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**Dec 19 2023**

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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**SC Court of Appeals**

The Honorable Marvin H. Dukes, III  
Beaufort County Trial Court  
Case No. 2020-CP-07-0231

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APPELLATE CASE NO.  
2023-000438

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Georgia Harrison, Barbara Harrison,  
Joyce Ellen Harrison, William S.  
Harrison III, Stanley Roberts,  
and Diana Mendheim,  
Individually and As Attorney In Fact,

Respondents,

vs.

Stephanie Lorraine Kirkland, Gary  
Lamont Kirkland, Kieta Nicole  
White, and Cheryl Kirkland,

Appellants.

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**APPELLANTS' MOTION FOR EXTENSION OF TIME  
TO FILE FINAL BRIEF AND RECORD ON APPEAL**

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The Appellants through their undersigned counsel would, with leave of court, move the court, pursuant to Rule 240, SCRAP, for an order extending the time for filing the Appellants Final Brief and the Record on Appeal, for a period of Thirty (30) days. The Appellants Final Brief is due on December 20, 2023 and no prior extensions have been requested.

The grounds in support of the motion among others are the follow:

- 1 There has been a flurry of activity in the lower court since the Plaintiffs' attempted sale of the property to Rotunda was unsuccessful. (See Exhibit 1)
- 2 Appellants' counsel during the months of November and December 2023 is in the process of relocating both his residence and Law Office from Hilton Head Island to Beaufort.
- 3 The printing shops are overloaded with Christmas/ Holiday/ New Year printing orders and are unwilling to give a commitment date for completion.

Respectfully submitted,

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December 18, 2023  
Beaufort, SC

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPELLATE CASE NO.  
2023-000438

EXHIBIT 1

**MOTION TO VOID MASTER'S DEED**

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORD

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL DISTRICT  
CIVIL ACTION # 2020-CP-07-02301

GEORGIA HARRISON, BARBARA  
HARRISON, JOYCE ELLEN HARRISON,  
WILLIAM S. HARRISON, III, STANLEY  
ROBERTS AND DIANA MENDHEIM  
INDIVIDUALLY AND AS AGENT AND  
ATTORNEY IN FACT,

DEFENDANTS' MOTION TO VOID  
MASTER'S DEED AND MOTION TO  
ENFORCE RIGHT OF FIRST REFUSAL  
UNDER PINCKNEY ACT

Plaintiffs,

vs.

STEPHANIE LORRAINE KIRKLAND, GARY  
LAMONT KIRKLAND, KIETA NICOLE  
WHITE, AND CHERYL KIRKLAND,

Defendants.

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COME NOW the Defendants who, for this Motion to Void Master's Deed and Motion to Enforce Right of First Refusal Under Pinckney Act (the "Motion"), state as follows:

**BACKGROUND**

A. Commencement of Lawsuit

Plaintiffs commenced this action to clear title on November 24, 2020, attempting to sell their interests in the approximately 26.462 acres of real property located at the north end of Hilton Head Island, Beaufort County, South Carolina (the "Property") to a third party – Rotunda Land and Development Corporation LLC ("Rotunda"); Plaintiffs

entered the contract to sell the Property to Rotunda prior to commencing this lawsuit.<sup>1</sup> It was determined by the Court by order dated September 15, 2021 that the fair market value of the Property was \$9.1 million. Defendants were only notified of their right of first refusal under South Carolina statute almost a year after the commencement of this lawsuit on October 20, 2021 (the "Notice") and after Plaintiffs already entered a contract to sell the Property to a third party – Rotunda.

B. *Defendants' Exercise of Right of First Refusal and Request for Extension of Sixty Days*

Defendants then properly notified the Court of their interest in purchasing the Property. The Court then ordered that Defendants pay the \$9.1 million purchase price as determined by the Court in full within sixty days of the Notice (December 22, 2021). Given the considerably large purchase price, given the legal status of the title of the Property as held by "heirs title", given the necessary due diligence required to close on the Property, and given the statutory scheme under the Pinckney Act allowing for a period of longer than sixty days to tender the purchase price. Defendants requested an extension of the sixty-day timeline in order to secure funding for the purchase of the Property.

C. *Defendants Need Clear Title to Property; Funding Secured to Purchase Property*

Defendants have maintained throughout this litigation that they wish to purchase the Property and stand ready and capable to close immediately. Defendants secured funding to purchase the Property before December 22, 2021. However, Defendants must use, as collateral, the clear, fee simple title to the Property. Without having a clear,

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<sup>1</sup> The Rotunda contract was amended numerous times during the pendency of the case before this Court; however, Defendants were not provided copies of the amendments as they were executed and were only provided with the contract and some (but not all) of its amendments in January 2022.

marketable title to the Property, Defendants have been prohibited from purchasing the Property. In essence, this litigation primarily requests that the Court clear title to the Property by issuing a fee simple title to the Property and grant Defendants the right provided to them under the Pinckney Act (as defined below). The Court has refused to issue an Order declaring the fee simple absolute title to the Property is vested in the parties to this action as tenants in common.

D. *Master's Deed Issued Over Defendants' Objection May 24, 2023*

The Court denied the Defendants' requested relief. Thereafter, Plaintiffs petitioned the Court to issue a Master's Deed. The Plaintiffs have claimed numerous times that all they need to close on the sale of the Property to Rotunda is the Court's issuance of a Master's Deed. For example, on February 24, 2023 during the hearing on Defendants' Motion for Reconsideration filed November 17, 2022, Tom Taylor, counsel for Plaintiffs, represented as follows:

And, in any event, Your Honor, we have a binding contract with Rotunda that we need to honor or else we will be sued for breach of contract. The Rotunda people, through Terry [Finger, Esq., counsel for Rotunda], have worked with us. They have, actually, Your Honor, increased the price that they are going to pay by 600 - - excuse me. Yes, \$650,000. ***That money is ready and we are ready to close today.*** Your Honor has already ruled on the issue of the master's deed. (See Transcript, Feb. 24, 2023 at 28:13-24.) (Emphasis added)

Tom Taylor further represented to the Court on May 15, 2023 at hearing on Defendants' Amended Motion to Enforce Right of First Refusal Under Pinckney Act and Alternate Relief as follows:

Any, Your Honor, I think Terry [Finger, Esq., counsel for Rotunda] will probably state in a minute, if given the chance, that ***Rotunda is***

***ready to close and is ready to close within the next 15 days once we have the proposed master's deed executed by the Court.***" (See Transcript, May 15, 2023 at 12:4-10.) (Emphasis added)

Thereafter, Judge Dukes adopted Tom Taylor's representation stating, "***Rotunda is ready to close with the current state of the title . . .***" (See Transcript, May 15, 2023 at 50:2-3.) (Emphasis added) On May 24, 2023, over the objection of Defendants, the Court entered an order granting a Master's Deed purportedly transferring Defendants' interest in the Property. After more than five months, Plaintiffs still have not closed on the transaction with Rotunda nor have Plaintiffs provided any proof of Rotunda's financial ability to close on the proposed transaction. Upon information and belief, Plaintiffs have recently refunded to Rotunda the sum of \$50,000.00 initially paid into escrow by Rotunda as a good faith deposit of the purchase price of the property.

E. *Uncertainty as to Rotunda Contract; No Update to Court and No Deadline to Close under Master's Deed*

The current state of financing and the debt market must be considered. The parties have failed to provide any status update to the court; despite representations by Plaintiffs and counsel for Rotunda to the Court that there would be no impediment to closing once Master's Deed was issued. The Master's Deed fails to provide a deadline for Plaintiffs to close the sale of the Property and essentially holds the Property (and Defendants' interest therein) in abeyance into perpetuity (far longer than Defendants had sought to arrange for a closing on commercially reasonable terms). This violates Defendants' due process rights and is an unlawful taking as well as acting contradictory

to the rationale for issuing a Master's Deed and provides further support for Defendants' position in this case.

Plaintiffs represented on numerous occasions that they are prepared to close on the Rotunda contract (over Defendants' objection) without the need for further court intervention upon receipt of a Master's Deed. The reality however, is that Plaintiffs are unable to close on the sale of the Property without the Court's assistance to get marketable title. This is the same assurance and direction that the Defendants sought from the Court in December 2021. At that time, Defendants were advised by the Court that the Court was not prepared to take any action at all and that Defendants would receive only what Plaintiffs could transfer to them:

And the opportunity to be in first position was waived by failure to post the appropriate amount of money at the appropriate time. You know, that's the way it is. You know, I'd love to make everybody happy, but I can't do that.

And so what we're going to do is try to protect the rights of all of the heirs, the 98 percent and the 2 percent and get them as much money as possible and as quickly as possible. And it seems like that's the deal that we've already discussed that's been going on for two years. So I don't know what else we need to do. I think that resolves the issue.

To the extent that there are motions to reconsider out there, I'm going to deny them. I think I saw, scrolling through here, there were two of them filed, but – and I'm going to deny those motions. And I assume the buyer – the primary buyer will proceed ahead and y'all let me know what the schedule is. (See Transcript, January 6, 2022 at 37:12 – 38:11).

Now that Plaintiffs and Rotunda are attempting to secure title insurance, they, too, need assistance from the Court. Plaintiffs' counsel represented in status conference held April 5, 2023 that the Rotunda contract required the parties to close on April 21, 2023.

MR. WILLIAMS: Chet Williams.  
Right now – I mean, the contract between Rotunda and the sellers, I think, provides for closing, actually, on April 21<sup>st</sup>. (See Transcript, April 5, 2023 at 10:17-21).

Defendants objected to Plaintiffs' proposed Master's Deed because it failed to acknowledge the pending appeal.<sup>2</sup> After the objection was raised, counsel for Plaintiffs and Rotunda questioned whether the title company would issue title insurance given the pending appeal. Upon information and belief, Rotunda is not prepared to close without marketable title to the Property. Further, upon information and belief, Rotunda has withdrawn the earnest money it placed on file with the title company; thus, signaling no valid contract to purchase the Property.

Additionally, on September 20, 2023, Rotunda filed a Lis Pendens in Beaufort Court of Common Pleas, Fourteenth Judicial Circuit, Civil Action No. 2023-LP-07-00261 against Plaintiff heirs in the foregoing action before this Court " . . . seeking [recovery for] breach of contract [for Plaintiff's heirs] failure to provide good marketable title and sell the real estate [Property] to [Rotunda] pursuant to a Purchase and Sale Agreement dated September 14, 2020, as amended."

On September 21, 2023, Rotunda filed an Amended Lis Pendens adding Defendant heirs as defendants despite the fact that Defendant heirs never entered into a contract with Rotunda. On October 12, 2023, Tom Taylor, Esq. on behalf of Plaintiff heirs, filed a Notice of Motion and Motion to Cancel Lis Pendens on the grounds that, ". . . the original [Lis Pendens] was filed more than twenty (20) days prior to filing of a Complaint. The

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<sup>2</sup> Defendants maintain that the Court's entry of a Master's Deed for the Rotunda contract is improper and inconsistent with the law and spirit of the Pinckney Act.

original Lis Pendens was filed on September 20, 2023 and on information and belief, no Complaint has yet been filed.” If Plaintiff heirs’ motion is granted, the Lis Pendens and the Amended Lis Pendens would be void. At a minimum, Plaintiffs should be required to confirm whether the Rotunda contract has been rescinded, amended or still effective as neither Defendant heirs nor their counsel are privy to any updates on the status of the Rotunda contract.

On March 9, 2022, Defendants filed an appeal of the Court’s orders dated May 21, 2021, October 22, 2021, and January 20, 2022. On March 13, 2023, Defendants filed an appeal of the Court’s order dated March 8, 2023 denying Defendant’s Motion for Reconsideration and the Court’s November 7, 2022 order. The second appeal is still pending; Plaintiffs initially attempted to close and sell the Property to Rotunda without first notifying the title company of the pending appeal. Upon information and belief, the title company will not close on the sale of the Property to Rotunda. Ultimately, Plaintiffs are unable to close on the sale of the Property to Rotunda despite having the Master’s Deed in its possession for almost five months. At the time Defendants were first given Notice of their right of first refusal, they did not have sufficient time to conduct due diligence and secure funding to purchase the Property within sixty days. However, Defendants have been prepared to deposit the full purchase price of the Property into the Court’s registry promptly and complete the purchase of the Property since December 22, 2022.

Defendants thus respectfully request that the Court void the Master’s Deed and enter an order recognizing Defendants’ right of first refusal to purchase the Property

specifically and clearly granted under S.C. Code Ann. § 15-61-310, *et seq.* (the “Pinckney Act”).

### **ARGUMENT**

The Court should grant the Motion and award Defendants the right to exercise the right to purchase the Property with a clear, marketable title under the Pinckney Act and under general principles of South Carolina law governing the right of first refusal.

#### A. *The Pinckney Act*

The Pinckney Act provides that upon filing a petition for partition of real property owned by joint tenants or tenants in common, the court shall provide for non-petitioning joint tenants or tenants in common<sup>3</sup> who are interested in purchasing the property to notify the court of that interest no later than ten days prior to the date set for the trial of the case; a joint tenant or tenant in common that properly notifies the court prior to the deadline “must be allowed to purchase the interests of any cotenant who requested a partition by sale...” S.C. Code Ann. §§ 15-61-330(A); 15-61-370(B). In other words, non-petitioning joint tenants or tenants in common have a right of first refusal to purchase subject property. The purchase price for the interests of a cotenant that requested a partition by sale is the value of the entire parcel determined by the Court pursuant to § 15-61-360 multiplied by the cotenant’s fractional ownership of the entire parcel. S.C. Code Ann. § 15-61-370(C).

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<sup>3</sup> For purposes of the Pinckney Act, heirs and devisees are included within the definition of joint tenants and tenants in common. S.C. Code Ann. § 15-61-25.

If a joint tenant or tenant in common elects to buy all interests of its cotenants that requested partition by sale, the court shall notify the petitioning party of that fact; the petitioning party then shall notify all other parties of that same fact. S.C. Code Ann. § 15-61-370(D). Once notices are properly sent, the court shall set a date, not sooner than sixty days after the date the notice was sent, by which purchasing joint tenants or tenants in common must pay their apportioned price into the registry of the court. S.C. Code Ann. § 15-61-370(E). If apportioned amounts are properly and timely paid, the court shall issue an order reallocating the interests and disbursing the amounts held by the court to the persons entitled to them. *Id.*

After receiving the Notice, Defendants have worked promptly and continuously in good faith to secure the purchase of the Property, despite the fact that Plaintiffs disregarded Defendants' right of first refusal and had already entered into an agreement to sell the Property to Rotunda. Because the Pinckney Act expressly allows the Court to grant the Defendants more than sixty days to put forth the funds to purchase the Property, and because of the complexity and value of the Property, Defendants requested a longer time period than sixty days to deposit the funds in accordance with the statute. That request was denied. Defendants were able to secure full funding for the Property's purchase by December 22, 2021, but requested the Court issue a marketable, clear title to the Property in order for Defendants to put forth the Property as collateral. That request was also denied. Defendants have put forth their best efforts in comporting with the Pinckney Act. The Pinckney Act's right of first refusal was promulgated so that properties, such as the Property, could remain in the hands and interest of its electing

cotenants if those cotenants so chose. The intent to give cotenants an opportunity to maintain their interests in properties is particularly imperative here with the Property being one of the last undeveloped areas of this size and value on Hilton Head Island.

Additionally, Plaintiffs have maintained throughout this litigation that it would be impractical for it to honor Defendants' right of first refusal under the Pinckney Act given the advanced stage of the deal with Rotunda. However, any resulting damage to Plaintiffs or Rotunda in the Court's honoring of Defendants' right of first refusal under the Pinckney Act is directly because of Plaintiffs' own failure to notify Defendants of their intent to sell the Property until almost a year after commencing this suit and because Plaintiffs prematurely entered into the contract with Rotunda before honoring Defendants' right of first refusal under Pinckney Act and further because Plaintiffs did not provide Defendants timely copies of the Rotunda contract and its various amendments, keeping Defendants in the dark as to the terms of the proposed sale. Additionally, Plaintiffs concede that the Court's November 7, 2022 Order does not require that the sale be to Rotunda.<sup>4</sup> Furthermore, Rotunda cannot close on the Property despite numerous times representing that it was prepared to close immediately. Plaintiff has been in possession of a Master's Deed for Defendants' interest in the Property for almost five months – far longer than the approximately sixty (60) days provided to Defendants to purchase the Property subject to applicable law and specifically, the Pinckney Act. Plaintiffs' and Defendants' interests

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<sup>4</sup> See Transcript, April 5, 2023 status conference at 23:9-24 ("Mr. Taylor: Your Honor, your order of November 7<sup>th</sup> authorizes partition of the property by sale, it does not restrict it to Rotunda. And, in fact, Rotunda is technically not a party to this action. What it authorizes is the prevailing plaintiffs to move forward with the partition by sale. And, quite candidly, *we would not be restricted to Rotunda*, but we certainly in all good faith are representing to the Court that's exactly who we're closing it to, it's simply a new entity that has been created by the assignment, which we'll be glad to provide. (Emphasis added)

are aligned in completing the sale of the Property; Plaintiffs want to sell and Defendants want to buy at the fair price as set by the Court.

Additionally, the spirit of the Pinckney Act provides that cotenants may have up until ten days prior to the trial setting to elect to purchase the subject property. S.C. Code Ann. § 15-61-370(B). Defendants have expressed their intent to purchase the Property well before trial in this lawsuit. If Defendants had slightly more time, as allowed by statute, to complete the minimal commercial real estate due diligence as a condition to secure funding for the purchase of the Property, and if the Court had issued marketable title to the Property, Plaintiffs would have had no choice but to terminate, pursuant to the Pinckney Act right of first refusal, the deal with Rotunda and sell the Property to Defendants anyway.

Because Defendants complied with all Pinckney Act notice requirements in expressing Defendants' good faith intent to purchase the Property; because the Pinckney Act's purpose is to allow cotenants the right to purchase other cotenants' interests as a right of first refusal; because Plaintiffs are unable to sell the Property to Rotunda despite being issued a Master's Deed; because Defendants are prepared to purchase the Property; and because any harm to Plaintiffs as a result of the Court's honoring of Defendants' right of first refusal results from Plaintiffs' own actions including delay in notifying Defendants and Plaintiffs' premature entry into an agreement to sell the Property to a third party, Defendants respectfully request that the Court grant the Motion and allow Defendants to exercise their statutory rights under the Pinckney Act to purchase the Property.

B. Right of First Refusal

While the text and the spirit of the Pinckney Act favors Defendants' renewal of their right of first refusal to purchase the Property, South Carolina case law supports Defendants' position as well. Under well-established South Carolina law, a property owner is generally required, when he or she decides to sell, to first offer the property to the holder of a right of first refusal. *Webb v. Reames*, 485 S.E.2d 384, 385 (S.C. App. 1997). A right of first refusal constrains a real property owner's power of alienation of the property to a certain degree by requiring the owner to offer the property first to the holder of the right. *See Cnty. Of Jackson v. Nichols*, 623 S.E.2d 277, 280 (S.C. App. 2005).

A right of first refusal is only unenforceable if it unreasonably restrains alienation. *Wise v. Poston*, 316 S.E.2d 412, 415 (S.C. App. 1984); Restatement (Third) of Property: Servitudes §3.4. South Carolina courts consider the following factors in determining whether rights of first refusal are enforceable: (a) the legitimacy of the purpose of the right of first refusal, (b) the price at which the right of first refusal may be exercised, and (c) the procedures for exercising the right of first refusal. *Clarke v. Fine Housing, Inc.*, 882 S.E.2d 763, 767 (S.C. 2023) (citing Restatement (Third) of Property: Servitudes §3.4 cmt. f). "If the right to purchase is on the same terms and conditions as the owner may receive from a third party, if the procedures for exercising the right are clear, and if the period within which it must be exercised is relatively short, the right of first refusal is valid unless the purpose is not legitimate." Restatement (Third) of Property: Servitudes § 3.4 cmt. f. Courts typically only deem rights of first refusal to be invalid where the right of first refusal sets forth no mechanism to determine the price of the property or where the

right of first refusal period is unreasonably long. *See Clarke v. Fine Housing*, 882 S.E.2d at 766-767; *see also Mitchell v. Albertelli*, 2023 WL 292918 (S.C. App. 2023). Otherwise, rights of first refusal are honored and taken seriously.

Here, the Defendants' right of first refusal is valid and should be enforced. It is for a legitimate purpose – Defendants wish to retain the Property in which they hold interest as heirs. As stated above, Defendants' purpose in purchasing the Property is even more important because the Property is one of the last remaining undeveloped areas of this size on Hilton Head Island; the nature of the Property's ownership is critical.

Further, Defendants' purchase of the Property is pursuant to the payment terms set by the Court under the Pinckney Act, which is a fair and adequate figure. Defendants have no issues with paying the amounts set by the Court to purchase the Property. Additionally, the Defendants' right of first refusal is not for an unreasonable time period; the South Carolina legislature, per the Pinckney Act, has approved non-petitioning cotenants to elect to invoke their rights of first refusal and purchase respective properties as late as ten days prior to trial on a matter to partition property.

Because South Carolina law favors honoring rights of first refusal and because Defendants' right of first refusal does not unreasonably restrain alienation of the Property and Plaintiffs' Property rights, Defendants respectfully request the Court grant the Motion and enter an order allowing Defendants to invoke their right of first refusal to purchase the Property as they intend.

C. *Open-Market Sale or Auction Required if Right of First Refusal Not Reinstated*

If the Court does not reinstate Defendants' right of first refusal, the proper protocol is for the court to order an open-market sale or action. According to Pinckney Act (S.C. Code §15-61-400(A)), "If the court orders a sale of heirs' property, ***the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.***" (*emphasis added*). Rather than an open-market sale, the Plaintiffs brought in a premature contract for the sale the Property and assert it as a reason to bar Defendants' rights under law and equity. Plaintiffs cannot circumvent the Pinckney Act by prematurely entering into a contract with Rotunda prior to filing suit and prior to notifying Defendants of their right of first refusal. If the Court orders an open-market sale, the parties are first tasked with trying to jointly agree upon a broker. S.C. Code §15-61-400(B). If the parties cannot agree on a broker within thirty days after entry of order, ". . .the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission." S.C. Code §15-61-400(B).

"If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale." S.C. Code §15-61-400(E). The auction must be conducted in accordance with procedures governing judicial sales and auctions. S.C. Code §15-61-400(E).

In the event the Court does not reinstate Defendants' right of first refusal and proceeds with an order to sale the Property, the proper protocol is to order either an open-market sale or auction. Defendants exercised their right of first refusal and should

have first opportunity to purchase the Property pursuant to the Pinckney Act and other South Carolina law governing the exercise of rights of first refusal.

D. *Economic Uncertainty Weighs in Favor of Relief Sought*

There has existed a climate of economic uncertainty over the past six months. The commercial debt markets have experienced significant upheaval, leading to a cascade of effects on real estate transactions requiring any debt with several key factors having contributed to this disruption. The ongoing economic volatility, including concerns about inflation, bond markets, rising interest rates, geopolitical events and the lingering effects of the COVID-19 pandemic, has created a climate of uncertainty. As a result, commercial lenders are more cautious, making it harder to secure financing to close real estate transactions.

1. Credit Tightening: Lenders have become more stringent in lending practices. They are scrutinizing both borrower creditworthiness and project feasibility, sometimes requiring more equity or collateralization, which can be challenging for closing transactions.

2. Supply Chain Disruptions: Supply chain disruptions have affected construction costs and timelines, potentially increasing project risks and costs for developers and investors.

3. Asset Valuation Challenges: Valuing real estate assets has become more complex, particularly in commercial real estate, affecting appraisals and making it harder to determine the collateral's worth. In circumstances where the collateral securing the loan is the real estate project under development, it can be considered riskier or less valuable than initially assessed, which can be a critical factor and impediment in securing real estate loans.

In combination, these factors have resulted in financing falling through and, in some cases, a freeze on some real estate transactions. Investors and developers in particular, are facing increased challenges in obtaining funding for debt dependent transactions, as lenders proceed with extreme caution. As a result of this consortium of issues, it is a valid question to ask if any financing that may be required to close the transaction by the Plaintiffs even exists; especially where they cannot offer a lender marketable title to the property as collateral. Defendants have financing and stand ready to perform.

### **CONCLUSION**

WHEREFORE, Defendants respectfully request that the Court grant the following relief:

1. Enter an order voiding the Master's Deed;
2. Rescind its prior order authorizing the Plaintiffs to sell the Property to Rotunda, LLC;
3. Enter order allowing Defendants to exercise their right of first refusal under the Pinckney Act;
4. Enter an order for an evidentiary hearing to be held to determine those persons holding a possessory interest in the Property and the correct percentages thereto for the purpose of establishing an evidentiary basis upon which the court may decree fee simple marketable title upon the property; and
5. Enter order requiring that the Personal Representatives of the four open estates of deceased heirs be joined in this action.

WHEREFORE, Defendants pray for such other and further relief to which it is entitled at law and/or equity.

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*chouston@houstonlawfirm.net*

By: S// Charles E. Houston

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Charles E. Houston, Jr.  
SC Bar # 2663/ Fed Bar # 1961  
Attorney for Defendants

October 27, 2023  
Hilton Head Island, SC

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPELLATE CASE NO.  
2023-000438

EXHIBIT 2

**Defendants' objections and Exceptions to Appraisal Report**

**STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT**

**IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL DISTRICT  
CIVIL ACTION # 2020-CP-07-02301**

**GEORGIA HARRISON, BARBARA  
HARRISON, JOYCE ELLEN HARRISON,  
WILLIAM S. HARRISON, III, STANLEY  
ROBERTS AND DIANA MENDHEIM  
INDIVIDUALLY AND AS AGENT AND  
ATTORNEY IN FACT,**

**Plaintiffs,**

**vs.**

**STEPHANIE LORRAINE KIRKLAND,  
GARY LAMONT KIRKLAND, KIETA  
NICOLE WHITE, AND CHERYL KIRKLAND,**

**Defendants.**

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**DEFENDANT'S  
OBJECTIONS AND EXCEPTIONS  
TO PLAINTIFFS' APPRAISAL  
REPORT**

The Defendants object and take exceptions to the court basing any fair market value of the property subject to this action predicated upon the appraisal dated October 15, 2023 and attached hereto as Exhibit 1. This appraisal projects an increase in the fair market value of the property subject to this action to an increase of over Two Million Dollars since the first appraisal made two years ago by the same appraiser that established the fair market value at 9.1 Million. Essentially this Appraisal is an "informed" guess by the appraiser based upon both extraordinary, general and underlying assumptions. The inaccuracy of any or all of which can be relevant in guessing at a current market valuation for the property.

Accordingly, the following considerations, observations and facts also need to be contemplated as part of assessing an estimated market value(which the appraiser disavows having to support beyond the 4 corners of the appraisal report:

1. Basically, the entire saga of the attempts to exercise Pinckney Act rights is ignored or brushed aside and this appraisal is dependent upon assuming clear and unencumbered title which is currently still under litigation. This fact alone definitely adversely impacts the condition of title and the ability for either side of the familial disputes and pending litigation to proceed.
2. Basing valuation upon such public entity compliance and concurrence is never a good basis for assessing value.
3. It brushes over the potential impact so a desired easement/dedication of Mitchellville Road as not impacting potential value, one way or the other, but certainly is an issue that should be resolved going forward and could adversely impact timing of any development process.
4. Apparently, there have been a number of contract and LOI discussions with several parties, previously unreported to the Plaintiffs' side, none of which have resulted in signed contracts but are being used to boost the guessed market value of the property.
5. There is an additional assumption that the property is under responsible management and ownership without any supporting facts.
6. The appraiser disavows accuracy or completeness of facts, opinions and estimates supplied by others used to provide this appraisal.
7. Other than a brief commentary, there is no real explication of potential wetlands impacts or requirements which could impact valuation based on expected development of the property.
8. Again, the valuation is dependent upon the anticipated program of development described but there is nothing to support maximum benefits being granted by the municipal authorities.

Additionally, this Appraisal, gives no relevance or credence to current real estate (especially vacant land for development) market realities such as increased interest rates, higher equity infusion demands, tightened credit underwriting, tighter time limits, higher materials costs, longer supply chain timing issues and increasing costs for structural materials, greater demand for skilled tradesmen and concomitant issues for affordable housing and availability of construction crews leading to longer development time frames and higher costs, especially in resort areas. These are all relevant to the price an experienced developer can pay for land, especially where density is still to be negotiated with the municipal authorities. These items also could be why the several alleged interested third party offers never developed into signed contracts but were cited as elements in increasing the valuation.

Further, the Plaintiffs' counsel keeps harping on seeking a contract offer from Plaintiffs based on this appraisal, but the Pinckney Act does not require an offer be made to heirs seeking to exercise their rights. Further, as has been the case throughout this saga, the P and their advisors have actively denied the Defendants any access to complete contract information, including all of the signed, and apparently unsigned as well, Amendments to the Rotunda contract which finally was terminated after approximately 3 years. Yet the Defendants' willingness to match what it understood was the deal with Rotunda but for a mere 30 day request to do normal and customary real estate market due diligence was denied whereas Rotunda had 3 years and still could not close. Even then, Plaintiff did not inform Defendants until they delivered the Appraisal 45 or so days after receipt and it contained news of the Rotunda contract termination. Even then, the historical background cited in the appraisal is not necessarily an accurate recitation but merely tracks Plaintiff's' interpretations.

Respectfully submitted,

The Houston Law Firm LLC  
1011 Bay Street, Suite 2A  
Beaufort SC 29902  
Phone: 843-524-1800  
843-684-0211  
[chouston@houstonlawfirm.net](mailto:chouston@houstonlawfirm.net)

By: S// Charles E. Houston Jr.  
Charles E. Houston, Jr.  
SC Bar # 2663/ Fed. Bar #  
1961  
Attorney for Plaintiff

December 17, 2023  
Hilton Head Island, SC



**STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT**

**IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL DISTRICT  
CIVIL ACTION # 2020-CP-07-02301**

**GEORGIA HARRISON, BARBARA  
HARRISON, JOYCE ELLEN HARRISON,  
WILLIAM S. HARRISON, III, STANLEY  
ROBERTS AND DIANA MENDHEIM  
INDIVIDUALLY AND AS AGENT AND  
ATTORNEY IN FACT,**

**Plaintiffs,**

**vs.**

**STEPHANIE LORRAINE KIRKLAND,  
GARY LAMONT KIRKLAND, KIETA  
NICOLE WHITE, AND CHERYL KIRKLAND,**

**Defendants.**

---

**EXHIBIT 1**

---

**APPRAISAL OF**  
**26.69 ACRES OF VACANT LAND**  
**CONTAINING 26.462 ACRES HIGHLAND**  
**LOCATED ON MITCHELVILLE ROAD**  
**HILTON HEAD ISLAND, SOUTH CAROLINA 29926**

**FOR**

**KRISTIN WILLIAMS**  
**OPEN LAND TRUST**

**DATED**

**OCTOBER 15, 2023**

**BY**

**LISA D. NIMMICH, MAI**

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**Nimmich & Associates, LLC**

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**NIMMICH & ASSOCIATES, LLC**  
REAL ESTATE APPRAISALS

October 23, 2023

Ms. Kristin Williams  
Open Land Trust  
905 Charles Street  
Beaufort, South Carolina 29926

RE: Appraisal of:  
26.69 Acres of Vacant Land  
Containing 26.462 Acres of Highland  
Located on Mitchelville Road  
Hilton Head Island, South Carolina 29926

Dear Ms. Williams:

In accordance with your request, I have visited the above referenced property located on Mitchelville Road, Town of Hilton Head Island, Beaufort County, South Carolina, and have made the requisite investigation to estimate the Market Value “As Is” of the fee simple estate of the subject property as of October 15, 2023. Market Value and Market Value “As Is” are defined in the attached report. This appraisal is in a narrative report format. The engagement letter for this appraisal can be found in the Addenda as Addendum A.

Based on my investigation, analysis, and conclusions, an opinion has been formed that the Market Value “As Is” of the fee simple estate of subject property, as of October 15, 2023, subject to the Extraordinary and General and Underlying Assumptions and General Limiting Conditions (which are incorporated into this letter by reference and which are fully set forth in the attached report), was:

**ELEVEN MILLION SEVEN HUNDRED FORTY-FIVE THOUSAND DOLLARS**  
**\$11,745,000**

The final estimate of value does not contain the value of any personal property or intangible items.

I have attempted to prepare this appraisal report in conformity with the Uniform Standards of Professional Appraisal Practice and Code of Professional Ethics of the Appraisal Institute. The appraisal report also meets the Uniform Standards of Professional Practice (USPAP) developed by The Appraisal Standards Board of The Appraisal Foundation. The appraisal report has been prepared in compliance with FIRREA Title XI, 12 CFR Part 34 (RTC).

Ms. Kristin Williams  
October 23, 2023  
Page Two

The compensation for this report is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event. The appraisal assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan. I hereby certify that I have no interest in the subject property.

Respectfully submitted,



Lisa D. Nimmich, MAI  
SC State Certified General  
Real Estate Appraiser CG-162  
NC State Certified General  
Real Estate Appraiser A1777  
Georgia State Certified General  
Real Estate Appraiser 259066

Enc.  
23-021







**MITCHELVILLE BEACH LOOKING NORTHWEST**



**MITCHELVILLE BEACH LOOKING SOUTHEAST**



**MITCHELVILLE ROAD LOOKING NORTHWEST**



**MITCHELVILLE ROAD LOOKING NORTHEAST**



**FISH HAUL ROAD LOOKING SOUTHEAST**



**FISH HAUL ROAD LOOKING NORTHWEST**

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Addendum A           Letter of Engagement

Addendum B           Action to Clear and Quiet Title

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## CERTIFICATION

I hereby certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
  - The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
  - I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the properties involved.
  - I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
  - The engagement in this assignment was not contingent upon developing or reporting predetermined results.
  - The compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result or the occurrence of a subsequent event directly related to the intended use of this report.
  - The analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
  - Lisa D. Nimmich, MAI made a personal visit to the property that is the subject of this report.
  - No one provided significant real property appraisal assistance to the person signing this report other than Franklin B. Sewell, MAI, who aided in research for, and preparation of, prior reports that included this property.
  - The report analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
  - The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
  - As of the date of this report, Lisa D. Nimmich, MAI has completed the continuing education program for Designated Members of the Appraisal Institute.
  - I have appraised the subject property twice in the last three years. One appraisal was retrospective appraisal for tax purposes. The effective date of the appraisal was December 8, 2013 (date of death) and the report date was June 2, 2023. The second appraisal was of a larger property that included the subject property, with an effective date of February 28, 2021, and a report date of March 10, 2021. I have performed no other services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this appraisal assignment.
-

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Nimmich & Associates, LLC was engaged to appraise the Market Value “As Is” of the fee simple estate of the following real property, as of October 15, 2023:

26.69 Acres of Vacant Land  
Containing 26.462 Acres Highland  
Located on Mitchelville Road  
Hilton Head Island, South Carolina 29936

Based on the appraiser’s investigation, analyses, and conclusions, an opinion has been formed that the Market Value “As Is” of the fee simple estate of the subject property, as of October 15, 2023, subject to the Extraordinary and General and Underlying Assumptions and General Limiting Conditions, was:

**ELEVEN MILLION SEVEN HUNDRED FORTY-FIVE THOUSAND DOLLARS**  
**\$11,745,000**



---

Lisa D. Nimmich, MAI  
SC State Certified General  
Real Estate Appraiser CG-162  
NC State Certified General  
Real Estate Appraiser A1777  
GA State Certified General  
Real Estate Appraiser 259066

---

## EXTRAORDINARY AND GENERAL AND UNDERLYING ASSUMPTIONS

This appraisal has been made with, and is subject to, the following General Assumptions:

That title to the property is assumed to be good and marketable unless otherwise stated. No responsibility is assumed for the legal descriptions or for any legal matter.

That the definition of value together with other definitions and assumptions on which the analyses of the appraiser is based are set forth in appropriate sections of this report and are a part of these General Assumptions as if included here in their entirety.

That the property is considered to be under responsible ownership and management and free of all liens and encumbrances except as specifically discussed herein.

That the facts, estimates, and opinions furnished the appraiser by others and contained in this report are considered to be from reliable sources and where feasible have been verified. However, no responsibility is assumed for the accuracy of the information. The appraiser reserves the right to modify the value estimates should more reliable or accurate information become available subsequent to delivery of this report.

All engineering and/or surveys are assumed to be correct. The sketches, plot plans, and drawings included in the report are included only to assist the reader in visualizing the property.

It is assumed that there are no hidden or other unapparent conditions in the soil, subsoil, structures, or property which would render them more or less valuable. The appraiser specifically accepts no responsibility for damage by termites, wood borers, or any other wood infesting insects. No responsibility is assumed for such conditions or for engineering or inspection which would be required to discover them.

Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on or in the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on, in, or near the property. The appraiser, however, is not qualified to detect such substances.

The presence of potentially dangerous or hazardous materials, gasses, or toxic substances may affect the value of the property and in this appraisal the value estimate is predicated on the assumption that there is no such element on, in, or near the property that would cause a loss in value.

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No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them.

Good structural and mechanical conditions are assumed to exist and no opinion as to these matters is to be inferred or constructed from the attached report.

It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless non-compliance is stated, defined, and considered in the appraisal report.

It is assumed that all required licenses, certificates of occupancy, legislated or administrative consents from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimated contained in this report is based.

It is assumed that the utilization of the land and/or improvements is within the boundaries or property lines of the property described herein and that there is no encroachment or trespass unless noted within the report.

The Americans with Disabilities Act of 1990 ("ADA") became effective January 26, 1992. The appraiser has not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since the appraiser has no direct evidence relating to this issue, possible non-compliance with the requirements of the ADA was not considered in estimating the value of the property.

Unless otherwise noted in the appraisal report, the estimated Market Value does not include any personal property, fixtures, or other non-real estate items.

This appraisal is made subject to the following **extraordinary assumption**. The Mitchelville Road right-of-way runs from Fish Haul Plantation and ends at the subject property. The road continues through the subject property as an unpaved road, joining Fish Haul Road (S-334) at the subject property's southwestern boundary. The road appears to be used by local motorists, although traffic flow appears to be minimal. According to Patricia Wilson, Beaufort County Right-of-Way manager, the road through the subject property is county maintained. No documentation of a recorded easement for the road was located and Ms. Wilson indicated that she did not have any record of a formal instrument being obtained granting right-of-way for this portion of Mitchelville Road.

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Ms. Wilson did state that since the road has been maintained by the county for many years, it is considered a legacy road and there may be prescriptive rights involved. She indicated that if access through the subject property were closed, the potential exists that residents could lobby for condemnation. Under this scenario, it is assumed that the subject property could be developed under an agreement to provide continued access through the property, with the road being relocated, if necessary, to accommodate a specific development plan. I recommend that the property owner consult a condemnation attorney for additional guidance.

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## GENERAL LIMITING CONDITIONS

This appraisal has been made with, and is subject to, the following General Limiting Conditions:

The appraiser, by reason of this appraisal report, is not required to give further consultation, testimony, or to be in attendance in court or at any governmental or other hearing with reference to the property without prior arrangements.

The distribution, if any, of the total valuation in this report between land and improvements, if any, applies only under the stated program of utilization. The separated allocations for land and buildings, if any, must not be used in conjunction with any other appraisal and are invalid if so used.

Use and disclosure of the content of this report are governed by the bylaws and regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to the value, the identity of the appraisers or the firm with which they are connected, or any reference to the Appraisal Institute to the MAI or SRA designations) shall be disseminated to the general public through advertising or sales media, public relations media, news media, or other public means of communication without the prior written consent of the appraiser.

Possession of this report or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any other person other than the party to whom it is addressed without consent of the appraiser, and in any event, only with properly written qualifications and only in its entirety.

The party for whom this appraisal report was prepared may distribute copies of this appraisal report in its entirety to such third parties as may be selected by the party for whom this appraisal report was prepared. However, portions of this appraisal report shall not be given to third parties without the prior consent of the signatories of this appraisal report.

Additional copies of this appraisal may be obtained for an appropriate fee only with the knowledge and consent of the client.

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**SUMMARY OF SALIENT FACTS AND CONCLUSIONS**

Property Type: Vacant Land

Property Location: Mitchelville Road, Town of Hilton Head Island, SC 29926

Tax Map Numbers: R510-005-000-0007-0000

County: Beaufort

Date of the Market Value “As Is: October 15, 2023

Date of the Report: October 23, 2023

Property Rights Appraised: Fee Simple Estate

Owner of Record: Stanley Roberts, et al.

Site Data: 26.69 Acres; 26.462 Acres Highland

Flood Zones: X & AE (EL 8); 45013C0452G & 45013C0456G (March 23, 2021)

Zoning: RM-4, Low-to-Moderate Density Residential District; MV, Mitchelville District

Highest and Best Use: Residential Development

Market Value “As Is” Estimate: \$11,745,000

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## IDENTIFICATION AND HISTORY

The subject property is in the Town of Hilton Head Island, Beaufort County, South Carolina. The subject property can be identified on the Beaufort County Assessor's map as tax map number R510-005-000-0007-0000. The subject property is a vacant site with 26.69 acres and 26.462 acres of highland.

A title search goes beyond the scope of the appraisal. The subject property is currently owned by Peter Harrison, Georgia Harrison, Joyce Ellen Harrison, William S. Harrison, III, Stanley Roberts, Adrienne Kirkland, Carol Bush, Diane Mendheim, Jason Young, Robert Young, Denise Davidson, Rose Hampton, and Victoria Young. The ownership interests in this parcel, as summarized in the table below, were concluded upon by action to clear and quiet title in the Beaufort County Court of Common Pleas, as recorded on June 6, 2016, in the Beaufort County ROD Office in book 3488, at page 1724. Charles Edward Young's interest in the parcel was subsequently transferred to Jason Young by deed of distribution, as recorded on February 3, 2021, in the Beaufort County ROD Office in book 3933, at page 867.

<b>Parcel R510-005-000-0007-0000</b>	
<b>Owner</b>	<b>Interest</b>
Peter Harrison	20.833%
Georgia Harrison	20.833%
Joyce Ellen Harrison	10.416%
William S. Harrison, III	10.416%
Stanley Roberts	25.000%
Adrienne Kirkland	1.5625%
Carol Bush	1.5625%
Diane Mendheim	1.5625%
Charles Edward Young*	1.5625%
Robert Young	1.5625%
Denise Davidson	1.5625%
Rose Hampton	1.5625%
Victoria Young	1.5625%

\*Jason Young via probate

The subject property was under a Purchase and Sale Agreement, with an effective date of September 14, 2020. There were six amendments to the contract. The purchase price was \$9,100,000. The unexecuted and undated Fifth Amendment to Purchase and Sale Agreement provided by the Seller's representative increased the price to \$9,750,000. The preparation date of the amendment was October 5, 2021. The Buyer was Rotunda Land & Development Group, LLC. The contract was terminated on July 28, 2023, after the Buyer failed to close on July 24, 2023.

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The appraiser was also furnished by the Seller's representative with an unexecuted Agreement for Purchase and Sale of Real Property. The Buyer is shown as E&H Property, LLC, the date prepared was October 11, 2021, and the price indicated is \$10,400,000. The contract was for an undivided 98.828% interest in the property.

The appraiser was also furnished by the Seller's representative with a Letter of Intent, dated December 21, 2021. The Buyer was Two Capital Developer, LLC. The price was \$10,500,000.

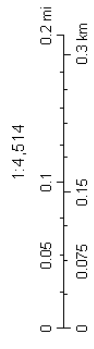
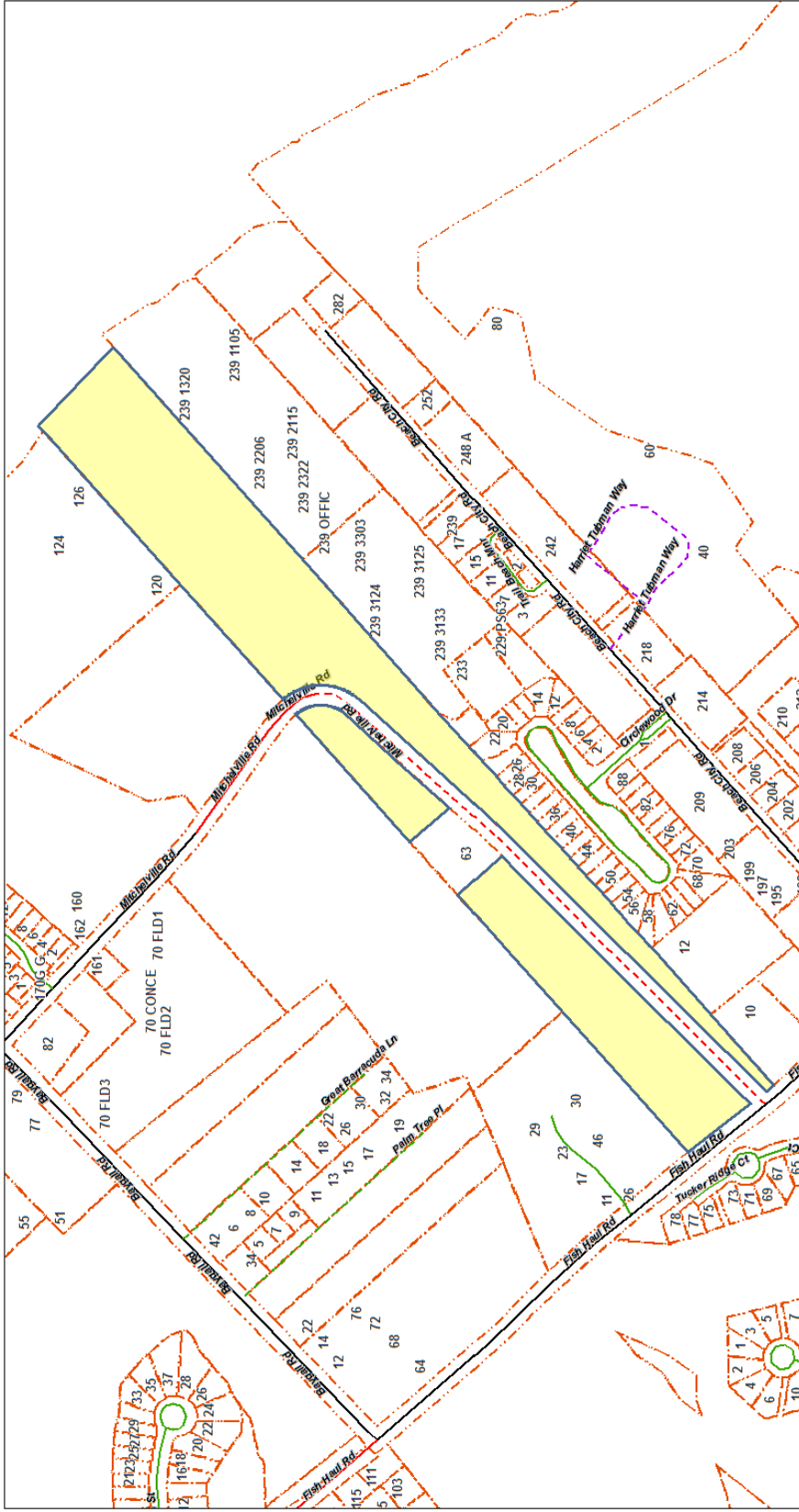
The appraiser was also furnished by the Seller's representative with an unexecuted and undated Purchase and Sale Agreement that was reportedly prepared in 2022. The offer was from the defendants regarding the partition action case of the property with SRE Acquisitions IV, LLC to settle the case. The price was \$9,740,429 for a 98.6197875% interest in the property.

The appraiser was also furnished by the Seller's representative with an unexecuted Agreement for Purchase and Sale of Real Property. The Buyer is shown as Serg Restaurant group, the date is August 7, 2023, and the price indicated is \$10,900,000. This is an offer for an undivided 96.875% interest in the property. The contract is reportedly still in negotiation.

Copies of the documents provided are retained in the work file. A copy of the document recorded in Book 3488, at page 1724 can be found in the Addenda as Addendum B.

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# TAX MAP



- 5/20/2023, 12:09:12 PM
- Search Results: LiveParcels**  
Override 1
- Road Classifications**  
PRIVATE, PAVED  
PRIVATE, UNPAVED  
MUNICIPAL, UNPAVED  
STATE, PAVED  
COUNTY, PAVED  
COUNTY, UNPAVED
- LiveParcels**  
LiveParcels

AccGIS Web AppBuilder  
Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, Swg, DeLorme, GeoEye, IGN, Aerotech, EPA, USGS, Swire, NPS, US Census Bureau, USDA

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### **OWNER OF RECORD**

The subject property is currently owned by Stanley Roberts, et al (see Identification and History section for detail).

### **PURPOSE OF THE APPRAISAL**

The purpose of the appraisal is to estimate the Market Value “As Is” of the fee simple estate of the subject property.

### **INTENDED USE OF THE APPRAISAL**

The intended use of the appraisal report is to aid in evaluation of the subject property for potential acquisition.

### **INTENDED USER OF THE APPRAISAL**

The client and intended user of this appraisal is the Open Land Trust for the stated intended use.

### **PROPERTY RIGHTS APPRAISED**

The subject property is appraised in the fee simple estate which is “Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.”<sup>1</sup>

### **DATE OF THE MARKET VALUE “AS IS”**

October 15, 2023

### **DATE OF THE REPORT**

October 23, 2023

<sup>1</sup> Appraisal Institute, *The Appraisal of Real Estate*, 13<sup>th</sup> ed., p. 114.

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## DEFINITIONS

**Market Value:** as defined by The Office of the Comptroller of the Currency, FDIC Rules and Regulations 12 C.F.R. Part 323.2 Definitions (g), is:

The most probable price which a property would bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specific date and the passing of title from seller to buyer under conditions whereby:

1. *Buyer and seller are typically motivated;*
2. *Both parties are well informed or well advised, and acting in what they consider their own best interests;*
3. *A reasonable time is allowed for exposure in the open market;*
4. *Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and*
5. *The price represents the normal consideration for the property sold unaffected by special or creative financing or sale concessions granted by anyone associated with the sale.*

**Market Value “As Is” on Appraisal Date:** The estimate of the market value of property in its current physical condition, use, and zoning as of the appraisal date. (Proposed Interagency and Evaluation Guidelines, OCC-4810-33-P)<sup>2</sup>

<sup>2</sup> Appraisal Institute, *Dictionary of Real Estate Appraisal*, 5th edition.

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## SCOPE OF THE APPRAISAL

The appraisal problem is to estimate the Market Value “As Is” of the fee simple estate of the subject property located on Mitchelville Road, Hilton Head Island, Beaufort County, South Carolina, as of the date of the last visit to the property, October 15, 2023. This appraisal is in a narrative report format. Lisa D. Nimmich, MAI made a personal visit to the subject property.

To estimate the Market Value “As Is,” I have completed the appraisal process which includes the collection, confirmation, analysis, and reporting of market data. The geographical area studied was defined in the Region Analysis section of this report. The data was collected from various sources as follows:

- A physical visit to the subject property
- Recorded plats and deeds found in various county ROD offices.
- Professionals involved in the sale of properties similar to the subject property
- Employees and publications of state and local government agencies (tax assessors, zoning officials, Chamber of Commerce, and so on)
- Data services such as MLS and CoStar

This information has been confirmed when possible and analyzed to derive area and neighborhood trends in land values, absorption rates, growth rates, and so on. The Market Value “As Is” for the subject property was estimated using this data in the Sales Comparison Approach to Value in this report.

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## REGION ANALYSIS

### Location

The subject property is in the Town of Hilton Head Island, Beaufort County, South Carolina. Beaufort County is located on the coastline of South Carolina and was established in 1769. It has about 30 miles of coastline, a land area of 578 square miles, and 113 square miles of water and marsh. Beaufort County includes 64 major islands. Beaufort County is bounded on the north by Colleton County, on the west by Hampton and Jasper Counties, and on the south by Jasper County.

The two major urban areas in Beaufort County are the Greater Beaufort Area, which contains the City of Beaufort, and Hilton Head Island. The only other incorporated areas in Beaufort County are Bluffton, Port Royal, and Yemassee. The City of Beaufort is the County seat for Beaufort County. It is named for Henry, Duke of Beaufort, one of the Lord Proprietors of South Carolina. The historic City of Beaufort is located on the Beaufort River, which is also the Intracoastal Waterway. The Beaufort River flows into the Port Royal Sound.

Hilton Head Island is located just south of the City of Beaufort on Port Royal Sound and the Atlantic Ocean. Hilton Head is an internationally known resort and convention center. The island has ten championship golf courses and is the home of the Heritage Golf Classic every spring.

### Climate

The State of South Carolina is in what is known as the “sunbelt” region of the country due to its moderate climate. The average daily temperature in January, the coldest month, is 47.2 degrees Fahrenheit. The average temperature in August, the hottest month, is 83.5 degrees Fahrenheit. The average monthly precipitation is 4.73 inches. In Beaufort County, the average temperature in January is 49 degrees Fahrenheit, the average temperature in August is 80 degrees, and the average monthly precipitation is 4.12 inches.

### Population

According to the 2010 Census, the population of Beaufort County was 162,233, indicating a 34.2% increase in population since 2000. The 2020 population was estimated to be 195,368, an increase of 20.4% over 2010. The population of the City of Beaufort was 12,950 in 2000 and was 12,361 for 2010, a 4.6% decrease, but rose to 13,492 in 2020, an increase of 9.1% over 2010. The 2010 population of Port Royal was 10,678, up from 3,950 in 2000. The 2020 Port Royal population was estimated at 13,428, an increase of 25.8%. Hilton Head Island had a 2000 population of 34,407 and accounted for 28.0% of all residents in the county. The population in 2010 was 37,099, 22.9% of the county’s residents. The 2020 population was estimated at 39,907, an increase of 7.1% over 2010. The population for the Town of Bluffton was 1,275 in 2000 and was 12,530 in 2010, an increase of 882.8%. The 2020 population was estimated at 28,247, a 125.4% increase over 2010.

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**BEAUFORT COUNTY  
POPULATION**

1980	1990	2000	2010	2020
65,364	86,425	120,937	162,233	195,368

**GROWTH**

1980 - 1990	1990 – 2000	2000 – 2010	2010-2020
32.2%	40.0%	34.2%	20.4%

### **Government**

Beaufort County is governed by a nine-member County Council and a County Administrator. The City of Beaufort, the Town of Bluffton, the Town of Hilton Head Island, and the Town of Port Royal have mayor-council-manager forms of government.

Public services and utilities are available and adequate in the incorporated areas. The taxes in Beaufort County and in the incorporated areas are reasonable in comparison with similar areas offering the same services.

### **Education**

Beaufort County contains sixteen elementary schools, six middle schools, five high schools, a K-8 charter school, four early childhood centers, and one school for exceptional children. There are also numerous private/religious schools, including Beaufort Academy and Hilton Head Preparatory School. The Beaufort Area has four higher educational facilities: University of South Carolina (Beaufort Regional Campus), Park College, Webster University (two-year MA and MBA programs), and the Technical College of the Lowcountry (a two-year college).

A satellite campus for the University of South Carolina is now located on US Highway 278, near the Sun City development in Bluffton. A satellite campus for the Technical College of the Lowcountry was constructed near the new USC campus on US Highway 278.

### **Medical Facilities**

The two hospitals in Beaufort are the Beaufort Memorial Hospital (170 beds) and the Beaufort Naval Hospital (250 beds). There is one hospital on Hilton Head Island, which is Hilton Head Regional Health Care (93 beds). A new medical center has also recently been built near Bluffton, the SunGate Medical Center.

## Culture & Recreation

Tourists are primarily drawn to the Beaufort Area by the beaches on the barrier islands, the historic district of Beaufort, and many public and private golf courses. Hunting Island contains a national park and campground, which is the most visited national park in South Carolina.

Historic Beaufort attractions include the Beaufort Arsenal Museum, the North Street Aquarium, and many historic homes. The Lewis Reeve Sams House and the Edward Fripp House are popular attractions that have been utilized for several motion pictures.

## Economic Profile

Beaufort County's economy is based heavily on the military and tourism. The impact of these two factors and others are discussed below:

The military is the leading economic contributor to the local economy. The bases include the Marine Corps Recruit Depot on Parris Island, which was originally established as a naval base in 1884, and the Marine Corps Air Station in Beaufort, which began as a Naval Air Station in 1943. There is also the Naval Hospital. Most of the Naval facilities in the Charleston area closed in October of 1995. The Beaufort military facilities were spared in the last round of base closures, and Beaufort gained military personnel.

Tourism plays a large role in Beaufort County's economy, second only to the military as a contributor to the economy. The greater Beaufort area draws some tourists to the historic homes, beaches, and annual Water Festival. Most tourists are bound for the resort island of Hilton Head.

The unemployment rate in Beaufort County was 2.3% in August of 2023, compared to 3.0% in South Carolina, and compared to 3.8% for the US. Following is a breakdown of labor force and employment for the years 2015 to 2022.

### BEAUFORT COUNTY LABOR FORCE ESTIMATES

	2015	2016	2017	2018	2019	2020	2021	2022
<b>LABOR FORCE</b>	71,691	72,683	74,104	75,427	77,263	77,127	76,131	89,568
<b>EMPLOYMENT</b>	67,760	69,348	71,113	73,082	75,268	72,961	73,502	86,765
<b>UNEMPLOYMENT</b>	3,931	3,335	2,991	2,435	1,995	4,166	2,629	2,803
<b>% OF LABOR FORCE</b>	5.5%	4.6%	4.4%	3.9%	2.6%	5.4%	3.5%	3.1%

Source: SC Dept. of Employment & Workforce

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The rapid development of Hilton Head Island spearheaded new residential development on the mainland, as available vacant land on the Island has become scarce. This led to the boom in the Bluffton area. Sun City Hilton Head, located 13 miles west of Hilton Head Island, is Phoenix-based, Del Webb Corporation's first east coast community. Del Webb Corporation has developed other retirement properties in Tuscon, Las Vegas, and Palm Springs, California. About two-thirds of the development, the first phases are in Beaufort County. In January 1994, the Del Webb Corporate Board of Directors gave its final go-ahead to bring the company's unique adult community concept to the Lowcountry.

Upon completion, the community will be home to more than 16,000 seniors and retirees. A total of 8,500 homes are planned for the \$1.4 billion development. Development was rapid, spurring other residential and commercial growth in the area.

### **Transportation**

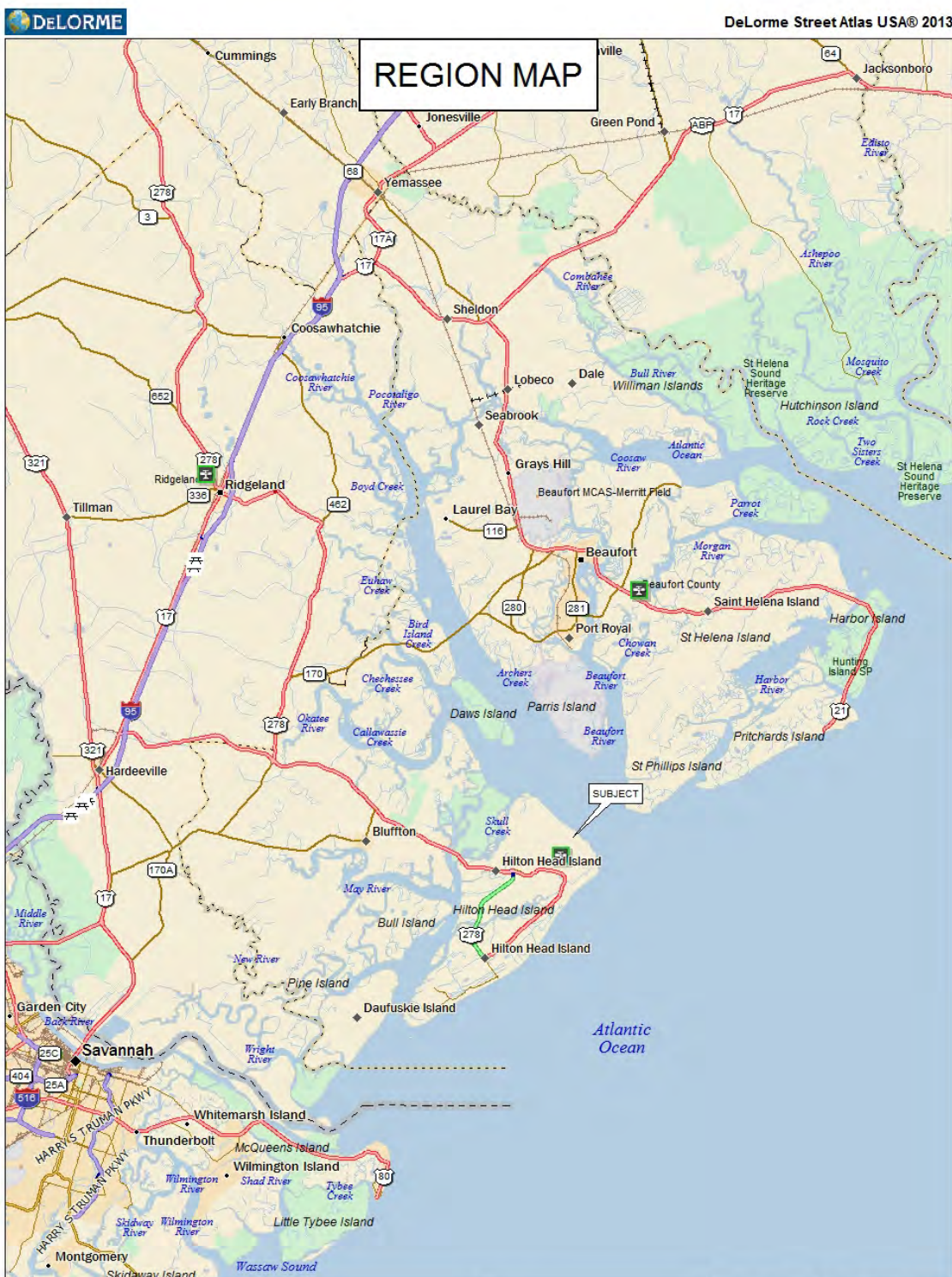
There are varied transportation systems in the greater Beaufort area. Barge traffic plies the Intracoastal Waterway. The City of Savannah is located about an hour south of the area and is one of the largest container ports in the eastern half of the country. The City of Charleston is located about 65 miles to the north and is the third largest container port in the eastern half of the country and seventh largest in the continental United States.

There are two small airports in Beaufort County. One of the airports is located three miles from the City of Beaufort on Lady's Island. The other small airport is located on Hilton Head Island. Airline and airfreight services are available at the Savannah Municipal Airport 55 miles south of the City of Beaufort and at the Charleston International Airport about 75 miles north of the city. Rail service is provided by CSX Railroad and AMTRAK. The Port Royal Railroad connects Beaufort with the Town of Yemassee. In Yemassee, this line connects with rail service to Savannah and Charleston. Interstate 95 runs along the eastern seaboard and is the major conduit of traffic from the northeast to Florida. Access to I-95 is about 20 miles west of the City of Beaufort. US Highway 278 connects Hilton Head Island to I-95. The county is also served by US Highway 21 and SC Highways 116, 170, 281, and 802.

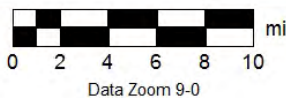
### **Summary**

The subject property is in the Town of Hilton Head Island in Beaufort County. Beaufort County is in the southeastern part of the state bordering on the Atlantic Ocean. The economic outlook for this area is good. Growth in this area has been strong over the last twenty years, and this trend is expected to continue. Property values on Hilton head Island are currently stable or increasing, overall. The economic outlook for this area is good in the long run.

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## NEIGHBORHOOD ANALYSIS

The subject property is in the Town of Hilton Head Island, Beaufort County, South Carolina. The subject property is located at the northeastern portion of Hilton Head Island on Mitchelville Road, in the Mitchelville community. Mitchelville Road runs from Fish Haul Plantation and ends at the subject property. The road continues through the subject property as a private, unpaved road. The road through the subject property is reportedly county maintained and is regularly utilized by local motorists. No documentation of a recorded easement for the road was located. The subject property can also be accessed from Fish Haul Road. Mitchelville Road and Fish Haul Road are two-lane, asphalt paved, 66' rights-of-way with no streetlights, or curb and gutter. Fish Haul Road has a sidewalk, while Mitchelville Road does not.

The general subject neighborhood is Hilton Head Island. Hilton Head Island is located about 30 miles north of the City of Savannah, GA, and about 30 miles southwest of the City of Beaufort. According to the 2010 census data, the 2010 population of Hilton Head Island was 37,266, an 8.3% increase from 2000. The estimated population in 2020 was 39,907, indicating a 7.1% increase since 2010. Head Island is 54.0 square miles and is separated into two portions, northern and southern, by the Broad Creek.

The major arteries on the island are the William Hilton Parkway (US Highway 278), Pope Avenue, and the Cross-Island Parkway (Palmetto Bay Road). Palmetto Bay Road is a five-lane route that connects to the Cross-Island Parkway at Broad Creek and intersects with William Hilton Parkway and Pope Avenue at Sea Pines Circle. William Hilton Parkway is the primary artery on Hilton Head Island. Commercial development along the US Highway 278 corridor includes independent retail, shopping centers, restaurants, and offices. Development away from the Highway 278 frontage is more diverse with a combination of retail, warehouse, and service/commercial establishments. Residential development is located primarily in plantation developments which are accessed from Highway 278. The Cross Island Expressway is the other main thoroughfare on the island crossing broad creek and eventually joining William Hilton Parkway at Sea Pines Circle.

The subject neighborhood is accessed by Beach City Road, which runs from US Highway 278 (William Hilton Parkway) and ends at the Port Royal Sound. The immediate subject neighborhood is the northwestern portion of Hilton Head Island, or the Mitchelville community and Fish Haul Plantation. In 1862, Gen. Ormsby Mitchel set up the town of Mitchelville to house the island's first freedman's village. Mitchelville residents elected their own officials, passed their own laws, and established the first compulsory education law in the state. The Mitchelville community was built along modern-day Beach City Road. In February 2018, what is now formerly Fish Haul Creek Park was officially renamed The Mitchelville Freedom Park. The rebranding, which included the unveiling of a sign off the Beach City Road location, was carried out by the Mitchelville Preservation Project board. The nonprofit group aims at preserving the story of historic Mitchelville. The next phase is recreating a section of what the town would have looked like 156 years ago.

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According to project director Ahmad Ward, “The whole thing won’t be as it was in 1862 but we will be trying to recreate the historic street grid, the historic homes and the praise house which is where all the life happened in the area.” Ward’s next step is rendering a master plan for the park which he said will consist of 16 acres initially. The settlement itself was 32 acres in 1862.

In the early 2000s, the Town announced and began a series of public works improvement projects in Mitchelville. The projects included: Fish Haul Creek Park (now Mitchelville Freedom park); new soccer, lacrosse, rugby, and multipurpose fields (Barker Field Expansion improvements) and a beach renourishment project that restored a half-mile stretch of the beach to its original condition along with the creation of a seven-acre beach park (Fish Haul Beach Park). The Town has recently collaborated with Hilton Head Public Service District on the Baygall Sewer Project. The project involves the installation of a sewer pump station and main sewer lines throughout Mitchelville’s Baygall neighborhood along Mitchelville and Fish Haul Roads.

The Mitchelville community and Fish Haul Plantation are bounded by Beach City Road, Palmetto Hall and Hilton Head Plantation with many properties having frontage on the Port Royal Sound. This area is one of the least developed areas on the island. There are still several unpaved roads throughout the immediate subject neighborhood. The neighborhood includes many older residential structures and mobile homes, with some recreational properties, such as Fish Haul Creek Park, Mitchelville Beach Park, and Barker Field. There are a few light industrial properties located at the intersection of Beach City Road, Fish Haul Road, and Dillon Road.

The Hilton Head Airport is in the southwestern quadrant of the subject neighborhood. The airport is owned by Beaufort County. Mostly used for general aviation, it is also served by a commercial airline and one public charter airline operating limited service. It is the only airport on Hilton Head Island.

There is a condominium development adjacent to the subject property, accessed at the end of Beach City Road and known as The Spa on Port Royal. This sound front development was constructed in the early 1980’s and features gated access, three tennis courts, gym, and indoor and outdoor swimming pools.

Also adjacent to the subject property and accessed from Beach City Road is a single-family subdivision. Beach City Place at Mitchelville was completed in 2009; however, only one lot was sold and developed. In 2013, the developer requested that property be rezoned from RM-4 (Low Density Residential) zoning district to RM-12 (Moderate to High Density Residential) zoning district. He indicated that an order of foreclosure had been issued and that the rezoning was necessary to avoid foreclosure by redeveloping the property into a high-density multifamily development. However, the zoning request was denied, and the property was purchased out of foreclosure later that year. The new ownership group sought to have the property rezoned to RM-8 (Moderate Density Residential) zoning district in to allow duplex development; however, this request was also denied. The property is now built-out with 42 homes.

Adjacent to Beach City Place is the Mitchelville Golf Cottages. This development, which is utilized as housing for the Junior Players Golf Academy, consists of six, 4-bedroom, 4 ½ bath cottages located in its own gated community.

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Hammock Breeze is a new 42-lot subdivision developed on Mitchelville Road, which fronts on Port Royal Sound. Homes range from 1,821 to 2,694 S.F., with initial pricing ranging from \$358,990 to \$409,990. Only two lots in the subdivision have direct sound views and due to an expanse of marsh, there is no direct access to the beachfront. Construction began in 2020 and the development is reportedly sold out.

A 34-home gated subdivision, called The Estuary, is located off Fish Haul Road next to the Arthur Hills Golf Course at Palmetto Hall Plantation. Construction began in 2019 and the development has completely sold out. Initial home prices ranged from \$337,900 to \$390,000, with 32 of the 34 new homes having golf course or lagoon views.

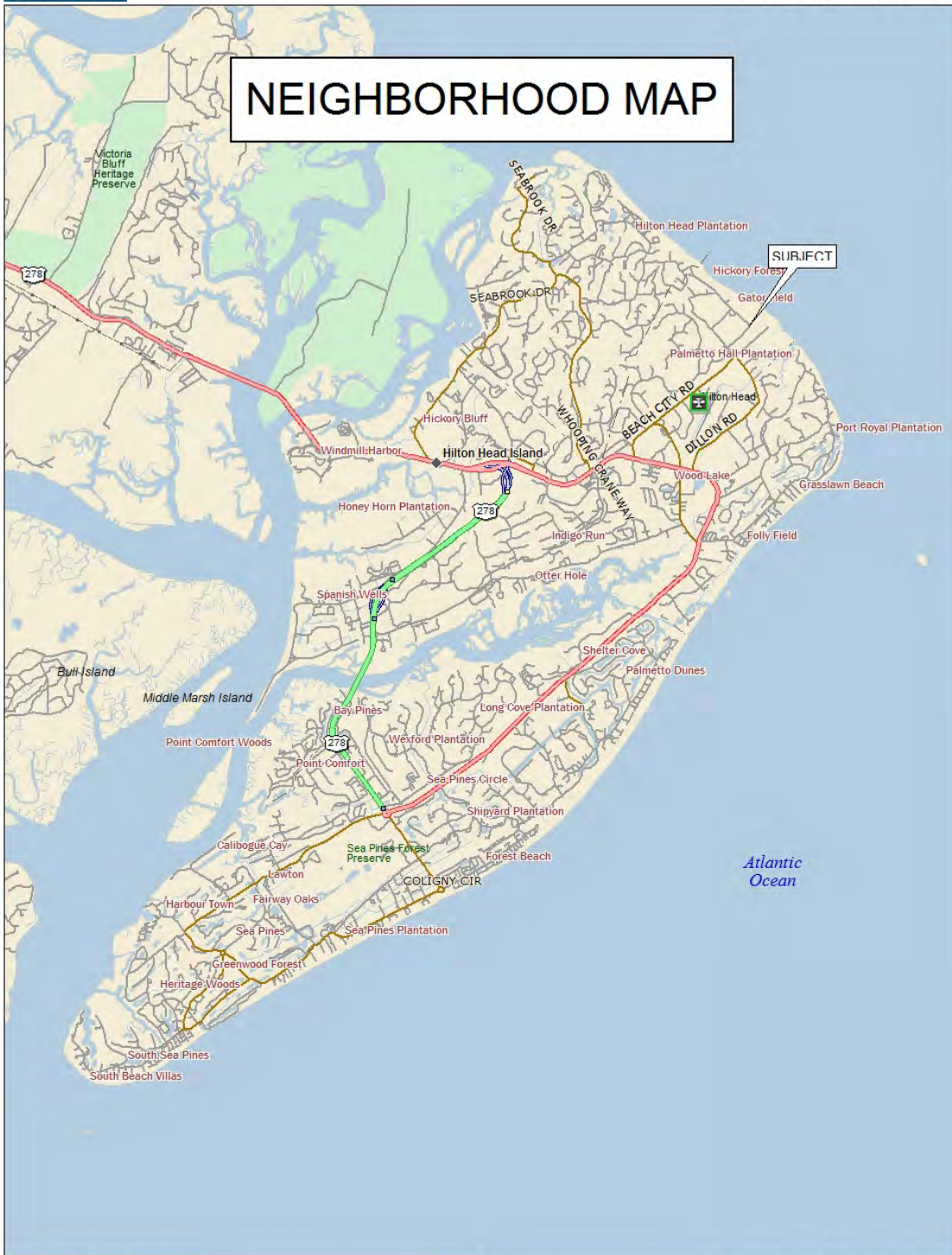
The subject neighborhood appears to be in the growth stage of its lifecycle. I believe that property values are stable or increasing, overall. Growth is expected to continue, and property values are expected to increase, in the long term.

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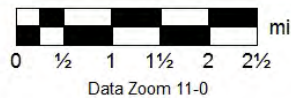
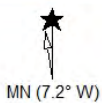
# NEIGHBORHOOD MAP



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## SITE ANALYSIS

The subject property is in the Town of Hilton Head Island, Beaufort County, South Carolina. The subject property is located at the northeastern portion of Hilton Head Island on Mitchelville Road, in the Mitchelville community. Mitchelville Road runs from Fish Haul Plantation and ends at the subject property. The road continues through the subject property as a private, unpaved road. The road through the subject property is reportedly county maintained and is regularly utilized by local motorists. No documentation of a recorded easement for the road was located. The subject property can also be accessed from Fish Haul Road. Mitchelville Road and Fish Haul Road are two-lane, asphalt paved, 66' rights-of-way with no streetlights, or curb and gutter. Fish Haul Road has a sidewalk, while Mitchelville Road does not.

The subject property can also be accessed from Fish Haul Road. Mitchelville Road and Fish Haul Road are two-lane, asphalt paved, 66' rights-of-way with no streetlights, or curb and gutter. Fish Haul Road has a sidewalk, while Mitchelville Road does not.

I was provided with a survey, dated February 7, 2005, that indicates the subject property as having 26.69 acres. The subject parcel is shown as having 0.169 acre of tidal wetland lying below the OCRM critical line and 0.059 acre of freshwater wetland; therefore, the total indicated highland is 26.462 acres. A 25' wide ingress/egress easement is shown along a portion of the property's northern boundary. No other easements are shown; however, an overhead power line and water line are shown as running through the property along the access road, and utility easements for these are assumed.

The subject property is shown as having 358.56' of frontage on Fish Haul Road and as previously stated, the Mitchelville Road right-of-way ends at the subject property. The size of the subject tract is larger than is typical for residential tracts in the subject neighborhood. The shape of this tract is irregular, and portions of the site are separated by Mitchelville Road and are not contiguous, but the site is functional for development.

Most of the tract appears to be in either an X or AE (EL 8) flood zone. The X flood zone is a non-hazard area, while the AE (8) flood zone is a coastal flood hazard area, requiring a base elevation of 8' above MSL. The subject property is shown on FEMA flood maps 45013C0452G and 45013C0456G, dated March 23, 2021. It should be noted that flood maps by FEMA are not precise. For a precise determination of the subject's flood hazard classification, a professional engineer, licensed surveyor, or a local governmental authority should make an exact determination.

The tract appears to be basically level. An inspection of a USGS topographic map shows most of the subject tract as being slightly above 10' MSL, with the area closest to the Sound being below 10' MSL. The subject property contains approximately 367', or 14' per highland acre, of frontage on the banks of Port Royal Sound and affords expansive water views. Port Royal Sound is a coastal sound, or inlet of the Atlantic Ocean. It is the estuary of several rivers, the largest of which is the Broad River. The sound is located between Hilton Head Island to the south and, to the north, Port Royal Island, Saint Helena Island, Parris Island, and other smaller islands. There is a beach front on the sound, known as Mitchelville Beach. The beach does not have the wave

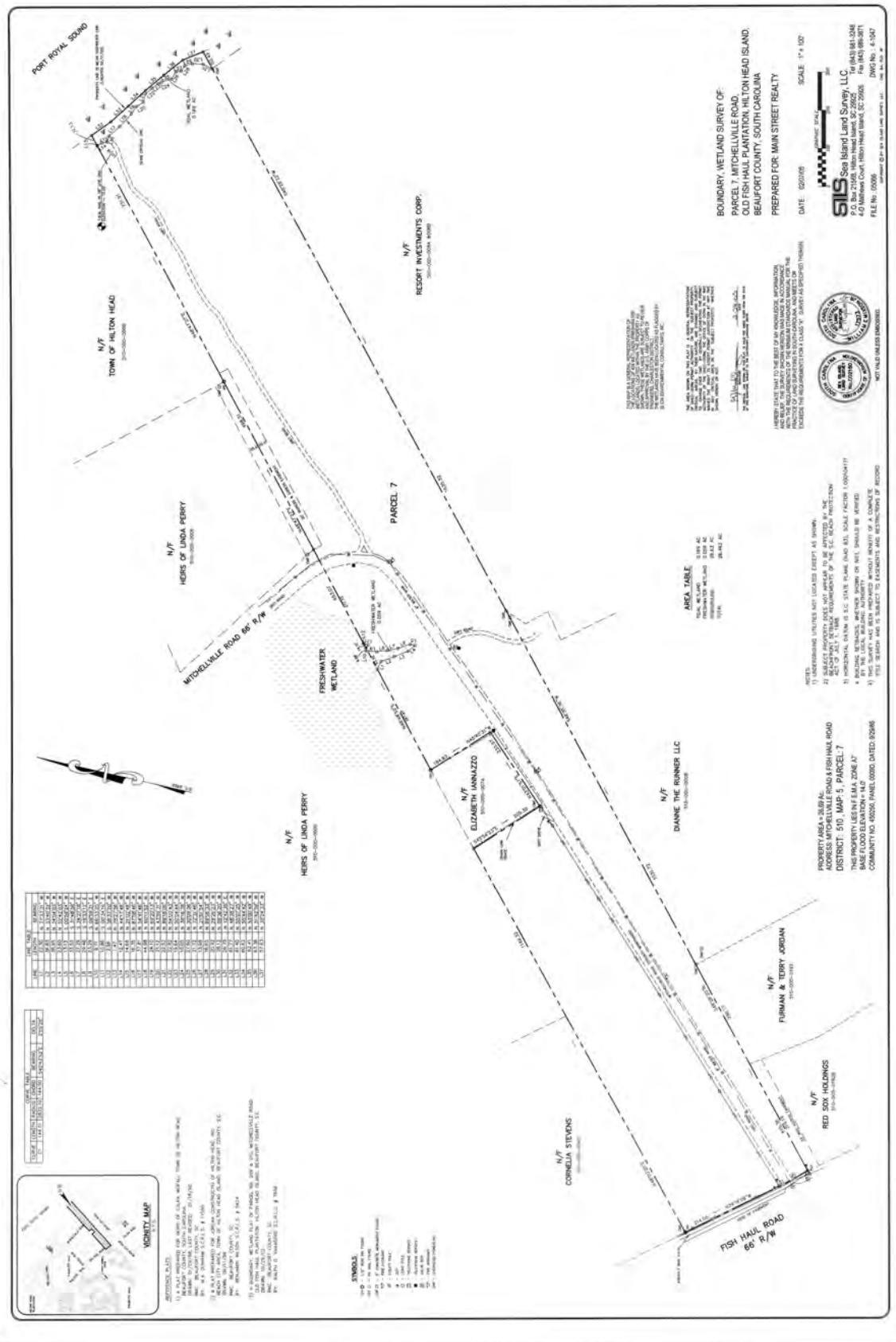
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action of an oceanfront beach and the area is not considered suitable for swimming, but the beach is popular for nature walks and fishing. The beach can be rather narrow at high tide. An on-site visit did not reveal any adverse soil conditions; however, no responsibility is assumed for any soil or sub-soil conditions. The visit to the property revealed most of the site to be wooded.

The subject property has power available from Palmetto Electric Cooperative Company and telephone service is available from the Hargray Telephone Company. Water and sewer services are provided by Hilton Head Public Service District. All other municipal services are provided by the Town of Hilton Head Island.

In summary, the subject property consists of a 26.69-acre tract of land, with 26.462 acres of highland. The tract of land fronts on Port Royal Sound. The shape of this tract is irregular, but functional and suitable for residential development. The physical and functional characteristics of the subject tract appear to meet the desires and standards of typical purchasers in the market.



AREA	AREA (AC)	PERCENTAGE (%)
Parcel 7	10.00	100.00
Wetland	1.50	15.00
Other	0.50	5.00
Total	12.00	120.00

**AREA TABLE**

AREA	AREA (AC)
Parcel 7	10.00
Wetland	1.50
Other	0.50
Total	12.00

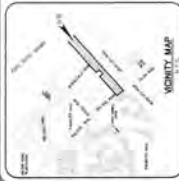
- NOTES:**
- 1) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN.
  - 2) SUBJECT PROPERTY ZONES NOT APPLICABLE TO BE AFFECTED BY THE DISTRICT OF JULY 1, 1988 REQUIREMENT OF THE S.C. ZONING ACT.
  - 3) HORIZONTAL CURVES IN S.C. STATE PLANS (AND ALL TOTAL FACTOR CORRECTIONS) BY THE LOCAL SURVEYING AUTHORITY.
  - 4) THIS SURVEY AND ALL SUBSEQUENT TO ADJUSTMENTS AND REVISIONS OF RECORD COMMUNITY TO ASSOCIATED PANELS DATED 02/08/96.

**PROPERTY ADDRESS:**  
 ADDRESS: MITCHELLVILLE ROAD/FISH HALL ROAD  
 DISTRICT: 510, MAP 5, PARCEL 7  
 THIS PROPERTY LIES IN FLOOD ZONE 17  
 BASE FLOOD ELEVATION = 14.0'

**BOUNDARY, WETLAND SURVEY OF**  
**PARCEL 7, MITCHELLVILLE ROAD,**  
**OLD FISH-HALL PLANTATION, HILTON HEAD ISLAND,**  
**BEAUFORT COUNTY, SOUTH CAROLINA**  
**PREPARED FOR: MAIN STREET REALTY**

DATE: 02/07/09 SCALE: 1" = 100'

**SITS** Survey & Mapping, LLC  
 P.O. Box 2108, Hilton Head Island, SC 29928 Tel: (843) 841-3248  
 410 Main Street, Hilton Head Island, SC 29928 Fax: (843) 841-3071  
 FILE NO.: 05096



**REVISIONS:**

NO.	DATE	DESCRIPTION
1	02/07/09	INITIAL SURVEY
2	02/07/09	FINAL SURVEY

- SYMBOLS:**
- 1. Survey Boundary
  - 2. Wetland Boundary
  - 3. Easement Boundary
  - 4. Easement
  - 5. Easement
  - 6. Easement
  - 7. Easement
  - 8. Easement
  - 9. Easement
  - 10. Easement



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## ZONING

The subject property is zoned RM-4, Low-to-Moderate Density Residential District and MV, Mitchelville District, by the Town of Hilton Head. The MV zoned area consists of 12.0 acres that is in proximity to Port Royal Sound, while the remaining 14.69 acres is zoned RM-4. A portion of the official Hilton Head Island zoning map follows in this section.

According to the Hilton Head Island Land Management Ordinance, it is the purpose of the RM-4 District to protect and preserve the character of these areas and neighborhoods at densities up to four dwelling units per net acre. The maximum allowed density is four units per acre, or six units per acre if the lot area is at least three acres and eight units per acre if the lot area is at least five acres. On February 16, 2021, the Hilton Head Town Council voted to amend the town's code in order to offer bonus densities for developments that include workforce housing on specific parcels that are zoned RM-4. According to an amendment exhibit, a portion of the subject property that fronts on Fish Haul Road is eligible. This area is estimated at about six acres.

According to the amendment:

- a. A density bonus up to 100% above the base residential density standards is permitted if 50% of all units within the development are workforce housing units.
- b. A density bonus up to 50% above the base residential density standards is permitted if 25% of all units within the development are workforce housing units.
- c. The maximum density permitted in any workforce housing development is 12 units per acre.

The RM-4 district is used to encourage a variety of residential opportunities, including multifamily residential units, single-family residences, and group living. The regulations of the district are intended to discourage development that would substantially interfere with, or be detrimental to, residential character. Single-family, multifamily, and group home uses are allowed in this district, as well as agricultural and some public, civic, and institutional uses. Several other uses are permitted conditionally.

The maximum structure height is 35' and the maximum impervious coverage area is 35%. The minimum open space for major residential subdivisions is 16%. For residential uses, the minimum adjacent street setback ranges from 10' to 50', dependent upon the size of the street and height of the building. There are adjacent use setbacks which vary use of the subject property in relation to the uses on adjacent properties. For residential uses, these setbacks range from 20' to 40.'

The purpose of the Mitchelville (MV) District is to recognize the historical and cultural significance of this area of the Island. A variety of uses are permitted in an effort to facilitate development in this area. These sites have a unique ability to provide an environment conducive to water-oriented commercial and residential development. Single-family and multifamily uses are allowed in this district, as well as agricultural, public, civic, institutional, commercial recreation, and resort accommodation uses, including hotel use. Several other uses are permitted conditionally.

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The maximum structure height is 75' and the maximum impervious coverage area is 35%. The minimum open space for major residential subdivisions is 16%. For residential uses, the minimum adjacent street setback ranges from 10' to 50', dependent upon the size of the street and height of the building. The minimum setback from tidal wetlands is 20' for single-family uses and 15' for non-residential uses and must be a minimum average of 35' for multifamily uses. There are adjacent use setbacks which vary based on the use of the subject property in relation to the uses on adjacent properties. For residential uses, these setbacks range from 20' to 40.' The maximum allowed density is 12 units per acre. The maximum hotel density is 35 rooms per acre.

The subject property is also located in the A-O, Airport Overlay District, and COR, Corridor Overlay District. The Airport Overlay (A-O) District was established to ensure against safety hazards, noise, and obstruction problems associated with aircraft utilizing the Hilton Head Island Airport. All development proposed within the A-O District shall be subject to the standards specified in the overlay district in addition to the standards and regulations contained in the particular base district in which the development occurs. Development in the A-O District is subject to regulation primarily to mitigate safety and noise problems. However, uses within the district also shall be regulated to ensure they are compatible with airport operations. The regulations governing use and height within the A-O District shall conform to the standards recommended by the Federal Aviation Administration's (FAA) Advisory Circular, 150/5190-4A, "Model Zoning Ordinance to Limit Height of Objects Around Airports" (12-14-87).

A portion of the subject property lies within the Corridor Overlay District (COR). The purpose of this district is to establish the procedures and standards for the review and decision on an application for Corridor Review approval. Applications must be submitted for all development in the COR District and will be subject to staff and/or Design Review Board approval.

Based upon the current zoning, the subject property would be allowed up to eight units per acre on the 14.69 acres zoned RM-4, or 117 units, and 12 units per acre on the 12.0 acres zoned MV, or 144 units, indicating a total of 261 allowed units. The 12 acres with MV zoning would allow up to 35 hotel rooms per acre, or 420 total rooms. If a residential development on the subject property were to include 50% workforce housing, a six-acre portion of the property would be eligible for bonus density of an additional four units per acre, or 24 additional units. If 25% of a new development were workforce housing, an additional 12 units would be allowed.

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The subject property falls within the following A-O subdistricts:

### **Discretionary Noise Level District - Ldn 60**

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within the Ldn 60 noise level district in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights (i.e., colors and patterns), result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. Noise mitigation measures are encouraged for all proposed residential development.

### **Approach Path District**

Within the Approach Path subdistrict, no building, structure, utility pole or protrusion of any kind shall be permitted to extend to a height measured from the mean elevation of the airport runway that exceeds the limits established by the methodology described in this section.

i. The maximum height limits permitted under this Ordinance of 75 feet shall be lowered as necessary to correspond with the limits established as follows:

Along both sides and ends of the airport primary surface area, at the extremity of the primary surface, the height restriction shall be zero feet. Moving outward from both sides of the runway, 250 feet from the runway center line, the height limit shall increase at the rate of 1 foot upward per 7 linear feet, or a ratio of 1:7.

Moving outward from both ends of the runway primary surface area, the height limit shall increase at the rate of one foot upward per 34 linear feet, or a ratio of 1:34. From both ends of the primary surface area, the area subject to these special height limitations shall fan outward beyond the area that would be covered if the height limitation from the sides of the primary surface area extended beyond the ends of the runway.

According to measurements taken from the Beaufort County GIS system, the subject property is located approximately 2,300 L.F. from the end of the airport runway's paved surface area. Based upon a height limit of one foot upward per 34 linear feet, the indicated minimum height is approximately 67.' This exceeds the height requirement of the RM-4 District (35'), but is below that of the MV District (75'). However, the portion of the subject site that is zoned MV is estimated to be approximately 3,700' from the runway, indicating an approximate 108' maximum height, which is greater than the MV maximum.

A detailed process is established and detailed in the ordinance for tree pruning, topping, and removal on and off airport property to address the height limits in provision i above.

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## Outer Hazard Zone

### i. Special Construction Standards

For uses with minimum occupant loads of 100 square feet or more per occupant or structures designated as historical by the Town Council, no special construction standards shall apply.

A portion of the subject property lies within the Corridor Overlay District (COR). The purpose of this district is to establish the procedures and standards for the review and decision on an application for Corridor Review approval. Applications must be submitted for all development in the COR District and will be subject to staff and/or Design Review Board approval.



**RESIDENTIAL ZONING DISTRICTS**

- RS-3** SINGLE FAMILY
- RS-5** SINGLE FAMILY
- RS-6** SINGLE FAMILY
- RM-4** LOW TO MODERATE DENSITY
- RM-8** MODERATE DENSITY
- RM-12** MODERATE TO HIGH DENSITY

**MIXED-USE & BUSINESS ZONING DISTRICTS**

- NC** NEIGHBORHOOD COMMERCIAL
- MS** MAIN STREET
- SPC** SEA PINES COMMERCIAL
- LC** LIGHT COMMERCIAL
- CC** COMMUNITY COMMERCIAL
- MED** MEDICAL
- IL** LIGHT INDUSTRIAL
- PD-1** PLANNED DEVELOPMENT
- MF** MARSHFRONT MIXED USE
- S** STONEY MIXED USE
- MV** MITCHELVILLE
- WMU** WATER-ORIENTED MIXED USE
- RD** RESORT DEVELOPMENT
- CR** COLIGNY RESORT

**CONSERVATION & RECREATION DISTRICTS**

- CON** CONSERVATION
- PR** PARKS AND RECREATION

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## ASSESSMENT AND TAXES

The subject property is in Beaufort County, South Carolina. Property valuation and assessment are the responsibility of the Beaufort County Assessor's office. Under South Carolina Statutes and Constitution, all real property in the State of South Carolina is appraised by the Assessor at Market Value and assessed based on a system of classification. Industrial properties of certain types are appraised by the South Carolina Tax Commission and carry a 4% ratio of assessment to Market Value.

Commercial properties are appraised at Market Value and assessed at 6% of that value. Light industrial properties are appraised by the Beaufort County Assessor and assessed at 6%. All other properties, except qualifying primary owner-occupied residences and properties which qualify for agricultural use valuation, are assessed at 6% of Market Value. Owner occupied residences may be assessed at 4% upon application. Agricultural properties which qualify for agricultural use valuation are assessed at 4% or 6% of Use Value depending on the type of ownership.

The subject property is currently appraised at a market value of \$2,173,900 and a capped value of \$1,556,845. The parcel is taxed based upon agricultural use and assessed at 4%. The 2022 assessment was \$160 and the taxes for the subject property were \$41.11 and have been paid. The 2022 millage rate was 256.9. The 2023 taxes are not yet available. The next reassessment year is 2023 and 2023 values will be based on the value as of December 31, 2022.

Due to the agricultural use classification, a portion of the taxes are deferred, but not eliminated. If the property ceases to be used for agricultural purposes, the owner as of December 31 in the year the use changes is liable for the difference between the amount of tax paid under agricultural use classification and the amount that would have been paid at full market value classification. These rollback taxes are recovered for the five years prior to the change in use of the property.

Based on SC tax law, property is reappraised at market value upon sale or development, but upon sale application can be made to reduce the appraised value 25% for up to five years, the next reassessment. The reduced value cannot be less than the most recent appraised value, not the capped value.

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## HIGHEST AND BEST USE ANALYSIS

Highest and Best Use may be defined as “the reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.”<sup>3</sup>

Therefore, any use of a property must meet the four tests of being legally permissible, physically possible, financially feasible, and maximally productive.

**Legally Permissible:** The subject property is zoned RM-4, Low-to-Moderate Density Residential District and MV, Mitchelville District, by the Town of Hilton Head. The MV zoned area consists of 12.0 acres that is in proximity to Port Royal Sound, while the remaining 18.08 acres is zoned RM-4.

According to the Hilton Head Island Land Management Ordinance, it is the purpose of the RM-4 District to protect and preserve the character of these areas and neighborhoods at densities up to four dwelling units per net acre. The maximum allowed density is four units per acre, or six units per acre if the lot area is at least three acres and eight units per acre if the lot area is at least five acres. On February 16, 2021, the Hilton Head Town Council voted to amend the town’s code in order to offer bonus densities for developments that include workforce housing on specific parcels that are zoned RM-4. According to the amendment, a portion of the subject property that fronts on Fish Haul Road is eligible. This area is estimated at about six acres.

According to the amendment:

- a. A density bonus up to 100% above the base residential density standards is permitted if 50% of all units within the development are workforce housing units.
- b. A density bonus up to 50% above the base residential density standards is permitted if 25% of all units within the development are workforce housing units.
- c. The maximum density permitted in any workforce housing development is 12 units per acre.

The RM-4 district is used to encourage a variety of residential opportunities, including multifamily residential units, single-family residences, and group living. The regulations of the district are intended to discourage development that would substantially interfere with, or be detrimental to, residential character. Single-family, multifamily, and group home uses are allowed in this district, as well as agricultural and some public, civic, and institutional uses. Several other uses are permitted conditionally.

3. Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., p. 278.

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The maximum structure height is 35' and the maximum impervious coverage area is 35%. The minimum open space for major residential subdivisions is 16%. For residential uses, the minimum adjacent street setback ranges from 10' to 50', dependent upon the size of the street and height of the building. There are adjacent use setbacks which vary by the use of the subject property in relation to the uses on adjacent properties. For residential uses, these setbacks range from 20' to 40.'

The purpose of the Mitchelville (MV) District is to recognize the historical and cultural significance of this area of the Island. A variety of uses are permitted in an effort to facilitate development in this area. These sites have a unique ability to provide an environment conducive to water-oriented commercial and residential development. Single-family and multifamily uses are allowed in this district, as well as agricultural, public, civic, institutional, commercial recreation, and resort accommodation uses, including hotel use. Several other uses are permitted conditionally.

The maximum structure height is 75' and the maximum impervious coverage area is 35%. The minimum open space for major residential subdivisions is 16%. For residential uses, the minimum adjacent street setback ranges from 10' to 50', dependent upon the size of the street and height of the building. The minimum setback from tidal wetlands is 20' for single-family uses and 15' for non-residential uses and must be a minimum average of 35' for multifamily uses. There are adjacent use setbacks which vary by the use of the subject property in relation to the uses on adjacent properties. or residential uses, these setbacks range from 20' to 40.' The maximum allowed density is 12 units per acre. The maximum hotel density is 35 rooms per acre.

The subject property is also located in the A-O, Airport Overlay District, and COR, Corridor Overlay District. The Airport Overlay (A-O) District is established to ensure against safety hazards, noise, and obstruction problems associated with aircraft utilizing the Hilton Head Island Airport. All development proposed within the A-O District shall be subject to the standards specified in the overlay district in addition to the standards and regulations contained in the particular base district in which the development occurs. Development in the A-O District is subject to regulation primarily to mitigate safety and noise problems. However, uses within the district also shall be regulated to ensure they are compatible with airport operations. The regulations governing use and height within the A-O District shall conform to the standards recommended by the Federal Aviation Administration's (FAA) Advisory Circular, 150/5190-4A, "Model Zoning Ordinance to Limit Height of Objects Around Airports" (12-14-87).

The subject property is vacant land and represents a legal conforming use.

**Physically Possible:** The subject property is in the Town of Hilton Head Island, Beaufort County, South Carolina. The subject property is located at the northeastern portion of Hilton Head Island on Mitchelville Road, in the Mitchelville community. Mitchelville Road runs from Fish Haul Plantation and ends at the subject property. The road continues through the subject property as a private, unpaved road. The road through the subject property is reportedly county maintained and is regularly utilized by local motorists. No documentation of a recorded easement for the road was located. The subject property can also be accessed from Fish Haul Road.

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The subject property can also be accessed from Fish Haul Road. Mitchelville Road and Fish Haul Road are two-lane, asphalt paved, 66' rights-of-way with no streetlights, or curb and gutter. Fish Haul Road has a sidewalk, while Mitchelville Road does not.

I was provided with a survey, dated February 7, 2005, that indicates the subject property as having 26.69 acres. The subject parcel is shown as having 0.169 acre of tidal wetland lying below the OCRM critical line and 0.059 acre of freshwater wetland; therefore, the total indicated highland is 26.462 acres. A 25' wide ingress/egress easement is shown along a portion of the property's northern boundary. No other easements are shown; however, an overhead power line and water line are shown as running through the property along the access road, and utility easements for these are assumed.

The subject property is shown as having 358.56' of frontage on Fish Haul Road and as previously stated, the Mitchelville Road right-of-way ends at the subject property. The size of the subject tract is larger than is typical for residential tracts in the subject neighborhood. The shape of this tract is irregular, and portions of the site are separated by Mitchelville Road and are not contiguous, but the site is functional for development.

Most of the tract appears to be in either an X or AE (EL 8) flood zone. The X flood zone is a non-hazard area, while the AE (8) flood zone is a coastal flood hazard area, requiring a base elevation of 8' above MSL.

The tract appears to be basically level. An inspection of a USGS topographic map shows most of the subject tract as being slightly above 10' MSL, with the area closest to the Sound being below 10' MSL. The subject property contains approximately 367', or 14' per highland acre, of frontage on the banks of Port Royal Sound and affords expansive water views. Port Royal Sound is a coastal sound, or inlet of the Atlantic Ocean. It is the estuary of several rivers, the largest of which is the Broad River. The sound is located between Hilton Head Island to the south and, to the north, Port Royal Island, Saint Helena Island, Parris Island, and other smaller islands. There is a beach front on the sound, known as Mitchelville Beach. The beach does not have the wave action of an oceanfront beach and the area is not considered suitable for swimming, but the beach is popular for nature walks and fishing. The beach can be rather narrow at high tide. An on-site visit did not reveal any adverse soil conditions; however, no responsibility is assumed for any soil or sub-soil conditions. The visit to the property revealed most of the site to be wooded.

In summary, the subject property consists of a 26.69-acre tract of land, with 26.462 acres of highland. The tract of land fronts on Port Royal Sound. The shape of this tract is irregular, but functional and suitable for residential development. The physical and functional characteristics of the subject tract appear to meet the desires and standards of typical purchasers in the market.

**Financially Feasible:** Next, I will consider financially feasible uses for the subject property. The subject neighborhood is accessed by Beach City Road, which runs from US Highway 278 (William Hilton Parkway) and ends at the Port Royal Sound. The immediate subject neighborhood is the northwestern portion of Hilton Head Island, or the Mitchelville community and Fish Haul Plantation.

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The Mitchelville community and Fish Haul Plantation are bounded by Beach City Road, Palmetto Hall and Hilton Head Plantation with many properties having frontage on the Port Royal Sound. This area is one of the least developed areas on the island. There are still several unpaved roads throughout the immediate subject neighborhood. The neighborhood includes many older residential structures and mobile homes, with some recreational properties, such as Fish Haul Creek Park, Mitchelville Beach Park, and Barker Field. There are a few light industrial properties located at the intersection of Beach City Road, Fish Haul Road, and Dillon Road.

The Hilton Head Airport is in the southwestern quadrant of the subject neighborhood. The airport is owned by Beaufort County. Mostly used for general aviation, it is also served by a commercial airline and one public charter airline operating limited service. It is the only airport on Hilton Head Island.

There is a condominium development adjacent to the subject property, accessed at the end of Beach City Road and known as The Spa on Port Royal. This sound front development was constructed in the early 1980's and features gated access, three tennis courts, gym, and indoor and outdoor swimming pools.

Also adjacent to the subject property and accessed from Beach City Road is a single-family subdivision. Beach City Place at Mitchelville was completed in 2009; however, only one lot was sold and developed. In 2013, the developer requested that property be rezoned from RM-4 (Low Density Residential) zoning district to RM-12 (Moderate to High Density Residential) zoning district. He indicated that an order of foreclosure had been issued and that the rezoning was necessary to avoid foreclosure by redeveloping the property into a high-density multifamily development. However, the zoning request was denied, and the property was purchased out of foreclosure later that year. The new ownership group sought to have the property rezoned to RM-8 (Moderate Density Residential) zoning district in to allow duplex development; however, this request was also denied. The property is now built-out with 42 homes.

Adjacent to Beach City Place is the Mitchelville Golf Cottages. This development, which is utilized as housing for the Junior Players Golf Academy, consists of six, 4-bedroom, 4 ½ bath cottages located in its own gated community.

Hammock Breeze is a new 42-lot subdivision developed on Mitchelville Road, which fronts on Port Royal Sound. Homes range from 1,821 to 2,694 S.F., with initial pricing ranging from \$358,990 to \$409,990. Only two lots in the subdivision have direct sound views and due to an expanse of marsh, there is no direct access to the beachfront. Construction began in 2020 and the development is reportedly sold out.

A 34-home gated subdivision, called The Estuary, is located off Fish Haul Road next to the Arthur Hills Golf Course at Palmetto Hall Plantation. Construction began in 2019 and the development has completely sold out. Initial home prices ranged from \$337,900 to \$390,000, with 32 of the 34 new homes having golf course or lagoon views.

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The subject neighborhood appears to be in the growth stage of its lifecycle. I believe that property values are stable or increasing, overall. Growth is expected to continue, and property values are expected to increase, in the long term.

In conclusion, median prices have increased since 2019 for both condo/villas and single-family homes, but the number of home sales have seen declines and builders are offering discounts and concessions for new homes. I believe that the long-term outlook for the island is very good. Growth is expected to continue, and property values are expected to increase, in the long term.

COVID-19 was declared a pandemic on March 11, 2020, by the World Health Organization. Moreover, the National Bureau of Economic Research announced June 8, 2020, that the longest economic expansion in the nation's history has come to an end and that the recession began in February. However, it was determined that it was the shortest recession on record after ending in April of 2020.

Supported by low-interest rates, the residential real estate sector was very resilient. According to NAR data, 2020 was a record-breaking year for the US housing market. The typical U.S. home was worth \$266,104 in December, up 8.4% (or \$20,587) from a year earlier. A total of 5.64 million homes were sold in 2020, up 5.6% from 2019 and the most since before the Great Recession, according to Lawrence Yun, NAR's chief economist. Sales were up 22.2% year-over-year. Existing home sales reached the highest level in 13 years.

The median sale price of condos/villas on Hilton Head Island was \$302,500 in 2020, a significant 21.0% increase from a median sale price of \$250,038 in 2019. The market saw more moderate annual increases of 3.1% and 6.7% for the preceding two years, respectively.

There were 1,396 condo/villa sales on the island in 2020, a 7.0% increase from 1,194 sales in 2019. Sales volume increased moderately over the previous two years, with annual increases of 3.1% and 6.7%. The marketing time for condos and villas saw a decline of 7.5% over 2019.

The median sale price of detached single-family homes on Hilton Head Island was \$625,000 in 2020, an 11.8% increase from a median sale price of \$559,000 in 2019. The median sale price increased by 4.7% in 2019 over 2018, while the 2018 median sale price saw a slight 0.2% decline from 2017. The median single-family home sale price increased cumulatively by 16.8% over three years.

There were 1,569 single-family home sales on the island in 2020, a significant 46.8% increase from 1,069 sales in 2019. Sales volume decreased by 6.2% in 2019 over 2018; however, 2018 sales volume was 16.8% higher than 2017. The annual number of sales increased cumulatively by 60.8% over three years, buoyed by 2020 sales. The marketing time for single-family homes saw an increase of 3.4% over 2019, after seeing substantial decreases the previous two years. The marketing time for single-family homes decreased cumulatively by 12.1% over three years.

For the 12-month period spanning January 2021 through December 2021, pending sales in the Hilton Head region were up 1.2% overall. The price range with the largest gain in sales was the \$650,001 and above range, where they increased 26.3%. The overall median sales price was up

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11.7% to \$410,000. The property type with the largest price gain was the condos and villas segment, where prices increased 18.2% to \$325,000. The price range that tended to sell the quickest was the \$100,001 to \$225,000 range at 81 days; the price range that tended to sell the slowest was the \$650,001 and above range at 111 days. Market-wide, inventory levels were down 50.8 percent. The property type that lost the least inventory was the condos segment, where it decreased 34.9%.

For the 12-month period spanning January 2022 through December 2022, pending Sales in the Hilton Head region were down 24.1%, overall. The price range with the largest gain in sales was the \$375,001 to \$650,000 range, where they increased 1.2%. The overall median sales price was up 18.3% to \$485,000. The property type with the largest price gain was the condos and villas segment, where prices increased 20.0% to \$390,000. The price range that tended to sell the quickest was the \$100,001 to \$225,000 range at 68 days; the price range that tended to sell the slowest was the \$225,001 to \$375,000 range at 122 days. Market-wide, inventory levels were up 88.6%. The property type that gained the most inventory was the single-family segment, where it increased 99.0%. That amounts to a 2.1-month supply for single-family homes and a 1.9-month supply for condos and villas.

In 2022, to attract buyers amid slowing traffic and declining home sales, U.S. homebuilders increasingly reduced prices and offered sales incentives. According to the National Association of Home Builders, 36% of single-family homebuilders reported cutting prices as of last measure, with an average price reduction of 6%. Meanwhile, 59% of builders reported offering sales incentives, including price discounts, paying closing costs or fees, and offering free upgrades or price discounts, among others.

The recent steep increase in interest rates has affected home sales, though prices remain strong in many areas. However, there is a limited supply of waterfront development sites, and the residential market has been strong for the past few years. Due to the physical characteristics of the subject property and its location, the financially feasible use is believed to be residential use, likely condominium\villa or a mixture of condominium, villa, and high density single-family detached units. Based upon the foregoing information, I believe that the most financially feasible use of the subject property is residential development.

**Maximally Productive:** The financially feasible use is residential development. The current zoning allows up to 261 units, or up to 285 units under bonus density if a significant portion of the property consists of workforce housing. Therefore, the maximally productive use is residential development, of up to 261 units, or up to 285 units with workforce housing. The most likely development would be condominium\villa or a mixture of condominium, villa, and high density single-family detached units.

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## Conclusion

Based on the foregoing information, it is my opinion that the highest and best use for the subject property “as though vacant” is residential development, of up to 261 units, or up to 285 units with workforce housing. The most likely development would be condominium\villa or a mixture of condominium, villa, and high density single-family detached units. The most likely purchaser of the subject property would be a regional developer.

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## VALUATION METHODOLOGY

The valuation process begins when an appraiser identifies the appraisal problem and ends when he or she reports a conclusion to the client. Each real property is unique and many different types of value can be estimated for a single property. The most common appraisal assignment is performed to estimate market value; the valuation process contains all the steps appropriate to the type of assignment. The model also provides the framework for estimating any other defined value. Furthermore, evaluation assignments often call for value estimates which are derived through application of the valuation process.

The valuation process is accomplished through specific steps; the number of steps followed depends on the nature of the appraisal assignment and the data available. The model indicates a pattern that can be used in any appraisal assignment to perform market research and data analysis, to apply appraisal techniques, and to integrate the results of these activities into an estimate of defined value.

Research begins after the appraisal problem has been defined. The analysis of data relevant to the problem starts with an investigation of trends observed at all market levels - international, national, regional, community, and neighborhood. This examination will help the appraiser understand the interrelationships among the principles, forces, and factors that affect real property value in the specific area. It also provides raw data from which to extract quantitative information and property value over a number of years, the population movement into and area, and the number of employment opportunities available the effect on the purchasing power of potential property users. These data can be analyzed and employed to estimate a defined value.

Traditionally, appraisal techniques are the specific procedures within the three approaches that are applied to derive indications of real property value. Other procedures such as the use of inferential statistics and economic models also contribute to appraisals. One or more approaches to value may be used depending on their applicability to the particular appraisal assignment.

In assignments to estimate market value, the ultimate goal of the valuation process is a well-supported value conclusion that reflects all the factors that influence the market value of the property being appraised. To achieve this goal, an appraiser studies a property from three different viewpoints, which correspond to the three traditional approaches to value.

1. The current cost of reproducing or replacing the improvements, minus the loss in value from depreciation, plus site value - the cost approach.
2. The value indicated by recent sales of comparable properties in the market - the sales comparison approach.
3. The value of a property's earning power based on the capitalization of its income - the income capitalization approach.

The three approaches are interrelated; each requires the gathering and analysis of cost, sales, and income data that pertain to the property being appraised.

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From the approaches applied, the appraiser derives separate indications of value for the property being appraised. One or more of the approaches may not be applicable to a specific assignment or may be less reliable due to the nature of the property, the needs of the client, or the data available.

To complete the valuation process, the appraiser integrates the information drawn from market research and data analysis and from the application of approaches to form a value conclusion. This conclusion may be present as a single point estimate of value or as a range within which the value may fall. An effective integration of all the elements in the process depends on the appraiser's skill, experience, and judgement.<sup>4</sup>

4. Appraisal Institute, *The Appraisal of Real Estate*, 11th ed.

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## SALES COMPARISON APPROACH TO VALUE

The major premise of the Sales Comparison Approach to Value is that no prudent purchaser would pay more for a property than the cost to acquire a property of similar utility in the competing market. The principles that apply are those of substitution, supply and demand, and externalities.

There are many different units of comparison used to develop a pattern of indicated value for properties. The following units of comparison are the most used in valuing properties such as the subject property.

**Dollars Per Unit:** Dollars per Unit (\$/Unit) is the direct ratio of sale price to total number of units.

**Dollars per Acre:** Dollars per Acre (\$/Acre) is the direct ratio of the sale price of a property and the site area in acres.

I have researched the market and have located the following sales of residential tracts used in estimating the value for the subject property. All sales involved a coastal tract with a water view, except Sale No. 3, which is on Jonesville Road on Hilton Head Island across from Old House Creek. The sales are shown in a chart that follows in this section. Detailed sale sheets also follow in this section.

Before adjustments, the comparable sales indicate a range of \$36,940/unit to \$102,702/unit and \$114,217/acre to \$1,008,830/acre.

**Land Sale No. 1:** This is the sale of a 62.24-acre tract of land, with 33.27 acres of highland, located at the end of Green Island Road, Savannah, GA. The remainder of the site is marshland. The property is located on Skidaway Island, home to gated upscale residential developments just 25 minutes from downtown Savannah. Skidaway Island is also the home of a Georgia State Park. This tract of land has 800' of marsh and river frontage on Franklin Creek and the Little Ogeechee River. There is deepwater access on Franklin Creek over a marsh expanse of 215'. Public water and sewer are available and a sewer spray field agreement is in place for 45 lots. The density equates to 1.4 units per highland acre. The property is zoned PUD-R/EO, Planned Unit Development Residential / Environmental Overlay District. The property was sold on November 5, 2021, for \$3,800,000. The sale price equates to **\$114,217/acre** of highland and **\$84,444/unit**. TMS No. 1-0336-01-002 (Chatham County, GA)

**Land Sale No. 2:** This is the sale of an 8.738-acre tract located on Mitchelville Road, Hilton Head Island, SC. The property fronts on Port Royal Sound and is located about 0.20 miles northwest of the subject property. The property contains 6.775 acres of highland and 1.963 acres of marsh. This tract has approximately 288' of frontage on Port Royal Sound, or 42.5' per highland acre. The property is zoned MV, Mitchelville District, which allows up to 12 units per acre. The site was to be improved with a 37-lot subdivision known as Hammock Breeze; however, the development has 42 lots. The developed density equates to 6.2 units per highland acre.

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The highland portion of the site is separated from the beachfront by an expanse of marsh that spans several hundred feet, therefore, there is no direct access to the beach from this property. The nearest beach access is through the Fish Haul Park, whose entrance is about 250' southeast of the subdivision. The property was sold on June 17, 2019, for \$1,900,000. The sale price equates to **\$280,443/acre** of highland and **\$45,238/unit**.

TMS No. R510-005-000-431-0000 & 432-0000 (Beaufort County, SC)

**Land Sale No. 3:** This is the sale of a 30.43-acre tract of land located at 320 State Road 312, St. Augustine, FL. The property was purchased by St. Johns County for use as a public park and boat landing on the San Sebastian River. The property is also located on the Intracoastal Waterway/Matanzas River. The property is located on the north side of the bridge to Anastasia Island and across the river from Fish Island Preserve. Most of the tract is in the county's Open Rural District. This property is the former site of a boatyard, and a portion is zoned for mixed use. The property was appraised in July of 2022 for \$15,910,000, or \$522,839/acre. The appraisal provided by a representative of St. Johns County, and which was used for the purchase, did not contain a survey of the tract or a breakdown of the acreage by zoning. Moreover, no analysis of the number of potential units was provided. I could not locate a recorded survey of the tract. The property was sold on December 14, 2022, for \$17,500,000. The sale price equates to **\$575,090/acre**.

TMS No. 134900-0000, 134900-0010, & 134900-0011 (St. Johns County, FL)

**Land Sale No. 4:** This is the sale of a 12.314-acre tract located at 200, 224, and 234 Jonesville Road, Hilton Head Island, SC. The property has some marsh frontage on Jarvis Creek, 0.764 acres, and 11.55 acres of highland. The site is also across Jonesville Road from properties that front on Old House Creek. Jonesville Road is on a peninsula of land located off Spanish Wells Road. Most of the site is developed with a stable. There is also a single-family home on the tract of land. A developer had assembled the tract and had almost completed the subdivision approval process. The property is zoned RM-4, and 92 units would be allowed. A newspaper article stated that 90 homes would be developed; however, the most recent subdivision plat indicated 74 units and a density of 6.6 units per acre.

The developer took down the three parcels comprising this tract for \$6,400,000 just before selling to the Town of Hilton Head Island for a price of \$7,600,000. The town verified the purchase. I could not reach the Seller but assume from available information that they probably attached some value on the assemblage and approval process. The Town plans to possibly keep the stable and use the home or sell it. They may not have the demolition costs the developer would have had. The sale price equates to **\$658,009/acre** and **\$102,703/unit**, based on 74 units.

TMS No. R510-007-000-0159-0000, R510-007-000-0185-0000 & R510-007-000-0528-0000 (Beaufort County, SC)

**Land Sale No. 5:** This is the sale of a 10.985-acre tract located at 3001 S Ocean Blvd., Myrtle Beach, SC. This property is located on the Atlantic Ocean. This property was purchased along with other property by Holiday Inn Club Vacations, Inc., from Myrtle Beach Farms Company, Inc. on January 25, 2022, for construction of a timeshare property. The price was \$16,500,000, or \$824,382/acre for 20.015 acres. CoStar indicates that an allocated price for the waterfront 10.985 acres was \$8,933,434. However, Blake Arp of Burroughs and Chapin stated that amount is not

correct. He said that the value for the 9.03 acres of interior land is between \$550,000 and \$600,000/acre. Based on \$600,000/acre, the amount allocated would be \$5,418,000, leaving \$11,082,000, or \$1,008,830/acre for the oceanfront site, which Mr. Arp stated was worth about \$1,000,000/acre. Holiday Inn Club Vacations, Inc., subsequently sold the oceanfront tract to Myrtle Beach Holiday 1, Inc., which is Accelerated Assets. Accelerated Assets is concentrated on the acquisition, development, sale, and financing of strategic leisure and hospitality assets. The sale price was \$14,400,000, but this is not believed to be a market sale.

There is a 300-unit property planned for the waterfront site. There will be two, 6-story towers connected by an amenity level, and with parking underneath. The height of the buildings is limited by the flight path of the airport. Phase I is 152 units and is under construction. The interior land is across Ocean Blvd. and is not contiguous to the oceanfront tract. Moreover, the three tracts making up the interior land are not all contiguous. Charles Rowe, the Myrtle Beach Zoning Administrator, indicated that the 10.985-acre can provide adequate parking on-site and will not utilize the interior parcels. A 95-unit Avid hotel is planned for part of the interior land. A sales center will also go on the interior land. Since the other interior land is not included in this development, I have not included it in the sale. The sale price equates to **\$1,008,030/acre** and **\$36,940/unit**.

TMS No. 445-00-00-0252 (Horry County, SC)

### **Description of Adjustments:**

**Time/Market Conditions:** One sale used in this report occurred in June 2019. This older sale was included as it is in proximity to the subject property. The other sales occurred in 2021, 2022, and 2023.

I was unable to extract a time adjustment from the sales. COVID-19 was declared a pandemic on March 11, 2020, by the World Health Organization. Moreover, the National Bureau of Economic Research announced June 8, 2020, that the longest economic expansion in the nation's history has come to an end and that the recession began in February. However, it was determined that it was the shortest recession on record after ending in April of 2020.

Supported by low-interest rates, the residential real estate sector was very resilient. According to NAR data, 2020 was a record-breaking year for the US housing market. The typical U.S. home was worth \$266,104 in December, up 8.4% (or \$20,587) from a year earlier. A total of 5.64 million homes were sold in 2020, up 5.6% from 2019 and the most since before the Great Recession, according to Lawrence Yun, NAR's chief economist. Sales were up 22.2% year-over-year. Existing home sales reached the highest level in 13 years.

The median sale price of condos/villas on Hilton Head Island was \$302,500 in 2020, a significant 21.0% increase from a median sale price of \$250,038 in 2019. The market saw more moderate annual increases of 3.1% and 6.7% for the preceding two years, respectively.

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There were 1,396 condo/villa sales on the island in 2020, a 7.0% increase from 1,194 sales in 2019. Sales volume increased moderately over the previous two years, with annual increases of 3.1% and 6.7%. The marketing time for condos and villas saw a decline of 7.5% over 2019.

The median sale price of detached single-family homes on Hilton Head Island was \$625,000 in 2020, an 11.8% increase from a median sale price of \$559,000 in 2019. The median sale price increased by 4.7% in 2019 over 2018, while the 2018 median sale price saw a slight 0.2% decline from 2017. The median single-family home sale price increased cumulatively by 16.8% over three years.

There were 1,569 single-family home sales on the island in 2020, a significant 46.8% increase from 1,069 sales in 2019. Sales volume decreased by 6.2% in 2019 over 2018; however, 2018 sales volume was 16.8% higher than 2017. The annual number of sales increased cumulatively by 60.8% over three years, buoyed by 2020 sales. The marketing time for single-family homes saw an increase of 3.4% over 2019, after seeing substantial decreases the previous two years. The marketing time for single-family homes decreased cumulatively by 12.1% over three years.

For the 12-month period spanning January 2021 through December 2021, pending sales in the Hilton Head region were up 1.2% overall. The price range with the largest gain in sales was the \$650,001 and above range, where they increased 26.3%. The overall median sales price was up 11.7% to \$410,000. The property type with the largest price gain was the condos and villas segment, where prices increased 18.2% to \$325,000. The price range that tended to sell the quickest was the \$100,001 to \$225,000 range at 81 days; the price range that tended to sell the slowest was the \$650,001 and above range at 111 days. Market-wide, inventory levels were down 50.8 percent. The property type that lost the least inventory was the condos segment, where it decreased 34.9%.

For the 12-month period spanning January 2022 through December 2022, pending Sales in the Hilton Head region were down 24.1%, overall. The price range with the largest gain in sales was the \$375,001 to \$650,000 range, where they increased 1.2%. The overall median sales price was up 18.3% to \$485,000. The property type with the largest price gain was the condos and villas segment, where prices increased 20.0% to \$390,000. The price range that tended to sell the quickest was the \$100,001 to \$225,000 range at 68 days; the price range that tended to sell the slowest was the \$225,001 to \$375,000 range at 122 days. Market-wide, inventory levels were up 88.6%. The property type that gained the most inventory was the single-family segment, where it increased 99.0%. That amounts to a 2.1-month supply for single-family homes and a 1.9-month supply for condos and villas.

In 2022, to attract buyers amid slowing traffic and declining home sales, U.S. homebuilders increasingly reduced prices and offered sales incentives. According to the National Association of Home Builders, 36% of single-family homebuilders reported cutting prices as of last measure, with an average price reduction of 6%. Meanwhile, 59% of builders reported offering sales incentives, including price discounts, paying closing costs or fees, and offering free upgrades or price discounts, among others.

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The recent steep increase in interest rates has affected home sales, though prices remain strong in many areas. However, there is a limited supply of waterfront development sites, and the residential market has been strong for the past few years. I have made moderate 3.0% annual time adjustments to the sales through 2022, which is believed to be reasonable.

### **Conclusion**

Due to differences in size, location, type of water frontage, and so on, I have placed the sales on a continuum. After time adjustments, the sales indicate a range of \$38,048/unit to \$102,703/unit and \$118,786/acre to \$1,039,095/acre. The mean sale price is \$69,697/unit and \$540,454/acre.

Higher density residential tracts are typically sold on a per unit basis; therefore, I have placed most emphasis on the per unit value indication, which is the most consistent. However, Sale No. 3 had no development plan or approved number of units. Moreover, due to the wide variation in sizes, densities, and locations, I have also considered the dollar per acre value indication.

Sale No. 1, at \$87,222/unit, has a density of 1.4 single-family units per acre, indicating a higher value per unit for the subject property and a lower value per acre. This site is located on deep water and is surrounded by upscale development.

Sale No. 2, at \$50,214/unit, is located just north of the subject property and has frontage on Port Royal Sound. This tract has no direct beach access due to marsh; however, the density of 6.2 units per acre is lower than the allowed density for the subject property. Also, the property is much smaller than the subject property.

Sale No. 4, at \$102,702, was to be developed at a density of 6.6 units per acre, lower than the subject property's allowed density. Also, although this property has no water frontage, the property has Old House Creek across Jonesville Road, the neighborhood is superior, and the site is much smaller than the subject property. The indicated value for the subject property is less than \$102,703/unit and less than \$632,332/acre.

Sale No. 5, at \$38,048/unit is located on the Atlantic Ocean but the density is very high. The site is smaller than the subject property. This property will be used for construction of residential units, a timeshare property. The indicated value is more than \$38,048/unit and less than \$1,039,095/acre.

The relevant range is \$38,048/unit to \$50,214/unit. Considering the subject property's Port Royal Sound frontage and size, as well as the size and allowed development density, I believe that it would sell at a price that is in the middle of the relevant range, or \$45,000/unit. Based upon the allowed 261 units and a value of \$45,000/unit, the value indication is \$11,745,000.

I would expect the subject site to sell for more per acre than Sale No. 1, at \$118,786/acre, which has a density of only 1.4 units per acre. I would expect the subject property to sell for more per acre than Sale No. 2, at \$311,292/acre, which has a lower density and inferior water frontage.

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I would expect the subject property would sell for less per acre than Sale No. 3, at \$575,090/acre. which is on the Intracoastal Waterway. I would also expect the subject property to sell for less per acre than Sale No. 4, at \$658,009/acre, which is much smaller. Also, the developers who assembled this tract and had development plans, were entitled to the costs expended and the profit on that effort. I believe is much of the difference between the \$6,400,000 price paid to the prior owners and the \$7,600,000 price. I would also expect the subject property to sell for less per acre than Sale No. 5, at \$1,039,095/acre, which is much smaller than the subject site, has a much higher density, and is on the Atlantic Ocean.

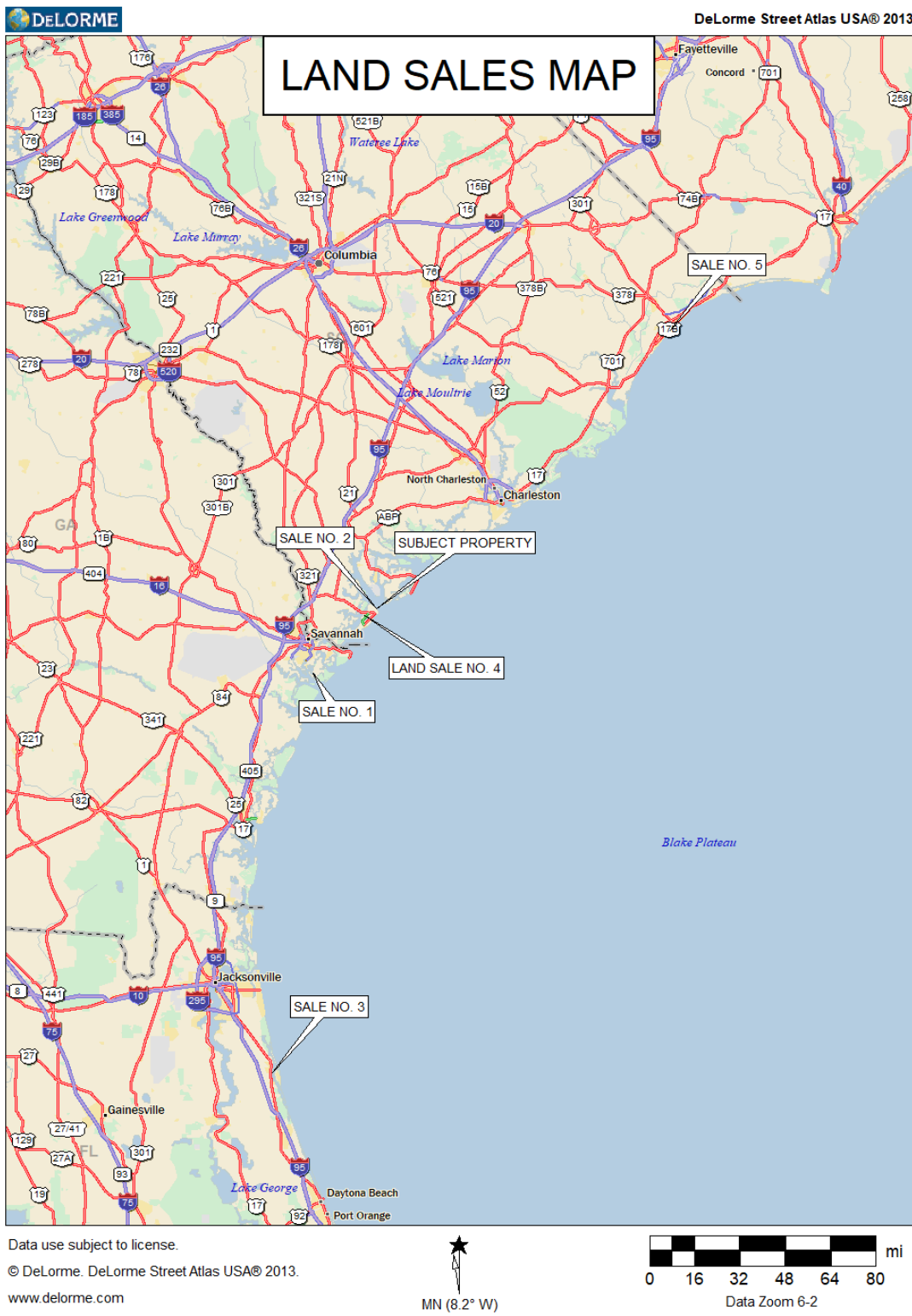
The relevant range in value per acre is \$311,292/acre to \$575,090/acre. Based on 26.462 highland acres, a value of \$11,745,000 equates to \$443,844/acre, which is in the middle of the range and considered reasonable. Based upon the foregoing information, the indicated Market Value "As Is" of the subject property is **\$11,745,000**.

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### LAND SALES CHART

Sale Number	Sale No. 1	Sale No. 2	Sale No. 3	Sale No. 4	Sale No. 5
<b>TMS Number</b>	1-0336-01-002	R510-005-000-431-0000/432-0000	134900-0000/0010/0011	R510-007-000-0159/0185/0528	445-00-00-0252
<b>Location</b>	Green Island Rd. Savannah, GA	Mitchelville Rd. Hilton Head Is., SC	320 State Rd. 312 St. Augustine, FL	Jonesville Road Hilton Head Is., SC	3001 S Ocean Blvd. Myrtle Beach, SC
<b>Sale Date</b>	11-05-21	06-17-19	12-14-22	03-03-23	01-20-22
<b>Eff. Sale Price</b>	\$3,800,000	\$1,900,000	\$17,500,000	\$7,600,000	11,082,000*
<b>Size, Acres</b>	62.24	8.738	30.43	12.314	10.985
<b>Eff. Size, Acres</b>	33.27	6.775	30.43	11.550	10.985
<b># Units</b>	45	42	n/a	74	300
<b>Density, Units/Acre</b>	1.4	6.2	n/a	6.6	27.3
<b>Sale Price/Net Ac.</b>	\$114,217	\$280,443	\$575,090	\$658,009	\$1,008,830
<b>Sale Price/Unit</b>	\$84,444	\$45,238	n/a	\$102,703	\$36,940
<b>Time Adjustment</b>	+4%	+11%	-0-	-0-	+3%
<b>Adj. SP/Acre</b>	\$118,786	\$311,292	\$575,090	\$658,009	\$1,039,095
<b>Adj. SP/SF</b>	\$87,822	\$50,214	n/a	\$102,703	\$38,048

\*Allocated



**Land Sale No. 1****Property Identification**

<b>Record ID</b>	854
<b>Property Type</b>	Vacant Land, Residential Land
<b>Address</b>	Green Island Road, Savannah, Chatham County, Georgia 31411
<b>Location</b>	Franklin Creek & Delegal Creek on Skidaway Island
<b>Tax ID</b>	1-0336-01-002
<b>MSA</b>	Savannah - Hinesville - Statesboro

**Sale Data**

<b>Grantor</b>	Friedman's Jewelers, Inc., Oglethorpe
<b>Grantee</b>	Grand Harbor Development Group, LLC
<b>Sale Date</b>	November 05, 2021
<b>Deed Book/Page</b>	2603/285
<b>Recorded Plat</b>	U/191
<b>Property Rights</b>	Fee Simple
<b>Conditions of Sale</b>	Arms-Length
<b>Financing</b>	Cash-to-Seller
<b>Sale History</b>	No other sales in the prior three years.
<b>Verification</b>	Christian Fulbright, Broker; Other sources: CoStar; Public Records

<b>Sale Price</b>	\$3,800,000
<b>Cash Equivalent</b>	\$3,800,000

**Land Data**

<b>Zoning</b>	PUD-R/EO, Planned Unit Development Residential - Environment
<b>Topography</b>	Level
<b>Utilities</b>	All Available
<b>Shape</b>	Irregular

**Land Size Information**

<b>Gross Land Size</b>	62.240 Acres or 2,711,174 SF
<b>Uplands Land Size</b>	33.270 Acres or 1,449,241 SF
<b>Allowable Units</b>	45

**Indicators**

<b>Sale Price/Gross Acre</b>	\$61,054
<b>Sale Price/Gross SF</b>	\$1.40
<b>Sale Price/Uplands Acre</b>	\$114,217
<b>Sale Price/Uplands SF</b>	\$2.62
<b>Sale Price/Allowable Unit</b>	\$84,444

**Remarks**

This tract of land has 800' of deepwater creek frontage on a creek that leads to the Little Ogeechee River. Public water and sewer available and a sewer spray field agreement for 45 lots.



**Land Sale No. 2****Property Identification**

<b>Record ID</b>	746
<b>Property Type</b>	Vacant Land, Mixed-Use Land
<b>Property Name</b>	Hammock Breeze
<b>Address</b>	Mitchelville Road, Hilton Head, Beaufort County, South Carolina
<b>Location</b>	Port Royal Sound
<b>Tax ID</b>	R510-005-000-0431-0000 & 0432-0000

**Sale Data**

<b>Grantor</b>	Daniel Driessen
<b>Grantee</b>	K. Hovnanian Homes of South Carolina, LLC
<b>Sale Date</b>	June 17, 2019
<b>Deed Book/Page</b>	3769/34
<b>Recorded Plat</b>	150/165
<b>Property Rights</b>	Fee Simple
<b>Verification</b>	Representative of Grantee; CoStar, Other sources: Public Records
<b>Sale Price</b>	\$1,900,000
<b>Adjusted Price</b>	\$1,900,000

**Land Data**

<b>Zoning</b>	MV, Mitchelville District
<b>Topography</b>	Marsh/Sound Frontage
<b>Utilities</b>	All Available
<b>Shape</b>	Irregular, Functional

**Land Size Information**

<b>Gross Land Size</b>	8.738 Acres or 380,627 SF
<b>Uplands Land Size</b>	6.775 Acres or 295,119 SF , 77.53%
<b>Actual Units</b>	42

**Indicators**

<b>Sale Price/Gross Acre</b>	\$217,441
<b>Sale Price/Gross SF</b>	\$4.99
<b>Sale Price/Uplands Acre</b>	\$280,443
<b>Sale Price/Uplands SF</b>	\$6.44
<b>Sale Price/Actual Unit</b>	\$45,238

**Remarks**

This tract has approximately 288' of frontage on Port Royal Sound. The site has been improved with a 42-lot subdivision known as Hammock Breeze. The developed density equates to 6.2 units per highland acre. Only two lots in the subdivision have direct sound views, though other lots could have views. There is 43' of marsh/sound frontage per acre. The highland portion of the site is separated from the beachfront by an expanse of marsh that spans several hundred feet; therefore, there is no direct access to the beach from this property. The nearest beach access is through the Fish Haul Beach Park, with an entrance about 250' southeast of the entrance to the subdivision.





Book 1511 Page 57 CFN#2019009030

**Land Sale No. 3****Property Identification**

<b>Record ID</b>	855
<b>Property Type</b>	Vacant Land, Residential Land
<b>Address</b>	320 State Road 312, St. Augustine, St. Johns County, Florida 32086
<b>Location</b>	San Sebastian River & Matanzas River (Intracoastal Waterway) by bridge to St. Augustine Beach and across from Fish Island Preserve
<b>Tax ID</b>	134900-0000, 134900-0010, & 134900-0011
<b>MSA</b>	Jacksonville-St. Marys-Palatka, FL

**Sale Data**

<b>Grantor</b>	Sonya G. Jenson, etal.
<b>Grantee</b>	St. Johns County, Florida
<b>Sale Date</b>	December 14, 2022
<b>Deed Book/Page</b>	5679/1959
<b>Property Rights</b>	Fee Simple
<b>Financing</b>	Cash
<b>Verification</b>	Debbie Taylor, St. Johns County; Other sources: CoStar; Public Records; Appraisal

<b>Sale Price</b>	\$17,500,000
<b>Cash Equivalent</b>	\$17,500,000

**Land Data**

<b>Zoning</b>	OR, Open Rural District & Mixed-Use District
<b>Topography</b>	Level
<b>Utilities</b>	All Available

**Land Size Information**

<b>Gross Land Size</b>	30.430 Acres or 1,325,531 SF
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**Indicators**

<b>Sale Price/Gross Acre</b>	\$575,090
<b>Sale Price/Gross SF</b>	\$13.20

**Remarks**

The property was purchased by St. Johns County for use as a public park and boat landing on the San Sebastian River. The property is also located on the Intracoastal Waterway/Matanzas River. Most of the tract is in the county's Open Rural District. This property is the former site of a boatyard, and a portion is zoned for mixed use. The appraisal provided, which was used for the purchase, did not contain a survey of the tract or a breakdown of the acreage by zoning. Moreover, no analysis of the number of potential units was provided. I could not locate a recorded plat of the tract.



**Land Sale No. 4****Property Identification**

**Record ID** 853  
**Property Type** Vacant Land, Residential Land  
**Address** 200, 224, & 234 Jonesville Road, Hilton Head Island, Beaufort  
County, South Carolina 29928  
**Tax ID** R510-007-000-0159-0000, R510-007-000-0185-0000, & R510-007-000-0528-0000

**Sale Data**

**Grantor** Hilton Business, LLC  
**Grantee** The Town of Hilton Head Island, South Carolina  
**Sale Date** March 03, 2023  
**Deed Book/Page** 4223/1965  
**Property Rights** Fee Simple  
**Financing** Cash  
**Verification** Shawn Colin, Town of Hilton Head Island; Other sources: Public Records

**Sale Price** \$7,600,000  
**Cash Equivalent** \$7,600,000

**Land Data**

**Zoning** RM-4, Low to Moderate Density Residential District  
**Topography** Level  
**Utilities** All Available

**Land Size Information**

**Gross Land Size** 12.314 Acres or 536,399 SF  
**Useable Land Size** 11.550 Acres or 503,118 SF , 93.83%  
**Allowable Units** 74

**Indicators**

**Sale Price/Gross Acre** \$617,184  
**Sale Price/Gross SF** \$14.17  
**Sale Price/Useable Acre** \$658,009  
**Sale Price/Useable SF** \$15.11  
**Sale Price/Allowable Unit** \$102,703

**Remarks**

This tract of land was slated for residential development with 90 single-family homes, based on a news article. However, the last subdivision plan, provided by the Town of Hilton Head Island, indicates a total of 74 lots in two phases. Based on 90 lots, the density would be 7.8 units per acre of highland and the price per unit is \$84,444. The news article also stated a total size of 12.019 acres, but the surveys indicate a total size of 12.314 acres. There is a stable on a portion of the property and a single-family home that were slated for demolition; however, the town may work the stables into a plan for the site and may use the home or sell the home with restrictions. The land was purchased by the Town of Hilton Head Island from the developer who had assembled the tract and purchased it for \$6,400,000 just prior to this purchase. Parcel R510-007-000-0185-0000 had also been purchased on June 25, 2021, for \$910,000.







**Land Sale No. 5****Property Identification**

<b>Record ID</b>	856
<b>Property Type</b>	Vacant Land, Commercial Land
<b>Address</b>	3001 S Ocean Blvd., Myrtle Beach, Horry County, South Carolina 29577
<b>Location</b>	Fronting on Springmaid Blvd. & the Atlantic Ocean
<b>Tax ID</b>	445-00-00-0252
<b>MSA</b>	Myrtle Beach-Conway-North Myrtle Beach

**Sale Data**

<b>Grantor</b>	Holiday Inn Club Vacations, Inc.
<b>Grantee</b>	Myrtle Holiday 1, LLC
<b>Sale Date</b>	February 23, 2022
<b>Deed Book/Page</b>	4521/561
<b>Recorded Plat</b>	240/260
<b>Property Rights</b>	Fee Simple
<b>Conditions of Sale</b>	Arms-Length; Part of a Larger Transaction
<b>Financing</b>	Cash
<b>Sale History</b>	See Remarks
<b>Verification</b>	Blake Arp of Burroughs & Chapin, Grantor; Other sources: CoStar; Public Records; Media Announcements
<b>Sale Price</b>	\$11,082,000
<b>Cash Equivalent</b>	\$11,082,000

**Land Data**

<b>Zoning</b>	MU-H, Mixed-Use High-Density District
<b>Topography</b>	Level
<b>Utilities</b>	All Available

**Land Size Information**

<b>Gross Land Size</b>	10.985 Acres or 478,507 SF
<b>Planned Units</b>	300

**Indicators**

<b>Sale Price/Gross Acre</b>	\$1,008,830
<b>Sale Price/Gross SF</b>	\$23.16
<b>Sale Price/Planned Unit</b>	\$36,940

**Remarks**

This property was purchased along with other property by Holiday Inn Club Vacations, Inc., from Myrtle Beach Farms Company, Inc. on January 25, 2022, for construction of a timeshare property. The price was \$16,500,000, or \$824,382/acre for 20.015 acres. CoStar indicates that an allocated price for the waterfront 10.985 acres was \$8,933,434. However, Blake Arp stated that amount is not correct. He said that the value for the 9.03 acres of interior land is between \$550,000 and \$600,000/acre. Using \$600,000/acre, the amount allocated would be \$5,418,000, leaving \$11,082,000, or \$1,008,830/acre for the oceanfront site, which Mr. Arp stated was worth about \$1,000,000/acre. There is a 300-unit property planned for the waterfront site. There will be two, 6-story towers connected by an amenity level, and with parking underneath. The height of the buildings is limited by the flight path of the airport. Phase I is 152 units and

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is under construction. The interior land is across Ocean Blvd. and is not contiguous to the oceanfront tract. Moreover, the three tracts making up the interior land are not all contiguous. Charles Rowe, the Myrtle Beach Zoning Administrator, indicated that the 10.985-acre can provide adequate parking on-site and will not utilize the interior parcels. A 95-unit Avid hotel is planned for part of the interior land.

Holiday Inn Club Vacations, Inc., subsequently sold the oceanfront tract to Myrtle Beach Holiday 1, Inc., which is Accelerated Assets. Accelerated Assets is concentrated on the acquisition, development, sale, and financing of strategic leisure and hospitality assets. The sale price was \$14,400,000, but this is not believed to be a market sale. Since the other interior land is not included in this development, I have not included it in the sale. However, the total acreage is 20.015 acres. The interior land will partly be used for a 95-room Avid Hotel. A sales center will also go on the interior land.





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## QUALIFICATIONS

Lisa D. Nimmich, MAI Phone: (843) 881-9447  
 Nimmich & Associates, LLC  
 P.O. Box 2372  
 Mount Pleasant, South Carolina 29465

### Education:

B.S. Degree – Business Administration  
 Major Emphasis: Marketing  
 University of South Carolina, Columbia, South Carolina 1980

### Continued Education:

Accounting Management/Intermediate Accounting  
 College of Charleston, Charleston, South Carolina 1983

### Professional Studies:

Hall Institute of Real Estate 1979  
 Fortune Real Estate Academy 2003

### Appraisal Institute:

Course IA-I	Real Estate Appraisal Principles	1983
Course IB-I	Basic Valuation Procedures	1984
Course IB-A	Capitalization Theory & Techniques – Part A	1985
Course IB-B	Capitalization Theory & Techniques – Part B	1985
Course 2-3/8-3	Standards of Professional Practice	1986
Course 2-1	Case Studies in Real Estate Valuation	1986
Course 2-2	Valuation Analysis and Report Writing	1987
Demonstration Appraisal Report – Commercial		1990
Comprehensive Examination		1991
Course 410/420	Standards of Professional Practice	1996
Course 430	Standards of Professional Practice	2001
Course 400	National USPAP Update	2004
Course 400	National USPAP Update	2005
Course 400	National USPAP Update	2007
Course 400	National USPAP Update	2009
Course 400	National USPAP Update	2012
Course 400	National USPAP Update	2014
Course 400	National USPAP Update	2016
Course 400	National USPAP Update	2018
Course 400	National USPAP Update	2020
Course 400	National USPAP Update	2022

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**QUALIFICATIONS (Cont.) – Lisa D. Nimmich, MAI**

Seminar: Rates, Ratios & Reasonableness	1993
Seminar: Appraising Troubled Properties	1993
Seminar: Appraising Retail Properties	1995
Seminar: Fair Lending & the Appraiser	1996
Seminar: The Appraiser as Expert Witness	1996
Seminar: Subdivision Analysis	1996
Seminar: The Hi-tech Appraisal Office	1997
Seminar: Eminent Domain & Condemnation	1998
Seminar: Appraisal Office Management	1998
Seminar: Internet Search Strategies for Real Estate Appraisal	1998
Seminar: Litigation Skills for the Appraiser	1999
Seminar: Loss Prevention Program for Real Estate Appraisers	1999
Seminar: Data Confirmation & Data Confirmation Methods	2000
Seminar: The State of the Profession	2001
Seminar: Valuation of Small, Mixed-Use Properties	2001
Seminar: Marketing & Appraising Historic Properties	2002
Seminar: Real Estate Finance, Value, and Investment Performance	2005
Seminar: Condo Hotels – Introduction to an Emerging Market	2005
Seminar: Introduction to Income Capitalization	2005
Seminar: Eminent Domain in South Carolina	2006
Seminar: AI Reports: Summary Appraisal Report Residential	2006
Seminar: AI Reports: Summary Appraisal	2006
Seminar: Business Practices and Ethics	2006
Seminar: Business Practices and Ethics	2009
Seminar: Business Practices and Ethics	2016
Seminar: Business Practices and Ethics	2020
Seminar: Agency Perspectives: The Challenges of Easements, Eminent Domain, & Right-of-Way	2006
Seminar: Appraiser Tightrope – Scope of Work Rule	2007
Seminar: Inverse Condemnation: An Appraisers Dilemma	2007
Seminar: Spotlight on USPAP: Hypothetical Conditions & Extraordinary Assumptions	2007
Seminar: Effective Banker-Appraiser Communication	2007
Seminar: Analyzing Distressed Real Estate	2008
Seminar: Maintaining Control: Dealing with Client Pressure, Identity Theft, and Appraisal Report Tampering	2008
Seminar: Condominiums, Cooperatives & PUDS	2008
Seminar: An Introduction to Appraising Commercial Green Buildings	2010
Seminar: Valuation of Green Residential Properties	2010
Seminar: Appraising from Blueprints & Specifications	2010
Seminar: Perspectives from Commercial Review Appraisers	2011
Seminar: Form 1004MC: Accurately Analyzing and Reporting Market Rebounds	2011
Seminar: Appraising Convenience Stores	2011

**QUALIFICATIONS (Cont.) – Lisa D. Nimmich, MAI**

Seminar: Curriculum Overview - Residential	2012
Seminar: Curriculum Overview – General	2012
Seminar: Fundamentals of Separating Real Property, Personal Property, and Intangible Business Assets	2012
Seminar: Case Studies in Appraising Green Residential Buildings	2013
Seminar: Introduction to Green Buildings: Principles and Concepts	2013
Seminar: Online Cool Tools: New Technology for Real Estate Appraisers	2014
Seminar: Eminent Domain & Condemnation	2016
Seminar: Forecasting Revenues	2016
Seminar: Comparative Analysis	2016
Seminar: Data Verification Methods	2018
Seminar: Small Hotel/Motel Valuation	2018
Seminar: Comparative Analysis	2018
Seminar: Online Cool Tools: New Technology for Real Estate Appraisers	2020
Seminar: Introduction to Green Buildings: Principles & Concepts	2020
Seminar: Fundamentals of the Uniform Standards for Federal Land Acquisitions	2020
Seminar: Subdivision Valuation	2021
Seminar: Analyzing Operating Expenses	2021
Seminar: Appraising of Automobile Dealerships	2022
Construction Cost Estimating – Trident Technical College	1985

**Prior Experience:**

Nimmich & Associates, LLC	Present
Nimmich, Anderson & Associates	1994-2002
Lisa D. Nimmich & Associates	1994-1994
Paul K. Moore & Associates, Inc. (Previously part of Atlantic Appraisals)	1991-1994
Atlantic Appraisals	1989-1991
Attaway, Thomson, Jeffers & Associates	1987-1989
Attaway, Thompson & Associates	1983-1987

**Certifications:**

South Carolina State Certified General Real Estate Appraiser CG-162	1992
North Carolina State Certified General Real Estate Appraiser A1777	1991
Georgia State Certified General Real Estate Appraiser 259066	2003

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## QUALIFICATIONS (Cont.) – Lisa D. Nimmich, MAI

### Professional Associations:

Appraisal Institute (MAI) 1991  
 Member of Charleston Trident Board of Realtors – Licensed Real Estate Broker  
 Member of Commercial Investment Division of the Charleston Trident Board of Realtors

### Appraisal Experience Includes:

-Apartments	-Dormitories
-Condominium Development	-Banks
-Subdivision Development	-Condemnation
-Shopping Centers	-Convenience Stores
-Restaurants	-Historical Properties
-Office Buildings	-Warehouses
-Acreage	-Manufacturing
-Special Purpose Properties	-Trucking Terminals
-Hotels	

### Partial List of Clients:

-Bank of America	-US Navy/NAVFAC
-Wells Fargo Bank	-City of Charleston
-RBC Centura Bank	-Charleston County
-First Citizens Bank	-SC Dept. of Natural Resources
-Synovus Bank	-SC Department of Transportation
-Southern First Bank	-General Services Administration
-The Bank of South Carolina	-FDIC
-Crestar Bank	-Wal Mart
-Southcoast Community Bank	-Fluor Daniel
-Community First Bank	-First Citizens Bank
-Truist Bank	-International Paper Company
-Regions Bank	
-PNC Bank	
-South State Bank	
-Fifth Third Bank	

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**ADDENDA**

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## **ADDENDUM A**

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**NIMMICH & ASSOCIATES, LLC**  
REAL ESTATE APPRAISALS

September 13, 2023

Ms. Kristin Williams  
Open Land Trust  
905 Charles Street  
Beaufort, SC 29902

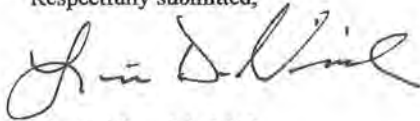
RE: Appraisal of:  
30.08 Acres of Vacant Land  
Containing 29.852 Acres of Highland  
Located on Mitchelville Road  
Hilton Head Island, South Carolina 29926

Dear Ms. Williams:

In accordance with your request, I am sending you this letter of engagement for the appraisal of the above referenced property located on Mitchelville Road, Hilton Head Island, Beaufort County, South Carolina. The delivery date will be no later than October 16, 2023. The fee is \$4,500. The fee will be due in full within 15 days of delivery of the appraisal. Please sign this letter and return it via email. The appraisal report will be in narrative format and will be transmitted via email. No hard copies will be provided. The appraisal will include the Market Value "As Is" of the fee simple estate of the subject property.

The compensation for this report is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event. The appraisal assignment is not based on a requested minimum valuation, a specific valuation, or the approval of a loan. I hereby certify that I have no interest in the subject property.

Respectfully submitted,



Lisa D. Nimmich, MAI  
SC State Certified General  
Real Estate Appraiser CG-162  
NC State Certified General  
Real Estate Appraiser A1777  
Georgia State Certified General  
Real Estate Appraiser 259066

  
Ms. Kristin Williams

---

## **ADDENDUM B**

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5  
11 Jul  
Harrison  
3/20

RECORDED  
2016 Jun -16 04:23 PM  
*[Signature]*  
BEAUFORT COUNTY AUDITOR

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
)  
COUNTY OF BEAUFORT ) CASE NO. 2008-CP-07- 04542

PETER HARRISON, )  
)  
Plaintiff, )

-versus-

ORDER

ROSE YOUNG, STANLEY ROBERTS, )  
MARY ROBERTS, ROSS HARRISON, )  
WILLIAM HARRISON, JOYCE )  
HARRISON, WILLIAM HARRISON, JR., )  
if living, and if deceased, )  
their heirs at law, next of kin )  
and distributes, and all other persons claim- )  
ing under, by or through them; and, also all )  
other persons unknown having or claiming )  
any right, title, estate or interest in, or lien )  
upon the real property described in the )  
Complaint herein, being designated )  
collectively as JOHN DOE and MARY )  
ROE, including any defendants who may be )  
deceased, and including all minors, persons )  
in the Armed Forces, insane persons, all )  
other persons under any other disability who )  
might have or claim to have any right, title, )  
or interest in or lien upon the real estate )  
described in the Complaint herein, )  
Defendants. )

2009 JUL 28 PM 3:50

BEAUFORT COUNTY SC - ROD  
BK 3488 Pgs 1724-1728  
FILE NUM 2016028726  
06/06/2016 01:49:14 PM  
REC'D BY rwebb RCPT# 812748  
RECORDING FEES \$11.00

ADD DMP Record 6/7/2016 04:06:19 PM  
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R510	005	000	0007	0000	00

This is an action to quiet and clear title to real estate which is located on Hilton Head Island, Beaufort County, South Carolina. The action was initiated with the filing of a Summons and Complaint, which was filed in the office of the Clerk of Court for Beaufort County on November 20, 2008. All of the allied and ancillary pleadings were also filed in the office of the Clerk of Court for Beaufort County. All of the Defendants in this action were properly served, either personally, by certified mail, return receipt requested, signed by addressee only, or by

Certified - A True Copy  
*[Signature]*  
Jerri Ann Roseaneau - Clerk of Court  
Beaufort County, SC - Melissa Kilby

ELECTRONICALLY FILED - 2023 Dec 17 4:46 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0702301

acceptance of service by their attorney. An Answer and Counterclaim was filed by Derek Gilbert on behalf of the defendant, Georgia V. Harrison. The counterclaim of the defendant, Georgia V. Harrison basically alleges the undivided fractional interest as set forth in a previous Order quieting the same title to the subject property (Civil Action #88-CP-07-974), to which the Plaintiff filed a Reply. The Estate of Rose Young was represented by Antonia T. Lucia. None of the other Defendants filed any Answers or responsive pleadings in this matter, and they are, therefore, in default. The Plaintiff's attorney has filed an Affidavit of Default. Bernard McIntyre of the Beaufort County Bar was appointed as Guardian ad Litem, and he has appeared and filed his Answer submitting the rights of all unknown persons, and persons suffering from any disabilities to be protected by the Court.

A hearing was held before me on July 1, 2009 at 8:30 a.m. Present at the hearing was Peter Harrison, plaintiff, along with his attorney, Louis O. Dore, Charles Edward Young, along with his attorney, Antonia T. Lucia, and Georgia Harrison, along with her attorney, Derek Gilbert. All of the testimony was received without objection, and all of the exhibits were entered without objection. Now, having heard all of the testimony in this case, and having reviewed all of the exhibits, I now find the following as matters of fact:

1. There was a previous action to quiet said title with respect to the same property which is the subject of this action, and a Final Amended Order filed on January 23, 1991 (Civil Action #88-CP-07-974). Under the terms of that Amended Final Order, it was determined that the various undivided ownership interests in the subject property were as follows (See Paragraph 4, Page 48, Amended Order):

<b>Ethel Rivers</b>	<b>50%</b>
<b>Rose Young</b>	<b>12.5%</b>
<b>Sadie M. Harrison</b>	<b>12.5%</b>

<b>Stanley Roberts</b>	<b>12.5%</b>
<b>Mary Roberts</b>	<b>12.5%</b>
<b>TOTAL:</b>	<b>100%</b>

2. Ethel Rivers transferred and conveyed her 50% ownership interest to Peter Harrison, Ross L. Harrison and William S. Harrison by deed recorded in the office of the RMC for Beaufort County at Deed Book 598, Page 1461.
3. By deed dated May 26, 1998, Sadie M. Harrison transferred and conveyed her 12.5% ownership interest in the subject property to Peter Harrison, Ross L. Harrison and William S. Harrison. This deed is recorded in the office of the RMC for Beaufort County at Deed Book 2706, Page 1227.
4. Mary Roberts died intestate, pre-deceased by her husband, Gerald Roberts, and leaving as her sole surviving heir at law her son, Stanley Roberts.
5. Ross L. Harrison died leaving a valid trust instrument by which his sole beneficiary of his estate was his wife, Georgia Harrison.
6. William S. Harrison died intestate leaving as his sole surviving heirs at law his wife, Joyce Ellen Harrison, and his son William S. Harrison, III.
7. Rose Young died intestate, however, her estate was duly probated and administered in the Probate Court for Beaufort County. Charles Elmer Young, husband of the decedent, Rose Young, disclaimed any ownership interest that he had in the subject property at the time of the administration of the estate of Rose Young. The sole beneficiaries of Rose Young, pursuant to the administration of her estate are as follows, in equal shares:

**Adrienne Kirkland, Carol Bush, Diane Mendheim, Charles Edward Young, Robert Young, Denise Davidson, Rose Hampton, and Victoria Young.**

I now conclude as a matter of law:

- a) The property which is the subject of this action is now owned in fee simple absolute by the following persons, having the respective ownership shares as outlined below:

<b>Peter Harrison</b>	<b>20.833%</b>
<b>Georgia Harrison</b>	<b>20.833%</b>
<b>Joyce Ellen Harrison</b>	<b>10.416%</b>
<b>William S. Harrison, III</b>	<b>10.416%</b>
<b>Stanley Roberts</b>	<b>25%</b>
<b>Adrienne Kirkland</b>	<b>1.5625%</b>
<b>Carol Bush</b>	<b>1.5625%</b>
<b>Diane Mendheim</b>	<b>1.5625%</b>
<b>Charles Edward Young</b>	<b>1.5625%</b>
<b>Robert Young</b>	<b>1.5625%</b>
<b>Denise Davidson</b>	<b>1.5625%</b>
<b>Rose Hampton</b>	<b>1.5625%</b>
<b>Victoria Young</b>	<b>1.5625%</b>

- b) That this lawsuit to quiet and clear title is regular in all respects, and all of the statutory requirements have been complied with.
- c) That all other persons except those outlined above, including any unknown persons having or claiming to have any right, title, estate, or interest in or lien upon the real estate described in the Complaint are forever barred.

The property which is the subject of this action is described as follows, to-wit:

**ALL that certain piece, parcel or lot of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 28.127 acres, more or less, and is specifically shown as Lot B on said plat which was prepared by Arthur O. Christensen, R.L.S., and designated as "Plat of Survey Number 2, No Sale", dated April 6-8, 1921, and also, on that certain plat of**

*RS10-5-0007*

**Millard Dunham, R.L.S** entitled "Plat prepared for Heirs of Clara Wigfall", dated January 29, 1988, and revised on January 18, 1990. For a more complete and accurate description as to the metes, bounds, courses and distances, reference may be had to said plats.

**AND IT IS SO ORDERED.**



MARVIN DUKES, III, MASTER IN EQUITY  
AND SPECIAL CIRCUIT COURT JUDGE FOR  
BEAUFORT COUNTY

Beaufort, South Carolina

July 17, 2009

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPELLATE CASE NO.  
2023-000438

EXHIBIT 3

**CONFERENCE HEARINGS**

**RE: Harrison v. Kirkland, 2020-CP-07-2301**

McLeod, Heather <HMcLeod@bcgov.net>

Wed 11/8/2023 11:10 AM

To: Charles E. Houston <chouston@houstonlawfirm.net>; Tom Taylor <tom@thomastaylorlaw.com>; Dukes, Marvin <mdukes@bcgov.net>; Donna Taylor <donna@thomastaylorlaw.com>; Chet Williams (firm@ccwlaw.net) <firm@ccwlaw.net>

Good Morning:

I just spoke with Chales who confirms that he is also good with the hearing date; therefore, I am scheduling the Motion to Void Master's Deed & Enforce Right of First Refusal on November 29<sup>th</sup>, 2023, at 1:30 p.m. This will be an in-person hearing. Please mark your calendars, as this is the only notice you will receive from the Court. Charles, as this is your motion, you will need to make the Court Reporter arrangements.

**Attention:**

We no longer have a Court Reporter, therefore you are responsible for bringing your own, should you choose to have one.

If there is even a possibility of live testimony at the hearing, you are **REQUIRED** to bring your own Court Reporter. Failure to do so will result in the cancellation and rescheduling of the hearing.

**Please contact us immediately if you are:**

1. Waiting on a ruling and it has been more than 30 days.
2. Ready to schedule a Trial date.
3. Have a motion older than 30 days and need to schedule a hearing.

Thanking You in Advance,

Heather R. H. McLeod,  
Judicial Assistant to  
Hon. Marvin H. Dukes, III  
Beaufort County Master In Equity  
And Special Circuit Court Judge  
P. (843) 255-5710  
F. (843) 255-9505  
[hmcLeod@bcgov.net](mailto:hmcLeod@bcgov.net)

Beaufort County Courthouse  
Post Office Drawer 1228  
Beaufort, SC 29901

Beaufort County Courthouse  
102 Ribaut Road, 2nd Floor  
(across the hall from the Clerk of Court)  
Beaufort, SC 29902

**Disclaimer:** Neither this office, nor its staff gives legal, financial or other advice. Any information obtained from this office or its staff, regardless of form, should not be taken as legal or financial advice. Persons seeking to purchase properties from foreclosures or other sales should obtain independent advice as to value, sufficiency of title, tax consequences, other liens, and all other matters related to said purchase. Persons involved in litigation should obtain

**RE: Harrison v. Kirkland, 2020-CP-07-2301**

McLeod, Heather <hmcleod@bcgov.net>

Thu 12/14/2023 3:01 PM

To: Charles E. Houston <chouston@houstonlawfirm.net>; Tom Taylor <tom@thomastaylorlaw.com>; Dukes, Marvin <mdukes@bcgov.net>; Donna Taylor <donna@thomastaylorlaw.com>; Chet Williams (firm@ccwlaw.net) <firm@ccwlaw.net>; Jackson, Earsa R. <EJackson@clarkhill.com>

Good Afternoon:

Per the Judge, he scheduled a follow-up conference call for December 21<sup>st</sup>, 2023, at 2:00 p.m. We will use the below call-in info for the call.

Call your dial-in number: **(202) 926-1130**

Enter the access code: **577627#**

**Attention:**

We no longer have a Court Reporter, therefore you are responsible for bringing your own, should you choose to have one.

If there is even a possibility of live testimony at the hearing, you are **REQUIRED** to bring your own Court Reporter. Failure to do so will result in the cancellation and rescheduling of the hearing.

**Please contact us immediately if you are:**

1. Waiting on a ruling and it has been more than 30 days.
2. Ready to schedule a Trial date.
3. Have a motion older than 30 days and need to schedule a hearing.

Thanking You in Advance,

Heather R. H. McLeod,  
Judicial Assistant to  
Hon. Marvin H. Dukes, III  
Beaufort County Master In Equity  
And Special Circuit Court Judge  
P. (843) 255-5710  
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**counsel and may not rely on any information obtained from this office as legal advice. Do not rely on this office for legal advice- always obtain independent legal advice.**

**From:** McLeod, Heather <hmcleod@bcgov.net>

**Sent:** Tuesday, December 12, 2023 3:33 PM

**To:** Charles E. Houston <chouston@houstonlawfirm.net>; Tom Taylor <tom@thomastaylorlaw.com>; Dukes, Marvin <mdukes@bcgov.net>; Donna Taylor <donna@thomastaylorlaw.com>; Chet Williams (firm@ccwlaw.net) <firm@ccwlaw.net>; Jackson, Earsa R. <EJackson@clarkhill.com>

**Subject:** RE: Harrison v. Kirkland, 2020-CP-07-2301

**Importance:** High

Good Afternoon:

This is a reminder that the follow-up conference call is scheduled for December 14<sup>th</sup>, 2023, at 9:30 a.m. We will use the below call-in info for the call.

Call your dial-in number: **(202) 926-1130**

Enter the access code: **577627#**

**Attention:**

We no longer have a Court Reporter, therefore you are responsible for bringing your own, should you choose to have one.

If there is even a possibility of live testimony at the hearing, you are **REQUIRED** to bring your own Court Reporter. Failure to do so will result in the cancellation and rescheduling of the hearing.

**Please contact us immediately if you are:**

4. Waiting on a ruling and it has been more than 30 days.
5. Ready to schedule a Trial date.
6. Have a motion older than 30 days and need to schedule a hearing.

Thanking You in Advance,

Heather R. H. McLeod,  
Judicial Assistant to  
Hon. Marvin H. Dukes, III  
Beaufort County Master In Equity  
And Special Circuit Court Judge  
P. (843) 255-5710  
F. (843) 255-9505  
[hmcleod@bcgov.net](mailto:hmcleod@bcgov.net)

Beaufort County Courthouse  
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Beaufort, SC 29902

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**From:** McLeod, Heather <[hmcleod@bcgov.net](mailto:hmcleod@bcgov.net)>

**Sent:** Wednesday, November 29, 2023 3:07 PM

**To:** Charles E. Houston <[chouston@houstonlawfirm.net](mailto:chouston@houstonlawfirm.net)>; Tom Taylor <[tom@thomastaylorlaw.com](mailto:tom@thomastaylorlaw.com)>; Dukes, Marvin <[mdukes@bcgov.net](mailto:mdukes@bcgov.net)>; Donna Taylor <[donna@thomastaylorlaw.com](mailto:donna@thomastaylorlaw.com)>; Chet Williams ([firm@ccwlaw.net](mailto:firm@ccwlaw.net)) <[firm@ccwlaw.net](mailto:firm@ccwlaw.net)>; Jackson, Earsa R. <[EJackson@clarkhill.com](mailto:EJackson@clarkhill.com)>

**Subject:** RE: RE: Harrison v. Kirkland, 2020-CP-07-2301

**Importance:** High

Good Afternoon:

Per Judge Dukes, he scheduled a follow-up conference call for next week December 7<sup>th</sup>, 2023, at 2:00 p.m. Please mark your calendars, as this is the only notice you will receive from the Court. We will use the below call-in info for the conference call.

Call your dial-in number: **(202) 926-1130**

Enter the access code: **577627#**

**Attention:**

We no longer have a Court Reporter, therefore you are responsible for bringing your own, should you choose to have one.

If there is even a possibility of live testimony at the hearing, you are **REQUIRED** to bring your own Court Reporter. Failure to do so will result in the cancellation and rescheduling of the hearing.

**Please contact us immediately if you are:**

7. Waiting on a ruling and it has been more than 30 days.
8. Ready to schedule a Trial date.
9. Have a motion older than 30 days and need to schedule a hearing.

Thanking You in Advance,

Heather R. H. McLeod,  
Judicial Assistant to  
Hon. Marvin H. Dukes, III  
Beaufort County Master In Equity  
And Special Circuit Court Judge  
P. (843) 255-5710  
F. (843) 255-9505  
[hmcleod@bcgov.net](mailto:hmcleod@bcgov.net)

Beaufort County Courthouse  
Post Office Drawer 1228  
Beaufort, SC 29901

Beaufort County Courthouse  
102 Ribaut Road, 2nd Floor

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPELLATE CASE NO.  
2023-000438

EXHIBIT 4

**Email to Beaufort County Council Committee on Green Spaces**

## Town of Hilton Head Island proposal to buy Mitchellville waterfront acreage

Charles E. Houston <chouston@houstonlawfirm.net>

Sun 12/10/2023 10:24 PM

To: mark.davis@bcgov.net <mark.davis@bcgov.net>

Cc: Kay White <kaywhite08@msn.com>; sbrock@bcgov.net <sbrock@bcgov.net>; newsroom@islandpacket.com <newsroom@islandpacket.com>; jpassiment@bcgov.net <jpassiment@bcgov.net>; btolley@islandpacket.com <btolley@islandpacket.com>

Bcc: Shindler, Donald A. <dshindler@clarkhill.com>; Nick Bergelt <nickbergelt@gmail.com>; llopatka@singermanre.com <llopatka@singermanre.com>; Jackson, Earsa R. <EJackson@clarkhill.com>; stephaniekirkland1958@gmail.com <stephaniekirkland1958@gmail.com>

Good morning, Mark:

I represent the defendant heirs in a matter pending before Judge Marvin Dukes styled *Georgia Harrison, Barbara Harrison, Joyce Ellen Harrison, William S. Harrison III, Stanley Roberts, and Diana Mendheim, individually and as agent and attorney in fact*, Case No. 2020-CP-07-2301, currently pending before the Beaufort Common Pleas Court, which involves a dispute about plaintiff heirs' attempt to partition and by sell a 26.69 acre parcel of land on the north end of Hilton Head Island located on Mitchellville Road, Parcel R510-005-000-0007-0000 ("Property"). Defendant heirs maintain that they have a right of first refusal to purchase the Property pursuant to the Pinckney Act. There are a number of issues on appeal regarding this matter in a case styled *Georgia Harrison, Barbara Harrison, Joyce Ellen Harrison, William S. Harrison III, Stanley Roberts, and Diana Mendheim, individually and as agent and attorney in fact*, Appellate Case No. 2023-000438, currently pending before the South Carolina Court of Appeals.

Defendants maintain that they are first in line to purchase the property. We just learned on Thursday, December 7, 2023 that the Beaufort County Green Space Advisory Committee, Town of Hilton Head and/or Beaufort County are collaborating on a plan to purchase the Property with funds maintained by the Green Space Committee pursuant to Ordinance 2023/34. We understand that a vote is scheduled to take place on Monday, December 11, 2023, and I wanted to make the members aware of the pending litigation and appeal.

This property is Heirs Title property without marketable fee simple title which I understand would not comply with your guidelines for a potential purchase. I am happy to provide you with any pleadings or answer any questions relating to the litigation or appeal.

Additionally, the property was appraised for 9.1 Million by the same appraiser less than two years ago. The factors in the appraisal justifying an increase in value within a two-year period would appear to be suspect and subject to high scrutiny.

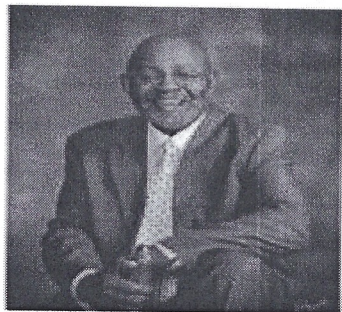
Further, this is the largest tract of water-front property owned by indigenous native islanders and they desire to purchase it from the Plaintiff heirs who attribute little historical value to the property and whose only desire is to sell the property and bury their heritage from the face of Hilton Head Island history.

Finally, pursuant to the mandate of transparency under Section 38-202 Program Transparency and Equitable Distribution of Funds, request is hereby made for copies of all 2023 applications submitted to the Green Space Advisory Committee in 2023, including all communications and documentation relating thereto. This request includes all communication and documentation relating to the Property.

Thank you for considering these matters during your review of the Plaintiff's application to have you to purchase the property.

With kind regards,

Charles E. Houston Jr.



The Houston Law Firm, LLC  
1000 Main Street, Suite 200C  
Hilton Head Island, SC 29926  
Office: 843-684-0211  
Email: [chouston@houstonlawfirm.net](mailto:chouston@houstonlawfirm.net)

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RECEIVED

Dec 19 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

The Honorable Marvin H. Dukes, III Beaufort County  
Trial Court Case No. 2020-CP-07-0231

---

APPELLATE CASE NO.

2023-000438

---

Georgia Harrison, Barbara Harrison,  
Joyce Ellen Harrison, William S. Harrison  
III, Stanley Roberts, and  
Diana Mendheim, Individually and As Attorney In Fact,

Respondents,

vs.

Stephanie Lorraine Kirkland, Gary Lamont  
Kirkland, Kieta Nicole White, and Cheryl Kirkland,  
Appellants.

---

PROOF OF SERVICE

---

I hereby certify that this law firm represents the Appellants in the above captioned matter and that on the date below at Beaufort South Carolina I served a copy of the foregoing **Motion for Extension of Time to File Appellants' Final Brief and The Record on Appeal with Exhibits 1 through 4** by filing the same through the SC Courts E-Filing Portal electronic mail to their AIS email addresses on December 19, 2023 and by U S mail, first class postage prepaid, on December 19, 2023.

**Documents served:**

(1) **Proof of Service and**

**(2) Motion for Extension of Time to File Appellants' Final Brief and The Record on Appeal with Exhibits 1 through 4**

**(3) Parties Served:**

Thomas C. Taylor, Esq.  
Law Office of Thomas C. Taylor, LLC  
P.O. Box 1808  
Bluffton, SC 29910

And

Chester C. Williams, Esq.  
Law Office of Chester C. Williams, LLC  
17 Executive Park Road, Suite 2  
PO Box 6028  
Hilton Head Island, SC 29938-6028

**Attorneys for Plaintiffs**

This 19<sup>th</sup> day of December 2023 at Beaufort, SC

The Houston Law Firm LLC  
1011 Bay Street, Suite 2A  
Beaufort, SC 29902  
Phone: 843-524-1800  
Cell: 843-684-0211  
[chouston@houstonlawfirm.net](mailto:chouston@houstonlawfirm.net)

By: *SI Charles E. Houston, Jr.*

Charles E. Houston, Jr.  
SC Bar# 2663/ Fed Bar# 1961  
Attorney for Appellants