

**TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
Town Hall  
1122 Dills Bluff Road, James Island, SC 29412  
BZA AGENDA  
January 17<sup>th</sup>, 2023  
5:00 PM**

NOTICE OF THIS MEETING WAS POSTED IN ACCORDANCE WITH THE FREEDOM OF INFORMATION ACT

**(VISIT THE TOWN'S YouTube CHANNEL TO VIEW LIVE)**

**Members of the public addressing the Board in support or opposition of these cases at Town Hall must sign in. Social distancing will be in place. The Town invites the public to submit comments on these cases prior to the meeting via email to [kcrane@jamesislandsc.us](mailto:kcrane@jamesislandsc.us) referencing the Case #.**

- I. CALL TO ORDER
- II. COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT
- III. INTRODUCTIONS
- IV. REVIEW SUMMARY (MINUTES) FROM THE OCTOBER 18<sup>th</sup> & November 15<sup>th</sup>, 2022, BZA MEETINGS
- V. BRIEF THE PUBLIC ON THE PROCEDURES OF THE BZA
- VI. ADMINISTER THE OATH TO THOSE PRESENTING TESTIMONY
- VII. REVIEW OF THE FOLLOWING APPLICATIONS:
  1. **(RESUMED)**  
**CASE #BZAV-9-22-030**  
Variance request for the removal of two grand trees (44" DBH Live Oak and 37.5" DBH Live Oak) in the Right-of-Way of Camp Road (1182 Fort Johnson Road) for intersection improvements at Camp Road and Fort Johnson Road.
  2. **CASE #BZAV-12-22-031**  
Variance request for the construction of an 8' privacy fence in the front setback of a residential lot in the Low-Density Suburban Residential (RSL) Zoning District. (TMS #454-10-00-038)
- VIII. ADDITIONAL BUSINESS:
  1. Next Meeting Date: February 21<sup>st</sup>, 2022
- IX. ADJOURN

\*Full packet available for public review Monday through Friday during normal business hours.

TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
SUMMARY OF OCTOBER 18, 2022

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, October 18, 2022 via Zoom virtual platform and in person at the James Island Town Hall, 1122 Dills Bluff Road, James Island, SC.

Commissioners present: Amy Fabri, Corie Hipp, David Savage, Vice Chair, Roy Smith, and Brook Lyon, Chairwoman, who presided. Also, Kristen Crane, Planning Director, Flannery Wood, Planner II, Niki Grimball, Town Administrator, Bonum S. Wilson, BZA Attorney, and Frances Simmons, Town Clerk and Secretary to the BZA. A quorum was present to conduct business.

Call to Order: Chairwoman Lyon called the BZA meeting to order at 7:00 p.m. by opening in prayer. The Pledge of Allegiance was not recited because the meeting was held on Zoom.

Compliance with the Freedom of Information Act: This meeting was held in compliance with the SC Freedom of Information Act. The public was duly informed and notifications were given that the meeting would also be live-streamed on the Town’s You-Tube Channel.

Introduction: Chairwoman Lyon introduced herself, members of the BZA, Attorney, and Staff.

Review Summary (Minutes) from June 21, July 19, and August 16, 2022 BZA Meetings: Comm’r Hipp moved for approval of all three (3) meeting minutes, seconded by Comm’r Smith. No discussion.

Vote:

Comm’r Hipp	Aye
Vice Chair Savage	Aye
Chairwoman Lyon	Aye

Motion Carried.

\* Comm’rs Fabri and Smith joined the meeting after the vote was taken.

Chairwoman Lyon stated that case rulings and minutes from this and any BZA meeting are available for public review and inspection during normal business hours at the Town Hall.

Chairwoman Lyon gave a special thank you to Frances Simmons. She said these minutes were at least 10-15 pages per meeting because it was a very involved case. She doesn’t recall during her tenure on the BZA having a case that was this intense lasting three meetings. Frances did a fantastic job and she appreciates her efforts.

Brief the Public on the Procedures of the BZA: Chairwoman Lyon explained how the Board of Zoning Appeals Hearing would be conducted.

Administer the Oath to those Presenting Testimony: Chairwoman Lyon announced that each person who wished to address the Board must be sworn. Those who wished to speak at the Town Hall and those on Zoom were asked to stand as a group and were sworn by Mr. Wilson. Jenny Welch, an attendee on Zoom, utilized the “chat” feature and was sworn by Mr. Wilson.

Chairwoman Lyon gave an overview of how tonight's cases would be conducted and the time allotted for addressing the Board. She stated for those speaking in support at the Town Hall to stand one-by-one and state their name and address for the record. Those speaking in support on Zoon will be asked to wait until their name is called upon to speak. Those speaking in opposition would follow the same procedure. The applicant will then have a chance to reply to any opposition with time limited to two (2) minutes and then the Board will make a motion to close the case to the public. Finally the Board will make a motion concerning the application stating its findings of fact and conclusions of law.

Review of the Following Applications:

Case #BZAS-9-22-026; TMS # 337-04-00-100

Special Exception request for indoor recreation (axe-throwing) in an established shopping center in the Community Commercial (CC) Zoning District and in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District at 915 Folly Road, Unit 5: Planning Director, Kristen Crane, presented the staff's review that the applicants, Mr. Sean Humphry and Ms. Molly McFadden, are requesting a Special Exception to establish indoor recreation (axe-throwing) in an established shopping center in the Community Commercial Zoning District and in the Commercial Core of the Folly Road Corridor (FRC-O) Zoning District at 915 Folly Road, Suite S. The suite previously operated as a thrift store and currently shares a mixed-use shopping center with a medical office, nail salon, barbershop, gym, coin operated laundry, a tobacconist, liquor store, restaurants, and a financial service/loan office. The adjacent properties to the north and south are zoned Community Commercial. To the west are parcels in the Low Density Suburban Residential District (RSL), and the adjacent parcels to the east are in the General Office Zoning District. Other uses within 300' of the subject property include a bank, service stations with gasoline, drug store, professional offices, social club, office complex, fast food and general restaurants, retail/donation center, school, and single family residential uses.

The applicant's letter of intent states, *"the purpose and intent of this company is to open a recreational axe throwing business... I think it will be very well received by all James Islanders."*

The Town of James Island Zoning and Land Development Ordinance, §153.093 FRC-O, Folly Road Corridor Overlay District. (H) Commercial Core Area. (2) Uses requiring special exception. Vehicle storage, boat/RV storage, bar or lounge, consumer vehicle repair, fast-food restaurant, gasoline service stations (with or without convenience stores), **indoor recreation and entertainment**, vehicle service.

Mrs. Crane reviewed the Findings of Facts according to §153.045 E, Special Exception Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), Special Exceptions may be approved only if the Board of Zoning Appeals finds that it meets all six (6) criteria as indicated below:

**Findings of Fact:**

*According to §153.045 E, Special Exceptions Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), Special Exceptions may be approved only if the Board of Zoning Appeals finds that the proposed use:*

- E. (a): *Is consistent with the recommendations contained in the Town of James Island Comprehensive Plan and the character of the underlying zoning district "Purpose and Intent";*

**Response: The Town of James Island Comprehensive Plan, Economic Development Element Strategies includes "encouraging a variety of diverse commercial uses**

*that will benefit the Town as a whole.”* The applicant states in their letter of intent that *“James Island is lacking in recreational venues where people of all ages can spend time together. While there is nothing really like this in the area, I believe it is compatible with other businesses nearby.”* Additionally, §153.093(H) states that, in the Commercial Core Area, *“Future development in this area is intended for higher intensity commercial uses than those found in the other areas of the corridor.”* Therefore, this application may be consistent with the Town of James Island *Comprehensive Plan* as implemented through Community Commercial District.

E (b): *Is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community;*

**Response:** The mixed-use shopping center in the application and nearby properties have a wide range of existing uses (retail sales, bank, social club, restaurants, professional and medical offices, service stations, drug stores, barber shops, nail service, barbershop, liquor sales, coin operated laundry, personal improvement studio, tobacconist, financial services/loans), and therefore is compatible with existing uses in the vicinity. The proposed use should not adversely affect the general welfare or character of the immediate community.

E (c): *Adequate provision is made for such items as: setbacks, buffering (including fences and/or landscaping) to protect adjacent properties from the possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors;*

**Response:** The proposed business is to occupy a vacant suite within an existing shopping center. The parcel is fully developed for Community Commercial use. Additionally, the applicant describes in their letter of intent that *“the construction of the axe throwing lanes will implement the recommended noise reduction set up, which includes cement backerboard, which reduces the soundwaves when the axe hits the wooden target. Our targets are also not facing either wall, they back up to another throwing lane so noise should be minimal.”*

E (d): *Where applicable, will be developed in a way that will preserve and incorporate any important natural features;*

**Response:** The parcel and shopping center are fully developed with no changes being proposed to existing building footprints or existing vegetation. Any existing natural features will be preserved.

E (e): *Complies with all applicable rules, regulations, laws, and standards of this Ordinance, including but not limited to any use conditions, zoning district standards, or Site Plan Review requirements of this Ordinance; and*

**Response: The applicant is in the process to ensure compliance with the applicable regulations.**

E (f): *Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered.*

**Response: Vehicular traffic and pedestrian movement should not be hindered or endangered since the shopping center is existing with an existing sidewalk. The present layout of the site shows 172 marked parking spots and exceeds requirements for a fully leased shopping center. Including the shared parking on the adjacent parcel, there are 280 total spaces available.**

The Board of Zoning Appeals may approve, approve with conditions, or deny Case # BZAS-9-22-026 based upon the Findings of Facts unless additional information is needed to make an informed decision.

#### Questions from the Board

Vice Chair Savage said his initial concern when he looked at this request was the sale of alcohol with people throwing axes but it was addressed fairly well. He said this is more of a question and not a demand because he wishes the applicants success should the request be approved. He said you could have people trained that sell beer by TIPS and Serve Safe online that he thinks is between \$35 -\$50. He asked for a pledge from the applicants that it would occur as this would greatly ease his concerns.

Comm'r Hipp asked if the use operated as a thrift store previously, and the applicant are seeking an exception for indoor recreation and entertainment. In the same clause it says bar or lounge and she is curious if it is grandfathered from a previous use of the building. She asked how the liquor license would be treated. Mrs. Crane answered if they wanted to operate a bar it would have been grandfathered because alcohol was already served there. She said our definition of a bar is gross receipts of alcohol sales of 25% or more and the applicants do not intend to go over that amount so it would not be a bar.

Chairwoman Lyon asked if the applicants anticipates that their alcohol sales would be less than 25% of their total sales including the axe throwing and food and Mrs. Crane said yes.

#### Applicant Presentation

Molly McFadden

810 N. Channel Court; a resident of James Island since 2002.

Ms. McFadden stated that she is a Corporate Accountant by trade and will continue to keep her job. She spoke that she always wanted to own a business and luckily the person sitting next to her (Mr. Humphry) has owned many businesses. Their combined love of axe throwing brought this business to fruition. She looked for a location for six months in the West Ashley area but was determined to be on James Island. Axe throwing is a fun thing for families to do. They have no intention to operate as a bar. She said the establishment will not be a place where people come to "hang out" and drink unless they have access to axe throwing. She encouraged the Board to try it if they've never done it. She described axe throwing as a very fast process with little time to drink a lot. On average she said most people have one or two drinks. Reservations are made for an hour but can be booked for two hours. Corporate team building is also planned.

Ms. McFadden said alcohol is just a part of the experience of coming in to throw axes. It is the same as someone going to play pool. There are almost no accidents because every participant is trained on how to throw the axe and they must sign a waiver. Their full liability coverage includes liquor. Food will be snacks because there is not enough time to eat and throw axes at the same time. Ms. McFadden informed the Board that she would like to take the focus off of the alcohol because it is a supplement of their revenue but don't have anything to compare it with other businesses on the island. They don't want to be a bar or focus as a bar. Both she and Sean Humphry are TIPS trained and certified. Anyone working for them whether they sell alcohol or not, will be TIPS trained and would be able to recognize someone that walks-in and had been drinking elsewhere. They will not be throwing axes. Safety is absolutely a thousand percent their top concern and they will take every precaution to ensure that.

Sean Humphry stated that he moved here two years ago but has run two or three hair salons, stores, and construction companies. He sold those businesses and moved here with Ms. McFadden. He thought about working construction but realized he's too old to be outside. Axe throwing is something they love and want to do. He shared being at North Charleston but could not get any revenue off of that because they have connection to a brewery and they don't sell food or alcohol. He said they are trying to figure out what the sales would be. He described axe throwing as fun for kids and for birthday parties. Children 10 years and older can throw under parent supervision. They have made every precaution to make axe throwing safe. He explained one incident in a poorly built facility that did not have buffers all the way to the floor, when it hit the concrete it bounced back at a young lady. Other than that incident, there are mats that are made for this. He said axe throwing has taken off and is a big deal up north. Here, it is looked at for recreation and would give the island more to do other than going to a restaurant or sit at a bar. You can bring your kids and have fun. He said there is no skating rink here anymore and there needs to be something to do other than play pool or something that costs an arm and a leg. They are excited about this opportunity and hopes the Board will be.

#### Questions from the Board

Comm'r Hipp said she was curious and fascinated and asked if lessons would be taught. Mr. Humphry explained the process that when a customer comes in they are booked for an hour (on the booking app it is an hour and fifteen minutes) and is walked through the process. They are shown how to position the axe, throw it, and what not to do. They also sign a waiver. He said it sounds difficult, but it is not. The axes are made to make three/four rotations and stick to a board. The only way to mess up is how you throw your wrist. The go over rules and walk around to make sure people are throwing the axes correctly and having a good time. There will not be lessons but there is a fifteen minute tutorial for instruction. Ms. McFadden shared that it can be frustrating until you get the hang of it and commented that she is better than Sean. She also shared experience at Chuck Town Axe where people were getting frustrated and kept waiting for someone to give them tips. But they will be more hands on than some other places. There will not be private lessons but instructions and guidance.

Mr. Humphry addressed the question of alcohol and axes and explained how the lanes are built with a large divider and there is no way for an axe to come from one lane to another. He said the customers are also fifteen feet away so when the axe is thrown, it hits the wall and drops straight down onto a rubber padded mat. He compared the chances of getting hurt is more from a bowling ball. Axes and alcohol sounds dangerous but it is not.

Vice Chair Savage thanked the applicants for addressing that they are TIPS certified. He said he was not worried about the people in there getting hurt by the axes, he was worried about when there is the sale of alcohol and people leave their business. He knows that the applicants are TIPS certified and at this point he is not going to ask that it be made a requirement, but a pledge from them that everybody working there will be. Both applicants agreed that everyone would be 100% and Mr. Humphry said he quit his other jobs and will be at the business full-time. He said at the start up their two sons aged 18 will be there and they will

get certified and will not touch any alcohol. Everyone working will get TIPS certified because it helps their insurance and is a safety factor. Ms. McFadden agreed. Vice Chair Savage said the applicants addressed his concerns and thanked them.

Comm'r Smith spoke of wanting a better feel for the business model. He asked if he were to come to the business and signed up for an hour, with fifteen minutes of instructions first, how many times could he throw the axe. He also asked what types of food would be served while he is drinking a beer and throwing the axe.

Mr. Humphry said it depends on the number of people playing that could book anywhere from two to six people per lane. The double lanes are mainly a family of 8 or 10 and there is a large waiting area on the other side. He said there are 10 throws per person/per game. If there are four people, you might get in six games; if there are two people you could get 8-10 games, so that is 80-100 throws per hour is how best he can judge it. He commented never putting it on paper but could figure it out. The types of snacks served would be chips, popcorn (popcorn machine), nachos, and candy bars. He is talking with some vendors because he does not want to have a kitchen with a dishwasher. There will be plastic cups with their logo for people to take home as a souvenir or throw away.

Chairwoman Lyon asked out of curiosity what it would the cost for her and her husband to throw. Mr. Humphry said between \$25-28 per hour but they are trying to bring the pricing down to \$25.00. He said others are \$28.00 per hour. They want to keep the price at \$25.00 per hour because that is where they started but will see what happens the first year.

Chairwoman Lyon asked about the age 10 to axe throw. Ms. McFadden said they do not have that firm and their insurance did not require that. She wants to leave that in the parents hands but will not allow a toddler to throw an axe. She explained there are axes that are 11 inches for children. An adult axe is 14-16 inches so the junior axe is very light. A lot of young ladies use the lighter axes and men the bigger ones. Closed toed shoes are required, no sandals are allowed and a waiver must be signed.

In Support:

Town Hall: None

Zoom: None

In Opposition:

Town Hall: None

Zoom: None

Rebuttal: Not Needed

Chairwoman Lyon announced that three (3) letters/emails were received in support of this application that included the names and addresses of those in favor. No letters/emails were received in opposition.

Chairwoman Lyon closed the Public Hearing at 5:39 p.m. and moved to approve Case #BZAS-9-22-026; TMS # 337-04-00-100 for discussion. Comm'r Hipp seconded. Then Chairwoman Lyon called for the vote.

Vote

Comm'r Fabri                      Aye

Comm'r Hipp                        Aye

Vice Chairman Savage        Aye

Comm'r Smith                      Aye

Chairwoman Lyon  
Motion carried

Aye

Chairwoman Lyon thanked the applicants and informed them that the Board's decision will be mailed to them within ten (10) business days and to contact the Planning Department if additional information is required.

Case #BZAV-9-22-030: Variance request for the removal of two grand trees (44" DBH Live Oak and 37.5" DBH Live Oak) in the Right-of-Way of Camp Road (1182 Fort Johnson Road) for intersection improvements at Camp and Fort Johnson Road: Planning Director, Kristen Crane provided the Staff Review that Charleston County Transportation is requesting a variance for the removal of two grand trees (44" DBH Live Oak and 37.5" DBH Live Oak) for intersection improvement at the intersection of Camp Road and Fort Johnson Road, in the right-of-way (ROW) adjacent to 1182 Fort Johnson Road. Adjacent property to the northeast and southwest quadrants of the intersection are zoned Low-Density Suburban Residential (RSL) in the Town of James Island. Adjacent property to the southeastern quadrant of the intersection is zoned Single-family Residential (SR-1) in the City of Charleston and houses Charleston Fire Department Station 7. The northwestern quadrant is also in the City of Charleston, zoned Commercial transitional (CT) and has an abandoned building located on it.

*Town of James Island Zoning and Land Development Regulations Ordinance, §153.334 (A) (4) Tree Protection and Preservation defines "Grand Tree: Any species of tree measuring 24 inches or greater diameter breast height (DBH) except pine and sweet gum. All GRAND TREES are prohibited from removal unless a grand tree removal permit is issued."*

The Charleston County staff-recommended alternative for the intersection (Recommended Option #1, attached) is an "urban compact roundabout" and has the least impact on grand trees and adjacent properties. These impacts include the removal of a 37.5" DBH Live Oak (Grade C according to a certified arborist) and a 44" DBH Live Oak (Grade C w/hollow base according to a certified arborist). The requested trees are to be removed to accommodate the improvements which include safety, drainage, sidewalks, and buffer improvements.

**Findings of Fact:**

*According to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Appeals makes and explains in writing the following findings:*

F. (a): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

**Response:** **There may be extraordinary and exceptional conditions pertaining to this project area due to the large number of trees that currently line the right-of-way and the "many utilities within the project area causing conflicts and obstructions" according to the applicant's letter of intent. The letter of intent also explains, "the grand trees proposed for removal are in the existing SCDOT**



***Right-of-Way” and the “proximity of the grand trees is very close to the edge of pavement.”***

F (b): *These conditions do not generally apply to other property in the vicinity;*

**Response:** **Other properties are within the project limits; however, these conditions do not apply anywhere else in the vicinity and any healthy grand trees in the area will not be impacted by the project or the installation of the drainage structures required. Additionally, the letter of intent explains, “many efforts have been taken to minimize impact of all the grand trees.”**

F (c): *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;*

**Response:** **The application of this Ordinance, specifically section §153.334, Required Tree Protection, may not restrict the utilization of the property as it is currently being used; however, it will effectively prohibit the implementation of the construction project for “safer roads and better traffic circulation as well as a safer pedestrian crossing” and to “aid in drainage and flooding”, as the letter of intent explains.**

F (d): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*

**Response:** **The authorization of this variance will not be a detriment to adjacent property or to the public good because the “the removal of the two grand trees will allow safer and better traffic circulation at the intersection” according to the applicant. The character of the zoning district will not be harmed by the granting of the variance.**

F (e): *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land or to change the zoning district boundaries shown on the Official Zoning Map;*

**Response:** **The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries.**

F (f): *The need for the variance is not the result of the applicant’s own actions; and*

**Response:** **The need for the variance is not the result of the applicant’s own actions because the size and location of grand trees are existing site conditions, as previously stated. Additionally, the need for the variance, as the letter of**

intent explains, and previously stated is to ***“allow safer and better traffic circulation at the intersection.”***

F (g): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

**Response:** **This variance may not conflict with the *Comprehensive Plan*, specifically the *Transportation Element Needs of “Mitigating the impacts of a changing population on the existing transportation system”*, with a Strategy to *“ensure that roads are constructed in a way that promotes safe vehicle passage and pedestrian/bicycle use and provides sufficient drainage”* and to *“work with appropriate agencies to investigate how to improve roads within the Town”***

*In granting a Variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§153.045 E 2).*

**Action:**

The Board of Zoning Appeals may approve, approve with conditions or deny Case # BZAV-9-22-030 (Variance Request for the removal of two grand trees: 44” DBH Live Oak and 37.5” DBH Live Oak for intersection improvements) based on the “Findings of Fact” listed above, unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions:

1. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall install tree barricades around the protected trees on the property, as described in §153.334 of the *Ordinance*, throughout the duration of construction.
2. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the protected trees in the project area have been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the trees caused by construction.
3. The applicant/owner shall mitigate the removal of the grand trees by submitting a mitigation plan to the Zoning Administrator, as described in 153.334 (E) (2) of the

**Questions from the Board:**

Comm’r Hipp said the applicant indicated the SC Department of Transportation (DOT) has right-of-way a number of times. She asked could this be an eminent domain situation that the DOT could come back to the Board and overturn its decision and do eminent domain? Could the DOT say we have the right to cut the trees down because it’s in the right-of-way? Mr. Wilson said the Town’s Ordinance protects trees no

matter where they might be; they are owned by the Town, whether in the County's right-of-way or in someone's backyard.

Ms. Crane said her understanding is if this were a DOT project they would be able to remove the tree but this is a County project and a variance is needed from the Town. She does know about eminent domain.

Comm'r Fabri asked if this request had gone through the approval by the City and Town Councils. She asked if these entities have to agree because it is a joint municipal project. Ms. Crane said she did not believe it went before City Council but did at County Council. Comm'r Fabri said her reason is that the Harbor View Road project, Fort Johnson sidewalk, and the Camp and Folly Road project all had to go through the entire municipal approval process and she wonders since two lots on the corner are in City and two in the Town if it would follow the same process. She looked online and could not find anything so it hasn't happened yet. Ms. Grimbball, the Town Administrator, spoke that this is something that was just brought to her attention before the meeting began and she is looking into it with Attorney Wilson. Comm'r Fabri said she wanted to ask that question to know if there are still steps to take before the tree removals.

Applicant Presentation:

Keane McLaughlin, 1539 Chandler Street: Landscape Architect, ESP Associate and John Martin, Project Manager, Charleston County

Mr. McLaughlin said he would like to make five points about the project. He thinks the design team, engineers, and development team has done a good job with the design options. Tree health has been taken into consideration: Requirements, and Infrastructure: Road Alignment options: and Safety.

The design team looked at three different potential alignment options. The first looked at the removal of 16 Grand Trees but they knew immediately that was not going to work. They went back to the drawing board and came up with a right-of-way that showed a Traffic Circle that indicated a right hand turn that took down 5 Grand Trees. They knew they could do better and came up with an Urban Compact round-about, that takes out two trees. He said from that perspective they have done their homework and tried to minimize the impacts overall. The two Grand Trees that they are removing were graded "C" by the arborist but he honestly thinks that is a generous grade. They were on site and looked at the trees and they were full of vines; one has a hollow center and the canopies are very bad. He said the trees have not been taken care of, trimmed, or maintained for years. They are very close to the road, scared and damaged .

In speaking about the required drainage infrastructure, he said there is not a lot they can do. Engineering requirements are needed to maintain what is desired by DOT. Pipes have to be placed into the ground and there is no way around it. He said when doing curb and gutter a catch basin is needed to retain and hold the water coming off pervious pavement. They are increasing the amount of pavement on site to put the pipes into the ground. They looked at road realignment issues where the circle is on the current intersection and played with that enough to get it right. He said any other direction to push it one way or the other expands the scope of the project: left/right, north/south; east/west and would take away more right-of-way than they want to do.

Mr. McLaughlin said this area has been a bad intersection for years. Everybody knows it and those who drive it and trying to make a left hand turn on Ft. Johnson is basically taking their lives in their hands. They have reports of all of the incidents that have happened there. This traffic circle is desperately needed. He thinks the team has done a fantastic job of minimizing the destruction/removal of the two Grand Trees and he thinks it is something to be admired. They started with 16 trees and brought it down to two. The two trees to be taken out will be mitigated and nice canopy/ornamental trees will be put in its place that will grow and thrive at that intersection.

### Questions from the Board

Comm'r Fabri wanted Mr. Martin to have opportunity to speak and asked he had anything to add to the presentation. Mr. Martin said at the beginning the Board had questions to the staff about DOT's right-of-way. He said Camp and Ft. Johnson Roads are both state roads so they are having to do the project based on the state's guidelines and requirements. He said the trees are located within the existing road right-of-way belonging to the State but subject to the Town's ordinances and that is why they are before the Board tonight and want to work with all the stakeholders that are involved. He said there would be no eminent domain to get the trees because the State already has ownership. It would be a matter of going through the process to get the project permitted. The other question that was brought up was whether the project has gone before County Council and the City of Charleston. He said the project has been heard before County Council. There was a sales tax referendum in 2016 to fund this project and a number of others on James Island (the intersection of Secessionville and Riverland Drive). He said they have been working on this project for five years and still need to get permitting through the City and through DOT. They are starting this process now because they need to have the full design to submit to them. The stormwater drainage and the actual design of the traffic circle is what they need from DOT and there are certain stormwater requirements that must be met with the City. They also have to go through the process of obtaining some right-of-way needed for the project because the traffic circle (that the Board saw), the conceptual, there is some property that is still private and they still have a way to go to make this project a reality. He said the trees they are trying to get permitted to remove would not be removed until construction began.

Comm'r Fabri said she asked the question about the Municipal Agreement because on James Island with these projects, we are fortunate to have three entities that govern the island so everyone is involved: City, Town, and County all have to agree on everything. She said in reading the report, the justification for removing the trees is the Stormwater Plan. What she'd like to ask specifically about the Stormwater Plan is if it complied with the City of Charleston's 2013 Stormwater Regulations. She said they just did a reboot as well as the County on their stormwater regulations so now there is the 2020 stormwater plan. She asked if it was in compliance with the 2020 regulations adopted in June by the City. Mr. Martin said that the stormwater analysis was mainly done in 2019, so when they applied for permitting with the City they may have to revise and update a few things but he did not think it would change substantially as far as the drainage portion. He said if there is anything they need to do to meet new requirements they will do that, also with DOT if their requirements have changed. Right now, he said the project is in review with DOT and they hope to get final approval soon and that will drive what happens with the City. But he wants approval from the DOT before going to the City since its ultimately DOT's road. Chairwoman Lyon asked if he meant the City and the Town and Mr. Martin said the City, because they will be the MS-4 entity to give the stormwater permit.

Chairwoman Lyon reiterated Comm'r Fabri's question if the request would come before the City and Town Councils. Mr. Martin said he is unaware of any maintenance agreement they might do with the City. Generally they would apply for a permit from the City and would go before the Design Review Committee and all of the information is reviewed with their City Council. He did not think they would formally appear before City Council but go through their permitting process for approval.

Comm'r Fabri asked if Mr. Martin and McLaughlin were at the site recently or today, almost directly across the street from the trees are two that have been Dominion(ed). She asked them to walk her through the stormwater plan for her understanding. She asked why they couldn't adjust things so that the trees on the other side that were pruned by Dominion (which she believes on the chart are a "D" not a "C" ) why it's not possible to shift things or put the junction boxes on the other side of the street or further up the street to save the trees that are on the road. Mr. Martin said the drainage would have to be on both sides of the road. He explained how the catch basins for the boxes must be spaced according to DOT guidelines. He was asked before about realigning of the road and explained if it is shifted from the trees, he doesn't know if that would be feasible. There would not be a significant shift away from the trees to go on the other side of

the road and would come all the way down Camp Road for the road to be road safe meeting DOT requirements. Additionally, he is unsure that they could get a permit and have to take right-of-way from the property owners on the other side. He is unsure that would be an option to pursue.

Comm'r Fabri said wouldn't they be moving the sidewalk? Right now the sidewalk runs on that side of the street. Mr. Martin said if the road is moved over they would have to move everything over. Comm'r Fabri asked the possibility of getting a variance from DOT that would make it possible to move those boxes to save those trees. Mr. Martin said they might could increase the scope of the project but still need the storm drains even if the boxes were moved. He said that is the problem because the pipes would come close to the root zones and everything would have to be moved away from those trees a great distance because the root spreads far from the trees. He commented about not being an arborist but thought it would have to be 10-15 feet away from the trunk of the trees to put the pipes near the trees without harming them. He said moving everything over is not possible. They have to put in storm drains because of the pervious areas the project creates. Curb and gutter for the boxes are needed to catch the runoff from the curb and gutter.

Comm'r Fabri stated that the plan went from 16 trees to 2 trees. She asked have they looked all possibilities to save the other 2 trees. Mr. Martin said that they had. They do not want to take down Grand Live Oaks if they don't have to. He said this is certainly not something the County wants to do and they have tried to find a way to avoid it. They have been working on this project almost 5 years and this has the best case they could come up with to build the project in a way to provide greater safety for drivers and meet all of DOT's requirements. He said if they could avoid cutting down the trees and found some way not to, they would. Mr. McLaughlin stated they are working with four municipalities, a state agency, and the Department of Health and Environment Control (DHEC) and it is not an easy route to go. It has been challenging and he tried to avoid that route as much as possible and is here basically as a last resort to get the project moving.

Comm'r Smith said he looked at the plans and across the two trees is a thin strip of green between the sidewalk and the road that go from almost nothing to a few feet, across in other places it is a lot thicker. He asked why does it need to be there? Why can't the road move over that much? Mr. McLaughlin talked about DOT and Highway standards for road alignments that must be met. He said shifting and realigning the road in any way would be a challenge and unfortunately it has been shifted as much as it could. Mr. Martin said they have had to change the realignment. Another factor is the way the road is aligned and the amount of property they would have to take from property owners at the intersection. He said that is never a popular thing. He said it is not a lot, but some is needed to fit the project into the right-of-way. Mr. McLaughlin said regarding the property on the northwest corner (gas station) they have already taken a substantial amount of right-of-way and they would need to take a lot more to shift over but have approval from Charleston County for eminent domain.

Comm'r Smith referred to what he thought was the property line. Mr. Martin said that will be the new right-of-way they don't have yet. Comm'r Smith talked about the green strip and said if it is moved over by that number of feet it, would that impact the property? He said what Comm'r Fabri was talking about is figuring a way to use the same amount of hard surface from the west of the sidewalk to the east of the roadbed to configure it differently and perhaps figure out something else to do with the sidewalk on the other side that could perhaps go around the trees. He asked if those options were studied. He appreciates that option 3 was studied. For Option 2, did not have good ingress or egress from the Fire Station. Option 1, seems to be the best because they've gone to 2 trees. He asked if they could do better. Mr. Martin said they did not have enough hard surface and they would need to get right-of-way. The sidewalk could not be on the other side of the tree without taking private property and would still be close to the trees. The root zone would still go out 10 -15 feet from the trunk of the tree and sidewalk and drainage would be in people's yards.

Comm'r Smith asked if variances are available to keep the trees? Mr. Martin said there is not a variance to not do storm drainage because it would create a safety issue when it rains. Comm'r Smith asked if they

could study this further and come up with another plan? He asked about the possibility of placing the boxes at a different location. Mr. Martin explained that the boxes need to connect to the storm drainage pipes. If they are moved, it would not stop the drainage at the tree because they still have to continue tapering of the road well beyond the trees. Drainage is needed all the way down to where it ends and doesn't see how that would avoid the trees.

Comm'r Fabri recalled that the plan has to be taken to the City's Stormwater Department for approval. Mr. Martin said they do, but generally the City approves what the State requires for storm drainage plan and the City would be looking at its water quality, more so than water quantity. He said it would be different if this were a City road but because it is a State road they will be accepting what the State wants, the quantity portion of stormwater management. Mr. McLaughlin said the state is very particular when it comes to drainage on public rights-of-way. Comm'r Fabri said she wonders if we might be putting the cart before the horse because the plan still needs to be taken to the City and DOT for review. She has suspicion at that time they could ask for variances with the objective of trying to save those two trees or ask them if they have ideas on how that could be done. She said they might say "no", you have to make it bigger and another tree may need to come out. So she wonders if it would be prudent to talk to the two entities before the BZA approves or denies the permit. Mr. Martin said drainage is a DOT decision. He said if the DOT does not want to not install drainage to save the trees that would be their decision. He could ask them but he would be surprised if they would, Their main concern is always safety but he could ask them for the record so they can get a statement from them. Mr. McLaughlin said his experience is that the DOT does not grant variances and Mr. Martin said sometimes you can get a waiver for a small amount of runoff (i.e., detention waiver) but still need to do something. In this case, there is too much runoff and they would not be able to get a waiver on installing stormwater drainage period because the impervious areas they are installing with the traffic circle has a lot of asphalt and they are putting in curb and gutter. He stated never hearing DOT not having drainage with curb and gutter. Without a curb and gutter it would create a river because there is no place for the water to runoff; it is trapped on the roadway with the concrete curb on the side, so he doesn't see how there could not be curb and gutter.

Comm'r Fabri said the report said the runoff would go to Clarks Sound down Stone Post Road. Mr. Martin said if you're in a heavy storm event with no storm drains and it all goes into the road you will have flooding in the road. That is why they want the drainage there to get the water off of the road. Comm'r Fabri asked why does the drainage have to run up Camp Road and he said because there will be curb and gutter that far up because the project's footprint is to have drainage for the entire area to avoid that situation. She asked why couldn't the drainage go on Ft. Johnson. Mr. Martin said there is drainage on Ft. Johnson and Stone Post, the entire project will have drainage on both sides of the road. Comm'r Fabri said she is not an engineer and in her mind she would feel better if this request had gone to the two other decision-makers, the City of Charleston, and the DOT. Mr. Martin replied that it will go to them because permits are needed from them and they have to review these plans. Comm'r Fabri reiterated that getting permits before coming to the Town would be better, but if they are wanting the Board to vote on this today, she is fine with that. Mr. Martin said if the Board wanted, he could ask the DOT if they would consider waiving the drainage requirements to get something for the record from them. He is willing to do that and to ask them. They are going to review these plans and after their approval it will be sent to the City for the MS-4 permit. Comm'r Fabri said if they are in the middle of review with the DOT if he would ask them to take a look at that and see if there is a way to save the trees there. She is sure they will make a whole-hearted effort to explain that we are trying to save one or two of these trees in order to accommodate and still comply with DOT regulations. Mr. Martin said he would do that.

Comm' Smith said on Options 2 and 3 they show the Stone Posts remaining very close to the roundabout but in Option 1 it says it will be relocated. He asked where are they going to be relocated. Mr. Martin said they will be relocated but a definite decision on where has not been determined. Chairwoman Lyon asked if there were any ideas where they might go and Mr. McLaughlin said behind the sidewalks. They will be kept close to where they are now but they are trying to determine the best spot in the area and that will partially be driven by the DOT and utilities to find a location where it makes sense and for safety and avoiding impacts to utilities in the area. He said there are a lot of utilities that have to be relocated in the project which is another challenge in the project with most being on the south side. Comm'r Smith asked if there is a possibility that they might not be relocated where they are with the problems of relocating them because they don't have it determined yet and spoke of the historical significance of the stone posts. Mr. Martin said they will be relocated and there is a monthly meeting with the utility company so there is a plan in the works and they have an idea where they will be relocated but the design is not completed yet. He said every project is coordinated with the utility company because they need to be involved in the moving of utilities.

Chairwoman Lyon asked Mr. Martin if he is willing to ask the DOT and request a variance for the stormwater and we were to defer any motion or vote tonight, how much time would he need, a month or two months, and she asked him what his thoughts are as far as coming back to the BZA with that information. Mr. Martin said he was pretty sure that he could get a response from the DOT in one month. He does not think it would take them longer than one month to respond. Chairwoman Lyon said the next meeting of the BZA is November 15 and is available to meet the third Tuesday of every month. She just wanted to throw that out and is reading the room where this seems to be going when the Board gets to that point. She said that is something that he could work out with Ms. Crane if things go in that direction.

Vice Chair Savage asked if the stone posts that are going to be relocated are the ones that were recently reconstructed because they were already knocked down by cars a number of times? Mr. Martin said yes, these are the ones that are existing now and they will be relocated. Vice Chair Savage asked if these are the ones that are presently a safety issue. Mr. Martin explained the reason they have to be relocated is when they redesigned the intersection they would be in the road. Vice Chair Savage said and that they have already been knocked down a number of times. Mr. Martin replied they have been hit a number of times over the past decades, the last time in the late 90s or early 2000. Vice Chair Savage said they were knocked down again in the last two years.

In Support @ Town Hall: None

Town Administrator Grimball spoke that she had a little more information that she wanted to add to the first question from Comm'r Fabri regarding the municipal agreement. She said the County will be reaching out to the Town a bit further in the process most likely after all of the permits and stormwater design issues are settled so the municipal agreement is forthcoming, its just happening a bit further into the process.

In Support on Zoom: None

In Opposition @ Town Hall: None

In Opposition on Zoom:

Jenny Welch, 1163 East and West Road: Spoke that over the last two weeks she has been trying to explore creative ways to save the two trees without impacting the overall project. She met with County Councilwoman Honeycutt and they came up with a plan they hope will be an easier solution, a slight shift in the roadbed west providing room for the drainage. She has also talked with the project manager many

times and he kindly answered many of her questions and offered her many reasons why some of them wouldn't work. She appreciates the time and help he provided her over the last few weeks. On Friday she asked for the stormwater drainage plans from the County. She consulted with a private engineer and they came up with a few other ideas she hopes can be fully explored. She included those ideas in her written comments that she submitted earlier today. Many of those ideas have already been discussed. The only one that hasn't been discussed yet necessarily is if they could place the drainpipes underneath the roadbed since the utilities seem to be mostly on the western side of the road to begin with. She is unsure what is involved with that but it was a thought that she had. Hopefully, the County will have thoughtful responses to these questions and if they don't hopefully they will go to DOT to see if any of those ideas are doable with affecting the project overall. She has lived here all of her life and travel through this intersection daily. She understands that the intersection can be made safer and the County is trying to do that. However she feels it is so important for all avenues to save these grand trees because they also help with our stormwater control and drainage. She personally have never seen any flooding in that area in 44 years. She hopes we can achieve safer intersections and roadways and save what is still special about James Island, our live oaks.

Chairwoman Lyon announced for the record that two letters were received in support of the request and one in opposition (Jenny Welch).

Applicant Rebuttal:

Mr. Martin spoke that she saw the comment about putting the pipes under the road and knows that is something they cannot get permitted from DOT. He said they could do a crossline across the street but they will not put pipes up and down the road under the road which is for maintenance reasons. If there are problems the entire road would have to be shut the road down and remove the asphalt to get to the pipes and that is something the DOT would not do for maintenance and would cost a lot more taxpayer monies. He said some of the other things were already talked about and he did agree to ask DOT about any reconsideration dealing with the storm drainage plan. Mr. McLaughlin added the DOT is pretty stringent about stormwater, drainage and infrastructure and Mr. Martin has offered to speak with them if there is any flexibility on their part.

Chairwoman Lyon thanked the applicants and appreciates their hard work on this project. It sounds like there's has been a lot and a lot to deal with.

Chairwoman Lyon closed the Public Hearing at 6:38 p.m. and moved to approve Case #BZAV-9-22-030: Variance request for the removal of two grand trees (44" DBH Live Oak and 37.5" DBH Live Oak) in the Right-of-Way of Camp Road (1182 Fort Johnson Road) for intersection improvements at Camp and Fort Johnson Road with the three conditions recommended by staff for discussion. Vice Chair Savage seconded.

Comm'r Hipp asked for confirmation that the applicants are not talking about current issues, rather preventative issues once all of the pervious structures are installed. Chairwoman Lyon explained with curb and gutters the area would be like a swimming pool without drainage. Comm'r Hipp also asked where does the water go and Chairwoman Lyon said to Clark Sound. Further she asked what is the possibility of the Clark Sound flooding and it becomes a Lockwood Drive. Chairwoman Lyon said she is willing to break protocol and have the applicants come back to answer questions if the Board needed them to as this is very important. Comm'r Fabri explained that basically the water that will be created with the drainage is going to flow down Stone Post Road and down Stone Post is the first culvert and eventually it heads to Clark Sound. She said one of the things that they are going to have to do with the stormwater with the City of Charleston is look at what they are discharging into Clark Sound, i.e., water quality, which is a big issue that happens with the updated guidelines. This is why she asked whether they are following the 2013 or 2020 so they will have to comply with the new City of Charleston Stormwater Regulations that looks more



at discharge that would go into Clark Sound. And, the City may have more considerations for this plan. That is why she is worried that if we say ‘yes’ with conditions that by the time they complete DOT review and the City of Charleston’s review there may be other issues. They may say we need to take down trees across the street too so then they would have to come back to us to hear that again and she would not be happy about that. She would rather rip the band aid off all at once if that is the direction they are heading.

Vice Chair Savage commented being in a catch 22 because the City may say why are we spending time considering this if its going back to the James Island. He further stated that it looks that there is a consensus from the applicants to go to the DOT to see if they can get a variance. He stated he is willing to, if he is reading the room correctly, why don’t we get the answer to that question and then revisit it. He is willing to go forward because he personally thinks they meet the criteria because safety always outweighs two “C” grade trees. He agrees with Walters’ letter that this is a dangerous intersection. He said it is a safety issue. Comm’r Fabri has good questions. So the Board covers all of its bases, let us take them up on their offer to see if they can get a variance then our decision that is based on safety would not be subject to criticism that we did not explore all opportunities. He thinks Ms. Jenny Welch is right and we should explore that. He agrees with Comm’r Hipp that Ms. Welch misunderstood this is not based on historical flooding with what you might see with curb and gutter and no drainage. He lives right next to the Harborview and Ft. Johnson traffic circle so he understands when you’re building curbs and gutters. He promised to Comm’r Hipp that the runoff from that one area will probably not flood Clark Sound but is concerned about the quality of what goes into it. Vice Chair Savage asked if the Board is heading in the direction to make a motion and have them return in a month with their findings.

Mr. Wilson reminded the Board that they have a motion on the floor to approve the case and they could defer, freeze, or approve contingent upon a good faith attempt and failure to get a waiver from the DOT. Or it could be phrased to disapprove contingent on denial of the DOT for stormwater waiver in which case we approve. Chairwoman Lyon said they would like to defer. She withdrew the motion on the floor and Vice Chair Savage seconded the withdrawal.

Chairwoman Lyon moved to defer the case to allow the applicants to make a good faith effort to potentially relocate or change the drainage in order to save one or two of the trees. Comm’r Fabri seconded the motion to defer the case.

Vice Chair Savage said the language about the variance should be included in the motion and asked Comm’r Fabri to add that language. **MOTION: Chairwoman Lyon moved to defer the case for the applicant to consult with SCDOT to request a variance to allow reduction in drainage in order to preserve the trees.** Comm’r Fabri seconded the motion.

VOTE

Commissioner Fabri	Aye
Commissioner Hipp	Aye
Vice Chair Savage	Aye
Commissioner Smith	Aye
Chairwoman Lyon	Aye

Motion to defer passed unanimously

**\*This case is deferred to the November 15 meeting.**

Additional Business:

Next Meeting Date: November 15, 2022 @ 5:00 p.m.

Chairwoman Lyon asked the Board to think about the new time for BZA meetings and whether it is working for everyone and the public at next month's meeting.

Chairwoman Lyon thanked the staff and Attorney Wilson for their hard work .

Adjourn:

There being no further business to come before the Board, the meeting adjourned at 6:50 p.m.

Respectfully Submitted:

Frances Simmons  
Town Clerk and Secretary to the BZA

DRAFT

TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
SUMMARY OF NOVEMBER 15, 2022

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, November 15, 2022 in person at the James Island Town Hall, 1122 Dills Bluff Road, James Island, SC.

Comm'rs present: Corie Hipp, Roy Smith, and Vice Chair, David Savage who presided. Absent: Comm'rs: Amy Fabri, (gave notice) and Chair Brook Lyon due to a family emergency. A quorum was present to conduct business. Also, Kristen Crane, Planning Director, Flannery Wood, Planner II, Niki Grimball, Town Administrator, Bonum S. Wilson, BZA Attorney, Mark Johnson, Public Works Director, and Frances Simmons, Town Clerk and Secretary to the BZA.

Call to Order: Vice Chair Savage called the BZA meeting to order at 7:00 p.m. by opening in prayer. Comm'r. Hipp led the Pledge of Allegiance.

Compliance with the Freedom of Information Act: This meeting was held in compliance with the SC Freedom of Information Act. The public was duly informed. This meeting was also live-streamed on the Town's You-Tube Channel.

Introduction: Vice Chair Savage introduced himself, members of the BZA, Attorney and Staff. Recognition was given to the elected officials present: Mayor Bill Woolsey, Councilman Dan Boles, James Island PSD Comm'rs Inez Brown-Crouch, and Susan Milliken.

Brief the Public on the Procedures of the BZA: Vice Chair Savage explained how the Board of Zoning Appeals Hearing would be conducted.

Administer the Oath to those Presenting Testimony: BZA Attorney, Mr. Wilson, swore in the individuals who wished to provide testimony.

Review of the Following Applications:

Case #BZAV-9-22-030 (Resumed): Variance request for the removal of two grand trees (44"DBH Live Oak and 37.5" DBH Live Oak) in the Right-of-Way of Camp Road (1182 Fort Johnson Road) for intersection improvements at Camp Road and Fort Johnson Road.

Vice Chair Savage stated that he would call each case by its file number and the applicant must state their name and current address for the record before presenting testimony. Afterward, those speaking in support and opposition would be called upon to speak within the allotted time. The applicant would then have opportunity to reply to any opposition and then the BZA would make a motion concerning the application, stating specific findings of fact and the conclusions of law.

Vice Chair Savage stated that the Public Hearing for tonight's first case was held on October 18. At that meeting, a motion was made and seconded to continue the meeting until November for additional information. Since that meeting, the Board has received on November 10, an email from Susan Milliken, on November 11, an arborist report from Michael Murphy, on November 14 an email in support from County Councilwoman Jenny Honeycutt, on November 14, an email from Ms. Jenny Welch, and also on November 14 an email from Ms. Kristen Crane attached with 65 pages of letters in support and 20 pages of letters in opposition. On today's date (November 15) emails were received from the Planning Director

at 12:47 p.m. with letters in support and opposition. As of this meeting, a petition with 18 signatures in support was presented. Vice Chair Savage said all of the items received would be made a part of the record. He announced that the Board would now resume Case #BZAV-9-22-030: Variance request for the removal of two grand trees (44"DBH Live Oak and 37.5" DBH Live Oak) in the Right-of-Way of Camp Road (1182 Fort Johnson Road) for intersection improvements at Camp Road and Fort Johnson Road.

Vice Chair Savage stated that at the last meeting, after the taking of evidence, the Board tabled this matter to allow the applicant, (at the Board's specific request), to make inquiry to the SC Department of Transportation (SCDOT) to allow a reduction in drainage to preserve the trees. Vice Chair Savage asked Mr. Martin, (the Transportation Project Manager @ County Public Works) if he had the results of the request. {Mr. Martin was sworn in to speak}. Vice Chair Savage asked, in order to assist the Board, if he had enough time for the request, or if additional was needed. Mr. Martin said the County would like to have more time to gather information and the data they need. He said once the information is obtained, he would like to return to the December meeting to present it. Vice Chair Savage asked him if the 30-day window he was given was not enough time to make request and get answers from SCDOT. Mr. Martin said the time to re-evaluate the trees took more time and they are exploring other options to make sure other alternatives are looked into. Vice Chair Savage asked if his information would be available in the timeframe of the BZA's December meeting and Mr. Martin agreed that it could.

Comm'r Hipp questioned whether December 20 would be a good time with holidays approaching and the public present to speak tonight may not be able to return in December to make comments. There was discussion among the Board whether 30 or 60 days should be granted to receive Mr. Martin's information. Mr. Martin said 30 days would be enough time and Mr. Wilson added there is no time limit on the Board's continuance. Town Administrator, Grimball recommended to the Board to allowed those present tonight to speak in the event they cannot return in December to have their comments on record.

Comm'r Hipp moved to allow Mr. Martin to present his findings from the SCDOT at the BZA's January 17, 2023 meeting (60 days); Comm'r Smith seconded. The vote follows:

Vote

Comm'r Hipp	Aye
Comm'r Smith	Aye
Vice Chair Savage	Aye
Unanimous	

Vice Chair Savage opened the floor to hear public comments:

In Favor:

Mayor Bill Woolsey, 961 Mooring Drive: I don't come before the BZA very often. The last time I appeared before the Board was in support of the Lighthouse Point Sidewalk Project. The applicant in that case was formally the County, but it was a project that affected all local governments and the Town was especially interested. A tree variance was involved in that case also and it was granted. Thank you. The project was completed. Tonight we are in a similar situation. Officially the County is the applicant, but the traffic at Camp and Fort Johnson has been a vital concern for all of the local governments, including the Town. We've requested many times that something be done about that intersection and it was included on the Half-Cent Sales Tax Referendum five years ago and passed as a specific intersection that needs to be taken care of. Something that is very important to this Town. The County was responsible for developing a Plan for that project and it is my understanding that some versions of trying to fix that intersection involved taking 16 trees. The current version is two trees, almost a 90% reduction. We've counted the trees on the

segment of Camp Road at Dills Bluff and Fort Johnson and there are over 43 trees and 95% of the trees along that segment will remain. However, my primary reason in speaking tonight is to ask the Board to grant the variance because it is my understanding that the County is looking into alternative drainage systems that I believe we had in mind and try to see if the two trees can be saved, which all of us prefer. None of us want to see any tree gone. In the final analysis the choice is sacrificing the two trees or giving up on the project and leaving the intersection as it is. A responsible choice is to give up the trees.

Inez Brown Crouch, 1149 Mariner Drive: I grew up on James Island and trees are not a problem on James Island. We have more trees than anything else. Removing the trees is not going to hurt James Island. I am here to support the round-about and my reason is a friend, five years ago husband was killed at that intersection. I grew up on James Island and “*you who come here*” don’t know what it’s like. There were a lot of people that died from trees, so roundabouts saves lives; we need the round-about. I wish anyone would go there around 2:30 p.m. when the High School gets out. They think it’s a freeway from Ft. Johnson and it is very, very dangerous. We need to do something and we need to do something now. I support the round-about 100%.

Mark Johnson, Town Public Works Director: I want to share information for the Board to understand. As Commissioner Crouch said, roundabouts are safe. They reduce the accident rates and the severity of accidents that might occur. Second, there has been some concern about the monuments on Stone Post @ Ft. Johnson that are being removed. I want to let everyone know that they are not historic structures. I have personally within the last 10 years watch the City of Charleston rebuild them after there were accidents there. The monument has cinderblocks inside and the outside is Belgian Paving stones. They can be moved easily without obstructing anything.

Steve Jarrett, 783 Clearview Drive: I use that intersection frequently and it is dangerous. The most dangerous is coming from Camp Road trying to turn left (down from my house) to get onto Ft. Johnson. Not only are the trees an issue; but the bushes and other things in that corner, and people come zipping down Ft. Johnson Road. I have seen people almost flip numerous times. It is a dangerous intersection. The round-about put in at Camp Road/Fort Johnson/and Clearview works very well and I go through that one all the time. It doesn’t depend on electricity being on or a stoplight to slow traffic down. I highly recommend the round-about. I don’t like taking down trees either but I have been through that dangerous intersection a number of times and something needs to be done about it.

Carol Jarrett, 783 Clearview Drive: I support the round-about. There aren’t accidents there. No one can run a stop sign or run through a red light at a round-about They are successful and positive.

Susan Milliken, 762 Ft. Sumter Drive asked a procedural question, whether we are in a Public Hearing or in Public Comments. She said usually a Public Comment period is done before starting a case and we are in a case that is being continued, so she is confused. Vice Chair Savage responded that we are in a case where all testimony was taken. In the first case we (BZA) went into deliberation and while in deliberation we rescinded the motion to approve a procedure which was to set the stage to begin discussion.

Tonight, when we asked the applicant to whom we made the request for additional information if they were ready to proceed, the answer was ‘no’. What we (BZA) have done was to continue the final determination until January. However, some people who may not be able to be here later and wish to have their comments put on record, we have allowed them to speak tonight.

Mr. Wilson added that these comments will become a part of the record introduced from verbal to written and Ms. Simmons will include these comments in the record when it appeals. It was asked if this would be a part of the permanent record and Mr. Wilson said ‘yes’.

In Opposition:

Dan Boles, 1016 Foxcroft Road: I am here to speak in opposition to this applicant's petition. I don't see why we need to have a binary choice put before the Board. Perhaps we can have our trees and our round-about. I agree with everything Inez Brown-Crouch said and everyone else who spoke that safety is important and we all know... we all live here, that intersection is dangerous at a certain time of the day. I am not an engineer; we have a lot of talented folks at the County who I think may be able between now and January to explore a way that makes everyone happy. Maybe we'll only lose one of them, maybe we don't need to lose any of them. I can tell you when I was in college when I first moved here and I drove through James Island that stretch of Camp and Ft. Johnson stuck with me. It's a special place with a special look. I understand what the Mayor is saying that we are losing two in favor of saving 14 and that is not bad when you frame it like that, when you frame it that we can either have the round-about or not. I am not convinced that there is only two choices before you. I hope between now and January the County and anyone else who can present information to this Board, that perhaps there are alternatives; alternative placements and things like that. So, as it has been presented to you I will ask that you deny it, but I want to point out that perhaps there are alternatives that you could approve that everyone can certainly be satisfied with.

Jenny Welch, 1163 East and West Road in the Stone Post Neighborhood. I just want to say that I think everyone in this room is in support of the round-about. I feel like if it is framed that there is against the round-about, it's not, because we all actually want the round-about, it's just that we want solutions to keep the trees. This neighborhood is very near and dear to my heart. My family has lived here for six generations. It is my home. Please note that I said I support the round about 100%. We badly need a safer intersection there and am very grateful that many Oak Trees will be saved. However when I heard that two of those Grand Trees were in danger I simply wanted to know two things: what is their true condition. They looked pretty to me. And, second is there any hope in saving them by doing some small tweaks. These are special trees because they are pretty large 44" and 37" DBH and is the beginning of Oak Alley that runs along Camp Road. As you all know, I hired an arborist and he came and looked at the two trees in person. I sent you all the report and to summarize, he found the two Oaks in good health with no hollow areas only vine growth and poor canopies. He believes with a little bit of care we can improve the trees to an "A". I hope the County can look at various options and hopefully save the two Oak trees and have the round-about. They do so much for our environment and our quality of life on James Island.

Vice Chair Savage said the Board thanks Ms. Welch, not only for her comments, but also for her efforts in gathering this information.

Vice Chair Savage asked if anyone else would like to speak in favor or in opposition. There were no other comments. Vice Chair Savage announced that this matter is closed until revisited at the January 17 BZA meeting.

Case #BZAP-10-22-026: Appeal of Zoning-Related Administrative Decision (Home Occupation Bed and Breakfast permit denial at 1027 Grand Concourse Street) in the RSL (Low-Density Suburban Residential) Zoning District (TMS#428-11-00-005):

Vice Chair Savage announced the Board will hear an Appeal of a Zoning-Related Administrative Decision for a Home Occupation Bed & Breakfast Permit denial at 1027 Grand Concourse Street in the RSL Zoning District.

Vice Chair Savage said the appeal packet indicates that the Planning Director along with other reasons has determined that the density standard for RSL Zoning with a maximum of three (3) dwelling units per acre

could not be met with this Bed and Breakfast application due to the size of the property at 0.269 acres. The information that the BZA received were the administrative appeal application and other various exhibits.

Vice Chair Savage informed Ms. Ong of her five (5) minute allotted time. He said the Board has reviewed all of the information presented and is familiar with this request. He asked that the record reflect that Ms. Ong was previously sworn in.

Applicant Caitlyn Ong, 1027 Grand Concourse: Applicant, Caitlyn Ong stated that with her husband, Spencer Ong, and daughter Heidi. Ms. Ong addressed the Board that she and her husband filed for a Bed and Breakfast Permit and Business License with the Town of James Island and was waiting on the proof of residency. Her request is to use a portion of the interior of an existing detached accessory structure as a guest house to rent out for short-term and/or month-to-month via the operation of a Bed and Breakfast. She said when the structure is not rented, it would be used for non-paying guests, family, and friends. A small portion of the interior would continue to be used as storage. Ms. Ong stated that her application/request received on October 4, was “Not Approved” by the Town’s Zoning Administrator, Kristen Crane and is the reason she is appealing the Zoning Administrator’s decision. Ms. Ong’s gave the Board an overview of the reasons why she believes the Zoning Administrator’s decision is in error.

Section 153.013: Ms. Ong said the Definition of Density standards is what the Zoning Administrator is drawing her decision from that states “*provisions of this chapter controlling the size and shape of zoning lots and the location and bulk of structures thereon. Such regulations include those relating to density, lot area, lot width, setbacks, buffers, building cover, height, and open space.*”. She said the owners are not proposing to change the size or shape of the lot or move, add onto, or build/erect any structures on the property.

She said the only thing density standards control is the location in both for the structures thereon. They are not seeking to move any structures, add any structures, or erect any structures. They are simply looking to use a portion of an existing structure on their property. She said the density standards simply do not apply in this instance and is inapplicable to their request.

Ms. Ong said the word “*use*” does not appear anywhere in the Code’s definition of Density/Intensity and Dimensional Standards and does not in any way control “*use*” of a portion of the interior of an existing detached accessory structure. The code clearly delineates “Density/Intensity and Dimensional Standards”. For instances in which an applicant proposes to erect a new structure or otherwise alter the location and bulk of structures on the applicant’s lot and is inapplicable in instances in which an applicant intends to use an existing structure.

She stated that “dwelling unit” clearly does not refer to “accessory dwelling units” such as broad apartments or guest houses. She stated the definition for dwelling groups, that density cannot be calculated by taking accessory dwelling units such as guest houses. Section 153.127(B) is inapplicable because it applies to dwellings what are to be “constructed” and they are not seeking to construct, but to use an existing structure on the property. She stated the “Not Approved” is further bolstered by the simple fact that a guest house does not meet the definition of 153.013 and stated that a guest house is not used for residential occupancy by a single household; it is her privilege to use it personally, for friends, guests, or multiple people. It is not for use by a single household and doesn’t meet the definition of a dwelling. She said for all of these reasons, the Zoning Administrator’s decision is in error and her request for appeal should be sustained.

### Questions from the Board

Comm'r. Hipp prefaced her comments by stating that she worked for the Preservation Society in Charleston, from 2012-2018. In 2015-2018, she said one of their biggest fights was short-term rentals. She said from 2015-2018, short-term rentals increased from 50 to 103,000. They were everywhere. She said short-term rentals have been proven to alter the character of neighborhoods. She asked Ms. Ong if there is an HOA and covenants in her neighborhood. Are there restrictions regarding short-term rentals. Ms. Ong said to her knowledge there is not an HOA.

Comm'r Hipp said she needed to find that out. Ms. Ong said to be clear she didn't believe there is and did not want to say something out of turn. Comm'r Hipp asked and Ms. Ong confirmed that they purchased their home in Feb. '22. Comm'r. Hipp continued that it is proven that short-term rentals have a transient nature that affects communities. She referred to Section 153.210: Home Occupation: General: that one of the criteria of for short-term rentals is that it is not a detriment to the character and livability of the surrounding area. She asked Ms. Ong if she talked with neighbors and they know her intentions to have a short-term rental? Ms. Ong replied, they haven't.

Comm'r Hipp talked about short-term rental transients coming through households; random strangers who at times no background checks are done on, and not knowing what is happening at all. She said these are the things short-term rentals brings and she is "really", "really", "fiercely" protective of her community. She is from South Carolina and has lived here for 25 years. She said the BZA needs to know answers to these questions; whether there are covenants, (which Ms. Ong said there were not); also if the neighbors know that she is starting a Bed and Breakfast and should blame when people come into their neighborhood. She would like for Ms. Crane to define density and the restrictions because it is her understanding that it isn't just a structure, it is people, and bodies. She asked how many people could be on 0.269 acres. This is why she is "fiercely" protective of her community and its character. She said short-term rentals have a very transient nature that is detrimental to a community and her HOA has a statement in the covenants that they are not allowed.

Ms. Ong said she understood where Comm'r Hipp is coming from and she has spoken to their neighbors, one of them is the Wilburn's who would like to do the same. To her knowledge there is no HOA or covenants. She stated recently purchasing their home but pretty confident there is no HOA. Ms. Ong said the short-term rental isn't just for paying debts so they can make money. They haven't been in the community long. Her husband has three siblings/with children in California living on a pastoral salary. They cannot stay in a hotel when they visit, and they do not have space to accommodate them. Comm'r Hipp asked if she could build a guest house and not rent it out. Ms. Ong answered that they could but there is nothing that prohibits doing so and this is something they want to do. To have family time and more space. They have not been in the community long and they both work from home. They would have room to spend time, for conference calls, and things of that nature. They do intend to make some profit because they have already explored costs and it's going to be expensive. Comm'r Hipp talked about setback requirements stating that sometimes you have to be 30 ft. from the adjacent property. She doesn't know if the property is old or new enough to have that setback attached to it. Ms. Ong read the setback definition and her interpretation.

Comm'r Hipp asked Ms. Ong if she knew what her setbacks were of which she did not know. Comm'r Hipp suggested she find that out, get letters of support from the neighbors, and whether there are covenants. She guaranteed Ms. Ong that some neighbors may not approve of a short-term rental in their neighborhood with the exception of the Wilburn's, who she says want to do the same thing. Ms. Ong said she was using the Wilburn's as an example and have spoken to many of their neighbors. Comm'r Hipp suggested having



written information because there is a reason the Planning Director denied the application and the Board must do due diligence with her coming before them for an appeal. Comm'r Hipp reiterated her experience with short-term rentals and it is a problem. Ms. Ong said she understood that Comm'r Hipp may've had a bad experience with short-term rentals and Comm'r Hipp said her experience were not personal, but through governments. She said it is a fact that short-term rentals are an issue and her responsibility on the BZA is to take the advice of the Planning Director. Ms. Ong said she disagreed and stated there may be issues with short-term rentals; however, a blanket statement should not be made against all short-term rentals. Comm'r Hipp further elaborated on ingress/egress issues that happens all over the tri-county area, (Savannah, Georgetown). She commented that the Planning Director is doing her due diligence to make sure that she is following the rules. She commented that the Planning Director, Ms. Crane, will have opportunity to speak, but she feels a lot of criteria is missing to make a decision otherwise. Ms. Ong said she understood and noted that setbacks was not one of the issues mentioned in Ms. Crane's denial. Comm'r Hipp spoke of her knowledge as a preservationist and someone that has lived here a while, that setbacks are a concern when building structures or converting living dwellings. She used an example of space rented to a college student must have a kitchen, bathroom, and bedroom; that makes it a dwelling, whether or not it is called short-term, and setbacks are attached to it. Comm'r Hipp said it would interesting to find out what the setbacks are. Ms. Ong stated that she understood but respectfully disagreed.

Vice Chair Savage referred to page 4, referencing that the present structure does not have a kitchen and would not quality as a dwelling and asked if that was correct. He inquired as to alterations necessary that would make it in essence, a dwelling. He also talked about the calculations for density. Vice Chair Savage said he needed to depend on the definition of the Planning Director for the use, as once the appeal is granted "the cat's out of the bag." He inquired if the project is allowed then this would not then be a single household and referenced if a neighbor wanting to do the same, would cause contiguous properties to exceed the density restrictions and impact the neighborhood. Ms. Ong responded the parking plan is far more than ample and would not cause concerns.

Planning and Zoning Director, Kristen Crane addressed the Board that the applicant is appealing the Zoning Administrator's decision to make the Home Occupation/Bed and Breakfast application as "not approved". Per Section 153.124, Bed and Breakfasts, the bed and breakfast must be residential in nature and comply with the home occupation regulations of §153.210. Section 153.210, Home Occupations states that zoning permits shall be required for all home occupations.

Per Section 153.047, zoning permits are required prior to change the use classification of any part of a structure or lot, including any increase in the number of families or dwelling units occupying a building or lot; and prior to obtaining a business license.

She stated that the applicant was not able to secure a Bed and Breakfast permit due to the fact that the zoning permit to change the use and density of the parcel would not have been issued. The applicant also states in her appeal that the reason the decision is in error was due to Section 153.070, density standards, are inapplicable per 153.070's unambiguous definition and that the code "does not prohibit or restrict owner's use of the existing detached accessory structure as a guest house for paying and non-paying guests.

Ms. Crane said because the intent of the application is to use the structure as a "guest house" as stated in her letter of intent, this would be considered an additional dwelling unit. Zoning Districts, such as the RSL Zoning District have density and intensity standards to control the amount of dwelling units that are located on a certain size parcel of land. Ms. Crane explained the definition of density according to State Law Section 6-29-270 that are regulated by zoning districts that are enacted by zoning ordinances that are approved by Planning Commissions and governing bodies such as Town Councils and are defined in state laws as "the

use of buildings, and the density of development, use, or occupancy of buildings. Mrs. Crane stated that she has worked for the town for 10 years since this last and final version of the Town was formed.

It has always been her understanding that the Town was formed to preserve the low-density suburban residential character in the Town's Land Use Goals in the Comprehensive Plan. She said if the decision is made to allow more than one dwelling unit on a parcel smaller than the density and zoning standards would permit, that would, in her professional opinion, repeal the ordinances that have been in place without going through the proper process.

Questions to Planning & Zoning Administrator: Comm'r Smith asked Ms. Crane to describe what a dwelling unit is and she gave response. He asked if a Certificate for Occupancy for a garage makes it a dwelling unit, and Ms. Crane answered 'no. Vice Chair Savage asked by what authority the Town based the denial of the requested application and Ms. Crane answered the density standard.

Comm'r Hipp asked how many Bed and Breakfasts rentals are in the neighborhood range or in the Town. It was noted that there are approximately 40. She asked how many are in established communities i.e., Harbor Woods and Ft. Johnson, to which 30-35 was said if the principal residences are used.

Vice Chair Savage referenced the Town's email to the applicant dated 10-12 and the clause about accessory structure being made a part of the principal structure as offering a solution.

Comm'r Smith asked if the structure was connected without a kitchen is that fine and Ms. Crane stated "yes."

#### In Support

Spencer Ong, 1027 Grand Concourse Street: Spoke in favor.

#### Rebuttal

Ms. Ong spoke that the definition of dwelling unit is unclear. It is not a single household and it would be used for family, friends and paying guests. She said to attach it to the house is extremely expensive (\$50-100,000) and it is not an option and there is nothing in code that requires that; the zoning standards do not apply.

Vice Chair Savage closed the Hearing at 6:20 p.m. and called for a motion on Case #BZAP-10-22-026: Appeal of Zoning Related Administrative Decision (Home Occupation Bed and Breakfast permit denial at 1027 Grand Concourse Street) in the RSL (Low-Density Suburban Residential) Zoning District (TMS #428-11-00-005:

Comm'r Smith moved to approve the applicant's request to overturn the Zoning Administrator's denial, Comm'r Hipp seconded.

Comm'r Smith stated the structure is another dwelling because another family could live there and he is inclined to vote against his motion.

Vice Chair Savage spoke about what constitutes a dwelling and that would make other Town ordinances moot. He will vote against the motion. Comm'r Hipp agreed with the Zoning Administrator's decision and will vote against the motion.

Vote follows:

Comm'r Hipp                      Nay

Comm'r Smith           Nay

Vice Chair Savage      Nay

Unanimous to deny the applicant's request.

Vice Chair Savage announced that the final decision of the BZA would be mailed to the applicant within ten (10) business days.

Additional Business

Next Meeting Date: December 20, 2022

Adjournment: There being no further business to come before the body, the meeting adjourned at 6:26 p.m.

Respectfully submitted:

Frances Simmons  
Town Clerk and Secretary to the BZA

January 10, 2023

Ms. Kristen Crane  
Planning Director  
Town of James Island  
1122 Dills Bluff Rd.  
James Island, SC 29412

Dear Ms. Crane,

This letter relates to the second hearing for the grand tree removal Variance for the Charleston County Camp Road and Fort Johnson Road Intersection Improvement project with the Town of James Island. At the first hearing in October, the board tabled a decision pending the County provide information from SCDOT relating to the proposed drainage and that the County consider looking at an alternative design to avoid the two grand trees. In November, the County requested additional time to review design alternatives and to have the trees reassessed by a Certified Master Arborist. This request was granted by the board.

The engineers analyzed a design change where Camp Road would be shifted west away from the two trees currently proposed for removal. This design change was proposed as a measure to avoid the two grand trees currently proposed for removal. It was determined that this change would require the removal of 3 trees on the west side of the road and would be detrimental to 1 healthy tree closer to the intersection of Camp and Fort Johnson Road. It would also require additional right of way to be taken from three property owners.

The County hired a Certified Master Arborist from Charleston Tree Experts to evaluate the trees that could be impacted by the project (considering both the proposed design and a shift to the west design alternative). He found that the two proposed trees for removal are in poor condition. He also found three trees on the west side of the road are also in poor condition and one on the southwest corner to be healthy. In his professional opinion, a shift in the design to the west would not be enough to save the two trees currently proposed for removal and would also require the removal of other poor condition trees and harm the one healthy tree on the corner.

We found that changing the design would be detrimental to the one healthy grand tree near the corner of Camp Road and Fort Johnson Road and would require more trees to be removed, including the two currently proposed. It would also require more right of way to be taken from three private property owners. Based on these findings, we have determined our current design is the least impactful, and the removal of the 2 grand trees will be necessary in order for the project to move forward.

See the explanation below Per Article 153.049 in the Town of James Island ZLDR, to address the Criteria for Variances with this project:

A. The site contains extraordinary and exceptional conditions as noted:

- a. There is a large amount of existing grand trees in the project area.
- b. The grand trees proposed for removal are in the existing SCDOT Right of way.
- c. According to the Certified Master Arborist who recently assessed the trees, the location of the grand trees proposed for removal are too close to the roadway, curb, and future

construction of the project to be saved. This is the case even if the design was changed to shift the road to the west. The Arborist report states that the two grand trees proposed for removal, will not sustain construction and that there is no way to mitigate risk, other than removal.

d. Additionally, there are many utilities within the project area causing conflicts and obstructions.

B. These conditions do not apply anywhere else on the site. The proximity of the grand trees is very close to the edge of pavement and within the current ROW. Many efforts have been taken to minimize impact of all the grand trees by the County and its engineers.

C. The Variance will not be of substantial detriment to adjacent properties or the public good. The area contains many other grand trees in the SCDOT ROW and on private lands. The removal of 2 grand trees will allow safer and improved traffic conditions and circulation at the intersection.


E. By granting this Variance, the BZA is not allowing the establishment of an otherwise permitted or non-conforming use. This request does not allow for the change in use or change in the zoning district.

F. This grand tree Variance request is a result of improving the intersection of Camp and Fort Johnson Road. This project is for the Public good and not a result of the County's own actions.

G. By granting this Variance the BZA will not be in conflict with the Comprehensive Plan or any other purposes of the Ordinance.

In summary, the request to remove these 2 grand trees is to improve the intersection for the public good. This project will provide for safer roads and better traffic circulation as well as a safer pedestrian crossing. The design team has spent substantial time (several years) and resources seeking a design that minimizes the removal of grand trees, including the shifting of Camp Road to the west, but this alternative did not reduce impacts to grand trees in the project area. The construction documents have been presented to local residents, community stakeholders, utility companies, and the public at large prior to settling on the proposed layout. The project is approximately at the 85% complete stage of design, utility coordination, permitting, and overall approval from various stakeholders. The proposed design is the best in terms of meeting the project goals for a safe intersection, meeting design standards and requirements, avoiding impacts to utilities (particularly water and sewer mains), requiring the least amount of impact to the residents in terms of right of way, and is more cost effective than other design alternatives analyzed. This Variance request is the least impactful option.

Best regards,

  
John P. Martin

Transportation Project Manager  
Charleston County Public Works  
4045 Bridge View Drive  
North Charleston, SC 29405

# Right of Way (ROW) Exhibit

ROW changes to properties on the west side of Camp Road



ROUNDBOUT ALTERNATIVE  
S-94 (FORT JOHNSON ROAD) AT S-28 (CAMP ROAD)  
INTERSECTION IMPROVEMENTS



LEGEND

- PROPOSED ASPHALT ROADWAY
- PROPOSED CONCRETE MEDIAN
- PROPOSED CONCRETE SIDEWALK / PROPOSED CONCRETE PAVEMENT
- GRADED GRASS TURF

- EXISTING PROPERTY LINES
- EXISTING RIGHT-OF-WAY
- PROPOSED RIGHT-OF-WAY

- "GRAND TREE"
- "PROTECTED TREE"
- OTHER UNDESIGNATED TREE
- X "TREE REMOVAL"

# Variance Application

## Town of James Island Board of Zoning Appeals

Town of James Island  
Zoning/Planning Department  
1122 Dills Bluff Road  
James Island, SC 29412  
Phone 843-795-4141  
Fax 843-795-4878  
[www.jamesislandsc.us](http://www.jamesislandsc.us)



This application must be complete and submitted in person to the Town of James Island Zoning/Planning Department in order to apply for a Variance. Please read the entire form prior to completing the application. The applicant shall receive a copy of this completed form at the time the application is filed. **This application will be returned to the applicant within fifteen (15) working days if these items are not submitted with the application or if any are found to be inaccurate:**

- 1) Completed Variance application signed by the current property owner(s).
- 2) Copy of **Current Recorded Deed** to the property (Owner's signature must match documentation). If the applicant is not the owner of the property, the **Current Property Owner(s)** must sign and print the **Designation of Agent** found below.
- 3) **Restrictive Covenants & Posted Notice Affidavit(s)** signed by the applicant or current property owner(s).
- 4) A **letter of intent** signed by the applicant or property owner(s) stating the reason for the request that explains why this request should be granted and how it meets the Approval Criteria of §153.049 F. All proposed Variances, except single family, shall satisfy the Site Plan Review process and attend at least one Site Plan Review meeting prior to submitting this application.
- 5) An accurate, legible **Site Plan drawn to Engineers Scale** must be attached. The site plan must show property dimensions, dimensions and locations of all existing and proposed structures and improvements, parking areas, Grand trees(24" DBH or greater, Pine, Sweetgum, SC Invasive Pest Trees are exempt), wetlands(properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on site plan or plat), holding basins and buffers when applicable.  
**One 24 x 36 copy & fifteen (15) 11 x 17 copies.**
- 6) Copy of a legible **Approved and Recorded Plat** showing present boundaries of property.
- 7) **Fee \$250** check made out to "Town of James Island". Grand tree variances add \$50 each additional tree

Applicant Name:	John Martin, Transportation Project Manager, Charleston County Public Works		
Mailing Address:	4045 Bridge View Drive		
City, State, Zip Code:	N. Chas, SC 29405	Daytime Phone:	843-202-6139
Email Address:	jpmartin@charlestoncounty.org		
Subject Property Address:	Camp Road and Fort Johnson Road, in front of 1182 Camp Road		
Present Use of Property:	Right of Way for Camp Road		
Variance Description:	Removal of 2 Grand Trees		

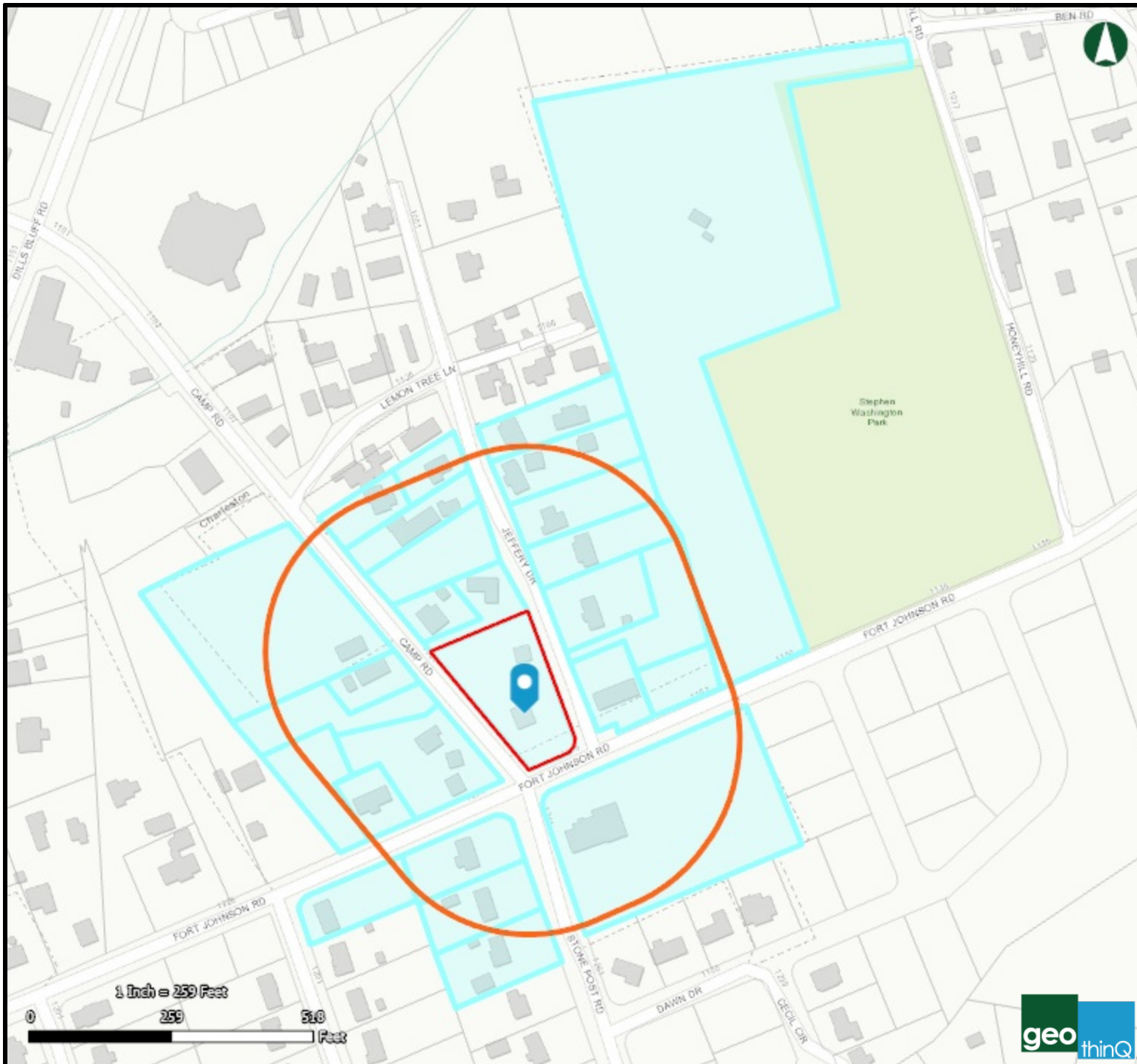
09/01/2022  
 Applicant Signature Date

**Designation of Agent** (Complete only if owner is not applicant): I hereby appoint the person named as Applicant above as my (our) agent to represent me (us) in this application.

Owner Print Name	Date	Owner Mailing Address
Owner Signature	City, State, Zip Code	

FOR OFFICE USE ONLY:	
Application #: <u>BZAV-9-22-030</u>	Flood Zone: _____
Zoning District: <u>N/A</u>	Fee Paid (\$250): _____
Date Filed: <u>9/1/2022</u>	Zoning Officer: _____
TMS#: <u>N/A</u>	





Town of James Island  
South Carolina

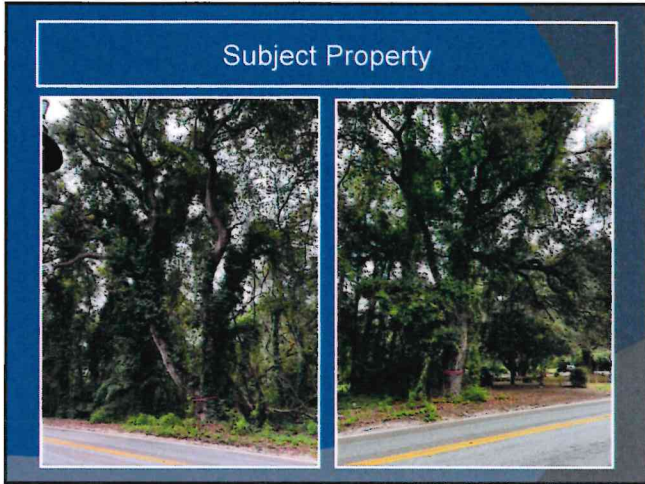


# Camp/Fort Johnson Rd Intersection Radius Map

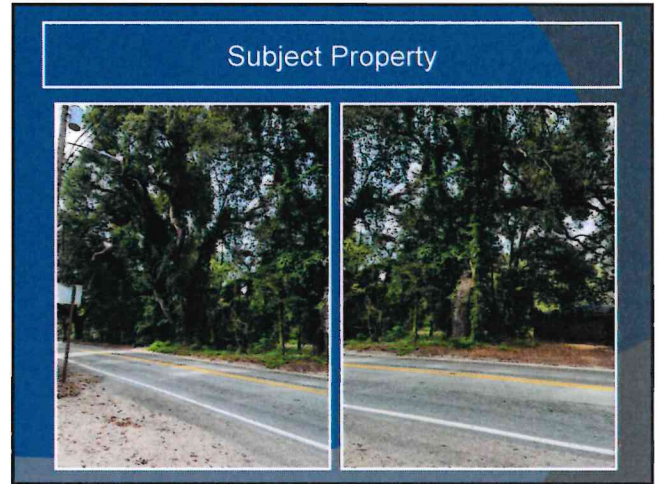
300' Buffer  
09/28/2022

1 Inch = 259 Feet

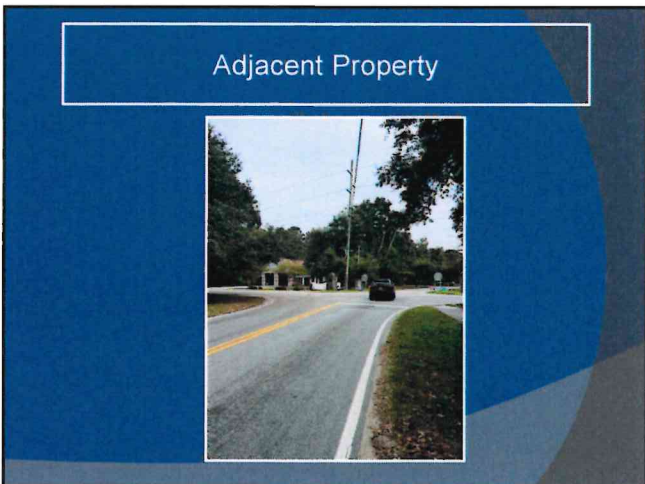




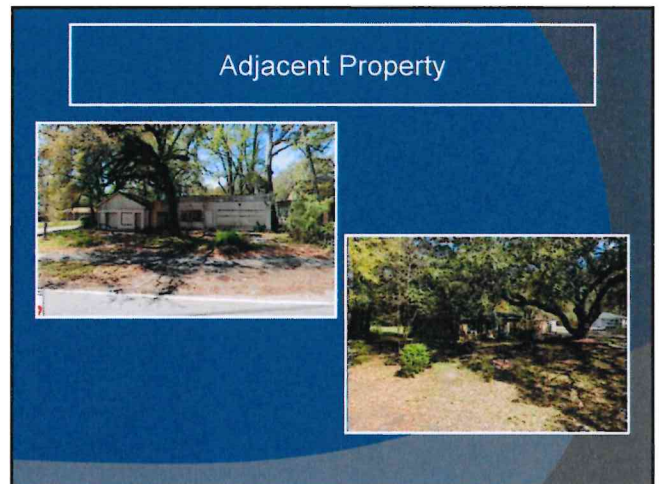
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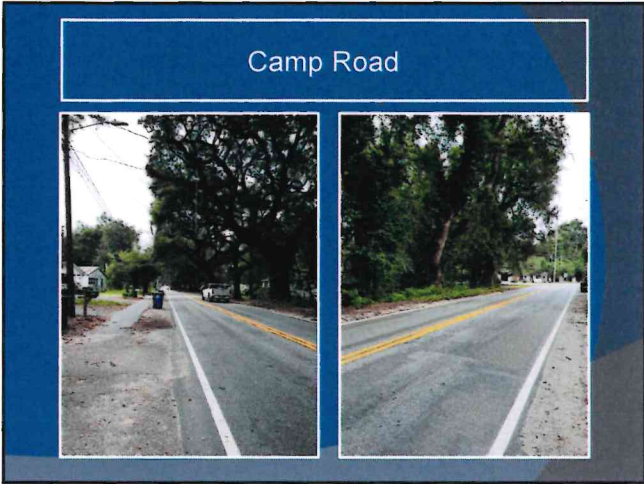
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**Staff Review:**

Charleston County Transportation is requesting a Variance for the removal of two grand trees (44" DBH Live Oak and 37.5" DBH Live Oak) for intersection improvements at the intersection of Camp Road and Fort Johnson Road, in the Right-of-Way (ROW) adjacent to 1182 Fort Johnson Road. Adjacent property to the northeast and southwest quadrants of the intersection are zoned Low-Density Suburban Residential (RSL) in the Town of James Island. Adjacent property to the southeastern quadrant of the intersection is zoned Single-family Residential (SR-1) in the City of Charleston and houses Charleston Fire Department Station 7. The northwestern quadrant is also in the City of Charleston, zoned Commercial Transitional (CT) and has an abandoned building located on it.

*Town of James Island Zoning and Land Development Regulations Ordinance, §153.334 (A) (4) Tree Protection and Preservation defines "Grand Tree: Any species of tree measuring 24 inches or greater diameter breast height (DBH) except pine and sweet gum. All GRAND TREES are prohibited from removal unless a grand tree removal permit is issued."*

The Charleston County staff-recommended alternative for the intersection (Recommended Option #1, attached) is an "urban compact roundabout" and has the least impact on grand trees and adjacent properties. These impacts include the removal of a 37.5" DBH Live Oak (Grade C according to a certified arborist) and a 44" DBH Live Oak (Grade C w/hollow base according to a certified arborist). The requested trees are to be removed to accommodate the improvements which include safety, drainage, sidewalks, and buffer improvements.

Please review the attached documents for further information regarding this request.

**Findings of Fact:**

*According to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Appeals makes and explains in writing the following findings:*

F. (a): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

**Response:** **There may be extraordinary and exceptional conditions pertaining to this project area due to the large number of trees that currently line the right-of-way and the "many utilities within the project area causing conflicts and obstructions" according to the applicant's letter of intent. The letter of intent**

also explains, *“the grand trees proposed for removal are in the existing SCDOT Right-of-Way”* and the *“proximity of the grand trees is very close to the edge of pavement.”*

F (b): *These conditions do not generally apply to other property in the vicinity;*  
Response: **Other properties are within the project limits; however, these conditions do not apply anywhere else in the vicinity and any healthy grand trees in the area will not be impacted by the project or the installation of the drainage structures required. Additionally, the letter of intent explains, *“many efforts have been taken to minimize impact of all the grand trees.”***

F (c): *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;*  
Response: **The application of this Ordinance, specifically section §153.334, Required Tree Protection, may not restrict the utilization of the property as it is currently being used; however, it will effectively prohibit the implementation of the construction project for *“safer roads and better traffic circulation as well as a safer pedestrian crossing”* and to *“aid in drainage and flooding”*, as the letter of intent explains.**

F (d): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*  
Response: **The authorization of this variance will not be a detriment to adjacent property or to the public good because the *“the removal of the two grand trees will allow safer and better traffic circulation at the intersection”* according to the applicant. The character of the zoning district will not be harmed by the granting of the variance.**

F (e): *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land or to change the zoning district boundaries shown on the Official Zoning Map;*  
Response: **The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries.**

F (f): *The need for the variance is not the result of the applicant’s own actions; and*

**Response:** The need for the variance is not the result of the applicant's own actions because the size and location of grand trees are existing site conditions, as previously stated. Additionally, the need for the variance, as the letter of intent explains, and previously stated is to *"allow safer and better traffic circulation at the intersection."*

F (g): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

**Response:** This variance may not conflict with the *Comprehensive Plan*, specifically the Transportation Element Needs of *"Mitigating the impacts of a changing population on the existing transportation system"*, with a Strategy to *"ensure that roads are constructed in a way that promotes safe vehicle passage and pedestrian/bicycle use and provides sufficient drainage"* and to *"work with appropriate agencies to investigate how to improve roads within the Town"*

*In granting a Variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§153.045 E 2).*

**Action:**

The Board of Zoning Appeals may approve, approve with conditions or deny Case # BZAV-9-22-030 (Variance Request for the removal of two grand trees: 44" DBH Live Oak and 37.5" DBH Live Oak for intersection improvements) based on the "Findings of Fact" listed above, unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions:

1. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall install tree barricades around the protected trees on the property, as described in §153.334 of the *Ordinance*, throughout the duration of construction.
2. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the protected trees in the project area have been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the trees caused by construction.

3. The applicant/owner shall mitigate the removal of the grand trees by submitting a mitigation plan to the Zoning Administrator, as described in 153.334 (E) (2) of the *Ordinance*.



October 10, 2022

Ms. Kristen Crane  
Planning Director  
Town of James Island, SC  
1122 Dills Bluff Rd.  
James Island, SC 29412

Dear Ms. Crane;

Charleston County is engaged in improving the intersection of Camp Road and Fort Johnson Road. The intention is to engineer and construct a Roundabout for the intersection thus improving safety and traffic.

Unfortunately, as part of this improvement, the removal of 2 Grand trees will be necessary. A 44" Live Oak and a 37.5" Live Oak along the west side of Camp Road within the existing SCDOT Right of Way, will need to be removed for the construction of a stormwater pipe associated with the project.

The project team has created several designs for the road improvement. The initial preliminary designs removed as many as 16 Grand trees. Since then, the design has heavily evolved to allow many of the Grand Trees to remain, the preferred option now only requesting the removal of 2 Grand trees. Per Article 153.049 in the Town of James Island ZLDR, we wanted to explain and address the Criteria for Variances as follows:

- A. The site contains extraordinary and exceptional conditions as noted:
  - a. There is a large amount of existing Grand Trees in the project area.
  - b. The Grand Trees proposed for removal are in the existing SCDOT Right of way.
  - c. The area does occasionally flood, the new storm water pipes that will be place where the tree are, will address flooding issues.
  - d. Additionally, there are many utilities within the project area causing conflicts and obstructions.
- B. These conditions do not apply anywhere else on the site. The proximity of the Grand Trees is very close to the edge of pavement and within the current ROW. Many efforts have been taken to minimize impact of all the Grand Trees.
- C. The conditions of the site are requiring the installation of a Stormwater Pipe to aid in drainage and flooding. Without the installation of the pipe in this location, proper drainage cannot be achieved. Furthermore, the removal of the





Grand Trees does not restrict the utilization of the property for current or future use.

- D. The Variance will not be of substantial detriment to adjacent properties or the public good. The area contains many other Grand Trees in the SCDOT ROW and on private lands. The removal of 2 Grand Trees will allow safer and better traffic circulation at the intersection.
- E. By granting this Variance, the BZA is not allowing the establishment of an otherwise permitted or non-conforming use. This request does not allow for the change in use or change in the zoning district.
- F. This Grand Tree Variance request is a result of improving the intersection of Camp and Fort Johnson Road. This project is for the Public good and not a result of the County's own actions.
- G. By granting this Variance the BZA will not be in conflict with the Comprehensive Plan or any other purposes of the Ordinance.

In summary, the request to remove these 2 Grand Trees is to improve the intersection for the public good. Safer roads and better traffic circulation as well as a safer pedestrian crossing. The design team sought several solutions to minimize the removal of Grand Trees. This request is the least invasive option.

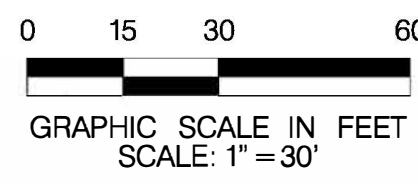
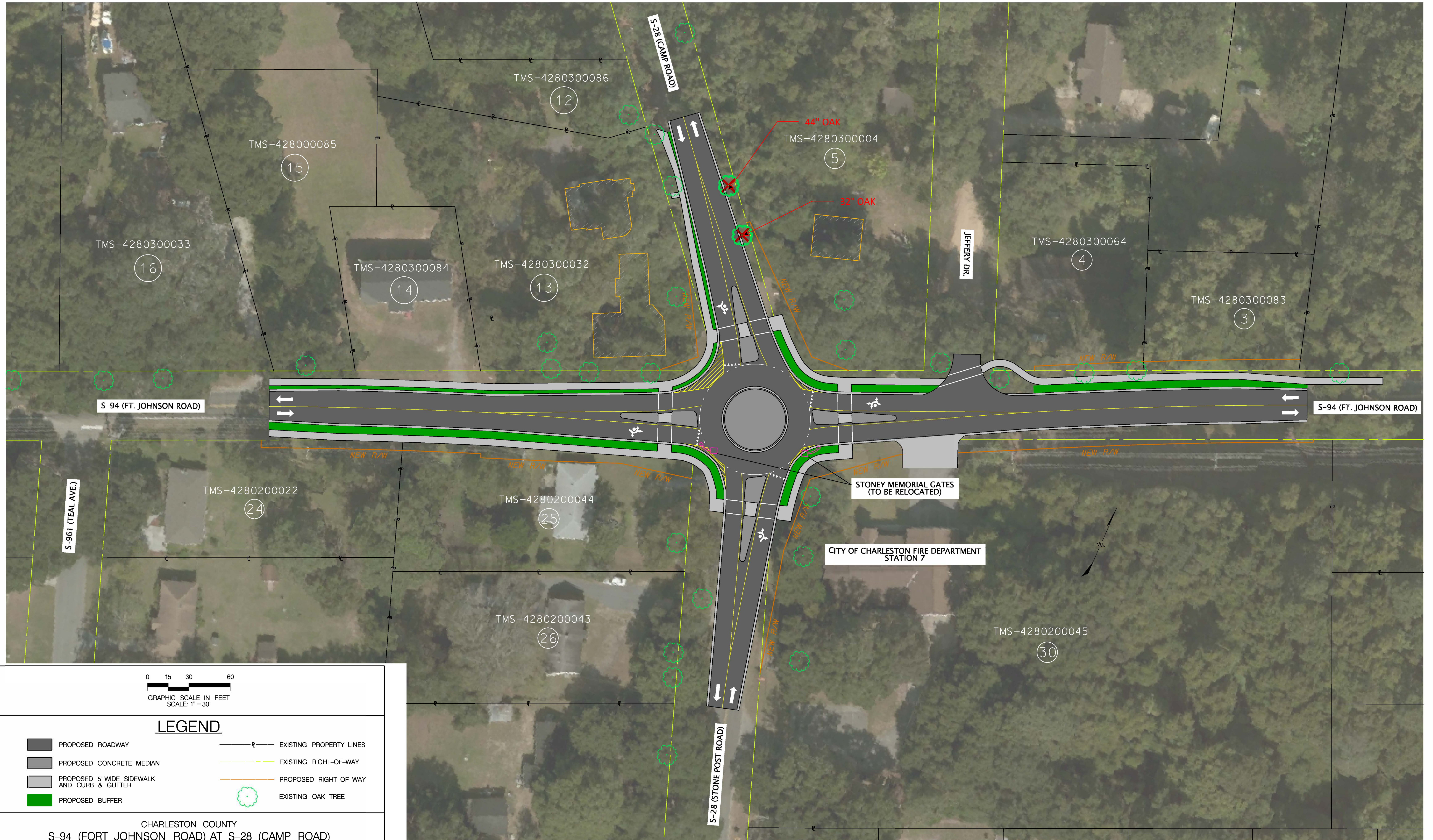
Sincerely,  
ESP Associates, Inc.

A handwritten signature in blue ink that reads "Keane McLaughlin".




Mr. Keane McLaughlin, PLA, AICP  
Planning Department Manager  
ESP Associates, Inc.  
2154 North Center Street, Suite E-503  
N. Charleston, SC 29406

# Recommended Option (#1)

URBAN COMPACT ROUNDABOUT  
S-94 (FT. JOHNSON RD.) AT S-28 (CAMP RD.)



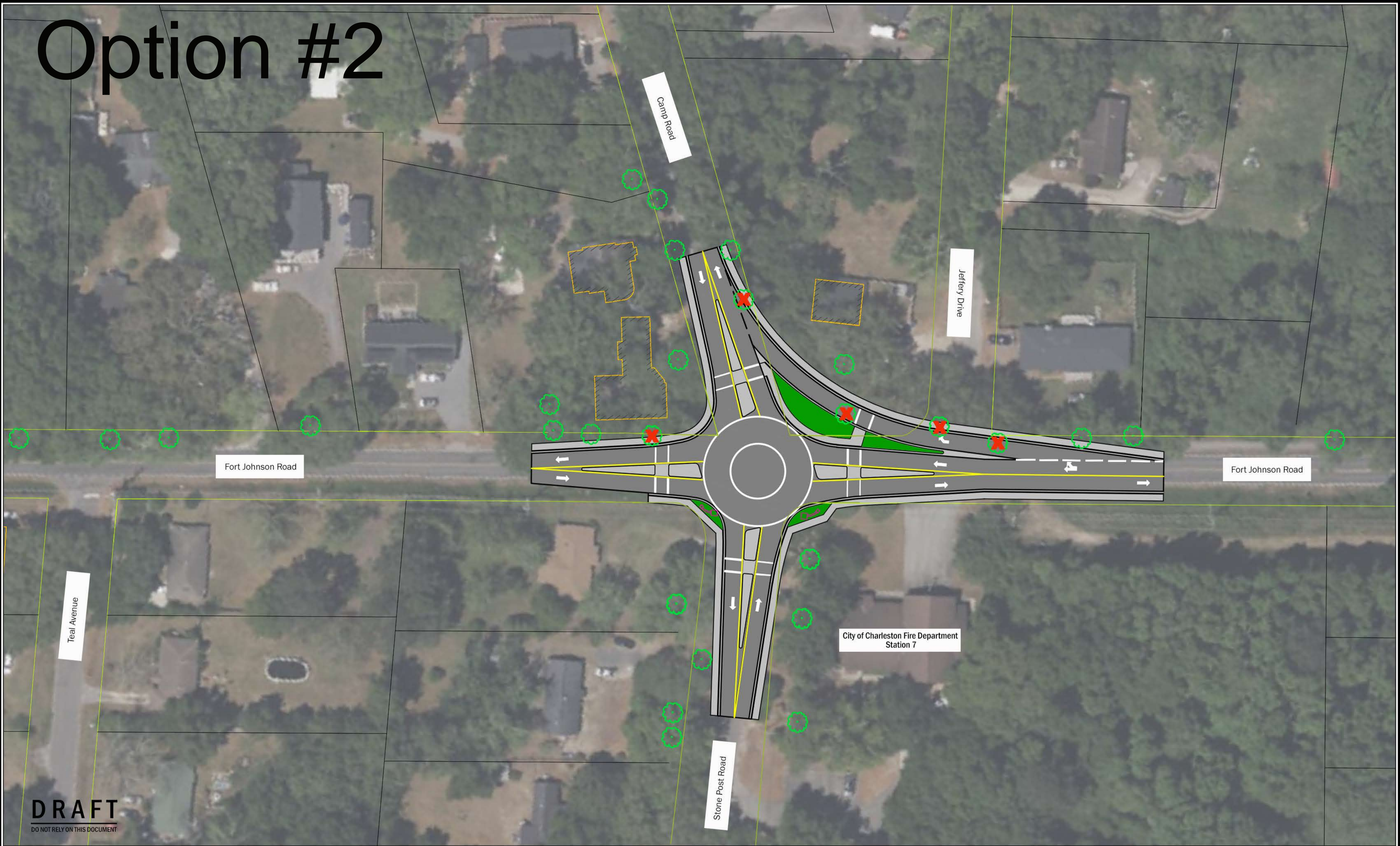
## LEGEND

- |   |   |   |                         |
|---|---|---|-------------------------|
|  | PROPOSED ROADWAY                            |  | EXISTING PROPERTY LINES |
|  | PROPOSED CONCRETE MEDIAN                    |  | EXISTING RIGHT-OF-WAY   |
|  | PROPOSED 5' WIDE SIDEWALK AND CURB & GUTTER |  | PROPOSED RIGHT-OF-WAY   |
|  | PROPOSED BUFFER                             |  | EXISTING OAK TREE       |

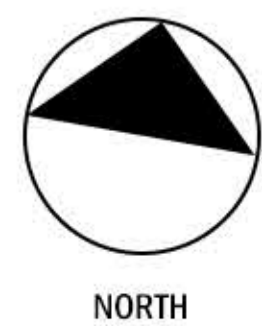
CHARLESTON COUNTY  
S-94 (FORT JOHNSON ROAD) AT S-28 (CAMP ROAD)  
INTERSECTION IMPROVEMENTS

Original number	Tree Number	DBH	Speices	Grade	Comments	Comments	Low hanging in Right-of-way	Condition
5165	1	44	Live oak	B				Good
5162	2	56	Live oak	B				Good
5161	3	28	Laurel oak	C			Yes	Fair
5159	4	39	Live oak	B			Yes	Good
	5	23	Laurel oak	C				Fair
5048	6	30	Live oak	C	Utility prune	Storm damage		Fair
6816	7	9-13	Live oak	D	Utility prune	Decay		Poor
5047	8	32	Laurel oak	D	Broken top	Decay		Poor
5046	9	32	Live oak	C	Utility prune			Fair
5045	10	44	Laurel oak	D	Utility prune	Hollow		Poor
5050	11	44	Live oak	C	Vines	Hollow base		Fair
5049	12	37.5	Live oak	C	Vines			Fair
5081	13	54.5	Live oak	B			Yes - Pruning Req'd	Good
5080	14	90	Live oak	B			Yes - Pruning Req'd	Good
5082	15	44.5	Live oak	B			Yes	Good
5097	16	41.5	Live oak	B			Yes	Good
5137	17	20-20	Sweet gum					#N/A
5066	18	33	Live oak	B			Yes - Pruning Req'd	Good
5067	19	45	Laurel oak	C	Utility prune	Poor form		Fair
5069	20	43	Live oak	B			Yes	Good
6225	21	21.5	Pecan	F	Dead			Poor
5071	22	29.5	Live oak	B				Good
5072	23	26.5	Pecan	F	Broken top	Decay		Poor
5073	24	25	River birch	B				Good
7108	25	28	Pecan	C	Utility prune		Yes	Fair
7231	26	26	Pecan	C	Utility prune		Yes	Fair

# Option #2



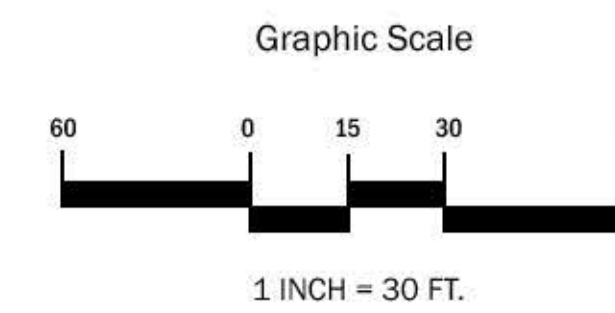
**DRAFT**  
DO NOT RELY ON THIS DOCUMENT



## Camp Road Mini Roundabout Tree Mitigation (5)

ESP Job # KM68

September 27, 2022



# Variance Application

## Town of James Island Board of Zoning Appeals

Town of James Island  
Zoning/Planning Department  
1122 Dills Bluff Road  
James Island, SC 29412  
Phone 843-795-4141  
Fax 843-795-4878  
[www.jamesislandsc.us](http://www.jamesislandsc.us)



This application must be complete and submitted in person to the Town of James Island Zoning/Planning Department in order to apply for a Variance. Please read the entire form prior to completing the application. The applicant shall receive a copy of this completed form at the time the application is filed. **This application will be returned to the applicant within fifteen (15) working days if these items are not submitted with the application or if any are found to be inaccurate:**

- 1) Completed Variance application signed by the current property owner(s).
- 2) Copy of **Current Recorded Deed** to the property (Owner's signature must match documentation). If the applicant is not the owner of the property, the **Current Property Owner(s)** must sign and print the **Designation of Agent** found below.
- 3) **Restrictive Covenants & Posted Notice Affidavit(s)** signed by the applicant or current property owner(s).
- 4) A **letter of intent** signed by the applicant or property owner(s) stating the reason for the request that explains why this request should be granted and how it meets the Approval Criteria of §153.049 F. All proposed Variances, except single family, shall satisfy the Site Plan Review process and attend at least one Site Plan Review meeting prior to submitting this application.
- 5) An accurate, legible **Site Plan drawn to Engineers Scale** must be attached. The site plan must show property dimensions, dimensions and locations of all existing and proposed structures and improvements, parking areas, Grand trees(24" DBH or greater, Pine, Sweetgum, SC Invasive Pest Trees are exempt), wetlands(properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on site plan or plat), holding basins and buffers when applicable.  
**One 24 x 36 copy & fifteen (15) 11 x 17 copies.**
- 6) Copy of a legible **Approved and Recorded Plat** showing present boundaries of property.
- 7) **Fee \$250** check made out to "Town of James Island". Grand tree variances add \$50 each additional tree

Applicant Name: Jeanette A. Kress & Douglas E. Ries

Mailing Address: 649 Harbor View Rd.

City, State, Zip Code: Charleston, SC 29412 Daytime Phone: 803-629-2792

Email Address: jeanette.kress@gmail.com

Subject Property Address: 649 Harbor View Rd. Charleston, SC 29412

Present Use of Property: Personal Residence

Variance Description: 22.5' of 8' privacy fence within the 25' setback adjacent to property line.

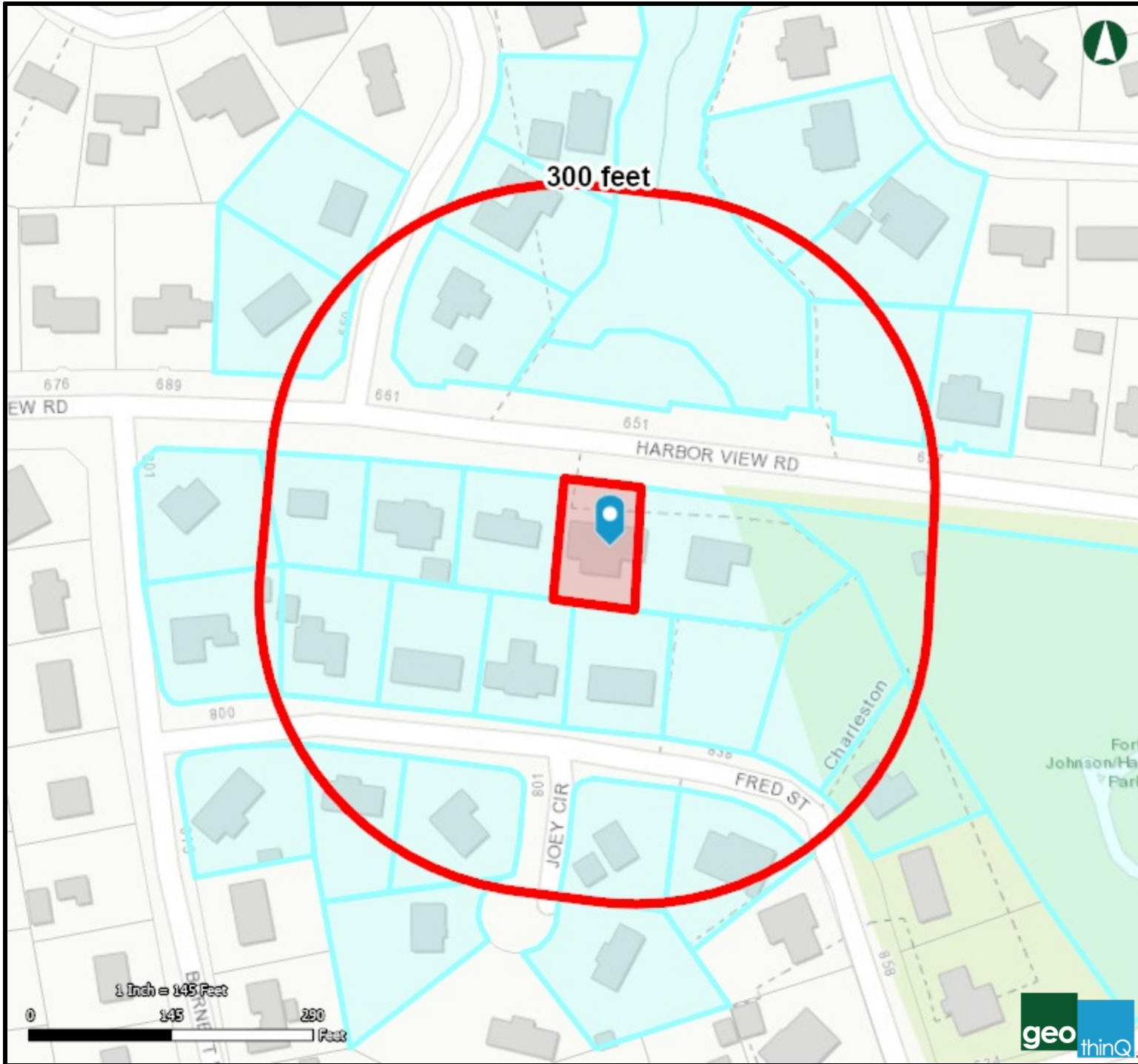
Jeanette Kress Douglas Ries 12/12/2022  
Applicant Signature Date

**Designation of Agent** (Complete only if owner is not applicant): I hereby appoint the person named as Applicant above as my (our) agent to represent me (us) in this application.

Owner Print Name \_\_\_\_\_ Date \_\_\_\_\_ Owner Mailing Address \_\_\_\_\_

Owner Signature \_\_\_\_\_ City, State, Zip Code \_\_\_\_\_

FOR OFFICE USE ONLY:	
Application #: <u>BZAV-12-22-031</u>	Flood Zone: _____
Zoning District: <u>RSL</u>	Fee Paid (\$250): <u>CK# 1591</u>
Date Filed: <u>12/13/2022</u>	Zoning Officer: <u>KAC</u>
TMS#: <u>454-11-00-038</u>	



Town of James Island  
South Carolina



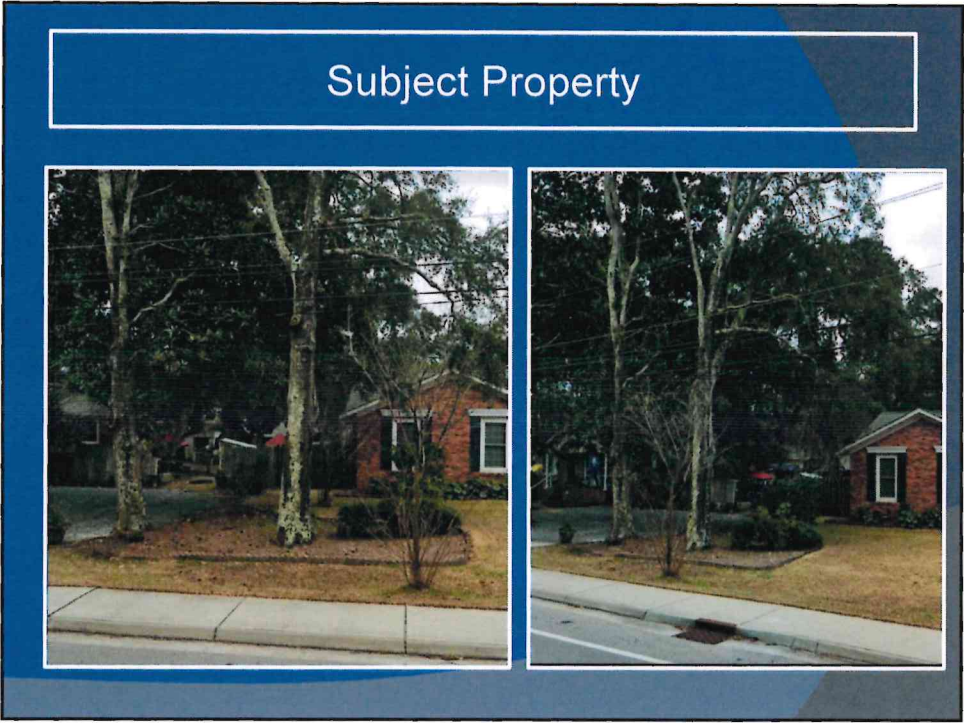
## 649 Harbor View Road Radius Map

BZAV-12-22-031  
12/16/2022





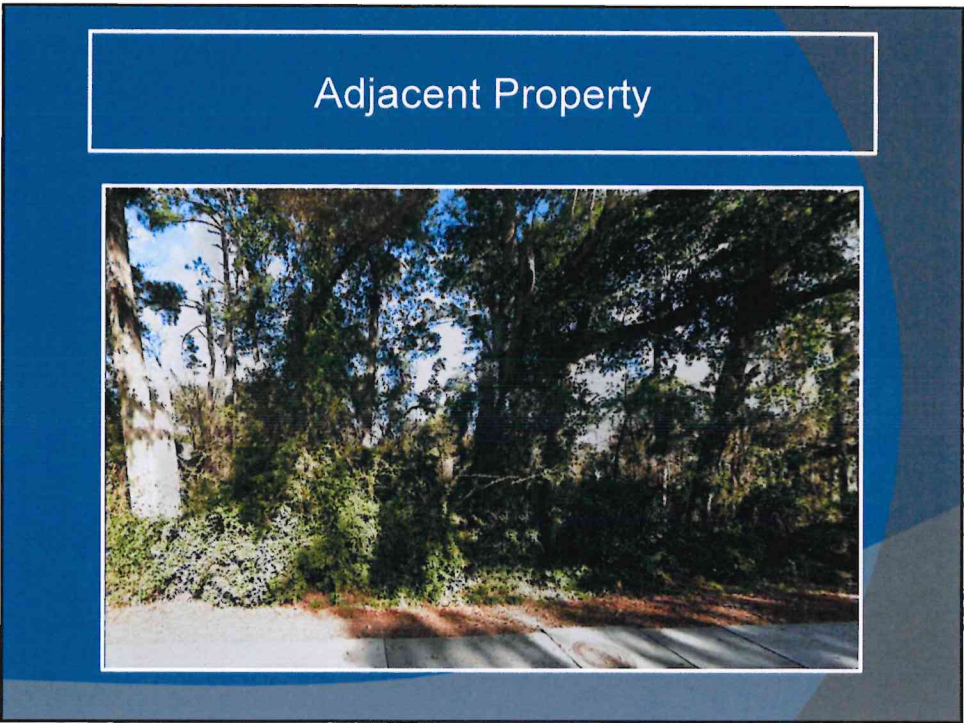
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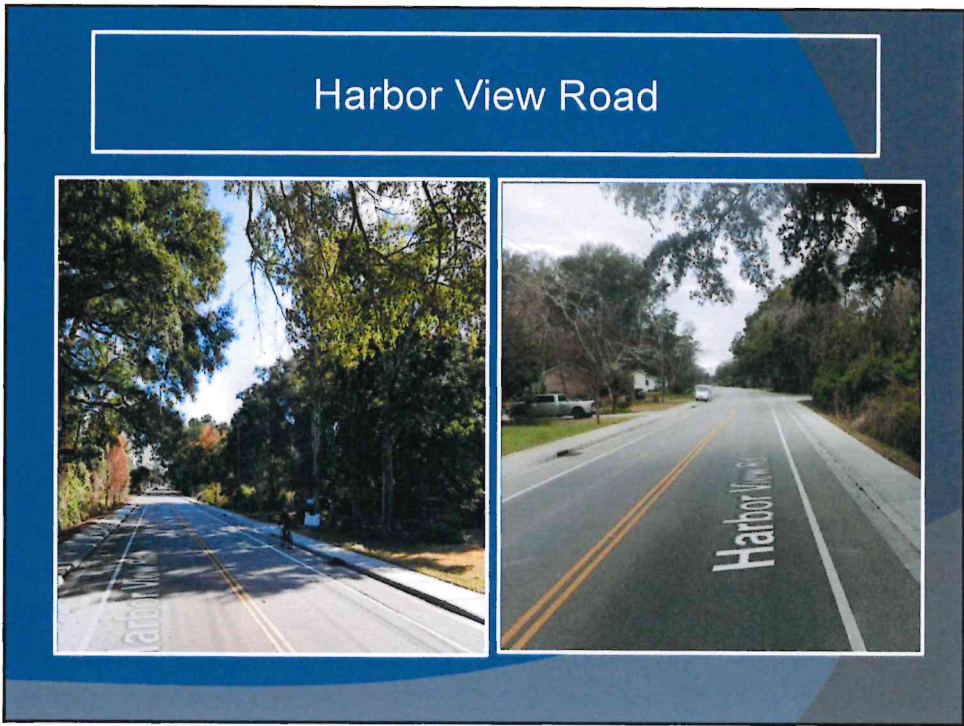


19



20





21

**Staff Review:**

The applicants, Jeanette A. Kress & Douglas E. Ries, are requesting a Variance for the construction of an 8' privacy fence in the front setback of a residential lot in the Low-Density Suburban Residential (RSL) Zoning District at 649 Harbor View Road. Adjacent property to the west, east, and south is zoned RSL in the Town of James Island. Adjacent property to the north is zoned Single-Family Residential (SR-1) and is in the City of Charleston's jurisdiction.

*Town of James Island Zoning and Land Development Regulations Ordinance § 153.066 C(1)(b)(1)(a) states that fences and walls may be located within any required setback, provided that in residential, office, and commercial districts no fence, wall, or hedge shall exceed four feet in height when located within any front or street side setback with the exception of chain link fences, which can be six feet in height.*

The subject property is a 0.29-acre lot and currently has one home, built in 1966 per Charleston County records. The current property owner purchased the property in August of 2021. The applicants are requesting 22.5' of 8' privacy fence within the 25' street side setback "to increase our privacy, improve security and livability in our permanent, personal residence". The requested section of fence would be adjacent to the property line between 649 and 643 Harbor View Road.

**Findings of Fact:**

*According to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Appeals makes and explains in writing the following findings:*

F. (a): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

**Response:** In their letter of intent, the applicants describe "extraordinary/exceptional circumstances" including "loud music, engine revving and loud noises" as impacting the livability of their property. Therefore, there may be extraordinary and exceptional conditions pertaining to this piece of property.

F (b): *These conditions do not generally apply to other property in the vicinity;*

**Response:** These conditions may not generally apply to other properties in the vicinity as the Town of James Island has not received similar complaints regarding "loud music, engine revving and loud noises" in this area. Additionally, in their letter

**of intent, the applicant states that “these conditions do not apply to other property in the vicinity to our knowledge”.**

F (c): *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;*

**Response: The application of this Ordinance, specifically section §153.066 to the subject property would prohibit the construction of the section of fence at the requested height in the front/street side setback.**

F (d): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*

**Response: The character of the zoning district should not be harmed, and the authorization of the variance should not be of substantial detriment to adjacent property. The proposed location of the fence will not obstruct neighboring properties view for vehicular access to Harbor View Road.**

F (e): *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land or to change the zoning district boundaries shown on the Official Zoning Map;*

**Response: The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries.**

F (f): *The need for the variance is not the result of the applicant’s own actions; and*

**Response: In their letter of intent, the applicant describes the necessity of the variance to “increase our privacy, improve security and livability in our permanent, personal residence” due to circumstances including “loud music, engine revving, and loud noises.” Therefore, the need for the variance may not be the result of the applicant’s own actions.**

F (g): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

**Response: The granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.**

*In granting a Variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§153.045 E 2).*

**Action:**

The Board of Zoning Appeals may approve, approve with conditions, or deny Case # BZAV-12-22-031 (Variance request for the construction of an 8' privacy fence in the front setback of a residential lot in the Low-Density Suburban Residential (RSL) District) based on the "Findings of Fact" listed above, unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions:

1. The applicant shall obtain the required zoning and building permits before fence construction.

December 12, 2022

Town of James Island  
Board of Zoning Appeals  
Zoning/Planning Department  
1122 Dills Bluff Road  
James Island, SC 29412

Re: Letter of Intent for Variance at 649 Harbor View Rd

To Whom It May Concern,

As the property owners of above referenced location, we are requesting a variance to build approximately 22.5' of 8' privacy fence within the 25' set back to be located adjacent to the property line between 649 Harbor View Rd and 643 Harbor View Rd. We will continue with the same fence to attach to an existing fence on our property.

Addressing Approval Criteria

- a. The extraordinary / exceptional circumstances are loud music, engine revving and loud noises. These conditions do not apply to other property in the vicinity to our knowledge.
- b. Because of these conditions, the application of this Ordinance to this piece of property effectively prohibits or unreasonably allows us to engage in a peaceful and safe utilization / life in our home and would negatively impact any future sale of the home
- c. The authorization of this variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance.
- d. There will be no change of use of the property
- e. The need for the variance is not the result of our actions.
- f. Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of the ordinance.

We would like to build this fence to increase our privacy, improve security and livability in our permanent, personal residence.

Respectfully submitted,



Jeanette Kress

649 Harbor View Rd  
Charleston, SC 29412

803-629-2792

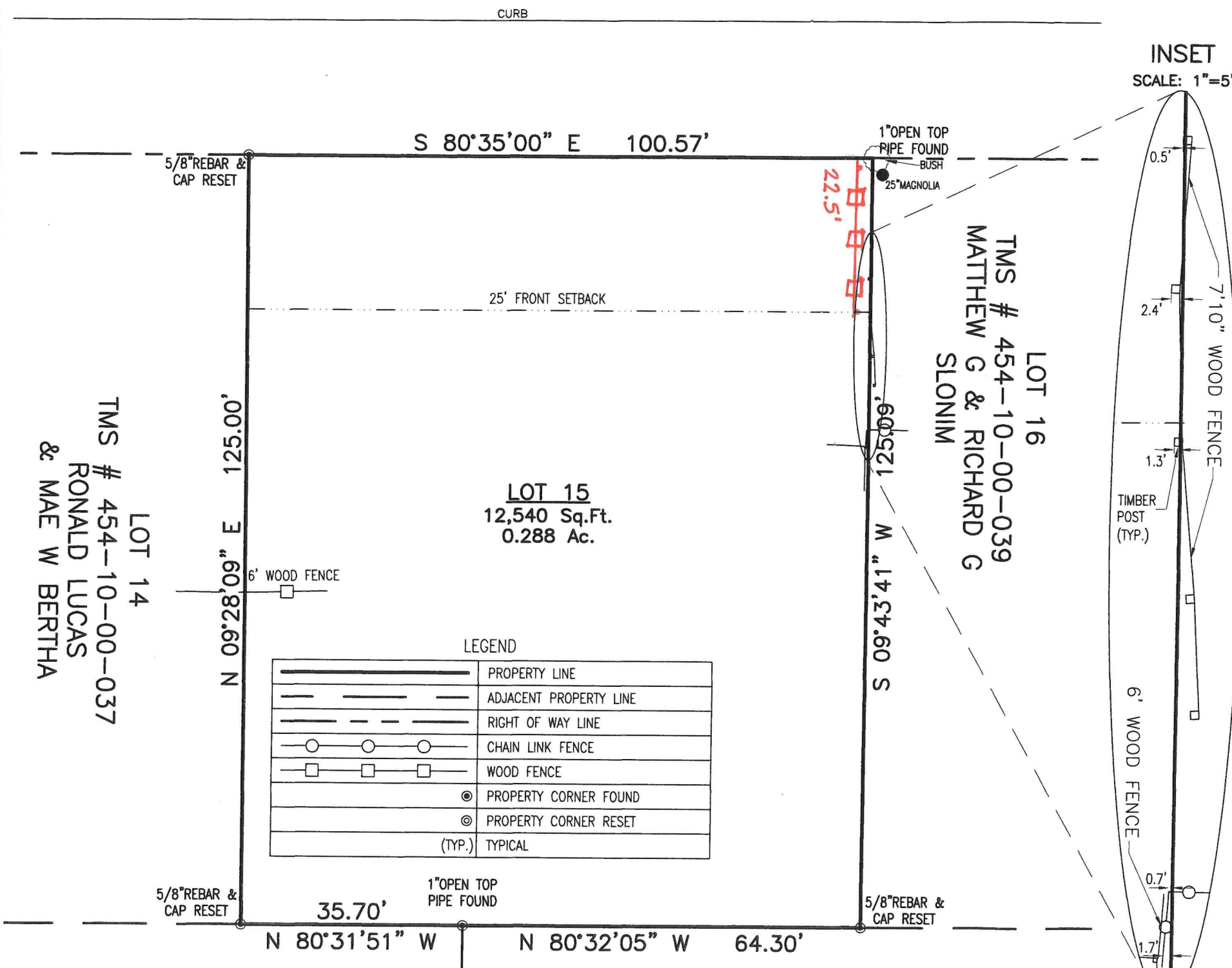


Douglas Ries

649 Harbor View Rd  
Charleston, SC 29412

803-807-7762

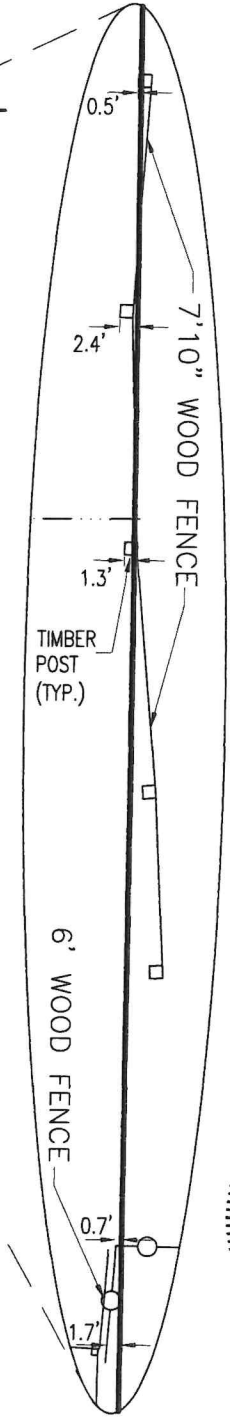
# HARBOR VIEW ROAD (80' R/W)



LEGEND

	PROPERTY LINE
	ADJACENT PROPERTY LINE
	RIGHT OF WAY LINE
	CHAIN LINK FENCE
	WOOD FENCE
	PROPERTY CORNER FOUND
	PROPERTY CORNER RESET
	(TYP.) TYPICAL

INSET  
SCALE: 1"=5'



## NOTES & REFERENCES:

1. REFERENCE PLAT BY TOMMY E. AYERS RECORDED IN CHARLESTON COUNTY R.O.D. IN PLAT BOOK P AT PAGE 2.
2. THIS SURVEY DOES NOT REFLECT A TITLE SEARCH AND IS BASED ENTIRELY ON THE ABOVE REFERENCED DOCUMENT(S) AND FIELD EVIDENCE. THIS SURVEY DOES NOT GUARANTEE TITLE NOR DEPICT ANY ENCUMBRANCES NOT SHOWN ON THE REFERENCE PLAT.
3. IMPROVEMENTS ON THIS LOT ARE NOT SHOWN AT THE REQUEST OF THE OWNER.
4. CERTIFICATION IS TO THE PARTIES FOR WHOM THIS SURVEY WAS PREPARED AND IS NOT TRANSFERABLE TO ANY OTHER INSTITUTION OR INDIVIDUALS.



**BOUNDARY SURVEY**  
**LOT 15 BLOCK C**  
**CLEARVIEW SUBDIVISION**  
**TMS 454-10-00-038**  
**649 HARBOR VIEW ROAD**  
**TOWN OF JAMES ISLAND**  
**CHARLESTON COUNTY, SC**

OWNED BY  
**JEANETTE A. KRESS & DOUGLAS E. RIES**  
 DATE: SEPT. 26, 2022 SCALE: 1" = 20'  
 REVISED DEC. 12, 2022 TO DETAIL FENCE

**ATLANTIC SURVEYING, INC.**

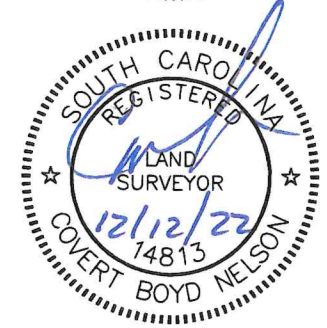
1723 SAVANNAH HIGHWAY  
 P.O. BOX 30604  
 CHARLESTON, SOUTH CAROLINA 29417  
 PHONE (843)763-6669 FAX (843)766-7411

**GRAPHIC SCALE**



(IN INCHES)

1 inch = 20 feet



**LOT 7**  
**TMS # 454-10-00-031**  
**NOELLE PETER**  
**& MARY CATHERINE MARROW**

**LOT 6**  
**TMS # 454-10-00-032**  
**MELISSA C RIFFERT**  
**& DAVID K HALL**

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