; the applicant indicated he did not have knowledge of the setback and buffer area at the time of purchase; the applicant indicated the home builder said he did not need to seek a variance to construct the patio; the applicant did not contact the Town about building a patio; the applicant did not look at the recorded plat or survey to see where the building line is located; the applicant indicated a surveyor staked his rear property line to be located within the lagoon; the as-built survey shows the rear property line at the edge of the lagoon as opposed to inside the lagoon; the applicant indicated he had no control to alter the plans and could not build the home smaller to accommodate the oak tree and the rear property line; currently the home is a rental property.

Chair Brison asked for any rebuttal by Staff. Staff pointed out that the shape of the encroachment area does taper off; a tidal pond lagoon is located in rear of the applicant's property so there will be fluctuation in water levels on the property based on the tides.

Chair Brison asked for any rebuttal by the applicant. Mr. Gray had no rebuttal and thanked the Board for their time.

Chair Brison confirmed that written public comments were distributed to the Board and made part of the record. The applicant's application and presentation were made part of the record without objection. Staff confirmed that there were no callers or additional public comments at this time. Chair Brison inquired to Mr. Curtis Coltrane about the letter and recorded Declaration of Covenants submitted by Mr. Richardson LaBruce on behalf of the Hilton Head Beach & Tennis Property Owners'. The documents were submitted to the Board as evidence that the Board can utilize in a manner it deems appropriate. The applicant was not aware of the restrictive covenants and did not communicate as such as required on the application. Following the discussion regarding public comment, Chair Brison closed the public hearing.

The Board made final comments and inquiries regarding: the status of replatting the Sandcastles by the Sea subdivision; even with a replatted subdivision, a majority of the properties would still have encroachments and be in violation of the LMO; how the restrictive covenants by Hilton Head Beach & Tennis Property Owners' impacts the Sandcastles by the Sea subdivision; not hearing any legal reason to grant a variance; concern that a large house was built on a small lot and so close to a lagoon and further impacted by a patio encroachment; expressed sympathy to the property owner, however, the Board is tasked with whether the property meets the criteria for a variance. Following the discussion, Chair Brison asked for a motion.

Mr. Walczak moved that the Board of Zoning Appeals deny application VAR-001977-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report. Mr. White seconded. By way of roll call, the motion passed with a vote of 4-0-0. (Roll: Brison, Laudermilch, Walczak, White – in favor of the motion; none against; no abstentions.)

**b. Hearing**

**Motion to Reconsider VAR-001976-2020** – Alexandra Barnum, on behalf of Joseph DeVito, is requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 117 Sandcastle Court.

**c. Hearing**

**Motion to Reconsider VAR-001985-2020** – Kevin and Martha Grandin are requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 115 Sandcastle Court.

**d. Hearing**

**Motion to Reconsider VAR-001874-2020** – Anne Marie and Lloyd Burke are requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 125 Sandcastle Court.

**e. Hearing**

**Motion to Reconsider VAR-001935-2020** – Reza Kajbaf requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 105 Sandcastle Court.

**f. Hearing**

**Motion to Reconsider VAR-001853-2020** – Richard Ross requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 121 Sandcastle Court.

**g. Hearing**

**Motion to Reconsider VAR-001854-2020** – Richard Ross requesting that the Board of Zoning Appeals reconsider their decision to deny the requested variance for 127 Sandcastle Court.

Chair Brison read the hearings into the record for Motion to Reconsider VAR-001976-2020, Motion to Reconsider VAR-001985-2020, Motion to Reconsider VAR-001874-2020, Motion to Reconsider VAR-001935-2020, Motion to Reconsider VAR-001853-2020, and Motion to Reconsider VAR-001854-2020 (collectively, the “Motions to Reconsider”). Chair Brison presented statements regarding the procedure for the hearings. A motion to grant a Motion 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, for any of the related variance applications, it will be heard at the January 25, 2021 BZA meeting. It will be as though no previous vote had been taken on the application. A motion to deny a Motion for Reconsideration can be made by any member of the Board. The effect of a vote denying a Motion for Reconsideration is that the vote shall be considered the Board’s final action on the matter.

Chair Brison asked each applicant to make a presentation. Alexandra Barnum made a presentation on her request that the Board reconsider their decision to deny VAR-001976-2020. Kevin and Martha Grandin made a presentation on their request that the Board reconsider their decision to deny VAR-001985-2020. Anne Marie and Lloyd Burke made a presentation on their request that the Board reconsider their decision to deny VAR-001874-2020. Reza Kajbaf made a presentation on his request that the Board reconsider their decision to deny VAR-001935-2020. Richard Ross made a presentation on his requests that the Board reconsider their decisions to deny VAR-001853-2020 and VAR-001854-2020.

The Board made comments and inquiries to the applicants, including: finding it difficult to believe that nobody reviewed the documentation to see that there are setbacks and buffers applicable to the properties; the impact of a patio encroachment versus a retaining wall; the negative impacts of the combined patio encroachments as it relates to stormwater runoff. The original stormwater runoff calculations were performed based on the required vegetated buffer and no permeable pavers. A vegetated buffer includes native plantings, not simply grass. Staff does not believe the retaining walls negatively impact stormwater runoff. The Board made brief inquiries to Mr. Coltrane regarding the purpose of a Motion to Reconsider. The Board discussed whether the evidence presented today rises to the level that the matter should be reheard.

Following the applicants’ presentations, Chair Brison asked for any rebuttal by the applicants and Staff. Ms. Barnum, Mr. and Mrs. Grandin, Mr. and Mrs. Burke, Mr. Kajbaf, and Mr. Ross made their rebuttals. Staff made rebuttals as well.

One member of the Board indicated there were issues in the original public hearings that were not grasped and can see a valid reason to reconsider these applications. Other

members of the Board indicated there was not anything presented today to satisfy a rehearing of these applications. Following the Board's brief remarks, Chair Brison asked if there was a motion on each application.

Mr. Walczak moved to deny the Motion to Reconsider VAR-001976-2020. Mr. White seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Walczak, White – in favor of the motion; Laudermilch – against the motion; no abstentions.)

Mr. Walczak moved to deny the Motion to Reconsider VAR-001985-2020. Mr. White seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Walczak, White – in favor of the motion; Laudermilch – against the motion; no abstentions.)

Mr. Walczak moved to deny the Motion to Reconsider VAR-001874-2020. Mr. White seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Walczak, White – in favor of the motion; Laudermilch – against the motion; no abstentions.)

Mr. White moved to deny the Motion to Reconsider VAR-001935-2020. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Walczak, White – in favor of the motion; Laudermilch – against the motion; no abstentions.)

Mr. White moved to deny the Motion to Reconsider VAR-001853-2020. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Walczak, White – in favor of the motion; Laudermilch – against the motion; no abstentions.)

Mr. Walczak moved to deny the Motion to Reconsider VAR-001854-2020. Mr. White seconded. By way of roll call, the motion passed with a vote of 3-1-0. (Roll: Brison, Walczak, White – in favor of the motion; Laudermilch – against the motion; no abstentions.)

## **10. Board Business – None**

## **11. Staff Report**

- a. Update on the 2020 LMO amendments recommended by the BZA – Ms. Dixon reported that because of the COVID-19 pandemic, the 2020 set of LMO amendments were delayed. Staff is planning for a set of 2021 LMO amendments which will include the BZA's recommendations.
- b. Update on any proposed LMO amendments that address waivers issued by Staff – Chair Brison requested that due to the late hour, this item be placed on the January meeting agenda.
- c. Waiver Report – The Waiver Report was included in the Board's agenda package.

Ms. Luick reported that Staff desires to split the seven applications for January into two meetings. Staff will review the public meeting calendar and then contact the Board Members and applicants for their availability regarding a second meeting date.

## **12. Adjournment – The meeting was adjourned at 5:59 p.m.**

**Submitted by:** Teresa Haley, Secretary

**Approved:** [DATE]



# TOWN OF HILTON HEAD ISLAND

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## *Community Development Department*

**TO:** Board of Zoning Appeals  
**VIA:** Teri B. Lewis, AICP, *Community Development Deputy Director*  
**FROM:** Nicole Dixon, AICP, CFM, *Development Review Administrator*  
**DATE:** January 15, 2021  
**SUBJECT:** APL-002275-2020

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Leslie Ford, on behalf of Cedar Woods Property Owners Association, is appealing staff's denial of a tree removal request, which was sent to the applicant on November 9, 2020. The applicant requested to relocate a 3.5" oak tree from one area of open space within Cedar Woods to another area of open space. Staff denied the request as the tree was found to be healthy and viable and had been previously approved by the Cedar Woods POA to be planted in that specific area.

The record as attached consists of the following documents:

- Attachment A – Appellant Submittal
- Attachment B – Staff Denial
- Attachment C – Tree Removal Application and Correspondence
- Attachment D – Appellant Supplemental Submittal



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

**FOR OFFICIAL USE ONLY**  
Date Received: \_\_\_\_\_  
Accepted by: \_\_\_\_\_  
App. #: APL \_\_\_\_\_  
Meeting Date: \_\_\_\_\_

Applicant/Agent Name: Leslie Ford Company: Cedar Woods POA  
Mailing Address: PO Box 6406 City: Hilton Head State: SC Zip: 29938  
Telephone: 843-816-0710 Fax: \_\_\_\_\_ E-mail: LeslieLFord@gmail.com

**APPEAL (APL) SUBMITTAL REQUIREMENTS**

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

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

- A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any LMO Section numbers relied upon; **and** a statement of the specific decision requested of the review body.
- Any other documentation used to support the facts surrounding the decision.
- Filing Fee - \$100.00 cash or check made payable to the Town of Hilton Head Island.

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

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

Applicant/Agent Signature:  **Leslie Ford** Date: 11/10/2020  
11/10/2020 7:08:32 AM EST

## **Appeal to Board of Zoning Appeals dated 11/10/2020**

On Nov. 4, 2020, Rocky Browder denied our request to relocate a young oak tree from one area of Cedar Woods Open Space to another area of Cedar Woods Open Space. Per section 16-2-103.T of the town LMO, we would like to appeal this decision on the basis that the location of the tree was chosen without any input by the neighboring residents and on the grounds that it will ultimately obstruct marsh views and harm values in the community. We request that the Zoning Appeal Board allow us to relocate this tree to a location that will enhance the community rather than cause further friction, obstruct views, and devalue properties.

Here is a bit of history on this tree. This tree was planted in Cedar Woods Open Space because the prior Board caved into demands by residents Sam and Nancy McCleskey. Sam filed a lawsuit on the three prior board members individually -- which our covenants explicitly prohibits. The basis of the lawsuit was that the prior board was unresponsive to Sam's frequent demands regarding neighbors pruning in the open space, which is ironic given his own regular pruning in the open space. For the record, The Ford's were simultaneously asking the board to stop the harassment and territorialism that the McCleskey's were acting out regarding the open space with no response. Our association also has director's insurance to handle litigation. Regardless, the prior board decided, without consulting any other residents, to cave into Sam's demands by settling the resolution out of court. The McCleskey demands were:

1. Pay attorney fees of \$2500
2. Impose outrageously strict community rules regarding pruning and trimming in the open space which the current board has overturned. [Seasonal pruning and trimming are allowed per the town LMO.]
3. Plant a new oak tree in the Cedar Woods Open Space to obstruct marsh views for the residents of Cedar Woods

Sam has been bullying and threatening to the association for years. He assumed control of the open space behind his house and planted bushes to obstruct views, block entry into the open space and enhance his own privacy. The irony is that, as an architect, Sam McCleskey knows full well what open space means. It certainly does not mean you can annex it as your own. He also planted, pruned, fenced to his heart's content, but when neighbors trimmed a bush in the open space, he declared WAR!! [The police were call regarding this assault – August 2019.]

It became clear that the prior board was unwilling or unable to solve issues or even respond to the growing problems in the community. I ran for the board and was elected at the last annual meeting where a quorum was present May 20, 2020. At that meeting, I was immediately handed the resignation of the other board members. They all quit over Sam and his negative energy, constant demands, and frequent threatening letters from Tom Taylor. I was left as the only board member and had to beg and plead to find two new board members.

I am happy to report that the new board has been extremely productive, and the community is looking better than it has in years! We have worked diligently and tirelessly to improve the community for all the residents. Some of our accomplishments:

1. Successfully completed a huge landscape cleanup of years of overgrowth, dead vegetation, and neglect. Some of the cleanup behind Sam's house required a police presence to control threatening and outrageous behavior by Sam McCleskey.
2. The planting of dozens of viburnums along our entry street and pink Muhly grass along the marsh. All of this was done with town approval and permits.
3. Refurbished our entry sign and beautified our planter box
4. Painted speed bumps
5. Took on and completed a large drainage project
6. Send out bi-monthly newsletters which had never been done before
7. Solicited 17 of our 50 homeowners to donate larger viburnums at a cost of \$78 each [McCleskeys did not contribute]
8. Solicited the help of the owners to plant the viburnums. [McCleskeys did not help] It was a great showing of community support and the project has received very positive feedback from the community.
9. Refurbished the playground and replaced missing shingles
10. And of course, all the other fun things a volunteer board gets to do - collecting dues, paying bills, managing landscape crews, etc.

Cedar Woods has new leadership, improved aesthetics, new energy, and vastly improved morale. Hopefully, all residents now realize that they do not have the exclusive right to control how the Association chooses to maintain said property as it was set aside for the benefit of all owners in the community. With Rocky's help, we have done things by the books and brought about real change. Our desire to relocate the oak tree is a way to reverse the poor decisions made by the prior board and move the tree to a new location that will further enhance our landscaping project along the entry to our community. As this tree grows, in its current location, it is sure to cause even more friction by the neighbors whose view it obstructs and devalue the surrounding properties. We would like to avoid this. Please grant us permission to relocate this tree while it is still small.

Thank you,

Leslie Ford

Cedar Woods President

Attached:

photo of lovely sunset view

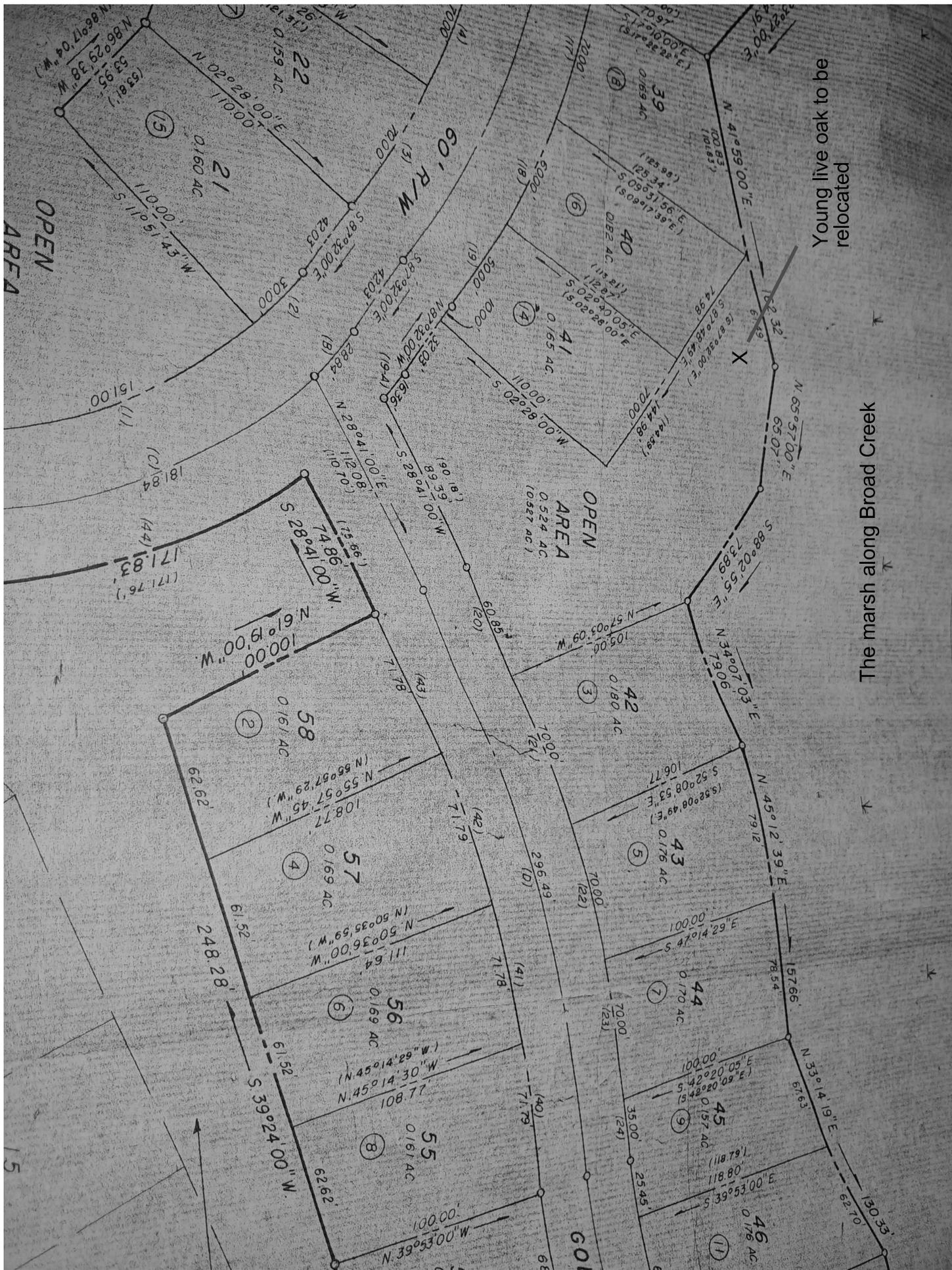
photo of young tree which will ultimately obstruct the above view

photo of police presence needed to complete landscape project









Young live oak to be relocated

The marsh along Broad Creek

OPEN AREA

OPEN AREA  
0.524 AC  
(0.427 AC)

57

# PLAN INSPECTION HISTORY REPORT (NAT-002211-2020)

Plan Type: Natural Resources

Application Date: 11/02/2020 Address:

Work Class: Natural Resources

Status: Denied

Expiration Date: 05/03/2021

Scheduled Date	Inspection Type	Inspection No.	Inspection Status	Primary Inspector	Reinspection	Complete
11/04/2020	Natural Resource	021380-2020	Failed	Rocky Browder	Reinspection	Complete
		<u>Checklist Item</u>			<u>Passed</u>	
		Comments	Tree relocation request has been denied, as the tree is healthy and viable, and was approved by the Board to be planted in the open area.		No	



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

*NAT 2211-2020*  
**FOR OFFICIAL USE ONLY**  
 Date Received: *11/2/2020*  
 Accepted by: *NICOLE F*

Applicant/Agent Name: Cedar Woods HOA Company: \_\_\_\_\_  
 Mailing Address: PO Box 6406 City: Hilton Head State: SC Zip: 29938  
 Telephone: 843-816-0710 Fax: \_\_\_\_\_ E-mail: Leslie.L.Ford@gmail.com  
 Property Owner Name if different from Applicant/Agent: Leslie Ford

Project Name: Relocation of Oak Tree Project Address: Cedar Woods Open Space  
 Parcel Number [PIN]: R55001400009250000  
 Zoning District: \_\_\_\_\_ Overlay District(s): \_\_\_\_\_

**NATURAL RESOURCE REQUEST**

TREES	BUFFERS	BEACHFRONT	MISCELLANEOUS
<input type="checkbox"/> Removal	<input type="checkbox"/> Adjacent Use	<input type="checkbox"/> View Corridors	<input type="checkbox"/> Docks/Bulkheads
<input type="checkbox"/> Trimming/Pruning	<input type="checkbox"/> Street	<input type="checkbox"/> Vegetation Trimming	<input type="checkbox"/> Utilities
<input type="checkbox"/> Emergency/Hazard	<input type="checkbox"/> Wetland	<input type="checkbox"/> OCRM Permitting	<input type="checkbox"/> SW Maintenance
<input checked="" type="checkbox"/> Other Relocation	<input type="checkbox"/> Other	<input type="checkbox"/> Dune Re-vegetation	<input type="checkbox"/> Other

**Provide narrative/description of project**

Request permission to relocate a young Live Oak tree planted last March. The surrounding neighbors were not consulted in the location and it will obstruct views of the marsh. We request to relocate this tree, from one area of the Open Space to another area of the open space along Song Sparrow Lane. Photo attached

**TREE REMOVAL INFORMATION**

Tree location on site \_\_\_\_\_

Size (DBH) \_\_\_\_\_ Species \_\_\_\_\_

Reason for Removal \_\_\_\_\_

Proposed Mitigation(replacement) \_\_\_\_\_

Photos are highly suggested to be attached to expedite the approval process.

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

Owner grants the Town, its employees, agents, engineers, contractors or other representatives the right to enter upon Owner's real property for the purpose of application review and inspections, for the limited time necessary to complete that purpose.

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

Leslie Ford, President  
SIGNATURE

11/2/20  
DATE

Tree location on site \_\_\_\_\_  
 \_\_\_\_\_

Size (DBH) \_\_\_\_\_ Species \_\_\_\_\_

Reason for Removal \_\_\_\_\_

Proposed Mitigation(replacement) \_\_\_\_\_

Photos are highly suggested to be attached to expedite the approval process.

Tree location on site \_\_\_\_\_  
 \_\_\_\_\_

Size (DBH) \_\_\_\_\_ Species \_\_\_\_\_

Reason for Removal \_\_\_\_\_

Proposed Mitigation(replacement) \_\_\_\_\_

Photos are highly suggested to be attached to expedite the approval process.

Tree location on site \_\_\_\_\_  
 \_\_\_\_\_

Size (DBH) \_\_\_\_\_ Species \_\_\_\_\_

Reason for Removal \_\_\_\_\_

Proposed Mitigation(replacement) \_\_\_\_\_

Photos are highly suggested to be attached to expedite the approval process.

**From:** [Leslie Ford](#)  
**To:** [Browder Rocky](#)  
**Subject:** relocation of oak tree  
**Date:** Thursday, October 29, 2020 7:58:51 AM

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**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

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Hi Rocky,

Could I get your opinion on this? I will get approval from the Cedar Woods Board and fill out a Natural Resource Request if it is a possibility.

Our neighbor, Sam McCleskey received approval from the prior Board to plant a new Live Oak tree in the CWOA open space right smack in several of the neighbors sunset line last March. The adjacent neighbors were not consulted in this. As the current President, I would like to relocate this tree to a more suitable location within the community. As it grows in its current location, I believe it will create more hard feeling and animosity than we need. It was also placed directly under another tree and I believe it will grow much better in a more suitable location. A photo is attached. Thank you.

Leslie Ford  
14 Song Sparrow Lane  
Hilton Head, SC 29928  
843-816-0710

**From:** [Leslie Ford](#)  
**To:** [Browder Rocky](#)  
**Subject:** Cedar Woods Natural Resource request  
**Date:** Friday, November 6, 2020 3:48:01 PM

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**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

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Hi Rocky,

Just following up on this request.

Also wanted to give you a bit of history on this tree. This tree was planted because the prior Board caved in to Sam McClesky. Sam filed a lawsuit on the three prior board members individually -- which our covenants explicitly prohibits. The basis of the lawsuit was that the prior board was unresponsive to his frequent demands regarding pruning in the open space, which is ironic given his own regular pruning in the open space. Our association also has directors insurance to handle litigation. However, our prior board decided, without consulting anyone, to cave into Sam's demands which were:

1. Pay his attorney fees of \$2500
2. Impose outrageously strict community rules regarding the open space which the current board has overturned.
3. Plant a new tree to obstruct our view

Sam has been bullying and threatening to the association for the entire 19 years he has been here. He took over the openspace behind his house and planted the living fence to obstruct views and insure his privacy. The irony is that, as an architect, he knows full well what open space means. It certainly does not mean you can annex it as your own. He also planted, pruned, fenced to his heart's content, but when I trimmed a bush, he declared WAR on us!!

It became pretty clear to me that the only way to improve this situation was to get on the board, which I did last April. I was elected and was immediately handed the resignation of the other board members. They all quit over Sam and his negative energy, constant demands and frequent letters from Tom Taylor. So I was left as the only board member and had to beg and plead to find two new board members.

I am happy to report that the new board has been extremely productive and the community is looking better than it has in years! Some of our accomplishments:

1. Huge landscape cleanup followed by the planting of dozens of viburnum along our entry street
2. Refurbished entry sign and planter box
3. Painted speed bumps
4. Took on and completed a large drainage project
5. Send out bi-monthly newsletters which had never been done before
6. Solicited 17 of our 50 homeowners to donate larger viburnums at a cost of \$78 each [Sam did not contribute]
7. Solicited the help of the owners to plant the viburnum [Sam did not help] It was a great showing of community support and the project is loved by all!!

8. Refurbished the playground and replaced missing shingles
9. And of course all the other fun things a volunteer board gets to do - collecting dues, paying bills, etc.

So Cedar Woods has new leadership, improved aesthetics, new energy and vastly improved morale. And **finally**, it seems that Sam realizes this board will not let him keep bullying us. With your help, we have done things by the books and brought about real change. Our desire to relocate the oak tree is a way to reverse the very poor decisions made by Sam and the prior board and move the tree to a terrific location that will further enhance our landscaping project along the entry to our community. As this tree grows, in its current location, it is sure to cause even more friction by the neighbors whose view it obstructs. We would like to avoid this. Please grant us permission to relocate this tree while it is still small.

Thank you,

Leslie Ford

**Cedar Woods Board of Directors**

PO Box 6406, Hilton Head, SC 29938

Richard Chalk

Leslie Ford

Dan Wallace

On Mon, Nov 2, 2020 at 2:15 PM Leslie Ford <[Leslie@leslieford.com](mailto:Leslie@leslieford.com)> wrote:

Thank you.

**Cedar Woods Board of Directors**

PO Box 6406, Hilton Head, SC 29938

Richard Chalk

Leslie Ford

Dan Wallace

**From:** [Browder Rocky](#)  
**To:** [Leslie@leslieford.com](mailto:Leslie@leslieford.com)  
**Cc:** [Dixon Nicole](#)  
**Subject:** CrystalReportViewer1.pdf  
**Date:** Monday, November 9, 2020 3:28:25 PM

---

Ms. Ford, it appears that my email to you on the 4<sup>th</sup> regarding your request to relocate the tree wasn't sent, as I was having password issues that day.

Attached is the Inspection Report, my apologies.

**From:** [Dixon Nicole](#)  
**To:** "[Leslie@leslieford.com](mailto:Leslie@leslieford.com)"  
**Cc:** [Browder Rocky](#)  
**Subject:** FW: Cedar Woods Natural Resource request  
**Date:** Monday, November 9, 2020 3:24:00 PM  
**Attachments:** [Appeal \(LMO\) Application.pdf](#)

---

Ms. Ford,

Rocky denied the tree request on November 4, 2020. If you do not agree with that denial, you can file an Appeal to the Board of Zoning Appeals. The appeal needs to be submitted within 14 calendar days of the denial per LMO Section 16-2-103.T. I attached the application for Appeal. Once filed, I will let you know what agenda you will be on. Let me know if you have any questions, thanks

Nicole Dixon, AICP, CFM  
Development Review Administrator  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
O: 843-341-4686  
F: 843-842-8908  
[nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov)  
[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)



---

**From:** Browder Rocky  
**Sent:** Monday, November 9, 2020 7:22 AM  
**To:** Dixon Nicole <[nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov)>; Lewis Teri <[TeriL@hiltonheadislandsc.gov](mailto:TeriL@hiltonheadislandsc.gov)>  
**Subject:** FW: Cedar Woods Natural Resource request

FYI, I denied the request to relocate last week.

**From:** Leslie Ford [<mailto:Leslie@leslieford.com>]  
**Sent:** Friday, November 6, 2020 3:48 PM  
**To:** Browder Rocky <[rockyb@hiltonheadislandsc.gov](mailto:rockyb@hiltonheadislandsc.gov)>  
**Subject:** Re: Cedar Woods Natural Resource request

**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

---

Hi Rocky,

Just following up on this request.

Also wanted to give you a bit of history on this tree. This tree was planted because the prior Board caved in to Sam McClesky. Sam filed a lawsuit on the three prior board members individually -- which our covenants explicitly prohibits. The basis of the lawsuit was that the prior board was unresponsive to his frequent demands regarding pruning in the open space, which is ironic given his own regular pruning in the open space. Our association also has directors insurance to handle litigation. However, our prior board decided, without consulting anyone, to cave into Sam's demands which were:

1. Pay his attorney fees of \$2500
2. Impose outrageously strict community rules regarding the open space which the current board has overturned.
3. Plant a new tree to obstruct our view

Sam has been bullying and threatening to the association for the entire 19 years he has been here. He took over the openspace behind his house and planted the living fence to obstruct views and insure his privacy. The irony is that, as an architect, he knows full well what open space means. It certainly does not mean you can annex it as your own. He also planted, pruned, fenced to his heart's content, but when I trimmed a bush, he declared WAR on us!!

It became pretty clear to me that the only way to improve this situation was to get on the board, which I did last April. I was elected and was immediately handed the resignation of the other board members. They all quit over Sam and his negative energy, constant demands and frequent letters from Tom Taylor. So I was left as the only board member and had to beg and plead to find two new board members.

I am happy to report that the new board has been extremely productive and the community is looking better than it has in years! Some of our accomplishments:

1. Huge landscape cleanup followed by the planting of dozens of viburnum along our entry street
2. Refurbished entry sign and planter box
3. Painted speed bumps
4. Took on and completed a large drainage project
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6. Solicited 17 of our 50 homeowners to donate larger viburnums at a cost of \$78 each [Sam did not contribute]
7. Solicited the help of the owners to plant the viburnum [Sam did not help] It was a great showing of community support and the project is loved by all!!
8. Refurbished the playground and replaced missing shingles
9. And of course all the other fun things a volunteer board gets to do - collecting dues, paying bills, etc.

So Cedar Woods has new leadership, improved aesthetics, new energy and vastly improved morale. And **finally**, it seems that Sam realizes this board will not let him keep bullying us. With your help, we have done things by the books and brought about real change. Our desire to relocate the oak tree is a way to reverse the very poor decisions made by Sam and the prior board and move the tree to a terrific location that will further enhance our landscaping project along the entry to our community. As this tree grows, in its current location, it is sure to cause even more friction by the neighbors whose view it obstructs. We would like to avoid this. Please grant us permission to relocate this tree while it is still small.

Thank you,

Leslie Ford

**Cedar Woods Board of Directors**

PO Box 6406, Hilton Head, SC 29938

Richard Chalk

Leslie Ford

Dan Wallace

On Mon, Nov 2, 2020 at 2:15 PM Leslie Ford <[Leslie@leslieford.com](mailto:Leslie@leslieford.com)> wrote:

Thank you.

**Cedar Woods Board of Directors**

PO Box 6406, Hilton Head, SC 29938

Richard Chalk

Leslie Ford

Dan Wallace

## **Appeal to Board of Zoning Appeals dated 12/8/2020**

On Nov. 4, 2020, Rocky Browder denied our request to relocate a young oak tree from one area of Cedar Woods Open Space to another area of Cedar Woods Open Space. This was surprising since he had told the board in our June 16, 2020 meeting on site that we would be able to relocate the tree if we did it while it was small. This was documented in our minutes. Per section 16-2-103.T of the town LMO, we would like to appeal this denial on the basis that the location of the tree was chosen without regard to the neighboring residents and on the grounds that it will ultimately obstruct marsh views and harm values in the community. We request that the Zoning Appeal Board allow us to relocate this tree to a location that will enhance the community rather than cause further friction, obstruct views, and devalue properties.

Here is a bit of history on this tree. This tree was planted in Cedar Woods Open Space last April because the prior Board caved into demands by residents Sam and Nancy McCleskey. The McCleskeys filed a lawsuit on the three prior board members. The basis of the lawsuit was that the prior board was unresponsive to Sam's frequent demands regarding neighbors pruning in the open space, which is ironic given his own regular pruning in the open space. For the record, The Ford's were simultaneously asking the board to stop the harassment and territorialism that the McCleskey's were acting out regarding the open space with no response. Our association has director's insurance to handle litigation. Regardless, the prior board, without consulting any other residents or the association, chose to cave into Sam's demands by settling the suit out of court. The McCleskey demands were:

1. Pay Sam's attorney fees of \$2,500
2. Impose outrageously strict community rules regarding pruning and trimming in the open space which the current board has overturned. [Seasonal pruning and trimming are allowed per the town LMO.]
3. Plant a new oak tree in the Cedar Woods Open Space to obstruct marsh views for the residents of Cedar Woods Owners Association

Sam McCleskey has been bullying and threatening to the association for years. He assumed control of the open space behind his house and planted bushes to obstruct views, block entry into the open space and enhance his own privacy. The irony is that, as an architect, Sam McCleskey knows full well what open space means. It certainly does not mean you can annex it as your own. He also planted, pruned, fenced to his heart's content, but when neighbors trimmed a bush in the open space, he declared WAR!! [The police were call regarding this assault – August 2019.] Our covenants clearly state that the open space in Cedar Woods is for the enjoyment of all residents. Our developers designed to community and its open space to maximize the beautiful marsh views for ALL residents!

It became clear that the prior board was unwilling or unable to solve issues or even respond to the growing problems in the community. Leslie Ford ran for the board and was elected at the last annual meeting where a quorum was present May 20, 2020. At that meeting, Leslie was

immediately handed the resignation of the other board members. The prior board resigned over Sam and his negative energy, constant demands, frequent threatening letters and the lawsuit from Tom Taylor. Leslie was left as the only board member and had to beg and plead to find two new board members. Richard Chalk and Dan Wallace joined the board in June.

The current board is happy to report that we have been extremely productive, and the community is looking better than it has in years and our property values are rising. We have spent a great deal of volunteer time, and we have worked diligently and tirelessly to improve the community for all the residents. Some of our accomplishments:

1. Successfully completed a huge landscape cleanup of years of overgrowth, dead vegetation, and neglect. Some of the cleanup behind Sam's house required police presence to control threatening and outrageous behavior by Sam McCleskey.
2. The planting of dozens of viburnums along our entry street and pink Muhly grass along the marsh. All of this was done with town approval and permits.
3. Refurbished our entry sign and beautified our planter box
4. Painted speed bumps
5. Took on and completed a large drainage project
6. Sent out bi-monthly newsletters which had never been done before
7. Solicited donations from homeowners for larger viburnums at a cost of \$78 each [17 families contributed, McCleskeys did not]
8. Solicited the help of the owners to plant the viburnums. [McCleskeys did not help] It was a great showing of community support and the project has received very positive feedback from the community.
9. Refurbished the playground and replaced missing shingles
10. And of course, all the other fun things a volunteer board gets to do - collecting dues, paying bills, managing budgets, managing landscape crews, etc.

Cedar Woods has new leadership, improved aesthetics, new energy, and vastly improved morale. Hopefully, all residents now realize that they do not have the exclusive right to control how the association chooses to maintain the open space as it was set aside for the benefit of all owners in the community. With Rocky's help, we have done things by the books and brought about real change. Our desire to relocate the oak tree is a way to reverse the poor decisions made by the prior board and move the tree to a new location that will further enhance our landscaping project along the entry to our community. As this tree grows, in its current location, it is sure to cause even more friction by the neighbors whose view it obstructs and devalue the surrounding properties. We would like to avoid this. Please grant us permission to relocate this tree while it is still small.

Thank you,

**Cedar Woods Board of Directors**  
PO Box 6406, Hilton Head, SC 29938  
Richard Chalk  
Leslie Ford  
Dan Wallace



Photo of lovely sunset view across the open space

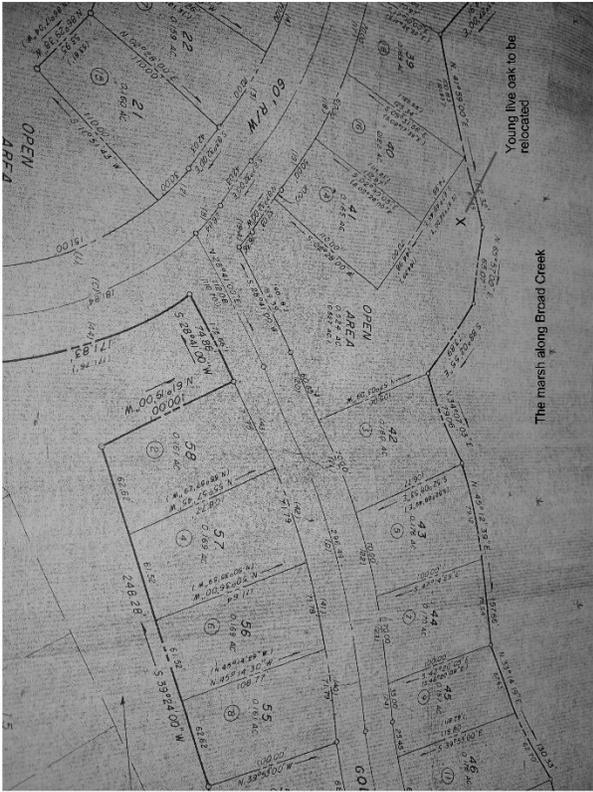


Photo of young tree which will ultimately obstruct the above view and was planted without regard to the neighboring properties. The tree is marked with an X in the open space behind Lot 40 and will eventually impact and devalue marsh views of surrounding properties. The tree is less than 6" in diameter.



Photo of police presence needed to complete landscape project that was approved and permitted by the town. Sam had exhibited outrageous and threatening behavior toward the landscapers while they were working in the open space, and they would only return with police presence so they could complete the project.

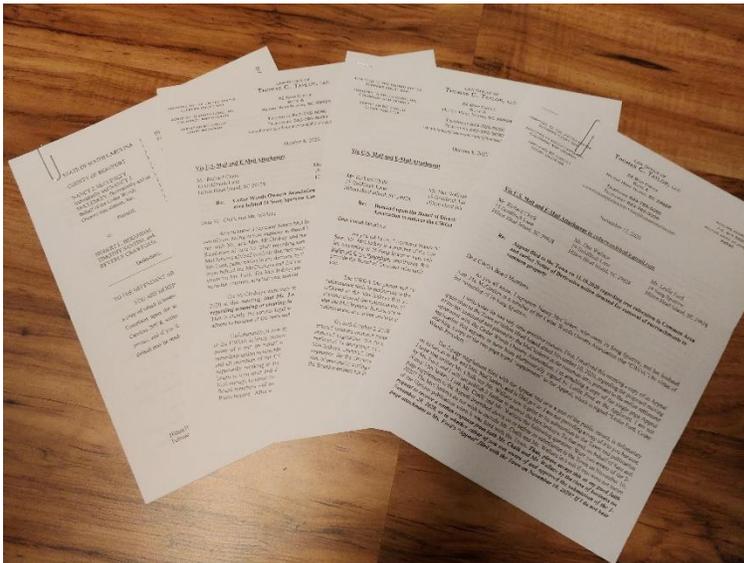


Photo of lawsuit and frequent threatening and demanding letters from Tom Taylor attempting to thwart the efforts of the volunteer boards progress in the community.

**Cross Property Agent Full**



**16 SONG SPARROW LANE, HILTON HEAD ISLAND, SC 29928**  
 List Price: **\$699,000** Residential-Single Fam ML# 410222  
 List Type: **Exclusive Right - HHIMLS Agreement**  
 Major Area: **Hilton Head/General** Status: **Active**  
 Minor Area: **Point Comfort** Zoning: **Residential**  
 County: **Beaufort**  
 Legal Address: **40 CEDAR WOODS**  
 Tax Key #: **00438609** Row: **1**  
 Tax Map #: **8550-014-000-0125-0000** # Lots: **1**  
 Tax Rec Liv Area: **1,504** # Acres: **1/4 to 1/2 Acre**  
 Apx Htd SqFt: **1,822** Apx Lot Size: **0.1855**  
 POA Fee: **Cedar Woods \$325** Special Ciroum: **NA**  
 POA 2 Fee: Construct Status: **Not Applicable**  
 Add. Association Fees: Flood Ins Req?:  
 Transfer Fee: **No**

Recent Change: 11/23/2020 : NEW : ->A

Public Remarks: **Drop dead gorgeous 180 degree view of the marsh and Broad Creek - launch your kayak from your backyard at high tide. House completely renovated by architect/owner in 2013 to include beautiful heart pine floors, sun room, expanded primary bedroom with walk-in closet, updated kitchen and baths. Small soaking pool off back deck and wood workers dream shop plus 2-car garage. This is a must see!**

Private & Confidential: **Show at high tide if possible <https://www.tideschart.com/United-States/South-Carolina/Beaufort-County/Weekly/>**

General Information			
Bedroom:	<b>3</b>	Full Baths:	<b>2</b>
Year Built:	<b>1985</b>	Half Baths:	<b>0</b>
Location:	<b>SoundOrient</b>	Year Remod:	<b>2013</b>
Term Length:		Type:	<b>Full Size</b>
Parking:	<b>Garage - 2, Underneath</b>	View:	<b>Deep Water, Marsh</b>
Finance:	<b>Cash-AllCash, Conventional, FHA</b>	Assess Bld Val:	<b>\$164,100</b>
Restrictions:	<b>Community Cows and Restricts Apply, Motorcycles Allowed, Pets OK</b>	Assess Land Val:	<b>\$275,000</b>
Land:	<b>Cul-de-Sac Street</b>	Elevation:	
Not Included in Sale:		Possession:	<b>At Closing</b>

Property Features			
Appliances:	<b>Dishwasher, Disposal, Dryer, Microwave, Oven, Oven Self-Cleaning, Range, Refrigerator, Washer</b>		
Interior Feat:	<b>Book Shelves, Built-Ins, Cable TV, Cathedral Ceilings, Ceiling Fan(s), Jetted Tub, Many Closets, Separate Shower, Smoke Alarm, Smooth Ceilings, Window Treatments</b>		
Exterior Feat:	<b>Balcony, Courtyard, Deck, Enclosed Porch, Gutters, Hurricane Protect, Irri System, Outdoor Shower, Paved Drive, Screens, Storm Door(s)</b>		
Exterior Type:	<b>Wood Siding</b>		
Green Features:	<b>None</b>		
Rooms:	<b>Dining Area, Foyer Entrance, Garage, Great Room, Kitchen, Laun/Util Rm, Workshop</b>		
Windows:	<b>Impact-Partial Home, Insulated</b>	Attic:	<b>Attic - Partially Floored, Stairs - Pull Down</b>
Master Bdmm:	<b>2nd Floor</b>	Pool:	<b>Above Ground, Private, Unheated</b>
Amenities:	<b>Playground</b>		
Style:	<b>1st Elevated, Split Level</b>	Roof:	<b>Asphalt</b>
Water/Sewer:	<b>City PSD</b>	Floors:	<b>Tile, Wood</b>
		AC:	<b>Air to Air, Electric, Heat: Central Heat, Electric Heat, Heat Pump</b>

Brokerage Information			
List Agent:	<b>448038 - Carl Schroeder</b>	REO #:	<b>16034</b>
LA Email:	<b>SCRE #: 25695</b>	CoList Agent:	
LA Cell #:	<b>carl@hargray.com</b>	CoLA Email:	
List Broker:	<b>543001 - Robert Clarkson</b>	CoLA Cell #:	
Firm:	<b>The Alliance Group Realty - 843-785-5200</b>	CoLA Fax:	
	<b>890 Wm. Hilton Pkwy, Hilton Head Island, SC 29928</b>		
CB Comp Amt:	<b>3.0000</b>	Comp Type:	<b>Percentage</b>
Owner Name:	<b>Nancy J. McCleskey</b>	List Date:	<b>11/22/2020</b>
How To Show:	<b>Contact List/Co-List Agent</b>	HHIMLS Lockbox YN:	<b>Yes</b>
Showing Instr:	<b>Call Carl 843-683-7999 for quick appointment.</b>	Lockbox #:	<b>62029393</b>
Branded VT URL:		Unbranded VT URL:	

Monday, December 07, 2020 6:24 AM

Prepared By: Leslie Ford

© 2020 Hilton Head Island | December 07, 2020 06:24 AM  
 \* INFORMATION IS BELIEVED ACCURATE BUT IS NOT WARRANTED \*

Information Deemed Reliable But Not Guaranteed. Copyright: 2020 MLS of Hilton Head Island

Photo of the McCleskey's home currently under contract in MLS clearly showing that view has value! They are scheduled to close 2/15/21 per MLS. The house is listed at the highest price in Cedar Woods history! The McCleskey's clearly understand that views have value! Value is driven by views and comps. Improving views in the community improves values for the entire community. Intentionally obstructing views conversely devalues the entire community.

### Cross Property Agent Summary



**16 SONG SPARROW LANE, HILTON HEAD ISLAND, SC 29928**

Prop Type: <b>Residential-Single Fam</b>	List Price: <b>\$699,000</b>	Status: <b>Under Contract</b>
MLS #: <b>410222</b>	County: <b>Beaufort</b>	Major Area: <b>Hilton Head/General</b>
Legal Addr: <b>40 CEDAR WOODS</b>	Full Baths: <b>2</b>	Minor Area: <b>Point Comfort</b>
Bdrm: <b>3</b>	Zoning: <b>Residential</b>	1/2 Baths: <b>0</b>
Year Built: <b>1985</b>	Furnished: <b>No</b>	Row: <b>1</b>
Living Area: <b>1,504</b>		Location: <b>SoundOrient</b>
View: <b>Deep Water, Marsh</b>		Lot Size: <b>0.1855</b>
Parking: <b>Garage - 2, Underneath</b>		POA Fee: <b>Cedar Woods \$350</b>
Amenities: <b>Playground</b>		
How To Show: <b>Contact List/Co-List Agent</b>		
Showing Inst: <b>Call Carl 843-683-7999 for quick appointment.</b>		

**Recent Change: 12/15/20 Under Contract**

Position: **Cedar Woods Community, a hidden gem that will take you from your home in 5 minutes or less to Coligny Beach, groceries, pharmacies, your favorite restaurants, The Cross Island. And right in your back yard wildlife, amazing sunsets, kayaking, and so much more. Drop dead gorgeous 180 degree view of the marsh and Broad Creek. House completely renovated by architect/owner in 2013 to include beautiful heart pine floors, sun room, expanded primary bedroom with walk-in closet, updated kitchen and baths. Small soaking pool off back deck and wood workers dream shop plus 2-car garage. This is a must see!**

Confidential: **Show at high tide if possible <https://www.tideschart.com/United-States/South-Carolina/Beaufort-County/Weekly/>**

List Agent: <b>Carl Schroeder</b>	List Firm: <b>The Alliance Group Realty</b>	List Agent #: <b>843-683-7999</b>
List Date: <b>11/22/2020</b>	Close Date:	CDOM: <b>22</b>

© 2020 Hilton Head Island | December 21, 2020 06:51 AM | Agent: Leslie L Ford  
\* INFORMATION IS BELIEVED ACCURATE BUT IS NOT WARRANTED \*

Information Deemed Reliable But Not Guaranteed. Copyright: 2020 MLS of Hilton Head Island

Below are the minutes for the June 16 board meeting: [see highlighted section]

#### Board Meeting Notes – 6/16/20

A board meeting was held in the field with Town experts Rocky Browder from Natural Resource and Brian Eber from Stormwater. All Board Members [Leslie Ford, Dan Wallace and Richard Chalk] were present along with resident Bob Hartner.

The goal of the meeting was to establish landscaping plans and guidelines for the Open Spaces as well as a maintenance plan for drainage. Some of the agreed upon goals were:

- Gain approval from town to trim along the 20' wetland along the marsh. Approval was granted to trim to 4' from ground. [Rocky was clear that seasonal pruning and trimming do not require a permit but this initial time does. Additionally, Rocky clarified that pruning up to 30% of a trees canopy is considered seasonal pruning and trimming and the Oak Trees in the Open Space may be trimmed]
- Gain approval to clear open space to the right of the playground and along the right side of Song Sparrow. Permit has been applied for.
- Establish the OCRM line from Sarah Brower – permit has been applied for
- Plant Viburnum along the right side of Song Sparrow to enhance the look. Irrigation will need to accompany. Dan agreed to work with Kurt to develop a plan which is to include a hose bib near the entry planter
- Brian Eber stated that any moving of dirt in the critical stormwater area does need a permit

- Brian stated that Wax Myrtles growing over drainage ditches were harmful. We do not need a permit to remove. Wax myrtles at 25 Song Sparrow and 17 Goldfinch need to be trimmed or removed. A board member should approach owners before work begins.

Other items that came up:

- Dan mentioned that Nate and Michael would like to add a drainage pipe and cover as many have done. Brian suggested a 15" plastic smooth-wall pipe with a drainage flow grate on either side. Dan agreed to talk to Nate and Michael and have them submit for approval.
- Broken pipe under Reeds driveway was discussed. It was suggested that the community split the cost of repair. No conclusion was reached.
- It was suggested that Deagler Waste Services be consulted to clear some of the drainage pipes. Hire laborers to clean ditches. Afterward, grass should be planted in ditches to hold the soil and reduce future maintenance.
- Hartner requested permission to trim Viburnum to match others, remove sad looking azaleas and spray for weeds. Permission was granted.
- Ford requested permission to prune bushes in Open Space excluding area in the 20' buffer. Permission was granted.
- Relocating the new oak tree in the open space was discussed since the location was not approved by the adjacent neighbors whom it mostly affects. Rocky indicated this could be done if we do it while it is small. A town permit would be needed.
- It was suggested that the cedars along Song Sparrow be removed, the Ligustrum's be shaped and pruned and the overgrown and leggy bushes to the entrance of the playground be cut back.
- Nancy McClesky complained about firewood stacked too close to her property. The firewood has been removed.
- Hartner suggested two possible sources for our fall planting project – Pineland Nursery and San Flasko Nursery in Florida.
- Hartner also agree to provide recommendations on a bushhogger.

It was a lengthy and productive meeting.



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# TOWN OF HILTON HEAD ISLAND

## *Community Development Department*

---

**TO:** Board of Zoning Appeals  
**VIA:** Teri B. Lewis, AICP, *Community Development Deputy Director*  
**FROM:** Nicole Dixon, AICP, CFM, *Development Review Administrator*  
**DATE:** January 15, 2021  
**SUBJECT:** APL-002548-2020

---

Daniel Ben-Yisrael, on behalf of The Parker Companies LLC, is appealing staff's determination dated December 3, 2020, regarding potential signage for the proposed Parker's Kitchen at 430 William Hilton Parkway, Parcel E, at the Sea Turtle Marketplace. The applicant requested to have their own freestanding sign on the parcel even though the parcel is part of the shopping center.

The record as attached consists of the following documents:

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



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

<b>FOR OFFICIAL USE ONLY</b>	
Date Received:	_____
Accepted by:	_____
App. #:	APL _____
Meeting Date:	_____

Applicant/Agent Name: Daniel Ben-Yisrael Company: Parker's Kitchen  
 Mailing Address: 17 W. McDonough Street City: Savannah State: SC Zip: 31401  
 Telephone: 912-677-0593 Fax: \_\_\_\_\_ E-mail: dbenyisrael@yahoo.com

**APPEAL (APL) SUBMITTAL REQUIREMENTS**

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

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

- A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any LMO Section numbers relied upon; **and** a statement of the specific decision requested of the review body.
- Any other documentation used to support the facts surrounding the decision.
- Filing Fee - \$100.00 cash or check made payable to the Town of Hilton Head Island.

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

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

Applicant/Agent Signature: Daniel Ben-Yisrael Digitally signed by Daniel Ben-Yisrael  
DN: cn=Daniel Ben-Yisrael, o=The Parker Companies, ou=Parker's Kitchen, cn=Daniel Ben-Yisrael  
Reason: I agree to the terms defined by the placement of my signature on this document  
Date: 2020.12.17 15:08:42-0500 Date: 121720

# THE PARKER COMPANIES

---

17 W. MCDONOUGH STREET  
SAVANNAH, GEORGIA 31401  
TELEPHONE (912) 231-1001  
FACSIMILE (912) 231-0030

**December 17, 2020**

C/O Nicole Dixon  
Community Development Department  
One Town Court Center  
Hilton Head Island, SC 29928

**Re: Parker's #90 430 William Hilton - Appeal of Zoning Determination on Signage**

Dear BZA Members:

On December 3, 2020 Nicole Dixon, Development Review Administrator, issued a zoning decision pursuant to LMO Section 16-5-114.F, maintaining that our Parker's Kitchen development at Sea Turtle Marketplace would not be permitted "to have freestanding signage..." as the Parker's site is considered to be a part of the larger shopping center and not a separate parcel. Drayton-Parker Companies LLC currently has a contract to purchase the above referenced property and plans to construct a convenience store, which will open in the summer of 2021. We have representation from the current owner of the shopping center that they intend to relinquish all rights to signage on the existing freestanding sign and grant to Parker's the exclusive right to use, redesign and or modify the same. We hereby appeal the Administrator's decision and duly request a favorable ruling from the BZA to allow Parker's to occupy the entirety of the freestanding sign in question. For your reference, I have also attached renderings depicting how we intend to utilize the freestanding sign structure.

Thank you for your consideration in this matter.

Sincerely,

Daniel Ben-Yisrael  
Real Estate Development Manager

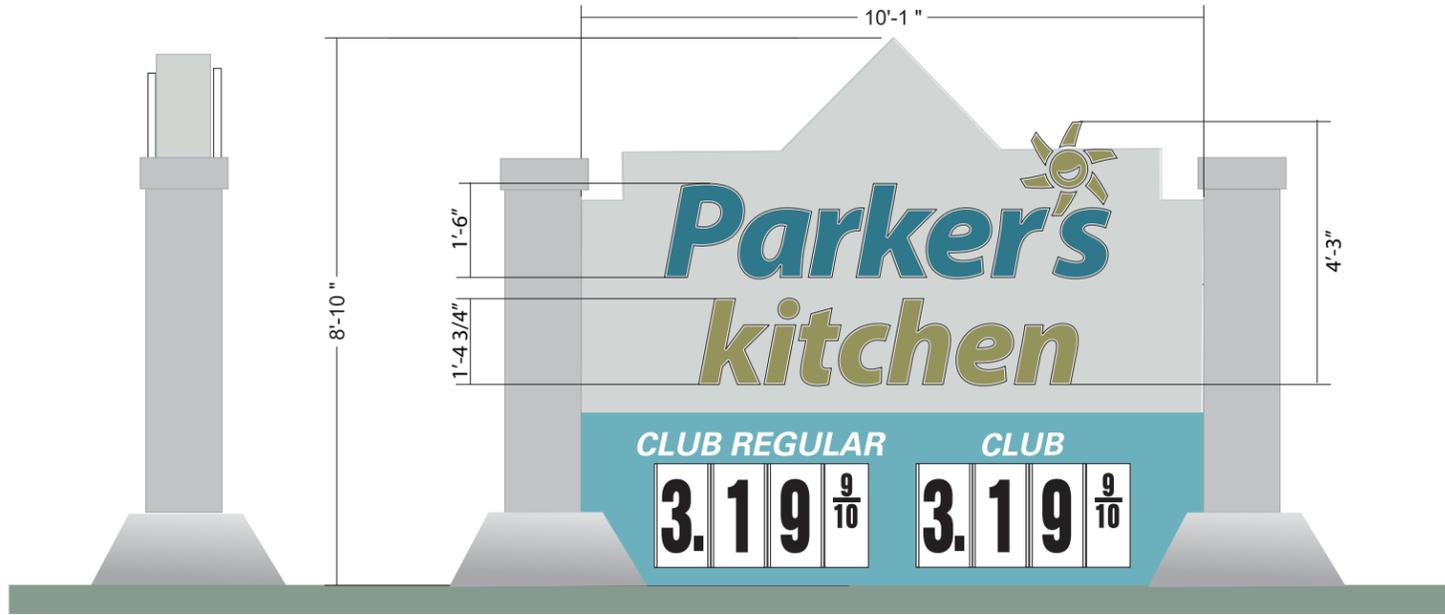
Attachments

Notwithstanding the foregoing or anything in this Agreement to the contrary, the Owner of Parcel E shall have the exclusive right to use, maintain, repair, replace (if and when necessary), modify and/or redesign, but not substantially expand or enlarge, the preexisting monument sign located on and within Parcel E in the location identified on the Site Plan as the "Parcel E Sign", and relocate same to such other location on Parcel E in its sole discretion, and same shall not be deemed a Center Pylon Sign for purposes of this Agreement; provided that such use, maintenance, repair, replacement (if and when necessary) modification, redesign, and/or relocation shall be at the sole cost and expense of the Owner of Parcel E, and in compliance with any and all applicable law(s).



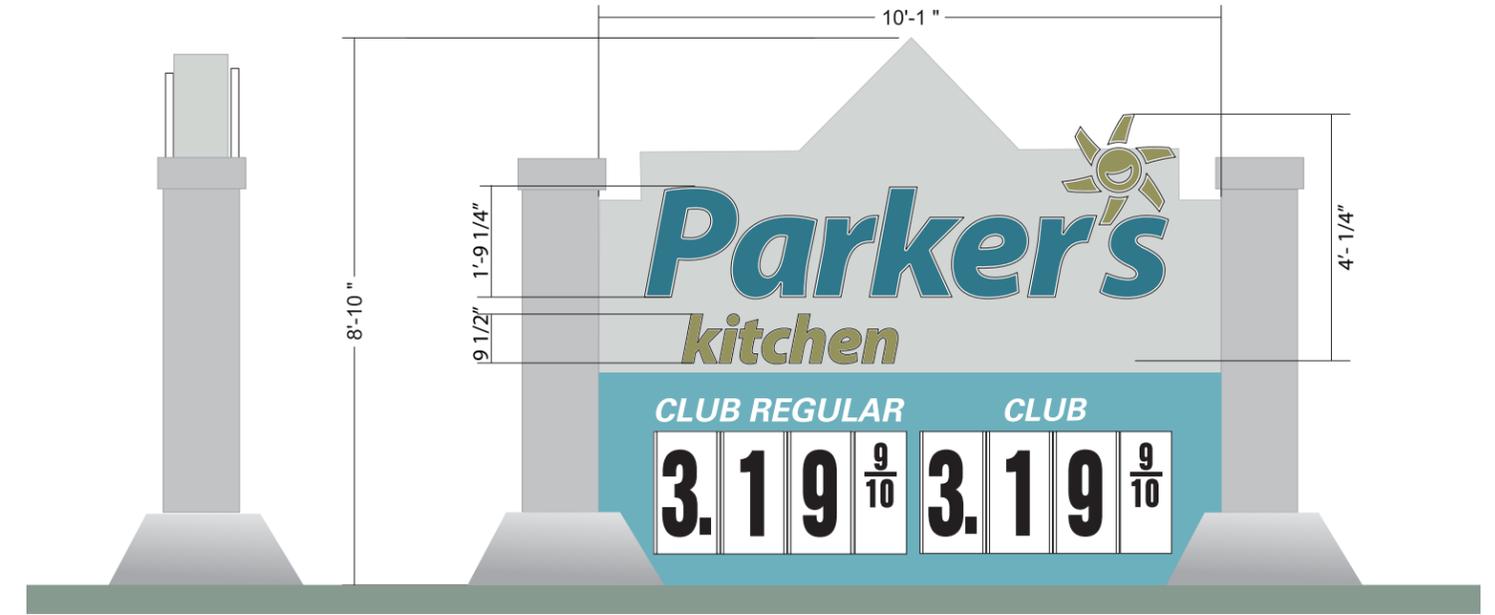
**CUSTOM MONUMENT - OPTION 1**

- Grade Copy = 4 3/4" Height
- Font Kit = 14 1/2" High



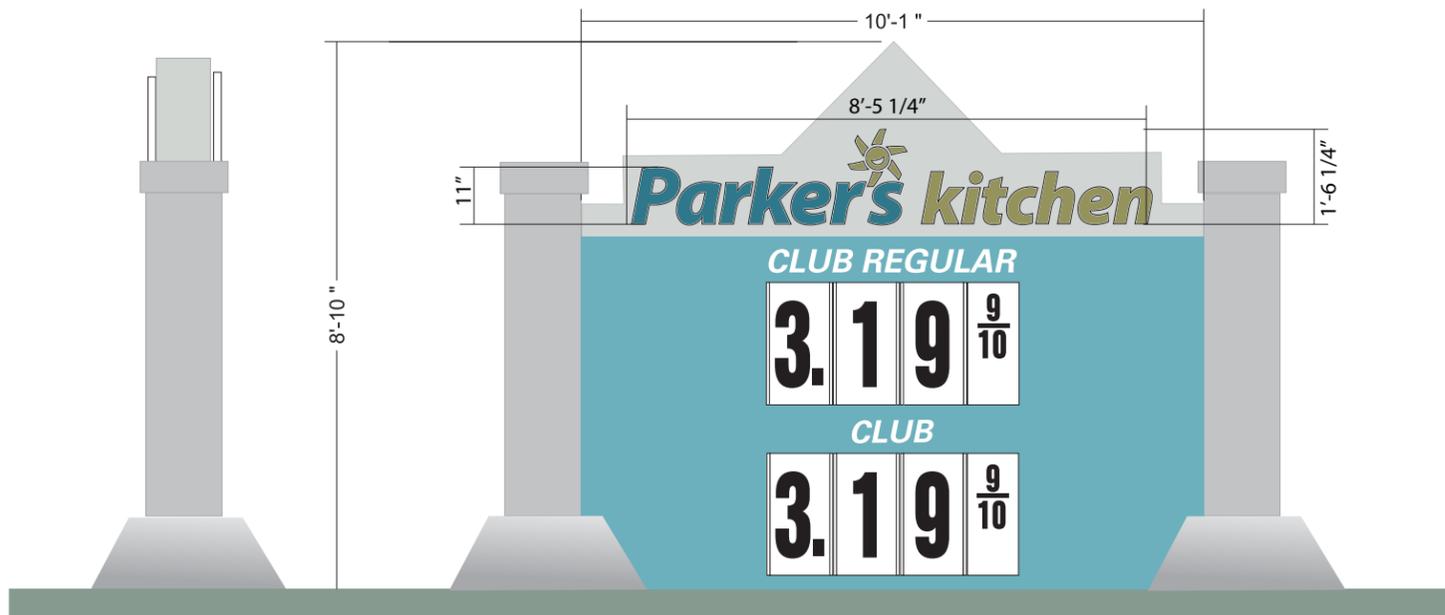
**CUSTOM MONUMENT - OPTION 2**

- Grade Copy = 4 3/4" Height
- Font Kit = 17" High



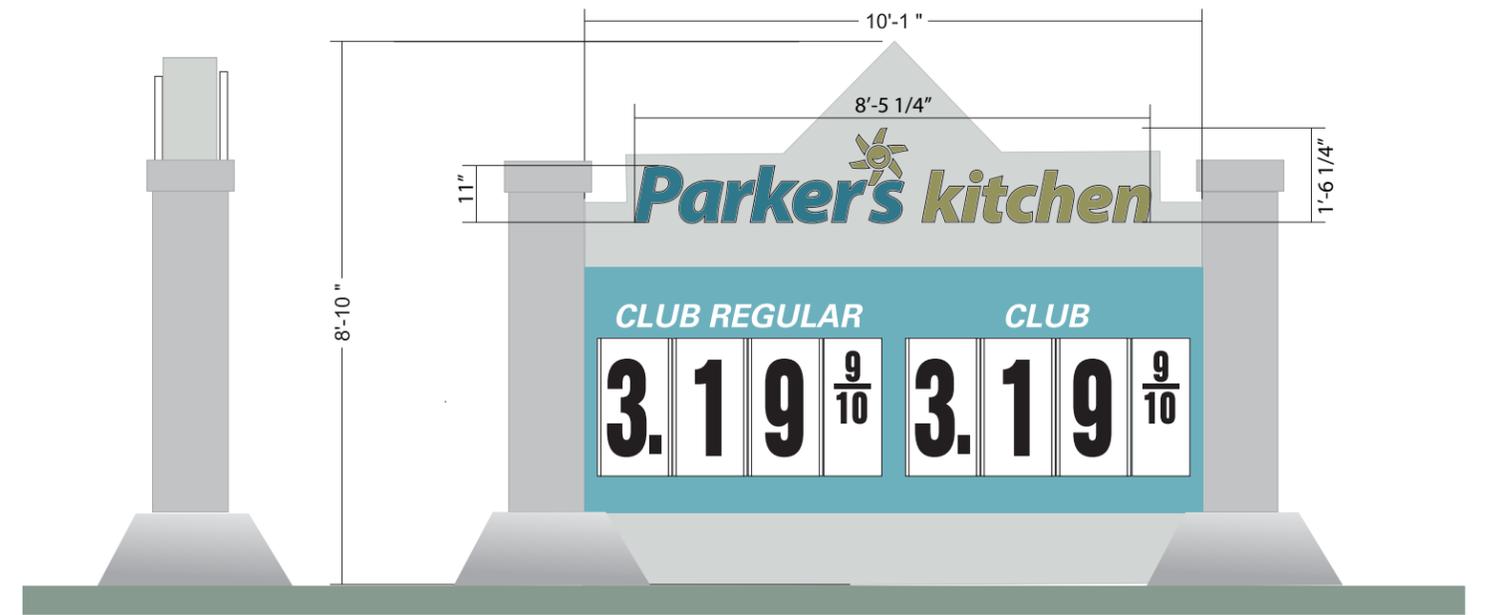
**CUSTOM MONUMENT - OPTION 3**

- Grade Copy = 4 3/4" Height
- Font Kit = 17" High



**CUSTOM MONUMENT - OPTION 4**

- Grade Copy = 4 3/4" Height
- Font Kit = 19.25" High copy



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Parker's Kitchen  
Store #90  
430 William Hilton  
Pkwy Hilton Head  
Island, SC 29928

Issue Date: 11.10.20		
Drawn By: A. Swope		
REV	DATE	DESCRIPTION
0	10.09.20	INITIAL RELEASE
1	11.02.20	UPDATE MONUMENT

**MONUMENT DETAILS**

Rev: 1  
Date: 11.10.20  
Doc #: PRK-200704-1  
Blair Project #: 92758  
Blair Sales Order #:

Blair Image Elements  
5107 Kissell Avenue  
Altoona, PA 16601  
P: (814) 949.8287  
blairimage.com



**From:** [Daniel Ben-Yisrael](#)  
**To:** [Dixon Nicole](#); [Thomas Mathewes](#)  
**Subject:** Re: parkers appeal  
**Date:** Monday, December 28, 2020 4:31:28 PM

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**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

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Hi Nicole,

I hope you had a good holiday. If possible, we would like to increase the size of the existing monument to a maximum of 15ft and no less than 12ft. in height. We're opposed to the idea of allowing Sea Turtle to remain on the sign, as we have been granted exclusive rights to use said signage. If we're not allowed to increase the height of the sign, we would propose modifying the sign as shown on the previously submitted renderings. The copy size and area restrictions you've described per the LMO forces us to proceed with the appeal unless something can be worked out at the staff level. Please advise if we should be seeking a variance from the LMO as well. Lastly, we are totally fine with the DRB review requirement. Thank you!

On Mon, Dec 28, 2020 at 3:07 PM Dixon Nicole <[nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov)> wrote:

Good Afternoon,

I was reading through your appeal documents. When I was originally asked to write a determination, I was told you were looking to add an additional freestanding sign on this parcel. If you are looking to use the existing Sea Turtle sign that is a little bit of a different situation. The sign can be modified, but what staff would want to see is the Sea Turtle and address remain at the top and Parkers can use the space below. The Parkers portion cannot exceed 40 square feet and the changeable copy cannot exceed 8 inches in height. This is per the LMO. Also, the sign will need to go to the Design Review Board as the sign itself is over 40 square feet in size. Does this make your appeal go away?

Nicole Dixon, AICP, CFM

Development Review Administrator

Town of Hilton Head Island

One Town Center Court

Hilton Head Island, SC 29928

O: 843-341-4686

F: 843-842-8908

[nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov)

[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)



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--

**Daniel Ben-Yisrael**

*Real Estate Development Manager*

The Parker Companies

Cell: 912.677.0593

[dbenyisrael@Parkersav.com](mailto:dbenyisrael@Parkersav.com)

17 W. McDonough St.

Savannah, GA 31401

[www.parkersav.com](http://www.parkersav.com)

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# TOWN OF HILTON HEAD ISLAND

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

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

[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)

**John J. McCann**  
Mayor

**William D. Harkins**  
Mayor ProTem

---

**Council Members**

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

---

**Stephen G. Riley**  
Town Manager

## Via E-mail

December 3, 2020

Mr. Daniel Ben-Yisrael  
Parker's  
17 W. McDonough Street  
Savannah, GA 31401

Dear Mr. Ben-Yisrael:

This letter is in response to your email requesting a formal determination regarding potential signage for 430 William Hilton Parkway, Parcel E, of Sea Turtle Marketplace. Specifically, you are inquiring if new freestanding monument signage can be constructed for the proposed Parker's at this location.

The purpose of the Town's sign standards is to protect, preserve, and enhance the unique aesthetic character, beauty, and charm of the Town. The regulations are intended to encourage the construction of commercial signs of high-quality materials that are aesthetically pleasing and are compatible with their natural surroundings. While there is value in having commercial signage as a means of locating and identifying commercial establishments, the sign regulations in the Land Management Ordinance (LMO) are meant to discourage the use of commercial signage to sell goods and services and to eliminate a distracting atmosphere that can result by the physical and visual clutter caused by signs. These are the reasons there is a limitation on the size and number of signs permitted on a property or for a development.

Per LMO Section 16-5-114.F, Freestanding Signs, a development with a total gross floor area over 100,000 square feet (the Sea Turtle Marketplace is approximately 146,585 square feet), is permitted to have up to 4 freestanding signs if the development has frontage on two streets. Further, the LMO requires there be a separation of at least 200 feet in between signs. The development currently has three freestanding Sea Turtle Marketplace signs that were approved with the redevelopment of the shopping center. One of the existing signs is located at the corner of the parcel and the other two are located at each entrance to the development.

The Sea Turtle Marketplace signs were approved as part of a sign system for the shopping center development. You inquired as to whether the Parker's site can be considered a separate development. In doing research, staff found that there have been three separate Development Plan Review applications approved for Sea Turtle Marketplace; one for the redevelopment of the shopping center, one for grading and filling of the site and one for storm water improvements. Staff reviewed each of the plans associated with the

applications (see attached plans) and found that the Parker's lot was always considered as a future phase of the greater Sea Turtle redevelopment project, and was never meant to be treated as a separate unrelated out parcel. This is further confirmed by the fact that there is shared access, drainage and tree mitigation (see attached pictures) between this parcel and the other parcels that are part of this redevelopment project. As the proposed Parker's lot is considered part of the overall shopping center, the existing signage shall serve the entire development.

Based on the above findings and pursuant to the LMO, staff cannot permit Parker's to have individual freestanding signage on the site. A tenant panel can be added to the existing freestanding sign to identify the business. Additionally, per LMO Section 16-5-114.H.11.b, premises from which retail petroleum products are dispensed by pump shall be allowed one additional sign with a maximum size of ten square feet announcing the price per gallon of the products.

Should you wish to appeal this determination to the Board of Zoning Appeals (BZA), you must file an appeal application within 14 calendar days of receipt of this determination.

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

Sincerely,



Nicole Dixon, AICP, CFM  
Development Review Administrator

Enclosures: DPR-002292-2015 – Approved plans  
DPR-000332-2016 – Approved plans  
DPR-000198-2016 – Approved plans  
Site Pictures



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

**FOR OFFICIAL USE ONLY**  
 Date Received: \_\_\_\_\_  
 Accepted by: \_\_\_\_\_

DPR/SUB # \_\_\_\_\_ Parcel Number [PIN]: R \_\_\_\_\_  
 Project Name: Parker's Kitchen Project Address: \_\_\_\_\_  
 Applicant/Agent Name: Daniel Ben-Yisrael Company: The Parker Companies LLC  
 Mailing Address: 17 W McDonough Street City: Savannah State: GA Zip: 31401  
 Telephone: 912-677-0593 Fax: \_\_\_\_\_ E-mail: dbenyisrael@parkersav.com  
 Zoning District: \_\_\_\_\_ Overlay District(s): \_\_\_\_\_

## WRITTEN INTERPRETATION REQUEST

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

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

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

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

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

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

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

**Daniel Ben-Yisrael**  
 \_\_\_\_\_  
 SIGNATURE

Digital signed by Daniel Ben-Yisrael  
 DN: cn=Daniel Ben-Yisrael, o=The Parker Companies, ou=Parker's  
 Reason: I agree to the terms defined by the placement of my signature on this document  
 Date: 2020.10.21 11:28:54-0400

**Oct 21, 2020**  
 \_\_\_\_\_  
 DATE

Statement of Interest:

I Daniel Ben-Yisrael serve as the Real Estate Development Manager for the Parker Companies and Parker's Kitchen. We are seeking an official determination on the signage allowed in conjunction with our proposed development at Sea Turtle Marketplace



# TOWN OF HILTON HEAD ISLAND

## Community Development Department

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**TO:** Board of Zoning Appeals  
**FROM:** Missy Luick, *Senior Planner*  
**DATE:** January 11, 2020  
**SUBJECT:** Waiver Report

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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 granted by staff since the December 14, 2020 BZA meeting.

1. **WAIV-002398-2020, North Sea Pines Drive** - In conjunction with a proposed street redevelopment project, a Tree Waiver request was submitted for removal of 4 Significant Trees. Upon review, it was determined that alternatives were explored, the proposed project avoided a number of other specimen trees and significant sized trees, the proposed project is in a location that has site constraints of the right-of-way and adjoining properties and is a public safety project aimed at realignment of the roadway and bike paths for better safety for users. The waiver was approved to allow removal of the 28” Pine, 32” Pine, 33” Pine and 33” Loblolly Pine trees per the condition that six (6) 4” Live Oak trees as mitigation be included in the landscaping plan associated with the Development Plan Review (DPR) for this project.