

**TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
Town Hall
1122 Dills Bluff Road, James Island, SC 29412
BZA AGENDA
October 18th, 2022
5:00 PM**

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

**(PLEASE SEE ZOOM LINK AND CALL-IN NUMBERS BELOW TO VIEW VIRTUALLY, OR VISIT THE TOWN'S
YouTube CHANNEL)**

Members of the public addressing the Board in support or opposition of this case at Town Hall must sign in. Social distancing will be in place. The Town invites the public to submit comments on this case prior to the meeting via email to 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 JUNE 21, JULY 19 & AUGUST 16, 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:
 - 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 S
 - 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.
- VIII. ADDITIONAL BUSINESS:
 - 1. Next Meeting Date: November 15th, 2022
- IX. ADJOURN

Please click the link below to join the webinar:

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<https://us02web.zoom.us/j/86567250336?pwd=QUdOMXRlczFwL1dhQzA4ZEZWdkVHdz09>

Passcode: 603500

US: +19292056099,,86567250336#,,,,*603500# or +13017158592,,86567250336#,,,,*603500#
Webinar ID: 865 6725 0336

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

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF JUNE 21, 2022

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, June 21, 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, Bonum S. Wilson, BZA Attorney, Niki Grimball, Town Administrator, 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. She asked the Board and others who wished, to join in the prayer. The Pledge of Allegiance was not recited with the meeting being 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 notification was given that the meeting would be live-streamed on the Town's You-Tube Channel.

Introduction: Chairwoman Lyon introduced herself, members of the BZA, Attorney, Staff, and Town Councilwoman Cynthia Mignano.

Review Summary from the April 19 and May 17, 2022 BZA Meeting: Chairwoman Lyon moved for approval of both meeting minutes, seconded by Commissioner Smith. There was no discussion.

Vote:

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

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

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 was sworn in by Mr. Wilson, the BZA Attorney. Persons addressing the Board on Zoom were asked to use the "chat" function, state their name and whether they were speaking in support or opposition and would be called upon at the appropriate time. Those calling in to speak will be recognized by their phone number and will be asked to speak at the appropriate time.

Chairwoman Lyon provided an overview of how tonight's case would be conducted with the time allotted for speaking. Those speaking in support at the Town hall should stand one by one and state their name and address for the record. Those speaking in support on Zoom will be asked to wait until their name is called upon to speak and those speaking in opposition would follow the same procedure.

Review of the Following Application:

Case #BZAS-5-22-025

TMS# 425-06-00-101

Special Exception request for a fast-food restaurant on a vacant lot in the Community Commercial (CC) Zoning District and in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District at 890 Folly Road: Planning Director, Kristen Crane, presented the staff's review that the applicant, Kentucky Fried Chicken (KFC) Corporation, is requesting a Special Exception for a fast-food restaurant on a vacant lot in the Community Commercial (CC) Zoning District in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District. The lot lines for 890 and 896 Folly Road have been recently reconfigured, and the properties are the previous locations of Pizza Hut, Subway, Papa John's, and Corky's Outdoor Power Equipment, which have since been demolished. 890 Folly Road is 0.65 acres in size. Adjacent property to the south, north and west are in the Town of James Island and are zoned Community Commercial. The adjacent parcel to the east is in the City of Charleston's jurisdiction and is zoned General Office. Additional uses within 300' include convenience stores and service stations, vehicle service, general restaurant, social club or lodge, florist, drug store, personal improvement services and parcels in the Town of James Island zoned RSL (low-density suburban residential) and DR-1F (diverse residential) in the City of Charleston.

Section 153.093, FRC-O (H) (2) of the overlay states that uses requiring a Special Exception include fast-food restaurants.

The applicant is seeking to utilize the property for the operation of a KFC quick service restaurant. As stated in the letter of intent "the intent for this project is to offer a family friendly restaurant to the Town of James Island. It is our intention that this site will be beneficial to the area and fulfill all necessary special exception requirements. KFC is excited for this opportunity and will work diligently to avoid any negative impact to the surrounding James island community and avoid any potential development that is inconsistent with the Town of James Island Comprehensive Plan." Pebble Hill MP, LLC is the current owner of the subject parcel, and the lot is considered legal and conforming. Mrs. Crane showed the current landscape plan, conceptual architectural rendering, Google street view, the subject property, and the adjacent properties.

Mrs. Crane reviewed the Findings of Facts according to §153.045 E, Special Exceptions Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), may be approved only if the Board of Zoning Appeals find that it meets all six (6) criteria (below). Mrs. Crane reviewed each criteria and provided the staff's response for each.

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 states a strategy as "encouraging a variety of diverse commercial uses that will benefit the Town as a whole". The applicant states in the letter of intent that they will "contribute to the economic development by adding to the town's work force... offering employment positions for up to 12+**

community members. We will also be paying for a business license, adding to the Town's revenue in hopes to improve the negative decline as a result and impact of the Covid pandemic". Transportation Element Strategies include *"encouraging redevelopment activities that improve existing CARTA bus stops and bicycle facilities."* According to the letter of intent, "KFC will adhere to the Transportation Element Goal, which strives to '...promote a safe and inclusive transportation network.' KFC will be actively contributing to this goal by building the bus shelter that is in front of our restaurant." 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."*

- 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: nearby properties have a wide range of existing uses including convenience store, service stations, vehicle service, restaurant general, social club or lodge, florist, drug store, personal improvement services, banks, & garden supplies centers. The use may be compatible with most of the existing uses in the vicinity and should not adversely affect the general welfare or character of the immediate community. Additionally, the letter states that "in consideration of the Rethink Folly Road project, the development fits in with the plan by remaining pedestrian friendly. We have done this by creating a large patio for outdoor seating and will have an exterior image that is welcoming to our guests. We have reoriented our building so that the door is now accessible from the front to pedestrians instead of from the side. We have also increased our building transparency, so that only doors and windows, not blank walls, face the streets."**
- 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: A comprehensive landscaping plan is required during the Site Plan Review process to address supplemental buffering, fencing requirements, parking, lighting, and setbacks. The applicants have presented a site plan showing required landscape buffering and in their letter of intent state that "traffic congestion has been addressed by completing a traffic study. The traffic study found that there was no significant change or delay in traffic." Although noise, vibration, dust, glare, and odor have not been addressed in the application, all applicants are required to meet Town ordinances concerning such.**

- E. (d): Where applicable, will be developed in a way that will preserve and incorporate any important natural features; **Response: The parcel is currently vacant and has been previously prepped for future construction, therefore there are no important natural features on site that will be impacted. Landscaping and vegetation will be incorporated per requirements in the Town's zoning regulations.**
- 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; **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 should not be hindered or endangered, due to the recent intersection improvements at the site, as well as the improved parking layout and drive aisle design with the development of the neighboring parcel (Chase Bank). Additionally, the development of the neighboring parcel included a 12' multi-use path throughout the length of the subject parcel, with no new curb cuts shown on the proposed site plan, therefore pedestrian movement should not be hindered or endangered. The applicant's letter of intent states that they have "complied with all applicable rules and regulations, such as the requirement for a 10-car stack, parking on the side of the building, and avoidance of disturbing pedestrian traffic." The applicant has also supplied a Traffic Impact Analysis (TIA) updated with the proposed use that shows "no significant change or delay in traffic" according to the LOI and the previous TIA. Recommended improvements from the TIA have already been constructed and approved by SCDOT.**

The Board of Zoning Appeals may approve, approve with conditions, or deny Case # BZAS-05-22-025 based upon the Findings of Facts listed above, unless additional information is needed to make an informed decision.

Questions from the Board

Commissioner Hipp asked a question about Starbucks. She knows that it is not within the 300' but a lot of the emails in opposition referred to it. She asked if Starbucks is in the City of Charleston and Mrs. Crane confirmed that it is. Mrs. Crane said she knows that Starbucks is currently redesigning their parking lot and stacking layout design and the traffic engineer may be able to speak more about that. Commissioner Hipp said her reason for asking is Starbucks has police officers occasionally there to direct traffic and she knows what a nightmare that has been. Commissioner Hipp asked if Starbucks is considered a fast-food restaurant and Mrs. Crane said the City's definition of fast-food differs from the Town's. The Town requires 10 stacking spaces for a fast-food restaurant, and if there were more than 10 spaces it would not spill out on any right-of-way. It would still be in the shared parking area between Chase Bank and the proposed use. She said should Starbucks exceed their stacking amount; they would be on the right-of-way because there is no other way to get into their parking lot; because there is one way in and one way out.

Chairwoman Lyon asked how many fast-food restaurants are in the Town besides Chick-Fil-A and Mrs. Crane said four: Bojangles, Dunkin Donuts, Sonic, and Zaxby's.

Chairwoman Lyon asked if KFC has a firm deal with Chase Bank for access and parking. She knows there are cut-thrus from Camp and the bank would probably be closed on some hours that KFC would be open; especially on weekends and after 5:00 p.m. Mrs. Crane said the parking lot is shared. She explained that the Town has an easement on the site for public parking and Chase Bank has a few designated parking spots there. Mrs. Crane said that Chase was developed in two phases. Phase I was the bank and Phase II were the parcels with the known factor that the curb-cut and parking would be shared.

Vice Chair Savage spoke that a traffic study was a part of this application that looks to be dated June 14, 2022 and believes he received a copy on June 15, 2022. He said for the record, and to be correct, this traffic study is different from the study done in October a few years ago. Vice Chair Savage asked if it would be fair to say that the residents of the Town, who might be in opposition, only had four business days to consider the traffic study and see whether or not they wanted to hire someone who could test its validity. Mrs. Crane said that the original traffic study was done when Chase Bank was being built and from her understanding, there have been no further recommendations for DOT from that original traffic study that would change anything that they have already done on the site from the original traffic studies to what this use is. She said the original traffic study is available. She sees things like this and does not know what a resident would get out of looking at all of that data. Ms. Crane commented that she was unsure how to answer that question. Vice Chair Savage said he is not sure that he quite agrees because in the Traffic Study on Page 6, Table 5, it talks about an additional delay for this project on top of whatever delay existed in the previous study. He said they are not identical and would like to ask how long have the residents had this new study to take a look at it and see if they wish to retain their own traffic engineer to say "yes," I agree with the findings in here. As he understands, the residents have only had the study for four business days and Mrs. Crane confirmed.

Commissioner Smith asked if the Traffic Study included other properties up and down Folly Road, including the other ones that are not in the Town of James Island, but are in the City of Charleston. How far did the Traffic Study go? Mrs. Crane said Traffic Study questions would be best answered by the engineers that wrote the Study.

Commissioner Fabri asked Mrs. Crane to walk the Board through the Site Plan for the restaurant where the ingress and egress are and where the stacking is. Mrs. Crane explained by demonstrating on the Site Plan the location of Camp and Folly Roads. She showed how you could enter off of Camp Road to get into the stacking lane. She showed the location of the order box, the pickup window and how you would circle back around and turn right only back onto Folly Road or go back onto Camp Road. She pointed to where the patio seating would be. She showed the parking spaces that are reserved for KFC, the dumpster, bus shelter, and the multi-use path. Commissioner Fabri asked about the shared parking lot that there is no curb cut there or an egress. She asked how someone leaving the bank would get out. Mrs. Crane pointed to a patch that is existing and the bank customers would get out as they do now, either way, or they could park in the shade.

Commissioner Fabri asked, "so then the bank traffic and the fast food traffic would comingle on the egress onto Camp Road" and Mrs. Crane said "yes, that is encouraged in the overlay, to share parking and have less curb cuts."

Commissioner Fabri asked about the drive thru lane and is it strictly a single drive thru lane, for example, there is no room for a car to go around, like how it is with Chick-Fil-A if someone comes in off of Folly Road. You would actually circle around if you want to get into the line and that can't happen here. Mrs.

Crane showed where the Chick-Fil-A parking is and why they would have extra drive aisles for parking on that side. She thinks Zaxby's is that way right now. Commissioner Fabri asked where the egress section onto Camp Road is where it splits into three lanes or two lanes. Mrs. Crane said yes, there are three lanes, a left lane, a straight lane, and a right lane. Commissioner Fabri asked, "so those people will be pulling out into three lanes of traffic, either the dedicated right turn, straight or the dedicated left turn lane?" Mrs. Crane answered yes, just as they do now. Ms. Crane pointed to where the bus shelter is where a bench is there right now.

Commissioner Hipp asked what are the hours of the Chase Bank on Saturdays which are 9 a.m. to 1 p.m.

Applicant Presentation:

Stephanie Grant

9117 Pine Breeze Drive, Riverview Florida: Ms. Grant thanked the Board for allowing KFC to appear before them. She also thanked Kristen Crane for graciously dealing with the many questions they had and never saying no to a meeting. Mrs. Crane's input has been invaluable and her patience greatly appreciated.

Stephanie Grant, KFC, introduced Thomas Purcell and Dillon Turner, both with Kimley Horn, Engineers on the KFC project. She stated that Thomas Purcell has been involved in every aspect of the process and Dylan Turner performed the Traffic Study. Both are at the Town Hall to answer questions the Board might have. Ms. Grant gave the background that KFC has been around for 70 years serving communities all over the globe and expressed excitement about having one here. She said what differentiates KFC from the rest of their competitors in the area is their ability to offer food to individuals and larger families. They are famously known for their buckets of chicken and offers wholesome sides, something that a mom or dad can pick up quickly and create a meal for their family. They also serve individual chicken sandwiches that everyone can enjoy. She said although KFC is technically a quick service drive-thru restaurant, they want the community to think of them as a sit down restaurant that is pedestrian friendly. They have created (as on the rendering) a large glass window that fronts Folly Road, so it is very transparent and have designed a big patio to encourage outdoor seating. Indoor seating will be available as well. They will have a bike rack. She stated, as Mrs. Crane mentioned that they are going to build the bus shelter out front and inside the building a mural will be created and dedicated to James Island. She hopes the Board will see that they are working in every way to make this project as unique as the Town is and would not be popping down a prototype KFC. They are working with Mrs. Crane and others to make sure the restaurant is unique. Ms. Grant also mentioned that KFC participates in the Harvest Food Donation Program which is a hunger relief organization. This program has provided for those in need since 1999 and KFC has donated more than 87 million meals to 3700 non-profit organizations. She further mentioned that KFC will be employing upwards of 12 full and part-time employees. The KFC Foundation creates scholarships and other assistance programs to their employees to help them build lasting careers. \$23 million in scholarships have been given to over 8,000 employees. KFC's goal is to positively impact the community in any way that they can. Ms. Grant said she is available to answer questions from the Board.

Thomas Purcell, Kimley Horn: stated that the building is roughly 2400 square feet and the drive-thru wraps around the rear of the building with 10 stacking spaces, which is what the Town's Code requires. KFC is proposing a bus shelter on Folly Road at the location where there is currently a bench that he thinks would benefit a lot of people in the community who ride the bus. There will be outdoor seating, a bike rack, and a sidewalk that connects from there to the sidewalk along Folly Road; 12ft. wide so there will be good connectivity between the building and Folly Road which aligns with the Rethink Folly Road Plan. He said 10 stacking spaces will be provided in the drive-thru. He knows there were some questions about how many cars can be stacked in the parking area before backing up onto Folly or Camp Road. He said roughly there are 22 cars in the drive aisles, in addition to 10 in the drive-thru before any backup to Folly or Camp Road. The Traffic Study was performed but was not required by the Town. The Town requires traffic citing for

sites over 5 acres or over 100 peak hour trips. KFC is under 5 acres and the 100 peak hour trips. The purpose of providing the Traffic Study was to ease any concerns about traffic. Mr. Purcell said they will work with Charleston County to provide stormwater detention to treat stormwater quantity and quality.

Dillion Turner, Traffic Engineer, Kimley Horn:

Business: 115 Fairchild Street, Charleston, SC 29414

Home: #7 Arcadian Park, Charleston, SC 29407

Mr. Turner stated that they initially did the Traffic Study for the Chase Bank as a high-turnover sit down restaurant in October 2020. He said high turnover restaurants can be thought of as the Chipotle and Moe's types of restaurants. He said Thomas Purcell came to him earlier this month because they are looking at the site as a KFC and should they consider updates, so he ran a trip gen. He said on Page 4 of the memo he sent, there is a difference in the trip gen on the original study vs. the proposed so with fast food vs. high term sit down, the total number of trends is anticipated to be 19 more in the a.m. peak hour and 19 more in the p.m. peak hour. He noted that KFC does not serve breakfast; however with the coordination of the SCDOT anytime they do fast food they study a.m. and p.m. peak hours because other fast food chains did not serve breakfast. Wendy's and Taco Bell are examples of those and the DOT wants to see that analysis. Mr. Turner said he knows there have been some questions about the Traffic Study and is happy to answer them as they come up.

Commissioner Hipp said that by looking at the map she quickly dotted the estimate of what the size of a car would be that Mr. Turner stated is a 22 additional car stacking potential. She noted that she might be reading the Site Plan incorrectly, but it looks as if only 5-6 cars would be in the Camp Road ingress before becoming an issue. She noted that it was dotted very quickly and she has little understanding of the fast food drive-thru process. Commissioner Hipp said it looked as if 9-10 cars could fit in the area, from the 10th car to Folly Road and cars from Folly Road would come in past the Chase Bank. She asked if that is correct? Mr. Purcell clarified that 22 cars would be the total number and could fit roughly 12 cars between the drive-thru and Folly Road, and roughly 10 cars between the drive-thru on Camp Road, but they do not anticipate that ever being needed but wanted to help ease any concerns about it. He said the site is a little different than Starbucks'. There is more room on the site for overflow if it were to ever stack past 10 cars. Commissioner Hipp said theoretically, and it is, but she knows that the Board just went through this with Chick-Fil-A and she knows it is two different things. Chick-fil-A went into this process and only needed X amount of stacking. Now they need an insane number of stacking vehicles, because of such high demand. She is envisioning the type of customers they are going to get are people grabbing buckets of chicken on the way to the beach in addition to families and she is trying to picture how many cars could fit in the area. Commissioner Hipp asked for clarification that the Folly Road stack is 12 and the Camp Road stack would be 8. Mr. Turner said it is roughly 12 to Folly and 10 to Camp Road.

Commissioner Smith asked Mr. Purcell if businesses other than fast food restaurants were considered in the Traffic Study and he replied it did. In the count they used information from Camp Road Middle School from 2020 and grew that by a background rate of 3% per year. To build here in 2022 was the analysis time for that so the intersections they studied were Folly and Camp Roads and the two side access points so any of that traffic volume, i.e., beach traffic, residents, other restaurants, etc. would be captured for this analysis. The study area that they did was coordinated in 2020 with the SCDOT. Josh Johnson was the District Traffic Engineer, Kristen Crane was involved as well, but believes that she referred a lot of that to SCDOT. Commissioner Smith asked what kind of information could they have had since COVID was in 2020. He asked if the information was during COVID or was historical data. Mr. Purcell said the information they had was prior to the COVID outbreak so what they used was a projected Traffic Study that looked at the build out on Camp Road for 2020 because they did not want to have the counts there at Camp and Folly before the Camp Road Middle School moved over to the other side of Camp Road. They used those traffic volumes from the study done by Bihl Engineering and projected those up by 3% per year to 2022.

Commissioner Smith thanked Mr. Purcell for the information and asked if the traffic from Hyams was included because it is a very popular place on James Island and sometimes traffic backs up going into Hyams. He asked if there were numbers for that. Mr. Purcell said they did not do driveway counts for Hyams itself but any of the traffic volume at Hyams that would go through the Folly and Camp intersection would have been captured in their analysis but not particular of what goes in and out of their business. Commissioner Smith posed a question to Ms. Grant, that KFC does not serve breakfast and is there any guarantee that they will never serve breakfast. Mrs. Grant replied that they cannot make that guarantee but there is no plan to serve breakfast.

Vice Chair Savage asked Ms. Grant about the plan to make KFC family friendly. He said she is from Florida and we are in Charleston. He asked if the patio is going to be covered so people are sitting in the shade? Ms. Grant said originally they were going to have individual tables with umbrella shades over them but they liked the look of a covered patio so yes, it will be covered.

Vice Chair Savage asked what is different about this proposal and recalled that there used to be a KFC on Folly Road that did not make it. Ms. Grant said yes, there was a KFC on Folly Road and it wasn't that the sales weren't there, it was a franchisee that went bankrupt in 2011 and had to close several locations in the area. He asked Ms. Grant if she had an opportunity to review some of the letters received in opposition and she replied that she had. He said if she looked at them, she probably saw what he saw that either there was a complaint that traffic would be impacted or that it wasn't good for the diversity of the community. Vice Chair Savage said he wanted to talk to her a little about the first criteria that the Board must find that the applicant or the application is consistent with the comprehensive plan and the character of the underlying zoning district. That is our criteria and KFC's response, (this is her response and he needs more clarification) says "The Town of James Island's Comprehensive Plan states a strategy of and he quoted "encouraging a variety of diverse commercial uses that will benefit the Town as a whole," and that is Ms. Grant that brought that up. It appears that this issue of diversity she mentioned as being in support of the application is what most of the letters in opposition focus on. He asked if Ms. Grant could help him by explaining how this KFC is going to promote diversity in this area for the general benefit of all. He said until today, there are four fast food restaurants in the Town: Zaxby's, Bojangles, Chick-Fil-A, Dunkin Donuts, Sonic, and now an application for KFC. If he understands correctly there is going to be, of the six fast food restaurants, four dealing primarily with the sale of chicken products so we have not only the fast food issue, but also in this particular case, the same type of fast food. He asked if she could explain further the diversity because her answer talks about the economics of hiring people, and to be honest, that's going to apply to any business that goes in here. He said that doesn't impress him much and thinks that's an old song. Kristen Crane interjected stating "that the Economic Development Element Strategy is the staff's response and it did not come from Ms. Grant." Mrs. Crane said she thinks she could have explained it better. The Town has five fast food restaurants and in that area where the five were counted there are 106 other businesses. Vice Chair Savage said he was aware of the other businesses and thanked Mrs. Crane.

Ms. Grant said to piggyback off of that, she thought they had read a quote from the Mayor who reiterated that fast food is still making up about 5% of all businesses in James Island. She said yes, there are chicken competitors in that area and thinks where they come in is the value for the family meal and that's where they are really different. The other place where they come in is working closely with Kristen and the Town to make it more of a sit down and pedestrian friendly restaurant. She said they do have a drive-thru there for convenience. Ms. Grant addressed the stacking and the concern of the Board. The Board has seen that Chick-Fil-A and Starbucks has caused a lot of traffic. KFC does not see those types of stacking; they don't do the sales that Chick-Fil-A and Starbucks do. She wishes that they did, but stacking is not going to be an issue. They want people to ride their bikes, walk around the Town, and come into KFC and have it to be more of a sit down restaurant. She thinks that is different than what we're seeing with Chick-Fil-A and Starbucks, which are quick drive thrus where you get coffee and food and go. They don't necessarily want

to be that and are going to work really hard to ensure that there is that community friendly aspect to their building. She said again on the point of differentiating them from their competitors is yes, they sell chicken sandwiches and French fries, which the competitors do as well. First and foremost, she thinks theirs is a little better so that is a little different. She thinks they have superior products, but other than that, it is that bucket of chicken and the sides that you're bringing home to feed a family of five at an affordable price. If you go to Chick-Fil-A you're buying individual meals whose costs adds up quickly. She thinks KFC's value speaks for itself in price, quantity quality.

Vice Chairman Savage had a question on the Site Plan. He said that Commissioner Hipp brought up some good points that has him thinking. He said people are going to enter the restaurant, either from Camp Road and they're going to try to proceed straight and make a slight right into the drive thru. Is that how the people on Camp Road are going to get to it, and is that correct? Mr. Turner said that is correct. Further, he said those people that are coming and turning in from Folly are going to be coming straight down that entrance way wanting to veer a little bit to the left to get into the driveway and it's going to create a little "Y." Vice Chairman Savage asked what is the plan when there are competing cars trying from both locations to merge into the same drive thru? The second part of that question is, if those cars that are entering from Folly, if they back up with the cars that are coming in from Camp Road would it obstruct the customers to the bank? Mr. Turner answered that if Camp Road backed up it would not affect the bank. Theoretically, he said if the Folly Road entrance were to back up, it would have to back up quite a ways and in this case it could affect the parking directly in front of the bank. He added that they have four stacking spaces from the drive thru window to the order box, which is the Town's requirement and then six more stacking spaces from the order box to the back. There are 10 total spaces to stack so it would take a lot of cars to backup out of the drive thru. Vice Chairman Savage asked about a situation that could occur when car is on Camp and a person coming in who thinks they are next, and the person that comes off of Folly thinks that they are next and they come into the bottleneck. What is the plan for that? Mr. Turner said whoever has the right-of-way would go first. The first car and the sidecar would wait for that car to turn in. Vice Chair Savage said, so there is an assumption in society of civility on the road. He asked with the Site Plan that they have, is there enough room or if they could come back and say we want a variance for a double drive thru? Vice Chairman Savage asked does the Site Plan have enough room, could they eventually ask for a double drive thru, or are they limited to a single drive thru line? Mr. Turner said they had looked at that and there are some tweaks that could be made to provide it, but they decided not to go that route and it is not allowed by the Town's Code that only allows single lane drive thrus.

Ms. Grant said they had many variations of a Site Plan and the first did include a double drive thru but that took away the patio seating out front and the ability to create a larger building with indoor dining so they went the route of the single drive thru to accommodate the patio and the building to make it a pedestrian friendly environment, instead of heavily focusing on the drive thru. Vice Chair Savage said he wanted to follow-up on that point that one of the justifications she is telling him that satisfies Condition A would be the fact that KFC is more of a family sit in restaurant, and Ms. Grant answered yes.

Vice Chairman Savage asked if that is the reason to justify coming here for a Special Exception. In the future if you ask for a variance for a double lane you would negate that reason for getting the Special Exception now, and Ms. Grant said yes. He said if KFC were to ask four years from now for that double lane, the BZA would be well within its rights to say "well, wait a minute you know we asked you about it then and you said no we don't want it." In fact we're having this right, so it would be a fair question at that time and Ms. Grant said absolutely.

Vice Chairman Savage questioned the Traffic Engineer, Thomas Purcell, regarding Page 6, Table 5, that it talks about traffic impacts that states the observed peak hour, "the highest change in delay was 5.3 seconds at the intersection at Camp and Folly during the am peak hour and understand that this increase delay of

5.3 seconds is on top of whatever earlier delay may have existed for the contemplated Chipotle. Mr. Turner said yes, for the high term sit down, i.e. with a fast food restaurant, it would be 5.3 seconds per vehicle. It would be a 1-2-3-4-5 and that's the difference, then two for am peak hour that was the highest, and they are not doing breakfast yet so that is why it is in the study. Vice Chairman Savage asked if the 5.3 second increase is on top of that other increase for the Chipotle that was never built and Mr. Turner answered yes. Vice Chairman Savage asked what was the high turnover to Chipotle. Mr. Turner made reference to Table 5 and the intersection delay was F-154.2 seconds per vehicle with high turnover sit down and with the proposed KFC is F-159.5 seconds. He said without the high turnover sit down (KFC or the bank), a row called 2022 background (new build) the intersection 150.4 before consideration of the entire site so overall it is 9.1 seconds difference which would not require mitigation from SCDOT because they are not significantly increasing delay of the intersection and not changing the level surface grade at the intersection. Vice Chairman Savage said the question was the 5.3 plus how many seconds because he got to 9 something. What was the delay for the Chipotle because together with the 5.3 of this project with the Chipotle time Mr. Turner said it was approximately 9 seconds? Mr. Turner was unable to hear Mr. Savage so he asked if he understands the time delay with this new application on top of the Chipotle would be somewhere in the nine seconds? Mr. Turner explained that the 5.3 second difference is the comparison to what they studied and approved in 2020 versus what it is with the proposed case and what was done in 2020 was the Chase Bank and a high turnover sit down.

Vice Chairman Savage stated according to this Traffic Study, there will be an impact on traffic, is that correct? And Mr. Turner said there will be a delay in traffic.

Mr. Savage said he asked the Town because he has no expertise in the lingo that is being used here but it looks like in the applicant's letter of intent, paragraph c "vehicular traffic shall not be drastically hindered or endangered" and he asked if the term drastically has an engineering definition. Mr. Turner said no, he would need to see drastic if the definition for him to make that interpretation would have to be either level service grade or a delay and without it being a defined term, it becomes a more subjective in an objective term.

Mr. Savage asked the traffic study at the end says based upon these calculations there is no significant traffic impact.. He asked if significant also is a non-defined engineering term and Mr. Turner said that is correct. Mr. Turner said that in the hundreds of traffic studies that he has completed, 5.3 seconds would not be labeled as something they would need to mitigate. Projects they completed and staying with DOT code they haven't had to mitigate from what they did so that is why they say no significant delay. He stated that Mr. Savage is correct, it is a subjective term because it is not defined by a delay.

Commissioner Smith asked when it was said five point something seconds, how much is that per year if someone is going each way each day, five days a week for 52 weeks a year? Mr. Turner said he did not know. Commissioner Smith said 9.1 seconds is about 80 hours. He thought five seconds is a little bit more than 40 hours or a week of their time but he could be wrong with the record and how he is looking at this. He said he would defer back to Mr. Savage if he would like to pursue this. If his calculation is correct, which it may or may not be because he is not a mathematician but he thinks that two weeks of his time is significant in his opinion.

Vice Chairman Savage said he did the best that he could to read the report and it looks like some of the findings are the results of a computer software calculations. He asked Mr. Turner if he agreed with him that an average citizen who may oppose this application might need to secure the services of their own traffic engineer to interpret it to see whether or not the assumptions made were accurate. Mr. Turner said yes, and for the purposes of this, it is pretty common in the industry for Traffic Engineers because the Town does not have the staff to do it. If another consultant does a study they are happy to give that a peer review. Vice

Chairman Savage said he is not challenging any of Mr. Turner's assumptions, he is admitting to his lack of understanding based upon not having a particular expertise but wanted that at least from his testimony that he is not saying there is not going to be any adverse impact on traffic, it is his opinion that it's not significant and Mr. Turner said that is correct; it is his engineering judgment that it is not a significant increase.

Commissioner Fabri referred to the level of service report in the traffic study on page 6 where it talks about where they build nothing to the 2022 build one. Build two basically is what we are looking at on Camp and Folly Road going from a level of service of F to a level of service of F-154. 2. She asked if that is correct. Mr. Turner said F is 150.4 to F-159.5. He said that includes Chase Bank as well however it is not exclusive of Chase Bank. The Chase Bank numbers are in that 9 seconds and the 5.3 that was discussed earlier.

Commissioner Fabri asked if LOS-F is the level of service, that F-A is the best and F, the worse, going from an F to an F-minus. Mr. Turner said in this intersection you have long delays and split phase on Camp Road so those two side streets do not operate together which exacerbates the delay and tight geometry in that intersection. She asked as to Mr. Savage's point if he agreed that with building the restaurant, that it will make an already poorly functioning intersection worse. Mr. Turner responded that's what the numbers would say there, so the delay does increase whenever you add a car to an intersection the delay increases. Commissioner Fabri referenced the fact that she is also not a traffic engineer, and for her education, she asked Mr. Turner to go to Page 34, the queuing and blocking reports. She asked when doing the intersection capacity analysis for the 2020 build and they are looking at everything, what struck her was the que length of 50 feet it has a 193576 and then down at the intersection summary basically what that indicates is that says volume exceeds capacity que is theoretically infinite. Mr. Turner said that is the que calculations whenever you have "S" that there is basically a limitation to the formula and he doesn't know if that would be in the queuing and blocking that is probably in the synchro report.

He said basically there is a step line function of delay queuing that goes to a step linear to exponential so at a certain point, the formula is no longer valid and is when they go to Q&A blocking, which is a simulation that looks like signal timing at the outputs and gives out a simulated model vs. a calculated model. Commissioner Fabri said underneath the 95th percentile volume exceeds capacity que maybe longer, and the que shown as maximum after two cycles means that it is a poor level of service. At some point the formula cannot be applied anymore. Mr. Turner said yes, basically what that means is the calculations for the queuing at that point is not as trusted. Commissioner Fabri stated that in layman's terms that is really bad and he said in layman's terms the queuing is bad at Folly and Camp especially on Folly where you have a lot of volume going south in the am/pm peak hours.

Commissioner Fabri asked a question in the report that Folly and Camp user approves pedestrian interval is less than max green. Mr. Turner said they use the inputs from the signal planning they received for this. So, it's an error against the assumption within the HCM, but they're using the data from the intersection plan, so basically it is overridden because they are using the field condition. Commissioner Fabri said that sounds like it is bad. Mr. Turner said he wouldn't say that it is bad, it is pretty standard practice because they are using the field data vs. what the formula wants you to do within the HCM and that's why they allow that function. Is for you to say, hey actually we want to model field not ideal type conditions. Commissioner Fabri asked if the formula would be used or in real time. Mr. Turner said they will use the formula for somethings, i.e., on a side street access they would use it because they don't have arrows for it. But they do want to use field conditions because they want to replicate what is in the field vs. what the formula is telling you to say. You will still calculate it. It's just saying we expect you to use this and do you want to use the field data. Commissioner Fabri thanked Mr. Turner for his information and the traffic study lesson.

Commissioner Smith asked to address Mr. Turner about the traffic study. He asked five seconds per day and each way is 10 seconds per day and asked if his assumption is that is around 40 hours a week or a work

week for him and could he confirm. He asked if they had studied how much is that per year. Mr. Turner replied that on traffic studies they do not look at it for the year, but for the impact within the hour itself. They pick the analysis and that is what they look at. They look at the count at the intersection and find the highest volume within that peak hour and add the site traffic on top of that. They look at the impact within the hour.

Commissioner Smith asked if they have ever been asked to look at what it means for someone who lives out towards Folly Beach, and the Town of James Island and what that means for them per year and Mr. Turner he has not been asked to look for that in a traffic study and Commissioner Smith asked everyone to do the math on their own.

Commissioner Hipp asked Ms. Grant the average ticket time and if she is able to estimate that. If she were to go through the drive thru and order her three kids and husband a bucket of chicken and all the sides could she give an average ticket time for a lunchtime experience and an average ticket time for dinner. Ms. Grant did not have that information and deferred to Michelle Adams (on Zoom) who is her boss and head of Corporate Development if she knew the service times for lunch and dinner. Ms. Adams did not have the information on the top of her head but stated she would get the information quickly from operations. While the information was being researched, Commissioner Hipp asked Mr. Turner to talk about the site plan once again. She also asked Ms. Crane if she has a vision of Chase Bank coming towards Folly if she was going to turn right on Folly Road. She looked on Google maps and it's the Subway so she wants to talk about it as if she was going to the bank. She asked if she would come in and turn right, is it where the checkered pattern is on the Site Plan? If she were to access the bank, would she come in that way and would hit David's potential Y to turn left into the bank parking lot and is that correct? And Mr. Turner said that is correct. Commissioner Hipp asked if she is leaving the bank and potentially going to come in contact with the over stack potentially. The only way in and out of the bank is the same way as in and out of KFC. Mr. Purcell responded and stated that she could go right or left out of the parking lot or go back to the Camp Road entrance so depending on if cars were to stack past the 10 car mark in the driveway she could encounter that, it just depends. Commissioner Hipp reiterated that the only way in and out of the bank is the same way as in and out of the KFC and then you would potentially commingle with over stack assuming. Commissioner Hipp made reference to the ticket time. She stated that she know what that intersection is like to Folly Beach and what it's like coming home from Folly Beach and it is a very unsafe intersection. She said it would be good to understand how long cars are going to be in line. Mr. Purcell added in response to Commissioner Smith's question about "seconds" that it is 120 minutes a year if you encounter a 10 second delay, which is obviously a smaller number.

Chairwoman Lyon said if Ms. Adams comes back with the information at another time in the meeting the Board would like to hear it. She is unsure if she is checking on that tonight or if it is something that has to be waited for. Chairwoman Lyon asked if this KFC is going to be a corporate restaurant and Ms. Grant answered yes, not a franchise. Chairwoman Lyon said she knows there has been a lot of discussion about turning and traffic and backups so this may be a DOT issue but she is looking at this rendering (holds up rendering) where it comes out on Folly, the ingress and egress there has been of some concern about people turning left heading to the beach; not turning left at the Camp light and coming back through the bank but turning left right there. She asked if there was a median there that you can force a right turn in and a right turn out. Is this some they have considered or is that something you can do. She noted that this question is directed to Mr. Turner however Ms. Grant responded that there is already an existing median there on Folly but you can only do a right in/right out on Folly Road. Chairwoman Lyon noted that the rendering didn't show that and she assumed that is what it was going to look like if it were approved and that information was good to know. Ms. Grant shared information that was previously asked by Commissioner Hipp that Ms. Adams texted her that 145 seconds is the average ticket time which is a little over two-minutes for both lunch and dinner.

Commissioner Smith commented being sorry that he forgot to divide by 60 so instead of 45 minutes it is less but he still thinks the impact is considerable if we do the math and people who live there are going to be impacted by that five seconds late every day each way or a 9.1 second impact each day each way. He said his math may be wrong and he apologized and is sure that it is (he said initially that he was not a mathematician and did not think it through completely and only thought of it as they were discussing it. He recalled living in Atlanta and for a long time he had 43 stop lights from his house to work and each one annoyed him and five seconds each day each way would annoy him quite a bit.

Chairwoman Lyon thanked the applicants for being thorough and she thinks they answered all of the Board's questions. She appreciates Ms. Adams getting back to the Board quickly on the ticket times that was 2.4 minutes for the record.

In Support @ Town Hall: None.

In Support on Zoom: None.

In Opposition @ Town Hall: None.

In Opposition on Zoom: Wendy B. Tripp, realtor, and property owner, 888 Folly Road, said she is next door to the property being that is being discussed and Hyams Garden Center rents this property from her. Her problem is adding one more entrance/exit to Folly Road. She has been listening to this meeting for 1 ½ hours how we still have a problem on Folly Road with all the other entrances and exits. She said the Town worked several years back to make the intersection of Camp and Folly Road a little more driver-friendly. Now where that intersection is, there is a mess crossing Camp and Folly, even at the intersection with that light with people coming from Bishop Gadsden, the County Park, and people coming out of Walgreens filtering in. Sometimes you can sit 12 cars at that light to go over with the access. It's just too much traffic in that corner section. She loves KFC but think we could find a location a little farther down the road with less traffic. That's just a terrible intersection between Hyams all the way down to Starbucks which we all know, and Chick-Fil-A. She thinks all of the information with the traffic in the DOT study that shows how much more, even a few seconds to slow people down, and thinks it's very nice that we're checking that all out because she just doesn't think that is a good spot for a fast food restaurant. George feels the same way. He is having trouble with the widening of Folly Road taking which took off of their property. George's entrance and exit to the Gift Shop will be right there where the chicken customers will be taking the right turn so that's going to cause a lot of havoc getting in and out. She appreciates the Board's time and hopes that we do not make another problem with having more traffic dumping right there at that intersection. That is their biggest concern. She thanked for Board for allowing her to speak.

Chairwoman Lyon announced that the Board received 13 letters or emails in opposition to the application before the required noon cutoff and she believes everyone has gotten a copy of them.

Rebuttal

Thomas Purcell spoke about the concern people had with adding driveways. He said before the Chase Bank was developed there were three curb cuts on Camp Road which were all full access driveways. Two of those have been closed and now there is only one curb cut on Camp Road with full access. There was also a full access driveway on Folly Road and that has been converted to a right in/right out so you can no longer take a left on Folly Road. He added that the two driveways that is proposed for this project are existing.

Stephanie Grant spoke that she truly does understand the issues of traffic. She lives in Tampa, Florida and know very well how traffic impacts their day. She hopes that they can help mitigate the concerns with the traffic study but also wanted to point out that because this is a vacant commercial lot, whether KFC goes there or another business, there will be eventually some traffic added there. She thinks it helps to have a

restaurant that wants to focus on the pedestrian aspect of things, instead of stacking and doing a double drive thru and all of that. Ms. Grant thanked the Board.

Chairwoman Lyon closed the hearing to the public at 8:36 p.m. and asked for a motion and second in order for discussion. Chairwoman Lyon moved for approval, seconded by Vice Chair Savage.

Executive Session: Vice Chair Savage said he wanted to see if there might be a consensus to make a quick effort to get an executive session as he has some questions on the receipt of evidence that he thinks the Board could use some assistance on from legal counsel. He said if there is anybody else who might be inclined to indulge him to go into an executive session for a short period, he would be glad to make the motion but if no one wants to do that, he will not make the motion. Commissioner Smith seconded the motion. Chairwoman Lyon said anytime one of the members feels the need for an executive session, it should be allowed. She thanked Commissioner Smith for the second and asked Ms. Simmons for a roll call vote to enter the executive session at 8:37 p.m.

Motion to enter Executive Session:

Commissioner Fabri	aye
Commissioner Hipp	aye
Vice Chair Savage	aye
Commissioner Smith	aye
Chairwoman Lyon	aye
Passed unanimously	

Return to Open Session:

The BZA returned to regular session at 9:17 p.m. Chairwoman Lyon announced that no votes were taken during the Executive Session.

Chairwoman Lyon stated there is a motion on the floor with a second for the approval of Case #BZAS-5-22-025: Special Exception request for a fast-food restaurant on a vacant lot in the Community Commercial Zoning District and in the Commercial Core of the Folly Road Corridor Overlay Zoning District at 890 Folly Road.

Vice Chairman Savage said if the Board wishes to continue to discuss, he is ok with that. He is not going to make his motion unless there is support for it. He said because we are dealing with a Traffic Study that was very technical and we had some clarification today, he is going to be honest that four days was not a lot of time for him to consider that. Likewise, he thinks there might be some members of the community who might like to take a look at that. He thanked the applicant's Traffic Engineer, Dillion Turner, who said himself that sometimes these things need another set of eyes on it to know what kind of questions to ask. If he thought there would be support from the Board he would move to table or continue this for 30 days to give any interested persons who were in opposition a chance to hire, whoever they want to, but more importantly, to allow him to study this based upon the testimony today because there may be some follow-up questions. He said if everyone is in agreement, he will make that motion, but if everyone wishes to move forward he will not make the motion. Commissioner Smith moved to second the motion and Chairwoman Lyon clarified that a motion had not been made, rather Vice Chairman Savage is asking for input from the Board regarding what direction to take to which Vice Chairman Savage confirmed.

Chairwoman Lyon stated her reasons for supporting Vice Chairman Savage is there has been enough concern stated by the public about traffic and that the report is highly technical. Everyone on the Board was supportive of the recommendation. Vice Chairman Savage moved to table the Special Exception for 30 days to allow those in opposition to review the Traffic Study or to obtain one on their own. Commissioner Smith seconded. Chairwoman Lyon stated that the next BZA meeting is July 19. The motion was amended

by Vice Chair Savage and seconded by Mr. Smith to table the Special Exception to the July 19 BZA meeting.

Motion to Table

Commissioner Fabri	aye
Commissioner Hipp	aye
Vice Chairman Savage	aye
Commissioner Smith	aye
Chairwoman Lyon	aye
Passed unanimously	

Chairwoman Lyon thanked the applicant for their hard work and presenting the information. She thanked the public and everyone who sent letters and emails, the community who came out to say how they feel and the staff for their hard work.

Adjournment: There being no further business to come before the body, the meeting adjourned at 9:23 p.m.

Respectfully submitted:

Frances Simmons
Town Clerk and Secretary to the BZA

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF JULY 19, 2022

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, July 19, 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, Bonum S. Wilson, BZA Attorney, Niki Grimbball, Town Administrator, and Town Councilmember Cynthia Mignano. A quorum was present to conduct business.

Call to Order: Chairwoman Lyon called the BZA meeting to order at 7:00 p.m. She asked the Board and others who wished, to join in the prayer. The Pledge of Allegiance was not recited as the meeting was on Zoom and no flag was available.

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 notification was given that the meeting would be live-streamed on the Town's You-Tube Channel.

Introduction: Chairwoman Lyon introduced herself, members of the BZA, Attorney, Staff, and Town Councilwoman Cynthia Mignano.

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 sworn in by Mr. Wilson, BZA Attorney. Persons addressing the Board on Zoom were asked to use the "chat" function, state their name and whether they were speaking in support or opposition and they would be called upon at the appropriate time. Those calling in to speak will be recognized by their phone number and will be asked to speak at the appropriate time.

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

Executive Session: Not needed.

Public Comment:

Dr. Cynthia Mignano, 963 Foxcroft Rd., James Island. Business Address: 914 Folly Road: Dr. Mignano stated that her place of business has been on the other side of Camp Road for over 20 years and she is very familiar with that intersection. Her business was there before it was improved and is still there. The traffic report that she read was very concerning because that intersection already has an "F" rating, which means it's a failure. She doesn't know where in the intersection they are going to put the driveway going onto Camp Road turning in and out. This is going to make a huge complication. She loves KFC and eats there. That was the first food she had after she had her oldest daughter and she specifically requested it. But, that intersection is really, really, dangerous and wrecks are there all the time. If you're going to do a Traffic Study, she suggest doing another Traffic Study during summertime hours, during school pickup and drop off hours, and during rush hour, and look at Friday and Saturday because she is there five days week, and sometimes on Saturday. She can tell you that an October study on a Tuesday or Monday is not accurate of

what that intersection really looks like on any given day. She thinks we need to look really close at this. She is all for pro-business, but we have to make sure that it is safe there. The more cars you add into the Chase Bank driveway taking a left on Camp are more people that are going to get hit in car accidents. And, you also have to figure the people that are coming out of the gas station taking a left to get onto Camp Road to go up Folly. She watches them take a right circle all the way back around at Camp nearly causing accidents and then get in the other lane. That is just how the intersection is now, so she thinks a new Traffic Study is critical.

Chairwoman Lyon stated that we have started requiring names and addresses of persons who email/write, (as we do when someone speaks in person), and the comments are available as a part of our public records. We received 17 last month; 13 were received before the cutoff and 4 received after the noon cutoff; and those 4 will fall into the cutoff for tonight's meeting and counted with the 17 from last meeting. This month we received 16 more against for a total of 33 against and 2 in favor.

Review of the Following Application (resumed):

Chairwoman Lyon introduced Case #BZAS-5-22-025
TMS # 425-06-00-101

Special Exception Request for a Fast-Food Restaurant on a vacant lot in the Community Commercial (CC) Zoning District and in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District at 890 Folly Road held on June 21, 2022 and tonight the Board will continue with the case proceedings. She said at the June meeting a motion was made and seconded to defer the meeting to the July 19 meeting. Chairwoman Lyon then moved to reopen the Case and Mr. Savage seconded.

Vote:

Ms. Fabri	aye
Ms. Hipp	aye
Mr. Savage	aye
Mr. Smith	aye
Chairwoman Lyon	aye
Passed Unanimously	

Questions to Staff:

Ms. Hipp asked why does the Town require a Special Exception for a fast-food restaurant? Ms. Crane replied that Special Exceptions in their nature are for special circumstances and the BZA may add conditions on a special exception if needed.

Mr. Savage asked that if KFC weren't seeking a drive-thru, that they would not need a special exception, is that correct? Ms. Crane said 'no' that isn't correct. She stated that drive-thrus can be on fast food restaurants, and there are restaurants that are not considered fast food restaurants but have drive thrus.

Ms. Hipp asked if Starbucks is considered fast- food and Ms. Crane said it would depend on whom you ask, but the Town would consider them a fast-food restaurant because one criteria is that food is not generally made to order. It is ready made, heated, self -served, and served on paper plates vs. real plates.

Chairwoman Lyon said a Panera Bread serves some of its food on China plates and some of their restaurants do have drive thrus. She asked if a Panera Bread could go in that space without a Special Exception because most of what they serve is made-to-order? Ms. Crane said that is correct; that the Town would not consider Panera Bread fast food even though they have a drive thru. Chairwoman Lyon asked if the lot would be suitable for an Outback. They do not have a drive thru but a drive up and Ms. Crane said a lot of restaurants are going to the curb service. Outback would not be considered fast food and could go in without a Special

Exception unless they serve alcohol that would automatically require a Special Exception. She said if a restaurant serves alcohol and it is 500 ft. or more away from a residential district they would not be required to have a Special Exception. An alcohol requirement is not generic, it depends upon how close it is to residential property and most commercial properties in the Town are within 500 ft.

Ms. Hipp had a question about Criteria B, that the representative from Pebble Hill said if the Town did not allow the Special Exception to go into the space, that another allowed commercial business may be worse. Ms. Hipp asked for examples of commercial businesses that could go into the space and Ms. Crane listed businesses such as: retail, daycare, general restaurant, Panera Bread, grocery store (though small) Drug store, Nail salon, Corky's who was there, so a lawn mower repair, Post Office, parking lot and office space.

Mr. Savage said he understands that a Pizza Hut was previously there and his question is based on the reality of how food is served now. He said a pizza establishment could go in there and pizzas could be delivered by Door Dash, Uber Eats, or a variety of delivery services. He asked if that is correct and Ms. Crane answered yes. Mr. Savage said he is thinking that a Chinese Restaurant could go there because you order specifically at a particular time and a delivery service could pick up the food. He said this basically operates like a drive thru except with commercial delivery vehicles and Ms. Crane said that is correct. Chairwoman Lyon asked if Pizza Hut served alcohol and Ms. Crane said they served beer and she is unsure when they went in there but they would have been considered a legal non-conforming use on the alcohol sales. Chairwoman Lyon mentioned that it may've been grandfathered in before the Town existed

Applicant Presentation:

Stephanie Grant, 9117 Pine Breeze Drive, Riverview Florida: Ms. Grant appeared in person stating the reason for continuing the meeting was to allow the Board time to study the Traffic Report. She said the engineer and architect is present and she would forego her time to allow for questions and dialogue with the Board.

Thomas Purcell, Site Engineer at Kimley Horn: Thomas.purcell@kimley-horn.com stated with him tonight is Nick Jehn, Traffic Engineer and that Dillon Turner, present at last month's meeting is on vacation.

Ms. Fabri stated that her questions would be directed to the Traffic Engineer. She recalled that she went over this in the report the last time with Mr. Turner but she wanted to reiterate that the level of service at Camp & Folly is currently an "F" according to the Traffic Study. She commented that she went through the Traffic Report with a friend who is an aerospace engineer and he gave her some information. Ms. Fabri said on Table 5 of the Traffic Study on the Capacity Analysis, 2020 and the projected build; for peak situation whether it was 2020 no build or the bank and restaurant, it is all an "F". She wants to look at the increase from the no build to the 2022 build, and how much was added. If her calculations are correct, it adds up to 2.5 minutes with the previous intersection and 3.0 minutes between the 1.34 and 1.59 with the updated intersection data. She asked Mr. Jehn to talk about the increase.

Mr. Jehn asked how Ms. Fabri came up with the 2.5 and 3.0 minutes to which she explained. She said if the percentages are thrown out, and if you tell anyone that it is 3.0 minutes they won't be happy about that. She said it is a failed intersection and obviously it is not going to be 30 seconds. She asked Mr. Jehn to acknowledge with the no build that, even though it is an "F", that it goes to an F- with the build out of the site. Mr. Jehn responded that they do not use plus and minus' traffic, he said an "F" is an "F".

Further, Ms. Fabri said it looks like at the PM times that it is operating as an "E", a step above "F", and with the build out it operates as an "E". The 2020 PM peak for the build would be when KFC is operating because their plans were not to serve breakfast. It goes from 66.8 an "E" to 79.3 and Mr. Jehn confirmed. Ms. Fabri asked what is the threshold for an "F" according to their HCM, and he said it is 80 seconds, so they are very close to it there. He said the industry is trying to get away from letter standard because there

is a very thin line between “E” and “F” and it begins to be subjective comparing scenarios that way. Ms. Fabri made reference to Page 4, Table 3, LOS (level of service) and said it does not encompass everything as Mr. Jehn stated but what was interesting to her is that it says the appropriate level of service for a given system (i.e., Camp & Folly) is up to the local policy body to determine what is safe and acceptable to the community and asked Mr. Jehn if that is how he understood that and he answered yes. He explained that in school and you get a “D”, it’s not a good grade but in terms of traffic a “D” is typical. So, in most cases in urban areas, the Dept. of Transportation would consider a level service “D” (such as Folly Road) to be acceptable and even an “E”. When you cross to an “F” it means that you are starting to slide into congested conditions. So you can’t look at the level of service and say a “D” is bad because it varies by jurisdictions.

Ms. Fabri asked if he would say that the section where officials decide what is tolerable and acceptable for the people who are driving on that roadway in an urban area? Is an “F” way higher than 80 or 120? Is that acceptable or is an 80 acceptable? Is it up to the local policymaker to say this is what we are striving for our community? Is this where the DOT and Charleston County come in to try to correct these problems like we have at Camp & Folly? Mr. Jehn said she interpreted correctly. Ms. Fabri said the fear she has is that Camp & Folly was recently improved and those improvement are already failing and we have not even reached the capacity of growth on James Island for people who go through that intersection and that is a concern for her.

Ms. Fabri recalled that she asked Mr. Turner about the queuing/stacking report last month. She asked Mr. Jehn to explain the Networkwide Queuing Penalty for the no build option in 2020, and the penalty for what has been built out. She said the number goes from 468 PM peak with the no build option to 1610 or 1618 for the total build out option, which according to her calculations is three times penalty. She asked if the queuing penalty is the traffic volume times the percentage of time the lane is blocked and Mr. Jehn said yes. He made reference to a software packet that is used but is not included in any of the methodologies they normally consider as traffic engineers. The main piece is that specific increases in the viewing penalty is associated with adding intersections to the analysis scenario as they go from background to build they add the driveways for the site in and those have a viewing penalty attached to them. So it is not an apples to apples comparison no build to build, and that is the reason why a big increase is seen. Ms. Fabri asked if adding an intersection meant the right-in, right-out from Site 2? Mr. Jehn said the right-in and right-out and the full movement driveway services the Chase Bank on Camp Road. Ms. Fabri asked if what he is saying is that it increases congestion because the driveway is putting more strain on the ingress/egress onto Camp Road? Mr. Jehn said he would check to make sure but he thinks in the printouts that the only intersection that was included for the no build was the intersection at Folly and Camp.

Ms. Fabri stated where it was at 468. Then with the build, you have the ingress and egress from Camp and then the right in, right out onto Folly. Mr. Jehn said what is seen in the Appendix is that for the no build scenario, even though, the two driveways exists today on the Chase Bank, they were not included in the analysis files, so the printout that includes the queuing penalty does not calculate the queuing penalty of those two additional intersections under the no build, which is why the total is so much less than under the build. Ms. Fabri added that it is increasing the times that the lanes are blocked because you add more opportunity for capacity and Mr. Jehn answered yes.

Ms. Fabri referenced the section for queuing on Folly Road and Camp at the 50th and 95th percentile asking if some days/hours are good or bad. Mr. Jehn said there is a statistical measure in the calculations. The 50th percentile would be the median que length and over the course of the peak hour that would be the average that essentially is assumed as normal distribution and the 95th percentile is typically looked at for design purposes as engineers would indicate that only 5% of que lengths would be observed if you sat there for an hour and watched traffic. Ms. Fabri asked about the footnote that said 95th percentile volume exceeds capacity; the que may be longer. Mr. Jehn said when they analyze the peak hour traffic they are also concerned with the peak 15 minutes because sometimes the highest 15 minutes of volume during that era,

can be much higher than the other 45. He said what that footnote is indicating is that based on the calculations during that 15 minutes or the peak of the cycle that the intersection itself has over capacity, so the queue length is increasing with each cycle of the signal over time. In those cases, he said when they're running these analyses they usually run a simulation in some traffic, which is where that queuing and blocking report she referenced comes from. He said just to confirm how far back the queue is actually extending so basically that's a footnote saying that the calculation from synchro which is separate from the syntax if we look at that calculation, it may not necessarily reflect the total queue length that you observe. For that reason, so a lot of times when you see that footnote if you run the simulation the queue length would be longer in the simulation because it's able to capture situations where the queue continues to get longer, and maybe you have to know the left turn queue stacks outside of the left turn lane and blocks so they are able to capture those types of simulation. Ms. Fabri referenced the Folly and Camp at the 95th percentile that basically almost every number across there has a pound on it, indicating the footnote so basically at every turn possible, no matter what direction you're going the queue is longer and Mr. Jehn said it may be longer. Then she asked if it is the same thing with the 50th that as well, as it says volume exceeds capacity queue is theoretically infinite which is basically saying the same thing so almost in every direction that you're turning has that. Ms. Fabri stated the footnote applies across the board and asked how would he characterize that intersection if he saw something like that, but it had that kind of stacking going on. Mr. Jehn asked if she were referring to the AM peak results specifically and she replied it is the 2020 to build amp and Mr. Jehn said that is something that they would typically see from their software in situations where there is a level "F" if you have long delays. He said there is congestion and there is no running from that and anybody that's driven through Camp & Folly during the right time of day is experiencing that. She said then it is a poorly functioning intersection to which he said yes. Ms. Fabri asked if he could characterize that as a poorly functioning intersection and he stated that subjectively you can say that. Ms. Fabri said those were the questions that she had on the report.

Chairwoman Lyon thanked Ms. Fabri for her questions and Mr. Jehn for the information that he shared.

Stephanie Grant asked to make a comment before Mr. Savage spoke. She understands there is a lot of talk about the congestion and that the intersection is an "F", and we're all acknowledging that. She said to the earlier point the fact is that it is a commercial lot and there will be a business built there that at some point will add to the traffic. So, she hopes the Traffic Study shows that KFC will minimally impact that intersection where potential other businesses such as Chipotle or Panera could have potentially a worse impact on an already tough situation and she wanted to share that.

Mr. Savage asked Ms. Grant what percentage of sales (tickets not dollar amounts) would be drive thru and what percentage would be in-store purchases. Ms. Grant said she would have to make a phone call to get those stats. However, she wanted to point out that they are trying to make this more of a dine-in patio seating to come inside and eat as opposed to the drive thru. They are making every effort to emphasize that. She said there are more ticket sales from dinner and from the drive thru and she can get those statistics pretty quickly.

Mr. Savage asked Ms. Grant if KFC participated in the Grub Hub and Uber eats program as well and she said yes they do. She said typically in this area their franchisees do, since this is a corporate store, she would have to take that question to her boss to see if corporate participates in those, but typically she thought the answer is yes. Mr. Savage said he would like some confirmation and to be honest he will tell where his mind is going. He said when you have these pickup deliveries they are compensated by time, speed, and efficiency, and asked if that was correct. He said as Ms. Fabri pointed out, we have a failing intersection and he thinks we can all safely conclude that if Ms. Corie is taking her children through the drive thru she's not going to be as rushed as a delivery service person, so he would like the answer to those two questions before he is turned over to the traffic engineer. Ms. Grant verified that her boss, Michelle Adams was on the phone to answer those questions. Ms. Adams said as a corporate location they only contract with Grub

Hub and do not have agreements with Door Dash, Uber Eats or any of the other delivery chains that Mr. Savage listed. They also have a pickup area as everyone like everyone had mentioned about Outback that has the pickup parking spots for those drivers. Mr. Savage thanked her and said that takes care of the question as to whether or not they have commercial delivery service. He said it doesn't matter if you have all four, if you have one, people are just going to use that one, so he understands the answer.

Mr. Savage said his second question is for clarification on the breakdown of number of tickets (not dollar sales) that goes through and the drive thru vs. in the store. He asked Ms. Adams if she understood the question and she answered yes. She stated that it depends on the location. They have several locations that are in urban areas where the bulk of their tickets are from the store. They have other locations that a good portion of their sales are drive thru. She said when COVID hit most of their sales were coming through the drive thru and some pickup. She said it would be hard to say what exact percentage for this particular location. As Stephanie mentioned they are focusing more on the dine-in and also on pickup of the digital orders. She would think that based on how they're building the store most of it would be dine in sales. She hates to give a percentage without knowing. Their plan as they build the store is to focus on the outdoor dining. They perceive that way the store will fit in with Folly Road. They expect people to be walking up, walking in, coming in, and dining. That is their primary focus but she could not give a percentage. Mr. Savage asked Ms. Adams if she was located in Charleston and she said she is in Louisville, Ky. Mr. Savage said he is trying to wonder where she is getting this notion that people are going to be walking to the store and where are they going to be walking from. Ms. Adams said that came from working with Kristen Crane and the vision of Folly Road, so they've taken a look at the Rethink Folly Road plan quite a bit with her. She knows the vision there is to make it more pedestrian friendly so they are working with that vision and that is why they keep emphasizing this walk up, the dining and the patio because they are thinking of that long term vision.

Ms. Hipp asked a question about Grub Hub, how many parking spots typically would be reserved for drivers. She thought Chick-Fil-A had perhaps six or seven parking spots reserved for Grub Hub. Ms. Adams said they generally have one spot and was unsure if it was outlined on the plan Thomas had for them. Ms. Hipp mentioned that the printout was small and apologized if it is there. Ms. Adams said she did not think it was outlined on the plan, but the intention is one space.

Ms. Hipp asked what happens if someone doesn't know how popular it would end up being and what happens if six Grub Hubs show up. Do they just figure it out for themselves? Ms. Adams said they can park in the dedicated parking spots or they can park in the strip behind the Chase Bank in the public spots that are owned by the Town.

Ms. Fabri said in looking at the plan, how big are the trucks that will come to deliver products because there is no turn around. Ms. Grant said this was mentioned to their architect and construction manager and she was told that it met their standards. They are going back and double check that. They know they need to take into account the turn radius for delivery trucks. Ms. Fabri said she wanted to walk through the scenario. She stated that the trucks are not going to be coming from Folly Beach. They are going to be heading down Folly Road towards Folly Beach or heading east and that means they're going to have to access the restaurant from Camp Road. Ms. Fabri said she did not know if they want their architect or project manager to answer that question but they are going to have to access from Camp Road so they will have to turn from Folly to Camp go in like they were going to the bank, go into that spot, pull in and then they'll have to take the dedicated right turn out is the only way that they're going to be able to access it as its currently drawn on the plan. Ms. Grant said if they are coming that way, it is the only way they can access it. Ms. Fabri said she assumes it is like a tractor/grocery store delivery truck. Ms. Grant said they can be quite large and asked Ms. Adams if she knew the answer to that question. Ms. Adams said she did not know the dimensions but they use a company that has a few different sizes and would have to check on that, but yes, it's usually like a tractor trailer style truck.

Mr. Savage asked the Traffic Engineer if he has familiarity with Folly Road, and he said yes. Mr. Savage said as you come in from Folly Beach towards downtown, you're going to approach Camp Road, and as Ms. Fabri pointed out, you're going to approach a failing intersection. He asked if there are no previous failing intersections from Folly Beach until you get to Camp? Mr. Jehn said he did not know that answer off of the top of his head but can tell there are thousands in the Charleston area. Mr. Savage said as people come to approach Camp Road right before they get to those lights, there's kind of a sweeping turn by the Goodwill store. He asked if there is a speed limit on the roadway. Mr. Jehn said he was blanking out right now and Mr. Savage said he thinks its 45 and asked if that sounds about right and Mr. Jehn answered yes. Mr. Savage said so those cars are coming at 45 around that turn and they hit that failing intersection as it presently exists, correct; Mr. Jehn asked if he missed something and Mr. Savage said he is trying to visualize the testimony that Mr. Jehn gave to Ms. Fabri in accordance with his understanding of that roadway and how people are driving. In other words, people can build up some speed up to about 45 as they approach that curve that then immediately meets that failing intersection and Mr. Jehn said ok.

Ms. Fabri asked when the Traffic Study was done. She believes Mr. Turner said it was in February or March. She asked Mr. Jehn if he knew and he said he didn't know if it was February or March, but it wasn't 2020. The original Traffic Study, which included the Chase Bank was conducted in 2020. Ms. Fabri asked is it outside of this project or is it something that he has seen on road projects before where they asked that a Traffic Study be done because of the sensitive nature of the roadway or because the capacity is seasonal? Mr. Jehn said he has done work in other states where that's the case, but not SC. Ms. Fabri asked should we look at June as well as February to address traffic going to the beach. Further Ms. Fabri said because you can expect the capacity, the number of cars on the road to be different, correct? And Mr. Jehn said it depends on the situation, but yes. She asked if he would say that the cars on Folly Road in June are different than the cars on a Saturday in February? Jokingly he said he is yelling at people to get off of his lawn on a Saturday; yes its worse. He said there is definitely an influx of beach traffic but specific to this location, the other half of it is that schools are not in session over the summer and you have a middle school adjacent to the site so that significantly influence patterns, especially in the morning. He said the reason why in SC they don't typically look at summer traffic volumes anywhere is because we'd like to collect data when school is in session to make sure that are capturing those commuting patterns of dropping them off and picking up kids at school as well as taking into account school buses on the road. He said this is to capture more of what would be considered an average time of the year because they don't have the time and resources to design and build all the roadways to satisfy the absolute worst case condition.

Mr. Smith spoke that it is important to know when this Traffic Study was done. In February or March of 2020 is what he understands, but when in February or March of 2020? Mr. Jehn said the Traffic Study was done in 2020 but they did not collect new data during the pandemic, so they followed the DOT guidelines and SCDOT staff was closely tracking traffic volumes day in and out across the pandemic charting the changes in volumes as quarantines set in and when they were lifted. Through the tracking they provided guidance to them as engineering consultants as to how to do traffic studies. He said across the country they were all collectively coming together and trying to determine the best way to approach things, and so far this specific study they took pre-pandemic data, extrapolated it, applied a growth rate to it based on the historic data on Folly Road to bring that from the past up to 2022 as opposed to collecting new data. Mr. Smith said he was happy with the response.

Mr. Smith asked Ms. Grant to explain how KFC is different from Zaxby's and Chick-fil-a. He asked her this question last month and asked if she recalled how they are different. Ms. Grant said her first point is that KFC is better than them, they serve more families and have meals for everybody. They have an individual chicken sandwich that anyone can purchase. She said what they are known for and what people come to them for is the bucket of chicken to serve their family. She said they are unique in that way; in that they serve families. They serve individuals but the focus is on the larger meals. Mr. Smith said he also

recalled that people would be getting the chicken on the way to the beach and Ms. Grant stated that they would be passing them on the way home from the beach.

Ms. Hipp asked what time they are open 10:30 or 11:00? Ms. Grant said it depends on the location, but between 10:30 and 11, is when we open and they do not serve breakfast. Ms. Hipp recalled going to KFC when she was in college and thinks there are going to be a lot more people going to the beach later in the afternoon and think they'll have a lot of people getting buckets on the way.

Chairwoman Lyon thanked the applicants for answering all of the questions so thoroughly. She said if no one else has questions they will move on with discussion. She said there is a motion on the floor to approve the application with a second and the Board may discuss further, amend, table, or vote on the motion.

Mr. Savage asked to hear Ms. Fabri's take on the responses she received from her questions. He said it appears that she has a better grasp and would like her to explain what her understanding is, not only from the submissions, but the answers in a nutshell. He said the road is an "F" and he understands what an F minus is (in other words he gets it). He said Ms. Fabri's questions were good and he tried to follow along and asked her to explain.

Ms. Fabri said the level of service in the a.m. is an "F" and the level of service is very close to an "F" in the pm and this is on a recently improved intersection. This is what concerned her when she was reading all of this and asking people and had a conversation with Mark Johnson at the Town. She said an "F" level of service is 80 seconds per vehicle wait so what the information was is that it would be not 80 seconds, but 154 and 159.5 respectively am and pm so this is way beyond the 80. She said the thing that concerns her is that the Traffic Study doesn't measure, but it can account for the behavior of people in traffic. When you make something worse, what is the behavior of people? They try and go around, go faster, or find a shortcut especially in the am and pm peak when they're late for something or trying to get their kids from school or trying to pick up their kids from school or whatever it may be. She said by building this, in the pm it is going to make it an "F" and in short order if it isn't ready because we're not taking into consideration Bennett's Bluff. There are two houses, one neighborhood away from way worse than 80 seconds. She said by the engineers own admission, the queuing capacity exceeds their measurements, the volume exceeds their measurements and a perfect example of this is if you go to Johns Island and you look at the improvements they made. You have gas station on the side. It's basically the same setup. Its coming to a light onto the island with three lanes – you have a right turn lane, drive through lane and dedicated left turn lane. Then on the opposite side of Folly Road, its two lanes of traffic turning on to their which is the same as it is for that same intersection and where that gas station is with people trying to pull out or somebody trying to pull across three lanes of traffic. From the bank to get into that gas station, there are accidents there all the time and that is what concerns her because the Traffic Study lays it all out there. She said the numbers are the numbers, they don't lie and the engineer, Mr. Turner, at their prior meeting and Mr. Jehn in our meeting tonight confirmed all of those things that its bad, its failing, it's an "F" .

Mr. Savage said if he were inclined to want to disapprove the application he would want a decision to survive an appeal and a circuit court would look for arbitrary and capricious and where he wants her to help him is and at some point they can build a conforming business here that is going to negatively impact the existing traffic and they can do that. He asked how would he articulate a disapproval teasing out the increased traffic from a conforming business. He does not grasp enough of the traffic report and one of the reasons that he asked to continue this was for those concerned people to go out and get a Traffic Study because we are not traffic engineers and the Town does not have one. He asked if he could be told how he would justify a denial on traffic reasons by showing the increase of this particular special exception as compared to a conforming use and asked Ms. Fabri if she understood his question. Ms. Fabri said she understands his questions. She thinks of the examples that were brought up that it could just as easily be a dry cleaner. A Panera Bread is not going to go on a parcel that size. She said if you look at what Panera

Bread's model is, they are usually in a shopping center where there is plenty of parking capacity. She thinks the best solution that she found and has researched is that she talked to an engineer in Columbia and that we hire him to read their Traffic Study and give them his input on it. She thinks we need to do our due diligence. As well as she understands it, she still doesn't understand the engineering stuff behind it and thinks that we have the ability to meet with a traffic engineer and have him look over the Traffic Study and make suggestions. She thinks that's the best solution because we all have concerns and our duty is to the to make the best decision for the citizens of James Island in this situation. She is not trying to put an undue burden on the applicant by asking this. What would be helpful is for the Board to hire somebody that could read their study, who is one of their engineering peers who has the same degrees as they do that could look at it and say, it is what it is, any other business can go there, it's never going to an "A" this is, you should go ahead, this is a fine Traffic Study, or whatever you should go ahead with it or somebody who might lay eyes on it say... well has DOT reviewed this yet? I would ask DOT this. Maybe we should look at summer capacity... something you know. She thinks personally to try and be as best informed about making the decision would like to see the Board hire an expert to review the plan, the site plan and the study and give input.

Mr. Savage said one of his concerns is that you could put a Chinese restaurant in there. And if you're going to have Grub Hub and all because no one eats at a Chinese restaurant... he's sorry, they just don't do it. But, then you have these people that are just whipping in there making money on speed and it may be that a conforming business that operates as a takeout like this might even be a little more harmful than the applicant. He said he doesn't know and shares his frustration of not having a traffic engineer with the Town. Unfortunately, those people that were in opposition at the last meeting did not pick up on the idea of getting together and investigating the Traffic Study. The last thing we want to do is make a decision that will be overturned and we have to base our decisions on the evidence as presented. He said he was sort of implying from Ms. Fabri's testimony to think there was probably enough by the applicant's own admission that moving this from a poor "E" to borderline "F" would be sufficient to deny on traffic, but he agrees that he'd like a little more information on it. He also had concerns as to whether or not it was a fit for the character of the space. He looked at a lot of these letters and a lot of them are ... "oh no... not another fast food place" but he remembers the evidence from the staff that there are, he think 105 businesses, of which only 8 were fast food. He understands where the community opposition comes because they don't know what fast food restaurants are in the City and which ones are in the Town. Mr. Savage said he is not opposed to her proposal but is unsure of the procedure of how we do that.

Chairwoman Lyon corrected that there are only five (5) fast food restaurants in the Town: Chick-Fil-A, Bojangles, Dunkin Donuts, Sonic, and Zaxby's and there are 106 other businesses. Mr. Savage said he understands where the opposition is from the community because they view Folly Road as one entity, when in fact a lot of those businesses are in the City. Ms. Fabri stated that we're looking at it from the aspect of this falling under the purview of the Folly Road Corridor or Rethink Folly Road and should take into consideration if it's in the County, City, or Town. It should be looked at as a whole because Dunkin Donuts or KFC is not just the Town, it doesn't operate in a vacuum, it's going to impact whatever else is in that area. She knows personally that it is their responsibility to look at the entire corridor and consider that when making a decision. Mr. Savage said for him personally you have to pass the safety test. If you pass the safety test then you can look at the aesthetic analysis, but he is with her (Ms. Fabri) and has questions.

Ms. Hipp said one of her questions was concern whether it met Criteria C. The Traffic Study is telling her how long it's going to take to get from point A to point B, but it is not investigating the number of accidents that happens at that intersection. Is she correct in how she is seeing this? It doesn't say there were eight accidents last month at that intersection driving northwest. She explained away from Folly as northwest and then you turn right into the KFC. She said you're going to go right into the ingress where you're going to go right onto Camp Road. She assumes if there are a lot of cars that could create a bottleneck which on that curve is very dangerous. Ms. Fabri said that was one of the questions that she broached with Mark

Johnson and with this traffic engineer to whom she spoke with on the phone is if we could get the accident data and spoke to Ms. Crane or Flannery, We can get the data, we don't have the accident data for that intersection and where most of the accidents occur. We don't have that and it wasn't included in the Traffic Study. She said to Mr. Savage that we would be within our right to say, "you know the data is right here and it shows that during the peak, it's going to be worse during the am peak and during the pm peak, and its going go from an "E" to an "F" and it's going to affect the intersection.

Mr. Savage referenced the testimony that it is up to the local policymakers, in other words its within that range where it is and he thought that was very effective. He said at some point how do they ask the Bo Wilson (BZA Attorney) how can they call a witness? How would they retain a traffic engineer and who is going to pay for it, the five of them chip in? He doesn't know but those are questions he has and if we would like to go in that direction he is not opposed to that. He doesn't know the procedure of finding out how to do it. Chairwoman Lyon said it is her understanding that the Board would make a request to the Town Administrator and Mayor who are in charge of the budget. There is money in the Town's budget for the Board to call witnesses. The Board would need to present that and have them provide the credentials and they would process a purchase order to do it. She said it is within the Board's purview to do that if that is what the Board decides. She said what concerns her that she is back to what else could go in there. She said the people have the right to use their property, what might go in there that doesn't need to come before the Board. She said what if we got (just say a devil's advocate) a contractor who had a bunch of construction trucks and had created a lot more traffic during the peak hours. She thinks Amy had great questions on due diligence, we need to do that because it is so important, but we just want the Board to make a sound decision and do what is best for our community, which is what we are tasked with. She said there are a number of commercial businesses that can go in the commercial corridor without coming to the Board, such as a catering business, a restaurant, contractor's office. You could have an office building with a doctor's office with people coming and going. She noted that this is a terrible traffic intersection and we don't want anything that is going to make it worse. She stated that if we need more information, or an expert witness, we need to look at that. Mr. Smith said what has been said is sound advice and he think if they can have someone review this study as Ms. Fabri suggested. Ms. Hipp agreed with everyone saying she doesn't understand enough about it but knows what her gut tells her and her residency of Charleston tells her what that street is like. She doesn't need a Traffic Study to tell her that its dangerous so she would like to understand what type of accidents and what that rate. Dr. Mignano office near the intersection and she has seen and witnessed many accidents. She thinks more information is needed. Chairwoman Lyon stated that it sound like everyone is in agreement for more information about the Traffic Study by a member of their peers, another traffic engineer.

Chairwoman Lyon said she would like to put the request to a vote because the Board is in open session. She said in the future if a Board member has something come up where they want to have an expert witness or request, they can come to her or whoever the Chair is at the time and make a request to the Town staff. She is sorry the applicant will have to wait longer for a decision but since its come this far and the Board feels it needs more clarification she hopes the applicant understands and would want the Board to make the best decision which would be good for them if it is approved, and understand if it is not approved, that it is an unsafe situation and does not meet the criteria. She would hope that the applicant understand that it is a good idea to have the Traffic Study reviewed. Chairwoman Lyon said there is a motion on the floor to approve and a second for discussion, so she thinks they should **move to table the main motion to request a professional opinion by a traffic engineer, a peer to review this Traffic Study.**

Ms. Fabri moved to have a traffic engineer retained by the Town for advice to the BZA on the Kimley Horn Traffic Study and any other discussion related to this proposed project on the site on Folly Road

Chairwoman Lyon asked Mr. Wilson for his assistance with the motion asking if they could table the motion on the floor or amend with this language or to make a new motion. Mr. Wilson said they do not want to

amend the motion, but to table the motion to allow the BZA to request funds from the Town to retain a traffic expert and receive that report and act upon that report before the next meeting in 30 days. He said basically a continuation of the tabled motion to accept that information.

Clayton McCullough, KFC Attorney, requested to ask Mr. Wilson a question. He had printed a copy of the BZA's Rules of Procedure and asked Mr. Wilson if it is okay to continue the request for a second time. He said Article III, Section 5 states for good cause, the Board can do this once. Is it a violation of the procedures and the applicant ultimately was deemed to be out of time as a result of another postponement. He is not trying to create a quarrel. He is worried because of his interpretation of it and wants to make sure the applicant is protected. Mr. Wilson said the State law says a reasonable time and the BZA's rules say a one-time continuance. He did not have the Rules in front of him but said if they prefer to press the issue we can call for a vote. Mr. McCullough said he doesn't want to press the issue; his folks need some answers because they have a contract. However, he is reading the room and not trying to press the Board to make a vote tonight. He wants to make sure whatever is on the record is clear that the BZA understands that this is intentional that they are able to come back because his reading of the Rules gives him concern. Mr. Wilson said he is sure with the applicants consent additional time can be granted. He said if a vote is desired now that is within their rights. If they consent to a 30 day extension to get the assuming report he is fairly certain the report will be authorized to be retained but at least getting that report and getting it to the BZA within 30 days will be acceptable to the applicant.

Ms. Grant spoke that they are under contract and weren't expecting this to be pushed another time. She said they were pushed back the last time so it's a little disheartening because KFC is in a position now where they will be in default of their contract and it's not a good spot to be in. Mr. Wilson asked when is the time period when they will be in default. Ms. Grant said they were supposed to have permits in two days which they cannot pull until the Special Exception is granted. Mr. Wilson asked if she is saying if they didn't have a permit in two days they would be in default? He said because they would not get the opinion of the Board in two days. Ms. Grant said it would be better to go back to the landlord and say we got our Special Exception and we're going to submit for the permits and this is the timeframe to get them than they (BZA) decided to push it another 30 days and she doesn't know what that decision is going to be then what type of amendment is she supposed to come to with the landlord at that point. Mr. Wilson said he doesn't know what default means under their contract and doesn't know if the contract can be re-negotiated but guesses he will leave it to her if she wants to exercise the right to call for the vote at this time. He said that is her option and would defer to Mr. McCullough on which is the preferable course of action for her. Mr. McCullough said it is entirely up to the client. He just understands that they can protect the opportunity to come back. He stated understanding the default issue and that's going to be a decision that the applicant needs to make. Mr. Wilson asked and it was granted for KFC's attorney to confer with his client on this matter.

Ms. Grant spoke stating that she doesn't want this to come across in a bad way but why wasn't this request made weeks ago and what assurances do they have that this will be done now and that they're not in the same position a month from now. She said if it's going to keep being pushed back they all need to make a decision. She hopes that this is a good faith effort that the Board has someone in line that they're going to pay and get the results and they come back next month and really analyze the information. She think that's one scenario but don't want to have what happened last month and this month happen again. Chairwoman Lyon stated it is her understanding that one of the Board members has found an expert in the state of South Carolina, who, while she doesn't have timeframe, it is her understanding they can fairly quickly get them a written report.

Chairwoman Lyon apologized that this didn't come up sooner and could have been addressed earlier. She said if Ms. Grant is uncomfortable with that the Board could address it now and put it to a vote. She mentioned that people in the community are concerned and the Board has had much opposition from the

public. She said we have to live in this community and just want to be sure that we do our due diligence. Ms. Grant replied they very much so want to come in and be a part of this community. That is why she keeps flying in for these meetings. They want to be a part of this community and have its best interests at heart. They are not asking for a change in zoning and as they've all mentioned and the property is going to be something someday. A Traffic Study wasn't required, but they provided it in good faith and want to work with. Ms. Grant said she is looking for a decision from the Board that there is assurance that they will be paying someone to analyze the Traffic Study and that by next month they will have those findings and a decision can be given to them.

Chairwoman Lyon assured Ms. Grant that she has spoken with the Mayor and the Town Administrator and that is doable that the Board has the authority to do that and she will ask them to jump right on it tomorrow to get it lined up. She said the Board members would feel more comfortable with understanding the Traffic Study because it is so highly technical and while a Traffic Engineer is here tonight and his explanations were great the Board would like one of his peer to review it to give them a level of comfort in understanding the Traffic Study. Whatever goes into the property is going to cause traffic either way and feel strongly about understanding the study. She said there are many members of the community that have concerns and the Board wants to give everyone the opportunity to get as much information as they can. Chairwoman Lyon recognized that Ms. Grimball, the Town Administrator was nodding her head as a confirmation that she would contact the engineer tomorrow regarding a peer review. Chairwoman Lyon said she did not have the engineer's schedule but feels we could get the information we need in a timely manner. She hopes this will help Ms. Grant with her decision. She told Ms. Grant and Mr. McCullough to take all the time they need to discuss this matter.

Before conferring with KFC attorney, Ms. Grant pointed out that Ms. Fabri mentioned about the addition to traffic and it's not going from 80 to 159, the addition to Chase and the restaurant is 8 seconds; 5 ½ seconds between Chase and their restaurant. She said what Ms. Fabri is talking about is 80 to 160 is the range that is considered "F". Ms. Grant said she wanted to clarify that it is 5 ½ seconds between the two businesses that are there. Upon Ms. Grant's return she thanked the Board for giving them the time to consult with their attorney. She said they would like to be a part of the Town and understands that the Traffic Study is very detailed and they do need experts to help walk them through it. She said they do not want to deprive the Board of that opportunity and are willing to push their request another month. She hopes by next month the Board will be able to make a decision one way or another but they really want to be here and will work with the Board however they want. Chairwoman Lyon thanked Ms. Grant and said the Board will do its due diligence and they appreciate KFC's flexibility and looks forward to getting the information and going forward.

Chairwoman Lyon moved to table the motion on the floor in order to request funds from the Town to hire a Traffic Engineer to review KFC's Traffic Study and advise, Mr. Smith seconded.

VOTE

Ms. Fabri	aye
Ms. Hipp	aye
Mr. Savage	aye
Mr. Smith	aye
Chairwoman Lyon	aye
Passed Unanimous	

Chairwoman Lyon moved to request funds from the Town to hire a Traffic Engineer to review KFC's Traffic Study and give advice. Mr. Savage seconded.

VOTE

Ms. Fabri aye
Ms. Hipp aye
Mr. Savage aye
Mr. Smith aye
Chairwoman Lyon aye
Passed Unanimous

Other Business: Chairwoman Lyon said the applicant may want to hear this next agenda item because it relates to the potential time change for BZA meetings. Chairwoman Lyon spoke about an incident that occurred at the last BZA meeting when the Board was in executive session. She said the staff reported hearing what they thought were gunshots behind Town Hall. Chairwoman Lyon expressed concern for safety of the staff. Often when the Board meets it can hear up to two cases and meetings can run quite late. The Board discussed and gave suggestions on meeting times. (Ms. Crane provide information from other municipalities meeting times). Mr. Savage and Mr. Smith were in agreement to whatever time is decided upon. Ms. Fabri was in favor of meeting early and mentioned that Charleston County meets at 5:00 p.m. but is in favor of whatever time is decided upon. Ms. Hipp talked about the time change and asked how long will the Board be able to meet by Zoom. Ms. Crane stated that the Town's State of Emergency has not been lifted so the Board can meet by Zoom until it is lifted. Chairwoman Lyon suggested 6:00 p.m. in order to give the public time to get to meetings after work.

After some additional discussion, Ms. Fabri asked staff what time would they like to meet and Ms. Crane said 5:00 p.m. She also explained that she has friends who attends meetings and felt like 7:00 p.m. was too late for those with young children. It was also determined that staff stays at the office for a couple hours before the meeting begins. Mr. Smith moved to change the meeting time for the Board of Zoning Appeals to 5:00 p.m. through the remainder of the year, Ms. Fabri seconded.

VOTE

Ms. Fabri aye
Ms. Hipp aye
Mr. Savage aye
Mr. Smith aye
Chairwoman Lyon aye
Passed Unanimous

The change in time will be published and advertised by staff. Ms. Hipp gave notice that she will be absent at the August 16, BZA meeting.

Respectfully submitted:

Frances Simmons
Town Clerk and Secretary to the BZA

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF AUGUST 16, 2022

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, August 16, 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, David Savage, Vice Chair, Roy Smith, and Brook Lyon, Chairwoman, who presided. Absent: Commissioner Corie Hipp (gave notice). Also, Kristen Crane, Planning Director, Flannery Wood, Planner II, Bonum S. Wilson, BZA Attorney, Niki Grimbball, Town 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. She asked the Board and others who wished, to join in the prayer. The Pledge of Allegiance was not recited with the meeting being 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 notification was given that the meeting would be live-streamed on the Town's You-Tube Channel.

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

Executive Session: Chairwoman Lyon stated that the Board may enter into an executive session to receive legal advice if any member feels the need to. Executive Session not needed.

Administer the Oath to those Presenting Testimony: Chairwoman Lyon stated that any person planning to address the Board must be sworn. In order to expedite the process anyone wishing to speak either in Town Hall or on Zoom stood as a group and was sworn by Mr. Wilson, the BZA Attorney.

Public Comment: Chairwoman Lyon encouraged anyone who would like to make a comment and is signed in at Town Hall to state their name and address for the record and limit their comments to two (2) minutes.

Town Hall: Wendy Tripp, stated that she attended the last two meetings and is an owner of the Folly Road property next door to where the applicant wants to build the Kentucky Fried Chicken (KFC). George Hyams is the tenant. Ms. Tripp said she has stated at each meeting that Folly Beach, Folly Road, and Camp Road are an absolute mess and they can't imagine that lot is the place where they want a building built. She hopes the Board has someone here tonight that has checked the "F" situation that was used in 2020 traffic study and now has more information. She can't imagine the road going from an "F" to anything better. She is hoping that tonight a decision will be made to help Folly Beach, Folly Road, and Camp Road so we don't have a bigger mess than we have now.

Zoom: None

Chairwoman Lyon stated that we received additional email letters today with names and addresses that is available as a part of the record. Eleven (11) additional were against and one (1) additional in favor for a total of 44 against and three (3) in favor.

Chairwoman Lyon announced the Public Hearing for Case # BZAS-5-22-025, is a Special Exception Request for a fast-food restaurant on a vacant lot in the Community Commercial (CC) Zoning District and in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District at 890 Folly Road that was held on June 2 and tonight the Board will continue the case proceedings. At the June meeting a motion was made and seconded to defer the meeting until July so the public could have time to review the traffic study; and in July a vote was made to defer the case again until August in order for a peer review of the traffic study to be conducted. Chairwoman Lyon moved to reopen Case # BZAS-5-22-025; and Vice Chair Savage seconded.

VOTE

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

Motion Passed Unanimous to Reopen Case

Chairwoman Lyon stated it was her understanding that the Engineering Firm, Stantec and Engineer Josh Mitchell, was contracted by Town Administrator, Niki Grimball for the peer review was on the approved contractor list with the Town, instead of the engineer from Columbia that was suggested by Commissioner Fabri at the last meeting. She hopes the Board had the opportunity to review Stantec's report as well as the response from KFC's Engineer, Dillon Turner, with Kimley Horn.

Chairwoman Lyon asked the Board if they had questions for staff and afterwards questions would be directed to Mr. Mitchell at the Town Hall. There were no questions for staff. Chairwoman Lyon thanked Mr. Mitchell for his attendance and for conducting the peer review of the traffic study.

Questions to Stantec Traffic Engineer, Josh Mitchell

VC Savage: Is looking at the email of July 28 to Mr. Mitchell from Ms. Grimball asking if he could participate in this process for the BZA. He asked if the assumptions used in the conclusion stated in the applicant study are in line with accepted engineering standards. He believes that Mr. Mitchell answered those throughout his report, but asked if there is anything new today that would be different from the memorandum prepared on July 28?

Mitchell: Stated there is nothing new.

VC Savage: Asked is there anything for the Board to be concerned about with regard to the study being conducted using February/March traffic counts. He believes that was addressed and there were some recommendations. If not mistaken, Kimley Horn had a response to his concerns. VC Savage asked if he was satisfied that the response was accurate and is in-line with the accepted engineering standards.

Mitchell: Said yes. In the document they provided there was also documentation of coordination about the process and that satisfied his comment.

VC Savage: Asked do we have the best traffic study numbers that we can expect at this point?

Mitchell: Answered yes; it was done in an acceptable way.

VC Savage: Said the gist of his question is the focus on additional traffic safety impacts if any at all with the applicant's proposal vs. a conforming use, which may have high traffic. In that question he elaborated

more. But for those people who may be watching us tonight, it is only fair that he recap that. He indicated that the request above centers on the fact that at present there is no activity on the property so there is no impact whatsoever. The property owner has the right to develop the property and the Town allows and encourages development at this location. Even in the event of a future conforming use, one that we would have no control on there will be some negative traffic impact which would be legally permissible outside the Board's control. His need for information from the study centers on traffic impact difference, if any, from a potential high use conforming business compared to the present application for KFC, and if there is an increase in traffic impact with the applicant's proposal compared to a high traffic conforming use is the difference meaningful (statistically significant) from a traffic engineering perspective is what he is trying to determine from Mr. Mitchell.

Mitchell: Regarding the memo submitted in June by Kimley Horn, the goal was to do an updated analysis showing a fast food restaurant with a drive through and what the traffic impacts would be compared to what was previously reported in the traffic study, which was a fast casual restaurant. The difference between those land uses is typically a fast food with a drive through will generate more traffic, which is not surprising to them, but based on the industry standards that they use to estimate trip generation potential, (the number of trips that a particular site may generate) a fast food and drive through would typically generate more trips. He said that was documented in the Kimley Horn memo in June of this year and their analysis showed that. In terms of the impact in the appendices of that document is a queuing analysis and level of service analysis and reports from the programs that are used to do these analyses with the same programs that Stantec would use to do it themselves, so that's all done by the book. In talking about the access to the site, the access on Camp Rd., which is full access to allow vehicles to turn in and out in all directions was the access that he focused on most in his review. Because that is where the impacts are most noticeable because the other access is a right in/right out which typically doesn't have too many impacts to your main roadway. What the Kimley Horn memo showed is that there might be a slight increase in que for the vehicles turning left into the driveway off of Camp Rd. In terms of whether that is meaningful, he doesn't know if he is able to say that, it is not a matter of acceptability necessarily, the thing to think about with a higher generating land use, it is likely that there is a higher probability of a vehicle being in that lane trying to turn left and may not be able to make that turn. He thinks that is probably a policy decision from a traffic standpoint but the impacts are not out of the ordinary and it wasn't done or analyzed in such a way that he wouldn't have done it himself as a traffic engineer. He just wanted to note that if you do have a higher land use that generates a higher number of trips that left turn in particular could have a vehicle waiting there more often that could impact the signalized intersection because there are two left turns that comes off the main line that could que up. The average que length was just north of 20, it was 20-30 feet which was essentially one vehicle so 50% of the time there is likely to be one vehicle waiting to turn in. Other than that it is likely to be clear, he wanted everyone to be aware of that. That was the main concern he saw. But again there is nothing wrong with the analysis. It is the output that came from it. He stated that he may not be answering Mr. Savage's question completely and to let him know if he needed to provide more details.

VC Savage: Stated if he understands what Mr. Mitchell is saying with the applicant's proposed use, there will be a slightly greater hindrance of the vehicular traffic at that intersection and asked if that was correct.

Mitchell: Answered yes and thinks the report and the memo from Kimley Horn documents it well with the slight increase in que length and delay turning in there.

VC Savage: The intersection, and he thinks we all agree, is a failing intersection as it presently exists.

Mitchell: Stated the intersection he is referring to is the site access off of Camp Rd. The signalized intersection as documented in the report shows it is a failing level of service.

VC Savage: Asked from Stantec's report in terms of confirming the generation of the numbers of output they all tend to agree with, but he does understand that it is a policy determination we need to make as to whether or not the hindrance is significant.

Mitchell: Yes; said he believes so.

VC Savage: Mr. Savage referred to P. 2 of the report dated July 28, 2022, in orange at the bottom of the page. He thanked Mr. Mitchell for making the comments in orange for easy reference. He asked for an explanation under the Trip Generation Chart that said the comparison indicates that if the site included a conforming use, the site would be projected to generate significantly less trips than a fast food restaurant with a drive through window. Fewer trips in and out of the site would also reduce the potential for conflicts at the project driveways and at the SC 171 Folly Rd, Camp Rd. intersection. Mr. Savage asked what does conflicts mean. Are they delays, accidents, or near misses?

Mitchell: Mr. Mitchell replied that the number of vehicles turning in vs. the opposing traffic that is trying to get past the site access point.

VC Savage: Asked if conflicts would include accidents?

Mitchell: Said it's not a one to one correlation but specifically the higher number of conflicts the higher the potential for a collision.

VC Savage: Are there various grades or standards for the word "significantly less" trips?

Mitchell: It is not necessarily a gradation but based on the table it is comparing a fast food restaurant with a drive through window vs. a high turnover sit down restaurant. As the table shows it is 83 less trips in the am and 57 fewer trips in the pm. That being an 80 and 70 % decrease is why he used the word significantly but it is not necessarily a gradation.

VC Savage: Asked for clarification on Page 3 of the report under Trip Distribution/Assignment ... as discussed subsequently in this memo that has the potential to cause traffic and safety issues at site "A" Access. He asked what is Site "A" Access.

Mitchell: Said this is also referred to as driveway 1, the full access off of Camp Rd.

VC Savage: At the Folly & Camp intersection what traffic and safety issues is he concerned about there.

Mitchell: At Site Access "A" going back to what he mentioned earlier it is the additional trips taking a left turn into that site and because of where it is in relation to the signalized intersection (example, turning off of Folly Rd taking a left there are two lanes to take a left in. The inside most left turn lane and you turn and there is a vehicle in front of you who wants to turn into the site it may present a challenge for you because you either have to choose to stay behind and wait, or if that que reached back to the intersection or someone decides to change lanes to get around the person and take a left could be a safety issue.

VC Savage: Referred to page 3, under Recommended Improvements – based on the LOS output provided for the proposed project is anticipated to increase delay at this intersection by almost 10 seconds per vehicle in the am peak hour and by almost 5.0 seconds/vehicle in the pm peak hour. Based upon the increases and delays at this intersection which already experiences operational challenges today it is recommended consideration to mitigate this increased delay. Mr. Savage asked for explanation of the am 10 second delay at peak hours.

Mitchell: This intersection based on the report experiences an undesirable level of service today and is projected to continue to experience that. The point of this was to call out what is documented in the June 28, 2022 memo that with the project that traffic delays would increase by 5 seconds per vehicle. Every vehicle that goes through the intersection would expect to see their delay at the intersection increase by 5 seconds on average in the pm peak hour and 10 seconds in the am peak hour. This is a challenge because the intersection experiences an undesirable level of service with or without this development so it's not as if the issues at the intersection are caused by this development, there is plenty of other traffic as we know that go through that intersection not related to this but just to callout there is an increase in delay and 10 seconds per vehicle can be felt. It's a question that when you have an intersection that already experiences this kind of delay whose responsibility it is to fix it? So they are not necessarily saying in the memo whose responsibility it is to but wanted to mention it. It is a pretty well built out intersection in terms of turn lanes and everything else there so it is a challenge but they noted there is some increase in delay there is likely to occur.

VC Savage: Stated to Mr. Mitchell that he may not know where he fits in this puzzle that is a Hearing today; but the applicant has made a request for a Special Exception and under the rules the BZA must follow it says "*Special Exceptions may be approved only if the Board of Zoning Appeals finds that the proposed use: E(f) Vehicular traffic and pedestrian movement on an adjacent roads shall not be hindered or endangered.*" Mr. Savage said as he understands Mr. Mitchell's testimony as compared to a conforming use, the applicant here, there would be an additional hindrance in the traffic at this already failing intersection.

Mitchell: Stated yes, it is a slight increase in delay comparatively.

VC Savage: When Stantec prepared their memo, it was given promptly Kimley Horn and they prepared a response. Did he look over that? Mr. Mitchell said yes. Mr. Savage asked if the testimony that he just gave is still his testimony on consideration of Kimley Horn's review of his memo?

Mitchell: He doesn't think his testimony has changed; however, some of the things that were called for in the original July 28 memo were answered, particularly the documentation that the site access was approved by SCDOT and the coordination on the volume development discussion was very important and helpful in documenting the entire process.

CW Lyon: She noticed on the Kimley Horn response that they mentioned a couple of times about a mistake on the striping on the site plan. She could ask their engineer when he comes forward but also wanted to ask Mr. Mitchell if this would affect how he looked at things and if this changed anything in his opinion, if at all.

Mitchell: It did not impact the analysis. It was still performed properly based on the site access that was assumed. That was just a point of clarification as they reviewed the original traffic study. This has to do with a right turn only arrow coming out and into the site. It appeared that way so their initial assumption was this should be a right in/right out access instead of a full access but based on that arrow, the right turn arrow is not there today that just confirms that it was a full access driveway. It does not change any of their review.

CW Lyon: Stated from what you have said and written, this would make it hard to access the restaurant and driveway. It looks like it would be safer coming in off Camp to have a right in/right out only at that access just like the one on Folly. She thinks he touched on that in his report as well. That would be the least troublesome to the intersection and the traffic. She asked if that is correct.

Mitchell: Replied yes, that is correct, and at that point it becomes a matter of whether the site has proper access. It would be a challenge to access with two right ins but as discussed earlier it would reduce the number of conflicts at those drives.

Comm'r. Fabri: Wants to follow up on a part of the conversation he had with Mr. Savage to make sure she understood him correctly. When they were discussing what seems to be the issue, he brought up in his analysis that when people are turning from Folly onto Camp and trying to take a left to access the site, that seems to be the problem issue. Cars turning left into the site are going to block the lane 50% of the time. She asked if she understood that correctly.

Mitchell: That is his interpretation of the output from the report (he can look the number up) but his recollection is approximately one vehicle of average que; the length of one vehicle is the 50th percentile or average que. That is why he said 50%. On average there may be one vehicle that is waiting to turn in. That doesn't mean that they are waiting there forever, however, it is likely to happen that is why he said 50%

Comm'r Fabri: Stated, in layman's term so everyone understands, this will happen frequently and is not a rare occurrence.

Mitchell: Said yes, he believes so, it will happen because it is serving a useful access to the site for anyone that needs to turn into the site that way. As an example: if you're coming southbound on Folly Rd. to access the site you'll have to take a left and then a left in. He said about 40% of the traffic was assumed to come to and from that direction so 40% of the traffic would have to access the site that way.

Comm'r Fabri: Asked would the people coming from Riverland take that same option as well.

Mitchell: Answered potentially, although they may be able to use the other right in access points.

Comm'r Fabri: Touched on Mr. Savage's question about the intersection at Camp & Folly already functioning as an "F". The Board, in prior meeting which he was not a part of, talked a lot about level of service, that 80 is a failing level of service, now with the drive through the proposed plan for site is now we're getting into 160 and he discussed the number in his report as well so the difference between 80 and 160 is pretty significant. They talked about this with the prior engineer and there is no such thing as an F minus when you're looking at a failing intersection, if its failing its failing. And, what the Board had discussed the onus is on us as an arborator for the community to make the decision on if it is an acceptable level of service, if this causes any harm, or if it is something that folks can live with. She think when he was talking to Mr. Savage he said that with regard to the level of service that it is up to the local policy makers to make the decision about the 10 and 20 seconds if that is something that people can live with or not because of the condition of the intersection already; that it is already a failing intersection - - failing and built out as he expanded on, and there's not much else that can be done to it. She asked if that was correct and Mr. Mitchell said answered yes.

Comm'r Fabri: Thanked Mr. Mitchell for his analysis when it came to looking at the different land uses and comparing it to different land use codes and basically saying in his report (this is his language), a sit down restaurant, rather than a fast food restaurant would generate significantly less trips. As Mr. Savage touched on... fewer trips to the site would reduce the potential for conflicts. It is his understanding if it were a shopping center (one of the land uses that he compared it to) even though that would cause increase trip generation, it wouldn't seem to cause as many conflicts as a fast food restaurant with a drive through window and asked if that is correct.

Mitchell: In terms of the number of conflicts he would say that is directly tied to the trip generation so if another land use were on the site that generated comparable trips to a fast food with a drive through it would

have the same potential for conflicts. He said this section of the report was to show the trip generation potential of the site so if the land use is projected to generate fewer trips then that would directly relate to fewer conflicts in and out of the site. He said these were compared with other land use codes with the assumption of the same square footage of the site but if for some reason you were to build a commercial development that were six stories tall (he's not saying that) and it generated as many or more trips than a fast food with a drive through then it would have even more concerns from a level of service and conflicts. It is not necessarily about what goes there, it is about how many trips it generates.

Comm'r Fabri: Asked in your example have you looked at a strip retail plaza and a high turnover restaurant, and the different approvals they would have to get from the Town and he answered yes, that is correct.

Stephanie Grant, Applicant, asked the Board's permission to question Mr. Mitchell. Chairwoman Lyon asked and received approval from the Board to break protocol for Ms. Grant to questions of Mr. Mitchell. Attorney Wilson asked if the Board would be allowing both Ms. Grant and their attorney, Mr. McCullough, to cross examine Mr. Mitchell. Mr. McCullough said he was satisfied having Ms. Grant ask questions. He explained that they are not cross examining but asking questions from his report.

Ms. Grant asked for some points to be clarified. She asked if she understood correctly that the bottom line is that a fast food restaurant in the am peak hours is going to add 10 seconds of additional traffic per vehicle and 5 seconds in the pm hour of additional traffic per vehicle. Mr. Mitchell asked if she was referring to the fast food restaurant alone that is adding those seconds vs. a different land use. Ms. Grant rephrased her question and asked if there was a high turnover fast food restaurant on the site in the am peak hour and pm peak hour, how many additional seconds would that add. Mr. Mitchell said that was in the Kimley Horn report, the memo on Page 6, Table 5: Capacity Analysis Results. He said the columns are comparing the previous intersection level of service and the updated level of service. The delay in the am peak hour is 5.3 seconds so that is the difference in the increase in delay with a fast food with a drive through vs. a sit down, and in the pm peak hour it is a 1 second delay at the Camp and Folly Rd. intersection. Ms. Grant commented so, it is a 1 second delay in the pm peak hour between a high turnover restaurant and a KFC.

Ms. Grant asked where the 10 seconds and 5 seconds that she heard come from? Mr. Mitchell said it was comparing the 2022 background row, with the 2022 build row. The background that's an F at 154 seconds of delay just above, and the number below is an F 159.5 seconds. Then, in the pm peak hour its 75.1 in the background and 79.3 in the build. So the 5 and 10 were meant to give it a round number. Ms. Grant asked from no build to a high turnover restaurant, 10 seconds in the am and 5 seconds in the pm, and you add an additional second to the am peak hours for the fast food drive through. She asked if that was correct. Mr. Mitchell replied it is a 3 second delay between the no build and the build with a high turnover and adding 1 second to that. Ms. Grant asked if his analysis would change if the fast food restaurant did not serve breakfast because there would be no trips generated to the site in the morning hours. Mr. Mitchell said this was discussed when they reviewed it and gave a quote from the local district DOT traffic engineer, that "Taco Bell didn't use to serve breakfast, now they do" so even though the land use doesn't currently serve breakfast and generate am/pm trips, if it's a fast food with a drive through that is the technical land use they like to use in the trip generation because of the unknown Ms. Grant asked as of today, is it a safe assumption that there is no delay because KFC does not serve breakfast, is that correct? Mr. Mitchell said if there is no trips in/out in the morning that would reduce the impacts in that peak hour, there would be no impacts at that time.

Applicant Presentation: Stephanie Grant spoke about the criteria noting that they meet E (a-e) and what they are here tonight is to discuss criteria E (f): vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered. She said from both engineers testimony going from no build to KFC is going to add 6 seconds of delay per vehicle so putting all the other technical aspects aside that is what the report comes down to. 5 seconds from a no build to a fast casual restaurant, KFC. She asked if 6 seconds

constitute a hindrance or endangerment. She doesn't think the standard here is to any degree she think it's an overly strict interpretation and standard to uphold. The issue is if 6 seconds will be so significant that traffic will be hindered or endangered they would argue no. Five seconds is certainly considered an inconvenience but to believe that it rises to the standard of a hindrance or endangerment is not played out by the facts provided before this Board.

Clay McCullough, KFC attorney, stated this is the third meeting and he knows the Board is taking this very seriously. He lives in Mt. Pleasant and gets it, it's a nightmare all over the place and we all understand that nothing can get more calls than from people stuck in traffic, raising cane, and wanting to do away with it. He said, as it has been said several times, and as Ms. Grant stated that this application checks the boxes. They understand that this is very highly trafficked area, in this particular location especially, and it creates passion amongst the folks that are near it. But again as just stated, it really boils down to whether or not this is a hindrance or it creates an endangerment or a dangerous condition, They do not believe that it creates either and you have to rely on the traffic engineers, not on passion or what people are saying. They believe that the traffic engineers largely agree there will be a slight increase or hinderance. As a practical matter something is going to get built there, it's going to be a commercial situation, it will increase traffic and all of that will happen regardless of this application so they totally understand the issues the Board is faced with but with that being said these folks (KFC) have really bent over backwards to try and do everything humanly possible to accomplish making this a safe location to make the folks the Board is trying to serve happy. They believe both traffic engineers presented information that it does not create a technical hindrance or endangerment of criteria E (f) so they respectfully think that the application should be granted. He thanked the Board for how seriously they are taking this and the attention they have given this application.

Dillion Turner, Traffic Engineer, Kimley Horn, reiterated what the others have said and thanked the Board. Josh did a great job reviewing and was great to work with on this. From the traffic perspective he stands by what he said the first time. The data that was previously presented does not seem significant on the impacts on Folly and Camp. In addition, an increase in delay doesn't necessarily mean it is an increase in safety impacts. He said delay and safety don't necessarily go hand-in-hand. That is something to consider as you go through this.

Questions to the Applicant

Comm'r Smith Asked how does KFC set themselves apart from other restaurants that serve chicken on the island. He believes they said previously they are different from Zaxby's and Chick-fil-A because they have a family meal deal, buckets of chicken. Ms. Grant answered yes, and that they want to be there. They scoped out the site and negotiated it extensively and to her knowledge other competitors weren't wanting to do that so she thinks their desire to be here sets them apart from other restaurants and what sets them apart from other chicken competitors would be their ability to serve families rather than individual meals.

VC Savage Directed his question to Ms. Grant or Mr. McCullough. He heard what was said in their presentation about significant delays or endangerment or hindrance. He said in order for the Board to grant a special exception the Board can only do it if the BZA finds that the proposed use involving vehicular traffic shall not be hindered. There is no requirement of significant hindrance, there's been no gradation of the difference there. He hears what they are saying and asked them to tell him what their position would be on that. Mr. McCullough responded that nobody is trying to say that those roads aren't already problematic. This is a commercial property and they believe that there is going to be a slight increase in traffic as a result of building this restaurant. They are not trying to run from that but they do not believe per this regulation classifies as a hindrance and certainly not an endangerment. He said there is no legal description as to what the definition means as to be hindered. He thinks the only thing that you can rely on is how the traffic engineers testified in their report. He think what he's heard repeatedly is this is a bad intersection, not that

this application is going to create a bad intersection and he thinks frankly that is where they are. You have a commercial property with someone who is doing everything possible to try to minimize the impact by taking all of the steps they've talked about in prior meetings. He does not have a case that he could give to the Board that details exactly what you could go by other than going by the word hindrance and endangerment and rely on the expert testimony. Mr. Savage asked Mr. McCullough to repeat the last 5-6 seconds as he had issues with hearing what was said and Mr. McCullough said the only thing you can do is to be guided by competent testimony on technical matters and there are two very competent folks in the room, one of which the Board paid for and one of which KFC paid for. He really doesn't think they disagree that much. He thinks they both say mostly the same thing and he doesn't believe that their application and restaurant hinders or endangers. They are not taking a position on the fact of whether or not (we all know and the Board better than him) that this area has a ton of traffic. The Board is trying to remediate to the extent they can, but they believe their application checks the boxes. What he was trying to say previously, which he did not say effectively

is that the background noise is not relevant to this decision because the Board is in a rare situation and had two experts that provided reports and that's what they need to rely on in this case. He believes the experts largely agree and there is going to be an increase in traffic but they do not believe either the experts or this regulation would be classified as rising to hinder or an endangerment.

Comm'r Fabri Asked Dillon Turner about a response to Mr. Mitchell's input on their report. She asked about page 6, the Analysis and Level of Service Calculations: the comparison of projected turning movement in the June 2020 memo of updated land use to include a fast food restaurant with a drive through window indicates increased ingress left turns. That would be a left turn from Camp to access the restaurant as compared to previous projections. The turn lane analysis was not confirmed with the change in land use from the high turnover restaurant to the drive through per the June 2020 study. He went on to say the increase in projected ingress left turn is likely to highlight the issue of the left turn issues. He talks about how one of the recommendations is to limit the Site A access to right turn out only. Her question is that limiting the Folly Rd. access point to right in/right out would leave only the Camp Rd access. Because of the traffic backup there, (5 seconds or 10 seconds), could be a point of conflict. She said Mr. Savage asked Mr. Mitchell if that means accidents, what does that mean exactly? She asked Mr. Turner for his input based on the information that he read in their report. Does he see that same occurrence happening? Mr. Turner said conflict points is a very cool term. In the traffic world conflicts are where a turning vehicle meets another turning vehicle thereby increasing the trip generation. He did a calculation of four cars in and four cars out at that access from the previous analysis so it would be a total eight more vehicles experiencing conflicts. So it's not an increase in conflict points; the conflict points stay the same. It's an increase in the number of vehicles that travels through those conflict points. Ms. Fabri asked if he would agree that with those conflict points whether its 4 or 8 cars meeting each other it only takes two cars to run into each other and cause an issue there and asked if that is correct. He said yes, that is correct to create an accident but that does not apply here in his opinion. Ms. Fabri said she believes the reason why (and does not want to put words in Mr. Mitchell's mouth) but in her understanding of his report the reason why he was recommending restricting Site A access point is to also limit the ability to turn because of the issue of conflict because the cars coming to access through that left turn in. The conflict is going to be that those cars are going to have to cross three lanes of traffic in order to access the site and asked Mr. Turner if that is his understanding. He stated his understanding is that Stantec and Josh had recommended to relook at it and provide a left turn if warranted. It was previously warranted with the high turnover sit down restaurant. They discussed it with SCDOT and there is not available space to provide that left turn lane there with the existing cross section. He thinks he was just saying "*hey, look out for that*" and he brought it up again to the Board. That means you have about a car on average waiting to turn left from Camp Rd. in there. As far as how that correlates to safety/accidents he is unsure there is a direct 100% correlation between that which is more drivers behavior vs. anything else because they're not increasing the number of conflict points. It's the number of increased vehicles that are going through those conflict points.

Comm'r Fabri Asked if the site were used for something that was expected to generate less trips vs. more trips you are creating more opportunities for conflict so eight cars with a drive through window would be two conflict points. Mr. Turner said it is eight more than a high turnover sit down restaurant.

Chairwoman Lyon asked if there were any additional questions. There were none. Chairwoman Lyon then announced the motion is on the floor to approve the Special Exception for a fast food restaurant with a drive through. The motion was made by her as Chair and seconded by Mr. Savage at the June meeting that extended to July and August. Chairwoman Lyon opened the floor for discussion. She stated that the Board has tried to do its due diligence and give the applicant every opportunity and benefit of a doubt, as well as listen to the community, and the Board's concerns about safety. But, the bottom line is does the application meet all of the criteria? Chairwoman Lyon stated that the Board has gotten good information from the experts. The motion is to approve the application with no conditions but the Board could amend the motion and add conditions if they are inclined to do so. If the Board does not feel the application meets the criteria, even with conditions added, they could discuss it individually before taking a vote. Chairwoman Lyon stated that conditions such as hours of operation that does not include serving breakfast. She mentioned that Taco Bell did not always serve breakfast, and the conditions remains with the site with special exceptions, which was confirmed with Ms. Crane. Would it be possible to have a condition with only a right in/right out onto Camp. That would not affect the intersection from Camp unless people break traffic laws. Chairwoman Lyon said she is putting out these ideas so the Board could have discussion. She asked Ms. Crane if her suggestion is doable and could she defer to her for a response. Also, she is unsure if the applicant could change the site plan or want to do that. Also, would it be a problem with the bank and the SCDOT. Ms. Crane said from a site plan zoning perspective, it would be acceptable but she thinks that SCDOT would need to approve it as well as the property owner and the bank. It also might cause an issue with U-turns down the road. She is unsure if a right in/right out only would be acceptable. Chairwoman Lyon said those are some things the Board could talk about. They've never had a case such as this stretching three meetings come before the Board and she is trying to look at everyone's side. We represent our community; we welcome new businesses yet we must meet the criteria for each case. She asked the Board if they are interested to look at her potential conditions however, KFC may not even want something like that. She apologized to the applicant that it has taken three meetings to hash all of this out but spoke of the importance of the Board doing its due diligence and thanked everyone for their patience and participation.

Comm'r Fabri piggybacked the discussion of Chairwoman Lyon. She said the special exception runs with the property so as well-meaning as the applicant might be and they are not going to serve breakfast or just say they are going to serve from 12-6 every day and that is their intention that if at any point the applicant decided to change that and/or sold the property anything could go in there, there is no limitation so she would only say that if anybody was inclined to approve this request they would seriously look at limitations because a special exception granted to this doesn't run with the applicant it runs with the property. So if we say "welcome KFC" conduct business we understand that you're not going to serve breakfast, there is nothing in writing that would hold them or any future occupant of the property to that. Chairwoman Lyon said that is something that the Board could put as a condition that it would run with the property with the special exception. We would amend the motion to approve with hours i.e., 10-10 and not serve breakfast or something to that affect if the Board is inclined to approve it based on the other criteria. Chairwoman Lyon agreed that if KFC is approved and doesn't serve breakfast now and they sold the property to McDonalds who does, then it would be a different ballgame. That is why if we are looking to approve it that would be a way to negate that from happening down the road.

Comm'r Fabri stated that after having read the reports and taking a lot of time speaking with both traffic engineers she is personally very grateful for their time. There was a lot of information in the Stantec report and the thing she keeps coming back to is by allowing the special exception with this type of restaurant with a drive through window is increasing the conflict. Her understanding of the engineer is that it is increasing a risk to the public. She said neither report, or any she has seen, has ever measured or is not in

the reports, the number of accidents that would occur if there were something there. They do not look i.e.; that 300 cars went through and 5 ran into each other on a Tuesday. That is not what they look at, they look at trips and time and other things, so she is not going to negate the data on the increase in time. What she focused on is the fact that there is an increase in time between a high turnover restaurant or a retail spot and what they are asking for the special exception. There is an increase in traffic and that the intersection is already failing significantly. There is no room to correct the intersection at a future point and there is no room to add a dedicated turn lane according to SCDOT at that intersection to try and resolve some of the conflicts. Those options are off the table. From what she is reading it is not that KFC is not welcomed as a business and is not welcomed on James Island, she just doesn't think this is the right spot for them. She thinks that is pretty clear from Stantec's report is there is going to be an increase in traffic in turning into this location and that is going to present an opportunity for accidents to happen.

Comm'r Smith spoke that he likes KFC and likes fried chicken a lot, but he doesn't think that having the bucket of chicken really makes them significantly different from other restaurants that we already have. He said both Chick-fil-A and Zaxby's both have family deals. He thinks one is called the family pack and the other family deal so we do have these things already. We have two already on the island. It seems to him that since it's a special exception it's on KFC to show how they are really better for the island and how they meet all of the criteria. He is not sure if they meet a, b, or both, but they definitely do not meet B because we already have two fast food restaurants, one on the east side of Folly Road, very close nearby that serves family meals. Secondly he doesn't believe they meet f, vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered and it seems to him that every indication is going to cause a hindrance. He agrees with Ms. Fabri that the amount of hindrance is debatable but he doesn't think it's any debate that it's going to cause a hindrance. Criteria f states that traffic shall not be hindered. He doesn't think they meet the criteria on either case. However, if the other Board members disagree and feels that they do meet the criteria and they have proven their case then he would agree with Ms. Lyon that additional conditions need to be addressed.

VC Savage stated he thinks Roy's analysis was spot on and he is reading what is required for the Board to grant a special exception. He quoted "exceptions may be approved only if the Board finds that the proposed use with regard to traffic shall not be hindered. He said the burden squarely falls on the applicant for a special exception. He agree with Mr. McCullough that we have competent evidence in the form of two traffic studies and as he understand the testimony of both witnesses, like Roy said, there will be a hindrance. He would be open to some discussion as to whether that hindrance is meaningful for the Board to exercise some discretion but he think under the clear statement of the criteria for which a special exception shall be granted he doesn't think the applicant met their burden. He think it is really important that the Board make clear (and he understands what Roy is saying also) that nobody is saying that there cannot be any development at this location because there will be a hindrance of traffic. That is not what they're saying. The property owner has the right to develop his property and if he develops a conforming use there will be a negative impact on this roadway, we will not be able to stop it. That is not what they're looking at. The Board has put a lot of effort into reading the studies and their primary focus is "what is the hindrance on the roadway considering a potential conforming use to the proposed use and in that analysis at least how he heard the testimony is there will be an increase in hindrance. You want to call the number of vehicles a conflict, or you want to call it a delay or whatever you want to call it there will be some hindrance there. He would be inclined to say that the applicant did not meet its burden but he would be willing to hear the thoughts of anyone else who thinks that he may be misinterpreting how we analyze this.

Chairwoman Lyon said the two criteria she struggled with are b, and f. B states it should not adversely affect the general welfare or character of the immediate community and it is going to potentially cause more conflict points and accidents. Then it would not meet that criteria. Criteria f, which we all discussed states the vehicular traffic should not be hindered or endangered. These are the criteria she has issues with and if it criteria can be met with conditions put on them she is open to that which is why she brought them up to

begin with: a right in/right out onto Camp which would negate her understanding of a lot of the traffic issues may not be approved or accepted anyway. She doubts (KFC) would have a problem with the breakfast condition. These were her thoughts and after it was hashed out it was a 6 second difference for the fast food and 5 second difference for the high traffic sit down. That's a 1 second difference however that is 20% of total time difference. It will have an effect, how much and how busy it will be we don't know, but as David said, we're not here to look at that high traffic sit down restaurant, we are here to see if KFC meets the criteria for this case and look at it on its individual merits.

Comm'r Fabri expanded her thoughts on criteria b, she thinks we had 44 letters in opposition and 2 or 3 in favor, one of which was the property owner. She said 44 responses from the community is a lot that she's seen in her short time here but that is a lot of input from the community and she thinks the comments were saying that the public felt that it would adversely affect the immediate community. A lot of the people that are on Rivers Point Row were talking about the same issue that they spoke about when we were looking at the Brewery further up on Camp and it was how a business could negatively impact them and they are already being squeezed by other businesses in the area and they are the ones that drive in and out of this every day and have to live with all of this every day and were pretty inphated in their request to deny this because of the further degradation of their community so she thinks we need to take that into consideration also.

VC Savage referenced what Mr. McCullough said that we need to filter out the "white noise" . He doesn't want anyone to think that his decision is based upon those letters from people who took the time to send them, the contents that were outside of what we could properly consider. He said for instance, those letters that came in he found there were six areas of what the objections were. There were some people that said "no more development anywhere; he believes Ms. Milliken said she is against any level of increased traffic moving on Folly Road. He did not consider that because he can't consider that, the law is pretty clear that that according to the case we know of no requirement that a traffic assessment must be performed comparing existing to proposed use where that the case, a special exception permit was never issued for a vacant premises because traffic would always increase and thereby be negatively impacted by the proposed use. He said he does not want there to be any misunderstanding that comments such as that swayed his opinion as to where he is right now. And to say there can be no development on this property would be an inverse condemnation. The next series of objections are people saying, "I don't want another chicken restaurant, put a Chipotle in there", he read and heard it but it is outside the criteria that the Board can use. He said his opinion as he read the letters, it is not a criteria that he could follow or use to justify his beliefs that it may not have met all of the criteria for a special exception. The third area that he saw as from a lot of people saying, "we want you to put a family business there, not a chain", he said again, that is not a criteria . If you want to make it a criteria, the people writing the letters should be writing to Town Council members about changing what the criteria are our putting in a preference for a family owned business. He said while some of those comments may have been by the public, it was not used by him. There were also requests in the comments for no more restaurants on Folly Road. They want a Target or Marshalls. That is not something that we take into account as a Board to either approve or disapprove a case. He said one that was very good that people thought the Board could use but can't is "the rules for drive through stacking of 10 vehicles and the parking requirements are antiquated" and he agrees with those criticism but those rules as they presently exist are the ones the Board has to follow. So those people who seek to allow us to deny or approve on that basis have to contact Council to get those rules changed. The great majority, as Amy said, all came down to safety and traffic conditions. He said to please bear in mind to look back and see what the Board did , Clay is right when he said we must make a decision based upon the record. What he was saying is 1,000 letters saying this is going to make the traffic worse, we are appreciative of that but that is not competent evidence to allow the Board to disapprove; when you have specific testimony, you need expert opinion. He said at the first meeting the Board recessed to allow all of the people who were concerned and asked us to disapprove the request on a traffic basis time to get a traffic engineer to rebut this. When we came back nobody had done it. The Board took a very unusual step of hiring our own traffic

expert to take a look at this and the basis for our ability to either approve or deny must be based upon the information produced by those witnesses. He think if the public knows that if they want to object to something on the basis of traffic they have to have something more than their opinion and Clay was right on that and is why we made the move that we did. He is still of the belief that he is unsure that the applicant met the burden and agree with Amy that there was a lot of public sentiment but does not want any reviewing authority to think that his opinion may have been based on extraneous matters that may have been included in those letters.

Chairwoman Lyon added that some letters referred to having (“no more unhealthy fried chicken” restaurants) and that is out of our purview as well. She loves KFC but Mr. Savage is right and the bottom line is we have to look at what the experts said in the traffic studies and the criteria if it meets or not.

Chairwoman Lyon asked for further discussion and there was none. She further asked if there were amendments to the motion and there were none. Chairwoman Lyon called for the vote to approve without conditions, Case # BZAS-5-22-025, TMS #425-06-00-101, Special Exception request for a fast-food restaurant on a vacant lot in the Community Commercial (CC) Zoning District and in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District at 890 Folly Road.

Vote

Commissioner Fabri	Nay
Vice Chair Savage	Nay
Commissioner Smith	Nay
Chairwoman Lyon	Nay

Motion Failed

Chairwoman Lyon announced as the Board has discussed, the application did not meet criteria b and f. For the record she stated that Chairwoman Lyon initially made the motion, seconded by Vice Chair Savage. The final decision of the Board would be mailed to the applicant within ten (10) days and they should contact the Planning and Zoning staff if they have questions.

Vote for Chair: Chairwoman Lyon opened the floor for the nomination of Chair for the Board of Zoning Appeals for one year (August 2022 to August 2023). She asked Vice Chair Savage his interest in serving as Chair and he commented that he doesn’t think everyone sees what goes into preparing for these meetings, gathering information, and making sure everything is done. He thanked Chairwoman Lyon for the offer and stated that he is unsure he has the time and experience of knowing the people that she knows and respectfully declined. He said Ms. Lyon does a good job and if she would like to continue to serve that would be fine or if someone else wished to but he is unsure that he is the best person. Commissioner Smith asked Ms. Lyon if she would continue on as Chair and she expressed it is an honor to serve. She said the BZA is important to her and we have an awesome Board where everyone works hard, does their homework, cares, and follows the rules. Vice Chair Savage moved for the nomination of Ms. Lyon, seconded by Commissioner Smith.

Vote:

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

Motion Passed Unanimously

Chairwoman Lyon thanked the Board for their vote of confidence and Commissioner Fabri thanked her for her leadership.

Vote for Vice Chair: Chairwoman Lyon opened the floor for the nomination of Vice Chair of the Board of Zoning Appeals for a one year term of August 2022 to August 2023. Chairwoman Lyon moved for the reappointment of David Savage and Commissioner Smith seconded. There were no other nominations.

Vote:

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

Motion Passed Unanimously

Chairwoman Lyon congratulated Commissioners Smith and Fabri on their reappointment to the Board of Zoning Appeals for a 4-year term and thanked them for their service. She thanked Town Administrator Niki Grimball for handling the peer review with the engineer. She felt like he did a very thorough job and appreciates him being here tonight. She also thanked Kristen Crane and Flannery Wood for all they do to prepare for these meetings. She also thanked Frances Simmons for being able to make it tonight. She had been out for surgery and is doing great now and appreciates her service to the Town, Board, and the community. The Board is blessed to have great staff and support.

Chairwoman Lyon thanked the Board for their hard work on this case. She recalled having one case continue some years ago, but never of this intensity. She knows it is disappointing for the applicant but the Board did its due diligence and the applicant did not meet the criteria. Chairwoman Lyon said we are blessed to have a great attorney and gave a “shout out” to Mr. Wilson for all he does and being at meetings to answer their legal questions.

Comm’r Fabri asked if the Board likes meeting earlier and everyone agreed the time is better. Chairwoman Lyon announced that Ms. Simmons has updated the time of the meeting on the Town’s advertising and social media platforms for the remainder of the year. She said the Board may keep this time moving forward if it continues to work for everyone.

Additional Business:

Next Meeting Date: The next meeting of the Board of Zoning Appeals is scheduled for September 20. One application is pending. The deadline for application submission is Friday, August 19.

VC Savage said the next time the Board has a training session he would like to come up with a protocol that when they are reading the packet and think there may be a question to send those questions to one source so when the applicant makes their presentation they have a heads up to some of the Boards’ questions ahead of time and will have the information available for the Board. Chairman Lyon noted that sounded good.

Mrs. Crane informed Chairwoman Lyon that there was a question in the chat box asking if the Board could state the criteria that the application did not meet and Commissioner Smith said both he and Chairwoman Lyon stated the criteria that the applicant did not meet. Ms. Crane clarified to state i.e. the specific criteria such as “b” the caller was not online but wanted that information shared. Chairwoman Lyon stated that the criteria was touched upon a few times during the meeting. Commissioner Smith said he stated that it did not meet criteria b, because we have other restaurants doing the same thing and criteria f, because it cause a delay and Chairwoman Lyon had stated that vehicular traffic shall not be hindered or endangered as did Commissioner Fabri. She stated that we can state that in the future and always assume that people also read the packets but always want others to know why an application did not meet criteria and thanked Ms. Crane for sharing that information.

Adjourn: There being no further business to come before the body, the meeting adjourned at 6:48 p.m.

Respectfully submitted:

Frances Simmons
Town Clerk and Secretary to the Board of Zoning Appeals

DRAFT

Application for Special Exception

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



This application must be complete and submitted in person to the Town of James Island Zoning/Planning Department in order to apply for a Special Exception. 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:

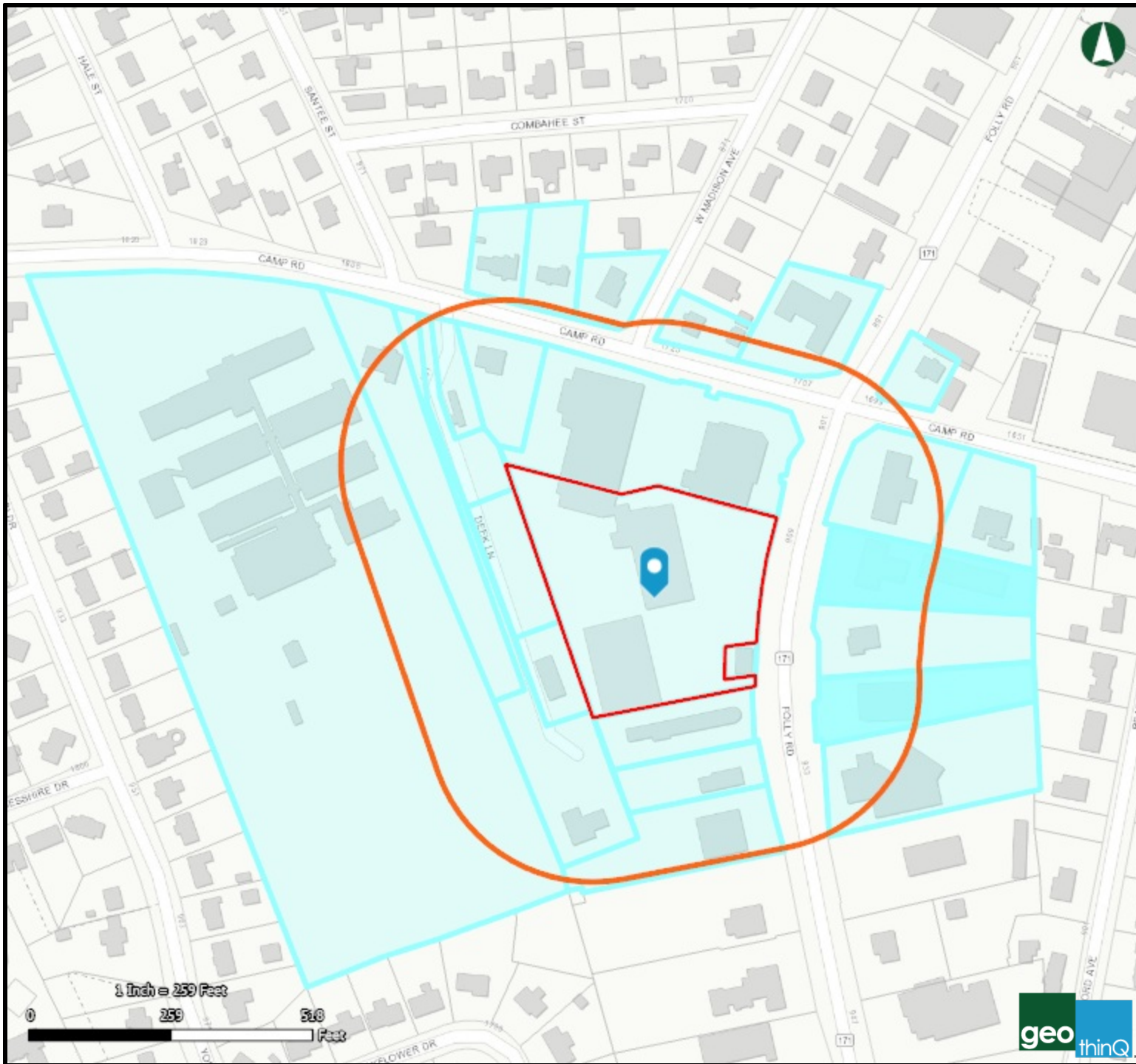
- 1) Completed Special Exception application signed by the current property owner(s).
- 2) Copy of **Current Recorded Deed** to the property (Owner's signature must match documentation). If the applicant is not the owner of the property, the **Current Property Owner(s)** must sign and print the **Designation 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 §153.045 E. All proposed Special Exceptions, 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".

Applicant Name: MOLLY MCFADDEN
 Mailing Address: 810 N. CHANNEL CT.
 City, State, Zip Code: CHARLESTON, SC 29412 Daytime Phone: 843/901-5292
 Email Address: mollsmcfadden@gmail.com
 Subject Property Address: 915 Folly ROAD Unit 'S'
 Present Use of Property: Retail- currently vacant OK

Special Exception Description: Indoor Recreation/Entertainment- Axe throwing as allowable in Folly rd
-Corridor w/ Special Exception under JI Code 153.093.H2
 Applicant Signature: [Signature] Date: 9-13-22

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.
Folly Camp, LLC by Charles Kahn its manager P.O.Box 1608, Columbia, SC 29202
 Owner Print Name: [Signature] Date: _____ Owner Mailing Address: _____
 Owner-Signature: _____ City, State, Zip Code: _____

FOR OFFICE USE ONLY:	
Application #: <u>BZAS-9-22-026</u>	Flood Zone: _____
Zoning District: <u>Community Commercial</u>	Fee Paid (\$250): <u>Card</u>
Date Filed: <u>9/13/2022</u>	Zoning Officer: _____
TMS#: <u>337-04-00-100</u>	



Town of James Island
South Carolina



915 Folly Road Radius Map

300' Buffer
09/28/2022

1 Inch = 250 Feet



Subject Property



6

Subject Property



7

Adjacent Property

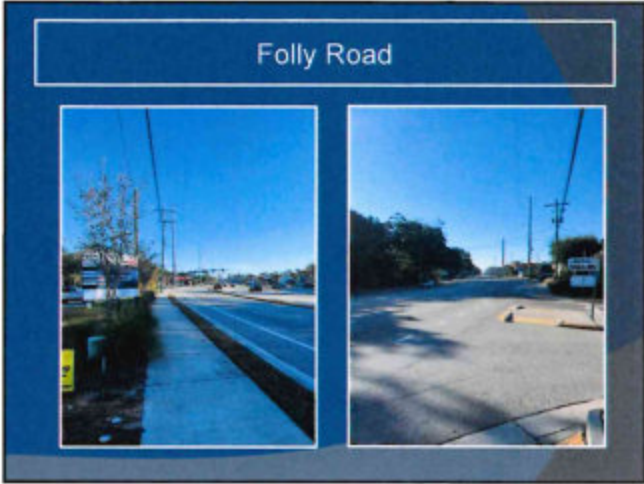


8

Adjacent Property



9



10

Staff Review:

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 (CC) Zoning District and in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District at 915 Folly Road, Suite S (TMS# 337-04-00-100). The suite previously operated as a thrift store and currently shares a mixed-use shopping center with a medical office, a nail salon, a barbershop, a gym, a coin operated laundry, a tobacconist, a liquor store, restaurants, and a financial service/loan office. The adjacent properties to the north and south are zoned Community Commercial (CC). 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 (OG) Zoning District. Other uses within 300' of the subject property include a bank (Chase), service stations with gasoline (two Circle K's), drug store (Walgreen's), professional offices (Wilson Heyward Reeser Attorneys, Folly Oak Center), social club (VFW), office complex (Shoppes at Folly), fast food and general restaurants (Sonic, Huddle House), retail/donation center (Goodwill Industries), school (Camp Road Middle School) and single-family residential uses.

As 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."*

*Town of James Island Zoning and Land Development Regulations 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.*

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.**

In granting a Special Exception, 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 # BZAS-9-22-026 (Special Exception request for indoor recreation (axe-throwing) in an established shopping center Community Commercial (CC) Zoning District and in the Commercial Core of the Folly Road Corridor Overlay (FRC-O) Zoning District at 915 Folly Road), based on the “Findings of Fact” listed above, unless additional information is deemed necessary to make an informed decision.

Molly McFadden
The Single Bitted Axe LLC dba. The Axe Hole
810 N Channel Ct
Charleston, SC 29412

October 6, 2022

Town of James Island

RE: Approval Criteria for Special Exceptions – 915 Folly Rd Unit S

To Whom It May Concern:

I am the owner of The Single Bitted Axe LLC and I am opening a recreational axe throwing business called The Axe Hole at 915 Folly Road, Unit S. Please find my responses to the items on the Approval Criteria for Special Exceptions form you provided:

1a) The purpose and intent of this company is to open a recreational axe throwing business. The primary focus of this business and main source of revenue will be axe throwing. I have no intention of this operating as a bar or restaurant. I will have a limited selection of beer, wine, liquor, soft drinks, and snack foods (pretzels, peanuts) available for customers to purchase and consume only during their axe throwing sessions.

1b) 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 and will certainly not adversely affect the “general welfare or character” of the community. In fact, I think it will be very well received by all James Islanders. JIPSD Fire Department Battalion Chief Tillman reminded me that firemen love axes, when I called him about the closest fire hydrant for my insurance. We plan to invite their team over to do a soft opening with us.

1c) Business will always be conducted indoors. The necessary provisions for minimizing noise to adjacent Units will be in place. Our hours of operation, on weekdays, will be after 4:00pm, and should not affect adjacent businesses operating during traditional business hours or on the weekends, when we will have the most activity. 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 wood target. Our targets are also not facing either wall, they back up to another throwing lane, so the noise should be minimal.

1d) This is not applicable, as there are no natural features nearby and the business is being operated indoors.

Town of James Island

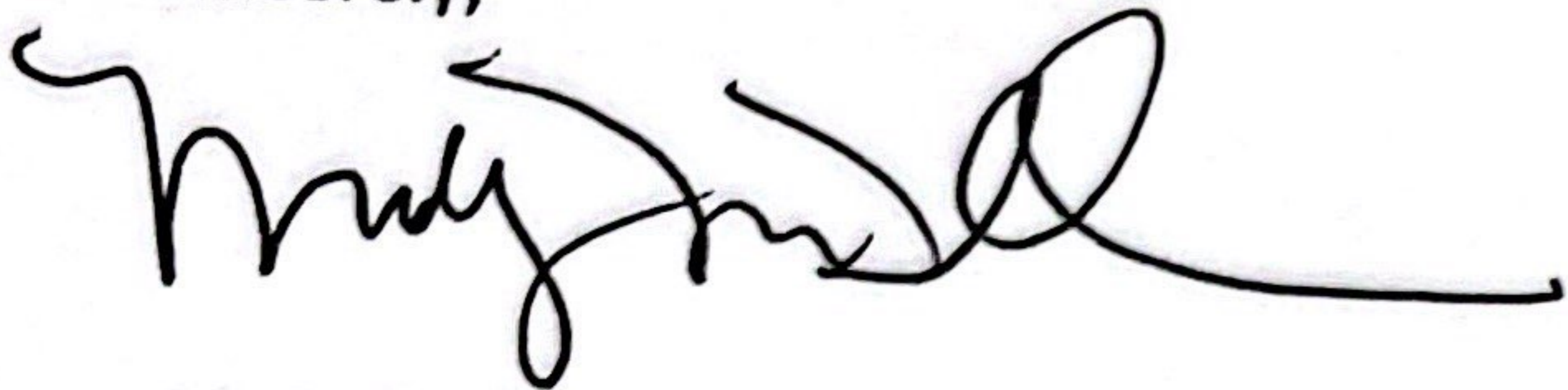
October 6, 2022

Page 2

1e) To my knowledge, no aspect of this business violates any rules, regulations, laws, and standards of this Ordinance.

1f) Vehicular traffic and pedestrian movement will not be hindered or endangered by this business. There is adequate parking in the Shoppes of Folly Road shopping center parking lot to handle ours and the other businesses currently operating there.

Sincerely,

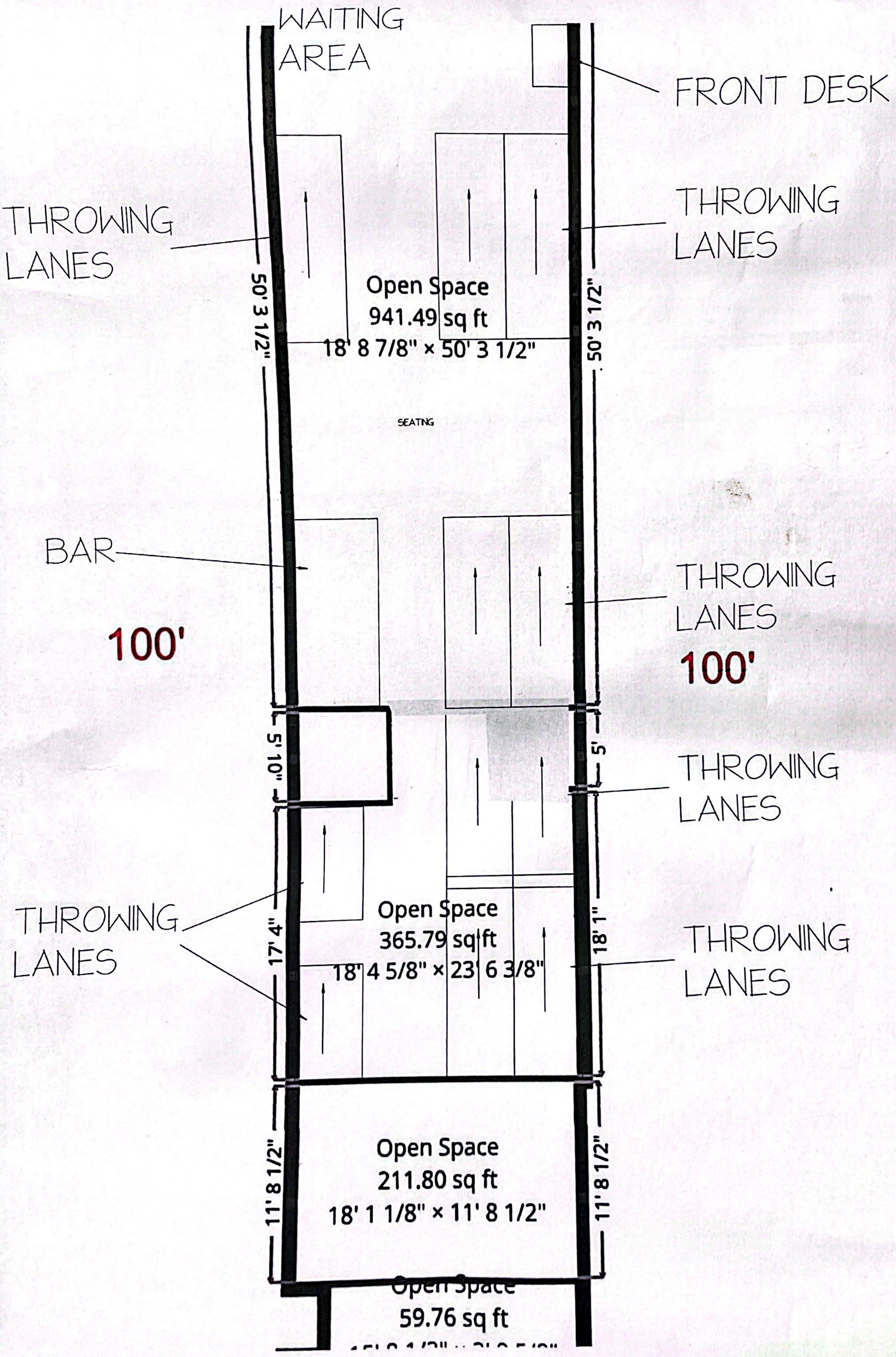
A handwritten signature in black ink, appearing to read 'Molly McFadden', with a long horizontal flourish extending to the right.

Molly McFadden

Owner

The Single Bitted Axe LLC

DBA. The Axe Hole – Axe Throwing



WAITING AREA

FRONT DESK

THROWING LANES

THROWING LANES

Open Space
941.49 sq ft

$18' 8 \frac{7}{8}'' \times 50' 3 \frac{1}{2}''$

SEATING

BAR

100'

THROWING LANES

100'

THROWING LANES

THROWING LANES

THROWING LANES

Open Space
365.79 sq ft

$18' 4 \frac{5}{8}'' \times 23' 6 \frac{3}{8}''$

Open Space
211.80 sq ft

$18' 1 \frac{1}{8}'' \times 11' 8 \frac{1}{2}''$

Open Space
59.76 sq ft

$18' 1 \frac{1}{8}'' \times 3' 2 \frac{1}{2}''$

REFERENCES

- ALTA/ACSM LAND TITLE SURVEY OF LOT K-2, A 1.11 ACRE TRACT OF LAND FOLLY ROAD SHOPPING CENTER (T.M.S. PARCEL #337-04-00-131) PREPARED FOR KAHN PROPERTIES SOUTH, LLC BY CORNERSTONE SURVEYING & ENGINEERING, INC., DATED OCTOBER 29, 2002.
- SCDOT PLANS FOR SC-171 (FOLLY ROAD) AT ROAD S-28 (CAMP ROAD) INTERSECTION IMPROVEMENTS, SCDOT FILE 10.037000A, RECEIVED MARCH 8, 2012.
- SOUTH CAROLINA ELECTRIC & GAS CO. EXHIBITS A, B, & C FOR FABER PLACE - JAMES ISLAND 115KV LINE CROSSING PROPERTY OF KAHN PROPERTIES SOUTH, LLC, PROJECT PD-09110-060109, REVISION DATE 06/07/2013.
- SOUTH CAROLINA ELECTRIC & GAS CO. EXHIBIT A FOR FABER PLACE - JAMES ISLAND 115 KV LINE CROSSING PROPERTY OF FOLLY HOLDINGS, LLC, PROJECT PD-09110-060308, REVISION DATE 05/29/2012.

PARKING SUMMARY

EXISTING PARKING SPACES TO REMAIN
 EXISTING SHOPPING CENTER PARKING SPACES TO REMAIN = 110 SPACES (32,540± SF)

PROPOSED PARKING SPACES

PROPOSED WALGREENS PARKING SPACES
 PARKING SPACES (9'x19') = 86
 ADA PARKING SPACES (8'x19') = 5
 PARKING SPACES (9'x18') = 16
TOTAL PROPOSED WALGREENS PARKING SPACES = 107 SPACES

PROPOSED SHOPPING CENTER PARKING SPACES
 PARKING SPACES (9'x19') = 45
 PARKING SPACES (9'x18') = 3
 COMPACT PARKING SPACES (9'x16') = 15
TOTAL PROPOSED SHOPPING CENTER PARKING SPACES = 63 SPACES

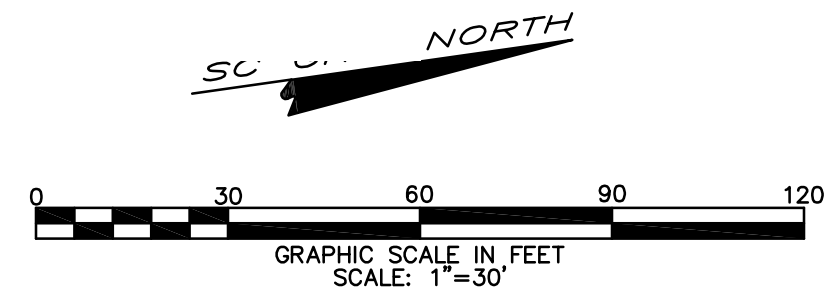
TOTAL PROPOSED PARKING SPACES = 170 SPACES

TOTAL PARKING SPACES PROVIDED = 280 SPACES
 (48,500± SF TOTAL)

Shopping Center parking:
 51+52+69= 172 spaces

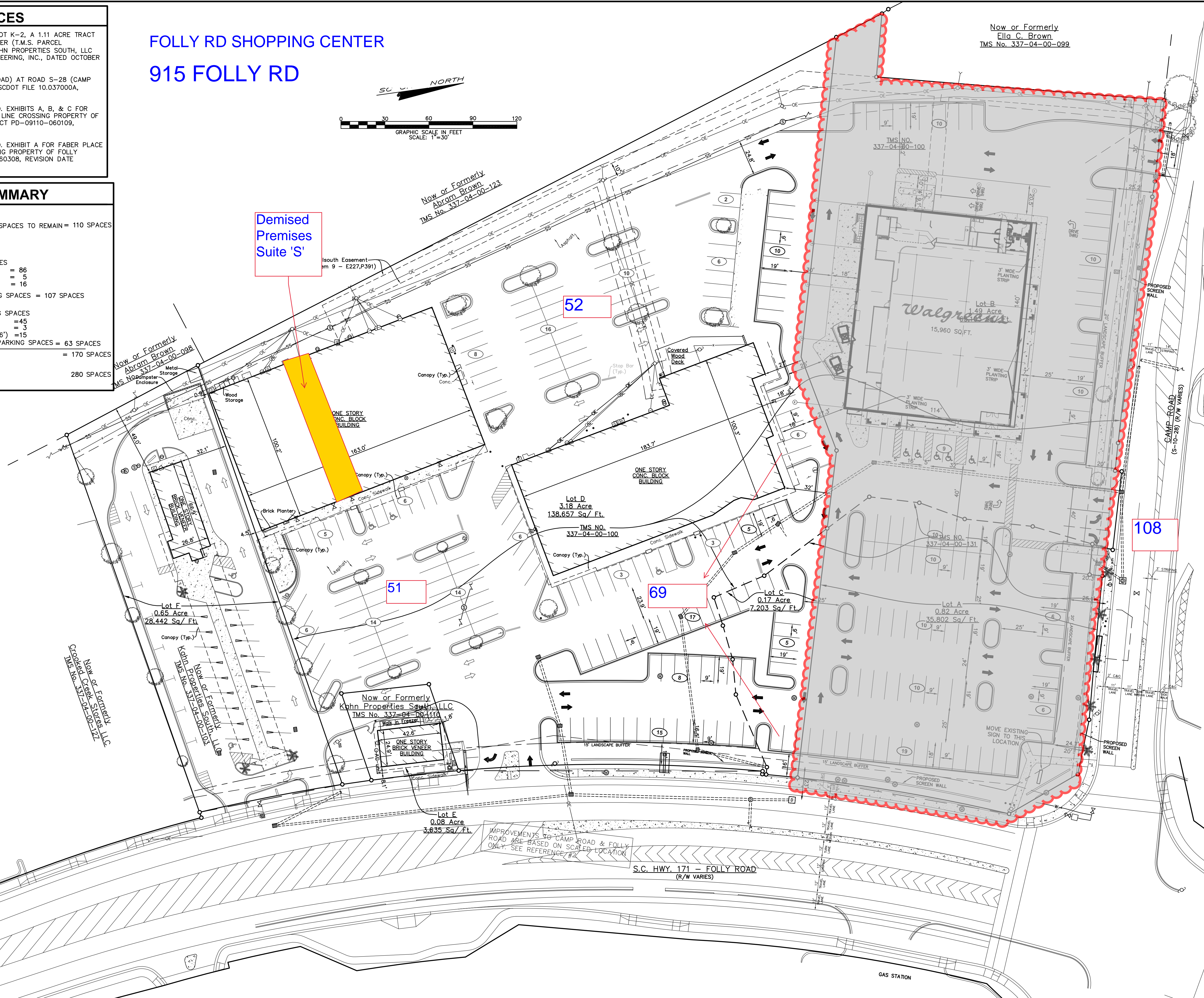
Walgreen's parking 108
 Total 280 spaces

**FOLLY RD SHOPPING CENTER
 915 FOLLY RD**



Now or Formerly
 Ella C. Brown
 TMS No. 337-04-00-099

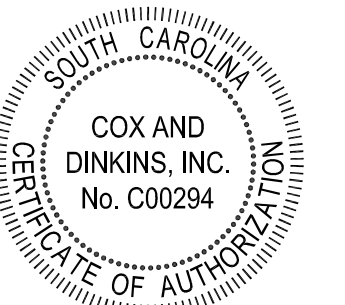
Demised
 Premises
 Suite 'S'



COX AND DINKINS
 ENGINEERS - SURVEYORS

COX AND DINKINS, INC.
 724 BELTLINE BLVD.
 COLUMBIA, SC 29205
 803-254-0518
 Fax: 803-765-0993
 Email: cdinc@coxanddinkins.com

PRELIMINARY



CERTIFICATE OF AUTHORIZATION SEAL

NO.	DATE	DESCRIPTION

PREPARED FOR:
HUNT RETAIL PROPERTIES
 19 CLEYERA COURT
 COLUMBIA, SC 29229
 (803) 736-3325 ex. 1320

PROJECT:
**PROPOSED WALGREENS STORE
 FOLLY ROAD @ CAMP ROAD**
 LOCATED IN JAMES ISLAND
 CHARLESTON COUNTY, SOUTH CAROLINA

SITE PLAN

TMS	337-04-00-131 & 337-04-00-100
BOOK	04B-07
PROJECT NO.	1751
DATE	02/12/2015
SF NO.	65 No. 22
SHEET NO.	3

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



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

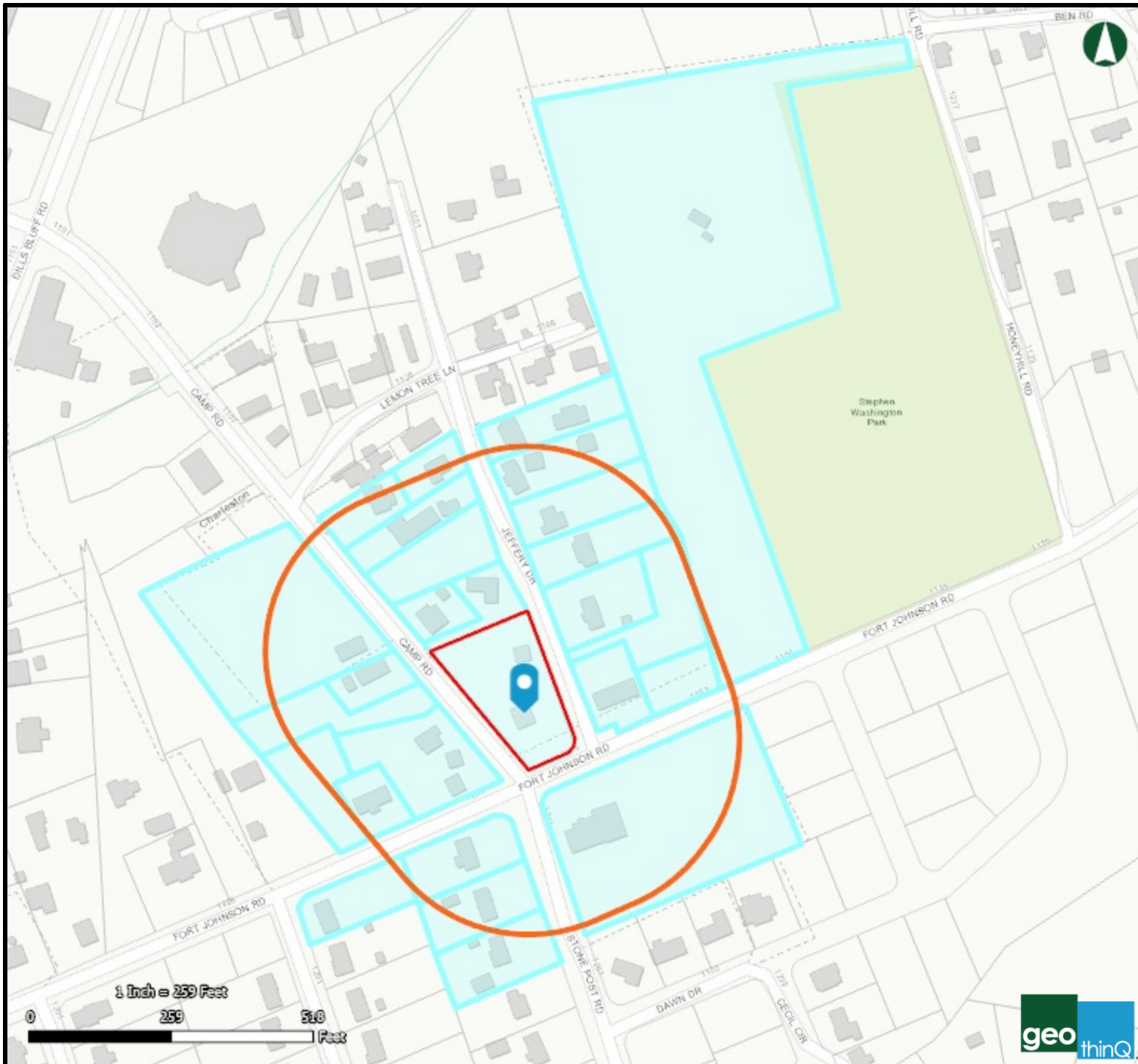
Applicant Name:	John Martin, Transportation Project Manager, Charleston County Public Works		
Mailing Address:	4045 Bridge View Drive		
City, State, Zip Code:	N. Chas, SC 29405	Daytime Phone:	843-202-6139
Email Address:	jpmartin@charlestoncounty.org		
Subject Property Address:	Camp Road and Fort Johnson 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>	

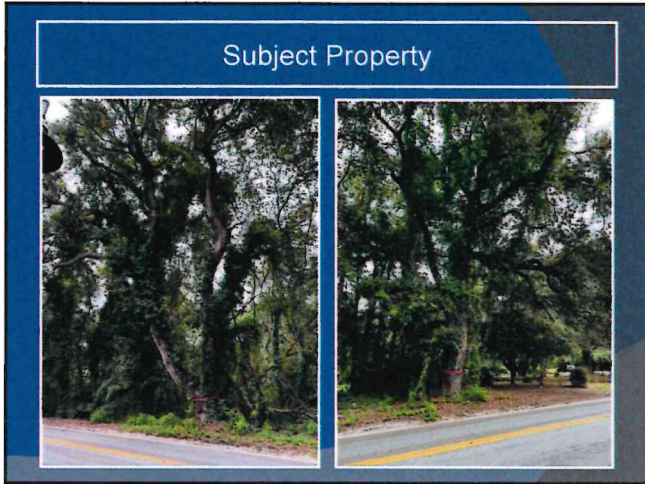


Town of James Island
South Carolina

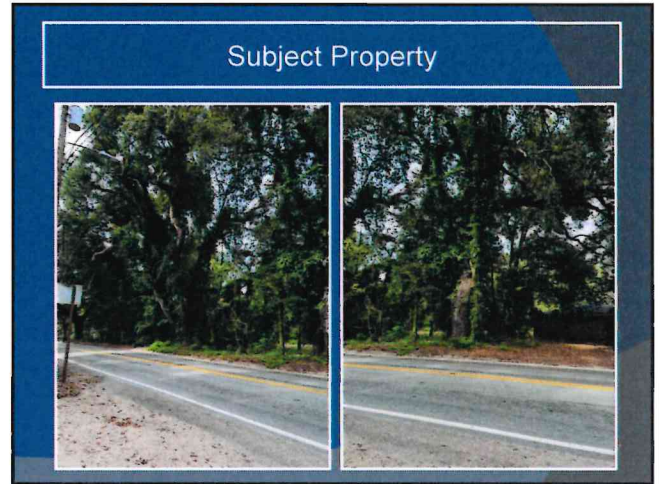


Camp/Fort Johnson Rd Intersection Radius Map

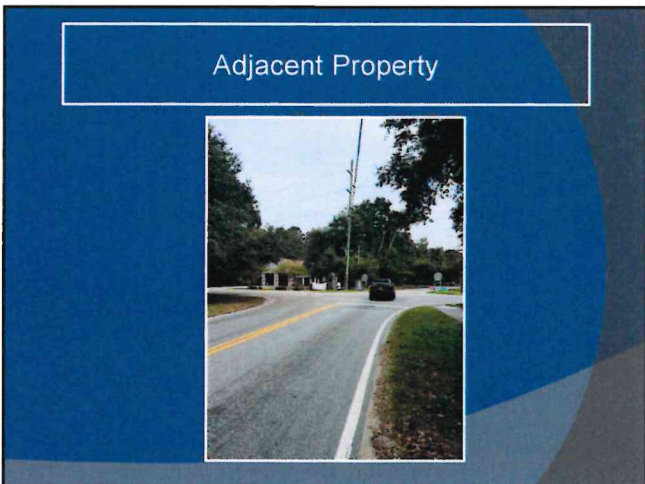
300' Buffer
09/28/2022



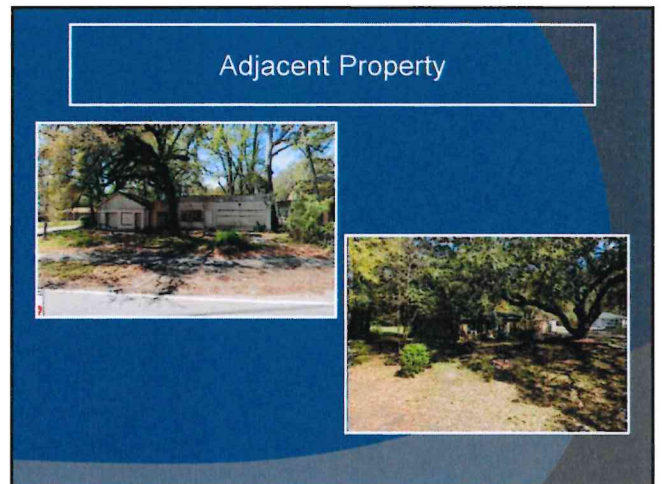
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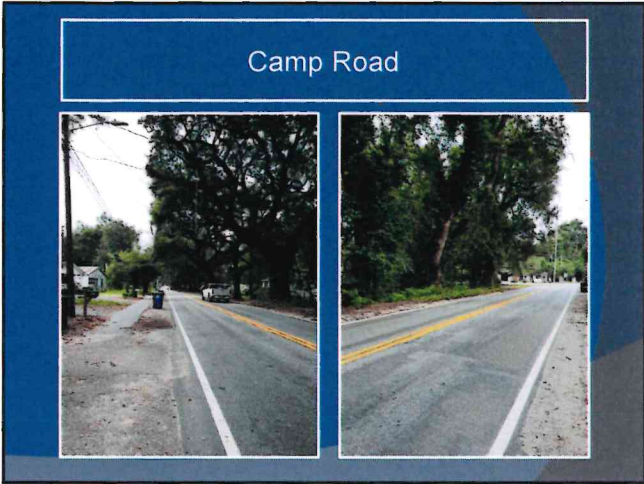
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19



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21

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.

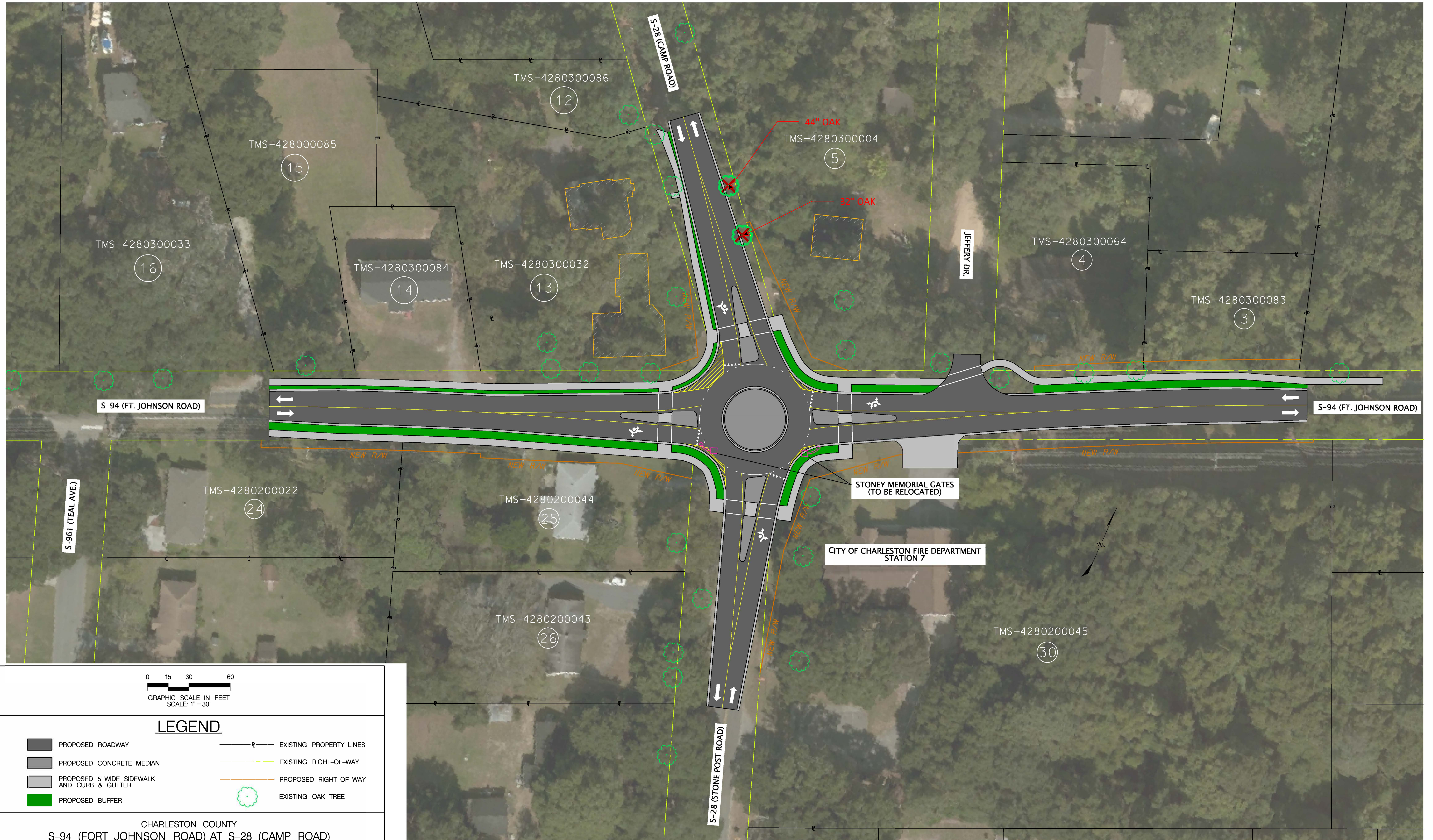
Sincerely,
ESP Associates, Inc.

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.)



0 15 30 60
GRAPHIC SCALE IN FEET
SCALE: 1" = 30'

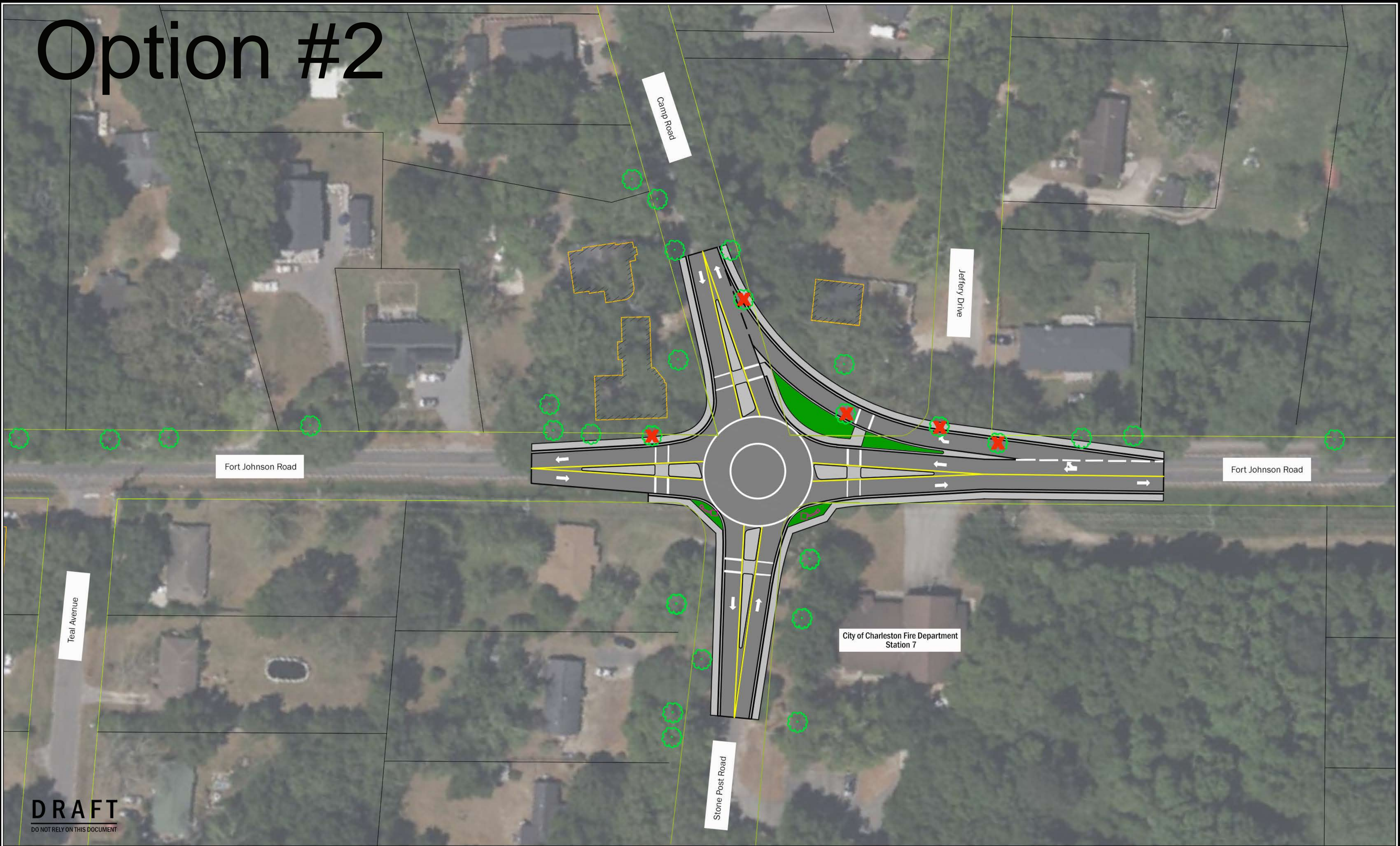
LEGEND

- | | | | |
|--|---|--|-------------------------|
| | 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 |

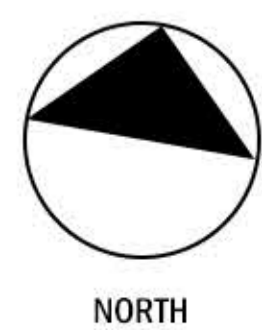
CHARLESTON COUNTY
S-94 (FORT JOHNSON ROAD) AT S-28 (CAMP ROAD)
INTERSECTION IMPROVEMENTS

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



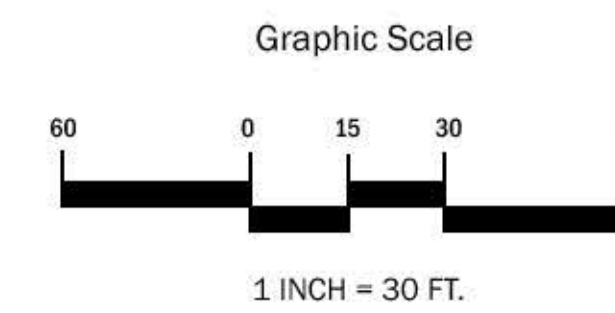
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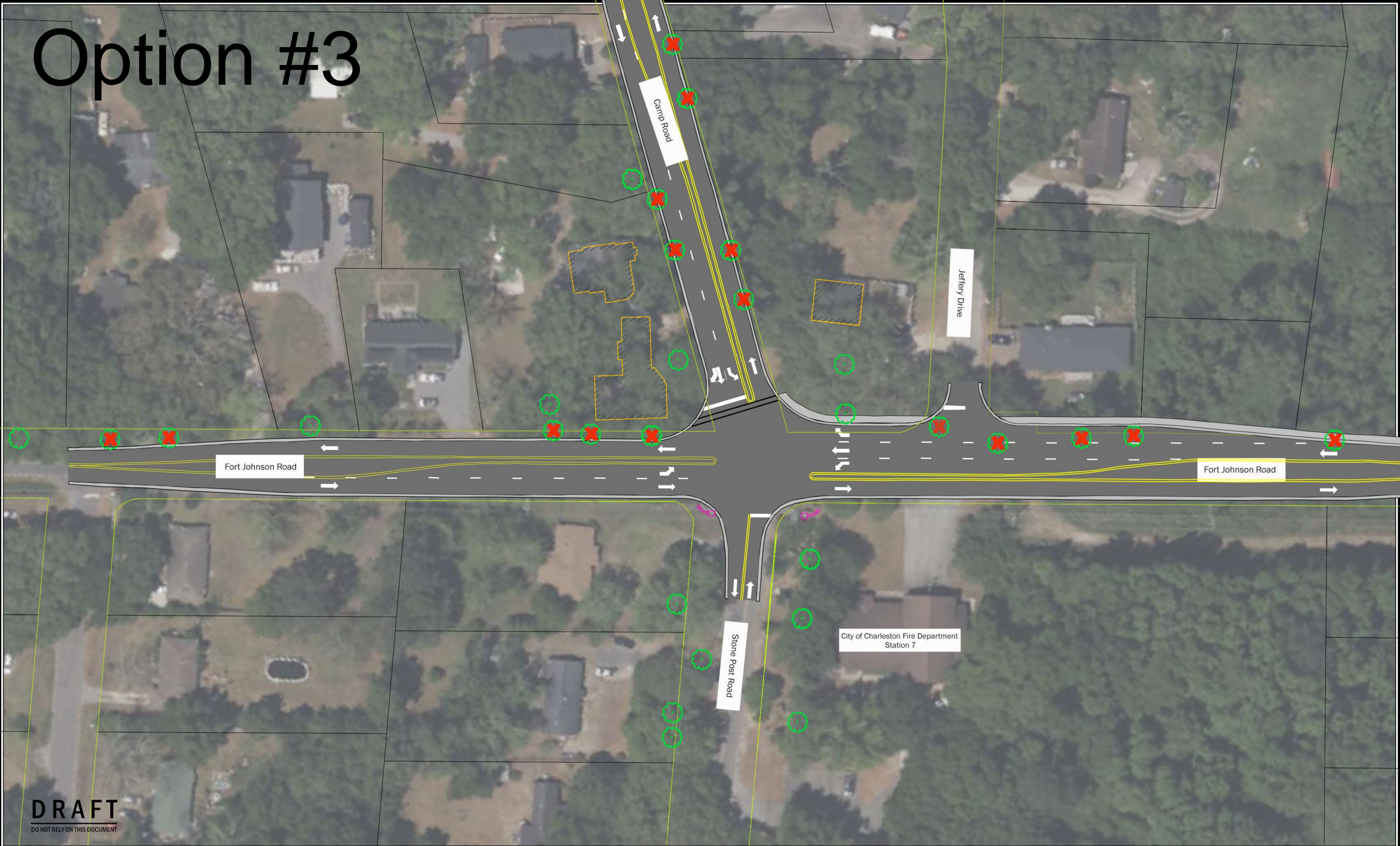
Camp Road Mini Roundabout Tree Mitigation (5)

ESP Job # KM68

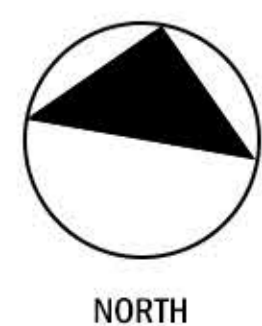
September 27, 2022



Option #3



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Standard Intersection Tree Mitigation (16)

ESP Job # KM68 September 27, 2022

