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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCCONEE COUNTY
Court of Common Pleas
The Honorable J. Cordell Maddox, Jr.

Case No. 2022-CP-37-00396
Appellate Case No. 2022-001796

John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, and Amy Cawthon,

Appellants,

v.

Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Globe, a South Carolina Limited Partnership, and Farmes, a South Carolina Limited Partnership,

Respondents.

RECORD ON APPEAL

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I certify that this designation contains no matter which is irrelevant to this appeal.

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May 26, 2023

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STATE OF SOUTH CAROLINA)) COUNTY OF OCONEE)	IN THE COURT OF COMMON PLEAS Case No. 2022-CP-37-00396
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Defendants/Respondents, And Globe, a South Carolina Limited Partnership, and Farmes, a South Carolina, Limited Partnership, Defendants/Respondents-Intervenors.	**ORDER**

The Petitioners/Appellants ("Ratliff") filed an Amended Summons and Notice of Appeal as well as an Amended Complaint against the Oconee Board of Zoning Appeals ("BOZA") and Ridgewater Engineering & Surveying, LLC ("Ridgewater") appealing the BOZA decision of May 11, 2022 granting road variance application #VA21-011. In addition, Globe, a South Carolina Limited Partnership ("Globe") and Farmes, a South Carolina Limited Partnership ("Farmes") also filed a Motion to Intervene as Defendants/Respondents in these matters subsequent to the BOZA decision. This Court granted the Motion to Intervene by Order dated August 23, 2022.

The Ratliff pleadings challenge the BOZA decision in question dated May 11, 2022 which is based upon evidence and testimony gathered over the course of three public hearings held

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November 30, 2021, January 24, 2022, and April 25, 2022. Each of those hearings pertained to variance application #VA21-011 that requested "a variance of 18.1' from the 50' right-of-way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way."

A hearing was held before this Court on August 16, 2022. Present at the hearing were David L. Paavola and Keith M. Babcock of Lewis Babcock, LLP, attorneys for Ratliff, James W. Logan, Jr. of Logan & Jolly, LLP, attorneys for BOZA, Larry C. Brandt of Larry C. Brandt, PA, R. Boatner "Bo" Bowman of Boatner Bowman Law, and Andrew Holliday of Derrick Ritter Williams and Morris, PA, attorneys for Ridgewater, Globe, and Farmes. In addition to the Record on Appeal pertaining to all three hearings, a transcript of the April 25, 2022 hearing before BOZA was also filed and made a part of the Record on Appeal before this Court. Based upon this Court's review of this record, the pleadings and memoranda filed by the parties, as well as oral arguments from all parties at the hearing on August 16, 2022 referenced above, it is the Court's opinion that the relief sought by Ratliff in their pleadings should be denied.

FINDINGS OF FACT

1. Ridgewater submitted variance application #VA21-011 requesting an 18.1' variance from the 50' right-of-way for the entrance of the subdivision because the end of the existing road did not grant full access into the property. TMS #150-00-01-459 is an unaddressed parcel with the closest address of 599 Ellenburg Road, Seneca, South Carolina 29672. This application was submitted by Ridgewater on behalf of Globe and Farmes.

2. Globe and Farmes jointly own an undeveloped 15-acre tract or peninsula on Lake Keowee, TMS #150-00-01-459 (referred to as "Arrowhead Point"), with the trunk section of this track being adjacent to 585 Ellenburg and 599 Ellenburg. Globe and Farmes purchased Arrowhead

Point in 2008 (Deed Book 1695 at page 87, Oconee County Records) and have entered into a contract for the development of Arrowhead Point for a nineteen-home subdivision. Further, the area of property affected by the variance request is solely on Globe and Farmes' real property. Therefore, as defined by the application, the variance requested is located at the end of Ellenburg Road and the beginning of the Globe/Farmes property line where the width of their property line pinches down to a short narrow strip of land. Accordingly, the variance requested and granted by BOZA does not directly involve the Ratliff's property.

3. During the BOZA hearing on November 30, 2021, the following information was furnished by the Ratliff family:

a. While Ratliff has used access to all of Ellenburg Road from 585 Ellenburg Road, it was admitted that Ratliff only owns approximately one-half of the old Ellenburg Road right-of-way at the point where it abuts the property line of the Globe and Farmes property, that Globe and Farmes own approximately the remailing half of the old Ellenburg Road right-of-way in that area, and that Ratliff was, in fact, using some of the old Ellenburg Road right-of-way located on the Globe and Farmes property in the conduct of its business interests;

b. Ratliff described the history of Ellenburg Road in Oconee County as running all the way from Knox Road and along the lakebed of what is now Lake Keowee; that a portion of that roadbed continuing under Lake Keowee was a tar and gravel road; and that, at a point about where the Globe/Farmes property line is located, Ellenburg Road split and a dirt road went along the lakebed toward High Falls but that Route 1 Ellenburg continued along the edge of the shoreline of the Globe/Farmes property which is now flooded but can still be seen as a tar and gravel road under the water;

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c. Finally, Ratliff stated that Ellenburg Road was a State road when the address of his mother's house was Route 1 Box 258 Ellenburg Road; that he "guessed" the State of South Carolina later transitioned all such roads, including Ellenburg Road, to local governments, in this case, Oconee County, and thus Ellenburg Road would have become an Oconee County Road.

4. The Record on Appeal also reveals that Oconee County representatives furnished the following information regarding the "institutional knowledge" of Oconee County concerning Ellenburg Road:

a. Kyle Reid, Oconee County Road Supervisor, testified regarding County work on Ellenburg Road in 2012 and explained that the 2012 paving repairs did not go all the way to the end of the prior pavement; that his road supervisor at that time, Matt Kelly, instructed him to stop short of the end of the road as they were merely trying to patch the "cracked up and alligatored" part of the road past the subdivision up the hill (Harbor Oaks); that he was instructed to get the worst of it and then pull back; that there was no evidence that the road was ever turned over to the adjoining property owners; that the "institutional knowledge" of Oconee County is that Ellenburg Road is a County road that runs all the way to the Globe and Farmes property line; that a photograph in the record shows a County sign at the edge of the Globe/Farmes property line stating "County Maintenance ENDS Here" with a date stamp of January 16, 2015, and, that Oconee County maintains the right-of-way for that road to the end of the existing pavement.

b. Both Reid and David Root, Oconee County Attorney, as well as counsel for Ridgewater stated that there is no "institutional knowledge" of any abandonment procedure ever being brought pursuant to S.C. Code § 57-9-10, et seq. pertaining to Ellenburg Road

but that said road is shown as being in the Oconee County inventory with the number WA42.

5. In addition to the "institutional knowledge" referenced above, several plats in the Record on Appeal specifically refer to and/or show the right-of-way for Ellenburg Road running along the Ratliff property in question to the property of Globe and Farmes, in particular, a plat prepared for James L. Ratliff and Lucretia B. Morgan referenced in Deed Book 2633 at page 1 and recorded in Plat Book B754 at page 6, Oconee County records. This plat is also shown on page 283 of the Transcript of Record. This plat was prepared for James L. Ratliff and Lucretia B. Morgan (two (2) of the Ratliff Petitioners/Appellants) and recorded on December 4, 2020 in the Oconee County records. Another deed and plat in the Record on Appeal also show the continuation of that Ellenburg Road right-of-way past the above referenced Ratliff and Morgan property to the property of Globe and Farmes. That deed is recorded in Deed Book 14-I at page 102 and references a plat recorded on August 30, 1974 in Volume P-39 at page 61, and is contained in the Record on Appeal at P. 293-294, Oconee County records. Accordingly, the right-of-way for Ellenburg Road at these two critical sections involved in this case is shown, as a matter of public record, as a right-of-way that affects both the Ratliff property and the Globe/Farmes property and the deeds for these properties refer to the conveyances as being subject to "…easements or rights-of-way for roadways…"

6. The Record on Appeal also establishes that the area of the real property for which this variance is requested is solely located on the real property owned by Globe and Farmes. BOZA clearly defined the variance area as located beginning at Globe/Farmes' property line where the width of their property pinches down to a short narrow strip of land for which the variance was

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requested. Therefore, BOZA correctly found that the variance granted does not directly involve the property of Ratliff.

7. The Record on Appeal also establishes that the tract of land owned by Globe and Farmes containing 15.35 acres was conveyed to them by Special Warranty Deed from Crescent Communities S.C., LLC, recorded in Deed Book 1695 at page 87 (Oconee County Records) subject to exceptions contained therein including, but not limited to, "(6) easements, covenants, restrictions and conditions of record and rights-of-way of public and private streets and roads, including, but not limited to, the right-of-way shown on the plat as Ellenburg Road." Exhibit A to that deed refers to a plat dated December 8, 2008 and recorded in Plat Book B291 at page 1, Oconee County Records. That Deed and Plat are contained in the Record on Appeal on pp. 20 – 35 and p. 46, respectively.

LEGAL ANALYSIS

The history of Ellenburg Road presented to BOZA during the hearings regarding this matter support a determination that Ellenburg Road was once a state-maintained road running from Knox Road across and now under what is now the lakebed for Lake Keowee. At some point in the past, the State abandoned that road and Ellenburg Road became an Oconee County road. Further, the absence of any evidence that an abandonment procedure was ever brought to terminate the public right-of-way for Ellenburg Road requires a determination that, as a matter of law, Ellenburg Road remains an Oconee County maintained road. See *Wessinger v. Goza,* 231 S.C. 607, 99 S.E.2d 395 (Sup.Ct. 1957), *Sloan v. State Highway Department,* 150 S.C. 337, 148 S.E. 183, S.C. Code §57-9-10, *S.C. DOT v. Hinson Family Holdings, LLC,* 361 S.C. 649, 505 S.E.2d 781 (Sup.Ct. 2004), and *Bancohio National Bank v. Neville,* 310 S.C. 323, 426 S.E.2d 773 (Sup.Ct. 1993). This determination is certainly in line with the "institutional knowledge" established by the testimony

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of the Oconee County representatives and the plats referenced above on file in the Office of the Register of Deeds for Oconee County showing the existence of Ellenburg Road and its right-of-way. These plats clearly show the existence of the right-of-way in question extending past the Ratliff property to the real property owned by Globe and Farmes.

South Carolina law provides, in essence, in S.C. Code § 57-5-120, that if the State abandons a portion of a road, that portion of that road reverts to the local government, in this case, Oconee County, and is subject to an abandonment procedure brought to terminate the public right-of-way pursuant to S.C. Code § 57-9-10, et seq. As previously stated, there is no history/evidence of such an abandonment procedure having ever being brought.

Under South Carolina law, "the findings of fact by the Board of Appeals must be treated in the same manner as the findings of fact by a jury, and the Court may not take additional evidence." S.C. Code Ann. § 6-29-840(A). Further, "a jury's factual findings will not be disturbed on appeal unless the record contains no evidence reasonably supporting the jury's findings." *Boehm v. Town of Sullivan's Island Bd. Of Zoning Appeals,* 423 S.C. 169, 182, 813 S.E.2d 874, 880 (Ct. App. 2018) (citing *Austin v. Bd. Of Zoning Appeals,* 362 S.C. 29, 35, 606 S.E.2d 209, 212 (Ct. App. 2004)). In addition, "in determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law." S.C. Code Ann. § 6-29-840(A). It is well settled that the Court may look to written documents as well as records of proceedings to determine whether the record is sufficient and in proper format for final decisions, i.e., the format of the final decision is immaterial as long as the substance of the decision is sufficiently detailed in the record so as to allow the reviewing Court to determine if the decision is supported by the facts *Austin v. Board of Zoning Appeals*, 362 S.C. 29, 606 S.E.2d 209 (Ct.App. 2004).

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The decision in *Venture Engineering, Agent for DT, LLC v. Horry County Zoning Board of Appeals*, 433 S.C. 419, 858 S.E.2d 638 (Ct.App. 2/2021) holds that a decision by the Board must not be disturbed if there is supporting evidence in the record. (S.C. Code Ann. §6-29-840). That court also held that a court must not substitute its judgment for that of the Board of Zoning Appeals even if it disagrees with the decision and also holds that a court reviewing the Board's decision may rely on uncontroverted facts that appear in the record. Certainly, the history of the right-of-way of Ellenburg referenced in the transcripts in the Record on Appeal and the facts giving rise to that right-of-way claim are uncontroverted facts that do appear in the record. In addition, the record establishes that BOZA was provided the final location of the road in question. It is only reasonable and proper that BOZA received that information and considered it.

Therefore, the Record on Appeal is supportive of the facts/conclusions as determined by BOZA in its written decision in this case which complies with the statutory obligations of BOZA pursuant to S.C. Code 6-29-800 (A)(2), i.e.:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. The authorization of a variance will not be of substantial detriment to adjacent users or to the public good, and that the character of the district will not be harmed by the granting of the variance.

Accordingly, this Court finds that the decision of BOZA was not arbitrary and capricious, that those facts and decisions have a reasonable relation to a lawful purpose, and that BOZA did not abuse its discretion as the decision of BOZA is clearly supported by the evidence presented to it.

It is therefore Ordered, Adjudged, and Decreed that the Ratliff Appeal of the BOZA decision is denied, and the Ratliff Summons and Complaint against BOZA and Ridgewater be, and the same are hereby, dismissed, with prejudice.

It is so ORDERED. This _____ day of _____, 2022.

_____
Honorable Presiding Judge
Tenth Judicial Circuit

September 9, 2022

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Oconee Common Pleas

Case Caption:	Johns Marine Service Inc , plaintiff, et al VS Oconee County Board Of Zoning Appeals
Case Number:	2022CP3700396
Type:	Order/Other

So Ordered

s/ J. Cordell Maddox Jr.

ELECTRONICALLY FILED - 2022 Nov 21 2:10 PM - OCONEE - COMMON PLEAS - CASE#2022CP3700396

STATE OF SOUTH CAROLINA)) COUNTY OF OCONEE)	IN THE COURT OF COMMON PLEAS Case No. 2022-CP-37-00396
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals,	**ORDER DENYING PETITIONERS'/APPELLANTS' MOTION TO ALTER OR AMEND ORDER DENYING RELIEF**
Ridgewater Engineering & Surveying, LLC, Defendants/Respondents, And Globe, a South Carolina Limited Partnership, and Farmes, a South Carolina, Limited Partnership, Defendants/Respondents-Intervenors.	

On September 23rd, 2022, Petitioners/Appellants filed a Motion to Alter or Amend Order Denying Relief. This motion requested that the Court alter/amend its previous Order Denying Relief on the grounds that this order did not address several arguments that the Petitioners/Appellants raised in their pre-hearing brief and during the August 16, 2022, hearing. After careful consideration and review of the record on appeal and the arguments raised during the August 16, 2022, hearing, the Court determined that Ellenburg Road is within the inventory of Oconee County and subject to the jurisdiction of the Oconee County Board of Zoning

Appeals. Accordingly, it was not necessary for the Court to reach the arguments cited by Petitioners'/Appellants' Motion to Alter or Amend Order Denying Relief.

Therefore, Petitioners'/Appellants' Motion to Alter or Amend Order Denying Relief is DENIED.

It is so ORDERED. This _____ day of _____, 2022.

_____
Honorable Presiding Judge
Tenth Judicial Circuit

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Oconee Common Pleas

Case Caption:	Johns Marine Service Inc , plaintiff, et al VS Oconee County Board Of Zoning Appeals
Case Number:	2022CP3700396
Type:	Order/Other

So Ordered

s/ J. Cordell Maddox Jr.

ELECTRONICALLY FILED - 2022 Jun 09 9:54 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700396

STATE OF SOUTH CAROLINA COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS FOR THE TENTH JUDICIAL CIRCUIT
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Defendants/Respondents.	)	Case No. 2022-CP-37-00396 **AMENDED COMPLAINT** **(Appeal from the Board of Zoning Appeals)**

Petitioners/Appellants John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, and Amy Cawthon (collectively, "Petitioners"), appealing a decision by the Oconee County Board of Zoning Appeals ("BOZA") granting road variance application #VA21-011, respectfully allege unto this Court:

This appeal concerns whether Oconee County has a prescriptive easement over a paved section of Ellenburg Road that is privately owned by Petitioners and the adjacent property owners, and whether from that prescriptive easement the BOZA can then grant a right-of-way variance for the construction of a new public road (and accompanying nineteen-home subdivision) that will tie in to that prescriptive easement. The paved private driveway is partially on Petitioners' property (585 Ellenburg Road and 599 Ellenburg Road) and partially on adjacent landowners' property, with the majority of the paving on Petitioner's property.[1]

The BOZA grant of variance application #VA21-011 was erroneous for the following reasons:

[1] Petitioners do not waive, and specifically reserve, the right to claim ownership of the entire area of the private driveway that they paved, used, and maintained for forty years.

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i. BOZA concluded that Oconee County held a prescriptive easement over Petitioners' property without having any sworn testimony, documentary, or any other evidence supporting the existence of such an easement, and where Petitioners provided documents and sworn affidavits to the contrary. Prescriptive easements must be shown by clear and convincing evidence. This standard was not met. Because the BOZA failed to find a prescriptive easement by clear and convincing evidence, it lacked jurisdiction to grant a variance for a new public road and order the abandonment of Petitioners' land.

ii. BOZA's decision unilaterally increased and modified the burden on Petitioners' property. Assuming Oconee County has an easement over Petitioners' property, which is expressly denied, the BOZA's grant of the variance expands a dead end road for the development of a nineteen-home subdivision bringing an estimated additional 200 cars a day past Petitioners' property. Such additional traffic will impact the way John's Marine has conducted business at the same location for the past forty years. It was error for BOZA to grant a variance that materially increases and changes the burden on Petitioners' property.

iii. BOZA's Order granting the variance states that the "character of the district *WILL be harmed* by the granting of the variance." (Emphasis added). Granting a variance in light of such a conclusion is arbitrary, capricious, and an abuse of discretion.

iv. BOZA granted the variance application without knowing the final location of the proposed public roadway. Documents submitted to the BOZA showed that the location of the roadway was not final and that under certain scenarios it may push the roadway nine feet onto Petitioners' property, which will further negatively impact John's Marine's ability to conduct business. BOZA's decision to approve the variance without knowing the final location of the roadway and the full impact to John's Marine was arbitrary, capricious, and an abuse of discretion.

v. BOZA is required by statute to provide a written explanation for its findings. The BOZA Order granting the variance does not contain an explanation for why the variance will not be of substantial detriment to John's Marine under the varying road location scenarios. BOZA was presented with drawings showing that under certain scenarios Petitioners will lose land and John's Marine's operations will be greatly impacted. The BOZA did not adequately explain its finding of no substantial detrimental impact to John's Marine in light of the information before it that the roadway location was not final.

For these reasons, the BOZA Order should be reversed.

PARTIES, JURISDICTION, AND VENUE

1. Petitioner John's Marine Service, Inc., ("John's Marine") is an entity organized and existing under the laws of the state of South Carolina, with its primary place of business operations located at 599 Ellenburg Road Seneca, South Carolina (TMS #150-00-01-100, hereinafter "599 Ellenburg").

2. Petitioners Frances J. Ratliff, Edward J. ("Jay") Ratliff Jr., Sherri Akers Crisp, and Amy Cawthon each have an ownership interest in 599 Ellenburg.

3. Petitioner James L. ("Jimmy") Ratliff is the President of John's Marine Service, an owner of 599 Ellenburg, and an owner of real property located at 585 Ellenburg Rd Seneca, South Carolina (TMS#150-00-01-099, hereinafter "585 Ellenburg").

4. Petitioner Lucretia B. Morgan is an owner of 585 Ellenburg.

5. Oconee County is a political subdivision of the State of South Carolina and a body politic and corporate pursuant to S.C. Code Ann. § 4-1-10. In accordance with S.C. Code Ann. § 6-29-780, Oconee County created a Board of Zoning Appeals, which is a quasi-judicial body

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empowered to hear appeals from Zoning Administrators, applications for variances, and application for special exceptions.

6. Defendant/Respondent Ridgewater Engineering & Surveying, LLC is a South Carolina limited liability company with its principal place of business in Anderson County, South Carolina, and was the applicant for the variance at issue in this appeal.

7. This Court has jurisdiction over the parties and the subject matters as provided by S.C. Code § 6-29-820(A), which states that "A person who may have a substantial interest in any decision of the board of appeals . . . may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law."

8. Venue is proper in Oconee County as the acts herein occurred in Oconee County and the properties at issue are located in Oconee County.

PROCEDURAL BACKGROUND

9. This appeal is from the April 25, 2022 decision of the BOZA granting Ridgewater Engineering and Surveying's ("Ridgewater") variance application #VA21-011 for a variance of 18.1' from the 50' right-of-way required for construction of a new public road.

10. Variance application #VA21-011 initially came before the BOZA on November 30, 2021, then again on January 24, 2022, and finally for a vote on April 25, 2022.

11. The BOZA order being appealed in this matter was issued and mailed on May 11, 2022, attached as **Exhibit 1** (the "Variance Order").

12. The Variance Order sets forth the following conclusions:

i. There ARE extraordinary and exceptional conditions pertaining to the particular piece of property;

ii. These conditions DO NOT generally apply to other property in the vicinity;

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iii. Because of these conditions, the application of this chapter to the particular piece of property WOULD effectively prohibit or unreasonably restrict the utilization of the property; and

iv. The authorization of a variance WILL NOT be of substantial detriment to adjacent uses or to the public good, and the character of the district *WILL be harmed* by the granting of the variance. (Emphasis added).

13. The Variance Order was approved with the following conditions:

i. Order approved subject to proper abandonment procedures;

ii. Compliance with all ordinances and state law on acceptance into the County roadway system;

iii. Developer grant/ deed John's Marine property so that there is reasonable, unimpeded access to the new road.

14. The Variance Order is premised on Oconee County having a preexisting prescriptive easement along the entire paved section of Ellenburg Road, including in front of John's Marine. This fact is disputed by Petitioners. Petitioners objected to variance application #VA21-011 and submitted documents showing that Oconee County does not have a prescriptive easement across 585 Ellenburg and 599 Ellenburg.

15. The Variance Order is also premised on the assumption that Oconee County can unilaterally increase the burden of a prescriptive easement on a servient estate. Petitioners dispute this conclusion.

16. The Variance Order concludes that the variance will not be of substantial detriment to adjacent uses. Petitioners submitted documents showing that variance application #VA21-011 would be of substantial detriment to John's Marine. Petitioners also submitted drawings showing that the location of the final roadway was not final and there is a possibility that the location of the final roadway would shift considerably towards John's Marine and cause further detriment. The

BOZA approved the variance application without knowing the location of the final roadway and the full extent of the impacts to John's Marine.

17. The BOZA voted to approve variance application #VA21-011 over Petitioners' objections.

FACTUAL BACKGROUND

18. Edward (John) Ratliff and Francis (Jan) Ratliff purchased 599 Ellenburg in 1981 and co-located their home on the property along with John's Marine, which was moved to the property from downtown Seneca in 1982.

19. At the time the Ratliff's purchased 599 Ellenburg in 1981, T.B. Ellenburg owned the adjacent property located at 585 Ellenburg. Descendants of T.B. Ellenburg owned 585 Ellenburg until 2020 when it was sold to Petitioners James Ratliff and Lucretia Morgan.

20. Upon information and belief, at some point before or around the mid-1980's, Oconee County paved a portion of Ellenburg Road from Knox Road to approximately the western edge of 585 Ellenburg, at which location Oconee County installed an "End of County Maintenance" sign. In the mid-1980's, T.B. Ellenburg and John Ratliff, as fee owners of the private driveway running in front of 585 & 599 Ellenburg, undertook the expense of paving their respective portions of the private drive and for forty years have maintained the road as a private driveway (hereinafter, the "Private Driveway"). The Private Driveway dead ends at John's Marine. The paved Private Driveway is on Petitioners' property (585 Ellenburg Road and 599 Ellenburg Road) and the adjacent landowners' property, with the majority on Petitioner's property.

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21. Upon information and belief, Oconee County undertook at certain times to stripe the center line of the public section of Ellenburg Road, stopping where the Private Driveway begins and never reaching 599 Ellenburg. Attached as **Exhibit 2** (Excerpt from April 25, 2022 Hearing Exhibit Backup Materials, 155-161).

22. Upon information and belief, Oconee County has no records of public maintenance of the Private Driveway.

23. Jan Ratliff, who has been an owner of 599 Ellenburg since 1981, provided an affidavit to Oconee County stating that:

i. In 2009, she, along with her daughter-in-law, met with employees of the Oconee County Roads and Bridges Department. These employees provided Ms. Ratliff with a plat indicating that the county's maintenance of Ellenburg Road ended at green highlighted marker at 565 Ellenburg Road.

ii. The green marker was where the "End of County Maintenance" sign had been located for years before it was moved.

iii. Her family has continuously maintained the paved portion of Ellenburg Road to the east of the endpoint of county maintenance, and the county has not engaged in any maintenance of the Private Driveway. **Exhibit 3** (Jan Ratliff Aff. (Jan. 7, 2022)).

24. Globe, A South Carolina Limited Partnership, ("Globe"), and Farmes, A South Carolina Limited Partnership, ("Farmes"), jointly own an undeveloped 15-acre tree or arrowhead-shaped peninsula on Lake Keowee, TMS #150-00-01-459 (referred to as "Arrowhead Point").[2]

[2] The deed reflects TMS#150-00-01-444, which is believed to now be known as TMS#150-00-01-459. Oconee County Register of Deeds Book/Page 1695/87.

The "trunk" section of this tract is adjacent to 585 Ellenburg and 599 Ellenburg and a portion of this property is part of the paved Private Driveway.

25. Globe and Farmes purchased the Arrowhead Point in 2008. At the time Globe and Farmes purchased this property, Oconee County Ordinances required a 50' right-of-way for roads serving more than ten homes. **Exhibit 4** (Excepts from Amended Minutes April 25, 2022, 368-379 (Ordinance 2000-09, § 6.2.3 Private Roads; Ordinance 2006-12, § 2.7.7 Road Design)).

26. Upon information and belief, Globe and Farmes have entered into a contract for the development of Arrowhead Point for a nineteen-home subdivision. Upon information and belief, the size of the Arrowhead Point subdivision will require the developer to construct a public road.

27. Arrowhead Point does not currently have public road access and it is not adjacent to the public road system. The closest vehicular access to the Arrowhead Point is Petitioners' Private Driveway.

28. Property lines for 585 Ellenburg, 599 Ellenburg, and Arrowhead Point run along the Private Driveway, the majority of which is on Petitioners' property.

VARIANCE APPLICATION

29. Pursuant to Oconee County Ordinance Section 26-3(e)(1), public roads require a minimum of 50' right-of-way.

30. According to the drawings and application submitted by Ridgewater, the narrowest section of the proposed public road to service Arrowhead Point is 31.9'. As such, Ridgewater submitted variance application #VA21-011 requesting an 18.1' variance from the 50' right-of-way required for public roads. See **Exhibit 5** (Excerpt from April 25, 2022 Hearing Exhibit Backup Materials, 85, 94-95, 103-107).

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31. At all points where the proposed new public road is adjacent to Petitioners' property, the 50' right-of-way requirement cannot be met unless Petitioners' Private Driveway is included in the public right-of-way calculation. **See Exhibit 5** (Excerpt from April 25, 2022 Hearing Exhibit Backup Materials, 85, 94-95, 103-107). In voting to approve variance application #VA21-011, BOZA necessarily assumed as a fact that the county has an existing right-of-way over Petitioners' Private Driveway that can be used to satisfy the 50' requirement along the rest of the newly proposed public road. This conclusion is not correct.

32. On November 30, 2021, variance application #VA21-011 was first placed on the BOZA agenda. During this meeting, county staff suggested that Oconee County has a prescriptive easement across the Private Driveway; however, this conclusion is not correct and was contested by Petitioners. The November 30, 2021 meeting ended without a vote and with a directive from the BOZA for county staff to answer the question of who owns the Private Driveway. **Exhibit 6** (Excerpt of Minutes, November 30, 2021 BOZA Meeting 1, 5-7).

33. On January 24, 2022, variance application #VA21-011 was again discussed by the BOZA. The application was removed from the table before discussion of ownership of the Private Driveway began. Oconee County staff indicated continuing conflicting evidence over whether the County maintained the traveling surface of the Private Driveway. A vote on the application was postponed. **Exhibit 7** (Excerpt of Minutes, January 24, 2022 BOZA Meeting 1-3).

34. On April 25, 2022, variance application #VA21-011 was again before the BOZA on continuation from the January 24, 2022 hearing.

35. The minutes of the April 25, 2022 meeting reflect "the County position that the road is under a prescriptive easement based on institutional knowledge, but that the affidavits presented call that into question." **Exhibit 8, at 3** (Excerpt of Minutes, April 25, 2022, 1, 3-7).

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36. When asked if the county has a prescriptive easement on the Private Driveway, County Attorney David Root stated that nothing had changed from his January opinion that the "County's corporate or institutional memory or knowledge is that it has prescriptive easement to the end of the pavement," but that he also had two affidavits from Jan Ratliff and Laurie Ellenburg Bright calling the ending of the location of the easement into question. (April 25, 2022 BOZA Hearing 19:40, https://www.youtube.com/watch?app=desktop&v=uAZ6uupnsWI&t=5196s (hereinafter "BOZA Hearing")). As Mr. Root summarized, "that's all I have." (BOZA Hearing at 20:27). Corporate or institutional memory is not evidence and the county provided no affidavits or other documentary evidence of a prescriptive easement over the Private Driveway.

37. The BOZA was provided with an Oconee County staff opinion stating that the county has a prescriptive easement over the Private Driveway that ends at the edge of the pavement. **Exhibit 9** (Excerpt from April 25, 2022 Hearing Exhibit Backup Materials, 98). No documents were submitted or cited by staff in support of this position. *Id*. Staff did not submit any evidence at all in support of this position. During the April 25, 2022 meeting, county staff employee Kyle Reid reiterated that the staff's opinion of prescriptive easement was based solely on "institutional knowledge" and further stated that he contacted the state and the state had no records showing that Ellenburg Road was ever a state road, there were no records of state maintenance or abandonment of Ellenburg Road, and the county had no records that it ever accepted Ellenburg Road into the county road system. (BOZA Hearing 24:45-25:45).

38. In making its decision to approve the variance, the BOZA had no written documentation or evidence of any kind showing that Oconee County has a prescriptive easement over the Private Driveway. Oconee County did not provide the BOZA with any maintenance records reflecting that Oconee County has ever performed maintenance on the Private Driveway.

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39. The BOZA recognized that deciding the prescriptive easement was a predicate issue to its decision on the variance application, and foundational to the entire approval and development process, stating: "If it's decided there is no prescriptive easement there the county's got no business there, there isn't going to be no road built. . . . it all depends on that getting decided somewhere." (BOZA Hearing 2:00:55). Even so, the BOZA decided it was " not competent to decide that issue . . . we are not going to decide that." (BOZA Hearing 1:57:40). Yet, the BOZA moved forward with a vote deciding to "go ahead and decide this as if were an easement," noting that if someone wants to challenge in court they can do that. (BOZA Hearing 1:57:50).

40. At the time it voted to approve variance application #VA21-011, the BOZA had the following evidence before it concerning ownership and use of the Private Driveway by Petitioners:

i. November 22, 2021 letter from Petitioner Jimmy Ratliff, attached as **Exhibit 10** (Excerpt from April 25, 2022 Hearing Exhibit Backup Materials, 150-153). Mr. Ratliff explained that:

   a. His father John Ratliff started John's Marine in 1972 and moved it to its current location at 599 Ellenburg Road in 1982;

   b. Oconee County maintenance on Ellenburg Road ended west of 585 Ellenburg and for decades John's Marine owned and maintained from 585 Ellenburg to the dead end at 599 Ellenburg;

   c. Petitioners, and their predecessors in interest, have maintained the Private Driveway since 1981.

ii. April 22, 2022 letter from Petitioner Jimmy Ratliff, attached as **Exhibit 11** (Excerpt from April 25, 2022 Hearing Exhibit Backup Materials, 303-314). Mr. Ratliff attached documents and explained that:

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a. In 2009, Oconee County Roads and Bridges employees provided the Ratliff family with a plat dated 2008 indicating end of County maintenance west of 585 and 599 Ellenburg (attachment #1); see also affidavit Jan Ratliff attached as **Ex. 3**;

b. Pictures of Ellenburg Road show the end of Oconee County center lane stripes at 565 Ellenburg Road (attachment #2);

c. Ratliff family has maintained the Private Driveway serving 599 Ellenburg for over 40 years;

d. Laurie Ellenburg Bright provided an affidavit indicating that she resided at 591 Ellenburg Road for 40 years prior to March 2021, and her recollection that an "End of County Maintenance" sign was located between 575 Ellenburg Road and 585 Ellenburg Road for years (attachment 3);

e. There are no deed restrictions and no easements reflected on the recorded plat for 599 Ellenburg (attachments 4, 5).

41. At the time it voted to approve variance application #VA21-011, the BOZA had the following information before it concerning the impact to John's Marine:

i. November 22, 2021 letter from Petitioner James Ratliff, attached as **Ex. 10**. Mr. Ratliff explained that:

a. The boat repair shop is located at the point of the 18.1' variance;

b. John's Marine parks boats and trailers on the Private Driveway, which under the proposed plan will become a public right-of-way;

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c. John's Marine uses the entire area of the Private Driveway to maneuver boats and trailers;

d. Customers use the entire area of John's Marine and the Private Driveway to deliver boats and trailers for repair and service;

e. John's Marine services disabled boats on Lake Keowee and it uses the entire area of the Private Driveway to facilitate this service;

f. Disabled boats are stored all along the Private Driveway until diagnosis and repair;

g. John's Marine's centralized location permits it to respond quickly to distress calls on the lake;

h. John's Marine would be unable to function if the variance were granted.

ii. April 22, 2022 letter from Petitioner Jimmy Ratliff, attached as **Ex. 11**, additionally set forth:

a. Applicant's proposed road diagram overlayed with boats and trailers as John's Marine currently uses its property and showing that applicant only has 22.8' at the location of the variance rather than the claimed 31.9' (attachment 6), which would require Petitioners' property to be used for the proposed road.

b. Images depicting entire use of the Private Driveway for repair shop access and boat and trailer storage (attachment 7);

c. Scale drawings showing that in order to meet the 31.9' right-of-way, the developer would have to account for 9.1' gap in

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measurement that would push the public road onto Petitioners' Private Driveway, which would impact the ability to maneuver boats into the repair shop (attachments 8, 9). The final location of the proposed public road was uncertain at the time of the variance application.

iii. Diagram prepared by the applicant showing the 9.1' of Petitioners' property in the proposed right-of-way needed for the new public road. **Ex. 5**, at 1.

iv. Oconee County staff reported to the BOZA that the new development could add as many as 200 daily trips past John's Marine. **Ex. 8**, at 4.

v. Public comments from Petitioner Jay Ratliff, a South Carolina licensed Professional Engineer, informed the BOZA that the roadway designs provided by the developer reflected a variation in road placement such that under certain scenarios, up to 9-feet of Petitioners' property would be needed to make the roadway meet the 31.9' proposed width, taking away the ability of John's Marine to maneuver boats. (BOZA Hearing 45:20-47:35; **Ex. 5**, at 1). Mr. Ratliff relayed to BOZA the developer's admission that it will not know the exact dimensions of the road until it is built. (BOZA Hearing 49:00-49:50). Mr. Ratliff also raised the issue of placement of the utilities in the right of way, which could further impact John's Marine. (BOZA Hearing 49:50-50:50). Additionally, road and home construction will impact John's Marine. (BOZA Hearing 50:10).

42. During the April 25, 2022 hearing, county staff raised the issue of needing to know as part of the variance application the exact location of the county's proposed right-of-way for the

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new public road. (BOZA Hearing 2:32:52-2:33:52). This question was not answered and the BOZA Order does not address it, underscoring Petitioners' concerns about the shifting nature of the location of the public road and uncertain impact to their property.

43. The BOZA had records before it showing that when Globe and Farmes bought Arrowhead Point, Oconee County Ordinance 2000-09, Section 6.2.3, required 50' right-of-way even for private roads. **Ex. 4** (Oconee County Council Meeting (Aug. 1, 2000)).

44. Despite abundant evidence on the absence of a prescriptive easement along the Private Driveway and evidence of substantial detrimental impacts to John's Maine, the BOZA voted to approve the variance.

FIRST CAUSE OF ACTION
(Lack of Jurisdiction to Grant Variance for Proposed Public Road)

45. Petitioners reallege each and every allegation set forth above as if repeated verbatim herein.

46. Variance application #VA21-011 was before the BOZA requesting a variance for the construction of a new public road.

47. The BOZA granted the variance for a new public road based on its erroneous conclusion that Oconee County held a prescriptive easement along Petitioners' Private Driveway such that this new public road could tie in to, and become part of, the existing county road system.

48. As part of its Order, the BOZA also conditioned its variance approval on abandonment of Petitioners' Private Driveway.

49. The BOZA assumed the existence of a prescriptive easement without first requiring that the prescriptive easement be proved by Oconee County by clear and convincing evidence. *Bundy v. Shirley*, 412 S.C. 292, 306, 772 S.E.2d 163, 170-71 (2015).

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50. Because BOZA failed to find a prescriptive easement by clear and convincing evidence, it lacked jurisdiction to grant variance application #VA21-011 for the construction of a new public road and lacked jurisdiction to order abandonment of Petitioners' Private Driveway. This was error.

SECOND CAUSE OF ACTION
(Grant of Variance Application Based on Error of Law in Finding Prescriptive Easement)

51. Petitioners reallege each and every allegation set forth above as if repeated verbatim herein.

52. Prior to voting to approve variance application #VA21-011 to grant a variance for a future public road, the BOZA necessarily had to determine that it had a prescriptive easement across the entire paved section of Ellenburg Road, including Petitioner's Private Driveway. Based on this asserted prescriptive easement, the BOZA then determined it could grant a variance for a future public road that will tie into the existing prescriptive easement along Ellenburg Road.

53. Oconee County does not have a prescriptive easement along the Private Driveway.

54. A prescriptive easement must meet all of the following elements:

i. Continued and uninterrupted use or enjoyment of the right for a period of twenty years;

ii. The identity of the thing enjoyed; and

iii. Use or enjoyment which is either adverse or under claim or right. *Bundy v. Shirley*, 412 S.C. 292, 304, 772 S.E.2d 163, 169-70 (2015).

55. A prescriptive easement must be proven by clear and convincing evidence. *Bundy v. Shirley*, 412 S.C. 292, 306, 772 S.E.2d 163, 170-71 (2015).

56. The only evidence cited by Oconee County for asserting the existence of a prescriptive easement over the Private Driveway was "institutional memory." Institutional

memory is not evidence. The BOZA had no documentary or testimonial evidence before it reflecting any Oconee County use or maintenance of the Private Driveway. Conversely, evidence presented by Petitioners included testimony, affidavits, and documents reflecting that Petitioners paved the Private Driveway and have maintained it for forty years and that Oconee County's road maintenance ended west of the Private Driveway.

57. The BOZA made an error of law when it granted the variance application premised on a finding of a prescriptive easement without first determining the existence of a prescriptive easement with all elements met by clear and convincing evidence.

THIRD CAUSE OF ACTION
(Grant of Variance Application Based on Error of Law Unlawful Expansion of Easement)

58. Petitioners reallege each and every allegation set forth above as if repeated verbatim herein.

59. Even assuming the existence of a prescriptive easement, which Petitioners expressly deny, the BOZA's grant of a variance application will result in a material increase in the burden on Petitioners' property and imposed a new and additional burdens.

60. Granting a variance for a private development of nineteen homes with an estimated 200 trips per day driving along Petitioners' property will result in a material increase in the burden on Petitioners' property. The only current users of the dead end Private Driveway are Petitioners, their visitors, and patrons of John's Marine. Installation of a public road servicing a brand new subdivision will materially change the character of the Private Driveway and increase the burden of vehicular traffic on Petitioners' property.

61. Transforming the Private Driveway into a public road also places new burdens on Petitioners' property. John's Marine has been operating at it current location for forty years. Petitioners testified that John's Marine will no longer be able to operate on the property should

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the Private Driveway be transformed into a public road for nineteen new homes. John's Marine uses the entirety of the Private Driveway to conduct its business. If the Private Driveway is no longer available to John's Marine, this is a new and substantial burden that has never been placed on Petitioners' land and a restriction Petitioners never assented to.

62. It was error for BOZA to approve the variance which will materially increase the burden and create new burdens on Petitioners' land. The owner of an easement cannot materially increase the burden on the servient estate nor impose new or additional burdens. *Rhett v. Gray*, 401 S.C. 478, 736 S.E.2d 873 (Ct. App. 2012). This was an error of law.

FOURTH CAUSE OF ACTION
(Arbitrary and Capricious Grant of Variance Application)

63. Petitioners reallege each and every allegation set forth above as if repeated verbatim herein.

64. The BOZA determined that "The authorization of a variance WILL NOT be of substantial detriment to the adjacent uses . . ." but that "the character of the district *WILL be harmed* by the granting of the variance." (Emphasis added).

65. The BOZA's decision to approve a variance when the character of the district "WILL be harmed" is arbitrary, capricious, and an abuse of discretion. Moreover, this is contrary to the statutory requirement, and local ordinance, that requires a finding that "the district *will not be harmed* by the granting of the variance." S.C. Code Ann. § 6-29-800(A)(2)(d); Oconee County Code Sec. 38-7.1.(4).

66. Petitioners submitted scale drawings showing that in order for the applicant, or developer, to meet the 31.9' right-of-way to construct the new public road, the applicant will either have to fill in a substantial amount of land currently underwater, or the roadway will have to shift toward John's Marine and be placed on top of the location where John's Marine currently

maneuvers boats and trailers. The applicant's own drawings reflected this 9.1' shift onto Petitioners' property needed for the new public road.

67. Petitioners testified that the substantial increase in traffic (200 cars a day) will detrimentally impact its business, even without this shift in the proposed road. If the road in fact must shift, such that John's Marine will now be a public roadway for 200 cars a day, it will have an even more detrimental impact on Petitioners.

68. In reviewing a variance application, the BOZA is charged with determining whether the requested variance will "be of substantial detriment to adjacent property." S.C. Code Ann. § 6-29-800 (A)(2)(d); Oconee County Code Sec. 38-7.1.(4). "The developer shall have the burden of providing evidence to the county of compliance with . . . the specific requirements of this applicable section." Oconee County Code Sec. 38-7.1. Only where the BOZA determines the variance *will not* be of substantial detriment can a variance be granted.

69. In this instance, the BOZA approved the variance application without sufficient definiteness as to the final location of the proposed public roadway. Moreover, the developer did not present the BOZA with sufficient evidence as to the final location of the roadway. As demonstrated by Petitioners, the detrimental impact analysis changes as the placement of the final roadway shifts. The BOZA did not conduct sufficient analysis of the detrimental impact on Petitioners' property under the various scenarios of the final road placement, and did not sufficiently review the impact of utility placement, road construction, and home construction.

70. The BOZA's finding of no substantial detriment to Petitioners' property and its decision to approve the variance application without sufficient definiteness as to the final location of the roadway was arbitrary, capricious, and an abuse of discretion.

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FIFTH CAUSE OF ACTION
(Violation of Statutory & Code Requirement for Explanatory Findings)

71. Petitioners reallege each and every allegation set forth above as if repeated verbatim herein.

72. In order to grant a variance application, the BOZA must review four state statutory requirements, which are incorporated in the Oconee County ordinance. S.C. Code Ann. § 6-29-800(A)(2); Oconee County Code Sec. 38-7.1.(1)-(4). The BOZA's review of each requirement, and findings as to how each requirement is satisfied, must be explained in writing. *Id.* S.C. Code Ann. § 6-29-800(A)(2) ("A variance may be granted . . . if the board *makes and explains in writing*" the four requirements); Oconee County Code Sec. 38-7.1. ("The board of zoning appeals may grant a variance . . . if the board of zoning appeals makes and explains in writing" the four requirements).

73. Here, the BOZA's Order on variance application #VA21-011, does not contain written explanatory findings as to each of the four statutory requirements. See **Exhibit 1**. The BOZA Order simply repeats verbatim the four requirements without any explanatory analysis or comment.

74. Moreover, the BOZA Hearing transcripts contains no analysis by the BOZA of the impacts to John's Marine under the varying road location scenarios. The BOZA was presented with drawings indicating that under certain scenarios, property from Petitioners would need to be taken to meet the 31.9' right-of-way, and under this scenario Petitioners would lose land rather than gain any land, which contradicts one of the assumptions underlying the BOZA's vote approving the variance.

75. Because the BOZA Order on variance application #VA21-011 was not accompanied by written explanatory findings and the transcript is devoid of sufficient analysis on these points, it must be voided.

WHEREFORE, Petitioners pray that this Court reverse and void the BOZA's grant of variance application #VA21-011, and that the application be denied; and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/ David L. Paavola

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June 9, 2022

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Oconee County
Board of Zoning Appeals
415 South Pine Street
Walhalla, SC 29691
864-364-4218

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BOARD ORDER ON VARIANCE HEARING
Hearing date: April 25, 2022
Permit Application: VA21-011

The Board of Zoning Appeals held a public hearing on Monday, April 25, 2022, to consider the request for a variance in accordance with County Ordinances, by application, for variance request #VA21-011: Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

The Board makes the following conclusions:
Based on the evidence presented to the Board regarding the proposed Variance:

1. There ARE extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions DO NOT generally apply to other property in the vicinity;
3. Because of these conditions, the application of this chapter to the particular piece of property WOULD effectively prohibit or unreasonably restrict the utilization of the property; and
4. The authorization of a variance WILL NOT be of substantial detriment to adjacent uses or to the public good, and the character of the district WILL be harmed by the granting of the variance.

Therefore, by A VOTE OF 5-0, the Board of Zoning Appeals orders that a variance from the required 50' right-of-way of 18.1' located at TMS# 150-00-01-459 has been APPROVED with the following condition:
Order approved subject to proper abandonment procedures, compliance with all ordinances and state law on acceptance into the County roadway system. Developer grant/ deed John's Marine property so that there is reasonable, unimpeded access to the new road.

Date issued: 5/11/22

Chairman

Secretary

Date mailed to parties in interest: 5.11.22 Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.

EXHIBIT 1

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Ellenburg Road - 2021

EXHIBIT 2

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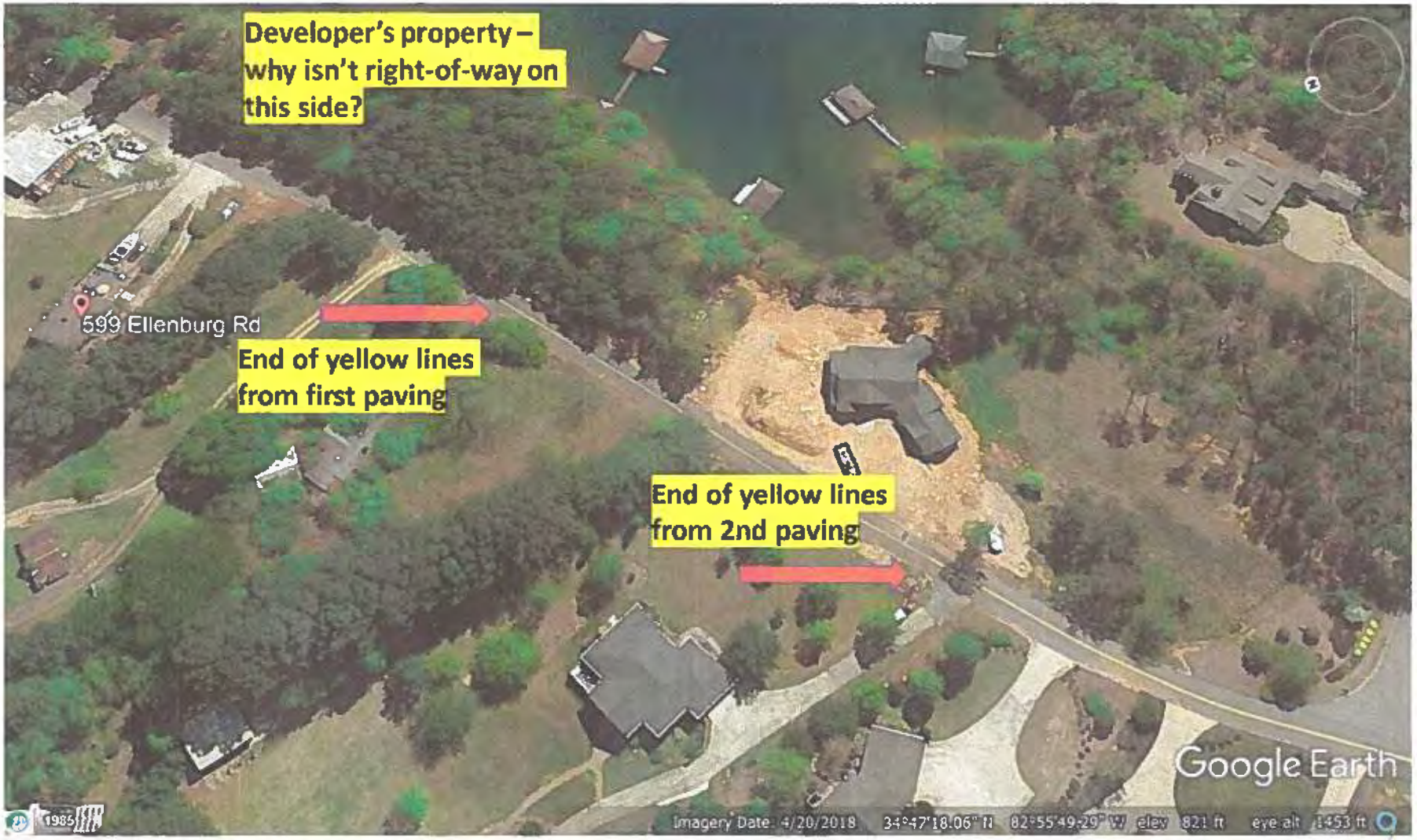

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COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

AFFIDAVIT OF JAN RATLIFF

BEFORE ME appeared, Frances ("Jan") J. Ratliff, who deposes and says:

1. I reside at 599 Ellenburg Road, Seneca, South Carolina 29672, and have personal knowledge of the matters set forth herein.
2. On October 1, 2009, I, along with Karen Rasbornik, attended a meeting at the offices of the Oconee County Roads and Bridges Department. Also present were County employees Matt Kelley, Price Brown, and Larry Hardin.
3. At the time of the meeting, Karen Rasbornik and I were given a copy of the Plat attached to as **Exhibit "A"** by employees of the Oconee County Roads and Bridges Department.
4. Exhibit "A" bears the initials of "GBP" (George Prince Brown) and is dated 08-15-08.
5. At the time of the meeting, employees of the Oconee County Roads and Bridges Department stated that the County's maintenance of Ellenburg Road ends where the point is highlighted in green immediately to the west of parcel on Exhibit "A" as 103.
6. The place where County employees stated that County maintenance ends was marked for many years with a sign indicating the end of County Maintenance until someone moved the sign. The Plat reference also coincides with where the road striping ended for many years.
7. The point represented by County employees as the end of County Maintenance is a long distance from my property.

EXHIBIT 3

8. My family has continuously maintained the paved portion of Ellenburg Road to the east of the endpoint of County Maintenance. The County has not engaged in any maintenance of the portion of Ellenburg Road in question.

FURTHER AFFIANT SAYETH NAUGHT.

Frances J. Ratliff

FRANCES J. RATLIFF

SWORN to before me this 7 day of Jan., 2022.

Michelle Nauldin

Print Name: Michelle Nauldin
Notary Public for State of SC
My Commission Expires: 12/9/2029

ELECTRONICALLY FILED - 2022 Jun 09 9:54 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700396

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AGENDA
OCONEE COUNTY COUNCIL MEETING
TUESDAY, August 1, 2000
7:00 PM
OCONEE COUNTY ADMINISTRATIVE OFFICES
415 SOUTH PINE STREET
WALHALLA, SC

1. Call to Order
2. Invocation
3. Approval of Minutes
4. Public Comment Session (Not to exceed thirty minutes)
5. Second Reading of Ordinance 2000-09, "AN ORDINANCE TO AMEND ORDINANCE 99-14, UNIFIED PERFORMANCE STANDARDS ORDINANCE AND LAND DEVELOPMENT REGULATIONS TO INCLUDE SUBDIVISION AND LAND DEVELOPMENT & VARIANCE PROCEDURE FOR SUBDIVISIONS" – Mr. Tommy Abbott, Chairman, Planning Commission
6. Presentation of Draft Proposal for Fall Creek & Town Creek Landing Parks – Dr. Grant Cunningham
7. Consideration of Approval of Grant Application for Federal Assistance in the Amount of $2,420,078 for the Airport – Mrs. Melissa Brown, Grants Coordinator
8. Consideration of Approval of FY2000 Solid Waste Bonus Grant Application in the Amount of $10,000 – Mrs. Melissa Brown, Grants Coordinator
9. Consideration of Approval of Tentative Listing of Surplus Equipment to be Sold at Auction – Ms. Marianne Dillard, Purchasing Agent
10. Consideration of Approval to Dispose of Timber at the Vehicle Maintenance Facility – Ms. Marianne Dillard, Purchasing Agent
11. Consideration of Approval of Change Order for Road Department – Mr. Jon Caime, County Engineer
12. Consideration of Approval of Memorandum of Agreement Between Oconee County & Department of Juvenile Justice

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Open Session Period Continued:

Mr. Steve Sokol addressed Council regarding the formation of the Oconee Keowee Alliance, which is opposed to the boat race during Waterfest 2000. Mr. Sokol further informed Council they had received 1200 signatures of people who are opposed to the boat race.

Mr. Steven Ancona spoke in opposition of the proposed subdivision regulations ordinance.

Mr. Warren Carpenter stated he supported the concept of the subdivision regulations ordinance, however, he felt it needed more study. Mr. Carpenter is opposed to the 100 foot set back for septic tanks, he requested the ordinance be sent back to the Planning Commission. (See attached statement)

Mr. Tom Markovich spoke in opposition of the subdivision regulations and requested that Council review it more closely. He also expressed feeling that the ordinance violated the Fifth Amendment and the Twelfth Amendment. (See attached statement)

Mr. John Hamrick also spoke in opposition of the way property would have to be divided under the proposed subdivision regulations.

Mr. Rick Thompson stated that if the ordinance is adopted, zoning in Oconee County will be adopted, he further stated he felt the ordinance should be less restrictive. (See attached statement)

Mr. B. J. Littleton stated he was in support of using the whole block where the courthouse is located for the courthouse. He also asked how many houses would you want to place on a .57 acre tract of land, the houses should not be crowded together, he also stated he felt the setbacks in the ordinance are reasonable.

Ordinance 2000-09:

Mr. Hall made a motion that Ordinance 2000-09, "AN ORDINANCE TO AMEND ORDINANCE 99-14, UNIFIED PERFORMANCE STANDARDS ORDINANCE AND LAND DEVELOPMENT REGULATIONS TO INCLUDE SUBDIVISION AND LAND DEVELOPMENT & VARIANCE PROCEDURE FOR SUBDIVISIONS" be referred to the next Council Meeting when full Council is present. However, this motion died for lack of a second.

Mr. Thomas made a motion, seconded by Mr. Hamilton, approved 2 – 1 (Mr. Hall voting against that Ordinance 2000-09 (titled above) be referred to the Law Enforcement, Safety, Health, Welfare & Services Committee for further study.

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AGENDA ITEM SUMMARY
OCONEE COUNTY, SC
COUNCIL MEETING DATE: 4/4/06
COUNCIL MEETING TIME: 5:00 pm

ITEM TITLE OR DESCRIPTION:

Subdivision & Land Use Ordinance

BACKGROUND OR HISTORY:

Oconee County Road & Transportation Committee recommended significant changes to the Subdivision & Land Use Ordinance.

SPECIAL CONSIDERATIONS OR CONCERNS:

Changes to the Subdivision & Land Use Ordinance are part of the ordinance of moratorium.

STAFF RECOMMENDATION:

Council adopt ordinance on first reading and refer to Planning Commission.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Subdivision & Land Use Ordinance

Submitted or Prepared By:

Tom Hendricks

Approved for Submittal to Council:

Ron H. Thaven, County Administrator

Reviewed by/Initials:

_____:County Attorney

_____:Finance

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(Revisions 3/24/06)
These revisions are in *bold italics*
(Offices of Brad Norton)

Performance Standards, Chapter 6.

6.0 SUBDIVISION AND LAND DEVELOPMENT

6.1 AUTHORITY AND JURISDICTION

6.1.1 Authority

These land development and subdivision regulations are adopted under authority granted by Title VI, Chapter 29 (6-29-1120) et. seq. of the Code of Laws of South Carolina, 1976.

6.1.2 Jurisdiction

a. These regulations shall apply to the development and subdivision of land within the unincorporated areas of Oconee County as now or hereafter established and any incorporated municipality which contracts with the Oconee County Council for these regulations to be administered within such municipality. Regulations contained within this ordinance that apply to the construction and maintenance of roads shall apply to all roads and drainage structures, whether public or private, constructed within any unincorporated area of Oconee County and municipalities contracted with the Oconee County Council for administration of these regulations. Regulations contained within this Ordinance that apply to the construction and maintenance of roads, appurtenancies or drainage structures shall apply to all public and private roads, drives and driveways in the unincorporated areas of Oconee County; also included shall be all municipalities contracted with the Oconee County Council to administer these regulations. These regulations shall not apply to those roads completed, under construction, or approved by Oconee County prior to adoption of this Ordinance by County Council. In the event that a regulation in this ordinance conflicts with any other county regulation, the more stringent standard shall apply.

6.2 PURPOSE AND SHORT TITLE

6.2.1 Purpose

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k. be signed in accordance with adopted E-911 Addressing regulations.

l. allow at least one hundred (100) feet of sight distance for each ten (10) miles per hour of the posted speed limit where the private drive intersects a public road. The sight distance shall be measured from a seeing height of three and one-half (3 ½) feet to an object one foot in height above the grade of the public road. If the proposed drive does not meet the sight distance requirement, a waiver must be signed by the individuals(s) constructing the private drive stating that the owner(s) is liable and responsible for any accidents, injuries, problems, and property damage resulting from improper sight distance.

m. meet all applicable storm water management and sediment control regulations.

n. be approved in writing by Planning Commission staff prior to submission of plat(s) the Register of Deeds for recording. The following shall be prominently printed on the plat(s) in all capital letters:

> **"THE ROAD RIGHT-OF-WAY EASEMENTS SHOWN ON THIS PLAT SHALL BE PRIVATE DRIVES NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY, AND WERE NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY EASEMENTS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDNANCE WITH ADOPTED OCONEE COUNTY SUBDIVISION REGULATIONS."**

o. Comply with the State Manual for Uniform Traffic Control Devices.

6.3.3 **Private Roads** – Private roads shall provide vehicular access and road frontage to developments, or sections of developments, containing more than ten (10) single-family residential lots. All private, non-dedicated roads shall be prominently indicated as such on plats prior to subdivision approval. Maintenance arrangements for such roads must be noted in writing on subdivision plat submitted and must be subsequently recorded. The development served by a private road shall have direct access onto a public road, and no such private road shall be laid out so as to serve property outside the development. All private roads shall:

a. serve a maximum of seven (7) lots;

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b. have a minimum right-of-way crossement width of fifty (50) feet

c. have a minimum road frontage requirement of thirty (30) feet for all lots

d. be constructed in accordance with the regulations set forth in section 6.8 of these regulations.

e. be maintained by an individual, association of property owners, or active Home Owner's Association as recorded in appropriate deed covenants and restrictions.

f. be legally certified for compliance by a surveyor/engineer licensed by the State of South Carolina.

g. be named in accordance with adopted E-911 Addressing regulations.

h. meet all storm water management and sediment control regulations.

i. be properly approved in writing by Planning Director prior to submission of plats to the Register of Deeds for recording. The following shall be prominently printed on the plat(s) in all capital letters:

"THE ROAD RIGHT-OF-WAY EASEMENTS SHOWN ON THIS PLAT SHALL BE PRIVATE ROADS, NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY AND NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY EASEMENTS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDANCE WITH THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE."

j. Comply with the State Manual for Uniform Traffic Control Devices.

With the exception of the requirements put forth in this section, all private roads shall meet the requirements of Section 6.8 Public Roads of the Subdivision and Land Development Ordinance.

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Ordinance 2006-11:

Mr. Lyles made a motion, seconded by Mr. Crumpton, approved 5 – 0 that Ordinance 2006-11, "AN ORDINANCE REGULATING THE USE OF COUNTY ROADS" be adopted on first reading.

Ordinance 2006-12:

Mr. Rinehart made a motion, seconded by Mr. Lyles, approved 5 – 0 that Ordinance 2006-12, "AN ORDINANCE AMENDING SECTION 6: SUBDIVISION & LAND USE DEVELOPMENT OF ORDINANCE 99-14, OCONEE COUNTY UNIFIED PERFORMANCE STANDARDS AND LAND USE DEVELOPMENT REGULATIONS AS ADOPTED BY ORDINANCES 2001-04, 2002-05 & 2004-14" be adopted on first reading.

Ordinance 2006-07:

Mr. Moore made a motion, seconded by Mr. Crumpton, approved 5 – 0 that Ordinance 2006-07, "AN ORDINANCE IMPOSING A SIX MONTH MORATORIUM ON THE APPROVAL OF SITE PLANS AND/OR BUILDING PERMITS FOR ANY CONSTRUCTION PROJECT WITHIN ONE THOUSAND (1,000') OF LAKES THAT ARE WITHIN OR ADJACENT TO OCONEE COUNTY UNLESS SAID PROJECT INCLUDES A TWENTY-FIVE (25') FOOT RIPARIAN BUFFER AND A SIX MONTH MORATORIUM ON THE APPROVAL OF SITE PLANS AND/OR BUILDING PERMITS FOR ANY SUBDIVISION AS DEFINED IN THIS ORDINANCE THAT WILL RESULT IN THE NEED TO UPGRADE A COUNTY ROAD IN ACCORDANCE WITH THIS ORDINANCE" be adopted on second reading.

Ordinance 2007-09

Mr. Crumpton made a motion, seconded by Mr. Rinehart, approved 5 – 0 that Ordinance 2007-09, "AN ORDINANCE REGULATING FALSE FIRE ALARMS TO WHICH OCONEE COUNTY RURAL FIRE DEPARTMENTS RESPOND" be adopted on first reading.

Auction Listing:

Mr. Crumpton made a motion, seconded by Mr. Moore, approved 5 – 0 that the attached listing of surplus properties be adopted and a date of May 6, 2006 be established for the auction.

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Oconee County Planning Commission

415 S. Pine St. • Walhalla, South Carolina 29691
Phone (864) 638-4218 • Fax (864) 638-7046

The Golden Corner

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Memorandum 42-00

May 23, 2000

To: **Oconee County Council**

From: **Planning Commission**

Subject: **Performance Standards Ordinance**

Please find attached the following:

1. An amendment to the Performance Standards Ordinance.
2. The proposed Chapter 2 of the Performance Standards Ordinance.

The amendment will allow a variance procedure for the proposed chapter 2. The original ordinance allowed a variance for all chapters except chapter 2. This language will correct that omission.

The proposed chapter 2, Subdivision and Land Development has been reviewed and approved by the Planning Commission. Some parts of the chapter are contentious and council members will hear from some disgruntled developers. The chapter will solve many of the ongoing problems created by development.

Cc: Harrison Orr
Planning Commission wo\encl

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ATTACHMENT 1- PROPOSED AMENDMENT TO THE PERFORMANCE STANDARDS ORDINANCE

New section to 1.4.1 (h)

(h) Variance- to hear and decide requests for variance from the requirements of Chapter 2, of the Performance Standards Ordinance concerning the standards for the subdivision and land development, when strict application of the provisions of the ordinance would result in unnecessary hardship. Variances shall be decided by the Planning Commission pursuant to *Section 1.5.5.3* of this ordinance, *General Criteria for Granting a Variance.*

2.0 SUBDIVISION AND LAND DEVELOPMENT

2.1 AUTHORITY AND JURISDICITON

2.1.1 Authority

These land development and subdivision regulations are adopted under authority granted by Title VI, Chapter 29 (6-29-1120) et. seq., of the Code of Laws of South Carolina, 1976.

2.1.2 Jurisdiction

These regulations shall apply to the development and subdivision of land within the unincorporated areas of Oconee County as now or hereafter established and any incorporated municipality which contracts with the Oconee County Council for these regulations to be administered within such municipality. Regulations are also contained herein which shall apply to the construction and maintenance of all roads whether or not they are part of subdivision development.

2.2 PURPOSE AND SHORT TITLE

2.2.1 Purpose

The purpose of this ordinance is to protect and promote the public health, safety and general welfare of the citizens of Oconee County, South Carolina, providing for the harmonious, progressive, and orderly development of land. These regulations are established for the following specific purposes, among others, as provided for in the South Carolina Local Government Comprehensive Planning Enabling Act Of 1994 (Section 6-29-1120 of the Code of Laws of South Carolina, 1976, et seq.):

(1) to encourage the development of an economically sound and stable county;

(2) to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;

(3) to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

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remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Not withstanding the other provisions of this subsection, no temporary dead-end street in excess of one thousand (1,000) feet may be created unless no other practicable alternative is available.

2.7.3 Private Roads - All private, non-dedicated roads must be indicated as such prior to subdivision approval. Maintenance arrangements for such roads must be stated in writing on subdivision plat submittals. The development shall have direct access into a public road and no such private road may be laid out so as to serve property outside the development. Each private road must indicated as such on all plats and deeds.

2.7.4 Road Names - A proposed road which is obviously in alignment with or an extension of an existing named road shall bear the name of the existing road. Except for the above, in no case shall the name of a proposed road duplicate or be phonetically similar to an existing road name, irrespective of the use of suffix (road, avenue, boulevard, drive, place, court, lane, etc.). It shall be unlawful for any person in laying out any new road to name such road on any final plat or in any deed or instrument, without first obtaining the approval of the Oconee E-911 Addressing Office and the Planning Commission.

2.7.5 Local Roads - Local roads shall be so laid out that their use by through traffic will be discouraged.

2.7.6 Residential Buffers for Major Roads - Where a subdivision abuts or contains an existing or proposed collector or arterial road, the Planning Commission may require that lots which abut or are adjacent to the major road shall face a minor interior access road. Other treatment may also be required, as necessary, for adequate protection of residential properties and for separation of through and local traffic. Special treatment may be required, such as screen planting contained in a non-access reservation along the rear property line adjacent to the major road.

2.7.7 Road Design (Geometric Criteria) - In general, geometric criteria for road design shall be in accordance with standards of the South Carolina Department of Transportation (SCDOT). Said standards are those contained in the latest edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials". Local and collector residential roads (public or private) shall be designed in accordance with the following standards.

a. Minimum right-of-way and pavement width shall be as follows:

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Road Type	Right-of-Way	Pavement
Local (closed drainage)	50'	22'
Local (open drainage)	50'	22'
Collector	50'	24'

For high density residential or nonresidential subdivisions or portions thereof, additional right-of-way or pavement width shall be provided when determined as necessary by the Planning Commission or County Supervisor.

b. Cul-de-sacs shall not exceed one thousand (1000) feet in length, except where unusual topographic or other physical conditions dictate otherwise, and shall have a turnaround with a minimum diameter of seventy (70) feet to pavement edge and a minimum diameter of one hundred (100) feet to the right-of-way line. Dead-end streets without turnarounds are prohibited.

c. Horizontal curvature shall be introduced at any change in road direction, and the minimum centerline radius shall be one hundred fifty (150) feet for local roads and two hundred fifty (250) feet for collector roads. Arterial road curvature shall be in accordance with State Highway Department standards. Minimum tangent between reverse curves shall be one hundred (100) feet for local roads, and sixty (60) feet from curve to any intersecting road.

d. Stopping sight distance on vertical curves be shall at least one hundred fifty (150) feet (25 mph design speed) for local roads and three hundred twenty five (325) feet (45 mph design speed) for collector roads. If a collector road may reasonably be expected to serve more than one subdivision, it shall be designed for at least a fifty five (55) mph design speed (450' minimum sight distances). Minimum sight distance at intersections shall be established by provision of a clear sight triangle right of way measured at least twenty five (25) feet from the intersection of the road right-of-way in either direction which triangle shall be entered upon the final plat prior to recording. Modifications may be required by the County Engineer in order to insure safety.

e. Roads shall be designed to intersect as nearly as possible at right angles but no less than seventy five (75) degrees. Minimum radius of curb or pavement edge at intersections shall be at least twenty (20) feet at intersections with local roads and twenty five (25) feet at intersections with collector roads.

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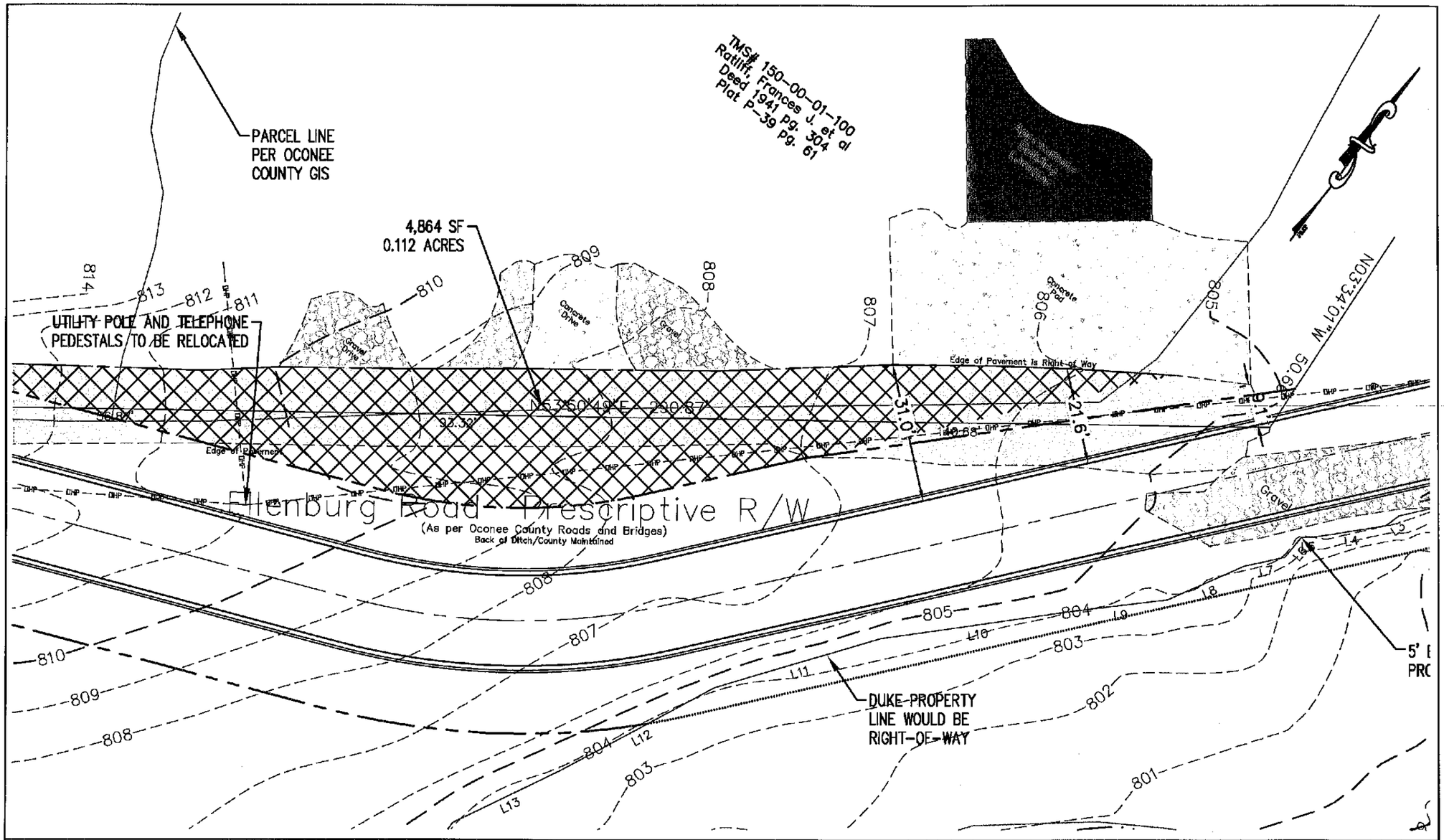

Site Plan
SCALE: 1"=20'

Arrowhead Point
Project # 1764.1 3/21/22

EXHIBIT 5

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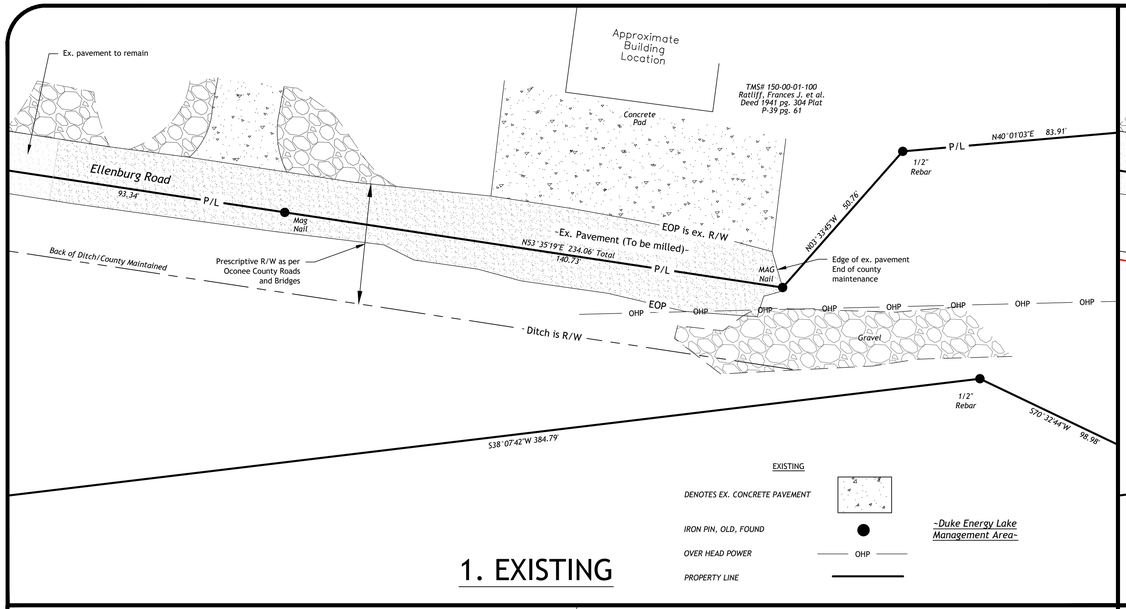

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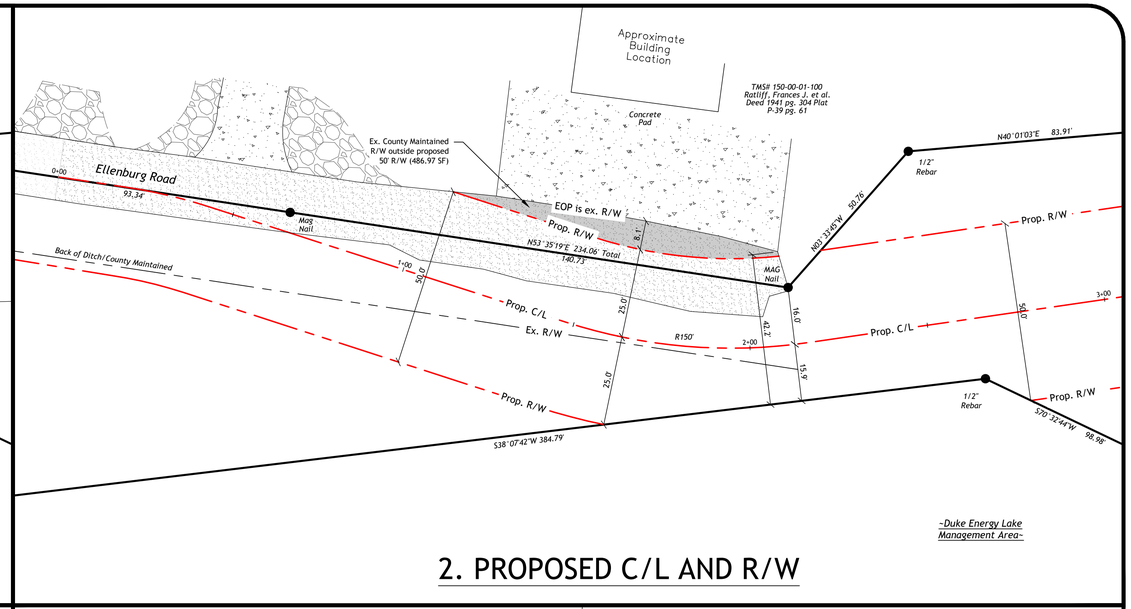
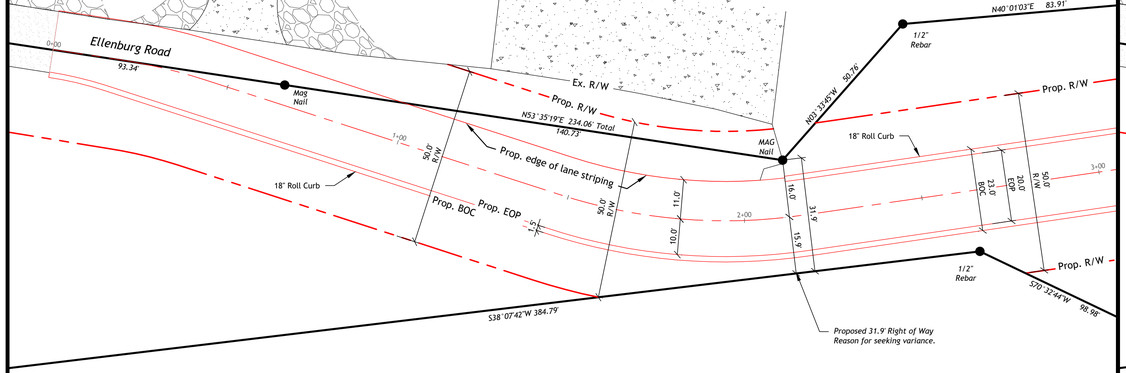
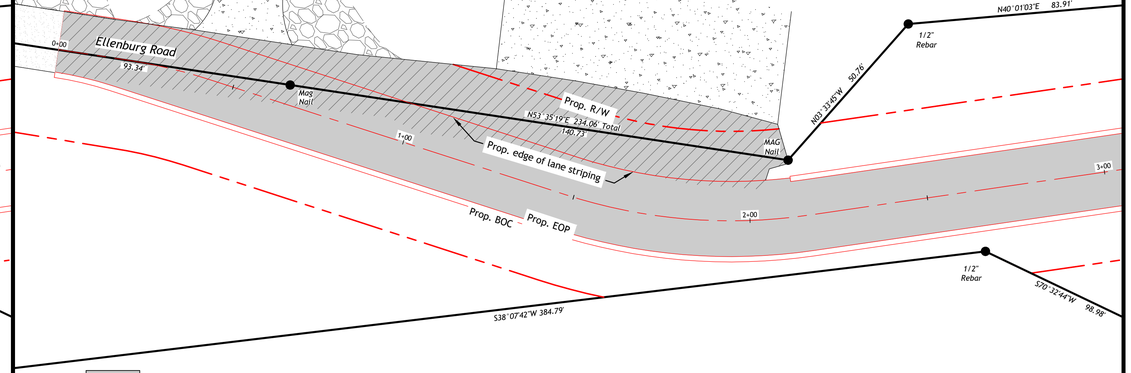


2. PROPOSED C/L AND R/W



3. PROPOSED ROAD DIMENSIONING



4. PROPOSED PAVEMENT/REPAVEMENT

SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
BOC	Back of curb
R/W	Right-of-way
R	Radius
Prop.	Proposed
Ex.	Existing

CAUTION

PALMETTO UTILITY LOCATION SERVICE

3 DAYS BEFORE DIGGING CALL TOLL FREE 811

A ONE CALL SYSTEM FOR COMMUNITY AND JOB SAFETY.

RIDGEWATER ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 226-0980
RIDGEWATERENG.COM

GRID NORTH
S.C.S.P.C. NAD 83 (2011)

20 0 10 20
SCALE: 1 in = 20 ft.

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SOUTH CAROLINA
RIDGEWATER ENGINEERING & SURVEYING
No. 5816
CERTIFICATE OF AUTHORIZATION

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
...	...	...
...	...	...
...	...	...
...	...	...
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SHEET

Variance Request

C - 2

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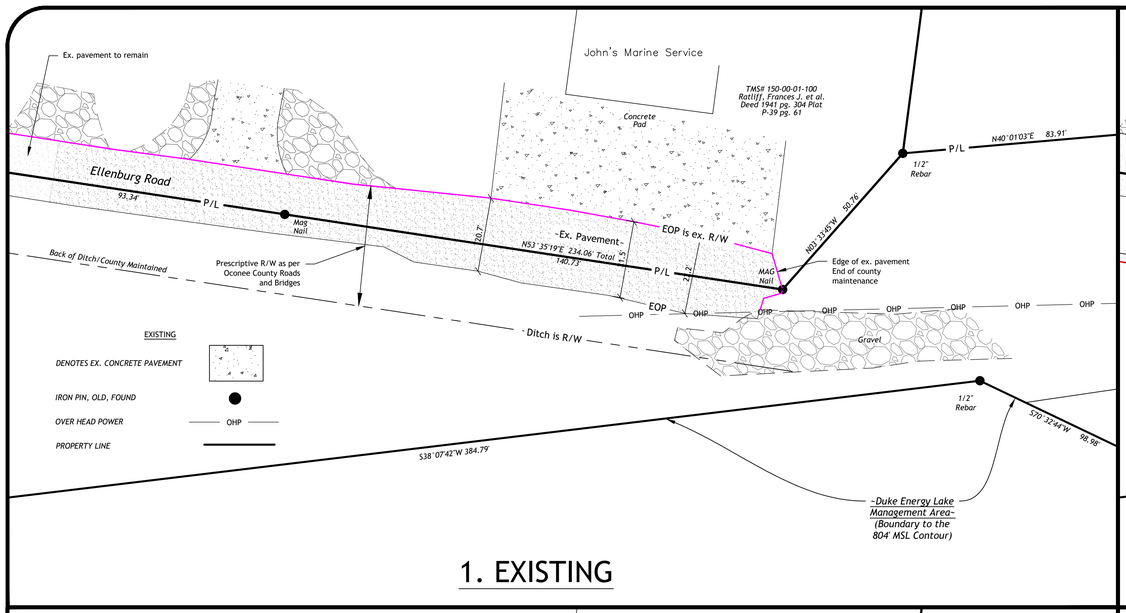

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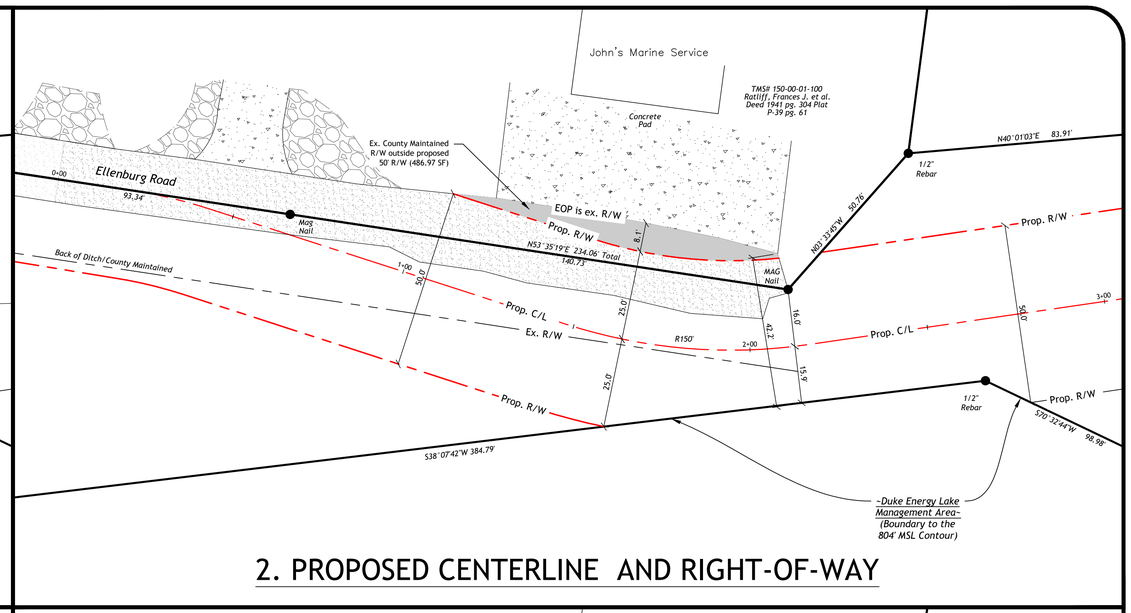
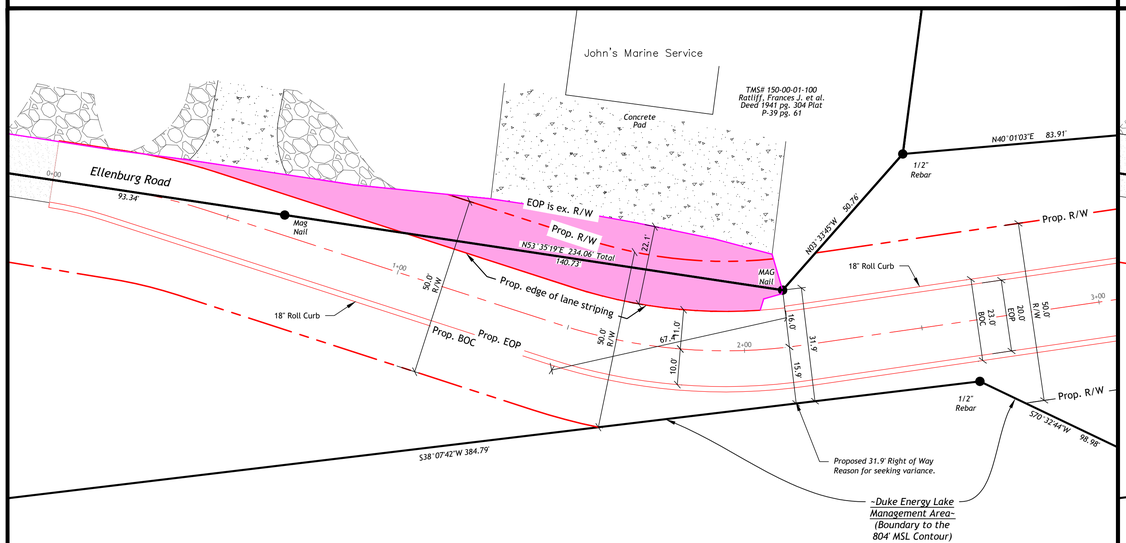
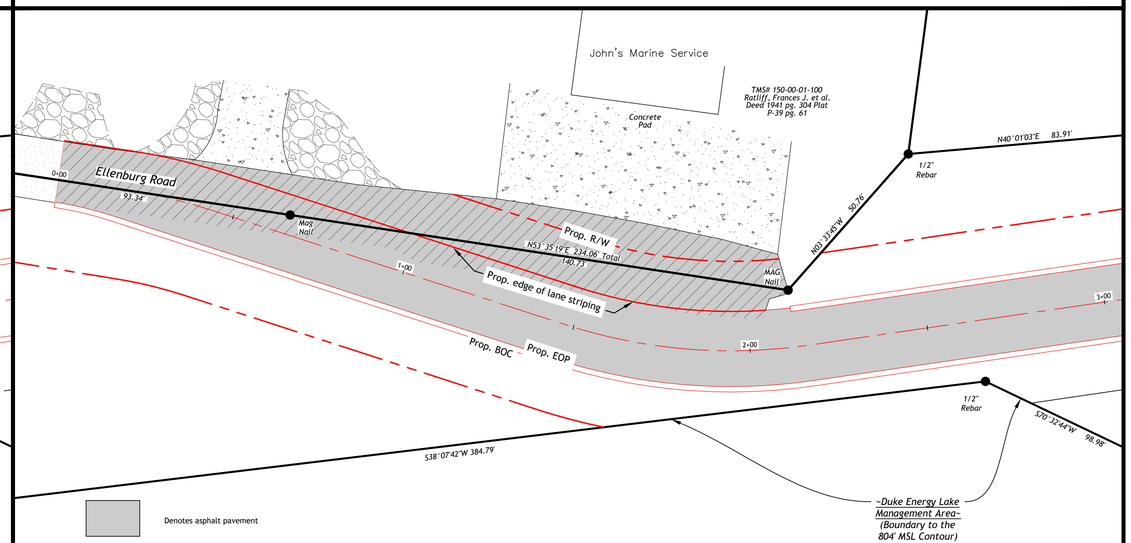


2. PROPOSED CENTERLINE AND RIGHT-OF-WAY



3. PROPOSED ROAD DIMENSIONING



4. PROPOSED PAVEMENT/REPAVEMENT

SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
BOC	Back of curb
R/W	Right-of-way
R	Radius
Prop.	Proposed
Ex.	Existing

CAUTION

PALMETTO UTILITY LOCATION SERVICE
3 DAYS BEFORE DIGGING CALL TOLL FREE 811
A ONE CALL SYSTEM FOR COMMUNITY AND JOB SAFETY.

RIDGEWATER ENGINEERING & SURVEYING
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GRID NORTH
S.C.S.P.C. NAD 83 (2011)

20 0 10 20
SCALE: 1 in = 20 ft.

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SOUTH CAROLINA
RIDGEWATER ENGINEERING & SURVEYING
No. 5816
CERTIFICATE OF AUTHORIZATION

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
1	11-29-21	PLANNING COMMISSION MTG.
...	...	...
...	...	...
...	...	...
...	...	...

SHEET

Variance Request

C - 2

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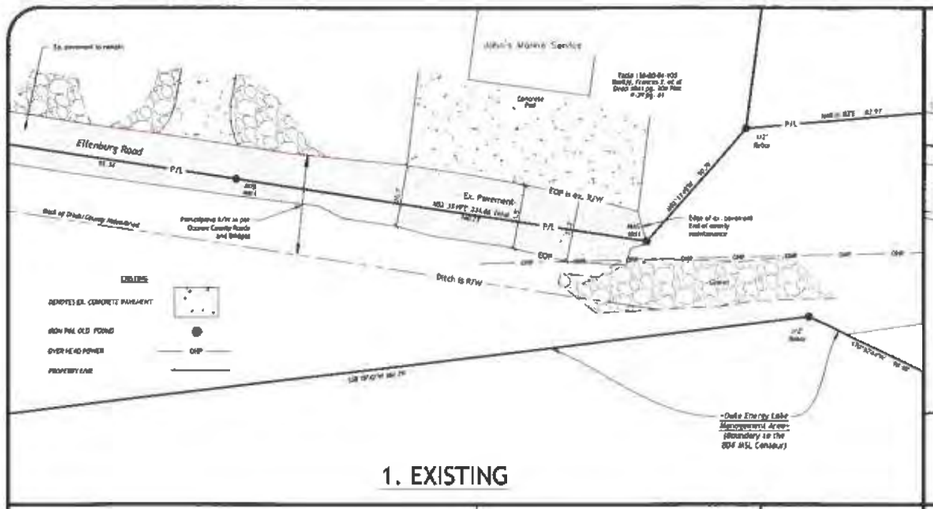
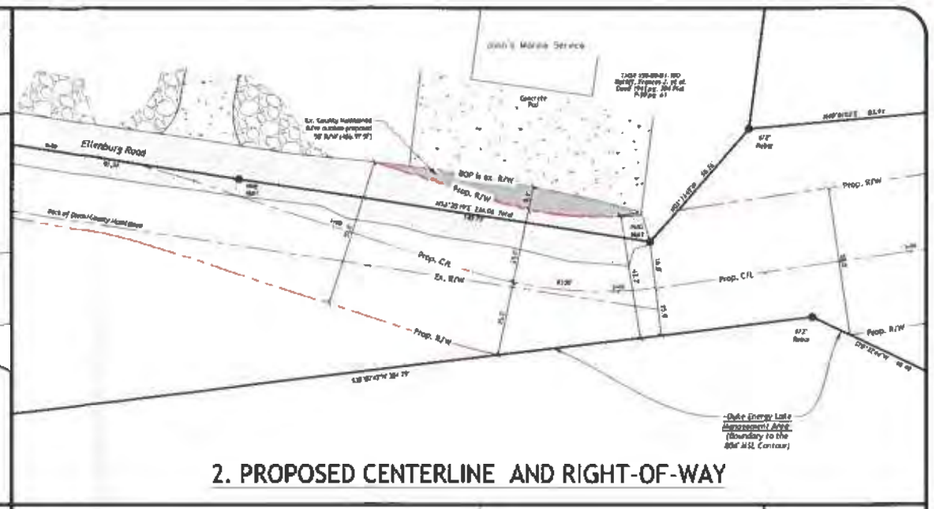
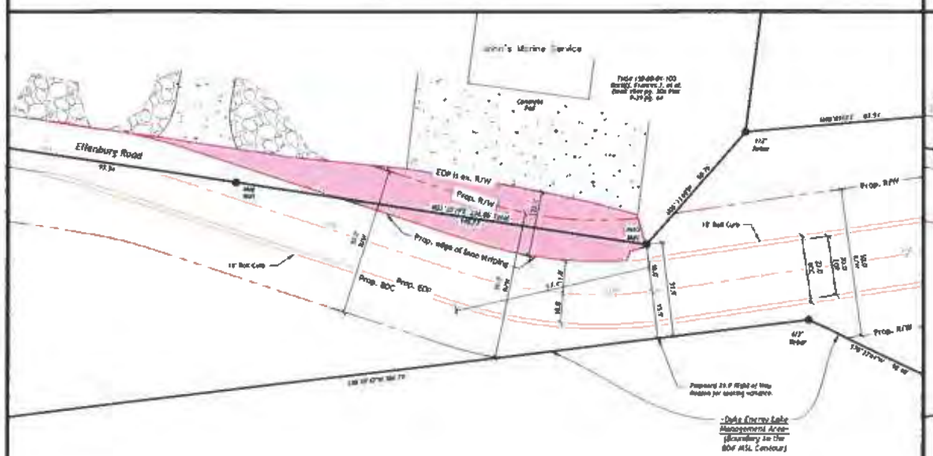


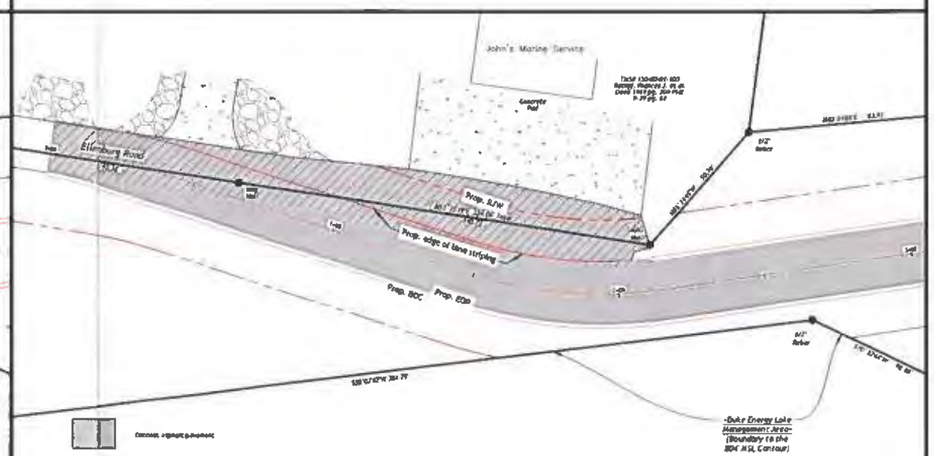
1. EXISTING



2. PROPOSED CENTERLINE AND RIGHT-OF-WAY



3. PROPOSED ROAD DIMENSIONING



4. PROPOSED PAVEMENT/REPAVEMENT

Graphics 1-4

CAUTION

SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
BOC	Back of curb
R/W	Right-of-way
R	Radius
Prop.	Proposed
Ex.	Existing

RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 226-0980
RIDGEWATERENG.COM

SCALE: 1in = 10ft.

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	PRMC FOR REVIEW
1	11-29-21	PLANNING COMMISSION MTG

SHEET

Variance Request

C - 2

3

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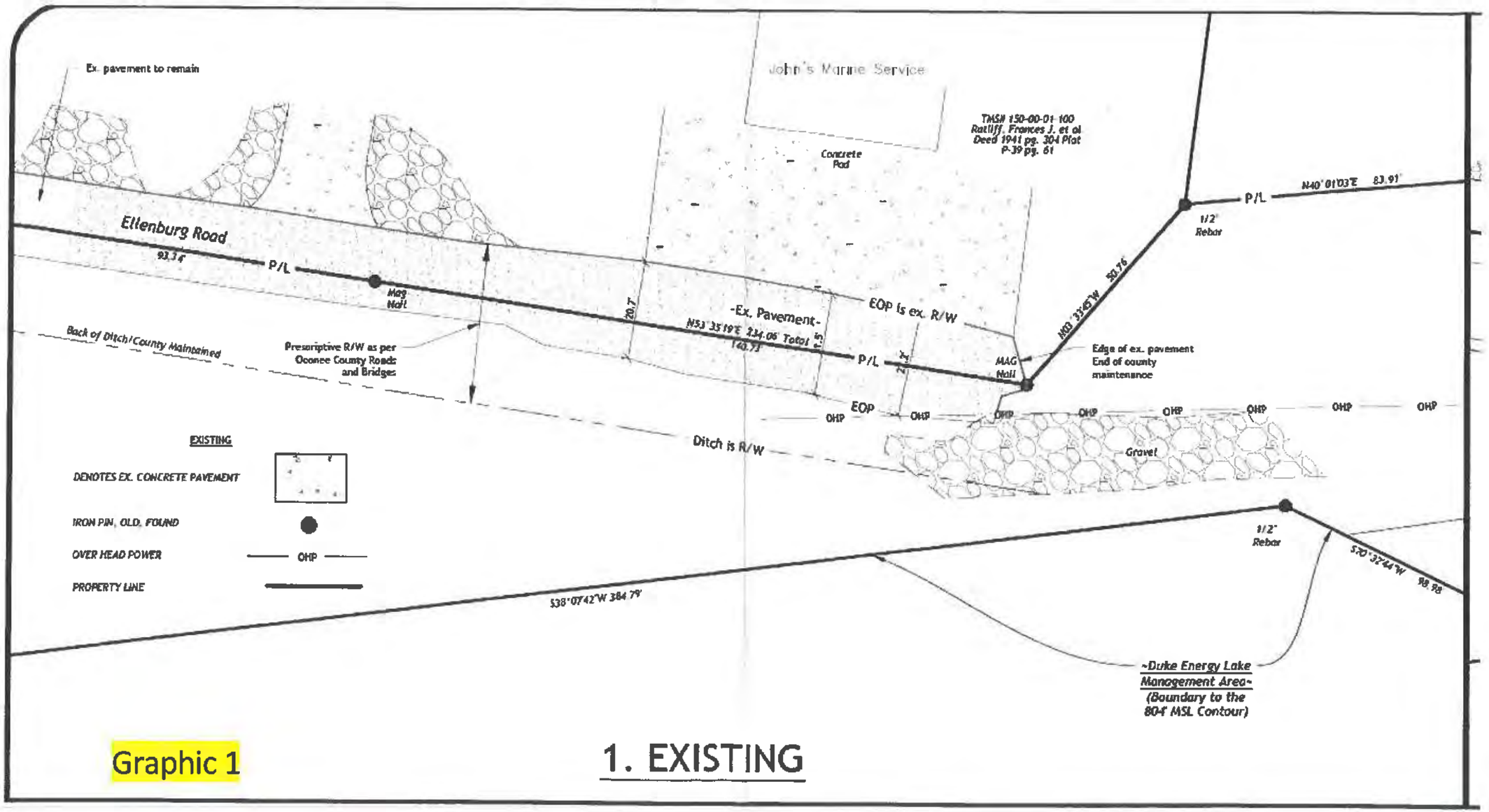

Graphic 1

1. EXISTING

4

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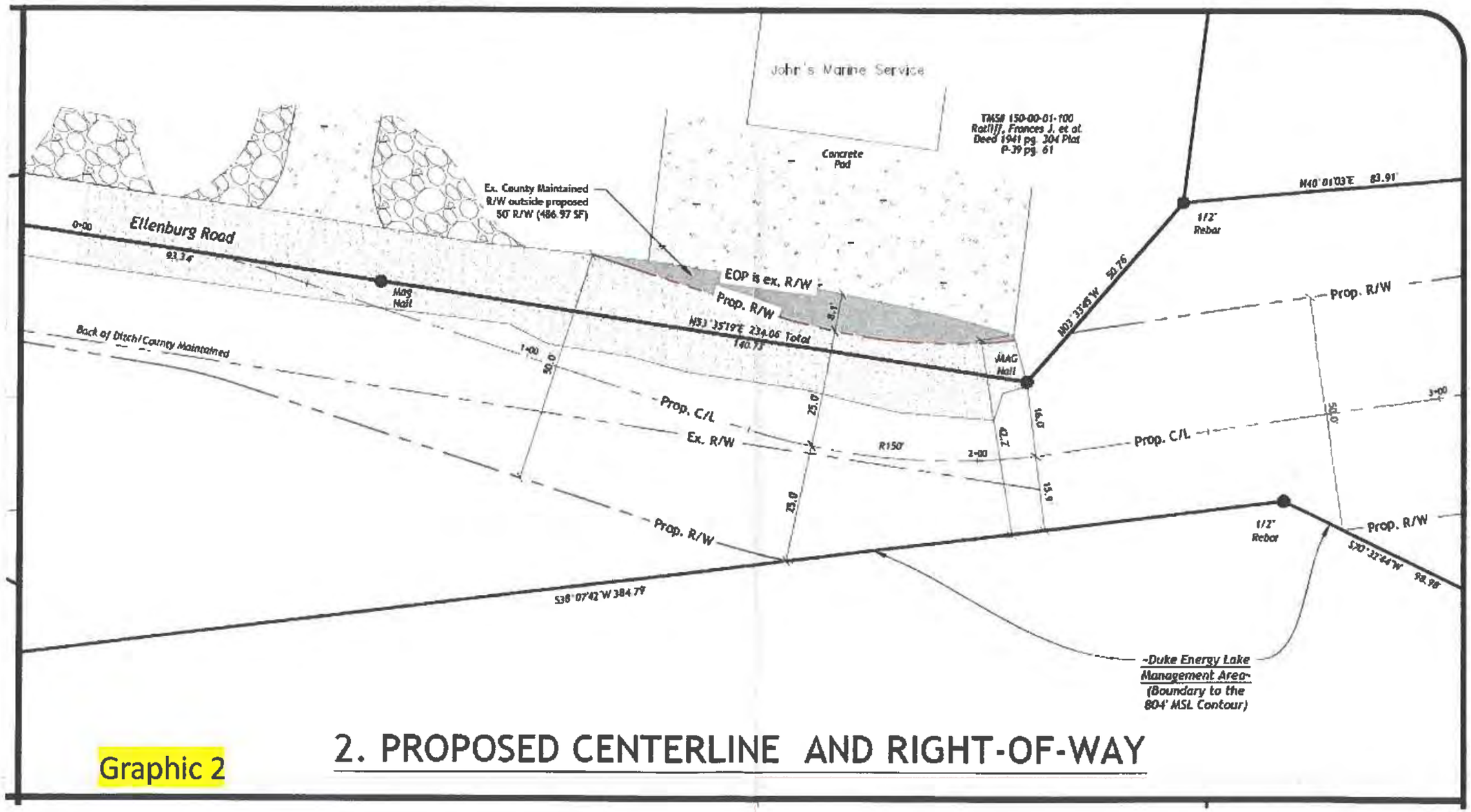

Graphic 2

2. PROPOSED CENTERLINE AND RIGHT-OF-WAY

5

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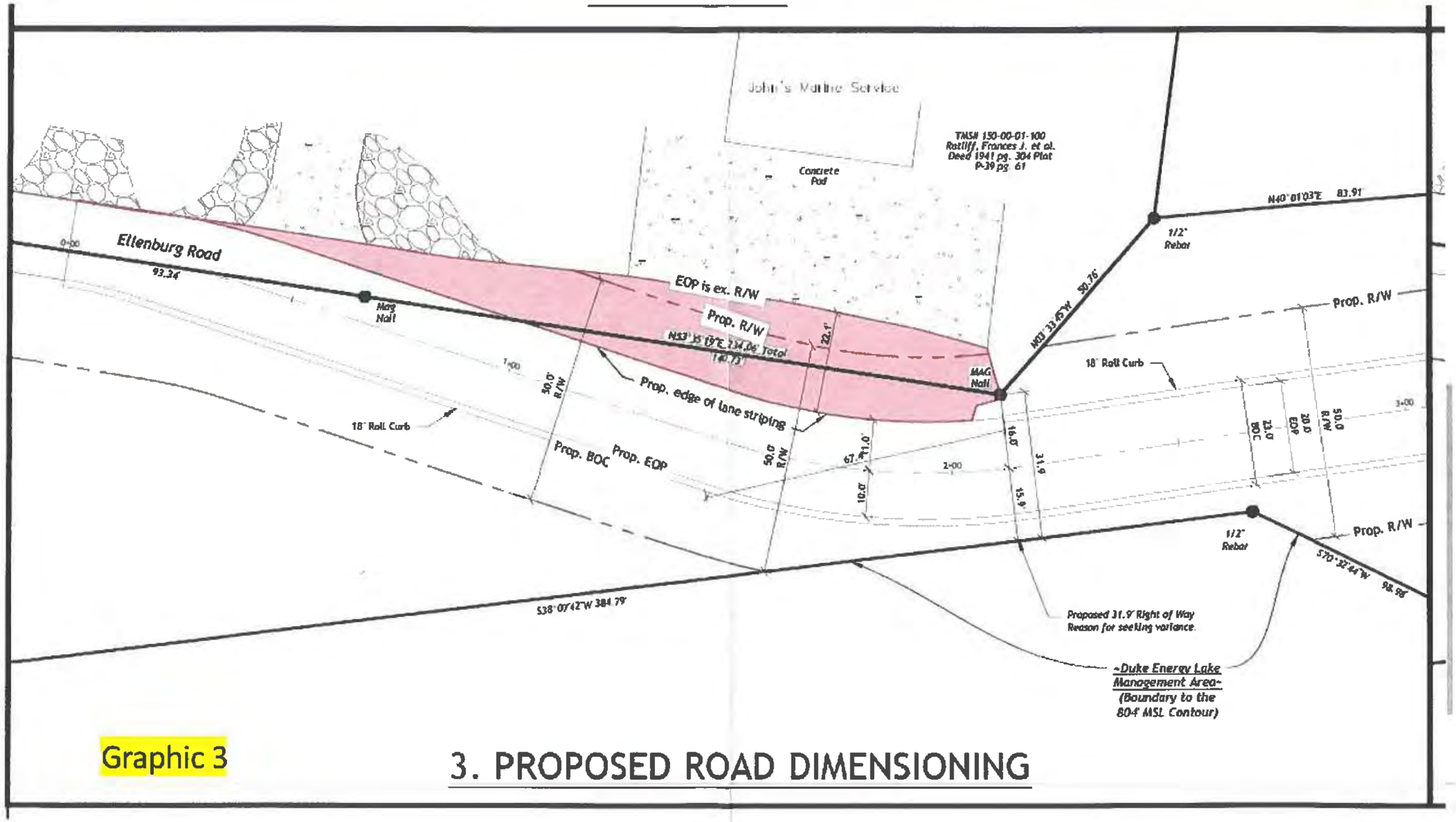

Graphic 3

3. PROPOSED ROAD DIMENSIONING

(6)

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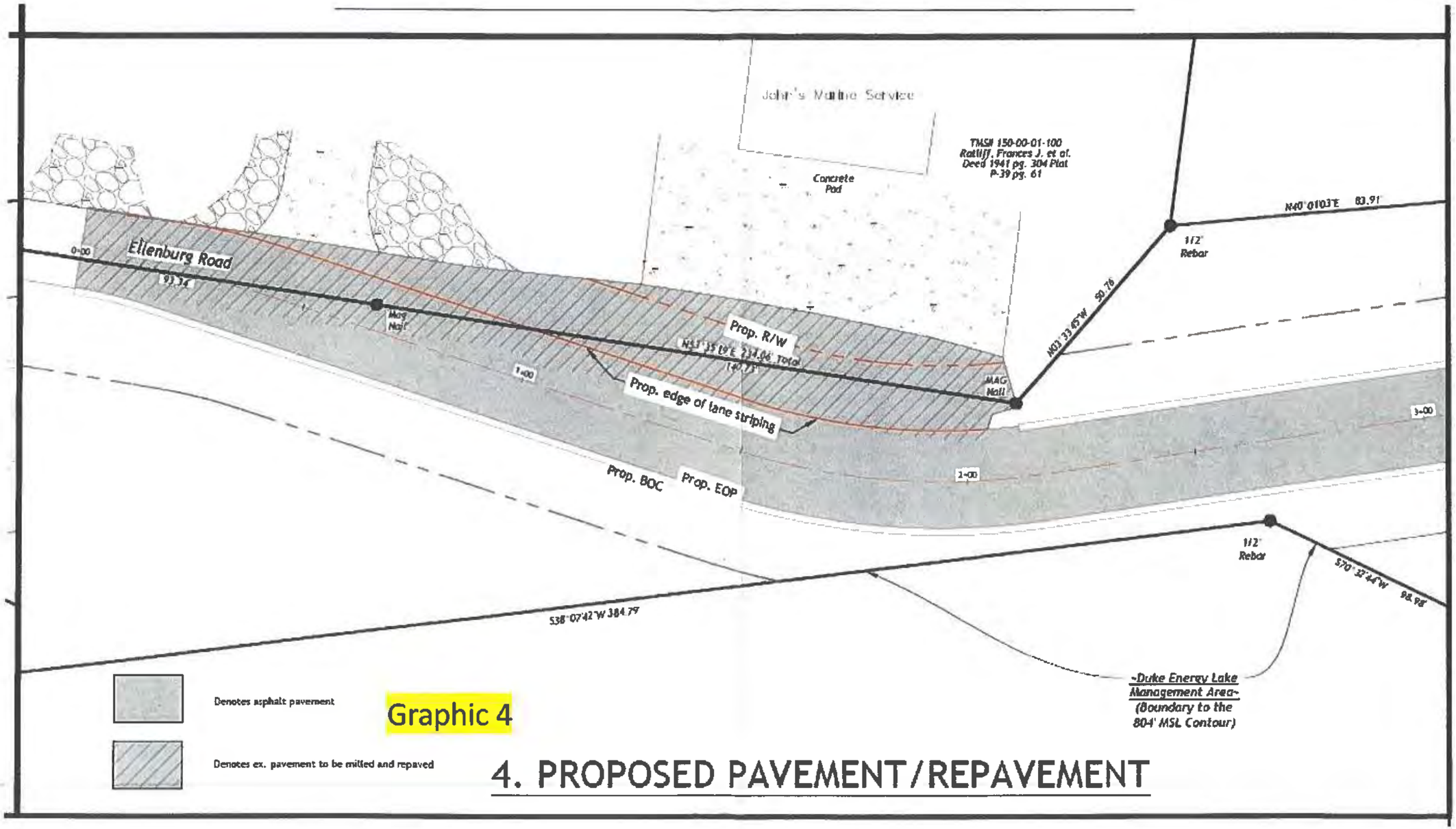

4. PROPOSED PAVEMENT/REPAVEMENT

7

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OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes
6:00 PM – November 30, 2021

Members in Attendance

Gwen Fowler	Tim Mays
Marty McKee	Jim Codner
Bill Gilster	John Eagar
Bill Decker	

Staff
James Coley
Vivian Kompier

Media
Lauren Pierce, The Journal

ITEM 1 – Call to Order – Mr. Codner called the meeting to order at 6:00 PM.

ITEM 2 – Approval of minutes of May 24, 2021 meeting – Mr. Eagar made a motion to approve; seconded by Mr. McKee. Vote 4/0 to approve, with Mr. Mays, Mr. Gilster and Mr. Decker recusing themselves.

ITEM 3 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide an 8-minute presentation to state their request. Mr. Codner asked presenters not to be overly verbose.
- For the opposition to the request, the Board asked that one or two people summarize the opposition—concerns, problems, etc.
- Citizen comments – Mr. Codner asked that speakers avoid identical comments in the interest of brevity. He added that the Board has received close to 100 emails that they have reviewed and they understand the issues. It is important that everyone have their say, but asked everyone to be brief if at all possible.
- Applicant rebuttal
- Board member questions, with input from Planning Staff when requested.
- Voting

ITEM 4 – Variance request application #VA21-010: Seamon Whiteside and Associates, Inc. – Paul Talbert is requesting a variance allowing the side setback

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5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Decker. No discussion.
    b. Vote

In-favor	Opposed
7	0

Mr. Codner noted that variance request was approved.

Item 5 – Variance request application #VA21-011: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' right-of-way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch-to-ditch right-of-way. TMS #150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

Applicant's opening statement and provision of evidence:
Reah Smith, Development Team, Lake Keowee Real Estate, spoke on behalf of the applicant for the variance. She presented evidence that the property has geographic and physical constraints that require the variance and that each of the four criterion can be met to approve the variance. Ms. Smith added that the Road Ordinance that is referenced was adopted after the property was purchased. Ms. Smith described the positive impact the variance will have on John's Marine and the nearby County roads. Board members asked questions to clarify certain points.

Staff comments: Mr. Coley explained that the request is a road variance, not necessarily a zoning ordinance, and Planning staff have met with staff from the Roads & Bridges Department to discuss. Notable findings from the meetings include agreement that the current road right-of-way is prescriptive and ends at the pavement on either side of the road, the variance is for a section that is 100 ft. in length and 31.9 ft. at its narrowest point, and the applicant is shifting the proposed entrance south from the center of the road so that it is all on their property. Mr. Coley also noted that granting this variance would not allow construction to begin immediately. The applicant would still need Roads & Bridges' approval for their plan to fit road shoulders, appropriate drainage, and all utilities in a narrow right-of-way. In addition, a traffic study would need to be completed as well as approvals for access and turn radiuses from Emergency Management.

Public comment time:

- Rick McDuff, Attorney, Spokesman for John's Marine (Ratliff family), stated the opposition to the ordinance. Points of opposition included:

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  - The portion of the road in question is not owned by Oconee County. Ownership is split between the developer and Ratliff's, with the majority by the Ratliff's.
  - The belief that the BZA has no authority to make this decision; must be decided between the two private parties.
  - No evidence a prescriptive easement has been obtained by the County
  - Applicant is attempting to change a contour of an easement that they are not a party to
  - Negative impact on John's Marine and the Ratliff property and absence of legal remedies to address the impact

  Discussion with the Board followed.

- Edward John "Jay" Ratliff, Jr., outlined the Ratliff family's opposition to the variance, the history of the business and the negative impact of the approval of the variance.
  Discussion with the Board followed.
- Mike Johnson, citizen, expressed his support for the variance approval, citing the changes to the County ordinance that regulates roads and right-of-ways over the years, specifically regarding private roads.
- Maggie Johnson, citizen, spoke in support of the variance approval and property owner's right to use their property as allowed.
- Chad Knot, citizen, expressed his opposition to the variance approval noting issues with the legality of Board deciding this application, infringement of the Duke 804 line, traffic, and the impact on John's Marine.
- Chris Holder, citizen Greenville, SC, stated his opposition to the variance approval. Mr. Holder referred to the negative impact on John's Marine specific to the space needed to navigate boat trailers and traffic.
- Jon Martin, citizen, stated his opposition to the variance with concern that John's Marine will lose their business and/or Oconee County taxpayers will have to defend decision in appellate court.
- Bruce Hadley, citizen, expressed his concern that the Board has no jurisdiction over this application as the road is private land and there is no plan to allow for a similar business if John's Marine is forced out of business
- Barry Steele, citizen, expressed his opposition to the variance approval based on his concerns with erosion and limited room for tractor trailers used for deliveries.
- Doug Cooper, Harbor Oaks HOA President, expressed his opposition to the variance approval citing safety concerns with regards to increased traffic.
- Mr. Codner made a motion to take a 5-minute break, seconded by Mr. Eagar. Mr. Codner called for a vote. The motion passed unanimously 7/0
- Mr. Codner made a motion that the Board reconvene, seconded by Mr. McKee. Mr. Codner called for a vote. The motion passed unanimously 7/0
- Mr. Codner read a sample of emails submitted by the public into the record.

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Applicant rebuttal: Mr. Larry Brandt, attorney for the applicant, presented a summary rebuttal to the argument against the requested variance. A question-answer session with the Board followed. Andy Lee, Developer, addressed the opposition presented during public comment specifically the size of the cul-de-sac, piece of land between the two properties, encroachment into the 804, flood plain easement with regards to the 810, existence and "ownership" of the prescriptive easement, stabilization of the shoreline, and traffic. Discussion with Board followed. Ms. Smith made closing remarks.

Board discussion: Discussion by the Board included, but was not limited to, the Board's jurisdiction in this case considering the conflicting legal opinions of the applicant and the opposition, John's Marine, and traffic and pedestrian safety—specifically **section 26-8 (a) Variance from road standards** of the Oconee County Ordinances. Mr. Codner made a motion to table the variance request, with the supposition directing Planning Staff answer the question of who owns the property (road), and the two parties meet and try to resolve this issue—specifically the piece of land between the two properties—coming back to the Planning Department to schedule a new hearing; seconded by Mr. McKee. Mr. Codner called for a vote. The vote was approved unanimously 7/0.

Item 6 – Adjourn

Mr. Codner asked for a motion to adjourn

Motion – Mr. Mays made a motion; seconded by Mr. Eagar

Vote – Mr. Codner called for a vote. Motion was unanimously approved 7/0.

Meeting was adjourned at 6:58 PM.

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes
6:00 PM – January 24, 2022

Members in Attendance

Gwen Fowler
Jim Codner
John Eagar
Tim Mays
Bill Gilster

Staff

James Coley, Planning Director
Vivian Kompier, Planner/Zoning Administrator
David Root, Attorney

Media

Lauren Pierce, The Journal

ITEM 1 – Call to Order – Mr. Coley called the meeting to order at 6:00 PM.

ITEM 2 – Election of officers – Mr. Coley called for nominations for Chair. Mr. Eagar made a motion that Mr. Codner continue as Chair; seconded by Mr. Gilster with no discussion. Mr. Coley called for a vote. The motion was approved 5/0. Mr. Codner called for nominations for Vice-Chair. Mr. Eagar made a motion for Ms. Fowler to serve as Vice-Chair. Ms. Fowler declined the nomination. Mr. Codner made a motion for Mr. Eagar serve as Vice-Chair; seconded by Ms. Fowler with no discussion. Mr. Codner called for a vote. The motion was approved 5/0. Mr. Codner made a motion that Mr. Coley serve as Secretary; seconded by Mr. Eagar with no discussion. Mr. Codner called for a vote. The motion was approved 5/0.

ITEM 3 – Approval of 2022 calendar – Mr. Eagar made a motion that the proposed 2022 calendar be adopted; seconded by Mr. Mays with no discussion. Mr. Codner called for a vote. The motion was approved 5/0.

ITEM 4 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide a presentation to state their request.
- Staff will be asked to make any comments regarding the request.

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- Citizens are allowed to voice their approval or opposition to the proposed. Please do not repeat opinions that have already been stated into the record.
- Applicant rebuttal
- Board members will discuss in detail.
- Voting

ITEM 5 – Approval of minutes of November 30, 2021 meeting – Mr. Eagar made a motion to approve the November 30th minutes; Mr. Gilster seconded. Discussion: Mr. Codner noted that Mr. Ratliff sent an extensive letter pointing out issues with the minutes. Mr. Codner asked County Attorney, David Root to define and explain what minutes should provide. Mr. Root stated that minutes for public bodies are defined by statute. They should include when a meeting is held, the subject matter of the meeting, and who is present. With regards to the essence of what was spoken, the statute says minutes should capture the substance of what was said; it is not a transcript. Mr. Codner summarized that approval of the minutes would be agreement that the minutes are a fair representation of what happened in that meeting. When asked, Mr. Coley stated that he believes the minutes are a fair representation. Discussion included agreement that the proposed minutes are adequate and suggestion that all public comments, including the letter questioning the minutes, should be included with the approved minutes. Mr. Coley confirmed that as procedure, all citizen emails would be attached to the minutes as part of the record after the minutes are approved. In addition, the Ratliff letter will be attached to the minutes as well. Mr. Eagar noted the spelling of his name was incorrect in the minutes. Mr. Codner called for a vote. The motion was approved unanimously 5/0.

ITEM 6 - Variance request Continuation #VA 21-011: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672. – Mr. Codner explained that this request is a continuation from the January meeting and the requesting and responding parties have presented their cases and all public comments have been entered into the record. Public comment was closed with the closing of the last meeting, with the exception of the letter received from Mr. Ratliff concerning the minutes. In preparation of this continuation, the Board asked staff to present a delineation of who owns the road in question and they asked the two parties to attempt to come to an agreement. Mr. Coley deferred to Mr. Root for clarification on ownership of the road. As a matter of parliamentary procedure, Mr. Root asked Mr. Codner to first take action to remove the request from the table before proceeding. Mr. Eagar made a motion to remove Variance request #VA21-011 from the table; seconded by Mr. Mays. Mr. Codner called for a vote. The motion was approved 5/0.

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Mr. Root explained that there is no question on who owns the rights to the land underneath the road. The question at hand is the traveling surface of the road. Records show that Oconee County Roads & Bridges maintained the road to the end of the paved section for 20 years (the requirement for a prescriptive easement). However, Mr. Root has recently received affidavits that questioned his findings and he needs more time to research the facts.

Board questions: Mr. Root answered questions from members of the Board regarding the definition of the term prescriptive easement, clarifying the County's authority to approve or deny a request to change the location of a road (prescriptive easement), if and how right-of-ways should be considered, and clarification of the need for permit approval in the future.

Mr. Codner summarized the actions the Board can take at this juncture. Based on his conversations with the legal counsel for both parties, Mr. Root stated that a postponement may be in order. Attorneys for the applicant and the opposing party agreed. Mr. Eagar made a motion to postpone the request until the applicant asked for it to be reinstated on the BZA agenda; Mr. Gilster seconded the motion. Discussion led to amending the motion on the table. Mr. Codner amended the motion to limit the postponement for a total of six months. Mr. Codner called for a vote of motion as amended. The motion was approved 5/0.

ITEM #7 - Variance application #VA 21-012A: Variance allowing the side setback for lot lines dividing attached single family units to be reduced to zero feet thus allowing the construction of individually-platted, attached single family units. Variance application VA21-012B: 27' Variance from the 50' road right of way to allow for the new townhomes to be consistent with the existing townhomes. Resideum, LLC – Greg Kurzner is requesting these variances. TMS# 257-00-02-008 an unaddressed parcel with the closest address of 304 Breakwater Lane, Seneca, SC 29678.

Applicant's opening statement and provision of evidence: Greg Kurzner**,** Managing Member of Resideum LLC, presented their answers to the four questions on the Variance application, noting that they are trying to complete the development of a previously approved community in the fashion, consistent with the existing individually platted for sale units and to protect the integrity and investment of the current homeowners. He also noted that the required 50' road right-of-way was not in place at the time the development was originally designed, permitted and built.

Public Comment:

- Gary Moss, citizen, requested more information on how approval of the variance will affect the established homes off Shiloh Road.

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

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Minutes
6:00 PM – April 25, 2022

Members in Attendance

Tim Mays
Marty Mckee
John Eagar
Bill Gilster
Jim Codner

Staff

David Root, County Attorney
James Coley, Planning Director
Vivian Kompier, Senior Planner
Kyle Reid, Roads and Bridges

Media

Lauren Pierce, The Journal

ITEM 1 – Call to order – Mr. Codner called the meeting to order at 6:00 PM.

ITEM 2 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide a presentation to state their request (5 minutes).
- Staff will be asked to make any comments regarding the request.
- The public is allowed to voice their approval or opposition to the proposed. Please do not repeat opinions that have already been stated into the record (3-5 minutes).
- Applicant rebuttal
- Board members will discuss in detail.
- Voting

ITEM 3 – Approval of minutes from February 28, 2022 – Mr. Eagar made a motion to approve the minutes from February 28th; seconded by Mr. Mays Discussion – none. Mr. Codner called for a vote. The motion passed 5/0,

ITEM 4 – Special exception application #SE22-003 – Faulk & Foster – Victoria Farmer is requesting a special exception to construct a 172' monopole telecommunications tower (182' top of lightning rod) TMS#285-00-05-001 an

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3. Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with appropriate in appearance to the existing or intended character of the general vicinity:
    a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

4. Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.
    a. Motion – Mr. Eagar made a motion in the affirmative; seconded by Mr. Mckee. A brief discussion followed.
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed special exception be **approved with the following condition: No Outside Boarding, pet runs, outside kennels, pet daycare.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

ITEM 5 – Variance application #VA 21-011-Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

Applicant's opening statement and provision of evidence: Ms. Smith noted that the applicant has made attempts to reach a resolution with the Ratliff's, and have reached an been unable to resolve the issue, and are coming back to the board for a decision. She believes that they meet the criteria for the variance. The geography and topography

limit the development of the property. The lake is an additional factor limiting the applicant's ability to develop the property. It is the applicants position that the ordinance is overly restrictive and granting of the variance will not negatively impact the adjacent property owners. Ms. Smith detailed the applicant's roadway design.

Staff comments and Board questions:

- Mr. Root stated the County position that the road is under a prescriptive easement based on institutional knowledge, but that the affidavits presented call that into question.
- Mr. Reid explained the road surface area, and the right-of-way. Right-of-way is additional space for maintenance, utility, drainage, widening. Mr. Reid explained that there is no record that the property was ever turned over to the property owners. To the best knowledge of the County staff, the road was originally a state road, that the County assumed responsibility for after the creation of the lake. Neither the state nor the County have documentation relating to Ellenburg Road. Mr. Reid also contacted Crescent to see if they had any documentation, and they did not.

Public Comment:

- Rick McDuff- The BZA does not have authority to make this decision. The Ratliff family has paved and maintained the end of the road. There is no evidence of County maintenance on the road. Institutional knowledge is not the basis for changing the proposed course of the road.
- Ken Charles- concerned about fire safety, against the variance
- Jay Ratliff- Mr. Ratliff stated his qualifications, he showed a drawing he overlayed with boats, trucks, and use of the property. Mr. Ratliff showed his revised right-of-way drawings. The family believes there will be a negative impact on the family business. The board asked about usage of the road for the business and discussion about the impacts of the variance. Mr. Ratliff confirmed that they have not been able to reach resolution. Mr. Ratliff is concerned the board is using economic interests as justification.
- Larry Brandt- The Ratliff plats and deeds show public right-of-way. Ellenburg is a public road and cannot be abandoned without following proper procedures. The applicant is willing to deed property to the Ratliff's to maintain access to the road.
- John Richardson- against, the unique property should be protected.
- Doug Cooper- Mr. Cooper thanked the board for allowing additional public comment. The developer has placed filled on the site. Mr. Cooper believes the developer has indicated they have permission from Duke, but they actually have not. Mr. Cooper believes the County does not maintain the end of the road. Mr. Cooper believes the 50' right-of-way was in effect when the property was purchased.
- Bruce Dew- against, variance is a problem for the business.

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- Serena Richardson- road is dangerous and narrow. Ms. Richardson believes illegal fill has been added to the property. Ms. Richardson believes emergency services will not be able to access the property. Ms. Richardson is concerned that locals are not being looked after, and that investors are being prioritized.
- Chris Leonard- against
- Lucretia Morgan- Ms. Morgan stated issues with statements made by Mr. Johnson at the November 2021 meeting regarding this variance. Ms. Morgan provided copies of minutes from a 2006 County Council meeting where 50' right-of-way requirements for subdivisions were in place (see exhibit 2). Ms. Morgan stated in addition, dating back to 2000, Ordinance 99-14 Section 6.7.3 Private Roads, the 50' ROW was in place. On August 1, 2000 John Hamrick attended the county council meeting to discuss proposed changes to Ordinance 99-14 and was in opposition to the way property would have to be divided under the proposed subdivision regulations (Exhibit 1). Ms. Morgan provided the deeds proving the home size statements made by the developer were inaccurate. Ms. Morgan stated the developer needs the Ratliff's in order to make their plan work. Ms. Morgan stated that a variance cannot be approved based on only profitability per Oconee County Code of Ordinances Section 32-5. Ms. Morgan is opposed to granting the variance.

Applicant rebuttal: Mr. Andy Lee stated the plats along Ellenburg show the right-of-way. Mr. Lee stated the road standards have changed over the years and that roads have widened as standards have improved. Mr. Lee stated the County repaved the bad part of the road and left the remainder due to where the previous construction took place. Mr. Lee stated the portion at the end of the road could not have been abandonment as described opposition. Mr. Lee stated he does not need Duke's permission to develop. Mr. Lee reviewed the need for the variance.

Board questions for Staff:

- Mr. Root clarified that the board has the ability to make a decision.
- Mr. Reid clarified that the 200 average daily trips number was not an official estimation, and was a general statement to a question. He confirmed that a professional traffic study would be required for this development. Mr. Reid stated the work on the upper section of the road was done after construction and was a large patch job where the road was crumbling.
- Mr. Coley confirmed that Emergency Management will review turn abounds
- Mr. Reid confirmed that the Road paving on Ellenburg was at the direction of the County Engineer.

Mr. Codner made a Motion to take a 10-minute beak seconded by Mr. Mays, motion passed 5-0

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Mr. Codner called the meeting back to order at 7:55 pm

Board Discussion:

- Mr. Eagar the board should make a decision
- Mr. Mays the applicant still has a lot of other requirements
- Mr. Codner, the narrow point in on the applicant's property
- Mr. Mckee who will do the work on the road- the developer will be responsible to road construction
- Mr. Root discussed road abandonment
- A traffic study is required for road width determination
- Safety is paramount
- Mr. Codner everyone wants John's Marine to stay
- Discussion of use of the road as part of the business
- Discussion of if there is more space for John's Marine after the new road is constructed.
- Duke power issues are not applicable to this discussion
- County roads are not built to accommodate pedestrian traffic
- This is not being evaluated based on economic impacts
- Safety is the primary review criteria
- Mr. Coley reviewed the applicant had reached out for a decision by the Board after attempting to reach a resolution
- Discussion regarding conditions

Consideration of VA21-011:

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. McKee. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

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3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
    a. Motion – Mr. Eagar made a motion, seconded by Mr. May. Brief discussion followed.
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
    a. Motion – Mr. Eagar made a motion; seconded by Mr. May. Discussion- does this harm John's Marine? Will the impact have severe impacts? Discussion- does this harm John's Marine? Will the impact have severe impacts?
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. Vote. No Discussion

In-favor	Opposed
5	0

    Mr. Codner noted that variance request was **approved** with the following conditions:

    Order approved subject to proper abandonment procedures, compliance with all ordinances and state law on acceptance into the County roadway system. Developer grant/ deed John's Marine property so that there is reasonable, unimpeded access to the new road.

Item 6 Adjourn – Mr. Eagar made a motion to adjourn; seconded by Mays. Mr. Codner called for a vote. Motion passed unanimously 5/0.

BZA

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

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Staff Opinion

BZA #VA21-011 Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive "ditch to ditch" right-of-way. TMS # 150-00-01-459 is an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672

Applicant has requested a variance from the road standards under Sec 26-8 of the Oconee County Code of Ordinances. They have requested the variance from Sec 26-3(e)(1) Public Road Minimum right-of-way, pavement, and shoulder width shall be as follows: minor local 50' right-of way.

The applicant is connecting to the existing Ellenburg Rd, a county road, with a new road to develop land past the end of the existing road. Their design as presented would shift the road to the south, establishing a new road layout with curb and gutter on the south side of the road and curb and gutter on both sides past the end of the current road.

- Currently the road right-of-way is prescriptive and ends at the edge of pavement.
- The right-of way request is for a section of the road approximately 100 foot in length with a varying width, which at its narrowest is 31.9 foot
- Sketch is shifting the road to the applicant's side of the property line.

The applicant has meet with the Roads and Bridges Department (notes attached at the end), and based on the initial conversation the Department does not believe that the relocation of the road would have an adverse effect of road maintenance. If the variance is approved they would still need to show the ability to place the road, shoulders, drainage, and utilities in the proposed, narrowed, right-of-way, would need to have a traffic study completed, and would need approvals on access and turning radius with emergency management.

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James L. Ratliff, Owner/Operator
John's Marine Service
599 Ellenburg Road
Seneca, SC 29672
November, 22 2021

Jim Codner, Chairman
Oconee County Board of Zoning Appeals
415 South Pine Street
Walhalla, SC 29691

LETTER of OPPOSITION to Variance request application #VA 21-011 – TMS #150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672

Dear Mr. Codner,

My family and I are in opposition to the development of the proposed 19-home subdivision as presented on the sketch prepared by Ridgewater Engineering & Surveying. My father (John Ratliff) started John's Marine Service to serve boaters on Lake Keowee in 1972. In 1982, he opened his shop at 599 Ellenburg Road which borders TMS #150-00-01-459, the unaddressed parcel in the variance request application. I now own and operate the repair shop and my son is also learning the trade. The unaddressed parcel was purchased in 2008 by GLOBE, LLC & FARMES, LLC (agent John Hamrick). At that time, I was starting to operate the business because my father was diagnosed with Alzheimer's. John Hamrick approached my father multiple times attempting to negotiate with him to sell his property. Fortunately for my family, my father did not sell. Prior to my father passing away, I became the owner of the business to support my parents and my family. This business is our livelihood and the means of support for my family for approximately four decades at the present location.

The proposed development, which is titled "Arrowhead Point" on the sketch plan attached to the variance request application, will have a detrimental and crippling impact to my business and property. The area directly adjoining the 31.9-foot bottleneck is my repair shop. In addition to the bottleneck, yesterday a sketch was added to the meeting backup material. At first glance, it appeared that this will not hinder my business, however upon further examination, he is proposing to take part of my property for his much-needed county right-of-way. The sketch contains a proposed re-pavement and an added county right-of-way which will hinder access for me to utilize my property per Oconee County Code of Ordinance 26-7.f.1. This ordinance prohibits parking within 3-feet of the pavement. Traffic in this area will directly impact my ability to operate the marine service business. Customers typically deliver their boats by trailer and they routinely need assistance with backing and parking their boats. I routinely back boats from the front of my property multiple times daily. When pulling boats out on the ramp or maneuvering them on land, a wide turning radius is needed. We must use all of our property to make

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the turn and back down the road into the shop or onto the ramp for lake-testing. Since we are on a dead-end road, there have been no issues with operation since the shop was built almost 40 years ago in 1982. Creating a bottleneck directly in this path with the size of the planned development will create a dangerous situation for my business and the public. Traffic from the residential and proposed rental homes will also remain a hazard, not only for my business and customers but also the surrounding public and neighbors walking and bicycling on Ellenburg Road. When the owner purchased this parcel in 2008, he was aware of the shop's existence and the impact to the public. This proposed variance will have a crippling impact on my customer's ability to deliver their boats for repair and service.

We also have a boat ramp to accommodate customers who don't own a trailer or have access to a trailer. We haul boats out of the lake using our ramp and our trailers for service and repairs. Disabled boats are often towed to our docks by water to have emergency repairs performed.

Beyond the boat service business that my father created and I have sustained, we perform various deeds for the good of the general public. Over the years, we rescued families who were lost or stranded on the lake. We assisted boaters who've had engine fires and those with sinking boats. Due to our shop's central location on Lake Keowee, it gives us quick access to assist distressed boaters. Our long-standing reputation in the community enables people to have us on "speed-dial" to handle emergency situations. Once while lake testing a boat, I was flagged to the county park for emergency response to a distressed family. I went closer and learned a person went under and did not resurface. I dove in the water and began an underwater search. After several free dives, I found the victim on the bottom of the lake and I pulled him to shore. Unfortunately, the outcome was not positive, and the individual did not survive. For my service, Oconee County honored me with recognition at a county council meeting for my emergency response (Proclamation P2012-06). I only wish it would have been for saving a life. The public good has been served by our business for almost 40 years and many boaters stand ready to give statements of support to its continued operation.

After obtaining the variance application #VA 21-011 via a Freedom of Information Act request and reviewing the applicant's response to the fourth question, it was disingenuous of the applicant to assert that "no detriment will be created to the adjacent uses or the public good" given that my boat service business is directly adjacent, has been in operation since 1982 and it is obvious that it will be impacted. As a former Crescent developer, the buyer of TMS #150-00-01-459 the unaddressed parcel, knew what he was purchasing and the detrimental impact it would have on my adjacent business, my livelihood, my family and the public. The unaddressed parcel was purchased with inadequate entry for the size of the planned development and the owner is now asking for a variance that will have a substantial detriment to me, the adjacent user, and a substantial detriment to the public good.

As the Zoning and Appeals Board evaluates the variance application #VA 21-011, below are our responses.

Application Responses to Section 38-7.1:
Question 2:
Are the circumstances affecting the subject property the result of actions by the applicant/owner?

Response:
The applicant/owner purchased this property knowing that the direct access to their parcel was much less than 31.9-foot width at its narrowest point. County maintenance on Ellenburg Road

has been established at 585 Ellenburg (adjacent property up the road from 599 Ellenburg Road) for decades. John's Marine has owned and maintained the property between 585 Ellenburg and the unaddressed parcel described as Arrowhead Point since the shop was built in 1982 as a private road. On July 31, 2021, we noticed construction activities were performed without our knowledge or consent to backfill portions of the property between 599 Ellenburg Road and the Lake Keowee full pond FERC boundary and possibly below the FERC boundary. We approached the vehicles to inquire as to who authorized this activity. Their response was that they didn't know and they produced no documentation. These activities appear to create the condition for seeking a variance for less footage than would otherwise be needed for the 50-foot county ordinance. Video evidence of the backfill activities is available upon request.

Question 4:
Will the proposed variance result in an activity that will not be of substantial detriment to the adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance?

Response:
Granting this variance will have a substantial detriment to the adjacent uses by John's Marine Service, the marine service customers, the general public, and the Ratliff family. These uses have been in place for over 40 years and are for the good of the public. The granting of this variance will in essence put John's Marine Service out of business. As aforementioned, for John's Marine to properly and safely service boats, a wide swath of land is necessary for boats to be maneuvered safely, stored on the property while being repaired and have access to the ramp for lake testing. Storage of disabled boats has been paramount to my business to enable John's Marine to diagnose and repair the issues. The central location of John's Marine on Lake Keowee has allowed me to be of service in emergent situations, where at a moment's notice, I can respond to people in distress in their boats on the lake. My son and I hope to continue to provide service for the next half of a century on Lake Keowee.

Granting this variance will also have a substantial detriment to the public good for safety reasons. Ellenburg Road is a quiet road without much car traffic and the surrounding community love and respect John's Marine. The unexpected increase in car traffic on Ellenburg Road from the size of the development that is being proposed will create safety issues for the surrounding property owners who are accustomed to walking their dogs, riding their bikes and have been for 40 years.

Of additional, significant concern is the potential fire safety hazards from a roadway not suitable to meet the size of the residential development that is being proposed. The small direct access will impact the ability of emergency vehicles for emergency response.

Obviously, if the variance is granted, the construction to expand the roadway will be very impactful to my business as it will be difficult to maneuver boats efficiently and safely and it will create a substantial business interruption.

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My family and I request the board deny Variance Request Application #VA 21-011 due to the impacts on my business, the good of the public, and my family. We desire to continue serving the public by owning and operating John's Marine as we have for the past 49 years, of which 40 years have been at its present location.

Sincerely,

James L. Ratliff
Owner/Operator John's Marine Service

Distribution:
Impacted property owners of 599 Ellenburg Road:
Frances J Ratliff
Sherri D Akers
Amy L Cawthon
Edward John Ratliff Jr.
James L Ratliff

Board of Zoning Representatives:
Gwen Fowler
Bill Gilster
Marty McKee
Tim Mays
John Eager
William Decker

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John's Marine Service
599 Ellenburg Road
Seneca, SC 29672

April 22, 2022

Board of Zoning Appeals
Mr. Codner, Chairperson
415 South Pine Street
Walhalla, SC 29691

Re: Ratliff family opposition to variance application VA21-011 (Ridgewater Engineering and Surveying TMS#150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672).

Opposition to the variance application to include:

- Property rights and ownership of 599 Ellenburg Road (TMS#150-00-01-100).
- Substantial detriment to adjacent property (John's Marine).

Dear Mr. Codner and Members of the Board of Zoning Appeals,

The Ratliff family requests denial of VA21-011 based on lack of resolution from the requirements outlined by the Board in the 11/30/2021 BZA meeting.

Below are the requirements on which the Applicant has failed to meet its Burden of Proof:

Property rights and ownership of 599 Ellenburg Road (TMS#150-00-01-100) includes a private driveway on the property and Applicant and County has failed to show that County has any rights over such:

1) Oconee County Roads and Bridges employees provided a copy of the attached Plat dated 2008 to the Ratliff family documenting the Ellenburg Road termination to the west of the Ratliff property. [Attachment 1]

2) The physical evidence of pavement transition and road striping are consistent with the documentation dated 2008 provided to the Ratliff family where the road terminates to the west of the Ratliff property. [Attachment 2]

3) When the lake was built, the County terminated Ellenburg Road to the west of the Ratliff property line and the Ratliff family has maintained our property with a private driveway serving Jan Ratliff's private residence and John's Marine for over 40 years.

4) The County has not performed maintenance on the private driveway and/or Ratliff property and the County has not offered any evidence of maintenance.

5) Laurie Ellenburg Bright has provided an affidavit of the termination of Ellenburg Road as evidenced by the End of County Maintenance sign. Laurie resided on Ellenburg Road adjacent to the Ratliff property for a period of 40 years. She is a current resident of Oconee County. [Attachment 3]

6) There are no restrictions, easements, or right of ways on the Ratliff property from the property lines on the Deed and Plat. [Attachment 4 and 5]

7) The Ratliff family has maintained both sides of the private driveway for over 40 years.

8) Oconee County does not have a prescriptive easement over 599 Ellenburg Road and the private driveway.

9) Oconee County has no jurisdiction to issue a variance over a private driveway.

Substantial detriment to adjacent property (John's Marine) remains and Applicant has failed to show otherwise:

1) There will be a crippling, substantial detrimental impact of the variance on John's Marine business. [Attachment 6]

2) There would be substantial detriment to John's Marine, preventing the ability to maneuver, park and service boats/trailers, in addition to severely limiting maneuvering by delivery trucks who bring in large motors, and equipment for boat repair. [Attachment 7]

3) The service business requires maneuvering boats and large trailers on the Ratliff property. [Attachment 7]

4) John's Marine uses the entire private driveway to pull boats out of the water, to put boats into the water, to maneuver boats into the shop for repair, to park boats and to maneuver trailers. [Attachment 7]

5) A large number of boats are frequently maneuvered on Ratliff property. [Attachment 7]

6) Boats that arrive by water need to be put onto a trailer, pulled from the water, and maneuvered into the shop for repair utilizing the private driveway in front of the shop.

7) The variance would permit the developer to change the current road from a private driveway to a private road or public road. This change would allow much more vehicle traffic (~200 cars per day as represented by Oconee County Roads and Bridges) which will prevent John's Marine from using the private driveway to maneuver and service boats as they have been doing for over 40 years in a very narrow stretch of land. This coupling of residential traffic and commercial traffic will be a disaster. [Attachments 8, 9 and 10]

8) There would be a substantial detriment to the health and safety of the public with approval of this variance with ~200 additional cars per day on a narrow road.

In conclusion, the Oconee County BZA does not have the authority to take Ratliff property. The applicant has failed to meet the burden of proof for criterion #4 (…substantial determinant to adjacent uses…).

The Oconee County BZA is encouraged to acknowledge these facts and vote against the variance.

We appreciate your consideration in this matter, and we will attend the BZA meeting on 4/25/2022 to continue to represent the Ratliff position.

Thank you,

Jimmy Ratliff
John's Marine Service

cc: Edward (Jay) Ratliff Jr.
Sherri D. Crisp
Amy L. Cawthon
Frances J. Ratliff
County Council members:
John Elliot, Chair
Matthew Durham
Paul A. Cain, Esq.
Julian Davis III
James Glenn Hart

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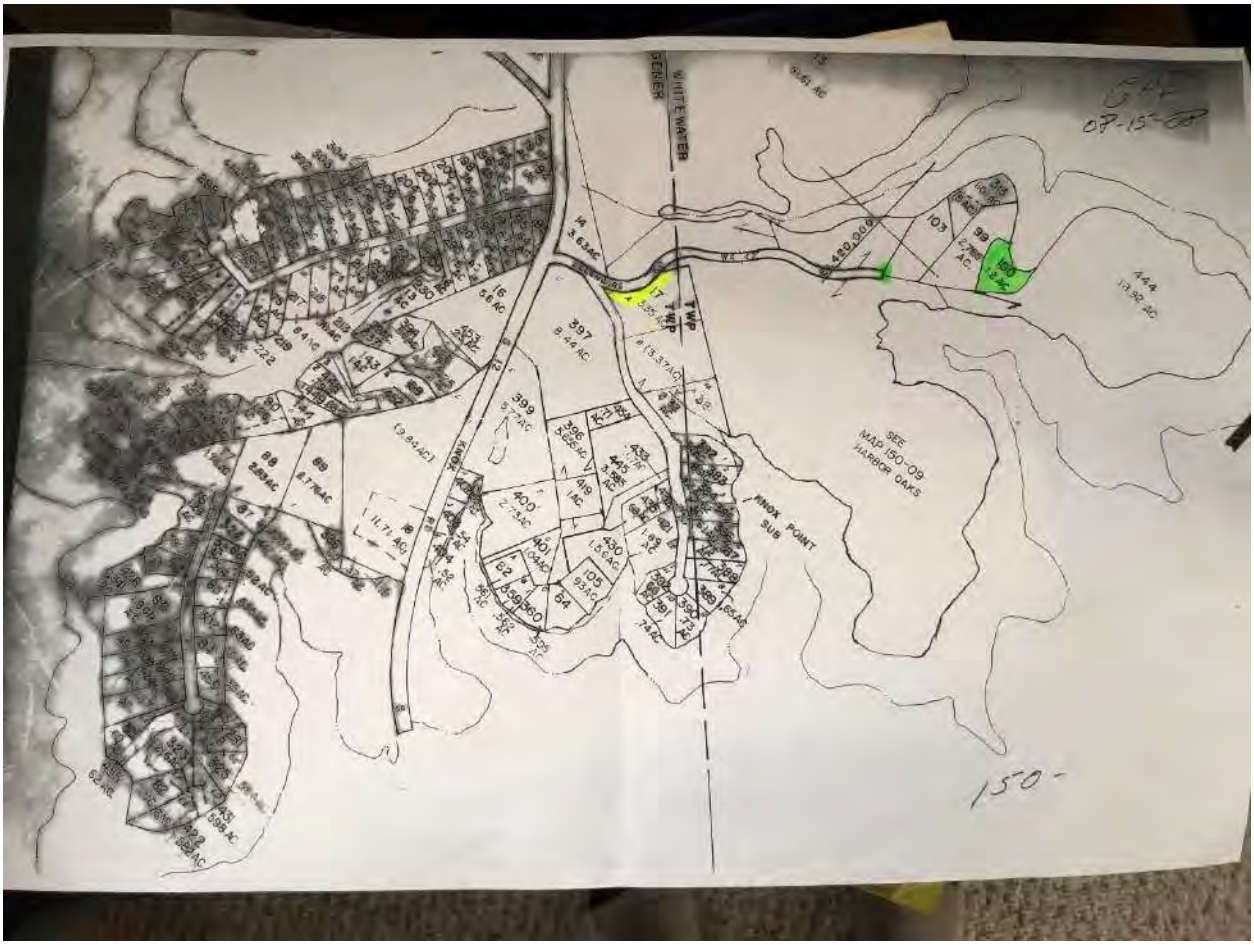
Attachment #1 (Map of end of county maintenance provided to the Ratliff family in 2008):



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Attachment 2 (Physical evidence of road termination):

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Attachment 3 (Ellenburg affidavit End of County Maintenance)

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STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

AFFIDAVIT OF LAURIE ELLENBURG BRIGHT

BEFORE ME appeared, Laurie Ellenburg Bright, who deposes and says:

1. I reside at 178 Madison Pointe Drive, Seneca, South Carolina, 29678 and have personal knowledge of the matter set forth herein.
2. Prior to moving to my current residence in March 2021, I resided at 591 Ellenburg Road, Seneca, South Carolina 29672.
3. I grew up/resided at 591 Ellenburg Road for a period of 40 years. Intermittently, I left Ellenburg Road from 1995-2002.
4. I am the grand-daughter of T.B. Ellenburg, the original owner of the property who sold a portion of his farmland for the creation of Lake Keowee.
5. My grandfather, T.B., was given naming rights for the road and he chose to name it Ellenburg Road.
6. After the creation of Lake Keowee, I recall an "End of County Maintenance" sign between 575 Ellenburg Road and 585 Ellenburg Road. I drove past this "End of County Maintenance" sign for years. This "End of County Maintenance" sign was located near a bathtub that my grandfather used to water his cattle.

FURTHER AFFIANT SAYETH NAUGHT.

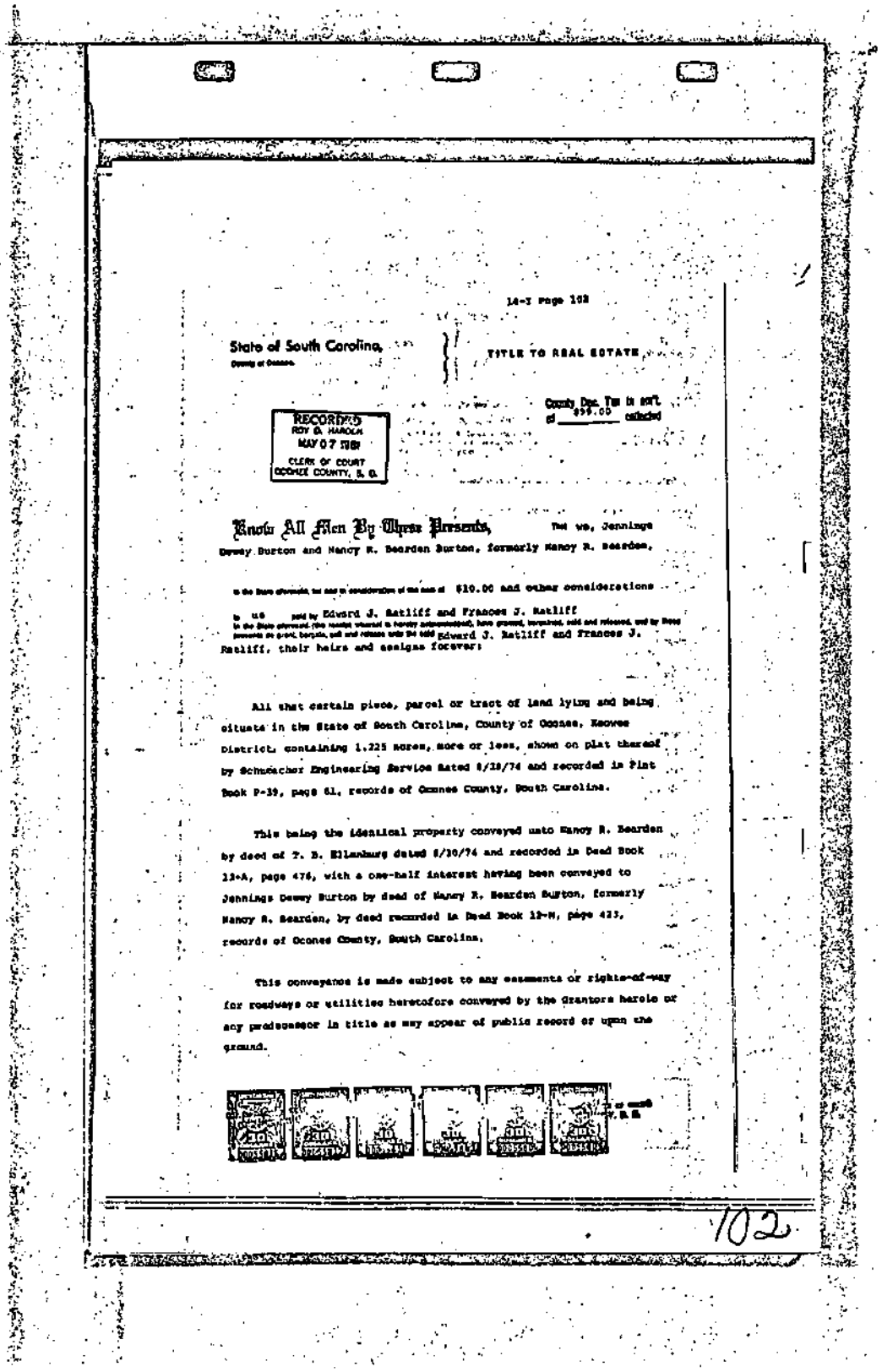
Laurie Ellenburg Bright
LAURIE ELLENBURG BRIGHT

1

SWORN to before me this 21st. day of April, 2022.

James E. Moore
Print Name: James E. Moore
Notary Public for State of S.C.
My Commission Expires: 7-24-2025

Attachment 4 (Ratliff deed book 14-I page 102)



14-I Page 102

State of South Carolina,
County of Oconee.

TITLE TO REAL ESTATE

County Tax Tax is not
of $59.00 collected

RECORDED
ROY O. HAROLD
MAY 07 1980
CLERK OF COURT
OCONEE COUNTY, S. C.

Know All Men By These Presents, That we, Jennings Dewey Burton and Nancy R. Bearden Burton, formerly Nancy R. Bearden,

in the State aforesaid, for and in consideration of the sum of $10.00 and other considerations to us paid by Edward J. Ratliff and Frances J. Ratliff in the State aforesaid, (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Edward J. Ratliff and Frances J. Ratliff, their heirs and assigns forever:

All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Oconee, Keowee District, containing 1.225 acres, more or less, shown on plat thereof by Schumacher Engineering Service dated 8/28/74 and recorded in Plat Book P-39, page 61, records of Oconee County, South Carolina.

This being the identical property conveyed unto Nancy R. Bearden by deed of T. B. Ellenburg dated 8/30/74 and recorded in Deed Book 13-A, page 476, with a one-half interest having been conveyed to Jennings Dewey Burton by deed of Nancy R. Bearden Burton, formerly Nancy R. Bearden, by deed recorded in Deed Book 13-N, page 413, records of Oconee County, South Carolina.

This conveyance is made subject to any easements or rights-of-way for roadways or utilities heretofore conveyed by the Grantors herein or any predecessor in title as may appear of public record or upon the ground.

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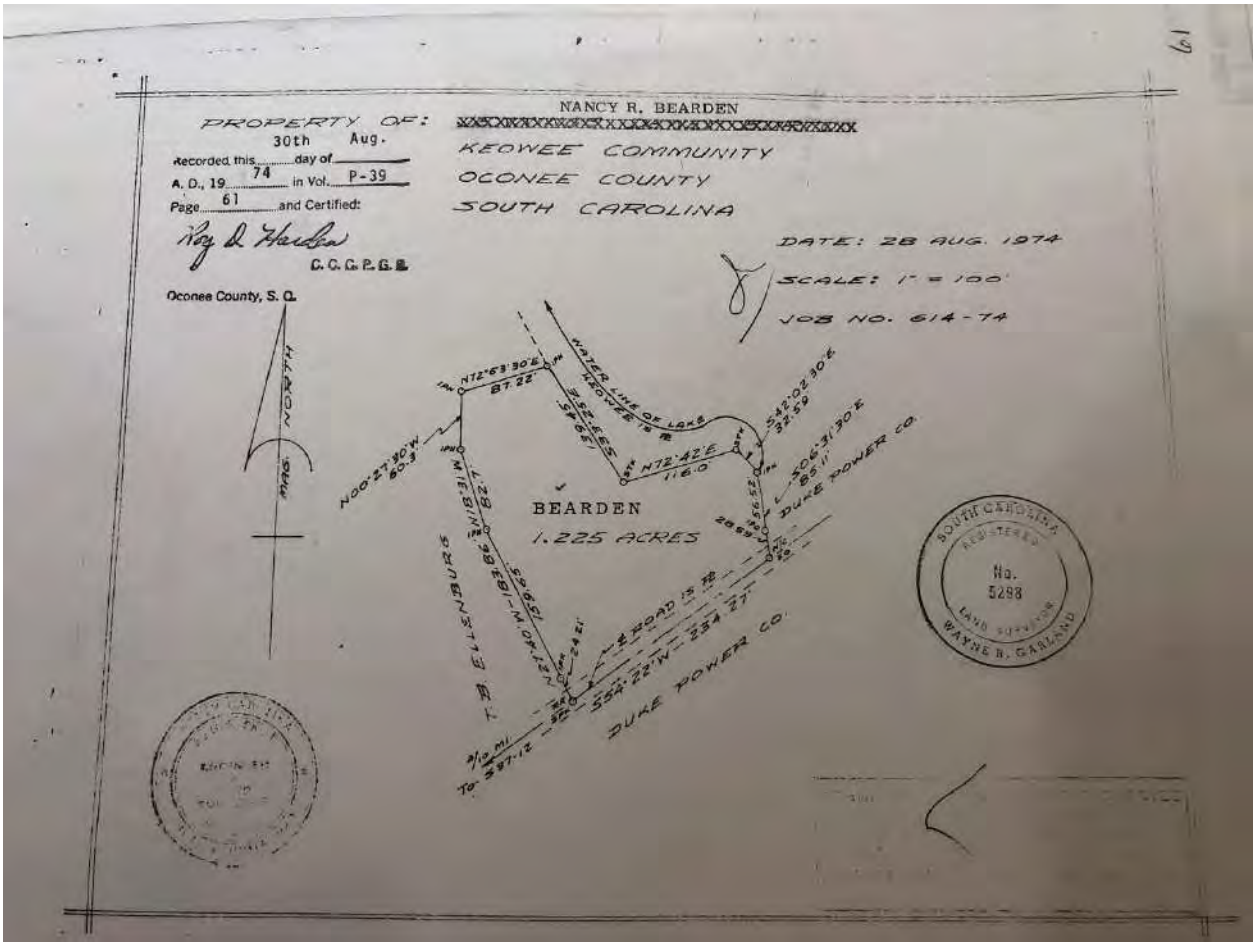
Attachment 5 (Ratliff Platt Book P-39 page 61):



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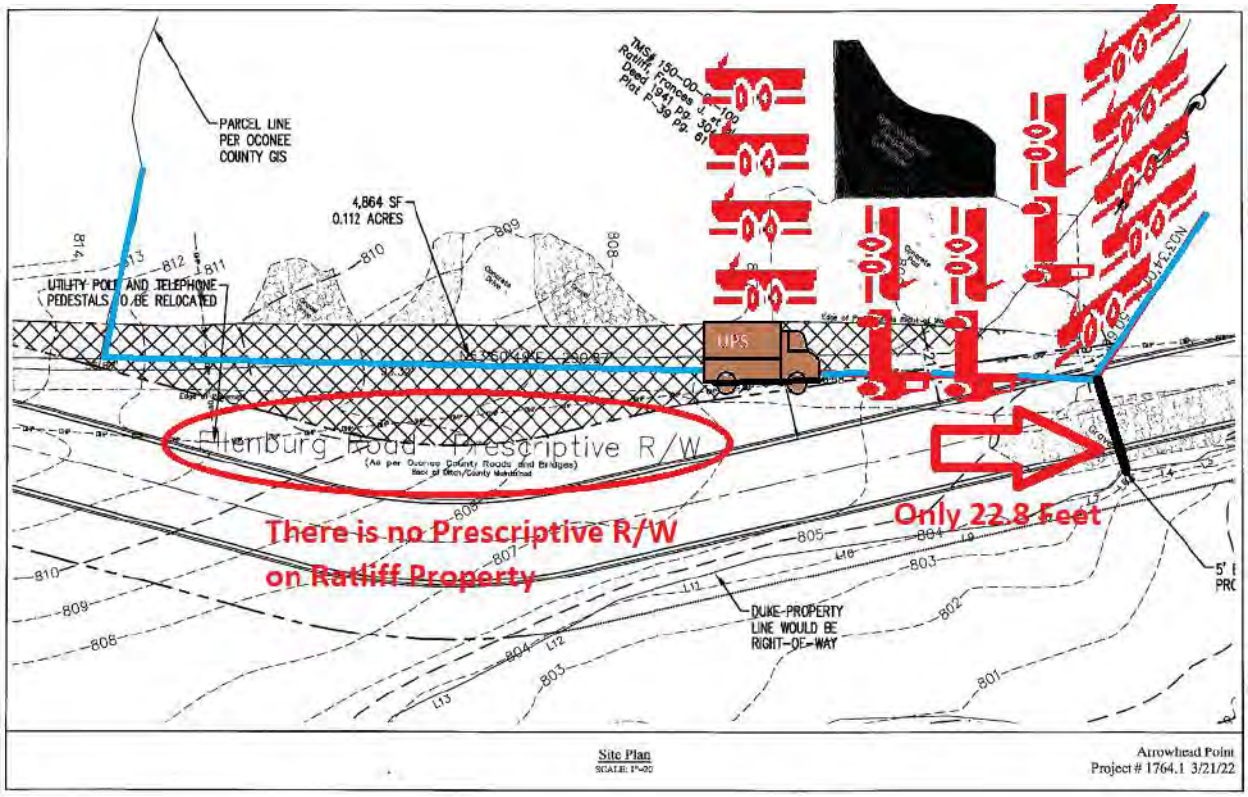
Attachment 6 (Developer plan designed by Goldie and Associates):



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Attachment 7 (John's Marine servicing boats on Ratliff property):

Pic #1: 20 foot pontoon being serviced

Pic #2: View standing in center of proposed 9.1 foot right of way

Pic #3: Customer pickup and delivery of boats.

Pic #4: Google street view from 2008.

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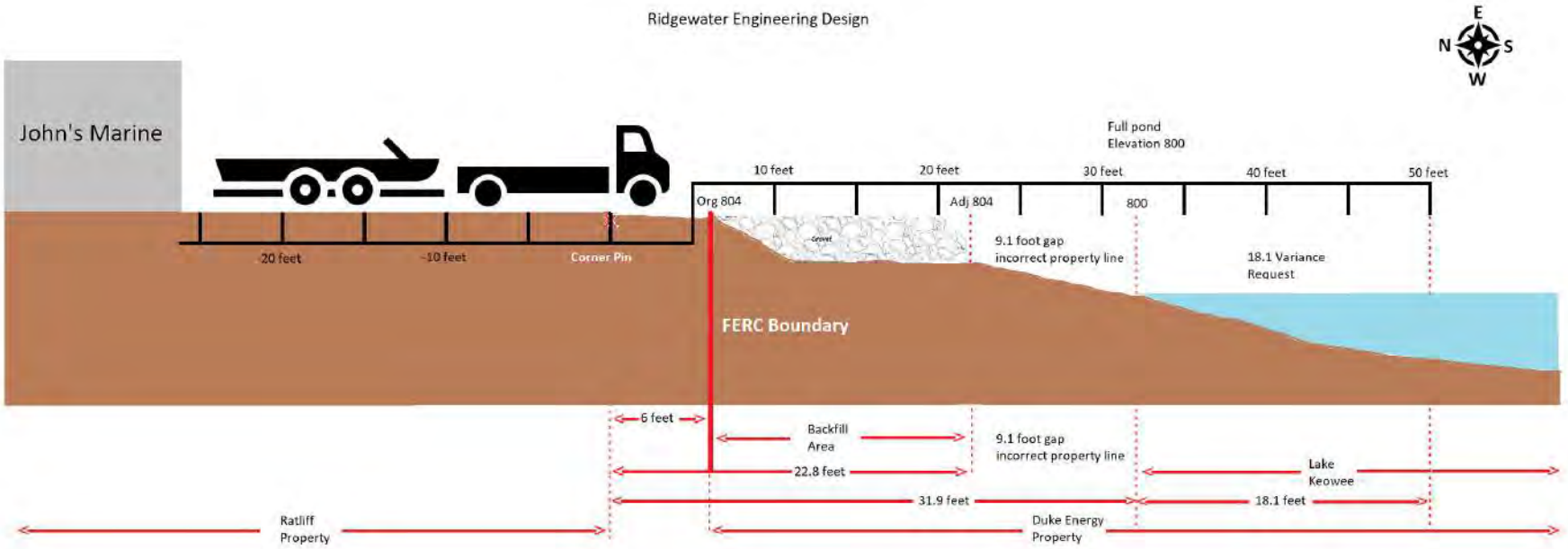
Attachment 8 (Scale diagram of Ridgewater Engineering design]:



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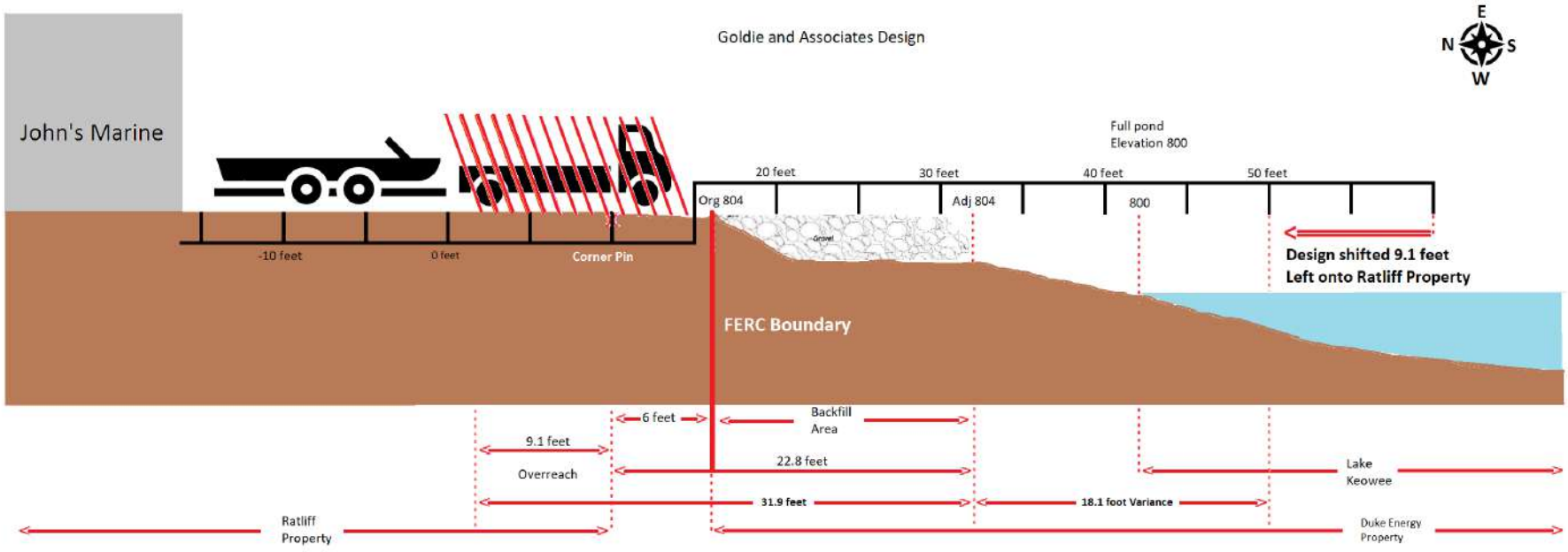
Attachment 9 (Scale diagram of Goldie and Associates design):



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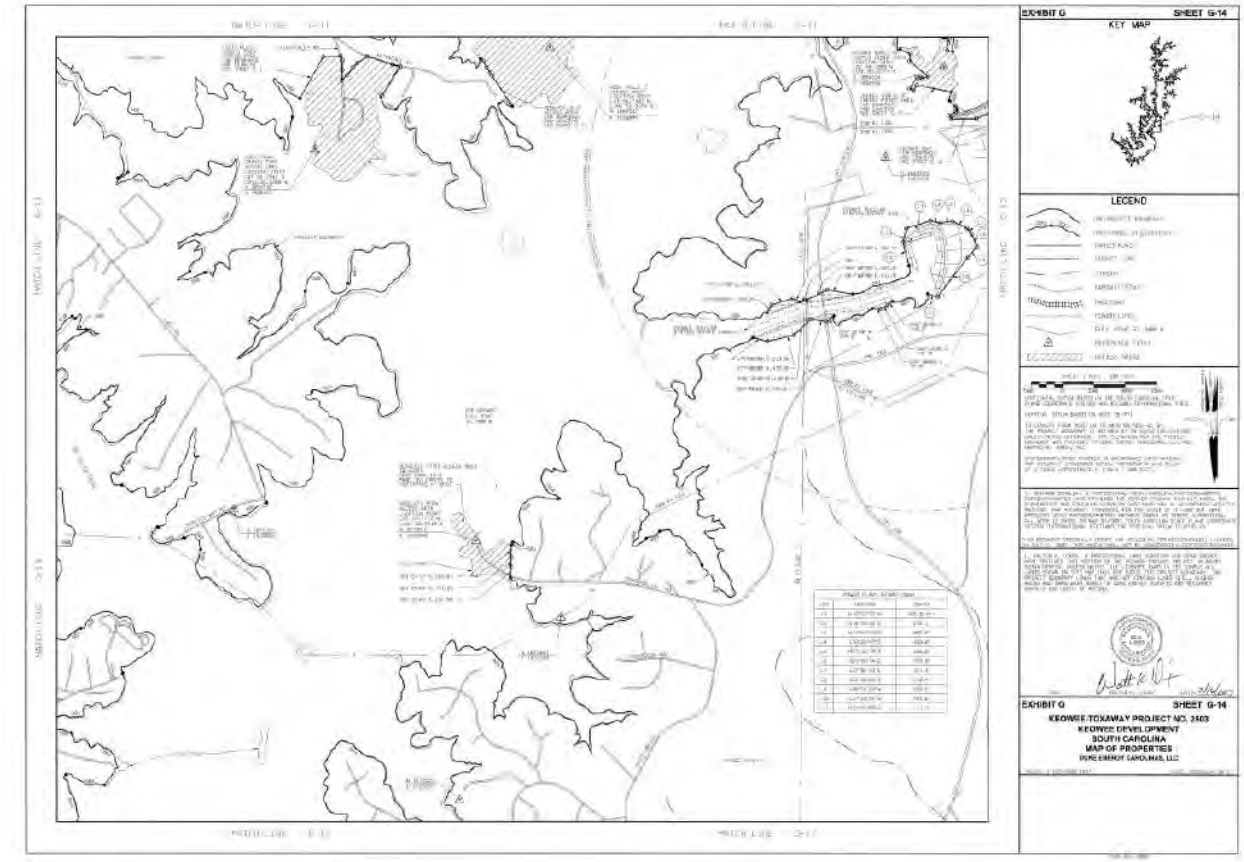
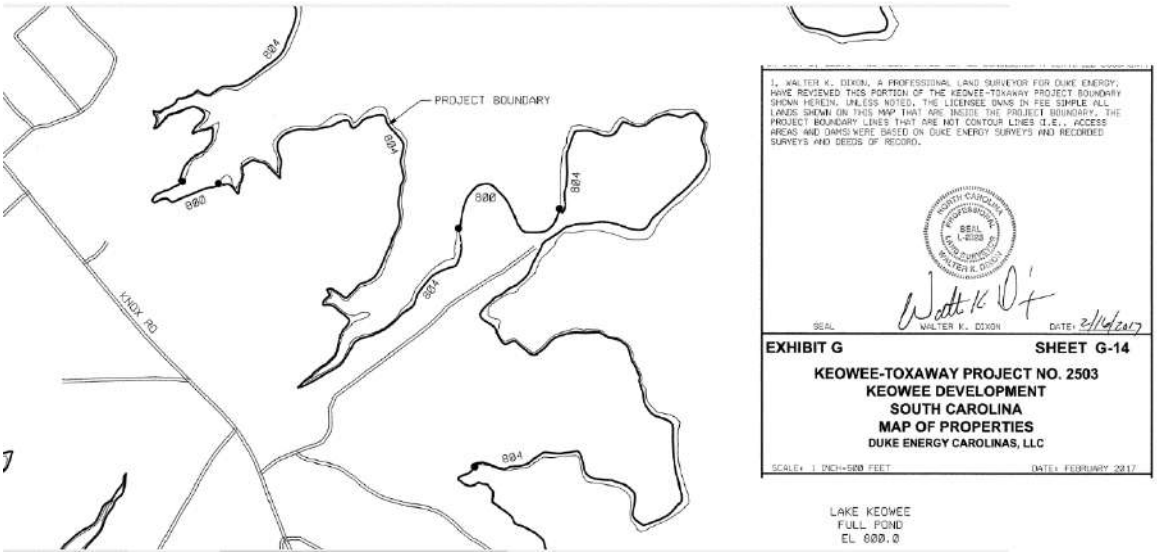
Attachment 10 (Project boundary map provided by Federal Energy Regulatory Commission):





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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS FOR THE TENTH JUDICIAL CIRCUIT
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Defendants/Respondents.	)	Case No. 2022-CP-37-00396 **AMENDED SUMMONS AND NOTICE OF APPEAL (from the Board of Zoning Appeals)**

TO THE DEFENDANTS/RESPONDENTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Complaint/Appeal in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to said Complaint/Appeal on the subscriber at their offices, 1513 Hampton Street, Post Office Box 11208, Columbia, South Carolina, 29211, within Thirty (30) days after the service hereof, exclusive of the date of such service; and if you fail to answer the Complaint/Appeal within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

The Petitioners/Appellants John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, and Amy Cawthon, appeal from the Order of the Oconee County Board of Zoning Appeals ("BOZA") finding a prescriptive easement across Petitioners' private property for the purpose of then granting a request for variance (#VA21-011) from the required 50' right-of-way of 18.1' located at TMS #150-00-01-459, for the eventual construction of a new public road. Such appeal is made pursuant to S.C. Code Ann. §6-29-820. The decision was made on April 25, 2022, and the Order was mailed on May 11, 2022.

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The BOZA grant of variance application #VA21-011 was erroneous for the following reasons:

i. BOZA concluded that Oconee County held a prescriptive easement over Petitioners' property without having any sworn testimony, documentary, or any other evidence supporting the existence of such an easement, and where Petitioners provided documents and sworn affidavits to the contrary. Prescriptive easements must be shown by clear and convincing evidence. This standard was not met. Because the BOZA failed to find a prescriptive easement by clear and convincing evidence, it lacked jurisdiction to grant a variance for a new public road and order the abandonment of Petitioners' land.

ii. BOZA's decision unilaterally increased and modified the burden on Petitioners' property. Assuming Oconee County has an easement over Petitioners' property, which is expressly denied, the BOZA's grant of the variance expands a dead end road for the development of a nineteen-home subdivision bringing an estimated additional 200 cars a day past Petitioners' property. Such additional traffic will impact the way John's Marine has conducted business at the same location for the past forty years. It was error for BOZA to grant a variance that materially increases and changes the burden on Petitioners' property.

iii. BOZA's Order granting the variance states that the "character of the district *WILL be harmed* by the granting of the variance." (Emphasis added). Granting a variance in light of such a conclusion is arbitrary, capricious, and an abuse of discretion.

iv. BOZA granted the variance application without knowing the final location of the proposed public roadway. Documents submitted to the BOZA showed that the location of the roadway was not final and that under certain scenarios it may push the roadway nine feet onto Petitioners' property, which will further negatively impact John's Marine's ability to conduct

business. BOZA's decision to approve the variance without knowing the final location of the roadway and the full impact to John's Marine was arbitrary, capricious, and an abuse of discretion.

v. BOZA is required by statute to provide a written explanation for its findings. The BOZA Order granting the variance does not contain an explanation for why the variance will not be of substantial detriment to John's Marine under the varying road location scenarios. BOZA was presented with drawings showing that under certain scenarios Petitioners will lose land and John's Marine's operations will be greatly impacted. The BOZA did not adequately explain its finding of no substantial detrimental impact to John's Marine in light of the information before it that the roadway location was not final.

For these reasons, the BOZA Order should be reversed.

Respectfully submitted,

s/David L. Paavola
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June 9, 2022

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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	)))	IN THE COURT OF COMMON PLEAS TENTH JUDICIAL CIRCUIT
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Defendants/Respondents.	)	C/A NO: 2022-CP-37-00396 **ANSWER OF OCONEE COUNTY BOARD OF ZONING APPEALS TO PETITIONERS/APPELLANTS' AMENDED COMPLAINT AND APPEAL**

The Defendant, Oconee County Board of Zoning Appeals ("BOZA"), in answer to Petitioners/Appellants' Amended Complaint and Appeal from the decision of BOZA granting road variance application #VA21-011, would respectfully show unto the Court as follows:

As a preliminary matter, BOZA would show and allege that Plaintiffs' Introduction contained in the first three (3) paragraphs of Plaintiffs' Amended Complaint and Appeal sets forth only a summary of the grounds asserted by the Petitioners/Appellants and requires no response from BOZA. To the extent it is determined that a response is required, BOZA denies said allegations and demands strict proof thereof and incorporates herein all allegations contained in the defenses hereinafter set forth.

FOR A FIRST DEFENSE

1. BOZA would show that the Amended Complaint/Appeal fails to state facts sufficient to constitute causes of action against BOZA and that the alleged causes of action so stated in said Amended Complaint0 fail to state claims on which relief can be granted and,

therefore, said Amended Complaint should be dismissed as to BOZA pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A SECOND DEFENSE

2. The allegations contained in the first defense hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

3. BOZA denies each and every allegation contained in the Amended Complaint/Appeal not hereinafter specifically admitted, modified or explained.

4. BOZA admits, based upon information and belief, the allegations contained in Paragraph 1, 2, 3, 4, 5 and 6 of the Amended Complaint/Appeal.

5. BOZA admits the allegations contained in Paragraphs 7, 8, 9, 10 and 11 of the Amended Complaint/Appeal.

6. BOZA denies, as pleaded, the allegations contained in Paragraph 12 of the Amended Complaint/Appeal. Further answering said allegations contained in Paragraph 12, BOZA would show that the Board Order dated April 11, 2022 contained a scrivener's error when it used the language in the 4th conclusion of that Order that stated "…the character of the district *will be harmed* by the granting of the variance." BOZA would show that this error was immediately corrected by the issuance of a Board Order of the same date titled "Scrivener's Error Corrected" to change the language in question to "…the character of the district *will not be harmed* by the granting of the variance."

7. BOZA admits the allegations contained in Paragraph 13 of the Amended Complaint/Appeal.

8. BOZA denies, as pleaded, the allegations contained in Paragraphs 14, 15 and 16 of the Amended Complaint/Appeal and demands strict proof thereof.

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9. BOZA admits the allegations contained in Paragraph 17 of the Amended Complaint/Appeal.

10. BOZA admits, based upon information and belief, the allegations contained in Paragraph 18 and 19 of the Amended Complaint/Appeal.

11. BOZA admits, based upon information and belief, so much of the allegations contained in Paragraph 20 of the Amended Complaint/Appeal as alleges that at some point before or around the mid 1980's Oconee County paved a portion of Ellenburg Road from Knox Road to approximately the western edge of 585 Ellenburg. The remaining allegations contained in Paragraph 20 of the Amended Complaint/Appeal are denied, based upon information and belief, and strict proof thereof is demanded.

12. BOZA admits so much of the allegations contained in Paragraph 21 of the Amended Complaint/Appeal as alleges that Oconee County undertook at certain times to stripe the center line of a section of Ellenburg Road. The remaining allegations contained in Paragraph 21 of the Amended Complaint/Appeal are denied and strict proof thereof is demanded.

13. BOZA denies the allegations contained in Paragraph 22 of the Amended Complaint/Appeal and demands strict proof thereof.

14. BOZA admits so much of the allegations contained in Paragraph 23 of the Amended Complaint/Appeal as alleges that Jan Ratliff provided an affidavit to Oconee County stating the items referenced in said Paragraph 23 and craves reference to said affidavit as the best evidence of its contents. The remaining allegations in Paragraph 23 of the Amended Complaint/Appeal are denied, based upon a lack of information and belief, and strict proof thereof is demanded.

15. BOZA admits, based upon information and belief, the allegations contained in Paragraph 24, 25 and 26 of the Amended Complaint/Appeal.

16. BOZA denies the allegations contained in Paragraph 27 and 28 of the Amended Complaint/Appeal and demands strict proof thereof.

17. BOZA admits the allegations contained in Paragraph 29 and 30 of the Amended Complaint/Appeal.

18. BOZA denies the allegations contained in Paragraph 31 of the Amended Complaint/Appeal and demands strict proof thereof.

19. BOZA denies so much of the allegations contained in Paragraph 32 of the Amended Complaint/Appeal as alleges that "…however, this conclusion is not correct…." and demands strict proof thereof.

20. BOZA admits the allegations contained in Paragraph 33, 34 and 35 of the Amended Complaint/Appeal.

21. BOZA denies any and all allegations contained in Paragraph 36 of the Amended Complaint/Appeal that are inconsistent with the transcript of the April 25, 2022 meeting, the contents of which are incorporated herein, by reference thereto, as well as the statement of the Petitioners/Appellants that allege that "corporate or institutional memory is not evidence and the county provided no affidavits or other documentary evidence of a prescriptive easement over the Private Driveway", and demands strict proof thereof.

22. BOZA admits so much of the allegations contained in Paragraph 37 of the Amended Complaint/Appeal that are consistent with Exhibit 9 referenced therein and the transcript of the meeting which is incorporated herein by reference thereto. Any allegations contained in said Paragraph 37 that are inconsistent therewith are denied and strict proof is demanded.

23. BOZA denies the allegations contained in Paragraph 38 of the Amended Complaint/Appeal and demands strict proof thereof.

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24. BOZA denies so much of the allegations contained in Paragraph 39, 40 and 41 of the Amended Complaint/Appeal that are inconsistent with the transcript of the meeting which is incorporated herein by reference thereto and demands strict proof thereof.

25. BOZA denies any and all allegations contained in Paragraph 42, 43 and 44 of the Amended Complaint/Appeal that are inconsistent with the transcript of the meeting which is incorporated herein by reference thereto and demands strict proof thereof.

26. In response to the allegations contained in Paragraph 45 of the Amended Complaint/Appeal, BOZA incorporates herein by reference thereto its responses to Paragraphs 1 through 44 of the Amended Complaint/Appeal set forth above.

27. BOZA admits the allegations contained in Paragraph 46 and 47 of the Amended Complaint/Appeal.

28. BOZA denies, as stated, the allegations contained in Paragraph 48 of the Amended Complaint/Appeal and demands strict proof thereof.

29. BOZA denies the allegations contained on Paragraph 49 and 50 of the Amended Complaint/Appeal and demands strict proof thereof.

30. In response to the allegations contained in Paragraph 51 of the Amended Complaint/Appeal, BOZA incorporates herein by reference thereto its responses to Paragraphs 1 through 50 of the Amended Complaint/Appeal set forth above.

31. BOZA denies the allegations contained in Paragraph 52 and 53 of the Amended Complaint/Appeal and demands strict proof thereof.

32. BOZA would show that the allegations contained in Paragraphs 54 and 55 of the Amended Complaint/Appeal are conclusions of law to which no response is necessary. To the

extent a response is deemed necessary, BOZA denies any allegation of fault or liability as to it and demands strict proof thereof.

33. BOZA denies that allegations contained in Paragraphs 56 and 57 of the Amended Complaint/Appeal and demands strict proof thereof.

34. In response to the allegations contained in Paragraph 58 of the Amended Complaint/Appeal, BOZA incorporates herein by reference thereto its responses to Paragraphs 1 through 57 of the Amended Complaint/Appeal set forth above.

35. BOZA denies the allegations contained in Paragraph 59, 60, 61 and 62 of the Amended Complaint/Appeal and demands strict proof thereof.

36. In response to the allegations contained in Paragraph 63 of the Amended Complaint/Appeal, BOZA incorporates herein by reference thereto its responses to Paragraphs 1 through 62 of the Amended Complaint/Appeal set forth above.

37. BOZA denies the allegations contained in Paragraph 64 of the Amended Complaint/Appeal and demands strict proof thereof. In further answering the allegations contained in said Paragraph 64, BOZA admits that the original Order of BOZA contained a scrivener's error which was immediately corrected so that the wording in question read "the character of the district *will not* be harmed by the granting of the variance."

38. BOZA denies the allegations contained Paragraph 65, 66 and 67 of the Amended Complaint/Appeal and demands strict proof thereof and craves reference to the transcript of the meeting/record on appeal which is incorporated herein by reference thereto.

39. BOZA admits the allegations contained in Paragraph 68 of the Amended Complaint/Appeal to the extent it is consistent with the legal authorities cited therein. To the

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extent the allegations contained in said Paragraph 68 are inconsistent with said legal authorities, BOZA denies the allegations and strict proof thereof is demanded.

40. BOZA denies the allegations contained in Paragraph 69 and 70 of the Amended Complaint/Appeal and demands strict proof thereof.

41. In response to the allegations contained in Paragraph 71 of the Amended Complaint/Appeal, BOZA incorporates herein by reference thereto its responses to Paragraphs 1 through 70 of the Amended Complaint/Appeal set forth above.

42. BOZA admits so much of the allegations contained in Paragraph 72 of the Amended Complaint/Appeal as are consistent with the Code provisions stated therein. BOZA would further show that it complied in all respects with the requirements of the Code Section cited therein.

43. BOZA denies the allegations contained in Paragraph 73 of the Amended Complaint/Appeal and demands strict proof thereof. To the extent of any deficiencies in BOZA's said Order, any such alleged deficiencies are cured by the contents of the complete written transcript of the hearing which is incorporated herein by reference thereto as a part of this response.

44. BOZA denies the allegations contained in Paragraph 74 and 75 of the Amended Complaint/Appeal.

FOR A THIRD DEFENSE

45. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

46. This Defendant pleads the provisions of the South Carolina Tort Claims Act, South Carolina Code §15-78-10, *et seq.,* including all of the immunities, limitations, including, but not limited to, statute(s) of limitations, and defenses granted or preserved by the Act.

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FOR A FOURTH DEFENSE

47. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

48. This Defendant affirmatively pleads and asserts §15-78-60 (1), (2), (3), (4), (5), (7), (8), (10), (13, (15), and (20), South Carolina Code of Laws, 1976, as amended. Further, this Defendant pleads and asserts as a complete bar, absolute, and affirmative defense to Plaintiffs' claims any and all conditions of recovery, statute of limitations, limitations of liability, and above listed exceptions from liabilities and/or immunities as set forth in the South Carolina Tort Claims Act.

FOR A FIFTH DEFENSE

49. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto

50. Any injury or damage sustained by Plaintiffs as a result of the matters alleged in the Amended Complaint/Appeal were caused by events over which this Defendant had no control or right of control, thereby relieving this Defendant from any liability or responsibility.

FOR A SIXTH DEFENSE

51. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

52. Any damages suffered by the Plaintiffs were not due to any action on the part of BOZA.

FOR A SEVENTH DEFENSE

53. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

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54. This Defendant, at all times relevant hereto and during the performance or non-performance of the acts alleged in the Amended Complaint/Appeal, did not perform any acts or fail to perform any acts in bad faith, in a malicious manner, or with corrupt motives and this Defendant is, therefore, immune from suit.

FOR AN EIGHTH DEFENSE

55. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

56. This Defendant would show that at all times alleged in the Plaintiffs' Amended Complaint/Appeal, it acted reasonably and in good faith and did not violate any clearly established right of the Plaintiffs and, therefore, is qualifiedly immune from suit.

FOR A NINTH DEFENSE

57. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

58. Plaintiffs have not suffered any damages caused by the actions of this Defendant. This Defendant further asserts Plaintiffs failed to properly mitigate damages.

FOR A TENTH DEFENSE

59. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

60. Any injury or damage sustained by the Plaintiffs as a result of the matters alleged in the Amended Complaint/Appeal were a proximate result of the acts of a third-party which this Defendant affirmatively pleads as a complete bar to this action.

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FOR AN ELEVENTH DEFENSE

61. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

62. This Defendant asserts the applicable statute of limitations as a defense to Plaintiffs' Amended Complaint/Appeal.

FOR A TWELFTH DEFENSE

63. The allegations contained in the defenses hereinabove set forth are incorporated herein and made a part of this defense by reference thereto.

64. This Defendant places the Plaintiff on notice that it will subsequently move to amend this Answer should it appear through discovery or continued fact investigation that additional defenses and/claims are available.

LOGAN & JOLLY, LLP

s/James W. Logan, Jr.
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Attorneys for Oconee County Board of Zoning Appeals

Dated: July 27, 2022

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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS FOR THE TENTH JUDICIAL CIRCUIT
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Defendants/Respondents.	)	Case No. 2022-CP-37-00396 **BRIEF OF APPELLANTS**

This is an appeal from an Oconee County Board of Zoning Appeals' ("BOZA") order, (hereinafter, "Variance Order"), granting road variance application #VA21-011 (hereinafter, the "Variance Application"). Petitioners/Appellants are landowners and business operators directly impacted by the Variance Order that approves the construction of a public road running over their private driveway. For the reasons set forth herein, Petitioners/Applicants respectfully request that the Variance Order be reversed.

The central issue in this appeal is whether Oconee County has a prescriptive easement over a paved section of Ellenburg Road that is privately owned by Petitioners and the adjacent property owners Globe, A South Carolina Limited Partnership, ("Globe"), and Farmes, A South Carolina Limited Partnership, ("Farmes"). The paved private driveway is partially on Petitioners' property (585 Ellenburg Road and 599 Ellenburg Road) and partially on Globe's and Farmes' property, with the majority of the paving on Petitioner's property (hereinafter, the "Private Driveway").

The BOZA's grant of the Variance Application was erroneous for the following reasons:

i. The BOZA did not have jurisdiction to resolve the disputed factual issue as to whether Oconee County holds a prescriptive easement over the Private Driveway. In hearing

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evidence on the prescriptive easement, assuming the existence of a prescriptive easement, and then approving the Variance Application based on this assumption, the BOZA effectively determined this disputed question of fact. In this manner, BOZA acted outside of its limited jurisdiction to hear variance applications.

ii. Even assuming the BOZA could move forward on the Variance Application, the BOZA abused its discretion when it assumed Oconee County held a prescriptive easement over the Private Driveway in light of the evidence before it where the county only provided reports of "institutional knowledge" and Petitioners provided sworn affidavits, documentation, and testimony that they had maintained the Private Driveway for the past forty years. Given the evidence, deciding this assumption in Oconee County's favor was arbitrary, capricious, and an abuse of discretion.

iii. BOZA's decision unilaterally increased and modified the burden on Petitioners' property. Assuming Oconee County has a prescriptive easement over Petitioners' property, which is expressly denied, the BOZA's grant of the variance expands a dead end road for the development of a nineteen-home subdivision bringing an estimated additional 200 cars a day past Petitioners' property. Such additional traffic will impact the Petitioners that live on this road and the way John's Marine Service, Inc. ("John's Marine") has conducted business at the same location for the past forty years. It was arbitrary, capricious, and an abuse of discretion for BOZA to grant a variance that materially increases and changes the burden on Petitioners' properties.

iv. BOZA granted the Variance Application without knowing the final location of the proposed public roadway. Documents submitted to the BOZA showed that the location of the roadway was not final and that under certain scenarios it may push the roadway nine feet onto Petitioners' property, which will further negatively impact John's Marine's ability to conduct

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business and negatively impact the Petitioners' use of their properties. BOZA's decision to approve the variance without knowing the final location of the roadway and the full impact to John's Marine was arbitrary, capricious, and an abuse of discretion.

v. BOZA is required by statute to provide a written explanation for its findings. The BOZA Order granting the variance does not contain an explanation for why the variance will not be of substantial detriment to John's Marine and the other Petitioners under the varying road location scenarios. BOZA was presented with drawings showing that under certain scenarios Petitioners will lose land and John's Marine's operations will be greatly impacted. The BOZA did not adequately explain its finding of no substantial detrimental impact to John's Marine and the other Petitioners in light of the information before it that the roadway location was not final.

For these reasons, the BOZA's Variance Order should be reversed.

PROCEDURAL BACKGROUND

On April 25, 2022, the BOZA granted Ridgewater Engineering and Surveying's ("Ridgewater") Variance Application for a variance of 18.1' from the 50' right-of-way required for construction of a new public road. Ridgewater sought the variance as an agent for Globe and Farmes. The new public road would service a currently undeveloped 15-acre tree or arrowhead-shaped peninsula on Lake Keowee referred to as "Arrowhead Point." The "trunk" section of this tract is adjacent to 585 Ellenburg and 599 Ellenburg and a portion of this property is part of the paved Private Driveway. The new public road would connect an eventual nineteen-home subdivision to the existing paved private section of Ellenburg Road that dead ends at the location of Petitioners' private property. The Variance Application initially came before the BOZA on November 30, 2021, then again on January 24, 2022, and finally for a vote on April 25, 2022.

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November 30, 2021 BOZA Meeting

On November 30, 2021, the Variance Application was first placed on the BOZA agenda. During this first meeting, the BOZA heard from the applicant about the requested variance and the proposed plans to construct a new public road to service an eventual nineteen-home subdivision on the 15-acre peninsula past Johns' Marine. (BOZA Hearing Tr. 151:20-152:1 (Nov. 30, 2021)). The applicant asserted that Oconee County has a prescriptive easement over the Private Driveway in front of Petitioners' properties up to the point where the pavement and road dead ends, which is where proposed new public road would be placed. (BOZA Hearing Tr. 39:7-13; 143:24-144:4 (Nov. 30, 2021)).

During public comments, Petitioners informed the BOZA that they disputed that Oconee County holds a prescriptive easement over their Private Driveway. (BOZA Hearing Tr. 57:22-58:5; 60:9-61:22 (Nov. 30, 2021)). Petitioners brought to BOZA's attention the fact that: (1) Petitioners and their family members, or predecessors in interest, had paved and maintained the Private Driveway for the last forty years, BOZA Hearing Tr. 75:25-77:3; 81:21-82:11 (Nov. 30, 2021); and (2) Ellenburg Road itself reflects the difference between County and non-County maintained travel surfaces where the pavement quality differs and where the County stopped its yellow-line road striping at the location where the Private Driveway begins, (*Id.* at 60:9-61:5; 76:4-9; *see also* **Exhibit A** (R. pp. 60-66, images of the road striping).

Petitioners also raised concerns about (1) BOZA's jurisdiction to grant a variance affecting two private parties, BOZA Hearing Tr. 85:22-86:9 (Nov. 30, 2021); (2) the legality with moving forward to consider the Variance Application without first showing that Oconee County had a prescriptive easement over the Private Driveway, (*Id.* at Tr. 61:5-22); and (3) the legality of

Oconee County unilaterally changing the easement burden on Petitioners' properties, assuming Oconee County held a prescriptive easement, (*Id.* at Tr. 61:22-63:25).

BOZA recognized that it if the county does not maintain the Private Driveway, then it would not have the authority to grant the Variance Application. (BOZA Hearing Tr. 86:15-22 (Nov. 30, 2021)). After closing public comments, members of the BOZA noted: (1) the predicate question to considering the Variance Application is whether the BOZA has authority over the Private Driveway by virtue of a prescriptive easement, (*Id.* at Tr. 163:19-164:14); (2) traffic and safety with the continuing operation of John's Marine are issues to be resolved, (*Id.* at Tr. 165:15-20, 168:7-14; 169:13-24; 170:11-21; 171:22-24); and (3) John's Marine uses the entirety of the Private Driveway to conduct its business, (*Id.* at Tr. 168:19-169:11). Ultimately, BOZA voted to table the Variance Application pending a resolution of whether Oconee County holds a prescriptive easement over the Private Driveway. (*Id.* at Tr. 174:20-175:15; 178:6-11).

January 24, 2022 BOZA Meeting

On January 24, 2022, the Variance Application was again on the BOZA agenda. The application was removed from the table before discussion of ownership of the Private Driveway. (BOZA Hearing Tr. 18:25-19:20 (Jan. 24, 2022)). Oconee County Attorney David Root, Esq., informed BOZA that there was no question that the land under the Private Driveway belonged to private parties. (*Id.* at Tr. 19:25-20:2). According to Attorney Root, the question was whether Oconee County maintained the paved traveling surface of the Private Driveway such that it holds a prescriptive easement. (*Id.* at Tr. 20:2-3; 22:18-20). On this question, Attorney Root could offer no definitive answer in light of an affidavit he received—believed to have been provided by Jan Ratliff who has been an owner of 599 Ellenburg since 1981—that conflicted with information he had received from the roads and bridges department. (*Id.* at Tr. 20:3-22).

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Attorney Root informed BOZA that Oconee County, assuming it has a prescriptive easement over the Private Driveway, has no right to expand that easement (*Id.* at Tr. 22:1-3). Attorney Root further informed BOZA that what the county has done, or its level of maintenance on the Private Driveway over the previous twenty years, is what defines what the county can do going forward. (*Id.* at Tr. 24:24-25:6). BOZA postponed a vote on the Variance Application until a later time. (*Id.* at Tr. 34:24-35:1).

April 25, 2022 BOZA Meeting

On April 25, 2022, the Variance Application was again on the BOZA agenda for a vote. The applicant was given another opportunity to present its request, and it again asserted that Oconee County has a prescriptive easement over the Private Driveway. (BOZA Hearing Tr. 18:15-17 (April 25, 2022)). The applicant also asserted that the proposed roadway would give John's Marine *more room* to maneuver boats, such that it would not be detrimental to the adjacent property owners. (*Id.* at Tr. 20:20-21:1). Petitioners disputed this assertion. (*Id.* at Tr. 75:9-23). During its presentation, the applicant repeatedly asserted that the 50' right-of-way requirement did not exist at the time the owners purchased the property in 2008. (*Id.* at Tr. 17:15-23; 19:16-17; 22:5-8). However, Petitioners provided BOZA with ordinances reflecting that the 50' right-of-way requirement had been in place at least since 2006, before the owners purchased the property. (*Id.* at Tr. 73:10—74:9, R. pp. 258-269; attached as **Exhibit F**). County staff, Mr. Reid, agreed that the 50' right-of-way requirement had been in place since 2006. (*Id.* at Tr. 95:7-12).

After the applicant's presentation, the BOZA asked county staff to present information on the existence of the prescriptive easement over the Private Driveway. As he had at the January 24, 2022 meeting, County Attorney Root addressed the BOZA, as did County Roads and Bridges employee Kyle Reid. The only additional information Mr. Root had gathered since the January

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24, 2022 meeting was an affidavit from Lori Ellenburg Bright that further called into question the county's asserted prescriptive easement along the Private Driveway. Mr. Root's and Mr. Reid's comments on the prescriptive easement were as follows:

> MR. ROOT:
> The -- I expressed the opinion on the Jan -- or during the January meeting, nothing has changed with that opinion which was to the effect that the county's corporate or institutional memory or knowledge is that it has a prescriptive easement to the edge of the pavement to the end of the pavement, abutting the -- the property that's to be developed. *I understand though at that time I had one affidavit from Jan Ratliff, I have another one now, I believe her name is Ms. -- yeah, Lori Ellenburg Bright, that calls that into question as -- as far as where that prescriptive easement ends, if it ends somewhere west of that. And that's all I have.* I -- I'm not a final arbiter or fact finder in that regard. I can't make a decision in -- just to make my role clear, I'm here to as best I can help with the integrity of the proceedings to make sure it goes smoothly. There's able counsel here for both sides and it would be, you know, just not right for me to advocate for any particular position. I'll answer any questions I can but as far as the facts on that prescriptive easement issue, that's what we have.
>
> MR. CHAIRMAN:
> So it's kind of unclear as to what –
>
> MR. ROOT:
> I -- I -- I would say --
>
> MR. CHAIRMAN:
> It's unclear.
>
> MR. ROOT:
> I wouldn't even use that moniker on it. I would say we've got the county maintains that it has the end of the pavement but I do understand that we have sworn statements provided by Mr. Ratliff's side we'll say that contradict that.

(*Id.* at Tr. 23:5-24:13 (emphasis added)). Mr. Reid offered the following comments on his research into the issue of a prescriptive easement:

> To our -- *to our institutional knowledge*, yes, sir, it -- it is a county road, all the way to the end as shown on -- on the plan.
> . . .
>
> And I can -- I can speak generally. Well, first, I've contacted the state and they don't have any record of Ellenburg Road that -- that shows that it was a state road.

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> *Now all of the institutional knowledge again says that it was a state road*. As far as anything that where the state abandoned their maintenance responsibility and gave it to the county, again there is no record that shows that, the -- the state did not have any records as such and we don't have any records as such to that end. *So, it is institutional knowledge that has – that has led us to that we own to that point of the road*.

(*Id.* at Tr. 28:1-3, 28:24-:29:10 (emphasis added)). The extent of the evidence provided to the BOZA showing that Oconee County holds a prescriptive easement over the Private Driveway was verbal assertions of "institutional knowledge."

The BOZA again heard testimony from Petitioners and their agents that the yellow centerline striping ends before the Private Driveway begins, the pavement quality changes at that point, the end of county maintenance sign had been located west of the Private Driveway for decades, and Petitioners have maintained the Private Driveway for forty years. (*Id.* at Tr. 37:4-23). Petitioner Jay Ratliff reiterated to the BOZA that Petitioners had been using and maintaining the Private Driveway for forty years and provided pictures of John's Marine using the entirety of the Private Driveway to conduct its business. (*Id.* at Tr. 45:24-46:20; R. p. 296).

Petitioner Jay Ratliff is a licensed South Carolina professional engineer. (*Id.* at Tr. 44:1-10). Mr. Ratliff prepared and provided the BOZA with scaled drawings based on the applicant's design. (*Id.* at 44:3-5; R. pp. 295, 297-98, also attached as **Exhibit B**;). These drawings called into question the measurements that form the basis for the Variance Application. Whereas the applicant claimed to own 31.9' of land available for the proposed roadway and only need an 18.1' variance, Mr. Ratliff explained that the applicant's designs showed that it only owned 22.8' of land and in fact needed closer to a 27.2' variance. (*Id.* at Tr. 44:10-45:23; Compare R. p. 286 (Variance Request Survey dated Aug. 26, 2021), with R. p. 285 (Site Plan dated Mar. 21, 2022)); see also site plans prepare by applicant attached as **Exhibit C** (R. pp. 13-14, 40-44, 285).

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Mr. Ratliff's drawings depict a truck connected to a boat trailer for service as they typically are at John's Marine and based on the original design submitted by applicant to the BOZA. (R. p. 297; Ex. B at 2). Under the applicant's original design, there is only 22.8' of land between the corner pin of Petitioners' property and the 804 boundary, below which the applicant cannot develop. Mr. Ratliff explained that prior to the landowner's backfill activities, which occurred on or about July 2021 (BOZA Hearing Tr. 79:17-19 (Nov. 30, 2021)), the original 804 boundary was only six feet from the end of Petitioners' property line. (R. p. 297; Ex. B at 2). Even with the new backfill, under the original design provided by Ridgewater, the only way to achieve 31.9' to satisfy the Variance Application would be to fill-in an additional 9.1' of land owned by Duke on the lake-side of the property below the 804 boundary. (BOZA Hearing Tr. 46:20-47:19 (Apr. 25, 2022); R. p. 297; Ex. B at 2).

Mr. Ratliff then pointed out that a second design was prepared by Goldie and Associates dated March 21, 2022, just before the April BOZA meeting. (R. pp. 285, 298; Ex. B at 3). Under this new design, the roadway was shifted 9.1' onto Petitioners' property to satisfy the 31.9' of land required for the proposed new public roadway without requiring fill below the 804 boundary. (*Id.* at Tr. 47:19-48:13; R. p. 298; Ex. B at 3). Such a shift would have a significant detrimental impact on John's Marine by eliminating the area necessary to service boats, especially with the potential of 200 new cars a day driving past the business. (*Id.* at Tr. 48:2-9, 49:8-13; 51:16-19; R. p. 288-89).[1]

[1] County staff provided a preliminary estimate that nineteen homes could possibly result in an additional 200 cars a day past Petitioners' property. (BOZA Hearing Tr. 91:2-92:1 (Apr. 25, 2022)).

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Prior to voting on the Variance Application, the BOZA observed that it was not competent to decide the prescriptive easement issue; however, it moved forward with a vote anyway based on its assumption that a prescriptive easement did in fact exist.

> MR. CHAIRMAN:
> Is anyone -- anyone not comfortable with that approach? Okay. Let's start out with the prescriptive easement. We've heard a lot of input on both sides, the county attorney, everyone else. What are your thoughts on the prescriptive easement?
>
> MR. EAGAR:
> I think -- I think from what we've heard so far that -- that does not bind us in any way in terms of whether, you know, and it -- from a decision standpoint we can go ahead with a decision that perceptively the easement doesn't impede us in any way from what I understood from Mr. Root, is that true?
>
> MR. ROOT:
> From my position, staying neutral, I believe you can craft an order that addresses the fact that the prescriptive easement may -- they may not express a direct opinion on the prescriptive easement but you address the variance of that pinch point, yes.
>
> MR. EAGAR:
> So I think that -- I think -- I think we should do that then and disregard the perceptive easement. This is a discussion?
>
> MR. CHAIRMAN:
> We are not competent to decide that issue.
>
> MALE VOICE:
> All right.
>
> MR. CHAIRMAN:
> We just don't -- we don't have the (inaudible).
>
> MALE VOICE:
> Right.
>
> MR. CHAIRMAN:
> We don't have business in that so we're not gonna decide that but as -- as John's suggesting we ought to go ahead and -- and decide this as though there were an easement and -- and if someone wants to go to court to --
>
> MALE VOICE:
> Yup.

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> MALE VOICE:
> Yeah.
> . . .

(BOZA Hearing Tr. 100:1-101:17 (Apr. 25, 2022)).

The BOZA recognized that if the county does not have a prescriptive easement, a new public road could not be built as the applicant requested.

> MR. CHAIRMAN:
> Well, I guess let's decide if there's no prescriptive easement there the county is not doing business down there and there isn't gonna be a road built, doesn't matter who's gonna, you know, it all depends on that getting decided somewhere.

(BOZA Hearing Tr. 105:14-19 (Apr. 25, 2022)).

Concerning the impact to adjacent property owners, the BOZA decided that John's Marine would have more room after the new public road was constructed and the previous prescriptive easement area was abandoned, as well as better access to its business. (*Id.* at Tr. 115:17-116:15; 118:19-119:3; 140:17-21; 143:14-19). The BOZA made this determination without addressing Petitioners' drawings showing that an additional 9.1' of its land could be required for placement of the new public right of way. (See Ex. B). Even though BOZA recognized that it was approving a variance application for a new public road without knowing exactly where the location of the new public right-of-way would be located, it moved ahead with a vote. (*Id.* at Tr. 153:20-156:14).

Ultimately, the Variance Application was approved. (*Id.* at Tr. 161:1-3). The Variance Order sets forth the following conclusions:

i. There ARE extraordinary and exceptional conditions pertaining to the particular piece of property;

ii. These conditions DO NOT generally apply to other property in the vicinity;

iii. Because of these conditions, the application of this chapter to the particular piece of property WOULD effectively prohibit or unreasonably restrict the utilization of the property; and

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iv. The authorization of a variance WILL NOT be of substantial detriment to adjacent uses or to the public good, and the character of the district WILL NOT be harmed by the granting of the variance.

(R. p. 444).

The Variance Order was approved with the following conditions:

v. Order approved subject to proper abandonment procedures;

vi. Compliance with all ordinances and state law on acceptance into the County roadway system;

vii. Developer grant/ deed John's Marine property so that there is reasonable, unimpeded access to the new road.

(R. p. 444).

Notice of Appeal

The Variance Order was issued and mailed on May 11, 2022. (R. p. 443). An amended Variance Order was issued on June 22, 2022, to correct a scrivener's error in the original order that stated the "character of the district WILL be harmed," when it should have read "WILL NOT be harmed." (R. p. 444). Petitioners had thirty days to appeal the Variance Order pursuant to S.C. Code Ann. § 6-29-820(A):

> A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the decision of the board is mailed

Petitioners timely filed their Notice of Appeal and Complaint on June 8, 2022. Petitioners filed an amended Complaint on June 9, 2022, to name Ridgewater as a party in an abundance of caution. On June 21, 2022, Globe and Farmers moved to intervene as substitute parties for Ridgewater. Petitioners did not oppose this motion. This appeal followed.

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STATEMENT OF THE FACTS

Edward (John) Ratliff and Francis (Jan) Ratliff purchased 599 Ellenburg in 1981 and co-located their home on the property along with John's Marine Service, which was moved to the property from downtown Seneca in 1982. (R. p. 56). At the time the Ratliffs purchased 599 Ellenburg in 1981, T.B. Ellenburg owned the adjacent property located at 585 Ellenburg. Descendants of T.B. Ellenburg owned 585 Ellenburg until 2020 when it was sold to Petitioners James Ratliff and Lucretia Morgan. (BOZA Hearing Tr. 76:14-18 (Nov. 30, 2021)).

At some point before or around the mid-1980's, Oconee County paved a portion of Ellenburg Road from Knox Road to approximately the western edge of 585 Ellenburg, at which location Oconee County installed an "End of County Maintenance" sign. (BOZA Hearing Tr. 81:21-83:12 (Nov. 30, 2021); R. pp. 60, 63-66, 290, 292). Oconee County did not pave all the way to the dead end of Ellenburg Road. (BOZA Hearing Tr. 81:21-83:12 (Nov. 30, 2021)).

In the mid-1980's, T.B. Ellenburg and John Ratliff, as fee owners of the private driveway running in front of 585 & 599 Ellenburg, undertook the expense of paving their respective portions of the Private Driveway and for forty years have maintained the road as private property. (BOZA Hearing Tr. 81:21-83:12 (Nov. 30, 2021); Jan Ratliff Affidavit ¶¶ 3-8 (Jan. 7, 2022), attached as **Exhibit D**[2]; R. p. 290). The Private Driveway dead ends at John's Marine and it is paved on Petitioners' property (585 Ellenburg Road and 599 Ellenburg Road) and the adjacent landowners' property, with the majority on Petitioner's property.

[2] While Ms. Ratliff's affidavit does not appear to be included in the materials before the BOZA, County Attorney Root referenced it several times in relation to the existence of a prescriptive easement. (BOZA Hearing Tr. 20:12-14 (Jan. 20, 2022); BOZA Hearing Tr. 23:5-17 (Apr. 25, 2022)). Accordingly, Petitioners request that it be included as part of the Record on Appeal.

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At some point, Oconee County undertook to stripe the center line of the public section of Ellenburg Road, stopping where the Private Driveway begins and never reaching 585 Ellenburg or 599 Ellenburg. (R. pp. 60, 63-66, 288, 291; Ex. A). Significantly, Oconee County did not present any records of public maintenance of the Private Driveway at any of the three BOZA hearings in this matter.

In 2009, Jan Ratliff, who has been an owner of 599 Ellenburg since 1981, along with her daughter-in-law, met with employees of the Oconee County Roads and Bridges Department. (Ratliff Aff. ¶ 2, Ex. D). These employees provided Ms. Ratliff with a plat indicating that the county's maintenance of Ellenburg Road ended at green highlighted marker at 565 Ellenburg Road. (*Id.* at ¶¶ 3-4, Ex. D; R. p. 290). According to Jan Ratliff, the green marker was where the "End of County Maintenance" sign had been located for years before it was moved by an unknown person moved it. (*Id.* at ¶ 6, Ex. D).[3] Also according to Jan Ratliff, her family has continuously maintained the paved portion of Ellenburg Road to the east of the endpoint of county maintenance, and the county has not engaged in any maintenance of the Private Driveway. (*Id.* at ¶ 8, Ex. D).

Laurie Ellenburg Bright is the grand daughter of T.B. Ellenburg who sold part of his farm land for the creation of Lake Keowee. (R. p. 292). Ms. Bright grew up and resided at 591 Ellenburg Road for forty years. (R. p. 292). According to Ms. Bright's affidavit, after the creation of Lake Keowee, and "End of County Maintenance" sign was stationed between 575 Ellenburg and 585 Ellenburg Road. (R. p. 292 ¶ 6). Ms. Bright drove past this sign for years, and particularly recalled the location of the sign because it was located next to a bathtub that her grandfather used to water his cattle. (R. p. 292 ¶ 6). This information was provided to the BOZA.

[3] The sign was moved by an unknown person and temporarily placed at the end of Ellenburg Road; however, it is no longer there. (BOZA Hearing Tr. 60:12-21; 130:14-17 (Nov. 30, 2021); BOZA Hearing Tr. 38:11-18 (Apr. 25, 2022)).

No documents or testimony were provided to the BOZA contradicting the affidavits from Jan Ratliff and Laurie Ellenburg Bright.

John's Marine uses the entirety of the Private Driveway to conduct is business and has done so for forty years. (BOZA Hearing Tr. 45:8-13 (Apr. 25, 2022); R. p. 56-57, 288-289).

STANDARD OF REVIEW

On appeal, "[t]he findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence." S.C. Code Ann. § 6-29-840(A). "A jury's factual findings will not be disturbed on appeal unless the record contains no evidence reasonably supporting the jury's findings." *Boehm v. Town of Sullivan's Island Bd. of Zoning Appeals*, 423 S.C. 169, 182, 813 S.E.2d 874, 880 (Ct. App. 2018) (citing *Austin v. Bd. of Zoning Appeals*, 362 S.C. 29, 35, 606 S.E.2d 209, 212 (Ct. App. 2004)).

"In determining the questions presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law." S.C. Code Ann. § 6-29-840(A). "However, a decision of a municipal zoning board will be overturned if it is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion." *Boehm*, 423 S.C. at 182, 813 S.E.2d at 880-81 (citations omitted). "An abuse of discretion occurs when a trial court's decision is unsupported by the evidence or controlled by an error of law." *Id.* (citations omitted). A zoning board's decision will be overturned based on errors of law or "where there is no legal evidence to support it." *Hodge v. Pollock*, 223 S.C. 342, 348, 75 S.E.2d 752, 754-55 (1953). Such errors occurred here.

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ARGUMENT

I. The BOZA Did Not Have Jurisdiction to Decide a Factual Dispute Over the Existence of a Prescriptive Easement.

The BOZA did not have the jurisdiction to decide whether Oconee County has a prescriptive easement over Petitioners' Private Driveway. In hearing evidence on the prescriptive easement, assuming the existence of a prescriptive easement, and then approving the Variance Application based on this assumption, the BOZA effectively determined this disputed question of fact. In this manner, BOZA acted outside of its limited jurisdiction to hear variance applications. This was error.

Prior to voting to approve the Variance Application, the BOZA recognized that the issue of whether Oconee County held a prescriptive easement across the Private Driveway had to be determined. (BOZA Hearing Tr. 163:19-164:14 (Nov. 30, 2001) ("That's our first question, do we have authority?")). This was the reason the BOZA did not vote when the application first came before it on November 30, 2021, BOZA Hearing Tr. 178:6-11 (Nov. 30, 2001), and the reason the application was not determined at the January 24, 2022 meeting, BOZA Hearing Tr. 20:2-24, 30:10-12 (Jan. 24, 2022).

Ultimately, however, without waiting for a legal determination on this issue from a court of competent jurisdiction, the BOZA simply assumed the existence of a prescriptive easement. (BOZA Hearing Tr. 101:8-13 (Apr. 25, 2022) (Chairman indicating they would go ahead and decide the application as though there were an easement)). Based on this assumed prescriptive easement, the BOZA determined that it could grant the Variance Application for a future public road that will tie into this existing prescriptive easement. This was error.

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The BOZA is a body of limited jurisdiction. S.C. Code Ann. § 6-29-800 (setting forth the powers of a board of zoning appeals). Concerning variances, a board of zoning appeals' jurisdiction is as follows:

> (2) to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:
>
> (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
>
> (b) these conditions do not generally apply to other property in the vicinity;
>
> (c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
>
> (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 district will not be harmed by the granting of the variance.

S.C. Code Ann. § 6-29-800.

Oconee County ordinances set forth the requirements for new private and public roads. Oconee County Ord. Sec. 26-2, 26-3, attached as **Exhibit E**. *Private driveways* service up to three residential dwellings and have few additional requirements. Ord. Sec. 26-2(a). *Private drives* serve up to ten lots or dwellings, require a minimum 50' right-of-way, and "shall connect to another road, *either public or private*, on one end only." Ord. Sec. 26-2(b)(7) (emphasis added). *Private roads* serve a minimum of eleven lots, require a minimum 50' right-of-way, and require that "the development served by a private road shall have direct access into a public road." Ord. Sec. 26-2(c), (c)(1). Finally, public roads required the continuation of an adjoining public road system. Ord. Sect. 26-3(a).

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Pursuant to these Oconee County road ordinances, a future nineteen-home subdivision would either require a *private road* or a *public road*. Both a *private road* and a *public road* require direct access to the public road system. Ord. Sec. 26-2(c), (c)(1), Sect. 26-3(a), Ex. E. Here, the applicant sought a variance for the construction of a public road. Because the applicant's proposed road plans depict its connection to the public road system through the Private Driveway, the character of the Private Driveway at the point of intersection is a determining factor of the type of road the developer can construct. As such, the character (public or private) of the Private Driveway needed to be settled prior to a determination on the Variance Application. If the Private Driveway is a not a public road, then the Variance Application for a new public road would have to be denied and the developer would have to revise its roadway plans and work directly with Petitioners to obtain the appropriate rights for the construction of a new roadway to tie in to Petitioners' private property.

Had the prescriptive easement and character of the Private Driveway not been in dispute, the BOZA could have moved forward on the Variance Application without jurisdictional questions. However, once it became clear that the character (public or private) of the Private Driveway was disputed, the BOZA did not have the jurisdiction to resolve the prescriptive easement issue or the jurisdiction to move forward on the Variance Application under an assumption that effectively resolved the factual dispute over the prescriptive easement, which is what happened here.

The BOZA recognized that (1) a determination of the existence of a prescriptive easement was a predicate to its determination on the Variance Application, BOZA Hearing Tr. 86:15-22, 163:19-164:14 (Nov. 30, 2021), which is why it initially deferred consideration of the application until this issue was resolved, BOZA Hearing Tr. 174:20-175:15, 178:6-11 (Nov. 30, 2021); and

(2) it did not have the jurisdiction to determine the existence of the prescriptive easement, BOZA Hearing Tr. 100:1-101:13 (Apr. 25, 2022) ("we are not competent to decide that issue"; "we ought to go ahead and . . . decide this as though there were an easement"). Yet, in assuming the existence of the prescriptive easement, the BOZA resolved this factual dispute in favor of Oconee County and the applicant, and effectively did the very thing it recognized that it did not have the power to do. This was error.

Not only did the BOZA decide the existence of the prescriptive easement, it then approved modified boundaries of the easement, ordered certain sections of the easement to be abandoned, and modified the burden of the easement on Petitioners' property. BOZA did not have the jurisdiction to make these determinations. This was an abuse of discretion and legal error. Accordingly, the Variance Order should be reversed.

II. BOZA Abused its Discretion When it Assumed that Oconee County Has A Prescriptive Easement Over the Petitioners' Private Driveway.

The BOZA abused its discretion when it assumed that Oconee County holds a prescriptive easement over the Private Driveway. The BOZA did not have jurisdiction to decide the factual dispute over the prescriptive easement. (*See* Argument I, *supra*). However, even assuming the BOZA could make an assumption on the existence of a prescriptive easement in order to move forward on the Variance Application, the BOZA abused its discretion when it assumed Oconee County held a prescriptive easement over the Private Driveway in light of the evidence before it.

A prescriptive easement must satisfy all of the following elements:

i. Continued and uninterrupted use or enjoyment of the right for a period of twenty years;
ii. The identity of the thing enjoyed; and
iii. Use or enjoyment which is either adverse or under claim or right.

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Bundy v. Shirley, 412 S.C. 292, 304, 772 S.E.2d 163, 169-70 (2015). A prescriptive easement must be proven by clear and convincing evidence, *Bundy*, 412 S.C. at 306, 772 S.E.2d at 170-71, its existence cannot merely be assumed to exist. The proponent of the easement carries the burden of proof.

Oconee County admitted during the BOZA hearings that it did not own the fee to the Private Driveway and if it had any rights at all over the Private Driveway they were by prescriptive easement. (BOZA Hearing Tr. 19:15-20:22 (Jan. 24, 2022)). However, Oconee County did not present any evidence to BOZA of its continued uninterrupted use of the Private Driveway for twenty years, it did not produce any maintenance records reflecting work done on the Private Driveway, and it did not present any testimony from county employees, or anyone else, who had personal knowledge of performing maintenance work on the Private Driveway. The only "evidence" cited by Oconee County for asserting the existence of a prescriptive easement over the Private Driveway was "institutional memory." BOZA Hearing Tr. 23:5-24:13; 28:1-3, 28:24-29:10 (Apr. 25, 2022)). Institutional memory is not evidence. The BOZA had no documentary or testimonial evidence before it showing Oconee County's continued and uninterrupted maintenance or use of the Private Driveway for twenty years.

Conversely, Petitioners presented evidence to the BOZA including (1) two affidavits stating that Oconee County placed an End of Maintenance sign at or around 585 Ellenburg Road where it stayed for decades, Ex. D, R. 292; (2) documents and public statements that Petitioners have maintained the Private Driveway for the last forty years, Ex. D, R. p. 288, BOZA Hearing Tr. 45:8-13 (Apr. 25, 2022); and, (3) photographs depicting the end of the county's yellow striping before the Private Driveway began, R. p. 63, 66, 291, Ex. A.

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Even under a preponderance of the evidence standard, the evidence presented to the BOZA weighed in Petitioners' favor showing that such an easement cannot be assumed to exist. Under a clear and convincing evidence standard, it is even more clear that Oconee County did not provide sufficient evidence to justify BOZA's assumption that a prescriptive easement existed over the Private Driveway.

When fairly viewing the evidence presented, the assumption should have been in Petitioners' favor that the Private Driveway is not a public road. Once this assumption is corrected, the entire basis for approving the Variance Application fails. Without a public road to tie directly into, the applicant cannot construct a new public road.

Given the evidence before it, the BOZA's assumption that Oconee County held a prescriptive easement over the Private Driveway was arbitrary, capricious, and an abuse of discretion. Accordingly, the Variance Order should be reversed based on the BOZA's erroneous assumption and error of law.

III. BOZA Erred in Unilaterally Expanding the Easement Burden on Petitioners' Properties.

Assuming that Oconee County has a prescriptive easement over the Private Driveway, which Petitioners expressly deny, the BOZA's grant of the Variance Application will result in a material increase in the burden on Petitioners' property and impose new and additional burdens. The owner of an easement cannot materially increase the burden on the servient estate nor impose new or additional burdens. *Rhett v. Gray*, 401 S.C. 478, 736 S.E.2d 873 (Ct. App. 2012). Oconee County's attorney informed the BOZA of this legal principle. (BOZA Hearing Tr. 22:1-3 (Jan. 24, 2022)).

Assuming the existence of a prescriptive easement, the only pre-existing burden on the Private Driveway would have been occasional county maintenance—though no documents reflect

any maintenance to have ever occurred. Granting a variance for a private development of nineteen homes with an estimated 200 trips per day driving along Petitioners' property will result in a material increase in the burden of vehicular traffic on Petitioners' property. The only current users of the dead-end Private Driveway are Petitioners, their visitors, and patrons of John's Marine. Installation of a public road servicing a brand-new subdivision will materially change the character of the Private Driveway and increase the burden of vehicular traffic on Petitioners' properties.

Transforming the Private Driveway into a public road also places new burdens on Petitioners' property. John's Marine has been operating at its current location for forty years. Petitioners testified that John's Marine will no longer be able to operate on the property should the Private Driveway be transformed into a public road for nineteen new homes. (BOZA Hearing Tr. 45:8-49:9 (Apr. 24, 2022); R. p. 289). John's Marine uses the entirety of the Private Driveway to conduct its business. If the Private Driveway is no longer available to John's Marine, this is a new and substantial burden that has never been placed on Petitioners' land and a restriction Petitioners never assented to. (*Id.*)

It was arbitrary, capricious, and an abuse of discretion for BOZA to approve the Variance Application that will materially increase the existing burden and create new burdens on Petitioners' land. The owner of an easement cannot materially increase the burden on the servient estate nor impose new or additional burdens. *Rhett v. Gray*, 401 S.C. 478, 736 S.E.2d 873 (Ct. App. 2012). This was an error of law and the Variance Order should be reversed.

IV. BOZA's Approval of the Variance Application was Arbitrary and Capricious Because the Location of the Roadway Was Left Undetermined.

At the time it approved the Variance Application, BOZA recognized that the final location of the roadway was uncertain. (BOZA Hearing Tr. 153:20-156:14 (Apr. 25, 2022)).

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Petitioners submitted scale drawings showing that in order for the applicant, or developer, to meet the 31.9' right-of-way to construct the new public road, the applicant will either have to fill in a substantial amount of land currently underwater belonging to Duke, or the roadway will have to shift toward John's Marine and be placed on top of the location where John's Marine currently maneuvers boats and trailers. (R. p. 297-98; Ex. B at 2-3). The applicant's own drawings reflected this 9.1' shift onto Petitioners' property needed for the new public road. (R. p. 285; Ex. C at 1).

Petitioners testified that the substantial increase in traffic (200 cars a day) will detrimentally impact its business, even without this 9.1' shift in the proposed roadway onto their property. (BOZA Hearing Tr. 45:8-49:9 (Apr. 24, 2022); R. p. 289). If the road must shift, such that John's Marine's boat service area will become a public roadway for 200 cars a day, it will have an even more detrimental impact on Petitioners. (*Id.*).

In reviewing a variance application, the BOZA is charged with determining whether the requested variance will "be of substantial detriment to adjacent property." S.C. Code Ann. § 6-29-800 (A)(2)(d); Oconee County Code Sec. 38-7.1.(4). "The developer shall have the burden of providing evidence to the county of compliance with . . . the specific requirements of this applicable section." Oconee County Code Sec. 38-7.1. Only where the BOZA determines the variance *will not* be of substantial detriment can a variance be granted.

In this instance, the BOZA approved the variance application without sufficient definiteness as to the final location of the proposed public roadway. Moreover, the developer did not present the BOZA with sufficient evidence as to the final location of the roadway. As demonstrated by Petitioners, the detrimental impact analysis changes as the placement of the final roadway shifts. The BOZA did not conduct sufficient analysis of the detrimental impact on

Petitioners' property under the various scenarios of the final road placement and did not sufficiently review the impact of utility placement, road construction, and home construction.

The BOZA's finding of no substantial detriment to Petitioners' property and its decision to approve the variance application without sufficient definiteness as to the final location of the roadway was arbitrary, capricious, and an abuse of discretion. As such, the Variance Order should be reversed.

V. BOZA Failed to Provide the Statutorily Required Explanatory Written Findings.

BOZA failed to explain in writing why the indeterminant nature of the proposed roadway was not a substantial detriment to Petitioners. At all points where the proposed new public road is adjacent to Petitioners' property, the 50' right-of-way requirement cannot be met unless Petitioners' Private Driveway is included in the public right-of-way calculation. (R. p. 416-418; Ex. C).

In order to grant a variance application, the BOZA must review four state statutory requirements, which are incorporated in the Oconee County ordinance. S.C. Code Ann. § 6-29-800(A)(2); Oconee County Code Sec. 38-7.1.(1)-(4). The BOZA's review of each requirement, and findings as to how each requirement is satisfied, must be explained in writing. *Id.* S.C. Code Ann. § 6-29-800(A)(2) ("A variance may be granted . . . if the board *makes and explains in writing*" the four requirements); Oconee County Code Sec. 38-7.1. ("The board of zoning appeals may grant a variance . . . if the board of zoning appeals makes and explains in writing" the four requirements).

Here, the BOZA's Variance Order, (R. p. 444), does not contain written explanatory findings as to element four "detriment to adjacent uses," specifically as to how the variance is not detrimental to John's Marine considering the drawings provided by Petitioners showing that in order for the applicant to meet the 31.9' minimum right-of-way, the applicant would have to

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encroach on Petitioners property. (R. p. 297-98; Ex. B at 2-3). Further, the BOZA hearing transcripts contains no analysis of the detrimental impact to John's Marine under the varying road location scenarios.

Petitioners presented BOZA with drawings indicating that under certain scenarios, property from Petitioners would need to be taken to meet the 31.9' right-of-way, and under this scenario Petitioners would lose land rather than gain any land, (R. p. 297-98; Ex. B at 2-3), which directly contradicted one of the primary assumptions underlying the BOZA's vote approving the variance where it concluded John's Marine would gain land rather than lose land, (BOZA Hearing 115:17-116:15; 118:19-119:3; 140:17-21; 143:14-19 (Apr. 25, 2022)). However, the BOZA had no discussion about this issue. (BOZA Hearing Tr. 44-51 (no questions from BOZA on shifting road location diagrams provided by Petitioners) (Apr. 25, 2022)).

Because the Variance Order was not accompanied by written explanatory findings and the transcript is devoid of sufficient analysis on these points, it failed the meet the statutory requirements and must be voided.

CONCLUSION

The BOZA recognized that a determination of whether Oconee County holds a prescriptive easement over the Private Driveway was a predicate issue to its vote on the Variance Application. If Oconee County did not hold a prescriptive easement over the Private Driveway, then the applicant's proposed public road would not abut the public road system and it would not qualify to become a new public road. Rather than waiting for a court of competent jurisdiction to decide this predicate issue, the BOZA effectively decided this disputed factual question by assuming that Oconee County held a prescriptive easement. In making this assumption, the BOZA exceeded its limited jurisdiction to decide variance applications.

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Even assuming that the BOZA could weigh the evidence before it and make its own assumption on the existence of a prescriptive easement, its assumption that Oconee County has an easement over the Private Driveway was not supported by the evidence and was an abuse of discretion. Taking the testimony and documents as a whole, the only evidence Oconee County relied upon in stating its claim to a prescriptive easement over the Private Driveway was "institutional memory," which is no evidence at all. On the other hand, Petitioners provided testimony, documents, and sworn statements showing that they had maintained the Private Driveway for the past forty years. The BOZA abused its discretion when it determined from the evidence before it that it should assume the existence of a prescriptive easement.

From its faulty assumption that a prescriptive easement exists, BOZA then proceeded to approve the Variance Application that not only unilaterally changed the location and dimensions of the assumed public right-of-way on Petitioners' property, but also materially increased the burden on Petitioners' land. Even assuming the existence of a prescriptive easement for the sake of argument, the burden of such an existing easement would be minimal and consist of periodic road maintenance by the county. In approving the Variance Application, the BOZA granted the applicant the ability to construct a public road sending potentially 200 cars a day across Petitioners' property, interfering with its ability to conduct its business. This is a unilateral material change in the easement burden on Petitioners, something that the county appeared to recognize that it could not do, but went ahead and did anyway.

Finally, the BOZA approved the Variance Application without knowing where the proposed roadway would be located and whether the roadway would actually take land from Petitioners rather than give them land. When BOZA evaluated the impact to John's Marine from the variance, it concluded that Petitioners would gain land as part of the project. BOZA ignored

drawings from Petitioners demonstrating that unless the applicant was planning to fill in land below the 804 boundary belonging to Duke, in order to meet its 31.9' minimum right-of-way the applicant must place the roadway on Petitioners' property. BOZA did not explain why it chose to disregard Petitioners' drawings or how it reconciled this information with the applicant's claim that Petitioners would gain land as part of the project. This was arbitrary, capricious, and an abuse of discretion.

For these reasons, Petitioners request that the Variance Order be reversed.

Respectfully submitted,

s/ David L. Paavola
Keith M. Babcock, S.C. Bar No. 456
kmb@lewisbabcock.com
David L. Paavola, S.C. Bar No. 100714
dlp@lewisbabcock.com
Lewis Babcock L.L.P.
P.O. Box 11208
Columbia, SC 29211
(803) 771-8000
Attorneys for Petitioners/Appellants

Columbia, SC
August 10, 2022

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Exhibit A

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Ellenburg Road - 2021

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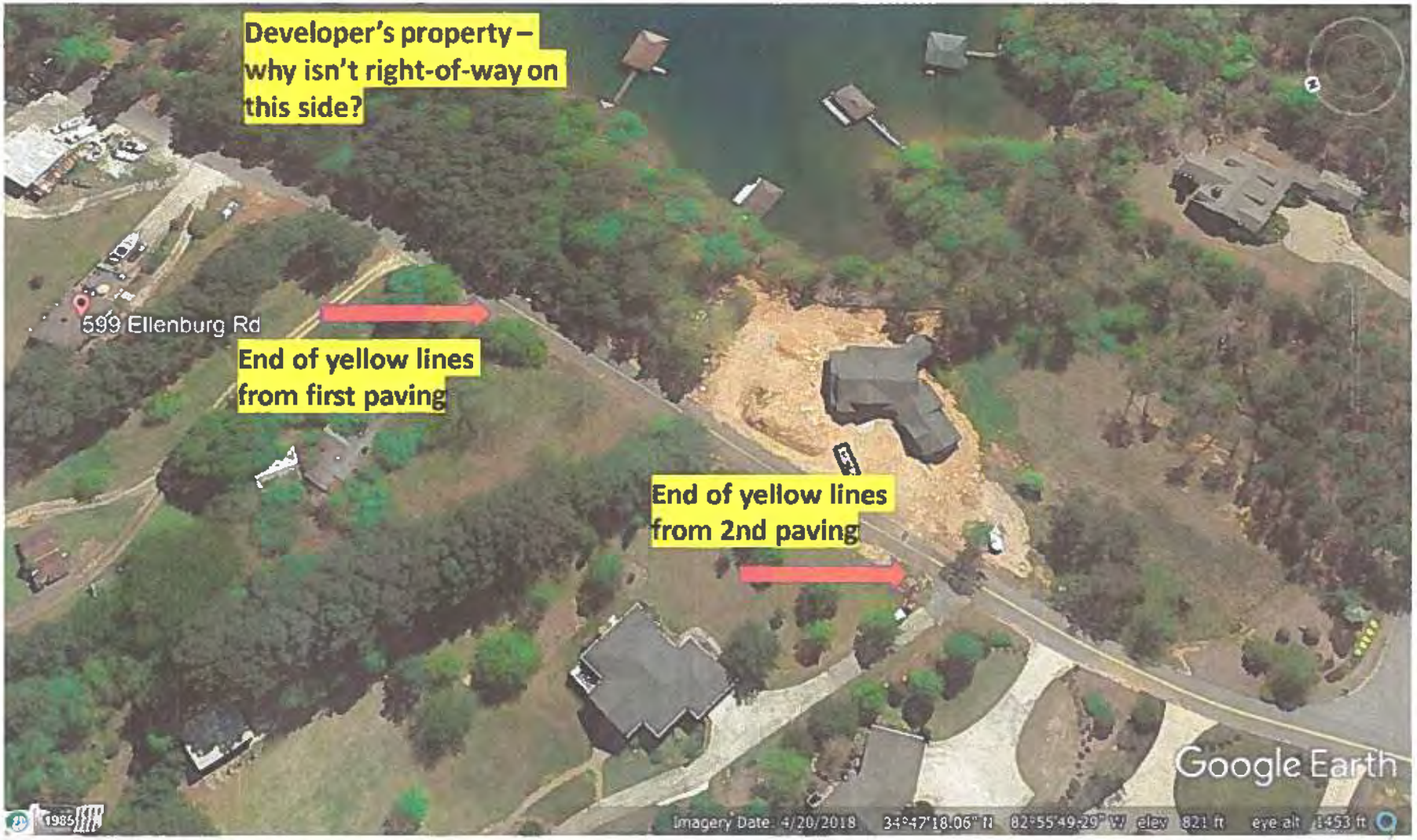

Exhibit B

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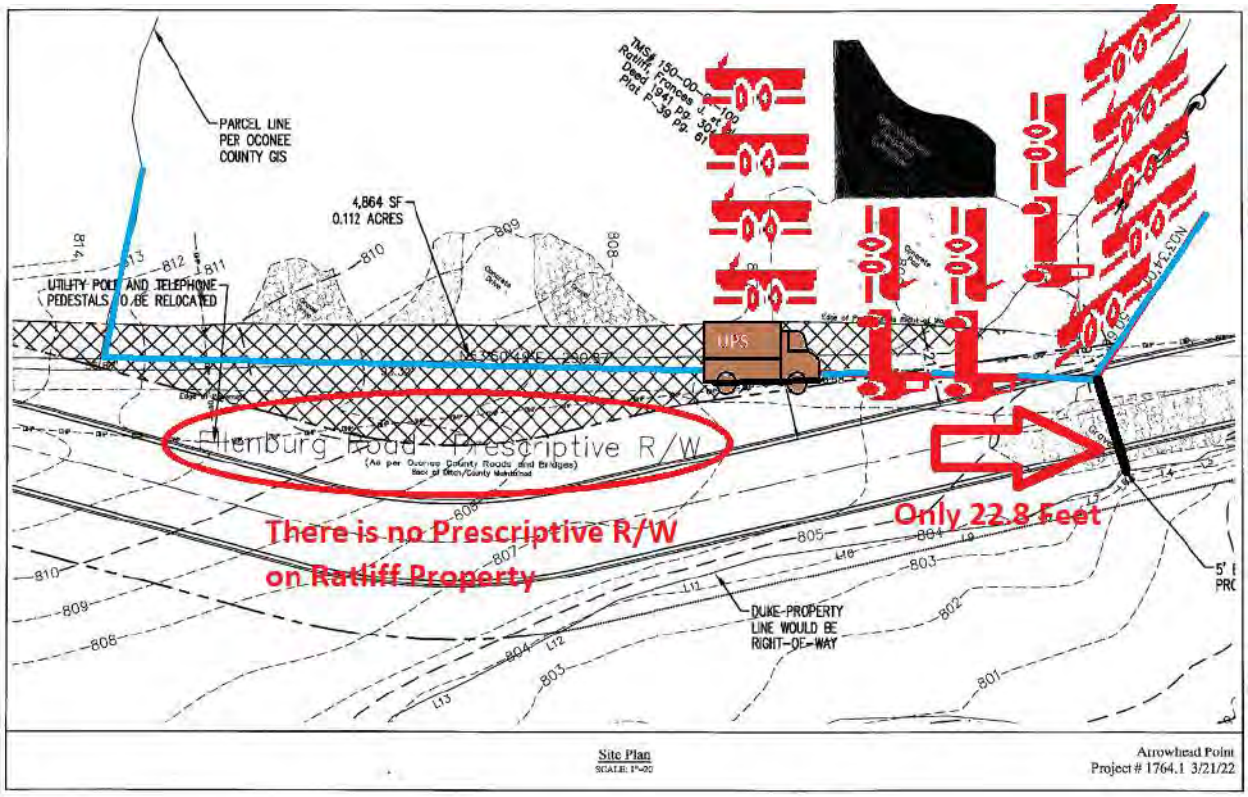
Attachment 6 (Developer plan designed by Goldie and Associates):



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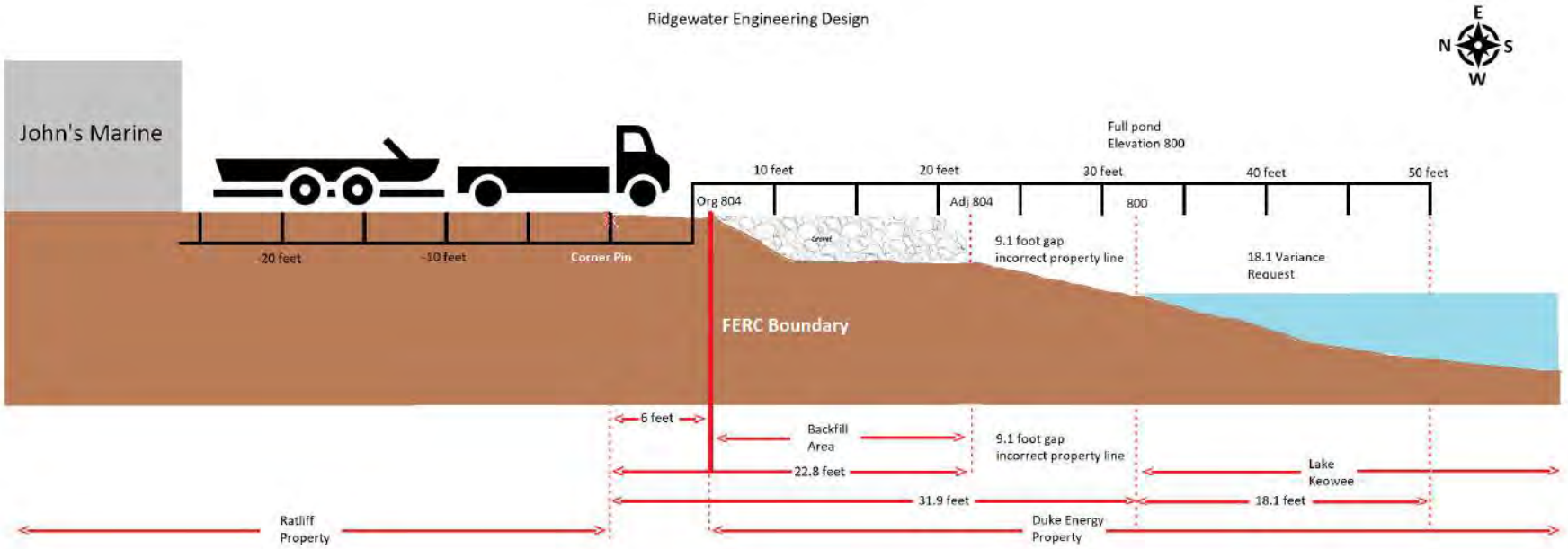
Attachment 8 (Scale diagram of Ridgewater Engineering design]:



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Attachment 9 (Scale diagram of Goldie and Associates design):

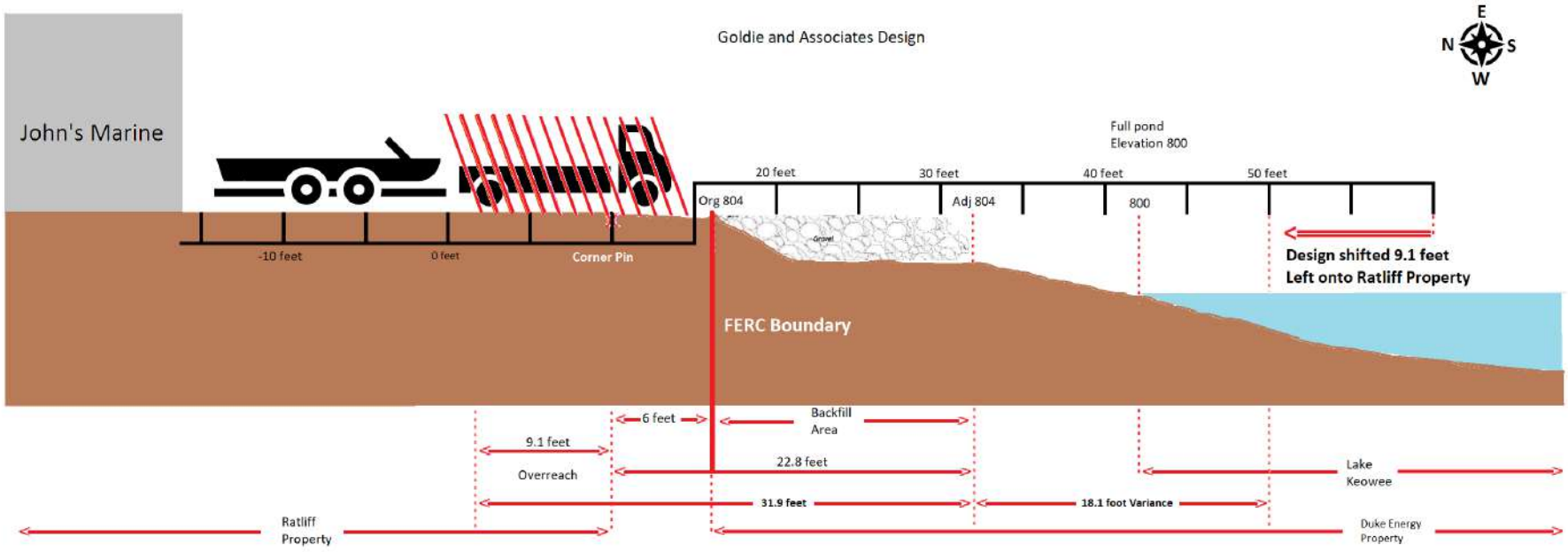

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Exhibit C

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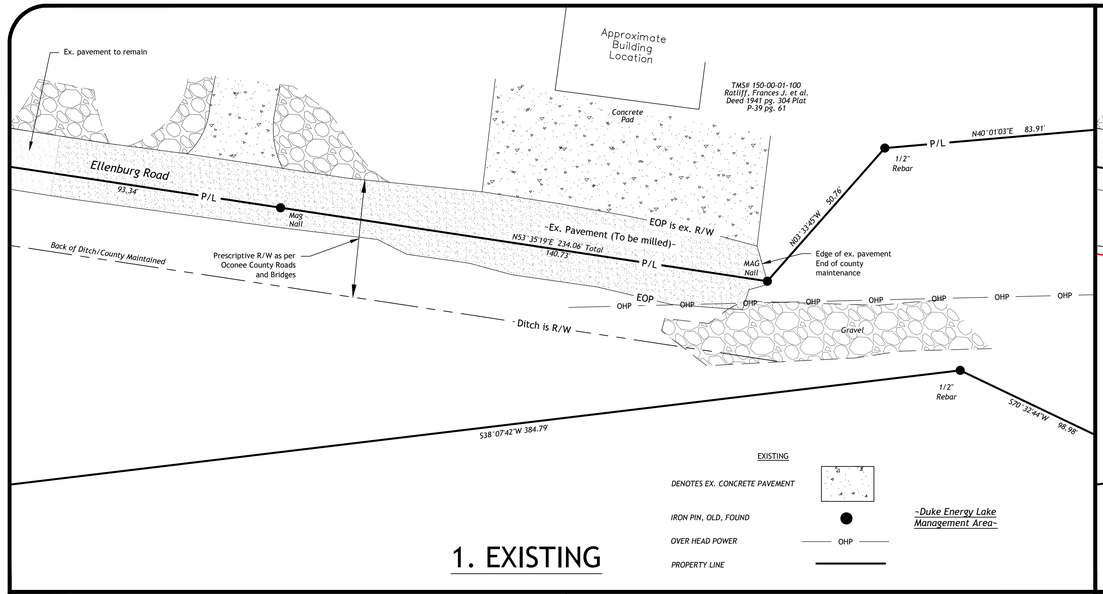

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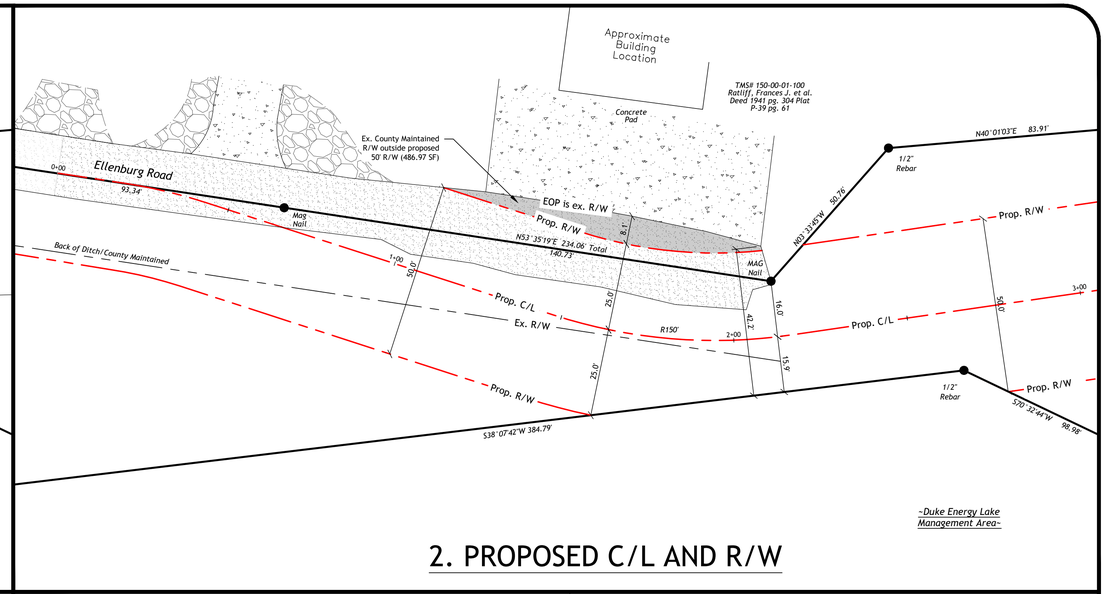
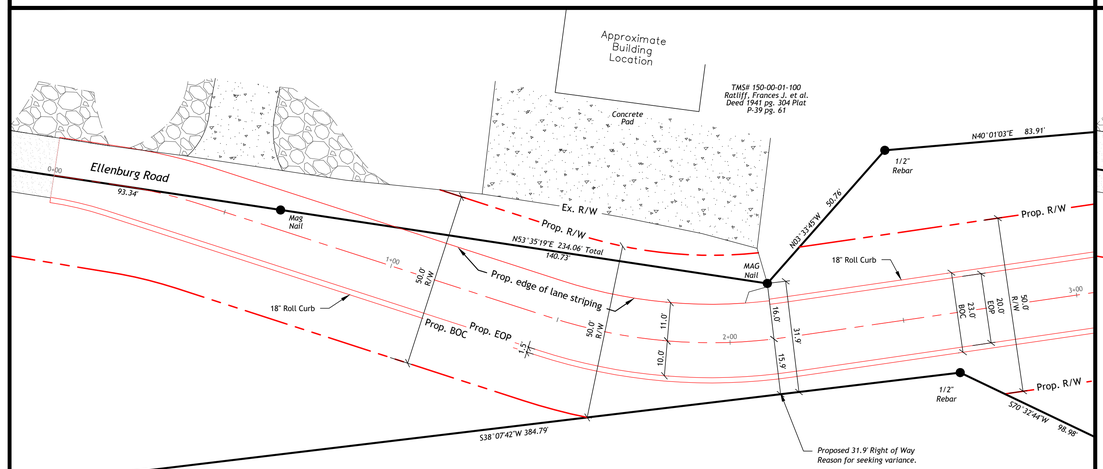
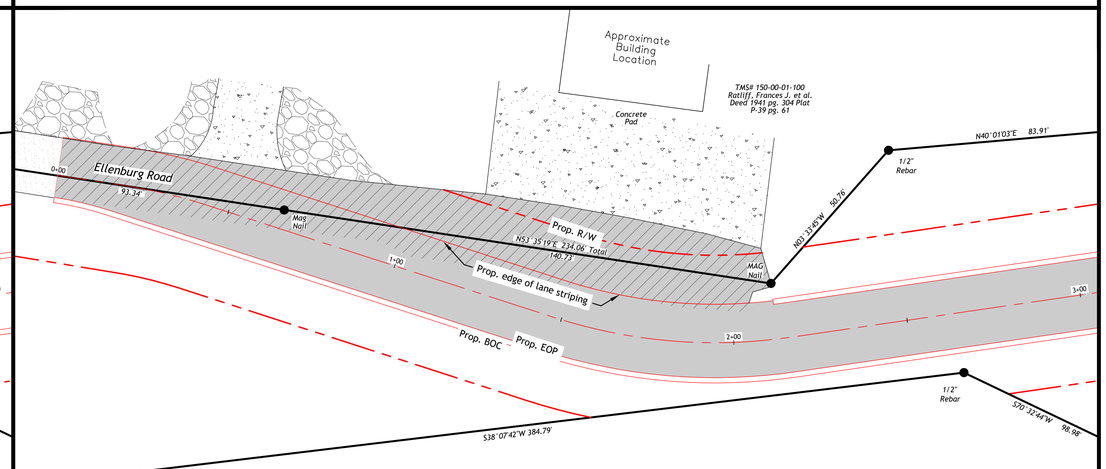


2. PROPOSED C/L AND R/W



3. PROPOSED ROAD DIMENSIONING



4. PROPOSED PAVEMENT/REPAVEMENT

SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
BOC	Back of curb
R/W	Right-of-way
R	Radius
Prop.	Proposed
Ex.	Existing

CAUTION

PALMETTO UTILITY LOCATION SERVICE

3 DAYS BEFORE DIGGING CALL TOLL FREE 811

A ONE CALL SYSTEM FOR COMMUNITY AND JOB SAFETY.

RIDGEWATER
ENGINEERING & SURVEYING

PO BOX 806
ANDERSON, SC 29622
(864) 226-0980
RIDGEWATERENG.COM

GRID NORTH
S.C.C.P.C. (NAD 83 (2011))

SCALE: 1 in = 20 ft.

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SOUTH CAROLINA
RIDGEWATER ENGINEERING & SURVEYING
No. 5816
CERTIFICATE OF AUTHORIZATION

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
...	...	...
...	...	...
...	...	...
...	...	...
...	...	...

SHEET

Variance Request

C - 2

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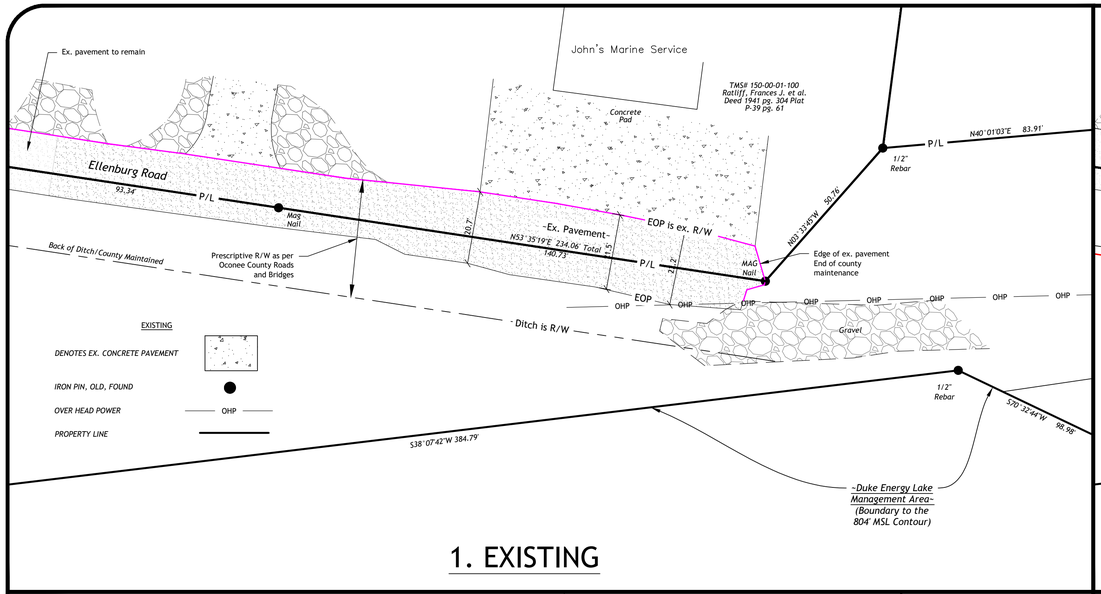

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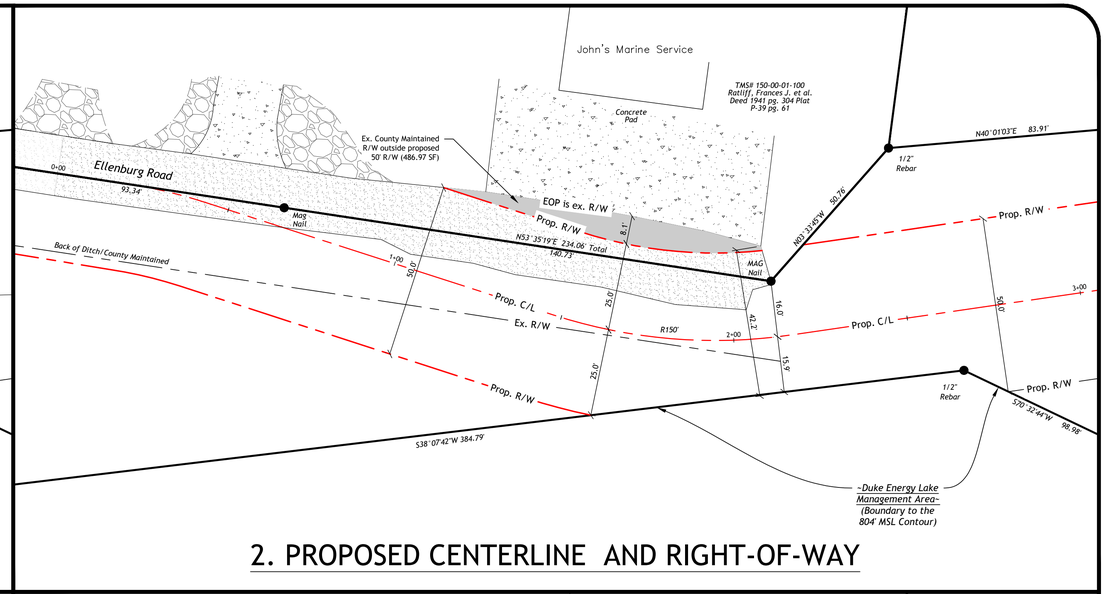
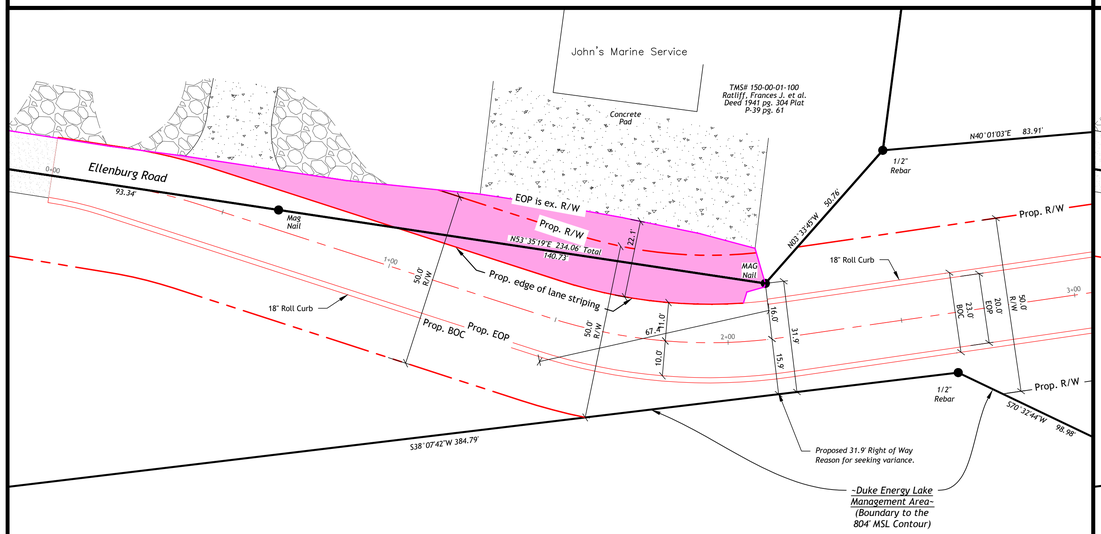
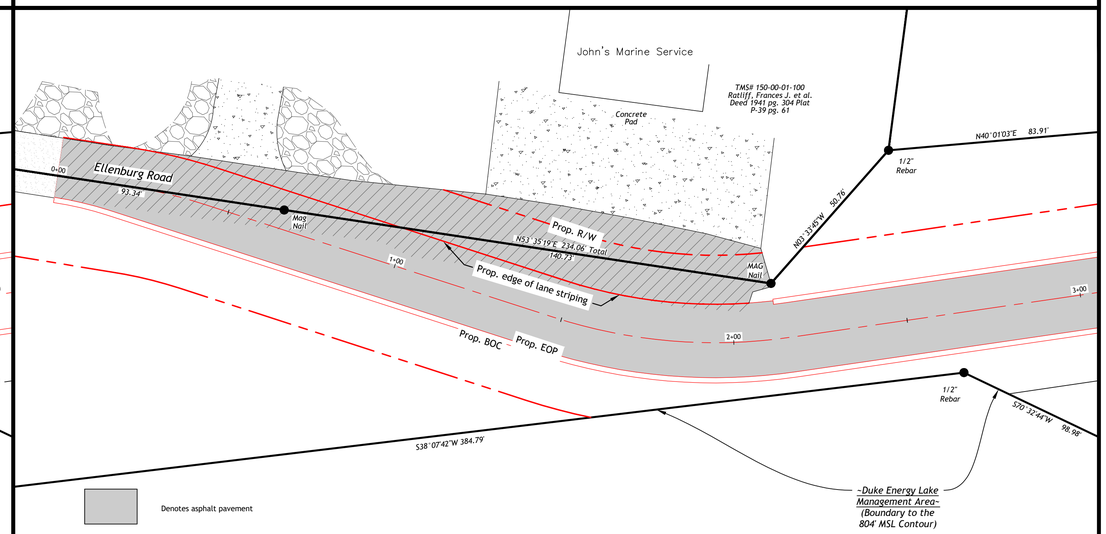


2. PROPOSED CENTERLINE AND RIGHT-OF-WAY



3. PROPOSED ROAD DIMENSIONING



4. PROPOSED PAVEMENT/REPAVEMENT

SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
BOC	Back of curb
R/W	Right-of-way
R	Radius
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20 0 10 20
SCALE: 1 in = 20 ft.

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REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
1	11-29-21	PLANNING COMMISSION MTG.
...	...	...
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...	...	...
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SHEET

Variance Request

C - 2

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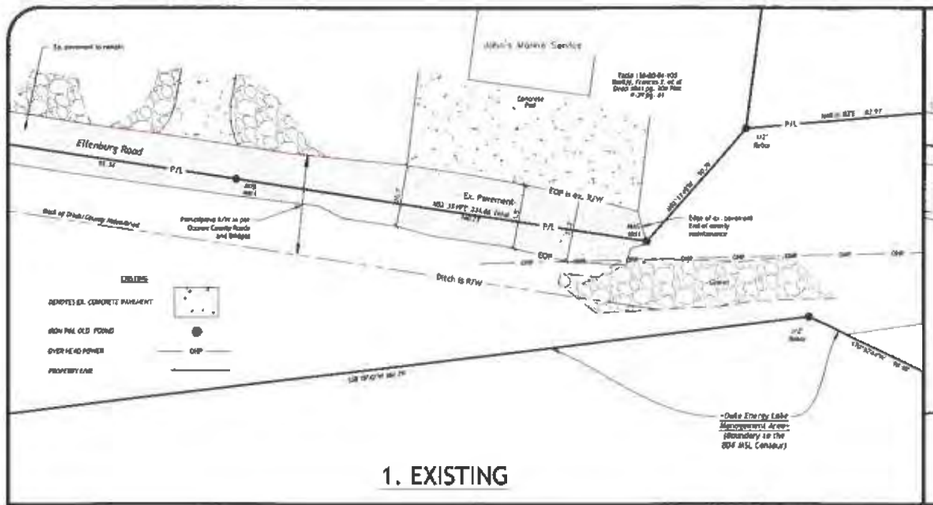

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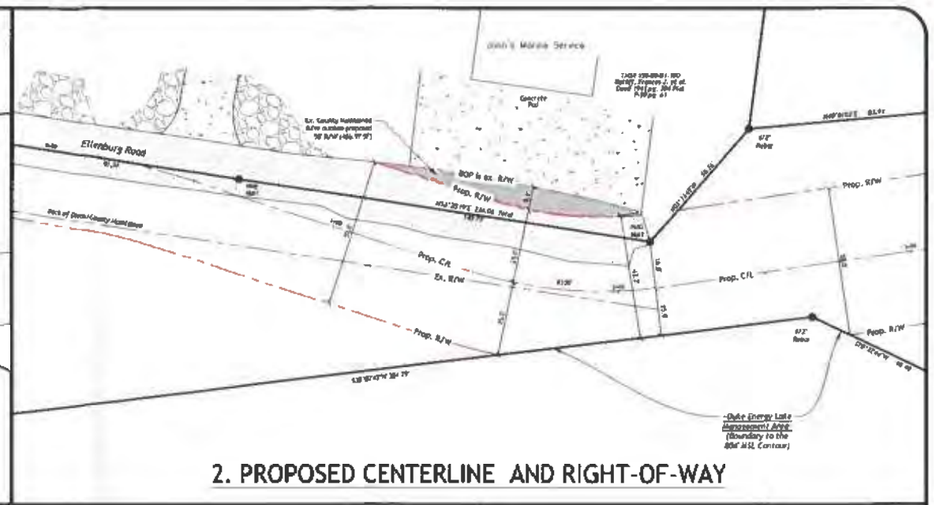
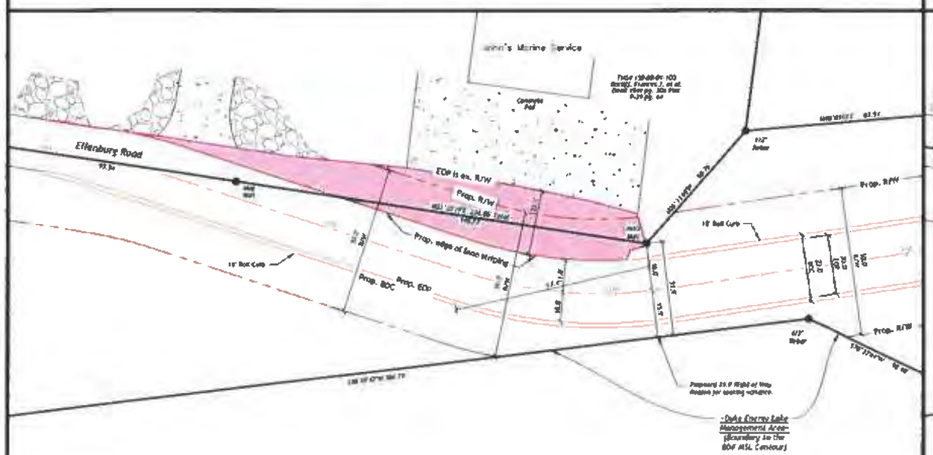
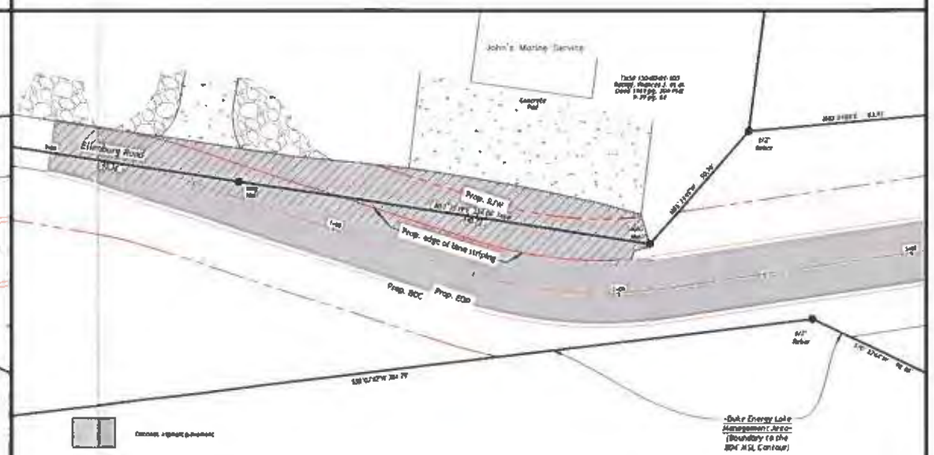


2. PROPOSED CENTERLINE AND RIGHT-OF-WAY



3. PROPOSED ROAD DIMENSIONING



4. PROPOSED PAVEMENT/REPAVEMENT

Graphics 1-4

CAUTION

SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
BOC	Back of curb
R/W	Right-of-way
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Prop.	Proposed
Ex.	Existing

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SCALE: 1 in = 100 ft.

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
1	11-29-21	PLANNING COMMISSION MTG

SHEET

Variance Request

C - 2

3

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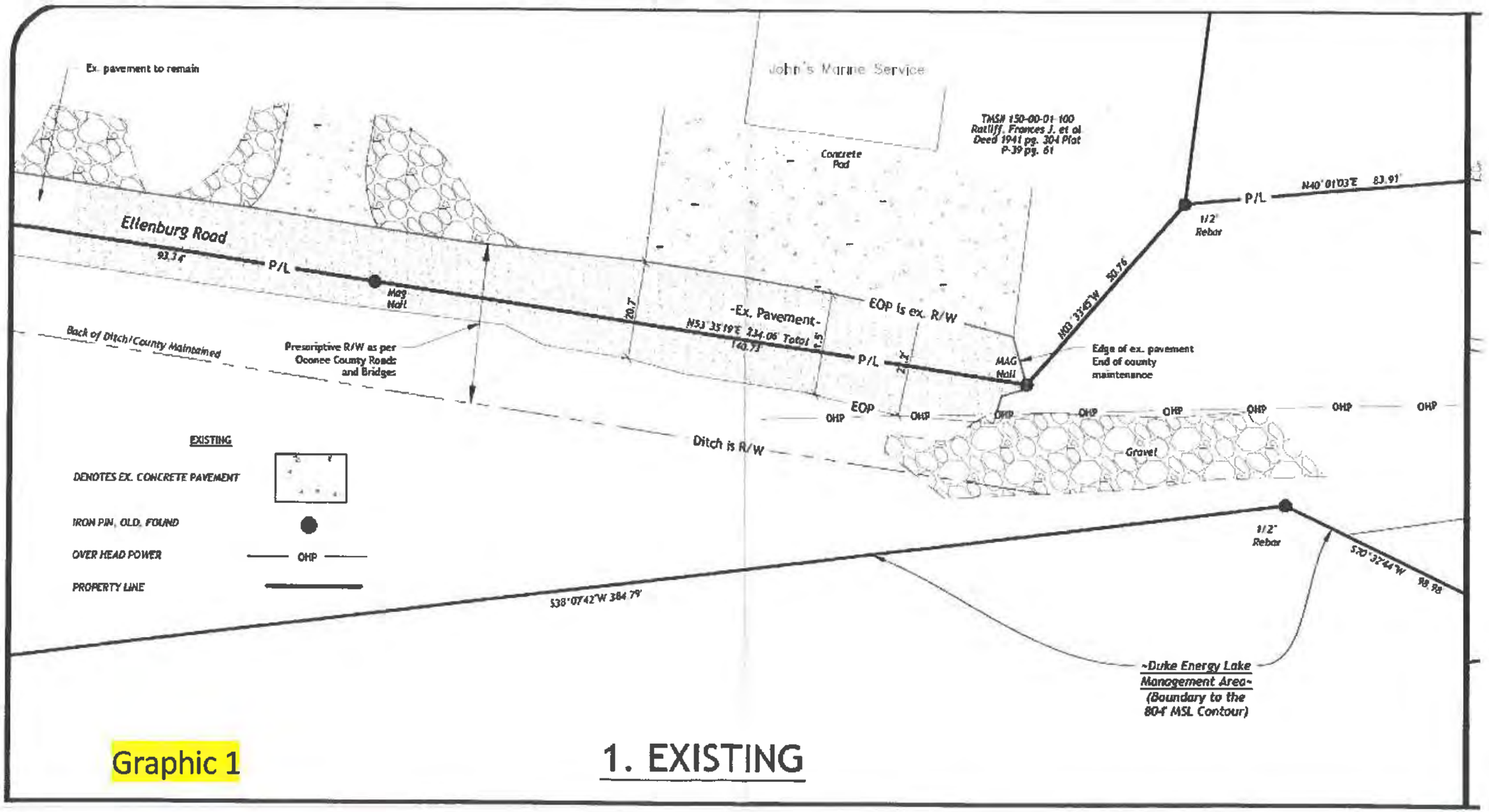

Graphic 1

1. EXISTING

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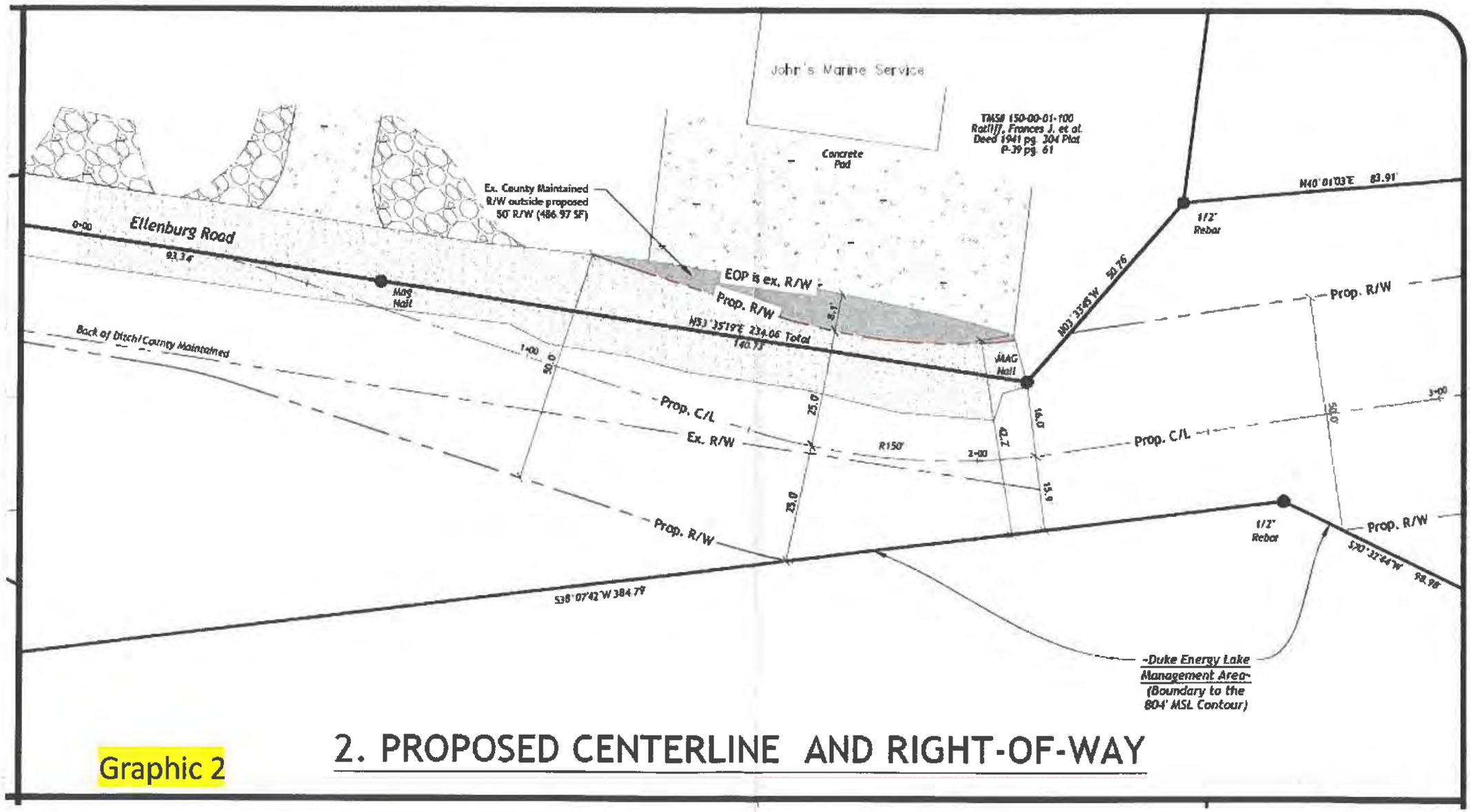
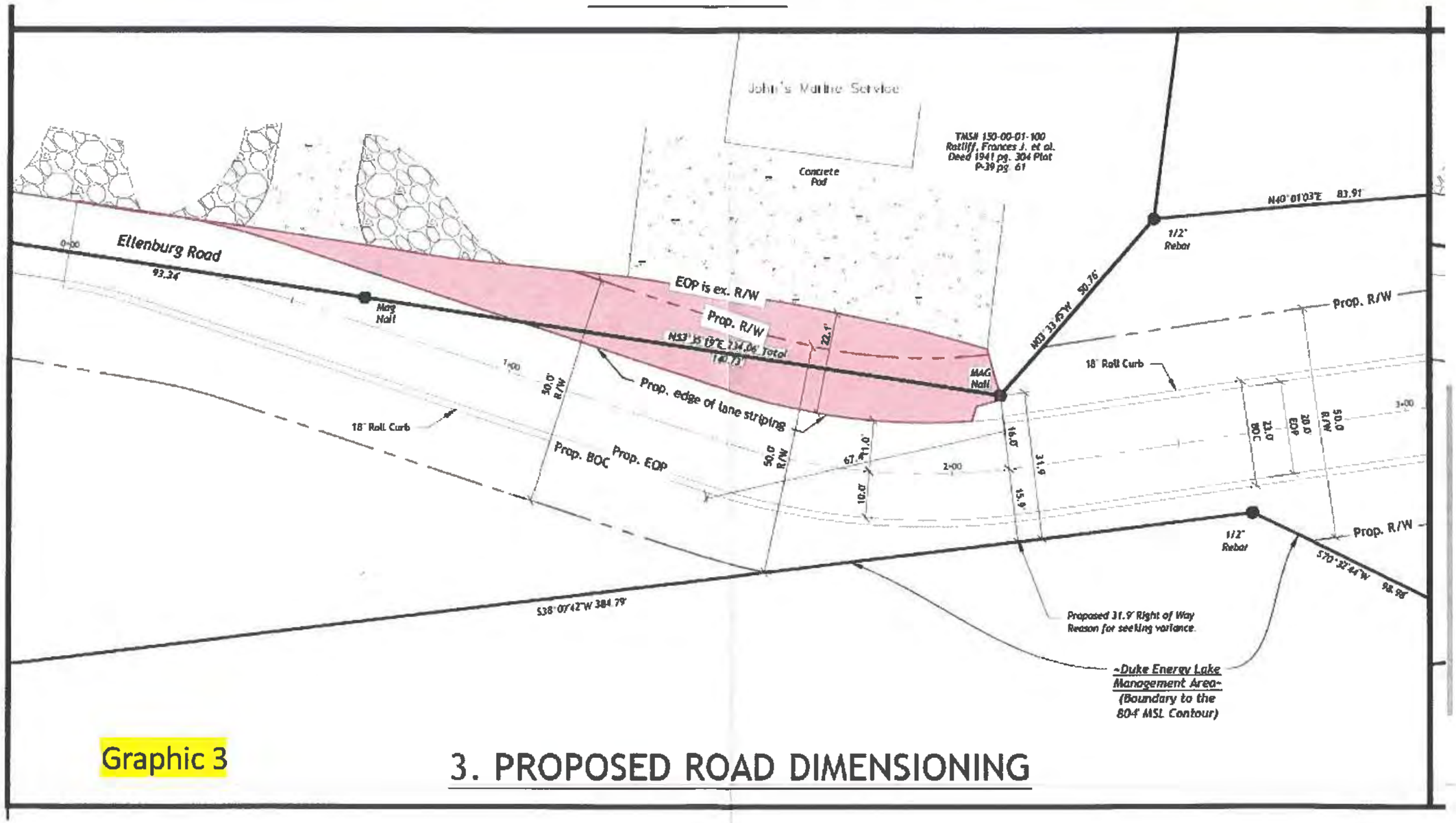


Graphic 2

2. PROPOSED CENTERLINE AND RIGHT-OF-WAY

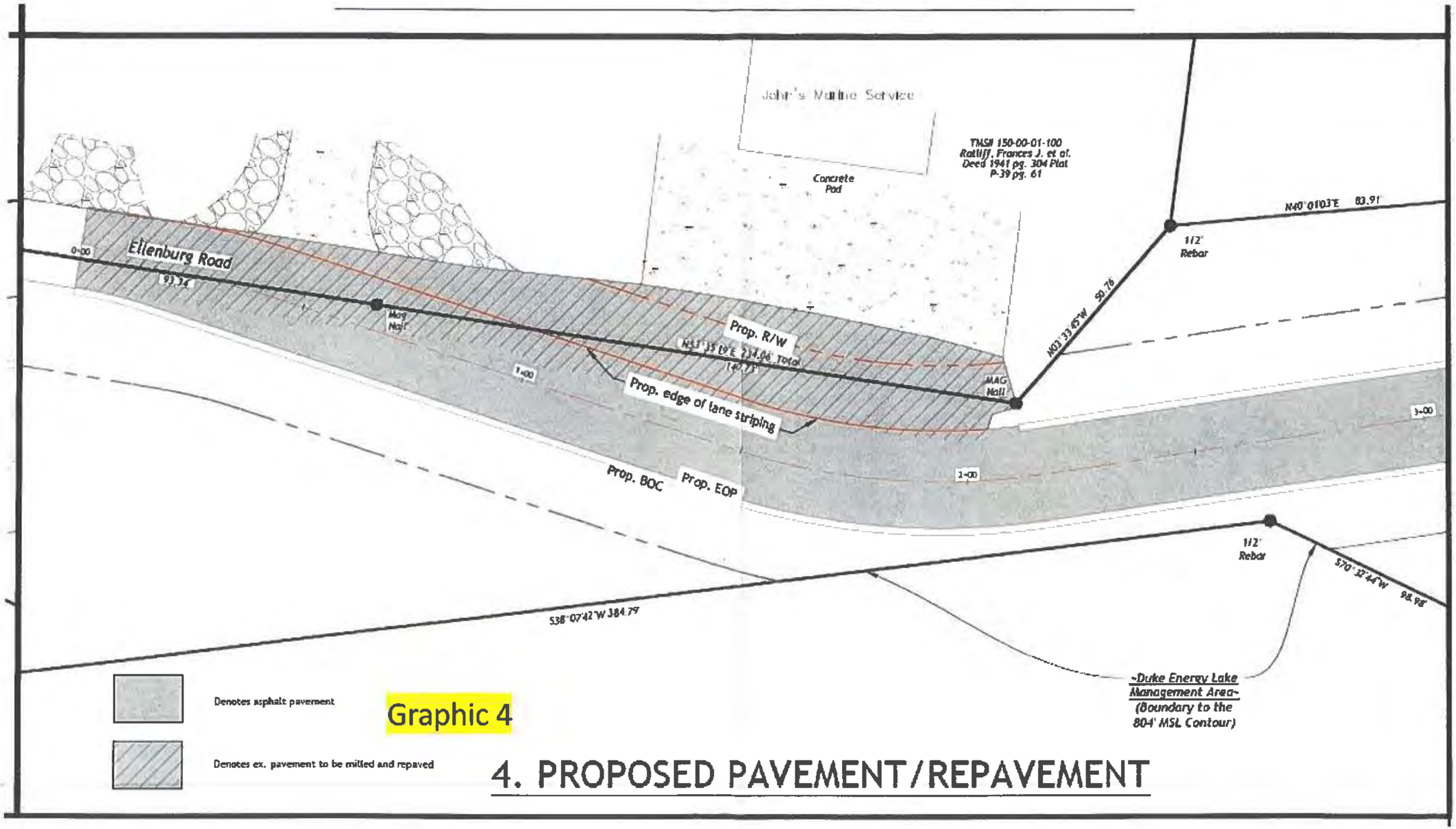
ELECTRONICALLY FILED - 2022 Aug 10 9:54 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700396



Graphic 3

3. PROPOSED ROAD DIMENSIONING

ELECTRONICALLY FILED - 2022 Aug 10 9:54 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700396



4. PROPOSED PAVEMENT/REPAVEMENT

7

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PARCEL LINE
PER OCONEE
COUNTY GIS

TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304
Plat P-39 pg. 61

4,864 SF
0.112 ACRES

UTILITY POLE AND TELEPHONE
PEDESTALS TO BE RELOCATED

Edge of Pavement is Right-of-Way

N53°50'49"E 290.87'

93.32'

N03°34'01"W 50.6'

31.0'

21.6'

140.68'

Edge of Pavement

Henburg Road - Prescriptive R/W
(As per Oconee County Roads and Bridges)
Back of Ditch/County Maintained

DUKE PROPERTY
LINE WOULD BE
RIGHT-OF-WAY

5' E
PRO

Concrete Drive
Gravel Drive
Concrete Pad
Gravel

Site Plan
SCALE: 1"=20'

Arrowhead Point
Project # 1764.1 3/21/22

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Exhibit D

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STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

COPY

ELECTRONICALLY FILED - 2022 Aug 10 9:54 AM - OCONEE - COMMON PLEAS - CASE#2022CP3700396

AFFIDAVIT OF JAN RATLIFF

BEFORE ME appeared, Frances ("Jan") J. Ratliff, who deposes and says:

1. I reside at 599 Ellenburg Road, Seneca, South Carolina 29672, and have personal knowledge of the matters set forth herein.
2. On October 1, 2009, I, along with Karen Rasbornik, attended a meeting at the offices of the Oconee County Roads and Bridges Department. Also present were County employees Matt Kelley, Price Brown, and Larry Hardin.
3. At the time of the meeting, Karen Rasbornik and I were given a copy of the Plat attached to as **Exhibit "A"** by employees of the Oconee County Roads and Bridges Department.
4. Exhibit "A" bears the initials of "GBP" (George Prince Brown) and is dated 08-15-08.
5. At the time of the meeting, employees of the Oconee County Roads and Bridges Department stated that the County's maintenance of Ellenburg Road ends where the point is highlighted in green immediately to the west of parcel on Exhibit "A" as 103.
6. The place where County employees stated that County maintenance ends was marked for many years with a sign indicating the end of County Maintenance until someone moved the sign. The Plat reference also coincides with where the road striping ended for many years.
7. The point represented by County employees as the end of County Maintenance is a long distance from my property.

8. My family has continuously maintained the paved portion of Ellenburg Road to the east of the endpoint of County Maintenance. The County has not engaged in any maintenance of the portion of Ellenburg Road in question.

FURTHER AFFIANT SAYETH NAUGHT.

Frances J. Ratliff

FRANCES J. RATLIFF

SWORN to before me this 7 day of Jan., 2022.

Michelle Nauldin

Print Name: Michelle Nauldin
Notary Public for State of SC
My Commission Expires: 12/9/2029

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Exhibit E

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Sec. 26-1. - General provisions.

These general provisions shall apply to both private roads and drives and public roads. The definitions section of the land development and subdivision chapter of the Oconee County Unified Performance Standards Ordinance (Ordinance 2008-20, [as codified in chapter 32, article VI, §§ 32-211—32-226]) shall apply to this article.

(1) *Survey standards.* Route surveys and plats shall be prepared and survey data entered thereon in accordance with the most recently adopted version of the "Minimum Standards Manual of the Practice of Surveying in South Carolina" established by the South Carolina Board of Registration for Professional Engineers and Land Surveyors, provided that all elevations information shall refer to Mean Sea Level Datum or other established datum (with a minimum of two benchmarks). Accuracy of plats and attendant data shall be no less that than required in said manual for Class B Suburban Land Surveys.

(2) *Utilities.* When utilizing a road right-of-way, all utility lines shall be buried at a depth of at least 36 inches. Such lines shall be located a minimum of two feet, outside the portion of the road to be surfaced to prevent having to cut into the paved surface or reconstruct drainage structures to serve abutting properties. In order to prevent future road cuts, utility stub-outs shall be added to all utility lines extending beyond the roadway to each property line.

(3) *Road signs.* Road name signs shall be installed at all intersections within a subdivision. All other signs shall be installed as required by and at the direction of the county engineer or his/her designee. All signage will be in accordance with the manual of uniform traffic control devices. The developer shall be responsible for all cost of road signage for private drives, private roads, and proposed county roads (at a cost determined by resolution of county council from time to time) prior to acceptance of road by the county. Any person who shall willfully or maliciously damage, deface, remove or otherwise tamper with a sign erected by a subdivider or the county designating the name of any county road shall be guilty of a misdemeanor and punished in accordance with this article. In addition thereto, such person shall be liable to the county for the cost incurred by the county as a result of said criminal acts.

(4) *Submission of road plans.* Construction plans for roads shall include accurate topographic information with increments of no more than five feet. In addition, all such plans should note the following items: the location and dimensions of all drainage features; routes of surface water drainage for the entire development; a typical cross section of the proposed roadway; road profiles; horizontal and vertical curve designs; right-of-way dimensions; the location of all cuts and fills; finished grade elevation; all necessary erosion control practices, which may include but are not limited to, permanent vegetation, lined or piped ditches or vegetated waterways; and contact information of all interested parties.

(5) *Road alignment and location.* The direction and pattern of roads shall take advantage of the land contour to eliminate or reduce excessive cutting and filling, and provide roads with reasonable grades.

(Ord. No. 2008-19, Art. 1(1—5), 12-16-2008)

Sec. 26-2. - Private road standards and regulations.

Oconee County shall have no responsibility for nor control of the design, engineering, construction, inspection or maintenance of private driveways, drives and roads in Oconee County and shall only be involved with private driveways, drives and roads to enforce these regulations and to the extent required for the county to carry out its other duties and

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functions, such as approving the subdivision of property.

(a) *Private driveways.* Private driveways shall serve no more than three residential dwellings, and shall be maintained by the property owner(s). No design standards shall apply to private driveways, but driveways must comply with applicable building and fire codes.

(b) *Private drives.* All private drives existing and in use at the time of adoption of these regulations, as well as those private drives under construction prior to the time of adoption, shall be exempted from the standards contained in this section. This exemption shall also extend to those private drives approved by the planning department prior to the time of adoption. All other private drives shall:

(1) Serve no more than ten lots or dwellings;

(2) Have a minimum road right-of-way of 50 feet, or an appropriately executed private roadway easement as defined by these regulations;

(3) Have an appropriate encroachment permit from either the county or the South Carolina Department of Transportation;

(4) Have a minimum driving surface width of 20 feet constructed of no less than five inches of compacted crushed stone or gravel base; a minimum height clearance of 13½ feet; and appropriate documentation from a professional engineer licensed by the State of South Carolina certifying the maximum weight limit of any bridge or culvert located along the drive. All bridges and any culvert over which a private drive crosses a perennial stream must include appropriate signage (located at each end of the bridge) displaying the structure's weight limits;

(5) Be maintained by an individual, association of property owners, or commonly held by the property owners fronting the private drive;

(6) Comply with all current fire regulations and codes;

(7) Shall serve no more than ten dwellings, and shall connect to another road, either public or private, on one end only. In the event proposed construction and/or development will result in an existing private drive serving 11 or more dwellings, the existing drive shall be upgraded so as to meet the standards put forth in these regulations for private roads;

(8) Parcel boundaries may extend to centerline of the road, with the appropriate road right-of-way shown on all plats and deeds;

(9) Be named in accordance with adopted E-911 addressing regulations and procedures;

(10) Allow at least 100 feet of sight distance for each ten miles per hour of the posted speed limit where the private drive intersects a public road. The sight distance shall be measured from a seeing height of 3½ [feet], offset 15 feet from edge of road, to an object 4¼ feet in height above the grade of the public road, as stated in SCDOT's 1996 Access and Roadside Management Manual. If the proposed drive does not meet the sight distance requirement, a waiver must by signed by the individual(s) constructing the private drive stating that the property owner(s) is liable and responsible for any accidents, injuries, problems, and property damage resulting from improper sight distance;

(11) Meet all applicable stormwater management and sediment control regulations;

(12) Be approved in writing by planning commission or designated staff prior to submission of plat(s) to the register of deeds for recording. The following shall be prominently printed on the plat(s):

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"THE ROAD RIGHT-OF-WAY SHOWN ON THIS PLAT SHALL BE PRIVATE DRIVES NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY, AND WERE NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAYS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDANCE WITH ALL ADOPTED OCONEE COUNTY REGULATIONS. MAINTENANCE OF THE RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF _____."

(13) Signage shall comply with the manual for uniform traffic control devices.

(c) *Private roads.* Private roads shall provide vehicular access and road frontage to developments, or sections of developments, containing more than ten dwellings. All private, nondedicated roads shall be prominently indicated as such on plats prior to subdivision approval. Maintenance arrangements for such roads must be noted in writing on subdivision plat submittals and must be subsequently recorded. The development served by a private road shall have direct access into a public road, and no such private road shall be laid out so as to serve property outside the development. All private roads shall:

(1) Serve a minimum of 11 lots;

(2) Have a minimum road right-of-way width of 50 feet;

(3) Be designed in accordance with the regulations set forth in subsection 26-3(e) of these regulations;

(4) Be constructed in accordance with the regulations set forth in subsection 26-3(f) of these regulations;

(5) Be maintained by an association of property owners or the developer and be designated on all plats and recorded in appropriate deed covenants and restrictions, or an appropriately executed private roadway easement as defined by these regulations;

(6) Parcel boundaries may extend to the centerline of the road, with the appropriate right-of-way designated on all plats and deeds;

(7) Be legally certified for compliance by a surveyor/engineer licensed by the State of South Carolina;

(8) Be named in accordance with adopted E-911 addressing regulations;

(9) Meet all stormwater management and sediment control regulations;

(10) Be properly approved in writing by planning director prior to submission of plat(s) to the register of deeds for recording. The following shall be prominently printed on the plat(s):

"THE ROAD RIGHT-OF-WAY SHOWN ON THIS PLAT SHALL BE PRIVATE ROADS, NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY AND NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDANCE WITH ALL OCONEE COUNTY REGULATIONS. MAINTENANCE OF THE RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF THE _____."

(11) Have installed signs that control the traffic flow in a safe manner as specified by standards in the Manual for Uniform Traffic Control Devices.

With the exception of the requirements put forth in this section, all private roads shall meet the requirements for all public roads as defined by this article.

(Ord. No. 2008-19, Art. 2(1—3), 12-16-2008; Ord. No. 2013-16, § 2A, 7-16-2013)

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Sec. 26-3. - Public roads.

(a) *Continuation of adjoining road system.* The proposed road layout shall extend existing roads on a logical course at a width which meets the minimum required by this article. A minimum 100:1 taper section shall be used to transition from one width to another.

(b) *Road system coordination.* The road system within a subdivision shall be coordinated with existing, proposed, and anticipated roads (hereinafter "surrounding roads") outside the subdivision, as determined by the county or the State of South Carolina. Subdivision roads shall intersect with surrounding roads at safe and convenient locations and where necessary to permit the efficient movement of traffic between residential neighborhoods by emergency service vehicles. Subdivision roads shall only enter arterial roads when absolutely necessary. Whenever connections to surrounding roads are required by this section, the road right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. All temporary dead-end streets must be approved by the planning director and the county engineer.

(c) *Road names.* A proposed road which is obviously in alignment with or an extension of an existing named road shall bear the name of the existing road. Except for the above, in no case shall the name of a proposed road duplicate or be phonetically similar to an existing road name, irrespective of the use of suffix (road, avenue, boulevard, drive, place, court, lane, etc.). It shall be unlawful for any person in laying out any new road to name such road on any final plat or instrument, without first obtaining the approval of the Oconee E-911 Addressing Office.

(d) *Residential buffers for collector or arterial roads.* Where a subdivision abuts or contains an existing or proposed collector or arterial road; lots which abut or are adjacent to these existing or proposed collector or arterial roads shall face a local road. Other treatment may also be required, as necessary, for adequate protection of the landscape and residential properties and for separation of through and local traffic. Special treatment may be required, such as screen planting contained in a nonaccess reservation along the rear property line adjacent to the arterial road.

(e) *Road design (geometric criteria).* In general, geometric criteria for road design shall be in accordance with standards of the South Carolina Department of Transportation (SCDOT). Said standards are those contained in the latest edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials. Local and collector residential roads (public) shall be designed in accordance with the following standards.

(1) Minimum right-of-way, pavement, and shoulder width shall be as follows:

Road Type	Right-of-Way	Pavement	Shoulder
Arterial [1]	66′ or greater	28′	10′

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Collector	50′	24′	8′
Major local	50′	22′	6′
Minor local	50′	20′	4′

[1] As determined by county engineer

For high density residential or nonresidential subdivisions or portions thereof, additional right-of-way or pavement width shall be provided when determined as necessary by the planning commission or county engineer.

(2) Cul-de-sacs shall comply with current fire regulations and codes. Dead-end streets without turnarounds are prohibited. All unpaved islands located within perimeters of a cul-de-sac shall be round in configuration, centered within the right-of-way, curbed and properly drained. The area utilized by any unpaved island shall not be considered part of the minimum area needed to meet the required dimensions for the cul-de-sac or right-of-way and shall be governed by the same standards for planted median islands, as set forth in this article.

(3) Horizontal curvature shall be introduced at any change in road direction, and the minimum centerline radius shall be 150 feet for local roads and 250 feet for collector roads. Arterial road curvature shall be in accordance with state highway department standards. Minimum tangent between reverse curves shall be 150 feet for local roads, and 100 feet from curve to any intersecting road right-of-way.

(4) Stopping distance on vertical curves, horizontal curves, or normal intersections shall allow at least 100 feet of sight distance for each ten miles per hour of the posted speed limit where the road intersects another public road.

a. The sight distance shall be measured from a seeing height of 3½ feet, offset 15 feet from edge of road, to an object 4¼ feet in height above the grade of the public road, as stated in SCDOT's 1996 Access and Roadside Management manual. See drawing.

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Exhibit F

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AGENDA
OCONEE COUNTY COUNCIL MEETING
TUESDAY, August 1, 2000
7:00 PM
OCONEE COUNTY ADMINISTRATIVE OFFICES
415 SOUTH PINE STREET
WALHALLA, SC

1. Call to Order
2. Invocation
3. Approval of Minutes
4. Public Comment Session (Not to exceed thirty minutes)
5. Second Reading of Ordinance 2000-09, "AN ORDINANCE TO AMEND ORDINANCE 99-14, UNIFIED PERFORMANCE STANDARDS ORDINANCE AND LAND DEVELOPMENT REGULATIONS TO INCLUDE SUBDIVISION AND LAND DEVELOPMENT & VARIANCE PROCEDURE FOR SUBDIVISIONS" – Mr. Tommy Abbott, Chairman, Planning Commission
6. Presentation of Draft Proposal for Fall Creek & Town Creek Landing Parks – Dr. Grant Cunningham
7. Consideration of Approval of Grant Application for Federal Assistance in the Amount of $2,420,078 for the Airport – Mrs. Melissa Brown, Grants Coordinator
8. Consideration of Approval of FY2000 Solid Waste Bonus Grant Application in the Amount of $10,000 – Mrs. Melissa Brown, Grants Coordinator
9. Consideration of Approval of Tentative Listing of Surplus Equipment to be Sold at Auction – Ms. Marianne Dillard, Purchasing Agent
10. Consideration of Approval to Dispose of Timber at the Vehicle Maintenance Facility – Ms. Marianne Dillard, Purchasing Agent
11. Consideration of Approval of Change Order for Road Department – Mr. Jon Caime, County Engineer
12. Consideration of Approval of Memorandum of Agreement Between Oconee County & Department of Juvenile Justice

Open Session Period Continued:

Mr. Steve Sokol addressed Council regarding the formation of the Oconee Keowee Alliance, which is opposed to the boat race during Waterfest 2000. Mr. Sokol further informed Council they had received 1200 signatures of people who are opposed to the boat race.

Mr. Steven Ancona spoke in opposition of the proposed subdivision regulations ordinance.

Mr. Warren Carpenter stated he supported the concept of the subdivision regulations ordinance, however, he felt it needed more study. Mr. Carpenter is opposed to the 100 foot set back for septic tanks, he requested the ordinance be sent back to the Planning Commission. (See attached statement)

Mr. Tom Markovich spoke in opposition of the subdivision regulations and requested that Council review it more closely. He also expressed feeling that the ordinance violated the Fifth Amendment and the Twelfth Amendment. (See attached statement)

Mr. John Hamrick also spoke in opposition of the way property would have to be divided under the proposed subdivision regulations.

Mr. Rick Thompson stated that if the ordinance is adopted, zoning in Oconee County will be adopted, he further stated he felt the ordinance should be less restrictive. (See attached statement)

Mr. B. J. Littleton stated he was in support of using the whole block where the courthouse is located for the courthouse. He also asked how many houses would you want to place on a .57 acre tract of land, the houses should not be crowded together, he also stated he felt the setbacks in the ordinance are reasonable.

Ordinance 2000-09:

Mr. Hall made a motion that Ordinance 2000-09, "AN ORDINANCE TO AMEND ORDINANCE 99-14, UNIFIED PERFORMANCE STANDARDS ORDINANCE AND LAND DEVELOPMENT REGULATIONS TO INCLUDE SUBDIVISION AND LAND DEVELOPMENT & VARIANCE PROCEDURE FOR SUBDIVISIONS" be referred to the next Council Meeting when full Council is present. However, this motion died for lack of a second.

Mr. Thomas made a motion, seconded by Mr. Hamilton, approved 2 – 1 (Mr. Hall voting against that Ordinance 2000-09 (titled above) be referred to the Law Enforcement, Safety, Health, Welfare & Services Committee for further study.

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AGENDA ITEM SUMMARY
OCONEE COUNTY, SC
COUNCIL MEETING DATE: 4/4/06
COUNCIL MEETING TIME: 5:00 pm

ITEM TITLE OR DESCRIPTION:

Subdivision & Land Use Ordinance

BACKGROUND OR HISTORY:

Oconee County Road & Transportation Committee recommended significant changes to the Subdivision & Land Use Ordinance.

SPECIAL CONSIDERATIONS OR CONCERNS:

Changes to the Subdivision & Land Use Ordinance are put on the ordinance of moratorium.

STAFF RECOMMENDATION:

Council adopt ordinance on first reading and refer to Planning Commission.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Subdivision & Land Use Ordinance

Submitted or Prepared By:

Tom Hendricks

Approved for Submittal to Council:

Ron H. Track, County Administrator

Reviewed by/Initials:

_____:County Attorney

_____:Finance

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(Revisions 3/24/06)
These revisions are in *bold italics*
(Offices of Brad Norton)

Performance Standards, Chapter 6.

6.0 SUBDIVISION AND LAND DEVELOPMENT

6.1 AUTHORITY AND JURISDICTION

6.1.1 Authority

These land development and subdivision regulations are adopted under authority granted by Title VI, Chapter 29 (6-29-1120) et. seq. of the Code of Laws of South Carolina, 1976.

6.1.2 Jurisdiction

a. These regulations shall apply to the development and subdivision of land within the unincorporated areas of Oconee County as now or hereafter established and any incorporated municipality which contracts with the Oconee County Council for these regulations to be administered within such municipality. Regulations contained within this ordinance that apply to the construction and maintenance of roads shall apply to all roads and drainage structures, whether public or private, constructed within any unincorporated area of Oconee County and municipalities contracted with the Oconee County Council for administration of these regulations. **Regulations contained within this Ordinance that apply to the construction and maintenance of roads, appurtenacies or drainage structures shall apply to all public and private roads, drives and driveways in the unincorporated areas of Oconee County; also included shall be all municipalities contracted with the Oconee County Council to administer these regulations. These regulations shall not apply to those roads completed, under construction, or approved by Oconee County prior to adoption of this Ordinance by County Council.** In the event that a regulation in this ordinance conflicts with any other county regulation, the more stringent standard shall apply.

6.2 PURPOSE AND SHORT TITLE

6.2.1 Purpose

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k. be signed in accordance with adopted E-911 Addressing regulations.

l. allow at least one hundred (100) feet of sight distance for each ten (10) miles per hour of the posted speed limit where the private drive intersects a public road. The sight distance shall be measured from a seeing height of three and one-half (3 ½) feet to an object one foot in height above the grade of the public road. If the proposed drive does not meet the sight distance requirement, a waiver must be signed by the individuals(s) constructing the private drive stating that the owner(s) is liable and responsible for any accidents, injuries, problems, and property damage resulting from improper sight distance.

m. meet all applicable storm water management and sediment control regulations.

n. be approved in writing by Planning Commission staff prior to submission of plat(s) the Register of Deeds for recording. The following shall be prominently printed on the plat(s) in all capital letters:

> "THE ROAD RIGHT-OF-WAY EASEMENTS SHOWN ON THIS PLAT SHALL BE PRIVATE DRIVES NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY, AND WERE NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY EASEMENTS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDNANCE WITH ADOPTED OCONEE COUNTY SUBDIVISION REGULATIONS."

o. Comply with the State Manual for Uniform Traffic Control Devices.

6.3.3 **Private Roads** – Private roads shall provide vehicular access and road frontage to developments, or sections of developments, containing more than ten (10) single-family residential lots. All private, non-dedicated roads shall be prominently indicated as such on plats prior to subdivision approval. Maintenance arrangements for such roads must be noted in writing on subdivision plat submitted and must be subsequently recorded. The development served by a private road shall have direct access onto a public road, and no such private road shall be laid out so as to serve property outside the development. All private roads shall:

a. serve a maximum of seven (7) lots;

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b. have a minimum right-of-way crosssect width of fifty (50) feet

c. have a minimum road frontage requirement of thirty (30) feet for all lots

d. be constructed in accordance with the regulations set forth in section 6.8 of these regulations.

e. be maintained by an individual association of property owners, or active Home Owner's Association as recorded in appropriate deed covenants and restrictions.

f. be legally certified for compliance by a surveyor/engineer licensed by the State of South Carolina.

g. be named in accordance with adopted E-911 Addressing regulations.

h. meet all storm water management and sediment control regulations.

i. be properly approved in writing by Planning Director prior to submission of plats to the Register of Deeds for recording. The following shall be prominently printed on the plat(s) in all capital letters:

"THE ROAD RIGHT-OF-WAY EASEMENTS SHOWN ON THIS PLAT SHALL BE PRIVATE ROADS, NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY AND NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY EASEMENTS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDANCE WITH THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE."

j. Comply with the State Manual for Uniform Traffic Control Devices.

With the exception of the requirements put forth in this section, all private roads shall meet the requirements of Section 6.8 Public Roads of the Subdivision and Land Development Ordinance.

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Ordinance 2006-11:

Mr. Lyles made a motion, seconded by Mr. Crumpton, approved 5 – 0 that Ordinance 2006-11, "AN ORDINANCE REGULATING THE USE OF COUNTY ROADS" be adopted on first reading.

Ordinance 2006-12:

Mr. Rinehart made a motion, seconded by Mr. Lyles, approved 5 – 0 that Ordinance 2006-12, "AN ORDINANCE AMENDING SECTION 6: SUBDIVISION & LAND USE DEVELOPMENT OF ORDINANCE 99-14, OCONEE COUNTY UNIFIED PERFORMANCE STANDARDS AND LAND USE DEVELOPMENT REGULATIONS AS ADOPTED BY ORDINANCES 2001-04, 2002-05 & 2004-14" be adopted on first reading.

Ordinance 2006-07:

Mr. Moore made a motion, seconded by Mr. Crumpton, approved 5 – 0 that Ordinance 2006-07, "AN ORDINANCE IMPOSING A SIX MONTH MORATORIUM ON THE APPROVAL OF SITE PLANS AND/OR BUILDING PERMITS FOR ANY CONSTRUCTION PROJECT WITHIN ONE THOUSAND (1,000') OF LAKES THAT ARE WITHIN OR ADJACENT TO OCONEE COUNTY UNLESS SAID PROJECT INCLUDES A TWENTY-FIVE (25') FOOT RIPARIAN BUFFER AND A SIX MONTH MORATORIUM ON THE APPROVAL OF SITE PLANS AND/OR BUILDING PERMITS FOR ANY SUBDIVISION AS DEFINED IN THIS ORDINANCE THAT WILL RESULT IN THE NEED TO UPGRADE A COUNTY ROAD IN ACCORDANCE WITH THIS ORDINANCE" be adopted on second reading.

Ordinance 2007-09

Mr. Crumpton made a motion, seconded by Mr. Rinehart, approved 5 – 0 that Ordinance 2007-09, "AN ORDINANCE REGULATING FALSE FIRE ALARMS TO WHICH OCONEE COUNTY RURAL FIRE DEPARTMENTS RESPOND" be adopted on first reading.

Auction Listing:

Mr. Crumpton made a motion, seconded by Mr. Moore, approved 5 – 0 that the attached listing of surplus properties be adopted and a date of May 6, 2006 be established for the auction.

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Oconee County Planning Commission
415 S. Pine St. • Walhalla, South Carolina 29691
Phone (864) 638-4218 • Fax (864) 638-7046

Memorandum 42-00

May 23, 2000

To: **Oconee County Council**

From: **Planning Commission**

Subject: **Performance Standards Ordinance**

Please find attached the following:

1. An amendment to the Performance Standards Ordinance.
2. The proposed Chapter 2 of the Performance Standards Ordinance.

The amendment will allow a variance procedure for the proposed chapter 2. The original ordinance allowed a variance for all chapters except chapter 2. This language will correct that omission.

The proposed chapter 2, Subdivision and Land Development has been reviewed and approved by the Planning Commission. Some parts of the chapter are contentious and council members will hear from some disgruntled developers. The chapter will solve many of the ongoing problems created by development.

Cc: Harrison Orr
Planning Commission wo\encl

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ATTACHMENT 1- PROPOSED AMENDMENT TO THE PERFORMANCE STANDARDS ORDINANCE

New section to 1.4.1 (h)

(h) Variance- to hear and decide requests for variance from the requirements of Chapter 2, of the Performance Standards Ordinance concerning the standards for the subdivision and land development, when strict application of the provisions of the ordinance would result in unnecessary hardship. Variances shall be decided by the Planning Commission pursuant to *Section 1.5.5.3* of this ordinance, *General Criteria for Granting a Variance.*

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2.0 SUBDIVISION AND LAND DEVELOPMENT

2.1 AUTHORITY AND JURISDICITON

2.1.1 Authority

These land development and subdivision regulations are adopted under authority granted by Title VI, Chapter 29 (6-29-1120) et. seq., of the Code of Laws of South Carolina, 1976.

2.1.2 Jurisdiction

These regulations shall apply to the development and subdivision of land within the unincorporated areas of Oconee County as now or hereafter established and any incorporated municipality which contracts with the Oconee County Council for these regulations to be administered within such municipality. Regulations are also contained herein which shall apply to the construction and maintenance of all roads whether or not they are part of subdivision development.

2.2 PURPOSE AND SHORT TITLE

2.2.1 Purpose

The purpose of this ordinance is to protect and promote the public health, safety and general welfare of the citizens of Oconee County, South Carolina, providing for the harmonious, progressive, and orderly development of land. These regulations are established for the following specific purposes, among others, as provided for in the South Carolina Local Government Comprehensive Planning Enabling Act Of 1994 (Section 6-29-1120 of the Code of Laws of South Carolina, 1976, et seq.):

(1) to encourage the development of an economically sound and stable county;

(2) to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;

(3) to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

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remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Not withstanding the other provisions of this subsection, no temporary dead-end street in excess of one thousand (1,000) feet may be created unless no other practicable alternative is available.

2.7.3 Private Roads - All private, non-dedicated roads must be indicated as such prior to subdivision approval. Maintenance arrangements for such roads must be stated in writing on subdivision plat submittals. The development shall have direct access into a public road and no such private road may be laid out so as to serve property outside the development. Each private road must indicated as such on all plats and deeds.

2.7.4 Road Names - A proposed road which is obviously in alignment with or an extension of an existing named road shall bear the name of the existing road. Except for the above, in no case shall the name of a proposed road duplicate or be phonetically similar to an existing road name, irrespective of the use of suffix (road, avenue, boulevard, drive, place, court, lane, etc.). It shall be unlawful for any person in laying out any new road to name such road on any final plat or in any deed or instrument, without first obtaining the approval of the Oconee E-911 Addressing Office and the Planning Commission.

2.7.5 Local Roads - Local roads shall be so laid out that their use by through traffic will be discouraged.

2.7.6 Residential Buffers for Major Roads - Where a subdivision abuts or contains an existing or proposed collector or arterial road, the Planning Commission may require that lots which abut or are adjacent to the major road shall face a minor interior access road. Other treatment may also be required, as necessary, for adequate protection of residential properties and for separation of through and local traffic. Special treatment may be required, such as screen planting contained in a non-access reservation along the rear property line adjacent to the major road.

2.7.7 Road Design (Geometric Criteria) - In general, geometric criteria for road design shall be in accordance with standards of the South Carolina Department of Transportation (SCDOT). Said standards are those contained in the latest edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials". Local and collector residential roads (public or private) shall be designed in accordance with the following standards.

a. Minimum right-of-way and pavement width shall be as follows:

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Road Type	Right-of-Way	Pavement
Local (closed drainage)	50'	22'
Local (open drainage)	50'	22'
Collector	50'	24'

For high density residential or nonresidential subdivisions or portions thereof, additional right-of-way or pavement width shall be provided when determined as necessary by the Planning Commission or County Supervisor.

b. Cul-de-sacs shall not exceed one thousand (1000) feet in length, except where unusual topographic or other physical conditions dictate otherwise, and shall have a turnaround with a minimum diameter of seventy (70) feet to pavement edge and a minimum diameter of one hundred (100) feet to the right-of-way line. Dead-end streets without turnarounds are prohibited.

c. Horizontal curvature shall be introduced at any change in road direction, and the minimum centerline radius shall be one hundred fifty (150) feet for local roads and two hundred fifty (250) feet for collector roads. Arterial road curvature shall be in accordance with State Highway Department standards. Minimum tangent between reverse curves shall be one hundred (100) feet for local roads, and sixty (60) feet from curve to any intersecting road.

d. Stopping sight distance on vertical curves be shall at least one hundred fifty (150) feet (25 mph design speed) for local roads and three hundred twenty five (325) feet (45 mph design speed) for collector roads. If a collector road may reasonably be expected to serve more than one subdivision, it shall be designed for at least a fifty five (55) mph design speed (450' minimum sight distances). Minimum sight distance at intersections shall be established by provision of a clear sight triangle right of way measured at least twenty five (25) feet from the intersection of the road right-of-way in either direction which triangle shall be entered upon the final plat prior to recording. Modifications may be required by the County Engineer in order to insure safety.

e. Roads shall be designed to intersect as nearly as possible at right angles but no less than seventy five (75) degrees. Minimum radius of curb or pavement edge at intersections shall be at least twenty (20) feet at intersections with local roads and twenty five (25) feet at intersections with collector roads.

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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS FOR THE TENTH JUDICIAL CIRCUIT
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Defendants/Respondents.	)	Case No. 2022-CP-37-00396 **PETITIONERS'/APPELLANTS' MOTION TO ALTER OR AMEND ORDER DENYING RELIEF**

Petitioners/Appellants move pursuant to Rule 59(e), SCRCP, and the Court's inherent authority, for the Court to reconsider its Order Denying Relief (the "Order") to address the following arguments raised in Petitioners' Brief filed in support of their appeal that were not addressed in the Court's Order:[1]

1. BOZA exceeded its limited statutory jurisdiction in adjudicating the existence of a prescriptive easement.
2. BOZA abused its discretion in assuming that Oconee County holds a prescriptive easement across Petitioners' Private Driveway.
3. BOZA erred in unilaterally approving an increase in easement burdens on Petitioners' properties.
4. BOZA's approval of the Variance Application was arbitrary and capricious because the location of the proposed roadway was undetermined, and BOZA failed to provide the

[1] Petitioners fully incorporate herein the Brief of Appellants filed August 1, 2022.

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statutorily required explanatory writing findings concerning the variance's detrimental impact to adjacent uses.

INTRODUCTION

Petitioners are appealing an Oconee County Board of Zoning Appeals' ("BOZA") order, (hereinafter, "Variance Order"), granting road variance application #VA21-011 (hereinafter, the "Variance Application").

The central issue in this appeal is whether Oconee County has a prescriptive easement over a paved section of Ellenburg Road that is privately owned by Petitioners and the adjacent property owners Globe, A South Carolina Limited Partnership, ("Globe"), and Farmes, A South Carolina Limited Partnership, ("Farmes"). The paved private driveway is partially on Petitioners' property (585 Ellenburg Road and 599 Ellenburg Road) and partially on Globe's and Farmes' property, with the majority of the paving on Petitioner's property (hereinafter, the "Private Driveway").

ARGUMENT

I. The Order Does Not Address Whether BOZA Had Jurisdiction to Decide the Disputed Prescriptive Easement.

Petitioners contend that BOZA did not have jurisdiction to determine the disputed issue of whether Oconee County holds a prescriptive easement over Petitioners' Private Driveway. BOZA's decision approving the Variance Application effectively decided this disputed issue. The Court's Order concludes that BOZA had sufficient information before it to determine this issue, Order at 6, but the Order does not address whether BOZA had jurisdiction to decide this disputed issue of a prescriptive easement.

The BOZA is a body of limited jurisdiction. S.C. Code Ann. § 6-29-800 (setting forth the powers of a board of zoning appeals). BOZA can only grant a variance where it answers the following four questions in the affirmative:

(a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;

(b) these conditions do not generally apply to other property in the vicinity;

(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(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 district will not be harmed by the granting of the variance.

S.C. Code Ann. § 6-29-800.

BOZA does not have jurisdiction within its variance application review process to decide disputed issues falling outside of these four questions, such as the existence of a prescriptive easement.

In order for the Ridgewater Engineering's Variance Application to be approved for a nineteen-home subdivision, its proposed roadway must tie directly into a public road. Oconee County Ord. Sec. 26-2(c)(1), 26-3(a). Here, the proposed roadway is designed to connect to Ellenburg Road in front of Petitioners' properties, which Petitioners contend is a private driveway not a public road. As such, if Ellenburg Road at the point of connection to the proposed roadway is not public, then the Variance Application for a nineteen-home subdivision must be denied. It follows, that a determination of the character of Ellenburg Road at the point of connection to the proposed roadway is a predicate question to making a determination on the Variance Application. The BOZA recognized that this predicate question and its limited jurisdiction impacted its ability to move forward on the Variance Application during its first meeting on this application:

MALE VOICE:
That was my question is if the county doesn't maintain it all how can the county --
FEMALE VOICE:
Have any authority.

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MALE VOICE:
Yeah, have any authority.

(BOZA Hearing Tr. 86:15-20 (Nov. 30, 2021)).

MALE VOICE:
I've got one burning question.
MR. CHAIRMAN:
Yes, sir.
MALE VOICE:
Is does the county have the - - do we have the authority to give this based of off, you know, if the county has maintained it or abandoned it. It looks like they've given us where there's two lines where we've stopped paving so, you know, if – if the county doesn't then we're – we have no authority. That's our first question, do we have that authority?
MR. CHAIRMAN:
Kind of where I come out is that's a legal question, we ain't got nothing to do with that.
FEMALE VOICE:
Well I think it needs to be tabled until somebody tells us.
MALE VOICE:
I agree.

(BOZA Hearing Tr. 163:15-164:10 (Nov. 30, 2021)).

MR. CHAIRMAN:
I think one issue we need to resolve is – is the ownership.
MALE VOICE:
Ownership.
MR. CHAIRMAN:
Ownership of the property.
MALE VOICE:
Ownership.
MALE VOICE:
Present ownership and if it was at one time, if it was an Oconee County road and it has been abandoned.
. . .
Or if it was a state road and was abandoned.

(BOZA Hearing Tr. 174:24-175:15 (Nov. 30, 2021)).

BOZA did not vote on the Variance Application at its first presentation in November 2021, but instead opted to get more information on road maintenance and ownership. At the BOZA's January 24, 2022 and April 25, 2022 meetings, it was clear from testimony and documents

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presented that the existence of an easement was still unresolved. Regardless, at the April 25, 2022 meeting, BOZA decided to move ahead on the Variance Application and it effectively decided the disputed prescriptive easement issue in favor of Oconee County by approving the Variance Application.

> MR. CHAIRMAN:
>
> Let's start out with the prescriptive easement. We've heard a lot of input on both sides, the county attorney, everyone else. What are your thoughts on the prescriptive easement?
>
> MR. EAGAR:
>
> I think - - I think from what we've heard so far that – that does not bind us in any way in terms of whether, you know, and it - - from a decision standpoint we can go ahead with a decision that perceptively the easement doesn't impede us in any way from what I understood from Mr. Root, is that true?
>
> MR. ROOT:
>
> From my position, staying neutral, I believe you can craft an order that addresses the fact that the prescriptive easement may - - they may not express a direct opinion on the prescriptive easement but you address the variance of that pinch point, yes.
>
> MR. EAGAR:
>
> So I think that - - I think - - I think we should do that then and disregard the perceptive [sic] easement. This is a discussion?
>
> MR. CHAIRMAN:
>
> We are not competent to decide that issue.
>
> MALE VOICE:
>
> All right.
>
> MR. CHAIRMAN:
>
> We just don't - - we don't have the (inaudible).
>
> MALE VOICE:
>
> Right.
>
> MR. CHAIRMAN:
>
> We don't have business in that so we're not gonna decide that but as - - as John's suggesting we ought to go ahead and – and decide this as though there were an easement and – and if someone wants to go to court to –
>
> . . .
>
> Decide that they can do that but it's - -

(BOZA Hearing Tr. 100:3-101:21 (Apr. 25, 2022)).

BOZA approved the Variance Application on the assumption that the prescriptive easement existed. In so doing, BOZA effectively decided this disputed legal issue that falls outside of its

jurisdiction. This was an abuse of discretion and legal error. Accordingly, the Variance Order should be reversed.

II. The Order Does Not Address Whether BOZA Abused its Discretion When it Assumed that Oconee County Has A Prescriptive Easement Over the Petitioners' Private Driveway.

Petitioners contend that the BOZA abused its discretion when it assumed that Oconee County holds a prescriptive easement over the Private Driveway. The Order does not address this issue.

A prescriptive easement must satisfy all of the following elements:

i. Continued and uninterrupted use or enjoyment of the right for a period of twenty years;
ii. The identity of the thing enjoyed; and
iii. Use or enjoyment which is either adverse or under claim or right.

Bundy v. Shirley, 412 S.C. 292, 304, 772 S.E.2d 163, 169-70 (2015). A prescriptive easement must be proven by clear and convincing evidence, *Bundy*, 412 S.C. at 306, 772 S.E.2d at 170-71; its existence cannot merely be assumed to exist. The proponent of the easement carries the burden of proof.

Oconee County did not present any evidence to BOZA of its continued uninterrupted use of the Private Driveway for twenty years, it did not produce any maintenance records reflecting work done on the Private Driveway, and it did not present any testimony from county employees, or anyone else, who had personal knowledge of performing maintenance work on the Private Driveway. The only "evidence" cited by Oconee County for asserting the existence of a prescriptive easement over the Private Driveway was "institutional memory." (BOZA Hearing Tr. 23:5-24:13; 28:1-3, 28:24-29:10 (Apr. 25, 2022)). Institutional memory is not evidence. The BOZA had no documentary or testimonial evidence before it showing Oconee County's continued and uninterrupted maintenance or use of the Private Driveway for twenty years.

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Conversely, Petitioners presented evidence to the BOZA including (1) two affidavits stating that Oconee County placed an End of Maintenance sign at or around 585 Ellenburg Road where it stayed for decades; (2) documents and public statements that Petitioners have maintained the Private Driveway for the last forty years; and, (3) photographs depicting the end of the county's yellow striping before the Private Driveway began.

Even under a preponderance of the evidence standard, the evidence presented to the BOZA weighed in Petitioners' favor showing that such an easement cannot be assumed to exist. Under a clear and convincing evidence standard, it is even more clear that Oconee County did not provide sufficient evidence to justify BOZA's assumption that a prescriptive easement existed over the Private Driveway.

When fairly viewing the evidence presented, the determination should have been in Petitioners' favor that the Private Driveway is not a public road. Once this determination is corrected, the entire basis for approving the Variance Application fails. Without a public road to tie directly into, the applicant cannot construct a new roadway to serve nineteen homes.

Given the evidence before it, the BOZA's assumption that Oconee County held a prescriptive easement over the Private Driveway was arbitrary, capricious, and an abuse of discretion. Accordingly, the Variance Order should be reversed based on the BOZA's erroneous assumption and error of law.

III. The Order Does Not Address the Unilateral Expansion of the Easement Burden on Petitioners' Properties.

BOZA's grant of the Variance Application will result in a material increase in the burden on Petitioners' property and impose new and additional burdens. The owner of an easement cannot materially increase the burden on the servient estate nor impose new or additional burdens. *Rhett v. Gray*, 401 S.C. 478, 736 S.E.2d 873 (Ct. App. 2012). The Order does not address this argument.

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Assuming the existence of a prescriptive easement, the only pre-existing burden on the Private Driveway would have been occasional county maintenance—though no documents reflect Oconee County ever having performed any maintenance on Petitioners' section of Ellenburg Road. Granting a variance for a private development of nineteen homes with an estimated 200 vehicle trips per day driving along Petitioners' property changes the character of Petitioners' section of Ellenburg Road and materially increases the burden of vehicular traffic flowing across Petitioners' properties.

Transforming the Private Driveway into a public road also places new burdens on Petitioners' property. John's Marine has been operating at its current location for forty years. Petitioners testified that John's Marine will no longer be able to operate on the property should the Private Driveway be transformed into a public road for nineteen new homes. (BOZA Hearing Tr. 45:8-49:9 (Apr. 24, 2022); R. p. 289). John's Marine uses the entirety of the Private Driveway to conduct its business. If the Private Driveway is no longer available to John's Marine, this is a new and substantial burden that has never been placed on Petitioners' land and a restriction Petitioners never assented to. (*Id.*)

It was arbitrary, capricious, and an abuse of discretion for BOZA to approve the Variance Application that will materially increase the existing burden and create new burdens on Petitioners' land. The owner of an easement cannot materially increase the burden on the servient estate nor impose new or additional burdens. *Rhett v. Gray*, 401 S.C. 478, 736 S.E.2d 873 (Ct. App. 2012). This was an error of law and the Variance Order should be reversed.

IV. The Order Does Not Address the Uncertainty of the Proposed Roadway's Location and BOZA's Lack of Writing Findings on this Issue.

At the time it approved the Variance Application, BOZA recognized that the final location of the roadway was uncertain. (BOZA Hearing Tr. 153:20-156:14 (Apr. 25, 2022)). Petitioners

contend BOZA abused its discretion in approving the Variance Application without a final roadway location.

Petitioners submitted scale drawings showing that in order for the applicant, or developer, to meet the 31.9' right-of-way to construct the new public road, the applicant will either have to fill in a substantial amount of land currently underwater belonging to Duke, or the roadway will have to shift toward John's Marine and be placed on top of the location where John's Marine currently maneuvers boats and trailers. (R. p. 297-98). The applicant's own drawings reflected this 9.1' shift onto Petitioners' property needed for the new public road. (R. p. 285).

Petitioners testified that the substantial increase in traffic (200 cars a day) will detrimentally impact its business, even without this 9.1' shift in the proposed roadway onto their property. (BOZA Hearing Tr. 45:8-49:9 (Apr. 24, 2022); R. p. 289). If the road must shift, such that John's Marine's boat service area will become a public roadway for 200 cars a day, it will have an even more detrimental impact on Petitioners. (*Id.*).

In reviewing a variance application, the BOZA is charged with determining whether the requested variance will "be of substantial detriment to adjacent property." S.C. Code Ann. § 6-29-800 (A)(2)(d); Oconee County Code Sec. 38-7.1.(4). Only where the BOZA determines the variance *will not* be of substantial detriment can a variance be granted. The BOZA's review and findings must be explained in writing. S.C. Code Ann. § 6-29-800(A)(2) ("A variance may be granted . . . if the board *makes and explains in writing*" the four requirements); Oconee County Code Sec. 38-7.1. ("The board of zoning appeals may grant a variance . . . if the board of zoning appeals makes and explains in writing" the four requirements).

In this instance, the BOZA approved the variance application without sufficient definiteness as to the final location of the proposed public roadway. As demonstrated by

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Petitioners, the detrimental impact analysis changes as the placement of the final roadway shifts. The BOZA did not conduct sufficient analysis of the detrimental impact on Petitioners' property under the various scenarios of the final road placement and did not sufficiently review the impact of utility placement, road construction, and home construction and set forth its findings in writing. As such, the BOZA's finding of no substantial detriment to Petitioners' property and its decision to approve the variance application without sufficient definiteness as to the final location of the roadway was arbitrary, capricious, and an abuse of discretion.

CONCLUSION

Petitioners request that the Court reconsider its Order Denying Relief to address the following bases for relief raised in Petitioners' Brief: (1) BOZA exceeded its limited statutory jurisdiction in adjudicating the existence of a prescriptive easement; (2) BOZA abused its discretion in assuming that Oconee County holds a prescriptive easement across Petitioners' Private Driveway; (3) BOZA erred in unilaterally approving an increase in easement burdens across Petitioners' Private Driveway; and, (4) BOZA's approval of the Variance Application was arbitrary and capricious because the location of the variance was left undetermined, and BOZA failed to provide the statutorily required explanatory writing findings concerning the variance's detrimental impact to adjacent uses.

For these reasons, Petitioners request the Court to reconsider its Order and reverse the Variance Order.

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Respectfully submitted,

s/ David L. Paavola

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September 23, 2022

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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	)	IN THE COURT OF COMMON PLEAS FOR THE TENTH JUDICIAL CIRCUIT
John's Marine Service, Inc., Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers Crisp, Amy Cawthon, Petitioners/Appellants, v. Oconee County Board of Zoning Appeals, Ridgewater Engineering & Surveying, LLC, Defendants/Respondents.	)	Case No. 2022-CP-37-00396 **CERTIFICATION OF RECORD ON APPEAL FROM THE OCONEE COUNTY BOARD OF ZONING APPEALS**

CERTIFICATION OF SECRETARY
OF THE OCONEE COUNTY BOARD OF ZONING APPEALS

I, James Coley, as Secretary of the Oconee County Board of Zoning Appeals ("BZA"), hereby certify that the accompanying documents and materials constitute a true, accurate, and complete copy of the record of proceedings of the BZA for the hearings conducted in the matter of BZA #VA21-011, a road variance request by Ridgewater Engineering and Surveying – Joe Meaders.

The materials included in the record, by hearing date, are as follows:

November 30, 2021

1. Meeting agenda
2. VA21-011 application
3. Public comment signup sheet
4. Staff opinion
5. Applicant's site plans / exhibits
6. Plat Nov. 2008
7. Deed: Book 1695 Page 87-102
8. QPublic topo map
9. Rhea Smith presentation (for applicant)
10. Ratliff letter of opposition
11. Emailed public comments
12. Approved minutes

13. Publisher's affidavit

January 24, 2022

14. Meeting agenda
15. Public comment signup sheet
16. Staff opinion
17. Ratliff letter, objecting to minutes of November 20, 2021 meeting
18. Approved minutes
19. Publisher's affidavit

April 25, 2022

20. Meeting agenda
21. Andy Lee presentation materials (applicant)
22. Lucretia Morgan handouts (opposition)
23. Ratliff letter (opposition)
24. Emailed public comments
25. Approved minutes
26. Publisher's affidavit
27. Order of Board of Zoning Appeals
28. Order of Board of Zoning Appeals – Scrivener's Error Corrected

Additional Materials

29. Audio recordings (see accompanying flash drive)
30. Link to Your Oconee YouTube page (videos of proceedings) https://www.youtube.com/channel/UCDSqrQTlYk9ynVApyugUfHw
31. Transcripts of the hearings are being prepared.

James Coley, Secretary of the Oconee County Board of Zoning Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

The foregoing was acknowledged before me, Katie M. Brown, on July 25th, 2022, by James Coley, as Secretary of the Oconee County Board of Zoning Appeals.

Notary Public for South Carolina
My Commission expires 4/25/2029

[SEAL]

Meeting agenda
Tuesday, November 30, 2021 6:00pm

Oconee County Board of Zoning Appeals

Council Chambers
415 South Pine Street
Walhalla, S.C. 29691

www.oconeesc.com

YouTube: "YourOconee"

Staff contact
846-638-4218
planninginfo@oconeesc.com

1. Call to order
2. Approval of minutes: 07/26/2021
3. Brief statement about rules and procedures
4. Variance request application #VA 21-010: Seamon Whiteside and Associates, Inc. – Paul Talbert is requesting a variance allowing the side setback for lot lines dividing attached single family units to be reduced to 0', thus allowing the construction of individually platted, attached single family units. TMS # 271-00-01-940/943/942/941/939/938 unaddressed parcels with the closest address of 201 W. Cherry Rd. Seneca, SC 29678
5. Variance request application #VA 21-011: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.
6. Adjourn

BOARD MEMBERS

Jim Codner, Chairman, District I
Gwen Fowler, District II
John Eager, At-Large
Marty McKee, District IV
Bill Gilster, Vice Chairman, District III
Tim Mays, District V
Bill Decker, At-Large

Freedom of Information Act - Variance Application

Permitting Information

Code section from which a variance is requested	26-2.c.2	**Upload Supporting Documentation Here**	
Application is		Application is not	X

APPLICANT RESPONSES TO SECTION 38-7.1

Describe the extraordinary and exceptional condition (such as size, shape, and topography) that pertains to the subject property that does not generally apply to other land or structures in the vicinity.:	Property is located on a peninsula at the end of a dead end county road, Ellenburg Rd., which only has a prescriptive right-of-way. The road maintenance stops just short of being able to provide direct access to the parcel. The parcel only has a 31.9 foot width at it's narrowest point and is bordered by Lake Keowee/Duke Energy property on one side.
Are the circumstances affecting the subject property the result of actions by the applicant/owner? Explain.	No. The end of road maintenance has existed for some time and was not done at the property owners direction. The property lines do not have any recent changes that have created the issue at hand.
Describe the ways in which application of the requirement(s) of the ordinance effectively prohibit or unreasonably restrict the utilization of the subject property.:	The private road standards, Section 26-2.c.2, require that all new roads have a 50 foot right-of-way with the roadway centered within. Due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way, and the property having a pinch point of 31.9 feet in width, the property is not able to be accessed by a full 50 foot right-of-way to meet the ordinance.
Will the proposed variance result in an activity that will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance. Explain.:	No. Granting of the variance will allow for development of a single-family residential subdivision which is the best use for the property. Due to the fact that the surrounding areas are also single-family residential lots, no detriment will be created. Additionally, having only 19 lots on approximately 16 acres will not harm the character of the district.

General Contractor

ICC 113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code of the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

Comments

OCONEE COUNTYS APPROVAL, PERMITTING, AND/OR INSPECTION(S) OF THIS PROJECT DOES NOT MEAN THAT THE PROJECT IS IN COMPLIANCE WITH ALL APPLICABLE SUBDIVISION AND/OR HOMEOWNERS ASSOCIATION, OR SIMILAR ENTITYS, BUILDING AND LAND USE REQUIREMENTS OR RESTRICTIONS, BY SIGNING BELOW YOU ACKNOWLEDGE THAT COMPLIANCE WITH ANY SUCH STANDARDS IS YOUR RESPONSIBILITY.

Workflow Reviews Information

Type	Creation Date	Due Date	Completion Date	Status	Description
Application Check	10/26/2021	10/27/2021	10/27/2021	Approved	
Planning and Zoning Review	10/26/2021	11/03/2021	04/25/2022	Approved	
Review Complete	10/26/2021	05/12/2022	05/20/2022	Conditional Approval	

Inspection Information

Activities Information

Type	Creation Date	Due Date	Completion Date	Status	Description
Online Payment Received	11/15/2021	11/22/2021	11/15/2021	Complete	
Online Payment Received	11/15/2021	11/22/2021	11/15/2021	Complete	
Online Document Upload	11/15/2021	11/22/2021	11/15/2021	Complete	Ridgewater Engineering and Surveying Joe Meaders has uploaded the following documents online: - Updated to remove inaccurate topographic information.: 10-26-21 Arrowhead Point Sketch Plan Rel 0-R1.pdf
Online Document Upload	11/15/2021	11/22/2021	11/15/2021	Complete	Ridgewater Engineering and Surveying Joe Meaders has uploaded the following documents online: - Updated to remove inaccurate topographic information.: 10-26-21 Arrowhead Point Sketch Plan Rel 0-R1.pdf

Documents Information

Creation Date	File Name	Source
10/26/2021	10-26-21 Arrowhead Point Sketch Plan Rel 0.pdf	Upload Supporting Documentation Here
10/26/2021	Your application has been received.htm	System Email Notification
11/15/2021	Permit Review.htm	Email
11/15/2021	Your citizenserve payment has been received.htm	System Email Notification
11/15/2021	Receipt.htm	Merge document
11/15/2021	Permit Email.htm	Email
11/15/2021	10-26-21 Arrowhead Point Sketch Plan Rel 0-R1.pdf	Online Document Upload
11/23/2021	Permit Review.htm	Email
11/29/2021	11-24-21 Arrowhead Point Variance Request Rel 0.pdf	Document
11/29/2021	11-29-21 Arrowhead Point Variance Request Rel 1-Exhibit 1.pdf	Document
11/29/2021	11-29-21 Exhibit 2.pdf	Document
11/29/2021	PlatB291pg1.pdf	Document
11/29/2021	20354As_BuiltTopoZoom.pdf	Document
11/29/2021	Permit Review.htm	Email
05/20/2022	DOC278.pdf	Document
05/20/2022	Board Order VA21 0011.pdf	Document

History

Creation Date	Note Type	Note
10/26/2021	Contact Added	Andy Lee was added to the case by System User.

10/26/2021	Contact Added	Joe Meaders was added to the case by System User.
10/26/2021	Contact Added	GLOBE A SC LIMITED PARTNERSHIP was added to the case by System User.
10/26/2021	Document Attached	Document "10-26-21 Arrowhead Point Sketch Plan Rel 0.pdf" was attached to the case.
10/26/2021	Application Check - Activity	A Application Check activity has been assigned to Vivian Kompier in the Community Development department.
10/26/2021	Planning and Zoning Review - Activity	A Planning and Zoning Review activity has been assigned to Vivian Kompier in the Community Development department.
10/26/2021	Review Complete - Activity	A Review Complete activity has been assigned to Vivian Kompier in the Community Development department.
10/26/2021	Portal Submitted	Online application for Arrowhead Point Subdivision - 50' R/W Variance on Submitted by Ridgewater Engineering and Surveying - Joe Meaders and 10/26/2021 01:36 PM
10/26/2021	Document Attached	Document "Your application has been received.htm" was attached to the case.
10/27/2021	Status Updated	# VA21-000011 status was changed from Online Application Received to Under Review by Vivian Kompier
10/27/2021	Activity Update	Application Check assigned to Vivian Kompier was completed by Vivian Kompier on 10/27/2021
10/27/2021	Activity Update	Application Check assigned to Vivian Kompier status changed from Pending to Approved by Vivian Kompier on 10/27/2021
10/27/2021	Activity Update	Planning and Zoning Review assigned to Vivian Kompier status changed from Pending to Under Review by Vivian Kompier on 10/27/2021
11/15/2021	Document Attached	Document "Permit Review.htm" was attached to the case.
11/15/2021	Payment Added	Payment of $250.00 added to VA21-000011 receipt #2844
11/15/2021	Online Payment Received - Activity	A Online Payment Received activity has been assigned to Cynthia Adams in the Community Development department.
11/15/2021	Document Attached	Document "Your citizenserve payment has been received.htm" was attached to the case.
11/15/2021	Document Attached	Document "Receipt.htm" was attached to the case.
11/15/2021	Document Attached	Document "Permit Email.htm" was attached to the case.
11/15/2021	Activity Update	Online Payment Received assigned to Cynthia Adams was completed by Cynthia Adams on 11/15/2021
11/15/2021	Document Attached	Document "10-26-21 Arrowhead Point Sketch Plan Rel 0-R1.pdf" was attached to the case.
11/15/2021	Online Document Upload - Activity	A Online Document Upload activity has been assigned to Cynthia Adams in the Community Development department.
11/15/2021	Online Document Upload - Activity	Activity Online Document Upload has been reassigned from Cynthia Adams to Vivian Kompier.
11/15/2021	Activity Update	Online Document Upload assigned to Vivian Kompier was completed by

		Vivian Kompier on 11/15/2021
11/23/2021	Document Attached	Document "Permit Review.htm" was attached to the case.
11/29/2021	Document Attached	Document "11-24-21 Arrowhead Point Variance Request Rel 0.pdf" was attached to the case.
11/29/2021	Document Attached	Document "11-29-21 Arrowhead Point Variance Request Rel 1-Exhibit 1.pdf" was attached to the case.
11/29/2021	Document Attached	Document "11-29-21 Exhibit 2.pdf" was attached to the case.
11/29/2021	Document Attached	Document "PlatB291pg1.pdf" was attached to the case.
11/29/2021	Document Attached	Document "20354As_BuiltTopoZoom.pdf" was attached to the case.
11/29/2021	Document Attached	Document "Permit Review.htm" was attached to the case.
01/14/2022	Planning and Zoning Review - Activity	Activity Planning and Zoning Review has been reassigned from Vivian Kompier to James Coley.
01/14/2022	Review Complete - Activity	Activity Review Complete has been reassigned from Vivian Kompier to James Coley.
05/11/2022	Activity Update	Planning and Zoning Review assigned to James Coley was completed by James Coley on 05/11/2022
05/11/2022	Activity Update	Planning and Zoning Review assigned to James Coley status changed from Under Review to Approved by James Coley on 05/11/2022
05/20/2022	Document Attached	Document "DOC278.pdf" was attached to the case.
05/20/2022	Document Attached	Document "Board Order VA21 0011.pdf" was attached to the case.
05/20/2022	Activity Update	Review Complete assigned to James Coley was completed by James Coley on 05/20/2022
05/20/2022	Activity Update	Review Complete assigned to James Coley status changed from Pending to Conditional Approval by James Coley on 05/20/2022

OCONEE COUNTY BOARD OF ZONING APPEALS

1

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Variance VA21-011 "Arrowhead Road Variance"

Public Comment – First Name, Last Name - please print legibly

Rick McDuff John Ratliff
Jimmy

1. Mike Johnson - Private Citizen
2. Maggie Johnson
3. EDWARD RATLIFF
4. RICK McDUFF - ATTORNEY FOR JOHNS MARINE
5. ~~Lucretia Morgan - Private Citizen~~
6. Sherri Crisp
7. GARY COLDEN
8. CHAD KNOTT
9. CHRIS HOLDEN
10. John Reeves
11. ROGER CHAPMAN
12. Jon Martin
13. FRANK Powell

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Variance VA21-011 "Arrowhead Road Variance"

Public Comment – First Name, Last Name - please print legibly

1. Bruce Hadley
2. Barry & Teala
3. Doug Cooper
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.

Applicant's opening statement and provision of evidence:

Public comment-time:

Mr. Codner then opened up the public comment portion of the meeting and asked people to be concise with their comments as there are many people signed up to speak.

	Name	For	Against	Why?
#1	Patrick Tierney			
#1	Chris Lenard			
	Rick McDuff Atty		✓	Everything
	Edward Ratliff		✓	
	Mike Johnson	✓		
	Maggie Johnson	✓		
	Chad Knott		✓	Everything
	Chris Holder		✓	Traffic
	John Martin		✓	
	Bruce Hadley		✓	
	Barry Steel		✓	
	Doug Cooper		✓	
	Larry Brandt	✓		

BZA

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Staff Opinion

BZA #VA21-011 Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive "ditch to ditch" right-of-way. TMS # 150-00-01-459 is an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672

Applicant has requested a variance from the road standards under Sec 26-8 of the Oconee County Code of Ordinances. They have requested the variance from Sec 26-3(e)(1) Public Road Minimum right-of-way, pavement, and shoulder width shall be as follows: minor local 50' right-of way.

The applicant is connecting to the existing Ellenburg Rd, a county road, with a new road to develop land past the end of the existing road. Their design as presented would shift the road to the south, establishing a new road layout with curb and gutter on the south side of the road and curb and gutter on both sides past the end of the current road.

- Currently the road right-of-way is prescriptive and ends at the edge of pavement.
- The right-of way request is for a section of the road approximately 100 foot in length with a varying width, which at its narrowest is 31.9 foot
- Sketch is shifting the road to the applicant's side of the property line.

The applicant has meet with the Roads and Bridges Department (notes attached at the end), and based on the initial conversation the Department does not believe that the relocation of the road would have an adverse effect of road maintenance. If the variance is approved they would still need to show the ability to place the road, shoulders, drainage, and utilities in the proposed, narrowed, right-of-way, would need to have a traffic study completed, and would need approvals on access and turning radius with emergency management.

James,
Here are the bullets from my conversation with the developer and his engineers concerning the development at the end of Ellenburg Rd. (these are not commentary on the variance requested for the BZA and the below was based on hypotheticals as no plan was presented):

- The developer asked about where Ellenburg Rd stops being county maintained. I told them it was the end of the asphalt and that we did not have deeded right-of-way as the road is maintained by prescriptive easement. I also showed him what we have been maintaining as the extent of our right-of-way.
- They asked about upgrading the road and told me getting right-of-way from the adjacent property owner would likely be difficult. They asked about being able to place the road entirely on their property with a reduced right-of-way than the 50' standard required by the ordinance. I told them that any variance from the road standards would have to be heard by the BZA.
- They asked if there was anything additional that they would need to consider. I told them without a sketch plan it would be hard to hit all the points, but with a subdivision more than 10 lots there would have to be a traffic impact study for Ellenburg Rd that would need to be done at the preliminary plat phase along with an encroachment permit to tie onto the end of the county maintained portion of Ellenburg Rd.
- They asked me about the new road in the development becoming a county maintained road. I told them that the road would need to meet all county standards and have an approved turn around.
- They asked me about the being able to put a gate on the road. I told them it could not be a county maintained road if there was a gate.

ZONING REQUIREMENTS:

SITE ZONING: CFD

OVERLAY DISTRICT: KEOWEE/ JOCASSEE OVERLAY

	FRONT	REAR	SIDE	SIDE
BUILDING SETBACKS:	15	5	5	10' UNLESS NOTED OTHERWISE 25' VEGETATIVE BUFFER TAKES PRECEDENCE OVER THE 10' REAR SETBACK LINE WHERE APPLICABLE.

- 10' (5' EITHER SIDE) DRAINAGE AND UTILITY EASEMENT ON SIDE LOT LINES
- PROPERTY LINE ALONG LAKE KEOWEE IS ALONG THE 800' MSL CONTOUR
- DUKE ENERGY FLOOD EASEMENT TO THE 810' MSL CONTOUR
- 25' NATURAL VEGETATIVE BUFFER RESERVED BY OCONEE CO. ALONG LAKE KEOWEE FULL POOL (800' MSL CONTOUR)

19 TOTAL LOTS

MINIMUM LOT SIZE = 21,780 SQ. FT. (1/2 ACRE)

MINIMUM LOT WIDTH = 80 FT.

ROAD NOTE:
THE ROAD RIGHT-OF-WAY SHOWN ON THIS PLAN SHALL BE PUBLIC. TO BE OWNED AND MAINTAINED BY OCONEE COUNTY ROADS AND BRIDGES DEPARTMENT.

NOTE:
THE COUNTY BUILDING PERMITS SHALL BE ISSUED FOR PROJECTS ON INDIVIDUAL LOTS PRIOR TO THE RECORDING OF A FINAL PLAT IN THE OFFICE OF THE REGISTER OF DEEDS.

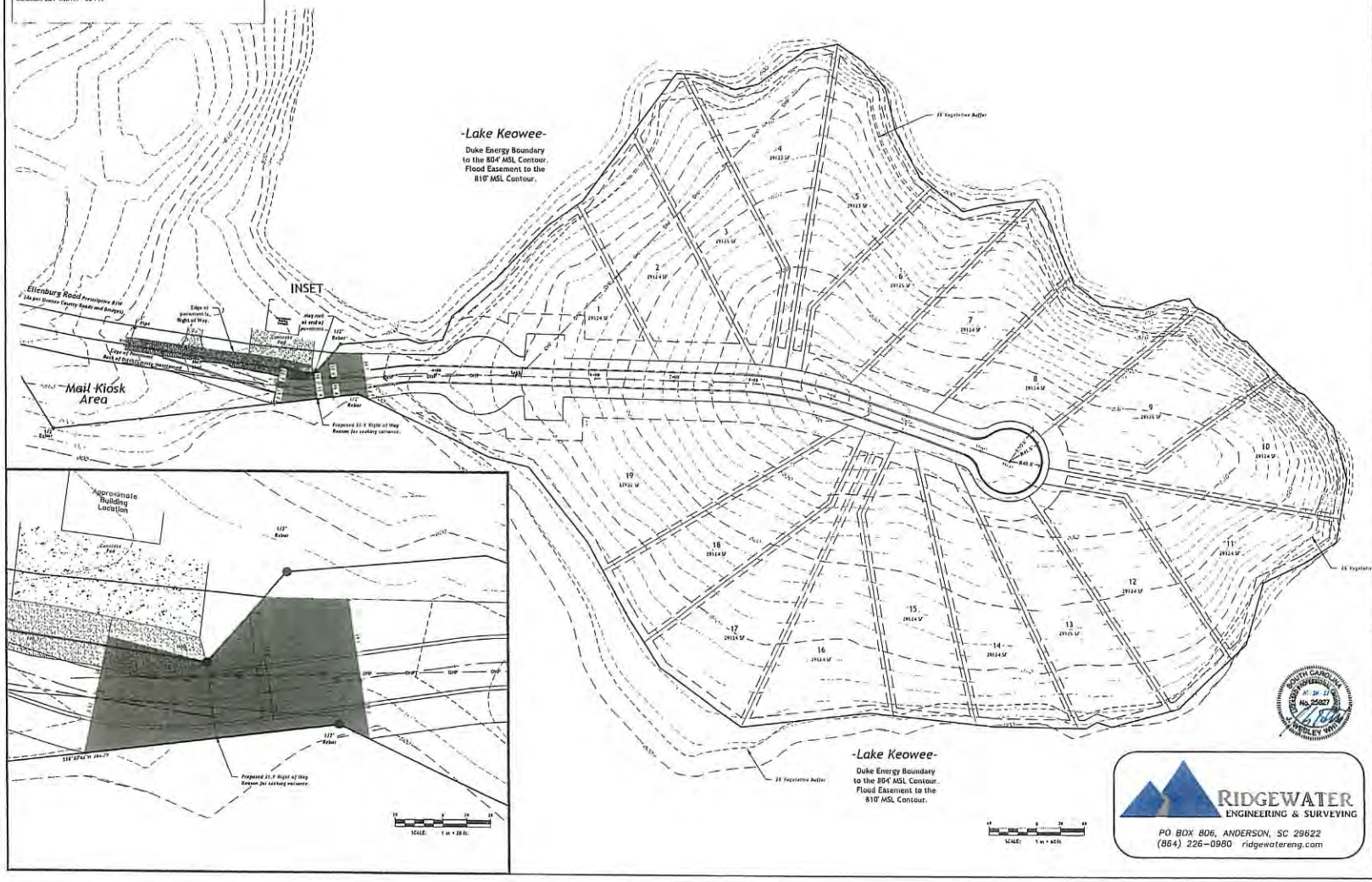
25' VEGETATIVE BUFFER
25' TAKEN FROM 800' CONTOUR LINE/PROPERTY LINE. THIS BUFFER TAKES PRECEDENCE OVER THE 10' REAR SETBACK LINE WHERE APPLICABLE.

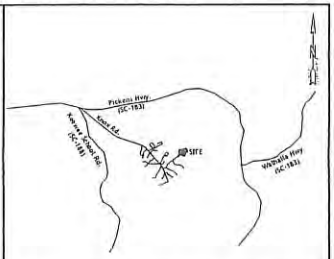
EXISTING CONTOUR NOTE:
TOPOGRAPHIC SURVEY PROVIDED BY WILLIAM HUTCHINS PLS. 906 FREEMAN RD. LIBERTY SC 29657

UTILITY NOTE:
ALL LOTS TO UTILIZE PUBLIC WATER (WALHALLA WATER) AND INDIVIDUAL SEPTIC TANKS.

EXISTING

IRON PIN, OLD, FOUND
NAIL OR NAIL & BOTTLE CAP SET UNLESS NOTED
COMPUTED POINT
OVER HEAD POWER — OHP —
OVER HEAD POWER & TELEPHONE — OHPT —
FIBER OPTIC CABLE — FOC —
UTILITY POLE
GUY WIRE
PROPERTY LINE
ADJACENT PROPERTY LINE
WETLANDS





LOCATION MAP

SKETCH PLAN

OWNER'S CERTIFICATION

As the owner of the land, as shown on the sketch plan, I certify that the drawing was made from an actual survey, and accurately portrays the existing land and site features and the proposed development and improvements shown.

Date: _____

(Owner) (Agent) (Name): _____

Signed: _____

DESIGN PROFESSIONAL CERTIFICATION

It is hereby certified that the sketch plan was prepared using a survey of the property prepared by William Hutchins, PLS, and dated 9-15-21. And further that the proposed subdivision meets all requirements of the Oconee County Development Standards Ordinance, as applicable to the property.

By (Name: _____

Signed: _____

Registered Professional No. _____

Address: _____

Telephone No. _____

Date: _____

CERTIFICATE OF PROJECT APPROVAL

All applicable requirements of the Oconee County Development Standards Ordinance relative to Project Approval having been fulfilled, approval of this sketch plan is hereby granted by the Manager or the Subdivision Administrator, subject to further compliance with all provisions of said development regulations.

Manager or Subdivision Administrator: _____

Date: _____

TMS # 150-00-01-459
D.B. 1695, PAGE 87
P.B. B291, PAGE 1

Arrowhead Point

Lake Keowee Development Group Inc. 896 N. Walnut St. Seneca, SC 29678	Ridgewater Engineering & Surveying, LLC P.O. Box 806 Anderson SC 29622
OWNER	ENGINEER OR SURVEYOR

NO. OF ACRES: ±15.37 MILES OF NEW ROADS: ±1140 LF

NO. OF LOTS: 19 DATE: 10-26-2021

ZONE: CFD

OVERLAY DISTRICT: KEOWEE/JOCASSEE OVERLAY

DRAWN BY:	KOC
CHECKED:	JWW
JOB NUMBER:	21286
REVISIONS:	0
SKETCH-PLAN	

SOUTH CAROLINA REGISTERED PROFESSIONAL ENGINEER No. 25827 J. WESLEY WHITE

SOUTH CAROLINA REGISTERED PROFESSIONAL ENGINEER & SURVEYING No. 5815 CERTIFICATE OF AUTHORIZATION

RIDGEWATER ENGINEERING & SURVEYING
PO BOX 806, ANDERSON, SC 29622
(864) 226-0980 ridgewatereng.com

THIS DRAWING AND THE DESIGN SHOWN THEREON ARE THE PROPERTY OF RIDGEWATER ENGINEERING & SURVEYING, LLC. THE REPRODUCTION, COPYING OR USE OF THIS DRAWING WITHOUT WRITTEN CONSENT IS PROHIBITED AND ANY INFRINGEMENT WILL BE SUBJECT TO LEGAL ACTION.

ZONING REQUIREMENTS:

SITE ZONING: CFD

OVERLAY DISTRICT: KEOWEE/JOCASSEE OVERLAY

	HEIGHT	REAR	LEFT	SIDE
BUILDING SETBACKS:	35	5	5'	10' UNLESS NOTED OTHERWISE 25' VEGETATIVE BUFFER TAKES PRECEDENCE OVER THE 10' REAR SETBACK LINE WHERE APPLICABLE.

- 10' (5' EITHER SIDE) DRAINAGE AND UTILITY EASEMENT ON SIDE LOT LINES
- PROPERTY LINE ALONG LAKE KEOWEE IS ALONG THE 800' MSL CONTOUR
- DUKE ENERGY FLOOD EASEMENT TO THE 810' MSL CONTOUR
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EXISTING CONTOUR NOTE:

TOPOGRAPHIC SURVEY PROVIDED BY WILLIAM HUTCHINS PLS. 906 FREEMAN RD. LIBERTY SC 29657

UTILITY NOTE:

ALL LOTS TO UTILIZE PUBLIC WATER (WALHALLA WATER) AND INDIVIDUAL SEPTIC TANKS.

EXISTING

- IRON PIN, OLD, FOUND
- NAIL OR NAIL & BOTTLE CAP (NEW UNLESS NOTED)
- COMPUTED POINT
- OVER HEAD POWER — OHP —
- OVER HEAD POWER & TELEPHONE — OHPT —
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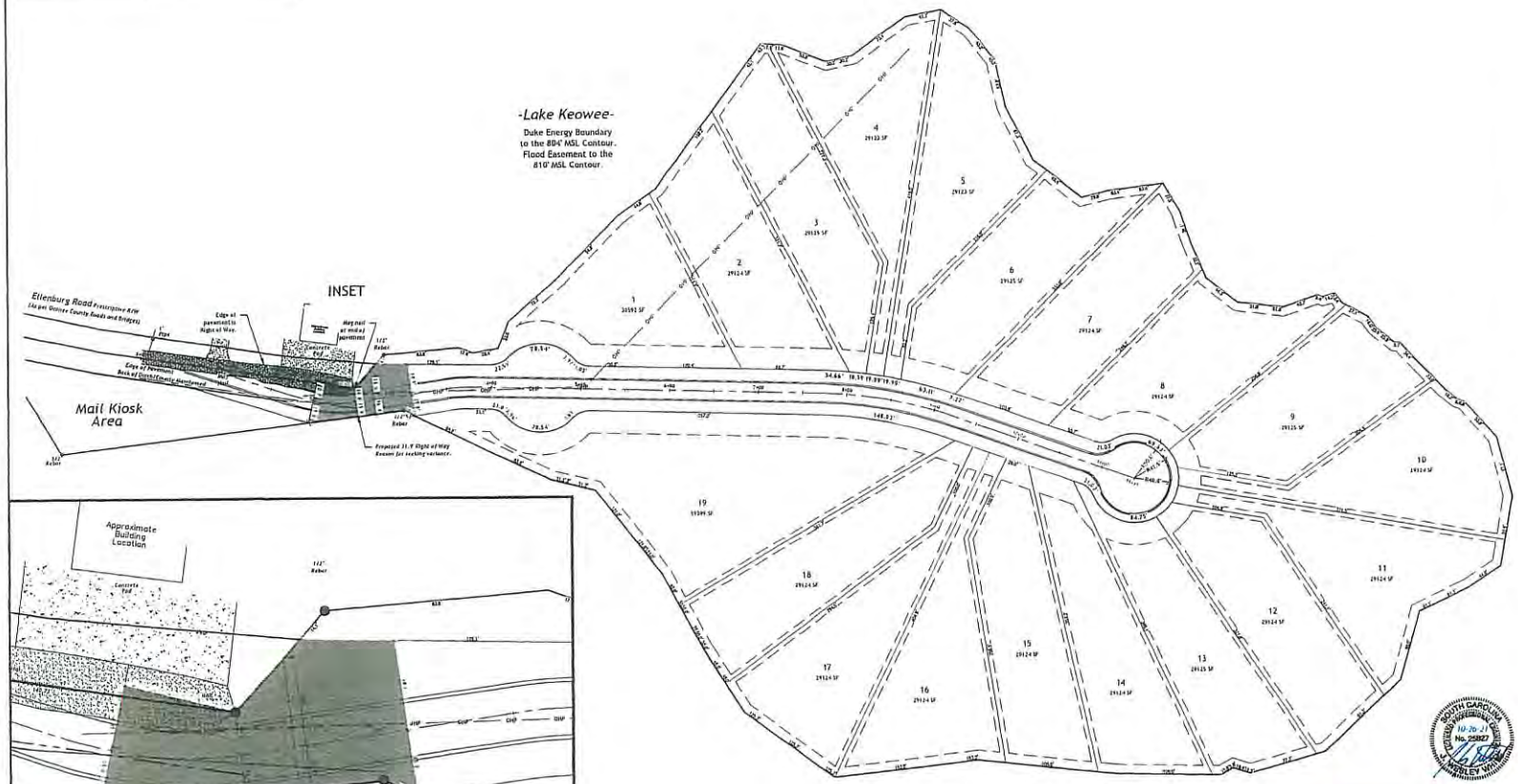
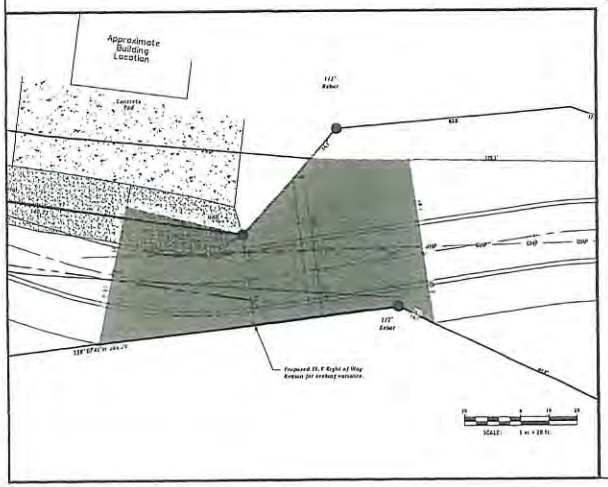
- UTILITY POLE
- GUY WIRE
- PROPERTY LINE
- ADJACENT PROPERTY LINE
- WETLANDS

LOCATION MAP





SKETCH PLAN

OWNER'S CERTIFICATION

As the owner of this land, as shown on this sketch plan, I certify that this drawing was made from an actual survey, and accurately portrays the existing land and its features and the proposed development and improvements thereto.

Date: _____

[Owner] [Agent] (Name): _____

Signed: _____

DESIGN PROFESSIONAL CERTIFICATION

It is hereby certified that this sketch plat was prepared using a survey of the property prepared by William Hutchins, PLS, and dated 7-15-21; and further that the proposed subdivision meets all requirements of the Oconee County Development Standards Ordinance, as applicable to the property.

By Name: _____

Signed: _____

Registered Professional No.: _____

Address: _____

Telephone No: _____

Date: _____

CERTIFICATE OF PROJECT APPROVAL

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Date: _____

TMS # 150-00-01-459
D.B. 1695, PAGE 87
P.B. B291, PAGE 1

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NO. OF ACRES: ±15.37 MILES OF NEW ROADS: ±1140 LF

NO. OF LOTS: 19 DATE: 10-26-2021

ZONE: CFD

OVERLAY DISTRICT: KEOWEE/JOCASSEE OVERLAY

DRAWN BY:	KDC
CHECKED:	JWW
JOB NUMBER:	21286
REVISIONS:	0
SKETCH-PLAN	

SOUTH CAROLINA — RIDGEWATER ENGINEERING & SURVEYING — No. 3018 — CERTIFICATE OF AUTHORIZATION

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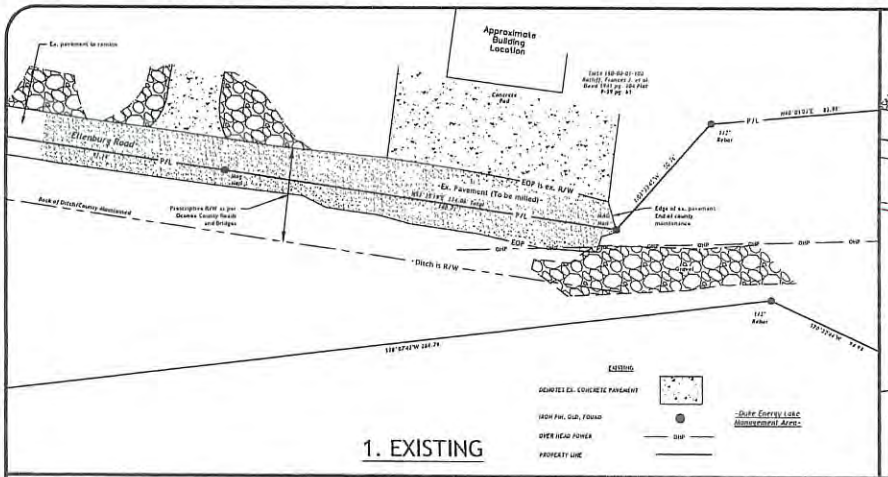

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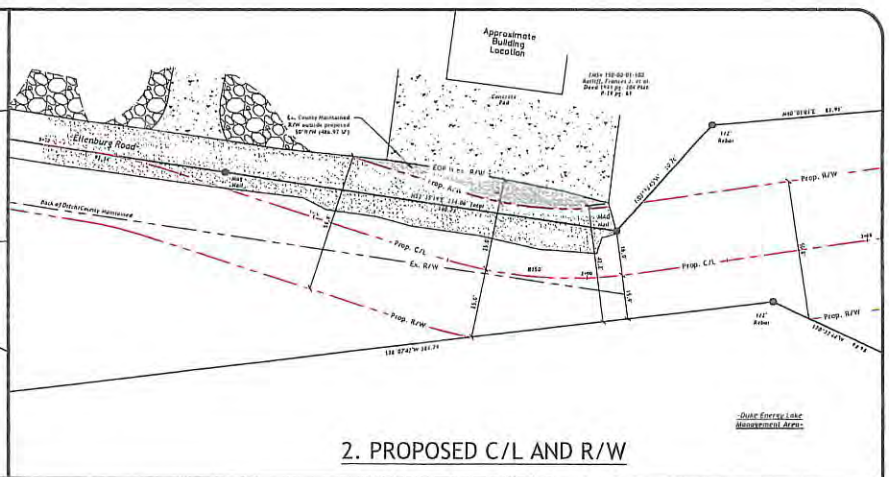
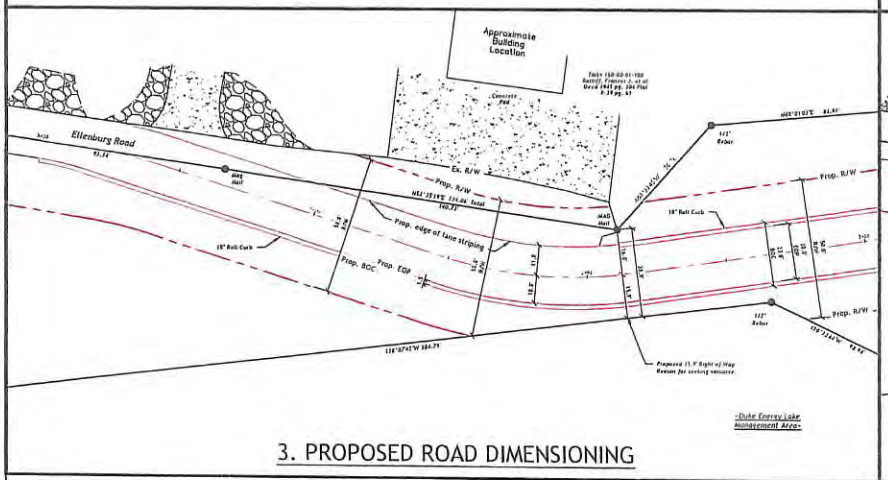
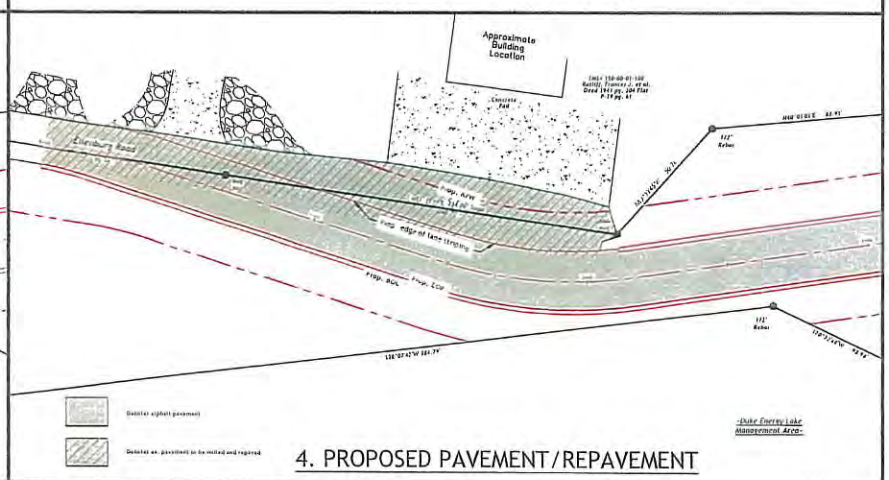


2. PROPOSED C/L AND R/W



3. PROPOSED ROAD DIMENSIONING



4. PROPOSED PAVEMENT/REPAVEMENT

SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
BOC	Back of curb
R/W	Right-of-way
R	Radius
Prop.	Proposed
Ex.	Existing

CAUTION

PALMETTO UTILITY LOCATION SERVICE
3 DAYS BEFORE DIGGING CALL TOLL FREE 811
A ONE CALL SYSTEM FOR COMMUNITY AND JOB SAFETY

RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 226-0980
RIDGEWATERENG.COM

SCALE: 1 in = 10 ft

SOUTH CAROLINA RIDGEWATER ENGINEERING & SURVEYING CERTIFICATE OF AUTHORIZATION

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
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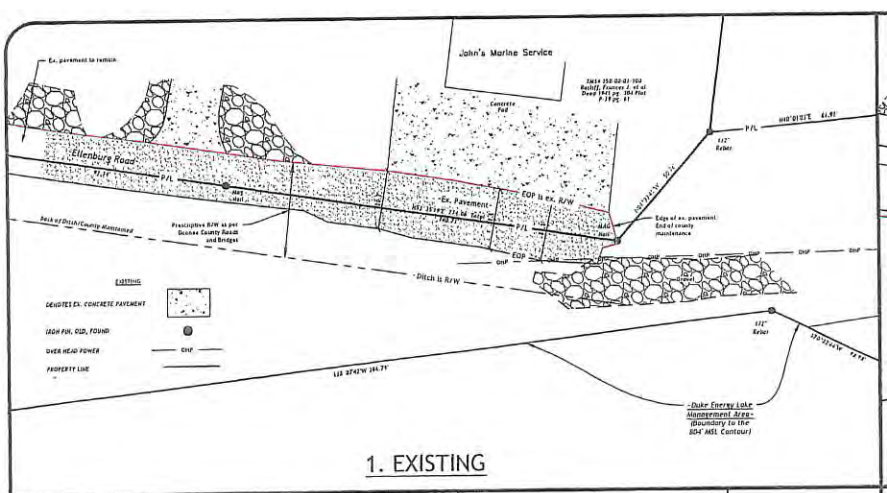
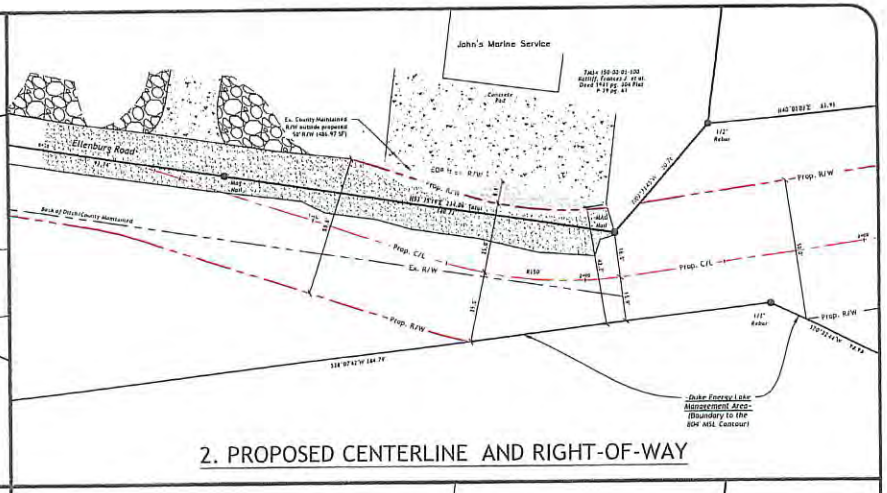
SHEET

Variance Request

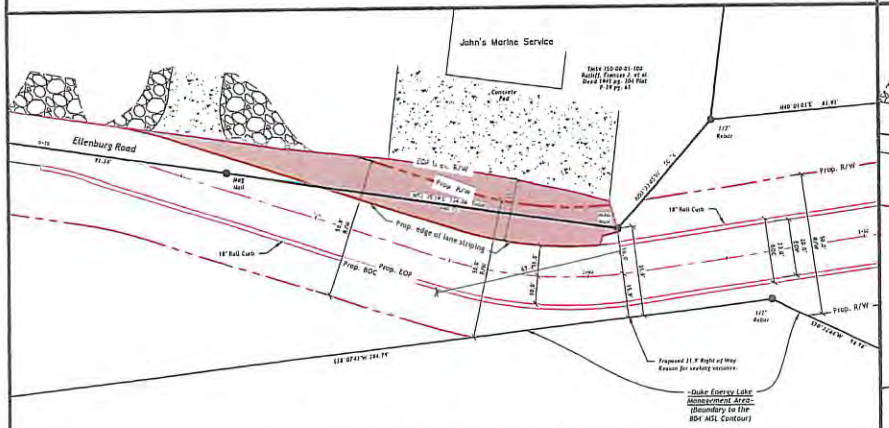
C - 2



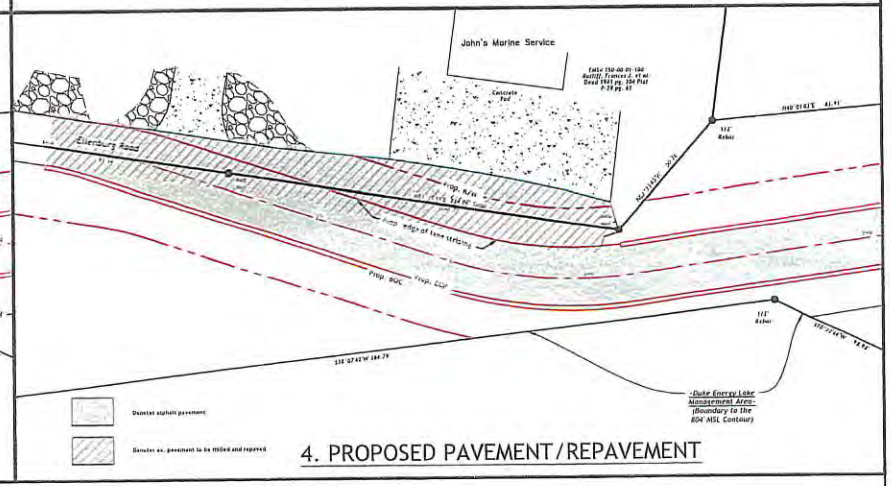
1. EXISTING



2. PROPOSED CENTERLINE AND RIGHT-OF-WAY



3. PROPOSED ROAD DIMENSIONING



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SITE LEGEND

C/L	Centerline of Road
EOP	Edge of pavement
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R/W	Right-of-way
R	Radius
Prop.	Proposed
Ex.	Existing

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PALMETTO UTILITY LOCATION SERVICE
3 DAYS BEFORE DIGGING CALL TOLL FREE 811
A ONE CALL SYSTEM FOR COMMUNITY AND JOB SAFETY

RIDGEWATER
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PO BOX 806
ANDERSON, SC 29622
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RIDGEWATERENG.COM

SCALE: 1 in = 25 ft.

SOUTH CAROLINA
RIDGEWATER ENGINEERING & SURVEYING
CERTIFICATE OF AUTHORIZATION

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
1	11-29-21	PLANNING COMMISSION MTG.

SHEET

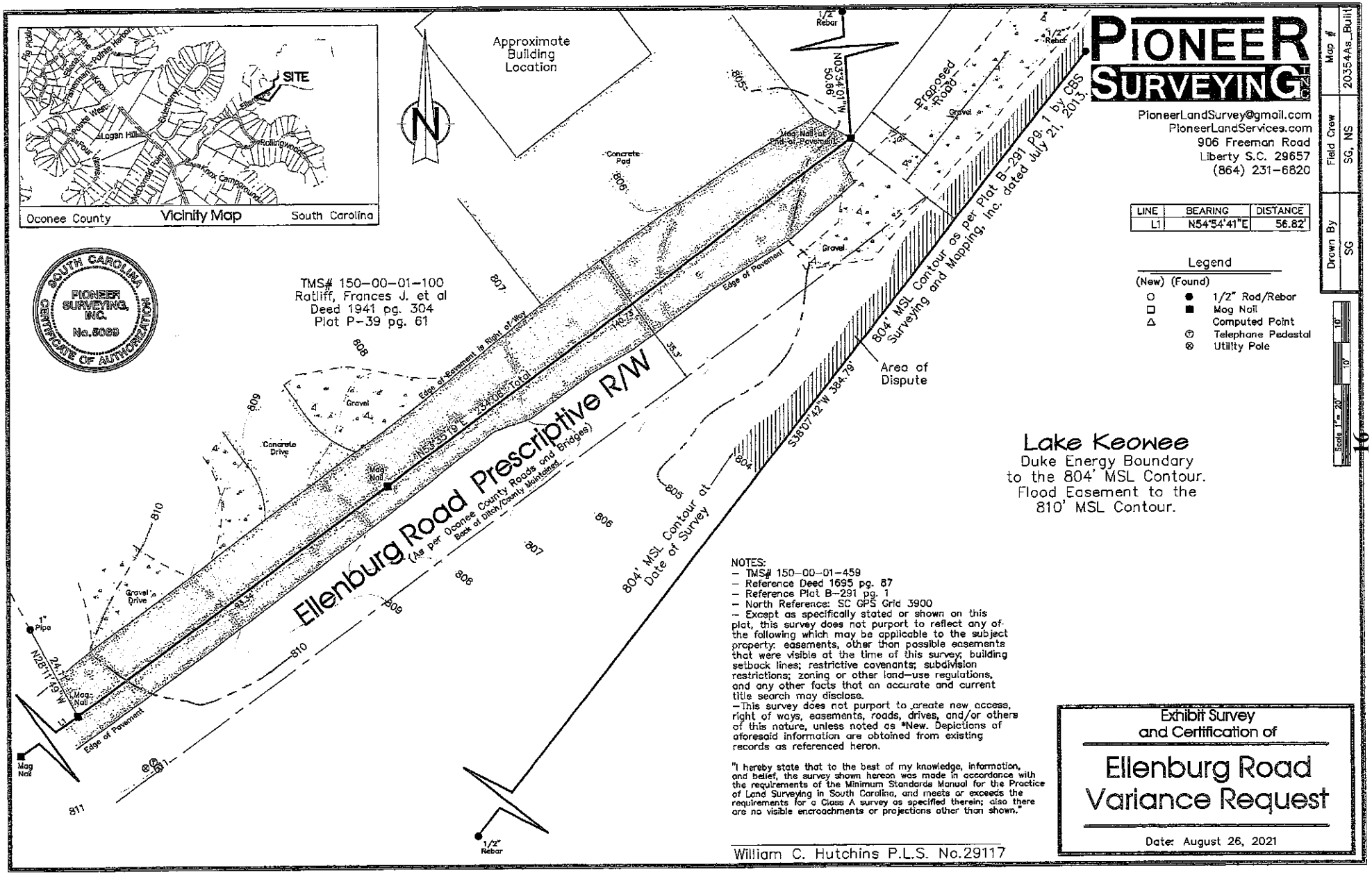
Variance Request

C - 2

R. p. 206

14

John's Marine
&
High Falls Boat Rental
Lake Keowee
Lake Keowee
Lake Keowee



LINE	BEARING	DISTANCE
L1	N54°54'41"E	56.82'

Legend

(New) (Found)

- ○ ● 1/2" Rod/Rebar
- □ ■ Mag Nail
- △ Computed Point
- Telephone Pedestal
- ⊗ Utility Pole

Scale 1" = 20' (10' 10' 10')

NOTES:
- TMS# 150-00-01-459
- Reference Deed 1695 pg. 87
- Reference Plat B-291 pg. 1
- North Reference: SC GPS Grid 3900
- Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
- This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as *New. Depictions of aforesaid information are obtained from existing records as referenced heron.

"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."

William C. Hutchins P.L.S. No.29117

PIONEER SURVEYING INC
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(864) 231-6820

Map #	Field Crew	Drawn By
20354As_Built	SG, NS	SG

Exhibit Survey and Certification of

Ellenburg Road Variance Request

Date: August 26, 2021

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FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2003 NOV 18 P 3:20

P/L IS DUKE ENERGY CORP
PROJECT BOUNDARY AVE. +
APPROX. 804 CONTOUR

AREA = 15.37 ACRES

LAKE KEOWEE

ROBERT L. MORGAN
DB 1345 PG 191
PB F39 PG 057
TAX REF: 150 00 01 103

EDWARD J. RATLIFF
DB 14 PG 106
PB 35 PG 61
TAX REF: 139 00 01 100

TERRY V. ELLENBURG
DB 687 PG 510
PB P61 PG 077
TAX REF: 150 00 01 099

END PAVEMENT

LOT 144

ELLENBURG ROAD (WATERSHED R/W)

SC 6183 (MILL 83)

HARBOR OAKS SUBDIVISION
PLAT BOOK PBs 1 & 2

MICHAEL W. BOLT
DB 1160 PG 87
PB A653 PG 026
TAX REF: 150 00 01 017

BRENDA K. STARNEY
DB 1132 PG 226
PB A798 PG 003
TAX REF: 150 00 01 385

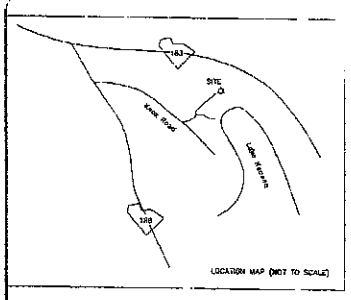
THOMAS G. PALMERT
DB 1019 PG 056
PB A663 PG 003
TAX REF: 150 00 01 391

KNOX POINTE ROAD

LAKE KEOWEE

Recorded this 18 day of Nov 2003
in Plat Bk. 1 and Certified
by Register of Deeds, Oconee County

LINE	BEARING	DISTANCE
L229	N03°29'39"W	50.28'
L230	N40°19'33"E	33.81'
L231	N84°16'51"E	17.69'
L232	N35°31'21"E	28.43'
L233	N23°34'37"W	31.85'
L234	N04°17'42"E	73.27'
L235	N00°26'11"W	96.83'
L236	N09°26'55"E	43.55'
L237	N69°37'59"W	198.64'
L238	N07°38'14"W	42.10'
L239	N48°36'49"E	28.00'
L240	N80°24'47"E	90.78'
L241	N32°21'56"E	28.15'
L242	N84°18'39"E	74.52'
L243	N34°32'30"E	41.72'
L244	N78°09'48"E	37.80'
L245	S81°10'48"E	46.21'
L246	S37°34'34"E	33.77'
L247	S72°34'19"E	87.33'
L248	N43°51'39"E	89.24'
L249	N36°24'30"E	22.94'
L250	N12°24'17"E	61.32'
L251	S74°58'03"E	37.61'
L252	S83°32'18"E	18.10'
L253	S08°11'13"E	49.13'
L254	N83°19'13"E	44.58'
L255	N81°26'07"E	81.78'
L256	N26°05'04"E	40.69'
L257	N84°06'17"E	8.17'
L258	N73°14'10"E	14.91'
L259	S67°10'18"E	13.22'
L260	N21°31'24"E	39.70'
L261	S89°06'48"E	18.03'
L262	N83°00'13"E	55.66'
L263	N12°26'00"E	5.74'
L264	S87°14'33"E	34.30'
L265	S69°24'23"E	38.84'
L266	N65°30'32"E	18.21'
L267	N82°21'28"E	8.64'
L268	S86°43'13"E	33.81'
L269	S39°37'48"E	42.08'
L270	S35°04'29"E	85.12'
L271	S41°15'47"W	44.01'
L272	S18°35'14"W	61.09'
L273	S20°04'37"E	80.34'
L274	S01°28'51"W	117.00'
L275	S31°12'27"W	87.26'
L276	S62°35'11"W	19.04'
L277	S03°36'33"W	15.75'
L278	S40°58'10"W	118.80'
L279	S51°01'04"W	156.12'
L280	S38°16'31"W	163.24'
L281	S80°12'29"W	195.24'
L282	N76°54'52"W	36.18'
L283	N33°57'44"W	94.98'
L284	N63°12'06"W	131.05'
L285	S49°25'16"W	61.26'
L286	S37°02'45"W	83.88'
L287	S70°01'28"W	58.70'
L288	N39°19'32"W	365.00'
L289	N76°41'31"W	169.30'
L290	N80°47'07"E	124.59'



GRAPHIC SCALE
(IN FEET)
1 inch = 200 ft.

NOTE: SEE PLAT BY THIS OFFICE IN PLAT SLIDE B143 FALES 7 & 8.

PLAT PREPARED FOR
CRESCENT RESOURCES LLC
7812 BALLANTYNE COMMONS PARKWAY
SUITE 300
CHARLOTTE, N.C. 28277

SOUTH CAROLINA

"I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARD MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND/OR UNDER MY DIRECT SUPERVISION; THAT IT IS A CLASS A SURVEY AS SPECIFIED THEREIN; AND THAT THE GRADE OF PRECISION AND THE POSITIONAL ACCURACY OF ANY POINT SHOWN HEREON DO NOT EXCEED THE APPLICABLE STANDARDS SPECIFIED THEREIN."

WITNESS MY SPECIAL SIGNATURE AND SEAL THIS 6th DAY OF NOVEMBER, 2003.

Doc ID: 008306660001 Type: PLA
Book 2251 Page 1 - 1

BOUNDARY SURVEY FOR:
CRESCENT COMMUNITIES S.C., LLC

SURPLUS TRACT NO. TH-4.02 — BLOCK: AS SHOWN
TOWNSHIP: KEOWEE WATERWATER — TAX I.D.: 150 00 01 444
COUNTY: OCONEE — STATE: SOUTH CAROLINA
DATE: JULY 21, 2003 — JOB NO.: 1108109

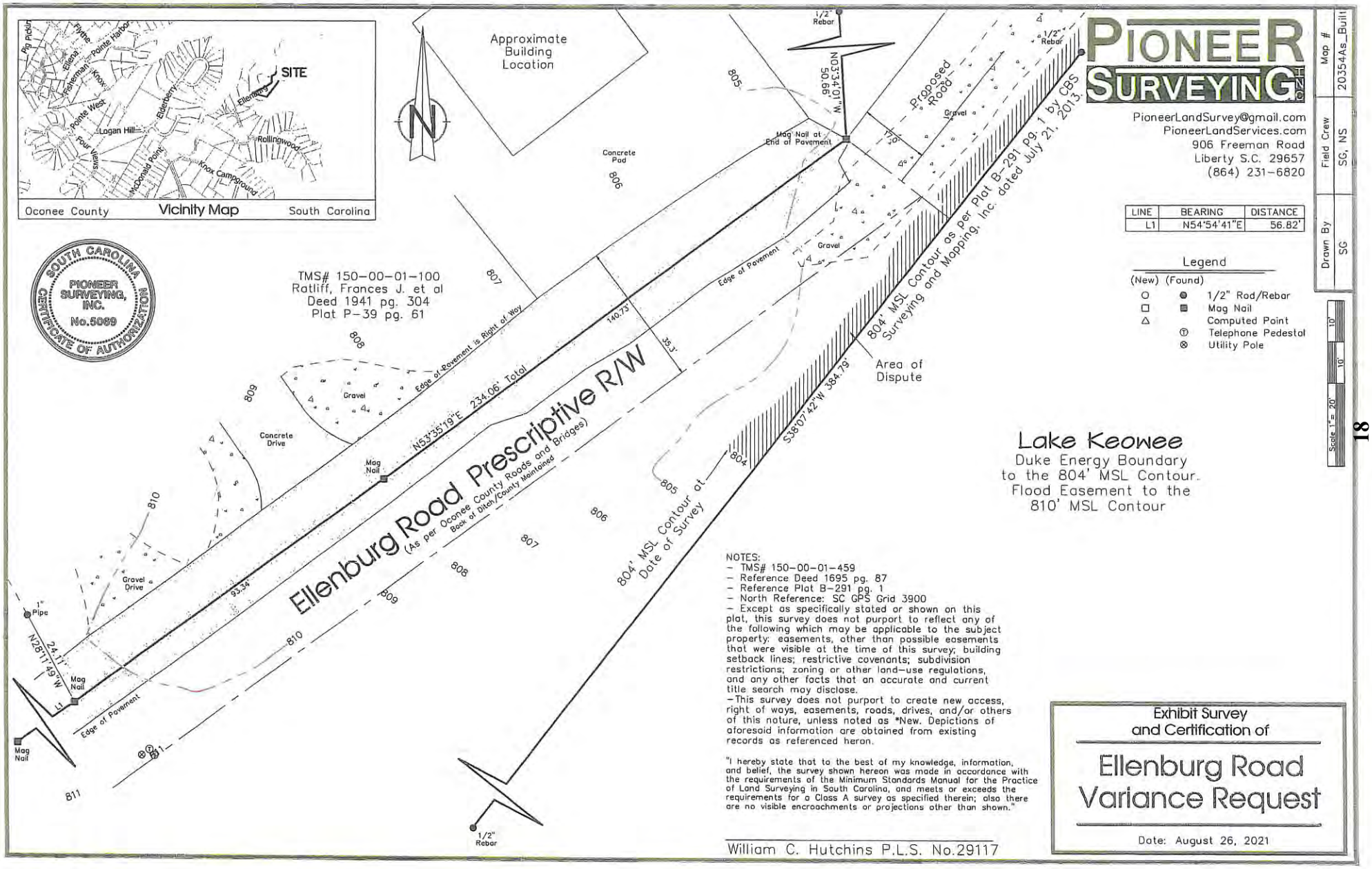
REVISIONS	
DATE	DESCRIPTION
11/4/2003	SHOW REMAINING PROPERTY

CBS Surveying & Mapping, Inc.
122 EAST ROBINSON STREET
GAFFNEY, SC 29340 (864) 489-5068

Ref: 10th 056419

R. p. 209

17



PIONEER SURVEYING, LLC
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(864) 231-6820

LINE	BEARING	DISTANCE
L1	N54°54'41"E	56.82'

Legend

(New) (Found)

- ○ ● 1/2" Rod/Rebar
- □ ■ Mag Nail
- △ Computed Point
- Ⓣ Telephone Pedestal
- ⊗ Utility Pole

Drawn By	Field Crew	Map #
SG	SG, NS	20354As_Built

SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION PIONEER SURVEYING, INC. No.5069

NOTES:
- TMS# 150-00-01-459
- Reference Deed 1695 pg. 87
- Reference Plat B-291 pg. 1
- North Reference: SC GPS Grid 3900
- Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
- This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as *New. Depictions of aforesaid information are obtained from existing records as referenced heron.

"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."

William C. Hutchins P.L.S. No.29117

Exhibit Survey and Certification of

Ellenburg Road Variance Request

Date: August 26, 2021

1

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FILED FOR RECORD
OCONEE COUNTY S.C.
REGISTER OF DEEDS

2008 NOV 18 P 3:20

P.A. IS DUKE ENERGY CORP. PROJECT BOUNDARY AND APPROX. 804 CONTOUR

AREA = 15.37 ACRES

LAKE KEOWEE

ROBERT L. MORGAN
DB 1142 PG 191
PB P39 PG 067
TAX REF: 150 00 01 103

EDWARD J. RATLIFF
DB 141 PG 102
PB 39 PG 61
TAX REF: 150 00 01 100

TERRY V. ELLENBURG
DB 897 PG 210
PB P81 PG 577
TAX REF: 150 00 01 099

(TIE LINE)
1" I.PIPE(F)
N03°28'39"W
17.14'

HAUL(F) END PAVEMENT

N03°51'06"E 230.80'

MNS

NL(F)

LOT 24A

#4 REB(F)

#4 REB(F)
@ 129.92'

ELLENBURG ROAD (MAINTENANCE R/W)

SC GRID (NAD 83)

HARBOR OAKS SUBDIVISION
PLAT B160 PGs 1 & 2

MICHAEL W. BOLT
DB 1160 PG 87
PB A823 PG 006
TAX REF: 150 00 01 017

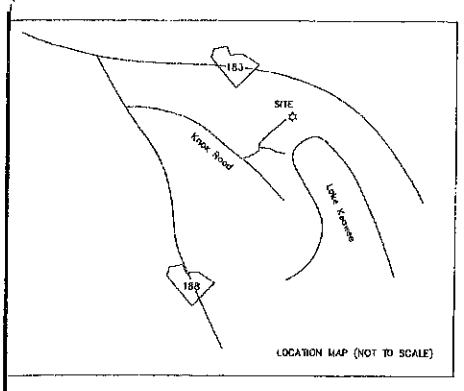
BRENDA K. STASNEY
DB 1132 PG 228
PB A798 PG 003
TAX REF: 150 00 01 396

THOMAS G. PALKERT
DB 1049 PG 036
PB A683 PG 002
TAX REF: 150 00 01 381

KNOX POINTE ROAD

LINE	BEARING	DISTANCE
L229	N03°28'39"W	50.76'
L230	N40°01'03"E	83.91'
L231	N84°08'50"E	17.58'
L232	N35°31'21"E	28.43'
L233	N23°31'32"W	31.95'
L234	N04°17'42"E	72.27'
L235	N00°58'01"W	86.03'
L236	N09°26'58"E	53.35'
L237	N08°37'03"W	156.84'
L238	N07°35'04"W	42.10'
L239	N48°56'16"E	26.08'
L240	N65°39'47"E	80.78'
L241	N32°21'56"E	30.18'
L242	N09°16'59"E	73.42'
L243	N34°32'32"E	41.77'
L244	N78°02'46"E	37.80'
L245	S84°19'48"E	45.21'
L246	S87°51'54"E	53.77'
L247	S72°34'19"E	87.23'
L248	N83°31'35"E	89.24'
L249	N30°54'30"E	29.94'
L250	N37°22'13"E	53.43'
L251	S74°56'03"E	37.61'
L252	S63°52'16"E	38.10'
L253	S68°11'33"E	42.13'
L254	N83°04'13"E	44.38'
L255	N51°28'07"E	51.78'
L256	N26°08'04"E	40.69'
L257	N84°29'17"E	6.37'
L258	N27°34'16"E	14.21'
L259	S80°10'18"E	33.39'
L260	N71°54'24"E	32.20'
L261	S82°09'46"E	16.03'
L262	N83°00'13"E	25.86'
L263	N47°26'00"E	5.24'
L264	S87°34'13"E	34.35'
L265	S89°24'27"E	36.84'
L266	N86°26'57"E	18.21'
L267	N83°31'28"E	8.84'
L268	S89°43'33"E	33.81'
L269	S39°37'48"E	67.06'
L270	S35°34'52"E	80.12'
L271	S11°16'47"W	44.01'
L272	S18°56'14"W	61.09'
L273	S29°04'57"E	60.04'
L274	S01°28'31"W	117.00'
L275	S29°32'25"W	87.26'
L276	S62°35'41"W	19.86'
L277	S13°38'23"W	15.79'
L278	S45°56'15"W	118.00'
L279	S51°03'04"W	156.12'
L280	S36°28'21"W	163.24'
L281	S80°32'29"W	125.08'
L282	N76°59'12"W	65.10'
L283	N73°27'54"W	94.99'
L284	N83°12'09"W	121.05'
L285	S58°25'16"W	51.25'
L286	S70°33'45"W	83.58'
L287	S70°31'12"W	94.70'
L288	S36°10'22"W	385.06'
L289	N76°11'51"W	166.55'
L290	N56°47'07"E	126.52'

Recorded this 18 day of Nov 2008
Vol. B291 Pg. 1 and Certified
Register of Deeds, Oconee County



LOCATION MAP (NOT TO SCALE)

GRAPHIC SCALE
200 0 100 200 400 800
(IN FEET)
1 inch = 200 ft.

NOTES:
(S) DENOTES OBJECT SET
(F) DENOTES OBJECT FOUND
PROPERTY SUBJECT TO ANY VALID AND ENFORCEABLE EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD AND THOSE SHOWN, IF ANY, SHOULD BE INDEPENDENTLY VERIFIED. NO TITLE OPINION HAS BEEN PROVIDED TO THE SURVEYOR.
NAMES AND DEED REFERENCES SHOWN ARE FOR DESCRIPTIVE PURPOSES ONLY, NOT TO BE USED FOR DETERMINING TITLE.
WATER BOUNDARIES ARE SUBJECT TO CHANGE BY NATURAL CAUSES AND MAY EFFECT AREA AND LIMIT OF TITLE.
CM(F) = CONCRETE MONUMENT(F)
IPS = #5 REBAR(S)
MNS = MAGNETIC NAIL(S)
R/W = RIGHT OF WAY
P/L = PROPERTY LINE
C/L = CENTERLINE
TOP OF BANK
UTILITY POLE

NOTE: SEE PLAT BY THIS OFFICE IN PLAT SLIDE B143 PAGES 7 & 9.

Doc ID: 008586850001 Type: PLA
Book B291 Page 1 - 1

PLAT PREPARED FOR:
CRESCENT RESOURCES LLC
7810 BALLANTYNE COMMONS PARKWAY
SUITE 200
CHARLOTTE, N.C. 28277

SOUTH CAROLINA

"I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; AND THAT THE DEED DESCRIPTION RECORDED IN BOOK 1041 PAGE 225 IS CORRECT AS SHOWN HEREON. WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS 4th DAY OF NOVEMBER, 2008."

BY: CHRISTOPHER E. BOWEN
PROFESSIONAL LAND SURVEYOR
7833
REGISTRATION NUMBER

BOUNDARY SURVEY FOR:
CRESCENT COMMUNITIES S.C., LLC

SURPLUS TRACT NO. 7114.02 — INDEX: AS SHOWN
TOWNSHIP: KEOWEE WHITEWATER — TAX I.D.: 150 00 01 444
COUNTY: OCONEE — STATE: SOUTH CAROLINA
DATE: JULY 21, 2003 — JOB NO.: 1106100

REVISIONS

DATE	DESCRIPTION
11/4/2008	SHOW REMAINING PROPERTY

CBS Surveying & Mapping, Inc.
122 EAST ROBINSON STREET
GAFFNEY, SC 29340 (864) 489-5088

Ref: ID DC 006419

,C. 131

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS

Doc ID: 001664260016 Type: DEE
BK 1695 PG 87-102

2008 DEC -8 A 8:49

Prepared by: Parker Poe Adams & Bernstein LLP
Three Wachovia Center
401 South Tryon St.
Suite 3000
Charlotte, NC 28202

Tract No. S-7114.02

007066

Return to: Crescent Resources, LLC
Attn: S. Higginson
7810 Ballantyne Commons Parkway
Suite 200
Charlotte, NC 28277

EXCISE TAX - $6,824.65

OCONEE COUNTY
STATE TAX 4795.70
COUNTY TAX 2028.95
EXEMPT

STATE OF SOUTH CAROLINA)
;
COUNTY OF OCONEE)

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that

CRESCENT COMMUNITIES S.C., LLC, a Delaware limited liability company, ("Grantor"), whose address is 400 South Tryon Street, Suite 1300, Charlotte, NC 28285-0107, in consideration of the sum of One Million Eight Hundred Forty-Four Thousand Four Hundred and No/100 Dollars ($1,844,400.00), to it in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release, subject to the easements, restrictions, reservations, covenants, conditions and other exceptions set forth below, unto **FARMES, A South Carolina Limited Partnership**, an undivided 27% interest as tenant in common, and **GLOBE, A South Carolina Limited Partnership**, an undivided 73% interest as tenant in common ("Grantee"), whose address is 104 Greystone Court, Seneca, SC 29672, and its successors and assigns, all that certain tract of land described in Exhibit A attached hereto ("Property").

The Property is conveyed subject to the following easements, restrictions, reservations, covenants, conditions and other exceptions (collectively, "Exceptions"):

Recorded this 9 day of Dec. 2008 Page 84145
Fee
Brenda R. Tiki
Auditor Oconee County, S.C.

(1) flood easements in favor of Duke Energy Carolinas, LLC (formerly known as Duke Power Company and Duke Energy Corporation) and riparian rights of others, including, but not limited to, the flood easement to flood to the 810 foot contour line and all other reservations, restrictions and conditions contained in that deed recorded in Deed Book 635, Page 298 and Deed Book 652, Page 58;

(2) transmission line and retail electric line rights-of-way, if any, reserved by or granted to Duke Energy Carolinas, LLC;

(3) ad valorem taxes for the year 2008 and subsequent years;

2008 DEC -8 A 8:49

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS

THIS PROPERTY DESIGNATED AS
MAP 150 SUB 00 BLK 01 PARC 444.16
ON OCONEE COUNTY TAX MAPS
Sarah Smith
OCONEE COUNTY ASSESSOR

PPAB 1504113v2

(4) "rollback" or other deferred ad valorem property taxes;

(5) matters affecting title to the Property as shown on the Plat or which would be shown on a current and accurate survey of the Property (including any encroachments);

(6) easements, covenants, restrictions and conditions of record, and rights-of-way of public and private streets and roads, including, but not limited to, the right-of-way shown on the Plat as "Ellenburg Road";

(7) easements, restrictions and rights-of-way as may be apparent from an inspection of the Property;

(8) zoning, subdivision, land use and other laws, regulations or ordinances applicable to the Property; and

(9) the General Deed Restrictions attached hereto as Exhibit B and incorporated herein by reference.

TOGETHER WITH, subject to the Exceptions, all and singular the rights, members, hereditaments and appurtenances to the Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, subject to the Exceptions, all and singular the Property, unto Grantee and Grantee's heirs, successors and assigns forever.

Subject to the Exceptions, the Grantor covenants to warrant specially the title to the Property against the lawful claims of any person claiming from, through or under it.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed this 3rd day of December, 2008.

Signed, Sealed and Delivered in the Presence of:

Sandra S. Lewis
Print Name: Sandra S. Lewis
Witness #1

Kay H. Arnette
Print Name: Kay H. Arnette
Witness #2

CRESCENT COMMUNITIES, S.C., LLC,
a Delaware limited liability company

By: J. Scott Munday
J. Scott Munday
Vice President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

Personally appeared before me the undersigned witness who being duly sworn deposes and says that he/she saw the within named J. Scott Munday, Vice President of CRESCENT COMMUNITIES S.C., LLC, a Delaware limited liability company, sign, and as its act and deed deliver the foregoing instrument for the uses and purposes therein mentioned, and that he/she, together with Kay H. Arnette (witness #2), the other witness subscribed above, witnessed the execution thereof.

Sandra S. Lewis
(Witness #1 sign here)

Sworn to and subscribed before me this the 3rd day of December, 2008.

Kay H. Arnette
Notary Public

Notary Public for North Carolina

My Commission Expires: June 28, 2009

[NOTARIAL STAMP-SEAL]

KAY H. ARNETTE NOTARY My Comm. Exp. June 28, 2009 PUBLIC MECKLENBURG COUNTY, N. C.

3

PPAB 1504113v2

EXHIBIT A

All references to recording information shall refer to documents that were recorded in the Office of the Register of Deeds for the county in which the Property is located.

All that certain tract of land located in Keowee Whitewater Township, Oconee County, South Carolina, designated as "AREA = 15.37 ACRES" on plat recorded in Plat Book B291, Page 1 ("Plat"); AND BEING all or a portion of the land conveyed to S. C. Land & Timber Corp. (presently known as Crescent Resources, LLC) by deed from T. B. Ellenburg (K-54) recorded in Deed Book 9H, Page 214; by deed to Crescent Land & Timber Corp. (presently known as Crescent Resources, LLC) from Fay Ellenburg and Jerry Ellenburg (K-872) recorded in Deed Book 10N, Page 62; by deed to S. C. Land & Timber Corp. from Bertha D. Sloan and James E. Sloan (K-313) recorded in Deed Book 9Q, Page 154; by deed to S. C. Land & Timber Corp. from Doris C. R. Thacker, et al (K-10) recorded in Deed Book 9E, Page 7; and by deed to Crescent Communities S.C., LLC from Crescent Resources, LLC recorded in Deed Book 1511, Page 228.

Tax Parcel No.: 150-00-01-444

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 DEC -8 A 8:49

EXHIBIT B

GENERAL DEED RESTRICTIONS

THE PROPERTY SHALL BE CONVEYED SUBJECT TO THE FOLLOWING RESTRICTIONS, WHICH SHALL ENCUMBER THE PROPERTY AND SHALL RUN WITH TITLE TO THE PROPERTY.

1. **Definition of "Property" and "Lot".** As used herein, (i) "Property" means all of the property conveyed by Grantor to Grantee pursuant to this deed; and (ii) "Lot" means any portion of the Property that constitutes a legally established separate lot or parcel of land (whether created by the recordation of a subdivision plat or otherwise), as such lots or parcels of land may exist from time to time (collectively, "Lots"). If the Property consists of only one lot or parcel of land, then the term "Property" is synonymous with the term "Lot." If the Property consists of two or more lots or parcels of land, whether such lots or parcels exist on the date the Property is conveyed to Grantee or are later created by subdivision of the Property or other legal means, then each of those lots or parcels is a "Lot" for the purposes of these Restrictions.

2. **Single Family Use.** The Property shall be used only for detached, single-family residence purposes, together with the accessory buildings and structures permitted pursuant to Section 6 below. No more than one detached single-family residential dwelling may be constructed on any Lot. No condominium, townhouse, duplex, apartment or other multi-family residential uses are permitted on the Property. Further, no camper, trailer, motor home, boat (including, without limitation, any boat docked adjacent to the Property), recreational vehicle or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to the Property as a place of residence. The single-family residence restrictions set forth above shall not prohibit the construction of pools, tennis courts or other recreational facilities or amenities such as are commonly constructed and maintained for the benefit of lot owners within planned unit developments; provided that such recreational facilities or amenities shall be solely for the common use of the owners of one or more Lots and, provided further, that no such recreational facilities may be located within any Buffer Area (defined below).

3. **Restricted Activities.** The following activities are prohibited on the Property:

   (a) Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that dogs, cats or other usual and common household pets (which are registered, licensed and inoculated as required by law) may be permitted on the Property;

   (b) Any activity which violates local, state, or federal laws or regulations;

   (c) Institutional uses, including, but not limited to, group homes, day care centers, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns and beds and breakfasts; and

(d) Any business or trade, except that an owner or occupant residing on a Lot may conduct business activities within a dwelling on that Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the dwelling unit; (ii) the business activity conforms to all zoning requirements for the Lot; (iii) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers or other business invitees; (iv) the business activity does not involve any service or delivery business in which more than one vehicle used in such business would be parked overnight on a Lot, or for which any parts, equipment supplies, raw materials, components or tools are stored on a Lot; and (v) the business activity is consistent with the residential character of the Property and does not constitute an unreasonable disturbance to adjoining land owners or others, a nuisance or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales or similar activities provided that such activities are not held on the same Lot more than once in any six-month period. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. The leasing of a Lot for single-family residential use shall not be considered a business or trade within the meaning of this subsection.

4. **Prohibited Conditions.** None of the following structures or improvements may be located upon the Property:

(a) Structures, equipment or other items which are visible from any road or adjacent property which have become rusty, dilapidated or otherwise fallen into disrepair;

(b) Towers, antennas or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind which are located outside of the dwelling on a Lot other than (i) a customary antenna, which shall not extend more than ten feet above the top roof ridge of the dwelling; and (ii) a satellite disc or dish no larger than 18 inches in diameter;

(c) Any freestanding transmission or receiving towers or any non-standard television antennae; and

(d) Chain-link fences.

5. **Quality Craftsmanship/Dwelling Size.** All buildings and outbuildings erected upon the Property shall be built on site of new materials of good grade, quality and appearance and shall be constructed in a good and workmanlike manner, conforming to all applicable building codes. Further, all dwellings must meet the following construction requirements:

(a) If the dwelling is located on a Waterfront Lot (a "**Waterfront Lot**" is a lot, any portion of which is located within 100 feet (measured horizontally regardless of the actual ground measurement which may vary based upon the topography) of the Common Boundary Line (defined in Section 8 below)), then: (i) one story dwellings shall not contain less than 2,000 square feet of Heated Living Area (defined below); (ii) one and a half story dwellings shall not contain less than 2,200 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,400 square feet of Heated Living Area;

(b) If the dwelling is not located on a Waterfront Lot, then: (i) one story dwellings shall not contain less than 1,600 square feet of Heated Living Area; (ii) one and a half story dwellings shall not contain less than 1,800 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,000 square feet of Heated Living Area;

(c) All dwellings and accessory structures shall be completely supported with solid brick, brick or stone covered block, or stucco covered foundation;

(d) Roofs shall have not less than a 6 in 12 inch pitch, and not less than a 12 inch overhang, and shall be covered with asphalt or fiberglass shingles, terra cotta tile, real or man-made slate, copper sheathing or wood shingles or pre-painted metal roofing;

(e) The exterior surfaces of all dwellings and accessory structures shall be covered only with brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding consisting of wood, composite or vinyl material; provided, that any horizontal siding must be completely supported to maintain a straight and even outer surface and must be fully and properly finished; and

(f) Exteriors of all dwellings and accessory structures must be completed within one year after the commencement of construction, and a certificate of occupancy issued within two years after commencement of construction.

As used herein, "**Heated Living Area**" excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term "**story**" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "**half story**" shall mean a story which

contains 50 percent or less Heated Living Area than the story in the house containing the most Heated Living Area.

6. **Permitted Accessory Structures.** Except as otherwise expressly set forth herein, no buildings, structures or improvements of any kind may be located on a Lot other than one detached, single-family residential home, and the following permitted accessory structures:

(a) Storage and shop outbuildings, including detached garages, workshops, storage and utility buildings, greenhouses and similar buildings, not exceeding the height of the roof of the residence on the Lot. The total square footage contained within all such outbuildings combined shall not exceed 2,000 square feet. All outbuildings shall be permanently affixed to the Lot and shall be covered with the approved exterior materials described in Section 5(e) above. Further, no outbuildings shall be located wholly or partially within any Buffer Area (as defined below).

(b) Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures. The total square footage contained within such structures when combined shall not exceed 1,000 square feet in area. Further, no such structure shall be located wholly or partially within any Buffer Area (as defined below).

(c) To the extent permitted at the time of construction and installation by Duke Energy Carolinas, LLC (or its successor, with respect to ownership and/or management authority over the Lake, if applicable) ("Duke Energy") and all applicable governmental authorities, waterfront structures, including fixed piers, boat slips or floats, covered docks, boat ramps, decking and sitting areas attached to piers, walkways and other similar structures. Grantee acknowledges by acceptance of this deed that policies, laws and regulations regarding its ability to construct or install such structures may change from time to time before or after Grantee's acquisition of the Property and Grantor makes no representation or warranty as to Grantee's ability to construct or install such structures either now or in the future. Such structures may be located wholly or partially within the Buffer Area provided no more than a total of 200 square feet of such structures shall be located within the Buffer Area on any Lot.

7. **Site Development Requirements.** Each Lot shall be subject to the following specific development requirements.

(a) No portion (or portions) of a Lot greater than 2,000 square feet shall be: (i) denuded of ground cover or topsoil, (ii) graded, (iii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required building, grading and erosion control permits have been issued by the applicable municipal authorities.

(b) All denuded, graded, excavated or filled areas shall be stabilized and replanted on or before: (i) the 30th day following the initial denuding, grading, excavation, or

filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such area); or (ii) such time as construction is completed or interrupted for a period of 30 continuous days. In addition to, or in the absence of local or state government regulations on such land disturbance, none of the activities described in (i) through (iv) in **Section 7(a)** above shall be allowed to commence without compliance with the following requirements:

(i) The surveying and flagging of the Buffer Area (defined below) and any portion of the Buffer Area that may be disturbed as a result of any activities permitted hereunder;

(ii) The flagging of all trees in the Buffer Area that equal or exceed six inches in diameter, as measured four and one-half feet from the base of each tree. The trees, Buffer Area (defined below) and disturbed areas referenced in **Sections 7(a)** and **(b)** shall be clearly and distinctly flagged, staked or otherwise designated in order to prevent the unintentional violation of these restrictions by parties performing work upon the Property; and

(iii) The proper installation (in accordance with manufacturer's instructions) of construction silt fencing on the lower perimeters of all areas within the Lot to be disturbed, and any other areas which may be impacted by silt runoff from any disturbed areas located on the Lot.

8. **Buffer Area Restrictions.** As used herein, the term "**Buffer Area**" shall mean any portion of the Property that is located within 50 feet (measured horizontally regardless of the actual ground measurement which may very based upon the topography) of the 800 foot contour elevation ("**Contour Line**") of Lake Keowee ("**Lake**"); provided, however, that the inner boundary of the Buffer Area (i.e. the boundary that is inland from the Lake) shall not be less than fifty feet (measured horizontally regardless of the actual ground measurement which may vary based upon the topography) from the common boundary ("**Common Boundary Line**") of the Property and the Lake. No portion of the Buffer Area may be disturbed in any way, including any disturbance or removal of topsoil, trees and other natural growth. Neither the Common Boundary Line nor the Contour Line of the Lake shall change as a result of erosion or stabilization measures occurring following the conveyance of the Property to Grantee. Notwithstanding the second sentence in this **Section 8**, the following activities are permitted within the Buffer Area:

(a) Trees which are less than six inches in diameter, as measured four and one-half feet from the base of each tree may be removed. Any tree removal shall be performed using hand held gas or electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in removing any trees. Additionally, trees having a greater diameter than that set forth above that have become diseased or damaged through natural processes may be removed in the same manner.

(b) Within each Lot, an access corridor may be created within the Buffer Area for the purpose of providing lake access to install shoreline stabilization or to install and use water access structures (such as docks or boat ramps) that have been approved in advance by Duke Energy and otherwise comply with Section 6(c) above. The access corridor may not exceed 15 feet in width. Trees with diameters equaling or exceeding six inches, as measured four and one-half feet from base, may be removed within the access corridor and grading or ground disturbance (which otherwise complies with the restrictions set forth herein) may be performed if reasonably necessary to provide access to the Lake for the purposes described above in this Section 8(b).

(c) Underbrush (defined as nuisance shrubs, vines and similar plant growth beneath the tree canopy, and generally growing less than six feet in height) may be removed.

(d) Pruning and trimming of trees is permitted, provided that pruning is limited to tree branches beginning with the lowest to the ground and extending up the tree trunk no more than one-half of the total height of the tree. Trimming may also be performed on any limbs or branches that are diseased or naturally damaged.

(e) The use of rip-rap, bulkheading or other shoreline stabilization methods or materials may be initiated with the prior written approval by Duke Energy and any shoreline stabilization shall be performed in compliance with Duke Energy's Shoreline Management Guidelines which are in effect at the time such stabilization occurs. Generally, Duke Energy allows structural stabilization to extend only to a height one foot above the Contour Line of the Lake. If Duke Energy authorizes Grantee to perform certain shoreline stabilization, then at all points where shoreline stabilization occurs, the inner boundary line of the Buffer Area (i.e. the boundary line opposite the Contour Line of the Lake) shall be adjusted inward (i.e. away from the Contour Line of the Lake) by the same distance that the stabilization structures or improvements extend from the Contour Line of the Lake into the Lot, provided, however, that in no event shall the width of the undisturbed Buffer Area be reduced to less than 50 feet between any portion of the interior edge of the stabilization structures or improvements and any residence or other structure or improvement located on the Lot (other than docks, boat ramps, or other water access structures which have been approved in writing by Duke Energy).

(f) An access road ("Roadway") for pedestrian and vehicular ingress, egress and regress may be installed, constructed, maintained and repaired within the Buffer Area at those locations where the width of the Property is less than 130 feet; provided, however, that the Roadway (and the construction activities associated therewith) are not allowed within any portion of the Buffer Area that is located more than 150 feet east of the Edward J. Ratliff property, as shown on the plat recorded in Plat Book B143, Pages 7 and 8 in Oconee County Register of Deeds.

In addition to the rights of enforcement set forth in Section 11 below, if the terms of this Section 8 are violated, then the owner of the Lot on which such violation occurs ("Violating Owner") shall, within 30 days after the Violating Owner discovers, receives notice of or otherwise has knowledge of the occurrence of the violation, retain a qualified environmental consultant to develop a plan to restore the Buffer Area to the condition of the Buffer Area that existed prior to the violation ("Buffer Restoration Plan") and submit the Buffer Restoration Plan to Grantor for review. All costs related to the development of the Buffer Restoration Plan shall be paid by the Violating Owner. Grantor shall either approve the Buffer Restoration Plan in writing or object to the Buffer Restoration Plan and deliver to the Violating Owner written notice specifying the objections. If Grantor approves the Buffer Restoration Plan, then the Violating Owner shall, at its expense, promptly perform the work required under the Buffer Restoration Plan in strict accordance with the Buffer Restoration Plan and diligently and continuously pursue the work required under the Buffer Restoration Plan to completion. If Grantor objects to the Buffer Restoration Plan, then the Violating Owner shall revise the Buffer Restoration Plan to address the objections made by Grantor and shall submit the revised Buffer Restoration Plan to Grantor for review. The foregoing process shall continue until Grantor approves the Buffer Restoration Plan. If the Violating Owner fails to comply with the terms of this paragraph, then Grantor shall have the right to perform all of the obligations of the Violating Owner under this paragraph and to charge the Violating Owner for all the costs thereof (including attorney fees and court costs incurred in collecting such costs). Any claim against a Violating Owner for such costs, together with interest accrued thereon and collection costs shall constitute a personal obligation of the Violating Owner and shall be secured by an equitable lien on the Violating Owner's Lot. The lien shall attach and be effective from the date of recording of a lien notice in the appropriate office of the County in which the Property is located. A copy of the lien notice shall be mailed to the Violating Owner within 30 days after the recording of the lien notice. The lien may be enforced by judicial foreclosure upon the Lot to which the lien attached in the same manner as a mortgage is judicially foreclosed under the laws of the State in which the Property is located. In any foreclosure, the Violating Owner shall be required to pay the reasonable costs and attorneys' fees in connection with the preparation and filing of the lien notice and the foreclosure. Notwithstanding anything contained in these General Deed Restrictions (including the terms of Section 11) to the contrary, the right to require, review and approve the Buffer Restoration Plan shall be limited to Grantor and its successors or assigns by merger or consolidation or by written assignment (including any property owners' association created with respect to all or any portion of the Property).

9. **No Claims.** No owner of a Lot or of any Benefited Property (defined below) shall have any claim or cause of action against Grantor or its affiliates arising out of the exercise, or non-exercise, or enforcement, or failure to enforce, or the amendment, release or grant of variance with respect to any covenant, condition, restriction, easement or other right reserved hereunder or referred to herein.

10. **No Delay.** No delay or failure on the part of Grantor to invoke an available remedy with respect to a violation of any restriction contained herein shall be held to be a waiver by Grantor of any right available to it upon the recurrence or continuance of said violation or the occurrence of a different violation.

11. **Rights of Enforcement.** The covenants, conditions and restrictions set forth herein shall run with the title to the Property and shall benefit Grantor and all property ("**Benefited Property**") owned on the date hereof by Grantor or its subsidiaries located within one thousand feet of any portion of the Property (other than any property located within the FERC boundaries of the Lake). If any Lot owner, its heirs, successors, tenants, or assigns shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, Grantor and any subsequent owner of any portion of the Benefited Property may enforce the covenants, conditions and restrictions set forth herein by any remedy available at law or in equity, either to prevent or remediate such violation, or recover damages for such violation, or both. Grantor (but not any other Benefited Property owner) shall have an easement over the Property for the purpose of entering a Lot in order to monitor or enforce compliance with these covenants, conditions and restrictions without court order. The party bringing such action shall be entitled to recover its reasonable attorney's fees and expenses incurred in such proceedings from the person or entity violating or attempting to violate the same. Nothing herein shall be held to impose any restriction on any other land owned by Grantor, its subsidiaries or affiliates.

12. **Modification, Amendment, Variances.** Grantor hereby reserves the right for itself and its successors or assigns, to amend or modify, release or grant variances with respect to the covenants, conditions, easements and restrictions set forth herein. As used in this **Section 12**, the term "successors or assigns" shall be limited to Grantor's successors or assigns by merger or consolidation or by written assignment.

13. **Reserved Easement.** Grantor hereby reserves unto itself and any successors in title, (i) a ten foot wide easement extending into the Property from and along each boundary line of the Property for the installation and maintenance of utility lines, drainage ditches or facilities or any other related improvements that may be required by Grantor or its successors or assigns; and (ii) a 15 foot wide easement extending into the Property from and along any public or private road rights-of-way for the installation and maintenance of utility lines, drainage ditches or facilities or any other related improvements that may be required by Grantor or its successors or assigns.

14. **Subdivision.** The Property may not be subdivided in a manner that will result in any Lot being created which is less than 29,000 square feet.

15. **No Modular or Mobile Homes.** No more than one mobile, manufactured or modular home or structure having the characteristics or appearance of a mobile, modular or manufactured home, including, without limitation, any mobile, modular or manufactured home as defined by the building codes or other applicable laws of the state in which the Property is located, shall be located upon the Property.

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says;

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located in Keowee Whitewater Township, bearing Oconee County Tax Map Number 150-00-01-444, was transferred by Crescent Communities S.C., LLC to FARMES, A South Carolina Limited Partnership, and GLOBE, A South Carolina Limited Partnership on December 4, 2008.

3. Check one of the following: The deed is

(a) ___X___ subject to the deed recording fee as a transfer consideration paid or to be paid in money or money's worth.

(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____
(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

(a) ___X___ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $ 1,844,400.00

(b) _____ The fee is computed on the fair market value of the realty which is _____.

(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes _____ or No ___X___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

PPAB 1504095v2

(a) Place the amount listed in item 4 above here: $ 1,844,400.00

(b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)

(c) Subtract Line 6(b) from Line 6(a) and place result here: $ 1,844,400.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $ 6,824.65 .

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Authorized Agent for Crescent Communities S.C., LLC.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

J. Scott Munday

Responsible Person Connected with the Transaction
J. Scott Munday
Vice President

SWORN to before me this 3rd day of December, 2008.

Kay H. Arnette

Notary Public for North Carolina
My Commission Expires: June 28, 2009

KAY H. ARNETTE NOTARY PUBLIC My Comm. Exp. June 28, 2009 MECKLENBURG COUNTY, N. C.

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 DEC -8 A 8:49

PPAB 1504095v2

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;

(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;

(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;

(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);

(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;

(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 53 of Title 39;

(7) that constitute a contract for the sale of timber to be cut;

(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity in subject to the fee even if the realty is transferred to another corporation, a partnership, or a trust;

(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive

deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);

(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;

(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership;

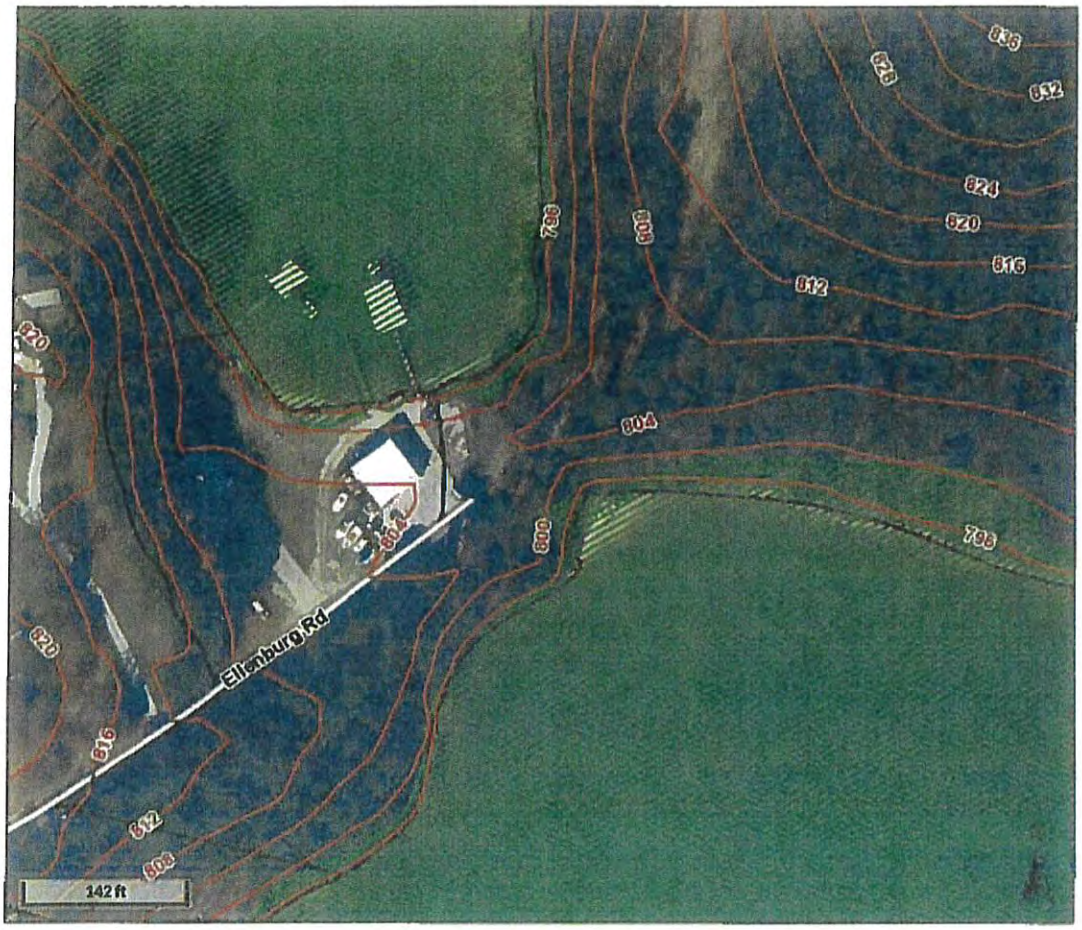
(12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested to the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed;

(13) transferring realty subject to a mortgage to the mortgagee whether by a deed in lieu of foreclosure executed by the mortgagor or deed pursuant to foreclosure proceedings;

(14) transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty; and

(15) transferring title to facilities for transmitting electricity that transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act.

qPublic.net™ Oconee County, SC



Legend

- Parcels
- Landhook
- Roads
- Topography

FEMA Flood Zones

- A: 1% Annual chanc of Flood Hazard
- AE: 1% Annual chance of Flood Hazard with BFE
- 0.2 PCT ANNUAL CHANCE FLOOD HAZARD

						Last 2 Sales			
Parcel ID	150-09-01-041	Alternate ID	15176	Owner Address	KNOTT CHADWICK S & NICOLE L	Date	Price	Reason	Qual
Sec/Twp/Rng	n/a				233 MOSSY CREEK PT	7/5/2011	$183500	n/a	Q
Property Address	555 ELLENBURG RD	Class	n/a		CLEVELAND, GA 30528	n/a	0	n/a	n/a
District	11	Acreage	0.72						
Brief Tax Description	LOT 39 HARBOR OAKS (.720 AC) (Note: Not to be used on legal documents)								

Date created: 11/30/2021
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(Outside Packet) Deed for Parcel with Deed Restrictions

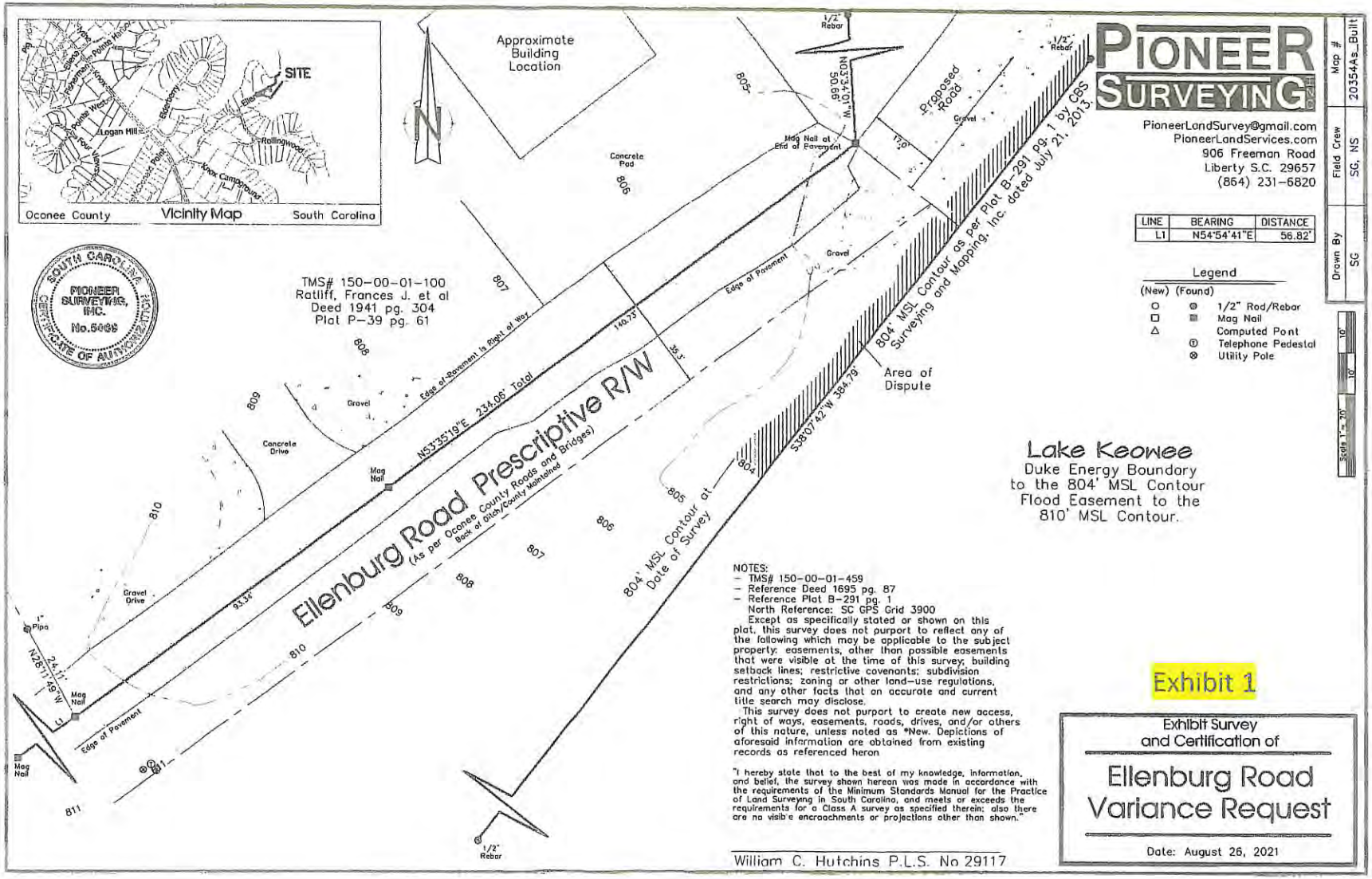
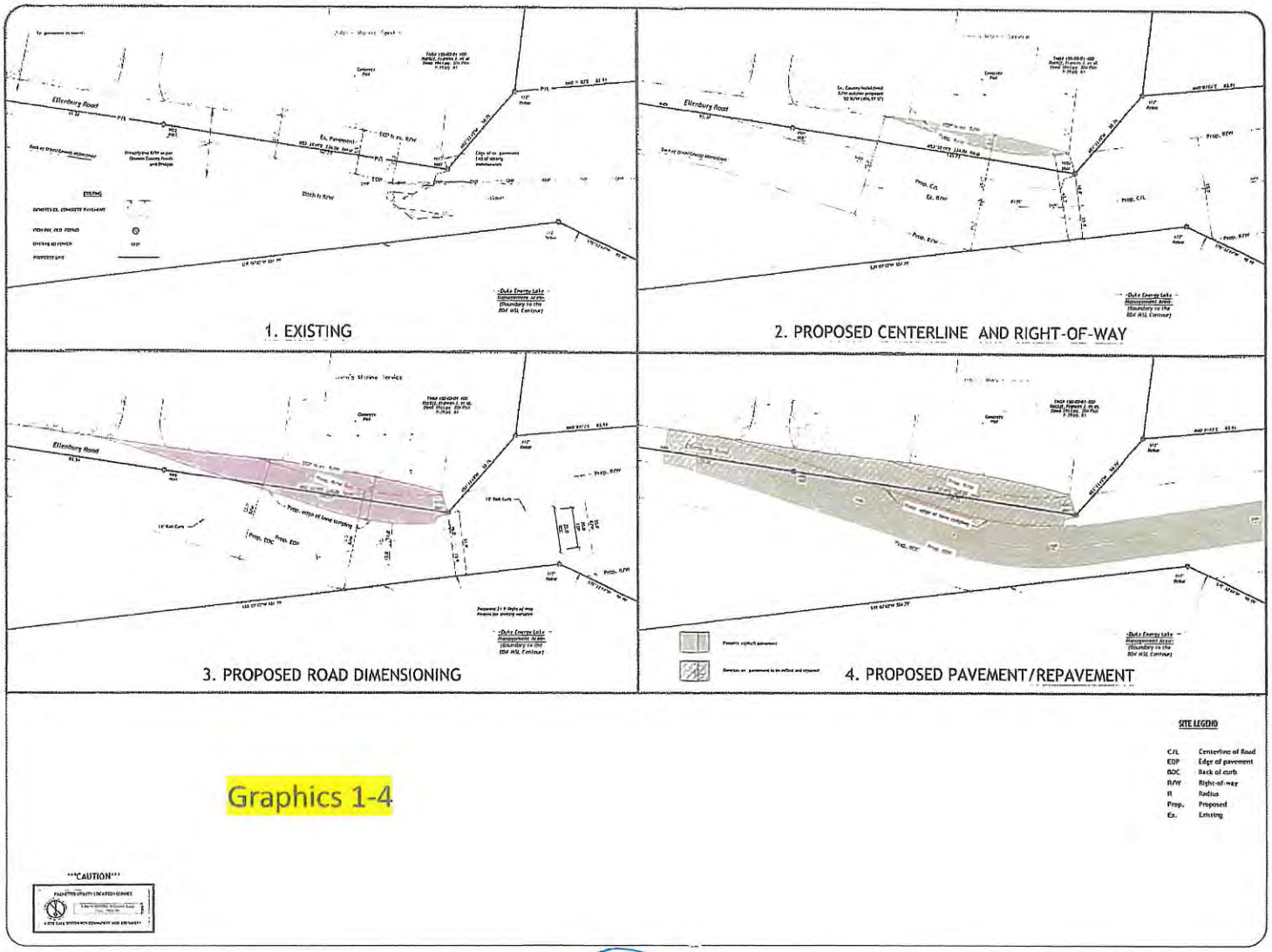

PIONEER SURVEYING LLC
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(864) 231-6820
Map # 20354As_Built
Field Crew SG, NS
Drawn By SG
Vicinity Map
Oconee County
South Carolina
SITE
Approximate Building Location
Proposed Road
Gravel
Concrete Pad
Mag Nail at End of Pavement
1/2" Rebar
N03°34'01"W 99.05'
TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304
Plat P-39 pg. 61
Edge of Pavement
Edge of Pavement is Right of Way
N53°35'19"E 234.06' Total
140.73'
35.3'
Ellenburg Road Prescriptive R/W
(As per Oconee County Roads and Bridges)
Back of Ditch/County Maintained
804' MSL Contour as per Plat B-291 pg. 1 by CBS Surveying and Mapping, Inc. doted July 21, 2013.
804' MSL Contour at Date of Survey
S38°07'42"W 384.79'
Area of Dispute
Concrete Drive
Gravel Drive
93.32'
N28°17'49"W 24.17'
1" Pipe
Mag Nail
LINE | BEARING | DISTANCE
L1 | N54°54'41"E | 56.82'
Legend
(New) (Found)
1/2" Rod/Rebar
Mag Nail
Computed Pont
Telephone Pedestal
Utility Pole
Scale 1" = 20'
Lake Keowee
Duke Energy Boundory
to the 804' MSL Contour
Flood Easement to the
810' MSL Contour.
NOTES:
- TMS# 150-00-01-459
- Reference Deed 1695 pg. 87
- Reference Plat B-291 pg. 1
North Reference: SC GPS Grid 3900
Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as *New. Depictions of aforesaid information are obtained from existing records as referenced heron
"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."
William C. Hutchins P.L.S. No 29117
Exhibit 1
Exhibit Survey
and Certification of
Ellenburg Road
Variance Request
Date: August 26, 2021

Exhibit 2
John's Marine
&
High Falls Boat Rental
Arrowhead Point
Exhibit 2



Graphics 1-4

(3)

RIDGEWATER ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 226-0900
RIDGEWATERENG.COM

Arrowhead Point

Oconee County, South Carolina

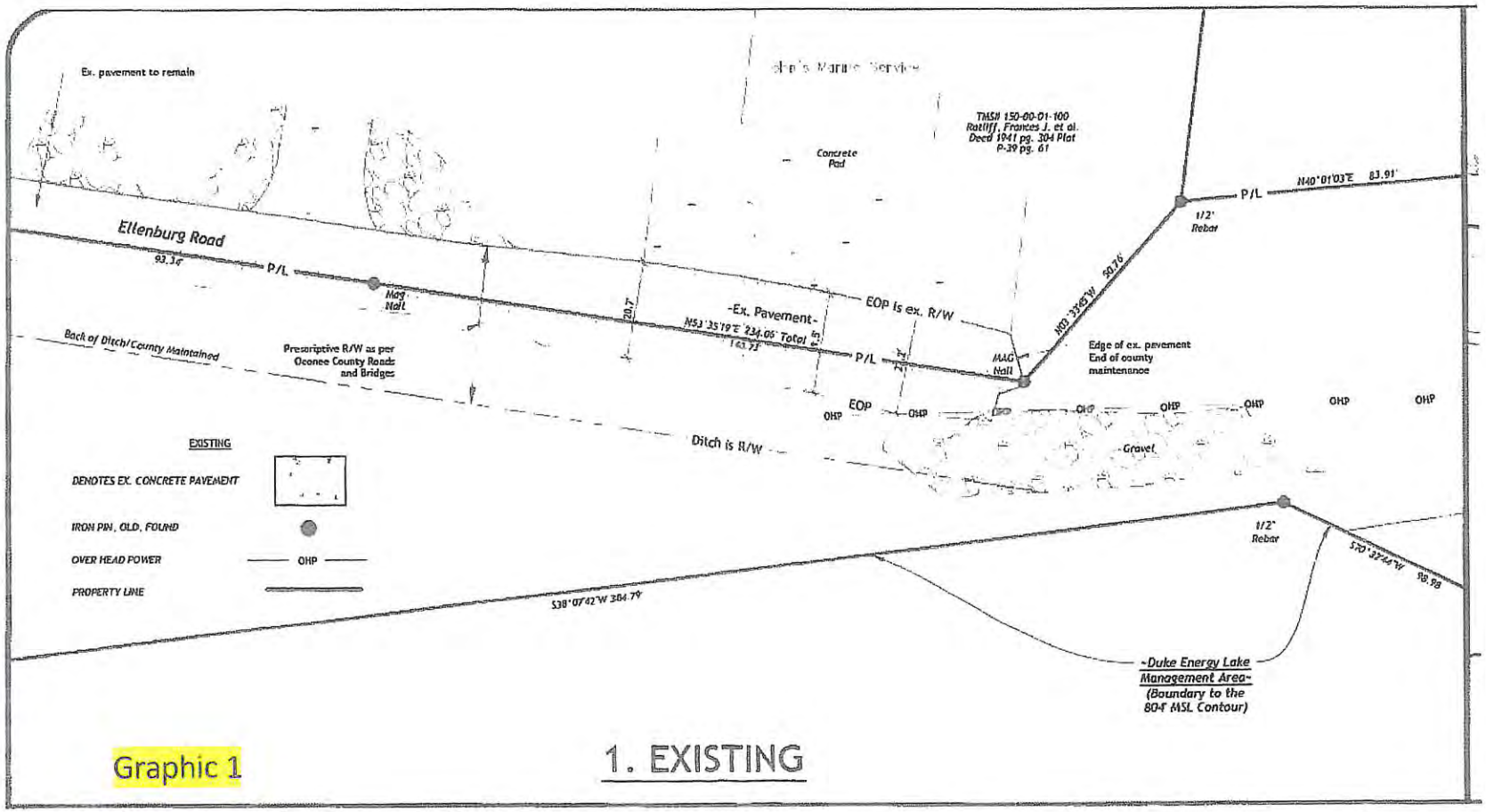
DRAWN BY: ROC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11.24.21	ISSUE FOR REVIEW
1	12.29.21	PLANNING COMMISSION MTG

SHEET

Variance Request

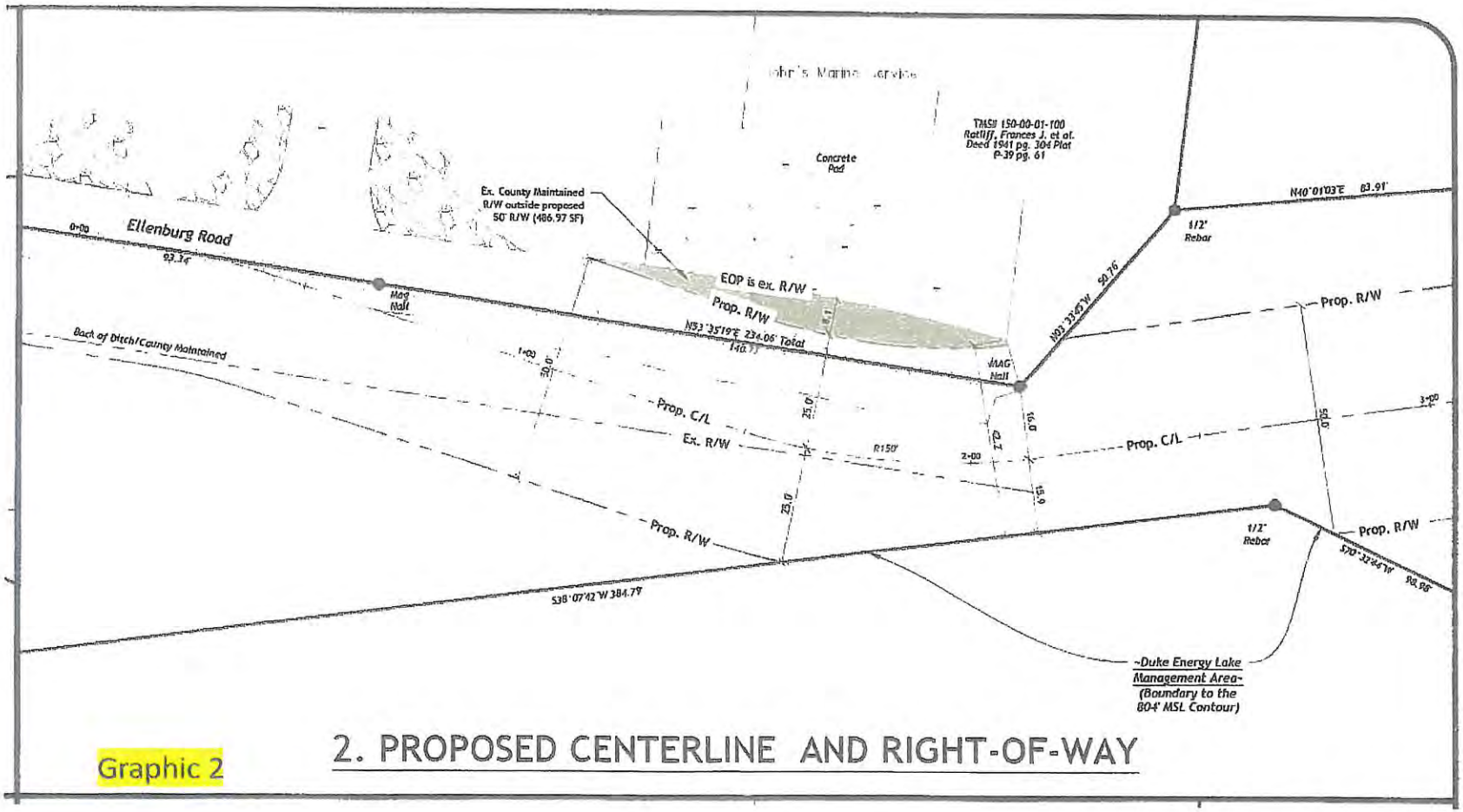
C - 2



Graphic 1

1. EXISTING

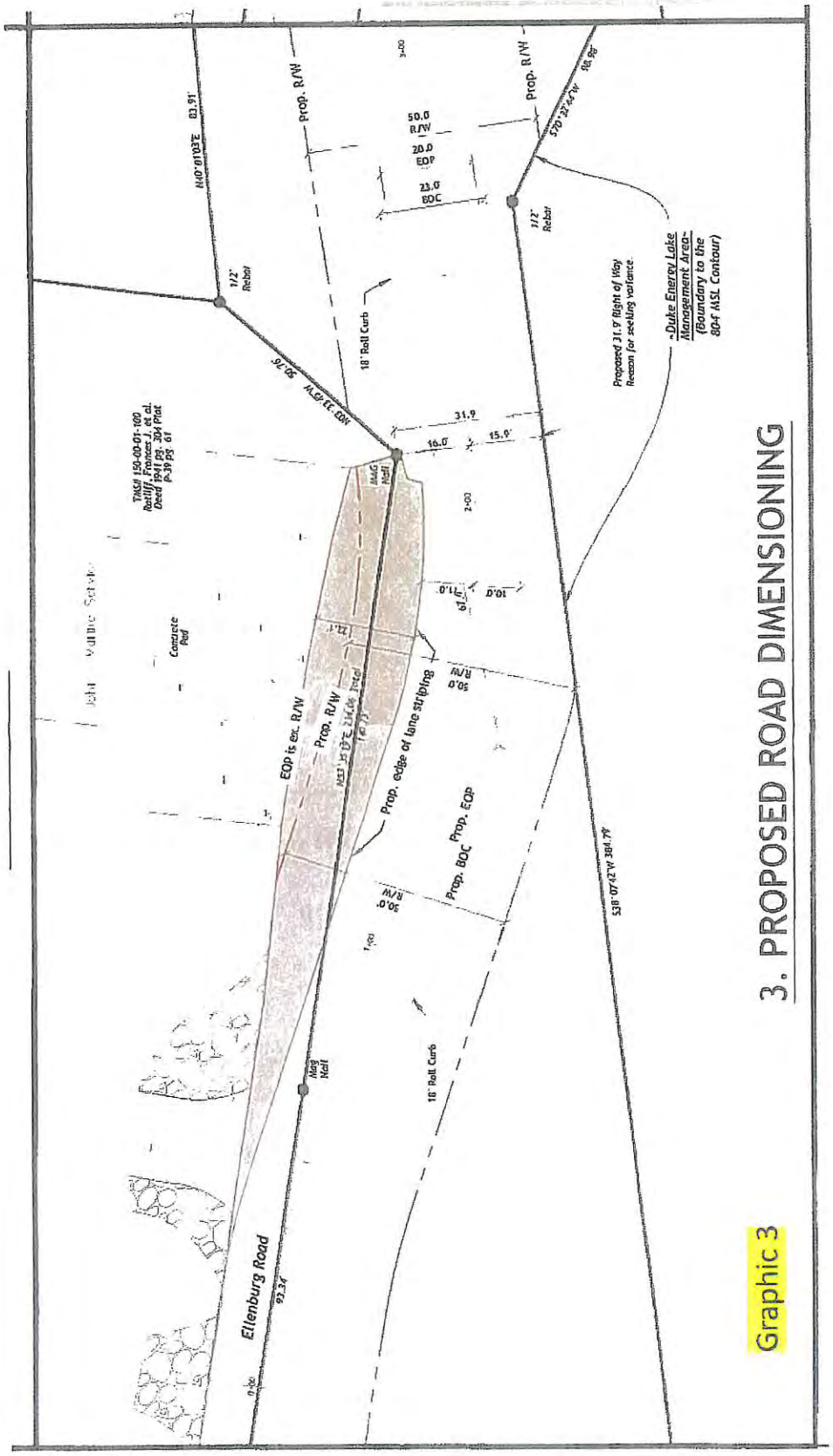
(4)



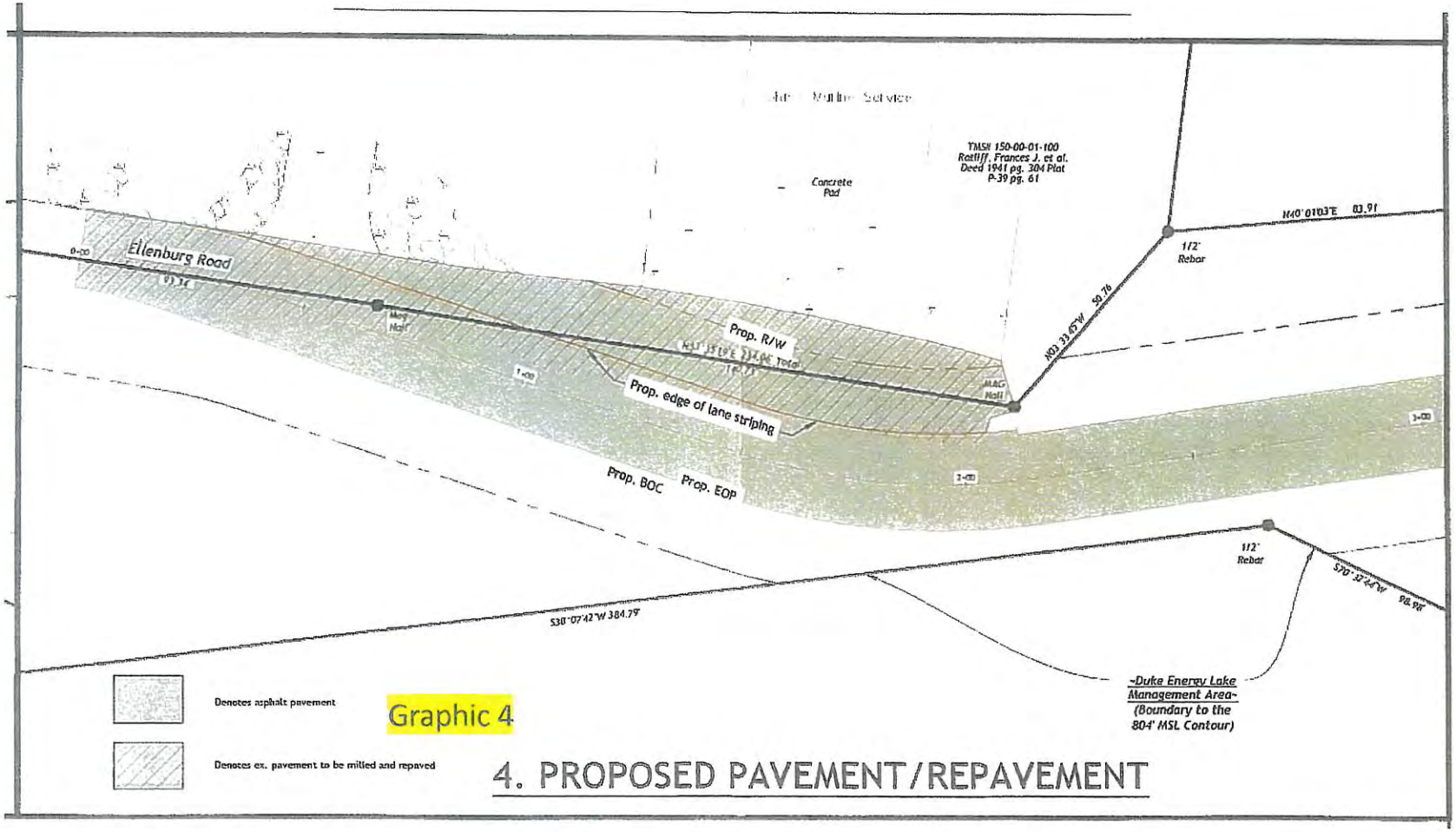
Graphic 2

2. PROPOSED CENTERLINE AND RIGHT-OF-WAY

(5)


3. PROPOSED ROAD DIMENSIONING
Graphic 3
Ellenburg Road
Prop. R/W
Prop. edge of lane striping
Prop. EOP
Prop. BOC
EOP is ex. R/W
50.0 R/W
20.0 EOP
23.0 BOC
10' Roll Curb
16' Roll Curb
1/2" Rebar
MAG Nail
Concrete Pad
Proposed 31.9' Right of Way Reason for seeking variance
--Duke Energy Lake Management Area-- (Boundary to the 804 MSL Contour)
TMS# 150-00-01-100 Ratliff, Frances J. et al. Deed 1941 PG 384 Plat P-39 PG 61
N40°01'03"E 83.91'
S70°23'44"W 168.88'
S38°07'42"W 384.79'
N69°33'45"W 90.76'
31.9
16.0
15.0'
97.34'

(9)


TMS# 150-00-01-100
Ratliff, Frances J. et al.
Deed 1941 pg. 304 Plat
P-39 pg. 61
Concrete
Pad
Ellenburg Road
Prop. R/W
Prop. edge of lane striping
Prop. BOC
Prop. EOP
1/2"
Rebar
N40°01'03"E 83.91
N03°33'45"W 50.76
S30°07'42"W 384.79'
S70°37'44"W 98.98'
-Duke Energy Lake
Management Area-
(Boundary to the
804' MSL Contour)
Denotes asphalt pavement
Denotes ex. pavement to be milled and repaved
Graphic 4
4. PROPOSED PAVEMENT/REPAVEMENT

(7)

Lake Keowee
REAL ESTATE

896 N. Walnut Street, Seneca, SC 29678

• 864.886.0098 • Fax 864.886.0075

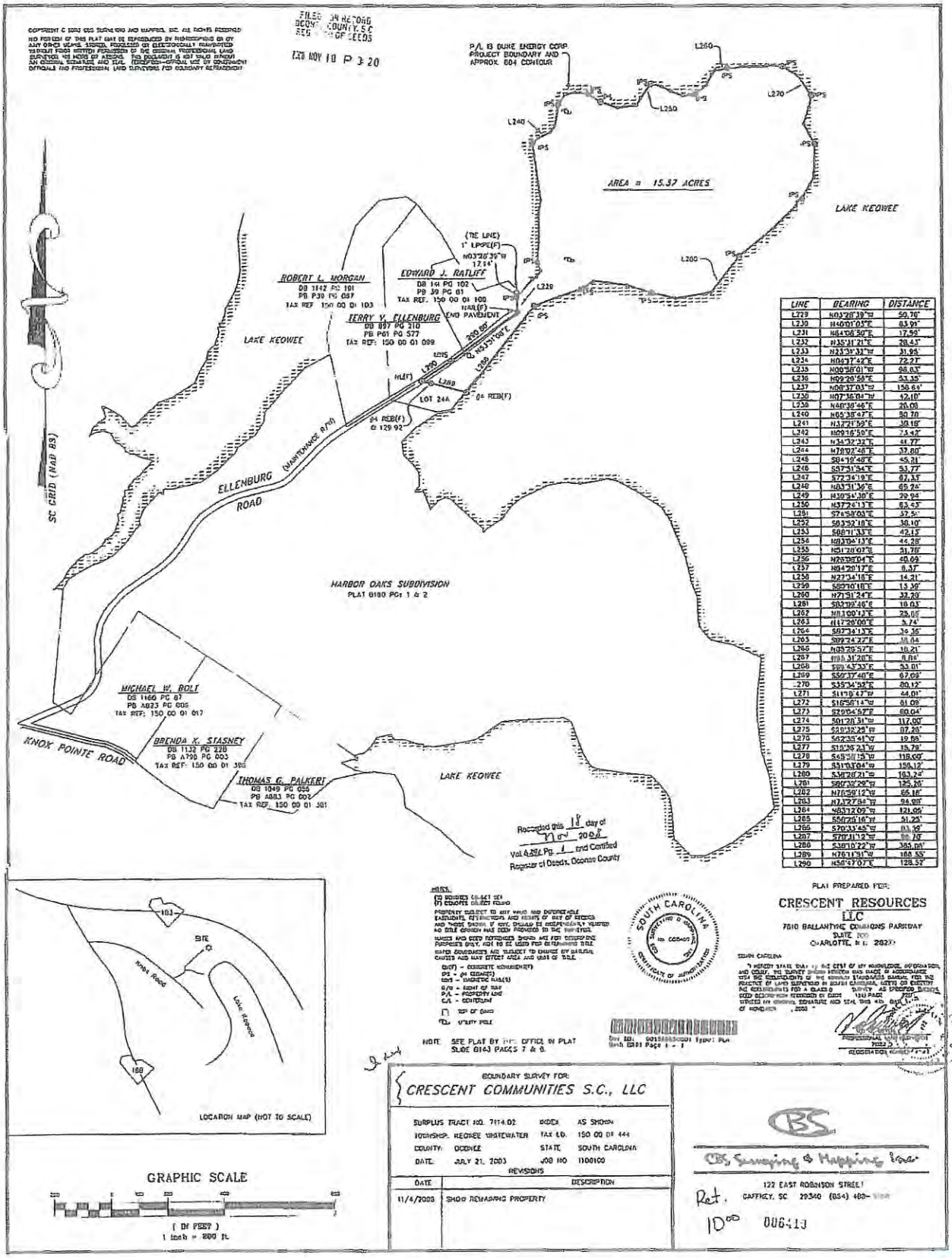
To Whom It May Concern,

I, John Hamrick, am the owner of this property located at the end of Ellenburg Road, Tax Map # 150-00-01-459. I am aware Andy Lee is working to get a variance for this property. I am in full support and appreciate any consideration given.

Thank you,

John Hamrick

D



LINE	BEARING	DISTANCE
L229	N03°20'39"W	50.76'
L230	N40°01'05"E	83.91'
L231	N64°06'50"E	17.56'
L232	N35°11'21"E	28.41'
L233	N23°39'32"W	31.95'
L234	N06°37'42"E	72.27'
L235	N00°58'01"W	96.63'
L236	N09°20'58"E	53.35'
L237	N08°37'03"W	150.64'
L238	N07°16'04"W	42.10'
L239	N48°38'48"E	20.08'
L240	N65°38'47"E	50.70'
L241	N12°21'59"E	30.18'
L242	N09°16'50"E	75.42'
L243	N34°32'32"E	41.77'
L244	N79°02'48"E	37.80'
L245	S04°18'48"E	45.21'
L246	S07°31'34"E	53.77'
L247	S72°34'19"E	67.33'
L248	N03°31'36"E	65.26'
L249	N10°54'30"E	70.94'
L250	N37°26'13"E	83.43'
L251	S74°58'03"E	57.5'
L252	S83°52'18"E	38.10'
L253	S68°11'33"E	42.12'
L254	N89°04'13"E	46.28'
L255	N51°28'03"E	51.76'
L256	N26°58'04"E	40.69'
L257	N84°20'17"E	8.37'
L258	N27°34'18"E	14.21'
L259	S60°10'18"E	13.38'
L260	N71°51'24"E	32.20'
L261	S02°09'46"E	18.03'
L262	N81°00'13"E	25.08'
L263	N17°26'00"E	5.74'
L264	S07°34'13"E	36.35'
L265	S09°24'27"E	38.64'
L266	N28°28'52"E	10.21'
L267	N89°31'26"E	8.86'
L268	S89°43'33"E	53.01'
L269	S50°37'40"E	97.09'
L270	S35°34'58"E	80.12'
L271	S11°19'47"W	64.01'
L272	S16°56'11"W	91.08'
L273	S29°04'57"E	60.04'
L274	S01°26'31"W	117.00'
L275	S18°32'28"W	87.20'
L276	S62°35'41"W	19.86'
L277	S18°26'23"W	15.79'
L278	S45°21'15"W	118.00'
L279	S31°58'04"W	156.12'
L280	S34°26'21"W	183.24'
L281	S60°32'29"W	125.26'
L282	N76°59'12"W	65.18'
L283	N73°27'34"W	94.08'
L284	N83°12'02"W	121.05'
L285	S56°26'16"W	51.25'
L286	S70°33'45"W	83.16'
L287	S70°31'12"W	98.78'
L288	S38°10'22"W	385.04'
L289	N76°11'31"W	188.55'
L290	N56°27'07"E	128.52'

Gmail

Andy Lee <andyonkeowee@gmail.com>

FW: Ellenburg Road - BZA hearing

2 messages

James Coley <jcoley@oconeesc.com> Mon, Nov 29, 2021 at 12:13 PM
To: Wesley White <wesley@ridgewatereng.com>, Andy Lee <andyonkeowee@gmail.com>

For your records.

Thanks,

From: Kyle Reid
Sent: Monday, November 29, 2021 9:58 AM
To: James Coley <jcoley@oconeesc.com>
Cc: David Root <droot@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

James,

Here are the bullets from my conversation with the developer and his engineers concerning the development at the end of Ellenburg Rd. (these are not commentary on the variance requested for the BZA and the below was based on hypotheticals as no plan was presented):

- The developer asked about where Ellenburg Rd stops being county maintained. I told them it was the end of the asphalt and that we did not have deeded right-of-way as the road is maintained by prescriptive easement. I also showed him what we have been maintaining as the extent of our right-of-way.
- They asked about upgrading the road and told me getting right-of-way from the adjacent property owner would likely be difficult. They asked about being able to place the road entirely on their property with a reduced right-of-way than the 50' standard required by the ordinance. I told them that any variance from the road standards would have to be heard by the BZA.
- They asked if there was anything additional that they would need to consider. I told them without a sketch plan it would be hard to hit all the points, but with a subdivision more than 10 lots there would have to be a traffic impact study for Ellenburg Rd that would need to be done at the preliminary plat phase along with an encroachment permit to tie onto the end of the county maintained portion of Ellenburg Rd.
- They asked me about the new road in the development becoming a county maintained road. I told them that the road would need to meet all county standards and have an approved turn around.
- They asked me about the being able to put a gate on the road. I told them it could not be a county maintained road if there was a gate.

As for the proposed variance from the road standards, I would not see an appreciable impact for us to maintain the road because of the fact that our road would terminate at the area with a narrowed right-of-way. They would have to grant us right-of-way in the area they are proposing to relocate the road which would enhance our ability to maintain it. The only other question I would have is for them to show the ability to get the road, shoulders, drainage, and utilities in the proposed narrowed right-of-way.

10

Thank you,

W. Kyle Reid

Assistant Director of Public Works

Oconee County Roads & Bridges

15022 Wells Hwy Seneca, SC 29678

Phone: (864) 886-1072

Fax: (864) 886-1071

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From: James Coley
Sent: Tuesday, November 23, 2021 1:37 PM
To: David Root <droot@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>; Kyle Reid <kreid@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

Kyle,

Can you please write up notes for your meeting with the developer, and how their proposal impacts roads and bridges, and your site meeting with them? I will incorporate your materials into a report to the board with the staff recommendations.

Have a great thanksgiving.

Thanks,

James Coley

From: David Root
Sent: Monday, November 22, 2021 12:53 PM
To: James Coley <jcoley@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>; Kyle Reid

<kreid@oconeesc.com>
Subject: Ellenburg Road - BZA hearing

Making sure you all had this section in mind also:

Sec. 26-8. - Variance from road standards.

(a) Any variance from these road standards shall be consistent with the intent of this article, and shall be approved in writing by the board of zoning appeals. Any person or entity requesting a variance from road standards shall submit a written request for a variance to the planning director of the county. A variance can only be granted for actions to take place in the future. No variance may be granted for past actions.

(b) Prior to scheduling a variance hearing before the board of zoning appeals, the person or entity requesting said variance shall work with the county planning department and the county road department in an effort to eliminate or minimize the need for a variance. After reasonable efforts and no other solution can be reached, a hearing shall be scheduled before the board of zoning appeals. The county staff shall submit written reports to the board of zoning appeals setting forth the county regulation in question, the efforts made to remedy the situation, and a recommendation setting forth the county's position regarding the variance. These written reports shall be submitted to the person or entity requesting the variance at least five days before the variance hearing.

(c) Notice of the variance hearing shall be provided by first-class mail to the person or entity requesting the variance at least 15 days prior to the hearing. Notice of the hearing shall also be published in a newspaper of general circulation in the county at least 15 days before the hearing.

(d) Any party may be represented by counsel. Any person or entity that would be directly impacted by the granting or denial of the variance may participate as a party in the hearing, provided notice of intent is submitted in writing to planning department at least seven days prior to the hearing. The planning department shall immediately notify all other parties of the new party's participation. The county may support or oppose the variance request or be neutral.

(e) The board shall make the initial determination concerning the variance request and may consider any and all evidence it deems relevant concerning the variance issue. The paramount issue for all variance requests shall be the reasonable safety of the road under the proposed circumstances. If the board concludes that a safe road can be constructed without strict application of the regulations set forth in this article or other county ordinances and policies, the board may then consider issues such as the cost of right-of-way acquisition, placement of utilities, and unusual circumstances in determining whether to grant a variance. The board should use reasonable discretion in its decision making.

(f) A person or entity whose request for a variance has been denied by the board may appeal the board's decision to the transportation committee of the county council.

James and Vivian – do you all need anything from me or Kyle prior to the hearing?

– David

David A. Root

Oconee County Attorney

415 South Pine Street

Walhalla SC 29691

Ph. 864-364-5332

Attorney client / work product protections reserved

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Andy Lee <andyonkeowee@gmail.com> Mon, Nov 29, 2021 at 12:43 PM
Reply-To: andyonkeowee@gmail.com
To: Adam Chapman <adamcorychapman@gmail.com>

[Quoted text hidden]

2 attachments

image001.jpg
6K

image001.jpg
6K

Variance Criteria Overview

General criteria for granting a variance. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

a) *There are extraordinary and exceptional conditions pertaining to a particular piece of property.*

The parcel itself is a peninsula, it's bounded by water on all sides with exception of the center of the county road as a boundary. The peninsula is narrow in a small portion of the parcel and is unique in that the property line is the center of the road and does not have it's own right of way. There is only access easement to the parcel. These conditions are extraordinary and exceptional because of the limitations created by geography and topography within this parcel. The way a parcel of land lays, the geography, the topography are all acceptable reasons for granting a variance.

b) *These conditions do not generally apply to other property in the vicinity.*

In the geographic vicinity of this piece of property most roads have a 50 foot right of way because they are not geographically constrained. This property is bounded by a body of water. Most parcels in the vicinity are not bound by the water on both sides. Because of the unique geography of this parcel, meeting the current road ordinance goes beyond creating an unnecessary hardship and instead creates only impossibility of use. This impossibility creates a scenario which meets the criteria for granting a variance.

(11)

c) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Without granting this variance to the roads ordinance the application of the ordinance will unreasonably restrict the use of the property. The property was purchased prior to this ordinance being adopted and if you will reference the Deed Restrictions for the parcel you will see that these restrictions are designed in mind with an end use for single-family residential development which was and still remains the intent behind this purchase. The developments in the vicinity of this property have larger homesites and larger homes. The application of this ordinance effectively prohibits building like kind or similar developments for which this property was purchased for, as per the deed.

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

1) **The proposed improvement will relocate the existing edge of county pavement, as shown on exhibit 2, to provide John's Marine an additional 22 feet of area to maneuver, outside of the County maintained roadway.**
2) **We will extend his current driveway to meet the new roadway so that it is then contiguous to his drive and ramp, causing no disturbance in his business use.**
3) **Probably most helpful to improve current conditions for his operation is the installation of a cul-de-sac at the termination of the county road. This would be located 100% within the boundaries of our parcel, as you can see on Graphic 2 and does not encroach onto his property. John's Marine, his customer base, and**

the delivery truck drivers will be able to utilize this space to turn around trucks and trailered boats. John's Marine is currently using the county road as a parking lot and to turn around delivery trucks according to himself and what has been submitted by the public. Granting this variance would alleviate that current hardship by expanding the paved area and providing a paved cul-de-sac that is built to accommodate a circling school bus or fire truck. This should effectively eliminate the need for Fedex/UPS truck to turn around in adjacent owners driveways, road shoulders, or have a need to block the road. This will certainly benefit him and his customers to be able to turn around there.

4) We are improving the affected area an ageing county road to current county specifications, an improvement to the current conditions of the roadway. This improvement is at no cost to John's Marine, the neighbors, or to the taxpayers.

5) 19 more homesites also provides the opportunity for 19 more boats to service at the most convenient of distances. John's Marine, who already has an excellent customer base and strong reputation in our community as a top mechanic, will have a slightly expanded customer base in the community if he chooses to take on new clientele. Also, the impact of construction vehicles traveling the road way into the development is for a limited window of time while homes are being built.

William Anderson "Andy" Lee

As an Oconee County native Andy is a 5th generation builder and developer. After graduating from Walhalla High School and a tour of service in the United States Navy he returned to Oconee and has worked in construction and development. He is also a local small businessman having purchased the brokerage in 2011 after serving as construction manager for the firm 5+ years prior. Andy has developed over 40 Lake Keowee communities and successfully marketed and sold these homesites through Lake Keowee Real Estate.

Reah Land Smith

Also an Oconee County native, Reah has been with the Lake Keowee Real Estate since 2013 and in the real estate industry since 2010. Reah played an integral role in the development, marketing, and sales of the last 8 developments in the brokerage. She currently resides on Lake Keowee.

12

James L. Ratliff, Owner/Operator
John's Marine Service
599 Ellenburg Road
Seneca, SC 29672
November, 22 2021

Jim Codner, Chairman
Oconee County Board of Zoning Appeals
415 South Pine Street
Walhalla, SC 29691

LETTER of OPPOSITION to Variance request application #VA 21-011 – TMS #150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672

Dear Mr. Codner,

My family and I are in opposition to the development of the proposed 19-home subdivision as presented on the sketch prepared by Ridgewater Engineering & Surveying. My father (John Ratliff) started John's Marine Service to serve boaters on Lake Keowee in 1972. In 1982, he opened his shop at S99 Ellenburg Road which borders TMS #150-00-01-459, the unaddressed parcel in the variance request application. I now own and operate the repair shop and my son is also learning the trade. The unaddressed parcel was purchased in 2008 by GLOBE, LLC & FARMES, LLC (agent John Hamrick). At that time, I was starting to operate the business because my father was diagnosed with Alzheimer's. John Hamrick approached my father multiple times attempting to negotiate with him to sell his property. Fortunately for my family, my father did not sell. Prior to my father passing away, I became the owner of the business to support my parents and my family. This business is our livelihood and the means of support for my family for approximately four decades at the present location.

The proposed development, which is titled "Arrowhead Point" on the sketch plan attached to the variance request application, will have a detrimental and crippling impact to my business and property. The area directly adjoining the 31.9-foot bottleneck is my repair shop. In addition to the bottleneck, yesterday a sketch was added to the meeting backup material. At first glance, it appeared that this will not hinder my business, however upon further examination, he is proposing to take part of my property for his much-needed county right-of-way. The sketch contains a proposed re-pavement and an added county right-of-way which will hinder access for me to utilize my property per Oconee County Code of Ordinance 26-7.f.1. This ordinance prohibits parking within 3-feet of the pavement. Traffic in this area will directly impact my ability to operate the marine service business. Customers typically deliver their boats by trailer and they routinely need assistance with backing and parking their boats. I routinely back boats from the front of my property multiple times daily. When pulling boats out on the ramp or maneuvering them on land, a wide turning radius is needed. We must use all of our property to make

the turn and back down the road into the shop or onto the ramp for lake-testing. Since we are on a dead-end road, there have been no issues with operation since the shop was built almost 40 years ago in 1982. Creating a bottleneck directly in this path with the size of the planned development will create a dangerous situation for my business and the public. Traffic from the residential and proposed rental homes will also remain a hazard, not only for my business and customers but also the surrounding public and neighbors walking and bicycling on Ellenburg Road. When the owner purchased this parcel in 2008, he was aware of the shop's existence and the impact to the public. This proposed variance will have a crippling impact on my customer's ability to deliver their boats for repair and service.

We also have a boat ramp to accommodate customers who don't own a trailer or have access to a trailer. We haul boats out of the lake using our ramp and our trailers for service and repairs. Disabled boats are often towed to our docks by water to have emergency repairs performed.

Beyond the boat service business that my father created and I have sustained, we perform various deeds for the good of the general public. Over the years, we rescued families who were lost or stranded on the lake. We assisted boaters who've had engine fires and those with sinking boats. Due to our shop's central location on Lake Keowee, it gives us quick access to assist distressed boaters. Our long-standing reputation in the community enables people to have us on "speed-dial" to handle emergency situations. Once while lake testing a boat, I was flagged to the county park for emergency response to a distressed family. I went closer and learned a person went under and did not resurface. I dove in the water and began an underwater search. After several free dives, I found the victim on the bottom of the lake and I pulled him to shore. Unfortunately, the outcome was not positive, and the individual did not survive. For my service, Oconee County honored me with recognition at a county council meeting for my emergency response (Proclamation P2012-06). I only wish it would have been for saving a life. The public good has been served by our business for almost 40 years and many boaters stand ready to give statements of support to its continued operation.

After obtaining the variance application #VA 21-011 via a Freedom of Information Act request and reviewing the applicant's response to the fourth question, it was disingenuous of the applicant to assert that "no detriment will be created to the adjacent uses or the public good" given that my boat service business is directly adjacent, has been in operation since 1982 and it is obvious that it will be impacted. As a former Crescent developer, the buyer of TMS #150-00-01-459 the unaddressed parcel, knew what he was purchasing and the detrimental impact it would have on my adjacent business, my livelihood, my family and the public. The unaddressed parcel was purchased with inadequate entry for the size of the planned development and the owner is now asking for a variance that will have a substantial detriment to me, the adjacent user, and a substantial detriment to the public good.

As the Zoning and Appeals Board evaluates the variance application #VA 21-011, below are our responses.

Application Responses to Section 38-7.1:
Question 2:
Are the circumstances affecting the subject property the result of actions by the applicant/owner?

Response:
The applicant/owner purchased this property knowing that the direct access to their parcel was much less than 31.9-foot width at its narrowest point. County maintenance on Ellenburg Road

has been established at 585 Ellenburg (adjacent property up the road from 599 Ellenburg Road) for decades. John's Marine has owned and maintained the property between 585 Ellenburg and the unaddressed parcel described as Arrowhead Point since the shop was built in 1982 as a private road. On July 31, 2021, we noticed construction activities were performed without our knowledge or consent to backfill portions of the property between 599 Ellenburg Road and the Lake Keowee full pond FERC boundary and possibly below the FERC boundary. We approached the vehicles to inquire as to who authorized this activity. Their response was that they didn't know and they produced no documentation. These activities appear to create the condition for seeking a variance for less footage than would otherwise be needed for the 50-foot county ordinance. Video evidence of the backfill activities is available upon request.

Question 4:
Will the proposed variance result in an activity that will not be of substantial detriment to the adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance?

Response:
Granting this variance will have a substantial detriment to the adjacent uses by John's Marine Service, the marine service customers, the general public, and the Ratliff family. These uses have been in place for over 40 years and are for the good of the public. The granting of this variance will in essence put John's Marine Service out of business. As aforementioned, for John's Marine to properly and safely service boats, a wide swath of land is necessary for boats to be maneuvered safely, stored on the property while being repaired and have access to the ramp for lake testing. Storage of disabled boats has been paramount to my business to enable John's Marine to diagnose and repair the issues. The central location of John's Marine on Lake Keowee has allowed me to be of service in emergent situations, where at a moment's notice, I can respond to people in distress in their boats on the lake. My son and I hope to continue to provide service for the next half of a century on Lake Keowee.

Granting this variance will also have a substantial detriment to the public good for safety reasons. Ellenburg Road is a quiet road without much car traffic and the surrounding community love and respect John's Marine. The unexpected increase in car traffic on Ellenburg Road from the size of the development that is being proposed will create safety issues for the surrounding property owners who are accustomed to walking their dogs, riding their bikes and have been for 40 years.

Of additional, significant concern is the potential fire safety hazards from a roadway not suitable to meet the size of the residential development that is being proposed. The small direct access will impact the ability of emergency vehicles for emergency response.

Obviously, if the variance is granted, the construction to expand the roadway will be very impactful to my business as it will be difficult to maneuver boats efficiently and safely and it will create a substantial business interruption.

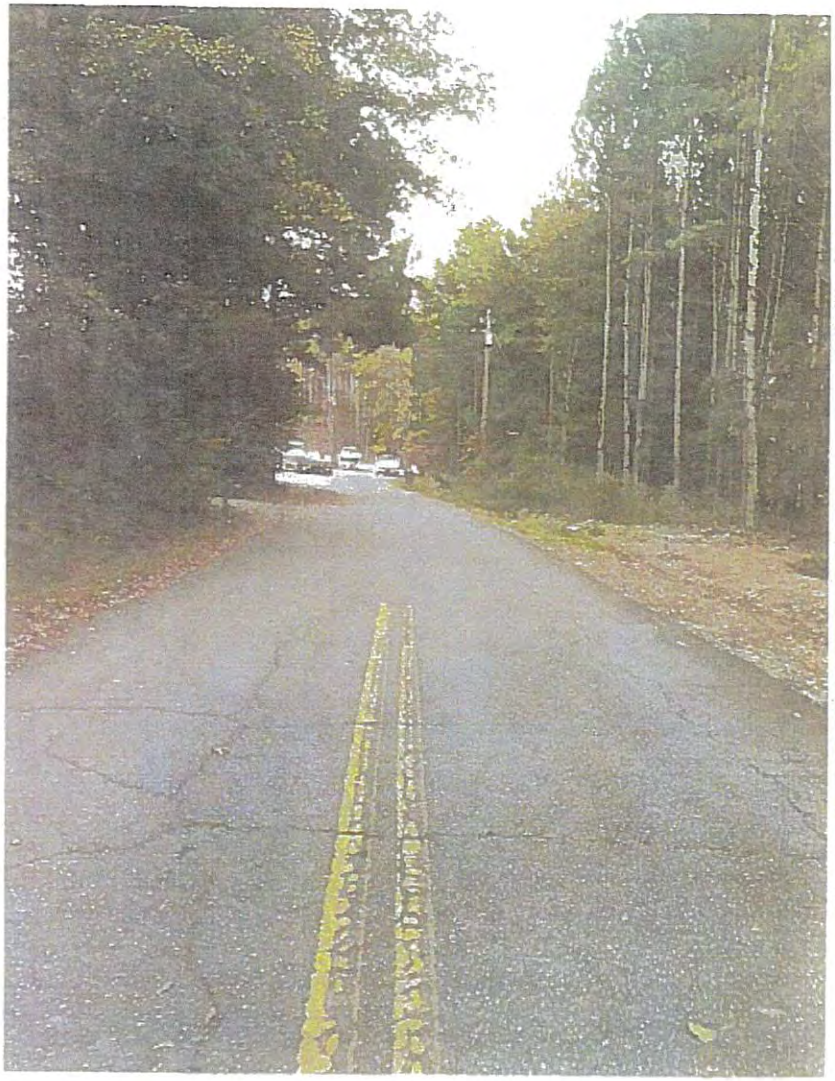
My family and I request the board deny Variance Request Application #VA 21-011 due to the impacts on my business, the good of the public, and my family. We desire to continue serving the public by owning and operating John's Marine as we have for the past 49 years, of which 40 years have been at its present location.

Sincerely,

James L. Ratliff
Owner/Operator John's Marine Service

Distribution:
Impacted property owners of 599 Ellenburg Road:
Frances J Ratliff
Sherri D Akers
Amy L Cawthon
Edward John Ratliff Jr.
James L Ratliff

Board of Zoning Representatives:
Gwen Fowler
Bill Gilster
Marty McKee
Tim Mays
John Eager
William Decker



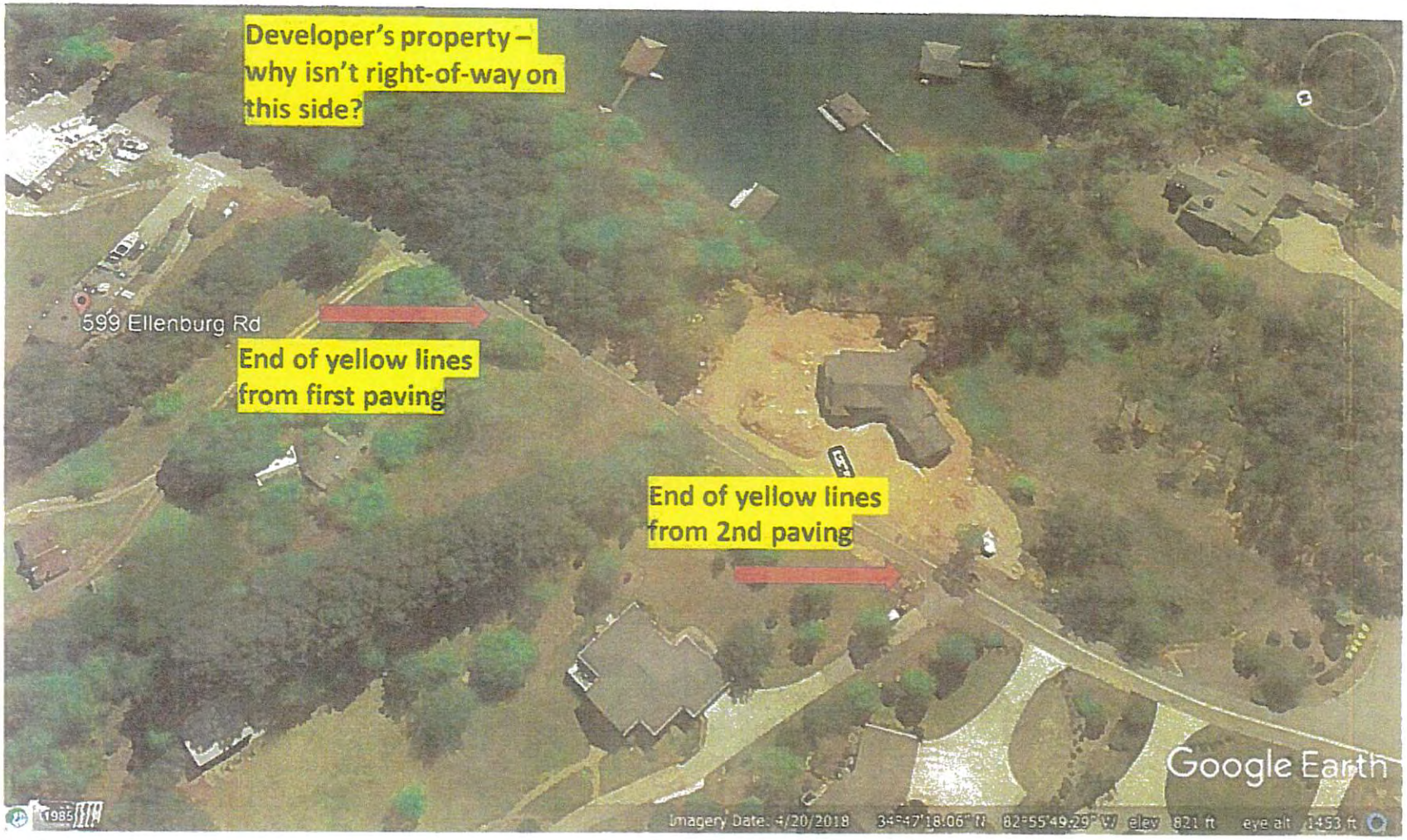
Ellenburg Road - 2021

Developer's property – Area
of proposed 18.1' Variance

4/2014
1935
2013
John's Marine Svc
2014 Aerial
599 Ellenburg Rd
Legend
599 Ellenburg Rd
End of yellow lines
Developer's property – why isn't right-of-way on this side?
N
Google Earth
100 ft

John's M ne Svc
2004 Aerial
Legend
599 Ellenburg Rd
End of yellow lines
Developer's property – why isn't right-of-way on this side?
Google Earth
100 ft
N

599 Ellenburg Rd
Legend
599 Ellenburg Rd
John's Marine Svc
2018 Aerial
Developer's property – why isn't right-of-way on this side?
End of yellow lines
Google Earth
200 ft
N


Developer's property – why isn't right-of-way on this side?
599 Ellenburg Rd
End of yellow lines from first paving
End of yellow lines from 2nd paving
Google Earth
Imagery Date: 4/20/2018 34°47'18.06" N 82°55'49.29" W elev 821 ft eye alt 1453 ft

Vivian Kompier

From: Rudy Carbone <rckc91@bellsouth.net>
Sent: Monday, November 22, 2021 11:24 AM
To: James Coley
Subject: Re: Property Zoning Variance

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Thank you for your attention regarding my request.
Rudolph Carbone
313 Shorewinds Ct
Seneca. SC. 29672

Sent from my iPad

On Nov 22, 2021, at 11:09 AM, James Coley wrote:

Thank you for your email concerning the variance. In order for your comment to be added to the review materials for the board, it must be signed. You may resubmit your comment to this email chain with your name, and it will be added to the documentation at the hearing.
Best regards,
James Coley
Director
Oconee County Planning and Zoning
415 S. Pine Street
Walhalla, SC 29691
Phone: (864) 638.4218
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From: rckc91 [mailto:rckc91@bellsouth.net]
Sent: Sunday, November 21, 2021 4:06 PM
To: Planning Info
Subject: Property Zoning Variance
CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To: County Board of Zoning Appeals

I ask you to deny the zoning variance at the end of Ellenberg Road, Seneca. This variance would basically put John's Marine Service (serving Lake Keowee residents for 35 years) out of business. The reason being that this road variance would make it impossible for John's Marine to operate their business as is now done. There are many Lake Keowee property owners that do not have boat trailers because of the cost and the problem of where to park the unsightly trailers. At John's Marine, Keowee boat owners can bring their boats over to this business and have their boats pulled out of the water and receive full maintenance.

There is only one other Lake marine service on Lake Keowee located at the far south end of the lake. This facility is a long way to obtain boat repair and mainteuance for the heavily populated middle and north end residents of the lake. There are several marine maintenance companies that will come and do boat repairs at your boat but they are prohibited to change oil, etc at the dock because of lake pollution.

This closure would not only effect a long standing family busiuess but many boat owners who depend on this conveniently located establishment for their boat service. I ask that you deny or at least come up with some compromise arrangement that would accommodate all parties concerned. Perhaps a cud-da-sac could satisfy the community entry point and allow the marina to maneuver their boats in and out of their shop so maintenance could continue to be performed.

Thank you for your attention to this matter

A Lake Keowee Boat Owner

Vivian Kompier

From: Pamela Chambers <pgc1621@gmail.com>
Sent: Saturday, November 20, 2021 8:21 PM
To: Planning Info
Subject: Oppose variance

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I am opposed to the the variance that would allow deviation from the 50' road width.

Vivian Kompier

From:	Elaine Chapa <elainemchapa@gmail.com>
Sent:	Sunday, November 21, 2021 5:08 PM
To:	Planning Info
Subject:	Variance for Ellenburg Rd

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I oppose the 50' road width variance request for this road. I do not want any adverse impact to the existing Marine business that exists now, as it is one of a very few boat up marine services on the lake.

Please don't allow the variance requested by this developer.

Elaine Chapa.
Oconee county resident.

Get Outlook for iOS

Vivian Kompier

From:	Pamela Colden <coldrenpjc@gmail.com>
Sent:	Tuesday, November 23, 2021 12:17 PM
To:	James Coley
Cc:	a Coldren Gary; Doug Cooper
Subject:	Fwd: Variance request for Ellenburg Rd #VA 21-011
Attachments:	2021092095151957.jpg; IMG_8216 (1).jpg; IMG_8214 (1).jpg

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

As residents of Oconee County and Harbor Oaks, we emphatically agree with Doug Cooper's letter to you dated November 23, 2021, We live on Ellenburg Road and are very aware of the traffic and existing dangers. Several developments nearby are "walkers" and pass by daily. Many trucks, including many semi trucks, travel on Ellenburg Road daily to deliver to John's Marine, a business and good neighbor which is vital to Lake Keowee residents. Large trucks and cars pulling boats already have problems turning around at the end of the street. The requested variance will positively make matters worse! As it is now, we do not let our grandchildren ride their bikes or play near the entrance of our driveway. There are no sidewalks on Ellenburg Road. In fact, there are not even curbs! We have had incidents of trucks trying to turn around and driving over expensive landscaping.

We also question why a developer can get variances but residents do not.

This is not a case of "people on the lake do not want other people on the lake". This is about the safety of the current residents and many cars, trucks and people who travel on Ellenburg Road.

We are against the current proposed variance!

Sincerely,
Gary and Pam Coldren

---------- Forwarded message ---------
From: **Doug Cooper** <cooperd5908@gmail.com>
Date: Tue, Nov 23, 2021 at 10:13 AM
Subject: Variance request for Ellenburg Rd #VA 21-011
To: <jcoley@oconeesc.com>
Cc: Pam Coldren <coldrenpjc@gmail.com>, Don and Barbara Herriott <dherriot@aol.com>, Cindy Smoak <cindy.smoak@gmail.com>

I am currently the President of Harbor Oaks Home Owners Association and am writing this on behalf of our 37 lot community.

We are strongly opposed to granting of this variance at the present time given the current state of the road and the already many safety issues we have.

Harbor Oaks spent several thousand dollars last year altering the entrance at Rollingwood drive to enhance the safety of both Ellenburg Rd and Rollingwood Dr drivers and pedestrians. There is a lot more traffic on this road than most would imagine. Much of it John's Marine and delivery traffic. We have has several issues in the past and it is very much an issue given the developers current construction on upper Ellenburg Rd. When I discussed

Respectfully,

Doug Cooper
566 Ellenburg Rd
Seneca, SC 29672
843-819-3320

Vivian Kompier

From: Gary Crumbley <garycrumbley@yahoo.com>
Sent: Sunday, November 21, 2021 8:55 AM
To: Planning Info
Subject: Disapprove Variance adjacent request to John's Marine

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I would hate to see along time Family owned business suffer due to a developer trying to be greedy.

My family and friends have relied on John's for years to service our boats and would hate for that to change.

Thanks you for your consideration

Gary Crumbley

Vivian Kompier

From: David Schmidt <dhs3092@gmail.com>
Sent: Saturday, November 20, 2021 10:59 PM
To: Planning Info
Subject: Variance Request on Ellenburg Dr for proposed new subdivison

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I would like to formally ask that you do not acknowlege or accept a proposed variance to allow a new subdivsion at the expense and detriment of an established Oconee County business (Johns Marine Service). We have alway utilzed this establisment for our repair needs since moving to Oconee ourselves some thirty four years ago.

Unfortunately the developer made an investment in property that was not developable without a variance and should not be allowed this exception after the fact.

Additionally my concerns arise out of the fact in allowing such variance would indeed create a precedence that would open the floodgates for others to request similar variances throughout our beautiful county.

Please keep these items in mind as you consider the variance request and opt in favor of an exiting county businesses request to deny such variance.

Sincerely,

David Schmidt
864-304-4452

Vivian Kompier

From: Steve Guthman <stguthman@banksouth.com>
Sent: Sunday, November 21, 2021 2:19 PM
To: Planning Info
Cc: johnsmarinesc@gmail.com
Subject: Zoning variance - affecting John's Marine Service

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Board Members,

I've lived on the lake 15 years and use John's marine on a regular basis to service my boat. Without Jimmy I'd be forced to find expensive alternatives. I do not own a boat trailer, and very few people I know own trailers. We absolutely rely on Jimmy's water access.

I understand development, and I understand growth. I do not understand the need to destroy a 3rd generation family-owned business.

I'm hoping you deny the variance request for the greater good.

Respectfully,

Steve Guthman, Production Partner
o: 864.990.4356 c: 770.634.0533
e: stguthman@banksouth.com f: 864.412.0648
w: www.sueannguthman.com
a: 105-A Ram Cat Alley, Seneca, SC 29678
NMLS # 690971 | MLO NMLS # 1966538
BankSouth MORTGAGE

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Vivian Kompier

From: joan schmidt <joan3184@gmail.com>
Sent: Saturday, November 20, 2021 10:53 PM
To: Planning Info
Subject: Variance request on new subdivision

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To Whom It May Concern:
We are totally against the proposed variance being requested that will interfere with the operation of John's Marine Service on Ellenburg Road. We also live off Knox Road and have used John's Marine Service for 30 years. We have found them to be outstanding community members and business owners and we do not want to see an established Oconee business suffer due to the requested variance for an new subdivision.

Thanks for your consideration and hopefully protecting an established Oconee County Business.

Joan Schmidt
23053 McDonald Point Rd
Seneca, SC. 29672.
Sent from my iPad

Vivian Kompier

From: Donald Keller <kellerdonald@icloud.com>
Sent: Sunday, November 21, 2021 10:44 AM
To: Planning Info
Subject: Variance request Ellenburge rd Seneca

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To voters on board of zoning Oconee County. Nov 30 th. Please be advised
I am in opposition to the approval of this variance request. The reasons are both obvious and numerous.

Kind regards ,
Donald Keller

Vivian Kompier

From: Daniel McNew <dwmcnew318@gmail.com>
Sent: Tuesday, November 23, 2021 3:51 PM
To: James Coley
Subject: Variance Request. Location TMS# 150-00-01-459 Ellenburg Road, Seneca

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

As Harbor Oaks residence, we are opposed to the above variance request.

The reason we are opposed is the congestion and additional traffic that will occur as well as safety concerns on Ellenburg Road. In addition, John's Marina which has served this Lake Keowee area for 40 years would be adversely affected if 19 home sites were approved.

We understand that the property in question has every right to be developed; however, we suggest a density much less than 19 home sites be considered. This would eliminate the need for the variance request and reduce the traffic and safety concerns on Ellenburg Road.

Regards:

Dan and Carol McNew
151 Rollingwood Drive
Seneca, SC 29672

561-346-9692
dwmcnew318@gmail.com

Vivian Kompier

From:	jaysavan@netzero.net
Sent:	Tuesday, November 23, 2021 8:34 AM
To:	Planning Info
Cc:	ksavan@hotmail.com
Subject:	Variance request application #VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Hello,
We are writing in strong opposition to the referenced variance request. The 50' right-of-way in County ordinance exists for a reason and an 18.9' variance would amount to a completely unacceptable 37.8% exception. Setting aside the various negative implications for local neighborhoods and business - namely, John's Marine Service - this deviation from County ordinance is unacceptable on its face.
We will be in attendance at the County Board of Zoning Appeals meeting on November 30, but want to register our strong opposition to this variance request.
Thank you,
Karen M Savan
William Jay Savan
103 Rollingwood Drive, Seneca SC 29672
314 603 0595 mobile
jaysavan@netzero.net

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- 5 Cops Indicted on Charges of Murdering Man

Vivian Kompier

From: Mark Taylor <mataylorusa@hotmail.com>
Sent: Tuesday, November 23, 2021 9:02 AM
To: Planning Info
Subject: Variance Request Opposition - Ellenburg Rd.

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To whom it may concern,

This purpose of this email is to express my strong objection to the variance request near John's Marine Service at 599 Ellenburg Rd., Seneca, SC 29672. I will not be able to attend the appeals meeting on 11/30, so please accept this email as a strong voice against this variance.

The property in question for the proposed 19 home development will already have access without significantly increasing the traffic congestion and "bottlenecking" that will occur with the 19 extra homes. This additional, unnecessary traffic on Ellenburg Rd. will also have a severe, negative effect on John's Marine Service, which I have used for years.

What makes Jimmy Ratliff and his business unique is that I can pull up to his shop by water. Jimmy is then able to trailer my boat for me and pull it into his shop; all of which he can do safely b/c he is at the DEAD END of Ellenburg Rd. It is my understanding that the vast majority of his customers do the exact same thing that I do - arrive by water and utilize Jimmy's trailering service.

If this variance is approved, it will have an extreme negative impact on Jimmy Ratliff's business, one of which has been part of the Seneca community for three generations. Additionally, it will create a very dangerous traffic situation with so much thru traffic trying to access these 19 homes from an access point that is not a "must-have" but just a "nice-to-have" (Ellenburg Rd.).

I urge you to please to deny this variance request for the overall good of the community that surrounds that area, and most importantly, to preserve the current operation of John's Marine Service, which the entire lake has benefitted from for over 30 years.

I am not against allowing the developer to make use of recently acquired property; there is just no reason for that developer to severely damage and/or possibly shut down a family business and its livelihood in the process....all for an ADDITIONAL , unnecessary entrance to his subdivision.

Thank you for your careful consideration in this matter.

Sincerely,

Mark Taylor
209 New Timber Trail
Seneca, SC 29672

Vivian Kompier

From: Van Laeke <van24@att.net>
Sent: Monday, November 22, 2021 1:43 PM
To: James Coley
Subject: RE: REQUEST FOR ZONING VARIANCE AT END OF ELLENBERG ROAD, SENECA

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

My name is Kenneth Van Laeke, 141 Northshores Drive, Seneca 29672-0445. Phone 864 886-1217. Have been a resident of Oconee County for thirty years. My comments reflect the opinions of several Waterside Crossing residents. Thank you for your consideration.

Ken Van Laeke

From: James Coley [mailto:jcoley@oconeesc.com]
Sent: Monday, November 22, 2021 11:13 AM
To: 'Van Laeke'; Planning Info
Cc: johnsmarine@gmail.com
Subject: RE: REQUEST FOR ZONING VARIANCE AT END OF ELLENBERG ROAD, SENECA

Thank you for your email concerning the variance. In order for your comment to be added to the review materials for the board, it must be signed. You may resubmit your comment to this email chain with your name, and it will be added to the documentation at the hearing.

Best regards,

James Coley
Director
Oconee County Planning and Zoning
415 S. Pine Street
Walhalla, SC 29691
Phone: (864) 638.4218

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From: Van Laeke [mailto:van24@att.net]
Sent: Sunday, November 21, 2021 9:46 AM
To: Planning Info
Cc: johnsmarine@gmail.com
Subject: REQUEST FOR ZONING VARIANCE AT END OF ELLENBERG ROAD, SENECA

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To: County Board of Zoning Appeals

We ask you to deny the zoning variance at the end of Ellenberg Road, Seneca. This variance would basically put John's Marine Service (serving Lake Keowee residents for 35 years) out of business. The reason being that this road variance would make it impossible for John's Marine to operate their business as is now done. There are many Lake Keowee property owners that do not have boat trailers because of the cost and the problem of where to park the unsightly trailers. At John's Marine, Keowee boat owners can bring their boats over to this business and have their boats pulled out of the water and receive full maintenance.

There is only one other Lake marine service on Lake Keowee located at the far south end of the lake. This facility is a long way to obtain boat repair and maintenance for the heavily populated middle and north end residents of the lake. There are several marine maintenance companies that will come and do boat repairs at your boat but they are prohibited to change oil, etc at the dock because of lake pollution.

A separate issue, we believe, is building 19 homes in this constricted area at the end of Ellenberg Road will be a nightmare for emergency vehicles.

Sincerely,

Concerned Waterside Crossing Residents

Vivian Kompier

From:	Gail White <scflgirl61@gmail.com>
Sent:	Saturday, November 20, 2021 7:53 PM
To:	Planning Info
Subject:	Variance request for property on Ellenburg Rd

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We are writing in regards to the variance request at Ellenburg Rd. We are against this request as it will be harmful to the business located at 599 Ellenburg and this area does not need another subdivision on this road. The road is too narrow and adding another 19 home will be irresponsible on behalf of our county council.

Please donor allow this to happen. Thank you for your understanding in this matter.

Stanley and Gail White
23057 McDonald Point Rd
Seneca, SC

Vivian Kompier

From: Vince Wilson <daddyo2373@gmail.com>
Sent: Saturday, November 20, 2021 8:14 PM
To: Planning Info
Subject: Zoning variance

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Dear
I strongly oppose the variance request for more than 50 foot road width for property located beside John's Marine.
This is a family owned business that is vital to their family and is vital for Oconee County.
The proposed subdivision needs to adhere to the given law as it is and leave this family business alone.
Sincerely,
Vince Wilson

Vivian Kompier

From:	Sherri Akers <sherridakers@yahoo.com>
Sent:	Friday, November 26, 2021 2:42 PM
To:	Planning Info
Subject:	Vote No to Varience

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I wanted to voice my opposition to the variance at 599 Ellenburg Rd. First of all, if this pointe is developed, boaters will lose access to sandy beaches. Also, Ellenburg Road cannot handle an increase in traffic. John's Marine Service is a commercial business that has served this community 50 years next year. Over the last 30 years traffic has steadily increased with new subdivisions and deliveries. Many customers come by water and this is invaluable. There is no where else that is lakefront that John's Marine could relocate to without having a detrimental effect on their business. I think the lake can survive without 19 more homes at the expense of a small, family run business. Don't you? So please vote NO!
Sincerely,
Sherri Crisp
Sent from Yahoo Mail for iPhone

Vivian Kompier

From: James Coley
Sent: Monday, November 29, 2021 9:43 AM
To: 'cawthonamy@yahoo.com'
Subject: -RE: Variance Request #VA 21-011

Ms. Cawthon,

Thank you for your email. Your statement will be added to the backup material which will be given to the board.

Best regards,

James Coley
Director
Oconee County Planning and Zoning
415 S. Pine Street
Walhalla, SC 29691
Phone: (864) 638.4218

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From: cawthonamy@yahoo.com [mailto:cawthonamy@yahoo.com]
Sent: Sunday, November 28, 2021 7:46 PM
To: Planning Info
Subject: Variance Request #VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To whom it may concern:

I am voicing my opposition to the variance at the end of 599 Ellenburg Rd, Seneca, SC. I grew up on this road and was here when there weren't any subdivisions and only 4 homes at the end of this road. Over the last 15 years traffic has steadily increased as more development has occurred. Ellenburg Rd is hardly wide enough to handle the traffic now, much less adding 19 more homes. Where the entrance to the development will be is right in front of John's Marine Service, where my Dad built his business and my brother now owns. He specifically chose this location because it was rural and would have little impact for residents. For 40 years my Dad, then my brother, have grown this business at this location. By putting an entrance to a subdivision right at their front door, it will not only hinder the accessibility for customers, but cause a traffic jam that will also be a safety issue. Fire and emergency vehicles will not readily be able to access the entrance to the development with less than a 50 foot road. There will be no way to go around or have traffic move over. I'm sure the owner & or developer knew this when he approached my Dad before he ever bought this property, trying to buy him out. It seems to me he always knew he needed our property to access and develop this pointe. Since he couldn't buy it, now greed is the motivating factor behind this variance. Their attitude of "there is a way around everything " is evident in this matter. I want my family business to be a 4th and 5th generation owned business that my son or grandson/granddaughter can choose to make their livelihood and not worry about being run over when backing up a boat or walking to their car.
John's Marine Service is a commercial business that would significantly suffer with this variance. Although the owner & or developer stated there were NOT any commercial businesses that would be negatively affected in their application is simply a lie. I'm sure the owner & or developer is fully aware of this as the developer has been a long standing customer of John's Marine. This is why I'm opposed to this variance and why I hope you'll vote NO!
Sincerely,
Amy Cawthon

Sent from Yahoo Mail on Android

Vivian Kompier

From: islandspenders@aol.com
Sent: Wednesday, November 24, 2021 12:55 PM
To: Planning Info
Subject: John's Marine

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Please do not approve the variance that will extremely hinder the fantastic service at John's marine. To change things that will hinder or even put John's Marine out of business is not acceptable in my opinion.

They have been here for over 35 years and "progress: should not put them out of business. Their service is top notch and very much needed on the lake.

Thank you for your time,

Michael Babyak

Vivian Kompier

From: Bailey Gary <baileygrouse@gmail.com>
Sent: Friday, November 26, 2021 6:21 AM
To: Planning Info
Subject: Zoning variance request

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We are in opposition to Variance Requests #VA21-010 and #VA21-011. This change would have a severe adverse effect on an important local business, John's Marine, putting its future existence in peril as well as safety concerns. Thank you for your consideration. Gary and Irma Bailey, 124 Pointe Harbor Dr., Seneca, S.C.

Sent from my iPad

Vivian Kompier

From: Dale Blazek <axman49@gmail.com>
Sent: Thursday, November 25, 2021 9:35 AM
To: Planning Info
Subject: Variace Request

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

I understand that a variance request was been filed concerning a widening of a road. ((#VA 21-011). As I understand it the owner/developer after eight years is requesting to widen the road which will have a late impact on the business for Jon's Marina. This establishment has been in business for over 35 years and services more than 50% of boat owners, (Mostly east side of lake Keowee). The owner knew this when he purchased the property. Unless Duke energy is willing to give a variance to John's Marina for more lake access I do not support the variance request #VA 21-011that Rigeewater Engineering has submitted.

Dale Blazek
axman49@gmail.com
519 Tall Ship Dr. Unit#215
(704) 458-8752

November 29, 2021

To: Board of Zoning Appeals

I am writing to voice concern of the request for variance to extend Ellenburg Road with the addition of 19 homes to the area. I feel this will negatively impact the business of John's Marine which has been a staple to the lake community for decades. The amount of additional traffic in the area would appear to be challenging for the existing business and their clients. While I am a proponent of progress – I do feel the number of additional homes to be built under this request as well as the added traffic would be detrimental to the business as well as the surrounding community.

I appreciate your consideration of the concerns raised.

Regards,

Chris Kanipe

Vivian Kompier

From: Paul Crisp <1blimp@embarqmail.com>
Sent: Saturday, November 27, 2021 10:49 AM
To: Planning Info
Subject: No to Variance

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To whom it may concern:
I am opposed to the variance adjacent to 599 Ellenbug Rd, Seneca, SC. Allowing a developer to put a 19 home subdivision entrance right in front of a business, with less than 50 feet is a major safety issue. Fire trucks and emergency vehicles would not be able to safely navigate a curvy, narrow road that will have that much more traffic. Customers of John's Marine use the area in front of and beside the shop to turn and park boats, deliveries are made by multiple vendors daily and residents and customers would constantly find themselves in traffic jams. This would have a negative impact!
John's Marine has been in business for 49 years and at its current location for almost 40. They have been an asset to the Lake Keowee area that can never be replaced. Having boats come by water to be fixed, serviced or towed when they break down on the lake is a big convenience and a big part of John's Marine. Businesses like these are what has built this area into what it is today. We are going to lose exactly what attracts people to this area and why they've been moving here for years. These are just a few reasons why this variance should not be approved. We can't lose the foundation that built us.
Sincerely,
Paul Crisp

Sent from my iPhone

Vivian Kompier

From: kenneth culver <culvrken@bellsouth.net>
Sent: Friday, November 26, 2021 5:14 PM
To: James Coley
Subject: Variance and short term rental

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Hello all-
We just wanted to state our view that we are against the road variance and short term rental community being proposed by the new development next to Johns Boat shop and repair. The cove is already full with boat traffic from high falls park and other communities that allow short term rentals and Ellenburg road can not handle anymore traffic. We also do t think it is fair to John's Boat repair as this will jeopardize his business. He has been an outstanding member of our community and provides a valuable service to all. Please vote to preserve our area and help our small local vendors! Thank you for your time and consideration!

Sincerely,
Ken and Anna Culver
Lot 20 The Peninsula
Seneca, SC

Sent from my iPhone

Vivian Kompier

From: Mandy Ellison <mandyfellison@gmail.com>
Sent: Friday, November 26, 2021 1:25 PM
To: James Coley
Subject: Ellenburg Road Variance

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I am writing to voice my opposition to this variance. Ellenburg Road can not support the additional traffic that 19 home sites will bring. As a Realtor, I also know for a fact that this development is being heavily marketed to investors who will be building short term rentals, which will be disastrous for not only the survival of John's Boat Repair, but the other residences on Ellenburg Rd.

Please do not grant this variance.

Mandy Ellison

Sent from my iPhone

Vivian Kompier

From:	lenamfox@aol.com
Sent:	Sunday, November 28, 2021 4:47 PM
To:	Planning Info
Subject:	Variance application #VA21-011

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To whom it may concern.

I would like to express my objection to the variance for the purpose of extending Ellenburg Road, making way for a new subdivision. I have lived in the area for 10 years, and have come to appreciate the effort made to protect our lake and the natural habitats of native wildlife as well as vegetation. Property owners are expected to respect the county restrictions for disturbing vegetation in the 50' buffer. I do not believe that this restriction should be lifted to increase developer profits. Please say "NO" to this variance.

Lena Fox

Vivian Kompier

From: Michael Grant <mgrant0491@gmail.com>
Sent: Sunday, November 28, 2021 4:09 PM
To: Planning Info
Subject: Fwd: Variance on Ellenburg Rd

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>
>
>
> To:BZA Board
>
> I am a resident on Ellenburg Road and I strongly oppose Variance Request VA 21-011. This road is already winding and narrow. There are many people in Harbor Oaks and surrounding neighborhoods walking their dogs and walking for exercise. With no shoulder to get off the road, it is very dangerous. Adding 19 more homes will only increase the danger.
>
> Approving this variance will have a detrimental impact on John's Marine Service, which has been here for nearly 40 years. This shop was here when the developer purchased the property and he was aware of the narrow entrance into this parcel. Now he wants to come in and develop this small parcel without the appropriate entrance required by Oconee County Roads and Bridges. They are not asking for just a few feet. The 18' variance is a substantial portion of the required 50'. Approving such a large variance sets the precedent moving forward. Why even have the requirement, if such a large portion can be deviated? This was put in place for safety reasons and emergency access. Safety should be the top priority for the county. I urge the council members to vote NO to this variance!
>
> Thank you, Michael Grant

Vivian Kompier

From:	Bruce Hadley <bruce@hvacprecision.com>
Sent:	Monday, November 29, 2021 7:55 AM
To:	Planning Info
Subject:	Variance #VA21-011

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I am not for allowing a variance for the above listed property. please
call me if you have further questions 301-252-1452
Bruce Hadley
167 Northshores drive
Seneca sc 29672

--
This email has been checked for viruses by AVG.
https://www.avg.com

Vivian Kompier

From: James Coley
Sent: Monday, November 29, 2021 9:27 AM
To: 'Catherine Halvorsen'
Subject: RE: John's Marine

Ms. Halvorsen,

Thank you for your email. Your statement will be added to the backup material which will be given to the board.

Best regards,

James Coley
Director
Oconee County Planning and Zoning
415 S. Pine Street
Walhalla, SC 29691
Phone: (864) 638.4218

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If you are not the intended recipient, you may not read, use, copy, or distribute this e-mail message or its attachments. If you believe you have received this e-mail message in error, please contact the sender by reply e-mail or telephone immediately and destroy all copies of the original message.

From: Catherine Halvorsen [mailto:halmom@aol.com]
Sent: Saturday, November 27, 2021 10:18 AM
To: Planning Info
Cc: carlhalvorsen@gmail.com
Subject: John's Marine

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

My husband and I received a letter from Jimmy at John's Marine about the variance request to be voted on at your November 30th meeting. John's Marine has been our go to boat service company for the many years we have lived in Keowee Key. Jimmy provides a valuable service to our community and the surrounding subdivisions. If passage of this variance impacts his business negatively I would expect your board to vote NO. It would be wrong to give this developer the relief he is looking for when it becomes detrimental to a business that has operated in our county for three generations.

Catherine Halvorsen
5 Crest Drive
Salem, SC

Vivian Kompier

From: Don Herriott <herriottdon@gmail.com>
Sent: Friday, November 26, 2021 10:51 AM
To: James Coley
Cc: Doug Cooper
Subject: Ellenburg road varience

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

The President of our Harbor Oaks HomeOwners association wrote to you about the safety concerns for the new development at the end of Ellenburg road. These issues certainly need to be addressed prior to granting any variance. In particular the ``Let them eat cake ``type of quote from the developer "those roads are built for cars, if people don't want to get hurt they need to stay off them". In the worst case if any limited variance is granted rather than discouraging a healthy activity such as walking the developer should provide a seperate walking path along Ellenburg.

--
Best Regards,

Don and Barbara Herriott
143 Rollingwood Drive

Vivian Kompier

From:	Banks Hudson <wbhudson136@gmail.com>
Sent:	Sunday, November 28, 2021 9:57 AM
To:	Planning Info
Subject:	Variance Request Ellenburg Road

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Oconee County Board of Zoning Appeals
415 South Pine Street
Walhalla, SC

Members of the Board:

We write to express our concern regarding the variance request you will hear this coming Tuesday, November 30. We wish to express our objection to granting the variance. It would appear, as we read the request, that the subdivision developer wishes to enhance the access to the property being developed to the detriment of an adjacent property and business, John's Marine Service, which stands to lose the majority of its business if the variance is allowed because it would eliminate water access to the business. As long time customers of the business, we very much understand the problem.

As we understand it, the developer has owned the undeveloped property for more than ten years, and purchased it with full knowledge of the width of the right of way and how that would impact any future development. Rather than try to destroy an adjacent business, perhaps the developer should have considered the issue before purchasing.

We ask the Board to deny the request.

Sincerely,

Sidney and Banks Hudson
17 Marina Village Way
Salem, SC

Sent from my iPad

Vivian Kompier

From:	Michael Huskey <mrvlle@yahoo.com>
Sent:	Saturday, November 27, 2021 8:25 AM
To:	James Coley
Cc:	cooperd5908@gmail.com; Lucretia Morgan Morgan; Pamela Colden; cindy.smoak@gmail.com; dherriot@aol.com; Jimmy Ratliff; Rita Huskey
Subject:	Variance Request for Ellenburg Rd #VA 21-011

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Dear Sir

My name is Mike Huskey and I am a resident of Harbor Oaks community off of Ellenburg Road. I am writing you this letter to strongly oppose the proposed variance.

I am currently the VP of Operations and Supply Chain for Fiberon, a subsidiary of Fortune Brand Holdings. Our company is in the building and construction products business with a complete devotion to safety. This means that we take the safety of our products and our associates who make them very seriously. I am responsible for the Environmental - Health & Safety for the Fiberon division (EH&S) which includes 700 + people.

When I look at the proposed variance through my EH&S lens I see what we term a "SIF". This indicates a situation where there is Strong possibility for Serious Incident or Fatality. The current condition of Ellenburg (curves), limited sight distance, the speed at which contractors and others navigate the road is already dangerous. Our residents use the road for walking and exercising our Pets.

The proposed 19 home project will exacerbate an already congested condition. I work with Fire Marshalls and Rescue personnel on all of our (Fiberon) projects and I cannot believe that any one of them would approve this request.

I respectfully request that the county look at this from the safety of the current residents, the safety of John's Marine business that will certainly be impacted, and the certain creation of a Serious Incident or Fatality condition.

Regards,

Mike Huskey

Vivian Kompier

From:	Jan Ratliffe <janratliffe@gmail.com>
Sent:	Friday, November 26, 2021 6:20 PM
To:	Planning Info
Subject:	599 Ellenburg Rd variance

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To whom it may concern:
I live at 599 Ellenburg Rd, Seneca, SC. This has been my home since 1981 and our business, John's Marine Service, since 1982. The developer bought the adjoining property many years after John's Marine had been established, making numerous attempts to purchase our property. He knew when he initially purchased the property that there was not sufficient footage to build a development entrance. Even after my husband, John Ratliff, was diagnosed with Alzheimer's, the developer still approached him with minimal offers that could not begin to rebuild John's Marine Service.

Safety is the biggest concern with the lack of a 50 foot entrance to a 19 home subdivision. With the narrow width of the existing road and the bottleneck that will occur in front of our shop, traffic will not safely flow. Fire trucks cannot access the development with less than 50 feet, along with other emergency vehicles that will have to maneuver around UPS, FedEx, tractor trailers and vehicles towing boats. This can mean a difference between life and death.

John's Marine is a 3rd generation family business that solely supports me, my son and grandson. If this variance passes we will never be able to relocate on the water, have a ramp or docks by Duke Power's current stipulations. This is why I'm opposing this variance and ask that you do the same.

Sincerely,
Jan Ratliff

Vivian Kompier

From: James Coley
Sent: Monday, November 29, 2021 9:14 AM
To: 'Jerre Wippermann'
Subject: RE: Variance request application

Mr. Wippermann,

Thank you for your email. Your statement will be added to the backup material which will be given to the board.

Best regards,

James Coley
Director
Oconee County Planning and Zoning
415 S. Pine Street
Walhalla, SC 29691
Phone: (864) 638.4218

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-----Original Message-----
From: Jerre Wippermann [mailto:hapifeet53@aol.com]
Sent: Friday, November 26, 2021 12:28 PM
To: Planning Info <planninginfo@oconeesc.com>
Subject: Variance request application

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Please let it be known I am against #VA21-011.

Thank you
Jerre Wippermann

Sent from my iPad

Vivian Kompier

From:	Kenyon Luce <kenyonluce@gmail.com>
Sent:	Saturday, November 27, 2021 10:37 AM
To:	Planning Info
Cc:	Kenyon J. Luce
Subject:	Variance Request Application #VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

We are in opposition to Variance Request Application #VA 21-011 as it will severely impact the business of John's Marina located at 599 Ellenburg Road. This is a third generation business that has been at this address for over 35 years, and is of immense benefit to Lake Keowee boat owners like us.

We ask that you deny this variance request.

Regards,

Kenyon J. Luce Donna W. Luce

416 Long Reach Drive
Salem, SC 29676

Vivian Kompier

From: george nassor <geonassor@gmail.com>
Sent: Sunday, November 28, 2021 8:33 PM
To: Planning Info
Subject: Variance requests: VA21-010 and VA21-011

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To whom it may concern,

This letter is to request that you do not grant the above variances which are on your docket on November 30 in Walhalla.
Being an adjoining property owner the increased construction and traffic will be a problem for the local property owners. More importantly the proposed building would irrepairably damage the business of Johns Marine Service, a respected local business that has been here for 35 years and 2 generations.
There just isn't enough room for the proposed construction and current rules would prohibit it. I don't see how changing the rules is good for anyone but the property owner trying to make money on the construction. Johns Marine is a valued neighbor an it would be terrible to ruin this families business so someone else can cram more houses into the neighborhood than is practical.

Thank you,
George Nassor
114 Pointe Harbor Dr
Seneca, SC

Sent from Mail for Windows

Vivian Kompier

From: Alicia Palmere <apalmere@comcast.net>
Sent: Friday, November 26, 2021 12:53 PM
To: James Coley
Subject: Support for John's

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Hello,

As a fellow neighbor, we support your efforts to not allow the development near your land. Best of luck!

Sincerely,
Alicia Palmere

Sent from Mail for Windows

Vivian Kompier

From: MARK-LAURA SANSBURY <sanslark@aol.com>
Sent: Sunday, November 28, 2021 5:15 PM
To: Planning Info
Subject: Variance request. 11/30 meeting

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In reference to the request for variance VA 21-010, we would respectfully request that this variance NOT be approved /granted at the Ellenburg Rd location.

We are in the neighboring development (Pointe Harbor) and are well aware of the restrictions this area entails. This road is very narrow and a dead-end road. There are safety issues to consider: pedestrian walkers, added heavy construction equipment, and bottleneck issues near the marina, and simply tremendous volume added to a narrow business road.

Also this variation and resulting subdivision would negatively affect a long standing and valuable business to the lake community, John's Marine Service.

Lastly, allowing this deviation variance would be setting a dangerous precedent to upcoming similar proposals.

We would respectfully request that you oppose this variance!

Respectfully submitted,

Mark and Laura Sansbury
Pointe Harbor East

Sent from my iPad

Vivian Kompier

From: Sarah Cawthon <scawthon50@gmail.com>
Sent: Thursday, November 25, 2021 6:17 PM
To: Planning Info
Subject: Variance Request #VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

My name is Sarah Cawthon and I am opposed to the variance because it will pose a safety hazard to all of the people who walk and ride bikes in the area. With the traffic of 19 homes through a bottle neck area and being only feet john's marine service it will create a hazard to pedestrians and their customers.

Also having 19 septic tanks on a small parcel of land, which is almost an island, poses a significant environmental risk.

Vivian Kompier

From: James Coley
Sent: Monday, November 29, 2021 9:44 AM
To: 'Joe Sears'
Subject: *RE: Variance request #VA 21-011

Mr. Sears,

Thank you for your email. Your statement will be added to the backup material which will be given to the board.

Best regards,

James Coley
Director
Oconee County Planning and Zoning
415 S. Pine Street
Walhalla, SC 29691
Phone: (864) 638.4218

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From: Joe Sears [mailto:jmsears41@gmail.com]
Sent: Sunday, November 28, 2021 8:30 PM
To: johnsmarinesc@gmai.com; Planning Info
Subject: Variance request #VA 21-011

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I am expressing my opposition to the variance request above as I believe it will create a negative situation for the marine business which has operated there for 35 years as well as the proposed 19 home development. The location is already congested as is. It appears that the developer has already backfilled an area covered in large crushed stone at the requested area.
I am familiar with the location and I think the requested variance will create an undesirable atmosphere for the marine business and homeowners.
Joe Sears

Vivian Kompier

From: James Coley
Sent: Monday, November 29, 2021 9:18 AM
To: 'Greg Skene'
Subject: _RE: Variance Request #VA 21-011

Mr.Skene,

Thank you for your email. Your statement will be added to the backup material which will be given to the board.

Best regards,

James Coley
Director
Oconee County Planning and Zoning
415 S. Pine Street
Walhalla, SC 29691
Phone: (864) 638.4218

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From: Greg Skene [mailto:gskene9946@aol.com]
Sent: Friday, November 26, 2021 4:11 PM
To: Planning Info
Subject: Variance Request #VA 21-011

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For 15 years Johns Marine Service has serviced my boat that I get to via water. I do not have a trailer thus having it serviced directly off the lake at Johns Marine is critical to me.

We are against granting the Variance per request VA 21-011

Regards

Greg Skene
205 Windlake Drive
Seneca, SC 29672

Cell 770 316 6000

Vivian Kompier

From: Tom Wippermann <twipp730@aol.com>
Sent: Friday, November 26, 2021 12:23 PM
To: Planning Info
Subject: Variance request application

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I wish to go on record as being against #VA21-011.

Tom Wippermann

Vivian Kompier

From:	Roswitha Yenawine <roswithaf@live.com>
Sent:	Sunday, November 28, 2021 6:06 PM
To:	Planning Info
Subject:	Variance Request #VA21-011

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Zoning Board Members,
please allow me to voice my objection to the variance request. Many of the current residents , in Keowee Key and other neighborhoods, need the access to repair services by water.
Not any less objectionable is the fact that an established business and family is to be up-rooted against their will.
As all people, that buy lake property, are expected to check with Duke if the lot is dockable. Maybe Joe Meaders should have contacted Duke if he could gain access by building a dyke to the property.
Sincerely,
Roswitha Yenawine

Vivian Kompier

From: Ross Dalton <rosswdalton@hotmail.com>
Sent: Monday, November 29, 2021 12:44 PM
To: Planning Info
Subject: Objection comment to Variance Request app #VA 21-011

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I am in opposition of the above referenced variance application. I believe it would have an immediate and detrimental impact to a local family-owned business we have patronized for over 16 years. This unique business is set up for its unique clientele and should be allowed to continue to operate as they have for many decades. This variance could create a situation where they would go out of business. There are no options to relocate the business in its current state to give its customers the current level of service and access. Please consider denying this variance application.

Thank you.

Ross Dalton
25 Skipper Lane
Salem, SC 29676

Vivian Kompier

From: dan fasolino <dan_fasolino@yahoo.com>
Sent: Monday, November 29, 2021 1:47 PM
To: Planning Info
Subject: VA 21-011 Ridgewater Engineering

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Hello,

With regards to Mr. Meader's request, I wonder why there is a request for variance from the 50' right of way and not a request for any leniency to perform the necessary steps to meet the 50' right of way? Particularly when the needed improvements could be added and performed during the construction of the new road. This appears merely an attempt to avoid cost and not the efforts of a good neighbor.

I share Mr. Ratliff's concerns about the impact on John's Marine in the absence of suitable passage.

It would also be concerning to favor one business venture over another where one gains a single financial windfall at the continued peril of another.

Thank you for your time,
Dan Fasolino
201 Pinecroft Ct.
(864) 888-7157

Vivian Kompier

From: Alan Fayard <alanfayard@gmail.com>
Sent: Monday, November 29, 2021 3:06 PM
To: Planning Info
Subject: #VA 21-010

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Board of Zoning Appeals,

I request you work with the developer requesting this variance so as not to have any negative impact on John's Marine Service. As a boat owner I take my boat via water for service at John's Marine Service. I do not own a trailer so I do not have the ability to take my boat out of the water and take it someplace for service.

While I can understand that a housing development could be good for our county I also believe limiting on water boat services can negatively impact our county and peoples desire to buy houses on Lake Keowee. Additionally I have been told the developer purchased this land knowing there was an issue in getting road access, which should have been addressed prior to purchase. I request that you deny this variance request.

Sincerely,
Alan E Fayard
513 High Hammock Drive
Seneca, SC 29672
7703299874

Vivian Kompier

From:	clement germanier <germanic@bellsouth.net>
Sent:	Monday, November 29, 2021 3:57 PM
To:	Planning Info
Subject:	Variance John's Marine service

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Board of Zoning Appeals,

"What part of English does this developer not understand. John's Marine Service has been there for three generations. It is located so that customers have lake access with no safety concerns. If the developer wants use of the property he has access to, let him build a hotel / eating place up the road. The customers could use the lake for enjoyment away from the established business, Johns Marine. We against this variance.

Sincerely,

Clement and Patricia Germanier
Long time residents of Oconee County

Vivian Kompier

From:	jdrichardson@mindspring.com
Sent:	Monday, November 29, 2021 3:20 PM
To:	James Coley; James Coley
Cc:	coldrenpjc@gmail.com; cooperd5908@gmail.com
Subject:	Variance request for Ellenburg Rd #VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

We are homeowners in Harbor Oaks Subdivision and members of the Harbor Oaks Home Owners Association. We strongly oppose the granting of the variance at this time, unless the county can provide detailed plans on how they are going to assure the safety of home owners traveling on Ellenburg Rd. Adding an additional 19 lots and homes on a road that was never designed for that level of traffic will only increase the unsafe conditions on Ellenburg Rd especially during development of the land and the new community. We have experienced several unsafe conditions on Ellenburg Rd during recent property development along the road. Granting the variance to develop the land will only increase the number of unsafe conditions particularly with heavy construction vehicles. Also, adding 19 lots will increase the traffic on Ellenburg Rd significantly after full development especially if any of the properties are rentals.

We appreciate your desire to add more tax revenue to Oconee County, but we would ask that the safety of both current and future residents be considered and deny this variance request.

Sincerely,

John & Suzanne Richardson
311 Greentree Ct.
Seneca, SC 29672
jdrichardson@mindspring.com

Vivian Kompier

From: Aubrey Miller <aubs78@gmail.com>
Sent: Monday, November 29, 2021 4:13 PM
To: Planning Info
Subject: Subject VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Please accept this written statement as for the public hearing sections regarding the variance request for VA-21-011.

In Oconee County, one of our most significant resources is our Lakes and waterways. The county slogan reflects this philosophy by declaring us the land beside the water. Unfortunately, we have, on many occasions, not been the best stewards of this slogan. My family has been a member of this community for decades. I have watched the lake be overrun with development, much of which only benefits a select few. The water edge is being filled in with silt, and aquatic grasses are taking over. One day we will look back and wish we would have placed better land controls over our most prized resource.

When administering any land development regulations, the most challenging part of a board's responsibility is picking a winner and a loser because there is rarely a clear-cut solution where both sides can win. In this case, we have a parcel of land on a point, a valuable point if subdivided. We also have an ordinance that requires a 50-foot right-of-way to be dedicated to access this property. The applicant is asking that you allow them to dedicate less right-of-way so they can subdivide more property. Under the current ordinance, if they only subdivided three lots, they could access the areas with just a driveway. Instead, they would like to have 19 lots, including six lots that are flag lots, and any other zoning in the county would be illegal. The current map in the agenda shows a much larger right-of-way than the 31.9 feet show and creates many questions about what is happening. So much so that our planning staff has even asked for updated plans questioning the right-of-way width because they had the same questions about the plans that I did. The developer or the engineer has yet to provide these. Instead, they are going to ask that you grant them a variance without a clear idea of what is taking place if it is not essential to them to produce correct plans, how important it should be for the community to accept a variance request.

The zoning ordinance has some clear regulations that are required to be met to grant a variance. I have reviewed these questions and provided some of my comments on them below. I will point out that the applicant must prove they need an exception from these and the Board must find in favor of all four to grant the exception. Failure of one question should mean the variance is denied.

1: There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The agenda provided does not show any proof from the developer or staff as to what extraordinary and exceptional condition applies to this property. Did the developer negotiate with the neighboring property owner for 18.1 more feet and was denied. Did the 19 lots exist before the adoption of the ordinance, making it non-conforming? The requirements are placed on the property owner to show why this should be answered in the affirmative. Just reviewing the plans, one can conclude that the property owners want to have more lots than three allowed, and this variance is expected.

2. The conditions do not generally apply to other properties in the area.

It would seem that every other subdivision of greater than three parcels in the area has complied with this requirement. Unless we are going to amend the provisions of 50 feet, making it smaller, I believe the Board must vote against approving this question.

3. Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The Owner could still subdivide the property into three parcels or sell the whole existing parcel. By denying this, we are not creating unreasonable property restrictions or taking the property. In other words, the property can still be used reasonably. An owner does not have any assurances that they can be allowed a more advantageous use when the property does not meet the ordinances. The Board of Zoning appeals should not find in the affirmative on this question since the property still has value and use without a public right-of-way.

4. The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.

> a. The Board of zoning appeals may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

Question 4(A) speaks for itself. The granting of a variance would allow for a 19 unit subdivision that would otherwise not be allowed. The last sentence address one of the prime arguments of most developers. Just because 19 lots may be more profitable does not mean it is better for the community. The Board should find against this question.

In addition to all these statements, the agenda package of the zoning appeals leaves much to be desired. The lack of information leaves much up to assumption. The county staff should provide more details, a staff report of their findings, the specific ordinances the applicant is seeking a variance from, and the applicant's application. How can a citizen, much less a board member, be expected to make an informed decision if the information of the decision cannot be obtained easily.

Regards,

Aubrey Miller

197 Knox Landing Drive

Seneca, SC 29672

Vivian Kompier

From: Lucretia Morgan <lbm1969@gmail.com>
Sent: Monday, November 29, 2021 12:04 PM
To: Planning Info
Subject: VA21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Dear Board of Zoning members,

I am an adjacent property owner on Ellenburg Road and I OPPOSE the variance requested by the developer for his subdivision.

Aside from my reason for the negative impact of MORE traffic on Ellenburg Road and the safety concerns which I'm sure you're aware of, this variance will pose a hardship on John's Marine Service.

Allowing this variance will grant over 36% of the required 50' for new roads. We're not talking about 5 or 6 feet, but over 18'. The developer that purchased the property back in 2008 must have done his due diligence and known what he was buying. After all, he developed numerous subdivisions on this lake, including Harbor Oaks just up the road.

If this variance is granted, it will be the first step in squeezing John's Marine out of the area. I live on an unrestricted lot near this business and knew it would be loud and have a lot of boating traffic coming in and out of the cove. An upscale subdivision will not be so "forgiving" when having to wait on him to back boats into his shop or when a customer brings a trailered boat in and has trouble parking. They also won't like looking at a shop with boats parked near the entrance to their nice subdivision.

The price paid for the property in 2008 is reflected for what is nearly an island and how many homes this limited access will allow. Also, in order to build the proposed 19 homes, the covenants were changed in 2016 to decrease the overall square footage for multi-stories, otherwise 19 homes would not "fit" with all of the setbacks including the 804 boundary.

Finally, in looking at the plat done by the developer's surveyor, the 804' DUKE/FERC boundary is within all of the area not meeting the 50' minimum width. Can the county rule on property that is within this boundary?

I urge the council to vote NO on this variance. All of the surrounding property is not only residential as stated in the applicant's variance application. It WILL certainly have a detrimental impact on John's Marine, the most direct adjacent property.

Thank you,
Lucretia Morgan
Ellenburg Road
Seneca, SC 29672

Vivian Kompier

From: Yahoo! <mwmurray@bellsouth.net>
Sent: Monday, November 29, 2021 11:06 AM
To: Planning Info
Subject: Subdivision variance

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Please do not grant the request to have a deviation in the width of the road where John's Marine is located. John's Marine has been in that location for over 35 years, to grant that variance would put them out of business. We have been residents here for 24 years and have always used John's to service our boat. We do not have a trailer and being able to use water access means a great deal to us and many others. Practice what you preach. Support our local business and do not take away their livelihood Walter and Marilyn Murray. 4 Anchorage lane. Salem

Vivian Kompier

From: Michael Phillips <michaelphillips@charter.net>
Sent: Monday, November 29, 2021 4:01 PM
To: James Coley
Subject: Opposition to request

Importance: High

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I'm emailing in support of John's Boat Repair and in opposition to the neighborhood proposed at the end of Ellenburg Road. When is enough, enough? That road cannot support the traffic of a new subdivision, plus with the existing boat traffic problems in that area and infrastructure issues, why do we need another subdivision anyway? And, I understand its mainly big money looking to sell lots to investors of short term rentals. When will this stop? Please do not approve of the variance requested by these developers which put's John's Boat Repair business in jeopardy and furthers the developers greed to exploit this beautiful lake and what's left of the peacefulness in and around High Falls Park.

Michael and Suzanne Phillips – LOT 11 The Peninsula on Lake Keowee

Vivian Kompier

From: Harry Shucker-Retired <Harry.Shucker@furman.edu>
Sent: Monday, November 29, 2021 11:58 AM
To: Planning Info
Subject: Variance Request application #21011

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To whom it may concern,

I want to voice my concerns as to the requested variance to the deviation from the 50ft width per road to a 31.9 ft. road width which will interfere with the customer base of John's Marine. John's Marine has had the same location for over 35 years and we have often taken our boat over there for service.

To put an additional 15 to 19 homes using the road in front of John's Marine will make the ability to trailer our boat and many others to use very little space for parking as well as for turning the boat into the shop or into the water. Traffic on the road will be disrupted and cause disruption of flow or serious accidents.

We live in Oconee County and are familiar with that area both from the land as well as from the lake. The point is probably suitable for 3 or 4 homes but 15 to 19 homes are simply destroying nature to make more money by the developer. Since the Lake is already overdeveloped, I think it is way past time to consider lake and land preservation so that a beautiful area does not continue to be desecrated for profit without regard for businesses that have been there for 35 years.

I think it is time to take a stand about what is an appropriate use of land along the lakeshore and how others are being affected by overdevelopment. We have lived on the lake for 23 years and have watched development after development destroy the natural beauty of the area for the sake of profits.

Thank you for your consideration of denying this requested variance.

Sincerely,

Dr. Harry B. Shucker

This individual is retired from Furman University. The content of this email does not necessarily represent the views of the University.

Vivian Kompier

From: Stoker <stokerjn@sbcglobal.net>
Sent: Monday, November 29, 2021 4:31 PM
To: Planning Info
Subject: OC Board of Zoning Appeals meeting 11/30/21, Variance request application #21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To the Zoning Appeals Board,

I am writing to express my opposition to variance application #21-011.

John's Marine Service is a valuable asset to everyone who boats on Lake Keowee. It is one of the few businesses on the Lake to which a customer can take his or her boat for service by water. Its existence at its present location is a great convenience to boaters in a way that land-locked repair facilities cannot duplicate. It is also important to have a place where boat rescue services, or Good Samaritans can tow a disabled boat for quick repairs, which is not possible otherwise.

The proposed development would include 19 houses to be used as homes and rental vacation houses. The increased traffic for the period of construction of the road and buildings due to construction equipment, and the ongoing traffic of 19 vacation houses would certainly have a negative impact on John's Marine Service. This could be minimized with a proper road moved further to the south, but the variance being requested would allow the developer to get away with creating and leaving a hazardous and difficult situation.

John's Marine Service has been at its present location for over 35 years. It has been owned and operated by the same family all of that time. It predates any plans to develop the virtual island beyond it. It is located at the dead-end of Ellenburg Road, beyond which is a low isthmus. The elevation of the isthmus is below the 804 line

I have been a happy customer of John's Marine Service for over eleven years. I am opposed to this application for a variance which I believe would be detrimental its continued existence.

Thank you all for your service to Oconee County,

Sincerely,

Joseph N. Stoker

401 S. Lynhurst Ct.
Seneca, SC 29672

Vivian Kompier

From: Stoudenmire, B. Joel <JStoudenmire@nexsenpruet.com>
Sent: Monday, November 29, 2021 1:00 PM
To: Planning Info
Subject: Opposition to #VA 21-011

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I am an Oconee County resident and I am strongly opposed to #VA 21-011 variance requested seeking a variance to the 50 foot right of way. How can you adversely impact and destroy the business that has been operating there for over 35 years? The property owner seeking the variance bought his property knowing exactly what the rules and conditions were. The traffic volume on this small amount of property will be overwhelming. There is too much development on the lake now and what was once a beautiful, peaceful lake will be ruined. Please do the right thing and vote no.

B. Joel Stoudenmire
Nexsen Pruet, LLC
104 South Main Street, Suite 900
Post Office Drawer 10648 (29603)
Greenville, SC 29601
T: 864.282.1127, F: 864.477.2621
JStoudenmire@nexsenpruet.com
www.nexsenpruet.com

www.nexsenpruet.com
NEXSEN PRUET

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Vivian Kompier

From: THOMAS WAY <tcway@sbcglobal.net>
Sent: Monday, November 29, 2021 12:42 PM
To: Planning Info
Subject: Planning meeting on 11/30,2021 re: VA21-011

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Members of the Board of Zoning Appeals,

I'm writing as a long time and present resident of Oconee County and requesting that you deny the deviation request VA21-011 requesting a deviation of road width from 50' to 31.9' and prescriptive right-of-way. If granted this variance will prohibit me from using the marine services of John's Marine Service located at 599 Ellenburg Rd in Seneca. I have used this service for years for all of my boat servicing needs and it is my view that the variance would severely limit my ability to access John's Marine as I can only do so by water and Jimmy needs to use his ramp to pull my boat out of the water for it's servicing needs. I see no reason that the current road width will restrict access to the developers property, but rather the developer might be more interested in putting John's marine out of business such that it does not affect the appeal of prospective home buyers for homes in his parcel. John's Marine Service has been at this location for more than 35 years and the developer was aware of this when he bought the property. Also, the proposed development will certainly add much more traffic on this road and as such it seems that narrowing the road width will limit John's Marine access to conduct business and only exacerbate a probable traffic issue.

Please deny this Variance Request.

Respectfully,

Thomas Way
357 Stardust Ln
Seneca, SC 29672

tcway@sbcglobal.net
864-359-7002

Vivian Kompier

From: Alison Saavedra <alison.m.saavedra@gmail.com>
Sent: Tuesday, November 30, 2021 4:26 PM
To: Planning Info
Subject: John's Marine Service

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Dear Oconee County,

John's Marine Service has been my go to for boat work for years. One of the best things about this company is that they are excellent at what they do technically and with their customer service. The reason they can do this is because of their location - right on the water. They can serve customers who normally leave their boats in the water year round.

As Mr. Ratliff has said in his letter to you and at the hearing this evening, the matter of relocation is not feasible and will get rid of a third generation family owned business that grew up right in Oconee County. I respectively ask that you take this info into consideration when reviewing the parcel of land for development.

Thank you,
Alison Saavedra

Vivian Kompier

From: beth schonert <bschonert@hotmail.com>
Sent: Tuesday, November 30, 2021 9:43 AM
To: Planning Info
Subject: Variance Request #VA 21-011

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To Whom It May Concern:

I am writing to state my vehement opposition to this requested variance. It will severely impede John's Marine Service, a long-standing local business, and their ability to continue serving the community in the best way they can. Jimmy Ratliff's availability to service the boats we have on the lake, both in the water in an emergency manner, and by trailering to his business, are vital to the lake community we call home. I personally have relied on, and always been impressed with, the service he provides in such a timely manner. Without boating on the lake, there isn't nearly as much of a draw, and without the most important boat repair services Jimmy provides, we wouldn't be able to enjoy the lake in nearly the same way. We all know, boats break, a lot! We see, so often, that these decisions side with the new reqeusts regardless of the effect on the existing community, but **I strongly urge you to do what is right, and side with the existing local community, and long-standing local business, John's Marine**, in this instance! It is to the greatest advantage of the area that his dependable service remains unimpeded and available to all of those who live on the lake.

Again, please vote against Variance #VA 21-011, and do what's best for the current residents of Lake Keowee!!

Beth Schonert
Jake Schonert
Camery Schonert
Hayden Schonert
Residents of Beacon Shores, Seneca, SC

Vivian Kompier

From: Terri <mitmfood2014@gmail.com>
Sent: Monday, November 29, 2021 5:03 PM
To: johnsmarinesc@gmail.com
Cc: Planning Info
Subject: variance

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Dear Mr. Ratliff,

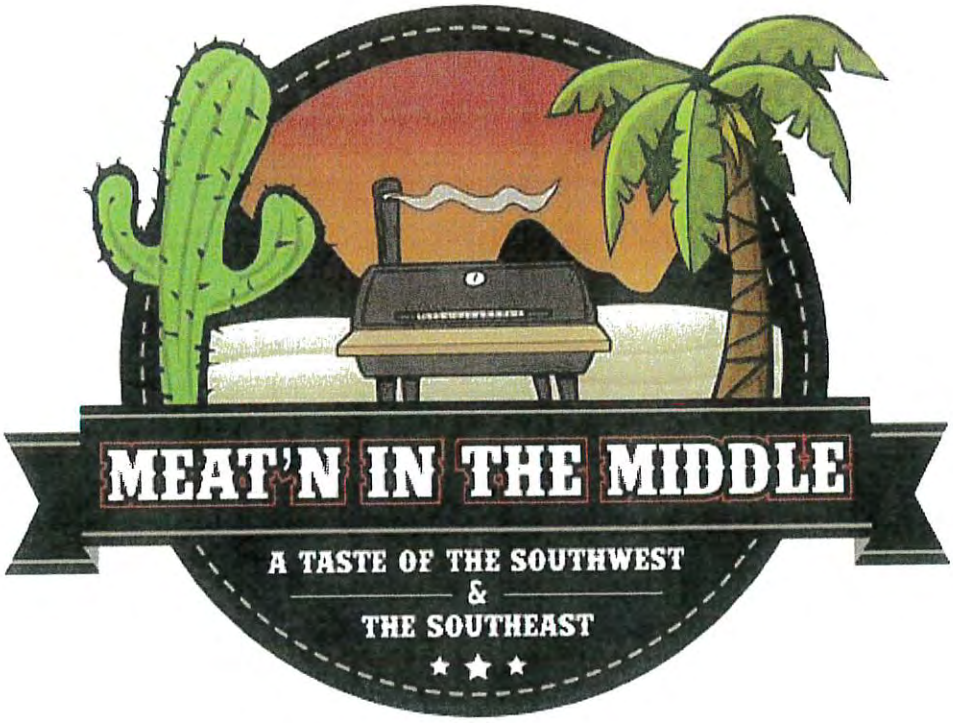
We have read your letter regarding the upcoming variance request that would negatively impact your business. My husband I have been to your property and understand how this would affect your business and the traffic.
We are for responsible progress in the county. This proposed variance is not responsible and it is rather selfish that your business should either suffer or have to close down. It seems like people put their opportunity for profits above caring about somebody else's livelihood. We will be there to support you at the meeting as well.

Carl and Theresa Meyerring
175 Tabor Ramp Rd.
Westminster, SC 29693

God Bless America

Terri Meyerring
Meat'n in the Middle
864-723-1185

Contact us for your catering needs


MEAT'N IN THE MIDDLE
A TASTE OF THE SOUTHWEST
&
THE SOUTHEAST

RECEIVED
May 26 2023
SC Court of Appeals

Vivian Kompier

From: Cathy Nance <cmnance4@gmail.com>
Sent: Tuesday, November 30, 2021 12:55 PM
To: Planning Info
Subject: Variance request application #VA21-011

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Board of Zoning appeals,

As a customer of John's Marine Service and a resident of Oconee County, we oppose the subject variance request. We are very concerned that John's Marine ability to service our boat and those of hundreds of other customers will be adversely impacted by the proposed variance. We strongly urge that you vote against this variance and prevent the negative impact on a long established family business.

Sincerely,
Catherine M Nance
39 Quartermaster Dr.
Salem, SC 29676
864-918-4463

Vivian Kompier

From: Chad Knott <chad@yonahhomecompany.com>
Sent: Monday, November 29, 2021 6:58 PM
To: James Coley
Subject: Ellenburg Variance Request VA 21-011

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To Whom It May Concern:

My wife and I own a home at 555 Ellenburg Road, Seneca, SC 29672. We are members of and are part of the Harbor Oaks Subdivision. We are opposed to the variance for the following reasons, and believe that Oconee County is required to take the following matters into consideration:

First, pursuant to Chapter 38-212 of the Oconee County Code of Ordinance, "A Variance is a waiver of the dimensional terms of the zoning chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship; and does not involve a change in the use of the property." Please note that the purchaser and current owner of the property, Farmes, a limited partnership, and Globe, a limited partnership, consists of John Hamrick and Frances Hamrick, as general partners. As you may or may not be aware, Mr. John Hamrick has regularly been involved in the real estate industry over the last 30 years, and has been active in the development and marketing of property for Crescent resources, including my subdivision, Harbor Oaks. Mr. Hamrick is well aware of the subdivision regulations which have been in effect prior to his acquisition of this property. These subdivision regulations require a 50' right of way. The subdivision regulations were established and approved to provide for the safety of the public and to provide a means of maintaining that safety if site line of distance and other factors necessitated more control, and to provide a mechanism for traffic to leave the road bed, where necessary, to deviate from collision due to mistake or error by oncoming traffic by having sufficient right of way for doing so. The variance request is a 36.2% percent reduction in the right of way, and remarkably, the variance of 18.1 feet represents nearly 56.7% of the final right of way. Oconee county's considering and granting such a right of way is absurd and is against the pubic interest for the following reasons:

1) Denying the variance does not impede the property owner's right to use the property. The owner of the property can acquire a building permit to build a home on the property without the need to obtain a variance. For that matter, they can construct up to three homes without a variance. The variance is needed for development and subdivision of the property only. As a result, the financial considerations of the benefit of the variance cannot be a consideration in whether the board should approve or deny the variance. Please see the case of S.C. Rush vs. City of Greenville, 143 S.E.2d 527 (The Supreme Court of South Carolina), which held that "going further and assuming that they will suffer substantially in a financial way, and this is obviously the only hardship that could possibly be expected to result to them, that alone is not sufficient. Although it is an element in the situation which is entitled to fair and careful consideration, mere disadvantage in property value or income, or both, to a single owner of property, resulting from application of zoning restrictions ordinarily does not warrant relaxation in his favor on the ground of practical difficulty or unnecessary hardship." Therefore, the variance should not be granted because the property owner can in fact utilize the property, they can build on it without the variance.....they simply need the variance for development and financial gain. Further, Section 38-7.1 of the Oconee County Code of Ordinances provides that granting a variance should be considered when (subsection (3)) "the application of this chapter to the particular piece of property would

effectively prohibit or unreasonably restrict the utilization of the property". The failure of Oconee county to grant the variance does not prohibit the utilization of the property nor does it restrict the utilization of the property. In addition, Section 38-7.1 (4) b. provides that "The board of zoning appeals may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance." For the above reasons, Oconee county should not grant the variance.

2) The zoning regulations requiring a 50' right of way for a new subdivision were in place prior to their acquisition of the property. The property owner knew, or should have known of the regulations. Mr. John Hamrick was in the real estate business and was very familiar with subdivision regulations for Oconee County. When I purchased my property on Ellenburg road, my realtor told me that John Hamrick was going to build his retirement home on the tract. Many of us, familiar with the subdivision regulations, knew that the property did not have sufficient right of way for subdivision. The current owner purchased the property in 2008 pursuant to the plat recorded in plat book B291, page 1. This plat, last revised November 4, 2008, clearly shows that the property does not have sufficient right of way width for a subdivision pursuant to subdivision regulations which were in place at the time of the purchase. Also in S.C. Rush vs. City of Greenville, 143 S.E.2d 527 (The Supreme Court of South Carolina), the court held that "Where one purchases realty with intention to apply for variance, he cannot contend that restrictions caused him such peculiar hardship that entitles him to special privileges which he seeks". Therefore, the Supreme Court of South Carolina has reached the conclusion and has held that Farmes and Globe cannot purchase the property in 2008 with zoning regulations in effect which require a 50' right of way for subdivision development, and then now seek a variance from said regulations such that subdivision development will occur.

3) The property in which the variance is sought is below the 810' flood elevation line. Please see the drawings included with the variance application. Please also make a site visit. The current property owner purchased the property subject to "flood easements in favor of Duke Energy Carolinas, LLC and riparian rights of others, including, but not limited to, the flood easement to flood to the 810 foot contour line....." . Please see page one of their deed recorded in deed book 1695, pages 87-102. While we cannot predict the future, it is possible that Duke may allow the flooding of Lake Keowee such that the road would be under water. This is clearly a public hazard, and Oconee county faces significant liability for accident and injury associated with the approval of a public road which, by its design, could be underwater. I know of no place in Oconee County where access to a subdivision is approved in an area where the access road is below the 810' flood easement area. The thought of granting such a variance is ludicrous. Again, please make a site visit to see the area first hand.

4) The nature of the location of the variance, and the curvature of the road bed within and adjacent to the variance area will cause accidents between vehicles of oncoming traffic, particularly all of those potential property owners traversing in and out of the variance area with boat trailers. Again, I would encourage you to make a site visit. John's marine is a business which has been in place on Ellenburg road since lake keowee has been built. It is often that trucks, boats, and boat trailers, are regularly parked on the concrete pad and the property adjacent thereto in anticipation of repairs. While these boats and trailers are parked outside the right of way, they are parked within inches of the right of way and create significant line of sight problems for the variance area. As you can see from the diagrams provided by the engineering company, the subdivision access road has to make a deviation to the south and then quickly back north to prevent traffic from driving into Lake Keowee. I am confident that drivers will end up driving off of the road bed and into lake keowee in order to prevent being hit by oncoming traffic. This variance request is not simply reducing a right of way down to ~32 feet and the road is straight, and there is plenty of land adjacent thereto to absorb the mistakes and errors of drivers. This particular location is a combination of multiple traffic concerns and public safety concerns which include line of sight distance issues, curvature of the primary access road.....which is in the variance area, and immediate drop offs into Lake Keowee on both the north and south sides of the variance area.

5) The nature of Oconee county's prescriptive interest in Ellenburg Road will cause confusion, and additional road maintenance and liability for Oconee County. Oconee county's obligations to maintain Ellenburg Road are limited to maintaining Ellenburg road upon which asphalt has been laid, but nothing more. However, Oconee does in fact have an obligation to maintain this area of Ellenburg road regardless of what the developer constructs. The developer intends to construct a new road which is adjacent to, and splinters off from the existing paved surface of Ellenburg Road which Oconee County will continue to have to maintain. Therefore, as a driver is traveling East on Ellenburg Road, especially at night, the driver will be confused as to whether to travel straight...which will be the natural manner in which the driver will be inclined to travel versus deviating south to travel on the new road. As you can see, this will cause and create confusion and traffic accidents. I am not aware of any other location in Oconee county where such a road and traffic anomaly exists. This reason alone is sufficient to deny the variance as it is clearly against the public interest.

6) Granting such a variance will clearly impact and impede the activities at John's marine, an existing business which has been active and provides a required service to the local lake keowee boat owners. This would be contrary to Oconee County code of ordinance 38-7.1 (4) which states that "The authorization of a variance will not be of substantial detriment to adjacent uses". John's marine is regularly pulling into and out of Ellenburg Road backing boats down the boat ramp, pulling boats out of the boat ramp, pulling boats into and out of his shop. Traffic into and out of the proposed subdivision, whether from construction traffic, or property owners, will ultimately, and negatively impact John's marine.

For all the above reasons the variance should be denied, and I stand ready to take this issue to the Supreme court of South Carolina.

I would like the opportunity to speak at the hearing if Oconee County allows the public to speak as such a hearing. I would kindly ask that you let me know if there are any special circumstances required of me in order to speak.

Best Regards,

Chad Knott

Vivian Kompier

From:	Jodie Paul <jkp1675@gmail.com>
Sent:	Tuesday, November 30, 2021 1:55 PM
To:	Planning Info
Cc:	Danny Paul
Subject:	Ellenburg Rd. Variance Opposition

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

We are writing to officially voice our opposition to the variance request for a new road on the end Ellenburg. We live close by and drive down there often so we have first hand knowledge of the set up and the work that has already been done to set up this road even though approval for the variance has not been granted. The proposed narrower road will be a big safety issue. How will fire trucks and construction equipment be able to safely pass through there? Where will the run off water go? Toward the adjoining business? Off the road into the 804? If the runoff causes a washout on the steep side of the road how will emergency vehicles access the neighborhood? The developer only has access to half of the current road. How are they going to safely run utilities under there without undermining the steep 804 side of the road or the side owned by John's Marine? There is a reason the County specified that 50 feet is a minimum for these roads - for safety. The developer knew this going into the project. John's Marine has been there the whole time - the fact that a business is blocking their big plans and there is a county ordinance prohibiting what they want to do are not surprises. The fact that the county will get tax revenue from this project should not be a reason for the safety of the neighborhood to be impacted. For these reasons we oppose the variance.

Dan and Jodie Paul
333 Elderberry Way
Seneca SC 29672

Vivian Kompier

From: DAVID & EVELYN KACZKOWSKI <kaz41@bellsouth.net>
Sent: Tuesday, November 30, 2021 4:44 PM
To: Planning Info
Subject: Ratcliff

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Zoning committee: As a former customer of this fine business, I appreciate the years of service provided to this community and wish to endorse John's Marina in this dispute. Sincerely submitted by: David and Evelyn Kaczkowski 103 Silo Aly Seneca, SC 29672 864-973-8434

Vivian Kompier

From: davidhumphrey@charter.net
Sent: Monday, November 29, 2021 5:52 PM
To: Planning Info
Subject: Opposition to Variance Request

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To all concerned,

In reference to Variance Request Application #VA 21-011, please know that I oppose approval for that variance. A variance requested should not have such a dramatic impact on the surrounding properties, especially that of a 3rd generation business that has no good alternative. You may very well put someone out of business that is well liked and respected in this community, and has been around for a very long time.

Thank you,
David Humphrey
60 Commodore Drive
Salem SC 29676

James Coley

From: Doug Cooper <cooperd5908@gmail.com>
Sent: Tuesday, November 30, 2021 3:26 PM
To: James Coley
Cc: Chad Knott; Lucretia Morgan
Subject: Variance meeting tonight
Attachments: IMG_2966.jpg; ATT00001.txt

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I want to submit this marked up drawing the developer submitted for tonight.
He and others have claimed there are not markings on the drawings to know where the 804 is.
As you can see just by zooming in using any PDF reader you clearly see the topology lines.
Blue is the 810' Flood line
Yellow is the 804'
Red is the 802'

Where everything is currently staked is more in line with the 802' line than the 804'. While the entire project is below the 810' line.

Doug

SKETCH PLAN
LOCATION MAP
RIDGEWATER
Lake Keowee
INSET
Main Adak
Area
TMS # 150-00-01-459
D.B. 1695, PAGE 87
P.B. 8291, PAGE 1
Airmarked Point
CERTIFICATE OF PROJECT APPROVAL
DESIGN PROFESSIONAL CERTIFICATION
OWNERS CERTIFICATION
oconeesc.com
https://oconeesc.com/c
Board of Zoning Appeals
Shop Our Weekly Ad
8:44 AM Sat Nov 13
34%

Vivian Kompier

From:	Ed Zanowicz <zano737@gmail.com>
Sent:	Tuesday, November 30, 2021 1:53 PM
To:	Planning Info
Cc:	johnsmarinesc@gmail.com
Subject:	No to Variance on Ellenburg Road @ John's Marine Service

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Dear Oconee Council,

I strongly object to the proposed variance request on Ellenburg Road adjacent to John's Marine Service. I'm against this for the following reasons. First, and most important, this narrow road will compromise safety between the marina workers and cars entering and leaving the proposed subdivision. Second, the developer knew about the marine business at the time he purchased the property and nothing has changed since he made since closing the deal. Three, not only would it be financially prohibitive from moving the business elsewhere on the lake, it is highly doubtful Duke Energy would even grant a permit to build such a large facility. Many boaters (and me included) on this side of the lake regularly use John's Marine service for our boating needs and would have to drive a great distance to get the same quality service.
Thank you for your consideration on this matter, and hope you do the right thing and refuse this variance request.

Respectfully,
Ed & Terry Zanowicz
Seneca

Vivian Kompier

From: Kim Masiello <kim.masiello1@gmail.com>
Sent: Monday, November 29, 2021 9:34 PM
To: Planning Info
Subject: Requested Variance near John's Marine Service

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To Whom it May Concern

We are long time customer's of John's Marine both via the road and the water. Jimmy's shop is one of the most recommended on the lake. His business would be negatively affected by this proposed variance. He provides a necessary service to many of the residents in the area. Please do not allow this variance to pass.

Sincerely

Gary and Kim Fortier

Vivian Kompier

From: Hjkenney <hjkenney@aol.com>
Sent: Tuesday, November 30, 2021 1:04 PM
To: Planning Info
Subject: Say no to Variance Request #VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Good day Oconee County Board of Zoning,

I had planned on attending tonight's meeting, however am a bit under the weather and have elected to stay home.

I would like to voice my opposition to zoning variance request #VA 21-011.

The board should not be approving a variance from a home builder/developer that is going to negatively impact a business that has been in operation for 35 years. A business that is utilized by countless residents of Oconee County who live on Lake Keowee and access it by water.

Please come up with a better solution.

Thank you.

Howard J. Kenney
704 Cypress Bay Lane

Vivian Kompier

From:	Joseph Fleskoski <jhfleskoski@icloud.com>
Sent:	Monday, November 29, 2021 6:23 PM
To:	Planning Info
Subject:	#5 on agenda 11-30-21

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Dear Board Members

After reviewing the proposal on Variance Request to change a 50' Right of Way for a subdivision entrance for Joe Meaders, I believe this is wrong and an injustice to John's Marine and the boaters needing help and repairs. John's Marine is a unique repair shop and provides quality service for boaters on the lake and those trailering their boats to John's Marine. I am sure the Oconee County Board of Zoning Appeals would not want to hurt a longtime business and tax payer for the county who may need to close their doors because of the variance request. The expense to move a business is going to be outrageous, especially when John's Marine Service is operating just fine. Why turn other people's life apart to support the financials of a builder or even the county.

I am sure you will do what is right. Thank you for hearing me out.

Joe Fleskoski
229 Oak Stone Dr
West Union, SC. 29696
714-402-4066

Sent from my iPhone

James Coley

From:	Joel Phillips <joelphillips@rocketmail.com>
Sent:	Monday, November 29, 2021 11:58 PM
To:	James Coley
Cc:	joelphillips@rocketmail.com; Alan.Stuart@duke-energy.com; Krystal Brock
Subject:	Variance request for Ellenburg Rd #VA 21-011 (In violation of Shoreline Management Guidelines)

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

I am a homeowner within the Harbor Oaks subdivision for 11 years and respectfully request the denial of the above variance.

Regarding the above proposed variance, why would Oconee County/Duke power desire to approve construction of a new road that runs through the 804 boundary line and ultimately would be so proximal to lake water that automotive discharge would flow into the lake. At the very least, wouldn't Duke require an environmental study to determine impacts on water quality and marine life in order to not violate the licensing requirements delineated by FERC. For that matter, why would Duke consider a developer's request(if it does violate shoreline management guidelines), when said developer knew the rules when purchasing the land and the the alternative is preservation of a natural landmass for wildlife habitat, a goal more consistent with FERC licensing directives.

Additionally, John's Marine physical building is close enough to Ellenburg Rd that backing boats into the shop, launching boats, and deliveries all occupy/obstruct the road(not an issue at present as the area represents the current end of the road).
With development of up to 19 lots, some short term rentals, increased traffic flow will result in safety issues.

The communities along Knox and Ellenburg roads are very active with numerous walkers, joggers and cyclists on any given day. Ellenburg is a winding, blind curve road. While the developer has voiced his complete disregard for resident safety, adding 19 homes with higher volumes due to short term renters will create a very dangerous situation along the road.

Sincerely,

Joel C. Phillips, M.D.
124 Rollingwood Dr
Seneca, SC 29672
864-525-7132

Sent from my iPad

Vivian Kompier

From: John Graves <johncgraves@yahoo.com>
Sent: Monday, November 29, 2021 6:19 PM
To: James Coley
Subject: Zoning hearing

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To whom it may concern, I am totally against this development request it is over development in the worst case... Instead of a nice development this will be known as Helter Skelter. This is totally crazy filled with lunacy. I could not believe anyone in their right mind would approve this no matter what the County gets out of taxes. It will forever be known as a place not to go. And what of the county park do you want that to go to a new subdivision too? The people who will vote on this have an obligation to the citizens of the county and not to Rich developers. The developers will take the money and run... And the county will be left dealing with these problems forever.

November 30, 2021

Board of Zoning Appeals
Seneca, SC
planninginfo@oconeesc.com

cc: johnsmarinesc@gmail.com

RE: Variance Request Application #VA 21-011

Board Members:

It is our understanding that there is a variance request to be voted on tonight regarding access to a proposed subdivision across from John's Marine Service on Lake Keowee. We believe that the proposed road variance (from 50 feet to 31.9 feet) in front of John's Marine will create several issues of concern to the business, its hundreds of customers and future residents of the new subdivision.

As a 25 plus year customer of John's Marine, we are concerned that the construction vehicles and the ultimate increase in traffic on Ellenburg Road as a result of this new subdivision will create safety issues and difficulty trailering boats in/out. Ellenburg Road, in front of John's Marine, is narrow currently and requires one vehicle to drive on the shoulder if someone is passing while pulling a boat.

There are only a few qualified boat technicians on Lake Keowee and we do not want to lose one of them due to increased traffic and tight maneuvering space. Small business is the heart of our lake communities; John's Marine Service has been in business for over 50 years in the same location.

We hope your committee will carefully reconsider this plan and allow for John's Marine Service to continue serving its customers and our communities safely.

Respectfully submitted,

Joyce & Vince Malanga
210 Port View Ct.
Seneca, SC 29672
malangav@bellsouth.net
joycemalanga@bellsouth.net

Vivian Kompier

From: Laura Boggs <teamboggsrealtors@gmail.com>
Sent: Tuesday, November 30, 2021 9:05 AM
To: Planning Info
Subject: Zoning concerning John's Marine

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I have great faith that the right thing is going to be done with this case. I feel that it would be an absolute tragedy for the board to allow this developer to impact and possibly put this man out of business to create more rental properties on the lake. I also feel that it was gone about in a less than honorable way to get to this point. I believe that Mr Ratcliff spoke his concerns very early in the process and that the powers that be had already sided with Mr Hamrick.. I hope to be wrong about that last thought.
John's Marine has been helping people on the lake for my whole life! He has come to the aid of boaters when they were stuck on the lake and make quick repairs to let them get back out to having a fun time! Why would we push such a Vidal business off the lake? One that benefits all the people and not just 19 of them with this new development? I understand that money is money and unfortunately that sometimes wins off that fact alone but please I beg of you to think of the community as a whole and vote against this zone!

Thanks for your consideration
Laura Boggs

Sent from my iPhone

Vivian Kompier

From: L. Geltz <lgeltz08@gmail.com>
Sent: Monday, November 29, 2021 7:32 PM
To: Planning Info
Subject: John's Marine Service

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To whom it may concern,

As a resident of Oconee County, I oppose the variance pending. Please consider the effects of ANY changes to our county that would impede or negatively affect existing businesses and residence. Thank you for your time and consideration.

I VOTE.

LINCOLN GELTZ
201 S. CRAGGMORE DRIVE
SALEM, S.C. 29676
-
Office - 313-886-0807
Cell - 313-415-0885

Vivian Kompier

From: Mike Cauble <emltomc@gmail.com>
Sent: Tuesday, November 30, 2021 3:36 PM
To: Planning Info
Subject: variance request application #VA 21-011: Ridgewater Engineering

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November 25, 2021

Oconee County (SC) Board of Zoning Appeals

RE: **Variance request #VA 21-011: Ridgewater Engineering**

This is writing is submitted to **oppose the approval of subject variance by registered Oconee voters Michael and Martha Cauble.**

We respectfully request the consideration of our opinion by this email in lieu of our attendance at the public meeting due to Covid health risks.

This variance request is not a matter of a small discrepancy, but 18 of 50 feet deficiency in right-of-way, amounting to over 1/3 deviation from the requirements. In fact, the present and existing status of this entry site is unchanged since the current owner purchased the property. Denial of the variance does not add any additional impairment beyond owner's initial acceptance of the site.

Approval of the variance does negatively impact and likely forces the termination of the long-term existing use of the adjacent property owned by the Ratliff family and operated as John's Marine. As a Keowee waterfront property owner since 2004, we attest that our boating recreation access to Lake Keowee has been enabled and enhanced by the boat maintenance and repair services offered by John's Marine. We represent a multitude of similar Lake Keowee recreational users with boats not under factory warranty, who will derive far greater benefit from the continued operation of John's Marine, than from this variance which will only enable and accommodate the maximum number of domiciles to be sold by the developer.

We concede that enabling the maximum number and density of homes on Lake Keowee does enhance Oconee County tax revenue, but oppose this as a primary determinate of variance decisions. We believe that government should play a primary protective role in preserving the quality of life and investment of pre-existing property owners by not undermining the effects of their prior investment decisions which were based upon prior zoning conditions.

John's Marine has been a long-term asset contributing to the growth of Lake Keowee by its reputable and trusted service to recreational boating users of the lake- a stated purpose of Duke Energy's permit. John's Marine is dependent upon its existing site and investment in their site-dependent facilities to actively perform work and operate this business. Approval of this variance constitutes a compromise of existing zoning requirements in favor of maximizing return on passive investment by developers. Oconee County should instead enforce its existing zoning conditions to support prior property owner investments by not approving subject variance.

Respectfully submitted,

Michael C. Cauble
Martha C. Cauble
--
Mike Cauble

cell phone 828-423-5742

Vivian Kompier

From: DAVID & EVELYN KACZKOWSKI <kaz41@bellsouth.net>
Sent: Tuesday, November 30, 2021 4:44 PM
To: Planning Info
Subject: Ratcliff

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Zoning committee: As a former customer of this fine business, I appreciate the years of service provided to this community and wish to endorse John's Marina in this dispute. Sincerely submitted by: David and Evelyn Kaczkowski 103 Silo Aly Seneca, SC 29672 864-973-8434

Vivian Kompier

From: Rebecca Payne <rebeccapayne2232@gmail.com>
Sent: Tuesday, November 30, 2021 2:33 PM
To: Planning Info
Subject: John's Marine Service

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To whom it may concern:

I am one of the many customers of John's Marine that lives on the lake. His marine shop being on the water has been a huge asset to me and my family for several years now. As with many of his clients that have their boats on the lake, many of us don't even own trailers and would not be able to get service without the use of John's Marine's dock.

Needless to say, I admittedly oppose this variance.

Respectfully,

Rebecca Payne
805 Treehaven Ct.
Seneca, SC 29672
757-412-8518

Vivian Kompier

From: Dick Stanford-Retired <dick.stanford@furman.edu>
Sent: Tuesday, November 30, 2021 3:16 PM
To: Planning Info
Cc: johnsmarinesc@gmail.com
Subject: Variance request application #VA 21-011

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I oppose variance request application #VA 21-011.

Respectfully, Richard Stanford
153C Deckhouse Lane
Salem, SC 29676

rstanford@furman.edu
8644212877

This individual is retired from Furman University. The content of this email does not necessarily represent the views of the University.

Vivian Kompier

From: Rosalynd Resendiz <rresendiz@tricorbraun.com>
Sent: Monday, November 29, 2021 8:25 PM
To: Planning Info
Subject: FW: VA 21-011 Ridgewater Engineering and Surveying

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To whom it may concern,
I'm in opposition to the variance that is proposed by Joe Meaders. John's Marine has been operating in the same location now for three generations. The developer knew about John's Marine when the land for the subdivision was purchased.

Oconee County should choose to allow progress while protecting our family businesses. Many patrons in Oconee County use this road and water way to access John's Marine. Without proper access, it would hurt their business and hurt many of us who live on Lake Keowee, pay taxes, and appreciate ease of access to get boat repair. John's Marine is a staple to Lake Keowee much like other Seneca Marina or the Lighthouse. These are known spots that make Lake Keowee special and allow for special services and activities.

We ask you to oppose this variance and protect the interest of our small, family owned businesses. I would personally come tomorrow night but my family has Covid. Please use this as my voice.

Thanks,

Rosalynd Resendiz | Vice President of Supply Chain | TricorBraun
Direct 314 983 2054 | Cell 864 247 2888 | rresendiz@tricorbraun.com
6 CityPlace Drive | Suite 1000 | Saint Louis, MO 63141

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YOUR MONTHLY GO-TO SOURCE FOR SUPPLY CHAIN UPDATES AND INFORMATION.

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Vivian Kompier

From: Ryan Baker <b2r2b202@gmail.com>
Sent: Monday, November 29, 2021 9:15 PM
To: Planning Info
Subject: Oppose....

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To whom it's may concerns,

I oppose the variance VA# 21-011. John's Marine Service has been tremendous service to those who need the boating services anywhere in Oconee County. Find another solution or leave Jimmy's business alone.

Best Regards,
Ryan Baker

Vivian Kompier

From: Toni Blackwell <tbwell90@gmail.com>
Sent: Tuesday, November 30, 2021 3:58 PM
To: Planning Info
Subject: Variance

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I oppose the variance VA# 21- 011

Vivian Kompier

From:	tyhix68@gmail.com
Sent:	Tuesday, November 30, 2021 12:05 PM
To:	Planning Info
Subject:	Opposition to Variance Application #VA 21-011

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

To Whom It May Concern,

I am writing to you today to voice my sincere opposition to this variance. I have owned a home and boat on Lake Keowee for approximately 15 years. Jimmy Ratliff and John's Marine Service have serviced my boat the entire time. I bring my boat to John's Marine Service on a boat trailer via this road and it's already a pretty tight fit as it is today. Narrowing the road for this variance would eliminate the ability to get my boat to John's Marine Service, which would be a travesty. I don't know where else I would go, as Jimmy has the best reputation on the Lake.

John's Marine Service is a pillar of the Lake Keowee boating community. Jimmy Ratliff is a hard working, honest, and honorable businessman, and hundreds of boat owners such as myself rely on him and his high quality service for our boats. Why would anyone allow the road to be narrowed, thus not only ruining the business for John's Marine Service, but also making it impossible for us boat owners to bring our boats to Jimmy for service.

I urge you to vote "No" on this variance and allow us to continue bringing our boats to John's Marine Service via this road in it's current condition/width.

Thank you for your consideration,
Ty Hix

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes
6:00 PM – November 30, 2021

Members in Attendance

Gwen Fowler
Marty McKee
Bill Gilster
Bill Decker
Tim Mays
Jim Codner
John Eagar

Staff
James Coley
Vivian Kompier

Media
Lauren Pierce, The Journal

ITEM 1 – Call to Order – Mr. Codner called the meeting to order at 6:00 PM.

ITEM 2 – Approval of minutes of May 24, 2021 meeting – Mr. Eagar made a motion to approve; seconded by Mr. McKee. Vote 4/0 to approve, with Mr. Mays, Mr. Gilster and Mr. Decker recusing themselves.

ITEM 3 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide an 8-minute presentation to state their request. Mr. Codner asked presenters not to be overly verbose.
- For the opposition to the request, the Board asked that one or two people summarize the opposition—concerns, problems, etc.
- Citizen comments – Mr. Codner asked that speakers avoid identical comments in the interest of brevity. He added that the Board has received close to 100 emails that they have reviewed and they understand the issues. It is important that everyone have their say, but asked everyone to be brief if at all possible.
- Applicant rebuttal
- Board member questions, with input from Planning Staff when requested.
- Voting

ITEM 4 – Variance request application #VA21-010: Seamon Whiteside and Associates, Inc. – Paul Talbert is requesting a variance allowing the side setback

for lot lines dividing attached single family units to be reduced to 0', thus allowing construction of individually platted, attached single family units. TMS #271-00-01-940/943/942/941/939/938 unaddressed parcel with the closest address of 201 W. Cherry Rd., Seneca, SC 29678.

Applicant's opening statement and provision of evidence:
Paul Talbert stated he was representing the engineer of record for the subject development, Phase II of The Pier North. Mr. Talbert read the responses to questions on the variance application.

1. **Describe the extraordinary and exceptional condition that pertains to the subject property that does not generally apply to other land structures in the vicinity:** *The owner wishes to develop the subject property as attached single family units that are individually platted for sale. The code currently does not accommodate individually platted attached single family units due to the 5' side setback requirement for single family residential lots in the control free district. (Sec. 38-10.2) The owner requests a variance allowing the side setback for lot lines dividing attached single family units to be reduced to 0', thus allowing the construction of individually platted, attached single family units. All other setbacks, including side setbacks on end units, will meet Oconee County code. This will allow the owner to offer attached single family units for sale, providing an increased variety of housing products at various price points in the district. The availability for sewer on site due to access to private water treatment offers an opportunity for a higher density not present in other areas of the district.*
2. **Are the circumstances affecting the subject property the result of actions by the applicant/owner? Explain:** *No, the circumstances are due to an incompatibility between the existing single family zoning ordinance and the desire to provide attached single family dwellings on individually platted lots.*
3. **Describe the ways in which application of the requirement(s) of the ordinance effectively prohibit or unreasonably restrict the utilization of the subject property:** *The requirement for a 5' side setback on all single family residences prevents the development of attached single family units for sale rather than rental.*
4. **Will the proposed variance result in an activity that will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance? Explain:** *Yes, the proposed variance will not harm, but enhance the character of the district. The subject property is adjacent to multifamily apartments. Allowing attached single family units will provide a more seamless transition in density and use from the adjacent multifamily units to the proposed single family detached units and other surrounding single family development. The use of attached single family units will also allow units to be clustered, thus providing greater opportunity for common open space, as seen in the site plan. The*

increased opportunity for home ownership rather than rental, will increase the investment of those living in the subdivision in the surrounding community.

Discussion with the Board followed.

Public Comment:

- Mr. Codner read/summarized emails summited by the public into the record.
- Mr. Patrick Tierney, Citizen, stated that he could not discern where the proposed development was located from the back-up material provided.
- Mr. Chris Leonard, Citizen, asked if townhomes will be priced at a price for first-time home buyers. If so, stated that would be a good idea.
- Mr. Matomas, Citizen, expressed his opposition to the proposed variance. He lives in Point Harbor and is concerned about devaluation of the established homes in the area and increased boat traffic.

Applicant rebuttal:

- Mr. Talbert was given the opportunity to address the public comments. He clarified the exact location of the proposed variance using the projected map.
- Mr. Chip Orson, Four Star Group, who manages land acquisition for the developer addressed the question regarding price points for the townhomes. Mr. Orson added that within his years of experience he has not seen similar developments negatively affect the valuation of neighboring properties.
- Mr. Talbert stated that the opposition to boat traffic was not applicable to the variance request as the property is not on the water.
- Mr. Talbert addressed the issue of density that was raised in emails read into the record. He stated that if the variance would be denied, the density would not change. With regards to the traffic concerns, he advised they have commissioned and completed a traffic study. The project has received SCDOT approval and any improvements to traffic flow, to any of the surrounding streets will be addressed in the development as required by the traffic study and SCDOT.
- Ms. Tricia Chason, Entitlement Manager, Four Star Group, advised that turn lanes (right-hand and left-hand) will be constructed off of Cherry Road into the development, so it will be widened significantly. There will be two entrances into the development, one off Cherry Road and one off J P Stevens Road. There are no improvements required for the J P Stevens entrance. There is another access point that will be for emergency vehicles only; it will be gated to prevent additional traffic. Ms. Chason added that the traffic study also analyzed the surrounding intersections and found no improvements were needed. She advised that SCDOT has a funded project that is in development now to improve the intersection at J P Stevens Road and Cherry Road.

Staff comments:

- Ms. Kompier stated that the property in question is zoned Control Free, with no density limitations. She confirmed that density is not an issue tonight; it is strictly lot lines.

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
   b. Vote

In-favor	Opposed
7	0

Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. McKee. No discussion.
   b. Vote

In-favor	Opposed
7	0

Mr. Codner noted that the criterion passed.

3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
   a. Motion – Mr. Gilster made a motion, seconded by Mr. Decker. Discussion followed.
   b. Vote

In-favor	Opposed
7	0

Mr. Codner noted that the criterion passed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
   a. Motion – Mr. Eagar made a motion; seconded by Mr. Gilster. Discussion followed.
   b. Vote

In-favor	Opposed
7	0

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Decker. No discussion.
    b. Vote

In-favor	Opposed
7	0

Mr. Codner noted that variance request was approved.

Item 5 – Variance request application #VA21-011: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' right-of-way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch-to-ditch right-of-way. TMS #150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

Applicant's opening statement and provision of evidence:
Reah Smith, Development Team, Lake Keowee Real Estate, spoke on behalf of the applicant for the variance. She presented evidence that the property has geographic and physical constraints that require the variance and that each of the four criterion can be met to approve the variance. Ms. Smith added that the Road Ordinance that is referenced was adopted after the property was purchased. Ms. Smith described the positive impact the variance will have on John's Marine and the nearby County roads. Board members asked questions to clarify certain points.

Staff comments: Mr. Coley explained that the request is a road variance, not necessarily a zoning ordinance, and Planning staff have met with staff from the Roads & Bridges Department to discuss. Notable findings from the meetings include agreement that the current road right-of-way is prescriptive and ends at the pavement on either side of the road, the variance is for a section that is 100 ft. in length and 31.9 ft. at its narrowest point, and the applicant is shifting the proposed entrance south from the center of the road so that it is all on their property. Mr. Coley also noted that granting this variance would not allow construction to begin immediately. The applicant would still need Roads & Bridges' approval for their plan to fit road shoulders, appropriate drainage, and all utilities in a narrow right-of-way. In addition, a traffic study would need to be completed as well as approvals for access and turn radiuses from Emergency Management.

Public comment time:

- Rick McDuff, Attorney, Spokesman for John's Marine (Ratliff family), stated the opposition to the ordinance. Points of opposition included:

- The portion of the road in question is not owned by Oconee County. Ownership is split between the developer and Ratliff's, with the majority by the Ratliff's.
- The belief that the BZA has no authority to make this decision; must be decided between the two private parties.
- No evidence a prescriptive easement has been obtained by the County
- Applicant is attempting to change a contour of an easement that they are not a party to
- Negative impact on John's Marine and the Ratliff property and absence of legal remedies to address the impact

Discussion with the Board followed.

- Edward John "Jay" Ratliff, Jr., outlined the Ratliff family's opposition to the variance, the history of the business and the negative impact of the approval of the variance.
  Discussion with the Board followed.
- Mike Johnson, citizen, expressed his support for the variance approval, citing the changes to the County ordinance that regulates roads and right-of-ways over the years, specifically regarding private roads.
- Maggie Johnson, citizen, spoke in support of the variance approval and property owner's right to use their property as allowed.
- Chad Knot, citizen, expressed his opposition to the variance approval noting issues with the legality of Board deciding this application, infringement of the Duke 804 line, traffic, and the impact on John's Marine.
- Chris Holder, citizen Greenville, SC, stated his opposition to the variance approval. Mr. Holder referred to the negative impact on John's Marine specific to the space needed to navigate boat trailers and traffic.
- Jon Martin, citizen, stated his opposition to the variance with concern that John's Marine will lose their business and/or Oconee County taxpayers will have to defend decision in appellate court.
- Bruce Hadley, citizen, expressed his concern that the Board has no jurisdiction over this application as the road is private land and there is no plan to allow for a similar business if John's Marine is forced out of business
- Barry Steele, citizen, expressed his opposition to the variance approval based on his concerns with erosion and limited room for tractor trailers used for deliveries.
- Doug Cooper, Harbor Oaks HOA President, expressed his opposition to the variance approval citing safety concerns with regards to increased traffic.
- Mr. Codner made a motion to take a 5-minute break, seconded by Mr. Eagar. Mr. Codner called for a vote. The motion passed unanimously 7/0
- Mr. Codner made a motion that the Board reconvene, seconded by Mr. McKee. Mr. Codner called for a vote. The motion passed unanimously 7/0
- Mr. Codner read a sample of emails submitted by the public into the record.

Applicant rebuttal: Mr. Larry Brandt, attorney for the applicant, presented a summary rebuttal to the argument against the requested variance. A question-answer session with the Board followed. Andy Lee, Developer, addressed the opposition presented during public comment specifically the size of the cul-de-sac, piece of land between the two properties, encroachment into the 804, flood plain easement with regards to the 810, existence and "ownership" of the prescriptive easement, stabilization of the shoreline, and traffic. Discussion with Board followed. Ms. Smith made closing remarks.

Board discussion: Discussion by the Board included, but was not limited to, the Board's jurisdiction in this case considering the conflicting legal opinions of the applicant and the opposition, John's Marine, and traffic and pedestrian safety—specifically **section 26-8 (a) Variance from road standards** of the Oconee County Ordinances. Mr. Codner made a motion to table the variance request, with the supposition directing Planning Staff answer the question of who owns the property (road), and the two parties meet and try to resolve this issue—specifically the piece of land between the two properties—coming back to the Planning Department to schedule a new hearing; seconded by Mr. McKee. Mr. Codner called for a vote. The vote was approved unanimously 7/0.

Item 6 – Adjourn

Mr. Codner asked for a motion to adjourn

Motion – Mr. Mays made a motion; seconded by Mr. Eagar

Vote – Mr. Codner called for a vote. Motion was unanimously approved 7/0.

Meeting was adjourned at 6:58 PM.

THE JOURNAL

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Sent: Tuesday, November 16, 2021 10:07 AM
To: Laura Zimmerman
Subject: Payment - Thank You

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PUBLISHER'S AFFIDAVIT

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

OCONEE COUNTY PLANNING & ZONING

IN RE: Notice of Public Hearing: Tuesday, November 30, 2021

BEFORE ME the undersigned, a Notary Public for the State and County above named, This day personally came before me, Hal Welch, who being first duly sworn according to law, says that he is the General Manager of **THE JOURNAL**, a newspaper published Tuesday through Saturday in Seneca, SC and distributed in **Oconee County, Pickens County** and the Pendleton area of **Anderson County** and the notice (of which the annexed is a true copy) was inserted in said papers on 11/04/2021 and the rate charged therefore is not in excess of the regular rates charged private individuals for similar insertions.

Hal Welch
General Manager

Subscribed and sworn to before me this
11/04/2021

Jessica Wells
Notary Public
State of South Carolina
My Commission Expires November 13, 2030

Jessica Lee Wells
NOTARY PUBLIC
State of South Carolina
My Commission Expires
November 13, 2030

LEGAL NOTICES

LEGALS

d. Applicants: Georgia Power Company
e. Name of Project: North Georgia Project
f. Location: Savannah River basin on the Tallulah, Chattooga, and Tugalo Rivers, in Rabun, Habersham, and Stephens counties, Georgia, and Oconee County, South Carolina
g. Filed Pursuant to: Federal Power Act, 16 USC 791a - 825r
h. Applicant Contact: Courtenay O'Mara, Hydro Licensing & Compliance Supervisor, 241 Ralph McGill Boulevard, NE, BIN 10193, Atlanta, Georgia 30308-3374, 404-506-7219, comara@southernco.com
i. FERC Contact: Aneela Mousam, (202) 502-8357, aneela.mousam @ferc.gov
j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission.
The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at http://www.ferc.gov/docs-filing/efiling.asp. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at http://www.ferc.gov/docs-filing/ecomment.asp. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport @ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P-2354-152. Comments emailed to Commission staff are not considered part of the Commission record.
The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.
k. Description of Request: Georgia Power Company (licensee) is requesting Commission approval to replace and upgrade four generating units in the Tugalo powerhouse. The licensee proposes to upgrade and rehabilitate the four project turbines, rewind and refurbish the generators, and replace the control room panels, intake trash racks and spillway gates. The unit modifications are expected to increase the rating for each unit by

LEGAL NOTICES

LEGALS

Notice of Public Hearing

Tuesday,
November 30, 2021 at 6PM
This meeting will be held in person at 415 S. Pine St. Walhalla, SC 29691 in Council Chambers.
You may also view on youtube.com, subscribe to Your Oconee.

The Oconee County Board of Zoning Appeals will hear:
1) Variance request application #VA 21-010: Seamon Whiteside and Associates, Inc. - Paul Talbert is requesting a variance allowing the side setback for lot lines dividing attached single family units to be reduced to 0', thus allowing the construction of individually platted, attached single family units. TMS # 271-00-01-940/943/942/941/939/938 unaddressed parcels with the closest address of 201 W. Cherry Rd. Seneca, SC 29678
2) Variance request application #VA 21-011: Ridgewater Engineering and Surveying - Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way.

Three methods of providing public input prior to the meeting:
Phone: Prior to meeting:
864-638-4218
Email: planninginfo@oconeesc.com
Mail: Oconee County Administrative Offices - Planning Department - 415 South Pine Street- Walhalla 29691

Clip & Go
YARD SALES

Yard Sale
& BBQ Fundraiser
benefiting the Seneca High School band program
Saturday, Nov. 6,
7 a.m.-2 p.m.
Seneca High School
parking lot.
100 Bobcat Ridge, Seneca
BBQ plates from Choc's
BBQ for sale for $8
Email senecabandboosters @gmail.com
to pre-order a plate
All proceeds benefit the Seneca High School band program!

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CUSTOM MADE FURNITURE

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Spring Home Improvement Projects?

Meeting agenda
Monday, January 24, 2022 6:00pm

Oconee County Board of Zoning Appeals

Council Chambers
415 South Pine Street
Walhalla, S.C. 29691

www.oconeesc.com

YouTube: "YourOconee"

Staff contact
846-638-4218
planninginfo@oconeesc.com

1. Call to order
2. Election of officers – Chair, Vice-Chair, and Secretary
3. Approval of the 2022 calendar
4. Approval of minutes: 11/30/2021
5. Brief statement about rules and procedures
6. Variance request Continuation #VA 21-011: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.
7. Variance application #VA 21-012A: Variance allowing the side setback for lot lines dividing attached single family units to be reduced to zero feet thus allowing the construction of individually-platted, attached single family units.
   Variance application VA21-012B: 27' Variance from the 50' road right of way to allow for the new townhomes to be consistent with the existing townhomes.
   Resideum, LLC – Greg Kurzner is requesting these variances. TMS# 257-00-02-008 an unaddressed parcel with the closest address of 304 Breakwater Lane, Seneca, SC 29678.

BOARD MEMBERS
Jim Codner, Chairman, District I
Gwen Fowler, District II
John Eager, At-Large
Marty McKee, District IV
Bill Gilster, Vice Chairman, District III
Tim Mays, District V
Bill Decker, At-Large

8. Variance application #VA21-013: Joe and Lynn Arve are requesting a 4.9' variance from the 25' required setback from the right-of-way to permit an existing foundation for a home. TMS# 149-04-01-050 with an address of 851 Little Bay Lane, Seneca, SC 29672.

9. Variance application #VA21-014: Dennis and Michelle Hill are requesting a 1.86' variance from the 25' required setback from the right-of-way to permit an existing porch for a home. TMS# 162-05-01-057 with an address of 419 Peninsula Rd, West Union, SC 29696.

10. Special Exception application SE21-005: Pandacon, LLC – Ben Collins is requesting a special exception for a rental cabin project in the Lake Overlay District. TMS# 209-00-01-051 with an address of 128 Tuscany Lane Seneca, SC 29672.

11. Adjourn

BOARD MEMBERS

Jim Codner, Chairman, District I
Gwen Fowler, District II
John Eager, At-Large
Marty McKee, District IV
Bill Gilster, Vice Chairman, District III
Tim Mays, District V
Bill Decker, At-Large

OCONEE COUNTY BOARD OF ZONING APPEALS

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There will be no more public comment for VA21-011 – Arrowhead Subdivision as this was tabled at the last meeting.

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VA21-012A/012B – Townhomes on Breakwater Lane

Public Comment – First Name, Last Name - please print legibly

1. Gary Moss
2. Craig Eweringer
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

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VA21-014 – 419 Peninsula Road

Public Comment – First Name, Last Name - please print legibly

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

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VA21-013 – 851 Little Bay Lane

Public Comment – First Name, Last Name - please print legibly

1. DON BRADFORD - HOA Pres.
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

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SE21-005 – Rental Cabins - 128 Tuscany Lane

Public Comment – First Name, Last Name - please print legibly

1. JAMES SIMMONS – Scope? 3? Commercial Marina Points Noise Retention Long-term residential
2. Robert Senger Moore No - Expanding commercial Common good?
3. Steve Owings – Marina Points – Hospitality expansion – Crowds – Tiki Hut
4.
5. Robt Sadler – New home adjacent 4 cabins 2. 3 → ? Event center
6.
7. Danny Craig – Cabinets number? – Noise
8.
9. Amy Sadler – Where swim? Play
10.
11.
12.
13.

OCONEE COUNTY BOARD OF ZONING APPEALS

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Staff Report

To:	Members, Board of Zoning Appeals
From:	James Coley
RE:	Agenda Items 6-10

Item 6:	VA 21-011
Property Owner:	Globe A SC Limited Partnership
Applicant:	Joe Meaders, Ridgewater Engineering and Surveying
Zoning:	CFD
Parcel Number:	150-00-01-459
Lot Area:	15.37 acres

County Code Reference: Section 26-2.C.2 (Private Roads)

Request: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

Background: During the 11.30.21 BZA meeting the applicant presented their case, staff comments were presented, citizen comments were taken, unsworn public comments were presented, applicant gave their rebuttal, and board began their discussion.
Motion by Mr. Codner gave direction to staff to determine the validity of a County prescriptive easement along Ellenburg Road, and for the two parties to meet and try to resolve this issue, specifically the piece of land between the two properties. The motion was seconded by Mr. McKee, approved unanimously 7/0.
Staff has met and believes that a prescriptive easement exists the entire length of Ellenburg Road.
The parties have met and are actively attempting to come to a resolution.

Variance Standards: The standards the Board of Zoning Appeals must consider in order to grant a variance are listed below under Section 38-7.1 of the Zoning Ordinance:

Sec.38-7.1- Variances

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board of zoning appeals makes and explains in writing the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;

and

4. The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.

    a. The board of zoning appeals may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.
    b. The board of zoning appeals may grant a variance to extend physically an existing nonconforming use provided that the expansion does not adversely affect the character of the community and is designed so as to minimize any negative secondary impacts
    c. 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, structure, or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

    The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.

Item 7:	VA 21-012A VA21-012B
Property Owner:	VPC-SC Holdings LLC
Applicant:	Greg Kurzner, Resideum LLC.
Zoning:	CFD
Parcel Number:	257-00-02-008
Lot Area:	6.43 acres

County Code Reference: Section 26-2.C.2 (Private Roads), 38.10.2 (Setback Requirements)

Request: #VA 21-012A: Variance allowing the side setback for lot lines dividing attached single family units to be reduced to zero feet thus allowing the construction of individually-platted, attached single family units.
Variance application VA21-012B: 27' Variance from the 50' road right of way to allow for the new townhomes to be consistent with the existing townhomes. Resideum, LLC – Greg Kurzner is requesting these variances. TMS# 257-00-02-008 an unaddressed parcel with the closest address of 304 Breakwater Lane, Seneca, SC 29678.

Background: This request is for multiple variances that are tied together. The right-of-way reduction shown in the exhibit is how the front setback is met. Additional consideration should be given

to Sec 38.9.3(2)(f) "Any garage door shall be set back a minimum of 20 feet from the property line that it faces so that vehicles may be parked in the driveway without encroaching into the right-of-way. If the district setback is greater than 20 feet, then the more restrictive setback shall prevail." Ensuring there is adequate space for a car to park without encroaching into the right-of-way, or road.

Variance Standards: The standards the Board of Zoning Appeals must consider in order to grant a variance are listed below under Section 38-7.1 of the Zoning Ordinance:

Sec.38-7.1- Variances

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board of zoning appeals makes and explains in writing the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
   and
4. The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.

   a. The board of zoning appeals may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.
   b. The board of zoning appeals may grant a variance to extend physically an existing nonconforming use provided that the expansion does not adversely affect the character of the community and is designed so as to minimize any negative secondary impacts
   c. 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, structure, or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

   The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.

Item 8: VA 21-013
Property Owner: Lynn Arve

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Applicant: Joe and Lynn Arve
Zoning: CFD, Lake Overlay Region
Parcel Number: 149-04-01-050
Lot Area: .94 acres

County Code Reference: Section 38.10.2 (Setback Requirements)

Request: Joe and Lynn Arve are requesting a 4.9' variance from the 25' required setback from the right-of-way to permit an existing foundation for a home. TMS# 149-04-01-050 with an address of 851 Little Bay Lane, Seneca, SC 29672.

Background: Applicant has a valid application

Variance Standards: The standards the Board of Zoning Appeals must consider in order to grant a variance are listed below under Section 38-7.1 of the Zoning Ordinance:

Sec.38-7.1- Variances

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board of zoning appeals makes and explains in writing the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.

a. The board of zoning appeals may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.
b. The board of zoning appeals may grant a variance to extend physically an existing nonconforming use provided that the expansion does not adversely affect the character of the community and is designed so as to minimize any negative secondary impacts
c. 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, structure, or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the

applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.

Item 9:	VA 21-014
Property Owner:	Dennis and Michelle Hill
Applicant:	Dennis and Michelle Hill
Zoning:	RD, Lake Overlay Region
Parcel Number:	162-05-01-057
Lot Area:	.74 acres

County Code Reference: Section 38.10.2 (Setback Requirements)

Request: Dennis and Michelle Hill are requesting a 1.86' variance from the 25' required setback from the right-of-way to permit an existing porch for a home. TMS# 162-05-01-057 with an address of 419 Peninsula Rd, West Union, SC 29696.

Background: Applicant has a valid application

Variance Standards: The standards the Board of Zoning Appeals must consider in order to grant a variance are listed below under Section 38-7.1 of the Zoning Ordinance:

Sec.38-7.1- Variances

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board of zoning appeals makes and explains in writing the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
   and
4. The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.

   a. The board of zoning appeals may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.
   b. The board of zoning appeals may grant a variance to extend physically an existing nonconforming use provided that the expansion does not adversely affect the character of the community and is designed so as to minimize any negative secondary impacts

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c. 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, structure, or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.

Item 10:	SE21-005
Property Owner:	Lake Koewee Marina of Oconee LLC
Applicant:	Ben Collins, Pandacon LLC
Zoning:	CFD, Lake Overlay Region
Parcel Number:	209-00-01-051
Lot Area:	17.78 acres

County Code Reference: Section 38-11.1 (d)(1)(a)(4)

Request: Ben Collins is requesting a special exception for a rental cabin project in the Lake Overlay District. TMS# 209-00-01-051 with an address of 128 Tuscany Lane Seneca, SC 29672.

Background: The exception being sought is for additional commercial activity in the Lake Overlay Region. If approved the applicant will be required to apply for a specific plan adhering to Appendix A.

Special Exceptions Standards: The standards the Board of Zoning Appeals must consider in order to grant a variance are listed below under Section 38-7.2 of the Zoning Ordinance:

Sec.38-7.2- Special exceptions

The board of zoning appeals may grant a special exception only if it finds adequate evidence that any proposed development will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. The board of zoning appeals shall among other things require that any proposed use and location be:

1. In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested; These conditions do not generally apply to other property in the vicinity;
2. In the best interests of the county, the convenience of the community and the public welfare;
3. Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity;

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4. Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.

The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.

John's Marine Service
599 Ellenburg Road
Seneca, SC 29672

January 19, 2022

Board of Zoning Appeals
Mr. Codner, Chairperson
415 South Pine Street
Walhalla, SC 29691

Re: Meeting Minutes - November 30, 2021 Board of Zoning Appeals related to application VA21-011 (Ridgewater Engineering and Surveying TMS#150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672) -

Correction to the meeting minutes as drafted to include:

- this letter, dated January 10, 2022, which addresses the inaccurate and incomplete content in the draft minutes, and
- my letter to you, dated November 22, 2021, expressing my opposition to Variance VA21-011, which I handed to you, the Board members and various members of the public during the November 30, 2021 meeting, and
- the 75-80 emails that you indicated that the Board of Zoning Appeals received from the public regarding VA21-011.

Dear Mr. Codner,

The Ratliff family has reviewed the draft minutes and back up material from the November 30, 2021 Board of Zoning Appeals meeting and is requesting that the Board reject and/or revise the minutes due to the incomplete and inaccurate content. The minutes do not accurately document the concerns voiced during the meeting regarding John's Marine Service from both the public, as well as, the Ratliff family. These minutes are selective in what was included, and substantive information is missing.

Below are some of the examples of the incompleteness and inaccuracies in the minutes. This list is not exhaustive and only represents a portion of the concerns.

Applicant's [hereinafter referred to as Developer] opening statement and provision of evidence:

1) *Statement in Minutes:* *"She [Reah Smith, Development Team, Lake Keowee Real Estate] providing evidence that the property has geographic and physical constraints that require the variance and that each of the four criterion can be met to approve the variance. "*

Reasons for Rejection:

- The minutes are silent on Ms. Smith's evidence for the 4-criterion required for the Board to authorize a variance. Of particular note, the alleged evidence developer offered to support the statement that the variance will not be of substantial detriment to adjacent uses is completely missing from the minutes.

2) *Statement in Minutes:* *"Ms. Smith added that the Road Ordinance that is referenced was adopted after the praperty was purchased."*

Inaccurate/Deficient Representation to the Board:
It appears that the developer may have provided a deficient statement and clarification by the Board was not sought. Ms. Smith indicated that the Road Ordinance was adopted after the purchase of the property [12/2008]. However, her statement did not indicate that the 50' road requirement had been in place for subdivisions prior to that purchase date by the developer. See The Oconee County Council Meeting Minutes dated April 4, 2006 referencing the adopted and approved Ordinance 2006-12 "AN ORDINANCE AMENDING SECTION 6: SUBDIVISION & LAND USE DEVELOPMENT OF ORDINANCE 99-14, OCONEE COUNTY UNIFIED PERFORMANCE STANDARDS AND LAND USE DEVELOPMENT REGULATIONS AS ADOPTED BY ORDINANCES 2001-04, 2002-05 & 2004-14" wherein the ordinance states the 50' right-of-way road requirement.

Ms. Smith states: *"Before getting into the criteria [the four criterion] required to obtain a variance], I would like to clarify that the purchase of this parcel predates the existing Road Ordinance. At the time of the purchase no variance would have been needed to go straight into construction, however, given that we entered one of the most severe economic recessions in US history it would have been unwise to do so."*

The Board did not ask her to clarify the date of purchase of the parcel and whether there was an existing Road Ordinance at the time of purchase which required a 50' right-of-way for a road. The Ordinance 2006-12 clearly states the 50' right-of-way for road development.

3) *Statement in Minutes:* *"Ms. Smith described the positive impact the variance will have on John's Marine and the nearby County roads."*

Reason for Rejection:
While the minutes state the developer indicated that there would be an alleged positive impact on John's Marine, the minutes are silent on the specific alleged positive impacts.

Staff comments:

4) *Statement in Minutes:* *"Mr. Coley explained that the request is a road variance, not necessarily a zoning ordinonce, and Planning staff have met with staff from the Roads & Bridges Department to discuss. Notable findings fram the meetings include agreement that the current road right-of-way is prescriptive and ends at the pavement on either side of the road, the variance is for a section that is 100 ft in length and 31.9ft at its narrowest point, and the applicant is shifting the proposed entrance south from the center of the road so that it is all on their property."*

Incomplete or incorrect statements by staff:

Staff also commented in the meeting: *"The 31'9 feet minimum does not restrict their [Road and Bridges Department's] ability to maintoin the road. They [Road and Bridges Department] have made no statement as to same. For road maintenance, for right now, they are maintaining with zero right-of-way on the side of road."*

This statement was in response to a question by the Board as to why the County requires a 50' right-of-way and whether road can still be maintained with only the 31'9 feet minimum. The response by Staff is incorrect as Road and Bridges is NOT maintaining the portion of the road in front of 599 Ellenburg and has not in the past maintained same either.

On another note, there was no indication at the meeting whether the staff addressed with the Roads & Bridges Department whether the shifting of the road to the South would bring the road below the 804' MSL contour, which is the Duke Energy property and Lake Keowee FERC boundary. Nor did the Board seek clarification as to that issue.

Public Comment Time:

5) *Statement in Minutes: Rick McDuff, Attorney, Spokesman for John's Marine (Ratliff family), stated the opposition to the ordinance. Points of opposition included:*

- The portion of the road in question is not owned by Oconee County. Ownership is split between the developer and Ratliff's, with the majority by the Ratliff's.
- The belief that the BZA has no authority to make this decision; must be decided between the two private parties.
- No evidence a prescriptive easement has been obtained by the County
- Applicant is attempting to change a contour of an easement that they are not a party to
- Negative impact on John's Marine and Ratliff property and absence of legal remedies to address the impact

Reasons for Rejection:

The minutes are incomplete. The minutes are silent on the following:

- Mr. McDuff pointed out inaccurate information on the aerial map provided by the developer. Specifically, Mr. McDuff correctly identified that John's Marine is located at 599 Ellenburg and not the entirety of the area encompassed in yellow on the developer's aerial map and referenced by Ms. Smith, during her initial presentation on behalf of the developer, as being part of John's Marine.
- Mr. McDuff stated that if the proposed road were to be approved, then John's Marine would be cut-off from road access and effectively shutdown, with no way for customers to bring boats on trailers to the service shop. Nor, would there be a way for deliveries to be made to the service shop or for boats to be retrieved from the lake on a trailer and brought to the service shop.
- The minutes are also silent on the fact the developer offered, for the first time during the meeting, to connect the concrete slab to the proposed new road, however, no legal details regarding ownership of the connecting portion as well as rights for customer's use were mentioned. Without the legal interests of John's Marine documented in a recorded document, then the business would effectively be shutdown.
- Mr. McDuff stated that there was no demonstration by the developer on how this proposed variance is *not* going to have a negative impact on the business. The business has been at its present location for 39 years and pre-dates the purchase by the developer by a "long shot".

- Mr. McDuff indicated that under Duke's Shoreline Management Plan, John's Marine is identified as commercial use, everything else in the area is residential. There is no other location on the lake to move John's Marine if it were to shutdown due to this proposal. There is no permitting for a commercial marina with multiple docks on Lake Keowee.
- The minutes are silent on the deficiencies in the documents provided by the developer specifically regarding the 804 contour line. There appear to be discrepancies between the Exhibit 1 with the contour lines and the Pioneer Surveying with regard to the 804.
- Mr. McDuff stated that the pitch of the proposed new road that will create what is referred to as a "birdbath" where the water will pool, then drain toward the Ratliff property. The developer has already done fill work and has created a deviation in the contour of the roadway and the "bird bath" effect is evident. The water is pooling in front the shop and has the potential to create flooding in the shop.
- Mr. McDuff indicated that there might be a way to put a private driveway for the developer to obtain access to their property. The density of the development would need to be reduced.
- Mr. McDuff indicated that there would be significant safety issues due to the potential higher use of the narrow roadway, vehicles having to dodge the large tractor trailers which deliver motors/large items, delivery vehicles, etc. These safety issues would be especially significant if multiple, emergency vehicles need to get into the property.

6) *Statement in Minutes: Edward John "Jay" Ratliff Jr. outlined the Ratliff family's opposition to the variance, the history of the business and the negative impact of the approval of the variance.*

Reasons for Rejection:

The minutes are selective and incomplete. The minutes are silent on the following:

- Mr. Edward John "Jay" Ratliff explained that a letter was being given by Mr. James "Jimmy" Ratliff (his brother) to each member of the Board in attendance as well as Mr. Coley, Ms. Kompier and to those in the public audience who expressed an interest in receiving a copy.
- Mr. Edward John "Jay" Ratliff stated that John's Marine Service has been in business since 1972 in Seneca and servicing boats at its present location since 1982. John's Marine is a 3-generation family business, which was started by his father. It is currently being run by his brother, Jimmy. Jimmy is mentoring his son, Cameron, in the business.
- Jay described the crippling, substantial detrimental impact of the variance on John's Marine business. The service business requires maneuvering boats and large trailers. Jimmy uses the entire road to pull boats out of the water, to put boats into the water, to maneuver boats into the shop for repair, to park boats and to maneuver trailers. A large number of boats are frequently maneuvered in that area. Boats that arrive by water need to be put onto a trailer, pulled from the water and maneuvered into the shop for repair. The variance would permit the developer to change the current road from a private driveway to a private road or public road, allowing much more vehicle traffic, and allow the developer to change the current location of the road. Such would substantially impact, to the detriment of John's Marine, the ability to maneuver, park and service boats/trailers, in addition to

severely limiting maneuvering by delivery trucks who bring in large motors, and equipment for boat repair.

- The John's Marine business is using the full area on Ellenburg Road for the service business, from 565 Ellenburg Road (which has been the end of County maintenance) to the area past the shop toward Arrowhead Point. The Ratliff family has maintained this portion of the road for almost 40 years. The road being a dead-end, the only vehicles using that portion are vehicles/boats/trailers/trucks associated with John's Marine, or the Ratliff private home.

7) *Statement in Minutes: "Mike Johnson, citizen, expressed his support for the varionce approval, citing the changes to the County ordinance that regulates roads and right-of-ways over the years, specifically regarding private roads."*

Reasons for Rejection:

The minutes are selective and incomplete. The minutes are silent on the following:

- Mr. Johnson also indicated that he is a member of the Oconee County Planning Commission.
- It appears that Mr. Johnson provided an inaccurate statement and clarification by the Board was not sought. Mr. Johnson represented that private road ordinance changed in 2013, bringing private roads up to match the public road 50' right-of-way standard. He pointed out that any inference that the "developer should have known" "at time of purchase" "just probably would not be true," given that Mr. Johnson alleges the private road 50' right-of-way ordinance did not come into effect until 2013. The Board did not ask Staff to verify this, nor did the Board challenge that statement. Contrary to his statement, the 50' right-of-way road requirement had been in place for subdivisions as far back as at least 2006, which is prior to the 2008 purchase by the developer. As stated previously, the Oconee County Council Meeting Minutes dated April 4, 2006 reference the adopted and approved Ordinance 2006-12, wherein the 50' right-of-way road requirement is stated for private roads.
- Mr. Johnson failed to mention his employment relationship with the developer.

8) *Missing Statement from Minutes:*

Mr. Roger Chapman arose and spoke after Mr. Chris Holder and before Mr. John Martin. Mr. Roger Chapman, citizen, expressed that his concerns were addressed by previous speakers and that he recommended that the Board oppose the variance.

Reasons for Rejection:

The minutes are selective and incomplete. Mr. Chapman's recommendation that the Board oppose the variance was not included in the Minutes.

9) *Statement in Minutes: "Mr. Codner read a sample of emails submitted by the public into the record."*

Reasons for Rejection:

The minutes are incomplete and selective.

- Mr. Codner stated that the Board received approximately 75-80 emails and that the bulk of the emails support John's Marine. Mr. Codner's statement about the quantity of emails received, as well as, their support for John's Marine is missing from the Minutes and should be included.
- In comparison to the Board of Zoning Appeals documentation attached as "Backup Material" for other variance requests, the "Backup Material" documentation of

VA21-011 appears to be selective. For example, variance #VA20-4 contains approximately 125 emails which citizens sent to the Board. All 125 emails were included in Board of Zoning Appeals "Backup Material" documentation. For VA21-011, Mr. Codner summarized a very small portion during the meeting and none of the 75-80 emails that the Board received were included in Board of Zoning Appeals "Backup Material" documentation. Each email received should be included in the minutes.

Applicant rebuttal:

10) *Statement in Minutes: "Mr. Brandt, attorney for the applicant, presented a summary rebuttal to the argument against the requested variance.*
Reason for Rejection:
The minutes are silent on Mr. Brandt's rebuttal arguments.

11) *Statement in Minutes: "Any Lee, Developer, addressed the opposition presented during public comment specifically the size of the cul-de-sac, piece of land between the two properties, encroachment into the 804, flood plain easement with regards to the 810, existence ond "ownership" of the prescriptive easement, stabilization of the shoreline, and traffic."*
Reasons for Rejection:

- The minutes are silent on the developer's rebuttal arguments.
- Andy Lee stated that tractor-trailers from John's Marine can use the first cul-de-sac as a turn-around. This statement appears to be inaccurate as a 53' tractor-trailer requires a minimum 55' turning radius; the standard 40' cul-de-sac for a subdivision will not accommodate this requirement. Additionally, tractor-trailers providing construction materials, moving freight liners and heavy equipment trucks will add to the congestion as they will also back down ~ 1/2 mile from the Harbor Oaks entrance.
- No evidence was provided during the meeting that the developer obtained approval with regard to the 804 backfill activities.
- No evidence was provided during the meeting that a shoreline stabilization plan for the road has been approved by the County or Duke Energy.

Many of the discrepancies noted above can be validated by watching the video from the Board of Zoning Appeals meeting on November 30, 2021 and comparing to publicly-available records.

The Ratliff family have submitted FOIA requests for the following:

- The minutes of the meetings between the Planning staff and the Road & Bridges Department that document the notable findings which were mentioned by Mr. Coley during the Staff Comments portion of the Board of Zoning Appeals meeting on November 30, 2021.
- The Ellenburg Road Maintenance Records
- The written reports of the Road and Bridges Code of Ordinance Section 26.8(b) that were submitted prior to the Board of Zoning Appeals meeting on November 30, 2021.
- Any emails or communications pertaining to the variance request and Ellenburg Road.

We appreciate your consideration in this matter and look forward to your response prior to the upcoming January 24th meeting that the minutes will be revised to include the aforementioned

information. As noted above, the contents of this letter are not exhaustive, but only provide some detail as to some of the important information that is missing from the minutes.

On a personal note, I'm shocked that I was not invited to participate in any of the meetings that the County held to discuss the changes being sought to the section of Ellenburg Road that my family has been maintaining for more than 40 years and which has a direct impact on my business and involves my property.

Thank you,
Jimmy Ratliff

Jimmy Ratliff
John's Marine Service

cc: John E. Ratliff
Sherri D. Crisp
Amy L. Cawthon
Frances J. Ratliff
County Council members:
John Elliot, Chair
Matthew Durham
Paul A. Cain, Esq.
Julian Davis III
James Glenn Hart

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes
6:00 PM – January 24, 2022

Members in Attendance
Gwen Fowler
Jim Codner
John Eagar
Tim Mays
Bill Gilster

Staff
James Coley, Planning Director
Vivian Kompier, Planner/Zoning Administrator
David Root, Attorney

Media
Lauren Pierce, The Journal

ITEM 1 – Call to Order – Mr. Coley called the meeting to order at 6:00 PM.

ITEM 2 – Election of officers – Mr. Coley called for nominations for Chair. Mr. Eagar made a motion that Mr. Codner continue as Chair; seconded by Mr. Gilster with no discussion. Mr. Coley called for a vote. The motion was approved 5/0. Mr. Codner called for nominations for Vice-Chair. Mr. Eagar made a motion for Ms. Fowler to serve as Vice-Chair. Ms. Fowler declined the nomination. Mr. Codner made a motion for Mr. Eagar serve as Vice-Chair; seconded by Ms. Fowler with no discussion. Mr. Codner called for a vote. The motion was approved 5/0. Mr. Codner made a motion that Mr. Coley serve as Secretary; seconded by Mr. Eagar with no discussion. Mr. Codner called for a vote. The motion was approved 5/0.

ITEM 3 – Approval of 2022 calendar – Mr. Eagar made a motion that the proposed 2022 calendar be adopted; seconded by Mr. Mays with no discussion. Mr. Codner called for a vote. The motion was approved 5/0.

ITEM 4 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide a presentation to state their request.
- Staff will be asked to make any comments regarding the request.

- Citizens are allowed to voice their approval or opposition to the proposed. Please do not repeat opinions that have already been stated into the record.
- Applicant rebuttal
- Board members will discuss in detail.
- Voting

ITEM 5 – Approval of minutes of November 30, 2021 meeting – Mr. Eagar made a motion to approve the November 30th minutes; Mr. Gilster seconded. Discussion: Mr. Codner noted that Mr. Ratliff sent an extensive letter pointing out issues with the minutes. Mr. Codner asked County Attorney, David Root to define and explain what minutes should provide. Mr. Root stated that minutes for public bodies are defined by statute. They should include when a meeting is held, the subject matter of the meeting, and who is present. With regards to the essence of what was spoken, the statute says minutes should capture the substance of what was said; it is not a transcript. Mr. Codner summarized that approval of the minutes would be agreement that the minutes are a fair representation of what happened in that meeting. When asked, Mr. Coley stated that he believes the minutes are a fair representation. Discussion included agreement that the proposed minutes are adequate and suggestion that all public comments, including the letter questioning the minutes, should be included with the approved minutes. Mr. Coley confirmed that as procedure, all citizen emails would be attached to the minutes as part of the record after the minutes are approved. In addition, the Ratliff letter will be attached to the minutes as well. Mr. Eagar noted the spelling of his name was incorrect in the minutes. Mr. Codner called for a vote. The motion was approved unanimously 5/0.

ITEM 6 - Variance request Continuation #VA 21-011: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672. – Mr. Codner explained that this request is a continuation from the January meeting and the requesting and responding parties have presented their cases and all public comments have been entered into the record. Public comment was closed with the closing of the last meeting, with the exception of the letter received from Mr. Ratliff concerning the minutes. In preparation of this continuation, the Board asked staff to present a delineation of who owns the road in question and they asked the two parties to attempt to come to an agreement. Mr. Coley deferred to Mr. Root for clarification on ownership of the road. As a matter of parliamentary procedure, Mr. Root asked Mr. Codner to first take action to remove the request from the table before proceeding. Mr. Eagar made a motion to remove Variance request #VA21-011 from the table; seconded by Mr. Mays. Mr. Codner called for a vote. The motion was approved 5/0.

Mr. Root explained that there is no question on who owns the rights to the land underneath the road. The question at hand is the traveling surface of the road. Records show that Oconee County Roads & Bridges maintained the road to the end of the paved section for 20 years (the requirement for a prescriptive easement). However, Mr. Root has recently received affidavits that questioned his findings and he needs more time to research the facts.

Board questions: Mr. Root answered questions from members of the Board regarding the definition of the term prescriptive easement, clarifying the County's authority to approve or deny a request to change the location of a road (prescriptive easement), if and how right-of-ways should be considered, and clarification of the need for permit approval in the future.

Mr. Codner summarized the actions the Board can take at this juncture. Based on his conversations with the legal counsel for both parties, Mr. Root stated that a postponement may be in order. Attorneys for the applicant and the opposing party agreed. Mr. Eagar made a motion to postpone the request until the applicant asked for it to be reinstated on the BZA agenda; Mr. Gilster seconded the motion. Discussion led to amending the motion on the table. Mr. Codner amended the motion to limit the postponement for a total of six months. Mr. Codner called for a vote of motion as amended. The motion was approved 5/0.

ITEM #7 - Variance application #VA 21-012A: Variance allowing the side setback for lot lines dividing attached single family units to be reduced to zero feet thus allowing the construction of individually-platted, attached single family units. Variance application VA21-012B: 27' Variance from the 50' road right of way to allow for the new townhomes to be consistent with the existing townhomes. Resideum, LLC – Greg Kurzner is requesting these variances. TMS# 257-00-02-008 an unaddressed parcel with the closest address of 304 Breakwater Lane, Seneca, SC 29678.

Applicant's opening statement and provision of evidence: Greg Kurzner, Managing Member of Resideum LLC, presented their answers to the four questions on the Variance application, noting that they are trying to complete the development of a previously approved community in the fashion, consistent with the existing individually platted for sale units and to protect the integrity and investment of the current homeowners. He also noted that the required 50' road right-of-way was not in place at the time the development was originally designed, permitted and built.

Public Comment:

- Gary Moss, citizen, requested more information on how approval of the variance will affect the established homes off Shiloh Road.

- Craig Schweisinger, citizen, expressed his opposition to the request, including his concern for street parking and concern that the current HOA will control the new homes.
- Mr. Codner read emails received into the record.
    - Tim and Tanya Liddy voiced their support of the request.
    - Robert and Nancy Holmes voiced their support of the request.

Applicant rebuttal: Mr. Kurzner addressed Mr. Moss' concerns providing details on setbacks, road right-of-ways, and landscaping plans. The Board discussed the County standards applied to private roads. Mr. Kurzner confirmed the established HOA will have authority over the proposed homes. Mr. Kurzner shared plans for guest parking to be part of the common area in this new phase.

Board Discussion: Board members asked questions to clarify the questions of parking.

Staff comments: None

Consideration of VA21-012A:

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Gilster. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Gilster. Brief discussion followed.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Gilster. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Gilster. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that variance request was approved.

Consideration of VA21-012B:

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Gilster. No discussion.
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the variance request was approved.

Item 8 – Variance application #VA21-013: Joe and Lynn Arve are requesting a 4.9' variance from the 25' required setback from the right-of-way to permit an existing foundation for a home. TMS# 149-04-01-050 with an address of 851 Little Bay Lane, Seneca, SC 29672.

Applicant's opening statement and provision of evidence: Lynn Arve presented visuals to show the location of the existing foundation and where it violates the setback. She explained that not allowing the variance will impact and change the design of the home. Mr. Codner asked how it happened that the foundation is complete and in the setbacks. Ms. Arve explained it was an error by the foundation contractor.

Public comment:

- Don Bradford, President of Timber Bay Property Owners Association, voiced his opposition to approving the variance. He stated that this location of the house is

not the location that was approved by the POA's Architectural Committee and that no other home in the community has encroached on the County's setbacks. He noted that Ms. Arve had not offered any other solution to the problem. The Board asked Mr. Bradford if he has documentation of the Committee's review and approval. Mr. Coley stated the documents are part of the back-up. Mr. Bradford was asked what actions the POA would take if the BZA were to approve the variance. Mr. Bradford advised they are consulting an attorney and are presently unsure of the answer.

Applicant rebuttal: Ms. Arve stated she had not explored other solutions as they were cost prohibitive. The Board confirmed that the footer and foundation is all that is finished and that the garage is the only part of the house that is in the setback.

Staff comments: Mr. Coley confirmed that the variance application is valid, the foundation is clearly in the setback and it is within the Board's prevue to discuss and decide.

Board discussion: The Board engaged in a discussion that included, but was not limited to, the difference between asking for permission vs. forgiveness, the fact that all other homes in the neighborhood had complied with the setbacks, an approval would make it harder for HOA/POAs to maintain certain characteristics of an entire community, the BZA's approval would not nullify the POA's ability for them to enforce their covenants, the relative small size of the variance requested and the liability of the foundation contractor responsible for the error.

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. A brief discussion followed.
    b. Vote

In-favor	Opposed
1	4

Mr. Codner noted that the criterion failed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
    a. Motion – Mr. Eagar made a motion, seconded by Ms. Fowler. A brief discussion followed.
    b. Vote

In-favor	Opposed
0	5

Mr. Codner noted that the criterion failed.

3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Gilster. Brief discussion followed.
    b. Vote

In-favor	Opposed
0	5

    Mr. Codner noted that the criterion failed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
    a. Motion – Mr. Eagar made a motion; seconded by Ms. Fowler. A brief discussion followed.
    b. Vote

In-favor	Opposed
0	5

    Mr. Codner noted that the criterion failed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Denied.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Gilster. No discussion.
    b. Vote

In-favor	Opposed
4	1

Mr. Codner noted that the variance request was denied.

Item 9 – Variance application #VA21-014: Dennis and Michelle Hill are requesting a 1.86' variance from the 25' required setback from the right-of-way to permit an existing porch for a home. TMS# 162-05-01-057 with an address of 419 Peninsula Rd, West Union, SC 29696.

Applicant's opening statement and provision of evidence: Mr. Dennis Hill, property owner, the details of their request and admitted it was an error on their part and asked for forgiveness. The Board asked questions for clarification. Details discovered include the house is under construction at the framing stage and the County learned of the encroachment in a complaint made by a neighbor.

Public comment:

- Mr. Codner read an email from Erin Fisher, property owner, in support of approving the variance into the record.

Applicant rebuttal: None

Board discussion: The Board discussed the size of the variance request, the fact that the only public comment was favorable, and that there is no HOA that opposes the variance request.

Staff comments: None

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. A brief discussion followed.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Gilster. No discussion.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion passed.

3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. Brief discussion followed.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion passed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Gilster. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Ms. Fowler. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that variance request was approved.

Item 10 – Special Exception application SE21-005: Pandacon, LLC – Ben Collins is requesting a special exception for a rental cabin project in the Lake Overlay District. TMS# 209-00-01-051 with an address of 128 Tuscany Lane Seneca, SC 29672.

Applicant's opening statement and provision of evidence: Mr. Ben Collins, Pandacon, LLC distributed supplementary back-up for his request. Mr. Collins asked the Board to consider the rationale of staff classifying the proposed rental cabin project as a commercial use when there are many single-family homes in Oconee County that are short-term or seasonal rentals that are not considered commercial. Mr. Collins presented a detailed case for the approval of the special exception, noting that the proposed development is consistent with the spirit and intent of the zoning ordinance, the lake overlay, and aspects of the Comprehensive Plan. Mr. Collins argued the cabins would be a welcomed and a needed residential component of the commercial businesses of Lake Keowee Marina. He also cited there are other privately owned short-term rentals in the neighboring areas. Mr. Collins stated that the special exception is for a land use exception; all other aspects of the development would still go through the Planning & Zoning department for their approval.

Staff comments: Mr. Coley confirmed that staff believes this is a commercial project and noted that there are many commercial businesses that are in the area that would have a hard time getting approved if they were being developed today. Mr. Coley also verified that the proposed development would be subject to the County's approval and permitting process.

Board questions to applicant: The Board asked for clarification regarding the location of Tuscany Lane. Mr. Clay Schile, Lake Keowee Marina, provided the response.

Public comment:

- Mr. James Simmons, citizen, expressed his concern of not knowing the complete scope of the project—will the development continue to expand and require additional approvals from the Board. The classification of the cabins as single-family dwellings or rentals and noise abatement was also a stated concern of Mr. Simmons.
- Robert Moore, citizen, expressed his opposition to the request citing that exceptions to the Lake Overlay should only be given when there are no alternatives and it serves the common good.
- Steve Owings, citizen, expressed his opposition to the request citing his concern of rental properties and the unknown regarding the complete scope of the project.
- Robert Sedler, citizen, expressed his opposition to the request citing his concern to the complete scope of the project, noise abatement and boat parking of future renters.
- Danny Greg, citizen, express his opposition to the request citing his concerns for noise abatement and the unknown of the scope of the project.
- Amy Sedler, citizen, expressed her concern on where the potential renters will be enjoying the lake—i.e. swimming.

Applicant rebuttal: Mr. Schile responded to the stated objections, stating that the nature of a marina is public. He stated that their target customer for renting the cabins are families. When asked if the development can be realized without being in the overlay, Mr. Schile answered no, due to constraints on the property. He added that he is aware of noise issues and they control as much as they can, stating that noise comes from all sides. Mr. Collins provided more input to diminish the public's concerns over the development being labeled a commercial project. He deferred to Mr. Schile on the question of possibly more cabins at a later date.

Staff was asked if the conceptual drawings of the cabins provided in the supplementary documents could meet Appendix A. Mr. Coley stated that it is hard to make a decision on pictures and it would require a more detailed review, but it would be required to meet Appendix A. Mr. Coley also clarified his remarks on the existing commercial developments' ability to gain approval in the overlay if submitted today. Ms. Kompier added that Appendix A can be amended to meet the needs. Mr. Coley also clarified that the applicant did not note in the application that the variance request was specifically for three cabins.

Board discussion: Discussion included, but was not limited to, the negative aspects of short-term rentals, noise, and the purpose of the lake overlay.

1. In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. A brief discussion followed.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion passed.

2. In the best interests of the County, the convenience of the community and the public welfare:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. A discussion followed that included limiting the number of cabins to be approved.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion passed.

3. Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with appropriate in appearance to the existing or intended character of the general vicinity:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. Brief discussion followed.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion passed.

4. Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.
   a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. Brief discussion followed.
   b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed special exception be **Approved** with a restriction that the maximum of three cabins can be built as shown on the submitted site plan under this special exception.
   a. Motion – Mr. Eagar made a motion; seconded by Ms. Fowler. No discussion.
   b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the special exception was approved.

Item 11 – Adjourn

Mr. Codner asked for a motion to adjourn

Motion – Mr. Eagar made a motion; seconded by Mr. Mr. Mays

Vote – Mr. Codner called for a vote. Motion was unanimously approved 5/0.

Meeting was adjourned at 8:45 PM.

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC

TEL (864) 638-4218 FAX (864) 638-4168

There will be no more public comment for VA21-011 – Arrowhead Subdivision as this was tabled at the last meeting.

THE JOURNAL

Oconee Publishing, Inc.
210 W North 1st Street
Seneca, SC 29678

INVOICE

DATE: 12/20/2021

ACCOUNT #: 63480

SALESPERSON: 0034

INVOICE #: 1084916

OCONEE COUNTY PLANNING & ZONING
VIVIAN KOMPIER
415 S PINE ST
WALHALLA SC 29691

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For questions regarding your invoice, please phone (864) 973-6303.

DATE	REFERENCE NO.	DESCRIPTION	AMOUNT
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OCONEE COUNTY PLANNING & ZONING		
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THE JOURNAL

Oconee Publishing, Inc. 210 W North 1st Street, Seneca, SC 29678

Laura Zimmerman

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To: Laura Zimmerman
Subject: Payment - Thank You

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THE JOURNAL

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Expiration Date:

0823

Account Name

OCONEE COUNTY PLANNING & ZONING
CARDHOLDER (name,addr,zip)
LAURA ZIMMERMAN
415 S PINE ST, WALHALLA, SC, 29691

Account#

63480

Salesperson ID

0034

Transaction Summary

Trans Id

Date
Amount
200359337412874
DISPLAY ADVERTISERS
242.50

Date
01/04/2022
TOTAL
242.50

PUBLISHER'S AFFIDAVIT

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

OCONEE COUNTY PLANNING & ZONING

IN RE: Notice of Public Hearing Monday, January 24

BEFORE ME the undersigned, a Notary Public for the State and County above named, This day personally came before me, Hal Welch, who being first duly sworn according to law, says that he is the General Manager of **THE JOURNAL**, a newspaper published Tuesday through Saturday in Seneca, SC and distributed in **Oconee County, Pickens County** and the Pendleton area of **Anderson County** and the notice (of which the annexed is a true copy) was inserted in said papers on 12/17/2021 and the rate charged therefore is not in excess of the regular rates charged private individuals for similar insertions.

Hal Welch
General Manager

Subscribed and sworn to before me this
12/17/2021

Jessica Wells
Notary Public
State of South Carolina
My Commission Expires November 13, 2030

Jessica Lee Wells
NOTARY PUBLIC
State of South Carolina
My Commission Expires
November 13, 2030

Meeting agenda
Monday, April 25, 2022 6:00pm

Oconee County Board of Zoning Appeals

Council Chambers
415 South Pine Street
Walhalla, S.C. 29691

www.oconeesc.com

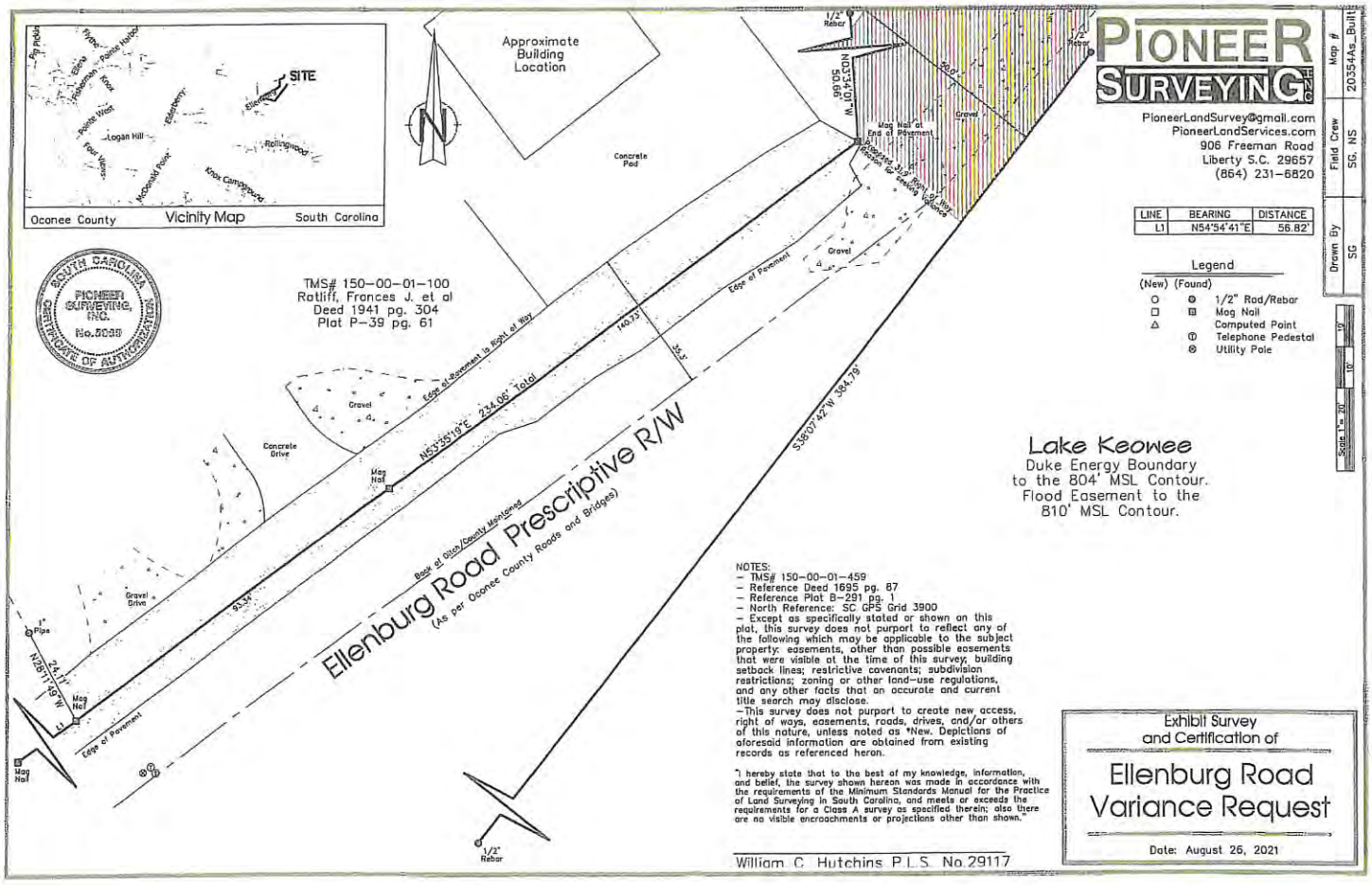
YouTube: "YourOconee"

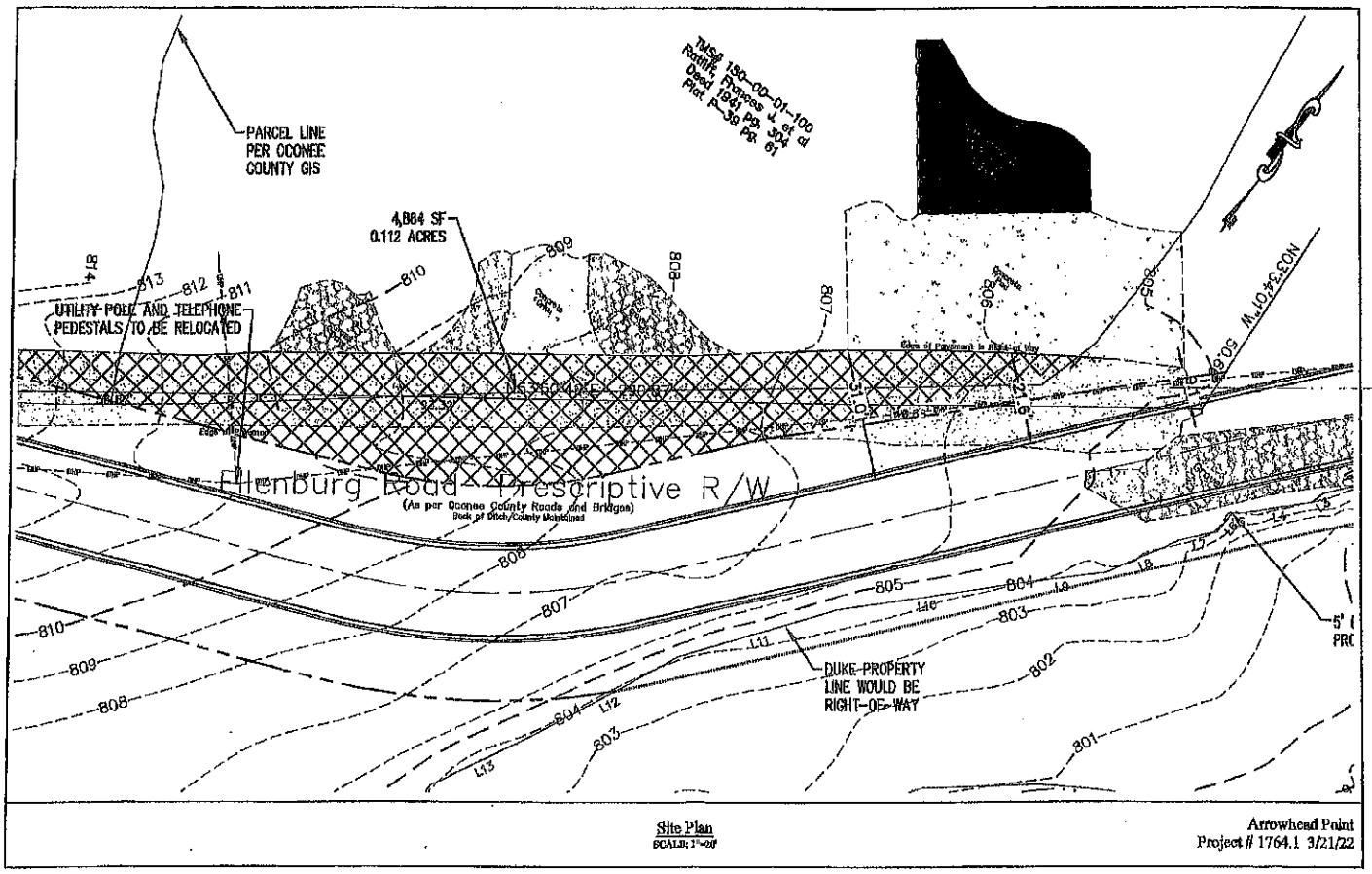
Staff contact
846-638-4218
planninginfo@oconeesc.com

1. Call to order
2. Approval of minutes: 03/28/2022
3. Brief statement about rules and procedures
4. Special exception application #SE22-003 – Faulk & Foster – Victoria Farmer is requesting a special exception to construct a 172' monopole telecommunications tower (182' top of lightning rod) TMS#285-00-05-001 an unaddressed parcel with the closest address of 315 Hopewell Church Rd. Westminster, SC 29693.
5. Variance application #VA 21-011-Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.
6. Adjourn

BOARD MEMBERS

Jim Codner, Chairman, District I
Gwen Fowler, District II
John Eager, Vice Chairman, At-Large
Bill Decker, At-Large
Marty McKee, District IV
Bill Gilster, District III
Tim Mays, District V


SITE
Vicinity Map
Oconee County
South Carolina
Approximate Building Location
Concrete Pad
Gravel
Edge of Pavement
Concrete Drive
Gravel Drive
Mag Nail
1/2" Rebar
Pipe
Ellenburg Road Prescriptive R/W
(As per Oconee County Roads and Bridges)
Base of Ditch/County Monument
TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304
Plat P-39 pg. 61
Edge of Easement is Right of Way
140.73'
234.06' Total
93.33'
24.17'
N26°11'49"W
N53°35'19"E
N03°34'01"W 50.66'
S38°07'42"W 384.79'
Lake Keowee
Duke Energy Boundary
to the 804' MSL Contour.
Flood Easement to the
810' MSL Contour.
PIONEER SURVEYING, INC.
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(864) 231-6820
LINE | BEARING | DISTANCE
L1 | N54°54'41"E | 56.82'
Legend
(New) (Found)
1/2" Rod/Rebar
Mag Nail
Computed Point
Telephone Pedestal
Utility Pole
Drawn By SG
Field Crew SG, NS
Map # 20354As_Built
Scale 1"= 20'
NOTES:
– TMS# 150-00-01-459
– Reference Deed 1695 pg. 87
– Reference Plat B-291 pg. 1
– North Reference: SC GPS Grid 3900
– Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
–This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as *New. Depictions of aforesaid information are obtained from existing records as referenced heron.
"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."
William C. Hutchins P.L.S. No.29117
Exhibit Survey
and Certification of
Ellenburg Road
Variance Request
Date: August 26, 2021


PARCEL LINE
PER OCONEE
COUNTY GIS
4,864 SF
0.112 ACRES
UTILITY POLE AND TELEPHONE
PEDESTALS TO BE RELOCATED
Ellenburg Road - Prescriptive R/W
(As per Oconee County Roads and Bridges)
Back of Ditch/County Maintained
DUKE-PROPERTY
LINE WOULD BE
RIGHT-OF-WAY
Site Plan
SCALE: 1"=20'
Arrowhead Point
Project # 1764.1 3/21/22

John's Marine
&
High Falls Boat Rental
Lake Keowee
Lake Keowee
Lake Keowee
Lake Keowee
RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 866
ANDERSON, SC 29622
(864) 226-0990
RIDGEWATERENG.COM
Arrowhead Point
Oconee County,
South Carolina
DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21285
Exhibit 2

Variance Criteria Overview

General criteria for granting a variance. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

a) *There are extraordinary and exceptional conditions pertaining to a particular piece of property.*

The parcel itself is a peninsula, it's bounded by water on all sides with exception of the center of the county road as a boundary. The peninsula is narrow in a small portion of the parcel and is unique in that the property line is the center of the road and does not have it's own right of way. There is only access easement to the parcel. These conditions are extraordinary and exceptional because of the limitations created by geography and topography within this parcel. The way a parcel of land lays, the geography, the topography are all acceptable reasons for granting a variance.

b) *These conditions do not generally apply to other property in the vicinity.*

In the geographic vicinity of this piece of property most roads have a 50 foot right of way because they are not geographically constrained. This property is bounded by a body of water. Most parcels in the vicinity are not bound by the water on both sides. Because of the unique geography of this parcel, meeting the current road ordinance goes beyond creating an unnecessary hardship and instead creates only impossibility of use. This impossibility creates a scenario which meets the criteria for granting a variance.

Item 1

c) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Without granting this variance to the roads ordinance the application of the ordinance will unreasonably restrict the use of the property. The property was purchased prior to this ordinance being adopted and if you will reference the Deed Restrictions for the parcel you will see that these restrictions are designed in mind with an end use for single-family residential development which was and still remains the intent behind this purchase. The developments in the vicinity of this property have larger homesites and larger homes. The application of this ordinance effectively prohibits building like kind or similar developments for which this property was purchased for, as per the deed.

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

1) **The proposed improvement will relocate the existing edge of county pavement, as shown on exhibit 2, to provide John's Marine an additional 22 feet of area to maneuver, outside of the County maintained roadway.**
2) **We will extend his current driveway to meet the new roadway so that it is then contiguous to his drive and ramp, causing no disturbance in his business use.**
3) **Probably most helpful to improve current conditions for his operation is the installation of a cul-de-sac at the termination of the county road. This would be located 100% within the boundaries of our parcel, as you can see on Graphic 2 and does not encroach onto his property. John's Marine, his customer base, and**

the delivery truck drivers will be able to utilize this space to turn around trucks and trailered boats. John's Marine is currently using the county road as a parking lot and to turn around delivery trucks according to himself and what has been submitted by the public. Granting this variance would alleviate that current hardship by expanding the paved area and providing a paved cul-de-sac that is built to accommodate a circling school bus or fire truck. This should effectively eliminate the need for Fedex/UPS truck to turn around in adjacent owners driveways, road shoulders, or have a need to block the road. This will certainly benefit him and his customers to be able to turn around there.

4) We are improving the affected area an ageing county road to current county specifications, an improvement to the current conditions of the roadway. This improvement is at no cost to John's Marine, the neighbors, or to the taxpayers.

5) 19 more homesites also provides the opportunity for 19 more boats to service at the most convenient of distances. John's Marine, who already has an excellent customer base and strong reputation in our community as a top mechanic, will have a slightly expanded customer base in the community if he chooses to take on new clientele. Also, the impact of construction vehicles traveling the road way into the development is for a limited window of time while homes are being built.

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 DEC -8 A 8:49

EXHIBIT B

GENERAL DEED RESTRICTIONS

THE PROPERTY SHALL BE CONVEYED SUBJECT TO THE FOLLOWING RESTRICTIONS, WHICH SHALL ENCUMBER THE PROPERTY AND SHALL RUN WITH TITLE TO THE PROPERTY.

1. **Definition of "Property" and "Lot".** As used herein, (i) "**Property**" means all of the property conveyed by Grantor to Grantee pursuant to this deed; and (ii) "**Lot**" means any portion of the Property that constitutes a legally established separate lot or parcel of land (whether created by the recordation of a subdivision plat or otherwise), as such lots or parcels of land may exist from time to time (collectively, "**Lots**"). If the Property consists of only one lot or parcel of land, then the term "Property" is synonymous with the term "Lot." If the Property consists of two or more lots or parcels of land, whether such lots or parcels exist on the date the Property is conveyed to Grantee or are later created by subdivision of the Property or other legal means, then each of those lots or parcels is a "Lot" for the purposes of these Restrictions.

2. **Single Family Use.** The Property shall be used only for detached, single-family residence purposes, together with the accessory buildings and structures permitted pursuant to **Section 6** below. No more than one detached single-family residential dwelling may be constructed on any Lot. No condominium, townhouse, duplex, apartment or other multi-family residential uses are permitted on the Property. Further, no camper, trailer, motor home, boat (including, without limitation, any boat docked adjacent to the Property), recreational vehicle or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to the Property as a place of residence. The single-family residence restrictions set forth above shall not prohibit the construction of pools, tennis courts or other recreational facilities or amenities such as are commonly constructed and maintained for the benefit of lot owners within planned unit developments; provided that such recreational facilities or amenities shall be solely for the common use of the owners of one or more Lots and, provided further, that no such recreational facilities may be located within any Buffer Area (defined below).

3. **Restricted Activities.** The following activities are prohibited on the Property:

   (a) Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that dogs, cats or other usual and common household pets (which are registered, licensed and inoculated as required by law) may be permitted on the Property;

   (b) Any activity which violates local, state, or federal laws or regulations;

   (c) Institutional uses, including, but not limited to, group homes, day care centers, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns and beds and breakfasts; and

(d) Any business or trade, except that an owner or occupant residing on a Lot may conduct business activities within a dwelling on that Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the dwelling unit; (ii) the business activity conforms to all zoning requirements for the Lot; (iii) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers or other business invitees; (iv) the business activity does not involve any service or delivery business in which more than one vehicle used in such business would be parked overnight on a Lot, or for which any parts, equipment supplies, raw materials, components or tools are stored on a Lot; and (v) the business activity is consistent with the residential character of the Property and does not constitute an unreasonable disturbance to adjoining land owners or others, a nuisance or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales or similar activities provided that such activities are not held on the same Lot more than once in any six-month period. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. The leasing of a Lot for single-family residential use shall not be considered a business or trade within the meaning of this subsection.

4. **Prohibited Conditions.** None of the following structures or improvements may be located upon the Property:

(a) Structures, equipment or other items which are visible from any road or adjacent property which have become rusty, dilapidated or otherwise fallen into disrepair;

(b) Towers, antennas or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind which are located outside of the dwelling on a Lot other than (i) a customary antenna, which shall not extend more than ten feet above the top roof ridge of the dwelling, and (ii) a satellite disc or dish no larger than 18 inches in diameter;

(c) Any freestanding transmission or receiving towers or any non-standard televisien antennae; and

(d) Chain-link fences.

5. **Quality Craftsmanship/Dwelling Size.** All buildings and outbuildings erected upon the Property shall be built on site of new materials of good grade, quality and appearance and shall be constructed in a good and workmanlike manner, conforming to all applicable building codes. Further, all dwellings must meet the following construction requirements:

(a) If the dwelling is located on a Waterfront Lot (a "**Waterfront Lot**" is a lot, any portion of which is located within 100 feet (measured horizontally regardless of the actual ground measurement which may vary based upon the topography) of the Common Boundary Line (defined in Section 8 below)), then: (i) one story dwellings shall not contain less than 2,000 square feet of Heated Living Area (defined below); (ii) one and a half story dwellings shall not contain less than 2,200 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,400 square feet of Heated Living Area;

(b) If the dwelling is not located on a Waterfront Lot, then: (i) one story dwellings shall not contain less than 1,600 square feet of Heated Living Area; (ii) one and a half story dwellings shall not contain less than 1,800 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,000 square feet of Heated Living Area;

(c) All dwellings and accessory structures shall be completely supported with solid brick, brick or stone covered block, or stucco covered foundation;

(d) Roofs shall have not less than a 6 in 12 inch pitch, and not less than a 12 inch overhang, and shall be covered with asphalt or fiberglass shingles, terra cotta tile, real or man-made slate, copper sheathing or wood shingles or pre-painted metal roofing;

(e) The exterior surfaces of all dwellings and accessory structures shall be covered only with brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding consisting of wood, composite or vinyl material; provided, that any horizontal siding must be completely supported to maintain a straight and even outer surface and must be fully and properly finished; and

(f) Exteriors of all dwellings and accessory structures must be completed within one year after the commencement of construction, and a certificate of occupancy issued within two years after commencement of construction.

As used herein, "**Heated Living Area**" excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term "**story**" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "**half story**" shall mean a story which

contains 50 percent or less Heated Living Area than the story in the house containing the most Heated Living Area.

6. **Permitted Accessory Structures.** Except as otherwise expressly set forth herein, no buildings, structures or improvements of any kind may be located on a Lot other than one detached, single-family residential home, and the following permitted accessory structures:

(a) Storage and shop outbuildings, including detached garages, workshops, storage and utility buildings, greenhouses and similar buildings, not exceeding the height of the roof of the residence on the Lot. The total square footage contained within all such outbuildings combined shall not exceed 2,000 square feet. All outbuildings shall be permanently affixed to the Lot and shall be covered with the approved exterior materials described in Section 5(e) above. Further, no outbuildings shall be located wholly or partially within any Buffer Area (as defined below).

(b) Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures. The total square footage contained within such structures when combined shall not exceed 1,000 square feet in area. Further, no such structure shall be located wholly or partially within any Buffer Area (as defined below).

(c) To the extent permitted at the time of construction and installation by Duke Energy Carolinas, LLC (or its successor, with respect to ownership and/or management authority over the Lake, if applicable) ("**Duke Energy**") and all applicable governmental authorities, waterfront structures, including fixed piers, boat slips or floats, covered docks, boat ramps, decking and sitting areas attached to piers, walkways and other similar structures. Grantee acknowledges by acceptance of this deed that policies, laws and regulations regarding its ability to construct or install such structures may change from time to time before or after Grantee's acquisition of the Property and Grantor makes no representation or warranty as to Grantee's ability to construct or install such structures either now or in the future. Such structures may be located wholly or partially within the Buffer Area provided no more than a total of 200 square feet of such structures shall be located within the Buffer Area on any Lot.

7. **Site Development Requirements.** Each Lot shall be subject to the following specific development requirements.

(a) No portion (or portions) of a Lot greater than 2,000 square feet shall be: (i) denuded of ground cover or topsoil, (ii) graded, (iii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required building, grading and erosion control permits have been issued by the applicable municipal authorities.

(b) All denuded, graded, excavated or filled areas shall be stabilized and replanted on or before: (i) the 30th day following the initial denuding, grading, excavation, or

filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such area); or (ii) such time as construction is completed or interrupted for a period of 30 continuous days. In addition to, or in the absence of local or state government regulations on such land disturbance, none of the activities described in (i) through (iv) in **Section 7(a)** above shall be allowed to commence without compliance with the following requirements:

(i) The surveying and flagging of the Buffer Area (defined below) and any portion of the Buffer Area that may be disturbed as a result of any activities permitted hereunder;

(ii) The flagging of all trees in the Buffer Area that equal or exceed six inches in diameter, as measured four and one-half feet from the base of each tree. The trees, Buffer Area (defined below) and disturbed areas referenced in **Sections 7(a)** and **(b)** shall be clearly and distinctly flagged, staked or otherwise designated in order to prevent the unintentional violation of these restrictions by parties performing work upon the Property; and

(iii) The proper installation (in accordance with manufacturer's instructions) of construction silt fencing on the lower perimeters of all areas within the Lot to be disturbed, and any other areas which may be impacted by silt runoff from any disturbed areas located on the Lot.

8. **Buffer Area Restrictions.** As used herein, the term **"Buffer Area"** shall mean any portion of the Property that is located within 50 feet (measured horizontally regardless of the actual ground measurement which may very based upon the topography) of the 800 foot contour elevation (**"Contour Line"**) of Lake Keowee (**"Lake"**); provided, however, that the inner boundary of the Buffer Area (i.e. the boundary that is inland from the Lake) shall not be less than fifty feet (measured horizontally regardless of the actual ground measurement which may vary based upon the topography) from the common boundary (**"Common Boundary Line"**) of the Property and the Lake. No portion of the Buffer Area may be disturbed in any way, including any disturbance or removal of topsoil, trees and other natural growth. Neither the Common Boundary Line nor the Contour Line of the Lake shall change as a result of erosion or stabilization measures occurring following the conveyance of the Property to Grantee. Notwithstanding the second sentence in this **Section 8**, the following activities are permitted within the Buffer Area:

(a) Trees which are less than six inches in diameter, as measured four and one-half feet from the base of each tree may be removed. Any tree removal shall be performed using hand held gas or electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in removing any trees. Additionally, trees having a greater diameter than that set forth above that have become diseased or damaged through natural processes may be removed in the same manner.

(b) Within each Lot, an access corridor may be created within the Buffer Area for the purpose of providing lake access to install shoreline stabilization or to install and use water access structures (such as docks or boat ramps) that have been approved in advance by Duke Energy and otherwise comply with **Section 6(c)** above. The access corridor may not exceed 15 feet in width. Trees with diameters equaling or exceeding six inches, as measured four and one-half feet from base, may be removed within the access corridor and grading or ground disturbance (which otherwise complies with the restrictions set forth herein) may be performed if reasonably necessary to provide access to the Lake for the purposes described above in this **Section 8(b)**.

(c) Underbrush (defined as nuisance shrubs, vines and similar plant growth beneath the tree canopy, and generally growing less than six feet in height) may be removed.

(d) Pruning and trimming of trees is permitted, provided that pruning is limited to tree branches beginning with the lowest to the ground and extending up the tree trunk no more than one-half of the total height of the tree. Trimming may also be performed on any limbs or branches that are diseased or naturally damaged.

(e) The use of rip-rap, bulkheading or other shoreline stabilization methods or materials may be initiated with the prior written approval by Duke Energy and any shoreline stabilization shall be performed in compliance with Duke Energy's Shoreline Management Guidelines which are in effect at the time such stabilization occurs. Generally, Duke Energy allows structural stabilization to extend only to a height one foot above the Contour Line of the Lake. If Duke Energy authorizes Grantee to perform certain shoreline stabilization, then at all points where shoreline stabilization occurs, the inner boundary line of the Buffer Area (i.e. the boundary line opposite the Contour Line of the Lake) shall be adjusted inward (i.e. away from the Contour Line of the Lake) by the same distance that the stabilization structures or improvements extend from the Contour Line of the Lake into the Lot, provided, however, that in no event shall the width of the undisturbed Buffer Area be reduced to less than 50 feet between any portion of the interior edge of the stabilization structures or improvements and any residence or other structure or improvement located on the Lot (other than docks, boat ramps, or other water access structures which have been approved in writing by Duke Energy).

(f) An access road ("**Roadway**") for pedestrian and vehicular ingress, egress and regress may be installed, constructed, maintained and repaired within the Buffer Area at those locations where the width of the Property is less than 130 feet; provided, however, that the Roadway (and the construction activities associated therewith) are not allowed within any portion of the Buffer Area that is located more than 150 feet east of the Edward J. Ratliff property, as shown on the plat recorded in Plat Book B143, Pages 7 and 8 in Oconee County Register of Deeds.

In addition to the rights of enforcement set forth in Section 11 below, if the terms of this Section 8 are violated, then the owner of the Lot on which such violation occurs ("**Violating Owner**") shall, within 30 days after the Violating Owner discovers, receives notice of or otherwise has knowledge of the occurrence of the violation, retain a qualified environmental consultant to develop a plan to restore the Buffer Area to the condition of the Buffer Area that existed prior to the violation ("**Buffer Restoration Plan**") and submit the Buffer Restoration Plan to Grantor for review. All costs related to the development of the Buffer Restoration Plan shall be paid by the Violating Owner. Grantor shall either approve the Buffer Restoration Plan in writing or object to the Buffer Restoration Plan and deliver to the Violating Owner written notice specifying the objections. If Grantor approves the Buffer Restoration Plan, then the Violating Owner shall, at its expense, promptly perform the work required under the Buffer Restoration Plan in strict accordance with the Buffer Restoration Plan and diligently and continuously pursue the work required under the Buffer Restoration Plan to completion. If Grantor objects to the Buffer Restoration Plan, then the Violating Owner shall revise the Buffer Restoration Plan to address the objections made by Grantor and shall submit the revised Buffer Restoration Plan to Grantor for review. The foregoing process shall continue until Grantor approves the Buffer Restoration Plan. If the Violating Owner fails to comply with the terms of this paragraph, then Grantor shall have the right to perform all of the obligations of the Violating Owner under this paragraph and to charge the Violating Owner for all the costs thereof (including attorney fees and court costs incurred in collecting such costs). Any claim against a Violating Owner for such costs, together with interest accrued thereon and collection costs shall constitute a personal obligation of the Violating Owner and shall be secured by an equitable lien on the Violating Owner's Lot. The lien shall attach and be effective from the date of recording of a lien notice in the appropriate office of the County in which the Property is located. A copy of the lien notice shall be mailed to the Violating Owner within 30 days after the recording of the lien notice. The lien may be enforced by judicial foreclosure upon the Lot to which the lien attached in the same manner as a mortgage is judicially foreclosed under the laws of the State in which the Property is located. In any foreclosure, the Violating Owner shall be required to pay the reasonable costs and attorneys' fees in connection with the preparation and filing of the lien notice and the foreclosure. Notwithstanding anything contained in these General Deed Restrictions (including the terms of Section 11) to the contrary, the right to require, review and approve the Buffer Restoration Plan shall be limited to Grantor and its successors or assigns by merger or consolidation or by written assignment (including any property owners' association created with respect to all or any portion of the Property).

9. **No Claims.** No owner of a Lot or of any Benefited Property (defined below) shall have any claim or cause of action against Grantor or its affiliates arising out of the exercise, or non-exercise, or enforcement, or failure to enforce, or the amendment, release or grant of variance with respect to any covenant, condition, restriction, easement or other right reserved hereunder or referred to herein.

10. **No Delay.** No delay or failure on the part of Grantor to invoke an available remedy with respect to a violation of any restriction contained herein shall be held to be a waiver by Grantor of any right available to it upon the recurrence or continuance of said violation or the occurrence of a different violation.

11. **Rights of Enforcement.** The covenants, conditions and restrictions set forth herein shall run with the title to the Property and shall benefit Grantor and all property ("**Benefited Property**") owned on the date hereof by Grantor or its subsidiaries located within one thousand feet of any portion of the Property (other than any property located within the FERC boundaries of the Lake). If any Lot owner, its heirs, successors, tenants, or assigns shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, Grantor and any subsequent owner of any portion of the Benefited Property may enforce the covenants, conditions and restrictions set forth herein by any remedy available at law or in equity, either to prevent or remediate such violation, or recover damages for such violation, or both. Grantor (but not any other Benefited Property owner) shall have an easement over the Property for the purpose of entering a Lot in order to monitor or enforce compliance with these covenants, conditions and restrictions without court order. The party bringing such action shall be entitled to recover its reasonable attorney's fees and expenses incurred in such proceedings from the person or entity violating or attempting to violate the same. Nothing herein shall be held to impose any restriction on any other land owned by Grantor, its subsidiaries or affiliates.

12. **Modification, Amendment, Variances.** Grantor hereby reserves the right for itself and its successors or assigns, to amend or modify, release or grant variances with respect to the covenants, conditions, easements and restrictions set forth herein. As used in this Section 12, the term "successors or assigns" shall be limited to Grantor's successors or assigns by merger or consolidation or by written assignment.

13. **Reserved Easement.** Grantor hereby reserves unto itself and any successors in title, (i) a ten foot wide easement extending into the Property from and along each boundary line of the Property for the installation and maintenance of utility lines, drainage ditches or facilities or any other related improvements that may be required by Grantor or its successors or assigns; and (ii) a 15 foot wide easement extending into the Property from and along any public or private road rights-of-way for the installation and maintenance of utility lines, drainage ditches or facilities or any other related improvements that may be required by Grantor or its successors or assigns.

14. **Subdivision.** The Property may not be subdivided in a manner that will result in any Lot being created which is less than 29,000 square feet.

15. **No Modular or Mobile Homes.** No more than one mobile, manufactured or modular home or structure having the characteristics or appearance of a mobile, modular or manufactured home, including, without limitation, any mobile, modular or manufactured home as defined by the building codes or other applicable laws of the state in which the Property is located, shall be located upon the Property.

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says;

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located in Keowee Whitewater Township, bearing Oconee County Tax Map Number 150-00-01-444, was transferred by Crescent Communities S.C., LLC to FARMES, A South Carolina Limited Partnership, and GLOBE, A South Carolina Limited Partnership on December 4, 2008.

3. Check one of the following: The deed is

(a) ___X___ subject to the deed recording fee as a transfer consideration paid or to be paid in money or money's worth.

(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____
(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ or No _____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

(a) ___X___ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of **$ 1,844,400.00**

(b) _____ The fee is computed on the fair market value of the realty which is _____.

(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes _____ or No ___X___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: $ 1,844,400.00

(b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)

(c) Subtract Line 6(b) from Line 6(a) and place result here: $ 1,844,400.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $ 6,824.65 .

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Authorized Agent for Crescent Communities S.C., LLC.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

J. Scott Munday

Responsible Person Connected with the Transaction
J. Scott Munday
Vice President

SWORN to before me this 3rd day of December, 2008.

Kay H. Arnette

Notary Public for North Carolina
My Commission Expires: June 28, 2009

KAY H. ARNETTE NOTARY PUBLIC MECKLENBURG COUNTY, N. C. My Comm. Exp. June 28, 2009

FILED FOR RECORD
ODONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 DEC -8 A 8:49

PPAB 1304095v2

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;

(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;

(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;

(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);

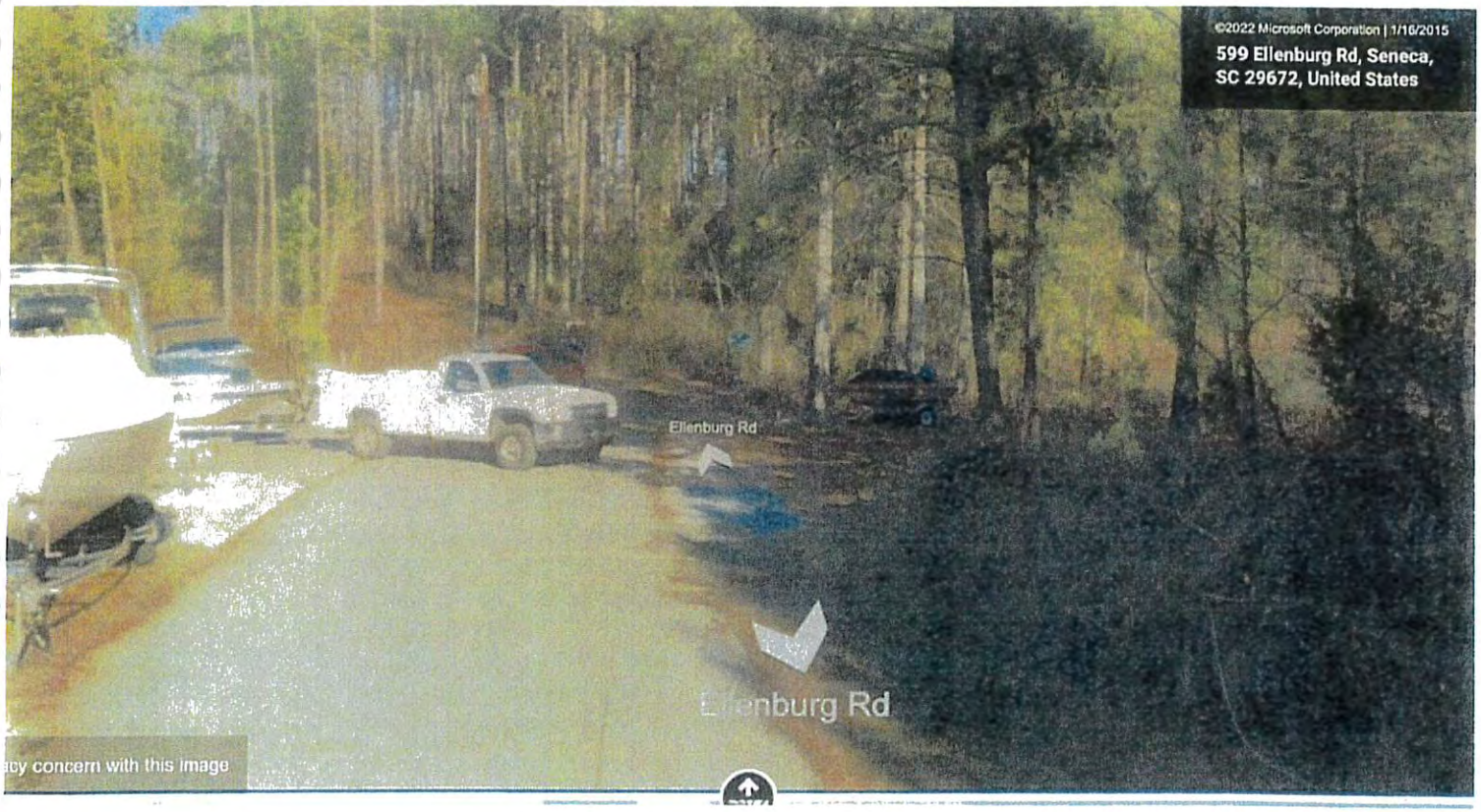
(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;

(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 53 of Title 39;

(7) that constitute a contract for the sale of timber to be cut;

(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or a trust;

(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive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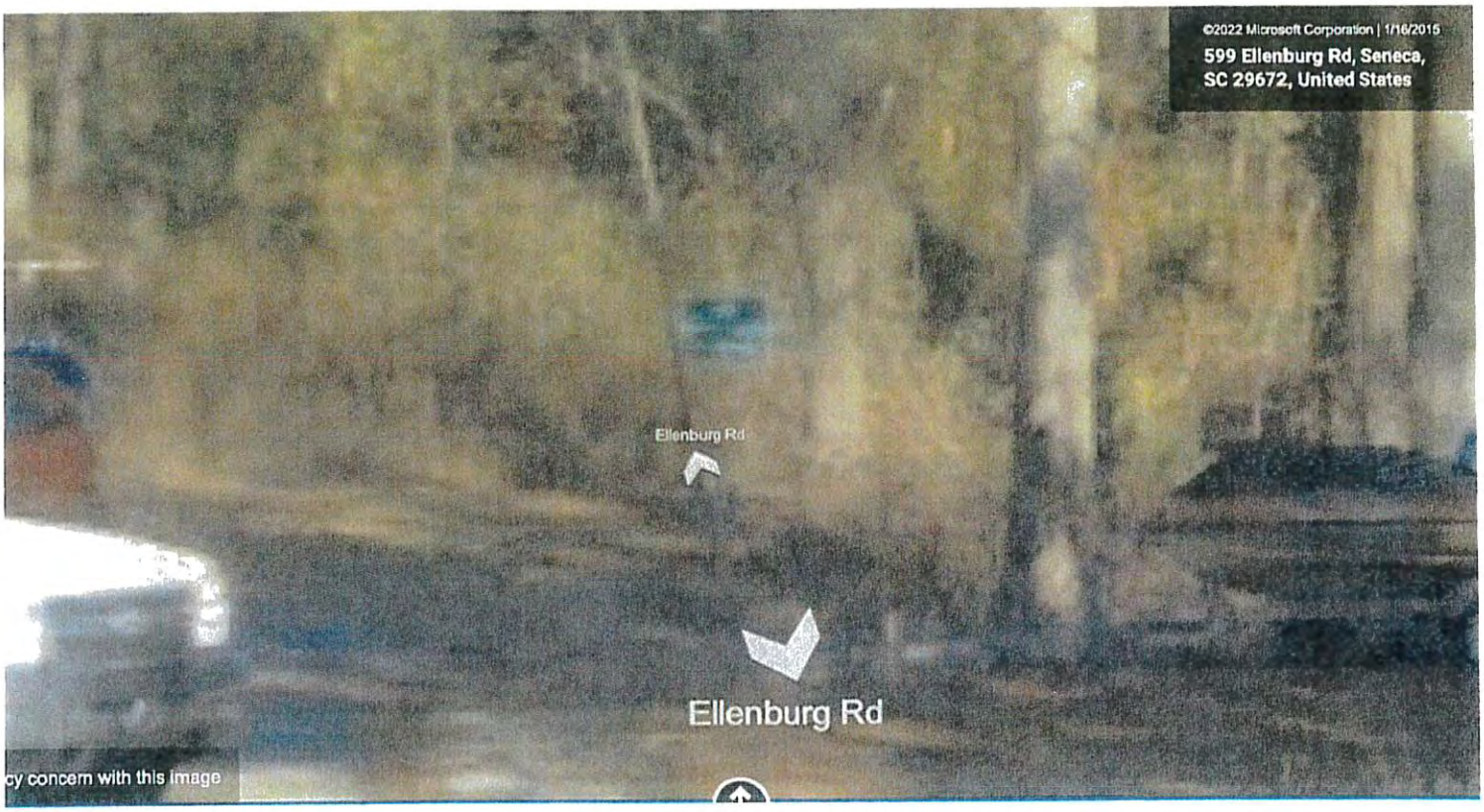
ITEM 7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Ellenburg Rd
cy concern with this image

ITEM 7

Gmail Andy Lee <andyonkeowee@gmail.com>

FW: Ellenburg Road - BZA hearing

messages

James Coley <jcoley@oconeesc.com> Mon, Nov 29, 2021 at 12:13 PM
To: Wesley White <wesley@ridgewatereng.com>, Andy Lee <andyonkeowee@gmail.com>

For your records.

Thanks,

From: Kyle Reid
Sent: Monday, November 29, 2021 9:58 AM
To: James Coley <jcoley@oconeesc.com>
Cc: David Root <droot@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

James,

Here are the bullets from my conversation with the developer and his engineers concerning the development at the end of Ellenburg Rd. (these are not commentary on the variance requested for the BZA and the below was based on hypotheticals as no plan was presented):

- The developer asked about where Ellenburg Rd stops being county maintained. I told them it was the end of the asphalt and that we did not have deeded right-of-way as the road is maintained by prescriptive easement. I also showed him what we have been maintaining as the extent of our right-of-way.
- They asked about upgrading the road and told me getting right-of-way from the adjacent property owner would likely be difficult. They asked about being able to place the road entirely on their property with a reduced right-of-way than the 50' standard required by the ordinance. I told them that any variance from the road standards would have to be heard by the BZA.
- They asked if there was anything additional that they would need to consider. I told them without a sketch plan it would be hard to hit all the points, but with a subdivision more than 10 lots there would have to be a traffic impact study for Ellenburg Rd that would need to be done at the preliminary plat phase along with an encroachment permit to tie onto the end of the county maintained portion of Ellenburg Rd.
- They asked me about the new road in the development becoming a county maintained road. I told them that the road would need to meet all county standards and have an approved turn around.
- They asked me about the being able to put a gate on the road. I told them it could not be a county maintained road if there was a gate.

As for the proposed variance from the road standards, I would not see an appreciable impact for us to maintain the road because of the fact that our road would terminate at the area with a narrowed right-of-way. They would have to grant us right-of-way in the area they are proposing to relocate the road which would enhance our ability to maintain it. The only other question I would have is for them to show the ability to get the road, shoulders, drainage, and utilities in the proposed narrowed right-of-way.

EXHIBIT 9

https://mail.google.com/mail/u/0/?ik=48edcb8138&view=pt&search=all&permthid=thread-f%3A1717783536694444152&simpl=msg-f%3A1717783536

Thank you,

W. Kyle Reid

Assistant Director of Public Works

Oconee County Roads & Bridges

15022 Wells Hwy – Seneca, SC 29678

Phone: (864) 886-1072

Fax: (864) 886-1071

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From: James Coley
Sent: Tuesday, November 23, 2021 1:37 PM
To: David Root <droot@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>; Kyle Reid <kreid@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

Kyle,

Can you please write up notes for your meeting with the developer, and how their proposal impacts roads and bridges, and your site meeting with them? I will incorporate your materials into a report to the board with the staff recommendations.

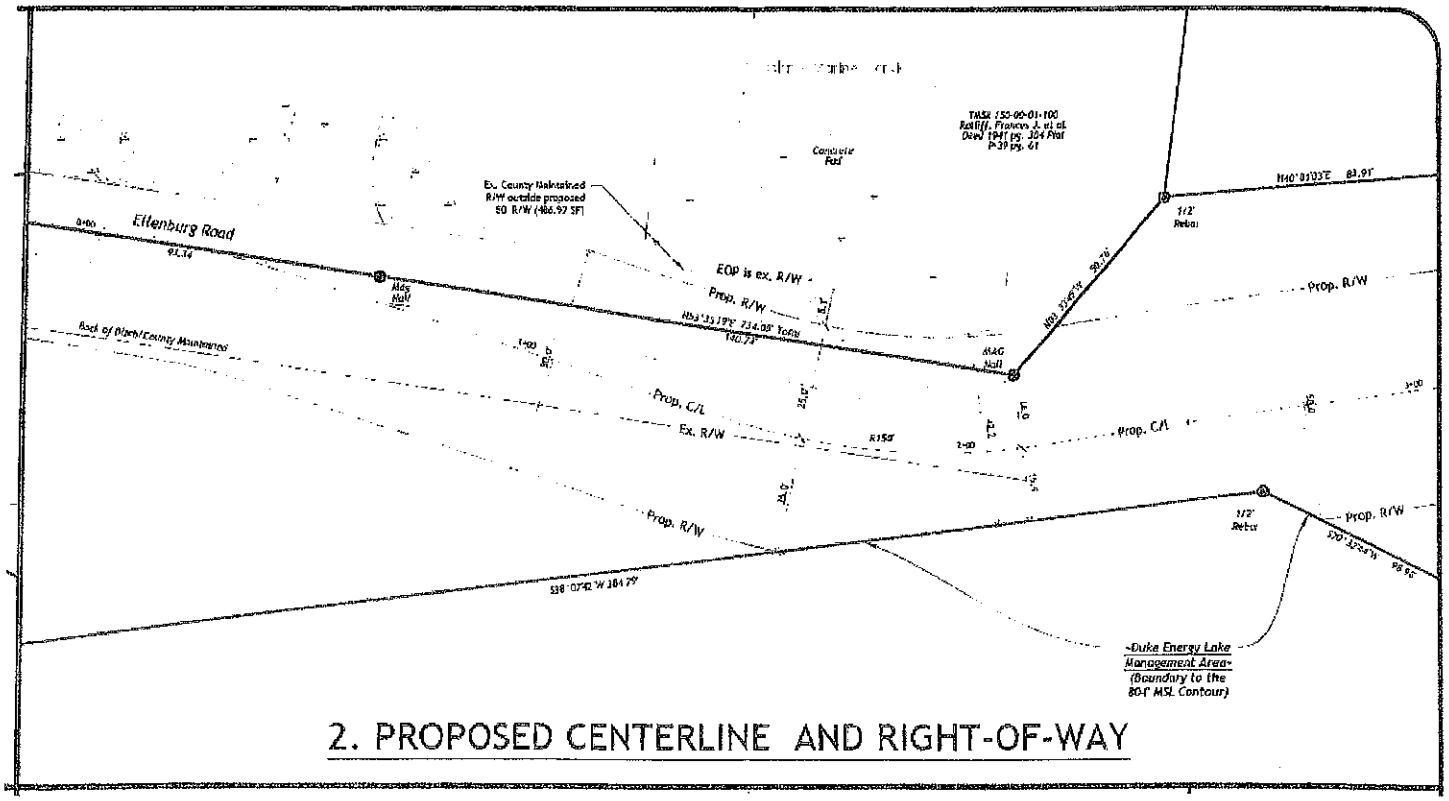
Have a great thanksgiving.

Thanks,

James Coley

From: David Root
Sent: Monday, November 22, 2021 12:53 PM
To: James Coley <jcoley@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>; Kyle Reid

ITEM 9



2. PROPOSED CENTERLINE AND RIGHT-OF-WAY

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Item 8: Parcel Deed Restrictions

Variance Criteria Overview

General criteria for granting a variance. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

a) *There are extraordinary and exceptional conditions pertaining to a particular piece of property.*

The parcel itself is a peninsula, it's bounded by water on all sides with exception of the center of the county road as a boundary. The peninsula is narrow in a small portion of the parcel and is unique in that the property line is the center of the road and does not have it's own right of way. There is only access easement to the parcel. These conditions are extraordinary and exceptional because of the limitations created by geography and topography within this parcel. The way a parcel of land lays, the geography, the topography are all acceptable reasons for granting a variance.

b) *These conditions do not generally apply to other property in the vicinity.*

In the geographic vicinity of this piece of property most roads have a 50 foot right of way because they are not geographically constrained. This property is bounded by a body of water. Most parcels in the vicinity are not bound by the water on both sides. Because of the unique geography of this parcel, meeting the current road ordinance goes beyond creating an unnecessary hardship and instead creates only impossibility of use. This impossibility creates a scenario which meets the criteria for granting a variance.

Item 1

c) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Without granting this variance to the roads ordinance the application of the ordinance will unreasonably restrict the use of the property. The property was purchased prior to this ordinance being adopted and if you will reference the Deed Restrictions for the parcel you will see that these restrictions are designed in mind with an end use for single-family residential development which was and still remains the intent behind this purchase. The developments in the vicinity of this property have larger homesites and larger homes. The application of this ordinance effectively prohibits building like kind or similar developments for which this property was purchased for, as per the deed.

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

1) The proposed improvement will relocate the existing edge of county pavement, as shown on exhibit 2, to provide John's Marine an additional 22 feet of area to maneuver, outside of the County maintained roadway.

2) We will extend his current driveway to meet the new roadway so that it is then contiguous to his drive and ramp, causing no disturbance in his business use.

3) Probably most helpful to improve current conditions for his operation is the installation of a cul-de-sac at the termination of the county road. This would be located 100% within the boundaries of our parcel, as you can see on Graphic 2 and does not encroach onto his property. John's Marine, his customer base, and

the delivery truck drivers will be able to utilize this space to turn around trucks and trailered boats. John's Marine is currently using the county road as a parking lot and to turn around delivery trucks according to himself and what has been submitted by the public. Granting this variance would alleviate that current hardship by expanding the paved area and providing a paved cul-de-sac that is built to accommodate a circling school bus or fire truck. This should effectively eliminate the need for Fedex/UPS truck to turn around in adjacent owners driveways, road shoulders, or have a need to block the road. This will certainly benefit him and his customers to be able to turn around there.

4) We are improving the affected area an ageing county road to current county specifications, an improvement to the current conditions of the roadway. This improvement is at no cost to John's Marine, the neighbors, or to the taxpayers.

5) 19 more homesites also provides the opportunity for 19 more boats to service at the most convenient of distances. John's Marine, who already has an excellent customer base and strong reputation in our community as a top mechanic, will have a slightly expanded customer base in the community if he chooses to take on new clientele. Also, the impact of construction vehicles traveling the road way into the development is for a limited window of time while homes are being built.

Gmail

Andy Lee <andyonkeowee@gmail.com>

FW: Ellenburg Road - BZA hearing

messages

James Coley <jcoley@oconeesc.com>
To: Wesley White <wesley@ridgewatereng.com>, Andy Lee <andyonkeowee@gmail.com>

Mon, Nov 29, 2021 at 12:13 PM

For your records.

Thanks,

From: Kyle Reid
Sent: Monday, November 29, 2021 9:58 AM
To: James Coley <jcoley@oconeesc.com>
Cc: David Root <droot@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

James,

Here are the bullets from my conversation with the developer and his engineers concerning the development at the end of Ellenburg Rd. (these are not commentary on the variance requested for the BZA and the below was based on hypotheticals as no plan was presented):

- The developer asked about where Ellenburg Rd stops being county maintained. I told them it was the end of the asphalt and that we did not have deeded right-of-way as the road is maintained by prescriptive easement. I also showed him what we have been maintaining as the extent of our right-of-way.
- They asked about upgrading the road and told me getting right-of-way from the adjacent property owner would likely be difficult. They asked about being able to place the road entirely on their property with a reduced right-of-way than the 50' standard required by the ordinance. I told them that any variance from the road standards would have to be heard by the BZA.
- They asked if there was anything additional that they would need to consider. I told them without a sketch plan it would be hard to hit all the points, but with a subdivision more than 10 lots there would have to be a traffic impact study for Ellenburg Rd that would need to be done at the preliminary plat phase along with an encroachment permit to tie onto the end of the county maintained portion of Ellenburg Rd.
- They asked me about the new road in the development becoming a county maintained road. I told them that the road would need to meet all county standards and have an approved turn around.
- They asked me about the being able to put a gate on the road. I told them it could not be a county maintained road if there was a gate.

As for the proposed variance from the road standards, I would not see an appreciable impact for us to maintain the road because of the fact that our road would terminate at the area with a narrowed right-of-way. They would have to grant us right-of-way in the area they are proposing to relocate the road which would enhance our ability to maintain it. The only other question I would have is for them to show the ability to get the road, shoulders, drainage, and utilities in the proposed narrowed right-of-way.

C WHITE

Thank you,

W. Kyle Reid

Assistant Director of Public Works

Oconee County Roads & Bridges

15022 Wells Hwy – Seneca, SC 29678

Phone: (864) 886-1072

Fax: (864) 886-1071

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From: James Coley
Sent: Tuesday, November 23, 2021 1:37 PM
To: David Root <droot@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>; Kyle Reid <kreid@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

Kyle,

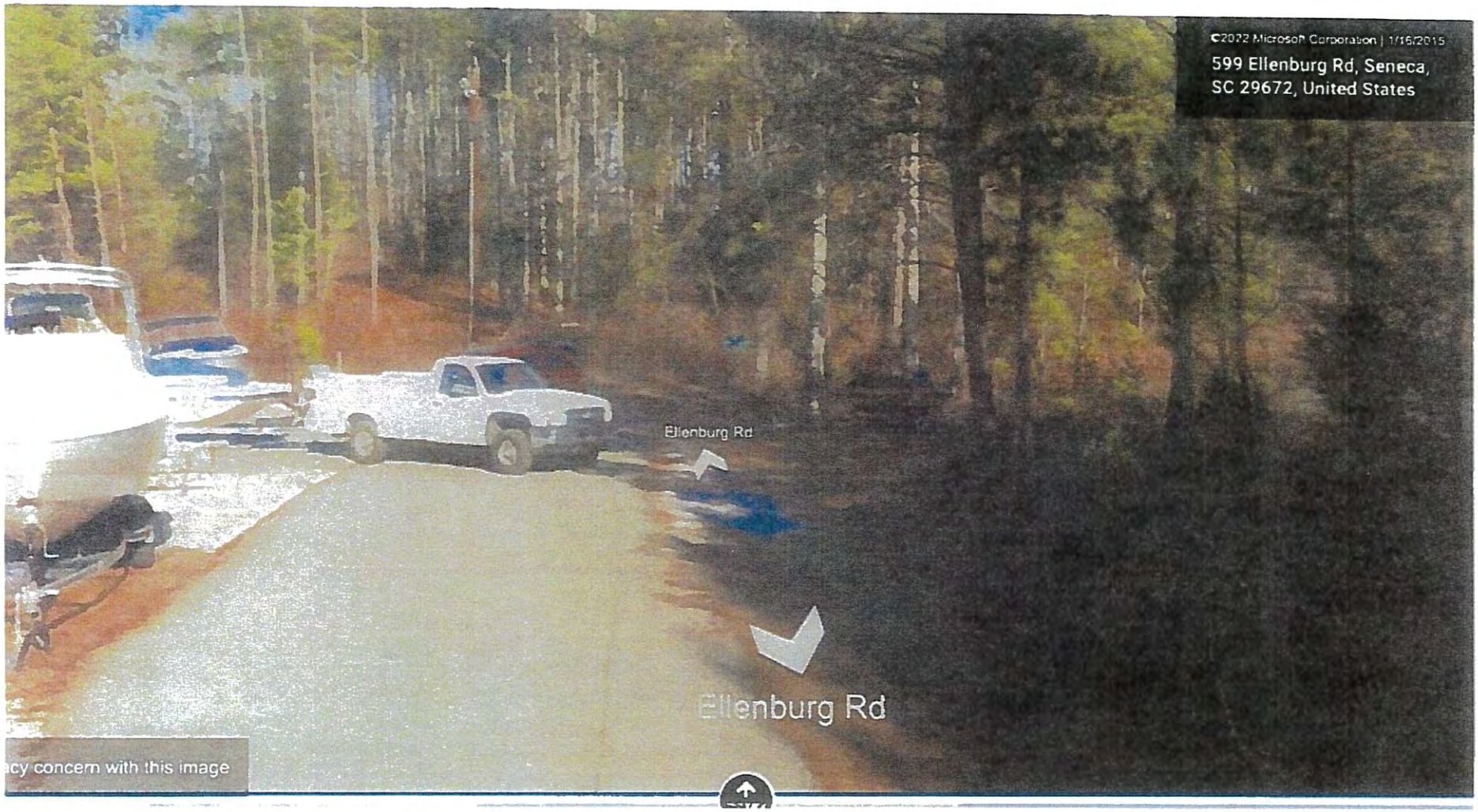
Can you please write up notes for your meeting with the developer, and how their proposal impacts roads and bridges, and your site meeting with them? I will incorporate your materials into a report to the board with the staff recommendations.

Have a great thanksgiving.

Thanks,

James Coley

From: David Root
Sent: Monday, November 22, 2021 12:53 PM
To: James Coley <jcoley@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>; Kyle Reid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ITEM 7

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OCONEE COUNTY, S.C.
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2008 DEC -8 A 8:49

EXHIBIT B

GENERAL DEED RESTRICTIONS

THE PROPERTY SHALL BE CONVEYED SUBJECT TO THE FOLLOWING RESTRICTIONS, WHICH SHALL ENCUMBER THE PROPERTY AND SHALL RUN WITH TITLE TO THE PROPERTY.

1. **Definition of "Property" and "Lot".** As used herein, (i) "**Property**" means all of the property conveyed by Grantor to Grantee pursuant to this deed; and (ii) "**Lot**" means any portion of the Property that constitutes a legally established separate lot or parcel of land (whether created by the recordation of a subdivision plat or otherwise), as such lots or parcels of land may exist from time to time (collectively, "**Lots**"). If the Property consists of only one lot or parcel of land, then the term "Property" is synonymous with the term "Lot." If the Property consists of two or more lots or parcels of land, whether such lots or parcels exist on the date the Property is conveyed to Grantee or are later created by subdivision of the Property or other legal means, then each of those lots or parcels is a "Lot" for the purposes of these Restrictions.

2. **Single Family Use.** The Property shall be used only for detached, single-family residence purposes, together with the accessory buildings and structures permitted pursuant to **Section 6** below. No more than one detached single-family residential dwelling may be constructed on any Lot. No condominium, townhouse, duplex, apartment or other multi-family residential uses are permitted on the Property. Further, no camper, trailer, motor home, boat (including, without limitation, any boat docked adjacent to the Property), recreational vehicle or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to the Property as a place of residence. The single-family residence restrictions set forth above shall not prohibit the construction of pools, tennis courts or other recreational facilities or amenities such as are commonly constructed and maintained for the benefit of lot owners within planned unit developments; provided that such recreational facilities or amenities shall be solely for the common use of the owners of one or more Lots and, provided further, that no such recreational facilities may be located within any Buffer Area (defined below).

3. **Restricted Activities.** The following activities are prohibited on the Property:

(a) Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that dogs, cats or other usual and common household pets (which are registered, licensed and inoculated as required by law) may be permitted on the Property;

(b) Any activity which violates local, state, or federal laws or regulations;

(c) Institutional uses, including, but not limited to, group homes, day care centers, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns and beds and breakfasts; and

(d) Any business or trade, except that an owner or occupant residing on a Lot may conduct business activities within a dwelling on that Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the dwelling unit; (ii) the business activity conforms to all zoning requirements for the Lot; (iii) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers or other business invitees; (iv) the business activity does not involve any service or delivery business in which more than one vehicle used in such business would be parked overnight on a Lot, or for which any parts, equipment supplies, raw materials, components or tools are stored on a Lot; and (v) the business activity is consistent with the residential character of the Property and does not constitute an unreasonable disturbance to adjoining land owners or others, a nuisance or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales or similar activities provided that such activities are not held on the same Lot more than once in any six-month period. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. The leasing of a Lot for single-family residential use shall not be considered a business or trade within the meaning of this subsection.

4. **Prohibited Conditions.** None of the following structures or improvements may be located upon the Property:

(a) Structures, equipment or other items which are visible from any road or adjacent property which have become rusty, dilapidated or otherwise fallen into disrepair;

(b) Towers, antennas or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind which are located outside of the dwelling on a Lot other than (i) a customary antenna, which shall not extend more than ten feet above the top roof ridge of the dwelling; and (ii) a satellite disc or dish no larger than 18 inches in diameter;

(c) Any freestanding transmission or receiving towers or any non-standard television antennae; and

(d) Chain-link fences.

5. **Quality Craftsmanship/Dwelling Size.** All buildings and outbuildings erected upon the Property shall be built on site of new materials of good grade, quality and appearance and shall be constructed in a good and workmanlike manner, conforming to all applicable building codes. Further, all dwellings must meet the following construction requirements:

(a) If the dwelling is located on a Waterfront Lot (a "**Waterfront Lot**" is a lot, any portion of which is located within 100 feet (measured horizontally regardless of the actual ground measurement which may vary based upon the topography) of the Common Boundary Line (defined in **Section 8** below)), then: (i) one story dwellings shall not contain less than 2,000 square feet of Heated Living Area (defined below); (ii) one and a half story dwellings shall not contain less than 2,200 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,400 square feet of Heated Living Area;

(b) If the dwelling is not located on a Waterfront Lot, then: (i) one story dwellings shall not contain less than 1,600 square feet of Heated Living Area; (ii) one and a half story dwellings shall not contain less than 1,800 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,000 square feet of Heated Living Area;

(c) All dwellings and accessory structures shall be completely supported with solid brick, brick or stone covered block, or stucco covered foundation;

(d) Roofs shall have not less than a 6 in 12 inch pitch, and not less than a 12 inch overhang, and shall be covered with asphalt or fiberglass shingles, terra cotta tile, real or man-made slate, copper sheathing or wood shingles or pre-painted metal roofing;

(e) The exterior surfaces of all dwellings and accessory structures shall be covered only with brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding consisting of wood, composite or vinyl material; provided, that any horizontal siding must be completely supported to maintain a straight and even outer surface and must be fully and properly finished; and

(f) Exteriors of all dwellings and accessory structures must be completed within one year after the commencement of construction, and a certificate of occupancy issued within two years after commencement of construction.

As used herein, "**Heated Living Area**" excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term "**story**" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "**half story**" shall mean a story which

contains 50 percent or less Heated Living Area than the story in the house containing the most Heated Living Area.

6. **Permitted Accessory Structures.** Except as otherwise expressly set forth herein, no buildings, structures or improvements of any kind may be located on a Lot other than one detached, single-family residential home, and the following permitted accessory structures:

(a) Storage and shop outbuildings, including detached garages, workshops, storage and utility buildings, greenhouses and similar buildings, not exceeding the height of the roof of the residence on the Lot. The total square footage contained within all such outbuildings combined shall not exceed 2,000 square feet. All outbuildings shall be permanently affixed to the Lot and shall be covered with the approved exterior materials described in Section 5(e) above. Further, no outbuildings shall be located wholly or partially within any Buffer Area (as defined below).

(b) Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures. The total square footage contained within such structures when combined shall not exceed 1,000 square feet in area. Further, no such structure shall be located wholly or partially within any Buffer Area (as defined below).

(c) To the extent permitted at the time of construction and installation by Duke Energy Carolinas, LLC (or its successor, with respect to ownership and/or management authority over the Lake, if applicable) ("**Duke Energy**") and all applicable governmental authorities, waterfront structures, including fixed piers, boat slips or floats, covered docks, boat ramps, decking and sitting areas attached to piers, walkways and other similar structures. Grantee acknowledges by acceptance of this deed that policies, laws and regulations regarding its ability to construct or install such structures may change from time to time before or after Grantee's acquisition of the Property and Grantor makes no representation or warranty as to Grantee's ability to construct or install such structures either now or in the future. Such structures may be located wholly or partially within the Buffer Area provided no more than a total of 200 square feet of such structures shall be located within the Buffer Area on any Lot.

7. **Site Development Requirements.** Each Lot shall be subject to the following specific development requirements.

(a) No portion (or portions) of a Lot greater than 2,000 square feet shall be: (i) denuded of ground cover or topsoil, (ii) graded, (iii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required building, grading and erosion control permits have been issued by the applicable municipal authorities.

(b) All denuded, graded, excavated or filled areas shall be stabilized and replanted on or before: (i) the 30th day following the initial denuding, grading, excavation, or

filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such area); or (ii) such time as construction is completed or interrupted for a period of 30 continuous days. In addition to, or in the absence of local or state government regulations on such land disturbance, none of the activities described in (i) through (iv) in Section 7(a) above shall be allowed to commence without compliance with the following requirements:

(i) The surveying and flagging of the Buffer Area (defined below) and any portion of the Buffer Area that may be disturbed as a result of any activities permitted hereunder;

(ii) The flagging of all trees in the Buffer Area that equal or exceed six inches in diameter, as measured four and one-half feet from the base of each tree. The trees, Buffer Area (defined below) and disturbed areas referenced in Sections 7(a) and (b) shall be clearly and distinctly flagged, staked or otherwise designated in order to prevent the unintentional violation of these restrictions by parties performing work upon the Property; and

(iii) The proper installation (in accordance with manufacturer's instructions) of construction silt fencing on the lower perimeters of all areas within the Lot to be disturbed, and any other areas which may be impacted by silt runoff from any disturbed areas located on the Lot.

8. **Buffer Area Restrictions.** As used herein, the term "**Buffer Area**" shall mean any portion of the Property that is located within 50 feet (measured horizontally regardless of the actual ground measurement which may very based upon the topography) of the 800 foot contour elevation ("**Contour Line**") of Lake Keowee ("**Lake**"); provided, however, that the inner boundary of the Buffer Area (i.e. the boundary that is inland from the Lake) shall not be less than fifty feet (measured horizontally regardless of the actual ground measurement which may vary based upon the topography) from the common boundary ("**Common Boundary Line**") of the Property and the Lake. No portion of the Buffer Area may be disturbed in any way, including any disturbance or removal of topsoil, trees and other natural growth. Neither the Common Boundary Line nor the Contour Line of the Lake shall change as a result of erosion or stabilization measures occurring following the conveyance of the Property to Grantee. Notwithstanding the second sentence in this Section 8, the following activities are permitted within the Buffer Area:

(a) Trees which are less than six inches in diameter, as measured four and one-half feet from the base of each tree may be removed. Any tree removal shall be performed using hand held gas or electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in removing any trees. Additionally, trees having a greater diameter than that set forth above that have become diseased or damaged through natural processes may be removed in the same manner.

(b) Within each Lot, an access corridor may be created within the Buffer Area for the purpose of providing lake access to install shoreline stabilization or to install and use water access structures (such as docks or boat ramps) that have been approved in advance by Duke Energy and otherwise comply with Section 6(c) above. The access corridor may not exceed 15 feet in width. Trees with diameters equaling or exceeding six inches, as measured four and one-half feet from base, may be removed within the access corridor and grading or ground disturbance (which otherwise complies with the restrictions set forth herein) may be performed if reasonably necessary to provide access to the Lake for the purposes described above in this Section 8(b).

(c) Underbrush (defined as nuisance shrubs, vines and similar plant growth beneath the tree canopy, and generally growing less than six feet in height) may be removed.

(d) Pruning and trimming of trees is permitted, provided that pruning is limited to tree branches beginning with the lowest to the ground and extending up the tree trunk no more than one-half of the total height of the tree. Trimming may also be performed on any limbs or branches that are diseased or naturally damaged.

(e) The use of rip-rap, bulkheading or other shoreline stabilization methods or materials may be initiated with the prior written approval by Duke Energy and any shoreline stabilization shall be performed in compliance with Duke Energy's Shoreline Management Guidelines which are in effect at the time such stabilization occurs. Generally, Duke Energy allows structural stabilization to extend only to a height one foot above the Contour Line of the Lake. If Duke Energy authorizes Grantee to perform certain shoreline stabilization, then at all points where shoreline stabilization occurs, the inner boundary line of the Buffer Area (i.e. the boundary line opposite the Contour Line of the Lake) shall be adjusted inward (i.e. away from the Contour Line of the Lake) by the same distance that the stabilization structures or improvements extend from the Contour Line of the Lake into the Lot, provided, however, that in no event shall the width of the undisturbed Buffer Area be reduced to less than 50 feet between any portion of the interior edge of the stabilization structures or improvements and any residence or other structure or improvement located on the Lot (other than docks, boat ramps, or other water access structures which have been approved in writing by Duke Energy).

(f) An access road ("Roadway") for pedestrian and vehicular ingress, egress and regress may be installed, constructed, maintained and repaired within the Buffer Area at those locations where the width of the Property is less than 130 feet; provided, however, that the Roadway (and the construction activities associated therewith) are not allowed within any portion of the Buffer Area that is located more than 150 feet east of the Edward J. Ratliff property, as shown on the plat recorded in Plat Book B143, Pages 7 and 8 in Oconee County Register of Deeds.

In addition to the rights of enforcement set forth in Section 11 below, if the terms of this Section 8 are violated, then the owner of the Lot on which such violation occurs ("**Violating Owner**") shall, within 30 days after the Violating Owner discovers, receives notice of or otherwise has knowledge of the occurrence of the violation, retain a qualified environmental consultant to develop a plan to restore the Buffer Area to the condition of the Buffer Area that existed prior to the violation ("**Buffer Restoration Plan**") and submit the Buffer Restoration Plan to Grantor for review. All costs related to the development of the Buffer Restoration Plan shall be paid by the Violating Owner. Grantor shall either approve the Buffer Restoration Plan in writing or object to the Buffer Restoration Plan and deliver to the Violating Owner written notice specifying the objections. If Grantor approves the Buffer Restoration Plan, then the Violating Owner shall, at its expense, promptly perform the work required under the Buffer Restoration Plan in strict accordance with the Buffer Restoration Plan and diligently and continuously pursue the work required under the Buffer Restoration Plan to completion. If Grantor objects to the Buffer Restoration Plan, then the Violating Owner shall revise the Buffer Restoration Plan to address the objections made by Grantor and shall submit the revised Buffer Restoration Plan to Grantor for review. The foregoing process shall continue until Grantor approves the Buffer Restoration Plan. If the Violating Owner fails to comply with the terms of this paragraph, then Grantor shall have the right to perform all of the obligations of the Violating Owner under this paragraph and to charge the Violating Owner for all the costs thereof (including attorney fees and court costs incurred in collecting such costs). Any claim against a Violating Owner for such costs, together with interest accrued thereon and collection costs shall constitute a personal obligation of the Violating Owner and shall be secured by an equitable lien on the Violating Owner's Lot. The lien shall attach and be effective from the date of recording of a lien notice in the appropriate office of the County in which the Property is located. A copy of the lien notice shall be mailed to the Violating Owner within 30 days after the recording of the lien notice. The lien may be enforced by judicial foreclosure upon the Lot to which the lien attached in the same manner as a mortgage is judicially foreclosed under the laws of the State in which the Property is located. In any foreclosure, the Violating Owner shall be required to pay the reasonable costs and attorneys' fees in connection with the preparation and filing of the lien notice and the foreclosure. Notwithstanding anything contained in these General Deed Restrictions (including the terms of **Section 11**) to the contrary, the right to require, review and approve the Buffer Restoration Plan shall be limited to Grantor and its successors or assigns by merger or consolidation or by written assignment (including any property owners' association created with respect to all or any portion of the Property).

9. **No Claims.** No owner of a Lot or of any Benefited Property (defined below) shall have any claim or cause of action against Grantor or its affiliates arising out of the exercise, or non-exercise, or enforcement, or failure to enforce, or the amendment, release or grant of variance with respect to any covenant, condition, restriction, easement or other right reserved hereunder or referred to herein.

10. **No Delay.** No delay or failure on the part of Grantor to invoke an available remedy with respect to a violation of any restriction contained herein shall be held to be a waiver by Grantor of any right available to it upon the recurrence or continuance of said violation or the occurrence of a different violation.

11. **Rights of Enforcement.** The covenants, conditions and restrictions set forth herein shall run with the title to the Property and shall benefit Grantor and all property ("Benefited Property") owned on the date hereof by Grantor or its subsidiaries located within one thousand feet of any portion of the Property (other than any property located within the FERC boundaries of the Lake). If any Lot owner, its heirs, successors, tenants, or assigns shall violate or attempt to violate any of the covenants, conditions or restrictions contained herein, Grantor and any subsequent owner of any portion of the Benefited Property may enforce the covenants, conditions and restrictions set forth herein by any remedy available at law or in equity, either to prevent or remediate such violation, or recover damages for such violation, or both. Grantor (but not any other Benefited Property owner) shall have an easement over the Property for the purpose of entering a Lot in order to monitor or enforce compliance with these covenants, conditions and restrictions without court order. The party bringing such action shall be entitled to recover its reasonable attorney's fees and expenses incurred in such proceedings from the person or entity violating or attempting to violate the same. Nothing herein shall be held to impose any restriction on any other land owned by Grantor, its subsidiaries or affiliates.

12. **Modification, Amendment, Variances.** Grantor hereby reserves the right for itself and its successors or assigns, to amend or modify, release or grant variances with respect to the covenants, conditions, easements and restrictions set forth herein. As used in this Section 12, the term "successors or assigns" shall be limited to Grantor's successors or assigns by merger or consolidation or by written assignment.

13. **Reserved Easement.** Grantor hereby reserves unto itself and any successors in title, (i) a ten foot wide easement extending into the Property from and along each boundary line of the Property for the installation and maintenance of utility lines, drainage ditches or facilities or any other related improvements that may be required by Grantor or its successors or assigns; and (ii) a 15 foot wide easement extending into the Property from and along any public or private road rights-of-way for the installation and maintenance of utility lines, drainage ditches or facilities or any other related improvements that may be required by Grantor or its successors or assigns.

14. **Subdivision.** The Property may not be subdivided in a manner that will result in any Lot being created which is less than 29,000 square feet.

15. **No Modular or Mobile Homes.** No more than one mobile, manufactured or modular home or structure having the characteristics or appearance of a mobile, modular or manufactured home, including, without limitation, any mobile, modular or manufactured home as defined by the building codes or other applicable laws of the state in which the Property is located, shall be located upon the Property.

STATE OF NORTH CAROLINA)
)
COUNTY OF MECKLENBURG)

AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says;

1. I have read the information on this affidavit and I understand such information.

2. The property being transferred is located in Keowee Whitewater Township, bearing Oconee County Tax Map Number 150-00-01-444, was transferred by Crescent Communities S.C., LLC to FARMES, A South Carolina Limited Partnership, and GLOBE, A South Carolina Limited Partnership on December 4, 2008.

3. Check one of the following: The deed is

(a) ___X___ subject to the deed recording fee as a transfer consideration paid or to be paid in money or money's worth.

(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.

(c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____
(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ____ or No ____

4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit.):

(a) ___X___ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $ 1,844,400.00

(b) _____ The fee is computed on the fair market value of the realty which is _____.

(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes ____ or No ___X___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee is computed as follows:

PPAB 1504095v2

(a) Place the amount listed in item 4 above here: $ 1,844,400.00

(b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here.)

(c) Subtract Line 6(b) from Line 6(a) and place result here: $ 1,844,400.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: $ 6,824.65 .

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Authorized Agent for Crescent Communities S.C., LLC.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

J. Scott Munday

Responsible Person Connected with the Transaction
J. Scott Munday
Vice President

SWORN to before me this 3rd day of December, 2008.

Kay H. Arnette

Notary Public for North Carolina
My Commission Expires: June 28, 2009

KAY H. ARNETTE NOTARY PUBLIC MECKLENBURG COUNTY, N. C. My Comm. Exp. June 28, 2009

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 DEC -8 A 8:49

PPAB 1504095v2

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

(1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;

(2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;

(3) that are otherwise exempted under the laws and Constitution of this State or of the United States;

(4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);

(5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;

(6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 53 of Title 39;

(7) that constitute a contract for the sale of timber to be cut;

(8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity in subject to the fee even if the realty is transferred to another corporation, a partnership, or a trust;

(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive

My name is Lucretia Morgan and I own property on Ellenburg Road. I would like to share a few comments regarding the initial meeting for this variance from November 2021.

Back in November, the applicant and his team presented a lot of information regarding this proposed subdivision. There were many statements made which were inaccurate and misleading.

In the November several people stated the property owner knew what he was purchasing and had access for only 4 homes at the time of purchase. Mr. Mike Johnson, who mentioned that he is a "Planning Commissioner for Oconee County" and "while he was not here representing the Planning Commission or Oconee County", he said he "brings experience with regard to public interests, private property rights and a discussion on these ordinances". Mr. Johnson failed to state he is also a real estate agent of the developer, Mr. Andy Lee. Mr. Johnson stated there are many roads in Oconee County with the required 20' driving surface, but not a 50' ROW. Many subdivisions were mentioned, such as Harbor Oaks, The Summit, Waterside and so on, NONE of these nor any other subdivision have a less than 50' ROW at the entrance. These smaller roads and ROW's do exist, however they are servicing only 2-6 homes within the subdivision, not at the subdivision entrance for 19 homes channeled into a small pinch point.

Mr. Johnson also mentioned the "Private Road Ordinance changed in 2013... and the ordinance amends Chapter 26-2 under Private Road Standards. The ordinance appears to bring private roads up to match private ROW, that 50'. Any conversation about the developer should have known just probably isn't true." Well it is true. While the standard he mentioned didn't go into effect until 2013, the 50' ROW was in existence in the Subdivision and Land Development signed by Oconee County Council on April 4, 2006 which you can find a copy of in the Oconee County Council Meeting Minutes, backup material starting on page 39. I've also provided you with a copy of this (Exhibit 1, 2 and 3). In addition, dating back to 2000, Ordinance 99-14 Oconee County Unified Performance Standards and Land Use Development Regulations, Section 6.7.3 Private Roads – Serving more than 10 homes. It states a private road shall have a minimum right of way easement of 50 feet. So yes, the developer knew what he was purchasing in 2008. In fact, in the County Council Meeting Minutes from August 1, 2000, the property owner, Mr. John Hamrick, attended the meeting and spoke in opposition of proposed subdivision ordinance due to the way the property would have to be divided. The 50' ROW for local and collector residential roads (public or private) was also part of this ordinance. This requirement was not new and predates the 2008 property purchase by at least 8 years.

There was also a question regarding the square footage of the homes being reduced in 2016. When asked during the meeting, the developer denied this. In your packet you will find in exhibit 4 and 5 copies of the 2008 and 2016 deeds. Clearly the minimum home size was changed from 2400 ft2 on a two-story home to 2000 ft2 on a 1, 1.5 or 2-story home, thus reducing the home size. The basement was also previously excluded as part of the home's square footage. In 2016, the basement was removed from this exclusion. This is not like-kind

to Harbor Oaks. Lot sizes average nearly one acre and homes average nearly 4400 heated square feet.

There was also extensive discussion during the November meeting regarding a 25' ROW the developer was attempting to impose on John's Marine and giving or deeding a 22' section of property to John's Marine. This was very misleading. First of all, there is no existing 25' ROW on this property. The developer proposed adding it which will leave a 2-4" strip of "no man's land". This strip is approximately 22' long and runs parallel to the front of the shop. John's Marine currently owns this piece of property and the developer is not giving him additional room. In fact, the developer has no property to give in front of the shop. They need the Ratliff's and a 25' ROW for the utilities. What they need will only impede the access he currently has in front of his shop.

Nineteen homes are not for only 19 people. There are Amazon, UPS, FedEx and other deliveries. Friends, family, renters also add to the traffic. It's not a thru-road, so every car that goes in, must come out the same way. According to Roads and Bridges this can equate to 200 vehicles per day.

A variance should not be approved based on only profitability. As stated in South Carolina Powers of board of appeals; variances and special exceptions per S.C. Code of Laws Title 6, Chapter 29, 6-29-800 A, SC Local Government Comprehensive Planning Enabling Act of 1994, "The fact that property may be utilized more profitably, if a variance is granted, may not be considered as grounds for a variance. Oconee County Code of Ordinances Section 32-5 also states the same. These are found in Exhibit 6 and 7.

In the applicant's Variance Criteria Overview (exhibit 8), he states that this property is bounded by a body of water and most parcels in the vicinity are not are not bound by the water on both sides. He also states that "due to the unique geography of this parcel, meeting the current road ordinance goes beyond creating an unnecessary hardship and instead creates only impossibility of use". The owner/developer has access to his property. He has the same access as he did at the time of purchase. Nothing has changed, including the 50' ROW for public and private roads. John's Marine has been in the same location since 1982 – for 40 years. The developer states that he is only asking for a variance on the right of way, not the road width. I ask you to consider why the 50' ROW was put in place. The purpose of such regulations is to protect and promote the public health, safety and general welfare of the citizens of Oconee County. This proposal for 19 homes to enter with anything less than the 50 right of way is not upholding these standards.

AGENDA
OCONEE COUNTY COUNCIL MEETING
TUESDAY, August 1, 2000
7:00 PM
OCONEE COUNTY ADMINISTRATIVE OFFICES
415 SOUTH PINE STREET
WALHALLA, SC

1. Call to Order

2. Invocation

3. Approval of Minutes

4. Public Comment Session (Not to exceed thirty minutes)

5. Second Reading of Ordinance 2000-09, "AN ORDINANCE TO AMEND ORDINANCE 99-14, UNIFIED PERFORMANCE STANDARDS ORDINANCE AND LAND DEVELOPMENT REGULATIONS TO INCLUDE SUBDIVISION AND LAND DEVELOPMENT & VARIANCE PROCEDURE FOR SUBDIVISIONS" – Mr. Tommy Abbott, Chairman, Planning Commission

6. Presentation of Draft Proposal for Fall Creek & Town Creek Landing Parks – Dr. Grant Cunningham

7. Consideration of Approval of Grant Application for Federal Assistance in the Amount of $2,420,078 for the Airport – Mrs. Melissa Brown, Grants Coordinator

8. Consideration of Approval of FY2000 Solid Waste Bonus Grant Application in the Amount of $10,000 – Mrs. Melissa Brown, Grants Coordinator

9. Consideration of Approval of Tentative Listing of Surplus Equipment to be Sold at Auction – Ms. Marianne Dillard, Purchasing Agent

10. Consideration of Approval to Dispose of Timber at the Vehicle Maintenance Facility – Ms. Marianne Dillard, Purchasing Agent

11. Consideration of Approval of Change Order for Road Department – Mr. Jon Caime, County Engineer

12. Consideration of Approval of Memorandum of Agreement Between Oconee County & Department of Juvenile Justice

Open Session Period Continued:

Mr. Steve Sokol addressed Council regarding the formation of the Oconee Keowee Alliance, which is opposed to the boat race during Waterfest 2000. Mr. Sokol further informed Council they had received 1200 signatures of people who are opposed to the boat race.

Mr. Steven Ancona spoke in opposition of the proposed subdivision regulations ordinance.

Mr. Warren Carpenter stated he supported the concept of the subdivision regulations ordinance, however, he felt it needed more study. Mr. Carpenter is opposed to the 100 foot set back for septic tanks, he requested the ordinance be sent back to the Planning Commission. (See attached statement)

Mr. Tom Markovich spoke in opposition of the subdivision regulations and requested that Council review it more closely. He also expressed feeling that the ordinance violated the Fifth Amendment and the Twelfth Amendment. (See attached statement)

Mr. John Hamrick also spoke in opposition of the way property would have to be divided under the proposed subdivision regulations.

Mr. Rick Thompson stated that if the ordinance is adopted, zoning in Oconee County will be adopted, he further stated he felt the ordinance should be less restrictive. (See attached statement)

Mr. B. J. Littleton stated he was in support of using the whole block where the courthouse is located for the courthouse. He also asked how many houses would you want to place on a .57 acre tract of land, the houses should not be crowded together, he also stated he felt the setbacks in the ordinance are reasonable.

Ordinance 2000-09:

Mr. Hall made a motion that Ordinance 2000-09, "AN ORDINANCE TO AMEND ORDINANCE 99-14, UNIFIED PERFORMANCE STANDARDS ORDINANCE AND LAND DEVELOPMENT REGULATIONS TO INCLUDE SUBDIVISION AND LAND DEVELOPMENT & VARIANCE PROCEDURE FOR SUBDIVISIONS" be referred to the next Council Meeting when full Council is present. However, this motion died for lack of a second.

Mr. Thomas made a motion, seconded by Mr. Hamilton, approved 2 – 1 (Mr. Hall voting against that Ordinance 2000-09 (titled above) be referred to the Law Enforcement, Safety, Health, Welfare & Services Committee for further study.

AGENDA ITEM SUMMARY
OCONEE COUNTY, SC
COUNCIL MEETING DATE: [redacted]
COUNCIL MEETING TIME: 5:00 pm

ITEM TITLE OR DESCRIPTION:

[redacted]

BACKGROUND OR HISTORY:

Oconee County Road & Transportation Committee recommended approval amendments to the Subdivision & Land Use Ordinance.

SPECIAL CONSIDERATION OR CONCERNS:

Changes to the Subdivision & Land Use Ordinance are part of the ordinance of moratorium.

STAFF RECOMMENDATION:

Council adopt ordinance on first reading and refer to Planning Commission.

FINANCIAL IMPACT:

N/A

ATTACHMENTS:

Draft Subdivision & Land Use Ordinance

Submitted or Prepared By:

Tom Hendricks

Approved for Submittal to Council:

Ron H. Rabon, County Administrator

Reviewed by/initials:

_____;County Attorney

_____;Finance

(Revisions 3-24-06)
These revisions are in *bold italics*
(Office of Brad Norton)

Performance Standards, Chapter 6

6. SUBDIVISION AND LAND DEVELOPMENT

6.1 AUTHORITY AND JURISDICTION

6.1.1 Authority

These land development and subdivision regulations are adopted under authority granted by Title VI, Chapter 29 (6-29-1120) et. seq. of the Code of Laws of South Carolina, 1976

6.1.2 Jurisdiction

a. These regulations shall apply to the development and subdivision of land within the unincorporated areas of Oconee County as now or hereafter established and any incorporated municipality which contracts with the Oconee County Council for these regulations to be administered within such municipality. Regulations contained within this ordinance that apply to the construction and maintenance of roads shall apply to all roads and drainage structures, whether public or private, constructed within any unincorporated area of Oconee County and municipalities contracted with the Oconee County Council for administration of these regulations. Regulations contained within this Ordinance that apply to the construction and maintenance of roads, appurtenacies or drainage structures shall apply to all public and private roads, drives and driveways in the unincorporated areas of Oconee County; also included shall be all municipalities contracted with the Oconee County Council to administer these regulations. These regulations shall not apply to those roads completed, under construction, or approved by Oconee County prior to adoption of this Ordinance by County Council. In the event that a regulation in this ordinance conflicts with any other county regulation, the more stringent standard shall apply.

6.2 PURPOSE AND SHORT TITLE

6.2.1 Purpose

k. be named in accordance with adopted E-911 Addressing regulations;

l. allow at least one hundred (100) feet of sight distance for each ten (10) miles per hour of the posted speed limit where the private drive intersects a public road. The sight distance shall be measured from a seeing height of three and one-half (3 ½) feet to an object one foot in height above the grade of the public road. If the proposed drive does not meet the sight distance requirement, a waiver must be signed by the individual(s) constructing the private drive stating that the owner(s) is liable and responsible for any accidents, injuries, problems, and property damage resulting from improper sight distance;

m. meet all applicable storm water management and sediment control regulations.

n. be approved in writing by Planning Commission staff prior to submission of plat(s) the Register of Deeds for recording. The following shall be prominently printed on the plat(s) in all capital letters:

> "THE ROAD RIGHT-OF-WAY EASEMENTS SHOWN ON THIS PLAT SHALL BE PRIVATE DRIVES NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY, AND WERE NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY EASEMENTS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDNANCE WITH ADOPTED OCONEE COUNTY SUBDIVISION REGULATIONS."

o. Comply with the State Manual for Uniform Traffic Control Devices.

A.(2)a. Private Roads. Private roads shall provide vehicular access and road frontage to street-grants, or sections of developments, containing more than ten (10) single-family residential lots. All private, non-dedicated roads shall be prominently indicated as such on plats prior to subdivision approval. Maintenance arrangements for such roads must be agreed in writing on subdivision plat submittals and must be subsequently recorded. The development served by a private road shall have direct access onto a public road, and no such private road shall be laid out so as to serve property outside the development. All private roads shall:

a. satisfy maintenance agreement (see 1.1.10a);

the lower minimum right-of-way requirement width of fifty (50) feet

c. have a minimum road frontage requirement of thirty (30) feet for all lots;

d. be constructed in accordance with the regulations set forth in section 6.8 of these regulations.

e. be maintained by an individual, association of property owners, or active Home Owner's Association as recorded in appropriate deed covenants and restrictions

f. be legally certified for compliance by a surveyor/engineer licensed by the State of South Carolina;

g. be named in accordance with adopted E-9-1 Addressing regulations.

h. meet all storm water management and sediment control regulations.

i. be properly approved in writing by Planning Director prior to submission of plat(s) the Register of Deeds for recording. The following shall be prominently printed on the plat(s) in all capital letters:

"THE ROAD RIGHT-OF-WAY EASEMENTS SHOWN ON THIS PLAT SHALL BE PRIVATE ROADS, NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY AND NOT CONSTRUCTED PURSUANT TO AND PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY EASEMENTS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDANCE WITH THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE."

j. comply with the State Manual for Uniform Traffic Control Devices.

With the exception of the requirements put forth in this section, all private roads shall meet the requirements of Section 6.8 Public Roads in the Subdivision and Land Development Ordinance.

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Ordinance 2006-11:

Mr. Lyles made a motion, seconded by Mr. Crumpton, approved 5 – 0 that Ordinance 2006-11, "AN ORDINANCE REGULATING THE USE OF COUNTY ROADS" be adopted on first reading.

Ordinance 2006-12:

Mr. Rinehart made a motion, seconded by Mr. Lyles, approved 5 – 0 that Ordinance 2006-12, "AN ORDINANCE AMENDING SECTION 6: SUBDIVISION & LAND USE DEVELOPMENT OF ORDINANCE 99-14, OCONEE COUNTY UNIFIED PERFORMANCE STANDARDS AND LAND USE DEVELOPMENT REGULATIONS AS ADOPTED BY ORDINANCES 2001-04, 2002-05 & 2004-14" be adopted on first reading.

Ordinance 2006-07:

Mr. Moore made a motion, seconded by Mr. Crumpton, approved 5 – 0 that Ordinance 2006-07, "AN ORDINANCE IMPOSING A SIX MONTH MORATORIUM ON THE APPROVAL OF SITE PLANS AND/OR BUILDING PERMITS FOR ANY CONSTRUCTION PROJECT WITHIN ONE THOUSAND (1,000') OF LAKES THAT ARE WITHIN OR ADJACENT TO OCONEE COUNTY UNLESS SAID PROJECT INCLUDES A TWENTY-FIVE (25') FOOT RIPARIAN BUFFER AND A SIX MONTH MORATORIUM ON THE APPROVAL OF SITE PLANS AND/OR BUILDING PERMITS FOR ANY SUBDIVISION AS DEFINED IN THIS ORDINANCE THAT WILL RESULT IN THE NEED TO UPGRADE A COUNTY ROAD IN ACCORDANCE WITH THIS ORDINANCE" be adopted on second reading.

Ordinance 2007-09

Mr. Crumpton made a motion, seconded by Mr. Rinehart, approved 5 – 0 that Ordinance 2007-09, "AN ORDINANCE REGULATING FALSE FIRE ALARMS TO WHICH OCONEE COUNTY RURAL FIRE DEPARTMENTS RESPOND" be adopted on first reading.

Auction Listing:

Mr. Crumpton made a motion, seconded by Mr. Moore, approved 5 – 0 that the attached listing of surplus properties be adopted and a date of May 6, 2006 be established for the auction.

Oconee County Planning Commission
415 S. Pine St. • Walhalla, South Carolina 29691
Phone (864) 638-4218 • Fax (864) 638-7046

B

The Golden Corner

Memorandum 42-00

May 23, 2000

To: **Oconee County Council**

From: **Planning Commission**

Subject: **Performance Standards Ordinance**

Please find attached the following:

1. An amendment to the Performance Standards Ordinance.
2. The proposed Chapter 2 of the Performance Standards Ordinance.

The amendment will allow a variance procedure for the proposed chapter 2. The original ordinance allowed a variance for all chapters except chapter 2. This language will correct that omission.

The proposed chapter 2, Subdivision and Land Development has been reviewed and approved by the Planning Commission. Some parts of the chapter are contentious and council members will hear from some disgruntled developers. The chapter will solve many of the ongoing problems created by development.

Cc: Harrison Orr
Planning Commission w\encl

(3)

ATTACHMENT 1- PROPOSED AMENDMENT TO THE PERFORMANCE STANDARDS ORDINANCE

New section to 1.4.1 (h)

(h) Variance- to hear and decide requests for variance from the requirements of Chapter 2, of the Performance Standards Ordinance concerning the standards for the subdivision and land development, when strict application of the provisions of the ordinance would result in unnecessary hardship. Variances shall be decided by the Planning Commission pursuant to *Section 1.5.5.3* of this ordinance, *General Criteria for Granting a Variance.*

2.0 SUBDIVISION AND LAND DEVELOPMENT

2.1 AUTHORITY AND JURISDICITON

2.1.1 Authority

These land development and subdivision regulations are adopted under authority granted by Title VI, Chapter 29 (6-29-1120) et. seq., of the Code of Laws of South Carolina, 1976.

2.1.2 Jurisdiction

These regulations shall apply to the development and subdivision of land within the unincorporated areas of Oconee County as now or hereafter established and any incorporated municipality which contracts with the Oconee County Council for these regulations to be administered within such municipality. Regulations are also contained herein which shall apply to the construction and maintenance of all roads whether or not they are part of subdivision development.

2.2 PURPOSE AND SHORT TITLE

2.2.1 Purpose

The purpose of this ordinance is to protect and promote the public health, safety and general welfare of the citizens of Oconee County, South Carolina, providing for the harmonious, progressive, and orderly development of land. These regulations are established for the following specific purposes, among others, as provided for in the South Carolina Local Government Comprehensive Planning Enabling Act Of 1994 (Section 6-29-1120 of the Code of Laws of South Carolina, 1976, et seq.):

(1) to encourage the development of an economically sound and stable county;

(2) to assure the timely provision of required streets, utilities, and other facilities and services to new land developments;

(3) to assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in and through new land developments;

remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Not withstanding the other provisions of this subsection, no temporary dead-end street in excess of one thousand (1,000) feet may be created unless no other practicable alternative is available.

2.7.3 Private Roads - All private, non-dedicated roads must be indicated as such prior to subdivision approval. Maintenance arrangements for such roads must be stated in writing on subdivision plat submittals. The development shall have direct access into a public road and no such private road may be laid out so as to serve property outside the development. Each private road must indicated as such on all plats and deeds.

2.7.4 Road Names - A proposed road which is obviously in alignment with or an extension of an existing named road shall bear the name of the existing road. Except for the above, in no case shall the name of a proposed road duplicate or be phonetically similar to an existing road name, irrespective of the use of suffix (road, avenue, boulevard, drive, place, court, lane, etc.). It shall be unlawful for any person in laying out any new road to name such road on any final plat or in any deed or instrument, without first obtaining the approval of the Oconee E-911 Addressing Office and the Planning Commission.

2.7.5 Local Roads - Local roads shall be so laid out that their use by through traffic will be discouraged.

2.7.6 Residential Buffers for Major Roads - Where a subdivision abuts or contains an existing or proposed collector or arterial road, the Planning Commission may require that lots which abut or are adjacent to the major road shall face a minor interior access road. Other treatment may also be required, as necessary, for adequate protection of residential properties and for separation of through and local traffic. Special treatment may be required, such as screen planting contained in a non-access reservation along the rear property line adjacent to the major road.

2.7.7 Road Design (Geometric Criteria) - In general, geometric criteria for road design shall be in accordance with standards of the South Carolina Department of Transportation (SCDOT). Said standards are those contained in the latest edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials". Local and collector residential roads (public or private) shall be designed in accordance with the following standards.

a. Minimum right-of-way and pavement width shall be as follows:

Road Type	Right-of-Way	Pavement
Local (closed drainage)	50'	22'
Local (open drainage)	50'	22'
Collector	50'	24'

For high density residential or nonresidential subdivisions or portions thereof, additional right-of-way or pavement width shall be provided when determined as necessary by the Planning Commission or County Supervisor.

b. Cul-de-sacs shall not exceed one thousand (1000) feet in length, except where unusual topographic or other physical conditions dictate otherwise, and shall have a turnaround with a minimum diameter of seventy (70) feet to pavement edge and a minimum diameter of one hundred (100) feet to the right-of-way line. Dead-end streets without turnarounds are prohibited.

c. Horizontal curvature shall be introduced at any change in road direction, and the minimum centerline radius shall be one hundred fifty (150) feet for local roads and two hundred fifty (250) feet for collector roads. Arterial road curvature shall be in accordance with State Highway Department standards. Minimum tangent between reverse curves shall be one hundred (100) feet for local roads, and sixty (60) feet from curve to any intersecting road.

d. Stopping sight distance on vertical curves be shall at least one hundred fifty (150) feet (25 mph design speed) for local roads and three hundred twenty five (325) feet (45 mph design speed) for collector roads. If a collector road may reasonably be expected to serve more than one subdivision, it shall be designed for at least a fifty five (55) mph design speed (450' minimum sight distances). Minimum sight distance at intersections shall be established by provision of a clear sight triangle right of way measured at least twenty five (25) feet from the intersection of the road right-of-way in either direction which triangle shall be entered upon the final plat prior to recording. Modifications may be required by the County Engineer in order to insure safety.

e. Roads shall be designed to intersect as nearly as possible at right angles but no less than seventy five (75) degrees. Minimum radius of curb or pavement edge at intersections shall be at least twenty (20) feet at intersections with local roads and twenty five (25) feet at intersections with collector roads.

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 DEC -8 A 8:49

EXHIBIT B

GENERAL DEED RESTRICTIONS

THE PROPERTY SHALL BE CONVEYED SUBJECT TO THE FOLLOWING RESTRICTIONS, WHICH SHALL ENCUMBER THE PROPERTY AND SHALL RUN WITH TITLE TO THE PROPERTY.

1. **Definition of "Property" and "Lot".** As used herein, (i) "**Property**" means all of the property conveyed by Grantor to Grantee pursuant to this deed; and (ii) "**Lot**" means any portion of the Property that constitutes a legally established separate lot or parcel of land (whether created by the recordation of a subdivision plat or otherwise), as such lots or parcels of land may exist from time to time (collectively, "**Lots**"). If the Property consists of only one lot or parcel of land, then the term "Property" is synonymous with the term "Lot." If the Property consists of two or more lots or parcels of land, whether such lots or parcels exist on the date the Property is conveyed to Grantee or are later created by subdivision of the Property or other legal means, then each of those lots or parcels is a "Lot" for the purposes of these Restrictions.

2. **Single Family Use.** The Property shall be used only for detached, single-family residence purposes, together with the accessory buildings and structures permitted pursuant to Section 6 below. No more than one detached single-family residential dwelling may be constructed on any Lot. No condominium, townhouse, duplex, apartment or other multi-family residential uses are permitted on the Property. Further, no camper, trailer, motor home, boat (including, without limitation, any boat docked adjacent to the Property), recreational vehicle or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to the Property as a place of residence. The single-family residence restrictions set forth above shall not prohibit the construction of pools, tennis courts or other recreational facilities or amenities such as are commonly constructed and maintained for the benefit of lot owners within planned unit developments; provided that such recreational facilities or amenities shall be solely for the common use of the owners of one or more Lots and, provided further, that no such recreational facilities may be located within any Buffer Area (defined below).

3. **Restricted Activities.** The following activities are prohibited on the Property:

   (a) Raising, breeding, or keeping of animals, livestock or poultry of any kind, except that dogs, cats or other usual and common household pets (which are registered, licensed and inoculated as required by law) may be permitted on the Property;

   (b) Any activity which violates local, state, or federal laws or regulations;

   (c) Institutional uses, including, but not limited to, group homes, day care centers, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns and beds and breakfasts; and

(d) Any business or trade, except that an owner or occupant residing on a Lot may conduct business activities within a dwelling on that Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the dwelling unit; (ii) the business activity conforms to all zoning requirements for the Lot; (iii) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers or other business invitees; (iv) the business activity does not involve any service or delivery business in which more than one vehicle used in such business would be parked overnight on a Lot, or for which any parts, equipment supplies, raw materials, components or tools are stored on a Lot; and (v) the business activity is consistent with the residential character of the Property and does not constitute an unreasonable disturbance to adjoining land owners or others, a nuisance or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales or similar activities provided that such activities are not held on the same Lot more than once in any six-month period. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. The leasing of a Lot for single-family residential use shall not be considered a business or trade within the meaning of this subsection.

4. Prohibited Conditions. None of the following structures or improvements may be located upon the Property:

(a) Structures, equipment or other items which are visible from any road or adjacent property which have become rusty, dilapidated or otherwise fallen into disrepair;

(b) Towers, antennas or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind which are located outside of the dwelling on a Lot other than (i) a customary antenna, which shall not extend more than ten feet above the top roof ridge of the dwelling; and (ii) a satellite disc or dish no larger than 18 inches in diameter;

(c) Any freestanding transmission or receiving towers or any non-standard television antennae; and

(d) Chain-link fences.

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5. **Quality Craftsmanship/Dwelling Size.** All buildings and outbuildings erected upon the Property shall be built on site of new materials of good grade, quality and appearance and shall be constructed in a good and workmanlike manner, conforming to all applicable building codes. Further, all dwellings must meet the following construction requirements:

(a) If the dwelling is located on a Waterfront Lot (a "Waterfront Lot" is a lot, any portion of which is located within 100 feet (measured horizontally regardless of the actual ground measurement which may vary based upon the topography) of the Common Boundary Line (defined in Section 8 below)), then: (i) one story dwellings shall not contain less than 2,000 square feet of Heated Living Area (defined below); (ii) one and a half story dwellings shall not contain less than 2,200 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,400 square feet of Heated Living Area;

(b) If the dwelling is not located on a Waterfront Lot, then: (i) one story dwellings shall not contain less than 1,600 square feet of Heated Living Area; (ii) one and a half story dwellings shall not contain less than 1,800 square feet of Heated Living Area; and (iii) two (or more) story dwellings shall not contain less than 2,000 square feet of Heated Living Area;

(c) All dwellings and accessory structures shall be completely supported with solid brick, brick or stone covered block, or stucco covered foundation;

(d) Roofs shall have not less than a 6 in 12 inch pitch, and not less than a 12 inch overhang, and shall be covered with asphalt or fiberglass shingles, terra cotta tile, real or man-made slate, copper sheathing or wood shingles or pre-painted metal roofing;

(e) The exterior surfaces of all dwellings and accessory structures shall be covered only with brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding consisting of wood, composite or vinyl material; provided, that any horizontal siding must be completely supported to maintain a straight and even outer surface and must be fully and properly finished; and

(f) Exteriors of all dwellings and accessory structures must be completed within one year after the commencement of construction, and a certificate of occupancy issued within two years after commencement of construction.

As used herein, "Heated Living Area" excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excludes vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term "story" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "half story" shall mean a story which

FILED OCONEE COUNTY, SC
ANNA K. DAVISON
REGISTER OF DEEDS

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Prepared by and Return to:
Parker Poe Adams & Bernstein LLP (BMM)
Three Wells Fargo Center, Suite 3000
401 South Tryon Street
Charlotte, North Carolina 28202-1935
(S-Tract 7114.02)

AMENDMENT TO GENERAL DEED RESTRICTIONS

THIS AMENDMENT TO GENERAL DEED RESTRICTIONS ("**Amendment**") is made ~~November~~ December 10th, 2015 ("**Effective Date**"), by **CRESCENT COMMUNITIES S.C., LLC**, a Delaware limited liability company ("**Crescent**"), and **FARMES**, a South Carolina limited partnership, and **GLOBE**, a South Carolina limited partnership ("**Farmes and Globe**").

A. Pursuant to a deed recorded December 8, 2008, in Deed Book 1695, Page 87 ("**Original Deed**") in the Office of the Register of Deeds of Oconee County, South Carolina ("**Registry**"), Crescent conveyed to Farmes and Globe 15.37 acres of land located in Keowee Whitewater Township, Oconee County, South Carolina, and being shown on Plat recorded in Plat Book B291, Page 1 in the Registry ("**Property**").

B. Pursuant to the terms of the Original Deed, the Property was made subject to the General Deed Restrictions attached as Exhibit B to the Original Deed ("**Restrictions**").

C. Pursuant to Section 12 of the Restrictions, Crescent reserved the right to amend the Restrictions.

D. Crescent and Farmes and Globe desire to amend the Restrictions.

E. Any capitalized term not defined herein shall have the meaning assigned to such term in the Restrictions.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Quality Craftsmanship/Dwelling Size.**

(a) Section 5(a) of the Restrictions is hereby deleted in its entirety and is replaced with the following:

"If the dwelling is located on a Waterfront Lot (a "Waterfront Lot" is a lot, any portion of which is located within 100 feet (measured horizontally regardless of the actual ground

measurement which may vary based upon the topography) of the Common Boundary Line (defined in Section 8 below)), then the dwelling shall not contain less than 2,000 square feet of Heated Living Area (defined below)."

(b) The last paragraph of Section 5 is hereby deleted in its entirety and is replaced with the following:

"As used herein, "Heated Living Area" excludes vaulted ceiling areas, attics, unheated porches, attached or detached garages, porte cocheres and unheated storage areas, decks and patios. The term "story" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "half story" shall mean a story which contains 50 percent or less Heated Living Area than the story in the house containing the most Heated Living Area."

2. **Warranty of Title.** Farmes and Globe represent and warrant that Farmes and Globe are seized of the Property in fee simple and have the unlimited right, without the consent of any third party, to amend the Restrictions with respect to the Property as set forth herein.

3. **Release and Indemnification of Crescent.** Farmes and Globe and their successors and assigns in interest to the Property: (i) release Crescent and Crescent's members, managers, employees, officers, agents and representatives from any loss, cost, damage or claim arising out of this Amendment or the exercise or non-exercise of Crescent's rights set forth in the Restrictions (including the Restrictions as modified by this Amendment), and (ii) acknowledge that third parties may have a right to enforce the Restrictions and that Crescent does not represent or warrant that this Amendment shall be binding on those third parties. Farmes' and Globe's successors and assigns, shall indemnify and hold harmless Crescent and its members, managers, employees, officers, agents and representatives from and against any loss, cost, damage or claim arising out of this Amendment, or a breach of the representations and warranties in Section 2 of this Amendment, or the enforcement or non-enforcement by Crescent or any other person or entity of any of the Restrictions (including the Restrictions as modified by this Amendment).

4. **Full Force and Effect.** The Restrictions shall remain in full force and effect as amended hereby. To the extent that any of the terms of the Restrictions conflict with this Amendment, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the undersigned parties have executed this Amendment as of the date set forth above.

Signed, Sealed and Delivered in the Presence of:

Print Name: Tabitha Monk
Witness #1

Print Name: Melanie Childers Conrade
Witness #2

CRESCENT COMMUNITIES S.C., LLC
a Delaware limited liability company

By: Crescent Communities, LLC,
a Georgia limited liability company,
its Manager

By:
Henry S. Higgins, III
Vice-President, Land Management Division

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

Personally appeared before me the undersigned witness who being duly sworn deposes and says that he/she saw the within named Henry S. Higgins, III, Vice-President, Land Management Division of **CRESCENT COMMUNITIES, LLC**, a Georgia limited liability company, Manager of **CRESCENT COMMUNITIES, S.C., LLC** a Delaware limited company, sign, and as its act and deed deliver the foregoing instrument for the uses and purposes therein mentioned, and that he/she, together with Melanie Childers Conrade (witness #2), the other witness subscribed above, witnessed the execution thereof.

(Witness #1 sign here)

Sworn to and subscribed before me this the 10th day of December, 2015.

Notary Public

Notary Public for Union County, North Carolina

My Commission Expires: June 6, 2017

[NOTARIAL STAMP-SEAL]

MELANIE CHILDERS CONRADE NOTARY PUBLIC UNION COUNTY, NC

unreasonably restrict the utilization of the property.

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 district will not be harmed by the granting of the variance.

1. The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted or to extend physically a nonconforming use of land. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

2. In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use 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.

(Ord. No. 1999-14, § 1.5, 4-4-2000)

Cross reference— Boards, commissions and committees, § 2-241 et seq.

State Law reference— Similar provisions, S.C. Code 1976, § 6-29-800.

SECTION 6-29-780. Board of zoning appeals; membership; terms of office; vacancies; compensation.

(A) As a part of the administrative mechanism designed to enforce the zoning ordinance, the zoning ordinance may provide for the creation of a board to be known as the board of zoning appeals. Local governing bodies with a joint planning commission and adopting a common zoning ordinance may create a board to be known as the joint board of appeals. All of these boards are referred to as the board.

(B) The board consists of not less than three nor more than nine members, a majority of which constitutes a quorum, appointed by the governing authority or authorities of the area served. The members shall serve for overlapping terms of not less than three nor more than five years or after that time until their successors are appointed. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The governing authority or authorities creating the board of zoning appeals may remove any member of the board for cause. The appointing authorities shall determine the amount of compensation, if any, to be paid to the members of a board of zoning appeals. None of the members shall hold any other public office or position in the municipality or county.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-790. Board of zoning appeals; officers; rules; meetings; notice; records.

The board shall elect one of its members chairman, who shall serve for one year or until he is re-elected or his successor is elected and qualified. The board shall appoint a secretary who may be an officer of the governing authority or of the zoning board. The board shall adopt rules of procedure in accordance with the provisions of an ordinance adopted pursuant to this chapter. Meetings of the board must be held at the call of the chairman and at such other times as the board may determine. Public notice of all meetings of the board of appeals shall be provided by publication in a newspaper of general circulation in the municipality or county. In cases involving variances or special exceptions conspicuous notice shall be posted on or adjacent to the property affected, with at least one such notice being visible from each public thoroughfare that abuts the property. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which must be immediately filed in the office of the board and must be a public record.

HISTORY: 1994 Act No. 355, Section 1.

SECTION 6-29-800. Powers of board of appeals; variances; special exceptions; remand; stay; hearing; decisions and orders.

(A) The board of appeals has the following powers:

(1) to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

(2) to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

(a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;

(b) these conditions do not generally apply to other property in the vicinity;

(c) because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(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 district will not be harmed by the granting of the variance.

(i) The board may 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 nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in

8

Variance Criteria Overview

General criteria for granting a variance. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

a) *There are extraordinary and exceptional conditions pertaining to a particular piece of property.*

The parcel itself is a peninsula, it's bounded by water on all sides with exception of the center of the county road as a boundary. The peninsula is narrow in a small portion of the parcel and is unique in that the property line is the center of the road and does not have it's own right of way. There is only access easement to the parcel. These conditions are extraordinary and exceptional because of the limitations created by geography and topography within this parcel. The way a parcel of land lays, the geography, the topography are all acceptable reasons for granting a variance.

b) *These conditions do not generally apply to other property in the vicinity.*

In the geographic vicinity of this piece of property most roads have a 50 foot right of way because they are not geographically constrained. This property is bounded by a body of water. Most parcels in the vicinity are not bound by the water on both sides. Because of the unique geography of this parcel, meeting the current road ordinance goes beyond creating an unnecessary hardship and instead creates only impossibility of use. This impossibility creates a scenario which meets the criteria for granting a variance.

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EXHIBITS

A. Tax Records (qPublic.net Oconee County) showing Ellenburg Road ending at Applicant's boundary.

B. Photo showing End Maintenance Sign along with Ratliff's use of Applicant's property.

C. Plat prepared for James L. Ratliff and Lucretia B. Morgan date 4-Dec. 2020 (Plat Book B-754, Page 6) showing Ellenburg Road (WA-42) subject to Right-of-Way public road extending past point of Ratliff's claimed 2008 abandonment.

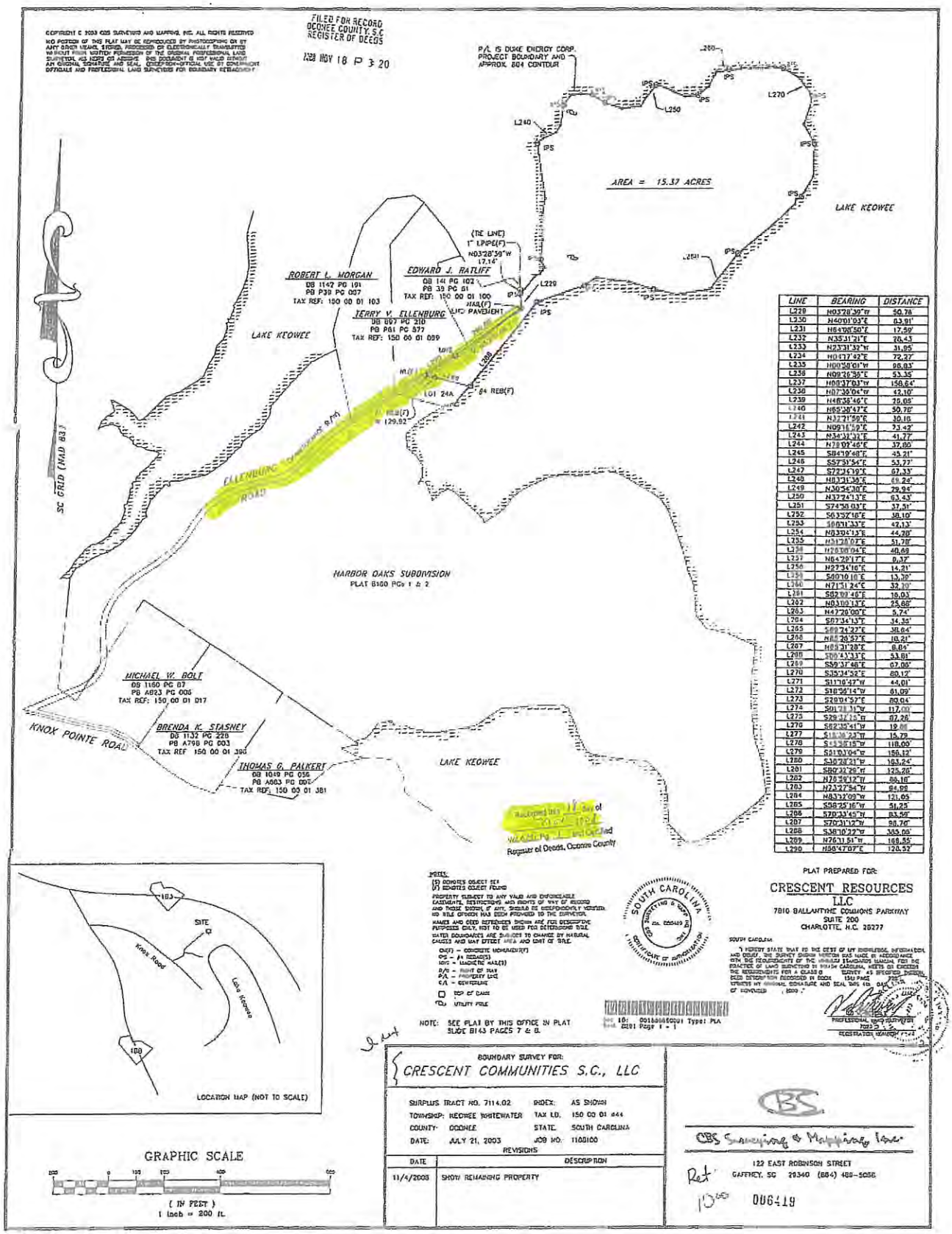
D. Deed – Rhonda Ellenburg to James L. Ratliff and Lucretia B. Morgan referencing above plat (Plat Book B-754, Page 6). Deed is dated 3-Dec. 2020 for 2.71 acres and recorded in Deed Book 2633, Pages 1-3.

E. Plat dated 18 November 2008 of Cresent Resources showing Ellenburg Road (Maintenance Right-of-Way) all the way to Applicant's property line (Reference Exhibit B above).

F. Deed Book 2724, Pages 252-253 (Tax Map Number 150-00-01-100) – Francis L. Ratliff to James L. Ratliff for 1.225 acres dated August 19, 2021, referencing Plat Book P-39 at Page 61 showing Ellenburg Road to Duke Power Company property (Plat dated 28-Aug 1974).

G. Deed of Distribution – Estate of Edward John Ratliff a/k/a Edward J. Ratliff (date of death: Nov. 8, 2011 – 3 years past alleged abandonment) – 1.225 acres shown on Plat Book P-39 at Page 61 (Tax Map Number 150-00-01-100). Document is dated Jan. 18, 2013, 4 or 5 years after alleged abandonment.

H. Deed from Crescent Communities SC, LLC to Farmes, a South Carolina Ltd Partnership dated 3-Dec. 2005 (Deed Book 695, Pages 87-102) conveying property subject to easements, covenants, restrictions, and conditions of record and rights-of-way of public and private easements including but not limited to the right of way shown on plat as "Ellenburg Road."



LINE	BEARING	DISTANCE
L229	N03°28'39"W	50.78
L230	N40°01'03"E	83.91'
L231	N64°08'50"E	17.59'
L232	N35°31'21"E	78.43
L233	N23°31'32"W	31.05'
L234	N01°17'42"E	72.27'
L235	N00°58'01"W	98.83'
L236	N09°26'36"E	53.35'
L237	N00°37'03"W	158.64'
L238	N07°36'04"W	42.10'
L239	N46°36'46"E	28.05'
L240	N65°38'47"E	50.78'
L241	N31°21'59"E	30.16'
L242	N09°16'59"E	73.42'
L243	N34°53'31"E	41.77'
L244	N78°03'46"E	37.80
L245	S84°19'48"E	45.21'
L246	S57°51'54"E	53.77'
L247	S72°34'19"E	67.33'
L248	N81°31'36"E	69.24'
L249	N30°54'30"E	79.94'
L250	N32°24'13"E	63.43'
L251	S74°58'03"E	37.51'
L252	S63°35'16"E	38.10'
L253	S80°11'33"E	42.13'
L254	N03°04'13"E	44.28'
L255	N31°28'07"E	51.78'
L256	N28°08'04"E	40.69
L257	N64°20'17"E	9.37'
L258	N27°34'16"E	14.21'
L259	S80°10'16"E	13.30'
L260	N71°51'24"E	32.70'
L261	S83°00'46"E	18.03'
L262	N03°00'13"E	25.66'
L263	N47°20'00"E	5.74'
L264	S07°34'13"E	34.35'
L265	S69°24'27"E	38.64'
L266	N88°20'57"E	18.21'
L267	N88°31'28"E	8.64'
L268	S09°43'13"E	53.81'
L269	S59°37'48"E	67.00'
L270	S35°34'52"E	80.12'
L271	S11°10'47"W	44.01'
L272	S18°56'14"W	61.09'
L273	S20°04'57"E	80.04'
L274	S01°28'31"W	117.00
L275	S28°11'15"E	87.28
L276	S62°35'41"W	19.88
L277	S18°36'23"W	15.79
L278	S43°26'15"W	118.00'
L279	S31°01'04"E	156.12'
L280	S30°28'21"W	193.24'
L281	S82°32'25"W	125.28'
L282	N78°54'12"W	88.18'
L283	N73°27'54"W	84.95
L284	N83°32'09"W	121.05
L285	S86°25'16"W	51.25
L286	S70°33'45"W	83.56'
L287	S70°31'12"W	98.76'
L288	S36°10'22"W	345.03'
L289	N76°31'51"W	168.55'
L290	N56°47'07"E	120.52'

NOTES:
- IPS IRON/PIPE SET
- IPF IRON/PIPE FOUND

PROPERTY SUBJECT TO ANY VALID AND ENFORCEABLE EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD AND THOSE RIGHTS OF ANY, SHOULD BE INDEPENDENTLY VERIFIED. NO TITLE OPINION HAS BEEN FURNISHED TO THE SURVEYOR.

NAMES AND DEED REFERENCES SHOWN ARE FOR DESCRIPTIVE PURPOSES ONLY, NOT TO BE USED FOR DETERMINING TITLE.

WATER BOUNDARIES ARE SUBJECT TO CHANGE BY NATURAL CAUSES AND MAY AFFECT AREA AND LIMIT OF TITLE.

- CM(F) – CONCRETE MONUMENT(F)
- IPS – #4 REBAR(S)
- MAG – MAGNETIC NAIL(S)
- R/W – RIGHT OF WAY
- P/L – PROPERTY LINE
- C/L – CENTERLINE
- TOP OF BANK
- UTILITY POLE

NOTE: SEE PLAT BY THIS OFFICE IN PLAT SLIDE B143 PAGES 7 & 8.

SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION

PLAT PREPARED FOR:
CRESCENT RESOURCES LLC
7810 BALLANTYNE COMMONS PARKWAY
SUITE 200
CHARLOTTE, N.C. 28277

SOUTH CAROLINA
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS O SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN AS SHOWN. THIS SURVEY WAS MADE FROM AN ACTUAL SURVEY MADE BY ME OR UNDER MY SUPERVISION; DEED DESCRIPTION RECORDED IN BOOK 1341 PAGE 228; THAT THE RATIO OF PRECISION OF THE UNADJUSTED SURVEY IS 1:10000+; AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH THE REGULATIONS GOVERNING THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF AS OF NOVEMBER 2003.

PROFESSIONAL LAND SURVEYOR
No. 15253
REGISTRATION SEAL

BOUNDARY SURVEY FOR:
CRESCENT COMMUNITIES S.C., LLC

SURPLUS TRACT NO. 7114.02	INDEX: AS SHOWN
TOWNSHIP: KEOWEE WATERWAY	TAX I.D. 150 00 01 044
COUNTY: OCONEE	STATE: SOUTH CAROLINA
DATE: JULY 21, 2003	JOB NO. 1108100

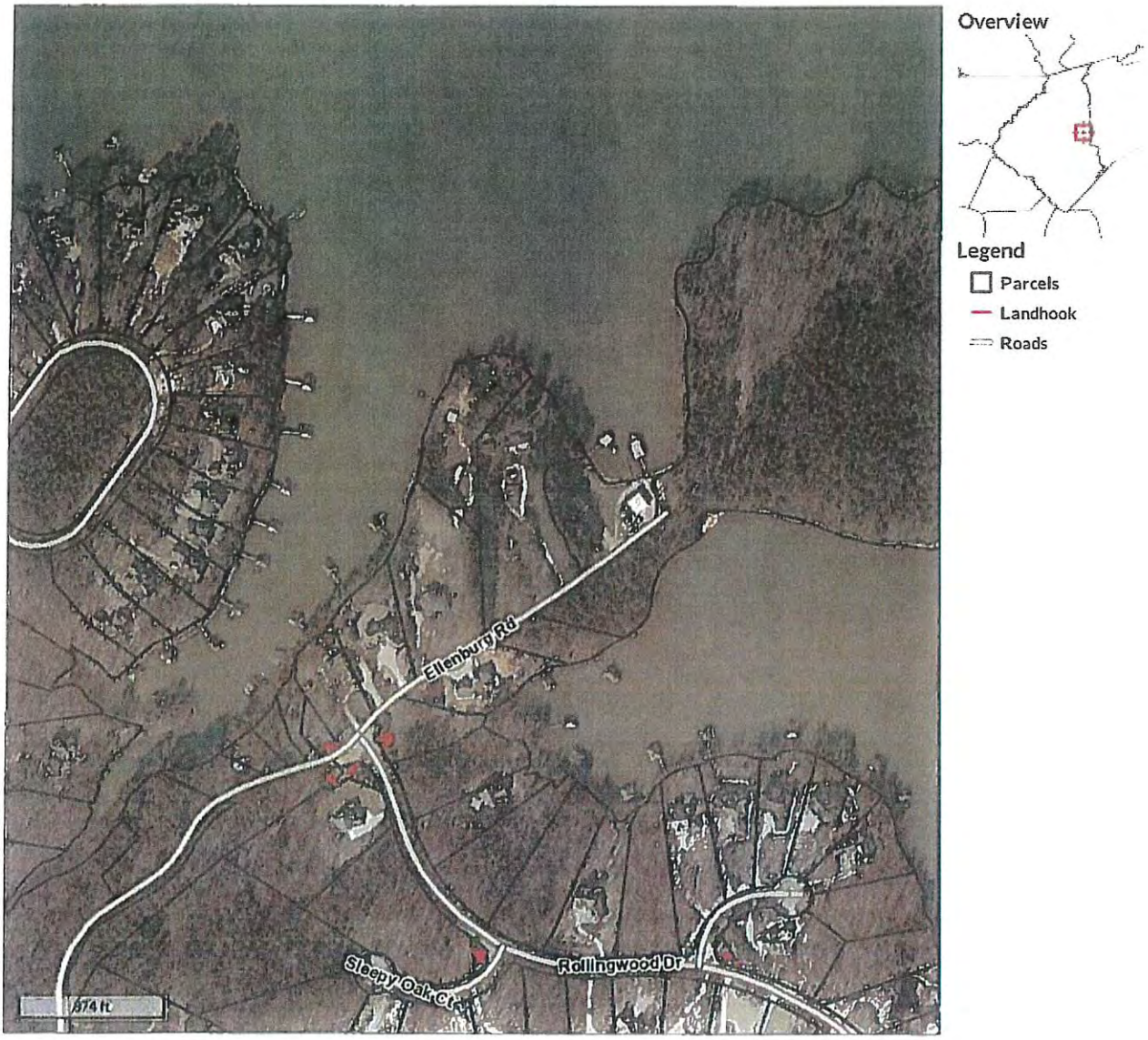
REVISIONS

DATE	DESCRIPTION
11/4/2003	SHOW REMAINING PROPERTY

CBS Surveying & Mapping Inc.
122 EAST ROBINSON STREET
GAFFNEY, SC 29340 (864) 489-5056

Ref 10-0 006419

qPublic.net™ Oconee County, SC



Legend

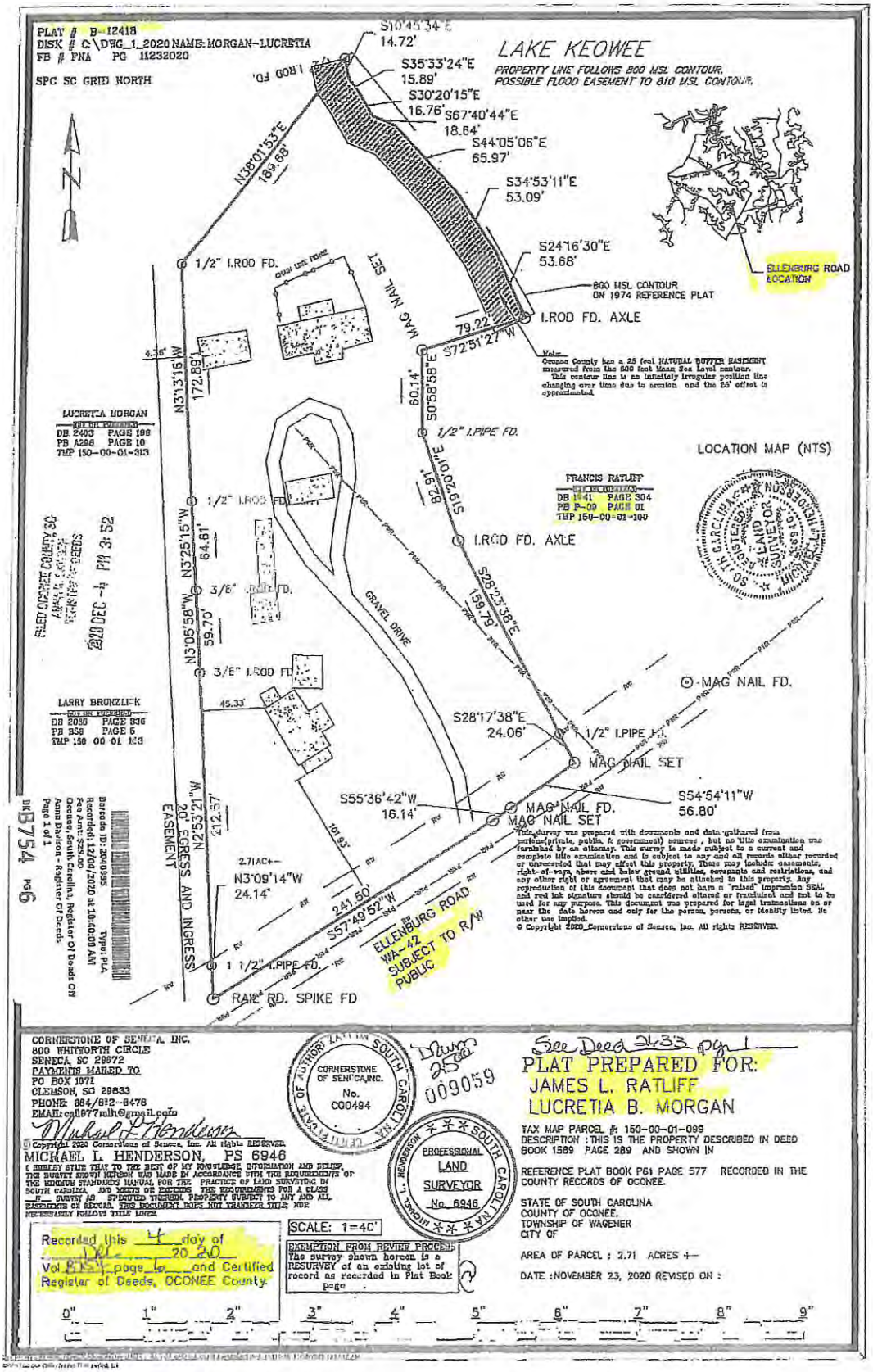
- Parcels
- Landhook
- Roads

Date created: 4/25/2022
Last Data Uploaded: 4/22/2022 9:19:49 PM

Developed by Schneider GEOSPATIAL

A

R. p. 474


PLAT # B-12418
DISK # C:\DWG_1_2020 NAME: MORGAN-LUCRETIA
FB # FNA PG 11232020
SPC SC GRID NORTH
LAKE KEOWEE
PROPERTY LINE FOLLOWS 800 MSL CONTOUR.
POSSIBLE FLOOD EASEMENT TO 810 MSL CONTOUR.
S10°45'34"E 14.72'
S35°33'24"E 15.89'
S30°20'15"E 16.76'
S67°40'44"E 18.64'
S44°05'06"E 65.97'
S34°53'11"E 53.09'
S24°16'30"E 53.68'
N38°01'53"E 183.68'
1/2" I.ROD FD.
MAG NAIL SET
800 MSL CONTOUR ON 1974 REFERENCE PLAT
I.ROD FD. AXLE
S72°51'27"W 79.22'
S0°56'58"E 60.14'
1/2" I.PIPE FD.
S19°20'01"E 82.18'
I.ROD FD. AXLE
S28°23'38"E 159.79'
MAG NAIL FD.
S28°17'38"E 24.06'
1/2" I.PIPE FD.
MAG NAIL SET
S55°36'42"W 16.14'
MAG NAIL FD.
MAG NAIL SET
S54°54'11"W 56.80'
N3°13'16"W 172.89'
4.36'
N3°25'15"W 64.81'
3/8" I.ROD FD.
N3°05'58"W 59.70'
3/8" I.ROD FD.
45.33'
N2°53'21"W 212.37'
2.71AC+-
N3°09'14"W 24.14'
S57°49'52"W 241.50'
1 1/2" I.PIPE FD.
RAIL RD. SPIKE FD
GRAVEL DRIVE
20' EASEMENT FOR INGRESS AND EGRESS
ELLENBURG ROAD
WA-42
SUBJECT TO R/W
PUBLIC
ELLENBURG ROAD LOCATION
LOCATION MAP (NTS)
LUCRETIA MORGAN
DB 2403 PAGE 198
PB A296 PAGE 10
TMP 150-00-01-313
FRANCIS RATLIFF
DB 1941 PAGE 304
PB P-09 PAGE 01
TMP 150-00-01-100
LARRY BRUNZLICK
DB 2050 PAGE 936
PB 353 PAGE 5
TMP 150 00 01 103
Oconee County 30
2020 DEC -4 PM 3:52
Book 0754 Pg 6
Page 1 of 1
Anna Davison - Register Of Deeds
Oconee, South Carolina, Register Of Deeds Office
Fee Amt: $25.00
Recorded: 12/04/2020 at 10:40:00 AM
Type: PLA
Barcode ID: 20040935
Copyright 2020 Cornerstone of Seneca, Inc. All rights RESERVED.
This survey was prepared with documents and data gathered from various(private, public, & governmental) sources , but no title examination was furnished by an attorney. This survey is made subject to a current and complete title examination and is subject to any and all records either recorded or unrecorded that may affect this property. These may include: easements, right-of-ways, above and below ground utilities, covenants and restrictions, and any other right or agreement that may be attached to this property. Any reproduction of this document that does not have a "raised" impression SEAL and red ink signature should be considered altered or fraudulent and not to be used for any purpose. This document was prepared for legal transactions on or near the date hereon and only for the person, persons, or Monthly listed. No other use implied.
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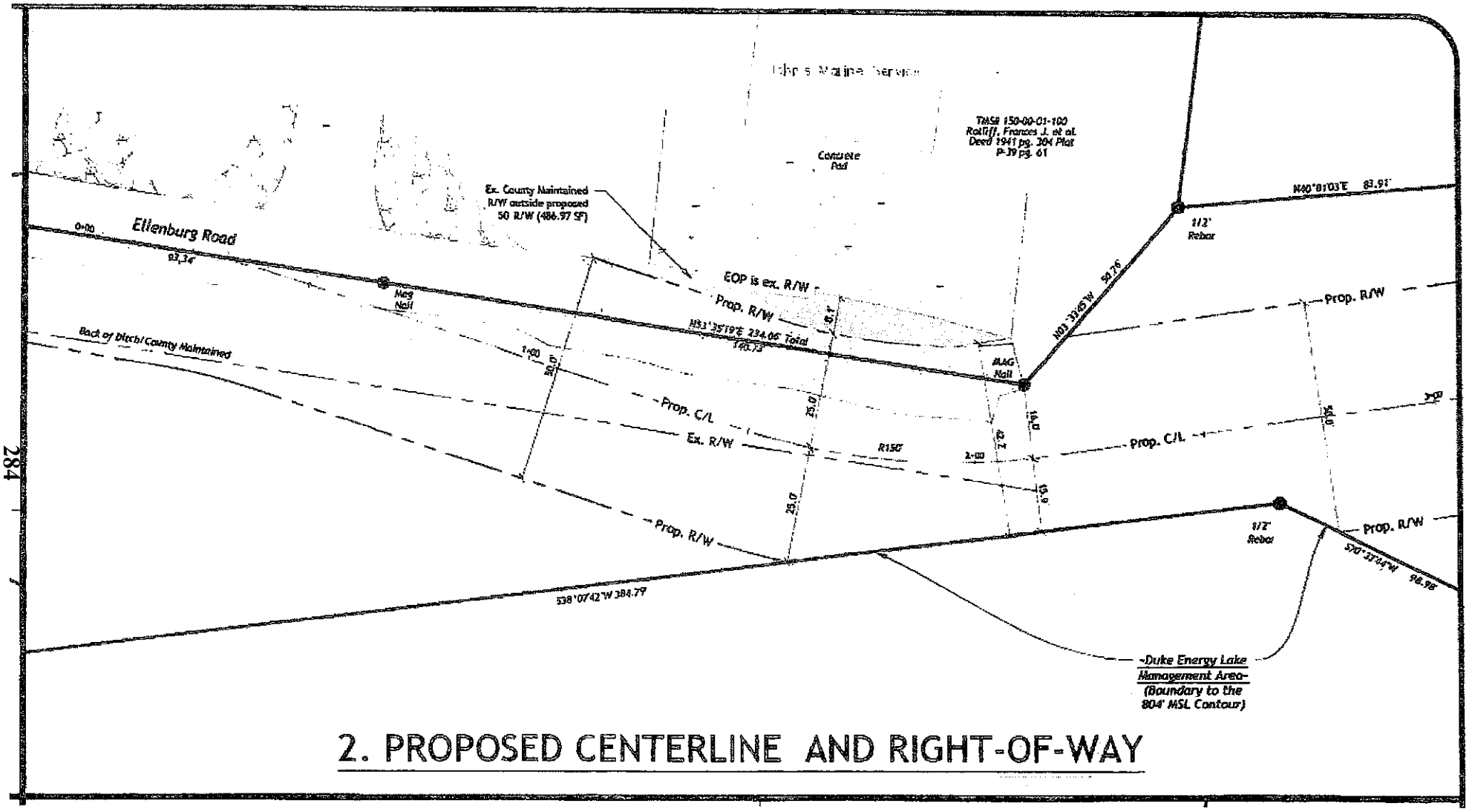
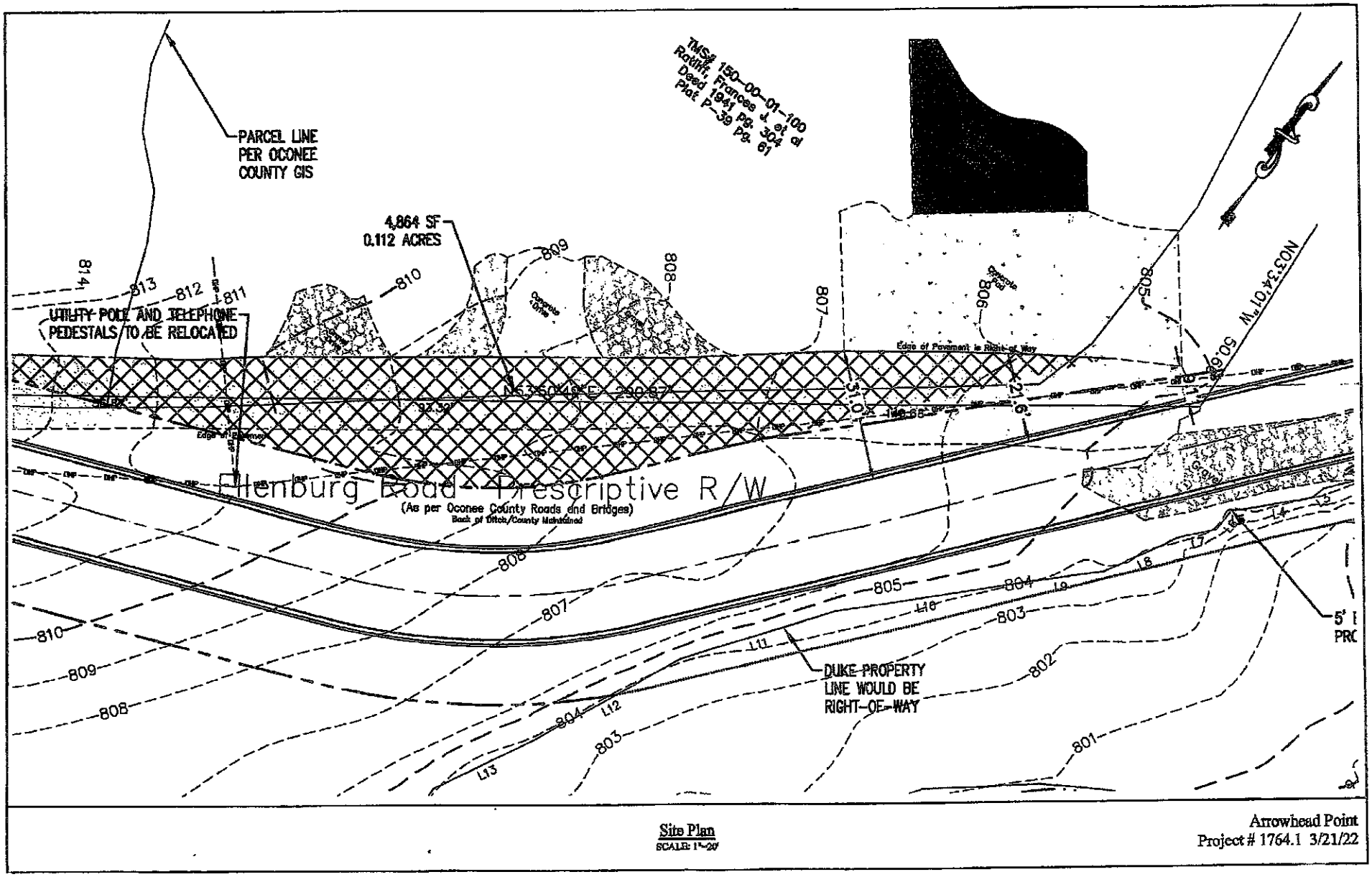
CORNERSTONE OF SENECA, INC.
800 WHITWORTH CIRCLE
SENECA, SC 29672
PAYMENTS MAILED TO
PO BOX 1971
CLEMSON, SC 29633
PHONE: 864/882-6476
EMAIL: call977mlh@gmail.com
MICHAEL L. HENDERSON, PS 6946
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS ___ SURVEY AS SPECIFIED THEREIN. PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD. THIS DOCUMENT DOES NOT TRANSFER TITLE NOR NECESSARILY FOLLOWS TITLE LINES.
CORNERSTONE OF SENECA, INC. No. C00494
PROFESSIONAL LAND SURVEYOR No. 6946
Drwn 2500
009059
See Deed 2433 pg 1
PLAT PREPARED FOR:
JAMES L. RATLIFF
LUCRETIA B. MORGAN
TAX MAP PARCEL #: 150-00-01-099
DESCRIPTION : THIS IS THE PROPERTY DESCRIBED IN DEED BOOK 1589 PAGE 289 AND SHOWN IN
REFERENCE PLAT BOOK P61 PAGE 577 RECORDED IN THE COUNTY RECORDS OF OCONEE.
STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
TOWNSHIP OF WAGENER
CITY OF
AREA OF PARCEL : 2.71 ACRES +-
DATE :NOVEMBER 23, 2020 REVISED ON :
SCALE: 1=40'
EXEMPTION FROM REVIEW PROCESS
The survey shown hereon is a RESURVEY of an existing lot of record as recorded in Plat Book ___ page ___
Recorded this 4 day of Dec 20 20
Vol B754 page 6 and Certified
Register of Deeds, OCONEE County
0" 1" 2" 3" 4" 5" 6" 7" 8" 9"

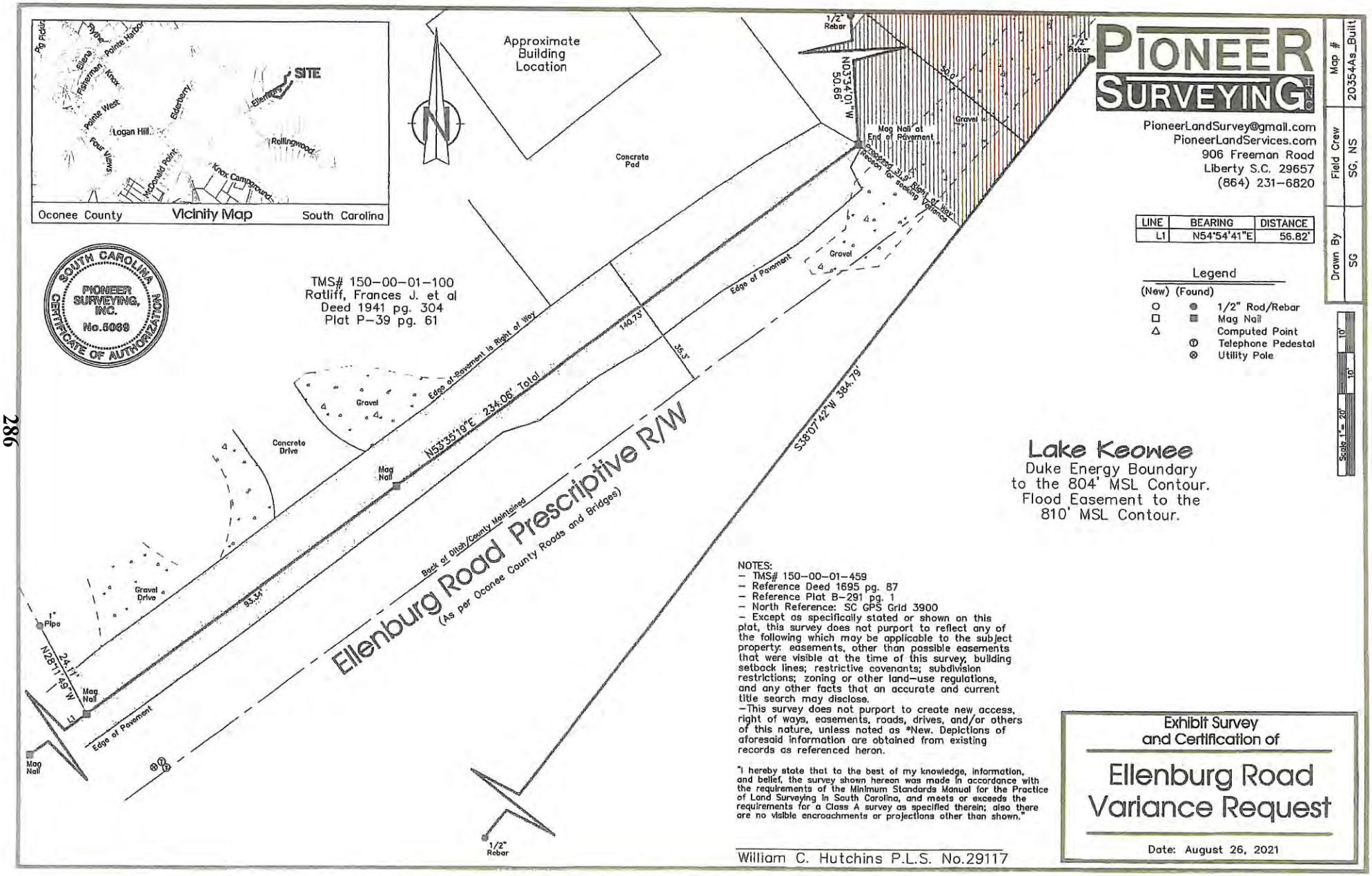


2. PROPOSED CENTERLINE AND RIGHT-OF-WAY



Site Plan
SCALE: 1"=20'

Arrowhead Point
Project # 1764.1 3/21/22


Vicinity Map
Oconee County
South Carolina
SITE
Ellenburg Rd
Pig Picnic
Flyrite
Pointe Harbor
Ellens
Fisherman
Knox
Pointe West
Four Views
Logan Hill
Edgeberry
McDonald Point
Knox Campground
Rollingwood
Approximate Building Location
Concrete Pad
1/2" Rebar
N03°54'01"W 50.69'
Mag Nail at End of Pavement
Gravel
Crossed Broken Top Pipe
31.9' Right of Way Variance
30.0'
Edge of Pavement
TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304
Plat P-39 pg. 61
Edge of Pavement is Right of Way
N53°35'19"E 234.06' Total
140.73'
35.3'
Concrete Drive
Mag Nail
Back of Ditch/County Maintained
Ellenburg Road Prescriptive R/W
(As per Oconee County Roads and Bridges)
S38°07'42"W 384.79'
Gravel Drive
93.34'
1" Pipe
N28°11'49"W 24.11'
L1
Edge of Pavement
1/2" Rebar
SOUTH CAROLINA
PIONEER SURVEYING, INC.
No.5069
CERTIFICATE OF AUTHORIZATION
PIONEER SURVEYING
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(864) 231-6820
LINE | BEARING | DISTANCE
L1 | N54°54'41"E | 56.82'
Legend
(New) (Found)
1/2" Rod/Rebar
Mag Nail
Computed Point
Telephone Pedestal
Utility Pole
Drawn By SG
Field Crew SG, NS
Map # 20354As_Built
Scale 1" = 20'
Lake Keowee
Duke Energy Boundary
to the 804' MSL Contour.
Flood Easement to the
810' MSL Contour.
NOTES:
- TMS# 150-00-01-459
- Reference Deed 1695 pg. 87
- Reference Plat B-291 pg. 1
- North Reference: SC GPS Grid 3900
- Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
-This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as *New. Depictions of aforesaid information are obtained from existing records as referenced heron.
"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."
William C. Hutchins P.L.S. No.29117
Exhibit Survey
and Certification of
Ellenburg Road
Variance Request
Date: August 26, 2021

RIDGEWATER
ENGINEERING & SURVEYING

PO BOX 806
ANDERSON, SC 29622
(864) 226-0980
RIDGEWATERENG.COM

SCALE: 1 in = 601ft

SOUTH CAROLINA
RIDGEWATER ENGINEERING & SURVEYING, LLC
CERTIFICATE OF AUTHORIZATION

Arrowhead Point

Oconee County,
South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
0	11-24-21	ISSUE FOR REVIEW
1	11-29-21	PLANNING COMMISSION MTG

SHEET

Exhibit 2

John's Marine Service
599 Ellenburg Road
Seneca, SC 29672

April 22, 2022

Board of Zoning Appeals
Mr. Codner, Chairperson
415 South Pine Street
Walhalla, SC 29691

Re: Ratliff family opposition to variance application VA21-011 (Ridgewater Engineering and Surveying TMS#150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672).

Opposition to the variance application to include:

- Property rights and ownership of 599 Ellenburg Road (TMS#150-00-01-100).
- Substantial detriment to adjacent property (John's Marine).

Dear Mr. Codner and Members of the Board of Zoning Appeals,

The Ratliff family requests denial of VA21-011 based on lack of resolution from the requirements outlined by the Board in the 11/30/2021 BZA meeting.

Below are the requirements on which the Applicant has failed to meet its Burden of Proof:

Property rights and ownership of 599 Ellenburg Road (TMS#150-00-01-100) includes a private driveway on the property and Applicant and County has failed to show that County has any rights over such:

1) Oconee County Roads and Bridges employees provided a copy of the attached Plat dated 2008 to the Ratliff family documenting the Ellenburg Road termination to the west of the Ratliff property. [Attachment 1]
2) The physical evidence of pavement transition and road striping are consistent with the documentation dated 2008 provided to the Ratliff family where the road terminates to the west of the Ratliff property. [Attachment 2]
3) When the lake was built, the County terminated Ellenburg Road to the west of the Ratliff property line and the Ratliff family has maintained our property with a private driveway serving Jan Ratliff's private residence and John's Marine for over 40 years.
4) The County has not performed maintenance on the private driveway and/or Ratliff property and the County has not offered any evidence of maintenance.
5) Laurie Ellenburg Bright has provided an affidavit of the termination of Ellenburg Road as evidenced by the End of County Maintenance sign. Laurie resided on Ellenburg Road adjacent to the Ratliff property for a period of 40 years. She is a current resident of Oconee County. [Attachment 3]
6) There are no restrictions, easements, or right of ways on the Ratliff property from the property lines on the Deed and Plat. [Attachment 4 and 5]
7) The Ratliff family has maintained both sides of the private driveway for over 40 years.
8) Oconee County does not have a prescriptive easement over 599 Ellenburg Road and the private driveway.

9] Oconee County has no jurisdiction to issue a variance over a private driveway.

Substantial detriment to adjacent property (John's Marine) remains and Applicant has failed to show otherwise:

1] There will be a crippling, substantial detrimental impact of the variance on John's Marine business. [Attachment 6]
2] There would be substantial detriment to John's Marine, preventing the ability to maneuver, park and service boats/trailers, in addition to severely limiting maneuvering by delivery trucks who bring in large motors, and equipment for boat repair. [Attachment 7]
3] The service business requires maneuvering boats and large trailers on the Ratliff property. [Attachment 7]
4] John's Marine uses the entire private driveway to pull boats out of the water, to put boats into the water, to maneuver boats into the shop for repair, to park boats and to maneuver trailers. [Attachment 7]
5] A large number of boats are frequently maneuvered on Ratliff property. [Attachment 7]
6] Boats that arrive by water need to be put onto a trailer, pulled from the water, and maneuvered into the shop for repair utilizing the private driveway in front of the shop.
7] The variance would permit the developer to change the current road from a private driveway to a private road or public road. This change would allow much more vehicle traffic (~200 cars per day as represented by Oconee County Roads and Bridges) which will prevent John's Marine from using the private driveway to maneuver and service boats as they have been doing for over 40 years in a very narrow stretch of land. This coupling of residential traffic and commercial traffic will be a disaster. [Attachments 8, 9 and 10]
8] There would be a substantial detriment to the health and safety of the public with approval of this variance with ~200 additional cars per day on a narrow road.

In conclusion, the Oconee County BZA does not have the authority to take Ratliff property. The applicant has failed to meet the burden of proof for criterion #4 (...substantial determinant to adjacent uses...).

The Oconee County BZA is encouraged to acknowledge these facts and vote against the variance.

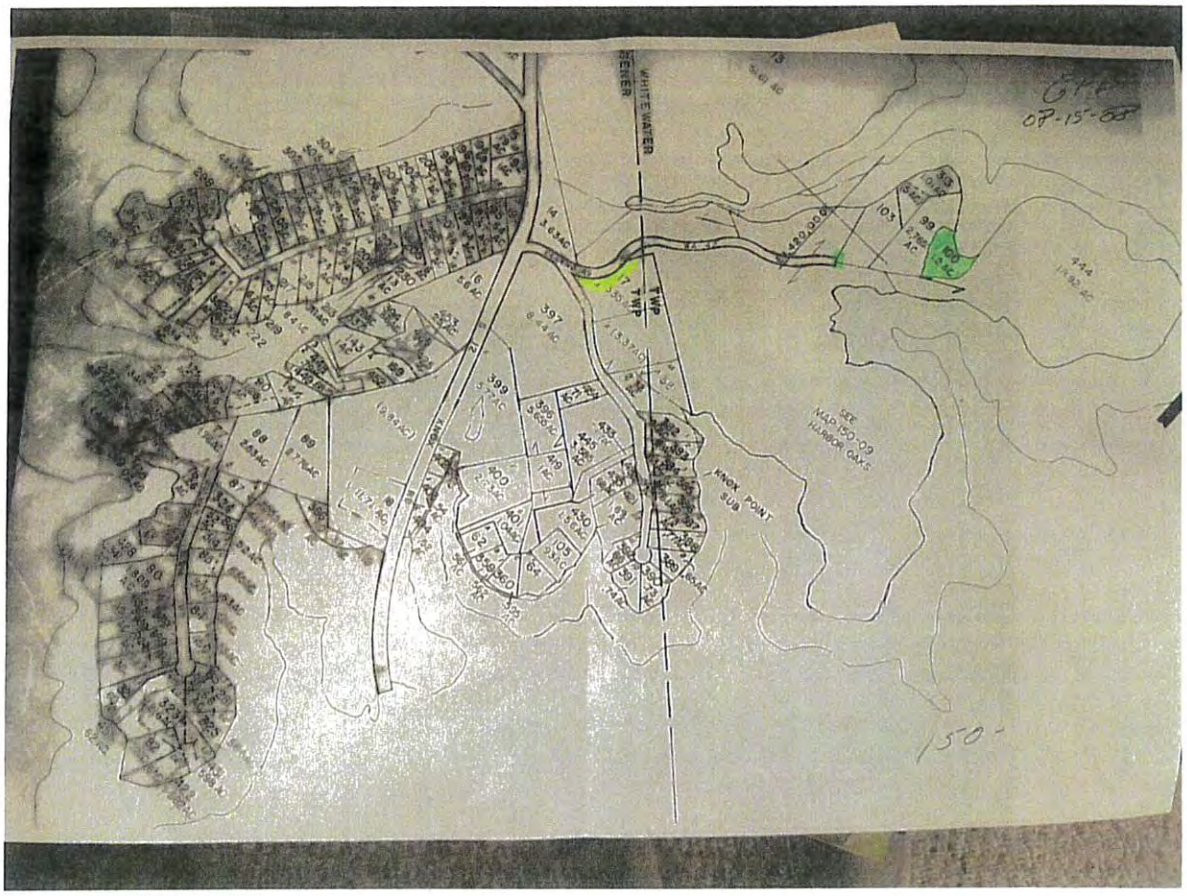
We appreciate your consideration in this matter, and we will attend the BZA meeting on 4/25/2022 to continue to represent the Ratliff position.

Thank you,

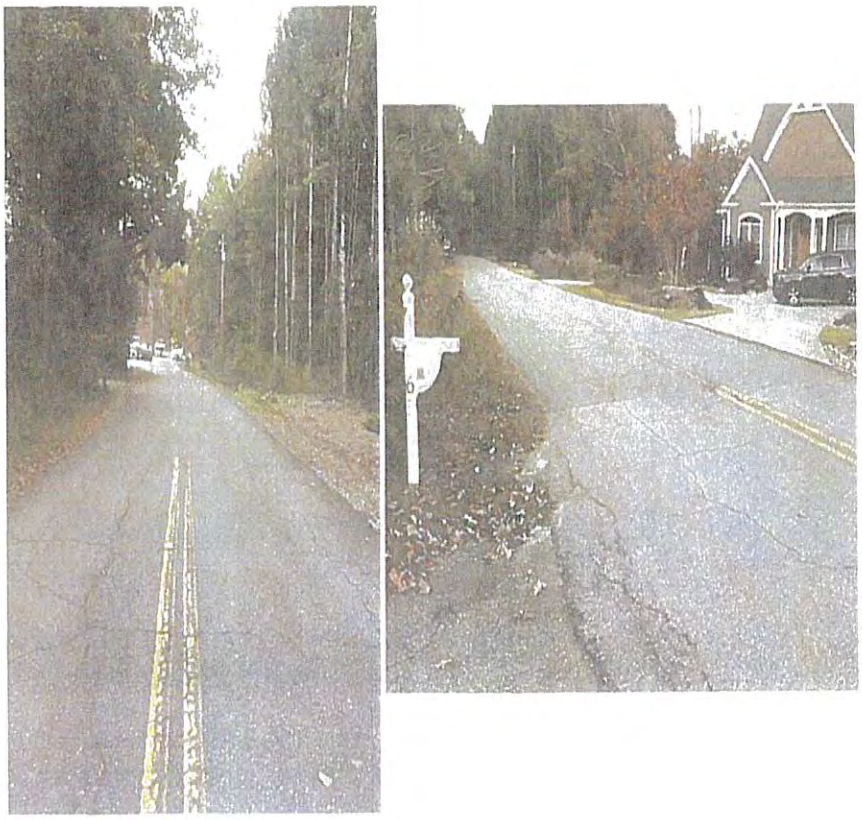
Jimmy Ratliff
John's Marine Service

cc: Edward (Jay) Ratliff Jr.
Sherri D. Crisp
Amy L. Cawthon
Frances J. Ratliff
County Council members:
John Elliot, Chair
Matthew Durham
Paul A. Cain, Esq.
Julian Davis III
James Glenn Hart

Attachment #1 (Map of end of county maintenance provided to the Ratliff family in 2008):



Attachment 2 (Physical evidence of road termination):



Attachment 3 (Ellenburg affidavit End of County Maintenance)

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

AFFIDAVIT OF LAURIE ELLENBURG BRIGHT

BEFORE ME appeared, Laurie Ellenburg Bright, who deposes and says:

1. I reside at 178 Madison Pointe Drive, Seneca, South Carolina, 29678 and have personal knowledge of the matter set forth herein.
2. Prior to moving to my current residence in March 2021, I resided at 591 Ellenburg Road, Seneca, South Carolina 29672.
3. I grew up/resided at 591 Ellenburg Road for a period of 40 years. Intermittently, I left Ellenburg Road from 1995-2002.
4. I am the grand-daughter of T.B. Ellenburg, the original owner of the property who sold a portion of his farmland for the creation of Lake Keowee.
5. My grandfather, T.B., was given naming rights for the road and he chose to name it Ellenburg Road.
6. After the creation of Lake Keowee, I recall an "End of County Maintenance" sign between 575 Ellenburg Road and 585 Ellenburg Road. I drove past this "End of County Maintenance" sign for years. This "End of County Maintenance" sign was located near a bathtub that my grandfather used to water his cattle.

FURTHER AFFIANT SAYETH NAUGHT.

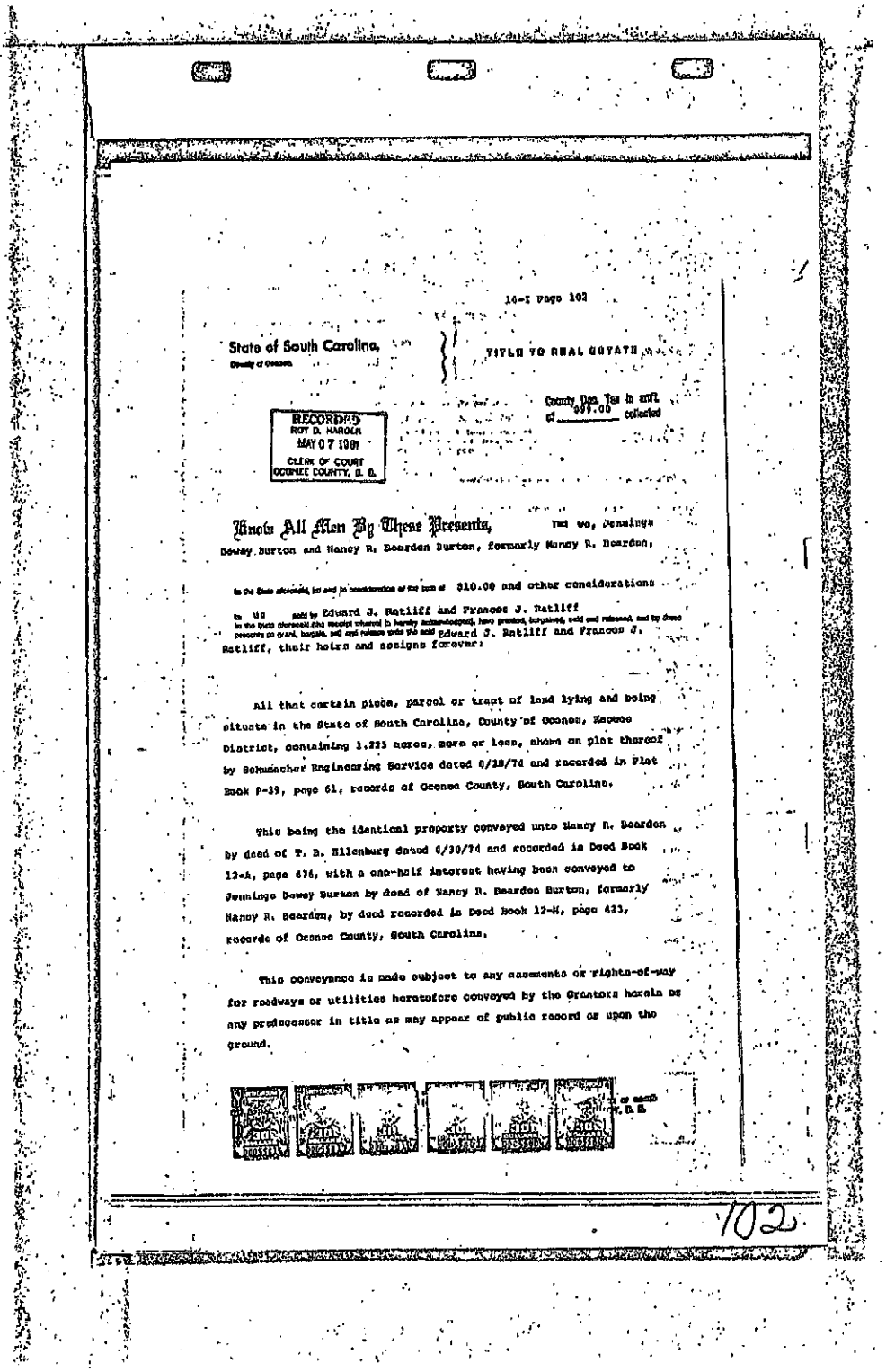
Laurie Ellenburg Bright
LAURIE ELLENBURG BRIGHT

1

SWORN to before me this 26th day of April, 2022.

James E. Moore
Print Name: James E. Moore
Notary Public for State of S.C.
My Commission Expires: 7-24-2025

Attachment 4 (Ratliff deed book 14-I page 102)



14-I page 102

State of South Carolina,
County of Oconee

TITLE TO REAL ESTATE

County Tax Tax in amt. of $99.00 collected

RECORDED
ROY D. HAROLD
MAY 07 1981
CLERK OF COURT
OCONEE COUNTY, S. C.

Know All Men By These Presents, That we, Jennings Dewey Burton and Nancy R. Bearden Burton, formerly Nancy R. Bearden,

in the State aforesaid, for and in consideration of the sum of $10.00 and other considerations

to us paid by Edward J. Ratliff and Frances J. Ratliff in the State aforesaid (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Edward J. Ratliff and Frances J. Ratliff, their heirs and assigns forever:

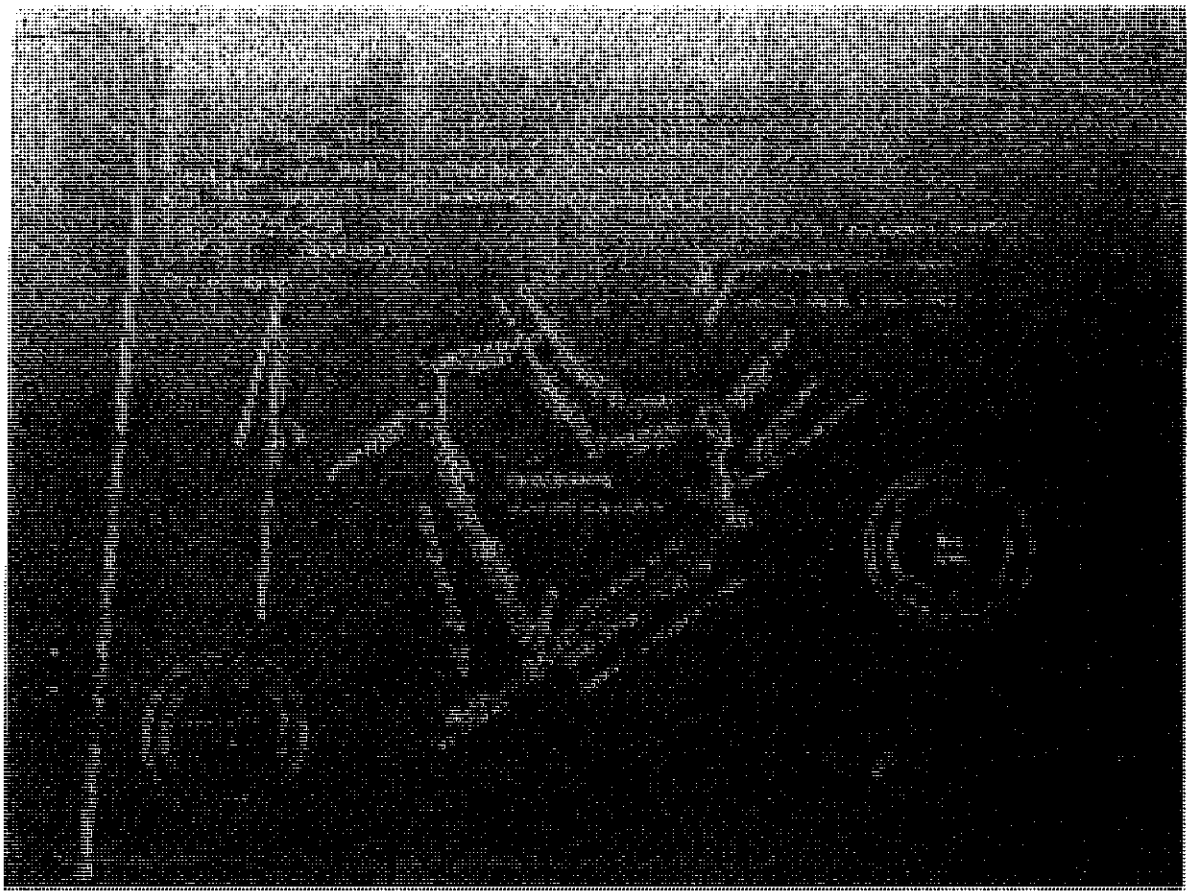
All that certain piece, parcel or tract of land lying and being situate in the State of South Carolina, County of Oconee, Keowee District, containing 1.225 acres, more or less, shown on plat thereof by Schumacher Engineering Service dated 6/18/74 and recorded in Plat Book P-39, page 61, records of Oconee County, South Carolina.

This being the identical property conveyed unto Nancy R. Bearden by deed of T. B. Hillenburg dated 6/30/74 and recorded in Deed Book 12-A, page 476, with a one-half interest having been conveyed to Jennings Dewey Burton by deed of Nancy R. Bearden Burton, formerly Nancy R. Bearden, by deed recorded in Deed Book 12-H, page 423, records of Oconee County, South Carolina.

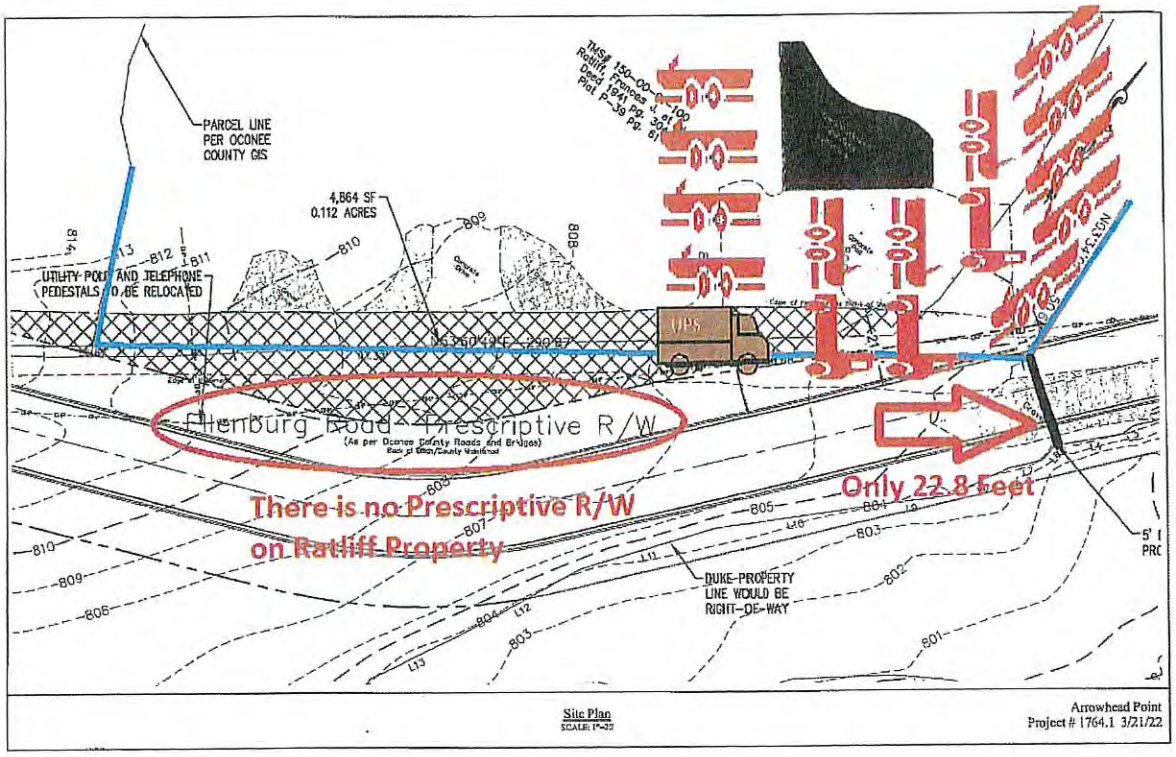
This conveyance is made subject to any easements or rights-of-way for roadways or utilities heretofore conveyed by the Grantors herein or any predecessor in title as may appear of public record or upon the ground.

102

Attachment 5 (Ratliff Platt Book P-39 page 61):



Attachment 6 (Developer plan designed by Goldie and Associates):



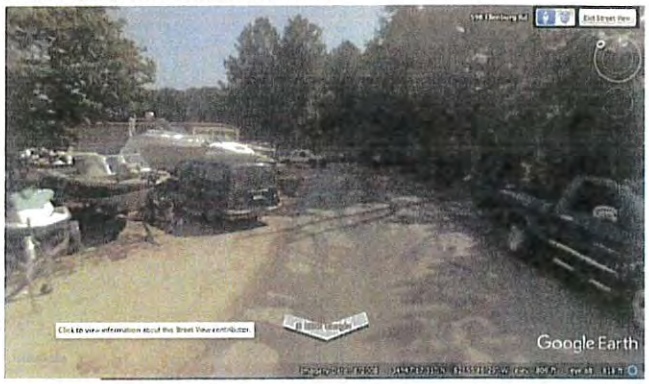
Attachment 7 (John's Marine servicing boats on Ratliff property):

Pic #1: 20 foot pontoon being serviced

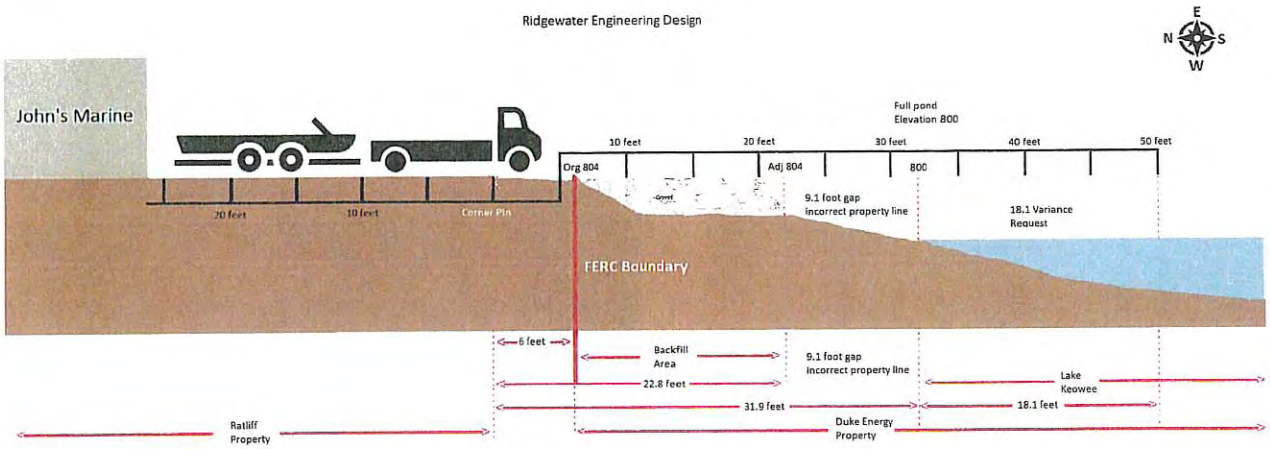
Pic #2: View standing in center of proposed 9.1 foot right of way

Pic #3: Customer pickup and delivery of boats.

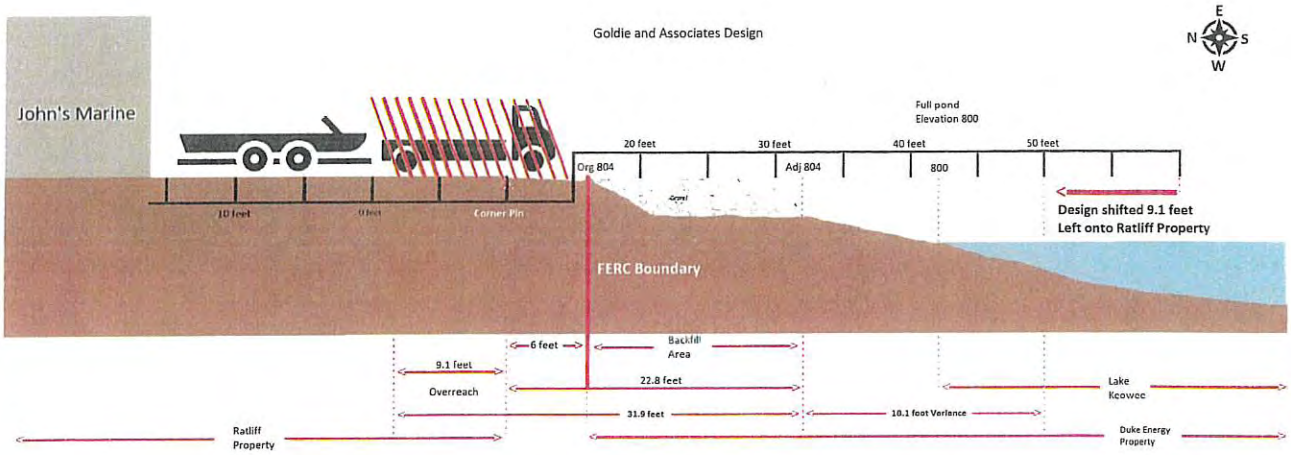
Pic #4: Google street view from 2008.



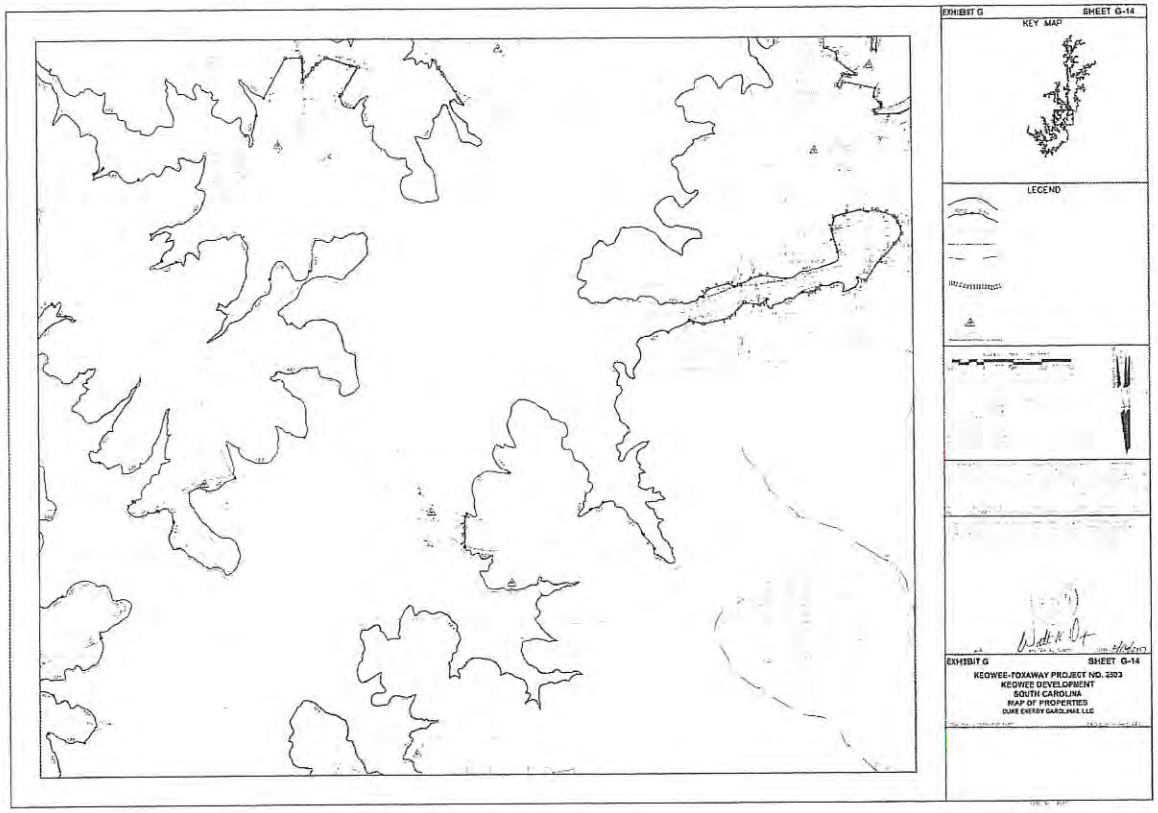
Attachment 8 (Scale diagram of Ridgewater Engineering design]:

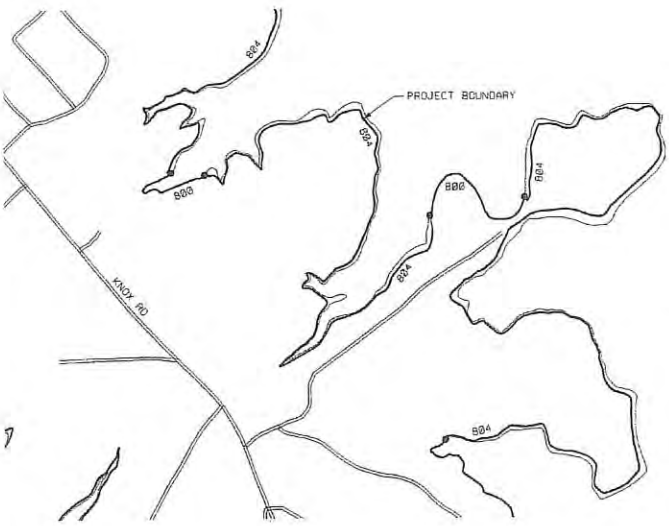


Attachment 9 (Scale diagram of Goldie and Associates design):



Attachment 10 (Project boundary map provided by Federal Energy Regulatory Commission):





I, WALTER K. DIXON, A PROFESSIONAL LAND SURVEYOR FOR DUKE ENERGY, HAVE REVIEWED THIS PORTION OF THE KEOWEE-TOXAWAY PROJECT BOUNDARY SHOWN HEREIN, UNLESS NOTED, THE LICENSEE OWNS IN FEE SIMPLE ALL LANDS SHOWN ON THIS MAP THAT ARE INSIDE THE PROJECT BOUNDARY. THE PROJECT BOUNDARY LINES THAT ARE NOT CONTOUR LINES (I.E., ACCESS AREAS AND DAMS) WERE BASED ON DUKE ENERGY SURVEYS AND RECORDED SURVEYS AND DEEDS OF RECORD.

SEAL L-4733 WALTER K. DIXON

SEAL WALTER K. DIXON DATE: 2/16/2017

EXHIBIT G **SHEET G-14**

KEOWEE-TOXAWAY PROJECT NO. 2503
KEOWEE DEVELOPMENT
SOUTH CAROLINA
MAP OF PROPERTIES
DUKE ENERGY CAROLINAS, LLC

SCALE: 1 INCH=800 FEET DATE: FEBRUARY 2017

LAKE KEOWEE
FULL POND
EL 800.0

James Coley

From: James Coley
Sent: Monday, April 25, 2022 4:57 PM
To: Vivian Kompier
Subject: FW: Johns Marina

From: Jennifer C. Adams
Sent: Monday, April 25, 2022 4:57 PM
To: James Coley <jcoley@oconeesc.com>
Subject: FW: Johns Marina

One more email…

Jennifer C. Adams
Oconee County Clerk to Council
P: 864-718-1023
jennifercadams@oconeesc.com
415 South Pine Street
Walhalla, SC 29691

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From: Jefeuno [mailto:jefeuno@gmail.com]
Sent: Monday, April 25, 2022 4:56 PM
To: Council Clerk Info <councilclerkinfo@oconeesc.com>
Subject: Johns Marina

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

We completely support Johns Marina and it should be left alone. This small business does not need to be shut down by big business to accommodate more homes on Lake Keowee.

We wish we could attend the meeting to show support for Johns Marina, but I travel for work and am out of town.

Jeff & Rosemary Albright
9 Rip Tide Ct, Salem, SC 29676

engineer has yet to provide these. Instead, they are going to ask that you grant them a variance without a clear idea of what is taking place if it is not essential to them to produce correct plans, how important it should be for the community to accept a variance request.

The zoning ordinance has some clear regulations that are required to be met to grant a variance. I have reviewed these questions and provided some of my comments on them below. I will point out that the applicant must prove they need an exception from these and the Board must find in favor of all four to grant the exception. Failure of one question should mean the variance is denied.

1: There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The agenda provided does not show any proof from the developer or staff as to what extraordinary and exceptional condition applies to this property. Did the developer negotiate with the neighboring property owner for 18.1 more feet and was denied. Did the 19 lots exist before the adoption of the ordinance, making it non-conforming? The requirements are placed on the property owner to show why this should be answered in the affirmative. Just reviewing the plans, one can conclude that the property owners want to have more lots than three allowed, and this variance is expected.

2. The conditions do not generally apply to other properties in the area.

It would seem that every other subdivision of greater than three parcels in the area has complied with this requirement. Unless we are going to amend the provisions of 50 feet, making it smaller, I believe the Board must vote against approving this question.

3. Because of these conditions, the application of this chopter to the porticular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The Owner could still subdivide the property into three parcels or sell the whole existing parcel. By denying this, we are not creoting unreasonable property restrictions or taking the property. In other words, the property can still be used reasonably. An owner does not have any assurances that they can be allowed a more advantageous use when the property does not meet the ordinances. The Board of Zoning appeals should not find in the affirmative on this question since the property still has value and use without a public right-of-way.

4. The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.

> *a. The Board of zoning appeals may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.*

Question 4(A) speaks for itself. The granting of a variance would allow for a 19 unit subdivision that would otherwise not be allowed. The last sentence address one of the prime arguments of most developers. Just because 19 lots may be more profitable does not mean it is better for the community. The Board should find against this question.

In addition to all these statements, the agenda package of the zoning appeals leaves much to be desired. The lack of information leaves much up to assumption. The county staff should provide more details, a staff report of their findings, the specific ordinances the applicant is seeking a variance from, and the applicant's application. How can a citizen, much less a boord member, be expected to make an informed decision if the information of the decision cannot be obtained easily.

Regards,
Aubrey Miller
197 Knox Landing Drive
Seneca, SC 29672

James Coley

From: Andrew Holliday <andrewkentholliday@gmail.com>
Sent: Monday, April 25, 2022 12:43 PM
To: James Coley
Subject: Ellenburg Road - Ratliff

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Mr. Coley,

I have attached the message below for the BZA meeting tonight. I thought I would be able to attend but now am unable to do so. It is my hope that you will present it to the Board.

Board Representatives,

I write to you as I am unable to attend tonight's meeting. I would ask that you approve the variance request #VA 21-011 as requested by Ridgewater Engineering based on the plain text of Oconee County Code of Ordinances Section 38-7.1.

While you are obligated to balance many factors I do not see this decision as a difficult one. The first three questions you must consider seem to me to be very straightforward and should be easy yes votes.

The property is clearly extraordinary, unusual, and unique in that it has an incredibly narrow isthmus. The size of this isthmus is why this variance request is presently before you. Due to the unique and exceptional conditions pertaining to the narrowness of this isthmus, these conditions do not generally apply to other properties in the area. Few similar properties exist around the circumference of Lake Keowee but to the extent similar properties do exist, they are developed and have homes built on them. Because of the narrowness of the isthmus, the developer is unable to provide the County with the required fifty foot right of way for the entrance of the neighborhood. The County's present regulations do effectively prohibit and unreasonably restrict the use of the property. Without a variance, the property owner will be prohibited from the reasonable development and utilization of their property.

The fourth question you must answer is more difficult but that is mostly due to the ridiculous amount of misunderstandings, rumors, and outright lies being told about this variance request. The most dangerous untruth being told with regard to this variance request is that this developer is decreasing the size of the current road and seizing property from Mr. Ratliff. You and the developer do not have the authority to seize Mr. Ratliff's property for this purpose nor would the road size be decreased. The size of the proposed road is clearly shown on Page 7 the backup material provided for this meeting as Graphic 4 which shows the proposed paving/repaving. This graphic clearly shows the asphalt area will at least double in size and provide Mr. Ratliff access to the concrete pad serving his business effectively doubling the size of the paved area. These drawings do not show that Mr. Ratliff will be "cut off" as has been asserted. The doubling of paved surfaces adjacent to his business does not sound like a substantial detriment to Mr. Ratliff or a substantial detriment to the operations of his business. It has been claimed that the granting of this variance will prevent trucks from reaching Mr. Ratliff and prevent him from putting boats into or pulling boats out of the lake. Both of these claims can not be true if graphic 4 is accurate. There have also been claims that dangerous conditions will be present on the road if this variance is granted. If the paved area near Mr. Ratliff's property is doubled presumably any safety concerns would be reduced. Mr. Ratliff's claims regarding safety ring especially hollow when considering that his business is the cause of large trucks to be traversing Ellenburg Road in the first place.

I am not aware of any substantial arguments relating to detriments to the public good made by Mr. Ratliff or others but to the extent they assert such, I would disagree. Mr. Ratliff's opposition to this variance seem personal and pecuniary and not focused on the public good. My opinion is that he is seeking to extort this developer and I think he expects to be paid off to drop his opposition to this developer. I also believe it is clear that the character of the district will not be harmed by the granting of this variance. If the variance is granted, the proposed subdivision will be similar in character to the vast majority of the surrounding district. The only outlier in this area is the commercial operation run by Mr. Ratliff.

Most importantly, the ownership of the road and the easements or lack thereof is immaterial to your decision. You do not have the authority to determine the ownership of the road nor should you. That belongs squarely in the purview of the Circuit Court in the event Mr. Ratliff sees fit to bring such a case. In my opinion he would lose such a case due to an easement by necessity clearly existing through his property but that point truly is irrelevant to you decision making.

Lastly, I hope you will fairly consider these four factors alone and disregard the numerous red herrings and misrepresentations that have been presented to you. The location of the road in relation to the 804 line is immaterial to this variance since the county regulation in question (the imposition of a requirement for a fifty foot right of way) has nothing to do with the 804 line and only Duke Energy is the only entity that could object to use of land below the 804 line. Likewise, the ownership of the road is immaterial as the variance only applies to the developer's property and as previously covered this developer can not seize Mr. Ratliff's property. A private agreement between the developer and Mr. Ratliff is also immaterial because they are unable to grant themselves an exception from County regulations as only you have that power. You are only considering a variance and not the merit of the proposed development. A variance is merely an exception to a rule and I believe this situation clearly warrants an exception to the County's requirement for a fifty foot right of way.

Thanks,

Andrew Holliday

James Coley

From: James Coley
Sent: Monday, April 25, 2022 4:54 PM
To: Vivian Kompier
Subject: FW: Developers generally think they can buy there way through life taking advantage of good people.

From: Jennifer C. Adams
Sent: Monday, April 25, 2022 4:42 PM
To: James Coley <jcoley@oconeesc.com>
Subject: FW: Developers generally think they can buy there way through life taking advantage of good people.

And this one as well……

Jennifer C. Adams
Oconee County Clerk to Council
P: 864-718-1023
jennifercadams@oconeesc.com
415 South Pine Street
Walhalla, SC 29691

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From: Cynthia and Don Leggett [mailto:cydonetics@hotmail.com]
Sent: Monday, April 25, 2022 4:40 PM
To: Council Clerk Info <councilclerkinfo@oconeesc.com>
Subject: Developers generally think they can buy there way through life taking advantage of good people.

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you validate the sender and know the content is safe.

Jimmie is good people.

Don Lee (not related!)

Sent from Mail for Windows

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes
6:00 PM – April 25, 2022

Members in Attendance
Tim Mays
Marty Mckee
John Eagar
Bill Gilster
Jim Codner

Staff
David Root, County Attorney
James Coley, Planning Director
Vivian Kompier, Senior Planner
Kyle Reid, Roads and Bridges

Media
Lauren Pierce, The Journal

ITEM 1 – Call to order – Mr. Codner called the meeting to order at 6:00 PM.

ITEM 2 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide a presentation to state their request (5 minutes).
- Staff will be asked to make any comments regarding the request.
- The public is allowed to voice their approval or opposition to the proposed. Please do not repeat opinions that have already been stated into the record (3-5 minutes).
- Applicant rebuttal
- Board members will discuss in detail.
- Voting

ITEM 3 – Approval of minutes from February 28, 2022 – Mr. Eagar made a motion to approve the minutes from February 28th; seconded by Mr. Mays Discussion – none. Mr. Codner called for a vote. The motion passed 5/0,

ITEM 4 – Special exception application #SE22-003 – Faulk & Foster – Victoria Farmer is requesting a special exception to construct a 172' monopole telecommunications tower (182' top of lightning rod) TMS#285-00-05-001 an

unaddressed parcel with the closest address of 315 Hopewell Church Rd. Westminster, SC 29693.

Applicant's opening statement and provision of evidence:
Ms. Farmer addressed the need for the tower, as there is limited service in the area.

Staff comments:

- Mr. Coley confirmed the is required for all communication towers, and there were no variances requested in addition to this application. The requirements for tower had been met in the design.

Public comment:

- Rod Lense- in favor, lack of service in the area

Applicant rebuttal:
NA.

Board Questions:
NA

Board discussion:
NA

1. In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested:
   a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion passed.

2. In the best interests of the County, the convenience of the community and the public welfare:
   a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mckee.
   b. Vote

In-favor	Opposed
5	0

   Mr. Codner noted that the criterion failed.

3. Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with appropriate in appearance to the existing or intended character of the general vicinity:
    a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

4. Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.
    a. Motion – Mr. Eagar made a motion in the affirmative; seconded by Mr. Mckee. A brief discussion followed.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed special exception be **approved with the following condition: No Outside Boarding, pet runs, outside kennels, pet daycare.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

ITEM 5 – Variance application #VA 21-011-Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

Applicant's opening statement and provision of evidence: Ms. Smith noted that the applicant has made attempts to reach a resolution with the Ratliff's, and have reached an been unable to resolve the issue, and are coming back to the board for a decision. She believes that they meet the criteria for the variance. The geography and topography

limit the development of the property. The lake is an additional factor limiting the applicant's ability to develop the property. It is the applicants position that the ordinance is overly restrictive and granting of the variance will not negatively impact the adjacent property owners. Ms. Smith detailed the applicant's roadway design.

Staff comments and Board questions:

- Mr. Root stated the County position that the road is under a prescriptive easement based on institutional knowledge, but that the affidavits presented call that into question.
- Mr. Reid explained the road surface area, and the right-of-way. Right-of-way is additional space for maintenance, utility, drainage, widening. Mr. Reid explained that there is no record that the property was ever turned over to the property owners. To the best knowledge of the County staff, the road was originally a state road, that the County assumed responsibility for after the creation of the lake. Neither the state nor the County have documentation relating to Ellenburg Road. Mr. Reid also contacted Crescent to see if they had any documentation, and they did not.

Public Comment:

- Rick McDuff- The BZA does not have authority to make this decision. The Ratliff family has paved and maintained the end of the road. There is no evidence of County maintenance on the road. Institutional knowledge is not the basis for changing the proposed course of the road.
- Ken Charles- concerned about fire safety, against the variance
- Jay Ratliff- Mr. Ratliff stated his qualifications, he showed a drawing he overlayed with boats, trucks, and use of the property. Mr. Ratliff showed his revised right-of-way drawings. The family believes there will be a negative impact on the family business. The board asked about usage of the road for the business and discussion about the impacts of the variance. Mr. Ratliff confirmed that they have not been able to reach resolution. Mr. Ratliff is concerned the board is using economic interests as justification.
- Larry Brandt- The Ratliff plats and deeds show public right-of-way. Ellenburg is a public road and cannot be abandoned without following proper procedures. The applicant is willing to deed property to the Ratliff's to maintain access to the road.
- John Richardson- against, the unique property should be protected.
- Doug Cooper- Mr. Cooper thanked the board for allowing additional public comment. The developer has placed filled on the site. Mr. Cooper believes the developer has indicated they have permission from Duke, but they actually have not. Mr. Cooper believes the County does not maintain the end of the road. Mr. Cooper believes the 50' right-of-way was in effect when the property was purchased.
- Bruce Dew- against, variance is a problem for the business.

- Serena Richardson- road is dangerous and narrow. Ms. Richardson believes illegal fill has been added to the property. Ms. Richardson believes emergency services will not be able to access the property. Ms. Richardson is concerned that locals are not being looked after, and that investors are being prioritized.
- Chris Leonard- against
- Lucretia Morgan- Ms. Morgan stated issues with statements made by Mr. Johnson at the November 2021 meeting regarding this variance. Ms. Morgan provided copies of minutes from a 2006 County Council meeting where 50' right-of-way requirements for subdivisions were in place.(see exhibit 2). Ms. Morgan stated in addition, dating back to 2000, Ordinance 99-14 Section 6.7.3 Private Roads, the 50' ROW was in place. On August 1, 2000 John Hamrick attended the county council meeting to discuss proposed changes to Ordinance 99-14 and was in opposition to the way property would have to be divided under the proposed subdivision regulations (Exhibit 1). Ms. Morgan provided the deeds proving the home size statements made by the developer were inaccurate. Ms. Morgan stated the developer needs the Ratliff's in order to make their plan work. Ms. Morgan stated that a variance cannot be approved based on only profitability per Oconee County Code of Ordinances Section 32-5. Ms. Morgan is opposed to granting the variance.

Applicant rebuttal: Mr. Andy Lee stated the plats along Ellenburg show the right-of-way. Mr. Lee stated the road standards have changed over the years and that roads have widened as standards have improved. Mr. Lee stated the County repaved the bad part of the road and left the remainder due to where the previous construction took place. Mr. Lee stated the portion at the end of the road could not have been abandonment as described opposition. Mr. Lee stated he does not need Duke's permission to develop. Mr. Lee reviewed the need for the variance.

Board questions for Staff:

- Mr. Root clarified that the board has the ability to make a decision.
- Mr. Reid clarified that the 200 average daily trips number was not an official estimation, and was a general statement to a question. He confirmed that a professional traffic study would be required for this development. Mr. Reid stated the work on the upper section of the road was done after construction and was a large patch job where the road was crumbling.
- Mr. Coley confirmed that Emergency Management will review turn abounds
- Mr. Reid confirmed that the Road paving on Ellenburg was at the direction of the County Engineer.

Mr. Codner made a Motion to take a 10-minute beak seconded by Mr. Mays, motion passed 5-0

Mr. Codner called the meeting back to order at 7:55 pm

Board Discussion:

- Mr. Eagar the board should make a decision
- Mr. Mays the applicant still has a lot of other requirements
- Mr. Codner, the narrow point in on the applicant's property
- Mr. Mckee who will do the work on the road- the developer will be responsible to road construction
- Mr. Root discussed road abandonment
- A traffic study is required for road width determination
- Safety is paramount
- Mr. Codner everyone wants John's Marine to stay
- Discussion of use of the road as part of the business
- Discussion of if there is more space for John's Marine after the new road is constructed.
- Duke power issues are not applicable to this discussion
- County roads are not built to accommodate pedestrian traffic
- This is not being evaluated based on economic impacts
- Safety is the primary review criteria
- Mr. Coley reviewed the applicant had reached out for a decision by the Board after attempting to reach a resolution
- Discussion regarding conditions

Consideration of VA21-011:

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
    a. Motion – Mr. Eagar made a motion, seconded by Mr. McKee. No discussion.
    b. Vote

In-favor	Opposed
5	0

Mr. Codner noted that the criterion passed.

3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
    a. Motion – Mr. Eagar made a motion, seconded by Mr. May. Brief discussion followed.
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
    a. Motion – Mr. Eagar made a motion; seconded by Mr. May. Discussion- does this harm John's Marine? Will the impact have severe impacts? Discussion- does this harm John's Marine? Will the impact have severe impacts?
    b. Vote

In-favor	Opposed
5	0

    Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Mays. Vote. No Discussion

In-favor	Opposed
5	0

    Mr. Codner noted that variance request was **approved** with the following conditions:

    Order approved subject to proper abandonment procedures, compliance with all ordinances and state law on acceptance into the County roadway system. Developer grant/ deed John's Marine property so that there is reasonable, unimpeded access to the new road.

Item 6 Adjourn – Mr. Eagar made a motion to adjourn; seconded by Mays. Mr. Codner called for a vote. Motion passed unanimously 5/0.

Meeting agenda
Monday, April 25, 2022 6:00pm

Oconee County Board of Zoning Appeals

Council Chambers
415 South Pine Street
Walhalla, S.C. 29691

www.oconeesc.com

YouTube: "YourOconee"

Staff contact
846-638-4218
planninginfo@oconeesc.com

1. Call to order
2. Approval of minutes: 03/28/2022
3. Brief statement about rules and procedures
4. Special exception application #SE22-003 – Faulk & Foster – Victoria Farmer is requesting a special exception to construct a 172' monopole telecommunications tower (182' top of lightning rod) TMS#285-00-05-001 an unaddressed parcel with the closest address of 315 Hopewell Church Rd. Westminster, SC 29693.
5. Variance application #VA 21-011-Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.
6. Adjourn

BOARD MEMBERS

Jim Codner, Chairman, District I
Gwen Fowler, District II
John Eager, Vice Chairman, At-Large
Bill Decker, At-Large
Marty McKee, District IV
Bill Gilster, District III
Tim Mays, District V

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes
6:00 PM – March 28, 2022

Members in Attendance

Gwen Fowler	Tim Mays
Marty Mckee	Jim Codner
John Eagar	Bill Gilster

Staff
James Coley, Planning Director
Vivian Kompier, Senior Planner

Media
None

ITEM 1 – Call to order – Mr. Codner called the meeting to order at 6:00 PM.

ITEM 2 – Approval of minutes from February 28, 2022 – Mr. Eagar made a motion to approve the minutes from February 28th; seconded by Mr. Mays Discussion – none. Mr. Codner called for a vote. The motion passed 6/0,

ITEM 3 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide a presentation to state their request (5 minutes).
- Staff will be asked to make any comments regarding the request.
- The public is allowed to voice their approval or opposition to the proposed. Please do not repeat opinions that have already been stated into the record (3-5 minutes).
- Applicant rebuttal
- Board members will discuss in detail.
- Voting

ITEM 4 – 4. Special exception application #SE22-002: Keowee Animal Hospital – Monica Parker is requesting to change the commercial use of the building from financial services to a veterinary hospital while keeping the current functional ATM in place. TMS# 124-00-02-004, 8233 Rochester Highway, Salem, SC, 29676.

DRAFT

Applicant's opening statement and provision of evidence:
Dr. Parker presented here case. She stated the building in inside the Lake Overlay district, and requires a change of use from financial services to agricultural support. She is requesting and additional combined usage to keep the ATM in its currently location active. Dr. Parker presented that she believed there is a need for an animal hospital in this area, and that there is a 10-mile and 12-mile gap from this location to the next nearest animal hospital. Dr. Parker presented that she believes the exemption is in the best interest in the County. Dr. Parker explained that there will be no outside access, outside kennels, no dogs outside on their own. Dr. Parker explained that the traffic flow will not be impacted by the change of use.

Staff comments:

- Mr. Coley confirmed the application is required due to the location in the lake overlay, and changing the CCD use from financial services to agricultural support, and an additional change from single use to combined use, of agricultural support and financial services, by leaving the ATM in use on site. Mr. Coley confirmed that any additional building on the parcel will require an additional BZA hearing.

Public comment:

- Hugh Pearson- Dr. Parker is a good neighbor and good vet, in favor
- Harry Toupet- SC Dog Therapy Group, thinks there is a need for vet in this location
- Rhonda Grant- personal friend for 45yrs. in favor.
- Doug Hettinger- in favor with requirement that no outdoor kennels, pens, or boarding now, or in the future.
- Kevin McCracken- General manager KKPOA, the utility provider is satisfied, provided there are no outdoor runs or kennels, animal waste is collected due to proximity to the lake, and would like the lighting to be addressed with shielding, or vegetation planted on the back of the property to block
- Scott Sanders- in favor of the exception
- Jim Hamby- from Pickens County, but would be traveling to Dr. Parker for services
- Ron Cilensek- concerned about crematory services if they are provided
- Peter Brandt- listing agent of property, feels that this is the best use of the property
- Laura Kenimore- is the boarding facility that Dr. Parker will be referring clients
- Sheryl Matthews- would like assurances that if another vet takes over the facility, any restrictions would remain in place

Applicant rebuttal:

Dr. Parker would like to define boarding, in reference to sick animals and animals being treated. Would like to express that kennels will be indoor for animals being treated. They will not have crematory services. Will have people to pick up animal poop. Dr. Parker would be willing to look into the shielding the lights.
The board chairman discussed a working definition of boarding, no outdoor kennels, runs, dog day cares.

Board Questions:
Dealing with waste, medical waste is treated separately by a specialized company.
Normal waste is disposed normally
Is this a clinic or animal hospital, this is hospital

Board discussion:
Do the restrictions remain after sale of the property, yes
The chairman discussed the email comments that were received, that generally follow the in person comments
Discussion to come up with the restrictions:
"No outside boarding, pet runs, outside kennels, pet daycare"

1. In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested:
    a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
    b. Vote

In-favor	Opposed
6	0

    Mr. Codner noted that the criterion passed.

2. In the best interests of the County, the convenience of the community and the public welfare:
    a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mckee.
    b. Vote

In-favor	Opposed
6	0

    Mr. Codner noted that the criterion failed.

3. Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with appropriate in appearance to the existing or intended character of the general vicinity:

a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
b. Vote

In-favor	Opposed
6	0

Mr. Codner noted that the criterion passed.

4. Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.
   a. Motion – Mr. Eagar made a motion in the affirmative; seconded by Mr. Mays. A brief discussion followed.
   b. Vote

In-favor	Opposed
6	0

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed special exception be **approved with the following condition: No Outside Boarding, pet runs, outside kennels, pet daycare.**
   a. Motion – Mr. Eagar made a motion; seconded by Ms. Fowler. No discussion.
   b. Vote

In-favor	Opposed
6	0

Mr. Codner noted that the special exception was approved with the following conditions: **No outside boarding, pet runs, outside kennels, pet daycare.**

Item 5 Adjourn – Mr. Eagar made a motion to adjourn; seconded by Mays. Mr. Codner called for a vote. Motion passed unanimously 6/0.

1) Special exception application #SE22-003 – Faulk & Foster – Victoria Farmer is requesting a special exception to construct a 172' monopole telecommunications tower (182' top of lightning rod) TMS#285-00-05-001 an unaddressed parcel with the closest address of 315 Hopewell Church Rd. Westminster, SC 29693.

Verizon Wireless
8921 Research Drive
Charlotte, North Carolina 28262
Phone 704 510-8500

Vivian Kompier
Planning Director
Oconee County Planning Department
415 S. Pine Street Room 212
Walhalla, SC 29691
Direct line (864) 364-5109

Subject: Application for Special Exception Oconee County
Verizon Wireless Site #682871 Toccoa Hwy
Hopewell Church Rd, Westminster
Parcel ID: 285-00-05-001

Enclosed in support of Verizon Wireless's request for special exception are the signed and stamped site plans as well as the following required documents and reports:

- Completed Special Exception Application Form
- Fully Executed Lease Agreement representing Owner Approval
- Airspace Aeronautical Study
- FCC Licensing Detail
- Balloon Test Photo Sims and Line of Sight Mapping
- Proof of Liability Insurance
- Verizon Exemption Request from Stealth Design Letter

Also enclosed is a check in the amount of $6,000.00 representing the fees involved with this request. Thank you for your assistance. Please contact me if there is anything else you need.

Sincerely,

Victoria M. Farmer
Zoning Specialist, Faulk & Foster
Representatives for Verizon Wireless
(423) 802-7847

verizon

8921 RESEARCH DRIVE
CHARLOTTE, NC 28262

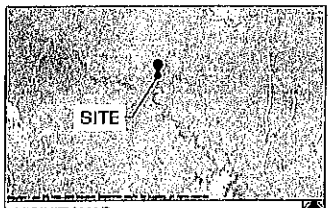
TOCCOA HWY

SITE ADDRESS (E-911 TBD)

HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY
LATITUDE: 34°37' 6.24"N
LONGITUDE: 83° 09' 53.44"W
TAX/PIN #: 285-00-06-001
ZONING: CFD

OCONEE SHERIFF'S DEPARTMENT
300 S CHURCH ST
WALHALLA, SC 29691
PHONE: (864) 638-4111
ATTN.: CUSTOMER SERVICE

CLEVELAND RURAL FIRE DEPARTMENT
984 CLEVELAND PIKE RD
WESTMINSTER, SC 29693
PHONE: (864) 647-0066
ATTN.: CUSTOMER SERVICE



VICINITY MAP

FROM CHARLOTTE OFFICE: GET ON I-85 S FROM RESEARCH DR (1.2MI); FOLLOW I-85 S TO SC-11 N IN OCONEE COUNTY, TAKE EXIT 1 FROM I-85 S (150MI); CONTINUE ON SC-11 N, TAKE STATE RD S-37-166, BLACKJACK RDSTATE RD S-37-67 AND TABOR RD TO HOPEWELL CHURCH RD (0.6MI) MERGE ONTO SC-11 N, TURN LEFT ONTO FIRE STATION RDSTATE RD S-37-166, TURN LEFT ONTO BLACKJACK RDSTATE RD S-37-67, TURN RIGHT ONTO DR JOHNS RDSTATE RD S-37-63, TURN LEFT ONTO STATE RD S-37-17STATION RD, TURN LEFT TOWARD US-123 S, TURN LEFT ONTO US-123 S, TURN RIGHT ONTO HOPEWELL CHURCH RD, DESTINATION WILL BE ON YOUR LEFT.

DRIVING DIRECTIONS

JURISDICTION:
OCONEE COUNTY

STATE:
SOUTH CAROLINA

TOWER TYPE:
MONOPOLE TOWER

TOWER HEIGHT:
172' (182' TO HIGHEST APPURTENANCE)

NUMBER OF CARRIERS:
0 EXISTING, 1 PROPOSED

USE:
PROPOSED TELECOMMUNICATIONS TOWER AND UNMANNED EQUIPMENT

FLOOD INFO
SITE IS LOCATED WITHIN FEMA FLOOD MAP AREA 45073C0385C DATED 09/11/2009 WITHIN FLOOD ZONE X.

PROJECT SUMMARY

DEVELOPER
VERIZON WIRELESS
8921 RESEARCH DRIVE
CHARLOTTE, NC 28262
PHONE: (704) 877-8785
ATTN: MICHAEL HAVEN

POWER COMPANY
DUKE ENERGY PROGRESS
PHONE: (800)-452-2777
ATTN: CUSTOMER SERVICE

PROPERTY OWNER
RBM PROPERTY HOLDING RLNB
4250 BAKERS FARM PLACE 6E
ATLANTA, GA
PHONE: (404) 992-8812
ATTN.: KATHERINE MAXWELL

CONSULTANT
KIMLEY-HORN AND ASSOCIATES, INC.
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GEORGIA 30009
PHONE: (770) 546-0105
ATTN: DAVID FRANKLIN

CONTACTS

SHEET NO.	SHEET TITLE
T1	COVER SHEET
	SITE SURVEY (SHEET 1 OF 3)
--	SITE SURVEY (SHEET 2 OF 3)
--	SITE SURVEY (SHEET 3 OF 3)
N1	GENERAL NOTES
C1	OVERALL SITE PLAN
C2	SITE PLAN
C3	EQUIPMENT PAD LAYOUT
C4	EQUIPMENT RACK DETAIL - FRONT
C5	EQUIPMENT RACK DETAIL - REAR
C6	CONCRETE PAD FOUNDATION DETAILS
C7	FENCE, GATE, AND COMPOUND DETAILS
C8	GRADING AND EROSION CONTROL PLAN
C9	GRADING AND EROSION CONTROL DETAILS
C10	ACCESS ROAD DETAILS
C11	SITE SIGNAGE DETAILS
C12	WAVEGUIDE BRIDGE DETAILS
C13	ANTENNA AND TOWER ELEVATION DETAILS
L1	LANDSCAPING PLAN
E1	ELECTRICAL NOTES
E2	UTILITY SERVICE ROUTING PLAN
E3	OVERALL UTILITY ROUTING PLAN
E4	METER RACK DETAILS
E5	ELECTRICAL SINGLE LINE DIAGRAM
E6	PANEL SCHEDULE
E7	ELECTRICAL DETAILS
E8	GROUNDING NOTES
E9	GROUNDING PLAN
E10	GROUNDING SINGLE LINE DIAGRAM
E11	GROUNDING DETAILS
E12	GROUNDING DETAILS

SHEET INDEX

OCONEE COUNTY PLANNING & ZONING
415 S. PINE ST
WALHALLA, SC 29691
PHONE: (864) 364-5115
ATTN.: CUSTOMER SERVICE

PERMIT INFORMATION

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 482871
PROJECT #: 20212331136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-818-4260
WWW.KIMLEY-HORN.COM

SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
NO. COA0066
CERTIFICATE OF AUTHORIZATION

REV.	DATE	ISSUED FOR	BY
8			
7			
6			
5			
4			
3			
2	01/20/22	CONSTRUCTION	DMF
1	12/20/21	CONSTRUCTION	DMF
0	08/30/21	CONSTRUCTION	DMF

LICENSER:
SOUTH CAROLINA PROFESSIONAL ENGINEER
No. 33210
DAVID FRANKLIN
1/20/22

KHA PROJECT NUMBER:
013569328

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
COVER SHEET

SHEET NUMBER:
T1

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

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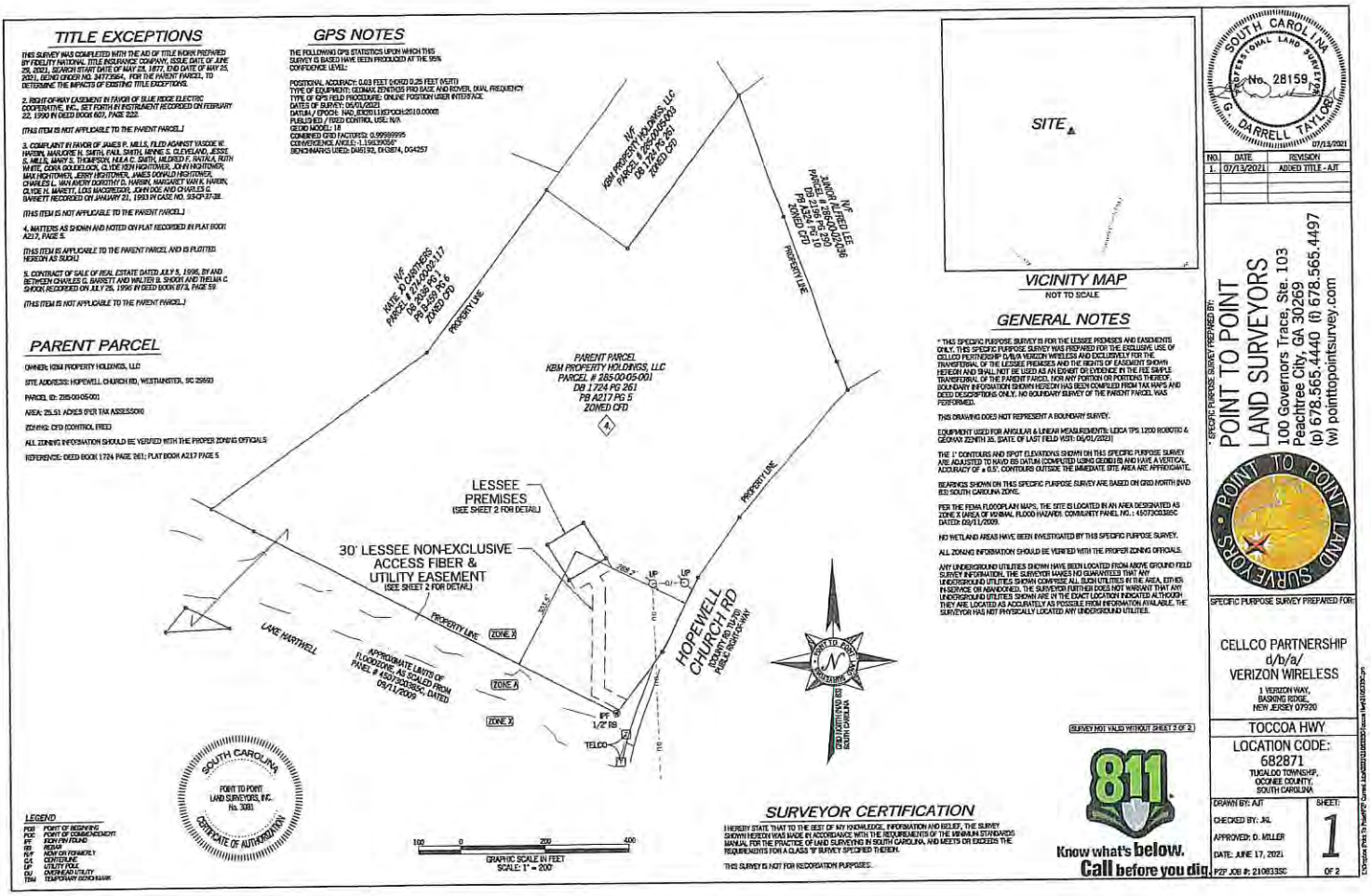

TITLE EXCEPTIONS
THIS SURVEY WAS COMPLETED WITH THE AID OF TITLE WORK PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY, ISSUE DATE OF JUNE 29, 2021, SEARCH START DATE OF MAY 28, 1977, END DATE OF MAY 25, 2021, BEING ORDER NO. 3477364, FOR THE PARENT PARCEL, TO DETERMINE THE IMPACTS OF EXISTING TITLE EXCEPTIONS.
2. RIGHT-OF-WAY EASEMENT IN FAVOR OF BLUE RIDGE ELECTRIC COOPERATIVE, INC., SET FORTH IN INSTRUMENT RECORDED ON FEBRUARY 22, 1990 IN DEED BOOK 607, PAGE 222.
[THIS ITEM IS NOT APPLICABLE TO THE PARENT PARCEL.]
3. COMPLAINT IN FAVOR OF JAMES P. MILLS, FILED AGAINST VASCOE W. HAYDEN, MAUDCIE N. SMITH, PAUL SMITH, MINNIE S. CLEVELAND, JESSE S. MILLS, MARY S. THOMPSON, NELA C. SMITH, MILDRED F. WATALA, RUTH WHITE, DORA DOUGLOCK, CLYDE KEITH HIGHTOWER, JOHN HIGHTOWER, MAX HIGHTOWER, JERRY HIGHTOWER, JAMES DONALD HIGHTOWER, CHARLES L. VAN AKEN, DOROTHY D. HARDIN, MARGARET MAY A. HARDIN, CLYDE H. BARRETT, LOIS MACDONALD, JOHN DOE AND CHARLES G. BARRETT RECORDED ON JANUARY 21, 1993 IN CASE NO. 93-CP-37-38.
[THIS ITEM IS NOT APPLICABLE TO THE PARENT PARCEL.]
4. MATTERS AS SHOWN AND NOTED ON PLAT RECORDED IN PLAT BOOK A217, PAGE 5.
[THIS ITEM IS APPLICABLE TO THE PARENT PARCEL AND IS PLOTTED HEREON AS SUCH.]
5. CONTRACT OF SALE OF REAL ESTATE DATED JULY 5, 1996, BY AND BETWEEN CHARLES G. BARRETT AND WALTER B. SHOOK AND THELMA C. SHOOK RECORDED ON JULY 25, 1996 IN DEED BOOK 873, PAGE 59.
[THIS ITEM IS NOT APPLICABLE TO THE PARENT PARCEL.]
PARENT PARCEL
OWNER: KBM PROPERTY HOLDINGS, LLC
SITE ADDRESS: HOPEWELL CHURCH RD, WESTMINSTER, SC 29693
PARCEL ID: 285-00-05-001
AREA: 25.51 ACRES (PER TAX ASSESSOR)
ZONING: CFD (CONTROL FREE)
ALL ZONING INFORMATION SHOULD BE VERIFIED WITH THE PROPER ZONING OFFICIALS
REFERENCE: DEED BOOK 1724 PAGE 261; PLAT BOOK A217 PAGE 5
GPS NOTES
THE FOLLOWING GPS STATISTICS UPON WHICH THIS SURVEY IS BASED HAVE BEEN PRODUCED AT THE 95% CONFIDENCE LEVEL:
POSITIONAL ACCURACY: 0.03 FEET (H)/0.05 FEET (V)(FT)
TYPE OF EQUIPMENT: GEOMAX ZENITH35 PRO BASE AND ROVER, DUAL FREQUENCY
TYPE OF GPS FIELD PROCEDURE: ONLINE POSITION USER INTERFACE
DATES OF SURVEY: 06/01/2021
DATUM / EPOCH: NAD_83(2011)/EPOCH:2010.00000
PUBLISHED / FIXED CONTROL USE: N/A
GEOID MODEL: 18
COMBINED GRID FACTOR(S): 0.99999995
CONVERGENCE ANGLE: -1.19629356°
BENCHMARKS USED: DA5192, DH3874, DG4257
N/F KBM PROPERTY HOLDINGS, LLC PARCEL # 285-00-05-003 DB 1724 PG 261 ZONED CFD
N/F JUNIOR ALFRED LEE PARCEL # 285-00-05-006 DB 1724 PG 261 PB A234 PG 10 ZONED CFD
N/F KATE D. GARNER PARCEL # 274-00-01-117 DB 1588 PG 1 PB B-288 PG 6 ZONED CFD
PROPERTY LINE
PARENT PARCEL KBM PROPERTY HOLDINGS, LLC PARCEL # 285-00-05-001 DB 1724 PG 261 PB A217 PG 5 ZONED CFD
LESSEE PREMISES (SEE SHEET 2 FOR DETAIL)
30' LESSEE NON-EXCLUSIVE ACCESS FIBER & UTILITY EASEMENT (SEE SHEET 2 FOR DETAIL)
LAKE HAWTHELL
APPROXIMATE LIMITS OF FLOODZONE, AS SCALED FROM PANEL # 45073C0255C, DATED 09/11/2009
ZONE X
ZONE A
HOPEWELL CHURCH RD (COUNTY RD 70) PUBLIC RIGHT-OF-WAY
UP
OH
IPF 1/2" RB
TELCO
GRAPHIC SCALE IN FEET
SCALE: 1" = 200
SITE
VICINITY MAP
NOT TO SCALE
GENERAL NOTES
* THIS SPECIFIC PURPOSE SURVEY IS FOR THE LESSEE PREMISES AND EASEMENTS ONLY. THIS SPECIFIC PURPOSE SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS AND EXCLUSIVELY FOR THE TRANSFERRAL OF THE LESSEE PREMISES AND THE RIGHTS OF EASEMENT SHOWN HEREON AND SHALL NOT BE USED AS AN EXHIBIT OR EVIDENCE IN THE FEE SIMPLE TRANSFERRAL OF THE PARENT PARCEL NOR ANY PORTION OR PORTIONS THEREOF. BOUNDARY INFORMATION SHOWN HEREON WAS BEEN COMPILED FROM TAX MAPS AND DEED DESCRIPTIONS ONLY. NO BOUNDARY SURVEY OF THE PARENT PARCEL WAS PERFORMED.
THIS DRAWING DOES NOT REPRESENT A BOUNDARY SURVEY.
EQUIPMENT USED FOR ANGULAR & LINEAR MEASUREMENTS: LEICA TPS 1200 ROBOTIC & GEOMAX ZENITH 35. DATE OF LAST FIELD VISIT: 06/01/2021
THE 1' CONTOURS AND SPOT ELEVATIONS SHOWN ON THIS SPECIFIC PURPOSE SURVEY ARE ADJUSTED TO NAVD 88 DATUM COMPUTED USING GEOID18 AND HAVE A VERTICAL ACCURACY OF ± 0.5'. CONTOURS OUTSIDE THE IMMEDIATE SITE AREA ARE APPROXIMATE.
BEARINGS SHOWN ON THIS SPECIFIC PURPOSE SURVEY ARE BASED ON GRID NORTH (NAD 83) SOUTH CAROLINA ZONE.
PER THE FEMA FLOODPLAIN MAPS, THE SITE IS LOCATED IN AN AREA DESIGNATED AS ZONE X AREA OF MINIMAL FLOOD HAZARD. COMMUNITY PANEL NO.: 45073C0255C DATED: 09/11/2009.
NO WETLAND AREAS HAVE BEEN INVESTIGATED BY THIS SPECIFIC PURPOSE SURVEY.
ALL ZONING INFORMATION SHOULD BE VERIFIED WITH THE PROPER ZONING OFFICIALS.
ANY UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM ABOVE GROUND FIELD SURVEY INFORMATION. THE SURVEYOR MAKES NO GUARANTEES THAT ANY UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT ANY UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED ANY UNDERGROUND UTILITIES.
SURVEYOR CERTIFICATION
I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "B" SURVEY SPECIFIED THEREIN.
THIS SURVEY IS NOT FOR RECORDATION PURPOSES.
SURVEY NOT VALID WITHOUT SHEET 2 OF 2
811
Know what's below. Call before you dig.
SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR No. 28159 DARRELL TAYLOR 07/13/2021
SOUTH CAROLINA POINT TO POINT LAND SURVEYORS, INC. No. 3081 CERTIFICATE OF AUTHORIZATION
LEGEND
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT
IPF IRON PIN FOUND
RB REBAR
I/P IRON OR PIPE/PIT
CL CENTERLINE
UP UTILITY POLE
OH OVERHEAD UTILITY
TBM TEMPORARY BENCHMARK
NO. DATE REVISION
1. 07/13/2021 ADDED TITLE - AJT
* SPECIFIC PURPOSE SURVEY PREPARED BY:
POINT TO POINT LAND SURVEYORS
100 Governors Trace, Ste. 103
Peachtree City, GA 30269
(p) 678.565.4440 (f) 678.565.4497
(w) pointtopointsurvey.com
SPECIFIC PURPOSE SURVEY PREPARED FOR:
CELLCO PARTNERSHIP d/b/a/ VERIZON WIRELESS
1 VERIZON WAY, BASKING RIDGE, NEW JERSEY 07920
TOCCOA HWY
LOCATION CODE: 682871
TUGALOO TOWNSHIP, OCONEE COUNTY, SOUTH CAROLINA
DRAWN BY: AJT
CHECKED BY: JKL
APPROVED: D. MILLER
DATE: JUNE 17, 2021
P2P JOB #: 2108335C
SHEET: 1 OF 2

30' LESSEE NON-EXCLUSIVE ACCESS, FIBER & UTILITY EASEMENT

TOGETHER WITH A 30-FOOT LESSEE NON-EXCLUSIVE ACCESS, FIBER AND UTILITY EASEMENT LYING AND BEING IN TUGALOO TOWNSHIP, OCONEE COUNTY, SOUTH CAROLINA, AND BEING A PORTION OF THE LANDS OF KBM PROPERTY HOLDINGS, LLC, AS RECORDED IN DEED BOOK 1724, PAGE 261, OCONEE COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCE AT A ½-INCH REBAR FOUND AT THE SOUTHERNMOST PROPERTY CORNER OF SAID LANDS, LYING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF HOPEWELL CHURCH ROAD, AND HAVING A SOUTH CAROLINA GRID NORTH, NAD 83, SINGLE ZONE VALUE OF N: 1019675.7156 E: 1348810.4760; THENCE RUNNING ALONG SAID RIGHT-OF-WAY LINE, NORTH 36°47'22" EAST, 10.13 FEET TO A POINT AND THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND RUNNING, NORTH 62°31'32" WEST, 74.83 FEET TO A POINT; THENCE, NORTH 01°06'12" EAST, 257.09 FEET TO A POINT; THENCE, NORTH 31°01'46" WEST, 15.68 FEET TO A POINT; THENCE, SOUTH 58°58'14" WEST, 35.00 FEET TO A POINT; THENCE, NORTH 31°01'46" WEST, 30.00 FEET TO A POINT ON THE LESSEE PREMISES HAVING A SOUTH CAROLINA GRID NORTH, NAD 83, SINGLE ZONE VALUE OF N: 1019996.4926 E: 1346701.5617; THENCE RUNNING ALONG SAID LESSEE PREMISES, NORTH 58°58'14" EAST, 100.00 FEET TO A POINT; THENCE LEAVING SAID LESSEE PREMISES, SOUTH 31°01'46" EAST, 30.00 FEET TO A POINT; THENCE, SOUTH 58°58'14" WEST, 35.00 FEET TO A POINT; THENCE, SOUTH 31°01'46" EAST, 24.32 FEET TO A POINT; THENCE, SOUTH 01°06'12" WEST, 247.12 FEET TO A POINT; THENCE, SOUTH 62°31'32" EAST, 61.14 FEET TO A POINT ON SAID RIGHT-OF-WAY LINE; THENCE RUNNING ALONG SAID RIGHT-OF-WAY LINE, SOUTH 36°47'22" WEST, 30.40 FEET TO A POINT AND THE POINT OF BEGINNING.

BEARINGS BASED ON SOUTH CAROLINA GRID NORTH, NAD 83, SINGLE ZONE.

SAID EASEMENT CONTAINS 0.3031 ACRES (13,203 SQUARE FEET), MORE OR LESS.

PARENT PARCEL

(PER ORDER NO. 34773964)

PARCEL 1:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND LYING AND BEING IN OCONEE COUNTY, SOUTH CAROLINA, CONTAINING APPROXIMATELY 23.51 ACRES AS SHOWN ON PLAT OF JERRY E. BYRD, RLS #8097, DATED JUNE 18, 1992, AND RECORDED SEPTEMBER 17, 1993 IN PLAT BOOK A217, PAGE 5, RECORDS OF OCONEE COUNTY, SOUTH CAROLINA.

LESS AND EXCEPT:

ALL THAT CERTAIN PLACE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE STATE AND COUNTY AFORESAID WEST OF THE TOWN OF WESTMINSTER ON WILLARD KING ROAD AND LOT #3 OF HARBIN'S HARBORS; BEGINNING AT NORTHWEST CORNER OF LOT #3 AND RUNNING EAST +/- 501.5 FEET TO IRON PIN ON LEE LINE, HENCE SOUTH ALONG LEE LINE +/- 160 FEET TO IRON PIN, HENCE WEST +/- 492 FEET TO IRON PIN, HENCE NORTH +/- 180 FEET TO IRON PIN AND POINT OF BEGINNING AND CONTAINING +/- 2 ACRES.

PARCEL 2:

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND LYING AND BEING SITUATE IN THE STATE OF SOUTH CAROLINA, COUNTY OF OCONEE, AND BEGINNING AT AN IRON PIN ON SOUTHWEST CORNER AND RUNNING NORTH 74.9 FEET TO AN IRON PIN, THENCE SOUTH 117.46 FEET TO AN IRON PIN; THENCE SOUTHWEST 154.15 FEET TO AN IRON PIN AND POINT OF BEGINNING AND CONTAINING, MORE OR LESS, .10 ACRES SHOWN BY PLAT RECORDED SEPTEMBER 17, 1993 IN VOLUME A217, PAGE 5 AND CERTIFIED.

PARCEL 3:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT LYING AND BEING IN OCONEE COUNTY, SOUTH CAROLINA, AND CONTAINING FOUR (4) ACRES, MORE OR LESS, AND BEING DESCRIBED, TO WIT:

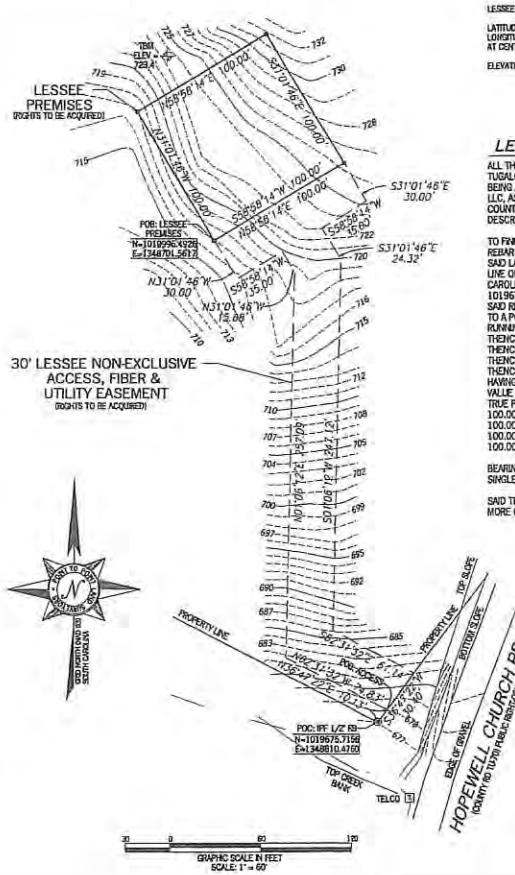
BEGINNING AT THE SOUTHEASTERN MOST CORNER OF AN APPROXIMATELY 33.7 ACRE TRACT ON OR NEAR CHAUGA RIVER, NOW OR FORMERLY OF TITLED IN THE NAME OF W. J. HARBIN, ET AL., AT A POINT ON, IN OR ADJACENT TO SC HIGHWAY 68; THENCE IN A NORTHWESTERLY DIRECTION ALONG THE NORTHERN MOST BOUNDARY OF THE 33.7 ACRE TRACT, A DISTANCE OF 417 FEET; THENCE TURNING NINETY DEGREES (90 DEGREES) IN A SOUTHWESTERLY DIRECTION AND CONTINUING IN A STRAIGHT LINE A DISTANCE OF 417 FEET; THENCE TURNING NINETY DEGREES (90 DEGREES) IN A SOUTHEASTERLY DIRECTION AND CONTINUING IN A STRAIGHT LINE A DISTANCE OF 417 FEET TO A POINT ON, IN OR ADJACENT TO SC HIGHWAY 68; THENCE IN A NORTHEASTERLY DIRECTION ALONG SC HIGHWAY 68 TO POINT OF BEGINNING. THE PROPERTY BEING CONVEYED HEREIN CONTAINS APPROXIMATELY FOUR (4) ACRES AND LIES IN THE EASTERNMOST CORNER OF THAT PARCEL OF LAND DENOTED ON THE TAX MAPS OF OCONEE COUNTY AS PARCEL #285-05-001.

AND BEING A PORTION OF THE PROPERTY CONVEYED TO KBM PROPERTY HOLDINGS, LLC, FROM KATHERINE BARRET MAXWELL BY TITLE TO REAL ESTATE DATED JUNE 17, 2009 AND RECORDED JUNE 23, 2009 IN DEED BOOK 1724, PAGE 251.

TAX PARCEL NO. 285-00-05-001

LEGEND

POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
RB*PK	REBAR/PK (FOUND)
RB	REBAR
R/W	RIGHT-OF-WAY
(R)	(RECORD OR FORMERLY)
ESMT	EASEMENT
U/E	UTILITY EASE.
OHU	OVERHEAD UTILITY
TBM	TEMPORARY BENCHMARK



SITE INFORMATION

LESSEE PREMISES = 10,000 SQUARE FEET (0.2296 ACRES)

LATITUDE = 34°37'05.37" (NAD 83) (34.618158°)
LONGITUDE = -83°09'53.46" (NAD 83) (-83.164850°)
AT CENTER LESSEE PREMISES

ELEVATION AT CENTER OF LESSEE PREMISES = 723.9' A.M.S.L.

LESSEE PREMISES

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN TUGALOO TOWNSHIP, OCONEE COUNTY, SOUTH CAROLINA, AND BEING A PORTION OF THE LANDS OF KBM PROPERTY HOLDINGS, LLC, AS RECORDED IN DEED BOOK 1724, PAGE 261, OCONEE COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCE AT A ½-INCH REBAR FOUND AT THE SOUTHERNMOST PROPERTY CORNER OF SAID LANDS, LYING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF HOPEWELL CHURCH ROAD, AND HAVING A SOUTH CAROLINA GRID NORTH, NAD 83, SINGLE ZONE VALUE OF N: 1019675.7156 E: 1348810.4760; THENCE RUNNING ALONG SAID RIGHT-OF-WAY LINE, NORTH 36°47'22" EAST, 10.13 FEET TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND RUNNING, NORTH 62°31'32" WEST, 74.83 FEET TO A POINT; THENCE, NORTH 01°06'12" EAST, 257.09 FEET TO A POINT; THENCE, NORTH 31°01'46" WEST, 15.68 FEET TO A POINT; THENCE, SOUTH 58°58'14" WEST, 35.00 FEET TO A POINT; THENCE, NORTH 31°01'46" WEST, 30.00 FEET TO A POINT HAVING A SOUTH CAROLINA GRID NORTH, NAD 83, SINGLE ZONE VALUE OF N: 1019996.4926 E: 1346701.5617, AND BEING THE TRUE POINT OF BEGINNING; THENCE, NORTH 31°01'46" WEST, 100.00 FEET TO A POINT; THENCE, NORTH 58°58'14" EAST, 100.00 FEET TO A POINT; THENCE, SOUTH 31°01'46" EAST, 100.00 FEET TO A POINT; THENCE, SOUTH 58°58'14" WEST, 100.00 FEET TO A POINT AND THE POINT OF BEGINNING.

BEARINGS BASED ON SOUTH CAROLINA GRID NORTH, NAD 83, SINGLE ZONE.

SAID TRACT CONTAINS 0.2296 ACRES (10,000 SQUARE FEET), MORE OR LESS.

SURVEY NOT VALID WITHOUT SHEET 1 OF 2

SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR No. 28159 DARRELL TAYLOR 07/13/2021

NO.	DATE	REVISION
1.	07/13/2021	ADDED TITLE - AJT

* SPECIFIC PURPOSE SURVEY PREPARED BY:
POINT TO POINT LAND SURVEYORS
100 Governors Trace, Ste. 103
Peachtree City, GA 30269
(p) 678.565.4440 (f) 678.565.4497
(w) pointtopointsurvey.com

SPECIFIC PURPOSE SURVEY PREPARED FOR:

CELLCO PARTNERSHIP
d/b/a/
VERIZON WIRELESS
1 VERIZON WAY,
BASKING RIDGE,
NEW JERSEY 07920

TOCCOA HWY

LOCATION CODE:
682871
TUGALOO TOWNSHIP,
OCONEE COUNTY,
SOUTH CAROLINA

SOUTH CAROLINA
POINT TO POINT LAND SURVEYORS, INC.
No. 3081
CERTIFICATE OF AUTHORIZATION

DRAWN BY: AJT
CHECKED BY: JGL
APPROVED: D. MILLER
DATE: JUNE 17, 2021
P2P JOB #: 2109333C

SHEET: 2 OF 2

1.00 GENERAL NOTES

1.01 ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE DRAWINGS AND SPECIFICATIONS. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE STATE, LOCAL AND NATIONAL CODES, ORDINANCES AND OR REGULATIONS APPLICABLE TO THIS PROJECT.

1.02 THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING THE WORK OF ALL TRADES AND SHALL CHECK ALL DIMENSIONS. ALL DISCREPANCIES SHALL BE CALLED TO THE ATTENTION OF THE PROJECT MANAGER AND/OR ENGINEER AND BE RESOLVED BEFORE PROCEEDING WITH WORK. WHERE THERE IS A CONFLICT BETWEEN DRAWING AND VERIZON SPECIFICATIONS, THE VERIZON PROJECT ENGINEER SHOULD BE CONTACTED FOR CLARIFICATION.

1.03 ALL INFORMATION SHOWN ON THE DRAWINGS RELATIVE TO EXISTING CONDITIONS IS GIVEN AS THE BEST PRESENT KNOWLEDGE, BUT WITHOUT GUARANTEE OF ACCURACY. WHERE ACTUAL CONDITIONS CONFLICT WITH THE DRAWINGS, THEY SHALL BE REPORTED TO THE PROJECT MANAGER AND/OR ENGINEER SO THAT PROPER REVISIONS MAY BE MADE. MODIFICATION OF DETAILS OF CONSTRUCTION SHALL NOT BE MADE WITHOUT WRITTEN APPROVAL OF THE PROJECT MANAGER AND/OR ENGINEER.

1.04 CONTRACTOR SHALL REVIEW AND BE FAMILIAR WITH SITE CONDITIONS AS SHOWN ON THE ATTACHED SITE PLAN AND/OR SURVEY DRAWINGS.

1.05 WAVEGUIDE BRIDGE AND EQUIPMENT CABINETS ARE SHOWN FOR REFERENCE ONLY. REFER TO SEPARATE DRAWINGS FOR SPECIFIC INFORMATION.

1.06 ALL FINISHED GRADES SHALL SLOPE MINIMUM 1/4 IN./FT. AWAY FROM EQUIPMENT IN ALL DIRECTIONS. CONTRACTOR SHALL SLOPE SWALES AS REQUIRED ALONG EXISTING TERRAIN TO DRAIN AWAY FROM COMPOUND AND ACCESS DRIVE.

1.07 THE PROPOSED TOWER AND TOWER FOUNDATIONS WERE DESIGNED BY OTHERS. TOWER INFORMATION PROVIDED ON THESE PLANS ARE PROVIDED FOR REFERENCE PURPOSES ONLY. NOTIFY ENGINEER OR PROJECT MANAGER OF ANY CONFLICTS OR DISCREPANCIES. CONTRACTOR TO OBTAIN COPY OF TOWER DESIGN DRAWINGS, IF AVAILABLE, FROM VERIZON PROJECT MANAGER TO CONFIRM COAX ROUTING AND ANTENNA MOUNT INFORMATION.

1.08 THE CONTRACTOR SHALL PROVIDE ADEQUATE EXCAVATION SLOPING, SHORING, BRACING, AND GUYS IN ACCORDANCE WITH ALL NATIONAL, STATE, AND LOCAL SAFETY ORDINANCES.

1.09 UPON COMPLETION OF CONSTRUCTION, CONTRACTOR IS RESPONSIBLE FOR REPAIRING ANY DAMAGE CAUSED BY CONSTRUCTION ACTIVITIES TO THE EXISTING ACCESS ROAD AND COMPOUND GRAVEL AREAS. ANY NEW FILL MATERIALS SHALL BE COMPACTED.

1.10 THE CONTRACTOR IS HEREBY NOTIFIED THAT PRIOR TO COMMENCING CONSTRUCTION, HE IS RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES INVOLVED AND SHALL REQUEST A VERIFICATION AT THE CONSTRUCTION SITE OF THE LOCATIONS OF THEIR UNDERGROUND UTILITIES AND WHERE THEY MAY POSSIBLY CONFLICT WITH THE PLACEMENT OF IMPROVEMENTS AS SHOWN ON THESE PLANS. THE CONTRACTOR OR ANY SUBCONTRACTOR FOR THIS CONTRACT WILL BE REQUIRED TO NOTIFY "SOUTH CAROLINA 811" 72 HOURS IN ADVANCE OF PERFORMING ANY WORK BY CALLING THE TOLL FREE NUMBER (888) 721-7877 (OR 811). ANY UTILITIES DAMAGED BY CONSTRUCTION ACTIVITIES SHALL BE REPAIRED BY THE CONTRACTOR, AT NO EXPENSE TO THE OWNER.

1.11 CONTRACTOR TO PROVIDE DUMPSTER AND PORTABLE TOILET FACILITY DURING CONSTRUCTION.

1.12 CONTRACTOR TO PROVIDE STYMIE LOCK OR EQUIVALENT AS APPROVED BY VERIZON PROJECT MANAGER.

1.13 CONTRACTOR TO PROVIDE ANY NECESSARY SIGNAGE PER VERIZON PROJECT MANAGER'S INSTRUCTIONS. SEE DETAIL ON SHEET C11.

2.00 EQUIPMENT FOUNDATION NOTES

2.01 FOUNDATIONS ARE DESIGNED FOR A PRESUMPTIVE ALLOWABLE SOIL BEARING CAPACITY OF 2,000 PSF. CONTRACTOR SHALL VERIFY SOIL CONDITIONS AND BEARING CAPACITY PRIOR TO CONSTRUCTION.

2.02 EXCAVATE A MINIMUM 18" BELOW PROPOSED EQUIPMENT FOUNDATIONS OF EXPANSIVE, ORGANIC, UNCONSOLIDATED OR OTHERWISE UNACCEPTABLE MATERIAL AND REPLACE WITH WELL-COMPACTED MATERIAL ACCEPTABLE TO VERIZON.

2.03 CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING, PROTECTING, AND RELOCATING AS REQUIRED ALL SERVICE AND UTILITY LINES IN VICINITY OF THE WORK SITE. ALL EXCAVATIONS NEAR THESE LINES TO BE CARRIED OUT WITH EXTREME CAUTION. COORDINATE ALL RELOCATIONS WITH THE PROPERTY OWNER.

2.04 CONTRACTOR TO CUT/FILL EXISTING COMPOUND SUBSOIL TO PROVIDE AN AREA AS LEVEL AS POSSIBLE FOR THE EQUIPMENT FOUNDATIONS. ALL FILL AREAS ARE TO BE FILLED WITH SUITABLE MATERIALS. FILL MATERIALS ARE TO BE PLACED, COMPACTED, AND TESTED IN MAXIMUM LAYERS OF 8". COMPACTION OF ALL FILL MATERIAL SHALL ACHIEVE 95 PERCENT OF MAXIMUM DRY DENSITY AT OPTIMUM MOISTURE CONTENT IN ACCORDANCE WITH ASTM D 698. ALL TESTS MUST MEET THE MINIMUM SPECIFIED SOIL BEARING CAPACITY. COMPACTION TESTING IS BY THE GEOTECHNICAL TESTING COMPANY DESIGNATED FOR THE PROJECT. SCHEDULING AND COORDINATION IS THE RESPONSIBILITY OF THE GENERAL CONTRACTOR. REPORTS OF ALL TESTING ARE TO BE PROMPTLY DELIVERED OR FAXED TO THE VERIZON WIRELESS PROJECT MANAGER.

2.05 CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 4,000 PSI AT 28 DAYS AND SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST REVISION TO ACI-318 BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE.

2.06 CONCRETE SHALL HAVE A SLUMP BETWEEN 3" AND 6".

2.07 FIBERS FOR CONCRETE SHALL BE FIBERMESH 650, 100 PERCENT VIRGIN POLYPROPYLENE FIBRILLATED FIBERS, e3 PATENTED TECHNOLOGY PATENTED TECHNOLOGY, CONTAINING NO REPROCESSED OLEFIN MATERIALS. THE FIBERS SHALL CONFORM TO ASTM C1116 TYPE III AND MANUFACTURED SPECIFICALLY FOR THE SECONDARY REINFORCEMENT OF CONCRETE.

2.08 THE FIBERS SHALL BE MANUFACTURED IN AN ISO 9001:2008 CERTIFIED MANUFACTURING FACILITY. UNLESS OTHERWISE STATED, FIBERMESH 650 MACRO-SYNTHETIC FIBERS SHALL BE ADDED TO THE CONCRETE AT THE BATCHING PLANT AT THE RECOMMENDED APPLICATION RATE OF 3 LBS/YD³ AND MIXED FOR A SUFFICIENT TIME (MINIMUM 5 MINUTES AT FULL MIXING SPEED) TO ENSURE UNIFORM DISTRIBUTION OF THE FIBERS THROUGHOUT THE CONCRETE. FIBROUS CONCRETE REINFORCEMENT SHALL BE MANUFACTURED BY FIBERMESH, 4019 INDUSTRY DRIVE, CHATTANOOGA, TN 37416 USA, TEL: 800 621-1273, WEBSITE: WWW.FIBERMESH.COM

2.09 AT THE REQUEST OF THE VERIZON WIRELESS PROJECT MANAGER, TEST CYLINDERS SHALL BE MOLDED AND LABORATORY CURED IN ACCORDANCE WITH ASTM C31. THREE CYLINDERS SHALL BE TAKEN FOR EACH DAY'S CONCRETE PLACEMENT. CYLINDERS SHALL BE TESTED IN ACCORDANCE WITH THE LATEST REVISION TO ASTM C39.

2.10 CHAMFER ALL EXPOSED EXTERNAL CORNERS OF CONCRETE WITH ¾" x 45° CHAMFER, UNLESS OTHERWISE NOTED.

2.11 CONCRETE FORMWORK IS TO BE STRIPPED WITHIN 48 HOURS. VIBRATION OF THE CONCRETE MUST ASSURE THAT HONEYCOMBING WILL BE AT A MINIMUM. MECHANICAL VIBRATION OF ALL CONCRETE IS REQUIRED UNLESS OTHERWISE DIRECTED BY VERIZON WIRELESS' PROJECT MANAGER. ABOVE GRADE CONCRETE IS TO BE RUBBED AND PATCHED TO ASSURE SMOOTH FINISH AT TIME OF FORMS REMOVAL. CONTRACTOR SHALL PROVIDE A BROOM FINISH ON THE TOP SURFACE OF THE EQUIPMENT FOUNDATION UNLESS OTHERWISE DIRECTED BY VERIZON WIRELESS' PROJECT MANAGER.

2.12 TOPS OF CONCRETE FOUNDATION MUST BE WITHIN 0.02' OF ELEVATION REQUIRED.

2.13 TOP OF FOUNDATION FINISH TO BE LEVEL ±¼" IN 10'.

2.14 TOP OF FOUNDATION TO HAVE MEDIUM BROOM FINISH.

2.15 CONTRACTOR SHALL REFER TO DRAWINGS OF OTHER TRADES AND VENDOR DRAWINGS FOR EMBEDDED ITEMS AND RECESSES NOT SHOWN ON THE STRUCTURAL DRAWINGS. CONTRACTOR SHALL VERIFY PLACEMENT OF EQUIPMENT AND LOCATION OF CONDUIT FOR MANUFACTURER'S AND VENDORS SPECIFICATIONS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE ALL OPENINGS AND SLEEVES FOR PROPER DISTRIBUTION OF ALL UTILITIES.

verizon

PROJECT INFORMATION:

SITE NAME:
TOCCOA HWY
SITE No.: 552571
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:

Kimley»Horn

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SC License C00168

SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION
NO.C00168

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LICENSER:

SOUTH CAROLINA PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
8/30/21

KHA PROJECT NUMBER:
013509326

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
GENERAL NOTES

SHEET NUMBER:
N1

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1.00 GENERAL NOTES

1.01 ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE DRAWINGS AND SPECIFICATIONS. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE STATE, LOCAL AND NATIONAL CODES, ORDINANCES AND OR REGULATIONS APPLICABLE TO THIS PROJECT.

1.02 THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING THE WORK OF ALL TRADES AND SHALL CHECK ALL DIMENSIONS. ALL DISCREPANCIES SHALL BE CALLED TO THE ATTENTION OF THE PROJECT MANAGER AND/OR ENGINEER AND BE RESOLVED BEFORE PROCEEDING WITH WORK. WHERE THERE IS A CONFLICT BETWEEN DRAWING AND VERIZON SPECIFICATIONS, THE VERIZON PROJECT ENGINEER SHOULD BE CONTACTED FOR CLARIFICATION.

1.03 ALL INFORMATION SHOWN ON THE DRAWINGS RELATIVE TO EXISTING CONDITIONS IS GIVEN AS THE BEST PRESENT KNOWLEDGE, BUT WITHOUT GUARANTEE OF ACCURACY. WHERE ACTUAL CONDITIONS CONFLICT WITH THE DRAWINGS, THEY SHALL BE REPORTED TO THE PROJECT MANAGER AND/OR ENGINEER SO THAT PROPER REVISIONS MAY BE MADE. MODIFICATION OF DETAILS OF CONSTRUCTION SHALL NOT BE MADE WITHOUT WRITTEN APPROVAL OF THE PROJECT MANAGER AND/OR ENGINEER.

1.04 CONTRACTOR SHALL REVIEW AND BE FAMILIAR WITH SITE CONDITIONS AS SHOWN ON THE ATTACHED SITE PLAN AND/OR SURVEY DRAWINGS.

1.05 WAVEGUIDE BRIDGE AND EQUIPMENT CABINETS ARE SHOWN FOR REFERENCE ONLY. REFER TO SEPARATE DRAWINGS FOR SPECIFIC INFORMATION.

1.06 ALL FINISHED GRADES SHALL SLOPE MINIMUM 1/4 IN./FT. AWAY FROM EQUIPMENT IN ALL DIRECTIONS. CONTRACTOR SHALL SLOPE SWALES AS REQUIRED ALONG EXISTING TERRAIN TO DRAIN AWAY FROM COMPOUND AND ACCESS DRIVE.

1.07 THE PROPOSED TOWER AND TOWER FOUNDATIONS WERE DESIGNED BY OTHERS. TOWER INFORMATION PROVIDED ON THESE PLANS ARE PROVIDED FOR REFERENCE PURPOSES ONLY. NOTIFY ENGINEER OR PROJECT MANAGER OF ANY CONFLICTS OR DISCREPANCIES. CONTRACTOR TO OBTAIN COPY OF TOWER DESIGN DRAWINGS, IF AVAILABLE, FROM VERIZON PROJECT MANAGER TO CONFIRM COAX ROUTING AND ANTENNA MOUNT INFORMATION.

1.08 THE CONTRACTOR SHALL PROVIDE ADEQUATE EXCAVATION SLOPING, SHORING, BRACING, AND GUYS IN ACCORDANCE WITH ALL NATIONAL, STATE, AND LOCAL SAFETY ORDINANCES.

1.09 UPON COMPLETION OF CONSTRUCTION, CONTRACTOR IS RESPONSIBLE FOR REPAIRING ANY DAMAGE CAUSED BY CONSTRUCTION ACTIVITIES TO THE EXISTING ACCESS ROAD AND COMPOUND GRAVEL AREAS. ANY NEW FILL MATERIALS SHALL BE COMPACTED.

1.10 THE CONTRACTOR IS HEREBY NOTIFIED THAT PRIOR TO COMMENCING CONSTRUCTION, HE IS RESPONSIBLE FOR CONTACTING THE UTILITY COMPANIES INVOLVED AND SHALL REQUEST A VERIFICATION AT THE CONSTRUCTION SITE OF THE LOCATIONS OF THEIR UNDERGROUND UTILITIES AND WHERE THEY MAY POSSIBLY CONFLICT WITH THE PLACEMENT OF IMPROVEMENTS AS SHOWN ON THESE PLANS. THE CONTRACTOR OR ANY SUBCONTRACTOR FOR THIS CONTRACT WILL BE REQUIRED TO NOTIFY "SOUTH CAROLINA 811" 72 HOURS IN ADVANCE OF PERFORMING ANY WORK BY CALLING THE TOLL FREE NUMBER (888) 721-7877 (OR 811). ANY UTILITIES DAMAGED BY CONSTRUCTION ACTIVITIES SHALL BE REPAIRED BY THE CONTRACTOR, AT NO EXPENSE TO THE OWNER.

1.11 CONTRACTOR TO PROVIDE DUMPSTER AND PORTABLE TOILET FACILITY DURING CONSTRUCTION.

1.12 CONTRACTOR TO PROVIDE STIMIE LOCK OR EQUIVALENT AS APPROVED BY VERIZON PROJECT MANAGER.

1.13 CONTRACTOR TO PROVIDE ANY NECESSARY SIGNAGE PER VERIZON PROJECT MANAGER'S INSTRUCTIONS. SEE DETAIL ON SHEET C11.

2.00 EQUIPMENT FOUNDATION NOTES

2.01 FOUNDATIONS ARE DESIGNED FOR A PRESUMPTIVE ALLOWABLE SOIL BEARING CAPACITY OF 2,000 PSF. CONTRACTOR SHALL VERIFY SOIL CONDITIONS AND BEARING CAPACITY PRIOR TO CONSTRUCTION.

2.02 EXCAVATE A MINIMUM 18" BELOW PROPOSED EQUIPMENT FOUNDATIONS OF EXPANSIVE, ORGANIC, UNCONSOLIDATED OR OTHERWISE UNACCEPTABLE MATERIAL AND REPLACE WITH WELL-COMPACTED MATERIAL ACCEPTABLE TO VERIZON.

2.03 CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING, PROTECTING, AND RELOCATING AS REQUIRED ALL SERVICE AND UTILITY LINES IN VICINITY OF THE WORK SITE. ALL EXCAVATIONS NEAR THESE LINES TO BE CARRIED OUT WITH EXTREME CAUTION. COORDINATE ALL RELOCATIONS WITH THE PROPERTY OWNER.

2.04 [redacted]

2.05 CONCRETE SHALL HAVE A MINIMUM COMPRESSIVE STRENGTH OF 4,000 PSI AT 28 DAYS AND SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST REVISION TO ACI-318 BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE.

2.06 CONCRETE SHALL HAVE A SLUMP BETWEEN 3" AND 6".

2.07 FIBERS FOR CONCRETE SHALL BE FIBERMESH 650, 100 PERCENT VIRGIN POLYPROPYLENE FIBRILLATED FIBERS, a3 PATENTED TECHNOLOGY PATENTED TECHNOLOGY, CONTAINING NO REPROCESSED OLEFIN MATERIALS. THE FIBERS SHALL CONFORM TO ASTM C1116 TYPE III AND MANUFACTURED SPECIFICALLY FOR THE SECONDARY REINFORCEMENT OF CONCRETE.

2.08 THE FIBERS SHALL BE MANUFACTURED IN AN ISO 9001:2008 CERTIFIED MANUFACTURING FACILITY. UNLESS OTHERWISE STATED, FIBERMESH 650 MACRO-SYNTHETIC FIBERS SHALL BE ADDED TO THE CONCRETE AT THE BATCHING PLANT AT THE RECOMMENDED APPLICATION RATE OF 3 LBS/YD³ AND MIXED FOR A SUFFICIENT TIME (MINIMUM 5 MINUTES AT FULL MIXING SPEED) TO ENSURE UNIFORM DISTRIBUTION OF THE FIBERS THROUGHOUT THE CONCRETE. FIBROUS CONCRETE REINFORCEMENT SHALL BE MANUFACTURED BY FIBERMESH, 4018 INDUSTRY DRIVE, CHATTANOOGA, TN 37416 USA, TEL: 800 621-1273, WEBSITE: WWW.FIBERMESH.COM

2.09 AT THE REQUEST OF THE VERIZON WIRELESS PROJECT MANAGER, TEST CYLINDERS SHALL BE MOLDED AND LABORATORY CURED IN ACCORDANCE WITH ASTM C31. THREE CYLINDERS SHALL BE TAKEN FOR EACH DAY'S CONCRETE PLACEMENT. CYLINDERS SHALL BE TESTED IN ACCORDANCE WITH THE LATEST REVISION TO ASTM C39.

2.10 CHAMFER ALL EXPOSED EXTERNAL CORNERS OF CONCRETE WITH ¾" x 45° CHAMFER, UNLESS OTHERWISE NOTED.

2.11 CONCRETE FORMWORK IS TO BE STRIPPED WITHIN 48 HOURS. VIBRATION OF THE CONCRETE MUST ASSURE THAT HONEYCOMBING WILL BE AT A MINIMUM. MECHANICAL VIBRATION OF ALL CONCRETE IS REQUIRED UNLESS OTHERWISE DIRECTED BY VERIZON WIRELESS' PROJECT MANAGER. ABOVE GRADE CONCRETE IS TO BE RUBBED AND PATCHED TO ASSURE SMOOTH FINISH AT TIME OF FORMS REMOVAL. CONTRACTOR SHALL PROVIDE A BROOM FINISH ON THE TOP SURFACE OF THE EQUIPMENT FOUNDATION UNLESS OTHERWISE DIRECTED BY VERIZON WIRELESS' PROJECT MANAGER.

2.12 TOPS OF CONCRETE FOUNDATION MUST BE WITHIN 0.02' OF ELEVATION REQUIRED.

2.13 TOP OF FOUNDATION FINISH TO BE LEVEL ±¼" IN 10'.

2.14 TOP OF FOUNDATION TO HAVE MEDIUM BROOM FINISH.

2.15 CONTRACTOR SHALL REFER TO DRAWINGS OF OTHER TRADES AND VENDOR DRAWINGS FOR EMBEDDED ITEMS AND RECESSES NOT SHOWN ON THE STRUCTURAL DRAWINGS. CONTRACTOR SHALL VERIFY PLACEMENT OF EQUIPMENT AND LOCATION OF CONDUIT FOR MANUFACTURER'S AND VENDORS SPECIFICATIONS. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE ALL OPENINGS AND SLEEVES FOR PROPER DISTRIBUTION OF ALL UTILITIES.

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 382871
PROJECT #: 20212231136
HYDRAULIC CIRCLE RD
WEST MINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
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GA License #000809

SOUTH CAROLINA
CERTIFICATE OF AUTHORIZATION
KIMLEY-HORN AND ASSOCIATES, INC.
NO.C00195

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LICENSED:
SOUTH CAROLINA
PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
1/23/22

KHA PROJECT NUMBER:
013509526

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
GENERAL NOTES

SHEET NUMBER:
N1

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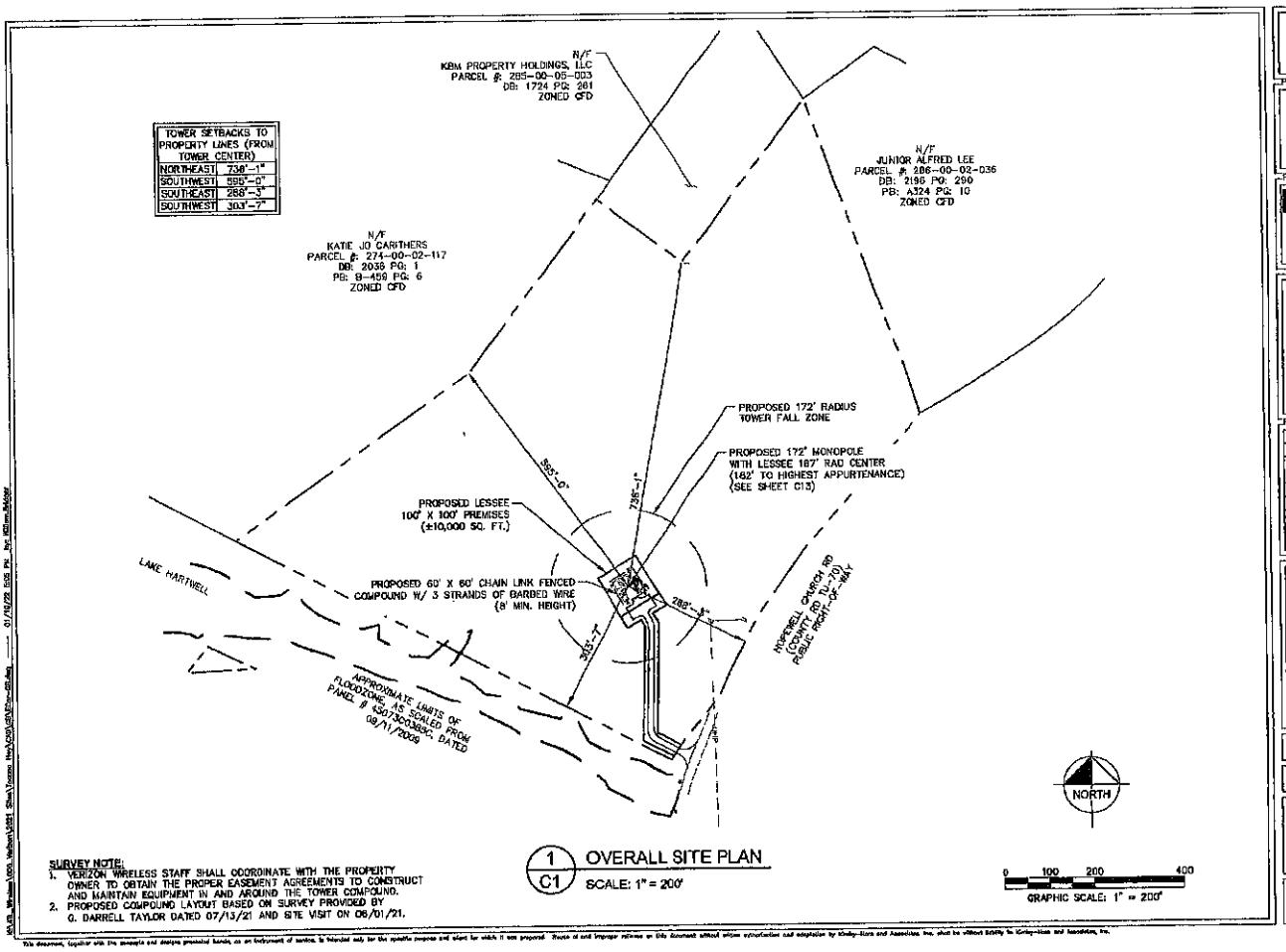

1 C1 OVERALL SITE PLAN
SCALE: 1" = 200'

SURVEY NOTE:
1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY G. DARRELL TAYLOR DATED 07/13/21 AND SITE VISIT ON 06/01/21.

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 882671
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
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NO.C00166
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0	08/30/21	CONSTRUCTION	DMF

LICENSED
SOUTH CAROLINA PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
1/20/22

KHA PROJECT NUMBER:
013509328

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
OVERALL SITE PLAN

SHEET NUMBER:
C1

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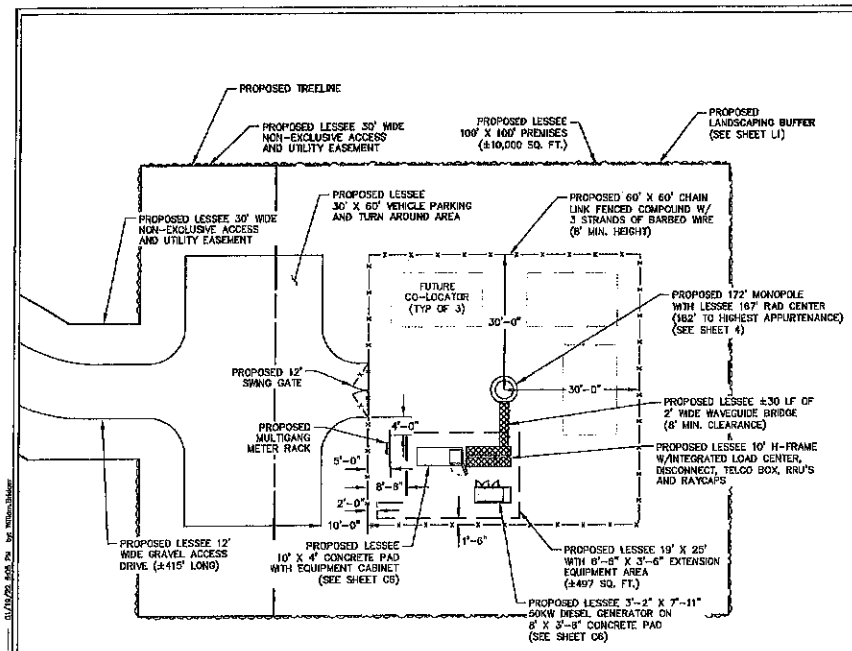
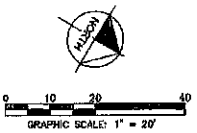


1 C2 SITE PLAN
SCALE: 1" = 20'

SITE NOTES:

1. VERIZON WIRELESS STAFF SHALL COORDINATE WITH THE PROPERTY OWNER AND/OR TOWER OWNER TO OBTAIN THE PROPER EASEMENT AGREEMENTS TO CONSTRUCT AND MAINTAIN EQUIPMENT IN AND AROUND THE TOWER COMPOUND.
2. PROPOSED COMPOUND LAYOUT BASED ON SURVEY PROVIDED BY G. DARNELL TAYLOR DATED 07/13/21 AND SITE VISIT ON 05/01/21.
3. CONTRACTOR TO CONFIRM WITH VERIZON CONSTRUCTION MANAGER THAT THE SHELTER/EQUIPMENT SHOWN HAS BEEN ORDERED/SCHEDULED FOR DELIVERY TO THIS SITE.
4. THE BASIS OF EQUIPMENT DESIGN INCLUDES ONE (1) RF CABINET, ONE (1) FUTURE BATTERY CABINET, AND ONE (1) FUTURE EXPANSION CABINET.
5. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING AND MODIFYING SCOPE OF WORK TO ACCOMMODATE ANY CHANGES IN THE EXACT EQUIPMENT PROCURED BY VERIZON WIRELESS. COORDINATE ANY CHANGES WITH VERIZON WIRELESS CONSTRUCTION MANAGER.
6. ROUTE COAX/FIBER UP TOWER PER STRUCTURAL ANALYSIS BY TOWER OWNER.
7. TOWER DIMENSIONS SHOWN ON THIS PLAN ARE FOR TOWER CENTER LOCATION. CONTRACTOR TO OBTAIN COPY OF TOWER ERECTION DRAWINGS FROM VERIZON CONSTRUCTION MANAGER PRIOR TO DRILLING TOWER FOUNDATIONS. CAISSONS AND TOWER SHOWN ON THIS PLAN ARE ILLUSTRATIVE, SEE DESIGN DRAWING BY OTHERS. DO NOT SCALE.



verizon

PROJECT INFORMATION:

SITE NAME:
TOCCOA HWY
SITE No.: 682671
PROJECT #: 20212231138
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:

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SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
NO.1330
CERTIFICATE OF AUTHORIZATION

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0	08/30/21	CONSTRUCTION	DMF

LICENSER:

SOUTH CAROLINA
LICENSED PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
1/20/22

KHA PROJECT NUMBER:
013509338

DRAWN BY:	CHECKED BY:
JMP	DMF

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
C2

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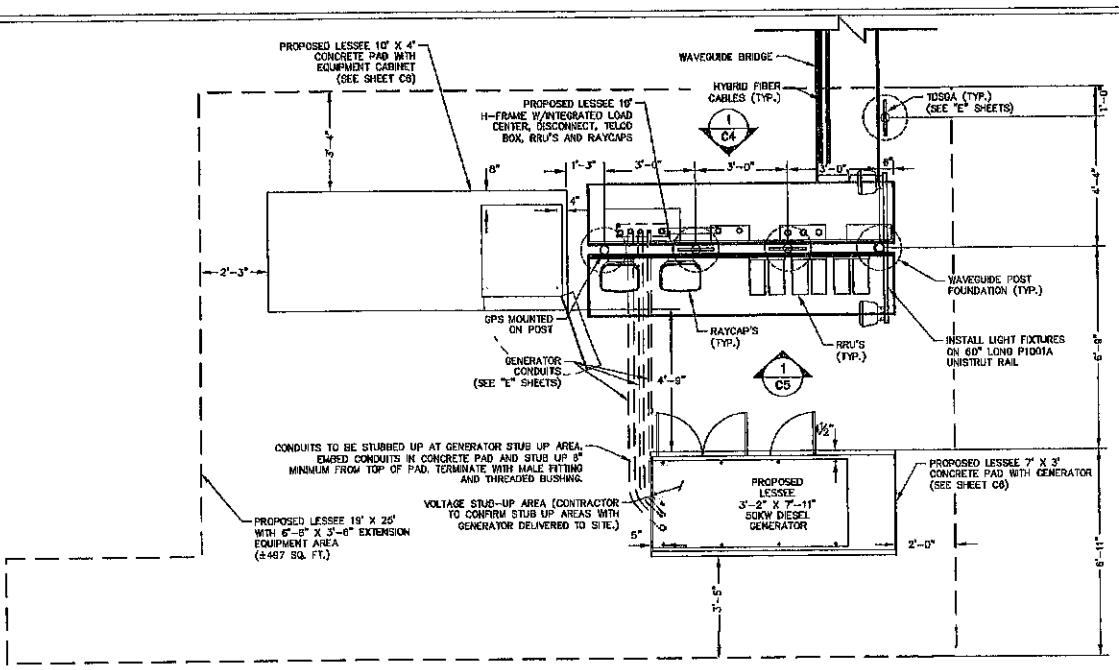

1/C3 EQUIPMENT PAD LAYOUT

SCALE: 1" = 3'

EQUIPMENT PAD/ROUTING NOTES:

1. REFER TO THE SITE PLAN FOR EQUIPMENT PAD LOCATION AND ORIENTATION.
2. RUN 2" FLEX TELCO CONDUIT FROM BOTTOM OF TELCO BOX TO SIDE OF RF CABINET WITH CHASE NIPPLE THROUGH FACTORY KNOCKOUT.
3. RUN (2) 2" FLEX POWER CONDUIT AND (1) 1" ALARM CONDUIT FROM BOTTOM OF ILC TO SIDE OF RF CABINET WITH CHASE NIPPLES THROUGH FACTORY KNOCKOUTS.
4. RUN 2" FLEX FIBER CONDUIT FROM BOTTOM OF OVP TO SIDE OF RF CABINET WITH CHASE NIPPLE THROUGH FACTORY KNOCKOUT.
5. RUN (1) 1¼" FLEX POWER CONDUIT FOR EVERY (6) RRU CIRCUITS FROM BOTTOM OF OVP TO SIDE OF RF CABINET WITH CHASE NIPPLE THROUGH FACTORY KNOCKOUT.
6. SUPPORT FLEX CONDUIT ON HORIZONTAL H-FRAME RAILS OR ON VERTICAL SITE STRUT SNT10 RAILS ADDED TO H-FRAME FOR CONDUIT/CABLE MANAGEMENT.
7. RUN HYBRID CABLE FOR TOWER MOUNTED RRU'S OVERHEAD ON TRAPEZE SUSPENDED FROM WAVE GUIDE BRIDGE. SWEEP DOWN ONTO H-FRAME RAILS, THEN LOOP UNDER OVP AND CONNECT TO BOTTOM OF OVP. ATTACH GROUND KITS TO HYBRID CABLE BEFORE LOOPING UNDER OVP, AND BOND TO TDSOA GROUND BAR AT BASE OF H-FRAME.
8. RUN COAX CABLE FOR GROUND MOUNTED RRU'S (IF USED) OVERHEAD ON TRAPEZE SUSPENDED FROM WAVE GUIDE BRIDGE. TERMINATE COAX ON ICE BRIDGE AND TRANSITION TO JUMPERS JUST BEFORE REACHING H-FRAME. ATTACH GROUND KITS TO COAX CABLE ON TOWER SIDE OF LAST ICE BRIDGE POST AND BOND TO TDSOA GROUND BAR NEAR TOP OF POST.
9. GPS ANTENNA TO BE MOUNTED TO STANDARD HEIGHT POST WITH EXTENDED MOUNTING PIPE, USING COMMSCOPE GPS-U MOUNTING KIT. MOUNT AS NEAR AS PRACTICAL TO RBA84 CABINET.
10. BOLT CABINETS AND GENERATOR TO SLAB USING FASTENERS SPECIFIED BY EQUIPMENT MANUFACTURER IN FACTORY PROVIDED MOUNTING HOLES.

NORTH

GRAPHIC SCALE: 1" = 3'

verizon

PROJECT INFORMATION:
SITE NAME: TOCCOA HWY
SITE No.: 662871
PROJECT #: 20212231138
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
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SC License COA#00

SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
NO.COA#00166
CERTIFICATE OF AUTHORIZATION

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0	06/30/21	CONSTRUCTION	DMF

LICENSER:
SOUTH CAROLINA PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
12/20/21

KHA PROJECT NUMBER:
013509338

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
EQUIPMENT PAD LAYOUT

SHEET NUMBER:
C3

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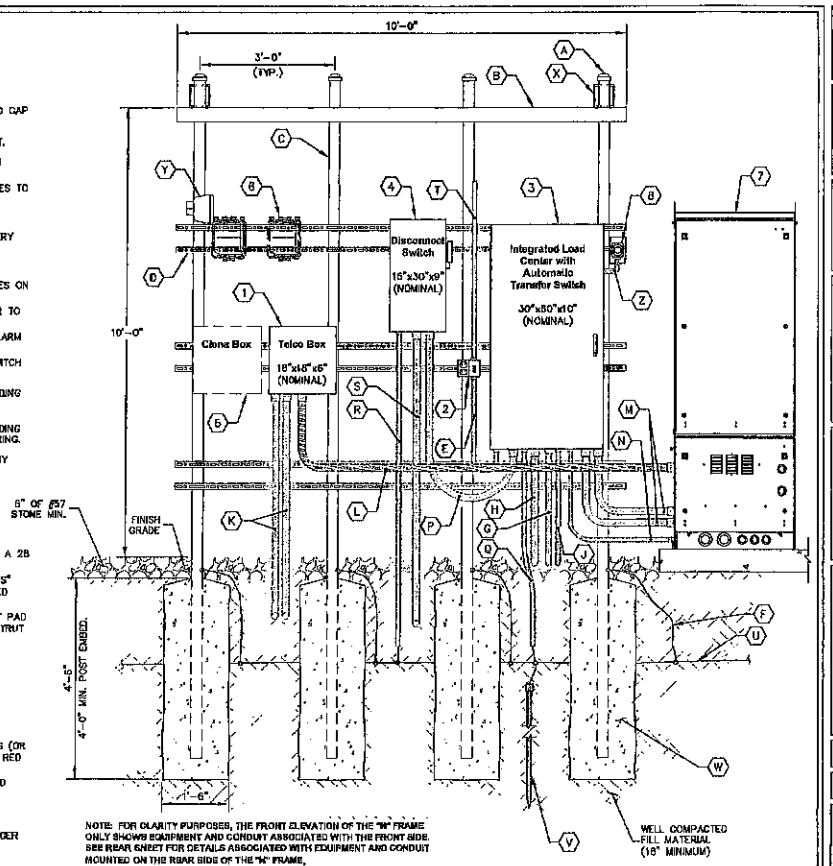
KEY NOTES - CONDUIT, CONDUCTORS, & MISC

- (A) GALVANIZED RIGID STEEL CAP, TYPICAL.
- (B) ICE BRIDGE, SEE CIVIL SHEETS FOR ADDITIONAL DETAILS.
- (C) 3" GALVANIZED RIGID STEEL PIPE, TYPICAL.
- (D) 1⅝" X 1⅝" GALVANIZED STEEL CHANNEL (UNISTRUT #P1000) WITH PLASTIC END CAP (UNISTRUT #P2860), TYPICAL.
- (E) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS TO LIGHTS/DUPLEX OUTLET.
- (F) ONE (1) #2 AWG BARE SOLID TINNED COPPER BONDING CONDUCTOR (BC) FROM H-FRAME VERTICAL PIPE TO GROUND RING, EXOTHERMIC WELD BOTH ENDS.
- (G) 1" PVC CONDUIT FOR ROUTING GENERATOR CONTROL AND ALARM SIGNAL CABLES TO THE GENERATOR.
- (H) 2" PVC CONDUIT FOR ROUTING POWER CONDUCTORS TO THE GENERATOR.
- (J) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS TO THE GENERATOR BATTERY CHARGER AND THE GENERATOR BLOCK HEATER.
- (K) TWO (2) 2" PVC TELCO CONDUITS, WITH TWO (2) PULL ROPES EACH.
- (L) 2" FLEX CONDUIT FOR TELCO CABLES TO RF CABINET. REFER TO ROUTING NOTES ON EQUIPMENT PAD LAYOUT.
- (M) (2) 2" PVC CONDUIT FOR ROUTING POWER CONDUCTORS TO RF CABINET. REFER TO ROUTING NOTES ON EQUIPMENT PAD LAYOUT.
- (N) 1" PVC CONDUIT FROM INTEGRATED LOAD CENTER (ILC) TO RF CABINET FOR ALARM SIGNAL CABLE. REFER TO ROUTING NOTES ON EQUIPMENT PAD LAYOUT.
- (P) 2" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE DISCONNECT SWITCH TO THE UTILITY BREAKER IN THE ILC.
- (Q) ¾" PVC CONDUIT WITH ONE (1) – #2 AWG BARE TINNED COPPER FROM GROUNDING LUG IN ILC TO GROUND ROD, EXOTHERMIC WELD TO GROUND ROD.
- (R) ¾" PVC CONDUIT WITH ONE (1) – #2 AWG BARE TINNED COPPER FROM GROUNDING LUG IN DISCONNECT SWITCH TO GROUND RING, EXOTHERMIC WELD TO GROUND RING.
- (S) 2" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE UTILITY COMPANY METER TO THE DISCONNECT SWITCH.
- (T) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS TO AREA LIGHTS.
- (U) GROUND RING (SEE "E" SHEETS).
- (V) GROUND ROD, EXOTHERMIC WELD TO GROUND RING (SEE "E" SHEETS).
- (W) CONCRETE FOUNDATION FOR H-FRAME VERTICAL PIPE. CONCRETE SHALL HAVE A 28 DAY COMPRESSIVE STRENGTH OF 4,000 PSI, AND INCLUDE FIBERMESH 650.
- (X) WB-K210-B16 HORSEHEAD SUPPORT BRACKET (SEE "WAVEGUIDE BRIDGE DETAILS" SHEET). THRU BOLTS REQUIRED FOR ATTACHMENT IN LIEU OF FACTORY PROVIDED U-BOLTS.
- (Y) INSTALL LIGHT FIXTURES ON 60" LONG PIPOIA UNISTRUT RAIL (SEE "EQUIPMENT PAD LAYOUT" SHEET). ATTACH PIPOIA TO H-FRAME POST USING TWO (2) U93 UNISTRUT CLAMPS. LIGHTS TO BE INSTALLED 7'-6" ABOVE GRADE.
- (Z) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE ILC TO THE EMERGENCY GENERATOR STOP SWITCH.

KEY NOTES - ELECTRICAL EQUIPMENT

1. NEMA 3R ENCLOSURE TELCO BOX WITH REMOVABLE FRONT PANEL, PVC, (18" X 16" X 6" NOMINAL).
2. 20 AMP GFCI DUPLEX RECEPTACLE AND TIMER SWITCH, ENERLITES HETOB SERIES (OR APPROVED EQUIVALENT) IN LOCKABLE NEMA 3R ENCLOSURE, 2 GANG BOX WITH RED DOT 2CKPW-W COVER.
3. 200 AMP, 120/240 VOLT, INTEGRATED LOAD CENTER WITH 42 SPACE PANEL AND AUTOMATIC TRANSFER SWITCH (30" X 60" X 10" NOMINAL).
4. SE RATED, 240 V, 200 AMP, 2-POLE, NON-FUSED DISCONNECT IN NEMA 3R ENCLOSURE.
5. CIENA ETHERNET IF REQUIRED (COORDINATE WITH VERIZON CONSTRUCTION MANAGER FOR ADDITIONAL CONDUIT AND WIRING REQUIREMENTS.
6. DIPLEXERS "AS NEEDED".
7. VERIZON RF CABINET-REAR VIEW.
8. EMERGENCY SHUTOFF SWITCH FOR GENERATOR MOUNTED ON 4" X 7" GALVANIZED J-BOX COVER PLATE



NOTE: FOR CLARITY PURPOSES, THE FRONT ELEVATION OF THE "H" FRAME ONLY SHOWS EQUIPMENT AND CONDUIT ASSOCIATED WITH THE FRONT SIDE. SEE REAR SHEET FOR DETAILS ASSOCIATED WITH EQUIPMENT AND CONDUIT MOUNTED ON THE REAR SIDE OF THE "H" FRAME.

1 / C4 EQUIPMENT RACK DETAILS - FRONT
NOT TO SCALE

verizon

PROJECT INFORMATION:
SITE NAME: TOCCOA HWY
SITE No.: 682671
PROJECT #: 20212231136
HORDNELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
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NO. Blanket COA968

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KIMLEY-HORN AND ASSOCIATES, INC. NO.C00465

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LICENSED PROFESSIONAL ENGINEER
SOUTH CAROLINA
No. 33270
DAVID FRANKLIN
1/20/22

VHA PROJECT NUMBER: 13569328

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE: EQUIPMENT RACK DETAIL - FRONT

SHEET NUMBER: C4

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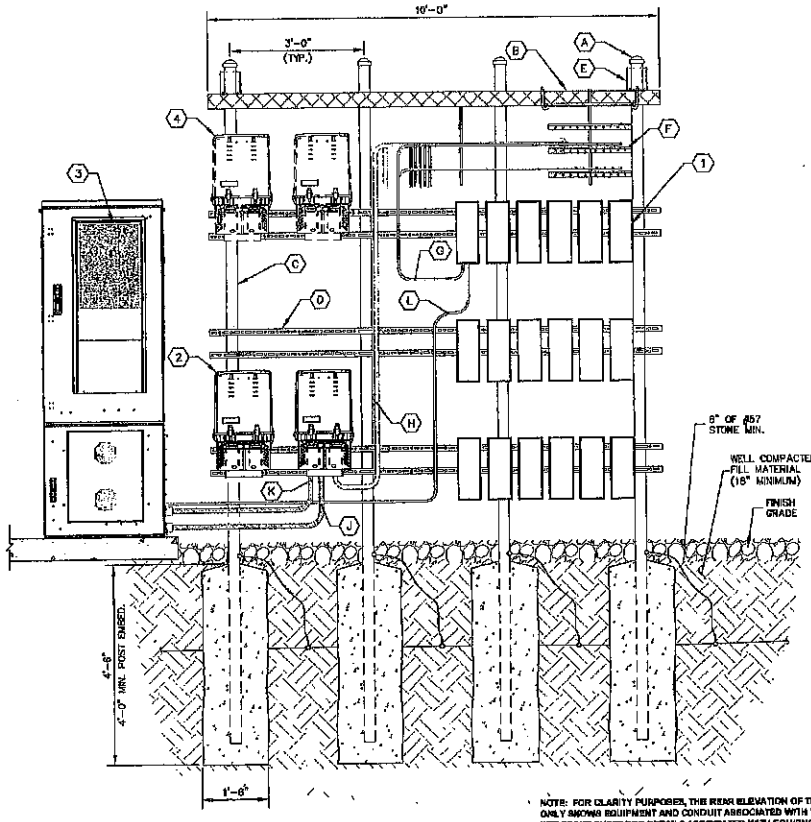

1 / C5 EQUIPMENT RACK DETAILS - REAR

NOT TO SCALE

NOTE: FOR CLARITY PURPOSES, THE REAR ELEVATION OF THE "H" FRAME ONLY SHOWS EQUIPMENT AND CONDUIT ASSOCIATED WITH THE REAR SIDE. SEE FRONT SHEET FOR DETAILS ASSOCIATED WITH EQUIPMENT AND CONDUIT MOUNTED ON THE FRONT SIDE OF THE "H" FRAME.

KEY NOTES - CONDUIT, CONDUCTORS, & MISC

(A) GALVANIZED RIGID STEEL CAP, TYPICAL.

(B) ICE BRIDGE, SEE CIVIL SHEETS FOR ADDITIONAL DETAILS.

(C) 3" GALVANIZED RIGID STEEL PIPE, TYPICAL.

(D) 1⅝" X 1⅝" GALVANIZED STEEL CHANNEL (UNISTRUT #P1000) WITH PLASTIC END CAP (UNISTRUT #P2860), TYPICAL.

(E) WB-K210-B1S HORSEHEAD SUPPORT BRACKET (SEE "WAVEGUIDE BRIDGE DETAILS" SHEET). THRU BOLTS REQUIRED FOR ATTACHMENT IN LIEU OF FACTORY PROVIDED U-BOLTS.

(F) ICE BRIDGE RUNNING TOWARDS TOWER (SEE "EQUIPMENT PAD LAYOUT" SHEET).

(G) COAX JUMPER CABLES INTO BOTTOM OF RRU'S, TYPICAL.

(H) HYBRID CABLES RUNNING INTO BOTTOM OF RAYCAPS, TYPICAL (SEE NOTE 7 ON "EQUIPMENT PAD LAYOUT" SHEET).

(J) 1½" POWER FLEX CONDUIT RUNNING FROM BOTTOM OF RAYCAPS TO CABINET, TYPICAL (SEE "EQUIPMENT PAD LAYOUT" SHEET).

(K) 2" FIBER FLEX CONDUIT RUNNING FROM BOTTOM OF RAYCAPS TO CABINET, TYPICAL (SEE "EQUIPMENT PAD LAYOUT" SHEET).

(L) FIBER/POWER JUMPER TO RRU (TYP. FOR EACH RRU).

KEY NOTES - ELECTRICAL EQUIPMENT

(1) VERIZON RF RRU'S (MODEL, QUANTITY OF, AND CONFIGURATION DETERMINED BY RF DESIGN).

(2) VERIZON RAYCAPS (MODEL, QUANTITY OF, AND CONFIGURATION DETERMINED BY RF DESIGN).

(3) VERIZON RF CABINET-FRONT VIEW.

(4) FUTURE VERIZON RAYCAPS.

verizon

PROJECT INFORMATION:

SITE NAME:
TOCCOA HWY
SITE No.: 662871
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4280
WWW.KIMLEY-HORN.COM
SC Licence COC0168

SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
NO.COA0165
CERTIFICATE OF AUTHORIZATION

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1	12/20/21	CONSTRUCTION	DMF
0	08/30/21	CONSTRUCTION	DMF

LICENSER:

SOUTH CAROLINA PROFESSIONAL ENGINEER
LICENSED
No. 33270
DAVID FRANKLIN
12/6/22

KHA PROJECT NUMBER:
013566328

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
EQUIPMENT RACK DETAIL - REAR

SHEET NUMBER:
C5

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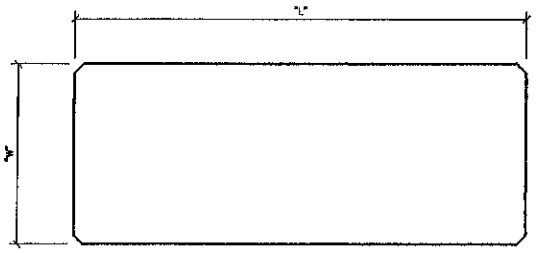
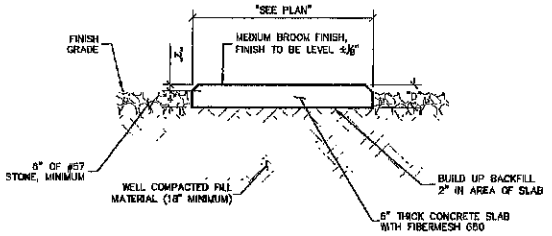
CONCRETE PAD SCHEDULE				
PAD TYPE	"L"	"W"	"D"	REINFORCEMENT
EQUIPMENT PAD	10'-0"	4'-0"	6"	SEE DETAIL 2/C6
GENERATOR PAD	8'-0"	3'-6"	6"	SEE DETAIL 2/C6



1 C6 CONCRETE PAD PLAN
NOT TO SCALE



2 C6 CONCRETE PAD FOUNDATION SECTION
NOT TO SCALE

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 082871
PROJECT #: 22012231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-818-4560
WWW.KIMLEY-HORN.COM
SC License: C00688

SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION
KIMLEY-HORN AND ASSOCIATES, INC. NO.C00688

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0	09/30/21	CONSTRUCTION	DMF

LICENSER:
SOUTH CAROLINA LICENSED PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
1/20/22

KHA PROJECT NUMBER:
013506328

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
CONCRETE PAD FOUNDATION DETAILS

SHEET NUMBER:
C6

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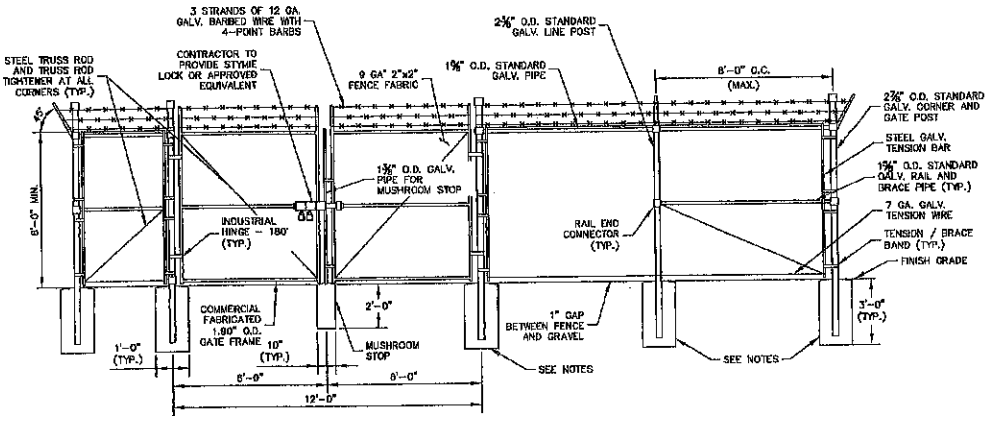
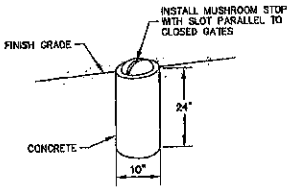
FENCE NOTES:

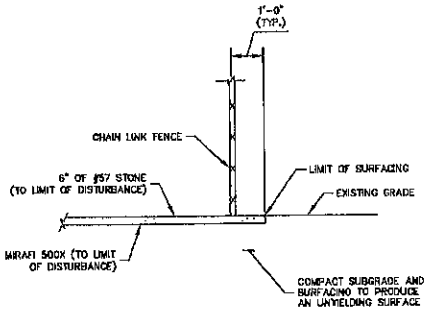
1. USE 3,000-PSI CONCRETE, FULLY CONSOLIDATED AROUND THE POST.
2. WHERE THE POST IS SET IN ROCK OR CONCRETE, CORE A HOLE 12" DEEP AND 1" LARGER IN DIAMETER THAN THE POST. SET THE POST AND GROUT IN PLACE USING NON-SHRINK GROUT.
3. ALL POSTS MUST BE PLUMB AND ALIGNED WITH ONE ANOTHER IN BOTH HORIZONTAL AND VERTICAL PLANES.
4. CORNERS AND GATEPOSTS FOR CHAIN LINK FENCES SHALL EXTEND ABOVE THE TOP STRAND OF BARBED WIRE TO PROVIDE TENSIONING FOR THE BARBED WIRE.
5. PROVIDE MIDRAILS AND BRACING AT ALL CORNER POSTS WHERE THE FENCE CHANGES DIRECTION BY MORE THAN 30 DEGREES.
6. THE GRADE OF THE SITE AND INSTALLATION OF THE FENCE SHALL PROVIDE FOR NO MORE THAN A 1" GAP BETWEEN THE BOTTOM OF THE FENCE MATERIAL AND FINISH GRADE.
7. CONTRACTOR SHALL PROVIDE HOLD OPEN DEVICES FOR ALL GATES AT THE SPECIFIED OPEN POSITIONS, DRIVEN PIPE TYPE RECEIVERS ARE NOT AUTHORIZED.
8. CONTRACTOR SHALL ALSO PROVIDE A MUSHROOM TYPE RECEIVER AT THE CLOSE POSITION.



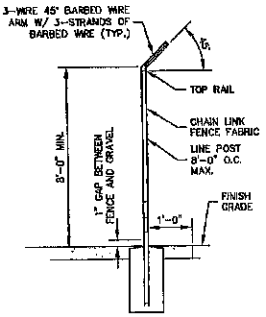
1 / C7 CHAIN LINK FENCE AND GATE ELEVATION
NOT TO SCALE



2 / C7 MUSHROOM STOP
NOT TO SCALE



3 / C7 SITE COMPOUND SURFACE DETAIL
NOT TO SCALE



4 / C7 SECTION AT FENCE
NOT TO SCALE

verizon

PROJECT INFORMATION:
SITE NAME: TOCCOA HWY
SITE No.: 882871
PROJECT #: 20212231136
HOMEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4260
WWW.KIMLEY-HORN.COM
SC License C00166

SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION
KIMLEY-HORN AND ASSOCIATES, INC. NO.C00166

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2	01/20/22	CONSTRUCTION	DMF
1	12/20/21	CONSTRUCTION	DMF
0	08/30/21	CONSTRUCTION	DMF

LICENSING:
SOUTH CAROLINA LICENSED PROFESSIONAL ENGINEER No. 33270 DAVID FRANKLIN

NHA PROJECT NUMBER:
013500328

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
FENCE, GATE, AND COMPOUND DETAILS

SHEET NUMBER:
C7

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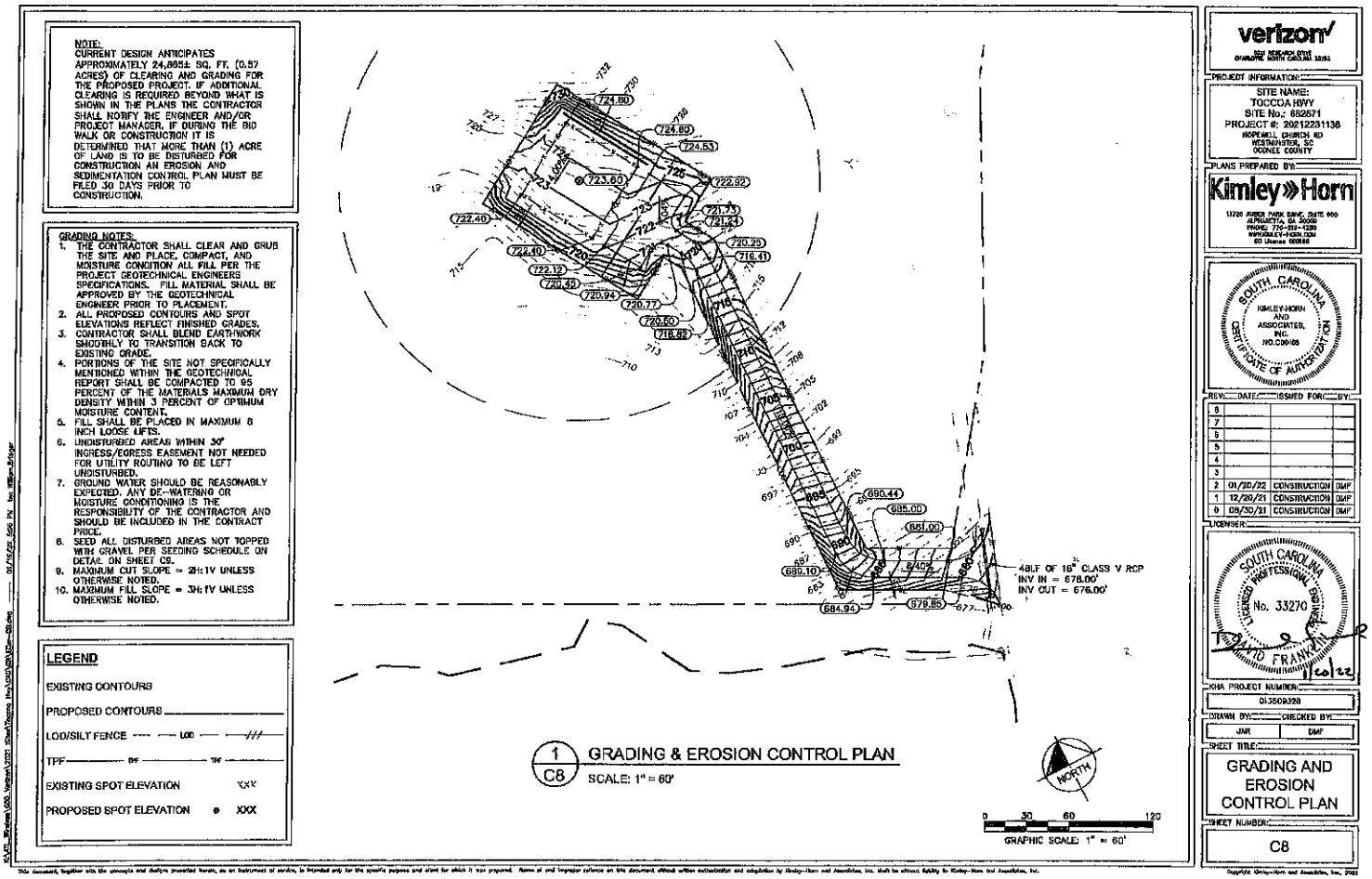

NOTE:
CURRENT DESIGN ANTICIPATES APPROXIMATELY 24,865± SQ. FT. (0.57 ACRES) OF CLEARING AND GRADING FOR THE PROPOSED PROJECT. IF ADDITIONAL CLEARING IS REQUIRED BEYOND WHAT IS SHOWN IN THE PLANS THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND/OR PROJECT MANAGER. IF DURING THE BID WALK OR CONSTRUCTION IT IS DETERMINED THAT MORE THAN (1) ACRE OF LAND IS TO BE DISTURBED FOR CONSTRUCTION AN EROSION AND SEDIMENTATION CONTROL PLAN MUST BE FILED 30 DAYS PRIOR TO CONSTRUCTION.
GRADING NOTES:
1. THE CONTRACTOR SHALL CLEAR AND GRUB THE SITE AND PLACE, COMPACT, AND MOISTURE CONDITION ALL FILL PER THE PROJECT GEOTECHNICAL ENGINEERS SPECIFICATIONS. FILL MATERIAL SHALL BE APPROVED BY THE GEOTECHNICAL ENGINEER PRIOR TO PLACEMENT.
2. ALL PROPOSED CONTOURS AND SPOT ELEVATIONS REFLECT FINISHED GRADES.
3. CONTRACTOR SHALL BLEND EARTHWORK SMOOTHLY TO TRANSITION BACK TO EXISTING GRADE.
4. PORTIONS OF THE SITE NOT SPECIFICALLY MENTIONED WITHIN THE GEOTECHNICAL REPORT SHALL BE COMPACTED TO 95 PERCENT OF THE MATERIALS MAXIMUM DRY DENSITY WITHIN 3 PERCENT OF OPTIMUM MOISTURE CONTENT.
5. FILL SHALL BE PLACED IN MAXIMUM 8 INCH LOOSE LIFTS.
6. UNDISTURBED AREAS WITHIN 30' INGRESS/EGRESS EASEMENT NOT NEEDED FOR UTILITY ROUTING TO BE LEFT UNDISTURBED.
7. GROUND WATER SHOULD BE REASONABLY EXPECTED. ANY DE-WATERING OR MOISTURE CONDITIONING IS THE RESPONSIBILITY OF THE CONTRACTOR AND SHOULD BE INCLUDED IN THE CONTRACT PRICE.
8. SEED ALL DISTURBED AREAS NOT TOPPED WITH GRAVEL PER SEEDING SCHEDULE ON DETAIL ON SHEET C6.
9. MAXIMUM CUT SLOPE = 2H:1V UNLESS OTHERWISE NOTED.
10. MAXIMUM FILL SLOPE = 3H:1V UNLESS OTHERWISE NOTED.
LEGEND
EXISTING CONTOURS
PROPOSED CONTOURS
LOD/SILT FENCE
TPF
EXISTING SPOT ELEVATION XXX
PROPOSED SPOT ELEVATION + XXX
48LF OF 18" CLASS V RCP
INV IN = 678.00'
INV OUT = 676.00'
1
C8
GRADING & EROSION CONTROL PLAN
SCALE: 1" = 60'
NORTH
0 30 60 120
GRAPHIC SCALE: 1" = 60'
verizon
PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 682571
PROJECT #: 20212231138
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY
PLANS PREPARED BY:
Kimley»Horn
SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
REV DATE ISSUED FOR BY
2 01/20/22 CONSTRUCTION DMF
1 12/20/21 CONSTRUCTION DMF
0 08/30/21 CONSTRUCTION DMF
LICENSED PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
1/20/22
KHA PROJECT NUMBER:
013509398
DRAWN BY: JNR
CHECKED BY: DMF
SHEET TITLE:
GRADING AND EROSION CONTROL PLAN
SHEET NUMBER:
C8

EROSION CONTROL NOTES:

1. EROSION CONTROLS SHALL BE INSTALLED PRIOR TO CONSTRUCTION AND SHALL BE ADEQUATE TO MAINTAIN SEDIMENT ON SITE.
2. ALL EXCAVATED SOILS NOT NEEDED ON SITE FOR BACKFILL OPERATIONS SHALL BECOME PROPERTY OF THE CONTRACTOR AND SHALL BE TAKEN OFF SITE AND LEGALLY DISPOSED OF.
3. SOIL REMAINING ON SITE SHALL HAVE SILT FENCE TIGHTLY PLACED AROUND THE ENTIRE CIRCUMFERENCE OF THE PILE.
4. PROVIDE EROSION CONTROLS AS NECESSARY TO PREVENT EXISTING SOILS FROM DRAINING OFF SITE OR INTO EXISTING DRAINAGE STRUCTURES.
5. ERECTION OF EROSION CONTROLS SHALL BE IN ACCORDANCE WITH STATE AND LOCAL EROSION CONTROL REGULATIONS.

SEEDING SCHEDULE FOR WINTER / SPRING CONSTRUCTION ACTIVITIES

SEEDING MIXTURE

Species	Rate (lb/acre)
Rye (grain)	120
Annual lespedeza (Note in Piedmont and Coastal Plain, Korean in Mountains)	60

Omit annual lespedeza when duration of temporary cover is not to extend beyond June.

SEEDING DATES

Mountains— Above 2500 ft: Feb 15 – May 15
Below 2500 ft.: Feb. 1 – May 1
Piedmont—Jan. 1 – May 1
Coastal Plain—Dec. 1 – Apr. 15

SOIL AMENDMENTS

Follow recommendations of soil tests or apply 2,000 lb/acre ground agricultural limestone and 750 lb/acre 10-10-10 fertilizer.

MULCH

Apply 4,000 lb/acre straw. Anchor straw by tucking with asphalt, netting, or a mulch anchoring tool. A disk with blades set nearly straight can be used as a mulch anchoring tool.

MAINTENANCE

Refertilize if growth is not fully adequate. Reseed, refertilize and mulch immediately following erosion or other damage.

SEEDING SCHEDULE FOR SUMMER CONSTRUCTION ACTIVITIES

SEEDING MIXTURE

Species	Rate (lb/acre)
Common Bermudagrass	40-60 (1-2 lb/1,000 sq. ft.)

SEEDING DATES

Coastal Plain—Apr. 1 – July
Piedmont—Apr. 15 – June 30

SOIL AMENDMENTS

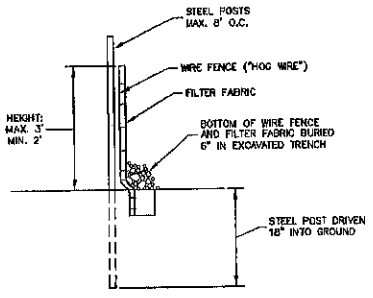
Apply lime and fertilizer according to soil tests, or apply 3,000 lb/acre ground agricultural limestone and 600 lb/acre 10-10-10 fertilizer.

MULCH

Use jute, excelsior matting, or other effective channel lining material to cover the bottom of channels and ditches. The lining should extend above the highest calculated depth of flow. On channel side slopes above this height, and in drainages not requiring temporary lining, apply 4,000 lb/acre grain straw and anchor straw by steeping matting over the top.

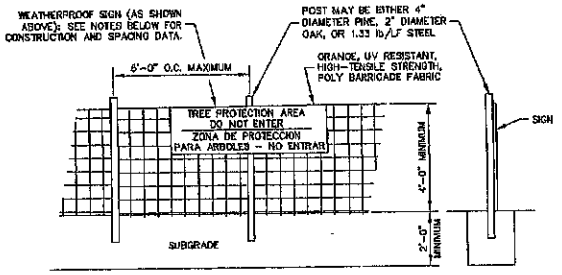
MAINTENANCE

A minimum of 3 weeks is required for establishment. Inspect and repair mulch frequently. Refertilize the following Apr. with 50 lb/acre nitrogen.



SECTION

1 C9 SEDIMENT FENCE (SILT FENCE)
NOT TO SCALE



NOTES
INSTALL TREE PROTECTION FENCE AND SIGNAGE PRIOR TO CALLING FOR SITE INSPECTION. MAINTAIN TREE PROTECTION FENCE THROUGHOUT DURATION OF PROJECT. ADDITIONAL SIGNS MAY BE REQUIRED BASED ON ACTUAL FIELD CONDITIONS.

2 C9 TREE PROTECTION FENCE
NOT TO SCALE

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No: 862871
PROJECT #: 20212231138
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
1420 AUBURN POINT DRIVE, SUITE 600
AUBURNDALE, GA 30009
PHONE: 770-814-4200
WWW.KIMLEY-HORN.COM
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KIMLEY-HORN AND ASSOCIATES, INC.
NO.C000356

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LICENSED
SOUTH CAROLINA PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN
1/20/22

KHA PROJECT NUMBER:
013806328

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
GRADING AND EROSION CONTROL DETAILS

SHEET NUMBER:
C9

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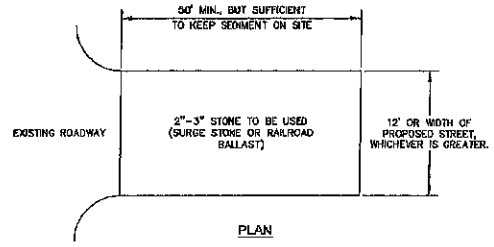
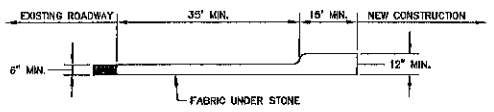
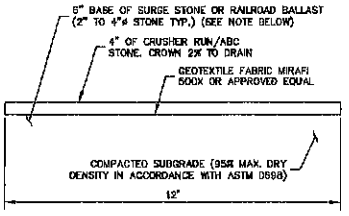


NOTES:
1. PUT SILT FENCE OR TREE PROTECTION FENCE UP TO ENSURE CONSTRUCTION ENTRANCE IS USED.
2. IF CONSTRUCTION ON THE SITES ARE SUCH THAT THE MUD IS NOT REMOVED BY THE VEHICLE TRAVELING OVER THE STONE, THEN THE TIRES OF THE VEHICLES MUST BE WASHED BEFORE ENTERING THE PUBLIC ROAD.
3. IF A PROJECT CONTINUES TO PULL MUD AND DEBRIS ON TO THE PUBLIC ROAD, THE GOVERNING AUTHORITY WILL CLEAN THE AREA AND INVOICE THE FINANCIALLY RESPONSIBLE PERSON AS INDICATED ON THE FINANCIAL RESPONSIBILITY FORM.



CROSS SECTION

1 C10 CONSTRUCTION ENTRANCE
NOT TO SCALE



NOTE:
IF DETERMINED NECESSARY DURING GRADING AND CONSTRUCTION OF THE ACCESS ROAD BY THE VERIZON WIRELESS PROJECT MANAGER, THE CONTRACTOR SHALL INSTALL 6" BASE OF SURGE STONE OR RAILROAD BALLAST (2" TO 4"ø STONE TYP.)

2 C10 STANDARD ACCESS ROAD AND TURN-AROUND DETAIL
NOT TO SCALE

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 882871
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-0330
WWW.KIMLEY-HORN.COM
SC Board# 000688

SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION
KIMLEY-HORN AND ASSOCIATES, INC.
NO.COA2158

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0	08/30/21	CONSTRUCTION	DMF

LICENSED PROFESSIONAL ENGINEER
SOUTH CAROLINA
No. 33270
DAVID FRANKLIN
1/20/22

KHA PROJECT NUMBER:
063506328

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
ACCESS ROAD DETAILS

SHEET NUMBER:
C10

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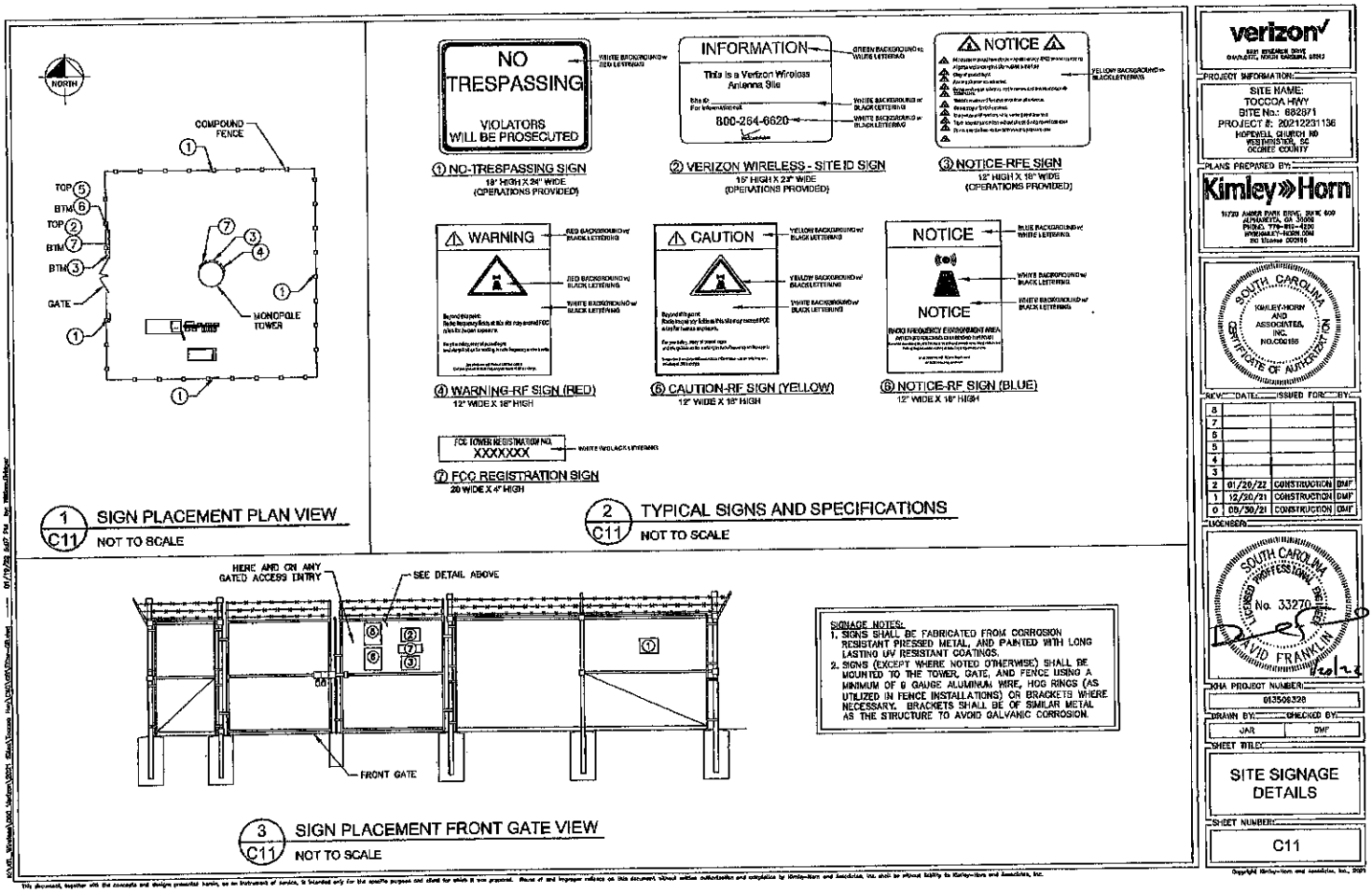
NORTH
COMPOUND FENCE
TOP
BTM
GATE
MONOPOLE TOWER
SIGN PLACEMENT PLAN VIEW
NOT TO SCALE
NO TRESPASSING
VIOLATORS WILL BE PROSECUTED
① NO-TRESPASSING SIGN
18" HIGH X 24" WIDE
(OPERATIONS PROVIDED)
INFORMATION
This is a Verizon Wireless Antenna Site
800-264-6620
② VERIZON WIRELESS - SITE ID SIGN
15" HIGH X 23" WIDE
(OPERATIONS PROVIDED)
NOTICE
③ NOTICE-RFE SIGN
12" HIGH X 16" WIDE
(OPERATIONS PROVIDED)
WARNING
④ WARNING-RF SIGN (RED)
12" WIDE X 16" HIGH
CAUTION
⑥ CAUTION-RF SIGN (YELLOW)
12" WIDE X 16" HIGH
NOTICE
NOTICE
⑥ NOTICE-RF SIGN (BLUE)
12" WIDE X 16" HIGH
FCC TOWER REGISTRATION NO.
XXXXXX
⑦ FCC REGISTRATION SIGN
20 WIDE X 4" HIGH
TYPICAL SIGNS AND SPECIFICATIONS
NOT TO SCALE
HERE AND ON ANY GATED ACCESS ENTRY
SEE DETAIL ABOVE
FRONT GATE
SIGN PLACEMENT FRONT GATE VIEW
NOT TO SCALE
SIGNAGE NOTES:
1. SIGNS SHALL BE FABRICATED FROM CORROSION RESISTANT PRESSED METAL, AND PAINTED WITH LONG LASTING UV RESISTANT COATINGS.
2. SIGNS (EXCEPT WHERE NOTED OTHERWISE) SHALL BE MOUNTED TO THE TOWER, GATE, AND FENCE USING A MINIMUM OF 9 GAUGE ALUMINUM WIRE, HOG RINGS (AS UTILIZED IN FENCE INSTALLATIONS) OR BRACKETS WHERE NECESSARY. BRACKETS SHALL BE OF SIMILAR METAL AS THE STRUCTURE TO AVOID GALVANIC CORROSION.
verizon
PROJECT INFORMATION:
SITE NAME: TOCCOA HWY
SITE No.: 882871
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY
PLANS PREPARED BY:
Kimley»Horn
SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION
KIMLEY-HORN AND ASSOCIATES, INC. NO.COA2185
REV | DATE | ISSUED FOR | BY
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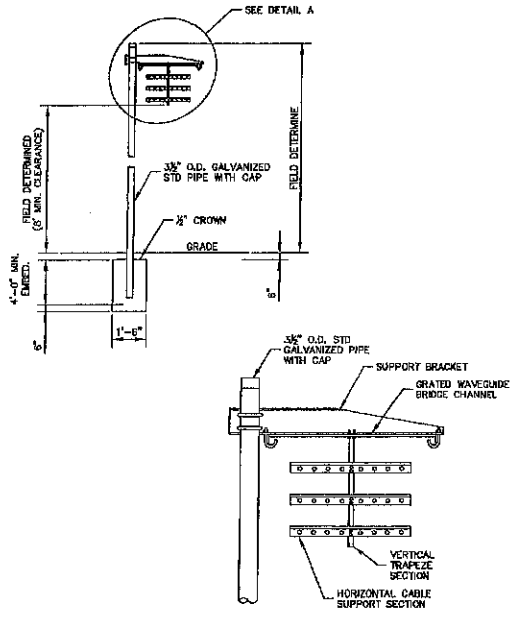
2 | 01/20/22 | CONSTRUCTION | DMF
1 | 12/30/21 | CONSTRUCTION | DMF
0 | 09/30/21 | CONSTRUCTION | DMF
LICENSED PROFESSIONAL ENGINEER
SOUTH CAROLINA
No. 33270
DAVID FRANKLIN
1/20/22
KHA PROJECT NUMBER:
013506328
DRAWN BY: JAR
CHECKED BY: DMF
SHEET TITLE:
SITE SIGNAGE DETAILS
SHEET NUMBER:
C11

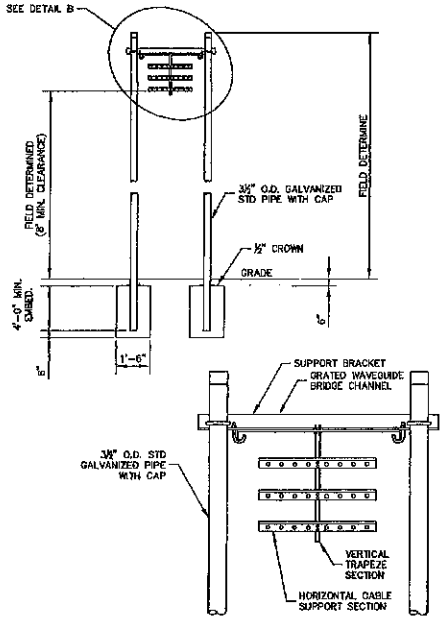


DETAIL A

ANDREW 1 POST WAVEGUIDE BRIDGE KIT (PART #:WB-K210-B15, OR APPROVED EQUIVALENT)

NOTE:

1. ALL MATERIALS FURNISHED BY CONTRACTOR UNLESS OTHERWISE NOTED.



DETAIL B

ANDREW 2 POST WAVEGUIDE BRIDGE KIT (PART #:WB-K410-B15, OR APPROVED EQUIVALENT)

NOTE:

1. ALL MATERIALS FURNISHED BY CONTRACTOR UNLESS OTHERWISE NOTED.

(1/C12) WAVEGUIDE BRIDGE DETAIL
NOT TO SCALE

(2/C12) WAVEGUIDE BRIDGE DETAIL (ALT DESIGN - 2 PIPE COLUMNS)
NOT TO SCALE

verizon

PROJECT INFORMATION:

SITE NAME:
TOCCOA HWY
SITE No.: 382971
PROJECT #: 20212231136
NORWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:

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SOUTH CAROLINA
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REV.	DATE	ISSUED FOR	BY
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4			
3			
2	01/20/22	CONSTRUCTION	DMF
1	12/20/21	CONSTRUCTION	DMF
0	09/30/21	CONSTRUCTION	DMF

LICENSER:

SOUTH CAROLINA
PROFESSIONAL ENGINEER
No. 33270
DAVID FRANKLIN

KHA PROJECT NUMBER:
013509328

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
WAVEGUIDE BRIDGE DETAILS

SHEET NUMBER:
C12

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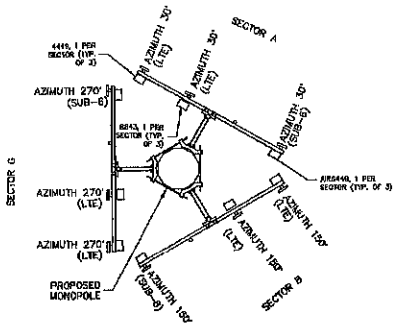


1 C13 ANTENNA ORIENTATION PLAN

(NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY. SEE STRUCTURAL ANALYSIS BY OTHERS TO CONFIRM ANTENNA MOUNT TYPE)

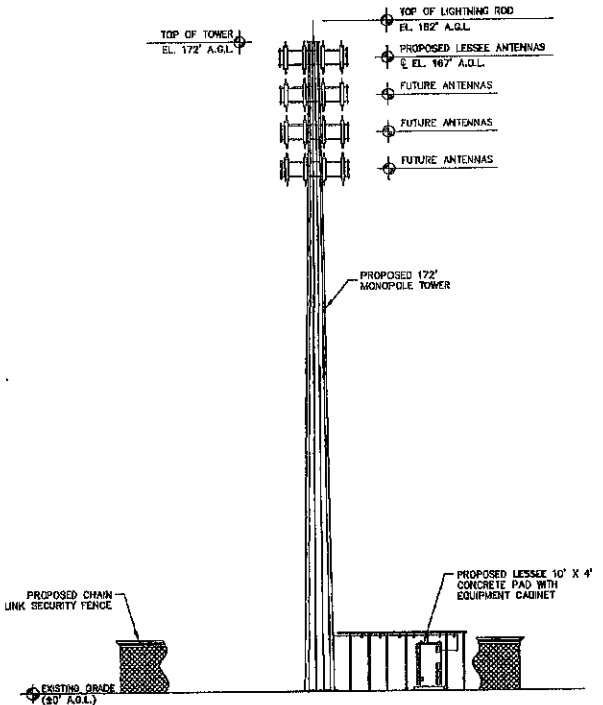
NOTE:
REFER TO RFDS PROVIDED BY VERIZON. CONTRACTOR TO CONTACT THE VERIZON WIRELESS CONSTRUCTION MANAGER PRIOR TO CONSTRUCTION FOR THE CONSTRUCTION RFDS.

NOTES:
1. ALL INFORMATION ON THIS PAGE IS PROVIDED BY VERIZON WIRELESS AND/OR OTHERS AND IS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY. CONTRACTOR SHALL CONTACT THE VERIZON WIRELESS CONSTRUCTION MANAGER PRIOR TO CONSTRUCTION FOR ALL DETAILED ANTENNA, AND COAX CABLE INFORMATION.

2. REFER TO STRUCTURAL ANALYSIS BY TOWER OWNER FOR ANALYSIS OF PROPOSED TOWER.

3. IT IS UNDERSTOOD THAT KIMLEY-HORN MAKES NO WARRANTY, EITHER EXPRESSED OR IMPLIED, FINDINGS, DESIGNS, RECOMMENDATIONS, SPECIFICATIONS, OPINION, OR PROFESSIONAL ADVICE RELATING TO THE STRUCTURAL ADEQUACY OF THE PROPOSED TOWER OR ATTACHMENT OF ANTENNAS OR OTHER APPURTENANCES.

NOTE: GENERAL CONTRACTOR TO INSTALL RAYCAP OVP, NUMBER AND TYPE PER VERIZON CONSTRUCTION MANAGER.



2 C13 SELF-SUPPORT TOWER ELEVATION

NOT TO SCALE

NOTES:
1. ALL PROPOSED ATTACHMENTS TO TOWER BASED ON TOWER DESIGN DRAWINGS BY OTHERS (SEE GENERAL NOTE 1.07, SHEET N1).
2. THE TOWER ELEVATION SHOWN IS FOR REFERENCE ONLY.
3. COAX/FIBER CABLE LENGTHS ARE APPROXIMATE. CONTRACTOR TO VERIFY CORRECT LENGTH IN FIELD AT TIME OF CONSTRUCTION.
4. PROPOSED TOWER WILL BE GALVANIZED STEEL-GRAY IN COLOR.

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 882871
PROJECT #: 20212231138
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
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SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
NO.C00168
CERTIFICATE OF AUTHORIZATION

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0	08/30/21	CONSTRUCTION	DMF

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FOR ILLUSTRATIVE PURPOSES ONLY- NO SIGNATURE REQUIRED

KHA PROJECT NUMBER:
013509328

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
ANTENNA AND TOWER ELEVATION DETAILS

SHEET NUMBER:
C13

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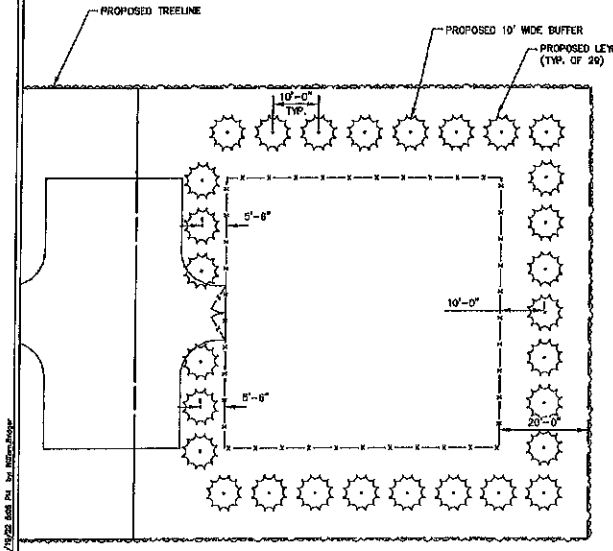

1 / L1 LANDSCAPING PLAN
SCALE: 1" = 20'

GRAPHIC SCALE: 1" = 20'

LEGEND

LEYLAND CYPRESS

GENERAL LANDSCAPE NOTES:

1. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATION OF HIS WORK WITH THAT OF ALL OTHER CONTRACTORS. THIS PLAN DOES NOT GUARANTEE THE EXISTENCE OR NON-EXISTENCE OF ANY UTILITIES. PRIOR TO COMMENCEMENT OF ANY WORK, THE LANDSCAPE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ALL ABOVE GROUND AND UNDERGROUND UTILITIES.
2. THE QUALITY AND SIZE OF ALL PLANT MATERIAL SHALL CONFORM TO THE MOST CURRENT STANDARDS AS SET FORTH IN ANSI Z60.1B0 - AMERICAN STANDARD FOR NURSERY STOCK.
3. ALL DISTURBED AREAS NOT COVERED BY HARDSCAPE OR PLANT MATERIALS SHALL BE COVERED WITH SEED AND STRAW.
4. PLANT SUBSTITUTION MAY BE PERMITTED ONLY AFTER PROOF THAT SPECIFIED PLANTS ARE UNAVAILABLE AND THE REQUEST HAS BEEN SUBMITTED TO THE OWNER OR LANDSCAPE ARCHITECT. THE CONTRACTOR SHALL PROVIDE THE NEAREST EQUIVALENT OBTAINABLE SIZE AND VARIETY OF THE PLANT HAVING THE SAME ESSENTIAL CHARACTERISTICS AS THE PLANT SPECIFIED
5. MINOR PLANT LOCATION ADJUSTMENTS MAY BE MADE IN THE FIELD TO ENSURE ACCESS TO UTILITY JUNCTION BOXES, FREE SITE LIGHTING OF FUTURE TREE CANOPY INTERFERENCE AND ALLOW UNINHIBITED PEDESTRIAN / VEHICULAR CIRCULATION ON ALL PAVEMENTS OR FOUNDATIONS.
6. ALL SHRUB MASSES OF TWO OR MORE SHALL BE EDGED INTO A PLANTING BED AND MULCHED PER DETAIL. ALL INDIVIDUAL TREES AND SHRUBS SHALL HAVE A MULCH SAUCER EQUAL IN DIAMETER TO THE PLANTING PIT DIAMETER AND SHALL BE MULCHED AS SHOWN ON THE DETAILS. UNLESS OTHERWISE INDICATED, ALL BED EDGES SHALL BE A DEEP CUT CLEAN SPADE EDGE.
7. THE CONTRACTOR SHALL VERIFY THAT EACH TREE OR SHRUB PIT WILL DRAIN BEFORE INSTALLING PLANT MATERIAL. HE SHALL FILL THE HOLE WITH SIX INCHES (6") OF WATER THAT SHOULD PERCOLATE OUT WITHIN TWENTY-FOUR HOURS. SHOULD ANY AREA NOT DRAIN PROPERLY, A PERFORATED DRAIN LINE SHALL BE INSTALLED, OR THE PLANTS RELOCATED.
8. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY IF HE ENCOUNTERS ANY UNSUITABLE SURFACE OR SUBSURFACE DRAINAGE CONDITIONS, SOIL DEPTH, LATENT SOILS, HARD PAN, UTILITY LINES, OR OTHER CONDITIONS THAT WILL JEOPARDIZE THE HEALTH AND VIGOR OF THE PLANTS. SHOULD THE CONTRACTOR NOT NOTIFY THE OWNER OF A PROBLEM AREA, HE WARRANTS THAT THE AREAS ARE SUITABLE FOR PROPER GROWTH AND DEVELOPMENT OF ALL PLANTS INSTALLED.
9. THE CONTRACTOR SHOULD VERIFY LANDSCAPING/TREE PLANTING LOCATIONS WITH THE PUBLIC UTILITIES DEPARTMENT TO AVOID CONFLICTS WITH WATER, SEWER, AND GAS LINES.
10. PLANTS SHALL BE SO TRAINED IN DEVELOPMENT AND APPEARANCE AS TO BE UNQUESTIONABLE SUPERIOR IN FORM, COMPACTNESS AND SYMMETRY. THEY SHALL BE SOUND, HEALTHY, VIGOROUS, WELL BRANCHED AND DENSELY FOLIATED WHEN IN LEAF, AND FREE OF DISEASE AND INSECT ADULT EGGS, PUPAE OR LARVAE. THEY SHALL HAVE HEALTHY, WELL-DEVELOPED ROOT SYSTEMS AND SHALL BE FREE FROM PHYSICAL DAMAGE OR OTHER CONDITIONS THAT WOULD PREVENT THRIVING GROWTH.
11. THERE SHALL BE NO CIRCLING OR GIRDLING ROOTS. CIRCLING ROOTS SHOULD BE CUT IN AT LEAST ONE PLACE.
12. THERE SHOULD BE ONE DOMINANT LEADER TO THE TOP OF THE TREE WITH THE LARGEST BRANCHES SPACED AT LEAST 6 INCHES APART. THERE CAN BE TWO LEADERS IN THE TOP 10% OF THE TREE IF IT IS OTHERWISE OF GOOD QUALITY.
13. THE TREE CANOPY SHOULD BE SYMMETRICAL AND FREE OF LARGE VOIDS. CLEAR TRUNK SHOULD BE NO MORE THAN 40% OF TREE HEIGHT UNLESS OTHERWISE SPECIFIED IN THE PLANTING SPECIFICATIONS. CLEAR TRUNK SHALL BE OF SUFFICIENT HEIGHT TO CLEAR SURROUNDING USES THAT MAY BE IMPACTED BY THE FUTURE GROWTH OF THE TREE.
14. OPEN TRUNK AND BRANCH WOUNDS SHALL BE LESS THAN 10% OF THE CIRCUMFERENCE AT THE WOUND AND NO MORE THAN 2 INCHES TALL. PROPERLY MADE PRUNING CUTS ARE NOT CONSIDERED OPEN TRUNK WOUNDS. THERE SHOULD BE NO CONKS OR BREEDING, AND THERE SHOULD BE NO SIGNS OF INSECTS OR DISEASE ON MORE THAN 5% OF THE TREE.
15. IF ANY OF THE ABOVE CONDITIONS ARE NOT MET, TREES MAY BE REJECTED.
16. TREE PROTECTION DEVICES MUST BE INSTALLED AND INSPECTED PRIOR TO ANY CLEARING, GRUBBING, OR GRADING OF THE SITE BY THE LOCAL ARBORIST.

PLANTING LIST

SYM./KEY	QTY.	BOTANICAL NAME	COMMON NAME	SPECIFICATION		
				ROOT	PLANTING MIN. HEIGHT	SPACING
LC	29	CUPRESSUS LEYLANDII	LEYLAND CYPRESS	B&B	6'	10' O.C.

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 692871
PROJECT #: 20212231136
NOVENELL CHURCH RD
HESTMANSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
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11720 AMBER PARK DRIVE, SUITE 600
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PHONE: 770-619-4200
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GC License: 000688

SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
NOA0A0195
CERTIFICATE OF AUTHORIZATION

REV.	DATE	ISSUED FOR:	BY:
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2	01/20/22	CONSTRUCTION	DMF
1	12/20/21	CONSTRUCTION	DMF
0	09/30/21	CONSTRUCTION	DMF

LICENSED PROFESSIONAL
No. 33270
DAVID FRANKLIN
REGISTERED
1/20/22

KHA PROJECT NUMBER:
013509328

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
LANDSCAPING PLAN

SHEET NUMBER:
L1

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ELECTRICAL NOTES

1.00 CODES, STANDARDS, & SPECIFICATIONS

1.01 [redacted]

1.02 MATERIALS SHALL BE NEW AND SHALL CONFORM TO ALL APPLICABLE CURRENT GOVERNING STANDARDS ESTABLISHED FOR EACH ITEM BY ASTM, UL, NEMA, ASA, AND NFPA.

1.03 ALL ELECTRICAL WORK SHALL COMPLY WITH ALL APPLICABLE STATE, COUNTY, AND MUNICIPAL CODES AND ORDINANCES, AS WELL AS ALL CURRENT GOVERNING STANDARDS AND PRACTICES AS REQUIRED BY NEC, NEMA, ANSI, NFPA, UBC, UL, IEEE, AND THE LOCAL UTILITY COMPANY.

1.04 ALL ELECTRICAL GROUNDING SHALL COMPLY WITH THE CURRENT EDITION OF THE NEC.

1.05 CONTRACTOR SHALL MAINTAIN UL LISTED FIRE RATINGS AT ALL WALL PENETRATIONS.

1.06 CONTRACTOR SHALL MAINTAIN A MINIMUM CLEARANCE OF 36" IN FRONT OF ALL ELECTRICAL EQUIPMENT AS REQUIRED BY NEC. MINIMUM CLEARANCE SHALL BE OBSERVED FOR BOTH THE FRONT AND THE REAR OF THE METER H-FRAME RACK AND THE EQUIPMENT H-FRAME RACK.

2.00 GENERAL

2.01 CONTRACTOR SHALL BE RESPONSIBLE FOR ALL PERMITS AND ASSOCIATED FEES RELATED TO THE PROJECT AND SHALL DELIVER A COPY OF ALL PERMITS TO THE VERIZON REPRESENTATIVE.

2.02 CONTRACTOR SHALL SCHEDULE AND SHOULD ATTEND ALL INSPECTIONS REQUIRED BY THE JURISDICTION HAVING AUTHORITY.

2.03 CONTRACTOR SHALL FURNISH ALL LABOR, MATERIALS, TOOLS, ACCESSORIES, ETC., FOR A COMPLETE WORKING ELECTRICAL INSTALLATION.

2.04 ALL WORK SHALL BE PERFORMED IN STRICT ACCORDANCE WITH APPLICABLE BUILDING CODES AND LOCAL ORDINANCES, INSTALLED IN A NEAT MANNER, AND SHALL BE SUBJECT TO APPROVAL BY THE ENGINEER.

2.05 CONTRACTOR SHALL PROTECT ADJACENT EQUIPMENT AND FINISHES FROM DAMAGE AND SHALL REPAIR TO ORIGINAL CONDITION ANY ITEMS DAMAGED AS A RESULT OF THE WORK.

2.06 CONTRACTOR SHALL REPAIR ANY LANDSCAPING DISTURBED DURING CONSTRUCTION.

2.07 IF CONDUIT RUNS HAVE MORE THAN THREE (3) CONSECUTIVE 90 DEGREE TURNS, THE CONTRACTOR SHALL INSTALL PULL BOXES AS REQUIRED BY NEC.

2.08 CONTRACTOR SHALL INDICATE THE LOCATION OF ALL CAPPED UNDERGROUND SPARE CONDUIT ON THE RECORD DRAWINGS SUBMITTED TO THE OWNER.

2.09 CONTRACTOR SHALL COORDINATE EXACT ROUTING OF CONDUIT WITH OWNER. ALL CONDUIT SHALL BE ROUTED WITHIN 3 FEET, EITHER SIDE, OF PERIMETER FENCING.

3.00 MATERIALS

3.01 ALL EQUIPMENT AND MATERIALS SHOWN SHALL BE CONSIDERED NEW UNLESS SPECIFICALLY NOTED OTHERWISE ON THE DRAWINGS.

3.02 FINAL CONNECTIONS OF EQUIPMENT SHALL BE PER MANUFACTURER'S APPROVED WIRING DIAGRAMS, DETAILS, AND INSTRUCTIONS. THE ELECTRICAL CONTRACTOR SHALL PROVIDE MATERIALS AND EQUIPMENT COMPATIBLE WITH EQUIPMENT SUPPLIED BY VERIZON.

3.03 CONTRACTOR SHALL PROVIDE AN UPDATED PANELBOARD DIRECTORY FOR THE PANEL FROM WHICH THE NEW VERIZON EQUIPMENT CIRCUIT WILL BE CONNECTED. CONTRACTOR SHALL SUBMIT UPDATED DIRECTORY IN A PLASTIC COVER TO THE BUILDING OWNER FOR APPROVAL PRIOR TO INSTALLATION.

3.04 CONTRACTOR SHALL FIELD DETERMINE ACTUAL CONDUIT ROUTING AND SHALL OBTAIN APPROVAL FROM THE TOWER OWNER OF THE PROPOSED ROUTING PRIOR TO CONDUIT INSTALLATION.

3.05 ALL CONDUCTORS SHALL BE COPPER WITH THWN INSULATION AND ALL TERMINATIONS SHALL BE RATED FOR AT LEAST 75 DEGREES CELSIUS.

3.06 ALL NEUTRAL CONDUCTORS SHALL HAVE WHITE INSULATION. ALL GROUND CONDUCTORS SHALL HAVE GREEN INSULATION. COLOR TAPE IDENTIFICATION OF THESE CONDUCTORS IS NOT PERMITTED.

3.07 CONTRACTOR SHALL SEAL ALL CONDUITS ENTERING AN ENCLOSURE WITH CONDUIT SEALANT THAT IS COMPATIBLE WITH THE INSULATION OF THE CONDUCTORS IN THE CONDUIT.

3.08 CONDUIT RUNS SHALL HAVE A CONTINUOUS DOWNWARD SLOPE AWAY FROM ALL EQUIPMENT TO PREVENT WATER INFILTRATION.

3.09 ALL CONDUIT SHALL BE SCHEDULE 40 PVC UNLESS NOTED OTHERWISE ON THE PLANS. WHEN CONDUIT IS ROUTED UNDER A ROADWAY, SCHEDULE 80 PVC CONDUIT SHALL BE UTILIZED. MANUFACTURED BEND RADII SHALL BE PER NEC.

3.10 CONTRACTOR SHALL PROVIDE TWO (2) 200 POUND TEST POLYETHYLENE PULL CORDS IN ALL CONDUITS AND ALL INNERDUCTS. PULL CORDS SHALL BE SECURED AT EACH END OF CONDUIT RUNS. ALL SPARE CONDUIT ENDS SHALL BE CAPPED WITH MANUFACTURED PVC FITTINGS.

3.11 CONTRACTOR SHALL BOND EACH METALLIC CONDUIT ENTERING A METALLIC ENCLOSURE WITH A #8 MIN AWG INSULATED COPPER BONDING JUMPER PER NEC. CONTRACTOR SHALL BOND ALL ELECTRICAL EQUIPMENT TO THE H-FRAME RACK ON WHICH EQUIPMENT IS MOUNTED WITH #8 MIN AWG INSULATED COPPER BONDING JUMPERS PER NEC.

3.12 CONTRACTOR SHALL IDENTIFY THE END OF ALL SPARE UNDERGROUND CONDUITS AND PROVIDE AND INSTALL 90 DEGREE ELBOWS WITH VERTICAL CONDUIT EXTENSIONS TO EXTEND 3" ABOVE FINISHED CRUSHED AGGREGATE GRADE. CONTRACTOR SHALL TERMINATE CONDUITS WITH MANUFACTURED CONDUIT CAPS THAT THE CONTRACTOR HAS PAINTED ORANGE.

3.13 CONTRACTOR SHALL PROVIDE AND INSTALL AN ENGRAVED PHENOLIC PLATE ON THE FRONT OF THE INTEGRATED LOAD CENTER. THE WORDING ON THE PLATE SHALL READ AS FOLLOWS: "MAXIMUM DRAW OF ALL RECTIFIERS AND EQUIPMENT ON THE LOAD CENTER CANNOT EXCEED 50KW. IF ADDITIONAL POWER IS REQUIRED, THE EXISTING 50KW GENERATOR MUST BE REPLACED."

4.00 PRE-CONSTRUCTION COORDINATION

4.01 CONTRACTOR SHALL VISIT THE SITE PRIOR TO BID AND NOTE EXISTING CONDITIONS THAT MIGHT AFFECT THEIR WORK. ALL SUCH CONDITIONS SHALL BE REPORTED TO THE ENGINEER PRIOR TO BID.

4.02 THE CONTRACTOR SHALL PROVIDE A UTILITY LOCATOR AND SHALL VERIFY THE ACTUAL LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES. ANY DAMAGE TO EXISTING UTILITIES SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.

4.03 CONTRACTOR SHALL VERIFY, PRIOR TO ROUGH-IN, THAT SITE CONDITIONS ALLOW FOR THE PLACEMENT OF THE ELECTRICAL EQUIPMENT AS SHOWN ON THE PLANS.

4.04 CONTRACTOR SHALL COORDINATE WITH LOCAL ELECTRICAL UTILITY REGARDING THE EXACT LOCATION OF THE TRANSFORMER, ALL METERING REQUIREMENTS, AND CONDUIT ROUTING BETWEEN TRANSFORMER AND METER.

4.05 CONTRACTOR SHALL COORDINATE WITH LOCAL TELCO UTILITY REGARDING THE EXACT LOCATION OF THE TELCO SERVICE ENTRY POINT.

4.06 CONTRACTOR SHALL COORDINATE WITH AUTHORITY HAVING JURISDICTION REGARDING LOCAL FROST LINE REQUIREMENTS FOR RACEWAY MATERIAL SELECTION AND INSTALLATION.

4.07 CONTRACTOR SHALL PERFORM AN ARC FLASH ANALYSIS AT THE INTEGRATED LOAD CENTER AND PROVIDE ARC FLASH LABEL PER NEC.

4.08 [redacted]

verizon

PROJECT INFORMATION:

SITE NAME:
TOCCOA HWY
SITE No.: 892871
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

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0	08/30/21	CONSTRUCTION	CDH

LICENSER:

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REGISTERED
PROFESSIONAL
ENGINEER
No. 31981
CORBIN C. HARDY
1/20/22

KHA PROJECT NUMBER:
013560338

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
ELECTRICAL NOTES

SHEET NUMBER:
E1

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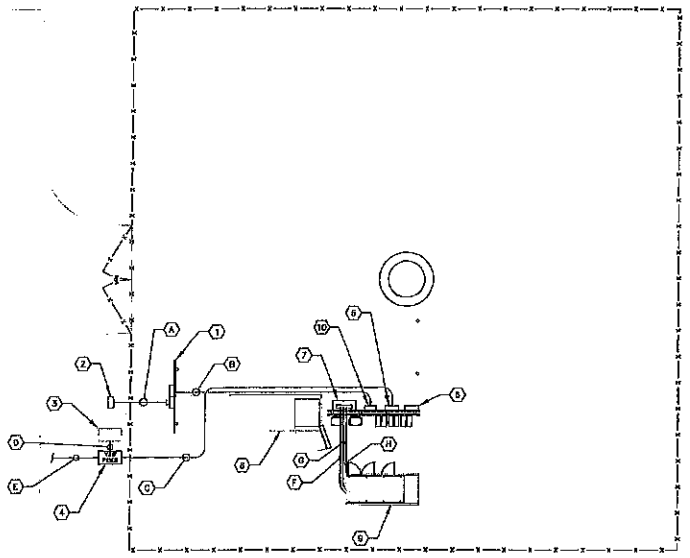

1 / E2 UTILITY SERVICE ROUTING PLAN
SCALE: 1" = 10'

KEY NOTES - ELECTRICAL EQUIPMENT

1. UTILITY METER H-FRAME (SEE DETAIL 1/E4).
2. POWER STUB UP (SEE NOTE 4.04 ON SHEET E1).
3. EXISTING LIT FIBER HANDHOLE/PEDESTAL. (CONTRACTOR TO CONFIRM EXISTENCE AND LOCATION).
4. TRAFFIC RATED TELCO VAULT LADELED "VZW FIBER". (SEE NOTE 4.05 ON SHEET E1)
5. TELCO BOX (SEE SHEET C4).
6. CIENA UNIT, IF NEEDED (SEE SHEET C4).
7. INTEGRATED LOAD CENTER (SEE SHEET C4).
8. VERIZON CONCRETE EQUIPMENT PAD (SEE SHEET C6).
9. VERIZON CONCRETE GENERATOR PAD (SEE SHEET C6).
10. DISCONNECT SWITCH (SEE SHEET C4).

KEY NOTES - CONDUIT, CONDUCTORS, & MISC.

A. TWO (2) 4" PVC POWER CONDUITS FOR INCOMING SERVICE LATERALS FROM LOCAL UTILITY (SEE TRENCH DETAIL 2/E7).
B. 2" PVC POWER CONDUIT FROM PROPOSED METER RACK TO EQUIPMENT RACK (SEE TRENCH DETAIL 2/E7).
C. TWO (2) 2" PVC TELCO CONDUITS, WITH TWO (2) PULL ROPES EACH (SEE TRENCH DETAIL 2/E7).
D. 4" PVC BRIDGE FIBER CONDUIT. (IF NO EXISTING LIT FIBER HANDHOLE/PEDESTAL IS PRESENT CONTRACTOR TO PROVIDER A 5' LONG CAPPED STUB BRIDGE CONDUIT).
E. TWO (2) 2" PVC CONDUITS FROM RIGHT OF WAY W/TWO (2) PULL ROPES (SEE TRENCH DETAIL 2/E7 AND SHEET E3).
F. 2" PVC CONDUIT FOR ROUTING POWER CONDUCTOR TO THE GENERATOR. (SEE TRENCH DETAIL 2/E7).
G. 1" PVC CONDUIT FOR ROUTING GENERATOR CONTROL AND ALARM SIGNAL CABLES TO THE GENERATOR (SEE TRENCH DETAIL 2/E7).
H. 1" PVC CONDUIT FOR ROUTING POWER CONDUCTOR TO THE GENERATOR BATTERY CHARGER AND THE GENERATOR BLOCK HEATER (SEE TRENCH DETAIL 2/E7).

NOTES:

GENERAL CONTRACTOR IS TO CONFIRM WITH VERIZON CONSTRUCTION MANAGER WHETHER INSTALLATION OF THE TWO (2) 2" CONDUITS TO THE RIGHT OF WAY WILL BE PART OF THE INITIAL CONSTRUCTION.

GRAPHIC SCALE: 1" = 10'

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 682871
PROJECT #: 20212231136
BIRDWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-814-4500
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KIMLEY-HORN AND ASSOCIATES, INC.
NO.C00686
CERTIFICATE OF AUTHORIZATION

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0	08/30/21	CONSTRUCTION	CDH

LICENSER:
SOUTH CAROLINA
PROFESSIONAL ENGINEER
No. 31981
CORBIN C. HARDY IV

KHA PROJECT NUMBER:
013609328

DRAWN BY:	CHECKED BY:
JAR	BMF

SHEET TITLE:
UTILITY SERVICE ROUTING PLAN

SHEET NUMBER:
E2

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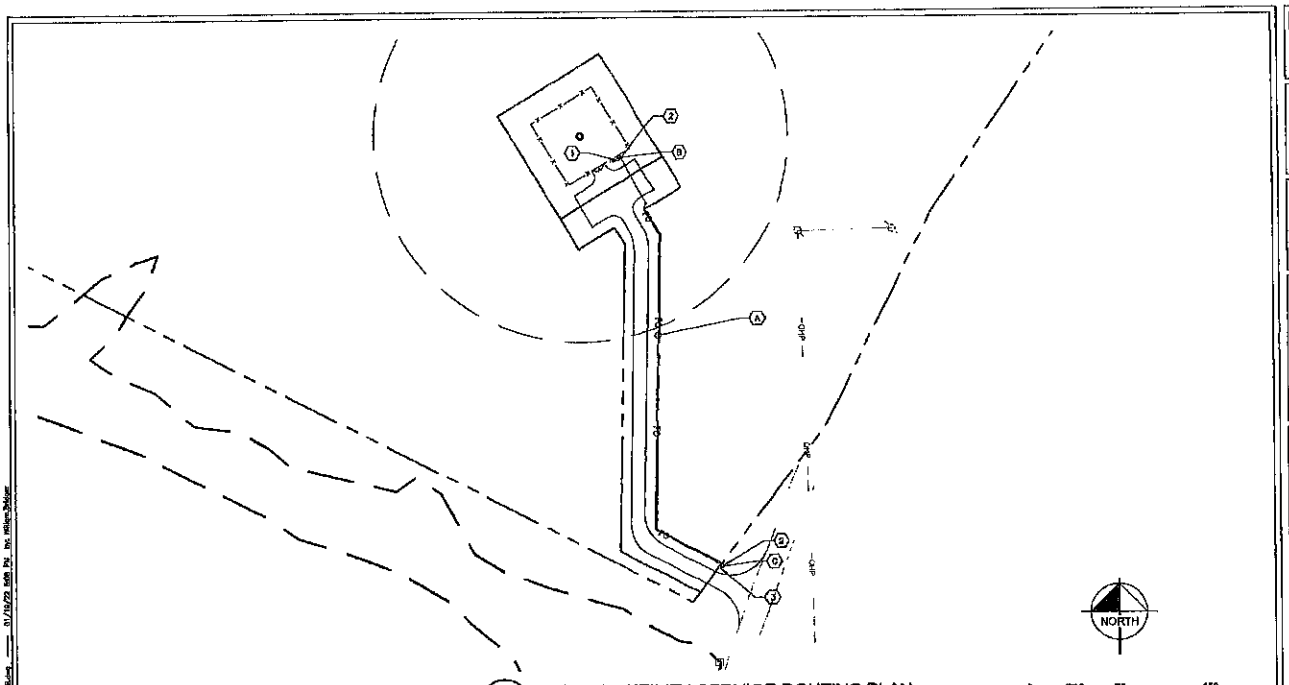

1 / E3 OVERALL UTILITY SERVICE ROUTING PLAN
SCALE: 1" = 75'

KEY NOTES - ELECTRICAL EQUIPMENT

1. EXISTING LIT-FIBER HANDHOLE/PEDESTAL.
2. TRAFFIC RATED TELCO VAULT LABELED "VZW FIBER". (SPACED EVERY 500', AT MAJOR TRANSITIONS, AND AS NEEDED TO ALLOW DAR FIBER TO BE PULLED)(SEE NOTE 4.05 ON SHEET E4)
3. EXISTING ONE FIBER HANDHOLE (CONTRACTOR TO CONFIRM EXISTENCE AND LOCATION)

KEY NOTES - CONDUIT, CONDUCTORS, & MISC.

- (A) TWO (2) 2" PVC CONDUIT FOR "VZW FIBER" WITH TWO (2) PULL ROPES. (SEE DETAIL 2/E3). (APPROXIMATELY 416± LF). GENERAL CONTRACTOR TO CONFIRM NEED FOR CONDUITS TO RIGHT OF WAY AND HANDHOLE AT RIGHT OF WAY WITH VERIZON CONSTRUCTION MANAGER.
- (B) 4" PVC BRIDGE FIBER CONDUIT. (IF NO EXISTING LIT FIBER HANDHOLE/PEDESTAL IS PRESENT CONTRACTOR TO PROVIDER A 5' LONG CAPPED STUB BRIDGE CONDUIT).
- (C) 4" PVC BRIDGE FIBER CONDUIT. (IF NO EXISTING ONE FIBER HANDHOLE IS PRESENT, BRIDGE CONDUIT WILL BE BY OTHERS)

NOTES:

GENERAL CONTRACTOR IS TO CONFIRM WITH VERIZON CONSTRUCTION MANAGER WHETHER INSTALLATION OF THE TWO (2) 2" CONDUITS TO THE RIGHT OF WAY WILL BE PART OF THE INITIAL CONSTRUCTION.

PROPOSED VERIZON TELCO VAULT WITHIN RIGHT OF WAY LOCATED APPROXIMATELY 34° 37' 1.73"N, 83° 08' 51.72"W BASED ON GOOGLE EARTH IMAGERY.

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0	08/30/21	CONSTRUCTION	DCH

LICENSED
SOUTH CAROLINA
No. 31981
ENGINEER
CORBIN C. HARDY
1/20/22

KHA PROJECT NUMBER:
013500328

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
OVERALL UTILITY ROUTING PLAN

SHEET NUMBER:
E3

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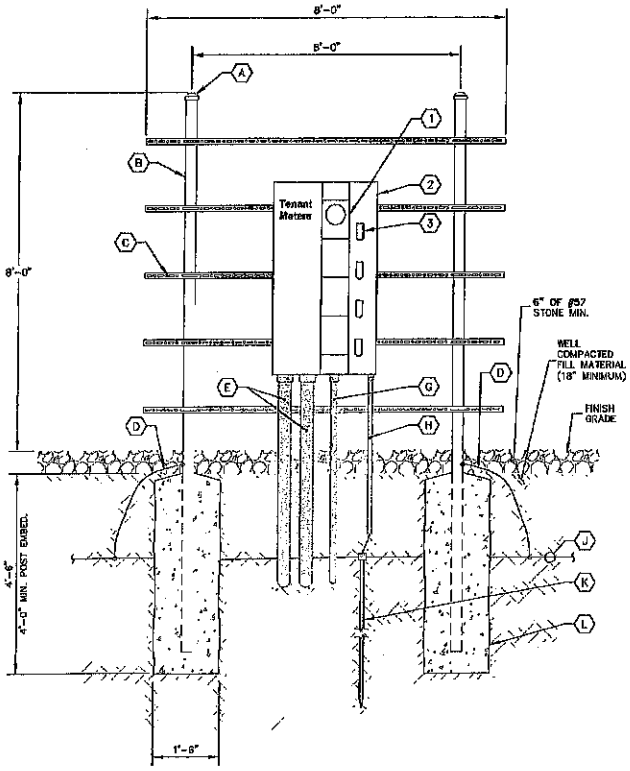

1 E4 METER RACK DETAILS
NOT TO SCALE

KEY NOTES - CONDUIT, CONDUCTORS, & MISC

(A) GALVANIZED RIGID STEEL CAP, TYPICAL.

(B) 3" GALVANIZED RIGID STEEL PIPE, TYPICAL.

(C) 1⅝" x 1⅝" GALVANIZED STEEL CHANNEL (UNISTRUT #P1000 OR APPROVED EQUIVALENT) WITH PLASTIC END CAP (UNISTRUT #P2860), TYPICAL.

(D) ONE (1) #2 AWG BARE SOLID TINNED COPPER BONDING CONDUCTORS (BC) FROM H-FRAME VERTICAL PIPE TO GROUND RING, EXOTHERMIC WELD BOTH ENDS.

(E) 4" PVC CONDUIT FOR INCOMING SERVICE LATERALS FROM LOCAL UTILITY, TYPICAL OF 2.

(F) KEYNOTE NOT USED.

(G) 2" PVC CONDUIT FOR ROUTING FEEDERS TO NON-FUSED DISCONNECT SWITCH.

(H) ¾" PVC CONDUIT WITH ONE (1) - 2/0 BARE STRANDED TINNED COPPER GROUNDING ELECTRODE CONDUCTOR (GEC) FROM GROUNDING LUG TO GROUND ROD, EXOTHERMIC WELD GEC TO GROUND ROD.

(J) GROUND RING (SEE "E" SHEETS).

(K) GROUND ROD, EXOTHERMIC WELD TO GROUND RING. (SEE "E" SHEETS).

(L) CONCRETE FOUNDATION FOR H-FRAME VERTICAL PIPE. CONCRETE SHALL HAVE A 28 DAY COMPRESSIVE STRENGTH OF 4,000 PSI. AND INCLUDE FIBERMESH 650-3E.

KEY NOTES - ELECTRICAL EQUIPMENT

(1) 200 AMP METER SOCKET IN NEMA 3R ENCLOSURE, TYPICAL OF 4. ONLY TOP SOCKET WILL RECEIVE METER UNDER THIS CONTRACT.

(2) 800 AMP, 22KAIC, 4 GANG, SERVICE ENTRANCE RATED METER CENTER IN NEMA 3R ENCLOSURE. BOND TO RACK PER NEC.

(3) 200 AMP, 2 POLE (22KAIC) DISCONNECT CIRCUIT BREAKER FOR TOP METER ONLY. CONTRACTOR SHALL MOUNT THE METER CENTER SUCH THAT THE TOP CIRCUIT BREAKER IS NO MORE THAN 6' ABOVE GRADE.

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HOPEWELL CHURCH RD
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LICENSED PROFESSIONAL ENGINEER
SOUTH CAROLINA
No. 31981
CORBIN C. HARDY
1/20/22

KHA PROJECT NUMBER:
013509328

DRAWN BY:	CHECKED BY:
JAK	DMF

SHEET TITLE:
METER RACK DETAILS

SHEET NUMBER:
E4

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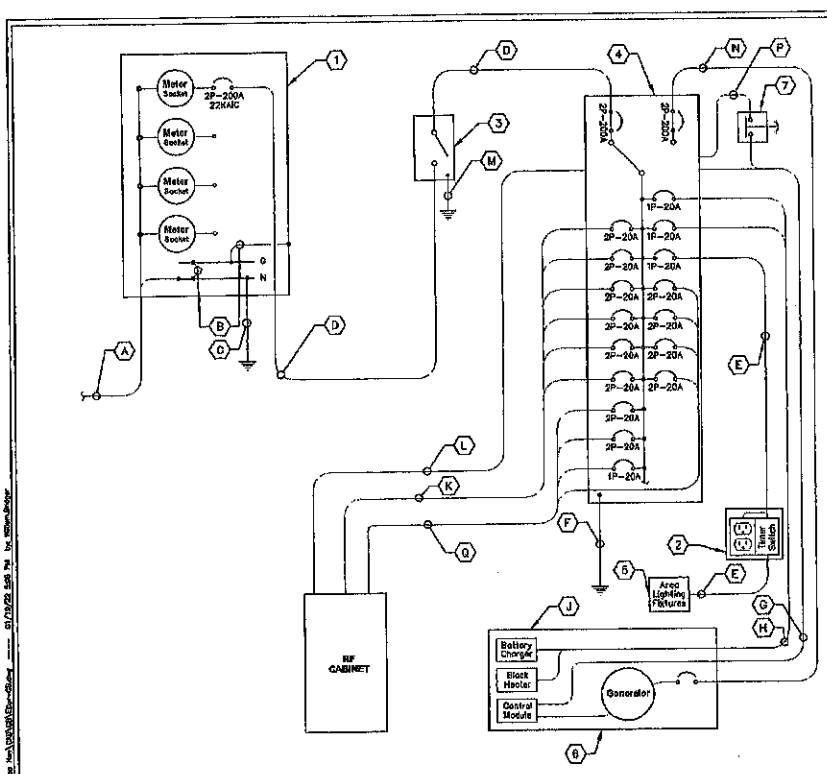

REQUIRED SIGNAGE PER NEC 702 AT SERVICE DISCONNECT

"WARNING: Shock hazard exists if grounding electrode conductor or bonding jumper connection in this equipment is removed while alternate source(s) is energized. Opening the equipment disconnect will cause the stand-by generator to start. To remove power entirely from the equipment, the generator must be turned OFF using emergency stop switch."

REQUIRED SIGNAGE PER NEC 702 AT SERVICE DISCONNECT & INTEGRATED LOAD CENTER

"NOTE: Emergency power is supplied by a stand-by generator located behind Verizon equipment rack."

1 / E5 ELECTRICAL SINGLE LINE DIAGRAM

NOT TO SCALE

KEY NOTES - CONDUIT, CONDUCTORS, & MISC

(A) TWO (2) 4" CONDUITS BY CONTRACTOR FOR INCOMING SERVICE LATERALS BY LOCAL UTILITY FOR 800 AMP, 120/240 VOLT SINGLE PHASE SERVICE.

(B) BOND GROUND BUS TO NEUTRAL BUS AND GROUND BUS TO ENCLOSURE WITH 2/0 BONDING JUMPERS.

(C) ONE (1) 2/0 BARE STRANDED TINNED COPPER GEC TO GROUND ROD, EXOTHERMIC WELD GEC TO GROUND ROD.

(D) THREE (3) 3/0 CONDUCTORS AND ONE (1) #6 AWG GROUND IN 2" CONDUIT.

(E) TWO (2) #12 AWG CONDUCTORS AND ONE (1) #12 AWG GROUND IN 1" CONDUIT.

(F) ONE (1) #2 BARE TINNED COPPER FROM GROUNDING LUG IN ILC TO GROUND ROD, EXOTHERMIC WELD TO GROUND ROD.

(G) AUTOMATIC TRANSFER SWITCH ALARM AND GENERATOR CONTROL CABLES IN 1" CONDUIT.

(H) FOUR (4) #12 CONDUCTORS AND ONE (1) #12 AWG GROUND IN 1" CONDUIT.

(J) THE GENERATOR, WHEN UTILIZING A TWO POLE ATS WITH A SOLID NEUTRAL, IS NOT A SEPARATELY DERIVED SYSTEM. THEREFORE, DO NOT BOND THE NEUTRAL TO THE GROUND AT THE GENERATOR.

(K) TWELVE (12) #10 AWG THHN CONDUCTORS AND THREE (3) #10 AWG EG IN 2" PVC CONDUIT.

(L) ALARM CABLES IN 1" PVC CONDUIT.

(M) ONE (1) – #2 BARE TINNED COPPER FROM GROUNDING LUG IN DISCONNECT SWITCH TO GROUND RING, EXOTHERMIC WELD TO GROUND RING.

(N) THREE (3) 3/0 AWG CONDUCTORS AND ONE (1) #4 AWG EG IN 2" CONDUIT. VERIFY GENERATOR BREAKER DOES NOT EXCEED 200 AMPS.

(P) 1" PVC CONDUIT FOR ROUTING POWER CONDUCTORS FROM THE ILC TO THE EMERGENCY GENERATOR STOP SWITCH.

(Q) TWELVE (12) #10 AWG THHN CONDUCTORS AND THREE (3) #10 AWG FOR RECTIFIERS AND TWO (2) #10 THHN CONDUCTORS AND ONE (1) #10 AWG FOR CABINET MOUNTED OFF OUTLET, ALL IN ONE 2" PVC CONDUIT.

KEY NOTES - ELECTRICAL EQUIPMENT

(1) FURNISH AND INSTALL 800 AMP, 3-WIRE, SINGLE PHASE, 120/240 VOLT, 22KAIC, FOUR-SPACE MULTI-GANG METER CENTER WITH 200 AMP RATED METER SOCKETS IN NEMA 3R ENCLOSURE, SE RATED. CONTRACTOR SHALL FURNISH AND INSTALL 200 AMP CIRCUIT BREAKER AT METER BASE IF NOT ALREADY EXISTING.

(2) 20 AMP GFCI DUPLEX OUTLET RECEPTACLE AND TIMER SWITCH, ENERLITES HETOS SERIES (OR APPROVED EQUIVALENT) IN LOCKABLE NEMA 3R ENCLOSURE.

(3) FURNISH AND INSTALL SE RATED 240 V, 200 AMP, 2 POLE, NON-FUSED DISCONNECT IN NEMA 3R ENCLOSURE.

(4) 200 AMP, 120/240 VOLT, ILC WITH 42 SPACE PANEL AND AUTOMATIC TRANSFER SWITCH. ALL CIRCUIT BREAKERS SHALL BE RATED 10KAIC MINIMUM. ILC IS FURNISHED BY VZW AND INSTALLED BY GENERAL CONTRACTOR.

(5) FURNISH AND INSTALL TWO (2) AREA LIGHTS, (LITHONIA HFR-280M-TA120-DNA-LP1), (OR APPROVED EQUIVALENT).

(6) 50 KW DIESEL GENERATOR, CONTRACTOR SHALL COORDINATE SPECIFIC GENERATOR CONFIGURATION WITH OWNER AND INSTALL THE GENERATOR IN ACCORDANCE WITH MANUFACTURER'S INSTALLATION INSTRUCTIONS. GENERATOR BREAKER SIZED AND PROVIDED BY GENERATOR MANUFACTURER.

(7) EMERGENCY GENERATOR STOP SWITCH IN NEMA 3R ENCLOSURE WILL BE FURNISHED BY VERIZON AND INSTALLED BY GC.

verizon

PROJECT INFORMATION:

SITE NAME:
TOCCOA HWY
SITE No.: 562671
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WILLIAMSTON, SC
OCONEE COUNTY

PLANS PREPARED BY:

Kimley»Horn

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NO.C00446
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LICENSED:

SOUTH CAROLINA
REGISTERED
No. 31951
PROFESSIONAL ENGINEER
CORBIN C. HARDY

KHA PROJECT NUMBER:
013609338

DRAWN BY: JAR | CHECKED BY: DMF

SHEET TITLE:
ELECTRICAL SINGLE LINE DIAGRAM

SHEET NUMBER:
E5

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PANEL SCHEDULE - VERIZON INTEGRATED LOAD CENTER

Voltage: 240/120 Volts
Phase, Wires: Single Phase, 3 Wire
Mounting Type: Surface
Enclosure Type: NEMA 3R

MCB Size: 200 Amps
AIC Rating: 10,000 Amps min
Bus Rating: 200 Amps
Neutral Rating: 100%

Load Served	Load (kVA) A	Load (kVA) B	Circuit Bkr Size	Ckt Nbr	Phase A B	Ckt Nbr	Circuit Bkr Size	Load (kVA) A	Load (kVA) B	Load Served
RECTIFIER 1	1.78		2P-20	1		2	1P-20	0.58		AREA LIGHTS/GFCI
		1.78		3		4	1P-20		1.50	GEN BLOCK HEATER
RECTIFIER 2	1.78		2P-20	5		6	1P-20	0.30		GEN BATTERY CHARGER
		1.78		7		8	-----		0.00	SPACE
RECTIFIER 3	1.78		2P-20	9		10	1P-20	0.18		CAB DUPLEX OUTLET
		1.78		11		12	-----		0.00	SPACE
RECTIFIER 4	1.78		2P-20	13		14	2P-20	1.78		RECTIFIER 9
		1.78		15		16			1.78	
RECTIFIER 5	1.78		2P-20	17		18	2P-20	1.78		RECTIFIER 10
		1.78		19		20			1.78	
RECTIFIER 6	1.78		2P-20	21		22	2P-20	0.00		RECTIFIER 11 (SPARE)
		1.78		23		24			0.00	
RECTIFIER 7	1.78		2P-20	25		26	2P-20	0.00		RECTIFIER 12 (SPARE)
		1.78		27		28			0.00	
RECTIFIER 8	1.78		2P-20	29		30	-----	0.00		SPACE
		1.78		31		32	-----		0.00	SPACE
SPACE	0.00		-----	33		34	-----	0.00		SPACE
SPACE		0.00	-----	35		36	-----		0.00	SPACE
SPACE	0.00		-----	37		38	-----	0.00		SPACE
TVSS (INTERNAL TO ILC)		0.00	2P-30	39		40	-----		0.00	SPACE
	0.00			41		42	-----	0.00		SPACE
Sub-Total (kVA)	14.24	14.24						4.52	5.00	Sub-Total (kVA)
								A	B	
								18.86	19.30	
								38.16		Total Connected (kVA)

LOAD SUMMARY

Load Description	Connected Load (kVA) A	Connected Load (kVA) B	Demand Factor	Demand Load (kVA) A	Demand Load (kVA) B
RECTIFIERS/EQUIP	17.80	17.80	1.00	17.80	17.80
LARGEST MOTOR	0.00	0.00	1.00	0.00	0.00
ALL OTHER MOTORS	0.00	0.00	1.00	0.00	0.00
LIGHTING	0.40	0.00	1.25	0.50	0.00
DUPLEX RECEPTACLES	0.36	0.00	1.00	0.36	0.00
TOTAL MISCELLANEOUS	0.30	1.50	1.00	0.30	1.50
Total Power per Phase				18.96	19.30 kVA
Total Demand Current per Phase				158.00	161.00 Amps
Total Demand Power				38.26	kVA

*NOTE: CIRCUIT LOAD AND DEMAND FACTOR PROVIDED BY VERIZON.

1 / E6 PANEL SCHEDULE
NOT TO SCALE

verizon
8619 RESEARCH DRIVE
CHARLOTTE, NORTH CAROLINA 28262

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 602671
PROJECT #: 20212231138
NORVELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

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0	08/30/21	CONSTRUCTION	CCH

LICENSER:
SOUTH CAROLINA PROFESSIONAL ENGINEER
No. 31981
CORBIN C. HARDY
1/20/22

KHA PROJECT NUMBER:
013609328

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
PANEL SCHEDULE

SHEET NUMBER:
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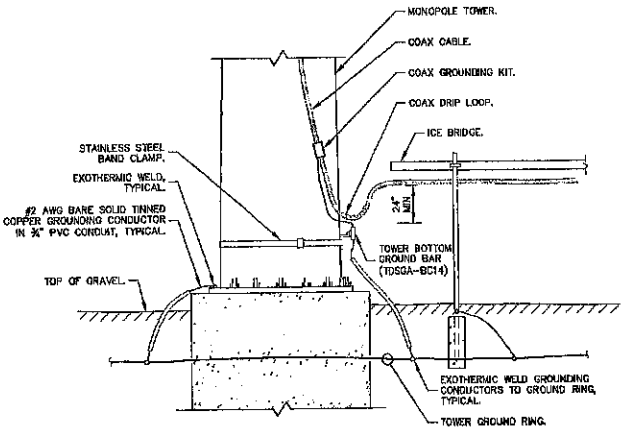

1 E7 DRIP LOOP DETAIL
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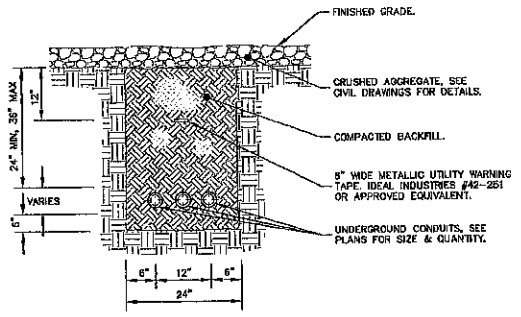

NOTES:
1. IF GROUND SURFACE IS OTHER THAN NEWLY GRAVELED AREA, CONTRACTOR IS TO RESTORE TO ORIGINAL CONDITION.
2. PROVIDE PVC CONDUIT BELOW GRADE EXCEPT AS NOTED BELOW.
3. PROVIDE SCHEDULE 40 OR SCHEDULE 80 PVC CONDUIT & ELBOWS AT STUB UP LOCATIONS (I.E. POLES, EQUIPMENT, ETC.)
4. PROVIDE SCHEDULE 80 PVC CONDUIT BELOW PARKING LOTS AND ROADWAYS.

2 E7 TYPICAL TRENCH DETAIL
NOT TO SCALE

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REGISTERED
No. 31981
ENGINEER
CORBIN C. HARDY
1/20/22

KHA PROJECT NUMBER:
013866328

DRAWN BY:	CHECKED BY:
JAR	BMF

SHEET TITLE:
ELECTRICAL DETAILS

SHEET NUMBER:
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GROUNDING NOTES

1. THE GROUND RING SHALL CONSIST OF #2 AWG BARE SOLID TINNED COPPER (STC) CONDUCTOR, UNLESS NOTED OTHERWISE, BURIED AT 30" BELOW FINISHED GRADE (OR BELOW FROST LINE). LOCATE 24" MINIMUM AND 36" MAXIMUM FROM EQUIPMENT AREA AND FROM TOWER FOUNDATION. ALL CONNECTIONS SHALL BE MADE USING A PARALLEL TYPE EXOTHERMIC WELD, UNLESS NOTED OTHERWISE.

2. [redacted]

3. EQUIPMENT GROUND RING SHALL HAVE A MINIMUM OF 4 GROUND RODS, INSTALLED AT THE CORNERS OF THE GROUND RING PLUS ADDITIONAL RODS AS REQUIRED TO COMPLY WITH THE SPACING REQUIREMENTS. TOWER GROUND RING SHALL HAVE A MINIMUM OF 3 GROUND RODS, EXCEPT USE 4 RODS AT A MONOPOLE TOWER. WHERE SPREAD TOWER FOOTING WOULD PREVENT GROUND RODS FROM BEING DRIVEN INTO SOIL ADJACENT TO TOWER, PROVIDE VERTICAL 1" DIAMETER PVC SLEEVES EMBEDDED IN FOOTING TO ALLOW INSTALLATION OF GROUND RODS.

4. EQUIPMENT GROUND RING AND TOWER GROUND RING SHALL BE BONDED TOGETHER WITH TWO #2 STC GROUND LEADS, TYPICALLY ONE ON EACH SIDE OF ICE BRIDGE.

5. BOND TOWER TO TOWER GROUND RING AT THREE LOCATIONS WITH #2 STC GROUND LEAD. SELF SUPPORT TOWERS SHALL HAVE EACH LEG BONDED TO GROUND RING, MONOPOLES AND GUYED TOWERS SHALL HAVE GROUND LEADS EQUALLY SPACED AROUND TOWER. EXOTHERMICALLY WELD GROUND LEADS TO TOP OF BASE PLATES, OR ATTACH TO TOWER USING TOWER MANUFACTURER PROVIDED DETAIL.

6. PROVIDE #2 STC RADIALS FROM THE TOWER GROUND RING TO EACH FENCE CORNER POST. RADIALS SHALL HAVE GROUND RODS AS PER THE REQUIRED SPACING. THE GROUND ROD AT THE END OF EACH RADIAL SHALL BE 24" MAXIMUM FROM FENCE CORNER POST. EQUIPMENT AREA GROUND RING AND CONNECTING GROUND LEADS (BETWEEN EQUIPMENT AREA AND TOWER GROUND RINGS) MAY BE USED AS PART OF THE RADIAL GOING TO THE FENCE CORNER POST CLOSEST TO THE EQUIPMENT AREA.

7. MINIMUM BEND RADIUS FOR #2 AWG GROUND WIRE IS 12", EXCEPT USE 24" FOR TOWER GROUND RINGS AND EQUIPMENT PAD GROUND RINGS.

8. GROUND ALL EXTERIOR EXPOSED METAL OBJECTS. USE TWO HOLE LUGS FOR CONNECTION TO FLAT METAL SURFACES. USE ONLY STAINLESS STEEL HARDWARE ON ALL MECHANICAL CONNECTIONS. CLEAN ALL SURFACES (AND STRIP PAINTED SURFACES) TO BARE BRIGHT METAL PRIOR TO MAKING GROUND CONNECTIONS. APPLY ANTI-OXIDE COMPOUND TO ALL CONNECTIONS. APPLY ZINC RICH PAINT (COLD GALV.) TO ALL EXOTHERMIC WELDS, AND TO ANY METAL EXPOSED BY CLEANING, STRIPPING, GRINDING, CUTTING OR DRILLING.

9. ALL GROUNDING CONDUCTORS ABOVE GRADE SHALL BE RUN IN 3/4" FLEXIBLE PVC CONDUIT. CONDUIT SHALL BEGIN WITHIN 3/4" OF ABOVE GROUND CONNECTION POINT, SHALL EXTEND 24" BELOW GRADE MINIMUM, AND SHALL BE FILLED WITH SEALANT AT ABOVE GROUND CONNECTION POINT. SECURE CONDUIT EVERY 24" ON VERTICAL RUNS AND EVERY 36" ELSEWHERE WITH NON-METALLIC TIES.

10A. [redacted]

10B. AT MONOPOLE TOWERS CLAMP TDSGA-BG14 TOWER BOTTOM GROUND BAR DIRECTLY TO TOWER. IF RUNNING COAX INSIDE MONOPOLE, CLAMP ONTO BOTTOM LIP OF EXIT PORT. IF BANDING COAX TO OUTSIDE OF TOWER, CLAMP ONTO STEEL ANGLE WHICH IS BANDED TO TOWER. BOND TDSGA-BG14 TO TOWER GROUND RING WITH TWO #2 STC LEADS LUGGED TO GROUND BAR AND EXOTHERMICALLY WELDED TO GROUND RING.

11. AT EQUIPMENT AREA, INSTALL TDSGA-PA14 EXTERIOR GROUND BAR (THRU-BOLTED STYLE) AT BASE OF (2) INTERIOR H-FRAME POSTS AND AT TOP OF ICE BRIDGE POST WHICH IS NEAREST TO (BUT CLOSER TO TOWER THAN) THE COAX CABLE TERMINATION. MOUNT GROUND BAR TO H-FRAME POSTS AT 6" ABOVE GRAVEL AND TO ICE BRIDGE POST AT 6FT ABOVE GRAVEL.

12. ALL ICE BRIDGE SECTIONS ARE TO BE JUMPERED TOGETHER WITH #2 WIRE, EITHER BARE TINNED COPPER OR GREEN INSULATED STRANDED. ICE BRIDGE SHALL BE GROUNDED AT EACH END WITH #2 STC WIRE LUGGED TO ICE BRIDGE AND EXOTHERMICALLY WELDED TO UPPER PORTION OF NEAREST ICE BRIDGE POST. ICE BRIDGE SECTIONS ABOVE H-FRAME SHALL BE BONDED TO EACH OTHER WITH JUMPERS AT EACH END – TMS ASSEMBLY WILL BE CONSIDERED AS A SINGLE ICE BRIDGE SECTION FOR GROUNDING PURPOSES.

13. BOND EACH ICE BRIDGE POST, H-FRAME POST OR DEDICATED GROUNDING POST TO BURIED GROUNDING SYSTEM WITH #2 STC LEAD EXOTHERMICALLY WELDED TO POST BELOW TOP OF GRAVEL AND EXOTHERMICALLY WELDED TO GROUND RING. EACH POST TO HAVE SEPARATE GROUND LEAD DIRECTLY TO GROUND RING – DO NOT DAISY CHAIN POSTS TOGETHER.

14. BOND EACH RF CABINET TO EQUIPMENT GROUND RING WITH #2 AWG TINNED SOLID BARE COPPER CONDUCTOR LUGGED TO CABINET BODY AND EXOTHERMICALLY WELDED TO GROUND RING. LUG TO CABINET BODY USING LOCATION AT WHICH STUDS ON CABINET CHASSIS HAVE DIRECT GROUND WIRE CONNECTION TO CABINET INTERNAL GROUND BAR. RUN CONDUIT AND CONDUCTOR ACROSS BACK OF CABINET (DO NOT RUN TOWARDS NEAREST CORNER OF CABINET AND THEN BEND GROUND WIRE SHARPLY), ACROSS CONCRETE PAD BELOW CABLE LADDER, THEN DOWN INTO GRAVEL AREA.

15. BOND EACH BATTERY CABINET TO GROUND RING WITH #2 AWG TINNED SOLID BARE COPPER CONDUCTOR LUGGED TO CABINET BODY AND EXOTHERMICALLY WELDED TO GROUND RING. RUN GROUND LEAD IN FLEX CONDUIT ALONG BACK OF RBA72 CABINET, ACROSS CONCRETE PAD BELOW CABLE LADDER, THEN DOWN INTO GRAVEL AREA. CONNECT TWO HOLE LUG TO BACK OF CABINET AT FACTORY PROVIDED GROUNDING STUDS.

16. BOND GENERATOR TO GROUND RING WITH #2 STC AT TWO DIAGONALLY OPPOSITE LOCATIONS BY DRILLING AND BOLTING TWO HOLE LUG TO FINS ON GENERATOR BASE STRUCTURE. GROUND LEADS SHOULD TAKE SHORTEST PATH ACROSS CONCRETE PAD TO GRAVEL AREA, THEN CONTINUE TO GROUND RING.

17. [redacted]

18. BOND GPS ANTENNA and GPS ANTENNA MOUNT TO TSDGA GROUND BAR AT BOTTOM OF H-FRAME POST WITH #2 GREEN INSULATED STRANDED GROUND WIRE.

19. PROVIDE TWO GROUND RODS OUTSIDE GATES OF COMPOUND. DISTANCE BETWEEN GROUND RODS SHALL MATCH WIDTH OF GATE OPENING, AND DISTANCE FROM FENCE SHALL MATCH LENGTH OF LONGEST INDIVIDUAL GATE LEAF. BOND GATE POSTS TOGETHER WITH #2 STC LEAD WHICH RUNS PAST AND CONNECTS TO GROUND RODS OUTSIDE GATES.

20. BOND EACH GATE POST WITH #2 STC TO NEAREST PORTION OF GROUNDING SYSTEM INSIDE COMPOUND.

21. BOND EACH GATE TO GATE POST WITH FLEXIBLE INSULATED OR BRAIDED #4/0 COPPER STRAP. EXOTHERMICALLY WELD STRAP TO BOTH GATE AND GATE POSTS.

22. ANY METAL FENCE POST WITHIN 6FT OF A GROUNDED METAL OBJECT SHALL BE BONDED TO THE NEAREST GROUND RING. ANY METAL FENCE WITHIN 6FT OF A GROUND RING SHALL HAVE THE LINE POSTS BONDED TO THE GROUND RING AT 20FT MAXIMUM INTERVALS AS MEASURED ALONG THE LENGTH OF THE FENCE.

23. WHERE GROUND BASED RRU'S, RAYCAP OVP'S OR DIPLEXERS ARE INSTALLED AT THE EQUIPMENT AREA, BOND EACH COMPONENT TO NEAREST TDSGA GROUND BAR BELOW THE COMPONENT WITH #2 GREEN INSULATED STRANDED GROUND WIRE. SINGLE HOLE LUG OR RING TYPE CONNECTOR IS SUITABLE FOR CONNECTION TO GROUNDING STUD ON EACH COMPONENT.

24. NOTIFY VZW CM TO INSPECT GROUND RING BEFORE BACKFILLING. CONTRACTOR SHALL HIRE A 3RD PARTY TO PERFORM AN IEEE81 FALL OF POTENTIAL METHOD GROUND TEST. MAXIMUM ALLOWABLE RESISTANCE TO GROUND IS 5 OHMS. PROVIDE ADDITIONAL GROUND SYSTEM COMPONENTS AS REQUIRED TO ACHIEVE THIS VALUE.

25. REFER TO TOWER GROUNDING DIAGRAM AND NOTES FOR GROUND SYSTEM REQUIREMENTS ON THE TOWER.

26. GROUNDING OF ALL ELECTRICAL EQUIPMENT SHALL BE AS PER NEC, MUNICIPAL AND UTILITY COMPANY REQUIREMENTS.

verizon

PROJECT INFORMATION:

SITE NAME:
TOCCOA HWY
SITE No.: 882871
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:

Kimley»Horn

11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-818-4500
WWW.KIMLEY-HORN.COM
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NO. C00165
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0	08/30/21	CONSTRUCTION	CCH

LICENSER:

SOUTH CAROLINA
PROFESSIONAL ENGINEER
No. 31981
CORBIN C. HARDY
1/20/22

KHA PROJECT NUMBER:
013608328

DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
GROUNDING NOTES

SHEET NUMBER:
E8

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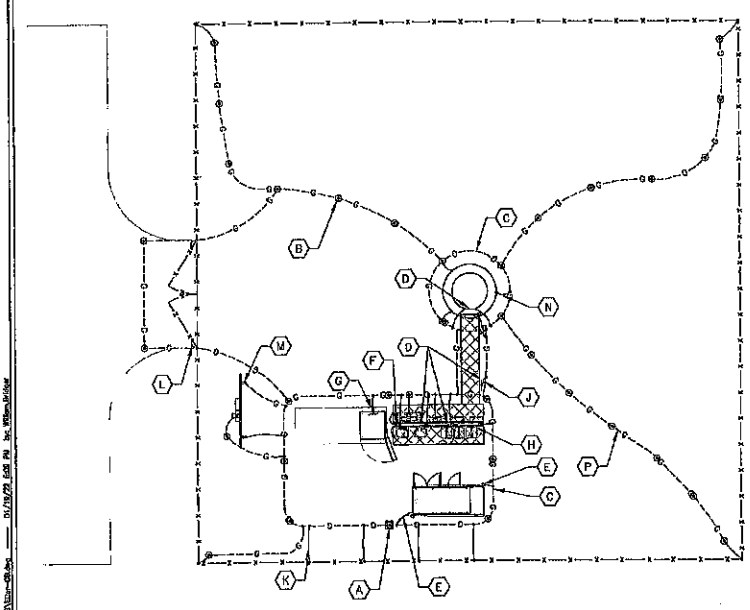

1 / E9 GROUNDING PLAN
SCALE: 1" = 10'

GRAPHIC SCALE: 1" = 10'

KEY NOTES - GROUNDING EQUIPMENT

(A) GROUND ROD TEST WELL (SEE DETAIL 1/E11).
(B) GROUND ROD, TYPICAL (SEE DETAIL 2/E11 AND NOTES 2 AND 3 ON E8).
(C) TOWER AND EQUIPMENT GROUND RING (SEE NOTES 1, 3, 4, 5, 6 AND 7 ON E8).
(D) TDSOA-PA14 OR TDSOA-BG14 WHERE APPLICABLE (SEE NOTES 10 AND 11 ON E8).
(E) GENERATOR GROUNDING (SEE NOTE 16 ON E8).
(F) GPS ANTENNA GROUNDING (SEE NOTE 18 ON E8).
(G) RF CABINET GROUNDING (SEE NOTE 14 ON E8).
(H) RRU'S AND DMP'S GROUNDING (SEE NOTE 23 ON E8).
(J) ICE BRIDGE POST BOND TO GROUND RING, TYPICAL (SEE NOTES 12 AND 13 ON E8).
(K) FENCE POST GROUNDING, TYPICAL. (SEE NOTE 22 ON E8).
(L) GATE GROUNDING, TYPICAL. (SEE NOTES 19, 20 & 21 ON E8).
(M) UTILITY H-FRAME GROUNDING, TYPICAL. (SEE SHEET E3 AND NOTE 13 ON E8).
(N) TOWER GROUNDING, TYPICAL. (SEE NOTES 5, 6 & 25 ON E8).
(P) GROUND RADIALS, TYPICAL (SEE NOTE 6 ON E8).
(Q) REFER TO SHEETS E8, E10, E11 & E12 FOR GROUNDING NOTES, DETAILS, AND SPECIFICATIONS.

LEGEND:

- GROUND RING
- GROUND ROD EXOTHERMICALLY WELDED TO GROUND RING
- EXOTHERMIC WELD
- GROUND ROD TEST WELL (SEE DETAIL 1/E11)
- MECHANICAL CONNECTION

verizon

PROJECT INFORMATION:
SITE NAME:
TODCOA HWY
SITE No.: 882871
PROJECT #: 20212231136
HOPEWELL CHURCH RD
MCCLELLANVILLE, SC
COONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
1920 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-4200
WWW.KIMLEY-HORN.COM
SC License 000108

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CERTIFICATE OF AUTHORIZATION
KIMLEY-HORN AND ASSOCIATES, INC.
NO.C00168

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SOUTH CAROLINA
PROFESSIONAL ENGINEER
No. 31981
CORBIN C. HARDY
1/10/22

DOHA PROJECT NUMBER:
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DRAWN BY:	CHECKED BY:
JAR	DMF

SHEET TITLE:
GROUNDING PLAN

SHEET NUMBER:
E9

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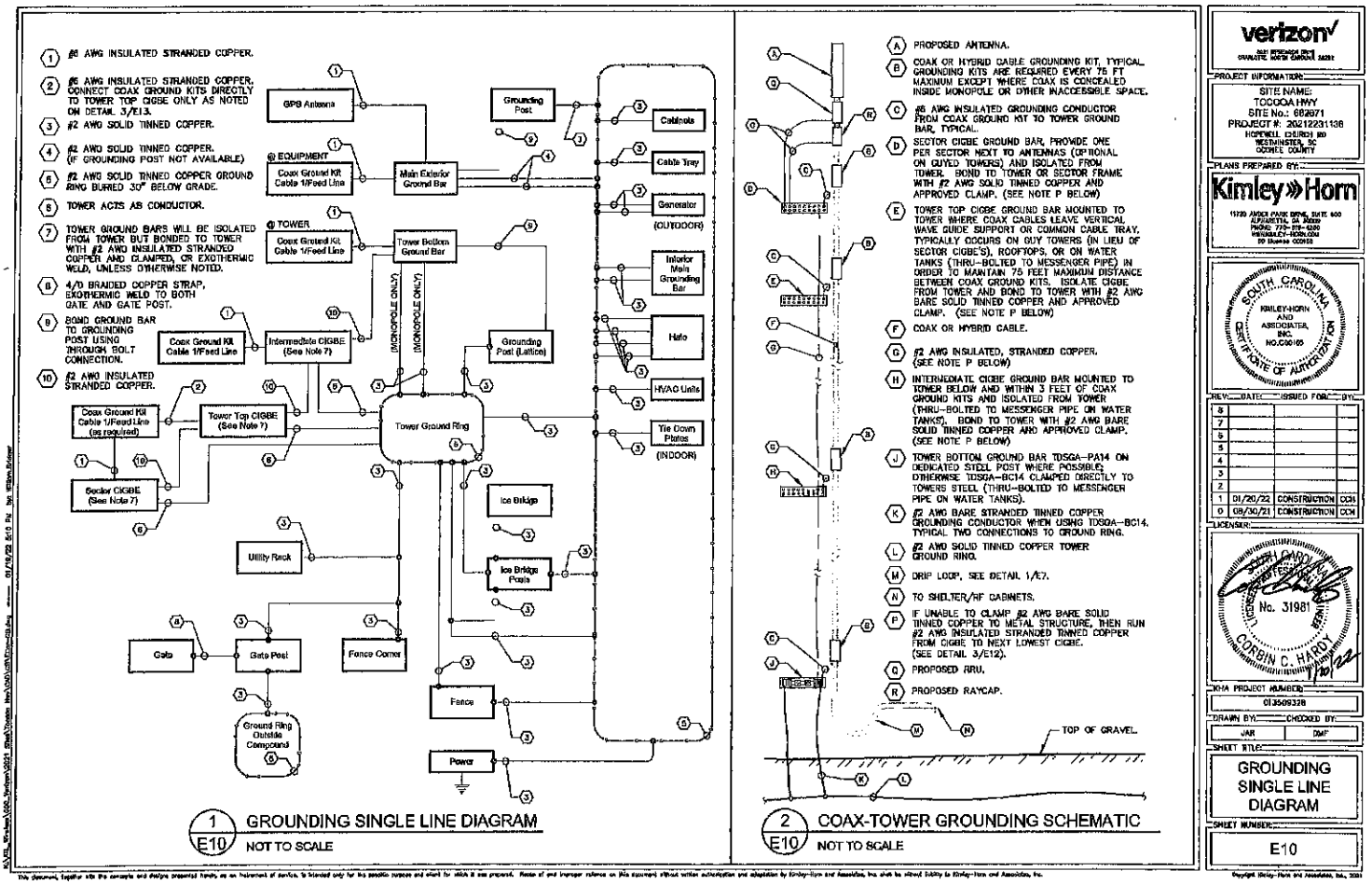
1 #6 AWG INSULATED STRANDED COPPER.
2 #6 AWG INSULATED STRANDED COPPER, CONNECT COAX GROUND KITS DIRECTLY TO TOWER TOP CIGBE ONLY AS NOTED ON DETAIL 3/E13.
3 #2 AWG SOLID TINNED COPPER.
4 #2 AWG SOLID TINNED COPPER. (IF GROUNDING POST NOT AVAILABLE)
5 #2 AWG SOLID TINNED COPPER GROUND RING BURIED 30" BELOW GRADE.
6 TOWER ACTS AS CONDUCTOR.
7 TOWER GROUND BARS WILL BE ISOLATED FROM TOWER BUT BONDED TO TOWER WITH #2 AWG INSULATED STRANDED COPPER AND CLAMPED, OR EXOTHERMIC WELD, UNLESS OTHERWISE NOTED.
8 4/0 BRAIDED COPPER STRAP, EXOTHERMIC WELD TO BOTH GATE AND GATE POST.
9 BOND GROUND BAR TO GROUNDING POST USING THROUGH BOLT CONNECTION.
10 #2 AWG INSULATED STRANDED COPPER.
GPS Antenna
@ EQUIPMENT
Coax Ground Kit Cable 1/Feed Line
Main Exterior Ground Bar
@ TOWER
Coax Ground Kit Cable 1/Feed Line
Tower Bottom Ground Bar
Coax Ground Kit Cable 1/Feed Line
Intermediate CIGBE (See Note 7)
(MONOPOLE ONLY)
(MONOPOLE ONLY)
Coax Ground Kit Cable 1/Feed Line (as required)
Tower Top CIGBE (See Note 7)
Tower Ground Ring
Socket CIGBE (See Note 7)
Grounding Post
Grounding Post (Lattice)
Cabinets
Cable Tray
Generator
(OUTDOOR)
Interior Main Grounding Bar
Halo
HVAC Units
Tie Down Plates
(INDOOR)
Ice Bridge
Ice Bridge Posts
Utility Rack
Gate
Gate Post
Fence Corner
Fence
Ground Ring Outside Compound
Power
1 GROUNDING SINGLE LINE DIAGRAM
E10 NOT TO SCALE
A PROPOSED ANTENNA.
B COAX OR HYBRID CABLE GROUNDING KIT, TYPICAL. GROUNDING KITS ARE REQUIRED EVERY 75 FT MAXIMUM EXCEPT WHERE COAX IS CONCEALED INSIDE MONOPOLE OR OTHER INACCESSIBLE SPACE.
C #6 AWG INSULATED GROUNDING CONDUCTOR FROM COAX GROUND KIT TO TOWER GROUND BAR, TYPICAL.
D SECTOR CIGBE GROUND BAR, PROVIDE ONE PER SECTOR NEXT TO ANTENNAS (OPTIONAL ON GUYED TOWERS) AND ISOLATED FROM TOWER. BOND TO TOWER OR SECTOR FRAME WITH #2 AWG SOLID TINNED COPPER AND APPROVED CLAMP. (SEE NOTE P BELOW)
E TOWER TOP CIGBE GROUND BAR MOUNTED TO TOWER WHERE COAX CABLES LEAVE VERTICAL WAVE GUIDE SUPPORT OR COMMON CABLE TRAY. TYPICALLY OCCURS ON GUY TOWERS (IN LIEU OF SECTOR CIGBE'S), ROOFTOPS, OR ON WATER TANKS (THRU-BOLTED TO MESSENGER PIPE) IN ORDER TO MAINTAIN 75 FEET MAXIMUM DISTANCE BETWEEN COAX GROUND KITS. ISOLATE CIGBE FROM TOWER AND BOND TO TOWER WITH #2 AWG BARE SOLID TINNED COPPER AND APPROVED CLAMP. (SEE NOTE P BELOW)
F COAX OR HYBRID CABLE.
G #2 AWG INSULATED, STRANDED COPPER. (SEE NOTE P BELOW)
H INTERMEDIATE CIGBE GROUND BAR MOUNTED TO TOWER BELOW AND WITHIN 3 FEET OF COAX GROUND KITS AND ISOLATED FROM TOWER (THRU-BOLTED TO MESSENGER PIPE ON WATER TANKS). BOND TO TOWER WITH #2 AWG BARE SOLID TINNED COPPER AND APPROVED CLAMP. (SEE NOTE P BELOW)
J TOWER BOTTOM GROUND BAR TDSGA-PA14 ON DEDICATED STEEL POST WHERE POSSIBLE, OTHERWISE TDSGA-BC14 CLAMPED DIRECTLY TO TOWERS STEEL (THRU-BOLTED TO MESSENGER PIPE ON WATER TANKS).
K #2 AWG BARE STRANDED TINNED COPPER GROUNDING CONDUCTOR WHEN USING TDSGA-BC14, TYPICAL TWO CONNECTIONS TO GROUND RING.
L #2 AWG SOLID TINNED COPPER TOWER GROUND RING.
M DRIP LOOP, SEE DETAIL 1/E7.
N TO SHELTER/RF CABINETS.
P IF UNABLE TO CLAMP #2 AWG BARE SOLID TINNED COPPER TO METAL STRUCTURE, THEN RUN #2 AWG INSULATED STRANDED TINNED COPPER FROM CIGBE TO NEXT LOWEST CIGBE. (SEE DETAIL 3/E12).
Q PROPOSED RRU.
R PROPOSED RAYCAP.
TOP OF GRAVEL.
2 COAX-TOWER GROUNDING SCHEMATIC
E10 NOT TO SCALE
verizon
PROJECT INFORMATION:
SITE NAME: TOCCOA HWY
SITE No.: 682071
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY
PLANS PREPARED BY:
Kimley»Horn
SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC. NO.C00165
CERTIFICATE OF AUTHORIZATION
REV. DATE ISSUED FOR BY
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No. 31981
CORBIN C. HARDY
1/20/22
KHA PROJECT NUMBER:
013509328
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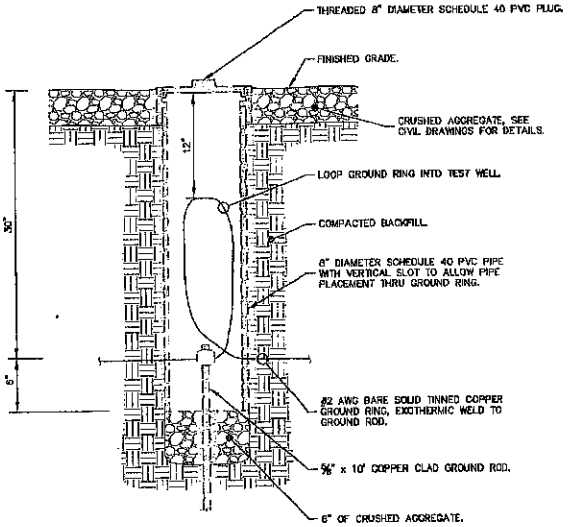
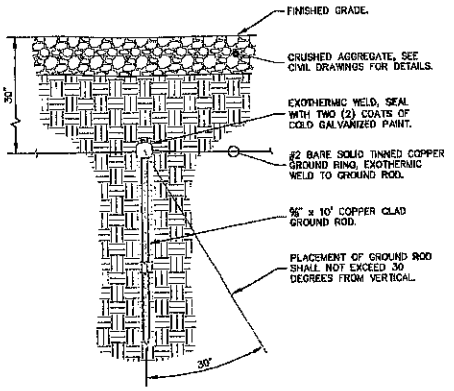
CHECKED BY: DMF
SHEET TITLE:
GROUNDING SINGLE LINE DIAGRAM
SHEET NUMBER:
E10



1 E11 GROUND ROD TEST WELL DETAIL
NOT TO SCALE



2 E11 GROUND ROD INSTALLATION DETAIL
NOT TO SCALE

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PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 882871
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WEST-MINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
Kimley»Horn
11720 AMBER PARK DRIVE, SUITE 600
ALPHARETTA, GA 30009
PHONE: 770-619-1000
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GA license COA1100

SOUTH CAROLINA
KIMLEY-HORN AND ASSOCIATES, INC.
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No. 31981
CORBIN C. HARDY

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JAR	CHP

SHEET TITLE:
GROUNDING DETAILS

SHEET NUMBER:
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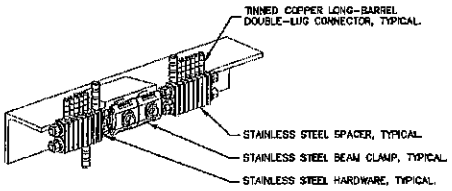
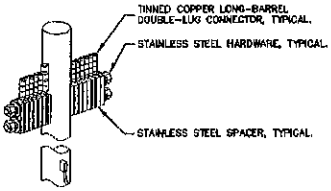
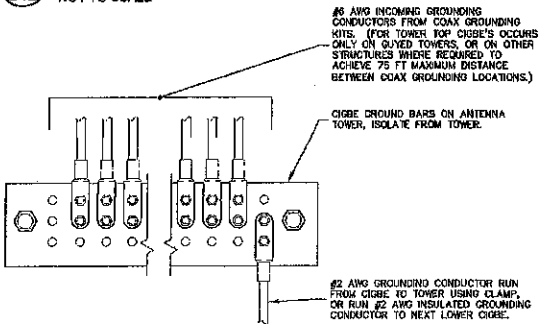


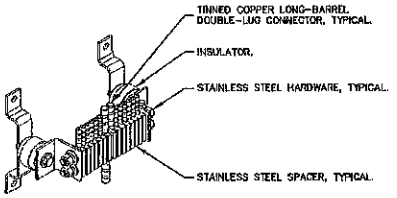
1 E12 BAR NONE GROUNDED BEAM CLAMP (TDSGA-BC14)
NOT TO SCALE



2 E12 BAR NONE POST MOUNTED (TDSGA-PA14)
NOT TO SCALE



3 E12 ANTENNA GROUND WIRE INSTALLATION DETAIL
NOT TO SCALE



4 E12 BAR NONE INSULATED (TDSGA-WB17)
NOT TO SCALE

NOTES:

1. ALL CIGBE GROUND BARS ON TOWER ARE TO BE ERICO TDSGA, TYPICALLY USE TDSGA-WB17 ISOLATED FROM UNISTRUT BRACKET.

2. IF CIGBE CANNOT BE CONNECTED TO TOWER WITH #2 AWG GROUNDING CONDUCTOR, VIA CLAMP OR EXOTHERMIC WELD, THEN RUN #2 AWG BLACK GROUND LEAD FROM CIGBE DOWN TO NEXT LOWER CIGBE. SECURE GROUND LEAD WITH NON-METALIC TIES AT SAME SPACING AS COAX SUPPORTS.

verizon

PROJECT INFORMATION:
SITE NAME:
TOCCOA HWY
SITE No.: 692971
PROJECT #: 20212231136
HOPEWELL CHURCH RD
WESTMINSTER, SC
OCONEE COUNTY

PLANS PREPARED BY:
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1720 PEACHTREE ROAD, SUITE 800
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WWW.KIMLEY-HORN.COM
SC License: COA368

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KIMLEY-HORN AND ASSOCIATES, INC.
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SOUTH CAROLINA PROFESSIONAL ENGINEER
No. 31981
CORBIN C. HARDY
1/20/22

KHA PROJECT NUMBER:
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SHEET TITLE:
GROUNDING DETAILS

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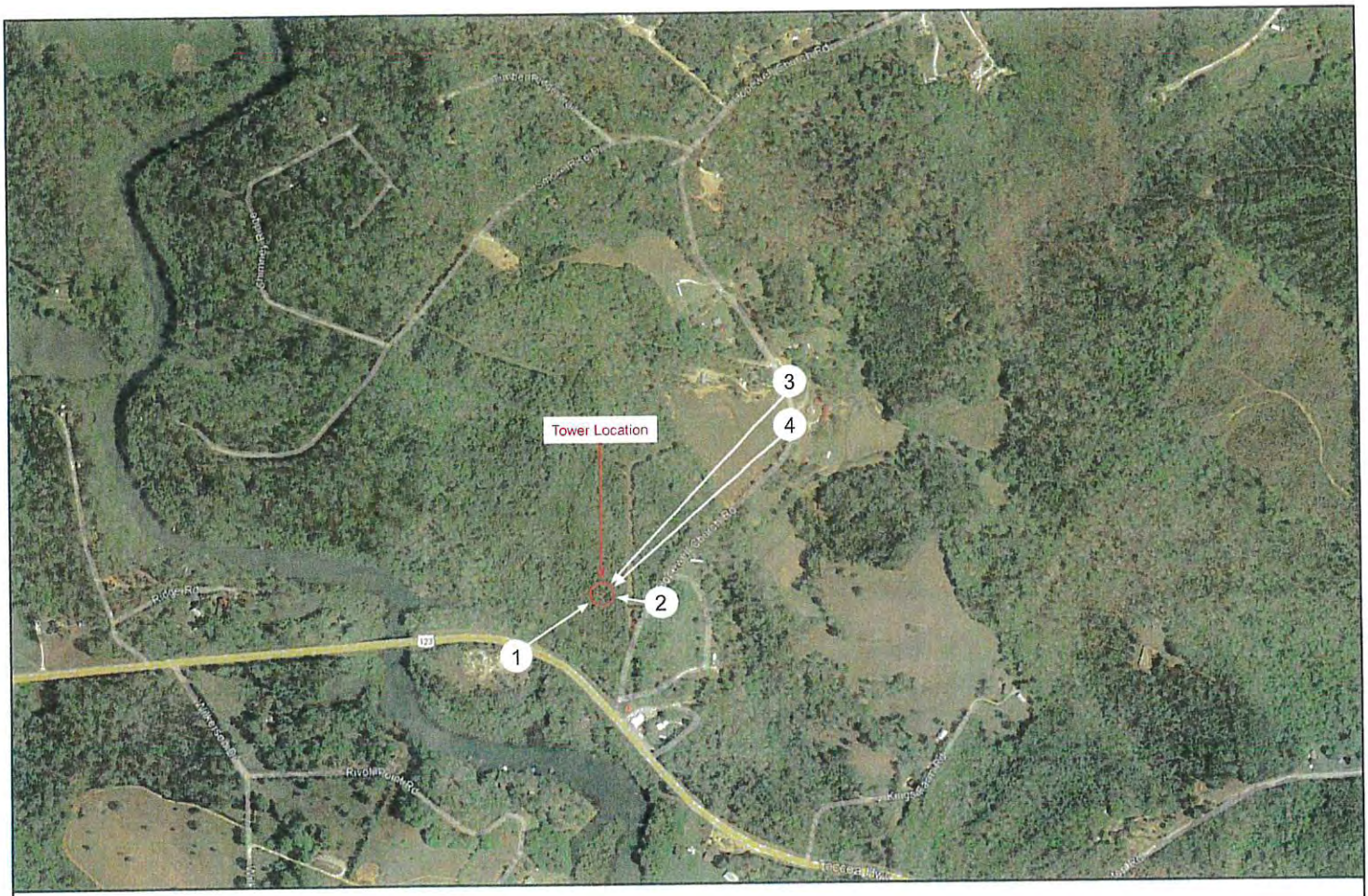


Location Map

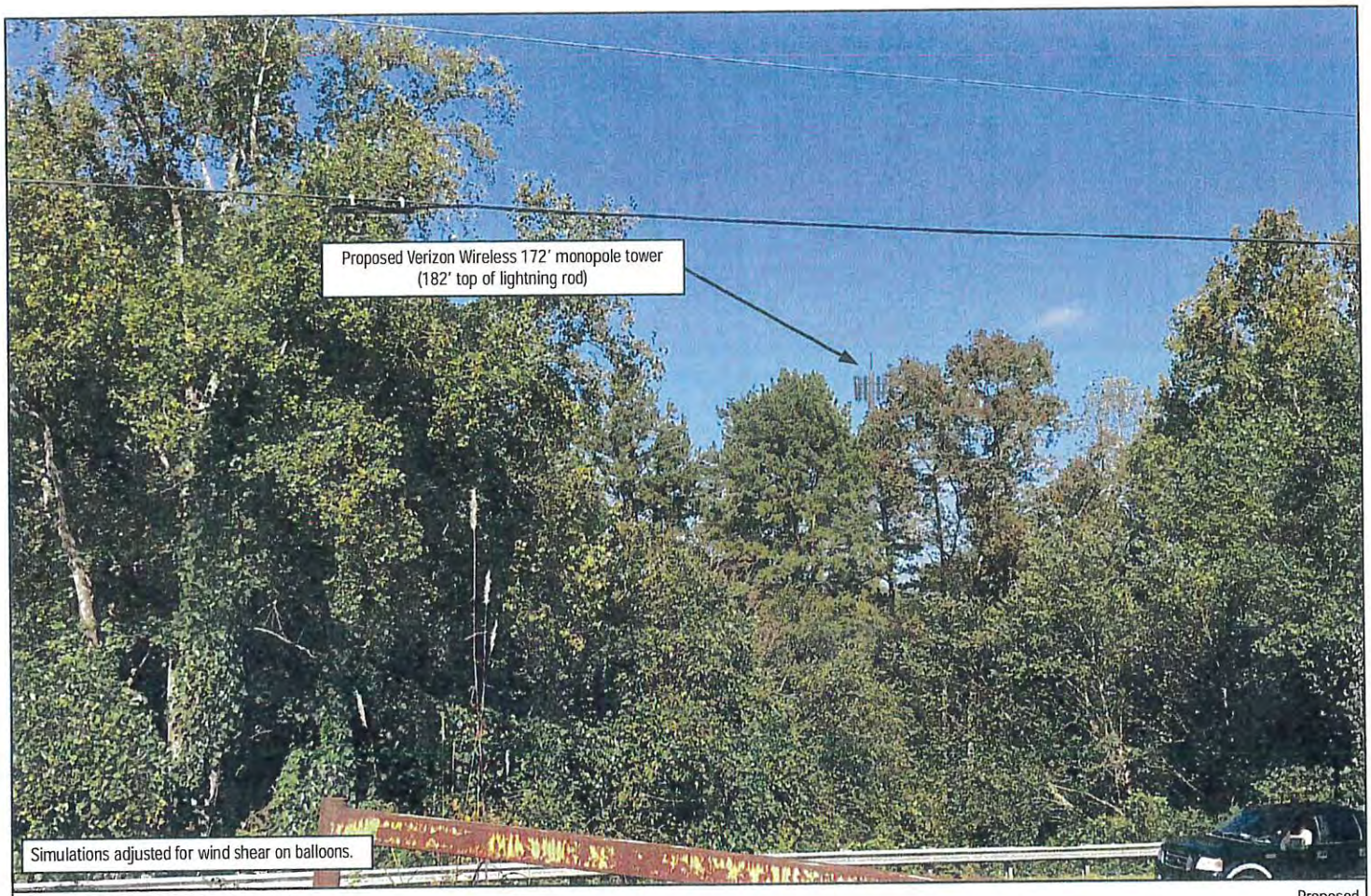
Kimley»Horn

Verizon Wireless - Toccoa Hwy
Hopewell Church Rd
Westminster, SC 29693
Oconee County

verizon

View #1 looking northeast from Hwy 123 — Existing

Kimley»Horn	Verizon Wireless - Toccoa Hwy Hopewell Church Rd Westminster, SC 29693 Oconee County	verizon



View #1 looking northeast from Hwy 123

Proposed

Kimley»Horn	Verizon Wireless - Toccoa Hwy Hopewell Church Rd Westminster, SC 29693 Oconee County	verizon

View #2 looking northwest from Hopewell Church Road

Existing

Kimley»Horn	Verizon Wireless - Toccoa Hwy Hopewell Church Rd Westminster, SC 29693 Oconee County	verizon

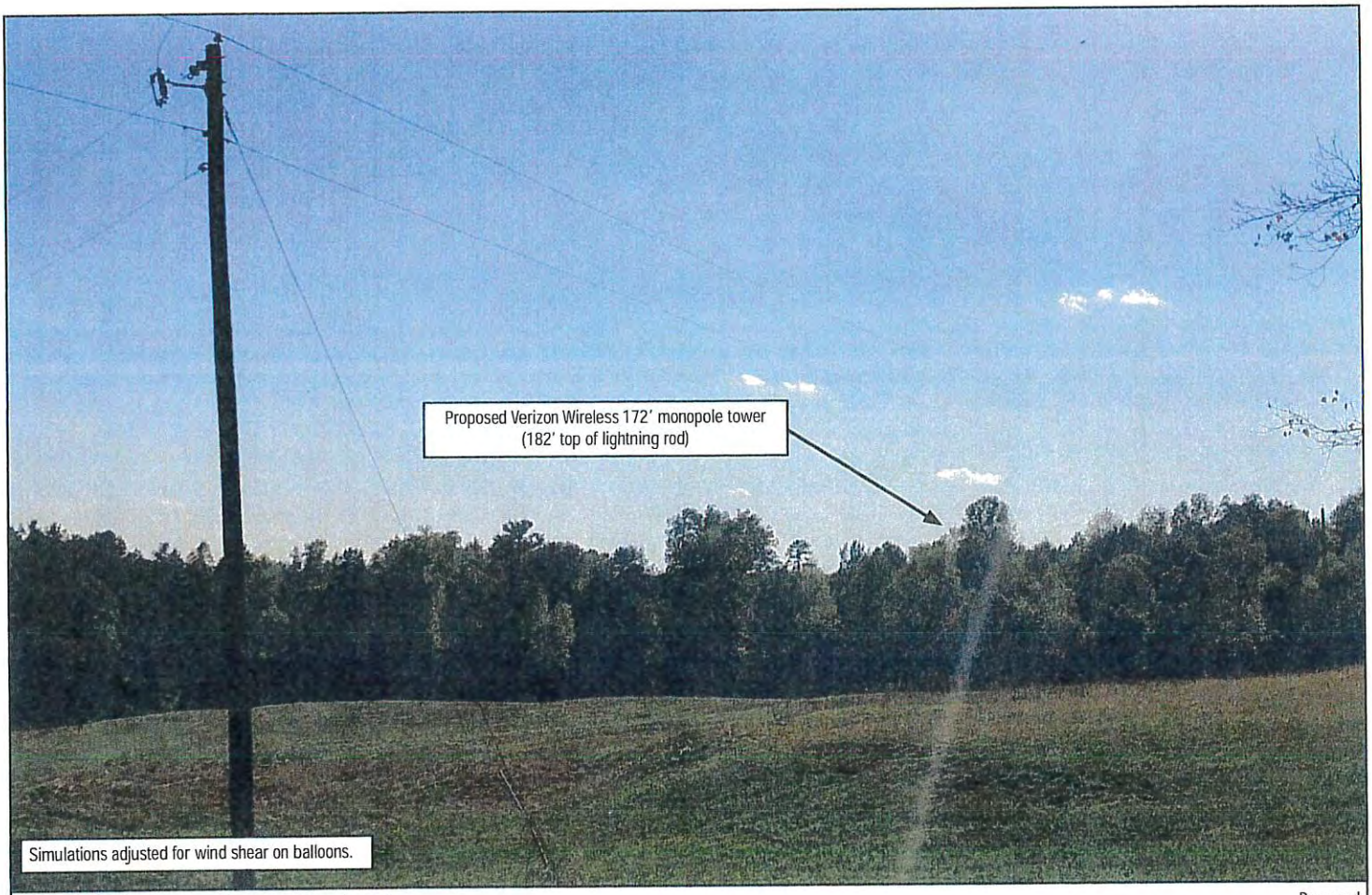
View #2 looking northwest from Hopewell Church Road

Proposed

Kimley»Horn	Verizon Wireless - Toccoa Hwy Hopewell Church Rd Westminster, SC 29693 Oconee County	verizon

View #3 looking southwest from Hopewell Church Road — Existing

Kimley»Horn	Verizon Wireless - Toccoa Hwy Hopewell Church Rd Westminster, SC 29693 Oconee County	verizon



View #3 looking southwest from Hopewell Church Road

Proposed

Kimley»Horn

Verizon Wireless - Toccoa Hwy
Hopewell Church Rd
Westminster, SC 29693
Oconee County

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View #4 looking west southwest from Hopewell Church Road — Existing

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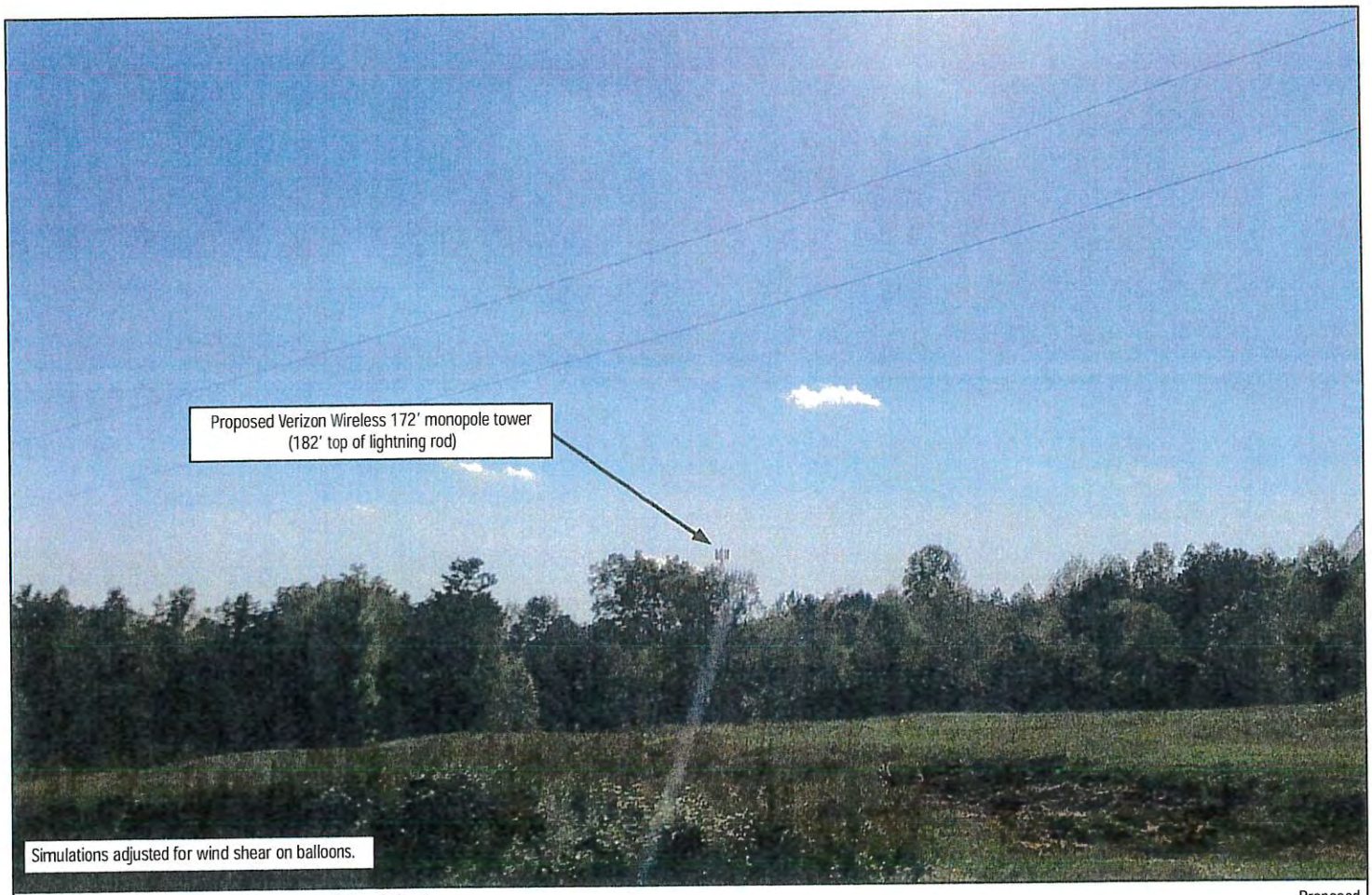


View #4 looking west southwest from Hopewell Church Road

Proposed

Kimley»Horn

Verizon Wireless - Toccoa Hwy
Hopewell Church Rd
Westminster, SC 29693
Oconee County

verizon

Chase
REAL ESTATE SERVICES

October 19, 2021

Vivian Kompier
Oconee Co. Planning Dept.
415 S. Pine Street
Walhalla, SC 29691
PH: 864-964-5109

Subject: Telecommunications Facility Proposal by
Verizon Wireless Site #682871 (Toccoa Hwy)
Oconee County, Special Exception
Hopewell Church Rd, Westminster, SC 29693
Parcel ID: 285-00-05-001

Dear Ms. Kompier,

Pursuant to Sections 32-138 Application Requirements of the Oconee County Ordinance Governing Communication Tower.

32-138: The following information shall be submitted for all applications for approval of a communication tower:

(G) Alternative to co-location or stealth design. Co-located or stealth designs shall be required unless satisfactory documented evidence can be provided indicating that:

(3) The applicant has considered all available publicly-owned sites, and available privately owned sites occupied by a compatible use including all applicable sites or locations or a combination of sites and locations as described under section 32-133(b) for priority of approval and the applicant has demonstrated that for the reasons described in section 32-133(b) that these sites and/or locations are unsuitable for operation of the facility under applicable state and federal communications regulations, the applicant's technical design requirements and/or valid economic reasons.

Please let this letter serve as certification that there are no existing structures or publicly-owned land within Verizon Wireless search area as seen in the attached map on the next page.

Sincerely,

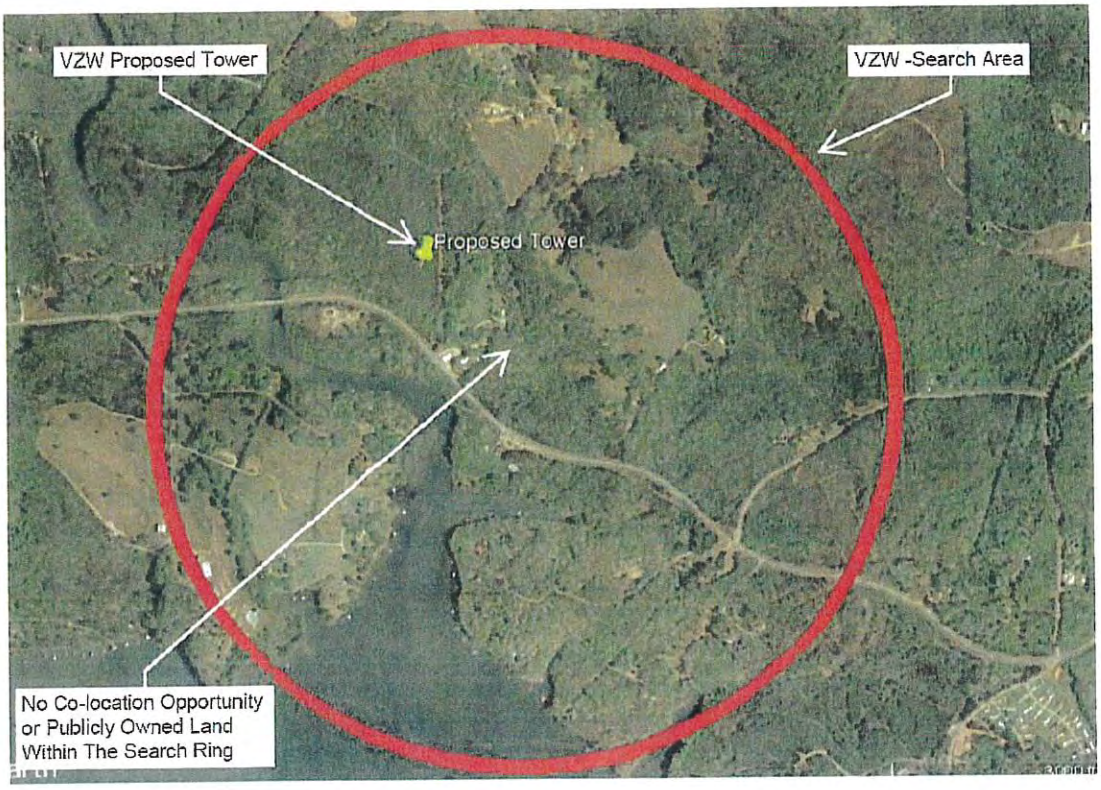
John Yeagley
Site Acquisitions Manager
Chase Real Estate Services

10612 D Providence Rd., Ste 751 • Charlotte, NC 28277 • tel (704) 333-3373

RECEIVED
May 26 2023
SC Court of Appeals

Chase
REAL ESTATE SERVICES

Explanation Map



10612 D Providence Rd., Ste 751 • Charlotte, NC 28277 • tel (704) 333-3373

FCC MARKET NAME	FCC Radio Service Code	FCC Market Number	FCC Channel Block
Greenville-Spartanburg-Anderson, SC-NC	AT	BEA041	H
Greenville-Spartanburg-Anderson, SC-NC	AT	BEA041	I
South Carolina 1 - Oconee	AW	CMA625	A
Southeast	AW	REA002	F
South Carolina 1 - Oconee	CL	CMA625	A
Anderson, SC	CW	BTA016	C
Greenville, SC	PM	PEA050	A1
Greenville, SC	PM	PEA050	A2
Greenville, SC	PM	PEA050	A3
Greenville, SC	PM	PEA050	A4
Greenville, SC	PM	PEA050	A5
Greenville, SC	PM	PEA050	B1
Greenville, SC	PM	PEA050	B2
Greenville, SC	PM	PEA050	B3
C45073 - Oconee, SC	UU	C45073	L1
C45073 - Oconee, SC	UU	C45073	L2
Greenville, SC	UU	PEA050	M1
Greenville, SC	UU	PEA050	M10
Greenville, SC	UU	PEA050	M2
Greenville, SC	UU	PEA050	M3
Greenville, SC	UU	PEA050	M4
Greenville, SC	UU	PEA050	M5
Greenville, SC	UU	PEA050	M6
Greenville, SC	UU	PEA050	M7
Greenville, SC	UU	PEA050	M8
Greenville, SC	UU	PEA050	M9
Southeast	WU	REA002	C

FCC Call Sign	Licensee Name	FRN	Expired Date	State of Market	County State
WQVN945	Cellco Partnership	0003290673	Apr 8, 2027	SC	SC
WQVN946	Cellco Partnership	0003290673	Apr 8, 2027	SC	SC
WQHI466	Cellco Partnership	0003290673	Dec 18, 2021	SC	SC
WQGA716	Cellco Partnership	0003290673	Nov 29, 2021		SC
KNKQ351	Cellco Partnership	0003290673	Oct 1, 2022	SC	SC
WPUD533	Cellco Partnership	0003290673	Dec 29, 2027	SC	SC
WRNE957	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WRNE958	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WRNE959	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WRNE960	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WRNE961	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WRNE962	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WRNE963	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WRNE964	Cellco Partnership	0003290673	Jul 23, 2036	SC	SC
WREF707	Cellco Partnership	0003290673	Oct 2, 2029	SC	SC
WREF708	Cellco Partnership	0003290673	Oct 2, 2029	SC	SC
WRHE343	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE344	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE345	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE346	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE347	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE348	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE349	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE350	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE351	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WRHE352	Straight Path Spectrum, LLC	0012576435	Jun 4, 2030	SC	SC
WQJQ690	Cellco Partnership	0003290673	Jun 13, 2029		SC

County Name	Frequencies(1)	Frequencies(2)	Frequencies(3)	Frequencies(4)
Oconee	1760-1765 / 2160-2165	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	1765-1770 / 2165-2170	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	1715-1720 / 2115-2120	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	1745-1755 / 2145-2155	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	824-835 / 869-880	845-846.5 / 890-891.5	0-0 / 0-0	0-0 / 0-0
Oconee	1900-1905 / 1980-1985	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3700-3720 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3720-3740 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3740-3760 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3760-3780 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3780-3800 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3800-3820 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3820-3840 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	3840-3860 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	27500-27925 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	27925-28350 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	37600-37700 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	38500-38600 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	37700-37800 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	37800-37900 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	37900-38000 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	38000-38100 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	38100-38200 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	38200-38300 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	38300-38400 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	38400-38500 / 0-0	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0
Oconee	746-757 / 776-787	0-0 / 0-0	0-0 / 0-0	0-0 / 0-0

verizonwireless

Verizon Wireless
8921 Research Drive
Charlotte, North Carolina 28262

Phone 704 510-8500

Vivian Kompier
Oconee County Planning & Zoning
415 S. Pine Street,
Walhalla, SC 29691
PH: 864-364-5109

Subject: Proposal by Verizon Wireless Site #682871 (Toccoa Highway)
Oconee County, SC Special Exception Application
Property Located on Hopewell Church Road, Westminster, SC
Parcel ID: 02-0404-001-06-00; Zone Class: CFD

Pursuant to Oconee County Code of Ordinances, Article IV. – Communication Towers Sections 32-138(g) and 32-136:
32-138 (g): Alternative to co-location or stealth design. Co-located or stealth designs shall be required unless satisfactory documented evidence can be provided indicating that:
(1) The proposed antenna and equipment cannot be accommodated and function as required;
(2) The applicant's technical design requirements are such that without unreasonable modifications they cannot function on any existing structure or communication tower under the control of applicant; and
(3) The applicant has considered all available publicly-owned sites, and available privately owned sites occupied by a compatible use, including all applicable sites or locations or a combination of sites and locations., et seq.

32-136: Maximum height allowance in commercial zoning classification – not exceeding 200 feet.

Cellco Partnership d/b/a Verizon Wireless, by its representative, respectfully requests a variance to the requirements in the sections referenced. This proposed new facility will be located within a CFD zone classification and will include an antenna support structure of 172 feet. Applicant states the conditions of the requirements of these sections will cause the equipment to not function as required and will prohibit the effectiveness of its system operation's objective of filling in a coverage gap in this area of Oconee County.

Respectfully submitted,

Anthony B Johnson
Sr. Manager / RE

Representative for Verizon Wireless

Date: 2/14/2022

```
                    ************************************************
                    *            Federal Airways & Airspace        *
                    *         Summary Report: New Construction     *
                    *                Antenna Structure             *
                    ************************************************

                    Airspace User:

                    File: TOCCOA_HWY

                    Location:  Westminster, SC

                    Latitude:  34°-37'-5.37"        Longitude: 83°-9'-53.46"

                    SITE ELEVATION AMSL.....723.9 ft.
                    STRUCTURE HEIGHT.....182 ft.
                    OVERALL HEIGHT AMSL.....906 ft.

 NOTICE CRITERIA
   FAR 77.9(a): NNR (DNE 200 ft AGL)
   FAR 77.9(b): NNR (DNE Notice Slope)
   FAR 77.9(c): NNR (Not a Traverse Way)
   FAR 77.9:    NNR FAR 77.9 IFR Straight-In Notice Criteria for TOC
   FAR 77.9:    NNR (No Expected TERPS® impact with CEU)
   FAR 77.9(d): NNR (Off Airport Construction)

   NR  = Notice Required
   NNR = Notice Not Required
   PNR = Possible Notice Required (depends upon actual IFR procedure)
         For new construction review Air Navigation Facilities at bottom
         of this report.

   Notice to the FAA is not required at the analyzed location and height for
   slope, height or Straight-In procedures. Please review the 'Air Navigation'
   section for notice requirements for offset IFR procedures and EMI.


 OBSTRUCTION STANDARDS
   FAR 77.17(a)(1): DNE 499 ft AGL
   FAR 77.17(a)(2): DNE - Airport Surface
   FAR 77.19(a):    DNE - Horizontal Surface
   FAR 77.19(b):    DNE - Conical Surface
   FAR 77.19(c):    DNE - Primary Surface
   FAR 77.19(d):    DNE - Approach Surface
   FAR 77.19(e):    DNE - Approach Transitional Surface
   FAR 77.19(e):    DNE - Abeam Transitional Surface

 VFR TRAFFIC PATTERN AIRSPACE FOR: TOC: TOCCOA RG LETOURNEAU FLD
 Type: A   RD: 38167.67   RE: 948
   FAR 77.17(a)(1):          DNE
   FAR 77.17(a)(2):          DNE - Greater Than 5.99 NM.
   VFR Horizontal Surface:   DNE
   VFR Conical Surface:      DNE
   VFR Primary Surface:      DNE
   VFR Approach Surface:     DNE
   VFR Transitional Surface: DNE

 VFR TRAFFIC PATTERN AIRSPACE FOR: CEU: OCONEE COUNTY RGNL
 Type: A   RD: 83716.71   RE: 888.1
   FAR 77.17(a)(1):          DNE
   FAR 77.17(a)(2):          DNE - Greater Than 5.99 NM.
   VFR Horizontal Surface:   DNE
   VFR Conical Surface:      DNE
   VFR Primary Surface:      DNE
   VFR Approach Surface:     DNE
   VFR Transitional Surface: DNE

 TERPS DEPARTURE PROCEDURE (FAA Order 8260.3, Volume 4)
   FAR 77.17(a)(3) Departure Surface Criteria (40:1)
   DNE Departure Surface

 MINIMUM OBSTACLE CLEARANCE ALTITUDE (MOCA)
```

FAR 77.17(a)(4): DNE - No Airway Found

PRIVATE LANDING FACILITIES
No Private Landing Facilites Are Within 6 NM

AIR NAVIGATION ELECTRONIC FACILITIES

FAC IDNT	TYPE	ST AT	FREQ	VECTOR	DIST (ft)	DELTA ELEVA	ST	LOCATION	GRND ANGLE	APCH BEAR
ODF	VOR/DME	R	113.4	305.34	48935	-794	SC	FOOTHILLS	-.93	
CEU	NDB	D	25	76.31	86048	+24	SC	CLEMSON	.02	
ELW	VORTAC	I	108.6	122.41	135506	+170	SC	ELECTRIC CITY	.07	

CFR Title 47, §1.30000-§1.30004
AM STUDY NOT REQUIRED: Structure is not near a FCC licensed AM station.
Movement Method Proof as specified in §73.151(c) is not required.
Please review 'AM Station Report' for details.

Nearest AM Station: WNEG @ 15624 meters.

Airspace® Summary Version 21.11.621

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01-26-2022
10:52:56

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 12/08/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105
	E-MAIL ADDRESS:	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
Cellco Partnership dba Verizon Wireless 1095 Avenue of the Americas New York NY 10036 USA	INSURER A: AIU Insurance Company	19399
	INSURER B: National Union Fire Ins Co of Pittsburgh	19445
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 570090505577 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X COMMERCIAL GENERAL LIABILITY			1728890	06/30/2021	06/30/2022	EACH OCCURRENCE	$2,000,000
	CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$2,000,000
	X XCU Coverage is Included						MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	X POLICY [ ] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							
B	AUTOMOBILE LIABILITY			4594298 AOS	06/30/2021	06/30/2022	COMBINED SINGLE LIMIT (Ea accident)	$2,000,000
B	X ANY AUTO			4594299 MA	06/30/2021	06/30/2022	BODILY INJURY (Per person)	
B	OWNED AUTOS ONLY / HIRED AUTOS ONLY / SCHEDULED AUTOS / NON-OWNED AUTOS ONLY			4594300 VA	06/30/2021	06/30/2022	BODILY INJURY (Per accident)	
B				See Next Page	06/30/2021	06/30/2022	PROPERTY DAMAGE (Per accident)	
	UMBRELLA LIAB [ ] OCCUR						EACH OCCURRENCE	
	EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	
	DED RETENTION							
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N			16393209 AOS	06/30/2021	06/30/2022	X PER STATUTE [ ] OTH	
A	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? N	N/A		16393206 CA	06/30/2021	06/30/2022	E.L. EACH ACCIDENT	$2,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	$2,000,000
							E.L. DISEASE-POLICY LIMIT	$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Verizon Wireless Toccoa Hwy. Site (Location Code 682871) to be installed on Hopewell Church Rd., Westminster, Oconee County, South Carolina 29693. KBM Holdings, LLC is included as Additional Insured with respect to the General Liability policy.

CERTIFICATE HOLDER

KBM Property Holdings, LLC
4250 Bakers Farm Place SE
Atlanta GA 30339 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Northeast, Inc.

Holder Identifier :

Certificate No : 570090505577

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AGENCY CUSTOMER ID: 570000027366
LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Aon Risk Services Northeast, Inc.	Cellco Partnership dba Verizon Wireless
POLICY NUMBER: See Certificate Number: 570090505577	
CARRIER: See Certificate Number: 570090505577 / NAIC CODE:	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	AUTOMOBILE LIABILITY							
B				4594301 NH - Primary	06/30/2021	06/30/2022		
B				4594302 NH - Excess	06/30/2021	06/30/2022		
	WORKERS COMPENSATION							
A		N/A		16393207 NY	06/30/2021	06/30/2022		
A		N/A		16393208 WI	06/30/2021	06/30/2022		
A		N/A		16393205 NJ,TX,VA	06/30/2021	06/30/2022		

ACORD 101 (2008/01)
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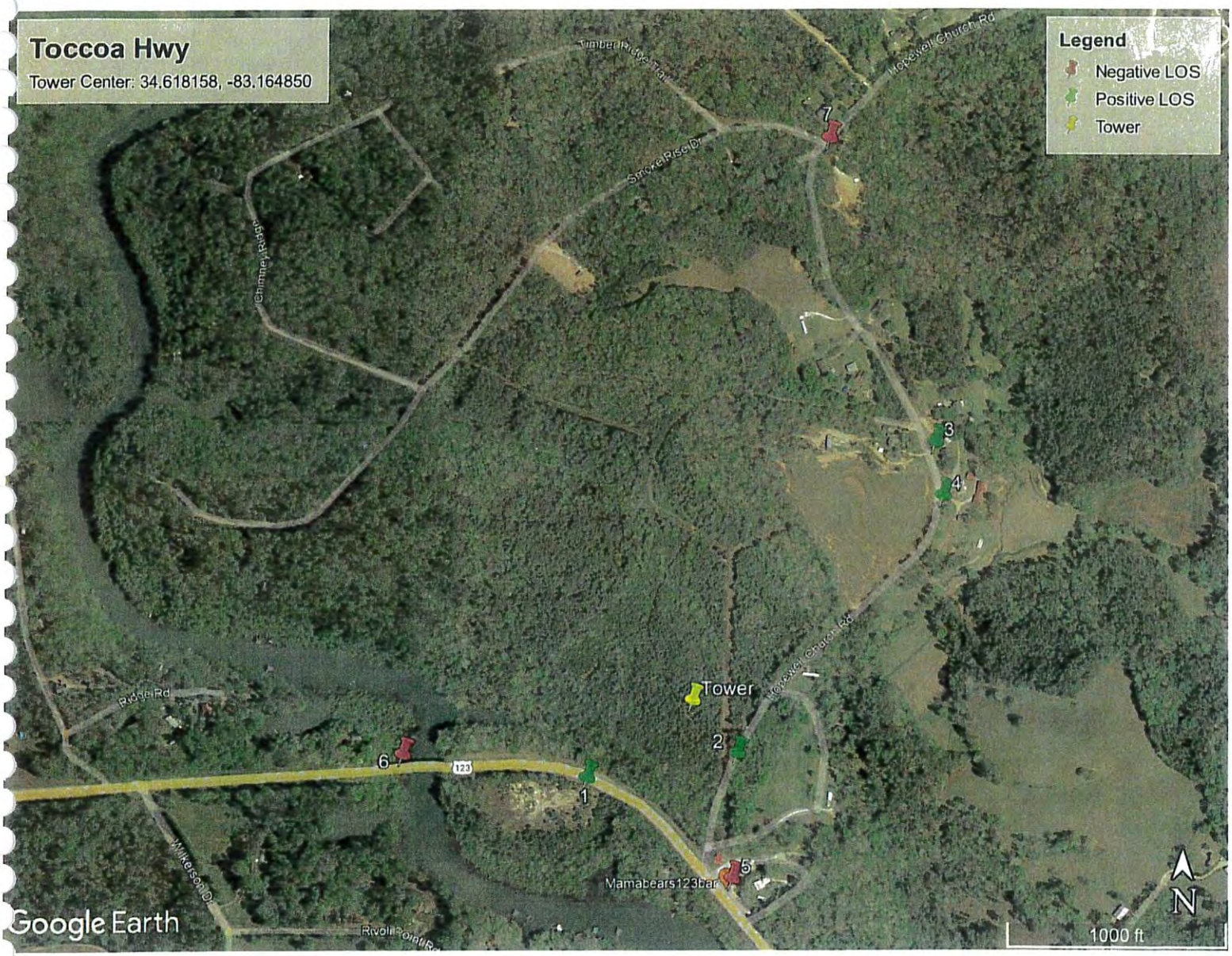
Toccoa Hwy
Tower Center: 34.618158, -83.164850
Legend
Negative LOS
Positive LOS
Tower
Timber Ridge Trl
Hopewell Church Rd
Smoke Rise Dr
Chimney Ridge
Ridge Rd
Tower
Hopewell Church Rd
123
Mikerson Dr
Rivoli Pond Rd
Mamabears123bar
1
2
3
4
5
6
7
Google Earth
1000 ft
N

R. p. 561

DocuSign Envelope ID: AAA19AE5-DB2C-4AD6-99C3-26DA827253B3

LAND LEASE AGREEMENT

This Land Lease Agreement (the "Agreement") is made on this Oct 14, 2021, between KBM PROPERTY HOLDINGS, LLC with a mailing address at 4250 Bakers Farm Place SE, Atlanta, Georgia 30339 hereinafter designated LESSOR and CELLCO PARTNERSHIP d/b/a Verizon Wireless with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, hereinafter designated LESSEE. LESSOR and LESSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party.

WITNESSETH

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. GRANT. In accordance with this Agreement, LESSOR hereby grants to LESSEE the right to install, maintain and operate communications equipment ("Use") upon the Premises (as hereinafter defined), which are a part of that real property owned, leased or controlled by LESSOR on Hopewell Church Rd., Westminster, Oconee County, South Carolina 29693 (the "Property"). The Property is legally described on Exhibit "A" attached hereto and made a part hereof. The Premises are a portion of the Property and are approximately 10,000 square feet, and are shown in detail on Exhibit "B" attached hereto and made a part hereof. LESSEE may survey the Premises. Upon completion, the survey shall replace Exhibit "B" in its entirety.

2. INITIAL TERM. This Agreement shall be effective as of the date of execution by both Parties ("Effective Date"). The initial term of the Agreement shall be for 5 years beginning on the Commencement Date (as hereinafter defined). The "Commencement Date" shall be the first day of the month after LESSEE begins installation of LESSEE's communications equipment. The parties agree to acknowledge the Commencement Date in writing.

3. EXTENSIONS. This Agreement shall automatically be extended for 4 additional 5 year terms unless LESSEE terminates it at the end of the then current term by giving LESSOR written notice of the intent to terminate at least 3 months prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term".

4. RENTAL.

(a). Rental payments shall begin on the Commencement Date and be due at a total annual rental of to be paid in equal monthly installments on the first day of the month, in advance, to LESSOR 4250 Bakers Farm Place SE, Atlanta, Georgia 30339 or to such other person, firm, or place as LESSOR may, from time to time, designate in writing at least 30 days in advance of any rental payment date by notice given in accordance with Paragraph 20 below. LESSOR and LESSEE acknowledge and agree that the initial rental payment may not be delivered by LESSEE until at least 90 days after the Commencement Date. Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

DocuSign Envelope ID: AAA19AE5-DB2C-4AD6-99C3-26DA827253B3

(b). The annual rental for each year of the term (or any extension terms) shall increase on each annual anniversary of the Commencement Date by over the annual rent due for the immediately preceding year.

(c). For any party to whom rental payments are to be made, LESSOR or any successor in interest of LESSOR hereby agrees to provide to LESSEE (i) a completed, current version of Internal Revenue Service Form W-9, or equivalent; (ii) complete and fully executed state and local withholding forms if required; and (iii) other documentation to verify LESSOR's or such other party's right to receive rental as is reasonably requested by LESSEE. Rental shall accrue in accordance with this Agreement, but LESSEE may not deliver rental payments for up to 90 days after the requested documentation has been received by LESSEE.

(d). As additional consideration for this Agreement, the sufficiency of which is hereby acknowledged, LESSEE shall pay LESSOR at 4250 Bakers Farm Place SE, Atlanta, Georgia 30339 a one-time, non-refundable, lump-sum signing bonus of which shall be considered additional rent for the Premises for the period from the Effective Date until the Commencement Date. The signing bonus shall be paid by LESSEE to LESSOR within 90 days of the Effective Date. LESSOR agrees the payment to be made by LESSEE under this Paragraph 4(d) is fair and adequate payment in exchange for LESSEE intentionally delaying installation of LESSEE's communications equipment, and LESSOR recognizes that Paragraph 2 of this Agreement governs the Commencement Date. This Paragraph 4(d) does not impact whether or not LESSEE chooses to install LESSEE's communications equipment and commence the Term.

5. ACCESS. LESSEE shall have the non-exclusive right of ingress and egress from a public right-of-way, 7 days a week, 24 hours a day, over the Property to and from the Premises for the purpose of installation, operation and maintenance of LESSEE's communications equipment over or along one or more rights-of-way (collectively, the "Easement") as depicted on Exhibit "B". LESSEE may use the Easement for the installation, operation and maintenance of wires, cables, conduits and pipes for all necessary electrical, telephone, fiber and other similar support services. In the event it is necessary, LESSOR agrees to grant LESSEE or the provider the right to install such services on, through, over and/or under the Property, provided the location of such services shall be reasonably approved by LESSOR. Notwithstanding anything to the contrary, the Premises shall include such additional space sufficient for LESSEE's radio frequency signage and/or barricades as are necessary to ensure LESSEE's compliance with Laws (as defined in Paragraph 27).

Temporary Construction & Permanent Slope Easement. LESSOR also grants to LESSEE a non-exclusive Temporary Construction & Permanent Slope Easement over the portion the Property immediately adjacent to the Premises and the Easement as may be reasonably required for the construction, installation, maintenance, and operation of the Tower Facilities including: (i) access to the Site for construction machinery and equipment; (ii) storage of construction materials and equipment during construction of the Tower Facilities; (iii) use of a staging area for construction, installation and removal of equipment and (iv) clearing, grading, and sloping the areas adjacent to the Access Easement.

6. CONDITION OF PROPERTY. LESSOR shall deliver the Premises to LESSEE in a condition ready for LESSEE's Use and clean and free of debris. LESSOR represents and warrants to LESSEE that as of the Effective Date, the Premises is (a) in compliance with all Laws; and (b) in compliance with all EH&S Laws (as defined in Paragraph 24).

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7. IMPROVEMENTS. The communications equipment including, without limitation, the tower structure, antennas, conduits, fencing and other screening, and other improvements shall be at LESSEE's expense and installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its communications equipment, tower structure, antennas, conduits, fencing and other screening, or other improvements or any portion thereof and the frequencies over which the communications equipment operates, whether or not any of the communications equipment, antennas, conduits or other improvements are listed on any exhibit so long as such improvements are installed within the bounds of the Premises and Easement.

8. GOVERNMENT APPROVALS. LESSEE's Use is contingent upon LESSEE obtaining all of the certificates, permits and other approvals (collectively the "Government Approvals") that may be required by any Federal, State or Local authorities (collectively, the "Government Entities") as well as a satisfactory soil boring test, environmental studies, or any other due diligence LESSEE chooses that will permit LESSEE's Use. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to LESSEE's Use.

9. TERMINATION. LESSEE may, unless otherwise stated, immediately terminate this Agreement upon written notice to LESSOR in the event that (i) any applications for such Government Approvals should be finally rejected; (ii) any Government Approval issued to LESSEE is canceled, expires, lapses or is otherwise withdrawn or terminated by any Government Entity; (iii) LESSEE determines that such Government Approvals may not be obtained in a timely manner; (iv) LESSEE determines any structural analysis is unsatisfactory; (v) LESSEE, in its sole discretion, determines the Use of the Premises is obsolete or unnecessary; (vii) with 3 months prior notice to LESSOR, upon the annual anniversary of the Commencement Date; or (viii) at any time before the Commencement Date for any reason or no reason in LESSEE's sole discretion.

10. INDEMNIFICATION. Subject to Paragraph 11, each Party and/or any successor and/or assignees thereof, shall indemnify and hold harmless the other Party, and/or any successors and/or assignees thereof, against (i) any and all claims of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of the indemnifying Party, its employees, contractors or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of the other Party, or its employees, contractors or agents, and (ii) reasonable attorney's fees, expense, and defense costs incurred by the indemnified Party. Where a claim is the result of the concurrent acts of the Parties, each Party shall be liable under this Paragraph 10 to the extent of its fault or liability therefor. The indemnified Party will provide the indemnifying Party with prompt, written notice of any claim that is subject to the indemnification obligations in Paragraph 10. The indemnified Party will cooperate appropriately with the indemnifying Party in connection with the indemnifying Party's defense of such claim. The indemnifying Party shall defend any indemnified Party, at the indemnified Party's request, against any claim with counsel reasonably satisfactory to the indemnified Party. The indemnifying Party shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of each indemnified Party and without an unconditional release of all claims by each claimant or plaintiff in favor of each indemnified Party. All indemnification obligations shall survive the termination or expiration of this Agreement.

11. INSURANCE.

(a). The Parties agree that at their own cost and expense, each will maintain commercial general liability insurance with limits of $2,000,000 for bodily injury (including death)

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and property damage each occurrence. The Parties agree to include the other Party as an additional insured as their interests may appear under this Agreement. The Parties hereby waive and release any and all rights of action for negligence against the other which may hereafter arise on account of damage to the Premises or the Property, resulting from any fire, or other casualty which is insurable under "Causes of Loss – Special Form" property damage insurance or for the kind covered by standard fire insurance policies with extended coverage, regardless of whether or not, or in what amounts, such insurance is now or hereafter carried by the Parties, even if any such fire or other casualty shall have been caused by the fault or negligence of the other Party. These waivers and releases shall apply between the Parties and they shall also apply to any claims under or through either Party as a result of any asserted right of subrogation. All such policies of insurance obtained by either Party concerning the Premises or the Property shall waive the insurer's right of subrogation against the other Party.

(b). LESSOR hereby represents that all portions of the Property within three hundred feet (300') of the Premises (hereinafter referred to as the "Insurance Buffer") are currently being used solely for agricultural, forestry or non-commercial purposes. LESSOR's liability insurance requirements set forth in Section 11(a) shall be waived unless the current use of the Insurance Buffer changes during the Term at which time LESSOR shall be immediately required to obtain the liability insurance coverages set forth in Section 11(a).

12. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraphs 10 and 24, a violation of Paragraph 29, or a violation of law, neither Party shall be liable to the other, or any of their respective agents, representatives, or employees for any lost revenue, lost profits, diminution in value of business, loss of technology, rights or services, loss of data, or interruption or loss of use of service, incidental, punitive, indirect, special, trebled, enhanced or consequential damages, even if advised of the possibility of such damages, whether such damages are claimed for breach of contract, tort (including negligence), strict liability or otherwise, unless applicable law forbids a waiver of such damages.

13. INTERFERENCE.

(a). LESSEE agrees that LESSEE will not cause interference that is measurable in accordance with industry standards to LESSOR's equipment. LESSOR agrees that LESSOR and other occupants of the Property will not cause interference that is measurable in accordance with industry standards to the then existing equipment of LESSEE.

(b). Without limiting any other rights or remedies, if interference occurs and continues for a period in excess of 48 hours following notice to the interfering party via telephone to LESSEE'S Network Operations Center at (800) 621-2622 or to LESSOR at (404) 992-8813, the interfering party shall or shall require any other user to reduce power or cease operations of the interfering equipment until the interference is cured.

(c). The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore the Parties shall have the right to equitable remedies such as, without limitation, injunctive relief and specific performance.

14. REMOVAL AT END OF TERM. Upon expiration or within 90 days of earlier termination, LESSEE shall remove LESSEE's Communications Equipment (except footings which shall be removed to at

least 2 feet below grade level) and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that the communications equipment shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes LESSEE to remain on the Premises after termination of the Agreement, LESSEE shall pay rent in accordance with Paragraph 15.

15. HOLDOVER. If LESSEE holds over after the expiration or earlier termination of the Term, then this Agreement shall continue on a month to month basis at the then existing monthly rental rate or the existing monthly pro-rata basis if based upon a longer payment term, until the removal of the communications equipment is completed.

16. RIGHT OF FIRST REFUSAL. If at any time after the Effective Date, LESSOR receives an offer or letter of intent from any person or entity that is in the business of owning, managing or operating communications facilities or is in the business of acquiring landlord interests in agreements relating to communications facilities, to purchase fee title, an easement, a lease, a license, or any other interest in the Premises or any portion thereof or to acquire any interest in this Agreement, or an option for any of the foregoing, LESSOR shall provide written notice to LESSEE of said offer ("LESSOR's Notice"). LESSOR's Notice shall include the prospective buyer's name, the purchase price being offered, any other consideration being offered, the other terms and conditions of the offer, a description of the portion of and interest in the Premises and/or this Agreement which will be conveyed in the proposed transaction, and a copy of any letters of intent or form agreements presented to LESSOR by the third party offeror. LESSEE shall have the right of first refusal to meet any bona fide offer of sale or transfer on the terms and conditions of such offer or by effectuating a transaction with substantially equivalent financial terms. If LESSEE fails to provide written notice to LESSOR that LESSEE intends to meet such bona fide offer within 30 days after receipt of LESSOR's Notice, LESSOR may proceed with the proposed transaction in accordance with the terms and conditions of such third party offer, in which event this Agreement shall continue in full force and effect and the right of first refusal described in this Paragraph shall survive any such conveyance to a third party. If LESSEE provides LESSOR with notice of LESSEE's intention to meet the third party offer within 60 days after receipt of LESSOR's Notice, then if LESSOR's Notice describes a transaction involving greater space than the Premises, LESSEE may elect to proceed with a transaction covering only the Premises and the purchase price shall be pro-rated on a square footage basis. Further, LESSOR acknowledges and agrees that if LESSEE exercises this right of first refusal, LESSEE may require a reasonable period of time to conduct due diligence and effectuate the closing of a transaction on substantially equivalent financial terms of the third party offer. LESSEE may elect to amend this Agreement to effectuate the proposed financial terms of the third party offer rather than acquiring fee simple title or an easement interest in the Premises. For purposes of this Paragraph, any transfer, bequest or devise of LESSOR's interest in the Property as a result of the death of LESSOR, whether by will or intestate succession, or any conveyance to LESSOR's family members by direct conveyance or by conveyance to a trust for the benefit of family members shall not be considered a sale for which LESSEE has any right of first refusal.

17. RIGHTS UPON SALE. Should LESSOR, at any time during the Term, decide (i) to sell or otherwise transfer all or any part of the Property, or (ii) to grant to a third party by easement or other legal instrument an interest in and to any portion of the Premises, such sale, transfer, or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder. In the event that LESSOR completes any such sale,

transfer, or grant described in this Paragraph without executing an assignment of the Agreement whereby the third party agrees in writing to assume all obligations of LESSOR under this Agreement, then LESSOR shall not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of the Agreement.

18. LESSOR'S TITLE. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises. LESSOR represents and warrants to LESSEE as of the Effective Date and covenants during the Term that LESSOR has full authority to enter into and execute this Agreement and that there are no liens, judgments, covenants, easement, restrictions or other impediments of title that will adversely affect LESSEE's Use.

19. ASSIGNMENT. This Agreement may be sold, assigned or transferred by LESSEE without any approval or consent of LESSOR. Without any approval or consent of LESSEE, this Agreement may be sold, assigned or transferred by LESSOR to (i) any entity in which LESSOR directly or indirectly holds an equity or similar interest; (ii) any entity which directly or indirectly holds an equity or similar interest in LESSOR; or (iii) any entity directly or indirectly under common control with LESSOR. As to other parties, this Agreement may not be sold, assigned or transferred by LESSOR without the written consent of LESSEE, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of either Party shall constitute an assignment hereunder. LESSEE may sublet the Premises in LESSEE's sole discretion.

20. NOTICES. Except for notices permitted via telephone in accordance with Paragraph 13, all notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: KBM Property Holdings, LLC
4250 Bakers Farm Place SE
Atlanta, Georgia 30339

LESSEE: Cellco Partnership
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

21. SUBORDINATION AND NON-DISTURBANCE. Within 15 days of the Effective Date, LESSOR shall obtain a Non-Disturbance Agreement (as defined below) from existing mortgagee(s), ground lessors and master lessors, if any, of the Property. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and

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attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's rights under this Agreement. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Property, Lender or such successor-in-interest or Purchaser will honor all of the terms of the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights, titles, liens and equities of the holders of such mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

22. DEFAULT. It is a "Default" if (i) either Party fails to comply with this Agreement and does not remedy the failure within 30 days after written notice by the other Party or, if the failure cannot reasonably be remedied in such time, if the failing Party does not commence a remedy within the allotted 30 days and diligently pursue the cure to completion within 90 days after the initial written notice, or (ii) LESSOR fails to comply with this Agreement and the failure interferes with LESSEE's Use and LESSOR does not remedy the failure within 5 days after written notice from LESSEE or, if the failure cannot reasonably be remedied in such time, if LESSOR does not commence a remedy within the allotted 5 days and diligently pursue the cure to completion within 15 days after the initial written notice. The cure periods set forth in this Paragraph 22 do not extend the period of time in which either Party has to cure interference pursuant to Paragraph 13 of this Agreement.

23. REMEDIES. In the event of a Default, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate this Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Property is located. Further, upon a Default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor. If LESSEE undertakes any such performance on LESSOR's behalf and LESSOR does not pay LESSEE the full amount within 30 days of its receipt of an invoice setting forth the amount due, LESSEE may offset the full amount due against all fees due and owing to LESSOR under this Agreement until the full amount is fully reimbursed to LESSEE.

24. ENVIRONMENTAL. LESSEE shall conduct its business in compliance with all applicable laws governing the protection of the environment or employee health and safety ("EH&S Laws"). LESSEE shall indemnify and hold harmless the LESSOR from claims to the extent resulting from LESSEE's violation of any applicable EH&S Laws or to the extent that LESSEE causes a release of any regulated substance to the environment. LESSOR shall indemnify and hold harmless LESSEE from all claims resulting from the

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violation of any applicable EH&S Laws or a release of any regulated substance to the environment except to the extent resulting from the activities of LESSEE. The Parties recognize that LESSEE is only leasing a small portion of the Property and that LESSEE shall not be responsible for any environmental condition or issue except to the extent resulting from LESSEE's specific activities and responsibilities. In the event that LESSEE encounters any hazardous substances that do not result from its activities, LESSEE may relocate its facilities to avoid such hazardous substances to a mutually agreeable location or, if LESSEE desires to remove at its own cost all or some the hazardous substances or materials (such as soil) containing those hazardous substances, LESSOR agrees to sign any necessary waste manifest associated with the removal, transportation and/or disposal of such substances.

25. CASUALTY. If a fire or other casualty damages the Property or the Premises and impairs LESSEE's Use, rent shall abate until LESSEE'S Use is restored. If LESSEE's Use is not restored within 45 days, LESSEE may terminate this Agreement.

26. CONDEMNATION. If a condemnation of any portion of the Property or Premises impairs LESSEE's Use, LESSEE may terminate this Agreement. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to LESSEE's communications equipment, relocation costs and, specifically excluding loss of LESSEE's leasehold interest, any other damages LESSEE may incur as a result of any such condemnation.

27. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property in compliance with all applicable laws, EH&S Laws, rules, regulations, ordinances, directives, covenants, easements, consent decrees, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (i) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises; and (ii) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises. It shall be LESSOR's obligation to comply with all Laws relating to the Property, without regard to specific use (including, without limitation, modifications required to enable LESSEE to obtain all necessary building permits).

28. TAXES.

(a). LESSOR shall invoice and LESSEE shall pay any applicable transaction tax (including sales, use, gross receipts, or excise tax) imposed on the LESSEE and required to be collected by the LESSOR based on any service, rental space, or equipment provided by the LESSOR to the LESSEE. LESSEE shall pay all personal property taxes, fees, assessments, or other taxes and charges imposed by any Government Entity that are imposed on the LESSEE and required to be paid by the LESSEE that are directly attributable to the LESSEE's equipment or LESSEE's use and occupancy of the Premises. Payment shall be made by LESSEE within 60 days after presentation of a receipted bill and/or assessment notice which is the basis for such taxes or charges. LESSOR shall pay all ad valorem, personal property, real estate, sales and use taxes, fees, assessments or other taxes or charges that are attributable to LESSOR's Property or any portion thereof imposed by any Government Entity.

(b). LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly

or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

29. NON-DISCLOSURE. Other than the recordation of a Memorandum of this Agreement, the Parties agree this Agreement and any information exchanged between the Parties regarding the Agreement are confidential. The Parties agree not to provide copies of this Agreement or any confidential information to any other third party other than an attorney representing the Party or a permitted assignee of rights under this Agreement without the prior written consent of the other or as required by law. If a disclosure is required by law, prior to disclosure, the Party shall notify the other Party and cooperate to take lawful steps to resist, narrow, or eliminate the need for that disclosure.

30. MOST FAVORED LESSEE. LESSOR represents and warrants that the rent, benefits and terms and conditions granted to LESSEE by LESSOR hereunder are now and shall be, during the Term, no less favorable than the rent, benefits and terms and conditions for substantially the same or similar tenancies or licenses granted by LESSOR to other parties. If at any time during the Term LESSOR shall offer more favorable rent, benefits or terms and conditions for substantially the same or similar tenancies or licenses as those granted hereunder, then LESSOR shall, within 30 days after the effective date of such offering, notify LESSEE of such fact and offer LESSEE the more favorable offering. If LESSEE chooses, the parties shall then enter into an amendment that shall be effective retroactively to the effective date of the more favorable offering, and shall provide the same rent, benefits or terms and conditions to LESSEE. LESSEE shall have the right to decline to accept the offering. LESSOR's compliance with this requirement shall be subject, at LESSEE's option, to independent verification.

31. MISCELLANEOUS. This Agreement contains all agreements, promises and understandings between the LESSOR and the LESSEE regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the LESSOR or the LESSEE in any dispute, controversy or proceeding. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement shall be governed, interpreted, construed and regulated by the laws of the state in which the Premises is located without reference to its choice of law rules. Except as expressly set forth in this Agreement, nothing in this Agreement shall grant, suggest or imply any authority for one Party to use the name, trademarks, service marks or trade names of the other for any purpose whatsoever. LESSOR agrees to execute a Memorandum of this Agreement, which LESSEE may record with the appropriate recording officer. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement.

[Signature page follows. The remainder of this page is intentionally blank.]

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

LESSOR:

KBM PROPERTY HOLDINGS, LLC

9/27/2021
Witness (1)

By: _____

Print Name: KATHERINE B. MAXWELL

Print Title: PRINCIPAL

Witness (2)

Date: 09/27/2021

LESSEE:

CELLCO PARTNERSHIP d/b/a Verizon Wireless

DocuSigned by:
Charika Johnson
Witness (1)

By: DocuSigned by:
Eric Mann
Eric A. Mann

DocuSigned by:
joseph guyer
Witness (2)

Director-Network Field Engineering

Date: Oct 14, 2021

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EXHIBIT "A"

DESCRIPTION OF PROPERTY

Property located in Oconee County, South Carolina

Parcel 1:

All that certain piece, parcel or tract of land lying and being in Oconee County, South Carolina, containing approximately 23.51 acres as shown on plat of Jerry E. Byrd, RLS #8097, dated June 18, 1992, and recorded September 17, 1993 in Plat Book A217, page 5, records of Oconee County, South Carolina.

LESS AND EXCEPT:

All that certain place, parcel or lot of land situate, lying and being in the State and County aforesaid West of the Town of Westminster on Willard King Road and lot #3 of Harbin's Harbors; beginning at Northwest corner of lot #3 and running East +/- 501.5 feet to iron pin on Lee line, hence South along Lee line +/- 180 feet to iron pin, hence West +/- 492 feet to iron pin, hence North +/- 180 feet to iron pin and point of beginning and containing +/- 2 acres.

Parcel 2:

All that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Oconee, and beginning at an iron pin on Southwest corner and running North 74.9 feet to an iron pin, thence South 117.46 feet to an iron pin; thence Southwest 154.15 feet to an iron pin and point of beginning and containing, more or less, .10 acres shown by plat recorded September 17, 1993 in Volume A217, page 5 and certified.

Parcel 3:

All that certain piece, parcel or tract lying and being in Oconee County, South Carolina, and containing Four (4) acres, more or less, and being described, to wit: BEGINNING at the Southeastern most corner of an approximately 33.7 acre tract on or near Chauga River, now or formerly of titled in the name of W. J. Harbin, et al, at a point on, in or adjacent to SC Highway 68; thence in a Northwesterly direction along the Northern most boundary of the 33.7 acre tract, a distance of 417 feet; thence turning ninety degrees (90 degrees) in a Southwesterly direction and continuing in a straight line a distance of 417 feet; thence turning ninety degrees (90 degrees) in a Southeasterly direction and continuing in a straight line a distance of 417 feet to a point on, in or adjacent to SC Highway 68; thence in a Northeasterly direction along SC Highway 68 to point of beginning. The property being conveyed herein contains approximately Four (4) acres and lies in the easternmost corner of that parcel of land denoted on the tax maps of Oconee County as Parcel #285—00-05-001.

AND BEING a portion of the property conveyed to KBM Property Holdings, LLC, from Katherine Barrett Maxwell by Title to Real Estate dated June 17, 2009 and recorded June 23, 2009 in Deed Book 1724, Page 261.

Tax Parcel No. 285-00-05-001

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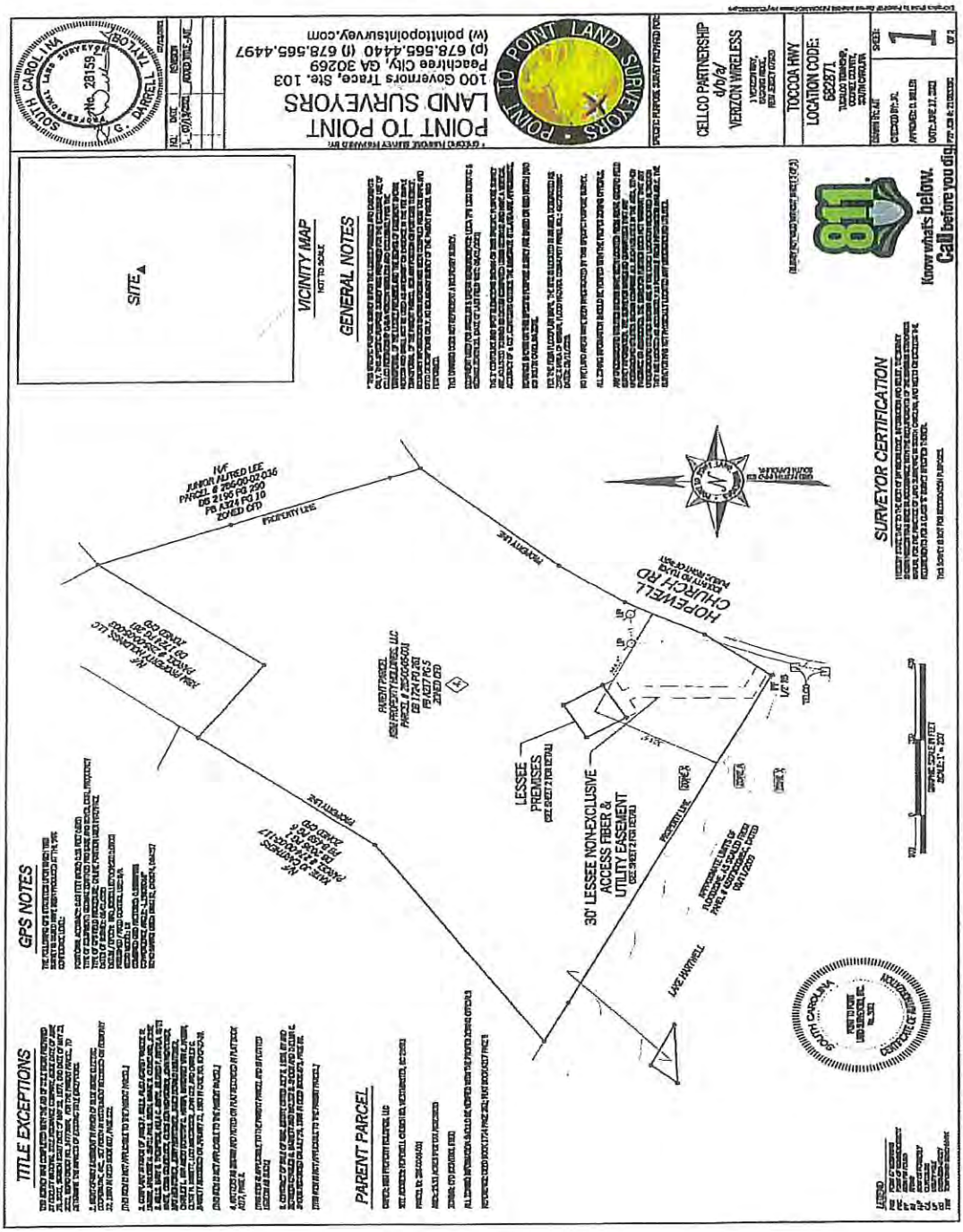
EXHIBIT "B" (Page 1 of 4)

SURVEY AND LEGAL DESCRIPTION OF THE PREMISES AND EASEMENT



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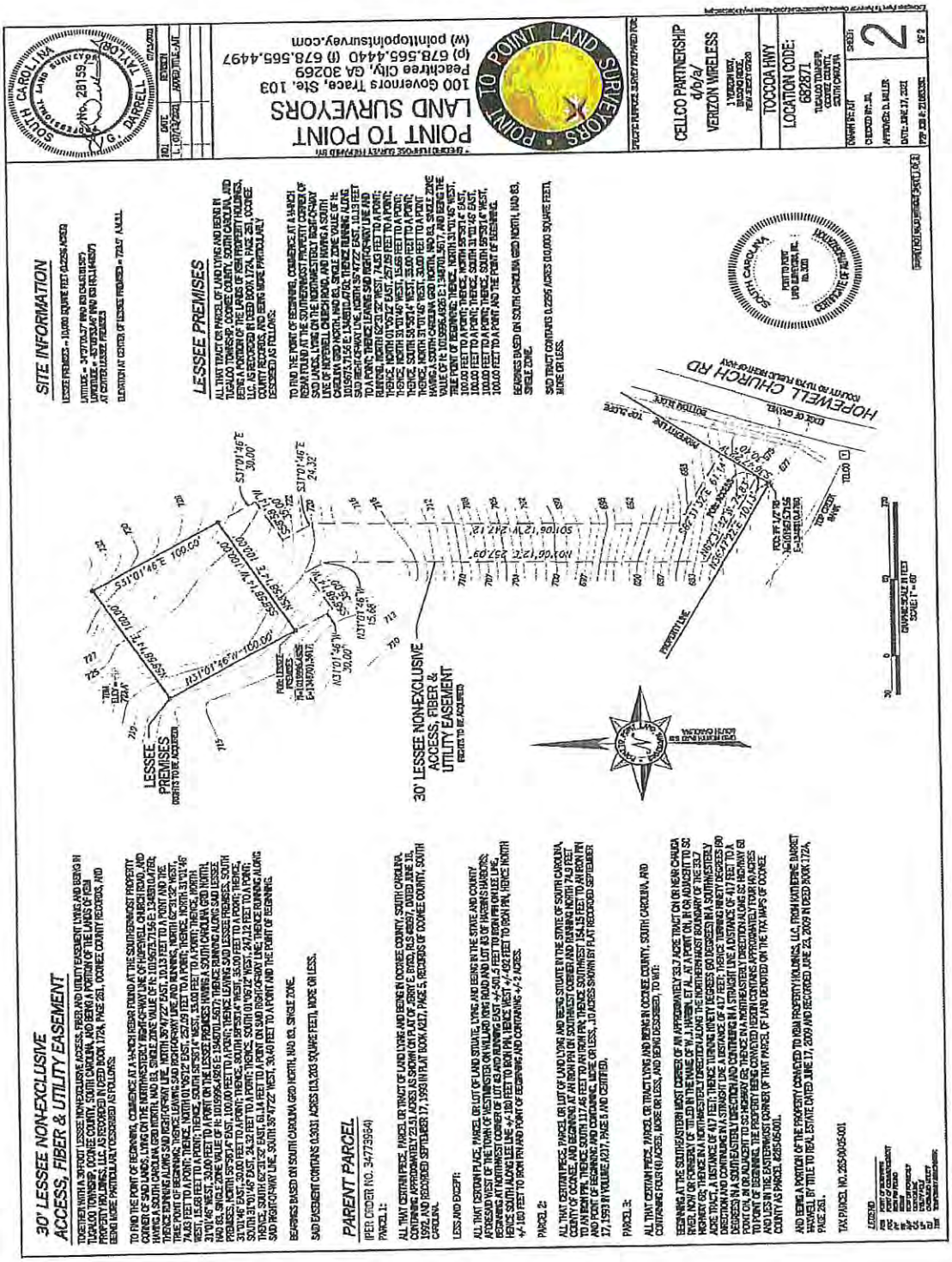

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EXHIBIT "B" (Page 3 of 4)

LEGAL DESCRIPTION OF THE PREMISES

PREMISES:

All that tract or parcel of land lying and being in Tugaloo Township, Oconee County, South Carolina, and being a portion of the lands of KBM Property Holdings, LLC, as recorded in Deed Book 1724, Page 261, Oconee County records, and being more particularly described as follows:

To find the point of beginning, COMMENCE at a ½-inch rebar found at the southernmost property corner of said lands, lying on the northwesterly right-of-way line of Hopewell Church Road, and having a South Carolina Grid North, NAD 83, Single Zone value of N: 1019675.7156 E: 1348810.4760; thence running along said right-of-way line, North 36°47'22" East, 10.13 feet to a point; thence leaving said right-of-way line and running, North 62°31'32" West, 74.83 feet to a point; thence, North 01°06'12" East, 257.09 feet to a point; thence, North 31°01'46" West, 15.68 feet to a point; thence, South 58°58'14" West, 35.00 feet to a point; thence, North 31°01'46" West, 30.00 feet to a point having a South Carolina Grid North, NAD 83, Single Zone value of N: 1019996.4926 E: 1348701.5617, and being the true POINT OF BEGINNING; Thence, North 31°01'46" West, 100.00 feet to a point; Thence, North 58°58'14" East, 100.00 feet to a point; Thence, South 31°01'46" East, 100.00 feet to a point; Thence, South 58°58'14" West, 100.00 feet to a point and the POINT OF BEGINNING. Bearings based on South Carolina Grid North, NAD 83, Single Zone.

Said tract contains 0.2296 acres (10,000 square feet), more or less, as shown in a survey prepared for Cellco Partnership d/b/a Verizon Wireless by POINT TO POINT LAND SURVEYORS, INC. dated June 17, 2021, and last revised July 13, 2021.

EASEMENT:

Together with an Easement lying and being in Tugaloo Township, Oconee County, South Carolina, and being a portion of the lands of KBM Property Holdings, LLC, as recorded in Deed Book 1724, Page 261, Oconee County records, and being more particularly described as follows:

To find the point of beginning, COMMENCE at a ½-inch rebar found at the southernmost property corner of said lands, lying on the northwesterly right-of-way line of Hopewell Church Road, and having a South Carolina Grid North, NAD 83, Single Zone value of N: 1019675.7156 E: 1348810.4760; thence running along said right-of-way line, North 36°47'22" East, 10.13 feet to a point and the true POINT OF BEGINNING; Thence leaving said right-of-way line and running, North 62°31'32" West, 74.83 feet to a point; Thence, North 01°06'12" East, 257.09 feet to a point; Thence, North 31°01'46" West, 15.68 feet to a point; Thence, South 58°58'14" West, 35.00 feet to a point; Thence, North 31°01'46" West, 30.00 feet to a point on the Lessee Premises having a South Carolina Grid North, NAD 83, Single Zone value of N: 1019996.4926 E: 1348701.5617; Thence running along said Lessee Premises, North 58°58'14" East, 100.00 feet to a point; Thence leaving said Lessee Premises, South 31°01'46" East, 30.00 feet to a point; Thence, South 58°58'14" West, 35.00 feet to a point; Thence, South 31°01'46" East, 24.32 feet to a point; Thence, South 01°06'12" West, 247.12 feet to a point; Thence, South 62°31'32" East, 61.14 feet to a point on said right-of-way line; Thence running along said right-of-way line, South 36°47'22" West, 30.40 feet to a point and the POINT OF BEGINNING. Bearings based on South Carolina Grid North, NAD 83, Single Zone.

DocuSign Envelope ID: AAA19AE5-DB2C-4AD6-99C3-26DA827253B3

EXHIBIT "B" (Page 4 of 4)

Said easement contains 0.3031 acres (13,203 square feet), more or less, as shown in a survey prepared for Cellco Partnership d/b/a Verizon Wireless by POINT TO POINT LAND SURVEYORS, INC. dated June 17, 2021, and last revised July 13, 2021.

DocuSign

Certificate Of Completion

Envelope Id: AAA19AE5DB2C4AD699C326DA827253B3
Status: Completed
Subject: Toccoa Hwy / 1539753 / 10142021 / Director
Source Envelope:
Document Pages: 15 Signatures: 3
Certificate Pages: 5 Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Josh Bernstein
Josh.Bernstein@Verizonwireless.com
IP Address: 69.78.100.102

Record Tracking

Status: Original
10/14/2021 6:37:22 AM
Holder: Josh Bernstein
Josh.Bernstein@Verizonwireless.com
Location: DocuSign

Signer Events	Signature	Timestamp
Eric Mann Eric.Mann@verizonwireless.com Director, Network Field Engineering Security Level: Email, Account Authentication (None)	DocuSigned by: Eric Mann PB5E8AEEAAF8445 Signature Adoption: Pre-selected Style Using IP Address: 69.78.66.89	Sent: 10/14/2021 6:40:38 AM Viewed: 10/14/2021 7:55:55 AM Signed: 10/14/2021 7:56:16 AM
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Charika Johnson vzwsare-1stwitness@verizonwireless.com Eng II - RE/Regulatory Security Level: Email, Account Authentication (None)	DocuSigned by: Charika Johnson 1A0FF3FEF19B4B... Signature Adoption: Pre-selected Style Using IP Address: 162.115.44.101	Sent: 10/14/2021 7:56:18 AM Viewed: 10/14/2021 8:02:25 AM Signed: 10/14/2021 8:02:41 AM
Electronic Record and Signature Disclosure: Accepted: 10/14/2021 8:02:25 AM ID: ab89ebb6-f89e-48ed-9930-29d3d6c039ed		
Joseph guyer vzwsare-2ndWitness@VerizonWireless.com Engr II Spec-RE/Regulatory Security Level: Email, Account Authentication (None)	DocuSigned by: Joseph guyer 6B1AC63326B044A... Signature Adoption: Pre-selected Style Using IP Address: 162.115.44.6	Sent: 10/14/2021 8:02:43 AM Viewed: 10/14/2021 9:26:38 AM Signed: 10/14/2021 9:27:01 AM
Electronic Record and Signature Disclosure: Accepted: 10/14/2021 9:26:38 AM ID: aa36d894-4bc4-4421-8ca6-859ea1d4d3bb		

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	**Status**	**Timestamp**
Agent Delivery Events	**Status**	**Timestamp**
Intermediary Delivery Events	**Status**	**Timestamp**
Certified Delivery Events	**Status**	**Timestamp**

Carbon Copy Events	Status	Timestamp
Franz Miller franz.miller@verizonwireless.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 10/14/2021 6:40:38 AM Viewed: 10/14/2021 10:07:00 AM
Jeff Clark JEFF.CLARK@MILLERMARTIN.COM Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 10/14/2021 6:40:39 AM Viewed: 10/18/2021 1:48:04 PM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/14/2021 6:40:39 AM
Certified Delivered	Security Checked	10/14/2021 9:26:38 AM
Signing Complete	Security Checked	10/14/2021 9:27:01 AM
Completed	Security Checked	10/14/2021 9:27:01 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, VBG Network Real Estate (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact VBG Network Real Estate:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: tricsha.fatakia@verizonwireless.com

To advise VBG Network Real Estate of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at tricsha.fatakia@verizonwireless.com and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from VBG Network Real Estate

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to tricsha.fatakia@verizonwireless.com and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with VBG Network Real Estate

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to tricsha.fatakia@verizonwireless.com and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify VBG Network Real Estate as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by VBG Network Real Estate during the course of your relationship with VBG Network Real Estate.

Special Exceptions

"A special exception use is one which is not permitted by right, but which may be permitted after a public hearing by the board of zoning appeals and all conditions stated in this chapter are met. The zoning chapter lists, by zoning district, those uses that may be allowed by right or by special exception. Uses that are included or fit the intent of these lists will be considered in each zoning district. Chapter 38-212 of the Oconee County Code of Ordinances.

See the Oconee County Code of Ordinances for a comprehensive list of uses that require a special exception hearing.

Requesting a special exception requires a public hearing, through the Board of Zoning Appeals. These hearings are generally held once per month on the fourth Monday. During this hearing the applicant, or their assignee, may speak to the Board regarding their request. Neighbors and citizens are given an opportunity to speak in-favor, or against, the special exception. The public is notified about the request in following ways:

1.Signs or signage on ,adjacent and near the property that the special exception is being requested for.

2. A direct mailing to all property owners within a 250' radius of the property that the special exception is being requested for.

3. An advertisement in a newspaper at least 21 calendar days before the meeting.

The language from the Code of Ordinances regarding Special Exceptions is as follows:

Sec. 38-7.2. - Special exceptions. The board of zoning appeals may grant a special exception only if it finds adequate evidence that any proposed development will meet all of the following general requirements as well as any specific

requirements and standards listed for the proposed use. The board of zoning appeals shall among other things require that any proposed use and location be:

(1)In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested;

(2) In the best interests of the county, the convenience of the community and the public welfare;

(3) Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity;

(4) Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.

The developer shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter

This document is for informational purposes only and does not supersede or supplant any information within the current code of ordinances. Speak with the Planning & Zoning department for the most accurate information.

Printed August 2018

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street –Walhalla, SC Tel: (864)638-4218 FAX (864) 638-4168

APPLICATION FOR SPECIAL EXCEPTION

OCONEE COUNTY, SC

APPLICANT: Cellco Partnership d/b/a Verizon Wireless
Name Title/Organization

MAILING ADDRESS: 8921 RESEARCH DR, Charlotte, NC 28262
(if different from owner)

PHONE (if different from owner): cell: Victoria M. Farmer, Zoning Specialist PH: 423-802-7847

email: Victoria.Farmer@faulkandfoster.com

land line: _____

PROPERY OWNER KBM Property Holding, RLNB

MAILING ADDRESS: 4250 Bakers Farm Place SE, Atlanta, GA

PHONE: cell: 404-992-8812 email: katherine.b.maxwell@gmail.com

land line: _____

PROPERTY INFORMATION

STREET ADDRESS: Hopewell Church Road, Westminster, SC

TAX PARCEL # 285-00-05-001 DEED BOOK/PAGE: 1724/261

ZONING DESIGNATION: CFD ACREAGE: 23.51

REQUEST

CODE SECTION FROM WHICH A SPECIAL EXCEPTION IS REQUESTED: See below

DESCRIPTION OF REQUEST:

Oconee County, SC ARTICLE IV. - COMMUNICATION TOWERS

Sec. 32-133. - Communications tower and antenna permitted.

(b) Special exceptions granted by the board. Other than as permitted by section 32-133(a), communication towers are permitted in the county for use only as a special exception.

1

Instructions:

1. The applicant/owner must respond to the "findings" questions on page 3 of this application (you must answer "why" you believe the application meets the tests for the granting of a Special Exception). See also Section 38-7.2 for additional information. You may attach a separate sheet addressing these questions.

2. You must attach a scaled drawing of the property that reflects, at a minimum, the following:

   (a) property lines, existing buildings, and other relevant site improvements; (b) the nature (and dimensions) of the requested variance; (c) existing buildings and other relevant improvements on adjacent properties; and, (d) topographic, natural features, etc. relevant to the requested variance.

3. Include additional documentation to support the request as necessary.

4. The Zoning Administrator will review the application for sufficiency prior to placing the application on the BZA agenda. If the application does not provide sufficient information, the administrator will contact the applicant to request that the applicant provide the required information. You are encouraged to schedule an application conference with a planner, who will review your application at the time it is submitted to insure the necessary materials is provided.

5. The applicant and/or property owner affirms that the applicant or someone acting on the applicant's behalf has made a reasonable effort to determine whether a deed or other document places one or more restrictions on the property that preclude or impede the intended use and has found no record of such a restriction.

   If the Community Development office by separate inquiry determines that such a restriction exists, it shall notify the applicant. If the applicant does not withdraw or modify the application in a timely manner, or at to have the restriction terminated or waived, then the Community Development office will indicate in its report to the Board of Zoning Appeals that granting the requested change would not likely result in the benefit the applicant seeks.

   To that end, the applicant hereby affirms that the tract or parcel of land which is subject of the attached application is [ ] is not [X] restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the requested activity.

   _____ Applicant Signature

   2/21/22 _____ Date

   _____ Property Owner Signature

   _____ Date

APPLICANT RESPONSES TO
SECTION 38-7.2
(You may attach a separate sheet)

1. The request is in accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested.

Confirmed. The proposed wireless telecommunications facility is to be located on property located in a control free district as defined in Section 38-10.2. and meets the design requirements contained therein.

2. The request is in the best interests of the county, the convenience of the community and the public welfare.

Confirmed. Wireless service is considered a public necessity in some cases as it is often the only means citizens have to emergency services. The proposed facility will meet the infrastructure needs of this area and will provide much needed access to emergency services

3. The request is suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.

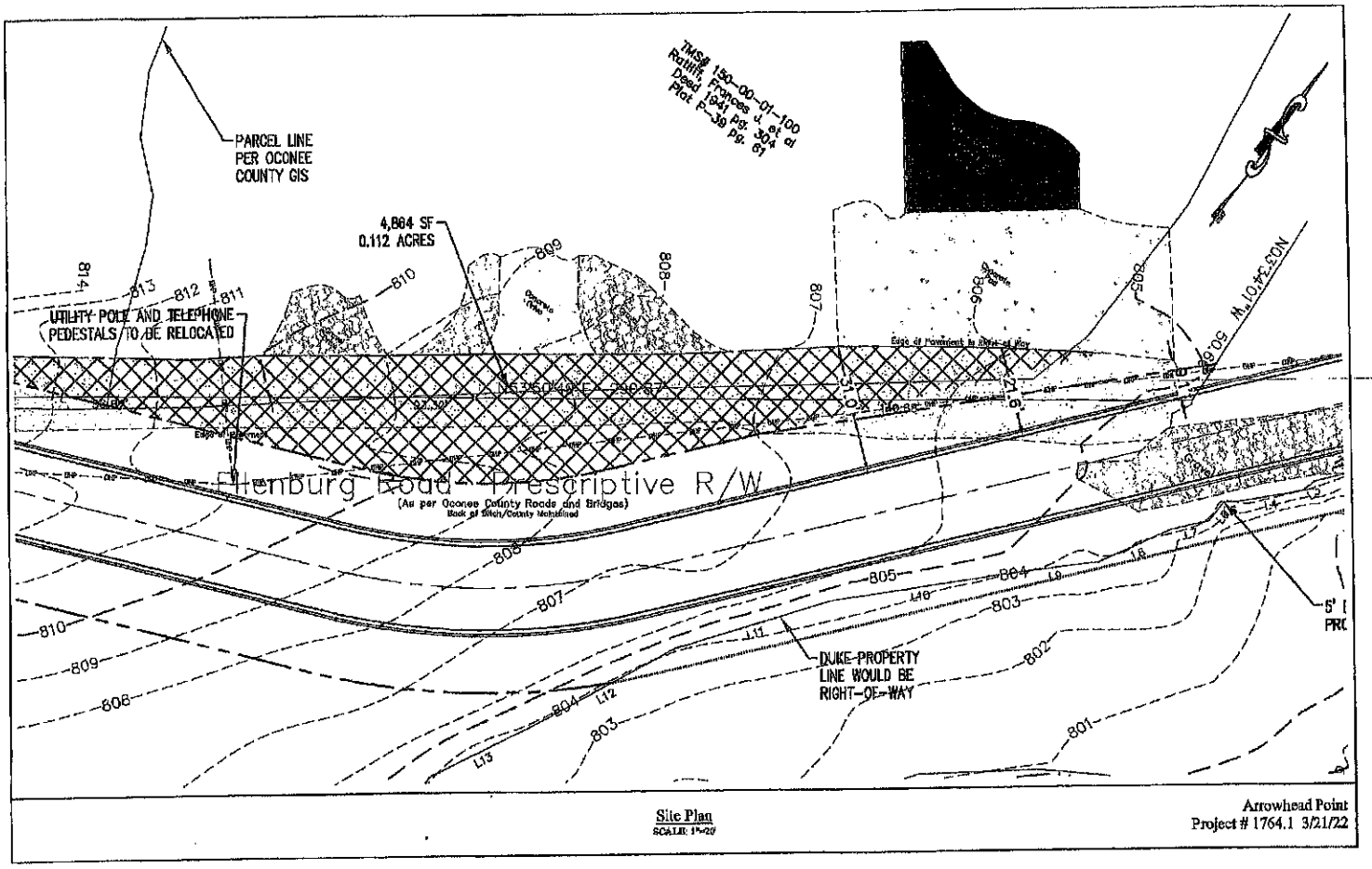
Confirmed.

The site as proposed in the accompanying site plans provided with this application will be in harmony with the area in which it is to be located.

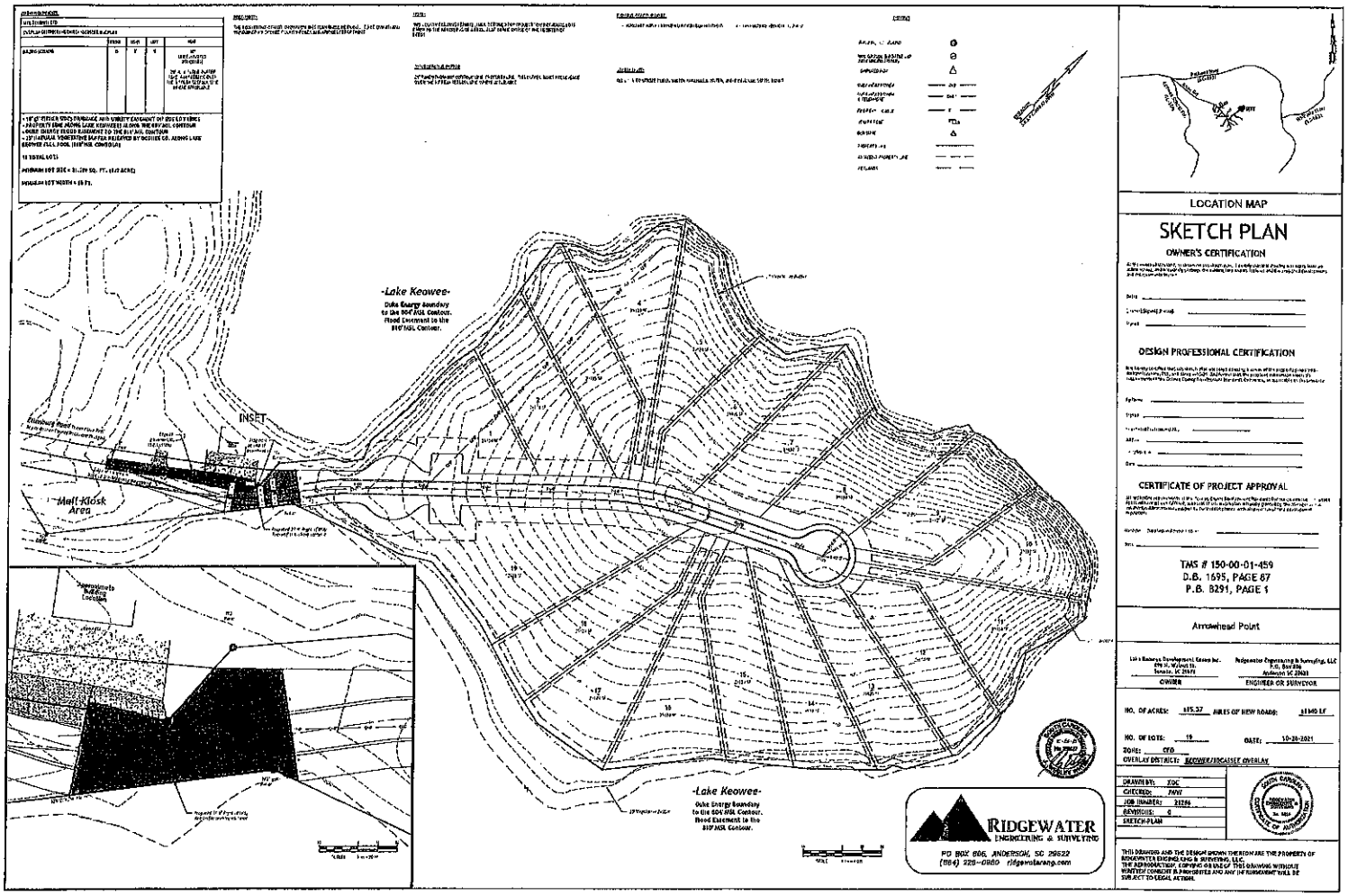
4. The request is suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.

Confirmed. The access drive proposed with this project will have minimal impact on regular traffic along Hopewell Church Road and upon completion will not cause undue congestion or hazards upon the surrounding area.

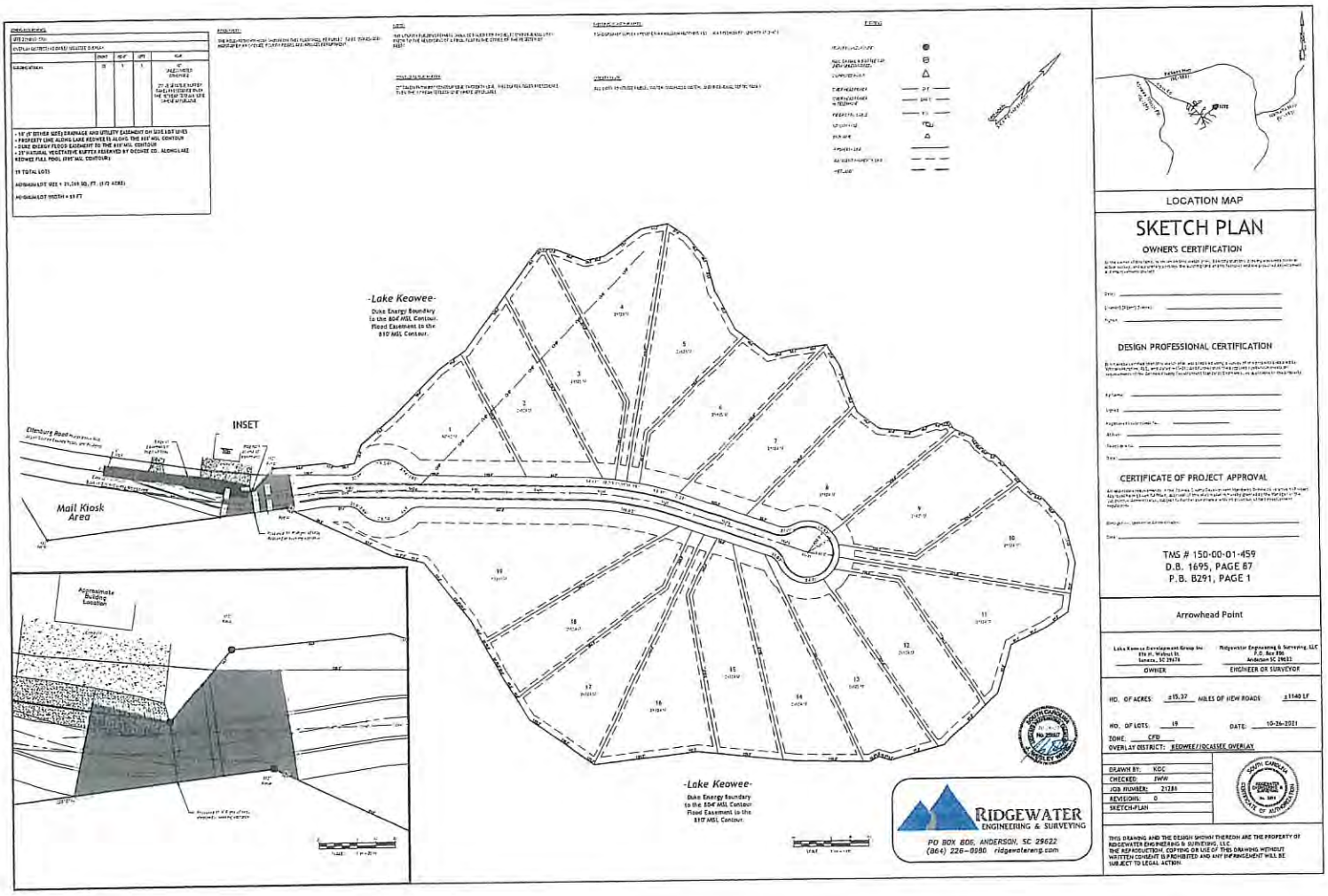
Variance application #VA 21-011-Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

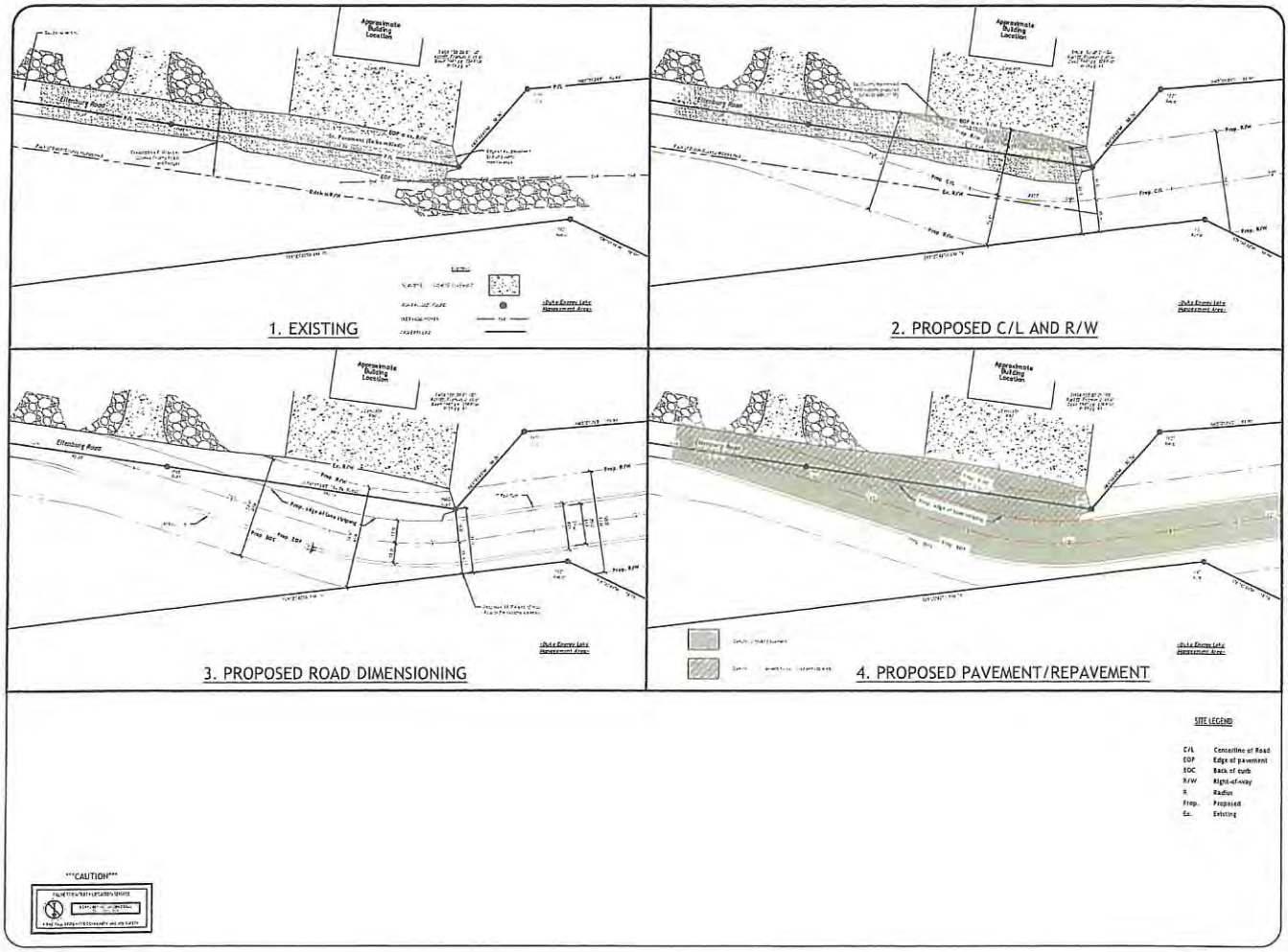

PARCEL LINE
PER OCONEE
COUNTY GIS
4,864 SF
0.112 ACRES
UTILITY POLE AND TELEPHONE
PEDESTALS TO BE RELOCATED
Henburg Road - Prescriptive R/W
(As per Oconee County Roads and Bridges)
DUKE-PROPERTY
LINE WOULD BE
RIGHT-OF-WAY
Site Plan
SCALE: 1"=20'
Arrowhead Point
Project # 1764.1 3/21/22

R. p. 588


-Lake Keowee-
Duke Energy Boundary to the 804' MSL Contour. Flood Easement to the 810' MSL Contour.
INSET
Mail Kiosk Area
-Lake Keowee-
Duke Energy Boundary to the 804' MSL Contour. Flood Easement to the 810' MSL Contour.
LOCATION MAP
SKETCH PLAN
OWNER'S CERTIFICATION
DESIGN PROFESSIONAL CERTIFICATION
CERTIFICATE OF PROJECT APPROVAL
TMS # 150-00-01-459
D.B. 1695, PAGE 87
P.B. 8291, PAGE 1
Arrowhead Point
OWNER
ENGINEER OR SURVEYOR
NO. OF ACRES: 115.37 MILES OF NEW ROAD: 11340 LF
NO. OF LOTS: 19 DATE: 10-26-2021
ZONE: CFD
OVERLAY DISTRICT: BECKHAM/EDGEMERE OVERLAY
DRAWN BY: EDC
CHECKED: PWW
JOB NUMBER: 21206
REVISIONS: 0
SKETCH PLAN
RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 806, ANDERSON, SC 29622
(864) 229-0880 ridgewaterengr.com

R. p. 589


-Lake Keowee-
Duke Energy Boundary to the 804' MSL Contour. Flood Easement to the 810' MSL Contour.
INSET
Ellenburg Road
Mail Kiosk Area
Approximate Building Location
-Lake Keowee-
Duke Energy Boundary to the 804' MSL Contour Flood Easement to the 810' MSL Contour.
RIDGEWATER ENGINEERING & SURVEYING
PO BOX 806, ANDERSON, SC 29622
(864) 226-0980 ridgewatereng.com
LOCATION MAP
SKETCH PLAN
OWNER'S CERTIFICATION
DESIGN PROFESSIONAL CERTIFICATION
CERTIFICATE OF PROJECT APPROVAL
TMS # 150-00-01-459
D.B. 1695, PAGE 67
P.B. B291, PAGE 1
Arrowhead Point
OWNER
ENGINEER OR SURVEYOR
NO. OF ACRES: ±15.37
MILES OF NEW ROAD: ±1140 LF
NO. OF LOTS: 19
DATE: 10-26-2021
ZONE: CPD
OVERLAY DISTRICT: KEOWEE/OCASSEE OVERLAY
DRAWN BY: KDC
CHECKED: JWW
JOB NUMBER: 21284
REVISION: 0
SKETCH-PLAN
THIS DRAWING AND THE DESIGN SHOWN THEREON ARE THE PROPERTY OF RIDGEWATER ENGINEERING & SURVEYING, LLC. THE REPRODUCTION, COPYING OR USE OF THIS DRAWING WITHOUT WRITTEN CONSENT IS PROHIBITED AND ANY INFRINGEMENT WILL BE SUBJECT TO LEGAL ACTION.



RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 604
ANDERSON, SC 29622
(864) 226-0980
RIDGEWATERENG.COM

Arrowhead Point

Oconee County, South Carolina

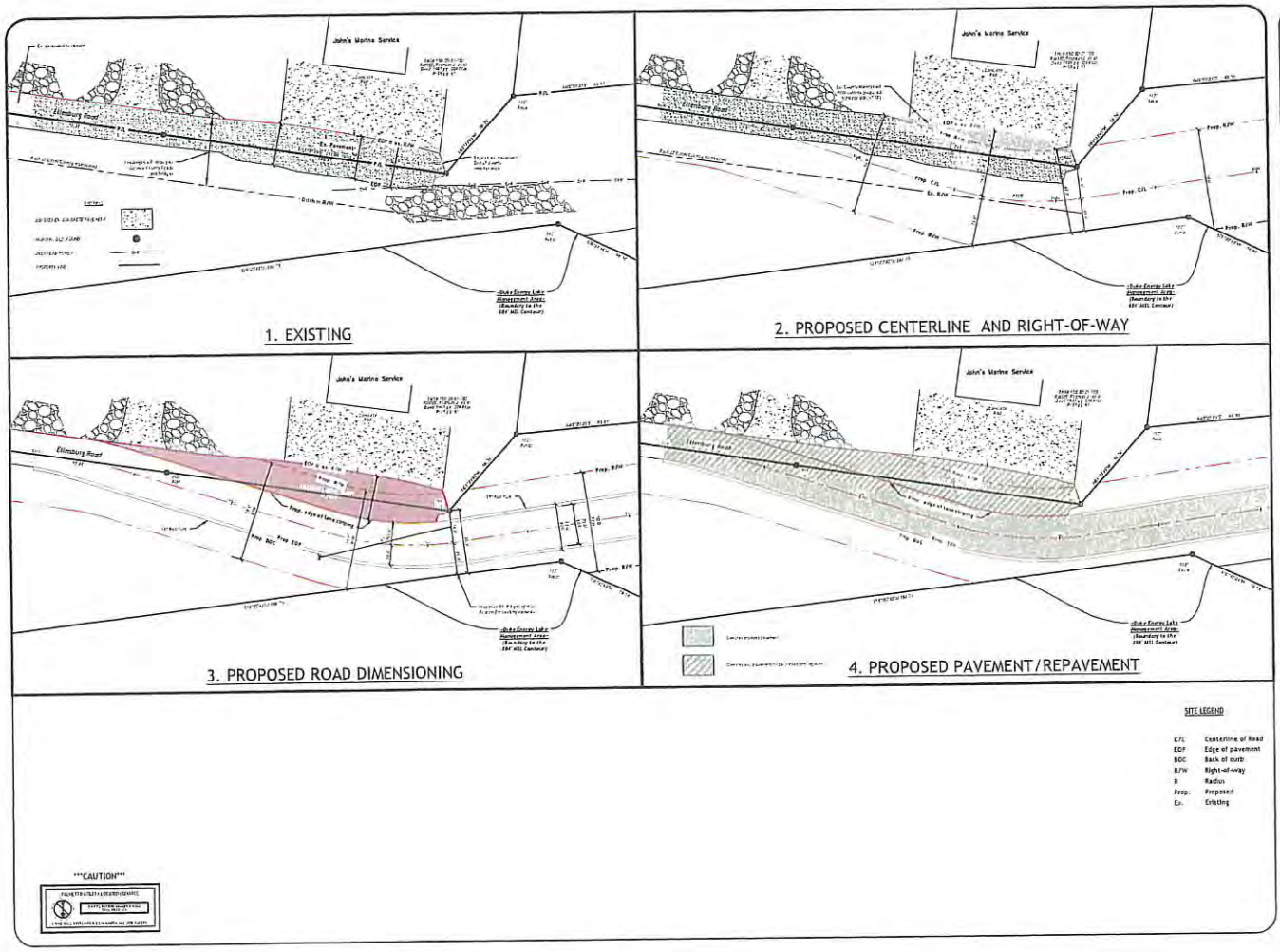
DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

NO. #	DATE	COMMENT
2	11/22/21	REVISED PLANS
—	—	—
—	—	—
—	—	—
—	—	—
—	—	—

SHEET

Variance Request

C - 2



RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 226-0980
RIDGEWATERENG.COM

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

NO.	DATE	SUBMITTED
1		

SHEET

Variance Request

C - 2

RIDGEWATER
ENGINEERING & SURVEYING

PO BOX 806
ANDERSON, SC 29622
(864) 224-0980
RIDGEWATERENG.COM

Arrowhead Point

Oconee County,
South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

REV #	DATE	COMMENT
2	11-24-21	REVISED PER REVIEW
1	11-19-21	PLANNING COMMISSION #1
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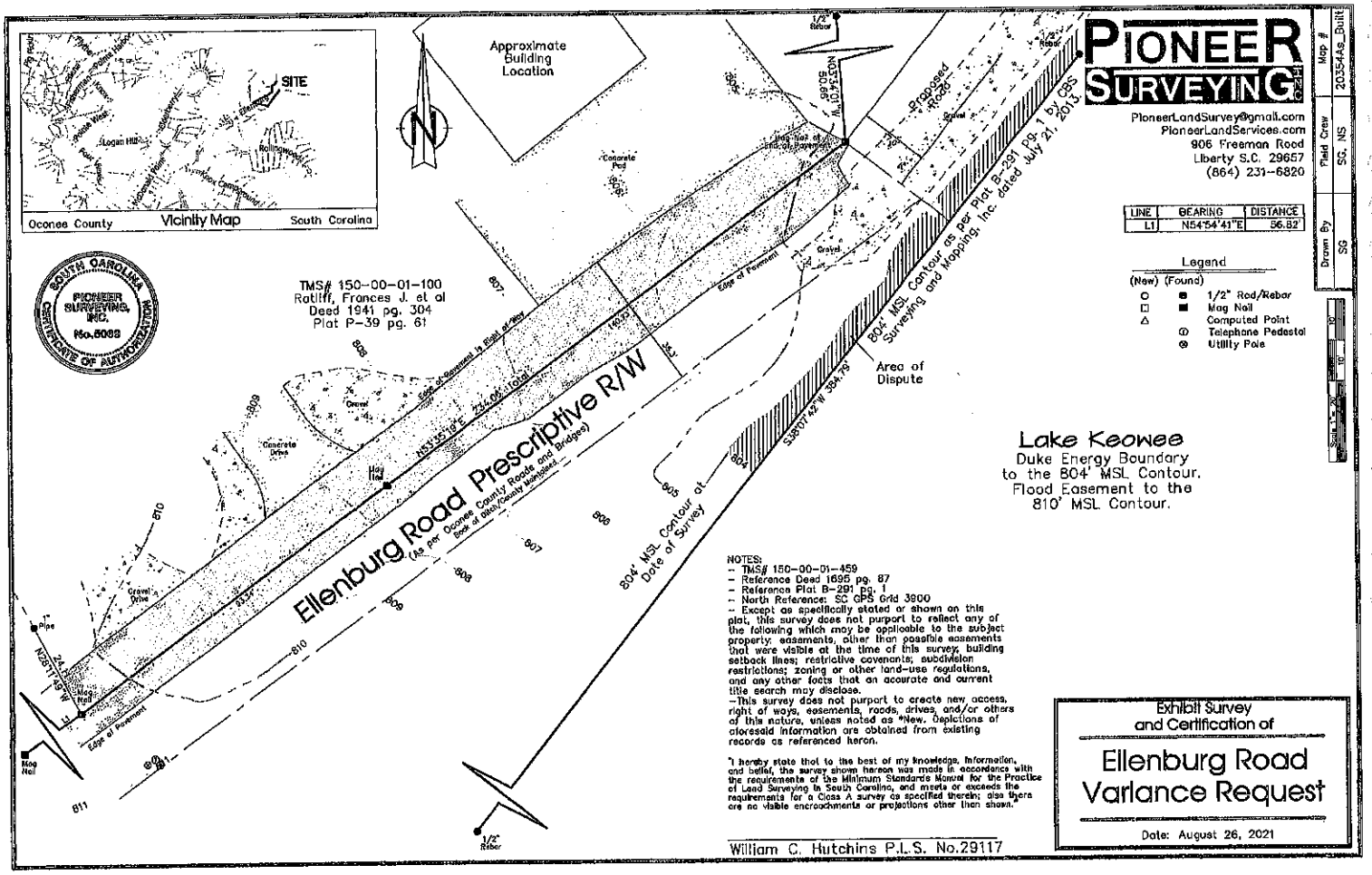
--	--	--
--	--	--

SHEET

Exhibit 2


PIONEER SURVEYING, INC.
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(864) 231-6820
Map # 20354As_Built
Field Crew SG, NS
Drawn By SG
SITE
Approximate Building Location
Oconee County Vicinity Map South Carolina
SOUTH CAROLINA PIONEER SURVEYING, INC. No.5068 CERTIFICATE OF AUTHORIZATION
TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304
Plat P-39 pg. 61
Proposed Road
Edge of Pavement
Gravel
Concrete Pad
Concrete Drive
Gravel Drive
Area of Dispute
804' MSL Contour as per Plat B-291 pg. 1 by GPS Surveying and Mapping, Inc. dated July 21, 2013
804' MSL Contour at Date of Survey
Ellenburg Road Prescriptive R/W
(As per Oconee County Roads and Bridges) Book of State/County Maintained
Lake Keowee
Duke Energy Boundary to the 804' MSL Contour.
Flood Easement to the 810' MSL Contour.
LINE BEARING DISTANCE
L1 N54°54'41"E 56.82'
Legend
(New) (Found)
1/2" Rod/Rebar
Mag Nail
Computed Point
Telephone Pedestal
Utility Pole
NOTES:
- TMS# 150-00-01-459
- Reference Deed 1695 pg. 87
- Reference Plat B-291 pg. 1
- North Reference: SC GPS Grid 3900
- Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey, building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
-This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as *New. Depictions of aforesaid information are obtained from existing records as referenced heron.
"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."
William C. Hutchins P.L.S. No.29117
Exhibit Survey and Certification of
Ellenburg Road Variance Request
Date: August 26, 2021

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NO PORTION OF THIS PLAT MAY BE REPRODUCED BY PHOTOCOPYING OR BY ANY OTHER MEANS, STORED, PROCESSED OR ELECTRONICALLY TRANSMITTED WITHOUT PRIOR WRITTEN PERMISSION OF THE ORIGINAL PROFESSIONAL LAND SURVEYOR. HIS HERS OR ASSIGNS. THIS DOCUMENT IS NOT VALID WITHOUT AN ORIGINAL SIGNATURE AND SEAL. EXCEPTION—OFFICIAL USE BY GOVERNMENT OFFICIALS AND PROFESSIONAL LAND SURVEYORS FOR BOUNDARY RETRACEMENT

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 NOV 18 P 3:20

P/L IS DUKE ENERGY CORP. PROJECT BOUNDARY AND APPROX. 804 CONTOUR

AREA = 15.37 ACRES

LAKE KEOWEE

ROBERT L. MORGAN
DB 1142 PG 191
PB P39 PG 087
TAX REF: 150 00 01 103

EDWARD J. RATLIFF
DB 141 PG 102
PB 39 PG 81
TAX REF: 150 00 01 100

TERRY V. ELLENBURG
DB 867 PG 210
PB P61 PG 577
TAX REF: 150 00 01 099

(TIE LINE)
1" I.PIPE(F)
N03°28'39"W
17.14'

NAIL(F) END PAVEMENT

MHS

NL(F)

#4 REB(F)

#4 REB(F)
@ 129.92

LOT 24A

ELLENBURG ROAD (MAINTENANCE R/W)

SC GRID (NAD 83)

HARBOR OAKS SUBDIVISION
PLAT B160 PGs 1 & 2

MICHAEL W. BOLT
DB 1160 PG 83
PB A823 PG 006
TAX REF: 150 00 01 017

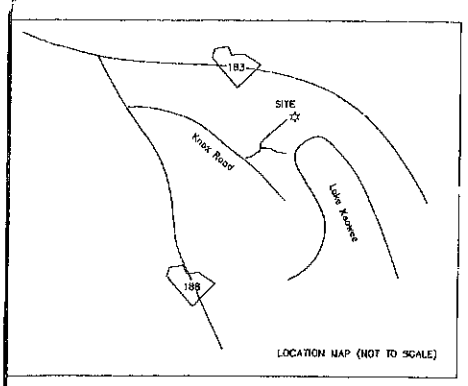
BRENDA K. STASNEY
DB 1132 PG 228
PB A798 PG 003
TAX REF: 150 00 01 396

THOMAS G. PALKERT
DB 1049 PG 056
PB A683 PG 002
TAX REF: 150 00 01 381

KNOX POINTE ROAD

LINE	BEARING	DISTANCE
L229	N03°28'39"W	50.76'
L230	N40°01'03"E	83.91'
L231	N64°08'50"E	17.58'
L232	N35°31'21"E	28.43'
L233	N23°31'32"W	31.95'
L234	N04°17'42"E	72.27'
L235	N00°56'01"W	96.03'
L236	N05°26'56"E	53.35'
L237	N08°37'03"W	166.64'
L238	N07°35'04"W	42.19'
L239	N48°36'46"E	28.06'
L240	N65°38'47"E	50.78'
L241	N32°21'59"E	50.18'
L242	N09°18'59"E	73.42'
L243	N34°32'32"E	41.77'
L244	N79°02'46"E	37.80'
L245	S84°19'46"E	45.21'
L246	S57°21'54"E	83.77'
L247	S72°34'18"E	87.33'
L248	N83°31'36"E	69.24'
L249	N30°54'30"E	29.94'
L250	N37°24'13"E	83.43'
L251	S74°56'03"E	37.51'
L252	S63°52'18"E	38.10'
L253	S68°11'33"E	42.13'
L254	N63°04'13"E	44.26'
L255	N51°28'07"E	51.78'
L256	N26°38'04"E	40.69'
L257	N64°25'17"E	6.32'
L258	N27°34'16"E	14.21'
L259	S80°16'18"E	13.39'
L260	N71°31'24"E	32.20'
L261	S82°09'48"E	16.03'
L262	N83°00'13"E	25.58'
L263	N47°26'00"E	5.71'
L264	S87°34'13"E	34.38'
L265	S89°24'27"E	38.64'
L266	N69°26'52"E	18.21'
L267	N85°31'28"E	8.84'
L268	S86°43'33"E	53.81'
L269	S59°37'48"E	67.06'
L270	S35°34'52"E	80.12'
L271	S11°16'47"W	44.01'
L272	S18°56'14"W	81.09'
L273	S20°04'57"E	80.04'
L274	S01°29'31"W	117.00'
L275	S29°32'25"W	87.26'
L276	S62°35'41"W	19.86'
L277	S15°36'23"W	15.76'
L278	S45°56'15"W	118.00'
L279	S51°03'04"W	156.12'
L280	S38°28'21"W	163.24'
L281	S80°32'20"W	125.36'
L282	N76°59'12"W	86.16'
L283	N73°27'54"W	94.99'
L284	N83°12'09"W	121.05'
L285	S58°28'16"W	51.25'
L286	S70°33'45"W	83.56'
L287	S70°31'12"W	98.70'
L288	S38°10'22"W	385.08'
L289	N75°11'51"W	188.56'
L290	N56°47'07"E	128.52'

Recorded this 18 day of Nov 2008
Vol. 1892 Pg. 1 and Certified
Register of Deeds, Oconee County



LOCATION MAP (NOT TO SCALE)

GRAPHIC SCALE
200 0 100 200 400 800
(IN FEET)
1 inch = 200 ft.

NOTES:
(S) DENOTES SUBJECT SEE
(T) DENOTES CIRCUIT POWER
PROPERTY SUBJECT TO ANY VALID AND ENFORCEABLE EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD AND THOSE SHOWN, IF ANY, SHOULD BE INDEPENDENTLY VERIFIED. NO TITLE OPINION WAS BEING PROVIDED TO THIS SURVEYOR.
BEARING AND DEED REFERENCES SHOWN ARE FOR DESCRIPTIVE PURPOSES ONLY, NOT TO BE USED FOR DETERMINING TITLE.
WATER BOUNDARIES ARE SUBJECT TO CHANGE BY NATURAL CAUSES AND MAY AFFECT AREA AND LIMIT OF TITLE.
CM(F) – CONCRETE MONUMENT(F)
IPS – #4 REBAR(S)
MNS – MAGNETIC NAIL(S)
R/W – RIGHT OF WAY
P/L – PROPERTY LINE
C/L – CENTERLINE
TOP OF BANK
UTILITY POLE

NOTE: SEE PLAT BY THIS OFFICE IN PLAT SLIDE B143 PAGES 7 & 8.

SOUTH CAROLINA SURVEYING & SUPPLY No. C00499 CERTIFICATE OF AUTHORIZATION

Doc. ID: 001558850001 Type: PLA
Book B281 Page 1 - 1

PLAT PREPARED FOR:
CRESCENT RESOURCES LLC
7810 BALLANTYNE COMMONS PARKWAY
SUITE 200
CHARLOTTE, N.C. 28277

SOUTH CAROLINA

"I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS D SURVEY AS SPECIFIED THEREIN; DEED DESCRIPTION RECORDED IN BOOK 1513 PAGE 295; MADE(S) MY ORIGINAL SIGNATURE AND SEAL THIS 4th DAY OF NOVEMBER , 2008 ."

PROFESSIONAL LAND SURVEYOR
2633
REGISTRATION NUMBER

BOUNDARY SURVEY FOR:
CRESCENT COMMUNITIES S.C., LLC

SURPLUS TRACT NO. 7114.02 — INDEX: AS SHOWN
TOWNSHIP: KEOWEE WHITEWATER — TAX I.D.: 150 00 01 444
COUNTY: OCONEE — STATE: SOUTH CAROLINA
DATE: JULY 21, 2003 — JOB NO.: 1108100

REVISIONS	
DATE	DESCRIPTION
11/4/2008	SHOW REMAINING PROPERTY

CBS Surveying & Mapping, Inc.
122 EAST ROBINSON STREET
GAFFNEY, SC 29340 (864) 489-5088

Ret: 10[illegible] 006419

IC 131

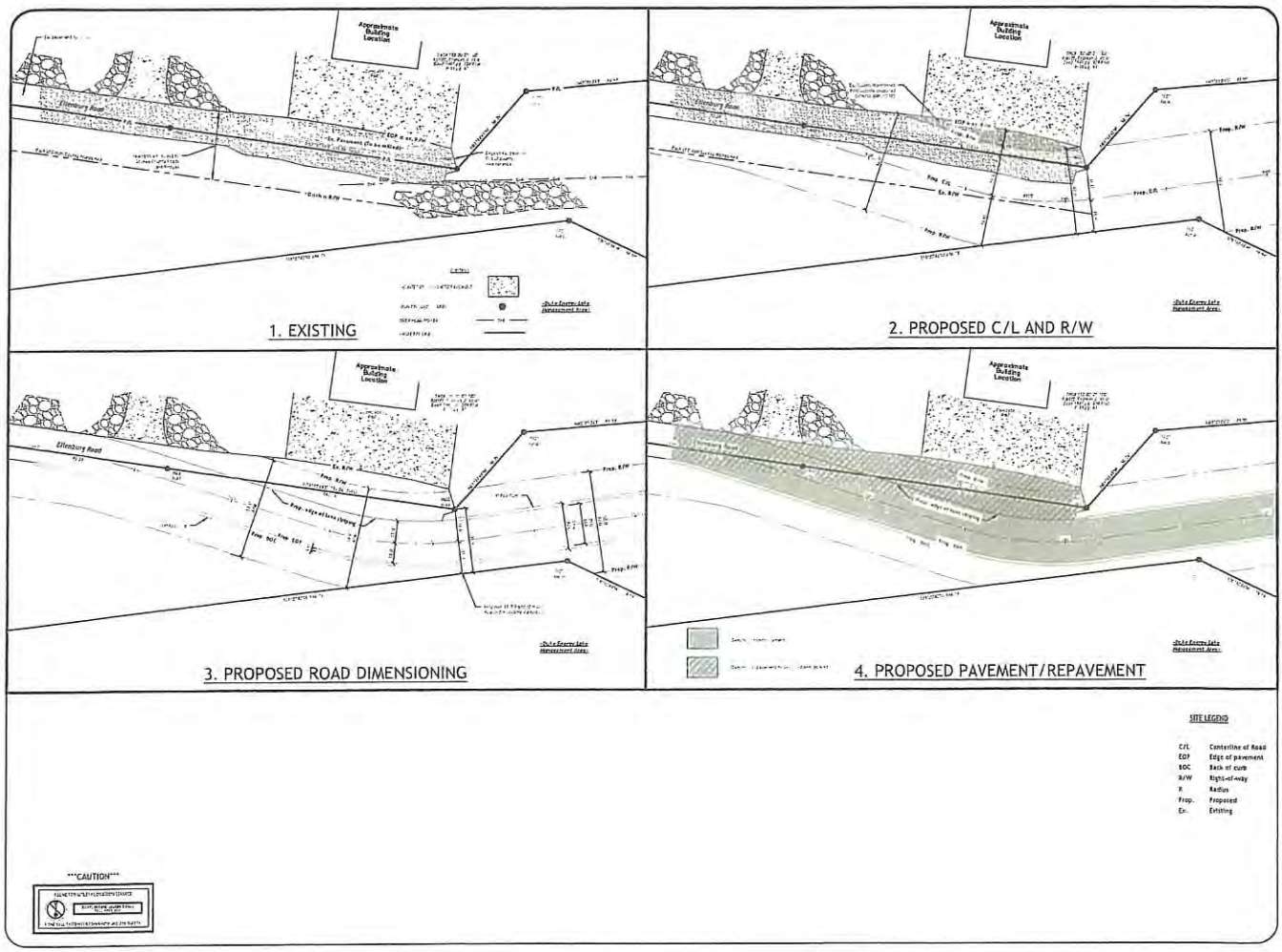
RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 226-0930
RIDGEWATERENG.COM

Arrowhead Point

Oconee County,
South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

Exhibit 2



RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 224-0980
RIDGEWATERENG.COM

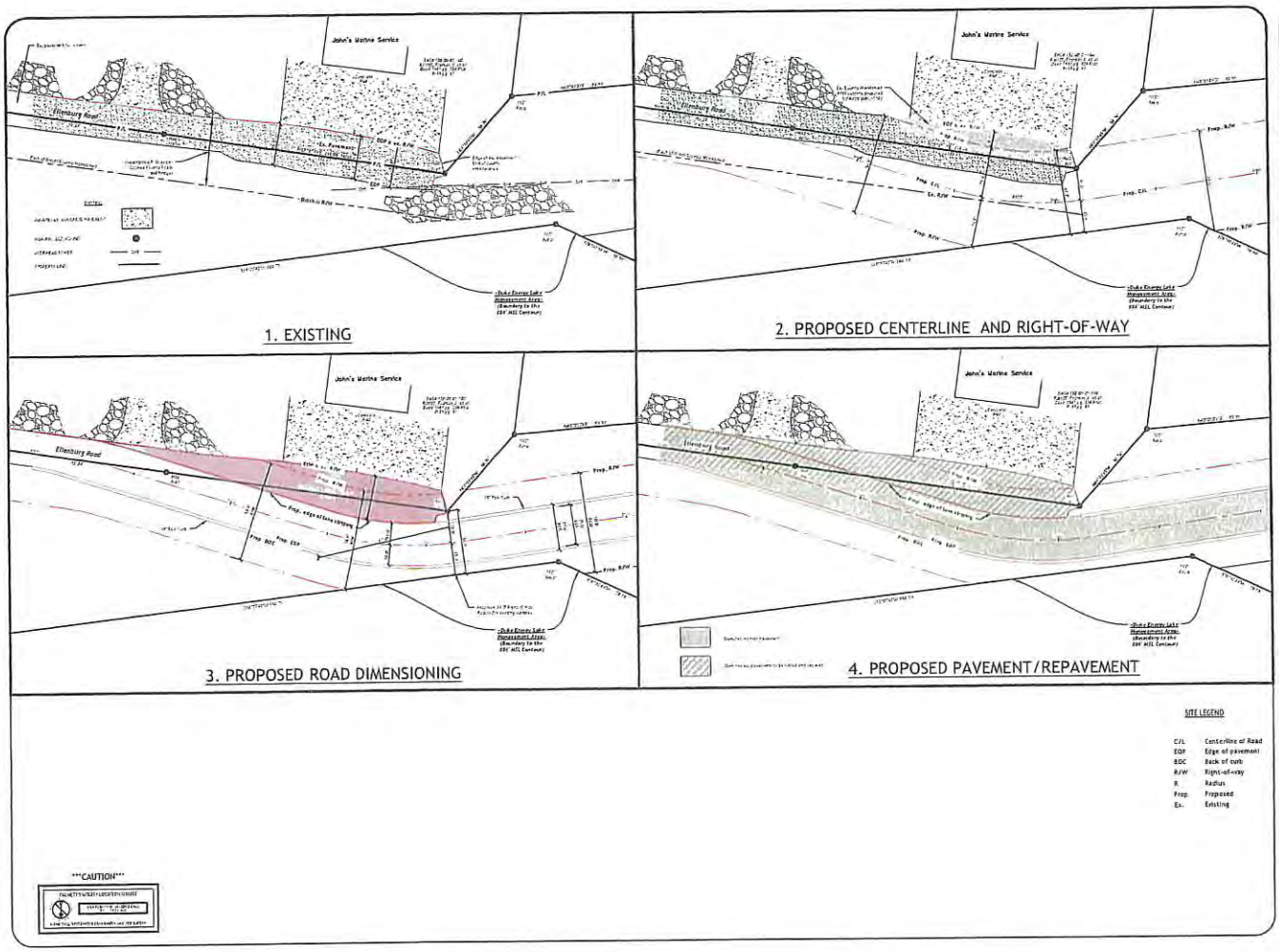
Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KOC
CHECKED: JWW
JOB NUMBER: 21286

SHEET
Variance Request

C - 2



RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 806
ANDERSON, SC 29622
(864) 226-0930
RIDGEWATERENG.COM

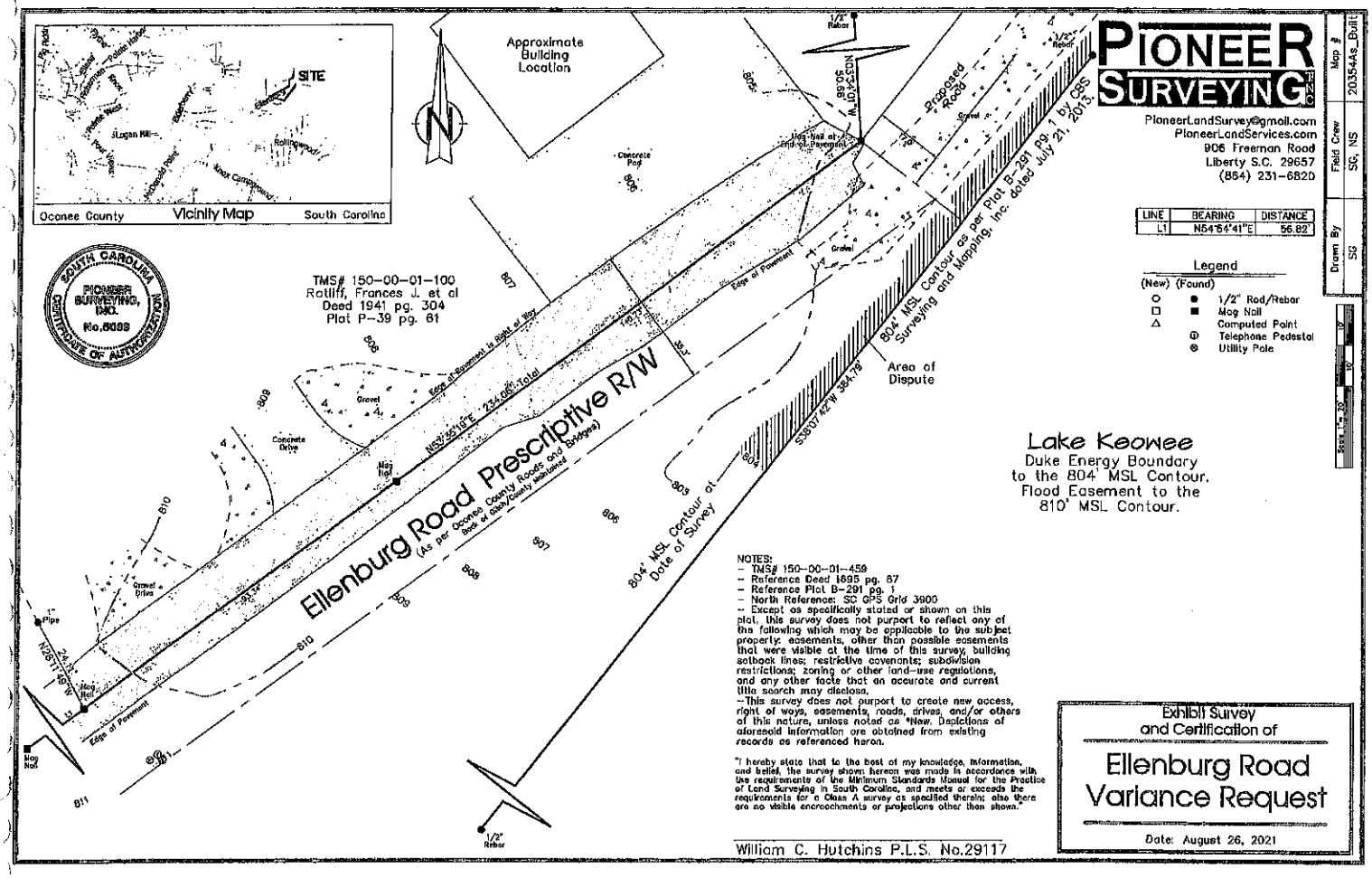
Arrowhead Point

Oconee County, South Carolina

DRAWN BY: KDC
CHECKED: JWW
JOB NUMBER: 21286

Variance Request

C - 2


PIONEER SURVEYING, INC.
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(854) 231-6820
Vicinity Map
Oconee County
South Carolina
SITE
Approximate Building Location
TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304
Plat P-39 pg. 61
Ellenburg Road Prescriptive R/W
(As per Oconee County Roads and Bridges)
Book of Deeds/County easement
Proposed 40x30
Area of Dispute
804' MSL Contour as per Plat B-291 Pg. 1 by GPS Surveying and Mapping, Inc. dated July 21, 2015.
804' MSL Contour at Date of Survey
Lake Keowee
Duke Energy Boundary to the 804' MSL Contour. Flood Easement to the 810' MSL Contour.
Edge of Pavement
Concrete Drive
Gravel Drive
Concrete Pad
Mag Nail
1/2" Rebar
Legend
(New) (Found)
1/2" Rod/Rebar
Mag Nail
Computed Point
Telephone Pedestal
Utility Pole
LINE | BEARING | DISTANCE
L1 | N54°54'41"E | 56.82'
NOTES:
- TMS# 150-00-01-459
- Reference Deed 1695 pg. 67
- Reference Plat B-291 pg. 1
- North Reference: SC GPS Grid 3900
- Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
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"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."
William C. Hutchins P.L.S. No.29117
Exhibit Survey and Certification of
Ellenburg Road Variance Request
Date: August 26, 2021
Map # 203544s_Built
Field Crew SC, NS
Drawn By SG
Scale: 1"= 20'

1

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FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2008 NOV 18 P 3:20

P/L IS DUKE ENERGY CORP. PROJECT BOUNDARY AND APPROX. 804 CONTOUR

AREA = 15.37 ACRES

LAKE KEOWEE

ROBERT L. MORGAN
DB 1142 PG 191
PB P39 PG 087
TAX REF: 150 00 01 103

EDWARD J. RATLIFF
DB 141 PG 102
PB 39 PG 81
TAX REF: 150 00 01 100

TERRY V. ELLENBURG
DB 697 PG 210
PB P81 PG 577
TAX REF: 150 00 01 099

(TIE LINE)
1" I.PIPE(F)
N03°28'39"W
17.14'

NAIL(F)
END PAVEMENT

SC GRID (NAD 83)

ELLENBURG ROAD (MAINTENANCE R/W)

HARBOR OAKS SUBDIVISION
PLAT B180 PGs 1 & 2

LOT 24A

#4 REB(F)

#4 REB(F)
@ 129.92

MICHAEL W. BOLT
DB 1160 PG 87
PB A823 PG 005
TAX REF: 150 00 01 017

BRENDA K. STASNEY
DB 1132 PG 228
PB A798 PG 003
TAX REF: 150 00 01 386

THOMAS G. PALKERT
DB 1040 PG 056
PB A683 PG 002
TAX REF: 150 00 01 381

KNOX POINTE ROAD

LINE	BEARING	DISTANCE
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L230	N40°01'03"E	83.91'
L231	N64°08'50"E	17.58'
L232	N35°31'21"E	28.43'
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L239	N48°36'48"E	26.06'
L240	N85°38'47"E	50.78'
L241	N32°21'59"E	50.18'
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L244	N78°02'48"E	37.80'
L245	S84°19'48"E	45.21'
L246	S57°51'54"E	53.77'
L247	S72°34'19"E	87.33'
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L260	N71°51'24"E	32.26'
L261	S82°06'48"E	18.03'
L262	N83°00'13"E	25.88'
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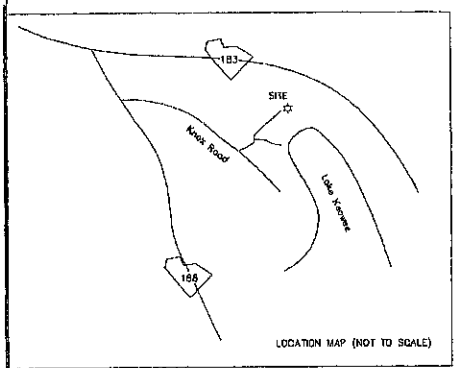
L277	S15°36'23"W	15.79'
L278	S45°58'15"W	118.00'
L279	S51°03'04"W	186.12'
L280	S36°26'21"W	163.24'
L281	S80°32'29"W	128.46'
L282	N76°39'12"W	66.16'
L283	N73°27'54"W	94.69'
L284	N83°12'09"W	121.05'
L285	S58°25'16"W	51.25'
L286	S70°33'46"W	83.58'
L287	S70°31'12"W	98.70'
L288	S38°10'22"W	388.08'
L289	N75°51'W	186.55'
L290	N56°47'07"E	128.52'

Recorded this 18 day of Nov 2008
Vol. B291 Pg. 1 and Certified
Register of Deeds, Oconee County



NOTES:
(S) DENOTES OBJECT SET
(F) DENOTES OBJECT FOUND

PROPERTY SUBJECT TO ANY VALID AND ENFORCEABLE EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD AND THOSE SHOWN, IF ANY, SHOULD BE INDEPENDENTLY VERIFIED. NO TITLE OPINION WAS BEEN PROVIDED TO THE SURVEYOR.

NAMES AND DEED REFERENCES SHOWN ARE FOR DESCRIPTIVE PURPOSES ONLY, NOT TO BE USED FOR OWNERSHIP TITLE.

WATER BOUNDARIES ARE SUBJECT TO CHANGE BY NATURAL CAUSES AND MAY EFFECT AREA AND LIMIT OF TITLE.

CM(F) - CONCRETE MONUMENT(F)
IPS - PK REBAR(S)
NAILS - MAGNETIC NAIL(S)
R/W - RIGHT OF WAY
P/L - PROPERTY LINE
C/L - CENTERLINE
☐ 100' OF BANK
UTILITY POLE

NOTE: SEE PLAT BY THIS OFFICE IN PLAT SLIDE G143 PAGES 7 & 8.

Doc ID: 001588830001 Type: PLA
Book B291 Page 1 - 1

SOUTH CAROLINA SURVEYING & MAPPING No. 00469 CERTIFICATE OF AUTHORIZATION

PLAT PREPARED FOR:
CRESCENT RESOURCES
LLC
7810 BALLANTYNE COMMONS PARKWAY
SUITE 200
CHARLOTTE, N.C. 28277

SOUTH CAROLINA

"I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS B SURVEY AS SPECIFIED THEREIN. DEED DESCRIPTION RECORDED IN BOOK 1190 PAGE 225. WITNESS MY ORIGINAL SIGNATURE AND SEAL THIS 4th DAY OF NOVEMBER, 2008."

PROFESSIONAL LAND SURVEYOR
2823
REGISTRATION NUMBER

GRAPHIC SCALE
200 0 100 200 400 600
(IN FEET)
1 inch = 200 ft.

BOUNDARY SURVEY FOR:
CRESCENT COMMUNITIES S.C., LLC

SURPLUS TRACT NO. 7114.02 — INDEX: AS SHOWN
TOWNSHIP: KEOWEE WHITEWATER — TAX I.D. 150 00 01 444
COUNTY: OCONEE — STATE: SOUTH CAROLINA
DATE: JULY 21, 2003 — JOB NO.: 1106100

REVISIONS

DATE	DESCRIPTION
11/4/2008	SHOW REMAINING PROPERTY

CBS Surveying & Mapping, Inc.
122 EAST ROBINSON STREET
GAFFNEY, SC 29340 (864) 489-5060

Ref: 10 DEC 006419

IC. 1315

BZA

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Staff Opinion

BZA #VA21-011 Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive "ditch to ditch" right-of-way. TMS # 150-00-01-459 is an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672

Applicant has requested a variance from the road standards under Sec 26-8 of the Oconee County Code of Ordinances. They have requested the variance from Sec 26-3(e)(1) Public Road Minimum right-of-way, pavement, and shoulder width shall be as follows: minor local 50' right-of way.

The applicant is connecting to the existing Ellenburg Rd, a county road, with a new road to develop land past the end of the existing road. Their design as presented would shift the road to the south, establishing a new road layout with curb and gutter on the south side of the road and curb and gutter on both sides past the end of the current road.

- Currently the road right-of-way is prescriptive and ends at the edge of pavement.
- The right-of way request is for a section of the road approximately 100 foot in length with a varying width, which at its narrowest is 31.9 foot
- Sketch is shifting the road to the applicant's side of the property line.

The applicant has meet with the Roads and Bridges Department (notes attached at the end), and based on the initial conversation the Department does not believe that the relocation of the road would have an adverse effect of road maintenance. If the variance is approved they would still need to show the ability to place the road, shoulders, drainage, and utilities in the proposed, narrowed, right-of-way, would need to have a traffic study completed, and would need approvals on access and turning radius with emergency management.

James,
Here are the bullets from my conversation with the developer and his engineers concerning the development at the end of Ellenburg Rd. (these are not commentary on the variance requested for the BZA and the below was based on hypotheticals as no plan was presented):

- The developer asked about where Ellenburg Rd stops being county maintained. I told them it was the end of the asphalt and that we did not have deeded right-of-way as the road is maintained by prescriptive easement. I also showed him what we have been maintaining as the extent of our right-of-way.
- They asked about upgrading the road and told me getting right-of-way from the adjacent property owner would likely be difficult. They asked about being able to place the road entirely on their property with a reduced right-of-way than the 50' standard required by the ordinance. I told them that any variance from the road standards would have to be heard by the BZA.
- They asked if there was anything additional that they would need to consider. I told them without a sketch plan it would be hard to hit all the points, but with a subdivision more than 10 lots there would have to be a traffic impact study for Ellenburg Rd that would need to be done at the preliminary plat phase along with an encroachment permit to tie onto the end of the county maintained portion of Ellenburg Rd.
- They asked me about the new road in the development becoming a county maintained road. I told them that the road would need to meet all county standards and have an approved turn around.
- They asked me about the being able to put a gate on the road. I told them it could not be a county maintained road if there was a gate.

TABLE OF CONTENTS

Page 1: Exhibit 1 Exhibit Survey of Ellenburg Road Zoning Request

Page 2: Exhibit 2--Aerial of the Parcel and surrounding immediate area

Page 3: Graphics 1-4 Overview

Page 4: Graphic 1--Existing Roadway

Page 5: Graphic 2--Proposed Centerline and Right-of-Way

Page 6: Graphic 3--Proposed Road Dimensioning

Page 7: Graphic 4--Proposed Pavement/Repavement

Supplements:

Page 8: Letter from Parcel Owner

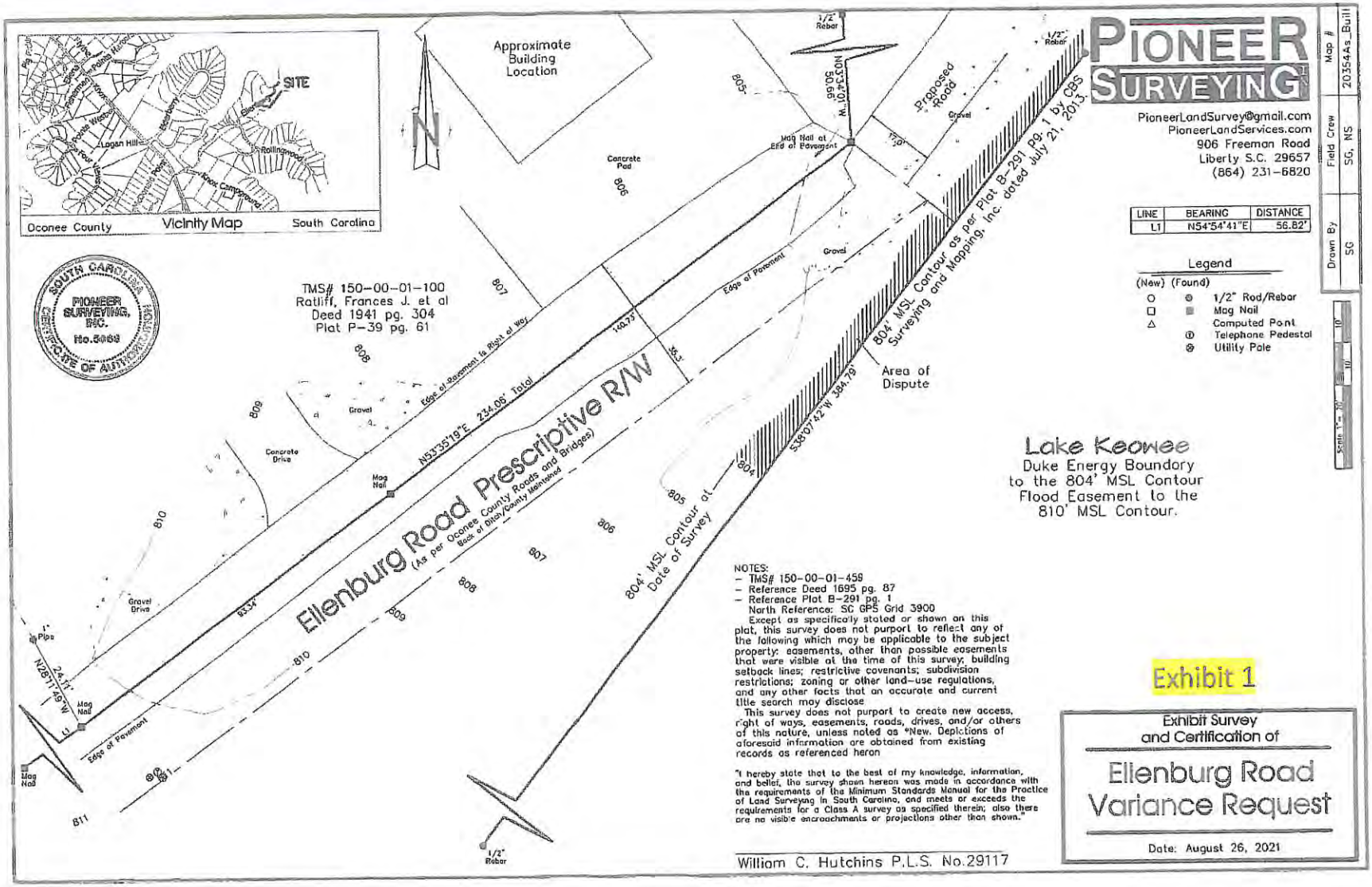
Page 9: Plat of Parcel from 2008

Page 10: Letter from Assistant Director of Public Works (stapled)

Page 11: Variance Criteria Overview (stapled)

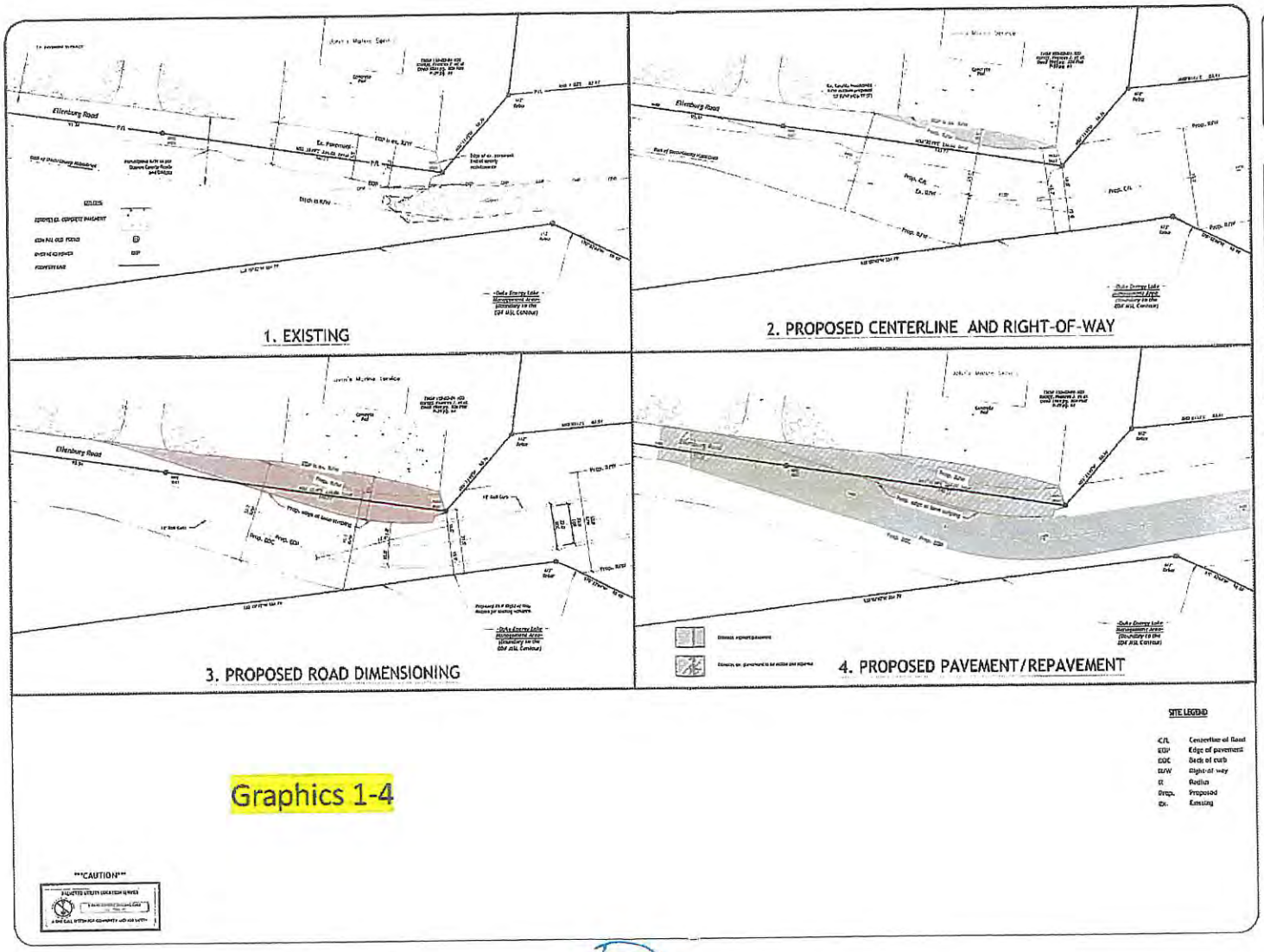
Page 12: Developer Bios

(Outside Packet) Deed for Parcel with Deed Restrictions


Vicinity Map
Oconee County
South Carolina
SITE
Logan Hill
Rollingwood
Knox Campground
Approximate Building Location
TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304
Plat P-39 pg. 61
Ellenburg Road Prescriptive R/W
(As per Oconee County Roads and Bridges) Book of Data/County Maintained
Edge of Pavement is Plat of Way
N53°35'19"E 234.05' Total
144.73'
88.3'
Edge of Pavement
Gravel
Concrete Pad
Concrete Drive
Gravel Drive
Mag Nail
1" Pipe
N28°11'49"W 24.17'
L1
85.34'
1/2" Rebar
N03°34'50"W 50.66'
Mag Nail at End of Pavement
Proposed Road
17.50'
804' MSL Contour as per Plat B-291 pg. 1 by CBS Surveying and Mapping, Inc. dated July 21, 2013.
S38°07'42"W 384.78'
Area of Dispute
804' MSL Contour at Date of Survey
Lake Keowee
Duke Energy Boundary to the 804' MSL Contour
Flood Easement to the 810' MSL Contour.
PIONEER SURVEYING
PioneerLandSurvey@gmail.com
PioneerLandServices.com
906 Freeman Road
Liberty S.C. 29657
(864) 231-6820
LINE | BEARING | DISTANCE
L1 | N54°54'41"E | 56.82'
Legend
(New) (Found)
1/2" Rod/Rebar
Mag Nail
Computed Point
Telephone Pedestal
Utility Pole
Map # 20354As_Built
Field Crew SG, NS
Drawn By SG
Scale 1"= 50'
SOUTH CAROLINA CERTIFICATE OF AUTHORIZATION PIONEER SURVEYING, INC. No.3069
NOTES:
- TMS# 150-00-01-459
- Reference Deed 1695 pg. 87
- Reference Plat B-291 pg. 1
North Reference: SC GPS Grid 3900
Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.
This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as "New. Depictions of aforesaid information are obtained from existing records as referenced heron.
"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."
William C. Hutchins P.L.S. No.29117
Exhibit 1
Exhibit Survey and Certification of
Ellenburg Road Variance Request
Date: August 26, 2021

John's Marina
&
High Falls Boat Rental
Exhibit 2
RIDGEWATER
Armstead Pond
Exhibit 2

(2)



Graphics 1-4

3

RIDGEWATER
ENGINEERING & SURVEYING
PO BOX 605
ANDERSON, SC 29622
(864) 226-0922
RIDGEWATERDOG.COM

Arrowhead Point

Oconee County, South Carolina

DRAWN BY: ROC
CHECKED: JWW
JOB NUMBER: 21286

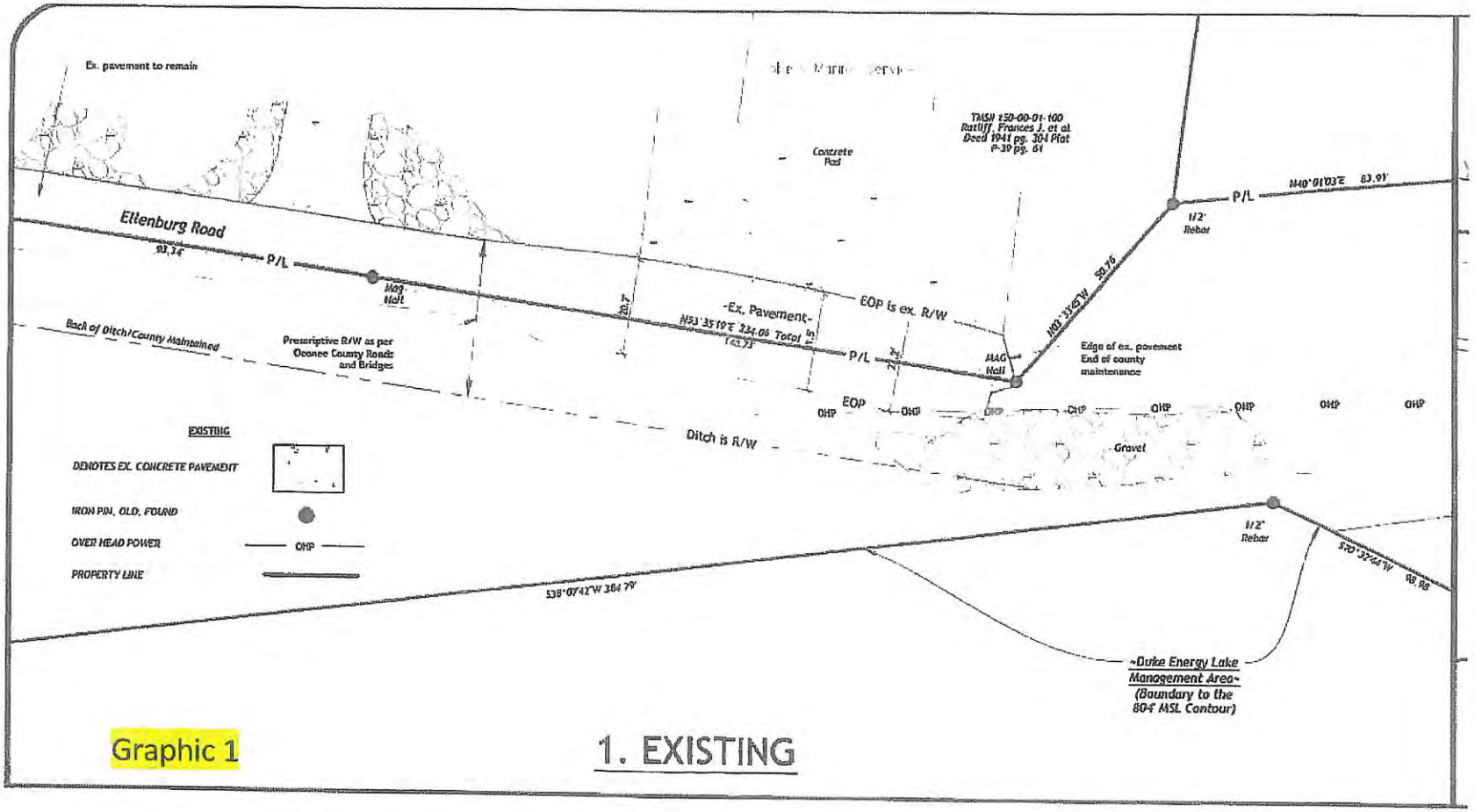
NO.	DATE	COMMENT
1	11-29-21	PLANNING COMMENTS

SHEET

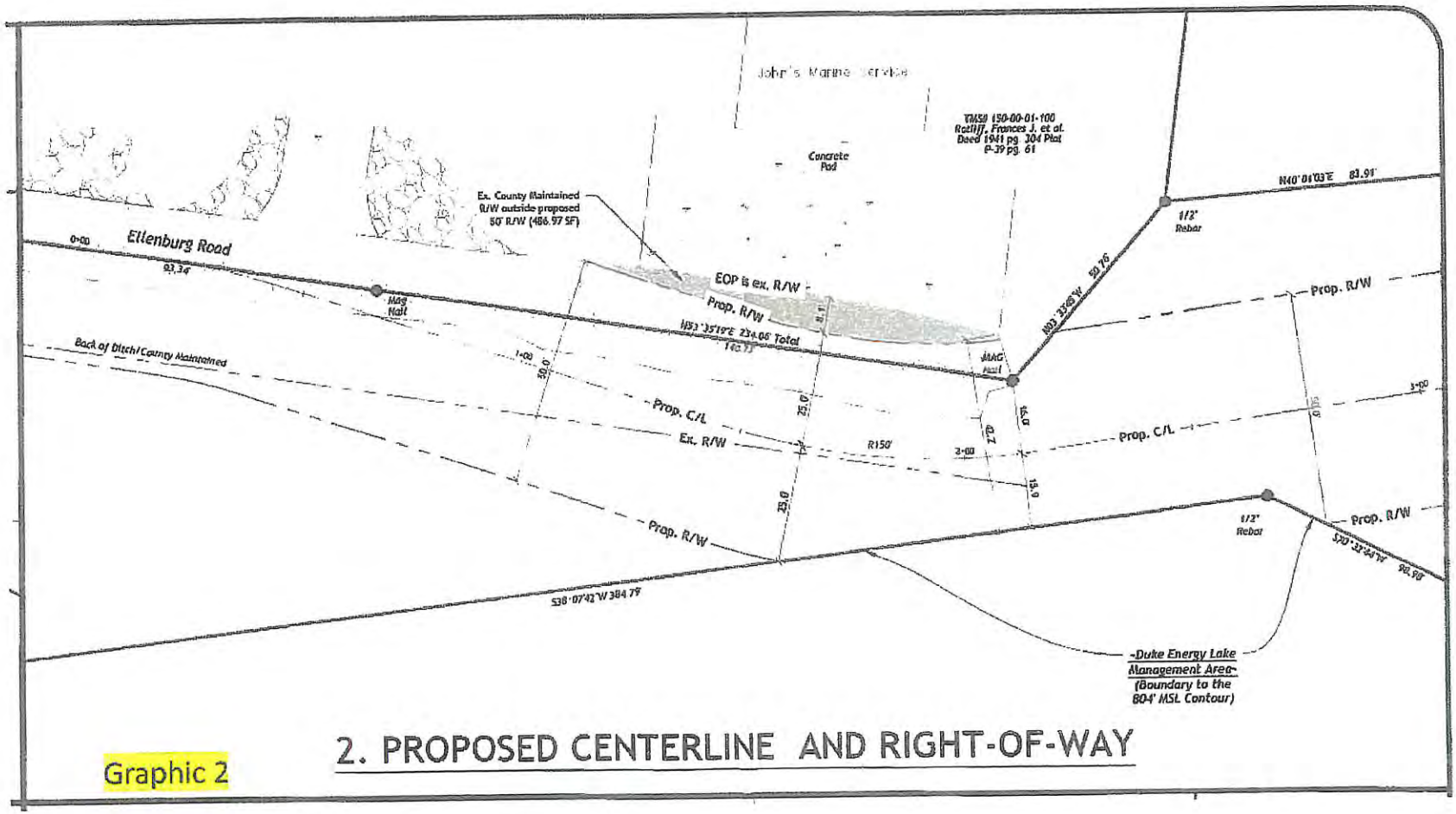
Variance Request

C - 2

414


Ex. pavement to remain
Ellenburg Road
93.3'
P/L
Mag Nail
Back of Ditch/County Maintained
Prescriptive R/W as per Oconee County Roads and Bridges
-Ex. Pavement-
N53°35'19"E 234.06 Total
EOP is ex. R/W
P/L
EOP
OHP
Ditch is R/W
MAG Nail
Edge of ex. pavement
End of county maintenance
Concrete Pad
TMS# 150-00-01-100
Ratliff, Frances J. et al
Deed 1941 pg. 304 Plat P-39 pg. 61
1/2" Rebar
N40°01'03"E 83.91'
N03°33'57"W 50.76'
Gravel
1/2" Rebar
S40°37'44"W 98.88'
S38°07'42"W 384.79'
EXISTING
DENOTES EX. CONCRETE PAVEMENT
IRON PIN, OLD, FOUND
OVER HEAD POWER
PROPERTY LINE
~Duke Energy Lake Management Area~
(Boundary to the 804' MSL Contour)
Graphic 1
1. EXISTING

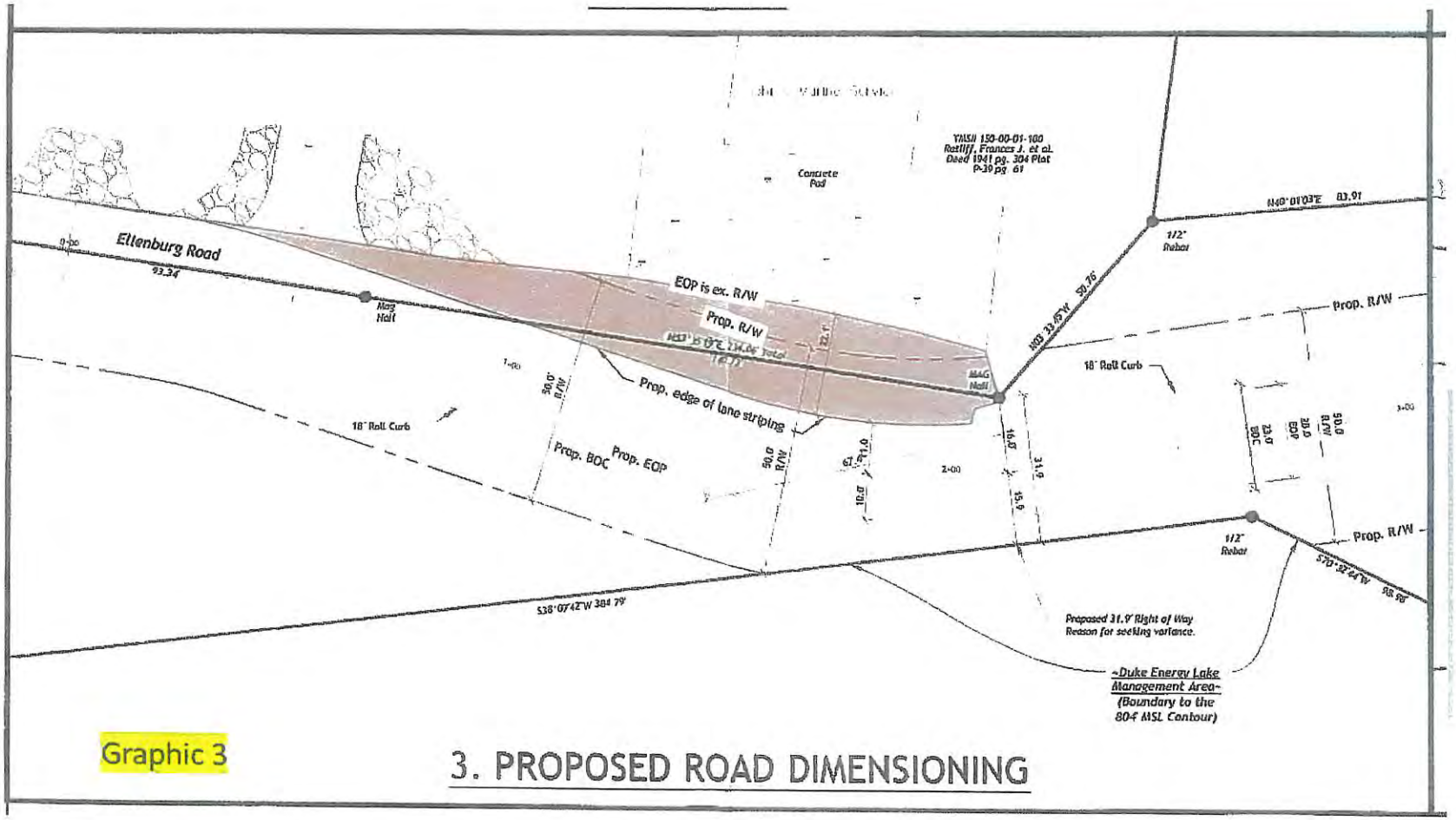
(4)



Graphic 2

2. PROPOSED CENTERLINE AND RIGHT-OF-WAY

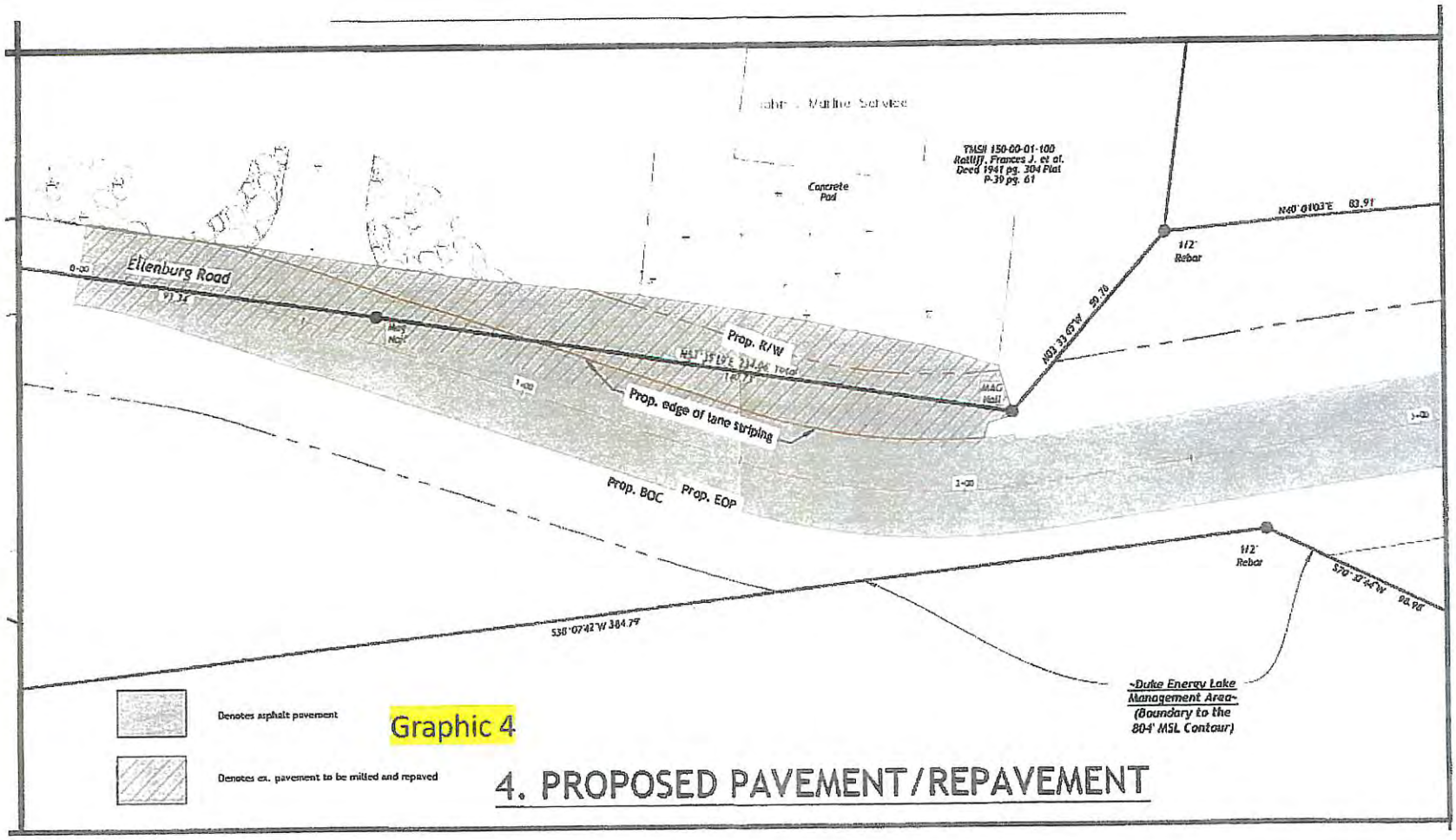
(5)



Graphic 3

3. PROPOSED ROAD DIMENSIONING

(6)


Ellenburg Road
Concrete Pad
TMS# 150-00-01-100
Ratliff, Frances J. et al.
Deed 1981 pg. 304 Plat P-39 pg. 61
Prop. R/W
Prop. edge of lane striping
Prop. BOC
Prop. EOP
1/2" Rebar
1/2" Rebar
N40°01'03"E 83.91
N03°33'43"W 50.76
S30°07'42"W 384.79
S70°33'44"W 98.98
Duke Energy Lake Management Area
(Boundary to the 804' MSL Contour)
Denotes asphalt pavement
Denotes ex. pavement to be milled and repaved
Graphic 4
4. PROPOSED PAVEMENT/REPAVEMENT

(7)

Lake Keowee
REAL ESTATE

896 N. Walnut Street, Seneca, SC 29678

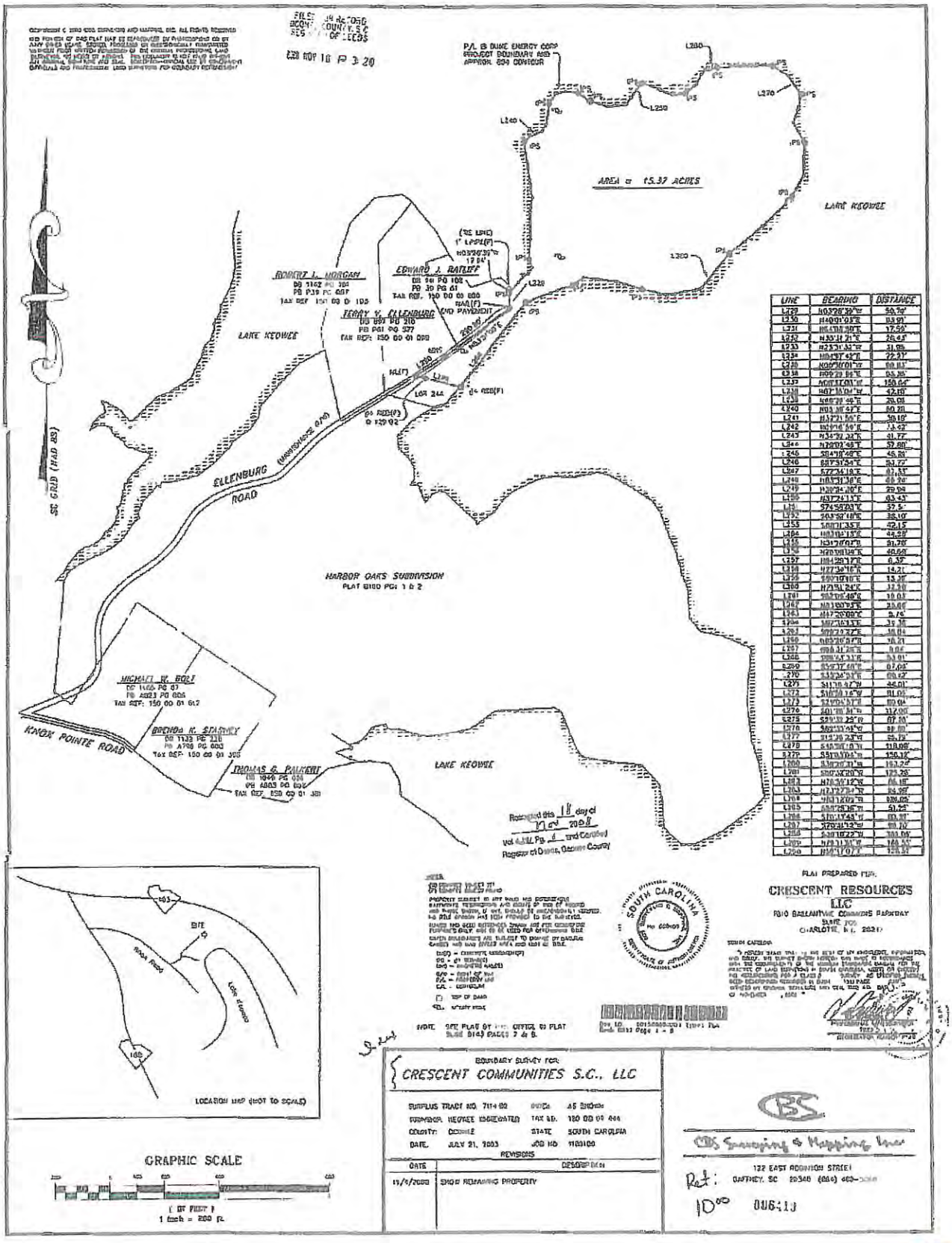
• 864.886.0098 • Fax 864.886.0075

To Whom It May Concern,

I, John Hamrick, am the owner of this property located at the end of Ellenburg Road, Tax Map # 150-00-01-459. I am aware Andy Lee is working to get a variance for this property. I am in full support and appreciate any consideration given.

Thank you,

John Hamrick



LINE	BEARING	DISTANCE
L229	N03°26'50"W	56.76'
L230	N49°01'03"E	53.91'
L231	N54°38'38"E	17.56'
L232	N35°11'21"E	26.43'
L233	N23°51'33"W	31.05'
L234	N84°58'43"E	22.91'
L235	N09°09'01"W	50.11'
L236	N09°29'04"E	55.35'
L237	N01°37'01"W	150.64'
L238	N67°16'04"W	42.16'
L239	N66°29'46"E	28.08'
L240	N03°38'43"E	50.28'
L241	N17°21'56"E	50.16'
L242	N51°16'59"E	73.62'
L243	N34°52'22"E	61.77'
L244	N29°02'48"E	57.88'
L245	S84°18'48"E	45.38'
L246	S87°51'54"E	53.72'
L247	S77°34'18"E	67.55'
L248	S88°31'50"E	68.36'
L249	N39°34'20"E	29.04'
L250	N31°24'13"E	83.45'
L251	S74°58'03"E	37.5'
L252	S63°52'18"E	38.10'
L253	S00°01'35"E	42.15'
L254	N83°18'13"E	44.29'
L255	N34°47'02"E	51.78'
L256	N70°08'34"E	48.68'
L257	N84°29'17"E	8.39'
L258	N27°36'16"E	14.21'
L259	S49°10'01"E	13.38'
L260	N12°51'24"E	12.38'
L261	S83°05'48"E	10.03'
L262	N31°00'53"E	23.66'
L263	N17°20'08"E	9.76'
L264	N07°06'13"E	35.38'
L265	S09°30'27"E	38.84'
L266	S05°36'54"W	38.21'
L267	S84°31'28"E	9.84'
L268	S86°44'33"E	54.01'
L269	S54°37'46"E	87.05'
L270	S33°24'51"E	69.12'
L271	S41°38'47"W	46.01'
L272	S10°58'16"W	81.02'
L273	S21°04'13"E	80.04'
L274	S01°38'34"E	112.05'
L275	S29°39'25"E	87.38'
L276	S00°33'48"E	88.88'
L277	S13°38'28"W	95.79'
L278	S19°58'18"W	118.08'
L279	S51°34'04"W	150.13'
L280	S38°20'31"W	193.24'
L281	S80°42'20"W	175.26'
L282	N78°39'12"W	66.18'
L283	N72°27'34"W	84.98'
L284	N61°12'09"W	89.05'
L285	S80°25'36"W	51.23'
L286	N83°14'48"W	89.38'
L287	S79°31'33"W	89.70'
L288	S38°08'22"W	100.04'
L289	N78°31'30"W	100.55'
L290	N84°11'07"W	126.34'

Recorded this 18 day of Nov 2008
Vol 43L Pg 1 and Carried
Register of Deeds, Oconee County

SOUTH CAROLINA
No 20800
REGISTERED LAND SURVEYOR

CRESCENT RESOURCES LLC
526 BALLANTYNE COMMONS PARKWAY
SUITE 200
CHARLOTTE, N.C. 28277

DATE	DESCRIPTION
11/5/2008	SHOW REMAINING PROPERTY

CBS Surveying & Mapping Inc.
122 EAST ADDISON STREET
GAFFNEY, SC 29340 (864) 489-

Ref: 10-00 006413

9

Gmail

Andy Lee <andyonkeowee@gmail.com>

FW: Ellenburg Road - BZA hearing

2 messages

James Coley <jcoley@oconeesc.com> Mon, Nov 29, 2021 at 12:13 PM
To: Wesley White <wesley@ridgewatereng.com>, Andy Lee <andyonkeowee@gmail.com>

For your records.

Thanks,

From: Kyle Reid
Sent: Monday, November 29, 2021 9:58 AM
To: James Coley <jcoley@oconeesc.com>
Cc: David Root <droot@oconeesc.com>; Vivian Kompier <vkompier@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

James,

Here are the bullets from my conversation with the developer and his engineers concerning the development at the end of Ellenburg Rd. (these are not commentary on the variance requested for the BZA and the below was based on hypotheticals as no plan was presented):

- The developer asked about where Ellenburg Rd stops being county maintained. I told them it was the end of the asphalt and that we did not have deeded right-of-way as the road is maintained by prescriptive easement. I also showed him what we have been maintaining as the extent of our right-of-way.
- They asked about upgrading the road and told me getting right-of-way from the adjacent property owner would likely be difficult. They asked about being able to place the road entirely on their property with a reduced right-of-way than the 50' standard required by the ordinance. I told them that any variance from the road standards would have to be heard by the BZA.
- They asked if there was anything additional that they would need to consider. I told them without a sketch plan it would be hard to hit all the points, but with a subdivision more than 10 lots there would have to be a traffic impact study for Ellenburg Rd that would need to be done at the preliminary plat phase along with an encroachment permit to tie onto the end of the county maintained portion of Ellenburg Rd.
- They asked me about the new road in the development becoming a county maintained road. I told them that the road would need to meet all county standards and have an approved turn around.
- They asked me about the being able to put a gate on the road. I told them it could not be a county maintained road if there was a gate.

As for the proposed variance from the road standards, I would not see an appreciable impact for us to maintain the road because of the fact that our road would terminate at the area with a narrowed right-of-way. They would have to grant us right-of-way in the area they are proposing to relocate the road which would enhance our ability to maintain it. The only other question I would have is for them to show the ability to get the road, shoulders, drainage, and utilities in the proposed narrowed right-of-way.

10

Thank you,

W. Kyle Reid

Assistant Director of Public Works

Oconee County Roads & Bridges

15022 Wells Hwy - Seneca, SC 29678

Phone: (864) 886-1072

Fax: (864) 886-1071

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From: James Coley
Sent: Tuesday, November 23, 2021 1:37 PM
To: David Root <droot@oconeesc.com>; Vivian Kompler <vkompler@oconeesc.com>; Kyle Reid <kreid@oconeesc.com>
Subject: RE: Ellenburg Road - BZA hearing

Kyle,

Can you please write up notes for your meeting with the developer, and how their proposal impacts roads and bridges, and your site meeting with them? I will incorporate your materials into a report to the board with the staff recommendations.

Have a great thanksgiving.

Thanks,

James Coley

From: David Root
Sent: Monday, November 22, 2021 12:53 PM
To: James Coley <jcoley@oconeesc.com>; Vivian Kompler <vkompler@oconeesc.com>; Kyle Reid

<kreid@oconeesc.com>
Subject: Ellenburg Road - BZA hearing

Making sure you all had this section in mind also:

Sec. 26-8. - Variance from road standards.

(a) Any variance from these road standards shall be consistent with the intent of this article, and shall be approved in writing by the board of zoning appeals. Any person or entity requesting a variance from road standards shall submit a written request for a variance to the planning director of the county. A variance can only be granted for actions to take place in the future. No variance may be granted for past actions.

(b) Prior to scheduling a variance hearing before the board of zoning appeals, the person or entity requesting said variance shall work with the county planning department and the county road department in an effort to eliminate or minimize the need for a variance. After reasonable efforts and no other solution can be reached, a hearing shall be scheduled before the board of zoning appeals. The county staff shall submit written reports to the board of zoning appeals setting forth the county regulation in question, the efforts made to remedy the situation, and a recommendation setting forth the county's position regarding the variance. These written reports shall be submitted to the person or entity requesting the variance at least five days before the variance hearing.

(c) Notice of the variance hearing shall be provided by first-class mail to the person or entity requesting the variance at least 15 days prior to the hearing. Notice of the hearing shall also be published in a newspaper of general circulation in the county at least 15 days before the hearing.

(d) Any party may be represented by counsel. Any person or entity that would be directly impacted by the granting or denial of the variance may participate as a party in the hearing, provided notice of intent is submitted in writing to planning department at least seven days prior to the hearing. The planning department shall immediately notify all other parties of the new party's participation. The county may support or oppose the variance request or be neutral.

(e) The board shall make the initial determination concerning the variance request and may consider any and all evidence it deems relevant concerning the variance issue. The paramount issue for all variance requests shall be the reasonable safety of the road under the proposed circumstances. If the board concludes that a safe road can be constructed without strict application of the regulations set forth in this article or other county ordinances and policies, the board may then consider issues such as the cost of right-of-way acquisition, placement of utilities, and unusual circumstances in determining whether to grant a variance. The board should use reasonable discretion in its decision making.

(f) A person or entity whose request for a variance has been denied by the board may appeal the board's decision to the transportation committee of the county council.

James and Vivian – do you all need anything from me or Kyle prior to the hearing?

– David

David A. Root

Oconee County Attorney

415 South Pine Street

Walhalla SC 29691

Ph. 864-364-5332

Attorney client / work product protections reserved

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Andy Lee <andyonkeowee@gmail.com> Mon, Nov 29, 2021 at 12:43 PM
Reply-To: andyonkeowee@gmail.com
To: Adam Chapman <adamcorychapman@gmail.com>

[Quoted text hidden]

2 attachments

image001.jpg
6K

image001.jpg
6K

Variance Criteria Overview

General criteria for granting a variance. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

a) *There are extraordinary and exceptional conditions pertaining to a particular piece of property.*

The parcel itself is a peninsula, it's bounded by water on all sides with exception of the center of the county road as a boundary. The peninsula is narrow in a small portion of the parcel and is unique in that the property line is the center of the road and does not have it's own right of way. There is only access easement to the parcel. These conditions are extraordinary and exceptional because of the limitations created by geography and topography within this parcel. The way a parcel of land lays, the geography, the topography are all acceptable reasons for granting a variance.

b) *These conditions do not generally apply to other property in the vicinity.*

In the geographic vicinity of this piece of property most roads have a 50 foot right of way because they are not geographically constrained. This property is bounded by a body of water. Most parcels in the vicinity are not bound by the water on both sides. Because of the unique geography of this parcel, meeting the current road ordinance goes beyond creating an unnecessary hardship and instead creates only impossibility of use. This impossibility creates a scenario which meets the criteria for granting a variance.

(11)

c) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Without granting this variance to the roads ordinance the application of the ordinance will unreasonably restrict the use of the property. The property was purchased prior to this ordinance being adopted and if you will reference the Deed Restrictions for the parcel you will see that these restrictions are designed in mind with an end use for single-family residential development which was and still remains the intent behind this purchase. The developments in the vicinity of this property have larger homesites and larger homes. The application of this ordinance effectively prohibits building like kind or similar developments for which this property was purchased for, as per the deed.

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

1) **The proposed improvement will relocate the existing edge of county pavement, as shown on exhibit 2, to provide John's Marine an additional 22 feet of area to maneuver, outside of the County maintained roadway.**
2) **We will extend his current driveway to meet the new roadway so that it is then contiguous to his drive and ramp, causing no disturbance in his business use.**
3) **Probably most helpful to improve current conditions for his operation is the installation of a cul-de-sac at the termination of the county road. This would be located 100% within the boundaries of our parcel, as you can see on Graphic 2 and does not encroach onto his property. John's Marine, his customer base, and**

the delivery truck drivers will be able to utilize this space to turn around trucks and trailered boats. John's Marine is currently using the county road as a parking lot and to turn around delivery trucks according to himself and what has been submitted by the public. Granting this variance would alleviate that current hardship by expanding the paved area and providing a paved cul-de-sac that is built to accommodate a circling school bus or fire truck. This should effectively eliminate the need for Fedex/UPS truck to turn around in adjacent owners driveways, road shoulders, or have a need to block the road. This will certainly benefit him and his customers to be able to turn around there.

4) We are improving the affected area an ageing county road to current county specifications, an improvement to the current conditions of the roadway. This improvement is at no cost to John's Marine, the neighbors, or to the taxpayers.

5) 19 more homesites also provides the opportunity for 19 more boats to service at the most convenient of distances. John's Marine, who already has an excellent customer base and strong reputation in our community as a top mechanic, will have a slightly expanded customer base in the community if he chooses to take on new clientele. Also, the impact of construction vehicles traveling the road way into the development is for a limited window of time while homes are being built.

William Anderson "Andy" Lee

As an Oconee County native Andy is a 5th generation builder and developer. After graduating from Walhalla High School and a tour of service in the United States Navy he returned to Oconee and has worked in construction and development. He is also a local small businessman having purchased the brokerage in 2011 after serving as construction manager for the firm 5+ years prior. Andy has developed over 40 Lake Keowee communities and successfully marketed and sold these homesites through Lake Keowee Real Estate.

Reah Land Smith

Also an Oconee County native, Reah has been with the Lake Keowee Real Estate since 2013 and in the real estate industry since 2010. Reah played an integral role in the development, marketing, and sales of the last 8 developments in the brokerage. She currently resides on Lake Keowee.

12

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes
6:00 PM – November 30, 2021

Members in Attendance
Gwen Fowler
Marty McKee
Bill Gilster
Bill Decker
Tim Mays
Jim Codner
John Eagar

Staff
James Coley
Vivian Kompier

Media
Lauren Pierce, The Journal

ITEM 1 – Call to Order – Mr. Codner called the meeting to order at 6:00 PM.

ITEM 2 – Approval of minutes of May 24, 2021 meeting – Mr. Eagar made a motion to approve; seconded by Mr. McKee. Vote 4/0 to approve, with Mr. Mays, Mr. Gilster and Mr. Decker recusing themselves.

ITEM 3 – Brief statement about rules and procedures – Mr. Codner outlined the proceedings of the meeting going forward:

- Applicant will provide an 8-minute presentation to state their request. Mr. Codner asked presenters not to be overly verbose.
- For the opposition to the request, the Board asked that one or two people summarize the opposition—concerns, problems, etc.
- Citizen comments – Mr. Codner asked that speakers avoid identical comments in the interest of brevity. He added that the Board has received close to 100 emails that they have reviewed and they understand the issues. It is important that everyone have their say, but asked everyone to be brief if at all possible.
- Applicant rebuttal
- Board member questions, with input from Planning Staff when requested.
- Voting

ITEM 4 – Variance request application #VA21-010: Seamon Whiteside and Associates, Inc. – Paul Talbert is requesting a variance allowing the side setback

for lot lines dividing attached single family units to be reduced to 0', thus allowing construction of individually platted, attached single family units. TMS #271-00-01-940/943/942/941/939/938 unaddressed parcel with the closest address of 201 W. Cherry Rd., Seneca, SC 29678.

Applicant's opening statement and provision of evidence:
Paul Talbert stated he was representing the engineer of record for the subject development, Phase II of The Pier North. Mr. Talbert read the responses to questions on the variance application.

1. **Describe the extraordinary and exceptional condition that pertains to the subject property that does not generally apply to other land structures in the vicinity:** *The owner wishes to develop the subject property as attached single family units that are individually platted for sale. The code currently does not accommodate individually platted attached single family units due to the 5' side setback requirement for single family residential lots in the control free district. (Sec. 38-10.2) The owner requests a variance allowing the side setback for lot lines dividing attached single family units to be reduced to 0', thus allowing the construction of individually platted, attached single family units. All other setbacks, including side setbacks on end units, will meet Oconee County code. This will allow the owner to offer attached single family units for sale, providing an increased variety of housing products at various price points in the district. The availability for sewer on site due to access to private water treatment offers an opportunity for a higher density not present in other areas of the district.*
2. **Are the circumstances affecting the subject property the result of actions by the applicant/owner? Explain:** *No, the circumstances are due to an incompatibility between the existing single family zoning ordinance and the desire to provide attached single family dwellings on individually platted lots.*
3. **Describe the ways in which application of the requirement(s) of the ordinance effectively prohibit or unreasonably restrict the utilization of the subject property:** *The requirement for a 5' side setback on all single family residences prevents the development of attached single family units for sale rather than rental.*
4. **Will the proposed variance result in an activity that will not be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance? Explain:** *Yes, the proposed variance will not harm, but enhance the character of the district. The subject property is adjacent to multifamily apartments. Allowing attached single family units will provide a more seamless transition in density and use from the adjacent multifamily units to the proposed single family detached units and other surrounding single family development. The use of attached single family units will also allow units to be clustered, thus providing greater opportunity for common open space, as seen in the site plan. The*

increased opportunity for home ownership rather than rental, will increase the investment of those living in the subdivision in the surrounding community.

Discussion with the Board followed.

Public Comment:

- Mr. Codner read/summarized emails summited by the public into the record.
- Mr. Patrick Tierney, Citizen, stated that he could not discern where the proposed development was located from the back-up material provided.
- Mr. Chris Leonard, Citizen, asked if townhomes will be priced at a price for first-time home buyers. If so, stated that would be a good idea.
- Mr. Matomas, Citizen, expressed his opposition to the proposed variance. He lives in Point Harbor and is concerned about devaluation of the established homes in the area and increased boat traffic.

Applicant rebuttal:

- Mr. Talbert was given the opportunity to address the public comments. He clarified the exact location of the proposed variance using the projected map.
- Mr. Chip Orson, Four Star Group, who manages land acquisition for the developer addressed the question regarding price points for the townhomes. Mr. Orson added that within his years of experience he has not seen similar developments negatively affect the valuation of neighboring properties.
- Mr. Talbert stated that the opposition to boat traffic was not applicable to the variance request as the property is not on the water.
- Mr. Talbert addressed the issue of density that was raised in emails read into the record. He stated that if the variance would be denied, the density would not change. With regards to the traffic concerns, he advised they have commissioned and completed a traffic study. The project has received SCDOT approval and any improvements to traffic flow, to any of the surrounding streets will be addressed in the development as required by the traffic study and SCDOT.
- Ms. Tricia Chason, Entitlement Manager, Four Star Group, advised that turn lanes (right-hand and left-hand) will be constructed off of Cherry Road into the development, so it will be widened significantly. There will be two entrances into the development, one off Cherry Road and one off J P Stevens Road. There are no improvements required for the J P Stevens entrance. There is another access point that will be for emergency vehicles only; it will be gated to prevent additional traffic. Ms. Chason added that the traffic study also analyzed the surrounding intersections and found no improvements were needed. She advised that SCDOT has a funded project that is in development now to improve the intersection at J P Stevens Road and Cherry Road.

Staff comments:

- Ms. Kompier stated that the property in question is zoned Control Free, with no density limitations. She confirmed that density is not an issue tonight; it is strictly lot lines.

1. There ***are*** extraordinary and exceptional conditions pertaining to the particular piece of property:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. Mays. No discussion.
   b. Vote

In-favor	Opposed
7	0

   Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. McKee. No discussion.
   b. Vote

In-favor	Opposed
7	0

   Mr. Codner noted that the criterion passed.

3. Because of these conditions, the application of this chapter to the particular piece of property ***would*** effectively prohibit or unreasonably restrict the utilization of the property; and
   a. Motion – Mr. Gilster made a motion, seconded by Mr. Decker. Discussion followed.
   b. Vote

In-favor	Opposed
7	0

   Mr. Codner noted that the criterion passed.

4. The authorization of a variance ***will not*** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.
   a. Motion – Mr. Eagar made a motion; seconded by Mr. Gilster. Discussion followed.
   b. Vote

In-favor	Opposed
7	0

   Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved.**
    a. Motion – Mr. Eagar made a motion; seconded by Mr. Decker. No discussion.
    b. Vote

In-favor	Opposed
7	0

Mr. Codner noted that variance request was approved.

Item 5 – Variance request application #VA21-011: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' right-of-way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch-to-ditch right-of-way. TMS #150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

Applicant's opening statement and provision of evidence:
Reah Smith, Development Team, Lake Keowee Real Estate, spoke on behalf of the applicant for the variance. She presented evidence that the property has geographic and physical constraints that require the variance and that each of the four criterion can be met to approve the variance. Ms. Smith added that the Road Ordinance that is referenced was adopted after the property was purchased. Ms. Smith described the positive impact the variance will have on John's Marine and the nearby County roads. Board members asked questions to clarify certain points.

Staff comments: Mr. Coley explained that the request is a road variance, not necessarily a zoning ordinance, and Planning staff have met with staff from the Roads & Bridges Department to discuss. Notable findings from the meetings include agreement that the current road right-of-way is prescriptive and ends at the pavement on either side of the road, the variance is for a section that is 100 ft. in length and 31.9 ft. at its narrowest point, and the applicant is shifting the proposed entrance south from the center of the road so that it is all on their property. Mr. Coley also noted that granting this variance would not allow construction to begin immediately. The applicant would still need Roads & Bridges' approval for their plan to fit road shoulders, appropriate drainage, and all utilities in a narrow right-of-way. In addition, a traffic study would need to be completed as well as approvals for access and turn radiuses from Emergency Management.

Public comment time:
- Rick McDuff, Attorney, Spokesman for John's Marine (Ratliff family), stated the opposition to the ordinance. Points of opposition included:

- The portion of the road in question is not owned by Oconee County. Ownership is split between the developer and Ratliff's, with the majority by the Ratliff's.
- The belief that the BZA has no authority to make this decision; must be decided between the two private parties.
- No evidence a prescriptive easement has been obtained by the County
- Applicant is attempting to change a contour of an easement that they are not a party to
- Negative impact on John's Marine and the Ratliff property and absence of legal remedies to address the impact

Discussion with the Board followed.

- Edward John "Jay" Ratliff, Jr., outlined the Ratliff family's opposition to the variance, the history of the business and the negative impact of the approval of the variance.
  Discussion with the Board followed.
- Mike Johnson, citizen, expressed his support for the variance approval, citing the changes to the County ordinance that regulates roads and right-of-ways over the years, specifically regarding private roads.
- Maggie Johnson, citizen, spoke in support of the variance approval and property owner's right to use their property as allowed.
- Chad Knot, citizen, expressed his opposition to the variance approval noting issues with the legality of Board deciding this application, infringement of the Duke 804 line, traffic, and the impact on John's Marine.
- Chris Holder, citizen Greenville, SC, stated his opposition to the variance approval. Mr. Holder referred to the negative impact on John's Marine specific to the space needed to navigate boat trailers and traffic.
- Jon Martin, citizen, stated his opposition to the variance with concern that John's Marine will lose their business and/or Oconee County taxpayers will have to defend decision in appellate court.
- Bruce Hadley, citizen, expressed his concern that the Board has no jurisdiction over this application as the road is private land and there is no plan to allow for a similar business if John's Marine is forced out of business
- Barry Steele, citizen, expressed his opposition to the variance approval based on his concerns with erosion and limited room for tractor trailers used for deliveries.
- Doug Cooper, Harbor Oaks HOA President, expressed his opposition to the variance approval citing safety concerns with regards to increased traffic.
- Mr. Codner made a motion to take a 5-minute break, seconded by Mr. Eagar. Mr. Codner called for a vote. The motion passed unanimously 7/0
- Mr. Codner made a motion that the Board reconvene, seconded by Mr. McKee. Mr. Codner called for a vote. The motion passed unanimously 7/0
- Mr. Codner read a sample of emails submitted by the public into the record.

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Page 2: Exhibit 2--Aerial of the Parcel and surrounding immediate area

Page 3: Graphics 1-4 Overview

Page 4: Graphic 1--Existing Roadway

Page 5: Graphic 2--Proposed Centerline and Right-of-Way

Page 6: Graphic 3--Proposed Road Dimensioning

Page 7: Graphic 4--Proposed Pavement/Repavement

Supplements:

Page 8: Letter from Parcel Owner

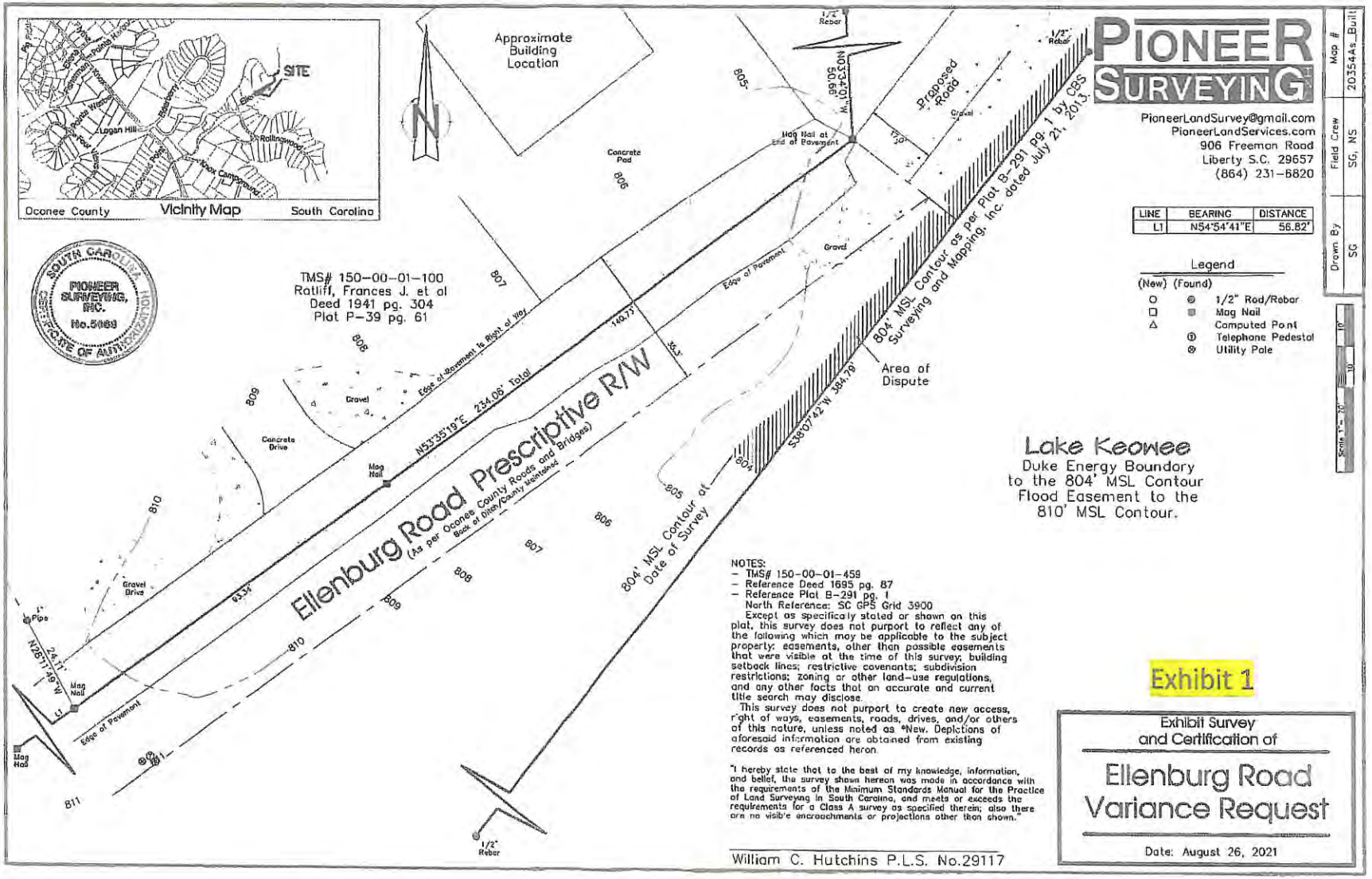
Page 9: Plat of Parcel from 2008

Page 10: Letter from Assistant Director of Public Works (stapled)

Page 11: Variance Criteria Overview (stapled)

Page 12: Developer Bios

(Outside Packet) Deed for Parcel with Deed Restrictions



NOTES:
- TMS# 150-00-01-458
- Reference Deed 1695 pg. 87
- Reference Plat B-291 pg. 1
- North Reference: SC GPS Grid 3900

Except as specifically stated or shown on this plat, this survey does not purport to reflect any of the following which may be applicable to the subject property: easements, other than possible easements that were visible at the time of this survey; building setback lines; restrictive covenants; subdivision restrictions; zoning or other land-use regulations, and any other facts that an accurate and current title search may disclose.

This survey does not purport to create new access, right of ways, easements, roads, drives, and/or others of this nature, unless noted as *New. Depictions of aforesaid information are obtained from existing records as referenced heron.

"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."

William C. Hutchins P.L.S. No.29117

Exhibit 1

Exhibit Survey and Certification of

Ellenburg Road Variance Request

Date: August 26, 2021

(1) (1)

John's Marine
&
High Falls Boat Rental
Exhibit 2
RIDGEWATER
Attachment Panel
Exhibit 2

(2)

THE JOURNAL

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SALESPERSON: 0034

INVOICE #: 1128657

OCONEE COUNTY PLANNING & ZONING
VIVIAN KOMPIER
415 S PINE ST
WALHALLA SC 29691-2145

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Vivian Kompier

From: accounting@upstatetoday.com
Sent: Monday, April 11, 2022 3:32 PM
To: Vivian Kompier
Subject: Payment - Thank You

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0724

Account Name

OCONEE COUNTY PLANNING & ZONING

CARDHOLDER (name,addr,zip)

VIVIAN M KOMPIER
415 S PINE ST, WALHALLA, SC, 29691

Account#

63480

Salesperson ID

0034

Transaction Summary

Trans Id

Date
Amount
210070326333011
DISPLAY ADVERTISERS
130.50

Date
04/11/2022
TOTAL
130.50

LEGAL NOTICES
LEGALS
Clip & Go
YARD SALES
Multi-Family Yard Sale
Saturday, April 2
8am - 12pm
Stonebridge Community Yard Sale
Saturday, April 2
Big, Two-Day Yard Sale
Yard Sale
Saturday, April 2
8am - 2pm
Yard Sale
Saturday, April 2
8am to 2 pm
Multi-Family Indoor Yard Sale
Saturday, April 2
7:30 am to 2 pm
Lifeline Community Church
Furniture, Clothes, Toys, Home Décor & more!
FIND IT IN THE CLASSIFIEDS!
SERV
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Blackwell's
Window Tinting
Auto Detailing
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Oconee County
Board of Zoning Appeals
415 South Pine Street
Walhalla, SC 29691
864-364-4218

BOARD ORDER ON VARIANCE HEARING
Hearing date: April 25, 2022
Permit Application: VA21-011

The Board of Zoning Appeals held a public hearing on Monday, April 25, 2022, to consider the request for a variance in accordance with County Ordinances, by application, for variance request #VA21-011: Continuation from 1/24/2022 BZA hearing postponement: Ridgewater Engineering and Surveying – Joe Meaders is requesting an 18.1' variance from the 50' Right of Way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS # 150-00-01-459 an unaddressed parcel with the closest address of 599 Ellenburg Rd, Seneca, SC 29672.

The Board makes the following conclusions:
Based on the evidence presented to the Board regarding the proposed Variance:

1. There ARE extraordinary and exceptional conditions pertaining to the particular piece of property;

2. These conditions DO NOT generally apply to other property in the vicinity;

3. Because of these conditions, the application of this chapter to the particular piece of property WOULD effectively prohibit or unreasonably restrict the utilization of the property; and

4. The authorization of a variance WILL NOT be of substantial detriment to adjacent uses or to the public good, and the character of the district WILL be harmed by the granting of the variance.

Therefore, by A VOTE OF 5-0, the Board of Zoning Appeals orders that a variance from the required 50' right-of-way of 18.1' located at TMS# 150-00-01-459 has been APPROVED with the following condition:
Order approved subject to proper abandonment procedures, compliance with all ordinances and state law on acceptance into the County roadway system. Developer grant/ deed John's Marine property so that there is reasonable, unimpeded access to the new road.

Date issued: 5/11/22

Chairman

Secretary

Date mailed to parties in interest:
after date this Order was mailed.

Notice of appeal to Circuit Court must be filed within 30 days

Oconee County
Board of Zoning Appeals
415 South Pine Street
Walhalla, SC 29691
864-364-4218

Scrivener's Error Corrected

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Date issued: 5.11.22

Chairman

Scrivener's error corrected as of: 6/22/22

Secretary

Date Scrivener's error corrected mailed to parties in interest: _____

JOHN'S MARINE SERVICE, INC., ET AL.

VS.

OCONEE COUNTY BOARD OF ZONING APPEALS, ET AL.

ORIGINAL

11/30/2021

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

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MR. DECKER:

Second.

MR. CHAIRMAN:

Any discussion? Anymore discussion? All those in favor please say aye and raise your hand.

MALE VOICE:

Aye.

MALE VOICE:

Aye.

MR. CHAIRMAN:

I have seven in favor, no opposed. Thank you, your -- your request is -- is approved. And obviously if anyone -- anyone's free to leave if you came here for the first request, everyone's free to leave, it's not a problem. Okay, the second request. Variance request to application number VA21-011, Ridgewater Engineering and Surveying, Joe Meaders is requesting an 18.1 foot variance from a 50-foot right-of-way for the entrance of a subdivision due to the end of the existing road not making full access onto the property, only having a prescriptive ditch-to-ditch right-of-way. TMS number 150-00-01-459, unaddressed parcel with the closest address of 599 Ellenburg Road, Seneca, South Carolina 29672. Okay, the same rules apply, the applicant please --

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please come forward and -- and make a presentation of what you want to do.

MS. SMITH:

Thank you very much.

MR. CHAIRMAN:

Hold it to like seven or eight minutes, that's fine.

MS. SMITH:

I can get it done (inaudible). So Andy and Wesley are handing out some additional material. You've got a -- a black binder that has a clip on it, if you'll unclip it the first seven pages are big full 11 by 17 maps just to make it easier to read, they're the same thing that we're gonna see on the -- the screen. I'll go ahead and begin. Good evening ladies and gentlemen of the Board and respective staff and members of the public. Thank you for your time and consideration as we come before you seeking a variance. My name is Reah Smith and I'm a member of the development team at Lake Keowee Real Estate. I'm an 11th generation Oconee County native and currently reside on the Lake Keowee waterfront. I have with me tonight on our development team Andy Lee, who is seated to the right. He's the broker in charge and owner of Lake Keowee Real Estrate -- Real Estate. Wesley White,

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who is president of Ridgewater Engineering and Survey and our -- our counsel Larry Brandt. I'm presenting to you our criteria for this parcel to be granted a variance based on our individual case of unnecessary hardship of an ordinance. I feel confident at the conclusion of this presentation we will have made a clear explanation of each of the findings of the four general criteria to grant a variance. We understand there have been some public concerns. Later on we plan to address those concerns and we also thank the public for making their voices heard. Before getting into the criteria I'd like to clarify that the purchase of this parcel pre-dates the existing road ordinance. At the time of purchase no variance would've been needed to go straight into construction, however, given that we entered one of the most severe economic recessions in US history it would have been unwise timing to do so. Here's what -- here's what specifically we're requesting a variance on. Please reference page one, Exhibit 1 in your packet; and it is also shown on the screen.

MR. CHAIRMAN:

Give me one second. Has everyone been able to get their folder open?

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MALE VOICE:

Yeah.

MR. CHAIRMAN:

I see --

MALE VOICE:

Finally.

MS. SMITH:

It -- it was the (inaudible).

MALE VOICE:

(Inaudible).

MS. SMITH:

Okay.

MR. CHAIRMAN:

Okay, everyone got to page one? Okay.

MS. SMITH:

Okay. We are asking for a variance for the width of the right-of-way on a small portion of road we are building. So if you'll reference here, it's this small portion right there, and Wesley you may have to point as well with the pointer being small. The vast majority of the road will have a 50 foot right-of-way. Understand we're asking for a change of width in the right-of-way and not the change of the width of the actual pavement road surface. So starting with criteria A, there are extraordinary

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and exceptional conditions pertaining to the particular piece of property. I'd like to ask that you red -- reference Exhibit 2, page two, in your packet, and the slide also will be here on the screen. I don't have the (inaudible). Here we go. As you can see the parcel itself is a peninsula. It's bounded by water on all sides. The peninsula is narrow and a small portion of the parcel and is unique in that the property line is the center of the road and the existing road does not have its own right-of-way. As per the county roads department and the county does not have a deeded right-of-way and it's maintained now by prescriptive easement. These conditions are extraordinary and exceptional because the limitations created by geography and topography within this parcel. I remind the Board that the way a parcel of land lays the geography, the topography are both acceptable reasons for granting a variance. Next B, the conditions do not generally apply to other property within the vicinity. In the geographic vicinity of this piece of property most roads have a 50 foot right-of-way because they're not geographically constrained. This property is bounded by a body of water, most parcels in the vicinity are not bound by water on

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both sides. Because of the unique geography of this parcel, meeting the current road ordinance goes beyond creating an unnecessary hardship and instead only creates impossibility of use. The impossibility creates a scenario which meets the criteria for granting a variance. Next C, because of these conditions the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. Without granting the variance to the roads ordinance the application of the ordinance will unreasonably restrict the use of this property. Again, the property was purchased prior to the ordinance being adopted and if you'll reference the deed restrictions for the parcel which is found in your supplements that did not fit in the folder, that's what's underneath, outside the packet, you'll see that these restrictions are designed in mind with an end use for single family residential development which was and still remains the intent behind the purchase. The development and -- developments in the vicinity of this property have larger home sites and larger homes. The application of this ordinance prohibits building like-kind or similar developments for which the

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property was purchased for as per the deed. And finally D, the authorization of a variance will not be a substantial determinant to the adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance. The community will be like-kind to the others in the area that we have developed, such as Harbor Oaks, Cottages at Riverbirch, and Pointe Harbor along the Knox Road and Ellenburg Road corridor. That's not affecting the character of the district. Granting this variance will not be a detriment to the public good as there's no further impact to the public. Given the unique peninsula and geography of the parcel, granting the variance will allow access to what is essentially a dead end road. But I think most important to address and the reason much of the public is here tonight is to explain the impact this has on John's Marine. Because I have known Mr. Ratliff for many years now I'll refer to him as Jimmy as our community also knows him. Jimmy currently owns and operates John's Marine Service and as of 2016 he added the additional business of High Falls Boat Rental, LLC at the same parcel noted on Exhibit 2. Highlighted in yellow here are the three parcels totaling 4.94

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acres that he owns. Here are the ways in which a -- a granted variance to this ordinance would impact his property. Please ref -- reference graphics one through four in your packets located on pages three through six. So you've got this quadrant and I've got them broken down into individual slides. Number one, the proposed improvement will relocate the existing edge of county pavement on graphic one to provide John's Marine an additional 22 feet of area to maneuver outside of the county maintained roadway shown on graphics two; again, also on graphics three. Right now he's paying taxes on a piece of property under county asphalt. That property will then return to him and we will pave it if he wishes. Reference now graphic four. To put this space into perspective that returns to him enough room to an average accommodate an additional six vehicles with boat trailers parallel to the road. Number two, we're going to extend his current driveway to meet the new roadway so that is then contiguous to his drive and to his ramp causing no disturbance in his business use. But probably most helpful to improve current conditions for his operation is the installation of the cul-de-sac at the termination of the county road and I'll point to this if I can get

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my pointer out. There's the cul-de-sac. As -- and that's on Exhibit 2, page two of your packet. This would be located 100 percent within the boundaries of our parcel. As you can see on Exhibit 2 and it does not encroach onto his property. Jimmy, his customer base, and the delivery truck drivers will be able to utilize this space to turn around trucks and trailered boats. I've read input from concerned citizens that the ability to turn trucks around is currently an issue for his business as the current location and terminance of the county road creates these limitations. Jimmy is currently using the county road to turn around parts delivery trucks, according to himself and others along Ellenburg Road. Granting this variance would alleviate that current hardship by expanding the paved area and providing a cul-des-ac that's built to accommodate a circling school bus or a fire truck. This will certainly benefit him and his customers to be able to turn around here. However, Jimmy himself states in a letter to the public that, "Eighty percent of his customers do arrive by water, so it may be more advantageous for the delivery truck drivers." Number four, we're improving the affected area of an aging county road to current county specifications,

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an improvement to the current conditions of the roadway. This improvement is at no cost of Jimmy or the tax payers. And number five, finally, 19 new home sites also provides the opportunity for 19 more boats to service at the most convenient of distances. Jimmy who is already has an excellent customer base, as I think we can see in the room, and a strong reputation in our community as a top mechanic will have a slightly expanded customer base in the community if he chooses to take on new clientele. Also, construction vehicles travelling the roadway into the development is for a limited window of time while homes are being built. I think it's important to note that no one wants Jimmy to go out of business. No one here tonight is trying to put Jimmy out of business. We've made the case of the four criteria for a variance and our plan to construction will improve the existing area for the operation of his businesses and not serve as a detriment to him. In closing this part of the presentation I'd like to remind the Board that the criteria for a variance exists solely within the explanation of the four criteria I've covered at length earlier. At the root of the matter this parcel has significant geographical and physical

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constraints. The road ordinance more than creates an unnecessary hardship. The road ordinance established after the purchase of this property unreasonably restricts the use of this property. It is under these four criteria alone that I'm asking your consideration in granting this variance. I believe that we have firmly made a solid case for approval. Thank you for your time.

MR. CHAIRMAN:

Thank you.

MALE VOICE:

May I ask a question?

MR. CHAIRMAN:

Sure.

MALE VOICE:

(Inaudible) what's the radius on that cul-de-sac? (Inaudible) that you're talking about?

MS. SMITH:

Engineer, let's hear it.

MR. WHITE:

It's the county -- Wesley White, Ridgewater Engineering, it's the county standard of 40 feet.

MALE VOICE:

So it is 40?

MR. WHITE:

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And plus a foot and a half of curb and gutter.

MALE VOICE:

Thank you.

MR. CHAIRMAN:

(Inaudible) room for fire trucks --

MR. SMITH:

Correct.

MR. CHAIRMAN:

-- school buses, all that kind of thing?

MR. SMITH:

Correct. And that right -- it will also have its own right-of-way, it’s a 50 foot radius.

MALE VOICE:

Thank you.

MR. CHAIRMAN:

I have a question.

MS. SMITH:

Sure.

MR. CHAIRMAN:

Just a new piece of information you gave us here is -- is that the county’s current road ordinance, which specifies a 50 foot right-of-way, you say that came in after this property was purchased?

MS. SMITH:

Correct. If you reference the deed, which was

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outside of the packet, the purchase --

MALE VOICE:

(Inaudible).

MS. SMITH:

Yeah, it's a lot of stuff. The purchase was in 2008 and this -- the right-of-way I believe was written into code in 2014.

MR. CHAIRMAN:

Okay.

MS. SMITH:

Thirteen?

MALE VOICE:

Thirteen.

MS. SMITH:

2013, excuse me.

MR. CHAIRMAN:

Okay, thank you. Any other questions of the --

MR. EAGAR:

Quick -- quick question. There's a term that has been used in describing this case that there's a prescriptive ditch, what's a prescriptive ditch?

MS. SMITH:

I'm going to let an engineer tell you about it.

MR. WHITE:

It's a fancy term to say that there was no right-of-

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way to begin with and so the county maintains either if there's a ditch, they maintain to the back of that ditch. If there is no ditch then they maintain to this -- where the shoulder stops. If there is no shoulder, which is the case in front of John's Marine, they -- they maintain to the edge of the asphalt. So it's prescriptive meaning as you go down it you have to kind of determine where it is as you go.

MR. EAGAR:

Okay, thank you.

MR. CHAIRMAN:

Okay. There have been comments concerning your plans for this property. Is it gonna be marketed to homeowners in general or are you gonna -- is this gonna be a development that is associated with vacation rentals?

MS. SMITH:

At this time we haven't even begun to write the covenants and restrictions for this property. It's a little bit too far down the road. These will be homes for sale for certain but I couldn't tell you much beyond that what -- what our plans are.

MR. CHAIRMAN:

Okay, that's fair (inaudible) information.

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MS. SMITH:

Sure.

MR. CHAIRMAN:

Okay, thank you. Staff, any comments, please?

MALE VOICE:

So, this is a road variance, and not necessarily a zoning variance, we have met with the Roads and Bridges department. They have done some initial conversation that did not involve the sketch; they have been provided the sketch since then. Some of the things that I would note in the conversation, they -- they agree that the current road right-of-way is prescriptive and ends at the end of the pavement on either side of the road currently. The right-of-way request for the section they're talking about is approximately 100 foot in length in totality and then the right-of-way variance from the 50 foot to at the narrowest is the 31.9 feet but it is not angular, it's not 31 the entire way so I just wanted to be pointed out as well that it is a rhombus shape so it (inaudible). And the final thing was it is sketching, their sketch does show that they are shifting it to be all on their property so they're taking it out of the center line where it was on the property line, so the center

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line of the road was the easement of the property.

MR. CHAIRMAN:

It's -- it's -- it's -- it's the --

MALE VOICE:

They're shifting --

MR. CHAIRMAN:

-- developer's property line.

MALE VOICE:

Correct.

MR. CHAIRMAN:

Between them and John's Marine.

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

The property line runs down the center of the road currently.

MALE VOICE:

Correct.

MR. CHAIRMAN:

You're gonna shift --

MALE VOICE:

South.

MALE VOICE:

South.

MR. CHAIRMAN:

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-- to south. That's --

MALE VOICE:

Yes, sir.

MR. CHAIRMAN:

Okay.

MALE VOICE:

The other thing that just we would note is that the granting this variance does not immediately allow for construction. So they would still have to go through roads and bridges for additional -- they'd have to prove that they can place road shoulders, all the appropriate drainage, all the utilities in a narrowed right-of-way. They will have to perform a traffic study still and they will also need to get approvals for access and turning radiuses from the emergency management staff. So there are still several more steps before they can do a planned development as well.

MR. CHAIRMAN:

Okay. But other than those we don't know of any -- help me understand --

MALE VOICE:

Uh-huh.

MR. CHAIRMAN:

-- why the County requires a 50 foot right-of-way.

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The road is like 25 feet wide?

MALE VOICE:

This would be a minor road so it would be between 10 foot lanes, 11 foot lanes so --

MR. CHAIRMAN:

Okay.

MALE VOICE:

-- between 20 and 22 to back of pavement plus a shoulder would typically be three feet on either side.

MR. CHAIRMAN:

Uh-huh.

MALE VOICE:

If there’s ditches that obviously would depend on the front slip and the back slip of the ditch and the bottom but anywhere between, you know, three feet to 10 feet depending on the size of the ditch.

MR. CHAIRMAN:

Uh-huh.

MALE VOICE:

Or if it’s piped obviously that could be narrower.

MR. CHAIRMAN:

So coming down to a -- a -- a minimum of 30.9 feet I think it is.

MALE VOICE:

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Yes.

MR. CHAIRMAN:

That does not restrict the county's ability to properly use that right-of-way?

MALE VOICE:

It's --

MR. CHAIRMAN:

It's just narrower?

MALE VOICE:

-- (inaudible) so 31.9 foot right-of-way does not impact their ability to maintain the road. They've made no statement as to safety. So that is for -- for road maintenance for right now they are maintaining with zero right-of-way on the side of the road.

MR. CHAIRMAN:

Okay. Okay. Is everyone clear on all that, the questions we're asking? Okay. Pardon me while I get my act together here. Okay, we'll now open this up to citizen comment. Like I said, please be brief. I want everyone to have a chance to say something. Please be brief. Please don't reiterate what other people have said but if you really feel you need to say something please do. I'd like you to hold it to three minutes, hold your comments to

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three minutes. Now, there's a lot of interest here. Address your comments to us only. Do not talk to the developer or anyone else in the audience. Please address your comments to us only. Same goes for the developer later on, if you hear something you want to say, please say it to us; don't say it to anyone in the audience. Any questions on the rules? Are you first on the list is that the -- is that --

MR. MCDUFF:

No, I'm -- I'm gonna be the spokesperson for the group to articulate the opposition to it.

MR. CHAIRMAN:

Okay, fine. Just let me -- let me get my list out here. I have a list of -- here we are. So are you Mike Johnson?

MR. MCDUFF:

No, my name is Rick McDuff, I'm a -- an attorney at law here in Seneca.

MR. CHAIRMAN:

Okay.

MR. MCDUFF:

And I represent the Ratliff family and John's Marine.

MR. CHAIRMAN:

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Okay, it's Rick --

MR. MCDUFF:

McDuff, M-C-D-U-F-F.

MR. CHAIRMAN:

Okay, thank you, sir.

MR. MCDUFF:

Right. Thank you for entertaining me. Am I limited also the three minutes or may I have a little bit more time?

MR. CHAIRMAN:

If you're gonna represent their interest you can have a reasonable amount of time.

MR. MCDUFF:

All right, thank you.

MR. CHAIRMAN:

Or what the developer took.

MR. MCDUFF:

I appreciate it. I will -- I will be -- I'll tried to not take two hours to watch 60 minutes.

MR. CHAIRMAN:

Thank you.

MR. MCDUFF:

So, good evening. Thank you for taking your time to listen to us tonight. Let me start by saying is that the -- neither Jimmy Ratliff nor the Ratliff

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family has any opposition to reasonable development of the Arrowhead property. What they have an issue with is the reconfiguration of a roadway that -- and I think we need to talk about the -- the -- I think the significant legal issues that will end up arising from this that I think only a court of law can determine is, number one, it's -- I think it's beyond dispute is that the existing portion of the roadway involved in this is not on any property owned by any governmental entity including Oconee County. The road right -- the roadway, the paved portion of the road, currently exists more or less half on property owned by the Ratliff's and half on property owned by the developer with the approximate center point actually more of the center line that more of the property of the paved portion is on Ratliff property by some slight margin than on the developer's property. And if you -- you can see, and I don't have access to the developer's notebook and I don't have the order in which they've provided documents, but I've been provided which was a handout to everybody here this -- this aerial map, this aerial photograph showing the area in question with the proposed roadway in this yellow boundary line around what they say is John's Marine and High

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Falls Boat Rental. I appreciate it, thank you. First of all, I just want to point out that the -- the -- all of these parcels in here are not owned by common owners. So we have a divergence of owners they may be have some Ratliff owner components to them. The area in question that's gonna be most greatly impacted by this roadway modification or proposed roadway modification is this parcel which would be on the right toward the right side of the yellow line, that is where the actually John's Marine facility is located. That's where Jimmy Ratliff's marine repair shop is located and his dock facilities. As you can see also by this graphic is that the current roadway runs directly in front in a -- in basically a west to east orientation in front of John's Marine. The proposed reconfiguration of the roadway takes that road and makes a sort of a dogleg right in it before it enters the Arrowhead development. Now, what -- what's interesting from a -- a -- and significant from a legal standpoint is that like I said none of the property in question here is owned by the county. So, they -- they talk about a prescriptive right-of-way over this parcel of property and probably for a good number of feet, maybe a 1,000 feet beyond that is all privately

owned to the center line of the roadway as well. The county maintenance sign used to end where it said end of county maintenance probably four or five hundred feet to the -- what would be to the west of where this roadway in question is.

MALE VOICE:

(Inaudible) and kind of point what -- what your points you're making on that map.

MR. MCDUFF:

All right, let me see if I can -- all right. There is -- there is John's Marine.

MALE VOICE:

Blow that up just a little bit. Is that possible?

MR. MCDUFF:

Let me see if I can --

MALE VOICE:

(Inaudible) talking about -- we're not really talking about any of the --

MALE VOICE:

Just that -- you can't get any --

MALE VOICE:

Can you blow it up?

FEMALE VOICE:

You don't have a monitor?

MALE VOICE:

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No I don't have a monitor (inaudible).

FEMALE VOICE:

Is this the one you want?

MALE VOICE:

That looks pretty good.

MALE VOICE:

I haven't been here long enough.

MR. CHAIRMAN:

See, I think if you go back to the original --

MALE VOICE:

Yeah.

MALE VOICE:

Yeah, no, I mean, that -- yeah, that -- that map.

MR. MCDUFF:

This map right here?

MALE VOICE:

Yeah.

MR. MCDUFF:

All right.

MR. CHAIRMAN:

What's going on there?

MR. MCDUFF:

Here -- here is the current -- this is -- this is the current roadway right here.

MALE VOICE:

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Okay, they got it.

MR. MCDUFF:

All right, Ellenburg -- this is Ellenburg Road, you can see the center line of the -- where this dark line right here --

MALE VOICE:

Okay.

MR. MCDUFF:

-- is the property boundary. And you can see the majority of the roadway, at least up to this point, exists on Ratliff property. This -- this is the shop. This is the driveway to Jan Ratliff's private residence. And this right here is you can see it beyond this over here is where the road striping ends, there's a double yellow line in the middle, and there used to be back around here a end of county maintenance sign. And that sign has now -- now been removed. At some point in time somebody moved it up closer to here. It's been moved altogether when it was previously in about this location over here. So none of this area in here is owned or controlled by Oconee County or anybody else. It's all private roadway. And I'll -- I'll submit to you that there's probably if you went and looked at the roadway there it would be evidence

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that somebody abandoned this area a long time ago. It's in poorly maintained condition. It -- it -- the asphalt is irregular and the last of the maintenance is up here where the double yellow line ends where the pavement is more even. In any event we talk -- we use this term loosely about a prescriptive easement, and a prescriptive easement is a very, very -- it -- it -- it's a very precise, it has very precise meaning in the law. And that is an implied easement through continual use but a prescriptive easement is only established through judicial process. Nobody can say I've got a prescriptive easement over somebody else's property without a court determining you have a prescriptive easement. It doesn't happen because somebody says so. It happens because a court hears evidence and determines that there's a prescriptive easement. Now, there's no evidence in this case that the -- in this -- this matter, this -- this application, that the county has sought or obtained or proven a prescriptive easement in any court of law over this portion of property. The other issue here, the other significant legal issue, this is rather unique. When you have, let's assume for the sake of argument, you have an easement that exists over some

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portion of this roadway that the county has a right to -- to maintain and -- and -- and create, improve, do whatever they want to with the roadway, which is not -- let's assume for the sake of argument there is a pre -- an easement. Now one of the unique things in the law about an easement is that easements require a relationship between two parties and when an easement exists on somebody else's property you're the owner of the dirt, you're called the servient tenement. And the owner of that -- that holder of that easement, the person or the entity that has the right to use your property is called the dominant tenement. And so in this case the Ratliff property would be the servient tenement, if an easement exists, and the county would be the holder of the dominant tenement. What's unique about this is there's an application to alter the contours of an easement, assuming for the sake of argument there is an easement, by somebody who's not the holder of the easement. The holder of the easement is -- is the -- it would be the county, it wouldn't be the adjoining property owner, that is the developer who owns that boundary line to the south of that center line and the property to the east of it which is called Arrowhead Pointe. Now

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what the law requires if you're gonna modify or change or -- or alter the contours of an easement it requires the consent of all parties to it. One party cannot do it by its own desire. It can't be done by (inaudible) it has to be done by agreement of the parties. And so that we don't have here. We don't have that agreement. We have an application by a developer who owns a portion of the south of it and to the east, but we don't have the consensus of all the parties to this easement. Yes, part of this easement if there one is exists is on property owned by the developer but only a portion of it. The rest of it is all property owned by the Ratliff family. So we have an issue, a legal issue, that -- that is really a -- a -- a roadblock to modifying, altering, or changing this easement by altering the path or deviating from the course of this roadway and changing the contours the easement. And they still want to maintain a portion of the road right-of-way and change the contours of that over onto the Ratliff property, ostensibly for the purpose of installing and maintaining utilities across the Ratliff property, which would be something that would be a -- would be legally prohibited without the consent of the Ratliff's. Now, one of the other

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issues of significant concern is the negative impact this would have on John's Marine in particular. It may have a lesser impact on the mother's property, Jan Ratliff's property, her driveway may have to be extended to -- to join the new roadway, but we heard for the first time tonight that what they're gonna do is -- is -- if you see on here, and if you can go back to that aerial -- oh, actually I'll use this, is if we -- let me get the arrow, see this right here? This is the -- John's Marine shop, I don't know if all -- any of you have used John's Marine, brought your boats there and their -- their dock's out here on the lake and here's the shop and here's the parking area out front, it's really a concrete slab. That concrete slab is wholly within the confines of Ratliff property. And you can see here being bounded on the south side by the -- by the road, by this black line in the center line of the road. Now if this roadway is reconfigured to cause a deviation from the existing roadway what that happens it -- it -- what that causes is the Ratliff, the John's Marine, to all of a sudden become landlock or with no access to -- to any kind of roadway to do business. It effectively shuts him down. We heard from the developer, they don't want

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that to happen and they're willing to extend this concrete pad out to meet the roadway but what we haven't heard is that how that's gonna happen from a legal standpoint. How is that gonna occur? Because in order to extend that concrete pad to be what's now the proposed new roadway which is gonna be wholly on the developer's property as a result of this modification of the -- of this alleged easement is that in order to do that the concrete pad and access is gonna have to be on property owned by the developer. So, in other words there's gonna be -- who's gonna own it, have the right to it, we haven't heard an offer that there's gonna be an easement granted, any kind of expressed easement to cross that for customers to use it in order to access the business. We haven't heard anything about an offer to transfer ownership, a -- a portion of the title to the property, the fee interest of the property, in order to join the new proposed road right-of-way or the paved portion of the road. Otherwise, without that legal right, without some sort of identifiable, recordable legal interest in that property it's a bare promise to say that the -- the Ratliff business, that John's Marine will have the right to access and do business, otherwise without

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that access that business gets shut down. There is no other means of access for customers to come in there with boats, trailered vehicles and -- but trailered boats and also delivery vehicles. So that is something that's been wholly absent in this conversation tonight. So, we think that because of the legal obstacles that this -- this -- this body has is that you're being asked to do something unique and what you're really unfortunately being asked to do is put the ball on a tee for a lawsuit because you're being asked to change an easement to which all the parties are not in agreement. Being chan -- asked to alter a roadway which is on Ratliff property and developer property without getting the consent of the other party, the Ratliff's to this. It also there's been no demonstration how this is not gonna have a negative impact on a business that's been there for 39 years. This business pre-dated the purchase of the property by the developer by a long shot. And this business has been there, it's a fixture on the lake, and in fact there is no other -- if this -- and under Duke's Shoreline Management Plan it's only this parcel of property that's identified as used for commercial use in this area. The rest of it is all residential. There is

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no other place to move it. So if this business is -- the ability to do business is here is hampered, which they've done now for three generations this family, is there's no other place to put it. Duke Energy will never grant another community -- or multiple dock permit, will not grant the use to put a marina or any other marine repair facility anywhere else on the lake, it isn't gonna happen. So we believe firmly that the -- the developer cannot demonstrate at least element D of this, in addition to the fact that we think that there are other deficiencies in some of the documents that have been submitted to you. For instance, if you look at the -- at the topographical drawing of the engineer that has the -- the contour lines where the, you know, the -- everything below the 804 line is supposed to be sacred, under Duke Energy Shoreline Management guidelines. And you look at the conflict with that and the recently added survey of Pioneer Land Surveying that shows a different 804 contour line, you'll find that the if -- if I'm reading it right, if I'm reading the engineer's topographic survey, which I think is document number one on your documents which are available online, is that a lot of this roadway is gonna be below that

804 line. And what's gonna happen there the way they're gonna pitch the property it's gonna create what we call a birdbath, and it's gonna create instead of water taking a natural flow off of that road from the -- from the east to the west -- actually the northwest to -- or north, northwest, northwest to the east, what it's gonna do it's gonna cause a big birdbath in the middle of that road and the property is gonna drain toward the Ratliff property. You could already see it when you go there because they've done fill work and they've added -- done grading work on that roadway already which has already created a -- a deviation in the contour of that roadway which is now gonna cause water to pool either in front of that shop, in that shop or cause flooding in that shop. And if you look at the contour lines you'll find most of that roadway that they're asking to put in I think it's gonna be around the 802 line and if I'm reading the engineer's drawings correctly. So I'd ask you to take a look at the -- at Exhibit 1, which is on -- online, which I've pulled and compared that to the Pioneer Land Surveying plat of survey which was added today. And I think you'll see some inconsistencies between those two documents that

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raise questions. But I think the biggest questions are the legal ones that cannot be solved this body. I think that those can only be solved by either order of a court or agreement of the parties, which we don't have tonight. So for those reasons we're asking you to deny this request, this application for a variance. The negative impact on the -- on the business John's Marine, a fixture on the lake, is gonna be significant. We don't have any guarantees of access to it. All we have is a map that shows that there's no longer road access to the property. And for those reasons we ask that you deny the application and -- and let them do something different. There's a way to put a private drive in there. They may not get the density development they want but they can put a one lane -- one lane drive all on their property. But this is negatively impacting the Ratliff property and changing the contours, the easement on their property to which they have not agreed.

MR. CHAIRMAN:

I have questions, please, sir.

MR. MCDUFF:

Yes, sir.

MR. CHAIRMAN:

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Number one, I could -- I could (inaudible) correct you, Duke's 804 foot line is they own to the 804 foot line, Duke does on this property, they own it.

MR. MCDUFF:

Correct.

MR. CHAIRMAN:

They don't necessary place restrictions on all 800 -- everything up to the 804, they place restrictions on the first 25 feet, that's their buffer. It's the same --

FEMALE VOICE:

No.

MALE VOICE:

It's the same thing here.

FEMALE VOICE:

Uh-uh.

MR. CHAIRMAN:

Same thing as a county. Duke -- Duke owns to the 804.

MR. MCDUFF:

Duke owns to the 804 but the problem is is this -- some of this property you'll see according to the engineer drawing is between the boundary lines is below the 804 line.

MR. CHAIRMAN:

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We'll ask that later.

MR. MCDUFF:

Okay.

MR. CHAIRMAN:

We'll try and figure that out. Anyone have any other questions?

MR. EAGAR:

I -- I have a question. Have -- have you had any discussions with the developer at all about these issues that you're bringing up tonight?

MR. MCDUFF:

I -- I have not and Mr. Brandt, their counsel, and I know each other very well and we will -- we will have discussions with one another. I think the developer has had conversations with Jimmy Ratliff from time to time. I have not been a party to those.

MR. EAGAR:

Okay. So there is a willingness to -- to discuss between the two parties?

MR. MCDUFF:

Well, yeah, and I'll tell you this is, I've been doing this for 35 years, and there's never an unwillingness to have a discussion. So, that was a lawyer answer, how about that?

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MR. CHAIRMAN:

Could you -- could you -- could we -- if we could assume for a moment that -- that the -- that the roadway has changed as proposed and that the added 22 feet connects the existing ramp into his business with the roadway. How would -- would that -- if you're allowed, and you're somehow figure out to have access to the roadway, you're not prevented by legal constraints, how is that going to negatively impact, negatively impact Jimmy's business?

MR. MCDUFF:

Well, I think it -- I think it now it becomes when -- let's assume all those things we get some sort of guaranteed right of access to extend this by 22 feet and you -- and you -- and the developer talked about having a new and different and additional clientele. These are very, very narrow roads to begin with. I think if you look at the drawings I think one lane at the narrowest point is maybe 10 feet and the other is 11 feet. And I -- and I think you have significant safety issues. If you're bringing in delivery vehicles and you're bringing in trailered boats and you're trying to dodge cars coming in and out of this development, I think they're seeking to put 19 homes in, we haven't heard whether or not

they’re gonna allow short term rentals so there may be higher density use than that, on very, very narrow roadways. And then I submit to you too that it would be virtually impossible if you had an emergency back there to get more than one emergency fire truck or anything else back in there without grave difficulty. I think it becomes a significant safety issue to the users of that facility, the operation of that business, and the persons traveling on that roadway.

MR. CHAIRMAN:

So what I hear you saying is you need the roadway to run your business.

MR. MCDUFF:

The road -- yes, need -- have --

MR. CHAIRMAN:

The business needs to be on the roadway to run the business?

MR. MCDUFF:

That absolutely, otherwise it’s shut down. But I know that we’ve heard the offer for the first time that they’ll extend it to the edge of the roadway but that’s gonna have to cross the developer’s property and there’s been no offer of transfer of ownership --

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MR. CHAIRMAN:

I understand there's legal -- legal issues there.

MR. MCDUFF:

Legal issues.

MR. CHAIRMAN:

But I'm trying to understand if Jimmy pulls a boat out of the water, he's pulled my boat out of the water on occasion, pulls it up and has to back it into his -- his repair facility, how is this change going to impact -- impair that, assuming he's got access to the road and everything, how is this gonna impact that?

MR. MCDUFF:

Well if I can may do this, if I'm with your -- with your indulgence. I would be -- cause Jimmy operates the facility and Jay and so Jay or Jimmy do you want to address that?

MR. RATLIFF:

Yeah, so let me -- I'm gonna -- I'm gonna take over.

MR. CHAIRMAN:

Please do.

MR. RATLIFF:

Give you a little more detail that -- that Mr. McDuff might not have. Jimmy's --

MR. CHAIRMAN:

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You're Jimmy?

MR. RATLIFF:

Sorry, I'm -- I'm Edward -- Edward John Ratliff, Junior, also known as Jay Ratliff, Jimmy's older brother.

MR. CHAIRMAN:

Jimmy's older -- so this is Jimmy here. That's right.

MR. RATLIFF:

This is Jimmy.

MR. CHAIRMAN:

I've met with Jimmy before.

MR. RATLIFF:

So I -- Jimmy's handing out a letter that -- that he addressed to the -- the Chairman.

MR. CHAIRMAN:

Uh-huh.

MR. RATLIFF:

And I'm not gonna read all this to you. I'm gonna summarize a few points. I think that may answer some of the questions that the -- that the Board may have and then -- then we'll open it up for any other questions beyond that. But first of all we're -- we -- the family are not opposed to the developer having access to their property. We are opposed to

a 19 home development that will have a crippling detrimental impact to Jimmy's business and John's Marine. The -- I think if you've been down there before you would -- you would understand that. If you haven't I would encourage you to take a trip down Ellenburg Road and see that the end of county maintenance that we talked about where the yellow line ends and then go all the way to the end to see where the backfill activities did occur. And then you'll see how narrow it is and how crippling it would be to Jimmy's business. If you have owned a boat and backed a boat before then you know how difficult it is and how wide of a swing that you do need. And Jimmy has used full access of all of that property from 585 Ellenburg Road, which is the next adjacent piece up the road, which now Jimmy does -- does own but it's Jimmy's property himself, it's not part of John's Marine. But that is where end of county maintenance has ended and all the way down 'till Arrowhead Pointe has been maintained by the Ratliff family and that's been for almost 40 years. The -- the business was started in 1972 so next year will be the 50th anniversary of John's Marine. So we're gonna have a big party, I encourage you to come. 1982 is when John Ratliff built the shop in

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its current location and he's been operating it there ever since with no -- no challenges and no issues. Jimmy's son, Cameron Ratliff, who is here tonight, is learning the business and wants to take over and operate so he is now being mentored under Jimmy to -- to run the shop. The business is the livelihood for Jimmy and his family and has been for a long time. The 31.9 foot bottleneck will have an -- an impact to the repair shop. Vehicles coming in and out, the large -- large number of vehicles, emergency vehicles and all of that will impact Jimmy's ability to not only park boats but back boats into the shop and -- and pull boats out of the water on his ramp. There are a couple of things I want to address specifically with the variance questions. I think that's important because that's what the Board is -- is looking at. So I'll just say in -- in order of questions one through four, there are two questions in particular that -- that I think the Board should consider. And the fourth one is will the proposed variance result in an activity that will not be of substantial detriment to the adjacent uses or to the good of the public. And I say it will have a dram -- a detrimental impact to John's Marine. And to the good of the public as

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well as all the folks that -- the fine folks you've seen here, I mean Jimmy services and has been for a long time. There was an incident one case where Jimmy was lake testing a boat and he was over near High Falls, he was waived down by a family who was in distress. He went over there to help, dove into the water, someone had drown and Jimmy spent several times diving to the bottom looking for the individual, pulled him out, pulled him to the surface and he was awarded a commendation or recognition by Oconee County counsel and that's -- that's in the letter so you can reference that and see that. So I think it's -- it's important to -- to recognize that Jimmy provides a substantial service to the community and the surrounding public and how it would be impacted by putting these 19 homes next to his business. Then the second question I want to address is question number two in the package and that's, are the circumstances affecting the subject property the result of actions by the applicant or owner. So I'm not -- I'm not as clear on the answer to this question. I will say there is some suspicious activity that has taken place. Mr. McDuff described it briefly about activity between the 800, 804, 810, those are all

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lines that lake property owners are familiar with if you've ever dealt with Duke Energy. So the -- the purchase property was the -- I'll -- I'll -- I'll just talk briefly over here, it'll probably help. So on -- on this map you can see this is the area of -- of discussion or -- or interest and the property was modified in this area that created the 31.9 foot area here with the backfill activities. There are inconsistencies in the surveys, 804, 802, 800 where's the FERC boundary and all that stuff. Personally I'm not a -- a survey engineer but reading the documents that were provided to the Board I can see inconsistencies myself in there which make me question how all of that was created and -- and put together. The -- there is one survey that's in the package by Pioneer Engineering, it's dated August 26, 2021. That survey was conducted after the backfill activities which the family identified or first noticed July 31, 2021. And so we -- we did identify that there were activities happening, we approached the -- the folks that were conducting the backfill activities, questioned what was the -- the purpose of the fill. We were not given any responses and we were not notified that activities would be taken place on the property. As

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I said in the beginning we're not trying to prevent the developer from having access to his property. The Harbor Oaks which is the -- the next adjacent community which was mentioned by -- by the applicant. We fully supported that community as described. It was more customer base for Jimmy. It was up the street which did not have a detrimental impact to his business by preventing him from being able to maneuver or service boats. So those are some of the -- the points I wanted to point out. There's more information in the letter that you can -- you can read at your -- your pleasure and I'll take any questions you may have.

MALE VOICE:

Could I -- could I ask a question, please?

MR. RATLIFF:

Yes, sir.

MALE VOICE:

Looking at your packet here that you sent us, that you gave us, it looks like an older picture, black and white picture.

MR. RATLIFF:

Oh, yeah, I didn't address the pictures, thanks for that.

MALE VOICE:

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Yes. And -- and it's -- it appears to be a gravel road so at some point was it just gravel all the way down --

MR. RATLIFF:

So --

MALE VOICE:

-- to the shop?

MR. RATLIFF:

So the history goes -- goes back to before Lake Keowee was built. It was Route 1, Box 268, that was mom's address and the road went all the way across and it was a tar and gravel road. So an old -- old designed road and then right at John's Marine there was a split and there was a dirt road that went across the lake over towards High Falls. And so that road no longer exists. Route 1 went along the -- the edge of the -- the shoreline here, came -- came down this way, went along here, then they went -- went out. Now that portion of the lake is still flooded, you can still see the tar and gravel under the water and -- and it's there. The -- the end of county maintenance stopped when about 40 years ago when -- when dad started building the -- the shop they stopped paving the road up here. So everything from here down was maintained by the Ratliff family.

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MALE VOICE:

So that was my question. So, the -- the area because it's not obviously not a -- a gravel road now, it is paved, so y'all paved that road?

MR. RATLIFF:

That's right.

MALE VOICE:

The -- Oconee County did not pave that road at any point?

MR. RATLIFF:

That's correct. So, that's correct.

MALE VOICE:

Thank you.

MR. RATLIFF:

And you can, if you go out there you can see where the tar and gravel ends. You can see where the -- the pavement has changed over the years. And then in this -- this particular photograph here you can see where the yellow lines end and where the --

MALE VOICE:

And y'all paved up -- up to that?

MR. RATLIFF:

That's correct. We've -- well, not -- not every time the county's paved right, so I -- I think someone mentioned that the -- the road is kind of in

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disarray so we haven't kept up with it as much as -- as the county (inaudible).

MALE VOICE:

And my -- right. My -- my point is so if the -- if you did that privately, y'all paved it privately, the county never has paved that road because I would hope to goodness that if the county did not have an easement for that road that we didn't waste taxpayer money paving the road. That's what I was getting --

MR. RATLIFF:

I can assure you taxpayer money was not wasted paving that road. There is -- there is one -- one more -- one more piece with the road. It -- it was originally at some point a state road when it was Route 1, Box 268, so -- so it was a state road at some point and then I guess the state of South Carolina went through a -- a -- I'm trying to -- to transition all the roads to local governments and that's when it became a county road, and that's when it transitioned from tar and gravel to asphalt. So it -- it was more -- more funds I guess to be able to pave the road, so.

MALE VOICE:

Mr. Chairman, I have a question.

MR. CHAIRMAN:

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Yes.

MALE VOICE:

The presentations that have been done tonight have been very articulate and very understanding but the thing that I'm struggling with is it -- it's clear that you're saying that the -- you want the subdivision to go ahead and have -- have a sub -- and give them access to that subdivision, they say that they want Jimmy's to be -- John Marine to continue to -- to do well and to prosper and not do anything that would inhibit their business. So it seems like the thing that's stopping this is what is it that can be done to John’s Marine that would make this whole process work?

MR. RATLIFF:

Yeah, I -- I agree. It -- and that --

MALE VOICE:

It just seems so -- I mean we're listening to these things like a ping pong, you know, game back and forth and back and forth but yet there's no see if they're cutting the -- the fundamental issue is what needs to be done to make both sides happy? Let's do it.

MR. RATLIFF:

I agree and the -- the challenge with that is all of

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the governmental entities that would need to approve the changes to be able to make that work. The county being one, Duke Energy being one, potentially FERC being one as -- as FERC is the one who approved the Shoreline Management Plan for Lake Keowee and where commercial marinas can currently exist. So right now the -- the FERC requirements say that the only commercial marina in the center of the lake can be in -- in this -- this location at -- at John's Marine. It -- and you can look at that on the map it's the -- if you bring -- bring up the -- the satellite image that we had. Right here. So, commercial marina to here and then it -- then it stops. So the remainder of this which is Jimmy's property, which I'm not part owner in, the -- cannot have a commercial marina. So it -- it can't exist there. Not unless Duke amends the Shoreline Management Plan and gets that approved by FERC. So that's the -- the challenge there. And Mr. McDuff's the legal guy, I'm just the --

MR. MCDUFF:

(Inaudible) if I may add to your question. I think again, and I don't want to -- I don't want to minimize the authority of this body. But I think what the developer is asking this body to do is to

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do something it does not have the legal ability to do because this is an area of private property and I think this can only be achieved through private agreement if anything, not through government action because it's -- if you look where the county road ended and what the Ratliff's did and the county's involvement with this roadway, this is all private property and so in alteration of this roadway can't be affected by any kind of ruling from this body.

MALE VOICE:

That's all (inaudible).

MR. CHAIRMAN:

Okay.

MALE VOICE:

That was my question is if the county doesn't maintain it all how can the county --

FEMALE VOICE:

Have any authority.

MALE VOICE:

Yeah, have any authority.

MR. CHAIRMAN:

We'll ask staff to answer that in a second here.

MALE VOICE:

Okay, thank you.

MR. CHAIRMAN:

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If we could -- if I could just go back to kind of the day-to-day operation, pull in with my boat, go up on Jimmy's trailer and he pulls my boat up to back it in. It sounds to me like if they extend the road to the south that gives Jimmy more room to pull up and back in. And -- and really enhances his ability to handle boats from the water. Aside from the crow -- I understand the crowding is an issue but aside from that it sounds like it doesn't impact the effect -- the ability of my boat to get service.

MR. RATLIFF:

And so you bring up a great point for us to have conversations that are irrelevant to the Board. And I think that's -- that's a good conversation to have. I'm surprised that we've made it to this point and haven't had open conversations. And -- and I'm also surprised that there were documents that were presented at the 11th hour that had changes and suggestions to things that are offered to the family that no family member has been privy to.

MALE VOICE:

Okay.

MR. RATLIFF:

And -- and so that -- that just kind of puts red

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flags up for me personally. I -- I don't -- I don't know how the remainder of the Board feels. And one last point is the -- the developer doesn't need the variance to be able to develop the property, I think that's important. The --

MALE VOICE:

Well let me ask the question because I thought you said at the beginning, you're okay with development of fewer home sites, not the 19?

MR. RATLIFF:

That's right.

MALE VOICE:

You're okay with the three or four, you're not okay with the 19?

MR. RATLIFF:

That's correct.

MR. CHAIRMAN:

As I understand it that speaks to county regulations up to was it four -- three or four home sites, all you need is a driveway that has a single lane and you've got plenty of room to do a single lane there.

MR. RATLIFF:

Private -- private road, there's plenty of room.

MR. CHAIRMAN:

Private road, whatever the terminology is, anything

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over that you have to have a full fledged access road.

MALE VOICE:

Okay.

MR. CHAIRMAN:

At this point let me -- let me ask staff, what about this legal issue of does the county have the right to specify this road, to allow this road?

MALE VOICE:

Well I am not an attorney.

MR. CHAIRMAN:

Okay, I understand. We already -- so all this legal stuff I -- I don't think we're gonna address but I --

MALE VOICE:

What I would say is I've interacted with enough attorneys to know that I should not say anything. I have been deposed enough times to know that I shouldn't say anything.

MR. CHAIRMAN:

That's fine. That's fine I just -- that's fine.

MR. MCDUFF:

And -- and obviously I'm not the final authority what the law is, that's -- that's a judge with a robe on. I don't wear a robe. But I -- I -- Mr.

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Chairman, I think that I -- again, I just want to -- maybe I'm beating a dead horse is that I think what the developer is asking you to do is something that in -- in concept you may be have an argument that -- that if they extend this pad 22 feet or whatever I don't know whether it'll provide greater accessibility but the problem is is that this is private property owned by private parties on a private paved roadway. I just don't think we have any jurisdiction to be able to entertain this.

MR. CHAIRMAN:

I hear what you're saying. Okay, do you folks have anything more? You -- you've presented -- a good detailed presentation of why you're against the proposal.

MR. MCDUFF:

Yeah, we have.

MR. CHAIRMAN:

We've got a lot of other folks to hear from on what the impact might be on the neighborhood.

MR. MCDUFF:

Thank you for your time.

MR. CHAIRMAN:

Okay, thank you.

MR. RATLIFF:

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Thank you, Chairman.

MR. CHAIRMAN:

Okay, at this time, find my list, other comments from the public please. First on the list is Mike Johnson.

MR. JOHNSON:

I'm impressed with the size of groups that you all are able to get. We are not able to get nearly that kind of (inaudible).

MR. CHAIRMAN:

The Planning Commission is just -- just irrelevant, that's all it is.

MR. JOHNSON:

Good evening, Board Members. My name is Mike Johnson. I'm a Planner Commission for Oconee County. While I'm not here to speak on behalf of the Planning Commission nor for Oconee County, I do bring experience with regard to public interest to private property rights and a discussion on these ordinances. I'm often reminded, especially that -- that it's my responsibility as a planning commissioner to rise above the noise and make sure that I'm looking at the issues and not the opinions to make sure everyone's rights are equally protected. Tonight we're talking about and what I

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thought this BZA hearing was about was about a right-of-way easement that's not the 50 feet that is required by the county to fit into this gap to get open. I didn't think anything else was of issue tonight but many of the residents are completely unaware that Oconee County has clear definitions for driveways, drives and roadways. Many residents are shocked to hear that their drive if it services more than three homes under today's -- under today's ordinances they would be required to have a drivable surface that's 20 foot wide, built of a certain depth of material and the county requires a 50-foot right-of-way for access. Now many of us know there are a lot of small lots and small roads out there with four or more homes that don't have a 20 foot wide surface. But people would probably be shocked to know that many of the lake front subdivisions while having a 20 foot wide road have significantly less than this 50 foot wide right-of-way that's required. Keowee Key, Harbor Oaks, Waterside Crossing, Waterford, Waterford Pointe, The Summit, Beacon Shores, I could go on and on that all have roads that would not be able to be built today under the 50 foot right-of-way standard. Waterford community for example has 39 lots accessible by

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roads with a 30 foot wide easement. Waterside Crossing and Waterford Pointe each have 17 lots accessible only by a private road that would -- and they would be standing in front of you today saying we need relief from this 50 foot wide easement. Keowee Key with its many topography changes wouldn't exist in the way it looks today if they had to follow the current 50 foot wide easement for these 20 foot wide roads. See back in the day there was no such thing as a 50 foot wide easement for private roads. So these subdivisions could go oh, well if we can't adhere to the 50 foot public we'll just call it private and move forward. But, private road ordinance changed in 2013. You can go on the Oconee County website under roads and bridges and you can see the ordinance highlighted with changes, signed by counsel on July 16, 2013. It says the ordinance amends Chapter 26, Section 26-2 under private road standards. Then it highlights these changes. The ordinance appears to bring private roads up to match public road right-of-ways, that 50 foot. So any conversation about a developer should've known or should've been there when the time of purchase probably just isn't true. But, now I wasn't on the Planning Commission at the time but it appears from

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the county website that this creating of private drives and road ordinance that the county president -- predecessors seemed to do a copy paste mechanism to make the private roads have the same or very similar rules as the public roads. So it's actually my belief if the road ordinance was under consideration today someone would be calling it a private land grab of private property, taking and making private residents have this 50 foot wide width. But since this right-of-way now applies to all roads with over three homes that it services the relief of this ordinance should be considered. And it's my understanding they're standing here today talking about this 50 foot wide point that they only have 30 some odd feet to go through. They're still doing the 20 foot wide road and my understanding is that's what this ruling is on tonight, not many of these other things that I think are very valid from both parties that need to be discussed and it sounds like that both parties are very willing to discuss them. But the 50 foot wide easement is for private roads and before that ordinance was put in place developers when they were accessing for these lake front subdivisions that have points and peninsulas they would simply have to go oh, it's a private

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road, doesn't have to fall under county rules -- or of the public road right-of-ways. Now, everything does if it's more than three homes. So, thank you for your time.

MR. CHAIRMAN:

Thank you, Mr. Johnson. Maggie Johnson?

MS. JOHNSON:

We're the dynamic duo tonight. Good evening. My name is Maggie Johnson and I came to you today as a neighbor and property owner on Knox Road near John's Marine. My personal home is also very near to Jimmy and Lucretia's personal home. I have and will continue to support his business both at John's Marine and whatever businesses may come in the future. My support of his small business has been longstanding. He's cared for my own personal boats and I've referred every single person that's wanted marine service in the last 10 years to Jimmy, without exception. I support his small business the same way we all do. We invest in the business. We pay for them happily. We're grateful. Jimmy's business is not going to suffer in any way but will rather benefit from this newest addition of Lake Keowee homes and the improvements of his property. I would like to make clear that not everyone in the

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area is against this latest development, nor its location or access. While I'm not a paved paradise and put up a parking lot proponent, that's not what's happening here. Yes, there are many quality residential lakefront developments in our area and if you live in one I beg you to remember the gratitude you must have felt to become a part of this community. I know our family has loved establishing our community around this county for the last 10 years. I'm a South Carolina native but much of our family has come from North Carolina and Texas and I've been thrilled to welcome them to the closest thing to paradise I've ever known. I'm sure you've all experienced people wanting you follow you here. I am disappointed by the members of our community who have decided that now that they have their own slice of paradise no one else can have any. I would like to make clear that it is not our decision as residents of this county to police how many people move to Lake Keowee. I get it. We have more lake traffic than ever before. My personal lakefront property is in a highly frequented cove and during boating season it's not unusual to have a dozen boats sitting in the cove and on the beach. Do I run them off, jump on Facebook to vent or

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complain or lobby in some way for their removal? Absolutely not. In fact on busy lake days I like to walk down to the water and welcome them to the area. I've made friends that way and most people are respectful and friendly and just so grateful to have an opportunity to enjoy this beautiful place. Who am I take that from them? I'd like to suggest that perhaps one day you too would enjoy welcoming a few more grateful friends and family members to our beautiful area. I support the developers an alienable right to develop this piece of property as was always their intention and I do not believe an adjacent property owner has a right to infringe upon those inherent rights. Let me give a related example. Jimmy has a lot of property in the area. He has an expansive personal portfolio of property, several parcels of which adjoin my personal property. He has suggested it's his intention to build a commercial storage building complex and a commercial boat dealership at the corner of Evatt and Knox road, happens to be where my driveway is too and that's okay. He owns the property. That would combine his combination home and boat storage lot plus the additional two businesses into something of a commercial plaza right there on Knox

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Road. If traffic is our issue here let's consider what that might mean for traffic patterns for all of the communities accessed down Knox and Ellenburg Road. While I may not love these commercial ideas as a resident I would never deny him his rights to use his property and develop it as he is permitted. In fact if he were being challenged right now I'd be up here supporting him. I am also not blaming him for the impact that those businesses might have on my enjoyment of my property. Those are his rights and they should be defended. The developer involved here has the same right to pursue their intended use for their investment. I also live adjacent to another newer development where homes are under construction. Yes, the sounds of traffic of construction are present during this phase. Almost done. I promise I'll be quick.

MR. CHAIRMAN:

(Inaudible).

MS. JOHNSON:

I've never once thought I'd have to complain about our local businesses and residents. I'm surprised and disappointed at those who only see one person's side. One more thing. John's Marine is a very successful business, thanks in no small part to the

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residents of the many developments on Lake Keowee and in this room. This situation's obviously personal to me and I've been terribly disappointed in all the recent noisy chatter in our community. I'm saddened by the friendships altered and the misinformation running rampant throughout our beautiful area. I ask you to rise about the chatter to make a sound and reasonable decision. Thank you.

MR. CHAIRMAN:

Thank you, Ms. Johnson. Edward Ratliff.

MR. RATLIFF:

That was me, I'm sorry.

MR. CHAIRMAN:

Oh, so you're -- you've had your chance. Mr. McDuff you've had your chance.

MR. MCDUFF:

I could say more if you want.

MR. CHAIRMAN:

I'll pass on that right at this moment thank you. Sherri Crisp.

MS. CRISP:

I'm gonna pass.

MR. CHAIRMAN:

You're going to pass?

MS. CRISP:

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Yes.

MR. CHAIRMAN:

This is your chance.

MS. CRISP:

That's all right.

MR. CHAIRMAN:

Gary Colderson, Cold --

MR. COLDERSON:

That's me but I'm gonna surrender my time.

MR. CHAIRMAN:

You sure now? I want everyone to have a chance to say something. Yes, sir. Chad Knot.

MR. KNOT:

That's me. My name is Chad Knot. My wife and I own 555 Ellenburg Road and we also own two other properties on Lake Keowee and a third property -- fourth property in Oconee County and very thankful that you guys are here, able to hear a lot of folks speak over this issue. Obviously I'm familiar with this property. I've had a boat run out of gas at some point in time and I trespass on the property to go back to my house and get some gas and fill my boat back up. What I'd like to talk about is really what does it look like in the context of these four prongs that we just been talking about. Is the

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property peculiar? Do the conditions apply to another property? How does it impact their utilization, and four, does it harm other property owners? Now there's been a lot of conversation over the issue of the road right-of-way whether regulations were in place back in 2008 when they acquired the property. But I would like you to take a look at the plat that they acquired the property under, just so you can get a -- a good visualization of what it looks like when they bought the property. And then I want you to consider the thought of developing the subdivision based on that shape configuration.

FEMALE VOICE:

Sir?

MR. KNOT:

This -- yes?

MALE VOICE:

When you're done if we can -- you can use it while you're talking but we just need a copy for the record.

MR. KNOT:

I think I may have another one.

MALE VOICE:

Okay, yup.

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MR. KNOT:

So I think what is a good question that Mr. McDuff brings up is the whole issue of the right-of-way itself that where is county maintenance, right. Where does the county maintenance end and if the county does not have a prescriptive right to the end of Ellenburg then where does it end and if the county does not have a prescriptive right then who owns the property, who has a right to grant the access. So what I'd like to do for a moment, if I can look here and draw your attention to this sketch. This white line attempts to identify what we believe to be the prescriptive rights of Oconee -- or excuse me, Ellenburg Road and then perhaps a new road that's coming in based on the development of the subdivision. Let's assume that Oconee Ave -- Oconee County has the prescriptive right to the existing asphalt, right, we've seen the developer say hey, Mr. Ratliff, Mr. Jimmy, we will give you the property, we will let you expand down to our property line where the new road's gonna be. There is a critical legal issue there that if in fact Oconee County has a prescriptive right then Oconee County must go through the abandonment process in order for the title and the ownership and control of

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the area to even be given to Mr. Jimmy. The developer doesn't have that power and frankly Jimmy doesn't have that power. (Inaudible) of question of who has the right to help Mr. Jimmy in his management of his marine service? If Oconee County does not have a prescriptive right then the Ratliff family is who owns the dirt and the Ratliff family is who can provide legal access to this end tract, the Arrowhead tract, right? If Oconee County has a prescriptive easement then the developer does not have the right to give the property to Jimmy to aid in his business. That's a critical issue that must be addressed. Secondly, if we look at the way the Oconee County prescriptive easement is if we assume that they have an easement, let's look at the traffic flow. What is it like for a car to be traveling east on Ellenburg Road and then trying to contemplate if in fact Oconee Avenue -- I keep saying Oconee Avenue, that's another subdivision, Oconee County has a prescriptive right for this area then they have a prescriptive area and a requirement and a liability to the county to maintain that road. Then if they have to maintain this road and this road is here as a new private road (inaudible) car coming down the road how do they figure out where to

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go? Do they just run into the end of this road and crash or do they take and try to curve and understand where they have to head to get into the subdivision? Perhaps it will be something that can be discovered down the road but I think it's a real issue of how do you address traffic in such an unusual situation. The right-of-way issues of 50 foot versus 31 foot, I mean, if you really thought about the percentages it's almost a 56.7 percent reduction in what they're asking for. Pretty absurd reduction in my opinion. When we get to the issue of does it impede their property right? No. They can obviously build on the property. We have learned that they can build three or four houses and they don't need the road. So the issue of utilization of the property is not impeded by you denying the variance. This is another unique situation with the property that I think Oconee County must take into the consideration. We've seen several different drawings. We've seen sketches from the engineers, I hope we got enough for these -- of this, for y'all as well. We've talked about elevations, right. We've seen and understand that the property may include property that's very close to the 804 line; it may or may not be above 804.

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MALE VOICE:

I got one (inaudible) got lucky.

MR. KNOT:

If y'all were to look at the deed into their ownership of the property of 2008 you'll see that the first exception in their deed says that the property is subject to a flood easement to the 810 foot flood line, the exact language reads, flood easements in favor of Duke Energy Carolinas, LLC and repairing rights of others including but not limited to the flood easement to flood to the 810 contour line. I don't think there's a dispute between the developer or even the Ratliff family or any of the neighbors that the property is under 810 feet. Have y'all considered approving a road system in which the road could be flooded? That's a design issue. That places Oconee County with liability. You're not gonna get off with sovereign immunity in that situation. I have no idea if Duke is ever gonna flood to 810 feet. We have no idea. I can't predict that but they have a right to. What would it be look like -- what would it look like for the county to have to deal with such a situation? Another component that is very odd in this particular development of a subdivision is the

curvature of the road. I don't know if y'all have been out there to look at the subdivision or not but it's not your standard access coming in off of a road where you have a straight ingress and egress into the subdivision. In order to get into this particular development the way it's been designed, and I'm fascinated with the engineer's, I'm an engineer, my dad was an engineer, he picked up Cape Hatteras Lighthouse and moved it and set it back down, his name's engraved on the thing, it's kind of cool; I love engineering work. And I love seeing the drawings of trying to figure out how to make something work. But I think practically speaking when you're looking at the safety of travel of cars ingress and egress into the development, with or without boat trailers, please I encourage you to visit the site and look at it. The radius deviating around the southern area to get the road to stay within the property lines of the developer's property and then deviate back north will cause traffic accidents. There will cause -- there will be automobiles that will interfere with each other. I would encourage you to look at the site. I'm not aware of any other subdivision development where y'all have approved the access based on such

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curvature being in place as part of the subdivision plan. We've already discussed the issue of Oconee County's prescriptive right and y'all's duty to maintain Oconee County's potential duty to maintain the existing black asphalt. There's obviously a dispute, right. Mr. McDuff has brought up the issue so does Oconee have this right, did they not have this right? Who paved the road? Who does not pave the road? Where's Oconee County stopped? Where does Oconee County exist? This is a critical issue as to what the developer's right are in the subdivision. But more so if Oconee County does not have the right then who has the right to maintain the access getting up to this subdivision, which presents another safety issue. And we've talked about John's Marine, the whole issue of how (inaudible) will maintain -- or how this development would impact John's Marine and Jimmy's livelihood. I've been down there myself. My boys and I have raced to see how fast we can get our jet skis in the ramp and get off Jimmy's property. Jimmy knows he is compensated for my right to use his boat ramp. Our record right now is 45 seconds, we can drop the skis off, get them in the water in 45 seconds but nonetheless it is an issue with getting boat

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trailers in and out of the driveway in his parking area where his building is located relative to the road right-of-way, relative to the asphalt and even relative to this new road system that's going to be put in place. Lastly, if we think about on the appellate court level, in Rush versus City of Greenville, this is a Supreme Court case of South Carolina. It says going further and assuming that they will suffer substantially in a financial way this is obviously the only hardship that could possibly be expected to result to them and that alone is not sufficient. Although it is an element in the situation which is entitled to fair and careful consideration, mere disadvantage and property value or income, or both, to a single owner of property, resulting from application of zoning restrictions does not warrant relaxation in its favor on the ground of practical difficulty or unnecessary hardship. Therefore, the financial considerations of whether the developer may or may not be more profitable in the subdivision cannot be taken into consideration in the variance request. And that's what the Appellate Court is gonna look at if it heads in that direction. Therefore, and is the property peculiar? I have to say yes. Is the

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property -- the property is probably peculiar, you're gonna -- you're gonna be able to check that box. Do these conditions do not apply to other properties? There are plenty of properties that are flag pole lots in this county that have very limited road frontage, and guess what they don't get developed. You have regulations that prevent development of such properties. That's why you'll have these regulations. So that fact that just because they have a snaky access to the property that alone is not sufficient to warrant the variance. There are plenty of properties that have unusual topography or unusual access. Third, utilization, can you utilize the property? Absolutely. They can build four houses on it. I'm willing to wire transfer some money to Mr. Andy Lee tomorrow for a five acre tract if you'd like me to do that. But nonetheless, the property can be sold. The property can be developed and property can be utilized. Whether it can be utilized for 19 lots is a matter of the subdivision regulations. Lastly, does it harm? Yes, there's harm. There's increased traffic. There's impact on possibly Mr. -- Jimmy's Marine. There's other houses on Ellenburg Road that have to deal with the right-of-way of Ellenburg not

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at this location but west of this location and closer to Knox Road where the Ellenburg snakes in and out and the traffic will obviously impede that safety of cars coming and going. And so for all the above reasons I feel that the variance should be denied and I don't think the four prongs can satisfactorily be approved in order for you to grant the variance.

MR. CHAIRMAN:

Thank you, Mr. Knox -- Knot, excuse me, Knot. Chris --

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

Chris Holder?

MR. HOLDER:

I'd like to thank the Counsel for their time. My name is Chris Holder. I live in Greenville, South Carolina but I grew up on the north end of this lake in the 70's and 80's when my family's land, the farmhouse right by Highway 11 bridge and the girls camp were about the only thing that was out there. So I spent the majority of my life on this lake. And I just want to make a couple of points. If you refer to some of the pictures that are in the back

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of Jimmy's letter it's very easy to see where his pad ends, where the proposed extra concrete would be. This is very much, if you've not been there, it's very much like a cul-de-sac without being round and Jimmy requires all of that land to be able to operate, pull boats in and out. And I can see at some point in time, especially if there are 19 homes on this piece of property that he's gonna be pulling a boat in after dark or even during the day and there's gonna be so much traffic on that road that eventually an accident is going to occur, especially with the jog in the road that they're proposing. The other thing is is a pragmatic issue. Ellenburg Road is not much more than a big driveway if you've been down it. And it makes me nervous as all get out going down the road without a boat on the back of my truck and I can't imagine what it's gonna be like over probably the next 10 years if this were to be approved what the traffic would be like on that road because about halfway up Ellenburg Road through the twist there's a 60, 70, 80 foot drop that goes at least a football field in length through those curves. So, it is a very narrow road. It's one that has to be travelled very slowly and if you've got that many homes and people coming in and out

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you're eventually going to have an accident. But from a pragmatic standpoint the way I see it and what they're proposing he's gonna be out in that road dozens of times a day and eventually that's gonna cause an accident. That's all I have to say. Thank you for your time.

MR. CHAIRMAN:

Thank you, sir. John Reeves.

MR. REEVES:

You have enough to deal with; I'm going to surrender my time.

MR. CHAIRMAN:

You're welcome to say something. Roger Chapman?

MR. CHAPMAN:

Yes, the same -- same response. I'll pass. All those before me have succinctly, more than succinctly, addressed my concerns recommending that you oppose this.

MR. CHAIRMAN:

Thank you for your consideration, sir. John Martin.

MR. MARTIN:

I'm John Martin. I've been down here in South Carolina about 20 years now. Jimmy is the best boat mechanic I've ever had. And I've been doing this for a long time; I had a lot of boats in my life. I

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don't want to lose him. I don't want him to lose his business. He has gotten me out of Lake Keowee a couple times with a rope and boat. He -- I've used his facility both pulling in boats and I use it now as a boat access because I don't have a trailer anymore. So, what this scares me as a customer is I'm gonna lose the best boat mechanic I know. Number two, what I'm starting to learn is if this becomes a legal issue Oconee County is gonna have to go to court and I'm an Oconee County resident which means we're gonna be paying for this. Is that correct, Mr. McDuff?

MR. MCDUFF:

I'm hoping somebody's gonna pay for me but that's (inaudible).

MR. MARTIN:

And I don't think our money should be spent on legal fees for this and I'm strictly against approving this variance. Thank you.

MR. CHAIRMAN:

Thank you, Mr. Martin. Frank Powell?

MR. POWELL:

I surrender my time.

MR. CHAIRMAN:

Thank you, sir. Those are all the people who have

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signed up. Anyone else want to say something?

MR. BRANDT:

If I may, I will not take as much time as Mr. McDuff. I'm Larry Brandt, I'm an attorney --

MR. CHAIRMAN:

Mr. Brandt, could -- could we wait until we're finished with the -- we're gonna have a chance for rebuttal from the --

MR. BRANDT:

Yes, okay.

MR. CHAIRMAN:

-- from -- from your camp.

MR. BRANDT:

That'll be fine.

MR. CHAIRMAN:

Is that okay? So --

MR. HADLEY:

I'd like to say something.

MR. CHAIRMAN:

Yes, sir. State your name, please.

MR. HADLEY:

My name is Bruce -- Bruce Hadley. I live in Seneca. And, you know, from listening to all this, I don't see how you all can vote on this based on that land where that road is out in front of him is private

property. That's my first observation. My second observation is is there's no other facility on the north end of the lake that is like this and you all haven't planned for that -- another facility to be put in somewhere else and that's poor planning. That's my observations.

MR. CHAIRMAN:

Thank you, Mr. Hadley. Who's next? Man in the center here.

MR. STEELE:

Barry Steele, I live on the lake, oh, 35 years. I guess I've known Jimmy since he was in --

MR. RATLIFF:

Born.

MR. STEELE:

-- elementary school. Born. Born. My concerns are as far as the way -- right now they have trouble getting 50 feet. They're -- they're fighting for 50 feet. They've taken land that was what I've been all the -- through all these woods over the years and I believe that it was well below the 804 that they've been backfilling into. So I think they've artificially raised up the level of the ground, the land that was been lost to the lake and erosion. Which brings me to the question is as they move the

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road, if that's their intention, what is their intention to stabilize the -- the shoreline in order to prevent new erosion that's gonna take it from 32 feet down to 20 feet. I haven't seen anything in their plan about that. Additionally, we're talking about delivery trucks. You guys are talking about delivery trucks like it's a UPS truck and you're gonna turn it around in 40 feet. A lot of their truck -- their deliveries come in on a tractor trailer, 40-foot trailer. We're talking about a boat engine where you got to lift it out with a sub -- with a forklift. One lane is gonna be blocked as long as it takes for them to get that thing in there, for Jimmy to come to the shop if he's out on a call to pull that engine out. That's gonna take this down to one lane. So you may as well assume that this is gonna be a one lane road whether you add to it or not. There's just nothing you can do about that because that's part of doing business. You're not gonna get a -- a semi truck off the road there. So -- so essentially the cul-de-sac's that they're talking about that are gonna be so useful that may make UPS happy but it's not gonna do anything for a semi. Thank you for your time.

MR. CHAIRMAN:

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Sir?

MR. COOPER:

My name's Doug Cooper, I'm the president of the Harbor Oaks HOA and I'm not gonna go over all of the stuff that's already been beat to death and there's a lot -- lot of info to -- information there. One thing I want to say about our community is we love living where we live. We're thankful for it. We realize -- I live at 566 Ellenburg Road. I don't know how you've managed to work where county road services stop, don't stop, but there's at least three different spots out there over several hundreds of yards where it looks like it went overtime. That again I would encourage you as Mr. Knot did to please individually go back down there and personally walk it. And I think July 31st at 7:00 in the morning on a Saturday morning, seven truck load tri-axles came in and backfilled things that you already been given photos of. Delivery trucks and things like that there's only my house and a rental house, Chad's house and another house on that road. Because when you come into Harbor Oaks, the tractor trailers have to pull into Rolling Wood Drive, and then back all the way from there down to John's Marine to unload or load whatever

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needs to be done, and these are tractor trailers. They don't back up quickly. They don't stay in one lane and they're there for awhile. That's not a big deal for us with the traffic it's -- it's -- our -- with the houses that are there. You put 20 more houses down there that's a big issue. We invested -- I've -- I've written several letters or emails to you and to Duke Energy, where again not opposed to the development but the density is the issue. They have a access to that. They can develop it. We're all about the safety. We've had near misses in our -- in our neighborhood. We've spent several thousands of dollars to redo the entrance to our neighborhood because we had safety concerns from existing traffic that's going up and down there daily with boats being dropped off, boats being picked up, deliveries. There's a lot of traffic there. This, we don't know if it's rentals. Well rentals bring with it four to six vehicles every time they come and they're in and out all -- all week long that they're there because they need to go get more groceries and whatever. This road just can't handle that. And you've heard all the other legal issues. We want somebody to be concerned about the safety. I talked to the developer and I

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said to -- told him it was our sole issue as a community and the answer I got was roads were made for people, the people needs to stay off the roads if they don't want to get hurt. We have a tremendous number of walkers every morning. We have development, if you've been on Ellenburg Road to the west there's a big bunch of S-turns there that have these vertical drops. There's a house being built now that one of the other development's subdivisions, Cottages at Riverbirch, they're building there now and every day they're blocking the road and you can't see it coming around that turn. And if you're a tractor trailer, you're a boat, we have been very -- numerous near misses. And I get there's a lot of legal issues but for the constituents of the county and the safety of not only Harbor Oaks but the future residents, whoever they may be, at that end of that peninsula this needs to be a consideration. Somebody is gonna get hurt. There's no way to turn a tractor trailer around down there. And if you take tractor trailers for sod or Yoder's or whatever all the way up and through there and they're gonna have to back down from Rolling Wood Drive and then either pull out or pull down in there and back all the way back up

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again you're gonna be pushing half mile or a mile and they're gonna block all traffic while they're doing it or emergency vehicles. So I just ask that someone pay attention to the safety of this and the benefit of the -- of the residents today and in the future. Thank you.

MR. CHAIRMAN:

Thank you, Mr. Cooper. Who's next? There was a lady back here waiving her hand very early in the presentations, I did -- I'm not sure where she's gone.

MALE VOICE:

She left.

MR. CHAIRMAN:

She gave up?

MALE VOICE:

Yeah, she left.

MR. CHAIRMAN:

I'm sorry. Anyone else? Yes, sir. You --

MALE VOICE:

I spoke earlier.

MR. CHAIRMAN:

You spoke earlier.

MALE VOICE:

In my -- in my haste (inaudible).

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MR. CHAIRMAN:
I understood that, yes, thank you. We understand your concern about --
MALE VOICE:
I'm gonna get my (inaudible).
MR. CHAIRMAN:
Your concern is boat traffic --
MALE VOICE:
(Inaudible).
MR. CHAIRMAN:
Your concern is boat traffic in your neighborhood, in the neighborhood on the lake. Okay.
MALE VOICE:
And I've been down that road and I'll never drive my trailer pulling a boat. I come in the water (inaudible) go -- go off the road.
MR. CHAIRMAN:
Okay, where we're at now is --
MR. EAGAR:
I think the attorney for the --
MR. CHAIRMAN:
Oh, yes, we're gonna -- I'll get there. What I'm gonna do now is I'm going to -- we have that many emails concerning this project. I'm going to read a few excerpts from these to make sure that we've

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covered kind of the content of the emails. At -- at that time then I'll ask the developer to make any comments they have. Is that okay with the Board?

MALE VOICE:

Mr. Chair? Mr. Chair, could we take a five conference break? I'm --

MR. CHAIRMAN:

Sure. Sure.

MALE VOICE:

-- super strong bladders I'm sure (inaudible) but I'm (inaudible).

MR. CHAIRMAN:

Let that satisfy some Board also. Okay, five minutes. Please be quick.

FEMALE VOICE:

Vote please? Excuse me, vote?

MALE VOICE:

Yeah, make a motion.

MR. CHAIRMAN:

Oh, I move that we take a five minute break for --

MALE VOICE:

I second.

MR. EAGAR:

So moved.

MR. CHAIRMAN:

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Moved. Second.

MALE VOICE:

Second.

MALE VOICE:

Yup.

MR. CHAIRMAN:

All in favor say aye.

MALE VOICE:

Aye.

MR. CHAIRMAN:

Okay. Come to order, please. I'll entertain a motion for the Board to reconvene our meeting.

MALE VOICE:

So moved.

MR. EAGAR:

Second.

MR. CHAIRMAN:

All in favor say aye. Raise your hand. All in favor, reconvene the meeting. I think it's seven to nothing. Please have a seat. Okay, not to belabor the subject, I do have close to it's I don't know 75 or 80 emails here. I'm not gonna read them all. In fairest to those -- these folks, some of them have already spoken so we don't need to hear by them, but just in fairness I just wanted to represent some of

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these emails. This is from a Mike Cauble. This variance request is not a matter of small discrepancy, but 18 of 50 feet deficiency in right-of-way amounting to over one-third deviation for the requirements. In fact the present and existing status of this entry site is unchanged since the current owner purchased the property. Denial of the variance does not add any additional impairment beyond owner's initial acceptance of the site. We concede that enabling the maximum number of density of homes on Lake Keowee does enhance Oconee County tax revenue but oppose this is a primary determinant of variance decisions. We believe that government should play a primary protective roll in preserving the quality of life and investment of pre-existing property owners by not undermining the effects of their prior investment decisions which are based on prior zoning conditions. And he's supporting John's Marine. Okay, this is from Joyce and Vince Malanga. It is our understanding that there is a variance request to be voted on tonight regarding access to a proposed subdivision across from John's Marine. We believe that the proposed road variance from 50 to 32 feet in front of -- excuse me, 31.9 feet in front of John's Marine will create several issues of

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concern to the business, its hundreds of customers and future residents of the new subdivision. As a 25 plus year customer of John's Marine we're concerned that the construction vehicles and the ultimate increase in traffic on Ellenburg Road as a result of this new subdivision will create safety issues and difficulty trailering boats out. Ellenburg Road in front of John's Marine is narrow currently and requires one vehicle to drive on the shoulder if someone is passing while pulling a boat. Okay, Dan and Jodie Paul write, the proposed narrower road will be a big safety issue. How will fire trucks and construction equipment be able to safely pass through there? Where will the runoff water go? Toward the adjoining business? Off the road into the 804? If the runoff causes a washout on the steep side of the road how would emergency vehicles access the neighborhood? The developer only has access to half of the current road. How are they going to safely run utilities under there without undermining the steep 804 side of the road or the side owned by John's Marine? There's a reason the county specified that 50 feet is a minimum for these roads for safety. The developer knew this going into the project. John's Marine has

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been there the whole time, the fact that a business is blocking their big plans and there's a county ordinance prohibiting that what they do -- do is not surprised. The fact that the county will get tax revenue from this project should not be a reason for the safety of the neighborhood to be impeded. Jan Ratliff writes concern about safety. I have a note here from Amy Cawthon, I don't think we've heard from Ms. Amy Cawthon, she is the mother of --

MS. CAWTHON:

I'm the daughter.

MR. CHAIRMAN:

The daughter, I'm sorry, the daughter.

MR. CAWTHON:

Daughter, right.

MR. CHAIRMAN:

The daughter. And you didn't want to -- you -- you passed on saying anything earlier? Okay.

MS. CRISP:

Well, it was me. It was me.

MALE VOICE:

It was the other daughter.

MS. CRISP:

You've got all of his daughters. I'm Sherri Crisp.

MR. CHAIRMAN:

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So I think we've -- I think we've heard your concerns.

MS. CRISP:

Yes, I -- I sent an email --

MR. CHAIRMAN:

We have heard -- okay, we have heard those concerns.

MS. CRISP:

Yes.

MR. CHAIRMAN:

Okay, denying the variance does not impede the property owner's right to use the property. The owner -- this is from a James Coley, have we heard from Mr. Coley?

MR. COLEY:

No, that's not from me.

MR. CHAIRMAN:

Pardon me?

MR. COLEY:

I think you've just got -- it's to me probably.

MR. CHAIRMAN:

Oh, it's to you, I'm sorry. Oh, this is from Chad Knot, Mr. Knot we did hear from --

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

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Everyone's got to have a nametag on please. This is -- this is from Mr. -- Mr. Knot and we did hear from Mr. Knot (inaudible) involved -- okay. All right, the bulk of these I will say are number one support for John's Marine and concern that he may -- his business may be impacted so everyone's in kind of uniform agreement there. Okay, and I think we heard from Mr. Cooper. No, maybe not. No this -- this addresses safety. Harbor Oaks has spent several thousand dollars last year altering the entrance at Rollingwood Drive to enhance the safety of both Ellenburg Road and Rollingwood Drive to drivers and pedestrians. There's a lot more traffic on this road than would -- than one would image. Much of it is John -- John's Marine and delivery traffic. We have had several issues in the past and it is very much an issue given the developer's current construction on upper Ellenburg -- upper Ellenburg Road. When I discussed our concerns with the developer regarding road safety he responded those roads are built for cars and people concerned for -- don't want to get hurt they need to stay off of them. We've heard that already.

MALE VOICE:

That's -- that we heard from.

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MR. CHAIRMAN:

Okay. John's Marine typically receives one to two semi trailers per week. Yes, we've heard all that. Yup. Okay. I don't want to minimize these but I -- again I would reiterate there's great support for John's Marine and the services they do provide. Everyone recognize it's a long term asset to the county and -- and the people of the lake and I don't think we need to belabor the subject anymore. Is there anyone else, now so I've -- that -- that's gonna conclude our -- our chance for members of the audience to participate. Okay. Speak now, we don't have a chance later on, you don't get a chance -- when we're talking up here you don't get a chance to talk with us so now's your chance. Okay, now is the chance for the requester to speak about some of the issues raised and what you think the solutions are.

MR. BRANDT:

Well my --

MR. CHAIRMAN:

Mr. Brandt, yes, sir.

MR. BRANDT:

I want to tell y'all how much impressed I am with this Board tonight. I've appeared before similar boards and certainly courts and y'all have been most

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engaged and interested and knows -- I guess that's why you get the big paychecks.

MR. CHAIRMAN:

Definitely (inaudible).

MR. BRANDT:

I applaud you and thank you for being so patient and listening to all these people. Good points were made on both sides. The only thing I want to say is my colleague Mr. McDuff stated that prescriptive easements have to be declared by the Court. I disagree with that. That's a legal argument between us. That the use and of a -- the public of a roadway creates it if it's between continuous years. Now up until recently, I don't know where the sign is now but a couple months ago I went out there and the sign of public maintenance ends here was on the border of my client's property where it begins. No one here has challenged that the road has not been there for more than 20 years and that is what the facts is what the Court looks at to declare the easement. The issue here tonight is not whether or not I think there's a easement there it clearly is because nobody's challenged that. The question is is from the end of that public roadway would they be entitled to a variance of the 50 feet and that's

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what it is and whether it's four houses, whether it's 19 houses they're asking for 50 feet, the ordinance says 50 feet and they can't put a road in there to even service, decent road in there, without a variance that would service even four homes. So certainly that is creating a burden on the property owners at this time. But again Duke has control of anything below the 804 contour, that's not this Board and it's not the County, it's Duke Power and they hold it with a powerful hand. So, that issue is not before this board. But certainly I've heard here that, you know, maybe some further dialogue between the parties might be able to work something out. Certainly if that easement is out there and I submit to you it is hasn't been challenged, that they're given more of an easement and they can convey that to be the -- a -- commit that to the Ratliff's or the public, whatever we take it, but they want to move the road over so they can get in there. They'd even give and use just a portion of what's there now as part of that roadway but all that roadway won't be on that prescriptive easement. But Ratliff will be gaining with that move of that road over will be gaining some frontage to that property and he'd have more room for moving boats,

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etcetera. But that's all I wanted to say. Y'all have heard everything hashed over pretty well. We've had some good speakers both side of the coin and again y'all have been most engaged and I know you're gonna do your best, do what you think is right and that's all anybody can ask to come before the Board.

MR. CHAIRMAN:

I have a question, sir.

MR. BRANDT:

Yes.

MR. CHAIRMAN:

Really, just from your point of view, both sides have presented legal issues with -- with access, particularly access to John's Marine, obviously if you own part of the -- part of the road, part of the parcel that a bunch his -- his pad, his pad, and you could presumably put a fence on there at some point in time if you truly own that. That's the argument I hear from -- from Mr. McDuff is that, you know, because of these easement issues and legal issues on who owns the road, does the county own it, does -- who has -- who has control, legal control over the road --

MR. BRANDT:

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Yes.

MR. CHAIRMAN:

Are -- are you folks willing to settle that issue so that there are no access issues to the business?

MALE VOICE:

Secretary, real quick.

MR. BRANDT:

The only thing as far as access if (inaudible) on access, there's no access issue based on the facts as I believe them to be and that's been presented to me with a 20 foot -- 20 years or more, forever really, of being public roadway. And there's nothing of record that I know about that the county abandoned the roadway, down to or beyond that maintenance sign which is on the boarder of my client's property. So, yes, an easement -- a person that uses the easement he mentioned servient estate and dominant estate. Servient estate is the owner of the fee, there's no doubt that if that -- if the Ratliff's property line on their property if that road where it sits today, if their property line encompasses that road they own the fee, but it's subject to the use of the dominant estate for the use of ingress and egress. You know in the last probably 15 years I've had more of these kind of

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issues come up than I had in the whole prior practice of law and I came back from the military and started practicing in Oconee County in 1975. And it seems like, and I guess that's because the world and even Oconee County is getting more crowded. And the lake when I came back here, you know, you could get in the boat, you could go up to the dam, come back, maybe you'd see four fishermen in a cove and it was private.

MR. CHAIRMAN:

I understand.

MR. BRANDT :

And -- and I've played on the lake for four or five years, then I got away from it, probably the best decision I ever made.

FEMALE VOICE:

Let's clarify something real quick because what they're saying is they're going to move the road. They are proposing to move the road and that's gonna leave a gap between where Ratliff's property is and where their property is. Are you saying that they're going to deed in fee simple that strip of land from where they moved the road?

MR. BRANDT:

No, I can't say that because I'm not making those --

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can't make those decisions.

MALE VOICE:

Yes.

MR. BRANDT:

What I'm saying to you is that their plan, that road had -- when they moved the road over to get the width they need they're only gonna use a portion of the prescriptive easement, which they have a right to do anyway.

FEMALE VOICE:

That's fine, but we don't want a gap of land --

MR. BRANDT:

I agree with that.

FEMALE VOICE:

-- for a lawsuit in the future. So I'm asking now --

MR. BRANDT:

I don't --

FEMALE VOICE:

-- is the developer prepared to deed to John's Marina that strip of land where they move the road and gap between his property line and his easement and where they're gonna put the proposed road?

MR. BRANDT:

Well I don't see as that's consideration if he

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grants -- if they grant a public easement across that roadway and in that where they deed it to him or not the road will be there, the same road will be there that's always been there plus an additional -- where they come together plus an additional width as I saw the plans.

MR. CHAIRMAN:

I understand it'll be there but the question is --

MS. SMITH:

Yes. Yes, we are willing to deed it, fee simple, yes.

MALE VOICE:

Yes.

MR. BRANDT:

But that's up -- up to them, I can't make that decision. If they say yes, they're willing to deed it.

MALE VOICE:

We have no use for a two inch strip of land that goes through.

MR. CHAIRMAN:

I understand but that's -- but that's an issue that's been raised and --

MALE VOICE:

Uh-huh.

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MR. CHAIRMAN:

-- we're trying to deal with all this and you folks haven't talked to each other so.

MR. BRANDT:

But anyway, that's it, whether there is four houses in there or whether there's 19, they need -- they're asking for the variance. And without that they can't pave it. They can't do much of anything. Four houses isn't a subdivision.

MR. CHAIRMAN:

Thank you. Thank you. Now, does the developer have any -- a number of issues were raised, does the developer have anything further they'd like to say?

MALE VOICE:

Sir.

MR. LEE:

That's me. Just a couple of comments to address some of the -- some of the questions that -- that were brought up I believe Mr. Jay Ratliff, is that correct, Jay?

MALE VOICE:

That's correct.

MR. LEE:

Okay. Said that for example the cul-de-sac was -- wasn't big enough for emergency services space.

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That cul-de-sac is built to county spec just like any other cul-de-sac is built in -- in Oconee County. It's -- it's -- it's built the way it's supposed to be built according to Roads and Bridges. They're the authority. We build it to the size that they say to -- they say to build it. If you'll look questions were asked if there's -- if there was I think implied that there was that smaller area was -- was "messed with" and where did these numbers come from. If you'll look at the plat that's dated '08, which is way before me, okay.

MS. SMITH:

It's in your packet.

MR. LEE:

It's in your packet. It's dated '08 it's very -- it's -- you can ask our engineer, they matched the ones that we're working off of right now, so 30 -- 32 feet basically, the one in '08 shows 32 as well. Nothing's been altered. We've not changed the -- the elevation. So I met personally I met Lake Management out there with the surveyor with the old plat, with the new. Everybody's in agreement, Lake Management says as long as you stay out of my property, don't below -- anything about the 804 they don't care. We have no intention of going into the

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804. If you'll look at your Exhibit 1 I believe it was, it very specifically -- yes, Exhibit 1. If you will look at Exhibit 1 this line right here, right, this is from the engineer. If you'll notice it is labeled 804. This also shows that the existing road -- or the proposed road, excuse me, there's a number of feet in between the 804 and the edge -- edge of asphalt. So are we going to put a road in the 804? We are not. So another -- another point that was brought up by someone else was the --

MR. CHAIRMAN:

Let me correct, you said Lake Management, that's Duke Lake Management?

MR. LEE:

That's correct.

MR. CHAIRMAN:

You have met with Duke and they've -- they have agreed that you're not impinging on their property?

MR. LEE:

That is correct. That is correct.

MR. CHAIRMAN:

Is everyone okay with that?

MR. LEE:

Christy Brock, you're welcome to call her and ask her.

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MR. CHAIRMAN:

No, that's okay.

MR. LEE:

Let's see. We did that. As far as the -- this is a note we've already covered but we'll do it again. As far as anything that's in between I have no desire to have a two inch or four inch strip of property separating the road from -- from Jimmy at all. I told -- I told Jimmy in the beginning that I was gonna shift that road as far over as I could in order to help him out. So he may have broke up with me but I didn't break up with him. I'm still gonna do what I said I was gonna do, I'm pushing that road as far as I can to get it out of his way. What it does is it more than doubles the space that he has to operate now. It's very true. If you could call the room into order I would greatly appreciate it.

MR. CHAIRMAN:

If I could what?

MR. LEE:

Call the room into order of the -- the talking in the back is distracting.

MR. CHAIRMAN:

If there is any talking please don't do it. I'm sorry, I didn't hear it.

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MR. LEE:

The -- another question was asked about the 810 flood easement, all right. Now this is a popular one. There's an 810 flood easement on -- everywhere on the lake, right. Not -- not -- not just here, there's plenty of roads and everything else that would drop into that flood easement. That's -- that is literally in case the dam breaks. It's not suggesting that they can or even have the ability to raise it to the 810, they don't. That is a number in case the dam Jocassee blows out, floods the lake, the water could come up to that and they're saying they're not responsible if that happens. It has nothing to do, it's not a -- it's not a flood -- it's a -- it's not -- it's not building in a floodplain, right, I've -- and we've dealt with this over the years people it's just simply not understanding it. It's not saying or suggesting anything can't be built below that. What they're saying is if -- and I suggest this to you, if Jocassee blows out we've got more problems than the -- than this little piece of road. So, the --

MR. CHAIRMAN:

Okay, so what you're saying is the flood easement is -- is a Duke requirement, it has nothing with the

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FEMA flood easements that are put on various properties on we all know around --

MR. LEE:

And maybe it does --

MR. CHAIRMAN:

-- rivers -- lakes and rivers --

MR. LEE:

-- maybe it was (inaudible) --

MR. CHAIRMAN:

-- that may flood out.

MR. LEE:

Right.

MR. CHAIRMAN:

That’s not -- that’s a separate issue?

MR. LEE:

That’s correct. It is not -- you can’t -- if you go up there and you look where it shows those flood -- floodplains, right, it’s not on there ‘cause that’s not what that is. So we had a -- I had this with a friend of mine 20 years ago I guess he -- his -- his -- he had a closing attorney, not from this area, and he got hung up on the 810. He had to finally drive up here to look at the flood maps to actually see and we drew pictures and everything, he finally got it. That’s not what that’s referring to. If

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you'll ride around the lake you'll see a number of structures that are on the super flat lots, they're gonna be in the -- they're gonna be in 810.

MALE VOICE:

Uh-huh.

MR. LEE:

So, it's -- it's -- it's just not what that is.

MALE VOICE:

So what's your take on the county not owning that section of the road?

MR. LEE:

What section?

MALE VOICE:

The section from where the -- where the road stopped --

MR. LEE:

Uh-huh.

MALE VOICE:

-- and it -- and the double line stopped and it continued on where the argument Mr. McDuff made where it was the actually you and Jimmy own that section of road. The county has nothing to do with it.

MR. LEE:

I -- I disagree with that. I mean it is a

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prescriptive easement. It's been established in the roads -- if you looked in the Roads and Bridges letter they even talk about the established prescriptive easement. And again this is something I'll be happy to let them out. And this is something that normally we would work out during the construction process. We're just not at that phase of it but if we decide -- if you see right here, if I can get to the right one, (inaudible) four, is it -- yeah, can you go to four please? Let's (inaudible) and see if it's better. (Inaudible).

MS. SMITH:

Keep going?

MR. LEE:

Yeah. Two, three.

MS. SMITH:

Four.

MS. LEE:

Okay. So --

FEMALE VOICE:

They can't see (inaudible) you're gonna have to --

MR. LEE:

I'm sorry. So, you know, the existing road is here, right. If we -- if -- if -- with this ordinance, this ordinance is granting a -- if we move it over

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onto our property is it -- is there still a claim that the county has an easement through that? There is. But, you know, you -- you petition the county to release the easement and basically say give me my property back, you've been using it for however long, you're not using it for the purpose of -- and the only purpose of that road was to access the -- the property behind it, our -- the subject property. So if we're not using it for that anymore then you go to the county and ask for them to give it back to you. This can be done, correct? Yeah.

MALE VOICE:

Make a decision.

MR. LEE:

But it's not --

MR. CHAIRMAN:

Okay.

MR. LEE:

-- it's not that bad. Stabilizing the shore lines, someone asked about that. I told Duke as a courtesy I said so we've built -- we've built a bulk of the subdivisions on the south end of -- of Lake Keowee. I was construction manager for however many years for my predecessor who is John Hamrick. What I told Lake -- Lake Management I would do, I know and I've

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got a tractor so I'm not -- I'm not judging anybody that likes to move dirt around but graders do like to knock stuff down, I mean, that's -- they've -- they've got tractors. That area is -- because it's very, very narrow I very much can see somebody with no ill will intended pulling in there, you know, parking something, whatever, I told Lake Management that we would happily --

MALE VOICE:

You want a water?

MR. LEE:

That'd be great. We would happily volunteer to go in and put in a masonry stacked stone or flagstone, one of the two, wall, that will -- that -- right above the 804 so that nobody can pull in there 'cause I'm gonna put a wall there. I'm blocking it. You know, nothing -- and it's gonna be attractive, it's gonna tie in with the neighborhood, all that good stuff. But we were gonna make sure that especially in that area what -- and what we did, excuse me. Before we under brushed it so you -- in order to see it, right, so you cut all the thin stuff out, before under brushing I had a surveyor go in and mark the 804 all the way around 'cause I have no desire to get in the 804 it's not worth -- it's a

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terrible fight with Lake Management, you don't want to do it, trust me. So it was marked all the way around but to control -- to control any runoff -- first of all it's a curbed and guttered road, okay. Cubbing -- curb -- curbs do multiple things; they're not just there to look pretty. They're there to control water, that's what a curb does. So a road, a curbed road is basically a giant drain and those curbs -- those curbs help control any and all runoff that -- that hits that road it -- and goes into the drain that we direct, direct -- we direct where it goes so as far as, you know, all this running down into -- into Jimmy's property, that's -- that's simply inaccurate, that's not how roads are designed. So now it may have to -- you know, might -- back in 1942 but it doesn't anymore. So, any of the -- any of the runoff, etcetera, etcetera will be handled as it's required for me to do by law anyway. I don't have a choice. I would but either way that's not an actual concern. So not -- not -- not anymore, not in today's world. Someone said that no trucks can -- the trucks from Yoder's can't turn around. Well, if you'll go back to example one where it shows the aerial, Exhibit 1, yup.

MS. SMITH:

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Two.

MR. LEE:

Two, sorry, two. If you'll see -- if -- if -- if road -- trucks like even the big ones that bring in trusses and stuff from construction companies, if they weren't able to -- to back out, to turn around in cul-de-sacs then you wouldn't have any houses in any subdivisions anywhere. Where did -- how did they turn around? That's the whole point is this is put in any -- any of Jimmy's people, any -- I plan on using it myself; you could turn anything you want to around here including your delivery trucks. Any construction that goes on, any of the construction trucks, they can turn around right here. Or they can turn around inside the lot. It's irrelevant, it's not -- it's not a real life situation. They can get big trucks in and out for construction. So --

MR. CHAIRMAN:

So you're saying you do not have to go up, I forget the name of the road that enters into a subdivision where trucks are --

MR. LEE:

Yeah.

MR. CHAIRMAN:

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-- pulling in and backing down to service Jimmy's --

MR. LEE:

We'll be -- we're elevating that problem.

MR. CHAIRMAN:

Okay, you think -- you're -- you're claiming that semis --

MR. LEE:

Uh-huh.

MR. CHAIRMAN:

-- can turn around at the cul-de-sac --

MR. LEE:

Yeah.

MR. CHAIRMAN:

-- that you're gonna put in.

MR. LEE:

Now are they gonna be able to make the loop? Eh. Will they not have to do a three point turn? Probably.

MR. CHAIRMAN:

(Inaudible).

MR. LEE:

Can they do it? I've built 40 something subdivisions I promise you they can. The next concern was the 30 foot easement. If you'll look in, actually I believe Mike wrote up -- wrote --

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wrote something off awhile -- read some of them off, there's a lot of subdivisions, Waterford's for example, we built Waterford back in the day, it's one of my first subdivision I ever built, right. I had no idea what I was doing. But, it worked out right well, it's a lovely place. But if you look in some of their -- their -- the nicer subdivisions that we have around the lake, a lot of those have a 30 foot easement. I need 20 foot for asphalt and I need about five foot for utilities. I'm gonna provide, as I'm required to do, provide exactly how I'm gonna do that to the County and they have to say it's okay. I'm gonna do it the same way I always have and the way it's been done in every -- in all the other subdivisions that it's already been done in. This is not like this is some rarity like this is something that's -- that's -- that's never been happened before that -- that if we -- we're gonna build a road with a 30 foot easement instead of the 50, that's -- it happens a lot and up to -- up to prior to '13 it happened all the time. So, that's -- that's not a big thing. Some of the comments were made that on such a narrow road. That's not a narrow road. It's a 20 foot road, just like the rest of them in Oconee County. They didn't make

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that road specifically narrower than they did the rest of them. I (inaudible) the traffic, some -- some -- will the traffic increase? Yes. Can the -- can the -- can the road handle that? Yes, it's -- it was built to county spec. So unlike most roads in the county, let's imagine this was somewhere else. This is a dead end. There is no thru traffic from the other 42 neighborhoods on this side or the town of Seneca or Clemson. It's a dead end road. It's -- I'm -- I'm simply extending a dead end road and I'm allowing 19 people to use it is -- is what I'm asking for. It's not -- any dead end road is -- is by nature less busy than one that isn't dead end because there's no one coming from that end. So it's not -- it's -- it's not as busy but a traffic study will tell us just exactly how much that is. Which we fully intend to do. Let's see (inaudible).

MS. SMITH:

I'll pop up and just add a few things and give you some relief here. It's been brought up that the density is too much for this 15 plus-ish acre parcel that's what is outlined in blue, it's right about 15 plus acres. Right now under, you know, the current ordinance we work with we could put 30 houses there but we're choosing not to do that. We're choosing

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19 because that's right, that's what's like-kind to the other areas. It's less than what Harbor Oaks currently has, they have -- go ahead.

MR. CHAIRMAN:

What -- what's the average lot size or what -- how do the -- what are the lot sizes?

MR. LEE:

Anywhere from -- everything is over a half acre but a half acre to -- to max would probably be, which is standard, no more than three-quarters and that's --

MS. SMITH:

Yes.

MR. LEE:

-- which is if you look at any of our -- our subdivision that's about what they're going to average. If you look at the adjacent subdivision it's -- it's -- it's gonna be very, very similar to -- well, it's not adjacent, excuse me, it's back up the road a little bit, is Harbor Oaks so.

MR. CHAIRMAN:

And are these lots large enough to put a normal, kind of what I would call a normal sized lake house on?

MR. LEE:

Yes.

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MS. SMITH:
Correct.
MR. CHAIRMAN:
You're not gonna have lot owners coming to us a year from now saying hey I need a variance for the side setbacks because I can't fit my nice house --
MS. SMITH:
It's not developed that way.
MR. SMITH:
Not at all.
MS. SMITH:
That --
MR. LEE:
If you look at any Crescent subdivision it's gonna be like-kind. So there's also a deed restriction that would prohibit that.
MS. SMITH:
Uh-huh.
MR. LEE:
So, Crescent Resources, which is the land holding division of Duke Power.
MR. CHAIRMAN:
I understand.
MR. LEE:
When they sold it they put -- and you have those,

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they put deed restrictions on the size as they do on -- on every piece of property.

MR. CHAIRMAN:

One of the letters we received said you had reduced the square footage requirements for houses so that you could fit -- fit them on the property, that's why I'm asking the question.

MR. LEE:

No, that's completely --

MR. CHAIRMAN:

So it's still if I recall it's the restriction is 1,600 square feet for a single story house, 1,800 feet for a two-story house, with a 1,000 footprint.

MR. LEE:

So a story is --

MR. CHAIRMAN:

You haven't changed those?

MR. LEE:

Yeah, no. So a story is not a basement, so if -- so the 30 -- the 1,600 like which is what Riverstone is, they -- they all varied between 1,600, 18 and two.

MS. SMITH:

Thousand.

MR. LEE:

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-- on all -- all of them.

MR. CHAIRMAN:

All of what?

MR. LEE:

Square footage minimums.

MS. SMITH:

All the -- of all the Crescent developments.

MR. CHAIRMAN:

All the Crescent developments.

MS. SMITH:

Correct.

MR. LEE:

So, what we're -- what we assume normally is that they're gonna build a basement, house with a basement, that's what most people --

MS. SMITH:

The topography lends itself to that.

MR. CHAIRMAN:

But most people call it a lower level?

MR. LEE:

Yeah.

MR. CHAIRMAN:

Okay.

MR. LEE:

So -- so that is but we don't count -- that's not

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counted as a level, right. So you have to have 16 on the main level and if you have a full basement that's a 3,200 square foot home, so that's the -- that's the smallest you can build. So if you -- if you -- and if you choose to go up of course you're welcome to but no, that's -- there is -- there is no mini home situation. If you look at -- if you take a ride through Harbor Oaks with the one beside it it's -- it's gonna feel exactly like that only with a gate and (inaudible) 'cause a newer subdivision. But it's gonna be built just like the ones in the area.

MR. CHAIRMAN:

I apologize, I interrupted you but I wanted --

MS. SMITH:

No, that -- that's fine.

MR. CHAIRMAN:

-- to clarify that.

MS. SMITH:

I -- I would like to know your questions based on what you've heard. I -- I don't want to bring up every single point but if there's things that you heard that you want clarification on I'd like -- we'd like to be able to provide that clarification.

MR. CHAIRMAN:

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I think that's a reasonable request.

MALE VOICE:

Where does the --

MALE VOICE:

(Inaudible).

MALE VOICE:

-- where does the gate go you just mentioned.

MR. LEE:

Yeah. So it will go behind right there.

MALE VOICE:

Okay. So Jimmy will be able to use that cul-de-sac?

MR. LEE:

Absolutely.

MS. SMITH:

Correct. Any other questions?

MR. CHAIRMAN:

Any other questions, folks?

MR. EAGAR:

Well I guess lingering throughout all this is who owns what property? And I'm hearing both sides that hey I own it, no you own -- (inaudible) own it.

MS. SMITH:

I can point it out if it helps.

MR. EAGAR:

Well is there -- is the a definitive answer to that?

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MS. SMITH:

Yes.

MR. LEE:

There's a property line still there. Just because we're -- we are both allowed to drive on it. It doesn't mean that we don't own the dirt to the center line. I -- I -- excuse me, the parcel in question, this -- this original line, right, it's still a property line, just like any other. But there's an easement over the top of it. But basically and it may be off an inch or two but basically there's a real line right there, here we go, real line right there and where this property stops his starts. And what we're proposing is we're pulling it off of his property to get it out of his way, which will provide him a tremendous amount of more room right there and we take full responsibility of the road. He gets his property back.

MS. SMITH:

And we'll connect it to his property so it is contiguous so that he will be able to back trucks, trailers down to the ramp, down -- across the pad, we're willing to connect it. We're willing to deed it fee simple, so it becomes his.

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MR. LEE:

And if I -- if I --

MS. SMITH:

It is his.

MR. LEE:

Right.

MS. SMITH:

And it remains his without any type of encumbrance. It's just his land.

MR. CHAIRMAN:

If can ask, I think I've heard the -- the dimension, 22 feet.

MR. LEE:

Uh-huh.

MR. CHAIRMAN:

Is that -- how long is that? Is that the maximum or how long is the 22 feet that he's gonna get extra?

MALE VOICE:

How far out does it go?

MR. LEE:

Let's see, which one is that on? Do you remember?

MS. SMITH:

It's either --

MALE VOICE:

Three.

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MS. SMITH:
-- in the quadrant where --
MALE VOICE:
Page six.
MR. LEE:
Page six?
MALE VOICE:
It's the red area I think here.
MALE VOICE:
No, I need the one that says -- that shows the 22 (inaudible). No, go back.
MS. SMITH:
Oh, that would be one. One has I think the 20 --
MALE VOICE:
Now go back to the six.
MS. SMITH:
Which one? I'm sorry.
MALE VOICE:
That one.
MALE VOICE:
Yeah, that's right here.
MR. LEE:
Okay. So --
MS. SMITH:
So that's graphic three in your packet.

MR. CHAIRMAN:
Okay, so that's -- okay.
MS. SMITH:
And that -- that notates that.
MR. LEE:
Yeah, and goes -- goes on out out past --
MALE VOICE:
That's the additional area that he can maneuver and not be in the roadway?
MR. CHAIRMAN:
Uh-huh. Okay, so it's a maximum of 22 feet and it tapers down to nothing?
MALE VOICE:
Yeah.
MR. CHAIRMAN:
About how long it's kind of in the fat area, just help me understand.
MALE VOICE:
About 160 feet.
MR. CHAIRMAN:
160 feet is -- is kind of the fat -- the fat area?
MALE VOICE:
Uh-huh, correct.
MR. CHAIRMAN:
And there's an additional more than 100 feet for a

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narrow tail?

MALE VOICE:

Yup.

MR. CHAIRMAN:

Okay. Everyone good? Everyone get what I'm asking there? Yup, okay. You got anything else that you'd really like to say? We don't have any questions it looks like.

MS. SMITH:

I have one little closing statement. I think it's really obvious that everyone in the room really loves Jimmy and loves his business. We do too. We don't -- we would not intentionally set out to harm him. That is not what we're trying to do. That -- that is not at all what we're trying to do. And we're willing to work through any remedy to make it -- to make it work. But we do not intend to put him out of business, want to put him out of business. I mean, I hope that one day he will service our boats again because this has been really difficult, this entire scenario and we just want it to work and we're willing to do what it takes to make it work.

MR. CHAIRMAN:

Thank you. Okay, I'm gonna close all the opportunity for input to the Board. From now on

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we're gonna be discussing among ourselves. Please don't raise your hand and say hey I got something to say because we're done with that phase of the business. Is that -- is that fair? What I'd like to do is first of all just open the -- this whole issue up to discussion by the Board before we go through the formal questions, does that make sense to you folks?

MALE VOICE:

Yeah.

MR. CHAIRMAN:

Okay, and we've got a lot of issues I think we ought to try to make sure we cover the issues that have been raised so that we're fair to everybody.

MALE VOICE:

I've got one burning question.

MR. CHAIRMAN:

Yes, sir.

MALE VOICE:

Is does the county have the -- do we have the authority to give this based of off, you know, if the county has maintained it or we abandoned it. It looks like they've given us where there's two lines where we've stopped paving so, you know, if -- if the county doesn't then we're -- we have no

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authority. That's our first question, do we have that authority?

MR. CHAIRMAN:

Kind of where I come out is that's a legal question, we ain't got nothing to do with that.

FEMALE VOICE:

Well I think it needs to be tabled until somebody tells us.

MALE VOICE:

I agree.

FEMALE VOICE:

I mean, you've got two lawyers out here that have two different opinions and we need -- we need guidance on this before we make any decision.

MALE VOICE:

Yeah.

MALE VOICE:

Yeah.

MALE VOICE:

And they say they're gonna do this stuff but there's no legal -- there's nothing in writing to say they're gonna give him access, right-of-way easement onto that and -- 'cause the way I see it that, you know, what they're planning on doing will help Jimmy as far as keeping some boats out of the road like on

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the pictures. But, you know, Larry the reason you're in all these court cases 'cause a man's word is not his bond anymore like it used to be in Oconee County. Now we got to get lawyers involved in it, I'm sorry. I gotta get paid by the word. Y'all get paid by the word, I know that, but I'm just saying is it possible for us to table that to get some --

MR. CHAIRMAN:

Well, I think that's an excellent suggestion.

MALE VOICE:

Yeah.

MR. CHAIRMAN:

I think that's --

MALE VOICE:

I -- I agree with that but it sounds to me from what I heard that this entire area is on the brink of problems with safety right now and it's -- and adding all this construction, everything else to it, is gonna take it beyond. So safety is an issue in my opinion.

MR. CHAIRMAN:

That's an -- that's an issue I think we can deal with. What I -- what I hear suggesting is that -- that we table any decision we make until we hear --

MALE VOICE:

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Yeah.

MR. CHAIRMAN:

We're gonna -- and we'll have to say as part of that motion what do we want to see coming out of that.

MALE VOICE:

But it'd also be nice to see the two parties get together 'cause it sounds like sitting here listening to them that they could possibly get together and figure something out on their own.

MALE VOICE:

And they'll probably get a better solution than (inaudible).

MALE VOICE:

And I think -- and I think we -- we need to know what the -- from our attorney what -- what our legal standing is in this matter.

MR. CHAIRMAN:

Okay, so that's all part of the -- the discussion about tabling --

MALE VOICE:

Yeah.

MR. CHAIRMAN:

-- and we can -- sounds like we can have a vote on that. There are other issues that we've talked tonight that I'd like to cover tonight just so we're

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all together on what the issues are and -- and what -- what the -- what the impact might be on our decision. I think we've all -- everyone agree that John's Marine is a valued asset to the community.

MALE VOICE:

Absolutely.

MR. CHAIRMAN:

And no one wants to do anything to hamper his business long-term.

MALE VOICE:

Absolutely.

MR. CHAIRMAN:

Very valued asset. If, for John's Marine, my perception is while -- my perception that -- that Jimmy right now depends on access and the use of the Ellenburg Road section in front of his house, whether he owns it, whoever owns the darn thing, he uses that to -- to run his business at least on some basis, and he's kind of long term done that. Not -- they're also -- the developer is proposing to add 22 feet to Jimmy's property and -- and move the road south so that it's -- it's out of the way as possible. I personally think with the addition of that and as I look at the bulk of his business is pulling boats out of the water, back them into his -

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- his repair shop, looks like that helps rather than hinders running his business. Is that -- am I seeing that right?

MALE VOICE:

I don't know. I -- I think if --

MALE VOICE:

You got -- we got -- let's say you got 40 more cars going up and down there past his place that weren't going before.

MR. CHAIRMAN:

Okay, so -- so traffic is still an issue you're saying.

FEMALE VOICE:

Traffic is definitely an issue.

MALE VOICE:

Right. And he --

MR. CHAIRMAN:

Okay. Okay.

MALE VOICE:

-- and if you -- if you look at the situation now he's actually parking boats in -- in part of where that road is for part of his storage. He's -- he's moved his storage it's actually into the roadway.

MALE VOICE:

Uh-huh.

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MALE VOICE:
There is a boat parked there right now.
MALE VOICE:
Uh-huh. Uh-huh.
MALE VOICE:
But my -- I saw it there when I was up there today and -- and it's also shown in the pictures that they -- that they provided. So, it's a --
MALE VOICE:
But even if they put three houses in there he can't -- he can't park that boat there.
MALE VOICE:
But then -- and also from a safety standpoint if you walk that road, very, very windy and -- and there are people that are trying to walk on that road. I think it's dangerous as it right now, you know, for the walkers, add -- add another 20 houses and potentially half of them maybe with renters and you've really compounded the problem with traffic going up and down there plus they're people from outside the area and they're not gonna be paying that much attention to the safety aspects. If they're not -- if they're not residents, if they turn out to be renters.
MALE VOICE:

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I don't know where we're going with this but I -- I don't think we really are in position where we're talking about how many row -- how many homes can they build in the subdivision, right?

MALE VOICE:

I'm only talking from --

MALE VOICE:

That's -- that's off the table we're really talking about --

MALE VOICE:

I'm talking about the safety aspect --

MALE VOICE:

-- (inaudible) the road.

MALE VOICE:

-- of the additional amount of cars going up and down the road that's already a hazardous road. In fact -- in fact there's one house that's being built right there and the -- and the contractors are out into the road. You're -- you're almost afraid to go around it for fear somebody's gonna come at you from the other end.

MR. CHAIRMAN:

Okay, anything else on that -- that subject? I guess from my personal point of view on -- on road safety and traffic. I live down South Cove Road,

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which is about two miles long, dead ends at South Cove Park and there's a lot of traffic on there.

MALE VOICE:

Yeah.

MR. CHAIRMAN:

There -- there is traffic down there. I guess I would not characterize it as a lot of traffic. There is traffic along there. There's probably 200 homes, at least 200 homes off -- off South Cove Road and -- and you have the traffic coming from the county park with the boys hauling -- hauling their bass boats up and down the road. And South Cove Road has traffic but it's -- it's just not that heavy. So --

MALE VOICE:

While we're talking about safety I'd just like to mention Section 26-8 variance from road standards, which I think you all have a copy of this.

MR. CHAIRMAN:

Yes.

MALE VOICE:

The paramount issue for all variance requests shall be the reasonable safety of the road under the proposed circumstances.

MR. CHAIRMAN:

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Yeah.

MALE VOICE:

I think that needs to be included in the minutes.

MR. CHAIRMAN:

That's talking about the -- is the -- is the road -- I think that's talking about the -- the road passing through the variance area. That -- that particular road. It's not talking about the safety Ellenburg Road in general.

MALE VOICE:

No, it's talking about exactly what we're looking at -- at giving the variance.

MR. CHAIRMAN:

The variance (inaudible) can that -- would that be safe.

MALE VOICE:

Which goes -- which goes back to the point of I think we're getting the cart before the horse.

MALE VOICE:

(Inaudible).

MALE VOICE:

We need to know who owns the road.

MALE VOICE:

Yeah.

MALE VOICE:

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We need to know did Oconee County when it -- when it moved signs, when it did whatever, that's what reason I asked the question of who paved because to me if Oconee County paved down to that point then the county either still owns that land or they had -- they had to sell the land off, one or the other. So they had to abandoned it. And I -- nobody has been able to say that road has been abandoned, the only thing we're hearing is that the road end sign starts here and goes back here. Well anybody could move that though. I mean we're just -- we -- I think that we're -- we're going past it and until we get that answer, because if it's not -- if -- if whoever -- if it's privately owned road we're -- we're just sitting here spinning our wheels for nothing.

MALE VOICE:

Agreed.

MALE VOICE:

They're gonna -- gonna have to get together.

MR. CHAIRMAN:

So what is your (inaudible)? I -- we've talked about tabling this so -- until we get some answer to these questions.

MALE VOICE:

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Right.

MR. CHAIRMAN:

Would you rather do that and then come back and discuss all the other ancillary issues?

FEMALE VOICE:

Yes.

MALE VOICE:

I think that would make more sense.

MR. CHAIRMAN:

Is that what you want to do?

FEMALE VOICE:

Yes.

MR. CHAIRMAN:

That makes more sense?

MALE VOICE:

(Inaudible).

MALE VOICE:

I mean yeah you've got get that answer first.

MR. CHAIRMAN:

Okay. So, how about someone try to craft a motion then and we are not gonna get into deciding this issue tonight so. We're gonna decide to table. We're gonna have motion to table. So we need to word the tabling motion just right. I think one issue we need to resolve is -- is the ownership.

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MALE VOICE:
Ownership.
MR. CHAIRMAN:
Ownership of the property.
MALE VOICE:
Ownership.
MALE VOICE:
Present ownership and if it was at one time, if it was an Oconee County road and it has been abandoned.
MR. CHAIRMAN:
Okay.
FEMALE VOICE:
(Inaudible) road.
MALE VOICE:
Or if it was a state road and was abandoned.
MALE VOICE:
(Inaudible).
MR. CHAIRMAN:
And -- and that we request the two parties get together to try to resolve this issue.
MALE VOICE:
Exactly.
MALE VOICE:
That’s (inaudible)
MR. CHAIRMAN:

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And without us having --

MALE VOICE:

And that's an important.

MALE VOICE:

Yeah, the part I think that they try to work this thing out (inaudible).

MALE VOICE:

They're gonna end up with a better solution if they work it out themselves than if we --

MALE VOICE:

Exactly.

MALE VOICE:

-- tell them (inaudible).

MALE VOICE:

They're gonna get -- they've got to know who owns the roads.

MR. CHAIRMAN:

That's right.

MALE VOICE:

Right.

MALE VOICE:

But I think they got --

MR. CHAIRMAN:

That's a legal issue that we got to prepare to address.

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MALE VOICE:

Right.

MR. CHAIRMAN:

And -- there's -- okay, to resolve all the other issues. Our primary issue is who's gonna own that slice. (Inaudible) said he didn't want own it, he'll deed it fee simple --

MALE VOICE:

Right-of-way.

FEMALE VOICE:

(Inaudible) --

MR. CHAIRMAN:

We want to make -- make sure that is resolved.

FEMALE VOICE:

-- need a contract or something resolving that because saying and doing is always two different things.

MR. CHAIRMAN:

Okay. Were there any other overriding issues that we ought to address in our motion?

MALE VOICE:

No.

MR. CHAIRMAN:

I'll try and craft, say something here if -- if we can get everything we want in there.

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MALE VOICE:
I -- I think the -- the two -- the two issues are ownership and -- and allowing the two parties to try to work things out amongst themselves.
MR. CHAIRMAN:
Okay. I move that we table this -- table this request and specifically request that planning help us resolve the ownership issue, just who owns the property and that the two parties to this get together to resolve their issues and come back holding hands saying yes, we agree.
MALE VOICE:
Kumbaya.
MR. CHAIRMAN:
And specifically to resolve the deeding issue that as opposed to say we’re gonna do something.
MALE VOICE:
Yeah.
MR. CHAIRMAN:
Part of that discussion would be to resolve the -- the deed issue on the -- the additional property going to -- to Ratliff’s.
MALE VOICE:
And -- and qualify it with the fact that we -- we would table it until such time as they get back to

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us.

MR. CHAIRMAN:

Yes. We'll look for -- we'll look for those parties to come back to Planning to help schedule another meeting at a future date to --

MALE VOICE:

Tell us that they're ready to discuss.

MR. CHAIRMAN:

Okay. So --

MALE VOICE:

So --

MR. CHAIRMAN:

That's my move -- that's my motion.

MALE VOICE:

So moved.

MALE VOICE:

Second.

MALE VOICE:

Second.

MR. CHAIRMAN:

All in favor raise your hand please. Seven aye's, no no's. Okay, guys thank you. The meeting is adjourned.

FEMALE VOICE:

You need to make a motion to adjourn.

MR. CHAIRMAN:

I need a motion to adjourn.

MALE VOICE:

So moved.

MR. CHAIRMAN:

Second?

MALE VOICE:

Second.

MR. CHAIRMAN:

All in favor of adjournment? All in favor of adjournment?

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JOHN'S MARINE SERVICE, INC., ET AL.

VS.

OCONEE COUNTY BOARD OF ZONING APPEALS, ET AL.

1/24/22

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

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gentlemen, and I've got it somewhere. I won't dig it out unless there's -- you got a calendar in front of you?

MR. EAGAR:

So it's page --

MR. CHAIRMAN:

Entertain a motion that we -- that we adopt this calendar for the year of 19 --

MR. EAGAR:

So moved.

MR. CHAIRMAN:

-- or 2022.

MR. EAGAR:

So moved.

MR. CHAIRMAN:

Do we have a second?

MR. MAYES:

Second.

MR. CHAIRMAN:

Any discussion? All those in favor say aye please, raise your hand.

MALE VOICE:

Aye.

MR. CHAIRMAN:

It's unanimously approved. Okay, before we get

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going on the specifics I'd like to just comment on -- on how we run these meetings. First of all I'd like to congratulate, I think there's a lot of you are here that were here last time to hear particularly the Arrowhead request. That request -- that -- that session handled very well. People were very respectful, said your peace, didn't get any -- any cross comments or anything like that so I -- I congratulate that group and to the extent that this is group -- is represented here, thank you very much. Normally, normally the -- the applicant is -- is allowed to present their -- their position on what they're requesting. There's then we ask the staff to -- to make any comments about that -- about that request. Then we allow the citizen comments either for or against the request, whatever you want to do, whatever you want to say, and then the applicant has a chance to rebut any -- any negative comments, any comments against his application. Normally we'd like to hold everything to three minutes. Applicant we may provide five minutes or more to -- to have what they want to say depending on how complex their request is. But, requests that -- that everyone A, hold to that, let's not be repetitious. If someone's already said what you say

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you're welcome to come up here and say hey, they've already said what I want to say and go sit down. If you really want to say something, please do. I want everyone to have a chance to have their say or to -- to get their view represented. We'll stay here as long as it takes to get that done. But, the only time I'm going to shorten your presentation is if you're just going on and on and repeating yourself and repeating what other people have said. Then we'll have after we've done all that the Board will discuss the -- we'll clo -- after that we close the opportunity for -- for input and the Board then discusses and reaches a decision. Is that making sense to everybody? Have I said that correctly? Okay. So, that's in general how we -- how we proceed. Our next item of business is to approve the minutes of the last meeting, 11/30/2021. Now, we may have some discussion on this but could I have a motion to approve please?

MR. EAGAR:

So moved.

MR. CHAIRMAN:

Is there a second?

MALE VOICE:

Second.

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MR. CHAIRMAN:

Okay, now discussion? One thing that happened is we had a -- an extensive letter from -- from Mr. --

MALE VOICE:

Ratcliff.

MALE VOICE:

Ratliff.

MR. CHAIRMAN:

Ratliff, I'm sorry, I'm very sorry; extensive letter pointing out what they felt were issues with the minutes. That caused me personally to understand -- try to understand what the minutes really were intended to be so perhaps our lawyer Mr. Root could give us a -- a definition of minutes, what -- what should they do, what should they involve? If you could, please, sir.

MR. ROOT:

Mr. Chairman, if I may. The -- the minutes for public bodies as -- as you all said, they're defined by statute and in essence there's some housekeeping matters, when you meet, what you're meeting about, obviously who's present, things of that nature. As to the -- the essence of what was spoken about, the statute just says you need to capture the substance of it. So it's obviously not a transcript of

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everything that was said or even a fulsome outline of what each speaker said, but get the -- the gravamen or the essence of what was said. So, it's kind of a truncated version. Obviously you can't have a 50-page transcript of the minutes. And for County Council our minutes usually run about three pages for a four hour long hearing -- or meetings. Just to give you an idea, that's done in a variety of different ways. There's not a whole lot of case law or AG opinions that really elaborate on what's -- when you hit the mark. But, you know, it's not -- kind of a Goldilocks thing so.

MR. CHAIRMAN:

Okay.

MR. ROOT:

Not too hot, not too much, not too little.

MR. CHAIRMAN:

Thank you, Mr. Root.

MR. ROOT:

Yes, sir.

MR. CHAIRMAN:

Okay, the reason I brought that up is -- is we got a rather extensive letter from -- from the Ratliff's with raising objections to how the minutes were prepared and asking for the minutes to be

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changed/whatever. Has everyone had a chance to -- to review that?

MR. EAGAR:

Yes.

MALE VOICE:

Yes.

MR. CHAIRMAN:

Okay. Based on what Mr. Root has told us, I think we need to decide whether these minutes are a fair representation of what happened at that meeting. If we want to talk later when this particular issue comes up, we can talk the letter from -- from Mr. Ratliff and however we want to. Let's -- let's not get into the details, just we need to decide we can accept the minutes as written, we can make revisions to the minutes, we can send the minutes back to staff and say hey, guys, you just got to do a better job. So, that's what our options are. And let me make one other comment. Mr. Coley, could you please represent to us that to the best of your knowledge these minutes represent what transpired at the meeting.

MR. COLEY:

To the best of my knowledge.

MR. CHAIRMAN:

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In the -- in the -- in the spirit of what Mr. Root defined for us.

MR. COLEY:

Yes.

MR. CHAIRMAN:

So you feel these are -- are accurate minutes?

MR. COLEY:

Reasonably.

MR. CHAIRMAN:

We get to make final decision, guys, so if you think there's something missing or needs to be changed we can do that. So, got a motion to second to approve the minutes? How about discussion based on all that?

MR. EAGAR:

I -- I -- I feel the minutes as presented are adequate.

MR. CHAIRMAN:

Bill, any comments?

MALE VOICE:

I agree.

MS. FOWLER:

I think if it goes to a higher court they're gonna be questioned. The -- the Ratliff's did bring up several good points of things that were omitted and

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you made comment that there were multiple supporting emails but you only read one or two. All of those emails need to be part of the minutes in some form or fashion. People took time to write those emails and --

MR. CHAIRMAN:

Yes.

MS. FOWLER:

-- they do not need to be swept under the carpet. They need to be there so that future court action, this seems to be headed that way, will have that to work with.

MR. EAGAR:

Are you suggesting that -- that maybe we have an addendum and just attach those to the minutes?

MS. FOWLER:

I think that addendum, if that's possible, as well as Mr. Ratliff's letter all needs to be part of the minutes.

MR. CHAIRMAN:

Okay. Mr. Comey?

MALE VOICE:

Coley.

MR. COLEY:

All the comments are put in after the minutes are

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approved. Until the minutes are approved they're left out. They will be in the final version.

MS. FOWLER:

Okay.

MR. CHAIRMAN:

Of the approved minutes. And also the --

MS. FOWLER:

And all of the emails will be in the final?

MR. COLEY:

That's correct.

MS. FOWLER:

Okay.

MR. CHAIRMAN:

And also obviously from the detail presented in the letter there is a video available online right now and anyone wants to review the chapter and verse, exactly what transpired, it's either video or we also have an audio transcript. You can listen to the whole meeting. So I --

MS. FOWLER:

I know you said -- I think it should be a -- there should be added now it shouldn't be something that gets lost in the shuffle. I mean, they took time, they made a point of correcting us and we need to stand corrected and we need to put it in there

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somewhere.

MR. CHAIRMAN:

You mean their letter?

MS. FOWLER:

Their letter and all --

MR. CHAIRMAN:

Well their letter --

MS. FOWLER:

-- of the emails.

MR. CHAIRMAN:

-- okay, their letter has -- has been accepted. We can accept it now as a part of the official record of the --

MS. FOWLER:

Okay.

MR. CHAIRMAN:

-- of the proceedings.

MS. FOWLER:

Okay.

MR. CHAIRMAN:

That -- that's without -- does that need to be part of a motion or is that -- the letter that was sent to us, that's part of the record isn't it?

MR. COLEY:

Yes.

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MR. CHAIRMAN:
It's been sent to us and it's part of the record of the -- our deliberations.
MS. FOWLER:
I just want to make sure it's not gonna get lost.
MR. CHAIRMAN:
I don't think so.
MS. FOWLER:
Okay.
MR. CHAIRMAN:
Mr. Coley's gonna make -- make sure. I mean, that's why he's Secretary is to make sure it's all -- and I agree with you, totally, we need to have all of that as part of the official record.
MS. FOWLER:
That's right. Otherwise we are a kangaroo court and I don't want to be a party to that.
MR. CHAIRMAN:
No, no, no, don't want any part of that. So, (inaudible). Based on Mr. Coley's rep -- representation that all of the documentation we've seen so far, all the emails, any letters so far are going to be part of -- of the final record of the proceedings.
MS. FOWLER:

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Okay.

MR. CHAIRMAN:

Okay.

MS. FOWLER:

Then I say we vote to accept the minutes.

MR. CHAIRMAN:

Okay, all in favor --

MR. EAGAR:

(Inaudible) no, I have --

MR. CHAIRMAN:

-- of accepting the minutes as --

MR. EAGAR:

-- no, I have an editorial comment. My name is misspelled in the -- in the minutes, E-A-G-A-R.

MR. CHAIRMAN:

Just as a side before we take vote, we had other issues decided at the last meeting, any issues with any of those minutes? Okay. So -- so I think we have a motion to approve the minutes as stated, except as revised to reflect Mr. Eagar’s name spelling. All those in favor say aye.

MALE VOICE:

Aye.

MALE VOICE:

Aye.

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MR. CHAIRMAN:

Raise your hand. Okay, the minutes are unanimously approved. Okay. Now here's where we deviate a little bit from the stated procedure like I talked about. This is variance request continuation number VA 21-011, Ridgewater Engineering and Surveying. Joe Meaders is requesting an 18.1 foot variance from the 50 foot right-of-way for the entrance of the subdivision due to the end of the existing road not making full access to the property and only having a prescriptive ditch to ditch right-of-way. TMS number 150-00-01-459, an unaddressed parcel with the closest address of 599 Ellenburg Road, Seneca, South Carolina 29672. Okay, just as a side where we are on this one, we've already heard all the public comment. The -- the -- the two prim -- the -- the requesting parting and the responding party have had time at our last meeting to present their views. We had a number of -- of emails that were received that were referred to. We've -- we've taken those into account and we had a large number of public commenter's last time. And after we did all that we closed the opportunity for input. So, given that after that we received a rather lengthy correspondence from -- from --

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MR. EAGAR:

Mr. Ratliff.

MR. CHAIRMAN:

Mr. Ratliff, I'm very sorry. That we -- we've accepted into the -- into the proceedings. As we -- as we closed that portion of the hearing we did two things, we asked Staff to come up with a def -- a delineation of who owns the road. Who -- who owns the road and we asked hey, could the two parties please get together and iron out the issues, some of the issues that you've -- that you've raised. So first of all Mr. Coley, could you tell us who owns the road?

MR. COLEY:

Mr. Root's here --

MR. CHAIRMAN:

Mr. Root's going to help us, okay. Mr. Root, could you please tell us?

MR. ROOT:

Mr. Chairman, if I could. And this is a parliamentary matter, so we're square that way.

MR. CHAIRMAN:

Please do.

MR. ROOT:

I just want to make a motion to take from the table,

since y'all tabled it last time.

MR. CHAIRMAN:

Oh, we didn't do that, you're right. We're on that, yes. I'd entertain a motion to -- to -- to --

MR. EAGAR:

So -- so moved.

MR. CHAIRMAN:

-- bring this issue from the table. Is there a second?

MR. EAGAR:

So moved.

MALE VOICE:

I'll second.

MR. CHAIRMAN:

All those in favor of bringing the issue off the table?

MALE VOICE:

Aye.

MR. CHAIRMAN:

Okay, it's unanimous. Thank you, sir.

MR. ROOT:

So, the ownership issue is a little bit, it's not as clear I want to say as you might think of fee simple ownership in your property. You have ownership rights interest in the land. I don't think there's

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any question about who owns the -- the rights underneath the road. The question is the traveling surface of the road. Up until the latter part of last week all of my best information from the Roads and Bridges department was that the county maintained this road all the way to the end of the paved section for 20 years, which is the -- the required time for a prescriptive easement. Twenty years, adverse to the other owners with well defined area that's been maintained. Since that decision was made on my part and -- and based on the information from the Roads and Bridges department I received an affidavit that called that into question as to where the end of county maintenance is. I have not fleshed that out yet but I think there's a question of fact at this point that needs to be delved into a little bit more if it has to be. So at this point I can't say definitively and I'm not the final arbiter in any event but I couldn't say definitively where that end of county maintenance is, if it's in front of Mr. Ratliff's or all the way to the end of the paved section.

MR. CHAIRMAN:

Okay, so we don't have an answer tonight. That -- that's fine. Could you -- could you define for us,

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please, we hear the term prescriptive easement.

MR. ROOT:

Yeah, I'd love to.

MR. CHAIRMAN:

What does that mean? What is that?

MR. ROOT:

So you can get an easement, we all have easements, most folks who -- who own property will have an easement that they give to a utility provider. A lot of folks would be surprised that they have an easement that goes into their front yard for quite a ways that perhaps is held by the DOT. It just means that you have given some interest over to another party that they can -- for a right-of-way easement that they can travel over ingress, egress, over that easement. A prescriptive easement is not given by a grant, it's not necessarily implied by law but it arises over the conduct -- by the conduct of the party over 20 years. We have a lot of roads that the county maintains historically, a lot, by prescriptive easement. The county's rights, and just remember that the county is not claiming an ownership right that we can do whatever on this land or on any other. It's simply as a fiduciary essentially the county is maintaining this road for

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the travelling public. It's open for the public to use. We can't expand what's been maintained over 20 years. We can't decrease it either. So essentially it is, without a document, it is a easement grant, kind of implicit, an easement grant to, in this case it would be to Oconee County, based on maintenance over 20 years for a defined section. Does that make sense? All right, so that -- that's where you get that last element is the question of --

MR. CHAIRMAN:

So based on maintenance or usage I guess?

MR. ROTT:

Well yeah, obviously, maintenance and --

MR. CHAIRMAN:

(Inaudible) usage or maintenance?

MR. ROOT:

-- (inaudible) open to the public, to the traveling public, correct. And so that defined area is where I'm still stuck on, you know, how far down does the county maintenance go.

MR. CHAIRMAN:

Help me understand how did the county or my recollection is is actually it was a state road way back when before the state got rid of all their roads, a lot of their roads. How did the road

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originally get established? How -- there wasn't any prescriptive easement, how -- how does a road get established across the property owners there?

MR. ROOT:

Just by use really. And -- and I don't know about -- I've heard that it was a state road, previously. I don't have hard evidence apart from what --

MR. CHAIRMAN:

That's fine.

MR. ROOT:

-- essentially would be testamentary evidence or -- or testimony but it just starts happening. When I was in Charleston we had a case on James Island where we had to parse out different roads to establish contiguity for the town. It surprised me to find out some of the very major arteries were by prescriptive easement and they dated back, you know, 150 years. So, at one point in time, not always known, the county in this case, starts maintaining this road, holding it open to the public that's contrary to the rights of the -- the land owners for the surface below the road. But the county continues to do that for a period of 20 years uninterrupted and then that prescriptive easement arises. So that conduct establishes it, so to

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speak. I know Mr. McDuff talked about a court adjudicating whether or not a prescriptive easement has arisen. It arises by the conduct of the parties but it oftentimes is defined by a court and that -- it may be where we're headed here, I don't know but --

MR. CHAIRMAN:

It could be.

MR. ROOT:

Does that clarify things?

MR. CHAIRMAN:

Okay. Folks have any questions?

MALE VOICE:

Yes.

MR. EAGAR:

Well I have -- you know, is under perspective easement that gives the city the right to maintain the road, what if there's a requirement like in this case a request to change the road, to change the location of the road, does that perspective easement give any power to the county to approve or disapprove that?

MR. ROOT:

Okay, so what the county has done over the course of that 20 years essentially defines what the county

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can do. So, we can continue to maintain let's just say the whole road, say road A, we won't take it outside of Ellenburg. We establish a prescriptive easement over the course of 20 years. We can continue to maintain that thoroughfare for the traveling public. Generally the courts have interpreted and the Attorney General has interpreted it that it will also include the ditches that are necessary as part of the maintenance, and you can even allow for, and there's a AG opinion on this, for utilities to be placed within outside the traveling surface too because that's essentially the same thing as a normal easement would give. But as far as, you know, we're gonna just gonna change this, we're gonna move the road over, well the county could not do that. In this case I think it's salient that the county would have to really go through the abandonment procedure for that little portion, you know, assuming that the portion that like I think that's right in front of Mr. Ratliff's shop, is left out of the new road configuration, that old road configuration would still be there, still have a prescriptive easement over it, and the county would have to abandon it, through -- it's a judicial proceeding.

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MR. CHAIRMAN:

What does right-of-way have to do with it? Right-of-way, the -- the issue here is right-of-way.

MR. ROOT:

Yes, sir.

MR. CHAIRMAN:

You got like I think it's an 18-foot paved road then that's 18 foot on up to 32 -- 32 feet total is a 50-foot right-of-way that we're talking about. What -- what -- is that a prescriptive right-of-way or is that -- what is that?

MR. ROOT:

It is not. That's where with prescriptive easements you'll find that the right-of-way contours or footprint of it is a lot more narrow. Generally we're looking for a 50-foot or 66-foot right-of-way within that you'll have a -- a 20-foot paved or 25-foot paved surface. In the right-of-way area you can do other things, utilities, you can expand the road later, prescriptive easement doesn't give that. Like on ditch to ditch is what it's often referred to. So -- so you have a 20-foot paved surface, just a prescriptive easement you may have a right-of-way total of 26 or 28 feet.

MS. FOWLER:

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Now, I want to --

MR. ROOT:

Based on the conduct of the parties over the 20 years.

MS. FOWLER:

I'm bothered about something. I've been through this package several times of what they gave us. I didn't find any permits. I didn't find anything from DHEC or from Duke or even from Oconee County giving them permission to do what they're doing. Should they not have gone through a permit process before they came to us?

MR. ROOT:

I'm sorry, to do what they are doing, could you be more specific?

MS. FOWLER:

We'll they're gonna move the road, their intention is to abandon what's there and move the road over which in that would make the machine shop boat house, whatever it is, be landlocked. Is there not a permit process that they should've gone through before they got to us where that would've been established?

MR. ROOT:

I think the -- the time is probably well spent going

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through this step first. This is almost a preliminary matter; are you gonna have a variance so you can start that process. They're still gonna be subject to for our part the road acceptance procedure --

MS. FOWLER:

Okay.

MR. ROOT:

-- and there's a full litany of things that they have to do to have the roads accepted, built to certain specifications, obviously permitted consistent with our subdivision regulations and you'd have to have abandonment procedures for that area that's not used. So there's still a lot subsequent speaking to what you're -- you're talking about. Subsequent, but I don't fault them for doing this first.

MS. FOWLER:

Okay.

MR. ROOT:

If it makes sense.

MS. FOWLER:

Well, I just, you know, they're talking about getting very close to the Duke line, they're talking about abandoning a road, it was a lot of changes

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they were making in their plans in what I read here that I felt like they should have had to get a permit and had DHEC approve moving dirt, hauling up rock and the stuff that they've done. They should've had something from Oconee County stating that they had a permit to, you know, do what they did.

MR. ROOT:

And -- and I can't speculate on all what they did or what you're referring to. As far as the road issue goes, there will be a lot more that's left to do if they get this variance. Like I say, still the road acceptance, the permitting process through that, the subdivision permitting process, and then the abandonment issue too.

MR. CHAIRMAN:

Make -- makes sense to get this decided before they go to all the effort of trying to get all the specific permits required. That's a big deal. I -- I -- I feel comfortable that we're going in the right --

MS. FOWLER:

Okay.

MR. CHAIRMAN:

-- in the right process. Any other questions for

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Mr. Root? Thank you, sir. Appreciate it.

MR. ROOT:

Yes, sir.

MR. CHAIRMAN:

Okay, so we have got the -- got the -- the issue before us. We have the option here of a couple of things. We can go ahead and proceed to decide tonight if we want, based on what we've heard, although we have Mr. Root --

MS. FOWLER:

We still don't know who owns the road and if we have the authority.

MR. CHAIRMAN:

Just presenting what our options are.

MS. FOWLER:

Okay.

MR. CHAIRMAN:

All I'm trying to do is present what our options are here. We can do that. We could say one of the -- one of the issues is we have received additional what I would call public comment from Mr. Ratliff, that big letter, we've accepted that. There may be that the applicant has -- would like to have some time to present specifically what they want to do with they're proposing to do. And we've had at

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least one request to Mr. Coley about pub -- further public comment. You told him no, we can't have public comment 'cause it's closed. So we have the option of deciding tonight or we can -- we can table the -- the issue and have to bring it up next time or we can postpone the issue, postpone this until such time as Mr. Coley gets information from the two parties that they're ready to talk. Mr. Root.

MR. ROOT:

I'm sorry, and I don't mean to --

MR. CHAIRMAN:

Please do.

MR. ROOT:

-- take too much time.

MR. CHAIRMAN:

Please do.

MR. ROOT:

But speaking with Mr. McDuff and Mr. Brandt earlier, the most vested parties in this, I don't think there's any question, they would like to postpone the hearing. It's different than table -- obviously with table you have to take it off the table in the very next meeting, postpone you could do it for the next meeting or you could just attach a condition to it, move to postpone it until the applicant asks for

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a new hearing, perhaps. Which makes sense, 'cause as I understand it they are working out a potential compromise, they just have some pieces to fall together. So a motion to postpone may be in order until the applicant requests a new hearing.

MR. CHAIRMAN:

Okay. Any questions for Mr. Root on that?

MALE VOICE:

Well --

MR. EAGAR:

I -- I would -- I would move that we postpone until they are ready to come back. Mr. -- I'm sorry.

MR. CHAIRMAN:

Let's get, Mr. Brandt, please.

MR. BRANDT:

I'm sorry.

MR. CHAIRMAN:

If it's not very long, please.

MR. BRANDT:

We -- Mr. McDuff and I, along with our clients, had a long meeting a couple weeks ago, a week or so ago, when you get old it's kinda hard to put things in a timeframe. But we made progress. We are proceeding toward something that we can agree with and with a little more time we can get that done. As Mr. Root

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said though, even if we agree, there's still some things, dominos, that have to fall to make it a reality. So, if you grant the easement, for instance, we still have to comply with closing the old prescriptive easement and declare, you know, having the court hearing, it may be a friendly suit, but having the Court determine the underlying owners of the property. So we realize that but we are working, I think the parties are working in good faith and negotiating in earnest. And hopefully we can come back with something and tell you that at least as to us and the issues before you that we have come to some kind of an agreement.

MR. CHAIRMAN:

How could we fight (inaudible) with that? That's what we asked for. Mr. McDuff, any -- you have anything to say?

MR. MCDUFF:

You know I haven't prepared a long sermon for tonight.

MR. CHAIRMAN:

Please, please.

MR. MCDUFF:

I'll keep my remarks brief.

MALE VOICE:

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We'll pass the plate, (inaudible).

MR. MCDUFF:

Yeah, well we don't do that tonight, we'll pass tonight. We'll do that Wednesday night. The -- we have had discussions and the reason why I think it's in the best interest of everybody to postpone rather than table is that some of this is gonna depend upon other outside parties providing information to us, including the engineers from which we can take that -- we don't know what the timeframe on that's gonna be. So, you're faced with it coming up again in a month and we may not have the information yet. I know the developer's pushing to get the information as quickly as possible, acting in good faith. But I think as long as we can -- we just have it postponed and then if we need to the developer can apply for I think a 21-day notice, get it back on the agenda again.

MALE VOICE:

Sounds good.

MR. CHAIRMAN:

All right?

MR. EAGARA:

I'll move that we postpone subject to their getting back and requesting it be put for -- forward on the

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agenda.

MR. GILSTER:

I second.

MR. CHAIRMAN:

Okay, any further discussion folks? Okay, ask -- let me just -- as I understand it that will come back on the agenda at some point in time. At that time -- do -- do we have to -- I want to have -- have the opportunity for more public comment. Anyone else wants to say something, they can do it. Is there -- do I have to make that part of the postponement motion?

MR. COLEY:

You can do it as a second motion or you can I think you can then revise the original motion to include that --

MR. EAGAR:

I'm willing to --

MR. COLEY:

-- (inaudible).

MR. EAGAR:

I'm willing to amend the motion to -- to allow for -- for the discretion that the postponed hearing.

MR. CHAIRMAN:

It's public comment.

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MR. EAGAR:

Yeah, right.

MR. CHAIRMAN:

But the next time we bring this up we'll have public comment.

MALE VOICE:

Right.

MR. GILSTER:

Second.

MR. COLEY:

Mr. Chair, if we can also include a mechanism for the postponement to end either by the developer or by both parties agreeing that they have either reached a resolution or reached an impasse where they will no longer be able to reach a resolution. But that there is some information is given to us to put it back on, if there's a mechanism in this motion as well.

MR. CHAIRMAN:

Okay, so as I read the motion we're going to agree to postpone. It's going to be -- we're going to at the -- if we have another hearing we will allow further public comment and we expect both sides or at least one side to come back to Mr. Coley with -- with a -- a statement that either you have reached

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an agreement and you're ready to reach a resolution or you haven't reached -- reached agreement and you have no more input. And I guess I would include in that a six month timeframe. Let's get it done in six months or --

MALE VOICE:

That -- that should be sufficient.

MR. CHAIRMAN:

That -- that reasonable?

MALE VOICE:

I think that's reasonable.

MR. CHAIRMAN:

Okay. Okay, all that said, is that -- is that good enough for a motion? Mr. Coley?

MR. COLEY:

Yes, sir.

MR. CHAIRMAN:

Is that -- that good enough? You can get that?

Okay.

MR. COLEY:

Yeah.

MR. CHAIRMAN:

Any further discussion?

MR. COLEY:

No.

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MR. CHAIRMAN:

All in favor please say aye.

MALE VOICE:

Aye.

MALE VOICE:

Aye.

MR. CHAIRMAN:

It's unanimous. The -- the issue is postponed. There may be a lot of people here that wanted to take part in this particular request. That's it for tonight. If you want to leave, you won't hurt our feelings. We've got several other items to talk about. Thank you very much for coming. If you could leave promptly though because we've got other issues to talk.

JOHN'S MARINE SERVICE, INC., ET AL.

VS.

OCONEE COUNTY BOARD OF ZONING APPEALS, ET AL.

4/25/22

LEGAL EAGLE
Post Office Box 5682
Greenville, South Carolina 29606
864-467-1373
depos@legaleagleinc.com

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MR. EAGAR:

So moved.

MR. MAYS:

Second.

MR. CHAIRMAN:

Any discussion? All those in favor of approval please raise your hand and say aye.

MALE VOICE:

Aye.

MR. CHAIRMAN:

Five to nothing approved. Okay, the request of the special exception is approved and those of you are here to -- to -- interested in this -- this issue you may all leave if you care to, ‘cause the next one’s gonna take awhile. Likely to take awhile, I don’t want to prejudge anything. Okay, before we get started let me just state this is -- this is a continuation of a request that was made several months ago, concerning a development off of Ellenburg Road. When we concluded before we were kind of -- had listened to all the input and -- and -- and were in the process of trying to decide and we said hey we can’t decide because of issues like does the county really have a prescriptive easement and -- and -- and perhaps are the two -- are parties

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involved able to reach some sort of agreement that we don't have to worry about. So we're here again tonight to continue that hearing. We've heard all kinds of input. We've decided to kind of go back to the beginning and say okay we're going to hear from the requesting party, we're gonna hear from anyone else who wants to say something. We'll hear more input from the county on what the -- what the issues may be and then we'll consider everything we've been told and -- and try to reach a decision. So, let me read this -- read the application again. Variance application number VA21-011 continuation from 1/24/22 BZA hearing postponement, Ridgewater Engineering and Surveying, Joe Meaders is requesting an 18.1 foot variance from the 50-foot right-of-way for the entrance of the subdivision due to the end of the existing road not making full access into the property and only having a prescriptive ditch to ditch right-of-way. TMS number 150-00-01-459, an unaddressed parcel with the closest address of 599 Ellenburg Road, Seneca, South Carolina 29672. Okay, for someone from the applicant like to make a statement?

MALE VOICE:

Shouldn't we have to determine our jurisdiction

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first?

MR. CHAIRMAN:

Pardon me?

MALE VOICE:

Shouldn't we determine our jurisdiction?

MR. CHAIRMAN:

We'll do that -- we'll -- we'll do that after their presentation.

MALE VOICE:

Okay.

MS. SMITH:

Thank you.

MR. CHAIRMAN:

Can everyone hear now? I'm --

FEMALE VOICE:

No.

MR. CHAIRMAN:

I -- the mic still isn't working.

MS. SMITH:

Test, one, two. Test, one, two. Test, one, two. Test, one, two.

MALE VOICE:

I can hear that.

MALE VOICE:

I could use a little more volume but I'm getting

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old.

MR. CHAIRMAN:

Is there more volume available?

MS. SMITH:

I mean, I can lean into the mic. Or I can holler --

MR. CHAIRMAN:

I just want to make sure everyone can hear -- can hear back there without undue stress on you and the other folks when they want to talk.

MS. SMITH:

I don't mind to shout.

MALE VOICE:

That's all she's got, so.

MR. CHAIRMAN:

That's all we got, okay.

MS. SMITH:

Test, one, two. Test, one, two. I'll try and speak up.

MR. CHAIRMAN:

If you would, please.

MS. SMITH:

All right. Good evening Board members, respective staff and members of the public. Thank you for your time and consideration as we come before you seeking this same variance from a few meetings back. My

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name is Rita Smith; I'm a member of the development team at Lake Keowee Real Estate. I have with me tonight on our development team, Andy Lee, broker in charge, owner of Lake Keowee Real Estate and our counsel Larry Brandt seated behind me. We have made multiple efforts, offerings and offerings to come to terms with the Ratliff's and unfortunately we've reached an impasse so I'm here today to present to you our criteria for this parcel to be granted variance based on our individual case of unnecessary hardship of an ordinance. I feel confident at the conclusion of this presentation we will have made a clear explanation of the -- of each of the findings of the four general criteria to grant a variance. Before getting into the criteria I'd like to clarify that the purchase of this parcel predates the existing road ordinance according to a member of the Oconee County Planning Commission. At the time of purchase no variance would have been needed to go straight into construction, however, given that we entered one of the most severe economic recessions in US history it would've been very unwise timing to do so. Here is what specifically we are requesting a variance on. Inside your packet the easy thing to do is pull it apart. I've labeled on the side

there, you're looking for item three in your packet. We're asking for a variance for the width of the right-of-way on a small portion of the road we are building. The majority -- the vast majority of the road will have a 50 foot right-of-way. Understand we're asking for a change in the width of the right-of-way and not a change in the width of the actual paved road surface. So starting with criteria A, there is an extraordinary and exceptional conditions pertaining to the particular piece of property. So you can see, and we've got it pulled up here, the parcel itself is a peninsula and it's bounded by water on all sides. The peninsula is narrow in a small portion of the parcel and is unique in that the property line is the center of the road. As per county roads department the road is maintained by prescriptive easement. These conditions are extraordinary and exceptional because of the limitations created by geography and topography within this parcel. I remind the Board that the way a parcel of land lays, the geography, the topography, they are both acceptable -- acceptable reasons for granting a variance. Next, Number B, the conditions do not generally apply to other property in the vicinity. The geographic vicinity

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of this piece of property most roads have a 50 foot right-of-way because they're not geographically constrained. This property is bounded by a body of water. Most parcels in the vicinity are not bound by water on both sides. Because of the unique geography of this parcel meeting the current road ordinance and the -- meeting the current road ordinance therefore creates a scenario which meets the criteria for granting a variance. Next, Number C, because of these conditions the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. Without granting this variance to the road ordinance the application of the ordinance will unreasonably restrict the use of the property. Again, the property was purchased prior to the ordinance being adopted. If you'll reference the deed restrictions which is item seven in your packet and that's the very back pages, you'll see that these restrictions are designed in mind with an end use for a single family residential development, which was and still remains the intent behind this purchase. The developments in the vicinity of this property have larger home sites and larger homes. The application of this ordinance

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effectively prohibits building like-kind or similar developments for which this property was purchased for as per the deed. And finally, D, the authorization of a variance will not be a substantial detriment to adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance. The community will be like-kind of the others in the area that we have developed such as Harbor Oaks, Cottages at Riverbirch, Pointe Harbor and Spring Hollow all located along the Knox Road and Ellenburg Road corridor, thus not affecting the character of the district. Granting this variance will not be a detriment to the public good as there is no further impact to the public. Given the unique peninsula and geography of the parcel granting the variance will allow access to what is essentially a dead end road. Here's a brief overview of the variance requested as it relates to the Ratliff's neighboring parcel. Number one, the -- the proposed improvement will relocate the existing edge of the county pavement to provide the Ratliff's more area to maneuver outside the county maintained roadway. Number two, we're going to extend the Ratliff's current driveway to meet the new roadway so that is

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then contiguous from his drive to ramp. Number three, we will install a cul-de-sac at the termination of the road. This will be located 100 percent within the boundaries of our parcel and does not encroach onto the Ratliff property. The general public would have access to this cul-de-sac as -- and will -- it will be deed -- deeded as such. This will certainly benefit the Ratliff's and their customers to be able to turn around there, however, Jimmy states in a letter to the public that 80 percent of his customers arrive by water so it may be more advantageous for his delivery truck drivers to make that loop. Number four, we are approving -- improving the affected area of an aging county road to current county specifications, an improvement to the current conditions of the roadway. This improvement is at no cost to the Ratliff's or the tax payers. In closing this part of the presentation I'd like to remind the Board that the criter -- criteria for a variance exists solely within the explanation of the four criteria I have covered at length earlier. There has been an abundance of public misinformation, untruths and outright falsehoods around our request. I implore you to solely consider the truthful information

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presented as it relates to the four criteria for a variance. The root of the matter, this parcel has significant geographical and physical constraints. The road ordinance more than creates an unnecessary hardship. The road ordinance established after the purchase of the property unreasonably restricts the use of the property is under these four criteria alone. I'm asking for your consideration in granting this variance and I believe we've firmly made a solid case for approval. Thank you so much.

MR. CHAIRMAN:

Any questions at this time?

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

Okay, thank you.

MS. SMITH:

Thank you.

MR. CHAIRMAN:

Okay, at this time I'd like to ask county staff to provide any input they may have. One issue, Mr. Root, I guess is prescriptive easement and does the county have a prescriptive easement for this, the road?

MR. ROOT:

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Mr. Chairman, if I may, just retain my seat.

MR. CHAIRMAN:

Sure.

MR. ROOT:

The -- I expressed the opinion on the Jan -- or during the January meeting, nothing has changed with that opinion which was to the effect that the county's corporate or institutional memory or knowledge is that it has a prescriptive easement to the edge of the pavement to the end of the pavement, abutting the -- the property that's to be developed. I understand though at that time I had one affidavit from Jan Ratliff, I have another one now, I believe her name is Ms. -- yeah, Lori Ellenburg Bright, that calls that into question as -- as far as where that prescriptive easement ends, if it ends somewhere west of that. And that's all I have. I -- I'm not a final arbiter or fact finder in that regard. I can't make a decision in -- just to make my role clear, I'm here to as best I can help with the integrity of the proceedings to make sure it goes smoothly. There's able counsel here for both sides and it would be, you know, just not right for me to advocate for any particular position. I'll answer any questions I can but as far as the facts on that

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prescriptive easement issue, that's what we have.

MR. CHAIRMAN:

So it's kind of unclear as to what --

MR. ROOT:

I -- I -- I would say --

MR. CHAIRMAN:

It's unclear.

MR. ROOT:

-- I wouldn't even use that moniker on it. I would say we've got the county maintains that it has the end of the pavement but I do understand that we have sworn statements provided by Mr. Ratliff's side we'll say that contradict that.

MR. CHAIRMAN:

Okay, another issue is -- is -- I lost my train of thought. Another issue is the -- is the -- is the nature of the road and the right-of-way and what that all means. Can someone explain for me what the proposal means in terms of the inevitable road as opposed to what the right-of-way means; what right-of-way means?

FEMALE VOICE:

Is that you, Mr. Root?

MR. CHAIRMAN:

No, no.

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MR. ROOT:

I would be glad to. We also have Kyle Reid from our Roads and Bridges --

MR. CHAIRMAN:

Reid, yeah, Mr. Reid, I'm sorry --

MALE VOICE:

That's okay.

MR. CHAIRMAN:

-- would you like to comment on that?

MR. REID:

Sure. So, navigable road being the road surface shoulder area for a car to correct, not the tra -- it's not necessarily the traveled way but if a car does run off it can correct. Right-of-way being the area that it takes to maintain that road and utilities and all those things that come along with the -- with the road.

MR. CHAIRMAN:

So the proposal is for a -- a fully navigable correct road. The question is, right-of-way allows the county to like you say maintain the road, some -- in general allows the road to be widened if necessary, if the county wants to do it or allow utilities to be run, that kind of thing.

MR. REID:

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Yes, it gives us the right to allow widening, raising the surface, lowering the surface, culverts, drainage, any of that stuff and then utilities. Again, we -- when we obtain right-of-way then we have the right to allow subsurface utilities.

MR. CHAIRMAN:

And you've reviewed this and -- and to the extent necessary that you'll be able to run utilities and -- and that kind of thing to a new development given the narrow right-of-way.

MR. REID:

I believe the engineer would be better to speak on that than I would. I -- I haven't seen where all the utilities would run or anything else. I don't think that it's gotten that far in the planning.

MR. CHAIRMAN:

It hasn't gone -- I don't think it's gone that far.

MR. REID:

I don't think it's gone that far in the plan -- plan phase. I -- I -- I wouldn't be able to answer that --

MR. CHAIRMAN:

(Inaudible).

MR. REID:

-- without reviewing a plan.

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MR. CHAIRMAN:

Okay. Okay, does anyone have any questions for --

MALE VOICE:

Mr. Reid, one quick question again, I -- I just want to make sure because I've -- this has been one -- one thing that's really kind of thrown me off a couple times. Did we ever determine that this -- this roadway at some point the county turned it over to the property owners? And so it -- I -- I guess I'm still saying is this gonna be a county road or is this gonna be a part of a county road and then the rest of it's gonna be private?

MR. REID:

No, no -- no sign that we ever turned it over to the property owners, no records on that end. No, sir.

MALE VOICE:

Okay. Thank you. I -- I just wanted to make sure of that because at -- at one point I think maybe a time or two before this that -- that was kind of up in the air and whether it was deeded over, it was not deeded over, if it was just the county walked away from it and -- and so the property owners took it over. So you're saying it is definitely a county road?

MR. REID:

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To our -- to our institutional knowledge, yes, sir, it -- it is a county road, all the way to the end as shown on -- on the plan.

MALE VOICE:

Thank you.

MR. CHAIRMAN:

Thank you so much.

MR. REID:

Again --

MR. CHAIRMAN:

Where I think it is and if the folks from the county can correct me, this used to be -- that road used to be a state road before the lake was formed. It was a state DOT road that went on past where it ends now and on - across the valley, wherever it is, before the lake was formed. Then the lake was formed and the road was abandoned by the state and the county assumed responsibility.

MR. REID:

So generally --

MR. CHAIRMAN:

Is that -- have I got that --

MR. REID:

And I can -- I can speak generally. Well, first, I've contacted the state and they don't have any

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record of Ellenburg Road that -- that shows that it was a state road. Now all of the institutional knowledge again says that it was a state road. As far as anything that where the state abandoned their maintenance responsibility and gave it to the county, again there is no record that shows that, the -- the state did not have any records as such and we don't have any records as such to that end. So, it is institutional knowledge that has -- that has led us to that we own to that point of the road.

MR. CHAIRMAN:

But nothing says that -- I mean, that road had to be originally built to extend further. It wasn't built the way it stands now. And there's an issue with whatever is the last 100 feet whether or not that's -- has a -- the county has a prescriptive easement over that, that the road was originally put in by someone presumably the state to be a state road, or be a road even though there's no record of it.

MR. REID:

Yeah, that -- that is the understanding that I -- that we have --

MR. CHAIRMAN:

The last 100 feet wasn't put as a driveway for -- for the business down there.

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MR. REID:

The -- that the road continued and -- and went over to the right as you look at the property it went over to the right, there's still an old roadbed there so it did continue on from that point.

MR. CHAIRMAN:

Okay. Okay.

MR. REID:

Just not straight up over the peninsula.

MR. CHAIRMAN:

Have I misstated anything there, folks? Okay. Any other questions for Mr. Reid? Thank you, sir, appreciate it.

MR. REID:

Thank you.

MALE VOICE:

Excuse me, sir? Does that mean that road was a through road to the other side of the lake that connected somewhere else or was it a dead end road 200 yards down the road?

MR. CHAIRMAN:

I believe it means it was a state road that went across the valley --

MALE VOICE:

And connected to other roads.

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MR. CHAIRMAN:

-- and connected somewhere. I don't think we know where it went.

MALE VOICE:

Okay. I wasn't sure if it was that or if it dead ended 200 yards down.

MR. CHAIRMAN:

I don't think there's evidence that says that's the case.

MALE VOICE:

If it was there before the lake formed it went somewhere.

MR. CHAIRMAN:

Yeah, it went somewhere. Even though there's no records, it makes sense.

MALE VOICE:

Yeah.

MR. CHAIRMAN:

So --

MR. EAGAR:

It probably had -- it probably had a state (inaudible).

MR. CHAIRMAN:

(Inaudible).

MR. REID:

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If I may add one more thing.

MR. CHAIRMAN:

Yes, sir.

MR. REID:

I -- I -- also contacted Crescent to see what records they had and they didn't have anything that showed a continuation or anything else like that or --

MR. CHAIRMAN:

Uh-huh.

MR. REID:

-- or any records in kind to that for us.

MR. CHAIRMAN:

But there's an old road -- I didn't realize that, there is an old road bed running through the -- the Arrowhead property.

MR. REID:

I believe it goes off into the lake as --

MALE VOICE:

It goes into the lake.

MR. CHAIRMAN:

Yeah. Okay.

MALE VOICE:

Yes.

MR. CHAIRMAN:

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Okay, thank you.

MR. REID:

But -- sorry.

MR. CHAIRMAN:

Okay. Mr. Coley anything else that Staff wants to bring up on this subject?

MR. COLEY:

That's all the (inaudible) so it's in the backup for everything we put in originally.

MR. CHAIRMAN:

Okay. Okay.

MR. COLEY:

And that additional.

MR. CHAIRMAN:

Any other questions for Staff?

MALE VOICE:

Yeah, I have a question for the Staff. If -- if in fact this is a county road, what's the difference between how this application should be viewed if it's a county road versus a private road? What are the ramifications of that?

MR. ROOT:

Mr. Chairman, if I could.

MR. CHAIRMAN:

Please, please, Mr. Root.

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MR. ROOT:

There are probably a number of different ramifications, obviously who's gonna maintain the road. There will be -- the county change -- and Kyle you can speak to this, I think it's 2012 or 2013, where all private roads had to meet public road standards so the quality and nature of construction would not change any. Obviously with a private road it could be a private drive, it could be a private driveway, something that would require less right-of-way perhaps if it were private. So, I don't know if that's responsive to your question or not but as a public road, which the county is holding the position that it's a public road to the end, if it's going to be reconfigured as proposed now, widened in any way then it's gonna have to meet that 50 foot right-of-way, which is, you know, the big difference but I don't think if we're looking at a private road with a similar number of structures in there it's still gonna be a 50-foot right-of-way.

MALE VOICE:

Yes.

MR. ROOT:

(Inaudible).

MALE VOICE:

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Thank you.

MR. ROOT:

Yes, sir.

MR. CHAIRMAN:

Any other questions for staff? We can ask further questions later if we -- if we have the need. Okay, now proceed to -- for public comments. I guess that -- I'd say we've had a lot of comments in the past. We've got thick piles of emails, that kind of thing, and -- and everyone's had a lot to say so if you've got something new to say by all means please bring it up. If you feel a need to say something please do but bear in mind we've -- we've had lots of input on this in the past and in the interest of time let's -- let's try and be cognizant of that. I'd like -- I'd like you to be -- to be mindful, typically we hold to a three minute timeframe. If someone has like general comments that cover a number of areas we'll certainly let you go past that but keep in mind three minutes is a -- is a nominal time. The first person I have signed up is Mr. Ken Charles. Is that you, sir?

MR. MCDUFF:

That's not me, that's Mr. Charles here. I was just gonna say my peace and let the public comment occur.

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If you want to hear from me, get that over with.

MR. CHAIRMAN:

You're Mr. McDuff?

MR. MCDUFF:

I am.

MR. CHAIRMAN:

Yes, yes, Mr. McDuff, you could -- it's gonna be part of public comment but if you want to be first you can -- you can do that.

MR. MCDUFF:

Since I'm counsel for the (inaudible). I hate to -- I hate to cut in line in front of anybody but I did, I apologize to you. Well, I didn't hear any groans since you saw me up here again and I'll try to keep my comments brief. You know, we -- we've been very quick to elide over the real issue in this and that's whether or not this body has the authority to grant a variance dealing with this portion of Ellenburg Road. And I'd like to draw your attention to a couple things. I don't want to plow new ground. But I think that what we first heard is we have a lot of conjecture. We have nobody who can identify this by any public record as ever having been a state road, any transfer of that road, or default transfer of that road to the county at any

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time. Or in fact, if we look at the empirical evidence on the ground I don't know how many of you've actually -- actually visited Ellenburg Road and driven down that roadway. It is that you can see where that double yellow striping ends, the nature of the roadway changes dramatically from that point onward and I think it's over 700 and some odd feet we're talking about. For a long period of time, and you can see the affidavit that was provided, there was a end of county maintenance sign near where that road striping ended. If you look at it past that point the road, nature of the pavement, the width of the road, the quality of the paving, all those things change. And in fact, the only evidence we have that's been presented to this Board is that the Ratliff family, Mr. Ratliff, Sr., was the one who undertook the paving of that road at his expense. That's the only thing we have. We don't -- if you look at the empirical evidence there's not a single document out there that says this was a state road, became a county road and the county has the right to govern this road and maintain it, change the dimensions of it, anything else. In fact, what we have here is we've got a road that's partially a private drive that's partially on

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property owned by the -- not even the applicant, by the applicant's perhaps predecessor in interest or soon to be predecessor in interest and the Ratliff family. And that road is bisected by those two property lines that has been used, maintained, only by the Ratliff family since the time that road was paved there in its present condition, probably close to 40 years ago. If -- if -- if there is a shred of evidence of county maintenance on that road it doesn't -- I -- I implore you to try to find it. It doesn't exist. The county sign, and I'm sure Mr. Brandt will show you that county sign, the end of road maintenance sign, was moved by somebody at some point in time to the beginning of the Arrowhead property and then disappeared. We don't have an answer to who moved it before years and years it sat near the end of that road striping up farther west on Ellenburg Road. The institutional knowledge is not a basis upon which this body can exercise jurisdiction and grant a variance in this thing. As Mr. Root said this is an open question, an unclear question as to what this body can do and what it can't do, what it has authority to do. In light of the fact it does not have any clear right, the county does not have any clear right over this

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roadway to number one change the dimensions of it, number two, change the proposed course of it, of this roadway. And as you heard in fact if the county says this is our roadway from henceforth to also if they in its own act of fiat decides that they want to widen the road, then encroach upon the Ratliff property and engage in an unconstitutional taking of property. This body is not empowered with all due respect to grant this variance. It just does not have the evidence before it, aside from the criteria that had been mentioned by the applicant. And I know Mr. Ratliff, Jay Ratliff, is gonna talk again about the issues, the criteria. And not to plow new ground, but the threshold for question this Board has to reach is is this a roadway over which we have jurisdiction to grant a variance not only to change the dimensions of it but to also change the course of it to deviate from its existing location. And without getting into all the other things, those are the questions you're gonna have to answer. That would be the threshold question that you'll have to answer. And if this ends up, and this isn't a threat, but if it ends up -- we end up -- the parties end up in a judicial proceeding that is gonna be the threshold question that they -- some

court, jury or judge is gonna have to determine in this thing. And that's what you're charged with having to do tonight. You're not in an envial -- you're unenviable position in this thing because you have somebody who wants to develop property and you got somebody who doesn't want to agree to what is gonna change the essential nature of that road, a very narrow roadway to begin with, it'll have twists and turns. But I -- I will stand here before you and say ask yourselves this question that you have to answer before you can move on to a vote in this thing, is what authority does the county have, do you have as a body, representing the county to vote to grant a variance on roadway that the evidence hasn't shown is anything but a private drive. I will close -- I'll end, I probably went over my three minutes. And if you have any questions I'll be happy to take them and answer them, otherwise I'm gonna sit down and defer to everybody else.

MR. CHAIRMAN:

Any questions for Mr. McDuff? Thank you, sir.

MR. MCDUFF:

All right, thank you.

MR. CHAIRMAN:

Mr. Charles?

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MR. CHARLES:

Thank you, sir. My name is Ken Charles. My presentation hopefully will be in three minutes. The first portion of it is I am here in and for the Ratliff family. I have known them for 40, 50 years. When talking about the road, everybody's talking about the road. I've gone up there. I've driven down the road. The gentleman that was just here is right, the state road stops, there's 700 feet of road that John Ratliff, Sr. paid for. Take this, the state road, which is 700 feet up the road, is 18 foot wide. The 700 feet that Mr. Ratliff paid for himself is 16 foot wide, okay. So, that's the end of my presentation to that point. What I want to call your attention to. I have worked fire and rescue for 50 years. I eat, sleep and breathe fire rescue. I've (inaudible) one up now, (inaudible) and all this good stuff, but Pickens County, now in Oconee County we think that we're the top of the heap. Twenty-five years ago Pickens County passed a regulation pertaining to subdivisions being built in the remote areas. It specifically says an entrance road has to be wide enough for two fire apparatus to pass without hindrance. If there is a cul-de-sac, that cul-de-sac has to be large enough for the

largest fire apparatus to continually turn without having to stop, back up like a three or four point turn. Now, I measured some fire trucks, an engine, a long time ago we were referred to as a pumper, they're eight and a half feet wide, all right. A ladder truck, 40 -- almost 48 foot long, almost nine foot wide. But now then take this into consideration when you wanted to grant access where you're taking a man's property and you're not taking into consideration, we have a term in the fire service called target hazard, that's when a large amount of flammable and/or combustible material is in one location. If you've never fought a fire on a lakefront property the wind will suddenly appear and if they're built close enough and it won't burn just one, you'll burn two or three of these structures. So I want you to take that in consideration and I would take it all the way to the county council to pass an ordinance to that effect because these homes are built to burn. There's no doubt about it. I know one of our fire standards because of construction, because of the quality of material, these homes are built to burn. I asked -- we did some work in my house, I asked the builder I said we want to make an addition, going to add a garage. I

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said I want to put sprinklers in it. He turned the job down, he said no. You know if you built a home today and put sprinklers in it you'll find out what your homeowners insurance will do. Statistically in five years the cost of the sprinklers are paid for. Thank you.

MR. CHAIRMAN:

Thank you, Mr. Charles. I lost my list already. Here we are. Mr. Ratliff, Mr. Jay Ratliff.

MALE VOICE:

Here's Jay.

MR. RATLIFF:

All right, Jimmy's gonna hand a -- a letter out that has been sent to the -- to the Board. I'm not gonna go through the entire letter, just the second portion of it.

MR. CHAIRMAN:

Have we had a chance to review it?

MR. RATLIFF:

Mr. McDuff has gone through the four -- first portion which is really with respect to ownership of the road. So, first of all -- first of all, I'm Jay Ratliff, Edward John Ratliff, Jr. My father was John Ratliff, the -- the founder of John's Marine. The -- I'm also the family spokesman. I'm a

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property owner of 599 Ellenburg Road and I'm also a licensed professional engineer in the state of South Carolina. And that'll be important in a moment when we talk about some of the drawings that were -- that were provided. A practicing engineer in the state for -- for over 20 years, so that qualifies me with my background, education and experience to be able to interpret some of the misinformation that has been provided so that I can help clarify it for the Board. So first of all if you go to attachment six, that's where I'll start in your -- in your package, if you can pull the drawing up. So attachment six is a Goldie and Associates drawing that was provided, description or design of the -- the property and the road. A few things I want to point out on this -- this drawing. First of all you see all the -- the vehicles that are on there. That's the boats, the trucks, the maneuvering on John Ratliff's property. If you've been down there then you kind of know what we're talking about and -- and you've seen it. There's a boat ramp on the -- the far right of the shop that Jimmy uses to pull the boats out of the water to be serviced and then back them into the shop as we've discussed several times it -- it requires the boat to be pulled out of the

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water to be serviced. You can see the little UPS truck on there for parts delivery, motors, items that need to be put on -- on boats. The blue line on the drawing is the Ratliff property line, so when we talk about the -- the private driveway of the Ratliff's that's that blue line that you see going all the way down through there and what John Ratliff has -- has maintained. And admittedly John did pave on the -- the adjacent property owners property and has for -- for a long time and the Ratliff's have used that as part of the private driveway and Jimmy uses that to maneuver his boats around and has been for 40 years. On the drawing I -- I highlight there's no prescriptive easement. We've -- we've talked about that enough I think the Board gets the point there. And then one -- one additional piece of information that's difficult to put together unless you overlay all the drawings together, all the different designs, the different engineering firms that have looked at this, is there's only 22.8 feet that we're talking about in this narrow strip, not the 31.9 feet that's been described by the applicant. And I'll explain that a little bit more in a second. If you go to the next attachment, attachment seven, you'll see all of the -- here's

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some pictures of Jimmy and Cameron maneuvering boats on the property. The picture one is a 20 foot pontoon boat being serviced in front of the shop. Picture two is standing right in the center of the right-of-way, you can see the boat to the left is Jimmy's boat and then you can see the truck which would be right in the center of the road. So having 200 cars a day coming down through this you can clearly see there's an impediment with Jimmy's truck in the middle of the road. And then picture three is just a typical day with customers delivering boats and picking up boats. And then picture four is a 2008 photo from Google Earth. It's just a historical representation where you can see that the Ratliff's have been utilizing this as a private driveway for over 40 years. So you can go to your -- you can go yourself and just pull this up on Google Earth, go to street view and you'll see the photos that -- that that's the way this property has been maintained. And if you go to attachment eight, attachment eight is a scaled drawing of the different designs that have been provided to try to solve this road problem. This is the original design provided by Ridgewater Engineering for a 50 foot right-of-way, you can see from going from right

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to left, the 50 feet. The 50 feet actually starts off into Lake Keowee. And then if you start subtracting from there you'd subtract the 18.1 foot variance and then you get to Keowee Full Pond at 800 feet. And then from there going back it's a 9.1 foot gap before you get to the backfill activities that occurred. And then from the 9.1 foot gap to the backfill activities all the way to the left then you get to the FERC boundary which is the original 804 before the backfill activities occurred. And then you go more left and you can see the truck that's -- that's parked there on the private driveway and then the corner pin which is actually where the property line is. So that was the original design that was provided to this Board to review. Then you can see there's an area of dispute or a 9.1 foot gap with respect to that. So a second design needed to be developed and that shifted to the left 9.1 feet. And so now you can see that on attachment nine. When you take a look at this drawing this is shifting the right-of-way to the left 9.1 feet so that you can get to the 31.9 feet, plus the 18.1 foot variance to ultimately achieve the 50 feet. So you can see how this project has pieced these various pieces together to attempt to

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try to obtain 50 feet to put a roadway in there. But shifting that 9.1 feet to the left goes into the Ratliff property. And as you can see on this diagram it takes away Jimmy's ability to have his truck there, park his vehicle, anywhere on the private driveway. And that's the impact that we're talking about to John's Marine, the ability for him to maneuver, maneuver boats the way that he has been for 40 years will be impacted. Criteria number four of the questions that have to be answered it will have an impact to John's Marine. There's absolutely no way that you can answer that question any other way. I did provide attachment 10 which is the FERC provided diagram that shows you the 804 FERC boundary that is public information, you can obtain and review yourself. You can see that it shows the -- the point on there and then where Ratliff property is located. At this point I'll open it up for any questions for me.

MR. CHAIRMAN:

Questions? Help me understand. I mean Jimmy needs to be able to maneuver boats, pull boats out of the water, pull them up and back them into the -- into the --

MR. RATLIFF:

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The shop.

MR. CHAIRMAN:

-- the shop where he -- where he services them. He could decouple the boat, the truck from the boat, could he not while they're being -- they're being serviced?

MR. RATLIFF:

It's difficult to pull a boat and back a boat in a roadway that has 200 cars a day going down it, regardless of if Jimmy parks the truck there or not. So it -- it -- it makes it -- it makes it a challenging unsafe to the health and safety of the public to do that.

MR. CHAIRMAN:

But he -- he does have the maneuvering room there to do that, am I right?

MR. RATLIFF:

As long as there's not a road in the middle of it, which is -- which is what the design is proposing.

MR. CHAIRMAN:

Okay.

MR. RATLIFF:

So -- so go -- go back to the attachment eight, please. Right -- right there -- no, that's seven. Eight.

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MALE VOICE:

Nine.

MR. RATLIFF:

Oh, I'm sorry, attachment nine. So that red hash mark is the impact to -- to Jimmy being able to back into the shop.

MR. CHAIRMAN:

Is -- now does that extend down the -- the road itself, road service itself? Is the road service itself impinging that or is it the right-of-way?

MR. RATLIFF:

So -- so we have met several times with the developer and the -- the description is that we will not know the exact dimensions of the road until it is built. And that's -- those are the exact words, "we will not know the exact dimension of the road until it is built." It could be a little bit this way, it could be a little bit that way, but we have to have the right-of-way so we can put the road in. And we heard from the county, the utilities will also be a challenge. So where -- where are the utilities going to go that are not going to rip up the concrete that is part of the driveway that Jimmy is -- is currently using? Furthermore, all the construction to put the road in and to build the

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homes, that will have an impact on his business. All of that will be happening. When we met with the developer and we discussed what kind of restrictions can we put on that, times of year, you know, other -- other ideas that we came up with, there was no -- no acceptable answer to address those concerns to the Ratliff's.

MR. CHAIRMAN:

Okay, thank you.

MR. RATLIFF:

One -- one last thing I will say is the Ratliff's are not opposed to the property owner having access to his property that is fully accessible through a private driveway and we would support that. And we have since the beginning. That is not a challenge for us. The concern is having 19 homes with 200 cars per day as represented by Oconee County Roads and Bridges going down to this -- this point and how that would impact Jimmy's business. And then if you read the -- the code for BZA there is a statement in there that says that the Board cannot approve just based on economic development alone. And that appears that is what the Board is -- is considering with respect to neglecting criteria number four. And that's -- that's my personal opinion. And

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that's in the code. I can give you the -- the section.

MR. CHAIRMAN:

We're aware of that, sir.

MR. RATLIFF:

Okay. Very well.

MR. CHAIRMAN:

Okay, thank you, sir.

MR. RATLIFF:

Yes.

MR. CHAIRMAN:

Mr. Brandt.

MR. BRANDT:

Yes. I'll try to be brief; everybody's covered it time and time again. I handed up a pack of exhibits and basically what I'm intending to show there if you look at it is how the Ratliff family themselves have conveyed property back and forth between each other mentioning the right-of-way of -- of Ellenburg Road, even after they say that Ellenburg Road for the public maintenance ended 700 feet up the hill. Also, if you look at the last exhibit in there was the deed where Crescent properties sold it to farm that property, which is a player in this, and you go to the second page and you say what they says

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easements, covenants, restrictions and conditions of record and rights-of-way of public and private streets and road including but not limited to the right-of-way shown on the plat as Ellenburg Road. Now my point is that there's no doubt that this was in the county inventory. It was given a number WA42, I believe. I could be wrong on that one. But anyway, this was a time they've claimed that they stood out there with some right-of-way technician and he agreed to move the thing up the hill. Well, the right-of-way technician can't violate the law. There is a specific statute that if you're going to close a public road or a portion of public road that you have to do it a certain way. That's been in existence in South Carolina since 1962, somewhere around there. I had a case on that exact thing over where Dutch Fork is; years ago I represented the Nevill family. The state highway was going to abandon the road, turn it around. They didn't make -- they also that statute says you've got to make all governmental entities and adjacent land owners parties, 'cause they have an interest in that roadway. There has never been a action brought to close the road pursuant to 57-9-10 of the South Carolina Code. Never. Certainly we've got a sign

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where it had the county maintenance down at the end. We've heard statements today that support that but I'm telling you that when they get to that and the Ratliff's have said, no, we don't mind you coming in there, but let me say this. What we're asking you to do is to make a determination on the variance that we need when we get to our boundary line, that boundary line at the end. Certainly you don't have jurisdiction to tell us what we can and can't do up the street, that's between us maybe in the court and some other deity but not this Board. That basically we go in there and use -- and of course there's no reason for us to go into other expenses, litigation, or -- or trying to work out other problems unless we know we're gonna get a variance. We've got to get a variance to go in there. So, will this end the fight? Well, the Ratliff's say they need that space to turn the boats around. If you believe what they tell you is that's a private driveway, it's -- it's private property and we own part of it. What if we wall it off? Put a fence and don't do anything with our 15 acres. They're gonna have more problems then then they do if they'll help us and we get this scheme going where they can go in there and turn the boats around. That has been the -- the -- the basis

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but the deed -- the deed's clearly put it in the -- in the county inventory and once it gets into county inventory with this prescriptive easement or grant if you go to close it you got to comply with that statute and there has never been an action brought to close that roadway. So that public right-of-way still stands. It's there. Now obviously they may not have, you know, built the things as wide as we would like year -- years and years ago but the right-of-way is there coming down that road and it belongs to the public. With that said I think I've about exhausted my welcome and I don't really expect to get around (inaudible), but --

MR. CHAIRMAN:

Mr. Brandt, I have a question, please, sir.

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

Mr. Brandt. Mr. Brandt.

MR. BRANDT:

What?

MR. CHAIRMAN:

I have a question, please, sir.

MR. BRANDT:

Yes, sir.

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MR. CHAIRMAN:

You mentioned you -- I know you wouldn't do it but you have -- you could put the way the curbed road is you own half and the Ratliff's own half, you could put a fence down the middle of it if you were so inclined?

MR. BRANDT:

If you believe -- if you take their -- their -- their argument then we are free to wall it off.

MR. CHAIRMAN:

Okay, now, an issue here is -- is if they were to -- if it were necessary for them to move their truck and trailer across the road in order to maneuver it into the -- into the shop, there is a sliver of land the proposed layout, there's a sliver of land in there that would -- would belong to the requesting party, that they could presumably not allow.

MR. BRANDT:

We could not allow that.

MR. CHAIRMAN:

Yeah, you could not allow -- allow access to that. Are you willing to deed that sliver of land to the Brandt -- to the Ratliff's so that they had ownership of that?

MR. LEE:

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The section in between the -- the new road and the old road?

MR. CHAIRMAN:

Yes.

MALE VOICE:

Yes.

MALE VOICE:

Yeah.

MR. LEE:

Yes, we said we'd do that last time.

MR. CHAIRMAN:

You -- you said you would do that time; I'm trying to confirm that.

MR. BRANDT:

Yes.

MR. CHAIRMAN:

So there's not an issue of access in there, they don't have to across your property to get into their driveway?

MR. LEE:

They do right now, yes.

MR. CHAIRMAN:

They do right now.

MR. LEE:

(Inaudible) picture that he was kind of enough to

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show is an example of them using our property to access their (inaudible) shop.

MR. CHAIRMAN:

So, you would deed that, whatever it takes to give them ownership of that so that's not an issue.

MR. LEE:

That's correct.

MR. CHAIRMAN:

Okay. I just wanted to clarify, thank you, sir.

MR. BRANDT:

Okay, thank you. I can (inaudible).

MR. CHAIRMAN:

You see where are we here now? But if --

MR. LEE:

(Inaudible) comment (inaudible). I'll wait 'till after public comments, that's fine.

MR. CHAIRMAN:

Okay, okay. John Richardson?

MR. RICHARDSON:

Good afternoon. I'm John Richardson. I live at 311 Greentree Court in Harbor Oaks subdivision. And I guess my point that I'd like to make is the applicant's point was that the unique aspects of the geography and the location make it necessary for the board to grant the variance. I would say you have

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to look at it the other way around. The unique aspects of that area and the geography make it such that you should not grant the variance. First of all, if you have -- have any of the Board members been to that area? Been down to --

MR. CHAIRMAN:

We don't need to respond to and please just --

MR. RICHARDSON:

Okay.

MR. CHAIRMAN:

-- give us your -- your point of view.

MR. RICHARDSON:

If -- unless you've been there it's hard to see, but there's no way I think you can grant a variance and have another 200 cars go down there without impacting John's Marine and that would be a sad situation. The second thing is that road is pretty hazardous, Ellenburg Road, and you have an additional 200 cars travelling on the road especially heavy traffic, heavy equipment and large equipment during construction of -- of -- of that many prop -- of lots. You're creating a real hazard on that road. Now if you haven't been there, believe me, 'cause right now I've seen just walking on that road, I've seen a lot of near collisions

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with heavy equipment, many cars 'cause there are areas where you can't see the other -- what's coming at you. A lot of times the heavy equipment is parked on the road, construction equipment waiting to get their destinations or whatever and it creates a tremendous hazard. An additional 200 cars a day once that property is fully developed, you're asking for some real hazards to the public. And but -- be seriously a hazard during construction. So that's why.

MR. CHAIRMAN:

Okay, thank you, sir, appreciate it. Please hold -- please hold (inaudible) please hold your applause. Please don't do that. Mr. Doug Cooper.

MR. COOPER:

I'd like to thank the Board for allowing public comment on this issue again. My name is Doug Cooper and I'm the President of the Harbor Oaks Homeowners Association. Again, I'll start with as a association we are not opposed to the development of this parcel. This all started back in July of '21, our Saturday morning when seven tri-axles of fill were brought in early on a Saturday morning and the community started wondering what was going on. So anyway, some of our points, point number one as can

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be viewed on a November 30, 2021 variance meeting video, the Chair asked the developer if they had met with Duke and obtained Duke's approval and he responded that they had and that Duke approved everything they are doing. This can be found at two hours, 24 minutes and 26 seconds on the video and watch it through two min -- two hours, 31 minutes of -- and 35 seconds. I've reached out to Luke -- Duke Lake Management corporate offices in Charlotte on April 12th, it's one of many times I've talked to them. In my April 12th discussion I was told, "We have not approved anything for that lot. We are having discussions with the developer but as of today," and that day was 4/12/22, "we have not approved anything." So there's a lot thing -- people talk about misinformation going back and forth, that's from the people that manage all of the lake services people at Lake Keowee, Lake Jocassee and other places. That was the regional department and his supervisor. Point two, at the January 24, 2022 variance meeting the county attorney Mr. Root makes a comment at 32:04 of the video that at this time he cannot determine the actual end of county maintenance is, he cites the differences in some of the affidavits and the things that have come out.

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If you've gone out to Ellenburg Road you can clearly see that the county did a very major rebuild of Ellenburg Road in 2013 to support the Harbor Oaks subdivision. This effort stops at 5665 Ellenburg Road which is the 700 feet away from the end of Ellenburg Road or down at John's Marine where this -- where all the materials were dumped. If the county owned and maintained all of Ellenburg Road and it had not been abandoned why then was the rest of that road not rebuilt in 2013 when all the rest of it was back up to Knox Road? Where the project stopped, by the way, 'cause it's very consistent within a few feet probably of where the affidavits are saying that they -- the sign used to be. So there's another coincidence. But the sign has gone missing, the sign has been moved, who knows. Additionally in our FOIA -- a response to our FOIA to the county, it's regarding where the road end -- ended, we were told, "There are no written materials available to provide. The County attorney gave a verbal opinion at the last meeting to the effect that the county's court memory is that the prescriptive easement extended to the end of the pavement but that the affidavit raises a question of fact in his mind regarding the price -- precise

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scope of the easement." What's the county corporate memory? What does it mean? And do you still have the people that were here in 1988 to provide that intimate knowledge of Ellenburg Road? I know for a fact the Ellenburg's and Ratcliff's have lived there pretty much every day for the last 40 years so I guess their corporate knowledge would be pretty good too. Probably more accurate than the memories of developer would like the county to have and as referenced in the FOIA response the county attorney still had doubts. Point three, the developer's claim the county changed the orange -- ordinance in 2014 that changed their ability to use the land as it had been purchased in 2008, citing the 50 foot right-of-way as the issue. He claimed prior to that he could've done anything that they wanted to and develop this property as they're proposing prior to that. We've done our own research and found that the 50 foot right-of-way was in effect a -- in effect as far back as 2006 from online meeting minutes that are available on the county's website. We found that the 24 -- 2014 ordinance did change a number of homes on a private road and it reduced that number, so from when the property was purchased in 2008. Therefore the property cannot be used to

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build a number of prop -- homes it could've built on a private driveway when it was a -- when it was purchased in 2008. The developer really should be asking for a variance to reinstate to the eight or 10 homes it was allowed in 2008 instead of the four homes that are now allowed on that private -- what could be a private road and there's plenty of egress -- ingress and egress opportunities for that number. At no time was the property that was purchased in 2008 at -- yeah, on -- at 2008 able to be developed into the 19 homes that the developer claims he could've built prior to '14. We are not opposed to the Board reinstating the private road limit to whatever it was prior to 2014 whether it was eight or 10 or whatever the homes were. We feel that the developer is trying to manipulate Duke, Oconee County and this Board in order to maximize their profits at John Marine's expense and the safety and livelihood of all of us that live in that area and on that road. They twist and turn things every time this Board asks a question, making claims, some not even a county attorney can verify. The deed says it was for development at the time it was drawn up and that would've been for what it was limited for for the ingress and egress which would've allowed at

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that time a private road. But it could not have gone any further because even at that time the county had a 50 foot right-of-way in place; never 19, never. Thank you for allowing the time for our community to be heard.

MR. CHAIRMAN:

Thank you, sir. Don't make me read that again. Mr. Bruce, is it Dew?

MR. DEW:

Yes.

MR. CHAIRMAN:

Please, sir.

MR. DEW:

I'll just speak from here (inaudible).

MR. CHAIRMAN:

You got to come up here, please, sir, and state your name. I appreciate it.

MR. DEW:

Hi, the previous speaker I think covered it pretty darn well. I guess I have two comments. One, this is first time I've been in your establishment in this room and I see your sign there, think Oconee, and I think that may be something you really ought to take into consideration. You guys are the thinkers here. You got to figure it out. I've been

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going to John's Marina for 20 year -- a little over 20 years actually. Great people. I actually don't have a trailer but Jimmy lets me use one of his trailers when I come over and puts it away. This was gonna be a real problem for his business. There's no question about it. So let's think about it a little bit. And then I will comment, I was kind of taken back by the attorney's comment well we could put a fence down the middle of that on the -- is that the way that we want to handle this situation? That seems like a pretty -- pretty tough -- pretty tough comment. I don't -- I don't agree with that.

MR. ROOT:

Mr. -- Mr. Chairman, this is a point of order, that the applause as part of the speech, it's disruptive and if you could keep the chambers within order for fairness to both parties.

MR. CHAIRMAN:

Yes, I think that's accurate. So, please, our attorney has advised us, please hold off on the applause. Mr. Rick McDuff.

MR. MCDUFF:

That's me.

MR. CHAIRMAN:

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Oh, I'm sorry.

MR. MCDUFF:

I get go again?

MR. CHAIRMAN:

I'm sorry.

MALE VOICE:

No, you're done.

MR. CHAIRMAN:

No, I'm just -- I'm just reading my list.

MR. MCDUFF:

Just a -- just a point here I think you need to -- about the -- the issue of whether or not they could fence it. They're -- the Ratliff's have a prescriptive easement if anybody does because of this continuous use and fencing that roadway would be something that would be completely impermissible. So --

MR. CHAIRMAN:

We understand. Thank you, sir. Serena Richardson.

MS. RICHARDSON:

Hello, thank you for letting me come speak. My name is Serena Brown Richardson. My family has lived here in Oconee for five generations since the 1800's, in the Keowee community (inaudible) and Stamp Creek Landing Road. In 1970 when the lake was

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built we witnessed this road being transformed from a highway into a treacherous, dangerous, never been repaved, dead end road of today. I'm concerned with traffic density issues not only for Knox Road that I live on, but also Ellenburg and Evatt, they are very dangerous. We've talked about the equipment coming. I actually have a video on Knox Road where a lumber truck about knocked a pickup truck off the road, and it's the county side, it's very narrow. If you actually ran off the road you'd flatten a tire. So I'm requesting that a traffic density study of all those roads be done. These rental properties, they're not rentals. They are rentals, they're not investment. They are -- they're claiming they're rentals but they are investment properties and that would basically, you know, those extra 200 cars would be a lot of traffic. Secondly I'm concerned about the issues that were brought up about them basically illegally filling the property to even have enough roadway to do this access. And it was brought it up by someone else that I was gonna bring up about the, excuse me, I'm a little nervous, about the -- the emergency vehicles being able to get out there. That was a big concern I had. And then something was brought up about the power poles.

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Well when they developed Spring Hollow as a local Oconee resident for years I now have a big power pole in my yard from that development. Are there gonna be power poles all down Ellenburg which can't support it? And I think some of those things should be considered because Duke Energy has to do their -- their power. So we had power poles but they were Blue Ridge, they couldn't use them, so now my husband can't drive his vehicle through our yard because they decided to put a power pole, which they have all rights to do that, unfortunately, but that's, you know, another concern that I have and I feel like that our county needs to look out for the locals and not so much our investors. We're the people that have been here for years. We're the people that vote you into office and it obviously is gonna affect the business. But I'm here also as, you know, a five generation Oconeeian that this is crazy to allow them to illegally do this. They should only be able to do what it was originally to do and not the additional homes. So, if y'all do go to vote I, you know, definitely think the road study should be done. There should be some improvements to our roads. Maybe y'all need to consider these developers have to pay some for the other roads to

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get better because it is very dangerous road up near High Towers. If you pass one of those trucks, there's ruts in the road and it's raining, it'll about knock you off the road. It's very dangerous. So I hope the Board, it doesn't sound like you could vote, but if you do vote I hope you vote no. Thank you.

MR. CHAIRMAN:

Thank you, Ma'am. Anyone else who would like to say something? Yes, sir.

MR. LEONARD:

I have a question.

MR. CHAIRMAN:

Please -- please come up. We -- we can't answer questions now. I'm sorry.

MR. LEONARD:

Part of my question is, you know --

MR. CHAIRMAN:

Please state your name.

MR. LEONARD:

Hi, I'm Chris Leonard. I live on the lake. What I'm curious about, you know, every now and then they talk about this fence, but let's flip flop it the other way. So let's say that fence was put up on the property line that's in the middle of that road

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easement, if that fence was put all the way up there, do they have 50 foot right-of-way on the opposite side of the fence between that and the lake all the way around? If they don't it sort of takes it out of the question. In other words, if there's not 50 foot between that easement on that line, if a fence truly went up then I don't see where it comes into play using their property.

MR. CHAIRMAN:

Thank you, sir, I appreciate your input. Is there anyone else who has any comments? Yes, ma'am.

FEMALE VOICE:

State your name, please.

MS. MORGAN:

My name is Lucretia Morgan and I own property on Ellenburg Road. And I'll let Jimmy finish passing those -- my packets out, it has --

MR. CHAIRMAN:

Lucretia Morgan?

MS. MORGAN:

Yes, Lucretia Morgan. Okay.

MR. CHAIRMAN:

Please go ahead.

MS. MORGAN:

Okay, great, okay. I own property on Ellenburg Road

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and I would like to share a few comments regarding the initial meeting for this variance in November of 2021. Back in November the applicant and his team presented a lot of information regarding the proposed subdivision. There were many statements which made were inaccurate and misleading. In the November meeting several people stated the property owner knew what he was purchasing and had access for only four homes at the time of purchase. However, Mr. Mike Johnson who mentioned that he is a Planning Commissioner for Oconee County and while he was not here representing the Planning Commission or Oconee County said he brought experience, with regard to public interest private property rights and a discussion of these ordinances. Mr. Johnson also failed to state he is a real estate agent of the developer Mr. Andy Lee. Mr. Johnson stated there are many roads in Oconee County with the required 20 foot driving surface but not a 50 foot right-of-way. Many subdivisions were mentioned such as Harbor Oaks, The Summit, Waterside, and so on. But none of these, nor any other subdivision have a less than 50 foot right-of-way at the entrance. These smaller roads and right-of-ways do exist, as he stated, however they are servicing only two to six homes

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which within the subdivision and not at the point of entrance for 19 homes and channeled into small pinch point. Mr. Johnson also mentioned that the private road ordinance changed in 2013 and the ordinance amends Chapter 26-2 under the private road standards. The ordinance appears to bring private roads up to the private right-of-way he said that 50 foot and any conversation about the developer should've known he said well probably it's not true. Well it is true. While the standard he mentioned didn't go into effect until 2013 the 50 foot right-of-way was is existence in the subdivision and land development signed by Oconee Council on April 4, 2006 which you can find a copy in the county council meeting minutes backup material starting on page 39. I've also provided you with a copy which is Exhibit 1, 2 and 3 which are stapled in your packet and I highlighted the ordinance. Also in addition dating back to 2000 ordinance 99-14 which was the Oconee County unified performance standards and land use development regulations section 6.7.3 private roads serving more than 10 homes. It states a private road shall have a minimum right-of-way easement of 50 feet. So yes, the developer knew what he was purchasing in 2008. In fact, in the county council

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meetings from August 1, 2000 the property owner, Mr. John Hamrick, attended the meeting and spoke in opposition of the proposed subdivision ordinance due to the way the property would have to be divided. The 50 foot right-of-way for local and collector residential roads public or private was also part of this ordinance. This requirement was not new and pre-dates the 2008 property purchased by at least eight years. And you can find -- I have those meeting minutes also attached in your packet. There was also a discussion regarding the square footage of homes being reduced in 2016. When asked during the November meeting the developer denied this. In your packet you will find Exhibit 4 and 5, copies of the 2008 and 2016 deeds. Clearly the minimum home size was changed from 2,400 square feet on a two-story home to 2,000 square feet on either a one, one and half or two-story home, thus reducing the home size. The basement was also previously excluded as part of the home square footage. In 2016 the basement was removed from this exclusion. This is not like-kind to Harbor Oaks, which is constantly being referred to. Like-sizes in Harbor Oaks nearly are one -- almost one acre and the homes average nearly 4,400 square feet. There was also extension

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-- extensive discussion during the November meeting regarding a 25 foot right-of-way the developer was attempting to impose on John's Marine and giving or deeding a 22-foot section of property to John's Marine. This was very misleading. First of all, there is no existing 25-foot right-of-way on this property. The developer has proposed adding it which will leave a two to four inch strip of no-man's land. This strip is approximately 22 foot long and runs parallel to the front of the shop. John's Marine currently owns this piece of property and the developer is not giving him additional room, in fact the developer has no property to give in front of the shop. They need the Ratliff's and a 25 foot right-of-way for the utilities. What they need will only impede the access that he currently has in front of his shop. Nineteen homes are not only for 19 people, there are UPS, Amazon, UPS, FedEx, other deliveries, friends, family, renters also added to the traffic. It's not a through road so every car that goes in must come out the same way. According to Roads and Bridges this can equate to 200 vehicles per day. A variance should not be approved based only on profitability. As stated in the South Carolina Board of Appeals variances and special

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exceptions per South Carolina laws Title 6 Local Government Comprehensive Planning Enabling Act of 1994 that property may be utilized more profitably if a variance is granted may not be considered as grounds for a variance; and Oconee County ordinance also states this. In the applicant's variance criteria over via Exhibit 8 he also states that his property is bounded by a body of water and most parcels in the vicinity are not bound by water on both sides. He also states that due to the unique geography of this parcel meeting the current road ordinance goes beyond creating an unnecessary hardship and instead only creates a possibility of use. The owner/developer has access to his property. He has the same access he did at the time of purchase. Nothing has changed including the 50 foot right-of-way for public and private roads. John's Marine has been in the same location since 1982 for 40 years. The developer states that he is only asking for a variance on the right-of-way not the road width. I asked you to consider why the 50 foot right-of-way was put in place. The purpose of such regulations is to protect and promote the public health, safety and general welfare of the citizens of Oconee County. This proposal for 19

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homes to enter with anything less than a 50 foot right-of-way is not upholding the standards. Thank you.

MR. CHAIRMAN:

Thank you, ma'am. Do we have anyone else who would like to comment? Anyone else like to comment? Okay.

MALE VOICE:

Mr. Chairman, if I had a question with Mr. Root can I ask that now or should I wait for discussion?

MR. CHAIRMAN:

What I was gonna do is -- is ask the applicant if they have any rebuttal and then I was gonna go back to Staff for some questions I have at least and you can have some questions.

MALE VOICE:

Sure, I'll wait.

MR. CHAIRMAN:

Does that -- does that make sense?

MALE VOICE:

Sure.

MR. CHAIRMAN:

We can do it now if you want but we --

MALE VOICE:

No, go ahead.

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MR. CHAIRMAN:

Okay. Does the applicant have any -- any further input?

MR. LEE:

Absolutely.

MR. CHAIRMAN:

Any response to --

MR. LEE:

All right. So --

MR. CHAIRMAN:

Please state your name, please, sir.

MR. LEE:

I am Andy Lee.

MR. CHAIRMAN:

Andy?

MR. LEE:

Andy Lee.

MR. CHAIRMAN:

Andy Lee.

MR. LEE:

So just to cover a couple of things. It is -- the amount of misinformation is -- out there is absolutely astounding. I read online today where I went out and I met Jimmy a couple years back and while he was working on a boat I had him sign some

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papers where I stole some -- some property from him. So I -- I -- I get the public's concern. I would -- I would suggest to you that the bulk of it is inaccurate information. We have a plat, if we will look at, let me get mine opened up -- to cover this too, I did -- I sat with Larry all day today and we pulled plats back to the -- to the 70 -- early 70's. The prescriptive easement is on every single plat, on every single piece of road, down that road and has been up until 2021 when the last one was sold which was Jimmy. So it's been acknowledged by everyone along there however many times literally every single piece of property is sold. So if the -- there -- there is no question of whether it exists or not, it exists in -- on many, many, many, many plats and documentation. It's -- it's -- there is no question of whether it exists. The question was also raised is why is it that the -- it goes from 20 foot down to 18? Well, if you know anything about Oconee County someone had talk about -- talking about the evil developer if I'm a out of state guy, my family got our grant from the King. So, everybody in this room I'm probably more local than anybody here, okay. But the reason that is was back in the day the older county roads, they didn't have

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the double lines regularly if they were a secondary road, and they weren't 20 foot wide, which is our standard now, they were 18. If you go up Chalmers Mountain Road right now, it's the road that my grandfather -- grandfather's house is on, it's 18 feet wide. It's dangerous. I don't disagree. Cars are a lot bigger than they used to be. But the reason they're different -- different widths is because back -- back then secondary roads were not built 20 foot wide, they were built 18 foot wide. The next question is this, why did they stop where they stopped when they were redoing it. That happens frequently. I build a subdivision, shockingly it causes some damage on the road, right. The county comes in, we're on a budget, we don't want to spend any more than we have to, re-pave the bad part and we leave the part that has had very little traffic on it at all we leave it alone. The road in front of my house right now hasn't been paved in 40 something years. It looks terrible. But it doesn't mean that it -- it doesn't mean just because it's 18 feet wide doesn't mean that Mr. Ratliff paved it. So we've got pictures, you know and that's funny it's like suddenly at our last meeting their position was that they met somebody in

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'08 who said we're gonna stop -- we're gonna stop the -- the county maintenance right here. Okay, well again there's a process for that. Crescent, who I represent and did then, right, John -- every -- everybody would've had to have been notified and everybody would've had to give some level of consent. It -- just -- just because some random -- if this is -- because I don't believe the story to be true, somebody just ran -- from the county randomly met them out there or meets me in my house and says, you know what we're just gonna -- we're gonna -- we're gonna abandon that now and everybody that -- that uses that road to access their property it's they're just tough, it's just they're out of luck. Well that's not how it works and doesn't work that way for a reason. And the picture that's been painted is not only inaccurate it's impossible. It simply can't happen that way. There's laws in place to block that. So, is there a right-of-way there? Yes. And all of their plats show it back to the 60's. Again, the reason that the -- that the new road has stopped is because it's -- it -- the county don't go past where the super heavy traffic is coming out of -- out of Harbor Oaks, so that area down there doesn't receive much traffic, it doesn't

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get beat up as bad, it doesn't get worn out as bad, so it doesn't get paved as often. It's not hard. All right, so if we could go to, let me break out my plats here. Some of the -- if we could go to -- actually item three. It's a -- nope. Yup, that's it. So, there's some confusion too as far as the need for a 50 foot right-of-way, okay. We're not saying as Jay Ratliff had tried to point out that we're trying to put a 50 foot right-of-way out into the water obviously not that's why we're here. We're asking for a reduction of a 50 foot right-of-way, okay. So there are plenty of roads in the county that have 30 foot right-of-ways and I think in November, September, this Board approved the taking over of some private roads at a 30 foot right-of-way, so it happens frequently actually, I could be happy to supply those to you at a later date if you'd like. His numbers are inaccurate. We've got a historical plat, and then there was question Mr. Cooper asked about Duke. Duke doesn't -- I don't need Duke's Energy to build -- Duke Energy's permission to build a subdivision. What they say is is don't get in my property and we don't care what you do. So the premise that well he hadn't -- he didn't -- he didn't get Duke's

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permission, that's because I don't have to. Now, you can call them and ask them that tomorrow if you're not sure. We don't regulate, this Board, County Council, you don't -- we don't regulate what happens on the water. We don't con -- this county -- this county doesn't control dock permits, nothing like that, right. So they're self -- as far as things like that go, they're self-governing. They don't care what I do there. They actually want to be left alone. They're like as long as you're not in my property that's fine. I've got a plat right there, 'cause they've been called 47 times, okay, maybe that's not the right number but you understand what I'm saying. They've been called out because I have a -- the -- the plat from '08 shows I have 39 and a -- 31.9 feet, okay. This deficit we're talking about I met this was back in the summer when we started talking about doing this and I met Jimmy. And -- as a courtesy. I mean, Jimmy and I've been -- we've known each other a long time and he very proudly told me that that property pin wasn't there anymore. Well, just because somebody digs up a property pin doesn't mean with the plats I can't find out exactly where that property pin is supposed to be and whether you dug the pin up or not is

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irrelevant, okay. So, the plat from ’08 shows I’ve got 31.9 feet as it shows right there, which you can see that right -- right at the red. That’s the section that I need a variance for. And the -- and the 50 foot variance, this is the reason we have a 50 foot variance. I build subdivisions for a living, for a long time now, traditionally speaking this is where the county came in and had -- they put in a generic rule on every road. I want this to be a private road, okay. That’s some of the confusion with the -- out there as well there’s between driveways, etcetera, etcetera. A private road it’s still gonna be 20 feet wide, okay. And we’ve talked about the fire earlier, that’s the reason I’m putting in two cul-de-sac’s to accommodate fire trucks. That’s -- that’s the reason, right; and just the convenience of turning around before you get inside a gate. It’s gonna be deed restricted where the public can use the first one including Jimmy and everybody else to turn -- turn their -- turn around so they don’t have to back out the 700 feet backwards with a boat trailer, I’ve done it, it’s a terrible experience. But we’re not asking for a buffer to jump out into the middle of the water or to -- or like -- onto Jimmy’s property

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there being nothing past that point. That point -- that is the property point right there where the red starts in this corner. Right there. In no way, shape or form are we suggesting or asking for the -- the right-of-way to go into his property at all. If you'll go to -- we're ask -- that's the reason we're asking for a reduction. And the reason for a 50 foot right-of-way for the -- for the record is if that -- if the -- the biggest reason for it is if we ever had to get to a point where that road got so busy it needed four lanes, you've got space for it. You've got space for 20 foot, 20 foot, and then 10 foot of repair, road shoulders, etcetera, etcetera. That will never need to be a four lane highway, I promise, it dead ends. So that -- that won't happen. The 200 cars that may have come, I hear you statistically, keeping in mind 50 percent of those are second homes, right. So it's not like a traditional community in town, around 50 percent of the lake homes are second homes, lake-wide. So if we could go to item four. Right. So, this is the existing road, right. That's a -- that's -- that's the lake side of it. This is the existing road, right there. All of this, this is where we're shifting the road down, right. So, the -- what was

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being used for a road, the right lane going away from the marina, is no longer being used for a road anymore so that's not a couple of inches, that's a solid 10 feet, all right. So that entire lane and then some, actually more than that, 'cause this is it's here and here. So the entire lane that's on Jimmy's property that runs down the center of the road won't -- won't be there anymore. We are pulling the road as far down as I possibly can and -- as far as I can get it as a courtesy if nothing else, quite honestly 'cause I don't have to. I could just put it right there. But I'm pulling it all the way down, giving him as much space as possible it's 31 feet there, right there, this is his pad, his shop's back here, right. So -- and it pulls back in at the -- right there at the -- where the edge of the pavement is, 'cause that's -- that's -- that's the pitch spot. So someone who was asking how much I need for utilities, about two and a half, three feet. You stack it, it's not complicated, I do it all the time. So -- but the -- the comment that he's getting two -- two or three inches, again that's -- that's a large space that's -- that's completely fraudulent. So, there's plenty of space for that. There was -- let's see. That one doesn't

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show it. If we could go to item two. Yup. So if you look here again so the tight spot is right there, right. There is the existing road. There is -- well -- there is the existing road, moving it down here, there's the pad, there's the garage, right. Up here completely away and out of the way cul-de-sac to -- to Oconee code for fire trucks, etcetera, etcetera and then another. So I'm -- I'm -- first of all the way it works right now look at -- look at the way it is right now. Again, I've had to back my truck and my trailer out that 700 feet many, many times, okay, because there's nowhere to turn around. I'm now giving him more space. I'm giving him a cul-de-sac to turn around and -- and I'm moving it over. The fact of the matter is his concern, if you go back to his, presently Jimmy is using and all -- and -- and always has. Jimmy uses the bulk of the property right here that I'm offering to again give to him. I was out there just the other day, boats are parked all over it, well that's my property, okay. It's not my fault that you can't run your business by not illegally using my property. So all of this he's regularly parking boats, right. That right there. I'm giving you the space you're already using is what I'm trying to do.

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So I'm not negatively impacting the business I'm happy -- helping it actually operate without using my property as a parking lot. So, and you know, it said earlier that Jimmy's not opposed to me using my property well I'm not opposed to him using his either. I'm just asking you to stop using mine in the way you're using it and I'll give you the property that you can have -- that you can park on, all of that all right there. Let's see --

MALE VOICE:

(Inaudible).

MR. LEE:

Well so is everyone else's for the record, so. You know, and it boils down to I understand not wanting to have a neighbor, god knows I do, but I have them so it's -- I understand him not wanting anybody out there. Again, I don't -- I don't -- I wish I didn't have a neighbor either but I do and it's basic property rights, I should not be telling them what they can and can't do with their property. And that's what he's asking you to do. Any questions?

MR. CHAIRMAN:

Any questions for Mr. Lee?

MR. LEE:

No?

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MR. CHAIRMAN:

Okay, thank you, sir. Okay, at this time I think the Board may have some questions of staff; issues have been raised. Don't you have a question?

MALE VOICE:

Yes, Mr. Root, the contention was made in one of the presentations that we don't have the right to vote on this issue because it's not -- we don't -- it's not a county property and we can't vote on that. Is -- is that a correct statement?

MR. ROOT:

I don't want to get into arguing the merits of the matter, I think Mr. Brandt touched on the fact that there is within the area that they're seeking the narrowing of the right-of-way that is all within the applicant's property. As far as it being a justiciable or something that you have jurisdiction over to grant the variance, it doesn't have to be a county road for you to do that. I understand the prescriptive easement issue may be still rolling around in your heads as far as whether or not it extends at the end of the pavement or not. The law allows you to grant variances, special exceptions, etcetera with conditions put on there. You could have as a condition that the, you know, of course

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abandonment procedure is followed through with properly, the road acceptance procedure is followed through properly. These are things we talked about last time. This is really the beginning of the process. The abandonment procedure that's been talked about several times there is no way for a county, really any political subdivision or the state to divest itself of a roadway unless you go through the abandonment procedure which gives notice to all the surrounding land owners, you post it with signs, you eventually find your way in court and you get the judge to determine one that it's in the best interest for all those who are involved, who are interested and then two, who owns the land underneath the road if it's gonna be abandoned. That's gonna have to happen in the way the road is being configured here so I don't know that it -- that it is to say, all right, well no prescriptive easement or it's in doubt so that's the end of the inquiry. I still think, yeah, you can find facts on that matter but I don't think that's the end of your job. Is that responsive?

MALE VOICE:

I think so.

MR. ROOT:

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Free -- feel free to ask a follow-up.

MR. CHAIRMAN:

Mr. Reid, could I put you on the spot for a minute?

MR. REID:

Sure.

MR. CHAIRMAN:

Representation has been made that 19 homes added to this development will create traffic of 200 cars a day, did that come from you folks or where does that come from?

MR. REID:

No, sir, I was asked a general question about traffic on the road. It is in our ordinance that anything over 11 or more lots has to have a traffic impact study. Generally I answered a question about, you know, what that is and the -- the book that decides that is used by traffic engineers to call out what that would be. Now, that -- that runs anywhere from what used to be, and this is again why I don't throw out -- why I try to not throw out numbers but it used to be 10.1 for residential homes. Well it goes down from there depending on the use of the home or the use of the property. So I'm not a traffic engineer. I didn't do a traffic engineer for the road or anything else like that.

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But one would have to be done for the development.

MR. CHAIRMAN:

So if we proceeded with this development he'd have to do a traffic study and that's when the professionals would decide --

MR. REID:

Yes.

MR. CHAIRMAN:

-- what the impact would be whether it's acceptable or not.

MR. REID:

And -- and for the whole road, what -- what does the whole road carry, you know, what does -- what needs to happen with the road.

MR. CHAIRMAN:

And Ellenburg Road, that's built to county standards, is it not?

MR. REID:

No, sir. I mean, without a plan it's hard to say but, no, sir. No, I -- I could comfortably say it's not. But without a plan you -- you got -- any road that's built in the county now has to be a minimum 20 foot wide, Ellenburg Road is not.

MR. CHAIRMAN:

Right.

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MR. REID:

It has to have four foot shoulders, Ellenburg Road does not. Ellenburg Road when it was done and -- and rehabilitated was to -- the road was crumbling. We had to patch essentially the entire road. So we had to take out seven inches, put the road back where it was before because we had a prescriptive easement. We didn't have right-of-way to widen it. We didn't have right-of-way to reconstruct it, the only thing we had was a road that was completely deteriorating that needed to be -- so it's just a long patch is what the road is. It took a lot of time to dig out seven inches at a time.

MR. CHAIRMAN:

Okay --

MALE VOICE:

But we don't go back and bring roads up to standard --

MR. CHAIRMAN:

No, no --

MALE VOICE:

-- unless there's a --

MR. REID:

No, we -- we do. We -- we try to bring roads up to standards as we can with, you know, gravel roads or

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roads that are paved that we know we have an issue on that -- that we have right-of-way on that we can try to bring them up to standard Brown Farm Road being one of them, you know, that that does happen from time to time. But we don't have right-of-way in Ellenburg -- excuse me, Ellenburg Road. We asked, tried to see, you know, fill out the be able to obtain right-of-way on it and it was, you know, we -- nobody wanted to give right-of-way for the road. Or not nobody but the people that we contacted didn't want to give right-of-way for the road. And one no pretty much kills it for us to be able to change it.

MR. CHAIRMAN:

But there -- I guess the question is there are roads, there are county roads that are somewhat like Ellenburg Road.

MR. REID:

There's a ton of roads like Ellenburg Road, yes.

MR. CHAIRMAN:

(Inaudible) there's a lot of roads like that.

MR. REID:

I'm sorry?

MR. CHAIRMAN:

There are a lot of roads like that in the county

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that don't meet current standards.

MR. REID:

Yes.

MR. CHAIRMAN:

Okay. It's not like we put in a new standard that automatically we -- we change all the roads.

MR. REID:

No, and that's standard -- the -- the standard for the new road ordinance is -- was '06. The new standards, the 20 foot wide instead of 22, it used to be 22 and things of that nature so that was -- that was '06 when that standard was passed.

MR. CHAIRMAN:

Okay. And the question was raised about fire equipment access to access down the road. If -- if part of the approval process will see to it that the cul-de-sacs being put in will allow fire -- will allow proper fire access.

MR. REID:

That's not my side of the world, and James can correct me if I'm wrong, but that's fire that looks at the size of the cul-de-sac --

MR. CHAIRMAN:

But definitely part of the approval process right?

MR. REID:

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-- for the circumference of it, yeah.

MR. CHAIRMAN:

Or may --

MR. REID:

Or the diameter.

MR. CHAIRMAN:

-- it'll be -- it'll be current county standards of a fire -- for fire equipment?

MALE VOICE:

They do.

MR. REID:

Yes.

MR. CHAIRMAN:

Okay, thank you, sir. I do appreciate it.

MR. REID:

All right.

MR. ROOT:

Mr. Chairman?

MR. CHAIRMAN:

Yes, sir.

MR. ROOT:

Just while Mr. Reid is up, we talked before about the -- the ending of the 2012 payment why -- pavement why it didn't go to the end of the prior pavement, do you want to touch on that?

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MR. REID:

Yes, I was -- I was out there. I was present whenever we decided that and I asked Matt Kelley who was my predecessor over the road department if he wanted to go any further and he told me to stop where we -- where we were that, you know, that was -- get the worst of it essentially and that was with the -- with the subdivision there and some of the -- some of the construction that had gone on in that area. That was the -- that was the worst part of the road that was alligator cracked completely up. Yeah. That was -- it was not -- it was not anything but where the worst part of the road was is why we stopped where we stopped.

MR. CHAIRMAN:

Okay, fine, thank you, appreciate that clarification. Thank you, Mr. Root. Okay, any other questions from staff? Would the Board like to take a break?

MALE VOICE:

Yes.

MR. CHAIRMAN:

Before we -- we get into discussion?

MALE VOICE:

Yes.

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MR. CHAIRMAN:

(Inaudible) okay. Entertain a motion to take a 10 minute break, reconvene at five minutes to 8:00?

MALE VOICE:

So moved.

MALE VOICE:

Second.

(BREAK)

MR. CHAIRMAN:

Please have your seats. Please stop the conversations, appreciate it. We got enter a motion to reconvene the --

MALE VOICE:

So moved.

MR. CHAIRMAN:

-- Planning Commission. Is there a second?

MALE VOICE:

Second.

MR. CHAIRMAN:

All in favor please say aye.

MALE VOICE:

Aye.

MALE VOICE:

Aye.

MR. CHAIRMAN:

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All right, five nothing. Okay, we've reached the point where we've got to discuss and make a -- a decision. I'd like to propose, I mean there's lot of issues we've got to talk about. I'd like to propose the following categories we talk about, put them in order so that we -- we don't get all confused by one thing or another, we talk about things that -- I'd like to start out with prescriptive easement and then talk about the road itself, then talk about John's Marine, a lot of the issues we have are with John's Marine, talk about how this might impact them, Duke Power, the impact there, and anything else you'd like to do but I'd like -- if we can do it in that order then we'll hopefully avoid --

MALE VOICE:

That makes sense.

MR. CHAIRMAN:

-- going off and --

MALE VOICE:

That makes sense.

MR. CHAIRMAN:

-- (inaudible) comfortable with that.

MALE VOICE:

Do it in order.

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MR. CHAIRMAN:

Is anyone -- anyone not comfortable with that approach? Okay. Let's start out with the prescriptive easement. We've heard a lot of input on both sides, the county attorney, everyone else. What are your thoughts on the prescriptive easement?

MR. EAGAR:

I think -- I think from what we've heard so far that -- that does not bind us in any way in terms of whether, you know, and it -- from a decision standpoint we can go ahead with a decision that perceptively the easement doesn't impede us in any way from what I understood from Mr. Root, is that true?

MR. ROOT:

From my position, staying neutral, I believe you can craft an order that addresses the fact that the prescriptive easement may -- they may not express a direct opinion on the prescriptive easement but you address the variance of that pinch point, yes.

MR. EAGAR:

So I think that -- I think -- I think we should do that then and disregard the perceptive easement. This is a discussion?

MR. CHAIRMAN:

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We are not competent to decide that issue.

MALE VOICE:

All right.

MR. CHAIRMAN:

We just don't -- we don't have the (inaudible).

MALE VOICE:

Right.

MR. CHAIRMAN:

We don't have business in that so we're not gonna decide that but as -- as John's suggesting we ought to go ahead and -- and decide this as though there were an easement and -- and if someone wants to go to court to --

MALE VOICE:

Yup.

MALE VOICE:

Yeah.

MALE VOICE:

Then --

MR. CHAIRMAN:

-- decide that they can do that but it's --

MALE VOICE:

Well and they got to have -- Duke's got to get involved on sounds like -- sounds like emergency, sounds like a lot of other folks are gonna get in --

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MALE VOICE:

Sure.

MALE VOICE:

-- you know. We're not the deciding final decision on it. We're just saying alright move forward is what my understanding we're doing and that pinch point where --

MR. CHAIRMAN:

So -- so, second thing I'd like to talk about then is the road itself, the pinch point, and the variance being requested. As I understand it the pinch point is on the applicant's property, on the applicant's property. And what he's -- what he's representing is he -- he doesn't have enough right-of-way there but he can install a road or Mr. Reid has said we can install a road there that meets all standards, just need and -- in this particular case we don't need a wide right-of-way, normal 50 feet, the (inaudible) feet will do. So just looking at that, regardless of its impact on everything else, on John's Marine and the traffic and whatnot, are we comfortable with the road itself, is it safe, is it --

MR. MCKEE:

I would like to ask a question on that.

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MR. CHAIRMAN:

Sure.

MR. MCKEE:

I don't know exactly who -- who from staff will make -- make comment on it. It may depend on which way we go but if let's -- let's say that -- well, let's -- let's just say we keep it like it is, is Oconee County gonna come down there and -- and do the road? Is -- is the whoever the winner of this argument is, are they gonna -- are they gonna upgrade the road down there around the pinch point or I mean I don't -- if it's not Oconee's road, I -- I don't -- I don't really know why the county would go down there to -- to work on that little bit of area. Now, Mr. Reid may have more to say about that than I do but is that -- I mean, is that the county's thinking is that once it's -- once whatever our decision is A or B, then the county's gonna go in there and make the road what it's supposed to be as far as width, as far as vertical, alignment and everything else. Is -- is that the county gonna do that or is whoever the victor in this --

MR. REID:

No. We --

MR. MCKEE:

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-- (inaudible).

MR. REID:

-- we -- we do not.

MR. MCKEE:

Okay. I -- I just I wanted to make sure because I -- - and I may have misheard what you had said that the county would do that.

MALE VOICE:

They would just inspect and make sure --

MR. MCKEE:

They would just inspect.

MR. CHAIRMAN:

I -- I -- okay, I misspoke, I'm sorry I didn't mean to mislead anyone.

MR. MCKEE:

Okay. Okay, I just wanted to make sure.

MR. CHAIRMAN:

It will be put in according to county standards. It will have to agree with county, it's the developer who will put the road in.

MR. MCKEE:

Right.

MR. CHAIRMAN:

Mr. Lee has said he's gonna put the road in --

MR. MCKEE:

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I -- I just wanted to make sure that --

MR. CHAIRMAN:

-- to the county standards, it'll -- it'll be sloped the right way, it'll have drainage and -- and whatnot.

MR. REID:

Yeah, so without the right-of-way we can't change any characteristic of any road.

MR. MCKEE:

Okay. I just wanted to make sure that nobody 'cause I just wanted to make sure everybody was clear on that. I didn't think the county wanted to get involved.

MR. CHAIRMAN:

Well, I guess let's decide if there's no prescriptive easement there the county is not doing business down there and there isn't gonna be a road built, doesn't matter who's gonna, you know, it all depends on that getting decided somewhere.

MALE VOICE:

Right.

MALE VOICE:

Right.

MALE VOICE:

Right.

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MR. ROOT:

Mr. Chairman, if I could. One -- the one point that Kyle has made a couple times and I don't want it to get lost is, he went -- went to the mat, but where the pavement is, where the county contends it has a prescriptive easement, that's what we have. We can't jog the road to the right or to the left; we can't widen the road more. By virtue of the nature of a prescriptive easement you get what you've developed over the course of this 20 years of use adverse to the owners so in this case the dirt under the -- underneath the asphalt. So, we can't unless that -- that situation gets treatment.

MR. CHAIRMAN:

So that'll be a part of whatever decision is made down the street?

MR. ROOT:

Follow-up proceedings should.

MR. CHAIRMAN:

Follow-up proceeding (inaudible) -- follow-up proceedings.

MR. EAGAR:

Mr. Root, would that -- would that mean that if there was a perceptive easement that that -- that road then in theory could not be moved?

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MR. ROOT:

Without it being abandoned, correct, yes. That -- that prescriptive -- so say the developer wants to do a private road and just it's south of this road in question, that area where we have the prescriptive easement where the county contends it has a prescriptive easement, it's still gonna remain there, still gonna remain open to the traveling public as is, we can't widen it, can't move it, can't do anything with it until it's abandoned, until it goes through that procedure that I talked about which is a judicial proceeding. The Court's gonna make a decision that, okay, you can abandon it, it's in the best interest of the -- all interested parties and this is who owns the dirt underneath the asphalt.

MR. EAGAR:

And then shift it and then -- and then -- then the county would probably take over that road, the new road (inaudible)

MR. ROOT:

That's all subject to --

MR. EAGAR:

Turned over to them at some point.

MR. ROOT:

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That would be all subject to the next steps if it's built according to county specifications get through abandonment, you know.

MALE VOICE:

So -- so who -- who -- who's involved in the abandonment process? I mean, would the Ratliff's have to be --

MR. ROOT:

They would be --

MALE VOICE:

-- or the Ellenburg's, I can't keep all the names straight, they would have to agree for it to be abandoned as well?

MR. ROOT:

Well they wouldn't have to agree, but they would have their -- they would have due process rights to appear and -- and be heard by the Court. So they object to it, the Court gonna take that into the best interest of the public certainly. They wouldn't have to consent necessarily but I don't know -- but I've been involved in one that's been contested that -- that was -- that was still granted. I mean, it's usually it's just not -- I mean, if we seek to abandon a road or a property owner seeks to abandon a road and we consent to it

there’s no question that there’s no use for this road anymore. So I can just speak from history on that experience.

MR. CHAIRMAN:

So I -- thank you, I think that clarifies for us what the situation is. Does everyone feel comfortable there? Okay. So let’s talk about the road itself and it’s gonna go the right-of-way is gonna be narrowed down. The road will still be full county spec road going through the narrows, if you will.

MR. EAGAR:

The full 20 foot?

MR. CHAIRMAN:

The full 20 foot, no, it’ll be built to current county standards. If --

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

-- if we go through all this process and it’s decided we’re gonna build a road --

MALE VOICE:

Yes.

MR. CHAIRMAN:

-- as the developer wants that would be built to

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county standards.

MR. REID:

Private -- private or public roads have to be built to the same standard.

MR. CHAIRMAN:

Right.

MR. REID:

So 20 foot wide is the minimum that any road in the county can be built but that is all predicated on what the traffic impact study says.

MR. CHAIRMAN:

Okay. Okay, thank you.

MALE VOICE:

So there’s got to be a traffic study too before --

MR. REID:

Yes, any law -- any --

MR. CHAIRMAN:

There’s gonna be a traffic study done.

MR. REID:

-- any subdivision 11 lots or more has to have a traffic impact study for the county road system and the road that is coming in.

MR. EAGAR:

Would that tra -- would that traffic study also take into consideration the upper part of that road also?

MR. REID:

Yes, it would be for the entirety of --

MR. EAGAR:

Because that -- that is -- I've driven that and it's dangerous.

MR. REID:

Ellenburg Road -- Ellen --

MALE VOICE:

Thank you.

MR. REID:

-- Ellenburg Road being all county, so anything that it ties to that is county has to be considered.

MR. EAGAR:

But I mean with the blind spots and the hills and what have you it's -- it's rather treacherous.

MR. CHAIRMAN:

But as far as this particular -- the various particular at the pinch point I think we need to look at is the road safe at that point. Is it --

MALE VOICE:

That's all we're dealing with.

MR. CHAIRMAN:

As -- as we're constructing through that pinch point is it safe.

MALE VOICE:

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Is --

MR. CHAIRMAN:

Is that making sense?

MALE VOICE:

That's all -- that's all -- that's all we've got.

MR. CHAIRMAN:

That's what the variance is about. Yes, we -- we need to consider traffic safety and all that, we'll talk about that in a minute, but we're talking about the variance and is the -- is the road itself as it goes through that pinch point is it safe.

MALE VOICE:

Yeah.

MR. EAGAR:

And then -- and then we're gonna talk about the overall safety of the road --

MR. CHAIRMAN:

Yes.

MALE VOICE:

-- the traffic (inaudible).

MR. CHAIRMAN:

We get to -- we'll get to traffic and that. I just want to -- trying to get things in order, guys. Is that making sense? Everyone agreeing with that so far? The road itself will be safe as it goes

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through that pinch point, okay. Okay, let's talk about the impact on John's Marine. Who has comments?

MALE VOICE:

I --

MR. CHAIRMAN:

Can I say one thing? No one wants John's Marine to go out -- thank you, you can sit down, thank you (inaudible). No one wants John's Marine to go away; can we all agree with that?

MALE VOICE:

Right.

MR. CHAIRMAN:

We all want John's Marine to stay, no one -- I don't think the developer wants John Marine to go. Everyone wants John's Marine to stay, thrive, service the community, da, da, da, da, da. Is that right? Okay, so --

MR. EAGAR:

I think -- I think --

MR. CHAIRMAN:

-- the impact on John's Marine.

MR. EAGAR:

And I think the impact is basically that over the years John's Marine has -- has taken that entire

road and that has become a part of that overall driveway or turn around area or whatever where he's -- where he's moving his equipment and his boats. And -- and it's -- and any change to that now is gonna have some impact on his business there's no question about that.

MALE VOICE:

But has he not got more area? It looks to me when you turn it that there's more area there, if he's in agreement to deed it.

MALE VOICE:

(Inaudible).

MR. EAGAR:

Not when -- not when you're considering I don't think the fact that he's actually using the roadway as -- as part of his facility there.

MALE VOICE:

The roadway's not going away.

MR. EAGAR:

Huh?

MALE VOICE:

The roadways not going away.

MR. CHAIRMAN:

Actually if you look at this picture here, look --

MALE VOICE:

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The picture looks like he's got -- he's gonna have more room.

MR. EAGAR:

And it's not going away but it's gonna -- but you can't block it, you can't park the vehicles across it and things like that.

MALE VOICE:

If you aban -- if you abandon the Ellenburg --

MALE VOICE:

I'm not --

MALE VOICE:

-- like he says, they go through the abandonment process then that becomes, you know, and if he's in agreement to deed it over to him, you know, we can stipulate that.

MR. CHAIRMAN:

If you look at that he's gonna gain a considerable amount of road that is current Ellenburg Road.

MALE VOICE:

Yup.

MR. CHAIRMAN:

You can have that plus he's gonna have, if he has to use it --

MALE VOICE:

Yup.

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MR. CHAIRMAN:
-- the new Ellenburg Road, so it's going to be considerably wider particularly at the -- at his driveway.
MR. EAGAR:
I agree. I agree with that. Yeah. Yeah. You know, looking at it that way I'm just stating that the fact that he's been using that road as is exists for part of his -- part of his business --
MR. CHAIRMAN:
But he'll -- he'll have -- he'll own much of that. I'm not sure how much, he'll own much of that if they -- if they deed over to him, he'll own much of the road he's using now and he'll also have access to the new re-routed Ellenburg Road.
MR. REID:
That actually be better because I think Mr. Lee, if I'm not mistaken, he made the comment that some of his -- some of his boats and trailers and everything are -- it's on your property anyway right now. And you just -- you've -- you just haven't pushed the button to get it off.
MR. CHAIRMAN:
And one of the issues is -- is John's Marine needs on occasion to have large trucks in there to offload

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parts, engines and whatnot. He would be able to park those on -- in this crosshatched area again that we see and not be on the road per se. Is that making sense?

MALE VOICE:

It seems like that John's Marine is -- is the sticky wicket here, this is the -- the thing that we're trying to --

MALE VOICE:

Oh, yeah.

MALE VOICE:

-- appease them and also this --

MR. CHAIRMAN:

It's very emotional. We have a lot of folks here say it's -- it's big issue for the --

MALE VOICE:

Listen to them.

MALE VOICE:

The balance back and forth but the way I look at it, if a developer meets all the criteria for a new development and -- and the uses isn't -- is a recommended use for that land, if it affects another neighbor in that use that's -- that's an impact but I'm not sure that I could just be able to -- I could stop a developer from developing when -- when they

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meet all the criteria for -- for -- for a variance request. And plus it sounds like the developer is doing things to help mitigate some of that traffic problem and some of the turnaround problem by granting some additional land and things like that. So, I -- I don't want to impact the marina any more than we have to but I think there is a right of a developer if they meet the criteria that the use is that -- if it's a -- if it's a use that can -- can be made that's legally I think they should have the right to do it.

MR. CHAIRMAN:

Okay. I -- I guess we could say that property was owned by Crescent, I guess it's current -- it's not Crescent it's someone -- some other entity owns it but and it has the same stipulations on it as other Crescent properties do, it's gonna be developed in the same way that some of the Crescent communities have been developed. Okay. Anything else on John's Marine then? We're all agreed we want to keep John's Marine, and it sounds to me like we're saying if anything he'll have better access to his business with these changes. I said that right guys?

MR. EAGAR:

It -- it appears that way, yes, by the drawings.

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MR. CHAIRMAN:
It's certainly better access, I'm not -- I'm having trouble understanding where this will provided --
MALE VOICE:
It's deeded.
MR. CHAIRMAN:
-- if deeded over, the property is deeded over so that for some unknown reason the -- the current owners couldn't stop him from access to his business.
MALE VOICE:
Yeah.
MR. CHAIRMAN:
I mean, that's not -- we've been assured that's not gonna be the case. Okay. Duke Power, I don't think that's a -- we're not a party to --
MALE VOICE:
It's not our (inaudible).
MR. CHAIRMAN:
-- his relationship with Duke Power.
MALE VOICE:
That's not our business.
MR. CHAIRMAN:
That's -- that's his problem. Same thing with the, I think it was mentioned somewhere with the flood

zone, that's between the developer and FERC. If -- if 810 is a flood zone, you know that -- they got houses below 810 that may mean they have insurance problems, I -- I don't know but that's not our purview. We all agreed there?

MALE VOICE:

Yeah.

MR. CHAIRMAN:

Okay. Okay, traffic, let's talk traffic. We've established that there's gonna have to be a traffic study done and it will be done not just right in front of John's Marine but it'll be done on all of Ellenburg Road, is that what it amounts to?

MR. REID:

Generally, yeah, it'd be up to the traffic engineer, but yes, that's what we would expect that it would be -- it would take into account all of Ellenburg Road.

MR. CHAIRMAN:

And --

MALE VOICE:

All right, what decision -- what does that study tell you that --

MR. REID:

Average daily trips.

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MALE VOICE:
Right, but I'm -- how's that impact the decision whether they get to move forward.
MR. REID:
If that -- if that road is up to a standard to carry that many trips the ordinance calls out what -- what that breakeven point is 400 and less the 20 foot wide road, 400 to 800 22.
MALE VOICE:
But it is feasible what a traffic study could niche this thing?
MR. REID:
Oh, I'm -- I couldn't --
MALE VOICE:
I mean, it's possible.
MR. REID:
-- (inaudible).
MALE VOICE:
I'm just saying is it possible that a traffic study could be done and they -- they say no, you can't -- you can't move forward?
MR. REID:
That would be up to the developer (inaudible) you know, for -- for the -- the same issues that we would have with changing the road in any way

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(inaudible) right-of-way.

MALE VOICE:

Right, but if the study comes back and says the road -- road won't support the additional traffic, what happens?

MR. REID:

It would need to be upgraded.

MALE VOICE:

Okay. And who's responsibility --

MR. EAGAR:

Or -- or they would have to reduce the number of houses, right?

MR. REID:

Right, yeah.

MR. CHAIRMAN:

So it could -- it can --

MR. REID:

If it goes under 11 then there's no -- you don't have to do a traffic impact study.

MR. EAGAR:

Including 11?

MR. REID:

Yes, including 11 and up.

MR. EAGAR:

And 11 and up or --

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MR. REID:
Ten and --
MR. EAGAR:
-- 11 and down?
MR. REDI:
Sorry, 11 and up requires a traffic impact study.
MR. EAGAR:
So 10 --
MR. REID:
Ten and down --
MR. EAGAR:
Ten and down --
MR. REID:
-- does not require it.
MR. EAGAR:
-- doesn’t require it.
MR. REID:
Ten to four is a private drive, three to zero or three to one is a driveway.
MR. EAGAR:
Appreciate it, thank you.
MALE VOICE:
So the study would -- would either upgrade the road, reduce the number of lots or -- right, that would -- that decision would have to be made by the

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(inaudible).

MR. REID:

You know --

MALE VOICE:

It would just say that that road can't support that.

MR. REID:

Well they would look at it, they would provide us with whatever rationale that they had as far as a traffic engineer has --

MALE VOICE:

Okay.

MR. REID:

-- for that road, what the ADT is, you know, compared to what it's gonna be with the -- with the new development, you know, the peak hours, all that stuff they would consider --

MALE VOICE:

Okay.

MR. REID:

-- take into account what that -- what that impact to the road would be.

MR. CHAIRMAN:

Okay, thank you.

MALE VOICE:

Thank you.

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MR. CHAIRMAN:

Appreciate your continued --

MR. REID:

Thank you.

MR. CHAIRMAN:

-- forbearance and information. Okay, so as I -- I live down South Cove Road, it's a dead end, it dead ends down in South Cove Park, there's about over 300 parcels that have to use South Cove Road to get out into -- into the county. I counted the number of parcels on Ellenburg Road and off Ellenburg Road like up in the subdivisions and I got 77, please don't hold me to exact number but that's what I got is number -- is 77. And this project would add 25 percent to that or take it up to 96 parcels. And -- and I -- and I live in a subdivision that's got 78 parcels, 78 and they're almost all built up. I mean I understand people's concern about traffic safety but I -- I just don't see a major safety issue there with the small number of parcels currently and the number of parcels being added. I know that's not a popular -- and I guess if I could say we're -- county roads are not intended to be pedestrian friendly. There's all kinds of county roads, I've been on county roads and I'd never be walking on

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that county road. So I -- and -- and to walk your dog, I mean, it -- it's just not included in the design of county roads. So, I've said my peace. Who else has something to say?

MR. EAGAR:

I -- I -- I --

MR. CHAIRMAN:

You guys got to have some -- some -- some idea what you want to say here.

MR. EAGAR:

Go ahead.

MALE VOICE:

Well I mean, I -- I think -- I think our first priority somebody, I forgot which side it was on, made the statement about, you know, don't look at this from an economic standpoint, look at it and say -- I've never I've been on this committee for I think 15 years, 100 years or something like that, but I don't think at one time did we ever look at something and say hey, you know, this might get somebody killed but we can -- the county can make some money out of this, taxes. We've never looked at that. It's always gonna be a safety issue and that's the reason as we're looking at this -- at this road I -- I think that it's -- it's -- that is

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-- and I -- I might be speaking out of turn, y'all can certainly speak but I mean that's -- that's my number one thing is how safe is it going to be, you know, are we taking a bad situation and making it worse or are we taking maybe a bad situation and -- and gonna make it better. That's -- that's how I look at it it's -- it's just the safety of the people going in and out because I don't care if -- if the county makes 10 billion dollars off of it, if it gets somebody killed because of it that's -- that's the wrong thing.

MR. CHAIRMAN:

We don't take into account tax revenue, that's -- that's not in our -- we just don't do that. So, any other comments on traffic safety?

MR. ROOT:

Mr. -- Mr. Chairman, if I could. I just want to make sure it's noted 'cause Mr. McKee pulled up -- or brought up a good point the applicant and the opposing parties have addressed the elements of a variance and standard elements, but this is -- remember this is coming out of Chapter 26, so that where it starts in the preliminary inquiry is the safety of the road in question. So, I just want to make sure that you get it -- tag it right so you

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start there at the safety and then you go through your elements if you're gonna trace with the -- how the order should trace.

MR. CHAIRMAN:

(Inaudible) a word you said.

MR. ROOT:

Safety.

MR. CHAIRMAN:

Safety is the number one issue.

MR. ROOT:

Safety is number one for a variance from the road standards and it starts --

MR. CHAIRMAN:

Yes.

MR. ROOT:

-- there.

MR. CHAIRMAN:

Yes.

MR. ROOT:

So I just wanted to underscore --

MR. CHAIRMAN:

Yes.

MR. ROOT:

-- that point 'cause I've heard a lot of talk about those four elements which are important and relevant

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and it should be addressed but you start with that safety of the whole of the road in question.

MR. CHAIRMAN:

Yes.

MR. ROOT:

Make sure you hit that.

MR. CHAIRMAN:

We have -- we have the ordinance right here.

MR. ROOT:

Okay.

MR. CHAIRMAN:

We've got that order that safety is the --

MR. ROOT:

Thank you, sir.

MR. CHAIRMAN:

Okay.

MALE VOICE:

On -- on our -- our variance standards it all says is that you'll work with the county planning department and the county road department in an effort to eliminate or minimize the need for the variance (inaudible) that way the solution can be reached. So have we done all that? I'm sure we have. Tried to come up with a --

MALE VOICE:

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I think the last meeting or the meeting before is when the requirement was established (inaudible) make both parties (inaudible) try to work this out.

MALE VOICE:

Yeah.

MALE VOICE:

And it sounds like there has not been a resolution that's been reached yet.

MALE VOICE:

Right.

MALE VOICE:

The applicant has reached back out and requested that a decision be made.

MALE VOICE:

Okay.

MALE VOICE:

So they are due a decision by this body.

MR. CHAIRMAN:

And we will have a decision. Is there any other general discussion before we get into our questions?

MALE VOICE:

So are we saying that with the road that we would -- if we did approve the variance that we would improve it subject to a satisfactory road study; is that what we're saying?

MR. CHAIRMAN:
I think we're saying if -- if -- if we approve the variance then they would go through normal -- normal procedures with the county, various county departments, to -- to prove that utilities can be run okay and -- and show that they've got proper fire access and to show that traffic study, traffic is okay --
MALE VOICE:
All the normal --
MR. CHAIRMAN:
-- the (inaudible) state --
MALE VOICE:
-- stuff that they would go --
MR. CHAIRMAN:
All the normal things --
MALE VOICE:
We're not the final say.
MR. CHAIRMAN:
So --
MALE VOICE:
Yeah, we're not --
MR. CHAIRMAN:
They're trying to get a variance before they go through all that process.

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MALE VOICE:

Right, we're not the final say.

MR. CHAIRMAN:

So, yeah. But that's part -- that's part of the approval process that still has to happen.

NR, EAGAR:

With -- with that par -- with the paramount issue being safety and all, how would the Board feel about putting conditions on a variance if it were granted reducing the number of houses to be built? Maybe down to 10.

MR. ROOT:

That would be determined by a traffic study.

MR. CHAIRMAN:

I think I'd -- I'd like the traffic study to speak to that.

MALE VOICE:

Yeah.

MR. CHAIRMAN:

If the traffic study said okay, yeah, you can get by with 10 that'd be up, you know --

MALE VOICE:

Yeah.

MALE VOICE:

Well any -- any -- any --

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MR. EAGAR:
I was just thinking --
MALE VOICE:
-- attachments --
MR. EAGAR:
-- I'm just thinking in terms of a compromise where it would reduce the -- the amount of traffic on that road which is --
MALE VOICE:
I think if we -- can we attach that, you know, this -- that he indeed is deeded that property.
MR. EAGAR:
That -- that --
MALE VOICE:
So he's got more property --
MR. EAGAR:
Yeah, that --
MALE VOICE:
-- he's got more access --
MR. EAGAR:
-- that could be in --
MALE VOICE:
-- you know, I see that as a win-win, you know, other than --
MALE VOICE:

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Uh-huh.

MALE VOICE:

-- you know, they don't want extra traffic on their butt. To me I see he's got going if we stipulate that the developer has to deed that in -- deed that over to him.

MR. CHAIRMAN:

That could be a stipula -- we'd --

MALE VOICE:

A stipulation.

MR. CHAIRMAN:

As -- as we go through our questions we got to keep in mind what requirements do we want to put on this so we -- we go through a wordsmithing at the end.

MALE VOICE:

Yeah.

MR. CHAIRMAN:

That -- that establishes conditions we're willing to approve this based on. Is that -- that fair?

MALE VOICE:

Fair.

MR. CHAIRMAN:

Okay. Ready to ask the questions?

MALE VOICE:

Yeah.

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MR. CHAIRMAN:

Okay. Four questions, there are extraordinary and exceptional conditions pertaining to the particular piece of property. Can I have a motion in the affirmative please?

MR. EAGAR:

So moved.

MR. MAYS:

Second.

MR. CHAIRMAN:

Okay. Discussion? I think it's been pretty well established that it's narrow and --

MALE VOICE:

It's too narrow, yeah.

MR. CHAIRMAN:

-- he's got to -- if he's gonna do something he's got to have a variance.

MALE VOICE:

Got to have a variance.

MR. EAGAR:

I think without it he can't do anything.

MR. CHAIRMAN:

This very narrow view of the question at that -- at the pinch point I think there are exceptional conditions and it doesn't -- and they don't exist

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elsewhere.

MALE VOICE:

Right.

MR. CHAIRMAN:

Okay. So we have a motion to second. All in favor please say aye, raise your hand.

MALE VOICE:

Aye.

MALE VOICE:

Aye.

MR. CHAIRMAN:

Okay, it's five to nothing and approved. These conditions do not generally apply to other property in the vicinity. A motion please, in the affirmative.

MR. EAGAR:

So moved.

MR. CHAIRMAN:

Motion in the affirmative.

MR. EAGAR:

So moved.

MR. CHAIRMAN:

Second?

MR. MCKEE:

Second.

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MR. CHAIRMAN:

Discussion? I think we just covered that.

MR. EAGAR:

I think -- I think this is a unique situation --

MR. CHAIRMAN:

It's a unique -- unique (inaudible) this property it doesn't really apply elsewhere. All in favor please say aye, raise your hand.

MALE VOICE:

Aye.

MALE VOICE:

Aye.

MR. CHAIRMAN:

It's five to nothing in favor. Because of these conditions the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict utilization of the property. Could I have a motion in the affirmative please?

MR. EAGAR:

So moved.

MR. MAY:

Second.

MR. CHAIRMAN:

Second. Discussion? Excuse me.

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MALE VOICE:

We've beat this horse to death.

MR. CHAIRMAN:

Okay. We -- motion in the affirmative, could we please all in favor please say aye?

MALE VOICE:

Aye.

MR. CHAIRMAN:

Raise your hand. Okay, five to nothing. The authorization of a variance will not be of substantial detriment to adjacent uses or to the public good and the character of the district will not be harmed by the granting of the variance. Could I have a motion in the affirmative please?

MR. EAGAR:

So moved.

MR. MAYS:

Second.

MR. CHAIRMAN:

Okay. Discussion?

MALE VOICE:

This is another whole --

MALE VOICE:

This is where we need to put the condition in I believe.

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MR. EAGAR:
This is --
MR. CHAIRMAN:
Well we'll put the condition in if we -- if we are truly are going to approve this --
MALE VOICE:
Yeah, right.
MR. CHAIRMAN:
-- we haven't gotten there yet. We have to -- we haven't gotten past the fourth question. I'll put our conditions in. Is that fair?
MALE VOICE:
That's fair.
MR. CHAIRMAN:
But I don't think we put conditions on this.
MALE VOICE:
Yeah.
MR. CHAIRMAN:
We put conditions on our --
MALE VOICE:
That's fine.
MR. CHAIRMAN:
-- if we do approve it.
MR. EAGAR:
And I think -- and I think the question here is does

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it harm John's Marine.

MR. CHAIRMAN:

Okay.

MR. EAGAR:

That's -- I think that's --

MALE VOICE:

Right and I think --

MALE VOICE:

-- and this one I think that's what we have to discuss whether or not --

MR. CHAIRMAN:

This is where the safety issue comes in also. It's --

MR. EAGAR:

Right.

MALE VOICE:

And I think this is where we said that I think the developer has done quite a bit to minimize that harm to John's Marine and I think the amount of space they're have from what we've seen to operate his business is not anything less than what he has now. So, although there is a -- is an impact it's minimum impact I think it's -- so it's not enough to say that it's -- it's gonna severely hurt another business.

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MR. CHAIRMAN:

Okay. Are there any other comments on this?

MALE VOICE:

This is --

MR. CHAIRMAN:

We've had a lot of input from a lot of people. Any other comments? Okay, we have a motion and then a second? All those in favor please say aye, raise your hand. One, two, three, we have five in favor. No no's. So, in conclusion based on the evidence presented to the Board do I hear a motion that the proposed variance be approved with -- with conditions? So let's -- let's talk about conditions now. What -- what conditions do we want to put on here? I would say that the developer follow through on their promise to deed whatever property is necessary to --

MR. EAGAR:

To make them whole.

MR. CHAIRMAN:

-- provide -- provide unimpeded access by John's Marine to the new right-of-way, is that --

MR. EAGAR:

And reference the piece of property that they're already using.

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MR. CHAIRMAN:

We need to get some words to (inaudible).

MALE VOICE:

Yeah, do we need to stipulate or -- or --

MR. CHAIRMAN:

Mr. Root, can you help us with what --

MALE VOICE:

Mr. Attorney --

MR. ROOT:

I think that the way you started phrasing it was good, that they would have unimpeded access to the new right-of-way.

MR. CHAIRMAN:

We just kind of period at the end of that, we don't --

MR. ROOT:

I think that's clear from the record what -- what --

MR. CHAIRMAN:

I'm -- I'm conscious that people in the future may look at this -- may look at our proceedings here and I want to make sure we're clear.

MR. ROOT:

You have a substantial record from which any action could be taken. You may want to -- you could anchor it to -- to one of the maps if you want to --

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MR. CHAIRMAN:
I'll just --
MR. ROOT:
-- particularly (inaudible).
MR. CHAIRMAN:
I could refer to the map -- to the maps as presented in this proceeding.
MR. ROOT:
You could, yes.
MR. CHAIRMAN:
And as represented by the developer but is -- is that the only kind of condition we want to put on here?
MALE VOICE:
I'd just like to see John's boat -- if he has more access, more room, more everything, you know, that's kind of a win-win. I know they don't like the traffic increased, but, you know, that's not our purview really.
MR. CHAIRMAN:
So --
MR. EAGAR:
Well it is if we want it to be.
MALE VOICE:
Yeah.

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MALE VOICE:
But I don't know -- you know -- but the shaded area or whatever on this document or something stipulate.
MALE VOICE:
(Inaudible).
MALE VOICE:
Huh?
MALE VOICE:
Which one are you looking at?
MALE VOICE:
That one --
MR. CHAIRMAN:
(Inaudible).
MALE VOICE:
-- (inaudible) grid line -- all the grid lines and --
MALE VOICE:
That one.
MALE VOICE:
Yeah, that one.
MR. EAGAR:
Oh, with -- oh, with the -- how would the proponents area that they said they would give him, how would the proponents to, ask --
MR. ROOT:

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Part of that --

MALE VOICE:

-- (inaudible) to define --

MR. ROOT:

-- existing road, right?

MALE VOICE:

Yeah, it’s hard to see on here --

MR. EAGAR:

Including that they would want for the --

MALE VOICE:

-- but you can see, yeah, the edge of the concrete pad and the edge of the concrete drive at the top kind of -- can y’all see that where the mouse on there?

MR. CHAIRMAN:

We can see the mouse, yeah.

MALE VOICE:

Yeah the --

MALE VOICE:

You see that, that’s the edge of the existing roadway is my understanding.

MALE VOICE:

That’s right.

MALE VOICE:

And there’s some property pins around there.

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MALE VOICE:
That's the concrete pad and that's the concrete driveway and this --
FEMALE VOICE:
No, that's the house.
MALE VOICE:
This is the edge -- this is edge of pavement.
MALE VOICE:
The extra property (inaudible).
MALE VOICE:
This is a house?
MALE VOICE:
(inaudible) and not in front of the shop at John's Marine.
MR. CHAIRMAN:
That's the concrete pad.
MALE VOICE:
The one in the middle is the driveway to their house.
MR. RATLIFF:
The extra property is in front of my momma's house, that's not in front of the shop.
MR. CHAIRMAN:
That's the driveway to the house, I understand where we (inaudible).

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MALE VOICE:

This one isn't even in front of the shop.

FEMALE VOICE:

Yes.

MALE VOICE:

The shop is the problem not the house.

FEMALE VOICE:

That's right.

MR. CHAIRMAN:

Now we're talking about the concrete pad at the far right.

MALE VOICE:

Yup.

MR. CHAIRMAN:

And the issue is it's the sliver of land in front of the concrete pad needs to be deeded to Mr. Ratliff so he has unimpeded access --

MALE VOICE:

To his --

MR. CHAIRMAN:

-- to --

MR. EAGAR:

To his --

MR. CHAIRMAN:

-- the new road.

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FEMALE VOICE:
He already has that.
MALE VOICE:
He already owns all that property.
MALE VOICE:
To the shop, right.
MALE VOICE:
He owns it to the center line.
MR. CHAIRMAN:
Well I think there's a portion in here that's been issue -- there's a portion in here that's not owned by him.
MALE VOICE:
Yeah.
FEMALE VOICE:
There's nothing (inaudible) in front of the shop.
FEMALE VOICE:
The center line in the road --
MR. CHAIRMAN:
Hold it folks. Hold it, please. Please.
MR. EAGAR:
Mr. Chairman, do we -- if -- if this has already been agreed to by the developer, do we really need to put it in there?
MR. CHAIRMAN:

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Well I would -- I think we ought to go on record saying that's --

MALE VOICE:

Yeah, and make them be -- feel good about what they're getting.

MR. EAGAR:

(Inaudible) developer define -- define how he would -- how he would call the piece of property that's he gonna give (inaudible) you could put it in that way?

MR. CHAIRMAN:

I'd state the condition this way. I -- we're going to -- the proposed variance be approved, based on the condition that the developer deed property that provides unimpeded access to the new road. And was there anything else you want to add in there?

MALE VOICE:

I guess --

MALE VOICE:

(Inaudible).

MALE VOICE:

-- what he says is unimpeded but they say it's not so -- and I don't know --

MR. CHAIRMAN:

Well --

MALE VOICE:

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-- then they'll be coming back to and we don't want them circling back but somehow, you know, if it could be --

MR. CHAIRMAN:

If there's no -- if there -- I guess if there's no property after -- we look at all the lines on here, if there's no property that has to be deeded then nothing has to be done. But if we want to -- I think we want to make sure that there is unimpeded access to the road.

MALE VOICE:

Right. Right.

MR. CHAIRMAN:

So whatever that needs to be done to provide unimpeded access to all this -- all the legal maneuvering will go on around abandoning the old road and putting in the new road and all that, come out of all that, he'll have unimpeded access to the road.

MR. EAGAR:

Is that -- is that the --

MALE VOICE:

(Inaudible)?

MR. EAGAR:

-- is that the entire -- is that the entire issue?

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Or is there more land that he's using in addition -- in addition to that, I don't (inaudible) we don't know.

MR. CHAIRMAN:

I don't know of any. I mean, he's -- he has used the existing road --

MALE VOICE:

Or his -- the developer's property.

MR. CHAIRMAN:

And half -- half of the road belongs to him.

MR. EAGAR:

Yeah.

MR. CHAIRMAN:

And half of the road belongs to the developer, okay.

MR. EAGAR:

I think they referred to trucks and cars being parked on their road -- on their property.

MR. CHAIRMAN:

Well that's because half of it's theirs. Because half the road is theirs, and now they're gonna move -- the new road's gonna be moved down, if you look at this diagram --

MALE VOICE:

The whole road is gonna be all theirs.

MALE VOICE:

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Fifty percent of it's owned by Jimmy.

MR. CHAIRMAN:

He will -- he will still own a lot of that property. He'll still own that and half the road.

MALE VOICE:

The whole road now. Right?

MR. CHAIRMAN:

He will only own -- no, he'll -- his property owned -- you talking about right-of-way versus ownership, the ownership isn't gonna change except for a sliver there if it's -- if it's necessary. But he's --

MALE VOICE:

The best way to (inaudible) --

MR. ROOT:

I -- I think if I -- and just tell me I'm wrong. I'm not trying invoke -- substitute my judgment in for yours.

MR. CHAIRMAN:

Sure.

MR. ROOT:

I think what you're saying is first it's gonna be subject, the order approves the subject to proper abandonment procedures.

MR. CHAIRMAN:

Okay.

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MR. ROOT:

Subject to compliance with in our case the local ordinances and state law regarding road acceptance into the county roadway system and subject to the developer granting, I don't know the corporate entity's name, but -- but the marine shop, commercially reasonable access to the road to be constructed. I think you can leave it at that.

MR. CHAIRMAN:

Okay. About the word say this, proposed variance be approved subject to condition that proper abandon -- proper state abandonment procedures are followed, road acceptance procedures are -- are followed and the developer grant reasonable access to the road to include deeding any property necessary.

MR. EAGAR:

When you say the road should it be the new road.

MR. CHAIRMAN:

The new road, yes, it's the new road. Yes, sir.

MALE VOICE:

Forgive me. Then by the variance request it says the 18.1 feet or 19.1 feet, whatever it is, it -- it needs to -- the right-of-way needs to be defined. It may be, you know, down at that point but where do we get back to 50? Our right-of-way needs to be

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defined.

MR. CHAIRMAN:

Okay, so subject to proper definition of --

MALE VOICE:

'Cause --

MR. CHAIRMAN:

-- right-of-way.

MALE VOICE:

Yeah.

MR. RATLIFF:

There's not enough room there, do the math.

MR. CHAIRMAN:

The variance is to have a smaller right-of-way.

MALE VOICE:

Right. But where we come back and where that right-of-way is 'cause right now it could be the 18.1 feet all the way along on his property. See what I'm saying?

MR. CHAIRMAN:

Okay.

MALE VOICE:

By the variance request. It's only at that one point --

MALE VOICE:

But once it goes to the pinch point why does it --

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MALE VOICE:
Only at that one point and when it comes back out and again like David said it could be referenced to a drawing but I just want to make clear on my end that I need a clearer definition of what right-of-way is.
MR. RATLIFF:
That's why there's multiple drawings. It doesn't add up.
MALE VOICE:
Mr. Chairman, as I understood the request for the variance is at this pinch point --
MR. CHAIRMAN:
Yeah.
MALE VOICE:
-- to go to 31.8, then I believe, and this is how the -- the normal road acceptance procedures would come in, that's where they -- if you grant it that's where they'd have a variance, abandonment goes through they -- they start the process of getting the road accepted, the county's gonna say all right, you've got this variance for this pinch point, you're gonna have to have your 50 foot right-of-way.
MALE VOICE:
In these other areas.

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MALE VOICE:
Show it to us, if you don't have a -- a deeded right-of-way you're gonna have to get it from so that's the way (inaudible) flows so.
MALE VOICE:
That's not our call basically.
MR. CHAIRMAN:
That's not our call. That happens later.
MALE VOICE:
That happens later.
MALE VOICE:
Right.
MALE VOICE:
Okay.
MALE VOICE:
And Mr. Lee handed to me this is item three map, which shows -- I mean, it's a good -- I guess item three does show the area in question. It shows the pinch point and it's really the -- I think what the audience has said is -- is accurate, he's gonna have access to that new road subject to the old road being abandoned.
MR. CHAIRMAN:
Yes.
MALE VOICE:

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But to the extent that it's not, you know, surveying -- surveyors differ at times, what you've stated would -- would accomplish that, you know. To the extent abandonment doesn't give the marine short full access to the road, you've put it in there as a condition present that -- that the developer has to.

MALE VOICE:

David, is the county gonna initiate the abandonment litigation?

MR. ROOT:

Well, one out of five times we do. It -- it goes through the transportation committee first, so Kyle does a survey with the land owners in question, gets the signs posted, goes to the transportation committee and they say yeah, let's -- let's do that or don't do it and then yeah, I certainly can initiate it. Oftentimes the -- the -- in this case the developer probably would. I'm not seeking to -- to do the abandonment and it's not required that the county do it. It could be a private party.

MR. CHAIRMAN:

That's a court proceeding, anyone can take -- go to court and ask that.

MR. ROOT:

Yeah, any interested party.

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MR. CHAIRMAN:

Interested party, yes.

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

No, that's not us.

MALE VOICE:

(Inaudible).

MR. CHAIRMAN:

Okay, so we've -- you know, we've heard a lot of words but what I'm still proposing is we -- we use the words variance be approved, subject to the proper abandonment procedures being followed, road acceptance, the road being accepted by the developer, by the county, and the developer have reasonable access -- excuse me, the developer grant reasonable access including deeding property as necessary to allow access from Jimmy's Marine to the new road.

MR. EAGAR:

John's Marine.

MR. CHAIRMAN:

Is that making sense?

MR. EAGAR:

John's Marine.

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MR. CHAIRMAN:
John's Marine, yes, excuse me. I think the words we've used here and the --
MALE VOICE:
Is that good wording?
MR. CHAIRMAN:
-- (inaudible) I think the intent is clear there.
MALE VOICE:
Yeah.
MR. CHAIRMAN:
With everything we just said. Okay, based on that do we have a motion and a second?
MALE VOICE:
So --
MR. CHAIRMAN:
And based on -- we've already got that, we got a motion and a second, discussion. We've put conditions on there. Could we have a vote please? All those in favor of this variance please raise your hand.
MR. EAGAR:
We have to vote on the separate --
MR. CHAIRMAN:
Oh, sure, yes, do you want to have it -- okay, if you want to -- conditions I read. Okay, you want to

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--

MR. EAGER:

I didn't know that we had moved to (inaudible).

MR. CHAIRMAN:

Move that you accept the conditions, all right.

MR. EAGAR:

Then -- then we move those into the --

MR. CHAIRMAN:

Is there a second?

MR. EAGAR:

-- motion.

MALE VOICE:

Second.

MR. CHAIRMAN:

Second to that? Okay. All in favor of including those conditions to the -- the variance approval process, please raise your hand. Okay. Conditions are approved so then the entire of the question is based on the evidence presented to the Board do I hear a motion that the proposed variance be approved with the conditions we talked? All those in favor please say aye.

MR. EAGAR:

So --

MR. CHAIRMAN:

No, we've -- we've had that motion. Five to nothing in favor of approving the variance. That's all on that one. Could I have a motion to adjourn?

MR. EAGAR:

So moved.

MR. MAYS:

Second.

MR. CHAIRMAN:

All in favor? We stand adjourned.

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STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT OF THE
	)	TENTH JUDICIAL CIRCUIT
COUNTY OF OCONEE	)	CASE NO: 2022-CP-37-00396
	)	
	)	
John's Marine Service, Inc., et al,	)	
	)	
APPELLANTS,	)	
	)	
-vs-	)	TRANSCRIPT OF RECORD
	)	
Oconee County Board of Zoning Appeals, et al,	)	
	)	
RESPONDENTS.	)	
	)	
_____	)	

AUGUST 16, 2022
WALHALLA, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. CORDELL MADDOX

A P P E A R A N C E S:

David Lee Paavola, Esquire
Attorney for Appellant

Andrew Kent Holliday, Esquire
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MONA L. MANLEY
Court Reporter

I N D E X

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E X H I B I T S

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None

PROCEEDINGS

THE COURT: Hey, folks, sorry to make you wait. And while there is no record here, we are being taped. By the way, it's 10:15 a.m., we're beginning the case of John's Marine's Service versus Oconee County Board of Zoning. So, technically, there's always a record, but 48 hours ago, I was in Avignon, France, right about this time, getting ready to go have the Greek chef tell me what he was cooking for a French dinner tonight. So, I'm just so happy to be here with all of y'all.

You're my first hearing since I got back, and we left the boat at 3:00 a.m. Saturday and got back 26 hours later. And I've slept an hour, so if I just disappear, just keep talking, it's on here, and I'll take it under advisement. Y'all doing okay?

MR. PAAVOLA: We good.

THE COURT: All right, I did come in yesterday to get this and read it. So, I know generally what's going on, and I understand the issues. So, what I'd like, and I told -- Will is my new clerk. This will be his first hearing, and I told him that in something like this, especially when I am, quite frankly and honestly, a little tired, I'd like to hear your arguments, and then I'll take it under advisement for three or four days, but you'll know by the end of the week.

So, who wants to go first? I've got three hearings --

motions, is that right? I guess we need to hear the supersedeas first. You may be muted.

MR. PAAVOLA: Sorry, Your Honor, David Paavola, here today ---

THE COURT: Hold on a second. Can y'all hear him?

MR. BRANDT: I can hear.

THE COURT: I cannot.

MR. BRANDT: Well ---

THE COURT: Boy, this is something. Let's see. I see nothing's changed in my three weeks' vacation to France.

MR. BRANDT: Yeah.

THE COURT: Will, you may have to fiddle around with it. Larry, are you talking?

MR. BRANDT: Well, I -- can you hear me now? Can you hear me now?

THE COURT: Yeah, I got you. All right.

MR. BRANDT: Okay. Well ---

THE COURT: David, you want to try one more time?

MR. PAAVOLA: Yes, Your Honor, can you hear me?

THE COURT: All right, we're good.

MR. PAAVOLA: Okay. Your Honor, all I was going to mention was the parties, prior to getting on, agreed that the Notice of Motion and Motion to Intervene -- we thought that might make sense to go first, since we don't object to their motion.

THE COURT: Yeah. So, everybody agrees to the Motion to Intervene? So, I'll assume they do.

MR. PAAVOLA: Yes.

THE COURT: Okay.

MR. PAAVOLA: For the supersedeas, again, David Paavola, and I along with Keith Babcock represent John's Marine Service, the Ratliff family, and the petitioners in this appeal. The Motion for Supersedeas was wrote to maintain the status quo until Your Honor can rule on our appeal. And we're still in that same position. We think it makes -- you know, the Court has discretion under the statute to grant a supersedeas on a Board of Zoning Appeals variance, and we still think it makes sense to preserve the status quo to prevent any claim of mootness that may be raised by the applicants and prevent harm to our clients if construction or road changes were to go forward before Your Honor can hear the appeal. So, that's still where we are today. We still feel like that makes sense to grant the supersedeas, Your Honor.

THE COURT: Is -- do any parties have any issue that you need a ruling on before Friday? If I tell you that you'll have a complete ruling by Friday ---

MR. BRANDT: I'm okay with that.

MR. HOLLIDAY: Your Honor, that was going to be my entire point, is that due to the speed in which Your Honor and the clerk's office moved in getting this scheduled, the

supersedeas is effectively moot in and of itself, because to preserve the status quo until your decision, so that's four days from now, maybe, so there's really no need for a supersedeas.

THE COURT: Okay, well, what I'll do then, just for the record, I am down to one privilege log and this. I have one case under advisement, and that's going to take me a while. I'll skip over that, and you'll hear from me by Friday with the terms. Now, somebody's going to have to do an order and pass it around, et cetera, so we'll just say that everybody agrees to a supersedeas until I rule. And I'll rule this week. So, nobody's going to do anything to change the situation or the facts on the ground.

MR. BRANDT: You're talking about until Friday?

THE COURT: Well, yeah. Now, if I get -- let me just tell you, I went on this trip with Frankie and Marly McClain, and they both are home with Covid. I have tested negative for three days in a row. Yeah. I just don't want anything to change on the ground in something like this until I rule. I'm saying Friday. If I get -- something unexpected happens, it might be Monday, but Monday would be literally the latest.

MR. BRANDT: I don't have a problem with that time ---

THE COURT: Okay.

MR. BRANDT: --- there. Obviously, we object to the supersedeas beyond that point, and certainly, this is talking

about an $8 million project that's at issue here, that my clients need the variance decision so they can move forward with the other portions of putting everything together. Obviously, I don't think the appellants are entitled to a supersedeas, nobody has a right to it, but if they do, they have to get that supersedeas, they'd have to post bond on an $8 million project.

We feel that certainly just letting me suggest the numbers crunched, Mr. Holliday may be able to address the numbers, but we feel like that even conservatively, an $800,000 supersedeas bond, if you are inclined to grant that supersedeas, but we don't think that supersedeas is -- should be granted, and certainly they -- if it is, it should be bonded.

But we feel they cannot show that they have a good chance of succeeding on merits, and that the Board of Zoning Appeals acted properly, so obviously, we want to move on with the project. But I don't have any problem with a week delay.

THE COURT: Okay, then the best way to handle it is, let's continue the supersedeas hearing until next Monday. If I haven't -- if you haven't heard from me by Monday as to the terms, I will make myself available and we'll hear it. That way nobody has to file anything, we'll just continue it until next week. Will, I'm in Greenville next week?

LAW CLERK: Yes, Judge.

THE COURT: So, I'll be available. So, I'll just continue this supersedeas motion and only schedule that if something happens that delays it from my end, okay?

MR. PAAVOLA: Thank you, Your Honor.

THE COURT: And I'm really just trying to make sure you guys don't have to file anything or -- so, does that leave the appeal? Is that the sole remaining issue?

MR. PAAVOLA: Yes, Your Honor.

MR. BRANDT: Yes, that would be the issues on appeal, and it's -- again, it's a case where time's of the essence for a lot of reasons on my side of the table. And therefore, we wanted to expedite the matter, and move it along as quickly as we can. So, we're here today with the -- basically because we requested to be given priority over other matters in accordance with the statute. So, anyway, we're prepared to at least make the arguments here ---

THE COURT: Okay.

MR. BRANDT: --- on the appeal.

THE COURT: All right, then, for the record, it's now 10:25, and I'm doing that just in case you guys need a record, you'll know where to go. We'll continue the supersedeas motion and only hear that in the event I haven't ruled completely by next Monday. Everybody has agreed to the interpleader -- or the intervening, and we're down to the appeal. Does somebody -- now, I've read it, but I've only

read the notes from this, so does somebody want to give me a synopsis, and then I'll let the other side yell at you and tell you you're wrong, just factually.

MR. PAAVOLA: Yes, Your Honor, we're prepared to go forward. It's our appeal ---

THE COURT: Okay.

MR. PAAVOLA: --- it makes sense to go first, I think.

THE COURT: Okay.

MR. PAAVOLA: Thank you, Your Honor. Again, I represent the petitioners in an appeal from a variance order issued by the Oconee County Board of Zoning Appeals. We filed a brief in this matter. In the brief, we may refer to it as BOZA. I may refer to it as Board, as well. The variance order in this issue is for the construction of a new public road, with a right of way only 31.9 feet, which is less than the required 50-foot right of way.

The purpose for the new road is to service a new 19-home subdivision that was planned to be built on Lake Keowee. The issue today is the placement of the new roadway. The applicant wants to extend the current dead-end of Ellenburg Road, which is my client's private property. Attached to the brief in Exhibit A, we've provided pictures, and I'm allowed to share, I understand, so I should be sharing Exhibit A for the Court, Your Honor.

THE COURT: Yep. I got it.

MR. PAAVOLA: I want to first reference -- I'll make, is the record page 60. This is the pictures of the property. This is Ellenburg Road, and you can see in the middle of the first picture, the end of the county lane striping and the road continues and dead ends where there's a boat at the end of the road. This is the section of Ellenburg Road that is at issue today.

The second picture I referenced -- would direct the Court to, is the record page 60. This is an overhead view of the dead end at the end of Ellenburg Road, John's Marine, where it services boats, and – so, it gives you an idea where this proposed road is planned to be. The Ellenburg Road dead ends -- this is 599 Ellenburg Road. That property is owned by my clients. My clients also own the adjacent property, 585 Ellenburg Road.

John's Marine Services has been located at this location since 1982. It's continuously serviced boats and used all of this property for 40 years. In the mid-1980's, John Ratliff, who is Jan Ratliff's late husband -- Jan's our client, and is also father of the Ratliff clients that we have, along with T.B. Ellenburg, who gave the land to become Keowee -- Lake Keowee -- they paved from at least 585 Ellenburg Road to the dead end. So, this first picture record, page 60, shows 565. A little bit beyond that is where John Ratliff and T.B. Ellenburg paved the end of Ellenburg Road.

My clients have continuously maintained this section of Ellenburg Road as a private driveway for 40 years, just for the patrons of John's Marine's Services and visitors to their homes. There's no question as to legal title of this land. It belongs to my clients, and the adjacent property owners who have moved to intervene. At issue is really whether Oconee County has a prescriptive easement over this section of Ellenburg Road.

The variance order in this case changes the character of the Ellenburg Road from a private driveway into a public right of way, so the -- BOZA, when it was first deciding on the variance application, it first decides the county has prescriptive easement over my client's private driveway. From there, the Board then approved the extension of that public driveway for this new subdivision, and such a road will greatly increase my client's -- traffic across my client's property, really impact and hindrance the ability to conduct business as it has for decades.

Your Honor, there's five reasons why the BOZA order should be reversed. The first reason is that -- and I'm sharing that -- the first reason is that the -- BOZA exceeded its jurisdiction when it moved forward to approve the variance application without waiting for a court of competent jurisdiction to decide the factual dispute over the existence of a prescriptive easement. Second reason, Your Honor, is

that the BOZA abused its discretion when it assumed that Oconee County holds a prescriptive easement over petitioner's private driveway.

Third, the order unilaterally and anteriorly expands the easement burden on petitioners' properties. Fourth, the BOZA approved the variance application without the location of the roadway being finalized, and without analyzing the full impact to my client's property under the variant roadway scenarios that were before it.

And then finally, Your Honor, fifth, the BOZA failed to adequately explain how the proposed roadway was not a substantial detriment to my client's property when under one scenario of the roadway placement, there was a taking of nine feet of my client's property.

Your Honor, back to my -- our first grounds on the jurisdiction. The BOZA is a body of limited jurisdiction. South Carolina Code 629-800 sets forth the powers for a Board of Zoning Appeals. In this case, the board can hear variances from county roadway ordinances. The board does not have general jurisdiction to decide all legal and factual issues. It, in fact, is not competent to decide a factual dispute regarding the existence of a prescriptive easement such as we have here. And the BOZA, during the hearings, it recognized that a determination of the existence of a prescriptive easement in this case was a predicate issue to its vote on the

variance application, and that's because in order for a new public road to be constructed, it has to connect to the existing public road system.

This section of Ellenburg Road is not public. The BOZA couldn't approve a variance application. In fact, the questions about the existence of a prescriptive easement were reason there were three different hearings on this application. The first hearing was in November 30th of 2021. At that time, the applicant made its presentation and claimed that the county had a prescriptive easement over my client's private driveway. My clients disputed this fact. They provided documents and testimony to the contrary, and the first meeting ended with the Board's directive to county staff to get more information on the issue of the easement.

The Board met again January 24th of 2022. The county staff and attorney came and had no new information on the existence of prescriptive easement, but they did receive an affidavit from my client, Jan Ratliff, which was attached as Exhibit D to our brief, stating that her family has continuously maintained that section of Ellenburg Road. Again, the decision on the application was postponed.

And then, finally, Your Honor, the third time, the Board met April 25th of 2022, and again it addressed the issue of prescriptive easement and whether it exists. The county again had no new information that it does exist. However, the BOZA

went ahead and determined that a prescriptive easement in fact exists.

The Board recognized that it's not competent to decide this issue, and effectively, that's just what it did. We showed in our brief, the transcripts -- the April transcript at page 101, line 1, the BOZA states that we're not competent to decide that issue, referring to a prescriptive easement. And a few lines later, they go ahead and state, well, we're going to decide this as though there were an easement. So, by assuming the existence of a prescriptive easement, it effectively decided to dispute a factual issue. And that issue should have been determined by a court of competent jurisdiction prior to the BOZA acting on the application.

So, the BOZA recognized it needed to determine -- that a determination needed to be made on the easement. They couldn't decide it, but they went ahead and decided it anyway. And on that basis, you know, approved the variance application. And doing so was outside its jurisdiction.

Your Honor, our second ground of the -- which is the assumptions -- the determination of the existence of a prescriptive easement was not supported by the evidence. Assuming that the Board, BOZA, could, in fact, make a determination on the existence of the easement, BOZA abused its discretion when it assumed that the prescriptive easement does exist, as opposed to determining that it does not exist.

The -- a proponent of a prescriptive easement must prove by clear and convincing evidence that a continued and uninterrupted use for a period of 20 years. It must be able to identify the easement, what the scope of their easement is, and must show that it's been adverse. Here, the County presented no evidence of a prescriptive easement. They had no documents showing any actual maintenance of a private driveway. They have no witnesses testifying that any maintenance of the property had ever occurred, and certainly nobody testifying to 20 years of continuous maintenance. The only thing they offered to the Board was simply a reference to institutional knowledge and institutional memory, which is not evidence.

THE COURT: Did they -- and I'll admit that was sort of intriguing yesterday when I read through all this. The Board's position was there was an institutional memory that there was an easement? That was a finding?

MR. PAAVOLA: The Board requested input on the easement from county staff, county attorney, and a county roads and bridges employee, each of which simply referenced institutional knowledge or memory that they actually maintained the property. That's it.

THE COURT: Okay.

MR. PAAVOLA: And on the other side, the petitioners again presented that affidavit from Janet Ratliff, which I

mentioned earlier, which testified they maintained the property for four decades, an affidavit from Lori Ellenburg Bright, that's record page 292, who is a granddaughter of T.B. Ellenburg, and she, in her affidavit, stated that she's lived at the Ellenburg Road -- she had lived there for about 40 years, and she testified that the end of county maintenance sign had existed always between 575 and 585 Ellenburg Road, and she'd go by that for decades.

The clients also provided Exhibit A to the brief, the pictures I showed you earlier, depicting the actual road and the evidence on the ground that the county lane striping ends before it gets to my client's property, and showing that my clients have used the entirety of that property for their business.

And finally, the petitioners provided letters from Jimmy Ratliff, who is the current owner/operator of John's Marine, and you know, information from the Ratliff family stating that their dad paid -- has maintained the road for 40 years and they have continuously used it since that time.

We believe it was arbitrarily capricious to decide this dispute -- factual issue in the county's favor. Here, all the evidence was in the petitioner's favor. So, if the BOZA is allowed to make a determination on a prescriptive easement on a disputed issue, it was arbitrary to decide it in the county's favor. At the minimum, the evidence should have been

decided in the petitioner's favor, Your Honor.

THE COURT: Okay.

MR. PAAVOLA: Your Honor, the -- our third ground is the unilateral expansion/modification of the burden. This assumes an easement exists, which we obviously dispute. Now, the BOZA, with its order, totally changes the character of Ellenburg Road and the law doesn't allow the state -- a dominate state to do that. The burden before the variance order went into place would have been minimal. If the county has an easement to do maintenance, or periodic maintenance on this section of Ellenburg Road, minimal burden, and there was no record they ever did that.

After this road approval goes into place, huge traffic increase, testimony there could be up to 200 cars a day driving past the petitioner's property. The petitioner's testified it would greatly impact their operations, and may even prevent them from operating as they have for 40 years. Those are new burdens that never existed beforehand.

THE COURT: Are they using the end of that property from the picture for storage or -- how are they using that alleged easement?

MR. PAAVOLA: Yes, Your Honor, let me share that picture. The black and white picture is probably the easiest.

THE COURT: Okay, yeah.

MR. PAAVOLA: The entire property is used for boat

storage, and the actual service bay is -- I'm kind of circling it -- but in order to park a boat on a trailer and a truck, they use the entire width of the drive and the shoulder to back the boats in there to service the engines. That's how they are using that.

THE COURT: All right, well, let me ask you this, because I'm looking at this picture, and I'm looking at the picture on, I guess, the easiest on the right, the color picture, which I assume is looking ---

MR. PAAVOLA: Looking toward the dead end.

THE COURT: All right. The subdivision is going to be on the right?

MR. PAAVOLA: The subdivision is back behind. So, there's this -- the acreage is back behind here. So, to the right is a slight bit of land, and then lake.

THE COURT: Okay. So -- and this is the only way to access that property? And I'm just asking. I'm not -- I just want to know to make sure I have ---

MR. PAAVOLA: The access would probably either be on -- you know, to the right if they are able to build a sufficient drive to the right in the trees here and go around our client's property. But yes, there's water on both sides, if that's what Your Honor is asking.

THE COURT: Okay, so there is no real way to access unless you're able to fit a road in to the right of the area

that's subject to the discussion on prescriptive easements.

MR. PAAVOLA: Maybe I have another picture of it perhaps. Yeah, you can sort of see here. Here's the marina, or the marine service road, and here's the -- you know, the developer's property. So, if they were able to get a road on their own property and go around and connect to that area, that may be the -- where the road could go. Otherwise, there's water on each side.

THE COURT: Okay. Okay, I just wanted to make sure I had that in my head straight. All right. So, you're basically alleging that they exceeded their authority in regard to the existence of a prescriptive easement and also in expanding it.

MR. PAAVOLA: Yes, Your Honor. They've, you know, gone around our clients and we haven't consented to that increase in the easement and the modification of it, if it even exists, which we dispute it does. And Your Honor ---

THE COURT: Does any deed there show that easement? Is there any deed that shows an easement in that spot?

MR. PAAVOLA: The County didn't produce any records to the Board about the easement. There's no documentation by the Board. And, of course, we're bound by the record today. That's all we have.

THE COURT: I mean, look, I left property issues like that long behind me years ago, but isn't that unusual for there not to be some mentioning of an easement in adjoining

properties' deeds? Or ---

MR. PAAVOLA: Yes. I mean, I guess our point of view would be if an easement existed, there must be some record of it, and none of it exists today. Nothing's before the Board.

THE COURT: Okay. I don't mean to interrupt you, I'm just trying to ---

MR. PAAVOLA: Yep. Okay. Your Honor, our fifth basis was the location of the roadway was left uncertain, though the statute has four criteria that the BOZA has to evaluate to approve a variance. The fourth criteria is answering the question of whether there's substantial detriment to the adjacent uses. The primary use here is John's Marine Service. It's not the only use. Our petitioners live here as well. But that's the primary use. So, the question is, would this variance be a substantial detriment to John's Marine?

The applicant originally submitted -- and I'll share my screen again -- submitted drawings -- I think I can share my screen again -- the applicant originally submitted drawings for the original hearing showing that it has 13 -- not 13, 31.9 feet between the corner of my client's property -- the edge of this property, it has 31.9 feet of its own property for the right of way, thus it needs 18.1 for the variance. That was the original dimensions.

However, in November -- however, in April, the applicants submitted a separate drawing showing that, in fact, the corner

of my client's property, they needed 9.1 feet onto it to make the 31.9 feet. The -- then it didn't redraw all the original drawings showing the roadway. My client, Jay Ratliff is a licensed South Carolina engineer, and he submitted drawings analyzing these two different roadway placements, and that's at the Exhibit B to our brief, and it's at the record at page 295, 97, and 98, and I'll go over that now.

Record page 295 uses the applicant's drawing and shows that they only have 22.8 feet between the corner panel of our client's property and their own property to place this 31-foot right of way they are requesting. This is their revised drawings. Mr. Ratliff also prepared this drawing -- this scaled drawing based on the original plans, provided by Ridgeway Engineering. He laid out John's Marine's service bay, a boat, and trailer, and the corner panel of my client's property, and what this demonstrates is that if the applicant had 31.9 feet from the corner of our client's property, it would be out here in the middle of lake, below the 804 barrier on Duke's property, which they could not build on. In fact, that's the problem with the original measurement that they provided to the BOZA.

The revised drawing, rather, shifts that 31.9 feet 9.1 feet onto my client's property, and when that happens, we can no longer back boats and trailers and trucks into our service bay. You can see that hatched out area would be -- we'd no

longer have the space to operate as we have been. This drawing was presented to the BOZA. The BOZA voted and approved the application knowing it didn't know the final location of the roadway. In fact, the BOZA didn't ask any questions about these drawings. It didn't analyze whether under the second scenario, if that would be a substantial detriment to my client's property.

In the BOZA's decision to approve the application, one of the factors that I would suggest they found significant was they believed our clients would gain property and not lose anything, or at least not lose access. This diagram shows that there are definitely some area there we lose property and lose access and are very, very damaged. So the BOZA needed to evaluate the application in light of this second scenario, and they never did.

They can't -- the BOZA can't possibly determine that a variance is not substantially detrimental. They don't analyze all the potential roadway placement scenarios. And we believe that it is arbitrary, capricious, and an abuse of its discretion. And finally, Your Honor, our fifth basis, the statute requires the BOZA to set forth its findings in writing. And the Court's give leeway for that, so that the order itself doesn't have to be exhaustive -- you can look at the transcript as well.

But in this case, the order and the transcript together,

none of that addresses this scenario where the right of way has to shift on our client's property by nine feet. I mean, because they -- the BOZA didn't analyze that, it failed to meet the statutory requirements to approve the variance. Your Honor, that's -- I'll take any questions that you have, Your Honor. I'm happy to answer them.

THE COURT: Well, I have a lot, but I'm not sure that -- yeah. I'd like to hear the other side first. I mean, I -- so, I'll be happy to do that. By the way, just so I -- for my records, who does everybody represent? I'm looking at a lot of people. I'm just curious.

MR. BRANDT: Well, I represent Globe and Farmes, and Ridgewater Engineering and Surveying. They're named on there, and I have their permission to represent them, too, but they're not the true party in interest here. Globe and Farmes are the true parties in interest, and we've already let them intervene and added them as parties to the action. But let's ---

THE COURT: Well, who represents Oconee County Board of Zoning?

MR. HOLLIDAY: Your Honor, myself and Bo Bowman also represent Globe and Farmes.

MR. BRANDT: Well ---

THE COURT: Okay. Wait a minute, I've got -- Jim, you're muted. Who do you -- you're just here watching because you're

bored this morning?

MR. BRANDT: He represents Oconee County.

MR. LOGAN: Let me get my -- oh, I'm muted. Can you hear me now?

THE COURT: Yeah, I can hear you now.

MR. LOGAN: Okay, well, I represent Oconee County.

THE COURT: Okay. All right.

MR. BRANDT: Well ---

THE COURT: We've got that straight. Yes, sir.

MR. BRANDT: Let's make a few things clear. The 31.9 feet variance is solely on property owned by my client. It does not touch, does not -- anything does not affect the Ratliff property whatsoever. The road that we're arguing about, where the prescriptive public easement or public road is basically -- you might get a grain or two one way or the other, but really the property line -- my client's property goes down the middle of that road -- Ellenburg Road.

So, certainly they have a right to use half that road any way they want to, as long as it doesn't obstruct public use. Now, they keep talking about there not being -- it's being a private driveway. Now, I don't think the fact that whether it's a private easement or a public easement, I don't think it matters, nor is it material relevant to the consideration of the petitioner's and appellant's claim. They basically -- a prescriptive easement just means you don't have a deed to it

and you take it by use.

However -- and we've got a lot of roads in Oconee County, and I dare say in most every county, that's been there for years and years and years, and there's no deeded right of way. Now, in the 11/30/21 hearing, page 81 through 83, Jay Ratliffs gives a history of that road. Now, they're talking about a historical data doesn't count. He gives it, though. He admits to, in his statement, he said that back years ago, his mother lived there, and it used to be a state road. And then at some point and time, and that was basically, I think, when the lake was built, a lot of roads were interfered with with the lake.

Under the statute, basically, on abandoned portions, a road -- if they revert, it would revert to the jurisdiction of the respective appropriate local authorities involved, or be abandoned as a public way. One of two things has to happen. So, it came back to Oconee County and Ellenburg Road was assigned a number of WA-42. WA just means it's identified by Township. That's Wagener Township. It has that nomenclature on every -- on plats, and in fact, at 283 of the transcript, there is a deed that the Ratliffs -- it was an inter-family transaction, I think, and they put that deed on record referencing a plat that clearly identifies Ellenburg Road as a public right of way.

But go back to the state -- it gets to the county. And then, you have to have, if you're going to close the public

nature -- take it out of the public inventory, there is a particular statute at 57-9-10, which sets out a formal procedure for terminating a public right of way.

THE COURT: Right.

MR. BRANDT: This is addressed in the case of Henson Family Holdings, SCDOT versus Henson Family Holdings, I think, and it would be 361 South Carolina 649, 608 S.C. 2nd 781. It's a Supreme Court 2004 case. There has never been an action filed by anyone to close that road, and if it did, you would have had to have given the property owners on each side of the roadway being abandoned, notice, bring them into court, and then the Court has to have all necessary parties. No such action has been done.

So, I submit that it's -- it is not a determination that the zoning board had to make. It's clear from the history, not from just the -- from Oconee County's perspective of that road, because they addressed it later. They did some maintenance on it in 2012, up the hill, I don't remember how many feet, but several hundred feet back from my client's property line. There was a sign down there up until this matter got started that said County Maintenance Ends Here. And it was right on the line with my client's property.

Jay -- but if you read that portion of the road, Jay let -- Jay Ratliffs, speaking for the Ratliff family, describes that road being a state highway, and being abandoned. And he

even goes so far as to recognize that it's been passed down to the county, and became part of the county system. There's no record of anything. Now, this business of building a new road was to try to accommodate his complaints that the road -- that we can move the road over and give him more property to maneuver his boats, conduct his business. Now, he is using the entire roadway plus some outside the roadway, because we own property on the other side of Ellenburg Road, too, before you get to the point, that leading down to the point, that we need the variance for.

And he's been using that. It's a private road, and he's basically using ours. Now, we don't have any problem with him doing that. But what we were trying to do was accommodate his concerns. And there was concern about that.

THE COURT: Right.

MR. BRANDT: I think you've got three hearings here. Three times we went over there. First time, it was pretty long. Second time, it didn't last that much, and we wanted to try to negotiate something and see if we could work something out. That failed. We went back for the final hearing, and that lasted a while.

The Board of Zoning Appeals certainly didn't make an arbitrary, capricious decision. They thought it through. They listened to everybody. They were very patient, and in this case, I think it's one of the best performances by the

Board of Zoning Appeals that, at least, in my career, that I've ever had -- that I've ever seen. They tried to be fair. They tried to accommodate everybody's complaints and resolve them. It wasn't to be.

But again, if you look at page 283 of the transcript, you'll see the plat the Ratliff's, which references Ellenburg Road. Certainly, whether we've got -- it's a public easement or just a private easement going down through there, we've got -- certainly could do that -- we didn't raise that below -- not trying to argue that again. But certainly -- and the Ratliffs have said we're not trying to cut us off from our property, they just don't like the fact we're going to put 29 houses back there.

So, it doesn't matter whether it's a public roadway or not, we still have -- would still have access to our property. And certainly, the effect of what happened was taken into consideration by the BZA because -- and they talk about traffic studies hadn't been done. There's a lot of things, even if we were granted this easement -- I mean, this variance, there are a lot of things that will have to happen before it becomes a reality.

We will have to bring roads up to specifications, what -- within the limits of what we have there to do. We can leave the road where it is and widen it, and expand -- the widening all the way across our property, which we proposed, but we

said, well, fine, what we'll do if we own the fee -- half the fee -- or the fee on half that road that's already there, we'll move the road completely on our property and we'll deed Jimmy the entire roadway -- the old roadway. And then we'd have to bring an action to abandon that portion of the roadway as a county road, as a public roadway. And we did offer that.

Roads and Bridges, their -- the final permits for building the residential subdivision is there. And we've got to comply, so the mere fact we get the variance, we wanted to know that the county could give us the variance before we go spending this money on the other -- the other facets of development. And there still may be, even with the variance granted, I'll admit there still may not be a way to get in there. We've got to know we've got the variance before we go to spending a lot of this money on other engineering and stuff, and we've spent a good bit of money already to try to get it ready.

The -- but right now -- and certainly, I don't need to tell the judge the law, and I think Mr. Paavola, or whoever wrote the memorandums or the briefs for them has correctly stated, you know, that if there's any supporting evidence in the record -- it's not whether the Court would agree with the decision or not of the Board of Zoning Appeals, is the fact if there's any evidence in the record which would support their decision, then you have to give deference to the court -- the

Board. And it can't be disturbed.

And the -- so, those cases obviously have been there. I mean, Venture Engineering case 433 South Carolina 419, and 858 Southeast Second at 638, a 2021 case, are more recent cases that addresses that issue, but they have -- there are other cases behind those two. So, we feel like that the Board of Zoning Appeals endeavored in good faith. They did not take anyone's claims or complaints lightly. They had to make a decision one way or the other. They made it. There is evidence in the record, if you review the record carefully. There is evidence in the record, including plats, deeds, which was given to the -- presented at the hearing, and is in the record that support what the Zoning Board did.

Certainly, we think that that is -- it should be -- the variance -- the decision of the Board of Zoning Appeals should be upheld.

THE COURT: Okay. Mr. Paavola, let me ask you a question. What -- if -- under what right has your client been using this, for lack of a better word, old road? In other words, I understand that they've got some vested interest in making sure that they can operate their business, but just out of curiosity, I'm -- how did they end up using what, at the very worst, is an old road that probably should have been closed many years ago, but that's such a cumbersome process that, you know.

MR. PAAVOLA: Your Honor, I don't know how much is in the record on the history of that. My clients, when they moved their shop there, obviously established a service business and have been using that entire area. Now, at one point and time, there was a fence that bordered the property and included the shoulder area, where they -- you see the boats parked, there was a fence.

THE COURT: Right.

MR. PAAVOLA: It's since fallen down, but that existed, so that really defined the boundaries of where they used the property for the business.

THE COURT: But I mean, on their deed, it doesn't include that old road easement?

MR. PAAVOLA: No. There's no evidence of an old road existing, and I know Mr. Brandt said that -- the county staff that -- I think Mr. -- I can't remember his last name, but his name is Kyle, but he asked the state for evidence of an old road, and nothing came back. So, he testified that there's no evidence of an old state road there that had ever been turned over to the county. They had five months to go dig up any information, but they didn't produce anything. So, the record before the BOZA is there is no information that that was a county or a state road ever been ---

THE COURT: So your position is that there is a road up until the point of the old sign that's falling down that says

End State Maintenance, or End County Maintenance.

MR. PAAVOLA: Yeah, that -- so there is no -- that's a factual dispute, but there is not -- we are not disputing that the county has a regular maintenance easement up to that location of the old End of Maintenance sign, which is at 575 or 585 Ellenburg. But, you know, the question is where does the road end?

THE COURT: Right. That's my question.

MR. PAAVOLA: The county recognized that was the end of the road. This sign showing up at the end of our property briefly, and now it's disappeared. An unknown person moved it for an unknown period of time. That's not how it historically was. That seemed more related to these facts than the actual county doing actual, you know.

MR. HOLLIDAY: Your Honor, can I shed some light onto this issue?

THE COURT: Yeah, who's talking? I can't see.

MR. HOLLIDAY: This is Andrew Holliday. I'm sorry, Your Honor, I'm having some technical ---

THE COURT: That's okay. I got you.

MR. HOLLIDAY: So ---

THE COURT: Sure.

MR. HOLLIDAY: You know, Mr. Paavola has now said on two occasions after a direct question from you that there is no evidence in the record with regards to this road and its

status. And I was hoping that you could open the record to page 283, to go to the plat referenced by Mr. Brandt. And so, Mr. Paavola is either unaware of what the record has in it, or is lying to you. I'm inclined to be charitable, but I'm not really sure how you ignore the substantial evidence in the record that this is a public road.

Page 283 of the record makes it clear that Ellenburg Road, otherwise identified as WA-42, is a public road subject to the right of way. The other thing that's really interesting about this ---

THE COURT: Well, question -- and let me say this, I don't have that. I just have a -- looks like a copy of a portion of a survey, but are you -- does -- are you looking at anything that shows that that road at one time extended -- look, in my years on -- in this job, this is not my first roadway issue in Oconee County. Or Anderson. And ---

MR. HOLLIDAY: Judge, this is a plat that Jimmy and Lucretia Morgan had prepared themselves, by their survey, Michael Henderson, less than two years ago. It was introduced to the Board of Zoning Appeals. It's recorded in Book B-754 at Page 6 in the records of Oconee County. It was recorded in December of 2020, and it clearly shows that Ellenburg Road is a public road. And this is a plat that the appellants literally paid to have created. And it's in the record.

MR. PAAVOLA: Your Honor, if I may address that. I have

no problem addressing that issue. I was going to get to that. It was on my notes.

THE COURT: Okay.

MR. PAAVOLA: I mean, that plat is dated 2020. Obviously, it doesn't show anything prior to that. Also, I don't know if the records addressed it, but my clients were told that they had -- that had to be placed on that plat by the surveyor, that was required by the county, which kind of comes back to our -- full circle to where the county is saying it has access, everybody has an easement.

This is not evidence that it has a prescriptive easement on my client's property. This is a county requirement, not our client's admission, and it doesn't ---

THE COURT: Yea, there's got to be some -- at some point -- I mean, for me, the issue is whether there was ever a road that extended past what I guess everybody would say is the end of the ---

MR. HOLLIDAY: Your Honor, could ---

THE COURT: Yeah.

MR. HOLLIDAY: Mr. Brandt, and I ---

MR. BRANDT: Well ---

MR. HOLLIDAY: Mr. Brandt and I had talked previously and took parts of our argument, and I didn't know if I could argue that now.

THE COURT: Yeah, if you'll give me one minute, I've got

to step out of the room for just a second, I'll be right back, okay?

MR. HOLLIDAY: Thank you.

THE COURT: Yeah. Be right back. Y'all can take a break, too, if you need it. Two minutes.

(Brief recess)

THE COURT: All right, sorry about that. Appreciate it. Yeah, Mr. Holliday, were you wanting to argue that portion?

MR. BRANDT: He's not with us.

MR. HOLLIDAY: Certainly, Your Honor.

MR. BRANDT: Okay.

MR. HOLLIDAY: Sorry. There you go. Sorry, I thought I had worked through my ---

THE COURT: You're all right.

MR. HOLLIDAY: --- technical issues, but I'm still on my phone.

THE COURT: Okay.

MR. HOLLIDAY: As an initial matter, there is some evidence that is being attempted to be admitted by the appellants that's just not proper. If you look at the 15th page of their brief, they correctly state the standard of review and cite South Carolina Code 6-29-840, that this Court is to treat findings of the Board of Zoning Appeals as a finding by the jury, and that this Court may not take additional evidence. And that the findings of the Board of

Zoning Appeals will not be disturbed on appeal unless the record contains no evidence to support the BZA's findings.

For them to win today, they're asking you to throw out all the evidence that's presented. There's hundreds of pages of the record. Like I've just said a second ago, I cited page 283, which shows a plat that Mr. Ratliff and Mrs. Morgan prepared, or had prepared, which is recorded in the Register of Deeds. It appears in the record. So what we are bound by in this appeal is the record, and, you know, two pages prior in the appellant's brief on page 13, you'll see that they're attempting to introduce new evidence. They're -- they have other exhibits that do not appear in the record.

But specifically, on page 13, the bottom, you'll see a footnote 2, that says Exhibit D is Mrs. Ratliff's -- and I'm not real sure on the relation, but I assume this is Mr. Ratliff's mother or aunt or some relative, I would assume -- that says, well, her affidavit isn't contained in the record, but you should consider it anyways. But that's in violation of what the statute says.

The statute ties our hands and says this appeal is only based on what's in the record. And, so, we would object to the inclusion of anything that is submitted as an exhibit with the appellant's brief that does not appear in the record.

THE COURT: Okay.

MR. HOLLIDAY: Second, going back to my point about your

two direct questions to Mr. Paavola about the evidence that exists regarding the status of this road, there is plenty of evidence in the record and in the transcripts that talk about this road. And it's -- the fact that it's been public for decades and has never been abandoned, as Mr. Brandt stated, pursuant to the statute that governs that.

You know, this appeal is a rehashing of the, effectively, lies -- I don't like to use that word, but once you make misstatement after misstatement after misstatement and you don't correct it, all the way through three different meetings, and file the same arguments in this appeal brief, I don't know what else you can call it. You can only make it a mistake or a misstatement so many times. If it's not true, and you keep getting corrected about its truth or falsity and you refuse to correct it, I have to call it a lie.

It's not that I disagree with Mr. Paavola, it's just that he's factually incorrect, and I would like to ---

THE COURT: And what are you referring to there?

MR. HOLLIDAY: Certainly.

THE COURT: So I -- you guys know this case. I'm seeing it today.

MR. HOLLIDAY: Certainly. Certainly, Your Honor. So, I guess one of my personal favorites is the number of times that the transcript is directly cited in the appellate brief. And if you go and look at the transcript, it doesn't say what the

appellant brief says it says. So, this is my personal favorite, is on the -- the bottom of the fourth page of the brief, the appellant says that they raised their concerns about granting a variance between two private parties. And that, later on in his brief, he changes his statement and says that they did not have the jurisdiction to decide whether the county has a prescriptive easement.

And so, if you go back, and you look at page 86 of the transcript, the first statement is correct. They raise a concern. They say, that was my question, is if the county doesn't maintain, how can the county have any authority? Yeah, have any authority. We'll ask staff to answer that question in a second here. And it's never answered.

So, I would encourage you, in determining this case, go back and read the transcript and review the actual record, and you'll find discrepancy after discrepancy in what the appellant's are saying happened, and what happened. The words of the transcript do not line up with what the brief says happened. You know, it's just -- it's not a misunderstanding at that point.

You know, the top of the fifth page of the brief, where it says that the Board of Zoning Appeals recognized if the county does not maintain the private driveway, then it would not have the authority to grant the variance. That's -- it's just not what was said at that portion in the transcript. So

---

THE COURT: Well -- so, assume that -- I'm assuming that you're telling me that that's correct. But isn't that -- it is correct that if BOZA -- if the county doesn't maintain it ---

MR. HOLLIDAY: That's -- so ---

THE COURT: See, I don't have the transcript. That's the problem. But I'm ---

MR. HOLLIDAY: He cites page 86 from the November 21 hearing, lines 15 to 22 that says BOZA recognized that if the county -- recognized that if the county does not maintain the private driveway, then it would not have the authority to grant the variance application. That's not what that section says. It says -- it's a question that is never answered by county staff in that part of the transcript. But the bigger issue is that they've been misleading the Board of Zoning Appeals and this Court in that it's even a threshold issue about whether a prescriptive easement would or would not affect the granting of a variance, because it's completely immaterial. It's not germane.

A variance, by definition, is an exception to a rule. Pretty simple. A variance is only going to affect private property. In this situation, it only affects the respondent's property. We didn't apply for a variance on the Ratliff's property. We can't. We can't take their property. You know, I heard that argument by Mr. Paavola that this is a taking,

you know, and that, you know, somehow property is going to be seized. The respondent is attempting to put the road on his property, and give Mr. Ratliff more land.

All the evidence in the record supports that contention, because it's the truth. It is a complete fabrication that a prescriptive easement condition precedent to the grant of a variance and it's also factually inaccurate if you look at the plats that were provided, and not the drawings that, you know, Jay Ratliff put together in Clip Art.

If you look at what the actual experts put together and submitted, it shows Mr. Ratliff getting more land. I mean, it's just -- it's factually inaccurate to say that land is being taken from him, on top of the fact that it's completely immaterial about whether a prescriptive easement exists, which is abundantly clear, if you look at the deeds and the plats in the record, not to mention the plat that Jimmy had put together less than two years ago. You know, the argument that the county made his surveyor put the fact that it's a public road on the plat -- that's not real life.

The county can't come to a surveyor and say, hey, this is a public road, Mr. Surveyor, you've got to put that on your plat for this to be recorded. Like, that's the most ridiculous argument I've ever heard.

THE COURT: Well, has anybody -- I mean, and I was just talking to Will, my law clerk back there. I mean, Mr.

Paavola, does your client -- has an original survey, I guess. And y'all are -- you see the whole forest. I'm quite frankly running into trees here, because the question I've got is, I'm not worried about -- well, I am worried, and at some point we'll have to worry more about the existence of an easement, but I'm just kind of curious. I suspect that somebody's got a survey when your client bought that property that shows that either that road was there, or that easement was there, or it wasn't. And that was my question to you earlier. I -- somebody, can you get -- do you think your guy can get a hold of that, and -- I mean, that would go a long way to helping me understand. Because ---

MR. HOLLIDAY: Judge, there's nothing in the record that says it's a private road.

MR. BRANDT: Well, let me ask you. Are you asking for a survey when our clients bought the property from Duke? The deed's in the record, and it has Ellenburg Road. They conveyed it subject to Ellenburg Road.

THE COURT: Well, yeah, and I'm assuming that at some point -- when did John's Marine Service purchase this property? And I know that's an off the wall question, but do you got any idea? Anybody? Like, there had to be a survey done, right?

MR. HOLLIDAY: Not necessarily.

MR. BRANDT: Well, there are plats that show a road. It

doesn’t designate. There are other plats in the chain to title on the other properties through there that shows Ellenburg Road going all the way down through. However, it’s not designated as a public road. It’s just showing it as a road. But there have been people living on that thing for years.

MR. PAAVOLA: Your Honor, I’m not aware the record has any kind of plat showing that, showing Ellenburg Road down to my client’s property. In fact, I was going to share that page 290 of the record was a plat that my -- that the county gave my client and I’ll share it on the screen now.

THE COURT: Yeah, that would help.

MR. PAAVOLA: Yeah, this was -- this shows the --- the county drew on my client’s -- on this plat for my client showing that Ellenburg Road ends where the green is -- you can see the green on the drawing of my client’s property. So that’s where the county gave -- this is the drawing the county gave to my client showing the end of their maintenance and that’s where the road ended, the public portion of it. So, that’s the documents in the record. I don’t know of any other document in the record.

THE COURT: Okay. Can you blow that -- can you -- just so I can see it, I am getting older ---

MR. PAAVOLA: No, you’re right. I’m sorry.

THE COURT: Oh, no, that’s okay, because that’s actually

-- all right, so you're saying that the county gave your client that showing that that green mark ---

MR. PAAVOLA: Right.

THE COURT: -- was the end of the road?

MR. PAAVOLA: End of the county maintenance right there, not the end of the road. End of the county maintenance. This is where the sign was located. This was 2008, I believe, it's in Mrs. Ratliff's affidavit, and her and her daughter-in-law went to the county, and this is the document the county gave them, that's 299 Ellenburg down there ---

THE COURT: And I wish you could see my -- but, from that green mark to the green portion of property, which I assume is the subject of this action and where the houses are going to be built, on 103 and on 99, there's no reference to that road?

MR. PAAVOLA: Right. There is not.

THE COURT: Does everybody to agree to that? Or does anybody have something showing that that's different?

MR. HOLLIDAY: Your Honor, this isn't even a recorded plat.

THE COURT: Well, I'm -- yeah, I'm -- but, I mean, does anybody have -- this is my question. Is there -- does someone have a plat showing a -- and I think Larry -- or Mr. Brandt said there was, that there is an easement or an old road or a county easement or -- because it's either an easement, an old road that has to be closed by the county, and that's something

that will have to be done in the future. Or, John's Marina owns 30 more feet of property, and that's not for me decide. It's just -- that would put us into a condemnation, if it was their property. You know, so I certainly don't want to get to that point.

MR. HOLLIDAY: That's the problem with this, Your Honor, is that that is the water that has been muddied for months now, is that it's not a condemnation. It is clearly a public road. It's in the county's road inventory. But, even if it was private, it's completely immaterial to the issuance of a variance. The variance is not contingent on the easement. The variance is just saying the county requires a 50-foot right of way for the installation of a road. And we don't have 50 feet because of the unique nature of this property. It's got a very narrow isthmus that is not 50 feet wide. We can't give them 50 feet of earth.

And so, if you look at the surveys that are of the proposed new road, you will see that it jogs a little bit south and west of the current road location to put the entire road onto my client's property.

THE COURT: And -- but according to Mr. Paavola's clients, you'd be taking their property that -- that's why I asked about his deed.

MR. BRANDT: No ---

MR. LOGAN: Your Honor, can I ask a question?

THE COURT: Sure. I'm just -- because I'm just trying to figure out exactly what's going on here. This is a ---

MR. LOGAN: All right, let me ask you this, because I was not at any of these hearings. I've just gotten involved on behalf of the county attorney since the last hearing. Put that -- somebody put that plat back on that you were looking at with the green dots, please.

THE COURT: And again, remember that we're always on the record, but we can technically go off the record to talk, there's just always going to be a recording.

MR. LOGAN: I understand, but if somebody would put that ---

THE COURT: But normally I would say let's go off the record and look at this, but -- and that's what I'd like to do.

(Off-the-record discussion held.)

THE COURT: All right, I've got enough here. I've got enough to make a -- look, the parameters of what I can and can't do -- I was trying to mediate a little bit, and nobody asked me to do that, so I apologize. It just looks to me like there's a -- that the Ratliff's -- the down line Ratliff's have a concern that somebody sometime is going to claim an easement across their property because unless I'm just misreading it -- I know, David, you're saying it's not there, but it looks like there is one. I mean ---

MR. PAAVOLA: Your Honor, I -- if I could show a couple of the documents, I think that would be helpful as well. May I share my screen?

THE COURT: Yeah, and by the way, we did find that we do have a 465-page record that was apparently sent after work on Friday. Yeah, that ---

MR. PAAVOLA: What I'm showing now, this is page 280 of the record. Unfortunately, in the record it's highlighted, so the maintenance right of way -- the road, they highlight always to the end, and that's actually not what the plat looks like. Here's the Ellenburg Road maintenance right of way, and it ends at that property at 565 Ellenburg. Now, this is dated in 2008, and that is very similar to the document I showed earlier, which was the county's document they provided my client, showing that the end of county maintenance was right there at 565 Ellenburg. This is also 2008. So, this is very similar time period. Those are the documents that ---

THE COURT: The problem is, I don't think that's an official -- that looks like something like a tax map or something.

MR. PAAVOLA: Well, because probably the county map internal system where they were counting as their easement. But even this, there's no reason to suggest that -- on the plat that this section of Ellenburg Road is somehow county maintained. In fact, all the evidence is that it's not. And

it ---

MR. HOLLIDAY: David -- David, in that right corner, doesn't it say Nail F pavement end -- end of pavement?

MR. PAAVOLA: Sure, the road's paved there. There's no -- we paved it in 1980, so there's no doubt the road's paved there. They don't ---

MR. HOLLIDAY: Why would it say Ellenburg Road maintenance right of way? Why would it say that Ellenburg Road is a maintenance right of way and why would the end of pavement be marked on that plat?

MR. PAAVOLA: Your Honor, the Court's obviously bound by the record before it. The Board of Zoning Appeals asked for evidence. These documents were before it. The county had five months to provide documents and testimony and witnesses, and the only thing they came up with was institutional memory. They didn't -- none of this was argued. Yeah, it may be in the record, but the county didn't rely any of this to suggest to show they had an easement, so. That's what the Court's bound by today.

THE COURT: Okay. Jim, and let -- wait, Jim -- I'm sorry, Mr. Logan, I keep wanting to say Jim. Mr. Logan, yeah, I can see you were waiving your hand.

MR. LOGAN: Yes.

MR. BRANDT: That plat's in the record.

THE COURT: Right.

MR. LOGAN: That plat is in the record. It clearly shows a right of way. Whether or not they maintained a portion of it or not, for however long, it doesn't have anything to do with whether or not it's a right of way. They took title subject to the right of way. The right of way exists on plats. If that's not institutional knowledge, I don't know what is. Plus, they've got the -- the only way, if he wants to stop it at the end of the pavement, it's never been abandoned. And that's the only way you can do away with the easement is bring an action to abandon it. They never did that.

THE COURT: Yeah.

MR. LOGAN: So, I mean that -- I want to defend the Board a little bit. They had all of this in front of them. I've got a copy, and I think we sent it, you should have it, is actually ---

THE COURT: We do.

MR. LOGAN: --- Legal Eagle transcript of the hearing, if there are any deficiencies in what the Board did, I can -- I want you to read this hearing. I can point out some particular sections if you want me to, but I want you to read it, and they gave it as thoughtful a consideration as possible, and their own law says that that's just like a jury verdict. That's just like the jury. You can't overturn that. It's a jury matter, based upon their analysis of the record.

THE COURT: Yep.

MR. LOGAN: Prescriptive easement, it's -- and they don't even own the affected property here. So, I think that's -- and here with the time, that's all I've got. I'd just ask you to look in the record. They did it right, and we've now established that there is an easement there, and they should be affirmed in all respects. Thank you, sir.

THE COURT: Yeah, I've got enough here. And I'm going to have to read that. I really appreciate you sending it to me, so now I want to read it. But I've got the time. So, I'll take it under advisement, like I said. I have done enough of these, I understand the parameters of what I'm -- necessary legally. I just -- this is one of those cases that number one, is not really made for video, but we had to do it this way. And number two, there seems to be a way for everybody to get what they want, but that's for y'all to decide. So, give me till next Monday, and if you hadn't heard something from me by Monday, then we'll have to schedule that hearing for the supersedeas. Okay?

MR. PAAVOLA: Thank you, Your Honor. We obviously feel strongly about the position, and of course, we're willing talk to the other side.

THE COURT: Yeah, I would. I mean, I do. I think -- look, if I owned that marine service, I would be concerned about the fact that I could back a boat out and back a boat

in. I would also be concerned that at some point, somebody -- the county's going to come in and -- with easements and you're going to have this argument again. If you could get the county to convey that to them, it sounds like that's what their willing to do. But again, you know your case. I'm not trying to tell you. All right, thanks, y'all. I will let you know something by Monday, and if not, we'll reschedule the supersedeas for next week. Wherever I am, I'll -- we'll be back on this computer.

MR. LOGAN: Thank you, Judge.

THE COURT: All right, thank y'all.

(Hearing Concluded.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED MONA L. MANLEY, OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF ALL REQUESTED PROCEEDINGS RECORDED AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT OF OCONEE COUNTY, SOUTH CAROLINA, ON THE 16TH DAY OF AUGUST, 2022.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

February 25, 2023

_____

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