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SC Court of Appeals

STATE OF SOUTH CAROLINA IN
THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
HON. MARVIN H. DUKES
MASTER IN EQUITY

APPELLATE CASE # 2023-000438

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

RESPONDENTS

vs.

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

APPELLANTS

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JOYCE ELLEN HARRISON, WILLIAM S. HARRISON, III,
STANLEY ROBERTS AND DIANA MENDHEIM INDIVIDUALLY
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APPELLANTS

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GEORGIA HARRISON vs STEPHANIE LORRAINE KIRKLAND et al
2020-CP-07-02301 - CONFERENCE CALL

1 IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
2 STATE OF SOUTH CAROLINA
 COUNTY OF BEAUFORT

4 **GEORGIA HARRISON, et al.**
 Plaintiffs,

9 **VS.** **CIVIL ACTION NUMBER**
2020-CP-07-02301

14 STEPHANIE LORRAINE KIRKLAND, et al.
15 Defendants.

17 -----/

18 The telephonic conference-call, in the
19 above-entitled cause, taken pursuant to Notice
20 and agreement, before Honorable Marvin H. Dukes,
21 Beaufort County Master In Equity, and Naomi
22 McCracken, Stenographic Court Reporter and
23 Notary Public, via telephone, on the 5th day of
24 April 2023, commencing at or about the hour of
25 2:29 p.m.

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25



1 ALSO PRESENT (via telephone):

2	Earsa Jackson, Esquire
3	Rose Hampton
4	Mark Jones
5	Georgia Harrison
6	Diana Mendheim
7	Tyrone Hodges
8	Barbara Harrison

— — —

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25 (NO EXHIBITS MARKED.)



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1 THE COURT: Marvin Dukes.

2 MR. TAYLOR: Good afternoon, Your
3 Honor. Tom Taylor and a number of
4 others here.

5 How are you.

6 THE COURT: Seven others, as I
7 understand it from the computer. And
8 Mr. Houston had a probate matter
9 downstairs and so he's just come up
10 from that. He's sitting here across
11 the desk from me. And -- let's see, so
12 I've got Charles here in the office.
13 Got Tom.

14 Who else is with us?

15 MS. JACKSON: Earsa Jackson.

16 THE COURT: Welcome.

17 MS. JACKSON: Thank you.

18 MR. FINGER: Terry Finger.

19 THE COURT: And Terry. Shouldn't
20 you be on the golf course or getting
21 ready for the -- that's next week, I
22 guess.

23 MR. FINGER: That's next week,
24 Judge. Yeah, you're right. We're
25 getting close. We're getting close.



1 THE COURT: All right. Terry, and
2 who else? I'm sorry.

3 MS. HAMPTON: Rose Hampton.

4 MR. JONES: Mark Jones.

5 MS. HARRISON: Georgia Harrison.

6 MS. MENDHEIM: Diana Mendheim.

7 MR. HODGES: Tyrone Hodges.

8 MADAM COURT REPORTER: Naomi
9 McCracken, court reporter.

10 THE COURT: Hey, Naomi McCracken,
11 court reporter.

12 Okay. This is, of course, not a
13 hearing, this is a conference call.
14 But all are welcome.

15 Somebody else just joined us, I
16 think.

17 MS. HARRISON: Barbara Harrison.

18 MR. WILLIAMS: Chet Williams.

19 THE COURT: Okay.

20 MR. WILLIAMS: Good afternoon.

21 THE COURT: Good afternoon.

22 MR. WILLIAMS: How are you today,
23 Judge?

24 THE COURT: Just great. Thanks.

25 (Off the record discussion.)



1 THE COURT: All right. I've got
2 2:31.

3 So this, again, is not a hearing,
4 it's a conference call. I have got all
5 of y'all on the phone, of course, and
6 the rest of you just joining us,
7 Charles Houston had a probate matter
8 downstairs that just ended so he's just
9 come up. So he's sitting across the
10 table from me here.

11 MR. WILLIAMS: Okay.

12 THE COURT: The purpose of the
13 conference call is this, I -- in the
14 going back and forth, my understanding
15 of this situation is as follows:
16 Originally, an appeal of a prior order
17 in this case, that appeal was
18 dismissed. Then another order was
19 issued, the final order -- well, won't
20 be final because there has got to be
21 disbursement and that sort of thing,
22 but they're close to final order, and
23 that will -- then a new appeal was
24 filed under a new case number.

25 Now, since then, I don't think



1 anything has been filed either to allow
2 relief from the automatic stay or to
3 stay because, of course, under the
4 rules, this, what is -- what is left to
5 do under this order before disbursement
6 of funds or anything is to transfer
7 property. Of course, we all know the
8 rule on transfer of property, but it's
9 ordinarily not stayed.

10 In fact, the appeals court, I
11 guess, made that clear in the order
12 from the last appeal. But we've still
13 got an appeal, but I don't know if it's
14 stayed. And I'm happy to hear from
15 counsel on what -- the different idea,
16 but it seemed pretty clear from the
17 order that the court issued last time
18 that it's not stayed. Because, again,
19 it was the same case, that kind of
20 thing, even though it's a different
21 appeal.

22 So anyway, with that as a -- and
23 then my understanding -- my
24 understanding watching the e-mails back
25 and forth between, I think, Charles and



1 Tom and maybe Terry and Chet, I can't
2 remember who all was on them, I was
3 sort of peripherally copied on a couple
4 of them. It's almost looked like y'all
5 had reached some sort of an agreement
6 to throw some language in the deed
7 and -- but then I never really -- and,
8 Charles, I understand you wanted all
9 kind of language and contingencies on
10 the closing, that kind of thing, and I
11 think that was rejected.

12 But then it seems like y'all were
13 back to just throwing a sentence or two
14 (indiscernible) subject to common
15 case -- and Charles is nodding.

16 So is that all -- is that where
17 y'all are, because I can throw a
18 sentence in there and sign the deed and
19 done.

20 MR. HOUSTON: There are three
21 things, Your Honor --

22 THE COURT: Can y'all year
23 Charles?

24 MR. HOUSTON: Yes.

25 MADAM COURT REPORTER: No, I can't



1 hear.

2 THE COURT: Okay. You come in
3 closer, don't worry.

4 MR. HOUSTON: There are three
5 facts we wanted the Court to consider,
6 Your Honor. One is that the deed be
7 placed in escrow -- or not the deed be
8 placed in escrow, but the funds be
9 placed in escrow, the funds being
10 placed in escrow if you grant -- issued
11 the deed.

12 Second is that a time constraint
13 before the --

14 MR. WILLIAMS: Charles, May 1st or
15 May 31st?

16 MR. TAYLOR: May 1st.

17 MR. WILLIAMS: May 1st.

18 (Indiscernible.)

19 THE COURT: I don't even know what
20 you mean by time constraint, but
21 whatever y'all are talking about, y'all
22 agree on that; is that correct?

23 (Audio interruption.)

24 MADAM COURT REPORTER: This is
25 unreportable.



1 THE COURT: Yeah, this is a
2 conference call, so I get it.

3 Let me make sure I understand.
4 Item 2 on Charles's list is no longer
5 an item because y'all agree to it's
6 funding by May 1st; is that accurate?

7 MR. TAYLOR: Judge, it's Tom
8 Taylor. It is appropriate from our
9 perspective. We welcome a court order,
10 if you would like, that with all -- all
11 possible haste, we move forward to
12 close by May 1st, and I believe Terry
13 Finger's client is in agreement.

14 Terry?

15 MR. FINGER: That is correct, Your
16 Honor.

17 MR. WILLIAMS: Chet Williams.
18 Right now -- I mean, the contract
19 between Rotunda and the sellers, I
20 think, provides for closing, actually,
21 on April 21st.

22 THE COURT: That's before
23 May 1st. Okay.

24 All right. So that not an issue
25 then, right?



1 MR. HOUSTON: Yeah, but we allow
2 time because you can always have
3 something go wrong.

4 THE COURT: Sure.

5 MR. HOUSTON: So you have a
6 week --

7 (Indiscernible.)

8 MADAM COURT REPORTER: I can't
9 hear him.

10 THE COURT: Come right around this
11 way.

12 MR. HOUSTON: The point is that if
13 it doesn't close by the 1st, then the
14 order for the deed would become null
15 and void.

16 THE COURT: Well, I'm not going to
17 issue an order because that -- but
18 you're welcome to petition, of course,
19 if it doesn't close, you know, to
20 whatever you want on the petition.
21 But, you know, it may agree to that, I
22 don't know. It maybe -- maybe the
23 buyer walks away at that point. It may
24 be self executing.

25 But I wasn't going to issue,



1 necessarily, any orders that weren't by
2 consent. What I was trying to do is
3 come up with a plan that resolved as
4 many of the problems that y'all had.

5 MR. HOUSTON: Well, that would
6 resolve it, but with the time
7 constraint on it.

8 THE COURT: Well, it's got a time
9 constraint, May 1st, but you want it to
10 be null and avoid, the order to be
11 vacated is basically what you just
12 said.

13 Well, let me do this, I'm happy to
14 hear, Tom, from you.

15 MR. TAYLOR: Your Honor, the
16 plaintiffs do certainly not agree with
17 that. Your Honor, it would be
18 appropriate in the normal course of
19 this, the way we do litigation and
20 matters such as this, to have an order
21 requiring that the closing be first,
22 deadlined, and then certainly if
23 something reasonable comes up at the
24 last minute, I (indiscernible) the
25 Court, but in no way would we agree to



1 an order that says everything is void

2 May 1st --

3 MR. HOUSTON: Your Honor, that's
4 the same position we had, you know, of
5 December 23rd. If we didn't get --

6 (Crosstalk.)

7 MR. WILLIAMS: I'm sorry.

8 MR. HOUSTON: The right to
9 purchase.

10 THE COURT: Well, let me do this,
11 I don't -- I don't want to relitigate
12 all that stuff, I'm just trying to --

13 MR. HOUSTON: We just want the
14 same provision.

15 THE COURT: I'm not going to issue
16 an order that vacates a prior order if
17 it doesn't occur by that date.

18 However, if it doesn't, file a motion.

19 You know, who knows what I might
20 order. Okay? But to go ahead and do
21 that -- well, they're not going to
22 consent.

23 Let me ask you this, so the
24 closing date is not an issue, it will
25 be on or before May 1st. Now, you



1 escrow the money and then do the deed,
2 that's not a standard closing issue. I
3 know what you're going to say, well,
4 that's not the way we were treated in
5 December two years ago or whatever it
6 was, but --

7 MR. HOUSTON: I glad you
8 acknowledge that, Your Honor.

9 THE COURT: But that was a
10 different matter. That was a -- we had
11 already had a contract. You wanted to
12 put in a backup, essentially.

13 MR. HOUSTON: You know --

14 MR. WILLIAMS: Your Honor, if I
15 may. Chet Williams here.

16 Charles and his clients were
17 operating pursuant to a specific
18 statute that required those things.
19 We're not operating pursuant to
20 agreement, we're operating pursuant to
21 the contract and the contract doesn't
22 require an escrow of the funds prior to
23 closing. And so, I mean, I don't speak
24 for Terry, but I doubt his client would
25 agree to that.



1 MR. HOUSTON: Your Honor, the
2 other thing is --

3 MR. FINGER: This is Terry. This
4 will be a normal Beaufort County
5 closing. We would ask that the
6 master's deed be issued prior to May
7 1st. We would ask that there be no
8 further modifications that Mr. Houston
9 has asked to be put in that master's
10 deed, and upon our client wiring the
11 money, Chet Williams's office -- Chet,
12 I assume you're going to handle the
13 closing for the sellers?

14 MR. WILLIAMS: Yes.

15 MR. FINGER: Upon -- typical when
16 good funds are received by
17 Mr. Williams, he'll deliver the deed
18 and other seller documents to me. I
19 assume that the escrow that Mr. Houston
20 may be referring to is his 1.2 percent,
21 and that will be escrowed or paid out.

22 It doesn't matter to me. We just
23 want to have a general warranty deed
24 from the 98 plus percent that Tom and
25 Chet represent. They tell me that's



1 what we'll get. We'll get a master's
2 deed -- or Charles's people will not
3 sign deeds apparently and then they
4 can -- whatever happens to that 1.2
5 percent doesn't really matter to my
6 client, to be honest.

7 MR. HOUSTON: Another point, it's
8 not supposed to be a general warranty
9 deed. Just supposed to be a --

10 THE COURT: Charles, I'll --

11 MR. WILLIAMS: Excuse me, Your
12 Honor.

13 THE COURT: Yeah.

14 MR. WILLIAMS: Chet Williams.

15 THE COURT: Yeah.

16 MR. WILLIAMS: Charles, the
17 contract requires -- calls for a
18 warranty deed. And with respect to the
19 master's deed, Your Honor, I direct you
20 to the third whereas paragraph page 3
21 that says that you're executing it
22 pursuant to your order of November 7th
23 and that -- deliver it to counsel for
24 plaintiffs to be held in escrow pending
25 the closing of the sale of the property



1 pursuant to the (indiscernible) --

2 (Crosstalk.)

3 THE COURT: I'm not -- their
4 individual people are going to sign the
5 deed, but the master's deed is what
6 I've got.

7 MR. WILLIAMS: And, again, and
8 that's not --

9 THE COURT: It's not a warranty
10 deed.

11 MR. WILLIAMS: No, it's not.

12 THE COURT: Yeah. That's -- so, I
13 mean, that's -- so that's not really an
14 issue.

15 So we're sort of down to --

16 MR. HOUSTON: Now, is this
17 warranty deed, does it propose -- it's
18 not going to be incumbent upon my
19 client because I don't want my clients
20 to be (indiscernible) to a third party
21 coming back and suing them saying you
22 didn't give us a warranty deed.

23 THE COURT: They're not giving a
24 warranty deed, they're -- I'm signing a
25 master's deed on their behalf, okay, is



1 what's going on. The warranty deed, if
2 anybody sues on the warranty, I can't
3 imagine the -- your clients would be
4 defendants because they wouldn't have
5 signed the warranty, right?

6 MR. HOUSTON: You're signing on
7 behalf of my client.

8 THE COURT: No warranties.

9 MR. FINGER: Charles, we will be
10 happy to take quit claim deed from your
11 clients.

12 MR. HOUSTON: No, I'm talking
13 about what the master is conveying, not
14 a warranty.

15 MR. WILLIAMS: Of course, the
16 master's deed contains no warranty of
17 title whatsoever in it.

18 THE COURT: And even if it did, it
19 would be warranty by -- you know, not
20 me, the office, but --

21 (Audio interruption.)

22 MR. FINGER: Charles, this is
23 Terry.

24 Are your clients willing to give a
25 quit claim deed to my clients?



1 MR. HOUSTON: No.

2 MR. FINGER: Okay.

3 MS. JACKSON: Your Honor, this is
4 Earsa Jackson. I would like to at
5 least make one comment to the proposed
6 master's deed, even if we're talking
7 about the limited interest of the
8 defendant heirs.

9 I do think that referencing the
10 court of appeals matter as if it's
11 closed is not accurate. That -- at a
12 minimum, that needs to be modified.
13 That is not accurate as it sits because
14 the appeal is still pending.

15 THE COURT: Which paragraph is
16 that in?

17 MS. JACKSON: This is on page 2,
18 second to the last paragraph that
19 references that the court of appeals
20 denied the motions for supersedeas.

21 THE COURT: Yeah.

22 MS. JACKSON: All of that is
23 factual, but it's not -- it's not
24 accurate or it's not complete as
25 written.



1 THE COURT: Got you. So if a
2 phrase were added that says,
3 thereafter, an appeal was filed in
4 case -- or thereafter, another appeal
5 was filed in this same case which
6 remains pending as appeals court number
7 whatever it is.

8 MS. JACKSON: I think for
9 completeness, that at minimum, that
10 needs to be included.

11 THE COURT: Yeah. I mean, I don't
12 know what else you would put other than
13 that.

14 MS. JACKSON: Right.

15 THE COURT: But that would -- that
16 would tell the whole -- what you want
17 to tell is the whole story and --

18 MS. JACKSON: Exactly.

19 MR. WILLIAMS: If I may, Your
20 Honor.

21 THE COURT: Yes.

22 MR. WILLIAMS: In all fairness, at
23 the time this master deed was draft,
24 that second appeal wasn't
25 (indiscernible) --



1 THE COURT: Oh, no, I know, I --
2 but I can't see a problem with adding
3 what's requested there, though. Just a
4 phrase that says, you know -- I don't
5 know if anybody wrote it down, but
6 roughly what I just said, which was
7 probably wrong. But, you know,
8 thereafter, another appeal was filed in
9 this case which remains pending as of
10 the date of this order as case number
11 whatever.

12 MR. HOUSTON: Technically, there
13 are two appeals still pending.

14 MR. WILLIAMS: Terry, are you okay
15 with that?

16 MR. HOUSTON: What was dismissed
17 was the amended appeal.

18 THE COURT: Okay. Well, I mean,
19 this would direct them -- the concern
20 is if someone looked at the deed and
21 said -- (indiscernible) -- this
22 paragraph -- the fact is.

23 (Audio interruption.)

24 MR. HOUSTON: I have --

25 MADAM COURT REPORTER: I can't



1 hear anything.

2 MR. WILLIAMS: Somebody somewhere
3 doesn't have their phone on mute when
4 they're not talking.

5 MR. HOUSTON: The concern is this,
6 the order that you signed empowered
7 them to sell the property to Rotunda.
8 All right? Now they're not going to
9 sell the property to Rotunda, they're
10 selling it to some new party, which
11 infers two things.

12 Number one, that the
13 misrepresentation was made to the Court
14 that Rotunda was -- has all this time
15 to prepare to buy the property. And
16 now there's no order authorizing them
17 to sell the property to this other
18 third LLC.

19 THE COURT: All right. Anybody
20 shed light on --

21 MR. WILLIAMS: With an assignment
22 of Rotunda's rights, that issue is
23 resolved.

24 THE COURT: Okay.

25 MR. HOUSTON: Your Honor, no



1 assignment has been filed. We have
2 haven't been served with any
3 assignment.

4 THE COURT: All right. Is the
5 assignment something --

6 MR. WILLIAMS: I'll get -- those
7 assignments are executed at closing.

8 THE COURT: Okay. I mean -

9 MR. TAYLOR: Your Honor, your
10 order of November 7th authorizes
11 partition of the property by sale, it
12 does not restrict it to Rotunda. And,
13 in fact, Rotunda is technically not a
14 party to this action.

15 What it authorizes is the
16 prevailing plaintiffs to move forward
17 with the partition by sale. And, quite
18 candidly, we would not be restricted to
19 Rotunda, but we certainly in all good
20 faith are representing to the Court
21 that's exactly who we're closing it to,
22 it's simply a new entity that has been
23 created by the assignment, which we'll
24 be glad to provide.

25 THE COURT: Company owned by



1 Rotunda or something; is that correct?

2 MR. WILLIAMS: That is correct,
3 Your Honor.

4 THE COURT: Got you. All right.
5 Let's do this, then -- I can't remember
6 who drafted the deed.

7 MR. WILLIAMS: I did, Your Honor.
8 Chet Williams. I did.

9 THE COURT: Chet, do you think you
10 could put that language in there
11 bringing the current status of the
12 appeals up to date?

13 MR. HOUSTON: I think the example
14 you gave was adequate, Your Honor.

15 THE COURT: Okay.

16 MR. HOUSTON: Incorporate that.

17 THE COURT: Yeah. Just put that
18 in there. I think that was
19 Ms. Jackson's suggestion. And that --
20 and if y'all could do that and --

21 MR. HOUSTON: I'm talking about
22 your language here, part of the appeal
23 and --

24 THE COURT: Right. Yeah, that's
25 what I'm talking about.



1 MR. FINGER: This is Terry Finger.
2 I'd just like to register my objection
3 to any changes in this proposed
4 master's deed. We have shared this
5 master's deed with the entity that's
6 going to be handling the title
7 insurance, issuing the title insurance.
8 Any further changes are going to just
9 create more problems.

10 This is not stating anything that
11 isn't already of public record. I
12 don't know whether Mr. Houston's
13 clients are going to perfect this
14 appeal. Their prior appeal has been
15 dismissed.

16 MR. HOUSTON: No, it hasn't been
17 dismissed, Terry.

18 MR. FINGER: Oh, yes it has.

19 MR. HOUSTON: The amended appeal
20 was dismissed. The first one still
21 stands.

22 THE COURT: Well, y'all --
23 (indiscernible) -- just keep going.
24 What else?

25 MR. FINGER: It's going cause



1 Rotunda some issues with their title
2 insurance entity that had pretty much
3 passed grace over the prior draft and
4 now you're introducing something that
5 I'll have to go back and see if I can
6 got approval on. I don't know if I'll
7 be able to or not, to be perfectly
8 blunt with it, and it's just -- it's
9 unnecessary in my opinion. It doesn't
10 state anything that's not of public
11 record anyway. Were we aware of it --

12 THE COURT: Go ahead. I'm sorry.

13 MR. FINGER: We're aware of the
14 new appeal. Chet Williams and Tom
15 Taylor have made me aware of the new
16 appeal. I don't know when their
17 designation of matter is due or when
18 their brief is due. I suspect it's
19 fairly soon, but my understanding is
20 that the prior appeals have all been
21 dismissed.

22 MR. HOUSTON: No, it hasn't,
23 Terry, just the amended one. So the
24 first initial appeal is still standing.
25 They dismissed the amended one.



1 MR. WILLIAMS: I don't think
2 you're right, Charles.

3 THE COURT: Let's do this, you
4 know, somebody can figure that out
5 later.

6 So, Terry, I understand what
7 you're saying. I can't image, though,
8 simply bringing this up to date is
9 going to cause them too much heartburn
10 because as you've pointed out, it's all
11 public record anyway and this is simply
12 amending the public record portion of
13 this -- of this deed.

14 So hopefully it won't be a
15 problem. If they say forget it, this
16 language ruins everything, we'll have
17 another conference call and we'll talk,
18 but at this point, if -- Chet, if you
19 can add that language in there and get
20 it to me, I'll go ahead and execute it
21 and return it in a timely fashion to be
22 held in escrow pending the usual
23 closing.

24 MR. WILLIAMS: Okay.

25 MR. FINGER: Okay. Thank you,



1 Judge.

2 THE COURT: Terry, if that's a
3 disaster, ask somebody for a conference
4 call and we'll talk and we'll see what
5 we can do.

6 MR. FINGER: I will do everything
7 in my power to not make it a disaster.

8 THE COURT: Okay.

9 MR. WILLIAMS: Thank you, Terry.

10 THE COURT: As always, if y'all
11 can figure out a way to resolve this,
12 let me know. That would be great.

13 All right. This, again, was not a
14 hearing, but anything for our
15 conference call?

16 MR. TAYLOR: Not on behalf of the
17 plaintiffs, Judge.

18 THE COURT: Okay.

19 All right. Naomi, good luck
20 trying to turn this into something on
21 paper.

22 MR. HOUSTON: Your Honor, the
23 other thing we want to do, if they do
24 close is to hold the funds for the
25 defendants in escrow.



1 THE COURT: Well, we always do
2 that for some period of time.

3 MR. WILLIAMS: Charles, I'll be
4 glad to give you the funds for the
5 defendants.

6 MR. HOUSTON: You give us
7 (indiscernible) --

8 THE COURT: Let's do this. Let's
9 see if it closes.

10 MR. HOUSTON: Yeah.

11 THE COURT: And if it does, then
12 there will be some net funds, and I'm
13 sure we will all get together and there
14 will be some claims for fees and costs
15 and that kind of thing that we'll all
16 need hash out. We do in all these
17 cases. But yeah, the money, you know,
18 we -- it can be paid into the clerk.
19 Most attorneys don't
20 want (indiscernible) --

21 MR. WILLIAMS: Oh, yeah. The
22 plaintiffs are going to want their
23 funds held.

24 MR. HOUSTON: Well, we don't
25 have -- they can do whatever they want



1 to do with the plaintiff's money,
2 but --

3 THE COURT: Well, let's do this,
4 what -- right now, the order calls for
5 doing what with the net proceeds?

6 MR. TAYLOR: Your Honor, it's
7 first -- normal course, I have it in
8 front of me, plaintiff's are authorized
9 to move forward with the closing of the
10 sale for 9,750,000 and the defendants
11 shall each receive their proportionate
12 share of the purchase price of net the
13 sellers proceeds as computed by their
14 ownership interest in the consent
15 order.

16 The closing costs for the sale
17 shall be provided for in the Rotunda
18 contract, and the Court recognizes the
19 equitable lien of the interest of all
20 owners of the real property in
21 proportion to their respective interest
22 or cost and attorney's fees incurred by
23 the plaintiff and the maintenance and
24 prosecution of this action.

25 MR. HOUSTON: (Indiscernible) --



1 fees.

2 THE COURT: Hold on a second.

3 Keep going. I'm sorry.

4 MR. TAYLOR: In addition, Your
5 Honor, it's at page 36 of what I --
6 excuse me, 26 of what I sent you
7 earlier. If you have it and want to
8 refer to it. And it, basically, Judge,
9 provides for the distribution of all
10 costs and proceeds on a pro-rata basis
11 with the defendant's portion being
12 delivered, we assume to them.

13 And then to the deceased
14 defendants, Your Honor, we had already
15 arranged and you had put in the order
16 that those proceeds would be given to
17 the clerk of court and held for one
18 year pending someone comes forward in
19 those.

20 But Mr. Houston's alive defendants
21 will receive a check and we're prepared
22 to cut the check for them at closing.

23 THE COURT: What -- don't we still
24 need to have a hearing to approve
25 attorneys fees?



1 MS. JACKSON: Yes. Your Honor,
2 this is Earsa Jackson. I agree with
3 that. We also need to see that closing
4 statement. I'm sure there's a
5 tentative one floating around as well.
6 That could be taken care of at the same
7 time.

8 MR. TAYLOR: There's no
9 provisions -- (indiscernible) --
10 allowed anybody.

11 THE COURT: I'm sorry, I couldn't
12 hear you.

13 MR. TAYLOR: I said, Your Honor,
14 there's no provision about the
15 defendants having any type of say in
16 the disbursement of the monies or other
17 costs. It is -- again, Your Honor, I
18 draw your attention to the order of
19 November the 7th that provides that
20 closing costs will be as per normal in
21 Beaufort County.

22 And we're certainly at the Court's
23 pleasure, but we did not anticipate,
24 Judge, that the Court was going to be
25 holding funds and then having any other



1 type of hearing on disbursement of
2 those funds.

3 THE COURT: No, no, no. I'm
4 talking regular closing costs, of
5 course.

6 What I was talking about is it
7 sounded like there was going to be a
8 reduction for --

9 MR. HOUSTON: Attorney fees.

10 THE COURT: -- from the gross for
11 plaintiff's attorneys fees, which, you
12 know, again, wouldn't be unusual, but
13 ordinarily, we would have at least some
14 brief hearing to determine the amount
15 of that number.

16 MR. HOUSTON: Well, we don't have
17 any objection so long as it's not --
18 affects against the defendants. They
19 can charge the plaintiffs for all they
20 want.

21 THE COURT: Well, there's an
22 option.

23 MR. WILLIAMS: That's what I had
24 anticipated that we would do.

25 THE COURT: All right. Well, if



1 you want to memorialize that with an
2 order, then Charles, you've no problem
3 with it; is that correct?

4 MR. HOUSTON: Yeah.

5 THE COURT: I think I still
6 probably need to approve it because we
7 do have unknowns and deceased persons.
8 So as I understand it, Charles, on
9 behalf of his client, waives that, but
10 I think I probably still need to take a
11 look at that.

12 So when will that be prepared or
13 when -- I mean, y'all aren't finished
14 yet, you don't know what it's going to
15 be.

16 MR. TAYLOR: Chet, what do you
17 think about when we'll have a closing
18 statement that would have that for the
19 Court's review?

20 MR. WILLIAMS: Typically it's the
21 purchaser's attorney that prepares the
22 closing statement, so that would come
23 from Terry.

24 THE COURT: But the number is what
25 I'm worried about.



1 MR. WILLIAMS: I'm sorry, say
2 again, Your Honor.

3 THE COURT: I mean, it will be in
4 the closing statement, but it's in
5 number that will actually come from the
6 plaintiffs that -- the usual closing
7 stuff, you know, the proration of taxes
8 and all that, it just is what it is.
9 But I'm just talking about the
10 deduction from the gross except for
11 Charles's clients of the attorney's
12 fees.

13 MR. WILLIAMS: That -- I can have
14 that. It may take me two weeks to put
15 that together.

16 THE COURT: Okay. That's fine.

17 MR. WILLIAMS: I, in all honestly,
18 am substantially behind on my billing.

19 THE COURT: Okay. All right.
20 But, again, I think that probably ought
21 to be approved by the Court even if
22 Charles -- y'all aren't going to assess
23 it against Charles's client, but still,
24 with regard to -- and of course your
25 clients agree, but the -- there are



1 some unknowns and deceased people that
2 I think should be looked at.

3 MR. WILLIAMS: Okay.

4 THE COURT: Whose the guardian? I
5 can't remember.

6 MR. WILLIAMS: Maria Parker.

7 THE COURT: Okay. I would like
8 for her to take a look at them as
9 well.

10 All right. So let's see, Chet,
11 you're going to throw in the sentence
12 suggested by Ms. Jackson and then --

13 MR. WILLIAMS: As long as you're
14 doing that, you know, this doesn't
15 include any reference to the -- I'm
16 sorry, it does say -- it does refer to
17 the supreme court denial. Okay. Never
18 mind.

19 Yep, we'll add in the fact that
20 there is another appeal had -- has been
21 filed but not yet perfected with
22 respect to the order that you signed
23 recently.

24 MR. HOUSTON: What do you mean by
25 not perfected?



1 MR. WILLIAMS: Say again.

2 MR. HOUSTON: What do you mean by
3 not perfected?

4 MR. WILLIAMS: If you don't file
5 your brief --

6 THE COURT: Why don't you just say
7 filed and leave out the not perfected
8 and -- anyway, anybody (indiscernible)
9 is going to look and see that.

10 MR. TAYLOR: It has been assigned,
11 Your Honor.

12 THE COURT: Okay. All right. All
13 right. I think that will do it then.

14 So, again, I'll keep an eye out.
15 Y'all get that order to either Heather
16 or Jared, that would be great, and just
17 let me know.

18 All right, then, y'all have a
19 great afternoon and a happy and
20 wonderful Easter. And thank y'all so
21 much for accommodating me with the
22 conference call.

23 (Whereupon, the conference-call was
24 concluded at approximately 2:59 p.m.)

25



C E R T I F I C A T E

STATE OF SOUTH CAROLINA:

BEAUFORT COUNTY:

I, Naomi McCracken, Court Reporter and Notary Public in and for the above county and state, do hereby certify that the foregoing conference-call was taken before me via telephone at the time and herein-before set forth; that thereupon the foregoing testimony was later reduced by computer transcription; and I certify that this is a true and correct transcript of my stenographic notes so taken.

I further certify that I am not of counsel to either party, nor interested in the event of this cause.

Naomi McCracken

Naomi McCracken

Court Reporter

Notary Public

Beaufort, South Carolina



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GEORGIA HARRISON vs STEPHANIE LORRAINE KIRKLAND et al
2020-CP-07-02301 - MOTION HEARING

1 IN THE COURT OF COMMON PLEAS
2 FOURTEENTH JUDICIAL CIRCUIT
3 STATE OF SOUTH CAROLINA
4 COUNTY OF BEAUFORT

5 GEORGIA HARRISON, et al.
6 Plaintiff,
7
8

9 vs. CIVIL ACTION NUMBER
10 2020-CP-07-02301
11
12

13 STEPHANIE LORRAINE KIRKLAND, et al.
14 Defendant.
15 -----/

16
17 The Motion Hearing, in the
18 above-entitled cause, taken pursuant to Notice
19 and agreement, before Honorable Judge Marvin H.
20 Dukes, and Naomi McCracken, Stenographic Court
21 Reporter and Notary Public, at the Beaufort
22 County Magistrate's Courthouse, 102 Ribaut Road,
23 2nd Floor, Beaufort, South Carolina, on the 15th
24 day of May 2023, commencing at or about the hour
25 of 3:02 p.m.



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Nicholas Bergetl, Developer
Georgia Harrison, Plaintiff

25

- - -



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1 THE COURT: Good afternoon. We're
2 here in 2020-CP-07-02301. This is
3 Harrison, et al. versus Kirkland, et
4 al. We are here on defendant's amended
5 motion to enforce right of first
6 refusal under Pinckney Act and
7 alternate relief.

8 And, Mr. Houston, I'm happy to
9 hear from you, sir.

10 MR. HOUSTON: Thank you very much,
11 Your Honor. Your Honor, in the
12 interest of brevity of time, but also
13 to set apart our pertinent points, I
14 will make it somewhat brief because our
15 entire position has been set out in our
16 motion, which everyone has had the
17 chance to review and conjugate over.

18 Actually, what -- the situation as
19 we have presented in the motion is
20 this, Your Honor, the defendants were
21 on very limited and stringent
22 circumstances.

23 In fact, there's granted a right
24 of first refusal without -- and the
25 order did not even provide for the



1 granting of the deed, just for the
2 plaintiffs -- the defendants to deposit
3 the money in with the clerk of court.
4 And they were only given 60-day period
5 in which to do that. All right.

6 Upon that not being performed
7 under those circumstances, we asked for
8 an extension, which was not granted.
9 The Court then proceeded, over an
10 extensive period of time, to eventually
11 grant an order preventing the
12 plaintiffs to sell to property to
13 Rotunda. And they were given the May
14 15, 2023 deadline in which to complete
15 closing. This did not occur.

16 Therefore, our position today is
17 basically threefold. Number 1, a
18 declaration that this order granting
19 them the privilege to sell the property
20 has run its course, rescinded, and no
21 longer in effect. Two, that the
22 defendants be able to go ahead and
23 purchase the property from the
24 plaintiffs.

25 And in that light, we have renewed



1 our -- excuse me for a second.

2 THE COURT: Hard to move around in
3 this packed little courtroom, isn't it?

4 I've been handed a purchase and
5 sale agreement.

6 You've seen this?

7 MR. TAYLOR: No, sir.

8 THE COURT: Have you got an extra
9 copy for counsel?

10 MR. HOUSTON: Um-hmm. They've
11 seen this before, but it's been
12 updated.

13 It's basically the same purchase
14 agreement that we had tendered and
15 offered before, Your Honor, just
16 renewing it now on the record in which
17 we basically agree to pay the
18 plaintiffs the appraisal value of the
19 property which was determined by the
20 Court, I think, to be \$9.1 million.

21 THE COURT: Okay. I'm listening.
22 Go ahead, please.

23 MR. HOUSTON: So that is the prime
24 order we would like to receive from the
25 Court, is just go ahead and purchase



1 the property from the plaintiffs.

2 The other alternative motion in
3 the event there's some problem the
4 Court may find, which I don't know of
5 any problem, would be to sell the
6 property at public auction and let it
7 go to the highest bidder.

8 THE COURT: Okay.

9 MR. HOUSTON: Those are our
10 salient positions, Your Honor.

11 THE COURT: All right. Thank you.
12 Happy to hear from whoever would
13 like to be heard.

14 MR. WILLIAMS: If I may, Your
15 Honor. I think Mr. Houston said this
16 is a purchase agreement with the
17 defendants, but the defendants aren't a
18 party to this purchase agreement, it's
19 somebody called SRE Acquisitions 4,
20 LLC, is named as the purchaser. So
21 that's not the defendants.

22 MR. TAYLOR: Your Honor, Tom
23 Taylor of behalf of the plaintiff,
24 whenever you are ready, Judge.

25 THE COURT: Yeah. Go ahead.



1 MR. TAYLOR: All right. Your
2 Honor, first and overall, Your Honor,
3 we believe this Court is without
4 jurisdiction in this moment to
5 entertain this motion whatsoever. As
6 the Court is aware, under Appellate
7 Court Rule 205, upon the service of
8 notice of an appeal, the appellate
9 court shall have exclusive jurisdiction
10 over the appeal except for those very
11 limited issues, Your Honor, pertaining
12 to a motion for writ of supersedeas or
13 other issues that may be involved
14 within implementing an unappealed issue
15 in the case, such as a master's deed in
16 this particular one.

17 Your Honor, as the Court is aware,
18 the defendants originally filed an
19 appeal on all of the substantive issues
20 in this matter in March of 2022. That
21 included the original order of this
22 Court authorizing the defendants to
23 purchase the plaintiff's rights. That
24 order issued in October of 2021.

25 And as the Court is aware, Your



1 Honor, we've heard this repeatedly.
2 But it is wrong, as it was the first
3 time we heard it. The Court granted
4 the defendants a 65-day right to
5 purchase the interest of the moving
6 plaintiffs.

7 The Pinckney Act does not
8 established, as the Court well knows, a
9 situation where either the Court or the
10 plaintiffs are required to tender any
11 type of deeds whatsoever. The Pinckney
12 Act allowed the defendants, who were on
13 notice from the time of the filing of
14 the summons and compliant that this was
15 a Pinckney Act case, to purchase out
16 the plaintiffs' rights.

17 And the Court set that
18 specifically for those moneys being due
19 in the clerk of court's office by
20 December 22nd, 2021 at 5:00 p.m. The
21 Court will remember that there was
22 absolutely not a penny tendered and it
23 was not until after the 5:00 p.m.
24 deadline had, passed several hours
25 later that Mr. Houston filed a motion



1 requesting an extension.

2 In any event, Judge, all of that
3 has been ruled on previously. All of
4 it was appealed and that appeal has
5 been dismissed and a remittitur
6 returned to the clerk of court. All of
7 those issues have been resolved and
8 they are now the law of the case.

9 Mr. Houston has filed on behalf of
10 the defendants, a new appeal in March
11 of 2023, which appeals only this
12 Court's declining to reconsider it's
13 November of 2022 order, which was a
14 denial of another motion to basically
15 be reconsidered.

16 As the Court is well aware, Judge,
17 we have been to the Court of Appeals.
18 We have been to the Supreme Court and
19 the Supreme Court declined a petition
20 for cert and issued an order that
21 advised that sanctions would be
22 considered if the defendants continue
23 to delay the process unnecessarily.

24 Judge, as rude as it sounds and I
25 hate to say it, we are now at that



1 point. We have now been delayed more
2 than two and a half years from the
3 filing of this action. There is not a
4 shred of truth as to the assertion that
5 there was any deadline set for the
6 closing of this.

7 In fact, when this was discussed,
8 the Court will probably remember that
9 there was a lengthy discussion about
10 how the May 1st hoped for deadline, if
11 it did not get hit, would be still
12 absolutely enforced and we would
13 continue to do everything we could in
14 order to get the transaction closed.

15 The truth of the matter is that
16 because of the prior motions, the title
17 insurance company for Rotunda had to
18 look at it a good bit harder and we
19 have been working with Terry Finger,
20 who represents Rotunda and who is here
21 today, to finally get to the point
22 where the proposed master's deed has
23 incorporated all of the language which
24 Mr. Houston asked for as far as notice
25 to any purchaser that there is



1 currently pending, one appeal. That
2 master's deed is currently before the
3 Court.

4 And, Your Honor, I think Terry
5 will probably state in a minute, if
6 given the chance, that Rotunda is ready
7 to close and is ready to close within
8 the next 15 days once we have the
9 proposed master's deed executed by the
10 Court.

11 Your Honor, to move past the issue
12 of jurisdiction, which, again, I don't
13 thinking the Court has jurisdiction to
14 even hear this motion at this point, it
15 lies within the Court of appeals.
16 Substantively, the motion is simply as
17 wrong as it can be.

18 Your Honor, this is not a do over
19 type situation. This has been
20 appealed. It went to the Court of
21 Appeals on the substantive issue of
22 whether or not the defendants received
23 their right to purchase the plaintiff's
24 rights out in timely manner. They did
25 not execute on that and the Court of



1 Appeals had it front of them and that
2 appeal has been dismissed.

3 This Court would be very wrong in
4 starting to reconsider, again, the
5 issue of whether or not the plaintiff
6 -- the defendants had sufficient time
7 or did, in fact, execute. But, Your
8 Honor, as we all know, there's never
9 been the first assertion that they did
10 execute.

11 There just seems to be a
12 continuing misunderstanding from our
13 perspective, Your Honor, of how the
14 Pinckney Act works. This is not an Act
15 by the legislation that requires the
16 court to issue a warranty deed or
17 anything such as that. This is an Act
18 that allowed to defendants the
19 opportunity to buy out the plaintiff's
20 rights.

21 The plaintiffs, quite candidly, 18
22 months ago, would have welcomed that.
23 They would have been glad to have taken
24 that money at \$9.1 million. But
25 instead, these delays, these incessant



1 motions, the appeals have now delayed
2 us through this point in time, with the
3 only good news being, Your Honor, that
4 Rotunda is still not only interested in
5 closing the contract, but has increased
6 their offer by \$650,000.

7 We are now prepared to move
8 forward, not at the consent agreed fair
9 market value of 9.1, but at the price
10 of \$9.75 million, and we're prepared to
11 do that within the next 15 days. I
12 believe Terry will confirm.

13 Your Honor, we believe that there
14 is absolutely nothing that can even be
15 read into the Pinckney Act concerning
16 some inherent right of first refusal.
17 This is not -- it may feel like that
18 and it may be kind of a good wording
19 for what the Pinckney Act set up, but
20 it didn't set up a right of first
21 refusal. Again, Judge, it set up an
22 opportunity for the defendants to come
23 forward and buy out the interest of the
24 plaintiffs.

25 And then to hit the last point,



1 Judge, substantively, the allegation
2 that this now must go to some type of a
3 public bid, the Pinckney Act
4 specifically provides that if there is
5 an agreed upon price, which the Court
6 will remember, there was a consent
7 order entered and signed off on by all
8 the defendants that established the
9 price at 9.1 million. Then the Court
10 may go ahead and order what basically
11 is a sale, and that is what we have
12 done. We are prepared, Your Honor, to
13 move forward.

14 As I indicated to the Court
15 earlier today when I handed up an
16 affidavit, we have also checked with
17 Maria Belbas Parker who was appointed
18 by the Court as the Guardian ad Litem
19 of any incompetent individuals who may
20 have an interest in the property.

21 Ms. Parker has tendered an affidavit
22 that as of 11:00 this morning, she has
23 not heard from anyone.

24 Your Honor, your orders earlier
25 have set forth that the plaintiff



1 should move forward with the sale.

2 Those orders are the law of the case,
3 we believe. And we are prepared, Your
4 Honor, to move forward.

5 And to lastly address this
6 proposal of some type of agreement that
7 is not signed, which is the only thing
8 I've seen that was handed by up by
9 Mr. Houston, we really can't address it
10 other than to say, as Chet pointed out
11 a minute ago, it does not involve the
12 defendants. It apparently involves two
13 other entities. It is unsigned.

14 And I would remind the Court,
15 again, Judge, that notwithstanding
16 anything in the brief or in the motion
17 that was filed, there has never been an
18 agreement put forth in front of this
19 Court that said that anyone was
20 prepared to offer actual money.

21 There's never been a deposit made with
22 the clerk of court nor any offer of a
23 deposit made in front of Your Honor.
24 And this is simply, Your Honor, from
25 our perspective, hopefully the last



1 delaying tactic that should be thought
2 of.

3 And, Your Honor, on behalf of the
4 petitioners, we ask the Court deny the
5 motion as amended and we ask the Court
6 further to go ahead and execute the
7 master's deed that has been
8 appropriately tendered and Mr. Houston
9 has had a copy of it for more than five
10 days.

11 Chet, do you have anything to add?

12 MR. WILLIAMS: Just, Your Honor,
13 if I may, this so-called offer that
14 Mr. Houston has put forth -- and I've
15 tried pointing this out to him on
16 several occasions -- it contains a
17 45-day inspection period during which
18 the purchaser, in its sole and absolute
19 discretion, can cancel the deal and
20 walk away from it.

21 So even if we did go down this
22 route, we wouldn't know for a full 45
23 days whether or not, in fact, there was
24 a contract. Rotunda's due diligence
25 period ran a long time ago. We are



1 past that point. Theirs is an absolute
2 contract. This, it's a contingent
3 offer. Again, like Tom said, it's not
4 signed and there ain't no money.

5 THE COURT: Thank you.

6 Mr. Houston?

7 MR. HOUSTON: Your Honor, in
8 rebuttal, let me just state this.
9 Number 1, since December of 2021 when
10 we didn't exercise the right of first
11 refusal, the plaintiffs have had the
12 ball on this. You know, we've been
13 here over a year and they haven't been
14 able to close.

15 We're not being the dila -- the
16 dilatory party. We've not been holding
17 this up. If they could have come up
18 with the money, the property would have
19 been sold under your order.

20 And getting to the jurisdictional
21 question, if -- the plaintiff's point
22 of view is that the Court doesn't have
23 jurisdiction, then we cannot go any
24 further because in order to go any
25 further, the Court would have to issue



1 another order. So that works both
2 ways.

3 And the defendants have not done
4 anything to delay this proceeding.
5 We've waited and waited and waited and
6 waited. And, you know, the plaintiffs
7 have come up and said, well, we are
8 going to do this, we're going to do
9 this, we can do this in 60 days, we can
10 do this in 90 days. And each time, the
11 Court has been liberal in extending
12 them -- go ahead, we'll give you
13 another chance, give you another
14 chance, give you another chance.

15 You know, you read last conference
16 hearing we had, they gave the Court all
17 types of affirmative assurances that
18 we're going to close this thing by
19 May 15th, and they never tendered the
20 copy of the deed that they proposed to
21 use and it didn't close.

22 And the statute very readily sets
23 forth the provisions for having a
24 public sale. That's always been an
25 equitable remedy. You know, if the



1 parties can't agree, have a public
2 sale, let it go to the highest bidder,
3 that way everybody is protected.

4 You know, the main thing is, these
5 people want their money. I hear more
6 about Rotunda than I hear about these
7 people getting their money. You know,
8 I believe we're here -- almost --
9 Rotunda should be a party to this suit
10 because I hear more things about the
11 interest of Rotunda than I do the
12 plaintiffs themselves.

13 You know, they've instituted this
14 suit back in 2020. No telling when
15 they planned to start it before then.
16 And right now, they're still sitting
17 here at the table happy to be paid.
18 And we're prepared to paid them. So
19 far as that contract, that was model
20 and no one's going to sign it until at
21 least we get some affirmation that the
22 terms within it are acceptable. You
23 know, that provision by the inspection,
24 we can waive. That's waived. We don't
25 need that.



1 THE COURT: What about the 45
2 days?

3 MR. HOUSTON: We can -- let me
4 confer with my client to see how much
5 quicker we can put money on the table.
6

7 (Discussion off the record.)

8 THE COURT: Well, I was really
9 thinking about the closing.

10 But my understanding is Rotunda is
11 prepared to close when?

12 MR. FINGER: Your Honor, we were
13 prepared to close, as we said in our
14 last conference, until Mr. Houston, on
15 behalf of his clients, some of which
16 were original plaintiffs. Five of them
17 were original plaintiffs that consented
18 to your initial order that said the
19 100 percent ownership. They've
20 switched sides now and they apparently
21 claim that that order doesn't mean
22 anything.

23 Your order of November 7th of '22
24 gives a wonderful recitation of how we
25 got to where we are now, including the



1 fact that no appeal was ever filed to
2 the Pinckney Act order that gave them
3 65 days to close. They never appealed
4 that. They appealed it subsequently
5 and their first appeal was sent down.
6 It was dismissed by the Court of
7 Appeals on March 15th and the
8 remittitur was sent to the court --

9 MR. HOUSTON: (Inaudible.)

10 MR. FINGER: I didn't interrupt
11 you at all, Charles.

12 MR. HOUSTON: (Inaudible) It was
13 April 20th.

14 MR. FINGER: The Court of Appeals
15 order, I believe, is dated -- March
16 15th is when it's filed. The
17 remittitur to the lower court here is
18 April 5th of this year.

19 So his appeal on the merits on his
20 claims have been dismissed by the Court
21 of Appeals. He has no standing in the
22 Court of Appeals to raise any issues
23 about the Pinckney Act at this point in
24 time.

25 Every time my client, Rotunda,



1 gets to the finish line and is ready to
2 close, we get some other filing at this
3 point in time, including this filing
4 that we're here about today, which, if
5 the Court looks at it closely, there
6 are a number of things that are not
7 supported by one shred of evidence in
8 this file, including the fact that he
9 doesn't mention that five of his
10 clients were initially plaintiffs.

11 MR. HOUSTON: That's not --

12 MR. FINGER: I didn't interrupt
13 you at all.

14 MR. HOUSTON: Excuse me.

15 MR. FINGER: It says, defendants
16 were only notified of their right of
17 first refusal under the South Carolina
18 statute almost a year after
19 commencement. All those people were
20 represented by counsel. And this --
21 the original complaint, if I recall of
22 the top of my head, mentioned the
23 Pinckney Act in it.

24 So when they first got served and
25 they were represented by Roberts Vaux



1 and they entered the consent order,
2 they were well aware of their Pinckney
3 Act rights that far back.

4 Plaintiffs attempted to close and
5 sell the property to Rotunda without
6 first notifying the title company of
7 the pending appeal. The title company
8 will not close on the sale of the
9 property to Rotunda. There's no proof
10 in the record of that assertion by
11 Mr. Houston in this motion that we're
12 here about today.

13 Every time we get to the finish
14 line, there's some other filing that
15 has no legal or factual support to it.
16 My client is ready, willing, and able
17 to close. I was very concerned about
18 this motion in the circuit court. I
19 think Mr. Taylor summed it up perfectly
20 by saying they have no jurisdiction to
21 file this.

22 You remember, Judge, we went down
23 the supersedeas trail and the bond
24 trail a dozen times, including all the
25 way to the South Carolina Supreme Court



1 that indicated if you keep doing this,
2 defendants, you might be sanctioned.

3 We need to get this over. My
4 client wants to buy the property. We
5 could have had it half developed by
6 now. These folks could have all had
7 their money.

8 THE COURT: When is the closing
9 anticipated?

10 MR. FINGER: Closing is
11 anticipated -- right now, the title
12 company is most concerned about this
13 motion. And I believe that once this
14 motion is dealt with, the title company
15 will be in a position to issue their
16 title policy.

17 I think that between work that
18 Chet Williams did about a year and a
19 half ago, which I relayed to the title
20 company this past week, there were
21 probably 18 or 20 different tax liens
22 that registered that were not heirs.
23 And Chet, probably 18 months ago,
24 provided affidavits of all of the heirs
25 saying, you know, that person is not



1 me. That tax lien is not me. And I've
2 given all that documentation to the
3 title company.

4 The only problem we currently
5 have, Judge, is that I'm going on
6 vacation on Thursday and I'm out until
7 the 31st so we can't close during that
8 period of time. We can close as soon
9 thereafter as I get back.

10 THE COURT: So it will be a couple
11 of weeks?

12 MR. FINGER: Yes. But I don't
13 know what Mr. Houston and his people
14 will try to pull next, to be perfectly
15 blunt with you, Judge, and that's what
16 concerns me. I'm not issuing a title
17 policy, it's a national title company
18 that's doing it. It's First American,
19 it will be written out of South
20 Carolina, but it's being handled by the
21 people who are with Rotunda on putting
22 up the equity to fund it.

23 I'm dealing with a lawyer in
24 Greenville, South Carolina by the name
25 of Scott Lawrence who has his own firm



1 and he is the one who is underwriting,
2 or doing all the underwriting for the
3 title policy. And I have given that
4 gentleman everything he's asked for
5 within the last two weeks.

6 THE COURT: Okay. Thanks.
7 Mr. Houston?

8 MR. HOUSTON: Yes. Your Honor, we
9 didn't file this motion until after
10 they didn't close. So this motion had
11 no bearing on the decision that the
12 title company made. So my colleague's
13 assertion that we are stopping the sale
14 is misplaced because this motion wasn't
15 filed until after the 15th. We only
16 filed this motion when they didn't meet
17 that closing date. So --

18 MR. FINGER: Your Honor, this
19 motion was filed on April 24th so he is
20 incorrect.

21 MR. HOUSTON: The closing date was
22 supposed to have been May 15th -- April
23 15th.

24 (Simultaneous speakers.)

25 MR. HOUSTON: The closing date was



1 April 15th, this was filed after April
2 15th. So our motion had nothing to do
3 with it, so it's a misrepresentation to
4 kind of color us as being the
5 obstructionist in here. We're not
6 being obstructionists, we're
7 basically -- our client want to
8 purchase the property.

9 THE COURT: But they don't.
10 That's not what this says. You handed
11 me something that says SRE Acquisitions
12 Number 4, LLC, a Delaware Limited
13 Liability Company is buying it and --

14 MR. HOUSTON: Well, they are the
15 ones putting up the money, Your Honor.

16 THE COURT: Well, also, your
17 clients will be transferring
18 100 percent of their interest to this
19 corporation. They won't own any of it.

20 MR. BERGELT: That's not true.

21 MR. HOUSTON: No, that's not true.

22 THE COURT: Well, that's what this
23 says. The related contract --

24 (Crosstalk.)

25 MR. HOUSTON: No, because there's



1 another agreement where they have
2 equity participation in the project.

3 THE COURT: Where's -- that's not
4 in here.

5 MR. HOUSTON: No, it's not in
6 there.

7 (Crosstalk.)

8 MR. HOUSTON: Let me have the
9 representative explain it.

10 MR. TAYLOR: Objection, Judge.

11 THE COURT: Hold on one second.
12 Hold on one second.

13 I mean, you've all been around and
14 remember when Senator Pinckney created
15 the Pinckney Act. He was working on it
16 during his lifetime, and the idea was
17 to try, if possible, to keep lands in
18 people's names to stop people from
19 selling to developers. And it looks
20 like it would be a developer either way
21 here.

22 To try to keep, you know, great
23 grandfather's house in the family
24 forever and ever. This purchase and
25 sale agreement doesn't do that, and



1 neither does Rotunda, you know, neither
2 of them do. But it doesn't really
3 follow the spirit of the Pinckney Act
4 to have 1.3802125 percent interest,
5 which is what is asserted, I guess,
6 Mr. Houston, your clients own, transfer
7 to a development corporation, and then
8 they own some shares, I guess, of the
9 LLC.

10 That, I don't think, is what
11 Senator Pinckney had in mind or the
12 legislature which they passed the
13 Pinckney Act.

14 MR. HOUSTON: Well, as we've said
15 ever since we started this proceeding,
16 Your Honor, our position is more in
17 tune and compatible with the Pinckney
18 Act because my clients will have a
19 perpetual equity interest in the
20 project. That's what makes our sale
21 different from that of the plaintiffs.

22 (Crosstalk.)

23 MR. HOUSTON: With the plaintiff's
24 position, they are giving them the
25 money and then run them off the land.



1 In our situation, we are going to have
2 equity participation in the project for
3 a lifetime, very distinguishable
4 difference.

5 THE COURT: Thank you, sir.

6 MR. WILLIAMS: There's nothing at
7 all in the record about defendant's
8 having any sort of equity interest in
9 anything. And if you'll look at
10 paragraph 5(C) of this agreement, it
11 says that the defendants are going to
12 convey their interest in the property
13 to SRE so that SRE owns 100 percent of
14 the interest of this property.

15 So, Your Honor, it's simply wrong
16 to say the defendants are buying the
17 property because they are clearly not.
18 They are selling their interest under
19 this contract.

20 MR. HOUSTON: Your Honor, in
21 rebuttal, my colleague is more of a
22 corporate lawyer than I am. But there
23 is an agreement for equity
24 participation.

25 MR. WILLIAMS: Which is not in the



1 record.

2 MR. HOUSTON: Which would be
3 impossible, but it's just not mentioned
4 in that particular document. And the
5 reason -- one reason why, we didn't
6 want to make public disclosure of
7 exactly what it is.

8 THE COURT: Well, it's important,
9 though, isn't it?

10 Let's go ahead -- we've been
11 talking about this, let's make it
12 Defendant's 1, I guess.

13 (Whereupon, Defendant's Exhibit 1
14 was marked for identification
15 purposes.)

16 MR. TAYLOR: Thank you, Judge.

17 MR. HOUSTON: If it becomes that
18 pertinent, we can provide with you copy
19 of it, Your Honor.

20 MR. TAYLOR: Your Honor --

21 MR. HOUSTON: But this is an
22 agreement between the developer and the
23 defendants and has nothing directly to
24 do with the other parties other than
25 the fact that they will have an equity



1 position in the development of the
2 project -- not in the development, but
3 in the project itself.

4 MR. TAYLOR: Your Honor.

5 THE COURT: Yes.

6 MR. TAYLOR: I'm sorry. I'll keep
7 it very brief.

8 Just so that it does not appear
9 that we have revision as history here,
10 I want remind the Court, the reason we
11 were unable to close with Rotunda at
12 the anticipated May 1st date that we
13 had shot for is because Mr. Houston's
14 clients, in the motion before, insisted
15 upon new wording within that master's
16 deed. That's what held that up.

17 To come in here and take the
18 position that they have not been
19 holding this up is literally against
20 everything that we've been doing the
21 past two years. This is has been one
22 effort after another to slow down. As
23 you can look at today's motion, to
24 totally reopen something that was 18
25 months ago -- actually, 22 months ago



1 and is now the law of the case.

2 Judge, we need to get this -- we
3 need to get this closed, as the Court
4 has always talked about. Who knows
5 about what we -- what will happen in
6 the real estate market, too, and now
7 we're staring down the federal debt
8 ceiling.

9 And, Your Honor, lastly, I just
10 want to remind the Court that the
11 Rule 241 on supersedeas does
12 specifically vest the Court with
13 authority to continue to have
14 jurisdiction over matters not affected
15 by the appeal, including the authority
16 to enforce any matters not stayed by
17 the appeal.

18 They have sought and been denied a
19 supersedeas. The Court of Appeals and
20 the Supreme Court both are anticipating
21 this is going to be closed. And, Your
22 Honor, we are prepared under the rules
23 to move forward with that, we just need
24 the master's deed.

25 THE COURT: All right.



1 MR. HOUSTON: Your Honor, here
2 again, they're pulling the wool over
3 the Court's eyes. They are attempting
4 to. We changed that because it was
5 agreed at the conference hearing that
6 they would put a provision in that deed
7 mentioning the fact that there was a
8 pending appeal.

9 THE COURT: Did not make it in
10 here?

11 MR. WILLIAMS: Yes, sir.

12 MR. HOUSTON: That was in the
13 record. And knowing that, they still
14 represented to the Court that they
15 would close by April 15th. And that
16 also, that they would provide a copy of
17 the revised deed for the Court to sign.
18 And they never did either. They never
19 presented a revised deed and they never
20 closed. So --

21 MR. TAYLOR: Your Honor --

22 MR. HOUSTON: -- I just wanted to
23 make the factual record straight.

24 MR. TAYLOR: We send the Court and
25 Mr. Houston the proposed Volume IX of



1 the master's deed last week. He has
2 had it. It contains a provision that
3 says, whereas, on 13, March 2023, the
4 defendants filed a notice of appeal
5 with the South Carolina Court of
6 Appeals regarding this Court's order of
7 November 7th and March 8th designated
8 as appeal case 202200348, which is now
9 pending, but no supersedeas regarding
10 the Court's November 7th order was
11 issued.

12 Judge, everything that this Court
13 asked us to do had been done.

14 THE COURT: It looks like it's in
15 there.

16 MR. TAYLOR: Yes, sir.

17 THE COURT: Charles, maybe you
18 hadn't seen the latest one.

19 MR. WILLIAMS: He has.

20 MR. HOUSTON: What is that?

21 THE COURT: The language you
22 requested is in this proposed order.

23 MR. HOUSTON: Okay. But what I'm
24 saying is they never submitted it to
25 the Court. I mean, now they are trying



1 to get the Court to give them another
2 order to try again.

3 THE COURT: Well, no. Nobody's
4 requesting another order, is my
5 understanding.

6 MR. HOUSTON: Well, the other
7 order is -- should be presented.

8 THE COURT: Well, you've requested
9 one.

10 MR. HOUSTON: Yes, because they
11 didn't comply with it. The order
12 specifically says that they would close
13 by April the 20th.

14 MR. TAYLOR: No, it did not.

15 THE COURT: Do you have a copy of
16 the order that says that? There seems
17 to be a dispute on that, Charles.

18 MR. TAYLOR: Absolutely not.

19 MR. HOUSTON: Well, you had the
20 order, Your Honor, you signed it.

21 THE COURT: I got lots of orders.
22 Do you know which one we're talking
23 about that says that?

24 MR. HOUSTON: That was the order
25 for sale because they filed a motion --



1 amended motion to -- in order to sell.

2 MR. FINGER: There's no such
3 order, Your Honor.

4 MR. TAYLOR: That's correct.
5 There is no such order.

6 THE COURT: I mean, Charles,
7 there's so many orders in here, you
8 have to give me a date to look at that.

9 MR. HOUSTON: There was --

10 MR. WILLIAMS: After April 5th.

11 MR. HOUSTON: They filed an
12 amended motion to sell the property,
13 and this was almost like a year after
14 the first motion and the Court had to
15 issue an order in response to that
16 motion.

17 MR. WILLIAMS: I mean, I think
18 what Charles is talking about is he
19 filed the motion to authorize the
20 master's deed.

21 MR. FINGER: Your Honor --

22 THE COURT: Anybody got that
23 handy?

24 MR. FINGER: On behalf of Rotunda,
25 the only reason why it has not closed



1 is because Mr. Houston and his clients,
2 every time we get to the closing table,
3 throw some other motion like this one
4 up that takes the title company back,
5 they have to analyze it, and then we
6 have to get it front of you in order to
7 get it heard.

8 MR. HOUSTON: Well, we're always
9 (indiscernible) the law, Your Honor.
10 We're not -- we haven't suggested
11 anything illegal. I'm just advocating
12 my client's rights that they wanted to
13 pursue. So for him to mischaracterize
14 that as being an obstacle is misplaced.

15 MR. TAYLOR: You're Honor, I'm
16 handing the Court up a November 7th
17 order of this Court, page 9 of 10. The
18 Court talks about having reaffirmed --
19 you'll see it's highlighted, sir --
20 reaffirmed your order. That is last
21 substantive order that this Court has
22 issued regarding this. And there is no
23 deadline, no drop-dead date or anything
24 like that in it whatsoever.

25 THE COURT: Yeah. Charles, have



1 you got that one handy?

2 MR. HOUSTON: I had the transcript
3 of the last conference hearing we had
4 where you said that they had until
5 April 20th to close.

6 MR. TAYLOR: Judge, I have that
7 right here and I would challenge him to
8 show us where that is. It simply is
9 not in there.

10 MR. HOUSTON: This was your
11 ruling. They didn't prepare an order,
12 I don't think.

13 THE COURT: What I remember him
14 saying was -- or saying was to go ahead
15 and put in the language you had
16 requested and y'all get together on
17 that. I believe I had an issue on the
18 final resolution of the attorneys'
19 fees. But I don't remember ordering
20 them to close by a certain date. I
21 probably would have gotten some
22 pushback there. They may have said we
23 anticipate closing on a certain date.
24 But I'm looking. It was a long
25 transcript here. But it didn't make it



1 an order, in any event.

2 Charles, help me out with the
3 jurisdiction issue. How do I have
4 jurisdiction to hear this? I've got
5 jurisdiction to issue a deed, I think
6 that's pretty solid law, but how would
7 I have jurisdiction to essentially
8 modify a prior order during this
9 appeal?

10 MR. HOUSTON: Right. Well, what's
11 under appeal is your order granting
12 them the right to buy the property in
13 lieu of defendants -- denial of the
14 defendants asserting their right of
15 first refusal. All right? But that
16 has been adjudicated by the lower court
17 and that issue is on appeal. But the
18 Court has gone forward with
19 entertaining the plaintiffs' motion for
20 the Court to tender a deed.

21 THE COURT: Well, isn't that a
22 specific transfer of properties,
23 though, or outside the --

24 MR. HOUSTON: All right. So
25 that's the only thing that we're



1 asking. We're saying that they
2 defaulted on their opportunity for the
3 Court to grant them a deed and now
4 we're under the same basis asking the
5 Court grant us a deed upon our
6 performing by purchasing the property.

7

8 THE COURT: Okay. I've having
9 hard time with what they defaulted on.
10 I'm looking through here.

11 MR. HOUSTON: Well, if you get the
12 transcript from the last conference
13 hearing we had, it said that they would
14 close by the --

15 MR. TAYLOR: I have it.

16 THE COURT: I think it's on file.
17 It's filed April 22nd.

18 MR. TAYLOR: Yes, sir.

19 Charles, what page are you on?

20 MR. BERGELT: The proposed date
21 was the 20th and there's ten days given
22 just in case there is some kind of
23 complication to perform.

24 MR. FINGER: The only discussion
25 in that April 5th conference call is



1 about May 1st. We talked about May
2 31st and May 1st. There's nothing in
3 there about April 15th.

4 MR. HOUSTON: April 20th.

5 MR. FINGER: Or April 20th. And
6 after that conference call on the 5th
7 of April is when he filed this most
8 recent motion that we're here about
9 today, which was filed on April -- the
10 amended motion is April 24th.

11 MR. HOUSTON: After the closing
12 date that had -- that had been set.

13 THE COURT: I just -- I don't see
14 it. There's a whole lot here. But I
15 didn't see it in the order.

16 But back to the jurisdictional
17 issue, if I rule the way you want me
18 to, I'd be deciding the appeal in
19 essence, wouldn't I? And I'm certainly
20 not going to do that.

21 MR. HOUSTON: Well, if we're given
22 the opportunity to purchase the
23 property, which we think we're well
24 deserving of, then there wouldn't be a
25 necessity for an appeal because that



1 was our objective all along, was to be
2 able to pay the plaintiffs their money
3 that they've been waiting on. So
4 that's the sale we appoint that you
5 ask.

6 THE COURT: Here it is. Y'all
7 were shooting for a May 1st closing.
8 It's on line -- roughly line 12 of
9 page 10, maybe, of the transcript. All
10 right.

11 MR. HOUSTON: And this is the
12 bench from which we said that they've
13 defaulted.

14 THE COURT: Of course, you filed
15 it before May 1st.

16 MR. HOUSTON: We waited until
17 after that date before we filed
18 anything.

19 THE COURT: Well, let's do this.

20 Anything else for this record?

21 Anything else for this record?

22 MR. TAYLOR: Not from the
23 plaintiffs, Your Honor.

24 THE COURT: All right.

25 MR. BERGELT: So, Judge, just so I



1 can speak and again tell me if I'm out
2 of line in this forum in any way, shape
3 or form. He's just asking me to kind
4 of speak on our behalf.

5 So, again, there's been a lot of
6 back and forth. We, as of kind of a
7 third-party to all of this, have --
8 this would have been closed five times
9 over with respect to, you know, a
10 45-day contingency period. That's
11 simply what we were looking for, is a
12 remedy from the Court, was the same
13 thing that ultimately was declined to
14 us that I think back in '21, the Court
15 didn't have any capacity or -- but
16 there was jurisdiction at that point to
17 handle the deed and title issue.

18 Had that been done -- you know,
19 they keeping bringing up this 45-day
20 issue, they keep bringing up the fact
21 trying to discredit that contract,
22 these guys would have been paid three
23 times over. And again, I'm not here to
24 interject or put myself in the middle
25 of the actual legal scenario with



1 respect to the moves and countermoves
2 here, but the reality is these guys
3 need to get paid, could have been paid.
4 We've put forth offers in front of them
5 on multiple occasions. It seems it
6 stops dead over there.

7 So, again, in the event that they
8 are within their capacity, I believe
9 what we were just kind of going back
10 and forth on was an anticipated close
11 date of the 20th. Charles had just
12 offered up an additional ten days to
13 cover anything that would be prohibited
14 in that process, which is where we
15 landed on that May 1st date.

16 And once we had eclipsed that, to
17 the same degree that our hand was held
18 to the fire on those dates, it seemed,
19 even through we had gotten
20 representations that Rotunda was
21 prepared to close agnostic of whether,
22 you know, the specific wording of that
23 appeal or if that appeal was ever
24 dropped, and so we -- we've approached
25 them in good faith on multiple



1 occasions to do something with them to
2 just get this done.

3 So the one thing I will say is
4 those heirs are a part of this long
5 term. There's no disputing that. That
6 contract is real and as long as they
7 have the means to sign it, we're
8 prepared to sign it immediately. And
9 so there's a lot juxtaposition here
10 on -- which is ultimately leading to
11 just incessant delays, but this whole
12 notion that our 45-day contingency
13 period keeps trying to discredit a very
14 real offer that honors the intent of
15 the Pinckney Act. And that's why we've
16 been here as a party to all of this.
17 We've shown up in each case. I just
18 don't want that to get lost on anybody.

19 So, again, whether this is the
20 proper forum for that or not, there's a
21 very real offer, a very real means to
22 move forward immediately in the event
23 that the respective title and deed
24 issues are handled appropriately. And
25 that's what the -- for us, that's the



1 45-day period, is giving the benefit,
2 the same degree that Charles was trying
3 to provide in that incremental ten
4 days.

5 And so I just needed that to be
6 said because it's being misconstrued a
7 bit and I just wanted to set the record
8 straight on that.

9 MR. TAYLOR: Your Honor, on behalf
10 of the petitioners, I want to object to
11 that unsworn colloquy by Mr. Bergelt
12 here. This Court has rules that we all
13 follow. Those rules apply to evidence.
14 The evidentiary rules are just
15 screaming to be heard at this moment.

16 There is not the first contract
17 signed by anyone that has ever been
18 given to these plaintiffs whatsoever.
19 It would have been sticking out of my
20 ear if that was the case. What we have
21 just heard is a five-minute
22 dissertation about how we are prepared
23 to do this, we're prepared to do that
24 in an unsworn basis.

25 Judge, there's simply nothing in



1 front of this Court today that can
2 actually be relied upon in any way,
3 shape, or form about that. It's simply
4 not there. They haven't offered money,
5 they haven't put up a signed contract.
6 They easily could have signed a
7 contract with the defendants with a
8 contingency here or there. But nothing
9 like has been put in front of this
10 Court.

11 MR. HOUSTON: Your Honor, it's not
12 normal business protocol to sign a
13 contract when it's tendered as an
14 offer.

15 MR. WILLIAMS: Sure, it is.

16 MR. HOUSTON: Until the party
17 indicates that the terms are
18 acceptable, then they will sign it.
19 Now, if they want to challenge us on
20 that, we'll produce a signed contract.

21

22 THE COURT: Well, I mean, the fact
23 is, Charles, you've said all along,
24 when we were talking about this last
25 year or two years ago, your client



1 couldn't close because of the state of
2 the title. Rotunda is ready to close
3 with the current state of the title and
4 is -- I'm sorry, I didn't catch your
5 last name, sir?

6 MR. BERGELT: Bergelt.

7 THE COURT: Mr. Bergelt even
8 mentioned a minute ago, I think you
9 said something about we're ready to do
10 whatever we need to do based on the
11 state of the deed and the title and
12 that sort of thing. So I guess that
13 still might even be an issue. I don't
14 know.

15 Mr. Taylor's correct, I can't take
16 anything Mr. Bergelt just told me as
17 evidence, just sort of information
18 because it wasn't sworn testimony or an
19 affidavit.

20 MR. HOUSTON: Let's swear him in,
21 Your Honor.

22 MR. FINGER: No.

23 MR. HOUSTON: What's the
24 objection? Let's swear him.

25 Mr. Finger's here, he's not a party to



1 the suit. He's been advocating here at
2 the table. So if we're going to be
3 consistent, let's swear him nunc pro
4 tunc and we'll have it on the record.
5 Swear him.

6 THE COURT: Sure. Why not? It's
7 3:49, I don't think I have anything
8 else today.

9 (Court swears Mr. Bergelt.)

10 THE COURT: State your full name
11 for the record, please.

12 THE WITNESS: Nick Bergelt.

13 THE COURT: Where do you live.

14 THE WITNESS: Bluffton.

15 THE COURT: Okay. What is the
16 name of your company.

17 THE WITNESS: Nassau Investments.

18

19 THE COURT: Please answer any
20 questions Mr. Houston would have.

21 MR. WILLIAMS: Your Honor, I'd
22 enter an objection here because Nassau
23 Investments doesn't show up anywhere on
24 this contract. This is SRE
25 Acquisitions 4, LLC.



1 THE COURT: I assume maybe he'll

2 get to that. But thank you.

3 Go ahead, please, Mr. Houston.

4 (Off the record discussion.)

5 DIRECT EXAMINATION

6 BY MR. HOUSTON

7 Q Mr. Bergelt, would you kindly, for the
8 Court, explain the function that your company
9 plays in this particular corporate setup?

10 A Sure. We are a member of that joint
11 venture LLC that the defendants were also the
12 members of and granted equitable interest in
13 that entity, that would be the acquisition
14 vehicle for this.

15 THE COURT: Just so we're here,
16 that is Defendant's 1, the document
17 you're talking about, the purchase and
18 sale agreement?

19 THE WITNESS: Yes.

20 THE COURT: Okay.

21 Go ahead, Mr. Houston.

22 BY MR. HOUSTON:

23 Q Okay. Would you just explain in
24 detail, the relationship and how the whole deal
25 is structured, including the equity



1 participation provision?

2 A What specifically (indiscernible), it
3 depends what we want here.

4 Q The relationship between your company
5 and all of the other principals involved in the
6 transaction on the part of the defendants.

7 A Sure. Just you want the general
8 overarching structure?

9 Q Right. Just for the record.

10 A Okay. That's essentially what I just
11 did. So you have three material parties in
12 there, two co-developers that have member
13 interests in that legal vehicle as well as the
14 defendants who also have membership interest in
15 that legal vehicle. And the intent there is for
16 them to participate as owners longstanding
17 forever in that vehicle, a direct equity in that
18 vehicle.

19 Q Would you state for record what the
20 financial posture of these companies are?

21 A We are operating out of a billion
22 dollar-plus fund with all the requisite
23 resources not only to acquire the vehicle but to
24 see through the entire scope of this project
25 development, which, frankly, there's been



1 considerable input from the heirs as to what
2 that looks like and as a means to kind of honor
3 what they would hope to see for this development
4 long term with respect to honoring the family
5 interest. It's not like there's some silent
6 party sitting here.

7 Q Under this arrangement, do the
8 defendants have a contract with you to have an
9 equity participation in this project?

10 A Yes.

11 Q And is that by a separate agreement
12 between the -- your company --

13 A Yes.

14 Q -- and the defendants?

15 A Yes.

16 Q Okay. And have y'all participated in
17 any other development on Hilton Head Island?

18 A Yes.

19 Q Which one?

20 A Again, we would have a laundry list of
21 developments, but I am happy to provide that if
22 we need to.

23 Q Okay.

24 MR. WILLIAMS: (Inaudible.)

25 THE COURT: Well, he'll have an



1 opportunity to cross-examine him.

2 Go ahead, Mr. Houston.

3 MR. HOUSTON: I think that is
4 adequate, Your Honor, thank you.

5 THE COURT: Thank you so much.

6 Questions of the witness?

7 MR. TAYLOR: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. TAYLOR:

10 Q Mr. Bergelt, I'm Tom Taylor. The Court
11 earlier marked --

12 THE COURT: Actually, we never got
13 a mark on it, but it will be.

14 MR. TAYLOR: May we refer to it as
15 Defendant's 1.

16 THE COURT: Please.

17 MR. TAYLOR: Okay.

18 BY MR. TAYLOR:

19 Q Mr. Bergelt, that appears to be an
20 unsigned contract; would you agree?

21 A Yes.

22 Q Carries therefore absolutely no weight
23 whatsoever on either party, right?

24 A At this moment, yes.

25 Q Right. Have you ever, as you sit here



1 today, tendered a signed one of those agreements
2 to the defendants for purposes of -- well,
3 they're not -- first, the defendants are not
4 even listed in Defendant's 1, are they?

5 A Say that again.

6 Q The defendants, the individual heirs
7 who own 1 percent of this project's ground are
8 not listed in that, are they?

9 A Not on this page.

10 Q All right. Are they listed anywhere in
11 it?

12 A I'd have to go back and make sure.

13 Q Okay. Did you draft that document?

14 A Attorneys did.

15 Q Okay. And, again, has it ever been
16 signed and tendered?

17 A We have attempted to do that. So it is
18 not, though, because then I guess -- again, stop
19 me if I'm in the wrong forum here, but obviously
20 we are honoring the existing confines and
21 existing contracts. And so, as I mentioned
22 earlier, in the event someone had the capacity
23 to sign this, we would be prepared to sign it
24 immediately.

25 Q But -- so the record is clear,



1 Mr. Bergelt, your group, Nassau Investments, has
2 never tendered an actual signed contract to --

3 A Not yet.

4 Q Not yet? Okay.

5 As far as this other agreement that you
6 talked about that exists between y'all and the
7 defendants making them equity partners, that's
8 not here, is it?

9 A I do not know if that's not here. But
10 I --

11 Q Well, it's not here now.
12 Do you have it with you?

13 A I do not.

14 Q Is it signed?

15 A Yes.

16 Q All right. By all parties?

17 A Yes.

18 Q Why would it not have been brought with
19 y'all today, do you know?

20 A Why would it not be brought here today?

21 Q Yes, sir.

22 A Because it's not material to the actual
23 purchase and sale agreement.

24 Q How can that possibly be when one of
25 the biggest arguments that y'all have been



1 making is that them being long-term participants
2 is integral part of this?

3 A Sure. So they're a part of this
4 vehicle.

5 Q Yes, sir.

6 A And that is a separate agreement which
7 was kept private. Again, if it is material to
8 produce that, I guess we can have a separate
9 conversation about that.

10 But that is -- again, we've been
11 prepared to move forward on this and would have
12 had this signed months ago and we would have
13 eclipsed any due diligence contingency period
14 five times over at this point with the fact that
15 we're going on 18 months.

16 Q Well, during all of this time when it
17 would have been easier, did you ever put up
18 money for the defendants or for the court?

19 A Not yet.

20 Q Okay.

21 A In the event that the outstanding
22 issues are remedied, we would be prepared to do
23 that immediately.

24 Q What are those outstanding issues that
25 you see that need to be remedied?



1 A Clear title. And so we had attempted
2 to do this --

3 THE WITNESS: Charles, do you have
4 the dates when --

5 BY MR. TAYLOR:

6 Q He can't help you, sir.

7 A Oh. Got you.

8 Q Tell me what you mean by clear title.

9 A Addressing the issues with the title
10 and the deed that we've been discussing here all
11 day long.

12 Q So your offer to purchase this would be
13 contingent upon achieving what you believe to be
14 clear title?

15 A Correct.

16 Q Okay. Oh, Mr. Bergelt, give us a
17 couple of examples of the numerous developments
18 y'all have done on Hilton Head involving large
19 housing developments.

20 A One comparable would be Title Bluff.

21 Q Title Bluff?

22 A Yeah.

23 Q How many homes are there?

24 A It's a mixed-use development.

25 Q Okay. Where it is and how much? Tell



1 me what's involved there.

2 A On the north end of the island, and
3 it's a workforce housing oriented development.

4 Q Okay. How many homes are in it?

5 A I'll have to get you all those exact
6 details if we needed to.

7 Q Were you involved with the development
8 of it?

9 A Our partner was, yes.

10 Q Were you involved with the development
11 of it?

12 A Me personally, no.

13 Q Yes.

14 So you don't really know anything about
15 that one?

16 A I do know plenty, I can furnish that
17 information for you.

18 Q Well, we're here now. I'd like to you
19 furnish it on the record because we're trying to
20 establish, from our perspective, whether you do
21 actually have background for a similar-type
22 project.

23 A Okay. So our partner in this deal does
24 this across the United States, has done multiple
25 developments here on Hilton Head, and in the



1 same scope and scale. It's got continuity with
2 all of the other projects that we've done.

3 Q Okay. So how many houses and
4 residences are in Title Bluff?

5 A I'll have to get you that information
6 from them specifically.

7 Q Okay. Do you have any personal
8 knowledge of any other development on Hilton
9 Head which you believe would be comparable to
10 the size of the development that would be put up
11 here?

12 A Do I have any personal knowledge?

13 Q Yes, sir.

14 A Existing right now of other --

15 Q Yes, sir.

16 A -- opportunities that would be --

17 Q No, not opportunities. Of projects
18 that you have been involved with that have
19 achieved this.

20 A Not on the island.

21 Q Okay. Where else in the Lowcountry?

22 A What do you mean?

23 Q Where else in the Lowcountry?

24 A Nowhere in the Lowcountry.

25 Q Where else in the world?



1 A In the United States, we've -- Nassau
2 by extension operates a broad (phonetic)
3 majority in Ohio.

4 Q Okay. I don't understand what by
5 extension operates a broad majority means.

6 Did you personally have anything to do
7 with the construction -- development and
8 construction of a residential developments that
9 you believe are comparable to what we're talking
10 about here on this property?

11 A We're not talking about a residential
12 development so that wouldn't be appropriate
13 context.

14 Q Tell us what the context, then, is that
15 you foresee here.

16 A The scope and scale of the project?

17 Q Yes, sir.

18 A Okay. It's a mixed-use project with a
19 workforce housing component. A -- I don't know
20 what to call this. But a commercial component
21 on the front half of this property, and a -- for
22 the lack of a better term, an RV destination.

23 Q Okay. So tell us which of those three
24 do you believe in y'all's development mind has
25 the most to do with preserving the traditional



1 type input that this family would want to see
2 established that you talked about when you were
3 giving your colloquy earlier.

4 A Sure. So the biggest thing that has
5 been reflected to us is preserving the integrity
6 of the nature and the surroundings of that area.
7 And so we have worked hand in hand with them
8 throughout this scope of this entire process to
9 honor their specific concerns about trying to
10 develop this in the context of, you know, not
11 only what is representative of Hilton Head
12 Island, but what's representative of maintaining
13 the most of that land that we can without it
14 just turning into, you know, another
15 cookie-cutter residential neighborhood.

16 Q Are there preliminary drawings or plats
17 that show us what you've come up with?

18 A Those plans have ebbed and flowed a
19 little bit based on their feedback, but we could
20 provide that too.

21 Q Okay. And how -- who would provide
22 that?

23 A We would directly.

24 Q Nassau?

25 A Yes.



1 Q Okay. And how many workforce housing
2 units are anticipated to be in these preliminary
3 ones?

4 A Up to 230.

5 Q Okay. And how many square footage of
6 commercial component?

7 A Still a moving target based on the
8 front two pieces of those. But we would seek to
9 maximize that piece of it on the beach front
10 facing parcel.

11 Q And what's the range of square footage
12 of commercial?

13 A 5- to 10,000.

14 Q Okay. And how big an RV park?

15 A Again, still subject to where
16 everything lands.

17 Q So no range on that at all?

18 A What's that?

19 Q No range on that at all?

20 A It's kind of predicated on the other
21 two pieces.

22 Q And I think to wrap up here, although
23 Chet may whisper something, hopefully, in my
24 ear.

25 Mr. Bergelt, to sum up, there is no



1 existing signed document between the defendants
2 and Nassau Investments or -- or wait, let me
3 just get my -- or SRE Acquisitions as we sit
4 here today; correct?

5 A Not presently in the courtroom.

6 Q But there is one somewhere else?

7 A Correct.

8 Q Okay. And that one somewhere else is
9 in -- is there a copy in Mr. Houston's
10 possession?

11 A I --

12 THE WITNESS: Charles, you don't
13 have that with you today, do you.

14 MR. HOUSTON: Sir, no.

15 BY MR. TAYLOR:

16 Q Does he have one, to your knowledge?

17 A He has a copy of anything that's been
18 executed attached as the exhibit.

19 MR. TAYLOR: Your Honor, may Chet
20 ask a couple just so it will speed
21 things along?

22 CROSS-EXAMINATION

23 BY MR. WILLIAMS:

24 Q Mr. Bergelt, I believe your testimony
25 was that you were involved in the development of



1 Title Bluff?

2 A What's that? Our partner was involved
3 in the full development of Title Bluff.

4 Q Well, that's interesting because Title
5 Bluff was developed probably about 20 years or
6 so ago, maybe 25, by someone other than SRE.
7 And as part of the development, I handled
8 getting a variance for them. So I know it
9 wasn't SRE who was involved in it and --

10 A That is their most recent development.

11

12 Q Well, they acquired it.

13 A Correct.

14 Q But when you say developed, I think
15 most people think --

16 A My apologies.

17 Q -- -- bare dirt. I build something on
18 it.

19 A My apologies. And I think you do have
20 plenty of context with that, sir, and you seem
21 fully aware of their capabilities and who they
22 are --

23 Q Oh.

24 A -- as an organization. And in a
25 development context, you know they are highly



1 qualified.

2 Q No. I don't know that I could say
3 that. But that --

4 A Don't they --

5 Q But just to be clear, they weren't
6 involved in the development of Title Bluff?

7 A Wrong verbiage. Wrong verbiage. I
8 apologize.

9 Q Earlier during your colloquy, you said,
10 well, the inspection period, that's just for
11 title. And what else was it? The deed?

12 A Addressing the outstanding issues that
13 the Court said they didn't have the capacity to
14 address back in December. Had they addressed
15 those issues, those monies would have been
16 furnished to the Court, and that was the only
17 thing that kept us from doing that.

18 Q I'm going to hand you pages --
19 (Crosstalk.)

20 BY MR. WILLIAMS:

21 Q This is pages 2 and 3 out of the
22 contract that's Defendant's 1. Down at the
23 bottom, it starts with inspection period. On
24 the second page of that, on page 3, is a
25 Subsection C there, the last section on 5.



1 A 5? I'm under 3C.

2 Q 3 --

3 A Because I don't have a Section 5. If
4 you want me to view a Section 5...

5 Q I'm sorry. Inspection is Section 3, so
6 C.

7 Can you read that for us, please?

8 A Sure. The permitted exemptions are --
9

10 Q No. Section --this is Section 3C on
11 page 3.

12 A Oh. Sorry. Sorry.

13 C, in the event that the purchaser
14 determines, in its sole and absolute discretion
15 for any and no reason, that the property is not
16 suitable for the purchased intended use thereof,
17 then the purchasers have the right to terminate
18 this agreement by delivering written notice
19 thereof to seller on or before the expiration of
20 the inspection period in which this agreement
21 shall terminate.

22 The earnest money shall be refunded to
23 purchaser and purchaser and the seller shall
24 have no further rights, obligations, or
25 liabilities hereunder except for those expressly



1 to survive termination of this agreement. If
2 purchaser terminates this agreement prior to
3 closing, any title, survey, and phase 1 reports,
4 if any, generated by purchaser for property
5 shall be given to seller for no additional
6 consideration.

7 Q Now, are you generally familiar with
8 commercial contracts like this?

9 A Yes.

10 Q And these sorts of inspection periods?

11 A Yes.

12 Q Is it fair to say that that inspection
13 period creates a loophole that's big enough to
14 drive a truck through?

15 A I wouldn't say big enough to drive a
16 truck through, but I think it provides an
17 adequate period of time in the 45 days to
18 address the issues. But I think it's also
19 important for the Court to understand that we
20 are simultaneously advocating for an auction
21 that would waive that period to us and to your
22 client that we would be happy to consummate,
23 which would eliminate that whole thing in the
24 event the Judge granted an auction.

25 Q An auction? Okay.



1 A Yeah. Under the Pinckney Act.

2 Q But just to be clear, if this contract
3 was signed, then SRE would have the right, for
4 45 days, for any reason or for no reason to just
5 cancel it and walk away?

6 A Sure. I think we might even --

7 MR. WILLIAMS: That's all. That's
8 all I need. Thank you.

9 MR. TAYLOR: Judge, I've got just
10 a couple more follow-ups.

11 RECROSS EXAMINATION

12 BY MR. TAYLOR:

13 Q Mr. Bergelt, in your background and
14 experience, you understand the concept of law
15 that is entitled tortuous interference with a
16 contract?

17 A Sure.

18 Q And you have abided by that concern
19 during all of your activities in this matter?

20 A Yes.

21 Q All right. Which defendants live on
22 Hilton Head Island?

23 A Which defendants live on Hilton Head
24 Island?

25 Q Yes, sir. Which of the people, the



1 minority shareholders that you're working
2 with --

3 A I can't speak to that.

4 Q You don't know that?

5 A Correct.

6 Q Okay. Have you talked to any of the
7 actual plaintiffs, either the people who are
8 sitting here today or others that we represent
9 about the development of the property?

10 A No.

11 Q Well, since your people only represent
12 1.2 percent, have you attempted to do that as
13 far as your goal of trying to keep the property
14 in the position that you testified to earlier?

15 A No one has spoke -- not with any of the
16 folks at this table, no.

17 Q And, Mr. Bergelt, it would be accurate
18 to say that the title concerns that your group
19 has mainly are based on the activities and
20 filings of Mr. Houston's clients, the
21 defendants, aren't they?

22 A Will you repeat that one more time?

23 Q Yes, sir. The concerns that your
24 client -- that your development corporation has
25 are based mainly upon the activities and the



1 filings by Mr. Houston on behalf of the
2 defendants that have attempted to show all of
3 these other issues with the title, aren't they?

4

5 A Let's go one more time there.

6 Q I'm still a little too wordy for you?

7 A Yes. Laymen's --

8 Q All right. You testified that Nassau
9 and you have some concerns about the quality of
10 title?

11 A Yes.

12 Q All right.

13 A In it's existing form.

14 Q In it's existing form.

15 A Correct. Yeah.

16 Q And those existing forms are
17 highlighted by all the filings and motions that
18 Mr. Houston has made in this court attacking the
19 title, such as supposed people who have not been
20 brought in with estates and things such as that,
21 right?

22 A I would say that's accurately reflected
23 in the record.

24 Q Okay.

25 MR. TAYLOR: Judge, that's all we



1 have. Thank you very much.

2 THE COURT: Mr. Houston, any other
3 questions?

4 MR. HOUSTON: No. Just the
5 statement in reference to the title,
6 two thoughts, Your Honor. Number 1,
7 as --

8 THE COURT: If you're done with
9 the questions, I'll let him sit back
10 down.

11 MR. HOUSTON: As closing counsel
12 has --

13 THE COURT: Do you have any more
14 questions.

15 MR. HOUSTON: No, I haven't.

16 THE COURT: Okay. You can go back
17 if you'd like. I'm going grab this
18 exhibit back.

19 MR. TAYLOR: Thank you, Your
20 Honor.

21 THE COURT: All right. Go ahead,
22 Mr. Houston. I'm sorry.

23 MR. HOUSTON: Regain my thoughts.

24

25 Basically two things, Number 1, we



1 are concerned with the title, but we
2 are ready to put money on the table
3 under whatever terms the Court would
4 consider fair, nonrefundable, and if
5 that -- we don't come up with the full
6 purchase price.

7 What we would aspire to do between
8 the time we get a firm agreement is to
9 continue this present action, have an
10 evidentiary hearing, then the Court
11 would have a basis for issuing an order
12 saying that the parties are vested with
13 a fee simple title.

14 So we want to perfect both
15 problems. We want to put money on
16 table, good faith, and between the time
17 we put the money on the table and we
18 have the closing, we'd like to have an
19 evidentiary hearing so the Court could
20 have a basis for issuing a fee simple
21 title. Simple, straightforward,
22 honest, no dilly dallying.

23 THE COURT: Okay. I'm still not I
24 have --

25 MR. HOUSTON: (Cross-talk.)



1 THE COURT: -- jurisdiction to even
2 hear this motion. But, anyway --

3 Anything else for the record?

4 MR. HOUSTON: On that money, it
5 has to go either way. If you don't
6 have jurisdiction to hear our matter,
7 you don't have jurisdiction to hear
8 their matter.

9 THE COURT: I don't need to hear
10 their matter. I would have
11 jurisdiction under the rules to issue a
12 deed. I think that's pretty clear.

13 I'm not sure what the other matter
14 might be.

15 MR. HOUSTON: Well, I mean, the
16 only thing that would support that,
17 Your Honor, is if you could say, well,
18 I'm going to have a continuing
19 resolution or a continuing order just
20 permitting them in indefinitely to get
21 their act together. You know, we could
22 be here another five years under this
23 present order waiting for them to
24 close.

25 THE COURT: Well, and your



1 statement, I think, is based on what
2 you believe to be a drop-dead date that
3 you thought was in a previous order
4 that it turns out when he looked, was
5 not.

6 MR. HOUSTON: Well, it wasn't a --
7 it wasn't an order, it was what we had
8 -- you had stated that you wanted. You
9 wanted them, one, to present to you, a
10 revised deed that they wanted you to
11 sign.

12 THE COURT: Right. To satisfy
13 your concern.

14 MR. HOUSTON: And that wasn't
15 done.

16 The second thing was they were
17 supposed close by a certain date. They
18 didn't do that.

19 THE COURT: I'm not sure about
20 that part in an order. But okay.

21 All right. Well, let's do this.
22 Anything else from anyone?

23 Mr. Houston, any --

24 MR. HOUSTON: Well, because if
25 that wasn't an order, there is no



1 order. But I thought that that was the
2 order from the bench at the time we had
3 that conference hearing, was that this
4 is what would be done.

5 THE COURT: I don't think there
6 was a you better close by this date or
7 game over. It was never that.

8 MR. HOUSTON: Yes. Because I had
9 even offered to extend an additional
10 ten days and they said we don't need
11 it.

12 MR. WILLIAMS: The transcript will
13 say you said the exact opposite, Your
14 Honor.

15 THE COURT: Yeah. I don't -- I
16 didn't see it looking at it. But -- -

17 MR. HOUSTON: I had said, we would
18 even extend it ten days because I know
19 sometimes somebody can drop dead, they
20 don't get the report from the title
21 company in time. You know, there
22 are -- miscellaneous things can go
23 wrong with a title closing. So I even
24 suggested, I said we'll give them ten
25 days more. They said we don't need



1 it --

2 THE COURT: Okay.

3 MR. HOUSTON: -- we got this
4 wrapped up.

5 THE COURT: But that doesn't
6 convert into a do it or die situation.

7 That's different than a court order
8 requiring something to happen, time is
9 of the essence, shall, all that good
10 stuff. I mean, we think we can do it
11 by this day is great, but it was no
12 order, unless you're going to show me
13 an order I haven't seen, and I've
14 looked --

15 MR. HOUSTON: If it wasn't an
16 order, it was your words, and that's
17 what everybody walked away with.

18 THE COURT: We have a transcript.

19

20 MR. HOUSTON: They went to try to
21 close and we waited.

22 THE COURT: Right. Well let's do
23 this. Y'all have --

24 MR. FINGER: Your Honor. Can I
25 have one last comment, Your Honor?



1 THE COURT: Sure. Sure. Go
2 ahead.

3 MR. FINGER: In the master's deed
4 that's been presented to you, the fifth
5 whereas clause on the third page, I
6 think may have a wrong case number in
7 the appellate court. So if you would
8 just let us -- let the lawyers work
9 that out. It talks about an appeal in
10 March of 2023 that's got a 2022 case
11 number.

12 THE COURT: You're talking about
13 the deed, a clerical error in the
14 proposed deed.

15 MR. FINGER: Yeah, in the master's
16 deed, that's correct. So if you'll let
17 us --

18 THE COURT: Sure.

19 MR. FINGER: -- deal with that.
20 And if there is any changes, I'm
21 certain they will send it to
22 Mr. Houston. I think there might be a
23 docket number wrong in the fifth
24 whereas in page 3.

25 THE COURT: All right. Thank you.



1

2 All right. Anyone else?

3 MR. HOUSTON: The other thing is,
4 you know, the other point I want to
5 make is that we would like to go ahead,
6 put the money on the table to buy the
7 property so we don't have to go forward
8 with this appeal.

9 THE COURT: Okay. All right.
10 Anything else, then?

11 MS. HARRISON: Your Honor, am I
12 out of order?

13 THE COURT: Can I get your full
14 name for me, please, ma'am.

15 MS. HARRISON: Georgia Harrison.

16 THE COURT: All right.

17 Ms. Harrison, be kind of brief, but
18 tell me what you want to tell me.

19 MS. HARRISON: Explain the
20 Pinckney Act to me, please.

21 THE COURT: The Pinckney Act was
22 an effort by Senator Pinckney and
23 others to preserve native land because
24 what was happening was developers were
25 coming in and they would get a quit



1 claim deed from one or two people who
2 might own a small percentage of the
3 land and then they would force a
4 partition and sale and drive everybody
5 off the property.

6 MS. HARRISON: Okay.

7 THE COURT: The idea was native
8 land is disappearing at a ridiculously
9 rapid rate, with it some of the, you
10 know, the historic structures, you
11 know, that sort of thing, it was all
12 just going away way too fast and we
13 need to at least try to put the brakes
14 on that and set up a system to try to
15 preserve native land within families.

16 Sometimes it's difficult because
17 you get, you know, 400 heirs and you've
18 got 10 acres and sometimes it just
19 can't be done. But to the extent that
20 it can be done, it was a methodology to
21 try to do that.

22 That's my understanding of the
23 Pinckney Act.

24 MS. HARRISON: Okay. From my
25 understanding, also, it was saying that



1 if someone was living on that property,
2 because the property was being sold
3 from people that were actually living
4 on the land.

5 THE COURT: That's certainly a
6 factor.

7 MS. HARRISON: Okay. Nobody is
8 living on that land. Nobody has lived
9 on that land since 1920 something.

10 THE COURT: All right. Okay. I
11 believe you. I don't think that's an
12 issue, so...

13 MS. HARRISON: No. But I keep
14 hearing, you know, I want to save the
15 integrity of the land. If you had no
16 part of that land, you don't know about
17 the integrity of that land.

18 Now, she and I are the matriarchs
19 of the family. We are oldest ones
20 living now that have something to do
21 with that land. Pay taxes, come down
22 here three or four times a year to make
23 sure that nothing is happening on that
24 land.

25 THE COURT: Where do you live?



1 MS. HARRISON: At one point in New
2 York.

3 THE COURT: That's a long way.

4 MS. HARRISON: Yeah. Now Atlanta
5 and North Carolina. Still a long way.

6 THE COURT: Still a long way.

7 MS. HARRISON: Right. Drove here
8 this morning to come to this hearing.
9 Was here at the last hearing.

10 I have not seen anything from you.

11

12 THE COURT: Well, just address me
13 if you would.

14 MS. HARRISON: Okay. Well, I have
15 not seen any purchase sale agreement or
16 anything.

17 THE COURT: Okay. I take it
18 you're asking me to move ahead with the
19 Rotunda agreement?

20 MS. HARRISON: Yes.

21 THE COURT: Okay. All right.
22 Anything else?

23 MS. HARRISON: No.

24 THE COURT: Okay. Thank you so
25 much.



1 MR. HOUSTON: Your Honor, this is
2 part of the problem that I mentioned
3 when I first directed my remarks to the
4 Court, is that this is not the first
5 time we have tendered an unsigned offer
6 to the counsels for the plaintiffs and
7 there's never been communicated to
8 their clients.

9 The interest of Rotunda has cut it
10 off right at their desks. So that's
11 what she said, she never heard anything
12 about any offer to this property.

13 THE COURT: I'm not sure that's
14 what she said.

15 MS. HARRISON: That's not what I
16 said.

17 MR. HOUSTON: Isn't that what you
18 said?

19 MS. HARRISON: No.

20 MR. HOUSTON: What did she say.

21 THE COURT: I think she said she's
22 been at every hearing and --

23 MR. HOUSTON: She never heard
24 anything about this offer before; isn't
25 that correct?



1 THE COURT: I'll let you answer
2 for yourself, ma'am.

3 Are you familiar with what's going
4 on with regard to offers and whatnot?

5 MS. HARRISON: Yes, I am familiar
6 with it.

7 THE COURT: Okay.

8 MR. HOUSTON: Have you seen this
9 offer before?

10 THE COURT: All right. Let's do
11 this. Let's not -- we've gone a little
12 far afield of the way we usually do
13 things.

14 I'll take it under advisement. I
15 have grave concerns about my
16 jurisdiction to do anything in this
17 matter because, again, I think the
18 automatic stay allows me to do
19 basically about one thing in this case,
20 and that's issue a deed. I'm not sure
21 if it allows me to do anything that
22 would modify the order under appeal.

23 But that's not a ruling. That's
24 just my thoughts.

25 So I think that will conclude. So



1 we've got -- you got exhibit sticker?
2 We have got one exhibit, as I
3 understand it. And I'll try to let you
4 know something fairly soon.

5 (Whereupon, the Hearing
6 was concluded at
7 approximately 4:22 p.m.)
8
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1 C E R T I F I C A T E O F H E A R I N G

2

3

4 STATE OF SOUTH CAROLINA:

5 BEAUFORT COUNTY:

6

7

8 I, Naomi McCracken, Court Reporter and Notary
9 Public in and for the above county and state, do
10 hereby certify that the foregoing testimony was
11 taken before me at the time and place
12 herein-before set forth; that thereupon the
13 foregoing testimony was later reduced by
14 computer transcription; and I certify that this
15 is a true and correct transcript of my
16 stenographic notes so taken.

17 I further certify that I am not of counsel to
18 either party, nor interested in the event of
19 this cause.

20

21

Naomi McCracken

22

Naomi McCracken

23

Court Reporter

24

Notary Public

25

Beaufort, South Carolina



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APPRAISAL OF
30.08 ACRES OF VACANT LAND
CONTAINING 29.852 ACRES HIGHLAND
LOCATED ON MITCHELVILLE ROAD
HILTON HEAD ISLAND, SOUTH CAROLINA

FOR
MS. KEITA WHITE

DATED
FEBRUARY 28, 2021

BY
LISA D. NIMMICH, MAI
AND
FRANKLIN B. SEWELL

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NIMMICH & ASSOCIATES, LLC
REAL ESTATE APPRAISALS

March 10, 2021

Ms. Keita White
1570 East New York Avenue, #2A
Brooklyn, NY 11212

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

Dear Ms. White:

In accordance with your request, we 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 the date of our last visit to the property, February 28, 2021. 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. **It should be noted that the current COVID-19 pandemic has created material valuation uncertainty in the market.**

Based on our 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 the last visit to the property, February 28, 2021, 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 NINETY THOUSAND DOLLARS
\$11,090,000

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

Ms. Keita White
March 10, 2021
Page Two

We 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).

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. We hereby certify that we have no interest in the subject property.

Respectfully submitted,

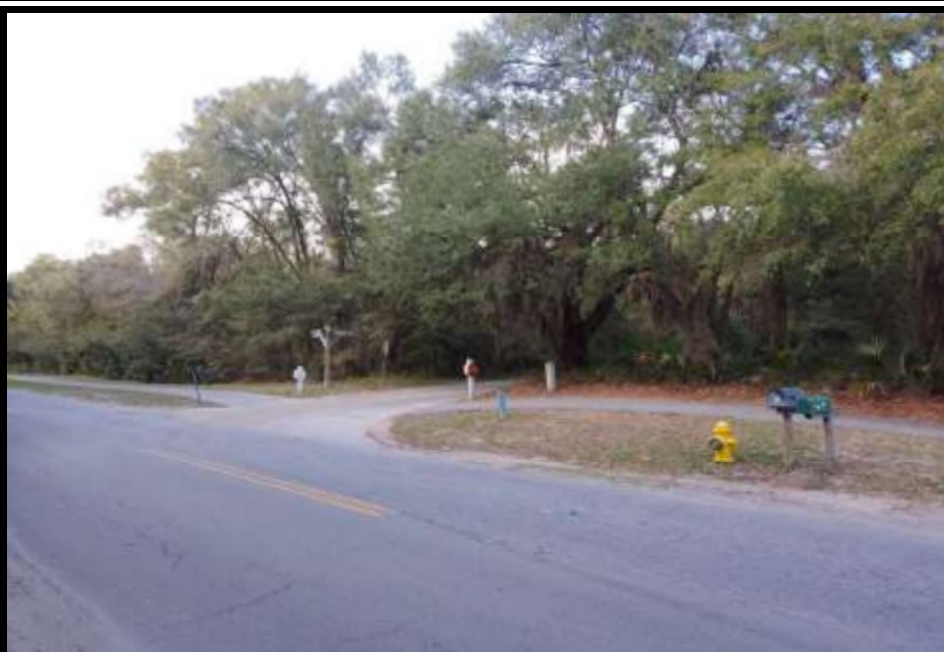
Lisa D. Nimmich, MAI
SC State Certified General
Real Estate Appraiser CG-162
NC State Certified General
Real Estate Appraiser A1777
Georgia State Certified General
Real Estate Appraiser 259066

Franklin B. Sewell, MAI
SC State Certified General
Real Estate Appraiser CG-2877
NC State Certified General
Real Estate Appraiser A8089

Enc.
21-011



SUBJECT PROPERTY FROM MITCHELVILLE ROAD



SUBJECT PROPERTY FROM FISH HAUL ROAD



SUBJECT PROPERTY INTERIOR



PORT ROYAL SOUND VIEW FROM SUBJECT PROPERTY



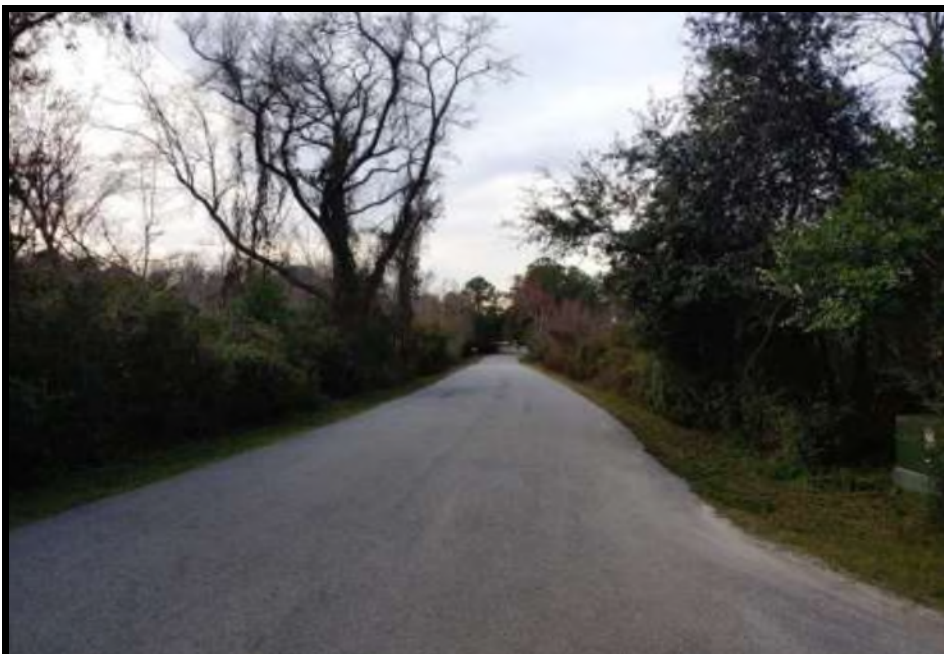
MITCHEL VILLE BEACH FACING SOUTHEAST



MITCHEL VILLE BEACH FACING NORTHWEST



SUBJECT PROPERTY INTERIOR (MITCHELVILLE) ROAD



MITCHELVILLE ROAD FACING NORTHWEST



FISH HAUL ROAD FACING SOUTHEAST



FISH HAUL ROAD FACING NORTHWEST

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CERTIFICATION

We hereby certify that, to the best of our 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 our personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- We 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.
- We 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 and Franklin B. Sewell, 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.
- 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 and Franklin B. Sewell, MAI have completed the continuing education program for Designated Members of the Appraisal Institute.
- We have performed no 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.

Nimmich & Associates, LLC was engaged to appraise the Market Value “As Is” of the fee simple estate of the following real property, as of the date of the last visit to the property, February 28, 2021:

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

Based on the appraisers’ 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 February 28, 2021, subject to the Extraordinary and General and Underlying Assumptions and General Limiting Conditions, was:

ELEVEN MILLION NINETY THOUSAND DOLLARS
\$11,090,000

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

Franklin B. Sewell, MAI
SC State Certified General
Real Estate Appraiser CG-2877
NC State Certified General
Real Estate Appraiser A8089

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 60report 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.

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 assumptions**: First, 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. We were unable to locate any documentation of a recorded easement for the road 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.

However, she stated 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. We recommend that the property owner consult a condemnation attorney for additional guidance.

Second, the subject property appears to be partially located in flood hazard zones. Please be aware that a Federal regulation known as Biggert-Waters Flood Insurance Act of 2012 may cause flood insurance premiums to increase. This potential increase could negatively impact the value of the subject property. We do not have the expertise to determine building elevations. We do not have the expertise to determine future flood insurance rates, subject to this legislation. We recommend a qualified surveyor and/or insurance broker be consulted if additional information is required. The prospective value reported in this appraisal may change if flood insurance premiums increase.

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.

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Property Type:	Vacant Land
Property Location:	Mitchelville Road, Town of Hilton Head Island, SC
Tax Map Numbers:	R510-005-000-0007-0000, R510-005-000-007A-0000, & R510-005-000-0192-0000
County:	Beaufort
Census Tract:	108.00
Date of Appraisal:	February 28, 2021
Date of Report:	March 10, 2021
Property Rights Appraised:	Fee Simple Estate
Owner of Record:	Stanley Roberts, et al.
Site Data:	30.08 Acres; 29.852 Acres Highland
Flood Zones:	C, A7, A9, V9; 4502500009D (September 29, 1986)
Zoning:	RM-4, Low-to-Moderate Density Residential District; MV, Mitchelville District
Highest and Best Use:	Residential Development
Market Value "As Is" Estimate:	\$11,090,000

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 numbers R510-005-000-0007-0000, R510-005-000-007A-0000, and R510-005-000-0192-0000. Each of these tax map numbers is currently under separate ownership. TMS No. R510-005-000-0007-0000 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.

Parcel R510-005-000-0007-0000	
Owner	Interest
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%

*to Jason Young via probate

TMS No. R510-005-000-007A-0000 is currently owned by Anthony J. Iannazzo and Elizabeth F. Iannazzo. The owners each received a 25% interest in the property from Gene A. Iannazzo, by deed recorded on January 12, 1994 in the Beaufort County ROD Office in book 678, at page 293. Anthony J. Iannazzo acquired the remaining 50% interest in the property from Gennaro Iannazzo by deed of distribution, as recorded on August 11, 2003 in the Beaufort County ROD office in book 1809, at page 2318. This parcel contains a single-family residence that is not considered to add value to the subject tract valued as a whole.

TMS No. R510-005-000-0192-0000 is currently owned by Curtis Blair Hennessey and Lynette M. Hennessey, having been acquired on January 2, 2008, from Furman Ezekiel Jordan, Jr., Trustee of the Revocable Trust of Furman Ezekiel Jordan, Jr. and Terry Wingo Jordan, Trustee of the Revocable Trust of Terry Wingo Jordan, by deed recorded in the Beaufort County ROD office in deed book 2667, at page 2399. This parcel contains an office/garage building that is used as a contractor's office. This building is not considered to add value to the subject tract valued as a whole.

The subject parcels are not currently under contract or listed for sale and have not been listed for sale during the three-year period preceding the effective date of this appraisal. Copies of portions of the most recent deeds, including legal descriptions, for the subject property can be found in the Addenda as Addendum B.

TAX MAP



AERIAL



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 and internal decision making involving the subject property.

INTENDED USER OF THE APPRAISAL

The client and intended user of this appraisal is Ms. Keita White, 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.”¹

DATE OF THE MARKET VALUE “AS IS”

February 28, 2021

DATE OF THE REPORT

March 10, 2021

¹ Appraisal Institute, *The Appraisal of Real Estate*, 13th ed., p. 114.

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)”²

² Appraisal Institute, *Dictionary of Real Estate Appraisal*, 5th edition.

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, February 28, 2021. This appraisal is in a narrative report format. Franklin B. Sewell, MAI made a personal visit to the subject property.

To estimate the Market Value “As Is,” we 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 RMC and ROD offices.
- Local 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. A value indication for the subject property was reached using this data in a direct sales comparison approach to value in this report. The highest and best use of the subject property was determined to be future residential development, following demolition and removal of the existing improvements. We have not deducted the demolition/removal costs as the interim use and salvage value is assumed to offset these costs.

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 reportedly 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.

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 the 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 total civilian labor force in Beaufort County was 75,427 in 2018, up from 74,104 in 2017. The unemployment in Beaufort County was 3.3% in November of 2020, compared to 4.4% in South Carolina, and compared to 6.7% for the US in December of 2020. Following is a breakdown of labor force and employment for the years 2010 to 2018.

LABOR FORCE ESTIMATES

	2012	2013	2014	2015	2016	2017	2018
LABOR FORCE	65,919	67,339	69,490	71,691	72,683	74,104	75,427
EMPLOYMENT	60,939	63,040	65,555	67,760	69,348	71,113	73,082
UNEMPLOYMENT	4,980	4,299	3,935	3,931	3,335	2,991	2,435
% OF LABOR FORCE	7.6%	6.4%	5.7%	5.5%	4.6%	4.4%	3.9%

Source: SC Dept. of Employment & Workforce

The 2019 per capita income for Beaufort County is \$38,946. The 2019 median family income is estimated to be \$68,377.

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

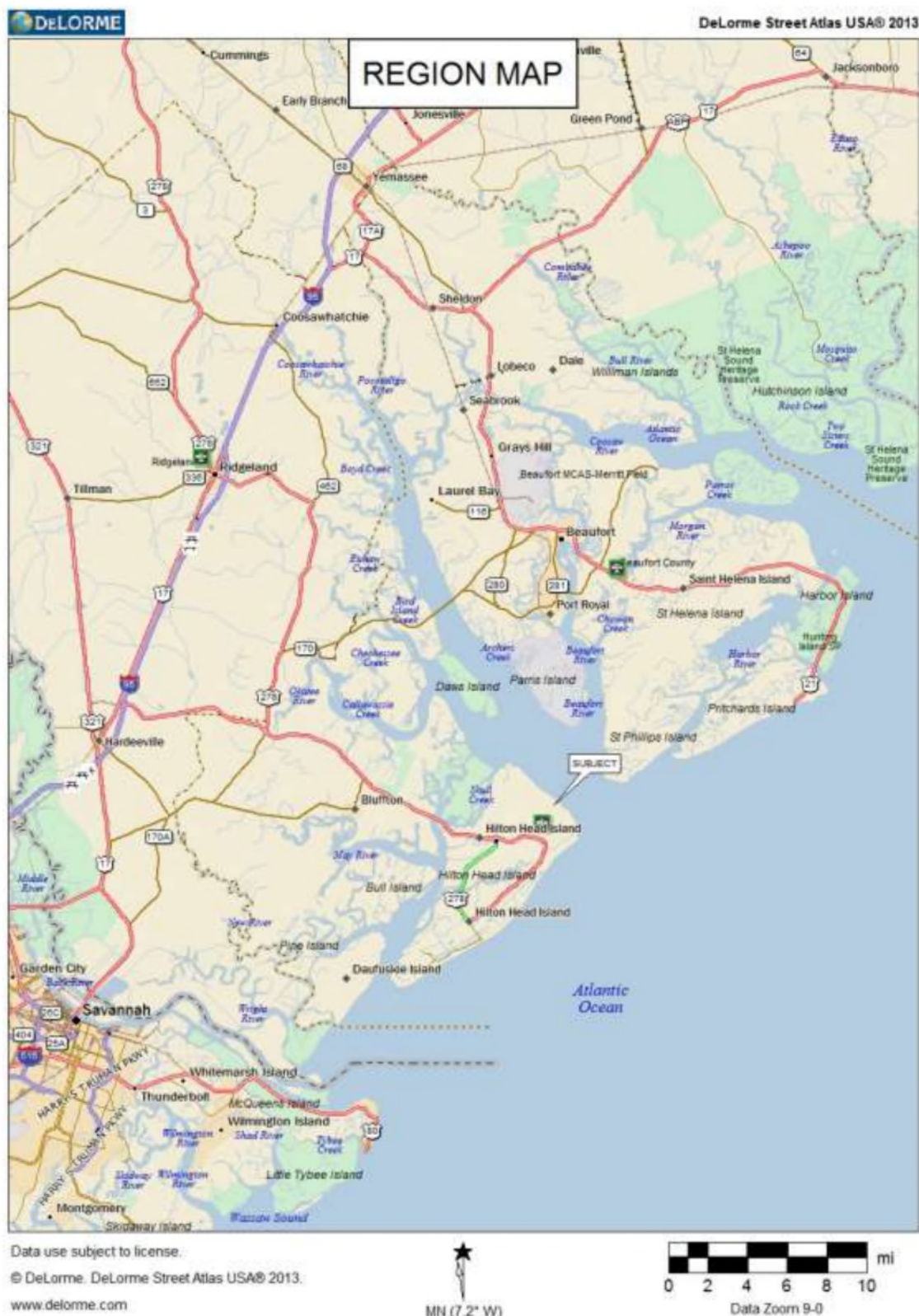
There are varied transportation systems in the greater Beaufort area. Barge traffic plies the Intracoastal Waterway. The City of Savannah is located about an hour south of the area and is one of the largest container ports in the eastern half of the country. The City of Charleston is located about 65 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 City of Beaufort 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. Beaufort County has the benefit of a diverse economy including a fast-growing tourism industry and a strong military presence. The educational and medical facilities in the area are adequate. The four basic factors that influence value: social, economic, government, and environmental considerations, are well balanced in Beaufort County. Property values are stable or appreciating, overall. The economic outlook for this area is good in the long run.

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 a recession began in February. Depending upon the length of time that the pandemic and the current economic issues continue, property values could be adversely affected in the future. CoStar has also projected that marketing times could be extended. The financial markets have sustained substantial turmoil, and due to the developing situation, it is not possible at this time to quantify its long-term or short-term effects on the marketplace overall.



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. We were unable to locate any documentation of a recorded easement for the road. 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 neighborhood is accessed by Beach City Road, which runs from US Highway 278 (William Hilton Parkway) and ends at the Port Royal Sound. US Highway 278 is the main artery for Hilton Head Island and is also the access route from Bluffton and Interstate 95.

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 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 islands 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.

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, 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 32-lot 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 order to allow duplex development; however, this request was also denied. The property has seen a good deal of recent development, with most of the lots now having been improved with single-family homes. Adjacent to this subdivision is the recently developed 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.

A new hotel was recently constructed on Hilton Head and some new residential development is occurring. A 115-room Courtyard Marriott hotel opened in May 2020. The six-story hotel is the tallest building in Hilton Head Island's Coligny area, and it features the island's only rooftop pool and bar. One of the oldest fine dining restaurants on Hilton Head Island is set to be replaced by a six-floor luxury condo building next year. Although the restaurant is still open, Old Fort Pub will be demolished to make way for The Charles, a 22-unit luxury complex developed by Charleston-based Hancock Development Corp. Eight of the 22 units were already pre-sold as of the latest update in December 2020. The top floor units are selling for over \$1.2 million and the least expensive units are listed at \$999,900. The units boast sunset views over Skull Creek, large balconies, nine-foot ceilings, and gas fireplaces. The building will include a saltwater pool, one story of parking and five stories of condos on the waterfront.

A new timeshare resort, Hilton Head Port Royal Resort, has received initial approval from the Design Review Board. The development will be located along Folly Field Road, close to Islanders Beach Park, on an 8.4-acre piece of property that is currently the site of the Port Royal Racquet Club. According to the project plans, there will be three four-story and four three-story residential buildings with a mix of one, two, and three-bedroom units. The total number of planned units is 132. Remnants of the Port Royal Racquet Club will remain on the site, including existing parking spaces, and a club building and some tennis courts.

Developers are moving ahead with plans to turn the land where Hilton Head Christian Academy now sits into 260 apartments after the school moves across the bridge to Bluffton. In July 2020, the Hilton Head Island Town Council approved the plan for three 55-foot-tall apartment buildings and one 45-foot-tall building on the 13.8-acre site. Part of the agreement between the town and developer is a minimum rental period of six months and that 5% of the development, or 13 units, be priced below market rate for the island's workforce for a minimum of 20 years.

The buildings will be reevaluated each year to confirm it still has workforce-oriented units and the property is not being used as a short-term rental community. Spandrel developer Emanuel Neuman said in July that a below-market unit may be priced around \$850 per month for a studio, and \$1,100 for a two-bedroom apartment. The rest of the units, he said, will rent at the original rates of \$1,200 to \$2,800 per month. The density of the property will be 19 units per acre, according to the plans, which is relatively high in relation to the four surrounding communities, where the average density is 10 to 11 units per acre.

Hammock Breeze is a new 37-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 new 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. Twenty-three new homes are being built in a new subdivision off Marshland Road, called The Marshes at Broad Creek. Home

prices will range from \$491,900 to \$551,900. A Bluffton developer has also applied to the Town of Hilton Head Island to construct a 29-home subdivision off Jonesville Road near Old House Creek and the Cross Island Parkway.

Hilton Grand Vacations and Strand Capital Group recently completed development of a new timeshare resort on Hilton Head Island. The resort was constructed on a seven-acre beachfront parcel located on South Forest Beach, which was the site of the former Adventure Inn. The Adventure Inn, which was built in 1963 and demolished in 2008, was an island landmark and one of Hilton Head's three original hotels. Regarded as one of Hilton Head Island's most sought-after locations, South Forest Beach occupies a one-mile beachfront stretch between the Coligny District and Sea Pines Plantation. The new resort is comprised of four distinct buildings with a total of 125 two-bedroom units.

Developers envisioned the complex including three four-story buildings with parking on the ground level. The largest building would have the main amenities, and the small buildings would each hold four units facing the beach. Anchoring the complex from the center would be a pool. Whether the units would be apartments or condominiums had not been determined yet, Stowers said. The Design Review Board provided Stowers with feedback on the design, expressing concern with the large scale of the project, the tree removal plans and the height of the buildings. Chair Michael Gentemann recommended Architecture 101 withdraw its proposal and create a new one responsive to the board's suggestions before coming back for approval.

A 45-unit, oceanfront development has been proposed for Mitchelville Road, promising luxury amenities and 270-degree views of the water. Beaufort firm Architecture 101 is leading the effort to bring multifamily housing to the previously undeveloped tract. The property was sold by Charles Bertrand to Hilton Head Island Beachfront, LLC for \$1.36 million in 2019. Architect Steve Stowers said he intends for the complex to be "a very high-end establishment that should really upscale the housing offerings on Hilton Head." The initial design was submitted to the Town's Design Review Board in September 2020 for conceptual approval.

There are preliminary plans for a 9-lot gated subdivision to be located on a waterfront tract at 272 Mitchellville Road. Mitchelville Heights would add nine homes to a 1.5-acre site, according to town application documents. According to application documents, there would be five houses on the marsh side and four along Mitchelville Road. A 6.22-acre tract located at 280 Mitchelville Road was rezoned in late 2019 from RM-4/RM-8 to RM-12 in order to allow the property owner to develop the site with multifamily units. A development plan has not yet been announced for this property. The subject neighborhood has all necessary utilities available.

The subject neighborhood appears to be in the growth stage of its lifecycle. The residential market is stable, and we 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.



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. 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 neighborhood is accessed by Beach City Road, which runs from US Highway 278 (William Hilton Parkway) and ends at the Port Royal Sound. US Highway 278 is the main artery for Hilton Head Island and is also the access route from Bluffton and Interstate 95.

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. We were unable to locate any documentation of a recorded easement for the road 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. However, she stated 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. We recommend that the property owner consult a condemnation attorney for additional guidance.

We have been provided with three surveys that indicate the subject property as totaling 30.08 acres. The larger 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 29.852 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. We have also analyzed a USGS topographical map. Copies of the plat, topographic, and flood plain map follow in this section.

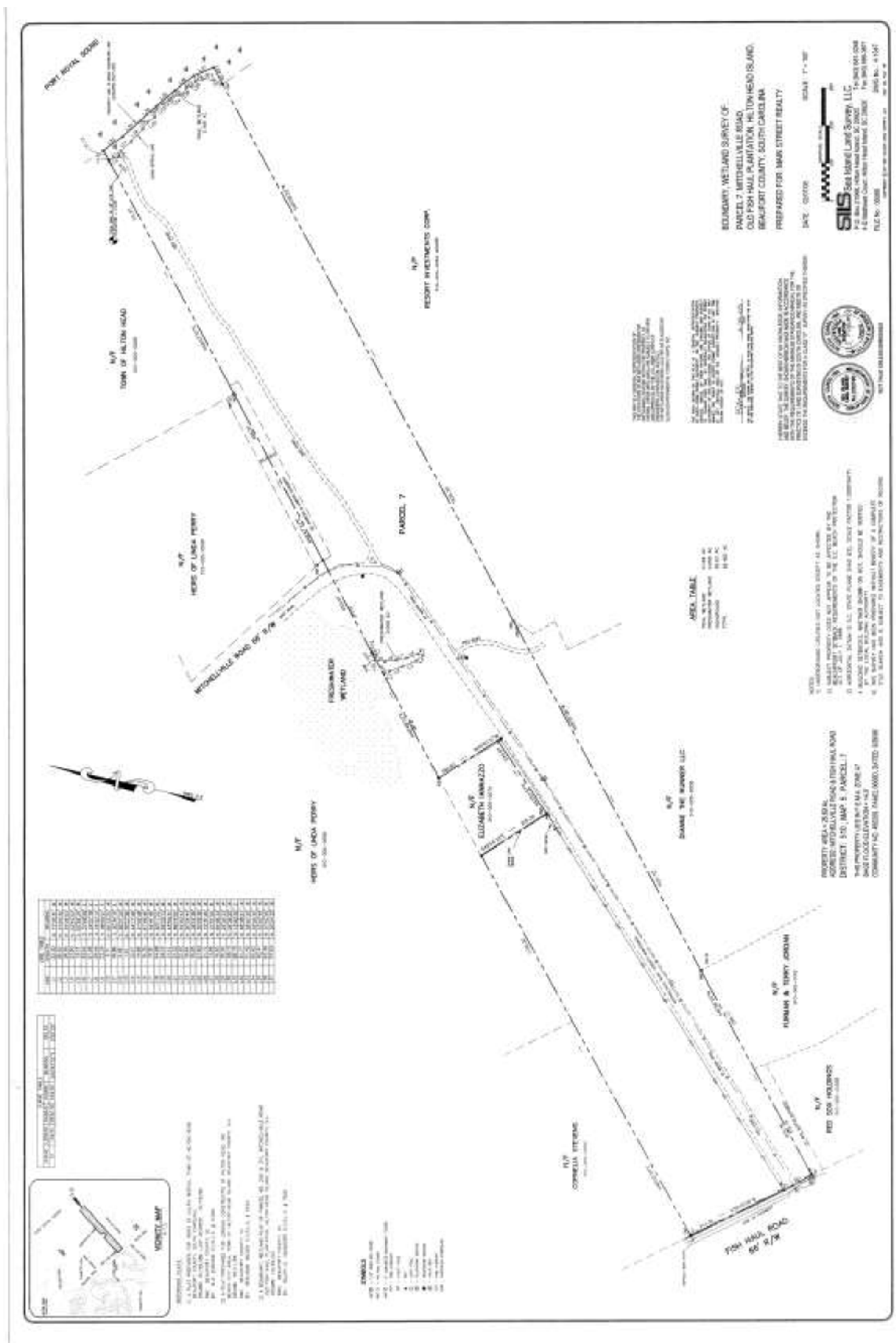
The subject property is shown as having 358.56' of frontage on Fish Haul Road and as previously stated, the Mitchelville Road right-of-way ends at the subject property. The size of the subject tract is larger than is typical for residential tracts in the subject neighborhood. The shape of this tract is irregular, but the site is functional for development. Most of the tract appears to be located in either a C flood zone or an A7 (14) flood zone. The C flood zone is a non-hazard area, while the A7 (14) flood zone is a coast flood hazard area, requiring a base elevation of 14' MSL. The area immediately fronting on the sound appears to be in several A9 and V9 flood zones.

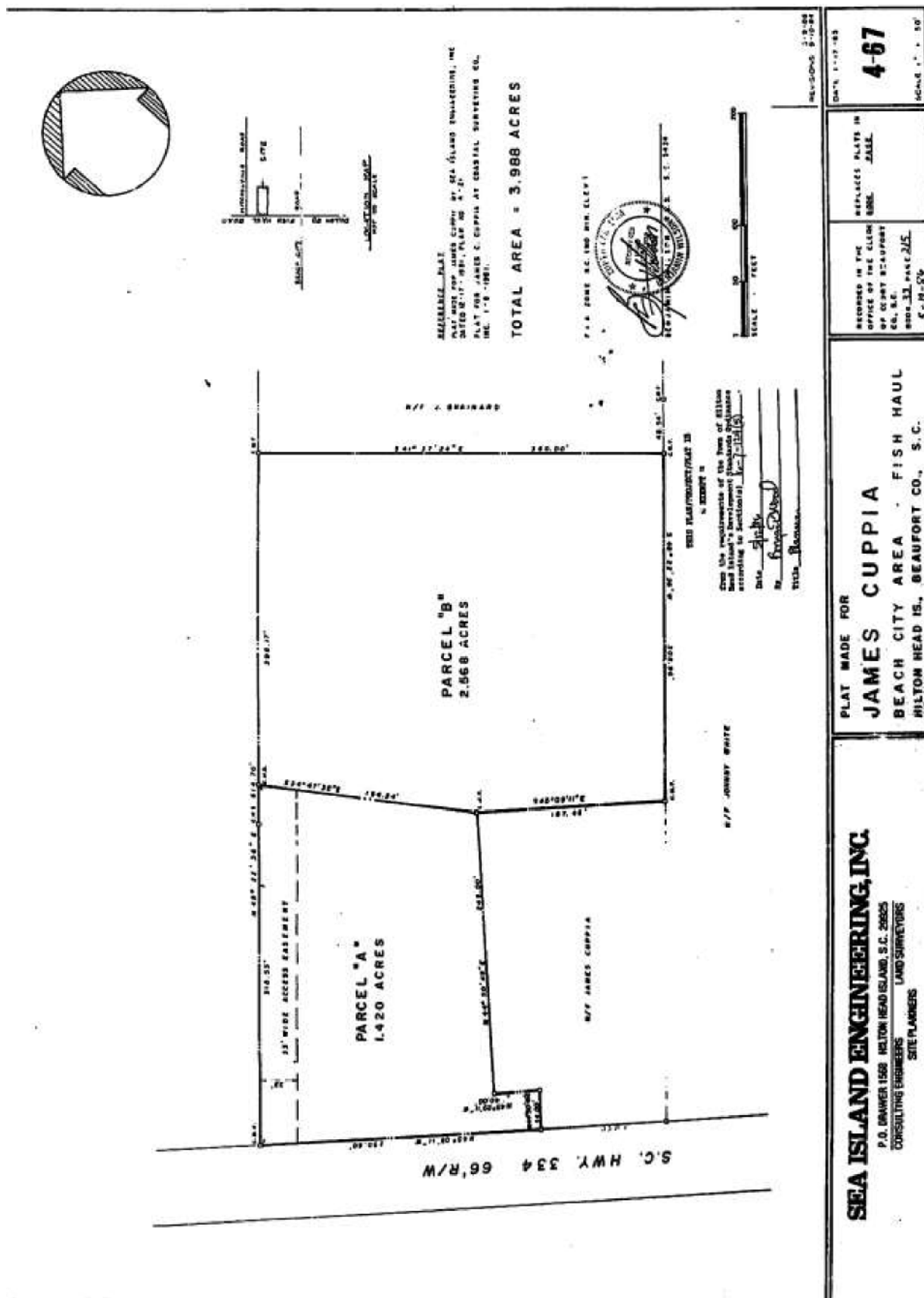
These are coastal flood hazard areas, with the V9 zone being a velocity hazard area (wave action). The base flood elevations for this area appear to range from 14' to 22' above MSL. It should be noted that flood maps by FEMA are not precise. For a precise determination of the subject's flood hazard classification, a professional engineer, licensed surveyor, or a local governmental authority should make an exact determination.

Most of the tract appears to be basically level. An inspection of a USGS topographic map showed 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' 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.

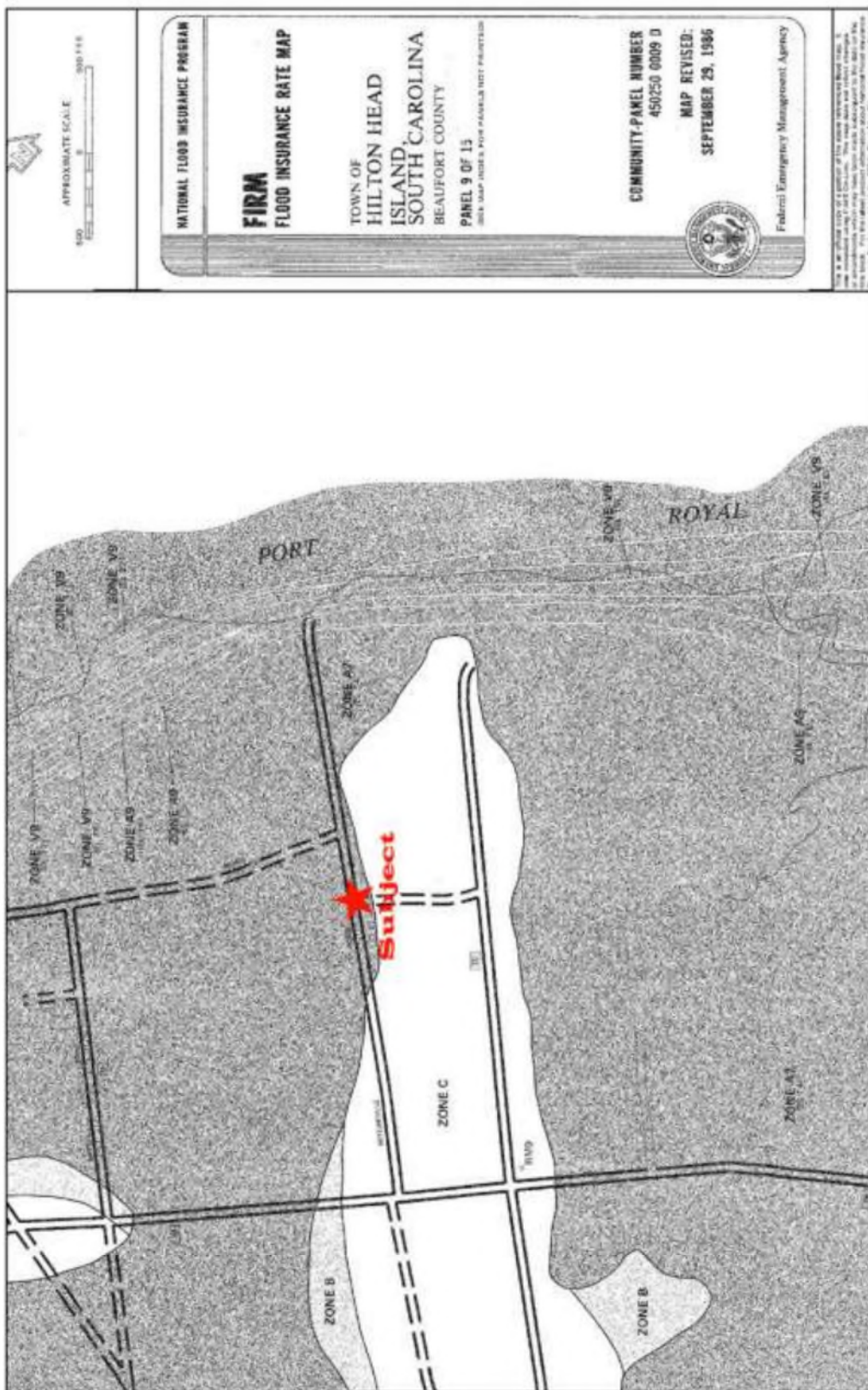
There is a beach front on the sound, known as Mitchelville Beach. The beach does not have the wave action of an oceanfront beach, but the beach is popular for nature walks and fishing. The beach can be rather narrow at high tide. No information has been provided as to the soils on the subject tracts. 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 all necessary utilities available. The subject site is in Census Tract 108.00.

In summary, the subject property consists of a 30.08-acre tract with 29.852 acres of highland. The tract has frontage on Port Royal Sound. The shape of this tract is irregular, but functional and suitable for residential development. A portion of the tract appears to be in A7, A9, and V9 flood hazard areas, with the V9 flood zone representing a coastal velocity hazard area (wave action). Access to the property is adequate. The physical and functional characteristics of the subject tract appear to meet the desires and standards of typical purchasers in the market.











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 18.08 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 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 multifamily parking requirement is 1.4 spaces per one-bedroom dwelling unit, 1.7 spaces per 2-bedroom unit, and two spaces per 3-bedroom unit. The parking requirement for single-family use is two spaces per dwelling unit, plus one per 1,250 S.F. of GFA over 4,000 S.F. of GFA.

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 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 multifamily parking requirement is 1.4 spaces per one-bedroom dwelling unit, 1.7 spaces per 2-bedroom unit, and two spaces per 3-bedroom unit. The parking requirement for single-family use is two spaces per dwelling unit, plus one per 1,250 S.F. of GFA over 4,000 S.F. of GFA. The parking requirement for hotel use is one space per guestroom. 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 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.

Outer Hazard Zone

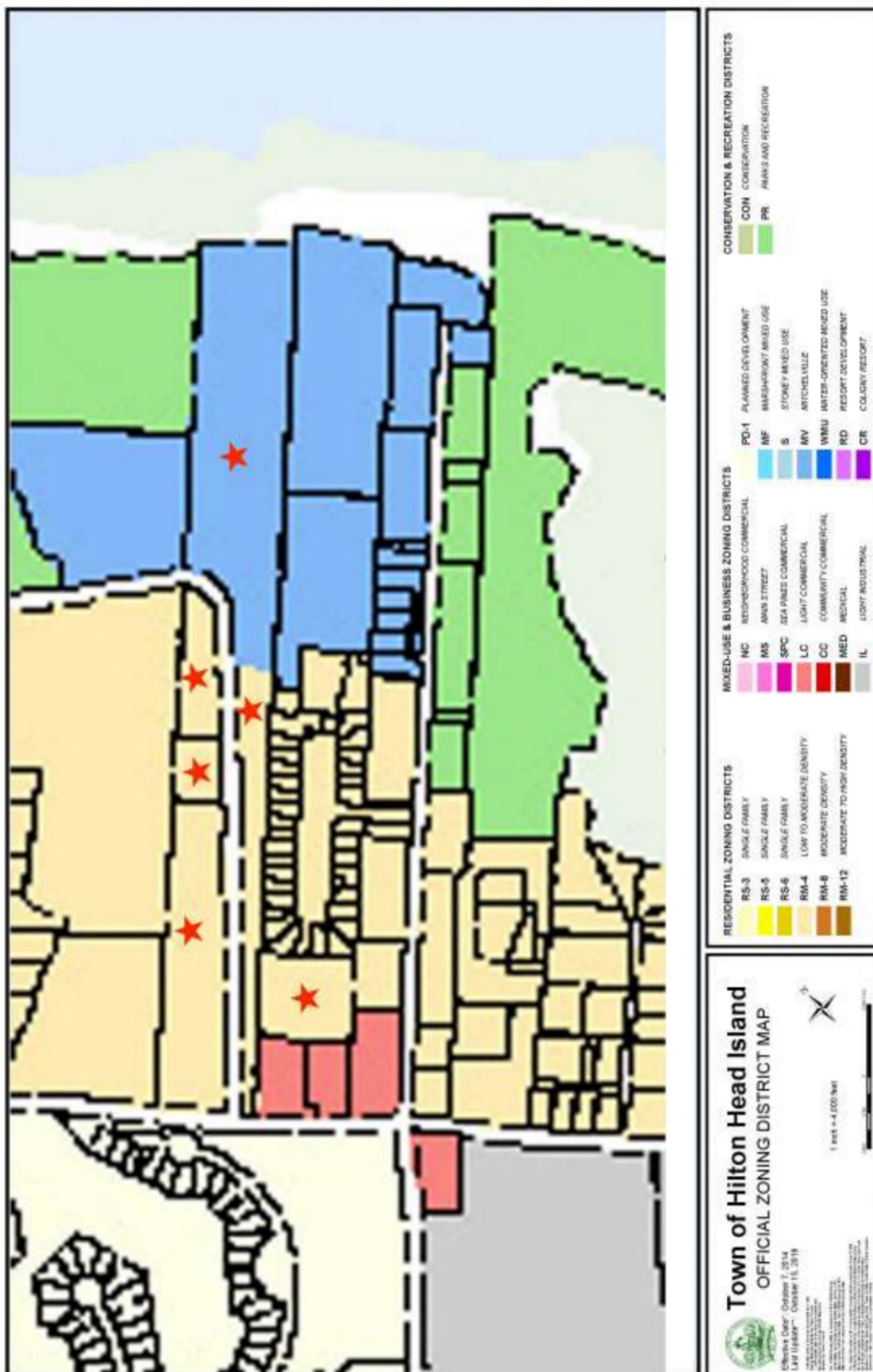
i. Special Construction Standards

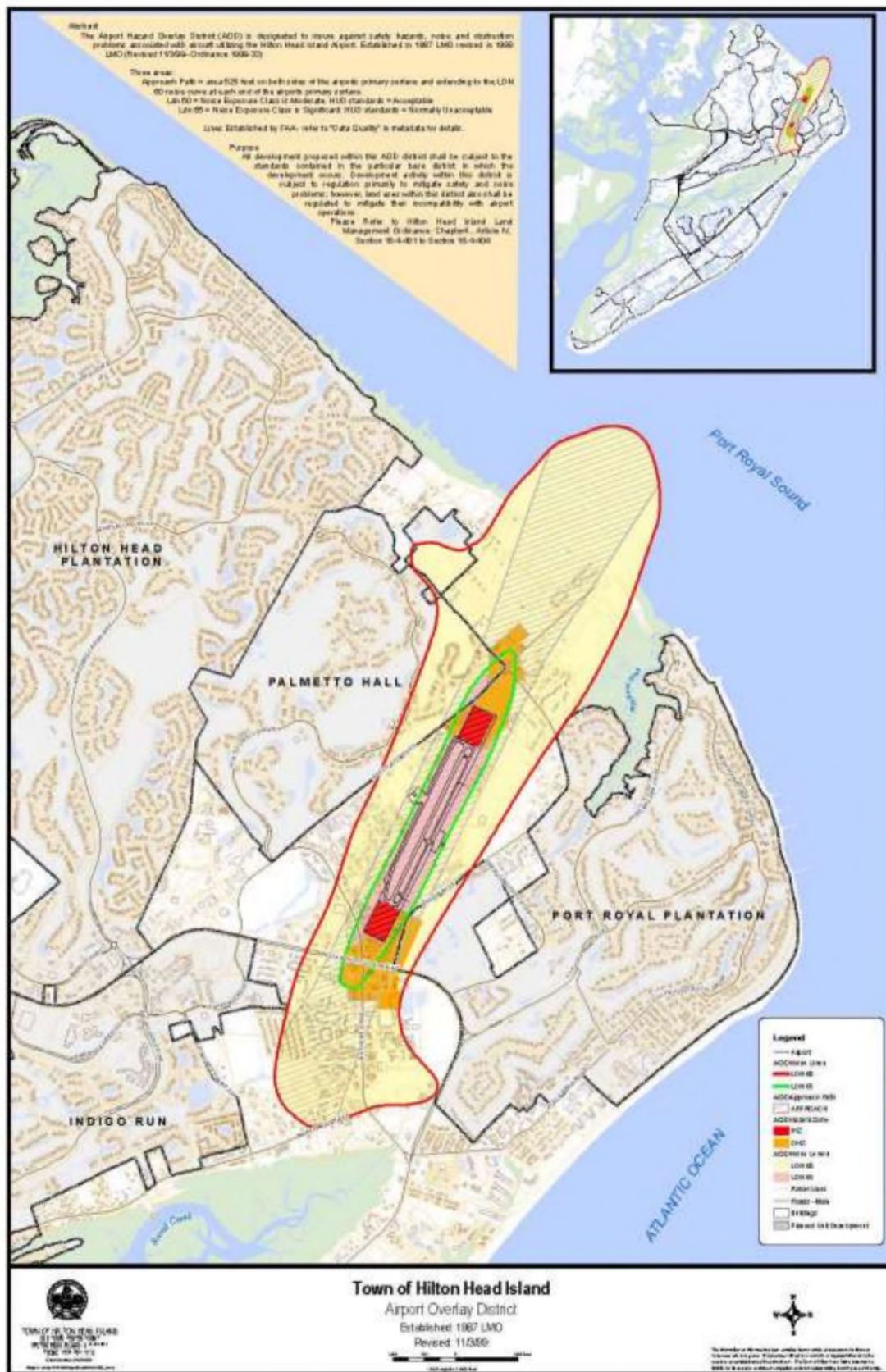
For uses with minimum occupant loads of 100 square feet or more per occupant or structures designated as historical by the Town Council, no special construction standards shall apply.

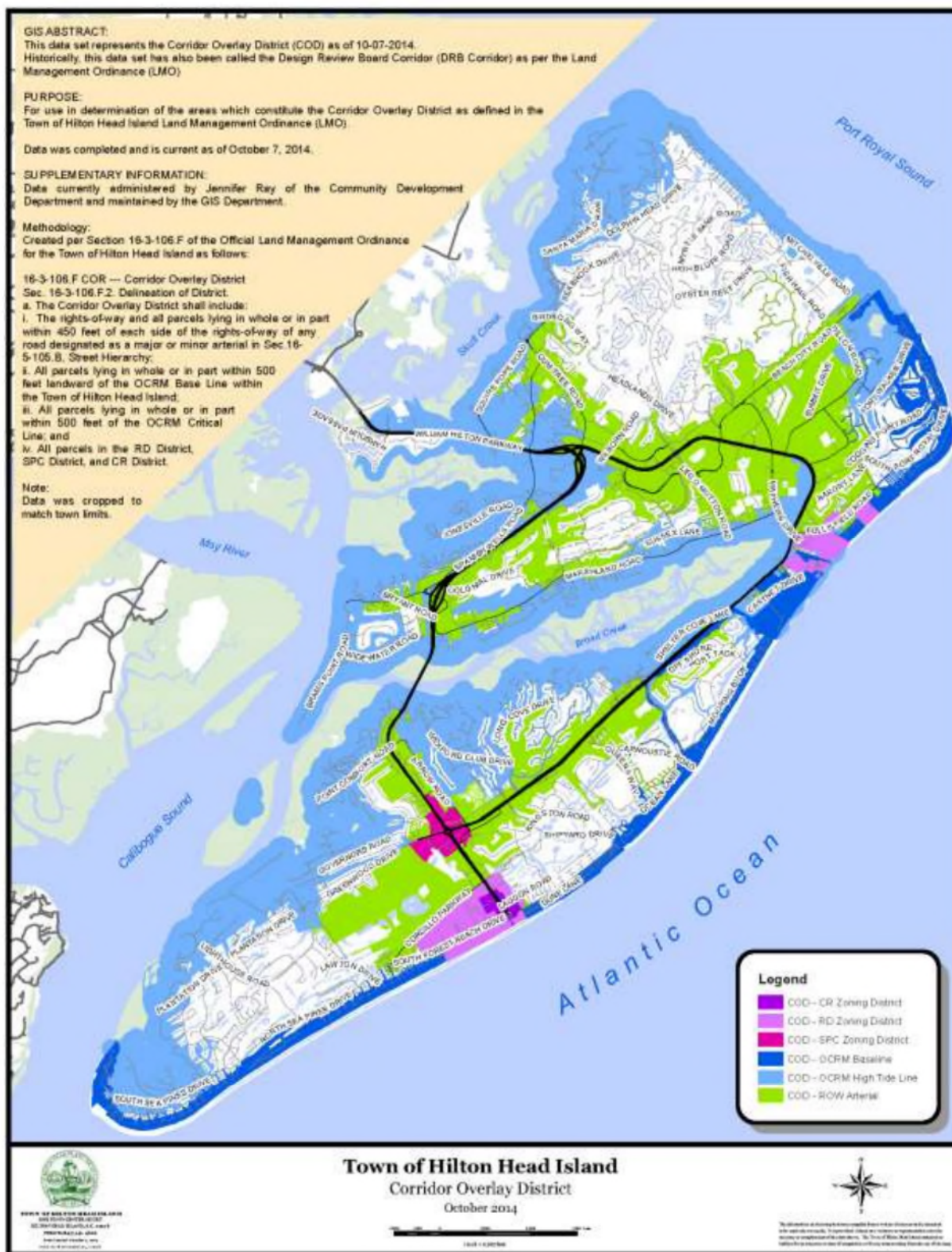
A portion of the subject property lies within the Corridor Overlay District (COR). The purpose of this district is to establish the procedures and standards for the review and decision on an application for Corridor Review approval. Applications must be submitted for all development in the COR District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

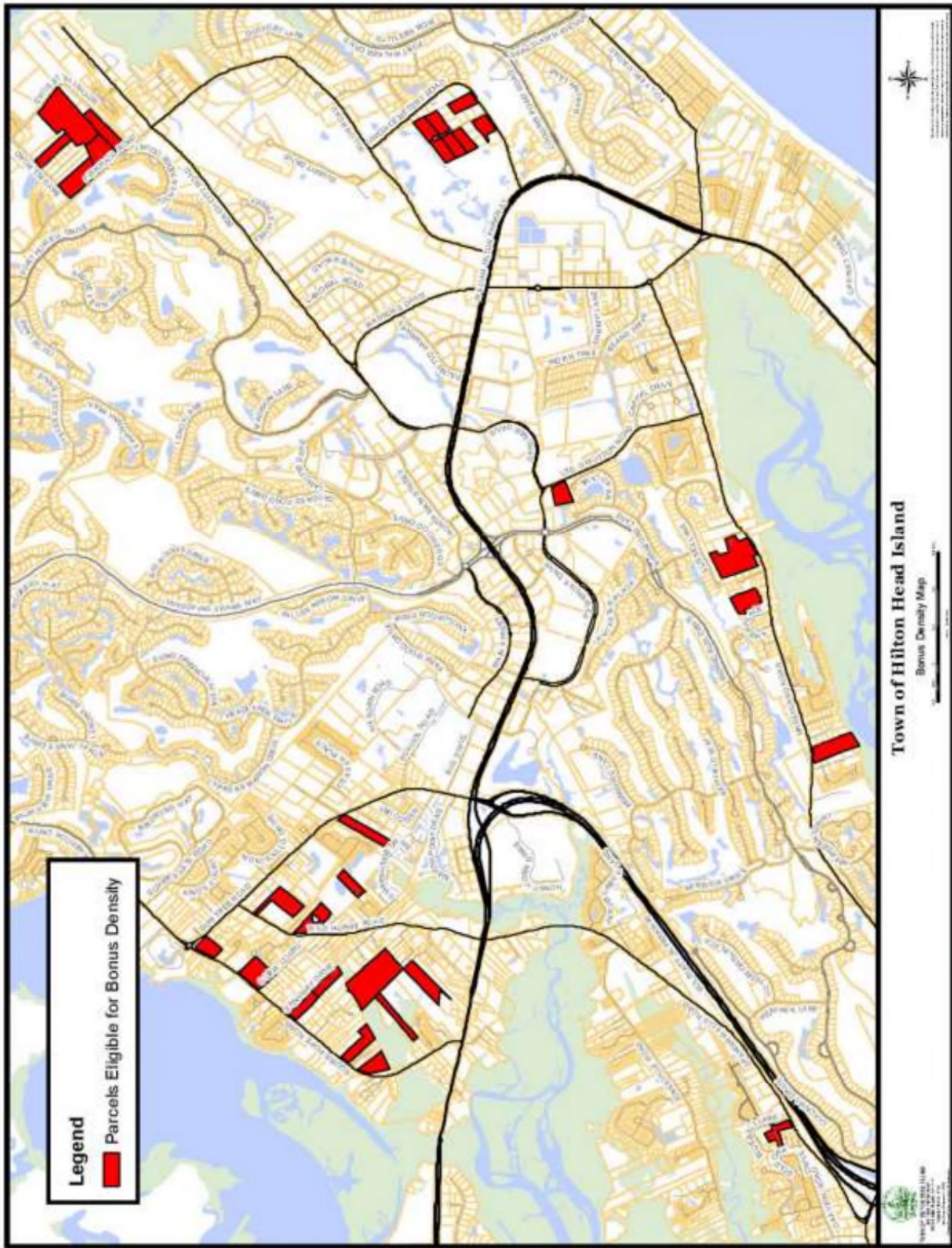
Based upon the current zoning, the subject property would be allowed up to eight units per acre on the 18.08 acres zoned RM-4, or 144 units, and 12 units per acre on the 12.0 acres zoned MV, or 144 units, indicating a total of 288 allowed units. The 12 acres with MV zoning would allow up to 35 hotel 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.

The subject property contains a single-family residence and an office/garage building that is used as a contractor's office. The residence appears to meet all zoning requirements; however, according to an employee with the Hilton Head Island planning department, the contractor's office represents a legal, non-conforming use.









ASSESSMENT AND TAXES

The subject property is in Beaufort County. Property valuation and assessment are the responsibility of the Beaufort County Assessor. Under South Carolina Statutes and Constitution, all the 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 falling under certain classifications are appraised by the South Carolina Tax Commission. This system provides that these industrial properties carry a 10.5% ratio of assessment to Market Value.

Commercial properties are appraised at Market Value and assessed at 6% of that value. 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 combined market value of \$2,788,600. The property was taxed in 2020 based upon market value on two parcels (totaling \$614,700) and an agricultural use value on one parcel (\$4,000), for a total taxable value of \$618,700. The parcel with taxes based upon agricultural use was assessed at 4% and the remaining two parcels were assessed at 6%, with the combined assessment for the three parcels totaling \$37,040. The combined 2020 taxes for the subject parcels, including police and stormwater utility fees, totaled \$10,077.07. The 2020 millage rate was 249.8. The 2021 millage rate has not yet been set.

A partial payment for TMS No. R510-005-000-0007-0000 of \$5,878.45 has been paid. The remaining taxes due for this parcel total \$1,441.93. The two other subject parcels currently have a combined tax due of \$2,756.69. Property taxes are normally due by January 15 each year; however, the Beaufort County Treasurer has received approval from SCDOR to extend the first and second penalty dates for 2020 tax bills. For 2021, property taxes must be paid by March 31, 2021 to avoid penalty.

Based on the recently passed change in the new South Carolina tax law, properties are appraised at up to 75% of market value upon sale. The new taxable value is based on a 25 percent exemption off the assessor's fair market value at the point of sale, but this new taxable value may not be less than the fair market value determined by the most recent assessment prior to the sale.

Due to the agricultural use classification of TMS No. R510-005-000-007-0000, 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.

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.”³

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. A portion of the official Hilton Head Island zoning map follows in this section.

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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.

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 multifamily parking requirement is 1.4 spaces per one-bedroom dwelling unit, 1.7 spaces per 2-bedroom unit, and two spaces per 3-bedroom unit. The parking requirement for single-family use is two spaces per dwelling unit, plus one per 1,250 S.F. of GFA over 4,000 S.F. of GFA.

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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.

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.

Based upon the current zoning, the subject property would be allowed up to eight units per acre on the 18.08 acres zoned RM-4, or 144 units, and 12 units per acre on the 12.0 acres zoned MV, or 144 units, indicating a total of 288 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.

The subject property contains a single-family residence and an office/garage building that is used as a contractor's office. The residence appears to meet all zoning requirements; however, according to an employee with the Hilton Head Island planning department, the contractor's office represents a legal, non-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. The subject property can also be accessed from Fish Haul Road. Mitchelville Road and Fish Haul Road are two-lane, asphalt paved, 66' right-of-ways with no streetlights, or curb and gutter. Fish Haul Road has a sidewalk, while Mitchelville Road does not. 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. US Highway 278 is the main artery for Hilton Head Island and is also the access route from Bluffton and Interstate 95.

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. We were unable to locate any documentation of a recorded easement for the road 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. However, she stated 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. We recommend that the property owner consult a condemnation attorney for additional guidance.

We have been provided with three surveys that indicate the subject property as totaling 30.08 acres. The larger 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 29.852 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. We have also analyzed a USGS topographical map. Copies of the plat, topographic, and flood plain map follow in this section.

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, but the site is functional for development. Most of the tract appears to be in either a C flood zone or an A7 (14) flood zone. The C flood zone is a non-hazard area, while the A7 (14) flood zone is a coast flood hazard area, requiring a base elevation of 14' MSL. The area immediately fronting on the sound appears to be in several A9 and V9 flood zones. These are coastal flood hazard areas, with the V9 zone being a velocity hazard area (wave action). The base flood elevations for this area appear to range from 14' to 22' above MSL. 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.

Most of the tract appears to be basically level. An inspection of a USGS topographic map showed 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' 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, but the beach is popular for nature walks and fishing. The beach can be rather narrow at high tide. No information has been provided as to the soils on the subject tracts. 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 the majority of the site to be wooded.

In summary, the subject property consists of a 30.08 acre tract with 29.852 acres of highland. The tract has frontage on Port Royal Sound. The shape of this tract is irregular, but functional and suitable for residential development. A portion of the tract appears to be located in A7, A9, and V9 flood hazard areas, with the V9 flood zone representing a coastal velocity hazard area (wave action). Access to the property is adequate. 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 we will consider financially feasible uses for the subject property. The immediate subject neighborhood is considered to be 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 islands first freedmans 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 of its 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.

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, 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 32-lot 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 order to allow duplex development; however, this request was also denied. The property has seen a good deal of recent development, with most of the lots now having been improved with single-family homes. Adjacent to this subdivision is the recently developed 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.

A new hotel was recently constructed on Hilton Head and some new residential development is occurring. A 115-room Courtyard Marriott hotel opened in May 2020. The six-story hotel is the tallest building in Hilton Head Island's Coligny area, and it features the island's only rooftop pool and bar. One of the oldest fine dining restaurants on Hilton Head Island is set to be replaced by a six-floor luxury condo building next year. Although the restaurant is still open, Old Fort Pub will be demolished to make way for The Charles, a 22-unit luxury complex developed by Charleston-based Hancock Development Corp. Eight of the 22 units were already pre-sold as of the latest update in December 2020. The top floor units are selling for over \$1.2 million and the least expensive units are listed at \$999,900. The units boast sunset views over Skull Creek, large balconies, nine-foot ceilings, and gas fireplaces. The building will include a saltwater pool, one story of parking and five stories of condos on the waterfront.

A new timeshare resort, Hilton Head Port Royal Resort, has received initial approval from the Design Review Board. The development will be located along Folly Field Road, close to Islanders Beach Park, on an 8.4-acre piece of property that is currently the site of the Port Royal Racquet Club. According to the project plans, there will be three four-story and four three-story residential buildings with a mix of one, two, and three-bedroom units. The total number of planned units is 132. Remnants of the Port Royal Racquet Club will remain on the site, including existing parking spaces, and a club building and some tennis courts.

Developers are moving ahead with plans to turn the land where Hilton Head Christian Academy now sits into 260 apartments after the school moves across the bridge to Bluffton. In July 2020, the Hilton Head Island Town Council approved the plan for three 55-foot-tall apartment buildings and one 45-foot-tall building on the 13.8-acre site. Part of the agreement between the town and developer is a minimum rental period of six months and that 5% of the development, or 13 units, be priced below market rate for the island's workforce for a minimum of 20 years.

The buildings will be reevaluated each year to confirm it still has workforce-oriented units and is not being used as a short-term rental community. Spandrel developer Emanuel Neuman said in July that a below-market unit may be priced around \$850 per month for a studio, and \$1,100 for a two-bedroom apartment. The rest of the units, he said, will rent at the original rates of \$1,200 to \$2,800 per month. The density of the property will be 19 units per acre, according to the plans. That is relatively high in relation to the four surrounding communities, where the average density is 10 to 11 units per acre.

Hammock Breeze is a new 37-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 entire development is reportedly sold out. A new 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. Twenty-three new homes are being built in a new subdivision off Marshland Road, called The Marshes at Broad Creek. Home prices will range from \$491,900 to \$551,900. A Bluffton developer has also applied to the Town of Hilton Head Island to construct a 29-home subdivision off Jonesville Road near Old House Creek and the Cross Island Parkway.

Hilton Grand Vacations and Strand Capital Group recently completed development of a new timeshare resort on Hilton Head Island. The resort was constructed on a seven-acre beachfront parcel located on South Forest Beach, which was the site of the former Adventure Inn. The Adventure Inn, which was built in 1963 and demolished in 2008, was an island landmark and one of Hilton Head's three original hotels. Regarded as one of Hilton Head Island's most sought-after locations, South Forest Beach occupies a one-mile beachfront stretch between the Coligny District and Sea Pines Plantation. The new resort is comprised of four distinct buildings with a total of 125 two-bedroom units.

Developers envisioned the complex including three four-story buildings with parking on the ground level. The largest building would have the main amenities, and the small buildings would each hold four units facing the beach. Anchoring the complex from the center would be a pool. Whether the units would be apartments or condominiums had not been determined yet, Stowers said. The Design Review Board provided Stowers with feedback on the design, expressing concern with the large scale of the project, the tree removal plans and the height of the buildings. Chair Michael Gentemann recommended Architecture 101 withdraw its proposal and create a new one responsive to the board's suggestions before coming back for approval.

A 45-unit, oceanfront development has been proposed for Mitchelville Road, promising luxury amenities and 270-degree views of the water. Beaufort firm Architecture 101 is leading the effort to bring multifamily housing to the previously undeveloped tract. The property was sold by Charles Bertrand to Hilton Head Island Beachfront, LLC for \$1.36 million in 2019. Architect Steve Stowers said he intends for the complex to be "a very high-end establishment that should really upscale the housing offerings on Hilton Head." The initial design was submitted to the Town's Design Review Board in September 2020 for conceptual approval.

There are preliminary plans for a 9-lot gated subdivision to be located on a waterfront tract at 272 Mitchellville Road. Mitchellville Heights would add nine homes to a 1.5-acre site, according to town application documents. According to application documents, there would be five houses on the marsh side and four along Mitchellville Road. A 6.22-acre tract located at 280 Mitchellville Road was rezoned in late 2019 from RM-4/RM-8 to RM-12 in order to allow the property owner to develop the site with multifamily units. A development plan has not yet been announced for this property.

According to the Hilton Head Area Association of Realtors' 2020 Annual Report, buyer activity was the leader again in 2020. With mortgage interest rates setting record lows multiple times throughout the year and a strong drive by many buyers to secure a better housing situation, in part due to the new realities brought on by COVID-19, many segments of the market experienced a multiple-offer frenzy not seen in the last 15 years or more. While markedly improved from their COVID-19 spring lows, seller activity continued to lag buyer demand, which had strengthened the ongoing seller's market for most housing segments as inventories remain at record lows.

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% the preceding two years. Overall, the median condo/villa sale price has increased by 33.1% over the past three years, with 2020 accounting for the bulk of the increase.

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 number of sales has increased cumulatively by 26.6% over the past three years, due primarily to the large increase in sales volume in 2020. There are currently 162 condominium/villa listings on Hilton Head Island, indicating roughly a one to two-month supply. The marketing time for condos and villas saw a decline of 7.5% over the past year. The marketing time for condo/villas has decreased cumulatively by 21.5% over the past three years.

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 has increased cumulatively by 16.8% over the past 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 has increased cumulatively by 60.8% over the past three years, buoyed by 2020 sales. There are currently 608 single-family home listings on Hilton Head Island, indicating roughly a two to three-month supply. 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 the past three years.

Following is a chart summarizing condo/villa and detached single-family home sales on Hilton Head Island between 2017 and 2020:

HILTON HEAD ISLAND SALES (2017 – 2020)

Detached Single-Family						
Year	Median Sale Price*	Change	# of Sales*	Change	Avg. DOM*	Change
2017	\$535,000	N/A	976	N/A	174	N/A
2018	\$533,750	-0.2%	1,140	16.8%	153	-12.40%
2019	\$559,000	4.7%	1,069	-6.2%	164	7.19%
2020	\$625,000	11.8%	1,569	46.8%	153	-6.71%
Condos/Villas						
Year	Median Sale Price*	Change	# of Sales*	Change	Avg. DOM*	Change
2017	\$227,250	N/A	1,103	N/A	158	N/A
2018	\$242,500	6.7%	1,116	1.2%	124	-21.52%
2019	\$250,038	3.1%	1,194	7.0%	134	8.06%
2020	\$302,500	21.0%	1,396	16.9%	124	-7.46%

In conclusion, all indicators for both condo/villas and single-family homes show improvement in the market over the past three years, with all 2020 figures being very positive. Sales volume has increased substantially for both single-family homes and condo/villas, while the median sale price for all property types also saw substantial increases. Marketing time has decreased in the past year and inventory is currently very low for all property types. New residential development is occurring, and several new projects are planned as the market has become favorable for new construction. We 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.

Commercial uses of the subject property are severely limited by zoning and would not be likely due to the surrounding uses and character of the immediate neighborhood. Hotel use is an allowed use for the 12 acres of the subject property that is zoned MV; however, the hotel industry has been one of the hardest hit sectors by the pandemic. Smith Travel Research (STR) reported in June 2020 that even with improving performance already underway, U.S. hotel demand will not return completely to pre-pandemic levels until 2024. “Compared with our last forecast, we actually improved our demand projection for 2020 from -45.0% to -36.2%, but we expect it to take 11 quarters for the number of room nights sold to rise to the corresponding levels of 2019,” said Jan Freitag, STR’s senior VP of lodging insights. “Similarly, it will take until 2023 for occupancy to reach the 20-year historical average.

With lower occupancy levels, and the influence of discounting as hoteliers compete for market share, ADR could show a slower recovery timeline even with more normalization each quarter—we improved our 2021 ADR projection from +1.7% to +5.2%. Despite this better growth rate next year, we do not see ADR recovering to pre-2020 levels in the next five years.

In November 2020, the final 2020 U.S. hotel forecast was released by STR, indicating that leisure demand was slightly stronger than anticipated in the fall. Regardless of the short-term upgrade, the forecast for 2021 remained functionally unchanged and stated that full recovery in revenue per available room (RevPAR) is unlikely until 2024. Hilton Head hotels have fared better than the national averages, with 2020 occupancy down 23.5%, as compared to 36.1% nationally and ADR down 6.6%, as compared to 21.0% nationally; however, most properties are operating substantially below normal income levels. How the pandemic affects the hotel industry in 2021 is unknown. Due to the projected slow recovery in the hotel industry and the uncertainty surrounding forecasting occupancy and ADR over the next few years, hotel development on the subject site would be unlikely in the future. Despite its waterfront location, the subject tract is also not ideally suited for hotel use, due to the lack of supporting business surrounding the site. The residential market is currently strong and based upon the foregoing information, it is our opinion that the most financially feasible use of the subject property would be residential development of the entire tract.

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. The current inventory for condominium/villas is one to two months, and the inventory for single-family homes is two to three months, which is less than the typical six-month inventory characteristic of a balanced market, indicating strong demand. Based upon the foregoing information, we 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 288 units, or up to 312 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 288 units, or up to 312 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.

Conclusion

Based on the foregoing information, it is our opinion that the highest and best use for the subject property “as though vacant” is residential development, of up to 288 units, or up to 312 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 highest and best use of the subject site “As Improved” is also residential development, of up to 288 units, following demolition and removal of the existing improvements. The most likely purchaser of the subject property would be a regional developer.

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.

From the approaches applied, the appraiser derives separate indications of value for the property being appraised. One of 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.⁴

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

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 commonly used in valuing properties such as the subject.

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.

We have researched the market and have located the following sales of residential tracts used in estimating a value for the subject property. All sales involved a coastal tract with a water view. They are shown on a chart at the end of this section entitled "Land Sales Chart."

Land Sale No. 1: This is the sale of a 28.33-acre tract of land, with 19.13 highland acres, located off Barefoot Bridge Road, with frontage on the Intracoastal Waterway, in the City of North Myrtle Beach, Horry County, SC. The property sold on June 13, 2019. The sale price was \$3,826,000, or \$200,000/highland acre. The property is zoned PDD, Planned Development District, by the City of North Myrtle Beach and is being developed with 253 detached cottages, indicating a density of 13.2 units per acre. The sale price equates to \$15,123/unit. The tract has approximately 690' of frontage on the Intracoastal Waterway, which equates to 35.2' of frontage per usable acre. The site is situated across the waterway from the Barefoot Landing shopping complex and bounds the Barefoot Resort golf course to the southwest and the Barefoot Marina to the northeast. The site is in X and AE flood zones. The site is very irregular in respect to shape and the developable acreage is particularly irregular, due to the wetland areas and buffers being dispersed though the interior of the site. This property has a large amount of water frontage; however, the views are inferior to the subject property's sound view. The property is also inferior to the subject property in respect to topography. The value per unit for this sale is low due to the relatively high development density. The indicated value of the subject property is greater than \$210,000/acre and \$15,879/unit, after a time adjustment.

TMS No. 156-00-01-047 (Horry County, SC)

Land Sale No. 2: This is the sale of a 16.03-acre tract, located on Marina Cove Drive, in the City of St. Augustine, FL. This property has approximately 10.91 highland acres and contains approximately 925' of frontage on the Intracoastal Waterway, or about 85' per highland acre. The property sold on October 12, 2017 for \$4,350,000, or \$398,717/highland acre. This property is zoned RGO, Residential and General Office District, by the City of St. Augustine. This is a mixed-use oriented district that allows for a variety of commercial and multifamily residential uses. Single-family development is a conditional use. There is no stated maximum multifamily density. The site has been developed with Isla Antigua, a 249-unit luxury apartment community. The developed density is 22.8 units per acre and the sale price equates to \$17,470/unit. The site is in an AE flood zone. There is a city owned buffer area that separates the site from the waterfront and a bulkhead has been constructed along the entire site's waterway frontage.

This property is considerably smaller than the subject site and was developed at a much higher density than the subject property's allowed density. The indicated value for the subject property is less than \$438,539/acre, but is greater than \$19,217/unit, after a time adjustment, due to the high development density.

TMS Nos. 162208-0000 and 162208-0010 (St. Johns County, FL)

Land Sale No. 3: This is the sale of an 8.738-acre tract located on Mitchelville Road, on Hilton Head Island, SC. The property is fronts on Port Royal Sound and is located about 0.20 miles northwest of the subject property. This tract has approximately 288' of frontage on Port Royal Sound, or 42.5' per highland acre. The tract sold on June 17, 2019 for \$1,900,000. The property contains 6.775 acres of highland and 1.963 acres of marsh. The sale price equates to \$280,443/acre of highland. The property is zoned MV, Mitchelville District, which allows up to 12 units per acre. The site has been improved with a 37-lot subdivision known as Hammock Breeze. The developed density equates to 5.5 units per highland acre. Only two lots in the subdivision have direct sound views. The highland portion of the site is separated from the beachfront by an expanse of marsh that spans several hundred feet, therefore, there is not direct access to the beach from this property. The nearest beach access is through the Fish Haul Beach Park, whose entrance is about 1,000' northeast of the subdivision.

This property is considerably smaller than the subject property, but the property is inferior in respect to proximity to the water and beach access. The indicated value of the subject property is greater than \$294,465/acre. The property was developed at a lower density than is allowed on the subject site, therefore, the indicated value for the subject site is less than \$53,919/unit, after a time adjustment.

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

Land Sale No. 4: This is the sale of a 68.36-acre tract of land, with 66.13 acres of highland, located on Factory Road, with frontage on the Intracoastal Waterway, in the unincorporated community of Hampstead, Pender County, NC. The property, which is located about 10 miles north of Wilmington, sold on May 8, 2019 for \$10,500,000, or \$158,788/acre of highland. The property is being developed with a 120-lot subdivision called Salters Haven. The sale price equates to \$87,500/unit.

The tract has over 823' of frontage on the Intracoastal Waterway, or 12.4' per highland acre. The property is zoned RP, Residential Performance District, by Pender County. This is a residential oriented zoning district that allows a maximum development density of 3.6 units per acre. The development will include a 75' slip marina that is being built along a deep-water creek that enters the site. Ten of the planned lots will front on the Intracoastal Waterway and 20 lots will have creek or marina frontage. According to the subdivision plat, the site is located entirely in a X flood zone.

The zoning for this property is less flexible than the subject zoning and allows a much lower development density. This property is in a more rural area than the subject property and is inferior in respect to location and is considerably larger than the subject property. The indicated value of the subject property is greater than \$166,717/acre; however, due to the low development density of this site, the indicated value for the subject property is less than \$91,875/unit, after a time adjustment.

TMS Nos.: 3292-44-0015-0000, 3292-44-8068-0000, 3292-44-7189-0000, 3292-44-7313-0000, 3292-44-5684-0000, 3292-44-5688-0000, and 3292-45-5001-0000 (Pender County, NC)

Land Sale No. 5: This is the sale of a 20.48-acre tract located at 1810 Salter Path Road, in the Town of Indian Beach, NC. The site has extensive frontage on Bogue Sound and is located across Salter Path Road from the Atlantic Ocean beachfront. The property contains 17.05 acres of highland. The site sold on September 16, 2019 for \$2,155,000, or \$126,393/acre. The seller was a YMCA association that had received the property as a donation. The site is zoned PDD, Planned Development District, by the Town of Indian Beach. The site had been developed with a 23-lot single-family cluster subdivision. The developed density is 1.3 units per acre. Initial development plans had called for 30 lots. The sale price equates to \$93,696/ unit.

This property is superior to the subject property in respect to water frontage; however, the location is inferior to that of the subject property and the developed density is far lower than is allowed on the subject site. The indicated value of the subject property is greater than \$131,449/acre; however, due to the low development density of this site, the indicated value for the subject property is less than \$97,444/unit, after a time adjustment.

TMS Nos. 04-05788 and 04-05821 (Carteret County, NC)

Additional Sales: In addition to the sales discussed, a 20.311-acre waterfront tract, with 19.90 acres of highland located on Daniel Island, SC, sold on October 17, 2018 for \$13,250,000, or \$655,829/acre. A 17-acre portion of this site is being developed with 90 single-family and townhome lots, indicating a density of 5.29 units per acre. No plans have been released for the remaining parcel which contains the property's water frontage, about 188' on the Cooper River. Assuming the same density for the entire tract, the sale price equates to \$126,190/planned unit. We did not include this sale in our analysis due to its far superior location to the subject site.

A 19.69-acre site, containing approximately 19.55 highland acres and roughly 1,400' of frontage on the marshes of the Beaufort River sold on September 12, 2018 for \$5,550,000, or \$283,887/highland acre. The site is located just across Woods Memorial Bridge from downtown Beaufort, SC. The buyer subsequently sold a 9.72-acre portion of the site to Beaufort County for use as a public park. This parcel sold for \$5,450,000.

The remaining 9.97 acres has been approved for a mixed-use development with eight townhomes, 16 single-family homes, three larger river homes, four garden cottages, and three mixed-use office/retail buildings. We did not include this sale in our analysis due to the very low development density and the considerable commercial component, as well as the sale of half of the tract to the county for a sale price that nearly equaled the original purchase price.

We are also aware of four small sites that have recently sold on Hilton Head Island for residential development, three of which are located on Mitchelville Road and front on Port Royal Sound. These sites were too small to be used as comparable sales, but the sales have been analyzed and are discussed below for informational purposes.

A 6.34-acre site located on Marshland Road on Hilton Head Island sold on May 31, 2018 for \$1,242,000. The site fronts on the marshes of Broad Creek and has distant water views. The site contains extensive saltwater marsh, estimated at approximately 30% of the total site area, or about 1.9 acres. The indicated highland area is then 4.44 acres. The site contains a small non-jurisdictional wetland area that is to be filled, at an estimated cost of \$20,000, indicating an effective sale price of \$1,262,000, or \$284,234/acre. The property is zoned MF, Marshfront Mixed-Use District, by the Town of Hilton Head Island and has a maximum allowed residential density of 6.0 units per acre. The buyer has developed the property with a 23-lot subdivision, The Marshes at Broad Creek. The indicated density is 5.18 units per usable acre. The effective sale price equates to \$54,870/unit.

A 2.1-acre site that is located about 0.30 miles northwest of the subject site sold on February 11, 2020 for \$965,000 or \$459,524/acre. The site has about 140' of sound frontage. The property is zoned MV, Mitchelville District, by the Town of Hilton Head. The property is separated from the beach by an expanse of marsh; however, the property does have an existing boardwalk that provides beach access over the marsh. No plans have been announced for this site.

A 3.9-acre site that is located about 0.35 miles northwest of the subject site sold on November 20, 2019 for \$965,000 or \$459,524/acre. The site has about 325' of sound frontage, but the site is separated from the beach by an expanse of marsh. The property is zoned MV, Mitchelville District, by the Town of Hilton Head. The property is being improved with a 45-unit apartment development. The indicated density is 11.5 units per acre and the sale price equates to \$30,222/unit.

A 3.18-acre site that is located about 0.50 miles northwest of the subject site sold on February 19, 2021 for \$945,000 or \$297,170/acre. The site has about 390' of sound frontage, but the site is also separated from the beach by an expanse of marsh. The property is zoned MV, Mitchelville District, by the Town of Hilton Head. The site is located on an unpaved portion of Mitchelville Road, which appears to be county maintained. No plans have been announced for this site.

Before adjustments, the comparable sales indicate a range of \$15,123 to \$93,696/unit and \$126,393 to \$398,717/acre.

Description of Adjustments:

Time/Market Conditions: The sales occurred between October 2017 and September 2019. We were 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. Depending upon the length of time that the pandemic continues, property values could be adversely affected in the future. However, supported by low-interest rates, the residential real estate sector has been 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 ago. 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 also rose 0.7% from November and 22.2% year over year. Existing home sales reached the highest level in 13 years.

There is a limited supply of waterfront development sites and the residential market has been strong for the past few years. We have made moderate 3.0% annual time adjustments to the sales, which is believed to be reasonable.

Conclusion

Due to differences to size, location, and so on, we have placed the sales on a continuum. After time adjustments, the sales indicate a range of \$15,879 to \$97,444/unit and \$131,449 to \$438,589/acre. The mean sale price is \$55,667/unit and \$248,244/acre.

Higher density residential tracts are typically sold on a per unit basis; therefore, we have placed most emphasis on the per unit value indication. However, due to the wide variation in sizes, densities, and locations, we have also considered the dollars per acre value indication as a test of reasonableness.

Based upon the preceding discussion of each sale, the relevant range is \$19,217 to \$53,919/unit and \$294,465 to \$438,589/acre. Sale No. 2, at \$19,217/unit is considerably smaller than the subject site and was developed at a much higher density than the subject property's allowed density. The indicated value for the subject property is greater than \$19,217/unit, due to the high development density. Sale No. 3, at \$53,919 unit is located just north of the subject property and has frontage on Port Royal Sound. The property is zoned MV, Mitchelville District, which allows up to 12 units per acre. The site has been improved with a 37-lot subdivision known as Hammock Breeze. The developed density equates to 5.5 units per highland acre. Only two lots in the subdivision have direct sound views. The highland portion of the site is separated from the beachfront by an expanse of marsh that spans several hundred feet, therefore, there is not direct access to the beach from this property. The nearest beach access is through the Fish Haul Beach Park, whose entrance is about 1,000' northeast of the subdivision.

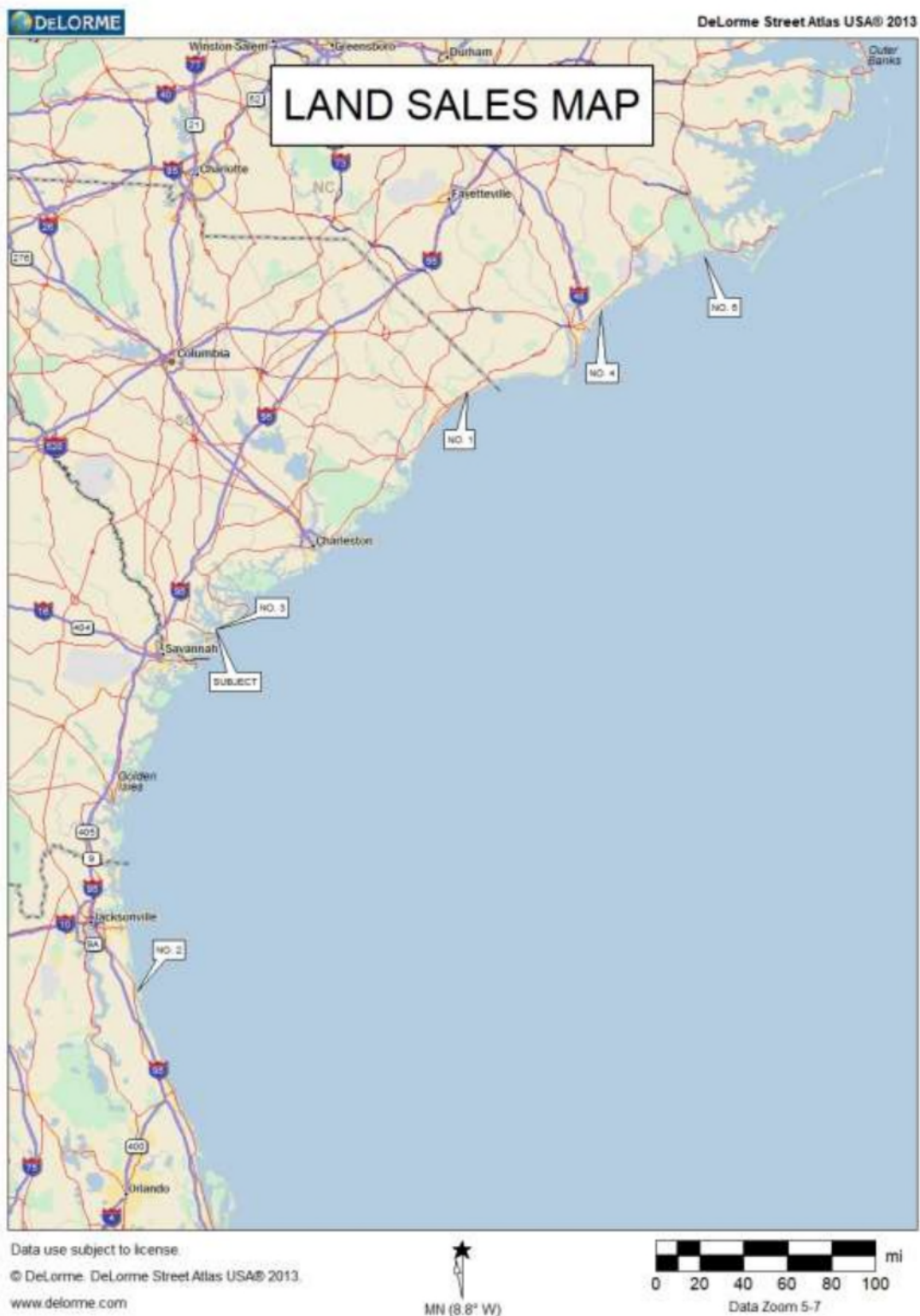
This property is considerably smaller than the subject property, but the site is inferior in respect to proximity to the water and beach access. The indicated value of the subject property is greater than \$294,465/acre. However, the property was developed at a much lower density than is allowed on the subject site, therefore, the indicated value for the subject site is less than \$53,919/unit.

Considering the subject property's beach frontage and size, as well as the allowed development density, we believe that it would sell at a price that is slightly above the middle of the relevant range. A value of \$38,500/unit falls approximately 5% above the middle of the relevant range and appears reasonable.

Based upon the allowed 288 units and a value of \$38,500/unit, the value indication is \$11,088,000, rounded to \$11,090,000. The relevant range in value per acre is \$294,465 to \$438,589/acre. A value of \$11,090,000 equates to \$371,499/highland acre, which falls slightly above the middle of the relevant range and further supports the per unit value indication. Based upon the foregoing information, the indicated Market Value "As Is" of the subject property is **\$11,090,000.**

LAND SALES CHART

SALE NUMBER	SALE NO. 1	SALE NO. 2	SALE NO. 3	SALE NO. 4	SALE NO. 5
TMS NUMBER	156-00-01-047	162208-0000 162208-0010	R510-005-000-431- 0000/432-0000	5292-44-0015-0000, etc.	04-05788 04-05821
LOCATION	Barefoot Bridge Rd. N. Myrtle Beach, SC	Marina Cove Dr. St. Augustine, FL	Mitchelville Rd. Hilton Head, SC	Factory Road Hampstead, NC	1810 Salter Path Rd. Indian Beach, NC
SALE DATE	06-13-19	10-12-17	06-17-19	05-08-19	09-16-19
EFF. SALE PRICE	\$3,826,000	\$4,350,000	\$1,900,000	\$10,500,000	\$2,155,000
SIZE, ACRES	28.33	16.03	8.738	68.36	20.48
EFF. SIZE, ACRES	19.13	10.91	6.775	66.13	17.05
# UNITS	253	249	37	120	23
DENSITY (UNITS/ACRE)	13.2	22.8	5.5	3.6	1.3
SALE PRICE/ACRE	\$200,000	\$398,717	\$280,443	\$158,778	\$126,393
SALE PRICE/UNIT	\$15,123	\$17,470	\$51,351	\$87,500	\$93,696
TIME ADJUSTMENT	+5%	+10%	+5%	+5%	+4%
ADJ. SP/ACRE	\$210,000	\$438,589	\$294,465	\$166,717	\$131,449
ADJ. SP/S.F.	\$15,879	\$19,217	\$53,919	\$91,875	\$97,444



Land Sale No. 1**Property Identification**

Record ID	744
Property Type	Vacant Land, Residential Land
Property Name	Barefoot Cottages
Address	Barefoot Bridge Road, North Myrtle Beach, Horry County, South Carolina 29582
Location	Intracoastal Waterway
Tax ID	156-00-01-047

Sale Data

Grantor	Barefoot Village Investments, LLC
Grantee	Marina Cottages at Barefoot Landing, LP
Sale Date	June 13, 2019
Deed Book/Page	4216/137
Recorded Plat	286/149
Property Rights	Fee Simple
Financing	Cash-to-Seller
Verification	Knowledgeable Third Party; CoStar, Other sources: Public Records

Sale Price	\$3,826,000
Adjusted Price	\$3,826,000

Land Data

Zoning	PDD, Planned Development District
Topography	Intracoastal Waterway Frontage
Utilities	All Available
Shape	Irregular

Land Size Information

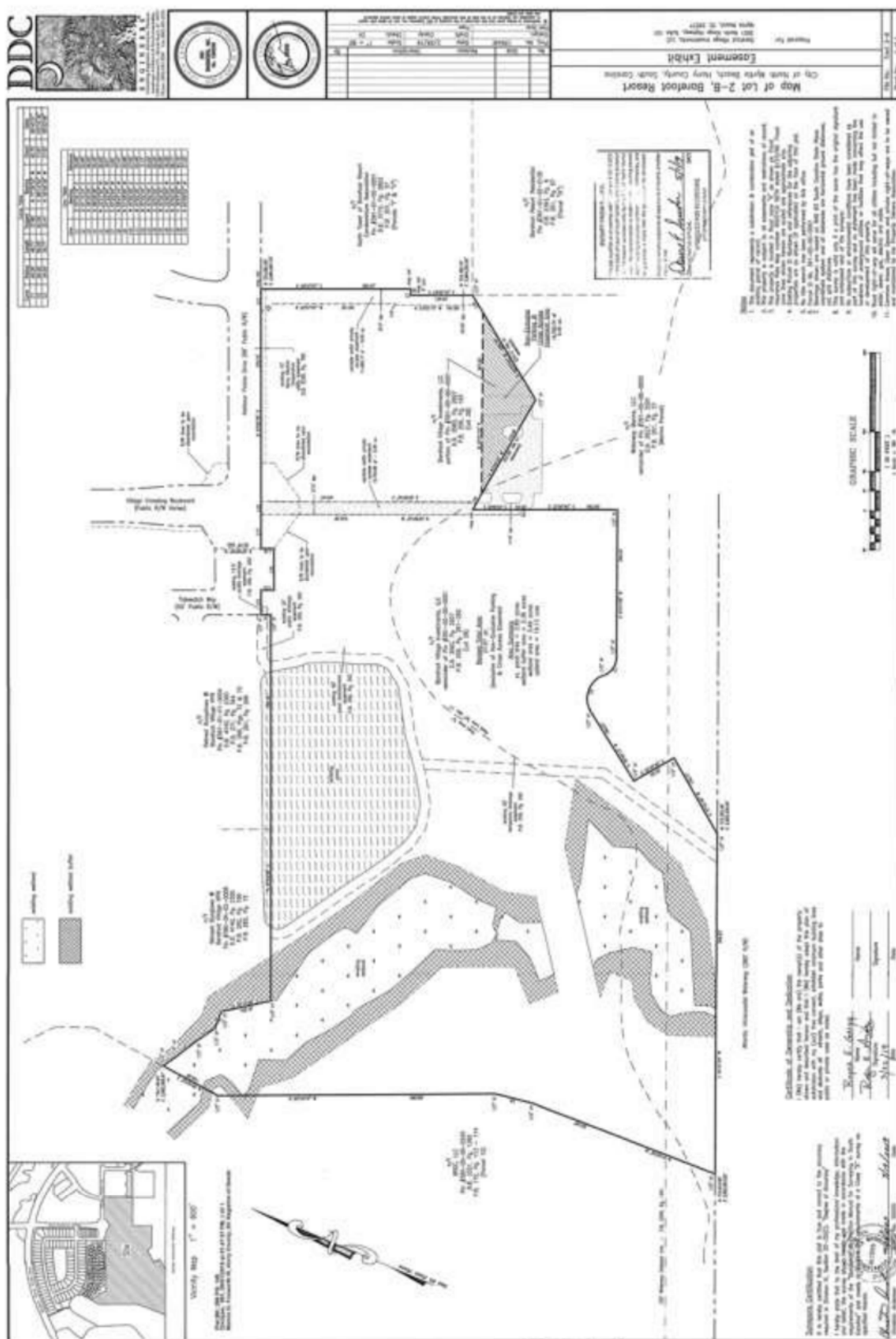
Gross Land Size	28.330 Acres or 1,234,055 SF
Uplands Land Size	19.130 Acres or 833,303 SF, 67.53%
Planned Units	253

Indicators

Sale Price/Gross Acre	\$135,051
Sale Price/Gross SF	\$3.10
Sale Price/Uplands Acre	\$200,000
Sale Price/Uplands SF	\$4.59
Sale Price/Planned Unit	\$15,123

Remarks

This site is being developed with 253 detached cottages, indicating a density of 13.2 units per acre. The tract has approximately 690' of frontage on the Intracoastal Waterway. The site is situated across the waterway from the Barefoot Landing shopping complex and bounds the Barefoot Resort golf course to the southwest and the Barefoot Marina to the northeast. The site is very irregular in respect to shape and the developable acreage is particularly irregular, due to the wetland areas and buffers being dispersed though the interior of the site.



Land Sale No. 2**Property Identification**

Record ID	745
Property Type	Vacant Land, Residential Land
Property Name	Isla Antigua
Address	Marina Cove Drive, St. Augustine, St. Johns County, Florida 32080
Location	Intracoastal Waterway
Tax ID	162208-0000 & 162208-0010

Sale Data

Grantor	PCA Antigua, LLC
Grantee	CRP/CDP St. Augustine Owner, LLC
Sale Date	October 12, 2017
Deed Book/Page	4447/1616
Property Rights	Fee Simple
Financing	Cash-to-Seller
Verification	Knowledgeable Third Party; CoStar, Other sources: Public Records

Sale Price	\$4,350,000
Cash Equivalent	\$4,350,000
Adjusted Price	\$4,350,000

Land Data

Zoning	RGO, Residential General Office District
Topography	Some Westland
Utilities	All Available
Shape	Irregular

Land Size Information

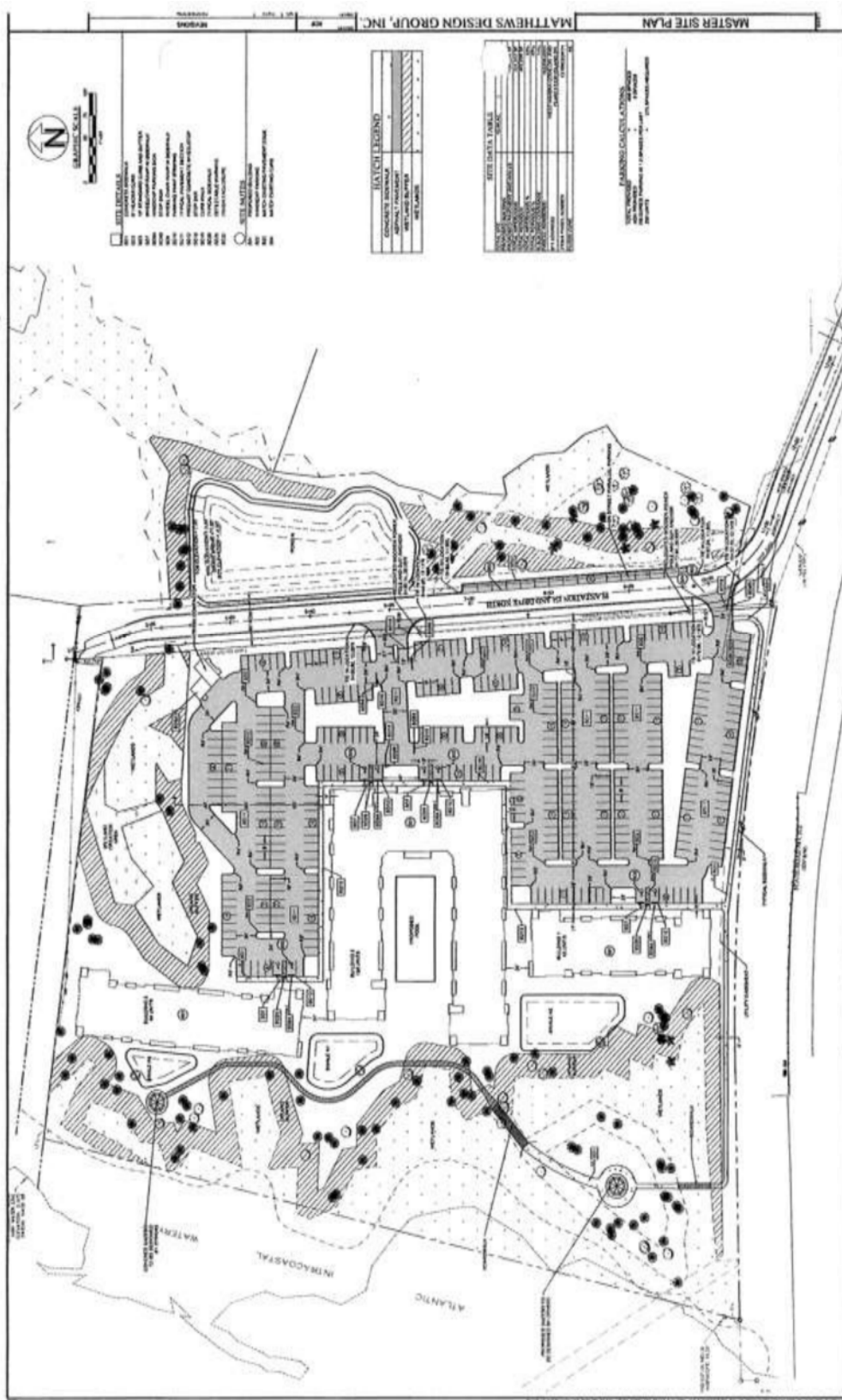
Gross Land Size	16.030 Acres or 698,267 SF
Uplands Land Size	10.910 Acres or 475,240 SF, 68.06%
Planned Units	249

Indicators

Sale Price/Gross Acre	\$271,366
Sale Price/Gross SF	\$6.23
Sale Price/Uplands Acre	\$398,717
Sale Price/Uplands SF	\$9.15
Sale Price/Planned Unit	\$17,470

Remarks

This tract has approximately 925' of frontage on the Intracoastal Waterway. The site has been developed with Isla Antigua, a 249-unit luxury apartment community. The developed density is 22.8 units per highland acre. The site is located in an AE flood zone. There is a city owned buffer area that separates the site from the waterfront and a bulkhead has been constructed along the entire site's waterway frontage.



Land Sale No. 3**Property Identification**

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

Sale Data

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

Sale Price	\$1,900,000
Adjusted Price	\$1,900,000

Land Data

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

Land Size Information

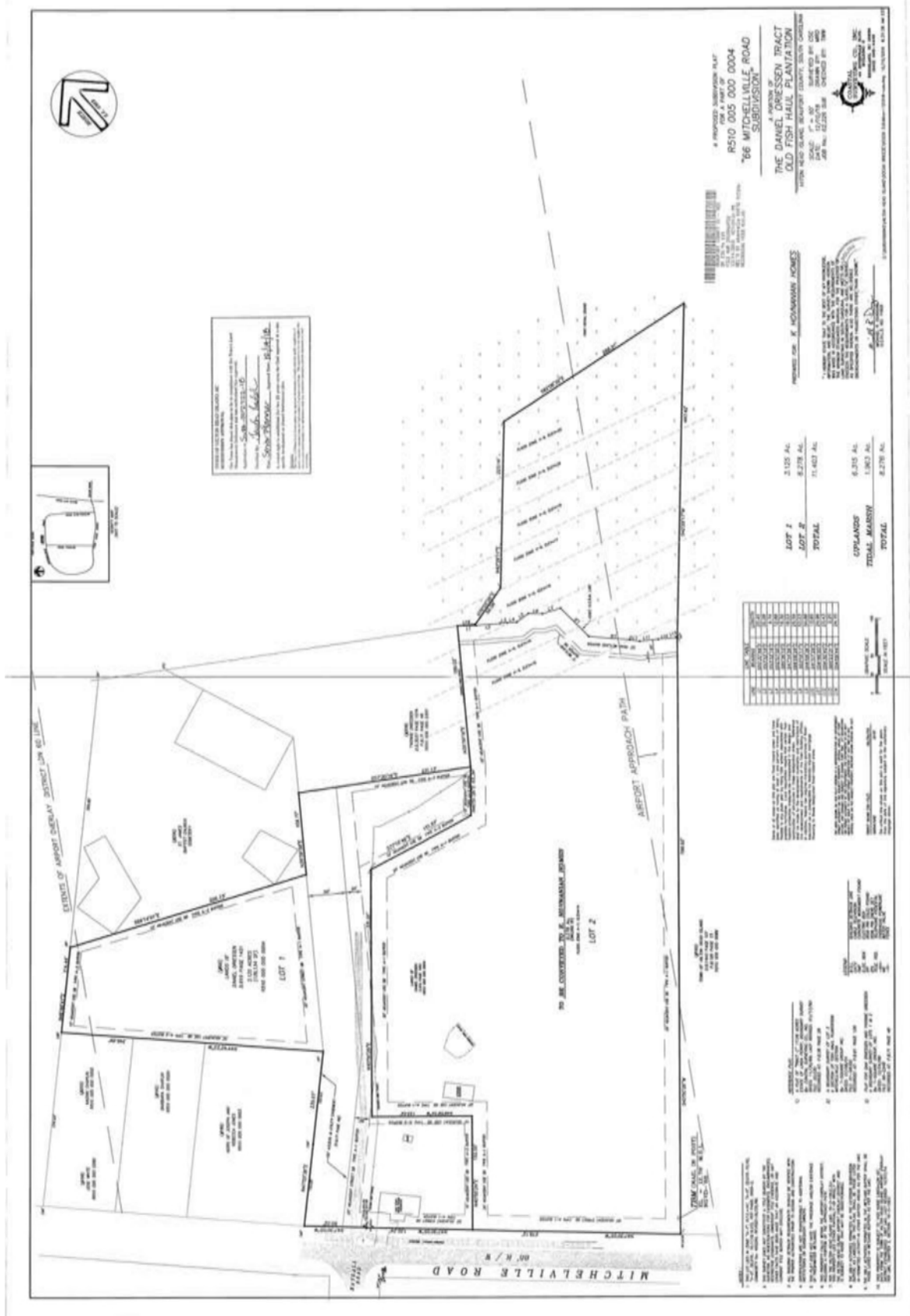
Gross Land Size	8.738 Acres or 380,627 SF
Uplands Land Size	6.775 Acres or 295,119 SF, 77.53% 37

Indicators

Sale Price/Gross Acre	\$217,441
Sale Price/Gross SF	\$4.99
Sale Price/Uplands Acre	\$280,443
Sale Price/Uplands SF	\$6.44
Sale Price/ Unit	\$51,351

Remarks

This tract has approximately 288' of frontage on Port Royal Sound. The site has been improved with a 37-lot subdivision known as Hammock Breeze. The developed density equates to 5.5 units per highland acre. Only two lots in the subdivision have direct sound views. The highland portion of the site is separated from the beachfront by an expanse of marsh that spans several hundred feet, therefore, there is not direct access to the beach from this property. The nearest beach access is through the Fish Haul Beach Park, whose entrance is about 1,000' northeast of the subdivision.





Land Sale No. 4**Property Identification**

Record ID 747
Property Type Vacant Land, SF Residential Lots
Property Name Salters Haven
Address Factory Road, Hampstead, Pender County, North Carolina
Location Intracoastal Waterway
Tax ID 3292-44-0015-0000, 3292-44-5684-0000, 3292-44-5688-0000,
 3292-44-7189-0000, 3292-44-7313-0000, 3292-44-8068-0000,
 and 3292-45-5001-0000
MSA Wilmington

Sale Data

Grantor Bert L. Lea, Jr., Barbara Parker Lea, Dorothy Lea Medlin, Judy
 Lea Lane, &
Grantee WLI Investments, LLC
Closing Date May 08, 2019
Deed Book/Page 4684/1175
Recorded Plat 63/139
Property Rights Fee Simple
Financing Cash-to-Seller
Verification Representative of Grantee; CoStar, Other sources: Public
 Records

Contract Price \$10,500,000
Adjusted Price \$10,500,000

Land Data

Zoning RP, Residential Performance District
Topography Intracoastal Waterway Frontage
Utilities All Available
Shape Irregular

Land Size Information

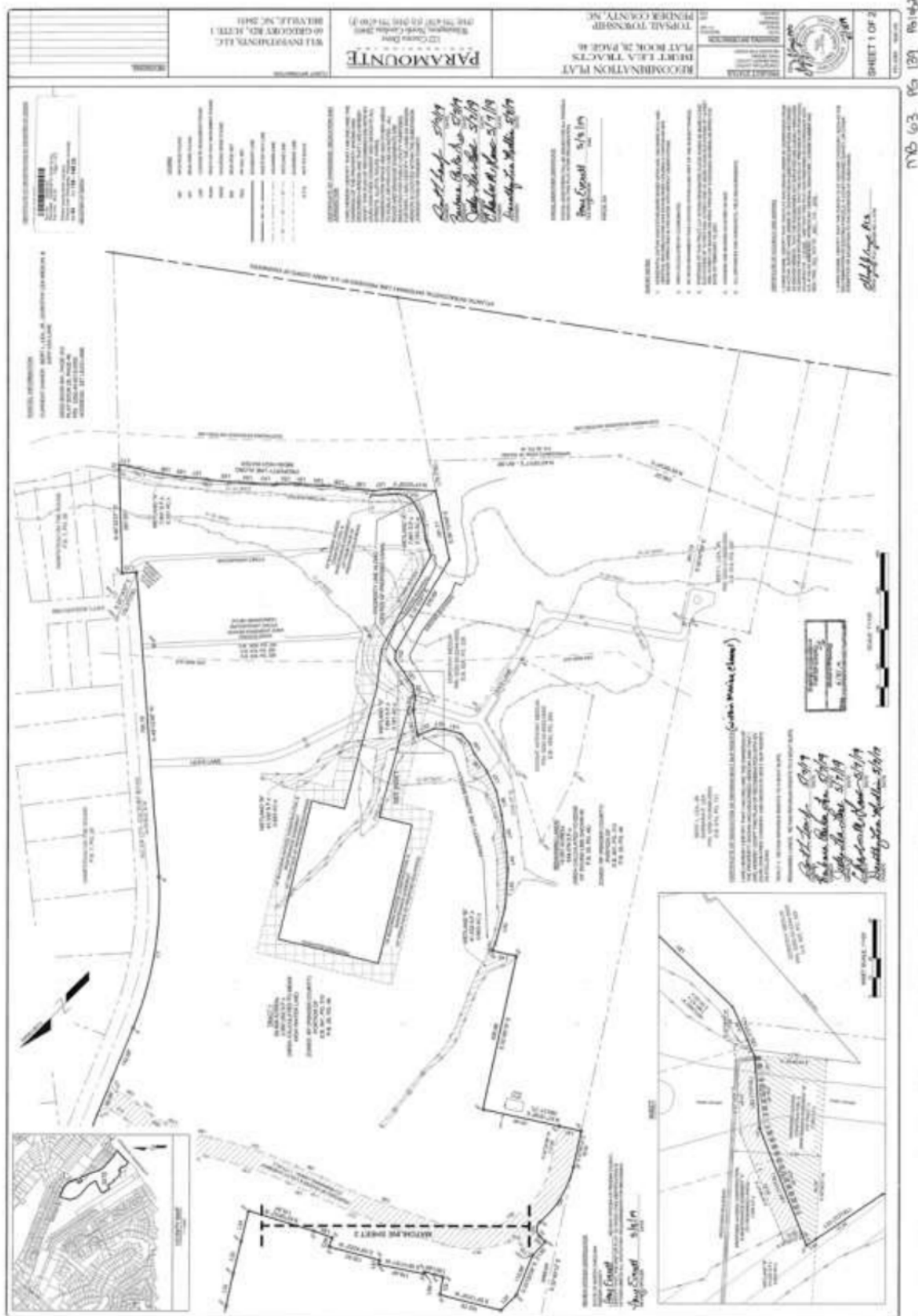
Gross Land Size 68.360 Acres or 2,977,762 SF
Uplands Land Size 66.130 Acres or 2,880,623 SF, 96.74%
Actual Units 120

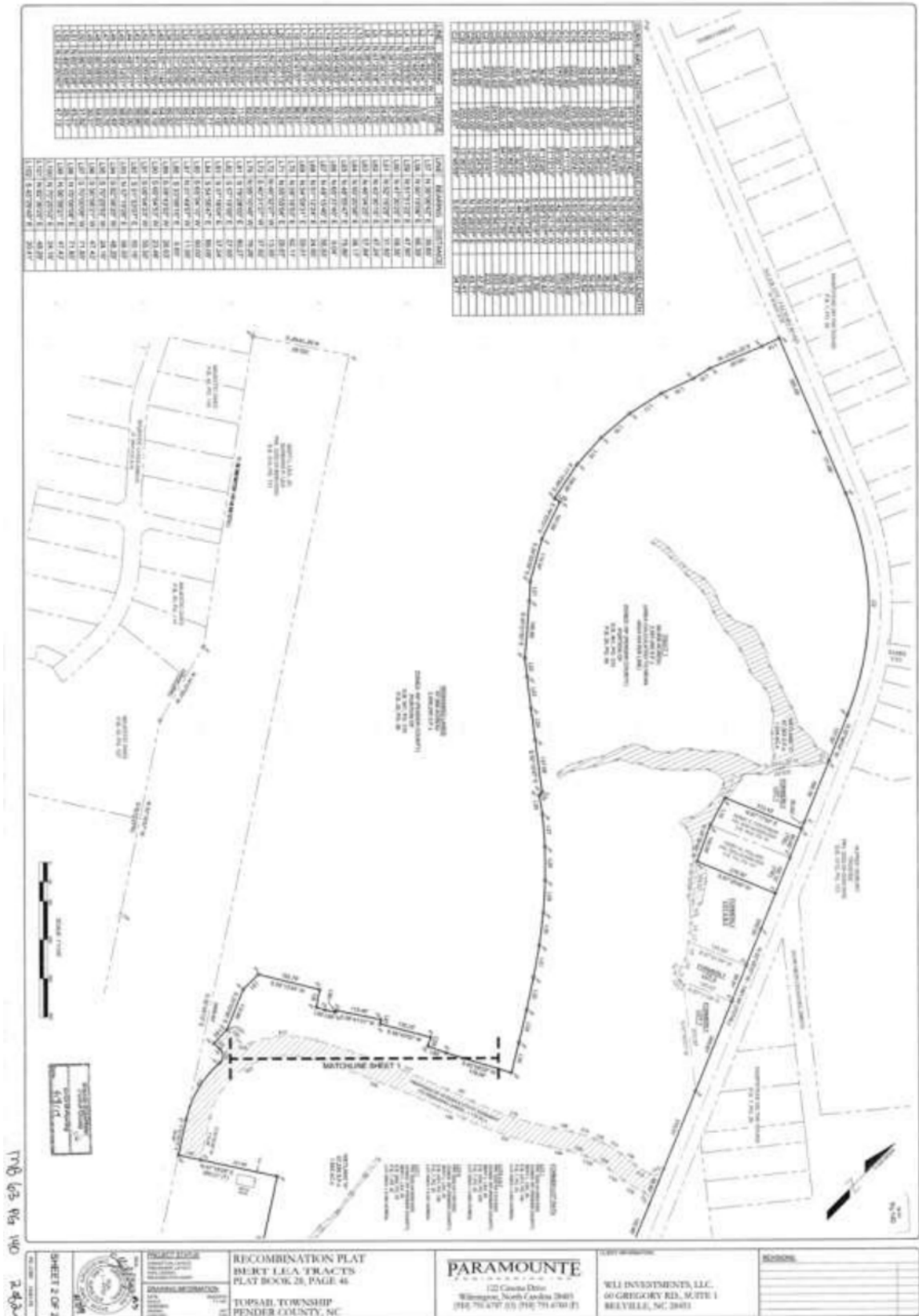
Indicators

Sale Price/Gross Acre \$153,599
Sale Price/Gross SF \$3.53
Sale Price/Uplands Acre \$158,778
Sale Price/Uplands SF \$3.65
Sale Price/Actual Unit \$87,500

Remarks

The property is being developed with a 120-lot subdivision called Salters Haven. The tract has over 823' of frontage on the Intracoastal Waterway. The development will include a 75' slip marina that is being built along a deep-water creek that enters the site. Ten of the planned lots will front on the Intracoastal Waterway and 20 lots will have creek or marina frontage.





Land Sale No. 5**Property Identification**

Record ID	748
Property Type	Vacant Land, Residential Land
Property Name	Roosevelt Cove
Address	1810 Salter Path Road, Indian Beach, Carteret County, North Carolina
Location	Bogue Sound
Tax ID	04-05788 & 04-05821

Sale Data

Grantor	The Young Men's Christian Association of the Triangle Area, Inc.
Grantee	J & B East Properties, LLC
Sale Date	September 16, 2019
Deed Book/Page	1649/155
Recorded Plat	31/350
Property Rights	Fee Simple
Verification	Broker; CoStar, Other sources: Public Records
Sale Price	\$2,155,000
Adjusted Price	\$2,155,000

Land Data

Zoning	PDD, Planned Development District
Topography	Sound Frontage
Utilities	All Available
Shape	Irregular, Functional

Land Size Information

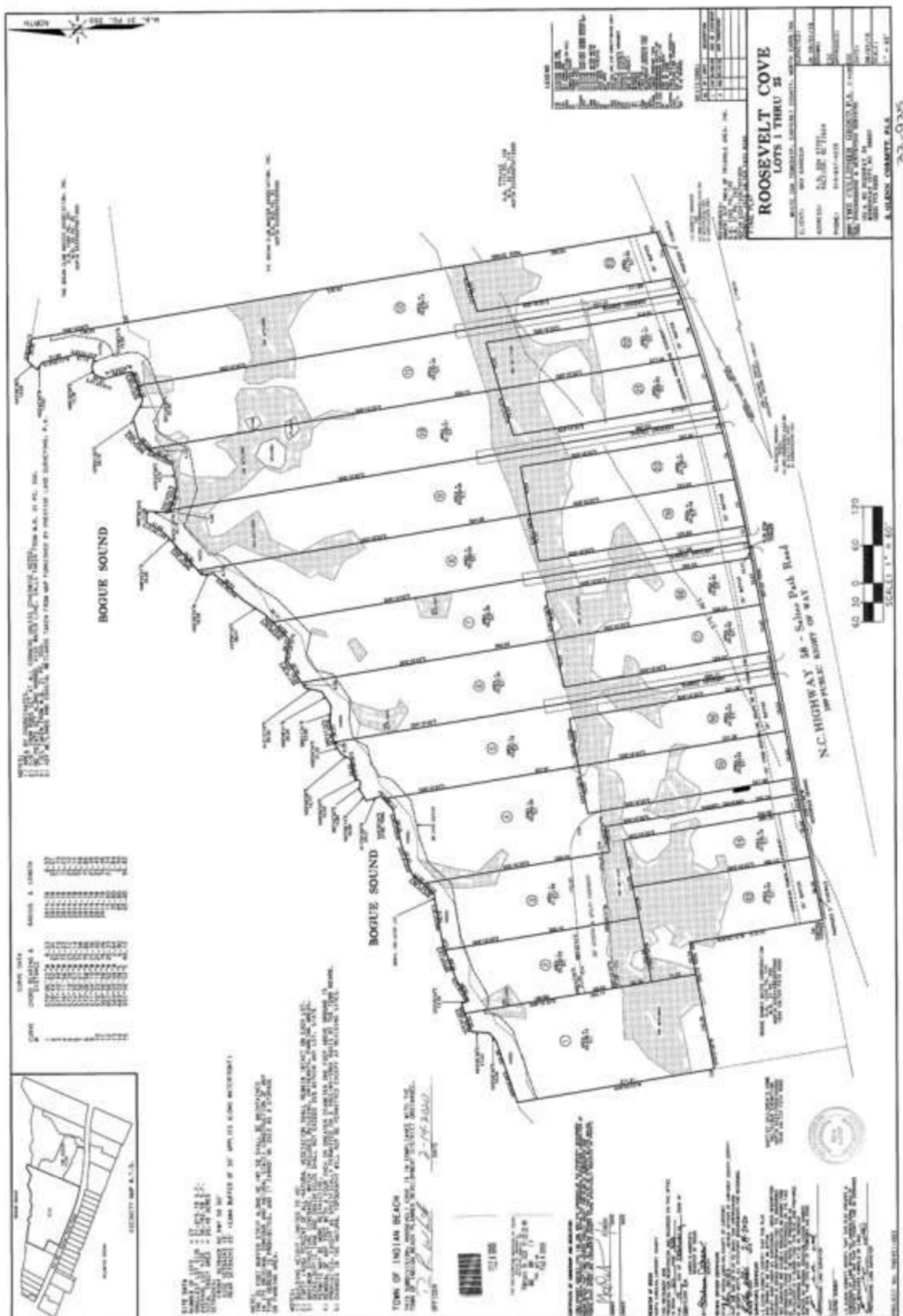
Gross Land Size	20.480 Acres or 892,109 SF
Uplands Land Size	17.050 Acres or 742,698 SF, 83.25% 23

Indicators

Sale Price/Gross Acre	\$105,225
Sale Price/Gross SF	\$2.42
Sale Price/Uplands Acre	\$126,393
Sale Price/Uplands SF	\$2.90
Sale Price/ Unit	\$93,696

Remarks

The site has extensive frontage on Bogue Sound and is located across Salter Path Road from the Atlantic Ocean beachfront. The site had been developed with a 23-lot single-family cluster subdivision. The developed density is 1.3 units per acre.



FINAL CONCLUSION OF VALUE

Value Indication:

Sales Comparison Approach to Value

\$11,090,000

The Sales Comparison Approach to Value is based on the assumption that no prudent purchaser would pay more for a property than the cost to acquire a property of similar utility in the competing market. This approach renders a reliable estimate of value when there are several recent sales of similar properties in the market. We have researched the market and found sales of reasonably comparable properties. The value indication by the Sales Comparison Approach to Value is considered to be reliable.

Based on the appraisers' 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 February 28, 2021, was:

ELEVEN MILLION NINETY THOUSAND DOLLARS

\$11,090,000

MARKETING TIME/EXPOSURE PERIOD

Based on sales included in this report and our files, the marketing time/exposure period for the subject property is estimated to be about 12 to 18 months. It should be noted that marketing time/exposure period is a function of several variables including list price and marketing strategies. This marketing time/exposure period estimate is based on the value reported and competent marketing.

QUALIFICATIONS

Lisa D. Nimmich, MAI
Nimmich & Associates, LLC
P.O. Box 2372
Mount Pleasant, South Carolina 29465

Phone: (843) 881-9447

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
Seminar:	Rates, Ratios & Reasonableness	1993

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

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
Seminar: Curriculum Overview - Residential	2012

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

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
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

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	
Member of Town of Mount Pleasant Commercial Design Review Board	

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

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 |
| -BB&T | -General Services Administration |
| -The Bank of South Carolina | -FDIC |
| -Crestar Bank | -Wal Mart |
| -Southcoast Community Bank | -Fluor Daniel |
| -Community First Bank | -First Citizens Bank |
| -SunTrust Bank | -International Paper Company |
| -Regions Bank | |
| -PNC Bank | |
| -South State Bank | |
| -Fifth Third Bank | |
| -Southern First Bank | |

QUALIFICATIONS

Franklin B. Sewell, MAI
Nimmich & Associates, LLC
P.O. Box 2372
Mount Pleasant, South Carolina 29464

Phone: (843) 284-3090

Education:

B.A. Degree - Psychology	
Major Emphasis: Cognitive/Experimental	
University of North Carolina - Wilmington	
Wilmington, North Carolina	1991

Professional Studies:

Introduction to Real Estate Principles	1994
Real Estate Law	1994
Course R-1 Real Estate Appraisal Principles	1994
Real Estate Finance	1995
Course R-2 Basic Valuation Procedures	1995
Course R-3 Standards of Professional Practice	1995
Course G-1 Capitalization Theory & Techniques - Part A	1995
Course G-2 Capitalization Theory & Techniques - Part B	1996
Course G-3 Case Studies in Real Estate Valuation	1996
Seminar: Internet and the Appraiser	1997
Seminar: Guideline for Residential Building Systems Inspection	1998
Seminar: 4.7 Basic Residential HUD Appraisal Requirements	1999
Course L-3 Uniform Standards of Professional Practice	2001
Seminar: Appraising Condominiums	2002
Course CE-NSU National USPAP Update	2003
Course 410 Uniform Standards of Professional Practice	2004
Course 420 Business Practices and Ethics	2004
Seminar: Rates and Ratios	2004
Broker A & B	2005
Course CE-NSU National USPAP Update	2006
The Valuation of Partial Interests	2006
Course 510 Advanced Income Analysis	2007
Course CE-NSU National USPAP Update	2008
NAR Code of Ethics Training - Commercial Track	2008
Commercial Finance and Investment Analysis	2009
Course 520 Market Analysis and Highest and Best Use	2010
Business Practices and Ethics	2010
Course CE-NSU National USPAP Update	2010
Advanced Concepts and Case Studies	2011

QUALIFICATIONS (Cont.) - Franklin B. Sewell, MAI

Course CE-NSU National USPAP Update	2012
General Appraiser Report Writing & Case Studies	2013
Appraisal of Self-Storage Facilities	2014
Course CE-NSU National USPAP Update	2014
Course CE-1375 Forest Valuation for Non-Foresters	2014
Course DE-1188 Appraisal Math and Statistics	2016
Course DE-1127 Green Building for Appraisers	2016
Course DE-1129 Introduction to Legal Descriptions	2016
Course CE-NSU National USPAP Update	2016
Course DE-1379 Appraisal of Fast Food Facilities	2018
Course DE-1549 Basic Hotel Appraising - Limited Service Hotels	2018
Course DE-1511 Advanced Hotel Appraising - Full Service Hotels	2018
Course CE-NSU National USPAP Update	2018
Course DE-1668 Basic Construction Review	2020
Course DE-1671 Defensible Appraising	2020
Course CE-NSU National USPAP Update	2020

Prior Experience:

Nimmich & Associates, LLC	2002 - Present
Nimmich, Anderson & Associates	1996 - 2002

Certifications:

South Carolina State Certified General Real Estate Appraiser CG-2877	1999
South Carolina Real Estate Commission: Licensed Broker-in-Charge 26030	2005
North Carolina State Certified General Real Estate Appraiser A8089	2016

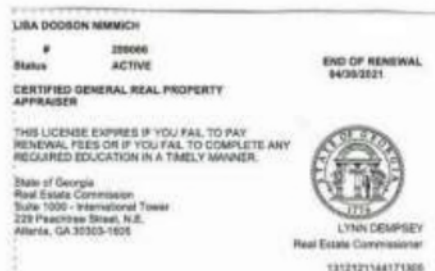
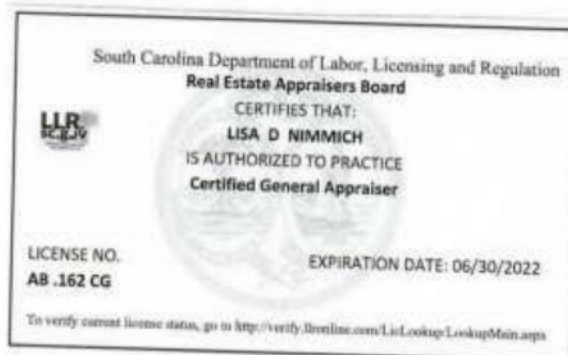
Professional Associations:

Appraisal Institute (MAI)
 Member of Charleston Trident Association of Realtors – Licensed Real Estate Broker

QUALIFICATIONS (Cont.) - Franklin B. Sewell, MAI

Appraisal Experience Includes:

- | | |
|------------------------|-------------------------------|
| -Apartments | -Federal Government Buildings |
| -Acreage | -Mixed-Use Properties |
| -Office Buildings | -Manufacturing |
| -Convenience Stores | -Condominium Development |
| -Banks | -Restaurants |
| -Churches | -LIHTC Properties |
| -Warehouses | -Industrial Properties |
| -Retail Properties | -Single Family Residential |
| -Shopping Centers | -Special Purpose Properties |
| -Municipal Properties | -Automotive Dealerships |
| -Historical Properties | -Condemnation |



ADDENDA

ADDENDUM A

NIMMICH & ASSOCIATES, LLC
REAL ESTATE APPRAISALS

February 16, 2021

Mrs. Keita White
1570 East New York Avenue, #2A
Brooklyn, NY 11212

RE: Appraisal of:
The Mitchellville Tract
R510-005-000-0007-0000 - 26.46 Acres
R510-005-000-0192-0000 - 2.57 Acres
R510-005-000-007A-0000 - 1.05 Acres
Located on Mitchellville Road
Hilton Head Island, South Carolina

Dear Ms. White:

In accordance with your request, I am sending you this letter of engagement for an appraisal of the above referenced property on Mitchellville Road, Hilton Head Island, South Carolina. The delivery date will be no later than March 10, 2021, or three weeks from engagement. Please sign this letter and return it via email. The fee is \$4,200 and a retainer of \$2,100 is requested. The balance of the fee will be due within 15 days of delivery of the appraisal via email.

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

DocuSigned by:

Keita White

ADDENDUM B

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.)

2008 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 04:00:19 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

Page 1 of 5

Certified - A True Copy

[Signature]
Jerri Ann Roseaneau - Clerk of Court
Beaufort County, SC - Melissa Kilby

Book3488/Page1724 CFN#2016028726

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):

Ethel Rivers	50%
Rose Young	12.5%
Sadie M. Harrison	12.5%

Stanley Roberts	12.5%
Mary Roberts	12.5%
TOTAL:	100%

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:

Page 3 of 5

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:

Peter Harrison	20.833%
Georgia Harrison	20.833%
Joyce Ellen Harrison	10.416%
William S. Harrison, III	10.416%
Stanley Roberts	25%
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%

- 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

R510 - 5 - 0007

Page 4 of 5

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

2/16
Bullard
2016

STATE OF SOUTH CAROLINA

RECORDED
2003 Aug -11 02:55 PM
Sharon W. Bunn
BEAUFORT COUNTY AUDITOR

PROBATE COURT

COUNTY OF BEAUFORT

IN THE MATTER OF THE ESTATE OF GENNARO IANNAZZO

CASE NUMBER 2003ES0700238

BEAUFORT COUNTY SC - ROD
BK 01809 PG 2318
FILE NUM 2003069667
07/31/2003 12:17:45 PM
REC'D BY V GARVIN RCPT# 170972
RECORDING FEES 10.00

DEED OF DISTRIBUTION

WHEREAS, the decedent died on **November 19, 2003**; and,

WHEREAS, the estate of the decedent is being administered in the Probate Court for Beaufort County, South Carolina in File #**2003ES0700238**; and,

WHEREAS, the grantee herein is either a beneficiary or heir at law, as appropriate, of the decedent; and,

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary in this matter; and,

NOW, THEREFORE, in accordance with the laws of the State of South Carolina, the Personal Representative has granted, conveyed and released, and by these Presents does grant, convey and release unto:

Name: Anthony J. Iannazzo, his heirs and assigns, forever

Address: 25 Mitchellville Road

Hilton Head, SC 29926

the following described property:

TMS NO. R510-005-000-007A-0000

An One-Half (1/2) undivided interest in that certain, piece or tract of land, situate, lying and being of Hilton Head Island, in Beaufort County, South Carolina, containing 1.05 acres, as shown on plat entitled "Plat of Boundary Survey, prepared for: Gene A. Iannazzo, Parcel 7A, Tax Map 5, Mitchellville Road, Drayton Plantation, Town of Hilton Head Island, Beaufort County, South Carolina," dated July 11, 1988, prepared by Sea Island Engineering, M. A. Dunham, R.L.S. #11590. For a more complete description of said property, reference is made to the referred Plat.

This being the same property conveyed to Gennaro Iannazzo and Antoinette Iannazzo, as joint tenants with rights of survivorship as tenants in common with Anthony Iannazzo and Elizabeth F. Iannazzo, as joint tenants with rights of survivorship, by Deed of Gene A. Iannazzo, dated December 28, 1993 and recorded January 12, 1994 in Deed Book 678 at Page 293 in the Office of the Register of Deeds for Beaufort County, South Carolina. The said Antoinette Iannazzo having died on January 15, 1998 and a copy of her certificate of death having been recorded in the Office of The Register of Deeds in Book 1793 at Page 2184.

This Deed of Distribution being prepared in the Law Offices of Edward E Bullard, PO Drawer 21784, Beaufort County, Hilton Head Island, South Carolina 29925 on the 29 day of July, 2003, by Edward E. Bullard, without the benefit of title examination.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises/Property belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises/Property unto the said **Anthony J. Iannazzo**, his heirs and assigns forever.

FORM #400PC (1/89)
62-3-007, 62-3-008

ADD DMP Record 8/11/2003 10:25:51 AM
BEAUFORT COUNTY TAX MAP REFERENCE
Dist Map SMap Parcel Block Week
R510 005 000 007A 0000 00

Page 1 of

IN WITNESS WHEREOF, the undersigned, as Personal Representative of the estate of the decedent, has executed this Deed, on this 29th day of July, 2003.

SIGNED, SEALED AND DELIVERED

Estate of: Gennaro Iannazzo

IN THE PRESENCE OF

by Signature: [Signature]

John P. Iannazzo, Personal Representative

Witness: [Signature]

Witness: [Signature]

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

PROBATE

PERSONALLY appeared before me Janene Pesce and made oath that he/she saw the within named Personal Representative sign, seal, and as his act and deed, deliver the within written Deed, and that he/she with Carolyn E. Fender witnessed the execution thereof.

SWORN to before me this 29th day of July, 2003

Witness Signature: [Signature]

Sandra L. Hunter
Notary Public for South Carolina

My Commission Expires: June 21, 2009

4/10 PB
 Prepared By:
 Jones, Patterson, Simpson & Newton, P.A.
 11 Arley Way, Suite 202
 Bluffton, SC 29910
 (843)706-6111
 (843)706-2030

BEAUFORT COUNTY SC - ROD
 BK 02867 PGS 2390-2402
 FILE NUM 2008000066
 01/02/2008 10:36:31 AM
 REC'D BY P BAXLEY RCPT# 524773
 RECORDING FEES 10.00
 County Tax 806.00
 State Tax 1,430.00
 Transfer Tax 1,375.00

RECORDED
 2008 Jan -16 02:16 PM

Sharon D. Burie
 BEAUFORT COUNTY AUDITOR

TMP: R510 005 000 0192 0000

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT) TITLE TO REAL ESTATE

KNOW ALL PERSONS BY THESE PRESENTS, THAT FURMAN EZEKIEL JORDAN, JR., Trustee of the Revocable Trust of Furman Ezekiel Jordan, Jr. dated December 15, 2005 AND TERRY WINGO JORDAN, Trustee of the Revocable Trust of Terry Wingo Jordan dated December 15, 2005 ("GRANTORS") in the State aforesaid for and in consideration of the sum of Five Hundred Fifty Thousand and 00/100 DOLLARS (\$550,000.00), to GRANTORS in hand paid at and before the sealing of the presents by CURTIS BLAIR HENNESSEY AND LYNETTE M. HENNESSEY ("GRANTEES") of 12 Widewater, Hilton Head Island, SC 29926 in the State aforesaid, for which the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release, subject to the easements, restrictions, reservations and conditions ("Exceptions") set forth below, unto the said Grantees, as joint tenants with right of survivorship and not as tenants in common, their heirs and assigns, forever, in fee simple, the following described property, to wit:

SEE ATTACHED EXHIBIT "A"

521
 Hennessey 15897.020

CHANGE DMP Record 1/14/2008 12:41:14 PM
 BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R510	005	000	0192	0000	00

THIS CONVEYANCE is made subject to any applicable restrictions, reservations, zoning ordinances or easements that may appear of record in the Office of the Register of Deeds for Beaufort County, South Carolina.

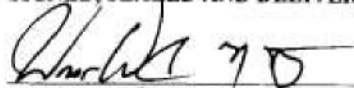
TOGETHER with all and singular, the Rights, Members, Hereditament and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said Grantees, as joint tenants with right of survivorship and not as tenants in common, their heirs and assigns, forever in fee simple.

AND the within Grantors do hereby bind themselves and their Heirs, Assigns, Executors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said Grantees, their Heirs, Assigns, and Administrators, against Grantors, their Heirs and Assigns, and any persons whomsoever may come lawfully claiming, or to claim the same or any part thereof.

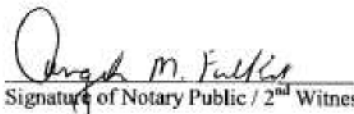
WITNESS our Hands and Seals, this 21st day of December, 2007.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

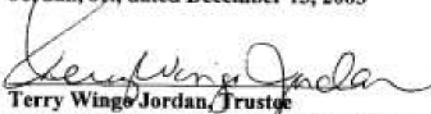


Signature of 1st Witness


Furman Ezekiel Jordan, Jr., Trustee
Of the Revocable Trust of Furman Ezekiel
Jordan, Jr., dated December 15, 2005



Signature of Notary Public / 2nd Witness


Terry Wingo Jordan, Trustee
Of the Revocable Trust of Terry Wingo
Jordan, dated December 15, 2005

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public do certify that **Furman Ezekiel Jordan, Jr., Trustee of the Revocable Trust of Furman Ezekiel Jordan, Jr. dated December 15, 2005 and Terry Wingo Jordan Trustee of the Revocable Trust of Terry Wingo Jordan, dated December 15, 2005**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my official seal this the 21st day of December, 2007.

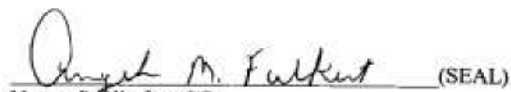
 (SEAL)
Notary Public for: SC
My Commission Expires: 7/29/09

EXHIBIT "A"

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 2.568 acres, more or less, located on Fish Haul Road, and being shown and described as PARCEL "B" on a plat of the BEACH CITY AREA - FISH HAUL prepared by Benjamin Wilson, SC RLS #5424, dated January 17, 1983, and revised September 10, 1984, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 33 at Page 215. For a more detailed description as to courses, location, metes, bounds, etc. reference may be made to the above referred to plat of record.

TOGETHER with a thirty-three (33') foot easement for ingress and egress as set forth in Deed Book 459 at Page 2099 and for maintenance and utilities as set forth in Deed Book 461 at Page 1344; all as shown on the plat recorded in Plat Book 33 at Page 215 in the Office of the Register of Deeds for Beaufort County, South Carolina.

This being the same property conveyed to the within Grantor by Deed of Furman E. Jordan and Terry W. Jordan, recorded October 31, 2006 in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 2467 at Page 370.

May 07 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
HON. MARVIN H.
DUKES MASTER IN
EQUITY

APPELLATE CASE # 2023-000438

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

RESPONDENTS,

vs.

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

APPELLANTS.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all
material proposed to be included by any of the parties and not any other material.

May 6, 2024

The Houston Law Firm LLC
1011 Bay Street, Suite 2A
Beaufort, SC 29902
Phone: 843-684-0211
chouston@houstonlawfirm.net
By: /s/ Charles E. Houston, Jr.
Charles E. Houston, Jr.
SC Bar # 2663 Fed. Bar # 1961
Attorney for Appellants