

STATE OF SOUTH CAROLINA
In the Supreme Court

Appeal from Charleston County
Court of Common Pleas
Thomas J. Rode, Circuit Court Judge

Case No. 2024-CP-10-05670
Appellate Case No. 2025-001337

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S.C. SUPREME COURT

Paul R. Vannatta and Jennifer S. Vannatta,

Appellants,

v.

Town of Sullivan's Island Board of Zoning Appeals,

Respondent.

RECORD ON APPEAL
(Volume 2 pp. 475-720)

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ELECTRONICALLY FILED BY: MARGARET J. HARRIS, CLERK OF SUPERIOR COURT - COMMON PLEAS - CASE NO. 2019-071005670

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Amendment to Zoning Ordinance
Section 21-40. Area RC-2 Restrictions
to Docks.

WHEREAS, the Town of Sullivan's Island wishes to carefully regulate the construction of docks; and

WHEREAS, it has become apparent that it is necessary to amend the existing ordinance; and

WHEREAS, proposed amendments have had adequate study and public hearing,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council Members duly assembled as follows:

Sec. 21-40. Area RC-2 restrictions.

In an RC-2 area there shall be no construction of any type, no destruction of vegetation, except trimming, cutting and pruning of back beach bushes and trees as provided in Section 21-39, non manmade changes of topography and the construction of private docks by owners of lots adjoining this area may be permitted, provided approval of the U.S. Corps of Engineers, the Department of Health and Environmental Control/Office of Ocean and Coastal Resource Management (DHEC/OCRM) and any other governmental or regulatory agency with jurisdiction provided the dock meets the following restrictions and is permitted by the Town of Sullivan's Island:

a) No dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300') feet in total length;

b) No dock shall be permitted to be constructed which extends into the channel or extends so far as to interfere with navigation;

c) The head of the permanent dock/"pier head" structure shall be no greater in size than fifteen (15') feet by fifteen (15') feet. In addition to the permanent pier head of the dock there may be a floating dock no greater than eight (8') feet by twenty (20') feet. An attached structure may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225 sq. ft.) square feet of the "head" or one hundred sixty (160 sq. ft.) square feet of the floating dock and provided it does not exceed three (3') feet in height and does not exceed thirty-two (32 sq. ft.) square feet in floor area;

d) The dock, pier, boat lift, the floating dock, walkway and any appendages thereto allowed under this ordinance shall be constructed within the projected property lines of the owner's lot and shall further adhere to the set-back requirements of the Town's zoning ordinances, more specifically be no closer than ten

(10') feet from either projected property line;

e) The maximum width of the walkway or pier between the highland and the pier head shall be four (4') feet. The walkway may have railing but shall have no walls which impede the flow of air through the walkway;

f) A single roof may be placed either over the dock or the boat lift and shall be limited to the area lying immediately above the pier head or the boat lift with no more than two (2') foot overhang over any portion of the pier head or boat lift; provided, however, in no event shall the overall size of the roof exceed three hundred sixty-one (361) square feet. No roof shall extend above fifteen (15') feet of the mean high water mark and there shall be no rails or decks incorporated into the roofs and no ladders or other means of accessing the roof on a permanent basis are allowed;

g) Electrical lighting shall be allowed along the walkway and at the head of the dock provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as promulgated by the building regulations for the Town of Sullivan's Island;

h) No plumbing shall be allowed except water sinks and faucets. All toilets, port-o-lets or any other means of sewage collection or disposal is strictly prohibited;

i) The walkway, pier head and floating dock shall not be enclosed nor shall there be any walls of any kind on any side of the same. However, safety rails with slats at least two (2") inches apart shall be allowed provided that they do not exceed three (3') feet in height;

j) Boat lifts shall be allowed provided no portion of the boat lift when lifted shall extend higher than fifteen (15') feet above mean high water excluding masts, antennas and outriggers.

k) Boats moored at docks cannot block or unduly impede navigation.

l) The use of the docks shall be limited to private purposes.

m) Living aboard a boat moored at a dock is strictly prohibited.

n) All commercial activities are prohibited unless the land immediately adjoining the RC-2 area is zoned commercial under the town zoning ordinances.

o) All docks and boats moored at a permitted dock shall be maintained to insure safe usage and not be a potential hazard to

navigation.

p) Any part or parts of this Ordinance which shall be held to be unconstitutional shall not effect in any way the validity of the remaining parts of this Ordinance.

q) This Ordinance shall take effect immediately upon its ratification.

RATIFIED this 20th day of February, 1996.

TOWN COUNCIL OF SULLIVAN'S ISLAND

By: J Marshall Stith
J Marshall Stith, Mayor

ATTEST:

Carmen R. Linger

FIRST READING: 6/21/95
SECOND READING: 12/19/95
THIRD READING: 1/16/96

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 21-40, PARAGRAPHS (a), (c), (d), (e)
AND (g) OF CHAPTER 21, ZONING CODE OF THE TOWN OF SULLIVAN'S
ISLAND CODE OF ORDINANCES PERTAINING TO DOCK REGULATIONS

WHEREAS, the Town of Sullivan's Island Planning Commission held public hearings on October 8, 2003 and December 10, 2003 to consider the amendments herein to the Town of Sullivan's Island Code of Ordinances; and

WHEREAS, the Sullivan's Island Town Council is empowered with the authority to make amendments to the Zoning Code of the Town of Sullivan's Island Code of Ordinances and believes it is in the best interest to now so act with respect to the matter described herein.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Sullivan's Island, in Council assembled, that Sections 21-40, paragraphs (a), (c), (d), (e) and (g) of Chapter 21 Zoning Code of the Town of Sullivan's Island Code of Ordinances shall be and are hereby repealed in their entirety and replaced with the following language to read specifically as follows:

CHAPTER 21: ZONING

Section 21-40. Area RC-2 restrictions.

a) No dock shall be permitted to be constructed across marshland in the RC-2 District from the centerline extension of Station 18 to the centerline extension of Station 27. In all other areas of the RC-2 district, no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred feet (300') in total length; provided, however, if the dock extends to a creek two hundred feet (200') or more in width measured from marsh grass to marsh grass (or land if there is no marsh grass on one or both sides of the creek), the length of the dock may extend up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide (marsh grass to marsh grass) to reach the two hundred feet (200') creek.

c) Pier head, floating dock and boatlift

- 1) The head of the permanent dock/"pier head" structure shall be no greater in size than two hundred twenty five (225 s.f.) square feet.
- 2) In addition to the permanent pier head of the dock there may be one floating dock no greater than eight (8') feet by twenty (20') feet. An attached structure for storage ("**dock box**") may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225 sq. ft.) square feet of the "head" or one hundred sixty (160 sq. ft.) square feet of the floating dock and provided it does not exceed three (3') feet in height and does not exceed thirty-two (32 sq. ft.) square feet in floor area.
- 3) In addition to the permanent pier head of the dock there may be one boat lift, not to exceed four vertical support pilings with a maximum lift capacity of 13,000 pounds.
- 4) The boat lift and primary access ramp or ladder to the floating dock shall only be accessed directly from the pier head; no additional walkways or catwalks shall be allowed to provide access to the boat lift or floating dock, nor shall access to these components be allowed from the walkway leading to the pier head.

d) No docks or pier heads or other associated structures should be allowed to be built closer than ten (10') feet from extended property lines with the exception of common docks shared by two adjoining property owners. Provided, however, a dock may be constructed over extended property lines in areas where angled docks currently exist and cross over extended property lines and provided the angled placement would result in the dock being shorter than if built within the extended property set back lines and meets the criteria of Section 21-40a.

e) The maximum width of the walkway or pier between the highland and the pier head shall be four (4') feet. The walkway may have a railing but shall have no walls which impede the flow of air through the walkway. **Only one walkway access to the pier head shall be allowed with no deviations or extensions providing access to other dock components.**

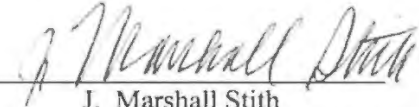
g) Electrical lighting shall be allowed **only at the head of the dock and not along the walkway**, provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as

promulgated by the building regulations for the Town of Sullivan's Island.

(The other paragraphs of Section 21-40 remain unchanged)

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING.

SIGNED, SEALED AND DELIVERED THIS 20th DAY OF APRIL, 2004.


J. Marshall Stith
Mayor, Town Sullivan's Island

Attest:


Clerk of Council

Introduced: January 20, 2004
Second Reading: February 17, 2004
Final Reading: March 16, 2004

Sec. 21-75. Construction of private docks in RC-2 Area District.

A. In the RC-2 Area District the construction of private docks by owners of lots adjoining this area may be permitted, provided approval of the Town of Sullivan's Island, U.S. Corps of Engineers, the Department of Health and Environmental Control/Office of Ocean and Coastal Resource Management (DHEC/OCRM) and any other governmental or regulatory agency with jurisdiction.

B. The following restrictions govern the construction of docks in the RC-2 Area District:

(1) No dock shall be permitted to be constructed which extends into the channel or extends so far as to interfere with navigation;

(2) No dock shall be permitted to be constructed across marshland in the RC-2 Area District from the centerline extension of Station 18 to the centerline extension of Station 27 and no dock shall be permitted to be constructed in the marsh lands of the RC-2 Area District in the area located between the intersection of the eastern point of the Sullivan's Island Fire Rescue Squad Boat Landing lot located at the end of Point Street, TMS#523-06-00-070, and the Osceola Avenue right-of-way and the intersections of the western point of the lot located at 1010 Osceola Avenue, TMS#523-06-00-003, and the Osceola Street right-of-way. In all other areas of the RC-2 Area District, no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300) feet in total length; (4-18-06)

(a) Exception: a dock may extend up eight hundred (800) feet to reach a creek that is two hundred (200) feet or more in width (width of creek measured from land or marsh grass to land or marsh grass); however, said dock shall not be permitted to cross a creek that is greater than eight (8) feet in width to reach the two hundred (200) foot width creek.

(3) Pier head, floating dock and boatlift.

(a) The head of the permanent dock/"pier head" structure shall be no greater in size than two hundred twenty-five (225) square feet and may include a bench not exceeding more than thirty (30) linear feet and twenty-four (24) inches in width. (4-18-06)

(b) In addition to the permanent pier head of the dock, there may be a floating dock no greater than eight (8) feet by twenty (20) feet or one hundred sixty (160) square feet. An attached structure for storage ("dock box") may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225) square feet of the "head" or one hundred sixty (160) square feet of the floating dock and provided it does not exceed three (3) feet in height and does not exceed thirty-two (32) square feet in floor area;

(c) In addition to the permanent pier head of the dock there may be one boatlift, not to exceed four (4) vertical support pilings with a maximum lift capacity of thirteen thousand (13,000) pounds or one floating boat storage device with the capacity not exceeding that of the permitted boat lift. (4-18-06)

(d) The boat lift and primary access ramp or ladder to the floating dock shall only be accessed directly from the pier head; no additional walkways or catwalks shall be allowed to provide access to the boat lift or floating dock, nor shall access to these components be allowed from the walkway leading to the pier head.

(4) No docks or pier heads or other associated structures shall be permitted closer than ten (10) feet from Extended Lot Lines with the exception of common docks shared by two adjoining property owners.

(a) Exception. A dock shall be permitted to cross over Extended Lot Lines in areas where angled docks currently exist and where these docks cross over Extended Lot Lines, provided the angled placement would result in the dock being shorter than if built within the Extended Lot Line Setbacks and meets the criteria of Sec. 21-76 B(2) above.

(5) The maximum width of the walkway or pier between the highland and the pier head shall be four (4) feet. The walkway may have a railing but shall have no walls that impede the flow of air through the walkway. Only one walkway access to the pier head shall be allowed with no deviations or extensions providing access to other dock components.

(6) A single roof may be placed either over the dock or the boat lift and shall be limited to the area lying immediately above the pier head or the boat lift with no more than two (2) foot overhang over any portion of the pier head or boat lift. In no event shall the overall size of the roof exceed three hundred sixty-one (361) square feet. No roof shall extend above fifteen (15) feet of the mean high water mark and there shall be no rails or decks incorporated into the roofs and no ladders or other means of accessing the roof on a permanent basis shall be allowed;

(7) Electrical lighting shall be allowed only at the head of the dock and not along the walkway provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as promulgated by the building regulations for the Town of Sullivan's Island;

(8) No plumbing shall be allowed except water sinks and faucets; all toilets, portable toilets or any other means of sewage collection or disposal are strictly prohibited;

(9) The walkway, pier head and floating dock shall not be enclosed nor shall there be any walls of any kind on any side of the same. However, safety rails with slats at least two (2) inches apart shall be allowed provided that they do not exceed three (3) feet in height;

(10) No watercraft or other device may be situated upon a boatlift as provided herein, in such a fashion whereby any portion of the watercraft or other device, except masts, antennas and outriggers extends higher than the fifteen feet (15)

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above the high water mark; (08-15-06)

- (11) Boats moored at docks cannot block or unduly impede navigation;
- (12) The use of the docks shall be limited to private purposes;
- (13) Living aboard a boat moored at a dock is strictly prohibited;
- (14) All commercial activities are prohibited; and,
- (15) All docks and boats moored at a permitted dock shall be maintained to insure safe usage and not be a potential hazard to navigation.
- (16) Only such dock components specifically enumerated above shall be allowed. (4-18-06)

C. The following dock components are permitted. (4-18-06)

- 1. Pier Head
- 2. Floating dock
- 3. Boat lift

Sec. 21-179. Variance.

A. The Board of Zoning Appeals may grant a variance from the terms of this Zoning Ordinance when strict application of the provisions of the Zoning Ordinance would result in unnecessary hardship.

B. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

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

C. The Board of Zoning Appeals may not grant a variance, the effect of which would be to:

- (1) Allow the establishment of a use not otherwise permitted in a zoning district,
- (2) Extend physically a nonconforming use of land; or,
- (3) Change the zoning district boundaries shown on the official zoning map.

D. The fact that property may be utilized more profitably, if a variance were granted, shall not be grounds for granting a variance.

E. Granting of use variance. The Board of Zoning Appeals shall not grant variances for the use of land building or structure that are prohibited in specific districts.

Planning Commission
Wednesday December 10, 2003

Members Present: Scott Parker, Blaine Ewing, Alice O'Dell, Billy Craver and Bobby Thompson

Members Absent: Hal Currey (excused) and Nona Hastie (excused)

Also Present: Kent Prause, Zoning Administrator

Motion was made by Blaine Ewing and seconded by Billy Craver to approve the minutes from the October 2003 meeting. Carried unanimously.

Motion was made by Bobby Thompson seconded by Blaine Ewing to postpone approval of minutes from November to include comments made by Bobby Thompson on compromise. Carried unanimously.

A number of correspondents were sent to the commission and to the Town regarding the dock issues. These correspondents will be brought into the public hearing.

Bobby Thompson spoke regarding the number of possible docks in various situations. Bobby Cummings, Blaine Ewing and Bobby Thompson went out into various waterways to come up with these numbers.

- Out of 130 properties 63 properties have existing docks.
- Under the current ordinance there could be 5 possible new docks.
- There would be 29 additional docks allowed if code was adopted to conform to the 1000-foot length plus 12 more if allowed to cross town platted lots.
- 3 possible new docks if allowed to build an 800 foot dock to a 200 foot creek straight out

Public Comments

Michael Mithoeffer, 1650 Poe Avenue, sent a survey out to residents regarding docks and presented the findings of that survey: 264 residents responded, 74.6% or 197 people want to leave dock ordinance as is, 14.4% or 48 people would like to see a compromise to correct perceived inequities and preserve pristine areas and 11% or 29 people would like to change to OCRM's regulations of 1000 feet.

Susan Romain, 7 Conquest. Spoke against dock owners being allowed to build catwalks on their existing piers. Would like to see the ordinance changed to prevent mini-marinas

Mike Cole, 4 Conquest, missed the first couple of meetings regarding this issue and spoke against longer docks, asking for explanation of reasons for longer docks.

Ed Crawford, 1013 Middle Street, against changing the dock ordinance, but would like to width variances given for the handicapped.

Tom Carr, 2109 Pettigrew Street, against change in the ordinance. Would like to see the good of all come out of this ordinance.

Joan Pittman, 2313 I'on Avenue, against change for the common good.

Carlin Timmons, 1413 Middle Street, spoke against the change for the common good of the community.

John Lancto, 2602 Myrtle Avenue, spoke for relaxed dock restrictions.

Linda Ward, 2820 Jasper Blvd., spoke for the change.

Wallace Barr, 2068 I'on Avenue, consideration should be given to properties where docks are already in place. For a compromise.

Marteen Zonjee, 2430 Myrtle Avenue, he is an open water rower and says he rarely sees boats utilizing our waterways. Against a change.

Ray Ward, 2820 Jasper Blvd. Spoke for the change, would like to have a dock 600 feet long.

Cindy Ewing, 2514 I'on Avenue, speaking for neighbor Bonnie Williams. She supplied the Planning Commission with a study done on dock owners for OCRM by the College of Charleston. Against change.

Ned Hettinger, 2924 I'on Avenue, spoke against private individuals using public land for their own use.

Everett Presson, 1814 Middle Street, would like to see a compromise to correct the inequities.

Charlie Anderegg, 405 Station 12 Street, for the change in the ordinance.

Mark Tanenbaum, 406 Station 12 Street, would like commission to think only about the facts. Compromise number 1-Allow 800-foot dock to a 200-foot creek. Compromise number 2-From upper Cove Creek to Lofton Creek adopt OCRM regulations with our own restrictions on amenities on the docks.

Larry Middaugh, 2420 Raven Drive, spoke against the proposed change stating that a great number of dock owners are against polluting the marsh with docks.

Liz Nimmich, 1816 Back Street, does not want to see docks ruin the vista and the environment.

Susan Middaugh, 2420 Raven Drive, submitted a letter with pictures of the view from the causeway as it is now. Against change.

Herbert McMurphy, 1820 Lion Avenue, spoke against the relaxation of dock restrictions, citing lack of confidence in OCRM's judgement and urging council to opt for a local compromise.

Mike Cole, 4 Conquest Ave., was on the Board of Zoning Appeals. The more you allow the more people would want. Against seeing the ordinance change, but feels the compromise of allowing an 800 foot creek to go to a 200 foot creek would allow some of the inequities allowed to be fixed.

Ed Crawford

Billy O'Dell, 1722 Middle Street, spoke against relaxation of dock restrictions.

TOTAL SPEAKERS:	Against change	15
	For Change	6

Letters Received

John Lancto-2206 Myrtle Avenue, wrote for longer dock lengths to allow him eventually too move to a marsh front lot.

Rob Black-2814 Jasper Blvd., wrote asking for longer length allowances in the "Felger: area along Lofton Creek.

Susan and Larry Middaugh-2420 Raven Drive wrote against relaxes restriction, arguing specifically that crab docks could not be controlled by Town or OCRM so as to effectively minimize impacts.

Ed Fava, Jr., 2424 Middle Street wrote against any changes in dock restrictions

TOTAL LETTERS:	Against change	2
	For Change	2

At this time the public hearing was closed to public comment.

Planning Commission Discussion

Blaine Ewing would like to see the compromise to allow docks to extend to a 200 foot creek with a dock up to 800 feet in length as long as the dock does not cross over a creek 10 feet or greater in width to get to deep water. Since marsh is town owned property would like to see the property put into an open land trust and put restrictions on the land.

Alice O'Dell would like to see the ordinance stay as is. Has sympathy for property owners with docks on either side and they cannot get a dock. Interested in compromise, but would like to see the 300-foot law as it is.

Billy Craver agrees with everyone who spoke his or her opinion. However his personal judgment is that a dock should go to deep water not a ditch. His personal feeling is that a ditch is less than 100-feet wide. Docks that go to deep water where there are already multiple docks do not offend him. Feels it is not offensive to allow the approximate 3 people to get their docks.

Bobby Thompson-their job on planning commission is to stand up for the good of the whole Island. He agrees with Billy Craver and Blaine Ewing, but would first like to see Town Council move to protect town owned land from any docks. Either through zoning or land trust Council should move to protect that land from docks. Agrees that there would not be an impact on the environment if we allow docks to be built where they already exist and that the water volume is great in large creeks.

Scott Parker believes that the current ordinance on docks has served the Island well and that the ordinance should not be changed.

Motion was made by Blaine Ewing, seconded by Billy Craver to pass a resolution of paragraph a of section 21-40 area RC-2 restrictions be deleted in its entirety and be replace by the following no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300') feet in total length; provided, however, if the dock extends to a creek two hundred feet (200') or more wide measured from marsh grass to marsh grass (or land if there is no marsh grass on one or both sides of the creek), the length of the dock may be extend up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide grass to grass to reach the two hundred foot (200') creek;

Discussion-Bobby would like to discuss the commission's position on town owned property. Blaine Ewing planned on that to be his second motion to ask town council to put land into a land trust so that it could never be spoiled. Bobby Thompson would like to add that to Blaine Ewing's motion. Billy Craver feels the two are totally different issues and does not want to see the land trust issue added to the motion. Motion was not amended to add Bobby Thompson's language regarding land trust.

Vote was 2 to 2 with Bobby Thompson not voting. Billy Craver and Blaine Ewing voting for the motion and Alice O'Dell and Scott Parker voting against. Motion did not carry.

Motion made by Blaine Ewing and seconded by Bobby Thompson for Town Council to explore preserving town owned marsh land to be free of docs in perpetuity in either an open land trust or by zoning or other regulatory vehicles.

Vote was 4 to 1 with Billy Craver casting the opposing vote.

Motion was made by Billy Craver, seconded by Bobby Thompson to pass a resolution of paragraph a) of section 21-40 area RC-2 restrictions be deleted in its entirety and be replaced by the following no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300') feet in total length; provided, however, if the dock extends to a creek two hundred feet (200') or more wide measured from marsh grass to marsh grass (or land if there is no marsh grass on one or both sides of the creek), the length of the dock may be extended up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide grass to grass to reach the two hundred foot (200') creek;

Except as set forth herein, of Sec. 21-40 Area RC-2 restrictions remain unaltered.

Motion carried 3 to 2 with Alice O'Dell and Scott Parker casting the opposing vote.

Motion was made by Billy Craver seconded by Blaine Ewing that Section 21-40 Area RC-2 restrictions paragraph c) be amended to add between the words structure and shall in the first line, add (including any extension of docks or walkways).

Motion carried unanimously.

Meeting was adjourned.



ELECTRONICALLY FILED - 10/25/2023 10:00 AM - CHASE, JESSICA - COMMON PLEAS - CO. SE#2023 CP 1005670

TOSI - VANNATTA 0466



TOSI - VANNATTA 0467



March 9, 2023

Paul Vannatta
1802 Back Street
Sullivans Island, SC 29482

Re: OCRM04292

Dear Mr. Vannatta:

**SEE SPECIAL
CONDITION(S)**

The Office of Ocean and Coastal Resource Management (the Department) has reviewed your application to construct a dock at 1802 Back Street, Sullivans Island, Charleston County, South Carolina and has issued a permit for this work. You should carefully read the description of the authorized project and special conditions that have been placed on the permit, as these conditions may modify the permitted activity. In addition, there are a series of general conditions that should be reviewed. The original and one photocopy of the permit, as issued, are enclosed. After carefully reading the permit, if you wish to accept the permit as issued, sign and date in the signature block entitled "PERMITTEE" on the original version of the permit and **return it to this Department. Keep the photocopy for your records.**

PLEASE READ CAREFULLY: You are required to sign and return the original version of your permit to this Department. If this permit is not signed and returned within thirty (30) days of issuance, OR appealed within 15 days as described on the enclosed "Guide to Board Review", the Department reserves the right to cancel this permit. Please carefully review the enclosed "Guide to Board Review" for information and deadlines for appealing this permit.

We have also enclosed a "request for a construction placard" card. You must send in this card before the time you wish to start construction. At that time a construction placard will be sent to you to post at the construction site.

PLEASE NOTE: You are not authorized to commence work under the permit until we have received the original version of the entire permit signed and accepted by you, and a construction placard has been issued and posted at the construction site. The receipt of this permit does not relieve you of the responsibility of acquiring any other federal, state, or local permits that may be required. Please return the signed permit to the following address:

Office of Ocean and Coastal Resource Management
1362 McMillan Ave, Suite 400
Charleston, SC 29405

Sincerely,

McKenzie O'Connor
Project Manager
Critical Area Permitting Section

cc: Mr. Blair Williams, Critical Area Permitting Section Manager
American Dock & Marine, Authorized Agent
Lenhardt Law Firm, LLC., Attorney

S.C. Department of Health and Environmental Control

2600 Bull Street, Columbia, SC 29207 (803) 898 3432 www.scdhec.gov

TOSI - VANNATTA 0468

ELECTRONICALLY FILED - 2025 Mar 07 11:14 AM - CHARLESTON - COMMON PLEAS - CASE#2024CP1005670

South Carolina Board of Health and Environmental Control

Guide to Board Review

Pursuant to S.C. Code Ann. § 44-1-60

The decision of the South Carolina Department of Health and Environmental Control (Department) becomes the final agency decision fifteen (15) calendar days after notice of the decision has been mailed to the applicant, permittee, licensee and affected persons who have requested in writing to be notified, unless a written request for final review accompanied by a filing fee in the amount of \$100 is filed with the Department by the applicant, permittee, licensee or affected person.

Applicants, permittees, licensees, and affected parties are encouraged to engage in mediation or settlement discussions during the final review process.

If the Board declines in writing to schedule a final review conference, the Department's decision becomes the final agency decision and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court within thirty (30) calendar days after notice is mailed that the Board declined to hold a final review conference. In matters pertaining to decisions under the South Carolina Mining Act, appeals should be made to the South Carolina Mining Council.

I. Filing of Request for Final Review

1. A written Request for Final Review (RFR) and the required filing fee of one hundred dollars (\$100) must be received by Clerk of the Board within fifteen (15) calendar days after notice of the staff decision has been mailed to the applicant, permittee, licensee, or affected persons. If the 15th day occurs on a weekend or State holiday, the RFR must be received by the Clerk on the next working day.
2. RFRs should be filed on-line (scdhec.gov/FileRFR) or in person or by mail at the following address:
 South Carolina Board of Health and Environmental Control
 Attention: Clerk of the Board
 2600 Bull Street
 Columbia, South Carolina 29201
 Alternatively, RFRs may be filed with the Clerk by electronic mail (boardclerk@dhec.sc.gov).
3. RFRs shall be in writing and should include, at a minimum, the following information:
 - The grounds for amending, modifying, or rescinding the staff decision;
 - a statement of any significant issues or factors the Board should consider in deciding how to handle the matter;
 - the relief requested;
 - a copy of the decision for which review is requested; and
 - the name of the Requestor and the Requestor's mailing address, email address, if applicable, and phone number(s) at which the Requestor can be contacted. If the Requestor consists of a group of individuals, a representative of the group should be identified to receive all notices and communications related to the RFR for the group.

All information submitted is subject to release under the Freedom of Information Act. If the RFR and accompanying documentation contain information the Requestor believes should not be released, such information should be identified.

4. The filing fee may be paid by cash, check or credit card and must be received by the 15th day. Credit card payments may be made by phone (803-898-3460, option 2) or on-line at scdhec.gov/FileRFR.
5. If there is any perceived discrepancy in compliance with this RFR filing procedure or any other procedural question, the Clerk should consult with the Chairman or, if the Chairman is unavailable, the Vice-Chairman. The Chairman or the Vice-Chairman will determine whether the RFR is timely and properly filed and direct the Clerk to (1) process the RFR for consideration by the Board or (2) return the RFR and filing fee to the requestor with a cover letter explaining why the RFR was not timely or properly filed. Processing an RFR for consideration by the Board shall not be interpreted as a waiver of any claim or defense by the agency in subsequent proceedings concerning the RFR.
6. If the RFR will be processed for Board consideration, the Clerk will send an Acknowledgement of RFR to the Requestor and the applicant, permittee, or licensee, if other than the Requestor.
7. If an RFR pertains to an emergency order, the Clerk will, upon receipt, immediately provide a copy of the RFR to all Board members. The Chairman, or in his or her absence, the Vice-Chairman shall, based on the circumstances, decide whether to refer the RFR to the RFR Committee for expedited review or to decline in writing to schedule a Final Review Conference. If the Chairman or Vice-Chairman determines review by the RFR Committee is appropriate, the Clerk will forward a copy of

the RFR to Department staff and Office of General Counsel. A Department response and RFR Committee review will be provided on an expedited schedule defined by the Chairman or Vice-Chairman.

8. Following any necessary redaction, the Clerk will email the RFR to staff and Office of General Counsel and request a Department Response within ten (10) working days. If the Requestor is not the applicant, permittee, or licensee, the Clerk will email the RFR to the applicant, permittee, or licensee and give them the option of providing a response within ten (10) working days. Upon receipt of the Department Response and, if timely received, the applicant, permittee, or licensee response, the Clerk will forward the RFR and response(s) to all Board members for review, and all Board members will confirm receipt of the RFR package to the Clerk by email. The responses will also be provided by the Clerk to the Requestor and the applicant, permittee, or licensee if not the Requestor, when provided to the Board; however, questions by RFR Committee members notwithstanding, no subsequent submittals by the parties will be provided to the Board until and if a Conference is scheduled. If a Board member does not confirm receipt of the RFR within a twenty-four (24) hour period, the Clerk will attempt to contact the Board member and confirm receipt. If a Board member believes the RFR should be considered by the RFR Committee, he or she will respond to the Clerk's email within seventy-two (72) hours and will request further review. If no Board member requests further review of the RFR within the seventy-two (72) hour period, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Final Review Conference. Contested case guidance will be included within the letter.

NOTE: If the time periods described in this provision end on a weekend or State holiday, the time is automatically extended to the next business day.

9. If the RFR is to be considered by the RFR Committee, the Clerk will notify the Board that further review is requested. The Board member(s) requesting further review will appear at the RFR Committee meeting to discuss the matter with the RFR Committee unless excused by the presiding member. If time allows, an RFR Committee member may submit questions to the parties via the Clerk to be answered in writing prior to the RFR Committee meeting. RFR Committee meetings are open to the public and will be public noticed at least twenty-four (24) hours in advance.
10. Following RFR Committee or Board consideration of the RFR, if it is determined no Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, stating the Board will not hold a Conference. Contested case guidance will be included within the letter.

II. Final Review Conference Scheduling

1. If a Conference will be held, the Clerk will send a letter by certified mail to the Requestor, with copy by regular mail to the applicant, permittee, or licensee, if not the Requestor, informing the Requestor of the determination.
2. The Clerk will send Notice of Final Review Conference to the parties at least ten (10) days before the Conference. The Conference will be publicly noticed and the Notice should:
 - include the place, date and time of the Conference;
 - state the presentation times allowed in the Conference;
 - state evidence may be presented at the Conference;
 - if the conference will be held by a committee other than the RFR Committee or a designee, include a copy of the Chairman's order appointing the committee or the designee; and
 - inform the Requestor of his or her right to request a transcript of the proceedings of the Conference prepared at Requestor's expense.
3. Information submitted to the Clerk at least twenty-four (24) hours prior to the Conference will be provided to the Board for consideration prior to the Conference. Such information will also be provided to the parties. While parties may distribute handouts at the Conference, information received by the Clerk after this deadline will not be provided to the Board or the parties.
4. Slide presentations for the Conference must be provided to the Clerk at least twenty-four (24) hours prior to the Conference to allow time for uploading. Slide presentations will be provided to the Board and the parties prior to the Conference.
5. If a party requests a transcript of the proceedings of the Conference and agrees to pay all related costs in writing, including costs for the transcript, the Clerk will schedule a court reporter for the Conference.

III. Final Review Conference and Decision

1. The order of presentation in the Conference will, subject to the presiding officer's discretion, be as follows:
 - Department staff will provide an overview of the staff decision and the applicable law to include [15 minutes]:
 - Type of decision (permit, enforcement, etc.) and description of the program.
 - Parties
 - Description of facility/site

- Applicable statutes and regulations
 - Decision and materials relied upon in the administrative record to support the staff decision.
 - Requestor(s) will state the reasons for protesting the staff decision and may provide evidence to support amending, modifying, or rescinding the staff decision. [20 minutes] *NOTE: The burden of proof is on the Requestor(s)*
 - Rebuttal by Department staff [20 minutes]
 - Rebuttal by applicant, permittee, or licensee, if not the Requestor [5 minutes]
 - Rebuttal by Requestor(s) [15 minutes]
- Note: Times noted in brackets are for information only and are superseded by times stated in the Notice of Final Review Conference or by the presiding officer.
2. Parties may present evidence during the conference; however, the rules of evidence do not apply.
 3. At any time during the conference, the officers conducting the Conference may request additional information and may question the Requestor, the staff, and anyone else providing information at the Conference.
 4. The presiding officer, in his or her sole discretion, may allow additional time for presentations and may impose time limits on the Conference.
 5. All Conferences are open to the public.
 6. The officers may deliberate in closed session.
 7. The officers may announce the decision at the conclusion of the Conference or it may be reserved for consideration.
 8. The Clerk will mail the written final agency decision (FAD) to parties within thirty (30) days after the Conference. The written decision must explain the basis for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court or in matters pertaining to decisions under the South Carolina Mining Act, to request a hearing before the South Carolina Mining Council. The FAD will be sent to the parties by certified mail, return receipt requested.
 9. Communications may also be sent by electronic mail, in addition to the forms stated herein, when electronic mail addresses are provided to the Clerk.

The above information is provided as a courtesy; parties are responsible for complying with all applicable legal requirements.

**SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT**

CRITICAL AREA PERMIT & COASTAL ZONE CONSISTENCY CERTIFICATION

Permittee(s): Paul Vannatta

Permit Number(s): OCRM04292

Date of Issuance: March 9, 2023

Expiration Date: March 9, 2028

Location: On and adjacent to The Cove at 1802 Back Street, Sullivans Island
Charleston County, South Carolina (TMS#: 529-05-00-077)

SEE SPECIAL
CONDITION(S)

This permit is issued under the provisions of S. C. Code Ann. Section 48-39-10, et seq., and 23A S.C. Code Ann. Regs. 30-1 through 30-18, *as amended*. **Please carefully read the project description and special conditions that appear on this permit/certification as they will affect the work that is allowed and may modify the work from that shown on the submitted plans. All special conditions attached to the permit will take precedent over submitted plans.** The general conditions are also a part of this permit/certification and should be read in their entirety. The S. C. Contractor's Licensing Act of 1999, enacted as S.C. Code Ann. Section 40-11-5 through 430, requires that all construction with a total cost of \$5,000 or more be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes. Your signature on and acceptance of this permit denotes your understanding of the stated law regarding use of licensed contractors. **All listed special and general conditions will remain in effect for the life of the permit. This applies to permittee, future property owners, or permit assignees.**

DESCRIPTION OF THE PROJECT, AS AUTHORIZED

The plans submitted by you, attached hereto, show the work consists of the following: The construction of a dock. Specifically, a 4' x 486' walkway leading to a covered 10' x 10' pierhead, both with handrails. Floodside of the pierhead there will be a 12.5' x 12.5' 4-pile boatlift. Ebbside of the walkway a 4' x 12' catwalk with handrails leads to a 3' x 20' ramp which provides access to a channelward 10' x 17.5' floating dock. The work described is for private recreational use.

SPECIAL CONDITIONS

1. The proposed 4' x 12' catwalk is reduced to a maximum of 3' in width.
2. Provided the dock does not restrict water flow of the drainage slough located ebbside of the dock.
3. Boats should not be moored at this dock in such a manner as to block or unduly impede navigation in the creek. Nothing in this provision prevents temporary tie-ups while a boat is in use. If anyone is asked to move a boat to allow passage of a vessel they will do so. It is the responsibility of the permittee to see that this provision is enforced.
4. The fixed pierhead is an open sided structure only with no walls or screening and no portion of the pierhead is to be enclosed, even partially.
5. The maximum allowable roof height shall be 12' as measured from the floor decking of the dock to the highest point of the roof including any ornamental structures.

6. The handrail height is limited to 36" above decking.
7. The dock should be located in a manner so as to minimize disturbance to shellfish resources or in an area void of shellfish resources. If this requires the relocation of this dock, notification to OCRM is required and written approval for the relocation must be received from OCRM prior to construction.
8. An as-built survey of the structure(s) must be submitted to the Department within 90 days from completion of construction. The survey must be performed by a registered land surveyor, must show all components of the structure(s), and must list the starting and ending coordinates of the structure(s) in the SC State Plane Coordinate System, which can be obtained by survey-grade Global Positioning System equipment.
9. In the event that any historic or cultural resources and/or archaeological materials are found during the course of work, the applicant must notify the State Historic Preservation Office and the South Carolina Institute of Archaeology and Anthropology. Historic or cultural resources consist of those sites listed in the National Register of Historic Places and those sites that are eligible for the National Register. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials.

**SEE SPECIAL
CONDITION(S)**

PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND FIVE (5).BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF.ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS AS THE DEPARTMENT MAY CONSIDER APPROPRIATE.

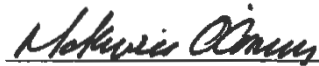
Permit Number: **OCRM04292**

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

PERMITTEE(S)
Paul Vannatta

DATE

This permit becomes effective when the State official, designated to act for the Office of Ocean and Coastal Resource Management, has signed below.



CRITICAL AREA PERMITTING PROJECT MANAGER
McKenzie O'Connor
Or Other Authorized State Official



DATE

**SEE SPECIAL
CONDITION(S)**

GENERAL CONDITIONS:**SEE SPECIAL
CONDITION(S)**

This construction and use permit is expressly contingent upon the following conditions which are binding on the permittee:

1. The permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the Department and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. If the activity authorized herein is not constructed or completed within five years of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than thirty days prior to the expiration date.
3. All authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. This permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further, to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. This permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. The permittee shall permit the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. Any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the Department
8. This permit may not be transferred to a third party without prior written notice to the Department, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit and thereby agreeing to comply.
9. If the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. The permit construction placard or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. The structure or work authorized herein shall be in accordance with the permit, as issued, and shall be maintained in good condition. Failure to build in accordance with the permit, as issued, or failure to maintain the structure in good condition, shall result in the revocation of this permit.

12. The authorization for activities or structures herein constitutes a revocable license. The Department may require the permittee to modify activities or remove structures authorized herein if it is determined by the Department that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the Permittee is notified that the Department intends to revoke the permit, Permittee agrees to immediately stop work pending resolution of the revocation.
13. The Department shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is in violation of the terms and/or conditions, including any special conditions of the permit. That the permittee, upon receipt of the Department's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the Department shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the Department.(South Carolina Code Section 1-23-370 shall govern the procedure for revocation, suspension or modification herein described).
14. Any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the Department or the State of South Carolina or any employee, agent, or representative of the Department or the State of South Carolina.
15. All activities authorized herein shall be, if they involve a discharge or deposit into navigable waters or ocean waters, at all times consistent with all applicable water quality standards, effluent limitations, and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. Extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of others. This permit authorizes no invasion of adjacent private property, and the Department assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

**SEE SPECIAL
CONDITION(S)**

A PROPOSED
RECREATIONAL DOCK
AT 1802 BACK ST.
ON OF A TRIBUTARY
OF "THE COVE"
LOCATED ON
SULLIVAN'S ISLAND
CHARLESTON COUNTY, SC

SEE SPECIAL
CONDITION(S)



THESE DRAWINGS ARE FOR DOCK PERMITTING
ONLY AND DO NOT CONSTITUTE A BOUNDARY
SURVEY OF THIS PROPERTY.

TMS #529-05-00-077

APPLICATION BY:
PAUL AND JENNIFER VANNATTA

ADDRESS: 1802 BACK STREET

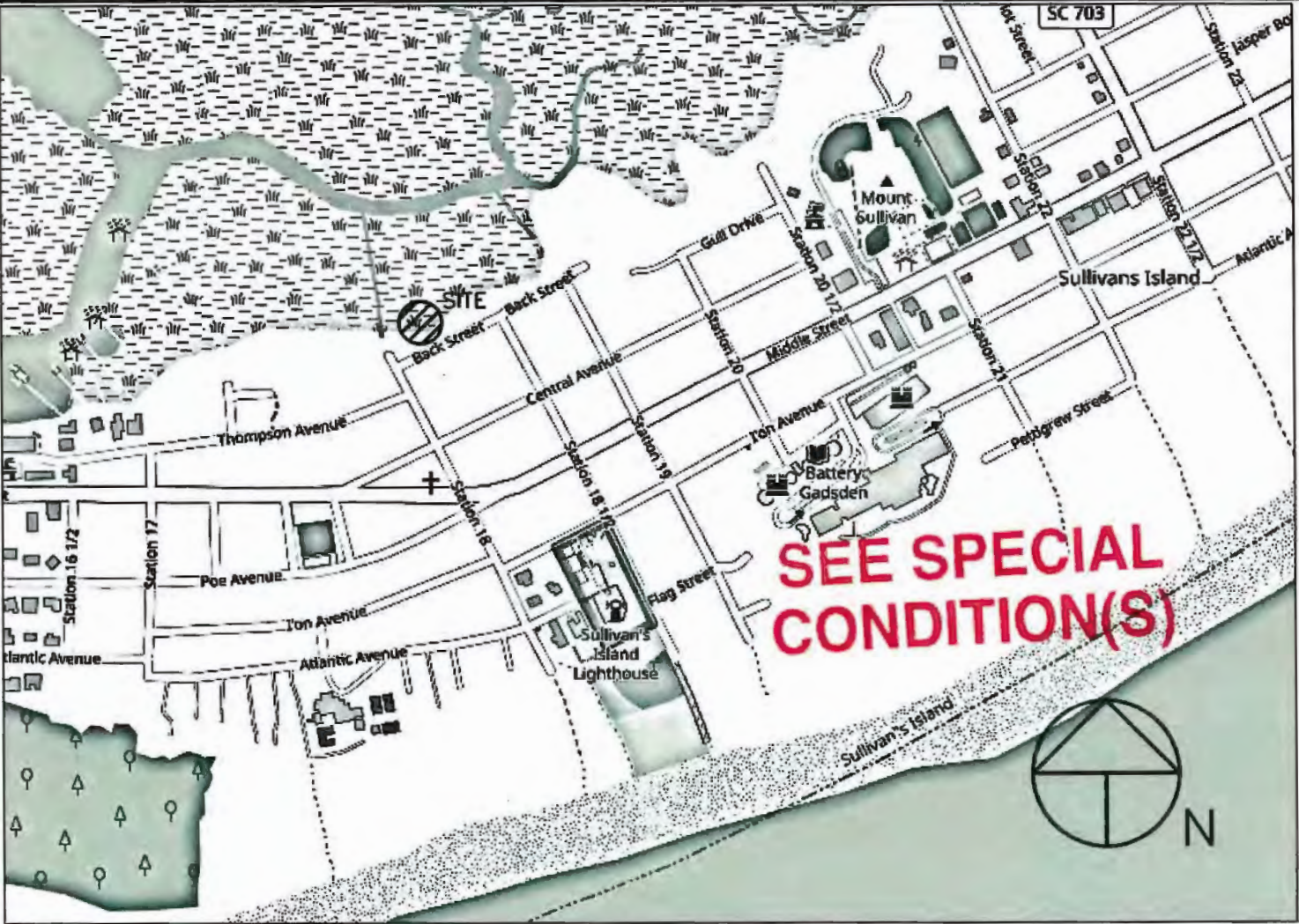
DATE: JULY 13, 2022

REVISED: JANUARY 25, 2023

ROBERT FRANK SURVEYING
1923 MAYBANK HWY. - CHARLESTON, S.C. 29412
Phone: 843-762-4608 Fax 843-795-5970
E-mail - robertfranklandsurveying@comcast.net
WEB ADDRESS: www.robertfranksurveying.com

SHT. NO.

1 OF 5



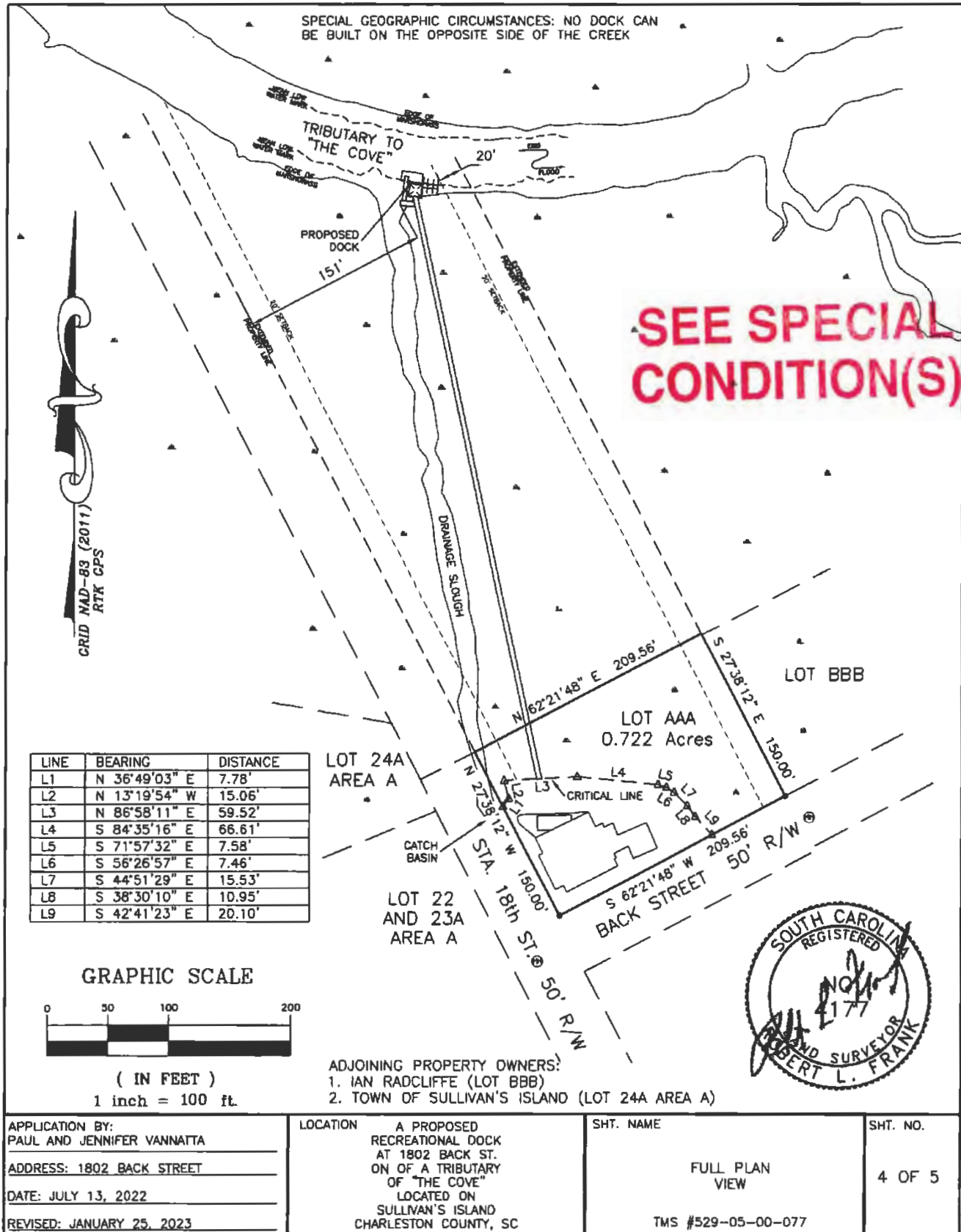
ADJOINING PROPERTY OWNERS:
 1. IAN RADCLIFFE (LOT BBB)
 2. TOWN OF SULLIVAN'S ISLAND (LOT 24A AREA A)

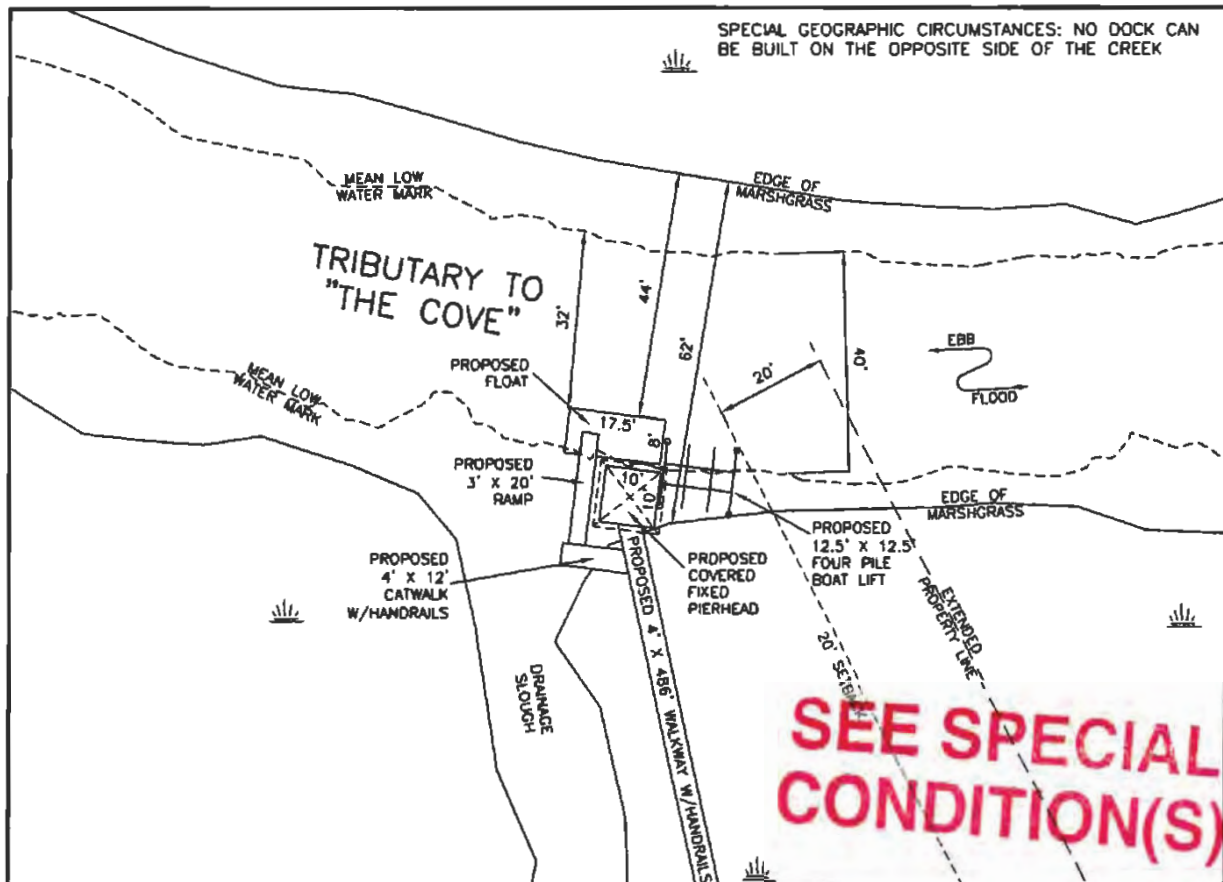
APPLICATION BY: PAUL AND JENNIFER VANNATTA ADDRESS: 1802 BACK STREET DATE: JULY 13, 2022 REVISED: JANUARY 25, 2023 	LOCATION A PROPOSED RECREATIONAL DOCK AT 1802 BACK ST. ON OF A TRIBUTARY OF "THE COVE" LOCATED ON SULLIVAN'S ISLAND CHARLESTON COUNTY, SC	SHT. NAME LOCATION MAP TMS #529-05-00-077	SHT. NO. 2 OF 5
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TMS #529-05-00-077

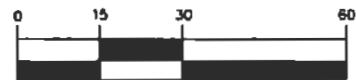
APPLICATION BY: PAUL AND JENNIFER VANNATTA	LOCATION A PROPOSED RECREATIONAL DOCK AT 1802 BACK ST. ON OF A TRIBUTARY OF "THE COVE" LOCATED ON SULLIVAN'S ISLAND CHARLESTON COUNTY, SC	SHT. NAME SULLIVAN'S ISLAND QUADRANGLE MAP <u>PROJECT LATITUDE/LONGITUDE:</u> LATITUDE - 32.762338° LONGITUDE - 79.846441°	SHT. NO. 3 OF 5
ADDRESS: 1802 BACK STREET			
DATE: JULY 13, 2022			
REVISED: JANUARY 25, 2023			





ADJOINING PROPERTY OWNERS:
 1. IAN RADCLIFFE (LOT BBB)
 2. TOWN OF SULLIVAN'S ISLAND (LOT 24A AREA A)

GRAPHIC SCALE



(IN FEET)

1 inch = 30 ft.

APPLICATION BY: PAUL AND JENNIFER VANNATTA	LOCATION AN EXISTING CONDITIONS SURVEY OF A TRIBUTARY TO "THE COVE" AT 1802 BACK ST. LOCATED ON THE SULLIVAN'S ISLAND CHARLESTON COUNTY, SC	SHT. NAME PLAN AND PROFILE TMS #529-05-00-D77	SHT. NO. 5 OF 5
ADDRESS: 1802 BACK STREET			
DATE: JULY 13, 2022			
REVISED: JANUARY 25, 2023			



Ocean and Coastal
Resource Management

REQUEST FOR DHEC-OCRM CONSTRUCTION PLACARD

PERMITTEE/PROPERTY OWNER: _____ PERMIT # _____

ADDRESS: _____

Please indicate below the date on which you will begin actual work on your project as authorized by the enclosed permit. Then simply drop this card in the mail to our office. You will receive a construction placard, good for six months, that must be posted at the work site. If the work is not finished by that time, please contact our office to obtain an additional placard. However, do not request a placard if you are not ready to begin construction.

DATE OF INITIATION OF CONSTRUCTION: _____

PERMIT HOLDER/PROPERTY OWNER OR AGENT SIGNATURE: _____

CONTRACTOR: _____ LICENSE NUMBER: _____

**If a licensed contractor is not listed in the blank space above, then the Permittee/Property Owner is required to list himself/herself as contractor with no license number. In any event, unlicensed contractors serving as Agent for the Permittee/Property Owner will not receive the construction placard since this would be in violation of the S. C. Contractor's Licensing Act of 1999. The S. C. Contractors Licensing Act of 1999 requires that all construction with a total cost of \$5000 or more must be performed by a licensed contractor with a valid contractor's license for marine class construction, except for construction performed by a private landowner for strictly private purposes.*

MAILING ADDRESS TO SEND PLACARD:

_____ WATERWAY: _____
CITY: _____
COUNTY: _____

Please mail completed request form to the DHEC-OCRM office in your area:

Charleston:

SCDHEC-OCRM
1362 McMillan Ave.
Suite 400
Charleston, SC 29405

Myrtle Beach:

SCDHEC-OCRM
927 Shine Ave.
Myrtle Beach, SC 29577

Beaufort:

SCDHEC-OCRM
104 Parker Drive
Beaufort, SC 29906

ELECTRONICALLY FILED - 2025 Mar 07 11:14 AM - CHARLESTON - COMMON PLEAS - CASE#2024CP1005670



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT
69A HADDOOD AVE.
CHARLESTON, SC 29403-5107

April 7, 2023

Regulatory Division

Mr. Paul Vannatta

1802 Back Street
Sullivans Island, South Carolina 29482
paul_vannatta@ml.com

Dear Mr. Vannatta:

This is in response to your Pre-Construction Notification (PCN) (SAC-2022-01534) to construct a new dock, which we received on January 23, 2023 and considered complete on March 9, 2023. In submitting the PCN, you requested verification the proposed project is authorized by Department of the Army (DA) General Permit (GP) # SAC-RGP-09 South Carolina Dock Regional General Permit.

The work affecting navigable waters of the United States is part of an overall project known as Dock at 1802 Back Street, to construct a new private dock. The activities in navigable waters of the United States include constructing a 4'x486' walkway leading to a 12.5'x12.5' four-pile boat lift and 10'x10' fixed pierhead which leads to a 17.5'x8' floating dock by way of a 3'x12' catwalk and 3'x20' ramp. The project is located on a tributary to "The Cove" at 1802 Back Street, Sullivan's Island, Charleston County, South Carolina (Latitude: 32.7617°, Longitude: -79.8463°).

The application also includes the following supplemental information:

- a. Drawing sheets 1-5 of 5 titled "A Proposed Recreational Dock at 1802 Back St. on of a Tributary of 'The Cove' Located on Sullivan's Island Charleston County, SC" and dated July 13, 2022;

Based on a review of the information provided, the Corps concludes the proposed activity will not result in more than minimal individual or cumulative adverse environmental effects, and is not contrary to the public interest. Furthermore, the activity described above meets the terms and conditions of DA GP # SAC-RGP-09 South Carolina Dock Regional General Permit.

For this authorization to remain valid, the project must comply with: (1) the terms and conditions listed in the attached copy of the DA GP # SAC-RGP-09 South Carolina Dock Regional General Permit; and (2) the following special conditions:

- a. **That impacts to aquatic areas do not exceed those specified in the above mentioned PCN, including any supplemental information or revised permit**

TOSI - VANNATTA 0483

drawings that were submitted to the Corps by the permittee.

- b. That the construction, use, and maintenance of the authorized activity is in accordance with the information given in the PCN, including the supplemental information listed above, and is subject to any conditions or restrictions imposed by this letter.
- c. That the permittee shall submit the attached signed compliance certification to the Corps within 30 days following completion of the authorized work.
- d. Prior to beginning the authorized work, the permittee must coordinate with the local NFIP flood plain manager and comply with FEMA requirements. A list of NFIP floodplain managers may be found at:
<https://www.dnr.sc.gov/water/flood/index.html>.
- e. That the permittee agrees to comply with all FEMA regulations and requirements. The permittee is advised that development activities in a Special Flood Hazard Area (i.e 100-year floodplain), as designated in the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Map (FIRM), are subject to the floodplain management regulations of the National Flood Insurance Program [(NFIP)(44CFR)]. The NFIP prohibits any development with a designated floodway, including placement of fill, without a No Impact Certification from FEMA or the local NFIP representative. The permittee will provide this office with a copy of the No Impact Certification before commencing construction.
- f. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or their authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- g. Use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the U.S.
- h. The permittee must install and maintain, at their expense, any safety lights and signals prescribed by the U.S. Coast Guard (USCG), through regulations or otherwise, on authorized facilities. The USCG may be

reached at the following address and telephone number: (as of February 2013) U. S. Coast Guard District Seven, Waterways Management Branch, 909 SE 1st Ave, Suite 406, Miami, FL. 33131, and 305-415-6755 or 305-415-6750.

- i. Floating docks shall be located in areas of adequate depth to ensure that clearance between the float and the bottom is maintained at all times. In areas where the depth is not adequate to maintain clearance, floating docks shall be fitted with structures (i.e. float stops) that prevent the float from contacting the bottom.
- j. In order to ensure protection of any threatened or endangered species, and designated critical habitat that may be present in the vicinity of the project area during construction activities, the permittee will comply with the following:
 - 1. The permittee shall instruct all personnel associated with the project of the potential presence of and the need to avoid collisions with protected species, which may include but is not limited to West Indian manatees, Atlantic sturgeon, shortnose sturgeon, sea turtles, wood stork, blue whale, fin whale, humpback whale, North Atlantic right whale, sei whale and sperm whale.
 - 2. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing protected species, to include manatee(s), which are protected under the Marine Mammal Protection Act of 1972 and/or the Endangered Species Act of 1973.
 - 3. Any siltation barriers used during the project shall be made of material in which protected species, to include manatee(s), cannot become entangled and must be properly secured, and regularly monitored to avoid protected species entrapment.
 - 4. All vessels associated with the project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a fourfoot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
 - 5. If protected species, to include manatee(s), are seen within 100 yards of the active construction area all appropriate precautions shall be implemented to ensure protection of the protected species, to include manatee(s). These precautions shall include the operation of

all moving equipment no closer than 50 feet to a protected species, to include manatee(s). Operation of any equipment closer than 50 feet to a protected species, to include manatee(s), shall necessitate immediate shutdown of that equipment. Activities will not resume until the protected species, to include manatee(s), has departed the project area of its own volition.

6. Incidents where any individuals of sea turtles, Atlantic sturgeon, shortnose sturgeon, blue whale, fin whale, humpback whale, North Atlantic right whale, sei whale and sperm whale listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this DA permit shall be reported to NOAA Fisheries, Office of Protected Species at (727) 824-5312, the SCDNR Hotline at 1-800-922-5431, and the Regulatory Office of the Charleston District of the U.S. Army Corps of Engineers at (843) 329-8044. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

7. The permittee understands and agrees that all in-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water. Where appropriate, in water wires should be fitted with PVC sleeve from the surface to the bottom to prevent any potential scraping of the passing manatees.

8. The permittee understands and agrees that pilings will be installed using a water jet or vibratory hammer, to the maximum extent practicable. In the event standard pile driving (impact hammer) is utilized, the permittee understands and agrees that a soft-strike procedure (three strikes at 40%-60% energy level once a minute for 3

minutes) must be conducted prior to beginning pile driving activities and after any pile driving interruptions of more than 30 minutes.

9. That the permittee understands and agrees that pile driving activities must be limited to 12 hours per day with a 12-hour rest period between pile driving activities to avoid potential cumulative noise impacts to Federally-listed Threatened and Endangered (T&E) species.

k. In order to ensure protection and reduce potential construction-related impacts to West Indian manatees that may be in the vicinity of the project area during construction activities performed outside the winter months, to discountable and insignificant levels, the permittee will comply with the following for all projects affecting the coastal waters of South Carolina:

1. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel MUST monitor water-related activities for the presence of manatee(s) during May 1 - November 15. Construction personnel are requested to monitor outside of that timeframe as manatees may be in the area before or after the above dates.

2. Any collision with and/or injury to a manatee shall be reported immediately to the U.S. Fish and Wildlife Service contacts: Melanie Olds, South Carolina Manatee Lead, Charleston Field Office, at 843-727-4707 ext. 205; or Terri Calleson, Manatee Recovery Coordinator, North Florida Field Office, at 904-731-3286.

This verification is valid until DA GP SAC-RGP-09 South Carolina Dock Regional General Permit expires on 12/14/2026, unless prior to this date the subject GP is suspended, revoked, or is modified such that the activity no longer complies with the terms and conditions of the GP.

This authorization is verified under DA GP # SAC-RGP-09 South Carolina Dock Regional General Permit based on information you provided. It is your responsibility to read the attached GP before you begin work. If your project fails to meet all of the terms and conditions of the subject GP, at any time (i.e., prior to commencement of the authorized work, during construction, or after project completion), the activity is unauthorized, and you should contact the Corps immediately.

In all future correspondence, please refer to file number SAC-2022-01534. A copy of this letter is forwarded to State and/or Federal agencies for their information. If you have any questions, please contact Kristopher Maedke-Russell, Project Manager, at 912-856-8203, or by email at kristopher.d.maedke-russell@usace.army.mil.

Sincerely,



Kristopher Maedke-Russell
Project Manager



Ronnie Smith
Branch Chief

Attachments:

Permit Drawings
General Permit # SAC-RGP-09 South Carolina Dock Regional General Permit
Certification of Compliance

Copy Furnished:

Mr. Michael Murray
American Dock & Marine
1533 D-5 Folly Rd
Charleston, South Carolina 29412
americandock1@gmail.com

SCDHEC - OCRM
1362 McMillan Avenue, Suite 400
North Charleston, SC 29405
OCRMPermitting@dhec.sc.gov

US Coast Guard
Sector Charleston
Attention: Waterways Management
1050 Register Street
North Charleston, SC 29405
D07-PF-SECTORCHASN-WWM@uscg.mil

A PROPOSED
RECREATIONAL DOCK
AT 1802 BACK ST.
ON OF A TRIBUTARY
OF "THE COVE"
LOCATED ON
SULLIVAN'S ISLAND
CHARLESTON COUNTY, SC

THESE DRAWINGS ARE FOR DOCK PERMITTING
ONLY AND DO NOT CONSTITUTE A BOUNDARY
SURVEY OF THIS PROPERTY.

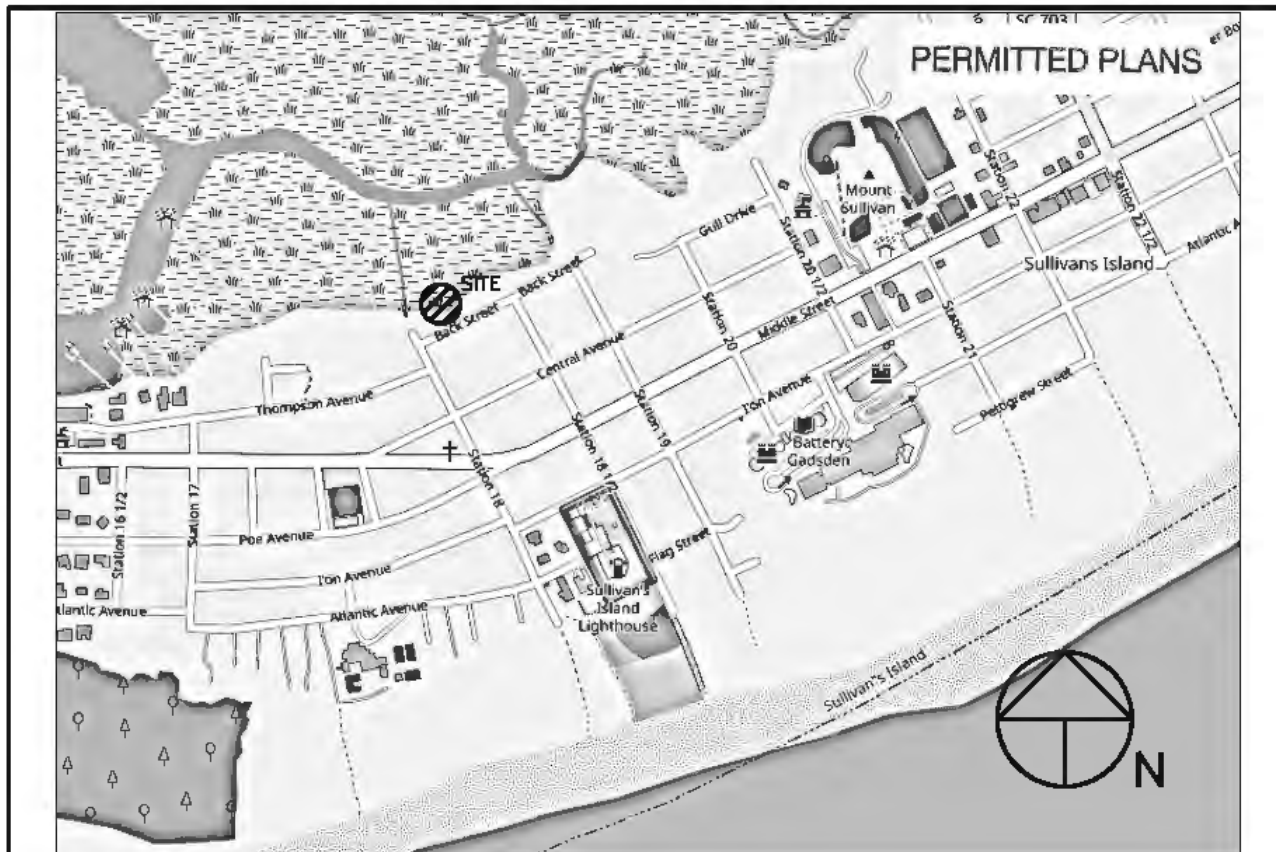
TMS #529-05-00-077



APPLICATION BY:
PAUL AND JENNIFER VANNATTA
ADDRESS: 1802 BACK STREET
DATE: JULY 13, 2023
REVISED: MARCH 17, 2023

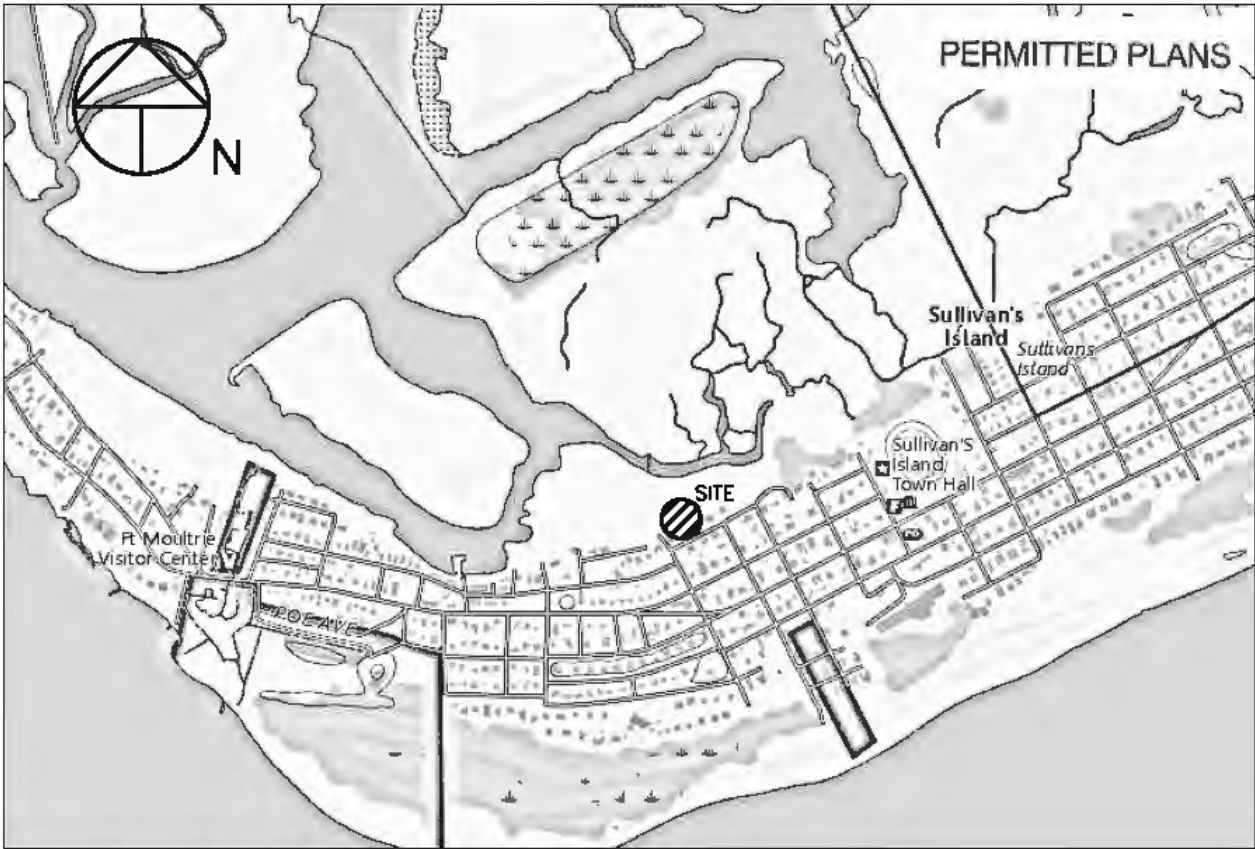
ROBERT FRANK SURVEYING
1923 MAYBANK HWY. - CHARLESTON, S.C. 29412
Phone: 843-762-4608 Fax 843-795-5970
E-mail - robertfranklandsurveying@comcast.net
WEB ADDRESS: www.robertfranksurveying.com

SHT. NO.
1 OF 5



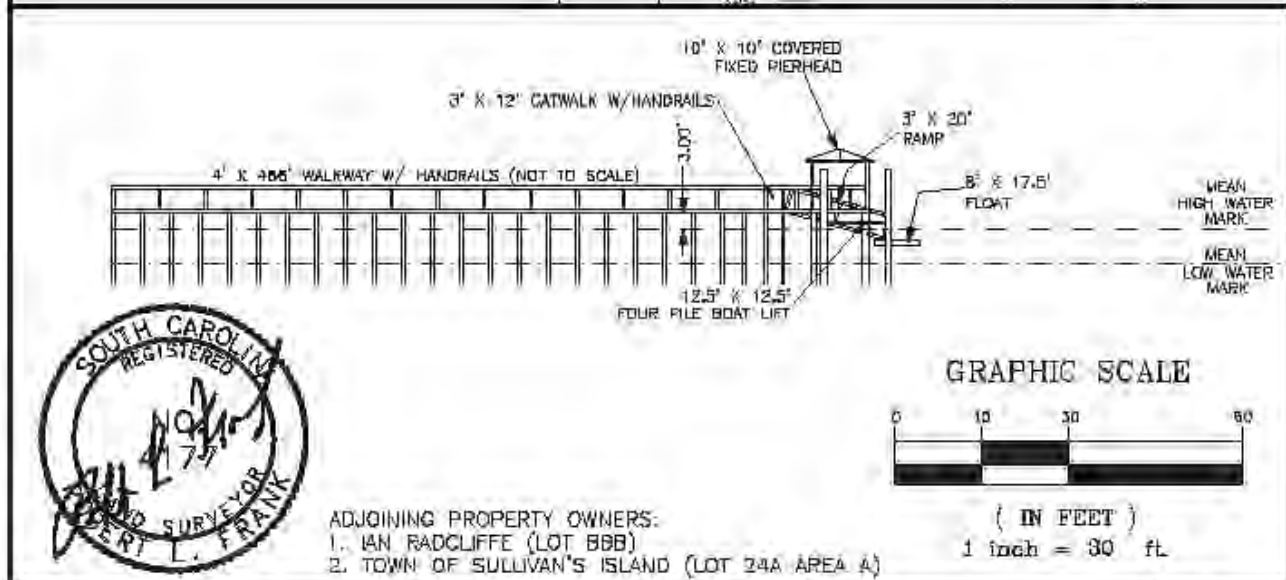
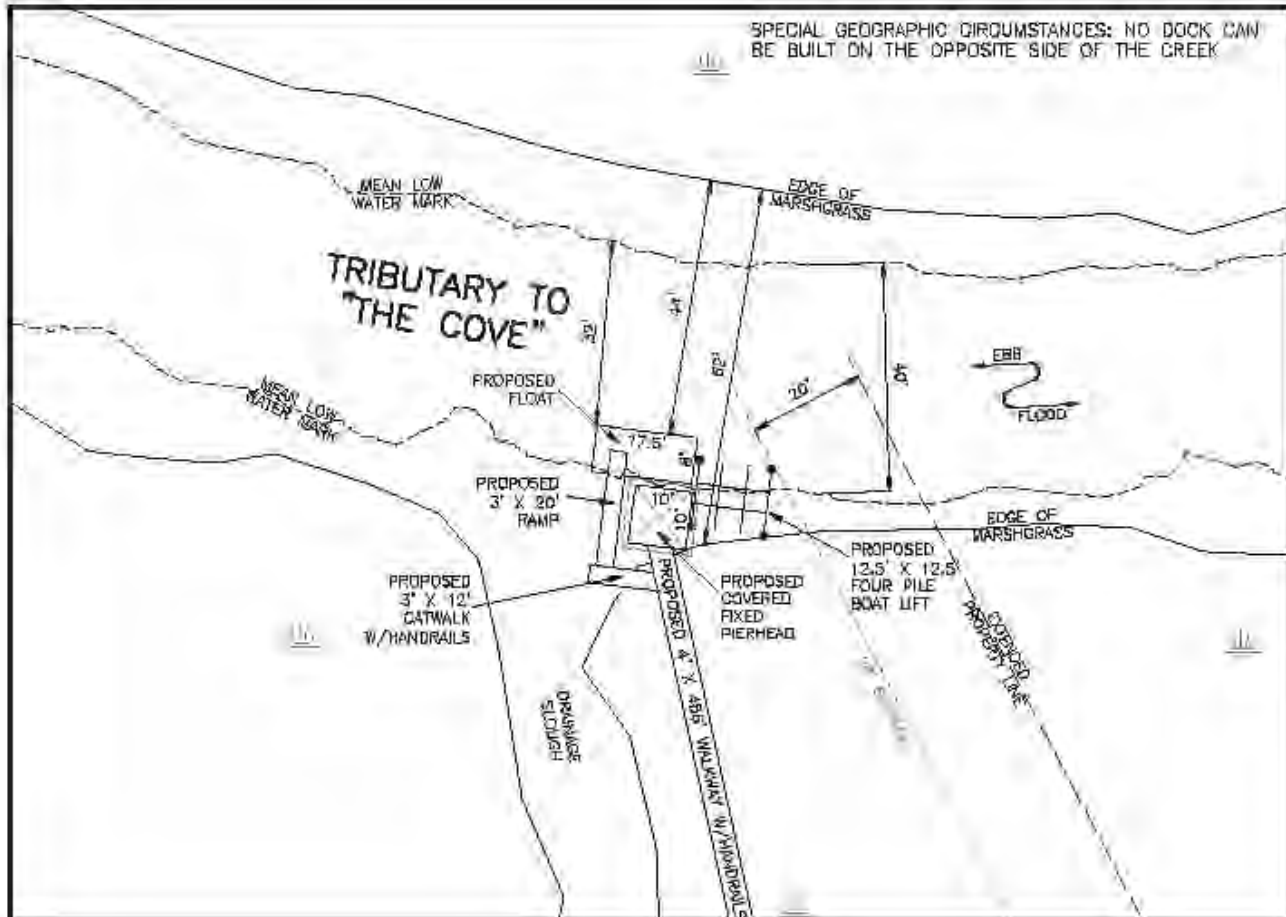
ADJOINING PROPERTY OWNERS:
1. IAN RADCLIFFE (LOT BBB)
2. TOWN OF SULLIVAN'S ISLAND (LOT 24A AREA A)

APPLICATION BY: PAUL AND JENNIFER VANNATTA	LOCATION A PROPOSED RECREATIONAL DOCK AT 1802 BACK ST. ON OF A TRIBUTARY OF "THE COVE" LOCATED ON SULLIVAN'S ISLAND CHARLESTON COUNTY, SC	SHT. NAME LOCATION MAP TMS #529-05-00-077	SHT. NO. 2 OF 5 TOSI - VANNATTA 0490
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ADJOINING PROPERTY OWNERS: 1. IAN RADCLIFFE (LOT BBB) 2. TOWN OF SULLIVAN'S ISLAND (LOT 24A AREA A)			
TMS #529-05-00-077			
APPLICATION BY: PAUL AND JENNIFER VANNATTA	LOCATION A PROPOSED RECREATIONAL DOCK AT 1802 BACK ST. ON OF A TRIBUTARY OF "THE COVE" LOCATED ON SULLIVAN'S ISLAND CHARLESTON COUNTY, SC	SHT. NAME SULLIVAN'S ISLAND QUADRANGLE MAP PROJECT LATITUDE/LONGITUDE: LATITUDE - 32.762338° LONGITUDE - 79.846441°	SHT. NO. 3 OF 5
ADDRESS: 1802 BACK STREET		TOSI - VANNATTA 0491	
DATE: JULY 13, 2022			
REVISED: MARCH 17, 2023			

PERMITTED PLANS

ELECTRONICALLY FILED - 2025 Mar 07 11:14 AM - CHARLESTON - COMMON PLEAS - CASE#2024CP1005670



APPLICATION BY: PAUL AND JENNIFER VANNATTA	LOCATION AN EXISTING CONDITIONS SURVEY OF A TRIBUTARY TO "THE COVE" AT 1802 BACK ST, LOCATED ON THE SULLIVAN'S ISLAND CHARLESTON COUNTY, SC	SHT. NAME PLAN AND PROFILE TMS #529-05-00-077	SHT. NO. 5 OF 5
ADDRESS: 1802 BACK STREET			
DATE: JULY 13, 2022			
REVISED: MARCH 17, 2023			

TOSI - VANNATTA 0493

General Permit No. SAC-RGP-09

Name of Applicant: General Public

Effective Date: December 15, 2021

Expiration Date: December 14, 2026

DEPARTMENT OF THE ARMY
GENERAL PERMIT

A General Permit to place structures and/or perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), is hereby issued by authority of the Secretary of the Army by the

District Engineer
U.S. Army Corps of Engineers
Charleston District
69 A Hagood Avenue
Charleston, South Carolina 29403-5107

to authorize, subject to the following special and general conditions, the construction, installation, maintenance and/or repair of piers, floating docks (including joint use and community docks), boat/jet ski lifts, mooring piles, dolphins, covered boat sheds and dock covers and minor dredging for private non-commercial uses within navigable waters of the United States in the State of South Carolina.

Projects authorized by this General Permit may also require other state or local authorizations. The installation of structures and dredging activities in state navigable waters are subject to the jurisdiction of the South Carolina Department of Health and Environmental Control (SCDHEC). Projects located within Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties are subject to the South Carolina Coastal Zone Management Plan, which is administered by SCDHEC, Office of Ocean and Coastal Resource Management (OCRM). If the proposed project will occur in the critical area of the above listed counties, then a direct Critical Area Permit will be required from OCRM. Projects located outside of the critical area are also subject to the R. 19-450; Permit for Construction in Navigable Waters (et. Seq., 1976 S.C. Code of Laws, as amended). Activities within the Goose Creek Reservoir must be coordinated with and authorized by the Charleston Water System prior to construction.

SPECIAL NOTES:

In general, applicants should obtain the requisite State authorization from the South Carolina Department of Health and Environmental Control (SCDHEC) for any proposed structure PRIOR to submitting a Pre-Construction Notification (PCN) under this General Permit. In most instances, the dimensions and configuration of a structure receiving State authorization will meet the terms and conditions of this General Permit without a written waiver or special modification. If a State permit has been issued for your structure, please submit a copy of the State permit and authorized plans along with the other documents required in the sections below.

Activities covered under previously authorized General Permits for specific areas do not qualify for this General Permit. Those areas include:

Lake Murray (SAC-2013-00644 through SAC-2013-00656)
 Lakes Marion & Moultrie (SAC-2018-01401 through SAC-2018-01410),
 Lake Wylie, Fishing Creek Reservoir, Great Falls, Rocky Creek, Lake Wateree, Lake
 Keowee, Ninety-Nine Islands, Gaston Shoals, and Lake Robinson (SAC-2013-00657
 through SAC-2013-00669),
 Lake Hartwell, Lake Richard B. Russell, and Lake J. Strom Thurmond (SAC-2016-00094
 through SAC-2016-00106).

I. SPECIAL CONDITIONS:

A. Piers and Floating Docks, Mooring Piles, Dolphins, and Boat Lifts

SPECIAL NOTE: There are 5 categories of Special Conditions:

1. Structures located on or adjacent to a federal channel.
2. Structures located on or adjacent to a federal project.
3. Structures located within all waterways of the eight (8) coastal counties of South Carolina.
4. Structures located in waters designated as Critical Habitat.
5. All structures regardless of location.

It is imperative that you read and comply with all terms and conditions. Your structure may fall into multiple categories, such as on a federal channel and within a coastal county. Based on location, all structures must meet the terms and conditions listed below in categories "1", "2", "3", "4", **AND all terms and conditions listed in category "5"**.

1. STRUCTURES LOCATED ON OR ADJACENT TO A FEDERAL CHANNEL:

- a. Federal channels include all or portions of the following waterways:

Adams Creek
 Ashley River (0.5 mile east of Highway 7 downstream to AIWW)
 Atlantic Intracoastal Waterway (AIWW; from the GA/SC line to the SC/NC line)
 Brookgreen Garden Canal
 Calabash Creek
 Charleston Harbor (including the Cooper River, Town Creek, Shem Creek upstream to
 Coleman Boulevard, and Mount Pleasant Channel)
 Folly River
 Georgetown Harbor (Winyah Bay, Sampit River, and Bypass Channel)
 Jeremy Creek
 Little River Inlet
 Murrells Inlet (Main Creek)
 Port Royal Harbor
 Savannah River (below Augusta)
 Shipyard Creek
 Town Creek, McClellanville (ie Five Fathoms Creek, AIWW to Bulls Bay)
 Village Creek

b. Prior to any work being done, written verification must be obtained from the Corps of Engineers **for all activities located on or adjacent to a federally authorized waterway prior to commencement of work.** In order to receive this written verification, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written verification prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN (copies must be submitted to the SCDHEC OCRM and Bureau of Water):

1. Completed "Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina."
2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM). Distance to the federal channel must be included. Plan view and cross-section diagrams are both required (all diagrams must be drawn to scale or include dimensions of all proposed structures).
3. Plans must include the State Plane Coordinates (NAD 1983) for a minimum of two corners of each structure where it is closest to the federal channel. The plans shall also identify the distance of the proposed structure from the edge of the federal channel.
4. A statement that work will be conducted in compliance with the terms and conditions of this General Permit.

c. A signed compliance certification will be submitted to the Charleston District Engineer within 60 days following completion of the authorized work and shall include the following:

1. A statement that the authorized work was done in accordance with this General Permit,
2. The signature of the permittee certifying the completion of work,
3. An as-built survey prepared by a registered land surveyor depicting the proposed structure including State Plane Coordinates (NAD 1983) for a minimum of two corners of each structure where it is closest to the federal channel. The survey shall also identify the distance of the proposed structure from the edge of the federal channel.

d. Structures located on or adjacent to federally authorized waterways shall extend **no closer than eighty feet (80') from the edge of the federal channel**, unless a variance has been granted by the Charleston District. **If located on the Charleston Harbor, Georgetown Harbor, or Port Royal Harbor, the existing setback is 125' from the edge of the federal channel.** A copy of the appropriate Federal Project Channel map can be obtained from our website (<http://www.sac.usace.army.mil>) or by writing to:

U.S. Army Corps of Engineers
Charleston District, Technical Services
69 A Hagood Avenue
Charleston, South Carolina 29403-5107

2. STRUCTURES LOCATED ON OR ADJACENT TO A FEDERAL PROJECT:

a. Federal projects include all or portions of the following waterways:

Archers Creek (From Beaufort River for 2 miles)
 Buck Creek (Horry County)
 Cooper River Rediversion Canal (Lake Moultrie to Santee River)
 Eagle Creek (Dorchester County)
 Edisto River (RM 0-175)
 Great Pee Dee River including Bull Creek (Highway 1 at Cheraw to intersection with Waccamaw River/AIWW)
 Lynches River/Clark Creek (Clark Creek to Lynches River, RM 0-56)
 Mingo Creek (Hemingway Bridge to Confluence with Black River)
 Salkehatchie River (RM 20.4 – 62.3)
 Santee River (Lake Marion to Atlantic Ocean)
 Sawmill Branch (Dorchester and Berkeley Counties)
 Socastee Creek (Horry County)
 Waccamaw River (NC/SC state line to AIWW)
 Wateree River (Interstate 20 to Congaree River)

b. Prior to any work being done, written verification must be obtained from the Corps of Engineers **for all activities located on or adjacent to a waterway listed as a federal project prior to commencement of work.** In order to receive this written verification, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written verification prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN (copies must be submitted to the SCDHEC OCRM and Bureau of Water):

1. Completed "Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina."
2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM). Plan view and cross-section diagrams are both required (all diagrams must be drawn to scale or include dimensions of all proposed structures).
3. A statement that work will be conducted in compliance with the terms and conditions of this General Permit.

c. A signed compliance certification will be submitted to the Charleston District Engineer within 60 days following completion of the authorized work and shall include the following:

1. A statement that the authorized work was done in accordance with this General Permit.
2. The signature of the permittee certifying the completion of the work.

A copy of the appropriate Federal Project Channel map can be obtained from our website (<http://www.sac.usace.army.mil>) or by writing to:

U.S. Army Corps of Engineers
Charleston District, Technical Services
69 A Hagood Avenue
Charleston, South Carolina 29403-5107.

3. STRUCTURES LOCATED WITHIN ALL WATERWAYS OF THE EIGHT (8) COASTAL COUNTIES OF SOUTH CAROLINA:

a. Coastal counties include the following:

Beaufort
Berkeley
Charleston
Colleton
Dorchester
Horry
Georgetown
Jasper

b. Prior to any work being done, written verification must be obtained from the Corps of Engineers **for all activities located on waterbodies within the counties listed above prior to commencement of work**. In order to receive this written verification, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written verification prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN (copies must be submitted to the SCDHEC OCRM and Bureau of Water):

1. Completed "Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina."

2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM).

3. Statement that the work will be conducted in compliance with the terms and conditions of this General Permit.

c. A signed compliance certification will be submitted to the Charleston District Engineer within 60 days following completion of the authorized work and shall include the following:

1. A statement that the authorized work was done in accordance with this General Permit.

2. The signature of the permittee certifying the completion of the work.

d. To ensure protection of any threatened or endangered species and designated critical habitat that may be in the vicinity of the project area during construction activities, the Permittee will comply with the following:

1. The permittee shall instruct all personnel associated with the project of the potential presence of and the need to avoid collisions with protected species, which may include but is not limited to West Indian manatee, Atlantic sturgeon, shortnose sturgeon, sea turtles, blue whale, fin whale, humpback whale, North Atlantic right whale, sei whale and sperm whale.
2. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing protected species which are protected under the Marine Mammal Protection Act of 1972 and/or the Endangered Species Act of 1973.
3. Any siltation barriers used during the project shall be made of material in which protected species cannot become entangled and must be properly secured, and regularly monitored to avoid protected species entrapment.
4. All vessels associated with the project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
5. If protected species are seen within 100 yards of the active construction area all appropriate precautions shall be implemented to ensure protection of the protected species. These precautions shall include the operation of all moving equipment no closer than 50 feet to a protected species. Operation of any equipment closer than 50 feet to a protected species shall necessitate immediate shutdown of that equipment. Activities will not resume until the protected species has departed the project area of its own volition.
6. Incidents where any individuals of sea turtles, Atlantic sturgeon, shortnose sturgeon, blue whale, fin whale, humpback whale, North Atlantic right whale, sei whale and sperm whale listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this DA permit shall be reported to NOAA Fisheries, Office of Protected Species at (727) 824-5312, the SCDNR Hotline at 1-800-922-5431, and the Regulatory Office of the Charleston District of the U.S. Army Corps of Engineers at (843) 329-8044. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure, or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.
7. The permittee understands and agrees that all in-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not

readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water. Where appropriate, in-water wires should be fitted with a PVC sleeve from the surface to the bottom to prevent any potential scraping of the passing manatees.

e. To ensure protection and reduce construction-related impacts to West Indian manatees that may be in the vicinity of the project area during construction activities performed outside the winter months to discountable and insignificant levels, the permittee will comply with the following for all projects affecting the coastal waters of South Carolina:

1. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel MUST monitor water-related activities for the presence of manatee during May 1 - November 15. Construction personnel are requested to monitor outside of that timeframe as manatees may be in the area before or after the above dates.

2. Any collision with or injury to a manatee shall be reported immediately to U.S. Fish and Wildlife Service contacts: Melanie Olds, South Carolina Manatee Lead, the Charleston Field Office, at 843-727-4707 ext. 205; or Terri Calleson, Manatee Recovery Coordinator, North Florida Field Office, at 904-731-3286.

4. STRUCTURES LOCATED IN WATERBODIES DESIGNATED AS CRITICAL HABITAT:

a. Critical habitat waters include the following waterbodies with the lower extent consisting of the mouth of the waterbody:

Pee Dee River (Upper extent is Blewitt Falls Dam (Total River Miles 192))
 Waccamaw River (Upper extent is its confluence with Bull Creek (Total River Miles 22))
 Bull Creek (Upper extent is its confluence with Pee Dee River (Total River Miles 11))
 Black River (Upper extent is US Interstate 95 (Total River Miles 126))
 Santee River (Upper extent is Wilson Dam (Total River Miles 71))
 Rediversion Canal (Upper extent is St. Stephens Dam (Total River Miles 5))
 North Santee River (Upper extent is its confluence with Santee River (Total River Miles 18))
 South Santee River (Upper extent is its confluence with Santee River (Total River Miles 17))
 Tailrace Canal/West Branch Cooper River (Upper extent is Pinopolis Dam (Total River Miles 18))
 Cooper River (Upper extent is the confluence of West Branch Cooper and East Branch Cooper Rivers (Total River Miles 25))
 North Fork Edisto River (Upper extent is Cones Pond immediately north of I-20 (Total River Miles 96))
 South Fork Edisto River (Upper extent is State Highway 121 (Total River Miles 109))
 Edisto River (Upper extent is the confluence of North Fork Edisto and South Fork Edisto Rivers (Total River Miles 101))
 North Edisto River (Upper extent is its confluence with the Edisto River (Total River Miles 18))

South Edisto River (Upper extent is its confluence with the Edisto River (Total River Miles 19))
 Combahee – Salkehatchie River (Upper extent is the confluence of Buck and Rosemary Creeks (Total River Miles 115))
 Savannah River (Upper extent is the New Savannah Bluff Lock and Dam (Total River Miles 210))

b. Prior to any work being done, written verification must be obtained from the Corps of Engineers **for all activities located within the waterbodies listed above prior to commencement of work.** In order to receive this written verification, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written verification prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN (copies must be submitted to the SCDHEC OCRM and Bureau of Water):

1. Completed "Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina."
2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM).
3. A statement that the work will be conducted in compliance with the terms and conditions of this General Permit.

c. A signed compliance certification will be submitted to the Charleston District Engineer within 60 days following completion of the authorized work and shall include the following:

1. A statement that the authorized work was done in accordance with this General Permit,
2. The signature of the permittee certifying the completion of the work,

d. The permittee understands and agrees that pilings will be installed using a water jet or vibratory hammer, to the maximum extent practicable. In the event standard pile driving (impact hammer) is utilized, the permittee understands and agrees that a soft-strike procedure (three strikes at 40%-60% energy level once a minute for 3 minutes) must be conducted prior to beginning pile driving activities and after any pile driving interruptions of more than 30 minutes.

5. ALL STRUCTURES REGARDLESS OF LOCATION:

a. Piers, Floating Docks, and Floating Jet Ski Lifts (on both federal and nonfederal channels located outside the SCDHEC OCRM Critical Area) (NOTE: In the SCDHEC OCRM designated Critical Area, the total square footage includes piers, floating docks, floating jet ski lifts, and covered boat lifts):

1. All structures authorized by this General Permit shall be designed, located, and/or operated in a manner not to impede the full and free use by the public of all navigable

waters. The following standards for the size of piers, floating docks, and lifts will be followed unless the Corps determines in writing that a larger structure is authorized:

- i. Waterbodies smaller than 20 feet wide, as measured from MLW to MLW or OHWM to OHWM, shall be restricted to a fixed or floating structure no greater than 50 square feet;
 - ii. Waterbodies between 21 feet and 50 feet wide, as measured from MLW to MLW or OHWM to OHWM, shall be restricted to a fixed pier and floating dock combination up to 120 square feet;
 - iii. Waterbodies between 51 feet and 150 feet wide, as measured from MLW to MLW or OHWM to OHWM, shall be restricted to a fixed pier and floating dock combination up to 160 square feet;
 - iv. Waterbodies larger than 151 feet wide, as measured from MLW to MLW or OHWM to OHWM, shall be restricted to a fixed pier and floating dock combination up to 600 square feet.
 - v. Additional square footage will be allowed for joint use docks above and beyond the size allowed for individual docks, not to exceed two times that allowed in subsections I.A.5(a)(1)(i) through (iv), contingent upon the sharing of the walkway and pierhead.
2. The maximum width for the dock approach (fixed walkway) shall be restricted to four (4) feet unless the Corps determines in writing that a greater width is necessary for safe use or to support a water dependent use that cannot otherwise occur. The dock approach shall also be elevated at least three (3) feet above mean high water (MHW) in tidal waters and at least three (3) feet above the ordinary high water mark (OHWM) in non-tidal waters.
3. The structure shall be constructed of uniform materials and be structurally adequate and aesthetically compatible with other existing structures.
4. All wood piles and wooden exterior pile-supported structures must be pressure-treated with wood preservatives in strict compliance with the Registration/Registration Documents issued by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act for use in or above fresh water or marine environments, and in accordance with standards established by the American Wood Protection Association or evaluation reports issued by the International Code Council Evaluation Service.
5. Flotation units of floating structures shall be constructed of material which will not become waterlogged or sink when punctured. Styrofoam billets or equivalent must be encapsulated. Barrels or similar devices are not permitted.
6. The addition of a single-story roof or covering structure over an open-deck pier that does not require the installation of additional pilings is authorized by this General Permit.

7. Enclosed buildings or other structures are not authorized. Boat lifts, boat sheds, and dock covers are permissible provided that they do not block cross-vision. Storage compartments are permissible.

8. This General Permit does not authorize the construction of more than one dock per individual parcel.

b. Mooring Piles, Dolphins and Boat Lifts

1. Mooring piles, dolphins, boat/jet ski lifts and covered boat sheds that are associated with a fixed pier or floating dock shall be located no farther channelward than the end of the structure, and no farther than 30 feet from either end of the authorized structure.

2. All mooring structures must be well marked in accordance with US Coast Guard regulations.

3. All wood piles and wooden exterior pile-supported structures must be pressure-treated with wood preservatives in strict compliance with the Registration/Registration Documents issued by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act for use in or above fresh water or marine environments, and in accordance with standards established by the American Wood Protection Association or evaluation reports issued by the International Code Council Evaluation Service.

c. Prior to any work being done, written verification must be obtained from the Corps of Engineers **for all activities prior to commencement of work**. In order to receive this written verification, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written verification prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN (copies must be submitted to the SCDHEC OCRM and Bureau of Water):

1. Completed "Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina."

2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed structures in tidal areas relative to the mean high water (MHW) and mean low water (MLW), or in non-tidal areas relative to the ordinary high water mark (OHWM).

3. A statement that the work will be conducted in compliance with the terms and conditions of this General Permit.

d. A signed compliance certification will be submitted to the Charleston District Engineer within 60 days following completion of the authorized work and shall include the following:

1. A statement that the authorized work was done in accordance with this General Permit.

2. The signature of the permittee certifying the completion of the work.

e. For structures **not** located on a Federal channel or Federal project, the following conditions apply:

1. The channelward extension of the structure shall not exceed the lesser of: one-third of the width of the waterbody at mean low water (MLW) on tidal waterbodies or one-third of the width of the waterbody from the ordinary high water mark (OHWM) on non-tidal waterbodies, or the minimum length necessary to accomplish the project purpose provided there is no undue interference with navigation.
2. In situations where the navigable depth is not located in the center of the waterbody, the structure shall not extend further than one-third of the width of the navigable channel.
3. In situations where an existing structure is located across the waterbody from the proposed structure, the channelward extension of the proposed structure shall not extend further than one-fourth of the width of the waterbody at mean low water (MLW) on tidal waterbodies or one-fourth of the width of the waterbody from the ordinary high water mark (OHWM) on non-tidal waterbodies.

SPECIAL NOTE: The term waterbody, for the purposes of this General Permit, is defined as the area measured across the channel from mean low water (MLW) to mean low water (MLW) in tidal areas or ordinary high water mark (OHWM) to ordinary high water mark (OHWM) in non-tidal areas.

B. Minor Dredging:

1. MINOR DREDGING UP TO 1,500 CUBIC YARDS OF MATERIAL FOR PURPOSES OF NAVIGATION:

- a. Minor dredging must be associated with navigation and must be located adjacent to an existing or proposed docking structure.
- b. The minor dredging must be a single and complete project and shall be limited to the removal of no more than 1,500 cubic yards of material.
- c. The depth of the minor dredging must not exceed the controlling navigational depth of the adjacent waters.
- d. This permit does not authorize dredging or the placement of dredge spoil material within wetlands or areas with natural shellfish beds.
- e. This permit does not authorize dredging or the placement of dredge spoil material within the Sturgeon Aggregation Area of the Cooper River (RM 22.5-31).
- f. This permit does not authorize dredging or the placement of dredge spoil material within the following waterbodies during the months of June, July, August, or September:

Ashepoo River
 Bull Creek/Big Bull Creek – RM 0-62 (Confluence with Waccamaw River to Confluence with Great Pee Dee River)
 Combahee-Salkehatchie River – RM 8.2-60 (I-95 Bridge)

Rediversion Canal – RM 0-5 (Confluence with Santee Mainstem to Base of St. Stephen Powerhouse)

- g. The dredged material shall be placed in an appropriate upland area and properly contained to prevent any material re-entering the waterbody or entering any other waters of the United States, including wetlands. Treated return water discharging from approved upland CDFs or disposal sites is authorized. Alternatively, dredged material may be placed in an area specifically authorized by a separate Department of the Army permit.
- h. For activities that include mechanical dredging methods, the applicant must submit spoil disposal design plans that will adequately contain and treat the dredged spoil material.
- i. For activities that include hydraulic dredging methods, the applicant must submit spoil disposal design plans that will adequately contain the large volumes of water produced by this type of method and will adequately de-water and treat the dredged spoil material.
- j. If the Corps determines that dredging activities may occur in a potentially contaminated area, a Tier I evaluation, to be completed in accordance with the Inland Testing Manual, may be required to inform the review of the proposed project.
- k. Prior to any work being done, written verification must be obtained from the Corps of Engineers **for all minor dredging activities prior to commencement of work**. In order to receive this written verification, a Pre-Construction Notification (PCN) is required. Failure to provide this PCN and obtain written verification prior to commencement of work will be considered a violation of federal law and appropriate legal action may be taken. The following information shall be submitted to the Charleston District Engineer in order to fulfill the requirements of the PCN (copies must be submitted to the SCDHEC OCRM and Bureau of Water):
 1. Completed "Joint Federal and State Application Form For Activities Affecting Waters of the United States Or Critical Areas of the State of South Carolina."
 2. Plans of the proposed work (8.5 X 11" if submitted in hard copy) showing all proposed dredging in tidal areas relative to the mean high water (MHW), mean low water (MLW), and high tide line (HTL), or in non-tidal areas relative to the ordinary high water mark (OHWM). Distance to the federal channel, if applicable, must be included. Plan view and cross-section diagrams are both required (all diagrams must be drawn to scale or include dimensions of all proposed structures).
 3. **For projects located on a federal channel**, plans must include the State Plane Coordinates (NAD 1983) for the waterward corners of the dredge area where it is closest to the federal channel. The plans shall also identify the distance of the proposed dredge area from the edge of the federal channel.
 4. A statement that work will be conducted in compliance with the terms and conditions of this General Permit.
- l. A signed compliance certification will be submitted to the Charleston District Engineer within 60 days following completion of the authorized work and shall include the following:

1. A statement that the authorized work was done in accordance with this General Permit,
2. The signature of the permittee certifying the completion of work,

II. GENERAL CONDITIONS:

A. This General Permit authorizes only those activities and structures specifically addressed above. The permittee must obtain Department of the Army authorization, such as the issuance of an individual permit, for all other activities that are regulated pursuant to Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act within waters of the United States.

B. All activities identified and authorized herein shall be consistent with the terms and conditions of this General Permit. Any variance not specifically identified and authorized herein shall constitute a violation the terms and conditions of this permit and may result in modification, suspension, or revocation of the authorization, as set forth more specifically in General Condition F. below and in the institution of such legal proceedings as the United States Government may consider appropriate.

C. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to minimize any adverse impact to fish, wildlife, and other environmental resources, including shellfish beds.

D. The permittee must make every reasonable effort to conduct the work authorized herein in a manner so as to avoid and minimize any degradation of water quality.

E. The permittee shall allow the District Engineer or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

F. Authorization of a specific work or structure authorized herein may be summarily suspended in whole or in part upon a finding by the District Engineer that immediate suspension would be in the general public interest or there has been a violation of any terms or conditions of this permit. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by a permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. A permittee shall take immediate action to comply with the provisions of this notice. Within ten (10) days following the receipt of this notice of suspension, the permittee may request a meeting with the District Engineer or a public hearing to present information relevant to a decision whether their permit should be reinstated, modified, or revoked. If a public hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the public hearing or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the authorization of the specific work or structure will be reinstated, modified, or revoked. Any modification, suspension, or revocation of authorization under this General Permit shall not be the basis for any claim for damages against the United States.

G. Upon receipt of a notice from the District Engineer for failure to comply with the terms, conditions, or standards of this General Permit, the property owner must within sixty (60) days without expense to the United States and in such manner as directed by the District Engineer or his authorized representative(s), effect compliance with the terms, conditions, and standards or remove the previously authorized structure.

H. This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws, nor does it obviate the requirement to obtain other Federal, State, or local assent or to comply with any applicable standards required by ordinance for the activities authorized herein. Other Federal, State, or local agencies are not limited by this document and may impose more stringent requirements than those stated herein as they see fit.

I. Works or structures authorized herein may be subject to damage by wave wash from passing vessels and wind-driven waves. The issuance of this General Permit does not relieve the permittee from taking all proper steps to ensure the integrity of works permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

J. The permittee shall maintain the work or structure authorized herein in good condition. If and when a permittee desires to abandon an authorized structure, unless such abandonment is part of a transfer procedure by which the individual is transferring ownership of the structure, the permittee may be required to remove the structure.

K. If the display of lights and signals on any structure authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

L. Any activity that may affect any federally listed threatened or endangered species, a species proposed for listing, or designated critical habitat is NOT authorized by this General Permit. Any proposed activity that may affect listed species or designated critical habitat, will require consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

M. Historic Properties.

1. Non-federal prospective permittees must submit a Pre-Construction Notice (PCN) to the District Engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the PCN must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought by using the Subscriber View Map of the SCArchSite website or from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places. Additionally, the South Carolina Institute of Archaeology and Anthropology (SCIAA) and/or the Maritime Research Division at SCIAA can be contacted for assistance in determining the location of or potential for archaeological sites or submerged cultural resources. Based on the information submitted and these efforts, the District Engineer shall determine whether the proposed activity has the potential to cause an effect on

the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the District Engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

2. The District Engineer will notify the prospective permittee within 60 days of receipt of a complete PCN whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties. If NHPA section 106 consultation is required and will occur, the District Engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 60 days, the applicant must still wait for notification from the Corps.
3. Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the District Engineer with the appropriate documentation to demonstrate compliance with those requirements. The District Engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the proposed activity, or whether additional section 106 consultation is necessary.
4. Prospective permittees of this General Permit should be aware that Section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

N. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this General Permit, you must immediately notify the District Engineer and SHPO of what you have found, and to the maximum extent *practicable*, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The District Engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places. Archeological remains consist of any materials made or altered by man, which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, *structures*, or non-recent (i.e., older than 100 years) vessel ruins.

O. The permittee must notify the South Carolina Institute of Archaeology and Anthropology (SCIAA) in accordance with the South Carolina Underwater Antiquities Act of 1991 (Article 5, Chapter 7, Title 54 Code of Laws of South Carolina, 1976) in the event archaeological or paleontological remains are found during the course of the work. Archaeological remains consist of any materials made or altered by man which remains from the past historic or prehistoric times (i.e. older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools human, burials, historic docks, structures or non-recent (i.e. older than 100 years) vessel ruins. Paleontological remains consist of old animal remains, original or fossilized, such as teeth, tusk, bone or entire skeletons.

P. This general permit relates only to activities authorized herein and does not convey the right to place any structures for any non-water related commercial use on or adjacent to any piers, floating docks, mooring piles, dolphins, covered boat sheds and/or dock covers without the prior approval of the District Engineer.

Q. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work, shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

R. The Charleston District Engineer, at his/her discretion, may determine that this General Permit will not be applicable to a specific construction proposal. In such case, the procedure for processing an individual permit in accordance with 33 CFR 325 will be available.

S. This General Permit authorizes certain structures to be constructed on/or adjacent to areas subject to a prism and/or disposal easement held by the United States in perpetuity in conjunction with a Congressionally authorized project for the maintenance and improvement of the federal channel. This General Permit does not convey any property rights either in real estate or material or any exclusive use privileges, nor does it relinquish any right the United States has for the use of its easement or the maintenance and future widening or deepening of the federal channel pursuant to its easement rights.

T. If the District Engineer determines this structure shall in any way in the future conflict with the improvement, operation, maintenance and widening or deepening of the federal channel, the owners themselves, their heirs, successors and assigns will remove said structure within 45 days from the date that written notice is given by the District Engineer, and there shall be no entitlement to compensation from the United States for damage or injury,

U. No permanent structures will be placed on the prism easement or on any adjacent disposal easement without written approval of the District Engineer.

V. The term "joint use dock" means the dock to be constructed can be used by no more than four (4) property owners.

W. The term "permittee" means the individual authorized by the District Engineer to accomplish work under this General Permit. The activities authorized under this permit are for private, non-commercial use. Work will not be considered private if its planned or ultimate purpose is commercial or industrial in nature, it is in support of operations that charge for the production,

distribution, or sale of goods or service, or it will be for the use of the general public. In certain instances, the term "permittee" may include corporations or other commercial entities that are requesting authorization to construct joint use or community docks as amenities to residential developments.

X. The term "community dock", for the purposes of this General Permit, means the structure shall be constructed for the use of those individuals within a specific community and shall provide temporary mooring space only.

Y. Any activity that may affect shellfish aggregations and reefs are NOT authorized by this General Permit. These activities will be evaluated under the individual permit review process as specified in 33 CFR 325.

Z. Floating docks, including floating jet ski lifts, shall be located in areas of adequate depth to ensure that clearance between the float and the bottom is maintained at all times. In areas where the depth is not adequate to maintain clearance, floating docks shall be fitted with structures (i.e. float stops) that prevent the float from contacting the bottom.

AA. The number of pilings shall be restricted to the least amount possible and distance between pilings should be maximized to the greatest extent practicable.

BB. This General Permit does not authorize any structure to be located within the lands or waters of a Corps of Engineers civil works project authorized for a purpose other than or in addition to navigation.

III. PROHIBITED ACTIVITIES:

All work that exceeds the terms and conditions specified herein is prohibited unless an Individual Department of the Army Permit or Nationwide Permit authorization has been obtained

from the Corps of Engineers. All work for purposes other than those specified herein is expressly not authorized by this document.

IV. REQUIRED AUTHORIZATIONS:

A. Prior to performing any of the work authorized herein the permittee shall obtain the necessary state permits from the South Carolina Department of Health and Environmental Control and any other required Federal, State or local authorizations.

B. For activities located in the Critical Area, the permittee shall obtain a Critical Area Permit and a Coastal Zone Consistency Certification from SCDHEC, Office of Ocean and Coastal Resource Management.

C. For activities located outside the Critical Area in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, and Jasper Counties, the permittee shall obtain a Construction in Navigable Waters Permit and a Coastal Zone Consistency Certification from SCDHEC, Office of Ocean and Coastal Resource Management.

D. For activities located outside the eight coastal counties listed in IV(C) above, the permittee shall obtain a Construction in Navigable Waters Permit from SCDHEC, Bureau of Water.

E. Authorization under this permit does not obviate any obligation or responsibility for compliance with FEMA-approved state or local floodplain ordinances or floodplain management requirements. Projects verified for authorization under this permit that include the placement of fill or structures within any portion of the 100-year Floodplain should contact the officials responsible for the local community's FEMA-approved floodplain requirements.

V. PENALTIES FOR VIOLATIONS:

Authorization obtained under this General Permit limits the size, length and use of structures. Any deviation from the specifications, or other terms or conditions of the General Permit shall constitute a violation of Section 10 of the Rivers and Harbors Act of 1899 and may result in the District Engineer seeking judicial relief to have the permittee remove the structure or work and/or restore the project area to its former condition, as well as the imposition of penalties as provided by law.

VI. REVOCATION OF THE GENERAL PERMIT:

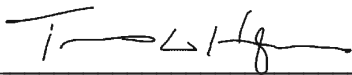
This permit may be revoked by issuance of a Public Notice at any time the District Engineer determines that the cumulative effects of the activities authorized herein have an adverse effect on the public interest. Following such revocation, any future activities in areas covered by this General Permit will be processed as an Individual Department of the Army Permit or Nationwide Permit authorization.

VII. DURATION OF THE GENERAL PERMIT:

Authorization by this General Permit is valid until the General Permit expires on December 14, 2026, unless the District Engineer modifies, suspends, or revokes this General Permit in the interim. If prior to this date, the General Permit authorization is reissued without modification or the activity complies with any subsequent modification of the General Permit, the verification continues to remain valid until December 14, 2026. If you commence, or are under contract to commence, this activity before this General Permit expires, or the General Permit is modified, suspended, or revoked by the District Engineer, in such a way that the activity would no longer comply with the terms and conditions of this General Permit, you will have 12 months after the date the General Permit expires or is modified, suspended, or revoked, to complete the activity under the present terms and conditions of this General Permit.

This permit shall become effective on the date of the District Engineer's signature.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:



Andrew C. Johannes, PhD PE PMP
Lieutenant Colonel, U.S. Army
Commander and District Engineer

10 December 2021

Date

or his Designee

Travis Hughes
Chief, Regulatory Division

Permit Number: _____

Name of Permittee: _____

Date of Issuance: _____

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Regulatory Division
69A Hagood Avenue
Charleston, South Carolina 29403-5107

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

=====

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Permit Details: P24-0307Property Address: 1802 BACK ST, Sullivan's Island, SC 29482 | Parcel: [5290500077](#)**Property Owner:** VANNATTA PAUL R**Permit Information**

Number	P24-0307	Category	Dock
Type	Dock	Status	Holding For Fees, Holding For Reviews
Applied Date	05/22/2024	Expire Date	No Data to Display
Issue Date	No Data to Display	Final Date	No Data to Display
Work Description	Not Available		
Stipulations	Not Available		
Project	No Data to Display		

Amount Due

Permit - Dock	\$1,543.99
Total	Pay Now

Process Step Information

Step Number	Step Display Name	Status	Date Step Started	Date Step Completed	Date Step Due	
1	Dock Permit Reviews	Not Started				View

Document Summary

Document Title						
Plans						
[Expand All]						
Version	Document Title	Review Status	Received	Completed		
1	Plans	Not Required	5/21/2024	6/3/2024	View Document	

Review Comments/Concerns

Show All							[Collapse All]	
Title	Type	Comment Type	Corrected	Date Found	Date Corrected	Process Step	Review	
General Comment	Concern	No		6/3/2024		Dock Permit Reviews, Step 1, Original Submittal	Zoning & Planning - Completed	View
A dock is not permitted by the Town in this location; no docks are permitted between the Station 18 centerline extension and the Station 27 centerline extension. Furthermore, no docks longer than 300 linear feet are permitted unless they reach a 200-ft wide creek.								

Fees & Payments

Date	Action	Qty	Description	Billed	Paid
5/22/2024	Invoice Item	125,000.00	Plan Review: Plan Review (Invoice Number: 00007114)	\$504.75	
5/22/2024	Invoice Item	1.00	Permit Fee: Issue Fee (Invoice Number: 00007114)	\$29.75	
5/22/2024	Invoice Item	125,000.00	Permit Fee: Building Permit Fee (Invoice Number: 00007114)	\$1,009.49	

Applicant Information**Address** VANNATTA PAUL R**Phone**
MobileNo Data to Display
No Data to Display**Fax**
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TOSI - VANNATTA 0513

Owner Information

Address			
VANNATTA PAUL R			
1440 BACK BLVD			
SULLIVANS ISLAND, SC 29464			
Phone	No Data to Display	Fax	No Data to Display
Mobile	No Data to Display	Other Phone	No Data to Display

Construction Details

Construction Value	125000.00
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2023 South Carolina Code of Laws

Title 48 - Environmental Protection and Conservation

Chapter 39 - Coastal Tidelands And Wetlands

Section 48-39-150. Approval or denial of permits; appeal to council; exceptions.

Universal Citation:

SC Code § 48-39-150 (2023)

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(A) In determining whether a permit application is approved or denied the department shall base its determination on the individual merits of each application, the policies specified in Sections 48-39-20 and 48-39-30 and be guided by the following general considerations:

- (1) The extent to which the activity requires a waterfront location or is economically enhanced by its proximity to the water.
- (2) The extent to which the activity would harmfully obstruct the natural flow of navigable water. If the proposed project is in one or more of the State's harbors or in a waterway used

for commercial navigation and shipping or in an area set aside for port development in an approved management plan, then a certificate from the South Carolina State Ports Authority declaring the proposed project or activity would not unreasonably interfere with commercial navigation and shipping must be obtained by the department prior to issuing a permit.

(3) The extent to which the applicant's completed project would affect the production of fish, shrimp, oysters, crabs or clams or any marine life or wildlife or other natural resources in a particular area including but not limited to water and oxygen supply.

(4) The extent to which the activity could cause erosion, shoaling of channels or creation of stagnant water.

(5) The extent to which the development could affect existing public access to tidal and submerged lands, navigable waters and beaches or other recreational coastal resources.

(6) The extent to which the development could affect the habitats for rare and endangered species of wildlife or irreplaceable historic and archeological sites of South Carolina's coastal zone.

(7) The extent of the economic benefits as compared with the benefits from preservation of an area in its unaltered state.

(8) The extent of any adverse environmental impact which cannot be avoided by reasonable safeguards.

(9) The extent to which all feasible safeguards are taken to avoid adverse environmental impact resulting from a project.

(10) The extent to which the proposed use could affect the value and enjoyment of adjacent owners.

(B) After considering the views of interested agencies, local governments and persons, and after evaluation of biological and economic considerations, if the department finds that the application is not contrary to the policies specified in this chapter, it shall issue to the applicant a permit. The permit may be conditioned upon the applicant's amending the proposal to take whatever measures the department feels are necessary to protect the public interest. At the request of twenty citizens or residents of the county or counties affected, the department shall hold a public hearing on any application which has an effect on a critical area, prior to issuing a permit. Such public hearings shall be open to all citizens

of the State. When applicable, joint public hearings will be held in conjunction with any such hearings required by the U. S. Army Corps of Engineers. On any permit application pertaining to a specific development which has been approved by the department, the department may support the applicant with respect to any federal permit applications pertaining to the same specific development.

(C) The department shall act upon an application for a permit within ninety days after the application is filed. Provided, however, that in the case of minor developments, as defined in Section 48-39-10, the department shall have the authority to approve such permits and shall act within thirty days. In the event a permit is denied the department shall state the reasons for such denial and such reasons must be in accordance with the provisions of this chapter.

(D) An applicant having a permit denied or a person adversely affected by the granting of the permit has the right of direct appeal from the decision of the administrative law judge pursuant to Section 1-23-610. An applicant having a permit denied may challenge the validity of any or all reasons given for denial.

(E) Any permit may be revoked for noncompliance with or violation of its terms after written notice of intention to do so has been given the holder and the holder given an opportunity to present an explanation to the department.

(F) Except for maintenance dredging permits, work authorized by permits issued under this chapter must be completed within five years after the date of issuance. Maintenance dredging permitted under this chapter must be completed within ten years after the date of issuance. The time limit may be extended for good cause showing that due diligence toward completion of the work has been made as evidenced by significant work progress. An extension only may be granted if the permitted project meets the policies and regulations in force when the extension is requested or the permittee agrees to accept additional conditions which would bring the project into compliance. The time periods required by this subsection must be tolled during the pendency of an administrative or a judicial appeal of the permit issuance.

(G)(1) A property that is deemed eligible under a general permit issued by the United States Army Corp of Engineers is exempt from the permitting requirements set forth in this chapter for routine, normal, or emergency maintenance or repair activities pursuant to the general permit within currently functioning:

(a) tidal impoundment fields located in tidal navigable waters of the United States, as the term is used in Section 10 of the Rivers and Harbors Act of 1899; or

(b) adjacent nontidal fields that rely on the outgoing tide to drain, where the water regimes of the fields are currently being manipulated for wildlife management or where the fields have all of the necessary embankments and structures in place to allow for the manipulation of the water regimes for wildlife management.

(2) The division may enforce the conditions of the general permit issued by the United States Army Corp of Engineers in the same manner and with the same authority as if the division had approved the permit pursuant to the provisions of this chapter.

HISTORY: 1977 Act No. 123, Section 15; 1982 Act No. 410, Section 2; 1993 Act No. 126, Section 1; 1993 Act No. 181, Section 1235; 2006 Act No. 387, Section 31; 2011 Act No. 41, Section 3, eff June 7, 2011; 2016 Act No. 204 (S.788), Section 2, eff June 3, 2016.

Editor's Note

2011 Act No. 41, Section 6 provides as follows:

"Nothing in this act shall be construed to expand or increase the department's jurisdiction or to require permits for activities or projects that are not currently subject to regulation by the department. Except for the extension of the permit duration for maintenance dredging permits to ten years, nothing in this act shall be construed to impact any pending request or application for any license or approval from the department."

2016 Act No. 204, Sections 1, 3, provide as follows:

"SECTION 1. This act must be known and may be cited as the 'Managed Tidal Impoundment Preservation Act'."

"SECTION 3. The intent of the General Assembly is to make this act applicable to property deemed eligible under the United States Army Corps of Engineers, Charleston District's Managed Tidal Impoundment General Permit Number SAC-2011-1157 and its successors."

Effect of Amendment

The 2011 amendment, in subsection (F), in the first sentence, substituted "Except for maintenance dredging permits, work" for "Work"; and inserted the second sentence.

2016 Act No. 204, Section 2, added (G), relating to permit exemption under certain circumstances.

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Sec. 21-75. Construction of private docks in RC-2 Area District.

A. In the RC-2 Area District the construction of private docks by owners of lots adjoining this area may be permitted, provided approval of the Town of Sullivan's Island, U.S. Corps of Engineers, the Department of Health and Environmental Control/Office of Ocean and Coastal Resource Management (DHEC/OCRM) and any other governmental or regulatory agency with jurisdiction.

B. The following restrictions govern the construction of docks in the RC-2 Area District:

(1) No dock shall be permitted to be constructed which extends into the channel or extends so far as to interfere with navigation;

(2) No dock shall be permitted to be constructed across marshland in the RC-2 Area District from the centerline extension of Station 18 to the centerline extension of Station 27 and no dock shall be permitted to be constructed in the marsh lands of the RC-2 Area District in the area located between the intersection of the eastern point of the Sullivan's Island Fire Rescue Squad Boat Landing lot located at the end of Point Street, TMS#523-06-00-070, and the Osceola Avenue right-of-way and the intersections of the western point of the lot located at 1010 Osceola Avenue, TMS#523-06-00-003, and the Osceola Street right-of-way. In all other areas of the RC-2 Area District, no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300) feet in total length; (4-18-06)

(a) Exception: a dock may extend up eight hundred (800) feet to reach a creek that is two hundred (200) feet or more in width (width of creek measured from land or marsh grass to land or marsh grass); however, said dock shall not be permitted to cross a creek that is greater than eight (8) feet in width to reach the two hundred (200) foot width creek.

(3) Pier head, floating dock and boatlift.

(a) The head of the permanent dock/"pier head" structure shall be no greater in size than two hundred twenty-five (225) square feet and may include a bench not exceeding more than thirty (30) linear feet and twenty-four (24) inches in width. (4-18-06)

(b) In addition to the permanent pier head of the dock, there may be a floating dock no greater than eight (8) feet by twenty (20) feet or one hundred sixty (160) square feet. An attached structure for storage ("dock box") may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225) square feet of the "head" or one hundred sixty (160) square feet of the floating dock and provided it does not exceed three (3) feet in height and does not exceed thirty-two (32) square feet in floor area;

(c) In addition to the permanent pier head of the dock there may be one boatlift, not to exceed four (4) vertical support pilings with a maximum lift capacity of thirteen thousand (13,000) pounds or one floating boat storage device with the capacity not exceeding that of the permitted boat lift. (4-18-06)

(d) The boat lift and primary access ramp or ladder to the floating dock shall only be accessed directly from the pier head; no additional walkways or catwalks shall be allowed to provide access to the boat lift or floating dock, nor shall access to these components be allowed from the walkway leading to the pier head.

(4) No docks or pier heads or other associated structures shall be permitted closer than ten (10) feet from Extended Lot Lines with the exception of common docks shared by two adjoining property owners.

(a) Exception. A dock shall be permitted to cross over Extended Lot Lines in areas where angled docks currently exist and where these docks cross over Extended Lot Lines, provided the angled placement would result in the dock being shorter than if built within the Extended Lot Line Setbacks and meets the criteria of Sec. 21-76 B(2) above.

(5) The maximum width of the walkway or pier between the highland and the pier head shall be four (4) feet. The walkway may have a railing but shall have no walls that impede the flow of air through the walkway. Only one walkway access to the pier head shall be allowed with no deviations or extensions providing access to other dock components.

(6) A single roof may be placed either over the dock or the boat lift and shall be limited to the area lying immediately above the pier head or the boat lift with no more than two (2) foot overhang over any portion of the pier head or boat lift. In no event shall the overall size of the roof exceed three hundred sixty-one (361) square feet. No roof shall extend above fifteen (15) feet of the mean high water mark and there shall be no rails or decks incorporated into the roofs and no ladders or other means of accessing the roof on a permanent basis shall be allowed;

(7) Electrical lighting shall be allowed only at the head of the dock and not along the walkway provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as promulgated by the building regulations for the Town of Sullivan's Island;

(8) No plumbing shall be allowed except water sinks and faucets; all toilets, portable toilets or any other means of sewage collection or disposal are strictly prohibited;

(9) The walkway, pier head and floating dock shall not be enclosed nor shall there be any walls of any kind on any side of the same. However, safety rails with slats at least two (2) inches apart shall be allowed provided that they do not exceed three (3) feet in height;

(10) No watercraft or other device may be situated upon a boatlift as provided herein, in such a fashion whereby any portion of the watercraft or other device, except masts, antennas and outriggers extends higher than the fifteen feet (15)

TOSI - VANNATTA 0520

above the high water mark; (08-15-06)

- (11) Boats moored at docks cannot block or unduly impede navigation;
- (12) The use of the docks shall be limited to private purposes;
- (13) Living aboard a boat moored at a dock is strictly prohibited;
- (14) All commercial activities are prohibited; and,
- (15) All docks and boats moored at a permitted dock shall be maintained to insure safe usage and not be a potential hazard to navigation.
- (16) Only such dock components specifically enumerated above shall be allowed. (4-18-06)

C. The following dock components are permitted. (4-18-06)

- 1. Pier Head
- 2. Floating dock
- 3. Boat lift

Alex Boone

From: Bridget Welch <bwelch@sullivansisland.sc.gov>
Sent: Monday, September 9, 2024 1:12 PM
To: Alex Boone
Subject: RE: Town of Sullivan's Island Minutes

Mr. Boone –

The Planning Commission minutes that were emailed is all that can be located. The other minutes were unable to be located after diligent search.

Best regards,
 Bridget



Bridget Welch
 Town Clerk

Sullivan's Island Town Hall
 2056 Middle Street PO Box 427
 Sullivan's Island, SC 29482
 (o) 843-883-5730 (f) 843-883-3009

www.sullivansisland.sc.gov

From: Alex Boone <alex.boone@hoodlaw.com>
Sent: Monday, September 9, 2024 11:15 AM
To: Bridget Welch <bwelch@sullivansisland.sc.gov>
Subject: RE: Town of Sullivan's Island Minutes

CAUTION: > This email originated from outside the Town of Sullivan's Island. Do not click links or open attachments unless you have verified the sender and know the content is safe.

Hi Bridget –

Just following up on whether those planning commission minutes were found. Thanks!

Alex

From: Alex Boone
Sent: Tuesday, September 3, 2024 12:26 PM
To: Bridget Welch <bwelch@sullivansisland.sc.gov>
Subject: RE: Town of Sullivan's Island Minutes

Attached, thank you.

From: Bridget Welch <bwelch@sullivanisland.sc.gov>
Sent: Tuesday, September 3, 2024 9:39 AM
To: Alex Boone <alex.boone@hoodlaw.com>
Subject: RE: Town of Sullivan's Island Minutes

Mr. Boone,

The meeting minutes that you are requesting will require some time to research. Please complete the attached FOIA application and return to me at your earliest convenience.

Thank you,
 Bridget Welch



Bridget Welch
 Town Clerk

Sullivan's Island Town Hall
 2056 Middle Street PO Box 427
 Sullivan's Island, SC 29482
 (o) 843-883-5730 (f) 843-883-3009

www.sullivanisland.sc.gov

From: Alex Boone <alex.boone@hoodlaw.com>
Sent: Friday, August 30, 2024 11:24 AM
To: Bridget Welch <bwelch@sullivanisland.sc.gov>
Subject: RE: Town of Sullivan's Island Minutes

CAUTION: > This email originated from outside the Town of Sullivan's Island. Do not click links or open attachments unless you have verified the sender and know the content is safe.

Hi Bridget,

Just checking to follow up on the October/November planning commission minutes from 2003 on this. Thanks again for your help!

Alex

From: Bridget Welch <bwelch@sullivanisland.sc.gov>
Sent: Wednesday, August 21, 2024 12:18 PM
To: Alex Boone <alex.boone@hoodlaw.com>
Subject: RE: Town of Sullivan's Island Minutes

I have located the planning commission minutes from December 10th.
 I will need to keep looking for October and November minutes.



Bridget Welch
Town Clerk

Sullivan's Island Town Hall
2056 Middle Street PO Box 427
Sullivan's Island, SC 29482
(o) 843-883-5730 (f) 843-883-3009

www.sullivansisland.sc.gov

From: Alex Boone <alex.boone@hoodlaw.com>
Sent: Wednesday, August 21, 2024 10:57 AM
To: Bridget Welch <bwelch@sullivansisland.sc.gov>
Subject: RE: Town of Sullivan's Island Minutes

CAUTION: > This email originated from outside the Town of Sullivan's Island. Do not click links or open attachments unless you have verified the sender and know the content is safe.

Thanks Bridget –

Do the archives also have Planning Commission minutes from 10/8/2003 and 12/10/2003? Thanks again very much

Alex

From: Bridget Welch <bwelch@sullivansisland.sc.gov>
Sent: Wednesday, August 21, 2024 10:22 AM
To: Alex Boone <alex.boone@hoodlaw.com>
Subject: RE: Town of Sullivan's Island Minutes

I have attached the meeting minutes that you requested.



Bridget Welch
Town Clerk

Sullivan's Island Town Hall
2056 Middle Street PO Box 427
Sullivan's Island, SC 29482
(o) 843-883-5730 (f) 843-883-3009

www.sullivansisland.sc.gov

From: Alex Boone <alex.boone@hoodlaw.com>
Sent: Wednesday, August 21, 2024 10:19 AM
To: Bridget Welch <bwelch@sullivansisland.sc.gov>
Subject: RE: Town of Sullivan's Island Minutes

CAUTION: > This email originated from outside the Town of Sullivan's Island. Do not click links or open attachments unless you have verified the sender and know the content is safe.

Sure thing! Thanks so much

From: Bridget Welch <bwelch@sullivansisland.sc.gov>

Sent: Wednesday, August 21, 2024 10:19 AM

To: Alex Boone <alex.boone@hoodlaw.com>

Subject: Town of Sullivan's Island Minutes

Hi Alex:

I have the 2004 Jan-Mar meeting minutes. Would you like for me to send them over electronically?

Best Regards,
Bridget



Bridget Welch
Town Clerk

Sullivan's Island Town Hall
2056 Middle Street PO Box 427
Sullivan's Island, SC 29482
(o) 843-883-5730 (f) 843-883-3009

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Planning Commission
Wednesday December 10, 2003

Members Present: Scott Parker, Blaine Ewing, Alice O'Dell, Billy Craver and Bobby Thompson

Members Absent: Hal Currey (excused) and Nona Hastie (excused)

Also Present: Kent Prause, Zoning Administrator

Motion was made by Blaine Ewing and seconded by Billy Craver to approve the minutes from the October 2003 meeting. Carried unanimously.

Motion was made by Bobby Thompson seconded by Blaine Ewing to postpone approval of minutes from November to include comments made by Bobby Thompson on compromise. Carried unanimously.

A number of correspondents were sent to the commission and to the Town regarding the dock issues. These correspondents will be brought into the public hearing.

Bobby Thompson spoke regarding the number of possible docks in various situations. Bobby Cummings, Blaine Ewing and Bobby Thompson went out into various waterways to come up with these numbers.

- Out of 130 properties 63 properties have existing docks.
- Under the current ordinance there could be 5 possible new docks.
- There would be 29 additional docks allowed if code was adopted to conform to the 1000-foot length plus 12 more if allowed to cross town platted lots.
- 3 possible new docks if allowed to build an 800 foot dock to a 200 foot creek straight out

Public Comments

Michael Mithoeffer, 1650 Poe Avenue, sent a survey out to residents regarding docks and presented the findings of that survey: 264 residents responded, 74.6% or 197 people want to leave dock ordinance as is, 14.4% or 48 people would like to see a compromise to correct perceived inequities and preserve pristine areas and 11% or 29 people would like to change to OCRM's regulations of 1000 feet.

Susan Romain, 7 Conquest. Spoke against dock owners being allowed to build catwalks on their existing piers. Would like to see the ordinance changed to prevent mini-marinas

Mike Cole, 4 Conquest, missed the first couple of meetings regarding this issue and spoke against longer docks, asking for explanation of reasons for longer docks.

Ed Crawford, 1013 Middle Street, against changing the dock ordinance, but would like to width variances given for the handicapped.

Tom Carr, 2109 Pettigrew Street, against change in the ordinance. Would like to see the good of all come out of this ordinance.

Joan Pittman, 2313 I'on Avenue, against change for the common good.

Carlin Timmons, 1413 Middle Street, spoke against the change for the common good of the community.

John Lancto, 2602 Myrtle Avenue, spoke for relaxed dock restrictions.

Linda Ward, 2820 Jasper Blvd., spoke for the change.

Wallace Barr, 2068 I'on Avenue, consideration should be given to properties where docks are already in place. For a compromise.

Marteen Zonjee, 2430 Myrtle Avenue, he is an open water rower and says he rarely sees boats utilizing our waterways. Against a change.

Ray Ward, 2820 Jasper Blvd. Spoke for the change, would like to have a dock 600 feet long.

Cindy Ewing, 2514 I'on Avenue, speaking for neighbor Bonnie Williams. She supplied the Planning Commission with a study done on dock owners for OCRM by the College of Charleston. Against change.

Ned Hettinger, 2924 I'on Avenue, spoke against private individuals using public land for their own use.

Everett Presson, 1814 Middle Street, would like to see a compromise to correct the inequities.

Charlie Anderegg, 405 Station 12 Street, for the change in the ordinance.

Mark Tanenbaum, 406 Station 12 Street, would like commission to think only about the facts. Compromise number 1-Allow 800-foot dock to a 200-foot creek. Compromise number 2-From upper Cove Creek to Lofton Creek adopt OCRM regulations with our own restrictions on amenities on the docks.

Larry Middaugh, 2420 Raven Drive, spoke against the proposed change stating that a great number of dock owners are against polluting the marsh with docks.

Liz Nimmich, 1816 Back Street, does not want to see docks ruin the vista and the environment.

Susan Middaugh, 2420 Raven Drive, submitted a letter with pictures of the view from the causeway as it is now. Against change.

Herbert McMurphy, 1820 Lion Avenue, spoke against the relaxation of dock restrictions, citing lack of confidence in OCRM's judgement and urging council to opt for a local compromise.

Mike Cole, 4 Conquest Ave., was on the Board of Zoning Appeals. The more you allow the more people would want. Against seeing the ordinance change, but feels the compromise of allowing an 800 foot creek to go to a 200 foot creek would allow some of the inequities allowed to be fixed.

Ed Crawford

Billy O'Dell, 1722 Middle Street, spoke against relaxation of dock restrictions.

TOTAL SPEAKERS:	Against change	15
	For Change	6

Letters Received

John Lancto-2206 Myrtle Avenue, wrote for longer dock lengths to allow him eventually too move to a marsh front lot.

Rob Black-2814 Jasper Blvd., wrote asking for longer length allowances in the "Felger: area along Lofton Creek.

Susan and Larry Middaugh-2420 Raven Drive wrote against relaxes restriction, arguing specifically that crab docks could not be controlled by Town or OCRM so as to effectively minimize impacts.

Ed Fava, Jr., 2424 Middle Street wrote against any changes in dock restrictions

TOTAL LETTERS:	Against change	2
	For Change	2

At this time the public hearing was closed to public comment.

Planning Commission Discussion

Blaine Ewing would like to see the compromise to allow docks to extend to a 200 foot creek with a dock up to 800 feet in length as long as the dock does not cross over a creek 10 feet or greater in width to get to deep water. Since marsh is town owned property would like to see the property put into an open land trust and put restrictions on the land.

Alice O'Dell would like to see the ordinance stay as is. Has sympathy for property owners with docks on either side and they cannot get a dock. Interested in compromise, but would like to see the 300-foot law as it is.

Billy Craver agrees with everyone who spoke his or her opinion. However his personal judgment is that a dock should go to deep water not a ditch. His personal feeling is that a ditch is less than 100-feet wide. Docks that go to deep water where there are already multiple docks do not offend him. Feels it is not offensive to allow the approximate 3 people to get their docks.

Bobby Thompson-their job on planning commission is to stand up for the good of the whole Island. He agrees with Billy Craver and Blaine Ewing, but would first like to see Town Council move to protect town owned land from any docks. Either through zoning or land trust Council should move to protect that land from docks. Agrees that there would not be an impact on the environment if we allow docks to be built where they already exist and that the water volume is great in large creeks.

Scott Parker believes that the current ordinance on docks has served the Island well and that the ordinance should not be changed.

Motion was made by Blaine Ewing, seconded by Billy Craver to pass a resolution of paragraph a of section 21-40 area RC-2 restrictions be deleted in its entirety and be replace by the following no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300') feet in total length; provided, however, if the dock extends to a creek two hundred feet (200') or more wide measured from marsh grass to marsh grass (or land if there is no marsh grass on one or both sides of the creek), the length of the dock may be extend up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide grass to grass to reach the two hundred foot (200') creek;

Discussion-Bobby would like to discuss the commission's position on town owned property. Blaine Ewing planned on that to be his second motion to ask town council to put land into a land trust so that it could never be spoiled. Bobby Thompson would like to add that to Blaine Ewing's motion. Billy Craver feels the two are totally different issues and does not want to see the land trust issue added to the motion. Motion was not amended to add Bobby Thompson's language regarding land trust.

Vote was 2 to 2 with Bobby Thompson not voting. Billy Craver and Blaine Ewing voting for the motion and Alice O'Dell and Scott Parker voting against. Motion did not carry.

Motion made by Blaine Ewing and seconded by Bobby Thompson for Town Council to explore preserving town owned marsh land to be free of docs in perpetuity in either an open land trust or by zoning or other regulatory vehicles.

Vote was 4 to 1 with Billy Craver casting the opposing vote.

Motion was made by Billy Craver, seconded by Bobby Thompson to pass a resolution of paragraph a) of section 21-40 area RC-2 restrictions be deleted in its entirety and be replaced by the following no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300') feet in total length; provided, however, if the dock extends to a creek two hundred feet (200') or more wide measured from marsh grass to marsh grass (or land if there is no marsh grass on one or both sides of the creek), the length of the dock may be extended up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide grass to grass to reach the two hundred foot (200') creek;

Except as set forth herein, of Sec. 21-40 Area RC-2 restrictions remain unaltered.

Motion carried 3 to 2 with Alice O'Dell and Scott Parker casting the opposing vote.

Motion was made by Billy Craver seconded by Blaine Ewing that Section 21-40 Area RC-2 restrictions paragraph c) be amended to add between the words structure and shall in the first line, add (including any extension of docks or walkways).

Motion carried unanimously.

Meeting was adjourned.

January 20, 2004

The regular meeting of Town Council was held on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied:

Present were: J. Marshall Stith, Mayor
 Carl J. Smith, Mayor Pro Tem
 Debra Hazen-Martin, Councilwoman
 Jane Ellen Herron, Councilwoman
 Patrick M. O'Neil, Councilman
 Alys Anne Wiedeke, Councilwoman
 William J. Wood, Councilman

The Pledge of Allegiance was led by Mayor Stith, followed by the invocation given by Councilman Wood. There were 25 private citizens present, and one member of the media.

The floor was opened for comments from the citizens. Henry Fishburne of Charleston City Council stated that his wife owns a home at 2902 Middle. He wanted to introduce himself, as he will be campaigning in the area for the District 43 State Senate. Jim Nimmich of 1816 Back Street stated that he signed a Back Street letter send to Council regarding the dock ordinance. He is concerned about the 8.9 acres section of Town-owned marsh that run in front of Back Street and down to Station 17, and hopes that docks will not be allowed in that particular section. Bill Craver, 2702 I'on stated the version of the dock ordinance that is before Council tonight has a sentence in the section dealing with extending the length of the dock. That first sentence deals with not allowing docks to go over three parcels of town owned property. That was not in what was approved by the Planning Commission and recommended to Council. The Planning Commission did discuss it but thought it was premature to include it in the ordinance; and asked Council to look into it. Anna Anderegg of 1730 Thompson asked if Council will be considering the dock ordinance with or without that first sentence, since it was not recommended by the Planning Commission. Councilwoman Hazen-Martin explained that the Planning and Zoning Commission make their recommendations to Council, however, the Town Council writes the ordinance. It is Council that forms the ordinance; then the discussion can begin following first reading. Council will seek legal advice on this issue. Tim Reese of 305 Station 20 questioned the protocol of how a member of the Planning Commission can change the submitted dock recommendation. Bobby Thompson of 2170 I'on stated they were asked in October to craft a compromise. The compromise was to let some docks go to wide creeks and protect public lands; town deeded public property. At the vote on December 10, he didn't vote. The motion carried 4-1 without specific plat numbers in it, although the specific numbers had been advertised. The recommendation passed 3-2, with his vote, in December as the Planning Commission recommended. He included the sentence when Town Council needed the ordinance in better format. Michael Mithoefer of 1650 Poe stated he is in favor of the compromise as he understands it. He went to the Planning Commission meeting and remembers them discussing recommending to Council to put that public land into Land Trust, but stopped short of that because they thought it needed more legal investigation. Bobby Cummings, 1450 Thompson, stated if the wording is in there and if a dock that already exists that is permitted to go across town-owned marsh is damaged in a natural disaster, we couldn't build back the docks that had existed. Mayor Stith said that Council will get legal opinion and advice before the second reading of the dock ordinance. Marie-Louise Ramsdale of 2115 Pettigrew asked the Police Department to look at beach access prior to summer. Motorists whip around

the corner of Stations 22 and 21-1/2, going to the beach. She spoke with Councilman Smith, and he explained that it is state-owned property. She also thanked the Recreation Committee for their time in talking with several island residents about recreation issues. Rick Graham of 2102-1/2 Ion agreed with Ms. Ramsdale. He also questioned whether the ad hoc committee for the consultants was still in service. Councilman O'Neil stated that the committee had served its purpose and one of their recommendations was to hire consultants. The committee is no longer organized. Jose Biascoechea of 2030 Jasper expressed concern about the dock ordinance as written, as they have docks up and down the street from them, but this ordinance would prohibit them from having a dock.

The minutes of the December 16, 2003 meeting were approved as written.

New Correspondence – We received correspondence from Mt. Pleasant Mayor Harry Hallman to Support House Bill 3658, stating that this bill provides that a municipality or county or its employees are not held liable for damage or injury caused to a person who participates in hazardous recreational activity on municipal or county property. Motion was made by Councilman Smith, seconded by Councilwoman Wiedeke to write a letter in support of the Bill, carried unanimously. Administrator Benke will compose the letter.

Attorney's report – Mr. Dodds stated he had received a request for a fee simple title to Lot 182, Jasper Blvd. Motion was made by Councilman Wood, seconded by Councilman Smith, to grant the fee simple title, carried unanimously.

Administrator's Report, Administrator Benke. No changes are expected to the precinct this year, as the S.C. Board of Election and Voter Registration agreed that time would not permit a thorough evaluation of the list of registered voters on Sullivan's Island before the 2004 primary elections. The annual Statement of Economic interest forms were delivered to Council members. Charleston County Public Works sent material safety data sheets for products used to control mosquitoes. The Charleston Conservation District advised of a \$3,500 non-matching grant to install sand fencing along the beach. The only requirement by the Town would be to install the fence post-holes; approved by Council. The Coastal Defense Study group's 2005 conference attendees would like to visit Batteries Thompson, Logan, and Capron Butler on April 29 and 30, 2004; approved by Council.

Ways and Means Committee, Mayor Stith. Preparation of next fiscal year's budget has begun. The financial report was presented.

Personnel Committee, Councilwoman Wiedeke. The six-month probation period for Andy Benke ended December 23, 2003. Motion was made by Councilwoman Wiedeke, seconded by Councilman O'Neil, that Mr. Benke be released from probation based on outstanding performance. He has been a tremendous asset and help to the Town, Council, and citizens, and will receive the standard 5% salary increase effective January 1, 2004, carried unanimously. Mayor Stith stated that Mr. Benke has done an outstanding job. Mary Lotts tendered her resignation 01-12-04 to be effective 2-20-04 for early retirement to care for her mother. Councilwoman Wiedeke wished her well and stated we are sorry to see her go. Her position will be advertised to help with a seamless transition.

Water and Sewer, Councilwoman Hazen-Martin. DHEC sent a retraction letter concerning the bacteriological monitoring; the issues were resolved to our satisfaction. They had also stated they wanted us to be considered a water treatment plant; those issues were also

resolved. The phosphates do not make us a water treatment facility. Our obligation due to the phosphate feeds has been resolved to our satisfaction. We now have a good management plan for testing. HDR contributed to the Ronald McDonald House at Christmas time in the name of Sullivan's Island. There was a wastewater treatment plant upgrade project conference with HDR and contractors associated with Phase III of the wastewater treatment plant. HDR has taken an aggressive stand about meeting time schedules and staying on top of all of the contractors much to our satisfaction. The minutes are included in Council's notebooks. Contractors will meet tomorrow to look at grit chamber project, along with other officials and consultants. We received notice from the Charleston Commissioner of Public Works, from whom we receive our water, that they have adjusted our purchased capacity. They looked at all their operating expenses and adjusted the amount of money in retrospect that we owed them for the previous billing period. They indicated there was a shortfall, and we owe them \$4,800. In fairness, we have had other years where they have reimbursed us. Councilwoman Hazen-Martin asked Mr. Benke to review that part of our contract and become familiar with the way it is calculated. HDR submitted the water project drawings and they are 95% complete. The next step is to look at the drawing with town officials and submit to DHEC for final approval. The wastewater line at Poe Avenue between Station 13 and 15 Streets goes through lots. The recent trend has been to take down the small houses that used to be on lots and replace with larger houses, and to reposition those houses away from Middle Street and closer to the harbor side of island. As a result, we have had structures wanting to encroach on the sewer lines that run across property lines. This will be discussed at the next Water and Sewer working committee meeting, and will later be brought to the Council Committee meeting. The next working committee meeting will be Friday, January 30th at 3:00.

Building and Construction Committee, Councilman Wood. Two new homes were permitted this month, with six permits pending. The monthly report was presented.

Fire Committee, Councilman Wood. The holiday lighting in December was very successful and well attended. A thank you note from the Isle of Palms was received for the Fire Department's efforts at 17 Oyster Row on Christmas Day. The monthly report was presented.

Recreation Committee, Councilwoman Herron. The Recreation Committee met with several residents that are interested in forming an ad hoc committee to look into building a community pool and recreation center. Council agreed that an ad hoc committee was not appropriate to appoint at this time, and suggested that they go to the Park Foundation for information and input. Park Foundation President Clydie deBrux said that she will try to work with them and hear their suggestions, and return information to Council. The Park Foundation has tentatively set the dates of May 17-31, 2004 for the Sullivan's Island Tennis Tournament. Dunleavy's Pub has submitted a request to close Station 22.5 Street on Sunday, March 14 and Wednesday, March 17, 2004 for Saint Patrick's Day celebration. Council requested that they come to the next Committee meeting to discuss. The Carolina Lowcountry Girl Scouts have requested the use of the lot at Station 15 Street and Middle Street for an overnight campout for approximately 17 girls, and one parent each, from the Sullivan Island Elementary School Brownie Troop on March 5, 2004, with a rain date of March 6th, approved by Council. Weddings on 2/29/04 at 4:00pm between Stations 17 and 18; on 4/3/04 at 11:30 am on Station 29; on May 2, 2004 at 4:00 on Station 19; and on 10/9/04 at 6:00 between Station 17 & 18 were approved. More information will be requested for wedding planned for April 17th on Station 12.

Real Estate Committee, Councilman O'Neil. Cooper Consulting will present final zoning and design recommendations at the Sand Dunes Club on January 21, 2004 at 6:00 p.m. A copy of the recommendations is available at Town Hall and on the Town web page. Ms. Marie-Louise Ramsdale stated the Community Organization of Sullivan's Island would like to provide light refreshments for the meeting. Councilman O'Neil is contacting David Schneider, the historic preservation expert of the Cooper Consulting team, on how he might assist us if Council decides to proceed with the preservation recommendations that he made. Councilman Smith said we could also contact the National Trust for Historic Preservation, who has people who address those issues as well, without cost.

Police Committee, Mayor Stith. The monthly report was presented. The Police Chief was involved in a motorcycle accident off-hours, but will be back at work in a couple of days. The monthly report was presented.

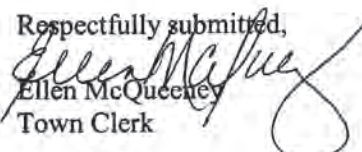
Streets and Maintenance Committee, Councilman Smith. Howard Chapman has requested that all Charleston municipalities write Charleston County Council urging them to petition the governor to hold a special election that would reconsider the Infrastructure Sales Tax issue. We have written and delivered the letter. The Fire Chief and Town Administrator are investigating the location of a cell tower on the Island to improve service and reception. A flagpole tower may be an option. It requires approximately 200 square feet of ground space per antenna. This will be discussed in Committee. Councilman Smith stated that in reference to Ms. Ramsdale's request about Pettigrew Street, that he is not sure a stop sign would help the situation. Perhaps a speed hump will help, but the whole neighborhood needs to be included on it. There is a concern about fire equipment going over it. Mayor Stith stated that residents at Station 22-1/2 and Myrtle Avenue have voiced the same concern, and that Ms. Ramsdale might want to get in touch with them.

Motion was made by Councilwoman Wiedeke, seconded by Councilman Wood, to have First Reading, by title only, An Ordinance to Amend Sections 21-40, Paragraphs (a), (c), (e) and (g) of Chapter 21, Zoning Code of the Town of Sullivan's Island Code of Ordinances Pertaining to Dock Regulations, carried by a vote of 6, with Councilman O'Neil abstaining.

Motion was made by Councilman O'Neil, seconded by Councilman Smith, to defer Second Reading on An Ordinance Amending Section 21, Zoning Code of The Sullivan's Island Code of Ordinances By Establishing An Old Fort Historic District Overlay District, Identifying Its Location, Amending The Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings; carried unanimously.

Motion was made by Councilwoman Hazen-Martin, seconded by Councilman Smith, to defer Second Reading of An Ordinance Amending Section 21, Zoning Code of the Sullivan's Island Code of Ordinances by Establishing an Historic District Overlay District, Identifying Its Locations, Amending the Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings, carried unanimously.

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,

 Ellen McQueeney
 Town Clerk

MONTHLY FINANCIAL WORKSHEET FOR JANUARY 2004					
SPECIAL REVENUE FUND				Ledger	
	CHECKING:				
151000.0100	Wachovia Installment Purchase	\$204,689.02		same	
	CERTIFICATES:				
151000.0400	Community First	\$100,000.00	unchanged	same	
151000.0500	SC Local Govt Invest Pool	\$879,229.03		same	
151000.0510	SCLGIP, Infrastructure Fund	\$2,492.64		same	
151000.0610	Morgan Keenan	\$100,267.84	unchanged	same	
151000.0650	Memorial Fund	\$27,093.51	unchanged	same	
151000.0810	Carolina First CD	\$125,000.00	unchanged	same	
151000.0830	Regions Bank CD	\$100,006.80	unchanged	same	
	Total Savings	\$1,334,089.82			
	Total Special Revenue	\$1,538,778.84			
	GENERAL FUND				
	CHECKING:				
101000.0100	Wachovia Checking	\$506,267.35		same	
	SAVINGS:				
101000.0510	County Accommodations Fund	\$54,683.84		same	
101000.0520	First Fed Tree Bank Fund	\$6,824.90	unchanged	same	
101000.0600	First Fed Savings Certificate	\$8,363.93		same	
101000.0610	Wachovia Lost Property Rollback	\$395,882.03		same	
101000.0620	Wachovia Lost Revenue Fund	\$164,822.49		same	
101000.0630	VFD First Federal Savings	\$26,971.38		same	
101000.0700	Land Trust Fund	\$30,132.11		same	
101000.0710	Confederate Memorial Fund	\$15,913.44		same	
101000.0720	TSI Project Management (FEMA)	\$139,763.37		same	
101000.0750	TSI General Fund	\$405,552.26		same	
	Total Savings	\$1,248,909.75		same	
	PETTY CASH:				
101000.0800	Petty Cash	\$200.00	unchanged	same	
	TOTAL GENERAL FUND	\$1,755,377.10			
	SEWER FUND				
111000.0100	Wachovia Checking	\$205,797.26		same	
111000.0500	First Federal Savings	\$12,659.49		same	
	Total Sewer Fund	\$218,456.75			
	WATER FUND				
121000.0100	Wachovia Checking	\$126,398.07		same	
121000.0200	Bond	\$2,135,080.99		same	
121000.0710	First Federal Savings	\$3,327.48		same	
121000.0800	Petty Cash	\$200.00	unchanged	same	
	Total Water Fund	\$2,265,006.54			
	PARK FOUNDATION				
181000.0100	Wachovia Checking	\$3,088.38		same	
181000.0200	Wachovia Savings	\$42,711.34		same	
	Total Park Foundation	\$45,799.72			
	GRAND TOTAL ASSETS:	\$5,823,418.95			
385845.3					

Town Of Sullivan's Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

GENERAL FUND		Estimated	Activity this	Revenue Year	Uncollected	% Coll
Account#	Account Description	Revenue	Period	to Date	Year to Date	
10-3000-3300	INTEREST EARNED	31,000.00	890.85	6,579.14	24,420.86	21.25
10-3000-5000	V.F.D.	0.00	0.00	25,024.13	(25,024.13)	No Budget
10-3000-6000	POLICE ACCIDENT REPORTS	100.00	5.00	40.00	60.00	40.00
10-3000-8200	TRANSFER FR SPEC REV FUND	70,000.00	377.58	2,423.54	67,576.46	3.49
10-3000-9100	LICENSES	450,000.00	34,311.15	103,404.45	346,595.55	22.99
10-3000-9110	DOG PERMITS	300.00	54.00	140.00	160.00	46.67
10-3000-9120	BOAT PERMITS	100.00	0.00	10.00	90.00	10.00
10-3000-9200	PENALTIES ON TAX & LICENS	1,000.00	60.66	258.04	741.96	25.80
10-3000-9300	BUILDING PERMITS	75,000.00	15,719.30	62,169.60	12,830.40	82.88
10-3000-9310	TREE PERMITS	0.00	0.00	2,840.00	(2,840.00)	No Budget
10-3000-9350	TRIMMING & PRUNING INCOME	5,000.00	23,050.00	59,300.00	(54,300.00)	1,186.00
10-3000-9400	AD VALOREM PERS PROP TAX	1,118,496.41	300,000.00	477,872.37	640,624.04	42.73
10-3000-9410	HOMESTEAD EXEMPT REFUND	5,000.00	0.00	0.00	5,000.00	0.00
10-3000-9510	FINES COLL - RECORDER	70,000.00	5,419.39	45,541.88	24,458.12	65.06
10-3000-9600	FEE SIMPLE TITLES	100.00	25.00	100.00	0.00	100.00
10-3000-9690	AID TO SUBDIVISIONS	40,000.00	64.76	25,001.51	14,998.49	62.50
10-3000-9710	VICTIMS RIGHTS FUND	7,000.00	146.61	3,227.50	3,772.50	46.11
10-3000-9750	BEVERAGE TEMP. PERMITS	10,000.00	0.00	11,650.00	(1,650.00)	116.50
10-3000-9770	ACCOMMODATIONS TAX	60,000.00	0.00	0.00	60,000.00	0.00
10-3000-9777	CO. ACCOM. FUND	10,000.00	30.15	51,474.36	(41,474.36)	514.74
10-3000-9778	County Accom Tax 1%	40,000.00	1,038.20	26,134.76	13,865.24	65.34
10-3000-9779	2% Hospitality Tax	50,000.00	4,052.45	89,802.04	(39,802.04)	179.60
10-3000-9780	L.O.S.T., PROP.ROLLBACK	100,000.00	90.61	61,671.23	38,328.77	61.67
10-3000-9781	L.O.S.T., REVENUE FUND	50,000.00	37.71	32,734.78	17,265.22	65.47
10-3000-9900	MISCELLANEOUS INCOME	1,500.00	176.00	1,012.50	487.50	67.50
10-3000-9930	POOL FEES	2,000.00	0.00	160.00	1,840.00	8.00
Total Revenues	GENERAL FUND	2,196,596.41	385,549.42	1,088,571.83	1,108,024.58	49.56

ELECTRONICALLY FILED - 2025 Mar 07 11:14 AM - CHARLESTON COMMON PLEAS CASE# 2024CP1005670

Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc.
Department 10-5000	FIRE DEPT EXPENSES						
10-5000-0100	SALARIES & WAGES	304,923.27	22,820.77	179,813.77	0.00	125,109.50	58.9
10-5000-0200	FD PRT SOCIAL SECURITY	29,952.61	1,745.77	13,755.62	0.00	16,196.99	45.9
10-5000-0210	FD PRT HOSPITAL INSURANCE	59,629.68	4,900.06	32,263.56	0.00	27,366.12	54.0
10-5000-0220	FD PRT POL OFF RETIREMENT	29,952.61	2,969.89	22,880.11	0.00	7,072.50	76.3
10-5000-0300	FD GAS & OIL	5,000.00	450.82	3,200.45	0.00	1,799.55	64.0
10-5000-0310	FD DIESEL	2,000.00	152.30	1,252.55	0.00	747.45	62.6
10-5000-0400	FD VEHICLE REPAIRS	6,000.00	0.00	1,888.31	0.00	4,111.69	31.4
10-5000-0600	FD SUPPLIES & MATERIALS	15,000.00	1,014.95	13,477.97	0.00	1,522.03	89.8
10-5000-0610	FD TOOLS	500.00	0.00	0.00	0.00	500.00	0.00
10-5000-0700	FD TELEPHONE	6,000.00	1,390.41	5,224.80	0.00	775.20	87.0
10-5000-0900	FD POWER & LIGHTS	7,500.00	1,138.79	3,106.13	0.00	4,393.87	41.4
10-5000-1000	FD INSURANCE	25,000.00	2,872.48	7,005.72	0.00	17,994.28	28.0
10-5000-1100	FD EQUIPMENT REPAIRS	4,000.00	45.62	990.76	0.00	3,009.24	24.8
10-5000-1200	FD SYSTEM REPAIRS & MAINT	12,000.00	118.42	5,699.97	0.00	6,300.03	47.5
10-5000-1300	FD DUES & CERTIF FEES	800.00	205.00	205.00	0.00	595.00	25.6
10-5000-1400	FD TRAINING & SEMINARS	7,000.00	0.00	1,975.63	0.00	5,024.37	28.2
10-5000-3000	FD MISCELLANEOUS EXPENSE	8,500.00	335.08	5,335.32	0.00	3,164.68	62.7
10-5000-3100	FD PROPERTY & EQUIP PURCH	60,326.79	0.00	48,541.49	0.00	11,785.30	80.4
10-5000-3200	FD DISPATCHING SERVICES	16,000.00	1,333.33	9,333.31	0.00	6,666.69	58.3
	al Exp. FIRE DEPT EXPENSES	600,084.96	41,493.69	355,950.47	0.00	244,134.49	59.3

ELECTRONICALLY FILED - 2025 Mar 07 11:14 AM CHARTERED BY COMMONPLEAS - CASE#2024CP1005670

Town Of Sullivans Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 10-6000	POLICE DEPT EXPENSES						
10-6000-0100	PD SALARIES & WAGES	285,122.15	20,793.75	158,860.13	0.00	126,262.02	55.7%
10-6000-0200	PD PRT SOCIAL SECURITY	21,811.84	1,590.72	12,150.61	0.00	9,661.23	55.7%
10-6000-0210	PD PRT HOSPITAL INS	62,432.64	4,482.40	30,919.38	0.00	31,513.26	49.5%
10-6000-0220	PD PRT POL OFF RETIRE	30,508.07	2,440.59	21,536.34	0.00	8,971.73	70.5%
10-6000-0300	PD GAS & OIL	25,000.00	1,713.68	11,461.95	0.00	13,538.05	45.8%
10-6000-0320	PD DIESEL FUEL	400.00	0.00	0.00	0.00	400.00	0.0%
10-6000-0400	PD VEHICLE REPAIR & MAINT	16,000.00	1,537.69	6,351.35	0.00	9,648.65	39.7%
10-6000-0600	PD SUPPLIES & MATERIALS	20,000.00	2,397.57	11,047.91	0.00	8,952.09	55.2%
10-6000-0700	PD TELEPHONE	10,000.00	1,278.12	5,151.16	0.00	4,848.84	51.5%
10-6000-0900	PD POWER & LIGHTS	4,000.00	559.75	2,222.49	0.00	1,777.51	55.5%
10-6000-1000	PD INSURANCE	22,627.12	3,511.65	6,471.63	0.00	16,155.49	28.6%
10-6000-1100	PD EQUIPMENT REPAIR	2,500.00	0.00	134.11	0.00	2,365.89	5.3%
10-6000-1200	PD SYSTEM REPAIR & MAINT	12,500.00	0.00	6,389.70	0.00	6,110.30	51.1%
10-6000-1300	PD DUES & CERTIF FEES	500.00	100.00	150.00	0.00	350.00	30.0%
10-6000-1400	PD TRAINING & SEMINARS	5,500.00	278.90	1,096.76	0.00	4,403.24	19.9%
10-6000-3000	PD MISCELLANEOUS EXPENSES	4,000.00	105.61	1,206.35	0.00	2,793.65	30.1%
10-6000-3100	PD PROPERTY & EQUIP PURCH	65,253.66	101.74	53,906.14	0.00	11,347.52	82.6%
10-6000-3200	PD DISPATCHING SERVICES	16,000.00	1,333.33	9,333.31	0.00	6,666.69	58.3%
Total Exp. POLICE DEPT EXPENSES		604,155.48	42,225.50	338,389.32	0.00	265,766.16	56.0%

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc.
Department 10-7000	MAINTENANCE DEPT EXP						
10-7000-0100	MD SALARIES & WAGES	111,254.00	8,758.57	58,868.58	0.00	52,385.42	52.9
10-7000-0200	MD PRT SOCIAL SECURITY	8,683.88	670.03	4,503.44	0.00	4,180.44	51.8
10-7000-0210	MD PRT HOSPITAL INSURANCE	23,767.92	2,405.62	14,522.38	0.00	9,245.54	61.1
10-7000-0220	MD PRT S. C. RETIREMENT	7,775.76	625.59	4,862.81	0.00	2,912.95	62.5
10-7000-0300	MD VEHICLE GAS & OIL	4,000.00	287.10	2,113.60	0.00	1,886.40	52.8
10-7000-0310	MD DIESEL FUEL	1,000.00	24.00	272.69	0.00	727.31	27.2
10-7000-0400	MD VEHICLE REPAIRS	6,000.00	512.92	3,219.63	0.00	2,780.37	53.6
10-7000-0600	MD SUPPLIES & MATERIALS	5,000.00	0.00	2,496.15	0.00	2,503.85	49.9
10-7000-0610	MD TOOLS	1,500.00	0.00	1,008.07	0.00	491.93	67.2
10-7000-0700	TELEPHONE	2,000.00	511.95	1,921.67	0.00	78.33	96.0
10-7000-0900	MD POWER & ELECTRICITY	22,000.00	1,788.29	12,359.47	0.00	9,640.53	56.1
10-7000-1000	MD INSURANCE	12,000.00	934.53	1,705.93	0.00	10,294.07	14.2
10-7000-1100	MD EQUIPMENT REPAIRS	4,000.00	0.00	122.56	0.00	3,877.44	3.0
10-7000-1200	MD SYSTEMS REPAIRS & MAIN	25,000.00	7,160.17	28,728.69	0.00	(3,728.69)	114.9
10-7000-3000	MD MISCELLANEOUS EXPENSES	6,000.00	18.00	1,544.71	0.00	4,455.29	25.7
10-7000-3100	MD PROP & EQUIP PURCHASE	28,012.89	0.00	13,189.42	0.00	14,823.47	47.0
10-7000-3400	MD GARBAGE DISPOSAL CONTR	140,000.00	23,182.00	92,494.00	0.00	47,506.00	66.0
10-7000-3500	CAUSEWAY MAINTENANCE	3,000.00	0.00	0.00	0.00	3,000.00	0.0
10-7000-3600	CONTAINER SERVICING	7,000.00	295.23	1,006.22	0.00	5,993.78	14.3
tl Exp. MAINTENANCE DEPT EXP		417,994.45	47,174.00	244,940.02	0.00	173,054.43	58.6

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc.
Department 10-8000	RECREATION DEPT EXPE						
10-8000-0600	RD SUPPLIES & MATERIALS	3,000.00	75.95	92.55	0.00	2,907.45	3.08
10-8000-0900	RD POWER & LIGHTS	2,000.00	599.10	1,812.73	0.00	187.27	90.55
10-8000-1000	RD INSURANCE	1,000.00	0.00	0.00	0.00	1,000.00	0.00
10-8000-1200	RD SYSTEM REPAIR & MAINT	5,000.00	0.00	2,965.00	0.00	2,035.00	59.30
10-8000-1300	RD RECREATION AREA MAINT	2,500.00	0.00	231.00	0.00	2,269.00	9.24
10-8000-3000	RD MISCELLANEOUS EXPENSES	1,500.00	927.64	927.64	0.00	572.36	61.84
10-8000-3100	RD PROPERTY & EQUIP PURCH	2,500.00	0.00	0.00	0.00	2,500.00	0.00
10-8000-3200	NEW PROJECTS	15,000.00	2,448.00	3,268.00	0.00	11,732.00	21.79
10-8000-3300	POOL EXPENSE	2,000.00	0.00	0.00	0.00	2,000.00	0.00
Total Exp.	RECREATION DEPT EXPE	34,500.00	4,050.69	9,296.92	0.00	25,203.08	26.95

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc.
Department 10-9000	FUND TRANSFER/ADMIN						
10-9000-0100	AD SALARIES & WAGES	188,231.67	13,383.40	97,434.02	0.00	90,797.65	51.76
10-9000-0200	AD PRT SOCIAL SECURITY	25,658.83	1,241.98	9,014.16	0.00	16,644.67	35.13
10-9000-0210	AD PRT HOSPITAL INSURANCE	37,992.22	3,153.46	22,226.64	0.00	15,765.58	58.50
10-9000-0220	AD PRT S. C. RETIREMENT	14,021.30	667.58	8,202.24	0.00	5,819.06	58.50
10-9000-0300	AD GAS & OIL	2,500.00	54.35	398.13	0.00	2,101.87	15.93
10-9000-0600	AD OFFICE SUPPLIES	15,000.00	2,051.60	9,083.73	0.00	5,916.27	60.56
10-9000-0620	AD SUPPLIES - RECORDER	50.00	0.00	0.00	0.00	50.00	0.00
10-9000-0630	AD SUPPLIES - BLDG INSPCT	2,000.00	99.31	99.31	0.00	1,900.69	4.97
10-9000-0640	AD BOAT PERMITS	100.00	0.00	0.00	0.00	100.00	0.00
10-9000-0700	AD TELEPHONE	7,000.00	953.73	3,964.49	0.00	3,035.51	56.64
10-9000-0900	AD POWER & LIGHTS	3,680.00	527.96	2,111.18	0.00	1,568.82	57.37
10-9000-1000	AD INSURANCE	23,000.00	994.57	1,611.69	0.00	21,388.31	7.01
10-9000-1100	AD EQUIPMENT REPAIRS	1,000.00	0.00	459.32	0.00	540.68	45.93
10-9000-1200	AD SYSTEMS REPAIR & MAINT	20,000.00	1,259.00	13,385.29	0.00	6,614.71	66.93
10-9000-1300	AD DUES & CERTIF FEES	12,000.00	947.43	1,820.31	0.00	10,179.69	15.17
10-9000-1400	AD TRAINING & SEMINARS	10,000.00	309.00	1,563.35	0.00	8,436.65	15.63
10-9000-1500	AD CLERK OF COURT	6,262.70	619.40	4,352.97	0.00	1,909.73	69.51
10-9000-1710	AD ZONING ADMIN SALARY	11,497.01	834.32	6,257.40	0.00	5,239.61	54.40
10-9000-1800	AD PROFESSIONAL SERVICES	20,000.00	0.00	33,922.32	0.00	(13,922.32)	169.61
10-9000-1810	AD FEE SIMPLE DEED COSTS	50.00	12.50	37.50	0.00	12.50	75.00
10-9000-1900	AD LEGAL & ACCOUNTING	50,000.00	1,398.11	11,031.77	0.00	38,968.23	22.06
10-9000-2500	TRIMMING & PRUNING EXP.	5,000.00	1,400.00	1,400.00	0.00	3,600.00	28.00
10-9000-3000	AD MISCELLANEOUS EXPENSES	20,000.00	2,594.48	16,673.53	0.00	3,326.47	83.37
10-9000-3100	AD PROPERTY & EQUIP PURCH	17,717.79	0.00	11,916.25	0.00	5,801.54	67.23
10-9000-3300	AD CONTINGENCY FUND	5,000.00	0.00	0.00	0.00	5,000.00	0.00
10-9000-3500	AD EXP OF SPEC REV FUND	100.00	0.00	0.00	0.00	100.00	0.00
10-9000-3700	AD CRIMINAL JUST ACADEMY	30,000.00	(3,741.64)	18,496.16	0.00	11,503.84	61.65
10-9000-4000	VICTIMS RIGHTS FUND	2,000.00	0.00	0.00	0.00	2,000.00	0.00
10-9000-4500	CO. ACCOM. FUND	10,000.00	0.00	0.00	0.00	10,000.00	0.00
Total Exp. FUND TRANSFER/ADMIN		539,861.52	28,760.54	275,461.76	0.00	264,399.76	51.02
Total Exp. GENERAL FUND		2,196,596.41	163,704.42	1,224,038.49	0.00	972,557.92	55.72

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Town Of Sullivan's Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

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SEWER FUND						
Account#	Account Description	Estimated Revenue	Activity this Period	Revenue Year to Date	Uncollected Year to Date	% Coll
11-3000-3300	INTEREST EARNED	1,000.00	0.00	31.86	968.14	3.19
11-3000-4110	SEWER SERVICE CHARGES	467,065.20	38,167.00	239,236.03	227,829.17	51.24
11-3000-4300	TIE-IN FEES & INSTALL	5,000.00	0.00	1,400.00	3,600.00	28.00
11-3000-9300	TRANSFER FROM SPEC REV FU	413,453.00	160,956.32	210,215.20	203,237.80	50.85
Total Revenues	SEWER FUND	886,518.20	199,123.32	450,883.09	435,635.11	50.80

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

VER FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc.
Department 11-4000	WATER/SEWER EXPENSES						
11-4000-0100	SALARIES & WAGES	108,999.68	13,226.53	42,109.81	0.00	66,889.87	38.63
11-4000-0200	PRT - SOCIAL SECURITY	8,338.48	1,011.87	3,221.45	0.00	5,117.03	38.63
11-4000-0210	PRT - HOSPITAL INSURANCE	17,791.63	2,494.28	7,254.13	0.00	10,537.50	40.77
11-4000-0220	PRT - S C RETIREMENT	7,466.48	906.04	2,884.54	0.00	4,581.94	38.63
11-4000-0300	GAS & OIL - VEHICLES	3,500.00	347.99	1,369.03	0.00	2,130.97	39.12
11-4000-0310	DIESEL FUEL	1,500.00	48.35	784.98	0.00	715.02	52.33
11-4000-0320	DIESEL EQUIPMENT	2,000.00	0.00	180.90	0.00	1,819.10	9.04
11-4000-0400	REPAIRS - VEHICLES	2,000.00	0.00	124.96	0.00	1,875.04	6.25
11-4000-0600	SUPPLIES & MATERIALS	7,000.00	262.36	3,291.05	0.00	3,708.95	47.02
11-4000-0610	TOOLS	2,000.00	0.00	571.27	0.00	1,428.73	28.56
11-4000-0620	OFFICE SUPPLIES	2,000.00	113.07	1,361.47	0.00	638.53	68.03
11-4000-0630	LAB SUPPLIES	2,500.00	328.70	2,414.48	0.00	85.52	96.58
11-4000-0700	TELEPHONE	3,500.00	253.35	1,566.10	0.00	1,933.90	44.75
11-4000-0900	POWER & ELECTRICITY	30,000.00	2,260.72	14,791.40	0.00	15,208.60	49.30
11-4000-1000	INSURANCE	9,000.00	762.38	916.76	0.00	8,083.24	10.19
11-4000-1100	EQUIPMENT REPAIRS	3,000.00	0.00	510.96	0.00	2,489.04	17.03
11-4000-1200	SYSTEMS REPAIRS & MAINT	120,000.00	13,481.81	74,593.93	0.00	45,406.07	62.16
11-4000-1210	CAPITOL IMPROVEMENTS	413,453.00	140,888.79	215,672.67	0.00	197,780.33	52.10
11-4000-1300	DUES & CERTIFICATION	3,000.00	0.00	3,986.00	0.00	(986.00)	132.87
11-4000-1400	TRAINING & SEMINARS	2,500.00	0.00	350.00	0.00	2,150.00	14.00
11-4000-1900	PROF SERVICES - AUDIT	6,500.00	0.00	0.00	0.00	6,500.00	0.00
11-4000-2000	PROFESSIONAL - ENGINEERING	24,000.00	0.00	6,572.03	0.00	17,427.97	27.38
11-4000-3000	MISCELLANEOUS	1,140.60	119.00	632.04	0.00	508.56	55.41
11-4000-3100	PROP & EQUIPMENT PURCHASE	55,866.42	0.00	25,418.61	0.00	30,447.81	45.50
11-4000-3600	WASTEWATER ANAL - LAB SVC	9,000.00	561.58	2,542.76	0.00	6,457.24	28.24
11-4000-3700	CHEMICALS	5,000.00	617.86	3,270.40	0.00	1,729.60	65.41
Total Exp. WATER/SEWER EXPENSES		851,056.29	177,684.68	416,391.73	0.00	434,664.56	48.93

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

SEWER FUND							
Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 11-9000	FUND TRANSFER/ADMIN						
11-9000-0100	ADMIN SALARIES	27,036.49	3,997.60	13,972.69	0.00	13,063.80	51.68
11-9000-0200	PRT - SOCIAL SECURITY	2,068.29	305.82	1,068.88	0.00	999.41	51.68
11-9000-0210	PRT - HOSPITAL INSURANCE	4,505.14	498.00	1,494.00	0.00	3,011.14	33.37
11-9000-0220	PRT - S C RETIREMENT	1,852.00	273.84	889.95	0.00	962.05	48.05
Total Exp.	FUND TRANSFER/ADMIN	35,461.92	5,075.26	17,425.52	0.00	18,036.40	49.15
Total Exp.	SEWER FUND	886,518.21	182,759.94	433,817.25	0.00	452,700.96	48.24

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Town Of Sullivan's Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

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WATER FUND		Estimated	Activity this	Revenue Year	Uncollected	% Coll
Account#	Account Description	Revenue	Period	to Date	Year to Date	
12-3000-0005	Bond Money Transferred	0.00	(30,025.00)	(118,975.00)	118,975.00	No Budget
12-3000-3300	INTEREST EARNED	500.00	1.40	2,459.79	(1,959.79)	491.96
12-3000-4110	WATER SALES	459,431.88	38,362.30	243,256.46	216,175.42	52.96
12-3000-4300	METER CONNECT & RENEWALS	11,000.00	683.38	9,406.62	1,593.38	85.51
Total Revenues	WATER FUND	470,931.88	9,022.08	136,147.87	334,784.01	28.91

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Town Of Sullivans Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

WATER FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc.
Department 12-4000	WATER/SEWER EXPENSES						
12-4000-0100	SALARIES AND WAGES	108,999.68	13,226.94	42,110.23	0.00	66,889.45	38.6
12-4000-0200	PRT - SOCIAL SECURITY	8,338.48	1,011.88	3,951.12	0.00	4,387.36	47.1
12-4000-0210	PRT - HOSPITAL INSURANCE	17,791.63	2,494.28	8,501.27	0.00	9,290.36	47.8
12-4000-0220	PRT - S C RETIREMENT	7,466.48	906.04	3,538.89	0.00	3,927.59	47.4
12-4000-0300	GAS & OIL - VEHICLES	3,000.00	347.99	1,392.49	0.00	1,607.51	46.4
12-4000-0310	DIESEL - VEHICLES	1,000.00	48.34	208.37	0.00	791.63	20.8
12-4000-0400	REPAIRS - VEHICLES	2,000.00	512.93	718.82	0.00	1,281.18	35.9
12-4000-0600	SUPPLIES & MATERIALS	9,000.00	2,116.50	5,015.69	0.00	3,984.31	55.7
12-4000-0610	TOOLS	2,000.00	0.00	481.35	0.00	1,518.65	24.0
12-4000-0620	OFFICE SUPPLIES	3,000.00	308.16	1,594.83	0.00	1,405.17	53.1
12-4000-0630	LAB SUPPLIES	2,000.00	44.19	1,088.38	0.00	911.62	54.4
12-4000-0700	TELEPHONE	3,500.00	264.23	1,712.42	0.00	1,787.58	48.9
12-4000-0900	POWER & ELECTRICITY	900.00	244.02	660.06	0.00	239.94	73.3
12-4000-1000	INSURANCE	10,000.00	762.39	1,765.21	0.00	8,234.79	17.6
12-4000-1100	EQUIPMENT REPAIRS	2,000.00	0.00	292.38	0.00	1,707.62	14.6
12-4000-1200	SYSTEMS REPAIRS & MAIN.	50,000.00	0.00	26,703.59	0.00	23,296.41	53.4
12-4000-1210	CAPITOL IMPROVEMENTS	0.00	0.00	2,625.00	0.00	(2,625.00)	No Budget
12-4000-1300	DUES & CERTIFICATION	8,000.00	205.00	5,092.00	0.00	2,908.00	63.6
12-4000-1400	TRAINING & SEMINARS	3,000.00	65.00	539.00	0.00	2,461.00	17.9
12-4000-1900	PROFESSIONAL SER.- AUDIT	6,000.00	0.00	0.00	0.00	6,000.00	0.0
12-4000-2000	PROFESSIONAL-ENGINEERING	30,000.00	0.00	6,018.12	0.00	23,981.88	20.0
12-4000-3000	MISCELLANEOUS	1,892.44	204.70	824.49	0.00	1,067.95	43.5
12-4000-3100	PROP & EQUIPMENT PURCHASE	22,781.26	0.00	7,155.87	0.00	15,625.39	31.4
12-4000-3600	WATER ANALYSIS	2,800.00	140.00	660.00	0.00	2,140.00	23.6
12-4000-3700	CHEMICALS	20,000.00	1,621.80	7,027.80	0.00	12,972.20	35.1
12-4000-3900	H2O PAYMENT, OPERATION	85,000.00	15,849.83	50,563.19	0.00	34,436.81	59.4
12-4000-4000	CPW IMPROVEMENTS	25,000.00	0.00	0.00	0.00	25,000.00	0.0
Total Exp. WATER/SEWER EXPENSES		435,469.97	40,374.22	180,240.57	0.00	255,229.40	41.4

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Town Of Sullivans Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

WATER FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc
Department 12-9000	FUND TRANSFER/ADMIN						
12-9000-0100	ADMINISTRATION SALARIES	27,036.49	3,997.60	13,972.69	0.00	13,063.80	51.69
12-9000-0200	PRT-SOCIAL SECURITY	2,068.29	305.82	1,298.23	0.00	770.06	62.82
12-9000-0210	PRT - HOSPITAL INSURANCE	4,505.14	498.00	1,743.00	0.00	2,762.14	38.91
12-9000-0220	PRT - SC RETIREMENT	1,852.00	273.84	1,095.33	0.00	756.67	59.14
Total Exp.	FUND TRANSFER/ADMIN	35,461.92	5,075.26	18,109.25	0.00	17,352.67	51.69
Total Exp.	WATER FUND	470,931.89	45,449.48	198,349.82	0.00	272,582.07	42.12

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Town Of Sullivans Island
Revenue Statement :Fiscal Year 2003-2004
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SPECIAL REVENUE FUND

Account#	Account Description	Estimated Revenue	Activity this Period	Revenue Year to Date	Uncollected Year to Date	% Coll
15-3000-3300	INTEREST EARNED	0.00	1,856.78	12,542.17	(12,542.17)	No Budget
15-3000-3400	MISCELLANEOUS	0.00	(64.63)	(389.28)	389.28	No Budget
Total Revenues	SPECIAL REVENUE FUND	0.00	1,792.15	12,152.89	(12,152.89)	0.00

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
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SPECIAL REVENUE FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 15-9000	Not Known-Not Known						
15-9000-2200	TRANSFER TO GENERAL FUND	0.00	371.75	2,410.05	0.00	(2,410.05)	No Budget
15-9000-2300	TRANSFER TO SEWER FUND	0.00	160,956.32	259,474.08	0.00	(259,474.08)	No Budget
Total Exp. Not Known-Not Known		0.00	161,328.07	261,884.13	0.00	(261,884.13)	0.00
Total Exp. SPECIAL REVENUE FUND		0.00	161,328.07	261,884.13	0.00	(261,884.13)	0.00

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Town Of Sullivan's Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 1/31/2004

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RECREATION FUND		Estimated	Activity this	Revenue Year	Uncollected	% Coll
Account#	Account Description	Revenue	Period	to Date	Year to Date	
18-3000-3000	CONTRIBUTIONS	0.00	3,550.00	8,318.01	(8,318.01)	No Budget
18-3000-3300	INTEREST EARNED	0.00	8.60	69.99	(69.99)	No Budget
Total Revenues	RECREATION FUND	0.00	3,558.60	8,388.00	(8,388.00)	0.00

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Town Of Sullivans Island
Expenditure Statement :Fiscal Year 2003-2004
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CREATION FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 18-8000	Not Known-Not Known						
18-8000-8000	EXPENSES	0.00	1,098.00	23,758.34	0.00	(23,758.34)	No Budget
Total Exp.	Not Known-Not Known	0.00	1,098.00	23,758.34	0.00	(23,758.34)	0.00
Total Exp.	RECREATION FUND	0.00	1,098.00	23,758.34	0.00	(23,758.34)	0.00

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February 17, 2004

The regular meeting of Town Council was held on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied:

Present were: J. Marshall Stith, Mayor
 Carl J. Smith, Mayor Pro Tem
 Jane Ellen Herron, Councilwoman
 Patrick M. O'Neil, Councilman
 Alys Anne Wiedeke, Councilwoman
 William J. Wood, Councilman

The Pledge of Allegiance was led by Mayor Stith, followed by the invocation given by Councilman Wood. There were 37 private citizens present, and two members of the media.

The floor was opened for comments from the citizens. Mr. Bachman Smith presented Council with a Resolution concerning an agreement with The Nature Conservancy to allow six docks to be constructed in Rat Hall Creek. The Town is involved in this issue solely because it was a party to a lawsuit in 1978 wherein the permit issued for the construction of the State Ports Authority Wando Terminal was challenged. Pat Ilderton gave an update on the African American cemetery. The ground breaking is March 11, 2004. The lot has been cleaned, leaving a buffer for privacy. There will be a low fence; perhaps 1-1/2 feet, and a historical sign. They will do something if parking in the area becomes a problem. They are trying to raise funds for an escrow account to perhaps keep the Town from having to expend funds in years to come. A foundation plan needs to be submitted. Greg Gress stated that a water main runs through the property; he will take another look at it. Rick Graham of 2102 I'on asked how Council is going to handle Cooper Consultants suggestions. Councilman O'Neil stated that they had discussed at the committee meeting on how to proceed. Council met with Scott Parker, the chairman of the Planning Commission, and also received advice from the Town attorney about what needs to be done in order to convey those recommendations to the Planning Commission without invoking the pending ordinance doctrine. Cooper Consulting hopes to get final written recommendations to Council by the second or third week of March. Time should be allowed to decide what to send to Planning Commission and for advertising for the public hearing. Scott Parker recommended to have the entire package sent to the Planning Commission and they can decide best how to organize it. Tim Reese, 305 Station 20 questioned whether the Zoning Administrator could invoke the pending ordinance doctrine once the public hearing was advertised. Attorney Larry Dodds stated that in each given section that Council is not yet ready to invoke the pending ordinance doctrine, Council will put in the end of the section that it would take effect, for instance, thirty days after ratification. Mr. Prause does not invoke the pending ordinance doctrine until Council makes the decisions regarding the ordinance, which determines what Mr. Prause does.

The minutes of the January 20, 2004 meeting were approved as written.

Mayor Stith asked Attorney Larry Dodds his opinion concerning the Resolution presented by Bachman Smith. Mr. Dodds stated that although he does not know all the facts of the case, Jimmy Chandler is one of the foremost environmental lawyers in the state and he has endorsed the agreement. Based on that, he told Bachman Smith that he would recommend Council to approve the resolution. However, as he reads the resolution he would

like to make a disclosure that Bell Hall Plantation has been a client of his, and this might be a small conflict of interest, but he is not involved in this case, and bases his recommendation on the fact that Jimmy Chandler is endorsing it. Mayor Stith stated that Councilwoman Wiedeke represents the Save the Wando Group and has also signed off on it as one of the entities whose signature is needed.

Motion was made by Councilman Smith, seconded by Councilman Wood, to pass A Resolution to approve the agreement with the Nature Conservancy to allow six docks to be constructed in Rat Hall Creek in Mt. Pleasant, S.C., carried by a vote of five, with Councilwoman Wiedeke recusing herself from the vote.

A Resolution for the Adoption of the Revised Charleston Regional Hazard Mitigation Plan by Charleston County Council was approved.

A Proclamation of the Month of March 2004 as American Red Cross Month was approved.

New Correspondence – There was no general or new correspondence.

Attorney's report – There was no attorney's report.

Administrator's Report, Mayor Stith for Administrator Benke. The Fire Chief and Administrator toured the beach with Bill Wilkes of the Charleston Conservation District to identify area for sand dune fencing. An eight hundred foot area from Station 18-1/2 to Station 18 has been selected. The Town will dig the holes and install the posts; CCD volunteers will install the fencing on April 24, 2004. Members of Council and staff were invited to attend the HL Hunley Memorial Service at Sunrise Presbyterian Church, which was held at the same time as Council meeting. ETV featured Sullivan's Island, along with Mt. Pleasant and Isle of Palms, on February 9th in a one-hour live broadcast that marked the beginning of the ETV digital broadcast in the area. A copy of the program is being forwarded to the Town.

Ways and Means Committee, Mayor Stith. The financial report was represented. There will be a special meeting of Council on March 16, 2004 at 6:30 p.m. to hear the results of the 2003/2004 financial audit by Schleeter Monson and Debacker.

Personnel Committee, Councilwoman Wiedeke. An advertisement was placed in the Post & Courier requesting applications for the position of Accounts Payable/General Office Clerical. Twenty-four applications were accepted through February 16, 2004. Motion was made by Councilwoman Wiedeke, seconded by Councilman Wood, to approve the nomination of Dr. Will Post to the Tree Commission, carried unanimously. Dr. Post will serve in the unexpired term of Harriett Ethridge through August 2005.

Water and Sewer, Councilwoman Wiedeke for Councilwoman Hazen-Martin. The wastewater upgrade construction minutes are included in Council's notebooks. The next water/sewer working meeting will be February 27th. The inclement weather has been a problem, but it is on schedule. HDR and the Town have expressed concerns to the contractor about finishing on time.

There was discussion concerning the easement with the wastewater treatment line at 1312 Poe Avenue. Greg Gress and the Water/Sewer Department have recommended that the owner should not build any construction over the line which is over a Town easement and

believe the language of the easement should protect the Town and prevent building on top of it. Mr. Dodds stated that this particular property is somewhat unique. The easement runs right through the middle of the property. The owners are asking for a walkway over the easement that connects the house to an addition. The owners have agreed to acknowledge the easement, to acknowledge the size of the easement, and to pay any additional costs that the Town may have in the event we ever had to repair that easement. They also agreed that in the event any damage is done to the structure caused by the existing pipe on the easement, it would be at their cost, unless the Town was willful or wanton with their actions. The easement will be recorded and will be binding on any successor. Mr. Dodds stated there are probably eight lots that are similarly situated, one of them has already been granted the right to build. Mr. Gress stated that there are only steps on the property that was already granted the right to build; there is no building over the line. Mr. Gress stated another concern he had was if the pipe ever backs up, there could be fines from DHEC. An option is to move the line, which would be expensive, and we are under no obligation to do this. Councilman O'Neil questioned whether the easement, if granted, would specify vertical clearance above the width of the run of the easement. Mr. Dodds stated that wording can be added in the language. Mr. Dodds stated direction needs to be given to the building inspector. The building inspector, Randy Robinson, stated that a walkway may not be allowed under our current code, that it needs to be a room because the new structure would have to be functionally integrated into the other structure. Council will ask the owners to come to the next Water & Sewer working meeting.

The Mutual Aid Agreement by the American WaterWorks Association has been executed. It is a preparedness program for a co-op of existing public and private utilities interested in assisting each other in times of emergencies by providing and/or receiving emergency assistance.

Greg Gress spoke to HDR concerning the tree survey, and is waiting on a proposal from them to identify trees and problems for relocation. The issue is locating trees and structures in the right-of-way of where water lines will go. Fifty-nine trees have been found, mostly oaks and hardwoods; 211 palmettos; 109 trees have canopy issues where the canopy indicates the underground roots are in the right-of-way. HDR will evaluate which can be saved, which should be saved, and which perhaps are not viable to be saved. All the palmettos may be able to be saved, and a plan is being formulated. One option is public tree planting initiatives around the island in areas where planting could be used such as the wastewater treatment plant or perhaps at Breach Inlet. Areas will be identified with the help of the Tree Commission. Another option to discuss is for islanders to adopt a tree, where the person pays the cost of digging and transportation. The adjacent property owner would have first choice.

Headworks repair postponed due to inclement weather. There was a water main break at Station 22-1/2. There were incidents of red water after the break. The next Water & Sewer working meeting is February 27th at 3:00 p.m., with a tour behind the mound to look at potential storage sites at 4:00.

Building and Construction Committee, Councilman Wood. The town ordinance will be reviewed related to house demolition and moving; and hours/days of construction activity. Eleven home plans are on the building inspector's desk. Monthly report was presented.

Fire Committee, Councilman Wood. Monthly report was presented. The Oyster Roast was held on February 14. Attendance was good despite the inclement weather conditions. Vacation rental inspections have been going well, with only a few violations noted.

Recreation Committee, Councilwoman Herron. Dunleavy's Restaurant request to close Station 22-1/2 Street on March 14, 2004 and March 17, 2004 for St. Patrick's Day was approved. Weddings on April 22nd at 4:00 and 6:00 in front of the Sand Dunes Club were approved. A request for a wedding on June 19 at 10:00 am on Station 18 was received. The Town Administrator will contact Ms. Pruitt for additional information before giving approval.

Real Estate Committee, Councilman O'Neil. Cooper Consulting presented the summary of the near-final zoning and design recommendations at the Sand Dunes Club on January 21st. Cooper Consulting's invoice number 6 was reviewed at Committee meeting. Motion was made by Councilman O'Neil, seconded by Councilman Wood, to pay Cooper Consulting's invoice number 6 in the amount of \$4,743.20, carried unanimously. Recommendations for historic preservation are in the Senate Bill 277 that makes administrative changes to existing law that permits local governments to grant special property tax assessments to rehabilitated historic properties. The Municipal Association has been supportive of the bill, and it is now moving over to the House. Letter was received from Dr. Chris Marsh of the Spring Island Foundation regarding his preliminary examination of the accreted land on November 21, 2003. He gave preliminary recommendations on how the Town could proceed, if desired, with a study to lead to a management conservation plan for the RC-1 area. The Town law states that it can contract for professional services outside of the state procurement process. The reasoning is that when professional expertise is needed, it is important to get the best possible resources, not just the lowest bidder. The Administrator will ask Dr. Marsh to come meet with Council. Councilwoman Wiedeke stated she would like to mention corrections to the February COSI newsletter. The article concerning trees stated Dr. Marsh was from the Sea Island Institute (should have been Spring Island Foundation); and that he submitted his recommendations for the management of the accreted land at the beach and the marsh (he submitted preliminary recommendations on how we could proceed with a study, but he has not recommended management).

Police Committee, Mayor Stith. Monthly report rendered. The Polar Bear Swim and Charlie Post Run took place without incident. Detective Culnon received a thank you note from the Daisy Troop for coming to talk to them about safety.

Streets and Maintenance Committee, Councilman Smith. The location of a cell tower on the island to improve service and reception continues to be investigated. Dr. Mithoefer has submitted information concerning architectural approaches to towers. Sunrise Presbyterian Church has requested the Town assist in the re-placement of a streetlight at the intersection of Jasper Boulevard and Middle Street. The pole number has been identified and the Administrator will correspond with SCE&G. Councilman Wood stated that the horseshoe at the mortar battery could be a possible storage shed of about 5,000 sq ft. It will be toured on February 27th at 4:00.

Motion was made by Councilman Smith, seconded by Councilman Wood, to go into executive session to obtain legal advice regarding the second reading of the dock ordinance, carried by a vote of 4-1 (Councilman O'Neil recused himself; Councilwoman Wiedeke casting negative vote).

Motion was made by Councilman Wood, seconded by Councilwoman Wiedeke, to come out of executive session and go into regular session, carried unanimously.

Motion was made by Councilwoman Wiedke, seconded by Councilman Smith, to have second reading of the dock ordinance.

Motion was made by Councilman Smith, seconded by Councilman Wood, that we amend the second reading of the dock ordinance, carried by a vote of five, with Councilman O'Neil abstaining.

The amendment reads. Chapter 21: Section 21-40 Area RC-2 restrictions:

a) No dock shall be permitted to be constructed across marshland in the area in the RC-2 district from the centerline extension of Station 18 to the center line extension of Station 27. In all other areas of the RC-2 district where the length of the dock shall not exceed three hundred feet (300') in total length; provided, however, if the dock extends to a creek two hundred feet (200') or more in width measured from marsh grass to marsh grass (or land if there is no marsh grass on both sides of the creek), the length of the dock may extend up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide (marsh grass to marsh grass) to reach the two hundred (200') foot creek.

c) Pier head, floating dock and boatlift

- 1) The head of the permanent dock/"pier head" structure shall be no greater in size than two hundred twenty five (225 s.f.) square feet.
- 2) In addition to the permanent pier head of the dock there may be one floating dock no greater than eight (8') feet by twenty (20') feet. An attached structure for storage ("dock box") may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225 sq. ft.) square feet of the "head" or one hundred sixty (160 sq. ft.) square feet of the floating dock and provided it does not exceed three (3') feet in height and does not exceed thirty-two (32 sq. ft.) square feet in floor area.
- 3) In addition to the permanent pier head of the dock there may be one boat lift, not to exceed four vertical support pilings with a maximum lift capacity of 13,000 pounds.
- 4) The boat lift and primary access ramp or ladder to the floating dock shall only be accessed directly from the pier head; no additional walkways or catwalks shall be allowed to provide access to the boat lift or floating dock, nor shall access to these components be allowed from the walkway leading to the pier head.

d) No docks or pier heads or other associated structures shall be allowed to be built closer than ten (10') feet from extended property lines with the exception of common docks shared by two adjoining property owners. Provided, however, a dock may be constructed over extended property lines in areas when angled docks currently exist and cross over extended property lines, provided the angled placement would result in the dock being shorter than if

built within the extended property set back lines and meets the criteria of Section 21-40a.

e) The maximum width of the walkway or pier between the highland and the pier head shall be four (4') feet. The walkway may have a railing but shall have no walls which impede the flow of air through the walkway. Only one walkway access to the pier head shall be allowed with no deviations or extensions providing access to other dock components.

g) Electrical lighting shall be allowed only at the head of the dock and not along the walkway, provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as promulgated by the building regulations for the Town of Sullivan's Island.

(The other paragraphs of Section 21-40 remain unchanged)

This ordinance shall be effective immediately upon final reading.

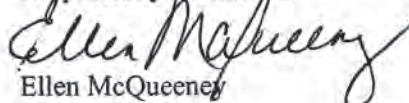
Motion was made by Councilman Smith, seconded by Councilman Wood, to have second reading of the amended version of the dock ordinance to Amend Sections 21-40 (a), (c), (d), (e) and (g) of Chapter 21, Zoning Code of the Town of Sullivan's Island Code of Ordinances Pertaining to Dock Regulations, carried by a vote of five, with Councilman O'Neil abstaining.

Motion was made by Councilman O'Neil, seconded by Councilman Wood, to defer Second Reading on An Ordinance Amending Section 21, Zoning Code of The Sullivan's Island Code of Ordinances By Establishing An Old Fort Historic District Overlay District, Identifying Its Location, Amending The Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings; carried unanimously.

Motion was made by Councilman Smith, seconded by Councilman Wood, to defer Second Reading of An Ordinance Amending Section 21, Zoning Code of the Sullivan's Island Code of Ordinances by Establishing an Historic District Overlay District, Identifying Its Locations, Amending the Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings, carried unanimously.

Motion was made by Councilman Wood, seconded by Councilman O'Neil, to adjourn, carried unanimously.

Respectfully submitted,


Ellen McQueeney
Town Clerk

MONTHLY FINANCIAL WORKSHEET FOR FEBRUARY 2004				
SPECIAL REVENUE FUND				Ledger
CHECKING:				
151000.0100	Wachovia Installment Purchase	\$133,721.04		
CERTIFICATES:				
151000.0400	Community First	\$100,000.00	unchanged	
151000.0500	SC Local Govt Invest Pool	\$880,229.33		
151000.0510	SCLGIP, Infrastructure Fund	\$2,495.39		
151000.0610	Morgan Keenan	\$100,267.84	unchanged	
151000.0650	Memorial Fund	\$27,093.51	unchanged	
151000.0810	Carolina First CD	\$125,000.00	unchanged	
151000.0830	Regions Bank CD	\$100,006.80	unchanged	
	Total Savings	\$1,335,092.87		
	Total Special Revenue	\$1,468,813.91		
GENERAL FUND				
CHECKING:				
101000.0100	Wachovia Checking	\$1,085,265.40		
SAVINGS:				
101000.0510	County Accommodations Fund	\$54,697.90		
101000.0520	First Fed Tree Bank Fund	\$7,174.90		
101000.0600	First Fed Savings Certificate	\$8,367.25		
101000.0610	Wachovia Lost Property Rollback	\$413,687.12		
101000.0620	Wachovia Lost Revenue Fund	\$172,148.12		
101000.0630	VFD First Federal Savings	\$19,331.84		
101000.0700	Land Trust Fund	\$30,165.61		
101000.0710	Confederate Memorial Fund	\$15,931.11		
101000.0720	TSI Project Management (FEMA)	\$139,918.78		
101000.0750	TSI General Fund	\$406,003.16		
	Total Savings	\$1,267,425.79		
PETTY CASH:				
101000.0800	Petty Cash	\$200.00	unchanged	
	TOTAL GENERAL FUND	\$2,352,891.19		
SEWER FUND				
111000.0100	Wachovia Checking	\$188,808.87		
111000.0500	First Federal Savings	\$12,664.50		
	Total Sewer Fund	\$201,473.37		
WATER FUND				
121000.0100	Wachovia Checking	\$185,856.95		
121000.0200	Bond	\$2,136,561.58		
121000.0710	First Federal Savings	\$3,328.80		
121000.0800	Petty Cash	\$200.00	unchanged	
	Total Water Fund	\$2,325,947.33		
PARK FOUNDATION				
181000.0100	Wachovia Checking	\$3,063.38		
181000.0200	Wachovia Savings	\$40,727.73		
	Total Park Foundation	\$43,791.11		
	GRAND TOTAL ASSETS:	\$6,392,916.91		
Note: Installment Purchase: check/no \$20,000; MM \$113,721.04				

Town Of Sullivan's Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

GENERAL FUND		Estimated	Activity this	Revenue Year	Uncollected	% Coll
Account#	Account Description	Revenue	Period	to Date	Year to Date	
10-3000-3300	INTEREST EARNED	31,000.00	717.60	7,296.74	23,703.26	23.50
10-3000-5000	V.F.D.	0.00	(7,650.00)	17,374.13	(17,374.13)	No Budget
10-3000-6000	POLICE ACCIDENT REPORTS	100.00	15.00	55.00	45.00	55.00
10-3000-8200	TRANSFER FR SPEC REV FUND	70,000.00	608.72	3,032.26	66,967.74	4.33
10-3000-9100	LICENSES	450,000.00	85,884.09	189,288.54	260,711.46	42.06
10-3000-9110	DOG PERMITS	300.00	92.00	232.00	68.00	77.33
10-3000-9120	BOAT PERMITS	100.00	10.00	20.00	80.00	20.00
10-3000-9200	PENALTIES ON TAX & LICENS	1,000.00	0.00	258.04	741.96	25.80
10-3000-9300	BUILDING PERMITS	75,000.00	9,611.00	71,780.60	3,219.40	95.71
10-3000-9310	TREE PERMITS	0.00	350.00	3,190.00	(3,190.00)	No Budget
10-3000-9350	TRIMMING & PRUNING INCOME	5,000.00	750.00	60,050.00	(55,050.00)	1,201.00
10-3000-9400	AD VALOREM PERS PROP TAX	1,118,496.41	603,351.68	1,081,224.05	37,272.36	96.67
10-3000-9410	HOMESTEAD EXEMPT REFUND	5,000.00	0.00	0.00	5,000.00	0.00
10-3000-9510	FINES COLL - RECORDER	70,000.00	5,038.27	50,580.15	19,419.85	72.26
10-3000-9600	FEE SIMPLE TITLES	100.00	0.00	100.00	0.00	100.00
10-3000-9690	AID TO SUBDIVISIONS	40,000.00	12,398.51	37,400.02	2,599.98	93.50
10-3000-9710	VICTIMS RIGHTS FUND	7,000.00	404.73	3,632.23	3,367.77	51.89
10-3000-9750	BEVERAGE TEMP. PERMITS	10,000.00	0.00	11,650.00	(1,650.00)	116.50
10-3000-9770	ACCOMMODATIONS TAX	60,000.00	(20,623.10)	(20,623.10)	80,623.10	(34.37)
10-3000-9777	CO. ACCOM. FUND	10,000.00	28,296.07	79,770.43	(69,770.43)	797.70
10-3000-9778	County Accom Tax 1%	40,000.00	986.57	27,121.33	12,878.67	67.86
10-3000-9779	2% Hospitality Tax	50,000.00	8,715.47	98,517.51	(48,517.51)	197.04
10-3000-9780	L.O.S.T., PROP.ROLLBACK	100,000.00	17,805.09	79,476.32	20,523.68	79.48
10-3000-9781	L.O.S.T., REVENUE FUND	50,000.00	7,325.63	40,060.41	9,939.59	80.12
10-3000-9900	MISCELLANEOUS INCOME	1,500.00	34.50	1,047.00	453.00	69.80
10-3000-9930	POOL FEES	2,000.00	0.00	160.00	1,840.00	8.00
Total Revenues	GENERAL FUND	2,196,596.41	754,121.83	1,842,693.66	353,902.75	83.89

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 10-5000	FIRE DEPT EXPENSES						
10-5000-0100	SALARIES & WAGES	304,923.27	22,708.03	202,521.80	0.00	102,401.47	66.4%
10-5000-0200	FD PRT SOCIAL SECURITY	29,952.61	1,737.15	15,492.77	0.00	14,459.84	51.7%
10-5000-0210	FD PRT HOSPITAL INSURANCE	59,629.68	4,900.06	37,163.62	0.00	22,466.06	62.3%
10-5000-0220	FD PRT POL OFF RETIREMENT	29,952.61	2,441.82	25,321.93	0.00	4,630.68	84.5%
10-5000-0300	FD GAS & OIL	5,000.00	356.27	3,556.72	0.00	1,443.28	71.1%
10-5000-0310	FD DIESEL	2,000.00	165.19	1,417.74	0.00	582.26	70.8%
10-5000-0400	FD VEHICLE REPAIRS	6,000.00	328.97	2,217.28	0.00	3,782.72	36.9%
10-5000-0600	FD SUPPLIES & MATERIALS	15,000.00	383.96	13,861.93	0.00	1,138.07	92.4%
10-5000-0610	FD TOOLS	500.00	0.00	0.00	0.00	500.00	0.0%
10-5000-0700	FD TELEPHONE	6,000.00	821.97	6,046.77	0.00	(46.77)	100.7%
10-5000-0900	FD POWER & LIGHTS	7,500.00	411.79	3,517.92	0.00	3,982.08	46.9%
10-5000-1000	FD INSURANCE	25,000.00	1,060.00	8,065.72	0.00	16,934.28	32.2%
10-5000-1100	FD EQUIPMENT REPAIRS	4,000.00	1,924.83	2,915.59	0.00	1,084.41	72.8%
10-5000-1200	FD SYSTEM REPAIRS & MAINT	12,000.00	0.00	5,699.97	0.00	6,300.03	47.5%
10-5000-1300	FD DUES & CERTIF FEES	800.00	135.00	340.00	0.00	460.00	42.5%
10-5000-1400	FD TRAINING & SEMINARS	7,000.00	171.23	2,146.86	0.00	4,853.14	30.6%
10-5000-3000	FD MISCELLANEOUS EXPENSE	8,500.00	94.90	5,430.22	0.00	3,069.78	63.8%
10-5000-3100	FD PROPERTY & EQUIP PURCH	60,326.79	0.00	48,541.49	0.00	11,785.30	80.4%
1000-3200	FD DISPATCHING SERVICES	16,000.00	1,333.33	10,666.64	0.00	5,333.36	66.6%
Total Exp. FIRE DEPT EXPENSES		600,084.96	38,974.50	394,924.97	0.00	205,159.99	65.8%

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Town Of Sullivans Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 10-6000	POLICE DEPT EXPENSES						
10-6000-0100	PD SALARIES & WAGES	285,122.15	20,094.22	178,954.35	0.00	106,167.80	62.76
10-6000-0200	PD PRT SOCIAL SECURITY	21,811.84	1,537.19	13,687.80	0.00	8,124.04	62.75
10-6000-0210	PD PRT HOSPITAL INS	62,432.64	4,482.40	35,401.78	0.00	27,030.86	56.78
10-6000-0220	PD PRT POL OFF RETIRE	30,508.07	2,224.93	23,761.27	0.00	6,746.80	77.89
10-6000-0300	PD GAS & OIL	25,000.00	1,853.76	13,315.71	0.00	11,684.29	53.25
10-6000-0320	PD DIESEL FUEL	400.00	0.00	0.00	0.00	400.00	0.00
10-6000-0400	PD VEHICLE REPAIR & MAINT	16,000.00	(1,869.46)	4,481.89	0.00	11,518.11	28.01
10-6000-0600	PD SUPPLIES & MATERIALS	20,000.00	174.44	11,222.35	0.00	8,777.65	56.11
10-6000-0700	PD TELEPHONE	10,000.00	808.95	5,960.11	0.00	4,039.89	59.60
10-6000-0900	PD POWER & LIGHTS	4,000.00	344.88	2,567.37	0.00	1,432.63	64.18
10-6000-1000	PD INSURANCE	22,627.12	0.00	6,471.63	0.00	16,155.49	28.60
10-6000-1100	PD EQUIPMENT REPAIR	2,500.00	0.00	134.11	0.00	2,365.89	5.36
10-6000-1200	PD SYSTEM REPAIR & MAINT	12,500.00	0.00	6,389.70	0.00	6,110.30	51.10
10-6000-1300	PD DUES & CERTIF FEES	500.00	0.00	150.00	0.00	350.00	30.00
10-6000-1400	PD TRAINING & SEMINARS	5,500.00	0.00	1,096.76	0.00	4,403.24	19.94
10-6000-3000	PD MISCELLANEOUS EXPENSES	4,000.00	192.00	1,398.35	0.00	2,601.65	34.95
10-6000-3100	PD PROPERTY & EQUIP PURCH	65,253.66	0.00	53,906.14	0.00	11,347.52	82.60
10-6000-3200	PD DISPATCHING SERVICES	16,000.00	1,333.33	10,666.64	0.00	5,333.36	66.67
tl Exp. POLICE DEPT EXPENSES		604,155.48	31,176.64	369,565.96	0.00	234,589.52	61.17

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 10-7000	MAINTENANCE DEPT EXP						
10-7000-0100	MD SALARIES & WAGES	111,254.00	8,351.75	67,220.33	0.00	44,033.67	60.42
10-7000-0200	MD PRT SOCIAL SECURITY	8,683.88	638.90	5,142.34	0.00	3,541.54	59.22
10-7000-0210	MD PRT HOSPITAL INSURANCE	23,767.92	2,405.62	16,928.00	0.00	6,839.92	71.22
10-7000-0220	MD PRT S. C. RETIREMENT	7,775.76	599.96	5,462.77	0.00	2,312.99	70.25
10-7000-0300	MD VEHICLE GAS & OIL	4,000.00	289.99	2,403.59	0.00	1,596.41	60.09
10-7000-0310	MD DIESEL FUEL	1,000.00	23.50	296.19	0.00	703.81	29.62
10-7000-0400	MD VEHICLE REPAIRS	6,000.00	0.00	3,219.63	0.00	2,780.37	53.66
10-7000-0600	MD SUPPLIES & MATERIALS	5,000.00	802.50	3,298.65	0.00	1,701.35	65.97
10-7000-0610	MD TOOLS	1,500.00	0.00	1,008.07	0.00	491.93	67.20
10-7000-0700	TELEPHONE	2,000.00	121.42	2,043.09	0.00	(43.09)	102.15
10-7000-0900	MD POWER & ELECTRICITY	22,000.00	1,752.64	14,112.11	0.00	7,887.89	64.15
10-7000-1000	MD INSURANCE	12,000.00	0.00	1,705.93	0.00	10,294.07	14.22
10-7000-1100	MD EQUIPMENT REPAIRS	4,000.00	258.19	380.75	0.00	3,619.25	9.52
10-7000-1200	MD SYSTEMS REPAIRS & MAIN	25,000.00	0.00	22,200.53	0.00	2,799.47	88.80
10-7000-3000	MD MISCELLANEOUS EXPENSES	6,000.00	0.00	1,544.71	0.00	4,455.29	25.75
10-7000-3100	MD PROP & EQUIP PURCHASE	28,012.89	0.00	13,189.42	0.00	14,823.47	47.08
10-7000-3400	MD GARBAGE DISPOSAL CONTR	140,000.00	11,552.00	104,046.00	0.00	35,954.00	74.32
10-7000-3500	CAUSEWAY MAINTENANCE	3,000.00	0.00	0.00	0.00	3,000.00	0.00
10-7000-3600	CONTAINER SERVICING	7,000.00	290.91	1,297.13	0.00	5,702.87	18.53
Total Exp. MAINTENANCE DEPT EXP		417,994.45	27,087.38	265,499.24	0.00	152,495.21	63.52

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 10-8000	RECREATION DEPT EXPE						
10-8000-0600	RD SUPPLIES & MATERIALS	3,000.00	0.00	92.55	0.00	2,907.45	3.08
10-8000-0900	RD POWER & LIGHTS	2,000.00	142.87	1,955.60	0.00	44.40	97.78
10-8000-1000	RD INSURANCE	1,000.00	0.00	0.00	0.00	1,000.00	0.00
10-8000-1200	RD SYSTEM REPAIR & MAINT	5,000.00	0.00	2,965.00	0.00	2,035.00	59.30
10-8000-1300	RD RECREATION AREA MAINT	2,500.00	0.00	231.00	0.00	2,269.00	9.24
10-8000-3000	RD MISCELLANEOUS EXPENSES	1,500.00	0.00	927.64	0.00	572.36	61.84
10-8000-3100	RD PROPERTY & EQUIP PURCH	2,500.00	0.00	0.00	0.00	2,500.00	0.00
10-8000-3200	NEW PROJECTS	15,000.00	0.00	3,268.00	0.00	11,732.00	21.79
10-8000-3300	POOL EXPENSE	2,000.00	0.00	0.00	0.00	2,000.00	0.00
Total Exp.	RECREATION DEPT EXPE	34,500.00	142.87	9,439.79	0.00	25,060.21	27.35

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Town Of Sullivans Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

GENERAL FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 10-9000	FUND TRANSFER/ADMIN						
10-9000-0100	AD SALARIES & WAGES	188,231.67	14,527.47	111,961.49	0.00	76,270.18	59.48
10-9000-0200	AD PRT SOCIAL SECURITY	25,658.83	1,329.49	10,343.65	0.00	15,315.18	40.51
10-9000-0210	AD PRT HOSPITAL INSURANCE	37,992.22	3,153.46	25,380.10	0.00	12,612.12	66.81
10-9000-0220	AD PRT S. C. RETIREMENT	14,021.30	1,112.10	9,314.34	0.00	4,706.96	66.43
10-9000-0300	AD GAS & OIL	2,500.00	40.40	438.53	0.00	2,061.47	17.54
10-9000-0600	AD OFFICE SUPPLIES	15,000.00	515.52	9,599.25	0.00	5,400.75	64.00
10-9000-0620	AD SUPPLIES - RECORDER	50.00	0.00	0.00	0.00	50.00	0.00
10-9000-0630	AD SUPPLIES - BLDG INSPCT	2,000.00	0.00	99.31	0.00	1,900.69	4.97
10-9000-0640	AD BOAT PERMITS	100.00	0.00	0.00	0.00	100.00	0.00
10-9000-0700	AD TELEPHONE	7,000.00	914.55	4,879.04	0.00	2,120.96	69.70
10-9000-0900	AD POWER & LIGHTS	3,680.00	344.00	2,455.18	0.00	1,224.82	66.71
10-9000-1000	AD INSURANCE	23,000.00	0.00	1,611.69	0.00	21,388.31	7.01
10-9000-1100	AD EQUIPMENT REPAIRS	1,000.00	0.00	459.32	0.00	540.68	45.93
10-9000-1200	AD SYSTEMS REPAIR & MAINT	20,000.00	1,549.93	14,935.22	0.00	5,064.78	74.68
10-9000-1300	AD DUES & CERTIF FEES	12,000.00	80.00	1,900.31	0.00	10,099.69	15.83
10-9000-1400	AD TRAINING & SEMINARS	10,000.00	35.00	1,598.35	0.00	8,401.65	15.98
10-9000-1500	AD CLERK OF COURT	6,262.70	619.40	4,972.37	0.00	1,290.33	79.40
10-9000-1710	AD ZONING ADMIN SALARY	11,497.01	834.32	7,091.72	0.00	4,405.29	61.63
100-1800	AD PROFESSIONAL SERVICES	20,000.00	0.00	33,922.32	0.00	(13,922.32)	169.61
100-1810	AD FEE SIMPLE DEED COSTS	50.00	0.00	37.50	0.00	12.50	75.00
10-9000-1900	AD LEGAL & ACCOUNTING	50,000.00	1,398.11	12,429.88	0.00	37,570.12	24.86
10-9000-2500	TRIMMING & PRUNING EXP.	5,000.00	4,200.00	5,600.00	0.00	(600.00)	112.00
10-9000-3000	AD MISCELLANEOUS EXPENSES	20,000.00	528.17	17,168.93	0.00	2,831.07	85.84
10-9000-3100	AD PROPERTY & EQUIP PURCH	17,717.79	2,300.20	14,216.45	0.00	3,501.34	80.24
10-9000-3300	AD CONTINGENCY FUND	5,000.00	0.00	0.00	0.00	5,000.00	0.00
10-9000-3500	AD EXP OF SPEC REV FUND	100.00	0.00	0.00	0.00	100.00	0.00
10-9000-3700	AD CRIMINAL JUST ACADEMY	30,000.00	2,528.55	21,024.71	0.00	8,975.29	70.75
10-9000-4000	VICTIMS RIGHTS FUND	2,000.00	0.00	0.00	0.00	2,000.00	0.00
10-9000-4500	CO. ACCOM. FUND	10,000.00	0.00	0.00	0.00	10,000.00	0.00
Total Exp. FUND TRANSFER/ADMIN		539,861.52	36,010.67	311,439.66	0.00	228,421.86	57.69
Total		2,196,596.41	133,392.06	1,350,869.62	0.00	845,726.79	61.50
Total Exp. GENERAL FUND		2,196,596.41	133,392.06	1,350,869.62	0.00	845,726.79	61.50

Town Of Sullivans Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

SEWER FUND		Estimated	Activity this	Revenue Year	Uncollected	
Account#	Account Description	Revenue	Period	to Date	Year to Date	% Coll
11-3000-3300	INTEREST EARNED	1,000.00	10.37	42.23	957.77	4.22
11-3000-4110	SEWER SERVICE CHARGES	467,065.20	32,580.59	271,816.62	195,248.58	58.20
11-3000-4300	TIE-IN FEES & INSTALL	5,000.00	3,811.62	5,211.62	(211.62)	104.23
11-3000-9300	TRANSFER FROM SPEC REV FU	413,453.00	70,958.09	281,173.29	132,279.71	68.01
Total Revenues	SEWER FUND	886,518.20	107,360.67	558,243.76	328,274.44	62.97

Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

SEWER FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 11-4000	WATER/SEWER EXPENSES						
11-4000-0100	SALARIES & WAGES	108,999.68	0.00	42,109.81	0.00	66,889.87	38.63
11-4000-0200	PRT - SOCIAL SECURITY	8,338.48	0.00	3,221.45	0.00	5,117.03	38.63
11-4000-0210	PRT - HOSPITAL INSURANCE	17,791.63	0.00	7,254.13	0.00	10,537.50	40.77
11-4000-0220	PRT - S C RETIREMENT	7,466.48	0.00	2,884.54	0.00	4,581.94	38.63
11-4000-0300	GAS & OIL - VEHICLES	3,500.00	228.53	1,597.56	0.00	1,902.44	45.64
11-4000-0310	DIESEL FUEL	1,500.00	59.49	844.47	0.00	655.53	56.30
11-4000-0320	DIESEL EQUIPMENT	2,000.00	0.00	180.90	0.00	1,819.10	9.05
11-4000-0400	REPAIRS - VEHICLES	2,000.00	785.81	910.77	0.00	1,089.23	45.54
11-4000-0600	SUPPLIES & MATERIALS	7,000.00	2,144.74	5,435.79	0.00	1,564.21	77.65
11-4000-0610	TOOLS	2,000.00	0.00	571.27	0.00	1,428.73	28.56
11-4000-0620	OFFICE SUPPLIES	2,000.00	175.32	1,536.79	0.00	463.21	76.84
11-4000-0630	LAB SUPPLIES	2,500.00	268.33	2,682.81	0.00	(182.81)	107.30
11-4000-0700	TELEPHONE	3,500.00	313.34	1,879.44	0.00	1,620.56	53.70
11-4000-0900	POWER & ELECTRICITY	30,000.00	4,959.84	19,751.24	0.00	10,248.76	65.84
11-4000-1000	INSURANCE	9,000.00	0.00	916.76	0.00	8,083.24	10.19
11-4000-1100	EQUIPMENT REPAIRS	3,000.00	49.53	560.49	0.00	2,439.51	18.68
11-4000-1200	SYSTEMS REPAIRS & MAINT	120,000.00	7,109.21	81,703.14	0.00	38,296.86	68.08
11-4000-1210	CAPITOL IMPROVEMENTS	413,453.00	74,254.94	289,927.61	0.00	123,525.39	70.17
100-1300	DUES & CERTIFICATION	3,000.00	0.00	3,986.00	0.00	(986.00)	132.87
100-1400	TRAINING & SEMINARS	2,500.00	250.00	600.00	0.00	1,900.00	24.00
11-4000-1900	PROF SERVICES - AUDIT	6,500.00	0.00	0.00	0.00	6,500.00	0.00
11-4000-2000	PROFESSIONAL - ENGINEERING	24,000.00	300.00	6,872.03	0.00	17,127.97	28.63
11-4000-3000	MISCELLANEOUS	1,140.60	15.53	647.57	0.00	493.03	56.70
11-4000-3100	PROP & EQUIPMENT PURCHASE	55,866.42	0.00	25,418.61	0.00	30,447.81	45.50
11-4000-3600	WASTEWATER ANAL - LAB SVC	9,000.00	370.72	2,913.48	0.00	6,086.52	32.37
11-4000-3700	CHEMICALS	5,000.00	472.77	3,743.17	0.00	1,256.83	74.85
Total Exp. WATER/SEWER EXPENSES		851,056.29	91,758.10	508,149.83	0.00	342,906.46	59.71

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

SEWER FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp. & Enc.
Department 11-9000	FUND TRANSFER/ADMIN						
11-9000-0100	ADMIN SALARIES	27,036.49	0.00	13,972.69	0.00	13,063.80	51.68
11-9000-0200	PRT - SOCIAL SECURITY	2,068.29	0.00	1,068.88	0.00	999.41	51.69
11-9000-0210	PRT - HOSPITAL INSURANCE	4,505.14	0.00	1,494.00	0.00	3,011.14	33.18
11-9000-0220	PRT - S C RETIREMENT	1,852.00	0.00	889.95	0.00	962.05	48.03
Total Exp. FUND TRANSFER/ADMIN		35,461.92	0.00	17,425.52	0.00	18,036.40	49.14
Total		886,518.21	91,758.10	525,575.35	0.00	360,942.86	59.29
Total Exp. SEWER FUND		886,518.21	91,758.10	525,575.35	0.00	360,942.86	59.29

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Town Of Sullivans Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

Page 1

WATER FUND		Estimated	Activity this	Revenue Year	Uncollected	% Coll
Account#	Account Description	Revenue	Period	to Date	Year to Date	
12-3000-0005	Bond Money Transferred	0.00	(14,475.00)	(133,450.00)	133,450.00	No Budget
12-3000-3300	INTEREST EARNED	500.00	3,086.48	5,546.27	(5,046.27)	1,109.25
12-3000-4110	WATER SALES	459,431.88	33,289.61	276,546.07	182,885.81	60.19
12-3000-4300	METER CONNECT & RENEWALS	11,000.00	3,855.00	13,261.62	(2,261.62)	120.56
Total Revenues	WATER FUND	470,931.88	25,756.09	161,903.96	309,027.92	34.38

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

WATER FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc.
Department 12-4000	WATER/SEWER EXPENSES						
12-4000-0100	SALARIES AND WAGES	108,999.68	0.00	42,110.23	0.00	66,889.45	38.6%
12-4000-0200	PRT - SOCIAL SECURITY	8,338.48	0.00	3,951.12	0.00	4,387.36	47.3%
12-4000-0210	PRT - HOSPITAL INSURANCE	17,791.63	0.00	8,501.27	0.00	9,290.36	47.7%
12-4000-0220	PRT - S C RETIREMENT	7,466.48	0.00	3,538.89	0.00	3,927.59	47.4%
12-4000-0300	GAS & OIL - VEHICLES	3,000.00	228.53	1,621.02	0.00	1,378.98	54.0%
12-4000-0310	DIESEL - VEHICLES	1,000.00	59.47	267.84	0.00	732.16	26.7%
12-4000-0400	REPAIRS - VEHICLES	2,000.00	3,403.17	4,121.99	0.00	(2,121.99)	206.1%
12-4000-0600	SUPPLIES & MATERIALS	9,000.00	42.40	5,058.09	0.00	3,941.91	56.2%
12-4000-0610	TOOLS	2,000.00	780.00	1,261.35	0.00	738.65	63.0%
12-4000-0620	OFFICE SUPPLIES	3,000.00	214.03	1,808.86	0.00	1,191.14	60.3%
12-4000-0630	LAB SUPPLIES	2,000.00	255.00	1,343.38	0.00	656.62	67.1%
12-4000-0700	TELEPHONE	3,500.00	239.51	1,951.93	0.00	1,548.07	55.7%
12-4000-0900	POWER & ELECTRICITY	900.00	105.32	765.38	0.00	134.62	85.0%
12-4000-1000	INSURANCE	10,000.00	0.00	1,765.21	0.00	8,234.79	17.6%
12-4000-1100	EQUIPMENT REPAIRS	2,000.00	0.00	292.38	0.00	1,707.62	14.6%
12-4000-1200	SYSTEMS REPAIRS & MAIN.	50,000.00	1,971.60	28,675.19	0.00	21,324.81	57.3%
12-4000-1210	CAPITOL IMPROVEMENTS	0.00	0.00	2,625.00	0.00	(2,625.00)	No Budget
12-4000-1300	DUES & CERTIFICATION	8,000.00	0.00	5,092.00	0.00	2,908.00	63.6%
12-4000-1400	TRAINING & SEMINARS	3,000.00	604.10	1,143.10	0.00	1,856.90	38.1%
12-4000-1900	PROFESSIONAL SER.- AUDIT	6,000.00	0.00	0.00	0.00	6,000.00	0.0%
12-4000-2000	PROFESSIONAL-ENGINEERING	30,000.00	0.00	6,018.12	0.00	23,981.88	20.0%
12-4000-3000	MISCELLANEOUS	1,892.44	12.66	837.15	0.00	1,055.29	44.2%
12-4000-3100	PROP & EQUIPMENT PURCHASE	22,781.26	0.00	7,155.87	0.00	15,625.39	31.4%
12-4000-3600	WATER ANALYSIS	2,800.00	100.00	760.00	0.00	2,040.00	27.1%
12-4000-3700	CHEMICALS	20,000.00	0.00	7,027.80	0.00	12,972.20	35.1%
12-4000-3900	H2O PAYMENT, OPERATION	85,000.00	5,237.10	55,800.29	0.00	29,199.71	65.6%
12-4000-4000	CPW IMPROVEMENTS	25,000.00	0.00	0.00	0.00	25,000.00	0.0%
Total Exp. WATER/SEWER EXPENSES		435,469.97	13,252.89	193,493.46	0.00	241,976.51	44.4%

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Town Of Sullivans Island
Expenditure Statement :Fiscal Year 2003-2004
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WATER FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc
Department 12-9000	FUND TRANSFER/ADMIN						
12-9000-0100	ADMINISTRATION SALARIES	27,036.49	0.00	13,972.69	0.00	13,063.80	51.25
12-9000-0200	PRT-SOCIAL SECURITY	2,068.29	0.00	1,298.23	0.00	770.06	62.35
12-9000-0210	PRT - HOSPITAL INSURANCE	4,505.14	0.00	1,743.00	0.00	2,762.14	38.80
12-9000-0220	PRT - SC RETIREMENT	1,852.00	0.00	1,095.33	0.00	756.67	59.14
Total Exp. FUND TRANSFER/ADMIN		35,461.92	0.00	18,109.25	0.00	17,352.67	51.10
Total		470,931.89	13,252.89	211,602.71	0.00	259,329.18	44.93
Total Exp. WATER FUND		470,931.89	13,252.89	211,602.71	0.00	259,329.18	44.93

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Town Of Sullivan's Island
Expenditure Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

SPECIAL REVENUE FUND

Account #	Account Description	Approp Amount	Activity this Period	Expenditure Year to Date	Encumbrance Year to Date	Unencumbered Balance	% Exp & Enc
Department 15-9000	Not Known-Not Known						
15-9000-2200	TRANSFER TO GENERAL FUND	0.00	236.97	2,647.02	0.00	(2,647.02)	No Budget
15-9000-2300	TRANSFER TO SEWER FUND	0.00	70,958.09	330,432.17	0.00	(330,432.17)	No Budget
Total Exp. Not Known-Not Known		0.00	71,195.06	333,079.19	0.00	(333,079.19)	0.00
Total		0.00	71,195.06	333,079.19	0.00	(333,079.19)	0.00
Total Exp. SPECIAL REVENUE FUND		0.00	71,195.06	333,079.19	0.00	(333,079.19)	0.00

ELECTRONICALLY FILED - 2005 Mar 9 12:23 PM - CHARLESTON - COMMON PLEAS - CASE#2024CP1005670

4/22/2004 2:22:21 PM

Town Of Sullivan's Island
Revenue Statement :Fiscal Year 2003-2004
for Period Ending 2/29/2004

Page 1

SPECIAL REVENUE FUND

Account#	Account Description	Estimated Revenue	Activity this Period	Revenue Year to Date	Uncollected Year to Date	% Coll
15-3000-3300	INTEREST EARNED	0.00	1,297.11	13,839.28	(13,839.28)	No Budget
15-3000-3400	MISCELLANEOUS	0.00	(66.98)	(456.26)	456.26	No Budget
Total Revenues	SPECIAL REVENUE FUND	0.00	1,230.13	13,383.02	(13,383.02)	0.00

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TOSI - VANNATTA 0572

ROA 600

March 16, 2004

The regular meeting of Town Council was held on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied:

Present were: J. Marshall Stith, Mayor
 Carl J. Smith, Mayor Pro Tem
 Debra Hazen-Martin, Councilwoman
 Jane Ellen Herron, Councilwoman
 Alys Anne Wiedeke, Councilwoman
 William J. Wood, Councilman

The Pledge of Allegiance was led by Mayor Stith, followed by the invocation given by Councilman Wood. There were 37 private citizens present, and two members of the media.

The floor was opened for comments from the citizens. Chip Campsen introduced himself as a candidate for the State Senate. Dr. Norman Khoury of 1728 Ion spoke for a newly established group called the Islanders for Conservation. He stated their goal is to assist Council with conservation of the natural protected and unprotected green space areas of the island. Mary Ellen Rogers of 1754 Atlantic expressed concern for the turtles this season since the wax myrtles were cut lower and lights might confuse the turtles. Billy O'Dell of 1722 Middle stated that he believes all cutting should be stopped; he stated he made a mistake by agreeing to cut the myrtles to five feet. Bobby Thompson informed Council that he went to a meeting with the Army Corps of Engineers working on the State Ports Authority approach to expansion on the Cooper River. He asked Council to put us on record before the April 15 deadline of being a party to the mailing list and maybe include a copy of the letter the Town wrote concerning the global port on Daniel Island. Herbert MacMurphy of 1820 Ion stated he supports the dock ordinance as proposed, but is upset concerning the tree cuttings, how easy it was to change the whole nature of a hard-fought Town-wide agreement, and that one tree cutter used heavy equipment in the land. John Roitzsch of 1602 Poe wanted no compromise on the docks. William Short of 2408 Ion stated that the cut trees looked ugly and thinks Council should look at them. Blaine Ewing of 2514 Ion hopes Council will get an easement to the marsh property. Annie Mithoefer of 1650 Poe stated she hopes the marsh will be placed into a trust, and the cut trees look terrible. Howard Holl of 1807 Ion stated he is against the cutting. Everett Presson of 1814 Middle commended Town Council on their work and reminded the citizens of the hard work this Council and previous Councils have done to get the accreted land and to fight the bridge. There may be decisions people are not happy with, but the Town is going in the right direction. Perhaps the trees should have been kept to seven feet, but in six months' time you won't know that the bushes have been cut. Meg Howle of 2523 Goldbug stated she was on Council when the accreted land was placed in trust and stated our values have to be greater than the dollar. Barbara Julian of 2914 Brownell stated her disapproval with the dock ordinance. Michael Mithoefer of 1650 Poe stated he was personally ok with the dock compromise and appreciates Council's work; however he was concerned why the executive session concerning the dock ordinance at last council's meeting couldn't be in the open. Mayor Stith stated that Council heard from the citizens quite loudly concerning the dock issue, and Council asked for Planning and Zoning to look at it again and perhaps strike a compromise, which they did. Then there was a question of the language. We had the discussion in Council chambers giving us two different versions of what the compromise actually was. The language in the compromise, some say after the fact, some say that it was in the compromise version, was concerning the TMS numbers. We were advised

at that meeting by our attorney that the language was inappropriate. That was at the first reading. Because of that and other factors involved, we put the language in that said no docks are allowed from Station 18 to Station 27. The cross-over language was put in to give the folks in that area that are opposed to docks, if a dock were to be built, the opportunity to have a much shorter and environmentally sensitive dock to 400 feet, to an area where there are existing docks versus an up to 800 foot long dock that would be more visible straight out to the marsh. The Council voted 5-0 because we thought both things were good acts on Council's part in securing the compromise. Mayor Stith said we were getting legal advice and that it is customarily the manner to do that in executive session because we don't know what the attorney is necessarily going to tell us.

Councilwoman Hazen-Martin stated she would like the opportunity to comment because she could not reschedule an out of town meeting, and regrets missing the meeting. She stated she was not in favor of any change in the dock ordinance originally because she thought then and still believes that leaving it alone was the strongest most defensible position. However, there was a spirit of compromise and effort by different groups, and she was propelled to consider a compromise. She stated the process occurred correctly until the very end. First of all, during the committee meeting prior to second reading it was discussed in detail every point of the ordinance and it was determined that Council would keep in the language about the plots and would omit language related to crossing over property lines. There is no vote at Committee, but there was certainly consensus and even verbal agreement that it was going to go to Council for vote at second reading with all the issues ironed out. At second reading the minutes reflect that there was absolutely no discussion of this issue, and second reading is the time that you have a discussion before the entire public on any matter. There was a motion to go into executive session. She questioned with all the months we have been working on this why we didn't have a legal briefing sometime prior to 20 minutes before the vote. When Council came out of executive session, the ordinance that was passed did not reflect the consensus arrived at the Committee meeting. The public didn't ever have the benefit of an explanation from this Council as to how or why it changed. She apologized that she was not at the meeting, because she believes that process was poor government.

Councilman Smith stated that he ran the Committee meeting that night because Mayor Stith was not present, and the Town Attorney was not there. Councilman Smith stated he recalls the attorney had advised them to leave the tax map numbers out, and the other Council members didn't seem to follow-up on it, so he accepted as information what was heard from the audience and what was heard in Council, knowing that it was a Committee meeting and there would be no vote taken. He stated he apologized if he led Council astray thinking what they discussed that night was official, because it is not official until it's a Town Council meeting.

Billy O'Dell stated that as a citizen, he went to every meeting of the Planning Commission and every meeting of Town Council that had to do with the docks, and the crossover property line never came until the last reading after they went into executive session. It seems suspicious to him and he was very disappointed. Larry Middaugh stated that Council came out of executive session, and the ordinance was changed in executive session; then two council members spoke about the ordinance, but did not address how the version was legally superior than the one before.

Councilman Wood commented that he has been on the Council for a long time, and he has stayed on the Council for one reason: to preserve the island, to do what is best for the entire Island, and try to keep it low-density, single-family. He stated that he thinks Council does a good job, and it's hard to please everybody, and that he doesn't need to apologize.

Motion was made by Councilwoman Hazen-Martin, seconded by Councilman Smith, to amend the agenda to move third reading of the An Ordinance to Amend Sections 21-40 (a), (c), (d), (e) and (g) of Chapter 21, Zoning Code of the Town of Sullivan's Island Code of Ordinances Pertaining to Dock Regulations, carried unanimously.

Motion was made by Councilman Smith, seconded by Councilman Wood, to have third reading of the dock ordinance to Amend Sections 21-40 (a), (c), (d), (e) and (g) of Chapter 21, Zoning Code of the Town of Sullivan's Island Code of Ordinances Pertaining to Dock Regulations, carried by a vote of 5-1, with Councilwoman Hazen-Martin casting the negative vote.

The minutes of the February 17, 2004 meeting were approved as written.

A Proclamation Celebrating the Week of the Young Child from April 18-24, 2004 was approved.

New Correspondence – A letter was received from Larry Middaugh.

Attorney's report – There was no attorney's report.

Administrator's Report, Administrator Benke. SCDHEC has received the request from the Town to investigate the use of 1602 Thompson Avenue for storage. Charleston County is considering the privatization of the 800 MHz radio system. Transferring to this system could result in an additional communications expense to the Town of over \$30,000. The Charleston Fire Chiefs Association will be discussing the matter tomorrow. The leash law goes into effect today on the beach. All dogs must be on a leash from 8:00 am to 8:00 pm through October 31st.

Ways and Means Committee, Mayor Stith. The financial audit was received from Schleeter Monson and Debacker at special meeting of Council tonight. Comcast Cable has announced a rate increase effective April 1, 2004. There are five vehicles scheduled for replacement in the 2004/2005 budget. One truck for the Fire Department; three cars/trucks for the Police Department; and one truck for the Maintenance Department. Council approved these scheduled replacements; as state purchase contract agreements must be tendered by April 1, 2004. First payments will not be due until fiscal year 04-05.

Personnel Committee, Councilwoman Wiedeke. Interviews are complete for the Accounts Payable/General Office Clerical position. This will be discussed in executive session. Chief Stith has requested full-time employee status and appropriate salary for Amanda Hawver, as she has completed the six-month new hire probation period. Motion was made by Councilwoman Wiedeke, seconded by Councilman Wood, to accept Chief Stith's recommendation and that Amanda Hawver be granted full time status along with the appropriate salary, carried unanimously. Chief Stith has requested Chad German be granted full-time employee status, as he has proved to be an asset to the Town while serving as a part-time employee. Motion was made by Councilwoman Wiedeke, seconded by Councilman Wood, that Chad German be granted full-time employee status, carried unanimously. Paul Fouchcourt of the Water & Sewer Department has completed his Class B Water Distribution exam. Motion was made by Councilwoman Wiedeke, seconded by Councilwoman Hazen-

Martin, that Paul Fouchcourt be given the appropriate salary increase for completing this certification, carried unanimously.

Water and Sewer, Councilwoman Hazen-Martin. A draft of rate increases for the upcoming fiscal year and a draft of updated fees were distributed. Councilwoman Hazen-Martin stated the fees would be discussed at the next committee meeting, and proposes that these fees be passed by resolution at the next Council meeting. The fees are a slightly modified version of the proposed fees given to Council a few months ago. These fees would put us in line with neighboring communities; they are fees for service other than just water and sewer, for instance, a lot of this relates to damage assessing due to contractors and unusual requests for service. These fees would allow us to collect revenue from those who are causing us to have increased service, and lift the burden off of the normal water-using residents. Because we don't assess these fees currently, these sorts of repairs are things that make our overall operating costs increase, and at present that is translated into general rate increases for everyone. Trees will be removed around the water lines at the African American cemetery. The Water & Sewer Department is seeking engineering assistance for the EPA voluntary "Capacity, Management, Operation, and Maintenance Assessment plan (EPA CMOM Plan), and the deadline is in May. Motion was made by Councilwoman Hazen-Martin, seconded by Councilwoman Wiedeke, to contract with B.P. Barbour for assistance with this project, not to exceed \$8,000, carried unanimously. Tree Commission members and volunteers noted all trees that were in the right-of-way for the Waterline project. HDR has been tagging every tree that was identified as needing to be looked at. Councilwoman Hazen-Martin stated that we were unaware HDR would be tagging at this stage; we thought they would be tagging trees only after determining if they were in the way of waterline placement. Headworks repair is scheduled for March 17-18, 2004. Council was given estimated costs of the line survey at 1312 Poe Avenue and will discuss at the next Water & Sewer working meeting. The Town is concerned that Republic Contracting is lagging behind on the Wastewater Treatment Plant work. HDR is also concerned and has written Republic Contracting, and will stay on top of the situation. There have been reports of red water on Atlantic Avenue, but flushing is showing positive results. Councilwoman Hazen-Martin wants the approval of Council to allow Greg Gress to identify property with utility easements and forward to the Town Attorney for his review. Motion was made by Councilwoman Hazen-Martin, seconded by Councilwoman Wiedeke, to give Greg Gress permission to give to the Town Attorney a property list with easement issues to help us determine how we can clarify easements, carried unanimously. The next Water and Sewer Committee Work session will be Friday, April 2 at three o'clock.

Building and Construction Committee, Councilman Wood. There were three new homes permitted and two certificates of occupancy issued last month. There were 40 cutting applications in the accreted land this year, compared to 28 last year. Tree Consultant Jeff Jackson stated that there were a few problems in the accreted cuttings this year. He and Randy Robinson have walked the land and taken photographs to compare when the myrtles grow back. There was some damage caused not by the actual pruning, but by the large amount of material being removed. Dr. Chris Marsh will be visiting. Building Inspector Randy Robinson went to the Hazard Mitigation meeting. We will be receiving a letter stating Sullivan's Island will receive a 10% reduction in flood insurance rates next year. Sullivan's Island has received extra points because we treat A Zones like V Zones, so with a few changes, we will be eligible for another 5% reduction in the future. Mr. Robinson is preparing amendments to Section 5 of the Town Ordinance related to hours of construction and house moving.

Fire Committee, Councilman Wood. The Fire Department raised more than \$5,500 for Carolina Children's Charity during the weekend of March 12-13. Chief Stith will attend the Charleston County Fire Chiefs' Association meeting on March 17. An important topic of discussion is the possibility of Charleston County privatizing the 800 MHz radio system.

Recreation Committee, Councilwoman Herron. Weddings on May 22, 2004 at Station 18 at 4:00 and 6:00 were approved; weddings on July 31st on Station 26 at 9:00 am and August 28th at Station 22 at 4:00 p.m. were approved. The Sullivan's Island PTA is planning to hold the Sea Spot Run Fishing Tournament fund raising event on 9-18-04 (10-02-04 rain date) from 8:00 am to 12:00 noon. The Police and Fire departments will assist as in previous events.

Real Estate Committee, Mayor Stith for Councilman O'Neil. The report from Cooper Consulting will not arrive until March 31, 2004. Councilman Smith stated he would like Council to ask the Administrator to contact the Lowcountry Land Trust to investigate the possibility of their being involved in the marsh property from Stations 18-27.

Police Committee, Mayor Stith. Fuel purchase agreement for Sullivan's Island Police Department has been approved by the Isle of Palms Town Council. The dog kennel will be relocated from the Water & Sewer plant to the storage area behind the Police Department. Construction bids are being requested; the first bid received was \$1,600.00. The Police Department is offering free firearm safety kits to resident through a partnership with Project ChildSafe. The locks will fit most handguns, rifles, and shotguns. Approximately 600 gunlocks are available.

Streets and Maintenance Committee, Councilman Smith. Sunrise Presbyterian Church has requested the re-placement of a streetlight at the intersection of Jasper Boulevard and Middle Street. Research has found that the previous light was a "flood light" paid for by the Church. Placement of a street light under SCE&G Municipal Lighting plan would be for the account of the Town. A representative from the Church will attend the April Council Committee meeting. The contract with Suburban Disposal Service is due to expire in June 2004. The proposed new contract shows no increase in commodity rate, but there may be a fuel surcharge fee. Councilman Smith stated that there was a nice ceremony for the groundbreaking of the African-American Cemetery on March 11, 2004. He thanked the Fire, Police and Maintenance departments for their help, and also Monsignor McInerney and Mayor Stith for their participation in the ceremony. Mayor Stith stated that SCE&G is currently in the second phase of putting underground wiring on the island, and transformer boxes are being placed on residents' property. There are a couple of property owners who do not want the box on their property, which could hold up the process. Councilwoman Hazen-Martin stated she is concerned because the drawing plans for the electrical lines have not taken into account our new water plans. Communication will need to take place with SCE&G to ensure both their project and the Town water line project will not be interrupted.

Motion was made by Councilman Smith, seconded by Councilwoman Wiedeke, to defer Second Reading on An Ordinance Amending Section 21, Zoning Code of The Sullivan's Island Code of Ordinances By Establishing An Old Fort Historic District Overlay District, Identifying Its Location, Amending The Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings; carried unanimously.

Motion was made by Councilman Smith, seconded by Councilman Wood, to defer Second Reading of An Ordinance Amending Section 21, Zoning Code of the Sullivan's Island Code of Ordinances by Establishing an Historic District Overlay District, Identifying Its Locations, Amending the Official Zoning Map and Including Provisions Regarding the Removal and Demolition of Certain Buildings, carried unanimously.

Motion was made by Councilman Wood, seconded by Councilwoman Wiedeke, to go into executive session for personnel and legal advice, carried unanimously.

Respectfully submitted,


Ellen McQueeney
Town Clerk

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 21-40, PARAGRAPHS (a), (c), (d), (e) AND (g) OF CHAPTER 21, ZONING CODE OF THE TOWN OF SULLIVAN'S ISLAND CODE OF ORDINANCES PERTAINING TO DOCK REGULATIONS

WHEREAS, the Town of Sullivan's Island Planning Commission held public hearings on October 8, 2003 and December 10, 2003 to consider the amendments herein to the Town of Sullivan's Island Code of Ordinances; and

WHEREAS, the Sullivan's Island Town Council is empowered with the authority to make amendments to the Zoning Code of the Town of Sullivan's Island Code of Ordinances and believes it is in the best interest to now so act with respect to the matter described herein.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Sullivan's Island, in Council assembled, that Sections 21-40, paragraphs (a), (c), (d), (e) and (g) of Chapter 21 Zoning Code of the Town of Sullivan's Island Code of Ordinances shall be and are hereby repealed in their entirety and replaced with the following language to read specifically as follows:

CHAPTER 21: ZONING

Section 21-40. Area RC-2 restrictions.

a) No dock shall be permitted to be constructed **across marshland in the RC-2 District from the centerline extension of Station 18 to the centerline extension of Station 27. In all other areas of the RC-2 district, no dock shall be permitted to be constructed** where the length of the dock shall exceed three hundred feet (300') in total length; **provided, however, if the dock extends to a creek two hundred feet (200') or more in width measured from marsh grass to marsh grass (or land if there is no marsh grass on one or both sides of the creek), the length of the dock may extend up to eight hundred feet (800') as long as it does not cross a creek greater than eight feet (8') wide (marsh grass to marsh grass) to reach the two hundred feet (200') creek.**

c) Pier head, floating dock and boatlift

- 1) The head of the permanent dock/"pier head" structure shall be no greater in size than two hundred twenty five (225 s.f.) square feet.
- 2) In addition to the permanent pier head of the dock there may be one floating dock no greater than eight (8') feet by twenty (20') feet. An attached structure **for storage ("dock box")** may be placed on a dock or floating dock provided it is included in the above two hundred twenty-five (225 sq. ft.) square feet of the "head" or one hundred sixty (160 sq. ft.) square feet of the floating dock and provided it does not exceed three (3') feet in height and does not exceed thirty-two (32 sq. ft.) square feet in floor area.
- 3) In addition to the permanent pier head of the dock there may be one boat lift, not to exceed four vertical support pilings with a maximum lift capacity of 13,000 pounds.
- 4) The boat lift and primary access ramp or ladder to the floating dock shall only be accessed directly from the pier head; no additional walkways or catwalks shall be allowed to provide access to the boat lift or floating dock, nor shall access to these components be allowed from the walkway leading to the pier head.

d) No docks or pier heads or other associated structures should be allowed to be built closer than ten (10') feet from extended property lines with the exception of common docks shared by two adjoining property owners. Provided, however, a dock may be constructed over extended property lines in areas where angled docks currently exist and cross over extended property lines and provided the angled placement would result in the dock being shorter than if built within the extended property set back lines and meets the criteria of Section 21-40a.

e) The maximum width of the walkway or pier between the highland and the pier head shall be four (4') feet. The walkway may have a railing but shall have no walls which impede the flow of air through the walkway. **Only one walkway access to the pier head shall be allowed with no deviations or extensions providing access to other dock components.**

g) Electrical lighting shall be allowed **only at the head of the dock and not along the walkway**, provided said lighting is shielded to direct the light down onto the dock and away from any adjoining residences and further provided the electrical power is constructed and attached in conformance with applicable electrical safety codes as

promulgated by the building regulations for the Town of Sullivan's Island.

(The other paragraphs of Section 21-40 remain unchanged)

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING.

SIGNED, SEALED AND DELIVERED THIS 20th DAY OF APRIL, 2004.


J. Marshall Stith
Mayor, Town Sullivan's Island

Attest:


Clerk of Council

Introduced: January 20, 2004
Second Reading: February 17, 2004
Final Reading: March 16, 2004

Sec. 21-67. Findings and intent of RC Area Districts.

A. RC Area Districts' findings of fact. The Town Council of the Town of Sullivan's Island finds the following:

- (1) The RC Areas greatly contribute to the health, safety and welfare of the residents of Sullivan's Island and that they provide Island residents as well as visitors, with countless hours of pleasurable activity and rest and relaxation, which is important to the goal of public health, safety and welfare;
- (2) The boundaries of the RC Areas are constantly shifting over unpredictable periods of time, in that they are composed of sand dunes and vegetation that ceaselessly change, and that these areas are prone to flooding, and, therefore, not suitable to development for any purpose;
- (3) The Town of Sullivan's Island originated as a health resort for all the people of the State of South Carolina, and that the RC Areas are vital to the purpose, and useful for that purpose only so long as they remain in a natural, undeveloped condition subject to the changing tides;
- (4) The RC Areas, left in their natural state, provide protection to adjoining landowners and their property from the hazards of high tides and floods caused by hurricanes, tropical storms and seasonal tides;
- (5) The construction of the Santee-Cooper Diversion Canal and subsequent changes in the volume of water flowing through Charleston Harbor may cause further changes of an unknown nature upon the shoreline of Sullivan's Island, all of which the Town Council find to be a threat to all of the residents and property owners of the Town; and,
- (6) The RC Area are of a particular beauty in its natural state so as to provide aesthetic value necessary to the public health, safety and welfare of Island residents and visitors, and in keeping with the historic uses of Sullivan's Island.

B. Intent and uses in RC Area Districts. The RC Areas shall be preserved in their natural state, except for the trimming, pruning and cutting of bushes and trees as provided in herein, as areas of recreation and conservation for the purpose of protecting the ecology, the adjoining property, and the environment, and enhancing and protecting the safety and welfare of the Town and its residents. Further, any activity shall be prohibited in these areas that would detract from their natural state, including, but not limited to, the activities stated herein, so as to maintain this natural state for the public enjoyment and as protection for the Town and all of its citizens against the dangers and erosion as delineated in the above Findings of Fact.

CHAPTER 8: LAND USE ELEMENT

HOW WE PLAN AHEAD

TOSI - VANNATTA 0583

In the Land Use Element, existing growth and land use patterns are researched and analyzed in order to guide the Town through the 20-year planning horizon established by the Comprehensive Plan. Even though the plan is required to be updated every five years, the 20-year planning horizon sets a standard for casting visionary goals and objectives, as well as sound projections. Analysis of the current land use patterns are conducted by developing existing and future land use maps. These maps are created to show any predicted changes, within the Town.

TOWN CHARACTER

The planning process identified four major points that define the character of Sullivan's Island. These are:

- *Informality*
- *Openness of the landscape*
- *Residential and family oriented in scale and nature*
- *Small commercial area as a community focus.*



Source: Charleston Magazine

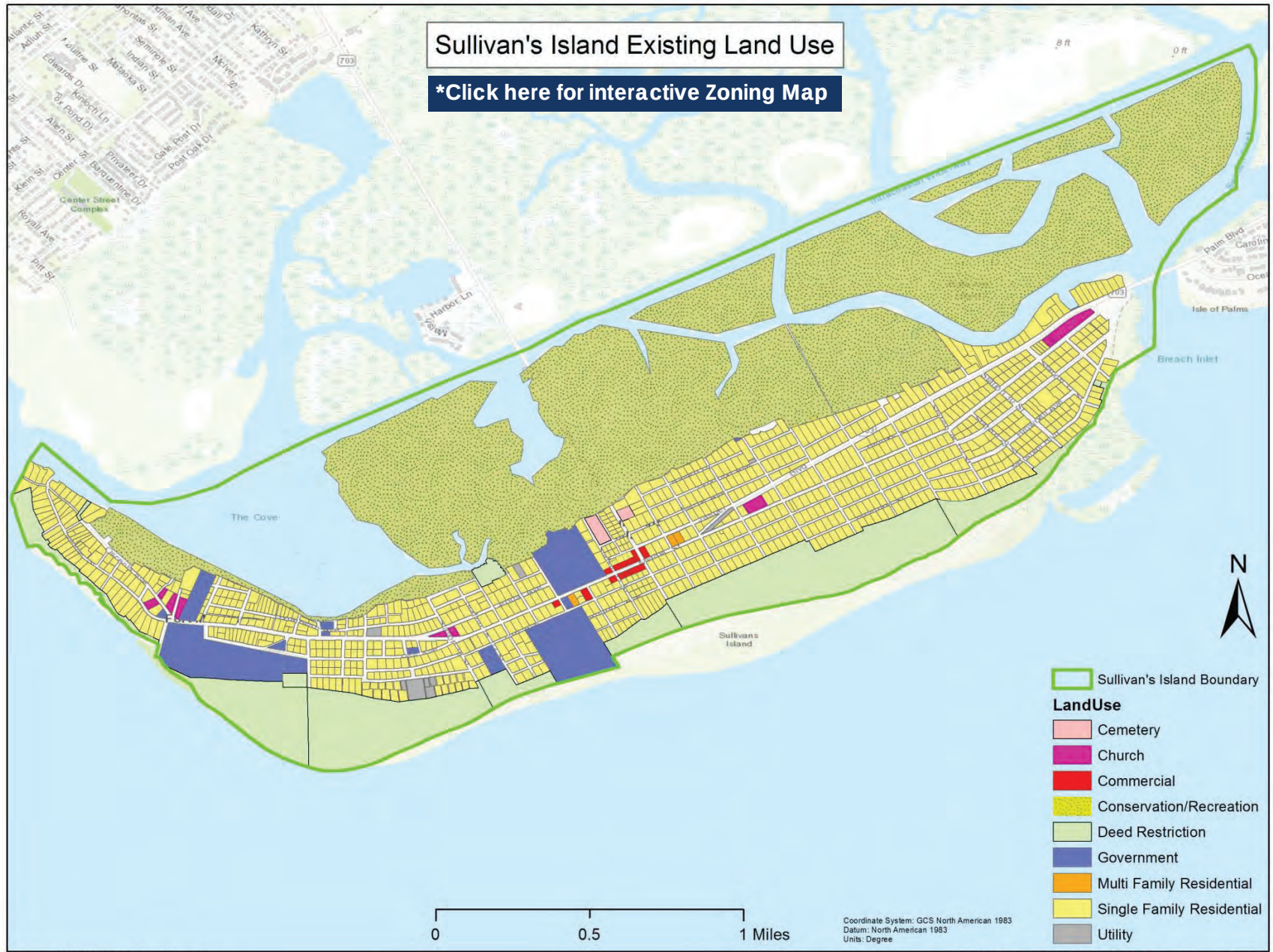
The importance of the informality of the Town has long been recognized by residents as well as Town officials. Some homes have a subtle landscape that utilizes native vegetation and wildflowers. The streetscape is informal, and there are only a few roads with curbs and sidewalks. In many areas of the Island, houses are set informally on large lots. In some areas, houses do not line up along a common setback.

Related to this informality is the openness of the landscape on the Island. Many yards do not have tall hedges or tall fences common in some other island communities. The Island exhibits a park-like appearance with expansive views and openness. In the past, the Sullivan's Island's landscape has been characterized by large expanses of spring and summer wildflowers on both public and private land. This feature added substantially to the concept of Sullivan's Island's special sense of place and informality.

Sullivan's Island features a strong residential character. The Island's activities and mainly single-family housing create a family-oriented atmosphere. The small commercial district is built at a pedestrian scale that does not diminish the residential atmosphere of the Island. In addition, Sullivan's Island has protected itself from the development of hotels, including bed and breakfast businesses that would detract from the residential nature of the Island.

The small commercial district and the adjacent Sullivan's Island J. Marshall Stith Park acts as a primary community focus. The commercial area is centrally located near the Ben Sawyer Bridge entrance to the Island. The Sullivan's Island J. Marshall Stith Park is the location for many community events, as well as a nice recreational facility where residents can come together and visit with each other.





EXISTING LAND USE

Since its transition from a military base to a residential island community more than sixty years ago, the evolution of Sullivan's Island's various land uses have changed very little. The current existing land uses on the Island include (in alphabetical order): cemetery, church, commercial, conservation, conservation/recreation, deed restriction, government, multifamily residential, single-family residential and utility. Below is a breakdown of the land uses and what constitutes each use:



"Provide a zoning designation for Town-owned, non-residential property, as in front of Poe Library, Battery Gadsden, and maybe Stith Park, that provides for public areas to include non-profit fundraising, etc. with Town permit."

- Anonymous resident (providing feedback at the November Open House)

CEMETERY: There are two properties on Sullivan's Island that are cemeteries.

CHURCH: Land that is used for religious activities, including a sanctuary and parish hall. Additionally, new churches are only allowed as a RS district special exception, per the Town Zoning Ordinance.

COMMERCIAL: Commercial property is land designated for office, retail or service businesses in the defined Community Commercial District (CCD). These uses continue to be restricted mainly to the business district located on Middle Street, between Station 20 ½ and Station 22 ½. The CCD consists of two Community Commercial Overlay Districts (1 & 2) that benefit Sullivan's Island by: (1) recognizing the unique nature of particular areas in the CCD; (2) allows the Town to be very specific with regard to construction, design and other criteria; (3) clearly differentiate the areas from the balance of the Island with regard to subdivision and development.

CONSERVATION: Town marsh that cannot be improved and should be maintained in its natural state.

RECREATION/CONSERVATION: Recognizes limited use of land for recreational purposes (i.e. docks where otherwise permitted by applicable laws and regulations), but otherwise envisions long-term preservation of the land without commercial activity or subdivision, with minimal impact on the view corridor. This land use pertains to both marsh and ocean front areas (RC1 and RC2).

DEED RESTRICTION: Property owned by the Town of Sullivan's Island and is subject to conservation easement.

INSTITUTIONAL/GOVERNMENT: Institutional/government property covers a broad range of government and public uses.

SINGLE-FAMILY RESIDENTIAL: Residential land uses are defined as locations intended for occupants to live together as a single house-keeping unit. Single-family residential property is defined as one residentially zoned parcel with no more than one dwelling unit.

MULTIFAMILY RESIDENTIAL: Multifamily residential land use is defined as more than one dwelling unit located in the same building or structure as a non-conforming use.

UTILITY: Property that is classified as utility is property with infrastructure uses on it. These include power substations and water.

More information pertaining to these terms can be found within the *Town's Zoning Ordinances*.



TABLE 8.1: LAND USE BY PERCENT

	2013	2018	% CHANGE
SINGLE FAMILY RESIDENTIAL	21.4%	21.5%	0.5%
MULTI FAMILY RESIDENTIAL	0.6%	0.6%	0.0%
COMMERCIAL	0.3%	0.4%	33.3%
GOVERNMENT/INSTITUTIONAL	5.0%	4.9%	-2.0%
DEED RESTRICTED PROPERTY	11.4%	11.4%	0.0%
CHURCH	0.4%	0.4%	0.0%
CEMETERY	0.1%	0.2%	100.0%
UTILITIES	0.3%	0.3%	0.0%
VACANT	1.6%	1.5%	-6.3%
CONSERVATION/RECREATION	58.8%	58.8%	0.0%

In order to form the Existing Land Use Map, percentages of land used are determined in order to give a clear idea on how the Island is developing. Table 8.1 shows the breakdown, by percentage, of how much each land use takes up. The percentages have been compared with the 2013 Comprehensive Plan update below. Overall, the majority of the land uses experienced little to no growth. There were only two land uses that experienced decreases, which include government/institutional and vacant. Part of this decrease was under the government/institutional land use because of the Town's sale of six (6) RS properties in the past five years.

COMMERCIAL DISTRICT

The commercial land uses of the Town are relegated to a small area on the Island. This area, which runs along Middle Street, consists of commercial businesses and office space primarily for the benefit of Sullivan's Island residents.

In 2008, the Town of Sullivan's Island and a team of consultants (Seamon Whiteside + Associates, LS3P Associates Ltd, and Kimley-Horn and Associates, Inc.) drafted and adopted the Sullivan's Island Master Plan: Community Commercial District. As stated in the plan, the final goal statement is to "develop a master plan that promotes sustainable commercial activity while protecting the safety of residents and visitors, minimizing the impact of that activity on the surrounding residential neighborhoods and retaining the vernacular of island architecture."

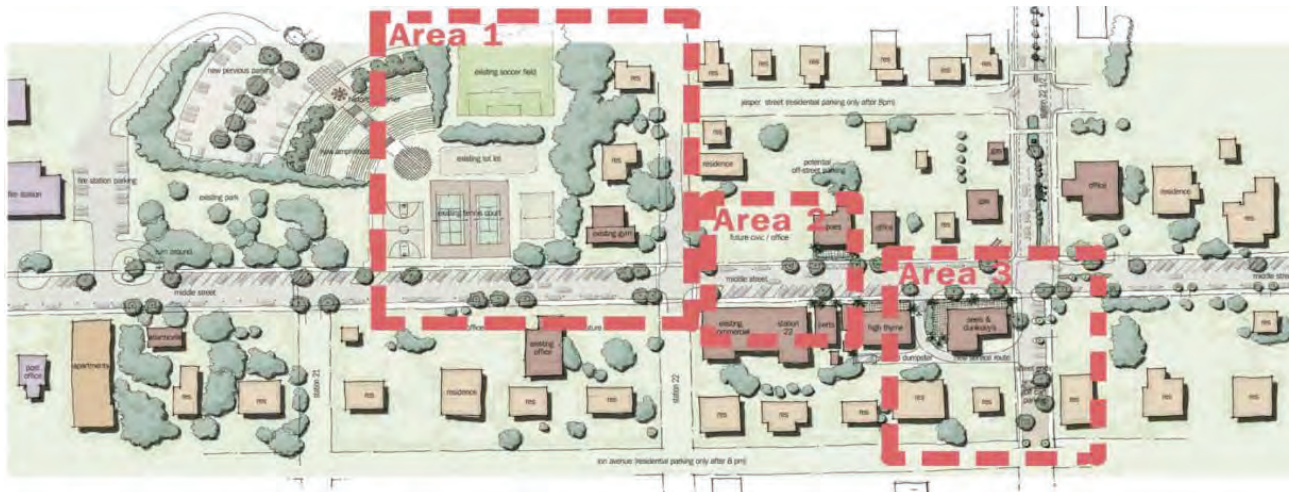
As a result of the 2008 design charrette, the plan proposed recommendations for the commercial district. These included:

- Create a Commercial Area Overlay Zone District
- Allow parking on one side of I'On Street only
- Resident/Guest parking permits only on I'On, Jasper, Atlantic, and Myrtle after 8 p.m. (or other reasonable time)
- Consider cabaret ordinance similar to the City of Charleston
- Require shared parking provisions for off-street parking at office/retail businesses
- Institute a "Livability Court" to handle issues of litter, lack of maintenance, etc.
- Develop guidelines for commercial parking, lot subdivision, height, massing and scale, and setbacks with Overlay District



- Modify split zoning to allow parking to support existing businesses while limiting expansion of current commercial uses
- Explore options for increasing police presence/code enforcement in the commercial area

The master plan was set up to be a "conceptual design study," which means that the design is very "broad brush" and all concepts would be subject to further design exploration at a later time. However, the master plan does reflect, in a purely illustrative manner, how the main tenets of design approach could be achieved.



For more detailed information, the CCD plan is available on the Town's website.

COMMUNITY COMMERCIAL OVERLAY DISTRICTS (CCOD)

As a result from the recommendations from the Commercial District Master Plan, two Community Commercial Overlay Districts were created. An overlay district is a regulatory tool that creates a special zoning district, which identifies special regulations and guidelines that are applied in addition to or above and beyond those in the underlying base zoning district(s). Where differences in regulations exist between base zones and the overlay zones, the regulations on the overlay zone prevail.

CCODs #1 and #2 has a defined area along Jasper Boulevard and Middle Street, between the blocks of Station 22 ½ and 2019 Middle Street. CCOD #1 consists of lots between Middle Street and Jasper Boulevard, from Station 22 ½ to Station 22. CCOD #2 consists of lots between I'On Avenue and Middle Street from Station 22-2019 Middle Street (currently Sullivan's Restaurant and other businesses) to 2120 Middle Street.



[*Click here for interactive Zoning Map](#)



RESIDENTIAL DISTRICT

Most of the Island is developed as single-family residential. Many destination beach areas face the threat of becoming commercial resort areas. In an effort to preserve the residential character of the Town, the Residential District (RS) uses are limited to the following:

- *One single-family detached dwelling (other than manufactured homes such as trailers and mobile homes or industrialized facilities) per lot*
- *Publicly-owned facility or land*
- *Non-commercial horticulture or agriculture, but not including the keeping of poultry or animals other than for family use or as ordinary pets*
- *Customary home occupation*
- *Accessory uses such as garages or tool sheds allowed as conditional use and Conservation Easement Uses*
- *Churches, private kindergartens, public utility substations, are allowed as a special exception in the Residential District*
- *Rental of rooms is not allowed in either the residential or commercial zoning districts*

Given the history of the Island, there are various structures that still remain within the Residential District, such as old churches or fortifications. Some of these have been adaptively reused for housing or other types of spaces. In 2004, a review of the Zoning Ordinance led to the creation of historic preservation overlay districts to protect properties that have been determined to be architecturally, archeologically, culturally and historically significant to the Town.

FUTURE LAND USE

Given the Island's desired character and geographical constraints, existing land uses for the foreseeable future will undergo incremental and small changes, as are necessary. Therefore, the Future Land Use map, illustrates a continuation of the established land uses set forth in the previous Comprehensive Plan.

LAND USE AND DEVELOPMENT STANDARDS

Zoning Ordinance

The Sullivan's Island Zoning Ordinance, last amended August 15, 2017, aims to provide "a comfortable home at the beach, safe and friendly, where individuality and diversity are celebrated, neighborhoods are respected, Island resources are appreciated, history intertwined, and families and neighbors seek to thrive." This ordinance was a result of a substantial process of public involvement during 2002-2004, in response to residents' growing concerns over the increasing amount of residential construction that was incompatible in scale and mass with existing Island development. The Town's original ordinance was enacted in 1977.

Changes to the Zoning Ordinance occur as needed through a public process. One future change that should be examined is adding a zoning classification for Government uses that preserve and protect the historical institutions on the island.

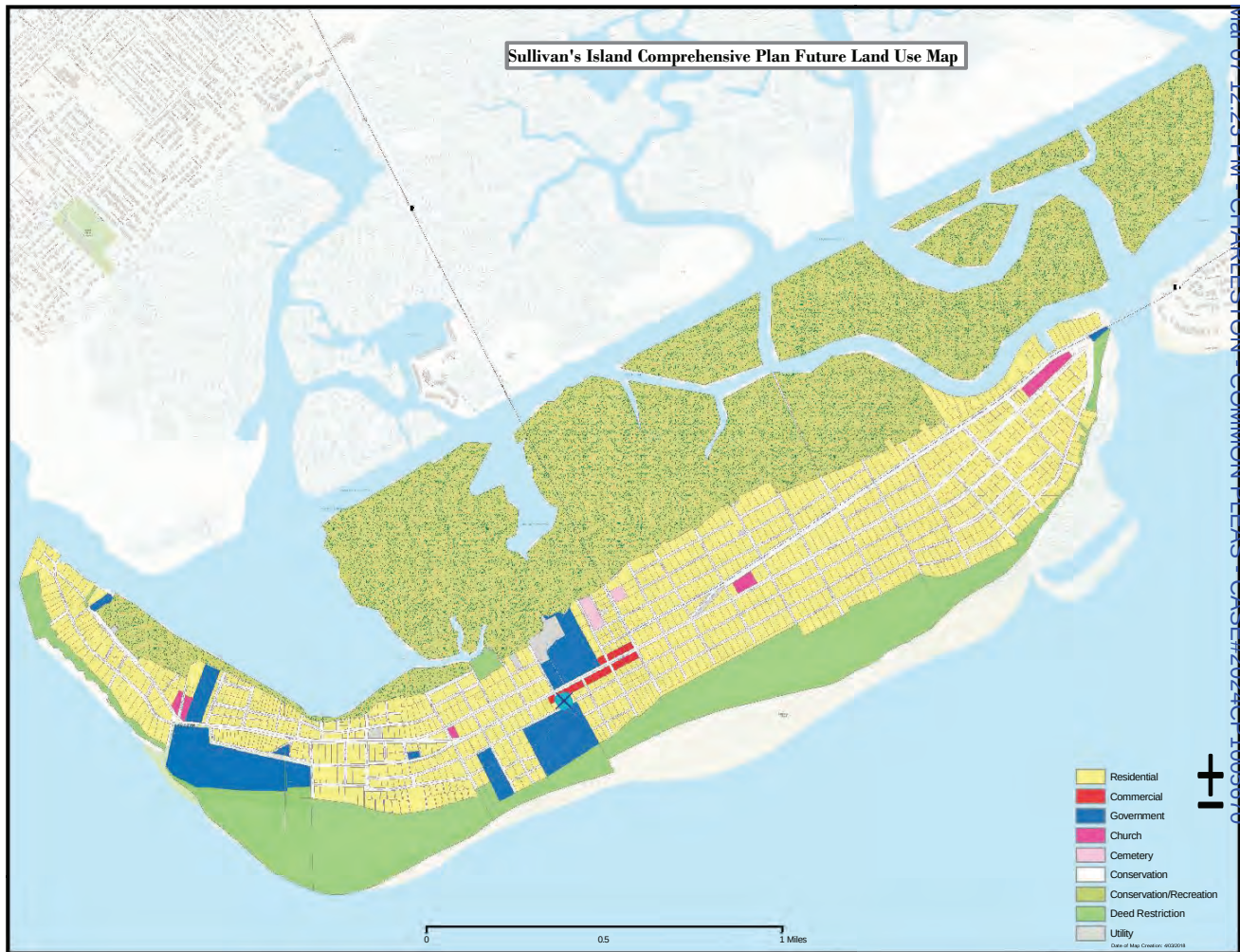
Parking Plan/Ordinance

In an effort to promote public safety for Island residents and visitors alike, the Town of Sullivan's Island created a new Parking Plan. This newly enacted plan allows vehicular parking on only one side of the street, which will allow a clear and unobstructed path to homes and beach access for emergency vehicles.



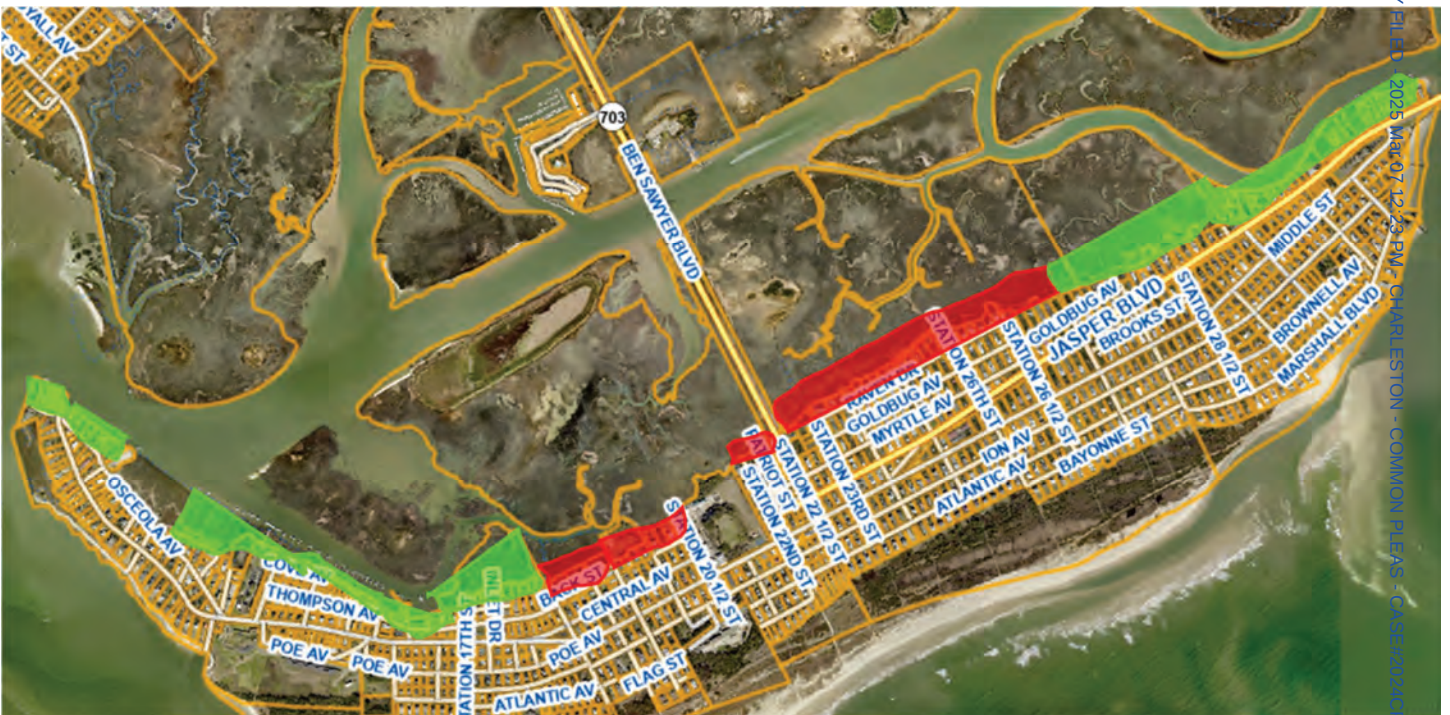
Historic District Overlays

In 2003, the Town of Sullivan's Island established three (3) historic overlay districts in the Town. The three districts are: Moultrieville Historic District, Sullivan's Island Historic District and the Atlanticville Historic District. These three distinct, separate areas comply with the Zoning Ordinance defining the district as, "architecturally, archaeologically, culturally, or historically significant to the Town of Sullivan's Island." Keeping oversight of the historic district is the Design Review Board, which guides new construction, alteration, demolition, moving and removal of structures within the historic overlay district.



[*Click here for interactive Zoning Map](#)







TOSI - VANNATTA 0593



TOSI - VANNATTA 0594

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TOSI - VANNATTA 0595

ROA 623

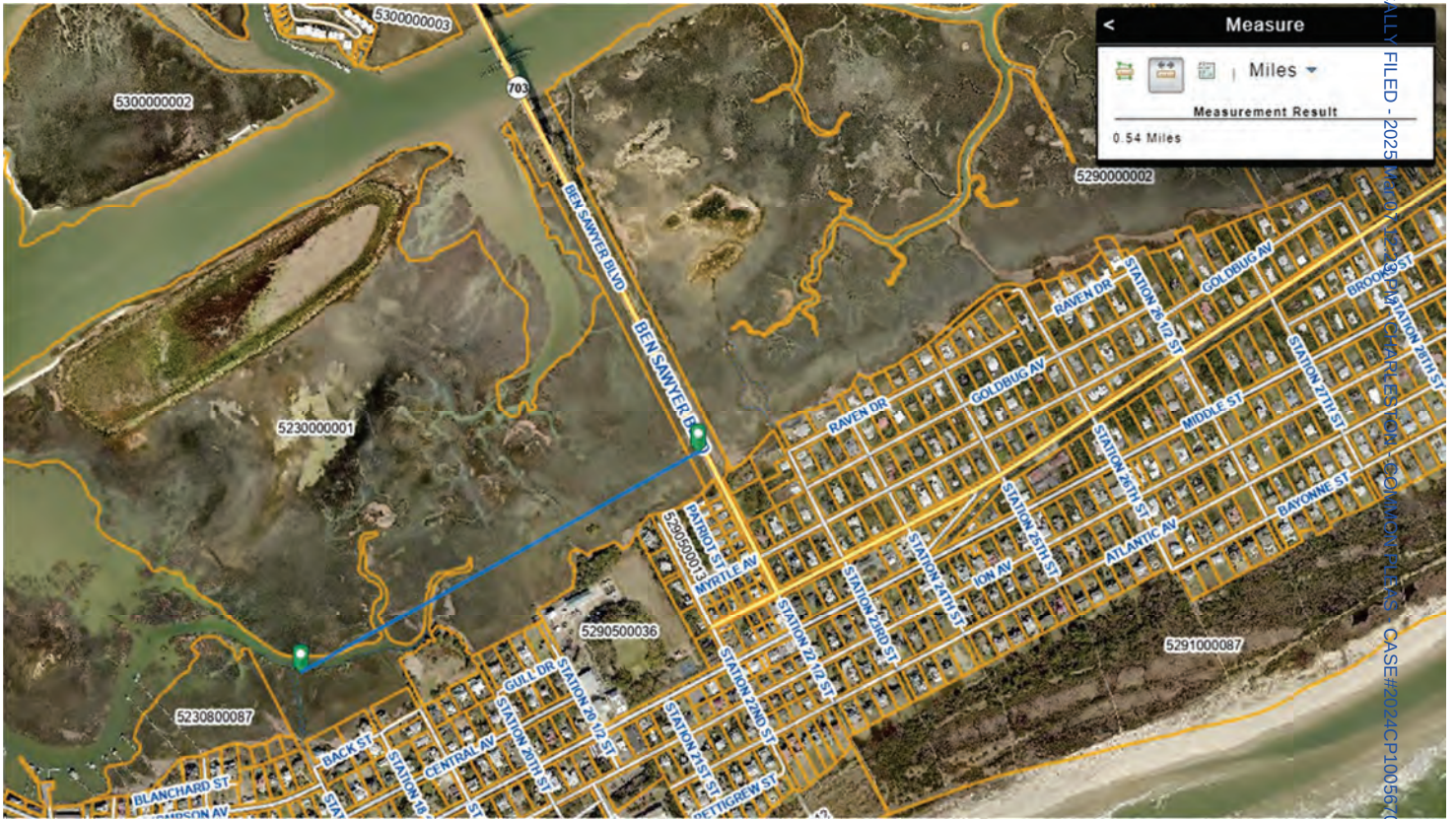
ROA 624



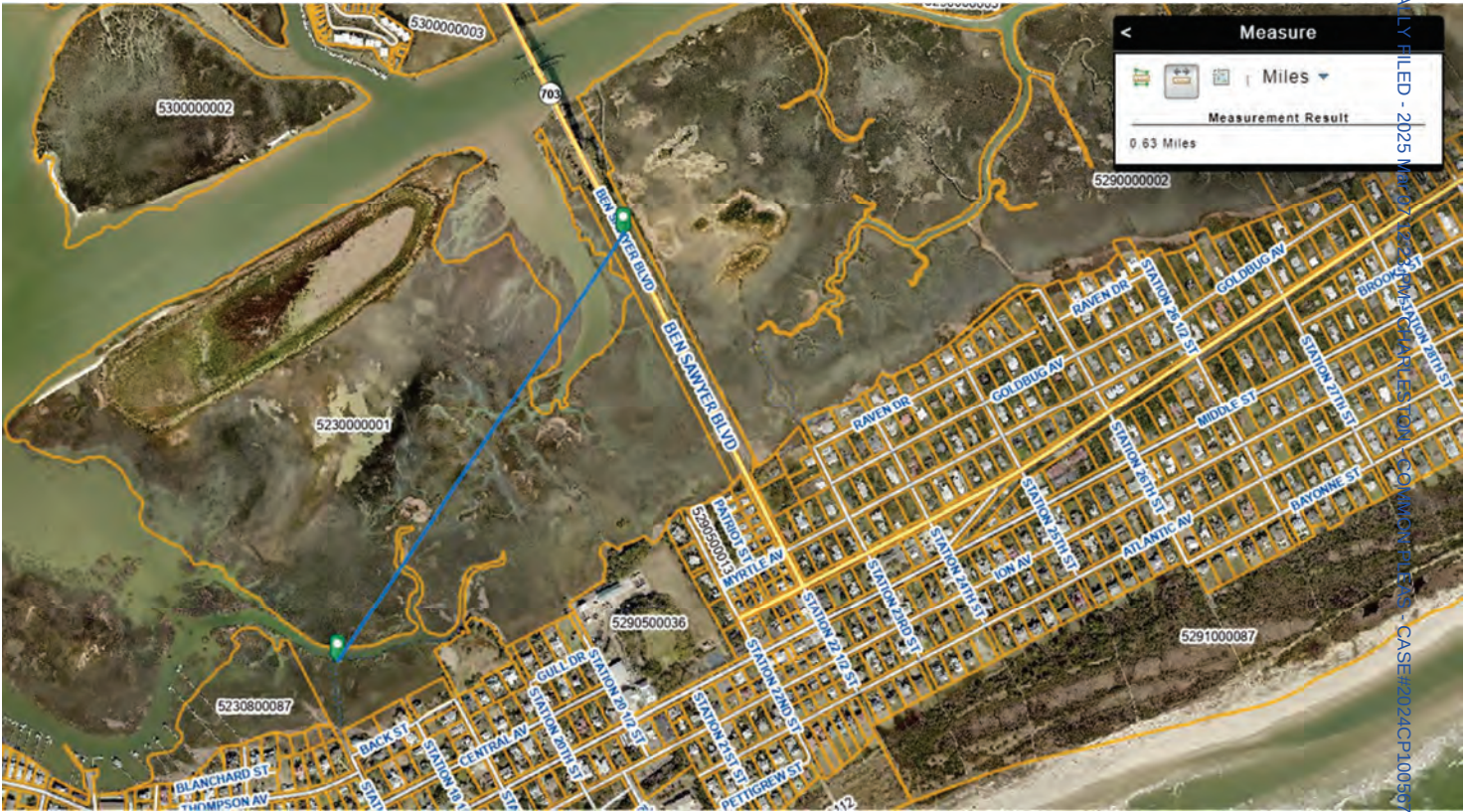
TOSI - VANNATTA 0597



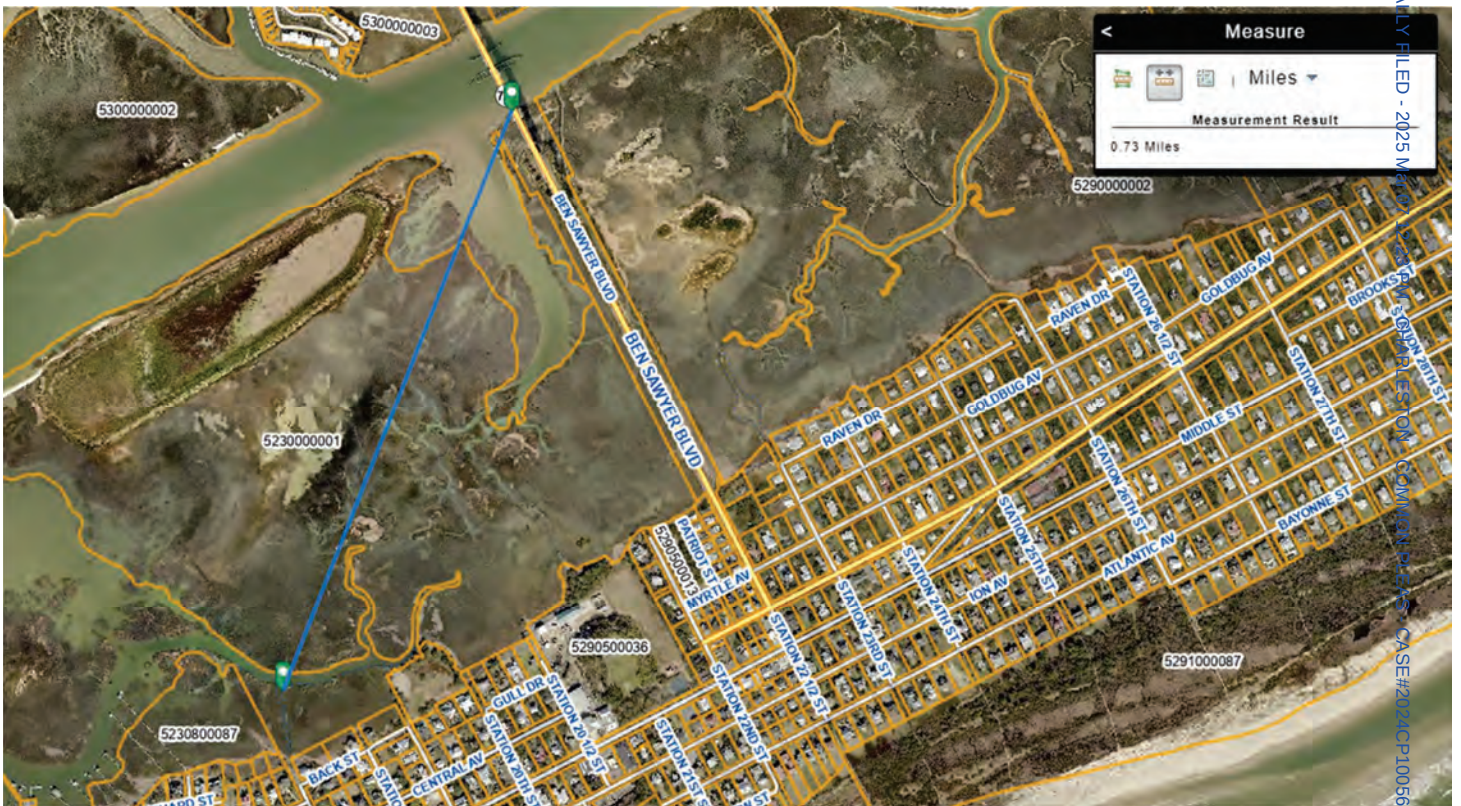
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TOSI - VANNATTA 0599



TOSI - VANNATTA 0600



TOSI - VANNATTA 0601





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Shirley Exhibit 25 - 004



TOSI - VANNATTA 0604



TOSI - VANNATTA 0605

Process Step DetailsProperty Address: 1710 BLANCHARD ST, SULLIVANS ISLAND, SC 29482 | Parcel: [5230800085](#)**Property Owner:** WILSON SUSAN A**Summary Information**

> 3 Revision(s) Found

> 3 Review(s) Found

Process Step Information

Filed As	Dock Permit Reviews	Date Step Started	09/10/2021
Step Name	Dock Permit Reviews	Date Step Completed	09/13/2021
Status	Approved	Date Step Due	No Data to Display
Revision Number	2 (Current Revision)		
Comments	No Data to Display		

Document Summary[\[Expand All\]](#)

Document Title	Review Status	Received	Completed	
dock length	In Progress	9/10/2021	9/13/2021	View Document
map 1	In Progress	9/10/2021	9/13/2021	View Document
map 2	In Progress	9/10/2021	9/13/2021	View Document
OCRM permit	Not Started	9/2/2021	9/13/2021	View Document
OCRM Permit	In Progress	9/10/2021	9/13/2021	View Document
plan 1	In Progress	9/10/2021	9/13/2021	View Document
Plan 1	Not Started		9/13/2021	No Attachment
plan 2	In Progress	9/10/2021	9/13/2021	View Document
Plan 2	Not Started		9/13/2021	No Attachment
Plans	Disapproved	9/2/2021	9/13/2021	View Document
proposal	In Progress	9/10/2021	9/13/2021	View Document

Associated Record Information

Record Type	Permit - Dock	Record Number	P21-0546
Status	No Data to Display	Date Issued/Filed	09/13/2021

Previous Revisions

Revision Number	Status	Date Step Started	Date Step Completed	Date Step Due	
Original Submittal	Disapproved	9/3/2021	9/3/2021		View
1	Disapproved	9/8/2021	9/10/2021		View

Review Information

Review Type	Reviewer	Status	Date Due	Date Completed	Result	
Building	Randy Robinson	Completed		9/13/2021	Approved as Presented	View

TOSI - VANNATTA 0606

9/11/24, 4:02 PM

Process Step Details | Town of Sullivan's Island | BS&A Online

Review Type	Reviewer	Status	Date Due	Date Completed	Result	
Building 2	Max Wurthmann	Completed		9/13/2021	Approved as Presented	View
Zoning	Joe Hendeson	Completed		9/13/2021	Approved with Conditions	View

Review Comments/Concerns

Show All

[Collapse All]

Title	Type	Comment Type	Corrected	Date Found	Date Corrected	Process Step	Review	
Dock Elements		Concern	No	9/9/2021		Dock Permit Reviews, Step 1, Revision 1	Zoning - Completed	View
Please show only what dock elements are permitted by Z.O. Sec. 21-75: -225 sq. ft. pier head (max) -160 sq. ft. floating dock (max) -dock box (attached to float or pier head) -Four pile boat lift (max capacity 13,000 lbs) -300 or 800' limit in length								

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TOSI - VANNATTA 0607

TOSI -VANNATTA 0608

is Recording of proceedings held before the zoning board of appeals on September 12, 2024, on a CD, and mailed to the Clerk of Court for filing with the electronic record.



JOHN P. LINTON, JR.
Direct: 843.727.2252
Email: Linton@WGLFIRM.com

FILED
2025 MAR 13 AM 10:44
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

G. Trenholm Walker
Thomas P. Gressette, Jr.
John P. Linton, Jr.
Jennifer Ivey
James W. Clement
Brandon M. Crowder

March 7, 2025

VIA USPS MAIL:

Hon. Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Paul R. Vannatta and Jennifer S. Vannatta vs. Town of Sullivan's Island Board of Zoning Appeals
Case No.: 2024-CP-10-05670
Our File: 6670.026

Dear Julie,

Attached for filing, please find the compact disk (CD) numbered TOSI-VANNATTA 0608 which is the recording of the proceedings held before the Zoning Board of Appeals on September 12, 2024, in this matter. I have already filed the Certification of Record with documentation exhibits attached and would request this video be included in that record.

If you have any issues opening the video, please do not hesitate to contact me or my paralegal Elisha Wetmore at 843-727-2207 or ewetmore@wglfirm.com should you have any questions or need further information.

Sincerely,

WALKER GRESSETTE & LINTON, LLC

John P. Linton, Jr.

Enclosure(s) As Stated

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
Paul R. Vannatta and Jennifer S. Vannatta,	)	C/A No. 2024-CP-10-05670
	)	
<i>Petitioners,</i>	)	
	)	PETITIONERS PAUL R. VANNATTA
Versus	)	AND JENNIFER S. VANNATTA'S
	)	MEMORANDUM OF LAW IN SUPPORT
Town of Sullivan's Island Board of Zoning	)	OF PETITION FOR APPEAL
Appeals,	)	
<u><i>Respondent.</i></u>	)	

COME NOW, Paul R. Vannatta and Jennifer S. Vannatta (hereinafter "the Petitioners"), pursuant to S.C. Code § 6-29-825(F), hereby submit this memorandum of law in support of their Petition to reverse the Town of Sullivan's Island Board of Zoning Appeals ("BZA") denial of Petitioners' Administrative Appeal of Decision of Zoning Official (BZA No. PZC24-0007) and Variance Request (BZA No. PZC24-0008).

INTRODUCTION AND STATEMENT OF FACTS

From time to time, our courts and boards of zoning appeals are asked to resolve disputes incident to the interpretation or applicability of a municipality's zoning ordinances. This is not such a case. Rather, the crux of this Petition is to confront the BZA's affirmation of the denial of Petitioners' dock permit and variance request. The BZA's decisions are reversible error because they enforce an unconstitutional zoning ordinance.

Petitioners Paul and Jennifer Vannatta own 1802 Back Street, which is the westernmost marsh front property situated between the centerline extensions of Station 18 Street and Station 27 Street. R. at 0595. 1802 Back Street sits at the corner of Station 18 Street and Back Stret. R. at 0595. The Vannattas obtained and submitted proposed plans to build a recreational dock to access a creek behind their property, which was approved and permitted by the South Carolina Office of Coastal Resource Management ("OCRM") and the United States Army Corps of Engineers. R. at

0468-0512. The Vannattas' proposed dock is planned to be 486 feet long and reach a creek that is 62 feet wide. R. at 0481. On May 21, 2024, the Vannattas submitted their proposed dock plans to the Sullivan's Island Department of Planning and Zoning and applied for a permit to build the dock. R. at 0513. The dock plans were rejected on the basis that "a dock is not permitted by the Town in this location; no docks are permitted between the Station 18 centerline extension and the Station 27 centerline extension. Furthermore, no docks longer than linear feet are permitted unless they reach a 200-ft [sic] wide creek." R. at 0513.

Section 21-75(B)(2) of the Zoning Ordinances for the Town of Sullivan's Island prohibits docks longer than 300 hundred feet in length from being constructed in the RC-2 area district. Sullivan's Island, S.C., Code of Ordinances, § 21-75(B)(2). An exception to this rule exists where a dock may be constructed as long as 800 feet if it reaches a creek 200 feet or more in width without crossing over a creek eight feet or less in width¹. Sullivan's Island, S.C., Code of Ordinances, § 21-75(B)(2)(a). Additionally, all recreational docks between the centerline extensions of Station 18 and Station 27 that would otherwise access the RC-2 area district are also prohibited². Sullivan's Island, S.C., Code of Ordinances, § 21-75(B)(2); R. at 0592 (illustrating the boundaries of the geographic dock prohibition).

An appeal from this administrative decision and request for a variance was brought before the BZA and heard on September 12, 2024. R. at 0001-0006. After Petitioners and Town staff presented evidence and arguments, the BZA denied both Petitioners' appeal from the administrative decision and the variance request. R. at 0001-0006.

Pursuant to S.C. Code § 6-29-820, this appeal followed.

¹ Collectively, the rule and its exception regarding the length of docks are hereinafter referred to as "the dock length restrictions".

² This rule is hereinafter referred to as the "geographic dock prohibition".

STANDARD OF REVIEW

A circuit court hearing an appeal from a board of zoning appeals must determine “whether the decision of the board is correct as a matter of law.” S.C. Code § 6-29-840(A). While a municipality’s actions are presumed valid if the issues are “fairly debatable”, the decisions of the BZA must be overturned “when based on errors of law...or where there is no legal evidence to support it, or where the board acts arbitrarily or unreasonably.” Peterson Outdoor Advertising v. City of Myrtle Beach, 327 S.C. 230, 235, 489 S.E.2d 630, 633 (1997) (quoting Hodge v. Pollock, 223 S.C. 342, 348, 75 S.E.2d 752, 755 (1953)).

LEGAL ANALYSIS

I. The Town’s Geographic Dock Prohibition Should be Invalidated as Illegal Reverse Spot Zoning.

In 2023, our Supreme Court first addressed the issue of reverse spot zoning. *See* Ani Creation, Inc. v. City of Myrtle Beach Board of Zoning Appeals, 440 S.C. 266, 281 (2023). Spot zoning is not per se illegal in South Carolina, but it is invalid “where the ordinance does not form part of a comprehensive plan of zoning or is for mere private gain as distinguished from the good of the common welfare”. Ani Creation, Inc., 440 S.C. at 283-84 (quoting Talbot v. Myrtle Beach Board of Adjustment, 222 S.C. 165, 175, 72 S.E.2d 66, 71 (1952)). South Carolina has adopted a two-part test to determine whether a zoning ordinance constitutes illegal spot zoning, referred to as the Talbot and Knowles test. *See* Talbot, 222 S.C. at 175, 72 S.E.2d at 71; Knowles v. City of Aiken, 305 S.C. 219, 223, 407 S.E.2d 639, 642 (1991). In determining whether spot zoning is impermissible, the courts in Talbot and Knowles developed a framework requiring the Court to evaluate (1) whether a zoning ordinance constitutes spot zoning and if so, (2) to “closely scrutinize” the adherence of the zoning to the municipality’s comprehensive plan and the

promotion of the good of the common welfare but to only correct injustices which are clearly shown”. Knowles, 305 S.C. at 223, 407 S.E.2d at 642.

- a. **The Station 18 to Station 27 dock prohibition imposes a significant land use restriction on Petitioners’ property, that is not shared by neighboring properties, thus constituting reverse spot zoning.**

Reverse spot zoning arises from a legislative scheme characterized by the arbitrary and unjustified imposition of more restrictive zoning regulations on a parcel of land compared to other nearby parcels. *See e.g.*, Penn Central Transp. Co. v. New York City, 438 U.S. 104, 132 (1978) (defining reverse spot zoning as “a land-use decision which arbitrarily singles out a particular parcel for different, less favorable treatment than the neighboring ones”); City of Miami Beach v. Robbins, 702 So.2d 1329, 1330 (Fla. 3d DCA 1997) (finding that “reverse spot zoning occurs when a zoning ordinance prevents a property owner from utilizing his or her property in a certain way, when virtually all of the adjoining neighbors are not subject to such a restriction”). Our Supreme Court in Ani Creation recognized that reverse spot zoning may arise when a zoning island develops “as the result of a municipality’s failure to rezone a portion of land to bring it into conformity with similar surrounding parcels that are otherwise indistinguishable”. Id. at 283. However, the Court did not limit the applicability of reverse spot zoning to only situations of passive zoning. Id. at 282. Instead, the Court adopted the generally recognized principle that “reverse spot zoning occurs when a zoning ordinance restricts the use of a property when virtually all the property’s adjoining neighbors are not subject to the use restriction.” Id. (citing 83 Am. Jur. 2d Zoning and Planning § 89 (2013)).

While the language of Section 21-75(B)(2) prohibits docks generally between Station 18 and Station 27 on Sullivan’s Island, the actual implementation of this prohibition effectively singles out Petitioners’ parcel to its own detriment. “Reverse spot zoning occurs where a small

parcel is restricted and given fewer rights than the surrounding property.” 83 Am. Jur. 2d Zoning and Planning § 89 (2013). Unlike the overwhelming number of other parcels between Station 18 and Station 27, Petitioners’ parcel provides realistic access to the tidal waterway while also meeting the rigid requirements imposed by OCRM and the Army Corps of Engineers. *See* R. at 0468-0512. The record demonstrates that, even with generous measurements, only another four of the forty-seven parcels situated between Station 18 and Station 27 could realistically construct a dock that is 1,000 feet or less in length as required by OCRM. *See* R. at 0596 (illustrating the OCRM’s limits of 1,000 feet to access navigable waters and the Town’s ultimate limit of a dock to 800 feet in length in this area); R. at 0597 (illustrating parcels where docks must cross a creek over eight feet wide); R. at 0594 (illustrating that the majority of parcels in this zone have no otherwise legal or realistic access to the navigable waters). There is no evidence in the record, however, that any other parcels in this prohibitive zone could otherwise obtain state and federal government approval with respect to navigability, habitat protection, or other environmental concerns. Without any factual support, and contrary to the evidence set forth in the record, the BZA erroneously concluded that the geographic dock prohibition “includes properties that abut over a mile of marsh front coastline (looks like over thirty parcels)”. R. at 0005. This significant factual conclusion made by the BZA is wholly inconsistent with the evidence presented at the hearing and fails to appropriately consider the facts presented therein. Therefore, the real effect of the Station 18 to Station 27 prohibition is not to prohibit the construction of docks broadly in this zone, but specifically at 1802 Back Street, and possibly approximately four other parcels. The facts set forth in the record give rise to but one inference – that Section 21-75(B)(2) constitutes reverse spot zoning as applied to Petitioners’ parcel. Therefore, the BZA’s findings were made with no factual support, made in error, and must be overturned.

b. A close examination of whether the ordinance adheres to the Town's Comprehensive Plan and promotes the common welfare confirms that this ordinance embodies impermissible reverse spot zoning.

Considering both the adherence of the geographic dock prohibition to the Town's comprehensive plan and the promotion of the common welfare to address clear injustice, the evidence in the record demonstrates that the geographic dock prohibition qualifies as impermissible spot zoning. Knowles, 305 S.C. at 223, 407 S.E.2d at 642. "Courts cannot become city planners but can only correct injustices which are clearly shown to result from the municipal action". Talbot, 222 S.C. at 175, 72 S.E.2d at 71. Adherence to the comprehensive zoning plan is a consequential factor in testing the impermissibility of spot zoning because spot zoning "is the very antithesis of planned zoning". Historic Charleston Foundation v. City of Charleston, 400 S.C. 181, 192, 734 S.E.2d 306, 311 (2012) (Hearn, J., dissenting) (quoting Rodgers v. Village of Tarrytown, 302 N.Y. 115, 123 (N.Y. 1951)). These Talbot and Knowles factors assist our courts in guiding the analysis, however there is no indication in our jurisprudence that each of these factors must exist in tandem in order to find spot zoning impermissible. *See Talbot*, 222 S.C. at 175, 72 S.E.2d at 71 (1952) (finding impermissible spot zoning "where the ordinance does not form part of a comprehensive plan of zoning *or* is for mere private gain as distinguished from the good of the common welfare") (emphasis added).

i. Prohibiting docks between Station 18 and Station 27 is incompatible with the Town's Comprehensive Plan, thus demonstrating that this form of reverse spot zoning is impermissible.

The record clearly demonstrates that the geographic dock prohibition fails to adhere to the Town's 2018-2028 Comprehensive Plan. The record is devoid of any fact upon which a reasonable inference can be drawn that the prohibition of docks between Station 18 and Station 27 adheres to the intended use of the R-C area district. R. at 0587. In fact, the geographic dock prohibition is in

direct conflict with the Comprehensive Plan's recognition of limited land use for recreation with "long-term preservation of the land without commercial activity or subdivision" and with "minimal impact on the view corridor". R. at 0587. The Comprehensive Plan provides no definition of "limited land use for recreational purposes" but characterizes one such purpose: "i.e., docks where otherwise permitted by applicable laws and regulations". Such a statement can hardly be inferred to create an intent to prohibit docks specifically between Station 18 and Station 27. R. at 0587. The RC-2 area district is intended by the Town to be used for recreational opportunities, but Petitioners' ability to engage in the very recreational opportunities sought to be afforded by the RC-2 area district are thwarted by the Town eliminating their ability to access the marshland and waterways with a dock. Furthermore, there is neither evidence in the record nor a factual determination by the BZA that Petitioners' proposed dock would interfere with the "long-term preservation of the land" or constitute "commercial activity or subdivision". *See* R. at 0587. To the contrary, the record indicates Petitioners obtained OCRM and Army Corps of Engineers approval to build the proposed dock after thorough analysis and review was undertaken with respect to preservation and environmental protection of the surrounding area. R. at 0487-0512. Moreover, any finding that the geographic dock prohibition adheres to the Comprehensive Plan's stated goal of preserving the "view corridor" is equally without support. There are no indications from either the Comprehensive Plan or the zoning ordinances as to what constitutes the "view corridor" in the RC-2 area district. Even supplanting to this analysis an intent to protect scenic views generally, the record clearly establishes that Petitioners' proposed dock would have no detrimental impact to the community's scenic vista. R. at 0195-0212, 0602-0603 (referencing photographs submitted demonstrating the scenic marsh vista with other private docks in clear view). Because the prohibition of docks from Station 18 to Station 27 is in conflict with the

Comprehensive Plan's intent for the RC-2 area district, this ordinance fails to adhere to the Town's Comprehensive Plan.

- ii. ***The Station 18 to Station 27 dock prohibition fails to promote the common welfare and results in clear injustice, as is the case where impermissible spot zoning exists.***

In Ani Creation, the Supreme Court undertook the requisite analysis surrounding the challenged zoning ordinance and the promotion of the common welfare to correct injustices clearly shown. 440 S.C. at 283 (citing Knowles, 305 S.C. at 223, 407 S.E.2d at 642; Talbot, 222 S.C. at 175, 72 S.E.2d at 71). Specifically, the Court considered whether the municipality implemented the ordinance to promote the public welfare and whether the ordinance resulted in clear injustice to the challengers. Id. In that case, the challenged zoning ordinance prohibited the sale of sexually explicit merchandise and tobacco paraphernalia within a zoning overlay district. Id. at 275-76. The Court in that case reviewed specific factual findings set forth in the ordinance that were explicitly and immensely probative of the city council's intent in implementing that ordinance; namely that the sale of those items repelled families from the area and that city sought to encourage tourism by creating a more family friendly atmosphere. Id. at 285. The Court ultimately concluded that the ordinance was adopted to promote the common welfare. Id. at 285,86. Furthermore, the Court in Ani Creation determined that because the affected businesses retained ownership of their property, there was no clear injustice imposed by the ordinance. Id. at 283,84. Therefore, under those specific facts, any spot zoning was not illegal under South Carolina law. Id. at 284.

The facts contained within the record are distinguishable from Ani Creation, especially as applied to the analysis of the Talbot and Knowles factors. The zoning ordinances governing the RC-2 area district set forth various findings of fact announced by the Town Council. However, there are no findings of fact adopted by the Town that are specific to the dock regulations, much

less an outright prohibition on docks between Station 18 and Station 27. On the contrary, the findings of fact adopted by the Town Council conflict with the total prohibition of docks within any geographic zone in the RC areas. Sullivan’s Island, S.C., Code of Ordinances, § 21-67. The Town Council declares, “[t]he RC Areas greatly contribute to the health, safety, and welfare of the residents of Sullivan’s Island and that they provide...countless hours of pleasurable activity and rest and relaxation”, thus evidencing the Town Council’s intent that the RC-2 area district be utilized in ways that promote recreation. Sullivan’s Island, S.C., Code of Ordinances, § 21-67. While the findings of fact state, “[t]he RC Area are of a particular beauty” and “should be preserved in their natural state”, other docks exist and have been constructed in the RC-2 area district, and therefore the Town’s overall intent of conservation in the RC-2 area district is compatible with the existence and construction of private recreational docks within this area as a whole. R. at 0604-0607 (showing the recent construction of a recreational dock at 1710 Blanchard Street – just seven parcels west of the Vannatta’s home); 0595 (illustrating the numerous docks just west of the Vannatta’s home). For these reasons, the adoption of the Station 18 to Station 27 dock prohibition is incompatible with the Town’s explicit goals with respect to the promotion of the general welfare.

Unlike in Ani Creation, Petitioners are not deprived of an ability to sell certain merchandise at a business which has been affected by a zoning decision. Petitioners live at the literal outer edge of an arbitrary dock dead zone and their access to the waterway has been effectively seized on arbitrary and unreasonable grounds. The clear injustice contemplated by Talbot and Knowles is manifest here as the “confiscatory” and arbitrary denial of rights and privileges that are otherwise afforded to others similarly situated. Yacht Club by Luxom, LLC v. Village of Palmetto Bay Council, 316 So.3d 748, 751, n. 1 (Fla. 3d DCA 2021). For all of these reasons, the evidence set forth in the record clearly demonstrates that the Station 18 to Station 27 dock prohibition in the

Town of Sullivan's Island constitutes impermissible spot zoning and the decision of the BZA must be overturned.

II. The Town's Prohibition on Docks Between Station 18 and Station 27 and the Dock Length Restrictions Are Arbitrary, Capricious, and Unreasonable.

The BZA's reliance on Section 21-75(b)(2) to affirm the denial of Petitioners' dock permit application was clearly erroneous because Section 21-75(b)(2) sets forth arbitrary, capricious, and unreasonable zoning regulations with respect to docks within the RC-2 area district and is thus violative of the substantive due process guaranteed to citizens by the South Carolina Constitution.

A party challenging a legislative enactment under rational basis review must "negate every conceivable basis which might support the enactment" Bodman v. State, 403 S.C. 60, 69, 70, 742 S.E.2d 363, 368 (2013) (quoting Lee v. S.C. Dep't of Natural Resources, 339 S.C. 463, 470, n.4, 530 S.E.2d 112, 115, n.4 (2000)). When citizens challenge a zoning ordinance on substantive due process grounds, our courts must consider whether the party has been arbitrarily and capriciously deprived of a cognizable property interest by way of an unreasonable exercise of a state's police power. Denene, Inc., 359 S.C. at 96, 596 S.E.2d at 923. The crux of this analysis is whether the zoning ordinance bears a reasonable relationship to any legitimate interest of government because municipal action that is arbitrary and unreasonable is subject to judicial correction under rational basis review. Main v. Thomason, 342 S.C. 79, 86-87, 535 S.E.2d 918, 922-23 (2000). Challengers seeking to prove the arbitrary and capricious nature of a municipality's policy decision must show that the decision was based on a faulty factual premise. *See* Ani Creation, 440 S.C. at 287. In considering the alleged arbitrary, capricious, and unreasonable nature of the zoning ordinance at issue in Ani Creation, the Supreme Court provided that the challengers in that case needed to submit proof that the municipality's prohibition on certain retail had no impact on the purported policy objectives sought to be advanced by the municipality. Ani Creation, 440 S.C. at 287.

At the BZA hearing, Petitioners submitted evidence that the Station 18 to Station 27 dock prohibition realistically only applies to Petitioners, and possibly four of the other forty-seven parcels in this area. R. at 0596 (illustrating the OCRM's limits of 1,000 feet to access navigable waters); R. at 0597 (illustrating parcels where docks must cross a creek over eight feet wide); R. at 0594 (illustrating that the majority of parcels in this zone have no otherwise legal or realistic access to the navigable waters). The faulty premise underlying the geographic dock prohibition is evidenced by the fact that the zoning ordinance applies a blanket prohibition on a land use to an overwhelming number of parcels where docks already could not possibly comply with either OCRM's rule that docks longer than 1,000 feet will not be permitted and/or could not comply with the dock length restrictions, much less the parcels where dock construction is realistically impossible.

Additionally, the recommendation offered by Planning and Zoning Director Charles Drayton at the BZA hearing, which the BZA adopted as part of its conclusions, erroneously concludes that the Station 18 to Station 27 dock prohibition implements a condition that "exist[s] for properties that stretch over a mile along the marsh front to the east of the subject property, affecting 39 properties". R. at 0104. Further, Drayton articulates the faulty premise that if ordinance didn't exist "all of the affected properties may be able to construct docks out to navigable waters". Id. These facts clearly demonstrate the faulty premises underlying both the ordinance's geographic dock prohibition and the BZA's findings, thus evidencing the arbitrary and capricious nature of the Station 18 to Station 27 dock prohibition.

Specific to the dock length restrictions set forth in Section 21-75(B)(2), the December 10, 2003 Planning Commission meeting minutes contained provide some guidance related to the impetus behind the dock length restriction as written today. R. at 0139-0143. These minutes

evidence discussion amongst Planning Commission members regarding the prohibition of all docks greater than 300 feet in length versus allowing docks to extent to 800 feet so long as they do not cross a creek less than ten feet wide. R. at 0141-0143. The sum of the discussion contained therein hardly indicates any actual and specific intent in carving out an exception that docks may extend up to 800 feet so long as they do not cross a creek less than eight feet wide. However, a general intent can be inferred that the Planning Commission members sought a compromise to allow a small number of additional docks in the future while supposedly preserving the marshland. R. at 0139-0143. Additionally, statements from Planning Commission member Billy Craver reflect his personal intent to ensure docks go to “deep water not a ditch” and that “a ditch is less than 100-feet wide”. R. at 0142.

Regarding the BZA’s finding that the geographic dock prohibition and dock length restrictions were implemented for the “preservation of the marsh area, the preservation of views, lessening environmental impact, and general conservation” in the RC area districts, Petitioners presented evidence at the hearing demonstrating that the construction of the proposed dock was deemed by OCRM and the Army Corps of Engineers to have no adverse impacts on environmental quality and preservation, navigability, neighboring properties, and wildlife. *See* S.C. Code § 48-39-150 (providing the extensive factors OCRM must consider before approving a critical area permit such as that which was awarded to Petitioners).

While the Army Corps of Engineers guidelines provide no explicit guidance as to the impact of Petitioners’ proposed dock on the “view corridor” (whatever that may be) in relation to the RC-2 area district, Petitioners’ proposed dock was determined by OCRM to have satisfied an analysis into “the extent to which the proposed use could affect the value and enjoyment of adjacent owners”. R. at 0516. Entertaining the claim that Section 21-75(B)(2) was implemented

with the goal of view preservation, which Petitioners maintain has no factual support in the record, any finding that Petitioners' proposed dock actually impacts the view corridor is without factual support and meritless.

In Rockville Haven, LLC v. Town of Rockville, our Supreme Court examined the factual support underlying a local design review board's denial of a dock permit on the basis that an OCRM approved dock would impede a scenic view. 394 S.C. 1, 3, 714 S.E.2d 277, 278 (2011). In that case, the circuit court found that the evidence submitted at the design review board hearing supported the conclusion that the dock impermissibly impeded the scenic view from an adjacent road. Id. The circuit court's conclusion relied on two statements from interested parties and an aerial photograph in support of its conclusion affirming the permit denial. Id. The Supreme Court, however, concluded that this evidence revealed nothing related to the purported impediment which would have been created by a handrail-less dock constructed at marsh level. Id. Admittedly, Petitioners' proposed dock calls for handrails and is planned to sit three feet above the mean high water mark. R. at 0481. However, just as in Rockville Haven, this evidence reveals nothing related to any purported impediment that would be created by Petitioners' proposed dock. In fact, the record is replete with photographs of marsh views purportedly depicting the area of Petitioners' proposed dock. R. at 0195-0202. While these photographs were explicitly submitted to the BZA in an attempt to demonstrate the beauty of the general marsh views on Sullivan's Island, the photographs also stand to support Petitioners' stance that their proposed dock would not actually impede the marsh view. Even a cursory overview of these photographs clearly shows existing docks with handrails, pierheads, and boatlifts no way impeding the marsh view.

The evidence in the record clearly supports the conclusion that the Station 18 to Station 27 dock prohibition rests on the faulty premise that all of the parcels in this zone are effectively prohibited from constructing docks by way of the ordinance. There is further clear proof in the record that Petitioners' proposed dock in no way adversely impacts the Town's purported policy goals in enacting this ordinance, even to the extent that there exists factual support for the BZA to make these findings. For these reasons, the geographic dock prohibition and dock length restrictions set forth in Section 21-75(b)(2) are arbitrary, capricious, and unreasonable, thus running afoul of Petitioners' due process rights guaranteed by the South Carolina Constitution. Therefore, the decision of the BZA to deny Petitioners' dock permit must be overturned.

III. Even Without the Conclusion that Impermissible Reverse Spot Zoning Exists, The Ordinance's Prohibition on Docks Between Station 18 and Station 27 Violates the Equal Protection Clause on Separate and Additional Grounds.

While not all forms of spot zoning are impermissible per se in South Carolina, spot zoning generally may serve as evidence that a zoning ordinance violates the Equal Protection Clause if there is an unreasonable relationship between the legislative purpose of an ordinance and the classification adopted to achieve that purpose. *See Ani Creation, Inc.*, 440 S.C. at 281-85 (analyzing spot zoning as evidence of broader Equal Protection Clause violations); *Sylvia Development Corp. v. Calvert County*, 48 F.3d 810, 819 (4th Cir. 1995). Thus, the Station 18 to Station 27 dock prohibition is unenforceable for violating Equal Protection Clause and Petitioners are entitled to rely on this basis as well.

Under an equal protection analysis, zoning ordinances not based upon suspect or quasi-suspect classifications are tested using rational basis review. *Bibco Corp. v. City of Sumter*, 332 S.C. 45, 52, 504 S.E.2d 112, 116 (1998). In analyzing equal protection through rational basis review, the zoning ordinance must meet three requirements in order to withstand scrutiny: (1) the

classification must bear a reasonable relation to the legislative purpose sought to be affected; (2) the members of the class must be treated alike under similar circumstances and conditions; and (3) the classification must rest on some reasonable basis. Denene, Inc. v. City of Charleston, 359 S.C. 85, 91, 596 S.E.2d 917, 920 (2004) (citations omitted).

The Fourth Circuit has recognized that where a classification created by ordinance is “explicitly stated on its face...then the equal protection analysis requires us to determine whether an appropriate relationship exists between the legislative purpose and the classification adopted to achieve that purpose.” Sylvia Development Corp., 48 F.3d at 819. “If a classification is not explicitly stated, the plaintiff bears the burden of proving that a classification was nonetheless intentionally utilized. Id. (citing Snowden v. Hughes, 321 U.S. 1, 8 (1944)). It is undisputed that Section 21-75(b)(2) explicitly and intentionally creates a class consisting of marsh front property owners situated between Station 18 and Station 27. Therefore, the analysis turns to rational basis review.

The Station 18 to Station 27 dock prohibition, which serves as the basis for the classification at issue, is arbitrary, capricious, and has no reasonable relationship to the purported policy objectives that can be extrapolated from the evidence in the record. This analysis has been thoroughly discussed in Section II above, and establishes clearly that the ordinance fails rational basis review on these grounds. Eli Witt Co. v. City of West Columbia, 309 S.C. 555, 558, 425 S.E.2d 16, 17-18 (1992) (recognizing that an ordinance violates the Equal Protection Clause if it is arbitrary).

Importantly, the classification established by the Station 18 to Station 27 dock prohibition rests on no reasonable basis. Denene, Inc., 359 S.C. at 91, 596 S.E.2d at 920. In Denene, several bars and restaurants in the City of Charleston challenged on equal protection grounds an ordinance

prohibiting the sale of alcohol between certain hours of the night. 359 S.C. at 90, 596 S.E.2d at 921. The Supreme Court applied the facts deduced at trial and determined that the classification in that ordinance had a reasonable basis considering the stated policy goal in diminishing issues commonly associated with late night alcohol sales such as public urination and noise. 359 S.C. at 92, 596 S.E.2d at 920. In the present case, and for the same reasons why the ordinance is arbitrary and capricious, the reasonableness of prohibiting docks between Station 18 and Station 27 is entirely removed from the stated policy goals of preservation.

Even without a finding of impermissible spot zoning, the Station 18 to Station 27 dock prohibition violates the Equal Protection Clause of the Fourteenth Amendment on separate grounds. For that additional reason, the decision of the BZA to affirm the denial of Petitioners' dock permit must be overturned.

IV. Petitioners' Request for a Variance was Unjustifiably Denied Despite their Showing of an Unnecessary Hardship Caused by the Zoning Ordinance, the Evidence Supporting the Statutory Factors that Must be Considered, and the Lack of Evidence Necessary to Preclude the Issuance of a Variance.

Petitioners at the BZA hearing demonstrated through clear evidence that the strict application of the dock regulations set forth in Section 21-75(b)(2) warrant relief through the form of a variance.

The BZA has the power to decide appeals for variances from a zoning ordinance "when strict application of the provisions of the ordinance would result in unnecessary hardship."³S.C. Code. § 6-29-800 (A)(2). A variance may be granted, so long as the BZA makes certain factual findings and explains those findings in writing. *Id.* The requisite findings supporting the grant of a variance by the BZA include that (1) there are extraordinary and exceptional conditions

³ The Town's ordinances also set forth standards for the granting of variances. Sullivan's Island, S.C., Code of Ordinances, § 21-79. Pursuant to the Enabling Act, the Town's ordinances on variances mirror the language of the South Carolina Code.

pertaining to the particular piece of property; (2) those conditions do not apply generally to other property in the vicinity; (3) because of those conditions, the application of the ordinance to the property would effectively prohibit or unreasonably restrict the utilization of the property; and (4) the authorization of the variance will not be of a substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed. S.C. Code § 6-29-800(A)(2)(a-d). In the context of a variance from a zoning ordinance, our courts will not disturb the decision of a reviewing body unless there is no evidence in the record to support its decision. Restaurant Row Associates v. Horry County, 335 S.C. 209, 215, 516 S.E.2d 442, 446 (1999).

a. The application of Section 21-75(b)(2) to Petitioners' property causes the very unnecessary hardship that a variance is meant to relieve.

There is no set definition of “unnecessary hardship” in South Carolina related to variances, but the Supreme Court has established guideposts to shepherd the analysis. Id. First, the Court must screen for whether the owner’s actions created the claimed unnecessary hardship or whether the owner is claiming a nonconforming use existing at the time of the property’s purchase works an unnecessary hardship. Id. (citing Rush v. City of Greenville, 246 S.C. 268, 278, 143 S.E.2d 527, 532 (1965)). Second, there must be proof that the particular property suffers a singular disadvantage through the operation of the zoning ordinance. Id.

As an initial matter, Petitioners did not create the claimed unnecessary hardship caused by the ordinance through any actions of their own. Moreover, the unnecessary hardship articulated by Petitioners at the BZA hearing is not based upon a nonconforming use that existed at the time of the purchase of Petitioners’ parcel in 2014. *See* Rush, 246 S.C. at 278, 143 S.E.2d at 532. The guideline imposed by Rush is inapplicable to the facts surrounding this dispute and Petitioners’ request for a variance. Inherent with the Court’s analysis in Rush is the finding that the applicant purchased property for commercial use knowing the property was in a residential district. Id. Here,

it is not alleged that the overarching zoning classification creates the unnecessary hardship, but the land use regulations applied thereto. Furthermore, while the zoning classification at Petitioners' parcel should be reasonably known to be residential versus commercial, nothing set forth in the deed or legal description of the property would put provide Petitioners with reasonable notice of the dock regulations at the time of purchase. *See* R. at 0441-0444. For that reason, Petitioners' unnecessary hardship claim should not be screened from this Court's substantive analysis.

Proof of a property's singular disadvantage caused by a zoning ordinance does not have to take any particular form for the purpose of proving an unnecessary hardship. Restaurant Row Associates, 335 S.C. at 215, 516 S.E.2d at 446. The unnecessary hardship standard is not as demanding as the Fifth Amendment's takings analysis, thus eliminating any need for Petitioners to prove that their parcel has been deprived of all of its enjoyment or economic use. Lucas v. S.C. Coastal Council, 505 U.S. 1003 (1992) (holding that the Fifth Amendment's Takings Clause is violated where a regulation deprives a property owner of the economic value of the property). In Restaurant Row Associates, the Court was unpersuaded that the applicant's business disruption, loss of goodwill, relocation costs, and underlying contracts, without more evidence, constituted "unnecessary hardship" 335 S.C. at 218, 516 S.E.2d at 447. This portion of the analysis is functionally similar to the portion of the impermissible spot zoning analysis looking for "clear injustice". Ani Creation, Inc., 440 S.C. at 283-84.

In this case, Petitioners are precluded from constructing a recreational dock to access marshland and waterways that the Town deems important for rest, relaxation, and recreation. R. at 0582, 0587. For reasons already articulated above, Section 21-75(b)(2) denies Petitioners the ability to enjoy the marshland and waterways, as intended by the Town, despite the fact that others nearby are not subject to the same restrictions – all because of arbitrary and unreasonable

ordinances crafted by the Town. Petitioners clearly demonstrated the existence of an unnecessary hardship at the BZA meeting.

b. Despite the BZA's erroneous and baseless conclusions to the contrary, Petitioners presented ample facts supporting the four statutory factors that must be met in applying for a variance.

In denying Petitioners' application for a variance, the BZA decided that all four factors listed in S.C. Code § 6-29-800 (A)(2)(a-d) were not met. R. at 0005. The BZA attempted to justify its conclusion by asserting that there was no evidence to show extraordinary and exceptional conditions pertaining to the particular piece of property, no evidence that those conditions do not apply to others, no showing that property would be "effectively prohibited from use or unreasonably restricted in its use", and no showing that the authorization of the variance would not be of a substantial detriment to adjacent property or to the public good, and no showing that the character of the district would not be harmed. *Id.*; S.C. Code § 6-29-800 (A)(2)(a-d). These conclusions were made summarily and with no reference to the ample evidence presented at the hearing and with no factual findings taken therefrom.

Our Supreme Court has similarly recognized that extraordinary and exceptional circumstances that do not apply to other properties in the vicinity may be found where the character of the property at issue is unique based on its potential use. Black v. Lexington County Board of Zoning Appeals, 396 S.C. 453, 722 S.E.2d 22 (2012) (finding extraordinary and exceptional circumstances exist that are not applicable to nearby parcels where a lot sought to be enhanced for commercial purposes was home to the only steel fabrication facility in the area). At the hearing, Petitioners showed that extraordinary and exceptional circumstances exist at the property that do not apply to other parcels because, given the application of the Station 18 to Station 27 dock prohibition, Petitioners' parcel is one of very few in the area where a dock may even realistically

and otherwise legally be built but for the application of the ordinance sought to be relieved by a variance.

With regard to the prohibited utilization of the property, Petitioners demonstrated at the hearing that the supposed purpose of the RC-2 area districts is to enhance rest, relaxation, and recreation. R. at 0582, 0587. The outright prohibition of their proposed recreational dock eliminates Petitioners' ability to access the RC-2 area district from their parcel, which is an opportunity afforded to Petitioners neighbors just a few blocks to the west. Even though Petitioners cannot effectively assert a Fifth Amendment takings claim as suggested by the BZA's decision, the proper analysis does not require such a strong showing. *See Restaurant Row Associates*, 335 S.C. at 215, 516 S.E.2d at 446.

Finally, Petitioners presented ample evidence to demonstrate that the requested variance would provide no substantial detriment to adjacent property or the public good. The same determination was made by the OCRM after analyzing Petitioners' proposed dock with respect to the impact on adjacent owners. S.C. Code § 48-39-150 (A)(10) (providing that OCRM must consider "the extent to which the proposed use could affect the value and enjoyment of adjacent owners"). Moreover, Petitioners presented evidence of the nature of the dock at 1710 Blanchard Street⁴, as well as the various nearby docks. All of these comparative docks are relatively similar in character to Petitioners' proposed dock, and therefore the construction of Petitioners' dock would not prove no substantial detriment to neighboring properties or the public at large. As previously stated, the evidence shows Petitioners' proposed dock would have no negative impact on the "view corridor". This Court should follow by the analysis in Rockville Haven, LLC v. Town of Rockville and evaluate the sufficiency of the evidence in the record with respect to the BZA's

⁴ 1710 Blanchard Street is located seven parcels west of the Vannatta home. R. at 0604-0607.

finding that the proposed dock would impact the preservation of marsh views. 394 S.C. at 3, 714 S.E.2d at 278 (finding the evidence in sufficient to support the determination that a proposed dock would impact scenic views). So doing, the Court should conclude that Petitioners presented evidence to satisfy the statutory factors for granting a variance in this matter.

c. A variance is precluded under certain limited circumstances, but the BZA made no such findings with respect to Petitioners' requested variance.

There are three findings which serve to preclude outright the issuance of a variance; (1) a variance must not allow a use not otherwise permitted in a zoning district; (2) a variance must not extend physically a nonconforming use of land; and (3) a variance must not change the zoning district boundaries shown on an official zoning map. S.C. Code § 6-29-800 (A)(2)(d)(i). The BZA made no findings that any of these three limitations forestall Petitioners' request for a variance. Because "[t]he findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury" and "the court may not take additional evidence", there is no appealable dispute that Petitioners' requested variance is not precluded as a matter of law.

Lastly, completely contrary to the BZA's conclusion, the record is replete with evidence supporting the findings of an unnecessary hardship caused by Section 21-75(b)(2) and the support of the four elements that must be found in order to grant a variance. Therefore, the BZA's decision to deny a variance must be overturned.

CONCLUSION

The facts set forth in the record on appeal, when applied to the laws designed to curtail government overreach inflicted through the enforcement of arbitrary, unreasonable, and otherwise impermissible land use decisions, more than sufficiently support a reversal of the BZA's decisions as clearly erroneous. Alternatively, the BZA's decisions have no factual support in the record an appeal, and must be overturned and remanded to the BZA for further hearing.

Respectfully submitted,

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March 28, 2025
Charleston, South Carolina

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and Jennifer S. Vannatta*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CASE NO.: 2024-CP-10-05670
Paul R. Vannatta and Jennifer S. Vannatta,	)	
	)	
Appellants,	)	RESPONDENT’S BRIEF IN
	)	OPPOSITION TO APPELLANTS’
Versus	)	PETITION FOR APPEAL
	)	
Town of Sullivan’s Island Board of Zoning	)	
Appeals,	)	
	)	
Respondent.	)	

Respondent, Town of Sullivan’s Island’s Board of Zoning Appeals (the “BZA”), by and through its undersigned attorneys, hereby files this Brief in Opposition to the Petition for Appeal of the Appellants, Paul R. Vannatta and Jennifer S. Vannatta (collectively, the “Appellants” or the “Vannattas”). Appellants initiated this appeal from the final order of the BZA dated October 11, 2024 (the “Final Order”) and mailed on October 14, 2024. **(TOSI –VANNATTA 0034-39)**. For the reasons explained herein, this Court should affirm the decision of the BZA reflected in the Final Order because it is correct as a matter of law, neither of the challenged provisions of the zoning ordinance are unconstitutional, and Appellants have not been deprived equal protection of the law. Further, the BZA did not abuse its discretion, and its decision is supported by the evidence before the BZA.

BACKGROUND

This appeal concerns the BZA’s affirmation of the Zoning Administrator’s denial of a dock permit and the BZA’s denial of a request for variance for the construction of a dock in the RC-2 District, which would be in violation of Town of Sullivan’s Island (the “Town”) Code of Ordinances (the “Ordinances”). Appellants are the owners of the property at 1802 Back Street Sullivan’s Island, South Carolina (the “Property”). **(TOSI –VANNATTA 0011)**. Appellants have

never disputed that there are two separate reasons¹ under the provisions of Town's Zoning Ordinance that required the Zoning Administrator and the BZA to deny the requested dock permit. Instead, Appellants challenged the constitutionality of the applicable Zoning Ordinance provisions and alternatively sought a variance.

I. Zoning Ordinance Section 21-75

The Town has regulated the construction of private docks for over forty years. (TOSI – VANNATTA 0059, 102-03). There have been amendments over time, but none since 2004. Since that time, Ordinance Section 21-75, titled "Construction of private docks in RC-2 Area District", has read:

A. In the RC-2 Area District the construction of private docks by owners of lots adjoining this area may be permitted, provided approval of the Town of Sullivan's Island, U.S. Corps of Engineers, the Department of Health and Environmental Control/Office of Ocean and Coastal Resource Management (DHEC/OCRM) and any other governmental or regulatory agency with jurisdiction.

B. The following restrictions govern the construction of docks in the RC-2 Area District:

* * *

(2) No dock shall be permitted to be constructed across marshland in the RC-2 Area District from the centerline extension of Station 18 to the centerline extension of Station 27 and no dock shall be permitted to be constructed in the marsh lands of the RC-2 Area District in the area located between the intersection of the eastern point of the Sullivan's Island Fire Rescue Squad Boat Landing lot located at the end of Point Street, TMS#523-06-00-070, and the Osceola Avenue right-of-way and the intersections of the western point of the lot located at 1010 Osceola Avenue, TMS#523-06-00-003, and the Osceola Street right-of-way. In all other areas of the RC-2 Area District, **no dock shall be permitted to be constructed where the length of the dock shall exceed three hundred (300) feet in total length; . . .**

(a) Exception: a dock may extend up eight hundred (800) feet to reach a creek that is two hundred (200) feet or more in width (width

¹ As explained in detail herein, Appellants challenged both provisions of the Zoning Ordinance that preclude their dock permit. They would have to be successful on both challenges for the BZA to be reversed.

of creek measured from land or marsh grass to land or marsh grass); however, said dock shall not be permitted to cross a creek that is greater than eight (8) feet in width to reach the two hundred (200) foot width creek.

(TOSI –VANNATTA 0060) (bold added).

II. Appellants’ Purchase of the Property and Their Prior Attempt to Change the Law to Permit Construction of a Dock

Well after the most recent amendment to Section 21-75, Appellants purchased² the Property, tore down the existing structure, and built a residence; the Town issued Appellants a Certificate of Occupancy on August 05, 2016. **(TOSI –VANNATTA 0002, 0110-15)**. Notably, Appellants purchased the Property subject to Section 21-7(B)(2). See **(TOSI –VANNATTA 0002, 0110-15)** (“**SAID** property is subject . . . to all applicable governmental statutes, ordinances, rules and regulations.”) (bold in original). The Property is situated between the centerline extensions of Station 18 and Station 27 and adjoins the RC-2 District. **(TOSI –VANNATTA 0051-54, 0586)**. The RC-2 District is a recreation and conservation district.

On February 13, 2020, a committee of the Town Council, the Land Use & Natural Resources Committee (the “Committee”), held an in-person meeting where Paul Vannatta appeared and stated a request to build a dock.³ **(TOSI –VANNATTA 0284-86)**. At that meeting, the Zoning Administrator explained that a dock at the Property would violate Section 21-75(B)(2) in two ways: (1) docks are generally not allowed in the area the Residence is located, and (2) it would surpass the length restriction without meeting exception because it does not reach a creek

² The deed to the Residence was recorded on August 05, 2016, in the Charleston County office of the Register of Deeds in Book 0420 Page 473. **(TOSI –VANNATTA 0002, 0110-15)**.

³ A committee of Town Council would have no authority to permit a particular dock to be constructed. Presumably, Vannatta was requesting the committee recommend a change in the law to allow a dock on the Property.

that is two-hundred feet wide. **(TOSI –VANNATTA 0284)**. In other words, absent two amendments to the Ordinances, the Property was not eligible for a dock. Paul Vannatta asked the Committee to recommend two changes in the law to the Town Council: to extend the maximum length and reduce the size of the restricted area. See **(TOSI –VANNATTA 0284)**. The law has not been changed.

III. Appellants’ Dock Permit Application, Administrative Appeal, and Request for Variance.

Having failed to convince Town Council to change the law, the Appellants decided to mount a legal challenge to the decades old law. On May 22, 2024, Appellants applied to the Town’s Department of Planning and Zoning for a dock permit (Permit No. P24-0907). **(TOSI – VANNATTA 0124-25, 0513)**. Charles Drayton, the Town’s Zoning Administrator, denied the permit for the two reasons discussed above: **(1)** “[a] dock is not permitted by the Town in this location; no docks are permitted between the Station 18 centerline extension and the Station 27 centerline extension”, and **(2)** “no docks longer than 300 linear feet are permitted unless they reach a 200-ft wide creek.” **(TOSI –VANNATTA 0513)**.

Following the denial of the permit application, Appellants appealed to the BZA and also submitted a variance application to the BZA. **(TOSI –VANNATTA 0116-18)**. Appellants did not dispute the plain language of Section 21-75(B)(2) precluded the issuance of the dock permit for the two reasons discussed above but instead purported to challenge Section 21-75’s constitutionality. **(TOSI –VANNATTA 0012)** (“There is no challenge to the Zoning Administrator’s interpretation of Section 21-75(B)(2), . . . the ordinance constitutes illegal spot zoning, is an arbitrary, capricious, and unreasonable ordinance, and the denial of the dock permit on the basis of the ordinance provisions should be reversed.”). Appellants’ variance request stated that a variance was warranted because the Property was at the “absolute edge of the geographic

dock prohibition”, the “dock length restriction . . . serves no purpose due to the proposed location”, “[m]ost other nearby properties within this boundary are unaffected by the ordinance”, the Property “is one of the very few properties with realistic access to the tributary”, and “Section 21-75(B)(2) acts as an absolute barrier to the rest, relaxation, and recreation meant to be afforded by preserving the RC-2 Area District”. **(TOSI –VANNATTA 0013)**.

The BZA heard the appeal and variance request on September 12, 2024 (the “BZA Meeting”). **(TOSI –VANNATTA 0001-06)**. At the BZA Meeting, Mr. Drayton reviewed the Appellants’ dock permit request, provided background on the Property, and explained Section 21-75’s legislative history.⁴ See **(TOSI –VANNATTA 0001-02, 0049-63, 0102-04)**. Mr. Drayton reiterated the Town Staff’s conclusion that there “[was] no basis for [Appellants’] argument that [Section 21-75(B)(2) was] unconstitutional”⁵ because Section 21-75’s enactment was not arbitrary

⁴ The Town first implemented restrictions on private docks in 1980. **(TOSI –VANNATTA 0001-02, 0106-07, 129)**. The Town amended Ordinance Section 21-75(B)(2) in 1996, limiting the length of docks to 300 feet. **(TOSI –VANNATTA 0001-02, 0107, 0131-33)**. Then “in 2004 the dock ordinance was amended with the language that preserved the viewshed from the Ben Sawyer causeway and codified marsh conservation for over a mile of back beach frontage with the restriction allowing docks to be located between the extended centerlines of Station 18 and Station 27.” **(TOSI –VANNATTA 0001-02, 0107, 134-38)** (noting that Town Mayor, J. Marshall Smith, ordained the 2004 amendment).

Mr. Drayton provided the BZA with the Minutes from the Planning Commission and Town Council Meetings between September 2003 and April 2004, where the municipal bodies discussed the final amendment to Section 21-75 and subjected it to public comment before its eventual enactment. **(TOSI –VANNATTA 0002, 0139-88)**.

⁵ “Both of these ordinance amendments were adopted by Town Council through the appropriate processes for adopting or amending ordinances. Both amendments were publicly vetted and voted on in open Council sessions. Attached are the minutes from the Town Council Meetings wherein these amendments were considered and approved. Therefore, there is no basis for applicants’ argument that the Section 21-75 (B) 2. is un-constitutional.” **(TOSI –VANNATTA 0103)**.

or capricious,⁶ and Section 21-75(B)(2) did not constitute spot zoning because the Property was part of a “section of the Island that includes properties that abut over a mile of the marshfront coastline” subject to the same restriction.⁷ (TOSI –VANNATTA 0103). Mr. Drayton recommended denying the Appellants’ application because the Town acted within its powers and validly enacted Section 21-75. (TOSI –VANNATTA 0002-03, 0103-04).

Appellants had a full and complete opportunity to present their arguments to the BZA and even hired legal counsel to appear and make arguments on their behalf. Mr. Alex Boone of the Hood Law Firm presented Appellants’ appeal to the BZA. (TOSI –VANNATTA 0003-04). Appellants argued that Section 21-75(B)(2) was unconstitutional because it (1) constitutes illegal spot zoning, and (2) it is “an arbitrary, capricious, and unreasonable exercise of power”. (TOSI –VANNATTA 0003, 0011). Appellants conceded that neither the BZA, nor Mr. Drayton, were the proper party to determine the constitutionality of Section 21-75. (TOSI –VANNATTA 0003-04) (“[Appellants] understand the Board itself is not able to overturn the Ordinance”).

Appellants asserted that Section 21-75(B)(2) constituted illegal spot zoning because out of the forty properties between Station 18 to Station 27, the Property was (*allegedly*) one of *five*

⁶ “The decision by Town Council to create this restriction within the RC-2 District **was not arbitrary or capricious**; it was considered over several meetings of the Planning Commission in 2003, before being forwarded to the Town Council for their consideration. The Town Council first took up the matter in September of 2003 and held discussions on the topic, involving a great deal of public input, over the following 7 months before casting its votes to codify the amendment in April 2004. The Town Council of Sullivan’s Island acted carefully in crafting, considering, and ultimately approving the laws that the Town has put in place to regulate private docks within the RC-2 District.” (TOSI –VANNATTA 0103).

⁷ “In this case, denying the dock permit has no detrimental impact to neighboring properties, and this property is not being singled out; it is part of a section of the Island that includes properties that abut over a mile of marshfront coastline where the Town has exercised its authority to maintain a high level of conservation within its Recreation and Conservation Zoning District.” (TOSI –VANNATTA 0103).

properties that could build a dock in the absence of that particular provision. **(TOSI –VANNATTA 0003).**

The BZA voted unanimously to deny Appellants' administrative appeal. **(TOSI – VANNATTA 0005).** On October 11, 2024, the BZA issued its Final Opinion regarding the Administrative Appeal. **(TOSI –VANNATTA 0035).** The BZA's Final Order noted:

Zoning Ordinance, Section 21-75 (B) 2 was validly enacted . . . after extensive public comment and input and consideration of both the Planning Commission and Town Council over a 7-month period, and after following the appropriate process for adopting and/or amending Town ordinances; further, the Board finds that Zoning Ordinance 21-75 (B) 2 is neither arbitrary nor capricious, but rather the ordinance is rationally related to a number of legitimate government purposes, including, but not limited to the preservation of the marsh area, the preservation of views, lessening environmental impact, and general conservation within the Recreation and Conservation Zoning District; finally the Board finds that 21-75 (B) 2 does not constitute impermissible Spot Zoning because it does not target a single parcel or relatively small parcel of land or single land owner, rather it includes properties that abut over a mile of marsh front coastline (looks like over thirty parcels)

(TOSI –VANNATTA 0035).

Appellants' also presented their variance request, which was also denied, at the September 12, 2024, BZA Meeting. The request for variance was two-fold, seeking relief from (1) the locational restrictions of Section 21-75(B)(2), and (2) the dock length limitations of Section 21-75(B)(2). **(TOSI –VANNATTA 0103).** Section 21-179, which mirrors S.C. Code Section 6-29-800, lays out the familiar hardship test⁸ that must be met for the BZA to grant a variance request.

⁸ (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;

(2) These conditions do not generally apply to other property in the vicinity;

(3) Because of these conditions, the application of the Zoning Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

(4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

(TOSI –VANNATTA 0128).

Mr. Drayton explained that “there have been no variances granted to allow either a dock within the boundaries of Stations 18 and 27, nor has there been a variance that allowed a dock to be longer than 300 feet since 2004.” (TOSI –VANNATTA 0002, 0103). Mr. Drayton also explained that Town Staff’s recommendation was to deny the variance request because Appellants did not satisfy the test.⁹ (TOSI –VANNATTA 0004, 0104).

Appellants argued that the Property is subject to extraordinary conditions because it is on the edge of the boundary of Station 18, and “there are no other conditions that would otherwise prohibit the [Appellants] from constructing a dock.” (TOSI –VANNATTA 0004). Counterintuitively, Appellants claimed the conditions do not generally apply to other properties in the vicinity because the Property is (allegedly) one of five properties in the restricted area that could potentially build a dock absent the provisions of Section 21-75(B)(2). (TOSI –VANNATTA 0004). Appellants also asserted that the dock prohibition unreasonably restricts the Property because of its location near the water. (TOSI –VANNATTA 0004). Appellants also asserted that allowing a dock would not serve as a detriment to adjacent property or the public good because a home that is four lots down from the Property has a dock. (TOSI –VANNATTA 0004).

⁹ “1) The restrictions that prohibit a dock in this location are two-fold: the location is not permitted and the distance from the private property to the navigable waters is farther than the ordinance allows. These conditions exist for properties that stretch for over a mile along the marsh front to the east of the subject property, affecting 39 properties. The distance to navigable waters cannot exceed 300 feet, per the ordinance, and there are 47 properties to which this condition is prohibitive.

2) If neither regulation existed all of the affected properties may be able to construct docks out to navigable waters, so this concern is not limited to the subject property or a "very few" as the application states.

3) Not having a dock does not prohibit or restrict the primary use of the property, which is in the RS, Single-Family Residential District, and it is developed with a single-family home.

4) Between Stations 18 and 27 there are only a few impediments in the pristine marsh habitat; a dock would change the views of the marsh from neighboring properties, as well as chip away at a vast uninterrupted marsh area that is critical natural habitat.” (TOSI –VANNATTA 0003, 0104).

The BZA unanimously voted to deny Appellants variance request:

[Appellants] have not shown that the application of the ordinance would result in unnecessary hardship because there is nothing that has been shown that would evidence that there are extraordinary exceptional conditions pertaining to this piece of property that do not apply to others; there is nothing that can be shown that the conditions don't generally apply to properties in the vicinity; [Appellants] have not shown that the property would effectively be prohibited from use or unreasonably restricted in its use; [Appellants] have not established that if we give the variance, [Appellants] have not shown there [will] not be a substantial detriment to the adjacent property or the general public; and [Appellants] have not shown that granting the variance would not harm of the character of the district where it's located

(TOSI –VANNATTA 0004).

Pursuant to S.C. Code Sections 6-29-820(B)(2) and 6-29-825(A), Appellants filed a Notice of Appeal and requested prelitigation mediation on November 10, 2025. (**Appellants' Not. of Appeal at pp. 1-3, filed Nov. 11, 2024**). Mediation was held but ended in an impasse. Appellants then filed their Appeal Petition on February 06, 2024. (**Appellants' Pet. for Appeal at pp. 1-8, filed Feb. 06, 2025**).

STANDARD OF REVIEW

When reviewing a decision of the BZA, the Court “must determine only whether the decision of the board is correct as a matter of law.” S.C. Code § 6-29-840(A); Austin v. Bd. Of Zoning Appeals, 362 S.C. 29, 33, 606 S.E.2d 209, 211 (Ct. App. 2004). On appeal from the BZA, “[t]he findings of fact by the [BZA] must be treated in the same manner as findings of fact by a jury, and the court may not take additional evidence.” Austin, 362 S.C. at 33, 606 S.E.2d at 211 (citing S.C. Code § 6-29-840(A)). “[A] court will uphold the decisions of a reviewing body if **there is any evidence** in the record to support its decision.” Clear Channel Outdoor v. City of Myrtle Beach, 360 S.C. 459, 466, 602 S.E.2d 76, 79 (Ct. App. 2004), aff'd, 372 S.C. 230, 642 S.E.2d 565 (2007) (bold added). Even if a court disagrees with the BZA's decision, it will not substitute its

own opinion for that of the BZA. Austin, 362 S.C. at 33, 606 S.E.2d at 211. A decision of the BZA will only “be overturned if it is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the [BZA] has abused its discretion.” Id. (internal quotation omitted).

The party challenging an ordinance’s validity bears the burden of proving by “clear and convincing evidence that the acts of the city council were arbitrary, unreasonable, and unjust.” Ani Creation, Inc. v. City of Myrtle Beach Bd. Of Zoning Appeals, 440 S.C. 266, 279, 890 S.E.2d 748, 754 (2023), cert. denied sub nom. Ani Creation, Inc. v. Myrtle Beach, 144 S. Ct. 556, 217 L. Ed. 2d 296 (2024). “[W]hen a local city council enacts a zoning ordinance after considering all of the relevant facts, the Court should not disturb the council’s action unless the council’s findings were arbitrary and capricious or had no reasonable relation to a lawful purpose.” Id.

DISCUSSION

I. As An Initial Matter, Appellants’ Challenge To the Validity of the Zoning Ordinance Is Time Barred by S.C. Code 6-29-760(D).

Section 21-75(B)(2) was last amended in 2004, well before Appellants purchased the Property and almost two decades before they brought this challenge to the validity of Section 21-75(B)(2). Pursuant to South Carolina law, the challenge is untimely and must be rejected. S.C. Code § 6-29-760(D) provides:

*No . . . challenge to the validity of a regulation or map, or amendment to it, whether enacted before or after the effective date of this section, may be made **sixty days after the decision of the governing body** if there has been substantial compliance with the notice requirements of this section or with established procedures of the governing authority or the planning commission.*

S.C. § Code 6-29-760(D) (double emphasis added). In Quail Hill, LLC v. County of Richland, Section 6-29-760(D) was applied in holding that the purchaser of real property was statutorily barred from challenging the validity of zoning ordinances enacted nearly thirty years earlier. Quail Hill, LLC v. County of Richland, (Ct. App. 2008) 379 S.C. 314, 665 S.E.2d 194, reh’g denied,

cert. granted, aff'd in part, rev'd in part, 387 S.C. 223, 692 S.E.2d 499 (“Initially Buyer contends there is a material issue of fact as to whether County validly enacted its 1978 zoning ordinances. We agree with the circuit court that Buyer is statutorily barred from challenging the validity of the zoning ordinance at this juncture.”).

Therefore, because the appeal presents an untimely challenge to the validity of zoning regulations and map, it must be denied and the BZA affirmed in full.

II. The BZA’s Decision Should Be Affirmed Because the Evidence Before the BZA Fully Supports the Denial of Appellants’ Administrative Appeal.

The BZA’s decision is correct as a matter of law because the evidence before the BZA demonstrates that Section 21-75(B)(2) does not constitute illegal reverse spot zoning, nor was its enactment unconstitutional. Section 21-75(B)(2) cannot constitute spot zoning, and if it does, it is legally permissible because it adheres to the Town’s Comprehensive Plan and promotes the general welfare. Further, Section 21-75(B)(2) cannot be unconstitutional when it is neither arbitrary nor capricious and it was validly enacted.

A. Section 21-75(B)(2) does not constitute reverse spot zoning because it affects over a mile of marsh front properties and did not create a zoning “island” by rezoning the properties around the Property.

The BZA’s decision must be affirmed because Section 21-75(B)(2) does not constitute reverse spot zoning. The evidence in the Record indicates that Section 21-75(B)(2) affects over a mile of marsh front property. “Traditional spot zoning occurs when a small parcel of land is singled out for a use classification different from that of the surrounding area, for the benefit of the parcel's owner(s) and to the detriment of others.” Ani Creation, 440 S.C. at 281, 890 S.E.2d at 756. The legislative act must benefit the parcel subject to it to the detriment of the surrounding properties; typically, the enactment relieves a parcel of a restriction that the properties in its vicinity remain subject to. Id. 440 S.C. at 281-82, 890 S.E.2d at 756.

Whereas “reverse spot zoning occurs when a zoning ordinance restricts the use of a property when virtually all the property’s adjoining neighbors are not subject to the use restriction.” Id. 440 S.C. at 282, 890 S.E.2d at 756 (citing 83 Am. Jur. 2d Zoning and Planning § 89). Reverse spot zoning is typically the result of “changes to the zoning map around the parcel at issue.” Ani Creation, 440 S.C. 266, 282, 890 S.E.2d 748, 756. Reverse spot zoning is often characterized by a “zoning island” that develops through the failure to rezone a particular parcel rather than from an affirmative legislative act. Id. 440 S.C. 266, 282, 890 S.E.2d 748, 756 (“reverse spot zoning occurs where a zoning ‘island’ develops as the result of a municipality’s failure to rezone a portion of land to bring it into conformity with similar surrounding parcels that are otherwise indistinguishable.”).

Through the Ordinance, the Town prohibited residential docks in the RC-2 District originally enacted in 1980. **(TOSI –VANNATTA 0059, 0103, 0129)**. The Town modified the blanket restriction through an amendment allowing docks that did not exceed three-hundred feet in 1996. **(TOSI –VANNATTA 0131)**. The Town enacted the final amendment to Section 21-75, prohibiting docks between Stations 18 and 27, in 2004, over a decade prior to Appellants purchasing the Property. **(TOSI –VANNATTA 0107)**. Appellants then purchased the Property subject to the restrictions they now challenge. **(TOSI –VANNATTA 0002, 0110-15)** (noting the language in the deed states: “**SAID** property is subject . . . to all applicable governmental statutes, ordinances, rules and regulations.”).¹⁰

¹⁰ It is worth noting that one of the Appellants personally applied to the BZA for a variance request from one of the restrictions in the RC-2 District prior to purchasing the Property. Specifically, on May 09, 2014, Paul Vannatta applied for a variance request to the BZA for a reduction in the thirty-foot critical line setback requirement in the RC-2 District. **(TOSI –VANNATTA 0008, 0021-22, 0048)**. Vannatta sought to install an in-ground pool in his backyard upon the construction of the current building at the Property. **(TOSI –VANNATTA 0002, 0110-15)**. Bill Huey, an architect, presented Vannatta’s application to the BZA on June 12, 2014, claiming that the RC-2 District restrictions unreasonably burdened the utilization of the property. **(TOSI –VANNATTA 0008-09)**.

Appellants wrongfully claim that Section 21-75(B)(2) constitutes reverse spot zoning. Their argument mainly rests on the fact that they received approval from the OCRM and the Army Corps of Engineers to construct a dock, whose standards allow docks up to one-thousand feet, and that Appellants possess one of the few parcels that could feasibly build a dock absent this restriction. **(TOSI –VANNATTA 0003, 0468-512)**. Those contentions fail for numerous reasons.

“[S]pot zoning challenges generally require proof the ordinance has affected a single landowner.” Ani Creation, 440 S.C. at 284, 890 S.E.2d at 757 (citation omitted). Appellants are not singled out because they are part of a section of the Island that includes properties that abut over a mile of marsh front coastline. Section 21-75(B)(2)’s restrictions apply to thirty-nine other properties to the east of the Property and the dock length restriction even applies to properties outside the centerline extensions of Station 18 and 27. **(TOSI –VANNATTA 0062)**. Appellants even admit that by their calculations four other properties between Stations 18 and 27 could build a dock absent Section 21-75(B)(2). In fact, only one dock exists between the centerline extensions of Station 18 to Station 27—a community dock which is a legal non-conforming structure built *prior* to the 2004 Amendment. **(TOSI-VANNATTA 0107)**. There is no evidence in the Record supporting any argument that all the adjoining parcels are not subject to the restriction, especially when Section 21-75(B)(2) subjects one of the two marsh front properties the Property touches to the same restriction, along with all the properties for a mile east of the Property. Ani Creation, 440 S.C. at 279, 890 S.E.2d at 754; **(TOSI-VANNATTA 0594, 0604)**.

Appellants’ arguments related to the approval of their plans by OCRM and the Army Corps of Engineers fail as well. At the BZA Meeting, Appellants conceded that “the Town is able to make

Ultimately, the BZA denied the request for variance because the test for hardship was not met. **(TOSI –VANNATTA 0010)**.

more restrictive rules [than] OCRM and the Army Corps of Engineers.” (TOSI –VANNATTA 0005); see also S.C. Code § 5-7-30. Further, both OCRM and the Army Corps of Engineers permits require that Appellants receive approval from local governments and comply with local ordinances. (TOSI –VANNATTA 255) (noting the OCRM permit states: “[t]his permit does not relieve the permittee . . . from the necessity of complying with all applicable local laws, ordinances, and zoning regulations.”); (TOSI –VANNATTA 0510) (noting the Army Corps of Engineers permit requires the applicant to obtain “any other required Federal, State or local authorizations” prior to starting work). Those permits are *only* valid if the Town issues its required permit.

Further belying the claim that Section 21-75(B)(2) was reverse spot zoning is that it did not create a “zoning island.” The area between Stations 18 and 27 was not rezoned while the Property was left behind. Rather just like the contested ordinance in Ani Creation, this was an affirmative legislative act that prohibited a specific use between Stations 18 and 27. Therefore, because Section 21-75(B)(2) does not treat the Property differently than the parcels surrounding it and Section 21-75(B)(2) is an affirmative legislative act—not a failure to rezone the Property in conformity with the parcels in its vicinity creating “zoning island”—this Court should find Section 21-75(B)(2) does not constitute impermissible reverse spot zoning.

B. Even if the Court were to find that Ordinance Section 21-75(B)(2) constituted reverse spot zoning, the BZA’s decision should be affirmed because Section 21-75(B)(2) adheres to the Town’s Comprehensive Plan and promotes the public welfare.

Even if Appellants could prevail on their argument that Section 21-75(B)(2) is reverse spot zoning, the inquiry would not end there and the BZA should still be affirmed. Spot zoning is not illegal *per se* in South Carolina. See Ani Creation, 440 S.C. at 282, 890 S.E.2d at 756. If a court finds that an ordinance creates spot zoning, the court analyzes two factors: “(1) the adherence of the zoning to the City’s comprehensive plan; and (2) promotion of the good of the common

welfare, but to only correct injustices which are clearly shown.” Id. 440 S.C. at 283, 890 S.E.2d at 756-57 (citing Knowles v. City of Aiken, 305 S.C. 219, 223, 407 S.E.2d 639, 642 (1991)). “Courts cannot become city planners but can only correct injustices when they are clearly shown to result from the municipal action”. Talbot v. Myrtle Beach Bd. Of Adjustment, 222 S.C. 165, 175, 72 S.E.2d 66, 70 (1952).

1. Section 21-75(B)(2)’s restriction of docks between Stations 18 and 27 adheres to the Town’s Comprehensive Plan.

Section 21-75(B)(2) complies with the Town’s Comprehensive Plan’s goals of limiting residential construction that would otherwise impede the viewshed that the Comprehensive Plan¹¹ seeks to preserve.

Courts in this State “*are bound* to afford *substantial deference* to the decisions of those charged with interpreting and applying local zoning ordinances.” Clear Channel, 360 S.C. at 465, 602 S.E.2d at 79 (double emphasis added). In zoning matters, municipal actions are presumptively valid unless a challenger proves its invalidity. Harbit v. City of Charleston, 382 S.C. 383, 390, 675 S.E.2d 776, 789-80 (Ct. App. 2009), as amended (May 4, 2009).

In Ani Creation, the city of Myrtle Beach’s (hereinafter “Myrtle Beach”) comprehensive plan noted its goal was to foster tourism and create revenue. Ani Creation, 440 S.C. at 274, 890 S.E.2d at 752. The comprehensive plan stated that residents, tourists, and businesses were concerned with perceptions surrounding Myrtle Beach related to crime and undesirable visitors. Id. 440 S.C. at 274-75, 890 S.E.2d at 752. In order to combat “crime and the perception of crime”

¹¹ Before getting into the details, it is worth noting how this element relates to the timeliness argument in the first section of this brief. The case law presumes that the ordinance was passed after the most recent comprehensive plan was adopted. Here, the challenge is so far past the time for challenging a zoning ordinance that the Comprehensive Plan post-dates Section 21-75(B)(2). While this entire appeal should be dismissed on those grounds, Respondent still addresses the relationship of the Comprehensive Plan to Section 21-75(B)(2).

and to foster a family-friendly environment that would increase tourism, Myrtle Beach enacted an ordinance to displace stores that promoted drugs, displayed lewd materials, or that were “‘repulsive’ to families” Id. Myrtle Beach’s city council noted that the ordinance’s purpose was to promote “‘public health, safety, and general welfare’” and to mitigate the stores’ “‘negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses.’” Id. A group of stores affected by the ordinance challenged it, claiming the ordinance constituted reverse spot zoning. Id. 440 S.C. at 284, 890 S.E.2d at 757. The Court found the ordinance clearly advanced the objectives of Myrtle Beach’s comprehensive plan. Id. 440 S.C. at 274-75, 285-86, 890 S.E.2d at 752-53, 758-59; see also Knowles v. City of Aiken, 305 S.C. 219, 223-24, 407 S.E.2d 639, 642 (1991) (finding that the challenged ordinance was congruent with the City of Aiken’s comprehensive plan).

Town’s Comprehensive Plan (the “Comprehensive Plan”) identifies several Town characteristics considered in the planning process including “[o]penness of the landscape.” (TOSI –VANNATTA 0585) (“The Island exhibits a park-like appearance with **expansive views** and openness.”) (bold added). According to the Comprehensive Plan, the “uses have changed very little” in its sixty-year existence as a residential community. (TOSI –VANNATTA 0587) In describing specific land uses within the Town, the “conservation” use notes the “Town Marsh **cannot be improved on and should be maintained in its natural state.**” (TOSI –VANNATTA 0587) (bold added). Further, the Comprehensive Plan describes the “recreation/conservation” use area where Appellants seek to build their dock and specifically called out that docks are only allowed where permitted under existing ordinances:

RECREATION/CONSERVATION: Recognizes limited use of land for recreational purposes (i.e. docks where otherwise permitted by applicable laws and regulations), but otherwise envisions long-term preservation of the land without

commercial activity or subdivision, with minimal impact on the view corridor. This land use pertains to both marsh and ocean front areas (RC1 and RC2).

(TOSI –VANNATTA 0587) (bold added); **(TOSI –VANNATTA 0586)** (illustrating a map with these zoning uses). Notably, the Future Land Use provision of the Comprehensive Plan provides for a “continuation of the established land uses set forth in the previous Comprehensive Plan.” **(TOSI –VANNATTA 0590)**.

Similar to Ani Creation and Knowles, the Comprehensive Plan’s stated purpose, aligns with the purpose of Section 21-75(B)(2). The Comprehensive Plan and Section 21-75(B)(2) focus on maintaining the Island’s natural state, with a specific focus on preserving the viewshed. **(TOSI –VANNATTA 0587)**. The Comprehensive Plan notes specifically that docks are prohibited in the RC-2 District, providing an exception if a dock is “otherwise permitted by applicable laws and regulations”. **(TOSI –VANNATTA 0587)**. This intent is consistent as well throughout Section 21-75(B)(2)’s legislative history. **(TOSI –VANNATTA 0002, 0139-88)**. The Comprehensive Plan inherently recognizes the 2004 Amendment to Section 21-75 through its description of the RC-2 District, and notes the Ordinance was “a result of a substantial process of public involvement during 2002-2004, in response to residents’ growing concerns over the increasing amount of residential construction”. **(TOSI –VANNATTA 0587, 0590)**. Further, the Comprehensive Plan does not anywhere envision docks in the area of the Property.

Therefore, the Record fully supports that Section 21-75(B) is consistent with the Town’s Comprehensive Plan. Additionally, the fact that the applicable Comprehensive Plan is for 2018-2020 and the challenged ordinance was passed more than a decade before it is another reason it cannot be inconsistent with the current Comprehensive Plan.

2. Section 21-75(B)(2) promotes the public welfare and does not result in clear injustice to Appellants.

If a city finds an ordinance furthers the public welfare of its citizens, a Court should not contravene this finding even if it disagrees. Knowles, 305 S.C. at 223 407 S.E.2d at 642. Further if any inference can be drawn that an ordinance promotes the general welfare, courts will not find it is impermissible under the two-factor test for if spot zoning is illegal. Ani Creation, 440 S.C. at 284, 890 S.E.2d at 757 (noting a court should uphold a municipality's action if it is even "fairly debatable").

Section 21-75(B)(2) supports the public welfare by keeping the marsh free of impediments to recreation and preserving the Town's natural features. Like Ani Creation and Knowles, a multitude of residents opposed/complained about the Appellants' variance request. **(TOSI – VANNATTA 0218-29); (TOSI –VANNATTA 0194)** (noting three residents on Appellants' own street opposed the construction of a dock). Further, no injustice occurs because of this restriction, Appellants do not have a diminished use in their property, which is zoned as a single-family home. The Record further demonstrates this point because the prior owners of the Property were able to enjoy their property and use of the marsh without a dock. **(TOSI –VANNATTA 0211).**

Therefore, because the Ordinance Section 21-75(B)(2) promotes the goals of the Comprehensive Plan and because it benefits the public welfare, even if this restriction results in spot zoning, it is legally permissible.

- C. **The Record fully supports that Ordinance Section 21-75(B)(2) does not deprive Appellants of their substantive due process or equal protection rights.**

Section 21-75(B)(2) does not violate Appellants' substantive due process rights and there is no basis for their argument that it is arbitrary and capricious. Additionally, Section 21-75(B)(2)

does not violate Appellants' equal protection rights because it is rationally related to a legitimate government purpose.

1. Section 21-75(B)(2) does not violate Appellants' substantive due process rights because it is not arbitrary, capricious, or unreasonable.

Appellants assert that Section 21-75(B)(2) is arbitrary, capricious, unreasonable and a violation of substantive due process. For the reasons explained herein that argument should be rejected.

“The authority of a municipality to enact zoning ordinances, restricting the use of privately owned property is founded in the police power.” McMaster v. Columbia Bd. of Zoning Appeals, 395 S.C. at 505, 719 S.E.2d at 663 (citation omitted). Courts presume zoning enactments are constitutional and must make every inference in favor of an ordinance's constitutionality. Id. 395 S.C. at 504, 719 S.E.2d at 662-63. Courts should not disturb an ordinance “[w]hen the planning commission and the city council of a municipality have acted after reviewing all of the facts.” Harbit, 382 S.C. at 391, 675 S.E.2d at 780. Denying a landowner of the most beneficial use of their land is not grounds for a due process violation. Id. 382 S.C. at 394, 675 S.E.2d at 782. Court's must determine an ordinance's validity “in connection with the locality and surrounding circumstances.” McMaster, 395 S.C. at 505, 719 S.E.2d at 664; see Denene, Inc. v. City of Charleston, 359 S.C. 85, 596 S.E.2d 917 (2004) (finding an ordinance that restricted the bars' hours of operation did not violate the challengers' substantive due process rights because it was rationally related to maintaining public order, safety, and “quality of life in Charleston, while still allowing appellants to operate their businesses”).

Appellants substantive due process challenge is twofold (the geographic restriction and the dock length restriction). With regard to the geographic restriction, Appellants assert the BZA's interpretation of the facts presented was faulty. Specifically, they assert that only five properties

are affected by the geographic limitation on docks, even though there was evidence presented at the BZA that over a mile is covered by the boundary. First, it is worth noting again that the BZA's interpretation of the facts is entitled to the same deference as a jury verdict. Secondly, Appellants' argument fails either way. Even if the geographic limitation affected only five properties, there is no reason that would not pass the rational basis test or that it would be arbitrary and capricious for the Town to implement such an ordinance.

With regard to the length restriction, Appellants' argument seems to be that because Appellants obtained an OCRM permit and Army Corps of Engineers permit the proposed dock was consistent with the intent behind the Town's length restrictions. This argument makes no sense. First, as has been stated, those permits are conditioned upon obtaining Town approval (meaning compliance with the length restrictions). Second, Appellants forget that the BZA's factual findings are treated like those of a jury. Even if the BZA's discussion was not an exact match to the reasons the length restriction was originally passed, that does not change the fact that the reasons the length restriction was passed were sufficient to meet the rational basis test.

2. Appellants substantive due process claim must be rejected because Section 21-75(B)(2) does not violate their right to substantive due process and there is no dispute about the BZA's application of Section 21-75(B)(2).

Significantly, while much of Appellants' Brief is nit picking of statements at the BZA, Appellants' challenge has nothing to do with the BZA's interpretation of the Section 21-75(B)(2). While they argue about comments at the BZA, those are irrelevant when there is no dispute the BZA properly applied 21-75(B)(2).

While not addressed at any length by Appellants, it is worth quickly discussing that the Record fully supports that both challenged provisions of Section 21-75(B)(2) are legitimate government actions. Section 21-67 (A) & (B) include a lengthy discussion of the findings of fact

and intent of the restrictions in the RC districts, which include these dock restrictions at issue here, including that the areas should be maintained in their natural state for the enjoyment of citizens. See Ex. 1.

While the BZA is not tasked with passing ordinances or developing the reasons for ordinances, it is worth noting that the Record contains the Minutes from the rigorous seven-month process where the Planning Commission and Town Council publicly vetted and voted to approve the current form of Section 21-75(B)(2). (**TOSI –VANNATTA 0139-88**). Section 21-75(B)(2) was part of a series of amendments that were the “result of a substantial process of public involvement during 2002-2004”. (**TOSI –VANNATTA 0587, 0590**).

Ultimately, this Court should not find Section 21-75(B)(2) unconstitutional because it was enacted after the Town Council and Planning Commission reviewed all the facts and adopted it in furtherance of legitimate objectives as stated in the Zoning Ordinance. Harbit, 382 S.C. at 391, 675 S.E.2d at 780.

Other evidence in the Record supports that Section 21-75(B)(2) serves a valid purpose as well. The Record also contains pictures¹² that show the importance of preserving this area as it serves people of all ages and hobbies.¹³ (**TOSI –VANNATTA 0195-202**). The photos show from

¹² Appellants include a discussion of Rockville Haven, LLC v. Town of Rockville, 714 S.E.2d 277, 278, 394 S.C. 1, 3 (2011). Reliance on that case is misplaced. That cases concerned a board’s determination that a particular structure impeded a scenic view. Id. (noting the ordinance states that “proposed structures shall not impede scenic rural views from the main road, from existing structures or from natural settings.”). Here the BZA did not find, nor did it have to find as a factual matter, that this dock would impede any view. There was mention of the protection of various views as part of the calculus for the specific restrictions that Town Council passed.

¹³ (**TOSI –VANNATTA 0195-202**) (noting members of the “community stop by frequently to rest, relax and enjoy the unobstructed views” and depicting people using the area where the dock is planned to be located for fishing, photography, kayaking, bird watching, creating tik-toks, paddleboarding, and enjoying the expansive marsh in its natural state).

a first-person perspective what the view at the Property looks like and the area that Appellants' dock will impact. **(TOSI –VANNATTA 0195-202)**. The pictures also illustrate that “this property is not being singled out; **it is part of a section of the Island that includes properties that abut over a mile of marsh front coastline** where the Town has exercised its authority to maintain a high level of conservation within its Recreation and Conservation Zoning District.” **(TOSI – VANNATTA 0107)** (bold added); see also **(TOSI –VANNATTA 0219)** (depicting letter from the Coastal Conservation League that notes that docks are “[h]ard structures that disrupt the marsh landscape can contribute to run-off and the die-off of marsh grasses; this can devastate local ecosystems, impairing water quality.”)

Section 21-75(B)(2) furthers the Town's goal of preserving natural habitat by limiting the area and length for docks. See Section 21-67(A) & (B)¹⁴. Similar to McMaster, the restrictions of Section 21-75(B)(2) are a valid government action because it furthers the goal of preventing dock congestion between Stations 18 and 27 among other things. Further, like the ordinance protected the area's character in Harbit, Section 21-75(B)(2) protects the character of the coastline/viewshed and is a valid government purpose. Therefore, since Section 21-75(B)(2) is legitimately related to a government purpose, it cannot be found to be arbitrary or capricious.

¹⁴ Section 21-67 (B):

The RC Areas shall be preserved in their natural state, . . . as areas of recreation and conservation for the purpose of protecting the ecology, the adjoining property, and the environment, and enhancing and protecting the safety and welfare of the Town and its residents. Further, any activity shall be prohibited in these areas that would detract from their natural state, including, but not limited to, the activities stated herein, so as to maintain this natural state for the public enjoyment and as protection for the Town and all of its citizens against the dangers and erosion as delineated in the above Findings of Fact.

3. Appellants' substantive due process claim fails for the additional reason that Appellants held no interest in the Property prior to the creation of Section 21-75(B)(2) and because they took title subject to the restriction and with knowledge of it.

Additionally, Appellants' substantive due process claim should be rejected because the Appellants held no interest in the property prior to the creation of the challenged portions of the Zoning Ordinance and because they took title subject to the restriction and with knowledge of it. In Harbit, Harbit bought a house from its prior owner and tried to rezone it for use as an attorney's office. Harbit, 382 S.C.at 388, 675 S.E.2d at 778. Prior to Harbit's purchase of the property, he was aware that the prior owner tried to rezone the property, and that the city denied the prior owner's request. Id. That property was in the Savannah Highway Overlay Zone (the "Zone"), which was created by ordinance after a study analyzed the various property uses in the area. Id. Pursuant to this study, the city developed a plan, "which identified the need to maintain residential uses in the Zone, despite increased commercialization." Id. The plan allowed certain properties along the street where Harbit purchased his property to be used for similar purposes and allowed several other properties to be rezoned for limited commercial use, the use Harbit sought to achieve. Id. 382 S.C.at 388, 675 S.E.2d at 778-79. Ultimately, the City Council denied Harbit's request for rezoning because it conflicted with the goal of promoting the residential character of the area within the Zone. Id. 382 S.C. at 388-89, 675 S.E.2d at 778-79. Harbit challenged that denial on substantive due process grounds. Id. 382 S.C. at 394-95, 675 S.E.2d at 782. The Court found that Harbit did not prove a due process violation because he held no interest in the property prior to the creation of the Zone and because he was aware of the property's restrictions before his purchase:

First, Harbit did not have a prior property interest in commercial zoning. While Harbit may have purchased the property with the expectation that City Council would grant his application, this alone is insufficient to establish a violation of his constitutional rights.

Id. 382 S.C. at 395, 675 S.E.2d at 782.

Here, the substantive due process claim must be denied because the Appellants held no interest in the property prior to the creation of the Zone and because they took title subject to the restriction and with knowledge of it.

4. Section 21-75(B)(2) does not violate Appellants' equal protection rights because it is not arbitrary, capricious, or unreasonable and passed the rational basis test.¹⁵

Under rational basis review, the Record establishes that Section 21-75(B)(2) relates to a legitimate government purpose, treats all those property owners those between Stations 18 to 27 equally, and forms its rule on a rational basis. The Equal Protection Clause of the Fourteenth Amendment provides “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. When an equal protection challenge does not involve a suspect class, a quasi-suspect class, or a fundamental right, the challenge receives rational basis review. Ani Creation, 440 S.C. at 285, 890 S.E.2d at 758. Equal protection challenges to zoning ordinances receive rational basis review. Id. When “(1) the classification bears a reasonable relation to the legislative purpose sought to be affected; (2) the members of the class are treated alike under similar circumstances and conditions; and [] (3) the classification rests on some reasonable basis” a zoning issue survives a rational basis challenge. Id. (citation omitted). Challenging a legislative enactment is an uphill battle, and the challenger must show there is **no basis** which might support it. Id. Stated differently, they must show by clear and convincing evidence the regulation is arbitrary and capricious. Id. 440 S.C. at 286, 890 S.E.2d at 758; see also Dunes West Golf Club, LLC v. Town of Mount Pleasant, 401 S.C. 280, 298, 737 S.E.2d 601, 610 (2013).

¹⁵ Appellants' equal protection argument is only directed to the geographic restriction and Appellant does not challenge the length restriction on equal protection grounds.

In Ani Creation Myrtle Beach enacted the ordinance for the purpose of promoting a family appropriate environment, satisfying the first prong of the rational basis test. Id. 440 S.C. at 286, 890 S.E.2d at 758. The fact that the zoning administrator received complaints about the stores prior to the ordinance's enactment bolstered this analysis. Id. 440 S.C. at 285-86, 890 S.E.2d at 758. Since the overlay district "corresponded with the boundaries of the historic downtown area . . . as was practical", only excluding a busy highway where families could not walk and two properties that expanded several blocks, the court found the second and third elements were satisfied, passing rational basis review. Id.

In Denne, the City of Charleston enacted an ordinance requiring bars to stop serving alcohol between 2:00 AM and 6:00 AM Mondays through Saturdays. Denene, Inc. v. City of Charleston, 359 S.C. 85, 90, 596 S.E.2d 917, 920 (2004). The purpose of the ordinance was to "alleviate problems caused by intoxicated people in Charleston during the proscribed hours." Id. 359 S.C. at 92, 596 S.E.2d at 920. The court there found that the ordinance was rationally based because "Council, after allowing debate and public input, determined that the operation of bars between 2 a.m. and 6 a.m. had detrimental effects on the quality of life of residents and upon the city in general. Council legitimately sought to address those problems by enacting the ordinance." Denene, 359 S.C. at 93, 596 S.E.2d at 921.

As discussed above, Section 21-75(B)(2) is neither arbitrary nor capricious. Just as the ordinance in Ani Creation was meant to protect families from lewd content and the ordinance in Denne protected citizens from crime, Section 21-75(B)(2) seeks to protect the natural beauty of the Town, specifically the marsh. As the Town Staff Report notes, this ordinance was made after seven long months of vigorous debates and public involvement. **(TOSI –VANNATTA 0107, 0138-88, 0590).**

Further, just as the boundaries made practical sense in Ani Creation, the boundaries here are meant to preserve the marsh's natural beauty and view. All the residents who are subject to the restriction have unique properties that border the marsh. (TOSI –VANNATTA 0054). Additionally, Section 21-75(B)(2) affects at least thirty-nine properties, and the BZA has not granted any variance since the 2004 amendment. (TOSI –VANNATTA 0106-08). This area is zoned specifically to preserve the natural area and keep the small town feel of Sullivan's Island. (TOSI –VANNATTA 0585, 0587). The class is treated similarly because Section 21-75(B)(2) affects the properties the same way. See (TOSI –VANNATTA 0574).

Therefore, Appellants' equal protection claim must be rejected.

III. The BZA's Decision Should Be Affirmed Because the Evidence Before the BZA Fully Supports the Denial of Appellants' Variance Request.

The BZA's Denial of Appellants' variance request should be affirmed because they failed to show that they experienced any undue hardship. "When deciding whether to grant a variance, a local board must be guided by standards which are specific in order to prevent the ordinance from being invalid and arbitrary." Rest. Row Assocs. v. Horry Cnty., 335 S.C. 209, 214, 516 S.E.2d 442, 445 (1999). The challenger of the denial of a variance request has the burden of proving they are entitled to a variance. Section 21-179 provides that the BZA may grant a variance to an individual if they experience unnecessary hardship. There is a four-part test:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of the Zoning Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

(TOSI –VANNATTA 0002, 0061); see also S.C. Code § 6-29-800.

The BZA determined the Appellants failed the first two items because the restriction does not only apply to them, but it applies to all properties “in the RC-2 Area District from the centerline extension of Station 18 to the centerline extension of Station 27.” **(TOSI –VANNATTA 0060, 0108)**. Section 21-75(B)(2)’s geographic prohibition affects thirty-nine other properties, while its dock length restrictions affect forty-seven properties total. **(TOSI –VANNATTA 0002, 0108-09)** (showing that a multitude of similarly situated properties also are subject to the same restrictions of Ordinance Section 21-75(B)(2)). Therefore, the BZA should be affirmed because other properties in its vicinity are affected. **(TOSI –VANNATTA 0002, 0108-09)**. Even Appellants admit other properties are affected.

Regarding the third part of the test, the primary use is not prohibited because the Property is zoned for Single Family Residential Use. **(TOSI –VANNATTA 0108, 0586)**. The absence of a dock does not prohibit or restrict the Property’s use as a single-family home. **(TOSI –VANNATTA 0108, 0586)**. In fact, the Record shows that the prior owners were able to enjoy the both the Property and the marsh without a dock. **(TOSI –VANNATTA 0196)** (depicting the prior owners enjoying the scenic views from the property as well as using the creek for recreational activities). Additionally, there is already public access to the marsh from a dock only a few streets over. **(TOSI –VANNATTA 0107)**.

Regarding the fourth part of the test, Appellants’ request is an attempt to move the goalpost because they are the final property in this restricted area. If the BZA granted this request, it would have a negative impact on the adjacent property owners because they too would request variances.

As discussed above, the public, including many residents living near the Appellants vigorously opposed their variance application. **(TOSI –VANNATTA 0218-29)**. As the Town Staff noted, granting the variance would “chip away at the vast marsh area that is critical natural habitat. **(TOSI –VANNATTA 0108)**).

None of the four-part test was satisfied. The BZA’s decision should be affirmed because it is supported by the record and correct as a matter of law.

CONCLUSION

For the foregoing reasons, the Respondent requests that this Court affirm the decision of the BZA and enter an Order dismissing this appeal.

Respectfully submitted,

May 23, 2025
Charleston, South Carolina

/s/ John P. Linton, Jr.

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ATTORNEYS FOR THE RESPONDENT

STATE OF SOUTH CAROLINA	*	COURT OF COMMON PLEAS
	*	
COUNTY OF CHARLESTON	*	TRANSCRIPT OF RECORD
-----X		
PAUL R. VANNATTA and	*	
JENNIFER S. VANNATTA,	*	
	*	
Plaintiffs,	*	
vs.	*	Case No. 2024-CP-10-05670
	*	
TOWN OF SULLIVAN'S ISLAND	*	
BOARD OF ZONING APPEALS,	*	
	*	
Defendant.	*	
-----X		

May 29, 2025

B E F O R E:

The Honorable Thomas J. Rode, Presiding Judge

A P P E A R A N C E S:

Alex Boone, Esq.
Attorney for the Plaintiff

John Linton, Esq.
Attorney for the Defendant

Recorded by: OWL In-Courtroom Recording System

Court Transcriber: Bobbi Fisher, RPR
SC Official Court Reporter III

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E X H I B I T S

(None.)

COURT REPORTER/TRANSCRIBER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[sic]	Indicates the word is written as said
(Indiscernible)	Indicates word(s) is not known due to poor audio recording quality

P R O C E E D I N G S

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THE COURT: All right. Next up, we've got Vannatta versus Sullivan's Island BZA.

MR. BOONE: Good morning.

THE COURT: Good morning. I printed these out to get ready for my constitutional law lesson this morning.

We are here on 2024-CP-10-5670, Vannatta versus Sullivan's Island BZA. If counsel would just identify themselves for the record, please.

MR. BOONE: Your Honor, Alex Boone with the Hood Law Firm for Jennifer and Paul Vannatta.

THE COURT: Good to see you again, Mr. Boone.

MR. BOONE: Yes, sir.

MR. LINTON: John Linton for the respondents.

THE COURT: Good to see you.

All right. Mr. Boone, this is your appeal. I have read your brief. I'm happy to hear from you.

MR. BOONE: Yes, sir, Your Honor, and may it please the Court.

As a matter of initial housekeeping, this hearing was initially set back at the end of March or actually at the very beginning of April. My clients were able to appear at that hearing. We consented to a continuance with Mr. Linton. We both consented to setting the hearing on this term.

With that in mind, today was a day where they had plans

1 to drive up northeast to pick their son up from school and
2 bring him home, so that's why they're not here today, but they
3 have indicated that they would like to move forward today.
4 We're ready to move forward today, just in case the Court was
5 wondering where we're at.

6 THE COURT: They've got very astute people out here on
7 their behalf, so I'm sure (indiscernible).

8 MR. BOONE: Yes, sir.

9 Your Honor, this appeal is -- as the brief indicates --
10 is a little bit unique to what perhaps is -- is often seen in
11 the courts or before the Board of Zoning Appeals. This appeal
12 is not about whether a particular statute is applicable or
13 whether a particular statute was interpreted correctly. This
14 appeal is about two regulations within the statute that are
15 unconstitutional for various reasons.

16 Well, to begin with, my clients obtained permits from the
17 OCRM and Corps of Engineers to construct a dock at their
18 property at 1802 Back Street within the Town of Sullivan's
19 Island. They applied for a dock permit with the Town of
20 Sullivan's Island. They were denied that dock permit.

21 We brought the case to the Board of Zoning Appeals, had
22 that meeting back in September, and the denial of the permit
23 and the request for a variance were both denied, and so here
24 we are.

25 THE COURT: What -- what -- are we appealing the

1 variance -- the Order on the variance?

2 MR. BOONE: Yes, Your Honor, we're appealing the BZA --

3 THE COURT: You're appealing both.

4 MR. BOONE: -- affirmation of denying the dock permit and
5 denial of the variance request.

6 THE COURT: Is that sort of -- well, anyway, continue. I
7 don't know how to articulate the question that I have in mind.

8 MR. BOONE: If I can anticipate what I think your
9 question may be, where you're going with that is whether
10 there's two contradictory --

11 THE COURT: Well, yeah.

12 MR. BOONE: -- whether it's contradictory to the appeal.

13 THE COURT: Yes.

14 MR. BOONE: The variance request is an alternative
15 argument. Our primary argument is that the ordinance -- the
16 two regulations within the ordinance governing the permit are
17 unconstitutional. Alternatively, we're entitled to the
18 variance.

19 THE COURT: Right, but you don't need a variance -- well,
20 requesting a variance assumes that the ordinance is
21 constitutional.

22 MR. BOONE: That would be -- that would be correct, the
23 variance being that the necessary hardship problem, a valid
24 constitutional (indiscernible).

25 THE COURT: I gotcha. I didn't mean to interrupt you.

1 MR. BOONE: So, as an initial matter, the respondent's
2 brief points out that -- it makes the argument that this
3 appeal is time-barred. And that reference to the statute is
4 -- and reliance on that statute is misplaced. They cite to
5 Section 6-29-760(b). That statute is concerned with
6 challenges to the procedural validity of a zoning ordinance.

7 And so if the argument here were that the zoning
8 ordinance were -- was never validly enacted, that the notice
9 requirements were not followed, that the proper procedure was
10 not followed, that this is an invalid ordinance, the statute
11 says you have 60 days from the passage of that ordinance to
12 challenge that.

13 And that's not what this appeal is about. I think that
14 that reference in the case that they cited, the Quail Hill
15 case, is -- it is misplaced. This appeal is not time-barred.
16 And, quite frankly, I wouldn't imagine that any kind of
17 constitutional challenge to any ordinance would be time-barred
18 within 60 days from its passage. That would be inapplicable
19 with and, quite frankly, an unconstitutional ordinance in and
20 of itself if it were interpreted in any way.

21 Now, to the substance of this appeal, there are two
22 regulations within the ordinance, which is Section 21-75(b).
23 There are two operative regulations that we're dealing with
24 here. And, for our purposes, we'll call it the geographic
25 dock prohibition and the dock length restriction.

1 THE COURT: That's 18 to 27, and then the under 300 or
2 under 800 depending; right?

3 MR. BOONE: That's right. That's exactly right, Your
4 Honor.

5 So our brief is organized slightly differently, but I
6 think for purposes of oral argument for this hearing, it's
7 easiest just to talk about the geographic dock prohibition and
8 the dock length restrictions separately in terms of our
9 constitutional claims.

10 As to the geographic dock prohibition, there's three
11 reasons why this is unconstitutional: one being this is
12 illegal and impermissible for spot zoning; two being this does
13 not comply with substantive due process; three being this is
14 -- this does not comply with the equal protection clause.

15 THE COURT: You've got to prove both of those provisions
16 are unconstitutional; right? I mean -- is that fair?

17 MR. BOONE: Absolutely. As far as the geographic dock
18 ban and the dock length restriction, yes, correct. Yes, Your
19 Honor.

20 THE COURT: Okay.

21 MR. BOONE: So as to the geographic dock prohibition,
22 reverse spot zoning is a bit of a novel issue in South
23 Carolina. There's only one case before the Supreme Court
24 that's about two years old that has recognized and addressed
25 reverse spot zoning.

1 Essentially, the question of whether spot zoning is
2 illegal is broken down into two tests, and this has been
3 referred to as the Knowles and Talbot test. The first being:
4 Is this even spot zoning? If yes, you have to closely
5 scrutinize the regulation with the Town's comprehensive plan
6 and the promotion of the common good.

7 And the first question being: Is this spot zoning? Yes,
8 this is reversible -- reverse spot zoning. This is a land use
9 decision that singles out a parcel being my clients', the
10 Vannattas', property -- for different, less favorable
11 treatment than the neighboring properties.

12 And in the larger context of the geographic dock ban
13 itself, that is not what we are contending is the reverse spot
14 zoning. What is the reverse spot zoning is the fact that you
15 have a regulation that is, on its face, applicable to a mile
16 worth of waterfront property between Station 18 and
17 Station 27. In reality, the regulation is applicable to our
18 client's property, maybe a few others. And so you have this
19 overly broad --

20 THE COURT: Who -- that's -- that's a factual
21 determination. That's a factual argument. I saw you made
22 that in your brief.

23 Where -- how -- where is that supported? Who made that
24 determination? I think your brief says there's four -- four
25 lots in that span between 18 to 27 that could possibly have

1 docks or something -- something like that, but for -- but for
2 this restriction could have docks; otherwise, they're all
3 beyond the thousand-foot DHEC requirement. Is that --

4 MR. BOONE: That is fair, Your Honor. There's, including
5 our client's property, about four properties that are even
6 within the thousand-foot requirements that OCRM has.

7 Of those other properties, we don't know whether those
8 other properties would obtain an OCRM permit for all the other
9 factors that are considered, whether they would obtain Army
10 Corps of Engineers' (indiscernible) or whether they would --
11 whether they would be permissible insofar as they don't cross
12 over a creek that's less than eight feet wide.

13 And as far as the source for this information, this is
14 all information that's taken from the GIS for the Town of
15 Sullivan's Island. There's, in the record, measurements that
16 we were able to take from the GIS map. Admittedly, there's no
17 measurement of every single property or anything like that, if
18 that was even -- if that was (indiscernible). And so that's
19 where this hinges on reverse spot zoning.

20 The case that was cited to that was -- the one South
21 Carolina Supreme Court case that we had, it's this Ani
22 Creation case from 2023, and the Court adopted in that case
23 the general principle that reverse spot zoning occurs when the
24 zoning ordinance restricts one property's use detrimental to
25 itself that's not consistent with its area.

1 There's, you know, mention in the Ani Creation case, and
2 there's mention in the respondent's brief about it has to be
3 this zoning island -- this passive zoning island. That is a
4 form of reverse spot zoning, but it doesn't have to be the
5 only one. The operative language that the Court uses is --

6 THE COURT: Isn't that what makes it reverse, though?

7 MR. BOONE: What? The fact that it's passive?

8 THE COURT: Right.

9 MR. BOONE: I mean, it can be reversed, but...

10 THE COURT: Why is it -- but -- and not to harp on a
11 nuance, but that -- what's the difference between spot zoning
12 and reverse spot zoning if not for the passiveness of -- of
13 the action, for lack of a better word?

14 MR. BOONE: Sure. I understand what you're -- what the
15 Court's getting at, and my answer to that is, I think
16 consistent with the United States Supreme (indiscernible; OWL
17 system frozen) land use decision that results in one property
18 being -- suffering a detriment that is not applicable to the
19 other.

20 So I think that they give an example of that without the
21 -- outside the context of the (indiscernible) zoning is this
22 situation where we're going to apply a regulation to a certain
23 area that is clearly defined, but that, in reality, doesn't
24 have any sort of effect on but one, maybe a few other people.
25 I think that's a little more in line with -- and that's not --

1 THE COURT: So your argument is --

2 MR. BOONE: -- (indiscernible) zone.

3 THE COURT: Your argument is spot zoning benefits the
4 subject parcel to the detriment of neighbors, and reverse spot
5 zoning detracts the smaller for the benefit of the
6 neighbors. Did I get that right?

7 MR. BOONE: I think that's in its most basic form.

8 THE COURT: Gotcha. All right.

9 MR. BOONE: That's what I'm getting at. And that's
10 what's, you know, consistent with -- with -- in the Ani
11 Creation case. The Supreme Court cites to the American
12 Journal of Zoning and Planning, Section 83, which I think
13 provides both definitions.

14 And the analysis certainly doesn't end there. You know,
15 we also have to look at the Town's comprehensive plan. We
16 have to look at the restricted -- or the adherence to the
17 comprehensive plan and whether it failed to promote the common
18 good or welfare.

19 The Town's comprehensive plan has the RC --
20 recreation-conservation district, which is what we're talking
21 about here.

22 THE COURT: Do you concede that the comprehensive plan
23 that we are comparing it to is the current comprehensive plan?

24 MR. BOONE: Yeah, this is -- we're talking about the most
25 recent -- the Act.

1 THE COURT: Even though that comprehensive plan
2 post-dates the creation of the ordinance?

3 MR. BOONE: The Town's comprehensive plan post-dates the
4 creation of the ordinance, but, you know, I think the zoning
5 ordinances are still in need of compatibility with the
6 comprehensive plan. They still need to mesh or have a
7 reasonable relationship.

8 The Town's comprehensive plan for this zoning district is
9 recreation and conservation. You know, it -- there's mention
10 of the protection of the vista, the "view corridor," but
11 there's -- we don't understand exactly what that is. And I'll
12 talk a little bit more about that when we start talking about
13 the substantive due process and the protection clause, but...

14 I think the Town's comprehensive plan as far as the RC
15 area district and conserving recreational opportunities for
16 this area -- I mean, the plan has been to thwart commercial
17 activity, the plan has been to thwart other forms of resident
18 construction, and in this situation, there's nothing
19 commercial about this recreational dock that's got -- that
20 would be OCRM (indiscernible) for. You know, we're not
21 wanting -- you know, my clients don't intend to use that area
22 to run a, you know, a marina or to construct, you know, in
23 addition to the house that abuts the marsh or anything like
24 that.

25 Additionally, I think that, you know, one of the -- one

1 of the (indiscernible) cases that we do have is this Ani
2 Creation case, and the facts from that case are clearly
3 distinguishable from this case. In the Ani Creation case, the
4 challengers were businesses trying to sell tobacco products
5 and other lewd products that the City didn't want -- the City
6 of Myrtle Beach -- being Myrtle Beach. And this -- you know,
7 we're not talking about any form of commercial activity
8 whatsoever.

9 This is the (indiscernible) citizen and homeowners,
10 property owners who want to build a dock to be able to use for
11 recreational purposes and to be able to utilize that
12 opportunity that so many others have, not to mention the fact
13 that, from the very edge of the geographic boundary, the
14 neighbors just a couple of houses down, you know, have this
15 opportunity and said that they're being denied.

16 Moving on to -- these are, you know, a little bit
17 different, substantive due process, (indiscernible) argument
18 is, you know, we totally concede and absolutely concede that
19 these are subject to rational basis for review.

20 Under substantive due process, in the Ani Creation case,
21 you know, the Court indicated that, in order to prove that the
22 regulations being challenged there were not rationally related
23 to a legitimate government interest, that they needed to prove
24 that the regulations were resting on some faulty premise.

25 For instance, the geographic dock ban, the faulty premise

1 here is that this Section 18 and Section 27 ban is applicable
2 to everybody; the faulty premise being it's not. It's, in
3 reality, only applicable to the Vannattas and perhaps a pool
4 of others, less than five.

5 THE COURT: Well, it's only applicable because of the
6 OCRM regulation; right?

7 MR. BOONE: Correct. And in terms of OCRM's regulation
8 of --

9 THE COURT: But if OCRM were to -- for some reason -- or
10 whomever the body would be now -- change the 1,000-foot rule
11 or something like that, then it could affect more houses in
12 that geographical span between 18 and 27; right?

13 MR. BOONE: It could affect more. And I would posit to
14 the Court that, while it could affect more, there are still a
15 number of properties within that zone that, regardless of
16 whatever, you know, OCRM has as far as the thousand-foot
17 range, that just, in reality, do not have access to the water.

18 THE COURT: I mean, couldn't -- couldn't -- isn't it
19 rational that the -- the topography of the marsh could change,
20 the topography of the creeks could change, or the OCRM
21 regulations could change, and that the Town has this ordinance
22 to ensure that no docks go there in the event of those things?

23 MR. BOONE: In the event that --

24 THE COURT: In the event of those changes.

25 MR. BOONE: Understood. And I think that -- I mean, that

1 is a point that's well made.

2 As far as the topography and the landscape changing, the
3 whole purpose of -- you know, one of the purposes that's been
4 advanced of the prohibition -- you know, conservation of the
5 marshland (indiscernible) the marshland, if the topography
6 changes in the marshland, I think that would result in the
7 marshland no longer existing, if the topography changed to the
8 extent where someone was able to, you know, build a dock all
9 across that part of the (indiscernible).

10 As far as their OCRM changes their restrictions one way
11 or another, I still rest on the (indiscernible), without that
12 restriction, that there are numerous properties that just
13 reasonably, in reality, do not have access to the water --

14 THE COURT: Why?

15 MR. BOONE: Because they are either properties that are,
16 I think, thousands of feet away from where the water could
17 potentially -- where they could have access to. There are
18 some properties that I think are not abutting the marsh at all
19 in that area.

20 THE COURT: But I guess, the point being, isn't it
21 rational that the Town could say those factors that are
22 preventing those people from building the docks could change?
23 Like, certainly -- certainly, there's somebody out there who's
24 willing to build a 2,000-foot dock to get access; right? I
25 mean, isn't it rational that the Town could say, regardless of

1 those changes, we want this prohibition?

2 You know, if we're looking at a rational basis test, it's
3 a pretty steep hill to climb; right?

4 MR. BOONE: I mean, and fully acknowledging the standard
5 of review that we have here, fully acknowledging that -- the
6 rational basis review is the steepest hill to climb in terms
7 of constitutional arguments. I think that the question being,
8 is it -- is it rational in the sense that it's free of a
9 faulty premise? No, I don't believe that it is.

10 And I think that, regardless of the OCRM's permitting and
11 their restriction on, you know, thousand-foot docks, there are
12 additional rules that not only the OCRM puts in place but that
13 the Army Corps of Engineers put in place in terms of
14 navigability, (indiscernible) properties, and environmental
15 factors.

16 I would posit that for, so many of the properties,
17 regardless of the 1,000-foot requirement rule, that there's,
18 you know, severe impacts on navigability with, you know,
19 potentially, a 2,500-foot dock or what have you.

20 Without taking up too much time -- I know that I should
21 move on -- as far as the equal protection grounds for the dock
22 -- the geographic prohibition, you know, we're talking about
23 the classifications that have to bear a reasonable
24 relationship to a legitimate government interest; the
25 classification here being that our clients who have the

1 ability under OCRM (indiscernible) and Army Corps of Engineers
2 (indiscernible) rules to construct their dock (indiscernible)
3 prohibited from doing so.

4 So when you look at the equal protection challenges as
5 well, these regulations, as far as the dock -- the geographic
6 dock prohibition policy in terms of (indiscernible; OWL system
7 frozen) regulation that the docks cannot extend -- docks can
8 be between 300 and 800 feet but only if they reach a
9 200-foot-wide (indiscernible).

10 This is, again, going to finding that all the parameters
11 of that regulation rests on. Here, it's the idea that the
12 dock between 300 feet and 800 feet is not a detriment to the
13 conservation of the environment, like what we're -- the
14 government interests that we're talking about here.

15 What -- so much of what I'm -- what I'm pointing out in
16 that regard is that OCRM and the Army Corps of Engineers'
17 requirements as far as navigability, the environment,
18 detriment to other properties, I mean, these are two separate
19 determinations that there's no adverse impacts to the
20 environment, we have no issues with navigability, no issue
21 with impacts on other properties.

22 And I think another faulty premise that the length
23 restriction is talking about is the idea that that impedes --
24 a view corridor that is not defined, we still don't fully
25 understand what we're talking about in terms of a view

1 corridor. Our brief cites to us, based on Rockville, where
2 the Court of Appeals in that case determined that there's no
3 factual support for the idea that a view impedes or that a
4 dock impedes a view generally. And I think that that's
5 exactly what we're saying here as well.

6 The Town submitted exhibits as part of the BZA hearing,
7 and I think they cite to it in their brief as well, you know,
8 photographs of people enjoying the -- enjoying various things
9 along the marshland and enjoying the sunset, tide, and things
10 like that.

11 And I would bring to the Court's attention that, in full
12 view of most of those pictures are docks that you can see in
13 the photos. So the very photos that are being presented to
14 show, "Look how beautiful the vista is," which I agree it is,
15 there's docks right here.

16 I don't think that there's any evidence upon which to
17 support the idea that, you know, our client's proposed dock
18 would impede any kind of view corridor, much less the fact
19 that even the view corridor from the (indiscernible) causeway
20 being about three-quarters of a mile away, and one full view
21 of all the docks that are permitted, I don't -- I don't see
22 how one additional dock impedes the corridor in that sense.
23 So that's -- that's our arguments as far as the dock length
24 restriction.

25 As far as -- I'm trying to wrap up (indiscernible; OWL

1 system frozen) -- necessary hardship. The factors that -- the
2 statutory factors that the BZA considered, whether there's
3 extraordinary or exceptional conditions, which I think we
4 have, you know, pointed out in terms of having the ability to
5 build a dock that is only restricted by an ordinance that is
6 really only applicable to, you know, our clients.

7 These conditions don't generally apply to other property
8 in the vicinity; I think we've already discussed that.

9 As far as the, you know, whether these conditions --
10 whether the ordinance effectively prohibits or unreasonably
11 restricts the utilization of the property, there's a
12 discussion -- I think the BZA made a finding that the
13 ordinance doesn't, you know, totally remove all uses from our
14 client's property, but that's more of a takings analysis.

15 And I think that there's cases that we cited in our brief
16 that indicate that, you know, we're not -- that this
17 condition -- this statute, this factor is different from an
18 actual takings analysis.

19 Whether authorization of the variance would be a -- not
20 be a detriment -- a substantial detriment to adjacent
21 property, again, this is a property that is at the very edge
22 of this geographic dock. And there are docks within three
23 houses down that are over 300 feet in length as well. I think
24 it's clear from the record that this will not be a substantial
25 detriment to -- to the neighboring property as well.

1 THE COURT: (Indiscernible; OWL system frozen) they get
2 to build a dock, and then the neighbor says, now
3 (indiscernible) the very edge.

4 MR. BOONE: Understanding -- understanding that, Your
5 Honor, and as far as, you know, the question being, where does
6 it end, within Station 18 and Station 27, it ends where
7 there's no longer an ability to even build a dock to begin
8 with, which I think, based on the maps that we've provided, is
9 two houses down from (indiscernible).

10 The last thing -- the very last thing that I'll point
11 out -- and I appreciate the Court's indulgence
12 (indiscernible) -- is, you know, fully recognize the
13 deferences given to the Town, fully recognize the deference
14 that's given to the BZA, but it's not an absolute deference.
15 There are still constitutional limits that zoning ordinances
16 have to fit within, and this is simply not one of them.

17 And those are the reasons that we would ask the Court to
18 reverse the decision of the BZA as opposed to the denial of
19 the dock permit, or alternatively, the denial of the variance.

20 THE COURT: Thank you, Mr. Boone.

21 Mr. Linton?

22 MR. LINTON: Good morning, Your Honor. I understand
23 you've (indiscernible; OWL system frozen). The first is on
24 the timeliness argument, and the statute that we cite does not
25 say it's limited to procedural issues. It says you can't

1 challenge the validity 60 days after if substantial compliance
2 has been accomplished.

3 THE COURT: But in fairness, it isn't notice. I mean, it
4 is talking about notice; right?

5 No challenge -- I mean, it starts, "No challenge to the
6 adequacy of notice or challenge to the validity of the
7 regulation or map or amendment to it."

8 MR. LINTON: I think a critical point there is the "or"
9 challenge to the validity of it. And two --

10 THE COURT: So your position is that the constitutional
11 challenge has to be made within 60 days? That's a statute of
12 limitations to bring a constitutional challenge to an
13 ordinance?

14 MR. LINTON: Well, that's not my position; it's what the
15 statute says.

16 And, you know, Your Honor, I was thinking about it as
17 counsel raised that, and I handle a lot of condemnation cases.
18 A landowner has 30 days from when they receive Notice of
19 Condemnation to challenge whether it's for a public purpose,
20 meaning it's an unconstitutional taking.

21 And after 30 days, it's forever waived if they don't file
22 a separate lawsuit. So it's not like that is unique in our
23 law and there are no limitations on certain constitutional
24 acts.

25 But, you know, Your Honor, frankly, I don't think that

1 the Court would need to reach that issue here, because I think
2 the other arguments are so strong in our favor.

3 The reverse spot zoning argument, they cite that in the
4 Ani Creation case and then refer to the two other South
5 Carolina cases on spot zoning. And I just want to point out
6 that all three of those cases have something very important
7 that's in common to them. None of them found that the
8 ordinances in those cases were unconstitutional or illegal.

9 So they have researched this to the end of the earth and
10 not found a case. And, in fact, I think the Ani Creation case
11 would have to be overruled for their argument to be able to
12 proceed. They distinguish it by saying it's different because
13 it's commercial, but that's not the basis of it. The basis of
14 it is whether the property -- the zoning goes to a single
15 property -- singles out a property.

16 And what they say is, "Well, we know it covers 39
17 properties but really only affects five." And as Your Honor
18 pointed out, the BZA's factual findings are like jury
19 findings; they're entitled to substantial deference. But it
20 doesn't matter. Five is a lot more than singling one out.
21 And it would be like taking the hotel overlay district or the
22 accommodations overlay district for the City of Charleston and
23 saying, "Well, there's really only one empty lot left where
24 you could build a hotel, so there's only one property affected
25 by this."

1 It covers all 39. Those properties can be bought and
2 sold, and as Your Honor mentioned, things can change.

3 So, for that reason, the spot zoning argument should be
4 rejected outright.

5 THE COURT: Well, it doesn't -- like it can be
6 constitutional spot zoning; right? Like, in that spot zoning,
7 doesn't end the discussion.

8 MR. LINTON: It does not, Your Honor. And while it is
9 not spot zoning, if the Court were to reach that conclusion,
10 you'd have to look at whether it complies with the
11 comprehensive plan, which Your Honor already pointed out.

12 The comprehensive plan at issue here came, you know,
13 whatever it is, 14 years after the ordinance. And so the
14 comprehensive plan talks about what the existing ordinances
15 are, and it talks about the reason to protect this area, and
16 the dock should only be built if they comply with the existing
17 ordinance, which is the one that's challenged here.

18 And this sort of gets -- I don't really need to go back
19 to it or want to, but it does sort of get to the timeliness.

20 THE COURT: I saw that in your amendment. I appreciate
21 that.

22 MR. LINTON: And the second part of that is whether there
23 is basically promoting good welfare. And, of course, if it
24 complies with the comp plan -- the comp plan and the ordinance
25 that precedes it, talking about the recreational district,

1 lays out that it's to promote the good welfare, to protect the
2 views, to protect the recreational areas, all of these things
3 are explicit findings set out by the Town Council.

4 And we cite in our brief the extreme care that the Town
5 took, going through the Planning Commission, multiple
6 meetings, lots of public comment, to come up with this
7 ordinance. And what it does -- and I'm getting into some of
8 the other constitutional arguments, but, Your Honor, what it
9 does is it sets this huge area, a mile stretch, where there's
10 not going to be any docks, where there's just going to be
11 marsh.

12 And if you look at -- this is an area where there's a lot
13 of marsh, and so it does create a good, open area with
14 expansive views, with the ability to recreate in that area.

15 And they made the decision that down where, you know,
16 towards Cove Inlet where -- Cove Creek, where you have very
17 short docks and there aren't areas splintered in there where
18 there's massive amounts of marsh, that landowners should be
19 able to build those docks to that water.

20 Everything that a Town Council does is trying to strike a
21 balance and create an ordinance that promotes the public good
22 for everyone, and the record is replete with that.

23 On quickly to the substantive due process arguments, that
24 Harbit case is an important one here. In that case, it was a
25 City of Charleston lawyer who bought an office or a building

1 on Savannah Highway that was in an overlay district. He knew
2 the prior owner had tried to get it rezoned for office.
3 Wasn't able to. He bought it, tried again, wasn't able to,
4 and brought a suit that it was a violation of his due process.
5 And the Court said, "Well, you can't have a property right
6 taken away if what you bought didn't have that property right,
7 particularly when you knew it."

8 And here, Mr. Vannatta, before buying the property, went
9 to the BZA and tried to seek a variance from other
10 restrictions of the recre- -- of the RC-1/RC-2 district. He
11 bought it with full knowledge that (indiscernible) even says
12 it's subject to the ordinances. And in this case, there's
13 actual evidence in the record that he knew specifically about
14 the RC-2 being right next to his house. So, for that reason,
15 that argument should just be completely dismissed.

16 The rest of the substantive due process argument is
17 whether it's an arbitrary, capricious, and unreasonable
18 decision. And one thing I just want to point out is that they
19 sort of go back and forth and talk about "somebody said this
20 at the BZA." The BZA doesn't have the authority - and they
21 agree with this - to find that something is unconstitutional.
22 They're trying to decide whether it complies with the
23 ordinance.

24 And they showed up and said we are violating the
25 ordinance here in two different ways; let us go to circuit

1 court and make these different arguments.

2 What they need to be talking about is what Town Council
3 did over the course of many, many months back in 2004, ten
4 years before they bought this property, with full knowledge of
5 it, where they went through and they did exactly what they did
6 in the Myrtle Beach case.

7 In the Myrtle Beach case, they were talking about Myrtle
8 Beach needing to be perceived as more family friendly. So
9 what they were going to do was outlaw stores that sell things
10 they didn't think gave that vibe.

11 Here, they said, this district, we want it to be
12 preserved for recreation. We want it to be preserved for the
13 good views of nature and that sort of thing. How do we do
14 that? And they went through a deliberative process.

15 And the case law is so strong on this. It says Courts
16 should not become City planners. When a City has gone through
17 the planning process and enacted these laws; they should not
18 be second-guessed.

19 And, again, there's nothing here that singles them out.
20 You can look at the ordinance findings and you can look at
21 that Planning Commission process, and it's just clear that
22 this complies completely with the substantive due process,
23 equal protection, rational basis test, as I believe
24 substantive due process (indiscernible) -- I don't see how
25 reasonably related to a rational thought and rational basis

1 could be distinguished. I think it's all rational basis in
2 this case.

3 And so I'm really not going to cover all those same
4 points again other than to say, the cases say they have to
5 prove their burden by clear and convincing evidence that there
6 is no rational basis for Town Council's decision in 2004.

7 Your Honor, on the variance test, there are no
8 extraordinary and exceptional conditions. It's just on the
9 line of the zoning district, essentially. That's what they
10 cite. But even they say four other properties within the
11 zoning district have the exact same condition as this. So
12 their argument turns on itself, and it is that there is
13 nothing extraordinary about it. The conditions apply to all
14 of the properties in that area.

15 And they say it would effectively prohibit their use of
16 the property or unreasonably restrict it. This is a
17 residential property. It's not a property that's sole purpose
18 is for a dock. That's an accessory use.

19 It is common -- there are BZA appeals all the time where
20 people try to put in a pool somewhere, and they are not
21 allowed to put in a pool, and the Courts say, you know, "You
22 don't have the right to every single accessory use possible on
23 every piece of property." And so they can still have and they
24 do have a house, and they enjoy it. And they enjoy the
25 beautiful views as much as anybody else.

1 And it would certainly be a detriment to the neighbors or
2 others. There's the fishing creek that Your Honor pointed out
3 where then the next party and the next party would have to get
4 a variance basically no matter where they were. But also in
5 the record, there's a lot of neighbors that showed up and they
6 said, this is going to be a problem for us. We don't want to
7 have our views obstructed. In fact, this is 1802; the owners
8 of 1801 submitted a letter that's in the record. They showed
9 up at the meeting.

10 So, again, the BZA found that the variance test was not
11 satisfied. So that finding that neighbors would be negatively
12 impacted and that was the reason for not granting the variance
13 is like the finding of a jury, and so I'd submit the Court
14 should not consider overturning that.

15 Finally, Your Honor, just to wrap up a point, because
16 counsel brought it up, the Rockville case talking about
17 pictures — it's just irrelevant here. It's talking about, in
18 that case, Rockville had (indiscernible) that said you can
19 build a dock if it doesn't interfere with a particular view.

20 And so reviewing statements and pictures of the BZA was a
21 review of the finding of fact. Here, what we're talking about
22 is not the BZA's weighing of evidence and whether the pictures
23 are legitimate. What we're talking about is (indiscernible;
24 OWL system frozen) a mile stretch. It's a lot of marsh. It's
25 a great view. It's rationally related, and the photos show

1 it. The photos that he's talking about (indiscernible; OWL
2 system frozen) this is what was passed. That's what this Town
3 has agreed to through its representatives.

4 For all those reasons, Your Honor, we'd ask that the
5 Board of Zoning Appeals be affirmed.

6 THE COURT: Thank you, Counsel.

7 Mr. Boone, you got anything briefly in reply?

8 MR. BOONE: Very briefly just to some points that were
9 brought up by Mr. Linton.

10 As to the timeliness of our appeal, I think that what
11 there's just disagreement of is what is the definition of
12 "validity." And we're not talking (indiscernible; OWL system
13 frozen) the statute. That's not what we're here to talk
14 about. So the timeliness argument I think is just irrelevant.

15 As to -- there's some discussion I didn't bring up about
16 Town Council's decision to pass this ordinance and to amend
17 the ordinance in 2004. There's nothing in the meeting minutes
18 that, again, define what the view corridor is. There's
19 nothing in the meeting minutes that discuss Station 18 through
20 Station 27 at all. There's nothing in the Planning Commission
21 meeting minutes discussing the dock length restriction other
22 than the compromise of, you know, you guys want more docks in
23 the future, you guys want less, we'll meet in the middle
24 somewhere. And I don't believe, I would submit, that that's
25 not rationally related either.

1 The very final thing is, there's discussion about the
2 Vannattas purchasing or making a BZA request before purchasing
3 the property. I think the BZA request was made after
4 purchasing the property but before constructing the new home.
5 And that issue, I think that has to do with the boundaries of
6 the lot, not necessarily what could or couldn't be done in the
7 RC-2 area district.

8 Yeah, and I'll leave it at that. But, ultimately, we
9 just ask that the Court defer to the BZA.

10 THE COURT: Very good. Thank you, Counsel. Interesting
11 arguments. I'm going to take a look at it and think about it.
12 You'll hear from the Court soon.

13 MR. LINTON: Thank you, Your Honor.

14 THE COURT: Thank you.

15 MR. BOONE: Thank you, Your Honor.

16 (The above hearing concluded.)
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Certificate of Transcriber

CASE NAME: Paul Vannatta v. Board of Zoning Appeals

DATE OF HEARING: 5/29/25

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/s/ Bobbi Fisher

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 8/23/25

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STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

Appeal from Charleston County
Court of Common Pleas
Thomas J. Rode, Circuit Court Judge

Case No. 2024-CP-10-05670

Paul R. Vannatta and Jennifer S. Vannatta,

Appellants,

v.

Town of Sullivan's Island Board of Zoning Appeals,

Respondent.

NOTICE OF APPEAL

Pursuant to Rule 203(d)(1)(A)(ii), SCACR, Paul R. Vannatta and Jennifer S. Vannatta appeal to the Supreme Court from the Order Affirming the Decision of the BZA And Dismissing the Petition for Appeal rendered by the Honorable Thomas J. Rode, Circuit Court Judge, which is a final decision involving a challenge to the constitutionality of a zoning ordinance of the Town of Sullivan's Island. A Form 4 order was filed on May 30, 2025, and the formal order was filed on June 11, 2025. Appellants received written notice of entry of the formal order on June 11, 2025.

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